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SENATE—*Monday, November 22, 1971*

The Senate met at 9 a.m. and was called to order by the President pro tempore (Mr. ELLENDER).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Eternal Father, let Thy favor be upon our Nation. Grant Thy higher wisdom to all our leaders. Further the efforts of those who confer for the peace of the world. Prepare our hearts both for the hard work and the joyful thanksgiving of this week. Make us great enough to live by the simplicity of the Gospel and to walk and work henceforth in the same spirit in which we pause to pray. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Saturday, November 20, 1971, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The PRESIDENT pro tempore. Without objection, it is so ordered.

WAIVER OF THE CALL OF THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the call of the legislative calendar under rule VIII be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 429, 435, and 447, and I ask unanimous consent that the consent granted by the Senate for rollcall votes on Nos. 429 and 435 be vitiated.

The PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDING THE WATER RESOURCES RESEARCH ACT OF 1964

The bill (H.R. 10203) to amend the Water Resources Research Act of 1964, to increase the authorization for water resources research institutes, and for other purposes, was announced as next in order.

Mr. MOSS. Mr. President, I hope the Senate will pass H.R. 10203, the bill before us to amend the Water Resources Research Act of 1964, with an overwhelming vote. The additional funds it will make available for water research, and the dissemination of the information developed, are needed in every State in the Union.

This is a bill in which I have a special interest, not only because of what it will mean to the Water Resource Research Center at Utah State University, and to every other center at a land-grant college, but because I have been intimately involved with the legislation ever since the 1964 act was passed. I was cosponsor of that bill, and in the last session of the Congress introduced the amendments similar to the ones we are today considering in the Senate. My bill—S. 3553, 91st Congress—was passed by the Senate, but died in the House Interior Committee. This session, to make sure that this significant legislation got through, the Senate waited for the House to act, and thus we are today considering the House-passed bill rather than the Senate bill—S. 219—I introduced on the first day of the 92d Congress.

The strongest sort of case can be made for the passage of H.R. 10203 here today. The water research centers established by the 1964 law have been starved for funds for some time. The $100,000 we made available to each State center annually at that time has been badly reduced by inflation. In addition, water resource studies have become more sophisticated and costly, and the centers have not had the funds necessary to do the urgent work which they mapped out. Nor have they had funds to disseminate the valuable knowledge they have developed after the work was completed. The $250,000 for each center annually authorized by this bill will allow us to do more of the crucial work in water research which we must pursue in these days of a looming water crisis.

Mr. President, I strongly support this bill, and urge its passage.

The bill was ordered to a third reading, read the third time, and passed.

SPECIAL EXPENSE ALLOWANCES TO DEPENDENTS OF MEMBERS OF THE UNIFORMED SERVICES

The bill (H.R. 8356) to make permanent the authority to pay special allowances to dependents of members of the uniformed services to offset expenses incident to their evacuation, was considered, ordered to a third reading, read the third time, and passed.

LAND AND WATER CONSERVATION FUND AMENDMENTS ACT OF 1971

The Senate proceeded to consider the bill (S. 1893) to restore the golden eagle program to the Land and Water Conservation Fund Act, provide for an annual camping permit, and for other purposes, which had been reported from the Committee on Interior and Insular Affairs with amendments, on page 1, line 4, after the word "amended", insert "by section 1 of the Act of July 7, 1970 (84 Stat. 410)"; after line 7, strike out:

(b) Subsection (c) of section 2 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460L–5), as added by section 2 of the Act of July 15, 1968 (82 Stat. 354), is redesignated as subsection (d).

On page 2, after line 5, strike out:

(a) (1) Section 2(a) is amended by inserting, immediately after clause (i) in section 2(a) a new clause (ii) as follows:

"(ii) An annual fee of not more than $25 which shall entitle the person paying same to an annual camping permit and shall excuse the person obtaining such permit and anyone who accompanies him in his automobile from payment of any other fee for camping in areas administered by or under the authority of such agencies, except areas which are designated by the President as not being within the coverage of the permit, during the year for which the fee has been paid."

(2) Clause (ii) of section 2(a), redesignated as clause (iii) by this section, is amended by inserting immediately after "annual fee under clause (i)" the following: "or clause (ii)".

(3) Clauses (ii), (iii), and (iv) of section 2(a) are redesignated as clauses (iii), (iv), and (v), respectively.

(b) Section (2), restored by this Act, is amended by inserting immediately after the words "for use of any waters" in the second paragraph of such section the following: "; except that user fees at recreation areas administered by the United States at Federal lakes and reservoirs shall be collected by officers and employees only from users of highly developed facilities constructed for reasons of public health, safety, and convenience, and which require a regular schedule of maintenance and supervision, and shall not be collected for admission to or use of water areas, undeveloped or lightly developed shoreland, picnic grounds, overlook sites, scenic drives, or boat launching ramps where no mechanical or hydraulic equipment is provided".

(c) The second paragraph of section 2(a) is amended by inserting, immediately after the words "and other pertinent factors" the following: ": *Provided*, That nothing herein shall require that any fee be established at the same level charged by non-Federal public recreation agencies and by private enterprises for comparable facilities and services".

(d) Section 2(a) is amended by inserting, immediately after the second sentence in the last paragraph thereof, the following: "The collection of fees for the annual admission permit and the annual camping permit established pursuant to clauses (i) and (ii) of this subsection, may be made by the head of such agency directly or by contract with any private or public agency. Any such contract may provide that the contractor will receive not more than 10 per centum of the total fees he collects for any calendar year, and may be subject to such other terms and conditions as the agency head deems proper. Any person authorized by the head of a department or agency referred to in this subsection to enforce any rules or regulations issued under this subsection, within areas under the administration or authority of such agency head, may arrest, with a warrant, any person who violates such rules or regulations, and if the offense is committed in his presence, may arrest without a warrant any such person for such violation."

And, in lieu thereof, insert:

(a) Subsection (c) of section 2 as added by the Act of July 15, 1968, is redesignated as subsection (d).

(b) Subsection (a) of section 2 is amended to read as follows:

"(a) Entrance and Recreation Fees; Establishment; Regulation; Enforcement.—

"All proceeds from fees established pursuant to this Act: *Provided*, That nothing in this Act shall affect any rights or authority of the States with respect to fish and wildlife, nor shall this Act repeal any provision of law that permits States or political subdivisions to share in the revenues from Federal lands or affect any contract heretofore entered into by the United States that provides that such revenues collected at particular Federal areas shall be credited to specific purposes.

"The President is authorized to provide for the designation of land and water areas administered by or under the authority of the National Park Service, Bureau of Land Management, Bureau of Sport Fisheries and Wildlife, Bureau of Reclamation, Forest Service, Corps of Engineers, Tennessee Valley Authority, and the United States section of the International Boundary and Water Commission (United States and Mexico) at which recreation fees are to be charged, and to provide for the establishment and revision of such fees as follows:

"(i) A fee of not more than $10 for an annual permit payable by a person entering an area so designated by a private noncommercial vehicle which, if paid, shall excuse the purchaser and all persons accompanying him in such vehicle from payment of any other fee for admission to that area and all other areas administered by or under the authority of such agencies, except areas which are designated by the President as not being within the coverage of the fee, during the year for which the fee has been paid. Such permit shall be designated a "Golden Eagle Passport".

"(ii) A fee of not more than $25 for an annual recreation permit which shall entitle the purchaser and all persons accompanying him in a private noncommercial vehicle to all the benefits included under clause (i) of this paragraph and in addition shall entitle the purchaser to enter any designated area and to utilize camping and other facilities provided therein without payment of any other supplemental fees except areas which are designated by the President as not being within coverage of the permit, during the year for which the fee has been paid. Any citizen of the United States, entitled to receive a Golden Eagle Passport at no charge as provided elsewhere in this section, shall be entitled to obtain an annual recreation permit at a fee of not more than $15 upon presentation of proof of age. Such permit shall be designated a "Golden Eagle Recreation Passport".

"(iii) Fees for daily and multiple-visit entrance permits payable by persons who choose not to purchase the annual entrance permit authorized pursuant to clause (i) of this paragraph. Such permits shall be valid at only one area so designated, only during the day or period for which the fee has been paid, and only in accordance with regulations applying to that area.

"(iv) Fees for supplemental permits for the use of specialized sites, facilities, equipment, or services provided by the United States within any area so designated. Such fees may be in addition to the annual fee provided for in clause (ii) of this paragraph.

"(v) Fees for special recreation permits for uses such as group activities, recreation events, motorized recreation vehicles, and other specialized recreation uses.

"The above fees may be charged for access to or use of any Federal land area or recreation facility where fee collection is determined to be economically and administratively feasible.

"Entrance and admission fees may be charged at areas administered primarily for scenic, scientific, historical, cultural, or recreational purposes. No entrance or admission fee shall be charged except at such areas or portions thereof administered by a Federal agency where recreation facilities or services are provided at Federal expense. No fee of any kind shall be charged by a Federal agency under any provision of this Act for use of any waters.

"User fees at recreation areas administered by the United States at Federal lakes and reservoirs shall be collected by offices and employees only from users of highly developed facilities constructed for reasons of public health, safety, and convenience, and which require a schedule of regular maintenance and supervision. Fees shall not be collected for entrance or access to or use of water areas, undeveloped or lightly developed shoreland, picnic grounds, overlook sites, scenic drives, or boat launching ramps where no mechanical hydraulic equipment is provided.

"The President shall provide for the development of appropriate guidelines for the establishment of a system of standardized fees. It is the intent of this Act that comparable fees should be charged by the several Federal agencies for comparable services and facilities.

"All fees established under this Act shall be fair and equitable: *Provided further*, That nothing herein shall require that any fee be established at the same level charged by non-Federal public recreation agencies and by private enterprises for comparable facilities and services.

"The above fees may not be charged to any person who (1) is engaged in commercial or other activities not related to recreation; (2) is traveling over any national parkway or any road or highway established as part of the Federal-aid system, as defined in title 23, United States Code, section 101, or any road within the national forest system or within Corps of Engineers' project boundaries, commonly used by the public as a means of travel between two places either or both of which are outside of the designated fee area; (3) is exercising a right of access to any land in which such person has any property right if such land is within a designated fee area; (4) has a right of access or hunting and fishing privileges under a specific provision of law or treaty; or (5) is engaged in the conduct of official Federal, State, or local government business.

"Clear notice that a fee has been established pursuant to this subsection shall be posted at each area to which it is applicable. The head of each Federal department and agency referred to in this subsection is authorized to prescribe rules and regulations for the collection of the fees established pursuant to this subsection for areas under his administration or authority: *Provided further*, That except as provided above, no free permits shall be issued to any Member of Congress or other Federal, State, or local government official. The collection of fees for the annual recreation permits, established pursuant to clauses (i) and (ii) of the second paragraph of this subsection, may be made by the head of such agency directly or by contract with any private or public agency. Any such contract may provide that the contractor will receive not more than 10 per centum of the total fees he collects for any one calendar year, and may be subject to such other terms and conditions as the agency head deems proper.

"Any person authorized by the head of a Federal agency referred to in this subsection to enforce any rules or regulations issued under this subsection may, within areas under the administration or authority of such agency head and with or, if the offense is committed in his presence, without a warrant, arrest any person who violates such rules and regulations. Any person so arrested may be tried and sentenced by the United States magistrate specifically designated for that purpose by the court by which he was appointed, in the same manner and subject to the same conditions as provided in title 18, United States Code, section 3401, subsections (b), (c), (d), and (e), as amended. Any violations of the rules and regulations issued under this subsection shall be punishable by a fine of not more than $100."

"No citizen of the United States who is sixty-five years of age or over shall be required to pay any entrance or admission fee for entry or admission to an area or areas covered by clause (i) of this subsection. Such citizens will be given a nontransferable Golden Age Passport which will be renewable each year. This permit will be equal, in all respects, to the Golden Eagle Passport described in clause (i) of this subsection.

On page 11, line 6, after the word "collection.", insert "Any fees collected pursuant to this subsection shall be covered into the Land and Water Conservation Fund."; on page 12, after line 17, insert a new section, as follows:

Sec. 5. Subsection (a) of section 6 of the Land and Water Conservation Fund Act of 1965, as amended, is amended (1) by deleting the period at the end of paragraph (2) thereof and inserting in lieu thereof a semicolon and the word "and"; and (2) by adding immediately after paragraph (2) thereof the following new paragraph:

"(3) For defraying expenses incurred in connection with the operation and maintenance of Federal recreation facilities in or around Federal lakes and reservoirs administered by the Corps of Engineers, Tennessee Valley Authority, or the Bureau of Reclamation, and for recreation areas located on public domain lands administered by the Bureau of Land Management."

On page 13, after line 6, insert a new section, as follows:

SEC. 6. The President shall submit a report to the Congress within one year following the approval of this Act on the progress which has been made to achieve a system of standardized fees.

And, at the beginning of line 11, change the section number from "5" to "7"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1, except subsection (c), of the Act of July 15, 1968 (82 Stat. 354), as amended by section 1 of the Act of July 7, 1970 (84 Stat. 410) and section 210 of the Flood Control Act of 1968 (82 Stat. 746), as amended, are repealed.

SEC. 2. The Land and Water Conservation Fund Act of 1965 (78 Stat. 897), as amended, is further amended as follows:

(a) Subsection (c) of section 2 as added by the Act of July 15, 1968, is redesignated as subsection (d).

(b) Subsection (a) of section 2 is amended to read as follows:

"(a) ENTRANCE AND RECREATION FEES; ESTABLISHMENT; REGULATION; ENFORCEMENT.—

"All proceeds from fees established pursuant to this Act: Provided, That nothing in this Act shall affect any rights or authority of the States with respect to fish and wildlife, nor shall this Act repeal any provision of law that permits States or political subdivisions to share in the revenues from Federal lands or affect any contract heretofore entered into by the United States that provides that such revenues collected at particular Federal areas shall be credited to specific purposes.

"The President is authorized to provide for the designation of land and water areas administered by or under the authority of the National Park Service, Bureau of Land Management, Bureau of Sport Fisheries and Wildlife, Bureau of Reclamation, Forest Service, Corps of Engineers, Tennessee Valley Authority, and the United States section of the International Boundary and Water Commission (United States and Mexico) at which recreation fees are to be charged, and to provide for the establishment and revision of such fees as follows:

"(i) A fee of not more than $10 for an annual permit payable by a person entering an area so designated by a private noncommercial vehicle which, if paid, shall excuse the purchaser and all persons accompanying him in such vehicle from payment of any other fee for admission to that area and all other areas administered by or under the authority of such agencies, except areas which are designated by the President as not being within the coverage of the fee, during the year for which the fee has been paid. Such permit shall be designated a "Golden Eagle Passport".

"(ii) A fee of not more than $25 for an annual recreation permit which shall entitle the purchaser and all persons accompanying him in a private noncommercial vehicle to all the benefits included under clause (i) of this paragraph and in addition shall entitle the purchaser to enter any designated area and to utilize camping and other facilities provided therein without payment of any other supplemental fees except areas which are designated by the President as not being within coverage of the permit, during the year for which the fee has been paid. Any citizen of the United States, entitled to receive a Golden Eagle Passport at no charge as provided elsewhere in this section, shall be entitled to obtain an annual recreation permit at a fee of not more than $15 upon presentation of proof of age. Such permit shall be designated a "Golden Eagle Recreation Passport".

"(iii) Fees for daily and multiple-visit entrance permits payable by persons who choose not to purchase the annual entrance permit authorized pursuant to clause (i) of this paragraph. Such permits shall be valid at only one area so designated, only during the day or period for which the fee has been paid, and only in accordance with regulations applying to that area.

"(iv) Fees for supplemental permits for the use of specialized sites, facilities, equipment, or services provided by the United States within any area so designated. Such fees may be in addition to the annual fee provided for in clause (ii) of this paragraph.

"(v) Fees for special recreation permits for uses such as group activities, recreation events, motorized recreation vehicles, and other specialized recreation uses.

"The above fees may be charged for access to or use of any Federal land area or recreational facility where fee collection is determined to be economically and administratively feasible.

"Entrance and admission fees may be charged at areas administered primarily for scenic, scientific, historical, cultural, or recreational purposes. No entrance or admission fee shall be charged except at such areas or portions thereof administered by a Federal agency where recreation facilities or services are provided at Federal expense. No fee of any kind shall be charged by a Federal agency under any provision of this Act for use of any waters.

"User fees at recreation areas administered by the United States at Federal lakes and reservoirs shall be collected by officers and employees only from users of highly developed facilities constructed for reasons of public health, safety, and convenience, and which require a schedule of regular maintenance and supervision. Fees shall not be collected for entrance or access to or use of water areas, undeveloped or lightly developed shoreland, picnic grounds, overlook sites, scenic drives, or boat launching ramps where no mechanical or hydraulic equipment is provided.

"The President shall provide for the development of appropriate guidelines for the establishment of a system of standardized fees. It is the intent of this Act that comparable fees should be charged by the several Federal agencies for comparable services and facilities.

"All fees established under this Act shall be fair and equitable: *Provided further*, That nothing herein shall require that any fee be established at the same level charged by non-federal public recreation agencies and by private enterprises for comparable facilities and services.

"The above fees may not be charged to any person who (1) is engaged in commercial or other activities not related to recreation; (2) is traveling over any national parkway or any road or highway established as part of the Federal-aid system, as defined in title 23, United States Code, section 101, or any road within the national forest system or within Corps of Engineers' project boundaries, commonly used by the public as a means of travel between two places either or both of which are outside of the designated fee area; (3) is exercising a right of access to any land in which such person has any property right if such land is within a designated fee area; (4) has a right of access or hunting and fishing privileges under a specific provision of law or treaty; or (5) is engaged in the conduct of official Federal, State, or local government business.

"Clear notice that a fee has been established pursuant to this subsection shall be posted at each area to which it is applicable. The head of each Federal department and agency referred to in this subsection is authorized to prescribe rules and regulations for the collection of the fees established pursuant to this subsection for areas under his administration or authority: *Provided further*, That except as provided above, no free permits shall be issued to any Member of Congress or other Federal, State, or local government official. The collection of fees for the annual recreation permits, established pursuant to clauses (i) and (ii) of the second paragraph of this subsection, may be made by the head of such agency directly or by contract with any private or public agency. Any such contract may provide that the contractor will receive no more than 10 per centum of the total fees he collects for any one calendar year, and may be subject to such other terms and conditions as the agency head deems proper.

"Any person authorized by the head of a Federal agency referred to in this subsection to enforce any rules or regulations issued under this subsection may, within areas under the administration or authority of such agency head and with or, if the offense is committed in his presence, without a warrant, arrest any person who violates such rules and regulations. Any person so arrested may be tried and sentenced by the United States magistrate specifically designated for that purpose by the court by which he was appointed, in the same manner and subject to the same conditions as provided in title 18, United States Code, section 3401, subsections (b), (c), (d), and (e), as amended. Any violations of the rules and regulations issued under this subsection shall be punishable by a fine of not more than $100."

"No citizen of the United States who is sixty-five years of age or over shall be required to pay any entrance or admission fee for entry or admission to any area or areas covered by clause (i) of this subsection. Such citizens will be given a nontransferable Golden Age Passport which will be renewable each year. This permit will be equal, in all respects, to the Golden Eagle Passport described in clause (i) of this subsection.

SEC. 3. Section 7 of the Land and Water Conservation Fund Act of 1965 (78 Stat. 903) is amended by inserting before the period at the end thereof the following: "except to the extent that the head of a Federal agency referred to in said section determines to be necessary to advertise and promote any recreation fees established pursuant to section 2(a) of this Act."

SEC. 4. (a) The Secretary of the Interior may establish and collect use or royalty fees for the manufacture, reproduction, or use of "The Golden Eagle Insignia", originated by the Department of the Interior and announced in the December 3, 1970, issue of the Federal Register (35 Federal Register 18376) as the official symbol for Federal recreation areas designated for recreation fee collection. Any fees collected pursuant to this subsection shall be covered into the Land and Water Conservation Fund.

(b) Chapter 33 of title 18 of the United States Code is amended by adding the following new section thereto:

"§ 715. 'The Golden Eagle Insignia'

"As used in this section, 'The Golden Eagle Insignia' means the words 'The Golden Eagle' and the representation of an American Golden Eagle (colored gold) and a family group (colored midnight blue) enclosed within a circle (colored white with a midnight blue border) framed by a rounded triangle (colored gold with a midnight blue border) which was originated by the Department of the Interior as the official symbol for Federal recreation fee areas.

"Whoever, except as authorized under rules and regulations issued by the Secretary of the Interior, knowingly manufactures, reproduces, or uses 'The Golden Eagle Insignia', or any facsimile thereof, in such a manner as is likely to cause confusion, or to cause mistake, or to deceive, shall be fined not more than $250 or imprisoned not more than six months, or both.

"The use of any such emblem, sign, insignia, or words which was lawful on the date of enactment of the Land and Water Conservation Fund Amendments Act of 1971, shall not be a violation of this section.

"A violation of this section may be enjoined at the suit of the Attorney General, upon complaint by the Secretary of the Interior."

(c) The analysis of chapter 33 immediately preceding section 701 of title 18 is amended by adding at the end thereon:

"715. 'The Golden Eagle Insignia'."

(d) The rights in "The Golden Eagle Insignia" under this Act, shall terminate if the use by the Secretary of the Interior of "The Golden Eagle Insignia" is abandoned. Nonuse for a continuous period of two years shall constitute abandonment.

SEC. 5. Subsection (a) of section 6 of the Land and Water Conservation Fund Act of 1965, as amended, is amended (1) by deleting the period at the end of paragraph (2) thereof and inserting in lieu thereof a semicolon and the word "and"; and (2) by adding immediately after paragraph (2) thereof the following new paragraph:

"(3) For defraying expenses incurred in connection with the operation and maintenance of Federal recreation facilities in or around Federal lakes and reservoirs administered by the Corps of Engineers, Tennessee Valley Authority, or the Bureau of Reclamation, and for recreation areas located on public domain lands administered by the Bureau of Land Management."

SEC. 6. The President shall submit a report to the Congress within one year following the approval of this Act on the progress which has been made to achieve a system of standardized fees.

SEC. 7. This may be cited as the "Land and Water Conservation Fund Amendments Act of 1971".

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–490), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

BACKGROUND AND PURPOSE

Hearings were held on S. 1893 and related legislation on May 20 and October 1, 1971.

S. 1893 as amended and ordered reported by your committee extends the basic recreation fee concept included in the Land and Water Conservation Fund act of 1965. The committee still believes, as it did then, that there should be a uniform federal fee system to defray some of the expenses incidental to the establishment and operation of Federal recreational facilities. These areas are acquired and developed mostly by other sources of revenue derived from all of our citizens. However, the committee believes that those who do use the areas ought to be willing to help pay something directly toward the cost incurred. This is most easily and fairly accomplished through a system of uniform standardized entrance and user fees.

THE GOLDEN EAGLE

For the first time the Committee is proposing to enact into statute by name the "Golden Eagle Passport" program, which has been the administrative designation of the fee system authorized as part of the Land and Water Conservation Fund Act. This has been a popular, but somewhat confusing program. The Committee believes that the fee system under the Fund Act should be extended. It is scheduled to die at the end of 1971, unless Congress takes action to revive it. If the program dies, the results could be more confusing, expensive, and frustrating to the recreation users and agencies administering the federal recreation program. Each agency will revert to whatever authority it had before the Land and Water Conservation Fund Act of 1965, and the desired goal of uniformity will be set back a decade.

Your Committee believes that a simple uniform system can be enacted that is reasonable to administer and fair to the citizen user.

Basically the bill continues two types or categories of fees:

1. An "entrance" or "admission" fee to a designated area; and

2. A "user" fee for the use of facilities within a designated area.

These fees may be paid by the purchase of an annual permit (the Golden Eagle Passport) or on a daily visit and use basis.

The "Golden Eagle Passport" is a $10 annual permit for entrance to designated areas. Citizens age 65 and over are exempt from purchasing this permit, and are entitled to receive an annual "Golden Age Passport" which is personal and entitles them to free entry to designated area.

The "Golden Eagle Recreation Passport" can be characterized as a super Golden Eagle. It entitles the purchaser and his family to enter a designated area and to use the camping and other facilities there. The annual rate is $25. Many families who do a great deal of camping at Federal areas will find this a real bargain. Others who do not camp or only occasionally do so, may prefer to purchase the entrance permit only or pay on a daily basis. The annual passport permit retains the "family" concept of allowing the purchaser and those accompanying him to enjoy the benefits available.

THE GOLDEN AGE PASSPORT

As mentioned earlier, citizens age 65 and older do not have to purchase an annual entrance permit. Instead, they will be entitled to receive a "Golden Age Passport" allowing them to enter designated areas free of charge. In addition, they will be charged only $15 for the annual camping permit. The Committee strongly believes that these citizens who have paid taxes all of their working lives to support our great national park and recreation programs should be entitled to some extra dividend, now that they have reached retirement. Most are ordinary citizens with a great love of nature and the outdoors. Most have limited financial resources, living on fixed incomes in an era of ever rising costs. We believe the Congress should grant this extra benefit and have so provided in the bill.

LACK OF PARTICIPATION BY SOME AGENCIES

In the past, some agencies of the federal government have not participated in the fee program to the extent or in the spirit which the Committee thought was intended. We believe this is past history, and resulted partly from the uncertainties over what was intended in the basic Act. By the same token, some agencies were expected to collect fees but were not really permitted to receive any direct benefits from the Fund because they were not basically a "recreation" agency. Their primary mission related to the development or protection of resources other than outdoor recreation, although, because of the nature of their project responsibilities, the outdoor recreation potential is enormous and ever present. Examples are the federal reservoirs constructed for irrigation, flood control, or power purposes by the Bureau of Reclamation, the Army Corps of Engineers or the Tennessee Valley Authority. Another example is the vast recreation potential now recognized as being available on the federally owned but largely untapped areas of public domain lands administered by the Bureau of Land Management.

The Committee believes that we should move forward into a new era in implementing this program. These agencies should not only participate in collecting fees, but they should receive direct benefits from the Land and Water Conservation Fund to assist them in operating their recreation facilities as a supplement to regular appropriations for recreation purposes.

The basic act has been amended to permit this as one of the federal purposes for which moneys may be allocated under Section 6 of the Act.

ESTABLISHMENT OF FEE CRITERION AND DESIGNATION OF AREAS

The bill retains in the President the basic authority to designate federal areas where fees may be charged and to establish uniformity of criteria. In practice, this authority has been delegated. The Committee recommends that one agency, most appropriately the Bureau of Outdoor Recreation in the Department of the Interior, should establish the criteria by which fees schedules should be set. In other words, the same fees should be charged for the same or comparable services provided by an agency. By the same token, once the criteria is established, each agency should designate the areas under its own jurisdiction where fees shall be collected and the method of collection. This practice should lead to the uniform, fair and equitable fee system we are all seeking.

While recognizing the need to encourage the development of nonfederal recreation facilities such as campgrounds, the committee rejects the policy recently adopted by some federal agencies requiring federal fees to be at the same level as state, local or commercial fees for comparable facilities in a given area. This policy would, in effect, permit nonfederal operators to fix the level of federal fees and could undermine the establishment of a fair and uniform fee system. The committee stresses the language in the bill providing that nothing in the Land and Water Conservation Fund Act shall require that any fee be established at the same level charged by non-federal recreation facilities. Comparable fees may be desirable in areas where federal facilities are not sufficient to meet public demand and where there is a need to encourage state, local or private development, but the fixing of federal fee levels should be retained in the President, subject to the requirement that "All fees established under this Act shall be fair and equitable."

RESTRICTIONS ON FEE COLLECTIONS

The Committee has attempted to restate its position with respect to restrictions on the collection of fees. These have to do primarily with water areas created by federal construction activity. Although we recommend repeal of Section 210 of the Flood Control Act of 1968 (82 Stat. 746) because we feel that all statutory regulation of recreation fees should be related to the Land and Water Conservation Fund Act to insure clarity and uniformity, the Committee subscribes to the general philosophy of that act.

We have largely incorporated the concept into the basic Land and Water Conservation Fund Act by adopting the substance of S. 1228, the bill introduced by Senator Allott for himself and others. Basically the restrictions are very simple.

No entrance or admission fee shall be charged except at such areas or portions thereof administered by a Federal agency where recreational facilities or services are provided at Federal expense. No fee of any kind shall be charged by a Federal agency under any provision of this Act for use of any waters per se.

User fees at recreation areas administered by the United States at Federal lakes and reservoirs shall be collected by officers and employees only from users of highly developed facilities constructed for reasons of public health, safety, and convenience, and which require a schedule of regular maintenance and supervision. Fees shall not be collected for entrance or access to or use of water areas, undeveloped or lightly developed shoreland, picnic grounds, overlook sites, scenic drives, or boat launching ramps where no mechanical or hydraulic equipment is provided.

FUTURE OF THE PROGRAM

The Committee is convinced by the receipt of many hundreds of letters and communications that the Golden Eagle fee program is popular with the users of our Federal recreation lands. It has never provided the revenue for the fund which was predicted for. Nevertheless the committee feels it is a good and useful program. As stated, the primary purpose of a fee system for access and use of publicly-owned resources is to allow those who benefit directly to contribute something toward the cost. It is not a great revenue generating source. Revenues for the Land and Water Conservation Fund come primarily from other sources, the biggest single contributor to its success being the guarantee of funds from the sale and other revenue collected from Federal offshore mineral operations.

The Committee recommends a fresh start with the Federal fee program. The President is directed under section 6 of the bill as amended to report to the Congress on the progress being made toward a system of standardized, fair and equitable fees.

The Committee rejected the recommendation for an individual fee for anyone age 16 and over submitted earlier this year by the Administration. This would further complicate, rather than simplify, the program. It would detract from the concept of "family" which the committee endorses, and only multiply the problems of administration of a workable fee system. The committee contends that there can and should be a fair and workable fee program to help offset some of the costs of providing a great national recreation program for the American people. Our people are willing to participate in such a program, and this willingness together with a uniform and cooperative approach by the executive agencies involved should result in the success of the plan. The Committee will review with great interest the report to be submitted.

ACTION OF THE COMMITTEE

The bill, as amended, was ordered reported without an adverse vote in committee.

Mr. MANSFIELD. Mr. President, that concludes the call of the calendar at this time.

ORDER OF BUSINESS

Mr. SCOTT. Mr. President, I yield back my time.

REVENUE ACT OF 1971

The PRESIDENT pro tempore. The Chair now lays before the Senate the unfinished business which the clerk will state.

The legislative clerk read as follows:

H.R. 10947, to provide a job development investment credit, to reduce individual income taxes, to reduce certain excise taxes, and for other purposes.

The Senate resumed the consideration of the bill.

Mr. MANSFIELD. Mr. President, what is the pending amendment?

The PRESIDENT pro tempore. The first amendment to be considered will be No. 715 to the Pastore amendment, as proposed by the Senator from Nebraska (Mr. CURTIS), which the clerk will state.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with but that the amendment be printed in the RECORD.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment ordered to be printed in the RECORD is as follows:

On page 29, lines 1 and 2, strike out "Effective with respect to taxable years beginning after December 31, 1970, section" and insert "Section".

On page 29, after line 19, insert the following:

"(d) The amendment made by subsection (c) shall apply to taxable years beginning after the close of the first fiscal year ending after the date of the enactment of this Act in which the total income of the Government of the United States exceeds the total expenditures made by the Government of the United States, as determined and published by the Director of the Office of Management and Budget. The provisions of subtitles A and B and of subsections (a) and (c) of this section shall take effect on the first day of the fiscal year following the first fiscal year described in the preceding sentence.".

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, the time for the quorum call to be charged to both sides.

The PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CURTIS. Mr. President, I ask unanimous consent that the order for the quorum can be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CURTIS. Mr. President, a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state it.

Mr. CURTIS. Mr. President, how much time have I remaining?

The PRESIDENT pro tempore. The Senator from Nebraska has 27 minutes remaining.

Mr. CURTIS. Mr. President, I dislike to take time for a quorum call, but the Senator from Nebraska would like to have a rollcall vote on his amendment. We would therefore have to have a sufficient number of Senators present to order the yeas and nays.

I ask unanimous consent that there be a quorum call, the time not to be charged to either side.

The PRESIDENT pro tempore. Is there objection?

Mr. MANSFIELD. Mr. President, the Senator from Nebraska will be assured that we can have the yeas and nays.

Mr. CURTIS. Mr. President, I ask unanimous consent to withdraw the request for a brief quorum call, because I rely upon the majority leader that we can get the yeas and nays.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CURTIS. Mr. President, my amendment is quite simple. It is easy to understand. It provides in substance that the Pastore amendment shall not become effective until the budget is balanced. In order to understand that, we must think for a moment what the Pastore amendment does.

The Pastore amendment takes money out of the U.S. Treasury to be used to pay for political campaigns. It provides that a taxpayer, when he files his income tax return, can make a certain mark on his tax return, and $1 of his tax will be sent to a political fund to help pay for a political campaign of the presidential candidates.

Mr. President, the taxpayer in doing that does not send in an additional dollar. If he directs the Treasury to take $1 out of the Treasury, it means that someone else has to be taxed that much more in order to provide the funds to operate the Government. So all the talk about this proposal being something that the individual taxpayer is doing is not quite right. Of course, the taxpayers pay all the money that comes in. However, if one has the right to direct that a dollar be taken from his tax money and put into a political campaign fund, it is a dollar taken out of the Treasury. It is the Treasury's money, and someone else will either have to pay an additional dollar or we will have to go that much further in debt.

Mr. President, I am humiliated to stand here and to say that our national debt is $30 billion more than a year ago. Our national debt is increasing at the rate of $58,000 a minute. Yet the Senate is seriously considering an amendment to take millions of dollars out of the Treasury and give it to the politicians to enable them to run their political campaigns. I say it is shameful. It should not be done.

I think the amendment as drawn is a humiliation to every Senator who votes for it. The people will find out that the Treasury of the United States has been raided for the benefit of politicians.

The author of the legislation says it takes $20 million to run a political campaign; that each candidate will have to have that much to have any chance of winning. Under the formula, a minority candidate for the Presidency is going to get only $6 million. There is nothing in the amendment that says how he shall spend it. He can appoint all of his relatives as campaign managers and pay them each $200,000 to manage his campaign. The amendment has locked into it the possibility of corruption. However, more than that, can any Senator imagine the Senate of the United States voting for an expenditure like this when we have to borrow the money to do it?

If we were operating on a balanced budget, if there were money in the Treasury, and if Congress were to decide that we ought to pay for political campaigns out of the Treasury, that would be one thing. I doubt the wisdom of it. However, at least it would be quite different from the present proposal in which we are asked to increase the national debt by millions of dollars for the purpose of turning the money over to people who cannot be elected President.

Mr. President, we are asked to turn the money over to politicians who have always raised their own funds. Those who believe that the cost of a presidential campaign should be borne by the public Treasury ought to believe in it enough to be willing to tax the people to pay the money to have a balanced budget.

Mr. President, all I ask is that if the Senate must go ahead with this unsound practice of paying political campaigns out of the public Treasury, they should balance the budget first.

Mr. President, I reserve the remainder of my time.

Mr. MANSFIELD. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from Montana is recognized for 3 minutes.

Mr. MANSFIELD. Mr. President, the amendment offered by the distinguished Senator from Nebraska is a very appealing one on the surface. However, I think it should be brought out that under the previous Democratic administration, there was a big deficit each year. I would point out in comparison that that pattern has continued under the present administration.

Mr. President, last year the budget deficit, I think, was about $23.5 billion. This fiscal year, it is anticipated it will be about $30 billion. The distinguished chairman of the House Ways and Means Committee, Representative MILLS, has indicated that it might go to $35 billion. Therefore, it appears that the possibility of a balanced budget in the immediate future is not in sight.

If we were to tie ourselves to the amendment of the distinguished Senator from Nebraska, it would mean more of the same; it would mean a continuation of a process which is rapidly getting out of hand—and the chance for reform in this area would be lost.

It is said that certain rich people who at one time would invest in works of art now invest their money in politicians. If that is correct—and I think it is correct—it indicates a very unhealthy trend in the life of the Republic, one which will give control not to the people, but to the preferred few.

What the Pastore amendment seeks to do is not to impose an additional tax on individuals but to take $1 out of the taxes which they pay to the Government. The taxpayer himself would authorize that $1 would be volunteered to a fund, to be used by the presidential candidates of the political parties during the course of the campaign. This, to me, would indicate that the people are participating in politics in a real sense; and it would indicate a return to the people and a shift away from the "fat casts" who are rapidly assuming more and more control over the conduct of this political system.

I would hope, therefore, that the Senate would give the most serious consideration to the overriding factors involved in the consideration of this amendment and all amendments thereto and recognize that if something is not done to reform and redirect this trend back to the people, the results may well be irrevocably bad for the Republic in the days, the weeks, the months, and the years ahead.

There is nothing compulsory about the allocation of this money. May I repeat it does not call for an extra dollar for tax purposes, and may I say that it is a small amount to pay to preserve this democracy—very small when we consider in comparison what it costs to conduct the foreign aid program of this country, what it costs to carry out a war in Cambodia, Laos, and Vietnam, and what is costs to maintain about 2,000 bases abroad. Those factors are considerable.

The point is that if we do not have a strong Government at home, no matter how much is spent abroad, it will not be effective. One of the ways to remain strong at home, or to become strong once again, is to give recognition to the people and to provide them the opportunity, if they so desire, if they want to do so voluntarily, to participate to the extent of $1 out of the taxes which they pay anyway for the purpose of trying to bring presidential campaigns back to the people.

The PRESIDENT pro tempore. Who yields time?

Mr. CURTIS. Mr. President, I do not yield back my time, but I am prepared to do so, if I can have the assurance of a rollcall.

First, I yield 1 minute to the Senator from Pennsylvania.

Mr. SCOTT. Mr. President, the iniquity of this Pastore amendment is further revealed by what the distinguished Senator from Nebraska said. When he proposes that we should not pay ourselves out of the public Treasury except in years in which we have a balanced budget, he is proposing that we should not through paying ourselves increase the deficit, the public debt. If we do, taxpayers would be required not only to pay for the expenses of politicians campaigning, but would also be required to pay an additional interest on the national debt because of the further deficit created by the passage of the Pastore amendment.

So the proposal becomes more and more iniquitous as it is more and more carefully examined.

The Pastore amendment is very dangerous because it has conflict of interest built into it and resounding from it at every future moment during the forthcoming campaign.

I hope Senators will not vote a conflict of interest against themselves.

Mr. PASTORE. Mr. President, I yield myself such time as I may require.

The PRESIDENT pro tempore. The Senator from Rhode Island is recognized.

Mr. PASTORE. Mr. President, there is no conflict of interest involved here. First, we do not know who the nominee is going to be. It could be almost anyone. It has to be left up to the convention.

Second, the whole concept is being misunderstood by the opposition. The concept here is to accommodate the people, and not the candidate.

The point here is that what we are trying to do is to make it possible for the people to have a full and fair exposure of the candidate and the issues, and not have it lopsided. That is all it amounts to. The amount is very modest.

Mr. President, I will tell the Senators how ridiculous this amendment is. I will place in the RECORD the editorial published in yesterday's New York Times. We have been listening to these awful things that have been said about this amendment, the awful charges—including terming a people's option as raid on the Treasury. Here is one of the most prestigious newspapers in the world and here is the editorial, not that that makes it right but certainly it is rational. I dare say the Senator from Connecticut (Mr. WEICKER) read it. I hope he did. I dare say the Senator from Pennsylvania read it. I hope he did. Not that it becomes the bible of what we should or should not do. But why is the Pastore amendment termed an awful thing when one of the most prestigious newspapers in the world writes an editorial, as it has. It calls the Pastore amendment legitimate in concept, simple in operation and promising a permanent gain to the political health of our country.

Mr. President, I ask unanimous consent that the editorial from yesterday's New York Times be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

SLUSH—PUBLIC AND PRIVATE

In what seems like a suddenly improvised movie, Senate Democrats have come up with a simple and legitimate way to finance Presidential campaigns without subjecting a nominee to the indignity of begging his way. Actually the idea that a taxpayer be allowed to earmark part of his Federal tax for this purpose is far from new. Comparable plans date back a half-century or more; one was enacted in 1966 only to be repealed in 1967, and the current effort, tacked on to the Administration's tax reduction bill, has been quietly under discussion since midsummer.

The plan owes its reintroduction to the grave financial disadvantage confronting the Democratic party on the eve of the 1972 campaign. Some $9 million in debt, the Democrats have no prospect whatever of matching the $25 to $40 million the Republicans are expected to raise and spend. Under the basic proposal by Senator Pastore of Rhode Island, each of the major parties could collect up to $20.4 million in earmarked tax payments, but a candidate who accepted such public funds would have to forgo all private financing. To make the plan more palatable to some of his fellow Republicans, Senator Mathias of Maryland would allow taxpayers to designate, if they so desired, the party to which their dollar contributions would go.

Naturally, the preliminary voting in the Senate followed party lines. Republicans were being asked to assure their opponents of far more money than the latter could reasonably expect to raise. For their own part the Republicans would either have to settle for less than they could command from private sources or expose themselves to the political charge and their candidate was obligated to special interests and millionaires while his Democratic rival owed no one but "the people."

In two important respects the "checkoff"—in either of the forms now proposed—differs from earlier versions. The money would go into a trust, to be paid out to each party's Presidential candidate after the nomination; the 1966 law would have turned the money over directly to the two national committees, giving a dangerous degree of control to their chairmen. And the plan makes some allowance for minor-party candidates. Should Governor George Wallace decide to run again, he could count on some $6 million under the Pastore version—a consequence not altogether palatable to Republicans who see him as competing with President Nixon for the electoral vote of several Southern states.

In any given year one party has to be helped more than the other by this kind of innovation. But that seems hardly the criterion for judging an institutional change of such far-reaching importance. To call it a "slush fund," as some Republicans have, is preposterous in view of the corporate, trade union and other private slush funds that have for so long compromised the American electoral process.

We hope that the Republican leadership will subordinate whatever temporary loss of advantage it may anticipate to the permanent gain which the measure so clearly promises to the political health of the country. In particular, we trust it will not turn against the broader legislation for reforming campaign finance which, with its creditable cooperation, still has fair prospects for passage by the 91st Congress.

Mr. MATHIAS. Mr. President, will the Senator yield?

Mr. PASTORE. I yield.

Mr. MATHIAS. I also read with great interest and encouragement the editorial the Senator has just placed in the RECORD. I think it makes some interesting observations. However, so that we may have a balanced picture, on the same editorial page is a column written by Tom Wicker which takes an opposing view and raises some of the other questions we have discussed in the last week or so on this topic.

I ask unanimous consent that the article by Tom Wicker, published on the same page in the New York Times, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE CHECKOFF SCHEME

(By Tom Wicker)

Clever, those Democrats in the Senate. Tying their campaign subsidy plant to President's Nixon's tax reduction bill makes it about as veto-proof as anything can be. Unfortunately, the subsidy plan itself is not much better than it was five years ago, when another Democratic Senate rejected it.

It is true enough that the Democrats, although they are the majority party, are out of pocket—in debt from 1968, facing a series of expensive primary campaigns before they can ever get at Mr. Nixon, and wary in the knowledge that even now the Republicans are putting together their usual fat Campaign bankroll.

It may also be true—although not proven—that the costs of American political campaigns are so high, and will get so much higher that some form of Federal subsidy has to be devised to relieve parties and candidates of overreliance on big contributors. The Democrats' $1 checkoff plan nevertheless is a dubious solution either to the party's immediate poverty or to the long-range problem. The plan appears to be no better considered and as full of loopholes and questions in its resurrected state as it was when Russell Long of Louisiana first dashed it off, more or less on the back of an envelope, in 1966.

Aside from weightier considerations, the plan might not even solve the Democrats' most immediate problem, which is the forthcoming series of primaries. It may be argued that a $20.4-million Federal subsidy for the general election campaign would free Democratic money for the primaries; but it is not necessarily true that those who would give to a convention nominee will support primary candidates instead, and the psychological effect of the subsidy might be to dry up rather than to stimulate specfic kinds of contributions.

The checkoff plan is thick with constitutional question marks. What does it do to the First Amendment rights of a citizen who wants to express his or her Presidential views in more substantial ways than diverting $1 of income tax? Depending on exactly how the money in the over-all campaign fund is divided among the parties, there might also be a question whether some citizens were being made to contribute involuntarily to a party or candidate they did not support. And if private money spent for a Presidential nominee without his consent is to be charged against his Federal subsidy, the result will be either sharp and probably unenforceable limits on those who want to engage in independent political activity, or—more likely—chaos.

The cheokoff would work great change in the party system. Obviously, with its greater benefits to the major parties, it would tend to perpetuate them as major parties; minor parties would be put at severe and unwarranted disadvantage. Where is it written and on what tablets of stone that Democrats and Republicans are ordained from on high and endowed with special privilege?

The parties themselves might be altered irretrievably. If every Presidential nominee is to be handed, the day after his nomination, a fat Federal check to finance his campaign, the party's national committee and various state affiliates will be down-graded and deprived of their major function Party control will be centralized in the candidate, who will have the cash; the net effect of that on party policies, on state and local political activity, on citizen political participation, is not entirely foreseeable but appears ominous.

Besides, although there is a real and present danger of a pernicious influence on politics from some big givers, it is nevertheless true that some other big givers have a beneficial effect on politics. Won't total Federal financing of a Presidential candidate tend to make him less, not more, responsive to the public will and to the play of interests and political forces in society? Do we really want to make Presidents and the men who compete for the office even more powerful and independent than they are now?

It is true that the plan—insofar as it is settled—gives candidates the option of rejecting the subsidy and financing their campaigns in the old way. That choice may be more theoretical than real; a candidate who had rejected a $20-million Federal handout might appear noble, but would surely have a hard time explaining why he needed private contributions to pay for his nobility.

In a thoughtful article in the fall, 1971, issue of The Public Interest, Vic Fingerhut makes another applicable point. Private contributions to political parties, particularly those made by individuals, he argues, are one of the most effective means of citizen competition with the vast power of large interests to make their cases, either by advertising or by political influence. If the citizen can no longer help pay for Presidential campaigns directly, by that much he loses some of his ability to influence public policy.

As Mr. Fingerhut put it, "No similar restrictions will be placed, for example, on major oil companies, which will remain free to saturate television with commercials persuading the public of the necessity for a pipeline development project."

Mr. PASTORE. I have no objection and, to neutralize the request of my good friend, there is quite an article also by Warren Weaver, Jr., on the same page, entitled "What A Plan! It's Even Moral." It asks the question—who can argue that the Presidency should not be taken off the auction block and made a contest of records, issues, and characters rather than available wealth. Mr. Weaver's column deserves reading.

Mr. President, I ask unanimous consent that that article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CAMPAIGN SPENDING: WHAT A PLAN! IT'S EVEN MORAL

(By Warren Weaver, Jr.)

WASHINGTON.—The Democratic party, facing its first national election in eight years without the resources of the White House, has developed a creative new strategy. Why, its leaders ask, should we risk the old Electoral College try when we can win in advance in Congress?

With this forehanded policy in mind, the Democrats have managed over the last 18 months, always prcclaiming the most high-minded motives, to achieve the following:

A law and then a reinforcing constitutional amendment that will permit some 12 million young people from 18 to 20 years old to vote in a Presidential election for the first time. The Democrats think they can get two-thirds or three-quarters of those who turn out.

A bill approved overwhelmingly by the Senate and awaiting action on the House floor that will limit radio and television spending—the largest single verifiable item—by any Presidential candidate to about $8-million. This is just about what the Humphrey-Muskie ticket was able to spend for this purpose in 1968, while the Republicans were investing about $12-million in broadcast communications.

A bill that has cleared a Senate committee and is awaiting floor action to establish a simplified postcard registration for national elections that could turn some 45 million Election Day dropouts into voters. The people who do not vote because they fail to register are mostly poor, black or under-educated. The Democrats estimate they could attract at least three-quarters of them.

An amendment, which won a majority on a test vote on the Senate floor last week, that would give a 1972 Presidential candidate the option of financing his general election campaign with public funds—$20.4-million worth of Federal tax revenues—if he agreed to hold his total spending to that figure and if a new collection system produces enough earmarked money.

If the Republican candidate preferred to rely entirely on private fund raising, he could spend more than this limit, only subject to whatever television and radio ceiling Congress may enact. But the Democrats, still $9-million in debt from 1968, would be guaranteed a respectably competitive figure for the main event in 1972.

The beauty of all these Congressional moves is that they can be fully justified on the basis of public morality, while holding out the private promise of immense partisan advantage at the same time. Who can argue that young people should be denied the vote, that roadblocks to eligible voters should not be leveled, that the Presidency should not be taken off the auction block and made a contest of records, issues and character rather than available wealth?

Well, the Republicans can, but they were having an increasingly difficult time of it last week, so difficult, in fact, that to stall a proposal for the public funding of campaign expenses they had to resort to proposing a three-day series of almost frivolous amendments on the Senate floor, creating a sort or concealed filibuster.

Then on Friday, there was a change in signals. The White House demonstrated increased concern during the afternoon. President Nixon abandoned a plan to spend the weekend in Key Biscayne, Fla., and returned to Washington. That evening, the Senate Republicans, despite some bickering, agreed to let the public financing campaign bill come to a final vote on Monday.

There was little secret that the Administration wanted time to work over a few of the Southern Democratic Senators, men who had voted against a similar plan to finance the Presidential campaign publicly when it was first approved in 1966 and then rescinded a year later, before it could take effect.

As written, the Democratic plan depended for its public money on taxpayers indicating on their income tax forms that they wanted to earmark $1 of their payment for a campaign fund, on which both major party nominees could draw generously and lesser candidates in proportion to their indicated strength.

In the wings, however, was a Republican amendment sponsored by Senator Charles McC. Mathias of Maryland that would give the taxpayer more choice: he could send his $1 to the Democratic candidate, the Republican candidate, the candidate of another party he named or to a fund distributable among all of them.

In the House last week, the important decisions on campaign spending limits were put off for 10 days, until after the Thanksgiving recess. Because the picture there remains uncertain, supporters of the legislation were dismayed, fearful their vote might be shaved down before the real test came at the end of November.

Mr. PASTORE. Mr. President, I realize how the people who are opposed to this idea feel, and I have the highest respect for them, but please do not make us raiders.

Mr. SCOTT. You are raiders.

Mr. COOK. Mr. President, will the Senator yield?

Mr. PASTORE. I yield.

Mr. COOK. When the Senator talks about an article by Mr. Warren Weaver, published in the New York Times, I recall vividly that he also wrote an article on the campaign expenditure bill and said my amendment, accepted in committee, would put that bill far out of sight; that it would be unreasonable. The article was entirely wrong, and later the New York Times had to admit it.

Mr. PASTORE. I agree with my colleague from Kentucky. He was 100 percent right on that.

Mr. SCOTT. Mr. President, will the Senator yield?

Mr. PASTORE. I yield.

Mr. SCOTT. After all, the Senator is citing the fact that a newspaper normally leaning heavily to the Democratic side wants the Democrats to have more money, but its lending libertarian writer, whose conscience is affected by this, points out his newspaper is wrong.

Mr. PASTORE. These articles demonstrate that sincere, intelligent men can disagree, and that we can disagree without being disagreeable. I constantly emphasize the sincerity of those who disagree with me.

Mr. CURTIS. Mr. President, how much time have I remaining?

The PRESIDENT pro tempore. The Senator from Nebraska has 18 minutes remaining.

Mr. COOK. Mr. President, a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state it.

Mr. COOK. Under what rule are we limiting time on the amendments today?

The PRESIDENT pro tempore. The previous unanimous consent agreement.

Mr. COOK. There is no previous unanimous consent. Obviously, the unanimous consent that the Senator from Pennsylvania got Friday night on changing the time limitation on the Pastore amendment, which took it out of the 6-hour rule, provides for 1 hour on amendments. When the unanimous-consent request was made by the Senator from Pennsylvania, which overruled the 6-hour rule, no part of the unanimous-consent request of the Senator from Pennsylvania—and I read from the RECORD—limited the amendments to 1 hour.

The PRESIDENT pro tempore. The Chair is informed that the Senate has been operating under that agreement for the last 6 days.

Mr. COOK. It has got to be understood that if the unanimous-consent request of the Senator from Pennsylvania was accepted Friday evening, that we vote on the Pastore amendment at 5 o'clock today, that superseded the previous agreement.

The PRESIDENT pro tempore. It vitiated the 6-hour agreement, but not the 1-hour limitation on every amendment.

Mr. COOK. A parliamentary inquiry, Mr. President. If the 1-hour limitation on the amendments was a part of the 6-hour agreement on the total amendment, did one part of the agreement stand and the rest of the agreement fall?

The PRESIDENT pro tempore. The Chair is informed that the agreement stands except where it was modified.

Mr. COOK. I am sorry that not enough Senators are present to appeal the ruling of the Chair, because obviously we cannot have an agreement of 6 hours on the Pastore amendment and 1 hour on amendments thereto, and then vitiate the 6-hour agreement and keep the 1-hour agreement—if it is a part of that agreement.

Mr. PASTORE. Mr. President, will the Senator yield to me on my time? I merely want to make this point.

Mr. CURTIS. I yield.

Mr. PASTORE. Under the unanimous-consent agreement, the Senate will start voting on title IX at 5 o'clock. Immediately thereafter we will vote on title X. In the meantime all the amendments are coming from that side. If that side has many amendments, my recommendation would be to shorten the individual time on them. No matter how many amendments there are we will still have to vote by 5 o'clock. It is up to interested Senators to allocate their time.

Mr. COOK. If we run out before that time, then we will have a period of time that is not under any Senator's control.

The PRESIDENT pro tempore. Who yields time?

Mr. CURTIS. Mr. President, the arguments advanced here are that these moneys should be taken out of the Treasury and that we should increase the national debt to do it in order to give exposure to political candidates for President. The only way to expose any candidate is to have more hours a day and more days a week. They are exposed around the clock. They are traipsing up and down the country with special Senatorial and House committees. They are flying here and yon. They are on television programs, and there is not enough money in the Treasury and in the national debt to increase the exposure the candidates are getting.

As a matter of fact, I am not too sure that the country is demanding more exposure from these candidates. I have not received any requests to the effect, "Let us see more of this man. Let us hear more from him." I think the question might properly be asked whether or not the people are getting tired of this overexposure. The point is that this is an expenditure out of the Treasury. It certainly is an expenditure of the very lowest priority that has ever come up—that politicians should get money for their own coffers when they are in debt.

Mr. WEICKER. Mr. President, will the Senator yield?

Mr. CURTIS. I yield 5 minutes to the Senator from Connecticut.

Mr. WEICKER. I thank the Senator from Nebraska, and commend him on his amendment.

The PRESIDENT pro tempore. Let there be order in the Chamber. Let us have order, please.

The Senator may proceed.

Mr. WEICKER. Mr. President, I commend the Senator from Nebraska on his amendment and on his comments thereto.

Let us not worry about the New York Times. When I ran for Congress in 1968, the Times came out for my opponent, and I was elected. When I ran for the Senate in 1970, the Times was against me, and I was elected.

Mr. CURTIS. They gave Castro to the country. They championed most of the bad fellows.

Mr. WEICKER. I certainly think the New York Times is a newspaper of prestige—no doubt about it—but it is wrong many, many times. It is wrong on this bill.

The other day we had a graphic example of what we are trying to avoid in this bill—and this is not a personal reference to one of my colleagues, because it could have been the Senator from Maine or it could have been the Senator from Massachusetts. It could have been one of many Senators, but the fact is that on a morning a few days ago one of our colleagues had a press conference in which he announced he was running for the Presidency of the United States. Then he walked 100 yards to the Chamber to vote on federally raised campaign funds for that run. We as Senators should not participate in this fund. Neither should the President of the United States? None of us should participate in the benefits of a law that we are enacting. I think that is the key point.

I do not deny the concept that the Senator from Rhode Island is trying to bring into being—specifically, that economics should not play a role in any man's ability to run for office in the United States. I agree 100 percent with the Senator that the dollar should not make any difference. So to that extent the Senator has a valid point.

But to the extent that we tailor this particular legislation so that we Senators and our parties will be the beneficiaries before we go before the public and tell them what we are doing, I think it is wrong. This concept was denied by the Senator from Rhode Island and his colleagues when they rejected my amendment to make the law effective 6 years from now. In a few minutes, after we dispose of this vote, Senators will have an opportunity to say that nobody holding public office now can participate in this fund until after January 1, 1973.

Do my Senators think it might not stand to our credit to enact legislation that would make it possible for any American to run for office and not be restricted by a lack of funds, while at the same time denying this advantage to ourselves in the immediate future? Then what we did would be with clean hands. We are not tailoring it to the debt of one party or the fact that the money will go into our party's campaigns or that the President will get the fund.

Mr. SCOTT. Mr. President, will the Senator yield for a brief remark?

Mr. WEICKER. Yes.

Mr. SCOTT. Theirs is the party that fought the war "on the cuff," and it wants to fight all future political wars on "the cuff," all on credit. We ought to issue them a credit card saying, "You are entitled to draw on the voters for all the future campaigns," and call it the "U.S. Senate Credit Card."

Mr. WEICKER. I concur. The real difficulty the Democratic Party is having today is not money, but the fact that it is responsible for getting us into Vietnam, and the American people are not eager to finance a party that got us into such a mess. The economic difficulty we are having today is that the Democrats tried to have guns and butter, and the American people do not want to pay for such irresponsibility.

Mr. SCOTT. Guns and butter and credit cards.

Mr. MANSFIELD. Mr. President, will the Senator yield me half a minute?

Mr. CURTIS. I yield.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. WEICKER. The Senator from Rhode Island is right when he says we can disagree without being disagreeable. Also, the proposal he makes does have merit, but we are proposing to clean it up so that, first, it may work more effectively and, second, so that it will shield us from any conflict of interest.

Sure, the Senator can stand there, and say, "We have got the votes." They do; no question about it. And under these circumstances, just as the Democrats got us into Vietnam and were fiscally irresponsible, they will have to take the consequences if this becomes the law of the land, and is abused, and conflicts of interest occur.

I think most of us here do not want to see a valid concept abused. Rather, we want to see it work, in a way that will stand to the credit of this body, rather than to its dishonor.

I yield to the Senator from Nebraska.

Mr. CURTIS. Mr. President, let us stop and consider how many candidates for President have come out of the woodwork since this bill has been on the Senate floor. We had one announce yesterday. If Senators think this is not a financial plum for a politician, just look and see what has happened.

The very consideration of this measure raises the hopes of people: "Well, if I could just get into this race, I would get my hands on some money "

Mr. President, there is a formula in the amendment that provides how the money shall be prorated. There again, I call attention to the fact that, as has been stated on the Senate floor, it will require $20 million for a presidential campaign. Yet, under the proposed formula, a minor candidate would receive $5 or $6 million. Can that be defended as in line with the stated purpose, by expenditure of public funds, to give exposure to everyone all over the country?

No. This is a proposal to pay out of the public treasury money that ought to be paid by others.

There has been a lot of talk about wealthy politicians and wealthy contributors. The only ones that I can think of at the present are in the Democratic Party. There may be others, but I cannot think of them.

Mr. President, the idea, when our national debt is at an alltime high, and is increasing by $58,000 a minute, that we should vote millions and millions of dollars of the taxpayers' money to give to political organizations is unthinkable. It cannot be defended.

I maintain that if we had a balanced budget, and there are those who believe that for the public good, all candidates should have a complete and total exposure, they should come in here with a bill that would provide that, not a partial exposure.

But the exposure argument has nothing to do with this legislation. This is an attempt to finance political organizations, so that the money they raise can be used for other things.

Mr. President, I reserve the remainder of my time.

The PRESIDENT pro tempore. Who yields time?

Mr. PASTORE. I yield the Senator from Louisiana such time as he may require.

Mr. LONG. I thank the distinguished Senator.

Mr. President, if the Senate were trying to balance the budget, it would not be repealing the automobile excise tax. As a matter of fact, when you really get down to it, there are billions of dollars of revenue eliminated by this bill. These are funds that could be used to balance the budget. Since the automobile excise tax is dedicated to the general fund, it is an item that would save the Government billions of dollars a year. It would save the Government more than 100 times what the tax checkoff system would cost a year.

If we really wanted to balance the budget, Senators would never have voted for the tax credit to send one's children to college. That will cost around $2 billion a year, if my memory serves me correctly. I opposed it, and did what little I could, as a Member of this body, to keep the Senate from agreeing to it, but it did; and it will cost about 200 times as much as the checkoff provision.

Oddly enough, if Senators were really concerned about the cost, you would think they would be directing their fire at the provision that allows a deduction for political contributions, because that costs a great deal more money than the $1 checkoff; and if Senators were really concerned about the cost of doing something, even in this area, one would think they would be directing their fire at the $25 tax credit for political contributions, which also costs more than the $1 checkoff.

But, no, all their criticism and fire is aimed at just one thing; and oddly enough, that is the one thing in the bill that would do the most to assure that we would be making strides toward reducing or eliminating corruption in government. I listened to the argument of the Senator from Connecticut that we should not do anything about corruption because theoretically we have an interest in it. That is equivalent to saying that we should not seek to do anything about good government, or cleaning up corruption, because we have an interest in existing corruption.

But the fact about corruption is that you cannot do much about it unless you are willing to come to grips with it, and you cannot do much about coming to grips with it if those who would defend this type of mischief are determined to keep you from doing something about it. Moreover, you will undoubtedly pick up some scratches and scars in attempting to do something about the type of mischief you are seeking to correct.

So it is under those circumstances that one must consider all these arguments that have nothing to do with the issue. If we were concerned about balancing the budget, we would not be passing a bill that would reduce anticipated revenues by $15 billion, more than twice as much as I advocated in the committee.

Here we have a little amendment that would be, in relative cost, almost the least expensive revenue item in the bill, and we find, on that, that certain Senators just rise up in outrage, crying that this is going to cost money—it is going to cost the Government revenue, and further imbalance the budget. But either the same Senators, or at least a majority of this body, and sometimes an overwhelming majority, have voted to add to the bill items that would cost 200 or 300 times as much. On the whole, the Senate has added to the bill items that would cost 500 times as much as this proposal. So it really makes no point with me for Senators to have agreed to all those amendments, and then to say we cannot afford to make this small stride in the direction of good government.

Admittedly, this proposal will not do everything that should be done to correct what is wrong in the Government, but it is a long stride in that direction. It is my judgment that it is a good amendment so far as it goes; and that is about all you can say for any legislative proposal, that it is good as far as it goes. I have never seen one yet that would correct all the faults of the Government. It is my judgment that if we ever do get everything in the Government corrected, that will probably be the day the world comes to an end anyway, because it is my observation and judgment that things were not intended to be perfect this side of heaven.

It is my sincere belief that this little step would do a great deal in the right direction, and in that point of view I am probably the least self-motivated Member of this body.

Mr. President, I would suggest that the Democrats had no trouble at all about financing when we first considered this matter. We had a Democratic President in the White House and had the capacity to raise any amount of money. I regret that some Democrats did not see it quite that way and perhaps misunderstood my purpose at that time. But it was right when we did it; and if something is right, you ought to do it, no matter when it might be; and if it is wrong, you should never do it.

Mr. CURTIS. Mr. President, how much time do I have remaining?

The PRESIDENT pro tempore. Four minutes.

Mr. CURTIS. I yield 1 minute to the distinguished Senator from North Carolina.

Mr. ERVIN. Mr. President, I oppose the Pastore amendment, simply because I think there are some things which are not proper functions of government, and one thing which is not a proper function of government is financing the campaign of any candidate or any political party, directly or indirectly, out of the Federal Treasury.

I stated the reasons for my opposition to proposals of this kind in a hearing on the subject of political campaign financing proposals conducted by the Committee on Finance in 1967. I ask unanimous consent that the statement I made at that time and the colloquy which ensued, appearing on pages 468 through 472 of the hearings at that time, be printed at this point in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Statement of Hon. Sam J. Ervin, Jr., a U.S. Senator From the State of North Carolina

Senator Ervin. Thank you, Mr. Chairman. I appreciate your most gracious welcome.

The astounding increase in the cost of seeking political office in recent years has focused the Senate's attention on the creative work which must be done in campaign finance reform if our Nation is not to forfeit political power to a few wealthy enough to purchase elective office. The necessity for keeping our expanding electorate responsive and the increasingly high cost of using the communications media for this purpose has made it obvious that a public obligation does exist to assist in financing political campaigns.

However, any proposal to accomplish the ends of campaign finance reform must complement certain basic objectives of our political structure. Mr. Chairman, I believe the following fundamentals should be seriously considered before any legislation is enacted:

(1) All present and future political parties, including third parties, must be allowed to benefit from the financial plan.

(2) All individual candidates from the courthouse to the White House, must be included in any equitable financing, arrangement.

(3) Because of the overwhelming position of our national parties, the party primaries have gained such importance that funds must be available to opposing candidates within a single party.

(4) Control over funds should be diffused as much as possible to avoid concentrating political power in the hands of the few who control the national party committees.

(5) The plan must encourage as many citizens as possible to become involved in the election process.

Mr. Chairman, I believe present proposals for Federal financing of presidential campaigns by direct Treasury appropriation to national committees fall miserably short of these objectives. Not only could this method lead to monolithic party structure with rigid, stifling party discipline, but individual giving would be discouraged by the lack of the donor's control in designating the recipient of his contributions.

There is a real danger that the direct appropriation by a congressional committee, as recommended by the President, could be controlled by the majority party in Congress at that time. I believe this is a possibility we must not allow. Also, even though direct appropriation approach makes a nominal attempt at the third-party problem, they would be discouraged. The after-the-fact reimbursement of third parties provided for in the President's recommendation is like promising a dead man food if he comes to life. There is no denying that the third parties have played a useful role in our political history, and I would hate to limit their opportunity to do so again.

I would support, Mr. Chairman, a $50 tax deduction for contributions to any candidate or party of the taxpayer's choice, whatever the office or party might be. This would be the most meaningful step toward the original purpose of campaign fund reform: First, freeing money for poorer candidates, and, second, broadening the base of financial support for political campaigns. Also, unlike the direct appropriation, the tax deduction method would benefit candidates in the primaries and for offices below that of President where contributions are so difficult to raise.

Through the use of a tax deduction, individuals will be encouraged to involve themselves in all aspects of our political life—Federal, State, and local—and the high public interest in securing the election of unobligated candidates will be served. Too many fine candidates, particularly at the State and Federal level, are discouraged from entering elected public service from the sheer weight of financial realities and a method with the proper built-in safeguards must be enacted to further the cause of a more effective democracy.

Mr. Chairman, I feel a tax deduction approach correctly satisfies the need for campaign financial reform, and I hope the committee will move in that direction.

This is very simple, the tax deduction approach is a very simple method. It requires no elaborate Federal machinery for supervision. It leaves the freedom to control election processes to the people rather than putting them in the hands of officeholders, and I think in the interest of preserving the most precious value of our civilization—that is the freedom of individuals—the tax deduction method approach is the only rational way to solve this problem.

I thank the committee.

Senator Williams. This proposal that you have made would preserve the right of the individual citizens to support the party or the candidate of his choice, while at the same time it would encourage a wider participation on the part of the masses of American people, provide them by this approach a way to take a greater interest in their government. I think it is a constructive suggestion and one which I hope we can follow. I agree with you fully that it would be disastrous for us, by the direct appropriation method, to build in a system here where we could never have anything but these same two political parties. I think the right of the average American citizen to oppose both of our political parties—which I hope they do not—but to support a third candidate is their American right, and to do it with their finances as well as their vote. This proposal you are making certainly merits consideration because it is in that direction.

The Chairman. Senator, you understand, do you not, that with regard to third party problems, the bill I introduced—in fact, I have two bills before the committee. I thought I would shoot both to the left and to the right depending on which direction the committee wanted to go. In either event, the bills I introduced, one the administration approach, the other which follows what we like to call the Metcalf voucher plan but limited only to the presidential campaign, would provide for third parties which get as much as 5 percent of the votes.

In the other one, it would make no difference how many votes he got. If you were to support the candidate for the prohibition party, you would get a little voucher that is worth $1 and you would write down there the name of the man you want to vote for and just mail it on in. That is worth a dollar toward his campaign. So if that approach were to be used, you could call it all kinds of things and you would approach it from all different angles. You could call it a tax credit, a tax refund, you could call it appropriations. But, whatever it was, it would permit all the third parties to participate.

Senator Ervin. But they would not know whether it was deductible until they found out, counted up the votes. They would not know whether they had the 5 percent.

The Chairman. Not the Metcalf one. Now, the administration bill takes the approach, but I was not speaking of that. Of course, I am speaking of both, but the administration bill takes the approach that with regard to a third party, that party can have its choice. It can either rely upon the number of votes it received in the previous election or it can be reimbursed based on the number of votes it received when the election takes place.

For example, you can apply that to Gov. George Wallace if he desires to run. He has no prior experience as candidate for election to President of the United States. He only has experience in primaries. But he could perhaps take a poll that would indicate he is going to get about 13 percent of the vote, which might be about 8 million. He could then derive from that the fact that he was entitled to a certain amount of money, and I would imagine some could be advanced to him by loans from supporters which could be paid back and reimbursed to them when the campaign is over. So the administration bill provides a method by which a third party just starting could nevertheless go and make his case before the people.

Senator Ervin. The fundamental defect I see in that is that the established parties get theirs when they need it which is before the election, when the campaign is on, and the other people get theirs after the election is over. And as I said, it is like promising food to a dead man provided he is present at the resurrection.

Senator Williams. And one other point, if the polls he relied on were as misleading and far off base as they were in 1948, he may end up with 4.99 percent of the vote and $8 million debt and nothing to pay for it. Under the President's proposal he would get nothing.

The Chairman. Those polls were not far off in 1948. They reached the wrong conclusion. But if you look at a poll that says you have 51 percent, the man who took the poll claimed a 10-percent margin for error, or at least 5 percent. So he would claim three points for his allowed error. So you say you got 51 or 52 percent. The outcome could be different just by the slippage in his own margin of error.

Senator Ervin. I say that that illustrates the undesirability of any kind of election reform in the financial field other than a tax deduction to be controlled by the taxpayer, the individual. Because who is going to run the poll? Certainly the Government would not let me run the poll if I were running for President and would not take my figures. You would have to set up some more Government machinery to take the poll. One of the great advantages of the tax deduction approach is that you do away with any necessity for any further Government regulation or any further Government employees except those they already have in the Internal Revenue Service, when the man would submit a receipt.

Furthermore, I think it is wrong to say the only man whose campaign is going to be financed is the President. I think if a man wants to make a campaign contribution to the sheriff's race, that man should be included. The President needs it less than anybody, at least the incumbent President, because the way Congress appropriates hundreds of millions of dollars to be expended at the discretion of the Government, the incumbent candidate already has a lot of money available to him, for all practical purposes.

The Chairman. If you do not tie it down, though, Senator, you have to be careful that some boys do not get together with another tax avoidance scheme and say, "Now, let us get old Joe Blow to run for constable every 4 years; he does not care about being constable, but that will make it possible for us to get a tax deduction, and we will split the profit with him."

So, the man ran and he did not spend the money, but look at the person in the 50-percent bracket. There would be a $25 gain there, and that would be enough to split the profit, $12.50 apiece between him and the man who contributed the dough.

Senator Ervin. I would say the answer to that is simple. If the man receives the money for one purpose and uses it for another, he is subject to indictment under existing laws in every State in the Union. I do not think a man wants to give away money merely to get a tax deduction. He gives it away because he is interested in the cause to which he gives it, and also he would be interested in——

The Chairman. He cannot do it now, but if you pass that law and do not tie it down, you had better be careful.

Senator Ervin. I would not be in favor of giving a man an unlimited amount.

Senator Williams. I might respectfully point out that the chairman has just made an excellent statement in favor of your proposal, and he has just shot the Metcalf voucher proposal full of holes, because it is wide open for abuse, as he says. I thank you for your support.

The Chairman. If you take a look at the bill I introduced, there are all kinds of safeguards in that one. He would go to the penitentiary.

Senator Williams. The administration itself recognizes that their original proposal is not good.

Senator Ervin. The only limitation that I would put on the proposal is that the man make a contribution to the party of his choice, or to the candidate of his choice. That is all you need. You already have the law to control that, and the employees to administer it in the Internal Revenue Service.

Senator Williams. Also, it is attractive in that the individual making the contribution must dig into his own pocket and make some sacrifice. Otherwise, I do not think we are accomplishing anything.

Senator Ervin. Instead of taking it out of the Treasury under any appropriation system, you are going to take the taxpayers' money. In many cases, you are going to use it for purposes which the taxpayer abhors.

Senator Williams. They would be taking the taxpayers' money and using this money to finance the two major political parties when he may be in strong opposition to those two parties, and he may wish to support the third party, which is his right. Why take his money and make him finance your party and my party, when his party is left out. I do not think that is fair.

Senator Ervin. The plan I suggest also just takes a simple way. It lets the voter control, rather than the officer holder. And you need no new machinery. You need no more employees to supervise things. And it preserves the basic principle of freedom.

Senator Williams. And if they do not think you and I are worthy of an election, they do not have to finance our campaign. They can get rid of us.

Senator Ervin. Any other kind of regulation is going to be something that complicates simplicity, when simplicity does not need to be complicated.

I thank the committee.

The Chairman. Thank you, Senator.

Mr. CURTIS. Mr. President, I yield 2 minutes to the Senator from Connecticut.

Mr. WEICKER. Mr. President, I wish to comment briefly on the remarks of the distinguished Senator from Louisiana. This is not a question of the Senate having an interest in corruption, rather I am saying that the Senate's interest must be in integrity and excellence. That certainly is not the case with the Pastore amendment. It relates to those who are going to share in emoluments. An interest in integrity and excellence is what we on this side are trying to bring to pass: Excellence in that availability funds should not be a limitation on running for office in this great country; integrity to the extent that legislation passed by the Senate, should not inure to the benefit of the Members of the Senate.

To the distinguished Senator from Louisiana, I say the whole bill is bad the way it is constituted. The $1 contribution, the deduction, the concept of Federal financing of campaigns. It is all rotten.

Mr. CURTIS. Mr. President, I yield the remainder of my time to the Senator from Kentucky.

Mr. COOK. Mr. President, the Senator from Louisiana talked about mischief on the part of the Members of the Senate and that, somehow or other, we will have scars.

We have here a bill that has nothing to do with how much is spent in primaries, and $25 million was spent by the Democratic nominees in the last election. We have a bill which says we will give money to minority candidates, but only so much money, and then they can raise money for the part they are short, up to the limitation of the major candidates. So if they win, they go in having just as big a war chest, having been gained in the methods the Senator from Louisiana says should not be done.

The Senator from Rhode Island asked the other day, "Do we want an election like we had in Saigon?" Consider the criminal penalties in this measure. Is the Comptroller General going to accuse a President-elect of the United States of having done something illegal, and are you going to try the President-elect and give him up to 5 years and fine him $10,000? That is the most ridiculous thing I can think of. As a matter of fact, if you do not try the President-elect but try one of the nominees who was unsuccessful, are you going to put him in jail? This is what they did in South Vietnam a few years ago. The losing candidate for President always went to jail.

You have a situation in which you are going to say to the American people that there is logic in this amendment when it contains things such as that, when you include a section that you are going to criminally fine a President of the United States up to $10,000, a President-elect, when you cannot try him between the time of the election and when he gets sworn in. Are you going to take him from the White House and send him to Lewisburg? Let us not be ridiculous. How are you going to do that? All I can say to the Senator from Louisiana is that that proves that when one has to do something in desperation, such as this amendment, one can make all kinds of mistakes. These are the things we ought to be debating and discussing.

Mr. President, how much time does the Senator from Nebraska have remaining?

The PRESIDENT pro tempore. The time has expired.

Mr. COOK. I thank the Senator.

Mr. CURTIS. Mr. President, I suggest the absence of a quorum.

Mr. PASTORE. If the Senator will withhold that request, Mr. President, how much time does the opposition have?

The PRESIDENT pro tempore. Ten minutes.

Mr. PASTORE. I will not take all that time.

Mr. President, no impertinence is intended, but this amendment is just as phony as a $3 bill. It is not, in my humble opinion, advanced for any reason that is going to improve the bill. It is advanced with the intent to crucify the amendment.

What does this amendment say? Regardless of whether this is a good thing to do for the people of the United States of America, to make sure that the best qualified man will be elected their President and their Commander in Chief, no matter what the nobility is of that concept, you cannot do this because the budget is not balanced.

I say to my good friend, the Senator from Nebraska, that we have been trying to stop the flow of money to Vietnam. We have a vote on this floor. We spend in Vietnam more money—$25 million a day more—than we will spend on this in 4 years. We spend in Vietnam $25 million a day more than we would spend on this concept in 4 years. We had a vote here not too long ago to stop money going into Vietnam, except for the purpose of withdrawal of American troops, and who voted for it and who voted against it? How did those who wanted a balanced budget vote? How did the Senator from Nebraska vote?

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. PASTORE. I have the floor.

Mr. CURTIS. The Senator asked me how I voted.

Mr. PASTORE. Yes.

Mr. CURTIS. I voted to provide funds for our boys in Vietnam who were put there a good many years before the present administration came to power. If the Senator wants to make a comparison of what war costs compared to what political elections cost, that is not an appropriate argument here.

Mr. PASTORE. If the Senator will permit, the comparison certainly is proper. It has to do with the balancing of the budget. If the money has to be spent, according to the Senator's idea, because that is the right thing to do, then it does not matter what the status of the budget is. Now if it is the right thing to insure that we have the best President, why does the Senator put on that limitation that the budget must be balanced? Does the Senator mean to tell me that it is more sacred that we be in Vietnam than to have the best man as the President of the United States? That is the logic of the Senator's argument.

Mr. CURTIS. I think that becoming involved in Vietnam was terrible.

Mr. PASTORE. Of course, it was; and I agree with the Senator in that respect. But the Senator is saying that before you have anything that has nobility, you ought to balance the budget. That is what the Senator's amendment says. He is not questioning the character and the quality of this. If the Senator stood up and said, "I am against this amendment," frankly, I would say, "Amen. You have a perfect right to your point of view, as I have a perfect right to my point of view, and let's come to a vote." But when the Senator stands up and says, "I don't like this, whether it is good or bad, but you can't have it even if its good, because the budget isn't balanced," we would not do many things on the floor of the Senate, and the Senator knows that.

That is why I say it is as phony as a $3 bill, and it should be rejected.

I yield back the remainder of my time.

Mr. CURTIS. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. All time has expired.

The clerk will call the roll.

Mr. CURTIS. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

Mr. PASTORE. Mr. President, out of whose time does this come?

The PRESIDENT pro tempore. All time has expired.

Mr. PASTORE. Does this come out of the time on the amendment or nobody's time?

The PRESIDENT pro tempore. Nobody's time.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CURTIS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Nebraska. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. HARTKE), and the Senator from New Hampshire (Mr. MCINTYRE) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from New York (Mr. JAVITS) is detained on official business.

The result was announced—yeas 43, nays 53, as follows:

[No. 375 Leg.]

YEAS—43

Aiken
Allott
Baker
Beall
Bellmon
Bennett
Boggs
Brock
Brooke
Buckley
Byrd, Va.
Cook
Cooper
Cotton
Curtis
Dole
Dominick
Ervin
Fannin
Fong
Goldwater
Griffin
Gurney
Hansen
Hruska
Jordan, Idaho
Mathias
Miller
Packwood
Pearson
Percy
Roth
Saxbe
Schweiker
Scott
Smith
Stafford
Stevens
Taft
Thurmond
Tower
Weicker
Young

NAYS—53

Allen
Anderson
Bayh
Bentsen
Bible
Burdick
Byrd, W. Va.
Cannon
Case
Chiles
Church
Cranston
Eagleton
Eastland
Ellender
Fulbright
Gambrell
Gravel
Harris
Hart
Hatfield
Hollings
Hughes
Humphrey
Inouye
Jackson
Jordan, N.C.
Kennedy
Long
Magnuson
Mansfield
McClellan
McGee
McGovern
Metcalf
Mondale
Montoya
Moss
Muskie
Nelson
Pastore
Pell
Proxmire
Randolph
Ribicoff
Sparkman
Spong
Stennis
Stevenson
Symington
Talmadge
Tunney
Williams

NOT VOTING—4

Hartke
Javits
McIntyre
Mundt

So Mr. CURTIS' amendment was rejected.

Mr. PASTORE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. BYRD of West Virginia. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 721

Mr. WEICKER. Mr. President, I call up my amendment No. 721.

The PRESIDING OFFICER. The Senate will be in order. Senators will cease conversations. The Senate will not proceed. An amendment is about to be stated by the clerk, and I know we are interested in hearing its contents. Senators will cease conversations. The pages will cease conversations.

The Senator from Connecticut will proceed.

Mr. WEICKER. Mr. President, on this amendment I request the yeas and nays.

Mr. BYRD of West Virginia. Mr. President, has the clerk read the amendment?

The PRESIDING OFFICER. The Senator is correct. The clerk will read the amendment.

The assistant legislative clerk read as follows:

> On page 13, after line 25, it is proposed to insert the following new subsection:
>
> "(d) No person holding Federal elective office as of the date of enactment of this Act shall be eligible for funds provided herein prior to January 1, 1973."

Mr. WEICKER. Mr. President, I request the yeas and nays.

The yeas and nays were ordered.

Mr. WEICKER. Mr. President, I shall read the amendment. It is very simple. It reads:

> On page 13, after line 25, insert the following new subsection:
>
> "(d) No person holding Federal elective office as of the date of enactment of this Act shall be eligible for funds provided herein prior to January 1, 1973."

No person holding Federal office is to participate in the funds generated by the Pastore amendment prior to January 1 of 1973. I would say that that is the minimum of propriety. I have come before this body to suggest that such should not be the case for 6 years, and that suggestion was turned down. Then I suggested an amendment by which the act would not take effect until after the presidential elections of 1972, and that was turned down.

All I am suggesting now is that a lot of money is going to be generated for politicians by this legislation, and I am saying that the politicans here—we—this body—shall not participate in that money.

Do not Senators think it might give a certain degree of confidence to the American people if we passed something that was good for them rather than something that was good for us?

I might say that I plan to follow this proposal with another one which provides that the President and Vice President will not participate in those funds. If certain Senators have indicated that they want to participate in this slush fund, President Nixon has indicated he will not.

Let us talk specifically about what is intended by the amendment. We are going over the same ground again. The Senator from Rhode Island knows it, and I know it. But much has happened since this debate began. I think there is no question that the American public has become well aware of what the issue is—that it is not rich versus poor, or that enables those who do not have enough money to run for public office to do so. That is the way is was originally presented, but as the debate has proceeded it has become clear that there are many drawbacks to this legislation and that it does not have the high-sounding purposes which the Senator from Rhode Island and his colleagues would have us believe.

I think it enormously important that what we do here on the floor of the Senate have credibility among the people of this country. Yet the way the act is written, the way in which the money is to be distributed, all we are going to do is fortify the low esteem, as proved in poll after poll, the American people have of their politicians.

I repeat, and I want to make very clear, what I think of the concept of the Senator from Rhode Island. I do not believe that the amount of money a person has or that is available to him should determine whether or not he should run for public office. To that extent, the Senator from Rhode Island is 100 percent correct. So let that question be done with so far as argument from this side is concerned. We have to devise a system in this country which will make it possible for any man or woman to run for any office without money being the bar to his right to do it.

I am trying to cure the proposed legislation with my amendment. Why should we on the floor of the Senate pass a bill from which we are going to directly and financially benefit? That is all I am talking about. If the idea of the Senator from Rhode Island should become a fact, then 3 or 4 years from now we will be able to stand before our constituents and say, "Yes, I voted for reform in our campaign practices here in the United States, but I want you to know that I personally eschewed any benefit that I would have had from that legislation."

That, in essence, is what this amendment says.

Does the Senator from Rhode Island care for recognition at this time? Does he intend to talk on this amendment?

Mr. PASTORE. I will talk on it for a very short while.

Mr. COOPER. Mr. President, will the Senator yield?

Mr. WEICKER. I yield.

Mr. COOPER. In support of the amendment that has been offered by the distinguished Senator from Connecticut, I would point out that in 1966 the Senator from Louisiana (Mr. LONG) proposed an amendment which was practically identical to the one that the Senator from Rhode Island (Mr. PASTORE) has proposed, and it was debated thoroughly and adopted.

In 1967 former Senators John Williams, of Delaware, and Albert Gore, of Tennessee, offered an amendment to the Tax Credit Investment Act to repeal the 1966 amendment of Senator LONG. The Williams amendment was debated fully and thoroughly for 2 weeks, and the 1966 Long amendment was repealed by a vote of 48 to 42. Fifteen Members of the majority party voted for repeal.

One of the chief proponents for repeal was the late Senator Robert Kennedy. One of his reasons for repeal was that it would provide funds to the national committees of each party, thus centralizing power in Washington at the national level and that the national committees could influence local elections, the election or nonelection of candidates for State, Federal, or local office.

Now it is claimed that the Pastore amendment has cured that defect because it provides that the money shall be allocated to the candidates rather than to the national committees. I will use an expression that the Senator from Rhode Island (Mr. PASTORE) often uses "How silly can we be?" The candidate will not carry the money around in his pocket. He will establish a committee to manage his campaign and to make campaign expenditures. We know it will be either the national committee or a committee of his choice, and such a committee will have the same power to influence local and State elections.

I know I have stated the position of those I have quoted, for yesterday I read the debate again. I do not recall whether the Senator from Rhode Island voted to repeal the 1966 Fong amendment but——

The PRESIDING OFFICER. Will the Senator from Connecticut advise the Chair as to how much time he yielded the Senator from Kentucky?

Mr. SCHWEIKER. I yield 3 more minutes.

Mr. COOPER. I take this opportunity to point out that the same arguments against the 1966 Fong amendment still applies. There was large editorial opposition throughout the country to his amendment. Today there seems to be very little comment upon the Pastore amendment, essentially the same amendment.

The amendment of the Senator from Connecticut is correct, at least until we have some opportunity to see how this fund would be used, and some experience. Without a clean election act, and none has been enacted, the abuses which the election reform act approved by the Senate was designed to correct would be perpetuated and magnified.

I support the Senator's amendment.

The PRESIDING OFFICER. Who yields time?

Mr. PASTORE. I yield 3 minutes to the Senator from Louisiana.

Mr. LONG. Mr. President, the Senator is slightly in error when he says we debated this matter for 2 or 3 weeks. We debated the matter for 5 weeks when we talked about suspending the proposal for a $1 checkoff to finance both parties.

The basic argument made at that time by those who opposed the proposal was that they wanted more safeguards. They wanted to be sure there would be reporting. They wanted provisions to keep this money from being used by a party chairman to favor one candidate over another; and they wanted greater accountability for the funds than the provision then provided.

The provision was not repealed. The Senator is in error on that also. It is still on the statute books. The situation was that the Senate voted merely to suspend operation of that provision until these safeguards could be put into effect.

We have studied that matter down through the years, and we have proposed every safeguard that we thought would serve a purpose, including making the man running for President accountable, rather than having the party chairman accountable for these funds. In fact, we have provided so many safeguards that those who do not like it now say there are too many, and that it is not right to apply a criminal sanction to a man running for President.

I did not respond to that point with regard to the previous amendment, but the fact is that we do not regard a presidential candidate as being above the law. As a matter of fact, there have been some investigations, even this last time, as to whether George Wallace's money was properly handled.

Mr. President, by now it should be clear that there is a link between campaign contributions and the improper influence of money in Government. That should be fairly clear to everyone who is concerned about the matter. It would help to have reporting disclosure provisions.

The difficulty, however, is that those provisions make it even more difficult to raise private funds to finance an election on a proper basis. I am well aware of the fact that any time you receive a contribution, on the most legitimate possible basis, it is subject to someone misconstruing it. I made a speech some years ago to the largest restaurant association in the United States. It gave me an honorarium; and since that time, I have read articles and commentaries of nationwide columnists, including Drew Pearson's and now Jack Anderson's column, inferring that the reason I later voted to help the restaurants with some of their problems was that they had given me an honorarium the time I spoke before their convention.

I would like to reduce or eliminate this kind of misunderstanding, and at the same time make it possible to raise funds and comply with all the reporting and disclosure provisions, and everything else that the mind of man might suggest as ways that would make government more circumspect and more in line with public views of honesty and integrity.

So I would suggest, Mr. President, that this so-called conflict of interest is basically a situation where a person has an interest one way or the other. Much has been said to the effect that the Democrats have difficulty raising money.

Everyone has to raise campaign money when he runs for office, and the question is, How should it be raised? It seems to me that while those on the other side might suggest that the Democrats have an interest in raising compaign funds, what we are really trying to do is make it so that no one would have to make any commitment that his conscience does not dictate in order to raise campaign money. It could well be argued that those on the other side have a vested interest in defending something that leads to greater corruption in government. Who has the conflict of interest in that case? I should think that anyone who is voting for the national interest has an interest parallel to that of the Nation, and he should be voting for something which is for the good of the Nation and the State which he represents.

On the other hand, when one has an interest in defending something that should be changed, some vestige of corruption or improper influence that has been left to us from previous times, he might be accused of having a conflict of interest—an interest in keeping it the way it is, rather than correcting it and putting it in proper form.

I am not trying to reflect on anyone's motives, but the truth of the matter is, Mr. President, that if I were a candidate for President—and I am not, and never expect to be—I would feel it was my duty to vote for this proposal, because I would not want to go out and make commitments that I would not otherwise make in order to obtain campaign funds. I should be glad to put in the record some of the propositions made to people when running for office, which they either have to agree to, or, if they wish to keep their conscience clearly within their own control, be very poorly financed.

We want to reduce and eliminate that type of situation. We want to release candidates from the pressures of having to raise money beyond one's ability and under circumstances which cause people to make commitments which are contrary to their judgment or beliefs. Problems such as these have led us to a system which is against the interests of the Nation, and which can lead to conflicts of interest in Government. We want to correct that situation.

I hope the Senate will defeat the proposed amendment.

Mr. PASTORE. Mr. President, I yield myself whatever time I may require, within the limited time I have available.

I suppose that in a prolonged debate such as the one we are engaged in now, we find ourselves repeating ourselves time and time again, and I suppose it gets a little bit boring.

I realize, too, that whether you are for this amendment or against it, there is honorable motivation on both sides. I do not want anyone to run off with the idea that there is more honesty or less honesty in one party than there is in the other.

But we have to admit that over the years, because of the astronomical costs involved in a presidential campaign, we have developed a monster. We have developed a monster. I do not know how others feel, but I have had committees eager to be helpful that have raised money for me, and I must confess on this floor today that I have always found it embarrassing and perhaps a little humiliating. I know there was no expectation of reward.

I know there is no compromise of conscience nor conviction. Those are human characteristics that cannot be changed in people, no matter what the price. I like to feel that any man who is elected to public office is an honest man. I have been a member of this body now for 21 years, and I can say that I have not met a dishonest person. But let us talk about the facts of life today. You can talk about 1967, and you can talk about 1969, but the facts of life are these: To run for the presidency of the United States today requires a barrel of money. Either you have that money or you have to go out and get it. What we have developed as a system in this country is that is no longer a $5 donation any more or a $10 donation. We are pyramiding the style and fashion. This goes for both parties. Now you have to have a $1,000 club or a $500 club—or a national hookup of clubs and banquets all over the country, for which individuals buy a ticket for $500 to attend.

Think of the many people over the age of 65 this morning, in this cold weather, who if they have to go out to buy something must go in their sneakers because they do not have the money to buy a good pair of shoes. They see the headlines of the newspaper on the stand and read that thousands of people go to a banquet at $500 a head. They must say to themselves, "What is happening to us? What is happening to this fine Republic of ours?"

Must the President of the United States humiliate himself being led around building up goodwill, but entertaining these ticket buyers. Why must he be thus taken away from his Office in the Oval Room or the privacy of his desk, where the problems of this great Republic demand his unremitting attention, yes—once before a bill was introduced to remedy this. That bill was vitiated. Its faults do not exist in the Pastore amendment. I changed it in two respects: No. 1, I made it elective upon the candidate, to accept or reject participation in the presidential campaign fund I did not want to be accused by anyone that, because the Republicans were a little luckier than the Democrats this time and had accumulated the money, I wanted to do something to hurt the Republicans or stymie them. That was not my intention at all.

When the matter came up for discussion, I was the one who insisted that I was not going to be party to any measure that was punitive against anyone. So that was the first amendment I suggested—that it would be elective upon the candidate.

If he chose he could go the private way. I hope that some day that will be changed, too. I hope that we will pass that bill now in the House, so that we can place a ceiling on spending for all candidates, and so that the broadcasting institutions in this country will give free time—an agreement we already have, our goal is to see that every candidate can get the exposure. The first modification I made was that the source of funds would be elective.

The next modification I made was to make the candidate himself solely and strictly responsible for the money that might be taken out of the Treasury in order to finance that campaign. I did not like the idea of the funds going to a national committee, because there the responsibility would be diffused. I wanted the responsibility to impinge on one person, the person who applied for the money. He would be pledged that he would not use any more than he was entitled to under the law, and that he would not and could not go out and collect another nickel besides. That is the reasoning behind those changes purely and simply expressed.

I know that there are people on the other side who ideologically cannot go along with this. There are some on our side—I have in mind the Senator from Virginia, whom I love. I have not talked to him about his vote. I would not dare talk to him about his vote. I have not tried to case anybody. I have not asked anybody to vote for this. I have not asked anybody to vote against it. I have not been in the cloakroom and begged anybody for his vote. I am not a candidate for President. I have 5 years remaining in my present term, and by then I will have had 26 years in the Senate. This amendment is not for me personally. But I think the time has come when we have to put this matter in proper gage, and that is all we are trying to do—put it in proper gage.

We have heard comment pro and con about the New York Times publishing a friendly editorial with respect to the Pastore amendment. I do not cite that as proof that no one should oppose it. I am not saying that at all. But I do submit it as reasonable testimony in evidence that the Pastore amendment is not the awful thing that some of the Republicans have suggested. It is not meant to be. I am waiting for the hour of decision—5 o'clock to leave it up to the vote of this body.

I have not solicited anybody. I do not know whether the White House has called anybody. I do not know whether any staff members have been down here talking to anybody. I have read some such suggestions in the newspaper. There is some talk that the President might veto this. That is his prerogative. I would not impinge upon that. I would not even say one nasty word about it, and I have not. I have not castigated anyone. If Members do not like this way of achieving campaign funding sanity and if they want to vote against it, that is their prerogative. It is their privilege.

I borrow a sentiment from Bishop Sheen to say:

> I love you. I'll love you just as much tomorrow as I do today.

And that goes for the Senator from Connecticut. There is nothing personal here.

What is the Senator from Connecticut doing? His last amendment sought to exempt two elections. Now the Senator is seeking to exempt one election. As I said then, he was going to come down the scale, and my prediction was right. First, he said 1977. That took it beyond the 1976 election. Now he is saying 1973, which takes it beyond the 1972 election.

The point is this: If my amendment is good at all, if it has any merit at all, it has merit today. If it does not have merit today, it does not have merit at all. With respect to the idea that it is going to be a good law in 1973 but a bad law today, I use the expression of my colleague who more or less quoted me: It would be ridiculous; it would be silly.

I hope this amendment is rejected. It refers to any person who is holding a Federal elective office. I do not know whether Senator MUSKIE is going to be the candidate. I do not know whether Senator KENNEDY is going to be the candidate. I do not know whether Senator McGOVERN is going to be the candidate. I have never asked any one of them. Perhaps they will be, and perhaps they will not be. My only prayer and hope is that they will be in good health in July of 1972. Let the convention decide who the candidate is going to be.

But I do not think anybody is trying to put any money in their personal pockets. No one is trying to raid the Treasury. This money has to be accounted for. It has to be for the campaign. Why? So that we will not have a lopsided situation; so that we will not have one person running for the Presidency on television, every hour on the hour, while the other fellow is on the telephone begging people to send him a few dollars so that he can go on radio for a few minutes.

I want to give them both a fair share. Why do we want to give them both a fair share? So that the people will have an opportunity to judge; and that is what this is all about, period.

I hope the amendment is rejected.

The PRESIDING OFFICER (Mr. MONTOYA). Who yields time?

Mr. WEICKER. Mr. President, that was an eloquent presentation by the Senator from Rhode Island as to the Pastore amendment, but it lightly passed over the Weickert amendment.

The Senator from Rhode Island is entirely correct when he says that I had an amendment before this body which would have postponed the effective date of the act for 6 years. That was the best; that was the optimum. That would have made us 100-percent honest. We could have turned to our people around the country and said, "We have passed this legislation for the future of America. We are not designating it for our benefit." Unfortunately, due to the efforts of the Senator from Rhode Island and his colleagues on that side, we cannot be 100-percent pure in the matter.

So I thought that perhaps we could be 66⅔ percent ethical in the matter; and the Senator from Rhode Island and his colleagues on the other side said, "No. That is not good enough. We want to get to this money, and we want to get to it now."

The amendment I have now proposed tries to make us 33⅓-percent honest, if you will. But apparently even that is not to be. The question that arises in my mind is this: Why the unseemly haste? What is the haste to get our hands on this money? There must be some practical reasons which I do not understand unless it is of course——

Mr. PASTORE. Mr. President, will the Senator from Connecticut yield on my time?

Mr. WEICKER. I will yield 1 minute to the Senator on my time, as soon as I have finished this thought. Within the past 7 days, every one of the Democratic candidates has had to cancel very important appearances, before the Young Democrats at Hot Springs, before the AFL–CIO, and so forth. With all the great matters that have come before this body dealing with international affairs and the vital questions affecting the Nation at home, no such cancellation took place. But when it comes to campaign funds for the Democratic Party, they are all back in Washington on the Senate floor. They are for this amendment not because of the merits but because they have the votes. This amendment puts it squarely to eacn one. I hope that the people of this country will go right down the list of the rollcall votes and find out which Senator voted for his own pocket and which Senator voted for the United States and campaign reform; because even if this amendment passes, each one of the candidates and each Senator will have the opportunity to vote for the Pastore amendment. The Pastore amendment probably will pass and probably should pass; but how about the Pastore amendment with the Weicker amendment on it, which says, simply, to the people of the United States, "We believe in campaign reform. We believe that lack of money should not be a bar to any man or woman running for public office and we have accomplished that on the Senate floor for the future of America, while at the same time denying the use of the funds to ourselves."

Now I am glad to yield to the Senator from Rhode Island.

Mr. PASTORE. The point the Senator from Connecticut misses, which is the crux of this whole situation, is that we are not voting ourselves one dime. We are merely saying to the people, those who pay the tax, "You have the opportunity of setting that dollar aside—that dollar that has got to go into the treasury, anyway—but you check it off to purify the elective process." If the people decide that this is a bad thing, that they will not allocate the dollar. All we are doing is bringing the power of decision to the people. I heard here the other day the argument made that we as the Congress should appropriate in the usual process. I do not want Congress to dictate it. I want the people to decide it. That is why this amendment has been written the way it has. I tell you frankly, Mr. President, if the people do not allocate that money, this amendment will die of its own weight. It is as simple as that. All we are saying is that this is a referendum, so to speak. We are going back to the people and saying, "Do you prefer to do it this way? If you do, then designate that dollar; but you are the one who votes it. We do not."

Mr. WEICKER. The fact is that no referendum will take place until you have the money.

Mr. PASTORE. From whom do we get the money?

Mr. WEICKER. From the taxpayers. The Weicker amendment says that no one shall participate in the use of the funds prior to 1973, which means that we have to go back to the voters to indicate our stand on this matter. I suspect that someone may come up to me if I were one of the unlucky ones to have voted for the Pastore amendment, and he might say to me, "Senator, how come I have been out of work for several months, yet the priority of business in the United States Senate has been to vote itself campaign funds?" Or, "Senator, how come it is that we cannot go ahead and have my family taken care of in the way of decent health facilities, when you fellows have a priority on the use of funds for your campaigns?" Or, "Senator, I cannot move because we do not have a transportation system in this country, but how come it is that you can move so fast as to give yourself funds for a campaign?"

If I were so unlucky as to vote for the Pastore amendment, how would I respond? I might say, "Well, it is established now as a fact of life in the United States and we will worry about the criticism later." That seems to be a problem of credibility. I say, let us give some dignity and honor to our profession.

Mr. PASTORE. Mr. President, will the Senator from Connecticut yield?

Mr. WEICKER. I yield, but on the Senator's own time now.

Mr. PASTORE. All right. I would hope that the Senator would not consider this impertinent, but I would like to make a suggestion. The way I would respond to it would be to say, "We in the U.S. Senate did not vote ourselves this money. We merely make it possible to give the people the opportunity. We delegate to them the opportunity to provide the people's money to elect the best President we can that this country ever had. We say, "It is up to you, the people, to decide to set the money aside."

Oh, I know that this is evoking little smiles from Tennessee and New York. I know exactly how they feel. But the point is that all we are trying to do is to make it possible for the people of this country to elect a President who is not obligated to the "fat cats." In plain English, that is what it means.

Mr. WEICKER. Mr. President, I yield 1 minute to the Senator from Colorado (Mr. ALLOTT).

Mr. ALLOTT. Mr. President, I serve on a committee with the Senator from Rhode Island, and I appreciate his humor. I hope he does not mind us smiling once in a while over here because it is very appropriate. But I want to say to the Senator from Connecticut that I cannot see that the Pastore proposal is in conformity with the American system. It is not a choice. What it says is that if we want to earmark $1, it can go into a fund. Perhaps he does not, but I think he does agree with the general principle of appropriating funds. I feel certain that he does because I serve with the Senator from Rhode Island on the Appropriations Committee. But what his amendment would do would be to circumvent the process of appropriation.

I ask the Senator from Connecticut: Is it not true that if the Pastore amendment shall be agreed to, even with or without the Weicker amendment—which I support very strongly—that what we will have done will be to earmark x millions of dollars, and that will be the No. 1 priority over welfare reform, over care for the aged and the blind, over the problem of mass transportation, and over everything else that so many Senators talk about as being vital to this country and what we should be doing? Is it not a fact that if the Pastore amendment shall be agreed to, with or without the Weicker amendment, what we will have done is to earmark for political campaigns money literally for ourselves and our Presidential candidates over and above everything else that is before this country which is said to be so urgent?

Mr. WEICKER. The Senator is absolutely correct.

The PRESIDING OFFICER (Mr. Montoya). The 1 minute of the Senator from Colorado has expired.

Mr. ALLOTT. Mr. President, did I have just 1 minute?

Mr. WEICKER. I yield 1 additional minute to the Senator from Colorado.

Mr. PASTORE. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Rhode Island has 12 minutes; the Senator from Connecticut has 11 minutes.

Mr. ALLOTT. Mr. President, I have not made up my mind whether I am going to run for the Presidency or not. As a matter of fact, no one has urged me to do so—not even my colleagues; but I can see the position that a candidate for President from the Senate would be in if he voted for the Pastore amendment. It would be a direct conflict of interest. I can interpret it in no other way. I do not think we can wear all of our honor on our shoulders like epaulettes, any more than any one else.

I have never understood, when anyone contributed to my political campaign, than I owned him any more than one thing, and that was to conduct myself as the man he thought I was when he helped me get into an election, and helped by contributing to it. But I cannot see how anyone—I frankly cannot see it—how anyone who is an official, or a semiofficial, or an incipient candidate for the President, can vote for this bill. I do not see how we can vote for it at all.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ALLOTT. I thank the Senator from Connecticut for yielding me time.

Mr. WEICKER. Mr. President, I will yield in a minute to the Senator from Kansas. However, in response to the Senator from Colorado, I might add, to follow the reasoning of the Senator from Colorado, that neither should the President of the United States participate in the passage of this measure. This is not a partisan affair.

I think that the Senator from Colorado feels as strongly as I do that the President of the United States should not sign a bill that he would benefit from.

Mr. ALLOTT. I believe that.

Mr. WEICKER. Mr. President, I yield 2 minutes to the Senator from Kansas.

Mr. DOLE. Mr. President, as I understand it, the language of the amendment provides that no one now seeking the Presidency who might be a Member of this body would be eligible for funds.

Mr. WEICKER. The Senator is correct.

Mr. DOLE. Could that person resign as a Senator and then be eligible?

Mr. WEICKER. Certainly. He could resign as a Senator and be eligible for the funds under the amendment.

Mr. DOLE. Mr. President, does not the Senator believe that with so many Senators in this body being interested in the Presidency, if they were all to resign we would not have a quorum?

Mr. President, I want to speak to the point about being obligated. I can understand the great interest of those on the other side of the aisle in this measure, because it more or less makes it easy for all those candidates of the other party in this body in the primaries.

I am certain that those people will become obligated in the primaries. They spend millions of dollars. How would they not become obligated in the primary while trying to get the nomination?

It is said that this would absolve anyone of politics and he would be free from obligation.

To me this is a green light to get into the race. Anyone can enter the primaries, and if he spends millions of dollars on the primary and wins, he has $20.4 million waiting if nominated.

We do not accomplish anything unless it applies to all elections and to all efforts to get the nomination. So all we do is shift the so-called responsibility of being free from the taint of any deal.

If a person won in the primaries and the convention, I guess it would tend to have him arrange some fantastic deals at the convention if that person were leading in the polls and had a lot of delegates and knew he had $20.4 million waiting for him. I think that we would add to the problem, rather than subtract from it.

I support the amendment of the Senator from Connecticut. It does indicate, so far as this body is concerned, that we are not seeking these funds.

I know it is difficult to raise campaign funds. We have difficulty in the Republican Party. The Senator from Rhode Island referred to a $5 million dinner several times. I wish to point out that it was only $4 million.

Mr. PASTORE. Only $4 million?

Mr. DOLE. It was only $4 million gross, and we had some expenses.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. WEICKER. Mr. President, I yield 1 additional minute to the Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas is recognized for 1 additional minute.

Mr. DOLE. Mr. President, that is only the beginning. I might say to the Senator from Rhode Island that we hope to have additional fund-raising efforts. We have a lot of activities patterned after the activities that the other party has been using. We are trying to learn. We are trying to raise money. We are doing the best we possibly can to obtain some contributions. We have a membership fee in the Republican Party of $10 or more. Many people belong to the organization.

If I may ask the Senator from Rhode Island a question——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DOLE. I will ask it later.

Mr. HANSEN. Mr. President, will the Senator yield?

Mr. PASTORE. Mr. President, I yield to the Senator from Wyoming.

The PRESIDING OFFICER. How much time?

Mr. PASTORE. As much time as he might need.

Mr. HANSEN. Mr. President, I wish to propound a question to the distinguished manager of the bill. Will he state the intent of the bill with respect to the treatment, under the investment tax credit, of underground storage tanks, such as those used by gasoline service stations.

Mr. LONG. The answer is clear. Tanks such as those the Senator describes are tangible personal property and as such are eligible for the credit, without regard to whether they are installed above or below the ground. In this respect the intent is the same under the new bill and under the prior investment credit enacted in 1962.

Mr. HANSEN. Mr. President, I thank the distinguished Senator from Rhode Island for yielding to me.

Mr. BYRD of Virginia. Mr. President, will the Senator yield for a question?

Mr. PASTORE. I yield for a question.

Mr. BYRD of Virginia. Mr. President, I wish to ask a background question with regard to the Pastore amendment. First, I shall vote against the pending amendment.

The amendment, as I read it, says "effective with respect to the taxable years beginning December 31, 1970." That means it would be in effect, I assume, for the taxable year beginning January 1, 1971, and each year thereafter.

Mr. PASTORE. The Senator is correct.

Mr. BYRD of Virginia. Mr. President, the statement submitted to the Senate by the Senator from Rhode Island (Mr. Pastore) contains this sentence:

> If everyone were to designate $1 this would, based on the present level of filing, indicate a total of $113 million with respect to 1 year.

Mr. PASTORE. The Senator is correct.

Mr. BYRD of Virginia. Mr. President, counting all years between that year and the following election means 4 taxable years.

Mr. PASTORE. The Senator is correct.

Mr. BYRD of Virginia. And if we assume roughly $100 million as a theoretical figure, would that not build up $400 million and, if so, what would be done with that money?

Mr. PASTORE. The law—and the law is very specific—states that all that any candidate of a major party can receive is 15 cents multiplied by the number of people in this country beginning with age 18. The reason why we use $113 million is that 113 million people filed income tax returns. That is the most that could possibly come in. Of course, how much will come in no one knows. If only $2 million were to come in, I would be the first to say, as I have said several times before, that the people do not want the law.

To answer the Senator's question, the money goes into the Treasury. But the day after the election, it becomes unmarked but remains in the Treasury.

Mr. BYRD of Virginia. That would be for the 4-year period.

Mr. PASTORE. The Senator is correct.

Mr. BYRD of Virginia. That means that there could be $400 million.

Mr. PASTORE. That is correct, if every person in the country assigned $1 to the party of his choice. If that were to happen, I should think that we would have a perfect law, in that it certainly had met with the approval of everyone in the country.

Mr. BYRD of Virginia. It would also mean, would it not, that if only half of the people filing were to contribute, there would be between $200 million and $300 million earmarked for the fund.

Mr. PASTORE. The Senator is correct. However, it woud still be in the Treasury. No one could touch it. And all this would cost—I do not care how one looks at it—is $450 million tops. That is all it could cost.

Mr. LONG. Mr. President, will the Senator yield?

Mr. PASTORE. I yield.

Mr. LONG. Mr. President, I have been thinking about this matter. We could handle it in conference. So far as I am concerned, I would be willing to have an amendment to the effect that when the amount of funds builds up to $100 million, any excess would go back into the general fund of the Treasury.

Mr. PASTORE. It is there to begin with. It is always there. It is under the control of the Secretary of the Treasury. It is always there. The point is that the day after the election it just becomes unmarked. That is about the size of it.

It is like the social security fund, the money is in the hands of the Government. And this is going to be in the hands of the Government. In all probability the Government will be getting interest on it.

Mr. WEICKER. That is the difference in philosophy right there. Should the choice be in the hands of the Government or the people?

Mr. PASTORE. The choice of what? Will the Senator yield?

Mr. WEICKER. Not at this point. This is too good to let loose of.

There is the difference. We say on this side that the choice should be in the hands of the people and that choice should direct itself to the quality of the candidates and the logic of the issues. The Senator from Rhode Island and his party say, "We want it in the hands of the Government, regardless of how bad may be the candidates or the issues." There is the very basic difference in philosophy between our parties.

There are many deficiencies in the measure but the greatest is the one the Senator from Rhode Island just mentioned, having fund raising and disbursing in the hands of Government.

Mr. PASTORE. Mr. President, will the Senator yield on my time?

Mr. WEICKER. I yield.

Mr. PASTORE. Who would the Senator have control the money?

Mr. WEICKER. I would have the people of the United States make the choice.

Mr. PASTORE. Of what?

Mr. WEICKER. And let the people give the money to the various candidates and parties; not have the money in the hands of the Government. There is where we differ, and admittedly so.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 4 minutes remaining.

Mr. PASTORE. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 5 minutes remaining.

Mr. HART. Mr. President, will the Senator yield?

Mr. PASTORE. I yield to the Senator from Michigan. The Senator may use all of my time or whatever he wishes.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. HART. I think it is helpful to repeat what to me is really the overriding factor for supporting the Pastore amendment. The thing most people in this country find as the basis for their gravest doubts about our performance, our freedom, our objectivity, is the fact that we do take private money.

All of us here are our most lenient judges. We say it never influences our decisions. I hope that is right. The hooker is that the public is not so sure and it will always remain unsure until we eliminate private money from political campaigns, and that does mean Government money, not private money.

When that day comes there will be much greater confidence in the performance of public officials. The Pastore amendment is a useful first step.

Mr. WEICKER. Mr. President, I yield myself 1 minute.

We are not discussing the Pastore amendment; we are talking about the Weicker amendment. When we talk about confidence of the public——

Mr. PASTORE. It would delay the expression of that confidence.

Mr. WEICKER. No; it would not delay the Pastore amendment. It states that we in the Senate are not going to get any of the money; none of us voting on the bill.

The Senator talks about confidence of the American people. What does the Senator think they feel like when we vote ourselves $20 million for each party?

Mr. President, I yield 2 minutes to the Senator from New York.

Mr. BUCKLEY. Mr. President, the Senator from Rhode Island said earlier all his amendment would do would be to give the people the opportunity to elect a President who is not obligated to the "fat cats." This is an objective we all want, but I do not believe candidates this year can be spoken of as presidential candidates on the auction block; but if any man is for sale, he will have sold his soul long before he finishes the primaries. So this amendment does not accomplish that objective; it falls far short.

I am addressing myself to the Weicker amendment. What it does is fall short of the constitutional injunction. I mentioned this the other day. Section 6, article I of the Constitution states among other things:

> No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time;

I do not think it takes much extension of constitutional implications in section 6 of article I to deem this legislation as creating a quasi-public office of presidential candidacy, and the voting of $20 million is emolument of the first order.

I believe the spirit of the Constitution would clearly foreclose any Member of this body accepting any of this money in the first instance. So the amendment of the Senator from Connecticut is surplus and I believe and suggest that the constitutional injunction applies directly to what we are discussing. I would pray and hope, therefore, that if the amendment is not agreed to, the Pastore amendment be rejected.

The PRESIDING OFFICER. Who yields time?

Mr. WEICKER. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Connecticut has 1 minute remaining and the Senator from Rhode Island has 4 minutes remaining.

Mr. WEICKER. I yield 1 minute to the Senator from Tennessee.

Mr. BROCK. Mr. President, I would like to comment generally on the bill later but I would like to respond to the comment by the Senator from Michigan that we need to get away from private money and get to Government money.

Probably the most frightening concept I can envision would be Government-financed campaigns because Government would then be in a position to name candidates, to influence who runs, when, where, and under what circumstances.

I can think of nothing to place freedom in greater jeopardy and to get away from the rights of the individual to elect candidates of their choice, financially, morally, physically, in any way he can, by working as a door knocker or in whatever capacity he chooses. The people must remain as an essential element in the free process.

That is the fundamental question that I have in this measure. It does not afford the individual his free choice. His money and the money of all taxpayers would go equally to all parties and therefore we institutionalize the political process rather than diversify it.

Mr. PASTORE. Mr. President, I have 4 minutes remaining, if anybody wishes to speak I will be glad to yield my time.

The PRESIDING OFFICER. Does the Senator yield back his time?

Mr. PASTORE. I yield back my time.

The PRESIDING OFFICER. All time

has been yielded back. The question is on agreeing to the amendment of the Senator from Connecticut. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. Mundt) is absent because of illness.

The Senator from New York (Mr. Javits), and the Senator from Arizona (Mr. Fannin) are detained on official business.

The result was announced—yeas 42, nays 55, as follows:

[No. 376 Leg.]

YEAS—42

Aiken
Allott
Baker
Beall
Bellmon
Bennett
Boggs
Brock
Brooke
Buckley
Cook
Cooper
Cotton
Curtis
Dole
Dominick
Ervin
Fong
Goldwater
Griffin
Gurney
Hansen
Hatfield
Hruska
Jordan, Idaho
Mathias
Miller
Packwood
Pearson
Percy
Roth
Saxbe
Schweiker
Scott
Smith
Stafford
Stevens
Taft
Thurmond
Tower
Weicker
Young

NAYS—55

Allen
Anderson
Bayh
Bentsen
Bible
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Case
Chiles
Church
Cranston
Eagleton
Eastland
Ellender
Fulbright
Gambrell
Gravel
Harris
Hart
Hartke
Hollings
Hughes
Humphrey
Inouye
Jackson
Jordan, N.C.
Kennedy
Long
Magnuson
Mansfield
McClellan
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Moss
Muskie
Nelson
Pastore
Pell
Proxmire
Randolph
Ribicoff
Sparkman
Spong
Stennis
Stevenson
Symington
Talmadge
Tunney
Williams

NOT VOTING—3

Fannin
Javits
Mundt

So Mr. Weicker's amendment (No. 721) was rejected.

Mr. PASTORE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Leonard, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session, the Presiding Officer (Mr. Montoya) laid before the Senate a message from the President of the United States submitting the nomination of Kenneth K. Hall, of West Virginia, to be a U.S. district judge for the southern district of West Virginia, which was referred to the Committee on the Judiciary.

REVENUE ACT OF 1971

The Senate continued with the consideration of the bill (H.R. 10947) to provide a job development investment credit, to reduce individual income taxes, to reduce certain excise taxes, and for other purposes.

Mr. DOLE. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

Mr. GRIFFIN. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. The clerk may proceed.

The legislative clerk read the amendment.

Mr. DOLE. Mr. President, as the reading has indicated, this is a very simple amendment. I believe that in the reading of the amendment, there was one word omitted, namely, the word "political;" it being the intent to the amendment to require that at the end of every commercial, whether it be printed or on radio or television, there be the following disclaimer: "The cost of bringing you this political message will be paid for by the U.S. Treasury."

Mr. Dole's amendment is as follows:

On page 12—

(a) at the end of line 8, delete "and"

(b) between lines 11 and 12, insert the following new clauses:

(5) agree that each use of the printed or broadcast communications media for which payment is to be requested under section 204 of this subtitle shall, under regulations to be prescribed by the Comptroller General, be identified by the words "the cost of bringing you this political message will be paid for by the United States Treasury," and

(6) agree to furnish to the Comptroller General, for publication in the Federal Register, the names and addresses of such candidates' authorized political committees and the name and address of the chairman of each such committee.

Mr. DOLE. Mr. President, since the amendment of the Senator from Rhode Island was introduced there has been genuine concern that it is designed to provide certain candidates and parties with campaign funds at the taxpayers' expense while at the same time creating the illusion that the people have some choice in the matter. There also is legitimate concern that this scheme will undermine the careful effort and hard work which culminated in Senate passage of a comprehensive campaign reform bill in August. These apprehensions are not groundless.

DELUDE THE PUBLIC

One of the central inequities of this financing scheme is its capacity for deluding the public. The people are to be deluged with political advertisements which they will be asked to pay for without even being told that the message they are reading or viewing is the result of another Government aid program.

The amendment I offer puts the public on notice as to which advertisements are being charged to them. It will also facilitate the enforcement of title X by the agencies charged with supervision of subsidized campaigns. If the proponents of amendment 692 are sincere in their contention that paying campaign expenses from the Treasury will protect the virtue of candidates, they should enthusiastically endorse that part of my amendment which would require the identification of political messages which are to be paid for with tax dollars.

MORE POLITICAL COMMITTEES

Another inequity in amendment 692 is its encouragement of the further proliferation of political committees and its related capacity for misleading the public as to the nature of those committees. If that amendment passes we will have "authorized" committees and "unauthorized" committees; a more descriptive word might be "illegitimate" in the latter case. The authorized committees could solicit contributions, but, provided the slush fund were big enough, such contributions could not be used by a party in the presidential campaign if that party chose to draw on the fund. The unauthorized committees could also solicit funds and use them for any purpose, provided they did not spend more than $1,000 to elect a President or Vice President. Parenthetically, I note that, despite the claims of the proponents of amendment 692 that it would limit presidential candidates of major parties to expenditure totals of $20 million, there is no such limitation, and $20 million plus $1,000 multiplied by any number of unauthorized committees could be spent in their behalf.

I think we all know, as Members of this body and as candidates ourselves, that it is not hard to create a committee—or several committees.

Mr. GRIFFIN. Mr. President, will the Senator yield?

Mr. DOLE. I yield.

Mr. GRIFFIN. I should like to make clear, as the Senator from Ohio (Mr. Taft) pointed out when he offered his amendment which was rejected, that in addition to any number of so-called unauthorized committees that may spend $1,000 each, these other organizations which apparently would not be within the definition of a "political committee"—organizations such as COPE, for example—organizations which could spend an unlimited amount under this bill. That point came through loud and clear during the debate on the amendment of the Senator from Ohio (Mr. Taft), which was rejected.

So, I want to be sure that the Senator from Kansas (Mr. Dole) realizes that apparently there could be other committees which could spend unlimited amounts, accordingly, the so-called $20 million limitation in the Pastore amendment, in practical terms, would be spent in addition to—on top of—huge amounts that could be spent in other ways.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. DOLE. I yield.

Mr. GOLDWATER. I am glad the Senator from Michigan reiterated the facts we have been speaking to on this particular subject.

For example, COPE can go into any district in this country and register voters. They can drive these voters to the polls on election day. They can propagandize, and there is no limit to the amount of money that can be spent. This is the way COPE gets around the prohibition of using union dues funds without the permission of the members.

The member does have the authority, as I understand it—say, in the UAW—

to say whether or not he will contribute to a political fund. If I were a union member, even though I was disposed to say "No," I think it would say "Yes," because of the powerful hold the unions have on the workers of this country today.

I was sorry when the Taft amendment was rejected. I hope this amendment is adopted.

For some reason or other, our friends on the other side of the aisle are very blind to the abuses practiced by labor because it is in their benefit. It is very true that like-minded groups might bind together on behalf of candidates on this side of the aisle, but they do not do it. I hope to see the day when unlimited spending by labor unions will finally be put under the control of law. I do not think that this Congress, the way it is constituted today, has the courage to do it.

Mr. DOLE. We are told that this provision for unauthorized committees is required to protect rights under the first amendment. If so it is a new concept to me, and it might even surprise some constitutional lawyers to learn that first amendment rights are worth exactly $1,000.

Be that as it may, I think that a citizen who is being solicited for a political contribution has a right to know whether the person soliciting him for campaign funds has in addition authority to draw on the Treasury.

Mr. TAFT. Mr. President, will the Senator yield?

Mr. DOLE. I yield.

Mr. TAFT. I think we made it abundantly clear under the amendment the other day that constitutional rights apply only to individuals; and for that reason, individuals were exempted from the amendment I offered.

The only prohibition over and above the $1,000 limitation which was included in my amendment was the limitation relating to corporations and labor unions, political education committees, unauthorized political committees, and groups such as that.

Mr. DOLE. I thank the Senator from Ohio. I think the second part of my amendment is an effort to do in part what the Senator from Ohio sought to do earlier.

I notice that all the candidates are back in town, and they will be talking about this matter later today.

IDENTIFY COMMITTEES AND CHAIRMEN

The second part of my amendment would simply require that candidates intending to use public funds to finance their campaigns identify the committees authorized to act for them and the chairmen thereof. Under this proposal a taxpayer who is solicited to make a contribution will at least know which committees have already benefited from the "contribution" he was required to make on or before April 15.

UNFAIR TO THE PRESIDENT

In closing, Mr. President I want to point out one more glaring inequity in amendment 692. We have heard many times in the past few days that the amendment in no way restricts President Nixon; that he can opt out or opt in. That is simply not true. Section 1003(b)(2) of the bill requires, as a condition of eligibility for payments from the Treasury, certification by candidates that no private contributions "have been or will be" accepted.

But it is important to keep in mind that many of the same Senators who have assured us over and over again that the President has an option under this amendment are the same individuals who have also chided us with the fact that his party has already started to raise funds for the 1972 presidential election. If this is the case—and it is—the President could not possibly certify in August or September of next year that no contributions "have been" accepted. Even if it were possible to return contributions already received, it would make no difference under amendment 692, for the President is precluded—irrevocably barred by events which have already transpired—from receiving the same public assistance with which this amendment will underwrite the campaigns of his opposition.

I suppose that this remarkable inequity in the scheme might be eliminated by appropriate language. However, my amendment proposes no such correction, and I am content to leave amendment 692 as it is in this respect. We Republicans want no part of shifting our campaign burden to the public. If the Pastore amendment becomes law in its present form, the people can clearly see it for what it is—a blatant partisan attempt to fund the Democrat opposition to President Nixon in 1972 and to insure the success of that effort by paying the American Independence Party to take away from the President as many electoral votes as possible.

It is clear to me that the Republican Party is not eligible to participate in the division of these spoils, and I am proud that we are to be spared involvement in such a disgrace. It is gratifying to know that the funds which would have been available to my party had this amendment been more carefully drafted will remain available in the Treasury to satisfy the genuine needs of our people.

Let the proponents of this amendment explain to the American people—if they can—how an appropriation from the Treasury to bail out the Democrat Party and George Wallace is an appropriation for the general welfare.

Mr. President, I would say, in connection with the first part of my amendment, that section 612 of title 18 now requires identification. It requires identification of the committee or person responsible for a political advertisement and this identification can be verbal or written. So I say, as I said at the outset, that I see nothing wrong, in the event this amendment should be adopted, with any political message, whether it be by radio, television, or newspaper, carrying some disclaimer; and it should simply say that the political message will be paid for by the U.S. Treasury. Try as we will, and try as the proponents will, they cannot convince the American people that this is not an appropriation. This is an appropriation. This is from the Federal Treasury. If we are to campaign on that basis and use that money for campaign purposes, then we should identify the source of those funds, because the law requires it. It must be "friends of so and so" or "the Republican National Committee" or "the Democrat National Committee." This is a requirement of law; and if we are to take tax money under the so-called Pastore amendment, then I think we should also be consistent and affix that disclaimer to advertisements purchased with tax dollars.

Mr. GRIFFIN. Mr. President, will the Senator yield?

Mr. DOLE. I yield.

Mr. GRIFFIN. It seems to me that the amendment of the Senator from Kansas (Mr. DOLE) is particularly appropriate and deserving of support in view of the fact that the Senate rejected the Baker amendment, which would have provided that each taxpayer would have the option of adding $1 to the amount otherwise owed as taxes, and designate that his additional dollar go into a fund to finance presidential campaigns. Those who really want to give the taxpayers a voluntary opportunity to make a contribution to the presidential campaign, could have accomplished that purpose by supporting the Baker amendment. If the Baker amendment had been adopted the amendment which the Senator from Kansas is now proposing would not be appropriate or needed.

Mr. DOLE. Mr. President, as I said the other day, we are witnessing the biggest and largest Democrat fund-raising effort in history, and we do not even get to eat. I have attended many fund-raising dinners on behalf of my party. At those we start out with a reception and then we have something to eat and then we have some speeches. But this is a different kind of fund raiser. It is usually difficult to raise $20 million in 3 or 4 days, but the Democrats are attempting to do that. I would hope, if they are successful, that they will remember those of us on this side who did not buy tickets to the event, but who will be allowed to get some of the benefits.

I would point out, as I did earlier this morning that I reject all this talk about integrity and honesty, and the virtues of the candidate and how we will protect them all by spending the $20 million of the taxpayers' money. I have heard that more people will run in the primaries. I have heard that a couple of Republicans have said it looks so good they might even try it. So it does offer a great temptation, and I can see it working to encourage more and more candidates on the other side to the point that I can see the day coming when we will not be able to get a quorum in this Chamber, because everyone will be running for President. When that happens, we will have to repeal the act, which we did earlier in this session with the votes of 15 Members of the other party.

Now, Mr. President, I am not standing here, because I am the chairman of the Republican National Committee and I am resentful of the fact that we do not get the money under this amendment. But it occurs to me that with all those now seeking the nomination and running back and forth all over the country so frequently that what we are doing is saying, "Go out and spend all the money you can, because you may get the nomination, and once you get the nomination there is that $20.4 million that in there for the Democrats to spend." That does not seem to be a bad start.

It should be made clear to the American people that this is not a checkoff, it is not participation, but is an appropriation of everyone's money, of Federal money.

If that is the way we want to run the campaign then we should amend it to take care of not only anointed presidential candidates but of aspiring Senators, Congressmen, Governors, and so forth. We should take care of all those seeking nomination. Why should the Senator from South Dakota, the Senator from Maine, the Senator from Minnesota, the Senator from Massachusetts, the Senator from Washington, and the other Senators running for Vice President be denied the benefits when they seek nomination? Why not give them the money now?

I had hoped we might have an amendment to appropriate whatever the Democrats wanted to get, and leave the Republicans out. If they want the $20 million, then give it to them by direct appropriation, but do not burden us with that money. We will still seek to maintain honesty and integrity and decency by soliciting funds from the public. It does not twist anyone or damage anyone. As the Senator from Connecticut (Mr. WEICKER) said a few moments ago, there is a difference in basic philosophy.

The party on the other side says, "Turn to the Treasury if you have a problem."

We say, "Turn to the American people. We have faith in the American people."

Mr. President, I do not know how many people will utilize checkoff boxes on their tax returns. We will have to print new tax return forms. There has been discussion that the Democrat's box might be larger than ours, in their effort to get more of the money, or that ours might be in fine print and theirs in banner headlines, or that ours would be on the last page and theirs would be on the first page. I would assume that if this amendment is passed both boxes will bear some proximity one to the other. But, I say seriously, I believe that the American people are beginning to understand now.

I was in Tennessee and Alabama over the weekend, and I mentioned this—whatever we call it—this reform bill. And I told them that they would be checking off funds to go to candidiates they might not be for, or that they might not be able to predict, or that they did not want to support. I think that is the basic fallacy in the Pastore amendment. The entire concept is wrong. The entire concept should be defeated, but if not, at least the American people should know, when they hear it on radio, see it on television, or read it in the newspapers, "the cost of bringing you this political message is paid for by the U.S. Treasury." That is all my amendment seeks to do.

Mr. SCOTT. Mr. President, will the Senator from Kansas yield?

Mr. DOLE. I yield.

Mr. SCOTT. The Senator has said that under the Pastore amendment, the people would have contributed money to candidates they were not for. I wonder what a voter, let us say in New York, who wants to contribute his money to Representative SHIRLEY CHISHOLM will think if he were to realize that part of that money will go to the campaign of George Wallace. I wonder what a voter in Alabama would think, when he contributed his money for George Wallace, that part of his money was going to Representative SHIRLEY CHISHOLM. This is hardly what the person to be victimized here intends.

Last night, I noticed that the usual program of "Bonanza" was on television. That program takes 1 hour. Of course here, the bonanza requires several days of our time.

Before the television program "Bonanza," there was a program on another network. Laughingly called the news, on which there was a great deal of information about Democratic candidates and even that a new entry into the race was about to be launched by one of our colleagues on the Democratic side of the aisle. I do not blame them. I mean, there is this $20 million floating around. It is up for grabs. I would expect that some of the presidential dropouts would now seriously reconsider reentering the race because they dropped out too soon—before they got word about this slush fund, this raid on the Treasury, this unlimited senatorial credit card.

I hope that we can have a happy outcome to this bonanza, the way they do it on television, but if this amendment passes, this bonanza bill will pass with it and, of course, the race will intensify, if you can bull this tax bill through with this grabby amendment.

As the Senator from Kansas has said, I suppose nearly everyone else has entered the race, but we must not forget the other body, which has only one candidate at the moment. This is discrimination. That is absolute discrimination within the Democratic Party. Here there will be $20 million available for about a dozen Senators to use, and only one Representative.

Mr. DOLE. I think that is unfair.

Mr. SCOTT. That is unfair.

Mr. DOLE. I might say to the Senator from Pennsylvania that that one candidate happens to be the chairman of the Ways and Means Committee, and he will be sitting at the conference table when we divide up the money, so he is not in a bad position.

Mr. GOLDWATER. Mr. President, will the Senator from Kansas yield?

Mr. DOLE. I yield 2 minutes to the Senator from Arizona.

Mr. GOLDWATER. I see on our side of the aisle today a number of Senators whom I had the honor over the years to help in raising money for our party. I can recall, along with them, the days when we were in the same shape that the Democratic Party is in today. We did not have anything to sell. We had run out of issues. Roosevelt was popular. We could not beat him. The Democratic Party finds itself in precisely the same condition today. They have run out of issues. The Vietnam war is over. The people who have started to get in on the bandwagon to try to stop it are getting nowhere, because it has already stopped. Inflation that high spending by the Democrats caused in this country is coming under control by the leadership at the White House. I can, therefore, sympathize with the Democrats, as I can remember the days when—and certainly Senator SCOTT from Pennsylvania can join me in remembering the days—when the Republican Party was in the hole. We did not have much to sell. The Democratic Party is in the same shape now. They have five, six, eight, or nine people running around the country running for President. If they would talk to me, I could advise them on it and the answer would be "no." [Laughter.] I am rather amused and somewhat concerned by the fact that while the Democratic Party does not seem to be able to raise any money their candidates desire.

I am interested every evening by some rather well done, highly paid for commercials plugging the candidacy of this candidate or that candidate.

Having gone through this battle a few times myself, I know that one does not get those half-hour television shows for blue stamps, green stamps, or anything that he picks up in the drugstore. They cost money.

My prophecy is that while the Democratic Party is not able to raise money—and they should not be able to with the fix they have gotten our country into—that there will be candidates that make some sense and who will make money. I think they will be the first to say if they become candidates that they would not want to be embarrassed by having to take money from funds that they themselves have provided from the people.

Mr. SCOTT. Mr. President, will the Senator yield for a comment?

Mr. DOLE. I yield.

Mr. SCOTT. Mr. President, I would like to suggest that even those that do not make sense make money, too.

Mr. DOLE. Mr. President, I yield 2 minutes to the Senator from Ohio.

Mr. TAFT. Mr. President, I rise to correct one impression given in error by the distinguished majority leader with respect to my good friend, Representative SHIRLEY CHISHOLM. The fact of the matter is that poor SHIRLEY is not going to get a penny of these funds. She is not going to get nominated.

The Senate has rejected the amendment I offered that would have provided for new parties and permitted them to cut a slice of the pie. SHIRLEY is not going to get a penny. SHIRLEY is going to pay for George Wallace or for some other people whom she does not want to pay for, but she will not get any money.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. TAFT. I yield.

Mr. GOLDWATER. Mr. President, could we not include among our accusations the fact that the other side is apparently antiwomen?

Mr. TAFT. Apparently so.

I think a few of the American people are beginning to get word with respect to this matter. I have received in my mail this morning a petition and I think it is the first of quite a number that we will see along this same line. The petition contains 150 signatures and addresses from one small area of Ohio.

Mr. President, I ask unanimous consent that the petition, with the signatures, be printed in the RECORD at the conclusion of the remarks of the Senator from Kansas.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TAFT. Mr. President, I should like to read the wording of this precise petition. It reads:

> We the undersigned feel it is ridiculous that the Senate would ever think of using tax funds for political campaigns when there are so many more important areas of concern in the United States today.

Mr. President, I close my remarks by recalling a remark on the part of the late great Mendel Rivers in the House and say that it is so ridiculous, it is ridiculous.

The PRESIDING OFFICER. The 2 minutes of the Senator have expired.

Mr. DOLE. Mr. President, I reserve the remainder of my time. However, before doing so, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. LONG. Mr. President, those who support the Pastore amendment hope to explain to the American people exactly how the Democratic campaign is being waged and precisely where the money is coming from. We welcome the opportunity.

We fully expect to go before the public to explain this dollar checkoff and to ask everyone to check a dollar off on their tax returns. We want to give the little person, the ordinary taxpayer, an opportunity to share in lifting the highest office in the land above the interest of private self-seeking contributions.

We expect to explain that it has been our honest belief that there is a link between the improper influence of money in the Government and private campaign contributions. If this matter was not explained to the public, they might not be aware of the opportunity they have to correct this situation by checking off their dollar on their tax return.

We expect to ask the people to earmark their dollars for the presidential fund so that everyone will have an opportunity to participate in financing the presidential campaigns, even though Richard Nixon might not be too receptive to the idea at this time. I think he is a good man. I do not think the Republican Party could do any better. I think they ought to nominate him. If the people wish a Republican for President, I do not think they can do better than this man. He is doing the best he can with what the good Lord has given him to work with. He is using that. I think that that is all we have the right to expect from a public servant. I think that he will decide in due course to support the amendment. It will provide him the opportunity to be adequately financed and not have to accept any contributions that would make him suspect in the campaign.

Mr. CANNON. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. CANNON. Mr. President, I have listened to the debate by the Senators on the other side of the aisle with considerable interest. It seems to me that they have made a pretty good point with respect to one matter, and that is that the amendment as it now stands would require all funds that people designate to go into one particular pot.

I wonder if it would not be wise—since I notice that one of the distinguished Senators on the other side of the aisle has an amendment he has drawn up, the Mathias amendment, which is printed and which would permit the designation of a particular party by the person—to accept that amendment.

I think that would be good. I do not think that an individual ought to check it off without having some say as to a particular party or candidate that he would prefer it to go to and then find out that his money was going to George Wallace or that he could not designate SHIRLEY CHISHOLM or someone else.

I think we ought to be able to vote for and accept this proposal from the Republican side of the aisle that would strengthen the amendment and make the Pastore amendment a better one.

Would the Senator care to comment on that?

Mr. LONG. Mr. President, I have no strong objection to the Mathias amendment. I have not had an opportunity to carefully study it. However, if it does what the Senator says, I have no strong opposition to that.

The point that occurs to me is that presumably in January, the people who are going to decide the election in the last analysis are going to be the voters who are not committed. It seems to me that they would like to allocate their dollars so they would help both parties as well as third parties. Then, having heard the debates, they can decide which candidate they think would be best for the Nation's interest.

If the Mathias amendment would permit them to make designations in that fashion and also permit someone else who might prefer to have his money go to the Democratic or Republican Party to make his designation in that way, I think that would be good.

We must admit that there are people who might say, "I wouldn't vote for George Wallace, and I would not want one penny of my money to be put out to help him." He could mark his tax return so that his dollar would go for his party.

The important point is that we want to assure both sides of an adequate opportunity to present their cases to the American public.

Mr. CANNON. Mr. President, I am wondering about this. Of course, the Senators on the other side of the aisle would prefer not to use this method. They would prefer to raise their funds from private contributions, and I can understand why they would prefer to do so. But let us assume that whoever the nominee or candidate might be, he might indicate otherwise. This way, I think that the amendment might create some real problems if he decides to come under the provisions of the bill.

For example, many contributors check off $1 and say, "I want to contribute $1, to go to the Republican Party." I can see this very likely would create a real problem. Assume they happen to win the election and the new President went to appoint ambassadors. I can see he might have a very difficult time if he could only consider that everyone contributed $1. This could pose real problems to determine who would be appointed ambassadors. Take France, as an example. The present ambassador contributed $54,000 in 1968. I am sure his name just happened to be taken from a hat. Maybe they could still do that if they elected to come under the $1 provision. Also, in the case of Austria the ambassador contributed $43,000 in 1968. Perhaps his name came from the hat, as well. The same might be true of the gentleman from Denmark.

On the other hand, I am sure, assuming those names were taken out of the hat, the $1 checkoff contributor could create another problem and that is when they prepare the invitation list for White House dinners, Would the Senator agree that this could create real problems?

For example, as I placed in the RECORD the other day, you would not have the situation of Mr. Clement Stone, who contributed $200,000. They would not have that sort of situation and they would have to draw from the hat for White House dinners to determine who should be invited or have an opportunity to go to White House dinners.

Would the Senator agree that this might create real problems if the Republican Party were elected, under this provision, where they had to deal with these large contributors? I am talking about $200,000 from Mr. Stone, Max Fisher, $103,000, Henry Salvatore, of Litton, $83,000, and Mr. Dreyfus, of the Dreyfus Fund, $72,000.

Would the Senator agree this could create real problems if we eliminate those contributors to a political campaign and if they relied on the small $1 contributor?

Mr. LONG. It could, but I would like to make it clear that those of us who favor the Pastore amendment, and who will vote for it, intend to explain all about this provision if it becomes law. We would urge the people to designate the checkoff. We hope those on the other side would do the same.

If they want to find some reason to be critical of it, let them go ahead. But we hope our candidate will avail himself of it. If their candidate does not avail himself of it, I hope he will explain why, if he thinks taxpayers should not be permitted to use the dollar checkoff as a method of making campaign contributions.

I suggested a similar proposal in the past. What I suggested was not as carefully drawn as this proposal and I got the worst of it, particularly from some of my Democratic colleagues who would not support my position. It was more or less put in deep freeze until guidelines could be added to it. Since that time I have gone back to the people. I was fortunate enough to be reelected. I was favored by 87 percent of the voters in the primary campaign and I have never yet had one person tell me that he was unhappy with me because I suggested this would be a better way to finance political campaigns. I do not say everyone agreed with me, but I had a great number of compliments about it and I had people tell me that this is the approach we should have.

I would be perfectly willing to require a proper disclaimer that what both sides could agree to would be the right way to inform the public that the campaign was paid for by the $1 checkoffs by taxpayers.

If I were the President, which I certainly will never be, I would be proud to say, "Yes, this is how we financed this campaign. We only regret the other fellow did not avail himself of it because we would like that man to be above and beyond the power of private financing."

We would be glad to agree to a proper disclaimer. I personally would be glad to have some disclaimer.

I think it is only fair to the people, however, that a candidate who does not avail himself of the $1, one-man, one vote system, should also be required to make it known that he preferred to go the way of the $1, $100, $1,000, or $5,000 by private contributors.

If we wanted to be equally as partisan as those on the other side we would want them to say this was paid for by private funds which were subsidized by a tax advantage and disclose the people who put up the money and the things in which they are interested. We do not suggest that because we do not think it would be appropriate with regard to those candidates who do not want to avail themselves of the public financing, just as we think if there is to be a disclaimer, that those who sponsor it should be given a voice in deciding how this should be disclosed to the public, provided those on the other side will explain their attitude.

Mr. GRIFFIN. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. GRIFFIN. I take it that the Senator from Louisiana is acknowledging that there should be a disclaimer. It is not clear, however, whether the Senator is agreeing to support the amendment of the Senator from Kansas?

Mr. LONG. No, but I would say this to the Senator. I will be glad to join with those on the other side of the aisle, if this becomes law, insofar as I have the power to do it, to see that this is thoroughly understood by the taxpayers, and if the Democratic candidate avails himself of it, everyone knows he is being financed by these voluntary $1 checkoffs, and that that is where his money comes from. We would expect, if the Republican candidate does not avail himself of it, that he would state that he had not, and tell the people why not.

Mr. GRIFFIN. If I could respond to some of the arguments made I would appreciate it.

The distinguished chairman of the committee indicated a few moments ago, as I understood him, that he might favor such a disclaimer if it referred to the fact that private funds contributed had enjoyed some tax advantage. Of course, we would be talking about private funds voluntarily contributed if the Baker amendment had been agreed to; but since it was rejected, the Pastore amendment is dealing with Treasury funds. The taxpayer who makes a check mark under the Pastore amendment is merely diverting money from the Treasury—money that would otherwise be available for other governmental purposes.

Mr. LONG. Mr. President, I would like to respond to the Senator's remarks. I am on my own time, I understand. The opposition has equal time. I wish to respond to what the Senator is saying. If I had my way about it, we would simply provide every taxpayer with a $1 tax credit, so he could contribute $1 to lift the Presidency of the United States above the reach of private campaign donations.

Mr. GRIFFIN. Would that $1 be in addition to his tax liability?

Mr. LONG. He would have a $1 tax credit or a $1 tax advantage if he contributed it.

Mr. GRIFFIN. In addition to what he otherwise owed for taxes?

Mr. LONG. One man, one vote, one dollar. So if a man wanted to make a contribution to good government so that both sides could be heard, or even that a third party would have a fair chance to be heard, than that person could have a $1 tax credit.

That principle was the starting point of the Senator from Louisiana when he started this movement some years ago.

Unfortunately, the problem of collecting $1 contributions and the problem of accounting for them becomes so formidable that the sensible way to do it is simply to let a taxpayer mark on his tax return that $1 of his tax is to be used for this purpose. This works exactly the same way as if he makes a dollar contribution to good government and gets a $1 tax credit.

In the Pastore amendment a $70 tax advantage was given to a person who wanted to contribute $100 to a political campaign. We have cut this down somewhat, but there still is a big tax advantage to a person who wants to make a contribution to his party, or at least make an investment to protect his own interests. That provision costs the Government a great deal more than the $1, one vote provision, even considering accounting problems involved of in using the U.S. Treasury as a collecting agency, and as a disbursing agency. In that fashion we achieve exactly the same result as if the tax credit were provided to the taxpayer for making a $1 donation to the cause of good government.

It is a somewhat different way to achieve that result only because that is the way we can best meet the accounting problems and the reporting problems, and the responsibility problems to see that the money gets to the right person and to see to it that he gets it the way the person intended it to be used.

That is how we suggest it should be done, and all the talk about using the taxpayers' funds develops from the fact that the practical way to do this is to use the Treasury as the collecting and disbursing agency, rather than have a person make a private campaign contribution to a private fund, and have to keep all the records and keep up with the funds thereafter.

So the purpose is the same as it would be if there were a $1 tax credit for a $1 donation to the cause of good government. All the conversation about the U.S. Treasury and the taxpayers' money and diverting funds, and things of that sort, arise merely because someone does not want to change our way of doing business so that those who run for the Presidency of the United States in the general election will no longer be subject to the pressures and influences of the enormous amounts of money that are raised to try to convince them to do things they would not otherwise do.

Before the debate is over I think I shall put in the RECORD some documents that indicate how far this matter goes, the large amounts of money being offered, some of it very subtly provided, and some of it provided not too subtly, from those whose intention from the very beginning is to try to influence the Government in years thereafter.

The people do not want their Government—and when I say people I mean 99 percent of the people—dictated by private financial interests, either by the millions of dollars raised by groups of millionaires or by the $100 contributions contributed by people who are interested in wanting to protect their own business interests. They do not want the Government run that way, and they would prefer the Presidency be lifted above what is oftentimes self-seeking and sometimes corrupt practices.

Mr. GRIFFIN. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. GRIFFIN. The Senator from Louisiana has talked about large contributors. I share their concern but I believe it should be recognized that the Pastore amendment would not really affect that situation one bit. The contributors of large sums would simply make their contributions during the primary period, in which case the Pastore amendment would have no effect whatever. So, if a person with a large amount of money wants to try and have influence, all he has to do is make sure his money gets to the right place in the primary campaign and the Pastore amendment would have nothing to do with that. The Senator will agree with that, I am sure.

Mr. LONG. The Senator should know better. The Senator knows that if a person elects to take advantage of the private funds available to him, he is limited to that amount, and no one can accept these other contributions for his campaign to be used in advancing that campaign; and even if he did have the good fortune that he had a lot of money left over from the primary campaign, that is all he can spend. He has to agree to that.

Mr. GRIFFIN. That would be the case after nomination, but anything contributed before the nomination would not be subject to that limitation; all the big contributions could be made to a candidate for President before he received the nomination.

Mr. LONG. He could use the big contributions in the nominating process. I was not trying to deal, in the $1 proposal, with the primary elections. We had provided help in the primary elections in terms of tax credit for $25, in terms of the $100 deduction, but not in terms of the checkoff. The theory is that about the best we can do is to answer all the problems and fears that can be conjured by the mind of man in this simple proposal to try to provide for the presidential election, and if we cannot solve that problem—and it is clear now that it is difficult to solve even that problem—then we cannot hope to clear up the others.

Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator has 4 minutes remaining.

Mr. LONG. Did the Senator from Kentucky want me to yield to him?

Mr. COOPER. Yes.

On the question of appropriations of the general funds of all the taxpayers, I should like to read from the debate of April 12, 1967, as it appears at page 9277. The Senator from Louisiana responded to a question from then Senator Lausche of Ohio in this way:

> The law at present—

The Senator's amendment was on the books at that time—

> The law at present provides that every taxpayer may mark on his tax return whether he would like to contribute $1 of his tax money to finance the two major political parties campaign for President or, for that matter, to help to finance a third party if that party can muster more than 5 million votes.
>
> All we have is a mere authorization. An appropriation would still be required. After the taxpayer requested of Congress that $1 of his tax money be paid to help finance the campaigns, Congress would then have to appropriate the money to fulfill the request of the American taxpayers who, after all, own the Government and would pay for it.

Is it the Senator's view today that if this proposal should be passed and should become law, the Appropriations Committee would be required to appropriate money to finance the fund?

Mr. LONG. That is what the law was at that time, and if that law had remained, we would have had plenty of time for an appropriation to implement the checkoffs which were authorized by the taxpayers.

I have thought about the matter since that time, however, and have concluded that we should not leave this matter to the appropriation process. A Congress and a President might be unsympathetic to this approach and, after an election was over, might even decline to make available the funds that Congress had intended and that the public, by the $1 tax checkoff by each individual taxpayer, had expected to be made available to support the candidates. If we are going to pursue the approach we have here, I think the only way we can be sure the money would be made available is to have the automatic appropriation, as we do for the interest on the national debt, to make sure the money will be there to pay for the expenses incurred by those relying upon this legislation.

Mr. COOPER. Mr. President, I raise a procedural point, but it is an important point. Would the money, in the Senator's judgment, have to be appropriated?

Mr. LONG. The appropriation is written into the proposed language. It is built into it so that, if the taxpayer marks on his tax return that he wants $1 to go into this fund, the dollar does go into the fund, and the money is made available to carry out his intent.

We do have permanent appropriations which work in an automatic fashion; I know we do it for interest on the national debt, and that involves much money. That is over $10 billion a year, that is handled in that fashion, just because we want to be sure it will take place.

If we want to be sure that a future President will not veto the appropriation and a future Congress not decline to make it available, even though the people indicated they wanted that done, it would have to be handled in this type of fashion.

The PRESIDING OFFICER. All the time of the Senator from Louisiana has expired.

Mr. COOPER. I just wanted to make the point that it is appropriated, and thus is a payment from general revenues.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. I have only 4 minutes. I yield 1 to the Senator from Kentucky.

Mr. COOPER. As I have suggested, the fund will be based on revenues provided by all the taxpayers.

I would also like to state that the candidates are nominated as a result of their work before the convention, and if these stories in the newspapers are correct, practically all of the candidates have a large donor or donors assisting the financing of the preconvention campaigns.

The Pastore amendment will not cure this situation. Candidates in preconvention campaigns will continue to receive contributions of vast size from individuals. And is it not also true that there is nothing in the amendment which prohibits the considerable contributions of labor unions?

The PRESIDING OFFICER. The Senator's 1 minute has expired.

Mr. DOLE. Mr. President, I appreciate the contributions to the debate, but I believe there should be a disclaimer on all political advertisements. The disclaimer is required now as to political messages paid for by a committee or by friends. I would respectfully suggest that if a political message is paid for by the Treasury, then the people should know that this particular political advertisement was paid for by the Treasury.

I would also point out that there still has been no solution offered to the problem I raised, that President Nixon, under the present language of the amendment, is excluded from participation. I would hope that the President would not participate anyway, but under the way in which the bill has been drafted, he could not do so in any event, because some funds have been raised for his campaign; and the language says very clearly that you are not eligible if campaign funds have been accepted.

I would hope someone would look over that situation, in an effort to clarify it later on.

But basically, as I said at the outset, if we are to spend the taxpayers' money, if we are going to pass a bill in this Congress to authorize the expenditure of taxpayers' money, if the candidate has some commercial message on the radio, or television, or in a newspaper, it ought to be clearly identified as paid for by the taxpayers, paid for from the U.S. Treasury. Let us not try to delude or deceive the American people. Let us tell it like it is. If we are going to stand up and vote money from the public Treasury, which in effect we are doing under this bill, we ought to so identify it.

I believe, as I indicated earlier, that we are making a serious mistake. This is really a fat cat bill. It would turn all the fat cats in America loose so that they could support primary candidates. We are going to underwrite the general election. We tell all the fat cats in America, whether they be labor leaders or businessmen, "Support anyone you want to in the primary or before the convention, because after we have the nominees of the Republican Party and Democratic Party, the American taxpayer will pick up the slack; he will pay the $20 million; he will underwrite that campaign."

I think anyone who has been in politics as long as most of the Members of this body can understand that this will not solve any problems; it will create problems. We are going to have the rich and the big, powerful labor unions trying to buy candidates in the primaries. I say it would be helpful if we adopt my amendment.

At the request of Senator TAFT and by unanimous consent the following petition, with signatures, is printed in the RECORD at this point:

> We the undersigned feel it is ridiculous that the Senate would even think of using tax funds for political campaigns when there are so many more important areas of concern in the United States today:

William S. Ghune, Elyria.
Lillian M. Supel, Lorain.
Al Clausen, Elyria.
Carl T. Ensign, Wellington.
J. E. Achectal, Avonake.
Anne Bremenour, Elyria.
Richard Pondths, N. Ridgeville.
Jo Peikoski, Elyria.
Mary Kurtz, Elyria.
Leonard F. Philion, Elyria.
George Kamaritsis, Lorain.
Terry A. Joasson, Grafton.
Robert J. Wallace, Elyria.
Dolly Giles, Elyria.
Doloris Westfill, Lorain.
Donald J. Brubaker, Elyria.
W. S. Harrett, Lorain.
C. J. Wenzel, Elyria.
Reva Keffer, Elyria.
Irene Urbansok, Lorain.
Robert L. Hintz, Elyria.
John C. Adams, Elyria.
Charles R. Sowers, Elyria.
Charles H. Miller, Elyria.
Virgil L. Miller, New London.
John Fleming, Elyria.
Glenn Houpt, Elyria.
Mike Macut, Elyria.
Rick Rudlowski, Elyria.
Steven Cain, Elyria.
Charles H. Lamper, Jr., Wellington.
John Kodzsh, North Ridgeville.
Elmo M. M. Vicker, Spencer.
T. Suchodolsky, Elyria.
Joseph L. Lesnick, North Redgeville.
Raymond E. Wilson, Elyria.
John L. Leonard, Grafton.
Kenneth Juster, Elyria.
Warren Cunningham, North Ridgeville.
R. Logan, Elyria.
W. Leroy Opel, La Grange.

Albert F. Woods, Elyria.
R. L. Bohing, Elyria.
Henry W. Coleman, North Ridgeville.
Rosemary Wise, Lorain.
Harold H. Hicks, Elyria.
Howard H. Haskins, Elyria.
Mary E. Wenzel, Elyria.
Ann Tricot, Elyria.
Keith Loezi, Amherst.
Larry Lumbach, Berlin Heights.
Bill Eggerichs, Lorain.
Charles H. Comings, Elyria.
Carolyn Rebele, Elyria.
Barbara Snyder, Elyria.
Lloyd Miller, Elyria.
Margaret Richardson, Elyria.
Myron H. Peters, Elyria.
Mildred M. Demeryian, Elyria.
John R. Lyndon, Elyria.
Martin J. Matus, Wakeman.
Thomas C. Lowsey, Lorain.
Thomas C. Lawrey, Lorain.
Ed Thomas, Lorain.
Agnes Thornber, Avon.
Ruby Staszak, Elyria.
Stella Kosco, Lorain.
Grace Renwick, N. Ridgeville.
Elizabeth Erden, Lorain.
Kathleen M. Jacole, Grafton.
Rose Aldrich, Elyria.
Doris Schaefer, Elyria.
Mary Gole, N. Ridgeville.
Helen Mashinski, Elyria.
Helen Dugovich, Elyria.
Florence Grzenda, Elyria.
Mary Botamer, Elyria.
Helen Radzwick, Elyria.
Marjorie Mosley, Elyria.
Helen Papp, Elyria.
Rose Tong, Elyria.
Elizabeth Mika, Elyria.
Clara Lovisa, Amherst.
Clara Oranec, Lorain.
Erma White, Olmsted Falls.
Jane Muche, N. Olmsted.
Jane Flanagan, Elyria.
Arleen Walker, Grafton.
Florence Barron, Elyria.
Ann Staysniak, Elyria.
Ann Shunha, Lorain.
Mary Vorkavich, Lorain.
Thelma Boyle, Avon.
Virgie Baggs, Avon.
Margaret Wilson, Elyria.
Ada Koehn, Elyria.
Carol Moore, Vermilion.
Dorothy L. Nicholas, Elyria.
Mary Szallay, Elyria.
Esther Mohr, Elyria.
Judi Stark, Elyria.
Norma M. Stickdan, Elyria.
James, Donohue, Lorain.
Duane Johnson, Elyria.
Doris Butler, Lorain.
Lillian Kapron, Lorain.
Mary Watters, Elyria.
Molly Bratton, Lorain.
Martha Kantor, Lorain.
Mary Ann Buckosh, Lorain.
Stella Speia, Lorain.
Cecelia A. James, N. Ridgeville.
Judy Thomasko, Elyria.
Bruce E. Nelson, Lorain.
Thomas A. Vilevac, Jr., Lorain.
Allan T. Yheulon, Olmsted Falls.
Doris J. Walker, Grafton.
Bernetta Kriebel, Elyria.
June Ehrke, Elyria.
Marie E. Jones, So. Amherst.
Carmella A. Ryan, N. Ridgeville.
R. L. Holden, Lorain.
Charles S. Vollmer, Elyria.
Mary Molesky, Elyria.
Forest Maier, Elyria.
Irene M. Kopumia, Elyria.
Annette Jares, N. Ridgeville.
Nancy Schoeffel, Grofton.
Bill N. Wood, Elyria.
L. L. Hoover, Elyria.
James M. Bowman, Elyria.
Belva E. Glunt, Elyria.
Dorothy Blakely, Elyria.
J. W. Metz, Elyria.
Barbara A. Bordner, Elyria.
Walter E. Bush, Elyria.
Mary Jean Feeley, N. Ridgeville.
Agnes M. Zilka, Avon.
Joan M. Prisl, Avon Lake.
Norma J. Shaffer, Elyria.
Ned E. Welch, N. Ridgeville.
William C. Sadler, Elyria.
Robert Shapptall, Elyria.

The PRESIDING OFFICER (Mr. CHILES). All time has expired. The question is on agreeing to the amendment of the Senator from Kansas (Mr. DOLE). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The result was announced—yeas 43, nays 56, as follows:

[No. 377 Leg.]

YEAS—43

Aiken
Allott
Baker
Beall
Bellmon
Bennett
Boggs
Brock
Brooke
Buckley
Case
Cook
Cooper
Cotton
Curtis
Dole
Dominick
Fannin
Fong
Goldwater
Griffin
Gurney
Hansen
Hruska
Javits
Jordan, Idaho
Mathias
Miller
Packwood
Pearson
Percy
Roth
Saxbe
Schweiker
Scott
Smith
Stafford
Stevens
Taft
Thurmond
Tower
Weicker
Young

NAYS—56

Allen
Anderson
Bayh
Bentsen
Bible
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Chiles
Church
Cranston
Eagleton
Eastland
Ellender
Ervin
Fulbright
Gambrell
Gravel
Harris
Hart
Hartke
Hatfield
Hollings
Hughes
Humphrey
Inouye
Jackson
Jordan, N.C.
Kennedy
Long
Magnuson
Mansfield
McClellan
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Moss
Muskie
Nelson
Pastore
Pell
Proxmire
Randolph
Ribicoff
Sparkman
Spong
Stennis
Stevenson
Symington
Talmadge
Tunney
Williams

NOT VOTING—1

Mundt

So Mr. DOLE's amendment was rejected.

Mr. DOMINICK. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER (Mr. HUGHES). The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. DOMINICK. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered, and the amendment will be printed in full, as requested.

The text of the amendment is as follows:

On page 3, line 9, strike the words "nomination or";

On page 3, line 11, beginning with the word "or" strike through the comma following the word "party";

On page 3, line 14, strike the words "nomination or";

On page 3, line 18, strike the words "nomination or";

On page 3, line 20, strike the words "nomination or";

On page 3, lines 23 and 24, strike the words "nomination or";

On page 4, line 13, strike the words "nomination or".

Mr. DOMINICK. Mr. President, if I may have the attention of my colleagues for a few minutes, I do not know whether we will use all the time available on the amendment, but in order to insure that each Senater can make his record current, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. DOMINICK. Mr. President, we have been dealing almost exclusively with title X of the bill. In this amendment I am dealing with title IX as opposed to title X.

One of the items which the Senator from Rhode Island has been emphasizing in the process of this debate has been that title X carefully states that Federal tax funds would apply only to a candidate who had already been nominated for President. He went on to say that the amendment would not apply to anyone else. By implication at least the Senator from Rhode Island said that no Federal funds would go to other candidates; and in the process of making those comments, he stated, "We are not going to give tax funds to every Tom, Dick, and Harry."

The fact is, no matter how we review the particular amendment, under title IX, every single person, who runs for any kind of office anywhere in this country is eligible to receive what is in essence tax funds, because anyone who makes a contribution qualifies for either a tax credit or a tax deduction. How much this will mean in terms of revenue, no one has the faintest idea.

As I pointed out when I offered my previous amendment, which would have restricted the contributions qualifying for the tax credit or deduction to people running in a general election and in primary elections, for either State or Federal office, we were talking, in terms of at least 6,000 to 10,000 candidates who would be eligible to receive money which the contributor could then deduct from his own tax liability or take a credit against that tax liability. But that amendment was defeated. I did not succeed in eliminating qualifying contributions to local candidates. The Senator from Georgia made an impassioned plea on behalf of his local sheriff. That is fine. The vote reflected the majority opinion of the Senate.

What I am doing now allows anyone running for elective office to go to any person who made a contribution and say, "OK, if you give me *x* number of dollars, you can get a tax deduction or tax credit and I will get the benefit of your gift." But what I am saying here is that we should not apply those same rules to an individual who was a candidate for nomination in a national, State, or local convention. In the absence of my amendment what we are saying is that in the ordinary political processes when someone wants to run for nomination in a county convention, we can finance that race for convention nomination with contributions which qualify for a tax credit or a tax deduction. That makes no sense to me. Yet, on page 3 of the Pastore amendment under the heading Political Contribution, it states:

> . . . an individual who is a candidate for nomination or election to any Federal, State, or local elective public office in any primary, general, or special election, or in any National, State, or local convention or caucus of a political party, . . .

Now we have all been through both local and precinct caucuses and conventions. Are we going to start paying people to run for these offices? Is that the theory of the bill? Are we going to say now, "OK, we will only give money to the presidential candidate who has already been nominated by his party out of the direct Federal funds; but "every Tom, Dick, and Harry"—which were the words of the Senator from Rhode Island himself—will be eligible to receive contributions which someone else can then write off as a tax deduction or a tax credit."

As I say, I am not trying to undermine the bill. I am not even trying to undermine title IX. There is no conceivable reason why we should say, "We will allow a tax deduction or a tax credit to candidates attempting to secure nominations at a local convention or caucus of a political party or even for national or State convention or caucuses."

We are going to have fights for national convention delegates, be it at a Republican or Democratic convention, but why can't we work that out? I never heard any responsible person proposing that anyone can try to be a delegate this way. Never in my born days have I heard of anyone making a contribution to a man running for the position of party delegate to a convention. In our State convention or caucus—I do not know how it is in Rhode Island and I do not pretend to know—maybe the Senator from Rhode Island can enlarge on that—but I have never heard of anyone in our area of the world making contributions in order to run for a State caucus or a State convention.

Mr. PASTORE. Mr. President, will the Senator from Colorado yield?

Mr. DOMINICK. I yield.

Mr. PASTORE. This matter was copied more or less from the previous legislation. Then the question was raised by the Senator from Kentucky (Mr. COOPER) and I agreed with him that if he had an amendment to take out the caucus and the State convention, I would be amenable to it. Insofar as the rest of his amendment is concerned, of course, I would have to be opposed to it and the reason is simple: The point here is that any candidate for office in any city or State might be as important to that taxpayer as, for instance, the mayor, a school committeeman, or a school committeewoman. That may be a very important matter in that particular area.

For that reason, if they made a legitimate contribution and proved it, and the contributions add up to double what he deducts, not to exceed $12.50, or an allowance not to exceed $100 with his wife from gross income, I do not know anything wrong with it.

Mr. DOMINICK. Mr. President, I am not changing that. All I am doing is knocking out "in any national, State, or local convention or caucus of a political party." I am leaving in the primary, general, or special election.

Mr. PASTORE. Mr. President, I do not think the Senator ought to knock out the national convention. Does the Senator mean a delegate to the convention?

Mr. DOMINICK. Yes. Why should we give contributions to pay a delegate to the national convention?

Mr. PASTORE. Mr. President, I was not here when the Senator started to explain the amendment. Would he explain it again.

Mr. DOMINICK. I would be happy to do so. My amendment would not alter terms of the bill as concerns a candidate for nomination or election to any Federal, State, or local public office in a primary, general, or special election. However, I think we should strike out the words, "or in any National, State, or local convention or caucus of a political party" so that we will not have to contribute to every Tom, Dick, and Harry, to use the Senator's words, who decides that he wants to be a delegate to a National, State, or local convention or caucus. It does not seem right to reduce the tax funds—which is what we would do by this—for those purposes.

I have also taken out the words "nomination or" because it seems to me that what we are dealing with is an election, and an election is still applicable to a primary. I do not see the purpose of having "nomination" in.

The main purpose and purport of my amendment is to strike out the words "or in any National, State, or local convention or caucus of a political party" because that does make good sense.

Mr. PASTORE. Mr. President, I do not think the amendment does exactly that. To simplify it, the Senator says beginning on line 11 of page 3, beginning with the word "or" strike up to and including the comma following the word party.

Mr. DOMINICK. That is correct. And it strikes out the convention or caucus of a political party.

Mr. PASTORE. Mr. President, if the Senator would have my staff work with him to accomplish that purpose, I would be willing to accept the amendment.

The amendment then says on page 3, line 14, strike the words "nomination or". Does that not refer back to the nomination or election to any Federal, State, or local elective public office in any primary, general, or special election?

Mr. DOMINICK. The Senator is correct. There is no point in leaving in the words "nomination or". We leave the word "election" in. It still deals with the primary or general elections in any National, State or local election. But we do not pay them for a National, State, or local convention or caucus of a political party.

I do not know how many political parties there may be, but leaving in such language would only create a multitude of problems.

Mr. PASTORE. Mr. President, the Senator is saying the only thing he is opposed to is delegates of any sort.

Mr. DOMINICK. The Senator is correct.

Mr. PASTORE. Was this a printed amendment?

Mr. DOMINICK. It was not.

Mr. PASTORE. That is just the point. After all, who could accept an amendment unless the Senator has our staff look at it to get the proper language and proper limitations in it. I would not be opposed if the Senator were to do that.

We could let it lay for awhile to see if we can work it out.

I have discussed this with the Senator from Kentucky. If a person runs for a delegate to a national convention or a State convention, I do not think that ought to be deducted. If we can get to work on it, I think we can agree.

Mr. DOMINICK. That is right on the button.

Mr. PASTORE. The Senator keeps insisting on that, but my staff tells me it is not right on the button.

Mr. DOMINICK. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged against both sides.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOMINICK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMINICK. Mr. President, it is my understanding that the language of the amendment is designed to accomplish the results which both the Senator from Rhode Island and myself would like to accomplish. I suggest that there not be any more debate. We might as well get a call of the roll.

Mr. PASTORE. Does the Senator want a rollcall vote? I will accept the amendment. After all, we do not have much time between now and 5 o'clock.

Mr. DOMINICK. Mr. President, I ask unanimous consent to withdraw the yeas and nays.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. PASTORE. Mr. President, I am perfectly willing to accept the amendment. I think this is an improvement. This matter had been discussed previously. I am glad the matter was brought to our attention. I am perfectly willing to accept it.

I yield back the remainder of my time.

Mr. DOMINICK. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having expired, the question is on agreeing to the amendment of the Senator from Colorado.

The amendment was agreed to.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had passed the bill (S. 18) to amend the United States Information and Educational Exchange Act of 1948 to provide assistance to Radio Free Europe and Radio Liberty, with amendments, in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED

The message also announced that the Speaker had affixed his signature to the following enrolled bills:

H.R. 1836. An act for the relief of Ruth V. Hawley, Marvin E. Krell, Alaine E. Benic, and Gerald L. Thayer;

H.R. 1867. An act for the relief of Bernadette Han Brundage;

H.R. 1899. An act for the relief of Mrs. Maria G. Orsini (nee Mari);

H.R. 1931. An act for the relief of Jesus Manuel Cabral;

H.R. 1962. An act for the relief of Dah Mi Kim;

H.R. 1970. An act for the relief of Mrs. Andree Simone Van Moppes and her son, Alain Van Moppes;

H.R. 2087. An act for the relief of Park Ok Soo and Noh Mi Ok;

H.R. 2107. An act for the relief of Jose Bettencourt de Simas;

H.R. 2108. An act for the relief of Nemesio Gomez-Sanchez;

H.R. 2408. An act for the relief of Louis A. Gerbert;

H.R. 2706. An act for the relief of Miguelito Ybut Benedicto;

H.R. 2803. An act for the relief of In Kuong Yi;

H.R. 2814. An act for the relief of Rea Republica Ramos;

H.R. 3041. An act for the relief of Mary James Kates, owner of the Gladewater Daily Mirror;

H.R. 3082. An act for the relief of Ronnie B. (Malit) Morris and Henry B. (Malit) Morris;

H.R. 3383. An act for the relief of Mrs. Mauricia A. Buensalido and her minor children, Raymond A. Buensalido and Jacqueline A. Buensalido;

H.R. 3425. An act for the relief of Helen Tziminadis;

H.R. 3475. An act for the relief of Paul Anthony Kelly;

H.R. 5422. An act for the relief of The American Journal of Nursing; and

H.R. 7085. An act for the relief of Eugene M. Sims, Senior.

The enrolled bills were subsequently signed by the President pro tempore.

REVENUE ACT OF 1971

The Senate continued with the consideration of the bill (H.R. 10947) to provide a job development investment credit, to reduce individual income taxes, to reduce certain excise taxes, and for other purposes.

Mr. BAKER. Mr. President, I call up an amendment I have at the desk and ask that the amendment be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to state the amendment.

Mr. BAKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

On page 17, strike out lines 1 and 2 and insert in lieu thereof the following: "section 1062, be final and conclusive."; and

On page 29, line 20, insert the following new section:

"JUDICIAL REVIEW

"SEC. 1062. Any certification, determination, or other action by the Comptroller General made or taken pursuant to the provisions of this title shall be subject to review by the United States Court of Appeals for the District of Columbia upon petition filed in such Court by any interested person. Any petition filed pursuant to this section shall be filed within thirty days after the certification, determination, or other action by the Comptroller General for which review is sought."

Mr. BAKER. Mr. President, it is my understanding that the distinguished manager of the bill is willing to accept this amendment which would provide a method for judicial review of determinations made by the Comptroller General under the provisions of the Pastore amendment.

Mr. PASTORE. The Senator is correct. I discussed this matter not only with the Senator from Tennessee, but also with the Senator from Kentucky. We all agree that there should be judicial review. This accomplishes that and is an an improvement of the original amendment. I am willing to accept the amendment.

Mr. BAKER. I yield back the remainder of my time.

Mr. PASTORE. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time having expired, the question is on agreeing to the amendment of the Senator from Tennessee.

The amendment was agreed to.

AMENDMENT NO. 717

Mr. DOMINICK. Mr. President, I call up amendment No. 717.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read as follows:

On page 29, after line 19, add the following new section:

REPORT ON TAX COST OF PRESIDENTIAL ELECTION CAMPAIGN FUND

SEC. 102. The Senate Committee on Finance shall report not later than December 31 of each year on the costs of subtitle A of this title and on the cost of administering the Presidential Election Campaign Fund, including the tax cost to taxpayers who do not designate income tax payments to such fund.

Mr. DOMINICK. Mr. President, in my previous amendment, which was rejected, I pointed out the very grave difficulties which would be encountered in administering this program if the Pastore amendment should be agreed to. I recommended to the Senator from Rhode Island then that we should require that we go through the appropriation process because, among other problems involved, there is the fact that we do not know how much this whole program is going to cost; we do not know what the qualified expenses are going to be; nor will we know whether such expenses are qualified or not until after the payments have been made.

This fund will be collected each year for 4 years, and there will be a very substantial expense in going through the necessary checks to determine how many people are, in fact, going to check and indicate that $1 should be in this particular fund.

There is no revenue mechanism other than the judicial review provided for in the amendment of the Senator from Tennessee, which was just accepted.

I have suggested, in addition, that Congress should have some hold on this matter. What in the world are we doing creating a self-executing mechanical device in which spending is authorized by Congress and we do not review it in any way to determine the cost of the program and what the net result will be. We have not provided for any report to Congress except whatever we may be able to get individually by asking IRS to report on it on a year-by-year basis.

So I have offered my amendment which states:

The Senate Committee on Finance shall report not later than December 31 of each year on the costs of subtitle A of this title and on the cost of administering the Presidential Election Campaign Fund, including the tax cost to taxpayers who do not designate income tax payments to such fund.

The point that I have been making continually is that if we have x amount of revenue coming in to take care of vital programs which the American people have demanded, and we say we are going to take out of that revenue x millions of dollars for purposes of a presidential campaign, someone has to make it up or we are going further into deficit financing; and we will have to go back to the American public and ask them to lend us the money needed while we do this political campaign gimmick, which is all I can call it.

If agreed to, this amendment would give us an early report on the cost of the program, how it is working, how many taxpayers will be affected, how many are going along with it, all on a year-by-year basis. In addition, the finance committee would report on how much additional tax burden has been imposed on nonchecking off taxpayers in order to take care of other programs we all feel are so urgent.

As long as I could not get the appropriation process agreed to, which I think was far and away the best method of handling the situation, the least we can do is to have a reporting and reviewing system provided by the Committee on Finance. That committee is chaired, after all, by the Senator from Louisiana (Mr. LONG) at the moment, and the Senator from Louisiana is obviously not only the author of the tax bill but also a supporter of the Pastore amendment.

So I think both the Senator from Rhode Island and the Senator from Louisiana would feel this is a good idea.

Mr. President, I reserve the balance of my time.

Mr. PASTORE. Mr. President, this is a simple provision in some respects. It would include the cost to taxpayers who do not designate income tax payments to such a fund. This is a slap at the amendment, and it is intended as such. If the Senator wants disclosure, that is one thing, but under this impossible provision we would have to prove to those who do not mark off what their obligation is to build an aircraft carrier or something of that sort. It is ridiculous if we did that on everything that comes along in the

Senate. We would have a state of confusion.

We have provided for a supervising council, Members of Congress participate in it, and members of the public participate in it. They oversee all the rules and regulations made by the Comptroller General. I think we have all the protection that is needed.

To me this is satirical, if I may use that word. It is a subtle way to say, "I do not approve of this legislation and, therefore, I will make it as unpalatable as I can."

Mr. President, I do not support this amendment and therefore I hope it is rejected.

The PRESIDING OFFICER. Who yields time?

Mr. DOMINICK. Mr. President, I yield myself such time as I may require.

Since the Senator from Rhode Island is not going to accept this amendment, I would like to ask for the yeas and nays. I think the amendment is important. I do not feel as the Senator from Rhode Island does that this is a satirical move. I am against the bill and I have said so from the beginning.

Mr. PASTORE. Of course the Senator is, and one can read that feeling all through the lines of this amendment.

Mr. DOMINICK. Even though I have been opposed to this bill, I have tried to do something to improve it. I think this provision would improve it. I have not been offering satirical amendments. I have offered legitimate amendments.

The Senator states that we are going to give the people a chance to see if they want some of their tax money allocated in this way. Why do we not do that on everything? Why just on politics? Why do we not do it in connection with education, or why do we not ask the people we are going to do it for. We say this is how much they want to put into a new battleship? Politics is the only thing that we are going to do it for. We say this is the only earmarking that the taxpayer is allowed to do. We have not even provided for this in connection with the highway construction fund.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. DOMINICK. I yield to the Senator on his time.

Mr. PASTORE. On my time.

Page 21 states explicitly—

REPORTS TO CONGRESS; REGULATIONS

SEC. 1009. (a) The Comptroller General shall, as soon as practicable after each presidential election, submit a full report to the Senate and House of Representatives setting forth—

(1) the qualified campaign expenses (shown in such detail as the Comptroller General determines necessary) incurred by the candidates of each political party and their authorized committees;

(2) the amounts certified by him under section 1005 for payment to the eligible candidates of each political party; and

(3) the amount of payments, if any, required from such candidates under section 1007, and the reasons for each payment required.

Each report submitted pursuant to this section shall be printed as a Senate document.

(b) The Comptroller General is authorized to prescribe such rules and regulations, to conduct such examinations and audits (in addition to the examinations and audits required by section 1007(a)), to conduct such investigations, and to require the keeping and submission of such books, records, and information, as he deems necessary to carry out the functions and duties imposed on him by this subtitle.

So there would be a full report and that report has to be made to Congress and the House of Representatives and it is here as a Senate document.

Mr. DOMINICK. Mr. President, will the Senator yield so I may ask for the yeas and nays?

Mr. PASTORE. I yield for the yeas and nays.

Mr. DOMINICK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PASTORE. Mr. President, I understand the opposition of the Senator from Colorado to the Pastore amendment. But in all fairness I can say in good conscience, that I am trying to be as fair as I can. In that spirit I have accepted other amendments that I thought would help the bill, but I do not feel this amendment is necessary at all.

The PRESIDING OFFICER. Who yields time?

Mr. DOMINICK. Mr. President, I yield myself such time as I may need.

I think the provision the Senator from Rhode Island just read to the Senate and which has been placed in the RECORD is a clear indication of why we need something else. It states the Comptroller General shall report as soon as practicable after each presidential election. That means Congress does not get any report until the Comptroller General gets around to it and he is only going to do it once every 4 years. Yet this program goes on year after year after year. It says "every fiscal year."

Mr. PASTORE. Mr. President, will the Senator yield, on my time?

Mr. DOMINICK. I am happy to.

Mr. PASTORE. The money is in the Treasury. The only time it has to be paid out is once every 4 years. There is no need to report while the money is in the Treasury.

Mr. DOMINICK. There is a good reason to report while the Treasury has the money, because each year we have to go through the income tax returns. Each year we have to find out how much is contributed to the fund. Each year the Secretary of the Treasury is going to have to set aside on his books and the congressional books the amount of money checked off for the political fund. And each year we have to determine whether we have the necessary personnel and computers. In addition, as I stated earlier, there is always the possibility that the person who was just elected to the Presidency of the United States is going to be sued because he had wrongly qualified expenses, or he may have to bring action against his opponent because he had wrongly qualified expenses. If he is proved to have done so, he can even be sent to jail. What would we do about that? Suppose we have just elected a President, and then find out that under the provisions of the bill he is guilty of perjury. Are we going to send the President to jail just after a national election?

I believe the bill is so full of loopholes that it is unbelievable, but one of the things we can do—just a small detail—is to have a congressional committee responsible for an annual review of the cost of the program, how it is being administered, and how much is coming into the fund each year. If we do not have that, what we are saying to the public at large is, "You check off your tax for one purpose only. That is the only right you have—to check that off for political purposes—and from then on we are not going to pay any attention. We are going to create this vast pot of money for presidential candidates to draw on every 4 years."

I do not see, in my wildest imagination, how anyone could really dream up a bill which is more detrimental to the public interest than is this particular bill. I have said over and over again that I am against the bill, no matter what we do. I think the whole principle is basically wrong; but even if it is basically wrong, if it is going to be passed—and the Democrats have the majority here, and they can vote for it or not, according to their will—we may as well try to make it a little better.

Ever since I have been in public office, it has been my belief that even if one does not like a bill, he should try to do something to improve it, even if it is so objectionable that people say, "Why do that? Why not leave it that way, because it is easier to vote against?"

I do not think so. I think it is our responsibility to try to improve a bill. That is what my amendment would do if I could get it passed.

What in the world is the matter with it? How can anybody be against it? It provides that the Senate Committee on Finance shall report not later than December 1 of each year on the costs of subtitle A of this title and on the cost of administering the presidential election campaign fund. What committee could be more intimately concerned than the Senate Finance Committee, except the House Ways and Means Committee? I did not even put that committee in the amendment. The presidential election campaign fund is of enormous importance to the Senate Finance Committee. It determines how much revenues we have, how much we are losing insofar as tax deductions and tax credits are concerned. It involves the question of how much supplement. The presidential election campaign fund is getting from the taxpayers.

Here is another question: Let us suppose we did have a fund set aside in the Treasury that cannot be used for anything else. We will say it amounts to $10 million. Let us suppose it happens next year. None of the candidates say they want to use the public money, so the $10 million sits there and cannot be used. It is returned to the Treasury after the election, when it is too late to use in the next year. Then it starts accumulating the following year. Let us assume it gets up to $40 million, $10 million a year up to 1976. Again it is not used. The money is sitting there. It is not used for anything. The candidates do not want to use it because they are embarrassed to say they are milking the public Treasury to advance their campaigns. The Finance Committee is entitled to know how much has accumulated, what has happened to it, whether it is drawing any interest or just being set aside and not used.

No matter how you slice it, the Senate Finance Committee must review this program every year, and what I am doing is giving the committee specific language to do it. It asks the committee to report to the Congress every year no later than December 31.

Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator has 18 minutes remaining.

Mr. DOMINICK. I yield 5 minutes to the distinguished Senator from Tennessee (Mr. Brock).

Mr. BROCK. Mr. President, I have listened to this debate now for 4 days. To be perfectly honest, I think perhaps there was a little more heat than light last week. I was particularly interested this morning in listening to the Senator from Louisiana and the Senator from Rhode Island plead the cause of campaign reform. I may say that the Senator from Rhode Island has conducted this debate with a great deal of skill and ability, and I think with a great deal of integrity.

In listening to his arguments on the need for reform in this country, I could not help but be impressed. The Senator from Louisiana made a similar case. The case was excellent. I could not disagree with what was said earlier this morning about the need to improve the political process, to give the body politic a better voice in the political process, to give people a sense of participation, and to minimize the impact of exorbitant campaign contributions upon a candidate in his future actions. But the Pastore amendment does not meet those objectives, in my opinion.

I think the Senator from Rhode Island said he wanted to make it possible for people in this country to elect a President who would not be obligated to the fat cats. I would remind the Senator that there are all kinds of fat cats in this country. I wonder if a person is more obligated to someone who gave him $10,000 than he would be to the mayor of Chicago who happened to throw his whole political weight behind that political candidate with a great deal more than 10,000 votes?

How do we eliminate that problem? Does this amendment even address it. I do not think it does.

It seems to me the Senator from Michigan raised a perfectly valid point earlier today when he said we wanted to divorce the political process from inordinate pressure, in effect. This, he said, we were not ever going to be able to do unless we divorced it from private hands to the hands of the Government. That to me is the meat in the coconut of this program.

By no stretch can this amendment be classed as an equal opportunity for people to contribute their own tax dollar to the political process. To the contrary, the checkoff simply allows an individual to impose a tax on all taxpayers in order to achieve a quantity of money which will be allocated evenly between the two major political parties and, to a lesser extent, to the established minor parties at the rate of 15 cents a vote.

That to me is a very dangerous precedent to set, because if we begin to establish the concept of Federal financing of Federal elections, then we must accept the possibility that at some point, at some time in the future, in some places, there will be the opportunity for those who provide the financing to provide the direction of those candidates who receive it.

If the Federal Government, through the tax system, is going to use the taxpayers' money to fund the election process in this country, then we run the risk not only of divorcing individuals from a voice in the political process, but we run the risk of institutionalizing the political process as well.

What happens when a candidate receives this $20 million, as the figurehead of his party? He is the representative of his party; it does not matter whether he is a Democrat, a Republican, or an American independent. He has at his disposal, then, an enormous sum of money to expend in a political campaign in any way that he sees fit. That money can be expended in the process of buying media time, but it can also be expended in the process of acquiring control of a political party; and if it is used in that context and in that way, we run the very serious risk of financing the status quo in our political process, of using the taxpayers' money to perpetuate the control of a political organization by one man or one group, so long as they have the money available to them to maintain that control.

I have the fundamental objection to the amendment of the Senator from Rhode Island that there is no choice.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BROCK. May I have 3 additional minutes?

Mr. DOMINICK. I yield the Senator 3 additional minutes.

Mr. BROCK. He has no choice, in checking his return, to allocate his dollar to Richard Nixon, to the Senator from Maine (Mr. Muskie), or to any other potential candidate. He is donating to all candidates on a 15 cents per vote basis, and he is not donating his own money; he is donating the money of the taxpayers of this country. There is no option and no choice whatsoever. I find fault with that, in the simple sense that if we are going to have a democratic process in this country, people have got to feel that they have a voice. If there is one cry being made today by young people, it is that they have lost their voice. The institutions of this Nation and this society have grown so big and so divorced from the average human being that they are not responsive any more. Is there responsiveness in this bill, if the voter happens to be an advocate of Shirley Chisholm, or George McGovern, or Richard Nixon? No, he has no choice.

This measure, then, is an attempt, in my opinion, to remove the opportunity for participation, to reduce the options, and to institutionalize the status quo, to make it almost impossible for diversity, for opinion, for challenge to exist within and without the political parties as they are now constituted.

I think the Senator from Colorado is making just one effort to try to bring to the attention of the people of this country the fact that there are no controls in the measure insofar as the legislative branch of the Government is concerned. It is totally under the Comptroller General, not the Congress, to pursue the application of this act to protect the interests of all the people of this country.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DOMINICK. Mr. President, I yield myself 5 minutes.

I think what the Senator from Tennessee was just saying is really not only persuasive but thoughtful to an extraordinary degree. In addition to the comments he was making, I point out that one of the excuses for this measure is that we are trying to limit campaign spending.

The money that is being set aside under this bill can only be used for the payment of qualified expenses; and qualified expenses are defined in the bill as those which are incurred after September 1. That means that between September 1 and November 4, candidates, according to the Senator from Rhode Island, will be expending approximately $20 million each, in September and October—2 months.

What are they going to do in the meanwhile, before they get there, while they are still going ahead and campaigning? Obviously, they are going to raise as big a war chest as they possibly can, to help them get the nomination and to take care of the position that they must maintain between the time of the convention and the time when the public money may lawfully be expended.

So we are not going to cut down on spending; we are going to vastly increase it, and there just is no other way to look at it.

I would suspect, harking back to what my distinguished colleague from Kansas (Mr. Dole) was saying this morning, that the money that the Republican National Committee has raised and will raise on behalf of our candidates can very properly be spent prior to September 1. Then the President can say, "I have not incurred any qualified expenses or received any contributions to pay qualified expenses up to September 1. Now I want the public money."

I think he probably could run on that kind of basis; not that I think he ever would, because obviously this is not designed for the incumbent Chief Executive. It is designed to take care of those people who are trying to run against him, and there is no point in kidding ourselves about it.

So the very least we can do—and this is all, again, that I am trying to say—is give to the Senate committee which has the most intimate involvement with this bill, the Committee on Finance, the right to review the program and report to Congress annually.

I am happy that the Senator from Louisiana is in the Chamber. I would like to have his report as chairman of the Finance Committee annually on this matter, including the cost of the fund and how much revenue would be lost. The report would be annual because subtitle (A) of this measure is going to be effective every year. We have candidates running for city councils or governorships, or whatever it might be, every single year, and tax deductions will be used every year for that purpose. This will be felt as a revenue drop, and we will have to know how much it is going to cost us.

I cannot see any objection to this proposal, and I cannot understand why the Senator from Rhode Island is objecting to it.

Mr. PASTORE. Mr. President, I am ready to yield back the remainder of my time, having stated all my reasons, if the Senator will yield back his.

Mr. BROCK. Mr. President, will the Senator yield?

Mr. DOMINICK. I yield 1 minute to the Senator from Tennessee.

Mr. BROCK. Are the expenditures of a party committee, such as the Democratic National Committee, for such matters as the expenses of a field man operating, let us say, in the Southwest, out of the national office, who is supporting a couple of congressional candidates and obviously will support the presidential nominee, qualified under the Pastore amendment.

Mr. DOMINICK. That is a very good question, and I cannot give the Senator the answer. As a matter of practice, the candidate will probably come in at the end and say it is a qualified expense, and the Comptroller General, based on that statement, will make the payment, and it will not be possible until after the election to determine whether it is qualified or not.

Mr. BROCK. Let us take the example of an incumbent President.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DOMINICK. I yield the Senator 4 additional minutes.

Mr. BROCK. An incumbent President obviously has an enormous advantage, in a campaign, in being able to command the attention of the media, and his expenses might be less than those of his challenger. Would it not be possible, then, for an incumbent President to take all the expenditures that would normally be classed as those that the Republican National Committee field operations maintains, and all the rest, which are primarily of benefit, let us say, to candidates for the U.S. Senate or the other body, and let the taxpayers pay them, just listing them as qualified expenses for his own support.

Mr. DOMINICK. I would think that this could be done very easily, and I am sure that the national committee, in addition, would be an authorized committee and therefore equipped to raise some funds and spend it on their own.

Mr. BROCK. That is entirely correct. So that the two kinds of funds are really being mixed here.

Mr. DOMINICK. That is correct.

Mr. BROCK. They could raise money by direct contribution and could also use the presidential campaign for solicitation for fund raising, although the bill was designed to prevent the raising of other moneys for the political process. They could use this money for direct mail solicitation, for field men to go out in the field, for fund-raising dinners. All these would be available under the Pastore amendment as written today, if the President so sympathized.

Mr. DOMINICK. I am positive that this is true, and I am also reasonably sure that this was anticipated.

Mr. BROCK. Let me ask another question: If a President or a nonincumbent were to see the lack of need for additional advertising funds, if he were to sign as qualified expenses the hiring of 15 political operatives in every State who were to go out at his personal bequest to take control of the political party in those States, so that he could in turn achieve a dominant position—not for this campaign but 4 or 5 or 10 years in the future, is there anything that would prohibit the public moneys being used to support a political party by one candidate who happened to be a nominee in a particular year?

Mr. DOMINICK. This is precisely what we objected to in the earlier debate, and I have nothing but my own conviction to show that the same thing could happen under this bill as under the previous bill.

Mr. BROCK. These moneys could be used to allow one individual or one group to achieve such control over a political party that he or they could in fact become the controlling and dominant influence of that party, not only for one election but for a decade or more as well. I think that is a tragic prospect.

Mr. DOMINICK. I thank the Senator from Tennessee for this colloquy.

I want to repeat for the benefit of the Senator from Illinois one of the comments I made about this bill. What happens is that one accumulates qualified expenses. He then sends details to the comptroller, and certifies that this will qualify. The Secretary of the Treasury then pays. It is only after the Secretary has paid the amount certified that any kind of review or audit of the books is done.

The PRESIDING OFFICER. The Senator has 1 minute remaining.

Mr. DOMINICK. I yield myself that minute.

Let us suppose that one of our candidates wins and he is elected as President of the United States. Then the audit shows that there have been unlawful expenditures. Under the provisions of this bill, he can be fined $10,000 and imprisoned for not more than 5 years—the man who has just been elected President of the United States. What kind of ridiculous law is that going to be? We do not want him to do anything illegal; but what is or is not a qualified expense is going to be a matter of interpretation, and it will be difficult to determine in advance what it is going to be.

Mr. BROCK. On the other side of the coin, he could have the Comptroller General investigate and prosecute his opponent.

Mr. DOMINICK. That is totally correct. He could investigate, prosecute, and caused to be imprisoned his opponent, and this seems to me equally bad.

Mr. PASTORE. Mr. President, I understand that after this vote, Senator COOPER will call up his amendment. I ask unanimous consent that directly after the Cooper amendment is disposed of, the Senator from Maryland (Mr. MATHIAS) be recognized to present his amendment.

Mr. DOMINICK. I object.

Mr. COOK. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. PASTORE. Mr. President, it is obvious what we are doing here. All we are trying to do is to squeeze some people out of their amendments.

Mr. COOK. Mr. President, will the Senator yield?

Mr. PASTORE. Wait a minute. I have the floor.

Here we are on a little amendment, on which my friends, the Senator from Tennessee and the Senator from Colorado, must have stayed up all night, dreaming up these hocus-pocus ideas that do not exist in the bill. They use up all their time until the last minute, and here we are talking about five or six more amendments, and we have 3 hours to go, and I make a reasonable request, and it is objected to. I would like to know why. Why? Is this part of the filibuster? Is this part of the strategy?

Mr. COOK. Mr. President, will the Senator yield?

Mr. PASTORE. I yield.

Mr. COOK. First of all, this Senator has four amendments. The Senator from Rhode Island has been aware of two of them for 2 days.

Second, I must say to the Senator from Rhode Island, in all fairness, that this Senator is not particularly in a mood to agree to any unanimous-consent request that the Senator from Rhode Island may make between now and 5 o'clock, because I think the handling of this matter has been not in a reasonable manner up to now; and I really feel frank to tell the Senator that.

Mr. PASTORE. I do not care how the Senator from Kentucky feels. The fact is that I have been trying to move this bill right along.

Mr. COOK. That is why the Senator objected.

Mr. PASTORE. And the delaying tactics have been on the other side.

I will say to the Senator from Kentucky that insofar as the judicial review is concerned, in which he was interested, it has been accepted. So far as the elimination of delegates to the convention—national, State, and ward caucus—is concerned, that has been accepted.

Mr. COOK. When was this?

Mr. PASTORE. The Senator from Colorado brought it up, and I told him the Senator from Kentucky had presented that matter to me and it was satisfactory to me; and when he corrected it to conform to the Senator from Kentucky's idea, I accepted it. I have been cooperative. I did the same thing with the judicial review.

Mr. President, I now renew my unanimous-consent request that after the so-called Cooper amendment is disposed of, the Senator from Maryland be recognized to offer his amendment.

The PRESIDING OFFICER. Is there objection?

Mr. COOK. I object.

Mr. BROCK. I object.

The **PRESIDING OFFICER**. Objection is heard.

Mr. **PASTORE**. Mr. President, what is all this talk about the national committee and what the Comptroller General is going to do and who is going to run away with this money and that the Senate is not going to know anything about it? I wonder whether my friends on the other side of the aisle, who have been that critical, have read the bill?

We have a presidential election campaign fund advisory board that involves people of Congress—Senators and Members of the House of Representatives—to promulgate the guidelines. There is all this responsibility in conjunction with the Comptroller General.

The Senator has been honest when he has said, "I don't care what you do to refine this bill. I am going to vote against it anyway." Well, why do we not leave it there and wait until 5 o'clock and see whether the Senate wants it or does not want it?

I yield back the remainder of my time, and I am ready to vote.

The **PRESIDING OFFICER**. All time on the amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from Colorado. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. **GRIFFIN**. I announce that the Senator from South Dakota (Mr. Mundt) is absent because of illness.

The Senator from Iowa (Mr. Miller), is detained on official business.

The result was announced—yeas 44, nays 54, as follows:

[No. 378 Leg.]

YEAS—44

Aiken
Allott
Baker
Beall
Bellmon
Bennett
Boggs
Brock
Brooke
Buckley
Byrd, Va.
Case
Cook
Cooper
Cotton
Curtis
Dole
Dominick
Fannin
Fong
Goldwater
Griffin
Gurney
Hansen
Hatfield
Hruska
Javits
Jordan, Idaho
Mathias
Packwood
Pearson
Percy
Roth
Saxbe
Schweiker
Scott
Smith
Stafford
Stevens
Taft
Thurmond
Tower
Weicker
Young

NAYS—54

Allen
Anderson
Bayh
Bentsen
Bible
Burdick
Byrd, W. Va.
Cannon
Chiles
Church
Cranston
Eagleton
Eastland
Ellender
Ervin
Fulbright
Gambrell
Gravel
Harris
Hart
Hartke
Hollings
Hughes
Humphrey
Inouye
Jackson
Jordan, N.C.
Kennedy
Long
Magnuson
Mansfield
McClellan
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Moss
Muskie
Nelson
Pastore
Pell
Proxmire
Randolph
Ribicoff
Sparkman
Spong
Stennis
Stevenson
Symington
Talmadge
Tunney
Williams

NOT VOTING—2

Miller
Mundt

So Mr. Dominick's amendment was rejected.

Mr. **PASTORE**. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. **MANSFIELD**. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The **PRESIDING OFFICER**. The Senator from Kentucky is recognized.

Mr. **MANSFIELD**. Mr. President, will the Senator yield?

Mr. **COOPER**. I yield.

VIENNA CONVENTION ON THE LAW OF TREATIES

Mr. **MANSFIELD**. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the Vienna Convention on the Law of Treaties signed for the United States on April 24, 1970—Executive L, 92d Congress, first session—transmitted to the Senate today by the President of the United States, and that the convention, together with the President's message, be referred to the Committee on Foreign Relations and ordered to be printed, and that the President's message be printed in the Record.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The message from the President is as follows:

To the Senate of the United States:

I am transmitting herewith, for the advice and consent of the Senate to ratification, the Vienna Convention on the Law of Treaties signed for the United States on April 24, 1970. The convention is the outcome of many years of careful preparatory work by the International Law Commission, followed by a two-session conference of 110 nations convened under United Nations auspices in 1968 and 1969. The conference was the sixth in a series called by the General Assembly of the United Nations for the purpose of encouraging the progressive development and codification of international law.

The growing importance of treaties in the orderly conduct of international relations has made increasingly evident the need for clear, well-defined, and readily ascertainable rules of international law applicable to treaties. I believe that the codification of treaty law formulated by representatives of the international community and embodied in the Vienna Convention meets this need.

The international community as a whole will surely benefit from the adoption of uniform rules on such subjects as the conclusion and entry into force of treaties, their interpretation and application, and other technical matters. Even more significant, however, are the orderly procedures of the convention for dealing with needed adjustments and changes in treaties, along with its strong reaffirmation of the basic principle pacta sunt servanda—the rule that treaties are binding on the parties and must be performed in good faith. The provisions on judicial settlement, arbitration, and conciliation, including the possibility that a dispute concerning a preemptory norm of international law can be referred to the International Court of Justice, should do much to enhance the stability of treaty relationships throughout the world.

I am enclosing the report of the Secretary of State, describing the provisions of the convention in detail.

The Vienna Convention can be an important tool in the development of international law. I am pleased to note that it has been endorsed by the House of Delegates of the American Bar Association and I urge the Senate to give its advice and consent to ratification.

Richard Nixon.

The White House, *November 22, 1971.*

REVENUE ACT OF 1971

The Senate continued with the consideration of the bill (H.R. 10947) to provide a job development investment credit, to reduce individual income taxes, to reduce certain excise taxes, and for other purposes.

AMENDMENT NO. 745

Mr. **COOPER**. Mr. President, I send to the desk amendment No. 745 as modified.

The **PRESIDING OFFICER**. The clerk will state the modified amendment.

The second assistant legislative clerk read as follows:

Beginning with line 11 on page 7 it is proposed to strike out all of title X and insert in lieu thereof the following:

TITLE X

Mr. **COOPER**. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered; and the amendment will be printed in the Record.

The amendment reads as follows:

Beginning with line 11 on page 7 strike out all of title X and insert in lieu thereof the following:

TITLE X—FEDERAL ELECTION CAMPAIGN ACT OF 1971

SHORT TITLE

Sec. 1001. This title may be cited as the "Federal Election Campaign Act of 1971".

Part A—Amendments to Communications Act of 1934; Limitations on Campaign Expenditures for Nonbroadcast Communications Media

EXCEPTION TO EQUAL TIME REQUIREMENTS AND CHARGE LIMITATIONS

Sec. 1101. (a) (1) Section 315(a) of the Communications Act of 1934 (47 U.S.C. 315 (a)) is amended by inserting after "public office" in the first sentence thereof a comma and the following: "other than Federal elective office (as defined in subsection (c) of this section),".

(2) Section 315(a) of such Act is amended by inserting after the first sentence thereof the following: "When a licensee permits a legally qualified candidate for Federal elective office to use his broadcasting station in connection with such candidate's campaign for nomination for election, or election to such office, the licensee shall afford such candidate maximum flexibility in choosing his program format."

(b) Section 315(b) of such Act is amended to read as follows:

"(b) The charges made for the use of any broadcasting station by any person who is a legally qualified candidate for any public office in connection with his campaign for nomination for election, or election, to such office shall not exceed—

"(1) during the forty-five days preceding the date of a primary election and during the sixty days preceding the date of a general or special election in which such person is a candidate, the lowest unit charge of the station for the same class and amount of time for the same period; and

"(2) at any other time, the charges made for comparable use of such station by other users thereof."

(c) Section 312(a) of such Act is amended by striking "or" at the end of clause (5), striking the period at the end of clause (6) and inserting in lieu thereof a semicolon and "or", and adding at the end of such section 312(a) the following new clause:

"(7) for willful or repeated failure to allow reasonable access to or to permit purchase of reasonable amounts of time for the use of a broadcasting station by a legally qualified candidate on behalf of his candidacy.".

EXPENDITURE LIMITATIONS FOR CANDIDATES FOR MAJOR ELECTIVE OFFICES

SEC. 1102. Section 315 of the Communications Act of 1934 is further amended by redesignating subsection (c) as subsection (f) and by inserting immediately before such subsection the following new subsections:

"(c)(1) For purposes of this subsection and subsection (d), the term—

"(A) 'Federal elective office' means the office of President, Vice President, United States Senator or Representative, or Delegate or Resident Commissioner to the Congress;

"(B) 'use of broadcasting stations by or on behalf of any candidate' includes not only broadcasts advocating such candidate's election, but also broadcasts urging the defeat of his opponent or derogating his opponent's stand on campaign issues;

"(C) 'legally qualified candidate' means any person who (1) meets the qualifications prescribed by the applicable laws to hold the Federal elective office for which he is a candidate and (2) is eligible under applicable State law to be voted for by the electorate directly or by means of delegates or electors; and

"(D) 'broadcasting station' includes a community antenna television system, and the terms 'licensee' and 'station licensee' when used with respect to a community antenna television system, mean the operator of such system.

"(2) Except as provided in section 1104 of the Federal Election Campaign Act of 1971, no legally qualified candidate in any primary, runoff, general, or special election for a Federal elective office may spend for the use of broadcasting stations on behalf of his candidacy in such election a total amount in excess of—

"(A) 5 cents multiplied by the estimate of resident population of voting age for such office, as determined by the Bureau of Census in June of the year preceding the year in which the election is to be held; or

"(B) $30,000, if greater than the amount determined under subparagraph (A).

For the purposes of computing the limitation provided by the first sentence of this paragraph in connection with a presidential primary election, the resident population of voting age for the office of President shall be held and considered to be the entire population of voting age for such office within the State in which such primary election is conducted. Amounts spent by or on behalf of any candidate for nomination for election to such office in connection with his primary campaign in any State shall not exceed such limitation for that State.

"(3) Amounts spent for the use of broadcasting stations on behalf of any legally qualified candidate for Federal elective office (or for nomination to such office) shall, for the purposes of this subsection, be deemed to have been spent by such candidate. Amounts spent for the use of broadcasting stations by or on behalf of any legally qualified candidate for the office of Vice President of the United States shall, for the purposes of this subsection, be deemed to have been spent by the candidate for the office of President of the United States with whom he is running.

"(4) No station licensee may make any charge for the use of such station by or on behalf of any candidate for Federal elective office (or for nomination to such office) unless such candidate, or a person specifically authorized by such candidate in writing to do so, certifies to such licensee in writing that the payment of such charge will not violate paragraph (2).

"(4) Broadcasting stations and candidates shall file with the Commission such reports at such times and containing such information as the Commission shall prescribe for the purpose of this subsection and, in the case of broadcasting stations, subsection (d).

"(d) If a State by law and expressly—

"(1) has provided that a primary or other election for any office of such State or of a political subdivision thereof is subject to this subjection, and

"(2) has specified a limitation upon total expenditures for the use of broadcasting stations on behalf of the candidacy of each legally qualified candidate in such election, and

"(3) has provided in any such law an unequivocal expression of intent to be bound by the provisions of this section, and

"(4) has stipulated that the amount of such limitation shall not exceed the amount which would be determined for such election under subsection (c) had such election been an election for a Federal elective office or nomination thereto;

then no station licensee may make any charge for the use of such station by or on behalf of any legally qualified candidate in such election unless such candidate, or a person specifically authorized by such candidate in writing to do so, certifies to such licensee in writing that the payment of such charge will not violate such limitation.

"(e) One who willfully and knowingly violates the provisions of subsection (c) or (d) of this section shall be punished by a fine not to exceed $5,000 or imprisonment for a period not to exceed five years, or both. The provisions of sections 501 through 503 of this Act shall not apply to violations of such subsection."

LIMITATIONS ON CAMPAIGN EXPENDITURES FOR NONBROADCAST COMMUNICATIONS MEDIA

SEC. 1103. (a) For purposes of this section, the term—

(1) "Federal elective office" means the office of President, Vice President, United States Senator or Representative, or Delegate or Resident Commissioner to the Congress;

(2) "nonbroadcast communications medium" means newspapers, magazines, and other periodical publications, and billboard facilities;

(3) "legally qualified candidate" means any person who (A) meets the qualifications prescribed by the applicable laws to hold the Federal elective office for which he is a candidate and (B) is eligible under applicable State law to be voted for by the electorate directly or by means of delegates or electors; and

(4) "use of any nonbroadcast communications media by or on behalf of any candidate" includes not only amounts spent for advocating a candidate's election, but also amounts spent for urging the defeat of his opponent or derogating his opponent's stand on campaign issues.

(b) During the forty-five days preceding the date of any primary election, and during the sixty days preceding the date of any general or special election, the charges made for the use of any nonbroadcast communications medium by an individual who is a legally qualified candidate for Federal elective office shall not exceed the lowest unit rate charged others by the person furnishing such medium for the same amount and class of space.

(c) Except as provided in section 104 of this Act, no legally qualified candidate in any primary, runoff, general, or special election for a Federal elective office may spend for the use of nonbroadcast communications media on behalf of his candidacy in such election a total amount in excess of—

(1) 5 cents multiplied by the estimate of resident population of voting age for such office, as determined by the Bureau of Census in June of the year preceding the year in which the election is to be held; or

(2) $30,000, if greater than the amount determined under clause (1).

For the purposes of computing the limitation provided by the first sentence of this paragraph in connection with a presidential primary election, the resident population of voting age for the office of President shall be held and considered to be the entire resident population of voting age for such office within the State in which such primary election is conducted. Amounts spent by or on behalf of any candidate for nomination for election to such office in connection with his primary campaign in any State shall not exceed such limitation for that State.

(d) Amounts spent for the use of nonbroadcast communications media on behalf of any legally qualified candidate for Federal elective office (or for nomination to such office) shall, for the purposes of this section, be deemed to have been spent by such candidate. Amounts spent for the use of nonbroadcast communications media by or on behalf of any legally qualified candidate for the office of Vice President of the United States shall, for the purposes of this section, be deemed to have been spent by the candidate for the office of President of the United States with whom he is running.

(e) No person may make any charge for the use of any nonbroadcast communications medium by or on behalf of any candidate for Federal elective office (or for nomination to such office) unless such candidate, or an individual specifically authorized by such candidate in writing to do so, certifies to such person that the payment of such charge will not violate subsection (c). Any person who furnishes the use of any nonbroadcast communications medium to or for the benefit of any such candidate without charge therefor shall be deemed to have made a contribution to such candidate in an amount equal to the amount normally charged by such person for such use. Any person who furnishes the use of any nonbroadcast communications medium to or for the benefit of any such candidate at a rate which is less than the rate normally charged by such person for such use shall be deemed to have made a contribution to such candidate in an amount equal to the excess of the rate normally charged over the rate charged such candidate.

(f) One who willfully and knowingly violates the provisions of this section shall be punished by a fine not to exceed $5,000 or imprisonment of not more than five years, or both.

LIMITED INTERCHANGEABILITY BETWEEN EXPENDITURES LIMITATIONS

SEC. 1104. (a) A legally qualified candidate in any primary, runoff, general, or special election for Federal elective office may, at his option, transfer not to exceed 20 per centum of the expenditure limitation under section 315(c) of the Communications Act of 1934 as amended or section 1103(c) of this Act between one or the other to be spent on either the broadcast or nonbroadcast media on behalf of his candidacy in such election. Any amount so transferred from the one expenditure limitation to the other shall be deducted from the expenditure limitation upon the media from which such transfer is made.

(b) Any such legally qualified candidate exercising this option shall promptly notify the Federal Elections Commission in writing of the amount so transferred and spent, and shall provide such Commission with such information as the Commission, in his judgment, deems necessary and proper in the exercise of this option.

(c) The Federal Elections Commission is authorized to develop and promulgate appropriate rules and regulations to carry out the purposes of this section.

(d) The definitions contained in section 315(c) of the Communications Act of 1934 and in section 1103(a) of this Act are applicable to this section.

COST-OF-LIVING INCREASE IN LIMITATION FORMULA

SEC. 1105. (a) For purposes of this section, the term—

(1) "price index" means the annual average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics; and

(2) "base period" means the calendar year 1970.

(b) Commencing immediately after the end of 1971, and after the end of each calendar year thereafter, as there becomes available necessary data from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall determine the difference between the price index for the immediately preceding calendar year and the price index for the base period. The amount computed under section 315(c)(2)(A) of the Communications Act of 1934 (as added by section 1102 of this Act) and under section 1103(c)(1) of this Act shall be increased by such per centum difference (excluding any fraction of a per centum) and rounded to the next highest cent. Each amount so increased shall be the amount in effect for the twelve months following the end of such calendar year.

PART B—CRIMINAL CODE AMENDMENTS

SEC. 1201. Section 591 of title 18, United States Code, is amended to read as follows:

"§ 591. Definitions

"When used in sections 597, 599, 600, 602, 610, 611, and 614 of this title—

"(a) 'election' means (1) a general, special, primary, or runoff election, (2) a convention or caucus of a political party held to nominate a candidate, (3) a primary election held for the selection of delegates to a national nominating convention of a political party, (4) a primary election held for the expression of a preference for the nomination of persons for election to the office of President, and (5) the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States;

"(b) 'candidate' means an individual who seeks nomination for election, or election, to Federal office, whether or not such individual is elected, and, for purposes of this paragraph, an individual shall be deemed to seek nomination for election, or election, to Federal office, if he has (1) taken the action necessary under the law of a State to qualify himself for nomination for election, or election, or (2) received contributions or made expenditures, or has given his consent for any other person to receive contributions or make expenditures, with a view to bringing about his nomination for election, or election to such office;

"(c) 'Federal office' means the office of President or Vice President of the United States, or Senator or Representative in, or Delegate or Resident Commissioner to, the Congress of the United States;

"(d) 'political committee' means any individual committee, association, or organization which accepts contributions or make expenditures during a calendar year in an aggregate amount exceeding $1,000;

"(e) 'contribution' means—

"(1) a gift, subscription, loan, advance, or deposit of money or anything of value (except a loan of money by a National or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business), made for the purpose of influencing the nomination for election, or election, of any person to Federal office, for the purpose of influencing the results of a primary held for the selection of delegates to a national nominating convention of a political party or for the expression of a preference for the nomination of persons for election to the office of President, or for the purpose of influencing the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States;

"(2) a contract, promise, or agreement, express or implied, whether or not legally enforceable, to make a contribution for such purposes;

"(3) a transfer of funds between political committees;

"(4) the payment, by any person other than a candidate or political committee, of compensation for the personal services of another person which are rendered to such candidate or political committee without charge for any such purpose; and

"(5) notwithstanding the foregoing meanings of 'contribution', the word shall not be construed to include services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate or political committee; "(f) 'expenditure' means—

"(1) a purchase, payment, distribution, loan advance, deposit, or gift of money or anything of value (except a loan of money by a National or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business), made for the purpose of influencing the nomination for election, or election, of any person to Federal office, for the purpose of influencing the result of a primary held for the selection of delegates to a national nominating convention of a political party or for the expression of a preference for the nomination of persons for election to the office of President, or for the purpose of influencing the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States;

"(2) a contract, promise, or agreement, express or implied, whether or not legally enforceable, to make any expenditure; and

"(3) a transfer of funds between political committees;

"(g) 'person' and 'whoever' mean an individual, partnership, committee, association, corporation, or any other organization or group of persons; and

"(h) 'State' means each State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States."

SEC. 1202. Section 600 of title 18, United States Code, is amended to read as follows:

"§ 600. Promise of employment or other benefit for political activity

"Whoever, directly or indirectly, promises any employment, position, compensation, contract, appointment, or other benefit provided for or made possible in whole or in part by any Act of Congress, or any special consideration in obtaining any such benefit, to any person as consideration, favor, or reward for any political activity or for the support of or opposition to any candidate or any political party in connection with any general or special election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office, shall be fined not more than $1,000 or imprisoned not more than one year or both."

SEC. 1203. Section 608 of title 18, United States Code, is amended to read as follows:

"§ 608. Limitations on contributions and expenditures

"(a)(1) No candidate may make expenditures from his personal funds, or the personal funds of his immediate family, in connection with his campaign for nomination for election, or election, to Federal office in excess of—

"(A) $50,000, in the case of a candidate for the office of President or Vice President;

"(B) $35,000, in the case of a candidate for the office of Senator; or

"(C) $25,000, in the case of the candidate for the office of Representative, or Delegate or Resident Commissioner to the Congress.

"(2) For purposes of this subsection, 'immediate family' means a candidate's spouse, and any child, parent, grandparent, brother, or sister of the candidate, and the spouses of such persons.

"(b) No candidate or political committee shall knowingly accept any contribution or authorize any expenditure in violation of the provisions of this section.

"(c) Violation of the provisions of this section is punishable by a fine not to exceed $1,000, imprisonment for not to exceed one year, or both.".

SEC. 1204. Section 609 of title 18, United States Code, is repealed.

SEC. 1205. Section 611 of title 18, United States Code, is amended to read as follows:

"§ 611. Contributions by Government contractors

"Whoever—

"(a) entering into any contract with the United States or any department or agency thereof either for the rendition of personal services or furnishing any material, supplies, or equipment to the United States or any department or agency thereof or for selling any land or building to the United States or any department or agency thereof, if payment for the performance of such contract or payment for such material, supplies, equipment, land, or building is to be made in whole or in part from funds appropriated by the Congress, at any time between the commencement of negotiations for and the later of (1) the completion of performance under, or (2) the termination of negotiations for, such contract or furnishing of material, supplies, equipment, land, or buildings, directly or indirectly makes any contribution of money or other thing of value, or promises expressly or impliedly to make any such contribution, to any political party, committee, or candidate for public office or to any person for any political purpose or use; or

"(b) knowingly solicits any such contribution from any such person for any such purpose during any such period;

shall be fined not more than $5,000 or imprisoned not more than five years, or both."

SEC. 1206. The table of sections for chapter 29 of title 18, United States Code, is amended by—

(1) striking out the item relating to section 608 and inserting in lieu thereof the following;

"608. Limitations on contributions and expenditures.";

(2) striking out the item relating to section 609 and inserting in lieu thereof the following

"609. Repealed.";

(3) striking out the item relating to section 611 and inserting in lieu thereof the following:

"611. Contributions by Government contractors.".

PART C—DISCLOSURE OF FEDERAL CAMPAIGN FUNDS

DEFINITIONS

SEC. 1301. When used in this title—

(a) "election" means (1) a general, special, primary, or runoff election, (2) a convention or caucus of a political party held to nominate a candidate, (3) a primary election held for the selection of delegates to a national nominating convention of a political party, (4) a primary election held for the expression of a preference for the nomination of persons for election to the office of President, and (5) the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States;

(b) "candidate" means an individual who seeks nomination for election, or election, to Federal office, whether or not such individual is elected, and, for purposes of this paragraph, an individual shall be deemed to seek nomination for election, or election, if he has (1) taken the action necessary under the law of a State to qualify himself for nomination for election, or election, to Federal office, or (2) received contributions or made expenditures, or has given his consent for any person other to receive contributions or make expenditures, with a view to bringing about his nomination for election, or election, to such office;

(c) "Federal office" means the office of President or Vice President of the United States; or of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress of the United States;

(d) "political committee" means any committee, association, or organization which accepts contributions or makes expenditures during a calendar year in an aggregate amount exceeding $1,000;

(e) "contribution" means—

(1) a gift, subscription, loan, advance, or deposit of money or anything of value, made for the purpose of influencing the nomination for election, or election, of any person to Federal office or as a presidential or vice-presidential elector, for the purpose of influencing the result of a primary held for the selction of delegates to a national nominating convention of a political party or for the expression of a preference for the nomination of persons for election to the office of President, or for the purpose of influencing the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States.

(2) a contract, promise, or agreement, whether or not legally enforceable, to make a contribution for any such purpose;

(3) a transfer of funds between political committees;

(4) the payment, by any person other than a candidate or political committee, of compensation for the personal services of another person which are rendered to such candidate or committee without charge for any such purpose; and

(5) notwithstanding, the foregoing meanings of "contribution", the word shall not be construed to include services provided without compensation by individuals volunteering a portion of all their time on behalf of a candidate or political committee;

(f) "expenditure" means—

(1) a purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made for the purpose of influencing the nomination for election, or election, of any person to Federal office, or as a presidential and vice-presidential elector, or for the purpose of influencing the result of a primary held for the selection of delegates to a national nominating convention of a political party or for the expression of a preference for the nomination of persons for election to the office of President, or for the purpose of influencing the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States;

(2) a contract, promise, or agreement whether or not legally enforceable, to make an expenditure, and

(3) a transfer of funds between political committees;

(g) "Commission" means the Federal Elections Commission;

(h) "person" means an individual, partnership, committee, association, corporation, labor organization, and any other organization or group of persons; and

(i) "State" means each State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

ORGANIZATION OF POLITICAL COMMITTEES

SEC. 1302. (a) Every political committee shall have a chairman and a treasurer. No contribution and no expenditure shall be accepted or made by or on behalf of a political committee at a time when there is a vacancy in the office of chairman or treasurer thereof. No expenditure shall be made for or on behalf of a political committee without the authorization of its chairman or treasurer, or their designated agents.

(b) Every person who receives a contribution in excess of $10 for a political committee shall, on demand of the treasurer, and in any event within five days after receipt of such contribution, render to the treasurer a detailed account thereof, including the amount, the name and address (occupation and the principal place of business, if any) of the person making such contribution, and the date on which received. All funds of a political committee shall be segregated from, and may not be commingled with, any personal funds of officers, members, or associates of such committee.

(c) It shall be the duty of the treasurer of a political committee to keep a detailed and exact account of—

(1) all contributions made to or for such committee;

(2) the full name and mailing address (occupation and the principal place of business, if any) of every person making a contribution in excess of $10, and the date and amount thereof;

(3) all expenditures made by or on behalf of such committee; and

(4) the full name and mailing address (occupation and the principal place of business, if any) of every person to whom any expenditure is made, the date and amount thereof and the name and address of, and office sought by, each candidate on whose behalf such expenditure was made.

(d) It shall be the duty of the treasurer to obtain and keep a receipted bill, stating the particulars, for every expenditure made by or on behalf of a political committee in excess of $100 in amount, and for any such expenditure in a lesser amount, if the aggregate amount of such expenditures to the same person during a calendar year exceeds $100. The treasurer shall preserve all receipted bills and accounts required to be kept by this section for periods of time to be determined by the Commission.

(e) Any political committee which solicits or receives contributions or makes expenditures on behalf of any candidate that is not authorized in writing by such candidate to do so shall include a notice on the face or front page of all literature and advertisements published in connection with such candidate's campaign by such committee or on its behalf stating that the committee is not authorized by such candidate and that such candidate is not responsible for the activities of such committee.

(f)(1) Any political committee shall include on the face or front page of all literature and advertisements soliciting funds the following notice:

"A copy of our report filed with the Federal Elections Commission is (or will be) available for purchase from the Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402."

(2)(A) The Commission shall compile and furnish to the Public Printer, not later than the last day of March of each year, an annual report for each political committee which has filed a report with him under this title during the period from March 10 of the preceding calendar year through January 31 of the year in which such annual report is made available to the Public Printer. Each such annual report shall contain—

(i) a copy of the statement of organization of the political committee required under section 1303, together with any amendments thereto; and

(ii) a copy of each report filed by such committee under section 1304 from March 10 of the preceding year through January 31 of the year in which the annual report is so furnished to the Public Printer.

(B) The Public Printer shall make copies of such annual reports available for sale to the public by the Superintendent of Documents as soon as practicable after they are received from the Commission.

REGISTRATION OF POLITICAL COMMITTEES; STATEMENTS

SEC. 1303. (a) Each political committee which anticipates receiving contributions or making expenditures during the calendar year in an aggregate amount exceeding $1,000 shall file with the Commission a statement of organization, within ten days after its organization or, if later, ten days after the date on which it has information which causes the committee to anticipate it will receive contributions or make expenditures in excess of $1,000. Each such committee in existence at the date of enactment of this Act shall file a statement of organization with the Commission at such time as it prescribes.

(b) The statement of organization shall include—

(1) the name and address of the committee;

(2) the names, addresses, and relationships of affiliated or connected organizations;

(3) the area, scope, or jurisdiction of the committee;

(4) the name, address, and position of the custodian of books and accounts;

(5) the name, address, and position of other principal officers, including officers and members of the finance committee, if any;

(6) the name, address, office sought, and party affiliation of (A) each candidate whom the committee is supporting, and (B) any other individual, if any, whom the committee is supporting for nomination for election, or election, to any public office whatever; or, if the committee is supporting the entire ticket of any party, the name of the party;

(7) a statement whether the committee is a continuing one;

(8) the disposition of residual funds which will be made in the event of dissolution;

(9) a listing of all banks, safety deposit boxes, or other repositories used;

(10) a statement of the reports required to be filed by the committee with State or local officers, and, if so, the names, addresses, and positions of such persons; and

(11) such other information as shall be required by the Commission.

(c) Any change in information previously submitted in a statement of organization shall be reported to the Commission within a ten-day period following the change.

(d) Any committee which, after having filed one or more statements of organization, disbands or determines it will no longer receive contributions or make expenditures during the calendar year in an aggregate amount exceeding $1,000 shall so notify the Commission.

REPORTS BY POLITICAL COMMITTEES AND CANDIDATES

SEC. 1304. (a) Each treasurer of a political committee supporting a candidate or candidates for election to Federal office and each candidate for election to such office shall file with the Commission reports of receipts and expenditures on forms to be prescribed or approved by it. Such reports shall be filed on the tenth day of March, June, and September, in each year, and on the fifteenth and fifth days next preceding the date on which an election is held, and also by the thirty-first day of January. Such reports shall be complete as of such date as the Commission may prescribe, which shall not be less than five days before the date of filing except that any contribution of $5,000 or more received after the last report is filed prior to the election, shall be reported within forty-eight hours after its receipt.

(b) Each report under this section shall disclose—

(1) the amount of cash on hand at the beginning of the reporting period;

(2) the full name and mailing address (occupation and the principal place of business, if any) of each person who has made one or more contributions to or for such committee or candidate (including the purchase of tickets for events such as dinners, luncheons, rallies, and similar fundraising events) within the calendar year in an aggregate amount or value of $100 or more, together with the amount and date of such contributions;

(3) the total sum of individual contributions made to or for such committee or candidate during the reporting period and not reported under paragraph (2);

(4) the name and address of each political committee or candidate from which the reporting committee or the candidate received, or to which that committee or candidate made, any transfer of funds, together with the amounts and dates of all transfers;

(5) each loan to or from any person within the calendar year in an aggregate amount or value in excess of $100, together with the full names and mailing addresses (occupations and the principal places of business, if any) of the lender and endorsers, if any, and the date and amount of such loan;

(6) the total amount of proceeds from (A) the sale of tickets to each dinner, luncheon, rally, and other fundraising event; (B) mass collections made at such events; and (C) sales of items such as political campaign pins, buttons, badges, flags, emblems, hats, banners, literature, and similar materials;

(7) each contribution, rebate, refund, or other receipt in excess of $100 not otherwise listed under paragraphs (2) through (6);

(8) the total sum of all receipts by or for such committee or candidate during the reporting period;

(9) the full name and mailing address (occupation and the principal place of business, if any) of each person to whom an expenditure or expenditures have been made by such committee or on behalf of such committee or candidate within the calendar year in an aggregate amount or value in excess of $100, the amount, date, and purpose of each such expenditure and the name and address of, and office sought by each candidate on whose behalf such expenditure was made;

(10) the full name and mailing address (occupation and the principal place of business, if any) of each person to whom an expenditure for personal services, salaries, and reimbursed expenses in excess of $100 has been made, and which is not otherwise reported, including the amount, date, and purpose of such expenditure;

(11) the total sum of expenditures made by such committee or candidate during the calendar year;

(12) the amount and nature of debts and obligations owed by or to the committee, in such form as the Commission may prescribe and a continuous reporting of their debts and obligations after the election at such periods as the Commission may require until such debts and obligations are extinguished; and

(13) such other information as shall be required by the Commission.

(c) The reports required to be filed by subsection (a) shall be cumulative during the calendar year to which they relate, but where there has been no charge in an item reported in a previous report during such year, only the amount need be carried forward. If no contributions or expenditures have been accepted or expended during a calendar year, the treasurer of the political committee or candidate shall file a statement to the effect.

REPORTS BY OTHER THAN POLITICAL COMMITTEES

SEC. 1305. Every person (other than a political committee or candidate) who makes contributions or expenditures, other than by contribution to a political committee or candidate, in an aggregate amount in excess of $100 within a calendar year shall file with the Commission a statement containing the information required by section 1304. Statements required by this section shall be filed on the dates on which reports by political committees are filed, but need not be cumulative.

FORMAL REQUIREMENTS RESPECTING REPORTS AND STATEMENTS

SEC. 1306. (a) A report or statement required by this title to be filed by a treasurer of a political committee, a candidate, or by any other person, shall be verified by the oath or affirmation of the person filing such report or statement, taken before any officer authorized to administer oaths.

(b) A copy of a report or statement shall be preserved by the person filing it for a period of time to be designated by the Commission in a published regulation.

(c) The Commission may, by published regulation of general applicability, relieve any category of political committees of the obligation to comply with section 1304 if such committee (1) primarily supports persons seeking State or local office, and does not substantially support candidates, and (2) does not operate in more than one State or on a statewide basis.

(d) The Commission shall, by published regulations of general applicability, prescribe the manner in which contributions and expenditures in the nature of debts and other contracts, agreements, and promises to make contributions or expenditures shall be reported. Such regulations shall provide that they be reported in separate schedules. In determining aggregate amounts of contributions and expenditures, amounts reported as provided in such regulations shall not be considered until actual payment is made.

REPORTS OF CONVENTION FINANCING

SEC. 1307. Each committee or other organization which—

(1) represents a State, or a political subdivision thereof, or any group of persons, in dealing with officials of a national political party with respect to matters involving a convention held in such State or political subdivision to nominate a candidate for the office of President or Vice President, or

(2) represents a national political party in making arrangements for the convention of such party held to nominate a candidate for the office of President or Vice President, shall, within sixty days following the end of the convention (but not later than twenty days prior to the date on which presidential and vice-presidential electors are chosen), file with the Commission a full and complete financial statement, in such form and detail as it may prescribe, of the sources from which it derived its funds, and the purposes for which such funds were expended.

DUTIES OF THE COMMISSION

SEC. 1308. (a) It shall be the duty of the Commission—

(1) to develop and furnish to the person required by the provisions of this Act prescribed forms for the making of the reports and statements required to be filed with it under this title;

(2) to prepare, publish, and furnish to the person required to file such reports and statements a manual setting forth recommended uniform methods of bookkeeping and reporting;

(3) to develop a filing, coding, and cross-indexing system consonant with the purposes of this title;

(4) to make the report and statements filed with it available for public inspection and copying, commencing as soon as practicable but not later than the end of the second day following the day during which it was received, and to permit copying of any such report or statement by hand or by duplicating machine, as requested by any person, at the expense of such person: *Provided*, That any information copied from such reports and statements shall not be sold or utilized by any person for the purpose of soliciting contributions or for any commercial purpose;

(5) to preserve such reports and statements for a period of ten years from date of receipt, except that reports and statements relating solely to candidates for the House of Representatives shall be preserved for only five years from the date of receipt;

(6) to compile and maintain a current list of all statements or parts of statements pertaining to each candidate;

(7) to prepare and publish an annual report including compilations of (A) total reported contributions and expenditures for all candidates, political committees, and other persons during the year; (B) total amounts expended according to such categories as it shall determine and broken down into candidate, party, and nonparty expenditures on the National, State, and local levels; (C) total amounts expended for influencing nominations and elections stated separately; (D) total amounts contributed according to such categories of amounts as it shall determine and broken down into contributions on the National, State, and local levels for candidates and political committees; and (E) aggregate amounts contributed by any contributor shown to have contributed in excess of $100;

(8) to prepare and publish from time to time special reports comparing the various totals and categories of contributions and expenditures made with respect to preceding elections;

(9) to prepare and publish such other reports as it may deem appropriate;

(10) to assure wide dissemination of statistics, summaries, and reports prepared under this title;

(11) to make from time to time audits and field investigations with respect to reports and statements filed under the provisions of this title, and with respect to alleged failures to file any report or statement required under the provisions of this title;

(12) to report apparent violations of law to the appropriate law enforcement authorities; and

(13) to prescribe suitable rules and regulations to carry out the provisions of this title.

(b)(1) Any person who believes a violation of this title has occurred may file a complaint with the Commission. If the Commission determines there is substantial reason to believe such a violation has occurred, it shall expeditiously make an investigation, which shall also include an investigation of reports and statements filed by the complainant if he is a candidate, of the matter complained of. Whenever in the judgment of the Commission, after affording due notice and an opportunity for a hearing, any person has engaged in or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of this title or any regulation or order issued thereunder, the Attorney General on behalf of the United States shall institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order in the district court of the United States for the district in which the person is found, resides, or transacts business. Upon a proper showing that such person has engaged or is about to engage in such acts or practices, a permanent or temporary injunction, restraining order, or other order shall be granted without bond by such court.

(2) In any action brought under paragraph (1) of this subsection, subpenas for witnesses who are required to attend a United States district court may run into any other district.

(3) Any party aggrieved by an order granted under paragraph (1) of this subsection may, at any time within sixty days after the date of entry thereof, file a petition with the United States court of appeals for the circuit in which such person is found, resides, or transacts business for judicial review of such order.

(4) The judgment of the court of appeals affirming or setting aside, in whole or in part, any such order of the district court shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28 of the United States Code.

(5) Any action brought under this subsection shall be advanced on the docket of the court in which filed, and put ahead of all other actions (other than other actions brought under this subsection).

STATEMENTS FILED WITH CLERK OF UNITED STATES COURT

SEC. 1309. (a) A copy of each statement required to be filed with the Commission by this title shall be filed with the clerk of the United States district court for the judicial district in which is located the principal office of the political committee or, in the case of a statement filed by a candidate or other person, in which is located such person's residence. The Commission may require the filing of reports and statements required by this title with the clerks of other United States district courts where it determines the public interest will be served thereby.

(b) It shall be the duty of the clerk of a United States district court under subsection (a)—

(1) to receive and maintain in an orderly manner all reports and statements required by this title to be filed with such clerks;

(2) to preserve such reports and statements for a period of ten years from date of receipt, except that reports and statements relating solely to candidates for the House of Representatives shall be preserved for only five years from the date of receipt;

(3) to make the reports and statements filed with him available for public inspection and copying during regular office hours, commencing as soon as practicable but not later than the end of the day during which it was received, and to permit copying of any such report or statement by hand or by duplicating machine, requested by any person, at the expense of such person; and

(4) to compile and maintain a current list of all statements or parts of statements pertaining to each candidate.

FEDERAL ELECTIONS COMMISSION

SEC. 1310. (a) There is hereby created a Commission to be known as the Federal Elections Commission, which shall be composed of six members, not more than three of whom shall be members of the same political party, who shall be chosen from among persons who, by reason of maturity, experience, and public service have attained a nationwide reputation for integrity, impartiality, and good judgment, are qualified to carry out the functions of the Commission and shall be appointed by the President, by and with the advice and consent of the Senate. One of the original members shall be appointed for a term of two years, one for a term of four years, one for a term of six years, one for a term of eight years, one for a term of ten years, and one for a term of twelve years, beginning from the date of enactment of this Act, but their successors shall be appointed for terms of twelve years each, except that any individual chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he shall succeed. The President shall designate one member to serve as Chairman of the Commission and one member to serve as Vice Chairman. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman or in the event of a vacancy in that office.

(b) A vacancy in the Commission shall not impair the right of the remaining members to exercise all the powers of the Commission and four members thereof shall constitute a quorum.

(c) The Commission shall have an official seal which shall be judicially noticed.

(d) The Commission shall at the close of each fiscal year report to the Congress and to the President concerning the action it has taken; the names, salaries, and duties of all individuals in its employ and the money it has disbursed; and shall make such further reports on the matters within its jurisdiction and such recommendations for further legislation as may appear desirable.

(e) Members of the Commission shall, while serving on the business of the Commission, be entitled to receive compensation at a rate fixed by the Director of the Office of Management and Budget but not in excess of $100 per day, including traveltime; and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.

(f) The principal office of the Commission shall be in or near the District of Columbia, but it may meet or exercise any or all its powers at any other place.

(g) All officers, agents, attorneys, and employees of the Commission shall be subject to the provisions of section 9 of the Act of August 2, 1939, as amended (the Hatch Act), notwithstanding any exemption contained in such section.

(h) The Commission shall appoint an Executive Director without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, to serve at the pleasure of the Commission. The Executive Director shall be responsible for the administrative operations of the Commission and shall perform such other duties as may be delegated or assigned to him from time to time by regulations or orders of the Commission. However, the Commission shall not delegate the making of regulations regarding elections to the Executive Director.

(i) The Chairman of the Commission shall appoint and fix the compensation of such personnel as it is deemed necessary to fulfill the duties of the Commission in accordance with the provisions of title 5, United States Code.

(j) The Commission may obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code.

(k) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(131) Executive Director, Federal Elections Commission."

(1) In carrying out its responsibilities under this title, the Commission shall, to the fullest extent practicable, avail itself to the assistance, including personnel and facilities, of the General Accounting Office and the Department of Justice. The Comptroller General and the Attorney General are authorized to make available to the Commission such personnel, facilities, and other assistance, with or without reimbursement, as the Commission may request.

PROHIBITION OF CONTRIBUTIONS IN NAME OF ANOTHER

SEC. 1311. No person shall make a contribution in the name of another person, and no person shall knowingly accept a contribution made by one person in the name of another person.

PENALTY FOR VIOLATIONS

SEC. 1312. Any person who violates any of the provisions of this title shall be fined not more than $1,000 or imprisoned not more than one year, or both.

STATE LAWS NOT AFFECTED

SEC. 1313. (a) Nothing in this title shall be deemed to invalidate or make inapplicable any provision of any State law, except where compliance with such provision of law would result in a violation of a provision of this title.

(b) The Commission shall encourage, and cooperate with, the election officials in the several States to develop procedures which will eliminate the necessity of multiple filings by permitting the filing of copies of Federal reports to satisfy the State requirements.

PARTIAL INVALIDITY

SEC. 1314. If any provision of this title, or the application thereof, to any person or circumstance is held invalid, the validity of the remainder of the title and the application of such provision to other persons and circumstances shall not be affected thereby.

REPEALING CLAUSE

SEC. 1315. (a) The Federal Corrupt Practices Act, 1925 (2 U.S.C. 241–256), is repealed.

(b) In case of any conviction under this title, where the punishment inflicted does not include imprisonment, such conviction shall be deemed a misdemeanor conviction only.

PART D—MISCELLANEOUS

EXTENSION OF CREDIT BY REGULATED INDUSTRIES

SEC. 1401. The Civil Aeronautics Board, the Federal Communications Commission, and the Interstate Commerce Commission shall each promulgate, within ninety days after the date of enactment of this Act, its own regulations with respect to the extension of credit, without security, by any person regulated by such Board or Commission to any candidate for Federal office (as such term is defined in section 301(c) of the Federal Election Campaign Act of 1971), or to any person on behalf of such a candidate, for goods furnished or services rendered in connection with the campaign of such candidate for nomination for election, or election, to such office.

EFFECTIVE DATE

SEC. 1402. Except as provided for in section 1401 of this Act, the provisions of this Act shall become effective on December 31, 1971, or sixty days after the date of enactment of this Act, whichever is later.

Mr. COOPER. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Kentucky is recognized for 5 minutes.

Mr. COOPER. Mr. President, the amendment is offered as a substitute for title X of amendment No. 692 which is known, and properly so, as the Pastore amendment. I offer the amendment in the nature of a substitute on behalf of myself, Senators BAKER, JAVITS, WEICKER, COOK, GURNEY, and SCOTT. I ask unanimous consent that the names of the Senator from Illinois (Mr. PERCY), of the Senator from Oregon (Mr. PACKWOOD), of the Senators from Colorado (Mr. DOMINICK and Mr. ALLOTT), of the Senator from Delaware (Mr. ROTH), and the Senator from New York (Mr. BUCKLEY) be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COOPER. Mr. President, I would like the Senator from Rhode Island to note the modification I have made. In the modified amendment which I have sent to the desk I have stricken all of the language beginning with line 2 on page 1 through line 15 on page 7. The substance of the amendment is this: It does not seek to amend title IX of the Pastore amendment in any way. It would not strike title IX from the Pastore amendment. The amendment which I have sent to the desk is the Federal Elections Campaign Act of 1971 which was passed by the Senate but which has not been approved by the House. Our amendment is a substitute for title X of the Pastore amendment. If approved, it would strike title X of the Pastore amendment and replace it with the election reform bill.

I want to make a few comments on this change. Our amendment now whether it be accepted or rejected, would leave title IX in the Pastore amendment.

We first sought to amend title IX. Then considering the two version, we thought that title IX is a very good proposal. It does provide a source of funds for candidates and by free choice of the taxpayer.

Taxpayers who make contributions to candidate they designate will be accorded a tax credit not exceeding $25 or a tax deduction of $100 maximum.

This at least is the fair way. It is a thoroughly democratic way; title X is not a fair or democratic system.

These are my reasons for saying that this is a democratic and fair proposal and title X is not.

First, the taxpayer chooses the candidate to whom he wishes to contribute. Title X has been described as "one man, one vote, one dollar." This is not correct. It is one man, one dollar, one-fourth of a vote for Mr. Democrat, one-fourth of a vote for Mr. Republican, and about one-eighth of a vote for Governor Wallace, and perhaps a few cents other candidates if any qualify. It is undemocratic also, because it attempts to allocate money in specific amounts to parties and thereby freeze them in funds for the future for these parties. It is pretty good for the Democratic Party and the Republican Party, and I hope they remain the major parties.

But the Senator's title X would not give the candidates of other parties an equal chance. Mr. Wallace will secure about 15 cents. But Eugene McCarthy, if he becomes a candidate; Mr. MCCLOSKEY—I am not for him—have a right to run and to have an equal chance. The Senator would deny all of them an equal chance. Title X has no element of fairness or democracy.

Further a similar amendment was debated thoroughly several years ago, as I noted this morning. In 1966, it was offered by the Senator from Louisiana (Mr. LONG) and placed on a tax bill. Former Senator Williams, of Delaware, supported by former Senator Gore, of Tennessee, and the late Senator Robert Kennedy, of New York, made a strong effort to have the Long amendment of 1966 repealed. They won and the country won by a vote of 48 to 42. Fifteen Members of the majority supported the repeal of that amendment.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. COOPER. I yield myself 2 additional minutes. I know other Senators wish to speak on this matter.

Our former colleagues argued that the Long amendment was not democratic or fair—using the money of taxpayers and apportioning it against their will. It can be said that taxpayers do not have to check off the $1 contribution, but many will do so without knowing how their money will be used.

Senator Robert Kennedy said that he believed it could be unconstitutional to divide arbitrarily the money between "major" parties and not give to other parties an equal chance before the electorate. Also he argued that it could be a violation of the first amendment.

The Election Reform Act which we would substitute for title X, places limitations upon the amounts candidates for office can spend personally, and their families can spend. It imposes a limitation of not more than 6 cents out of 10 cents for advertising, whether it be television or other forms of the media and a limit of 10 cents per eligible voter for all the news media.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. COOPER. I yield myself 1 additional minute. The Reform Act provides the best protection, which is disclosure. If my amendment is not passed and title X is added, assuring $40 million to be spent, open to all the corrupt practices which we have now admitted exist, we will only maximize the possibility for corruption.

I offer this amendment in all seriousness. I hope it will have appeal on the other side.

I say to the Senator from Rhode Island: We can vote for your title IX, and assure taxpayers an opportunity to contribute to the party of their choice and the candidate of their choice at all levels of government. But let us strike title X with all its defects and substitute in its place a clean election law, which we hope will move forward against corrupt practices in political campaigns.

Mr. President, I shall take 1 additional minute to make one further argument. I do not like to use the words of someone who has died. It could be said that I am doing this unfairly, and I do not want to be unfair or taken an advantage.

But the arguments of the late Senator Robert Kennedy before the committee—and on the Senate floor that this type of financing could give to the national committees and the national party control over local party organizations and local candidates. Oh, but it is said that this threat has been removed because the money is given directly to the candidate. The candidate is not going to spend the money, he will establish a national committee or a central committee to manage his campaign and spend the money. There is no difference between the 1966 Fong amendment and title X.

This is what the late Senator Robert Kennedy said about this problem in 1967:

> And, too, in many State parties, in dozens of local organizations, there are conflicts of principle and power and office. What formula would show how to choose between regulars and reformers, in my own city of New York? Or between regular Democrats and moderate Democrats and Negro insurgents in Mississippi? Or between regular Republicans and Goldwater Citizens' Committees in 1964, in any number of States?

I think he made the case, and it is correct. For the reasons I have stated I hope my friends on the other side, who are dedicated to the strengthening of the election process will consider this amendment.

Mr. PASTORE. Mr. President, I was going to yield 10 minutes to the Senator from Texas at this time, but because of certain allegations made by my good friend from Kentucky I should like to answer a point or two.

At the outset, I think my good friend from Kentucky is absolutely sincere and intellectually honest when he said he does not like title X. Other Senators do not like it either, but I hope that a majority of Senators like it.

No Senator worked harder with relation to the campaign expenditures bill than the Senator from Rhode Island. I managed it on the floor. I spent days and nights putting that bill together, and I was happy to see that it finally did pass—and it passed by an overwhelming majority.

The trouble with the amendment of the Senator from Kentucky is this. The amendment is not being added to the Pastore amendment. It is being used to shut down title X—pure and simple. It is being used to shut down title X. If it is shut down, what will happen? Not only will we have lost title X; we will have lost even the campaign expenditures bill, and I will tell Senators why.

The House has as its pending business now the campaign expenditures legislation. It comes out of two committees of the House, the Commerce Committee and the Rules Committee. Senators know the sensitivity of jurisdiction. Suppose we took that bill, that is on the floor of the House, and attached it to a conference report that will go to the Committee on Finance. What do Senators think would happen to it? Not only would we have insulted two committees of the House; we would have jeopardized a good piece of legislation, which I hope will pass this year. That is the trouble with this amendment.

On the question of one man, one dollar, a quarter of a vote, that is not true, because if the Senator was here when I was talking with the Senator from Maryland, he knows I tried hard to get a unanimous-consent agreement to have his amendment follow the amendment of the Senator from Kentucky. When he brought up his amendment designating the party nominee, I told him it has tremendous merit. The only trouble is that it presents the problem of third- and fourth-party candidates.

I did not want—as I used the expression at that time—to put them in a straitjacket. So I said to him:

> Have your staff get together with our staff, and we will work up a combination of the two.

The combination of the two is now at the desk. Now all a taxpayer can do is check off the party nominee. At the same time, if he cares to, he can designate his dollar, if he does not want it to go to a party and nominee, for the general fund—and that would go to third-party candidates. That is going to be done, hopefully, if we do not squeeze out the Senator from Maryland and prevent him from bringing up his amendment.

I would hope our colleagues would allow him to bring up his amendment, that we can debate his amendment, and take a vote on it. The objection I have to the present amendment is not that it does not have merit—of course it has merit—I would like to see the Campaign Expenditures Act passed—but I will say to the Senator from Kentucky that if he would add it to my amendment—and I am not being funny—I would vote him the Carnegie Medal.

Mr. COOPER. Mr. President, will the Senator yield?

Mr. PASTORE. I yield.

Mr. COOPER. I cannot do so because I believe the Senator's title X is not a good amendment for the reasons I have stated.

Mr. PASTORE. I said that, but do not try to strike it down along with a bill from the House, because the Senator is striking that down, too.

Mr. COOPER. Of course, we cannot tell the House what to do. But by accepting my substitute, will give the House or its conferees a chance to approve the Reform Election Act.

The Senator is able in debate, and I admire him, but his argument is a plea in avoidance.

Mr. PASTORE. No.

Mr. COOPER. My amendment would strike title X.

Mr. PASTORE. If the Senator will permit, his amendment and his move is a plea in avoidance. The Senator is trying to avoid title X by throwing in a substitute that we know every well at this point does not belong in our jurisdiction and is subject to a question of germaneness under the House rules and can be knocked out under the rules.

I yield 10 minutes to the Senator from Texas (Mr. BENTSEN).

Mr. BENTSEN. Mr. President, I rise in opposition to the amendment offered by the distinguished Senator from Kentucky. I, too, recognize his sincerity and his intellectual honesty, and I have the pleasure of serving with him on a committee.

One finds it difficult to add anything after the eloquent speech of the Senator from Rhode Island, but perhaps a point or two can be made.

It seems to me to strike out title X and bring into the bill the Federal Election Campaign Act of 1971 is an academic exercise of what has already been accomplished in the bill. I believe, in addition, it strikes at the very heart of the Pastore amendment.

Much of the debate of the last couple of days has been a partisan debate. It is a debate between one political party that is in hock up to its eyeballs, has not been able to pay its bills, has no credit or reasonable expectation of credit; and the other party has its past bills paid, AAA credit, a plentiful bank account, has, according to one magazine article, $30 million in one bank account, and all the financial muscle of an incumbent President.

Much of the debate has centered around the next presidential campaign, and that is as it should be, because that is the next major political decision that the electorate of this country will have to make. But I think we must not lose sight of the fact that much more is at stake than the next election. I believe the processes of democracy are on trial, that the credibility of the system is being questioned. The basic question, Mr. President, is: Shall the public really have an opportunity to hear both sides of the great debate which is so necessary in order to have an informed decision?

I submit that without legislation the public will be denied the right to hear fully both sides of the debate.

There is a new generation of young voters coming on, and they are asking some tough and hard questions, and some of the older generation are joining with them. They are asking: Does the system really work? And if it does not, why not?

I believe this Nation of ours is more in revolution today than any other major industrial society in the world. You go to Europe, go to Asia. You see changes there, but they are changes at the top—changing of the guard. But it is much more than that in this country of ours. The revolution here is peer-to-peer, generation-to-generation, nonestablishment to establishment—our entire society is in ferment. Under challenge are our codes of ethics, our economics, our political philosophy. Most of all, this system of government is being questioned, is being challenged, is being tried.

Because ours is the oldest living democracy in the world, because it is the only system under which we have lived, we tend to think of it as immortal. But it is not. It is a fragile and living thing. It needs the participation and input of all Americans. The people need to feel that they are a meaningful part of the process. But are they? Are they really being given a full opportunity to participate?

A great change has been taking place in American politics in recent years, and I think it is an accelerating change, and the major reason for it is the electronic media. Today's electioneering is dramatically different from the political campaigns of a Franklin Roosevelt, a Harry Truman, or even Presidents Eisenhower, Kennedy, or Johnson. The day when a candidate could win by lung power on the courthouse square, pressing the flesh of all of his constituents, is long past. And the biggest change has been wrought by the electronic media, by television.

I am convinced in this day of instant communications, with exorbitant and escalating costs for TV with all of its pervasive influence, the influence and impact of money—which has always been important in elections—is going to escalate and to be almost the controlling factor in American elections. Any distortion through the use of funds for the purchase of television time between the two major parties, where one will far outbalance the other—will seriously imbalance the election process in this country.

Is democracy really working when an election is equated with raising the most money? I admit that money, which has been called the mother's milk of politics, does not by itself win elections. But the cost of today's electronic media can really stack the deck.

Psychologists tell us that in education we retain what we see to a much higher degree than what we hear, just as we remember faces and often forget names. And so it is when we compare the newspaper to radio. And now when we combine the visual and the oral impact in TV, we are in an entirely new political ballgame. The candidate who can buy and dominate this media has an inordinate advantage.

Although the circumstances of political funding have sharply drawn the lines on this particular vote, I find support in the principle of adequate financing of the process in the words of President Nixon in 1967. Then, prospective candidate Nixon agreed that:

> It is also possible that a rich man who is less qualified could defeat a poor man who was more qualified by spending more money on television, mailing, research, image making—all of the things that go into a modern presidential campaign.

That is my point and that is my concern. We have to permit full television debate, whatever the means of the candidate.

I remember also Mr. Nixon's analysis of the election of one of his Republican predecessors. Mr. Nixon said:

> Well, he might make it today—I say might—if he could get adequately financed.

Of course, Mr. Nixon was referring to Abraham Lincoln.

Again, my point is made by this example: The modern electronic communications and its exorbitant costs can easily distort the democratic process, and we cannot permit that kind of distortion.

If the people are to choose, they are entitled to make an informed decision. They are not so informed unless they can get a balance of views. If democracy is to survive, then it must retain its credibility. It cannot when only one side of the great debate is fully presented over the electronic media.

Look at the last election for the presidency: A nonpartisan foundation has estimated that over $100 million was spent on the last presidential election. The Federal Communications Commission tells us that over $15 million was spent on TV and radio alone by the national campaign headquarters between the conventions and the elections.

Read some of the postelection reports by the contributors, the big givers, and you begin to feel that there is a return to the Medici here, but this time they are not the patrons of some struggling artists; they are the patrons of some struggling public officeholder. You feel that the wealthy, instead of having a stable of racehorses, have chosen to amuse themselves with a stable of candidates for public office, be they patrons of big labor, big business, or big wealth. But the power of elective office, the choice of elective office must rest with the majority, but with a majority that has had a chance to hear both sides in debate on the electronic media.

How many of us have said—give me a dollar contributor and I have a working supporter, a man who is concerned? A fellow who feels that he has bought a piece of the action feels he is participating in the processes. But too many Americans, after reading these reports of major contributors, have walked away from the table, thinking the deck has already been stacked with the entrance fee too high. And indeed, too often they are correct.

Here, today, we ask change. We are asking all to participate, to invest a dollar in the great debate, to bring about an informed electorate.

The amendment we consider today is especially significant in light of the campaign spending limitation which this body has approved, and which the other body is now considering.

That bill, which would limit the amount spent on electronic media, and require revealing the sources of campaign funds through stronger reporting requirements, would also help restore confidence in our system.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BENTSEN. I ask for 2 more minutes.

Mr. PASTORE. I yield the Senator 2 additional minutes.

Mr. BENTSEN. The proposal here today is to let that American voter make a total and voluntary choice to contribute to the Democratic process in order that both sides might be heard. He is under no compulsion; it is his choice, and his choice alone. If democracy is to survive, we must protect the processes of that system. A system of government does not lose its credibility overnight, it comes through an erosion of confidence and erosion of belief, year by year, or election by election.

We have a choice here today which will provide the American people a reasonable chance for all of its voices of concern to be heard in the great debate in a national election.

Mr. President, it is more than a partisan choice. It is a fundamental question, one which we can answer positively.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. BENTSEN. I yield to the majority leader.

Mr. MANSFIELD. Mr. President, I commend the distinguished Senator for what I consider to be one of the best and most superb speeches given in the course of this long, drawnout debate on the Pastore amendment.

What he has emphasized is the doctrine of equity. What he has said time and time again is that it is time for the people to participate in financing the elections, and to do so on a voluntary basis.

His reference to the Medici, I think, was quite sound, and the example which followed should be brought home, because there are people in this country today who are out bankrolling—greening, you might say—potential candidates, because that money is not coming from the dollars of the ordinary citizens, but from the great families, the families of wealth, which bankroll candidates on both the Democratic and the Republican tickets.

I want to say I think the distinguished Senator has done a remarkably effective job this afternoon in laying out the issue for what it is: Equity in a democracy, and the people participation. I believe that is the answer, to stop the spread of cynicism, unease, concern, and deep divisiveness which afflicts the American political system today.

Mr. BENTSEN. I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. COOPER. Mr. President, I yield 5 minutes to the distinguished Senator from Tennessee.

Mr. BAKER. Mr. President, we are concerned here with two problems: One, how to raise campaign money, and the other, how to spend it. The Pastore amendment deals with one, but not the other. In the amendment offered by the distinguished senior Senator from Kentucky, we deal with both problems, and completely.

It seems to me, after the somewhat acrimonious debate that has gone forward on this issue in this Chamber, that the least we can do is be complete. I react rather badly, Mr. President, to the fact that both title IX and title X of the Pastore amendment deal with alternative methods for raising money, but provide no regulation for how it will be spent, except for providing that the Comptroller General of the United States, in his unexpurgated wisdom, may determine whether something is or is not a qualified election expense.

The Cooper amendment, on the contrary, does what I think is essential, and provides realistic restraint on expenditure for campaign advertising, whether by television, by radio, or by the press.

I commend the distinguished Senator from Rhode Island for his leadership in fashioning the Federal Elections Campaign Act of 1971 which passed this body by a very substantial margin. But since it was the Senator from Rhode Island, and not the cosponsors of the Cooper amendment, who added campaign legislation to this bill to begin with, I resist the suggestion of the Senator from Rhode Island that by substituting that very laudable piece of controlling legislation to avoid fraud and misuse of campaign funds, we are in some way affronting one or more committees of the other body.

Mr. President, we have all been treated to a great dissertation on the potential for evil in the campaign process, and I think all of us understand that situation fairly well, and that most if not all of us are anxious to do something about it as quickly as possible. But the Pastore amendment, Mr. President, does absolutely nothing to restrict the opportunities for abuse. It only provides for alternative methods for raising money to be spent on behalf of a candidate for President or Vice President.

I wonder, Mr. President, if we have reached a stage in the life of this Republic where there is absolutely nothing we can do for ourselves. I wonder if we have reached the place, as is often advocated by Members of this body, especially on the Democratic side, where every single issue must be solved at the Federal level, and where nothing can be done by individuals, to say nothing of local governments. Have we reached the place where we say, in effect, that we have given up our ambition to have absolute freedom in our right and duty to conduct our free elective process? Are we going instead to institutionalize that process at the Federal level, as we have done so many other things? Is it possible that we are saying that the only way to avoid abuse in campaigning is to cede to the Federal Government the entire authority to regulate the campaign process? Is it possible that we have abdicated our last vestige of independence in the elective process, when we say that our campaigns for President and Vice President will be funded entirely from the Federal Treasury, if the candidates so elect?

It was not so very long ago, Mr. President, when we had before us a rather heated debate on whether or not we should provide a guarantee of loan financing to Lockheed. It was not very long ago that the distinguished——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BAKER. Will the Senator from Kentucky yield me 3 more minutes?

Mr. COOPER. Yes.

Mr. BAKER. That the distinguished junior Senator from Texas very properly and admirably rescued himself from voting on that issue, as a former director of Lockheed.

But, Mr. President, as to the remarks made about the triple A credit of the Republican Party, and the Democratic Party being in hock up to its eyeballs, are we being asked here to have a political Lockheed bill for the benefit of the Democratic Party? Is that what we are confronted with?

Mr. President, the Federal Treasury, it seems to me, is not in the business of underwriting the debts or the undertakings of any political party, Republican, Democrat, or otherwise. It also seems to me that if some were concerned about stopping a conflict of interest in the Lockheed case, surely there must be some concern for a conflict of interest in this Pastore amendment, because as it stands, in title IX, every single one of us, if we ever stand for election again, will be the beneficiaries of a Federal subsidy to the extent of the tax credit or the tax deduction that may be used in our campaign financing.

As to several Members of this body, all on the other side of the aisle so far as I know, who are often mentioned or acknowledge themselves to be candidates for the nomination of the Democratic Party to be President or Vice President of the United States, is there not in fact a potential for conflict of interest far in excess of anything that we encountered in the Lockheed bill?

Mr. President, I agree that the American people have the right to be informed. The complaint I heard most often in the hearings before the Communications Subcommittee of the Committee on Commerce, which is chaired so ably by the distinguished Senator from Rhode Island, was that the country is absolutely flooded with radio and television political advertising. I do not believe I heard a single witness say that there was not enough political advertising. It was always too much. There is nothing in the Pastore amendment that would limit it.

Only in the Cooper amendment, where we substitute limitation and supervision and direction on how this money is spent, can we find any relief.

May I conclude by saying that on principle I have in the past objected to the business of institutionalizing campaigning for President through the aegis of the Federal Treasury and I continue to strenuously object to this practice now. I believe there still are things that people want to do for themselves.

Mr. President, I object to an amendment that provides two alternative methods for raising money, as the Pastore amendment does, and no control. I support the Cooper amendment, and I hope the Senate will adopt it.

Mr. COOK. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Kentucky has 12 minutes, and the Senator from Rhode Island has 11 minutes.

Mr. COOPER. I yield 4 minutes to the Senator from Oregon.

Mr. PACKWOOD. Mr. President, I think it is fair to put this bill in perspective, so that if it passes, we know what we are buying—and I mean that literally.

First, this is not a campaign spending limitation bill at all. If, as the Senator from Texas said, the presidential campaigns in 1968 cost $50 million apiece for the parties, and if this bill passes and raises an additional $20 million for the parties, then the campaigns in 1972 are going to cost $70 million.

Nothing in this bill, despite the provision that the presidential candidate's campaign committee must say that they will not accept money from any place else, stops any other committee, allegedly independent from the presidential candidate, from accepting all the money that can be raised.

Second, it does not apply to primaries, and this is where money can buy elections. Once you are the nominee of a major party, you have access to some funds, but not in the primary.

What we are saying in this bill is that there are not enough Democrats or enough Republicans in this country who have enough loyalty to their own party to give voluntarily in sufficient amounts to their party to allow those parties to operate as they would like to. The Boy Scouts can do it; the YMCA can do it; the Presbyterian Church can collect their money voluntarily—but not the Republican Party or the Democratic Party.

We are going to put a little box on the income tax return. If we are going to do that, I would like to add the Oregon Environmental Council. They do more for Oregon than all partisan politics put together. We are going to trick the taxpayer into checking a box and kissing his money goodby, and he will not even know what he is getting.

We have this situation in Oregon. Our primary comes in May. April 15 is the deadline for filing the income tax return. Suppose you are a Democrat, and you are faced with the possibility of three or four Senators being on the ballot and do not know who is going to win the Oregon primary or who is going to be the nominee. You are asked in April to check your box and give half your money to Wallace or Nixon and hope the rest of it will go to the candidate of the Democratic Party you might like.

This should not be the Pastore amendment. It ought to be the Crackerjack amendment—check the box, pay your money, and hope you get a prize.

Let us look at what we are talking about here. Political parties face two main problems, and this bill aggravates both of them. Campaigning costs too much, and this bill makes it cost more. Both political parties now do not have enough spiritual and moral attraction to bring people in on a voluntary basis to either work for the party or give enough money to finance campaigns. What we are going to do by this bill is to aggravate both problems, of spending more money and taking away the element of voluntarism and participation that every other eleemosynary and voluntary organization in this country manages to get by with.

Mr. President, what we face and should be addressing ourselves to is reducing campaign expenses, not increasing them. What we should be doing is addressing ourselves to how we can make our parties more responsive and more participatory, and by this amendment we are destroying it.

Mr. President, if this passes, we are going to perpetrate a fraud and an evil on the people of this country in the name of democracy, and it is going to be 10 steps backward, not one step forward.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. COOPER. Mr. President, I yield 4 minutes to the Senator from Kentucky.

Mr. COOK. Mr. President, I commend the Senator from Oregon and the Senator from Tennessee for their remarks.

In listening to the Senator from Texas, I realized that for the first time, in the first election, we are going to be using television and that we have not been using television in the past.

As a matter of fact, the most remarkable parallel of the Senator from Tennessee was that while the Senator from Rhode Island and I were working hours and hours on a campaign bill, one of the very principles in that discussion was that we did not want to raise it from 5 cents to 7 cents and we did not want to raise it from 7 cents to 10 cents because people were buying too much television time and people were on it too much and people were selling themselves too much. I think that anybody on that committee will agree with those remarks.

But the most amazing thing to me is that I would like to know—it fits perfectly in relation to what the distinguished Senator from Oregon has said—how, for example, the distinguished Senator from Michigan can convince our very good friend Clarence Mitchell that he should tell the membership of the NAACP to check that box, with the understanding that 16 cents of it is going to go to George Wallace. I want to know how we can convince thousands of constituents of the distinguished Senator from New York that funds should go to a conservative candidate if he is on the ballot. I should like to know how we can convince many constituents of the distinguished Senator from California that their money ought to go to a Republican candidate.

This is what we are saying. We are not giving the American individual a choice. We are giving him a choice to take a dollar that is due and owing to the Federal Government, that is not even his, and putting it in a fund that can be established for the benefit of candidates.

Unlike the Senator from Texas, I would say this: If the President of the United States, a Republican President, said that this is a method that ought to be considered, I would say to him, as a fellow Republican, "I disagree with you"; because I have to say that if a political party goes broke, that is the reason why another political party in the United States should come up, and that is the reason that nowhere in the Constitution of the United States is the conception that there are two political parties in this country.

What we are trying to do is to salvage a political party because it is broke and keep it there, and we are saying to a party of the minority, "We are going to give you so much, but we are going to give the other side three times more."

The other day, the distinguished Senator from Rhode Island, in a very impassioned moment, said, "How can a candidate with $5 million beat a candidate with $50 million?" I am here to say to the distinguished Senator from Alabama, "How can a candidate with $6.5 million ever beat a candidate with $20 million?" The answer is that he cannot.

The whole point is that the minor party stays the minor party. That is what is wrong with this measure, and that is why, if we could adopt the Cooper amendment, we would solve this problem and have the limitation we want and the capability of conducting proper campaigns.

Mr. COOPER. Mr. President, I yield 2 minutes to the Senator from New York.

Mr. JAVITS. Mr. President, I shall support the Cooper amendment. I hope very much that it is adopted, because I think Senator Cooper, as he always does, has given us a decent way out. The reason is that he preserves the best, which is the tax deduction, which is a first step toward some help from Government in financing campaigns. He introduces another fine element which is the assurance that the fair campaign practices bill will pass before the next presidential campaign which involves all the heat and involves the checkoff, which is an ingenious idea. If compelled to vote yea or nay on that, I will have to decide what I will wish to do but I am not committing myself at this stage. But I believe what the Senator from Kentucky has offered is the decent way out, because we are holding this bill hostage which is a critically essential bill to economic stabilization in the country, and is of great political significance but is not germane to the existing struggle and crisis in the country.

This is unwise from the point of view of the American people. I see a possible veto coming up and I believe that such a veto will be sustained. I believe we will then have to double back on our tracks and pass a tax bill without this particular campaign scheme. That will be the scenario except that the world will be kept in doubt as to the solution of the American economic crisis for at least another 90 days and that, I think, would be difficult and unwise.

Mr. PASTORE. Mr. President, what is the time situation?

The PRESIDING OFFICER (Mr. TAFT). Three minutes remain to the Senator from Kentucky and 11 minutes to the Senator from Rhode Island.

Mr. PASTORE. Mr. President, I believe that we should understand pretty much what the situation is here. No one is complaining about the substance or questioning the merits of the so-called campaign expenditures bill. I repeat, I was the manager of that bill. I have been following it in the House ever since it was passed by the Senate. All I am saying is, and I hope that Senators will listen to this: This is the wrong place to put it for the wrong reason. This is being used, first of all, to shoot down title X. But what is even worse about it is the fact that we take the jurisdictional work of one committee in the House, with that bill already on the floor, and we stick it in the conference of another committee that has no jurisdiction where, under the House rules, it is not germane and where a point of order can be raised.

We are at the point, not only of striking title X, of shooting down the campaign expenditures bill. I am hopeful that when the House returns after its Thanksgiving vacation, that they will pass the bill so that we can go to conference and work one out.

I want to say to my Republican colleagues that title X complements the campaign expenditures bill. PASTORE wants that bill so much he can taste it. I am not against that bill. But you are using that bill to shoot down title X and you have made it clear that you do not like the concept of title X. If that is the case, why not wait until 5 o'clock and vote on title X? Why confuse it that way? We have been around here long enough to know that this will provoke the House and the committees that have jurisdiction will feel that they are being impinged upon. Certainly the Finance Committee in conference with the House would never consider it because the matter is not before their committee.

There is a vast difference between what we are trying to do with title X and what we tried to do with the campaign expenditures bill. This is a finance bill which belongs in the Finance Committee. This goes to the finance conference. The other bill is a Commerce Committee and a Rules Committee bill. They are the committees that have the jurisdiction.

All I am saying here is, you can say whatever you want, but what you are doing with this is jeopardizing both. I know the feeling on that side, that they would abandon the campaign expenditures bill if it meant they could kill off title X. Not all but a few who have spoken on this have not had any heart for the campaign expenditures bill to begin with. They may think this completes the case but as a matter of fact it does not. If we could get the campaign expenditures and get title X, then we would have a complete package. Not only do we limit the amount anyone can spend, but we show how we can get the office of the Presidency off the auction block—and that is what we are trying to do. If you do not believe that, it is your solemn duty to vote against it. I think we should come to a vote, and for that reason I am opposed to this amendment.

Mr. BROCK. Mr. President, will the Senator from Kentucky yield?

Mr. COOPER. I yield 1 minute to the Senator from Tennessee.

Mr. BROCK. Mr. President, I wish I had more time, but I realize that debate at this point is necessarily limited. I ask unanimous consent to have printed in the RECORD the most cogent single argument against tax subsidies for campaigns as made by the Senator from New York, Robert F. Kennedy, as printed in the hearings before the Committee on Finance in June 1967.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

STATEMENT OF HON. ROBERT F. KENNEDY, U.S. SENATOR FROM THE STATE OF NEW YORK

Senator KENNEDY. Thank you very much.

Mr. Chairman and members of the committee, I appreciate the opportunity to testify this morning.

These hearings—and the interest of Congress and the executive branch which accompanies them—represent an important chance for legislative action. For there exists now a constructive momentum toward enactment of campaign financing legislation. We must therefore discuss and debate, then compare and resolve our differences while the interest and the momentum remain.

I will confine my testimony today to campaign financing, but I do want to say that I believe the enactment of disclosure reform legislation is equally essential, and I hope we in the Senate will act in that field as well during the current session. I support President Johnson's proposal in this area, as contained in S. 1880, which Senator Cannon has introduced. And Senator Clark's proposal on this matter in S. 1546 is also constructive and deserves careful consideration.

There is wide agreement, I think, that some form of public support for election campaigns is needed. Holders of public office should not have to be obligated, or even appear to be obligated, to large contributors who made it possible for them to stand for office. Able young people should not be deterred from entering politics by the fear of having to compromise their values and their independence in order to obtain financing.

These are some of the attributes of the present system. I think most of us agree that it is unsatisfactory and should be changed.

Although we have differed on the precise mechanics of the proposal we should adopt, I want to take this opportunity to pay tribute to the chairman, the Senator from Louisiana, for his efforts to enact a campaign-financing law. More than any other individual, he has forced this matter onto our agenda of action. And no matter what form the final law takes, a lion's share of the credit will be deservedly his. He has taken debate past the issue of whether there should be a law—so that our only debate now, though a vital one, is what kind of law we shall have.

I also want to pay tribute to Senator Williams of Delaware and Senator Gore for the efforts that they have made to bring this to the public's attention.

What approach should we take? In this regard, I believe certain fundamental characteristics of our political structure are instructive, and may suggest the way to the kind of law we should enact.

It is an essential tenet of our political creed, for example, that we seek the broadest possible citizen participation in the electoral process. We value a large turnout at the polls on election day. We value widespread interest in the issues and personalities involved in an election campaign. We value extensive volunteer work in campaigns. We value, in short, all types of individual, voluntary initiative in support of the candidate of one's choice.

Campaign financing is but another application of these principles. Broad financial participation in campaigns at all levels—local, State, and Federal—based on individual choice of the candidates to be aided, would contribute to an informed involvement that is at the heart of the democratic process. And large-scale giving in small amounts would free candidates from having to solicit and rely upon a small number of large gifts.

I believe that we can best accomplish these objectives by some form of tax incentive—by which each citizen can contribute to the party or candidates, the committees or organizations of his choice, and receive partial forgiveness of his contribution on his income tax.

Tax incentives have a number of advantages. They permit aid to candidates and committees at all levels—local, State, and Federal. They permit each citizen to determine who will receive his contributions. They can encourage contributions to candidates in primary elections as well as general elections, so that aid is truly available to men who would otherwise face great financial barriers to entering public life. And they allow for the esprit which comes from getting people out to raise money in small amounts from a large segment of the population.

There are two possible major tax devices to encourage individual participation—a credit, and a deduction.

I prefer a tax credit. It is the most equitable approach. It is a flat subtraction from the amount of income tax otherwise owing, and is therefore of equal benefit to all taxpayers. A credit of $10 benefit all taxpayers $10 worth.

For this reason, I think it is preferable to a deduction, which is a subtraction from the income on which taxes are computed, and is of greater benefit to taxpayers in higher brackets. A deduction of $100 benefits the taxpayer in the 50-percent tax bracket $50, and the taxpayer in the 20-percent bracket only $20.

Nevertheless, a deduction does promote individual choice and participation, so I would favor it as a second choice. The President's Commission on Campaign Costs recommended both a credit and deduction in 1962, as did President Kennedy in his message to Congress that year.

Senator Metcalf's voucher proposal—S. 1390—would also encourage individual choice and participation. I believe his idea therefore merits serious consideration along with the various tax incentive alternatives.

But I believe a tax credit is the best approach and I hope the committee will give it careful consideration.

I would support a tax credit of one-half of contributions of up to $20 for individuals, and one-half of contributions of up to $40 for married couples filing joint returns. The maximum credit would therefore be $10 for individuals, and $20 for those filing joint returns.

Such a credit, in my judgment, would raise substantial amounts of money. There were 12 million individual contributors in 1964, the vast majority of whom were $1 and $2 contributors. The credit would encourage more individuals to contribute, and encourage the existing contributors to increase the size of their contributions.

Experts estimate that the average annual revenue loss would not exceed $50 million, and would probably be considerably less. In addition, this figure does not mean that $100 million in new funds would be raised, since much of the revenue loss would cover money now being contributed.

There is, of course, no particular magic in the 50-percent tax credit. I would not advocate a 100-percent tax credit for two reasons—a healthy sense of responsible participation will flow from an individual having a financial stake in his contribution rather than being wholly reimbursed, in effect, by the Government; and, the revenue loss from a 100-percent tax credit might be extensive. However, a 75- or 80-percent tax credit would ease the burden of contributing for the lower income taxpayer even further, and therefore might well be considered.

No one can be entirely sure, of course, whether the amount raised will exceed or fall short of these figures. For that reason, I suggest that we begin with the very modest tax credit which I have described. If it does not raise enough money, we can easily raise either the percentage or the amount of the credit.

By comparison to tax incentives, I believe individual participation will be discouraged if we use direct subsidies from the Treasury to finance campaigns. I would therefore prefer to have the committee consider moving in the direction of encouraging individual contributions through tax incentives.

Let me make clear that if I had to choose between dollars from the Treasury and a candidate having to go hat in hand in order to raise money for political office, I would prefer dollars from the Treasury. But the committee's choice is not so confined, and that is why I urge the consideration of tax incentives, and particularly a tax credit.

I might suggest, too, that I hope the committee will also explore the idea, proposed by Senator Clark and Senator Gore, and others, of requiring the television networks to provide free time, at least as to presidential candidates. This was done successfully in 1960, and since the airwaves are the public's property, we should consider making a similar provision for the future. If this were done, it would cut down considerably on the money required for presidential campaigns, since television time has become a major cost component in this age of instant communication.

Aside from the all-important point of individual participation, I believe tax incentives have other advantages not offered by direct subsidies from the Treasury.

1. Tax incentives would aid candidates before their nomination for the Presidency, or for any other office. We all want to remove any financial qualifications for office and particularly for the Nation's highest office. It is deeply wrong for the Presidency to be limited either to those who are rich—or to those who are able to raise money from large contributors, as the Senator from Louisiana pointed out a number of times on the floor of the Senate.

But a direct subsidy, almost necessarily limited to activity after the conventions have nominated their choices, could not prevent rich men from determining the nominees; indeed, it might only shift their efforts from the election campaign to the preelection campaign. For a man without great wealth to become a serious contender for the Presidency, he must have access to campaign assistance long before the convention: for primary elections; for work among the State parties in States which do not have presidential primaries; as well as for travel and advertising and for staff, and all the other mounting expenses of securing a nomination.

In 1964, according to Herbert Alexander, executive director of the Citizens Research Foundation, Senator Goldwater spent $5.5 million in quest of the nomination. Governor Rockefeller spent up to $5 million, including $2 million in the California primary alone. Clearly, no postnomination direct subsidy would help a man without great wealth, or one without access to big contributors, to meet these necessary preconvention expenditures.

2. The tax incentive plan would help candidates for offices below the Presidency—Federal, State, and local alike. Such help is vital. Not only is it important to have qualified men at all levels of government, but campaign contributions for offices below the Presidency are even harder to raise, and far more likely to be dominated by a few large givers.

Moreover, presidential candidates do not spring, like Minerva, from the brow of Jove: men earn consideration for the Presidency by their performance in other public offices—most often, Governor or Senator. The expense of nomination and election to a Governorship or a Senate seat—especially in the large States from which most presidential candidates are drawn—is by itself a substantial barrier to all but men of wealth, or their favored candidates. Thus, fair consideration for the Presidency itself requires public support for campaigns for lesser offices at all levels. This support can come only from tax incentives to individual contributions.

Third, a tax incentive for individual donations, Mr. Chairman, does not raise the most serious objection to direct subsidies—its potential for centralization of political power, for a major realinement of our traditional political system. Our political parties have always been collections of separate State and local organizations. But a subsidy fund, controlled by a central authority, could all too easily be used to build a party to the liking of the national committee or the presidential candidate—to enforce party discipline and party ideology by advancing particular local candidates, and starving others.

In an effort to meet this criticism, the proposal now before the committee places a 140 percent ceiling on the amount that can be spent in any State in excess of its per capita share. However, the proposal contains no minimum figure which must be spent in each State.

The national committee and the presidential candidates therefore retain a large range of leverage in each State. On the other hand, if a stricter requirement of equalizing expenditures among the States were provided, the result would be serious interference with the flexibility which all presidential campaigns need to enable them to spend money where it will do the most good.

The question of how funds will be allocated is therefore a problem no matter what is provided. If the standards of allocation are loose, the result could be a national domination of local politics which is inconsistent with almost two centuries of American tradition. If the standards are tight, an unsatisfactory constraint will thereby be placed on campaign decisionmaking.

These problems are not raised by tax incentives. For if contributions to all candidates and campaigns are treated equally, the allocation of power between the national party and the State and local parties will be made by millions of individual Americans. If these individuals want to, they can give to the presidential candidate, and deny funds to a Senate or House candidate who differs from his national party. If these individuals desire, they can finance a local or sectional candidate who opposes his national party. Or they can give to both—or to neither.

We cannot avoid the problem of allocation of power, nor can we preserve some particular allocation forever. What we can do—and all that we can do—is insure that the choices are made democratically, with the direct participation of as many individual Americans as possible. That will be done best, in my judgment, by tax incentives.

Fourth, any attempt to extend direct subsidies from the Treasury to State and local contests and organizations—whether the contests are for State or Federal office—would raise the most difficult problems. Would the subsidy be automatic to all who qualify to run under State law? Would it therefore encourage a proliferation of candidates who would in turn bankrupt the system?

What formula would decide how much the mayor of Albany is worth in relation to the mayor of Indianapolis? Would differences in their charter powers be taken into account? What about county assessors and sheriffs? What formula would decide how much each is worth?

And, too, in many State parties, in dozens of local organizations, there are conflicts of principle and power and office. What formula would show how to choose between regulars and reformers, in my own city of New York? Or between regular Democrats and moderate Democrats and Negro insurgents in Mississippi? Or between regular Republicans and Goldwater Citizens' Committees in 1964, in any number of States?

In my judgment, these quarrels are not for intervention by a national authority equipped with public funds. They should be settled by local forces—on the basis of who can attract the greatest support from the local citizenry which has most to gain or lose, the most direct interest, in the positions and policies of its local parties. We can help those individual citizens assert their voice—by an individual tax incentive.

Fifth, I believe there are constitutional dilemmas of two types associated with the idea of subsidy from the Treasury. The first concerns minor parties. In my judgment, the provision of a cutoff point below which minor parties will not be financed raises serious questions regarding the abridgment of. first amendment freedoms of speech and association as applied to the formation of political parties. Yet such a cutoff point is essential if the subsidy is to be workable.

The second constitutional problem relates to the proposal that private contributions be prohibited in the areas where public financing is provided. It can be strongly argued that the right to contribute is as much a facet of the freedom to express a choice of political candidate as the franchise and other forms of advocacy. Yet, if no provision is made to limit private contributions, there is a serious danger that the subsidy will simply be an added fund on top of the private contributions already collected.

It appears, therefore, that no matter how the subsidy idea is structured, it raises fundamental problems—constitutional problems if the subsidy takes one form, and serious problems of regulatory policy if changes are made to take account of the constitutional issues.

Sixth, there is the question of appropriation versus checkoff. As Senator Gore has pointed out so effectively, the checkoff was inconsistent with our traditional idea that citizens should not be permitted to earmark the place where their taxes are to be spent. Yet, if the checkoff is removed, as has been done in the proposal now before this committee, the whole subsidy becomes subject to the vagaries of the appropriation process.

If a Democratic Congress felt 1 year it did not wish to appropriate funds to help finance the candidacy of a challenger to an incumbent Democratic President, there would simply be no funds. Tax incentives do not pose this kind of problem.

Finally, I would return to the point with which I began—our national tradition of individual participation. To aid campaigns by direct subsidy from the Treasury would only further separate the individual citizen from the political process—insulating the party organization from any need to reach citizens, except through the one way communication of television and advertising. The political parties would talk to the citizen; but the individual could not effectively talk back.

But if we enact a tax credit for individual giving, the entire effect will be toward greater individual participation. Parties and candidates, to take advantage of a tax credit, will have to contact millions of individual citizens—to persuade these individuals that the parties and candidates are worthy of their support. The parties will have to listen to these individuals; and they must inevitably draw closer to the American people themselves.

I believe this is the direction for reform. I hope these thoughts are helpful to the committee as it continues its deliberations.

I congratulate the committee chairman and members of the committee for their efforts they are making in this field.

The CHAIRMAN. Thank you very much for your statement here, Senator Kennedy. I deeply appreciate the compliment you paid the chairman of the committee, and to suggest ways that you think we might meet this problem.

One thought that occurs to me is that in any event, whatever we do in this area it should not be a step backward. It ought to be a step forward, and I felt that way consistently from the beginning about it.

Do you have any different view than the view of the Senator from Kansas on this question as to whether or not the relatively well to do, the 1 percent of the people, or less than 1 percent, who are putting up most of the money to finance these campaigns, are contributing too little? Is there any need to encourage them to put up more, or should the effort and the main thrust be to broaden the base to bring contributions from other sources?

Senator KENNEDY. Well, Mr. Chairman, as I said in my statement, first, I would try to broaden the base so that as many individuals as possible would participate.

Second, I support the recommendations of President Johnson and Senator Clark, and others, for placing a limitation on the amount of money that could be contributed by any individual or by a family. President Johnson proposed an overall limitation of $5,000, and I would certainly support that.

I think the system has been dominated too much in the past by large contributions, but I think we can't limit ourselves to banning large contributions. We have to have an alternative to that, and that is why I have suggested encouraging individual participation through small individual contributions.

I think it is very difficult at the present moment, but I think if we have this kind of tax incentive that there would be wide participation across the country.

Mr. BROCK. Mr. President, let me summarize his most telling point by citing his argument, as follows:

> Our national subsidy from the Treasury would only further separate the individual citizen from the political process—insulating the party organization from any need to reach citizens, except through the one way communication of television and advertising. The political parties would talk to the citizen; but the individual could not effectively talk back.

Mr. President, I think that is the most compelling point in opposition to the Pastore amendment and in support of the Cooper-Baker amendment.

I thank the Senator from Kentucky for yielding.

Mr. WEICKER. Mr. President, will the Senator from Kentucky yield?

Mr. COOPER. I yield 1 minute to the Senator from Connecticut.

Mr. WEICKER. Mr. President, I wish to respond to the comments of the Senator from Texas. Not so long ago you were the plush party and we were broke. It was not so long ago that you were in the White House and we were on the out. All of a sudden, something happened called Vietnam. Now, today, you are paying for the consequences of that decision made by the Democratic Party which put us there. Now you find that you are on the out and you find that you are short of funds. If we make that same mistake, we will find ourselves there. But what you are asking, in essence, is for the American people to underwrite the mediocrity of failure while in office. The way this system operates, we are held accountable If we do a good job, we will have the support of the party and the people. If we do not, we will not.

Mr. PASTORE. Mr. President, what is the time situation?

The PRESIDING OFFICER (Mr. COOK). The Senator from Rhode Island has 7 minutes remaining and the Senator from Kentucky has 1 minute remaining.

Mr. COOPER. Mr. President, will the Senator from Rhode Island give me 2 more minutes for comments?

Mr. PASTORE. I will be glad to do so, yes; but, first, let me make this one point to show you what the power of money is doing. There is nothing illegal about it, but here is a full-page ad in the Washington Post this morning.

It is a full-page ad with the headline "Is the Pastore Amendment Really Campaign Reform?" The subheads:

> The Senate will vote today on Senator Pastore's amendment to the President's tax reform package. The intent of this amendment is to totally federalize the financing of presidential campaigns.

It is signed at the bottom by William J. Wilson, chairman, Citizens for a Responsible Political Process.

Mr. President, does he and his committee think we are a bunch of sheep in the Senate that have to be told by them what the arguments are?

Here is a full-page ad being purchased to do what? On the very day we are going to vote on this amendment, where we will have no opportunity to rebut, a full-page ad is bought in a Washington newspaper that makes a last minute appearance in this morning's edition—a full-page ad. It points up what we are trying to do. We are trying to unfetter the Presidency from all this propaganda, the pressure of all of this big money. The sooner we do it the freer and finer we will find our democratic process is going to be.

Mr. ALLOTT. Mr. President, will the Senator from Rhode Island yield?

Mr. PASTORE. I yield.

Mr. ALLOTT. The Senator does not contend that an individual does not have a right to have such an ad placed in the newspaper?

Mr. PASTORE. No. I said that in the beginning. All I am saying is that Pastore does not have the kind of money to answer him with the same size of ad.

Mr. ALLOTT. He could after this bill is passed.

Mr. PASTORE. I could not do that today, if the bill was passed.

Mr. ALLOTT. He could do it today if this bill passes.

Mr. PASTORE. It will not do me any good to answer it then, after the bill passes. The point is it is using propaganda.

Mr. BROCK. Mr. President, does the Senator object to it?

Mr. PASTORE. I do not object to it. I am only giving it as an example of the power of money.

Mr. BROCK. Mr. President, would this amendment stifle this ad?

Mr. PASTORE No; I would not stop that.

Mr. BROCK. Then what is the objection of the Senator?

Mr. PASTORE. My objection? I did not say that I had objection to it. All I said was that it indicates the use of the power of money as influence. Of course he has a legal right. There is nothing illegal about it. But I said it is the use of the power of money to influence us. What does he think we are, sheep? Does he think we cannot make up our minds and that we have to be told?

We have discussed this for 5 days. I do not need Mr. Wilson to tell me what is right or wrong, and I do not think the Senator from Tennessee needs Mr. Wilson, either.

Mr. BROCK. Mr. President, if the Senator would yield further, I do not mind receiving advice from people. I appreciate it.

Mr. PASTORE. Mr. President, I yield back my time.

Mr. COOPER. Mr. President, will the Senator yield me 2 minutes?

Mr. PASTORE. I yield 2 minutes to the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky is recognized for 2 minutes.

Mr. COOPER. I want the Senate to know that the amendment I have offered for myself and others does not touch title IX. Title IX, if approved, offers to every one who pays taxes the right to make a contribution to a candidate of his or her choice when filling out his tax return, and receive either a tax credit or deduction. It is a voluntary choice and the contribution will be used by the candidate he chose and not by other candidates.

Mr. President, I want to make another point. There are many people in this country, and many young people, who may not feel so strongly about either major political party. My friend, the Senator from Texas (Mr. BENTSEN) who raised a very fine issue in his eloquent speech as to the credibility of the election process and that many people, and particularly young people are concerned.

Yet we have in title X a proposal to take the money of all the taxpayers and give 25 percent of the money to the Democratic Party, 25 percent to the Republican Party, and $6.8 million, I believe, to the party of Governor Wallace. If young people want to support Eugene McCarthy or PAUL MCCLOSKEY if they want to give an expression of their willingness to support these candidates or other candidates whom they believe in, they will have no funds with which to do so under title X. Everything is frozen.

Where is the free choice of the people?

Title IX preserves the right of tax deductions and credits for contributions to candidates of the party of one's choice.

If we can preserve the Federal Election Campaign Act of 1971, we will be able to have some control over the expenditure of the funds.

I hope that the amendment will be fully considered and considered as a decent alternative and that the Senate will agree to the amendment.

I thank my colleagues who have joined me in introducing this amendment. Senator BAKER for assisting in its preparation, all of my colleagues who have spoken so strongly for the amendment. I thank also the Senator from Rhode Island, Senator PASTORE for his generous words.

Mr. PASTORE. Mr. President, I want to make a correction again. We are going to accept the Mathias amendment by which the people can designate where they want the money to go. I have said that over and over again. I hope that the other side will not filibuster long enough so that he will not be able to be recognized to offer the amendment.

Mr. President, I yield back the remainder of my time.

Mr. BYRD of West Virginia. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. All time having expired, the question is on agreeing to the amendment of the Senator from Kentucky. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The result was announced—yeas 46, nays 53, as follows:

[No. 379 Leg.]

YEAS—46

Aiken
Allott
Baker
Beall
Bellmon
Bennett
Boggs
Brock
Brooke
Buckley
Byrd, Va.
Cook
Cooper
Cotton
Curtis
Dole
Dominick
Ervin
Fannin
Fong
Goldwater
Griffin
Gurney
Hansen
Hatfield
Hruska
Javits
Jordan, Idaho
Mathias
McClellan
Miller
Packwood
Pearson
Percy
Roth
Saxbe
Schweiker
Scott
Smith
Stafford
Stevens
Taft
Thurmond
Tower
Weicker
Young

NAYS—53

Allen
Anderson
Bayh
Bentsen
Bible
Burdick
Byrd, W. Va.
Cannon
Case
Chiles
Church
Cranston
Eagleton
Eastland
Ellender
Fulbright
Gambrell
Gravel
Harris
Hart
Hartke
Hollings
Hughes
Humphrey
Inouye
Jackson
Jordan, N.C.
Kennedy
Long
Magnuson
Mansfield
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Moss
Muskie
Nelson
Pastore
Pell
Proxmire
Randolph
Ribicoff
Sparkman
Spong
Stennis
Stevenson
Symington
Talmadge
Tunney
Williams

NOT VOTING—1

Mundt

So Mr. COOPER's amendment was rejected.

Mr. PASTORE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. BYRD of West Virginia. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENTS NO. 740

Mr. MATHIAS. Mr. President, I call up my amendments No. 740.

The PRESIDING OFFICER. The clerk will state the amendments.

The legislative clerk read the amendments, as follows:

On page 17, line 7, after the word "Fund", strike everything through line 11, page 18, and substitute the following: "The Secretary shall maintain in the fund (A) a separate account for the eligible candidates of any major parties, any minor parties, and for any other parties for which a specific designation is made under section 6096 of the Internal Revenue Code of 1954 for payment into an account in the fund and (B) a general account for which no specific designation is made. There are hereby appropriated to each such account in the fund each fiscal year, out of any moneys in the Treasury not otherwise appropriated, an amount equal to the sum of the amounts designated to each such account during the fiscal year by individuals under section 6096 of the Internal Revenue Code of 1954 for payment into such account of the fund.

(2) If, after a presidential election and after all eligible candidates have been paid the amounts to which they are entitled under section 1004, there are moneys remaining in any account in the fund, the Secretary shall transfer the moneys so remaining to the general fund of the Treasury.

(b) (1) Upon receipt of a certification from the Comptroller General under section 1005 for payment to the eligible candidates of a political party, the Secretary shall, except as provided in paragraph (2), pay to such candidates out of the specific account in the fund the amount certified by the Comptroller General. Amounts paid to any such candidates shall be under the control of such candidates.

(2) If, at the beginning of the expenditure report period (as defined in section 1002(11)) with respect to a presidential election, the moneys in any account in the fund other than the general account are less than the aggregate entitlement of the eligible candidate to which any such account relates, the amount in the general account shall be allocated to each of the other accounts in the ratio of the balances in each such other accounts at such time, except that no amount shall be allocated to any party in excess of the smallest amount needed by a major party to bring it to its entitlement under section 1004(a) (1). Payments to eligible candidates from the account designated for them shall be limited to the balance in such account after the allocation from the general account.

On page 29, strike lines 6 through 14 and substitute the following:

"(a) IN GENERAL.—Every individual (other than a nonresident alien) whose income tax liability for any taxable year is $1 or more may designate that $1 shall be paid over to the Presidential Election Campaign Fund for the account of the candidates of any specified political party for President and Vice President of the United States, or if no specific account is designated by such individual, for a general account for all eligible candidates for the election of the President and Vice President of the United States, in accordance with the provisions of section 1006 (a) (1) of the Presidential Election Campaign Fund Act of 1971. In the case of a joint return of husband and wife having an income tax liability of $2 or more, each spouse may designate that $1 shall be paid to any such account in the fund."

Mr. PASTORE. Mr. President, will the Senator yield to me? The Senator from Arkansas has requested 5 minutes, and I yield 5 minutes to him.

Mr. MATHIAS. I yield.

Mr. McCLELLAN. Mr. President, I support title IX of the Pastore amendment, but I shall vote against title X of this proposal.

It may be said that the hallmark of a true democracy is the participation by its citizens in the election process. But for that participation to be wholesome and meaningful, the action on the part of the citizen should be free and voluntary and unfettered and not coerced. I do not believe the $1 check off proposal in title X meets that test. I do not believe the tax return of our citizens should be used as a vehicle to raise campaign funds—funds to be paid into the Federal Treasury and thereafter to be disbursed and administered by the Federal Government. If this title becomes law, I am persuaded that the taxpayer may sense some pressure—some obligation to check that box. After all, this process of collecting campaign funds, if adopted, will have the full weight and force of the Federal Government behind it. The taxpayer, knowing that this procedure has the highly vaunted Internal Revenue Service behind it, may well feel some compulsion to mark the box indicating that he wants a dollar of his taxes used for campaign purposes.

Remember, however, that this $1 will not come as a direct political contribution from the taxpayer to the party or candidate of his choice. Once this dollar is collected by the Treasury, it is subjected to a formula of distribution. Possibly 50 percent or more—at least a large percentage of the taxpayer's dollar—will go to support a party—or parties—and a candidate—or candidates—not of the taxpayer's choice, but parties and candidates he opposes and wants to see defeated. This kind of process—the formula provided in title X for the distribution of the funds raised by this $1 contribution—is contradictory and self-defeating. Actually, circumstances can well develop and prevail where most of the taxpayer's dollar will be used to defeat, rather than to help, the party and the candidate he supports.

If this title should be amended to permit the taxpayer to earmark his dollar for a given party or candidate, then we will have set up a mechanism in Government for the collection of campaign funds—a function which, if administered fairly and equitably, will become costly—necessitating many additional Federal jobs for supervision and administration. The cost of administration, in fact, may well absorb a large percentage of the funds received from the dollar checkoff and thus leaving it to the general revenues in the Treasury to bear the burden of providing campaign funds for political parties and presidential candidates.

If the taxpayer is permitted to earmark a portion of his taxes for political purposes, then why not let him earmark dollars for peace, dollars for the environment, and dollars for many other preferable projects or causes? Why not give him a tax return with a multiple choice and thereby let him help establish national priorities on a direct basis. This $1 checkoff is a bad precedent, Mr. President—one that, if enacted, will haunt this Chamber for years to come.

Mr. President, this proposal is a long step in the wrong direction—a step toward the federalization of all elections. To this, I am unalterably opposed. This amendment—this title—should be rejected.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. McCLELLAN. May I have 2 additional minutes?

Mr. PASTORE. I do not have that much time.

Mr. McCLELLAN. Will some Senator yield me 2 minutes?

Mr. MATHIAS. I yield 2 minutes to the Senator from Arkansas.

Mr. McCLELLAN. Now, Mr. President, I do support title IX, which allows a citizen a tax credit of up to $25 or a tax deduction of up to $50—whichever he elects—for campaign contributions. With this procedure, the Federal Government does not in any way handle or have any responsibility for distribution of the taxpayer's political contribution. The taxpayer is free to give to either political party and to any candidate for any office—State, local, or national—and receive credit on his tax return accordingly—just as he would receive credit for deductible contributions for other purposes. This places no burden of cost and no obligation of supervision, management, or control by an agency of the Federal Government over the taxpayer's political contribution. In this way, the taxpayer's contribution passes through no political pot where it is later dispensed—a part of it to the party or candidate he supports and another large percentage of it to the party and candidate he opposes.

Mr. President, a democracy should encourage its citizens to participate as fully as possible in the affairs of government, particularly in the election process, for free and uncoerced election and citizenship participation provide the very lifeline of our democratic system. But for the citizen's participation to be truly meaningful and democratic, the citizen must have the opportunity to make and exercise a free and unfettered choice for the party and the candidate he supports and contributes to. This tax credit or deduction method meets that test.

Under the provisions of title IX, the taxpayer is under no compulsion to participate. He is not required to use the official Internal Revenue Service tax form to make his political contribution, nor is he limited in making a contribution to and being involved only in the presidential election.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. McCLELLAN. May I have half a minute?

Mr. MATHIAS. Mr. President, I yield 30 seconds to the Senator from Arkansas.

Mr. McCLELLAN. Mr. President, if the Congress truly wants to broaden the base and increase the number of campaign contributors, and if it wants to really encourage more of our citizens to take part in financing political campaigns, then I most respectfully urge that we approve title IX—the tax credit or deduction proposal—and that we defeat title X which is an effort to raise a slush fund to go into the U.S. Treasury for distribution on a formula that will often contribute as much of the taxpayer's money to the very party and candidate he wants defeated as it would to the party and candidate he supports.

The PRESIDING OFFICER. Who yields time?

Mr. MATHIAS. Mr. President, I yield 1 minute to the Senator from North Carolina.

Mr. ERVIN. Mr. President, the able and distinguished senior Senator from Arkansas (Mr. McCLELLAN) has expressed my views on this subject far more eloquently than I can express them, and for that reason I would like to say "Amen" to everything he said.

The PRESIDING OFFICER. Who yields time?

Mr. MATHIAS. Mr. President, I yield myself 10 minutes.

In the words of a prominent Englishman, "now I can say a few words of my own."

Mr. President, I have been here at my desk contemplating some of the tallies on the rollcalls taken in the last day or two.

I look back to the first rollcall taken during the discussion of the Pastore amendment, an amendment which I offered to strike title X; that amendment was defeated by a vote of 49 to 46.

The Senator from Connecticut (Mr. WEICKER) offered an amendment to postpone the effective date of the presidential campaign financing plan until 1973 and thereafter, and that amendment was defeated by a vote of 55 to 42.

Then the distinguished Senator from Kentucky (Mr. COOPER), joined by other distinguished Senators, offered a plan which would have deleted title X and substituted the election reform bill, and made some modifications in title IX as well, and that amendment was defeated by a vote of 53 to 46.

I would submit that you do not have to be any Prophet Daniel to read the handwriting on the wall.

You do not have to be a gypsy to read those tea leaves. So I think we have come to a point that the responsible role is now to make this the very best plan that it can be made.

That does not mean that everyone is going to be enthusiastic about it. It does not mean that if we had our "druthers" we would have it here at all. The amendment does not correct all the imperfections—which are many—in the present Pastore amendment. However, it is an improvement, and when we spend Federal money, every improvement should be sought and adopted. The votes very clearly indicate that the time has come to do the best we can with the amendment before us. We really have no other choice but to make it the best bill we can. And I think, Mr. President, my amendment does this.

The amendment which I have offered does make some rather fundamental changes in the plan as originally proposed by the distinguished Senator from Rhode Island. I would respectfully suggest to him that if the amendment is adopted, it will not be a checkoff any more. It is not really a checkoff; it becomes a voluntary designation—very similar to the tax credit proposal contained in title IX. And I think it is a good thing that it is not a checkoff, because in the minds of a great many Americans the term "checkoff" has somewhat of an involuntary and perhaps unsavory connotation.

This plan will be a voluntary designation, in contrast to the original scheme, which contemplated an involuntary subscription by every participating taxpayer to friend and foe alike.

Under this amendment, every taxpayer would be given three choices. Those choices would be to write in the political party that he chooses to see his contribution to go, to indicate that he wants his dollar to go to an undesignated fund—the type of fund that is provided in the present Pastore amendment or, the choice of everyone who does not like this scheme, to choose that none of his tax money, not a penny of it, should go through this fund. So there is the widest possible discretion. Every American taxpayer can make his own decision on whether he wants to participate or whether he does not. It is totally voluntary.

It is very different from the concept where a single dollar would be hypothetically divided up among four or five candidates, some of whom might be totally hostile to the views of the taxpayer himself. Any fastidious taxpayer, any American who had fastidious political principles, might well object to having his money divided up among friend and foe alike in that manner.

Under this scheme which I have proposed, not a penny is contributed unless some American wants that penny devoted to the fundamental political process of this Republic, which is the election of our Chief Executive.

There have been of course some very sound and well reasoned arguments against the whole plan. One of them I put in the RECORD this morning: A column by the distinguished journalist of the New York Times, Tom Wicker.

I think that this amendment goes a long way toward answering the kind of objection that has been given voice by

Mr. Wicker and others. It is, as I say, a voluntary and discriminating way of supporting elections. In contrast to the existing scheme, it provides direct involvement in the general election, because every taxpayer, in order to participate, will have to become involved. He will have to think very carefully what action he is going to take on his tax return. Therefore, instead of restricting the political process, as I believe the original plan might have done—if this amendment is not adopted—it will have a tendency to broaden the political process, and that really is the ultimate goal of any scheme of this sort.

This amendment benefits all of the political parties—major, minor and new parties alike. It benefits the American people—at least more than the present Pastore amendment—for now the American people will be giving to the nominee of the party of their choice. In addition, this amendment brings the political process closer to the public. It does not correct all the problems that are inherent in any program of a Federal subsidy; it makes significant improvements, however. And this I submit, Mr. President, is the important fact that we should accept.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. MATHIAS. I am happy to yield.

Mr. JAVITS. Mr. President, I think that the Senator's amendment, which we discussed at the very first stages of this bill, materially improves the whole plan, and I think it is his duty and our duty to support it. I understand it will be acceptable to the other side, in order to perfect the plan.

I think, as the Senator says, it still leaves a substantial question as to whether this bill to meet an immediate economic crisis should be held hostage to this kind of improvement, which could be done outside the confines of this bill also. So, without committing myself on the main proposition, I would like very strongly to support the Senator's amendment, which at least makes the scheme of the bill both palatable and sensible, and politically viable.

Mr. CRANSTON. Mr. President, will the Senator yield for a question?

Mr. MATHIAS. I yield.

Mr. CRANSTON. First, I congratulate the Senator from Maryland upon designing an amendment which I think can win broad support in the Senate. However, I wish to clarify one point.

In the Senator's presentation, in speaking of the checkoff, where you do not wish to designate it to go to the general pot, but where you do wish to designate specifically where it goes I, think the Senator used the language that it would go to a political party.

I believe the Senator's amendment actually provides that it would go to the nominee of the chosen party. Is that not correct?

Mr. MATHIAS. The Senator is absolutely correct, and I am indebted to him for making that point clear, because that was one of the great objections to the previous plan. My amendment designates that the money will go to the nominee of the party that he designates. And, I might add, there is a possibility of designating a third party or a new party, so that there is no perpetuation of the bias which exists in this country today against new parties.

I am grateful to the Senator from California for pointing that out.

Mr. CRANSTON. I thank the Senator.

Mr. MILLER. Mr. President, will the Senator yield for a question?

Mr. MATHIAS. I yield.

Mr. MILLER. On page 3 of the Senator's amendment, it states that the $1 shall be paid over to the presidential election fund for the account of the candidates of any specified political party.

How is that party to be specified? Would that show up on the income tax return, or would the taxpayer write in the name of the party, or just how would that be done?

Mr. MATHIAS. By writing in the name of the party. This is why I said it will get away from the somewhat invidious term "checkoff."

Mr. MILLER. So if he checks the box and then writes in the name of the Democratic Party or Republican Party, then it would go to that party? If he checks the box——

Mr. MATHIAS. Again, as the Senator from California has pointed out the money does not go to the party but to the man that the party ultimately nominates.

Mr. MILLER. I understand. But if he does not do that, and checks the box, again, the money goes into the unspecified account?

Mr. MATHIAS. We make it as voluntary and as responsive to the wishes of the American people as it can be. Again, we say they have a right not only to designate no one; but if they put it into the undesignated fund, it goes out in the same ratio that other people have designated. This, I submit makes it responsive to the people's wishes.

Mr. FULBRIGHT. Mr. President, could I ask the Senator a question on that point?

Mr. MATHIAS. Certainly.

Mr. FULBRIGHT. Is it made clear that they do not have to give a dollar to anyone?

Mr. MATHIAS. Absolutely.

Mr. FULBRIGHT. It is not too clear to me. It is made quite clear that they do not have to give anything to anybody if they do not want to; is that right?

Mr. MATHIAS. It is quite clear, and I think that is proper, because if the taxpayer's money is to be diverted——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MATHIAS. I yield myself 1 additional minute.

In this case, if the taxpayer's money is to be diverted from support of the Government, for which it was ostensibly first raised as revenue, and the taxpayer directs that it should be applied instead to support the political process, I think he has the fundamental right to insure that his contribution will go to the nominee of the party of his choice. In fact, this is a backup to his right to vote.

Mr. President, I reserve the remainder of my time.

Mr. McCLELLAN. Mr. President, will the Senator yield for a question?

Mr. MATHIAS. I yield.

Mr. McCLELLAN. I invite the Senator's attention to the bottom of the first page of the amendment, which reads as follows:

> There are hereby appropriated to each such account in the fund each fiscal year, out of any moneys in the Treasury not otherwise appropriated, an amount equal to the sum of the amounts designated.

Is the Senator making an appropriation here? Does not the House insist that all appropriations have to originate with it? I wonder if this is not subject to a point of order when it reaches the House.

Mr. MATHIAS. This I believe is a device to deal with the bookkeeping which would take place. When the funds are voluntarily designated by a taxpayer, it seems to me that the Government at that point becomes a trustee. We are providing the machinery whereby the trustee can carry out his fiduciary function. It is not an appropriation in the ordinary sense of the word.

Mr. McCLELLAN. I have some qualms about it.

The PRESIDING OFFICER. Who yields time?

Mr. SCOTT. Mr. President, I should like 1 minute to ask a question.

Mr. PASTORE. I yield to the Senator.

Mr. SCOTT. My question is this: Does the Senator from Rhode Island know of any other provision of the tax laws whereby a taxpayer can designate any part of his tax payments for the use of any purpose nongovernmental?

Mr. PASTORE. I do not know of any.

Mr. SCOTT. I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. PASTORE. Mr. President, I might add, as a rejoinder, that here we are talking about the Presidency of the United States, the highest office in our Republic. There is no question that this is an innovation. No one is hiding that. For a long time there has been a school of thought in this country that something should be done about this matter of tremendous campaign costs—in some fashion to bring them under popular control.

As I have said several times on the floor of the Senate, and I say it again although it gets monotonous to keep repeating the same thing from time to time, even with a different audience but this is the story. For a long, long time people in this country have been deeply concerned about the amount of money it takes to conduct a presidential campaign and the source of those funds. The big problem is, what do you do about it? Do you keep going along having these $1,000 clubs, as we had under the Democratic administration, or do you have the $500 chain dinner; as we had only a few weeks ago, under Republican auspices? I am not being critical of that. I realize they are following the fashion. That is the system.

In the process, what happens? As the contribution becomes bigger and bigger because the costs become greater and greater, the possibilities of corruption become all the greater, too. There are great countries in the world that have managed this election problem and have managed it well. The Senator from Arkansas made the argument that it might cost a little money to administer it. No one denies that. I hope it will not cost too much money. We spend $75 million a day in Vietnam. We are going to spend $25 million less than that every 4 years to make sure that the candidates have the proper exposure before the people of this country so that the people can understand the character, the personality, and the issues involved. If you do not believe in this popular participation, you should vote against it. You have your decision to make. I do not say that this is the perfect answer. No matter how earnest we are today, we will probably fall short of perfection.

But the question this afternoon is: Are we on the right road? If not, where will we turn? Where will all this end? Will the time ever come when we can contain these runaway election expenses? I know that the campaign expenditures bill was weighted principally on the question of the cost of the broadcast media, and I have been told that it cost in the neighborhood of a half million dollars to get a national hookup. Senator Goldwater probably knows more than I do about that, because he went through the experience. We find that our candidates for the presidency are actually humiliating themselves in many instances in begging for this money in making the rounds of cocktail parties, making and receiving approaches in private, and sometimes almost running the risk of compromising themselves when they are in tight straits. This is only because tremendous amounts of money are needed; certainly it is not because they mean in any way to jeopardize or to compromise their own principles.

After all, let us be realistic. The report is now that it cost almost $100 million for the last presidential campaign. That is as ridiculous as it is staggering. In the nature of things a great deal of that money is absolutely wasted. We are hopeful that the broadcasting industry at some point will make some time free, and I hope they will. That is why in the other bill we excuse them from section 315, under the Communications Act.

There is really nothing new in the issue before this body. We passed an equivalent bill 5 years ago. Then, because the objection was raised that the restrictions of supervision were not strong enough, we allowed that bill to expire. The objection was made at that time by Senator John Williams and Senator Albert Gore.

This was their position—"Well, we don't believe in the general fund." Many people on the other side properly argued on the cost, and there is just as much merit to that contention as there is to designating the party nominee. It is a meritorious argument. We went all through that. We were a little fearful that if you designated the party nominee, there might be instances of a third or a fourth party and that might be imprudent and damaging to the democratic system.

So when the Senator from Maryland advanced his amendment, I said to him that I was amenable to some modification that would take care of both ways of popular participation. We got our staffs together, and they worked all day and all night. Finally they came up with this compromise, and I think it is a good compromise.

I said from the beginning that there is no false pride of authorship here. I am not running for the Presidency of the United States. Thank God I can be here comfortably with my good colleagues for the next 5 years, if God grants me health, and that will round out 26 years in the Senate. I have no personal profit in this legislation. I was assigned this task because they thought I should be the manager of this bill on the floor—not merely to get it passed but to get it perfected.

The Senator from Maryland has come along with an idea that I am perfectly willing to adopt. There is no maneuvering; there is no strategy involved. It was evident to me that many Senators felt that the taxpayer ought to have the privilege of designating the recipient of his dollar—of saying that he wants his dollar to go to the Democratic nominee or the Republican nominee or the American Party nominee. Again, if he was not specifically interested in any of the three, he could say, "Let it go to the general fund."

After all, any candidate who comes under this cannot spend more than $20 million, according to the present population. The ceiling might rise as our population grows. But for the present it is 15 cents multiplied by the number of people over the age of 18, and that governs the maximum—$20 million for all purposes.

Once a candidate for the Presidency of the United States—he has to be a candidate; he has to be nominated at the convention—once he is nominated and accepts the nomination he is free to apply to this fund. He does not have to do so but if and when he makes his choice he cannot collect a nickel more than the law allows, and he cannot spend a nickel more than he is allowed. This brings it in the proper gage.

I am hopeful that when the House returns after the Thanksgiving vacation, they will pass the campaign expenditures bill. Then we will have a package that will make sense. It might be true—it can be argued—that Republicans this year, because they are the incumbents, can attract a better war chest than their rivals. That is one reason why I made the fund use elective for the candidate. Thus, Mr. Nixon does not have to be bound by it if he does not so choose. No one needs to be bound by it. But, after all, gentlemen, it is putting a little bit of sanity in the elective process. That is what we are trying to do. Here is a country that spends over $200 billion—billion—billion—for one reason or another every year. And all we are talking about here is $50 million every 4 years to make sure that the personalities and the issues are properly presented so that the people will be able to make a proper presidential choice. May all of us and the least of us have a part as we choose the best man to be the President and Commander in Chief of the United States. That is what this is all about. If you do not believe in it, you should vote against it. But if it makes any sense, then vote for it.

This is not pitched to solve a Democratic or a Republican crisis. It was not considered that way. It is true that the Democratic Party is broke. There seems to be no question about that. The Democratic Party still owes $9 million and at the moment they do not know where they are going to get the money to pay it off. But history repeats itself. Someday they will have the money to pay it off. There were times when the Republican Party was broke—deeply in debt—and they managed to pay it off in time. So will the Democrats. It would be a sad day for our Republic if you had a situation where there would be a lopsided campaign where all the publicity and all the fanfare will be on one side and hardly any on the other because they cannot afford it. No one really wants that.

If the people have confidence in your administration, and believe you me, if President Nixon does a good job, if he brings about prosperity and peace, that is all that he needs. He does not need $50 million in order to prove it. He can pick up a telephone anytime he wants to; he can call a news conference when he pleases. He could have one every week and get all the exposure he desires. The President of the United States, if he really wants to be on the front page of every newspaper every single day of the week can easily arrange that, because he is a President. And properly so—I do not find any fault with that. But we have to admit that if you are a candidate who starts from scratch you have a tough time—and the Senator from Arizona (Mr. Goldwater) knows that better than anyone else. I think it is a terribly humiliating process when the President has to hop from cocktail party to cocktail party, shaking hands with people, wondering if they have an angle, when the President could use his time to better advantage in the Oval Room thinking about his problems which are our problems. President Nixon, I think, is a sort of shy man, anyway; he is not a showoff in that sense.

Last week he and Pat could have escaped those fundraising dinners if the pressure was not on them. But all that is part of our political custom. The more expensive campaigning becomes, the more money you have to raise, the more beholden one becomes. Let us not fool ourselves. When a man makes a contribution of $500 to your campaign and knocks at the door of your office and tells your secretary, "I am Mr. X and I would like to see the Senator," you had better come out and see him, because the next time he will not be at that cocktail party. The whole process is demeaning to the Presidency. If, somehow, we could cut it out, I think for the good of the country that we should do it. If this method does cost $4 million to administer, after all, is it not a good investment? We can take all the Madison Avenue fanfare out of the campaign and make it something respectable and decent. If the President can know that he owes nothing to anyone and can appoint his ambassadors on the basis of the type of people who will best express the views of this country and not appoint ambassadors on the basis of contributions made to his campaign we will be better off. Both parties have been guilty. I am not indicating one or the other party in that regard but it has been the style, the fashion, and the custom of our system to do that.

The time has come when we should begin to do something about it.

I believe that as a first step this is the answer. As time goes on, perhaps we can improve upon it.

That is all I have to say. You either believe it or you do not believe it. That is the reason why I fought as hard as I did against some of these amendments, because I did not think they were getting to the core of the problem. The real core will appear in the vote at 5 o'clock this afternoon.

If I lose that, I shall not lose with a heavy heart. I have done the very best I could. If that is the will of the Senate, that we are too ahead of time on this matter, I shall go along with it. If you do approve my amendment, I am not going to run outside and throw my hat in the air. There is no big gain to be accomplished for us as individuals. I hope that we are doing this for America.

If you think the Pastore amendment is wrong then vote against it. But on the other hand, I say to my colleagues, vote for it if you think it is the right thing to do—and I think it is right—so help me I think it is right—otherwise I would not be in here. This does not mean that I am always right and you are always wrong. I would not have made this fight if I thought there was anything phony about this legislation, and I do not think there is.

Mr. HANSEN. Mr. President, I want to say, first of all, that there is no more able or more persuasively effective a Senator, espousing a bill such as has been championed today, than the distinguished Senator from Rhode Island (Mr. PASTORE).

Let me remind this Chamber, however, that we are not talking about giving anything ot any party; we are talking about the right to take tax dollars and to convert them to a political purpose. Let us remember that these are tax dollars, that the dollars we put into the payment of a bill for campaign expenditures will be taken away from programs such as social security, or whatever it may be and, second, while this may not be as some have characterized it, a compromise with evil, the best that can be said about it is that it is an accommodation with expediency.

I would remind my good friend from Maryland, too, that this is not the final action. There are two important steps that must be taken after the Senate works its will on this bill.

Mr. PASTORE. That is right.

Mr. HANSEN. It has got to go to the House. If there is not complete agreement between House and Senate, it must then go to a conference committee, and following that it has to go down to the White House to be signed or to be vetoed by the President.

Mr. PASTORE. Will the Senator permit me there to say—on my own time—that I quite agree with what his conviction is and I understand it, but I do not go along with it. You say we are taking this money that could be used for another purpose. Is it more important to build a battleship than getting a good President? After all, we are talking about the Presidency, the Commander in Chief, the man who will direct where that battleship goes. We spend $75 million a day, as I said before, in Vietnam. That does not do you any good and it does not do me any good. In the meantime, American lives are being lost in the process and that is being done and that comes out of the Treasury.

Why is it not better to take the money out of the Treasury to guarantee that we will have a President who will be obligated to no one, who can exercise his power and authority freely and unfettered? That is all. That is all this is about.

Mr. HANSEN. In response to the question by the Senator from Rhode Island, let me say, Mr. President, that if the Republicans stay in office through 1972, which I think is a fairly good certainty, they will have had control of the White House 12 out of the last 40 years. The Democrats will have been in control for 28 years, which is twice as much as the Republicans. I think the record will show that for those same 40 years it has been preponderantly Democratic in both House and Senate. The distinguished Senator from Rhode Island says that this temporarily poses a solution. I could not agree with him more. I think probably the temporary expediency will have ended when the $9 million deficit is paid off. So I say that on the basis of the way we have been operating the country, it seems difficult for me to find a reason to believe that the Democratic Party which has been most of the time in the past 40 years the majority party, can logically contend that this sort of measure is required to assure a good man in the Presidency.

Mr. PASTORE. All right. If that is the Senator's conviction, I respect it.

Now I want to say one thing. I am perfectly willing to yield time for questions. I knew what the Senator from Arkansas (Mr. MCCLELLAN) was going to say when he spoke a few minutes ago. I want everyone to be heard for or against.

Mr. STEVENS. I want to ask the Senator from Rhode Island a question. Does the Senator interpret this amendment to be broad enough to permit the IRS to do just what you stated, to have three boxes—one for the Democrats, one for the Republicans, and one box for "Other" and then have them write it in?

Mr. PASTORE. One line on there might explain it and they can write in the name of the party. In fact, they could designate none of the parties and it would be for the general fund. That is something that could be worked out.

The crux of the problem is not how to do it, but whether we want to do it.

Mr. STEVENS. Mr. President, I tried to raise a question as to a minor party. Does the Senator provide when dealing with the eight parties of Governor Wallace that no matter what party they pick out, that all of the money for those parties would go to Wallace, no matter what they wrote in?

Mr. PASTORE. To qualify for the money they have to have for a majority party at least 20 percent of the vote in the last election. The minority party would have to have received 5 percent of the votes for the last election. The other parties would only qualify under the general revenue. If no money is in the general fund, they get nothing.

On the other hand, let us assume that a party is only entitled to $6 million and the people contribute $15 million to his campaign. The difference between $6 million and $15 million goes in the Treasury.

That is the formula, 15 cents times the number of people over age 18. This is the maximum. That is stated only for the Republican and Democratic Parties. That comes to about $20.4 million. That is the maximum anyone could get. He could get less if the money is not there.

Mr. STEVENS. The Senator from Maryland stated that the amount that went into the general fund would be divided according to the formula on the basis specified generally.

Mr. PASTORE. Allow me to give an example. Let us assume that the Republican candidate got 18 million votes and the Democratic candidate got 16 million votes. If there is a general fund, they could dip into that general fund, whereby the Republican candidate could be brought from $18 million to $20 million. The minute that happens, the Democrat has only $2 million, the amount that could go to the American Party candidate. He could only get $2 million, and no more.

Mr. STEVENS. If the minor party candidate, such as Governor Wallace, meets the qualifications and gets 40 percent of those taxpayers who specify him, how much does he get out of the general fund?

Mr. PASTORE. What he would be entitled to, which would be the vote he got in the last election as against the average vote for the two major parties.

If the two major parties together got 50 million votes, the average would be 25. So if he got 5 million, it would be one-fifth of the $20 million, which would be $4 million.

Mr. STEVENS. I can say to the Senator from Rhode Island that I would support the amendment if it did what he said it would. However, I cannot support it without further explanation. As I understand, the amendment of the Senator from Maryland has said that if 40 percent specify for Governor Wallace, he would get 40 percent of the fund created by the amendment.

Mr. MATHIAS. Mr. President, if the Senator from Rhode Island would yield, that is the case with respect to the major parties. However, with respect to the minor parties, their maximum amount is limited by the track record of these minor parties related to the track record of the major parties in the preceding election. The minor party may calculate its percentage of votes either on the basis of the preceding presidential election or the present one.

As the Senator from Rhode Island has

explained, there is an effective limit on the amount which the minor parties would get. If a so-called minor party polled 40 percent of the vote in the preceding election, let us say, it would be treated as a major party and thus be accorded as its maximum 15 cents times the number of residents.

There is a third category which I think we might call new parties. They also have an opportunity to participate if the new parties are registered in 10 or more States. I would like to make it clear that the 10 or more States would include the District of Columbia, which is treated as a State where appropriate in the code which we are now amending.

Mr. GURNEY. Mr. President, will the Senator from Maryland yield?

Mr. MATHIAS. I yield.

Mr. GURNEY. Mr. President, we are just starting out with this fund for the next presidential year to provide this fund in the law. So we do not have any fund built up. Let us suppose that the people do not designate this to a great extent on their tax forms.

Mr. MATHIAS. That will certainly be their option, if they do not want to do it.

Mr. GURNEY. Suppose they do not do it for either the Democrats or Republicans, and let us assume for the purpose of argument that 2 million Democrats elect to ask the Treasury Department to fund this and 2 million Republicans do likewise. Under the Senator's amendment plus the Pastore amendment, would this mean that the general appropriation process of the Government would fund this?

Mr. MATHIAS. No, absolutely not.

Mr. GURNEY. What happens to the campaign itself? Will the major parties then raise their own money?

Mr. MATHIAS. The candidates would then have the option, to either disregard this funding program entirely or take advantage of what moneys were in the fund and raise the balance.

Mr. GURNEY. There will not be any next year.

Mr. MATHIAS. A major party could raise the balance up to the maximum of $20.4 million by private contributions, but not beyond. If a party opted to have no involvement whatsoever, it could go on as in the past. But no moneys would be drawn from the Treasury beyond those designated by the taxpayers.

Mr. GURNEY. In subsequent years, if a substantial amount is built up, transfers could be made from the general fund to the specific fund.

Mr. MATHIAS. From the general fund to the specific fund only in the ratio in which designations had been made.

Mr. GURNEY. I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. PASTORE. Mr. President, I am going to accept the amendment. But I think that in fairness I should not use any more time. There may be opposition to the amendment. I would like to see the distinguished minority leader take all the time I have remaining.

How much time do I have remaining?

The PRESIDING OFFICER. The Senator from Rhode Island has 3 minutes remaining. The Senator from Maryland has 10 minutes remaining.

Mr. SCOTT. Mr. President, I thank the Senator from Rhode Island. I yield 1 minute to the Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized for 1 minute.

Mr. COTTON. Mr. President, I thank the minority leader.

I give credit to both the Senator from Rhode Island and the Senator from Maryland for seeking compromise and entering upon this in a spirit of compromise. But this is a surrender of principle. To give this simply makes an extremely dangerous proposition look extremely attractive. It is a foot-in-the-door approach.

I cannot vote for any measure that puts the U.S. Government in the business of collecting money for campaigns. Therefore, I must vote against the amendment. I think it is right that we meet this issue head on at 5 o'clock under the original proposition.

Mr. COOK. Mr. President, will the Senator yield?

Mr. SCOTT. Mr. President, I yield 1 minute to the Senator from Kentucky.

Mr. COOK. Mr. President, is this not really saying that we took the moneys out of the Federal tax dollars in the Treasury and are, in effect, appropriating and utilizing the appropriation system of the Government used for their tax resources?

Mr. COTTON. The Senator from Kentucky is absolutely correct. Not only are they using tax dollars which should go to the Treasury, but they are also using Government machinery to collect it and disburse it, which is the same under the proposed amendment as under the original—not quite as much, but it is still a Government operation in the area of political parties.

Mr. SCOTT. Mr. President, this side of the aisle, up to now, has been virginal and we are about to become a little pregnant, and I do not like it. I have to vote against this amendment. The whole idea is not to get your hand in the till at all. I am going to vote against the amendment, and if the bill contains the Pastore amendment, I will vote against the bill. Later, I will have more to say on this subject.

I heard the Senator from Rhode Island deplore the acceptance of money from large contributors. I wonder how he will raise the deficit without accepting money from some of those large contributors.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MATHIAS. Mr. President, I am glad to yield 2 minutes to the Senator from Pennsylvania.

Mr. SCOTT. I yield to the Senator from Kansas first.

Mr. DOLE. Mr. President, the Senator mentioned large contributors. The Senator from Nevada mentioned large contributors to the Republican Party. At that time I said this bill does not go to the heart of the matter and does not involve primaries. For example, a former member of this body, Senator McCarthy, was in a primary in 1968. He received $210,000 from Stewart Mott, $100,000 from Mr. and Mrs. Jack Dreyfus, $100,000 from Ellsworth Carrington, $100,000 from Mr. and Mrs. Martin Peretz, and $100,000 from Alan Miller. This was in a primary. It indicates this bill does not solve the problem of the "fat cats." It is really a "fat cat" bill, even as "pasteurized," and the Pastore amendment has become a "fat cat" amendment because it would free all these people to accept money for the primary.

Mr. GURNEY. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. CRANSTON. Mr. President, this fine amendment, and the Pastore amendment it will strengthen, constitute one of the most fundamental reforms of American politics and Government in modern times.

And they open the way to even more significant reforms.

These reforms will affect—constructively—the handling of all issues, yes, each and all of them through the processes of our democracy.

When Abraham Lincoln ran for Congress in 1846, his supporters contributed $200. He won and gave back $199.25.

When I first ran for the Senate in 1964, my campaign cost more than a $1 million. I wound up with a deficit of more than $300,000.

Long before then, and more ardently since, I have advocated reform of campaign financing.

I ask unanimous consent to include at the end of these remarks an article I wrote for Fortune magazine in November 1964, describing my experience, and the general problem, and proposing some solutions.

I am delighted that we are now moving in these directions, and I pay tribute in particular, with profound admiration, for the leadership Senator Pastore and Senator Long have provided in this vitally important struggle.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From Fortune magazine, November 1964]

A Million-Dollar Loser Looks at Campaigning

(By Alan Cranston)

(Note.—Twice elected controller of the state of California, Alan Cranston, fifty, built carefully toward the Democratic nomination for U.S. Senator this year—only to lose it by 139,769 votes before the last-minute invasion of Pierre Salinger, President Kennedy's White House press secretary. His current term as controller runs until 1966 and he has by no means forsworn future campaigning. A Stanford University graduate ('36), Cranston worked for seven years as a foreign correspondent and in the Office of War Information in World War II. Since then he has prospered in real estate and property management.)

When Abraham Lincoln ran for Congress in 1846, his supporters raised $200 for his campaign.

He won—and gave back $199.25, saying, "I did not need the money. I made the canvas on my own horse; my entertainment, being at the houses of friends, cost me nothing; and my only outlay was 75 cents for a barrel of cider, which some farmhands insisted I should treat to."

I ran in the United States Senate primary this year in California, and my supporters spent approximately $1 million on my candidacy.

I lost—and wound up with a $332,000 deficit, which is now being met with the help of many who supported me.

The vast sums now poured into campaigns for public office in the U.S. pose deep and fundamental questions about the functioning of our democracy.

How much does money determine the nature and the outcome of the choice presented to the voters on election day?

How much does money influence the actions of the winner after he takes office?

Is the role money plays in American politics adequately understood? Are reforms needed?

At least $100 million will be spent annually on campaigns in the years immediately ahead, and twice that sum every four years when there are presidential elections. That is the estimate made by Alexander Herald in his monumental book on campaign finance, *The Costs of Democracy*.

My own experiences in three campaigns can perhaps point to some answers to the questions these sums provoke. They also can help focus attention on the problem.

Little of the money spent in my Senate race was my own. Few but Kennedys and Rockefellers can dip into personal fortunes to ensure that the funds deemed necessary for a campaign are available when needed.

The expenditures reported by my campaign committees totaled $823,307, and that accurately represents the amount spent under direct control of my campaign. But I estimate that individuals and groups spent enough more on my behalf—in projects helpful both to me and to congressional and legislative candidates teamed up with me in one way or another—to approximate a total expenditure of $1 million. For example, a mailing sent to most of California's four million plus registered Democrats by the volunteer California Democratic Council on behalf of its endorsed candidates—including me—cost $100,000. This expense was not incurred by my campaign, and hence was not reported by it. Under present laws, the council was not required to report the expenditure either, and didn't.

The expenses reported for the man who beat me in the Democratic primary and now sits in the Senate—former White House Press Secretary Pierre Salinger—were considerably less than mine: $481,000. But a mailing that helped him, and other indirect expenditures and activities on his behalf, probably lifted the total cost of the primary campaign waged for him close to the $1-million mark, too. The fact is that present laws simply do not require, and do not cause, a full disclosure of all that is really spent in a campaign. But with twelve men running in the Democratic primary the direct and indirect expenditures involved must have lifted the total cost of selecting one party's nominee to something more than $2 million.

This seems to me to be much too much money. Yet in an intensively competitive situation to spend much less than Salinger and I each did to reach the voters in a state like California would be to face almost certain defeat.

IMAGE TROUBLE

To raise the necessary funds, a candidate must start with significant support within his party, or from the public—and preferably both. To do so he must, among other attributes, possess a name that will be readily recognized by at least some of the voters.

A very great deal of campaign money is spent to make the candidate's name ever more widely known. Most political experts believe that something they call "name recognition" is the decisive factor in a great many elections. A significant number of voters apparently place their X beside the first name they recognize on the ballot.

I have been distressed by the fact that a great part of the money spent in my own and most other campaigns is spent not to communicate the candidate's ideas and convictions, not to create an impression of what the candidate really is, but to create an image of what his managers think the voters would like him to be. The candidate is alienated from himself, in a political application of the fundamental affliction of modern man described by Erich Fromm. He is transformed into a commodity, in the way best calculated to bring him the maximum profit (votes) obtainable under existing market (campaign) conditions.

Probably the limitations of the available media more or less make it mandatory that this should be the nature of a campaign. Personal appearances, speeches, handshaking—these reach only a small portion of the voters in a race with a constituency running into millions. Even Estes Kefauver shook hands with a few thousand voters for the actual purposes of seeming to shake hands with almost everybody.

Billboards play a key part in major campaigns in California; we spent $95,957 on outdoor advertising in my Senate race. The trouble with billboards is that you really can't say anything of substance on them. They always feature the name and often a picture of the candidate and sometimes they bear a slogan. But if you put more than seven or eight words on a billboard, they become a mere blur to motoring voters passing at sixty or seventy miles an hour. Anyone who tries to read your billboard carefully will crack up in the process—and won't vote anyway. You can express a campaign theme by splashing a word like "integrity" or "experience" on a billboard—but you can't debate an issue.

Television, now generally deemed to be the major medium for effective campaigning, presents the same difficulties. A long program featuring the candidate, competing as it must with the entertainment to be seen on other channels, is believed to hold the attention for the most part only of those voters already convinced. Salinger and I engaged in an hour-long TV debate—but I suspect the audience was composed largely of our respective partisans.

To catch the attention of the vast TV audience that is seeking entertainment, I was driven in my campaign, and Salinger was driven in his, to the brief spot announcements inserted between big shows. My campaign spent $250,000, more than 25 percent of our budget, on TV and radio (which presents all the same problems). Almost all of it was for spot commercials and the costs were fantastic. To show a ten-second spot one time on a top Los Angeles station at prime time cost $800 (and potentially could be seen by 74 percent of California's voters). If it was shown again the next night, another $800 was required.

The great virtue of a ten-second spot is that it goes so fast that the person who has been watching Ed Sullivan and now wants to see *Bonanza* can't switch channels before you've had your say. But you can't say much. First of all, you don't really have ten seconds. There must be a second of silence at the beginning and another at the end, so that your spot doesn't blur with what precedes and what follows it. The silence is deducted from your ten seconds—but you pay for it.

You aren't left with a net of eight seconds—because more time must be consumed in complying with the requirement that the spot be clearly labeled as a "paid political announcement." All in all, you are allowed about six seconds to set forth your qualifications, your background, and why you would do better in office than your opponent. As in billboards, you are reduced to name, face, and "integrity" or "experience." If you want to assert a claim to both "integrity" *and* "experience," you had better invest in a twenty-second spot—but then the viewer will have more time to tune you out.

Press advertising presents a somewhat better opportunity to come to grips with an issue or two. The limitations aren't so severe. But, insist your advertising experts, the more words, the less readership.

Statements and actions by the candidate or his supporters that make the newspapers and TV and radio newscasts provide the best means of transmitting your actual thoughts to the voters—and (usually) there is no charge for the time and space. But here again a fundamental problem arises. The more controversial the word or deed, the more time and space it will receive—and, most campaign managers will assert, the more controversial it is, the more votes it will lose. We invested $204,029 in mailings and literature in my campaign. The 5-cent stamp is bank breaking, but if you don't go first class your literature is all too apt to land unopened in the wastebasket. Mailings allow you to choose your audience and therefore allow you a bit more latitude on issues. You can express your views on a delicate issue to those you expect to approve your stand. But, again, brevity is the rule.

All in all, most of what we spent in my primary was spent in ways that allowed me a minimum of opportunity to grapple with vital issues. To me, this makes the high cost of campaigning doubly disturbing. And under these circumstances the difficulties involved in raising the money are even more distressing.

RAISING THE MONEY

There are many citizens who give large sums to a campaign simply for the sake of good government. They are motivated by faith in the candidate and his principles or in the party whose banners he carries.

But those who give for these reasons are, I fear, quite outnumbered by those who contribute for other reasons—ranging from those who are willing to give only in return for a candidate's promise to vote or perform in public office in a certain way, to those who merely expect "access."

The political definition of "access" covers a broad spectrum. To some contributors it means simply being able to drop into his office whenever they wish, perhaps with friends, for an informal visit. Others want to be able to present their side to the officeholder before he acts on a matter of interest to them. This is the least a contributor interested in something more than the general welfare expects in return for a contribution—and it should be the most.

Job seekers and job holders were the principal sources of campaign funds in the last century, but the advent of civil service has greatly reduced the significance of this source. A large percentage of appointees to diplomatic posts under both Democratic and Republican Presidents are still found on lists of contributors, however, and so are many other people employed in government—both civil and non-civil servants. As state controller, I make a number of appointments, and contributions to my campaign by my appointees was one of the issues in my race with Salinger. Neither of us believes that it was a decisive issue.

A moral question will arise in the minds of many candidates every time a large contribution is proffered: "If I accept it, how obligated will I be?"

One hard-bitten answer often voiced among professional politicians in Sacramento, our state capital, runs like this, "If you can't take the lobbyists' money, eat their food, drink their booze, and vote against them—you don't belong here."

I know candidates and officeholders who refuse to accept a contribution even though no request accompanies the offered money, if they know in their own hearts they will vote against the wishes of the would-be contributor when the time comes. But it is obvious to any observer of the political scene that there are other candidates and officeholders who become captives of their contributors, and render full and faithful service to one special interest or another.

"Even if all contributions were unselfish and made solely for the general good," remarked a Los Angeles political leader, John Anson Ford, "the arrangement is undemocratic and inevitably gives the candidate a sense of obligation to his benefactors that differs from his sense of duty to all other contributors."

DECLINE THE CASH

Many contributors, incidentally, like to hand their contribution directly to the candidate—so that he will be fully aware of their support. A careful candidate will usually accept checks, but he will decline cash unless witnesses are present when the contribution is made—to avoid any danger of subsequent charges that he pocketed the contribution for his personal use. Most contributions are gathered by members of the candidate's finance committee, and often the candidate doesn't hear about them until the money has been received and spent. The contributor may seek to negotiate an understanding regarding a quid pro quo with the campaign representative who receives the contribution. In my three campaigns—two winning ones for controller and the losing one for the Senate—I have warned my fund raisers that I will not stand by any commitment made by them in return for a contribution, and I have sought to make it as widely known as possible that this was my position.

There are various federal and state laws seeking to control who can contribute, and the size of contributions. Congress outlawed contributions to campaigns for federal offices by corporations in 1907 and by labor unions in 1943. There are no restrictions on corporations officers making contributions from salaries and bonuses, however, and unions can raise funds for contributions through voluntary drives. The Hatch Act ostensibly limits to $5,000 the amount an individual can contribute to any candidate or committee in a race for federal office. There is no law limiting the size of contributions in a state race in California, but in my two campaigns for controller I arbitrarily set a ceiling at the level set for federal contests in the Hatch Act.

The fact is, however, that ceilings on contributions rarely work effectively and are not the whole answer. So long as contributions of any significant size are permitted, it seems almost impossible to prevent contributors from finding perfectly legal means of pumping all the money they want into campaigns.

At present contributions can be made with little if any public knowledge about them. Full publicity on contributions would tend to lessen the amount one contributor would want to give, and the amount a candidate would want to receive, from one source. It is felt, however, in France, Sweden, and elsewhere that it is a violation of one's civil liberties to divulge anything at all about a citizen's campaign contributions—that you might as well watch a man marking his ballot as require a revelation of his campaign giving. Most nations, according to Alexander Heard, do not seek disclosure of political finances, and I know quite a few Americans who feel that there should be no public knowledge here of private contributions. One who feels otherwise commented to me, "The opportunity to make big contributions is a civil liberty possessed by a relatively small percent of the population."

PERIL IN LONELY STEPS

Some candidates will establish their own code of contribution ethics and some will not, and all too often the candidate who does will place himself in a position of disadvantage of competing with a candidate who does not. There are quite a few steps which I think all candidates should take, but which, frankly, I am not eager to take all by myself. I believe, for example, that a full disclosure of the precise amount received from each contributor should be released periodically during and after a campaign, but neither California nor federal law requires this. If I did and my opponents didn't, I would be voluntarily handing them a strategic advantage.

After each of my three campaigns I proceeded, in accordance with law, to file a report listing all contributors and the total amount received. But no listing of the individual amounts given by each contributor was required by law, and therefore they were not itemized. The man who gave only a dollar was lumped with the man who gave $1,000. Hence the reports revealed little concerning my financial backers. Each of my opponents has followed the same general practice.

Too many decisions regarding campaign financing are left to the desires of contributors and to the discretion of candidates.

The public should play a far greater part in the making of these decisions. For it is obvious that money all too often plays far too great a part in determining who can become a party nominee, who can win a general election, and how the winner will perform in public office.

Today campaign money comes from a very small portion of the American public. Less than 5 percent of the people make political contributions. It is estimated by one authority on government that 90 percent of campaign funds are contributed by about 1 percent of the people.

THE PRICELESS SMALL CONTRIBUTION

Far-reaching reforms are necessary to restrict the role of money in politics, in my opinion. I have no fixed views as to the wisest solution, and hence I suggest two quite different approaches. They may seem contradictory since one would eliminate present limits on contributions, while the other would impose far stricter limits than presently exist. But a move in one direction or the other would, I think, do much to improve the situation.

Approach No. 1 would be to remove all limitations and ceilings on contributions—but to do everything practical to ensure the fullest possible disclosure of all contributions given and received, both during and after campaigns.

Effective implementation of this approach—which would, I think, place voluntary restraints on too lavish giving—would involve many steps, including the following:

1. A requirement that the original source of gifts given to a second party (or even a third party) for purposes of transmitting a campaign contribution be reported.

2. A requirement that all committees engaged in campaign activities report their receipts and expenditures.

3. The establishment of a procedure requiring full auditing of campaign-finance reports (a suggestion made by former President Herbert Hoover).

4. Barring from office of anyone convicted of violating campaign-finance laws.

Many other steps, while not necessary to implement this approach, would be nonetheless helpful—such as requiring annual personal financial statements by holders of major elective offices. (President Johnson, Senators Humphrey and Goldwater, and Congressman Miller voluntarily issued personal financial statements this fall, and a few members of the House and Senate have commenced doing so annually.)

Approach No. 2 would be to impose severe and exceedingly low limits and ceilings on contributions—but to provide funds for legitimate candidates of legitimate parties from public sources.

Variations of this system of government subsidies of campaigns, whereby every citizen shares in the fundamental cost of democracy, are presently followed in a few other nations. This approach was first prominently urged in this country by Theodore Roosevelt, and more recently by Harry Truman.

The objective would be to limit a candidate, under conditions of strict accountability, to a bare minimum of personal expenditures from his own resources or from funds received from others—perhaps allowing not more than $500 or $1,000 to be expended from private sources. The government would provide equal sums to all candidates for campaign expenses needed to reach the voters—thereby providing each candidate with equal access to the voters through mass media and otherwise.

But there are obvious and real dangers in this approach. How would a new political party get started? How would an independent candidate acquire status? What safeguards would prevent serious abuse by the party in power? Maybe these matters can be worked out but it will take far more study and more thought than have so far been given to the subject.

Perhaps a combination of what I have called Approach No. 1 and No. 2 might provide a more easily attainable solution to the problems posed by the use of money in politics. An acceptable compromise might be to allow wholly unrestricted contributions, but to require them to be fully disclosed—and to supplement them with funds from government sources. This procedure would reduce the dependency of candidates upon purely private sources or purely government sources.

BUSINESS LEADERS CAN HELP

I recognize that sweeping reforms will not easily be achieved. There is one significant step, however, that any citizen can take now, without waiting for sweeping changes in the law, and it is one that America's business leaders can help foster.

The step is a simple one. It is for each citizen to make a small contribution to the candidate or party of his choice, and to do everything conceivable to encourage the giving of as many small political contributions from as many other citizens as possible. A Gallup poll showed a few years ago that 35 percent of Americans would be glad to give contributions of $5 in each election. Every citizen who actually does so will contribute not only to the prospect of victory for his favorite candidate or party, but to the well-being of our form of government.

A Californian, Dan Kimball, chairman of Aerojet-General Corp. and former Secretary of the Navy, has pioneered a program in his company designed to encourage this sort of contributing. Volunteer solicitors form Democratic and Republican committees and pick up contributions from approximately 75 percent of the corporation's employees—divided about equally between the two parties.

Other companies, encouraged by the U.S. Chamber of Commerce, have developed similar programs. Both the Democratic and Republican parties have attempted national neighborhood drives to broaden the base of campaign support through solicitation of small contributions—with only moderate success. More help is needed to make such drives work.

If each community in America would launch an annual drive for political contributions, with the backing presently given to charitable, educational, and religious causes, much could be achieved.

Contributions of this sort, coming into campaigns with absolutely no strings attached, constitute what is known in political parlance as "free money."

A growing stream of "free money" available to Americans seeking public office could only serve to strengthen our free institutions.

Mr. MATHIAS. Mr. President, I yield to the Senator from New York.

Mr. BUCKLEY. Mr. President, I wish to ask one or two questions.

As I understand it, if 50 million taxpayers designate the Republican Party the limit nevertheless would be $20.4 million.

Mr. MATHIAS. For the forthcoming election, based on the amendment in the bill, yes.

Mr. BUCKLEY. I also understand if 50 million people designated Governor Wallace, $6 million still would be the amount he would be entitled to.

Mr. MATHIAS. That would depend upon the number of votes he received in the prior or current presidential election. As stated before, if he received 25 percent or more of the votes, he would be considered a major party and thus would be entitled up to $20.4 million. If he received less than the 25 percent in either of the two elections, you calculate his maximum amount allowable by dividing the average percentage of the major parties into that percentage received by the minor party and multiplying this by this maximum amount of 20.4 million.

Mr. BUCKLEY. Let us assume the Republican Party has a designation of 25 million taxpayers, the Democratic Party 15 million taxpayers, and in the undesignated party, there are 10 million. How will the undesignated portion be utilized?

Mr. MATHIAS. When one party hits the finish line all players stop in place. No further money would be drawn after one party reaches the maximum.

Mr. BUCKLEY. In effect, the Mathias amendment gives a certain amount of choice to the individual designating taxpayer, but it is limited in accordance with what we describe.

Mr. MATHIAS. The Senator is correct. There are certain ground rules laid down so that the choice is there but the rules of the game are clearly spelled out.

Mr. BUCKLEY. I would like to suggest that what this amendment to the amendment would accomplish is more cosmetic than anything else. It gives some flexibility but the fact is tax money is being diverted from normal uses for political purposes, and it is not a question of a taxpayer using his own money. Let us assume that I and others do not check.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. MATHIAS. I yield 30 seconds to the Senator from New York.

Mr. BUCKLEY. The fact that necessary Government projects will not be paid for by tax revenues is increasing my tax burden, so, therefore, while this cures the basic defect, it helps but enough to warrant voting for the bill.

Mr. CASE. Mr. President, will the Senator yield?

Mr. MATHIAS. I yield 1 minute.

Mr. CASE. I have a couple of questions.

Does not the Senator's amendment make the checkoff the same in principle as the first part, in effect, a credit against tax?

Mr. MATHIAS. The net effect to the Treasury is exactly as title IX.

Mr. CASE. If a person pays a tax of $1 or more, he can indicate $1 go to the party of his choice. Is that it?

Mr. MATHIAS. That is correct. I think it is an excellent point because title IX has been very broadly embraced and supported.

Mr. CASE. Is it not identical with the exception of circumstances I will mention? Is it not identical to the situation in which the man himself sends a check for $1 to his party and deducts it under the first part of the amendment?

Mr. MATHIAS. That is correct.

Mr. CASE. All that is being done is the use of Government machinery for the collection and transmission, pursuant to specific directions of the taxpayer, and each individual taxpayer giving his own dollar.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. MATHIAS. I yield.

Mr. STEVENS. Is there any way under the amendment a party's candidate could be eligible for more money than he would have been under section 1004 (a) and (b) of the bill?

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. MATHIAS. I yield myself the remainder of our time.

Mr. STEVENS. Is there any way under the Senator's amendment a candidate of any party could be eligible for more money than he would have been eligible for under section 1004 (a) or (b) of the original Pastore amendment?

Mr. MATHIAS. No, there is not. The answer is no. The limit is the same—$20.4 million for major parties. And the same formula as in the Pastore amendment is retained to arrive at the maximum a minor party can receive. It is the same formula throughout.

Mr. STEVENS. I understand he could not get more.

Mr. MATHIAS. That is correct.

I would say it could only get more for minor parties if succeeding elections build up a larger base of support. The American people would be the judge of that.

Mr. COOPER. Mr. President, will the Senator yield?

Mr. MATHIAS. I yield.

Mr. COOPER. The original amendment provided for the Democratic Party and the Republican Party, and the party of Governor Wallace, would this amendment provide funds for any other parties, for example, a fourth party?

Mr. MATHIAS. If a new party such as that headed by former Senator McCarthy would be qualified to be on the ballot in 10 States, including the District of Columbia, it would then be entitled to some participation in this fund.

But let me point out that it is the candidate of the party and not the party itself.

Mr. COOPER. Would every candidate to whom a taxpayer contributed actually receive the contribution or would only certain candidates receive funds?

Mr. MATHIAS. No. The candidates of the party designated by the taxpayer—as long as the party is qualified in 10 or more States, or in the case of established parties, if they got more than 5 percent of the vote in the last election.

Mr. COOPER. I do not wish to take more of the Senator's time.

Mr. MATHIAS. I understand the Senator's position. I think it is well taken.

We have tried to construct this amendment so as not to stifle new political initiative and so as not to maintain the stereotype of political parties. For instance, the Whigs flourished and then passed on. There is no way to say that existing parties might not some day pass on. We cannot create monuments to their preservation and we do not intend to do that. I am impressed with what the Senator from New Hampshire said earlier. As a matter of principle he feels he cannot support this amendment because it deals with the subject matter to which he is totally opposed. I can only say to the Senator that all of us might feel that way but the handwriting on the wall is clear and we had better make this bill as good as it can be. This is not a compromise with evil. This is facing the facts, and there is no use trying to get on after the train has left the station. I hope the amendment will be supported.

The PRESIDING OFFICER. All time on the amendment has expired. The question is on agreeing to the amendment of the Senator from Maryland. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The result was announced—yeas 72, nays 27, as follows:

[No. 380 Leg.]

YEAS—72

Aiken
Allen
Allott
Anderson
Bayh
Bentsen
Bible
Boggs
Brock
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Case
Chiles
Church
Cranston
Dominick
Eagleton
Ellender
Ervin
Fulbright
Gambrell
Gravel
Harris
Hart
Hartke
Hollings
Hruska
Hughes
Humphrey
Inouye
Jackson
Javits
Jordan, N.C.
Kennedy
Long
Magnuson
Mansfield
Mathias
McGee
McGovern
McIntyre
Metcalf
Miller
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Saxbe
Smith
Sparkman
Spong
Stafford
Stevens
Stevenson
Symington
Taft
Talmadge
Tunney
Williams
Young

NAYS—27

Baker
Beall
Bellmon
Bennett
Brooke
Buckley
Cook
Cooper
Cotton
Curtis
Dole
Eastland
Fannin
Fong
Goldwater
Griffin
Gurney
Hansen
Hatfield
Jordan, Idaho
McClellan
Schweiker
Scott
Stennis
Thurmond
Tower
Weicker

NOT VOTING—1

Mundt

So Mr. MATHIAS' amendment was agreed to.

Mr. MATHIAS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PASTORE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

Mr. SCOTT. Does the Senator from Iowa have an amendment?

Mr. MILLER. Yes.

Mr. SCOTT. We have only 15 minutes. Can the Senator tell us how long he wants to take? There is a point of order pending.

Mr. MILLER. This might take 3 or 4 minutes, depending on our colleague from Rhode Island.

Mr. SCOTT. Very well.

AMENDMENT NO. 739

Mr. MILLER. Mr. President, I call up my amendment No. 739, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. MILLER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 26, line 4, insert "individual or" after the word "any".

On page 26, line 18, after the word "violation", insert the following: "and any other individual who knowingly and willfully violates paragraph (1)".

Mr. MILLER. Mr. President, if I may have the attention of the Senate, and particulary of the Senator from Rhode Island, I can explain this amendment very briefly.

If Senators will refer to page 26 of the Pastore amendment, they will find what I think is a loophole in the amendment. I do not believe that the loophole was intended, and do not think it should remain there.

There is a penalty provided, in subparagraph (f)(1), in the case of any political committee which undertakes knowingly and willfully to incur expenditures to further the election of a President or Vice President; and the reason it is made a penalty is because that presidential or vice presidential candidate is supposed to obtain his financing out of this campaign fund we have been voting on.

The Senator from Rhode Island, in an earlier colloquy, stated that that presidential or vice presidential candidate is going to have to make up his mind; if he wants to get his financing out of the fund, then he cannot get a nickel anywhere else, and to that I subscribe. But the loophole is that we do not cover individuals, and so without my amendment, which provides that this language be changed to read "It shall be unlawful for any individual or political committee" to do this, you could have an individual throwing his $100,000 into a campaign kitty for President or Vice President, and we have no penalty to cover it and no prohibition against it.

So I would hope, in view of that, that the Senator from Rhode Island would recognize that we do have a loophole which I am trying to plug here.

Mr. PASTORE. Mr. President, if the Senator will yield, I do not recognize the fact that we have a loophole, and I do not subscribe completely to the argument made, but I will say this: The Senator's suggestion is a refinement, and it is acceptable.

Mr. MILLER. I thank my colleague from Rhode Island.

Mr. President, I yield back the remainder of my time, and I move the adoption of my amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Iowa (Mr. MILLER).

The amendment was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SCOTT. Mr. President, I yield first to the Senator from Kansas, who I believe has a point of order to make, such time as he may require.

Would the Senator from Kansas permit me to yield to the Senator from Kentucky first for 2 minutes, and then to the Senator from Kansas?

Mr. DOLE. Yes.

Mr. COOK. I thank the Senator.

I should like the attention of the Senator from Rhode Island. Now that the Senator from Iowa has solved the problem, I have an amendment at the desk that I would like the Senator from Rhode Island to listen to. I call up the amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 26, line 13, put a period after expenses, and strike the remainder of line 13 and line 14.

Mr. COOK. What I am asking to be stricken are the words "in an aggregate amount exceeding $1,000."

The Senator realizes that what could be done is to have a situation where there could be a multitude of $1,000 units all over the place. It seems to me that with the refinement that was made by the Senator from Iowa, this really refines this section to the extent that I think this is another loophole that would be filled, and I think it would make it much better and a much better refinement.

Mr. PASTORE. I say to my good friend, the Senator from Kentucky, that this indeed bothered me a little. The only reason why I accepted it in the bill as originally drafted when I offered the amendment was the fact that this was what was contained in the previous bill passed by the Senate 5 years ago. I think this is a further refinement, and I am willing to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment. Do the Senators from Kentucky and Rhode Island yield back their time?

Mr. COOK. Yes.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. PASTORE. I yield.

Mr. MAGNUSON. I want to ask the Senator from Rhode Island a question that has been bothering me throughout this debate. This may not be a loophole. Suppose a group of people wanted to get together and support Mr. A for President, and they are going to devote their time to go out and do what they can for him. They may hire a hall for a mass meeting. Would that be in violation?

Mr. PASTORE. Does the Senator mean if they acted on their own?

Mr. MAGNUSON. They would get together. I suppose it would be difficult to act on their own. Perhaps they would have a meeting place where they rent a hall, and they would spread out on election day to go to the polls to support Mr. A. There would be no money raised except their own expenses, which would amount to nothing, comparatively.

Mr. PASTORE. That raises a very sensitive area. We struggled with that on the campaign expenditures limitations. The Senator is talking about individuals who, absolutely independent of the candidate, on their own, made some effort?

Mr. MAGNUSON. Yes.

Mr. COOK. Mr. President, will the Senator yield so that we can get my amendment agreed to? I ask for the adoption of the amendment.

The PRESIDING OFFICER. Do the Senators yield back their time?

Mr. MAGNUSON. May I get an answer? I think many people are concerned about it.

Mr. SCOTT. Mr. President, I hope we can get a quick answer, because I have a motion to make, and I do not want to be denied the opportunity of yielding so that the motion can be made before 5 o'clock.

Mr. PASTORE. To answer the Senator, we do nothing to impinge upon freedom of speech and freedom of activity. So long as the candidate knows nothing about it and there is no subterfuge about it, the people are entitled to act as they will.

The PRESIDING OFFICER. The time on this amendment runs until 5 o'clock, unless it is yielded back.

Mr. SCOTT. Mr. President—

Mr. LONG. Mr. President, will the Senator yield to me?

Mr. PASTORE. I yield. I have the time on this amendment. The Senator brought up the amendment. He was allowed to do so.

Mr. LONG. Mr. President, I would hope this amendment would not be agreed to, because I am ready to believe that there is going to be a constitutional challenge here. When you get it down to where nobody can do anything, even on an individual basis, and he is not permitted to do anything at all, that might raise a constitutional issue of freedom of speech. We have felt that a reasonable limitation on what someone could do could be something that costs us a thousand dollars. But when you get it down to where they can do nothing, cannot even put a sign up in their front yard saying, "I am for Candidate John Smith"—it is a customary thing in my hometown, where they put up signs in their front yards.

Mr. PASTORE. The Senator does not mind the word "individual." He is opposed to the limitation.

Mr. LONG. I am talking about getting it down to where you cannot do anything. Now it is said that he cannot do anything. It may very well invite a constitutional attack on the bill.

The PRESIDING OFFICER. Who yields time?

Mr. COOK. Mr. President, is my amendment still the pending business?

The PRESIDING OFFICER. The Senator from Kentucky has 3 minutes remaining.

Mr. COOK. I ask for the adoption of my amendment and yield back the remainder of my time.

Mr. SCOTT. Before the Senator yields back the remainder of his time, Mr. President, I have a parliamentary inquiry. Would I then be recognized for the remaining 3 minutes if I am now seeking recognition?

The PRESIDING OFFICER. If 3 minutes are available.

Mr. MANSFIELD. Of course he would, if he gets the floor and the Chair recognizes him.

Mr. SCOTT. I am seeking recognition.

The PRESIDING OFFICER. The question is on agreeing to the amendment. Is all time yielded back?

Mr. PASTORE. I yield back the remainder of my time.

Mr. COOK. I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back. The question is on agreeing to the amendment of the Senator from Kentucky.

Mr. LONG. I ask for the yeas and nays, Mr. President.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kentucky. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The result was announced—yeas 40, nays 59, as follows:

[No. 381 Leg.]

YEAS—40

Allott
Baker
Beall
Bellmon
Bennett
Boggs
Brock
Brooke
Buckley
Case
Cook
Cooper
Cotton
Curtis
Dole
Dominick
Fannin
Goldwater
Griffin
Gurney
Hansen
Hruska
Javits
Jordan, Idaho
Mathias
Miller
Packwood
Pearson
Percy
Roth
Saxbe
Schweiker
Scott
Smith
Stevens
Taft
Thurmond
Tower
Weicker
Young

NAYS—59

Aiken
Allen
Anderson
Bayh
Bentsen
Bible
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Chiles
Church
Cranston
Eagleton
Eastland
Ellender
Ervin
Fong
Fulbright
Gambrell
Gravel
Harris
Hart
Hartke
Hatfield
Hollings
Hughes
Humphrey
Inouye
Jackson
Jordan, N.C.
Kennedy
Long
Magnuson
Mansfield
McClellan
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Moss
Muskie
Nelson
Pastore
Pell
Proxmire
Randolph
Ribicoff
Sparkman
Spong
Stafford
Stennis
Stevenson
Symington
Talmadge
Tunney
Williams

NOT VOTING—1

Mundt

So Mr. COOK's amendment was rejected.

Mr. PASTORE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr BYRD of West Virginia. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BENNETT. Mr. President, I find it necessary to vote against the Pastore amendment to H.R. 10947. The reasons for opposing this legislation are many and I shall not take the time to list each one in detail. I would, however, like to list some of the factors which cause me to oppose it and at the end of my remarks to list some editorial opinion from one of the leading newspapers in my State regarding this amendment.

I question whether the Federal Treasury and the U.S. taxpayer should be called upon to bail out the Democratic Party from its present financial problems. It is in debt from the last election and it faces 1972 with financial problems. Every presidential election in the history of America has been waged in the free market of campaign contributions and, while I remain committed to reform in this area, I am opposed to an amendment which, because of its timing, boils down to a special interest amendment benefiting in the final analysis only one of the major political parties. I do not believe the American taxpayer will look upon that as fair. I also question if such an amendment should be offered at a time when every serious Democratic presidential candidate is a Member of the U.S. Senate. Therefore, this legislation casts some doubts as to whether certain candidates are hopefully voting a windfall to themselves.

A third factor is the impact that it will have upon splinter parties. Certainly it will insure the candidacy of Gov. George Wallace. He should be no more entitled to receive his campaign funds from the Federal Treasury than the Democratic candidates or Mr. Nixon. If Mr. Wallace is privileged to seek the Presidency of the United States, he should be required to seek financial backing from those who believe in his causes.

Another factor is the sheer mechanics of making this effective for 1972. This legislation comes too late to send the proper tax forms to the American people and, thus, it will incur additional expenses to the Treasury to send out supplemental forms. If added to the Senate bill, we will have denied to the House of Representatives the right to debate and vote first on such a major issue. Furthermore, we have denied to the American people and to the press sufficient time to scrutinize it, to expose its many glaring weaknesses, inconsistencies, and special interest aspects.

I ask unanimous consent that two editorials published in the Salt Lake Tribune on November 14 and November 18 in opposition to this amendment be printed in the RECORD. The editorials strongly point out that the tax bill should not have a rider of this magnitude and that campaign spending reform legislation is so vital that it should not be done in this way. I commend the Tribune for taking this position. I endorse their call for additional time.

Finally, Mr. President, we are attempting with the original tax bill to correct problems in the American economy which have been caused in large measure by our readjustments as a result of the Vietnam war. We are going through a critical time in international trade and international finance, and I oppose adding this very political amendment to this legislation which is so vital to the economic situation in America today.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

KEEP RIDERS OFF TAX BILL

Hardly anyone disputes the need to limit campaign spending, to keep it within the bounds of reason and good government. But recognizing the problem and agreeing on a solution are vastly different matters.

Campaign spending is such a vital part of the political process that any attempt to control it is an attempt to meddle with basic and hallowed tenets.

This being the case it is extremely dangerous to attempt to alter the present, albeit imperfect, system without full debate on proposed changes separate and apart from any other pending legislation. Campaign spending is so complicated a subject and so crucial a part of the American political process that it must not be tinkered with unless full attention can be devoted to the subject.

Democrats in the Senate are considering attaching a campaign spending limitation measure to the pending tax bill. The proposal being readied as a tax bill amendment would permit each taxpayer to indicate on his income tax return whether he wanted $1 of his taxes to go into a campaign fund which would be divided evenly between the two major parties in 1972. It is estimated that $20 million for each party could be raised in this fashion. The idea is not new, having been advanced five years ago by Finance Committee Chairman Russell B. Long, D-La.

Since Democrats are urgently in need of campaign funds for the forthcoming presidential race while Republicans are well supplied with cash, the amendment would be of great help to Democrats. For that reason alone the amendment faces a party line fight which could bog the tax bill down for days. It is not the fate of the tax bill that is at stake. But if the amendment is adopted President Nixon would be almost powerless to veto it because to do so would mean killing the tax bill, a measure loaded with tax reductions for business and individuals. The bill also is a weapon in the administration's battle against economic recession.

The proposed campaign financing amendment is not without merit. But neither is it without faults which full debate and critical presidential review might remedy. It is unlikely to get either as part of a veto-proof tax bill. Senate Democrats should bring the Long proposal forth but not as an amendment to the tax bill.

SHORTAGE OF TIME FOR CONSIDERATION CLOUDS CAMPAIGN FINANCE PLAN

As stated Sunday, The Tribune believes it is unwise to attach so crucial a matter as campaign spending legislation to the tax bill now in Congress. Campaign spending limitation should be considered apart from any other legislation and especially the current tax bill which is considered "veto proof" because of the many tax reductions it contains.

Now that such an amendment has been offered by Senate Majority Leader Mike Mansfield, D-Mont., and Sen. John O. Pastore, D-R.I., we urge that it be defeated.

The amendment was originally part of a campaign finance bill which the Senate passed five years ago but it never became law. Proposed by Sen. Russell B. Long, D-La., it would give taxpayers the option of directing that $1 of their federal income tax be placed in a special campaign finance fund. The fund would be split between the two major parties and even third and lesser parties for use in presidential campaigns. It is estimated that up to $40 million could be raised in this manner, some $20 million for each major party.

At first glance the Long proposal looks like a neat remedy for all the real and supposed evils of present campaign financing methods. That it may or may not be. The question before the Senate now is not whether the Long amendment is possibly an improvement over the present system but whether the Senate can give the amendment the study it deserves; whether it is wise to deny the President the option of rejecting the measure because it is entwined with the popular tax reduction bill. We think not.

Rejection of the $1 tax deduction concept as an amendment to the tax bill does not necessarily mean rejection of the idea behind it. Offered alone, the deduction proposal has many attractions. It also raises serious questions: Is it not a dangerous precedent to put government to work collecting funds for political parties? Wouldn't any money raised via the deduction plan simply constitute an assured kitty to which political parties would continue to add in the time honored ways?

Further, there is reason to question if the present system, which relies heavily on contributions from a few wealthy individuals and corporations, is really as bad as it has been pictured. It looks bad and it surely is not what the founders of the republic had in mind. But it is a true reflection of the facts of U.S. political life today and any move to tinker with it involves the distinct possibility of producing something worse.

Attempts at regulating political spending and contributions, though idealistically desirable, beg constitutional challenge. To limit how much and how a person or corporation spends or gives money away is a serious infringement of individual liberty. And this is so no matter how worthy the cause for which the infringement is proposed.

For these and other reasons campaign spending legislation must proceed with great caution. In the end it may be shown that the $1 tax deduction option is the lesser of several evils and should be adopted. But that conclusion cannot be documented in time for the present Congress to implement it.

Mr. HRUSKA. Mr. President, I rise in opposition to title X.

Mr. President, it must be said of our colleagues on the other side of the aisle that they are certainly full of surprises this year. We have had quite a number already, but this proposal to place the business of electing our President in the hands of the U.S. Treasury must rank near the top of the list.

This amendment is most ill advised, and like a number of other proposals with which we have abruptly been confronted in the past few weeks, has all the signs of being hastily conceived and poorly thought out.

Let me cite some of my objections to the measure:

First. The objection already stated, that it removes from our overburdened Treasury funds which are desperately needed for other pressing purposes.

Second. It removes the personal element from the presidential campaign process.

Third. It opens the door to extension of Government sponsorship to other candidates at the State and local level.

Fourth. It will encourage the proliferation of other parties.

Fifth. It presents many procedural and mechanical problems in the Government administration of the program.

Sixth. It sells the American people short by falling victim to the fallacy that the quantity of money rather than the appeal and views of the candidate determines the outcome of elections.

Seventh. The measure comes to us with a checkered background, no Presidential support and no public hearings in the past 5 years.

Eighth. It raises the question of conflict of interest in the case of Democratic Party presidential candidates, most of whom are Members of this body.

Ninth. It is not voluntary. To use it forces the taxpayer to support at least two parties not of his own choice and with the greatest percent of his dollar.

With regard to the first point, Mr. President, adoption of this measure would remove many millions of dollars from the general fund of the Treasury at a time when the very proponents of this measure are also loudly crying out for more Federal support for relief of human problems.

It is my understanding that the taxpayer checks an appropriate box if he wishes the Federal Government to subsidize the presidential election. If he does so, $1—or $2 in the case of joint returns for husband and wife will be removed from the Treasury to the campaign fund for distribution according to formula among three or more eligible parties.

The process therefore involves no contribution from the taxpayer. It merely invokes his authority to take an amount from the Treasury to finance the campaign.

I need not remind my colleagues of the sizable deficit in the Federal budget for the current year. That deficit is due in great part to the propensity of some in this body to add and expand Federal programs with inadequate regard to our ability to pay for them. There is a tendency of too many here to regard the national debt in an abstract way as something which is unfortunate but which if we ignore long enough may go away.

It will not go away, Mr. President, it haunts us right now in our efforts to stop inflation and achieve a new and lasting prosperity. It behooves us to take every step we possibly can to turn our deficit spending philosophy around and begin to alleviate the burden of our national debt.

If ever there was a good place to start, it is this measure which will place $50 million or thereabouts in the hands of presidential campaigners at a time when it could be applied much more appropriately to meeting our financial obligations.

It might also be asked, in connection with this point, why there is such a rush to enact this far-reaching measure at this time, if indeed it is not primarily a benefit for an approaching presidential campaign in desperate need of financing.

We have been electing our Presidents on the strength of voluntarily financed campaigns for nearly 200 years and the system has proved much more successful and much more durable than those of any of our sister nations.

With regard to the protestations that this measure is to free the candidate of obligations to the large giver, I note the point made so eloquently by the Senator from Tennessee (Mr. BROCK) the other day that studies of recent campaign financing have shown that 75 percent of the contributions to campaigns of the other party have been larger than $100 while 75 percent of the contributions to our Republican Party have been under $100.

In view of that information, one must surely wonder whether the sponsors of this measure are interested in equity or interested in a hurry-up raid on the Treasury.

My second point is that the measure would remove the personal elements from the presidential election process. This is obvious. When a person gives—no matter how much—he feels he is a part of a movement. This has been the secret of the success of our political system—the willingness and eagerness of an informed citizenry to participate in electing their public officials.

A checkoff system giving the Treasury permission to divide $1 among political parties is a poor substitute for personal participation. This puts the taxpayer in the same boat as the forced union member whose dues are deducted from his paycheck and spent for the political purposes espoused by the officers of the union, with no regard to his preferences.

In that respect the American workingman has long been a political captive—involuntarily financing political campaigns without regard to his own views. Now our colleagues are trying to convert the taxpayer into the same type of political captive. With this added feature, the money a union member checks off is his own. Under the instant bill the money checked off is tax money, payable to the United States unless the taxpayer elects that it shall go to a political fund. Thus such a taxpayer participates in the appropriations process—one delegated expressly to the Congress by the Constitution.

We are all concerned with increasing political awareness in our country and in getting more qualified voters to the polls. I submit this measure will send us in the opposite direction. It will foster an immunity to political activity rather than encouraging it. It will lose voters rather than adding them.

My next point is one which was made earlier. Some may scoff at it as being somewhat facetious, but in dead earnestness I submit that it must be considered. This point is whether or not enactment of this method of financing the campaign for the Presidency would be followed in due course with similar proposals for the election of Members of this body, election of Members of the other body, and election of State and local officials.

As we look at the long history of this great Republic and the overwhelming encroachment of the Federal Government upon all other governmental affairs in the past 40 years, we must recognize one alarming element.

We must recognize that when the Federal Government becomes involved in some aspect of public or private life in these United States, that involvement never ceases. Let us bear that in mind. When the Federal Government gets involved in something, it stays involved.

Accepting this immutable principle as we must on the face of decades of evidence, it is only logical to ask: How long will it be before Federal subsidization will be extended to other candidates and campaigns? That is the inevitable next step.

On my fourth point, Mr. President, we have long been a two-party Nation with a few minor parties making their influence felt from time to time. There are many diverse but persevering elements in our national political picture who will seize upon the promise of Federal funds as the stimulus needed to pursue formation of splinter parties much more assiduously than ever before in our history.

Look how long we have had the socialist party with us. We are now saying to the American taxpayer, if the Socialist Party can get enough votes in a given election, then you will have to help finance their campaign in the next election. That is what it amounts to.

I do not believe the majority of the American people will appreciate their tax dollars being used in such an arbitrary manner.

My fifth point is a rather interesting one—the problems which this measure presents to the Federal Government in administering such a program, and most especially the problems which it entails if it were to be placed into effect this year, which is the apparent intent of its sponsors.

In that connection I especially wish to call to this body's attention the comments of Mr. John S. Nolan, Deputy Assistant Secretary of the Department of the Treasury. They were first introduced by my friend from Maryland (Mr. MATHIAS) but they so clearly point up the administrative and mechanical nightmare we are heading into, that they bear repeating:

> The individual income tax returns for 1971 are now being printed and mailed to taxpayers. It would, therefore, be impossible to explain on the 1971 form or the instructions the right given the taxpayer to require that $1 of his tax liability be paid into the Presidential Election Campaign Fund. The best that could now be done would be to have a supplemental mailing to taxpayers of an additional sheet on which they could make their designation. However, this would be extremely costly. A preliminary estimate is that it would cost in the neighborhood of $500,000 to $1,000,000. It would be necessary to print the extra sheet containing detailed instructions on a "crash" basis and to repeat the just-completed task of mailing the new sheets to all taxpayers. There is even some question whether the Internal Revenue Service has the capability of accomplishing another national mailing at this crucial time.
>
> More importantly, however, it would not be possible to have all of these extra sheets in the hands of taxpayers until late February. Some 25.5 million taxpayers filed their 1970 returns in January and February of 1971, and it is reasonable to expect that many or more to file early next year. It is doubtful that many of these taxpayers, after they have already filed, would file the additional designation sheet. Even if it is assumed, however, that a significant portion of these taxpayers would thereafter file the supplemental sheet making their designation to the fund, it would be extremely difficult and time consuming for the Internal Revenue Service to associate the supplemental filings with the previously filed returns. This would, of course, be essential to ascertain that the individual had, in fact, filed a return and paid at least $1 in tax.

We daily express concern about the redtape involved in our governmental processes. We all profess to wish to eliminate as much of that redtape as we possibly can. It does not look to me, Mr. President, as if this measure can help but increase it in the Treasury Department and Bureau of Internal Revenue.

My next point is a most important one, in my opinion. It is the assumption that money is the all-important factor in electing a candidate. It must be granted that the cost of political campaigns continues to rise and the cost of electronic media is high.

Nevertheless, the crass commercial attitude that money is the most important ingredient for a candidate and the most important influence on the voter does a great disservice to both our public officials and our electorate.

Naturally everyone likes to have plenty of money when he is a candidate. Naturally almost everyone thinks he does not have enough. But are we to believe that the voters cannot be reached without television spectaculars? And are we to believe that the American people are so uninformed and naive in their political attitudes that their vote is to be determined by the number of appearances a candidate makes on the tube?

I remind my colleagues of one among us who campaigned last year with a distinct shortage of television funds. That is the Senator from Florida (Mr. CHILES). He overcame this campaign deficiency in a most unique and intriguing way, by walking and shaking hands. I do not know whether he has gotten rid of the callouses on his feet yet, but I do know he is very much among us, living proof that extensive campaign funds are not as important as having something to say which the voters want to hear.

If the proposition were put to the voters, Mr. President, there is no doubt in my mind that they would not appreciate the inference that the amount of campaign money available to a candidate for President is an effective influence upon their vote and their preference.

My next point is to remind this body that this is not the first time we have faced this measure. It was passed some 5 years ago, despite the fact that there has never been a clear-cut endorsement of the program by any President.

Nevertheless it was passed some 5 years ago. And then because some Members of this body from the other party did not think they wanted to trust their own President with such a fund, it was withdrawn. In other words, the members of the other party wanted establishment of the fund but when they were on their way to establishing it, they began to encounter the same fears which have been expressed on this floor the past few days.

In the 5 years since then we have seen no more of the proposition. If there is real need for it, prudent legislative practice would dictate some consideration by the appropriate committee, a review of past testimony on the measure and additional hearings if they were deemed necessary.

Another point, Mr. President, was raised earlier here, and that is that we are certainly dealing in the area of conflict of interest when we consider such a measure, inasmuch as virtually every viable candidate for President in the other party is a Member of this body.

We are allowing these candidates to pass upon a proposal which will put dollars from the U.S. Treasury into their own campaign organization. This is a dangerous precedent. How long will it be before we extend the privilege of Federal support to candidates for the party's nomination?

My final point is that the method prescribed is not voluntary. A taxpayer will be forced to see a larger part of his dollar go to at least two parties not of his choice; and the smaller part of that dollar goes to the party he favors.

For all of the foregoing reasons. I shall vote against the amendment—title X.

I propose to vote in favor of title IX which allows a tax credit of up to $25 on a tax deduction of up to $100 for those who suitably contribute to political campaigns.

This method is voluntary. It involves a contribution by the taxpayer of his own money. None of it goes into a Federal fund for distribution to political parties. Thus the Federal Government would not be involved at all. It should not be.

It is my hope that title X will be rejected; and that title IX will be approved.

Mr. TOWER. Mr. President, I am opposed to the Pastore amendment to the Revenue Act of 1971 and shall vote against it. One of the reasons why I am opposing it is, because it will jeopardize the enactment of the much needed tax bill just at a time when the President's economic program is taking hold and could jeopardize our entire economic program. From this point of view, it should not have been considered at all in this bill and should rightfully have gone through the proper committee process, as all other proposals should. It is my belief, that the fact that this amendment could upset the entire timetable is in itself sufficient reason to vote against this amendment.

There is, Mr. President, still another, more important reason to defeat the Pastore amendment. This so-called reform effort is nothing more than an attempt by a group in Congress to grab taxpayers' money for their own end. The idea that the Federal Government should finance the activities of candidates for the presidency is a totally alien concept to our American democracy. The idea that such an attempt should be masqueraded as "reform" is sheer hypocrisy. Senators on the other side will find out, if they force the taxpayers to unwillingly finance their campaign, that the American public is not so gullible as they believe them to be. When you force an American to contribute, involuntarily, to a candidate that he either does not support, or to whom he may be unalterably opposed, you are going to make him mad. It is just as simple as that.

The American voter is a very independent one and does not like to be told what to do. Senators on the other side are courting disaster by attempting to pass this measure with no bipartisan support whatsoever. Such a blatant power play which goes so much against the grain of the American voter must be resisted.

Mr. President, we are facing a taxpayer revolt in much of the country. That revolt is going so far as to defeat revenue measures to provide for better educational opportunities all over. I might add that most of the educational measures defeated would cost the average taxpayer much less than would the current proposal. When the taxpayers learn that someone is attempting to divert their hard-earned money to finance a wholly political endeavor, they are going to be quite rightly up in arms. There are many more pressing needs in the Nation for the taxpayers' money than financing political activities.

Mr. President, the overriding reason to oppose this amendment, is the fundamental principle of our American democracy that it subverts. That principle is that American political organizations are not governmental organizations and should forever remain separate. We cherish the separation of party and state just as much as we cherish the separation of church and state. This amendment is in effect Government subsidization of the two major American political parties and one minor one, practically excluding any other participation in this program. Such an arrangement which would institutionalize the American political scene is reminiscent of one-party States where the parties are in fact organs of the Government.

Mr. President, I am quite aware that there will be a long and loud denial that the political parties will become organs of the Government if this measure is enacted. However, the fact remains that wherever Government money goes, Government controls soon follow. No one here can tell me of one Government financed project that is not, in effect, controlled by a multitude of Federal regulations. I do not believe that the American people want Government control of their political parties. The very basic liberties of freedom of dissent and even the inherent duty of loyal opposition are cast in umbrage by this amendment.

If the two major parties can, under this amendment, raise some $40 million to spend on their own campaigns, what is to stop them from spending $100 million, or $200 million or any sum that they choose in future campaigns. Once the precedent of Federal financing is set and dissenters are excluded, as here, there will be no restraint on spending. We all know how Government programs grow ever larger and this one would be no exception. The institutionalizing of the two major parties and the use of Government money to perpetuate them is unconscionable action. Government has grown very large in recent years, but even those of us who have been the most concerned about this never thought that big Government would move so rapidly to take over the political parties. The full meaning of this attempt and how it could stifle any meaningful opposition is all too clear. The Pastore amendment must be defeated. Should it, for some reason, be included in the final version of the bill, and the fundamental structure of our American democracy therefore threatened by this completely unprecedented act, it is my hope that the President will veto the entire measure.

Mr. GRAVEL. Mr. President, the financing of political campaigns is the Achilles heel of the American governmental system.

Although it is an Achilles heel of long standing, the dramatic technological developments of recent years are threatening to transform a point of vulnerability into a galloping cancer which will eat away at the very vitals of our democratic political processes.

The cost of conducting a political campaign increased 100 percent over the past 15 years, and skyrocketed 50 percent in just the 4 years between 1964 and 1968. Spending for candidates at all levels of Government amounted to at least $200 million in 1964, but was up to $300 million for the 1968 contests.

What is even more distressing, these rapidly escalating costs of campaigning in the electronic era have increasingly made elective politics the special preserve of the wealthy or those who have access to the funds of well-heeled special interests.

Under the present system of financing campaigns exclusively from private funds, the candidate who does not have great personal wealth must raise these large sums by relying on large contributors—a fact that understandably tends to foster compromising obligations.

This potential of large contributions for corruption is aggravated by the secrecy and subterfuge surrounding present campaign-financing practices.

The dimensions of the problem are growing, but it has been with us a long time. It was Abraham Lincoln, dispirited on the night of his election to the Presidency, who commented to his campaign committee—

> They have gambled me all around, bought and sold me a hundred times. I cannot begin to fill the pledges made in my name.

We are at the crossroads. We can either seize the unprecedented opportunity of revitalizing the political process in the United States, or we can consciously allow the dangerous trend of the alienation of citizens from our political system to gain added momentum with every election.

The growing disaffection with the electoral process is directly traceable to our present methods of campaign funding. Immediate action to remedy the failings and weaknesses of present law regulating the campaign process is urgently needed.

Last January I introduced two bills, S. 1 and S. 9, to tackle this problem in a comprehensive way. A number of the ideas which I proposed in S. 1 are also contained in S. 382, which the Senate has already passed.

However, my other bill, S. 9 had not received similar consideration, until the Pastore amendment was offered. I think its basic approach—providing Federal subsidies for both presidential and congressional election campaigns—would constitute a more fundamental reform of our whole electoral process than any idea contained in S. 1. For that reason I am supporting the Pastore amendment.

It would fundamentally change how candidates for public office are financed and elected. Its enactment would on the one hand be a great step toward making candidates start off on a more equal footing financially, while on the other hand provide for the broadening of the base of citizen support in financing elections. The independence from big contributors, plus the creation of a financial bond between the citizens and their elected officials which this amendment can bring about would greatly heighten the effectiveness of representative Government in promoting the public interest.

Actually, the idea is nothing new.

In 1907 President Theodore Roosevelt, responding to the controversy over the influence of corporate contributions, recommended that political campaigns be paid for by public rather than by private funds. His proposal was rejected in favor of the limitation and disclosure approach, essentially only an earlier form of the legislation we adopted a few months ago.

But as important as they are, limitation and disclosure are not by themselves sufficient. Public harm stems not from how the money is spent, but from how it is raised in the first place.

Public financing would alleviate many of the fears and suspicions—many of them well founded—now generated by large special interest contributions.

This was the approach adopted by a special Senate committee that investigated campaign expenditures in the 1936 elections. It also recommended that private contributions to Federal campaigns be barred completely and that campaigns be financed by the Government. Again, no action was taken.

Most recently, in 1966 the presidential election campaign fund was enacted, under the leadership of the distinguished chairman of the Finance Committee, Senator Long. But this law was then voted inoperative in May 1967.

Had it gone into effect, this law would have allowed each taxpayer, by checking a box on his return to have $1 of his taxes paid into a special fund for financing presidential elections. The moneys were to be used to reimburse major and minor parties for legitimate campaign expenses.

In my view, Government expenditure is still the most effective and most direct method of solving the vast financial problems entailed in all Federal campaigns.

This approach to campaign financing will bring an end to the present method of financing through either personal fortunes or from massive contributions from one or another special interest group. Although these public subsidies would not eliminate spending differences among candidates, they would make the differences less critical by providing "floors" sufficient to make every election a real contest.

Campaigns should be financed in a way that will build support for our political institutions and respect for the political process. This obviously is not the case at present.

One of the most serious consequences of the present pattern of campaign funding is the loss to the American public of many talented men and women who are repelled from seeking public office since they are unprepared to go through the demeaning exercise of raising campaign funds as a preliminary to entering public offices.

The ideal campaign finance system is one based on relatively small voluntary contributions from large numbers of citizens. The most effective way to achieve this is to have every taxpaying citizen contribute a few cents a year—it would require less than 50 cents per person—toward financing elections.

Honest and informative election campaigns are the linchpin of American representative Government. There are few things which Congress could do that would more effectively strengthen our political processes and build respect for our political institutions than to enact this amendment to provide public financing of presidential election campaigns.

CALENDAR 1969—ALL RETURNS

In millions]

Credits	Returns	Amounts
Retirement income	1.732	$197
Foreign tax	.201	147
Investment	1.088	245
Other expenses, etc, farm gas		182
Refundable	1.619	150
Investment tax credit for 1972		3,600

Mr. CHILES. Mr. President, it has been argued here today that by allowing a taxpayer to check the box on his income tax return form would in effect be diverting for political purposes money which belongs to the Treasury. This certainly should not come as any surprise for we permit this tax credit system to apply in other areas.

For example, in 1969, tax credit provisions involving billions of dollars were utilized:

Another area in which the Senate has explored earlier on this bill was an amendment which was adopted by the Senate calling for information for the Congress and the public of how much potential revenue we do not collect through the tax system. This involves special exemptions and privileges given to certain identifiable groups, such as the depletion allowance in the mineral industry, capital gains provisions for investors, and many other areas of income exclusion which the Senate has now expressed itself on record as wanting to be known to all.

Mr. SPONG. Mr. President, I support the amendment of the Senator from Rhode Island (Mr. PASTORE) to create a presidential campaign fund financed by $1 tax contributions and to establish spending limits for such campaigns.

In many respects, this amendment parallels at the presidential level the restrictions put on the spending of candidates for other Federal offices by the campaign spending bill passed earlier this session. Both seek to limit the amount of money being spent in campaigns and, in different ways, both seek to reduce the dependence of candidates on large and special interest contributors.

There is a vital public interest in seeing that elective offices do not become a prize of the well-to-do or of those who are willing to assume the obligations that dependence on large private contributions can bring. With the staggering costs of today's campaigns, we are dangerously close to that kind of electoral auction.

The distinguished syndicated columnist James J. Kilpatrick, who endorsed the approach taken in this amendment, has expressed the dangers of existing campaign practices as well as anyone:

> It is absurd, dangerous, and potentially scandalous that candidates seeking our highest office be dependent upon the kind of massive private contributions that have been required in recent years. It is idle to contend that large gifts create no obligation. Of course they create obligations—and these are equally suspect whether they are obligations to big labor or to big business. A president—any president—enters upon his office a compromised man.

In my judgment, there could be no sounder public investment than in the protection of the electoral process. There was a time in this country's history when we left it to the parties to provide ballots and polling places, but because of the abuses, this was replaced by a tax supported system. This amendment seeks to deal with the abuses of campaign spending in the same way.

Mr. President, the amendment before the Senate is much improved over similar proposals offered in years past. Where these other amendments would have funneled funds directly into party treasuries with very loose public control over the use of the money, this amendment establishes very rigid controls and supervision. Moreover, this amendment leaves it to the individual taxpayer not only to decide whether he will give a dollar, but also what party will benefit from his contributions. Finally, this amendment is vastly improved over the earlier proposals in establishing limits on spending by presidential candidates, and that is, perhaps, its most important effect.

Mr. GAMBRELL. Mr. President, as I have previously stated in debate on the Senate floor, I support the Pastore amendment to the Revenue Act of 1971. This amendment authorizes taxpayer deductions up to a total of $100 for all political contributions, and also permits each taxpayer to designate $1 of his taxes as a contribution to the presidential candidate of his choice. Candidates of major and minor parties are fairly provided for.

The tax deduction provision, and the presidential campaign fund checkoff plan are important reforms in our Federal political process. It should be the policy of our Government to encourage individual citizens to support candidates for public office by small contributions. In this way, the traditional reliance of candidates on major contributions from wealthy sources can be reduced, and possibly eliminated.

For too long, willing and qualified candidates have been excluded from public consideration by lack of financial resources and unwillingness to degrade themselves by seeking contributions from major contributors. The provisions contained in the Pastore amendment will make it possible for all candidates, regardless of party, and regardless of personal wealth, or wealth of supporters, to present their programs directly to the people.

The presidential campaign fund checkoff plan is a novel experiment, which carries with it some hazards. One of these is the possibility of abuse in the handling of funds. The bill restricts disbursements from the fund to legitimate general election campaign expenses, but this could be subject to a broad interpretation.

The bill provides for supervision of these expenditures by the Comptroller General of the United States, and a Campaign Fund Advisory Board. In this respect, I suggest that if and when the bill is adopted, the Comptroller immediately set about establishing a rigid set of controls on the disbursement of these funds. The laudable purpose of this legislation would be undermined if the administration of the funds were marred by scandal.

I also urge that the major political parties, and in particular my own Democratic Party, announce guidelines for the handling of these funds which would be incorporated in the national party platforms binding on their candidates. Our party should declare before the people of the United States that these funds will not be misapplied for exorbitant salaries and consultant fees, for party and primary debts, or for gaudy or slick "brainwashing" public relations activities.

It would be a major step in the development of the plan, if the Democratic Party and its candidates were to announce that these funds would be applied in accordance with procedures adopted by the Comptroller, approved by the national party, and supervised by an independent certified public accounting firm of national reputation.

Furthermore, I recommend that expenditure of these funds be placed under previously announced category limitations similar to those contained in the Campaign Spending Reform Act of 1971.

The survival of this plan is greatly dependent upon the manner in which the funds are managed in 1972, the first year of its application. I hope, after seeing the plan in use, that the public will be proud of it as a desirable reform, rather than disgusted with it, and with the Congress for adopting it.

Mr. DOLE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER (Mr. MONDALE). The Senator will state it.

Mr. DOLE. Mr. President, notwithstanding the expiration of time under the unanimous-consent agreement, is a point of order against the amendment still in order?

The PRESIDING OFFICER. Yes it is

Mr. JAVITS. Mr. President, will the Senator yield for another parliamentary inquiry?

Mr. DOLE. I yield.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Mr. President, when the vote comes, will it come separately on this amendment, on title IX and title X?

The PRESIDING OFFICER. The Senator is correct. There will be two votes.

Mr. JAVITS. Mr. President, have the yeas and nays been ordered on each title?

The PRESIDING OFFICER. They have not been ordered.

Mr. JAVITS. I ask for the yeas and nays on each title.

The yeas and nays on each title were ordered, unanimous consent having been granted that it be in order to order the yeas and nays on both amendments.

Mr. DOLE. A further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOLE. Mr. President, I understand that since the time has expired, there will be no debate permitted on a point of order.

The PRESIDING OFFICER. Would the Senator please repeat that?

Mr. DOLE. Mr. President, since the time has expired under the unanimous-consent agreement, is debate possible under a point of order?

The PRESIDING OFFICER. Debate is not possible unless unanimous consent is obtained.

Mr. DOLE. Mr. President, I make a point of order against title IX financing presidential election campaigns because it is an appropriation and is in conflict and violation of article I, section 8, clause 7 of the Constitution which states:

> No money should be drawn from the Treasury, but in Consequence of Appropriations made by Law; . . .

The PRESIDING OFFICER. The point of order is made. The Parliamentarian advises the Chair that under the precedents, when a question of constitutionality is raised, the Chair does not pass thereon, but submits the question to the Senate for decision.

The question is, Is the point of order well taken?

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. DOLE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOLE. Mr. President, would sustaining the point of order be a yea vote?

The PRESIDING OFFICER. The Senator is correct. The question is, Is the point of order well taken? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. Mundt) is absent because of illness.

The result was announced—yeas 41, nays 58, as follows:

[No. 382 Leg.]

YEAS—41

Aiken
Allott
Baker
Beall
Bellmon
Bennett
Boggs
Brock
Brooke
Buckley
Cook
Cooper
Cotton
Curtis
Dole
Dominick
Fannin
Fong
Goldwater
Griffin
Gurney
Hansen
Hatfield
Hruska
Jordan, Idaho
Miller
Packwood
Pearson
Percy
Roth
Saxbe
Schweiker
Scott
Smith
Stafford
Stevens
Taft
Thurmond
Tower
Weicker
Young

NAYS—58

Allen
Anderson
Bayh
Bentsen
Bible
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Case
Chiles
Church
Cranston
Eagleton
Eastland
Ellender
Ervin
Fulbright
Gambrell
Gravel
Harris
Hart
Hartke
Hollings
Hughes
Humphrey
Inouye
Jackson
Javits
Jordan, N.C.
Kennedy
Long
Magnuson
Mansfield
Mathias
McClellan
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Moss
Muskie
Nelson
Pastore
Pell
Proxmire
Randolph
Ribicoff
Sparkman
Spong
Stennis
Stevenson
Symington
Talmadge
Tunney
Williams

NOT VOTING—1

Mundt

So the point of order was rejected.

The PRESIDING OFFICER. Under the previous order the question recurs on title IX, as amended.

Mr. GRIFFIN. Mr. President——

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. GRIFFIN. There is an amendment at the desk by the Senator from New York (Mr. Buckley).

The PRESIDING OFFICER. The Chair recognizes the Senator from New York.

Mr. BUCKLEY. Mr. President, I call up my amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read as follows:

> On page 17, line 12, insert the following: strike the period, insert in lieu thereof a comma, and add the following: "except that no moneys shall be appropriated to the Presidential Election Campaign Fund in any fiscal year unless a majority of individuals filing returns in the fiscal year make such a designation."

The PRESIDING OFFICER. Under the previous order there can be no debate.

Mr. GRIFFIN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York (Mr. Buckley). The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. Mundt) is absent because of illness.

The result was announced—yeas 40, nays 59, as follows:

[No. 383 Leg.]

YEAS—40

Aiken
Allott
Baker
Beall
Bellmon
Bennett
Boggs
Brock
Brooke
Buckley
Cook
Cotton
Curtis
Dole
Dominick
Fannin
Fong
Goldwater
Griffin
Gurney
Hansen
Hruska
Jordan, Idaho
Mathias
Miller
Packwood
Pearson
Percy
Roth
Saxbe
Schweiker
Scott
Smith
Stafford
Stevens
Taft
Thurmond
Tower
Weicker
Young

NAYS—59

Allen
Anderson
Bayh
Bentsen
Bible
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Case
Chiles
Church
Cooper
Cranston
Eagleton
Eastland
Ellender
Ervin
Fulbright
Gambrell
Gravel
Harris
Hart
Hartke
Hatfield
Hollings
Hughes
Humphrey
Inouye
Jackson
Javits
Jordan, N.C.
Kennedy
Long
Magnuson
Mansfield
McClellan
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Moss
Muskie
Nelson
Pastore
Pell
Proxmire
Randolph
Ribicoff
Sparkman
Spong
Stennis
Stevenson
Symington
Talmadge
Tunney
Williams

NOT VOTING—1

Mundt

So Mr. Buckley's amendment was rejected.

The PRESIDING OFFICER. Under the previous order, the question is on title IX, as amended, as a part of amendment No. 692 of the Senator from Rhode Island. The yeas and nays have been ordered, and the clerk will call the roll.

Mr. PASTORE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. PASTORE. A vote in the affirmative is a vote for title IX. Is that correct?

The PRESIDING OFFICER. That is correct.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. Mundt) is absent because of illness.

The result was announced—yeas 82, nays 17, as follows:

[No. 384 Leg.]

YEAS—82

Allen
Anderson
Baker
Bayh
Bellmon
Bennett
Bentsen
Bible
Boggs
Brock
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Case
Chiles
Church
Cook
Cooper
Cranston
Curtis
Eagleton
Eastland
Ellender
Ervin
Fong
Fulbright
Gambrell
Gravel
Gurney
Harris
Hart
Hartke
Hatfield
Hollings
Hruska
Hughes
Humphrey
Inouye
Jackson
Javits
Jordan, N.C.
Jordan, Idaho
Kennedy
Long
Magnuson
Mansfield
Mathias
McClellan
McGee
McGovern
McIntyre
Metcalf
Miller
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell

Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Sparkman
Spong
Stafford
Stennis
Stevens
Stevenson
Symington
Taft
Talmadge
Tower
Tunney
Williams
Young

NAYS—17

Aiken
Allott
Beall
Brooke
Buckley
Cotton
Dole
Dominick
Fannin
Goldwater
Griffin
Hansen
Saxbe
Scott
Smith
Thurmond
Weicker

NOT VOTING—1

Mundt

So title IX, as amended, of Mr. PASTORE's amendment (No. 692) was agreed to.

Mr. PASTORE. Mr. President, I move to reconsider the vote by which title IX, as amended, was agreed to.

Mr. TALMADGE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. MONDALE). The question now is on agreeing to title X, as amended, of the amendment (No. 692) of the Senator from Rhode Island (Mr. PASTORE). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

TITLE X

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The result was announced—yeas 52, nays 47, as follows:

[No. 385 Leg.]

YEAS—52

Allen
Anderson
Bayh
Bentsen
Bible
Burdick
Byrd, W. Va.
Cannon
Case
Chiles
Church
Cranston
Eagleton
Ellender
Fulbright
Gambrell
Gravel
Harris
Hart
Hartke
Hollings
Hughes
Humphrey
Inouye
Jackson
Jordan, N.C.
Kennedy
Long
Magnuson
Mansfield
Mathias
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Moss
Muskie
Nelson
Pastore
Pell
Proxmire
Randolph
Ribicoff
Sparkman
Spong
Stevenson
Symington
Talmadge
Tunney
Williams

NAYS—47

Aiken
Allott
Baker
Beall
Bellmon
Bennett
Boggs
Brock
Brooke
Buckley
Byrd, Va.
Cook
Cooper
Cotton
Curtis
Dole
Dominick
Eastland
Ervin
Fannin
Fong
Goldwater
Griffin
Gurney
Hansen
Hatfield
Hruska
Javits
Jordan, Idaho
McClellan
Miller
Packwood
Pearson
Percy
Roth
Saxbe
Schweiker
Scott
Smith
Stafford
Stennis
Stevens
Taft
Thurmond
Tower
Weicker
Young

NOT VOTING—1

Mundt

So title X, as amended, of Mr. PASTORE's amendment (No. 692) was agreed to.

Mr. PASTORE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. I move to lay the motion on the table.

The motion to lay on the table was agreed to.

Mr. SCOTT. Mr. President, I ask unanimous consent that I may proceed for 10 minutes without the time being charged to the bill or the amendment.

The PRESIDING OFFICER. Time is no longer controlled.

Mr. SCOTT. I ask unanimous consent to proceed for 10 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

PROGRAM

Mr. SCOTT. Mr. President, I rise to ask the distinguished majority leader about the program for the rest of the day, the rest of the week, the rest of the session, the rest of the year. We might as well begin with tonight.

First, I volunteer that I understand that the Senator from Oregon (Mr. PACKWOOD) has two more amendments of about 30 minutes each, on which the yeas and nays will be demanded. I know of no other——

Mr. JAVITS. If the Senator will yield, I have an amendment. It is printed. It depends upon what happens to the Packwood amendments.

Mr. SCOTT. Does the Senator from Iowa have an amendment?

Mr. MILLER. If the Senator will yield, I have an amendment on which I am working with the staff. It is a technical amendment, which I hope could be disposed of very promptly. I have another amendment I intend to offer which would probably require 30 minutes, 15 minutes to a side.

Mr. SCOTT. Does the Senator intend to ask for the yeas and nays?

Mr. MILLER. I hope it will not be necessary.

Mr. JAVITS. I will ask for the yeas and nays.

Mr. TAFT. I have three amendments and will ask for the yeas and nays on one.

Mr. BAKER. Mr. President, if the Senator will yield, I have one amendment that I want to call up before final passage. It need not be tonight. I will ask for the yeas and nays.

Mr. FULBRIGHT. I have two amendments.

Mr. BIBLE. My colleague and I will have one amendment tonight or tomorrow. We will not ask for the yeas and nays.

Mr. MANSFIELD. It looks like there remains at least three amendments on this side. There are others. There is a good possibility that we might finish the bill tonight, the Senate willing. It is the intention of the joint leadership to work with the manager of the bill and the distinguished Senator from Utah, the ranking Republican member of the committee, to see if it would be possible to arrive at a time limitation on each amendment as it is called up. The prospects look good in that respect.

Mr. SCOTT. Not more than 30 minutes.

Mr. MANSFIELD. Perhaps not more than 20 minutes to an amendment, the time to be equally divided, under the usual conditions.

When this bill is completed, either today or tomorrow, it is anticipated that the next order of business will be the Defense appropriation bill.

Following that, we will take up phase II, which has been reported by the Committee on Banking, Housing and Urban Affairs, and is now on the calendar. That will not be taken up until after the Thanksgiving Day recess, which covers just 2 working days—Thursday and Friday.

Then there will be some bills of lesser importance in between, about which there will not be much in the way of controversy, I hope.

Bringing up the rear will be the nomination of Mr. Butz as Secretary of Agriculture, to be followed——

[Laughter.]

I still do not get it. [Laughter.]

The rear of the program.

Mr. SCOTT. If the Senator will yield, I can envision the headlines: "Senate Sits on Butz." [Laughter.]

This is what we have been doing all year.

Mr. MANSFIELD. For the first time in many years, I feel my ears getting red.

Mr. COOK. We needed that.

Mr. MANSFIELD. We surely did.

Still further in the rear will be Messrs. Rehnquist and Powell and then I hope we will adjourn sine die. In the meantime, we will bring up for consideration the education measure, now at the desk to see what can be done about disposing of it, and hopefully the postcard voter registration bill.

Mr. SCOTT. Mr. President, before we adjourn, and I gather from the distinguished majority leader that the end is in sight [laughter] we will take up the supplemental appropriation bill and conference reports, if any. One thing, if the distinguished Senator from Vermont (Mr. AIKEN) were here, he could really put the topping on this cake.

Mr. JAVITS. Mr. President, if the Senator will yield, there is another measure on the calendar, the Genocide Treaty, reported favorably from the Committee on Foreign Relations. I mention that because the leadership thought it might take some time——

Mr. MANSFIELD. Yes; there is no possibility of taking up the Genocide Treaty this year. Hopefully, next year.

Mr. JAVITS. I hope that before the end of the year that we can have some concept of the order of priority that we would be facing on that treaty.

Mr. MANSFIELD. As of now, it looks like the Equal Opportunity Act will be the first business next year, to be followed, hopefully, by H.R. 1, then by the equal rights amendment and then somewhere to fit in, there is other legislation which I will be discussing with a distinguished Senator who has been after me all year to bring up.

Mr. ALLOTT. Mr. President, if the Senator will yield, I hesitate to ask this, but I wonder whether the majority leader would provide us with some kind of time schedule for tonight. I say that in this respect: The Senate has been working very diligently on this matter for a long time, and I would like to suggest, very respectfully, having in mind the leadership of the Senate, that perhaps we could have one or two votes on these amendments tonight, make far more progress tomorrow, and perhaps get to the defense bill around noon. Then perhaps we could conclude action on that bill by Wednesday evening.

Mr. MANSFIELD. Mr. President, I appreciate the comments made by the Senator from Colorado, but frankly I would hope, conditions permitting, to see if it would not be possible to finish the bill tonight. If too many clogs appear in the way toward its completion, we will, of course, reconsider. But it seems to me that the mood of Senators offering amendments is most accommodating, so perhaps we should take advantage of that, because we have a tough schedule and will not be able to finish the defense appropriations bill in one day; so I would hope the Senator would give us a little leeway.

Mr. ALLOTT. May I say, I wish I could get this infamous microphone I hold in my hand to come alive when I take it out of its socket. I get so tired of standing here waiting for it to come alive. Having said that, I, of course, defer to the judgment of the distinguished majority leader.

Mr. MANSFIELD. It should be said that in addition to the other measures, we also have the fish-inspection bill, which we would like to bring up some time tomorrow——

The PRESIDING OFFICER (Mr. HUMPHREY). The distinguished majority leader has the floor. The Senate will please be in order.

Mr. MANSFIELD. And the credit union bill.

Mr. MILLER. Mr. President, will the Senator from Montana yield for a question?

The PRESIDING OFFICER. The Senator from Pennsylvania has the floor.

Mr. SCOTT. I yield to the Senator from Iowa.

Mr. MILLER. Did I understand the majority leader to say we will go out Wednesday evening and come back on the following Tuesday? Is that the program?

Mr. MANSFIELD. We will come back on the following Monday at 10 a.m.

Mr. MILLER. We will come back on the following Monday after Thanksgiving. I thank the Senator very much.

Mr. SCOTT. Mr. President, while I still have the floor, I had planned a fairly angry rejoinder to the not too surprising results of title X. With the mood of the Senate as it is, I think that perhaps rather than to exacerbate the situation, I shall ask unanimous consent to have printed in the RECORD the speech in which I give the majority party the very devil.

There being no objection, the remarks of the Senator from Pennsylvania (Mr. SCOTT) were ordered to be printed in the RECORD, as follows:

The relief of the American taxpayer is being sacrificed for the relief of the democratic party.

This is a money grab of the greatest magnitude. It is a greedy raid on the U.S. Treasury. It is irresponsible and would be ludicrous if it were not so degrading.

This is a raw deal that has been pulled over by a majority that fails to see its fiscal responsibilities to all of the people.

This unconscionable act will not help the poor.

This unconscionable act will not clean up the environment.

This unconscionable act will not improve our schools.

This unconscionable act will not put people to work.

This unconscionable act will not help solve our transportation problems.

All this unconscionable act will do is line the pockets of the democratic party. It will bail out an inefficient political organization that, like past democratic administrations, knows all about credit financing. Democrats don't care about fiscal responsibility. They say "print more money."

President Nixon promised tax relief for everyone in his August 15 message. He said he had a plan. Now the Democrats have made it quite clear that they plan to derail that plan. The President cannot succeed if the opposition denies any Presidential programs a chance for survival.

The merits of the Pastore amendment are so questionable that they did not come up through the normal legislative route . . . through public hearings. The fund raising amendment for George Wallace and the bail out amendment for the democrats is the biggest single raid on the Treasury by a party long accustomed to the process.

Mr. SCOTT. Mr. President, a 17th century writer of great dignity and tremendous control of the English language once said:

> I set this down that men may know that I have not loosely, through silence, withheld my thoughts, as in a dream.

The writer was Richard Hooker, who wrote the book "Ecclesiastical Policy," among other things. He was called by Izaak Walton the "judicious Hooker."

I do not intend to throw a "judicious hooker" at my colleagues, but I am indeed compelled to say that I may have a further and more definitive statement to make on this tomorrow. First, I intend to vote against the bill as it now stands with title X in it. Second, I will urge the President to veto the bill. I have not made this statement before because past experience has taught me that shouting "Wolf! Wolf!" is one of the worst double adjectives in diplomatic legislative procedure; so I did not want to make that statement until there were valid reasons for making it.

Third, I did not want to run the risk of failing to persuade through reason rather than through handing down some sort of dread ultimatum.

I will urge the President to veto the bill. In the past, when I have done that, he has vetoed the bills I have recommended. This time I may not be so successful, and please do not hold it against me, but I will certainly urge that.

I believe there is a real possibility that this will happen, because this bill, with certain amendments which have carefully been woven into it, will breed a number of taxpayer suits. There is a possibility of its being quite unconstitutional. But I say this after the vote rather than before, and I want Senators to realize that, because I did not want them to feel I was exerting any form of pressure which could not be warranted by positive direct statements by the President as to his intentions.

It is my best guess at this time that the bill in this form, if it does not survive the other body and does not survive the conference without the substitution of rationality for the present Treasury raid, is liable to be "nulla bona," and that means no goodies. Therefore, I warn the Senate against nulla bona. I warn that the Republic will stand whether we adopt this tax bill or not. I do suggest, with all due respect, and with great reluctance, that this may delay deliberations among our delightful colleagues here in this friendly body.

Mr. MANSFIELD. May I express the hope, now that the Agriculture Committee has reported the new nominee for the office of Secretary of Agriculture, that his name will be placed on the calendar shortly. May I express the same hope insofar as the two Supreme Court nominations are concerned. I would like to see the Senate adjourning sine die at a reasonable time, and would like to see all of these matters considered. Therefore, I urge the appropriate committees to do what they can to expedite the business of the Senate.

REVENUE ACT OF 1971

The Senate continued with the consideration of the bill (H.R. 10947) to provide a job development investment credit, to reduce individual income taxes, to reduce certain excise taxes, and for other purposes.

AMENDMENT NO. 674

Mr. FULBRIGHT. Mr. President, I call up my amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 123, line 17, strike "1982" and insert "1977".

On page 147, line 10, strike "1982" and insert "1977".

On page 147, line 13, strike "1982" and insert "1977".

On page 161, line 5, strike "1982" and insert "1977".

On page 175, line 10, strike "1980" and insert "1975".

The PRESIDING OFFICER (Mr. HUMPHREY). The Senate will suspend until we have order in the Chamber. Senators will please be seated.

The Senator from Arkansas may proceed.

Mr. FULBRIGHT. Mr. President, this is a very simple amendment. It relates to DISC, which is authorized here for 10 years. All I am asking, since this is experimental and no one knows how it will work, is that it be limited to 5 years. This means that at the end of 5 years, the Committee on Finance will review it. If at that time it has worked properly and not in a discriminatory manner, but has actually added to our exports in an efficient way, it could be extended.

The present bill limits DISC to 10 years. It seems to me that this is a little long for an experimental program. There has been severe criticism of the amendment by such leading financial institutions as the Wall Street Journal in its editorial column and in reports by Mr. Stanley Surrey, as an individual and as a former Assistant Secretary of the Treasury. He has written a great deal about it, talked about it, and has testified about it.

Mr. President, I realize that the committee has voted for it and that the Senate has authorized it. However, it does seem quite imprudent and improvident to let the 10-year term remain in the bill. It is an unknown quantity.

My amendment simply changes the date from 1982 to 1977. It calls for a review of DISC after 5 years instead of after 10 years.

Everyone knows about DISC. Everyone also knows that the conditions are such that unless there is such a limitation, it will not be reviewed but will go all the way, good or bad, for the 10 years unless we take a look at it after 5 years.

This is not to prejudge it and to say that it will not work. I do not know whether it will work. I do not think it will work, but I do not know. At least, as prudent Members of the Senate, we should take a look at it after 5 years. That is what my amendment does. It does not deal with the substance or alter the way it is administered.

Mr. President, I ask unanimous consent to have printed in the RECORD an editorial entitled "That Shiny DISC," published in the Wall Street Journal under "Review and Outlook," on September 20, 1971, and an article written by Stanley S. Surrey, entitled "DISC: Tax Windfall on Top of Trade Windfall," recently appearing in the Washington Post.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Sept. 30, 1971]

THAT SHINY DISC

While not everything can be applauded in the new tax package that emerged from the House Ways and Means Committee last week, there is at least one evidence that the committee is fulfilling its obligation to check administration impetuosity.

Chairman Mills and his committee took some of the shine out of an administration tax gimmick designed to encourage American business corporations to step up their export activity. If the idea disappears entirely before the tax bill becomes law, it will be no great loss.

The idea in question is the administration's proposal that American corporations be allowed to set up "domestic international sales corporations," or "DISCs," to handle their export business. DISCs would be allowed to "defer" federal income taxes on profits from exports if these profits were applied to new export or "export-related" activities.

In a recent Washington Post article, Harvard Law School tax expert Stanley S. Surrey said that the administration proposal would, to a large degree, have been an exemption, not merely a deferral, that it would have revived the "tax haven" idea that Congress tried to kill nine years ago and that it would have cost the government some $1 billion a year. Professor Surrey, who was the Treasury's top tax specialist in the Kennedy and Johnson administrations, added that there is very little assurance that the tax bonus would in fact boost exports appreciably.

Professor Surrey's objections are persuasive and can be augmented. The use of special tax incentives to further public policy is a doubtful technique in principle, to begin with. It soon gets the entire tax structure out of kilter, creating loopholes for some taxpayers and transferring to others the burden that has been lifted from the fortunate. The result is a sense of unfairness and ill will among taxpayers, which is the first step towards wide scale efforts at evasion.

There are still other objections. DISC is another example of the practice, which is becoming too popular, of trying to fudge against the accepted rules of international trade.

U.S. authorities who try to justify such activities insist that other nations give incentives to exporters. They do, but such things are partly a matter of degree, and few nations have gone as far as the original DISC proposal would have gone towards an outright exemption from income taxes. The U.S. already is inviting retaliation from its trading partners for its 10% surcharge on imports and it is not likely that tense trade relations can withstand much further aggravation.

Further, there is a serious flaw in the idea that subsidizing industry somehow makes it more competitive. A subsidy supplies the means to become less, not more, competitive as should have been adequately proved a long time ago by the heavily subsidized U.S. ocean-shipping industry.

Despite all these objections and despite the fact that DISC-type proposals have been cut out of some tax bills of past years, Ways and Means did not kill DISC outright this time. The committee tried to provide that the tax benefit would actually be an incentive and at the same time sharply cut its potential impact on revenues. In the new version, DISC tax benefits would be based mainly on the amount by which their export sales exceeded the three previous years.

Treasury Secretary Connally doesn't think this would be sufficient "incentive" to exporters. In our view, it is a better incentive than the original, since only measurable gains would be rewarded.

But the Ways and Means version still doesn't answer the objection to tax incentives in principle. Nor does it preclude the possibility that once DISCs are established they will win further concessions. With that thought in mind, we would be very happy if the full Congress decides to send this particular DISC sailing, far enough that it wouldn't be likely to return.

DISC: TAX WINDFALL ON TOP OF TRADE WINDFALL

(By Stanley S. Surrey)

In an earlier article appearing in The Washington Post of Sept. 19, I described the DISC proposal of the Treasury Department as a billion-dollar tax loophole hidden in the New Economic Policy of the administration. This proposal would permit an exporter to form a DISC—Domestic International Sales Corporation—which would be a "paper" subsidiary corporation in the United States through which the exporter could channel its exports. The actual consequences of the operations that would be permitted under the DISC mechanics represent a major tax windfall, whose size and effects are carefully cloaked in Treasury Department descriptions of the proposal. Thus:

The profits on DISC exports would in effect be tax exempt under the Federal income tax. While technically the tax would be "deferred" as long as the profits were used in "export-related activities," the operative and intended result would be a deferral over a long period of time. For a profitable company the present value of a long deferral is just about the amount of the tax itself, which turns the deferral into virtual tax exemption.

The export profits of the DISC could be used by the parent of the DISC in any of its domestic operations having nothing to do with exports, such as meeting domestic competition. Or, if other funds were being used for normal domestic expansion, the DISC profits could even be invested in a manufacturing plant abroad, thereby curtailing U.S. exports.

The proposal would encourage the use of a FISC—a foreign sales corporation—as a subsidiary of the DISC but located in a tax haven country such as Bermuda or Panama or the Cayman Islands or Switzerland. This would reverse the policy established in 1962 to end the then widespread use of tax havens to reduce taxes. The DISC policy would bring back the exploitation of these tax havens and make them an instrument of U.S. trade policy.

The annual revenue cost of the Treasury Department DISC proposal would be close to a $1 billion a year. The tax reduction involved would go to our largest corporations since they conduct a major part of our export trade.

The House Ways and Means Committee, which favored the DISC in 1970, became highly suspicious of it this year, as well it might. As a consequence, that committee adopted the DISC proposal in its version of the current tax bill, but only on an "incremental bass." Under this incremental approach, the DISC tax benefits are given only to exports in excess of 75 per cent of the average of export sales for the particular company in the period 1968–1970.

The incremental approach is complex, creates inequities as between different classes of business depending on their histories in the 1968–1970 base period; will disrupt normal trade channels as taxpayers seek to divert their exports into new organizations so as to create the artificial existence of a low or zero base period. Thus, suppose a manufacturer is exporting through an independent merchant export corporation whose sole function is to handle the exports of various manufacturers. Such a corporation, when structured as a DISC, will have base period sales. But if the manufacturer ceases to use the merchant export corporation and instead creates his own DISC for his exports, that DISC will have a zero base period. Hence all its exports will be exempt even though there has been no change in the volume of exports by the manufacturer.

Even within the logic of an incremental approach, the House version has its defects:

There is no reason to use only 75 per cent of the base period export sales as the base and thus allow windfall exemption for the remaining 25 per cent of exports. The base period should not remain static but should constantly move forward; otherwise windfall exemption is granted for the growth in exports that normally occurs as our economy and those of other nations expand.

If a choice had to be made, Congress should choose the incremental approach, and strengthen the House bill. But Congress need not consider itself limited only to the painful task of choosing between two unattractive alternatives, each with its own set of problems and defects.

Given the unsatisfactory results either with full exemption or an incremental approach, there is a further reason not to be forced to a choice at this time. The United States has set in motion forces that will greatly alter the present currency relationships and the future international monetary system. These forces will also bring about a dismantling of some of the existing trade restrictions in other countries, the end result of which is bound to be a real improvement in the United States trade position. It is therefore advisable to await the outcome to see what further steps, if any, are needed to assist our exporters.

Indeed, it is ironic that the very success of our New Economic Policy in the international area will, under DISC, hand over to our large exporting corporations a completely undeserved windfall. Their exports will increase—and under DISC provide tax-exempt profits—not because of any efforts on their part but simply because the dollar will be devalued relative to other currencies.

This windfall exists under either version of DISC, since such devaluation of a guarantor of increased exports. We must not forget that the devaluation means a price to be paid by some Americans. Those parts of our economy that depend on imports, our tourists and others similarly affected by the higher cost of foreign goods, must pay in higher costs the price for the increase in exports. It is their higher costs and consequent burdens that are being traded off against the larger profits for our exporters and the consequent benefits for those associated with export commodities. These readjustments may be appropriate in the national interest. But it is not in the national interest to accompany this trade-off with additional automatic tax exemption for the larger profits virtually being handed over to our exporters.

To give a DISC exemption to these windfall profits is thus to provide a windfall on top of a windfall—which would be a new record in tax policy mistakes.

It would therefore be folly to lock ourselves into a permanent DISC at this time, whether it be the Treasury full exemption or the House incremental approach. There is no need for such a permanent commitment between unwise alternatives. Far greater forces are in motion that will improve our trade position, and it therefore would be wise policy to place all DISC proposals aside to await the outcome of those forces.

Mr. FULBRIGHT. Mr. President, I ask for the yeas and nays on my amendment.

Mr. BENNETT. Mr. President, will the Senator withhold his request?

MR. FULBRIGHT. Mr. President, I withhold my request.

Mr. BENNETT. Mr. President, if the Senator were to amend his amendment to say what he says he intends to say, I would be happy to join with the chairman of the committee and accept the amendment. If the Senator would delete "5 years" and say "at the end of 5 years," I think that would be acceptable. However, if he leaves it at 5 and it would then be cut off, I would oppose it.

Mr. FULBRIGHT. I would say that the only way to get a real review is to be faced with a cutoff unless it is reviewed. If we say that we hope it will be reviewed, I do not think anything will happen.

Mr. BENNETT. I think it could be required.

Mr. FULBRIGHT. Would the Senator tell me how to do that? I would be amenable. All I suggested was that we force a review and a serious examination of DISC at the end of 5 years. That is all I have in mind. I am not prejudging it, although I am very persuaded by the comments of people who are actually in this business and are as near to experts in this field as anyone could be.

Obviously, at the end of 5 years if the Congress wishes, it can extend it. I know of no other way to require it.

Mr. BENNETT. Mr. President, the staff tells me the Senator is correct. There is no other way.

Mr. FULBRIGHT. I have talked to the staff about this. I do not want to get them involved in my judgment about it, but that is all that I have in mind.

The Senator will admit that among some very knowledgeable people there is much question about the wisdom of DISC.

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. FULBRIGHT. In conference, in any event, we could give further attention to it.

Mr. CURTIS. Mr. President, I do not concede that there is no way in which we could add some provision that would help trigger a review. In any event, we cannot bind a future Congress. We could do two things. We could require the Treasury to report to the House Ways and Means Committee and the Senate Finance Committee. We could require a report at the end of 5 years by the staff of the Joint Committee on Internal Revenue.

I am not suggesting that we do that. I think that 10 years is reasonable. However, there are ways in which we could bring this matter to the attention of Congress and the committees so that they may take a look at it. I believe that both the Treasury and the staff of the Joint Committee on Internal Revenue would in such a case give a very objective report on what has happened.

Mr. BENNETT. Mr. President, the reason why I feel it unwise to cut it to 5 years is that to create a corporation of this type, to staff it, and get it physically into operation requires not only time, but also money.

It would seem to me that if we were to say to the potential exporters that in 5 years they must abandon this corporation and that it must be closed out, many companies, corporations, and exporters who might feel that such an opportunity would be worth while would be prevented from entering upon it. Good management and good judgment would suggest that they not invest the time and money for something that can last only until 1977, assuming that it may take as long as 1 year or more to get the organization physically started.

Mr. FULBRIGHT. Mr. President, my amendment does not disturb the program during the first 5 years. It is estimated that this proposal over the next 4 years would involve nearly $1 billion. That is one of the estimates. I did not intend to go into all of the arguments made on the merits of the proposal. That battle was lost. I think this is a very modest proposal. Proponents of DISC will get their 5 years. No one is going to take it away from them. However, in the case of the Foreign Aid programs and a number of other highly controversial programs, they have never been reviewed except when faced with the necessity of review.

Whoever the staffman is that advised the Senator that that was the only way is correct. I have seen it work that way in a number of other programs. Therefore, in view of that necessity, I would hope that the Senate would find that though DISC may have merit it is a very unproven device. It involves a lot of money and is a form of subsidy.

I have gone along with many of the administration's proposals, and I hope that phase 2 and phase 3 will work. But we have the possibility, if they do not, that international trade may get into very serious trouble trending toward a depression. I know the Senator does not want that. I think there is a great deal of psychology involved in these domestic and international matters if we give the impression that we are on a 40-year program of subsidizing exports to other countries. I would not want to start on a course leading to serious trade consequences.

Mr. BENNETT. Does the Senator realize that the manger of a business interested in entering the export trade already may create a subsidiary and move it abroad and get indefinite deferrals? Now we are suggesting that if he keeps it home and the products are manufactured at home he will get deferrals for 10 years. He can get an indefinite deferral now by going abroad although he may have to pay foreign taxes if he goes abroad. This way, hopefully, he would not need to. There is considerable incentive here.

Mr. FULBRIGHT. It may turn out all right, but I think this proposal is designed to encourage people to go stronger in this direction. To a certain extent there is some degree of windfall involved. Deferrals are given to people already in the business.

I am impressed with the fact that spokesmen for big business people, such as the Wall Street Journal, take this dim view. That is why I think the operation should be looked at at the end of 5 years. That is all this amendment does. At the end of 5 years, let us take a look at it.

Mr. BENNETT. Mr. President, the DISC proposal is intended to affect the decision of U.S. companies on whether they produce products here or abroad. This means they must decide where to build factories, where to install new production lines, and where to maintain or add to their employment. A 5-year limitation on the DISC will not have any significant impact on these decisions since major planning will involve a lag of several years and the period during which the deferral will be available will be so limited in the light of other alternatives.

This is equally true in deciding whether to transfer existing facilities where competitive factors and foreign tax incentives are now putting pressure on the movement of production abroad.

Deferral for foreign subsidiaries is indefinite and solely at the discretion of the U.S. parent investor. The DISC must offer meaningful benefit in contrast to the foreign deferral. A 5-year limit is not meaningful.

The DISC provisions require the establishment of a separate corporate entity. It is not reasonable to expect the establishment and staffing of export corporations with such a limited future.

The Treasury and House version originally proposed an unlimited duration for the DISC. The Senate Finance bill provides that at the end of the 10-year limitation on the DISC deferral the Congress will have an opportunity to review the effect of the DISC and other developments in our own and foreign tax and trade policies on our exports, on foreign competition, and foreign investment. This is a reasonable approach. In the meantime, the DISC will be available now at a time of crisis and with sufficient impact to be meaningful since it will be available long enough to influence decisions and to help our exporters compete with the exporters of other countries who benefit from Government support for exports.

The suggestion of a 5-year limitation was specifically considered and rejected by the Senate Finance Committee.

I know that the chairman of the committee, who is temporarily away from the Chamber, is prepared to take the amendment to conference with the understanding that the House has no limitation and that the conferees are free to move between 5 years and eternity.

Mr. FULBRIGHT. This gives them the opportunity to consider this point of view. I think that is very wise.

Mr. BENNETT. Under the circumstances, considering the time of day and the other amendments we have, if the chairman will confirm my statement, I will join him, and we will take it to conference.

Mr. FULBRIGHT. Very well.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. CURTIS addressed the Chair.

The PRESIDING OFFICER. The Chair wishes to state to the Senator from Nebraska that the Chair had been asked to recognize the Senator from Oregon (Mr. PACKWOOD).

Mr. CURTIS. I have only a brief matter I wish to take up with the chairman concerning the intent of the section of the bill on which I wish to establish a legislative history.

The PRESIDING OFFICER. The Chair recognizes the Senator from Nebraska.

Mr. CURTIS. Mr. President, during the consideration of this bill by the Committee on Finance, I called the special attention of the committee to certain structures and related feeding equipment used in pork factories. Under the job development investment credit of the bill, buildings in general are not eligible for the credit. Nevertheless, it is my understanding that a structure will qualify for the credit if it houses property used in manufacturing or production and the structure can be expected to be replaced when the property it houses is expected to be replaced. One factor to be considered is whether the structure has been specifically designed to provide for the stress and other demands of the equipment which it houses. Of course, I have in mind the pork factory structures which I brought to the attention of the committee. Am I correct in my understanding?

Mr. LONG. I would like to assure the distinguished Senator from Nebraska that he is entirely correct in his statement. As a matter of fact the Committee on Finance included the pork factories which you mention as an example of structures qualifying for the credit in the committee report. I will read the appropriate part of the report:

> One example of a type of structure closely related to the product it houses which was called to the attention of the committee is a unitary system for raising hogs which includes automatic feed systems, special airflow units, slatted flooring, pens and partitions. The structure which can be added to, according to the number of hogs raised, is no more than a cover and way of tying together the specially designed pens, automatic feed systems, etc. There is no other practical use for the structure and it can, therefore, be expected to be used only so long as the equipment it houses is used. Such a structure would be eligible for an investment credit.

Mr. CURTIS. I thank the Senator.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. PACKWOOD. Mr. President, I call up my amendment No. 706.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the further reading of the amendment be dispensed with and that the amendment be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered; and without objection, the amendment will be printed in the RECORD.

The amendment ordered to be printed in the RECORD is as follows:

On page 72, at the end of section 210, add the following new section:

SEC. 211. TO PROVIDE FOR FULL TAX BENEFITS FOR UNMARRIED INDIVIDUALS.

(a) Section 1 of the Internal Revenue Code of 1954 (relating to rates of tax on individuals) is amended—

(1) by striking out subsections (b) and (c);

(2) by redesignating subsection (d) as (b); and

(3) by striking out so much of subsection (a) as precedes the table therein and inserting in lieu thereof the following:

"(a) GENERAL RULE.—There is hereby imposed on the taxable income of every individual, other than an individual to whom subsection (b) applies, a tax determined in accordance with the following table:".

(b) Section 2 of such Code (relating to definitions and special rules) is amended—

(1) by striking out subsections (a) and (b); and

(2) by redesignating subsections (c), (d), and (e) as subsections (a), (b), and (c), respectively.

(c) Sections 511(b)(1) and 641 of such Code are each amended by striking out "section 1(d)" and inserting in lieu thereof "section 1(b)".

(d) Section 6015(a)(1) of such Code is amended to read as follows:

"(1) the gross income for the taxable year can reasonably be expected to exceed $10,000 ($5,000, in the case of an individual subject to the tax imposed by section 1(b) for the taxable year); or".

(e) The amendments made by this section shall apply to taxable years beginning after December 31, 1971.

(f) The Secretary of the Treasury or his delegate shall prescribe and publish tables reflecting the amendments made by this section which shall apply, in lieu of the tables set forth in section 3402(a) of the Internal Revenue Code of 1954 (relating to percentage methods of withholding), with respect to wages paid on or after the first day of the first month which begins more than 20 days after the date of enactment of this section.

PRIVILEGE OF THE FLOOR

Mr. PACKWOOD. Mr. President, I ask unanimous consent that my aide, Carol Crawford, may be permitted the privilege of the floor during the debate and vote on this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, today in this country of more than 200 million people, we are openly discriminating against 30 million of our citizens.

These Americans to whom I refer come in all sizes, shapes, and colors. Some are doctors and some are elevator operators. Some are bakers and some are bricklayers. Some are football players and some are toymakers. Some are farmers and some are undertakers. All, however, share two things in common: They are unmarried and they are victims of the gross inequities contained in the Internal Revenue Code.

Let me cite two examples of such inequities.

A single taxpayer having a taxable income of $8,000 pays $1,590 in Federal taxes. By contrast, a married taxpayer having the same taxable income of $8,000, will pay only $1,380—a difference of $210.

In another instance, a single taxpayer having a taxable income of $14,000 will pay $3,210 in Federal taxes compared with $2,760 for his married neighbors living next door. That comes down to a single-person "surtax" of $450.

The two situations I have just described are not isolated cases. We are talking about 30 million taxpaying Americans who are paying more than their fair share. There are more than 6 million of these second-class citizens who are unmarried heads of households; 200,000 live in my home State of Oregon. We are asking these citizens to unfairly assume a disproportionate share of the taxload.

In 1969 Congress made a partial effort to remedy this situation. I think it is high time we gave these forgotten citizens of our land the fair and equal treatment that they should have received years ago. There is neither rhyme nor reason to this discriminatory treatment of one-seventh of our citizens. Why should these 30 million people contribute an estimated additional $1.6 billion to the Federal Treasury every year simply because they are not married? It is preposterous that this unfair element of the Internal Revenue Code has been allowed to go seriously unchallenged all these years. As we all know, Congress is responsible for this gross inequity. We can change the situation tonight if we want to.

The PRESIDING OFFICER. Who yields time?

Mr. BENNETT. Mr. President, are we operating on controlled time?

Mr. PACKWOOD. We are under controlled time of 30 minutes, with 15 minutes to a side.

Mr. BENNETT. Mr. President, will the chairman of the committee yield to me? I would like about 6 minutes.

Mr. LONG. I yield to the Senator from Oregon.

Mr. BENNETT. Mr. President, this amendment would give single persons the income-splitting benefits——

Mr. BYRD of West Virginia. Mr. President, will the Senator from Oregon yield?

Mr. PACKWOOD. I am happy to yield.

Mr. BYRD of West Virginia. I believe the distinguished Senator from Oregon is under the impression that we are on controlled time on this amendment because we did set the amendment up for action on Saturday with a special time limitation, but we vacated that order, so there is no time limitation.

Mr. PACKWOOD. I would be happy to agree that the time be limited as we did before.

Mr. BENNETT. I do not think we will need that much time. I am going to use 6 or 7 minutes.

Mr. PACKWOOD. I would be glad to agree to a 30-minute time limitation with 15 minutes on a side.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Who yields time?

Mr. BENNETT. Mr. President, is it the understanding of the Senator from Utah that the time already taken by the Senator from Oregon is included in the 30 minutes?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENNETT. Mr. President, this amendment would give single persons the income-splitting benefits now available only to married persons.

This amendment would result in a revenue loss of $1.6 billion per year. It would upset the treatment of married persons which has been established under our tax laws for nearly 25 years, a treatment which is thoroughly sound and rational. Finally, it ignores the fact that Congress carefully considered this matter only 2 years ago in 1969 and reduced the tax on single persons to achieve a proper allocation of the tax burden.

The tax law has for a number of years given married couples the right to file a joint income tax return, thus combining the income of both spouses on one return. Because our tax rates are progressive—the tax rate goes up as total income subject to tax increases—this combining of income on one return would increase the total tax the married couple would pay over the total amount they paid before marriage when each spouse reported his taxable income separately. For that reason, the income on a joint return is "split"—the tax imposed is double the amount of tax which would be paid on half the income taxed at the normal progressive rates. Another way of stating the same thing is that a less progressive rate of tax is applicable to married couples filing a joint return than that applicable to single persons.

In 1969, the Congress became concerned about the lower rate of tax applicable to married couples and reduced the rate of tax on single persons so that, in general, the tax paid by a single person would never exceed the amount of tax by a married couple filing a joint return by more than 20 percent.

There is a rational basis for imposing a smaller tax on married couples than single persons. If both spouses work or each have their own income, it clearly does not make sense to add their independent incomes together and thus push them into a significantly higher tax bracket. We cannot impose such a penalty on marriage.

In approximately 40 percent of married couples today, both spouses work. In addition, in many cases both spouses will have independent incomes even where only one spouse works. For all of these couples it is obviously equitable to allow income splitting.

Even in the case of a married couple where only one spouse has income, there is a sound basis for allowing income splitting. Such a couple makes a conscious choice—one partner chooses not to work outside of the home but contributes to the marital partnership by caring for the house and children. She could have chosen to work and earn additional income with which to pay someone to perform the household chores. In either case, she contributes in a very real sense to the couple's total income. Consequently, it is rational to split the total income between the spouses for tax purposes.

A single person, on the other hand, obviously does not present the same equitable claim for income splitting. There is simply no rational basis for allowing income splitting with respect to the income of one taxpayer. Our progressive rates of tax are designed to tax such an individual at higher rates at his income increases. This is the essence of our system—it taxes according to the ability to pay.

In 1969 when we considered this problem and reduced the tax burden on single persons, the report of the Finance Committee recorded the reasons as follows:

> The committee concluded that the difference in tax liability between single persons and married couples filing joint returns is too large. Under present law, the tax rates imposed on single persons are too heavy relative to those imposed on married couples at the same income level; a single person's tax is as much as 40.9 percent higher—

This is talking about the law before 1969—

> than the tax paid on a joint return with the same amount of taxable income. While some difference between the rate of tax paid by single persons and joint returns is appropriate to reflect the additional living expenses of married taxpayers, the existing differential of as much as 41 percent which results from income-splitting cannot be justified on this basis.
>
> The committee concluded that the proper solution to the tax differential between married and single taxpayers is a new single person rate schedule that insures that the tax of single persons will never be more than 120 percent of that of married taxpayers with the same amount of taxable income.

Thus, Congress has assessed the relative burden of single persons and married couples and made a decision. Congress further reduced the tax rates on single persons who are heads of households, halfway between the new single person's rate schedules and the joint return schedule, based on evaluation of the relative burden of a single person with dependents. We should not change these decisions as to relative burdens without public hearings and committee action.

Mr. PACKWOOD. Mr. President, will the Senator yield for just a moment so I may ask for the yeas and nays while we have a sufficient number of Senators present?

Mr. BENNETT. I yield.

Mr. PACKWOOD. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. BENNETT. The present tax treatment of single persons does not, as many persons mistakenly allege, involve a penalty to single persons. A single person does not pay a higher tax on an amount of income than a married person with the same income if the other spouse also has income. The single person's tax is higher only if the combined income of the married couple is the same amount, and the tax is higher in this case only because the combined income of the married couple is treated as if half was earned by each spouse—a wholly rational concept. Thus, if the husband and wife both have incomes equal to the single person's income, there is no advantage and in fact is a disadvantage; their combined tax will be more than twice as high as the single person's tax because they individually cannot qualify for the new lower single person's rate schedule. The joint return principle merely provides for taxing each spouse on one-half the income of the two of them combined, an entirely reasonable concept.

For these reasons the Senate should reject the Packwood amendment.

Mr. LONG. Mr. President, as it stands today, if a man and his wife are both working and file a joint return, it is true that they would pay less taxes than a single person who was working. On the other hand, if each of them were not married and filed as single persons, they would save $410 on $12,000 of income by virtue of the fact that they had not formalized their relationship with marriage.

So the law already penalizes two married people for making a joint income of $12,000 a year to the extent of $410, the way it is now. The Senator would penalize them much more than that.

As far as income tax splitting is concerned, in Louisiana there is a community property tax law. Half of the income is regarded as belonging to the wife to begin with. It is split. So if there is a $12,000 income, the State regards $6,000 as belonging to the wife and $6,000 as belonging to the husband, and the income splitting automatically is in effect.

In the point of view of many married people, there already is discrimination against them because of the extent to which we have gone to try to take account of the argument of single people. If a couple is making, for example, $12,000, there is one more $800 personal exemption than there would be in the case of a single taxpayer. In this case it would be for the wife. The problem here is that everyone knows he is not going to have a wife with a whit of intelligence who is going to cost him $800. It is going to cost much more than that to support a wife if he makes $12,000 a year. The point is that the difference in basic living costs is greater for a married couple than a single person by more than the amount of the additional personal exemption available to the married couple. So some difference in tax rates is necessary to take account of this. We adjusted the difference in 1969, giving a better break to single people and ending up about where we ought to be with these tax rates.

So we are having many complaints, once people understand how it works, that we went too far in favoring single people over married people in the Tax Reform Act of 1969.

If the Senator's amendment were agreed to, it would result in a substantially larger discrimination against married people, and it would be a disincentive for people to get married, or, to put it the other way, an incentive for people not to marry and not to formalize a relationship between them because those people would have a major tax saving in remaining single.

Mr. President, that is hardly the kind of result that we would want to bring about, and I do not think we ought to adopt tax policy that would encourage it.

Mr. PACKWOOD. Mr. President, if I might respond just a moment to the Senator from Louisiana, I am struck by his argument that the tax policies of this country, if we were to change them in accordance with my amendment, would discourage people from getting married. I hate to think that the tax policies of this country are such today that they are encouraging people to get married. I would hope there would be a stronger bond to induce people to marry than the fact that tax policies might encourage them to do so.

I yield 5 minutes to the Senator from Connecticut (Mr. RIBICOFF).

Mr. RIBICOFF. Mr. President, I am a cosponsor with Senator PACKWOOD of this amendment to H.R. 10947. This amendment would extend to unmarried persons the benefits of income splitting now enjoyed by married persons filing joint returns. I supported a similar amendment during the last Congress, and introduced identical legislation on February 18, 1971. That proposal, S. 869, is still pending in the Senate Finance Committee.

As my colleagues know, the income splitting procedure arose out of a historical accident. Before World War II, eight States had community property laws which treated income as divided equally between husband and wife. The U.S. Supreme Court ruled that married couples in the States could divide their income and file separate U.S. tax returns. With this in mind, several other States soon passed laws giving their citizens a similar break. In an effort to restore tax equality and to prevent wholesale disruption of local tax and property laws, Congress in 1948 made income splitting a national procedure.

This solved the problem for all the married couples, but only served to increase the relative tax burdens on single citizens. As Joseph Pechman has pointed out:

> The practical effect of income splitting is to produce large differences in the tax burdens of single persons and married couples, differences which depend on the rate of graduation and not the level of rates. Such difficulties are difficult to rationalize on any theoretical grounds.

The income tax should reflect differences in condition and responsibilities by allowing reasonable deductions.

However, once the taxable income is determined the same rate should apply to all who have the same income, regardless of whether they are married or single.

Many people attempt to explain the present system by saying that single persons do not bear the costs and responsibilities of raising children. But income splitting under the present law does not differentiate among taxpayers in this respect, since the benefit is the same whether or not they have children.

The Tax Reform Act of 1969 moved toward eliminating this inequity, but did not go far enough. This amendment finishes the job. It provides the benefits of income splitting for unmarried taxpayers placing them on an equal footing with married couples filing joint returns.

I urge all my colleagues to support this amendment offered by the Senator from Oregon and myself.

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD. Mr. President, how much time do we have remaining?

The PRESIDING OFFICER (Mr. CHILES). The Senator from Oregon has 9 minutes remaining.

Mr. PACKWOOD. Mr. President, this is one of the few occasions where we can legislate on the floor of the Senate in the form of an amendment, knowing full well what we are doing, and knowing full well what it is going to cost, which is about $1.6 billion. We have the ability now to make the decision, to weigh on the one hand, the tax revenue loss, against on the other hand, what I regard as the immorality of the inequity that now exists in the tax law.

In the last 15 or 20 years, we have come a long way in this country, in attempting to treat single people as equals. But we have not gone the full distance yet. All of us who sit in this body hire staff members, many of them women. We know what it costs to live in this city, but we tax them inordinately. At the same time we have in our offices men making the same pay or probably more, but perhaps married and taxed at a substantially different rate.

There is no longer any reason in this country, when we are doing everything we can in the field of day care, when we are doing everything we can in the area of an equal rights amendment, and when we are doing everything we can to make it possible for men and women, married or single, to be treated equally, to continue this discrimination in the tax laws which, in essence, says to single persons, "We are going to tax all of you collectively and penalize you $1.6 billion a year because you have not decided to get married."

This is an anachronism. It no longer fits with most of the legislation we have been considering in the last 2 years, and I would hope we would take this opportunity to eliminate one of the last great vestiges of discrimination between single people and married people.

Mr. CURTIS. Mr. President, will the Senator yield for a question?

Mr. PACKWOOD. I yield.

Mr. CURTIS. Should the Senator's amendment be adopted, what will be the tax consequences in so-called community property States?

Mr. PACKWOOD. The tax consequences on the so-called community property States?

Mr. CURTIS. Yes.

Mr. PACKWOOD. I am not sure.

Mr. CURTIS. It seems to me that we do have a problem. There are some States where half of the income belongs to each spouse.

Mr. PACKWOOD. In that case it would not affect them. My amendment would not change the situation of married couples generally, so I do not see how it would affect them.

Mr. CURTIS. Does the Senator regard marriage as a civil partnership?

Mr. PACKWOOD. A civil partnership?

Mr. CURTIS. Yes.

Mr. PACKWOOD. I have thought of it as more romantic than that, but if——

Mr. CURTIS. No, I am not limiting it to that; but, among other things, is it that?

Mr. PACKWOOD. I am not sure what the Senator means by a civil partnership.

Mr. CURTIS. Well, there is a line of decisions that essentially it is a civil contract in the eyes of the law. I am sure it is much more than that in the eyes of the people, the eyes of the church, and so on. But if it is a partnership, I would call to the attention of the Senator that we do not tax equal partners in a business venture on the basis of their aggregate income; we tax them on the basis of each one's share.

Mr. PACKWOOD. Does the Senator understand that my amendment would not in any way affect the rates on married people?

Mr. CURTIS. Well, it will affect their taxes, because if we lower the taxes on one group, it raises them on another, because the money has to come from some place.

Mr. PACKWOOD. The Senator has greater faith than I do that Congress is going to make it come from somewhere else.

Mr. CURTIS. I think it will. I do not think we will always go on managing the Government by expanding the debt. But I thank the Senator.

Mr. LONG. Mr. President, with the adjustments that we have made, we already provide that where two people are married, whether they both earn it or one earns it for the two, on any given amount of income they pay more taxes than two people who are single, each earning his own.

If we adopt the Senator's amendment, those taxpayers who are married and already paying more taxes than each would pay if they were single and earning their own way, would be further discriminated against because they signed a marriage contract and stood before a preacher and united to form a family.

The discrimination, for example, is such that if one thinks of two single people separately, who become married, the Senator would increase the discrimination against those people by about $175 if they were making $7,500 each. That is in addition to the discrimination that already exists. So one cannot justify this continual move toward discriminating against married people, unless one wants to contend that we ought to denounce the institution of marriage, and encourage people not to marry and not have their children born in holy wedlock.

When the Senator proceeds to go down this road to where we would require people not only to assume additional obligations, but to assume a heavier tax liability in addition to assuming the obligations that one owes the other, in my judgment, it just cannot be justified. If we do this we will then be met by the married people complaining they are discriminated against, which will be exactly the truth. They would be discriminated against whether both are working or just one is working, by mere virtue of the fact of marriage. This proposal would cost an additional $1,565,000,000 to discriminate against the institution of marriage, to discriminate against married people just because they do not choose to live together in some other kind of relationship. What kind of sense does that make?

We have done, Mr. President, about everything that can be justified to help single people. We actually went along with the discrimination we already stated, and we think we have gone for enough. It is a minor discrimination now, and it will become a major discrimination if we do what the Senator wants us to do. Moreover, we have also provided a much more liberal additional child care deduction which will be of major help to single people with children.

The PRESIDING OFFICER. The time of the Senator from Louisiana has expired.

The Senator from Oregon has 6 minutes.

Mr. PACKWOOD. I will yield the time to anyone who wants it, even on the other side.

Mr. President, we are faced with a philosophical proposition. The Senator from Louisiana says this is a discrimination against married people, and I am saying it is an attempt to end discrimination against single people.

Our present law says to a perfectly rational 20- or 25-year-old man or woman, "Get married, and we will give you an economic tax break. Don't stay single. As a single person, you are a detriment to this society. So we're going to give you a surtax and penalize you."

I am asking, once and for all, for the Senate to say to the people of this country, married or single, "We are going to regard you as equals, treat you as equals, tax you as equals."

The PRESIDING OFFICER. Is all time yielded back?

Mr. PACKWOOD. If no one else wishes to speak, I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment is yielded back.

The question is on agreeing to the amendment of the Senator from Oregon. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Maine (Mr. MUSKIE) is necessarily absent.

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Kentucky (Mr. COOPER) and the Senator from Arizona (Mr. GOLDWATER) are necessarily absent.

The result was announced—yeas 41, nays 55, as follows:

[No. 386 Leg.]

YEAS—41

Allott
Baker
Bayh
Brooke
Burdick
Chiles
Cranston
Dole
Eagleton
Fong
Gravel
Griffin
Harris
Hart
Hartke
Hatfield
Hughes
Humphrey
Inouye
Jackson
Magnuson
McClellan
McGee
McGovern
McIntyre
Metcalf
Mondale
Nelson
Packwood
Pearson
Pell
Proxmire
Ribicoff
Schweiker
Stevens
Stevenson
Symington
Thurmond
Weicker
Williams
Young

NAYS—55

Aiken
Allen
Anderson
Beall
Bellmon
Bennett
Bentsen
Bible
Boggs
Brock
Buckley
Byrd, Va.
Byrd, W. Va.
Cannon
Case
Church
Cook
Cotton
Curtis
Dominick
Eastland
Ellender
Ervin
Fannin
Fulbright
Gambrell
Gurney
Hansen
Hollings
Hruska
Javits
Jordan, N.C.
Jordan, Idaho
Kennedy
Long
Mansfield
Mathias
Miller
Montoya
Moss
Pastore
Percy
Randolph
Roth
Saxbe
Scott
Smith
Sparkman
Spong
Stafford
Stennis
Taft
Talmadge
Tower
Tunney

NOT VOTING—4

Cooper
Goldwater
Mundt
Muskie

So Mr. PACKWOOD'S amendment (No. 706) was rejected.

AMENDMENT NO. 684

Mr. TAFT. Mr. President, I call up my amendment No. 684 and ask that it be stated.

The PRESIDING OFFICER (Mr. STEVENSON). The amendment will be stated.

The legislative clerk read the amendment as follows:

On page 2, in the table of contents immediately after the item relating to section 315, insert the following:

"Sec. 316. Deposit of certain employment taxes by small employers."

On page 106, between lines 2 and 3, insert the following new section:

"SEC. 316. DEPOSIT OF CERTAIN EMPLOYMENT TAXES BY SMALL EMPLOYERS.

"(a) IN GENERAL.—Section 6302 (relating to mode or time of collection) is amended by adding at the end thereof the following new subsection:

"'(d) COLLECTION OF CERTAIN TAXES FROM EMPLOYERS OF 50 OR LESS EMPLOYEESS.—Payment or deposit of—

"'(1) taxes deducted under section 3101 from wages paid by an employer during a calendar quarter,

"'(2) taxes imposed under section 3111 on wages paid by such employer during such calendar quarter, and

"'(3) taxes deducted and withheld under section 3402 upon wages paid by such employer during such calendar quarter,

shall not be required more than one time, if at all times during the preceding calendar quarter such employer had 50 or less individuals in his employ.'

"(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the first day of the first calendar quarter beginning more than 30 days after the date of the enactment of this Act."

Mr. TAFT. Mr. President, today the small businessman is pressured on many sides. The rate of business failures shows that the road of the small businessman is not an easy one.

In the Congress we have a Select Committee on Small Business and it generally expresses great concern for the problems which the small businessman must face. How ironic it is, therefore, that we have compounded his burdens with unnecessary paper work and red tape. I refer specifically to the deposits which are required to be made by our small businessmen for FICA taxes and income tax withholdings. At the present time returns are to be filed quarterly on Form 941. Deposits, however, must be made in accordance with the following rules published by the Internal Revenue Service:

DEPOSITS OF TAXES

Each month you must add together the employer and employee taxes under the Federal Insurance Contributions Act (Social Security tax) and the income tax withheld for that month. Your total liability arrived at will determine whether deposits are necessary and, if so, how often they must be made.

Less than $200 liability per quarter. No deposit will be required if your liability for the quarter is less than $200. The total liability for the quarter will be remitted with the quarterly return on or before the last day of the month following the close of the quarter. Thus, payment and the return for the first calendar quarter will be due on or before April 30, 1971; for the second calendar quarter on or before August 2, 1971, etc.

Employers with $200 or more liability per quarter but less than $200 liability in any month. If at the end of the first month in the quarter the cumulative liability is less than $200, but by the end of the second month it is $200 or more, the employer must deposit such cumulative amount by the 15th day of the third month in the quarter. The liability for the third month of the quarter may be remitted with the return which will be due on or before the last day of the month following the close of the quarter.

If the cumulative liability does not reach $200 until the third month of the quarter, the total liability must be deposited by the last day of the month following the close of the quarter.

Employers with $200 but under $2,000 liability per month. For each of the first two calendar months in the quarter deposits will be required on or before the 15th day of the next month. For the last month in a quarter, employers will not have to deposit until the last day of the month following the close of the quarter.

Employers with $2,000 or over liability per month. If so the 7th, 15th, 22nd, or last day of the month, cumulative liability is $2,000 or more, a deposit will be required within the next three banking days.

It is the frequency of these deposits which creates an enormous bookkeeping problem and a great deal of overhead and paperwork for the small businessman. For large firms which have computerized data processing, frequent deposits are no problem. But for the small businessman of America the frequency of these deposits results in a great deal of administrative expense.

It is estimated by the Small Business Administration that 94 percent of all businesses in America have 50 or fewer employees. My amendment would simply provide that businesses having 50 or fewer employees could not be required to make their FICA and income tax withholding deposits more than once a quarter.

Let me emphasize that this amendment would in no way affect their financial obligations and would not reduce the amount which they must remit to the Federal Government. The amendment would simply reduce the amount of redtape, bookkeeping, and clerical expense with which they are now confronted. This amendment would also reduce administrative expenses on the part of the Federal Government.

Recently, the National Federation of Independent Businesses conducted a nationwide survey of independent businessmen as to whether or not they favored S. 1890, a bill identical to this amendment. That survey indicated that 74 percent of the Nation's independent businesses favored this measure. I ask unanimous consent to have printed at this point in the RECORD the figures indicating the support of this amendment on a State-by-State basis.

There being no objection, the tabulation was ordered to be printed in the RECORD, as follows:

STATE BREAKDOWN FIGURES—RELIEVE EMPLOYERS OF UP TO 50 PERSONS OF HAVING TO DEPOSIT TAXES MORE THAN ONCE A QUARTER

State	Percent in favor	Percent against	Percent undecided
Alabama	80	15	5
Alaska	71	25	4
Arizona	69	26	5
Arkansas	72	23	5
California	71	24	5
Colorado	71	24	5
Connecticut	69	26	5
Delaware	80	18	2
Florida	69	25	6
Georgia	80	18	2
Hawaii	71	25	4
Idaho	83	14	3
Illinois	72	24	4
Indiana	75	20	5
Iowa	70	25	5
Kansas	73	22	5
Kentucky	75	18	7
Louisiana	80	16	4
Maine	68	25	7
Maryland	75	19	6
Massachusetts	74	23	3
Michigan	73	22	5
Minnesota	74	21	5
Mississippi	79	16	5
Missouri	74	19	7
Montana	75	19	6
Nebraska	79	16	5
Nevada	73	24	3
New Hampshire	74	22	4
New Jersey	71	24	5
New Mexico	70	25	5
New York	73	22	5
North Carolina	77	20	3
North Dakota	79	17	4
Ohio	74	20	6
Oklahoma	76	19	5
Oregon	72	25	3
Pennsylvania	75	22	3
Rhode Island	67	33	----------
South Carolina	79	16	5
South Dakota	72	22	6
Tennessee	77	19	4
Texas	75	21	4
Utah	78	17	5
Vermont	72	24	4
Virginia	75	22	3
Washington	75	21	4
Washington, D.C	71	29	----------
West Virginia	82	16	2
Wisconsin	73	22	5
Wyoming	71	24	5

Mr. TAFT. Mr. President, that summarizes my presentation on this point.

I feel very strongly that this is an amendment that ought to be accepted. I think we are putting tremendous burdens on the small businessman just to read the instructions, which I read, in themselves. They indicate to some extent the kind of burden we put upon many of our small businessmen today. It really takes a lawyer to interpret most of the regulations and an accountant to keep track of them, and an experienced accountant of considerable skill.

If in any way we can simplify due process—and I believe this amendment would in great part simplify it—I believe we have the obligation in Congress to do just that.

Mr. LONG. Mr. President, my understanding is that the Treasury does not favor the amendment. However, some in the Senate agree with the Senator from Ohio. I know that the Senator from Alabama (Mr. SPARKMAN) tells me that he thinks it is a good amendment. He recommends that we agree to the amendment. I would be willing to agree to the amendment here with the understanding that we will discuss it in conference, hear the views of the Treasury, and do with it the best we can.

Mr. TAFT. I appreciate the Senator's statement very much.

Mr. President, I ask unanimous consent that the name of the Senator from New Hampshire (Mr. MCINTYRE) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Ohio.

The amendment was agreed to.

AMENDMENT NO. 688

The PRESIDING OFFICER. The Chair recognizes the Senator from Oregon.

Mr. PACKWOOD. Mr. President, I call up my amendment No. 688.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to state the amendment.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

Beginning on page 7, line 5, strike out section 103; and redesignate sections 104 through 109, following, as sections 103 through 108, respectively.

Mr. PACKWOOD. Mr. President, at this time I have called up my amendment No. 688 to the Revenue Act of 1971. The effect of this amendment will be to extend the investment tax credit to the purchase of foreign produced goods.

A few weeks ago, I introduced a similar amendment for the consideration of the Finance Committee. Of course, it is evident that the committee chose to reject my proposition. Accordingly, I am presenting it for the consideration of the entire Senate.

I am extremely distressed with the manner in which the Revenue Act is being debated in the Senate. There would seem to be no intention to undertake a serious discussion of the very real impact that a number of the provisions contained in the Revenue Act might have on the long-term relationships between the United States and our trading partners around the globe. This potential impact is particularly evident in the matter of the discriminatory investment credit the committee has presented for our consideration.

As currently provided for, the investment credit would not apply to the purchase of foreign-produced goods for the duration of the 10-percent tariff surcharge—or for such longer duration as the President deems necessary and in the national interest. I need not dwell on the problem I have with this further surrender of discretionary authority to the Executive by the Congress. It should be enough to indicate that once more the Congress is being urged to divest itself of its historical powers and responsibilities in the name of expediency and swift action by the Executive. It occurs to me now, as it has many times in the recent past, that to continue this irresponsible pattern can only result in the Congress becoming little more than a debating society a few years in the future.

However, although the matter of surrender of congressional authority and control deeply disturbs me, I am even more concerned about the more immediate impact that passage of the discriminatory investment credit proposal might have on our international trading relationships. As I indicated earlier, at the time of introduction of my prior amendment, I have always felt that given a choice between protectionism and expansion of free trade, it is always in the best long-range interests of not only the United States, but the world as a whole, to chose free trade. I still believe this, and I believe that the evidence is even now beginning to bear this out.

We have word from Europe that the Common Market is seriously considering joining with several other Western European nations to form a solidarity trading bloc; there is always the possibility that Japan might once again begin to consider the possibility of a present-day, informal Asian co-prosperity sphere in the Far East. All protestations to the contrary notwithstanding, the principal stimuli for this renewed discussion of formation of trading blocs are clearly the action taken by the President last August, and the action proposed to be taken by the Congress now. The combined effect of these protectionist actions is to establish a fortress America in the mistaken belief that we do not need them, but they need us. The fact of the matter is that we all need each other. Until we recognize this fact, we will all continue to suffer the consequences of a chauvinistic commercial conflict bordering on a full-scale trade war.

This spector of an international trade war is evident in the discussions taking place around the globe as to the specific impact that a discriminatory investment credit might have on world markets. It occurs to me that there is no rational explanation for this proposed discrimination. I should point out to my colleagues that America's position in the international market for goods which will qualify for the investment credit has always been, and continues to be, one of unrivaled superiority.

I would suggest that this is one of the

few, and certainly one of the best, consistently positive showings the United States makes in the overall balance of trade picture. The effect of the proposed discriminatory investment credit could very well be to cause other nations to retaliate by erecting barriers to free trade in investment goods, thereby weakening, if not destroying, this positive showing by U.S. manufacturers. Plainly stated, by passage of this discriminatory investment credit, we run a very real risk of contributing to a worsening of our own balance of payments. This is a risk we can ill afford to take.

Further, there is little justification for the discriminatory nature of the proposed investment credit in terms of reduced Treasury receipts. The Finance Committee estimates indicate that the investment credit, as proposed, would result in an average annual loss of about $2.7 billion in revenues. With the inclusion of foreign-produced investment goods, the additional revenue loss will be in the neighborhood of $130 million. This is, indeed, a small price to pay for the elimination of what portends the engendering of a considerable amount of ill will among our trading partners were this discriminatory investment credit to be enacted into law. Again, history indicates that this miniscule momentary loss will be compensated for many times over as the world succeeds in preventing the onset of the creeping paralysis that must inevitably obtain to any rise in the protectionist fever.

Finally, let me address myself to those of my colleagues who would suggest that the United States has gone far enough in reducing barriers to freedom of commercial intercourse among nations. It is evident that we have gone further than any other nation. It is true that corresponding reductions in the number and severity of barriers erected by other nations against our own products are long overdue.

However, this is most emphatically not an argument that must, or even can, logically lead one to argue that the United States should all of a sudden begin to erect barriers of its own. Rather, I would suggest that this is a time to sit down with our friends and partners in international commerce and to discuss rationally our differences and the greater good that can be had for all by the reduction of their trade barriers.

Let me remind my colleagues, briefly, of the history of the formation of the United States of America. Prior to 1789, each of the newly independent States was on its own; with little but the weakest of common bonds to be found in the Articles of Confederation. It was soon recognized by each of the 13 States that they could either suffer or prosper in common in their economic interrelationships. It was finally decided, after much travail and hardship, that they must band together and eliminate the trade barriers among the several States which were growing ever larger and increasingly more severe.

The lesson to be learned from this is quite clear. America could never have become the great and prosperous Nation we are today had it not been for the wisdom and foresight of our Founders, who could see the benefits to be had by cooperation rather than economic conflict among the States. The idea they advanced at the time was no less unpopular than that which I am suggesting today, that we must forget the momentary gain—both political and economic—to be had from further protectionist devices, and focus our attention on the long-range good to be derived from freedom of commerce.

I would suggest that we take the advice of Santayana and remember our history, lest we be condemned to relive it. Let us put a stop to the throwing of protectionist bricks at one another and begin to use those same bricks to build bridges of free-flowing commerce among our neighbors on this all too beleaguered planet.

To follow the lead of the Finance Committee and the House of Representatives down this neoprotectionist primrose path is not the best means by which to achieve the climate of mutual understanding and cooperation toward which we must all strive. We are presented with a clear choice as to the future we will mold for America's role in the world of commercial trade.

I suppose we could follow the path indicated by the various provisions in the Revenue Act of 1971—most notably the discriminatory investment credit. This is the easier of the two roads down which we might travel. Unfortunately, this is the path that will certainly lead to continuing escalation of the embryonic protectionist war—a war which none among the community of nations can win, but in which all must, of historical imperative, lose.

Or, we can choose the path indicated by my amendment. By so doing, we will have proclaimed to the world that the Congress of the United States recognizes the very clear and present danger inherent in protectionist moves. We will have shown that we are willing to suffer a possible—though unlikely—momentary hardship in favor of the long-range benefits to be derived by every nation from a sponsorship of additional freedom of commerce around the globe.

Mr. President, I ask unanimous consent to have printed in the RECORD at this time a few news articles and commentaries that reflect on the issues I have been discussing.

There being no objection, the news articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, Sept. 23, 1971]

SMOOT-HAWLEY REVISITED—TRADE PROTECTIONISTS SHOULD CONSIDER HAVOC CAUSED BY BILL OF 40 YEARS AGO

(By Leonard S. Silk)

COPENHAGEN, September 22.—Representatives of the central banks and finance ministries of 115 countries, assembled here for the annual meeting of the International Monetary Fund and World Bank, are looking anxiously toward Washington as the Congress takes up a bill that would reverse three and one half decades of United States support for freer international trade. The bill adopted by the House Ways and Means Committee, which now goes to the floor of the House, would fix import quotas on textiles, shoes, oil, mink, glycerin and, in all probability, a long list of other goods from abroad. Proponents of the bill contend that it would protect the jobs of American workers, safeguard American industries from low-wage foreign competition, and strengthen the United States balance of trade.

Opponents say it would do none of these things but would aggravate inflation, touch off a trade war, hurt consumers, and damage the American and world economy.

The last time a confrontation on these issues was resolved in favor of protectionist trade legislation occurred 40 years ago when Congress enacted the Smoot-Hawley Act.

Europeans, even more heavily dependent on international trade than Americans, have not forgotten the disastrous train of events set in motion by Smoot-Hawley.

But many Americans, including Congressmen, apparently need to be reminded of the dictum of the philosopher George Santayana that those who forget history are condemned to relive it.

The Smoot-Hawley Act was the product of ingrained American political habits and of confused efforts to alleviate particular economic problems.

The Republican party had traditionally favored protectionist tariff policies as a formula for economic prosperity, and the Republican party platform of 1928 promised to relieve the depression in agriculture by raising tariff rates on farm products.

Soon after taking office, President Herbert Hoover called a special session to consider aid for the farmers. Congress met in April, 1929, although the House Ways and Means Committee had started hearings on trade legislation in January.

By June, a tariff bill was reported to the floor of the House in substantially the form recommended by the President.

Then the process of log-rolling and what today is called Christmas-treeing began. A great many amendments were added, raising rates across the entire range of the tariff schedule.

The politically appetizing process of increasing tariff rates and extending coverage continued in the Senate Finance Committee and on the Senate floor.

COMPROMISE ARRANGED

The Senate-House Conference Committee generally compromised by accepting the highest rates set by either house.

President Hoover finally signed the bill on June 17, 1930, although he had threatened to veto a limited revision of the tariff schedule early in the session.

But, as Prof. Frank W. Taussig of Harvard wrote at the time, "when the bill finally came to him, he could hardly do otherwise than approve. His party could not go before the country stultified by having nothing whatever to show for a year's prolonged and conspicuous labor."

Public indignation had run high during the Congressional deliberations, but some of the more important pressure groups traditionally in favor of liberal trade had not maintained firm and unyielding opposition to the bill.

Labor realized that higher prices would result, but succumbed to the chimerical hope that the bill would relieve unemployment, which was already rising seriously, by stimulating domestic output of goods to replace imports.

Farmers were willing to grasp for any protection that might possibly help them, despite their need for foreign markets.

However, a petition of 1,038 economists—including virtually every reputable economist in the country of whatever political view—urged the President to veto the bill, warning that if enacted, it "would inevitably provoke other countries to pay us back in kind."

That 40-year-old petition of the economists has just been reissued by more than 4,000 American economists, together with a new one reaffirming the old warnings of the damage, that protectionism would do.

The last time the economists' forecasts

were right. Following the passage of Smoot Hawley, there rapidly ensued a series of retaliatory measures in the major trading nations of the world.

TARIFF BARRIERS RAISED

France, Italy, Spain and others raised tariff barriers or introduced drastic quotas in 1930. Switzerland initiated a largely successful boycott of American products. Canada raised its tariff walls to the highest point in its history.

Great Britain passed the Emergency Tariff Act of 1931 and the Import Duties Act of 1932. The British Commonwealth concluded severely discriminatory preferential tariff arrangements in Ottawa in 1932.

The higher trade barriers of the United States frustrated the efforts of the Japanese Government to improve economic conditions through expanded trade and led to a more nationalistic and militant policy. Smooth-Hawley sowed the seeds of the Japanese Asian Co-Prosperity Sphere.

International conventions to work out a truce in the trade war failed in 1931, 1932, and 1933.

NATION WAS WORSE OFF

The United States was worse off after Smoot-Hawley than it had been before. Other countries raised their tariff rates and other trade barriers even more than we did.

American exports sank like a stone—because of both the higher trade barriers and the spreading world depression, to which the collapse of trade contributed.

By 1932, U.S. exports to Great Britain had fallen to one-third of their 1929 level. In 1932, American exports to Canada and France were only one-fourth of 1929, and, in the case of Australia and Oceania, one-fifth of 1929.

The decline in some specific American export commodities was even more dramatic. Agriculture, the sector that the President had originally sought to benefit, suffered most. Wheat exports, which had totaled $200-million 10 years earlier, fell to $5-million in 1932.

Exports of the automobile industry fell from $541-million in 1929 to $76-million in 1932.

NO PROBLEMS SOLVED

In retrospect, the protectionist Smoot-Hawley Act was worse than futile. It did not solve unemployment or other problems of American labor, industry, and agriculture but, instead, worsened them by helping to shatter world trade.

Its repercussions contributed to the growth of nationalism and economic autocracy in many countries and to the deepening crisis of the 1930's.

Some other philosopher than Santayana has said, "The only thing we learn from history is that we learn nothing from history." Certainly there are no simple re-runs of history.

In Copenhagen this week, Pierre-Paul Schweitzer, the Managing Director of the I.M.F., when asked how far the protectionism of the United States will affect the international monetary system, replied cautiously:

"Well, the United States Government has stated the United States will not switch to protectionist policies. Measures are under discussion in Congress, but I understand they would not be mandatory but just give the President additional leeway. We would be the first ones to deplore, of course, any regression in the freedom of international trade. Presently we are already deploring that there is not more progress."

Other participants here are less guarded, in private conversations, in expressing their worries about the trade legislation before the United States Congress—and the international effects it would have, if enacted.

They firmly state that, if the United States takes a protectionist course, severe retaliation from European and other countries will follow.

[From the New York Times, Dec. 12, 1970]

COMMERCE GROUP ASKS NATIONS TO NEGOTIATE TO STEM PROTECTIONISM

(By Clyde H. Farnsworth)

PARIS.—An organization representing private industry in 80 countries is seeking to prod governments into a new round of trade liberalization after conclusion of negotiations to enlarge the European Economic Community.

The recommendations of the International Chamber of Commerce, aimed at turning back the present protectionist tide, were disclosed here following a meeting of the business leaders with the heads of United Nations agencies and other international bodies.

The chamber called for a ministerial conference to prepare for a new round of trade talks.

GOALS ARE LISTED

The negotiation would:

Progressively eliminate tariffs on manufactured goods in the developed countries, and also the non-tariff barriers such as quotas or sanitary and safety regulations that have an equally disruptive effect on trade.

Liberalize trade in agricultural products.

Harmonize monetary and economic policies in the developed countries.

Extend to developing countries the benefits of greater access to markets that the rich countries would receive.

Walter Hill, the chamber's secretary general, said the initiative was encouraged by the heads of international organizations present at today's meeting.

These included Olivier Long, director general of the multinational trade organization known as GATT, the General Agreement on Tariffs and Trade; Pierre-Paul Schweitzer, managing director of the International Monetary Fund; Emile Van Lennep, secretary general of the Organization for Economic Cooperation and Development, and Philippe de Seynes, under secretary general for economic and social affairs at the United Nations.

The proposed trade talks would be carried out within the framework of the GATT fair trade charter, as have all previous liberalization rounds since World War II.

In these efforts, the most recent being the 1967 Kennedy round, the United States supplied the initiative. The chamber decided to try to maintain the momentum in view of the resurgence of protectionist feelings in the United States, and the trade disputes over agricultural protectionism in Europe that have erupted between the United States and the European Economic Community.

The world trading picture may be sharply changed should Britain, Ireland, Norway and Denmark gain admission into the Common Market. There would be one vast European market of 250 million people.

While no one is certain what the trend will be, there would be a tendency for the Europeans to trade more among themselves than with the outside world. Washington has already made representations to Britain over the possibility of losing important Britain markets in feed grains and wheat.

Early in the nineteen-sixties when Britain was conducting her first abortive round of negotiations to enter the E.E.C., President John F. Kennedy decided that the bull should be taken by the horns. He got Congress to empower the executive branch to negotiate massive tariff cuts on a worldwide basis to deal with the expected new trading situation.

What President Kennedy envisaged now seems likely to take place as the British-E.E.C. negotiations progress favorable in Brussels.

While successful, the Kennedy round still left many obstacles to trade, and with protectionism apparently increasing on both sides of the Atlantic there has been little political will to remove them.

The businessmen, representing internationally minded corporations, manufacturers organizations, banking associations and other groups, are hoping they can bring enough pressure to bear on their governments to reverse the trend.

[From the New York Times, Dec. 12, 1970]

U.S. MISSION HEADED BY HARDIN WARNS EEC ON ITS FARM POLICIES

PARIS.—An emissary of President Nixon, stepping up the American assault against discriminatory Common Market farm policies, has warned that protectionism cannot be beaten back in the United States without a positive response from Europe.

Clifford M. Hardin, Secretary of Agriculture, heads a large and important trade mission that has been carrying this message to officials in European capitals over the last two weeks.

Mr. Hardin, who arrived in the European Economic Community's capital of Brussels yesterday, has been firing away at high farm prices that have reduced American agricultural sales in Europe.

COINCIDES WITH DEBATE

His mission has coincided with debate in the Congress on a protectionist trade bill. Although it looks as if time may run out before the bill can pass in the present lame-duck session, there will probably be new trade legislation introduced in the next Congress.

Mr. Hardin is serving notice that if Europeans want to see better legislation—they have strongly protested against the current bill and threatened massive retaliation—they must take a more reasonable attitude in some of their own policies.

The six-nation E.E.C., made up of France, West Germany, Italy, Belgium, the Netherlands and Luxembourg, imposes a variable levy system in assessing duties on American farm imports. This is one of the practices the American Administration finds most pernicious.

The levy is designed to bring the price of the imported product to the inflated E.E.C. level. Proceeds from the levy are used to subsidize farm exports of the six. The high Community prices induce greater production, which means the six have more to export.

Variable levels are imposed on imports of grain, beef, pork, poultry, lard and dairy products. In each of these sectors American sales to the E.E.C. have markedly dropped since 1966.

FIVE NATIONS VISITED

Mr. Hardin, who is accompanied by officials from the State and Commerce Departments as well as his own department and by two members of the Presidential Commission on International Investment and Trade, began his tour Dec. 2. He has now visited five of the six E.E.C. countries. He next goes to London.

Apart from the variable levies, which the United States cannot do much about, Mr. Hardin is showing Administration concern over specific E.E.C. policies in tobacco, grain and citrus products.

[From the Wall Street Journal, Sept. 14, 1971]

FREE TRADE EVENTUALLY, TOUGH ACTION NOW TO BOLSTER U.S. URGED BY BLUE-CHIP PANEL

WASHINGTON.—A blue-chip presidential commission urged sweeping and tough actions to shore up the U.S. foreign-trade position, including antitrust-law relief for companies hurt by imports.

The ultimate policy aim, said the secrecy-shrouded "Williams Commission," should be "elimination of all barriers to international trade and capital movements within the next 25 years." To achieve this, though, the U.S.

in the meantime may have to resort to such seemingly protectionist steps as "orderly marketing" quotas and temporary tariff increases against some very rapidly rising imports, the panel contended.

Despite its many long-range aspects and the forbidding bulk of its nearly 2,000 printed pages, the three-volume report of the Commission on International Trade and Investment Policy is likely to be spared the dust-gathering fate that often has befallen efforts of other presidential commissions.

President Nixon, in making his Aug. 15 policy changes, is understood to have been influenced significantly by the business-dominated Williams panel findings that were made known to him over the past several months. The wage-price freeze and 10% import surcharge were the "necessary emergency steps to lay the foundation for the longer-term negotiations which lie ahead," commented Albert L. Williams, commission chairman and finance committee chairman of International Business Machines Corp.

The proposals have "even greater relevancy and urgency" than when they were submitted in July, Mr. Williams said after meeting with Mr. Nixon for 45 minutes yesterday. The President's Aug. 15 initiatives were "only the opening gun" in a move to restructure international trade and monetary arrangements, Mr. Williams said, adding that "I don't think we have a realignment of currencies yet, all tidied up, by a long shot."

NEGOTIATIONS REQUIRED

Many of the 147 specific recommendations would require immediate negotiations with other countries, such as the talks on currency rates starting tomorrow in London by the finance ministers and central bank governors of the "Group of 10" key industrial countries. Others, such as proposals for greatly enlarged federal aid for industrial research and development, already are being prepared by the Nixon administration for submission to Congress in January.

The report's tone and thrust clearly coincide with Mr. Nixon's inclinations in the international field, analysts say and probably provide clues as to the details of demands the U.S. will be making in return for ending the import surcharge and the dollar's float. The panel consulted with many key administration strategists, the analysts add, and channeled its thought along the way to Mr. Nixon mainly through Peter G. Peterson, the key White House international economic aide who has voiced many similar views.

Some of the commission's proposals could prove quite controversial on Capitol Hill, however. Congress always has icily rejected, for instance, the idea the panel espoused of delegating to the President even "limited authority to alter tax rates" within the U.S. Many lawmakers would be likely to balk at the panel-endorsed ideas of the U.S. conforming to the much looser limits of Western European countries on the goods that can be sold to Communist nations, or of letting new trade pacts take effect automatically unless rejected by Congress within 60 days.

OPPOSING ANTITRUST CHANGES

At least some resistance would be assured, too, if the administration embraces the commission's request for altering antitrust laws "to permit mergers if the firm in question is encountering serious difficulty because of import competition." Because this would happen only if imports were entering in large amounts, the panel argued, such mergers of weak companies into stronger ones normally could take place without competition being "substantially lessened."

On at least a few points, the Williams Commission failed to support present Nixon administration thinking. The members "failed to reach a consensus" on Mr. Nixon's Domestic International Sales Corp. bill, one insider says, because about half of them worried that the cost of tax deferral on export profits would outweigh the benefit of encouraging exports. Similarly, the panel found evidence too mixed on the trade benefits that might come from a European-style "value-added tax" to reach a conclusion, observing that any such national sales tax ought to be decided only on the basis of domestic impact.

Nor is it clear how many of the commission's positive proposals the administration is likely to pick up. The great liberalization the panel advocated for "adjustment assistance" to companies and workers affected by imports could be costly in budget terms, and deficit-plagued officials might be unwilling to spur the economy enough through the budget to honor the commission's wish that the Federal Reserve Board's monetary policy be left more free to gear interest rates to international flows.

"NEW REALISM" NEEDED

But the panel argued strongly that a "new realism" and "bold" moves are required to cope with a world economy that has changed fundamentally since most arrangements were worked out at the end of World War II. Europe and Japan have become vastly stronger economically, and relatively free movements of money, goods and other activities of multinational corporations transmit both technology and tensions very rapidly, the commission said, warning: "Today there is serious risk that the world may break up into hostile regional economic blocs."

Since the commission was appointed in May 1970, its members were exceptionally closemouthed about its work. Even as broad conclusions were reached several months ago, only a few inner-circle White House aides were tipped to the report's contents, partly because of the surprise element necessary if President Nixon picked up the "border tax" idea to force bargaining by other countries. The Williams panel proposed a tax rebatable on exports, but Mr. Nixon went only for the import levy to avoid the need for legislation, a commission official said.

The report's basic conclusions were supported by 25 of the 27 members, the panel reported, with strong dissents by I. W. Abel, president of the United Steelworkers, and Floyd E. Smith, president of the Machinists union. Sticking with an earlier AFL–CIO executive counsel position, the union leaders called for tight curbs on imports and a crackdown on the "export of U.S. production and jobs" through multinational corporations' investing in plants overseas.

The majority, which included 18 business leaders, six professors and a farm group leader, conceded only that U.S. foreign direct investment "may have displaced U.S. manufactured exports in some cases." But it stressed that after a lag, "the export markets would probably have been lost in any case" on the ground that foreigners would have undertaken such manufacturing abroad if U.S. companies hadn't done it first. Thus, the committee called for a phase-out of existing capital-outflow controls "over the next three to five years."

Among key negotiating aims, the panel favored a "more responsive" system for currency-exchange rates and retaining but tightening the operations of the Geneva-based General Agreement on Tariffs and Trade. The commission urged that GATT's rules against export subsidies be made clearer and more enforceable and that the U.S. work in GATT for elimination of "illegal" Common Market hurdles to U.S. agricultural and other exports, and for coordinated lowering of tariff and nontariff barriers, with special attention to assuring that antipollution safeguards aren't unfairly used to restrict trade.

The extent of agreement reached among the business members is significant, insiders say, because they were chosen from potentially conflicting sectors, such as those which face heavy import competition, or import heavily, or export and produce extensively abroad.

[From the Washington Post, Oct. 15, 1971]

(By Hobart Rowen)

EEC OFFICIALS WARN UNITED STATES ON RECESSION

High Common Market officials have warned American officials in the past few days that "the European economic situation is deteriorating," and suggest that if President Nixon's New Economic Policy is pursued without relief, the American Government will be responsible for having pushed Europe into a broad-scale recession.

They cite, especially, the 10 per cent surtax as one of the new U.S. "protectionist measures" that are certain to be used "as a pretext for escalating retaliatory measures," by March or April of 1972 at the latest.

At the same time, these officials offer as a "personal opinion" that the U.S. is "entering a period of second thoughts" about the international phases of the N.E.P.

"The American Government is well informed of the evolution of opinion in the other countries," one EEC official said. He mentioned particularly that the West German Government was disillusioned because it had "not been rewarded for friendlier behavior." A higher D-mark rate, combined with the surcharge and the disadvantages of the DISC proposal and the "Buy American" investment credit creates "a strong dimunition of the competitiveness of German industry," he asserted in a meeting with American newsmen.

"The U.S. authorities," he asserted, "are looking for a settlement as quickly as possible."

The European officials hinted, without saying so directly, that the United States will eventually raise the price of gold modestly as its contribution to a general re-alignment of exchange rates. "The United States is intelligent enough," one Commart source said, "to know that this would be a useful political contribution."

The suggestion was that there would be "a general bargain" in which the actual changes in exchange rates will be set by the Group of Ten financial ministers, and that at the same time, "there will be agreement on how the further deficits of the United States can be financed."

But it will take perhaps 4 to 5 years, sources said, before the United States payments picture can be brought into equilibrium.

American officials, it was ascertained independently, are well aware that the 10 per cent surcharge is adding to the economic problems of some countries already experiencing a slump in activity. But it is not clear that there has been any significant change in the U.S. timetable or goals in seeking a $13 billion "swing" in its balance of trade.

In respect to the deteriorating situation in Europe, the Common Market officials cited a reduction in the plans of Italian exporting firms for new investments, which would cut production and jobs in that country; the possibility that a slowdown now evident in West Germany would turn next year "into stagnation and perhaps recession"; and "a very bad situation" in the Netherlands, where there has been a serious increase in prices accompanied by a worsening balance of payments situation.

In France, sources said, the situation was somewhat better, but there is a serious concern that the economy is not expanding enough to absorb a growing labor force; especially, it was said, the French problem is to find enough jobs for young people.

One specific complaint lodged by Common Market officials with the U.S. Government is that European countries are being asked to make a "sacrifice" by reducing their trade surpluses—or going into deficit—while the

U.S. says it intends to remove all restrictions on capital movements.

The argument is that it is "difficult to accept" a reduction of trade surpluses while the U.S. "continues its policy of the acquisition of assets abroad."

Even where European Governments would prefer to resist retaliation, "it would be difficult to resist public opinion," reporters were told. "Therefore, it would be useful to reach at least a partial solution to these problems by the end of the year . . . It would be better to get out of this situation . . . and not waste time."

The officials urged that the Nixon Administration and other governments put aside the charges and countercharges "of the past" and instead "examine objectively what we are willing to do in the future."

Half-in-jest, it was suggested that a "marathon" session which has come to typify internal Common Market hassling might be used as a form to shake loose a general bargain which could produce a new set of fixed exchange rates, abolition of the surcharge and "a reciprocal commitment to discuss other problems," all by the end of 1972.

[From the Wall Street Journal, Oct. 19, 1971]

The Protectionist Virus

The protectionist virus is steadily spreading—through the government, through the country, through the world at large. Unless some means are found to check it, its toll could be enormous.

Peter G. Peterson, the White House top foreign economic policy aide, professes to be so worried about the trend that he's afraid to push the other way. That view, moreover, isn't as odd as it may at first sound.

The administration, for instance, is well aware that its 10% import surcharge is hitting painfully at poorer countries in Latin America and elsewhere, even though the move was designed primarily to pressure Japan and other major nations into agreeing to more realistic currency exchange rates.

For sometime, the administration has favored trade measures that would give the developing countries greater access to markets in the U.S. and other industrial nations. So far such proposals have gotten nowhere, and for the present at any rate the administration does not intend to push them.

Why? Well, Mr. Peterson said the other day, the mood of Congress and of the U.S. generally is "so protectionist" that any administration bills to extend trade preferences or enlarge aid to poor countries would probably be transformed by the lawmakers into "permanent, fixed quotas" against imports. Considering some of the legislators' recent performances, the prediction isn't at all unrealistic.

Thus the House Labor Committee elected to attach a protectionist rider to, of all things, a bill to increase the federal minimum wage. The rider seeks to bar the federal government from giving contracts of more than $10,000 to foreign suppliers who pay their workers "substantially less" than whatever the U.S. minimum wage happens to be at the moment.

"Substantially" is not defined, and the proponents seem to think that's a plus. The vagueness, they say, will give the administration "a lot of latitude" in deciding whether or not to give business to foreign suppliers. It will also give the protectionist Congressmen, as well as lobbyists for special interests, a lot of latitude to put pressure on the administration.

Meanwhile, the 10% surcharge continues to embitter some major countries that, until recently, the U.S. saw as friends. Unemployment in Canada rose to 7.1% of the labor force in September, a 10-year high and well above the U.S. rate. Canadian officials are quick to note that September was the first full month after imposition of the surcharge; while the levy probably is not the only reason for the jobless upsurge, it may be hard to convince Canadians of that.

More than 60% of Canada's exports go to the U.S. and about 25%, or close to $3 billion, are affected by the surcharge. In retaliation for the U.S. levy, the Canadian Parliament already has approved a program to subsidize Canadian exports and offset a large part of the surcharge.

In Japan, the primary target of the U.S. get-tough policy, the anti-U.S. sentiments are even more evident. With the threat of mandatory quotas, the U.S. bludgeoned Japan into a new "voluntary" pact to restrict textile shipments to the U.S. Even though the 10% import surcharge now will be dropped for textiles, Japan's sagging economy and its angry textile industry make it certain that the agreement leaves little good will in a country whose cooperation the U.S. desperately needs in the Far East.

Meanwhile, a Common Market official warns that, if the surcharge lasts much longer on other products, the world will "enter escalation in retaliatory measures." Such measures, he appears to recognize, won't really be good for anybody, but nations seldom worry much about that sort of thing when a trade war gets under way.

There was a definite need for a realignment of international trade rules, and America's rough talk and actions at least have made that plain to everybody. In the process, they have also done a great deal to spread and strengthen protectionism both in this country and abroad.

If the government doesn't come up with antidotes soon, a lot of people are going to wind up awfully sick.

[From the New York Times, Oct. 20, 1971]

Splitting of Blocs—Nationalism and Monetary Instability Are Pulling Nations of the World Apart

(By Leonard Silk)

The drive of the Nixon Administration to swing the United States' balance of payments from deficit to surplus is running into a serious obstacle—rising unemployment in Europe and Japan. Although the slump abroad had begun before President Nixon's Aug. 15 actions in floating the dollar and imposing the 10 per cent import tax, the American trade and monetary moves are coming under heavy fire for aggravating what many businessmen and Government officials abroad now fear may become a major recession.

Under pressure from their domestic industries, foreign governments are likely to resist letting their currencies float higher against the dollar. Some economists even foresee the possibility of competitive devaluations.

If unemployment continues to increase overseas and world trade should decline, there could be a more decisive breakdown in the international monetary system than has occurred.

The effect on world trade and development would be grave. The business decline of 1929–30, which for more than a year seemed like a characteristic cyclical downturn, was turned into the most serious world depression in history by the collapse of the international monetary system.

There is danger today that the non-Communist world, which since the end of World War II has been led by the United States, may split into isolated and protectionist blocs.

The forces of fission in the Western World are aggravated by recessionary factors today—but they are not the result of a temporary situation.

A year ago, the National Planning Association, a private study and policy group with international membership, warned that grave difficulties in the relationships between North America and Western Europe could split the Atlantic region into two contending blocs.

The N.P.A. study said that this trend arose from the tensions between two major developments of the last decade:

A "new nationalism" in all Atlantic countries, resulting from growing pressures to improve living standards at home and to reduce foreign commitments.

And, on the other hand, closer economic integration and interdependence among Atlantic countries resulting from the reduction of trade and payments barriers, the rise of multinational companies and the growth of the Eurodollar market.

C. Fred Bergsten, a former economic adviser to the National Security Council, warns that a United States effort to maintain dollar hegemony beyond the time when this country's true power position permitted it—and when other countries were therefore willing to accept such dominance—"courts disaster."

Mr. Bergsten believes that Europe, through unification will regain its traditional world role. He says that Japan's assumption of leadership in Asia is only a matter of time; he regards Communist China rather than the United States as likely to become Japan's chief rival in the Pacific region.

In the "third world" of developing countries, Mr. Bergsten expects the United States, though remaining important in absolute terms, to continue its relative decline, as the "new nationalism" continues to intensify.

In his view, the United States should have an international monetary policy that is the corollary of the military-political Nixon doctrine calling for a scaling down of American commitments and a transfer of responsibilities to other countries. The dollar standard, he suggests, represents a costly and dangerous overcommitment for the United States.

The new nationalism, said the N.P.A. study, is impelling governments on both sides of the Atlantic to take more and more direct action to maximize national welfare and minimize income losses at the same time as regional economic integration is restricting their freedom of action and subjecting their economies to rapid and painful adjustment.

Similarly, in a study for the United Shoe Machinery Company, Walter P. Hertz, a consulting economist, has predicted that, in the 1970's, what he called "economic cross-pollination"—that is, the establishment of manufacturing subsidiaries of European companies in North America and, conversely, of North American companies in Europe—would cause a rapid slowdown of direct trans-Atlantic trade with customers.

North American companies, according to the Hertz study, would continue to trade, but at reduced levels, with Latin America, as closer integration of a Latin American bloc developed.

The Hertz study said that American companies would be confronted with growing competition from a Far Eastern bloc, led by Japan, in trade with the developing countries of Latin America, Africa and Asia.

What is to be America's monetary role in a world breaking into such regional blocs?

Immediately, the Nixon-Connally international trade and monetary actions that began Aug. 15 were designed to prove that the United States still possesses the power to make other nations adjust to its requirements—by upvaluing their currencies, by unilaterally dropping barriers to American goods or accepting American trade discrimination against them, and by assuming additional defense costs.

In the short run, this policy has scored victories in Japan in the areas of quotas on synthetic, cotton and woolen textiles and in military burden-sharing. However, the resolution of the struggle over the exchange rate of yen still lies ahead.

In Europe, the United States faces stiff resistance which growing unemployment will intensify.

There is now deep resentment in both Europe and Japan—and in Canada and Latin America as well—over the Administration's tough trade and monetary policies, which may be costly to the United States in the long run. A number of internationally minded American businessmen have begun to warn the White House that an early realignment of currencies, a return to stable exchange rates, and an effort to cool the incipient trade war may be necessary to prevent lasting damage to American interests abroad.

These men are afraid that the Administration may wait too long and lose the strong position it held in the weeks that followed the Nixon "shock" campaign of Aug. 15.

[From the New York Times, Oct. 20, 1971]

Denmark Plans Surcharge as Protectionist Measure—European Trading Partners Critical—Common Market Retaliation Against United States Is Said To Be a French Goal

(By Clyde H. Farnsworth)

PARIS.—Two signs of what has been feared most in the world monetary crisis—spreading protectionism—appeared in Europe today. They were:

Denmark's new Social Democratic government, presumably following the American example, said it would impose a 10 per cent tariff surcharge of its own to help the nation out of severe balance-of-payments difficulties. Denmark's European trading partners were critical of the action.

Henri Ziegler, leader of the French aerospace industry, told newsman in Paris that France has asked her Common Market partners to agree on a bloc barrier against imports from the United States. M. Ziegler said his industry wants a 15 per cent customs barrier against American imports to retaliate against the American surcharge.

In another development, the Common Market's foreign ministers reacted strongly in Luxembourg today to what appeared to them to be American divide-and-conquer tactics in the monetary crisis.

These developments occurred as monetary deputies of the 10 richest and most powerful industrial countries continued to differ over the degree of the balance-of-payments adjustment needed to restore improved trading conditions.

The deputies of the Group of 10 today completed the first stage of their technical but highly important discussions on the adjustment process convinced that only high-level negotiations by ministers can resolve the differences. The nations that compose the Group of 10 are Belgium, Canada, France, West Germany, Italy, Japan, the Netherlands, Sweden, Britain and the United States. Switzerland participates as an observer.

Washington has demanded that other countries to take steps to reduce or eliminate their trading surpluses to help American exporters.

The argument centers on the magnitude. The United States wants more help than the others represented at the Paris meeting are prepared to give. Washington has served notice that it will retain its 10 per cent tariff surcharge until it gets satisfaction.

The United States is negotiating special exemptions from the surcharge for Canada and Mexico. Treasury Secretary John B. Connally said in Washington Sunday that he was also "ready to consider" a selective lifting of the surcharge for West Germany because it has allowed its mark "to float upwards to a realistic new parity with the dollar."

The upward revaluation of foreign currencies is one of the objectives the United States is seeking to improve the terms of trade for American exporters. The German mark has been trading 9 to 10 per cent above its old parity of 27.3 cents.

BONN ISSUES DENIALS

Reports stirred by Secretary Connally's remarks that a private American-German deal was in the works drew strong denials from the German authorities in Bonn.

Because of the common commercial policy of the six-nation trade bloc, German acceptance of a special accommodation would drive a wedge deep into the European Economic Community, as the Common Market is formally called.

Mr. Connally's comment was seen in European circles today as a negotiating maneuver that may have had a result opposite to that intended.

The Luxembourg ministerial meeting, according to France's Foreign Minister, Maurice Schumann, showed a strengthened resolve of the Six (France, West Germany, Italy, Belgium, the Netherlands and Luxembourg) to maintain a common front against the United States.

"Every word by the West German delegation was a denial" of a bilateral German-American deal, Mr. Schumann told reporters.

MEETING CALLED USEFUL

The Paris meeting of the monetary officials of the Group of 10, which lasts through tomorrow, was seen by its chairman, Otmar Emminger, a top German central banker, as "highly useful in laying the groundwork for the political process."

Both Dr. Emminger and American officials declared that it was not necessary to reach full agreement on the amounts of balance-of-payments adjustments needed before the final negotiations take place.

This was seen as a positive development. It means that, if the political will to make concessions exists on both sides, an agreement could come relatively quickly.

Another positive element emerged from the Paris meeting. There has been much concern of late that the world is headed into a recessionary spin, accelerated by the monetary difficulties.

But the staff of the Organization for Economic Cooperation and Development produced forecasts for the meeting that indicated a pickup in industrial activity for the first half of next year. It was freely conceded that economic forecasting is a hazardous profession, but the O.E.C.D. staff has had a fairly good record in spotting trends.

What the O.E.C.D. economists anticipate is a big surge in the United States in the first half of 1972 and somewhat slower growth in six other major countries taken together (Canada, France, West Germany, Italy, Britain and Japan).

American growth is projected at 6.3 per cent in the first half of next year compared with the last half of this year. Growth in the second half of this year would be 4.6 per cent more than in the first half.

The O.E.C.D. calculations amount to independent corroboration at the international level of forecasts made by many private American economists and the Nixon Administration.

OUTLOOK FOR OTHERS

For the other countries as a group, the O.E.C.D. sees a 4.8 per cent pickup in economic activity in the first half of 1972 from the second half of this year. And it sees a 3.4 per cent pickup in the second half of this year compared with the first half.

The strength would come mainly from Britain and France. West German economic growth in the first half of 1972 would be only 1.8 per cent higher than in the second half of this year.

The German economy is seen by many private bankers as on the brink of a serious recession. Because of its size, Germany has enormous influence on economic activity elsewhere in Europe. For this reason some private observers were a little skeptical of the O.E.C.D. projections. If the O.E.C.D. is proven right, however, it would make the adjustment sought by the United States easier to achieve.

Dr. Emminger pointed out that if spread over two years, the adjustment would involve a growth sacrifice of only one-quarter to one-third percentage point by the major American trading partners.

The figures are a rough calculation applying either to what foreign countries are prepared to give up in trade concessions to the United States or to what the United States is demanding.

The United States wants a $13-billion turnaround in its trade and services account. Dr. Emminger said "alternative suggestions" were presented at the meeting by some of the foreign delegates who felt that an $8-billion to $9-billion turnaround would be sufficient.

Dr. Emminger left the impression that this was a gap that could be narrowed at a ministerial meeting that is being planned for mid-November. The date has yet to be fixed.

[From the New York Times, Oct. 20, 1971]

List of Grievances Set

LUXEMBOURG.—The Common Market closed ranks today against reported American moves during the weekend to split West Germany from its partners by offering a bilateral arrangement under which German goods would be exempted from the 10 per cent surcharge.

Meeting in restricted session here, the foreign ministers of the six-nation trade bloc agreed on the need to reach a common position on both monetary and trade questions. They ordered their Brussels commission to draw up a joint list of grievances against the trade policy of the United States.

This list is likely to be used in bargaining by the Europeans to counter American criticisms of their own trade policy, such as the network of European trade agreements with Mediterranean countries and the protectionist common agricultural policy of the Six.

Participants in the meetings described the reported United States attempt and Secretary Connally's willingness to consider a "selective" lifting of the surcharge as "extraordinary."

Officials of the Common Market said they hoped to reach agreement with the United States on a general settlement involving an upward revaluing in community parities in return for removal of the surcharge. But this is not the first priority of the Common Market, they stressed.

Considered more important are attempts to reach a Common position within the Community, perhaps by a realignment of the widely differing parities of the six countries' currencies.

The wide difference between the German mark, which has floated up 9 to 10 per cent, and the French Franc, which has not been allowed to float, has caused grave difficulties for the common agricultural policy of the Six. This is because Common farm prices paid to farmers in the Community are quoted in dollars.

At the beginning of today's session, the commission president, Franco-Maria Malfatti, called for speedy agreement on a joint position. No such position was reached today.

UNITY STRESSED

Ralf Dahrendorf, the member of the commission who will fly to the United States next week to talk with Administration officials on trade questions, said today that the surest way for the United States to unify the six Common Market countries would be to seem to try to divide them.

The Deputy Foreign Minister of the Netherlands, Tjerk Westerterp, said: "Up to now we have reacted moderately because we believe the surcharge was only a temporary measure. But, when we hear of selective removal of the surcharge, it becomes much harder to believe that it is merely temporary."

The European countries appear likely to take a significantly harder attitude following today's meeting.

[From the Washington Post, Oct. 24, 1971]

NIXON IGNORES U.S. BARRIERS WHILE PRESSING 10-PERCENT SURTAX

(By Hobart Rowen)

President Nixon and Treasury Secretary John B. Connally, in the high stakes international poker game they're playing to win lowered trade barriers, are trying to convince the world—and appear to have convinced themselves in the process—that the cards have been stacked against the United States in recent years.

And so, with great reluctance (they say) they uncorked a lethal weapon, the 10 per cent import surcharge, to set things straight.

Now, it is true that since the Bretton Woods monetary system was set up in 1944, many of the world's currencies have been devalued, and the United States has suffered from this cumulative, competitive cheapening of money.

Moreover, Japan and West Germany were allowed to start out at the end of World War II with deliberately undervalued currencies to give them, as defeated nations, a head-start on economic recovery.

So the dollar had gotten out of whack—it was overvalued, especially in comparison to the yen and the Deutschemark, and a realignment of currencies and reform of the antiquated Bretton Woods system was long overdue.

But the facts on the trade situation do not square with the administration's charges. The truth is that the United States has just as many, if not more, trade restrictions than our partners and competitors all over the world, although one would never learn this from Mr. Connally's Treasury Department.

And the insensitive use of the surtax as a lever to force trade concessions in seriously jeopardizing many long-term and close relationships—as in Canada—which may never be repaired.

A speech given by John C. Renner, Director of the State Department's Office of International Trade on January 30, 1971, deserves to be recalled. It showed:

Although the U.S. and European average staff rates will be very close at the end of the Kennedy round (8.3 per cent and 8.4 per cent), a breakdown of major industrial sectors shows that the European community (EEC) will have the highest tariff in nine of the 23 major industrial sectors, and the lowest in 11. The U.S. score is not quite so good: the highest in 4, and lowest in 6.

In the distribution among 919 categories of industrial products, the U.S. has considerably more high tariffs and also more laws, whereas the EEC's tariffs are grouped more closely around the average.

A small but significant number of the 919 industrials is also hampered by quantitative restrictions such as quotas. The U.S., Canada, and the U.K. are using this device more freely than a decade ago, while discrimnation against Japan—especially by the EEC—is widespread.

On the agricultural side, as everyone knows, the Europeans have a bad record, with a highly protectionist Common Agricultural Policy. But in terms of industrial quotas, according to Renner, the U.S. restrictions "cover a relatively large number of products and relate to the largest amount of trade," whereas the EEC's quotas, which also cover a large number "pertain to a comparatively small amount of trade." Japan's quotas cover the largest number of products and affect "a considerable amount" of trade.

The point of Mr. Renner's exercise in January is just as valid today: all of the industrialized countries, including the United States, maintain substantial tariff and non-tariff barriers against industrial and agricultural products.

He said then, and it is worth repeating to his colleagues elsewhere in the U.S. government:

"Unilateral action by any country to restrict trade, changes the balance of concessions arrived at over the years, and is most likely to provoke counteraction to restore equilibrium."

Moreover, the anti-American feeling generated by the bull-in-the-China-shop technique has lost us friends. Thoughtful Canadians (distressed as well that President Nixon erroneously named Japan, not Canada, as the No. 1 U.S. trading partner) wonder whether their government should seek to maintain the historic ties between the two nations. "When they imposed the surtax," said one Canadian sadly, "they didn't even say they were sorry they had to do it."

But U.S. policy, in the face of concern abroad over the possibility of retaliation and world recession seems unbending. Secretary Connally told the American Bankers Association in San Francisco the other day that the surtax "is going to stay on for awhile because it frankly is to our advantage to keep it on for awhile."

Mr. Renner's analysis shows there is plenty of discrimination on our side, running from the American Selling Price valuation system to Buy American practices, now exacerbated by the 7 per cent investment tax credit proposal and the DISC idea (see Professor Surrey's separate piece on that issue.)

Perhaps Messrs. Nixon and Connally should be reminded that a cut-throat international trade policy between the two great wars brought on Hitler.

ECONOMIC IMPACT OF GLOBAL POLITICS VIEWED

(By H. Erich Heinemann)

SAN FRANCISCO.—One of the nation's leading international bankers took the Nixon Administration to task here last week for its tactics in negotiating a limitation on imports of Japanese textiles into the United States.

Constant M. Van. Vlierden, executive vice president in charge of international operations at the Bank of America, who discussed the political and economic implications of the world money crisis in a long interview, said that he was "awfully sorry" that negotiations with Japan over resolving the current monetary crisis had fallen "together with the textile agreement—we still dare to call this a voluntary agreement."

Mr. Van Vlierden, who runs what he readily concedes is a "miniature State Department" with offices or affiliates in 78 countries, charged that the United States had "bludgeoned the Japanese into submission almost, for domestic political reasons, not taking into consideration the long-range interest of this country with the Japanese, and with the currency crisis."

Mr. Van Vlierden argued that negotiations in the economic and financial sector were subject to overriding political considerations.

"Where does the United States have the greatest political leverage?" he asked rhetorically. "Undoubtedly in Germany." We are supporting Willie Brandt [Chancelor of West Germany] with an East-West approach that has made him most vulnerable in Germany.

SUPPORT TERMED NEEDED

"The support of the United States of the Brandt Government in that respect is most necessary."

In bilateral negotiations, first with the Germans, then with the Japanese and the British, Mr. Van Vlierden stated, a uniform position would have to be developed that could be taken then to the other members of the Group of Ten, and finally to the community of nations at large.

He argued that President Nixon's initiatives in the economic and financial area should not be viewed apart from the President's decision to go to Peking and to Moscow.

"All these things we are talking about," Mr. Van Vleirden stated, "are coming forth out of the changes of power positions in the world."

The timetable of financial negotiations at present, he said, was such that "one cannot expect anything to happen of substance on parties (that is, the setting of currency relationships), say, in less than four months, and hopefully within six months."

The negotiators, he stated, should be aiming at developing interim working relationships among naions over the next few months that would keep trade and investment flowing until a final solution could be agreed upon in two to three years.

Mr. Van Vlierden, who is based at the Bank of America headquarters here in San Francisco and is responsible for overseas offices with deposits of more than $8.5-billion, said the "the principal key element [In such an interim understanding] would be agreement in principle on the elements that have to go into setting up a new international monetary system.

Secondly, I think that an immediate widening of the band (within which currencies are allowed to fluctuate above and below their defined par values) after there has been a reasonable change in parities could also be most helpful."

This trading band is currently set at 1 per cent either side of par in the Articles of Agreement of the International Monetary Fund.

INTERIM ARRANGEMENTS

He went on to state that such interim arrangements could provide for "further adjustments of parties . . . with a maximum of maybe 2 per cent on a yearly basis, assuming that the whole thing will take about three years.

Mr. Van Vlierden also made the following points:

It would be "completely fallacious for the United States to eliminate its controls on overseas investment and bank lending at this time. It would give the wrong emphasis; it would be highly antagonistic of our foreign friends and it would really get us off the track."

"We must in the new world environment insist on the dollar having the same flexibility and freedom as other currencies . . . We must have the flexibility of currency rates without bringing the whole system down."

Special Drawing Rights (so-called "paper gold" created by members of the I.M.F. to provide a means of payment between nations) should be the "numeraire" or common denominator of the future monetary system, to replace the role presently played by the United States dollar.

Over the next 10 or 15 years, the "thrust" of the new monetary system "must be a phasing out of gold in the system as a reserve asset."

The United States should resist European demands that it increase the official 35 per ounce prices of gold, in part because such a move would be "fraught with political danger" that it would set off protectionist forces in Congress.

Mr. Van Vlierden warned that, even with steady progress toward settlement of international financial problems, "we are going into a far more restrictive world over the next five to seven years than ever before in the last 15."

He said: "We will have more difficulty in getting the capital investment flows between countries going. Probably we will go into certain types of trade blocs—the European-Middle Eastern-African bloc is already there; North America will have some type of further integration with South America where the dollar will play the main role, and in the

Pacific there will be some bastard arrangement between the yen and the dollar in terms of servicing that area from an international point of view."

[From the Wall Street Journal, Oct. 26, 1971]

DID PROTECTIONISM CREATE HITLER?

The quick answer to that question is obviously no. Yet protectionism helped; it watered the soil that could nurture a Hitler—and other disasters. It is more than a little disheartening that so many in Washington and in the country's executive suites seem to have such short memories.

Granted, the roots of the Hitler phenomenon are gnarled and stretch far back, directly to World War I and even farther into the past of a Germany with little experience in democracy. On the economic side, the hideous post-World War I German inflation was followed by bitter depression, facilitating the rise of a dictator. And of course depression was a general condition in those days, in the U.S. as elsewhere.

The stock-market crash of 1929 heralded the onset of depression in the U.S., but it was less its cause than the result of previous profligacy. Certainly one tangible cause of the protracted nature of the great depression was the Smoot-Hawley tariff legislation of 1930, the very symbol of extreme protectionism. It set in motion a series of international moves that seriously inhibited the movement of trade and money.

As Lewis Douglas, former ambassador to Great Britain, recently recalled in a letter to The New York Times: "Foreign trade withered, prices fell precipitately, all values plummeted; (U.S.) unemployment rose from approximately 5.5 million to 11 million in the short span of about six months. The world was plunged into the deepest depression of which there is any known record.

"These events identify the cause of the economic anguish through which the United States and the entire Western world passed during the Thirties and which was not alleviated until World War II."

The abiding vice was economic nationalism, and it is not at all difficult to fathom why it should have had such dire results. Have our officials and too many of our executives forgotten the meaning of the word autarky, the notion that a country could be economically self-sufficient? In Nazi Germany it was personified in Hitler's financier Hjalmar Schacht.

The policy is almost by definition regressive. It portends the diminution of healthy relations among nations. Hence, apart from its direct economic consequences, it breeds suspicion and hatred and can become a cause of war.

After World War II the statesmen of the Western world read the record aright. With the U.S. far in the lead, they set about freeing the international movement of men, capital and commerce from the abnormal restrictions of the past. Undoubtedly they could have done more, but they accomplished much. It is no coincidence that the post-war years by and large, for Americans and their counterparts in the other advanced nations, have witnessed mass prosperity unparalleled in history.

For just as economic nationalism—protectionism—is a divisive and depressive influence, so the liberalization of international economic relationships is a powerfully uplifting, broadening and wholesome force. Men do want to be free; it is innate, and a large part of that sense is the freedom to cross borders with one's person, investment and goods as little as possible bothered by the pesky functionaries of economic nationalism.

Why, then, should the U.S. and other nations want to turn back down that dismal road? The U.S. government has taken steps in that direction, and even more ominous is the impression that protectionist sentiment generally is probably stronger today than at any time since before World War II.

Well, as far as the U.S. is concerned, it is true that other countries have been taking advantage of it in recent years. Some more than others, they have imposed a variety of trade restrictions that have the effect of making he U.S. a freer market for their goods than their markets are for America's. This circumstance has enabled the hard-line protectionists, who have never given up, to rehearse their dreary pleas with more impact than heretofore.

But the U.S. ought to be sufficiently grown up to avoid the petty path of trade retaliation, which naturally prompts retaliation against it. We believe Washington had far from exhausted the resources of negotiation to get its trading partners to dismantle their impediments to American exports. Even failing that, the fact remains that protectionism is simply not a viable course.

We do not necessarily contend that unbridled protectionism would bring on political and economic horrors similar to those of the Thirties (although if it is indeed unbridled we would not bet that it wouldn't). We merely say that the liberating history of freer trade is as clear as are the demonstrated dangers of protectionism.

[From the New York Times, Oct. 29, 1971]

CANADA WARY ON TRADE: SIGNS OF PROTECTIONISM BEGIN TO STIR AS OTTAWA PONDERS AMERICA'S CURBS

(By Edward Cowan)

TORONTO, October 28.—In his 1970 book, "Canada and the Canadians," George Woodcock recommended that his countrymen take measures to diminish the United States influence over the Canadian economy.

ECONOMIC ANALYSIS

"The United States could hardly do more than apply economic sanctions, and these would be largely negated by the fact that Japan and the Western European countries are anxious to expand their trade with Canada," the writer observed.

In the autumn of 1971 Canada finds itself grasping the thorn, which Mr. Woodcock promised would not pierce, without having plucked the rose.

As Canada sees it, Washington, for its own reasons, has imposed the sanctions—the tariff surcharge on some imports, the buy-American feature of the proposed investment credit and the proposed tax-shelter for special export corporations. Poised overhead like a guillotine blade are changes Washington wants in the bilateral trade relationship—changes to benefit the United States.

The Canadian-American Committee, a business-labor group, has calculated that the surcharge affects 3.4 per cent of Canada's gross national product, as against 2.8 per cent for Japan and 1.2 per cent for Western Europe.

Canada is plainly nervous. As the Ottawa correspondent of The Financial Post, Clive Baxter, put it this week, Washington is whipsawing Canada with a "combination of off-the-record leaps and on-the-record refusal to get down to business" about conditions for removal of the surcharge.

Inasmuch as Canada generates one-fourth of her income from exports, of which two-thirds are sold in the States, Ottawa is wary of what it regards as an incipient global drift toward regionalism and protectionism.

Protectionism may be reviving in Ontario, whose industry was built behind a high-tariff policy. The International Ladies Garment Workers Union has broadened its traditional union-labeled campaign to include opposition to foreign goods. "Help fight imports—the job you save may be your own," say union posters. "Buy Canadian fashions."

AN INDUSTRY RESCUED

Last week Ottawa imposed an import quota on low-cost knit shirts. That may have been a special case rather than a new policy departure. Indeed, Ottawa has begun to talk up the case for a new, multilateral round of trade negotiations. But to rescue one uncompetitive industry is to invite others to seek help.

As an alternative to protectionism there is some sentiment (but not much) for closer, formal economic integration with the United States. Most Canadians and their government oppose it. They say that it might make economic sense but that it would erode Canada's political sovereignty and cultural distinctiveness.

Moreover, according to Jean-Luc-Pepin, the Minister of Industry, Trade and Commerce, in bilateral negotiations "Canada is in a relatively weak bargaining position vis-a-vis the U.S.A."

FACING THE PROBLEM

What, then, to do? The general answer—by now a truism endorsed by Canadians who disclaim any competence in economic matters—is to be less dependent on the United States. But now?

Those who would like to put more distance between Canada and the States have recommended turning to other countries for both capital funds and export markets.

Canadian provinces and corporations have been probing European capital markets for several years. It is slow, painstaking work and the fruits may be modest. "You have to line up in the queue behind everyone else," a banker commented in a reference to European restrictions on capital exports.

Moreover, capital imports would tend to strengthen the Canadian dollar, now all but equal to the American dollar, just when Canada wants to a cheaper dollar to help exporters.

So the emphasis is on finding new export markets. The amiable Mr. Pepin led missions to the Soviet Union, China and West Germany this year. He will go to Algeria in November and to Japan in 1972.

These trips, incidentally, are good grooming for the next job Mr. Pepin is rumored to be in line for, Minister of External Affairs.

In the last two years Canada has opened trade offices in the Ivory Coast, Algeria and Costa Rica. She also has opened offices in Peking and Warsaw, has reopened offices in Cairo and Havana and has expanded her trade missions in Moscow and Belgrade.

Officials concede that this is necessary spade work but hardly sufficient to guarantee that trade will flower.

DIFFERENCES NOTED

Where economics are closely controlled by the state, it must be assumed that trade agreements are more likely to work to the advantage of the other countries, not Canada. Their export agencies can approach Canadian customers directly and the Canadians do not need official permission to spend foreign exchange.

Such diffierences are presumably the principal reason. Ottawa is said to be cool, despite the show of cordiality to Premier Alexsei Kosygin this week, to extension of most-favored-nation status to the Soviet Union.

Mr. Woodcock said that other countries were "anxious to expand their trade with Canada." That comforting wish-thought may help Canadians gird themselves for the economic risks of a more nationalistic policy, but is it realistic?

Countries are usually more eager to sell than buy. Canada's exports to Britain, especially farm products would be jeopardized by British entry to the Common Market.

Ottawa argues that expansion of the European community makes more imperative adjustment of the Common Market's relations with outside countries, but does Brussels feel any such pressure?

Reorienting exports is a slow and highly uncertain process. Most important, the size, openness and convenience of the United States market—same language, same system of measure, direct telephone dialing, overnight business trips, similar financial systems, relatively short transportation times for goods, decades of cross-fertilization—may have spoiled Canadian businessmen, just as they have failed to make most American producers export-minded.

[From the New York Times, Oct. 30, 1971]

MONETARY CRISIS CALLED A DANGER FOR EEC

COUVE DE MURVILLE WARNS THAT RISK OF PROTECTIONISM IS BIG

(By Gerd Wilcke)

Former French Premier Maurice Couve de Murville warned here yesterday that here was a "big risk" that the current international monetary crisis could lead to a wave of protectionism.

He asserted that the crisis was seriously undermining the "solidarity" of the European Economic Community at a time when the Common Market was grappling with the problem of adding Britain as a new member.

In an address to students of Columbia University, Mr. Couve de Murville also said that he did not think that the E.E.C. would retaliate against the United States surcharge on imports "for a long time to come." However, he cautioned the United States against a policy of bilateral agreements to remove the surcharge because it would split the Common Market, which is made up of France, West Germany, Italy, Belgium, the Netherlands and Luxembourg.

Mr. Couve de Murville, who served under President Charles de Gaulle while the general twice vetoed Britain's E.E.C. entry bid, seemed to welcome however cautiously, that the British Government's move to enter the market was approved by the House of Commons on Thursday.

In reply to questions from students gathered in the university's new International Affairs Building, he said with a smile that he had not changed his attitude on Britain's membership.

"The only thing that has changed is that I no longer carry responsibilities," he added in reference to his being dropped from the French Government in June, 1969.

The former Premier insisted that France's position on the question of Britain's entry had been "misunderstood." France, he said, always, felt that Britain, as a European country, should be a Common Market member, but should agree to its rules.

Pointing to Britain's responsibilities toward the Commonwealth, Mr. Couve de Murville said that a nation could not belong to two camps. In many ways, he asserted, Britain's relations to other Commonwealth nations had diminished in the last 10 years, while her ties to the Continent had grown stronger.

Asked whether it was coincidental that the agreement with the Common Market came after the death of General de Gaulle, Mr. Couve de Murville replied: "It's difficult to answer that question because it would be attempting to remake history."

TRUDEAU: CANADA MOVING TO WEAN ITSELF FROM UNITED STATES

(By Claude Lemelin)

MONTREAL.—Prime Minister Pierre Elliott Trudeau said over the weekend that Canada's trade surplus with the United States resulted from a deliberate policy on the part of his government.

The shift in the country's trade and payments situation, he said, was designed to wean the Canadian economy from its excessive dependence on foreign—mostly American—investment; it would enable Canadians to live within their means and to finance more of their country's development with their own savings.

Since President Nixon's Aug. 15 announcement of his new plan for the American economy, U.S. officials have been sharply critical of Canada's recent but substantial trade surplus with the United States, and especially on some of the policies Ottawa used to bring it about.

The Nixon administration's response to Canada's "new economic policy" has led Trudeau to wonder if the United States is not determined to buy up more and more of the Canadian economy—and, indeed, to buy up as much of the world economy as possible, he said.

Noting that such intentions would correspond to Marxist theories on monopoly capitalism and economic imperialism, the Canadian prime minister expressed doubt that the Americans "deliberately want to do that," or even that "they have thought this through."

At the same time, Trudeau stressed that Washington had not yet come up with a clearcut answer on that issue, so that U.S.-Canadian relations have become a test case of American intentions.

"I think we're forcing them to come to grips with that problem," said Trudeau. "I don't think that they would admit that they are behaving as capitalists the way the Marxists say that they are behaving."

In the course of a lengthy interview with the Southam newspaper chain, the Canadian prime minister also took a much stronger stand on foreign investment than he has done since he came to power three years ago.

"For the first time in our history," Trudeau said, "we're in a position to say to the Americans: 'Look, we like your investments, we were glad you helped us develop our country, we're glad to pay dividends and interest to you on your long-term debt of equity capital, but now we will pay it to you by selling you more than we buy from you.'

"In other words, we will begin to live within our means, and this was a deliberate policy of this government, and we did it by some belt-tightening and by our determined fight against inflation, and by doing better than the Americans on these economic fronts.

"Having succeeded in doing that, we were finally in a position where we were able to, I don't say buy back the country, or even buy into the future, but maintain the status quo. We made sure that we didn't continue living beyond our means, as we always had in the past, and in order to pay our debts give chunks of our country to the Americans, or to other foreign investors."

Trudeau repeatedly made it clear that his government's "minimum posture" on foreign investment was the maintenance of the status quo, which means putting a ceiling on foreign subsidiaries' share of ownership and control of Canada's main industries.

"American control of our oil and gas is 95 per cent; we wouldn't like it to go to 99 per cent," Trudeau said. American control of our manufactuering industry is 60 per cent; we wouldn't like it to go to 80 per cent; and so on."

To prevent the foreign stake in Canadian industry from growing he said, Canada must export more to the United States than it imports from that country—or, more generally, Canada must maintain a postive trade balance with the rest of the world.

"The United States is now telling us that it doesn't want to have a trade deficit with us," Trudeau went on. "We're saying: 'If we don't have a trade surplus with you, how are we going to pay the interest and dividends which we have to pay you every year?' "

Fundamentally, Trudeau continued, the Canadian authorities are putting the following question to the Nixon administration:

"Are you saying that you will continue to want to receive from Canada and indeed from all the world, interest and dividends coming back into the United States every year, and not let the rest of the world and Canada pay for that by selling more goods to you because you still want to sell more goods to them? Therefore, are you saying that you must export long-term American capital to all countries of the world? In other words, are you saying that your economic system is leading you to try and buy up as much of the world as possible?

"You know, this is real Marxist theory about imperialism being the last phase of capitalism," Trudeau added. "I remember a book [published] 25 years ago by Paul Sweezy [an American Marxist scholar] called imperialism that last stage of capitalism, and I don't think the Americans would want to say they are doing that.

"On the contrary, they would say: "Sure, as a capitalist system, we have accumulated savings that we can direct toward the rest of the world, but we are not doing so in order to be imperialistic. Look at what we did with the Marshall Plan: We sent gobs of capital to Europe to help it build itself up. Look what we're doing with foreign aid: We sent vast quantities of capital to help the poor nations of the world develop themselves. This is how we are using our capital.'

"If this is their answer—fine," Trudeau concluded. "I think, you know, that it's a noble way of making American progress serve and help the world. In this particular crunch, following the Nixon measures, I think we have a very good test case—asking them that exact question and getting them, I hope, to think through their answer."

[From the Washington Post, Nov. 2, 1971]

WORLD TRADE CUTBACK SEEN—MAJOR NATIONS' GROWTH PREDICTED UNDER 5 PERCENT IN 1972

Uncertainty over exchange rates, and the imposition of the U.S. import surcharge will limit economic growth of the major nations to less than 5 per cent next year, according to a new study by a leading multi-national investment bank.

The Societe Financiere Europene (SFE)—jointly owned by the Bank of America and six banks in other countries—says that the effect of President Nixon's New Economic Policy will be "a further slowdown in the growth of world trade."

Prior to the Nixon program, the SFE report said, the expected real growth rate for the major industrial countries was 6 per cent, a major gain from 3.8 per cent in 1971.

Canada, Japan, and Germany will be most affected by the U.S. program, suffering a worsening of their trade balances. But the United States, according to the report, will benefit with the restoration of a small trade surplus.

Assessing the American domestic outlook, the report says the economy here is "now poised to make strong gains over the next year." A moderate recovery "would turn interest rate differentials in favor of the dollar. In these circumstances, the settlement of international monetary difficulties could produce a flow of funds back to the United States."

But until the question of parity relationships is settled, the report suggested, the flow of dollars from foreign private banks to central banks via the Euro-dollar market will continue.

Because of the unsettled international monetary conditions, the report concluded, "the outlook for the Euro-dollar market is uncertain." There probably will be a slower rate of growth in 1972, or even an absolute decrease in volume, with a further easing of interest rates.

"The main factor behind the general easing and possible decreased volume," SFE said, "is lower demand for Euro-dollars by both U.S. banks and European companies."

SFE, based in Paris and Luxembourg, was formed in 1967 to assist European companies in modernization, expansion, and mergers.

Meanwhile, the Commerce Department reported yesterday that foreign direct investments in the U.S. increased a record $1.4 billion in 1970 to a total of $13.2 billion at the end of the year.

In another development, Reps. William S.

Moorhead (D–Pa.) and William S. Broomfield (R-Mich.) introduced legislation that would enable the U.S. to use foreign currencies to pay the import duties on American goods. They said the bill would allow the U.S. to use foreign capital it owns to boost the nation's exports.

[From the Washington Post, Nov. 8, 1971]

Plans Unit Warns on Trade Policies

(By Hobart Rowen)

The National Planning Association, in a report issued today, warns the Nixon administration that its new Economic Policy may be touching off trade restrictions and retaliations that "might get out of control."

The group, a nonprofit, nonpolitical organization, offered a set of what it described as "constructive measures" for detailing with the present international economic crisis that would avoid "further relapse" into protectionism.

Theodore Geiger, chief of NPA's International Studies, referring to the 10 per cent import tax imposed Aug. 15 by President Nixon, said that the United States "is the latest offender in shifting the burden (of competitive trade pressures) to others, and this pattern, if allowed to continue, will destroy the international trading system."

The NPA's report was signed by all 21 members of an NPA advising committee, including representatives of business, labor, agriculture, and universities. But there was substantial and pointed dissent from labor members, notably Nat Weinberg of the UAW, urging more control of multinational companies and for "full compensation" to industries and employees affected by import competition.

One of the most innovative suggestions of the NPA report would allow quotas only where imports have a "drastic and rapid" impact—on a domestic industry—and then only if the industry agrees to a modernization program to be completed in three years.

A supporting paper for this idea by economic consultant Harald B. Malmgren, suggests that such a phasing-out technique would "minimize begar thy neighbor" effects of the typical quota system, most often used to protect "sick industries characterized by low wages and high unemployment."

Another supporting paper, by Robert E. Hunter, a fellow at the Overseas Development Council, suggested that foreign exchange saving from the Nixon "burden-sharing" approach would be smaller than most people expect, and the domestic budget savings would be about nil.

U.S. policies aimed at getting Europe and Japan to pick up a larger share of the defense tab, Hunter said, "can result in greater costs to the United States or greater instability."

The NPA warning for the U.S. to reduce its tough approach to other countries was based on "a significant decline in the economic position" of the U.S. vis-a-vis Europe and Japan. "This country is no longer the competitive superpower it was in the post-war period," Geiger told reporters.

Future policy should be keyed to greater international integration, the report said. In addition to the quota plan, the report calls for:

Immediate elimination of all tariffs now at 5 per cent or less, and a gradual reduction, and then elimination of all higher tariffs.

A small increase in the price of gold as part of a general currency re-alignment.

Generalized trade preferences for developing countries.

[From the New York Times, Nov. 9, 1971]

U.S. Scores Plan by Six on Trade—Preferential Arrangement by EEC for Europe Stir Fear of Export Loss

(By Clyde H. Farnsworth)

Brussels, November 8.—A sharp dispute has arisen between the United States and the European Economic Community over the trading arrangements the enlarged block would make with the industrialized countries of Europe that do not intend to join.

The United States delivered a formal verbal protest of the contemplated arrangements to the six members of the Common Market and its Brussels executive authority last Friday.

While the governments have not yet drafted a reply, the chief of the E.E.C. executives, Franco Maria Malfatti, and the commissioner in charge of trade relations, Ralf Dahrendorf, took exception to the American protest at a meeting of the foreign ministers of the E.E.C. member countries here today.

Mr. Dahrendorf said he took a "dim view" of Washington's move, calling it "direct interference with autonomous policies" of the community—a reference to the timing of the protest three days before the E.E.C. ministers were to deliberate again on the subject.

The E.E.C. foreign ministers apparently ignoring the protest tonight gave the Executive Commission a loosely framed mandate to negotiate an agreement with the European non-candidates. The aim is to set up a giant free-trade area.

EXPORT LOSS FEARED

The United States is worried about the probable loss of export markets, particularly in farm products, if anything like the arrangements now being discussed go through.

The Community argued that what it was doing was perfectly legal under the world trade charter known as the General Agreement on Tariffs and Trade, or GATT.

If this is so, then the United States reserves the right to get the rules changed. They were drawn up in 1947 when world trading patterns were much different than today.

What brings the matter to a head is the impending enlargement of the E.E.C. to include Britain, and if their electorates agree, Ireland, Denmark and Norway as well.

ONE-THIRD OF TRADE

Together with the six present members—France, West Germany, Italy, Belgium, the Netherlands and Luxembourg—the emerging bloc would account for roughly one third of all world trade, against around 15 per cent for the United States.

This huge new trading force casts a long shadow over Europe and the rest of the world. Many countries feel they have to come to terms with the E.E.C. if their trade is not to be hurt.

There are two types of trading arrangements—nonpreferential in which concessions made by the parties are available to other countries as well under the most-favored-nation principle and preferential in which the concessions are made in a discriminatory fashion.

The GATT rules permit preferential agreements if the aim is to construct either a customs union or a free-trade area.

What has angered the United States, especially under the tough New Economic Program of the last three months, is that the Community wants to set up a giant preferential trading area within Europe, as it has already done with the Mediterranean states.

Specifically, the plans now being discussed involve the elimination of trade barriers on industrial goods (except for certain sensitive products) between the enlarged community and the following nations: Sweden, Switzerland, Austria, Finland, Portugal and Iceland.

In addition France, Italy and the Netherlands in the community councils, want agriculture side agreements to get rid of surplus grains, fruits and vegetables and dairy products.

The other countries are all members of the European Free Trade Association (EFTA), the trade bloc that was formed by Britain in the early nineteen-sixties as a rival to the E.F.C. Inasmuch as Britain is about to join the E.E.C. now, EFTA is expected to be dissolved.

$200 MILLION LOSS FEARED

The United States recognizes that there is a problem in the treatment of European countries that will not join the community. But it argues that such treatment must not be at the expense of American foreign trade.

According to some rough calculations from American sources, the United States stands to lose $200–300-million of foreign sales through the contemplated EFTA trade diversion. Countries like Sweden and Switzerland, for instance, might tend to place present purchases from the United States with purchases from the E.E.C. bloc.

What the United States wants is the extension of the most-favored-nation principle so that whatever concessions are offered to the EFTA countries also become available to the United States. The community has no intention of agreeing to this.

The United States is also expected to seek compensation for any trade losses it suffers. This it can do under the GATT rules.

But the heart of the matter is the community's ever-greater impact in the world of commerce. The farmers of the GATT charter did not envisage such a development back in 1947. As an illustration of the way one country after another is trying to come to terms with the community, even mainland China has already had unofficial contacts, and according to sources here is believed to want diplomatic accreditation with the community institutions.

China is expected to send an ambassador to Belgium in the next couple of weeks, who according to these sources, would also seek accreditation with the community.

Today, a nonpreferential three-year trade agreement was signed by the community and Argentina, it is the first such arrangement with a Latin American country. Negotiations for a similar type of accord have already begun with Uruguay while negotiations are expected to open shortly with Brazil.

[From the Washington Post, Nov. 11, 1971]

Protectionist Danger: Treasury's Foray Into Foreign Policy

(By Hobart Rowen)

If one needed proof of the dangerous protectionism unleashed by President Nixon's new foreign economic policy on August 15, it may be found in the vote of the Senate Finance Committee to give the President sweeping new powers to impose trade quotas. Beyond that, the committee voted to allow the President to slap a tariff surcharge of 15 per cent on imported products, even more severe than the 10 per cent additional charge put in place on August 15.

The 10 per cent surcharge, to the rest of the free world, has become a unique symbol of the new inward look of America, a determination on the part of President Nixon to assert U.S. will, forgetting the niceties of international co-operation. Ironically, Mr. Nixon imposed the surcharge under the authority of the Trade Expansion Act of 1962, a contradiction in terms that would be erased by the new restrictive legislation being discussed by the Senate Committee.

But as harmful to free trade as is the surcharge—dramatically evidenced by a total of-more than 2,000 requests for product exemption filed with the Treasury Department—there are phases of the new foreign economic policy that may be even worse.

Take the matter of the proposed 7 per cent investment credit, titled the "Job Development Credit" in an abortive effort to avoid it being labeled a bonanza for business. The credit, as most businessmen admit, is unlikely to do much more this year than to add to business profits: it is most unlikely to stimulate production and jobs because output is so far below existing capacity. That's the first weakness of the proposal.

There is no real connection between the investment credit and job development—and the administration doesn't seem interested in creating such a link. Yet, at least one way is, at hand in Senate bill 2632, proposed by Senator Javits of New York, which would give a specific tax credit for each additional employee hired over the preceding year.

But beyond this deficiency of the administration bill on the domestic side, it carries a "Buy America" feature which is anathema to some of our closest trading partners. That is to say, the 7 per cent credit is allowed for purchases of domestic machines, and is not allowed for foreign purchases.

When the "Buy America" feature of the "Job Development Credit" is combined with the 10 per cent import charge, the supplier, of foreign capital goods is at a disadvantage of about 27 per cent. And if the devaluation of the dollar is taken into account, the "swing" in favor of the American capital, goods seller is probably 30 per cent or more.

The figure may seem staggering, but it is correct. An example provided by a British study (U.K. capital goods producers would be hard hit) goes as follows:

Compare businessmen, A, B, and C, each of whom makes $1,000 gross profit over the period of depreciation of any investment asset he buys.

Businessman A buys no machinery, and pays a tax of $480 (the corporate rate of 48 per cent per $1,000 in the top bracket).

Businessman B buys an American-made machine costing $100. His taxable income is reduced thereby to $900, and his tax is $432 (48 per cent of $900). In addition, the 7 per cent Job Development Credit lops $7 off his tax bill making it $425. Compared to Businessman A, saves $55 in tax, and the final cost of the machine is $45 ($100 minus the $55).

Businessman C buys a foreign machine which costs $100, and pays a $10 surcharge. His taxable income is reduced to $890, and the tax payable is $427.20 (48 per cent of $890). Compared with Businessman A, he saves $52.80, and the final cost to him of the foreign-made machine is $57.20 ($110 minus $52.80), or $12.20 more than the $45 cost of Businessman B's machine.

Thus, the "Buy American" provision gives Businessman B a 27.11 per cent preferential margin over Businessman C. The shift in exchange rates against foreign suppliers easily raises the margin to 30 per cent or more.

"On this basis," asks an indignant European, "who the hell would want to buy a foreign machine?"

Other countries have resisted this kind of discriminatory practice, using investment incentives primarily to advance the modernization of their industry. The Nixon plan tends to defeat the very notion inherent in "Job Development": the provision of a way of making American factories more competitive by using the best, lowest priced machines available.

But the new American foreign economic policy, under Treasury Secretary John Connally's guidance, bowls along without regard to whether the Buy American investment credit is a breach of the GATT (General Agreement on Tariffs and Trade) as our trading partners insist it is.

We as a nation seem to be oblivious to the views and concerns of our friends, even the great fears building up among the Canadians, our nearest big neighbor and our No. 1 trading partner. The special relationship that we have enjoyed with Canada is on the verge of coming apart.

Over their strong objections (and those of much of the rest of the world), we bulled ahead with the Cannikan atomic test. Now, although the import charge has a tremendous impact on the Canadian economy, the only request for surcharge exemption that is likely to be considered seriously is for lumber—because American building and political interests are worried about a shortage.

The danger in protectionist measures is that one gets used to them. Like drugs, they are addictive. The combined August 15 measures in the foreign economic field, if not soon removed or alleviated, could set off a sickening round of discriminations and retaliations that, as the National Planning Association said in a good report over the week-end, could get out of control.

Mr. Nixon might do well to restore the management of foreign policy to the State Department: Treasury Secretary Connally would seem to have enough of a job planning to get the domestic economy moving out of a rut.

[From the Wall Street Journal, Nov. 11, 1971]

REVERSE TWIST: MANY IN UNITED STATES FEAR IMPACT ON AMERICA OF EUROPE'S RECESSION—"FALLOUT COULD BE HARMFUL BEFORE LONG, THEY THINK"; IS MR. NIXON THE CULPRIT?—THE THREAT OF RETALIATION

(By Richard F. Janssen)

WASHINGTON.—Now that Europe's economy is catching a cold, it may become harder for the U.S. economy to stop sneezing.

It's a reverse twist on the old truism that when the U.S. economy sneezes, Europe catches cold, but it's being heard increasingly here. The foreign contagion is rapidly coming to rival uncertainty about Phase 2 controls as a dark cloud on the business horizon.

The economic recovery at home remains so weak that it can't afford any fallout from Europe's slowdown, U.S. government officials, bankers and businessmen agree. Lately, production cutbacks have been spreading and unemployment has been mounting in Germany, Italy and other lands. And many sources contend that this faltering abroad is apt to worsen, so long as currency values remain afloat and the U.S. 10% import surcharge remains in force. If the foreign slump does worsen, says one worried businessman, it could drag the U.S. into a "downward spiral."

And in recent days, optimism has been fading about an early end to the business-dampening currency and tariff conditions. For one thing, foreigners remain frustrated about the absence of specific U.S. demands on currency and trade that they deem necessary to get brass-tacks talks started.

WILL IT RUB OFF?

American businessmen are reluctant to borrow and expand boldly at home when they have reason to worry that U.S. policies are "producing a recession in Europe and Japan which can only rub off on us," says Richard D. Hill, chairman of First National Bank of Boston.

The rubbing-off, analysis say, could take a variety of forms:

More sluggish markets abroad could slow the growth of U.S. exports in 1972, limiting this country's gain in jobs and output.

Crimping of production by U.S. subsidiaries abroad could thin the stream of their foreign profits, major factors for many big U.S. corporations.

Retaliation by foreign governments blaming the U.S. for their own slumps could bring a choking chain-reaction of protectionist measures.

One administration insider figures that the foreign problem will come more to the fore whenever Phase 2 wage-and-price policies become clearer. "It's something we should be worrying about," agrees a Republican aide on Capitol Hill, who sees the major threat in retaliation by other countries.

WHY THE UNITED STATES IS VULNERABLE

So far, businessmen say, the U.S. has seen few tangible effects of the European woes. But "This could become a worry six months from now," says an executive at a metals company. Recession abroad probably will slow U.S. sales of capital equipment next year—"but not seriously," says an executive at a leading producer.

Some analysts say the U.S. is more vulnerable now than ever to being caught up in a foreign recession. They cite the massive increase in size of foreign economies in the last decade and the intimate involvement of U.S.-controlled "multinational corporations" around the world. "I don't distinguish much any more between what would happen in this market or that market," says Judd Polk, economist for the U.S. Council of the International Chamber of Commerce. "If there's a lower level of profits there, we're probably talking about a lower profit rate here."

Most other free-world economies have lost their long upward momentum, nearly everyone agrees. How much the economies will slow, however, is a matter of debate.

The administration position is that no risk of world-wide depression exists. High officials simply assert other nations apparently need to be put to some economic pain before they'll grant the monetary and trade "reforms" the White House wants. And once these policy changes are effected, government men believe, the foreigners' economies will perk up and the U.S. economy will be strengthened.

By and large, businessmen and bankers continue to agree that Mr. Nixon's Aug. 15 trade and currency initiatives were worthwhile, and some even support the official view that little harm to the U.S. is likely in the short run. Talk of a need to call off the U.S. actions, lest the U.S. economy suffer, is "principally propaganda," maintains one representative of large businesses. He attributes it to European governments wanting to see the U.S. humbled by devaluing the dollar through raising the official $35-an-ounce gold price.

But the fear that unsettled conditions will drag on is increasingly predominating here. The import surcharge could lead to "a cumulative contraction in world trade," says William C. Freund, economist at the New York Stock Exchange. "Frankly, I have some worries on this score."

Thus the Treasury is coming under more pressure from U.S. business to take away the surcharge. The speech Treasury Secretary John Connally will give to the Economic Club of New York next Tuesday evening is sure to be watched closely for signs of movement in this direction.

The current slump in demand abroad, traced partly to the surcharge, plainly threatens to hurt U.S. exports in 1972. They amounted to $43 billion last year and have been moving up only erratically this year. A drop in shipments next year could cost some jobs in the U.S., of course.

More important than any export loss, some analysts say, is the effect of the Nixon moves on U.S.-owned businesses that produce abroad; this volume is estimated at $100 billion to $200 billion annually. Many expansion projects for abroad are in abeyance because of uncertain currency values, U.S. executives say, and this means delay in building machinery here to equip foreign plants. If sales of U.S. subsidiaries abroad turn downward, the profits are apt to suffer accordingly. Last year the earnings of some $6 billion from U.S. direct investments abroad helped moderate the impact of the U.S. recession. For 1972, one private economist sees "a real possibility" of a reverse impact on profits.

Much less certain but much more alarming, business sources say, is that other governments blaming the U.S. for their economic slowdowns may make reprisals. It is widely agreed here that some sort of recession was taking shape abroad well before Aug. 15 and that it could linger after the U.S. import surcharge might come off. But the U.S. is being blamed by some foreigners, whether it deserves the blame or not. And that's what is important—and troubling to U.S. businessmen.

Even if the U.S. doesn't deserve any of the blame, says one banker, other governments could find it politically necessary to retaliate. Not just on trade, as Denmark is doing with its own 10% surcharge on imports, he suggests, but in harassing U.S. investments abroad. This could involve anything from tight limits on fresh investment inflows to restrictions on repatriating profits or even to expropriations of U.S.-owned plants, as in Chile.

"The disease of protectionism, once contracted, is dangerous for American international business and the U.S. economy," warns Willis C. Armstrong, president of the New York-based U.S. unit of the International Chamber of Commerce. Since President Nixon's August actions, the Washington-based National Planning Association agrees, "the danger that increasing resort to restrictions, discriminations and retaliations might get out of control has become very much greater."

[From the Wall Street Journal, Nov. 12, 1971]

CANADA'S NEW "ANTI-AMERICANISM"

(By Mitchell C. Lynch)

OTTAWA.—Is Canada going anti-American? Prime Minister Pierre Trudeau says certainly not. The government, through the cabinet, says relations between the two countries are as warm and friendly as ever. And no polls have shown that the Canadian people themselves are getting hot under the collar about their neighbors to the south. ("Some of my best friends—and relatives—are American," deadpans Charles King in a recent column in The Ottawa Citizen.)

So, with all that evidence in hand, the hottest topic from Vancouver to Halifax today is why Canada is turning anti-American.

The Canadian House of Commons recently held an extraordinary two-day debate. The topic: "the continuing deterioration" of relations between Canada and the U.S. Nary a newspaper columnist in Canada is probing much else than the widening gap between Ottawa and Washington.

The letters-to-the-editor column in most newspapers is devoted almost exclusively to anxious Canadians saying they like Americans. And an American correspondent in Canada can't have a quiet drink at his favorite bar without receiving many unsolicited assurances from his fellow patrons that *they* aren't to be counted among the other Canadians who don't like Americans.

The whole controversy—or noncontroversy—looms as a major election issue next year. What's hard to determine now is which side will use it—Mr. Trudeau's Liberal Party or the opposition Conservative, or Tory, Party. The Tories say the Liberals will blame the U.S. for Canada's economic plight while the Liberals say the Conservatives will howl that Canada wouldn't be in such economic hot water if the government had maintained closer ties with Washington.

(This certainly wouldn't be the first time the U.S. was an election issue in Canada. In 1911, for instance, the incumbent Liberals ran on the idea of establishing a common market with the U.S., while the Tory slogan was, "No truck nor trade with the Yanks." The Tories won handily.)

The latest swirl on relations with the U.S. was caused by a strangely coincidental series of events. On one side were President Nixon's new economic policy and the nuclear blast at Amchitka, while on the other were the recent visits of Soviet Premier Kosygin and Yugoslav President Tito, plus Canada's strong support for admitting China to the United Nations. All of this came amid Ottawa talk that Canada must lessen its dependence on the U.S. and begin to look elsewhere for trading partners—a "re-examination of our ties," Mr. Trudeau calls it.

A DEVASTATING EFFECT

The new economic policy is expected to have a devastating effect on Canada, which is America's biggest trading partner. The 10% import surcharge, for instance, affects about 25%, or close to $3 billion, of Canada's annual shipments to the U.S. In addition, the investment-tax credit, which would apply to U.S.-made equipment and machinery only, could bite into $1 billion more of Canadian southern-bound exports.

Partially as a result of these U.S. moves, Canada's seasonally adjusted unemployment rate in mid-September—one month after Mr. Nixon announced his new policy—shot up to 7.1% of the labor force. Ottawa immediately announced a 7% cut in corporate taxes and a 3% reduction in personal income taxes. It also instituted a $498 million winter works program for such job-creating projects as road-building, housing construction and erecting federal exhibition buildings throughout Canada. The jobless rate dropped to 6.7% in October, but that decline didn't cause any jubilation in Ottawa. "That still represents an awful lot of people out of work by anybody's standards," concedes a government aide.

A Canadian delegation, led by Finance Minister Edgar J. Benson, went to Washington shortly after the Nixon program was announced to see if Canada could get an exemption from the surcharge. After all, the delegation said, Canada had done nothing to cause America's woes; the Canadian dollar had been floated more than a year earlier, and Canada had set up no discriminatory import barriers against American goods.

What the delegation received, it's known now, wasn't a flat no, but a reminder that Canada had posted a $1.09 billion balance-of-trade surplus with the U.S. last year. In addition, the Canadians were reminded, Ottawa in 1965 signed an automobile trade agreement with Washington that contained a few temporary "safeguards" to enable the Canadian industry to get on its feet. The safeguards are a complicated set of insertions in the agreement that include ways of maintaining a certain degree of "Canadian content" in autos sold in Canada.

Washington argues that it's time these safeguards were removed. After all, it adds, the agreement was aimed at allowing autos and auto parts duty-free access across the border from both sides.

"The Yanks have lowered the boom on us," says one disgruntled Ottawa aide. "They're belting us at a time when we're weak as hell."

MR. TRUDEAU'S ASSERTION

This hard-nosed attitude, to many Canadians, gives credence to Mr. Trudeau's assertion that Americans "neither know very much nor care very much really about Canada." When asked if he still felt this way a few weeks ago the prime minister said, "I suppose that they wouldn't have changed overnight and suddenly begun massively caring about Canada."

Mr. Trudeau is expected to give Mr. Nixon a refresher course in Canadian affairs when the two meet here in Ottawa sometime next spring.

This lack of concern, Canadians say, was reflected again when the U.S. detonated the nuclear blast at Amchitka in the Aleutian Islands. The Canadian parliament had adopted a resolution condemning the planned test, protesters had taken to the streets in Canada and petitions bearing hundreds of thousands of names had been sent to Washington.

In the meantime, though, a curious thing happened. Soviet Premier Kosygin came to Ottawa and during a luncheon toast hinted that Canada was being victimized by "economic miscalculations" of the U.S. Without mentioning the U.S. by name, Mr. Kosygin said the Canadian economic unrest "is all the more unacceptable when these miscalculations aren't due to chance circumstances, but, in fact rendered inevitable by the pursuit of policies creating focuses of tension and conflict in various parts of the world."

Many Canadians obviously resented this outside intrusion in what they felt to be a U.S.-Canadian squabble. Robert L Stanfield, head of the Conservative Party, reportedly received a standing ovation when he said, "It is inappropriate, it is stupid . . . to encourage Soviet leaders to use a Canadian platform to attack the United States."

PRESIDENT TITO'S VISIT

The slight unease caused by Mr. Kosygin's visit was heightened a week later with the arrival of Yugoslav President Tito in Ottawa for talks. At the same time, Canada voted for the admission of Peking to the U.N.

"It is evident," columnist George Bain said in The Toronto Globe and Mail, "evident even to the government, that an uncertain number of Canadians share this vague fear that somehow, as a country, we have been very recently dangerously anti-American—dangerous because we are bound to pay for our sins."

Heath MacQuarrie, who would be external affairs minister if the Conservatives were to win power in the next election, said, "It would be naive, regrettably naive, perhaps dangerously naive to suggest that all is well" between Canada and the U.S.

Nonsense, says Mitchell Sharp, external affairs minister. "It is childish and, I suggest, very immature to suggest the tentative and the positive Canadian moves toward better and more rewarding relations with China, the Soviet Union and other Communist nations are an act of defiance toward the United States."

He said Mr. Kosygin was merely repaying a visit that Prime Minister Trudeau made earlier this year to the Soviet Union; President Tito was merely dropping by on his way back from Washington; supporting China in the UN was a logical extension of Canada's recognition of Peking in October 1970.

The U.S. isn't alarmed about President Nixon's forthcoming trips to Peking and Moscow, Ottawa says. And anyway, adds Mr. Trudeau, Canada considers the Soviet Union its neighbor to the north, across the Arctic, "Canada and Canadians want very much to look to the north, as they long have looked to the south, and see friends in each direction."

So why all the fuss? "Conflict is a function of contact," Mr. Sharp says. "Canada has very little in the way of conflict with Mongolia," he adds. "Our relations with that country might be regarded as the model for all nations—if we were to overlook the fact that our contact with the people of Mongolia is almost non-existent.

"No two nations in the world have so many contacts at so many levels, official and non-official, as Canada and the United States."

J. Leonard Walker, president of the Bank of Montreal, goes deeper than that. He says Canada has a "love-hate relationship" with the U.S. While Canadians enjoy the overflow of wealth and technology from America, he says, at the same time they resent the intrusion on the culture of the American way of life and the dependence they have on the United States in general.

[From the New York Times, Nov. 13, 1971]

INVESTING CURBS URGED IN CANADA—AGENCY SOUGHT TO REGULATE EXPANSION ACTIVITIES OF FOREIGN COMPANIES

(By Edward Cowan)

TORONTO, November 12.—A task-force report that the Canadian Government has refused to publish recommends creation of an agency to regulate new foreign investment in

Canada and expansion of existing foreign-controlled companies.

The principal goals of such screening would be to diminish United States economic and political influence in Canada, to increase Ottawa's power to guide industrial and resources development and to enhance the economic benefits Canada derives from foreign investment.

The Government has been drafting a major policy statement on foreign investment that Prime Minister Pierre Elliott Trudeau has promised to issue soon. The statement is expected to draw heavily on a 200,000-word report to the Cabinet by a task force headed by Herb Gray, the Minister of National Revenue.

SUBMITTED IN MAY

The report was submitted last May. Since then, the Government has resisted repeated attempts to have it released officially.

An unauthorized, abridged version was published today by The Canadian Forum, a monthly magazine with strong nationalistic leanings which describes itself as "an independent journal of opinion and the arts."

Abraham Rotstein, the University of Toronto economist, who is The Forum's managing editor, said the decision to publish a 70,000-word condensation was taken after The Forum's editors concluded that the report contained "no material prejudicial to the national interest, nor any data that would aid a foreign power."

A copy of the report was made available to The Forum by someone who was not, according to Mr. Rotstein, a party to "the dispute within the Cabinet" about publication.

As published by The Forum, the report contained a number of candid passages that presumably would have been omitted in an official version.

The report said that "Canada's bargaining strength in the manufacturing field is not overwhelming."

It implied that by insisting on more internal processing and fabricating of raw materials, Ottawa would cause American corporate parents to pressure Washington to relax certain import restrictions.

The report admitted that Canada's foreign trade policy is hobbled to a degree by the large shares of Canadian manufacturing and resources controlled from the United States.

One result of this integration, the report said, is that in international negotiations, such as the Kennedy Round, other countries, especially the European Economic Community, assume that the United States position embraces the Canadian. "In this way, actual and distinct Canadian problems, aims or differences of view can be overlooked," the report said.

"There may be merit in considering whether more of an arms-length relationship" with the United States "would not be possible and more in the Canadian interest," the report said.

"If Canada wishes to continue to limit continentalism"—a term Canadians take to mean the assimilation of Canada into the American sphere of influence—"It makes little sense to maintain no controls at all on the development of ownership links which accelerate the process," the report declared.

The task force came down strongly in favor of a screening process in preference to foreign-exchange controls, designation of key industrial sectors, mandatory Canadian shareholdings and mandatory Canadian seats on board of directors.

However, such considerations could be weighed by a screening agency, the report observed. The agency's role would be not so much to say yes or no to a proposal as to bargain to obtain the best possible terms for Canada.

It could, the report suggested, negotiate over production for export, installation in Canada of research and product-development facilities, future expansion, processing in Canada of raw materials, product lines, the kind of technology to be used, capital structure and financing.

"The use of Canadian managers and directors would normally not be a matter for bargaining," the study said, "but would be taken into account in the final cost-benefit judgment. The employment of Canadians in these positions is unlikely to have a significant impact on the behavior of the foreign-controlled firms but is of benefit because of the training it provides."

The screening authority would consider, the report suggested, whether Canada could obtain the proposed benefits—such as new products or modern technology or additional jobs—through other arrangements, such as a joint venture or licensing.

That was the premise on which the Gray group wrote a lengthy appraisal of alternative methods for regulating foreign investment, proposed and existing.

[From the Fortune, August 1971]

The Surplus of Gloom About Trade

Americans live, as no people ever did before, on the banks of a statistical river. The figures that surge by each day range from very gloomy to very cheerful. Because no human mind, no computer, can encompass this mighty flow, a selection has to be presented to the public. Ideally, it would be a true and balanced sample. In fact, the selection is influenced by advocacy, by fad, by mood.

In recent years the samples have inclined toward the side of gloom. In 1971 this dark perception turns especially upon the U.S. position and prospects in world trade. There is no lack of statistics showing a precipitous U.S. decline from a position of colossal predominance twenty years ago. Such industries as steel, autos, textiles, to which the word "basic" can be plausibly attached, are now threatened by imports as never before. The statistics that record these setbacks resound noisily within a nation worried about high levels of unemployment and inflation. The U.S., according to the fashionable analysis, must pull in its horns because it can no longer compete with leaner, more muscular industrial countries.

Some of this pessimism is obviously inspired by the advocates of particular industries that are feeling the pressure of imports. But perennial protectionism is by no means the only reason for the gloomy selection. Other alarmists are concerned because inflationary collective-bargaining settlements pose a genuine danger to the U.S. trading position. Arguments along this line, though valid in themselves, can be pushed so far that they contribute to an unbalanced view of what the U.S. prospect in world competition really is. Several spokesmen for the Nixon Administration, intent on restoring stronger wage and price discipline to U.S. markets, have made statements that reinforce a pessimistically distorted view. Some businessmen, overzealous to emphasize the cost pressures of high wages, high taxes, and the rising costs of environmental protection, have overstated and overgeneralized their case.

Organized labor, which had a long and creditable record of faith in world trade, has swung its weight to the protectionist side of the argument. Journalistic pundits embrace gloomy statistics about the nation's trade prospects as further evidence in support of their central theme of general U.S. confusion and decline.

Among the figures that one hardly ever sees, because the gloom-biased selection ignores them, are those showing that U.S. exports rose from about $10 billion in 1950 to $32 billion in 1960 and then to $43 billion in 1970. The U.S. Department of Labor estimates that this $33-billion increase over two decades added nearly three million production jobs (not counting freight handling, etc.) to U.S. payrolls.

It's not that anybody is deliberately trying to mislead the public by falsifying particular statistics. Rather, we are confronted with a problem in perspective.

QUICK CHANGE FROM CAESAR TO JOB

Let's cast back to the early Fifties when a very different view of the U.S. position in the world prevailed. Then, the U.S. was producing at least half of all the world's manufactured goods. The U.S. was almost the sole source of capital for large-scale development. Its lead in science, technology, and mass higher education was huge.

In every one of these categories, moreover, it seemed to many analysts that the U.S. advantage was bound to increase. How could European industrialists ever overcome the national fragmentation that deprived them of economies of scale? How could Japan and Great Britain, stripped of their empires, compensate for the lack of raw materials and oil? How could significant amounts of capital ever be generated in these "second-rate" economies that lay beyond U.S. shores? How could their technology and their reservoirs of highly educated people ever approach the U.S. level—especially when the "brain drain" would siphon off a large proportion of their brightest young minds, drawn to the U.S. by higher salaries and wider opportunities?

All this convinced many Americans—and even more foreigners—that the U.S. was inexorably destined for a role of imperial economic dominance. It would be the lone rich man admidst relative poverty and stagnation. Others would have to depend on its philanthropy.

From this perspective certain inferences were drawn. They were not cheerful. In world politics, the U.S. would have puppets, but no true and trustworthy allies. In trade, it would have victims, but no partners. Internally, too, the U.S. would change as giant corporations, bloated by overseas profits, monopolized more and more political and economic power within the nation. One philosopher developed the view that the U.S. was headed for Caesarism.

Within a few years this vision of the American economic colossus was dissolved by events, to be succeeded by the vision of the American economic invalid. Not long after the U.S. had escaped from imaginary Caesarism, the doomsayers began to cast it in the role of Job.

NOT A ZERO-SUM GAME

But in the real world the U.S. has not been, like Job, afflicted. Its economy waxed stronger, but other industrial countries achieved very rapid growth. The trading environment became much freer than the semi-autarky that had prevailed in the Thirties.

The new international economic order was based on recognition that capitalist competition, within any nation or among nations, was not a zero-sum game: that is to say, one nation's gain did not imply another nation's loss. As world trade rose far above levels previously dreamed of, there were in the Fifties and Sixties no national losers. All benefited to one degree or another from the widened competition that spurred productivity and innovation. Though the U.S. profited hugely from the rise of its trading partners, its enormous relative predominance was sharply reduced.

In this new game no nation can take for granted its permanent possession of the world lead in any industry. If one line of products is forced to retreat in the face of competition, the only hope may be that another line will advance. Who would have thought that the Japanese could sell us all those cars? Who would have thought, for that matter, that the U.S. could sell Japan $412 million worth of coal in 1970?

The U.S. today is not alone in feeling the pressure of imports. Raw silk, once Japan's leading export, is now largely imported. Low-quality textiles flow into Japan from Korea and Taiwan, pushing the Japanese textile industry toward more sophisticated products, which, in turn, compete with U.S. textiles. Coca-Cola drives Japanese soft-drink manufacturers to (or up) the wall. Though the Japanese have had great success here with radios and other electronic products, some other Asian countries are new selling these products in Japan. Even production of that traditional Japanese speciality, edible seaweed, has been largely taken over by Korea, as a combination of high labor costs and water pollution all but destroyed the Japanese industry.

Millions of Japanese workers have been displaced in the course of this intense international competition. Nearly all of them found other (often better) jobs. Has it been so different in the U.S.? Statistics of 1971 U.S. unemployment should not be dipped from the river of digits without a balancing series: in the Sixties, while U.S. imports rose, the number of Americans employed increased faster than the population.

It's possible—though by no means certain—that within the next ten years U.S. imports will regularly exceed exports. Even this would not spell inevitable decline or crisis for the U.S. This point is examined in some detail in "U.S. Foreign Trade: There's No Need to Panic," on page 109 of this issue. The article calls attention to the increasingly important part that will be played by the return on U.S. investments abroad. In 1970 income from foreign investments brought the U.S. $6 billion, nearly five times the 1950 figure, while fees and royalties brought in nearly $1.9 billion, fifteen times the 1950 level. As these payments on our huge 1950–70 foreign investment increase, as they should, a U.S. deficit in trade might be balanced by the inflow from investment. Why will dividends, royalties, and fees from abroad increase? Because the rising prosperity of our competitors-partners will mean a higher return on U.S. investment abroad and a stronger demand for U.S. patents and know-how.

That shift will probably contribute to the long decline in the proportion of American workers employed in manufacturing and agriculture. Basically, this trend is not caused in any substantial part by foreign competition. It results from a rapid evolution of the internal U.S. economy toward the mechanization of manufacturing and agriculture—a process that releases workers for generally better-paid and more interesting white-collar work. So far the expansion of white-collar jobs has absorbed more than the numbers displaced from blue-collar work—and there is no reason to suppose that this process will be interrupted.

UNIMPAIRED STRENGTHS

Some farsighted Americans believe that the U.S. is now spending too little on research and development. They may well be right. But it's a mistake to support this argument by the dire warnings that U.S. technological strength is about to be overshadowed by development elsewhere.

All in all, the basic U.S. strengths in world trade remain unimpaired: a huge internal market, highly competitive and lively with innovation; a labor force increasing in size and quality; a long lead in technology and a longer one in the organizational skills through which technology is deployed; an immense capacity to generate capital through a wide and varied investment market. An American who understands these strengths will hardly panic over Toyota's U.S. sales figures.

THE PRICE OF LIVELINESS

The right lesson to be drawn by the U.S. from the present world economic scene is certainly not one of complacency. If markets are going to be shaken up and jobs erased, the consequent displacements can have grave social and political consequences, even in boom times. But these painful dislocations occur not only or mainly because of foreign competition. One of the prices we pay for our lively internal economy and our rising productivity is the insecurity of both jobs and profits.

Public policy must find effective ways to cushion the effects of foreign—and domestic—competition on displaced workers. Besides retraining of the unemployed, governmental action may be required to conserve capital and managerial resources threatened by the livelier world economic scene.

Without doubt, rapidly rising labor costs are hurting the U.S. competitive position in foreign markets, even though most of our competitors are under similar pressures. But cost-push inflation also damages the domestic economy. We would need to moderate the upward thrust of labor costs even if they did not create a disadvantage in world competition. If we were to cut our imports drastically by trade barriers, there would be less restraint on rising wages and prices than there is now.

Not all the U.S. complaints about the unfair practices of competitor countries are spurious. Japanese barriers to foreign investment, for instance, have not come down as fast as they should have. The wrong way to deal with this kind of problem is to impose retaliatory bilateral restrictions on Japan in a mood of desperation. The right way is to mobilize all the main trading nations, in the cause of freer world trade, against the Japanese barriers.

How to recognize a specific peril without exaggerating it or falling into paralyzing gloom is an old, old problem that is made more severe by the availability of so many facts and figures that we can "prove" anything. Specific U.S. problems in world trade ought not be generalized in a way that impairs national self-confidence.

World trade has indeed become a tough game. Internal U.S. business has long been a very tough game. Both are going to get tougher. How, otherwise, could we and our competitor-partner nations possibly go on making all that money?

U.S. FOREIGN TRADE: THERE'S NO NEED TO PANIC

(By Sanford Rose)

Listening to U.S. businessmen talk about foreign competition these days, it seems almost impossible to believe that only a decade ago most businessmen were enthusiastic free traders. America's great flagship industries, beginning with steel and autos, appeared to be firmly committed to free trade. Henry Ford II was fond of quoting a statement that his illustrious grandfather had made some years earlier: "Comfortably tucked away behind a tariff wall which shuts out competition and gives industry an undue profit which it has not earned, the business of our country would grow soft and neglectful. We need competition the world over to keep us on our toes and sharpen our wits."

Scarcely any businessmen talk that way nowadays—certainly not any in steel or autos. Both industries had trade surpluses in the early 1960's. But by 1970 the trade balance on iron and steel products was over $750 million in the red, while the automotive deficit approached $2 billion. Ford himself told his shareholders last May: "I frankly don't see how we're going to meet foreign competition. We've only seen the beginning. We may become a service nation someday because our manufacturers could not compete with foreigners."

To be sure, many of the companies threatened by stiff competition from imports are divided about how to react. They want protection at home but are concerned that foreign retaliation against U.S. protectionist measures may imperil their global earnings. C. Peter McColough, president of Xerox, is for imposing some trade restrictions, but admits, "Joe Wilson, my chairman, and I don't agree on this. I think I represent more people in my company than he does."

The textile companies, reputed to be bastions of protectionist thinking, are also somewhat less than monolithic. Says Tilford Gaines, a vice president at Manufacturers Hanover Trust, who is a director of United Merchants, a large textile company: "As a company, United Merchants stands shoulder to shoulder with the textile industry in asking for quotas on imports. But in actual fact it doesn't give a damn. For one thing, a substantial part of the company's earnings comes from overseas investments. For another, the company is highly innovative and believes that it can 'outcompete' any Japanese producer."

THE CHANGE IN GEORGE MEANY

Still, there are a lot of new protectionists in American business, and they have an important ally: the American labor movement. The old-line industrial and craft unions that speak for labor—with the possible and increasingly equivocal exception of the United Auto Workers—are determined to restrict imports and prevent multinational corporations from "exporting U.S. jobs," as they put it, by producing overseas.

This position, too, represents a major change. In March, 1962, President George Meany of the A.F.L.–C.I.O. said: "We need the things we import. To get what we need, we have to open up our own markets to such products as British woolens, German cars, and Japanese toys." In May, 1971, Meany was calling for "an orderly marketing mechanism . . . to regulate the flow of imports into the U.S. in industries where these imports are displacing significant percentages of U.S. production and employment."

The current campaign for trade restrictions is being waged with an almost apocalyptic intensity, with a shrillness that often drowns out sober voices in the business community. Either you are for trade restrictions, say many businessmen, or else you are against America and its future. Ely Callaway, the president of Burlington Industries, strikes a particularly martial pose: "I say that a trade war is *here*—we are in it, and we are losing it." Callaway is particularly incensed at those companies that have established plants overseas to export inexpensive goods back to the U.S. He says flatly: "Kayser-Roth is a company that is bad for America. And so is Bell & Howell."

WHO'S CHEATING WHOM?

The new protectionists, then, have a lot of zeal and a lot of support. It is not so clear that they have a good case. And to anyone who has followed the history of free-trade debates over the years, their arguments will seem less original—and less compelling—than the protectionists suppose them to be.

One of the most insistent themes of current protectionist rhetoric involves an assertion that the U.S. is being victimized by the unfair trading practices of foreign competitors. Actually, the protectionists repeat almost ceremonially, they would themselves be all in favor of free trade—except that no one else practices it. Most other countries are run by conscious economic nationalists. They artificially restrain their imports and stimulate their exports. The U.S. has far lower tariff barriers and far fewer quotas on imports than other industrialized countries, especially those in the European Economic Community and Japan, and these countries habitually sell to the United States at lower prices than prevail in their own domestic markets—i.e., they "dump" goods.

These constantly reiterated assertions are gospel to protectionists nowadays, and they are seldom challenged. Yet their main point—that other countries are taking advantage of the U.S. commitment to free trade—is debatable. An unpublished analysis by John Renner, head of the international-trade section of the State Department, shows that when the Kennedy Round reductions are completed at the end of this year the U.S. will have an average nominal tariff rate of 8.3 percent on industrial products. The rate will be 8.4 percent for the Common Market, 10.9 percent for Japan, and 11 percent for Canada. In other words, less than three points separate the lowest from the highest aggregate rate.

Renner also breaks down these over-all averages into a number of detailed product categories. Although the U.S. has many more low tariffs on industrial products than either the Europeans or the Japanese, it also has considerably more high tariffs. For example, the U.S. levies tariffs of 20 percent or more on sixty of the 919 most frequently traded industrial-product categories, whereas Japan's tariff exceeds 20 percent on only twenty-six of these product categories.

In addition, Renner's data show an increased use of quotas by the U.S. We now have so-called universal quotas, i.e., those working to limit imports from nearly all major countries, on sixty-seven industrial-product categories; the products range from essential industrial commodities like steel and oil to minor consumer items like brooms. The Europeans have sixty-five universal quotas and the Japanese sixty-one. (The Europeans also have a number of quotas aimed exclusively at Japanese goods.) Since 1963 the Japanese have eliminated seventy-one quotas and they plan to drop another twenty by October. The E.E.C. has eliminated eleven quotas since 1963. The U.S. has *added* sixty of them during the same period. Moreover, U.S. quotas cover close to 17 percent of total industrial imports. The Japanese barriers cover nearly 12 percent of their imports, while E.E.C. restrictions cover approximately 4 percent of imports.

Admittedly, as Renner points out, these percentages cannot just be taken at face value. A lot depends on the *kinds* of quotas a country has. Very generous quotas, for example, permit substantial imports, which raise the percentages. Renner nevertheless concludes that, when all is said and done, the E.E.C.'s quantitative restrictions affect a comparatively small amount of industrial trade, Japan's quotas affect a considerable amount of this trade, and U.S. restrictions affect the *largest* volume of trade.

A number of U.S. businessmen point out, however, that Japan and the E.E.C. practice forms of trade restriction that are not in their laws—what might be called restriction by administrative nonfeasance. Walter Wriston, chairman of First National City Bank, quips that whenever the Europeans or Japanese want to exclude a particular U.S. product without imposing a formal quota, "the customs inspector simply goes out for lunch when the ship docks." Renner acknowledges that he heard numerous complaints of this type from businessmen when he was our economic counselor to the E.E.C. in Brussels. But, he adds, "whenever I asked for documentation so I could complain to the appropriate foreign authorities, businessmen were never able to come up with any. When specifics are not forthcoming, I usually conclude that the problem does not exist."

THEY DON'T GET THE EVIDENCE

There is also a remarkable lack of documentation of the rather widely held belief that other countries—in particular, Japan—have in recent years intensified their dumping in the U.S. market. Many businessmen complain endlessly about Japanese dumping; but few of them, oddly enough, have managed to persuade the government. If the Bureau of Customs in the Treasury Department decides that a sale has been made at less than "fair market value," it sends the case to the Tariff Commission to determine whether the complainant has been injured by the sale. If the commission agrees that there has been some injury antidumping duties are imposed on the foreign product.

In recent years the staff that handles dumping complaints at the Treasury has been increased from five to thirty-five. Nevertheless, the Treasury has sent very few cases to the Tariff Commission—only fifteen in the period from the beginning of 1970 to mid-1971, and only seven involving Japanese goods. Says Peter Flanigan, an assistant to the President who specializes in economic affairs: "I keep telling businessmen who think they have evidence of foreign dumping to give us the facts. But they don't." Renner adds: "I know the people who handle dumping matters at the Treasury. They would be *delighted* to find more cases, but they don't get the evidence."

If foreign companies were dumping a lot of goods in the U.S., that would certainly be a problem for American companies operating in the same markets. Whether it would be bad for the U.S. as a whole is quite another question. It is a fundamental question but one that, in the somewhat hysterical atmosphere that now envelops much discussion of free trade, is seldom asked. As Leland Yeager, a professor of economics at the University of Virginia, puts it: "How is the American economy hurt if foreign sellers set prices that discriminate in favor of Americans? The circumstances that permit the foreign sellers to discriminate against their own countrymen may be regrettable from some points of view, but to Americans, bargains are bargains."

According to economists like Yeager, persistent dumping means, in effect, that foreign producers have successfully conned their fellow citizens into working cheaply for the U.S. by trading many of their goods for a few of our own. If foreigners want to make us a gift of their resources, this just increases our welfare at their expense. Moreover, if they dump goods whose prices, even under so-called competitive conditions, seriously understate their social cost (because the cost of pollution is not included), they're doing even more for our welfare. This point is made by Milton Friedman, perhaps the best known apostle of free trade in the U.S. economics profession (which is overwhelmingly committed to free trade). Says Friedman: "If Japan exports steel at artificially low prices, it is also exporting clean air. Why shouldn't we take it?"

THE CALCULATING JAPANESE

Dumping might be a serious problem if it were predatory—that is, if foreign competitors kept their prices down in order to drive U.S. producers out of business, only to jack the prices up later on. But that tactic is hard to execute wherever the cost of reviving domestic production would be comparatively slight—as it would be in many industries now being affected by import competition.

For example, in the past few years the Japanese have taken over most of the U.S. market for business electronic calculators. Edward Lesnick, director of product planning at Wang Laboratories, Inc., a major U.S. calculator company, charges that the Japanese have been able to penetrate the U.S. market in part because their government is subsidizing the overseas sales of Japanese calculator companies. The facts about this matter are most unclear. The Japanese sell calculators in the U.S. for as little as $200, whereas an inexpensive U.S.-made business calculator sells for about $600. And no one seems able to pinpoint any Japanese Government subsidy or other action that knocks $400 off the price of a calculator. Lesnick himself admits that the Japanese calculator companies are "much more productive than U.S. firms," and, of course, they pay far lower wages.

Suppose, however, that the Japanese penetration of the U.S. market does somehow stem from a form of governmental manipulation of the market mechanism. Could the Japanese take advantage of this manipulation to raise prices? It is hard to see how. Lesnick says that the Japanese may be in the process of forming a cartel that would fix prices. But if prices rose by several hundred dollars, U.S. companies might find it economical to get back in production. And it would be relatively easy even for small companies to compete. Lesnick notes that economies of scale in calculator production are fully exhausted at 10,000 units—i.e., unit costs stop decreasing at a comparatively low level. U.S. companies coming back into the business could attain this level of output quite rapidly.

A second major theme developed at length by the new protectionists concerns the U.S. trade balance. Our trade surplus has declined sharply in recent years, from $7.1 billion in 1964 to $2.7 billion last year, and possibly to even less this year. A sizable number of businessmen now argue that this slippage results from our commitment to free trade.

In fact, it is most unlikely that our export surplus has deteriorated because of any difference between our trade practices and those of our competitors. U.S. trade difficulties can more plausibly be explained by differences in the rate of inflation and in the level of economic activity among the major industrial countries. Until last year's recession the U.S. maintained an excessively high level of economic activity and also experienced a rapid rise in prices. On the other hand, a number of our major trading partners had a considerable amount of slack in their economies during parts of this period—notably Germany in 1966–67, Japan in 1965–66, France and Belgium from 1966 to early 1968, and Italy for much of the period since 1964. At the same time, prices in these countries increased more slowly than in the U.S.

F. Gerard Adams, a professor of economics at the University of Pennsylvania, and Helen Junz, an economist with the Federal Reserve Board, have made a serious effort to discover how trade flows would have been affected if the major industrial countries had kept their economies fully employed during 1965–69 while the U.S. and Canada had grown at non-inflationary rates. Using an econometric model of world trade, the two analysts concluded that the U.S. trade balance in the first half of 1969 would have been improved by an annual rate of more than $5 billion.

Actually, there are good reasons to expect the trade balance to remain positive over the next few years without any help from protection. One reason is simply that the U.S. economy, plagued by excess industrial capacity and above-average unemployment, is likely to grow more slowly than that of other countries. The Council of Economic Advisers estimates that our real G.N.P. is likely to grow at an average annual rate of slightly over 5 percent, compounded, for the next few years, whereas world G.N.P. will probably rise by a little more than 6 percent. U.S. wholesale prices are also expected to lag behind those of other countries. Robert Goodman, an econometrician at the First National City Bank of New York, anticipates a positive balance over the next four years.

A LITTLE REVALUATION GOES A LONG WAY

The trade balance would be in even better shape if certain changes were made in exchange rates. Changes are in fact quite likely. Hendrik Houthakker, until recently a member of the Council of Economic Advisers (he is now back at Harvard), confidently expects the Japanese to revalue their currency upward some time in the next two years.

Meanwhile, Japanese businessmen are behaving as if revaluation were only a question of time. Charles Robinson, president of Marcona Corp. of San Francisco, notes: "These days when you do business with Japan, you argue more about revaluation insurance than you do about price." Robinson is currently planning to buy $30 million to $40 million worth of Japanese heavy equipment in order to produce beneficiated iron ore for resale to Japan. He reports that the Japanese are trying to sell the equipment for yen while paying for the ore in dollars. This means that, in the event of a revaluation, the Japanese would lose none of their yen profits on the sale of the equipment, while every dollar of iron ore would cost them less of their own currency. A revaluation of the yen would enormously stimulate U.S. exports to Japan; there is abundant evidence that Japanese demand for U.S. goods is extremely sensitive to price changes. Stephen Magee, who is a professor of International business at the University of California at Berkeley, and who has done considerable research on trade for the C.E.A., estimates that for every 1 percent drop in U.S. export prices the volume of U.S. exports to Japan would rise by about 3 percent. To be sure, revaluation would eventually work to hold down Japanese incomes and Japanese prices, and this would moderate the increase in U.S. exports.

On the other hand, Japanese sales to the U.S. and other countries would obviously fall off somewhat because the dollar price of those exports would rise. After weighing all these considerations, Magee concluded that if the Japanese revalued by 10 percent at the beginning of 1971, the U.S. trade balance for the year would have improved by as much as $2.4 billion. A revaluation of 5 percent—the figure commonly suggested by Japanese economists—would have produced half the improvement, or $1.2 billion. Evidently, small changes in the price of the yen will generate rather large changes in the total U.S. foreign-trade position.

THE PAYOFF ON FOREIGN INVESTMENTS

But the trade balance after 1975 is admittedly a quite different matter. In the late 1970's the trade balance may well turn negative—and stay negative for many years thereafter. The reason is that U.S. business will probably be earning so much on its overseas investments that other countries may have to export more than they import from us in order to obtain enough dollars to pay us our dividends.

According to tentative projections made by the Council of Economic Advisers, by 1975 other countries will be paying us $17 billion a year in dividends, fees, and royalties on our foreign investments, while we pay them only about $6.5 billion on their U.S. investments. Houthakker says that this projection of our investment income is actually somewhat conservative since it is based on the low rates of return on U.S. overseas assets that prevailed for most of the 1960's.

The council did not estimate the size of the investment-income balance after 1975, but Lawrence Krause, an economist at the Brookings Institution, has continued the exercise for the years through 1980. Krause concludes that the net balance on investment income and fees could rise to $16 billion by that year. He believes the U.S. is fast becoming a "mature creditor" country, something like Great Britain during much of the nineteenth and twentieth centuries. Britain had no difficulty balancing its international accounts even though it routinely bought more goods than it sold in foreign markets. The country simply lived off the income from its foreign assets. Krause suggests that the U.S. can and should play the same role during the late twentieth century.

Not all students of trade agree that this arrangement would work. Harold van B. Cleveland, an economist at the First National City Bank, is uneasy over Krause's projections and their implications. Notes Cleveland: "I don't think Europe can get the dollars it will need by selling us more goods than it buys. It is politically difficult for the U.S. to maintain a liberal import policy unless we also run a trade surplus."

An alternative trade scenario for the late 1970's has the U.S. balancing its accounts by exporting more to the less-developed world than it imports, while importing more from the industrial world than it exports. The trade deficit with Europe would be financed by dividend remittances, while the trade surplus with the less-developed world might be financed by an increase in U.S. investment and by foreign aid. The details of all such scenarios are arguable, of course; but it seems clear that neither our trade balance nor our over-all payments position is in the sorry state described by the protectionists.

REAL GAINS AND HYPOTHETICAL LOSSES

Even if the country's trade and other international accounts were in balance or in surplus, some industries would always be losing their advantage in international trade (and thus encountering stiffer competition from imports). These industries might be able to point to declining emloyment. Not surprisingly, unemployment is another major theme of the new protectionists today.

In the opinion of George Meany, American labor has been one of the casualties of trade. He cites a Department of Labor finding that in 1966 it would have taken about 1,800,000 workers to produce domestically those imported goods that are most competitive with U.S. products. By 1969 it would have required 2,500,000 workers—i.e., the number of jobs lost to imports rose by 700,000. During this period the number of "export jobs" increased by 200,000. Therefore, argues Meany, from 1966 to 1969 we had a net loss of 500,000 jobs because of trade.

The trouble with this analysis is that the export jobs created during this period were real, whereas the jobs lost because we imported what could have been produced domestically are hypothetical. From 1966 to 1969 the U.S. had full employment; much of the time there were severe labor shortages. We probably couldn't have found those extra 500,000 people even if we had tried. And if we had somehow managed to create that many more jobs, the result would have been an enormous increase in inflationary pressures. The fact is that under full-employment conditions imports help most people, including most workers, because they enable us to acquire goods that we cannot produce domestically without overstraining our resources.

Viewed from the perspective of a 6 percent rather than a 4 percent unemployment figure, the cost is admittedly quite different. But can we eliminate our unemployment through trade restrictions? The answer is that we almost certainly cannot. If we attempted to "export our recession" by cutting down our imports, other countries would obviously export it right back by cutting off our overseas sales.

Many businessmen and labor leaders believe that import restrictions would help low-paid southern textile workers or New England shoemakers. But if we placed restrictions on imports of textiles and shoes, Europe and Japan would obviously retaliate. And retaliation would surely reduce the income of, for example, Mississippi soybean farmers, who are big exporters to Europe and Asia. It would also seriously hurt the Appalachian coal miners; U.S. exports of coal to Japan have risen from $77 million in 1965 to $412 million in 1970. And it would produce considerable distress among the farmers of the state of Washington, about 75 percent of whose wheat output is exported to Asia, principally to Japan. As union leaders had considerable opportunity to learn in the 1930's, trade wars don't cure unemployment; they worsen it.

It is true, however, that unemployment may be a real problem in particular industries that are having trouble competing with imports. In an unpublished paper, the Department of Labor has been trying to shed some light on the "industry-specific" (i.e., as opposed to aggregate) employment effects of rising imports. The department's economists have been matching up employment changes with changes in imports in 190 industries; the industries cover most of U.S. manufacturing employment.

The department found that in 1965–69, the period of greatest import penetration, only thirty-seven of the 190 industries suffered any net employment decline at all. In eleven of the thirty-seven there were no imports to speak of; only twenty-six had both employment declines and a rising level of imports. The total number of jobs lost in these twenty-six industries from 1965 to 1969 was 117,000—about 0.5 percent of total manufacturing jobs were being created.)

Moreover, even though employment in a particular industry is declining while imports are increasing, it does not necessarily follow that the imports are causing the decline. In a number of these twenty-six industries, employment fell, not because imports rose but because domestic demand dropped or productivity increased. Indeed, according to Jerome Mark of the U.S. Labor Department, normal productivity increases alone are probably pushing out more workers in these twenty-six industries than are imports.

Just about everyone in the Labor Department who has worked on the problem of import-related joblessness is persuaded that it is not especially widespread. Figures on labor turnover rates tend to reinforce this belief. If imports have in fact caused companies to shut down plants and throw workers out of jobs in substantial numbers, this fact should be reflected in high layoff rates in the industries affected. Yet over the last five years the number of people laid off in these industries has consistently been less than the number who voluntarily leave their jobs.

COMING AND GOING IN GREENVILLE

In the shoe industry, for example, the average quit rate was never less than twice and was often as high as three to four times the average layoff rate in every year since 1965. During this period, then, the shoe industry was not losing nearly as many jobs to imports as it was losing workers to other industries. The shoe companies could not hold on to these workers because their wages were low, and many of them had the drive and mobility to find better-paying jobs.

The regional turnover rates tell much the same story. For example, in Greenville, South Carolina, where textiles account for an average of about 40 percent of total manufacturing employment, quit rates in manufacturing have remained about eight times higher than layoff rates since 1967. In part, this extraordinary ratio is explained by the transitory nature of much of southern textile employment; women enter the labor force to make a little money, then leave when they've made it. But in part the low layoff rates reflect the simple fact that textile mills in Greenville have not been forced by imports to throw many workers out of their jobs.

In general, those who argue for import quotas to protect the South from economic disaster seriously underestimate the mobility of the average southern worker. Most southern states have actually been growing at faster rates than the U.S. as a whole. Indeed, the textile industry in the South has grown, not contracted, in the last decade. The same is true of the chemical and electronics industries in the South. Moreover, the region is now building up its lumber and furniture industry to help satisfy the prospective surge in nationwide housing demand. The average southern worker, it would appear, can choose from a growing number of employment opportunities should competition from imports eventually force him out of the textile mill.

Textile executives nevertheless continue to talk as though their displaced workers had practically no place to go. In a recent panel discussion on trade, Donald McCullough, president of Collins & Aikman, a medium-sized textile company argued that other industries that might absorb these workers had import problems of their own. "We have heard a great deal about shifting people from low- to high-technology industries," he said. "What is a high-technology industry? We used to call that electronics. Well, in fact, the electronics industry has a greater import penetration than many parts of the textile industry." McCullough is factually correct, but it is also a fact that electronics *exports* have been rising. Indeed, in 1970 the net trade balance of electronics (the excess of exports over imports) was $700 million greater than in 1966. And employment in the industry had actually risen by 90,000.

Moreover, if the textile or apparel worker displaced by imports really had no place to go, this fact would be reflected in the statistics on hard-core unemployment. The proportion of the total work force that has been jobless for long periods naturally rises during recession periods; but otherwise it has stayed remarkably stable over the past decade.

SOME DON'T WANT ASSISTANCE

It would be foolish to suggest that rising imports have no adverse employment effects at all. Obviously, some workers and businesses have been hurt by imports. And even if the total unemployment rate is held down to levels of about 4 percent, some of the displaced workers will have to be assisted to enter new lines of work. The government has recognized its responsibility to provide assistance, but existing laws have made the assistance too difficult to get.

Workers and companies can qualify for retraining and relocation allowances, tax incentives, or supplemental compensation only if the imports threatening their jobs have entered the country as a result of tariff concessions made by the U.S. Government. If imports that displace workers cannot be related to concessions, the workers are out of luck. In addition, companies can qualify for assistance only when the entire firm is injured. If a particular plant is affected but the company as a whole is not, assistance is denied. As a result of these provisions, very few companies or individuals have been able to obtain help. The Tariff Commission, the agency responsible for hearing adjustment-assistance cases, has recently begun interpreting its legislative mandate somewhat more liberally. But it would obviously be helpful if Congress passed new legislation that made assistance easier to get.

When many businessmen hear the phrase "adjustment assistance," they reach for their proverbial guns. Burlington's Callaway comments acidly: "Who wants to be paid to go out of business? When people like Professor Houthakker talk about adjustment assistance, they usually throw out a figure of between $200 million and $250 million a year. Burlington's annual payroll is twice that amount."

Fortunately, it isn't likely that entire companies will go out of business because of imports—least of all Burlington—and adjustment assistance might prove useful to a lot of them. But the assistance must be used in conjunction with research. We need many more in-depth Labor Department studies to dissociate the effect of imports from other sources of business or employment decline—for example, bad management, shifts in domestic demand, or increased automation. After such studies have been made, it may indeed be found that the cost is more than $250 million a year. Whatever figure is arrived at, it will probably be a bargain. The gains to society from increasing imports would appear to exceed by a great deal the costs of providing assistance.

DISTURBING THE "QUIET LIFE"

Last year Andrew Brimmer, a governor of the Federal Reserve Board, made an analysis of the gains from trade in two industries, apparel and shoes, that are asking for protection from imports. He estimated that consumer spending on apparel would probably reach $52.7 billion by 1975. But, Brimmer argued, if there were quotas on apparel imports (they were then being advocated by Representative Wilbur Mills), consumers would have to pay $54.5 billion for the same amount of clothing. In other words, those increased imports would save the consumer about $1.8 billion. Similarly, without a quota, the public would pay about $5.9 billion for shoes. With a quota the cost would be about $7.8 billion.

The cost of import restrictions was also developed at some length a year ago by a Cabinet Task Force on Oil Import Controls. Its study found that "in 1969 consumers paid $5 billion more for oil products than they would have paid in the absence of import restrictions. And by 1980 the annual cost to consumers would approximate $8.4 billion."

Studies like these do not even attempt to take into account the indirect benefits of increased imports. Countries that supply imports to the U.S. market acquire the wherewithal to buy U.S. goods, and this stimulates employment in our export industries. Also, as imports drive prices down, consumers change their spending patterns: they may decide to buy more apparel, shoes, and oil products than they had originally intended. Part of the increased demand will be satisfied by foreign suppliers, but another part will be met by domestic companies. As a result, some of the workers initially displaced by imports may be rehired.

Many of the gains from increased imports are almost impossible to estimate—even though these gains may be more sizable than those that can be measured. In many areas of the economy, for example, price competition is particularly weak. If companies in these industries had to worry only about domestic competition, they could relax and enjoy a business life with no undue strains. Foreign competition may force the inherently inefficient out of business, but it also forces the potentially efficient to work a little harder at staying competitive. The ultimate beneficiary is the consumer. And he gets so many tangible benefits that he ought to be willing to pay to assist those who must be retrained for jobs.

Protectionists are in effect rejecting long-term social gains in order to avoid much smaller short-term costs. Since policy makers and legislators are inevitably preoccupied with the short term, they tend to pay far too much attention to the protectionist din. The case for protection is a little like the case against technological progress. Clearly, if we bottled up progress, some people would be spared the necessity of finding new jobs. But we would also be undercutting the dynamism of the economy, and eventually we would all end up a little poorer.

[From Fortune magazine, August 1971]

THE WORLD ECONOMY: INTO A TIME OF STAGFLATION

(By Lawrence A. Mayer)

(Charts referred to are not printed in the RECORD.)

If there are periods of "drift" and of "mastery" in human affairs, as Walter Lippman once wrote, there is no doubt that, economically speaking, mastery was preeminent in the industrialized world during the past quarter century. Over most of the span the world's industrialized economies have performed very well. It has been a period of reasonably sustained economic growth and unparalleled international economic cooperation.

But now, almost suddenly, troubling signs indicate that drift is taking over. Economic problems that, for the time being at least, seem to defy solution have been surfacing. The results are unproductive international bickering and an uneasy sense that events may be overtaking men.

From the perspective of 1971 it is clear that economic growth in the industrialized world has been slowing down (see charts, following page). In Japan, the growth champion, the pace is slower for the third year in a row, though this deceleration may be part of a transition to a long-term growth target of 10 percent a year in real G.N.P. In Western Europe this will be the second successive year of diminished growth. The growth of the industrialized world's *total* G.N.P., it is true, will speed up somewhat in 1971, but merely to 3.5 percent—and this only because the huge U.S. economy, which failed to grow at all last year, will advance a lackluster 2.5 percent or so this year.

What is hobbling growth? The most obvious factor is the broad-scale effort to contain a pandemic inflation, largely through tight monetary and fiscal policies. By and large, the industrialized economies have been battling wage and price rises in this way for three years now without success. Even in Germany, where fear of inflation runs deep, some wage contracts have been settled with increases of as much as 15 percent a year, and the consumer price index is climbing 5 percent a year. Europe's inflation is now being exacerbated by the mounting prices of fuels, a result of the higher costs of Middle Eastern oil.

COLLECTIVE LAZINESS

Various voices keep calling for greater resort to incomes policies to break the wage-price spiral. The 1971 annual report of the Bank for International Settlements argues for such policies with as much urgency as last year's report did; this year, however, the bank puts greater emphasis on slowing the rise in wages. In a report issued last June, the Organization for Economic Cooperation and Development observes that a number of important countries are suffering from "stagflation," which the O.E.C.D. defines as "continuing inflation under conditions of stagnant output and rising unemployment." Britain and Italy certainly fit the definition, the U.S. and Sweden are practically in the same class, and some West Germans fear that their country may come to qualify.

The spread of stagflation is partly attributable to widening labor unrest. To a great extent this unrest stems from social dissatisfactions as much as from desires for better working conditions or wages. It is for these reasons that demonstrations and strikes broke out in France in 1968 and have been erupting intermittently in Italy since late 1969. Italy has also witnessed increasing absenteeism, recently troublesome in the U.S., too, and work stoppages by small groups, a characteristic of labor behavior in Britain. Some Europeans feel that even the Germans are losing their vaunted zest for work. An Italian economist calls the erosion of labor discipline that is spreading through Europe "collective laziness."

TRADE: A LOST LEADER

On another front, the quality of international trade relations shows signs of deteriorating. The Kennedy Round of tariff negotiations, signed in 1967, appears to have marked the end for a while of any substantial liberalization of international trade. Now, indeed, it can be seen that the Kennedy Round itself sent up a sort of warning signal. It was probably the toughest of the six postwar mutilateral trade negotiations to bring off. In fact, the U.S. has as yet failed to fulfill an important provision of the agreement it negotiated with the Common Market in the Kennedy Round: abolition of the "American Selling Price" system for chemicals. The A.S.P. is a method of customs valuation that places fictitious high prices—and hence high tariffs—on a large category of chemical imports.

Over the future hangs the threat that the U.S., under pressure from many domestic industries as well as labor unions, will enact quotas against a variety of imports. So far a number of considerations have held back action: counterpressures from free-trade groups, opposition by key members of Congress, and the reluctance of the Nixon Administration to touch off trade wars. In hopes of forestalling international escalation of tariffs and quotas, the U.S. is pressing other nations to dismantle various subsidies or other discriminatory aids to their exports, and to reduce nontariff barriers to their imports from the U.S. Clearly, all this adds up to a marked change in the U.S. role in international trade relations. Whereas the U.S. was once the leader in urging all nations to move toward free trade, its interest has now largely shifted to improving its own trade position (see "U.S. Foreign Trade: There's No Need to Panic," page 109). That is perhaps understandable, given the remarkable decline in the U.S. trade surplus since 1964, but the change of role leaves the cause of freer trade leaderless.

AFLOAT AGAINST THE RULES

Drift is particularly apparent, to a dangerous degree, in international monetary affairs. In a monetary system supposedly based on fixed exchange rates, three major currencies—the Canadian dollar, starting in June, 1970, and lately the German mark and the Dutch guilder—have been set afloat without specified parities. When a system's basic rules are contravened by some of its most important members, major changes in that system appear to be unavoidable. The difficulty is that there is no working consensus among nations as to the appropriate remedy or even the nature of the ailment.

What brought on last spring's exchange crisis was a huge pile-up of U.S. dollars in Europe. Central banks were obligated to redeem these dollars with their domestic currencies within small, specified ranges of their par values. The German central bank, the Bundesbank, was under by far the heaviest pressure. It is estimated that the bank had to absorb between two and three billion dollars in the two days before it shut down its foreign-exchange window on May 5. (And in the months before that deluge there had already been an inflow of billions.) By exchanging marks for the dollars that had moved into German commercial banks, the Bundesbank was flooding the German economy with liquidity. This cascade of dollars worked against the Brandt government's efforts to curb domestic inflation.

One possible course for the West German Government was to revalue the mark directly. That would have halted the influx of dollars, but would also have guaranteed an immediate profit to the banks, corporations, and individuals who had been acquiring marks for dollars. A more basic objection to quick revaluation was that Germany had raised the mark's value as recently as October, 1969; businessmen feared that another revaluation would put German export prices out of line with world prices.

Another course would have been to put controls on capital movements into Germany, a move advocated by Karl Klasen, president of the Bundesbank. This is what the French urged the Germans to do. But Karl Schiller, the powerful Economics Minister, opposed controls. Besides presenting administrative difficulties, controls run counter to the German freemarket philosophy, and they are always easier to install than to dismantle. Schiller wanted revaluation in some form because of its deflationary impact on the economy—it would make imports cheaper and exports more expensive, and the side effects would make it harder for German employers to grant large wage increases.

PROSPECTS FOR UNIONS

The Bundesbank actually took neither of these two courses. Instead, it ceased to specify the upside or downside limits at which it would buy or sell dollars—that is, it allowed the mark to float. The accompanying uncertainty discouraged the entry of dollars. Additional administrative measures such as a halt to payment of interest on certain foreign-owned deposits encouraged the exit of dollars. With inflows halted the Bundesbank has been gradually selling off some of its swollen dollar holdings, a process that led to a de facto German revaluation of around 4.5 percent by early July (and thereby conceded some profit to foreign holders of marks). When the Bundesbank has sold off enough excess dollars, an attempt can be made to restore the former dollar-mark relationship, as the Germans have promised their Common Market partners.

Germany and France disagreed sharply about the monetary actions of May. When the floating of the mark became a *fait accompli*, the French talked of a float lasting for weeks, while the Germans were talking about months. There have since been attempts to reach a compromise, but whatever short-term accommodation is made, there is still a big question about the prospects for unifying the currencies of Common Market members. Some experts have always stressed the difficulty of coordinating national economic and social policies to the extent required by a unified currency.

Now they tend to think that the tremors of the spring have made unification more difficult than ever to achieve or have even dealt it a fatal setback. The countries involved cannot unify their currencies unless the exchange parties between them remain quite stable. On the other hand, some European officials and observers see the recent crisis as a spur to get on with the currency union as rapidly as possible; they believe it may shock governments into an awareness of the perils that lurk in long delay

The D-mark float perturbed some other European countries. The Netherlands, Belgium, Austria, and Switzerland feared that when dollars were deflected from Germany, the funds would flow their way instead, and so flood them with liquidity. Moreover, a revaluation of the mark would have important effects on their economic relationships with Germany. These countries reacted in various ways. The Dutch followed the Germans and floated their currency. The Belgians set up a free market in the franc for monetary and investment transactions (but not for commercial ones). The Austrians raised the par value of their currency by a bit over 5 percent and Swiss raised theirs by 7 percent. The Austrian and Swiss revaluations suggest that the German mark might in the end be revalued by approximately 5 percent.

There is widespread general agreement on the immediate reason why dollars piled up in Europe early this year. Interest rates in the U.S. and in the Eurodollar market had been well below rates in Europe, most importantly those in Germany. German companies borrowed large amounts of Eurodollars and converted them into marks for domestic uses. The spread also made it profitable for foreigners to shift funds into marks. By early May the flow became a torrent as corporations and banks saw that by moving into marks they could bet on revaluation while enjoying an interest-rate advantage with no downside risk. These flows stopped not only because of the monetary actions taken by Germany and some of its neighbors, but also because U.S. interest rates have been converging with those abroad, and may converge further.

Some American officials, among them Secretary of the Treasury John Connally, have said that the crisis was almost purely an interest-rate phenomenon. Most European officials, however, believe that if the chronic deficit in the U.S. balance of payments had not undermined confidence in the dollar, far fewer dollars would have moved into Germany.

AN ARTIFICIAL PLETHORA

Drift has also characterized policies affecting the Eurodollar market. Since the end of 1964 the number of Eurodollars in existence has increased about sixfold. Some of this enormous expansion resulted from the continuing U.S. balance-of-payments deficits, insofar as dollars accruing to foreigners were deposited in banks outside of the U.S. Some of the expansion, though, resulted from continual relending of Eurodollar deposits. And some, curiously enough, resulted from the unwitting actions of European central banks. Paul A. Volcker Undersecretary of the Treasury has described the sequence: "A central bank deposits some or all of a dollar inflow in the Eurodollar market. The dollars are relent to European borrowers, to be converted for local use. At that point another central bank—or maybe even the same central bank—receives those dollars in its reserves. Thus official reserves are swelled and the market's private credit extensions expanded in the process."

In other words, the swelling in official dollar reserves abroad is in some sense artificial—some dollars are counted more than once. And experts agree that there is a Eurodollar "multiplier" in action in the lending activities of commercial banks, but they do not agree on its size. Students of the subject admit that to this day the workings of the Eurodollar market are incompletely understood. It is clear enough, however, that not all Eurodollars really constitute claims against the U.S. Now that the European central banks have become aware of the duplications and confusions, they are limiting their deposits into Eurodollar accounts and have begun to place restrictions on the hitherto uncontrolled Eurodollar market.

CROSSROADS FOR THE DOLLAR

In view of the weaknesses and stresses revealed by last spring's events, many observers fear that another currency crisis may soon erupt. Of course no one can forecast the timing of currency squalls with any accuracy, but it's clear that faith in present arrangements, as well as the U.S. role in them, is far from strong. Government and banking officials, as well as academic experts, keep putting forward ideas for changes in the international monetary system. There are signs, indeed, that the dollar may be approaching a crossroads. It is a fair assumption that the U.S. payments deficit will continue for quite a while at $3 billion a year or even more. It is also commonly believed that the U.S. gold stock, now just over $10 billion, will not be allowed to fall much below that point.

Some foreign countries are already registering unwillingness to hold more U.S. dollars. France, with $3.5 billion of gold in its own coffers, used dollars to buy $282 million of U.S. gold to pay a debt to the International Monetary Fund. By midyear Switzerland had bought $125 million of U.S. gold versus $50 million in all of last year, and Belgium had bought $85 million versus none last year. The U.S. has also been using its Special Drawing Rights and digging into its automatic credit lines at the I.M.F. for the wherewithal to buy up dollars other nations want to cash in. In addition there is talk that the U.S. will at some point redeem dollars by offering bonds repayable in the foreign country's currency at the exchange rate prevailing on the issue date of the bonds. In that way the holders would be protected against both revaluation of their own currencies and devaluation of the dollar.

By the end of May total U.S. reserve assets were down to $13.8 billion from $16.2 billion twelve months earlier. So if the U.S. Government wants to hold on to a minimal gold stock of around $10 billion, only about $4 billion is left to pay out to other countries. And the Netherlands and Belgium are nearing the point where, under I.M.F. regulations, they could refuse any more Special Drawing Rights and demand gold instead.

WAIT UNTIL NEXT YEAR

There are some bright spots in the industrialized world, to be sure. At long last it seems that Britain, Norway, Denmark, and Ireland may get into the Common Market (providing their Parliaments approve). World trade continues to expand. And the world economy may embark on a widespread and vigorous upturn sometime in 1972. Some economists think an upturn is bound to take place, what with national elections coming along in the U.S. in 1972 and Germany in 1973, and with Britain's Conservative party needing a dose of economic cheer well before its present mandate runs out in 1975.

Right now, though, the outlook in many countries is on the somber side.

Britain's economic outlook is clouded by political uncertainty about whether Parliament will approve entry into the Common Market. The odds are no better than three to two in favor. Failure to join could help prolong Britain's economic stagnation, which is partly due to lagging capital investment (down 7 percent this year). Business might raise investment plans quickly if it were sure of free access to the larger market across the Channel.

Meanwhile, pressure to stimulate the economy is building. Industrial production is weak. Unemployment stands at 750,000 or so, a level not experienced in thirty years or more, and there is speculation that the figure might hit one million by the winter. These developments have been accompanied by large wage increases and a year-to-year rise of nearly 10 percent in retail prices.

Resisting appeals for stimulation, the government is in effect trying to improve the competitiveness of British industry by making it harder to earn gross profits, while at the same time reducing taxes so more of the gross will go down to net. The hope is that those fortified net profits will encourage enough investment to get the economy going again. This is a hard program to carry out, particularly for a government whose popularity has already begun to slip. As one of Prime Minister Edward Heath's pre-election advisers says, "He's taken on the job of changing attitudes that are fifty years old in two or three years." Moreover, Heath has to contend with the difficulty of halting a deep-seated inflation. That, says Russell Clark, chief economic adviser at National Westminster, Britain's second-largest bank, "means that the government's problem is to have an incomes policy—which it has flatly opposed in the past—without saying so."

Italy's severe economic problems are mainly political and social in origin. The important question now is whether Italy will continue developing into an economically advanced welfare democracy or falter because of political muddling and ideological dissension. The coalition government is weak and divided, and the political initiative lies in the parliament, where the pulling and hauling among the parties is to a great extent influenced by trade unions affiliated with political parties—Christian Democratic, Socialist, and Communist.

The unions are pushing for a group of reforms that are widely considered reasonable. The health-insurance system operates poorly. There is a severe housing shortage, particularly in the industrial cities such as Milan and Turin, where large numbers of workers from the poverty-stricken South are living in squalor. The unions also want better urban transport for these workers; at present it takes many of them two hours or more to get to their jobs. These grievances as well as job dissatisfactions have led to an uncounted number of strikes and work stoppages. Industrial wages, meanwhile, continue to rise rapidly, yet there has been no commensurate increase in consumer demand. The hesitation among consumers plus the political uncertainties and the chaos on the factory floor have done much to cut back investment outlays. Industrial production was down in the first quarter of 1971, while real G.N.P., which rose 5.2 percent last year, is expected to grow only 3 percent this year.

Germany is hovering on the brink of a recession, according to many forecasters. The O.E.C.D., for example, projects a fall in the growth rate from about 5 percent in 1970 to 3.5 percent in 1971, with a marked deceleration in the second half of this year. Leading German business associations and economic research institutes have arrived at similar forecasts.

The latest statistics available, however, don't quite bear out these gray-sky views. Industrial production has been rising. New orders have been holding their own or even increasing—at least they were before the mark was set afloat. Some of the favorable trends may be temporary, to be sure. For example, a speedup in construction in the first quarter might have been due to unusually good weather, and a rise in capital spending to a reduction in taxes affecting investment.

If an economic slowdown is in the offing, it could well be milder than many foresee. The June report of the Bundesbank has this more optimistic tone. Among other things, the bank points out that profit margins improved in the first quarter; many other observers have been stressing the depressant effects of last year's poor profits in the steel, chemical, machinery, and auto industries. How well the German economy actually does will have important effects on the entire European economic tempo. West Germany produces about one-quarter of Western Europe's industrial output (42 percent of the Common Market's). And it is an important customer for the output of other European nations, absorbing 20 percent or more of the exports of Austria, Belgium, the Netherlands, France, and Italy, and between 15 and 20 percent of the exports of Switzerland, Greece, and Norway.

France currently has the most vigorous of the larger European economies. The only serious concern is about new outbreaks of strikes or other disturbances; not long ago a strike begun by eighty-two craftsmen swelled to the point where it shut down almost all of Renault's auto production for twenty-five days.

In France, as elsewhere, wages and prices are rising too fast, and Finance Minister Valéry Giscard d'Estaing is striving to put an 8 percent limit on wage increases. Moreover, Giscard has taken a number of measures to restrain credit somewhat, and the government budget is tight. Conceivably, if pursued with more vigor, restrictive policies could curb economic growth, but more likely the 1971 increase in real G.N.P. will come to 5.5 percent, not far below last year's 5.9 percent. Exports and consumer outlays have been rising nicely. With industrial production improving, unemployment—which has been high—is abating.

Elsewhere in Europe, Austria's boom is in its fourth year, through reduced investment will cut growth from 7 to perhaps 5 percent. It's an enviable record. Belgium's exports have been weakening, and that is one of the reasons the economy's growth is slowing from 5.4 percent last year to about 4 percent. Denmark wants to cut its foreign trade deficit and is taking steps to reduce huge increases in expenditures by local authorities. Such curbs might make it possible to avoid devaluation. Finland has introduced credit restraints and new taxes, and has raised the discount rate for the first time in nine years. The trade deficit has widened swiftly, and the balanced prosperity the country has enjoyed ever since the devaluation of 1967 is slipping away. In the Netherlands the new coalition government may find it difficult to agree on a coherent policy to cope with inflation and a swollen trade deficit. The government may also have to contend with large wage demands by year-end.

In Norway a labor shortage has been developing with the rise in investment and industrial output. Norway might be one of the few European countries whose real G.N.P. will grow faster this year than last—more than 4 percent as against 3.5. Spain has succeeded in greatly improving its balance of payments without greatly depressing its high growth rate. Sweden has been afflicted with an unusual outbreak of labor trouble in the civil service. The main cause is the resentment felt by professional and other skilled employees of the state because the pay of those with less training is catching up with their own. Switzerland's outlook is for more inflation, pressure on profit margins, and a possible drop below 4 percent in the growth rate.

Canada is closer to price stability than any other advanced nation. The consumer price index is only about 2 percent higher than a year ago, partly because of a drop in food prices. Even excluding food, Canada is still at the top of the inflation-fighting league. The unemployment rate, however, is running above 6 percent. The economy grew more than 3 percent last year and should gain at least 5 percent this year.

The government has just put forward a thorough tax reform, the aim being to attain as much equity among taxpayers as political reality will allow. The proposals, which include the first capital-gains tax in Canadian history, seem to have won acceptance. Uncertainty about coming tax changes was a factor discouraging business investment. Now that most of this uncertainty is gone, investment may be getting a stimulus at just the time when the economy is losing the impetus of a big gain in the export surplus, now the largest in Canada's history.

Japan, after fifty-eight straight months of economic expansion, ran into a slowdown last year. For the full year, economic growth came to nearly 11 percent, but industrial output stopped rising in September. Purchases of color TV's and autos increased much more slowly than before. Consumers were incensed to learn that TV sets were being sold far more cheaply abroad than at home, and higher taxes and credit restraints, together with concern about safety and pollution, cut into auto sales. These slowdowns also brought on an inventory adjustment. Expansion has now resumed, and growth should come to 8 percent this year. The recovery stems primarily from an increase in government outlays and a resumption of very rapid gains in consumer outlays.

In the three years ending in 1970, Japan's foreign-exchange reserves more than doubled to $4.8 billion. At the end of June they probably exceeded $8 billion, and a further climb was expected. Trying to fend off mounting pressure from abroad to revalue the yen, the Japanese are speeding up the liberalization of trade and investment policies. Only when commerce with other economies is substantially free, the argument runs, can a sensible decision be made on whether to revalue and by how much. But if reserves keep growing at anything like the recent rate, revaluation may come anyway, though it may involve Cabinet shakeups or even the fall of a government.

[From Fortune magazine, November 1971]

Our Strange New Hard Line on Trade

(By Sanford Rose)

When President Nixon exploded his international economic bombshell last August, it appeared for a while that his objective was simply to persuade other nations to help end the chronic U.S. balance-of-payments deficit. In the weeks since then, however, it has often seemed as though the U.S. were seeking a good deal more. We have appeared to be aiming not merely to end a deficit but to assure ourselves a surplus. If that is indeed our aim—if our ambitions demands represent more than a bargaining tactic—then the U.S. may well bring about a new age of mercantilism in the international economy.

The notion that we might be encouraging any such trend would doubtless astound the millions of Americans who have been taught, in elementary economics courses, that mercantilism is a primitive and thoroughly discredited approach to national economic health. Mercantilist doctrine holds that a healthy nation is one with a large trade surplus—one that, by selling abroad more than it buys, accumulates substantial hoards of money. Modern economists have generally insisted that mercantilist nations are actually worse off than their customers. Individual producers may benefit from mercantilist policies, but for society as a whole it involves deprivation. The ultimate aim of economic activity, after all, is consumption, not production.

Not that mercantilism is unknown in modern times—or that the U.S. would be alone in bringing it back. In the 1930's there was a rash of competitive currency devaluations as nations strove vainly and unheroically to preserve favorable balances of trade at the expense of their neighbors. Since 1966, another pattern of competitive devaluation has emerged. This time, however, the mechanism has been somewhat different: some nations have devalued, but others have reached a desired state of undervaluation by simply declining to revalue (or not revaluing enough).

The major trading nations of the world have vied with each other to see which could retain the cheapest currency and, therefore, the largest trade surplus. But this was a competition from which the U.S. was excluded. Other nations had control over their exchange rates, while, under the Bretton Woods agreement, the U.S. did not. The value of the dollar was determined by the movement of other exchange rates. This meant that other nations could use the U.S. as a residual market for their products; their undervalued currencies were the equivalent of a subsidy for their exports (and the overvalued dollar was in effect a subsidy for U.S. imports).

All this changed, of course, on August 15. President Nixon's new international program, in one dramatic stroke, changed the rules of world trade. It severed the link between the dollar and gold, imposed a 10 percent surcharge on U.S. imports, and proposed a buy-American policy for capital goods. These actions were designed to force the Japanese and the major European nations to revalue their currencies by undetermined amounts, to remove manifold barriers to U.S. trade, and to share the cost of U.S. military forces stationed abroad.

WHERE THAT $13 BILLION COMES FROM

It soon became apparent that the U.S. was asking for larger currency and trade concessions than the major industrial nations were prepared to grant. The demands have been been justified by calculations purporting to show an emerging crisis in the U.S. trade balance. Walther Lederer, an economist and balance-of-payments specialist at the Treasury Department, has produced figures showing that, under conditions of relatively full employment, the U.S. trade deficit could reach $5 billion in 1972. Lederer argues that the U.S. would not only have to eliminate this deficit but would have to generate a trade surplus of about $6 billion to cover other outflows—e.g., for overseas military expenditures, foreign aid, and capital investment. When Treasury officials received this $11-billion estimate they added on an extra $2 billion, presumably as a margin of safety. The result was the much-publicized demand for a $13-billion turnaround on trade.

It is certainly possible that this extreme demand is only a bargaining counter and that it will be modified in exchange for reasonable concessions by other nations. In that case, the hard-line U.S. policy the U.S. has been articulating would have served to end the post-1966 drift to mercantilism. But it is also possible that the demand is real, and that it represents a bold new bid by the U.S., not to end the mercantilist game, but to *compete* in it.

There should at least be no doubt that our demands represent a very hard line. Even setting aside that gratuitous $2-billion addition, it is questionable whether Lederer's figures should be used to support the demands. C. Fred Bergsten, a former economic adviser to Presidential Assistant Henry Kissinger, feels that the figures underestimate the improvement that should take place in U.S. exports as nations like Japan, the U.K., and Canada start to recover from their own business slowdowns. Bergsten and many other economists also criticize Lederer for not taking into account an anticipated decline in U.S. interest payments to foreigners. As other countries revalue their currencies, those U.S. speculators who originally exchanged domestic dollar balances for foreign assets will reverse these transactions in order to take their profits. This will reduce the dollar holdings of foreign central banks in the U.S., and the resulting decline in overseas interest payments will reduce the size of the trade surplus we will require.

Most businessmen and government officials are, of course, unconcerned about, if not unaware of, Lederer's highly sophisticated calculations. They have, however, registered intense concern about the all-to-obvious deterioration in the current trade figures: a trade deficit of about $1 billion to $2 billion is now expected for this year, versus a $2.1-billion surplus in 1970. But it would be a serious error to base any generalizations about the trend on this year's trade performance.

Trade flows during the first eight months of 1971 were seriously distorted by the effects of three potential strikes, the threat of legislative curbs on imports, and, finally, the prospect of exchange-rate changes themselves. Anticipating first a West Coast dock strike, next a steel strike, and then a shutdown of east-coast ports importers frantically stepped up their buying, lest they be caught short later in the year. For example, during the spring quarter, the U.S. imported 36 percent more textiles than it did in the comparable period of 1970. Hendrik Houthakker, a professor of economics at Harvard University and formerly a member of the Council of Economic Advisers, commented recently that "the trade deficit from April through August reflects many temporary factors, of which the potential dock strikes were the most significant." He added: "I have personal knowledge of the situation in two commodities. Beyond doubt, imports of steel and of meat were substantially accelerated in the first half of the year." And Frank Vargo, a trade expert at the Commerce Department, estimates that U.S. businessmen bought between $1 billion and $1.5 billion more than they normally would have in the first seven to eight months of 1971 *solely* as a hedge against the two dock strikes.

This process, moreover, led to another kind of hedge buying by importers. As the trade data turned ominously bad, beginning in April, foreign producers and U.S. importers became persuaded that import controls or exchange-rate changes were inevitable. Since these would raise the price of foreign goods in the U.S. market, importers hurried to make still more purchases, which, under normal cricumstances, would have been spaced out over a year or more. In short, the fear of strikes stimulated imports, and inflated imports begat more imports.

WAITING FOR AN UPTURN

Meanwhile, the prospect of exchange-rate adjustments also hurt U.S. exports. Foreign buyers slowed down purchases in the expectation that later they would be able to buy U.S. goods cheaper (because their own currencies would be worth more in dollars). In turn, U.S. exporters may have delayed shipments in anticipation of exchange-rate changes: after a devaluation of the dollar, they would be able to raise the dollar price of their goods somewhat and still expand overseas sales (because the price in foreign currencies would be falling).

Thus imports were being artificially stimulated while exports were being artificially inhibited. It is likely that the trade balance will eventually turn up once hedge buying slackens and exchange-rate changes are made. Jack J. Bame, head of the balance-of-payments section of the Commerce Department, thinks the merchandise-trade figures for the final quarter of the year should show a substantial improvement over the figures for last spring.

The trade picture, though worrisome, hardly justifies the hand wringing and lamentations emanating from Washington. The international position of the U.S. is basically quite healthy. Our net assets abroad have risen from $26.8 billion in 1960 to around $60 billion, primarily because of increases in the book value of our overseas direct investments. The return flow of dividends, fees, and royalties on these investments is beginning to assume very large proportions; last year the total was $7.9 billion. In fact, this income might shortly be large enough to wipe out our balance-of-payments problems once and for all.

The problems have been centered, of course, in the large deficits we traditionally run in certain parts of our international accounts—e.g., from exporting private capital, foreign aid, tourism. Despite these deficits, the Council of Economic Advisers recently projected an $800-million over-all balance-of-payments surplus by 1975. This projection, admittedly tentative, assumed only a $1-billion positive balance on merchandise trade. The primary reason for the Council's optimism is the flow of those dividends, fees and royalties, which are expected to rise to $17 billion by 1975.

ARE WE IMPORTING UNEMPLOYMENT?

But the Administration seems to have its eye on 1972, not 1975. It seems to feel that it needs a large trade surplus as soon as possible, not only for reasons of external balance but, more important, to stimulate the domestic economy. An excess of exports over imports withdraws goods and services from the domestic market while pumping in foreign money. As Americans spend this money, they generate income for other Americans; thus trade surpluses, whether derived from increases in exports or reductions in imports, have a multiplier effect on U.S. income and jobs, much like an increase in business investment. The C.E.A. estimates that every $1 of additional net exports increases the G.N.P. by $2.54 within one year and $3.29 within two years. Conversely, a trade deficit tends to have a depressing effect on income and jobs. Indeed, many Americans feel that other countries have been exporting unemployment to the U.S. by rigging their trade policies or exchange rates in order to produce favorable trade balances with this country.

But, here again, there are reasons to believe that the Administration is misreading the data, and that the employment effect of our trade problems has been much exaggerated. From 1964 to 1969, the U.S. trade surplus dropped from $6.8 billion to $700 million, but unemployment also declined—from 5.2 percent to 3.5 percent. Though the trade balance did exercise a depressing influence, the economy was buoyant enough not merely to absorb any workers displaced by the growth of imports but also to provide jobs for new entrants into the labor force. Since 1969, of course, the economy has been slack and the jobs allegedly lost because of foreign trade have become the focus of unusual attention.

How much unemployment has the U.S. actually been importing? Lawrence Krause, an economist with the Brookings Institution who is regarded as one of the most knowledgeable foreign-trade specialists, has attempted to measure the amount for the period from the first quarter of 1970 through the first quarter of 1971. His analysis, based on detailed data for specific industries, concludes that very little of our unemployment is related to foreign trade. During this period imports increased at an annual rate of about $4.1 billion, while exports rose by only about $3.1 billion. Yet this $1-billion difference did not cause any direct loss of jobs to the economy as a whole. While the rise in imports and the decline in certain categories of exports wiped out 182,200 jobs, the increase in other exports and the decline in a few categories of imports created 182,700 jobs.

Adding in the indirect job effects—that is, the impact on industries that supply parts or intermediate goods either to the export industries or to those that compete with imports—Krause found that the aggregate job loss for the year was a mere 17,000. He notes: "If unemployment had increased only because of trade dislocations, the unemployment rate would have risen from 4.16 percent at the beginning of the period to only 4.18 at the end, rather than to the actual 5.93 percent."

The reason for this minuscule job loss is that many U.S. exports have a higher labor content than the production displaced by U.S. imports. For example, capital goods—which account for about 35 percent of U.S. exports—generally use a far higher ratio of labor to capital than do autos and many other types of consumer goods that represent a large part of U.S. imports.

Having overestimated the problem, the Administration is overreacting in its proposed solution. Perhaps the major reason for being concerned about our reinforcing a trend to mercantilism lies in the weapon we have employed in our attack on trade problems. The weapon, the 10 percent surcharge on imports, will not in fact cut out many imports or create many new jobs in the short run. And as long as it remains in effect, it will certainly delay, or even frustrate, the efforts to achieve a reasonable long-term solution to the international monetary crisis. There are many encouraging signs that the Administration is becoming aware of this fact. And so we can hope the tax may not be around for too much longer.

If the surcharge remains, its impact during the rest of 1971 will probably be minimal. U.S. importers or distributors who have been relying on a foreign source of supply will not find it easy to shift quickly to a domestic source without experiencing unacceptable delays in the delivery of merchandise. The importer will continue to buy foreign merchandise and will try to pass the tax on to his U.S. customer. If the customer's demand for imports is relatively insensitive to price changes—because, for example, the merchandise is desperately needed—most, if not all, of the tax can be passed on. But if the customer is acutely sensitive to price changes, the importer will either have to reduce his own profit margin or ask the foreign producer to absorb part of the tax. Whether the foreign producer will agree depends on how interested he is in retaining his share of the U.S. market. And that, in turn, depends on how quickly he can expand sales in his home market or in third markets.

SOME CUSTOMERS ARE INSENSITIVE

For many kinds of imported industrial supplies, customers are relatively insensitive to changes in price. Metals, fibers, and building materials, for example, cannot readily be supplied by domestic producers in large enough quantities to displace imports; thus the customers will continue to buy imported supplies despite the surcharge, which applies to some, though not all, of such items. Therefore the quantity of these imports will fall only marginally, and buyers will end up paying nearly the full amount of the import duty to the U.S. Treasury.

In theory, buyers are much more sensitive to changes in the price of finished manufactures; after all, domestic substitutes for these goods can usually be obtained in sufficient quantities. Thus, one might expect imports of finished manufactures to fall substantially as the surcharge pushes up their prices. But foreign suppliers of these goods will obviously fight to maintain their stake in the U.S. market; indeed, in the very short run—three to six months, say—they may be more interested in preserving market shares than in maintaining profit margins. If so, they will reduce prices, thereby sharing the tax burden with the U.S. customer.

For a while, then, the domestic price of these imports may not change very much, and the quantity of imports will not fall by much. According to an analysis made by the Federal Reserve Board, imports in the last half of 1971 are apt to drop only by $300 million to $600 million as a result of the surcharge. One of the Fed's calculations has imports of industrial supplies declining by only $88 million, those of finished manufactures by somewhere between $278 million and $552 million. On the other hand, imports of foreign cars may actually rise: a modest decline in the sale of Japanese and European cars might be more than offset by a rise in imports of Canadian vehicles, which are exempt from the surcharge and benefit from the abolition of the 7 percent U.S. excise tax.

The surcharge will have a somewhat larger impact in 1972 and, in the unlikely event that it is still with us, a still greater effect in 1973. Foreign suppliers will be increasingly reluctant to absorb any part of the import duty. Japan and Canada, which account for more than 40 percent of U.S. imports, may be recovering from their own business slowdowns, and so they may use more of their own output domestically and earmark less for export. Producers in these countries will therefore be in a better position to resist pressures to cut prices for the U.S. market. At the same time, suppliers in all countries will have begun lining up alternative market outlets, which means that they will be competing more aggressively with U.S. producers in third markets.

As foreign producers become more reluctant to absorb any appreciable part of the surcharge, there might well be sharp declines of U.S. imports in product categories where demand is highly sensitive to price increases. According to the Fed, the total value of 1972 imports could drop by something like $2.25 billion to $3 billion below previously estimated levels.

A BOON TO THE TREASURY, NOT THE ECONOMY

Those figures sound as though retaining the surcharge might do a lot to stimulate the U.S. economy. Actually, the stimulus would not be particularly great—at least, not in 1972. Although Americans would be cutting down on imports, they would also be paying higher prices for goods they continued to buy. Payments to foreigners would drop by about $2.6 billion, but payments to the U.S. Tretasury (i.e., for the surcharge) would rise by an estimated $2 billion. So the private economy could conceivably benefit by only about $600 million. This injection into the domestic income stream would probably create no more than 30,000 or 35,000 new jobs, according to data prepared by the Department of Labor. And even this gain could be jeopardized if rougher competition in foreign markets—which the surcharge itself stimulates—inhibited U.S. export sales. Since a dollar of increased exports creates more jobs than a dollar of forgone imports, a decline of only a bit more than 1 percent in U.S. exports could wipe out the entire 1972 employment gain generated by the import surcharge.

Actually, there is a danger, if the surcharge is retained, that it will be stimulating the economy at a time when things are booming anyway. Frank Vargo of the Commerce Department has calculated that the surcharge will reduce imports by about $2.3 billion in this fiscal year, by $4.4 billion in fiscal 1973, and by $6.7 billion in fiscal 1974. By that time, we may be trying to *restrain* the economy.

THE POOR WILL GET POORER

And while the surcharge cannot provide much immediate benefit to the U.S. economy, it may have a devastating effect on other countries. Its impact could fall with particular severity on the smaller, less-developed countries rather than on the major industrial powers—at whom it was ostensibly aimed. When countries were ranked according to the proportion of their world exports affected by the surcharge, some of the biggest losers turned out to be Mexico, Korea, Taiwan, Haiti, Hong Kong, Iceland, Israel, Philippines, and Barbados. With the exception of Japan and Canada, most of the countries the U.S. is trying to pressure into revaluing their currencies are not seriously affected by the import surcharge. For example, only 4 percent of France's global exports will be subject to it.

The major industrial countries, including Japan and Canada, should have no difficulty in "sterilizing" the depressive effect of the surcharge on their own economies. They can use monetary and fiscal policies to restimulate internal demand. Of course, such policies would increase their imports at a time when their exports were declining. But, for the most part, these countries have sufficient international reserves to finance any potential trade deficits. The less-developed countries, on the other hand, have little or no reserves. If they attempt to offset the impact of the U.S. surcharge by expansionary domestic policies, they will fall into acute balance-of-payments crises. They will have to either devalue their currencies or else impose additional controls on imports. Either way, U.S. exports will suffer.

Many countries—both industrial powers and less-developed countries—are likely to react to the surcharge with measures directed against U.S. capital rather than U.S. trade. There is the worrisome prospect that countries will try to tamper with the repatriation of dividends earned by U.S. subsidiaries. Central banks could simply refuse to provide dollars in exchange for local currency profits, or they could provide them at discriminatory rates.

Right now, there is a real hope that the U.S. might shortly earn enough on its overseas investments to solve its international payments problems. But concerted action by foreign countries against U.S. investment income would obviously change matters. The U.S. may not need a large trade surplus by 1975. But if we persist in trying to create too large a surplus in the short run, we may so imperil the earning power of our overseas assets that we would, in effect, "manufacture" the need for the surplus. The Administration would have made a classic self-fulfilling prophecy.

The surcharge has had one possibly beneficial effect. Since August 15, most major countries have allowed their currencies to float upward in relation to the dollar. They might never have agreed to float if the import surcharge had not been imposed—though it is also conceivable that the suspension of gold convertibility alone would have exerted enough pressure to get a float going. Yet even if the surcharge was an essential prod, it should have been removed once the float got under way, both as a gesture of good will and simply for the sake of good economic sense.

AN IMPORT TAX IS AN EXPORT TAX

Although the Administration has hinted that it may remove the surcharge, it has said nothing about another of its proposals that also has a mercantilist look to it: the proposal to attach a buy-American provision to the investment tax credit. The buy-American clause is even more bitterly resented by other countries than the surcharge itself. According to the pending legislation, when a U.S. company buys a piece of equipment that is more than 50 percent of American origin, the company can deduct 7 percent of the cost of the equipment from its corporate tax liability.

Thus a U.S.-made machine that sold for $100,000 might cost the buyer only $93,000. But the buyer gets to take his depreciation deduction as if the equipment had cost $100,000. This would typically reduce the effective cost of the machine to something like $90,000. Meanwhile, if the import surcharge is retained, the price of a $100,000 foreign-made machine could rise to $110,000. Taken together, then, the buy-American clause and the surcharge could give the domestic seller of machinery a theoretical 18 percent price advantage over the foreign supplier (the difference between $110,000 and $90,000).

In practice, the advantage would not be quite that high because the surcharge is imposed on what amounts to the wholesale value of the machine, rather than the higher retail price. In addition, the U.S. company probably would not have considered buying the foreign machine in the first place unless it had been either cheaper or of better quality. Still, the kind of price advantage provided by the surcharge and the buy-American clause could conceivably cut imports of capital goods by about $750 million

As long as they remain in effect, the surcharge and the buy-American clause work to prevent foreign currencies from appreciating by as much as they otherwise might. For example, a drop in British exports to the U.S. (resulting from the surcharge or the buy-American clause) will inevitably cause a floating pound to decline in value, or what amounts to the same thing, prevent it from rising in value. This process will raise prices of U.S. goods in pounds, relative to what they would have been. Thus in the last analysis a tax on British exports to the U.S. ends up as a tax on U.S. exports to Britain. Some industries in the U.S. will be more effectively insulated from British competition, but only at the expense of other industries that will find it harder than ever to penetrate the British market.

Meanwhile, it is unrealistic to suppose that the surcharge and the buy-American clause will ensure the continued floating of other currencies. It is highly unlikely, in fact, that the major currencies will continue to float for any sustained period of time. Economists tend to favor fluctuating exchange rates, but practical men abhor them. Since practical men make policy, the return to some sort of par-value system—one with perhaps a little more flexibility—seems assured. Besides, most economists have always said that the transition from a system of fixed rates to one of fluctuating rates will probably be a painful one.

The pain is being aggravated now because acceptance of fluctuating rates is only half-hearted. International traders have no confidence in currently prevailing exchange rates, and many expect that new par values, differing materially from the current exchange rates, will shortly be set. As a result, international business has been seriously affected. In turn, this has reinforced the poor opinion that most businessmen hold of fluctuating rates and has increased the pressure for a quick settlement of currency problems.

THE KICK FROM REVALUATION

The U.S. may have already won all or most of the currency changes that it needs. The changes that have already taken place will powerfully influence the U.S. trade balance and, therefore, domestic income. As of mid-October, the German mark had appreciated a total of more than 10 percent since the beginning of the year. The Canadian dollar had appreciated by about 7.5 percent since 1970. The Japanese yen had appreciated by close to 10 percent since August 15. The Belgians had gone up by over 7 percent, the British by close to 4 percent, and the Swiss had gone up by about 10 percent.

The effect of exchange-rate changes like these on U.S. exports depends on, among other things, the foreign customer's response to price changes. Estimates of this response—in technical language, the price elasticity of demand for U.S. exports—vary quite substantially. One of the most systematic efforts to calculate these elasticities has been made by Professor Stephen Magee (see the box on page 138). Magee has computed the effects on U.S. trade with the fifteen major trading countries of the world, and also with a sixteenth bloc that includes most of the less-developed countries. He concludes that world demand for U.S. exports is far more sensitive to price changes than most people suppose.

For every 1 percent decline in the price of U.S. goods, expressed in foreign currencies, the dollar value of U.S. exports could rise by as much as 2.74 percent, provided the price of exports in dollars did not change. Thus if the fifteen industrial countries simultaneously revalued by 10 percent, the value of U.S. exports to these countries might rise by over 27 percent. In practice, however, this is most unlikely to happen. In the first place, U.S. producers may be taking advantage of the increased demand for U.S. exports to raise their prices in dollars. As a result, the price of U.S. exports in foreign currencies may not fall by the full amount of the currency revaluations, and this may greatly offset the initial increase in the demand for U.S. products.

Increased demand for U.S. exports will be partially offset in other ways too. When Japan, for example,, revalues, its imports will cost less in yen and its exports will become more expensive in dollars. However, as Japanese producers encounter overseas resistance to the higher dollar prices, they will reduce prices of their goods in yen—though perhaps only slightly—in an effort to overcome the resistance. The drop in the domestic prices of both imports and exportable goods, Magee calculates, will lower the Japanese wholesale price index significantly: a 10 percent revaluation would lower it by close to 1 percent. In turn, this fall in domestic prices will gradually moderate wage pressures and increase the competitiveness of Japanese-made goods, thus tending to offset the initial rise in the demand for U.S. exports.

Finally, real income in other countries will tend to fall in the wake of their revaluations. A rise in imports and a decline in exports means that foreign goods are being pumped in while local money is being sent out. In these circumstances, foreigners will buy fewer U.S. goods than would otherwise have been expected. Magee has calculated the initial decline in real income, but he has assumed that the fifteen countries will prevent any multiplier effects.

Adjusting for all the forces that would tend to offset the rise in U.S. exports. Magee nevertheless concludes that a revaluation of these fifteen currencies by 10 percent, or even 5 percent, would give U.S. exporters quite a sizable sales advantage. A revaluation of 10 percent in the industrialized countries will increase the value of global U.S. exports by about 13 percent. On Magee's estimates of final 1971 exports, that would represent an increase of about $5.8 billion. (Based on the tentative projection of 1971 exports made by Walther Lederer, of the U.S. Treasury, the 13 percent rise would represent $5.2 billion.) In turn, a 5 percent revaluation of these currencies would increase U.S. exports by about 6 percent, or between $2.4 billion and $2.7 billion.

The revaluation of foreign currencies will naturally reduce U.S. imports. But, according to Magee's research, a 1 percent rise in the dollar price of U.S. imports will probably reduce their physical volume by only 1.34 percent and their value by only 0.34 percent. Apparently, U.S. demand for foreign goods is less sensitive to changes in price than is foreign demand for U.S. goods. Magee believes that a 5 percent currency appreciation in the fifteen countries would cut U.S. imports from these areas by only $700 million to $800 million. A 10 percent change would cut imports by $1.3 billion to $1.6 billion.

To be sure, the full impact of the currency changes, like those of the surcharge, will not be felt within the first year. Some drop in imports and rise in exports can be expected in 1972, but the full benefits won't be felt before 1973 or 1974.

THE PENDULUM EFFECT

If Magee's findings are accurate—there are, admittedly, many who disagree with them—they suggest a curious paradox. Although the deterioration in U.S. foreign trade in the last few years has been caused by rising imports, the easiest way to arrest this deterioration is not to attack imports per se, but rather to concentrate on increasing our exports. Imports cannot be easily reduced—short of severe measures that engender considerable foreign hostility—whereas exports can be readily expanded by small changes in currency parities.

The Administration, which is apparently relying on very different research findings, and is also responding to political pressure from industries that compete with imports, has unfortunately chosen to restrict imports directly. To the extent that its principal weapons—the import surcharge and the buy-American clause—make it more difficult to secure changes in currency parities, its policies might prove counter productive. Moreover, these policies will reduce the total volume of U.S. trade, whereas, if Magee is right, changes in the value of currencies would increase U.S. trade.

U.S. international economic policy over the past few years has exhibited a marked pendulum effect. After nearly three years of doing virtually nothing at all about our international payments problems, President Nixon seems in one dramatic action to have done too much. There is evidence that the President was guided by a set of highly questionable statistics that tended to overstate the seriousness of our problems. What is needed now is a program to encourage the unfolding process of exchange-rate flexibility. The suspension of gold convertibility constituted a step in this direction, but our new barriers to the free movement of goods will unquestionably delay the process.

Mr. PACKWOOD. Mr. President, I yield 5 minutes to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized for 5 minutes.

Mr. JAVITS. Mr. President, I think that a person like myself who is heavily concerned with the trading policy of the country would be remiss in his duty if he did not call to the attention of the Senate a very serious matter.

I am a cosponsor of the Packwood amendment to strike the discriminatory "Buy American" provision from the investment tax credit.

I am deeply convinced, after a close reading of the situation, that the "Buy American" policy, restricting the tax credit to the use of American-made goods, is probably the most nettling single thing we are doing to our trading partners. It is deeply resented because it is a weapon that we are using, one that has been rarely, if at all, used by any of them.

Mr. President, coming on top of that we have a 10-percent surcharge; the fact is that some of our best friends, like Germany and Canada, have floated their currency. This would make a total package susceptible of being incorporated in the currency realinement were it not for what they consider to be an outrageous violation of the General Agreement on Tariffs and Trade; I refer to the "Buy American" provision, that is most deeply resented.

The Senate committee, in addition to accepting the House provision which would have ended after the 10-percent surcharge was lifted, even rubbed it in, as it were, by adding yet another provision in the Senate to give the President power even when he lifted the surcharge to keep the "Buy American" provision as an element of the tax credit, thereby guaranteeing that it remain a bone in the throat, as it were, of our trading partners, even though they are working out a currency realinement. I repeat again that it is the most deeply resented of all things we are doing, beginning with August 15, in our effort to obtain stabilized prices in this country and to deal with our balance of payments.

When we add that to the import surcharge and to the various currency floats, it means that the bill represents a 20-percent barrier against machinery imports coming into the United States. That is very deeply resented, as I have said.

I point out that if there is retaliation, it is we and not they who will suffer the most, because a growing percentage of our exports consists of capital goods. Imports of capital goods are also increasing, but our export surplus in this category increased from an average of $5.5 billion in 1959–65 to $8.5 billion in 1966–69, and $10.5 billion in 1970, the last recorded year.

So enactment of a new, discriminatory Buy-American provision is bound to be retaliated against and will be nonproductive and counter-productive for the United States and will rub salt in the wound. It is most unwise.

In closing, I repeat if the other nations retaliate—and they must; why should there not be "Buy German," "Buy Italy," "Buy UK," "Buy France"—it will hurt us because this is an area in which we have a real bulge in exports over imports.

For all these reasons I hope the Senate agrees to the amendment and strikes this provision from the bill.

I thank the Senator for yielding.

Mr. PACKWOOD. I yield 5 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. PERCY. Mr. President, again I find myself agreeing wholeheartedly with the Senator from Oregon (Mr. PACKWOOD) and my distinguished and esteemed colleague from New York (Mr. JAVITS). I think for the reasons they have given this is a very worthy amendment.

It is a very easy thing to call something a "buy America" provision and then have it automatically linked with patriotism—with what is right for America. But if we look very carefully at this it actually has an anti-American effect.

How about manufacturers in this country who built businesses, employed workers, and paid taxes based on the purchase of certain capital equipment from abroad? We are always happy to have industries in other countries build their businesses based on American capital goods. We encourage them in every way to import those American goods and we discourage them from putting on border taxes; as the Senator from New York said, we object to "Buy France," "Buy Germany," or "Buy Japan" policies.

But if a company has built an efficient, effective business serving American consumers which depends on advanced foreign capital equipment to stay competitive, we are saying to these companies: "Do not modernize or invest because if you do we will not give you this tax incentive and in addition we will hit you with a 10 percent border tax."

We also need to look at the examples set by countries like France and Germany. They do not apply their border taxes to capital equipment so as not to discourage their industries from modernization. Every country wants to encourage its industries to modernize and the investment of capital equipment is the best way to fight inflation, to be able to afford larger wage increases, and to deliver high quality products at low cost to the consumer.

Why should we go so far out of the way not only to discriminate against our friends abroad, but against manufacturers in this country? If we are trying to protect industry let us look at capital goods, because if we include in capital goods such items as trucks and buses, then we had in 1970 a $10 billion surplus of exports over imports in our capital goods trade. It is not an industry that is becoming less competitive, it is becoming more competitive.

We had a $6.7 billion trade surplus in 1964, $6.8 billion in 1965, $6.9 billion in 1966, $7.6 billion in 1967, $8.2 billion in 1968, $8.9 billion in 1969, and a whopping $10.414 billion surplus—that is exports from the United States over imports into this country—in 1970. This is the kind of export business we would not want other countries to discriminate against, in any way. It is vital to our balance of payments.

We are slitting our own throats when we put this discriminatory tax on imported machine tools, which only bring greater efficiency to our own American industry. That is why I say the "Buy American" provision may sound good for America, but it is actually bad for America.

I thank the distinguished Senator for offering a fine point in this amendment and I support the concept behind it.

Mr. BENNETT. Mr. President, I am opposed to the amendment offered by the Senator from Oregon. This amendment would strike from the bill section 103, which would temporarily deny the investment credit with respect to foreign-produced property.

Section 103 of the bill has been unfairly criticized as a foray into protecttionism; nothing could be further from the truth. For years, the United States has had a serious balance-of-payments problem, a problem that is the result of many factors. These include deliberate undervaluation of foreign currencies, special tax incentives allowed by our trading partners to capital investment, and the imposition of trade barriers and quotas curtailing the importation of American goods. This situation is no longer tolerable and must be altered. The temporary import surcharge and the temporary denial of the investment credit with respect to foreign-produced property are the means by which this situation can and will be altered.

As the President and the Secretary of the Treasury have said on many occasions, these are temporary measures whose applicability will be terminated as soon as the existing intolerable situation terminates. They in no way derogate from our traditional and wholehearted committment to free trade among nations. But free trade is not a one-way street, or at least not for long. And our trading partners must realize this and remove the barriers and preferences which they have erected.

Deleting section 103 from the bill will seriously hamper us in the pending negotiations of a new international monetary system. Our success in these negotiations will depend in large part upon the strength of the position from which we negotiate. Section 103 of the bill will provide the President with this strength. I hope that the Senate will reject this amendment.

Mr. PACKWOOD. Mr. President, I think the proponents have made their point. I withdraw the amendment from further consideration.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. JAVITS. Mr. President, I call up my amendment No. 711.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read as follows:

> On page 9, line 14, strike lines 14 through 25 inclusive.

Mr. JAVITS. Mr. President, this amendment would seek to strike out that part of the so-called Buy America provision of the investment tax credit which was added by the Committee on Finance in the Senate. We have just had an opportunity to discuss this matter.

I deeply believe this particular provision is very unwise, quite apart from the unwisdom of the whole "Buy America" section, because this will inhibit rather than promote agreement of realinement with other countries and a current settlement of trade problems. Unless the President denounces the power and intention to use any power this gives him, he cannot make a deal, because an essential element in that deal would be the fact that if the surcharge goes off, the "Buy America" provision will go with it.

The bill contains many other powers in respect of procurement—the Cotton amendment and other trade restrictions in section 6 dealing with tariffs. But no single thing is more nettling than this provision which enables America to continue the "buy America" provision of the investment tax credit, even after the surcharge is lifted. That is why the other body did not put it in. They considered it extremely unwise to put the President in this situation. That is why it was a grave mistake for the committee to have inserted it.

This is likely to be the real bone in the throat of any effort to settle the existing stalemate between ourselves and other countries. I know we wish to take a tough and vigorous position, but that does not mean a position so offensive as to make it even more difficult than it is to settle our problems. It adds nothing and if the President does not want to use it, he does not have to, but it puts him in that demeaning position where he will have to renounce it.

Since it was not in the other body, I hope it will be left out here.

Mr. LONG. Mr. President, this matter was not considered in the House but it was by the Senate Finance Committee. The Senate Finance Committee concluded that this could be one of the powers available to the President to bargain with other countries. He could deny the investment tax credit for equipment from a country where, for example, they are discriminating against the United States with regard to the same commodity. He could continue the denial of the investment tax credit after the surcharge was lifted, if he thought it desirable. We have situations where it might be desirable. For example, some countries have a 30-percent tax and we have a low tax in our country on a similar commodity. There are all sorts of discriminations against American manufacturers, so where it is desirable the President should have this tool. He could deny the tax advantage of investment tax credit to the other country's commodity if they do not discontinue their discrimination against our commodity.

The administration thinks it is a good idea, and we think it should be that way. This is one of the tools we think should be in the hands of the President to protect this Nation's interests and assist him to negotiate a bargain for the removal of barriers against American products.

One would think it would not be used unless America were being discriminated against or we needed to reach an agreement with a foreign country.

This is a small power compared with the power to impose a 15 percent tax which is in this bill.

This is one of the items the administration agreed to and liked and that we think ought to be available to the President in negotiating with foreign countries for the removal of discrimination against American products.

I think it would be a big mistake to strike this provision from the bill. This is in the interest of free trade. It is in the interest of reciprocal free trade, not just somebody shipping to us. It is a means for removing discrimination against our products so we can trade on an equal basis. I think it would be a big mistake to strike it from the bill.

Mr. BENNETT. Mr. President, my colleague from New York has said several times—this is what I understood him to say—that if the President tries to use this he will have to abandon it and then it will be demeaning. That is not the way I look at this particular flexible tool which this proposal, adopted by the Finance Committee, gives to the President. It is another blue chip in his negotiating process. It is something he can give up when he feels he has been given an adequate quid pro quo. I think the President should go into the negotiating process with a number of things he can hang onto or give up rather than just have one—the repeal of the surcharge. I think this provision strengthens his hand.

It is obvious that before we get through with this problem we will have to have bilateral negotiations with all the countries involved. We are not going to reach it by a broad international negotiation.

While one can talk in total terms about the volume of capital goods, there may be one or two very sticky situations. The President may like to be in a position where, as to a particular country, he can insist, as a bargaining tool, that certain things must be done before he will accord this particular credit to either all the capital products or perhaps a particular capital product of that country.

The committee is concerned that, now that we have embarked on this process of negotiation in order to develop a new, modern, and more equitable basis for international trade, we solve the problem while we are at it. I think it would greatly weaken the President's opportunity to achieve an effective solution if this particular asset, this particular trading item, were taken away from him.

I think it would be demeaning to the President if we in Congress should say to him now, "We cannot trust you to use that particular asset, so we are going to deny it to you."

I think he should have it. The committee thought he should have it. I hope the Senate will stay with us.

Mr. JAVITS. Mr. President, it seems to me that everything that I have alleged about this amendment has been admitted. This amendment has no date. It gives the President power for any Executive order he makes to continue the application of the buy American clause. He is not going to be able to make a deal unless he states he is not going to use that power, even though it is his by law. It is demeaning the Chief Executive when the President has to renounce a power, which Congress gave him and which he signed into law, when he negotiates with a foreign country.

I have no illusions about the fate of this amendment, but I think it is still important to record one's views and arguments in regard to such critical matters as face us. We have cast crucial votes in respect of and in deference to the grave emergency we are faced with. Not based on my own views, but I consider this important limitation not less than one as to which, unless we work out a suitable arrangement in the near term on currency realignment—and at the most I guess 120 days—we will face a serious world recession into which we will be dragged, with all the dire consequences to our society. I think it is that serious.

It is in that spirit that these arguments, whatever may be their fate at the hands of the Senate, need to be uttered, so that our people and the world will know there are some people who give consideration to these vexing questions which are so deeply controverted in the great public forums of the world.

Mr. PERCY. Mr. President, if I may have a few moments, I do not want to prolong the debate, but I think there are several reasons why this is an important amendment.

First of all, the bill is becoming tagged as a protectionist bill. Certainly this provision, above all others, is in that category. It would be unfortunate if we were to accept, at this critical time in our history, a bill which could be labeled as a protectionist bill. We would be reversing and overturning a policy this country has had for 40 years, and under which we have prospered and benefited so greatly.

Second, it is harmful to the President to have this power available because of the pressures that can be brought to bear upon him to use it. Why put the President in that position? The President has said he does not want this power and does not intend to use it if it is given to him. Why force it on him? Why put him in that position? It should be our purpose to reduce the pressures put on the President of the United States, rather than increase those pressures.

I would certainly believe there would be no weakening of the President's bargaining power if the provision were stricken.

So I fully support the effort of the distinguished Senator from New York in his amendment. I think it is statesmanlike and certainly consistent with the long-standing, bipartisan trade policy that this Nation has had for 40 years.

Mr. LONG. Mr. President, I just want to make clear that the administration does propose to use this power in connection with the investment credit to seek other nations to realine their currencies in relation to ours, and to seek removal of discrimination against American products.

This is a provision which was worked out with the administration to provide a tool which will be used to negotiate a better arrangement for American products and a better realinement of currencies in this Nation's interest.

I hope the amendment is rejected.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York (putting the question).

The amendment was rejected.

AMENDMENT NO. 738

Mr. PELL. Mr. President, I call up my amendment No. 738.

The PRESIDING OFFICER. The clerk will state the amendment.

Mr. PELL. Mr. President, I ask unanimous consent to dispense with the reading of the amendment.

Let me briefly explain it to the Senator from Louisiana and the Senator from Utah and to all my colleagues.

The PRESIDING OFFICER. Without objection, reading of the amendment will be dispensed with and it will be printed in the RECORD.

Amendment No. 738 is as follows:

On page 17, after line 6, insert the following new subsection:

"(i) Any resource from ocean waters and any submarine deposit explored, developed, removed, or transported with property for which a tax credit is allowed under clause (ix) of subsection 104(d) of this Act shall be permitted to enter the United States without regard to quota limitation."

Mr. PELL. Mr. President, this amendment provides that when the tax credit is used on the ground of increasing productivity for the development of oil rigs outside of the continental limits of the United States, the oil produced shall be admitted to the United States without regard to the present oil import quotas.

What is bothersome to me, and I hope to some of our colleagues, is that we should give a tax credit to develop a product outside the United States and then put limitations on bringing that product in at the reduced price that has resulted from the increased productivity. I think that would be illogical. Either the oil rigs outside the United States should get the tax credit, but the product should come into the United States free of the quota; or, they should not get the tax credit, but the oil that is produced should remain subject to the oil import quota.

I would very much hope that the Senator from Louisiana would accept this amendment, though I realize he has indicated that he would not.

Mr. LONG. Mr. President, I cannot agree to this proposal. The committee felt that these big floating drilling rigs—which cost a great deal of money—which are used to find oil in the North Sea or on the Continental Shelf of foreign countries are like ships that are entitled to the credit.

We are competing with foreign countries which manufacture the same type of rigs. We felt that to make our manufacturing industry competitive with others, we should provide the credit where the rigs are used in international waters and outside the shorelines of foreign countries.

What the Senator is contending for would be like saying that no tariffs and no quotas would be imposed on an item, even though they would otherwise be applicable, if the item was hauled here in an American ship.

The quota on oil imports has to do with trying to preserve the capability in this country to produce enough to meet our requirements. It is only because we have the quota that we have an oil and gas industry today that can produce at the level it does, notwithstanding that providers of fuel are being required to ration it as to whom it will be provided, even up here in this area. They are certainly doing it in Louisiana today, because we have already gone too far in making it less and less attractive to produce this Nation's requirements of fuel.

Just because we might find the oil over there with an American rig does not in any respect increase the security of the United States. It is still foreign oil and we would still have the difficulty of getting it to this country to use it, because it is completely under the dominion and control of foreign countries.

So I would say that we should not exempt from quotas oil produced abroad in an area which is entirely, under international law, the property of a foreign nation, regardless of whether it is done with an American produced rig or a foreign produced rig.

Mr. PELL. Would not this be like giving an investment credit to an American factory that was set up in France? I do not think the tax bill does this; nor should it.

Mr. LONG. When the committee agreed to this treatment, we equated it with an American ship, which sails in international and foreign waters and which does get the investment tax credit. Incidentally, many of these rigs are made so that you just tow them over, put them down, and drill for oil, and if you do not find oil, you pump the water out of the inside of the structure—they are made of tubing and pipe—so that it will float again; and you then move them somewhere else and try again.

So the comparison to a ship or dredge is very appropriate, and of course floating dredges would get the investment tax credit, no matter where they would go, as long as they are not actually within the rivers of a foreign country.

Mr. PELL. I sought to get from the Treasury Department the costs involved but they could not come up with the figures.

Mr. LONG. As of now, we will be spending about $25 billion within the next decade for offshore development. Each year we are now spending about a billion dollars in offshore exploration. So the amount of money involved is considerable.

Mr. PELL. When it comes to manufacturing oil rigs, the amount of competition from foreign countries is negligible. Accordingly, I wonder if knocking out the investment credit for oil rigs would be more acceptable to the Senator from Louisiana than knocking out the import quotas of the oil that is produced.

Mr. LONG. Well, if the Senator wants to deny American companies producing these rigs the consideration that seemed fair to the committee, we would much prefer that be done, rather than to try to contend that certain foreign oil should be favored over other foreign oil just because it is an American rig that produces the oil. There is no reason why it should be. These oil import quotas are determined on considerations of foreign policy as between one country and another, and it may be that in the administration of the program, perhaps the President and his advisers might want to take into consideration the fact that it was an American company using American equipment that found the oil and produced it in some area, but they certainly should not be required to.

The oil that is produced ought to be subject to the same quotas as any other oil produced around the world.

Mr. PELL. I see the Senator's point, but is it not true that with this provision in the tax bill, we are really subsidizing the production of those products whose entry into the United States is then limited?

The example of the ship the Senator used is not the same thing, because the ship moves and is based within America. But the factory, which does not move and is outside the United States, is a better example. I do not think we would ever want to subsidize or give an investment credit to an American factory set up in France, Germany, or any other nation. That is what this provision really does.

Mr. LONG. Whether we do or do not give the investment tax credit to a product manufactured in the United States and used to produce oil out on the high seas, in any event, should make no difference with regard to whether that oil comes into this Nation under a quota or not. It really is totally irrelevant to that.

The committee felt that American know-how and technical competence and American genius in this area is greater, the manufacture of these rigs is an area where we are still preeminent, where we can still compete, and that the credit should be extended to these rigs. Allowing the credit will provide a lot of jobs here for people who manufacture these big structures that are hauled out and moved around the world to produce oil. They provide jobs for American people. The rigs are operated by American labor, they are moved around the world on American ships, towed by American labor, and they bring in revenue to this country.

If the Senator wants to change it so that our industry is not competitive with the Japanese, the Germans, and others who are moving in this same direction, that is his privilege. But whether we do or do not, in either event I would have to strongly oppose any suggestion that there would be no limitation on the oil that can be imported into this country merely because the oil was produced with American-manufactured rigs.

Mr. PELL. Mr. President, the revenue bill before us provides for a new, special taxpayer subsidy to the U.S. oil industry. My amendment would guarantee that the taxpayers of the United States would receive some benefit in return for this subsidy.

As reported by the committee, the bill gives the oil industry special treatment in claiming investment tax credits. The general rule is that a tax credit will be allowed only for qualified property used in the United States or on the Outer Continental Shelf of the United States. But section 104(d) of the bill would allow the tax credit for "any property of the United States person (other than a vessel or an aircraft) which is used in international or territorial waters for the purpose of exploring for, developing, removing, or transporting resources from ocean waters or submarine deposits."

Now what does this mean? It means that an American oil company will be allowed a tax credit on investments in exploiting offshore oil in the territorial waters of any foreign nation around the world.

It means, to the extent of the tax credit, the taxpapers of my State and your State could be paying part of the cost for oil drilling rigs, pipelines, and other equipment in the territorial waters of Indonesia, South Korea, South Vietnam, the North Sea, the China Sea, and anywhere else in the world where offshore petroleum deposits are found.

The only way to justify this taxpaper subsidy of the oil industry overseas, in my view, is to make sure that our taxpayers receive something in return. My amendment, therefore, simply states that any resources, including oil, that are developed overseas with the help of tax credits, shall be permitted to enter the United States without regard to quota limitations.

To put it bluntly, if the taxpayers of my State of Rhode Island are going to help finance offshore oil development in Indonesia or Kuwait, those Rhode Island taxpayers should at least have the right to buy some of the oil.

But we have an oil import quota system that permits only a relative trickle of foreign oil to enter this country. I see no reason why our taxpayers should subsidize the development of oil resources overseas, unless the oil is allowed to come into the United States to help meet our energy needs, to help heat our homes, and run our factories.

Without my amendment, the provision of a special investment tax credit for overseas oil development just does not make sense. Why should our taxpayers subsidize the development of offshore oil fields which, because of the import quota system, will never produce oil for American homes and industry?

Let us consider for a moment the conflicting arguments put forward on behalf of this oil investment tax credit, and for the oil import quota system. We are told we must limit imports of oil so that American oil companies will have an incentive to develop our own domestic oil sources—so we will not be dependent on foreign sources. That is the argument for the oil import quota system.

Then we are told that we should subsidize, through a tax credit, development of foreign oil sources, even if the oil cannot be used in the United States.

I would hope that the oil industry might look upon my amendment as a sensible and reasonable way of resolving the conflicting arguments they have put forward. If it is indeed important to our country to develop these foreign oil deposits, then let us provide a special tax credit—but let us also make sure that the oil is made available to American taxpayers, American homes, and American industry.

I would emphasize that my amendment does not eliminate the oil import quota system. It does not open wide the floodgates for indiscriminate imports of foreign oil. It does say that any overseas oil that has been developed, in part with the taxpayers' dollars through this special investment tax credit, will not be subject to the import quotas. It guarantees that we would not be using the taxpayers' money to subsidize development of overseas oil resources that will be used to meet the needs of Europe, Asia, and Africa, without at least a chance that some of the oil can be brought to the United States.

I know the taxpayers of my own State are mighty tired of subsidizing the domestic oil industry through high fuel costs caused by the oil import quota system. It is unthinkable that these taxpayers should now be forced to subsidize the development of foreign oil fields without at least a chance of using some of the oil. I have another amendment which simply knocks out the investment credit for the rig. Would the Senator consider accepting that? It does not mention the import quotas.

Mr. LONG. I will not accept it. The Senator is privileged to offer it.

Mr. PELL. I think we know each other's minds. In order not to consume the time of the Senate any further, I would like a rollcall vote on my amendment, but I will not use up any further time.

Mr. LONG. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. Stevenson). The question is on agreeing to the amendment of the Senator from Rhode Island (Mr. Pell). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of WEST VIRGINIA. I announce that the Senator from South Dakota (Mr. McGovern) and the Senator from Maine (Mr. Muskie) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. Mundt) is absent because of illness.

The Senator from Arizona (Mr. Goldwater) is necessarily absent.

The result was announced—yeas 38, nays 58, as follows:

[No. 387 Leg.]

YEAS—38

Aiken
Bayh
Brooke
Buckley
Case
Chiles
Church
Cotton
Cranston
Eagleton
Fong
Harris
Hart
Hartke
Hughes
Inouye
Jackson
Javits
Kennedy
Magnuson
McIntyre
Metcalf
Mondale
Nelson
Packwood
Pastore
Pell
Percy
Proxmire
Ribicoff
Roth
Smith
Stafford
Stevenson
Symington
Tunney
Weicker
Williams

NAYS—58

Allen
Allott
Anderson
Baker
Beall
Bellmon
Bennett
Bentsen
Bible
Boggs
Brock
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Cook
Cooper
Curtis
Dole
Dominick
Eastland
Ellender
Ervin
Fannin
Fulbright
Gambrell
Gravel
Griffin
Gurney
Hansen
Hatfield
Hollings
Hruska
Humphrey
Jordan, N.C.
Jordan, Idaho
Long
Mansfield
Mathias
McClellan
McGee
Miller
Montoya
Moss
Pearson
Randolph
Saxbe
Schweiker
Scott
Sparkman
Spong
Stennis
Stevens
Taft
Talmadge
Thurmond
Tower
Young

NOT VOTING—4

Goldwater
McGovern
Mundt
Muskie

So Mr. Pell's amendment was rejected.

AMENDMENT NO. 683

Mr. TAFT. Mr. President, I call up my amendment No. 683 and ask that it be stated.

The PRESIDING OFFICER (Mr. Inouye). The amendment will be stated.

The legislative clerk read the amendment as follows:

On page 3, before line 1, in the table of contents immediately after the item relating to section 702, insert the following:

"TITLE VIII—MISCELLANEOUS

"Sec. 801. Short title.
"Sec. 802. Certification by Secretary of the Interior.
"Sec. 803. Tax credit for maintenance of historic barns."

At the end of the bill add the following title:

"TITLE VIII—MISCELLANEOUS

"Sec. 801. Short Title.

"This title may be cited as the 'Preservation of Historic Barns Act'.

"Sec. 802. Certification by Secretary of the Interior.

"Upon application made therefore, the Secretary of the Interior is authorized to certify, for purposes of this title, any barn which he determines (1) was constructed at least forty years prior to the year in which certification is made, and (2) is of historic, architectural, or artistic significance because of its location, construction, or exterior appearance. In carrying out the provisions of this section, the Secretary of the Interior is authorized to consult with the Advisory Board on National Parks, Historic Sites, Buildings, and Monuments.

"Sec. 803. Tax Credit for Maintenance of Historic Barns.

"(a) Subpart A of part IV of subchapter A of chapter 1 (relating to credits against tax), as amended by title VII of this Act, is amended by renumbering section 41 as 42, and by inserting after section 40 the following new section:

"Sec. 41. Maintenance of Historic Barns

"'(a) General Rule.—There shall be allowed, as a credit against the tax imposed by this chapter for the taxable year, an amount equal to 10 percent of the amounts paid or incurred during that taxable year by the taxpayer for maintaining the exterior appearance and structural soundness of any historic barn owned by him and certified by the Secretary of the Interior under section 802 of the Preservation of Historic Barns Act as being of historic, architectural, or artistic significance.

" '(b) LIMITATION.—The credit allowed by subsection (a) shall not exceed the amount of the tax imposed by this chapter for the taxable year reduced by the sum of the credits allowable under section 33 (relating to foreign tax credit), section 35 (relating to partially tax-exempt interest), section 37 (relating to retirement income), and section 38 (relating to investment in certain depreciable property).

" '(c) REGULATIONS.—The Secretary or his delegate is authorized to prescribe such regulations as may be necessary to carry out the provisions of this section.'

"(b) CLERICAL AMENDMENT.—The table of sections for such subpart, as amended by title VII of this Act, is amended by striking out

" 'Sec. 41. Overpayments of tax.'

and inserting in lieu thereof:

" 'Sec. 41. Maintenance of historic barns.

" 'Sec. 42. Overpayments of tax.'

' "(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1971."

Mr. TAFT. Mr. President, since the turn of this century our conservation efforts have largely been directed toward the preservation of the wilderness. As important as these efforts are, I think that we must recognize the need to preserve some of the artistic, historic and architecturally beautiful buildings which have graced our Nation's landscape. They have become so much a part of the great heritage of this country. This is particularly true with some of our Nation's barns.

As each year passes more and more of our rural countryside is being gradually destroyed by the suburban sprawl of hotdog stands, used car lots and gasoline stations. The American countryside, which reflected the artistic talents of men who built America with their hands, is being tragically uprooted with graceless and impersonal structures.

For example, economic forces today weigh in favor of replacing old, artistic barns with new structures that give up much of the beauty of America's past.

The beauty of these barns is nowhere more apparent than in the Amish sections of Ohio, Pennsylvania, Indiana and Wisconsin. Much of the beauty and the great joy of New England lies in the barns which grace that landscape.

I think we must come to recognize that the replacement of a beautiful building with a corrugated metal structure is just as much a destruction of our environmental beauty as would be the erection of a hotdog stand in Glacier National Park.

Amendment No. 683 would authorize the Secretary of Interior to certify certain barns 40 years of age or older which he determines to be of historic, artistic or architectural significance because of their location, construction or exterior appearance.

This amendment provides that as to barns so certified the owners would be allowed a 10-percent tax credit for funds expended in maintaining their exterior appearance and structural soundness. Interior improvements that do not relate to structural soundness would not be covered by this amendment. This amendment is identical to S. 2602 which was cosponsored by the Senator from Wisconsin (Mr. NELSON), the Senator from Ohio (Mr. SAXBE), the Senator from Pennsylvania (Mr. SCOTT), and the Senator from Pennsylvania (Mr. SCHWEIKER).

The beauty of the American countryside must be preserved. It would be a tragic mistake if we were to think that this could be done entirely within the context of wilderness programs. I think the time has come for us to act so that the grace, beauty and artistic talents which these barns represent are preserved as a part of the American heritage. If our great grandchildren are to come to see America's countryside as more than a collection of prefabricated buildings we should adopt this amendment.

Mr. BENNETT. Mr. President, while the Senator from Ohio was talking, I have been sitting here thinking about an old historic barn that used to be in the backyard in which I played as a child. If I had known that there would be some kind of program to preserve it, I am sure that my father would not have torn it down.

Mr. President, this amendment represents a partial solution to one limited aspect of the broad problems affecting our environment. The amendment provides a cash subsidy—in the form of a tax credit—equal to 10 percent of the cost of maintaining the exterior appearance and structural soundness of historic barns. I emphasize that this is a cash subsidy, and not a tax provision, because the program would be entirely within the discretion of the Secretary of the Interior. The Secretary of the Interior would have the sole discretion to determine who would receive the benefits of the provision.

If a cash subsidy of this type is to be provided at the discretion of the Secretary of the Interior, it should be provided through an appropriate bill to appropriate funds to the Secretary for that purpose. There is simply no reason or justification to utilize back-door financing through a tax credit.

The proposed tax credit amounts to a tax-exempt subsidy for the costs of maintenance which are already deductible by any farmer with a qualifying barn. The farmer who qualifies for this subsidy would receive both a credit and a deduction.

The President, and his Council on Environmental Quality, have repeatedly emphasized the concern of this administration with the problems of historic preservation. In his environmental message of February 6, 1971, the President reaffirmed his commitment to develop a balanced program for historic preservation, including tax provisions to remove some of the present incentives for destruction of historic buildings. No one questions the importance of the problem, and I applaud the Senator from Ohio for his concern. But the problem is too complex, and too important, to be dealt with on a piecemeal basis without proper study and consideration by the Senate, and by the Senate committees charged with responsibility for solutions to the need.

Mr. President, I believe we should afford the administration, and the Senate, an opportunity to consider the problem of historic barns and other historic structures; and to develop a series of balanced, comprehensive proposals in this important area.

There is no reason or justification of the utilization of back-door financing through a tax bill for this purpose. The proposed tax credit amounts to a tax-exempt subsidy for the maintenance expenses which are owner-deductible by the owner of the qualifying barn. The farmer or owner qualifies for this subsidy and then receives both a credit and a deduction.

Mr. President, I believe the problem is too complex and too important to be dealt with on such a basis as we would be dealing with it here at this time of night. No Senate committee has studied it properly. I suppose it would be the Senate Committee on Interior and Insular Affairs that should study the question of these historic barns and other historic structures.

Therefore, much as I hate to do it, I respectfully suggest to the Senator from Ohio that this amendment does not belong on the tax bill.

Mr. TAFT. Mr. President, I would like to correct one comment which I perhaps unintentionally made, that all expenditures on bonds of this type would be deductible. That might or might not be. If they were capital investments, of course, they would be subject to depreciation if the farms on which they are located were being run as businesses.

However, there is nothing in this amendment which would require this. A barn to qualify would have to be on a farm being operated as a business. It could still be maintained where a farm was being operated. I imagine that quite a few of these might not even have any depreciation remaining because of the fact that the barns have no longer any part in the farm operation as a business.

Mr. BENNETT. Mr. President, it is the impression of the Senator from Utah that whenever we get into the business of preserving historic structures, sooner or later somebody organizes a nonprofit tax-exempt organization to take over the structure. In that case, all of the expenses to preserve the barn would be treated in that manner.

Mr. TAFT. That would be all too late, unfortunately. I think that it is some of the reason that we have lost some of the historic structures that we have lost in our country. I think it is a great shame.

Mr. LONG. Mr. President, I hope the amendment is rejected. I know that we own a few old barns that might come under that heading. I hate to say it, but when I think of all the barns on our property and on the property of my family, the country would be better off without them. We are trying to get rid of them now. Frankly, they are eyesores.

In the area where our barns are located, if we could tear them down and plant trees in their place, the country would be improved. However, I am sure that is not the case that the Senator has in mind. But we have barns of this type where we will give a person a 100-percent tax exemption if he is willing to get into it and preserve the historic value of things of that type.

I think we should start with historic homes. We have not gotten around yet to establishing a tax exemption for historic homes.

In our family we are talking of doing something with a historic home now. The home would meet the 40-year test.

It would be better to let the Secretary of the Interior propose to preserve historic homes, historic trees, historic brooks, historic rocks, or anything that he thinks he might spend some money on preserving. We have given the Secretary large amounts of money for this type of thing. If he wants to do anything like that, that is a good place for him to start. If he wants to go beyond that and add countless additional items, we would pay tax money or give him tax credits to save items that are of historical significance.

Let me say that if the Secretary proposes all the different things that his able and his imaginative mind can think of giving a tax credit to, we will start everybody in the whole country looking for a tax credit.

Mr. President, I should think that, as the distinguished Senator from Utah has said, if we are going to have a program for this kind of thing, this is not the place to start it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Ohio.

The amendment was rejected.

Mr. MONDALE. Mr. President, I send an amendment to the desk on behalf of myself and the Senator from Minnesota (Mr. HUMPHREY).

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to state the amendment.

Mr. MONDALE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment will be printed in the RECORD.

The amendment reads as follows:

On page 3, before line 1, in the table of contents immediately after the item relating to section 605, insert the following:

Sec. 606. Import surcharge exemption for engines imported for installation in snowmobiles.

At the end of the bill insert the following:

SEC. 606. IMPORT SURCHARGE EXEMPTION FOR ENGINES IMPORTED FOR INSTALLATION IN SNOWMOBILES.

The Secretary of the Treasury shall exempt piston-type internal combustion engines to be installed in snowmobiles from the additional duty imposed by Presidential Proclamation 4074 (36 Federal Register 15724, August 17, 1971).

Mr. MONDALE. Mr. President, this amendment deals with a unique problem which arises in terms of the competitive areas between Canadian-made snowmobiles and U.S.-made snowmobiles. Both Canadian- and American-made snowmobiles are built with foreign engines.

Because of trade with Canada, these snowmobiles come into the United States duty free, and it is by way of a fluke that 10-percent surcharge on snowmobiles assembled in the United States, which include foreign engines, works as a tax encouragement for employment in Canada and their return to the United States. That is not what is intended.

I do not know the position of the Internal Revenue Service on this. However, we have checked with them and they have said that this is a unique case in itself and that in a sense the tax provides an inducement for U.S. employment. However, it works the other way, giving almost the total snowmobile business to Canadian companies.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. MONDALE. I yield.

Mr. HUMPHREY. Mr. President, we have most of the production of the snowmobiles that are American-made in the State of Minnesota. We have three large corporations, the Polaris, the Scorpion, and the Arctic Cat.

These three companies are located in the northern area of our State.

May I say most respectfully to the Senate that this is about the only form of industrial production that we have. These are very hard-hit areas that have a large percentage of unemployment.

One of these corporations is just a few miles from the Canadian border. It employs several hundred workers. The management of that company is faced with an immediate decision as to whether he can stay in the United States or whether he has to move across the border.

Both the Canadian and the American-made snowmobiles, as my colleague has said, use imported engines because no American company makes an engine that is suitable for this kind of vehicle.

These engines come either from West Germany or Japan. American companies have ceased to make this particular engine or product.

We have to pay under the present ruling the 10-percent surcharge, and yet the Canadians use exactly the same engine and the engines come into Canada duty free.

If that engine comes into the United States, there is a 10-percent surcharge. Yet the Canadian companies produce the snowmobile, as my colleague has stated, and it comes in duty free today.

Quite frankly, unless this is remedied, we will have three companies that will, for all practical purposes, have to go out of business. We will have literally hundreds and hundreds of workers who will lose their jobs and the business will all go to Canada, as well as the companies and the workers.

Mr. President, this is why we are so concerned about the matter.

Mr. CHURCH. Mr. President, will the Senator yield for a question?

Mr. MONDALE. I am glad to yield to the Senator from Idaho.

Mr. CHURCH. For purposes of clarification, the Senators did not propose to revise the law in such a way as to abrogate the treaty with Canada; do they?

Mr. MONDALE. No. But this tariff adds $24 to each machine which will destroy U.S. manufacturers and send them to Canada. It has the effect of working in the opposite direction as was the intention of the surtax.

Mr. LONG. Mr. President, I personally have no objection to the amendment. There may be some problems on which the Treasury can enlighten us that I am not aware of. If there are maybe we can work them out in conference with the House. I understand there may be some opposition to the amendment but as far as I am concerned we would be pleased to agree to it and to work out the best arrangements we can in conference.

Mr. BENNETT. Mr. President, I am sympathetic to the problems the Senators from Minnesota are facing because it is a prototype of the problem manufacturers all around the country face with varying conditions. The only thing making it different here is that it is so close to the border of Canada that people can solve the problem by moving a short distance, whereas manufacturers in my part of the country would have to go out of business, with no opportunity to do that.

There is one thing about this proposal with respect to which I must protest for the RECORD. We are taking it upon ourselves now to write particular exemptions to the 10 percent import surcharge. If we start that we will make it difficult, if not impossible, for the President to do his negotiating with the various countries with which he must negotiate in order to solve these problems.

Behind this bill are 30 other tax bills on the way over from the House of Representatives. If we set the example, particularly if it stays in, then everyone who has an industry that would benefit by breaching the surcharge can quote this as a precedent and say, "You did it for snowmobiles; why do you not do it for us?"

I am not going to ask for a vote. I support the chairman in his decision to take the amendment to conference. But I felt that it would be unfair to the committee and the President if I did not make it perfectly clear that this is not simply a case of trying to help a few hundred people in northern Minnesota. This is the first breach in the wall we are trying to build for the President so he can negotiate a more satisfactory basis for a new long-term trading pattern around the world.

As I say, I will not object to it. The chairman has the right to take it and I will stand with him in that regard.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. RIBICOFF. Mr. President, will the Senator from Louisiana yield to me?

Mr. LONG. I yield to the Senator from Connecticut.

Mr. RIBICOFF. Mr. President, this particular amendment, which I support, indicates one of the basic problems that has developed because we passed the "Made in America Automobile Agreement" which was basically a disaster for the United States. In 1966 when we approved it, I think over the bitter objection of the Senator from Georgia (Mr. TALMADGE) and myself, we predicted a consequence. At that time the United States enjoyed a favorable trade balance with Canada to the tune of some $600 million; because of the American-Canadian auto agreement we are faced with an unfavorable trade balance of $1.5 billion.

This was the danger in treating cavalierly the economic problems between countries, and especially when we take a trade problem, for political reasons, and as a result we sell short the American people and American industry.

I am glad the Senators from Minnesota have called this matter to the attention of the Senate and the consequences that happened to the industries of Minnesota because of this agreement.

May I say to the Senator from Utah that if any other industry in the United States were so similarly situated it would be my personal opinion, and I hope the Committee on Finance would give them the same consideration I hope the Senate gives these Minnesota companies that are faced with this unfair competition because of this act, whether promulgated by the executive or the President.

Mr. BENNETT. I appreciate what the Senator said. My face is a little red because I did vote for the automobile agreement. The solution should be to cure the automobile agreement and not breach the surtax. But I realize we do not have time to do that under the circumstances.

Mr. RIBICOFF. I do not think we can do that. Our relations with Canada today are tenuous enough. But we must keep in mind in this body while a general order was promulgated which we supported, we must be careful that in the process of supporting that agreement which the President wants to help American business, in the process we do not hurt and destroy that business.

I hope the Committee on Finance has been alerted by the action of the Senators from Minnesota and when the bills the Senator from Utah mentioned come to the Committee on Finance we will examine them carefully to make sure we do not hurt American industry by the 10-percent surcharge and help foreign competition.

Mr. ALLOTT. Mr. President, I would like to address a remark and a question to the manager of the bill and the ranking minority member of the committee, the Senator from Utah (Mr. BENNETT).

As I understand this matter involving the State of Minnesota, I would like to be sure that the acceptance of the amendment and taking it to conference would also include motors which come into Canada and are placed in snowmobiles that come into the United States.

I have a snowmobile manufacturer in Colorado who was hurt by this. Despite the fact he was hurt by it he is not screaming to the high heavens. He realizes this has to be done for the good of the country.

What I want to know is if this involves motors coming from Germany, does it involve motors that go into Canada from Japan and then into the United States?

Mr. BENNETT. I, in turn, will address the question to the Senator from Minnesota. Does the Senator's amendment protect only people in Minnesota or all snowmobile manufacturers?

Mr. HUMPHREY. All manufacturers of this particular item.

Mr. BENNETT. That is what I thought.

Mr. ALLOTT. I wanted to be sure that no other manufacturer, because of the source of motors used, would be placed in an inferior position. We have an understanding it would also include people in Colorado who manufacture snowmobiles with engines which come from Japan. I am perfectly willing to rest my case.

Mr. BENNETT. I understand it is so written it covers all snowmobiles with foreign engines.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senators from Minnesota.

The amendment was agreed to.

Mr. MILLER. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read as follows:

> On page 173, line 7, strike out "paragraph," and insert: "paragraph, or because the foreign corporation fails to qualify as an export trade corporation as defined in section 971 because it fails to meet the 75 per cent export receipts requirement in section 971 (a)(1)(B) but the foreign corporation is engaged in a substantial export sales business,".

Mr. MILLER. Mr. President, this will take only a couple of minutes. It is in the nature of a technical, corrective amendment, to conform the bill in accordance with the release that was made at the time of the DISC proposal acceptance by the House Ways and Means Committee.

The Secretary of the Treasury was asking that the Treasury Department be authorized to determine the extent to which taxable gain is realized on the transfer of property from an export trade corporation to a DISC.

The House put language in the bill to pretty well cover this situation. However, there were some cases that it was foreseen would not be covered, and the explanation from the House Ways and Means Committee reads as follows:

> Generally, "other" foreign sales corporations will not be considered by the Internal Revenue Service to have a United States tax avoidance motive for purposes of section 367 in transferring their assets to a DISC in connection with a restructuring of the organization's foreign operations.

What happened was that this release never showed up in either the House Ways and Means report or in our Senate Finance Committee report. On page 173 of the bill we covered this situation only in part by reference to these special cases, in which some of these corporations are not owned in the manner described, but we forgot to put in those which do not have a 75-percent export sales requirement.

My amendment seeks to cover that particular gap by requiring that there shall be a substantial export sale requirement.

In both cases we have provided in the bill that this type of special case shall nevertheless be covered by the tax-exempt provision, but only in accordance with such rules as may be prescribed by the Secretary.

I am quite sure the amendment is technically proper and in accordance with the views expressed in the release by the Ways and Means Committee and in our discussion of the amendment with the committee.

I hope my colleague from Louisiana is willing to accept the amendment.

Mr. LONG. Mr. President, the Senator has raised a technical problem that we have not had occasion to consider in the committee. It would be well to consider it in conference, and I hope the amendment will be agreed to for that purpose.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. MILLER. Mr. President, I call up another amendment.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk proceeded to read the amendment.

Mr. MILLER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> At the end of the bill add a new section as follows:
>
> SEC. —. ADDITIONAL EXEMPTION FOR BLINDNESS OR DISABILITY OF TAXPAYER OR SPOUSE.
>
> (a) Subsection (d) of section 151 of the Internal Revenue Code of 1954 is amended to read as follows:
>
> "(d) ADDITIONAL EXEMPTION FOR BLINDNESS OR DISABILITY OF TAXPAYER OR SPOUSE.—
>
> "(1) FOR TAXPAYER.—An additional exemption of $800 for the taxpayer if he is blind or disabled at the close of his taxable year.
>
> "(2) FOR SPOUSE.—An additional exemption of $800 for the spouse of the taxpayer if a separate return is made by the taxpayer, and if the spouse is blind or disabled and, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer. For the purposes of this paragraph, the determination of whether the spouse is blind or disabled shall be made as of the close of the taxable year of the taxpayer; except that if the spouse dies during such taxable year such determination shall be made as of the time of such death.
>
> "(3) BLINDNESS DEFINED.—For purposes of this subsection, an individual is blind only if his central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or if his visual acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.
>
> "(4) DISABLED DEFINED.—For the purposes of this subsection, an individual is disabled only if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or to be of long-continued and indefinite duration."
>
> (b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to taxable years beginning after December 31, 1971.

Mr. MILLER. Mr. President, the amendment is designed to cover those tragic cases which might be called catastrophic illnesses, disease, or accident cases; for example, people who would be completely paralyzed.

The Senate did adopt the amendment during the debate of the Tax Reform

Act in 1969. I would hope we would renew our approach to that problem by adopting this amendment. I hope my colleague from Louisiana will take it to conference, as he did in 1969.

Mr. LONG. Mr. President, in view of the fact that the Senate saw fit to agree to this amendment on a previous occasion, I see no point in opposing it. Therefore, I agree to accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment submitted by the Senator from Iowa.

The amendment was agreed to.

AMENDMENTS NO. 682

Mr. TAFT. Mr. President, I call up my amendments No. 682 and ask to have them stated.

The PRESIDING OFFICER. The amendments will be stated.

The assistant legislative clerk read the amendments (No. 682) as follows:

On page 2, in the table of contents immediately after the item relating to section 210, insert the following:

"Sec. 211. Exclusion from gross income of certain pay received by law enforcement officers and firemen."

On page 72, after line 19, insert the following:

"Sec. 211. Exclusion From Gross Income of Certain Pay Received by Law Enforcement Officers and Firemen.

"(a) In General.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 124 as section 125 and by inserting after section 123 the following new section:

" 'Sec. 124. Certain Pay of State, Territorial, and Local Police and Law Enforcement Officers and Firemen.

" 'Gross income does not include so much of the compensation (exclusive of pensions and retirement pay) as does not exceed $200 received by an individual for any full month of regular active full-time service as a member of a police force or other law enforcement officer, or as a fireman, in the employ of a State, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States or in the employ of a political subdivision of any of the foregoing.'

"(b) Clerical Amendment.—The table of sections for part III of subchapter B of chapter 1 is amended by striking out

" 'Sec. 124. Cross reference to other Acts.'

and inserting in lieu thereof

" 'Sec. 124. Certain pay of State, territorial, and local police and law enforcement officers and firemen.

" 'Sec. 125. Cross references to other Acts.'

"(c) Effective Date.—The amendments made by this section shall apply only with respect to compensation received for months commencing after the date of the enactment of this Act."

Mr. TAFT. Mr. President, I ask unanimous consent that the Senator from New Hampshire (Mr. McIntyre) be included as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TAFT. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. TAFT. Mr. President, I shall not take a great deal of time on the amendment. It is a proposition which is a relatively simple one.

The amendment would permit full-time policemen and firemen to exclude from their taxable income the first $200 earned each month in police or fire duty. The effect of this amendment would be to give those public servants an immediate pay raise of approximately $35 a month, on the average—the resulting reduction in Federal income taxes which they would owe.

I am told the total would be rather hard to estimate, but the estimates that we have been able to get are that it would cost approximately $180 million.

During the 1960's our population increased 13 percent, but serious reported crime increased 148 percent. We are all familiar with the alarming statistics on the rise in criminal activity, unfortunately still unchecked throughout the country. We are all for law, order, and justice. What we must do is recognize that it is not enough for us merely to advocate good law enforcement. If we are going to have good law enforcement, we must act now to increase the pay of our law enforcement officers.

This is not a sudden, new idea that has come upon us. I took a look at the situation in 1967, when I was running for Congress, and became convinced that if indeed we were to do something about rising crime rates in this country, we needed some real recognition of the importance and the priority of these professions. At that time in the Congress, and every year since, I have had pending a bill of the very form of this particular amendment.

If a law officer is to function properly, he must act in part as a detective, a criminal lawyer, a counselor, an athlete, and sometimes a midwife.

The lot of the fireman is no more enviable. They are called into burning buildings, and as they arrive they have often been bombarded with rocks and fired upon by snipers.

If we are to undertake a high level of professional competence in law enforcement and firefighting, we must do more than pat these men on the back. We must give them much needed recognition, and I suggest that this amendment is a very appropriate way in which to do it.

It is not a matter of the money involved; it is a recognition of these important tasks.

America's combat soldiers have for many years received similar tax benefits. Enlisted men can exclude all of their combat pay and officers can exclude their first $500 per month in combat pay. Why are they so different from those who serve in our armed services, when they are on duty equally important, if not even more important, to the public? In a very real sense our policemen and firemen are defending the public in our cities.

I recognize that policemen and firemen are basically local officials, and we want to keep the responsibility at that level, but I think we ought to grant some national recognition of the tremendously important service they perform, and they should receive tax consideration similar to that earned by those who defend us on the battlefields.

At the present time America has 267,000 full-time policemen and 160,000 full-time firemen.

In amendment 682 we have an opportunity to turn our words into action. I urge that the Senate adopt the amendment.

I ask unanimous consent to add the names of the Senator from Tennessee (Mr. Baker) and the Senator from Kentucky (Mr. Cook) as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENNETT. Mr. President, there are several reasons why this amendment should be opposed. In the first place, our system is intended to impose equal tax burdens on similarly situated taxpayers. If we are going to say that to work in dangerous situations is a justification for a $200-a-month exclusion from your taxable income, then there are a lot of other people we should be talking about: construction workers, the FBI, men who wash windows in high buildings, miners, crop dusters, and so forth.

It is true that special tax treatment is given to men who serve in combat. But men who serve in combat, serve there for a brief period of time, and when they leave the combat zone, the special preference ends. We are talking here, however, about picking out certain professions and giving them a life-long special tax relief provision.

Another reason why this amendment should be opposed is that it does not treat taxpayers equally, even within the recognized professions. It treats the single policeman better than the married policeman. It treats the policeman or fireman with some outside income better than the man who has no outside income.

Mr. President, I am in full sympathy with the problems of such hazardous professions as those of our policemen and firemen, but the tax law is plainly and simply not the proper vehicle for demonstration of such concern.

As I indicated, one of the basic philosophical bases of our tax system is to impose an equivalent amount of tax on all similarly situated taxpayers, and while this principle might not always be met, there is little point in directly violating it with a measure such as this one. Many taxpayers are engaged in hazardous professions greatly beneficial to our society. A small sampling might include agents of the FBI, construction workers—bridges, tunnels, and so forth—men who wash windows in high-rise buildings, miners, crop duster pilots, and many others. All of these professions—including police and firefighting—are chosen voluntarily, with knowledge of the risks and hazards which they involve. Certainly, there is no fair basis for isolating one or two professions for special treatment just because they may happen to receive more publicity at the moment.

We should oppose special purpose tax legislation designed to benefit any one relatively small group of taxpayers or special situations. The tax system is an inappropriate vehicle for providing such financial assistance. This is so principally because the benefits bestowed if the tax

system is used are incorrectly distributed within the group to be benefited. A tax exemption gives the most financial assistance to those within the group who need it the least. For example, a policeman or fireman who is single would get more benefit from the exemption than one who is married; the married policeman or fireman with one or two children would receive more benefit than one with a large family. Also, a policeman or fireman who had a source of income other than his salary would be benefited more than the man without any additional means. This distribution of the financial assistance the amendment seeks to bestow is clearly inappropriate and inequitable.

We should also oppose such legislation because it only serves to open the door for other similar tax relief provisions. Shall we next grant a similar exemption for construction workers? then FBI men? and where will we stop?

It is true that Congress has in the past seen fit to provide an income-tax exclusion for combat pay of individuals in the military service. This exclusion is, however, justified principally as an expression of the country's gratitude to those protecting our way of life and our freedom. The combat pay exclusion should not be considered a method of bestowing financial benefit on our servicemen.

Any analogy of the proposed amendment to the combat pay exclusion is simply inapposite. The combat pay exclusion is strictly limited to members of the Armed Forces who serve in a combat zone, and was passed by Congress with this limitation on the basis of the extraordinary conditions in an actual war arena. It is obvious that circumstances in such an area are far more extraordinary than almost any other situation; moreover, many members of the Armed Forces serving in such an area are doing so on a nonvoluntary basis.

Further, it is important to realize that Congress did not extend the combat pay exclusion to all members of the Armed Forces, but only to those actually serving in the combat zone itself. Thus, a soldier or sailor serving his country at any place other than a combat zone—even if such service is nonvoluntary—does not get an exclusion. This was a recognition by Congress that such noncombat zone service lacks those unique circumstances which could be said to justify an income tax exclusion.

Certainly, we cannot single out one group of individuals in this country, who are following a career they have voluntarily chosen, and say they should bear a smaller portion of the costs of running the country than all other U.S. taxpayers.

Therefore, Mr. President, I think the amendment should be rejected.

Mr. LONG. Mr. President, I would like to do something to help the policemen, but I think this would not be the right starting point. If we are going to proceed on this basis, it would be appropriate to proceed to pick out all those fine people who have, for some reason or another, the right to be exalted, or at least praised and admired, beyond the ordinary person.

For example, we could give a special treatment to social workers, because those people volunteer to do dedicated work and bring people along in good habits and high ideals. We could give a special tax advantage to school teachers, because they are good people, and we would like to recognize the fine work they do. We could give a special advantage to all kinds of people—doctors, because they save lives; dentists, because they relieve people from pain—all kinds of very fine people who tend to do more than the average person does in his ordinary line of endeavor, to recognize the fine work that they do.

But where to stop is difficult, because wherever you draw the line, you are making an invidious comparison that these other people are not worthy of the same consideration, and that would, I think, cause some trouble.

I would like to support a number of things that would aid policemen, such as a provision that has been suggested that we pay $50,000—it would be all right with me to pay $100,000—to a policeman's family if he were killed in line of duty, with special disability benefits, and so forth.

But I think this tax approach would set an example that would go from first one thing into another.

The Senator makes reference to combat pay for servicemen. That is an efficient provision, because it is paid to those who are in the combat area, and not to those not in the combat area; so it saves a lot of money compared to what it would cost to pay it to all servicemen, whether they are in a combat area or not.

I hope, Mr. President, that the amendment will not be agreed to, with the express understanding that I, and I am sure others, probably the majority of us here, do very much want to support some matters that have been recommended to us by the appropriate committees to properly and more fully recognize the fine service of our policemen and firemen.

Mr. TAFT. Mr. President, I think that the chairman of the committee and the ranking minority member, whose views I certainly respect, have missed the main point with respect to this amendment, and I would like to make that main point.

The main point is that we have a tremendous crisis in this country, in the field of crime. These are the men who are dealing with that problem, just as in war, when those in the armed services, in combat situations, are dealing with the problem at that time.

I do not offer this amendment because I have a warm feeling for policemen and firemen, though they are fine men, because I want to be nice to them, or even because they have dangerous jobs. They are dangerous jobs, but we are dealing with a national crisis. There is very little we can do in Congress to help out with that national crisis. We are spending hundreds of millions of dollars on the Law Enforcement Assistance Act, within certain formulas, trying to approach this problem. I suggest that this is another arm of the Law Enforcement Assistance Act, whereby the Federal Government can attract better men to perform all of these vital functions.

In the case of the FBI, which has been mentioned, we can raise their salaries right here. We do not have to worry about them in a tax situation. As to school teachers, they are serving a vital function, but not in the frontline of a dangerous combat situation.

As to those in other dangerous professions, they chose to go into those dangerous professions, and are compensated for them. The risks are taken into account in those jobs. Unfortunately, because of the place of State and local governments under the revenue system, these are the people who are hurting. But I do not propose this amendment because those men are hurting individually. I propose the amendment because the fact that those men are hurting individually is inhibiting the problem of attacking crime in this country. That is the whole philosophy behind my amendment.

Mr. LONG. Mr. President, is the Senator aware of the package that has been asked for by the association which represents the sheriffs and deputies and State policemen?

Mr. TAFT. I am sure the Senator is aware that there are quite a number of associations that represent these groups, but they have not, in my opinion, been successful in getting adequate recognition on a national level. This amendment is something we can do at that level.

Mr. LONG. My impression is that a group known as the Law Enforcement Association, if my memory serves me correctly, which does pretty well speak for all the law enforcement personnel in the country—is the Senator aware of their program and what they recommend be done?

Mr. TAFT. I am aware of a number of organizations, the Fraternal Order of Police and others. The Senator has mentioned what they are trying to do to improve widows' pensions and welfare benefits and things of that type, to make sure that the families of those men are taken care of. Unfortunately, despite all the efforts, we still see the rate of crime rising in this country.

Mr. LONG. What I want to know is whether or not the National Sheriffs' Association is asking for this proposal.

Mr. TAFT. As I say, I have had this proposal in every Congress since 1967. It is a little harder to get issues on tax questions before the body on the other side of the Capitol, because of the closed-rule problem they have. But we have had the strongest backing, over the years, from all these various associations. We believe this is a fine proposal.

Mr. LONG. I am trying to recall if this is what the sheriffs' association is recommending or the law enforcement association is recommending, and whether this is a priority item in what the sheriffs, State police, and law-enforcement officers generally are asking for in this country. If so, I might be inclined to vote for it. But if this is not a part of that program——

Mr. TAFT. I can assure the Senator that I know we have the support of several of those organizations. I do not know of a single organization of the sort that does not think this is an important part of its program.

Mr. LONG. I do not think this is a priority item in their programs. I know a number of fine people in those organizations, and would like to go along with them, if possible. I know they have a list of what they are asking for, and I have been made aware of it on occasion. I am just taxing my memory to recall if this is included in what they have asked for. There are a number of things they have asked for, that I have said I would vote for when I had an occasion. I cannot recall if this is one of them.

Mr. TAFT. I think this is a high priority item. They may have taken this into consideration in the hope of achieving other items of that sort.

I am not saying to the chairman of the Finance Committee that this is one of those items. I assure the Senator that he is not going to find it opposed by such groups.

Mr. LONG. I am sure they are deserving people, and anything that may come their way they would like to have. This would cost an estimated $265 million, and I would like to know if they prefer to have this rather than some of the other things they have indicated they would like to have. I do not know that that is the case.

Mr. TAFT. I am sure that there are few things we properly, at the Federal function, can take on and give to them that really have a major impact, and this is one.

Mr. COOK. Mr. President, will the Senator yield?

Mr. TAFT. I yield.

Mr. COOK. Mr. President, I might be able to enlighten the Senator from Louisiana.

Prior to my coming to the Senate, for 8 years before, part of my responsibilities was to run a police department in a major community in the United States of three-quarters of a million people. I know that one of the problems of the FOP in the State of Kentucky, through all those years, was to exert its influence in the national organization and to try its best at the State legislative level to get a credit in the nature of an increase in salary, in the nature of an exemption for them, because of the duties and the responsibilities they assumed—duties and responsibilities, for example, that they assumed at the local level that were comparable to the assumption of policemen at the State level who were getting certain credits and exemptions that police at the local level were not receiving. This has been a part of their legislative package, because they know that at the State level, at the local level, and at the county level the resources were short, that the resources were not available, and that the only way they could get any kind of relief was to get it in the nature of a credit.

They have been trying to get a guaranteed income in the nature of a guaranteed floor, trying to get the State government to support a guaranteed floor over and above the meager salaries they could be paid at the local levels. They have been trying to do this for years.

So, obviously, this type of amendment would have to constitute a tremendously high priority on their list, if they could be given, for the work they do and the responsibilities they assume, a credit for being a public servant, for being in this line of duty.

Many of them, believe it or not—at least, this was not the case at our level—many of the forces throughout the country, at extremely lower levels, have to provide their own uniforms, their own equipment, their own hardware. All this they must do as a matter of qualifying and being a part of a law enforcement agency. Yet, they deal every day not only with the local situation in their local community, their local county, but also with Federal matters and State matters for which they are not compensated in any way, shape, or form.

I can only say to the Senator that, under these circumstances, the amendment of the Senator from Ohio would have to be considered as one of the highest priorities on their list of what they would like to achieve for the benefit of the people who put out every day in the protection of the community, either through the fire departments or through the police departments.

Mr. TAFT. I ask the Senator this because of his experience: Would the Senator comment on the morale effect that a proposal of this sort, adopted by Congress at this time, might have?

Mr. COOK. Of course, I cannot even begin to tell the Senator what the morale effect would be, particularly on the law enforcement agencies throughout the United States, because these contracts are negotiated separately at the local level, as the Senator knows. I can only tell the Senator that from the standpoint of morale, this would be one of the greatest boosts; because right now they are under attack all over the United States for everything they do and everything they fail to do. From the standpoint of being recognized, to the extent that they are public servants—and we are not talking about what a policeman is paid in the city of Washington. We are talking about policemen who work for $5,000, $5,500, $6,000, and $7,200 a year, and provide their own equipment and provide everything.

So I can only say to the Senator that from the morale standpoint, for this individual it would be one of the greatest things that could occur, in the protection of the individual and the community, if for one time, he could be recognized for what he does rather than have to fight like the devil to get the slightest degree of raise because the county or the local community or the city no longer has any funds to do it.

Mr. TAFT. I thank the Senator.

Mr. BENNETT. Mr. President, what we are talking about here is a form of revenue sharing. It is the proposal that Federal money be used to supplement local money for the payment of policemen and firemen.

If we realize that that is what we are talking about, we are going at this thing backward. We should have authorizing legislation which would appropriate the funds paid to these people and put it out in the open, instead of going through the back door and trying to avoid making this obvious by reducing the Federal revenue through special tax provisions, rather than putting the money out and letting everybody see it.

Interestingly enough, this is not the only group that has asked the committee for special revenue sharing, a special gift of Federal funds through the back door tax route. Our civil servants have asked for $3,000 a year exemption, and we have a proposal before the committee to give this special kind of tax treatment to doctors and nurses in areas where there are shortages of doctors and nurses.

Mr. AIKEN. Mr. President, will the Senator yield?

Mr. BENNETT. I yield.

Mr. AIKEN. I ask to be excused from voting on this amendment. I have one full-time and one part-time deputy sheriff in the family. Therefore, I think there is a serious conflict of interest.

Mr. BENNETT. I think it is obvious to us that we do not know where to draw the line. The minute you decide to supplement local income by giving Federal tax benefits, then the door is wide open, and nobody knows where that proposal will lead. Therefore, appealing as this is, I hope the Senate wil not force us to solve this problem this way.

Mr. TAFT. Mr. President, I am not going to belabor the point, but I do think that the Senator has missed the point.

We have a crisis situation in this area which is unique and which rules out all the other areas.

As to revenue sharing, I have not seen any great success with the revenue sharing proposals; and to the extent that this is revenue sharing and it coincides with the public interest in doing something about the crime problem, it is an appropriate area in which to start.

Mr. PERCY. Mr. President, I intend to vote against this amendment not because I do not have a high and proper regard for the services rendered to our society by policemen and firemen. These men, and women, have difficult jobs—we learn how difficult their jobs are every day in the press and other news media. Reports of firemen attacked by the very people whose homes and neighborhoods they are trying to save and protect are too frequent.

It is partly because of my deep concern that we do not discriminate against certain valued professions and occupations that I vote against this amendment.

I think it worthy of note that it is only when members of the armed services are in combat zones that their pay is not taxed. When we call out the National Guard, as we so frequently have had to do in order to keep peace in our cities, we do not make the pay these Guardsmen get for that tough duty tax free. It is still taxed.

Finally, not all firemen and policemen are underpaid, nor do they all daily face the special threats on their lives similar to the danger of a military combat zone. Some small towns and cities in our country have little crime, while large metropolitan areas frequently have intense crime levels. Do both deserve the benefit of this provision? The case that this provision applies too broadly is well taken. For all these reasons I feel compelled to vote against the amendment.

Mr. BUCKLEY. Mr. President, as sympathetic as I am to the objective of the Taft amendment, we need to demonstrate our special regard for men on whom we depend for public order and safety. I will vote against the amendment for the reason that the adequate compensation and reward for our Nation's police and firemen must remain the responsibility of the communities which they protect.

Also, if we begin to draw tax distinctions between professions, we will invite an infinite amount of special legislation which can never hope to be fair in the measurement of the respective contributions of various groups.

The best means of expressing our appreciation for the contribution of any one group must remain their level of pay. I hope that communities and States across the Nation will maintain levels of pay, and retirement and other benefits, which will properly recognize the special contributions which our police and firemen daily make in their hazardous occupations.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Ohio. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. AIKEN (when his name was called). Mr. President, I ask unanimous consent to be excused from voting on this amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and the Senator from Vermont is excused from voting.

The legislative clerk resumed and concluded the call of the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Maine (Mr. Muskie) is necessarily absent.

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. Mundt) is absent because of illness.

The Senator from Arizona (Mr. Goldwater) is necessarily absent.

The Senator from Vermont (Mr. Aiken) has been excused from voting.

The result was announced—yeas 46, nays 50, as follows:

[No. 388 Leg.]

YEAS—46

Allen
Allott
Baker
Beall
Boggs
Brock
Brooke
Byrd, W. Va.
Chiles
Cook
Cotton
Cranston
Dole
Eagleton
Gurney
Hartke
Hatfield
Hollings
Humphrey
Inouye
Jackson
Magnuson
Mathias
McClellan
McIntyre
Mondale
Moss
Packwood
Pastore
Pearson
Pell
Proxmire
Randolph
Ribicoff
Roth
Saxbe
Schweiker
Sparkman
Spong
Stafford
Stevens
Taft
Thurmond
Tower
Weicker
Williams

NAYS—50

Anderson
Bayh
Bellmon
Bennett
Bentsen
Bible
Buckley
Burdick
Byrd, Va.
Cannon
Case
Church
Cooper
Curtis
Dominick
Eastland
Ellender
Ervin
Fannin
Fong
Fulbright
Gambrell
Gravel
Griffin
Hansen
Harris
Hart
Hruska
Hughes
Javits
Jordan, N.C.
Jordan, Idaho
Kennedy
Long
Mansfield
McGee
McGovern
Metcalf
Miller
Montoya
Nelson
Percy
Scott
Smith
Stennis
Stevenson
Symington
Talmadge
Tunney
Young

NOT VOTING—3

Goldwater
Mundt
Muskie

EXCUSED—1

Aiken

So Mr. Taft's amendment was rejected.

Mr. LONG. Mr. President, while many Senators are here, permit me to say that it may not be known to most Senators, but most people knowledgeable in taxation tell us that it was this very kind of special tax treatment, for the most part, as embodied in the principle of this amendment, that destroyed the French income tax system. Once France started to tax people based on a different rate schedule for different professions and broke it down to a different rate for each profession, it became so outrageous and discriminatory that the people refused to pay anything. It got to the point where now the people do not pay until they negotiate. They negotiate as to what the tax will be. Everyone there decides for himself what he should pay. It got that way when they started to have one tax schedule for one profession and another tax schedule for another profession.

I hope that when Senators start to think about this and meditate about where we will be when some dedicated and some very fine people pay their tax on one schedule and those who render less noble service pay on the basis of a higher schedule and then even higher for a working man, I wonder who will be put at the bottom of the listing for preferential tax treatment. When they pick out very fine motivated people and recognize their dedication and decide who will be put at the bottom of the list, I would hate to make that comparison.

Mr. SCOTT. Mr. President, I send to the desk amendment No. 477, as modified, on behalf of myself, Senators Schweiker, Cooper, Randolph, and Cook, and ask that it be stated.

The legislative clerk read as follows:

On page 15, line 16, strike "187,".

Mr. SCOTT. Mr. President, I understand that this amendment has been cleared with both sides of the aisle as modified.

Mr. President, as originally introduced, this amendment would have allowed taxpayers to elect both the 7 percent tax credit and the 5-year amortization for pollution control and mine safety equipment. The amendment was not adopted by the Finance Committee because, among other things, of the uncertain revenue loss associated with pollution control equipment, which has been estimated in excess of $130 million. My amendment, as now modified, restricts this election to mine safety devices only, which brings with it revenue loss of no more than $1 million.

I asked the Treasury Department to estimate the revenue loss associated with this amendment and ask unanimous consent to have printed in the Record a letter indicating that the loss has been estimated at no more than $1 million.

There being no objection, the letter was ordered to be printed in the Record, as follows:

The Department of the Treasury,
November 12, 1971.

Hon. Hugh Scott,
U.S. Senate,
Washington, D.C.

Dear Senator Scott: You have requested an estimate of the revenue loss from allowing five year amortization of certain coal mine safety equipment under section 187 of the Internal Revenue Code of 1954 in addition to the 7 percent Job Development Credit for such property. Amendment No. 477 to H.R. 10947 would provide, among other things, that the five year amortization may be allowed in addition to the Job Development Credit.

The revenue loss from this action would be not in excess of $1 million.

Sincerely yours,

John S. Nolan,
Deputy Assistant Secretary,

Mr. SCOTT. Mr. President, as I indicated several weeks ago, mine safety devices are, for the most part, required by law and certain regulations promulgated pursuant to the Coal Mine Health and Safety Act of 1969. The life of this equipment, and the coal mines in which it is installed, is considerably greater than 10 years, thus making the tax credit more useful. This additional tax break is sorely needed to assure this Nation of continued coal production, unhampered by closings due to fiscal insolvency and the physical deterioration of coal miners themselves.

I urge the Senate to consider favorably this amendment.

Mr. President, I yield now to the distinguished senior Senator from West Virginia (Mr. Randolph).

Mr. RANDOLPH. Mr. President, the amendment offered by the able minority leader, the senior Senator from Pennsylvania (Mr. Scott), is directed toward assisting in securing mine safety equipment required under the Coal Mine Health and Safety Act of 1969. We are exceedingly conscious of the efforts of Congress in its many approaches not only to protect the health and safety of those who toil in the mine, but also to bring assistance to those companies and operators who of necessity have to meet stringent health standards and safety standards. At the same time, we are aware of the urgent need to continue the production of coal for our Nation's increasing energy requirements. This amendment to bring about a tax credit and amortization is a realistic approach to help meet these objectives.

Mr. President, I feel that the cost of this proposal is not excessive as a revenue loss. But to the operators it represents significant assistance in their continuing efforts to improve the health and safety of miners. The Congress, having placed its stamp of approval on the efforts to bring the mining industry into as safe an operating condition as possible, will understand the need for this amendment not only as a way to keep as solvent companies the small companies—rather than just large companies—but also to improve the working conditions in the mines. It is a privilege to join the Senator from Pennsylvania (Mr. Scott) in this effort.

Mr. SCOTT. Mr. President, I thank the distinguished Senator from West Virginia who has such an unusual and long-term expertise in this field.

Mr. President, I ask unanimous consent that the Senators from Tennessee (Mr. Baker and Mr. Brock), along with the distinguished assistant majority leader, the Senator from West Virginia (Mr. Byrd) be added as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCOTT. Mr. President, I yield to the distinguished Senator from Pennsylvania (Mr. Schweiker).

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SCHWEIKER. Mr. President, I thank the distinguished Republican leader, my senior colleague, for yielding.

I join with him in this very important amendment because, first of all, I think the work done by the Committee on Labor and Public Welfare, on which I serve, was very helpful in writing the strongest health and safety law of any industry in this country in 1969. Unfortunately, the goals and objectives, and the number of lives saved, have not yet been realized by this strong and good law for a number of reasons, but one of the most important reasons is the inability to get the kind of safety, occupational and health equipment needed to prolong the life of miners to make it as safe to work below the ground as above the ground. This is an important step to make realization of the 1969 law a reality. I support the amendment.

Mr. SCOTT. Mr. President, I know the hour is late but I had agreed to yield to the senior Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. COOPER. Mr. President, I offered this amendment in 1969, following action on the mine safety bill. It was supported by members of the Committee on Labor and Public Welfare, who passed the bill. The Senator from New York (Mr. Javits) and the Senator from New Jersey (Mr. Williams), and other Senators, were for it.

This is terribly necessary to insure the ability to purchase machinery which is required by this act.

An unfortunate consequence so far has been that hundreds of miners have been thrown out of work, and it has spread strip mining all over the landscape, which destroys the environment.

I hope the amendment is agreed to.

Mr. COOK. Mr. President, I wish to echo the words of my colleague on this matter and to say that this is needed today very badly. We are in a situation where, as the distinguished senior Senator from Kentucky said, the increase in strip mining has been absolutely phenomenal in my State in relation to underground mining, which has decreased tremendously.

With all respect to the distinguished Senator from New York and the distinguished Senator from New Jersey, with regard to the Mine Safety Act, it required the purchase of equipment which had not been invented. As a result, many were placed in a position where they did not know what to do with the equipment they had. They did not know what to do. This would be a minor small relief to the overall problem of what must be done. I must say for the distinguished senior Senator from Kentucky and myself that we were delighted to have the Senator from West Virginia talking about this.

I am delighted to say that I think it was sometime last month that the Commonwealth of Kentucky became the No. 1 coal producer in the United States.

Mr. COOPER. I am happy to join in the amendment (as modified) as offered by the distinguished senior Senator from Pennsylvania (Mr. Scott).

This amendment would continue the 5-year amortization of coal mine safety equipment which was enacted in the 1969 tax reform as a result of an amendment I introduced on the floor.

By way of background, I would note that the House-passed bill and the bill as reported by the Senate provides the taxpayer with the option of selecting either the 5-year amortization for coal mine safety equipment or taking the investment tax credit, but not both. The amendment before us would make both the 5-year amortization and investment tax credit available for coal mine safety equipment.

Mr. President, I ask unanimous consent that excerpts from the House Ways and Means Committee report on this point be included in the Record.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

Amortized property.—Under prior law, various rules were provided regarding the availability of the credit for property subject to special 5-year amortization. For a limited period of time railroad rolling stock, expenditures for rehabilitating low-income housing, and certain coal mine safety equipment were eligible for a special 5-year amortization provision as well as for the credit. On the other hand, the credit was denied to expenditures for pollution control facilities subject to special 5-year amortization.

These special amortization provisions were enacted as part of the Tax Reform Act of 1969 which also repealed the investment tax credit. Moreover, in large measure these amortization provisions were intended as a substitute for the investment credit then being repealed. In view of the reinstatement of the credit, your committee has concluded that it is not appropriate to provide both the credit and special 5-year amortization with respect to the same property.

As a result the bill provides that if the taxpayer elects the special 5-year amortization provided for pollution control facilities, railroad rolling stock, coal mine safety equipment, expenditures for the rehabilitation of low-income housing, job training facilities, or day care facilities (the last two categories are new amortization provisions added by this bill), the property subject to the amortization election is not to be eligible for the credit. (If the amortization election is made subsequent to the allowance of the credit, the credit is to be retroactively denied for the year in which it was previously allowed.) Since in the case of pollution control facilities only the proportion of the cost of the facility attributable to the first 15 years of its useful life is eligible for special 5-year amortization, the bill provides that the credit is to be denied only for the portion of the cost of a facility subject to rapid amortization. Therefore, a taxpayer acquiring a pollution control facility may be eligible for the credit with respect to the cost attributable to the useful life in excess of 15 years even though he elects rapid amortization with respect to the property.

Mr. COOPER. The need for such tax incentives to the small coal operators has been well documented by material I submitted for the Record, the debate on the Tax Reform Act of 1969 and additional statements I received from the Bureau of Mines. Now in the year 1971, it is more needed than ever as the economic effects of the Federal Coal Mine Health and Safety Act on the small nongassy coal mines becomes apparent. Many of the small underground coal mines in eastern Kentucky have shut down because of the high financial cost of installing the "permissible" equipment required by the act. It seems to me that the least Congress can do is to continue the present tax incentives and I urge the adoption of the Scott amendment.

Mr. President, the Kentucky Coal Mine Research Institute of Morehead State University retained Prof. David Hylbert to analyze the problems of the coal industry in eastern Kentucky and to make suggestions and recommendations for dealing with these problems. In his report to the research institute on September 29, Professor Hylbert points out the high cost of equipping small mines with the "permissible equipment" required by the 1969 act. Professor Hylbert states:

COMPLAINTS COMMON TO MOST MINES

The gassy classification

Prior to the enactment of the Federal Health and Safety Act of 1969, the Bureau of Mines recognized a twofold classification of mines based on the presence of methane—gassy and nongassy. The gassy mine was one in which tests with a flame safety lamp showed the presence of methane, a gas ignition had occurred, or an airsample taken one foot from the face, rib and roof indicated methane gas in quantity greater than 0.25 of 1 percent. Conversely, a nongassy mine was one where gas had not been detected by a flame safety lamp, no gas ignition had occurred, or where gas had not been found in quantity greater than 0.25 of 1 percent in an airsample taken one foot from the face, rib and roof.

Testimony given by several leading authorities in the coal mining industry in Kentucky and Virginia before the U.S. Senate Subcommittee on Labor prior to the enactment of the Federal Health and Safety Act of 1969 argued against the abolishment of the distinction between gassy and nongassy mines. It was pointed out that in 1969, about 5 percent of the mines in Kentucky were classed as gassy and that if all mines were to be classed as gassy the cost of converting nonpermissible equipment to permissible as required in gassy mines would cause the closing of many small mines. It was also pointed out that mine explosions can be traced to human carelessness, smoking, or improper procedures in blasting and not to gassy conditions in a mine properly classed as nongassy.

However, the advice of such testimony was not followed and provisions in the 1969 act now force all mines to operate as if they are in fact gassy.

In the course of this investigation, practically everyone interviewed in eastern Kentucky, including coal operators, working miners, and some Federal and State personnel were personally opposed to classifying all mines as gassy. In fact, this single part of the 1969 act is protested more than any other.

More important than personal opinion, however, is the fact that the prohibitive cost of converting nonpermissible equipment to permissible or to replace nonpermissible equipment has caused many smaller mines to close as was predicted. Pike County, which is the leading producer of underground coal in Kentucky, had approximately 615 underground mines operating in 1970 according to official estimates. At present, Pike County has only about 275 mines operating with more predicted to close. This trend is present in other counties in eastern Kentucky as well. In addition to the prohibitive cost of permissible equipment, other factors have contributed to the closing of small mines. Many of these mines were in existence before enactment of the 1969 act and were developed and engineered in such a way that compliance with new requirements is much more difficult and costly than for a new mine. Also, many small mines have not developed the management capability to cope with the complexities and bookkeeping involved in complying with the 1969 act. The closing of small mines is also making an economic impact on communities where coal is the major local industry.

Mine explosions and ignitions have continued to occur in Kentucky as was predicted. However, these have been caused by carelessness, ignorance of or the disregard for safety regulations in existence prior to the 1969 act and not by gassy conditions. An example is the mine disaster of December 30, 1970 at the Finley Coal Company, Leslie County, Kentucky where 38 men lost their lives. According to the Kentucky Department of Mines and Minerals, this mine explosion obviously resulted from the use of explosives which were not legal for underground use.

Mr. President, I ask unanimous consent that excerpts from the debate on my amendment in 1969, be included in the Record at this point.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

AMENDMENT NO. 399

Mr. Cooper. Mr. President, I call up my amendment, No. 399.

The Presiding Officer. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. Cooper. Mr. President, I ask unanimous consent that the Senate dispense with further reading of the amendment.

The Presiding Officer. Without objection, it is so ordered.

Mr. Cooper's amendment is as follows:

Page 454, after line 2, insert the following new section:

Sec. 707. Amortization of certain coal mine safety equipment.

(a) Allowance.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding after section 186 (added by section 906 of this Act) the following new section:

"Sec. 187. Amortization of certain coal mine safety equipment

"(a) Allowance of Deduction.—Every person, at his election, shall be entitled to a deduction with respect to the amortization of the adjusted basis (for determining gain) of any certified coal mine safety equipment (as defined in subsection (d)), based on a period of 60 months. Such amortization deduction shall be an amount, with respect to each month of such period within the taxable year, equal to the adjusted basis of the certified coal mine safety equipment at the end of such month divided by the number of months (including the month for which the deduction is computed) remaining in the period. Such adjusted basis at the end of the month shall be computed without regard to the amortization deduction for such month. The amortization deduction provided by this section with respect to any certified coal mine safety equipment for any month shall be in lieu of the depreciation deduction with respect to such equipment for such month provided by section 167. The 60-month period shall begin, as to any certified coal mine safety equipment, at the election of the taxpayer, with the month following the month in which such equipment was placed in service or with the succeeding taxable year.

"(b) Election of Amortization.—The election of the taxpayer to take the amortization deduction and to begin the 60-month period with the month following the month in which the certified coal mine safety equipment was placed in service, or with the taxable year succeeding the taxable year in which such equipment is placed in service, shall be made by filing with the Secretary or his delegate, in such manner, in such form, and within such time, as the Secretary or his delegate may by regulations prescribe, a statement of such election.

"(c) Termination of Amortization Deduction.—A taxpayer which has elected under subsection (b) to take the amortization deduction provided by subsection (a) may, at any time after making such election, discontinue the amortization deduction with respect to the remainder of the amortization period, such discontinuance to begin as of the beginning of any month specified by the taxpayer in a notice in writing filed with the Secretary or his delegate before the beginning of such month. The depreciation deduction provided under section 167 shall be allowed, beginning with the first month as to which the amortization deduction does not apply, and the taxpayer shall not be entitled to any further amortization deduction under this section with respect to such equipment.

"(d) Certified Coal Mine Safety Equipment.—For purposes of this section, the term 'certified coal mine safety equipment' means property which—

"(1) is electric face equipment (within the meaning of section 305 of the Federal Coal Mine Health and Safety Act of 1969) required in order to meet the requirements of section 305(a)(2) of such Act,

"(2) the Secretary of the Interior certifies is permissible within the meaning of such section 305(a)(2), and

"(3) is placed in service before the expiration of six years after the operative date of title III of the Federal Coal Mine Health and Safety Act of 1969.

For purposes of this section, any property placed in service in connection with any used electric face equipment which the Secretary of the Interior certifies makes such electric face equipment permissible shall be treated as a separate item of certified coal mine safety equipment.

"(e) Special Rules.—

"(1) The adjusted basis of any certified coal mine safety equipment, with respect to which an election is made under this section, shall not be increased, for purposes of this section, for amounts chargeable to capital account for additions or improvements after the amortization period has begun.

"(2) The depreciation deduction provided by section 167 shall, despite the provisions of subsection (a), be allowed with respect to the portion of the adjusted basis which is not taken into account in applying this section."

(b) Clerical Amendment.—The table of sections for part VI of subchapter B of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 187. Amortization of certain coal mine safety equipment."

(c) Effective Date.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

Mr. Cooper. Mr. President, I offer this amendment for myself, the Senator from Tennessee (Mr. Baker), my colleague from Kentucky (Mr. Cook), the Senators from West Virginia (Mr. Randolph and Mr. Byrd), and the Senator from Virginia (Mr. Byrd).

Mr. President, I hope very much that the manager of the bill will be willing to accept the amendment.

Mr. Talmadge. Will the Senator explain it, so the Senators can ascertain what it does?

Mr. Cooper. Yes. The purpose of the amendment is to permit the amortization of the cost of certain "permissible" coal mine equipment over a 5-year period. The usual period of depreciation, I am informed, is a period of 10 years. I shall explain the reason for offering the amendment.

Mr. Javits. Mr. President, will the Senator yield momentarily?

Mr. Cooper. I yield.

Mr. Javits. Before leaving the Chamber, I should like to inform my colleagues, if I could have their attention, that I am the ranking member of the Committee on Labor and Public Welfare which just handled the coal mine safety bill. That bill was drafted by the Senator from New Jersey (Mr. Williams) and myself.

One of the big problems that we had was to reconcile safety with economics. The Senator from Kentucky (Mr. Cooper) is laying before us a very grave problem affecting small miners, where we are trying to impose heavy safety precautions, and it costs money to provide them.

I should like to say to my colleagues who are interested in safety that what the Senator from Kentucky is now proposing is a way in which the small mine operator can be helped. We knew he had to be helped. We tried to get him small business loans and other things, which is a kind of long way around, but I think the Senator, with his tax amendment, has something which can directly help him, and I hope my fellow Senators will give the greatest sympathy to the Senator's proposition. I testify to my colleagues that one of the bases of the coal mine safety bill was an attempt to reconcile economics with human life. We did the best we could, but what Senator Cooper is now proposing would help us immeasurably to do justice on the economic scale.

Mr. Cooper. I thank the Senator from New York for his excellent statement. I have also been informed that the Senator from New Jersey (Mr. Williams), who was chairman of the subcommittee that had charge of the coal mine health and safety bill, supports the amendment.

I ask unanimous consent also to add the names of the Senator from Virginia (Mr. Spong), and the Senator from Pennsylvania (Mr. Schweiker), and the Senator from Alaska (Mr. Stevens), as cosponsors of the amendment.

The Presiding Officer. Without objection, it is so ordered.

Mr. Cooper. Mr. President, on October 2 of this year the Senate passed S. 2917, the Coal Mine Health and Safety Act of 1969. On October 29, 1969, the House passed its bill. The conferees have met and it is expected that the conferees will file a conference report very soon.

Mr. Talmadge. Mr. President, will the Senator yield?

Mr. Cooper. I yield.

Mr. Talmadge. Mr. President, do I understand correctly that this is the result of the action of Congress in requiring these coal mine safety devices in coal mines?

Mr. Cooper. The Senator is correct.

Mr. Talmadge. And that the equipment must necessarily be bought, because an act of Congress has required it?

Mr. Cooper. That is right.

Mr. Talmadge. And that the purpose of the equipment is to save human life?

Mr. Cooper. The Senator is correct. Both Houses of Congress have passed bills which include a provision requiring that "permissible" machinery be used in all coal mines by a specified date.

The provision included in both the Senate and House, bills would abolish the present distinction between "gassy" and "nongassy" mines, a classification that up to this time had been preserved in the Federal Coal Mine Safety Act since its adoption. The chief purpose of proposing the merging of all mines in one classification as "gassy" mines, is to require operator of mines now classified as "nongassy" mines to purchase and install new equipment which is designated as "permissible" equipment under the Federal Coal Mine Safety Act. This equipment is designed to prevent "sparking" of the machinery which could, of course, cause the danger of ignitions and explosions in mines where a sufficient concentration of methane occurs.

Bureau of Mines statistics show that for the year 1967 there were a total of 3,191 nongassy mines employing 45,472 workers and producing 143 million tons of coal a year.

I ask unanimous consent that a compilation prepared by the Bureau of Mines be printed in the Record at this point.

There geing no objection, the compilation was ordered to be printed in the Record, as follows:

NUMBER OF BITUMINOUS UNDERGROUND COAL MINES, EMFLOYMENT AND PRODUCTION BY STATES AND BY GASSY AND NONGASSY MINES—1967

	Gassy			Nongassy		
	Number of mines	Employees	Production	Number of mines	Employees	Production
Alabama	17	3,222	8,443,850	85	1,633	739,350
Arizona				1	3	969
Arkansas	5	61	93,690			
Colorado	23	1,026	3,008,995	36	239	569,915
Illinois	26	5,271	27,797,978	9	111	525,834
Indiana	7	421	1,564,831	4	285	142,483
Iowa				5	51	244,917
Kentucky	32	3,851	18,996,388	913	10,687	42,000,000
					580	2,287,406
Maryland				33	236	409,550
Missouri				2	14	3,000
Montana		16	6,200	12	41	22,650
New Mexico	1	98	625,000	7	22	4,375
North Dakota				1	5	996
Ohio	18	2,115	8,922,588	55	1,244	4,496,000
Oklahoma	1	4	2,400			
Oregon				1	5	1,000
Pennsylvania	68	13,973	46,110,933	279	3,007	8,302,238
Tennessee	7	57	135,250	142	1,924	4,364,750
Utah	10	799	2,785,122	17	359	1,478,102
Virginia	44	3,347	14,265,000	673	4,722	16,625,000
Washington	1	7	8,599	3	31	48,017
West Virginia	132	20,848	80,348,324	908	20,181	61,037,451
					32	30,812
Wyoming				5	60	118,942
Total	392	55,116	213,115,058	3,191	45,472	143,453,737

Mr. Cooper. Since all mines are designated as "gassy" under the pending legislation, the operators of these 3,191 "nongassy" mines will be required to junk the nonpermissible machinery now used which has been installed at great cost and replace it with "permissible" equipment of greater cost. This will impose a burden which many operators cannot sustain, result in the closing of hundreds of mines, and will drive out of employment hundreds, if not thousands of miners. This drastic legislation will not only affect the mines and miners, but will result in severe economic hardship upon the communities and States in which the "nongassy" mines are located. The Bureau of Mines compilation for 1967 indicates that there were 913 "nongassy" mines in Kentucky, 908 in West Virginia, 279 in Pennsylvania, 142 in Tennessee, 55 in Ohio, 85 in Alabama, 36 in Colorado and smaller numbers in 10 other States.

Both in the Senate Labor and Public Welfare Committee and on the floor when the Senate considered S. 2917, I offered amendments to preserve the distinction between gassy and nongassy mines. I introduced statistics and geological data showing that nongassy mines are the safest mines and that there is no demonstrated need for abolishing the present distinction between "gassy" and "nongassy." However, my amendments were not agreed to.

The House and Senate conferees have agreed, first, that for all mines certain specified small electrical equipment must be made permissible within 1 year after the operative date of the act—which is 90 days after enactment; second, that heavy electrical face equipment employed in coal mines not classified as "gassy" prior to enactment of the act and which are located above the water table—which definition would include a great majority of mines now classified "nongassy"—must be made permissible within 4 years of the operative date of the act with the right to obtain extensions up to a maximum of 2 years. Thus, under this provision, all operators of the above described nongassy mines would be required at the conclusion of 6 years after the operative date to have replaced all existing nonpermissible equipment by permissible equipment.

In addition, nonpermissible equipment that has worn out is to be replaced 1 year after the operative date by equipment that is permissible.

The amendment I introduce today would permit the operators of nongassy mines located above the water table to amortize over a 5-year period the cost of heavy electrical permissible equipment that they are required to purchase and install, or the cost of converting existing equipment to a permissible condition within the 6-year period after the effective date of the act.

My amendment is limited to equipment required to be installed in this 6-year period and the 5-year amortization would not be available for equipment installed after the 6-year period has expired. In addition, the 5-year amortization provided by my amendment would not be available to write off the small horsepower equipment required to be permissible within a year after the effective date of the act. It is limited to heavy electrical face equipment and is extended only to operators of nongassy mines located above the water table. My amendment, therefore, is of limited scope and of limited duration.

I am informed by the Bureau of Mines that the useful life of coal mining equipment as determined by the Internal Revenue Service for accounting purposes is 10 years. I am informed that most operators employ straight line depreciation schedules in depreciating this equipment. During the debate on the Federal Coal Mine Health and Safety Act, statements were provided by the Senator from New Jersey (Mr. Williams), manager of the bill, concerning estimates of the cost of new equipment and of the conversion of old equipment. A letter from the Honorable Hollis M. Dole, Assistant Secretary of the Interior, addressed to Senator Williams, dated August 2, 1969, was included in the Record of September 25, 1969, at page 27117. In his letter, Assistant Secretary Dole stated that the Bureau of Mines has estimated the cost to be approximately $50 to $60 million. I would point out that these cost figures included the cost of converting or replacing small electrical equipment in both gassy and nongassy mines, which equipment would not be given the 5-year writeoff as proposed by my amendment. Therefore, I am informed by the Bureau of Mines that this $50 or $60-million total cost figure would be less when limited to the cost of heavy electrical equipment as provided for by my amendment.

Taking the cost estimates submitted by the Bureau of Mines, I requested the Treasury Department to give me an estimate of the revenue loss should my amendment be adopted.

In a letter dated December 8, 1969, I am informed by Mr. John S. Nolan, Deputy Assistant Secretary, that my amendment—and I read from his letter—"will result in a revenue loss of approximately $1 million per year for the next several years, reducing gradually to zero."

The new Federal Coal Mine Health and Safety Act will require many small operators in nongassy mines to junk their existing equipment and purchase permissible equipment as required by this legislation at great expense for reasons of safety. It seems to me, Mr. President, that the least that the Congress can do is to provide, to this limited extent, financial assistance in meeting these costs. The tax reform bill provides a 5-year amortization to the railroad industry and to industries purchasing air and water pollution equipment. Certainly, the equities of the small coal operator are equal, if not greater, than the industries helped by the 5-year amortization provided in this bill.

Mr. President, reconversion must take place under S. 2917 which is now in conference, within a minimum of 6 years. In my judgment, based upon the letter from the Treasury Department, the overall cost of the amendment would probably be $5 million or less.

It affects approximately 45,000 miners who are working in these mines which produce about 40 percent of our bituminous coal.

It is a just amendment. Congress will enact the measure which is now in conference. Help should be given not only to the operators of the mines, but to the men employed in the mines. Keeping the mine open will continue their employment.

Mr. President, that is the basis of my argument for the measure.

Mr. Baker. Mr. President, will the Senator yield?

Mr. Cooper. I yield.

Mr. Baker. Mr. President, I thank the Senator from Kentucky for yielding and my chairman, the distinguished Senator from West Virginia, for permitting me to speak at this time for the purpose of observing that I believe the Senator from Kentucky has done a great service to a great industry by offering the amendment.

I very much hope that it will be agreed to by the Senate as part of the bill.

It is a difficult task, that of providing for mine safety and coming to grips with the issue of whether gassy and nongassy mines should be preserved.

The Senate has worked its will in that respect. For my part, and I know, from the standpoint of the senior Senator from Kentucky, we had hoped that there would be a continuing distinction between gassy and nongassy mines. However, there is not under the present state of affairs. Therefore, it becomes essential and urgent that something be done to encourage those who operate in nongassy mines, and obviously designated so, to devote permissible equipment to the preservation of those jobs which are by and large in an area of the country that has chronic unemployment and thus promote employment of men who are, by and large, uniquely suited to only one occupation, that of mining coal.

I think the Senator from Kentucky would move a great distance in this direction and the amendment would encourage many operators of nongassy mines to devote permissible equipment to conserving those jobs, thus contributing to our area of Tennessee, Kentucky, Virginia, and West Virginia.

Mr. President, it is with great pride that I join with the Senator from Kentucky in sponsoring the amendment. I hope that the Senator promptly agrees to it.

Mr. COOPER. Mr. President, I thank the Senator from Tennessee.

Mr. President, I yield now to the Senator from West Virginia.

Mr. RANDOLPH. Mr. President, the amendment offered by the knowledgeable Senator from Kentucky (Mr. COOPER) indicates once again his very real concern for the problems of coal mining and the safety of the miners. These mining problems, particularly as relate to the smaller mines now classed as nongassy, are soon to become acute and expensive. With the Coal Mine Health and Safety Act nearing finalization in this Congress, most of these mines necessarily must install much new equipment at substantial cost to meet the strict new safety requirements. The amendment which I am privileged to cosponsor will help the smaller mining companies provide the equipment requisite to the safety of their miners. The amortization provided can be very important in the financing of the equipment changeover to satisfy provisions of the new safety measure.

Mr. President, I am very grateful that over a period of time the Senator from Kentucky has demonstrated detailed knowledge and has been realistic in evaluating legislation as it affected the mines of his own State and neighboring ones. The mines concerned in the amendment, frankly, are mostly in Kentucky.

But numerous others in Tennessee, Virginia, and southern West Virginia will have some measure of tax relief available to them under Senator COOPER's amendment, and we are grateful to him for his alertness and his diligent attention to these matters.

Would amortization provisions, I ask the Senator from Kentucky, usually apply over a period of 10 years?

Mr. COOPER. That is the information we receive from the Department of the Interior and the Department of the Treasury. The usual depreciation is over a period of 10 years.

Mr. RANDOLPH. Mr. President, the Senator's amendment would reduce that to a period of 5 years.

Mr. COOPER. The Senator is correct.

Mr. RANDOLPH. And the letter the sponsor has referred to indicates that the cost to the Federal Government would not be a substantial sum.

Mr. COOPER. It would be $1 million a year for several years. It would then decrease to zero. The reason it would decrease to zero is that it ends as soon as the mines are reequipped in the 6-year transition period.

Mr. RANDOLPH. Mr. President, I am sure the estimate is correct. The estimate is that it would cost the eligible mining companies from $50 million to $60 million for this equipment.

Mr. COOPER. The letter is addressed to the committee of the Senator from West Virginia. The Committee on Labor and Public Welfare had charge of the bill. The letter was addressed to the Chairman of the Labor Subcommittee Senator WILLIAMS by Hollis M. Dole, Assistant Secretary of the Interior.

He states:

Since, in fact, the upgrading of non-permissible equipment would be expected to be a mixture of field conversion and purchase of rebuilt or new equipment, a more realistic cost estimate would be between $50 and $60 million.

Mr. President, I ask unanimous consent that the letter of Assistant Secretary Dole of the Interior Department and the letter of Deputy Assistant of the Treasury Nolan and a summary I have prepared explaining the amendment be printed at this point in the RECORD.

There being no objection, the letter and summary were ordered to be printed in the RECORD, as follows:

ESTIMATES OF THE COST OF CHANGING NON-PERMISSIBLE ELECTRIC FACE EQUIPMENT TO PERMISSIBLE CONDITION, BY THE DEPARTMENT OF THE INTERIOR

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., August 2, 1969.

Hon. HARRISON A. WILLIAMS, Jr.,
Chairman, Senate Labor Subcommittee,
U.S. Senate, Washington, D.C.

DEAR SENATOR WILLIAMS: Enclosed are two attachments (A & B) in response to your letter of July 5, 1969, requesting further information on the cost of changing non-permissible electric face equipment in underground coal mines to permissible condition under the procedures (Schedule 2–G) of the Bureau of Mines. These procedures are primarily designed to assure that such equipment, if maintained in permissible condition, will not emit a spark or arc and cause a mine fire or explosion.

The first of these attachments is an updating and correction of estimates previously prepared and supplied to your subcommittee in relation to the cost of changing non-permissible equipment to permissible and the time needed to accomplish it.

The other attachment is the result of a survey of underground coal mines conducted, at your request, by the Bureau of Mines in each of the 9 major coal producing States. The survey was undertaken through the Bureau's district offices and compiled here. While it included some contact with the industry, repair shops, and equipment manufacturers, it is largely a paper survey based on records and data of the Bureau, including inspection reports, etc. We have discussed informally the results of the survey with your staff.

At the request of your staff, we checked, after completing the survey, on whether a bias had been introduced inadvertently due to the small number of mines sampled in the 9 States. Time did not permit a greater sampling. We have concluded that the samples for at least 3 of the States, Virginia, Kentucky, and West Virginia, are not truly typical of the small mines in those States. Thus, a bias was, in fact, inadvertently introduced.

From the survey we have, at your request, estimated the cost of making this equipment permissible either by conversion or rebuilding. The estimates are as follows:

SMALL NON-GASSY MINES

Estimated costs

Cost of "conversion"[1] of all equipment:	
Nine States only	$37,000,000
County-wide basis (by extrapolation from data)	42,500,000
Cost of upgrading or using rebuilt equipment:	
Nine States only	54,882,580
County-wide basis (by extrapolation from data)	$63,000,000

LARGE NON-GASSY

Estimated cost

Cost of upgrading or using rebuilt equipment:[2]	
Seven State only	13,475,650
Country-wide basis	18,100,000

[1] Assumes field permissibility approval will be feasible even for equipment that had never had permissible approval.

[2] Assumes that all equipment could be upgraded and none would be converted.

You also requested that we provide an estimate, based on the survey, of the costs of making this equipment permissible through conversion, upgrading, purchasing rebuilt or purchasing new, in the case of those gassy mines with "grandfathered" equipment is still permitted under the 1952 Act. The estimates are as follows:

Grandfathered equipment, all Gassy Mines:

Cost to upgrade, $3,591,350.

Cost to rebuild, $14,158,060.

Cost new, $36,951,170.

Because of the bias mentioned above, you also asked if we could use the survey and make some estimates taking the bias into account. Probably the most appropriate way to make such an estimate is to use an average of the capital cost per yearly ton of coal produced. For these larger and more efficient mines covered by the survey a mine producing 20,000 tons per year would require an investment of about $16,000. If the equipment were used for 20 years this would represent a cost of 4 cents per ton of coal mined. There is, however, some tonnage produced in hand loaded mines where permissible equipment would not be required. On the other hand, smaller mechanized mines, also not included in the survey, would be expected to have a higher investment per daily ton than those included in the survey. In our estimate, we have assumed that these two factors are to be in balance.

Using this method then, the cost for the small non-gassy mines for the country as a whole to convert or rebuild the equipment would be $30 million.

If all the equipment could be converted rather than using a combination of conversion and rebuilt equipment, the cost would be about $21 million.

The total cost can thus be estimated at $51.7 million, broken down as follows:

Grandfathered equipment (all upgraded), $3.6 million.

Cost of upgrading or using rebuilt equipment in large non-gassy mines, $18.1 million.

Cost for converting or using rebuilt equipment in small non-gassy mines, $30 million.

These figures are lower than those in Attachment A because we have assumed that the new concept of conversion which we have discussed with your staff using field approval for permissibility will be possible and because the size of the sample in the latest survey introduced a bias. Since, in fact, the upgrading of non-permissible equipment would be expected to be a mixture of field conversion and purchase of rebuilt or new equipment a more realistic cost estimate would be between $50 and $60 million. It is probable, however, that some portion of this sum would be expended anyway due to normal replacement needs.

Another cost is that of the Government which would be appreciably higher if all the equipment were converted, since it would involve a large increase in the man-hours required for field inspections of field converted and approved equipment.

Sincerely yours,

HOLLIS M. DOLE,
Assistant Secretary of the Interior.

THE DEPARTMENT OF THE TREASURY,
Washington, D.C., December 8, 1969.
Hon. JOHN SHERMAN COOPER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR COOPER: You have requested an estimate of the revenue cost of Amendment No. 399 to H.R. 13270, the Tax Reform Act of 1969, which you have introduced. The amendment would allow five-year amortization for certain equipment installed to comply with the Federal Coal Mine Health and Safety Act of 1969.

Treasury estimates that this amendment will result in a revenue loss of approximately $1 million per year for the next several years, reducing gradually to zero.

Sincerely yours,
JOHN S. NOLAN,
Deputy Assistant Secretary.

EXPLANATION OF COOPER, RANDOLPH, BYRD (W. VA.), COOK, BAKER AMENDMENT

Purpose is to permit amortization of the cost of certain "permissible" coal mine equipment over a five-year period. The usual period recognized by the Internal Revenue Service is ten years.

Cost of reequipping mines with "permissible" equipment, estimated by the Department of Interior, is $50 to $60 million. Cost, in loss of revenue, estimated by the Department of Treasury, is $1 million annually for the first several years, then reduced to no cost.

Reason: House and Senate conferees have agreed on a provision to be a part of the Federal Coal Mine Health and Safety Act of 1969 (S. 2917), which requires for the safety of miners that "permissible" equipment—that is, non-sparking equipment—be installed in "non-gassy" mines over a six-year period. "Non-gassy" mines number about 3,000 and employ about 45,000 men and produce about 40% of the nation's bituminous coal. These are chiefly small mines and the cost of reequipping will put many out of business and increase unemployment, unless some aid is provided.

The five-year amortization provided by the amendment is limited strictly to "non-gassy" mines located above the water table, and only to the cost of installation of heavy electrical face equipment of a permissible type or the cost of converting existing equipment to a permissible standard during the six-year transition period.

Mr. RANDOLPH. Mr. President, I do not wish to take more time except to say that this is desirable and necessary legislation. In the Coal Mine Health and Safety Act, we sought to be prudent without compromising the safety of miners. However, approval of this amendment would mean that we can be more careful in insisting that the smaller units in the industry are not put out of business with the resultant increase in unemployment.

Mr. COOPER. The Senator is correct.

Mr. RANDOLPH. And I have talked with the chairman of the Subcommittee on Labor. He is interested in the amendment and desires to support it.

I have listened to the acting chairman of the Finance Committee as he has questioned the principal author of the amendment. He indicates that he understands the problem we face in this matter.

It has been my privilege to join in cosponsoring the amendment. I do feel it is equitable. And I hope it will receive the unanimous approval of the Senate.

Mr. COOPER. Mr. President, I thank the Senator. We have conferred on the amendment and have worked out the amendment before us.

I yield now to my colleague from Kentucky.

Mr. COOK. Mr. President, although my distinguished colleague from Kentucky has said this would cost the Government $1 million a year for approximately 6 years, I think the weight of the argument is that it will cost the industry between $50 and $60 million during that same period of time.

This cost of $50 to $60 million is the direct action of Congress itself. Contrary to the Williams amendment of just a moment ago which, as the distinguished Senator from Delaware said slowly but surely pulls away this $1 million a year for approximately 5 or 6 years, the cost to the Federal Government is necessitated by the fact that the industry, by action of Congress, must expend between $50 and $60 million during that same period of time.

I say to the distinguished Senator from Georgia that the real argument is that, for the safety and protection of human life, the industry is required to pay some $60 million and Congress is asked for this opportunity to extend to the industry a rapid writeoff from 10 to 5 years at a cost to the Federal Government, for the safety of human lives, the sum of $1 million a year. I think this is the real argument, and this is the point that the distinguished Senator from Kentucky (Mr. COOPER) has so eloquently made. I hope that the committee will accept the amendment.

Mr. COOPER. I thank the Senator.

I yield to the Senator from Virginia.

Mr. SPONG. Mr. President, I commend the Senator from Kentucky for bringing this amendment to the floor. In my judgment, it is a necessary adjunct to the very fine mine safety legislation enacted earlier in this session.

I should like to associate myself with the remarks of the Senator from Kentucky and say that I am very pleased to be a cosponsor of the amendment, and I hope the committee will see fit to accept it.

Mr. TALMADGE. Mr. President, the distinguished Senator from Kentucky and the cosponsors of the amendment have made an impressive case for the amendment. It would authorize the same amortization that is already included in the bill for pollution control devices. Since this is a safety control device affecting human life, I have discussed it with the ranking minority member of the committee, and he and I are in accord that the Senate should adopt it and let us take it to conference.

Mr. COOPER. I thank the Senator.

Mr. COOPER. I am very sorry to report that the predictions I made during this debate have become true.

There has been no significant improvement in safety conditions in the mines, to the contrary there has been an increase in fatalities and injuries.

Hundreds of small mines, the non-gassy mines, the safest mines have been put out of business, and thousands of miners and employees are without jobs.

The closing of these mines has driven operators and miners into strip mining, affecting the environment and ecology.

Mr. SCOTT. Mr. President, I yield back the remainder of my time and call for a vote.

The PRESIDING OFFICER. The Senator has no time remaining. The question is on agreeing to the amendment of the Senator from Pennsylvania.

The amendment was agreed to.

Mr. ALLOTT. Mr. President, I would like to address a question to the distinguished manager of the bill, and also to the ranking minority member relative to section 103 of the bill presently before us.

Section 103, which amends section 48(a) of the Internal Revenue Code of 1954 limits the availability of the investment credit to domestically produced products. As amended, section 48(a)(7)(C) provides that the President may allow the investment credit to certain foreign produced articles, if he deems it in the national interest. In other words, by Executive order the President may proclaim that certain articles or class of articles—even though manufactured abroad—may qualify for the 7-percent investment credit.

On page 28 of the Senate Finance Committee report, it states, in a pertinent part, and I quote:

> The types of situations in which the President may find that it is in the public interest to waive the limitation include those: . . . (2) where there are practically no U.S. manufacturers of the type of products involved and substantially all items of these types are imported.

I hope to amplify the meaning of the Senate report language I have just quoted.

As the Senator may know, there is a growing new facet of air service. It is commonly referred to by the letters STOL which stand for short take off and landing. By employing these relatively light aircraft, it is possible to provide air service at a reasonable cost to small communities as well as communities located in geographical areas which do not lend themselves to the landing of large conventional commercial aircraft.

For example, in Florida on October 22, 1971, there was initiated a statewide STOL service between Miami, Ft. Lauderdale, Tampa, St. Petersburg, and Orlando. My State of Colorado has expressed an interest to the FAA to expand STOL service.

Presently, no U.S. aircraft manufacturer produces a STOL aircraft suitable for commercial use, that is no aircraft is produced in the United States in the 16- to 20-passenger range that is certificated by the FAA for the STOL service. Thus, airlines wishing to purchase this class of aircraft at this time must purchase from a foreign manufacturer.

In summary, my interpretation of the bill is that even though aircraft are indeed made in the United States this provision of the bill would allow a subclassification determination so that the President may look at the subclassification of aircraft—short take off and landing—to determine that there is no comparable product of American manufacture. In short, as I interpret the bill, the President of the United States would have the authority to allow the type of aircraft I have described above, for example a Dehavilland DHC–6 Series 300 Twin Otter, a STOL aircraft, which is produced in Canada, to qualify for the investment tax credit.

Mr. President, I would like to ask the distinguished junior Senator from Louisiana if my interpretation is correct?

Mr. LONG. Mr. President, I agree with the Senator from Colorado that if indeed no STOL aircraft is manufactured in the United States then the President of the United States would have the authority to exempt that aircraft from the application of section 48(a)(7)(A) of the Internal Revenue Code of 1954.

Mr. ALLOTT. Mr. President, in other

words, this would be an example of what the committee meant in the Senate report language which I have previously quoted.

Mr. LONG. Mr. President, yes, that is a separate category where the President could make the credit available if the determined it was in the public interest.

Mr. ALLOTT. Mr. President, I thank the Senator.

Now, Mr. President, very briefly, I wish to say I have considered the tax bill which we have before us very carefully. I think the economic program of the President has been warped out of recognition. For example, the revenue loss for 1971 under the committee bill was $1.7 billion. After Senate action it is $2.8 billion, or almost double. For 1972 under the committee bill it was $7.8 billion. After Senate action thus far it is in excess of $12.8 billion. Through 1980 the loss to the United States would be $68.3 billion under the committee bill and after Senate action this far it would be $125 billion.

We have had almost 80 record votes on this bill. The Senate has added over 20 amendments.

I know the leadership desired very much to prevent this bill from becoming a Christmas tree, but, like every tax bill that comes to the Senate, that is the way it has become now, trebling, or doubling at least, the loss of tax revenues for the United States.

No real effort has been made to curb the insatiable appetite of some Senators to grab all that could be grabbed by way of political gain from the bill.

Titles IX and X of the bill, the tax credit for contributions and the checkoff provision, may cost anywhere from $125 to $400 million. The bill, instead of providing economic stimulus, in my opinion has become a raid on the Treasury, catering to every special interest group, starting with the Democratic National Committee.

I must say for these reasons I feel, and will feel, compelled to vote against the bill, much as I supported the bill in its original concept.

Mr. AIKEN. Mr. President, I want to concur in what the Senator from Colorado has said. The bill has been well nigh ruined by the actions of this body. However, it does have to go to conference, and I have more confidence in the conferees on both sides of the Congress than I have in the judgment of this Senate as a whole.

Therefore, although I have expressed my sentiments, and I would vote "no" if this were our final action on this bill, I will vote for it. I realize that the House has good conferees. The House sent us a good bill. The Senate will have good conferees. They can make a good bill out of the mess this Senate has created. So I am going to vote for the bill, but as of now it is a miserable bill. And if the conferees cannot correct the errors we have made I will vote against the conference report.

AMENDMENT NO. 695

Mr. MOSS. Mr. President, I call up my amendment No. 695 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. MOSS. Mr. President, I ask unanimous consent to dispense with further reading of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOSS. Mr. President, I also wish to modify my amendment by inserting after line 6, page 2 the following words:

Also exempt from the definition of "highway vehicle" is any motor-operated crane, installed upon a chassis of special design whose primary purpose is the provision of on-site mobility and/or in-place operational power, and whose capability for self-propulsion to the site is secondary thereto.

The PRESIDING OFFICER. Will the Senator send the modification to the desk?

The amendment, as modified, is as follows:

On page 2, in the table of contents, immediately after the item relating to section 315, add the following:

"Sec. 316. Self-propelled oil well service or drilling equipment vehicles."

On page 106, between lines 2 and 3, insert the following:

"Sec. 316. Self-Propelled Oil Well Service or Drilling Equipment Vehicles, and Motor Operated Cranes

"(a) In General.—Section 4482(a) (relating to definition of highway motor vehicle) is amended to read as follows:

"'(a) Highway Motor Vehicle.—For purpose of this subchapter, the term "highway motor vehicle" means any motor vehicle which is a highway vehicle, except that such term does not include any self-propelled oil well service or drilling equipment with a chassis specially designed and constructed for such service or drilling; also exempt from the definition of "highway vehicle" is any motor-operated crane, installed upon a chassis of special design whose primary purpose is the provision of on-site mobility and/or in-place operational power, and whose capability for self-propulsion to the site is secondary thereto.

"(b) Effective Date.—The amendment made by subsection (a) shall apply with respect to—

"(1) taxable periods commencing on or after the date of the enactment of this Act, and

"(2) taxable periods commencing before such date, with respect to which the time for filing claim for credit or refund of overpayment of the tax has not expired on such date.

If credit or refund of any overpayment resulting from the application of the amendment made by subsection (a) is prevented at any time within the six-month period commencing on the date of the enactment of this Act by the operation of any law or rule of law, credit or refund of such overpayment may nevertheless be allowed or made if claim therefor is filed within such six-month period."

Mr. MOSS. Mr. President I believe this Revenue Act of 1971 offers a good opportunity for the Senate to clarify certain language contained in the Internal Revenue law.

At present, the Internal Revenue Code of 1954 includes oil well service and drilling equipment and self-propelled motor cranes under the definition of a "highway motor vehicle." It continues to require owners to pay Federal highway use taxes for this equipment even though the equipment spends less than 2 percent of its working life on the Nation's highways.

Mr. President, I urge the Senate to accept my amendment which would exempt this drilling and servicing equipment and motor cranes from highway use tax liability. I contend that such action:

Would be consistent with previous IRS rulings concerning similar types of equipment;

Would recognize that the true function of this equipment is not highway transportation; and

Would follow the same logical course set by many State governments with regard to taxation of this equipment.

There is indeed a clear precedent for exempting this self-propelled machinery from highway tax liability. At present, all earthmovers, cottonpickers, and a variety of farm and highway implements are excluded. They are excluded from liability, because they spend less than 25 percent of their working lives on the highways.

I believe that the Senate should recognize this precedent and grant exemption for drilling equipment which spends less than 2 percent of its working life on the highways.

Precedent, however, is not the only issue involved. It is clear that the primary function of this equipment is not highway transportation—but drilling or, in the case of self-propelled cranes, building. You have merely to look at this machinery to realize this fact. It is designed essentially for onsite operations. The main transmission shaft runs not to the wheels, but to the drilling winch. The wheels, themselves, are powered by a secondary transmission shaft. I think my colleagues will agree that this equipment should not be counted and taxed as if it were a highway transportation vehicle.

This drilling equipment is primarily a source of power for the drilling operation. A growing number of State governments have come to recognize this fact. They exempt this oil well equipment from the general category of motor vehicle for all taxation purposes. It would seem that the Federal Government should follow the same logical course.

The cost of making this exemption for the drilling equipment is a mere pittance compared with the total Highway Use Fund collections. It would come to approximately $3 million for drilling rigs out of the total $145 million collected annually.

Mr. President, for these very clear reasons:

First, that this drilling equipment and cranes are no more a transportation vehicle than a piece of farm machinery;

Second, that the machines spend only 2 percent of their working time on the road; and

Third, that extending this exemption would cost the Government only a small fraction of its highway use tax collection.

I urge that the Senate grant overwhelming and immediate approval to this amendment.

Mr. BENNETT. Mr. President, my colleague from Utah has opened up a question or a problem that really needs looking into. The problem grows out of administration of the present law rather than a need for a specific law.

I have no objection to this amendment. I think we can take it to conference, but I think we will not get the problem solved until we have a hearing and a study in the committee of these on and off highway vehicles, of which these two are just examples.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Utah.

The amendment was agreed to.

Mr. FULBRIGHT. Mr. President, I wish merely to direct an inquiry to the distinguished manager of the bill. My question relates to the net lease rules as they affect real estate transactions. The committee bill contains some refinements of these net lease rules and I am pleased that the committee was able to clear up some of the problems in this area raised by the Tax Reform Act of 1969.

But there is some concern that perhaps the committee bill may not fully reflect the committee's amendment as described in the committee report. Has this situation come to the Senator's attention?

Mr. LONG. Yes, it has been raised and I am pleased to advise the Senator that on Saturday afternoon the Senator from Georgia (Mr. Talmadge) offered an amendment to correct a shortcoming in the committee bill and to further relieve the situation. The Senate agreed to this amendment and I believe it is one the Senator would approve.

I know of his concern and the amendment moves in the direction he would like to take.

Mr. FULBRIGHT. I thank the Senator very much for his consideration.

Mr. CANNON. Mr. President, I send an amendment to the desk on behalf of myself and Senator Bible, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. CANNON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. Cannon's amendment is as follows:

At the end of title IV of the bill, insert the following new section:

Sec. 403. Credit Against Tax on Coin-Operated Gaming Devices

(a) Allowance of Credit for State Taxes.—Subchapter B of chapter 36 (relating to occupational tax on coin-operated devices) is amended by adding at the end thereof the following new section:

"Sec. 4464. Credit for State-Imposed Taxes

"(a) In General.—There shall be allowed as a credit against the tax imposed by section 4461 with respect to any coin-operated gaming device for any year an amount equal to the amount of State tax paid for such year with respect to such device by the person liable for the tax imposed by section 4461, if such State tax (1) is paid under a law of the State in which the place or premises on which such device is maintained or used is located, and (2) is similar to the tax imposed by section 4461 (including a tax, other than a general personal property tax, imposed on such device).

"(b) Limitations.—

"(1) devices must be legal under state law.—Credit shall be allowed under subsection (a) for a tax imposed by a State only if the maintenance of the coin-operated gaming device by the person liable for the tax imposed by section 4461 on the place or premises occupied by him does not violate any law of such State.

"(2) credit not to exceed 80 percent of tax.—The credit under subsection (a) with respect to any coin-operated gaming device shall not exceed 80 percent of the tax imposed by section 4461 with respect to such device.

"(3) credit not to apply to new taxes.—Credit shall be allowed under subsection (a) for a tax imposed by a State only if such State imposed such tax or a substantially similar tax (whether or not conditionally) on the date of the enactment of this section.

"(c) Special Provisisons for Payment of Tax.—Under regulations prescribed by the Secretary or his delegate, a person who believes he will be entitled to a credit under subsection (a) with respect to any coin-operated gaming device for any year shall, for purposes of this subtitle and subtitle F, satisfy his liability for the tax imposed by section 4461 with respect to such device for such year if—

"(1) on or before the date prescribed by law for payment of the tax imposed by section 4461 with respect to such device for such year, he has paid the amount of such tax reduced by the amount of the credit which he estimates will be allowable under subsection (a) with respect to such device for such year, and

"(2) on or before the last day of such year, pays the amount (if any) by which the credit for such year is less than the credit estimated under paragraph (1)."

(b) Clerical Amendment.—The table of sections for subchapter B of chapter 36 is amended by adding at the end thereof the following new item:

"Sec. 4464. Credit for State-Imposed Taxes."

(c) Effective Date.—The amendments made by subsections (a) and (b) shall apply on and after July 1, 1972.

Mr. CANNON. Mr. President, this amendment provides for the allowance of a credit for State taxes to the extent of 80 percent of the Federal tax on coin-operated gaming devices where such devices are legal.

I might say, Mr. President, that Nevada is the only State this amendment happens to apply to. We are not asking for credit for the full amount of the tax, but only to the extent of 80 percent, in order that the remaining 20 percent might be available to the Federal Government for regulation as it sees fit.

The Nevada State Legislature has already acted in this field, and has petitioned Congress to provide a tax credit for the benefit of the State to the extent of 80 percent. It has made it a provision of the law that is self executing, which would provide that the funds to be derived therefrom would be earmarked for the community college system and for education in general.

Mr. President, the precedent for this amendment is the fact that we have 30 States in the Nation that have parimutuel betting, where the Federal Government has elected to exempt them from payment of any gaming tax, because the State has entered that field, and under the States' rights theory, they have imposed a tax and have regulated those parimutuels, and as a result, last year, in the 30 States that have parimutuels, the States received in revenue $515 million as a result of the tax that the Federal Government did not see fit to impose, and left it up to the States to legislate on.

In addition, we have already provided a precedent for the States that have seen fit to enter the field of legalized lotteries. We have three States that have entered that field, and we in Congress have exempted them from payment of any gaming tax thereon.

Our proposal recognizes that Federal tax legislation has existed for some time in the field of coin-operated gaming devices for purposes of regulating rather than for the raising of revenue.

The Nevada Legislature, examining its urgent need for new revenue and mindful that numerous States have in recent years embarked on wagering schemes such as lottery and off-track betting as well as bingo and pari-mutual race track betting, has strongly noted that none of these various revenue-producing operations in the various States have special Federal taxes imposed upon them.

But Nevada has a $250 Federal tax on each of its legalized and highly regulated coin-operated gaming devices. Because of this obvious inequity, we are offering an amendment stipulating that 80 percent of the occupational taxes collected on these devices be credited for similar taxes imposed by a State where the operation of such devices is legal. The Nevada Legislature enacted legislation as early as 1967 when it voted to return any Federal slot machine tax credit to the State treasury. Only this year assembly bill No. 459 expressed the sense of both Houses of the Nevada Legislature that none of the tax credit allowed by the Congress inure to the benefit of licensed gaming established in the State, "but will instead be set aside for the support of education."

The State of Nevada is dependent upon such revenues as derived from gaming for 43.3 percent of its State taxes.

In 1965 the Congress recognized once more the exclusive domain of the States in this field when it permitted New Hampshire to be exempt from Federal taxes in connection with its lottery. Similarly, this benefit was extended to the States of New York and New Jersey when those States more recently decided to conduct legal lotteries which now pour many tens of millions of dollars into their State coffers. I am sure that this policy of noninvolvement in the gaming tax field will prevail if the seven other States now considering lotteries decide to join these three States. Certainly there are no special Federal taxes that are imposed on the bingo operation which are conducted in about a dozen States throughout the Nation nor in the parimutuel horse racing or dog racing which flourishes in more than half of the States in the United States. We ask no more and no less than to extend this same principle to Nevada. The proposal for the tax credit rather than the total exemption is in recognition of the Federal interest that they continue to aid in policing the operation of legal slot machines to determine that revenues do not flow into underworld hands.

Obviously, it is not national policy—nor should it be—for the Federal Government to share in the revenues of a single State which chooses to legalize slot machines. It is equally true that the voters of my State have every right to expect that the revenue derived from wagering should be maximized for the benefit of the State and that is why their lawmakers have provided that the State move automatically to impose a tax identical to the one that is the subject of this amendment.

I say in summary that the only people who will benefit from this amendment are the citizens of our State of Nevada. The estimated loss to the Federal Government is $7.4 million, and I hope our colleagues will go along with this amendment, and that the committee will take the amendment to conference.

Mr. BIBLE. Mr. President, I have joined my colleague in offering this amendment, and I want to associate myself completely with what he has said in its support.

This is a completely reasonable amendment. As my colleague has said, it is needed to overcome a longstanding inequity in Federal tax policy in Nevada as compared to other States.

Section 4461 of the Internal Revenue Code imposes an annual $250 tax on coin-operated gaming devices.

The effect of this amendment is to allow a credit against this Federal tax. The credit would be measured by the amount of comparable taxes imposed and paid under State law, and would be limited to not more than 80 percent of the assessable Federal tax.

This is not a tax-relief proposal. It would not reduce anybody's taxes.

It would merely allow a credit against this Federal tax for taxes paid to the State.

As the Senate knows, in an effort to find additional tax sources to meet the rising costs of essential public services, more and more States have become interested in the tax possibilities of legalized gaming. Some 28 of our States have legalized parimutuel betting on horse and dog racing. New Hampshire, New Jersey, and New York has also legalized off-track-State-operated sweepstakes or lotteries. New York has also legalized off-track parimutuel betting, and other States have indicated that they may be moving in this direction.

None of these legalized gaming operations is subject to special Federal taxation. They are specifically exempted from the Federal wagering tax. The revenue they generate remains in the States for education and other essential public services.

But the situation in Nevada is entirely different. Nevada's legalized, licensed gaming enterprises are not only taxed heavily by the State. They are also subject to additional Federal taxation, and this special Federal tax on coin-operated gaming devices is a prime example.

This amendment would extend to Nevada the same principle now applied to these other States—not by way of a tax exemption, but by way of a tax credit.

The Federal tax on coin-operated devices has its primary impact in Nevada. Based on 1970 figures, almost 60 percent of it is collected on coin-operated gaming devices licensed and regulated under Nevada law. The tax is an insignificant Federal revenue producer, but the tax it takes from Nevada is sorely needed by the State to finance its education program.

As my colleague has pointed out, the Nevada Legislature has already enacted legislation imposing an additional tax on licensed coin-operated gaming devices within the State.

I ask unanimous consent that the Act of the Nevada Legislature amending Nevada revised statute 463.385 to impose this additional tax be printed in the RECORD following my remarks.

This new State tax will be "triggered" by the enactment of this amendment and will offset the proposed 80-percent credit.

The proceeds of this new State tax are specifically earmarked for educational purposes, and will provide critically needed financing for the support of higher education—a medical and community college program—and for all primary and secondary public schools as well.

Mr. President, Nevada faces unusually difficult problems in developing new tax revenue sources. She is a public land State. Eighty-seven percent of her land area is in the public domain and beyond the tax base. Less than 13 percent of her land is taxable. This narrow tax base has meant that over the years the State has been compelled to lean heavily on the licensed gaming industry as a source of public revenue. Nearly half—43.3 percent—of the State's general fund revenue comes from the gaming industry.

Historically, education has consumed two-thirds or more of the States general funds. But additional moneys are critically needed for the support of improved educational facilities and programs.

New York, New Jersey, and New Hampshire apply the proceeds of their legal lotteries to their education programs. Nevada wants to increase the tax on her licensed slot machines and apply the proceeds to the same purpose.

This tax credit will enable her to do so.

I urge acceptance of this amendment.

Mr. President, I ask unanimous consent that the bill passed by the Nevada State Legislature be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

ASSEMBLY BILL NO. 459—CHAPTER 2

An Act creating the higher education capital construction fund in the state treasury; directing that a portion of certain moneys derived from the slot machine tax imposed by NRS 463.385 be deposited in the higher education capital construction fund to be expended only by the board of regents of the University of Nevada for capital improvement projects for the University of Nevada System; specifying that the balance of the receipts derived from such slot machine tax be deposited in the state distributive school fund for the benefit of the school districts of the state; imposing certain duties on the state planning board; designating priority construction projects for the community college division of the University of Nevada System; and providing other matters properly relating thereto

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

SECTION 1. NRS 463.385 is hereby amended to read as follows:

463.385 1. In addition to any other license fees and taxes imposed by this chapter, there is hereby imposed upon each slot machine operated in this state a tax equal to any credit which may be allowed against the tax imposed on slot machines by 26 U.S.C. § 4461 *or other federal statute* for the payment of a state tax. If no such credit is allowed, no tax is payable under this subsection.

2. The commission shall:

(a) Collect the tax annually in advance prior to June 20 as a condition precedent to the issuance of a state gaming license to operate any slot machine.

(b) Include the proceeds of the tax in its reports of state gaming taxes collected.

3. The commission shall pay over the tax as collected to the state treasurer to be deposited to the credit of the state distributive school fund [.] *and the higher education capital construction fund, hereby created in the state treasury, in the amounts and to be expended only for the purposes specified in subsections 4 and 5.*

4. During each fiscal year the state treasurer shall deposit the first $5 million of the tax paid over to him by the commission in the higher education capital construction fund. When requested by the board of regents of the University of Nevada, moneys in the higher education capital construction fund shall be transferred by the state controller and the state treasurer to the state planning board for the purpose only of constructing capital improvement projects for the University of Nevada System, including but not limited to capital improvement projects for the community college division. As used in this subsection, "construction" includes but is not limited to planning, design, site acquisition and development, construction, reconstruction, furnishing, equipping, replacing, repairing, rehabilitating, expanding and remodeling. Unless specifically directed by an act of the legislature concerning priorities of construction of specific projects with moneys in the higher education capital construction fund, the board of regents of the University of Nevada shall determine the order of priority and the needs of the University of Nevada System with respect to expenditures of available moneys in the higher education capital construction fund. Any moneys remaining in the higher education capital construction fund at the end of a fiscal year shall not revert to the general fund in the state treasury but shall remain in the higher education capital construction fund for authorized expenditure.

5. During each fiscal year the state treasurer shall deposit all moneys in excess of the first $5 million of the tax paid over to him by the commission in the state distributive school fund to be apportioned as provided in NRS 378.030 among the several school districts of the state at the times and in the manner provided by law.

SEC. 2. Chapter 341 of NRS is hereby amended by adding thereto a new section which shall read as follows:

1. In causing the construction of the projects for the University of Nevada System as provided in subsection 4 of NRS 463.385 the state planning board shall:

(a) Cause to be prepared plans, specifications and contract documents necessary to such construction.

(b) Insure that competent architects, engineers and other qualified persons are employed to prepare the plans and specifications required to accomplish the authorized work and, if necessary, to assist in the preparation of contract documents necessary to such construction. Each contract document pertaining to such work shall be approved by the attorney general.

(c) *Except as otherwise provided in subsection 2, advertise in a newspaper or newspapers of general circulation in the State of Nevada for separate sealed bids for each such construction project. Approved plans and specifications for such construction shall be on file at a place and time stated in such advertisement for the inspection of all persons desiring to bid thereon and for other interested persons. The state planning board may accept bids on either the whole or on part or parts of such construction, equipment and furnishings, and may let separate contracts for different and separate portions of any project, or a combination contract for structural, mechanical and electrical construction if savings will result thereby to the lowest bidder thereon; but any and all bids may be rejected for any good reason.*

2. The state planning board shall not be required to advertise for sealed bids for construction projects the estimated cost of which is less than $5,000, but the state planing board may solicit firm written bids from not less than two licensed contractors doing business in the area and may thereafter award the contract to the lowest bidder or reject all bids.

Sec. 3. For the biennium commencing July 1, 1971, and ending June 30, 1973, if there are available moneys in the higher education capital construction fund, and if the Clark Community College and the Western Nevada Community College are established by the legislature, then the board of regents of the University of Nevada shall cause to be constructed with such moneys in the following order of priority the construction projects herein specified at costs not to exceed the amounts stated:

Priority and project	*Cost*
1. Instructional building, Clark Community College	$1,889,000
2. Instructional building, Western Nevada Community College	1,330,000
3. Instructional building, Elko Community College	719,000

If the legislature does not establish the Clark Community College or the Western Nevada Community College, the board of regents of the University of Nevada shall determine the priority of construction as provided in NRS 463.385.

Sec. 4. This act shall become effective upon passage and approval.

Mr. LONG. Mr. President, in States where a gambling activity is permitted to operate legally, the States have taxed it very heavily, or else the State has operated the activity itself, so that the lion's share of all revenue has been directed to the State treasury. There is much to be said for allowing Nevada a credit or some adjustment to protect the revenues of the State of Nevada, in view of the fact that in all of the States where parimutuel betting is permitted, the Federal Government does not tax it. Presumably this on the theory that the State is taxing this activity for all the traffic will bear.

It would be all right with me to accord the same consideration to the State of Nevada for purposes of this tax on coin-operated gaming machines.

There would still remain a 20 percent advantage to the Federal Government in this area, and that should be enough to assure that there would be Federal policing to help guarantee that any tax owed by anyone operating a gambling device would be collected and paid I would assume that the Federal and State Governments would work together to assure such payment.

Mr. CANNON. They do work together very closely.

Mr. COOPER. Mr. President, will the Senator from Nevada yield?

Mr. CANNON. I yield.

Mr. COOPER. Mr. President, I support this amendment. As a resident of a State which has parimutuel betting not taxed by the Federal Government, and Nevada being the only State I know of which does not enjoy the same exemption, I think it would be only fair to support the Senator's amendment.

Mr. CANNON. I thank the Senator for his support.

The PRESIDING OFFICER (Mr. Pell). The question is on agreeing to the amendment of the Senator from Nevada.

The amendment was agreed to.

Mr. BYRD of Virginia. Mr. President, as amended by the Senate, H.R. 10947 reduces annual revenues by $14 billion. I favor most of the proposals incorporated in H.R. 10947. However, Mr. President, I have not been able to convince myself that it is wise, logical, or sound to reduce revenues by that amount, at a time when the Federal funds deficit is running more than $30 billion. In fact, during the current fiscal year the Federal funds deficit will exceed $35 billion. Therefore, I shall vote against H.R. 10947.

Mr. President, I have prepared a table of Federal funds deficits for the years 1953 through 1972, inclusive. I ask unanimous consent that the table be printed in the Record.

There being no objection, the table was ordered to be printed in the Record, as follows:

DEFICITS IN FEDERAL FUNDS, 1953–72, INCLUSIVE

[In billions]

	Receipts	Outlays	Surplus (+) or deficit (−)
Year:			
1953	$64.7	$74.1	−$9.4
1954	64.4	67.5	−3.1
1955	60.2	64.4	−4.2
1956	67.9	66.2	+1.7
1957	70.6	69.0	+1.6
1958	68.6	71.4	−2.8
1959	67.9	80.3	−12.4
1960	77.8	76.5	+1.3
1961	77.7	81.5	−3.8
1962	81.4	87.8	−6.4
1963	83.6	90.1	−6.5
1964	87.2	95.8	−8.6
1965	90.9	94.8	−3.9
1966	101.4	106.5	−5.1
1967	111.8	126.8	−15.0
1968	114.7	143.1	−28.4
1969	143.3	148.8	−5.5
1970	143.2	156.3	−13.1
1971	133.6	163.8	−30.2
1972 [1]	143.0	178.0	−35.0
20-year total	1,853.9	2,042.7	188.8

[1] Estimated figures.

Source: Office of Management and Budget, except 1972 estimates.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. BENNETT. Mr. President, many of us have been trying to figure out just how much our action, both in the committee and here on the Senate floor, has cost the Federal Treasury. I have a statement prepared by the Treasury Department showing the losses over the next 10 years, from 1971 to 1980, represented by amendments passed on this floor.

This statement is not complete, because there have been additional losses created tonight which I have not been able to get into the statement. But up until Saturday, we had reduced the revenues by these amendments, over the next 10 years, by $54,877,000,000, of which $49,525,000,000 is for individual nonbusiness taxpayers, $1,002,000,000 for individual business taxpayers, and $4,350,000,000 for corporations.

The benefits to the individuals, including the individual business taxpayers, are thus 10 times as great as the benefits to corporations.

I ask unanimous consent that the table be printed in the Record.

There being no objection, the table was ordered to be printed in the Record, as follows:

EFFECT OF SENATE FLOOR AMENDMENTS TO H.R. 10947 AS REPORTED BY THE SENATE FINANCE COMMITTEE AS OF NOV. 20, 1971

[Millions of dollars]

	Calendar years—										
	1971	1972	1973	1974	1975	1976	1977	1978	1979	1980	Total
$800 exemption		−$1,833	−$1,921	−$2,009	−$2,097	−$2,185	−$2,273	−$2,361	−$2,449	−$2,537	−$19,665
Child care deduction		−205	−215	−225	−235	−245	−255	−265	−275	−285	−2,205
Farm equipment made retroactive to January 1971	−$75										−75
Unemployment compensation:											
Increased benefits		−470									−470
Increased taxes		+237	+248								+485
Excise tax on metropolitan buses		−4	−4	−4	−4	−4	−4	−4	−4	−4	−36
Baker excise tax amendment	Neg.	Neg.	Neg.	Neg.	Neg.	Neg.	Neg.	Neg.	Neg.	Neg.	Neg.
Industrial revenue bonds		−10	−25	−40	−60	−80	−105	−130	−160	−200	−810
Tax credit for higher education up to $325 per student		−2,200	−2,300	−2,400	−2,500	−2,600	−2,700	−2,800	−2,900	−3,000	−23,400
Minimum standard deduction—$1,300 for 1971	−1,040										−1,040
Investment credit (rural and city jobs)	−100	−750	−750	−700	−600	−530	−450	−430	−450	−480	−5,240
Tax credit for real estate tax of elderly		−225	−236	−247	−258	−269	−280	−291	−302	−313	−2,421
Total	−1,215	−5.460	−5,203	−5,625	−5,754	−5,913	−6,067	−6,281	−6,540	−6,819	−54.877

	Calendar years—										
	1971	1972	1973	1974	1975	1976	1977	1978	1979	1980	Total
Individual nonbusiness	−$1. 040	— 4, 937	−$4, 682	−$4, 897	−$5, 114	−$5, 331	−$5, 550	−$5, 769	−$5, 990	−$6, 215	−$49, 525
Individual business	−95	−91	−88	−140	−120	−106	−90	−86	−90	−96	−1, 002
Individual total	−1, 135	−5, 028	−4, 770	−5, 037	−5, 234	−5, 437	−5, 640	−5, 855	−6, 080	−6, 311	−50, 527
Corporation	−80	−432	−433	−588	−520	−476	−427	−426	−460	−508	−4, 350

Source: Office of the Secretary of the Treasury, Office of Tax Analysis.

Mr. BENNETT. After we add to it the results of today's further reductions, I shall try to bring it up to date.

Mr. President, I am sure nearly every Member of the Senate is struggling with himself tonight to decide how to vote on this bill, after the changes that have been made. As the ranking minority member of the committee that reported the bill, I face a particularly difficult situation. I voted against the Pastore amendments; I think they were a tragic mistake, and there is a chance tonight that they may lead to a veto. I also voted against a number of the economic amendments which have created this tremendous additional burden on the Treasury.

I think under the circumstances, as one who will represent the committee in the conference, I must vote for the bill, in order that I may approach the responsibilities of the conference with a completely clear conscience. Therefore, I make the simple announcement that though it is one of the hardest votes I have ever cast since I came to the Senate, I am going to vote for the bill on balance, and the thing that tips the balance is my responsibility in the conference.

Mr. BAKER. Mr. President, it had been my intention at this point, in cosponsorship with the senior Senator from New Hampshire (Mr. COTTON), to offer an amendment which would call for the Secretary of the Treasury to administer a pro rata remission of the increase in costs added by the Senate since the bill was reported by the Finance Committee. But, Mr. President, I shall not offer that amendment at this time, simply because, after having considered all the aspects and ramifications of the bill as it now stands thus amended, I find that I elect instead to vote against final passage.

Mr. President, others have pointed out the great increase in the cost of tax revenues that has been occasioned by the action of the Senate. When the House of Repesentatives passed the Revenue Act of 1971, they provided tax cuts totaling approximately $15.5 billion over a 3-year period, 1971 to 1973. In its consideration of the bill, the Committee on Finance of the Senate made a number of modifications in the House bill, but the total tax reductions for the 3-year period remained very close to the House bill, approximately $15.5 billion.

Mr. President, the Senate in its actions, so far as I can understand, has added something well over $12 billion to the total cost, not even taking fully into account a one-time cost or single year increase of the cost, but certainly bringing the total 3-year cost to a total revenue cost of something in excess of $27 billion.

I am sure that Senators are well aware that we do face a substantial deficit in the current fiscal year and that one is likely for the coming fiscal year. The President recommended to Congress a carefully thought-out plan to reduce taxes selectively to stimulate investment and provide more jobs. What we have done on the Senate floor has been to shift these priorities very markedly and to very substantially increase the total revenue loss.

The amendment Senator COTTON and I would have offered would go on the theory that there is some merit in accepting the new organization of priorities that has been worked out by the will of the Senate by floor amendments. Yet, there is still a continuing fiscal constraint upon this body to have some recognition of the fact that we cannot add to this bill ad infinitum. We cannot continue to double the tax revenue loss and expect to do so with impunity forever.

At some future time, on some future bill, it is going to be the responsibility of the Senate—it will have to be the responsibility of Congress—to face up not only to our impatience to be helpful to the taxpayers of this country and to the citizenry but also to do what we must do in the final analysis, and that is to keep this country on a sound and solvent basis.

I read in a national news magazine recently that in 1966, the total demands for credit on the private sector of the economy by the U.S. Treasury was something in the range of 12 percent of the total available private credit, but that in 1972 it is projected that our demands for the total available private credit of the United States will be well over 50 percent. I suspect that this will be one of the determinative factors in our future action as Members of Congress in the field of fiscal responsibility.

I repeat: The distinguished senior Senator from New Hampshire and I have elected, under these circumstances, not to offer this amendment, which would put the Senate to the test of whether or not we accept the priorities that we have established by floor amendment and yet remit the total cost of the lost tax revenues as a result therefrom to the original level recommended by the Senate Committee on Finance and approximately as reported and adopted by the House of Representatives. I shall not offer the amendment at this time, and I announce simply that I shall vote against final passage.

Mr. LONG. Mr. President, I send to the desk some technical and clarifying amendments.

The PRESIDING OFFICER. The amendments will be stated.

The assistant legislative clerk read as follows:

TECHNICAL AND CLERICAL AMENDMENTS

Page 3, in the item in the table of contents relating to section 602, strike out "periods" and insert "period".

Page 24, strike out lines 11, 12, and 13, and insert:

"(A) IN GENERAL.—The requirements of paragraphs (1) and (2) regarding cost of service and rate base adjustments shall not be applied to public utility property of the taxpayer to disallow the credit with respect to such property before the first final determination which is inconsistent with paragraph (1) or (2) (as the case may be) is put into effect with respect to public utility property (to which this subsection applies) of the taxpayer. Thereupon, paragraph (1) or (2) shall apply to disallow the credit with respect to public utility property (to which this subsection applies) placed in Page 24, line 15, strike out "a" and insert "that the". Page 38, line 21, strike out "(d)" and insert "(e)". Page 59, in table 3 (a), strike out "$75" the second time it appears in the right-hand column and insert "158". Page 64, line 1, strike out "(2), (3), and (4)" and insert "(3) and (4)".

Page 71, line 1, after "year" insert "(determined without regard to section 62 (10))".

Page 71, line 3, strike out "during any month" and insert "to any month".

Page 71, after the period in line 5 insert: "Paragraph (3) shall not apply to any taxable year during which a spouse is a qualifying individual described in subsection (b) (1)(C)."

Page 72, line 5, strike out "subsec-" and insert "sec-".

Page 72, in the matter following line 16, after "care" insert "services".

Page 86, line 1, strike out "(1)" and insert "(A)".

Page 86, line 3, strike out "(2)" and insert "(B)".

Page 96, after line 4, insert:

"(2) INITIAL PERIOD.—If the taxpayer makes an election under paragraph (1), the presumption provided by subsection (d) shall apply to each taxable year in the 5-taxable year (or 7-taxable year) period beginning with the taxable year in which the taxpayer first engages in the activity, if the gross income derived from the activity for 2 or more of the taxable years in such period exceeds the deductions attributable to the activity (determined without regard to whether or not the activity is engaged in for profit).

Page 96, line 5, strike out "(2)" and insert "(3)".

Page 101, beginning with line 22, strike out down through line 23 on page 104 and insert in lieu thereof the following:

"(1) IN GENERAL.—For purposes of this subtitle, the amount of gross income from depreciable or depletable property received by a nonresident alien individual or foreign corporation as—

"(A) a beneficiary of an estate or trust shall be deemed to be the portion of each item of estate or trust gross income from such property attributable to amounts paid, credited, or required to be distributed to him during the taxable year, or

"(B) a shareholder, or a holder of a beneficial interest, in a real estate investment trust described in section 856 shall be deemed to be the portion of each item of the trust's gross income from such property which is attributable to dividends (including amounts treated as paid in the taxable year by section 858) paid to him out of current earnings of the trust for the taxable year.

"(2) Deductions attributable to income from property.—If an estate, trust, or real estate investment trust described in section 856 has income from depreciable or depletable property and other income of a character described in section 871(a) or 881(a), the deductions attributable to gross income from the depreciable or depletable property in excess of such income shall not be considered to reduce the portion of such other income taken into account by the nonresident alien individual or foreign corporation for purposes of section 871(a), 881(a), 1441, and 1442.

"(3) Depreciable or depletable property defined.—For purposes of this subsection, the term 'depreciable or depletable property' means property subject to depreciation, depletion, or amortization, the income from which is (without regard to section 871(d) or 882(d)) not effectively connected with the conduct of a trade or business within the United States.

"(4) Information reports.—Any person required to deduct or withhold tax with respect to gross income described in paragraph (1) shall provide a written notice to the beneficiary, shareholder, or holder of beneficial interest with respect to whom such deduction or withholding is made, in such manner and containing such information as may be prescribed by the Secretary or his delegate."

(b) Withholding.—

(1) Section 1441(a) (relating to withholding on nonresident aliens) is amended by adding at the end thereof the following new sentence: "For special rules with respect to the amount of gross income received from estates, trusts, and real estate investment trusts, see section 875(b)."

(2) Section 1441(c) (relating to exceptions to withholding of tax on nonresident aliens) is amended—

(A) by inserting after "personal services" in paragraph (1) "and, except to the extent that the requirement of withholding is waived, under regulations prescribed by the Secretary or his delegate, upon a determination that the collection of the tax imposed by this subtitle will not be jeopardized by such waiver, income described in section 875 (b)(1)(B) with respect to which an election is in effect under section 871(d)", and

(B) by adding at the end thereof the following new paragraph:

"(9) Certain distributions.—In the case of an amount paid by an estate, trust, or real estate investment trust described in section 856, the amount deducted or withheld under section 1441(a) shall not exceed the amount payable computed without regard to this section."

(3) Section 1442(a) (relating to withholding on foreign corporations) is amended by inserting before the period at the end thereof "and the reference in section 1441(c)(1) to section 871(d) shall be treated as referring to section 882(d)".

(c) Conforming Amendments.—

(1) Section 652 (relating to inclusion of amounts in gross income of beneficiaries of a trust distributing current income only) is amended by adding at the end thereof the following new subsection:

"(d) Foreign Beneficiaries.—In the case of a nonresident alien individual or a foreign corporation receiving income from property subject to depreciation, depletion, or amortization as a beneficiary of a trust to which this subpart applies, the rules of this section shall apply as provided by section 875(b)."

(2) Section 662 (relating to inclusion of amounts in gross income of beneficiaries of estates and trusts accumulating income or distributing corpus) is amended by adding at the end thereof the following new subsection:

"(d) Foreign Beneficiaries.—In the case of a nonresident alien individual or a foreign corporation receiving income from property subject to depreciation, depletion, or amortization as a beneficiary of an estate or trust to which this subpart applies, the rules of this section shall apply as provided by section 875(b)."

Page 118, line 12, after "may be" insert a comma.

Page 122, line 9, after "striking" insert "out".

Page 174, strike out lines 18 through 24 and insert:

(c) Limitation of Application of Subpart G.—Section 971(a) (relating to definition of export trade corporation) is amended by adding at the end thereof the following new paragraph:

"(3) Limitation.—In the case of a taxable year beginning after October 31, 1971, the term 'export trade corporation' does not include any controlled foreign corporation which was not an export trade corporation for a taxable year beginning on or before such date."

Page 177, line 2, strike out "Numbered".

Page 179, line 22, strike out "Numbered".

Page 180, line 15, after "and" insert a comma.

Page 181, lines 21 and 22, strike out "articles, or terminate such surcharge with respect to any article or group of".

Page 182, line 2, after "terminate" insert "or modify".

Page 190, line 20, strike out "a" before "fiduciary".

Page 192, line 8, strike out "chaper" and insert "chapter".

Page 193, line 2, strike out "corporated" and insert "corporate".

Page 193, between lines 12 and 13, insert the following:

(d) Statutes of Limitations and Interest Relating to Work Incentive Credit Carrybacks.—

(1) Assessment and collection.—Section 6501 (relating to limitation on assessment and collection) is amended by adding at the end thereof the following new subsection:

"(o) Work Incentive Program Credit Carrybacks.—In the case of a deficiency attributable to the application to the taxpayer of a work incentive program credit carryback (including deficiencies which may be assessed pursuant to the provisions of section 6213 (b) (2)), such deficiency may be assessed at any time before the expiration of the period within which a deficiency for the taxable year of the unused work incentive program credit which results in such carryback may be assessed, or, with respect to any portion of a work incentive program credit carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, at any time before the expiration of the period within which a deficiency for such subsequent taxable year may be assessed."

(2) Credit or refund.—Section 6511 (d) (relating to limitations on credit or refund) is amended by adding at the end thereof the following new paragraph:

"(7) Special period of limitation with respect to work incentive program credit carrybacks.—

"(A) Period of Limitation.—If the claim for credit or refund relates to an overpayment attributable to a work incentive program credit carryback, in lieu of the 3-year period of limitation prescribed in subsection (a), the period shall be that period which ends with the expiration of the 15th day of the 40th month (or 39th month, in the case of a corporation) following the end of the taxable year of the unused work incentive program credit which results in such carryback (or, with respect to any portion of a work incentive program credit carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, the period shall be that period which ends with the expiration of the 15th day of the 40th month, or 39th month, in the case of a corporation, following the year of such taxable year) or the period prescribed in subsection (c) in respect of such taxable year, whichever expires later. In the case of such a claim, the amount of the credit or refund may exceed the portion of the tax paid within the period provided in subsection (b) (2) or (c), whichever is applicable, to the extent of the amount of the overpayment attributable to such carryback.

"(B) Applicable Rules.—If the allowance of a credit or refund of an overpayment of tax attributable to a work incentive program credit carryback is otherwise prevented by the operation of any law or rule of law other than section 712, relating to compromises, such credit or refund may be allowed or made, if claim therefor is filed within the period provided in subparagraph (A) of this paragraph. In the case of any such claim for credit or refund, the determination by any court, including the Tax Court, in any proceeding in which the decision of the court has become final, shall not be conclusive with respect to the work incentive program credit, and the effect of such credit, to the extent that such credit is affected by a carryback which was not in issue in such proceeding."

(3) Interest on underpayments.—Section 6601 (e) (relating to income tax reduced by carryback or adjustment for certain unused deductions) is amended by adding at the end thereof the following new paragraph:

"(4) Work incentive program credit carryback.—If the credit allowed by section 40 for any taxable year is increased by reason of a work incentive program credit carryback, such increase shall not affect the computation of interest under this section for the period ending with the last day of the taxable year in which the work incentive program credit carryback arises, or, with respect to any portion of a work incentive program carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, such increase shall not affect the computation of interest under this section for the period ending with the last day of such subsequent taxable year."

(4) Interest on overpayments.—Section 6611 (f) (relating to refund of income tax caused by carryback or adjustment for certain unused deductions) is amended by adding at the end thereof the following new paragraph:

"(4) Work incentive program credit carryback.—For purposes of subsection (a), if any overpayment of tax imposed by subtitle A results from a work incentive program credit carryback, such overpayment shall be deemed not to have been made prior to the close of the taxable year in which such work incentive program credit carryback arises, or, with respect to any portion of a work incentive program credit carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, such overpayment shall be deemed to have been made prior to the close of such subsequent taxable year."

(e) Tentative Carryback Adjustments.—

(1) Application for adjustment.—Section 6411 (relating to quick refunds in respect of tentative carryback adjustments) is amended—

(A) by striking out "or unused investment credit" each place it appears in such section and inserting in lieu thereof "unused investment credit, or unused work incentive program credit",

(B) by inserting after "section 46(b)," in the first sentence of subsection (a) "by a work incentive program carryback provided in section 50A(b),", and

(C) by inserting after "investment credit carryback" in the second sentence of subsection (a) "or a work incentive program carryback".

(2) TENTATIVE CARRYBACK ADJUSTMENT ASSESSMENT PERIOD.—Section 6501(m) (relating to tentative carryback adjustment period) is amended—

(A) by striking out "or an investment credit carryback" and inserting in lieu thereof "an investment credit carryback, or a work incentive program carryback", and

(B) by striking out "(h) or (j)" each place it appears and inserting in lieu thereof "(h), (j), or (o)".

Page 193, line 13, strike out "(d)" and insert "(f)".

Mr. LONG. These are all technical amendments to perfect the language in the bill. They do not affect the substance at all.

The PRESIDING OFFICER. The question is on agreeing to the amendments.

Without objection, the agreements were agreed to en bloc.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments as amended and third reading of the bill.

The amendments as amended were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. TOWER. Mr. President, I shall vote against this bill. The President sent to us a simple, forthright, rational, and reasonable proposal. We have treated it on this floor as a Christmas tree and have hung all manner of ornamentation on it that I think are singularly unbecoming the Christmas season. I think that if we could have passed it with reasonably clean form, it would have made a great contribution to the President's efforts to curb inflation and at once stimulate the economy.

In its present form, the bill results in the formulation of fiscal and monetary policy that cannot help but drive the inflationary factor ever upward and might conceivably result in the Price Commission and the Pay Board having to prescribe even more narrow proscriptions on business and labor in this country, spread out over a longer period of time, when what we really want to do and what we seek to do is to decontrol the economy at the earliest possible moment.

Therefore, I think it is incumbent upon us to oppose the final passage of this bill, which has so many things in it that have been hastily considered, in an emotionally charged atmosphere, that hardly give credibility to the reputation that the United States Senate has of being the world's greatest deliberative body. It is my belief that the bill should be defeated.

Mr. HUMPHREY. Mr. President, first of all, I want to take a moment to commend the distinguished chairman of the Committee on Finance, the Senator from Louisiana, for truly brilliant work in managing this bill. I do this as one Senator who looks upon the Senator from Louisiana as a highly skilled, extremely knowledgeable, and able U.S. Senator, who has taken on tremendous responsibility, and he has done it with great skill, with great honor to himself, to the committee he represents, and to the Senate of the United States.

Second, I want to commend the distinguished minority member of the committee, the Senator from Utah (Mr. BENNETT), for his fairness, his tolerance, and his helpfulness in this bill, knowing full well that he has in many instances been on the opposite side of issues from the Senator from Minnesota. But I recognize the dedication and the sincerity and the commitment of the Senator from Utah, and I compliment him and thank him on behalf of the Senate and myself in particular.

Also I wish to say a word of commendation to the very able senior Senator from Rhode Island (Mr. PASTORE). I believe that this Nation will be in his debt for years to come for the masterly manner in which he managed and sponsored what is known as the Pastore titles IX and X of this bill. Title IX relates to tax incentives, contributions to candidates for public office, and title X of the bill relates to financing of the presidential election campaigns.

Mr. TALMADGE. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. TALMADGE. Mr. President, I desire to associate myself with the remarks of the able Senator concerning our distinguished chairman, the distinguished ranking minority member of the committee, and the distinguished senior Senator from Rhode Island for the brilliant and dedicated service they have performed here.

I feel that I would be remiss in my duties if I did not also pay tribute to the distinguished and outstanding staff of the Joint Committee on Internal Revenue and the Senate Finance Committee. I refer specifically to Dr. Laurence Woodworth, Chief of Staff of the Joint Committee on Internal Revenue and to Tom Vail, chief counsel of the Finance Committee, and the other associates there. I thank the Senator for yielding, but I did not want this time to pass without paying tribute to the staff, and to the distinguished chairman and the ranking minority leader.

Mr. HUMPHREY. Mr. President, I thank the Senator from Georgia. We are indebted to the majority leader, the majority whip, the minority leader and the minority whip. This has been a long period in the legislative process. Many times we have had difficult situations but at all times we found the leadership either holding us firmly to the task from moment to ment, or with a note of levity, good humor, and good nature relieved the tension and permitted us to proceed with our work.

Now I have one or two observations to make and I shall be as brief as possible.

The Senator from Utah (Mr. BENNETT) indicated that there will be a loss of revenue over the next 10 years of $54 billion, as he sees it today in the bill. I am sure all of us recognize that out of the conference committee there will be adjustments. Each of us will want our respective amendments to be protected, of course, and we will each do our best to obtain that result; but I am confident that there will be adjustments and I do hope that we will be able to accept them in the spirit of getting something done in this body.

There are features in this legislation that I do not like and of course that many others do not like, but that is the legislative process.

I am of the opinion that this particular measure can be of help to the economy. A $54 billion legislative loss will be the extreme and obviously it will be cut back, which should be measured against, let me say respectfully, what can happen to stimulate the economy, to cut back on the tragic loss in unemployment, on the tragic loss in welfare payments and of unemployment compensation, and the tragic loss of hope which has gripped so many people these recent years.

I am pleased to note that the economy can and does grow at a rate between 5 and 6 percent per year. It should grow eventually. If it does, we will be adding to our gross national product some $50 to $60 billion each year. That produces more revenue, even at the lower revenue rate, so that the aggregate amount will be larger.

There are measures of equity and justice that the Senate put into this particular revenue act. I am confident that the ratio of individual tax relief compared to individual business and corporate tax relief is sensible. It may be adjusted somewhat downward, but one thing the economy needs is a stimulation of purchasing power at the base of the economy among the many peoples in the land.

If the economic philosophy works which has been advanced by the administration as well as by economists of previous administrations, we can look to an upturn in the economy. If that upturn takes place, we will not regret the action we have taken here, even though some of it may be displeasing to individuals.

I noticed that the Senator from Utah said there in this bill as now passed by the Senate, there is $49 billion over the next 10 years of tax relief with approximately $6 billion for individual business and corporations. That is a ratio of about 8 to 1. That may be excessive to some, but one that is reasonably fair. If that ratio can be preserved, I am convinced that we will have an upturn in the economy. Those who have been our critics tonight for having voted this bill may very well, a year from now, say, "Well, you know, things worked out pretty well, did they not?" Of course some Democrats think it works out too well. But it is more important to get the economy moving than to win elections. I think it is more important that the people be employed and that this country get its economy moving than it is for some of us having to find out that way, complaining about the administration.

I am going to vote for this bill and do it happily because I think it makes a good deal more sense than it makes nonsense. There may be some nonsense in the bill, but none of us will admit that it was in our amendment. If there was some, may I suggest that the conference committee, with due deliberation, can be trusted to put a reasonable limit to it.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. MANSFIELD. Mr. President, many of us are tired. It has been a long day. I would certainly appreciate it if the Senate would allow us to get to a vote as expeditiously as possible.

Mr. CURTIS. Mr. President, I wanted very much to support the President's tax proposal. I believe that the investment credit, if lifted, will do much to provide jobs in this country. The same is true of the repeal of the tax on new automobiles and light trucks. I need not remind anyone how the economy is tied to our whole motor vehicle industry. As the bill was reported from the Finance Committee, there was substantial relief for individuals not only an increase in the personal exemption but in such items as the minimum standard deduction.

I believe it is just as important to exercise restraint in reducing taxes as it is to exercise restraint in making appropriations.

Some day our children will come to us and ask, "Does Uncle Sam ever pay his bonds or when they come due, does he just renew them and extend them?"

What will be our answer some day to foreign nations who will ask us more vigorously than they have been recently, "Does the United States ever pay its bonds out of surplus financing?"

Mr. President, I believe that the reasonable amount of tax relief granted by the Finance Committee perhaps will not result, not over a great period but over a short period, in very much revenue, because they are aimed at putting people to work.

Whatever benefit accrues in lessening our relief rolls, there will be a great deal of added income from payroll taxes and income taxes paid. The soundest tax program is one that makes the economy grow. However, due to the lack of restraint on this floor, and due to the total disregard for the weeks and weeks the Finance Committee worked on the bill and the desire to add on here every amendment, some of them costing enough—maybe the cost is not so much—but absolutely against sound public policy.

Mr. President, I hope that when the bill comes back from conference it will be in a shape that can be advanced to the President to merit his signature. There is not such a bill before us tonight, and I shall vote against it.

Mr. HANSEN. Mr. President, the distinguished ranking member of the Finance Committee has already called attention to the fact that the bill, since it has been subjected to full Senate action, will create an additional drain on the Treasury of nearly $55 billion in the next 10 years. When the President has called upon the people to tighten their belts and to forego wage and price increases, it seems singularly inappropriate for the Senate to display such callous disregard for the sacrifices being made by so many.

Further, it will be noted by historians, in my opinion, that a major departure in political ethics was called for by the Pastore amendment in proposing to use tax dollars for political campaigning purposes. When the bill came before the Finance Committee from the House, it was clear cut. It recognized that we needed to stimulate the economy so as to assure additional jobs for all Americans because our unemployment rate was high.

I think it is unfortunate that we have loaded the bill down with all the things that have happened and been imposed on it since it has been in the Senate, so that there is serious reason to question whether it can survive all of the additional steps that will be required before it shall become law.

I regret very much that I shall be forced to vote "nay."

Mr. ROTH. Mr. President, I regret that I find it necessary to vote against the pending bill.

I say I "regret" that I must oppose the bill because I believe its basic purposes are essential to the economic welfare of this Nation. In my estimation the problem of the highest domestic priority facing us today is that of the economy—how to halt the continuing rise in the cost of living, how to provide more jobs for more Americans, and how to enable our industries to compete more effectively in the world's marketplaces.

Those were the underlying purposes of the bill as it was approved by the House of Representatives and reported to the Senate by the Senate Finance Committee. If the bill we are about to vote on resembled the Finance Committee bill more closely, I would support it.

In the past 2 weeks, however, the Senate has added amendment after amendment to this bill, increasing by nearly $13 billion the revenue losses to the Government through fiscal year 1974. I feel very strongly that the net effect of what the Senate has done will be to set into motion inflationary pressures that will be nearly impossible to control. And this has been done on a bill one of whose basic purpose was to bring inflation under control.

The task before us is the delicate one of trying to stimulate private spending without rekindling the fires of inflation. To do this, we need to tap the great reserves of consumer savings and credit which exist today, and we must permit and encourage the modernization of our Nation's industrial plant to create jobs and to make American goods more competitive in world markets.

One essential ingredient in this delicate mixture is confidence—confidence on the part of the average American that inflation is not a national way of life; that his Government will act prudently in handling its own finances and not simply add to the inflationary pressures it is trying to control.

But what have we done? We have taken a bill that would cut taxes by some $17 billion over the next 3 years and added another $12.7 billion to that revenue loss. And this comes on top of an estimated Federal deficit of about $34 billion this fiscal year—the highest since World War II. The result of these actions—however meritorious individual amendments may be—can only be to stimulate the inflationary spiral and cause a further weakening of confidence on the part of American taxpayers in their Government's will to take the painful necessary steps to straighten out the economy. I might add that many of these amendments, such as tax relief for parents with children in college and single persons, I strongly favor in concept and will work for their adoption in the future.

Mr. President, I had hoped the Senate would support a spending ceiling as a positive indication that we were willing to hold our deficits to some manageable proportion. But we did not do that. Instead we succumbed to the temptation to tax even less and spend even more.

I greatly fear that this bill, if it is approved in its present bloated form, will, despite short term advantages, result in uncontrollable inflationary pressures on our economy.

Mr. President, it is for these reasons that I must vote against the bill.

Mr. ERVIN. Mr. President, deficit spending over a period of 40 years has brought our country to the brink of economic chaos, and given us a national debt which exceeds the combined national debts of all other nations on earth by $109 billion. While H.R. 10947 has many desirable provisions, the tragic truth is that it reduces taxes by $13 billion at a time when the Federal Government is indulging in another orgy of deficit spending. When the $13 billion reduction of taxes to be authorized by this bill is added to other deficit spending planned by the administration, the Federal Government will incur a total deficit in its operating funds for the fiscal year ending June 30, 1972, amounting to $40 billion or more.

I consider actions which produce this result financial irresponsibility. For this reason and the reasons stated by me in detail in a statement made by me this day entitled "Poetic Sense and Political Nonsense," I shall vote against H.R. 10947 on final passage.

Mr. PELL. Mr. President, since last Thursday morning we in the Senate have witnessed as brilliant and skillful a job of floor managership as it has been my good fortunate to witness in our body.

I congratulate my senior colleague from Rhode Island on the excellent way he has guided his amendment toward passage.

In 3 days my colleague has spent 30 hours at the helm. Those very long and tedious hours were characterized by powerful oratory, sparkling humor, and brilliant wit.

Many times during these past 3 days debate in this body has turned toward acrimony. Despite these contentious moods in the Senate, Senator PASTORE has persevered with the patience, the grace, and the courtesy which he has often used so effectively during his long and distinguished career in public office. I, for one, rise to offer him my very real congratulations on his superb handling of the Pastore amendment.

Mr. GRIFFIN. Mr. President, I am

about to cast my vote for final passage, but not because I believe the Senate's product is a good one. By my vote I merely indicate that I believe the Senate bill should be sent to conference with the hope that a Senate-House conference committee will trim and adjust it so that it may be worthy of the President's signature.

However, if the conference committee fails to drastically revise the legislation, and if the President therefore is forced to veto it, I wish to indicate now that I shall be inclined to support the President in any effort to override such a veto.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SCOTT (when his name was called). On this vote I have a pair with the Senator from Mississippi (Mr. Eastland). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withhold my vote.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Mississippi (Mr. Eastland), and the Senator from Maine (Mr. Muskie) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. Mundt) is absent because of illness.

The Senator from Arizona (Mr. Goldwater) is necessarily absent, and, if present and voting would vote "nay."

The result was announced—yeas 64, nays 30, as follows:

[No. 389 Leg.]

YEAS—64

Aiken
Allen
Anderson
Bennett
Bentsen
Bible
Boggs
Burdick
Byrd, W. Va.
Cannon
Case
Chiles
Church
Cooper
Cranston
Eagleton
Ellender
Fong
Fulbright
Gambrell
Gravel
Griffin
Harris
Hart
Hartke
Hollings
Hughes
Humphrey
Inouye
Jackson
Javits
Jordan, N.C.
Kennedy
Long
Magnuson
Mansfield
Mathias
McClellan
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Moss
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Smith
Sparkman
Spong
Stafford
Stevens
Stevenson
Symington
Talmadge
Tunney
Williams
Young

NAYS—30

Allott
Baker
Beall
Bellmon
Brock
Brooke
Buckley
Byrd, Va.
Cook
Cotton
Curtis
Dole
Dominick
Ervin
Fannin
Gurney
Hansen
Hatfield
Hruska
Jordan, Idaho
Miller
Nelson
Packwood
Roth
Saxbe
Stennis
Taft
Thurmond
Tower
Weicker

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mr. Scott, against.

NOT VOTING—5

Bayh
Eastland
Goldwater
Mundt
Muskie

So the bill (H.R. 10947) was passed.

Mr. LONG. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MANSFIELD. I move to lay that motion on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, I move that the Senate insist on its amendments to the bill (H.R. 10947) and request a conference with the House thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. Long, Mr. Anderson, Mr. Talmadge, Mr. Bennett, and Mr. Curtis, conferees on the part of the Senate.

Mr. LONG. Mr. President, I ask unanimous consent that the bill (H.R. 10947) be printed with the amendments of the Senate; and that in the engrossment of the amendments of the Senate to the bill the Secretary of the Senate be authorized to make all appropriate technical, clerical, and conforming changes and corrections, including corrections in section, subsection, and so forth, designations, and cross-references thereto, and that the amendments to the table of contents of the bill be treated as one amendment striking out the table of contents and inserting a new table of contents.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO SENATORS LONG, PASTORE, TALMADGE, AND BENNETT ON TAX BILL PASSAGE

Mr. MANSFIELD. Mr. President, for the past week and a half, the Senate has been debating and discussing one of the most far-reaching matters to come before this body in some time. I refer, of course, to the President's recommendations designed to restore this Nation's economy.

Leading the discussion has been the able and distinguished Senator from Louisiana, the chairman of the Senate Committee on Finance. Once again, Senator Long demonstrated to the Senate and to the Nation as a whole his outstanding expertise and his immense understanding, not only of the tax system, but of how that system affects the economy and, in turn, the entire well-being of the country.

Senator Long has again earned the Senate's deepest respect.

Joining him was the distinguished senior Senator from Utah (Mr. Bennett), the ranking minority member of the committee. As always, Senator Bennett cooperated and contributed in such a fashion as to assure the full and fair consideration of every feature contained in this complex and highly technical measure.

I wish at this time to pay a special tribute as well to the distinguished senior Senator from Rhode Island (Mr. Pastore). For days he labored tirelessly on this floor in behalf of what I consider to be one of the most significant issues the Senate has ever faced. It is the issue of public participation to the financing of elections. It is an issue that in my judgment will benefit eventually all Americans and all institutions of this Government. It is the first step down a path that will assure that this democracy is preserved for the benefit of the public and not just a few who happen to enjoy substantial wealth.

The Pastore amendment, in my judgment, will remain as a monument to the man whose name it bears. John Pastore has made his mark with this amendment. Had he achieved nothing else in his long and illustrious career, this outstanding success would be sufficient to imprint his name in the history books from this time forward. It is only unfortunate, I must add, that the issue arose in such partisan fashion; unfortunate, but perhaps unavoidable.

There is yet another Senator in this Chamber who deserves our highest commendation for his contribution. It is the distinguished senior Senator from Georgia (Mr. Talmadge). To this discussion, Senator Talmadge added his outstanding understanding of the tax system and his superb legislative skill as well. Without his support and assistance, the Senate's wide acceptance of this proposal would not have been so assured.

With regard to his assistance in connection with the election financing amendment, Senator Talmadge is to be particularly thanked. His encouragement, and his great skill were indispensable.

The other Senators who joined in this discussion with their views and with their amendments are similarly to be thanked. There are too many to mention, but I do want them to know that their efforts were greatly appreciated and most welcome.

Finally, Mr. President, to the Senate as a whole, the leadership is deeply grateful for the cooperation of all Members. It assured the final disposition of this, the President's tax package expeditiously and with full consideration for the views of every Member.

PERSONAL STATEMENT BY SENATOR BAYH

Mr. BAYH subsequently said: Mr. President, yesterday I was present in the Senate Chamber throughout the long day. I voted on 14 straight votes. I was in my office waiting for the 5-minute buzzer to go off, which usually gives me ample time to get over here, but for some unexplainable reason, the buzzer did not go off. I walked through the door of this Chamber just as the clerks were closing the buzzer on the voting machine so that it was not possible for me to record my vote.

If I had been here, I certainly would have voted in favor of the bill, after all the dispute we had going on and the assiduous efforts of the distinguished Senator from Louisiana (Mr. Long) on behalf of the bill.

I hope that steps will be taken to see that the buzzers can be relied upon to work.

Mr. SCOTT. If the Senator will yield, I heard about that yesterday, the buzzers not going off. One of them got loose.

Mr. BYRD of West Virginia. Mr. President, I merely want to verify what the distinguished Senator from Indiana just said. I was here when he came in a minute after the vote had been announced. I checked in my own office and found that the bells had not been heard there.

This happens occasionally. The warning bells cannot be heard. I share the hope of the distinguished Senator from Indiana that the bell system will be improved to the extent that Senators will not be misled by the failure of the bells to ring, because that means Senators will miss a vote when the bells do not ring in their offices.

Mr. PASTORE. Mr. President, why would it not be a good idea when the bells are tested at 9 o'clock in the morning, instead of ringing just one bell, to test them all? Then Senators would know whether the bells would work for that day.

Mr. BAYH. Mr. President, most of us who have stayed here as many hours as we did yesterday and last night want to be recorded. I hope that whatever steps are necessary to correct this situation will be taken so that none of us get in this situation again.

ROUTINE MORNING BUSINESS

The routine morning business transacted today is printed at this point in the Record by unanimous consent.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

Stockpile Report

A letter from the Director, Office of Emergency Preparedness, Executive Office of the President, transmitting, pursuant to law, a report on the strategic and critical materials stockpiling program, for the 6-month period ended June 30, 1971 (with an accompanying report); to the Committee on Armed Services.

Proposed Donation of Certain Surplus Property

A letter from the Chief of Legislative Affairs, Department of the Navy, reporting, pursuant to law, on the proposed donation by the Navy of certain surplus property to the Pacific Southwest Railway Museum Association, Inc., San Diego, Calif.; to the Committee on Armed Services.

Report on Purchases and Contracts Made by the Coast Guard

A letter from the Assistant Secretary for Administration, Office of the Secretary of Transportation, transmitting, pursuant to law, a report on purchases and contracts made by the Coast Guard, during the period April 16 through October 31, 1971 (with an accompanying report); to the Committee on Commerce.

Report of Comptroller General

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Progress and Problems of Urban And Transportation Planning", Department of Housing and Urban Development, Department of Transportation, dated November 19, 1971 (with an accompanying report); to the Committee on Government Operations.

Proposed Legislation Relating to Transcripts in the U.S. District Courts

A letter from the Director, Administrative Office of the U.S. Courts, Washington, D.C., transmitting a draft of proposed legislation to provide for the appointment of transcribers of official court reporters' transcripts in the U.S. district courts, and for other purposes (with an accompanying paper); to the Committee on the Judiciary.

Report of Gallaudet College

A letter from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report of Gallaudet College, concerning the establishment and operation of the Model Secondary School for the Deaf, for the year ended June 30, 1971 (with an accompanying report); to the Committee on Labor and Public Welfare.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the PRESIDENT pro tempore:

A resolution adopted by the City Council of Englewood, N.J., relating to the removal of all American troops from southeast Asia; to the Committee on Foreign Relations.

The petition of the Association for Grand Jury Action, Inc., Rochester, N.Y., relating to impeachment and disqualification to hold any other office under the United States; ordered to lie on the table.

REPORTS OF COMMITTEES

The following report of a committee was submitted:

By Mr. EASTLAND, from the Committee on the Judiciary, with an amendment:

S. 888. A bill for the relief of David J. Crumb (Rept. No. 92–508).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports were submitted:

Executive E, 92d Congress, first session, Tax Convention with Japan; and Executive O, 91st Congress, second session, Protocol to the 1967 Double Taxation Convention with France, without reservation (Executive Rept. No. 92–12).

Mr. MAGNUSON. Mr. President, as in executive session, from the Committee on Commerce, I report favorably sundry nominations in the U.S. Coast Guard which have previously appeared in the Congressional Record and, to save the expense of printing them on the Executive Calendar, I ask unanimous consent that they may lie on the Secretary's desk for the information of Senators.

The PRESIDING OFFICER (Mr. Montoya). Without objection, it is so ordered.

The nominations, ordered to lie on the desk, are as follows:

Richard E. Sardeson, and sundry other officers, for promotion in the Coast Guard; and

David L. Nelson, Reserve officer, to be a permanent commissioned officer of the Coast Guard.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. BOGGS (for himself and Mr. Roth):

S. 2892. A bill to amend the Outer Continental Shelf Lands Act, as amended, to require a study of the environmental impact of mineral exploration in the Atlantic Ocean. Referred to the Committee on Commerce.

By Mr. MAGNUSON (by request):

S. 2893. A bill to authorize an additional Assistant Secretary of Commerce. Referred to the Committee on Commerce.

By Mr. BAYH (for himself, Mr. Brooke, Mr. Hart, Mr. Hatfield, Mr. McGovern, Mr. Pastore, Mr. Williams, Mr. Ribicoff, Mr. Kennedy, and Mr. Harris):

S. 2894. A bill to provide financial assistance for State and local small, community-based correctional facilities; for the creation of innovative programs of vocational training, job placement, and on-the-job counseling; to develop specialized curriculums; the training of educational personnel and the funding of research and demonstration projects; to provide financial assistance to encourage the States to adopt special probation services; to establish a Federal Corrections Institute; and for other purposes. Referred to the Committee on the Judiciary.

By Mr. TALMADGE:

S. 2895. A bill to enable producers of commercial eggs to consistently provide an adequate but not excessive supply of eggs to meet the needs of consumers for eggs and to stabilize, maintain, and develop orderly marketing conditions for eggs at prices reasonable to the consumers and producers. Referred to the Committee on Agriculture and Forestry.

By Mr. McGEE:

S. 2896. A bill to amend chapter 83 of title 5, United States Code, relating to adopted child. Referred to the Committee on Post Office and Civil Service.

By Mr. McGOVERN (for himself, Mr. Moss, Mr. Gravel, Mr. Hughes, Mr. Nelson, Mr. Bayh, Mr. Kennedy, and Mr. Harris):

S. 2897. A bill to provide housing for persons in rural areas of the United States on an emergency basis. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. HARTKE:

S. 2898. A bill to amend the Education of the Handicapped Act to provide tutorial and related instructional services for homebound children through the employment of college students, particularly veterans and other students who themselves are handicapped. Referred to the Committee on Labor and Public Welfare.

By Mr. EAGLETON (for himself, Mr. Inouye, Mr. Hollings, Mr. Stevenson, Mr. Hughes, Mr. Williams, Mr. Boggs, Mr. Tunney, and Mr. Mathias):

S. 2899. A bill to authorize grants and loan guarantees for construction or modernization of hospitals and other medical facilities in the District of Columbia. Referred to the Committee on the District of Columbia.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BOGGS (for himself and Mr. Roth):

S. 2892. A bill to amend the Outer Continental Shelf Lands Act, as amended, to require a study of the environmental impact of mineral exploration in the Atlantic Ocean. Referred to the Committee on Commerce.

Mr. BOGGS. Mr. President, I am introducing today on behalf of myself and my distinguished colleague from Delaware (Mr. Roth) a bill to require a full and complete evaluation of the environmental impact of any oil exploration in the Atlantic Ocean.

The Continental Shelf off the Atlantic coast of our Nation holds a reserve of petroleum and other minerals that may have great potential for this Nation and mankind.

But this Nation is also aware of the damage to our environment that can result during oil exploration and production. We believe our Nation must thoroughly evaluate the environmental impact that would occur from mineral exploitation on the Continental Shelf before any leases for such exploitation are issued.

Fortunately, we have a period during which this study can be made without any disruption. Interior Secretary Morton has no plans at present for the sale of oil and gas leases on the Continental Shelf. And the Secretary has wisely initiated a study of possible mineral development.

This bill is designed to take advantage of this waiting period, and to bolster the Secretary's study by requiring it in the statute. We must obtain the best base of information possible before any such leases are issued.

This legislation adds a new section to the Outer Continental Shelf Lands Act. That new section directs the Secretary of Interior, in conjunction with the Administrators of the Environmental Protection Agency and the National Oceanic and Atmospheric Administration, to undertake a study on the adverse environmental impact of mineral exploitation on the Continental Shelf.

The Secretary would evaluate the impact of mineral exploitation on sealife and the ecology of the ocean. In addition, the study would evaluate the impact of this exploitation on the shorelines of the Nation, including recreational beaches. As part of the study, the Secretary shall also consider whether to ban all mineral development in the sea, if it occurs within 100 miles of the coast.

The area to be covered would extend from the Canadian border to the Georgia-Florida border and eastward from the coast of the United States to the edge of the Continental Shelf.

The bill requires that the findings of this study be reported to Congress within 2 years of the bill's date of enactment.

Subsection (b) of the new section prohibits the issuance of any mineral leases on any of these submerged lands for a period of at least 1 year following the submission of the study report to Congress. Such a 1-year interim period should provide sufficient time for the public to debate fully the findings by the Secretary. It will give the Nation time to restrict mineral exploitation permanently in certain areas, if that is necessary.

The residents of the State of Delaware are justly concerned over the future of our coastal area. I am certain that many people in our Nation share that concern. Delaware, I am proud to say, has assumed a leadership role by the creation and passage of a tough and effective coastal zone management program to protect and preserve the State's coastal environment. This effort, together with our coastal environment, could be lost forever by hasty or improper development of the mineral resources of the seabed beyond the jurisdiction of Delaware.

The concern of Delawareans is great. The concern is such that the Delaware Legislature recently adopted a resolution that urges the Members of the Delaware congressional delegation to press for national legislation "to prevent the leasing of offshore drilling sites and all offshore drilling within 100 miles of the coastline."

To comply with this resolution and our own concern over this problem, Senator ROTH and I are introducing this bill.

Mr. President, I ask unanimous consent that the text of the resolution adopted by the Delaware Legislature as well as the text of our bill be printed at this point in the CONGRESSIONAL RECORD.

There being no objection, the resolution and bill were ordered to be printed in the RECORD, as follows:

HOUSE RESOLUTION NO. 67

Memorializing Senators Boggs and Roth and Representative du Pont to initiate Federal legislation which will provide a moratorium on off-shore drilling along the Atlantic seacoast withine one hundred miles of the State of Delaware, the State of New Jersey, and the State of Maryland

Whereas, when off-shore oil drilling was permitted off the Santa Barbara region of California and off the Gulf Coast, the result has been an ecological nightmare in each instance; and

Whereas, the state of our technology is not, at this time, sufficient to provide the minimum safeguards needed to protect the environment; and

Whereas, the inevitable leakage from any drilling off the shores of Delaware will render our wetlands ecologically useless, ruin our beaches as recreational areas, and cause financial hardship to large numbers of Delaware citizens. Now therefore:

Be it resolved by the House of Representatives of the 126th General Assembly, that Senator J. Caleb Boggs, Senator William V. Roth, Jr. and Representative Pierre S. du Pont are hereby respectfully urged and requested to initiate and publicly support legislation to prevent the leasing of off-shore drilling sites and all off-shore drillings within one hundred miles of the coastlines of the states of Delaware, New Jersey and Maryland until such time as our technology has advanced to the point where there are sufficient safeguards against leakage and other accidents which may harm our shorelines.

Be it further resolved that a copy of this Resolution be mailed to the Honorable J. Caleb Boggs, the Honorable William V. Roth, Jr. and the Honorable Pierre S. du Pont, IV; also copies to the Governor of the State of Maryland, the Governor of the State of New Jersey, and the Secretary of Delaware's Department of Natural Resources and Environmental Control.

S. 2892

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Outer Continental Shelf Lands Act (67 Stat. 462), is amended by the addition of a new section, as follows:

"SEC. 16(a) The Secretary, in conjunction with the Administrator of the Environmental Protection Agency and the Administrator of the National Oceanic and Atmospheric Administration, shall conduct an accelerated study on environmental and other factors related to the exploitation of minerals, with emphasis on petroleum, in that portion of the Outer Continental Shelf in the Atlantic Ocean that extends from the territorial border between the United States and Canada southward to the territorial border between the States of Georgia and Florida. The study shall include an evaluation of the effect of such exploitation on fish, shellfish, and other forms of marine life in such region, the probability of any accident associated with such mineral exploitation that could cause an adverse impact on marine ecosystems, of the territorial seas or shorelines of the United States, an assessment of the public interest in the immediate exploitation of such minerals, and the economic and environmental effect of any prohibition on mineral exploration within 100 miles of the United States. In preparing such a study, the Secretary shall consult with interested industrial, environmental, and educational groups, and then report the results of such study to the Congress within two years of the date of enactment of this section.

"(b) Notwithstanding any other provision of this Act, the Secretary shall not award any mineral leases covering the submerged lands described in subsection (a) until at least one year following the submission of the report required by subsection (a)."

By Mr. MAGNUSON (by request):

S. 2893. A bill to authorize an additional Assistant Secretary of Commerce. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, I introduce by request, for appropriate reference, a bill to authorize an additional Assistant Secretary of Commerce, and ask unanimous consent that the letter of transmittal, be printed in the RECORD with the text of the bill.

There being no objection, the letter and bill were ordered to be printed in the RECORD, as follows:

THE SECRETARY OF COMMERCE,
Washington, D.C., November 8, 1971.

Hon. SPIRO T. AGNEW,
President of the Senate, U.S. Senate, Washington, D.C.

DEAR MR. PRESIDENT: Enclosed are four copies of a draft bill "To authorize an additional Assistant Secretary of Commerce."

The additional Assistant Secretary of Commerce authorized by this legislation would be appointed by the President, by and with the advice and consent of the Senate, and would receive compensation at the same rate (Level IV of the Executive Schedule) now provided for other Assistant Secretaries of the Department of Commerce.

This legislation implements the recommendations in the President's Message on Small Business submitted to the Congress March 20, 1970 wherein he said:

"I am . . . proposing legislation to create a new position of Assistant Secretary in the Department of Commerce to assist in formulating policy for the Office of Minority Business Enterprises (OMBE). I established OMBE early in my Administration to coordinate programs and activities within the Federal government aimed at assisting minorities to enter the American economic mainstream. This is an extremely important undertaking."

This request was reiterated in the Presidential Message to Congress on an expanded program to foster and promote Minority Enterprise October 13, 1971.

Section 2 of the draft bill would amend the Executive Schedule (Sec. 5315 of title 5, United States Code) to reflect this new position.

We have been advised by the Office of Management and Budget that enactment of this legislation would be in accord with the program of the President.

Sincerely,
(Signed) MAURICE H. STANS,
Secretary of Commerce.

S. 2893

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be in the Department of Commerce, in addition to the Assistant Secretaries now provided by law, one additional Assistant Secretary of Commerce who shall be appointed by the President, by and with the advice and consent of the Senate, shall receive compensation at the rate prescribed by law for Assistant Secretaries of Commerce, and shall perform such duties as the Secretary of Commerce shall prescribe.

SEC. 2. Paragraph 12 of section 5315 of title 5, United States Code, is amended to read as follows: "(12) Assistant Secretaries of Commerce (8)."

By Mr. BAYH (for himself, Mr. BROOKE, Mr. HART, Mr. HATFIELD, Mr. MCGOVERN, Mr. PASTORE, Mr. WILLIAMS, Mr. RIBICOFF, Mr. KENNEDY, and Mr. HARRIS):

S. 2894. A bill to provide financial assistance for State and local small, community-based correctional facilities; for the creation of innovative programs of vocational training, job placement, and on-the-job counseling; to develop specialized curriculums; the training of educational personnel and the funding of research and demonstration projects; to provide financial assistance to encourage the States to adopt special probation services; to establish a Federal Corrections Institute; and for other purposes. Referred to the Committee on the Judiciary.

OMNIBUS CORRECTIONAL REFORM ACT OF 1971

Mr. BAYH. Mr. President, today I am reintroducing the Omnibus Correctional Reform Act of 1971. This act is designed to change the nature and direction of our Nation's correctional system by providing Federal assistance to the States so that they may develop effective new approaches to the treatment of offenders. For too long we have wasted billions of dollars on a system that does not work. My proposal would give us the opportunity to sweep away the present system in the course of the next 20 years and replace it with a system that is correctional in the true sense of the word. We must make today's rhetoric the future's reality.

In the 2 months since I first introduced my bill, I have received many helpful comments from Members of Congress and from interested citizens around the country. These comments have convinced me that the development of community-based correctional facilities to replace large, rural prisons is the proper approach to take. Typical of this point of view is a letter I received from Mr. Ruben King, commissioner of the Department of Pensions and Security in Alabama. Commissioner King writing in support of my correctional reform act said:

> We think that traditional institutional treatment and rehabilitation programs should be de-emphasized and priority funding be given to alternative innovative community-based rehabilitation and prevention programs.

However, several of the comments which I received indicated the need to modify some of the specific programs contained in my bill. The revised bill which I am introducing today incorporates those ideas.

The desperate need for prison reform is obvious. The recent events at Attica State prison dramatically illustrate that our so-called correctional system is in urgent need of reform. The carnage at Attica was a disgrace, not only for the public officials that preferred to shoot rather than negotiate, but for the entire Nation that builds and condones a system of despair and degradation in the name of "correction" and "rehabilitation." Attica will happen again unless we correct the injustices and failures of our prisons that made insurrection and death preferable to another day of degradation. Attica will happen again unless the American people face the fact that a major overhaul of our prison system is the only way to overcome its failure. For the American prison system today is truly that: a failure.

The particular tragedy of the insurrection at Attica and its aftermath is that the problems of that institution—and the New York State system of which it is a part—had already been diagnosed. Its failures and inadequacies were known, if not to the general public, certainly to its State officials. It was known, for example, that the New York State system did not rehabilitate criminals. Over 70 percent of the persons released from New York prisons are rearrested, and almost half of these arrests occur within the first year following release.

The inadequacies which caused this failure were also known. Most New York State correctional facilities were built in isolated areas. Such locations make work release programs, one of today's most hopeful innovations, very difficult because there are no jobs in the surrounding area. Such locations also make family visits arduous journeys. The disintegration of the family is a tragic consequence of imprisonment in institutions like Attica.

Isolated in their surroundings, these prisons are also primitive in their conditions. Inmates spend an average of 55 percent of their time in cells that average 6 feet by 9 feet in size. There is a total lack of full-time staff psychiatrists and virtually no counseling services. Additionally, the New York State system has no narcotics treatment program, even though over 40 percent of those incarcerated in 1969 were known drug users. Under such conditions one might wonder not why Attica occurred—but why it did not occur sooner and more often.

Unfortunately, the field of corrections is an area of the criminal justice system which is the least visible and the most neglected. Except when there are prison riots, jail breaks, or scandals, little thought, attention or concern is given to our correctional institutions or their inmates.

It is shocking to realize that the conditions of prisons in New York State are no different from conditions at most other prisons in every State in our Nation. Attica was not the first prison to undergo a major riot, nor was it the first prison where inmates died needlessly. Indeed, I spoke out 2 years ago about a similar incident at Pendleton State Prison in Indiana. During a peaceful demonstration in which unarmed inmates sat down in the prison yard to protest conditions, guards armed with rifles and shotguns opened fire. Forty-seven inmates were wounded and two were killed. Such incidents are as common across the Nation as the conditions that cause them. Last month the Subcommittee to Investigate Juvenile Delinquency, of which I am chairman, published testimony taken at hearings in 1969 and 1970 on conditions in penal institutions. Conditions in 17 States were investigated, and what I have said about New York State was said about many States. On the basis of these hearings, I predict that other Atticas are a certainty.

The inadequacy of our prisons is measured not only by the conditions within, but also by their contribution to our crime problem. Arrest, court, and prison records all testify to the fact that habitual offenders constitute the hard core of the criminal problem. According to the FBI's Uniform Crime Reports, nearly 70 percent of all felonies committed in this country last year were committed by people with previous convictions. Of the approximately 100,000 persons released from confinement each year and returned to society, 75 percent again commit serious crimes and return to confinement. This is an especially discouraging figure since it is estimated that a criminal commits an average of 120 crimes for everyone for which he is arrested.

It is all too clear that the term "correctional facility" is a gruesome euphemism both for the prisoners incarcerated and for their victims when they are released. Our prisons do not correct offenders; they create them, toughen them, embitter them, and educate them in the way of crime. All too often prison inmates—men, women, juveniles, young and old alike—rather than being rehabilitated, as we benignly and benightedly expect them to be, are beaten, brutalized, exploited, sexually abused and even killed by fellow inmates or by prison staff. The mere storage of more and more convicted criminals under such barbaric conditions is not the way to solve their problems, and it is not the way to solve the problem of an increasing crime rate.

We in America spend almost $1 billion a year on corrections. That sounds like a lot of money, and it is. But we spend $36.6 billion on automobiles and parts each year, $14.5 billion on alcoholic beverages, and $9.2 billion on tobacco products. We even spend $2 billion a year on our pets. Surely we can find the necessary funds to support a meaningful reform of our prison systems. If Attica is not to have occured in vain, let us try to pick up the pieces while there is still time.

Since the tragic episode in Indiana 2 years ago, I have tried to formulate what I believe this Nation needs in the way of correctional reform legislation. I joined with former Senator Goodell of New York in introducing several measures in the 91st Congress. Since assuming the chairmanship of the Subcommittee To Investigate Juvenile Delinquency in January of this year, I have introduced other legislation. I have held hearings on the subject of juvenile correctional facilities, have personally toured several such institutions, and have drafted additional legislation for introduction in this Congress.

Today I am introducing a comprehensive bill which is an effort not only to pull together many facets of our correctional program but also to chart a new path in offender rehabilitation for America. It would be ironic indeed if it were to take a tragedy of the magnitude of Attica to bring major correctional reform to our Nation. But the worst irony of all would be to learn no lesson from the tragic events still so fresh in our memory.

That is the spirit in which I offer my bill, the Omnibus Correctional Reform Act of 1971. This bill attempts to restore sanity to our prison system through a variety of reforms.

First, it would provide funds to phase out the large penal institutions located a substantial distance from major urban areas and replace them with small, community-based correctional facilities designed to treat the offender in his home community to utilize the most modern corrections theory.

Penologists agree that large and isolated institutions do not serve a useful correctional purpose. Incarceration without rehabilitation temporarily postpones the offender's problems, but it does not solve them. When offenders return to their communities, they are tougher, more schooled in crime, and very likely to become repeaters. The administration agrees with this point of view. Jerris Leonard, Administrator of the Law Enforcement Assistance Administration, has said:

> One of LEAA's principal priorities is to develop corrections techniques that make rehabilitation more probable by keeping the offender in the community, where he usually has family or other ties. LEAA disapproves of concentrating correctional efforts in the building of more fortress prisons where prisoners are locked away and forgotten. In fact LEAA has turned down several requests for money to build such outmoded institutions. I am convinced that in a relatively short period of time there will be an entirely new approach to corrections in this country—and LEAA is going to see to it that there is.

If we are ever to break this tragic circle of recidivism, we must involve the offender's community in his rehabilitation. His problems are in the community; he must learn to cope with them there and not at some distant institution. Small institutions utilizing the medical, psychological, and counseling services of the community are able to reintegrate offenders where isolated institutions cannot. Moreover, only such community-based facilities can carry out effective aftercare services when the offender is released. Experts agree that such services are absolutely crucial in the rehabilitative process.

This program would be developed over a 20-year period, thus gradually redirecting America's entire corrections approach. Under my program, at least 40 percent of all LEAA money would be authorized each year for the purpose of correctional reform—$700 million in the next fiscal year. These funds, as appropriated, would be available to the States for implementing a comprehensive program of reform.

Second, my bill would provide funds for programs of rehabilitation, job placement, and on-the-job counseling for adult offenders, youthful offenders, and juvenile delinquents. Heavy emphasis would be placed on the rehabilitation of those who have committed no more than one serious offense, and on the involvement of the community in the correctional process. My bill would require the States to allocate 55 percent of Federal funds received to local governments and to private and public institutions at the local level. Hopefully, this would encourage a more diversified approach to rehabilitation and a gradual change in community attitudes toward offenders. In order for the programs funded under the first section of my bill to be effective, the local community must be made to realize that offenders must be corrected not simply incarcerated, and that to accomplish this goal the entire community's assistance is needed. Four hundred million dollars would be authorized for this program over the next 4 years.

Third, my bill would provide encouragement to the States to create drug treatment and rehabilitation programs in adult and juvenile correctional facilities and for those persons who are on probation, parole, or supervised release. A bill to accomplish the same purpose authored by Congressman EDWARD KOCH has already passed the House. Mr. KOCH and his colleagues in the House have recognized the sad fact that while drug abuse is a major concern of the Nation, it has not yet become a major concern of correctional facilities. Ironically, much of our Nation's drug problem may be found in our prisons and among those on probation and parole. While 40 percent of the incarcerated offenders in New York State in 1969 were known drug users, the New York State prison system did not operate a drug treatment and rehabilitation program.

States that wish to receive money from LEAA must submit a comprehensive plan annually. My bill would require that no plan would be approved as comprehensive for funding purposes unless it included detailed plans to provide drug programs for inmates and those on probation, parole, and supervised release. Since LEAA is a very attractive source of funds, the States would be strongly encouraged to plan and fund the drug treatment and rehabilitation services that are vitally needed for any effective correctional program.

Fourth, my bill provides funding and authority for a variety of specialized educational goals. The Commissioner of Education is authorized to spend $13 million over the next 3 years for research and demonstration projects relating to the academic and vocational education of juvenile delinquents, youthful offenders, and adult offenders. A program in correctional education administered by the Teachers Corps is expanded and given authorizations of $110 million during the next 5 years to provide specially trained teachers for the future as well as improving the education of the inmates of today. Another education program, which has brought college education to the prisons and the prisoners to the campus, would be substantially expanded. This program, Project New Gate, is now operating at six locations around the country and has had a remarkably low recidivism rate—approximately 18 percent. Additionally, my bill amends the Elementary and Secondary Education Act to allow the Office of Education to provide programs to educate juveniles under the age of 21 confined in adult correctional facilities. That authority is sadly lacking today.

Fifth, my bill would provide financial assistance to the States for the creation of special probation programs designed to reduce the rate of commitment of juvenile delinquents and youthful offenders under the age of 25 to correctional institutions. This program is based on very successful probation subsidy models operated in California and Washington State. During the past 5 years in California, over 15,000 offenders who would have been commited to institutions have been diverted into probation or other supervised release programs. Since institutionalization is considerably more expensive than probation or other release programs, California has saved a great deal of money by expanding the use of probation. It is estimated that during the period from 1966 to 1972, the probation subsidy program has saved the State of California $126,000,000.

The probation subsidy program will aid in the transition period until community-based corrections become a reality. By diverting offenders from incarceration, it will reduce the role of the isolated, large correctional institutions that this bill seeks to phase out of existence. Additionally, the subsidy program will result in monetary savings which the States can use to improve existing facilities. Forty million dollars for each of the next 5 years is authorized for this program.

Finally, my bill would create a Federal Corrections Institute which would collect and disseminate information in the correction field as well as provide training for personnel working in the criminal justice system. Such an Institute would be an important coordinating link between the individual corrections systems in the various States, and would allow them to share their acquired experience.

It is my earnest hope that the Members of the Senate will give swift attention to this vitally needed legislation. We cannot afford to delay a moment longer in reforming our Nation's correctional system. I ask unanimous consent that the full text of the bill, together with a summary, be printed at this point in the RECORD.

There being no objection, the bill and summary were ordered to be printed in the RECORD, as follows:

S. 2894

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Omnibus Correctional Reform Act of 1971".

DECLARATION OF FINDINGS

The Congress finds and declares that—

(1) The correctional system of the United States is underfinanced, overtaxed, and does not provide effective correctional programs.

(2) The Nation's peace and tranquility depends, in part, on the development of an effective system to rehabilitate and reintegrate criminal offenders back into the community at large.

(3) This goal can best be achieved by the creation of State and local small, community-based correctional facilities that will make use of local community services and actively involve the community in the corrections process.

(4) Such a reform would require the total redirection of the Nation's correctional system and would take a substantial length of time to accomplish.

(5) In the interim, numerous programs must be started in order to make the present correctional facilities more effective in rehabilitating criminal offenders, and to de-

velop the knowledge and the techniques necessary for redirecting our correctional system. These programs must be multipurpose in scope and massively funded.

TITLE I—COMMUNITY-BASED CORRECTIONAL FACILITIES

Sec. 101. Section 303 of part C of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by inserting immediately after the second sentence the following new sentence: "Within two years after the date of enactment of this section, no State plan shall be approved as comprehensive, unless it provides that 40 per centum of the Federal assistance granted to the respective-State planning agency for any fiscal year shall be allocated to improvement of correctional programs and practices as provided in part E."

Sec. 102. Section 453 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is further amended by changing "(9)" to "(10)" and by adding a new section (9) as follows: "provides a satisfactory twenty-year program developed in five-year stages for the phasing-out of large correctional facilities located a substantial distance from major urban centers, and their replacement with small correctional facilities, located in the communities from which the majority of offenders come and providing diagnostic and rehabilitative services in accordance with the most modern corrections theory."

Sec. 103. Section 520 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is further amended by deleting the last sentence and inserting in lieu thereof: "Beginning in the fiscal year ending June 30, 1973, and in each fiscal year thereafter there shall be allocated for the purposes of part E an amount equal to not less than 40 per centum of the total amount allocated under this title."

TITLE II—REHABILITATION AND RELATED PROGRAMS

Sec. 201. The Secretary of Labor (hereafter referred to as Secretary) is authorized to make grants based upon the Department of Labor's accumulated experience for the rehabilitation of prisoners in accordance with this title.

Sec. 202. (a) Any State desiring to receive its share of Federal funds under this title shall submit a plan which complies with the requirements of sections 203 and 204 of this title and which—

(1) designates a single State comprehensive corrections rehabilitation board for the development and administration of the plan to be composed of not more than twenty-one persons who shall be appointed by the chief executive of the State from among persons representative of State and local governmental agencies administering programs and providing services for corrections and crime control pursuant to the provisions of the Omnibus Crime Control and Safe Streets Act of 1968, and the Juvenile Delinquency Prevention and Control Act of 1968, education, labor, manpower training and vocational rehabilitation, and other public and private organizations engaged in activities related to the purposes of this Act;

(2) sets forth a comprehensive, coordinated, statewide program for the development of innovative projects providing for vocational rehabilitation, job training, job placement, and on-the-job counseling for criminal offenders, youthful offenders, and juvenile delinquents;

(3) provides that at least 40 per centum of all Federal funds granted to the State board under this title for any fiscal year will be available to local governmental bodies and nonprofit private organizations in such State, and at least 15 per centum of all Federal funds granted to the State board under this title for any fiscal year will be available to private, profitmaking individuals, businesses, and organizations except that in any case in which the provisions of section 204 of this title cannot be met, the board shall notify the Secretary of the reason therefor, and upon being satisfied that such provisions cannot be met, the Secretary shall direct the board to allocate the funds to public and private nonprofit organizations and governmental bodies in such proportion as the board, in its discretion, deems appropriate;

(4) sets forth policies and procedures designed to assure that Federal funds made available pursuant to this title will be used so as not to supplant State or local funds, but to supplement and, to the extent practicable, to increase the amounts of such funds that would in the absence of such Federal funds be made available for the improvement of State and local corrections systems;

(5) establishes such fiscal controls and funds accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the board under this title; and

(6) provides for making reports as the Secretary may require to carry out his functions under this title, and for keeping such records and for affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports.

(b) The Secretary shall approve any State plan and any modification thereof which complies with the provisions of subsection (a) of this section.

Sec. 203. Each State plan shall contain provisions adequate to assure that projects carried out under the plan will be given priority in the following order—

(1) programs directed toward the rehabilitation of adjudicated juvenile delinquents, youthful offenders, and adult offenders who have been convicted of not more than one serious criminal offense;

(2) institutional and on-the-job occupational training and placement, where feasible, in government public service agencies, including a State correctional system, and placement in private, nonprofit public service organizations and in private industry;

(3) incentives to public and private employers who hire adjudicated delinquents and offenders, including reimbursement for a limited period when such newly hired employees might not be fully productive;

(4) on-the-job counseling, testing, work evaluation and adjustment, and followup services;

(5) recruitment and training of professional and paraprofessional diagnostic and treatment of staff personnel for corrective systems.

Sec. 204. The State board is authorized to contract with private profitmaking individuals or business concerns to perform services for the rehabilitation of adjudicated youthful offenders, juvenile delinquents, and adult offenders. Each such contract shall contain provisions adequate to assure that any such individual or business concern will—

(1) determine the demand in the community in which a trainee lives or intends to live for persons with particular occupational skills and vocational training;

(2) provide an approved course of training in a particular occupational area for which a demand has been determined to exist;

(3) provide for the job placement of individuals who successfully complete the course of comprehensive, occupational training.

Sec. 205. (a) Except as provided in section 208 and subsection (b) of this section, payment under this title shall be made to those State boards which administer plans approved under section 202. Payments under this title from a State's allotment with respect to the cost of carrying out its State plan shall not exceed 75 per centum of such costs for any fiscal year. In determining the cost of carrying out a State plan, there shall be excluded any cost with respect to which payments were received under any other Federal program.

(b) No payments shall be made to any State from its allotment for any fiscal year unless and until the Secretary finds that the State will have available during that year for expenditure from non-Federal sources for the purposes authorized by this Act not less than the total amount actually expended by such State for such purposes during the preceding fiscal year, plus an amount of less than the non-Federal share prescribed by subsection (a).

(c) Payments to a State under this title may be made in installments, in advance or by way of reimbursement with necessary adjustments on account of overpayments or underpayments, and they may be paid directly to the State or to one or more public agencies designated for this purpose by the State or to both.

Sec. 206. (a) The Secretary shall not finally disapprove any State plan submitted under this title, or any modification thereof, without first affording the State board submitting the plan reasonable notice and opportunity for a hearing.

(b) Whenever the Secretary, after reasonable notice and opportunity for hearing to the State board administering a State plan approved under section 202 finds that—

(1) the State plan has been so changed that it no longer complies with the provisions of such section, or

(2) in the administration of the plan there is a failure to comply substantially with any such provision, the Secretary shall notify the State board that the State will not be regarded as eligible to participate in the program under this title until he is satisfied that there is no longer any such failure to comply.

Sec. 207. (a) If any State is dissatisfied with the Secretary's final action with respect to the approval of its plan submitted under section 202 or with his final action under section 206, such State may, within sixty days after notice of such action, file with the United States Court of Appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

(b) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(c) Upon the filing of such petition the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

Sec. 208. In any case in which a State fails to submit a State plan pursuant to this title within six months after the date of enactment of this Act, the Secretary may make grants to the extent practicable in accordance with the provisions of this title to local governments within such State and nonprofit organizations within such State.

Sec. 209. (a) From the sums appropriated pursuant to section 210 for each fiscal year, the Secretary shall allot not more than 5 per centum thereof among Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their specific needs. From the remainder of such sums the Secretary—

(1) shall allot to each State an amount which bears the same ratio to 50 per centum of such remainder as the number of persons who are determined to be persons detained in correctional facilities, or on probation, parole, or other supervised release, in such State bears to the numbers of such persons in all States, and

(2) shall allot to each State an amount which bears the same ratio to 50 per centum of such remainder as the population in such State bears to the population in all States. For the purposes of this subsection, the term "State" does not include Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(b) The portion of any State's allotment under subsection (a) for a fiscal year which the Secretary determines will not be required for the period such allotment is available, shall be available for reallotment from time to time, to other States in proportion to the original allotments established under subsection (a) for such year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum which the Secretary estimates such State needs for such period, and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts are not so reduced. Any amount reallotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (a) for such year.

Sec. 210. There are hereby authorized to be appropriated $50,000,000 for the fiscal year ending June 30, 1972; $100,000,000 for the fiscal year ending June 30, 1973; $100,000,000 for the year ending June 30, 1974; and $150,000,000 for the fiscal year ending June 30, 1975, for the purpose of carrying out this title. Sums appropriated pursuant to this section shall remain available until expended.

TITLE III—DRUG TREATMENT PROGRAMS FOR PRISONS

Sec. 301. Section 453 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by redesignating paragraph "(9)" as paragraph "(10)", by striking out "and" at the end of paragraph (8), and by inserting immediately after paragraph (8) the following new paragraph:

"(9) provides necessary arrangements for the development and operation of drug treatment and rehabilitation programs in adult and juvenile correctional institutions and facilities and for all persons on parole, probation, or other supervisory release programs, who are drug addicts or drug abusers; and";

Sec. 302. Section 454 of title I of such Act is amended by adding at the end thereof the following new paragraph:

"In addition, the Administrator shall issue such regulations as may be necessary concerning the standards that shall be met by drug treatment and rehabilitation programs in adult and juvenile correctional facilities, and those to which persons on parole, probation, or supervisory release are assigned."

TITLE IV—EDUCATION AND TRAINING PROGRAMS

Sec. 401. Section 1101(b) of title 20 of the United States Code is amended by—

(1) striking out from "and $80,000,000 for the fiscal year . . ." to the end of the paragraph and inserting in lieu thereof the following: "and $100,000,000 for each of the next five fiscal years beginning July 1, 1972."

(2) by adding at the end thereof the following new sentences: "Of the sums appropriated pursuant to the preceding sentence for the fiscal year ending June 30, 1973, $10,000,000 shall be available only for the purpose of carrying out paragraph (6) of section 1103(a) of title 20 of the United States Code and for each of the next succeeding fiscal years $25,000,000 will be available only for that purpose. After the fiscal year ending June 30, 1973, in no case shall the appropriations for this paragraph be less than 25 per centum of the total appropriated for the Teacher Corps."

Sec. 402. Section 887b of title 20 of the United States Code is amended by adding after subsection (b) subsection "(c)" as follows: "There is authorized to be appropriated to carry out the purpose of this section the sum of $3,000,000 for the fiscal year ending June 30, 1972, and the sum of $5,000,000 for each of the two succeeding fiscal years."

Sec. 403. (a) The Director of the Office of Economic Opportunity (hereinafter referred to as the Director) is authorized to make grants to public or private institutions of higher education to organize demonstration projects that would make available to inmates of juvenile or adult correctional institutions the opportunity to engage in academic courses at the college or graduate school level. Such demonstration projects shall be organized within the correctional institution and on the campus of the institution of higher education. Special guidance and counseling programs shall be included in each demonstration project for inmates before and after they are released from the correctional institution.

(b) The Director shall appoint a special advisory committee to evaluate projects funded under subsection (a) and prepare a report to Congress to be submitted on the last day of each fiscal year. The committee shall include representatives from the Office of Education, the Teacher Corps, the Youth Development and Delinquency Prevention Administration, and such other persons and organizations as he deems necessary. Members of the committee who are not regular full-time employes of the United States shall, while serving on the business of such committee, be entitled to receive compensation at rates fixed by the Director, but not exceeding $100 per day, including travel time; and, while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703(b) of title 5 of the United States Code.

(c) Grants approved under this section may be made in installments, in advance, or by way of reimbursement, and on such conditions as the Director shall determine and publish in the form of rules and regulations; provided, however, that should the Director decide to terminate a project, those inmates already engaged in a course program leading to a degree will be permitted to continue until the completion of that degree.

(d) There is authorized to be appropriated to carry out the purposes of this section the sum of $5,000,000 for the fiscal year ending June 30, 1972, the sum of $7,000,000 for the fiscal year ending June 30, 1973, and the sum of $10,000,000 for each of the four succeeding fiscal years.

Sec. 404. Section 241c(a)(7) of title 20 of the United States Code is amended by deleting the first comma and by adding the words "and for children up to the age of twenty-one in adult correctional institutions," after the words "for children in institutions for neglected or delinquent children."

TITLE V—SPECIAL PROBATION PROGRAMS

Sec. 501. As used in this Title the term—

(1) "Administration" means the Law Enforcement Assistance Administration;

(2) "Locality" means any city or other municipality (or two or more municipalities acting jointly) or any county or other political subdivision or State (or two or more acting jointly) having general governmental powers;

(3) "special probation supervision program" means any program operated by a locality using qualified probation personnel for the supervision of youthful offenders placed on probation by an appropriate court that (A) involves new and improved supervision practices and (B) meets the standards prescribed by the Administration;

(4) "State" includes in addition to the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands; and

(5) "youthful offender" means any person who has not attained 18 years of age and who has violated a law of a State or an ordinance of a locality not punishable by death or life imprisonment or has not attained 25 years of age, has not previously been convicted of a felony and who has violated a law of a State or an ordinance of a locality not punishable by death or life imprisonment.

Sec. 502. (a) The Administration is authorized to make grants to States that have plans approved under section 503, to pay the Federal share of the costs of carrying out special probation supervision programs.

(b) From the sums appropriated pursuant to section 507, the Administration shall allot not more than 5 per centum among the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective needs. From the remainder of such sums the Administration—

(1) shall allot to each State an amount which bears the same ratio to 50 per centum of such remainder as the number of persons who have not attained twenty-five years of age in such States bears to the number of such persons in all States, and

(2) shall allot to each State an amount which bears the same ratio to 50 per centum of such remainder as the number of youthful offenders who have not been committed to a State correctional institution in such State bears to the number of such offenders in all States.

For the purposes of this subsection, the term "State" does not include Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(c) The portion of any State's allotment under subsection (b) for a fiscal year which the Administration determines will not be required for the period such allotment is available, shall be avalable for reallotment from time to time, to other States in proportion to the original allotments established under subsection (b) for such year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum which the Administration estimates will be needed and used by such State for carrying out the plan approved under this title, and the total of such reductions shall be similarly reallotted among the States whose proportionate amount are not so reduced. Any amount reallotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (b) for such year.

(d) The number of persons who have not attained twenty-five years of age shall be determined by the Administration on the basis of the most satisfactory data available to it for each fiscal year. The number of youthful offenders who have not been committed to a State correctional institution shall be determined by the Administration for the fiscal year preceding the fiscal year for which the determination is made, based upon data furnished to it by the State planning agency established pursuant to the Omnibus Crime Control and Safe Streets Act of 1968, as amended. The Administration shall establish uniform criteria for the determination required by this subsection.

Sec. 503. (a) Any State desiring to receive assistance under this Act shall submit a State plan consistent with such criteria as the administration may establish under section 504. Each such plan shall—

(1) provide for the administration of such plan by the State planning agency estab-

lished pursuant to Omnibus Crime Control and Safe Streets Act of 1968 as amended;

(2) provide assurances that the State has enacted or will enact legislation of general applicability within the State—

(A) providing for the necessary supervision by the appropriate State agency of the special probation services to be provided youthful offenders within the State;

(B) providing requirements for localities to employ qualified probation personnel for youthful offenders;

(C) providing incentives for localities to operate a special probation supervision program, particularly involving innovative supervision practices, which is designed to reduce the necessity of committing youthful offenders to State correctional institutions;

(D) providing procedures for determining the yearly reduction of such commitments; and

(E) providing such other relevant and necessary matters relating to the operation of such a program as the administration prescribes;

(3) set forth policies and procedures which assure that Federal funds made available under this title for any fiscal year will be so used as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be made available by the State for the purposes for which the State plan is submitted, and in no case supplant such funds;

(4) provide that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the State and including funds paid to localities by such State under this title;

(5) provide that no application by a locality will be denied without first affording the agency submitting such an application reasonable notice and opportunity for a hearing; and

(6) provide that the State will make to the Administration—

(A) periodic reports evaluating the effectiveness of payments received under this title in carrying out the objectives of this title, and

(B) such other reports as may be reasonably necessary to enable the Administration to perform its functions under this title, including such reports as it may require to determine the amounts which localities of that State are eligible to receive for any fiscal year, and assurance that such State will keep such records and afford such access thereto as the Administration may find necessary to assure the correctness and verification of such reports.

(b) State plans shall be approved under this Act by the Administration only if—

(1) the plan meets the requirements set forth in subsection (a); and

(2) the programs set forth in the plan are consistent with criteria established by the Administration for the purpose of achieving equitable distribution of assistance under this title within each State, which criteria shall be developed by it on the basis of a consideration of (A) the geographic distribution of youthful offenders within the State, and (B) the success that each locality within the State displays in reducing the number of such offenders committed to State correctional institutions.

The Administration shall not finally disapprove a State plan except after reasonable notice and opportunity for hearing to such State.

SEC. 504. As soon as practicable after the enactment of this title, the Administration shall issue basic criteria required under section 503. In prescribing the criteria for general legislation set forth in paragraph (2) of section 503 (a), the Administration shall consult with the Attorney General.

SEC. 505. (a) The Administration shall pay in any fiscal year from each State's allotment to that State which has a plan approved pursuant to this title for that fiscal year, the Federal share of the cost of such plan.

(b) The Federal share of the programs covered by the State plan shall not exceed 75 per centum for any fiscal year. In determining the cost of such programs the Administration shall exclude any cost with respect to which payments were received under any other Federal program.

(c) Payments under this section may be made in installments, in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.

SEC. 506. Whenever the Administration, after reasonable notice and opportunity for a hearing to any State, finds—

(1) that there has been a failure to comply substantially with any requirement set forth in the plan of that State approved under section 503; or

(2) that in the operation of any program or project assisted under this title there is a failure to comply substantially with any applicable provision of this title;

the Administration shall notify such State of its findings and that no further payments may be made to such State under this title (or in its discretion that the State shall not make further payments under this title to specified localities affected by the failure) until it is satisfied that there is no longer any such failure to comply, or the noncompliance will be promptly corrected. The Administration may authorize the continuance of payments with respect to any program or project assisted under this title which is being carried out pursuant to such State plan and which is not involved in the noncompliance.

SEC. 507. There is authorized to be appropriated to carry out the provisions of this title, $40,000,000 for the fiscal year ending June 30, 1973, and for each of the four succeeding fiscal years thereafter.

TITLE VI—FEDERAL CORRECTIONS INSTITUTE

SEC. 601. Part IV of title 18, United States Code, is amended by adding at the end thereof the following new chapter:

"CHAPTER 404.—FEDERAL CORRECTIONS INSTITUTE

"Sec.
"5041. Establishment; purpose.
"5042. Functions
"5043. Director and staff.
"5044. Powers.
"5045. Advisory Commission.
"5046. Location; facilities.
"5047. Curriculum.
"5048. Enrollment.

"§ 5041. Establishment; purpose

"There is hereby established a Federal Corrections Institute (hereinafter referred to as 'Institute'). It shall be the purpose of the Institute to provide a coordinating center for the collection and dissemination of useful data regarding the treatment and rehabilitation of criminal offenders, and it shall also be the purpose of the Institute to provide training for representatives of Federal, State, and local judges and judicial personnel, probation and parole personnel, correctional personnel, welfare workers, and other persons, including lay personnel, connected with the treatment and rehabilitation of criminal offenders.

"§ 5042. Functions

"The Institute is authorized—

"(a) to serve as an information bank by collecting systematically the data obtained from studies and research by public and private agencies on criminal behavior and recidivism, including, but not limited to, programs for prevention of crime and recidivism, training of corrections personnel, and rehabilitation and treatment of criminal offenders;

"(b) to publish data in forms useful to individuals, agencies, and organizations concerned with treatment and rehabilitation of criminal offenders;

"(c) to disseminate pertinent data and studies to individuals, agencies, and organizations concerned with prisoners, parolees, probationers, and other criminal offenders;

"(d) to devise and conduct in various geographical locations, seminars and workshops providing continuing studies for persons engaged in working directly with prisoners, parolees, probationers, and other criminal offenders;

"(e) to devise and conduct a training program of short-term instruction in the latest proven-effective methods of treatment and rehabilitation of criminal offenders and prevention of recidivism for law enforcement officers, judges and judicial personnel, probation and parole personnel, correctional personnel, welfare workers, and other persons, including lay personnel, connected with the treatment and rehabilitation of criminal offenders; and

"(f) to develop technical training to aid in the development of training programs within the several States and with the State and local agencies which work directly with prisoners, parolees, probationers, and other offenders.

"§ 5043. Director and staff

"(a) The Institute shall be under the supervision of an officer to be known as the Director of the Institute who shall be appointed by the President, by and with the advice and consent of the Senate, to serve for a term of four years. The Director of the Institute shall receive basic pay at the rate provided for level V of the Executive Schedule under section 5316 of title 5, United States Code.

"(b) The Director shall have authority to supervise the organization, employees, enrollees, financial affairs, and all other operations of the Institute and may employ such staff, faculty, and administration personnel as are necessary to the functioning of the Institute. The Director shall have the power to acquire and hold real and personal property for the Institute and may receive gifts, donations, and trusts on behalf of the Institute. The Director shall also have the power to appoint such technical or other advisory councils comprised of consultants to guide and advise the Advisory Commission. The Director is authorized to delegate his powers under this Act to such persons as he deems appropriate.

"(c) If the Office of Director is left vacant, by resignation or otherwise, the President shall appoint a successor who shall serve for the unexpired portion of the term of office.

"§ 5044. Powers

"The functions, powers, and duties specified in this Act to be carried out by the Institute shall not be transferred elsewhere or within any executive department unless specifically hereafter authorized by the Congress. In addition to the other powers, express and implied, the Institute is authorized—

"(a) to request any Federal department or agency to supply such statistics, data, program reports, and other material as the Institute deems necessary to carry out its functions. Each such department or agency is authorized to cooperate with the Institute and shall, to the maximum extent practicable, consult with and furnish information and advice to the Institute;

"(b) to arrange with and reimburse the heads of Federal departments and agencies for the use of personnel or facilities or equipment of such departments and agencies;

"(c) to confer with and avail itself of the cooperation, services, records, and facilities of State, municipal, or other public or private local agencies;

"(d) to enter into contracts with public or private agencies, organizations, or individuals, for the partial performance of any of the functions of the Institute;

"(e) to compensate consultants and members of technical advisory councils who are not in the regular full-time employ of the United States, at a rate to be fixed by the Director of the Institute but not exceeding $75 per diem and while away from home, or regular place of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently; and

"(f) to report to the Congress at appropriate intervals on programs which have been implemented with the cooperation of the Institute within and among the several States, and to recommend to the Congress further legislative action which may appear desirable.

"§ 5045. Advisory Commission

"(a) The overall policy and operations of the Institute shall be under the supervision of an Advisory Commission.

"(b) The Advisory Commission shall consist of the Director of the Institute, the Attorney General (or his designee), the Director of the United States Judicial Center (or his designee), the Director of the National Institute of Mental Health (or his designee), and fourteen persons having training and experience in the area of corrections appointed by the President from the following categories:

"(1) prisoners or ex-prisoners (two persons),

"(2) criminal court judges (two persons),

"(3) probation personnel (two persons),

"(4) correctional personnel (two persons),

"(5) representatives of private organizations concerned with corrections (four persons), and

"(6) representatives of State agencies established under title I of the Omnibus Crime Control and Safe Streets Act of 1968 (two persons).

"(c) Members of the Advisory Commission shall serve for terms of four years and shall be eligible for reappointment, except that for the first composition of the Commission, one-third of the members shall be appointed to one-year terms, one-third to two-year terms, and one-third to three-year terms, thereafter each member's term shall be for four years. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed, shall be appointed for the remainder of such term. Any member of the Commission may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

"(d) While performing their duties, members of the Commission shall be reimbursed under Government travel regulations for their expenses, and members who are not employed full time by the Federal Government shall receive in addition a per diem of $100 in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

"(e) The Director shall act as Chairman of the Advisory Commission. The Commission shall establish its government rules of procedure.

"§ 5046. Location; facilities

"(a) A suitable location for the Institute shall be selected by the Advisory Commission.

"(b) Following the selection of a location for the Institute, the Director with the approval of the Advisory Commission, shall—

"(1) acquire such property as has been selected pursuant to subsection (a), and

"(2) make such arrangements as may be necessary or desirable for the construction, equipping, and physical organization of the Institute.

"§ 5047. Curriculum

"The Advisory Commission shall design and supervise a curriculum utilizing a multi-disciplinary approach (to include law enforcement, judicial, correctional, and welfare as well as probation disciplines) which shall be appropriated to the needs of the Institute's enrollees.

"§ 5048. Enrollment

"(a) Each candidate for admission to the Institute shall apply to the State agency established under title I of the Omnibus Crime Control and Safe Streets Act of 1968 (82 Stat. 198; 42 U.S.C. 3701 et seq.), in the candidate's State. The State agency or agencies shall select an appropriate number of candidates and forward their applications for admission to the Director of the Institute. The Director shall prescribe the form of all applications for admission to the Institute and shall make the final decision concerning the admission of all students or enrollees.

"(b) While studying at the Institute and while traveling in connection with his study, including authorized field trips, each student or enrollee in the Institute shall be allowed travel expenses and a per diem allowance in the same manner as prescribed for persons employed intermittently in the Government service under section 5703(b) of title 5, United States Code."

SEC. 602. The table of contents to "Part IV—CORRECTION OF YOUTHFUL OFFENDERS" of title 18, United States Code, is amended by inserting after

"403. Juvenile delinquency.............5031"

the following new chapter reference:

"404. Federal Corrections Institute....5041".

SEC. 603. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

SUMMARY OF OMNIBUS CORRECTIONAL REFORM ACT OF 1971

This bill establishes a new, comprehensive approach to prison reform at the State and local level. It provides substantial federal support to the States so that they may develop modern correctional systems built around smaller facilities, located in or near the urban communities they serve. The bill recognizes that substantial time is needed to redirect the nation's correctional effort; accordingly, provision is made for the development of short-range programs to improve existing adult and juvenile correctional facilities.

TITLE I—COMMUNITY-BASED CORRECTIONAL FACILITIES

Title I outlines the basic, long-range program designed to develop smaller correctional facilities throughout the country. This title consists of several amendments to the Law Enforcement Assistance Administration provisions of the Omnibus Crime Control and Safe Streets Act of 1968. Specifically, these amendments established the following requirements:

(1) Two years after passage of the Act, no State plan will be approved by LEAA as comprehensive (a necessary prerequisite to receiving Federal funds) unless it allocates at least 40 percent of the requested funds to the improvement of correctional practices and programs. (Part E of the Omnibus Crime Control and Safe Streets Act presently requires a 20 percent allocation.) Additionally, the percentage of money authorized by Congress to be spent on corrections under Part E as amended is increased to 40 percent, resulting in an authorization of $700 million for Fiscal '73.

(2) A State plan submitted to LEAA for funding under this title must set forth a 20-year program, developed in detail by five year segments, for the gradual phasing-out of large prisons and similar juvenile institutions located a substantial distance from major urban areas. Minimum, medium, and high security institutions will be replaced with small, community-based facilities designed to provide innovative, effective correctional programs and services. However, some flexibility will be permitted so that States may maintain special facilities for the small percentage of dangerous, repeating offenders that may be effectively treated in settings removed from major urban centers.

TITLE II—REHABILITATION AND RELATED PROGRAMS

Title II contains the first of several programs designed to provide immediate improvement in the present State correctional systems during the period of development of the long range programs required under title I. Title II authorizes the expenditure of $400 million over the next four years to develop and implement programs for rehabilitation, job placement, and on-the-job counseling for adult offenders, youthful offenders, and juvenile delinquents. Heavy emphasis is placed on the rehabilitation of first offenders.

To be eligible to receive a grant under this title a State must designate a planning and administration council responsible for developing a comprehensive plan for submission to the Secretary of Labor. In order for the plan to be approved, a State must make available to local governments and nonprofit organizations at least 40 percent of all Federal funds received under this title, and to private, profit-making individuals, businesses, and organizations at least 15 percent of all Federal funds. This requirement insures the involvement of many segments of the community in the corrections process.

Grants to the States are determined by a formula which takes into account two criteria: (1) the number of persons detained in correctional facilities, and on probation, parole, or supervised release; and (2) the population of the grantee state relative to other states. Such grants will be made on a matching basis, the Federal share being 75 percent of the total cost of such programs in any given year. Title II also authorizes the Secretary of Labor to determine whether funds are expended in accordance with the provisions of this title, and for judicial review should a state be dissatisfied with the Secretary's ruling.

TITLE III—DRUG TREATMENT AND REHABILITATION PROGRAMS FOR PRISONS

Title III amends Part E of the Omnibus Crime Control and Safe Streets Act of 1968 by requiring State plans to include drug treatment programs. Specifically, a State desiring to receive funds from LEAA under Part E must provide for the development and operation of drug treatment and rehabilitation programs in adult and juvenile correctional institutions and facilities as well as drug programs for adult and youthful offenders and juvenile delinquents on probation, parole, and supervised release.

Additionally, title III authorizes the Administrator of LEAA to issue regulations setting standards for the operation of these programs. By requiring compliance with standards relating to program personnel and operations, this title will encourage improvements in the quality of participating correctional facilities as well as providing vitally needed drug treatment and rehabilitation programs for adult and youthful offenders and juvenile delinquents.

TITLE IV—EDUCATION AND TRAINING PROGRAMS

This title is designed to provide special funding for the development of educational programs specifically tailored to the needs of inmates in juvenile and adult correctional facilities. These programs provide for the training of teachers, the development of specialized curricula, advanced academic training for offenders within prisons and on near-by college campuses, the education of youthful offenders under the age of 21 confined in adult facilities, and flexible demonstration and research projects.

Section 401 amends section 1101(b) of title 20 of the United States Code, which contains the Congressional authorization for the Teacher Corps. In 1971, the authorized funding for that section was $100 million but in unrestricted form. Under the proposed amendment, the authorized funding would be $100 million for each of the next five years. However, the amended bill would require that out of this authorization, $110 million be spent over the next five years on projects under section 1103(a)(6) of title 20 of the United States Code, which gives the Teacher Corps authority to develop programs for incarcerated offenders. Following the Teacher Corps approach, these programs would include training for teachers on campuses and in correctional institutions. Under the supervision of experienced teachers, teams of trainee teachers would attend courses on campus and then enter correctional institutions for actual work experience. The involvement of both correctional institutions and colleges would encourage the development of new curricula for prison inmates and for teacher training. Offenders would immediately benefit by the influx of new teachers into the institutional setting.

Section 402 provides funding for an existing, but now dormant, program of research and demonstration in the Office of Education. This program is designed to allow the Commissioner of Education to make grants to state and local governments, educational agencies, public or private institutions of higher education, and other public and nonprofit education or research agencies. Such grants would support projects for the academic and vocational education of antisocial, aggressive, or delinquent persons, including juvenile delinquents, youthful offenders, and adult criminal offenders. $13 million is authorized for the next three years.

Section 403 provides separate funding for a highly successful experimental program created by the Office of Economic Opportunity called Project NewGate. Project NewGate was created in 1967 to bring college education to the prison setting and prisoners to the college campus. The program is divided into two stages. In the first stage, teachers from the participating college teach courses in the correctional facility. Inmates are chosen on the basis of their educational ability, desire to participate, and their eligibility for early release. Once released, former prisoners proceed to the second stage of the program on the college campus where they take courses leading to a degree. Their living arrangements are determined on the basis of the terms of their release and their individual needs. Regular counseling sessions are an integral part of both stages of the program.

Project NewGate is now operated in six locations and serves several thousand people. It is estimated that between 30,000 and 40,000 inmates could benefit from the program if it were expanded. Under the proposed legislation, $52 million is authorized to be spent over the next six years to expand the program. During that time, a special advisory board, required by this section, would evaluate the program on a continuing basis, recommend improvements, and report annually to Congress.

Section 404 amends the Elementary and Secondary Education Act of 1965 by authorizing the Office of Education to provide programs and services for youthful offenders under the age of 21 confined in adult correctional facilities. Presently, the authority of the Office of Education to provide educational services is limited to institutionalized children under the age of 18. This section would extend the age of eligibility for educational services for young people in adult correctional facilities to 21.

TITLE V—SPECIAL PROBATION PROGRAMS

Title V authorizes the expenditure of $40 million during each of the next five fiscal years for the creation of special probation programs. These programs are designed to help juvenile delinquents and young offenders under the age of 25 who have not yet become habitual offenders and who have not been found guilty of capital crimes. This title requires that these probation programs be structured to reduce the role of institutionalization of youthful offenders.

Any State desiring assistance under this title must submit a plan to the Law Enforcement Assistance Administration. The plan must establish suitable controls to insure that the appropriate State agency exercises proper supervision, that qualified probation personnel are employed, and the incentives for local participation in programs designed to reduce the rate of commitment are provided.

Funds are provided for the States on the basis of a formula which takes into account the number of youthful offenders and juvenile delinquents who have been placed on probation rather than committed to correctional institutions. Provision is also made to insure that the Federal share of such programs will not exceed 75% and that the funds provided under this program will not be in lieu of funds derived from other sources and already being spent on such programs. Additionally, each State involved shall develop programs to monitor the effectiveness of the special probation programs developed. Provision is made for the collection and utilization of such information by the Federal Corrections Institute.

TITLE VI—FEDERAL CORRECTIONS INSTITUTE

Title VI amends title 18 of the United States Code by creating an independent Federal Corrections Institute. The Institute is authorized to collect and disseminate useful data relating to efforts to improve the present correctional system and to develop the new, community-based approach. The Institute would also provide training for Federal, State, and local personnel involved in the criminal justice system in order to facilitate acceptance of a new approach to corrections by those working within the system.

The Institute's overall policy and operations would be under the supervision of an Advisory Commission. The Commission members appointed by the President, include personnel from the judicial, probations, and corrections fields as well as concerned citizens, and ex-inmates. Also included on the Commission are the Director of the Institute, the Attorney General, the Director of the National Institute of Mental Health, and the Director of the U.S. Judicial Center.

The Director of the Institute, with the approval of the Advisory Commission, is authorized to acquire property and to make the necessary arrangements for the operation of the Institute. The Advisory Commission will supervise the design of a training curriculum for enrollees from the judicial and corrections fields. Candidates for admission to the Institute will be recommended by the State planning agencies created under LEAA, subject to final selection by the Director of the Institute. While studying at the Institute, each enrollee will be given travel expenses and a per diem allowance as prescribed by section 5703(b) of title 5, United States Code. Appropriations are authorized in the amounts necessary to carry out the provisions of this title.

By Mr. McGOVERN (for himself, Mr. Moss, Mr. Gravel, Mr. Hughes, Mr. Nelson, Mr. Bayh, Mr. Kennedy, and Mr. Harris):

S. 2897. A bill to provide housing for persons in rural areas of the United States on an emergency basis. Referred to the Committee on Banking, Housing and Urban Affairs.

EMERGENCY RURAL HOUSING ACT OF 1971

Mr. McGOVERN. Mr. President, today I am introducing a bill to establish an Emergency Rural Housing Administration to help low-income Americans in rural areas and small towns to get a decent and sanitary place to live.

This bill is the product of hearings by the Select Committee on Nutrition and Human Needs.

We undertook the hearings because we began wondering how much good the food programs would do when the food itself was prepared in kitchens with dirt floors and contaminated water and rats and disease-carrying insects.

We undertook the hearings because we began wondering how much good was done by increasing a person's caloric intake and then sending him home to battle against incredible odds in an environment that provided little protection against the elements and absolutely none against disease.

The committee heard testimony indicating that as a family's income drops, so does the condition of its housing. As the housing conditions decline, incidences of stillbirth, infant mortality, juvenile delinquency, failure in school, and mental and emotional disturbance increase.

Bad housing is an ideal breeding ground for infectious disease. Housing which invites the cold and damp also invites tuberculosis. This list goes on. The correlation is obvious. Everybody knows that bad housing means bad health.

This relationship between one's immediate environment and one's physical well-being was demonstrated by a program conducted on the Rosebud Indian Reservation in my home State. There, some 375 very modest houses were constructed, and we had studies and reports of all kinds on their worth to the Indian residents. But to me, the most important thing about the whole project was that after those few hundred families moved into dry, warm, sturdy, and safe housing, hospital admissions on the reservation soon fell by 30 percent and the daily patient census fell by 40 percent.

What is being done for the general rural population in this regard? After 30 years on the books, public housing has served less than 3 percent of the target population in rural areas and small towns.

HUD programs are virtually unworkable in rural areas and small towns. The overwhelming bulk of these programs go to big cities. The overworked, underfunded Farmers Home Administration serves the rural areas, but not the poor.

Testimony taken by the select committee documents the whys and wherefores of the program failure in detail.

Suffice it to say that the rural poor get left out of the scheme of Federal things for basically two reasons. They are rural and they are poor.

People in the housing industry tell us year after year that the problem is one of commitment—that the commitment just is not there now. I believe that Congress was sincere when it made its promise to house the homeless in 1949 and sincere when it reaffirmed that pledge in 1968.

But likewise I believe that, despite two decades of tinkering, the existing housing legislation has not done the job. It is time to take dramatic action and time to set a deadline on a promise that is almost a quarter-century old.

The bill I introduce today contemplates that the problem be attacked on an emergency basis—one which defines its goals and makes every effort to reach them in 5 years.

To do this, an independent executive agency at the Federal level is created called the Emergency Rural Housing Administration (ERHA).

It is headed by an Administrator appointed by the President, with the advice and consent of the Senate. The Administrator will have powers concomitant with the emergency situation with which he is dealing. He will have the usual powers to sue and be sued, to make and repeal such rules and regulations as are necessary, to accept gifts or donations of services or property, to buy and sell or otherwise convey property, and to enter into contracts.

In addition, he will have the following extraordinary powers: to acquire land by condemnation and to appoint officers and employees without regard to provisions governing appointments in the competitive service. The power to acquire land by condemnation is necessary in order to acquire adequate building sites in areas where the eligible persons to be served live, and to do so at a fair and reasonable cost.

It is desirable to exempt employees of the ERHA from the competitive civil service as this bill does for several reasons. First, the bulk of the work of the agency is to be completed within 5 years and second, it is expected that many of the persons who could be employed within the agency could come from the client population, many of which would not be able to qualify under the existing civil service system.

The Administrator will be authorized to serve all eligible people living in, or desiring to live in a rural area or small community who cannot with reasonable certainty obtain decent housing from other sources within 2 years. For this purpose a rural area means any open country or any place in the United States which is not in a standard metropolitan statistical area and a small community means any political subdivision in the United States which has a population of less than 25,000. As far as is practicable the Administrator is obligated to serve eligible persons with the lowest adjusted incomes first. Also, he shall provide for homeownership rather than rental assistance to the greatest extent possible.

Homeownership assistance would be given in the form of loans to eligible persons or families. The Administrator will set the interest rate down to 1 percent on such loans, taking into account the adjusted income of the eligible person involved.

The Administrator is authorized to defer payment of up to 50 percent of the loan, which portion would become payable and interest bearing only when and to the extent the borrower's ability to repay exceeds that required to retire the undeferred portion at the maximum interest rate or upon the sale or other disposition of the property financed by the loan. In determining a borrower's ability to repay, his income will be adjusted by deducting 5 percent of the gross income plus $300 for that borrower and for each member of his family. An additional $1,000 will be deducted for each individual or family who is physically disabled or mentally retarded.

A borrower will not be required to pay more than 20 percent of his adjusted income to repay the loan; however, when that amount would be insufficient to retire a loan even with 50 percent of the principal deferred, the borrower may choose to pay a greater amount in order to be eligible for a loan.

For those eligible persons who desire to rent or do not have sufficient income to repay a loan for homeownership the Administrator is authorized to finance all or part of the cost of acquisition, construction, rehabilitation, operation, and maintenance of rental facilities. Rent charged to eligible persons for such facilities will bear a reasonable relationship to the income, taking into account reasonable needs for food, clothing, medical care, education, and other necessities and in no case shall it be in excess of 25 percent of adjusted income.

Any construction or rehabilitation undertaken with funds from the ERHA must be designed to require minimum maintenance over a useful life of at least 50 years except when the Administrator finds that temporary facilities are necessary to accommodate less substantial renovation or to meet the need of temporary residents in an area.

All housing built, acquired, or rehabilitated by the ERHA will be minimal housing which means a safe, weatherproof dwelling with running potable water, modern sanitation facilities including a kitchen sink, toilet, and shower or tub and such other requirements as to square footage and other facilities as the Administrator shall set.

In addition the construction should be in accordance with plans developed with the active participation of the eligible persons involved.

To carry out the housing program envisioned by this act, the administrator is authorized to enter into contracts with local agencies—any existing or new public or private agency, instrumentality, or organization which meets such criteria as the Administrator requires—to meet the total housing needs for all eligible persons within a designated area. The Administrator is authorized to furnish such financial, technical, and other assistance as these local agencies will require.

In addition, the Administration is authorized to furnish supplemental assistance for any housing program authorized by any other Federal or State law if such assistance will meet the needs of eligible persons under this act.

It is anticipated that about 2,500,000 units should be assisted by the ERHA. Of the 5 million low-income families living in small towns and rural areas it is estimated that at least half of them will require assistance under this act.

The Secretary is authorized and directed to purchase any such notes and for that purpose to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act. The Secretary is also authorized to sell at any time any such notes or other obligations which shall also be treated as a public debt transaction.

In order to spread the cost of borrowing over a reasonable period of years and to eventually relieve the burden on the public debt the act authorizes $500 million to be appropriated each year, reduced by any amounts paid into the Treasury on the loans made by the Administrator, to be applied to the retirement of notes issued by the Administrator.

An additional $1 billion is authorized to be appropriated each year for administration, technical and contract services, and for operation and maintenance payments under the rental authority.

Mr. President, I ask unanimous consent that a statement in justification for the bill, a section-by-section analysis of the bill, and the bill itself be printed at this point in the RECORD.

There being no objection, the statement, analysis, and bill were ordered to be printed in the RECORD, as follows:

WHY AN "EMERGENCY RURAL HOUSING ADMINISTRATION" AND WHAT IT WILL DO

An emergency truly does exist in rural areas and small communities. Over 60 percent of the nation's substandard occupied units are there. Along with the bad housing are the attendant problems of polluted and unpiped water, lack of sanitary facilities, and over crowding. There are fewer doctors and decent medical facilities than would be needed even to begin to treat the symptoms of the problem. Add to this the fact that over half the poor in the United States live in these areas where only one-third of the population is and one begins to see the enormity of the problem. Unemployment and under employment are often the rule rather than the exception.

There seems to be evidence of a movement however small among some members of Congress to do something about the miserable situation in rural areas. Yet most have so far neglected to come to grips with the problem of delivering adequate housing to an impoverished population. Whatever means are used to deliver adequate housing to the poor, we know it will take at least two things in enormous quantities—commitment and dollars. The approach taken here is that the problem be attacked on an emergency basis—one which defines its goals and makes every effort to reach them in five years. To do this an independent executive agency at the Federal level is created called the Emergency Rural Housing Administration (ERHA). It is headed by an administrator appointed by the President by and with the advice and consent of the Senate. The Administrator will have powers concomitant with the emergency situation with which he is dealing. He will have the usual powers to sue and be sued, to make and repeal such rules and regulations as are necessary, to accept gifts or donations of services or property, to buy and sell or otherwise convey property, and to enter into contracts. In addition he will have the following extraordinary powers: to acquire land by condemnation and to appoint officers and employees without regard to provisions governing appointments in the competitive service. The power to acquire land by condemnation is necessary in order to acquire adequate building sites in areas where the eligible persons to be served live, and to do so at a fair and reasonable cost. It is desirable to exempt employees of the ERHA from the competitive service for several reasons. First, the bulk of the work of the Agency is to be completed within five years and secondly it is expected that many of the persons who could be employed within the agency could come from the client population, many of which would not be able to qualify under the existing civil service system.

The Administrator will be authorized to serve all eligible people living in, or desiring to live in, a rural area or small community who cannot with reasonable certainty obtain decent housing from other sources within two years. For this purpose a rural area means any open country or any place in the United States which is not in a standard metropolitan statistical area and a small community means any political subdivision in the United States which has a population of less than 25,000. As far as is practicable the Administrator is obligated to serve eligible persons with the lowest adjusted incomes first. Also he shall provide for home ownership rather than rental assistance to the greatest extent feasible.

Home ownership assistance would be given in the form of loans to eligible persons or families. The Administrator will set the interest rate down to one percent on such loans, taking into account the adjusted income of the eligible person involved. The Administrator is authorized to defer payment on up to 50 per cent of the loan, which portion would become payable and interest bearing only when and to the extent the borrowers ability to repay exceeds that required to retire the undeferred portion at the maximum interest rate or upon the sale or other disposition of the property financed by the loan. In determining a borrower's ability to repay his income will be "adjusted" by deducting 5 percent of the gross income plus $300 for that borrower and for each member of his family. An additional $1,000 will be deducted for each individual or family who is physically disabled or mentally retarded. A borrower will not be required to pay more than 20 percent of his adjusted income to repay the loan; however, when that amount would be insufficient to retire a loan even with 50 percent of the principal deferred, the borrower may choose to pay a greater amount in order to be eligible for a loan.

For those eligible persons who desire to rent or do not have sufficient income to repay a loan for home ownership the Administrator is authorized to finance all or part of the cost of acquisition, construction, rehabilitation, operation and maintenance of rental facilities. Rent charged to eligible persons for such facilities will bear a reasonable relationship to their income, taking into account reasonable needs for food, clothing, medical care, education, and other necessities and in no case shall it be in excess of 25 percent of adjusted income.

Any construction or rehabilitation undertaken with funds from the ERHA must be designed to require minimum maintenance over a useful life of at least 50 years except when the administrator finds that temporary facilities are necessary to accommodate less substantial renovation or to meet the need of temporary residents in an area. All housing built, acquired or rehabilitated by the ERHA will be minimal housing which means a safe, weatherproof dwelling with running potable water, modern sanitation facilities including a kitchen sink, toilet and shower or tub and such other requirements as to square footage and other facilities as the administrator shall set. In addition the construction should be in accordance with plans developed with the active participation of the eligible persons involved.

To carry out the housing program envisioned by this Act, the Administrator is authorized to enter into contracts with local agencies (any existing or new public or private agency, instrumentality, or organization which meets such criteria as the Administrator requires) to meet the total housing needs for all eligible persons within a designated area. The Administrator is authorized to furnish such financial, technical, and other assistance as these local agencies will require. In addition, the Administrator is authorized to furnish supplemental assistance for any housing program authorized by any other Federal or State law if such assistance will meet the needs of eligible persons under this Act.

It is anticipated that about 2,500,000 units should be assisted by the ERHA. Of the 5,000,000 low income families living in small towns and rural areas it is estimated that at least half of them will require assistance under this Act.

For the purposes of loans for acquisition of land or for the construction or rehabilitation of housing or related facilities, the Administrator is authorized to issue notes or other obligations to the Secretary of the Treasury in such sums as may be necessary to carry out the purposes of the Act. The interest on such notes will be set by the Secretary, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the preceding month of issuance. The Secretary is authorized and directed to purchase any such notes and for that purpose to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act. The Secretary is also authorized to sell at any time any such notes or other obligations which shall also be treated as a public debt transaction. In order to spread the cost of borrowing over a reasonable period of years and to eventually relieve the burden on the public debt the Act authorizes $500,000,000 to be appropriated each year, reduced by any amounts paid into the Treasury on the loans made by the Administrator, to be applied to the retirement of notes issued by the Administrator.

SECTION-BY-SECTION ANALYSIS OF THE EMERGENCY RURAL HOUSING ACT OF 1971

SECTION 1—SHORT TITLE

Emergency Rural Housing Act of 1971.

SECTION 2—FINDINGS

Congress finds that an emergency situation exists in rural areas with regard to housing for low-income families and individuals.

SECTION 3—DEFINITIONS

SECTION 4—ESTABLISHMENT AND DUTIES

Provides for the establishment of an independent federal agency called the Emergency Rural Housing Administration. Defines the ERHA's duties as providing minimal housing facilities to eligible persons in rural areas and small communities and to do so within five years to the extent possible. An eligible person as defined in Section 3 is an individual or family which lives or desires to live in a rural area or community and cannot with reasonable certainty obtain minimum housing facilities by any means other than from assistance under this Act within two years of the date of application for assistance. Provides for an Administrator of the ERHA by adding a new clause (58) to 5 U.S.C. 5314 to be appointed by the President by and with the advice and consent of the Senate. Provides that the Administrator's duties may not be transferred to any other department, agency, or instrumentality of the United States.

SECTION 5—POWERS

Provides for the powers of the Administrator of the ERHA.

SECTION 6—HOMEOWNERSHIP

Authorizes the Administrator to make loans to eligible persons for the acquisition of land and the construction of minimal housing facilities or for the acquisition or rehabilitation of existing facilities. Provides that at least fifty percent of such loan shall be amortized over a period not exceeding forty years and at an interest rate of not less than one percent per year. The remaining balance of such a loan shall take the form of a note secured by a second mortgage which becomes payable and interest bearing when and to the extent that the borrowers ability to repay exceeds that required to retire the first note at the maximum rate of interest or upon the sale or other disposition of the property. Provides that the interest rate, the amount of referred principal and the other terms and conditions of such loans will be set by the Administrator taking into account the adjusted income of the eligible person involved and that a borrower cannot be required to pay more than twenty percent of his adjusted annual income on principal, interest, taxes and insurance except when the borrower chooses to in order to qualify for the ownership program.

SECTION 7—HOUSING DEVELOPMENTS

Authorizes the administrator to acquire land and develop housing projects to be sold under Section 6 or rented under Section 8.

SECTION 8—RENTAL FACILITIES

Authorizes the administrator to finance all or part of the acquisition, construction, rehabilitation, operation and maintenance of minimal housing facilities to be rented by eligible persons, water and sewerage facilities for such housing, and related community facilities for such housing. Provides that the rental payments of the occupants and the amount of rent assistance provided shall bear a reasonable relationship to the income of the eligible persons taking into account other budget needs and in no case should any rent payment (including the reasonable cost of heat, water and light) exceed twenty-five percent of the person's adjusted income. Provides that, when feasible, lease agreements should include an option to purchase at terms consistent with Section 6.

SECTION 9—LOCAL AGENCY AGREEMENTS

Authorizes the Administrator to enter in agreements with local agencies to assume area responsibility for carrying out the purposes of the Act. Provides that the administrator shall furnish such financial, technical and other assistance to these local agencies as may be necessary. Authorizes the Administrator to provide supplemental assistance for other federal and state housing programs if such assistance will further the purposes of this Act.

SECTION 10—LIMITATIONS AND CONDITIONS

Provides that the Administrator, shall not require the relocation of any eligible person in order to engage in or to facilitate the economic development of any area. Provides that construction or rehabilitation undertaken must be designed to require minimum maintenance for at least fifty years except when the Administrator finds that less permanent housing is in accordance with the Act; and be in accordance with plans development with the active participation of the eligible persons involved.

SECTION 11—PRIORITIES

Establishes the priorities that, insofar as is practicable, persons with the lowest adjusted incomes shall be served first, and to the maximum extent feasible, ownership rather than rental occupancy will be provided.

SECTION 12—ANNUAL REPORT

Provides that the Administrator shall prepare and transmit to the Congress and the President an annual report of the operation and activities of the Agency.

SECTION 13—BORROWING AUTHORITY

Provides that for the purposes of this Act the Administrator is authorized to issue notes or other obligations to the Secretary of the Treasury in such sums as may be necessary in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary and bear interest at a rate determined by the Secretary, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. Authorizes the Secretary and directs him to purchase such notes and for that purpose to use as a public debt transaction the proceeds for the sale of any securities issued under the Second Liberty Bond Act and extends the purposes for which securities may be issued under that Act to include any purchase of such notes and obligations under this Act. Authorizes the Secretary to sell at any time any of the notes or other obligations acquired by him under this subsection and provides that all redemptions, purchases and sales by of the Secretary of such notes or other obligations shall be treated as a public debt transaction of the United States. Authorizes to be appropriated $500 million per year, less any amounts paid into the Treasury each year on loans made by the Administrator under this Act. Such sum is to be applied to the retirement of notes or other obligations issued by the Administrator.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Emergency Rural Housing Act of 1971".

FINDINGS

SEC. 2. The Congress finds that—

(1) after more than three decades of Federal activity in the housing field and more than two decades after the enactment of the Housing Act of 1949 which pledged this nation to a decent home and suitable living environment for every American family, there are millions of substandard, crowded, and otherwise deficient dwelling units which lack running water and sanitation facilities essential to health and decency;

(2) more than half of these units are in non-metropolitan areas;

(3) none of the existing housing agencies, public or private, function adequately in meeting the housing needs of the poorest people in small towns and rural areas;

(4) the administrative funds and grant and lending authorities of Farmers Home Administration are inadequate to the task, and its authorized capacity to subsidize dwellings falls far short of that required to provide housing for the poor;

(5) public housing exists in little more than token quantities in small towns and rural areas, and public housing legislation presently does not permit a subsidy adequate to meet the needs of the poorest of the poor;

(6) despite the moving rhetoric of the last two decades, the authority and funds to satisfy the housing needs of low income families are not available;

(7) existing agencies operating under existing authorities could not meet the needs of millions of the rural poor even if all restraints on administrative funds were lifted, nor would they meet those needs if there were no ceiling placed on grant and loan funds; and

(8) the ill health and human degradation that flow from this continuing neglect and denial of responsibility call for emergency action.

DEFINITIONS

SEC. 3. For the purpose of this Act—

(1) "Administration" means the Emergency Rural Housing Administration established under section 4 of this Act;

(2) "Administrator" means the Administrator of the Administration;

(3) "adjusted income" means the total income of an individual or family reduced by—

(A) 5 percent of that income;

(B) $300 for that individual or for each member of that family; and

(C) $1,000 for that individual if he is physically disabled or mentally retarded or for each member of that family who is physically disabled or mentally retarded;

(4) "area responsibility agreement" means an agreement between the Administrator and a local agency to provide minimal housing facilities for all eligible persons in an area;

(5) "eligible person" means an individual or family which (A) lives or desires to live in a rural area or community, and (B) cannot with reasonable certainty obtain minimum housing facilities by any means other than assistance under this Act within 2 years after the date of application for assistance under this Act;

(6) "local agency" means any public or private agency, instrumentality, or organization which meets such criteria as the Administrator shall by regulation require, and includes any such agency which exists under any Federal, State or local law for purposes not inconsistent with this Act, and any such agency established hereafter for any such purpose;

(7) the term "minimal housing facilities" means a safe, weatherproof dwelling with running potable water, modern sanitation facilities including a kitchen sink, toilet, and shower or tub, but such term does not include any dwelling which does not meet the requirements established by the Administrator with respect to square footage and other facilities or standards;

(8) "rural area" means any open country or any place in the United States which is not contained in standard metropolitan statistical area; and

(9) "small community" means any political subdivision in the United States which has a population of less than 25,000 people.

ESTABLISHMENT AND DUTIES

SEC. 4. (a) There is established an Emergency Rural Housing Administration. The management of the Administration shall be vested in an Administrator who shall be appointed by the President by and with the advice and consent of the Senate.

(b) It shall be the duty of the Administration to provide minimal housing facilities for all eligible persons in rural areas and small communities and to do so to the extent possible within a 5 year period. The duties and powers of the Administration shall not be transferred to any other department, agency, or instrumentality of the United States.

(c) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following new clause:

"(58) Administrator, Emergency Rural Housing Administration."

POWERS

SEC. 5. The Administrator shall have the power—

(1) to sue and be sued, and complain and defend, in its name and through its own counsel;

(2) to adopt, amend, and repeal such rules and regulations as may be necessary;

(3) to lease, purchase, or acquire by condemnation or otherwise, and own, hold, improve, use, or otherwise deal in and with, any property, real, personal, or mixed, or any interest therein, wherever situated;

(4) to accept gifts or donations of services, or property, real, personal, mixed, tangible, in aid of any of the purposes of the Administration;

(5) to sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of its property and assets;

(6) to appoint such officers and employees as may be required without regard to the provisions of title 5, United States Code, governing appointments in the competitive service; and

(7) to enter into contracts, execute instruments, incur liabilities, and do all things which are necessary or incidental to the proper management of its affairs.

HOMEOWNERSHIP

SEC. 6. (a) The Administrator is authorized to make loans to eligible persons to finance the acquisition of land and the construction thereon of minimal housing facilities, or to finance the acquisition or rehabilitation of existing facilities in accordance with minimum housing facilities standards.

(b) At least 50 percent of the principal amount of any loan made under this subsection shall be amortized over a period of not more than 40 years, shall bear interest at a rate of not less than 1 percent per year, and shall be secured by a first mortage. The remainder of such principal amount may be a note secured by a second mortgage which becomes payable and interest bearing only when and to the extent the borrower's ability to repay exceeds that required to retire the first note at the maximum interest rate or upon the sale or other disposition of the property financed by the loan. The Administrator shall determine the percentage rate, the amount of the principal deferment, and the other terms and conditions of any such loan, taking into account the adjusted income of the eligible person involved. All amounts received by the Administrator as principal or interest payments on such loans shall be paid into the Treasury in accordance with Section 13 of this Act.

(c) The Administrator may not require an eligible borrower to pay more than 20 percent of adjusted annual income on principal, interest, taxes and insurance (PITI) but a borrower, in order to qualify for ownership may voluntarily agree to pay more.

HOUSING DEVELOPMENTS

SEC. 7. The Administrator is authorized to acquire land and engage in the development of housing projects to be sold under Section 6 or rented under Section 8 of this Act.

RENTAL FACILITIES

SEC. 8. (a) The Administrator is authorized to finance all or part of the acquisition, construction, rehabilitation, operation, and maintenance of (1) minimal housing facilities in rural areas and small communities to be rented by eligible persons, (2) water and sewer facilities for such housing facilities, and (3) related community facilities for such housing facilities.

(b) Rental payments and the amount of assistance shall bear a reasonable relationship to the income of the eligible person, taking into account reasonable needs for food, clothing, medical care, education, and other necessities as determined by the Administrator. In no case shall any such payment including the reasonable cost of heat, water and light, exceed 25 percent of the adjusted income of the eligible person.

(c) Any lease or other occupancy agreement for facilities under this section shall include whenever feasible an option to buy in accordance with the provisions of section 6 of this Act.

LOCAL AGENCY AGREEMENTS

SEC. 9. (a) The Administrator may enter into area responsibility agreements with any local agency. The Administrator shall furnish such financial, technical, and other assistance as any such local agency may require in order to carry out programs authorized by this Act in accordance with the terms of any such agreement. The Administrator shall have access to the books, records, and any other papers of any local agency which enters into an area responsibility agreement in order to insure that such agency is at all times operating in compliance with the provisions of this Act.

(b) Notwithstanding any other provision of law, any agreement under this section may provide that the Administrator may furnish supplemental assistance for programs authorized or administered under any other provision of Federal or State law, if the Administrator is satisfied upon the basis of such assurances as he may require, that such agreement will carry out the purposes of this Act.

LIMITATIONS AND CONDITIONS

SEC. 10. (a) The Administrator shall not require, as a condition of assistance under this Act, the relocation of any eligible person in order to engage in or to facilitate the economic development of any area.

(b) Any construction or rehabilitation undertaken with funds authorized under this Act shall—

(1) be designed to require minimum maintenance over a useful life of not less than 50 years; provided that this limitation shall not apply to new or rehabilitated housing if the Administrator finds that less permanent housing is in accordance with the basic purposes of this Act.

(2) be in accordance with plans developed with the active participation of the eligible persons involved.

PRIORITIES

SEC. 11. (a) The Administrator shall insofar as is practicable furnish assistance under this Act to eligible persons with the lowest adjusted incomes first.

(b) To the maximum extent feasible, the Administration shall provide for homeownership rather than rental occupancy.

ANNUAL REPORT

SEC. 12. The Administration shall, as soon as practicable after the end of each fiscal year, prepare and transmit to the Congress and the President an annual report of the operation and activities.

BORROWING AUTHORITY

SEC. 13. (a) The Administrator is authorized to issue to the Secretary of the Treasury notes or other obligations in such sums as may be necessary to carry the purposes of this Act in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under the Act are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

(b) There is authorized to be appropriated $500,000,000 per year, reduced by any amounts paid into the Treasury each such year on the loans made by the Administrator under this Act, to be applied to the retirement of notes or other obligations issued by the Administrator under subsection (a) of this section.

By Mr. HARTKE:

S. 2898. A bill to amend the Education of the Handicapped Act to provide tutorial and related instructional services for homebound children through the employment of college students, particularly veterans and other students who themselves are handicapped. Referred to the Committee on Labor and Public Welfare.

HELPING THE HOMEBOUND HANDICAPPED

Mr. HARTKE. Mr. President, approximately 1 million young people in our Nation fall into the category of homebound handicapped. For varying lengths of time, these children are unable to attend school. As a consequence, they suffer academically and emotionally. Many of those who eventually enroll in regular classes experience all the difficulties of children coming from deprived backgrounds—poor social adjustment, academic difficulties, emotional problems.

Throughout the Nation, there is a significant variation in the services which are available to handicapped children. Some localities provide as much as 5 or more hours of home instruction weekly. Others, because of a lack of funds, have been unable to provide any instruction.

Mr. President, the importance of education to the young cannot be overemphasized. Without an adequate education, a child will forever be condemned to second- or third-class status in our society. A handicap which requires a child to remain at home for a few months or many years must not also force that child to forgo his education.

The use of available college students to tutor such children will make it possible for the homebound handicapped to continue their education uninterrupted. That is why I am introducing legislation today which is designed to provide financial compensation to qualified college students who would serve as home tutors for these youngsters. This legislation is identical to H.R. 11131, recently introduced in the House by Representative HERMAN BADILLO and cosponsored by more than 100 others. I believe that it establishes a practical means of assisting the handicapped.

Mr. President, I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2898

A bill to amend the Education of the Handicapped Act to provide tutorial and related institutional services for homebound children through the employment of college students, particularly veterans and other students who themselves are handicapped

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Education of the Handicapped Act (20 U.S.C. 1421–1426) is amended by adding, at the end thereof, a new part H, as follows:

"PART H—USE OF COLLEGE STUDENTS AS TUTORS AND INSTRUCTIONAL ASSISTANTS FOR HOMEBOUND CHILDREN

"AUTHORIZATION OF PROGRAM

"SEC. 671. (a) The Commissioner is authorized to make grants to State education agencies to enable them to develop and carry out programs, at their and at local educational agency levels to provide, through the use of students in institutions of higher education, tutoring and instructional assistance, under the supervision of a qualified teacher, for homebound handicapped children who, though able to benefit from preschool, elementary, or secondary education, are prevented by their handicaps, by lack of facilities, or because they experience special difficulties when in school, from attending school. Homebound children for whom services under this part may be provided include but are not limited to those as defined under section 602, paragraphs (1) and (15), and such services may be provided to children who are homebound for short or long terms.

"(b) For a local educational agency to receive assistance under this part from a State education agency, it shall make a proposal to the State educational agency for a tutorial or instructional assistance program to be carried out through a cooperative arrangement with one or more institutions of higher education. The local educational agency shall give assurances that—

"(1) in selecting students to participate, (A) special consideration will be given to veterans qualified for vocational rehabilitation under chapter 30 of title 38, United States Code, and to other handicapped students (provided in either case that their handicaps do not make their working with homebound children ineffective); and (B) among students otherwise equally eligible to participate in the program, preference will be given to those having greater financial need;

"(2) the program will be administered by the local educational agency in accordance with its rules and regulations relating to homebound instruction;

"(3) participation in the program will not interfere with the academic progress of participating students.

"(4) compensation paid to participating students will be set by agreement between the local educational agency and the student's institution, the maximum to be established at the direction of the Commissioner. In no case shall the compensation be established below the prevailing minimum hourly wage;

"(5) funds will be used in such manner as to encourage equipping the homebound handicapped children for eventual full assimilation by society, with every effort to avoid development of a segregated, permanent system of education for the handicapped; and

"(6) Federal funds made available under this part will be so used as to supplement and, to the extent practical, increase the level of State, local, and private funds expended for the education of handicapped children, and in no case supplant such State, local, and private funds.

"APPLICATION

"SEC. 672. (a) The Commissioner shall make grants under this part to State educational agencies on the merits of their proposals to him which shall be submitted on such application forms and under such guidelines, as he shall prescribe. Proposals shall contain, among other information as required by the Commissioner (1) all data from local education agencies' proposals to the State, as is required to support the total amount of funding requested by the State; (2) the State's detailed plans for conducting, or providing for the conduct of, evaluation of the program supported under this part; and (3) the State's detailed plans for locating and identify all its homebound children who could benefit from this program.

"(b) An amount not to exceed 10 per centum of the total funds awarded to a State under this part shall be available to the State for it and its local education agencies to administer the program.

"AUTHORIZATION AND APPROPRIATION

"SEC. 673. There are hereby authorized to be appropriated $55,000,000 for the fiscal year ending June 30, 1973, and such sums as may be necessary for fiscal year ending June 30, 1974, and for fiscal year ending June 30, 1975, for carrying out the provisions of this part.

"ALLOTMENTS TO STATES

"SEC. 674. All of these sums shall be granted at the discretion of the Commissioner; however, the Commissioner shall set aside 25 per centum of the total appropriation and preliminarily allocate (but not automatically grant) to each State (as defined by sec. 602(6)) an amount which bears the same ratio to such amount as the number of children aged three to twenty-one, inclusive, in the State bears to the number of such children in all the States. The Commissioner shall approve or disapprove applications from the States, and any funds preliminarily allocated to a State whose application is disapproved, or which fails to file timely application, shall be added to, and be included for distribution under, the remaining 75 per centum of the funds. The Commissioner shall not disapprove any State's application until he has offered and (if the State accepts his offer) provided technical assistance to that State in an effort to bring that State's application to a level of approvable quality, so that the State may then be granted its proportionate share of the 25 per centum set aside, and, if then applicable, an appropriate portion of the remaining 75 per centum."

By Mr. EAGLETON (for himself, Mr. INOUYE, Mr. HOLLINGS, Mr. STEVENSON, Mr. HUGHES, Mr. WILLIAMS, Mr. BOGGS, Mr. TUNNEY, and Mr. MATHIAS):

S. 2899. A bill to authorize grants and loan guarantees for construction or modernization of hospitals and other medical facilities in the District of Columbia. Referred to the Committee on the District of Columbia.

THE DISTRICT OF COLUMBIA MEDICAL FACILITIES CONSTRUCTION ACT OF 1972

Mr. EAGLETON. Mr. President, at the request of the Hospital Council of the National Capital Area, I am introducing, along with several cosponsors, a bill to extend the District of Columbia Medical Facilities Construction Act which was enacted during the 90th Congress.

I am informed that this construction funding involves no additional new acute care hospital beds for the District, but is primarily for modernization and renovation.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 2422

At the request of Mr. GOLDWATER, the Senator from Oklahoma (Mr. HARRIS) was added as a cosponsor of S. 2422, a bill to provide for the acquisition of a village site for the Payson community of Yavapai-Apache Indians on certain lands which are to be eliminated for such purpose from the Tonto National Forest, and for other purposes.

WITHDRAWAL OF COSPONSOR

S. 2574

At the request of Mr. MCGEE, the Senator from Georgia (Mr. GAMBRELL) was removed, and the Senator from Oklahoma (Mr. HARRIS) was added as a cosponsor of S. 2574, the Voting Rights Amendments of 1971.

SENATE JOINT RESOLUTION 79

At the request of Mr. HARTKE, the Senator from Vermont (Mr. STAFFORD) was added as a cosponsor of Senate Joint Resolution 79, the equal rights amendment.

SENATE RESOLUTION 202—SUBMISSION OF A RESOLUTION RELATING TO TROOP REDUCTIONS IN EUROPE

(Referred to the Committee on Foreign Relations.)

Mr. MATHIAS. Mr. President, I submit a resolution that would put the Senate on record as opposing unilateral withdrawal of U.S. troops from NATO countries.

Let us reduce troop levels, but do it rationally, do it cooperatively, do it permanently through mutual and balanced force reductions.

I think it would be a grievous mistake if the United States were to undertake unilateral cuts at this time. I am not opposed to an ultimate reduction in the level of our forces—in fact I think they are necessary—but I do believe that we must work this out in full consultation with our allies.

Our European allies have been stung by unilateral executive action in the economic area. Let us not aggravate this situation by unilateral legislative action in the defense area. The Senate participated in the NATO treaty. Let the Senate demonstrate that it is living by the spirit of that treaty.

The text of my resolution is as follows:

S. RES. 202

Resolved, That it is the sense of the Senate that:

1. The United States should revitalize its policy of support for the North Atlantic Alliance and reaffirm the policy of the United States for full partnership in the defense of the entire Atlantic Community on the basis of self-help and mutual support; and

2. The United States should actively seek mutual and balanced force reductions to be brought about through consultations among the NATO Allies with view toward negotiations between the NATO powers and the members of the Warsaw Pact; and

3. The United States should continue consultations with its Allies on the level of American forces required on the Continent to preserve the Atlantic defense potential and on the apportionment of troop reductions among the members of the alliance in event of agreement with the Warsaw Pact Powers on mutual force reductions; and

4. In the absences of troop reductions between NATO and the Warsaw Pact, troop reductions undertaken by the Soviet Union, or a significant strengthening of Western European defense capacity, the United States should make no substantial reduction in the current level of its forces deployed in Europe before June 30, 1973, at which time the United States should determine with its European Allies the level of American forces required for Western defense; and

5. The United States should seek, with its European Allies, to immediately improve the effectiveness of forces deployed in Europe and to encourage the development of a common Western European defense effort within the framework of NATO; and

6. The United States should continue to support steps furthering the progress of *detente* in Europe, in ways best designed to maintain the strength of the Atlantic Alliance and reassure its European Allies of its continued commitment to their peaceful development; and

7. The United States should undertake with its European Allies to resolve the current monetary and trade crisis, with a particular view toward augmenting the total strength of the peoples constituting the Atlantic Alliance, while building a new structure of international economic relations for the benefit of all nations.

* * * * *

SENATE RESOLUTION 203—SUBMISSION OF A RESOLUTION RELATING TO THE U.S. DELEGATION TO THE 1973 UNITED NATIONS LAW OF THE SEA CONFERENCE

(Referred to the Committee on Foreign Relations.)

Mr. HATFIELD. Mr. President, today I am submitting for myself, the senior Senator from Washington (Mr. MAGNUSON), and the senior Senator from Alaska (Mr. STEVENS), a resolution calling for inclusion of representatives of the U.S. fishing industry as members of the official U.S. delegation to the 1973 United Nations Law of the Sea Conference.

In my opinion, it is inexcusable that the U.S. delegation to such a conference would not include representatives of our fishing industry. The theme of the conference is management of our sea resources, which is exactly what must be done on a global basis if any fish resource is to survive.

While discussions have centered on such items as territorial limits, foreign nations vacuum up fish off our coasts at an increasing rate. Preservation of the fish resource is at stake.

The very future of the global fishing industry is at stake. Only international agreements aimed at preservation and conservation of the resource can preserve our vital fishing industry.

We three Northwest Senators serve on the Commerce Committee, where we review legislation affecting our fishing industry. We all hope representatives of the fishing industry will be added to the U.S. delegation.

Mr. President, I objected to this omission in letters to the Department of State, and to the National Oceanic and Atmospheric Administration. I ask unanimous consent that the responses and the resolution appear at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF STATE,
November 18, 1971.

Hon. MARK O. HATFIELD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HATFIELD: The Secretary has asked me to reply to your letter of November 5, inquiring on behalf of the fishery industry's interest in the Law of the Sea Conference.

The Executive Branch is considering the question of fisheries industry representation on the U.S. Delegation, and we expect that a final decision will be reached soon. As soon as the decision has been made, I will write you again.

Sincerely,

DAVID M. ABSHIRE,
Assistant Secretary for Congressional Relations.

U.S. Department of Commerce,
National Oceanic and Atmospheric Administration,
Rockville, Md., November 15, 1971.

Hon. Mark O. Hatfield,
U.S. Senate,
Washington, D.C.

Dear Senator Hatfield: In further response to your letter of November 9, 1971, to Secretary Stans, I want to assure you that the Department of Commerce shares your view, and that of the fishing industry, that U.S. commercial fishing interests should be represented at the Law of the Sea forum.

To that end, we have made both formal and informal overtures to the Department of State and the Interagency Task Force on Law of the Sea for such representation at all future preparatory conferences and the 1973 Law of the Sea Conference.

We intend to continue to make every effort to ensure that our fishery interests have an opportunity to participate fully and directly in U.S. Law of the Sea activities.

Sincerely,

Robert M. White, *Administrator.*

Mr. HATFIELD. In addition, Mr. President, there appeared a fine editorial in the Daily Astorian newspaper on this omission. The editor, Mr. Mike Forrester, capsuled the views many people in my State, and across the country, felt when they realized that representatives of the U.S. fishing industry would be omitted from this conference.

I ask unanimous consent that the fine editorial appear at this point in the Record, and I also ask unanimous consent that a copy of the language of the resolution appear at the conclusion of my remarks.

There being no objection, the editorial and resolution was ordered to be printed in the Record, as follows:

[From the Daily Astorian (Oreg.), Sept. 30, 1971]

Unwise Neglect

Same old deal.

That's what many in the commercial fishing industry are saying after the industry was left out of a recent session planning a 1973 Law of the Sea conference in Geneva, Switzerland.

The planning session, also held in Geneva, included officials in many fields. Emphasis was reportedly on under-sea mineral resources and on freedom of movement of U.S. merchant and naval vessels. No representatives of the fishing industry,

With all the evidence of over-fishing of certain species, with the concern over the world's peoples having adequate protein foods and with the conflicts between nations over fishing areas, still no invitation for the fishing industry to take part at Geneva.

The U.S. government's explanation was reportedly that the planning session would have been unwieldy if too many interests were represented.

The plain fact seems to be that the fishing industry continues to stand where it has stood for years—at the end of the line. Officials, whether in the White House, State Department or elsewhere, have not seen fit to stick up for the U.S. fishing industry in conflicts with fishing operations of other countries. It's undoubtedly easier in foreign affairs to accede to the wishes of the Japanese, the Koreans, the Soviets, the Ecuadorans etc. over fishing issues than to disagree with them.

It's easy to see why the State Department wants to keep from borrowing more trouble—the United States has enough international problems already. But ignoring or minimizing the problems of fisheries conservation in the oceans cannot be excused. Conservation of the world's fish resources is really the issue.

Mineral exploration on a continental shelf affects the fisheries. Military activities on the ocean bottom affect the fisheries. Excessive fishing of certain species obviously affects the fisheries. Excessive fishing apparently won't come up at the planning 1973 conference, but minerals exploration and underwater military activities certainly will.

Fish are usually considered one of the nonvital foods in America, but that surely isn't the case in many other countries. As the world's population grows and as the need for cheaply produced protein sources grows, fish will become more and more important. Planners in the United Nations, under whose auspices the 1973 meeting is being arranged, must realize the importance of protecting the fishery resource.

If consideration of fish is truly not feasible at the 1973 conference, the United Nations or the United States should plan immediately a separate international meeting on the fisheries. Such a conference is long overdue.

S. Res. 203

Whereas the United States fishing industry has experienced a prolonged period of economic and international difficulties;

Whereas the future of the United States fishing industry currently evidences little hope of improved economic conditions;

Whereas the future of the United States fishing industry is tied to the world-wide preservation of the basic fish resource;

Whereas one country's efforts to preserve the resource would be ineffective;

Whereas the preservation of the fish resource must be based on multi-nation agreement and cooperation;

Whereas the 1973 United Nations Law of the Sea Conference will consider the future management of the resources of the sea;

Whereas the 1973 Conference will take action affecting the future of the United States fishing industry; and

Whereas current membership of the United States delegation does not contain representatives of the United States fishing industry: Now, therefore, Be it

Resolved, That it is the sense of the Senate that representatives of the United States fishing industry be included in the United States delegation to the 1973 United Nations Law of the Sea Conference.

DEPARTMENT OF DEFENSE APPROPRIATIONS, 1972—AMENDMENT

AMENDMENT NO. 746

(Ordered to be printed and to lie on the table.)

Mr. JACKSON submitted an amendment intended to be proposed by him to the bill (H.R. 11731) making appropriations for the Department of Defense for the fiscal year ending June 30, 1972, and for other purposes.

AMENDMENT NO. 747

(Ordered to be printed and to lie on the table.)

Mr. GRAVEL submitted an amendment intended to be proposed by him to the bill (H.R. 11731), supra.

AMENDMENT NO. 749

(Ordered to be printed and to lie on the table.)

Mr. McINTYRE submitted an amendment intended to be proposed by him to the bill (H.R. 11731), supra.

AMENDMENT NO. 750

(Ordered to be printed and to lie on the table.)

Mr. JACKSON submitted an amendment intended to be proposed by him to the bill (H.R. 11731), supra.

REVENUE ACT OF 1971—AMENDMENTS

AMENDMENT NO. 748

(Ordered to be printed and to lie on the table.)

Mr. GRAVEL submitted an amendment intended to be proposed by him to the bill (H.R. 10947) to provide a job development investment credit, to reduce individual income taxes, to reduce certain excise taxes, and for other purposes.

ADDITIONAL COSPONSOR OF AN AMENDMENT

AMENDMENT NO. 559

At the request of Mr. Ribicoff, the Senator from New Jersey (Mr. Williams) was added as a cosponsor of amendment No. 559, intended to be proposed to H.R. 1, the President's family assistance plan.

WITHDRAWAL OF A COSPONSOR

AMENDMENT NO. 743

At the request of Mr. Cranston, the Senator from New York (Mr. Buckley) was removed as a cosponsor of amendment No. 743, intended to be proposed to S. 2712, the Economic Stabilization Act of 1971.

NOTICE OF HEARING ON A NOMINATION

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Wednesday, December 1, 1971, at 10:30 a.m., in room 2228, New Senate Office Building, on the following nomination:

Kenneth K. Hall, of West Virginia, to be U.S. district judge for the southern district of West Virginia, vice John A. Field, Jr., elevated.

At the indicated time and place persons interested in the hearing may make such representations as may be pertinent.

The subcommittee consists of the Senator from Arkansas (Mr. McClellan), the Senator from Nebraska (Mr. Hruska), and myself as chairman.

ADDITIONAL STATEMENTS

OPPOSITION BY MALCOLM FORBES TO MEDIA EXEMPTION FROM PRICE CONTROLS

Mrs. SMITH. Mr. President, Saturday, I received a most refreshing and unusual telegram from the resident and editor in chief of Forbes magazine. It was refreshing and unusual in that it was at least one instance of a person saying that he did not want to be exempted from price wage controls.

Because of its rarity, I ask unanimous

consent that the telegram I received from Malcolm Forbes be printed in the RECORD.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

NEW YORK, N.Y.,
November 19, 1971.

Senator M. C. SMITH,
Senate Office Building,
Washington, D.C.:

I cannot think of one valid reason why media should be exempt from the price wage controls applying to everyone else. I hope you will vote against this embarrassing, unjustified, presumptuous proposal.

MALCOLM FORBES,
President and editor in chief, Forbes Magazine.

BUTZ' SPEECH SHOWS LACK OF CONCERN OVER NATION'S NEEDS

Mr. PROXMIRE. Mr. President, a few days ago I received a casette recording of a speech Secretary of Agriculture-designate Earl Butz made before an agricultural advertising and marketing seminar earlier this year—on April 26, to be exact. On Friday I provided certain segments of this speech to members of the press. These segments were highly critical of the food stamp program, the Nixon welfare proposal, and the environmental movement. They raised serious concern in my mind about the type of job Dr. Butz would do as Secretary of Agriculture were he to be confirmed by the Senate.

In the course of his speech Dr. Butz pooh-poohed the notion that Lake Erie is a dead lake, minimized the impact of DDT runoff on the fish population of Lake Michigan, and termed consumerism and environmentalists a threat. These comments, added to his antagonism to the family farmer, make him entirely unsuited to represent both the family farmer and the consumer as Secretary of Agriculture.

So that Senators can evaluate Dr. Butz' comments in the context of his entire speech, I ask unanimous consent to have printed in the RECORD, a transcript my staff prepared from the casette recording of the speech over the weekend. Anyone who cares to listen to the recording is perfectly free to do so in my office.

There being no objection, the speech was ordered to be printed in the RECORD as follows:

THE CHALLENGE TO MARKETERS IN THE 1970's

(Speech by Earl Butz)

Thank you very much Burt, ladies and gentlemen, federal taxpayers, just to make sure I include everybody here today. It is a pleasure to be here. I see you're starting off your sessions operating in the dark as we do in agriculture much of the time and especially if you're concerned with agricultural policy, I think it's wise to operate in a darkened room. I checked back on my notes and discovered last November two that I had a telephone call from Burt Lund asking if I would appear here today and Burt kind of skirted around the edge, you know. He didn't know what my fee was or anything like that. He kind of talked about the association being new, just twelve years old, not having a great deal of money and the like of that. I kind of read between the lines. Burt says, "well don't you do a talk once and a while for General Motors." I said, "Yeah, that's right." He said, "any chance of getting them to sponsor you up here." Looking for a new way out, you know. I said, "Well, that's probably possible, Burt, you can try it," so I am delighted to be here as a representative of General Motors speakers bureau today which means that you get me for free and it's probably worth about that sum. I'm not supposed to do any advertising for them you know because their product doesn't need much advertising. But I had a unique experience the other day I'll tell you about.

I flew into Minneapolis here going to one of the outlying places out here to make a talk and I went up to the Hertz counter to rent a car to drive out there fifty or sixty miles. I got this Hertz car and the young lady says, "Well now Mr. Butz, we got a nice brand new Ford to give you here." I said, "Look here young lady, I'm here as a representative of General Motors, I'd like a General Motors' car." She said, "Well I know how you feel about it, I'll still give you a nice brand new Ford that you can use." I said, "Let's get the record straight. General Motors is paying my expenses here today. They are paying me for doing this. I want a General Motors car." She said, "Look here Mr. Butz, I want to tell you something, if you want a General Motors car you've got to get here early," she said.

Well any way. That was last November, and two I didn't realize then the kind track I was going to be on now. You know, you think that far away the date will never get here, but it has a habit of catching up with you some how or other. All things catch up with you sometime. Just like the other day, this was brought home to me, that even after a long time things will come to pass. Mrs. Butz has been on me for some while to clean out the garage. I finally decided to clean it out and stop that static I'd been getting. So I went out in the garage and it was a bit dirty. I thought I'd better put on an old suit of clothes to do this job. So I got to rummaging around back in the closet and I found a suit of clothes that I hadn't worn in six years and I put that suit on. I got in the garage and I put my hand in my pocket and I found a shoe repair ticket for a pair of shoes that I had taken down to the local cobbler sometime before six years ago. I don't know just how long ago it was.

Well I was curious to know whatever happened to those shoes. So the next day, I went down to the cobbler and I said, "I was cleaning out my garage yesterday. I put on this old suit that I haven't worn in six years. I put my hand in my pocket and I found this shoe repair ticket for a pair of shoes that I brought down to you sometime before six years ago. I'd forgotten about them. I know I wouldn't expect you to have those shoes now but, out of curiosity, anyway, tell me what ever happened to those shoes?" He said, "Let me see that ticket." He went back to the counter. Presently, he came back out. He said, "Those shoes will be ready a week from Friday." (Laughter) So anyway, it caught up with me. Here I am, I don't get the significance, though, I just get started and he brings up four glasses of water like this is going to be a dry talk.

Burt said that I was going to tell you something about the Agricultural market. Since Burt's not paying me, I think I won't do that. It gives me a great deal of independence, here you know. But I got to looking over your program and you're going to be dealing with this Agricultural market all day, and tomorrow too. You've got all kinds of experts here. And, I'll sum up this agricultural market in terms of volume in just a quick word. It's big and it's going to get bigger.

When we talk about shrinking agriculture—we've been talking about that now for twenty years I guess, haven't we—and we thought of shrinking agriculture only in terms of shrinking numbers of farmers and that's absolutely the only way this is shrinking, and shrinking numbers of farmers and shrinking numbers of farms. Each year our agriculture in this country takes more capital than the year before and more purchase production inputs, a higher level of sophisticated management, a more difficult job to get the job done, more custom-made items go into it, and that's going to continue. It will be a tremendous market. Now that's the speech that Burt said that I was going to give you. And that's it.

But I'm going to talk about something this morning that I think is a real threat to American agriculture. It involves our future and something that you can help with. And that's the threat that comes from the environmentalists, or from the do-gooders, or from consumerism, or from whatever you want to call it. I guess if I have to use a title for my talk, I'll call it "Man and His Environment, Crisis or Challenge." We are all involved in this because increasingly the agriculture uses an ever-larger chunk of chemicals, of antibiotics, of insecticides, of pesticides and that type of thing that's under increasing attack from the environmentalists in this country.

Man is the most versatile of all the animals I guess on the earth. He's learned in varying degree to adapt the natural elements and to modify the physical environment in which he lives. In the last thirty minutes of the 24-hour time clock, of the recorded human history, man has extended his habitat from the tropics and the friendly garden of Eden to the frigid and hostile tundra of the Arctic and Anarctic. You'll find him from the high altitude of the Alps to the low elevation of Death Valley. You will find him from the 24-hour photo periodism of this latitude to the six-month photo-periodism of the Artic. You'll find him under all kinds of varying conditions. In short, he has disturbed the balance of nature. This is brought into play, this word that we kick around a great deal these days, that we call ecology. Five years ago or ten years ago, nobody could even pronounce the word ecology. Now we can pronounce it but nobody knows what it means. We kick it around a great deal, you see.

Well, man disturbing this balance of nature has brought great rewards to him. But not without peril and without cost. And, I want to talk about those perils and costs a little bit today, and then see what we can do about it as educators in this agricultural field.

Pollution is not new. It's just more intense, is all it is. Man has always been a polluter of sorts. The cave man was a polluter. We know something about how the cave man lived and something about his habits from his rubbish pile as we examine that. But when he got dirty enough he just moved on to new territory. We can't do that anymore, because there's no more new territory for us to move onto here. So that pollution is nothing new. It's just become a matter of public consciousness here in recent times.

You know, we follow fadism in America in the public causes we espouse. In recent times, I guess the last fifteen or twenty years, we're always marching for something and we have a great tendency to follow fadism in the causes we espouse. I suppose in history we'll look back five or six years from now, we'll look back on 1970–71 and we'll call this the year of the environment, I suppose, if we have to characterize it for anything. But look back three or four years before this. What were we marching for then? Then, the big clamour was hunger and malnutrition. And we in Agriculture, were, of course, intensely interested in that, too. And we were quite concerned about hunger and malnutrition. You remember Senator McGovern had his televised hearings down in Florida to portray the bad plight of the migratory workers in Florida. Ted Kennedy, not to be outdone, took a planeload of cameramen to Alaska to see the starving Eskimoes, you know. And that was portrayed in several TV features back here. And what came out of that? Out of that came a food stamp plan—so generous, so extensive—that it's just short of ridiculous in some parts in this country. Out of it came a welfare program that President Nixon is recommending to the Congress that's so far out that even the Democrats in Congress won't buy it (laughter).

But my point is that we always over-react to crisis. It's a typical American characteristic to over-react to crisis. Before the hunger and malnutrition binge we were on, it was integration and segregation and we were all hepped up about that, you recall. And the people who are really suffering from this environmental binge we are on now are the integrationists. Their money's dried up, the support is dried up. These fellows are really hurting because we 've forgotten about that. Well right now, I think that we're at the crest of what I would call the agitation curve in this environmental binge we're on, I think that there is some evidence that we may be headed downward in this agitation curve a little bit.

Last week, we had Earth Week. And I am informed that attendance at the various meetings and seminars we had at Earth Week was down substantially from what it was a year ago. You can only run this stuff through the press and through the news media once and the edge is off of it, you know. So our real problem then is to get through this next year—1971—without doing some very, very silly things—in legislatures, in the Federal Congress, in the regulatory bureaus of the government, in the Environmental Protection Agency, which is now headed by a very capable fellow, Hoosier of mine, Bill Ruckelshaus. But he's got a whole battery of bureaucrats there that have been put together from various sources and it's in their very nature to regulate, you know. That's the way they survive. And I think that our big challenge is to get through 1971 without doing permanent damage to the useful things we do in agriculture, many of which you purvey yourself. And concerning many of which you conduct a vast educational program from year to year. So that's the problem we have. Maybe it's better that we get all excited about causes like this. We do get something done. Just so we don't over-react. That's the real danger we face now is over-reaction. We need to extol the benefits that come from these chemicals and antibiotics and pesticides and antibiotics that we use. Well, now to get down to specific here on some of the things that causes trouble.

I guess that one of the basic problems in this whole thing is this rapid growth in population we've had and that we are having. And, that's nothing new to you. Somebody has said that this problem of pollution we have is primarily a problem of peoplelution—to abbreviate "people pollution". And I think that's essentially correct. We're just growing so rapidly, and our demands are skyrocketing so much that we have trouble keeping up with it.

The astoninshing fact is that the human race now in the world is currently doubling every thirty to thirty-five years—that's worldwide. In the next thirty years in this country, we're going to add 50% to our population plus or minus—I won't argue 10 or 20 million one way or the other. But we're going to add roughly another 100 million people to our population in this country. In the next thirty years we're going to double the world population—the next thirty years, and that poses some tremendous problems in terms of the skyrocketing of human wants, in terms of our waste disposal problems, in terms of feeding this, in terms of just the sheer feeding of this mass of people, in this country and around the world. Think of it, world population doubled in 30 years by the year 2000 and that's not very far away—that's closer to me now than I am removed from my college graduation.

We're going to have to learn somehow in this world in these next thirty years how to feed as many more people as we have learned to feed since the dawn of history. Now, I get a little scared when I contemplate that and when I see the job that that means for agriculture. And when I figure the large amount of scientific and technological inputs that will have to be put into agriculture to get that job done, then I see these environmentalists on the other side trying to hold us back and trying to impede—not trying, but the net effect is to impede—the progress we're making in scientific agriculture. That's a real challenge—to learn in the next thirty years how to feed as many more people as we've learned since the dawn of history at a time when there is no new Western Hemisphere to discover, at a time when there are no more prairie sods to plow, at a time when there are no more virgin timbers to cut down, at a time, as a matter of fact, when we're losing arable land to the urban sprawl—to parks, to recreation, to airports, to highways—every time you run one of these dual lane highways through Minnesota it takes out thirty acres a mile. And every time you put a clover leaf in one of these four lane highways, it takes out from 25 to 40 acres depending on the size of the curve. And my impression is that concrete is down there pretty solid. I don't think we're ever going to farm that again.

My point is that the only additional input we have to put into this agricultural machine in these next thirty years is the very input that you folks merchandise. It's the custom part of agricultural inputs, it's science, it's research, it's brainpower, it's chemistry, it's biology. And that's the input that we're going to put into it in these days ahead.

Well, as we double our population, human wants are skyrocketing too. Population is going up on a geometric curve and you know a geometric curve is a growth curve that goes up—something like that has a multiplier effect in it. And we're used in agriculture to thinking about an arithmetic curve where you simply add a given increment every year. But this population thing is a growth curve going up something like that, an exponential curve or as somebody's said, a logarithmetic curve. If you don't know what that is, it's something like the growth of bacteria in a plate of mayonnaise beside the refrigerator on a a hot summer's day when your wife is gone. Or if you never experienced that, it's like the national debt (laughter) is a growth curve, you see. Then you add to that an exponential curve in the skyrocketing of human wants and you've got a real pollution problem in this country that we can meet. I'm sure we can meet. But my plea is, let's meet it rationally and objectively and not emotionally.

What are some examples of the skyrocket of human wants in this country? We're doubling in this country our electric power production every decade, at the present rate . . . we're going to have to have twice as much electric power production capacity ten years from now as we have today. And we're talking now about thermal pollution of water, and pollution of our air and so forth. In North America, automobiles are increasing twice as fast as people. And you wonder some times where you're going to put the ones you have now. Well, think of that in terms of our problem—of the emission problem—which I think the automobile companies are making real progress in licking, in terms of the junkyard problem, in terms of the highway problem and all that. As per capita incomes have risen in this country and around the world and the big rise around the world has yet to come, our demand for foodstuffs goes up—not so much in terms of total quantity but in terms of quality. You've seen that here in this country with a doubling of our per capita consumption of beef for the last twenty years, for example, with our poultry products going up, with pork, I think, just ready for a great breakthrough, well, all this, of course, posts a great problem in solid waste disposal, and that's growing on a geometric basis, too. At the present time the per capita production of solid waste in this country is about five pounds per person per day. And if I add to that the industrial and agricultural waste, that rises to about 8 pounds per person per day or 1½ tons per person annually. That's 300 million tons of solid waste a year, I'm talking about. Think of the load that imposes in incinerators, on dumps, on landfills, on garbage disposals and sewage treatment plants, if you want to.

Well, moving on. How much pollution do we have anyway? It's kind of difficult to measure. You can measure water pollution, you can measure air pollution—we talked about noise pollution a great deal. And we haven't yet clearly identified how much pollution we do have.

But let's come back to agriculture for a moment. Agriculture is one of our big solid waste producers. And it's under attack increasingly for that. On top of that, it contributes its share of water pollution in the nature of nitrates and nitrites, ammonia and persistent insecticides such as DDT. We hear a lot about the runoff of DDT in Lake Michigan over here.

We don't hear much about the benefits of DDT. You don't hear much about malaria having been wiped from the face of the earth. You don't hear much about human health having been improved. You hear about DDT being found in the fish taken out of Lake Michigan over here running off the Wisconsin hillsides and the like of that to which I argue that, something like this: That Lake Michigan has DDT in it. The Cohoe salmon thrives in Lake Michigan. Lake Superior has no DDT. There are no Cohoe salmon in Lake Superior. Moral: Let's put DDT in Lake Superior so Cohoe salmon can grow there (laughter). Absurd! Of course, it's absurd. But no more so than the argument on the other side. Lake Erie—how many of you have heard that Lake Erie is a dead Lake and the other Lakes dying. Last year the commercial fish take in Lake Erie was a record. It can't be very dead. Now the character of the fish change some I know. But they were commercially important fish. And it was a record that come out of Lake Erie. My only point is, lets come down to earth on this propaganda and agitation that we're getting about environment and be sensible about it.

Our farmers are caught right in the middle of consumers' demand for more red meat with less pollution from its production. But we've not yet found a way to produce a tasty sirloin steak without some cow manure as a byproduct. The two go together. And yet, look at all the agitation we're getting from some of our municipal areas to control feed lots, for example, clear out on the edge of the watersheds. Now we know scientifically how to handle manure disposal in feed lots. We can do it in a sanitary way, the technology is here, we know how to do it. But these things are being tried in an emotional way—in the press. I think of my home state of Indiana, (Indianapolis) where a group of people were trying to put together a feed lot about 15 or 20 miles north of Indianapolis—just on the edge of the watershed for the city. It became an emotional issue. This has been tried in the press in Indianapolis. And they have been convicted. There is no way in the world they can construct that thing and run now—with all the legal rights they may have to do it—because they have been convicted in the press by the city of Indianapolis. This is an emotional issue.

My only point is that we need to get nonemotional about this and be factual about it.

Well, can pollution be controlled? Well, of course it can. We understand how to do it. What's it going to cost? One of the best estimates I have seen of this was in the U.S. News and World Report a few months ago and they estimated that it would cost about $71 billion to clean up our streams, our air and to abate noise pollution. How much is $71 billion? Can we afford something like that? That was over a ten-year period they were talking about. That's about $7 billion a year. Now I don't know how much $7 billion is in spite of the fact that I once spent three years with the federal government. I get lost in sums of that magnitude. (laughter) I get lost in sums much less than that.

Just to illustrate, a few years ago, when our young son was still in high school, I came home from work one afternoon. Mrs. Butz met me at the door and she said "Earl, Tom had some difficulty with the teacher today, will you find out what it was, please." So, I edged up beside Tom as he sat watching TV and I said, "How did school go today, Tom." "Pretty good, daddy, pretty good." "Anything go wrong today, Tom". "No, daddy, nothing much." "Tom, you and I are friends, you can be frank with me and I won't get angry." "But do you recall Daddy a couple of nights ago when I asked you how much ten thousands dollars was?" "Sure! Why?" Well, the right answer is not a hell of a lot." (laughter). So, I don't know how much $7 billion is. All I know is that it's a lot of money, but not very much. We're going to have a trillion dollar gross national product this year, President Nixon said. He may not quite make it. But this was when he was wishing rather than thinking, I think, when he said that. But anyway, we're going to skirt close to it—to a trillion dollars.

Last year we had about $960 billion. A trillion dollars is a thousand billion dollars. If we take $7 billion or even $10 billion a year, that's one percent of our gross national product. And, I am sure that we can control that sum on a rational program of environmental control in this country. But we have got to get the point across that all of us are involved in this one way or another. Every one of us. A little while back the comic strip, POGO, was talking about pollution. He said, "We have met the enemy and they are us." And, this is true, you see. Now then, let's don't overlook the benefits from this. It's not all cost. After all there are tremendous benefits in clean air—less corrosion in the vicinity of these large factories—in clean water—many, many benefits and they far exceed the costs. And this can be done, I'm quite sure.

Now, what we've got to do is to search for a proper risk-benefit ratio as we approach this matter of environmental control or ecological control in agriculture. We want an optimum risk benefit ratio. And my plea to you is that every time you get a chance you emphasize the importance of this. Nowhere in life do we completely eliminate risks. We don't completely insure against risks. You don't insure your house for all it's worth. You can't afford to carry insurance like that. You don't insure your automobile for as much as you should, because it would get too costly. You carry part of the risk yourself. You don't insure your life for what it's worth. If you did, you couldn't afford anything else if you had that kind of security. We're after an optimum risk-benefit ratio all the time and we have to keep that in mind. We take some risks and assume we have will be equal to the cost we pay. We don't want to pay more than the benefits are worth. Now you can completely insure yourself against risks, I guess.

I came across a little editorial the other day, that I want to read to you. It illustrates this so nicely. The title is, "Life is So Peachy".

Once upon a time there was a man named Snadley Clabberhorne who was the healthiest man in the whole wide world. Snadley wasn't always the healthiest man in the whole wide world. When he was young, Snadley smoked what he wanted, drank what he wanted, ate what he wanted and exercised only as a young Lothario. He thought he was happy. "Life is absolutely peachy" he was fond of saying. "Nothing beats being alive." Then along came the Surgeon General's report linking smoking to lung cancer, heart disease and emphysema. Snadley read about the great tobacco scare with a frown. "Life is so peachy," he said, "there's no use taking any risks." So, he gave up smoking. Like most people who went through hell giving up smoking, Snadley became more interested in his own health. In fact, he became fascinated. And when he read a WCTU tract which pointed out that alcohol caused liver damage and brain damage, he gave up alcohol and drank dietary colas instead. At least he did until the great cyclamate scare (laughter). "There's no sense in taking any risks," he said. And he switched to sugar sweetened colas which made him fat and caused dental cavaties. On realizing this, he renounced colas in favor of milk. That was about the time of the great cholesterol scare. Snadley gave up milk to avoid cholesterol which caused arterio sclerosis. He also gave up meats, fats and dairy products, subsisting on a diet of raw fish (laughter). Then came the great DDT scare (laughter), the presence of large amounts of DDT in fish. Snadley read with anguish. But fortunately, that's when he met Ernestine. They were made for each other. Ernestine introduced him to homeground wheat germ, macrobiotic yogurt and organic succotash (laughter). They were very happy eating this dish three times a day. They were, that is, until the great color television scare. "If color TV does give off radiation," said Snadley, "there's no sense taking risks. After all, we still have each other." And that's about all they had until the great pill scare (laughter, applause). On hearing that the pill might cause carcinoma thrombosis and lingering cystectomy, Ernestine promptly gave up the pill and Snadley, huh (laughter). "There's no sense taking any risks," she said. Snadley was left with his jogging. He was, that is, until he read somewhere that 1.3% of all joggers are eventually run over by a truck or bitten by rabid dogs (laughter). He then retired to a bomb shelter in his backyard to avoid being hit by a meteorite, installed an air purifier—after the great smog scare—and spent the next 63 years doing the Royal Canadian Air Force exercises (laughter). "Nothing is more important than being alive," he said proudly on reaching 103. But never did he say any more that life was absolutely peachy. Caution—being alive may be hazardous to your health (applause).

Well—absurd, but not so absurd. That's the direction in which we push ourselves in this country with all these big scares, these agitations, the height of the agitation curve I'm talking about, the fadism that we follow as a nation and currently it's ecology and pollution that hits us in agriculture right in the solar plexis because we are now completely dependent on, almost completely dependent on, a scientific agriculture, upon the use of these things that are dangerous. And I don't want to underemphasize that. Our chemicals, our pesticides, our herbicides, our antibiotics are dangerous—they're poison. But so is aspirin dangerous if you take enough. The doctor prescribes poisons to you when you go to him. But we have carefully prescribed rules and regulations under which we use these various agents, and properly used they are highly beneficial. Now we've got that story to get across it seems to me. We've got to get this story across, that we are seeking an optimum risk-benefit ratio in our society and we must be rational about it.

A few illustrations will suffice. We've got to decide shortly, for example—I said a while ago electric power production demands are doubling every ten years in this country—we've got to decide shortly whether we're going to have a little thermal pollution in our waters or have brownouts in our cities at 3 o'clock in the afternoon when you turn the air conditioners on. You take one or the other.

We're going to decide what additional costs we want to add to our total transportation bill, for example, as we modify the internal combustion engine to lessen the emission, or how much less power we want as we get gasolines that are toned down. Now we've got to put a cost figure against this, you see.

We've got to decide whether we want to have an economical food production machine in this country that brings us this tremendous quantity of food that comes out to 205 million Americans with one acre in five available for export and besides this at relatively low prices in terms of how much you have to pay to get it. Now I know our people don't believe that but last year they spent only 16½% of their disposable income for their food bill. With all the services they got, never did our people get food so cheap as last year and such good food and so many services with it you see.

I think we've got to get the point across and get it across just as emphatically as we know how to do it, that it would be impossible without modern agriculture to feed 205 million Americans even at a subsistence level. Consumers would quickly experience a rise in their food cost, a deterioration in the quality of food, in the variety of food, and they'd have much less to spend for everything else that goes into this fabulous American standard of living, if somehow we curtail the use of these things in American agriculture. And they won't necessarily be curtailed or the use be impaired by legislation. That can be by regulation too. Because as you well know, the most powerful branch of government often are those who interpret the laws and who put words around the laws of Congress and write the regulations. And these are the ones that become—the ones that are very, very difficult to live with. We can go back to an organic agriculture in this country if they insist on it. We can farm without chemicals, herbicides, pesticides and antibiotics if they insist on it. We know how to do it. We did it when I was a youngster. We didn't have an automatic way of controlling insects then.

How well I remember going along and knocking the bugs off the potatoes as a youngster back home. We used a little fertilizer—not very much. It was mostly barnyard fertilizer. We can go back to an organic agriculture if our people insist on it. But the first decision that somebody has to make before we do that is which 50 million Americans are you going to let starve. Now that's the first thing we've got to decide because we simply cannot feed 205 million Americans without the kind of agriculture we now have—without the kind of production inputs that you people help put into it. It's important that we do that.

I guess that the basic problem is that we are so young in America. Half of us are 26 years of age or younger in this country now. I guess the basic problem is that two-thirds of our people in this country never bit into a wormy apple and saw the worm hole and wondered, "is he still in there, or did I get him?" (laughter) These people think that God made nice, red, plump, juicy, healthy apples. They think that nature makes apples that way. As a matter of fact, God put the worm in the apple—man took him out. Now, I'm not being sacriligeous when I say that, that's just a balance of nature. God put the parasite in the pig—man took it out. God put the termite in the timber—man took it out. God put the webworm in the lawn—man took it out—or man's trying to get it out of my lawn. He's having some difficulty. God put the blight on the rose—man took it off. God put the blight on the corn—man's trying to get it out and he's going to get it too. God put the malaria-laden mosquito in the backyard—man took it out. I'm talking about DDT now. God put the potato bug on the potatoes—man took it off. God put the tick on the dog. Man took it off.

I can go on through a hundred illustrations like that you see and I'm not being sacriligeous. This is simply the balance of nature. This is the ecology of nature. And when these enthusiasts come along and want to go back to nature—want to go back to the balance of nature—how far back do they want to go? Let's hold their feet to the fire on this deal here.

Let's indicate that there are benefits from the use of these things and we all benefit from them. And, I think if we can do this we're going to come out of this with a better answer. And I think that it's about the only way we're gonna come out with a good answer is to be factual about this and nonemotional. And this is an attack we've got to make in our General Assemblies, in our Congress, in our state regulated agencies, in the Departments of Agriculture that you saw represented here a moment ago who are pressured from consumerism—just like everybody else is pressured.

This is the age of consumerism. Some while back they said Mrs. Consumer is Queen of the Marketplace. I think that she has become Queen of the polling place. We make all kinds of appeals to her. Naderism is something besides an expression, you see. It's a real movement in this country and he gets response from people who vote and those who issue regulations in state governments and in federal governments likewise get response as well as pressure from people who vote and it is up to us who are close to this situation, who understand the importance of this phase of agriculture.

Now I know you as marketers understand it because it has become a principal source of expenditure in farm production and will grow even more important. We've got to make sure that all the people understand there are benefits that flow from this. There are risks involved. And it's an optimum risk-benefit ratio that we're trying to achieve here.

Well I come back to where I came in a moment ago with the comic strip Pogo, where he said, "We have met the enemy and they are us." This is true, we are all together in this thing. And therefore the problem it seems to me is that we, as individual citizens, have to decide how much we're willing to pay for a better quality of life, and that includes population control, too. That's part of this problem of a better quality of life. And when we quit thinking about these problems as they concern others and face the fact that there are problems, then this nation can move forward with greater effectiveness toward the achievement of a better quality of life for all.

It's completely unacceptable to me to believe that there is no way out of the problems we've created—problems associated primarily with 205 million of us here and 3½ billion of us around the world with a limited finite world—and limited natural resources—where we've consciously disturbed the balance of nature. As I say, it's brought great benefits to us as well as some risk. Unquestionably risks are involved in this process we're in. But there is no risk so great as the risk that we might stop risking and try vainly to set the clock back, to surrender abjectly the goal of a better world, in the mistaken belief that the one we have is as good as can be. And I think that that's one of the chief risks we face. I hope America never stops risking. I hope agriculture never stops risking. That's the nature of our population. It's what's made us the great nation we are. We're always trying something new—there are risks involved.

I've traveled the world a great deal. I've been in thirty nations around the world and I've never seen any population like this American population of restlessness, of risk-takers, of innovators, of trying something new. It's inherent in this American system of free enterprise and profits and it's a basic characteristic of our population—most of us only three or four or five generations removed from hearty pioneers who came here, who risked everything they had to try something better. And yet now comes this new movement, this environmentalist movement, to move us backward—to stop risking—giving up the idea of balancing risks against benefits. And that can be done I'm quite sure.

So I come to the close of my remarks. I see I'm supposed to quit by 10:15 and it is 10:15. You're going to have a lot of sessions today and tomorrow. I note in the magnitude and character of this agricultural market and I hope in these few remarks that I've done with you, that I have stimulated your thinking in another area of primary concern to agricultude—it's one of the big growth areas in agriculture. We're not through growing there yet by any means. And our job is not to fight the environmentalists. Our job is to make sure that the whole picture is before the entire American public, that they understand the tremendous benefits that flow to them because of the use of chemicals, of antibiotics and the various other things that we use in modern agriculture, that our farmers almost take for granted, but those who aren't farmers, those who don't associate a pork chop with a pig, those who don't associate a quart of milk with a cow or an egg with a hen, to make sure that they understand that a slice of ham or a pork chop or a steak or a quart of milk or an egg or a fresh carrot or frozen spinach or whatever, is possible at such low costs and in such high quality, such attractive merchandising, only because in agriculture we have moved a long way down the road of doing a scientific job of using these aids to modify the environment, to upset the balance of nature, to change the ecology of nature, so that you don't bite into the apple and see the worm hole and wonder, "Is he there yet, or did I get him?" Some of us grew up with that experience. If we were to do away with these, or seriously modify the use of these modern chemicals we use, once again, 205 million Americans would be wondering, "Is he there yet or did I get him?" Thank you very much.

SUPPORT FOR CONFIDENTIALITY OF TAX STATEMENTS

Mr. MATHIAS. Mr. President, it gave me great pleasure, while working on my amendment to insure the confidentiality of tax preparers, to have the support and help of a fine association of professional accountants, the National Society of Public Accountants.

This association, representing some 13,000 accountants across the Nation, has long stressed the importance of the confidential relationship between the professional tax preparer and his client.

Mr. President, I ask unanimous consent that the letter from the National Society of Public Accountants in support of the principle of confidentiality of tax statements be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL SOCIETY
OF PUBLIC ACCOUNTANTS,
Washington, D.C., November 15, 1971.

Hon. CHARLES McC. MATHIAS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MATHIAS: Thank you for your interest in the views of the National Society of Public Accountants on S. 1387 and similar bills to protect the confidentiality of tax information.

On behalf of the 13,000 members of NSPA, our Board of Governors voted in May of 1971 to endorse legislation providing this needed protection for the American taxpayer who may not be utilizing the services of a responsible, ethical professional practitioner.

Members of the National Society of Public Accountants are already bound to a standard of ethical practice that unequivocally precludes any use of information received from a client without specific instruction and authorization.

Our Code of Ethics has addressed itself to this sensitive area for many years. This Code states:

"A member of this Society shall not violate the confidential relationship between himself and his client or former client."

We applaud your interest and concern, as expressed by S. 1387, for this possible abuse so easily imposed on an unsuspecting public.

With the emergence of commercial tax services, the NSPA Publication Department has begun distributing a publication entitled "Taxes and the Professional Accountant." By identifying the key elements in professional practice we hope to aid the taxpayer in selecting competent, ethical assistance when he really requires it. The brochure points out:

"The professional accountant is pledged to a high degree of confidentiality. Simply, this means that information passing between himself and his client is secret. It is not divulged to third parties. Private information remains that way—the professional accountant does not use his clients as 'leads' for the sale of merchandise or other services. The accountant and his client occupy a position much like other professionals (doctors, lawyers, clergy) and those they serve."

The complete booklet is enclosed for your information.

Thank you again for the opportunity to comment on this significant and needed legislation. The National Society of Public Accountants is fully in support of legislation such as S. 1387 to protect the public.

Sincerely,

RUDOLPH J. PASSERO,
President.

TRIBUTE TO J. C. KELLAM, "TEXAS PIONEER BROADCASTER"

Mr. BENTSEN. Mr. President, on November 1, 1971, the Texas Association of Broadcasters gave the Texas Pioneer Broadcaster Award for 1971 to an eminent citizen of Austin, Mr. J. C. Kellam, for many years president and general manager of stations KTBC AM and FM and KTBC–TV, in Austin, Tex.

The Texas Pioneer award is the latest of the many honors which Mr. Kellam has enjoyed. As a public-spirited citizen of Austin and an important figure throughout the State of Texas, his talents have frequently been recognized and his achievements applauded. I join in the tribute paid to him by his friends and associates on that important occasion.

At the Texas Association of Broadcasters banquet, Mr. Kellam received the praise of his colleagues in the radio broadcasting industry. In addition, the most celebrated speaker was former President Lyndon B. Johnson, who attended the affair with Mrs. Johnson, the principal stockholder of station KTBC.

I ask unanimous consent that a transcript of the remarks made on this occasion by former President Johnson, and those made by Mr. Dave Morris, president of the Texas Association of Broadcasters, together with the response of Mr. Kellam be printed in the Record.

There being no objection, the speeches were ordered to be printed in the Record, as follows:

Remarks by Former President Lyndon B. Johnson

Coming down here tonight, thinking what I was going to say about the man we honor here, reminded me of a little boy I heard about once who was inclined to exaggerate. One day he came running into the house and shouted, "Mama, Mama, there is a lion in the front yard."

The mother rushed to the front window, looked out and said, "Shame on you. That's not a lion. That's your dog. Now you go upstairs to your room, get down on your knees and ask God to forgive you for exaggerating like that."

About an hour later the little boy asked if he could come out of his room now.

"Did you ask God to forgive you?" his mother asked.

"Yes, ma'm," he said.

"What did He say?" she asked.

The little boy shook his head and replied, "Well, He said *He* thought it was a lion, too."

Well, I've been accused of exaggerating once or twice myself. But I don't want that reputation to affect anything I say here tonight. I don't think there is anything I can say about Jesse Kellam that would do anything to widen the credibility gap. To put it very simply, he is just the best there is. And I don't think anybody's going to dispute it.

President Franklin Roosevelt used to like to tell stories during the "hate Roosevelt" days during the thirties. One was about a Wall Street broker who used to buy a New York Times every morning at the newsstand outside his office building. Every morning he went through the same ritual. He'd pay for the paper, pick it up, glance at the front page, and put it back down again. After this went on for a few months, the paperboy's curiosity got the best of him and he asked the broker why he didn't take the paper with him, seeing as how he'd paid for it.

"Because I'm only interested in the obituaries," the man replied.

"But the obituaries are on Page 38," the paperboy said.

"Son," the man answered, "the S.O.B. I'm looking for will be on Page One."

Well, I can sympathize with that story. I've had a few people looking for *my* name on Page One from time to time.

But I believe that Jesse Kellam is a man without an enemy. If Jesse's ever had one, I never heard of it.

In fact, there's only one thing, to my knowledge, that Jesse's ever been criticized for—his driving. It has been said that Jesse's driving is the real reason why the Greyhound Bus Lines moved its station from across the street from KTBC to a new location six blocks away. He is the holder of the world's driving time from 10th and Brazos in Austin to the LBJ Ranch—and that's been verified by the Texas Department of Public Safety.

According to Cactus Pryor "in the office Jesse's a Guy Lombardo man—but behind the wheel he's strictly Blood, Sweat and Tears."

But that's the only thing anybody's ever been able to find fault with Jesse Kellam about.

The names, Johnson and Kellam have been associated with each other since 1935—more than 35 years. All in all those years I've never met his equal.

Lady Bird chose Jesse to head the broadcasting interests not on the basis of his work as head of the Texas NYA—which was remarkable—not for his outstanding service as a Commander in the Navy during World War II—not for his exemplary teaching career. She chose him because of his record as a football coach. When she took a look at that record, she knew this man's fortunes had to take a turn for the better. And they did.

Jesse took to the broadcasting business as if he were born to it. The first thing he did was invent the eight-day-work week.

But if Jesse demands much of his employees, he demands even more of himself. That's the way he was brought up.

His mother was a Cage and his father was a Kellam. Both of them came from distinguished and successful families. Where I grew up, in Blanco County, both names are honored and respected.

Jesse's daddy died suddenly while he was still a young man, leaving Mrs. Kellam to support three children. Well, she was a woman of pioneer stock. She was a can-do woman. So she roomed and boarded girls for many years thereafter. Each of the Kellam children had to help. Each had his job to do, and I think that experience did two things for Jesse. It taught him how to charm a woman, and it taught him how to work. And both of these characteristics have run strong in him ever since.

He's as honest as Paul.

He's as true and loyal as a person can be.

He's as competent as they make them.

If I had a son, Jesse Kellam is the kind of man I'd like him to be.

So Lady Bird and I have come here because we agree 100 percent with your selection of the Pioneer Broadcaster of the Year.

However, if we had our way, we'd change the name of the award a little. For us, he's the Pioneer Broadcaster of *Every* Year.

Dave Morris. The gentleman we are going to honor tonight I consider a personal friend and a friend of a lot of broadcasters. He started his professional career really in Lufkin, Texas, where he was athletic director and coach. I've been told that he changed the sports scene considerably. Up until the time that Jesse Kellam arrived in Lufkin, they had paid high school players; this was a known fact. But Jesse returned it to the students. He not only returned it to the students, but he beat Nacogdoches for a couple of years, which was unheard of. He was successful. He had a new football field, new gym and new school board. But he did pull all of this off as coach and athletic director. He attended Southwest Texas University and graduated with a Bachelor of Science degree and from there he met and while he was in Lufkin, Louise Murphy, who he married and had two fine daughters, Nita Louise and Carolyn Cage Kellam. I think one of them might possibly be here, or both, if you are would you stand up? Jesse then went on to become Deputy State School Superintendent and in 1935, he met a gentleman by the name of Lyndon B. Johnson. He was associated with Mr. Johnson, who was the NYA Director at the time, and when the Director became a Congressman, he was a natural choice to succeed him. He set a model program up in Texas, Louisiana, and New Mexico that was quite an achievement, and then came the war and Jesse joined the Navy. He did real well and he had a good record. He seems to have a real knack of picking a winning team, both in the war, athletic director, and then after the war he came to KTBC, which was another winning combination. At that time it was AM only, later it became TV–FM. He became President of Texas Broadcasting Corporation.

Jesse has so many numerous honors and activities he has had through the years, it would be, well for example, Headliners Club of Austin honored him, he is on the Executive Committee; he served as Vice President for Educational Affairs on the Chamber of Commerce; he has been active in the Community Council. He's served on the Mayor's Austin Task Force for Citizen Participation in the Model Cities Program, and on the Board of Directors of Texas Citizens Council. The list could go on and on and on, in fact there are three pages. But I think all of us know and have loved Jesse for what he is. He could have been President of TAB, but he chose not to be, because he was in a position he could be criticized. I think this really spells the temperament of the man and for what he is. But I think Bonner can attest to this: that he was always there when he needed a helping hand with any problems that the Association has had. I think you can best describe Jesse that if it was 3:00 in the morning and you had a serious crisis, you could call him and he would be there to help you. And I would like to take this opportunity, Jesse, for you to step up here and honor you with this plaque.

J. C. Kellam. Mr. Morris, President Mike, President and Mrs. Johnson, and friends in broadcasting. I am overwhelmed, I have a host of wonderful friends. Thank you so much.

NEW CLINICAL PHARMACY PROGRAM

Mr. MATHIAS. Mr. President, in the midst of a growing national search for more effective and more humane means of health-care delivery, I am very encouraged by an important new development in my own State of Maryland. Under the leadership of Dean William J. Kinnard, Jr., the University of Maryland School of Pharmacy in Baltimore has launched a promising new clinical pharmacy program—one designed to forge a closer working bond between druggist and physician.

In a step that is unique in the United States, the Maryland School of Pharmacy has eliminated the traditional fifth year apprenticeship—working in a drugstore—to give the students experience in community and hospital pharmacies.

The emphasis, in short, is on a team-type approach, to get the pharmacist involved much more deeply and much more immediately at the patient-care level.

Although Dean Kinnard concedes that this expanded role for druggists may take new legislation and remolding of many ideas, particularly those held by physicians, the Maryland dean is enthusiastically implementing the school's new program. And the results, at least among the students, appear to be very positive: 80 percent of the graduating class have indicated they feel the new program is adding to their professional expertise.

Recognition of the Maryland school's pioneering efforts came recently in the Miami Herald. The article may be of interest to many Senators. I therefore ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Maryland Program Developing Patient-Oriented Pharmacists

(By Sharon Joiner)

Baltimore, Md.—Remember the old wood-paneled, jar-filled apothecary shop? The white-haired town pharmacist sitting down to chat about your rash or backache?

Since those days, the changing role of the druggist in the burgeoning pharmaceutical industry has cast him before the public as little more than an impersonal dispenser of pills.

The University of Maryland, in an unusual student pharmacy program just three years old, hopes to remake this image of the corner druggist and give the nation's overburdened physicians a helping hand as well.

"We want people to select a family pharmacist as they would a family doctor," says William J. Kinnard Jr., dean of the university's School of Pharmacy.

Pharmacy students are now making hospital rounds with doctors, talking to patients about drug reactions and seeing the results of the drugs they dispense.

"The emphasis in pharmacy training is shifting from the product to the patient," Kinnard said.

Traditional courses in cat anatomy have been scratched for human anatomy. Courses dealing with the history of pharmacy and communications were abondoned.

Kinnard believes the shift in emphasis long has been needed, citing the gap between the physician's knowledge of drugs and the higher number of unfavorable drug reactions suffered by patients both in and outside the hospital.

He quoted a recent medical survey in Pennsylvania which found that one person in every four saw four or more doctors in a year and had an average of 35 prescriptions filled.

Dr. James Freston, head of clinical pharmacology at the University of Utah, reported that between $5 billion and $6 billion is spent each year untangling problems caused by adverse drug reactions.

The Maryland program intends to eliminate some of these problems by keeping better tabs on both drugs and patients, while forging a closer working bond between druggist and physician.

The new five-year program includes two years of general studies and two years of basic science. The fifth year eliminates the traditional pharmacy apprenticeship—working in a drug store—to give the students experience in community and hospital pharmacies.

"We trained wrong in the past," said Kinnard. "We educated in isolation, and never once did the student have to take courses or work with other health professionals. He was not educated in patient-care areas."

Kinnard criticized the old pharmacy intern system, saying: "Sometimes pharmacy students even worked behind cigaret counters and got credit for it."

Among radical modifications at Maryland is the "extern" program which places students in various pharmacies approved by the school.

Students work with the professional pharmacist and get no academic credit for the experience, but the school is assured through standards and checks that the students are not assigned to nonpharmacy chores.

These and other changes in the pharmacy training program have stirred mixed feelings among the 47 students in the upcoming 1972 graduating class.

In papers turned in to H. Patrick Fletcher, coordinator of clinical pharmacy programs at the school, 80 per cent of the graduating class wrote that they felt the new program added to their professional expertise.

"But many also felt they would be unable to put into practice much of what they learned," Fletcher said. "Pharmacies are simply not set up to handle the new methods."

"We're trained for a lot more than is available," said Steve Bierer, 29, a senior pharmacy student. "Our training is really for the future—five to 10 years from now."

Kinnard concedes the expanded role he envisions for pharmacists may take new legislation and remolding of ideas on the part of most physicians regarding the druggist.

"I think the program is a good idea as far as theory goes, but I don't think doctors want to give up any of their powers," says Peter Scaley, a Baltimore pharmacist.

"We're under the doctor's thumb and we're limited in what we can do," he said.

Mary Connelly, head pharmacist at Baltimore's Mercy Hospital, one of the institutions participating in the new "extern" program, finds an improving relationship between druggist and doctor.

"There is the notion that in the past pharmacists have been hiding," Mrs. Connelly said, "but now, doctors are seeking their advice."

"Future pharmacists will say to a customer that a medication within a group of similar nonprescription drugs is or is not effective," said Peter P. Lamy, director of institutional pharmacy programs at Maryland.

"They will hopefully, in the future, remind patients—just as dentists do—to return for neglected prescription refills."

Patient records also will become an integral part of the new pharmacists' routine. The pharmacist will use these records to inform patients of possible drug reactions or, for example, as a check against a patient taking too many drugs.

New pharmacy training programs have been established at other schools, including the universities of California, Virginia and North Carolina, but Maryland's is unique in that the final year eliminated the apprenticeship.

"The change is coming about slowly," Kinnard said.

DEDICATION OF THE EDWARD L. R. ELSON MONUMENTAL WALL AT THE NATIONAL PRESBYTERIAN CHURCH ON OCTOBER 24, 1971

Mr. STENNIS. Mr. President, on October 24, a monumental wall in the forecourt at the National Presbyterian Church in Washington was dedicated to our friend and distinguished Chaplain of the Senate, the Reverend Edward L. R. Elson, pastor of the church.

The occasion was marked by an inspiring sermon, entitled "Tribute to Two Servants of the Lord," given at the morning church service by Dr. Lowell Russell Ditzen, director of the National Presbyterian Center. Afterward, a statement of dedication and tribute from the congregation was given by Dr. Paul O. Carr, chairman of the memorials committee.

Dr. Ditzen's sermon was of exceptional value in substance and was delivered in a most impressive and effective manner. It paid a much deserved tribute to Dr. Elson for his years of dedicated and constructive services to the church and center, as well as his many other achievements, including the position he now holds as Chaplain of the Senate.

I ask unanimous consent that the excellent statement by Dr. Carr and the sermon given by Dr. Ditzen be printed in the body of the Record.

There being no objection, the items were ordered to be printed in the Record, as follows:

Tribute to Two Servants of the Lord

(By L. R. Ditzen, D.D., LL. D.)

My dear friends, I am highly honored to be asked to make some comments, to give the meditation, on this occasion when we do honor to Dr. Edward L. R. Elson.

I must confess to you and to him that it is one of the most frightening sermons I have ever tried to compose. I break out in a cold sweat in the fear that I will say we are dedicating the wall "in memory of" rather than "in tribute to." And my loved friend, Dr. Elson, is close enough here that if I make a mistake like that, along with a hundred possible others, he might throw a hymn book. I am sure, knowing a bit about his prowess as an athlete, that he would be accurate.

Well, before I talk further about Dr. Elson, who is one of the great men in the service of the Lord, I want to introduce you to another man I admire very much from the Old Testament by the name of Nehemiah.

Some of you, I know, have seen the city of Jerusalem. If you have, I hope you have the feeling, as I did, that it truly is one of the most thrilling sights in the world. When I saw it first I came up from the Dead Sea, which is more than a thousand feet below sea level, up 3500 more feet to the edge of the Judean plateau. Suddenly you see it before you, silhouetted against the sky—old Jerusalem, a magnificent sight! Its walls are mellowed. It has been called "Jerusalem the Golden." It catches the glow of the morning and evening sun.

Those particular walls you look at were likely built in the time of the Crusaders. As you wander around the place, an excavation may be pointed out to you near one corner of the wall which resulted from the building of a military road between Jerusalem and Bethlehem in recent years. Discovered underneath what are the "old walls" there was an older wall that served as the foundation for the present walls you see now. Some archaeologists have contended that this earlier wall, which is now the foundation, was built by Nehemiah and all the super structures since are built on it.

Nehemiah! What a fascinating man he was. His character, if you crystallize it into one sentence, would be: *His life was marked by dedication, by definiteness, by determination.*

To me it is symbolically significant that the walls we see today enshrining Jerusalem are standing on a firm base made possible by a man who centuries earlier had a vision and a drive to build those walls, who had the spirit "This one thing I do," and who stuck to his task till the work was done.

It is interesting to just conjure for a minute. Isn't it always a stable present and isn't it always a confident future when our life and work is built, as the walls of Jerusalem were, on some hero's vision or courage or definite work?

The background is this. In the year 586 B.C. when Jerusalem was gutted and burned and its walls leveled, Nehemiah, with hundreds of its countrymen, was taken into captivity. He was a man of unusual genius and integrity, for you find him, shortly, in the trusted position of cupbearer to the conquering king in his place in Shushan. Only a man who could gain unqualified confidence would be given oversight of the food and drink brought to the royal presence. It is important and interesting to underline that even in the humiliating stage of slavery his virtues and integrity were recognized.

Nehemiah loved his country. He was sensitive to what was going on in the world. He was deeply moved and disturbed by the reports from his homeland. The people, the remnants that were left, were dispirited. The city was in shambles. Foxes roamed amid the rubble. There was a growing passion in him to do something about rehabilitating Jerusalem and restoring the century-long history and hope of his people. Gradually his mind must have settled on this conviction, "If only I can get there I am going to try to do one thing—rebuild the walls." If he could assist in doing that, which for generations had been a refuge for the Hebrew people and gave them a sense of the greatness of their God and a faith for noble living, one specific constructive thing would be accomplished.

The idea became something of a magnificent obsession to him. He told the monarch about it and even won his enthusiasm for it. And so he was released from servitude and sent on this venture with the blessing of the king.

Nehemiah arrived at the ruins of the once glorious city. He became something of a catalytic agent, welding the sad, despondent, and scattered people into a more hopeful, a more resourceful attitude. Even though many had no stomach for the venture, he urged and cajoled them to put their hands to this one thing—rebuild the walls! Nothing, as you saw in the Scripture that was read this morning, could deflect him, call him down from the task. He was an Old Testament character something like Paul later on who was to say in the New Testament, "This one thing I do."

Isn't there stirring symbolism there—underneath the present walls of old Jerusalem are the sitting foundations of a still earlier wall built by Nehemiah? Built by a man whose personality and character were marked by determination, by definiteness, by dedication: "I am doing a great work, so that I cannot come down: why should the work cease, while I leave it . . . ?"

Men and women, boys and girls, isn't it true that its the strong and the constructive personalities that lift us all, that are the ramparts and ridgepoles of history? You knew where they stood, you knew what they believed. Don't those who make the deepest imprint have the quality like Martin Luther who said, "Here stand I. I can do no other." They've been like Nehemiah, "I must build this wall. Nothing will deflect me from that purpose."

I was very glad last Sunday that Dr. Elson, in preaching in tribute to the memory of Dr. Paul Austin Wolfe, used some illustrations from the life and work of John Calvin. Calvin was of this cut of cloth. In 1959 the 450th anniversary of his birth was marked. He was born in Noyon in Picardy. All else you have to say about him, you have to say he was a man who was definite, who took a position, and you knew where he stood.

Geneva cast off its allegiance to Rome. Actually, it was a political revolt, as I remember history, against the Duke of Savoy. And when Calvin came to Geneva in 1536, shortly after this event, Beza, another reformer, saw and said, as did Calvin, "These people are but imperfectly enlightened in divine knowledge."

Calvin set to the task of enlightening them. He himself had a brilliant mind, widely respected as a scholar, a classicist, a legalist. Read his "Institutes" and other writings, and you feel the logic of his reasoning, the care of his thought. You feel the definiteness of his convictions.

Well, to enlighten the people in divine knowledge, he, with Farel, drew up twenty-one articles of faith. These weren't just tossed on the breeze to fall willy-nilly where they might. They were distributed to the citizens, and then the citizens, in groups of ten, were called into the presence of Calvin and were asked to profess and swear by oath to these articles, as consisting the foundation of their beliefs.

Calvin saw that education was important. But he was concrete in what the aims of education should be. He had no faith in schooling that was apart from religious training and moral teaching. So he drew up a catechism which was made an obligatory part of the curriculum. He was definite. He set his hand and heart to do a great work and he did it; thereby accomplishing so very much.

So it has been with another great servant of the Lord's, Dr. Edward L. R. Elson, whom we honor and to whom we pay tribute this day.

It seems to me worthwhile to review only some items of his distinguished biography. He has honorary degrees—Doctor of Divinity, Doctor of Humane Letters, Doctor of Literature, Doctor of Laws, Doctor of Sacred Theology, Doctor of Humanities. He has been pastor here since 1946, Chaplain of the Senate since 1969. He has been a loyal and able Presbyter and continues so to be; having served on the Board of Pensions; a member of the Commission on Chaplains and Service Personnel; Moderator of Washington City Presbytery in 1966; President of the Board of Trustees of Wilson College since 1960.

He has a marvelous military record. He rose to the rank of Colonel, serving as a Chaplain in the United States Army. He has been decorated many times by our own government and by other nations, including France and Jordan.

He is a man who has not been afraid to think about and express himself on the moral issues confronting our Nation and the world. He has been closely affiliated with and a leader of the Friends of the Middle East.

Time after time he has been courageous in taking a stand on certain controversial issues and in letting individuals know where he stood and letting the chips fall where they may.

Ed Elson has been honored by or is a member of more Greek letter and specialized societies and organizations than you can shake a stick at. Freedoms Foundation has honored him a number of times for sermons dealing with our spiritual heritage. He is a writer of books and articles, and those who have read them have been vastly enriched.

I outline these things not necessarily as an eulogy to Dr. Elson but to let him know, one, that I have done my homework, and primarily to tell his family to treat him with the respect that is his due. At least during the dedication of the great wall and for at least this one day, do the best you can.

Dr. Elson, I don't remember ever speaking to you about reincarnation. I'm not implying anywhere along the line that you may be a reincarnation of Nehemiah. But there are so many qualities of his that we all see in you. Certainly, Nehemiah and yourself expressed those qualities that bring a great cause, a great institution, into being and to see that it goes forward. Nehemiah did it. You have done it.

I hope a thousand years from now the wall we will shortly dedicate in tribute to you may not be fallen into rubble but will be there inspiring people, and that also your life, your thinking, your influence, will be with us and those who follow us, as is the case with Nehemiah.

Now as we turn to the dedication of this great wall with its marvelous inscription from Philippians regarding our Lord and Saviour, let us keep these matters in mind and, most of all, express our gratitude for Dr. Elson and the fact that he is here this day.

Let us pray.

O God, who art the author of peace and lover of concord, in knowledge of whom standeth our eternal life, whose service is perfect freedom, defend us. Thy humble servants, in all assaults of our enemies that we, trusting in Thy defense, may not fear the power of any adversary through the might of Jesus Christ our Lord.

As Nehemiah prayed asking that Thou wouldst strengthen his hands to do your work, we ask you to bless and continue to strengthen Edward L. R. Elson to whom we pay tribute this day.

DEDICATION OF THE FORECOURT WALL IN TRIBUTE TO DR. ELSON, SUNDAY, OCTOBER 24, 1971

(Statement by Dr. Paul O. Carr)

Dr. Ditzen, Dr. and Mrs. Elson and Family, members and friends of The National Presbyterian Church and Center—

After much thought and deliberation, the Memorials Committee determined that the Monumental Walls in the Forecourt should be designated as tributes to three ministers who contributed significantly to the establishment of The National Presbyterian Church and Center, Dr. Charles Wood, Dr. Paul Austin Wolfe, and our own pastor, Dr. Edward L. R. Elson. Each gave generously of his time, talents, and energy in promoting and in establishing the national church.

Today we come to the high point in our dedicatory program as we dedicate the Forecourt Wall, which bears the inscription of "The Lordship of Jesus Christ," in tribute to Dr. Elson who is not only our distinguished pastor but also one of the nation's most renowned ministers.

While others were prominent in the planning of this great church and center, it became the responsibility of Dr. Elson, during the past twenty-five years, to bring to realization the century-old dream of a National Presbyterian Church. He has been a continuing source of strength and inspiration since the beginning of his pastorate here in 1946.

It is difficult to express adequately in words our sincere gratitude and deep appreciation to Dr. Elson for his wise counsel, capable leadership, and clear understanding of the purpose and meaning of a national church and center to our denomination. Noteworthy also was his success in unifying our congregation during the long building period. All of us are recipients of his vision, his zeal, and his Christian statesmanship.

We are here, Dr. Elson, to honor you and to express as a congregation our appreciation for your outstanding contribution in bringing to completion this beautiful edifice.

And now, as chairman of the Memorials Committee, may I call upon you, Dr. Ditzen, to lead us in the dedication of this wall, which bears the inscription of "The Lordship of Jesus Christ," in tribute to our honored and highly esteemed pastor, Dr. Elson.

HOMECOMING OF PENNSYLVANIA RESIDENTS WHO HAVE SERVED ON SS "HOPE"

Mr. SCOTT. Mr. President, November 22 marks the homecoming for nine Pennsylvania residents who have served on board the SS *Hope* in the West Indies. *Hope* has been on a 10-month teaching-training mission to upgrade health care in the Caribbean area. The ship's staff members have been involved in training programs designed to alleviate shortages of health personnel. They are: Judith

Berner, R.N., from Tamaqua, who has served as assistant chief nurse. She received her nursing education from Temple University School of Nursing. Lydia Ann DeSantis, R.N., a nurse educator from Monongahela, who received her nursing education from Allegheny General Hospital School of Nursing in Pittsburgh and her master's degree in nursing education at the University of Pittsburgh School of Nursing. John Joseph Downes, M.D., an anesthesiologist from Philadelphia. Dr. Downes is associate professor of anesthesia and pediatrics at the University of Pennsylvania. Veronica Mary Durichek, an X-ray technician from Philadelphia, who received her technician's training at Nazareth Hospital School of X-Ray Technology in Philadelphia. Dolores Jean Exton, R.N., a nurse educator from Darragh. She received her nursing training from Roberts Wesleyan College, in N. Chili, New York and Westmoreland School of Nursing in Greensburg. Stephen C. McGruder, from West Bristol, who has served as assistant administrator aboard the ship. He is a graduate of Howard University in Washington, D.C. Barbara A. Miller, R.N., from Mifflinburg, who served as chief nurse aboard the ship. She is a graduate of the University of Pennsylvania. Patrick D. Moore, M.D., an ophthalmologist from Philadelphia. Dr. Moore is a resident at Wills Eye Hospital in Philadelphia. Eleanor M. Peck, a dietitian-nutritionist from Houtzdale, who is a graduate of Mansfield College. She received her master's degree from Ohio State University in Columbus, Ohio.

A fine editorial which appeared in the Kingston, Jamaica, Daily Gleaner, relates the outstanding accomplishments of these men and women and of Project Hope. In light of *Hope*'s exceptional past successes and with my support for continued advancement of medical technological procedures in the West Indies, I ask unanimous consent that the editorial be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

"Hope" You Come Again Soon—Bon Voyage

Today, November 16, is a memorable day in contemporary Jamaican history. It is the day when the hospital ship *Hope*, which has been in the port of Kingston for just under a year, weighs anchor and sails away from the island, ending an association of loving care and interest that will leave a lasting impression on the minds and hearts of the Jamaican people.

Like most developing countries, Jamaica is short of the medical facilities and personnel which it needs to take care of the hospital and health requirements of the nation. The shortage of hospitals and clinics, of doctors and nurses, is a fact of life that we have to face with all the fortitude that our resources of finances and stay-at-home manpower will allow. There is no quick and easy solution to our problem in this direction, as, indeed, to any of our many problems. We need help wherever we can get it, and when that assistance comes from a friendly and a competent source we accept it gladly and gratefully.

So it has been with the good ship *Hope*. From her berth at the old No. 1 pier in Kingston Harbour, she has radiated health and happiness to the people of this island, like a centre of light in darkened surroundings. Her medical personnel—doctors, nurses, pharmacists, physiotherapists, dentists and others—have all thrown themselves wholeheartedly into the humane and humanitarian task of assisting this country to achieve the sort of medical service which its people of this country desire and which they are not often able to get from the hard-pressed doctors, nurses and other medical personnel of the island and from the over-taxed facilities of the island's hospitals and clinics.

There is no need to go into statistics here, but it is widely known and widely appreciated that during its ten-month visit, the *Hope* and her personnel have been involved in a wide range of activities in the island. In addition to serving as a teaching hospital for physicians, nurses and other health personnel, the ship has been a source of strength and succour to the Jamaican community in terms of medical care, dental care, public health, sanitation, and many other areas of medicine and health in the island. More than 11,200 patients have been treated and 1,200 operations performed as part of the ship's mission. Nurses, dentists, anaesthetists have been trained, the public health nursing programme has made tremendous headway. Doctors and dentists have learned new modern techniques.

Nor will the good work and the healthy influence of the *Hope* end with her departure from our shores. Thanks to the same spirit of generosity and fellowship which inspired her visit, during the next five years there will be a programme of post-graduate education at the University of the West Indies for Jamaicans, financed by a $15-million grant from the Hope Foundation and in which *Hope* specialists will offer training in the many medical skills, serving on long-term tours at the university with full faculty status. This is the final and finest gesture of friendship from a ship and an organization which Jamaica has come to regard as true friends.

So, it's anchors aweigh and bon voyage to the good ship *Hope* as she sails from our shores today. Long may she sail the seven seas, to bring hope, and health, and happiness to the people of the world who need a helping hand in the field of medicine and who will find, as we in Jamaica have found, that this assistance is readily and cheerfully given and that the donors are indeed "angels of mercy" in the service of suffering humanity.

TRAGEDY IN ULSTER—VIII—ALTERNATIVES TO TERROR

Mr. KENNEDY. Mr. President, I believe that an editorial published in the London Sunday Times of November 14 demonstrates once again the moral bankruptcy of Britain's present policy toward Ulster, which seeks to solve the crisis through a military settlement imposed by British troops. Again and again in recent weeks we have seen the daily reports of new killing and violence as the wave of terror rises. As the editorial makes clear, the real indictment of current British policy is the government's apparently blind refusal to explore the wide variety of alternatives that exist to the present disastrous course.

In Senate Resolution 180, that the Senator from Connecticut (Mr. Ribicoff) and I have submitted, a number of such alternatives are urged, including the end of internment, the institution of direct rule of Ulster from Westminster, and the replacement of British troops with alternative peacekeeping forces. I believe that the views of the London Sunday Times will be of interest to all of us who are concerned with this tragedy. I ask unanimous consent that the editorial, entitled "Ulster: Alternatives to Terror," be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

[From the London Sunday Times, Nov. 14, 1971]

Ulster: Alternatives to Terror

For any home secretary dealing with Ulster now, the beginning of wisdom is to realise that Northern Ireland as at present constituted has no future. The narrative which we publish today provides the evidence. In the course of the past two years, the British Army has been allowed by the British Government to become an instrument of local majority with a proven record of sectarian selfishness. As a result, the local minority has withdrawn its confidence and co-operation from a state where the guarantor of minority rights is Britain if it is anybody. With internment, this withdrawal was made final.

The events of the past week underscore the same message. Whatever other strange and hideous hatreds lie behind the tarring and feathering of young women in Londonderry, the incidents show a savage rejection of the system which British soldiers are held to represent. Such an attitude is more than the product of IRA intimidation. The IRA called off their last campaign, nine years ago, for lack of Catholic support.

The 50-year Stormont experiment has failed. In the granite soil of Ulster, the fair-mindedness and mutual tolerance essential to the Westminster model of democracy have never taken root. British ministers show no sign of having apprehended this central truth. They argue, with simple and narrow indignation, that nothing now matters but the elimination of gunmen. The more the violence increases, the more stubbornly is this thesis advanced. But the growth of violence surely yields a different lesson: that the thesis embodies its own damnation. Elimination of gunmen is, of course, the right and vital necessary job for soldiers and policemen. But it is not the policy for politicians. Ulster experience already shows that terrorists supplied and reinforced from their own community are very hard to beat. Yet the only policy revealed to British ministers is to fight their way back to a point where they can try breathing life into a system that is already dead. They are using impracticable means to pursue unrealisable ends.

True, the very idea of a change in British direction is painfully unorthodox. From the Home Rule crisis in 1912 to internment in 1971, the one constant principle of British policy has been to concede the demands of Protestant extremists (as mediated by their leaders) out of fear lest a worse thing befall. To change the line would mean to confront the Protestants. Yet if ever there is to be a new start in Ulster, fear of the consequences of that confrontation will one day have to be overcome.

Some senior Conservatives, acknowledging the need for it, still argue that the confrontation is more likely to be bloodless if it is delayed till the Protestants are demoralised by a complete breakdown of public order. But aside from the question of whether such cynical inactivity is justifiable, would that time ever come? Public order, of a kind, already survives appalling daily devastation in Belfast; the army might be able to contain terrorism at somewhere near that level for a long while yet. Meanwhile deaths mount, a new generation is bred up in violence, Catholic disaffection grows (if possible) deeper, and the lives of thousands of innocent people are made wretched. Now the Conservative parliamentary party at Westminster is taking a new interest in Ulster demands for fiercer military action are certain to be heard soon. The Government is dangerously misled if it supposes that time is on its side.

What change of policy is possible? It is a measure of the low level of public debate that even to ask the question is to risk a charge of approving IRA violence. The IRA is a wholly damnable and despicable body, made up of men who pervert and ravage Ireland's energies in pursuit of an ideal which is irrelevant to the country's real needs. Their tactics of indiscriminate and brutal slaughter are proof of a heartlessness which the noblest cause could not condone. The fact that they flourish like the green bay tree is nevertheless proof that the society from which they draw their strength is grievously diseased. If there is a cure, it must be put in hand quickly.

As this newspaper has repeatedly pointed out, there is no lack of choices. What is missing is the Government's will to explore them: not by open diplomacy, not in noisy visits and calls to conference, but privately, through the multiple channels reaching out to every one of the factions engaged. Mr. Maudling ought to be examining a shift of powers, notably security powers, from Stormont to Westminster. He should be considering a diminution of Stormont's functions to county council level (which would make Catholic participation easier), and a reduction of its territory (which some Protestants have thought would give them a more defensible fortress). He ought to be looking at schemes for the generously financed exchange of populations. He should be examining new common institutions between North and South. He should today be studying Mr. Gerry Fitt's imaginative proposal that Stormont should be suspended for a defined period while all sections of Northern Irish life, momentarily under British rule, discussed what might ultimately replace it.

It would also be useful to discover the view from Dublin. One of the sadder blind spots of British ministers is their refusal to recognise that Mr. Lynch is doing as much as he can about the IRA, that if he did more at present he would be swiftly replaced by someone who would do a great deal less, that he will inevitably be implicated in almost any new arrangement for the North, and that he has two or three officials whose thought and knowledge about the North go far deeper than anything to be found at the Home Office. Nothing but the unbecoming self-esteem of governments restraints Mr. Maudling from tapping this source.

Yet perhaps the fact is that Mr. Maudling is not after all the man to answer the Irish question. It is his amiable weakness to be a reasonable man accustomed to dealing with reasonable men. The importance of the symbolic in Irish politics has eluded him. At one of the worst periods in the whole story of Britain's relations with Ireland, he is left giving no lead except an impression of despairing drift. He lacks the needed exploratory energy. If Mr. Heath is not prepared to hive off Ulster from the Home Office, then he should earnest consideration to a change in the office of Home Secretary.

ADDRESS BY KLAUS SCHUETZ, GOVERNING MAYOR OF BERLIN

Mr. MATHIAS. Mr. President, the Atlantic Bridge Conference was held in Washington this year from November 14 to 16. This annual conference, dedicated to maintaining the vitality of the Atlantic community, is one of the most significant and useful international conventions I know of. On November 15, my good friend, Klaus Schuetz, the governing mayor of Berlin, addressed the conference on the delicate and important role of Berlin in our efforts to find détenté in Europe. As usual, Mayor Schuetz "has told it like it is." I heartily commend his address to the Senate and ask unanimous consent that it be printed in the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

Address by the Honorable Klaus Schuetz

There has probably been hardly less thought and discussion on Berlin and all it stands for here in Washington than in Germany and in Berlin itself. And—as in our country—worries and fears will have played a dominant part in both, occasionally because of some topical event, basically because of the East-West situation.

The fact is of considerable fascination that for nearly a quarter of a century now the United States and we have acted in unison in Berlin although the problems in and around Berlin present themselves in another light and with different emphasis to the United States. For, whereas for the world power USA our problems constitute one complex among many and have always done so, these very problems concern, involve and affect each and everyone of us in Berlin.

This unison between the United States and Berlin, despite all differences of emphasis and responsibility, still exists and has just now proved its value once more. This unison stems from many elements and naturally from the similarity or identity of interests and the similarity or identity of the assessment of the political situation.

This general statement, although it can claim to be self-evident, is not by itself constructive. It is much more interesting and productive to observe how a common interest emerges from the interests of the world power U.S.A. and her allies, among which is the Federal Republic of Germany, and of the City of Berlin, which—while respecting the supreme authority of the Protecting Powers—belongs to the Federal Republic of Germany. I will try to explain this process.

Post-war Berlin has never been totally free from restriction and oppression, either for the life of the individual or for the city as a whole. Moments of relief, moments of jubilation always occurred after times of particular stress which threatened our existence or approached such a threat: for instance the end of the Blockade in 1949 or after the Khrushchev Ultimatum in 1959.

These experiences have become rooted in the minds of the people of Berlin over a quarter of a century. All the more deeply rooted since the first of these experiences was the great one of 1945, that liberation from dictatorship—and 1945 was a year of liberation—was allied to national disaster.

Now, the experience of a relatively small group, which the Berliners are, may play a comparatively small part on the world political scene. But you will understand why I had to mention it on behalf of my fellow citizens. But, above all, I wanted to say this because it not only touches upon our policy but is the primary motive of our policy and basically explains it. For this question has always posed itself in Berlin: what shall, what can, what must we do in order to make life easier for the Berliners, to improve the situation of the city as a whole?

All mayors of Berlin, all Federal Governments posed this question and have done what they could for Berlin. And indeed Berlin has once more become a pulsating metropolis under the guarantees of our three Protecting Powers, a city whose millions of citizens pursue their activities and business, their inclinations and interests, and in some spheres of life solutions found and offered by Berlin are regarded as exemplary for the entire Federal Republic.

We have therefore, if I may put it this way, experienced a normal everyday life for a long time. But there was always a sting to it—it was so to speak enforced, it was sort of provisionary, it was somehow defiant. For it had to be, and was indeed, put in juxtaposition to and in spite of the division of the city, in juxtaposition to and in spite of the Wall and shots being fired at would-be refugees, in juxtaposition to and in spite of the ban on visits to East Berlin and the surrounding countryside, in juxtaposition to and in spite of impediments and chicanery imposed on surface access to and from Berlin, in juxtaposition to and in spite of the continual attempts by the East to separate West Berlin from the Federal Republic by all possible and impossible means.

You may object that in fact of these conditions and circumstances the term 'normal' should not be used. I have used it in Berlin for a long time because I feel that it implies exactly what we wanted and what we were capable of wanting: to live in security, peace and quiet. There is if you wish, something of an incantation about it, an incantation of what we want, and of course, in view of the realities in Berlin, it also contains that defiance of which I spoke. But it indicated the direction which was important: to reduce, as far as is humanly possible, confrontation in Berlin which coincides with confrontation in Germany and in Europe.

From its substance all this is largely self-evident too. The great difficulty for practical politics which can hardly be exaggerated lay, however, in making it quite plain in Berlin, and perhaps even more in the Federal Republic, that the—if I may say so—natural means of achieving general normalization in Berlin and in Germany—which would be bringing together the two parts of Berlin and Germany—is not possible in view of the present situation and in view of power structures and relations. Nothing more or less had to be proved than that this assessment was not based on lack of imagination but on renunciation of fantasy and gullibility.

We can say that from Berlin, from the most delicate place in the East-West conflict, we began very early to work for mediation and East-West agreements, however modest. Ideas like a regulated side-by-side existence were formulated in Berlin; the pass agreements of 1963 and subsequent years are a case in point. And to an increasing degree we have urgently advocated understanding and balance and said that East and West must mutually recognize realities in other words: realities for realities.

Such talk has in many cases been called talk of treason and renunciation in discussions in the Federal Republic, whereas they were an accurate reflection of the East-West balance which has developed since the beginning of the sixties and which has been respected by both sides for a long time and something with which both sides are living.

It would only have been at the price of increasing isolation from world-political developments that the Federal Republic of Germany could have continued, for instance, to advocate for Germany the borders as they existed in 1937, with reference to nation-state ideas. Without realizing the situation such as it really is, the Federal Republic of Germany would have denied itself the opportunity of improving the situation such as it exists. This would have been detrimental not only to Berlin and all Germans but about Europe.

The government of the Federal Republic of Germany under Willy Brandt took note of the facts and aimed at what was possible. With caution and discretion and in agreement with its allies and friends this government has led the Federal Republic into present developments and thereby cleared, if I may put it that way, our country's foreign political backlog. Despite great difficulties, however, it did so in a very decisive manner.

This decisive manner was possible because it left no doubt that its policy is a firm part of the western alliances, and because in my opinion the very conception of this policy made it obvious that it has nothing to do with any "Going-it-Alone" on the part of Germany. This policy seeks understanding and balance, opening up and integration, it seeks only to make its contribution towards a durable order of peace in Europe.

The credibility of the Federal Government's policy is not solely based on an assessment of the necessities of the security of peace in Europe and in the world. It is founded also on a national level.

Four central facts for all Germans must be set out in this context:

1. Millions of Germans were expelled from their homes as a consequence of the war. For 25 years they have lived, integrated, in both states on German soil. Poles now live in their old homes who in turn have the explicit right to live within secure borders, just as much as ourselves, and not to be expelled again.

2. The Western Occupation Zones now constitute the Federal Republic: a State—not a provisional arrangement, an economic power in the world—a part of the western system of alliances. And on the other hand: the Soviet Occupied Zone became the GDR—also a State and not a provisional arrangement any more, an economic power at least in the Eastern Bloc—a part of the eastern system of alliances.

3. Then there is divided Berlin, of which West Berlin is a part of the whole social order of the Federal Republic of Germany, thus with its ties to the Federal Republic and therefore to the western world, under the special responsibility and the supreme authority of Three Protecting Powers, West Berlin with all its problems and difficulties, but also opportunities.

4. And finally there is the fact that the Four Victorious Powers have a responsibility for Berlin and a residual responsibility for Germany as a whole, a responsibility of which they are fully aware.

In view of these facts German interests are quite obvious, I feel:

It is our interest that those parts of Germany which are free today will remain free; and

It is our interest that peace be safeguarded and secured; and

It is our interest to make our own contribution towards lowering borders everywhere in Europe in order to provide everyone in Europe, including the people in the GDR, in so far as we are able, with more freedom in public and in private life.

Our interests being thus defined the question arises of how to achieve our aims. Can we achieve them by the traditional means of the nation state? The answer is no. We can only do it in alliance with our partners. And everyone in Germany should know that there are no partners in Europe or in the United States of America for fundamental changes in the structures of present-day Europe, thus for upsetting borders, or any other upsets. And indeed everyone in Germany does know this, they have known it at least since June 17th, 1953, or since the erection of the Berlin Wall, or since Hungary 1956, or since Czechoslovakia in 1968.

And the other question is: can we pursue our interests—perhaps using pressure or even violence—against the USSR, or can we pursue them together with the USSR against her present allies? The answer to both these questions is no. The only way is to reach rational agreements with the Soviet Union.

What is the conclusion to be drawn from this?

1. Any German foreign policy must be based on the firm integration of the Federal Republic of Germany in the western system of alliances. This integration alone safeguards our security and gives us an opportunity to work for a relaxation of tension together with our friends and allies.

2. Sticking to rigid forms and traditional concepts alone does not help; it is more important to contribute towards mitigating the consequences of the division of Germany and towards enabling both states to achieve a regulated co-existence.

3. We must act on the basis of facts as they present themselves today: the realities, the borders and the relation of powers as we find them 25 years after the end of the war. On this basis we must co-operate in the building of a peace order in Europe, an order which will gradually eliminate existing differences, and thus create less tension and more peace than we have today.

That part of working for this Europe which can only be achieved by the Germans themselves, has not yet been concluded. Important tasks still lie ahead of us, the Germans. But the foundations have been laid, the clearing of that backlog mentioned before, repairing the omissions and neglect of the past which almost inevitably appears to be independent action but is in truth nothing but the necessary groundwork for this better Europe.

The foundations have been laid by the conclusion of the Moscow Treaty on August 12th, 1970 and the Warsaw Treaty on December 7th, 1970. In so far as any German government wanted to join in a policy of détenté it had to venture upon a policy towards the East and it had to aim its policy at the conclusion of treaties like these. And this it did. The most difficult point on this road and thus on the road towards a Europe of increasing understanding has been Berlin, because Berlin is a crucial German as well as a crucial European question and also an issue between the United States and the Soviet Union as the two world powers.

This very point shows the broad scope involved. Because first and foremost a solution or arrangement in Berlin is for the benefit of the Berliners. In other words, for those people who have lived often enough with threats, always with impairments and in any case with restrictions and limitations. Any Berlin policy, that is any policy conducted by Berlin as much as any policy concerning Berlin is and must be devoted to each and every inhabitant of the city.

But as surely as this is true, as surely is Berlin an issue that goes far beyond Berlin. These two truths are indivisibly linked.

We have always looked at it this way. For a long time we have said that there can be no solution, no arrangement for Berlin in isolation from the larger political context. It has always been clear that the concerns of Berlin are part of the entire complex of East-West relations.

The Federal Government has tackled the problem seriously and has, in consideration of realities in Germany and in consideration of true national interests, pursued a policy which helps bring to an end East-West confrontation in Europe and thereby benefits all of us, not least the Germans and above all the Berliners. The Moscow and Warsaw Treaties paved the way for the Four Powers to enter into negotiations over Berlin with the prospect of success.

The Four Power talks and negotiations were hard and difficult. But they were worthwhile. The resulting Agreement on Berlin which was signed on September 3rd of this year brought considerable political reason into our conflict-ridden age.

The Berlin Agreement means that the tightest knot between East and West has been loosened and, as far as possible, untied. Some supplementary arrangements, to be concluded by the two German sides, are still to be made. But the fundamental agreements have been reached.

So there is a new situation in Berlin, we now have, we believe, the status quo plus. The Quadripartite Agreement provides a solid basis for the future of our city and for the future of everybody living in Berlin.

But even more. The conclusion of a joint agreement on Berlin is rightly seen and felt, generally and everywhere, as a breakthrough, as a breach in the rigidity and encrustments which were the heritage of the cold war. Not that on the other side things will be smooth and orderly, not that there will be no more obstacles and conflicts. But at least work can continue now with confidence and some expectation of success, work that is necessary for a normalization between the two German states and the two parts of Europe. There is now a political logic for the reduction of tension and the creation of more sensible conditions in Europe, because what has been possible in Berlin, must be possible elsewhere.

As far as it is humanly possible to judge, Berlin is no longer a trouble spot and no longer a burden to efforts elsewhere to bring about understanding between East and West. Not only has it been rescued from lagging behind general political tendencies or even from being left behind as a relict of the cold war, it is firmly embedded in the policy towards a secure and lasting order of peace in Europe, and now even constitutes a sign that the cause of security and peace in Europe may succeed.

But this is of supreme importance for the United States too. The process of achieving a pacified Europe is still going on, and yet even now Europe presents itself differently, as the Berlin Agreement proves.

The participation of the United States in the process of détenté is of vital significance to us in Europe.

In Berlin this participation goes without saying, and this must be the case in all other efforts. The presence of the United States in Europe is essential because it is only this presence that maintains the balance and thus provides the preconditions of all efforts for détenté.

What the United States will gain from a policy of détenté in Europe is increased security for the USA itself. An order of peace in Europe to which all concerned agree will ensure the United States peace to a large extent.

The Atlantic relationship may stand in need of some new formulations in this or that respect due to changing conditions in Europe. But the decisive thing is for the Atlantic partnership to be maintained without leaving any room for doubt.

It is vital for the United States just as much as for Europe, it is essential for the security of both and for peace in general.

But the Berlin Agreement is not the only indication of improvements in Europe. Another great date next to the 3rd of September is the 28th of October, the day that Great Britain decided to join the European Communities. There is no doubt that the European Community, enlarged by Great Britain and the three other applicant states, will be a prime factor of stabilization and peace in Europe. And this too can only be beneficial to United States security.

While this is definite and quite certain, the relationship between the United States and Europe is these days strained due to economic problems and above all the problem of the monetary crisis.

Here and now I can only express the hope that these issues may be solved as soon as possible on the basis of mutual consideration and common interests. It is my opinion that these problems must not be allowed to strain the Atlantic friendship for too long, and I give unequivocal priority to our joint interests in security and peace.

An early solution to the economic and currency problems is necessary also because European-American relations should be as free as possible from any strain in view of the tasks and challenges we will be approaching after the final ratification of the Berlin Agreement. For as a further stage and objective in settling East-West relations in Europe the conference on security and co-operation in Europe lies before us. However comprehensive the preliminary work, whatever difficulties may arise: there can hardly be any doubt but that this conference, if it is taken seriously by all sides and is not mere propaganda, will have considerable effect in Europe. We recognize progress in this venture in the fact that the Soviet Union has acknowledged that this conference can take place only with the participation of the United States and Canada.

If you will allow me to make dialectic use of this recognition of reality on the part of the Soviet Union I would say: the United States of America and we in Western Europe, have received the Soviet Union-confirmation—certainly not given easily—that we are dependent on one another.

Naturally we do not need confirmation of this kind. We know that Europe and America, because of identical of similar interests, are dependent on each other and that their unison is decisive for security and peace.

THE GENOCIDE CONVENTION: AN END TO TERROR

Mr. PROXMIRE. Mr. President, there have been many cases of mass murder in recorded history. The most recent and most horrible was the slaughter of 6 million Jews by the Nazis before and during World War II. It is essential that we take steps to prevent a recurrence of this tragedy.

Ratification of the Convention on the Prevention and Punishment of the Crime of Genocide is a step in the right direction. Our adherence to this treaty would be entirely consistent with our great tradition of peace and freedom under law. The prevention of genocide comes as the nations of the world outlaw this crime. The punishment would come as each nation enacted laws, in accordance with their constitutions, to provide for the arrest and punishment of persons committing genocide within its borders. As with all other treaties of this nature that the United States is a party to, American citizens will be guaranteed all the rights and protections of the Constitution. In addition they will have protection from the specter of mass murder.

Mr. President, I urge the Senate to ratify the Genocide Convention as soon as possible.

THANKSGIVING DAY

Mr. MATHIAS. Mr. President, more than 300 years have passed since Gov. William Bradford of the Plymouth Colony issued the proclamation that brought Pilgrims and Indians together to share a 3-day festival of food and friendship. This Thanksgiving, more than ever, we need to rediscover and renew that same sense of sharing among all Americans and, indeed, among all people everywhere.

We have, in our country and in the world, let too many walls and barriers spring up between us—between black and white, between rich and poor, between city and suburb, between East and West.

Yet, as our environmental crises have made many of us increasingly aware, we cannot forever cut ourselves off from the circle of life. Neither, if we hope to overcome our social and racial divisions, can we continue to cut ourselves off from each other.

I hope that on this Thanksgiving Day we can, somehow, begin again to build among all Americans and among all peoples everywhere that sense of community and common humanity that alone can bring within reach of all of us a life to be thankful for.

CLUTTERED SOUNDS—IMPAIRED HEARING

Mr. CHURCH. Mr. President, hearing loss is a serious problem for the aging, and it is not alleviated simply by increased volume of sound. Mr. R. O. Beckman has alluded to some of the ramifications of hearing loss in Vintage Years, a syndicated newspaper column for senior citizens. As chairman of the Special Committee on Aging, I share his concern.

It behooves us to take a closer look at the problems discussed by Mr. Beckman in view of the dire prediction that hearing loss among younger persons may be increased because of "noise pollution." Hearing loss will become a major problem of future generations of middle aged and aged unless this generation is willing now to deal with the quality of sound.

I ask unanimous consent that Mr. Beckman's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD as follows:

VINTAGE YEARS—CLUTTERED SOUNDS IMPAIR HEARING

(By R. O. Beckman)

Broadcasts over the airwaves often enrage older Americans. Resentment is not confined to commercial advertising. In addition, since the hearing of the elderly gradually deteriorates, they cannot comprehend words and meaning. Communication, even one-way, is lost.

U.S. Public Health Service surveys show that of all persons with bilateral hearing impairment, 80 per cent are over 45 and 55 per cent over 65. Their loss involves more than lessened sensitivity to sound volume. A major hazard of growing older is our inability to communicate with each other through speech. Isolation from fellow human beings and knowledge of what goes on the world around them becomes a penalty of the aged.

Science is only now beginning to inquire how and what older persons hear. It learns that a substantial percentage of them cannot clearly understand or sort out speech. They not only fail to hear high-pitched sound but in trying to concentrate on other sounds those are masked or distorted by competing background noise, rapid or slurred speech, or the voices of others present. Live face-to-face conversation may be understood but distortion in radio, TV, movie or theatrical presentations cause difficulty. This was indicated in 1965 in this column after interviews conducted with several dozen older acquaintances.

Annoying variations in volume are common in radio broadcasts when one program or speaker is exchanged for another. Background noise often interferes with understanding newscasts when distant voices are injected into presentations. Sound variations also occur in concert or other recordings on discs or tape.

TV and radio technicians have not yet learned the importance of uniform volume control. Commercials are not only criticized for infantile sing-song that cannot be understood but for raucous faked shrieks, squeals, explosions, groans or laughter for attempted emphasis. The elderly are often entirely unaware of what is advertised.

That radio stations are little concerned over their elderly listeners is implied after the experience of writing a CBS affiliate. The letter suggested that in announcing special features the day and hour be announced since daily papers carried no radio log. It also raised questions of inaudibility because of fluctuating volume and background noise and assumed the station was aware of such problems.

When after a month no reply was received, a copy was forwarded to network headquarters, which replied saying the questions were being referred back to the station as of local concern. Finally, eleven weeks after the original letter was mailed, the local station replied it was "not aware" of receiving it and later said it was "sorry to hear" about any need for clear enunciation. Some data was supplied about newscasts but none as to relative time assigned to various types of programs, including commercials. The suggestion that radio listeners check up on their own program needs would require them to evaluate the daily programs of 30 local stations with a stopwatch or a computer.

It is paradoxical that advertisers and program producers are indifferent to the auditory receptivity and tastes of their audiences when consumer research in other aspects is the order of the day.

THE ARROGANCE OF GEORGE MEANY

Mr. GOLDWATER. Mr. President, I believe we can all recognize the tremendous task confronted by the President of the United States in his determined effort to halt inflation in the United States. I believe we can all agree, too, that such an effort is undertaken on behalf of all Americans and all groups of Americans, and that such a task requires the cooperation of every segment of our highly integrated economy.

Mr. President, this country is fortunate to have a man in the White House today who understands the all-encompassing nature of the problem which is making life so difficult for our wage earners, our housewives, and especially our retired persons who live on a fixed income.

This country is fortunate, too, to have a man in the White House who will not—I repeat, not—submit to ultimatums, either from business interests or labor leaders.

Mr. President, today I want to make it absolutely clear what George Meany meant when he issued his arrogant statement:

> If the President doesn't want our members on the Pay Board on our terms, he knows what he can do.

Mr. Meany was telling the American people that everyone would have to step aside for him and for the interests which he represents. Mr. Meany was laying down an arrogant, impudent challenge which said to the President, you either do it my way or we will try and see that you do not do it at all.

My belief is that the labor leaders in this country have long exercised far too much power for the good of the American people and the national economy. I have repeatedly outlined this belief in appealing for legislation which would make labor unions just as accountable under the laws as our corporations and other special interest groups. Now we have a prime and very dangerous example of the misuse of union power. We have an example not only of how arrogant but also how rude this power has made men like George Meany.

Mr. President, as a dedicated conservative who has long been committed to the limitation of Government control it was not easy for me to support President Nixon's new economic policy. I did it, and I renew that support again today, because I am convinced that this Nation and its people are facing a drastic emergency, an emergency which could ruin us. Other spokesmen and other organizations which find the whole idea of price and wage controls objectionable have likewise submerged their feelings to support the administration in a crisis situation which it did not create but which it inherted from administrations which made it a practice to give in to all the demands groups represented by George Meany made upon them.

Mr. President, I certainly see no reason why the leaders of organized labor cannot cooperate in like fashion for the good of their own members and the American people in general.

As I was driving in this morning I heard on my radio that my colleague from Minnesota, Senator HUMPHREY, had accused President Nixon of setting about deliberately to antagonize the labor union leaders. Nothing can be further from the truth. President Nixon agreed to appear before the AFL–CIO convention in a spirit of cooperation and in an effort to explain his policy in detail to a segment of our economy directly affected. But, before he got to the Miami convention, George Meany made a deliberate effort to intimidate the President of the United States with the force of union power. He laid down an ultimatum to which, I presume, he hoped the President would yield. Instead, he had the ultimatum thrown right back in his eye. As a measure of Meany's unhappiness over this result, he went around over the weekend telling people that President Nixon was a weak President in whom he had little confidence. Mr. Nixon may have appeared weak to George Meany but he appeared tough and unyielding to the majority of Americans who desperately want his attempt to end inflation to succeed.

Mr. President, why is it that George Meany and his unions feel they are something special? Why is it that George Meany will not cooperate in the interest of the common good? Why is it that George Meany holds himself aloof from the expressed wishes of an overwhelming majority of the American people?

I suggest that Mr. Meany and men like him have too long been treated to special considerations for strictly political purposes. I believe George Meany cannot quite believe that any administration would clamp restrictions on the American economy which would treat them as an equal with other segments.

Mr. President, I am proud of my President who had the courage to go before the AFL–CIO convention and tell it like it is—that he will stick to his economic game plan to relieve inflation with or without the help of organized labor. I believe it is now time for George Meany and his groups to understand they are not going to be given special consideration and unusual treatment. Several times before I have wondered how arrogant one man can be to set himself up above the Government and above the people for a selfish, special interest. Several times before I have invited George Meany to rejoin the American people. Today the invitation is still open. In other words, I believe the American people are willing to forgive Mr. Meany a serious mistake and say, "Come on home, George, all is forgiven."

THE IMPORTATION OF UNSAFE CYLINDERS

Mr. HARTKE. Mr. President, on June 10, 1971, the Hazardous Materials Regulations Board of the Department of Transportation announced that it was considering an amendment to part 173 and part 178 of DOT's regulations to authorize prescribed tests and analyses of gas cylinders to be undertaken outside of the United States. Since 1923, regulations have required that these safety tests be made within the United States. This fact has been a major element in the unparalleled safety record which exists in the industry.

The amount of energy stored in these cylinders at high pressures is enormous. It would be a tragedy if the excellent record of safety which has been built in this country were shattered because of this change in Department regulations. Without adequate inspection, foreign cylinders will present great hazards on the highways over which they are transported and the shops in which they are used.

I understand that much of the momentum for the proposed change of regulations arose from DOT's plan to require passive restraint systems for automobiles by July 1, 1973. The fact that this date has now been moved back to August 15, 1975, removes much of the urgency for the change in cylinder regulations. Gas cylinders are an integral part of the proposed airbag restraint systems now being tested.

It is also important to understand that the cylinders involved in airbag systems are small, while the cylinders used in industry and business to store compressed gas are much larger, and therefore present much greater hazards to the public. Surely the need to provide for adequate inspection of passive restraint compromising the safety of the tens of thousands of innocent people who daily work in close proximity to compressed gas cylinders.

While I recognize that the new regulation is based, at least in part, on considerations of safety, the impact of the proposal is far greater; 5,000 domestic jobs are at stake. Should the proposed regulation be implemented, many of those workers would be unemployed within months.

On August 31, 1971, I wrote Secretary Volpe urging that the proposed DOT regulation be postponed pending further study. His response, nearly 1 month later, provided no new information and offered not even a ray of hope to those who are concerned about this problem.

Mr. President, I urge Senators to study this question. It is a matter which affects every State of the Union. I ask unanimous consent that the statement of the American Cylinder Manufacturers Committee on this subject be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BEFORE THE HAZARDOUS MATERIALS REGULATIONS BOARD, DEPARTMENT OF TRANSPORTATION IN RE DOCKET NO. HM–74, NOVEMBER 1, 1971

This statement is submitted by the American Cylinder Manufacturers Committee [hereinafter ACMC] in response to an invitation to present views on a proposal which appeared in the *Federal Register* of June 10, 1971 (36 Fed. Reg. 11224). The Committee believes that the proposal is ill-advised and should not be implemented.

ACMC is a recently organized Committee of domestic cylinder manufacturers. Members of this Commitee account for approximately 90 percent of the compressed gas cylinders produced in the United States. The primary purpose in forming the Committee was to respond in a meaningful fashion as an industry to the Hazardous Materials Regulations Board's invitation to submit views on the subject proposal [See attached membership list.]

The Hazardous Materials Regulations Board [hereinafter HMRB] announced on that date that it was *considering* amendment of part 173 and 178 of the Department of Transportation's Hazardous Materials Regulations to authorize the performance, outside the limits of the United States, of chemical analyses and tests prescribed for DOT specification compressed gas cylinders under conditions approved by DOT. The announcement states that the proposal is based on petitions from foreign compressed gas cylinder manufacturers received over a period of several years. Further the announcement reveals that additional impetus for the proposal was the publication by the National Highway Safety Bureau (now the National Highway Traffic Safety Administration) of Motor Vehicle Standards No. 208 (35 Fed. Reg. 16927) specifying occupant crash protection requirements for certain motor vehicles manufactured after July 1, 1973, including those of foreign manufacture sold in the United States. One of the passive restraint systems contemplated known as the air bag system would employ a high pressure gas cylinder.

Initially ACMC requests the Board to note that the effective date for the implementation of passive restraint systems has been delayed until August 15, 1975 (36 Fed. Reg. 19254). Thus, much of the urgency for the adoption of the proposal is removed. More importantly, however, it is the view of ACMC that since the cylinders involved in the "air bag" system would be small in size, protected by the structure of the automobile and normally be changed only once, the "need" for relaxation of the present regulations insofar as those type cylinders are concerned should not serve as a basis for wholesale changes in testing regulations which apply to larger compressed gas cylinders. These larger cylinders have very little similarity to the characteristics described above. In an apparent effort to appease one of the interests involved herein, the Board seems to have created unnecessary risks. If the proposed regulations involved only the cylinders to be used in the air bag system, ACMC's position on this matter would be changed considerably.

In the announcement the Board states that it is considering amendments which would permit foreign inspection and testing. It is to this consideration that this statement is directed. ACMC does not interpret the notice in the *Federal Register* to mean that the issue is prejudged despite the assertion by the Board that it has concluded on the basis of its investigation [the contents of which have not been made known] and the public record that approval to perform specified chemical analyses and tests outside the United States may be granted to foreign manufacturers. It is with the conclusion with which we take issue because it is our belief and interpretation of the public record that compelling reasons exist for continuation of the present testing requirements.

Basically ACMC maintains:

1. That safety considerations require the continuation of existing regulations:

2. That the conclusion of the Board that tests may be conducted outside the United States violates procedural due process in that it is based on matters outside the public record.

3. That the Board's primary motivation for proposing these regulations is the removal of a so-called "non-tariff trade barrier" and accordingly the Board is acting beyond its jurisdiction.

I. *Safety Considerations.*

Safety standards for cylinders were adopted by the Federal Government nearly fifty years ago. At that time low quality foreign products posed a severe hazard to American consumers. The Government, in cooperation with manufacturers and users, developed comprehensive safety requirements for the fabrication of these products. Those responsible for preparing the new regulations recognized compliance could be assured only if inspections were made during the manufacturing process. No adequate nondestructive test of finished cylinders has been developed that could determine compliance with manufacturing standards.

To some extent the same limitations apply. Even today not all the factors which make for a safe, long lasting cylinder can be checked on the finished article. Inspection and testing during fabrication are required.

Cognizant of this fact, the 1923 regulations included a phrase, "Analysis and tests are specified, to be made within the limits of the United States." This stipulation sets a high criteria for inspection and testing and has been responsible for the excellent safety record of the United States.

Years of cooperation between manufacturers, inspectors and users in the United States have resulted in an interpretation of the specifications which serves as a "guide" to proper construction of this potentially dangerous product. Most domestic manufacturers regard the Federal requirements as minimum standards. The laudable safety record of American-made cylinders is largely the result of self-imposed controls which far exceed the legal requirements. The standards as written serve only as minimum guidelines for the production of safe cylinders.

The development of additional self-imposed standards was occasioned both by the desire of manufacturers to improve their products and the ambiguity of Government requirements. For example, specifications for 3A cylinders provide they are to be made "by *best* appliances and methods; dirt and scale to be removed *as necessary* to afford proper inspection; no fissure or other *defect* acceptable that is *likely to weaken* the finished cylinder *appreciably; reasonably* smooth and uniform surface finish required."

Through the cooperation of the users and manufacturers of compressed gas cylinders, certain design parameters have been upgraded beyond the requirements of the specifications. This cooperation has served to enhance safety of cylinders produced today as compared with those of twenty years ago even though the same basic codified standards are sill in force.

Over the past fifteen years, the United States has cooperated in an effort to establish cylinder standards for all countries through The International Standards Organization [ISO]. There are several features in DOT regulations which have been consistently rejected or omitted by foreign manufacturers: The concept of maximum design stress limitation; leakage tests on spun-type cylinders; definition of quench and temper heating treatment and a precise definition of approved material. In addition to the above most foreign countries do not understand or accept the volumetric expansion test which United States manufacturers consider the most important safety feature.

At hearings earlier this year, eight examples of foreign-made cylinders purportedly meeting American standards were shown to be defective. In fact there exists evidence indicating the recalcitrance of foreign producers to accept the most basic safety practices. It is common knowledge that in some foreign countries there is a notable lack of emphasis on safety and quality control compared to United States standards. Even the most well-meaning foreign manufacturer could misinterpret American specifications. As previously noted, current DOT regulations are exceptionally broad. In practice, quality controls far exceed those specified in the law. Inspectors and manufacturers have adapted their interpretation of these standards to the current level of American expertise.

Aside from the obvious problem posed by translation of U.S. specifications into foreign languages, correct interpretation of these standards by foreign inspectors would be unlikely if not impossible. Given the reluctance of some foreign countries to adopt strict regulations on their own, and the ambiguity of existing American specifications, it is possible that foreign inspection would be no more than rubber-stamp approval of all but the most grossly defective items.

The proposed changes in the safety standards provide for examination of foreign-made cylinders by "qualified inspectors;" but this requirement offers scant assurance of compliance with the regulations. The Department of Transportation simply does not have sufficient personnel to supervise the manufacture of safe cylinders abroad. If "independent" inspectors were appointed to oversee foreign operations, serious questions could be raised concerning their impartiality and competence. The American Society of Mechanical Engineers, after an extensive study of inspection agencies, could find no criteria other than "judgment" to adopt or reject such agencies.

It strains credulity to believe that doubtfully qualified foreign nationals inspecting manufacturers in their own countries and using ambiguous American specifications could guarantee cylinders made abroad consistently conformed to the high quality standards followed by United States producers. The price we would pay for such folly could be enormous. The ultimate test would be made when a defective cylinder failed; a foreign manufacturer's "oversight" could cost American lives. Such a tragedy may be only a possibility; but many organizations, including the California Business and Transportation Agency and the Pennsylvania Department of Transportation are unwilling to accept that risk. H. Guy Kreider, Executive Secretary of the Pennsylvania DOT, observed, "Adopting the proposals now under consideration could open a 'Pandora's box' which, for years to come, may turn into a critical safety problem."

The argument has been advanced that foreign-made cylinders are presently being imported into the United States in large quantities and that safety would be enhanced by assuring inspection during manufacture. If this is so, it is illegal to offer these cylinders when filled for transportation. If on the other hand, it is claimed that the chemical analyses and tests as specified are being made in the United States, then there should be a precise definition of what tests are required to be made in the United States. This again illustrates the possibility of misinterpretation of the specifications. What is the distinction between tests and inspection? The Bureau of Explosives which was charged with surveillance of these matters interpreted such requirements as inspecting broken surface of the billets after parting, inspection inside before closing, verifying threads by gauge, etc., as being part of the requirements that had to be performed in the United States. The HMRB apparently does not interpret the above phrases in the same manner. It is obvious that if the Bureau of Explosives' interpretation is the correct one then it would presently be impossible for foreign cylinders to enter the country. It is worthy of note that the Bureau of Explosives' representatives served on the Compressed Gas Association committee and assisted in writing the instant specifications.

The question of consumer safety is more important today than ever before. It would be ironic if the Government abandoned regulations which have protected American lives for fifty years in order to secure markets for potentially dangerous foreign products.

II. *The Conclusion of the Board that Tests May Be Made Outside the United States Violates Procedural Due Process in that It Is Based on Matters Outside the Public Record.*

HMRB prefaced presentation of the proposed amendments in part by noting that, "It is the Board's conclusion, on the basis of its investigations and the public record, that approval to perform specified chemical analyses and tests outside the United States may be granted to foreign manufacturers upon favorable consideration of several matters . . ."

A letter of inquiry was sent by ACMC to the Board on September 30, 1971, requesting that the contents of the "investigations" designated in the notice of proposed rulemaking be made public in order to facilitate more cogent further comment by the public and to illuminate the basis for the Board's conclusion. Laurence Bierlein, Attorney-Advisor, responded to that letter on October 6, 1971, and revealed that no independent investigations had in fact taken place.

Although unintended, the misstatement in June 10, 1971 notice chilled further efforts to submit arguments and factual data since apparently independent investigative efforts by the Board have resolved considerable doubts of the safety consequences of liberalized rules raised by the sheer weight of the evidence already in the record.

Perhaps more importantly, however, is the simple fact that the misstatement will discourage every other interested person in the proceedings, who is not appraised of the absence of investigations, from making further contributions to the record. Indeed, for those led to believe that there is extrinsic evidence prevaling against the substantial public record against liberalizing the compressed gas cylinder shipping requirements, the incentive to appeal the final rules as "arbitrary and capricious" or "unwarranted by the facts to the extent that the facts are subject to trial de novo by the reviewing court" [Administrative Procedure Act §10 (e)] is unfairly suppressed.

The disturbing fact is that the misstatement serves as a cloak for the Board's haste in speedily resolving a most important question of safety in the face of an inadequate public record. And perhaps, too, as a cloak for inordinate State Department pressure.

One cannot help but think that a mention of "investigations" reflects the true feeling of the Board that careful investigations are in fact fully warranted and needed.

It seems here that a procedural defect has occurred which makes a mockery of even the truncated due process rights permitted all interested persons in the formal rule-making proceeding at hand.

If the spirit of the Administrative Procedure is not to be grossly abused, it seems appropriate that some harm be taken to correct the harms done by the misstatement in the June 10, 1971 notice and that the subject of the rule-making proceeding be given proper consideration.

At the very least the Board should conduct a proper investigation the results of which to be made public, and the Board should then give all interested persons an opportunity to comment. ACMC believes that such an investigation requires inspection of foreign facilities and foreign products. ACMC would be glad to cooperate in such a proceeding.

III. *The Board's Primary Consideration in and Motivation for Publishing The Proposed Regulations Is the Removal of a So-Called Non-Tariff Trade Barrier and Accordingly the Board Is Acting Beyond Its Jurisdiction.*

ACMC contends that HMRB in proposing these regulations is acting beyond its jurisdiction. The proposal raise three interrelated jurisdictional matters: (1) The Board is attempting to regulate foreign commerce and thus is acting in excess of its authority; (2) the proposals are a result of trade negotiation which should be required to be carried on under the authority of the Congress; and (3) the proposals do not guarantee recourse for United States citizens against foreign manufacturers of negligently made cylinders.

A. *The Proposed Regulations Are Ultra Vires the Delegated Powers of the Department of Transportation.*

ACMC asserts that the proposed regulations exceed the authority vested in the Department of Transportation [hereinafter DOT] by the Congress of the United States.

In issuing the proposed regulations, DOT claims to be acting pursuant to the statute vesting power over regulation of explosives in the predecessor of the Hazardous Materials Regulations Board, the Interstate Commerce Commission [hereinafter ICC].[1] and certain rules regulating aviation.[2] In the grant of authority to the ICC, it is empowered to:

"Formulate regulations for the safe transportation *within the United States* of explosives and other articles, including . . . compressed gases . . . which shall be binding upon all carriers engaged in interstate and foreign commerce." [3] [Emphasis supplied.]

The statute defines "interstate and foreign commerce" as:

"Commerce between a point in one State and a point in another State, between points in the same State through another State or through a foreign country or foreign countries through the United States, and *commerce between a point in the United States and a point in a foreign country or in a Territory or possession of the United States, but only insofar as such commerce takes place in the United States*. The term "United States" means all of the States and the District of Columbia.[4] [Emphasis supplied.]

Pursuant to the grant of authority to formulate regulations applying within the United States, HMRB currently requires that cylinders transported in the United States must be tested during the course of manufacture by certified independent inspectors in this country.[5] Under the proposed regulations DOT would acquire the power to grant approval to foreign manufactures to perform specified chemical analyses and tests *outside the United States*, upon favorable consideration of several matters, including the acceptance of quality of production materials, manufacturing procedures, testing methods, and inspectors.[6]

ACMC contends the proposed regulations exceeded the mandate of the authorizing statutes by attempting to regulate testing outside of the United States. Regulations may be validly issued, according to the statute, only as they apply "within the United States," [7] and commerce can be regulated under the statute "only insofar as such commerce takes place in the United States." [8] The wording of the statute limits the jurisdiction of the HMRB to the regulation of domestic commerce. In other words, while DOT under the applicable statutes [9] can regulate testing in this country, it cannot regulate testing in foreign countries.

B. *The Proposed Regulations Are the Product of a Rule-Making Proceeding that Is a Trade Negotiation Which Should Be Carried on Under the Aegis of the United States Congress.*

The Constitution grants the plenary power over the regulation of foreign commerce to the Congress. It vests in Congress the power "to lay and collect taxes, duties, imposts and excises," [10] and "to regulate commerce with foreign nations." [11] Under this power Congress historically has wielded legislative authority over the field of foreign trade regulation, including the imposition and removal of tariffs and other restrictions upon imports, i.e., non-tariff barriers to trade [hereinafter NTB's].[12] Congress has from time to time delegated certain of its powers over foreign trade to the Executive. The most recent large-scale delegation was in the Trade Expansion Act of 1962, when the Executive was given the power to make certain tariff cuts between June 30, 1962 and July 1, 1967.[13] Since July 1, 1967, there has been a reversion back to the Congress of the plenary power over foreign trade negotiations. Thus there is presently neither delegated power nor inherent residual power [14] in the Executive to regulate foreign commerce by carrying on negotiations over alleged NTB's.

Which branch of the Federal Government has the authority to deal with alleged NTB's? To ask the question is to supply the answer—the Congress, under its Article I, Section 8 power to regulate foreign commerce.

Neither in the statutes vesting power over the regulation of the transport of explosives in the United States, nor in any other applicable legislation has the Congress delegated to DOT the authority to regulate testing abroad or to abrogate an alleged non-tariff barrier to trade; and therefore, the proposed regulation concerning the testing of cylinders in foreign countries is *ultra vires* the authority of the DOT. Since the authority to regulate testing in foreign countries and to abrogate alleged non-tariff barriers has not been delegated to the DOT, and since no such power can be fairly inferred from the general rule-making power of the DOT, it would seem that the proposed regulation is *ultra vires*. It is true that the very delegation of rule-making power to the DOT implies a certain amount of discretion to the agency in defining the ambit of its rules.[15] It is, however, submitted that the regulation of foreign commerce is manifestly inconsistent with the statutory terms and purposes of the delegated powers of the DOT, and thus cannot fairly be considered consistent with its authorizing legislation. The rules concerning the testing of cylinders in foreign countries should be, therefore, considered as *ultra vires*, and without effect.

C. *The Proposed Testing Regulations Do Not Assure Adequate Recourse Against Foreign Manufacturers of Negligently-Made Cylinders.*

A lack of accountability by foreign manufacturers would breed irresponsibility by foreign manufacturers, which would lower safety in the United States. It is thus relevant to examine the problems of discovery, enforcement of judgments, adequacy of judgments and insurance, and considerations of equity involved in actions against foreign cylinder manufacturers. None of the problems is resolved by the vague provisions of the proposed rule.

The dual objectives of safety regulations are to protect the public from and heal its victims after the occurrence of a major catastrophe.[16] A key technique of restoring the victim of a catastrophe to his prior status is the imposition of legal responsibility on those who have failed in managing the risk under their control. If legal recourse is not available the deprivation is compounded. The possibility of inadequate recoveries should be minimized in a society that produces and transports more than 1,200 dangerous articles, more than 300 of which can destroy life or property in catastrophic proportions.[17]

It is clear that in a catastrophe involving the explosion of a compressed gas cylinder, the manufacturer of the cylinder could be liable, on the basis of a negligence theory or on the theory of strict liability.

The threshold question is whether the proposed regulations provide adequate recourse against foreign manufacturers of negligently-made cylinders. The proposed rule simply stated:

"In addition, each foreign manufacturer requesting approval would be required to specify an agent, domiciled within the United States, upon whom service of process effectively could be made." [18]

What will be the effect of this provision? The question is easier posed than answered definitively. Must each manufacturer carry products liability insurance? How much products liability insurance should a foreign cylinder manufacturer carry? Must a foreign manufacturer post bond to import cylinders into the United States? If so, how much? How can service of process effectively be made if the foreign manufacturer has no assets against which to move in rem in the United States? What kinds of assests could be moved against in rem in the United States? How could a judgment against a foreign cylinder manufacturer be obtained without the benefit of American discovery procedures abroad? Will foreign courts honor and enforce American judgments? These questions are only raised, not resolved by the technique of obtaining consent before an action is brought.

In order to explore the weaknesses of the DOT's "agent specification" plan, a simple hypothetical example will be used. Let us assume a cylinder containing liquefied petroleum gas is being used in a factory. Assume further that the cylinder explodes, causing extensive property damage and loss of life.

The first problem is that of discovery. Who are the potential defendants in the hypothetical? They are: (1) The manufacturer of the gas cylinder (as gas could have leaked through poorly welded seams); (2) the manufacturer of the gas (as it may have been improperly processed); (3) the distributors who purchase from the producer, and distributes large, bulk lots in wholesale quantities; and (4) the local dealer who buys from the distributor and sells to the industrial or commercial consumer. One of the most difficult problems in an exploding cylinder case is to trace the product back through the hands of all who dealt with it.[19]

Foreign cylinder manufacturers, despite their placement of an agent to receive serv-

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Footnotes at end of article.

ice of process in the United States, would not be subject to the rigorous discovery procedures that are available in this country. It would be quite difficult to obtain a judgment against the foreign manufacturer, even under a strict liability theory without proof that the cylinder was defective at the time it left the manufacturer's control.[20] The foreign cylinder manufacturer is, therefore, effectively insulated from liability by the proposed DOT rule.

The second problem raised by the agent placement rule is that of enforcement of judgments in foreign countries. Would judgments obtained in the United States be recognized in foreign countries? United States citizens harmed by exploding cylinders are in effect placed at the mercy of foreign tribunals by the DOT's proposed rule. While American courts often recognize foreign judgments on the theory of comity, several continental Euorpean countries (including France) will not recognize foreign judgments in the absence of specific provision in reciprocal treaties with other countries.[21] The problem of actual collection on judgments could thus get bogged down in legalisms, or no recovery might result.

The third problem is that of the adequacy of recoveries that might be obtained against foreign manufacturers, even assuming *arguendo* that they would be carrying products liability insurance. The magnitude of the disasters that could befall a foreign cylinder manufacturer are obvious. The total available insurance may fall far short of providing adequate levels of compensation to United States victims. Finally, it may be assumed that the burden on United States citizens injured by foreign cylinders will be greater than if they were injured by domestic cylinders, due to a time lag resulting from the difficulty in obtaining evidence against the foreign manufacturer.

The fourth problem raised by the "agent placement" rule is that of equitable considerations. In general terms, it hardly seems fair to subject domestic cylinder manufacturers to liability for negligently-made cylinders and effectively absolve foreign manufacturers from liability, due to problems of proof and enforcement. In each particular case, the equitable problem is that the loss is effectively shifted to *other* potential defendants, such as the gas manufacturer, as all joint tort-feasors are jointly and severally liable, and contribution may be difficult to obtain.

In summary, the DOT requirement that all approved foreign cylinder manufacturers must post an agent in the United States is inadequate to meet the safety needs of American citizens. Foreign manufacturers are effectively insulated from liability by the difficulties of discovery abroad, the problem of the recognition of United States judgments in foreign countries, and the likelihood that foreign products liability insurance would be inadequate to meet the financial demands of a major catastrophe. Insulation from liability can only discourage the expensive precautions required in the process of manufacturing cylinders. The safety of all United States citizens will accordingly be lowered.

CONCLUSION

For the above stated reasons, the American Cylinder Manufacturers Committee opposes the subject proposal and requests that it be withdrawn.

Respectfully submitted,

William W. Scott,
Executive Secretary, American Cylinder Manufacturers Committee.

FOOTNOTES

[1] §§ 831–835 of Title 18, U.S.C. § 9 of the Department of Transportation Act (49 U.S.C. § 1657).

[2] Title VII and § 902(h) of the Federal Aviation Act of 1958 [49 U.S.C. §§ 1421–1430 and 1472(h)].

[3] 18 U.S.C. § 834.

[4] 18 U.S.C. § 831.

[5] See, 49 C.F.R. § 178.36–3.

[6] See, Docket No. HM–74, supra note 1.

[8] 18 U.S.C. § 831.

[7] 18 U.S.C. § 831.

[9] The statutes regulating certain aspects of commercial aviation seem to have little relevance to the testing of compressed gas cylinders in foreign countries, and it is a mystery why DOT cites them as a basis for its actions. Furthermore, the cited statutes exempt foreign aircraft and airmen who may arguably come within the reach of the statute, a tacit admission that an agency cannot administer its regulation in foreign countries. [See, 49 U.S.C. § 1430(b).]

[10] See, United States Constitution, Art. 1, § 8.

[11] *Id.*

[12] See, K. C. Mackenzie, *Tariff-Making and Trade Policy in the U.S. and Canada: A Comparative Study, Chapter 1 (1968)*.

[13] Trade Expansion Act of 1962, § 201.

[14] See, United States v. Guy W. Capps, Inc., 204 F. 2d 655 (4th Cir. 1953), which states that "while the President has certain inherent powers under the Constitution such as the power pertaining to his position as Commander in Chief of the Army and Navy and the power necessary to see that the laws are faithfully executed, the power to regulate interstate and foreign commerce is not among the powers incident to the Presidential office, *but is expressly vested by the Constitution in the Congress.*" [Emphasis supplied.]

[15] L. L. Jaffe, *Judicial Control of Administrative Action,* 564 (1965).

[16] James M. Brown, "Probing the Law and Beyond: A Quest for Public Protection from Hazardous Product Catastrophes," 38 *George Washington Law Review,* 431 (March 1970), 433.

[17] *Id.,* at 432.

[18] Docket No. HM–74, *supra* note 1.

[19] See, Morrissey, Admx. v. Conservative Gas Corp., 136 N.Y.S. 2d, 844 (1955), where a gas company was exonerated from liability because of lack of proof that its product was defective when it left its hands.

[20] See, Morrissey, Admx. v. Conservative Gas Corp., 136 N.Y.S. 2d, 844 (1955).

[21] See, Arthur T. Von Mehren and Donald T. Trautman, *The Law of Multistate Problems: Cases and Materials on Conflict of Laws,* 834 (1965).

THE ASWAN DAM

Mr. BELLMON. Mr. President, probably no civil engineering project in the history of the world has attracted more attention than the construction of the Aswan High Dam on the Nile River in Egypt. From its inception this development has been involved in controversy relating to world politics and the relationships between nations.

Members of the Senate know that an offer by our Government and the World Bank to finance the first stages of the project was withdrawn after a series of misunderstandings with Egyptian President Nasser. Loans for the project were then arranged with the U.S.S.R. Equipment and engineering for the project were then furnished by the Russians.

Mr. President, on November 8, I had the privilege of visiting the Aswan High Dam as a guest of the Egyptian Government. In the party were two engineers, Dr. William L. Hughes, head of the school of electrical engineering at Oklahoma State University, and Dr. William H. Wisely, executive director of the American Society of Civil Engineers.

While I claim no expertise in the field of engineering, I was able, as a farmer, to see and appreciate the effect of water from the high dam on Egyptian agriculture and to witness the changes that power from the dam is bringing to the rural life of Egypt.

Dr. Wisely has summarized his impression of the high dam in an article to be published at an early date in the magazine Civil Engineering. I believe Members of the Senate will be interested in this scholarly and impartial review of the Aswan project, and I ask unanimous consent that the Wisely article be printed at this point in the Record.

There being no objection, the review was ordered to be printed in the Record, as follows:

PEOPLE, ECOLOGY, AND THE ASWAN HIGH DAM

(By William H. Wisely)

It was truly a privilege recently to visit the massive Aswan High Dam of the Egyptian Nile, and to confer at length with many of those responsible for its construction and operation. Other American members of the visiting party were Senator Henry L. Bellmon of Oklahoma and Dr. William L. Hughes, Head of the Department of Electrical Engineering at Oklahoma State University.

There is much concern in the United States today with the evaluation of environmental and social impacts—as well as economic—in the engineering planning of public works projects. The opportunity is most welcome, therefore, to participate in the review of such a major project from the standpoint of its impact upon people and nature.

Various conservationists and journalists have called attention to certain objectionable side effects of the High Dam. Among these are: doubt that Lake Nasser will ever fill because of high evaporation and infiltration rates; excessive siltation in the lake with attendant loss of the fertility represented by deposition of silt in the former flood plains; excessive erosion in the river channel and delta region; creation of conditions favorable to the vectors of bilharziasis and malaria; encouragement of salination of the soil; and dislocation of sardine fisheries where the Nile discharges into the Mediterranean.

It is essential that some basic facts about Egypt be understood before considering the Nile as a water resource and the High Dam as a development facility. Most dramatic is the fact that only 3% of the 386,000 sq. miles of land area are arable, the remaining land area being a barren desert! Almost 99% of the population lives in the narrow irrigated strips on each bank of the Nile, which widens at the delta, and along the Mediterranean seacoast. Of the 1971 population of 34.5 million, about 10 million live in Cairo, Alexandria, and other cities. The average density of population in the non-urban agricultural areas is more than 2,000 per square mile, but the actual density in the rural villages and towns is many times that.

Cairo is a modern, beautiful city, but poverty is widespread outside the central part. Since the highly significant land reform in the mid-fifties there are many small farms averaging less than 5 acres in area. The rural standard of living is very low, however—at the bare subsistence level.

The national annual income is $4.34 billion prior to the High Dam represents but $140 per capita. Agriculture, with rice, corn, sugar and cotton as the main crops, is a vital element in the economy. Import of food crops was essential, however, before the High Dam project.

The population is increasing at the rate of almost a million (3%) per year. Literacy over age 15 is under 30%, and rural health conditions are generally poor. Hookworm, malaria, pellagra and tuberculosis are common diseases. Egypt is a poor country, struggling to feed its rapidly growing population.

The Nile is the major resource of Egypt. Its entire flow originates outside the country, averaging 84 billion c.m. annually at Aswan. Range is from a minimum of 275 c.m.s. to 13,500 c.m.s. during the August-October flood season. When uncontrolled these floods interrupted agriculture, caused serious erosion and wasted 32 billion c.m. of precious water annually to the sea.

An ancient Arab saying goes "The Nile is Egypt." no other river is so much a lifeline to the land it traverses!

The Aswan High Dam was completed early in 1971. Its 43 million c.m. rock, sand, clay and concrete will impound 164 million c.m., three times the capacity of Lake Mead. Lake Nasser will average 10 km. in width and will extend up the Nile for 500 km. When visited the lake was 56% full, with its stage within 12 m. of high water. The present stage of 171 m. is well within the normal operating range of elev. 147–175 m. for irrigation.

The power plant comprises 12 units of 175 mw. each. The last three units are presently undergoing acceptance tests.

The civil engineering aspects of the dam and power plant appeared to have been planned and constructed in commendable fashion. There was no evidence of untoward settlement in the body of the dam, and it was stated emphatically that there was no validity to an allegation that leakage through the dam had required the engagement of special consultants. Concrete work appeared to be of excellent quality. The turbines and generator equipment, made in the USSR, are unusually fre of vibration. Dr. Hughes noted that certain electrical equipment is not of latest design, but is nevertheless sturdy and well adapted to the functions to be served.

Cost of the High Dam and related operations has reached about $625 million. The USSR made available loans totalling $240 million together with technical assistance in construction. Annual benefits from the project amount to about 40% of the total cost, a remarkable ratio.

The list of benefits accruing from the High Dam project includes the following:

Ultimate reclamation of 1.25 million acres of hitherto unproductive land for agriculture; 850,000 acres already reclaimed. Rice is now produced for export.

Complete storage of annual flood waters, converting 725,000 formerly flooded acres to perennial irrigation yielding two to three crops per year.

Improvement of cultivated land by lowering ground water levels.

Elimination of all annual flood damage.

Insurance of year-round navigation of the Nile.

Generation of 10 billion kw. hr. annually, to double Egypt's electric power production. Annual per capita power production was 40 kw. hr. in 1952, 200 kw. hr. in 1970, and will be 400 kw. hr. when High Dam power is fully developed.

Ultimate increase of national income by about $470 million annually; in 1970 alone the increase was $250 million.

It is appropriate to assess against this background the ecological trade-offs mentioned earlier. Each of these will be discussed briefly:

LAKE-FILLING RATE

It must be noted that the purpose of Lake Nasser is to contain the Nile floods, and to provide a steady source of irrigation water and power. Filling of the lake to date is progressing as expected. Six years of observation have shown that evaporation and infiltration rates are well within design limits. No "weak zones" of leakage have as yet appeared in the lake bed.

SILTATION

Of the total of 60 million c.m. of silt carried annually by the Nile about 88% was formerly carried to the sea by flood waters. About 9%, or 5.4 million c.m., were deposited upon flooded land, providing nourishment to the soil. It is estimated that the loss of silt sediments is equivalent to about 13,000 tons of calcium nitrate per year. The cost of such fertilizer additions, however, is less than the former cost of dredging unwanted silt from irrigation canals and local storage areas.

With the High Dam in operation, silt will in the future drop out in the upper reaches of Lake Nasser. Design provides for 30 billion c.m. of silt storage, however, sufficient for 500 years.

EROSION

The yearly Nile floods caused serious instability of river banks because of erosion. While the now silt-free waters will move at higher velocities, the wide variation in annual discharge has been eliminated. Under such stabilized conditions erosion should soon diminish with the result that the river banks will also become more stable. Further control of erosion should ensue with the construction of additional dams that are planned between Aswan and Cairo.

DISEASE VECTORS

The diseases of bilharziasis and malaria are endemic to all tropical countries with low standards of living and dependent upon irrigated agriculture. The occurrence of the vectors of both diseases is under continuing study. To date there has been no finding of the *Anopheles* mosquito in Lake Nasser. An incidence of 18% bilharziasis has been found among the 4,000 fishermen at work in the lake.

General improvement in public health measures and disease prevention will accompany any advance in the national economy and attendant rise in the standard of living. This is presently a high order of priority in Egypt.

SOIL SALINITY

The accumulation of salts in soil results from high rates of ground-surface evaporation. This is minimized by the provision of effective soil drainage, which is further beneficial in that ground water return to the river is expedited. The Ministry of Irrigation has a continuing program of drainage network installation, with financing by the International Monetary Fund.

EFFECT ON FISHERIES

Loss of flood-borne nutrition has apparently caused migration of the sardines formerly found in the Mediterranean at the Nile's mouth. Value of the fish formerly taken here has been estimated at $7 million per year. As a result of the sardine migration, however, the national fishing industry has restructed and modernized for deep-water fishing, which will yield other fish in addition to sardines.

Lake Nasser is now producing about 2,000 metric tons of food fish per year, and the ultimate yield will be 16,000 metric tons or more.

Viewed in the light of its many vital benefits to a needy people, the so-called ecological effects are clearly nominal. Even so, a facility has been provided in the Lake Nasser Development Centre at Aswan for the conduct of ecological research in all areas of concern. Studies are underway, on shoreline land use, fisheries, disease vectors, and erosion. Separate research is being directed toward coastline stabilization in the delta, a problem of long standing.

The Aswan High Dam is a modern engineering wonder, to be sure, but more importantly, it is filling a vital need for 35 million people. It is a fine tribute to the engineering professions of Egypt and the USSR and the engineers from other countries who contributed to the early planning; it embodies the best of engineering art and creativeness, soundly executed.

Probably no engineering undertaking before has given so much to so many people who sorely need the encouragement and assistance of the developed nations of the world. Detractors of this great project will do well to view it from the right end of their binoculars, in proper focus!

Mr. BELLMON. Mr. President, I have also received comments from Dr. William Hughes, head of the electrical engineering department at Oklahoma State University, in Stillwater, Okla., who viewed the Aswan project from the electrical engineering viewpoint. His comments are short, and I believe Members would be helped by his objective and well-qualified technical observations.

I ask unanimous consent that they be made a part of my remarks at this point.

There being no objection, the comments were ordered to be printed in the Record, as follows:

Reflections At Aswan

Due to a combination of circumstances too complex to explain, a party of three Americans were provided an opportunity to visit the Aswan Dam as guests of the Egyptian Ministry of Electricity. Our continuous hosts for several days were two subministers of the Ministry. During those days we not only saw a great deal of that Egyptian-Russian engineering project, but we also developed a personal rapport with our hosts that to us was as important as what we saw. What follows is a series of reflections on that visit.

Many of us have had a tendency to think of the Aswan Dam as being built for the Egyptians by the Russians as a gift, but calling for irrevocable political and military ties in return. That political and military ties have developed between Russia and Egypt is obviously true, but let no man think that the Aswan Dam is a gift. The Egyptians are paying money for the Dam on a strict contractual basis in which the Russians

(1) floated a loan at 1½% interest.

(2) sold construction equipment.

(3) sold power station equipment.

(4) provided some engineering services.

(5) provided some (not all) supervisory personnel at the engineering, technician, and Construction Foreman levels (roughly 8000 total).

The Egyptians, themselves, had been studying the question of a dam at Aswan for some years, and they had already done a great deal of very good engineering planning with the help of experts from all over the world.

Although the Russians gave some very good help, a major amount of the planning was done before they came on the scene. It is not the purpose here to provide a subtle lecture on Capitalism versus Communism. It is clear, however, that the Russian Engineering, Construction, and Finance Company took and successfully completed one of the world's largest single capitalistic construction contracts and perhaps at a profit (or at least no loss) to themselves. One is prone to ask why we didn't get the contract since we know this sort of thing is really our bag, and the Russians don't even admit to being a conglomerate corporation.

Our American press has generally had a tendency to describe the Aswan project in patronizing or even degrading terms. We have heard such things as (1) the dam is moving around. It is, as does every other big dam, and this is taken account of in its design. (2) The elimination of the annual floods is changing the ecology of the river. Again, of course, it is. It is also making it possible to get two crops a year instead of one. It has added over a million acres of irrigable land to the agricultural production complex and it has provided a total capability of 2.1 billion watts of electricity for rural and urban electrification—that's going to change the ecology a bit. On the negative side, diseases have begun to appear as problems and appropriate corrective actions are required (and are being taken). The end of the delta flooding means that more chemical fertilizers (mainly nitrates) must be used, and since people no longer drown in the floods, the overpopulation problem is somewhat more severe. Technology always makes these kinds of changes and the fundamental management problem with technology is to assure that the good outweighs the bad. The Egyptians are aware of all of these problems, and are competently managing them.

One of our principle desires was to get a good look at as much Russian Engineering as possible, and we had ample opportunity. The Engineering, Civil, Mechanical, and Electrical, is superb. In terms of quality one doubts that there is a better hydroelectric installation anywhere in the world. We were particularly impressed with the dynamic balance achieved on the turbo alternators. In all hydroelectric installations, when the turbo alternator is running at synchronous speed there is always considerable vibration. Even though these turbines are as big as any in the world, the vibration level is extremely low.

It appears that the technical capability of the people running the plant is very good. It is also clear that the maintenance level in the plant is kept uniformly high. The power station was clean and had the appearance of being very well managed.

If one really has to carp at something, the only thing we could find to carp at was the scheme used for exciting the big alternators. The d-c exitation was taken from an exiter alternator for which the output was rectified in mercury arc rectifiers. We were surprised to note a lack of solid state silicon devices in this function since other turbo generator manufacturers, German, Sweden, Japanese, and American, have been using them for some years.

Nonetheless, the total electrical system at Aswan is of high quality, high reliability and will give excellent service for many years.

Generally, the electrical system is very conservatively designed, which is a good policy for such an installation. With the high dam in full operation, a massive rural electrification program is being undertaken, to be completed in roughly five years. It is the objective to give every villager electric lights, the ability to pump water from the Nile, and do other chores now done by hand.

Considerable power is now being consumed by industries and that consumption is growing. The net result is that before 1980, Egypt will need more power than she can generate, and she, like ourselves, is searching for new sources of power now.

The high dam at Aswan is without doubt, one of the modern engineering marvels of our time. The economic benefits to Egypt are enormous. The negative aspects exist, of course, but are small compared to the benefits. Even so, the Egyptian government has been studying the negative impacts as well as the positive ones, and is implementing their control with dispatch.

Mr. BELLMON. Mr. President, all of us are gifted with 20–20 hindsight. Therefore, viewed in retrospect, it may be that our Government erred in withdrawing support for the Aswan High Dam. Our action paved the way for sales of hundreds of millions of dollars worth of Russian goods to build the project. The point here is that these are sales not grants. The cost of the project is being paid on schedule with earnings from power sales.

While most of the thousands of Russians who were involved in the construction of the project have now left Egypt, a good rapport between the two nations has been established. Official visits between leaders of the two governments are common. Much of the transport and other industrial equipment used in Egypt is of Russian or Czechoslovakian origin.

Russian naval vessels on duty in the Mediterranean are now serviced from an Egyptian base. Russian crews man the more sophisticated defense installations near the Suez. There may be reason to wonder whether or not the Russian Bear has a full nelson on the ancient land of Egypt and her oil-rich Arab neighbors. If that is the case, it is almost certainly because of a series of conscious decisions on the part of our Government.

Mr. President, I went to Egypt expecting to find general and open hostility toward America and Americans. I could not have been more pleasantly surprised. The fact is that the Egyptians I met—Government officials, including President Sadat and several of the ministers in his Government—were most cordial. The shopkeepers in the bazaars were openly friendly. The villagers and the farmers I spoke with were open and warm in their comments.

My experience was not unique. The groups of American tourists I encountered reported a similar friendly reception wherever they traveled. There seems to be a reservoir of good will—even affinity—between Americans and Egyptians, which goes back to pre-Nasser times and which the present Egyptian Government is interested in nourishing.

Mr. President, in my opinion, all is not lost for this country in Egypt, or in the Arab world. There will be other projects like the Aswan Dam where the expertise, the products, and the wealth of this country can be wisely made available—not necessarily as gifts—to assist in Egyptian development. I hope conditions will make possible a cooperative arrangement in the near future which will normalize relations with this important and fundamentally friendly land. I have written President Nixon urging extraordinary efforts toward this goal. I urge Members of the Senate to support these moves as they are made.

POETICAL SENSE AND POLITICAL NONSENSE

Mr. ERVIN. Mr. President, I will speak of billions of dollars. Let me explain what a billion dollars is. If a husband should give his wife a billion dollars on the understanding that she would spend $1,000 of it every day except the extra day in leap year and would not return until all was spent, it would be 2,739 years, 2 months, and 5 days before he would see her again.

I am prompted to call my remarks "Poetical Sense and Political Nonsense," by a great poem, "The Gods of the Copybook Headings," in which one of the most profound philosophers of English-speaking peoples, Rudyard Kipling, recounts in poetic words of stark simplicity how the gods of wisdom, whom he calls the "Gods of the Copybook Headings," and the gods of expediency, whom he designates as the "Gods of the Market," contend in all ages for the allegiance of men, and how men suffer when they forsake the "Gods of the Copybook Headings for the Gods of the Market." Kipling borrows the title to his poem from the copybooks of his day in which axioms were written or printed for schoolchildren to copy.

As we read this poem, we are amazed by both its timelessness and its relevancy to today. It relates eternal truth concerning the propensity of men to forget that "history is a voice forever sounding across the centuries the laws of right and wrong"—(James Anthony Froude). It deals, moreover, with such current themes as disarmament, sociology, economic integrity, financial responsibility, redistribution of wealth, inflation, depression, the welfare state, and the freedom of men from responsibility for their crimes and sins.

I will read Kipling's poem in full:

The Gods of the Copybook Headings

As I pass through my incarnations in every age and race,
I make my proper prostrations to the Gods of the Market-Place.
Peering through reverent fingers I watch them flourish and fall,
And the Gods of the Copybook Headings, I notice, outlast them all.

We were living in trees when they met us. They showed us each in turn
That Water would certainly wet us, as Fire would certainly burn;
But we found them lacking in Uplift, Vision and Breadth of Mind,
So we left them to teach the Gorillas while we followed the March of Mankind.

We moved as the Spirit listed. They never altered their pace,
Being neither cloud nor wind-borne like the Gods of the Market-Place;
But they always caught up with our progress, and presently word would come
That a tribe had been wiped off its icefield, or the lights had gone out in Rome.

With the Hopes that our World is built on they were utterly out of touch,
They denied that the Moon was Stilton; they denied she was even Dutch.
They denied that Wishes were Horses; they denied that a Pig had Wings.
So we worshiped the Gods of the Market who promised these beautiful things.

When the Cambrian measures were forming, they promised perpetual peace.
They swore, if we gave them our weapons, that the wars of the tribes would cease.
But when we disarmed they sold us, and delivered us bound to our foe.
And the Gods of the Copybook Headings said: "Stick to the Devil you know."

On the first Feminian Sandstones we were promised the Fuller Life
(Which started by loving our neighbour and ended by loving his wife)
Till our women had no more children and the men lost reason and faith.
And the Gods of the Copybook Headings said: "The Wages of Sin is Death."

In the Carboniferous Epoch we were promised abundance for all,
By robbing selected Peter to pay for collective Paul;
But, though we had plenty of money, there was nothing our money could buy,
And the Gods of the Copybook Headings said: "If you don't work you die."

Then the Gods of the Market tumbled, and their smooth-tongued wizards withdrew,
And the hearts of the meanest were humbled and began to believe it was true
That All is not Gold that Glitters, and Two and Two make Four—
And the Gods of the Copybook Headings limped up to explain it once more.

As it will be in the future, it was in the birth of Man—
There are only four things certain since Social Progress began:
That the Dog returns to his Vomit and the Sow returns to her Mire,
And the burnt Fool's bandaged finger goes wabbling back to the Fire;

And that after this is accomplished, and the brave new world begins
When all men are paid for existing and no man must pay for his sins,
As surely as Water will wet us, as surely as Fire will burn,
The Gods of the Copybook Headings with terror and slaughter return!

BELIEFS THAT BUILT AMERICA

The men who made America great could not take for gospel the assurances of the smooth-tongued wizards that they could secure "abundance for all by robbing selected Peter to pay for collective Paul;" that men should be paid merely for existing; and that no man should pay for his sins. As a consequence, they spurned the Gods of the Market and followed the "Gods of the Copybook Headings."

In so doing, they entertained abiding convictions concerning man, economics, and government.

They believed that man should strive to be the master of his own fate and the captain of his own soul. They believed that he can attain this nobility of character only by integrity, industry, thrift, and self-reliance.

They believed that earth yields nothing to man except the products of his own labor. They believed that Adam's curse is an unchanging and unchangeable law of life:

> In the sweat of thy face shalt thou eat bread till thou return unto the ground.

They believed that man has but one choice in respect to this immutable economic fact, and that such choice is simply this: Whether the bread which he must eat in the sweat of his face shall be the bread of freedom or the bread of bondage. They believed that a free man can be induced to produce thing of value only if he is permitted to retain a fair share of the fruits of his labor for himself and his family. They believed that "if any would not work, neither should he eat."

They believed that "though the people support the Government, the Government should not support the people"—Grover Cleveland. They believed, moreover, that when it undertakes to support the people, the Government reduces the people to nothing better than a flock of timid sheep, of which it is the shepherd. And, finally, they believed that Government ought to live within its income.

The men who entertained and practiced these beliefs made America a great nation.

FISCAL FOLLIES

During recent years, the smooth-tongued wizards, who now call themselves Keynesian economists, made the financial policymakers of the Federal Government proselytes of the gods of the market. They instilled in the minds of such policymakers an acceptance of these theories:

First, the Federal Government can spend the Nation into prosperity by incurring deficits, and for this reason balanced budgets are obsolete.

Second, a controlled inflation is good for the Nation's financial soul.

Third, the national debt need never be paid. Indeed, it ought to be increased as the gross national product rises.

I shall not trespass upon your time to argue there is an absurdity in the proposition that the more a nation spends of what it has not the richer it will be. I shall not trespass upon your time to assert that the experience of all nations which have resorted to the age-old panacea of inflation shows that there is no practicable way to keep supposedly controlled inflation from becoming uncontrollable. I shall not trespass upon your time to maintain that there is something inherently dishonest in one generation bequeathing its debts to another. I shall content myself with stating what has happened in the United States since Federal financial policymakers became converts to the "gods of the market," and what will happen hereafter if they do not return to the "gods of the copybook headings."

THE RESULTS OF FISCAL FOLLIES

We have had 35 deficits in the last 42 years. Federal taxes have increased from $4.1 billion to $133.7 billion, and Federal expenditures have risen from $3.4 billion to $163.9 billion yearly. The national debt has ascended from $16 billion to $413 billion, and the annual interest on such debt has grown from $659 million to $22 billion.

Representative OTTO PASSMAN, of Louisiana, who is a dedicated and knowledgeable defender of the harassed American taxpayer, recently told some trenchant truths concerning one aspect of Federal fiscal follies. He said that during the 25 fiscal years antedating June 30, 1971, the United States scattered $138.4 billion among 127 foreign nations under numerous foreign aid and assistance programs; that virtually this entire disbursement represented deficit spending; and that the policymakers of the Federal Government in the foreign area are demanding that Congress appropriate an additional $13.5 billion for foreign aid and assistance for fiscal year 1972, notwithstanding unexpended balances of $24.5 billion from prior appropriations are still available for these purposes and notwithstanding the national debt of the United States exceeds the combined national debts of all other nations on earth by $109 billion.

I cannot forbear making this observation: If an individual were to engage in the unspeakable fiscal folly of borrowing money to give it away, his family would institute an inquisition in lunacy, and procure the appointment of a guardian to manage his affairs. But politicians who advocate that the U.S. Government emulate such a demented fool become Presidents or Secretaries of State or Senators or Representatives.

Another observation. In times past the United States has made loans to other nations, which never repaid them. Despite its sad experience in this respect, our country seems incapable of comprehending the truth spoken by the Shakespearian character Polonius that "loan oft loses both itself and friend."

The Federal Government formerly used two budgets:

First, an administrative budget which covered general receipts and expenditures incident to general operations.

Second, a trust fund budget which embraced trust fund revenues which are collected and expendable for specific purposes only, such as social security, railroad retirement, and highway construction.

Beginning with fiscal year 1969, however, the Federal Government combined these two budgets in a so-called unified budget which covered all its receipts and disbursements.

By this bookkeeping legerdemain, the wizards of the "Gods of the Market" delude the unwary into believing that the 1969 general operating deficit of $5.5 billion was a surplus of $2.4 billion, that the 1970 general operating deficit of $13.1 billion was a deficit of only $2.8 billion, and the 1971 general operating deficit of $30.2 billion was a deficit of only $23.2 billion.

But they do not fool the old North Carolina mountaineer who went to his neighborhood store to pay for the groceries he had been buying on credit. The storekeeper informed the old mountaineer that his bill totaled an amount far in excess of what the latter believed correct, and the old mountaineer entered a vigorous protest. The storekeeper opened his account book, laid it upon the counter, and said: "Here are the figures; you know figures do not lie." The old mountaineer replied: "I know figures do not lie, but liars sure do figure."

GROSS NATIONAL PRODUCT: AN EXCUSE FOR FISCAL FOLLIES

The smooth-tongued wizards of the "Gods of the Market" are eloquent and persuasive. They can always conjure up pleasantly deceptive excuses to excuse the inexcusable. What their eloquence and persuasion have done to the economy of our country, however, sustain Benjamin Franklin's assertion that "he that is good for making excuses is seldom good for anything else."

When they are confronted with the dismal results of the Federal fiscal follies they persuaded the Federal Government to embrace, the smooth-tongued wizards take refuge behind the gross national product. They glibly assert that their wisdom is proved by the circumstance that, while the population of the country grew from 123 million to 203 million, the yearly gross national product rose from $247.5 billion to $947.1 billion when measured in 1970 dollars.

I will not detail the unreliability of the gross national product as a measure of our Nation's economic state. This has been done in an editorial entitled "The GNP and a Pinch of Salt," published in the Washington Star on May 10, 1966. I quote its relevant parts:

> Whenever authorities compare the United States with the Soviet Union, the talk soon gets around to the Gross National Product.
>
> This is the sum of all goods and services produced in a year by a country. Because Americans like clear, simple answers, the GNP is highly regarded. At a glance it tells you we lead not only Russia but the world. The index is so respectable that a President simply could not reach the end of a State of the Union Message without citing it as evidence of past progress and forecasting how much it will rise the next 12 months.
>
> The only trouble is that nothing really is clear or simple, least of all this yardstick. It measures not only the good but the bad, not only the gifts of civilization but the inane and the phony. It even makes inflation look like an asset.
>
> Plastic back scratchers are in the GPN. * * * So are hydrogen bombs and the high cost of funerals. * * * Every civilization produces trash, of course. * * * But America is the first to include all her creations, good and hideous, in a single statistic, and then brag about it.
>
> Aside from this obsession with quantity, the GNP happens right now to be cranking in a serious liability. Inflation. Every time the price of steak or shoes goes up, the GNP rises too. * * * The GNP is useful, a point on the compass, a means to give perspective to our industrial growth. But it is a shaky way to measure any nation's contribution to history. And even in the narrower field of economics, the message it carries is not always cause for rejoicing.

I add brief comments to what the editorial said.

To be sure, the gross national product for 1970 exceeded that of 1930 by $726.6 billion when measured in 1970 dollars.

A substantial part of this increase results solely from the growth of our Nation's population. Manifestly, 203 million people render and require 60 percent more services, and make and consume 60 percent more goods, than 123 million people.

Another substantial part of the increase was the consequence of expanded governmental activities. Federal and State governments expended $334.5 billion for goods and services in 1970 as against $9.2 billion in 1930.

Moreover, one circumstance reveals that the gross national product for 1970 is as full of inflation as a mangy hound-dog is of fleas. It took $2.44 in 1970 to purchase what $1 bought in 1930.

IMMUTABLE ECONOMIC LAWS

"As surely as water will wet us, as surely as fire will burn," and as surely as "two and two make four," there are laws of economics which are as unalterable as the laws of the Medes and Persians. Nations and men violate these laws at their peril, because the consequences of their violation are inescapable.

One of these laws decrees that persistent deficit spending by government causes inflation, and inflation robs a nation and its people of economic strength.

When he was campaigning for the Presidency in 1932, Franklin D. Roosevelt stated this law in homely phrases. He said:

> Any government, like any family, can for a year spend a little more than it earns. But you and I know that continuance of that habit means the poorhouse . . . Let us have the courage to stop borrowing to meet continuing deficits. Stop the deficits.

Deficit spending is dishonest in purpose and ruinous in practice. It undertakes to transfer to the future the burdens of the present. In so doing, it robs the past of its savings, the future of its earnings, and both the present and the future of their economic strength.

When he spoke in the House of Commons in May 1842, T. B. Macaulay said:

> Timid and interested politicians think much more about the security of their seats than about the security of their country.

The callous indifference to the future of our country manifested by politicians who support measures designed to shift from us to our children and our children's children the financial burdens which our necessities and luxuries entail is well illustrated by an ancient story which I now recount.

The British House of Commons of a bygone era was debating a legislative proposal that an enormous amount of government bonds should be issued, that the proceeds of the bonds should be spent forthwith for temporary purposes, and that repayment of the principal of the bonds should not begin until 50 years had expired. A Member, who happened to be a statesman, blasted the proposal on the ground that it was not fair to posterity.

The author of the proposal, who was obviously a politician concerned only with the next election, arose and replied:

> Posterity has done nothing for me, and I do not propose to do anything for it. Besides, posterity can not vote in the next election.

The politicians are not doing anything nowadays for posterity. But they are certainly doing a lot to it.

HOW INFLATION WORKS

Persistent deficit spending by Government creates inflation for a very simple reason. It artificially increases the number of dollars competing for available goods and services, and in so doing decreases the purchasing power of each dollar accordingly.

Inflation is pleasantly deceptive to both people and politicians for a time. This is true because it artificially increases dollars, and thus furnishes statistics indicating that the country has become richer.

But soon or late the evils of inflation appear. It then becomes manifest that the purchasing power of money has depreciated; that the Nation has accumulated an ever-increasing debt, and priced its goods out of the world market; that much capital has fled abroad; that savings and insurance have lost a substantial part of their real value; and that people living on pensions and other fixed incomes have suffered a staggering economic blow.

POLITICAL MANEUVERING

For 40 years the Federal Government has persisted in the fiscal folly of deficit spending. For 40 years inflation, the greedy progeny of this deficit spending, has been gnawing with an ever-increasing appetite the vitals of our Nation's economy. For 40 years men have been elected to rule in Washington on the bases of their promises to set the Federal financial house in order. For 40 years men so elected have thought more about the next election than they have about our country. In consequence, they have broken their promises, and heeded the siren voices of the politically powerful groups who emulate the horseleech's daughters and cry for more and more and more from the empty Federal Treasury.

When I was a student at Chapel Hill, I sat at the feet of a much beloved professor of geology, Collier Cobb. I remember little of what he taught about the history and structure of the earth, but I recall verbatim this pungent witticism of his:

> Wise men learn from the experience of others; fools learn from their own experience; but most of us learn neither from the experience of others nor from our own.

Measured by this standard, the financial policymakers of the Federal Government do not possess the wisdom of fools.

When a physician prescribes medicine for his patient and his patient grows none the better but rather the worse, the physician changes the prescription. Not so the financial policymakers of the Federal Government. They merely increase the dose.

When it became obvious even to them in 1971 that the inflationary chickens hatched by persistent deficit spending were coming home to roost, the financial policymakers of the Federal Government became frightened by their discovery of the Nation's economic sickness, and decided that they must administer a therapeutic agent. And so they prescribed a bigger dose of the same old economic nostrum which had brought the Nation's economy to its unhappy state—deficit spending.

This required Congress to raise that hypocritical restraint on Federal spending known as the national debt limit.

Ostriches stick their heads in the sand to conceal reality from themselves. Politicians employ euphemistic words to hide reality from the people.

In urging Congress to raise the national debt limit which forbade further Federal deficit spending, the President beguilingly stated that the administration simply desired to implement a full-employment budget and Congress obligingly consented by increasing the debt limit for the 18th time since 1960 to an alltime high of $430 billion.

The real purpose of this political maneuvering was to make it legally possible for the Federal Government to dive more deeply than ever into the sea of financial irresponsibility.

And, thus, in the words of Kipling "the burnt fool's bandaged finger goes wabbling back to the fire."

I submit that if the doctrine of the "Gods of the Market" that a nation can spend itself into prosperity were true, the 40 years of Federal deficit spending would have given the United States riches exceeding the fabled wealth of the Indies, and the coffers of the Federal Treasury would be overflowing with public revenues.

Deficit spending is not the only fiscal folly which enjoys political respectability in high places in Washington today. The administration and many Congressmen are demanding that Congress usher in the "brave new world" foretold by the "Gods of the Market" by adopting a so-called welfare reform plan under which men are to be paid for merely existing and no man is to pay for his economic sins.

RETURN TO ECONOMIC SANITY IMPERATIVE

In August, the President undertook to stay inflationary pressures by freezing wages and prices.

This action may palliate for a time the symptoms of inflation. But as a cure for the economic diseases inflation causes, it is as efficacious as applying a band-aid to a cancer which needs to be excised by surgery.

I nevertheless applaud the Presidential action. It affords the President, the Congress, and the American people an opportunity to pause and read the economic road signs which plainly indicate that the Federal Government is traveling a financial road that ultimately leads to an economic abyss.

If the President and the Congress read these road signs aright, they will know that there is only one real way to protect the American people and their economy from the economic ills inflation produces, and that is for the Federal Government to abandon deficit spending, balance its budgets, and manifest a sincere purpose gradually to retire the national debt. To be sure, this requires financial responsibility and political courage, because it necessitates a curtailment in foreign aid programs, a reduction in existing civilian programs, and a willingness to forgo the creation of new civilian programs.

I close with this prayer: May the President and Congress think more about our country than about the next election, and choose this wise and courageous way to protect the Nation's economy. By so doing, they would forsake the "Gods of the Market" for the "Gods of the Copybook Headings." ("The Gods of the Copybook Headings," copyright 1919, by Rudyard Kipling's Verse: Definitive Edition." Reprinted by permission of Mrs. George Bambridge and Doubleday & Co., Inc.)

ADDITIONAL JUDGESHIP FOR SEVENTH CIRCUIT COURT OF APPEALS

Mr. PERCY. Mr. President, on November 19, I introduced a bill, S. 2886, to provide for the appointment of an additional judgeship on the Seventh Circuit Court of Appeals. With this addition, the total number of judges for that court will reach nine.

By introducing this legislation, I have attempted to respond to the recent recommendation of the Judicial Conference of the United States and to the urgings of several of my constituents who practice law before that bar who have brought to my attention its overcrowded docket.

Mr. Rowland F. Kirks, Director of the Administrative Office of the U.S. Courts, noted in a recent letter to the Vice President that the recommendations of the Judicial Conference for additional judgeships are based upon a quadrennial survey of the needs of U.S. courts of appeals completed in 1970. Since 1968, appeals docketed in the U.S. courts of appeals have increased more than one-third, from 9,116 in fiscal year 1968 to 12,788 in fiscal year 1971. The seventh circuit has not been spared the pressures of its share of these increases in workload.

Much has been said recently about our failures to provide litigants a speedy trial as guaranteed by the sixth amendment. There are undoubtedly many causes for this failure, but one of them must certainly be the critical shortage of judges. It is my hope that the Judiciary Committee will attempt to respond to the conditions which prompted the Judicial Conference's recommendation by taking early action on the bill which I have introduced.

INSIDE STORY OF THE WORKINGS OF A NEWSPAPER

Mr. McGOVERN. Mr. President, Mr. Jesse Gordon, who seems to share my fascination with newspaper publishing, has written an excellent review for the Nation of the recent book, "A Day in the Life of the New York Times," by Ruth Adler. For those who are interested in the "inside story" of the workings of a newspaper, I recommend the reading of Mr. Gordon's review. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the review was ordered to be printed in the RECORD, as follows:

BANKERS' HOURS AT THE TIMES

(By Jesse Gordon)

("A Day in the Life of the New York Times" by Ruth Adler. J. B. Lippincott Co. 242 pp. $6.95.)

Ruth Adler gives us a vivid running account of what some of the 6,000 employees of *The New York Times* did to put out the issue of February 28, 1969. The date was chosen arbitrarily, Miss Adler assures us; and the account is based on memos prepared for her by the *Times* people involved. Some of the events described are something less than earthshaking, such as Arthur Ochs Sulzberger's entry for 9.36 a.m. to 9.37 a.m.: "Threw out a dead tulip." Still, it is reassuring to know that the *Times'* passionate concern for minute detail and absolute accuracy is shared at the very summit of the newspaper's hierarchy.

Miss Adler, who is editor of *Times Talk*, the publication for the newspaper's staff, deals with all parts of the *Times*, including the thundering pressroom, where at peak operation 106 press units, each weighing 25 tons, turn out more than 1,000 complete papers every second. But, of course, it is the editorial side of a newspaper that monopolizes the drama and suspense, and Miss Adler's account of which *Times* reporters were doing what and where during her chosen twenty-four hours reflects a good deal of both.

So, at four o'clock on a hot afternoon, Charles Mohr, chief correspondent for the *Times* in Southeast Asia, who has spent the previous night chasing an artillery unit he had thought a likely target for attack, is hacking it down a rutted road toward Saigon. In hot and steamy Karachi, Joseph Lelyveld sits and waits in the luxurious residence of West Pakistan's most colorful political figure, Zulfikar Ali Bhutto, President Ayub Khan's most formidable political opponent. In Nairobi, Kenya, where it has rained for three nights, Lawrence Fellows is haggling with an immigration officer.

Meanwhile, Max Frankel, chief of the Washington bureau, and Robert B. Semple, Jr., whose beat is the White House, are boarding a bus at the Excelsior Hotel in Rome, soon to depart for Paris to cover President Nixon's eight-day tour of five European capitals. In London it is damp and cold at 9 A.M., and the bureau—the largest of the *Times'* foreign bureaus—is empty save for John Rothera, the early man in the wire room. But at 10:20 A.M., according to Miss Adler, "Anthony Lewis emerges from his home in Islington . . . [and] steps into the waiting chauffeur-driven office Jaguar for the ten-minute drive" to the bureau in Printing House Square. For a *Times* man in London, nothing but the best.

In West Berlin, at about the same hour, David Binder and Ralph Blumenthal are sleeping off the exhaustion of two days of Nixon coverage. In the Paris bureau, in anticipation of the Nixon visit, Henry Tanner shows up for work at the unusually early hour of 10 A.M., and two chauffeurs—one the regular bureau driver and a second one hired to drive Messrs. Frankel and Semple around for the Presidential coverage—are awaiting assignments. (Aren't there any taxis in Paris?) In Jerusalem, at 11 that morning, James Feron has already covered an important story—the state funeral of Premier Levi Eshkol.

And so the tentacles of the *Times* reach out—to Dana Adams Schmidt in Beirut, Robert Doty in Rome, Tad Szulc in Bucharest, Drew Middleton in Brussels. And to Lawrence Davies in San Francisco, who reports that prospects for news at 9 A.M. are not bright for that day on his beat, which extends north to Alaska and west to Hawaii. And 400 miles to the south, in Los Angeles, Douglas Robinson and Lacey Fosburgh meet for breakfast and bemoan the fact that every day it becomes more difficult to pick a good lead from the verbal outpourings of the witnesses at the Sirhan trial.

Just about the time Mr. Lewis is preparing to enter his chauffeur-driven Jaguar in London, it is late at night in New York City, and Clive Barnes, the drama critic, is drinking black coffee in the kitchen of his Manhattan apartment and dictating notes into a tape recorder. Not far away the *Times's* art critic, John Canaday, a victim of insomnia, worries about what he has written for the morrow's paper on the artist Grandma Moses. And in the newsroom of the *Times*, at 3:01 A.M., Tom Daffron, assistant news editor, says goodnight to the dozen editors, rewrite men, clerks and copy boys who have closed the final edition. The newsroom, with its row upon row of gray, metal-topped desks, subsides into silence, while down below the pressroom roars into a crescendo.

Now this is a highly readable way to tell the story of a great newspaper. It is solidly rooted in the romantic tradition, guaranteed to make high school editors and college majors in English yearn for the aroma of printer's ink. But what is highly readable about a subject such as this is not always highly relevant, and there are many aspects of the *Times* story about which Miss Adler is either entirely silent or much too casual. The *Times* is more than a newspaper; it is a conglomerate. It owns paper mills, book publishing operations and radio stations, in addition to other newspapers and magazines. (Last October, the *Times* acquired properties from the Cowles communications empire for which it paid 2.6 million shares of Times Class A common stock, worth at the time more than $50 million.) It is quite possible that on February 28, 1969, a decision was made at some level of the *Times* corporate structure that was of more lasting significance than any decision made on the editorial side. Miss Adler can defend her silence on such matters by urging that she was not writing a corporate history. Granted; nevertheless, her day in the life of the *Times* turns out to be only part of the day, and not necessarily the most important part.

Miss Adler thinks well of the *Times*, and with good reason. Nevertheless, it must be admitted that her blind choice of February 28, 1969, was a lucky one for her. At least she was lucky that she didn't pick, say, April 7, 1961, the day the top hierarchy of the *Times* ordered a playdown of Tad Szulc's story out of Miami warning of an imminent U.S.-sponsored invasion at the Bay of Pigs. To paraphrase Alexis de Tocqueville: All those who seek to destroy the liberties of a democratic nation ought to know that turning the newspapers into mouthpieces of the government is the surest and the shortest means of accomplishing it. Such an attempt was made in the Bay of Pigs episode. Another similar case was the Pentagon Papers, but it failed in that instance.

The *Times* is a great institution, and as such is often exposed to great pressures—from government, from advertisers, from personality clashes within the institution itself. Recent books by Gay Talese and James Aronson offer eloquent testimony to that effect. One notes the relevancy of an article by Stanford N. Sesser in the Spring 1970 issue of the *Columbia Journalism Review*, on the intimate relationship between the *Times's* travel section and travel advertising. "Until this year [1970]," Mr. Sesser writes, "the paper consistently ran at least one puff on Florida right next to the [Florida] hotel ads."

The *Times* prides itself, of course, on the absolute independence of its editorial policy from advertising pressures. I had an interesting and illuminating experience with the *Times* that had a direct bearing on this matter. Back in the days of the McCarthy witch hunt, I tried to place an ad with the newspaper for a book by Dan Gillmor, a crusading reporter who had been trained by the great O. K. Bovard of the *St. Louis Post-Dispatch*. The *Times's* Advertising Acceptability Committee turned down the ad, obviously because it thought the book too radical. I appealed to John B. Oakes, nephew of Adolph S. Ochs, and a member of the paper's staff of editorial writers. I told him the ad had been rejected without any explanation. He promised to look into the matter. Two days later he told me on the phone: "You're right; the Advertising Accepability Committee voted the ad down, and there's no way the decision can be overruled. But there's no way the committee can stop me from reviewing the book—and I will review it." He did, too.

FOREIGN AID IS ON THE WAY OUT

Mr. HATFIELD. Mr. President, on October 29, I voted to defeat the Foreign Assistance Act. The voting of that day served to demonstrate that foreign aid, as we have known it, is on the way out. We must examine our premises on which we have based a foreign aid program for 25 years in order to learn which of them are still valid in 1971. The thinking through which each of us in the Senate must take ourselves on this subject of foreign aid is brilliantly exemplified by that of the distinguished Senator from Idaho (Mr. CHURCH). I ask unanimous consent to have printed in the RECORD, the Senator's "Farewell to Foreign Aid" and an introductory article on the foreign aid vote, both of which were published in the New Republic of November 13, 1971.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

SCRUB IT UP, DON'T WIPE IT OUT

Two facts emerge from the Senate debate and defeats of the foreign aid bill. The first is that the bipartisan, Cold War coalition that for two decades was willing to spend or lend dollars and weapons to contain Communism has come apart. The second is that no new majority has yet formed around a less ideological, less divisive, less corrupting way of helping the world's poorest people. The old coalition collapsed in the Senate on October 29 under the weight of two antithetical forces. One is represented by such men as Peter Dominick of Colorado, Alan Bible of Nevada and Paul Fannin of Arizona, who hold that government is doing too much for too many people, but especially for foreigners, and especially foreigners who don't stay bought.

Alongside them in the floor fight were Senators like Frank Church (whose rationale for ending the bilateral aid program is printed in this issue of *The New Republic*), who say: stop the war, stop lining the pockets of a small ruling class, stop arming despotic governments against their own people. Senator Fulbright speaks for this view when he advocates "returning to the concept of trying to assist underdeveloped countries, not to dominate them."

When Secretary Rogers charges that the Senate struck "a very serious blow [against] the foreign policy of the United States," he is begging the question of what foreign policy the US should have. It is not necessarily the present policy. The Senate Foreign Relations Committee, for example, had approved a House bill to extend foreign aid at the present level for two years—$1,479,470,000 in economic assistance and $1,723,400,000 in military aid for fiscal 1972. But it had added certain amendments to the House measure, which, far from destroying our foreign policy, would have strengthened it.

The administration thought otherwise and preferred no bill to the committee's. Why? The principal amendments were these: No funds for US forces in Indochina for any purpose other than withdrawal and protection from "imminent danger" during withdrawal; a declaration that our forces be withdrawn from Indochina within six months, subject to the release of American prisoners of war; a ceiling of $250 million on aid to Cambodia; the shifting of more economic aid to multilateral institutions and the phasing out of the bilateral loan program by June 30, 1975; the suspension of all assistance and military sales to Pakistan, except for humanitarian relief; a halt to further aid or military sales to Greece. In categorically rejecting these restricting amendments, the administration set the stage for what followed on October 29.

The Senate met at 9 a.m. and having prayed ("at Thy throne of grace we do not seek preference for ourselves or our Nation . . .") it got down to the business at hand. Mr. Buckley of New York proposed that the administration negotiate a reduction in the regular US contribution to the United Nations, to which Mr. Fulbright had no objection, it being understood that this is not "a reaction to the recent vote [on China] in the UN," which it was. Mr. Buckley's amendment passed. Mr. Gravel of Alaska then offered an amendment to the aid bill, summoning the UN to admit the Republic of China, both Germanys, both Koreas, and both Vietnams. Why not Outer Mongolia, Senator Fulbright wondered, whereupon he was reminded that Outer Mongolia already is a member of the UN.

Mr. Allen of Alabama came next. He wished to strike the ban on arms sales to Greece; Greece had voted with the United States on the China question. No, said Mr. Fulbright, Greece "abstained on the Albanian resolution, which resulted in the seating of Communist China." Well, replied Mr. Allen, we should not "deprive our ally of military hardware and military support" it needs to fulfill its military obligations under the NATO treaty; he "had thought that only Communist nations wanted to weaken and destroy the NATO alliance"; the ban would put Greece on "the verge of falling into Communist hands." This prompted Mr. McClellan of Arkansas to decry the humiliation suffered by the US at the UN, the "insult" to America's "unparalleled benefitcence," and to conclude that foreign aid was a "flop and we should stop it."

Senator Stennis of Mississippi then revived the discussion of Greece: "Like it or not, they are there . . . we cannot just pull the plug and expose ourselves and all of Western Europe"; so he would vote for the amendment of the senator from Alabama. So would Mr. Allott of Colorado: "They wanted us to shut off all assistance and aid to Batista in Cuba; we did; we clamped down on Batista. But what do we have now?" So would Mr. Buckley, who thought it unwise to tell the Greeks how to run their government. Exactly, said Mr. Pell of Rhode Island, but the "proper way to stop interfering is to stop giving them arms." Right, said Mr. Fulbright, and the "primary support for the existing military dictatorship comes from the US government."

Mr. Pastore of Rhode Island regretted very much that he had to differ with his distinguished friend, the senator from Arkansas, but he would vote for the Allen amendment, because of his "reliance on the integrity and judgment of three Rhode Islanders who are of Greek ancestry for whom I have the highest respect and regard." The Allen amendment lost, 49 to 31.

At this point, the Majority Leader asked unanimous consent for time for Senator Church, who planned to address the body at three o'clock. Mr. Dominick observed that "if senators are going to make speeches we will never have a chance to bring those amendments up." (Mr. Dominick had two amendments of his own.) Mr. Griffin of Michigan added that a reception for senators was scheduled for three o'clock, so that "would not be a convenient time for senators to be present," and Mr. Church replied that, "that is why I am going to give the speech at that time."

The dispute was somehow resolved in Mr. Church's favor, allowing Mr. Symington, who appeared to oppose any further aid to Cambodia, to introduce a "perfecting amendment" to correct a "printing error" in the *Congressional Record*. The correction: changing the figure for aid to Cambodia from $250 million to $341 million—the amount the administration had requested. "Too much money," said Mr. Fulbright. Senator Aiken thought not, for the following reason: "While I would not want to see this money spent for raising an army and putting men to war against their neighbors, I feel that if this amount of $341 million is agreed to at this time it undoubtedly will not survive the [Senate-House] conference at that full amount, thought it might, but I doubt in any case if it would survive the Appropriations Committee; so we are not spending this $341 million."

Mr. Fulbright would not yield: "No good reason has been given as to why we want to organize and pay for an enormous army in Cambodia. . . . I am arguing about the policy of this country in undertaking an endless operation in Southeast Asia to build up huge military forces there." Mr. Gravel moved to change $341 million to $150 million. He was ruled out of order. Mr. Fulbright said Mr. Gravel *was* in order, and the presiding officer reversed himself. Mr. Mansfield thought "$150 million is just the same as $341 million." Not at all, said Senator Griffin, who supported the larger figure in the interest of the Nixon doctrine: "In Cambodia the Cambodians want to defend themselves and they are defending themselves.

"Our policy is to help them, but without providing any of our troops to do the fighting." Was the $150 million a "ceiling," Mr. Brooke of Massachusetts asked? No, said Mr. Gravel, the word ceiling is a "misnomer." Senator Case set him straight on that: it was a ceiling, not "just an idle gesture." Senator Gravel let it go, the vote was taken, $341 million for Cambodia was approved 45 to 36.

The loaf was beginning to resemble a pretzel, but the Senate had not yet finished. Senator Church on behalf of himself and Mr. Allott called for cutting the Development Loan Fund (the "soft loan window for our Export-Import Bank") from $425 million to $285 million. Mr. Allott, assenting, thought about "the many people in America and how they struggle to pay their taxes"; *they* don't get "soft loans." Mr. Javits of New York found it "absolutely amazing" that such a cut should be suggested; how could anyone object to spending "an additional $160 million a year, when we are already spending . . . over $70 billion for war," which reminded Sen. Humphrey of something Pope Paul had said, after which he commended Mr. Javits for his vision. The Church-Allott amendment passed 43–36, following which everyone agreed with Mr. Brock of Tennessee that no funds would go to any country which did not support the provisions of the 1949 Geneva Convention relating to the treatment of POWs, and with Mr. Stevens of Alaska that *all* "soft loans" would be eliminated.

An amendment by Mr. Dominick to permit the Committee on Foreign Relations "to look over the annual appropriations for mandatory expenses for the United Nations" was accepted, since the committee already has that privilege. Mr. Dominick then proposed that the U.S. contribution to the specialized agencies of the U.N. be reduced, according to a formula whereby this country would pay the same proportion of those expenses as it does for the U.N.'s fixed costs. The senator from Colorado was moved by his desire to "increase the effectiveness of the U.N. . . . by getting other countries to come into these programs on an active basis instead of expecting the U.S. to pick up the tab." The amendment worried Sen. Aiken; the casualties of the cut would be the sick, the hungry, the young and the poor, he feared. Mr. Dominick said he had "never heard so much perfect balnoey in my life. I do not like being accused of being a child murderer. . . ." The Dominick amendment was rejected, 52–28.

Mr. Church again. He asked that the authorization for all military aid be cut about 20 percent—from $565 million to $452 million. The Senate probably would "split the difference with the House anyway," said Mr. Fulbright. Mr. Javits stuck by $565 million: "These are the three principal recipients—Cambodia, where we ourselves set a higher ceiling, Korea, where we have a very serious situation in regard to security, and Turkey, which is one of the bulwarks in NATO." Mr. Kennedy disagreed: "Our military assistance program is the worst aspect of the bill now before us. . . ." The Church amendment passed 47–27.

Briefly, the discussion drifted onto broader aspects of the aid question. Mr. Chiles of Florida ventured the opinion that the only way to get something better would be to kill the bill in its entirety. Mr. Byrd of Virginia thought so too—for another reason: $3.2 billion is "nearly double the amount that was appropriated in 1970." Mr. Nelson of Wisconsin was also against the bill "because it contains $341 million for military and economic aid to Cambodia." Mr. Tunney was against it because it authorized "massive amounts of military aid," did not bring "a halt to the funds spent in Indochina,"—and because "our largesse has strengthened those abroad who now compete with us." Mr. Tunney was dismayed "to know that this bill proposes the authorization of more than two-thirds of its $3.2 billion total for 58 nations which abstained or voted to expel Taiwan from the UN and bring Communist China in," though his vote would not be "in retaliation for any recent action of any nation."

The Presiding Officer. The bill having been read the third time, the question is, shall it pass?

Mr. Mansfield. Mr. President, I ask for the yeas and nays.

The yeas were 27 and the nays 41. The bill did not pass. Senator Mansfield gave the benediction: "This may well mark the end of the foreign aid program which this government has undertaken since the end of the Second World War. . . ." But it's not the end. The pipeline has in it an unexpended balance under the Foreign Assistance Act of $4,403,985,000 and there's another $6 billion elsewhere waiting to be spent, $2.5 billion of it in the Pentagon budget for Indochina.

Senators Fulbright and Church have been singled out for censure as spoilers. Let us see who did what; who, while voting *against* the foreign aid bill on October 29, had three weeks earlier voted *for* an appropriation of nearly $2 billion for multilateral aid—$960 million to the International Development Association, $900 million for the Inter-American Development Bank's fund for special operations and $100 million for the Asian Development Bank. They include Fulbright and Church, and Senators Nelson, Bayh, Benson, Chiles, Cranston, Dole, Pastore, Roth, Saxbe, Smith, Spong and Weicker. Quite evidently they aren't against all aid. Put alongside these names, those who voted against the bill on October 29, *and* also against the $2 billion earlier authorization: Dominick, Fannin, Bible, Brock, Burdick, the two Byrds, Cannon, Cook, Eastland, Ervin, Gurney, Hansen, the two Jordans, McClellan, Randolph, Stennis, Symington, Talmadge and Young. What there is of an isolationist hard core in the Senate is here.

Of course the United States can't shuck off its obligation to help poorer nations. A continuing American contribution to development is mandated by the realities of an interdependent world. The question is, what kind of contribution? Every spring, the Congress has debated how much ought to be spent. Now, with the decks cleared, it can put its mind to what the spending should be for, and through what institutions American resources can best serve the needy.

The administration wants to avoid an up-or-down fight over aid to Indochina; it is doing everything it can to revive the defeated House bill and so continue the old program for two more years. But the old program is bankrupt and the internationalists in Congress and in the administration now have an opportunity to do something more constructive than picking up the pieces and putting them together as they were. They can transform the program from a slush fund for military juntas and American corporations into a long-range, cooperative investment in human welfare.

Farewell to Foreign Aid—Why I Voted No

(By Senator Frank Church)

When revolution comes—as it likely will in many of the still "stable" countries of the third world—it will bear no resemblance to the kind of benign, gradual "takeoff" into self-sustaining growth envisioned by American aid officials and private investors. The notion that a stable, nonrevolutionary social structure is the essential condition of economic development is a self-serving rationalization. It enables American policymakers to believe that the interests of the United States, as they conceive them, are identical with the social and economic interests of the poor countries. "Stability," they insist, is not only essential for the exclusion of Communism and the preservation of American influence; it is also in the best interests of the developing countries themselves, because—so the argument runs—revolution means violence, disruption, inefficient management, and the loss of investment capital as well. In this way, we rationalize our support for regimes whose very existence is the principal barrier in their countries to real economic development and social justice.

The conditions essential for development are not so much economic and technological as they are psychological and political. No infusion of capital and know-how from without can galvanize a society in which the rewards of development are grabbed up by a small privileged caste while the majority of people are left hopeless, debilitated and demoralized. As the Brazilian bishop Dom Antonio Batista Fragoso put it, "We do not need paternalistic redemption. We need conditions so that those who are now abandoned may free themselves from their own underdevelopment with their own united force . . . the poor have no hope in those who still have economic power. And the poor are those who struggle for justice. If those who fight for justice are called subversive, then subversion is their hope."

In countries long under the domination of corrupt oligarchies nothing less than a radical redistribution of political power may be the essential precondition for economic development. If the bulk of the people are to make the concerted effort and accept the enormous sacrifices required for lifting a society out of chronic poverty, they have got to have some belief in the integrity of their leaders, in the commitment of those leaders to social justice, and in the equality of sacrifice required of the people. Reactionary regimes have neither the ability nor the interest to foster such a conception of social justice. They value aid from the United States as a means of maintaining, not of abolishing, inequalities of wealth and power. The lip service paid to reform is a crumb for their benefactors; it helps to make the Americans feel good and it costs them nothing.

In fact, American economic aid is commonly used to promote industrialization programs which generate a high level of consumption for the privileged, with little, if any, "trickle-down" benefit for the dispossessed. At the same time, American military assistance, and such para-military programs as the training and equipping of a country's police force, help such regimes as those of Brazil, Greece and Pakistan to suppress reformist movements. In this way, American aid is being used not to promote development but for the quite opposite purpose of supporting the rule of corrupt and stagnant—but vociferously anti-Communist—dictatorships.

Even if we should succeed in purging our minds of the anti-Communist obsession which has driven us into league with military dictatorships and oppressive oligarchies all over the globe, it would still be all but impossible for us to promote radical reform in the countries of the third world. Even indeed if we were a revolutionary society ourselves and were committed to a revolutionary conception of development—as most assuredly we are not—there is still very little we could do to foster social revolution in alien societies. The catalyst of radical change in any society must be an indigenous nationalism giving rise to a sense of community, commitment and shared sacrifice.

I do not suggest that the United States prefers or admires the dictatorial regimes it subsidizes, but only that there is little we can do with our aid to change them, all the more since these regimes can blackmail us so easily with the threat of Communism if they should fail. The Kennedy Administration did make an effort to encourage democratic and progressive policies in countries to which it extended aid, especially in Latin America, but that effort was a failure and the reasons for that failure are instructive. We failed because we had neither the ability to impose reform from outside nor the will to pursue it from within. The one was simply impossible; the other went against the priority of our own interests as we conceived them. However much we may have wanted reform and development, we wanted "stability," anti-Communism and a favorable climate for investment more. The experience of twenty years of aid shows that we can neither bring about fundamental reform in tradition-encrusted societies nor prevent revolution in those countries where the tide of change runs deep and strong; all we can really do is to service the *status quo* in countries where it is not strongly challenged anyhow.

There is abundant evidence that our foreign aid program is much less philanthropic than we have cared to portray. Indeed, the figures suggest that it is patently self-serving. Former AID Director William Gaud discloses that, as a result of tied loans "ninety-three percent of AID funds are spent directly in the United States. . . . Just last year some 4000 American firms in fifty states received $1.3 billion in AID funds for products supplied as part of the foreign aid program." Similarly, George D. Woods, former President of the World Bank, has observed that "bilateral programs of assistance have had as one of their primary objectives helping the high-income countries themselves; they have looked toward financing export sales, toward tactical support of diplomacy, toward holding military positions thought to be strategic."

The oft-asserted lament that our foreign aid program lacks a constituency in the United States is just another of those myths we hold dear. Actually, our bilateral aid program is, in effect, the soft-loan window of the Export-Import Bank; it is the source from which foreign governments borrow money on easy terms with which to buy goods and services from within the United States. As such, it enjoys a lively constituency which exerts steady pressure on the government to keep the program going.

In addition to financing American exports, our foreign aid, both economic and military, has encouraged relationships of sustained dependency on the United States. In many underdeveloped countries, repressive governments draw reassurance from the arms we furnish and the military training we supply. As the source of money and weapons for their armies and police forces, the U.S. government acquires a certain leverage over these regimes, while they last. Enticed by attractive credit terms, by growing familiarity with American equipment, reliance on American replacement parts, by bargain prices on obsolete equipment, training programs for their soldiers and police, and the sales promotion techniques of our military advisory missions, these governments soon enough learn to "think American."

No less than military aid, our economic assistance creates and perpetuates relationships of dependency. The law requires, for example, that aid shipments be carried only in American ships and that purchases be made only in the United States. Because of these and other requirements, the Peterson Report estimates that United States aid costs recipients about 15 percent more than world market prices.

Surplus food shipments under PL 480, on its face the most philanthropic of aid programs, in fact have served to unload costly surpluses, "at virtually no economic cost to the United States," according to economist Michael Hudson, a former balance-of-payments analyst for the Chase-Manhattan Bank. At the same time, Hudson points out, the PL 480 program has put the aid-receiving countries in debt to us to the extent of some $22 billion, "thereby tying them to the purse-strings of the State Department and the United States Treasury for nearly twenty years to come."

Dependency on the United States grows steadily too with the mounting burden of servicing past debts. The Peterson Report acknowledges that mounting debts, which must be continually refinanced on an emergency basis, keep the poor countries on a "short leash." As grace periods end on loans falling due in the 1970's and poor countries find themselves paying out ever greater amounts to finance past debts, new loans will be effectively neutralized and the poor countries will be threatened with economic paralysis. The upshot may well someday be a general default on debt payments to the United States reminiscent of the defaults on war debts which complicated and disrupted our relations with European countries in the '30s and helped to drive us deeper into isolationism.

Nowhere have we seen more clearly the ineffectiveness of aid as a deterrent to revolutionary pressures and as an instrument for the reconstruction of traditional societies than in Latin America. The Alliance for Progress represents the high water mark of our innocence in supposing that we could liberate traditional societies from their centuries' long legacy of tyranny and stagnation with a little bit of seed capital and some stirring rhetoric. It is true that the *per capita* income of Latin American countries has risen during the years of the Alliance for Progress, but it has risen in so unbalanced and inequitable a way that the gains have gone almost entirely to the 20 percent of the population who live within the modern economy. The benefits accruing to the lower 80 percent have not even kept up with population growth, so that they have become both relatively and absolutely poorer. Progress, though visible, is illusory. Shining modern cities have arisen and the Alliance for Progress has brought roads, transistor radios and Coca-Cola to the Latin American countryside, but their social impact is negative and disruptive. Labor-saving devices make life more comfortable for the affluent few but they do not add to *per capita* output and they add to unemployment where there were labor surpluses to begin with. Indeed the effect of this distorted and inequitable development, which widens the gap between rich and poor, is demoralizing to the poor and therefore detrimental to genuine development.

The distortions of public aid to Latin America are heightened by the impact of private investment. Although United States direct investment in Latin America grew from $8 billion to $15 billion during the 1960's and continues to grow at the rate of $1 billion a year, according to Gary MacEoin, United States companies withdraw $2 in dividends, royalties and other payments for every new dollar they invest. United States private companies exercise a "double negative impact": at the same time that they decapitalize Latin America by the withdrawal of profits, they plow back a part of their profits to gain increasing control of the mineral assets, industry and production of Latin American countries. Under this devastating North American onslaught, resentment of the United States has grown apace and increasing numbers of Latin Americans have become convinced that they are the victims of a virulent new imperialism. As one Chilean political scientist commented on the experience of the 1960's "If that is what one decade of development does for us, spare us from another. Foreign aid has been used, not to develop us, but to achieve the political purposes of the donors, to smother us in debt, to buy up our most dynamic productive assets."

In both Latin America and the rest of the third world the conviction is taking increasing hold that the poverty of the poor countries is not the result of imperfections in the old "models" of development but rather the inevitable result of the policies and practices of the rich countries. In his recent book, The Challenge of World Poverty, Gunnar Myrdal describes how the reforms promised in the Alliance for Progress were "rapidly emasculated by interaction between the holders of power in Latin America, including the American corporations working there, and the United States Government and Congress." The resulting economic and social relationship, not only between the United States and Latin America but generally between the rich and poor countries of the world, may not be one of deliberate, malicious exploitation, but we can hardly deny the name given to it by the Brazilian economist Helio Jaguaribe. It is, he says, "an objectively imperialist system."

I can no longer cast my vote to prolong the bilateral aid program, (estimated cost: approximately $44 billion over the next five years) as it is now administered. I could understand—though perhaps not condone—a foreign aid program that is essentially self-serving. We live, after all, in a selfish world. But the present program is designed primarily to serve private business interests at the expense of the American people. In far too many countries, as in the case of Brazil, we poured in our aid money for one overriding purpose, the stabilization of the economy in order to furnish American capital with a "favorable climate for investment." The search for foreign investment opportunities by the largest American corporations is relentless and irrepressible, as the biggest profits are to be found abroad, where the tax bite can frequently be reduced or adverted.

Moreover, the risk of loss due to political instability, riot, revolution or expropriation, has been largely lifted from the investor and shifted to the US Government. OPIC, the Overseas Private Investment Corporation, backed by the Federal Government, readily insures American companies against risks abroad for which no comparable insurance is available at home. The multi-million dollar losses incurred by American copper companies resulting from the nationalization of their holdings by Allende's Marxist regime in Chile, are likely to be borne—not by the companies that eagerly invested there—but by the American taxpayer. Our foreign aid program has become a spreading money tree under which the biggest American businesses find shelter when they invest abroad! Small wonder that the crumbling ghettoes in our cities, along with our declining rural communities, have to beg and scrounge for new capital!

The major preoccupation of the present foreign aid program is the massive disbursement of munitions which we either give away or make available at bargain basement prices. We ply half a hundred foreign governments with our weaponry. Most of the world has become a dumping ground for ships, tanks, and planes, which we label as excess to our needs. Easy credit is available at interest rates well below the cost of money to the US Government. The Military Assistance Program has become a preposterous scandal. It should be drastically curtailed, not enlarged.

As for our long-term bilateral loans made in the name of promoting economic development, it is long past time that this function were passed over entirely to the World Bank, the Asian Bank, the Inter-American Development Bank and other multilateral lending agencies, which were set up for this purpose. I am prepared, now and in the future, to support substantial U.S. contributions to these agencies. In this manner, we could set a worthy example of international responsibility and beckon other rich nations to share the load with us.

I would confine our bilaterial aid in the future to technical assistance grants, administered, where feasible, by the Peace Corps. It was through technical assistance—the successor to Harry Truman's original Point 4—that the "green revolution" was achieved in Asia and the hand of famine stayed. This aspect of our foreign aid, involving outright grants, not loans, has constituted the worthiest part of the program. On account of it—and in hopes that the objectionable parts would be whittled down and ultimately displaced —I have tarried too long as a supporter and indulged in too much wishful thinking. Events of the past few weeks on Capitol Hill have finally dispelled my illusions. Instead of cutting back on the foreign aid package, Congress is about to enlarge on it. We are in the process of doing the same with the gigantic military budget, approving more money for the Pentagon this year than we spent at the height of our involvement in Vietnam. Incredible, but true!

The acquiescence of Congress to these money demands of the Nixon administration makes it clear that we have no disposition, despite all the pious talk, of changing our spending habits. The "new priorities" promised the American people won't be realized, as long as we refuse to cut our huge foreign and military spending. The long-neglected problems of crime, drugs, poverty and pollution, which afflict so many of our people here at home, will continue to fester and grow. I would advocate, as an alternative to the palliative of aid, that we lend positive support to developing countries by entering into commercial arrangements that redress the terms of trade which are now rigged against them.

As with so many of the difficult questions that divide and agitate our society, the answer to the dilemma of aid lies not abroad, not in the slums of Calcutta or in the rural backlands of Brazil, but within ourselves. Essentially, the question is whether we are prepared to recognize the limits of our own capacity—the moral and political as well as the technical and economic limits—and allow nature to take what may well be an uncongenial course in many countries of the third world. The question, to put it another way, is whether we can recognize that there are some things we simply cannot do—such as restructuring another country through our own efforts—and other things that we cannot permanently prevent—such as social revolution, where and when its time has come.

The dilemma of aid is not fundamentally different from the dilemma of Vietnam. It is a problem of power—our own power, the uses to which we wish to put it, and the moral and intellectual limitations which have resulted in such wide discrepancies between our intentions and our accomplishments. The dominant political attitude of the '60s was one of extravagant self-confidence. We were filled up and infatuated with the "simple fact"—to quote Professor Walt Rostow—"that we are the greatest power in the world—if we behave like it." Now, in the wake of sobering tragedy, a new outlook begins to take shape, and one may hope that it will affect our thinking in matters ranging far beyond Vietnam. Having concentrated for a decade and more on the growth and uses of power, we may now perhaps be willing to cultivate other national attributes—such as prudence and common sense. If so, we may be prepared to come to terms with such conditions of our time as the following: that our social engineering, as applied to the poor countries of the world, has shown itself to be irrelevant and disruptive; that the threat of Communism in the third world is exaggerated and, in any case, beyond the lasting reach of our aid programs; that for many countries radical revolution is the only real hope for development and the single most helpful thing we can do is to leave them alone.

Contrary to the development "models" worked out in the '60s by our Agency for International Development, it now appears that thoroughgoing social revolution is the necessary prerequisite for the development of much of the third world. There is nothing the United States can or should do to *promote* revolution—to do so indeed would violate the United Nations Charter and sound traditional standards of diplomacy. What we can and should do is to stop promoting counterrevolution.

Several years ago Alan Moorehead wrote a book called *The Fatal Impact* in which he recounted the disastrous and largely unintended effects upon the Tahitians and Australian aborigines of the diseases, alcohol, firearms, laws and concepts of morality brought to the South Pacific by the early European explorers and colonists. Reflecting on his own voyages to Polynesia, Captain Cook himself wrote that "It would have been better for these people never to have known us." It would represent a noteworthy advance in the standards of international relations if the United States, profiting from its own experience as well as that of others, could lift its well-intentioned but no less fatal impact from the face of the third world, so that in time it may appear that it was not so bad after all for them to have known us.

RALPH M. GANTZ

Mr. RIBICOFF. Mr. President, next month will mark the retirement of one of Connecticut's distinguished citizens. Ralph M. Gantz has served as superintendent of the public schools of New Britain, Conn. for nearly 15 years. I know New Britain. I went to school there. I know what distinguished service Ralph Gantz has rendered.

Ralph Gantz has been a leader in his field. He is named in Who's Who in Education in the East. He has served as president of the Associated Public School Systems and also of the Hartford Area Superintendents. Among the honors that he has received may be included the coveted Distinguished Citizen of the Year award from the Veterans of Foreign Wars.

His professional memberships include the National Education Association, the National Public Relations Association, the American Association of School Administrators and the Connecticut Superintendent's Association. He is a member of Kappa Delta Pi and has had many articles published in educational journals.

During his tenure in New Britain he has seen the professional staff increase from 659 to 853 teachers and administrators. Two senior high schools, one junior high school, two elementary schools and two school additions were erected during his administration. In all, Ralph Gantz has spent more than 42 years in service to the young people of America.

His contributions to New Britain and Connecticut, however, extend well beyond his exemplary service to education.

He is a past president of the Rotary Club and is currently serving as president of the Joint Council on Economic Education. He has given unstintingly of his time and talents for the betterment of the community life of New Britain, and also of the State of Connecticut. He is a member of the Governor's Council on Vocational Education and the President's Advisory Committee of Central Connecticut State College. He presently serves as a director of the Newington Children's Hospital, the New Britain Institute, the Junior Achievement, the YMCA, and the Sheltered Workshop. Cited for his many years of service in scouting, he is also an active member of the Trinity Methodist Church, having served on the board of directors.

The city of New Britain will pay tribute to Mr. Gantz at a city wide testimonial on January 19, 1972. His numerous affiliations and his many contributions to the educational, civic, and religious life of his community have earned him the admiration, respect, and affection of a host of friends.

The testimonial is a fitting way for his colleagues and friends to extend good wishes to him and express the hope that he will be blessed with long and fruitful years in retirement.

DOMINICK AMENDMENT TO DEFENSE APPROPRIATIONS BILL

Mr. DOMINICK. Mr. President, recently I submitted amendment No. 731 to the defense appropriations bill.

The purpose of my amendment is to restore funds to the Navy R. & D. surface effect ship program. I am concerned lest what I believe to be a misunderstanding leads to an unfortunate setback in a development program which gives great promise for the advancement of our naval capability in the foreseeable future. The Senate bill before us would restore funds to the Navy R. & D. surface effect ship program by over $24 million This is a reduction of over 60 percent from that authorized by the Armed Services Committee and requested by the Navy.

Mr. President, the Research and Development Subcommittee of the Armed Services Committee, of which I am a member, looked at this program very carefully. It was the subcommittee's recommendation that $39.6 million be authorized for fiscal 1972. This recommendation was approved by the full committee, was accepted by the Senate in approving the military procurement authorization bill and was further agreed to in conference. In my opinion, the SES program has undergone ample review and was fully justified.

The reduction of more than $24 million will, in effect, preclude an orderly completion of the test effort about to commence for two small craft as well as any preliminary design effort for a follow-on oceangoing version.

I believe that there exists a misapprehension of the Navy's intentions for this program. The Navy has not planned to award the contracts for design, construction and test of a large, 2,200-ton class, SES in fiscal year 1972. That effort is contemplated as a prototype program in fiscal year 1973.

However, the fiscal year 1973 effort will be predicated upon data and experience evolved as a result of the closely related test and evaluation of two 100-ton units with preliminary design study of the 2,200-ton unit in fiscal year 1972. If we cut $24.2 million from this program we will have canceled any preliminary design studies and will have destroyed the parallel development concept of the program.

The Navy plans to provide the data from its ongoing tests of the smaller craft to three or four contractors who will undertake preliminary design studies in fiscal year 1972 for a larger ship of about 2,200 tons. A displacement of 2,200 tons is the smallest which will permit sustained operation in the open sea. Obviously, test and evaluation in the open sea is an essential element of the development effort.

Mr. President, I point out that the interlacing of the design effort for the larger craft with the test and evaluation of the smaller craft is fully consistent with the prototyping concept recently adopted by the Department of Defense and approved by the Congress. In essence, the Navy will be utilizing actual test experience for prototype development instead of theoretical calculations. Further, the interaction of the 100-ton test program with the large model preliminary design studies will reduce the unknowns in the follow-on large 2,200-ton prototype effort. I do not believe we can find a procedure more consistent with the desire of the Congress to substitute hardware experience for paper studies.

Mr. President, it seems to me that maritime technology is in a static state and that few important advances have been made in recent years. However, in the surface effect ship we have a potential technological breakthrough which is unequalled since the transition from sail to steam propulsion. By having ships of virtually unlimited displacement that can achieve 80-knot-plus sustained speeds, the surface effect ship could change traditional functions, roles and missions at sea in ways that cannot now be foreseen. One area of vital concern to our Nation is the possibility the SES offers of reduced vulnerability to submarine attack and the attendant increased potential for antisubmarine warfare. Certainly, until we have operational versions in use, we will not be able to employ it effectively or explore its full potential.

Mr. President, I am unable to find anything objectionable to the concurrency of this program. The program is deliberate in its processes, while also losing no time in this vital development. The reduced level of funding in the bill we are now considering would, however, cost at least 1 year's delay and more than $15 million in pursuing the prototype program.

Therefore, Mr. President, for the reasons I have discussed, I believe it very essential that a significant amount of the funds deleted from this program be restored. My amendment would restore $18.3 million which is the absolute minimum needed to pursue the Navy's surface effect ship prototype program. This amount is concurred in by the Department of Defense and was presented in their reclama to the House action which cut the program by $24.2 million. Of the restored money, $9.75 million will be used to continue improvements in the technology; $1.50 million will be used to prepare a Navy test site at Patuxent River; $1.05 million will permit further study of support requirements and design criteria; and $6 million will enable commencement of preliminary design studies for the 2,200-ton version.

Mr. President, I recommend this amendment as an action necessary to avoid interruption in a development of national importance.

NOMINATION OF DR. EARL L. BUTZ TO BE SECRETARY OF AGRICULTURE

Mr. MUSKIE. Mr. President, all Americans have suffered from rising costs, rising unemployment, and a growing lack of confidence in the economic leadership of the Nixon administration during the last 3 years. Many have seen their pay increases wiped out by rising prices. Many others have lost their jobs.

When economic anxieties are so widespread, it is harder to focus on the ongoing plight of the forgotten American farmer. American agriculture has made an extraordinary contribution to the wealth of our land—and yet, because of its own great capacity for production, the agricultural sector of our economy has been suffering for many years from downward pressures on the prices of its products.

I do not believe that such a fundamental sector of our economy should be punished because of its own great productive accomplishments. That is why I have supported programs initiated by Democratic administrations to protect farm income by assisting the farmer in the management of market supply and in helping to guarantee a fair price that will cover his costs of production plus a reasonable profit.

Under the Nixon administration, as under previous Republican administrations, the condition of the American farmer has deteriorated. Farm prices have declined in relation to farm costs, and more and more family farms have gone out of operation as the large agribusiness corporations extend their control. I believe farmers deserve a fair price. I do not believe that the family farm has become obsolete. Corporate farming must not be allowed to displace the family farm—which continues to play a vital role in the American economy and in the life of rural America.

The administration must provide the leadership necessary to help the farmer, to protect the family farm as a viable institution and to give American farmers the confidence that their voice is being heard in Washington.

I do not believe that the appointment of Dr. Earl L. Butz to be Secretary of Agriculture will accomplish this purpose. Dr. Butz does not have the confidence of the majority of American farmers because they have experienced his policies in the past—under Agricultural Secretary Ezra Taft Benson. He does not have the confidence of the farmers, because they do not believe that a man who has served on the board of directors of three agribusiness corporations would really defend the family farm against corporate expansion into agriculture. I believe the nomination of Dr. Butz has further undermined the confidence of American farmers in their government at a time that their faith in American government must be restored.

The administration did not consult with American farmers on this nomination. It did not consult with the farm organizations. If the newspaper accounts are true, the White House apparently did not even consult with some key members of its own party from farm areas who understand the concerns of farmers. I believe farmers should have a Secretary of Agriculture whom they trust as someone who will represent their interests in Washington. Dr. Butz does not have that trust.

For all these reasons, I will oppose the Butz nomination in the Senate.

NADER AND COLT'S

Mr. GOLDWATER. Mr. President, within the past few weeks Ralph Nader and groups working under his direction have investigated the U.S. reclamation policy and found it a failure; investigated President Nixon's new economic policy and pronounced it radical; decided to investigate the Congress of the United States and establish watchdog groups in every congressional district; and indicted the Colt's Firearms Co. for its production of M–16 rifles used by the U.S. Army.

In previous remarks I have pointed out the growing need for Mr. Nader to confine his activities to subjects which he knows something about, like Harvard University, and not attempt to set himself up as a czar over all corporate and governmental activities.

Today I should like to devote some attention to the charges against Colt's firearms which the Nader people caused to be published in a 21-page report by the Connecticut Citizens Action Group, whatever that may be. My interest stems from my concern for the proper equipping of American fighting men and from my membership on the Senate Armed Services Committee. In the latter capacity I have made it a point to acquaint myself thoroughly with the M–16 rifle and with the allegations concerning this weapon back in 1967 and 1968. I have shot the M–16 on many occasions. I have interviewed a number of GI's both here in the States and in South Vietnam and have found them to be unanimous in holding the M–16 at a high level of competence. I have never heard a charge made about the quality of the gun coming from the Colt's plant; on the contrary, all reports I have seen and heard have been in high praise of its quality and reliability.

Consequently, when this latest allegation was made I contacted the Department of Defense and was assured that the Pentagon is satisfied that Colt's weapons continue to be of the highest quality.

Pursuant to this investigation, I ask unanimous consent to have printed in the Record, a fact sheet on the M–16 rifle, supplied by the U.S. Army Materiel Command. I suggest that it speaks for itself.

There being no objection, the fact sheet was ordered to be printed in the Record, as follows:

Fact Sheet—M–16 Rifle

AMC POSITION

The U.S. Army Materiel Command has implemented a continuing series of independent inspections and tests above those conducted by Colts and other rifle producers under the terms of their contracts. Since November, 67 random samples have been drawn by Defense Contract Administration Service representatives, after acceptance by the government, and subjected to independent AMC examinations and tests which included:

A. Visual examination.
B. Target/accuracy tests.
C. Endurance tests.
D. Interchangeability tests.
E. Environmental testing.

Analysis of these independent AMC tests clearly reveals that the Army has every reason to believe that the M–16 rifle provided to the field meets requisite standards for quality, performance and reliability. It should be noted that these independent tests specifically address the reliability, endurance and interchangeability of weapons accepted by the government, and clearly refute the allegations in the Nader report.

Additionally, units in combat report less than one malfunction per 100,000 rounds fired. To obtain a precise fix on the current performance and quality of Colt rifles, the Army Weapons Command is conducting a comprehensive series of examinations and tests on a group of 423 rifles. Testing action will be expedited and the AMC will advise the Department of the Army of the test results as soon as possible.

The tests conducted previously were held at Rock Island Arsenal, General Electric, and the U.S. Army Test and Evaluation Command during the period November 67 through June 1971: A total of 858,000 rounds were fired during the test with a malfunction rate of 0.54 per 1000 rounds.

COLT POSITION

Mr. Paul Benke, President, Colts Firearms, Inc., states that no one at Colts has even knowingly shipped any defective guns out of the factory to any customer, U.S. or foreign, and is convinced that the weapons being delivered are of the highest quality. He states that there is no collusion between Colts and government inspectors, and the test results accomplished monthly on a random basis reveal that quality controls have been maintained. Colts will not formally rebut the Nader report, but is conducting an investigation of the alleged irregularities.

NOMINATION OF EARL LAUER BUTZ TO BE SECRETARY OF AGRICULTURE

Mr. McGOVERN. Mr. President, the President's nomination of Earl Lauer Butz to succeed Clifford Hardin as Secretary of Agriculture has been met with considerable grassroots opposition.

In my view, this opposition is well founded. In many statements and speeches, Dr. Butz has raised serious questions about his belief in the family farm as the backbone of American agriculture. He has associated himself with companies which have attempted to displace our family farm structure with corporate agriculture.

It seems to me we should consider the objections of the farmers themselves with at least as much weight as the narrow vote of Senate Agriculture Committee to confirm Dr. Butz. In the brief time since his nomination, I have received scores of wires and letters all opposing the nomination of Dr. Butz. When Dr. Butz was informed of the close committee vote, he reportedly said he felt like the hospitalized company president who received a message from his board of directors that it had voted 8 to 6 to send him a get-well card.

However, the feeling in the farm belt is considerably stronger in opposition. I ask unanimous consent that representative letters be printed in the Record. I call special attention to the letter of Oren Lee Staley, president of the National Farmers' Organization, and the wire of Gov. J. James Exon, of Nebraska.

There being no objection, the items were ordered to be printed in the Record, as follows:

Lincoln, Nebr.

George McGovern,
U.S. Senator, Old Senate Office Building,
Washington, D.C.:

I respectfully urge the United States Senate refuse consent to nominee Dr. Earl Butz for Secretary of Agriculture. Regardless of other considerations, the key reason for my objection to Dr. Butz has been his past record under former Secretary Benson when the Nation's farmers suffered their other worst cost-price ratio in the Nation's history. We are in deep economic distress in the farm belt. I am concerned that this fact is not fully appreciated or at least placed in its proper perspective in Washington. An indication that the U.S. Senate is concerned and intends corrective action would be evidenced by your declining to act favorably on this nomination.

Respectfully,
Governor J. James Exon.
Nebraska.

Parkston, S. Dak.,
November 15, 1971.

Senator George McGovern.

Dear Senator: We are very concerned about President Nixon's appointment of Butz for Secretary of Agriculture. We are wholeheartedly opposed to this appointment because of his opposition to the family farm and his interest in corporate farming. We know how you stand on this because I heard you are opposed to his appointment but we want you to know we stand behind you in this opposition.

Thank you.

Sincerely,
William Murtha.

Parkston, S. Dak.

Dear Senator McGovern: The recent resignation of Sec. of Agriculture Hardin—I want to emphasize my displeasure of the appointment of Earl L. Butz to replace him. I feel very strongly that we do not need an advocate of large corporate farms as our Sec. of Agriculture.

Very sincerely,
——— ———.

National Farmers Organization,
Corning, Iowa, November 19, 1971.

Hon. George McGovern,
Old Senate Office Building,
Washington, D.C.

Dear Senator McGovern: After observing two days of questioning of Dr. Earl Butz at the Agricultural Committee Hearings, we remain firmly convinced that his confirmation as Secretary of Agriculture would be a disaster for farmers. His answers have not satisfied our concerns over his long and close ties to agri-business, his attitudes toward elimination of farmers and the drive by integrators and others to gain control of the food industry, and the conflict of interest arising from his substantial payments as a director of three of the nation's largest agri-business companies.

He did not satisfactorily answer most of the questions put to him by Senators and other members of Congress of both political parties. These included attempts to determine what he might recommend to raise farm prices, how he would get REA and other department funds released by the White House, how he would tighten poultry inspections, and what he would do to halt the drive by integrators and others to take over farm production.

We feel Senate approval of Dr. Butz would be a vote to abandon an historic commitment to opportunity for people on the land. It would, in effect, ratify a policy to drive people out of agriculture, undermine farm and small business enterprises, and destroy rural towns and cities.

The Senate, in voting on confirmation, will be making a choice on the kind of agriculture and rural America our country wants to encourage. This crucial decision, in our judgment, is the most important single farm vote in this Congress. Farmers everywhere are deeply upset over the selection of Earl Butz and hope the Senate will not cast a vote against them. We, therefore, urge you to vote against the confirmation of Dr. Butz.

Respectfully yours,
Oren Lee Staley, *President.*

State Bank of Worthington,
Worthington, Minn., November 15, 1971.

Senator George McGovern,
Senate Office Building,
Washington, D.C.

Dear George: The appointment of Earl Butz as Secretary of Agriculture is, in my estimation, an insult to the farm families of this nation. During the 50's when Mr. Butz was Assistant Secretary of Agriculture, his greatest efforts appeared to be directed toward the promotion of the corporate farm, and I think his business associations over the years substantiate that and the fact that he is not particularly interested in the survival of the family type farmer.

On several occasions during his previous tenure in the Agricultural Department, I heard him address bankers' groups. The information he was giving at that time was so worded as to give a false and untrue picture of what was actually happening.

In my estimation, this appointment ranks in the same category as Carswell and Haynsworth, and I hope you will continue to vigorously oppose his confirmation.

Yours very truly,
John R. Troth, *President.*

Keep up the good work.

November 15, 1971.

Dear Senator McGovern: I feel the nomination of Butz to replace our agricultural head is a step backwards—as to keeping the family farm—there is no place in the midwest for corporate farming—and there certainly is no future for our sons in such a setup—no incentive to go ahead. We do not need Butz.

Sincerely,
Mrs. ——— ———.

THE EVERGLADES-BIG CYPRESS RECREATION AREA

Mr. MUSKIE. Mr. President, anyone who has had the opportunity to wander among the tree islands and cypress swamp forests of the Everglades cannot help but come away with an indelible image of the extraordinary beauty and intricacy of this landscape. What is less obvious to the casual wanderer is the way in which the land and water systems of south Florida are interrelated and interdependent.

Nearly 2 years ago, in the Committee on Public Works, we examined the impact of the Central and Southern Florida flood control project upon the Everglades Parks. We were concerned that the public policy on water use in this area might have an irreversible impact upon the parks. We concluded that we must protect the Everglades and adjoining areas by all means available to us.

In particular, the Big Cypress watershed plays an irreplaceable role in capturing and transferring water and nutrients to the lower portions of the Everglades, literally supplying lifeblood for these swamps and marshes, and their associated animal life. The large masses of shrimp that gather in the estuaries of 10,000 Islands National Park, and which are later harvested by shrimpers off the Dry Tortugas. The fresh water helps to maintain a very sensitive balance in the seasonal fluctuation of water levels in the Everglades; it prevents salt water intrusion into the fresh water embayments and provides a source of water to which populations of saw grass deer and Florida alligators respond in turn as water levels follow their natural course of rise and fall.

Big Cypress is the area where Indians have lived, hunted, fished, and trapped for centuries, and where currently thousands of Floridians enjoy a contact with nature. Here, too, more than a dozen kinds of endangered species make their home, from the Florida panther and Everglades mink to the southern bald eagle and roseate spoonbill. This area must be protected from channelization and water diversion; at the same time, it could serve as a source of inspiration and recreation to hikers, hunters, and children, and as a continued home for its earliest settlers, the Miccosukee and Seminole Indians. The Chiles-Jackson bill, S. 2465, introduced on August 6, would accomplish just such a purpose. By creating the Everglades-Big Cypress National Recreation Area, it would at once preserve the watershed which serves the Everglades, protect the wildlife for observation or harvest, and maintain a fresh water flow which is invaluable for the protection of future fresh water supplies in south and southwest Florida. It is thus with a sense of both conviction and urgency that I announce today my cosponsorship of the bill, and urge Senators to give the item their close attention.

NEW SOUTHWEST PENNSYLVANIA DEVELOPMENT AGENCY FORMED

Mr. SCHWEIKER. Mr. President, an outstanding example of private, local initiatives in community development has just been launched in western Pennsylvania. The Allegheny Conference on Community Development has just begun a new nine-county organization, Penn's Southwest Association.

The purpose of Penn's Southwest Association is to maximize the great industrial potential of southwest Pennsylvania by promoting expansion of existing industry there, and by attracting new industry to the area. The association will seek to develop many forms of economic activity in the nine counties, including Federal and State functions, regional industrial plants and offices, and trade and technical societies.

PSA will represent a unified public and private effort, and it will draw on private citizens, community organizations, and business and labor alike for projects and financial support.

As we in Congress debate the revenue bill, discuss tax incentives to encourage economic development, and study unemployment problems, it is heartening to hear of such an ambitious program in the private sector by industrial, business, labor, and community leaders. The economic goals they seek in western Pennsylvania are the same goals we are working for at the national level: increased productivity, lowering of unemployment, and creation of vital, new economic development.

The Allegheny Conference, headed by Henry L. Hillman of Pittsburgh, chairman, and Robinson F. Barker of Pittsburgh, president, deserves considerable credit for launching this program. The leaders of this conference also realize that an organization like Penn's Southwest Association must have an independent vitality, and Mr. Barker has indicated that the conference will only be one part of PSA once the organization has been satisfactorily launched by the conference.

Mr. President, I am proud to inform Senators of this excellent local initiative in Pennsylvania. I am sure that the members of Penn's Southwest Association will be pleased to work closely with persons from other regions who would be interested in this project.

Recently, a detailed article explaining the purposes and plans of Penn's Southwest Association was published in the Pittsburgh Post-Gazette. I ask unanimous consent that the article and an editorial from the Post-Gazette be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

PENN'S SOUTHWEST ASSOCIATION: NEW NINE COUNTY GROUP OPENS INDUSTRY PUSH

(By Alvin Rosensweet)

A new organization that will seek to develop more fully the economic potential of nine southwestern Pennsylvania counties was announced last night.

Its name: Penn's Southwest Association.

The group will conduct an aggressive marketing program to sell the nine-county region on a national basis. Henry L. Hillman, chairman of the Allegheny Conference on Community Development, said last night. He spoke at the annual meeting of the Conference at Carnegie Institute in Oakland.

PSA will include Allegheny, Armstrong, Beaver, Butler, Fayette, Greene, Lawrence, Washington, and Westmoreland counties. Sponsors said it will concentrate largely on attracting new industry and expanding present industry.

PSA, Hillman said, will seek to attract regional plants and offices, trade and technical societies, and federal and state activities to generate new economic growth.

Asked why an effort was being made at this time to attract industry, Hillman said it was because of the realization that many regions throughout the country are competing for increased business on an organized, hard-hitting scale.

Funds to finance the effort will be sought from industry, business, labor, community organizations and private citizens.

Hillman said PSA will work closely with regional planning and development agencies, chambers of commerce, labor unions, local governments and others interested in more rapid economic growth.

He noted the region's advantages: raw materials, abundant water supply, excellent transportation, and strategic location.

Hillman said the Conference, before venturing into PSA, formed an area development committee headed by John M. Arthur, board chairman of Duquesne Light Co., and John A. Mayer, board chairman of Mellon National Bank. The committee and a small task force studied the regional economy and visited a number of cities where regional efforts have been successful.

Hillman said that PSA, a non-profit corporation, is expected to have a far-reaching effect on the future of the nine counties.

But he cautioned against expecting major accomplishments over a short period of time.

Hillman said the new association will have the active participation of business, labor, and government leaders. He added that it will not duplicate the efforts of present organizations.

Asked if Mayor Peter F. Flaherty had agreed to cooperate with the venture, Hillman said that the subject has been discussed with Flaherty.

"He is aware of it and is interested in seeing how it will develop," Hillman said.

In his talk last night Hillman pointed out that "for the eighth consecutive year more than a million people were employed in Penn's Southwest but there still are not enough jobs to go around."

He said employment is growing in service industries, indicating the region is moving toward a better balanced, more stable economy. But Hillman conceded this region has not realized its potential as a convention and tourist area and still is without a convention center in Pittsburgh.

Accomplishments of the Allegheny Conference were described to about 125 sponsors at a private meeting by Robinson F. Barker, conference president, and chairman of the board of PPG Industries. He said that since the urban crisis in 1968 the Conference has devoted its primary attention to human problems while maintaining an active role in the physical renaissance.

Cooperation with the National Alliance of Business to help solve chronic unemployment among the urban poor; summer employment program for needy youth; and aid to minority businessmen were cited.

At a press conference preceding the annual meeting, Barker said the role of the Allegheny Conference is to get Penn's Southwest Association off the ground. He said the conference is initiating the project and when it gets underway will be only one part of it.

Hillman was re-elected chairman and Barker president. Also re-elected were Fletcher L. Byrom, Robert Dickey III, Mayer, and William H. Rea, vice presidents; Arthur, secretary, and Aiken W. Fisher, treasurer. Willard F. Rockwell Jr. was elected a member of the executive committee, Vincent A. Finoli, Charles F. Hauck, and Joseph M. Katz were elected to the citizens' sponsoring committee.

[From the Pittsburgh Post-Gazette
Nov. 16, 1971]

SELLING SOUTHEAST PENNSYLVANIA

Southwest Pennsylvania has a variety of attractions but how many people beyond its nine-county radius know about them? Not nearly enough, one surmises from the nature of the responses usually evoked when the Pittsburgh area is mentioned in distant places.

People know, or think they know, that we have smog and heavy industry and the Pirates and perhaps, for the really well informed, Skyscraper U. But beyond that most people sort of draw a blank when this area is mentioned.

Neglected in the public mind generally are such tremendous assets as good weather most of the year, a large and skilled labor force, exceptional educational and medical facilities, good recreational opportunities, fairly good accessibility, strong financial resources and the cosmopolitanism that marks a headquarters city.

Who is to tell the story of what this area has to offer? Well, there are 91 chambers of commerce in this nine-county area. Each of the counties has its own development agency. There also exist such agencies as the Regional Industrial Development Corporation, which seeks to develop industry in the nine counties, and the Southwest Regional Planning Commission, which does the area-wide planning.

Still, the story doesn't get told as well as it should, and so the Allegheny Conference, which has been the innovator and expediter of many worthwhile projects here in the last 25 or 30 years, has spun off another agency, Penn's Southwest Association, which proposes to do the selling and marketing job that the other agencies haven't done. (Note the illustration with this editorial, the new identification mark for Penn's Southwest Association. The arrows pointing south and west from the "P" stand for the nine counties making up the southwestern portion of Pennsylvania.)

Penn's Southwest Association was inaugurated last night at the Allegheny Conference's annual dinner meeting. It has already obtained about $100,000 for a startup. More than that, it has obtained the cooperation of leading political and business figures in each of the nine participating counties. Those developments augur success.

Since this region has so many salable assets, we are confident that Penn's Southwest Association will be able to make a favorable impact far from home. We feel, however, that its efforts would be strengthened if this district, like so many of its metropolitan competitors, had good rapid transit facilities and an exposition-convention center.

The Conference and its offspring will get to first things first if they put a big push behind those projects. Those facilities would round out an attractive package of assets this district can offer newcomers.

RADIOACTIVE LEAKAGE FROM CANNIKIN

Mr. GRAVEL. Mr. President, on November 16, I wrote to Dr. James R. Schlesinger, the new Chairman of the Atomic Energy Commission. My concern was with the possible hazards of radioactive leakage or venting following the Cannikin underground nuclear test.

The potential for radioactive contamination is still present and must be closely watched for the indefinite future. The AEC's environmental impact statement outlined a number of possible ways in which subsurface radioactive wastes could reach the sea.

Such a possibility is no idle concern, and only careful monitoring will permit us to know whether a danger is developing.

I ask unanimous consent to have printed in the RECORD the text of my letter to Dr. Schlesinger and also an Anchorage Daily News article which quotes State of Alaska Fish and Game officials as reporting that the sea otter and general wildlife toll was greater than first reported.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., November 16, 1971.

Dr. JAMES R. SCHLESINGER,
Chairman, Atomic Energy Commission,
Washington, D.C.

DEAR DR. SCHLESINGER: I am certain that we both share the same concern about the protection of the people of Alaska, as well as other parts of the country, from the possible hazards of any radioactive leakage, or venting following Cannikin.

I feel it is essential for our continued protection that the AEC implement a comprehensive monitoring program to watch the after effects of the test. I would like to know, in detail, what plans have been made for the continued monitoring of the test hole.

How much money has been allocated by the AEC to conduct this monitoring program? How many people are involved in the monitoring process? What is the frequency of air and water samples from areas surrounding the test site? In what locations are continuing tests being conducted and for what period of time will the tests continue? Who is specifically responsible for the monitoring program?

I would appreciate a speedy reply to these questions so that I can evaluate the program and respond to the many inquiries I have had.

Sincerely,

MIKE GRAVEL.

[From the Anchorage, Alaska, Daily News,
Nov. 14, 1971]

HUNDREDS OF SEA OTTERS SAID KILLED BY CANNIKIN

(By Margie Bauman)

A marine mammal biologist who was at Amchitka Island when the Cannikin bomb was exploded said Saturday that hundreds of sea otters and birds and thousands of fish probably were killed, but that nobody will ever know for sure.

Biologist Karl Snyder of the Alaska Department of Fish and Game said he felt the underground explosion of the five-megaton bomb on Nov. 6 "obviously killed hundreds of sea otters, hundreds of birds and probably thousands of fish."

The Atomic Energy Commission said two sea otters and 13 birds were the only victims.

"We never will know for sure," Snyder said. "Weather conditions during the test created a situation where we were lucky to find anything at all. There had been a real bad storm, the worst so far this season," he said.

During, or right after such storms, there are bound to be quite a few sea otters on the rocks, and if they are killed they are bound to be washed out into the water, he noted.

Snyder, who works with Fish and Game marine-mammal coordinator John Vania, has been studying the sea otters since 1967 and has spent much time at Amchitka.

He said it might take four to five years for the sea otter population to recuperate.

Snyder said the AEC probably won't agree with his death toll estimate, "but under those conditions, I don't know how it could be any less."

Snyder noted that 13 bodies of sea otters had been found, along with some 250 fish, mostly greenlings, and a number of birds. He said winds following the blast were blowing northwesterly, which would blow any dead animals out to sea.

Of the 13 dead otters, 12 were definitely killed by the blast. "The other was eaten up by eagles, so it was a little hard to say," he said.

Snyder and Vania agree on an estimate of 300 to 800 sea otter deaths as a direct result of the blast, with most of the victims being female. Vania, who has been studying the sea otter population for eight years, said the kill estimate was based on "the general lack of otters in the area where we normally see them."

Snyder said the beach bluff area in the immediate vicinity of the explosion "was totally unrecognizable" afterwards, although the tundra didn't change much .

University of Arizona graduate student Jim Estes, who is participating in the sea otter studies, walked along the beach after the blast "and he had trouble telling where he was half the time," Snyder said.

The cliff area, where there were at least four to five eagle nests and at least one peregrine falcon nest, were total rubble, said Snyder.

"The AEC predictions said some sea stacks might be damaged, but none would be knocked down completely.

"If the kill was spread evenly around the island, which it wasn't, it probably could recover in a year," he said. But the way things stand, it may take four to five years to recuperate the sea otter population, he said.

"The world's not going to come to an end because of it, but people have a right to know it," he said somberly.

One of the reasons there were such low estimates of the death toll after the blast was nobody counted all the injured animals laying on the rocks, he said. "Many birds we found had their legs driven right up into them and we found sea otters badly injured.

"What may complicate the whole sea otter problem is that there was early evidence of a substantial fish kill too," Snyder said.

"We don't know how many fish were actually killed and how long it will take for them to recover. We found over 250 dead fish in that area. If the fish don't come back, it may slow the repopulation of sea otters," he said.

"There was definitely more localized environmental damage than the AEC predicted," he said. "I suppose if they had buried it deeper, it might have had less effect on the surface. I think they tried to minimize predictions (on environmental damage)," he said.

The reason 75 per cent of those killed were females, he added, is because "the animals segregate by sex, and the area where the kill occurred was a female area."

Just along the Bering Sea side of Amchitka there are normally some 1,200 sea otters. The body of one was found on the Bering Sea side of Amchitka, the other 12 on the Pacific side.

LONG-TERM CARE OF THE AGED

Mr. PERCY. Mr. President, the very distinguished Senator from Utah (Mr. Moss) recently delivered an excellent analysis of our problems with long-term care of the aged in this country. The Senator's speech was presented on November 2 to a conference held jointly by the Duke University Center for the Study of Aging, and the American Association of Retired Persons—National Retired Teachers Association.

Having worked closely with Senator Moss on an investigation of nursing home conditions in Illinois and on the Senate's Special Committee on Aging, I can speak highly of the knowledge and expertise which he has gained in this field. I share the Senator's deep concern for our elderly citizens living in nursing homes, and I commend to the Senate the remarks made by him at the Duke University and AARP–NRTA conference.

Mr. President, I ask unanimous consent his remarks be printed in the Record.

There being no objection, the speech was ordered to be printed in the Record, as follows:

The Nursing Home: Critical Issues in a National Policy

It is a privilege to address this conference sponsored jointly by the Duke University for the Study of Aging and Human Development and the American Association of Retired Persons. The selection of your topic: "The Nursing Home: Critical Issues in a National Policy" is most timely (and I am sure these discussions will lead to constructive recommendations for improvements of our system of long-term care.)

I am particularly pleased to address the delegates of this conference because I feel this is one of the finest collections of nursing home experts ever assembled. I by no means claim to have all the answers to the difficult questions in this area and undoubtedly I could learn a great deal from some of you. On the other hand, you know of my long interest and solicitude.

May I begin by reading an account of what can happen when good men and women—regardless of their age or their background—are pushed up against the wall of injustice. I quote from a newspaper account which I consider a classic:

"Topeka, Kansas police were called today to help restore order at a Methodist Home for the aged, scene of a week-long revolt. Three militant octogenarians were arrested after a scuffle in the north parlor. They were identified as leaders of an activist group that seized control of the parlor three days ago and locked Mrs. Norma Sunderland, matron, in the closet.

"George Whitlock, 84-year-old spokesman for the 'activists.' Told reporters the demonstration was staged to enforce demands that the old folks be given more role in management.

"We have a bunch of young whippersnappers running things around here," he said, waving his cane indignantly. "We don't trust anybody under 65," he added, proudly displaying his 'senility power' button pinned on his shawl.

"Two officers suffered minor injuries during the disturbance. One was hit by a runaway wheelchair and the other was jabbed by a knitting needle.

"The revolt began last week when a small group of hard-nose superannuates held a 'dodder-in' at which some burned their social security cards. Although peaceable in early phases, the protest movement took a violent turn when someone hit Emery Dains, home administrator, with a bottle of Geritol. Mr. Dains blamed the trouble on a misunderstanding caused by difficulties in communicating with the militants.

"Some turn off their hearing aids when administrative personnel seek to explain policies, etc.," he explained.

"Mr. Whitlock reacted, 'What is the sense of living a long time if some kid who's only 45 or 50 years old can tell you what you have to do?' "

This account is amusing, because it is well written, but it is painfully relevant. It is also perhaps a warning to what could happen in America should the twenty million members of the geriatric set—the Nation's most shamefully neglected minority—use some of the techniques which get results for other groups who feel by-passed or abused these days.

As chairman of the Subcommittee on Long-Term Care of the U.S. Senate Select Committee on Aging for the past seven years, I can confirm that care of the elderly is the most incendiary issue in the field of aging. And it is unfortunate that long-term care, until the President's recent speeches, has received little attention from elected representatives either at the national or State level.

Let me quote some statistics which will tell you what is now happening in the nursing home field in the United States, and put into perspective what yet needs to be done.

There are at present approximately 23,000 nursing homes and related facilities in the U.S. according to the White House. This is an increase of 250 percent over 1960.

During the years 1950–1970, the number of nursing home beds has tripled so that they total well over a million. Nursing home revenues during this period increased 400 percent to $2.6 billion.

Two out of three dollars going to nursing homes come from the public coffers. Seventy-seven percent of nursing homes are operated for profit.

There are at least 900,000 seniors in nursing homes but almost every citizen is likely to come into contact with a nursing home either as a patient, friend, or relative.

Fifty percent of nursing home residents, according to one study, could be cared for in their own homes by their relatives but three-fourths of the over-65 population have some chronic physical ailment or impediment.

There are one-half million employees in nursing homes with a 60 percent turnover rate yearly. Aides and orderlies lead the list with a turnover rate of 75 percent and registered nurses 71 percent.

The overall ratio of staff to patients is six-tenths of a percent to one as compared to hospitals which register 2.6 staff to one patient.

And a final statistic—the Federal Government yearly contributes over one billion dollars to nursing homes or 40 percent of their $2.6 billion gross revenues. But this figure is misleading because it does not take into consideration other ways in which the Federal Government aids nursing homes. When we total up all funds for construction of nursing homes under Hill-Burton and SBA programs, for loan guarantees under the FHA program, for the veterans nursing home program and for assistance to some nursing homes by the Department of Agriculture, together with administrative costs, we produce an astonishing result.

This computation gives us a ball park figure for the Federal Government's contribution to nursing homes in 1970 of about $2.6 billion. This equals total yearly nursing home revenues.

Now, what are the basic problems in the field of long-term care? I have some preliminary conclusions which have grown out of a long series of hearings conducted by my subcommittee on long-term care. My final recommendations will be in a report which is current under preparation for presentation to the Congress.

I like to think of the problems as challenges—challenges people, such as you and I, who are concerned about the care of the elderly must help America to meet.

1. The First challenge is to spell out a clear policy in the U.S. with regard to the infirm elderly. We have no national pattern in America for the care of those who are old and ill. Their needs have been assigned low priority and the programs which have been developed are often piecemeal, inappropriate, illusory and short-lived. The rhetoric speaks of care and concern but the reality resembles confusion, high costs and too often, poor care or no care at all for those who need it.

2. The second challenge is to provide a broad spectrum of institutional facilities, as well as alternatives, to putting individuals into nursing homes. We have completely failed to do this. We should look first to the possibility of treating the individual in his own home with health or other supportive services. We should consider subsidizing the family to care for their elderly and establish senior citizen day care centers.

The nursing home, in the event institutionalization is necessary, should be part of a continuing system of progressive care. This means we must provide the right facility at the right time.

We must start with preventive medicine and treat diseases before they become acute. It has been estimated that we spend only $2 per capita for preventive medicine and $132 per capita for curative measures.

We need neighborhood clinics open to all age groups to prevent excessive utilization of the expensive hospital bed. Implied also is the need for more housing designed specifically for the elderly. This would include congregate living facilities for those who are not readily capable or do not desire to cook their own meals.

Far too many elderly wind up in a nursing home simply because they have no other place to go. Once in a nursing home, a patient's care should be evaluated constantly so he can be discharged as soon as his medical needs have been met.

States are just now beginning to undertake these so-called medical reviews which are called for by my 1967 amendments. Undoubtedly this program will have positive effects.

3. The third challenge in long-term care is the lack of effective enforcement of nursing home standards by the States. In the State of Illinois where the subcommittee on long-term care recently held hearings, only three nursing homes had been closed in the past 10 years by State revocation procedures. A similar pattern was indicated in our hearings with the Maryland Department of Health.

Part of the hangup in some States is the lack of legal alternatives available to the State Health Department which has the choice of closing the facility or allowing it to function. Fines and criminal penalties have been suggested as solutions. Other suggestions call for the imposition of Federal Inspectors and the unilateral cutoff of Federal Medicaid Funds.

In Illinois, for example, we learned that only 50 percent of the nursing homes adequately meet State and Federal standards. This seems to reinforce what we have learned elsewhere. States must make a much greater effort to enforce standards and to protect the nursing home patient or face the prospect of Federal intervention in licensing and inspecting nursing homes.

4. The fourth challenge we must meet is the lack of adequately trained personnel in nursing homes. This is our greatest obstacle to improvement of the nursing home system.

It is a common practice presently to hire nurses' aides off the street. In Chicago an investigator for the Better Government Association posed as a drunk in a Chicago flophouse to check out the story that this old hotel was a contact point where drunks could hire on as orderlies in a nursing home. He found the story true. They were given free board and room and paid $40 if they stayed the entire month.

In Chicago we also heard an investigator from the BGA testify that he applied as a janitor and was given the job as a nurses' aide and was dispensing medication within minutes after he was hired. I fear this practice is all too common.

The practice of allowing untrained aides to set up and pass medications whose propensities they do not know or understand worries all of us. I might add that there have been several studies indicating that the incidence of drugs administered in error in nursing homes is quite high—perhaps as high as 40 percent.

There are other loose practices which also concern us. The committee has documented evidence that some nurses are prescribing and dispensing medications on their own initiative—quite extensive evidence.

In this regard a particular problem exists with tranquilizers such as thorazine and mellaril. There is very strong evidence leading to the conclusion that these drugs are given to patients to make it easier on the staff. Tranquilized patients make less demands, being bedbound they also bring the highest rate of reimbursement.

The testimony the committee has received indicating nurses give patients drugs, and especially tranquilizers, on their own initiative was strengthened by the results of a General Accounting Office audit that I ask for. The report proved that tranquilizers constitute far and away the largest category of drugs being paid for by medicaid funds. The study disclosed that 17 percent of all drugs going to nursing homes are tranquilizers. The next largest category is antibiotics, which total about 8 percent.

At this point I would like to read you excerpts from the testimony of several individuals, primarily nurses, who have worked or are working in nursing homes in a city which I do not wish to disclose. This testimony confirms some of the charges I have made there this morning.

From the affidavit of nurses' aide BL in nursing home A:

"There is a heavy use of tranquilizers on our floor. We had a discussion about that once and I got kind of angry and told the nurse. There have been times when they woke the patients in order to give them tranquilizers so that the patients would stay out of their hair. By keeping the patients drugged up, they are being turned into vegetables. Many of these patients are having psychological problems that are not being treated: They are medicated so that we don't have to deal with them."

From the affidavit of nurses' aide PS also nursing home A:

"This nurse would also deliberately increase the dosage of a sedative much higher than the prescription in order to quiet down patients, but then she would put on the chart that she had administered the required dosage. She would take sedatives from the prescriptions of other patients in order to do this."

Again from Y nursing home:

"On my shift an aide would work the first floor and had the key for the medications, this aide would set up the medications and pass them, and then would set up the medications for the morning shift."

Here's LPN from Y nursing home:

"Medications have already been meted out onto trays by the night aide. Aides pour and administer medications, in spite of the fact . . . that they have no idea what they are giving or why. Digitalis is shoved down throats, pulses are never taken."

And finally, from the daughter of a patient at Z nursing home:

"There is a constant problem with the giving out of medicines. There is an aide who has no nursing training who occasionally gives insulin injections. On one occasion she gave one diabetic patient an injection of insulin in the morning and did not mark it up in the day book. Later that morning, an LPN, gave her another injection, and I had to feed her sweets all day long.

"Medications are often set up by aides, only occasionally by RN's. They make mistakes often. They mix up the pills or leave some out, and the aides do not check to be sure the pills are taken. Many times my sister has found pills of my mothers on the floor at night."

I could continue on and on.

I wonder what can we really expect of the untrained nurses' aide hired off the street, paid the minimum wage and grossly overworked? A turnover rate of 75 percent for aides and orderlies is probably understandable.

The Federal Government must make matching funds available to the states to develop in-service and other training programs for nursing home personnel. Nursing home operators must also come to grips with the fact that they will have to allocate a greater share of nursing home revenues to staff. We may have to require a ratio of one staff to one patient instead of the present .6 to 1 ratio. I know that H.E.W. is working on this problem and I look forward to its recommendations.

5. The lack of sufficient participation by physicians in the care of nursing home residents is our fifth challenge. The physician has by-passed the nursing home. The work is unattractive and unrewarding.

We documented physician absence in several of our hearings, particularly our investigation of the Baltimore Salmonella Epidemic.

We learned that physicians often prescribe care and dispense medicine by telephone—indeed the telephone is a more important instrument than the stethoscope—with little contact with the patient. We heard tesimony that physicians commonly do not view the bodies of those who die in nursing homes before signing death certificates. We were told stories of physicians signing death certificates in advance of death so they wouldn't have to make another trip to a nursing home. We also learned that few nursing homes had a physician with overall responsibility for the patients in the nursing home.

With the physician absent from the nursing home scene and the registered nurse tied up with increasing paperwork and supervision, obviously it is the untrained nurses' aide in many cases who is rendering medical care in nursing homes, even, as I've noted earlier, to the point of dispensing medications and noting death and the cause of death.

The American Medical Association should ask member physicians to accept greater responsibility for the care of nursing home patients. Medical schools should include courses making geriatrics a specialty. I have suggested that interns be required to serve for a period of time in a nursing home. I have also suggested that H.E.W. establish a program that would train armed forces medical corpsmen to serve as medical assistants to physicians with responsibilities for nursing home care.

H.R. 1, the House Social Security Bill, which will soon be marked up by the Senate Finance Committee, attacks some of these problems directly and with force.

If this bill can be enacted—and I predict it can be with some improvements and refinements in the Senate—we will take a seven league boot stride toward getting better medical care for senior citizens in nursing homes.

The seventh major challenge is to develop a reimbursement system for nursing homes which provides participating operators with a fair rate of return and stimulates them to provide good care for the patients.

At the present time we rely rather heavily on a proprietary nursing home system. Some 77 percent of our homes are run for profit and yet we have instituted a reimbursement system which makes it impossible to make a profit without cutting care.

Typically, nursing homes paid under medicaid are reimbursed at the rate of $14 a day per patient. Each individual nursing home operator is then free to decide how much to allocate to patient care and how much to allocate to profit. There is absolutely no accountability.

Another onerous problem is that present reimbursement systems place a premium on keeping patients in bed. Once a patient is restored to an active life or becomes ambulatory the reimbursement to the nursing home is cut dramatically. Certainly there are financial incentives in favor of not providing care—in favor of keeping patients bed bound.

We are just beginning to see the results of this system, although we need more data. In Illinois recently we found out that one nursing home operator took in $400,000.00 yearly from medicaid and made a profit of $185,000.00, while paying out 54 cents a day per patient for food. Jails in the Chicago area spent 64 cents for each inmate a day for food.

There is also the now famous study out of the State of Connecticut which shows that the average return on investment for the State's nursing homes is 44 percent. If this is true, nursing homes are unquestionably charging too much and giving too little care in return.

We need a system which assures the nursing home operator that if he provides good care and becomes in the State's estimation a "good" nursing home, he will be rewarded financially. We need financial incentives to encourage the nursing home operator to provide care. In this vein, I have been studying the Connecticut "points system" as it is being revised and applied in that State.

And this leads me to the eighth and last challenge I will mention here today. This is to restore to nursing home patients a sense of dignity and intrinsic worth. With the general improvement of nursing homes and with new emphasis on rehabilitation so that the patient can function to the best of his ability, perhaps we can do much to remove the negative image that today characterizes nursing homes.

I am also in favor of de-institutionalizing so that the patient feels he is in a home-like environment with friends rather than in an institution representing the twilight zone between life and death. There is, I recall, a maxim of sociology that human beings tend to reflect their environment. Let us therefore provide one that is healthy and cheerful for our citizens who are both ill and aged.

These—then—are the basic issues in the area of long-term care as I see them. They all stem from the first point I made—our policy with regard to the infirm elderly in this country is ambiguous. We really have no policy. In rhetoric there is concern, in reality there is abandonment.

"It's hell to be old in this country."

I heard someone say that not long ago. It's the simple truth—for most of our elderly.

The pressures of living in the age of materialism and the pursuit of the good life have produced a youth cult in America. Our preoccupation with staying young knows virtually no boundary. We spend millions on elixers and remedies all the way from pep pills to hair transplants and face liftings. Hang the expense. Drink Pepsi, drive a Ford, smoke Silva-Thins, or do anything else anybody insists will keep you looking young.

Why this obsession with youth? Some blame the movies. Others blame advertising for the kind of images sold to the public. The real reason goes deeper. Most of us are afraid of getting old. This is true because we have made old age in this country a wasteland. It's T. S. Elliot's rats walking on broken glass. It's the nowhere in between this life and the great beyond. It's being robbed of your eyesight, your mobility, and even your human dignity.

And yet every year more and more of us make it to our 65th birthday and beyond.

The pressures of society encourage early retirement from the work force so that Americans are spending more and more years in retirement.

We must define what our policy is to be toward those who are both old and infirm—we must decide what our responsibilities are—and we must face up to those responsibilities.

Conferences such as this one should help make progress in that direction.

TAX CREDITS TO THE ELDERLY

Mr. MOSS. Mr. President, I am glad to support this most timely amendment. The Senator from Missouri (Mr. Eagleton) has suggested an excellent way for the Federal Government to come to grips with perhaps the most significant economic problem facing the elderly today.

Escalating real estate taxes have a devastating impact on those of our citizens who live on fixed incomes. The chief victim has been the elderly couples—80 percent of whom own their own homes. They have had to meet tax bills of up to $1,000 out of their incomes which range from $2,000 to $2,500 a year. Many have, in fact, become "house poor," forced to devote the bulk of their limited incomes just to maintain ownership of their homes.

The burdensome effect of these regressive taxes on the elderly has been completely out of proportion to their ability to pay. Today, people over 65 make only half the income of their under-65 counterparts. Most rely entirely on social security benefits for their survival.

I applaud this amendment offered by Senator Eagleton which would make these elderly citizens eligible for tax credits of up to 300 for income spent on their property taxes.

Some States have recognized the special circumstances of the elderly homeowner. They have granted exemptions to property taxes for people making less than a certain annual income.

Mr. President, I believe that Congress should put an end to the current situation where some States give this tax consideration to the aged poor and others do not. I believe that Congress should act now to accept national responsibility for this problem.

INFLUENCE OF TELEVISION NETWORKS ON AMERICAN PEOPLE

Mr. THURMOND. Mr. President, a recent book entitled "The News Twisters," by Edith Efron is causing considerable comment around the country.

A brief review of the book was published in the Washington Daily News of November 18, 1971. The review was by S. I. Hayakawa, who is president of San Francisco College, San Francisco, Calif.

In his review, Dr. Hayakawa urged that the American people give attention to this book on the grounds that it explains in great detail how the television networks manage the news to support their own political inclinations.

For instance, the author of the book revealed that during the last 2 months of the 1968 presidential campaign, items used by the major networks favored Mr. Humphrey with 8,458 words as compared with 1,620 words for President Nixon.

There is obviously a need in this country for objective and balanced treatment of news by the television networks. When the commentator editorializes, it should be made clear to the listener that this is an opinion of the commentator or the network.

I ask unanimous consent that the column be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Daily News, Nov. 18, 1971]

Brainwashing by the Networks

(By S. I. Hayakawa)

Here is a book that should be read by every voter of whatever political conviction, by every high school and college student, by every viewer of TV network news. It should be distributed by book clubs and condensed in Reader's Digest. Most of all it should be read carefully by the Federal Communications Commission.

The book I refer to is "The News Twisters," by Edith Efron (Nash Publishing, 9225 Sunset Blvd., Los Angeles 90069; $7.95). The author is a staff writer for "TV Guide."

Do television networks present the news fairly? Are they free of bias? Do the accusations of slanting, distortion and calculated omission of important stories coming from almost all segments of the public from student radicals to Vice President Spiro Agnew have any foundation in fact?

For her study Miss Efron tape-recorded network news shows on American and National Broadcasting companies and the Columbia Broadcasting System every evening from 7 to 7:30 p.m. from Sept. 16 to Nov. 4, 1968—that is, the last seven weeks of the presidential campaign of that year. From transcriptions of the broadcasts, she analyzed the coverage given to the three presidential candidacies of 1968 and to a set of 10 related issues, such as U.S. policy on the Vietnam war, black militants, radical violence and the white middle class.

"From the resultant body of about 100,000 words per network," Miss Efron writes, "I isolated all stories dealing with the chosen issues—and excerpted all 'for' and 'against' opinion on these issues. The task is simpler than it may sound. Network news is an extremely nonintellectual commodity, and the opinion which it relays tends to be simple, short, highly partisan, and crudely 'for' and 'against.' It is readily isolated . . . The opinion appears in four clearly identifiable forms: direct quotes . . . paraphrase . . . narrative reports . . . and editorial opinion, which appears either in separate commentaries and analyses, or within the body of a news story. When all such opinion was isolated and filed, I then counted the number of words of opinion 'for' and 'against' on each issue."

The statistics are indeed startling. Here is Miss Efron's summary of the number of words spoken about Richard Nixon during the campaign: on ABC, for, 869, against, 1,793; on CBS for, 320, against, 5,300; on NBC, for, 431, against 4,234. Total for Nixon 1,620, total against, 17,027. Humphrey got more even treatment: on ABC, for, 4,218, against, 3,569; on CBS, for, 2,368, against, 2,083; on NBC, for, 1,852 against 2,655.

Words spoken about Black Militants: on ABC for, 2,052, against, 1,146; on CBS, for, 1,578, against, 742; on NBC, for, 3,666, against, 1,383. As for the white middle class: on ABC, for, 142, against, 731; on CBS, for, 287, against, 651; on NBC, for, 0, against, 1,017.

The totals leave no doubt that the networks—all three of them—were doing their best to elect Hubert Humphrey. For Mr. Humphrey there were 8,458 words, for Mr. Nixon, 1,620. Against Mr. Humphrey there were 8,307 words, against Mr. Nixon, 17,027.

When accused of partisanship or bias, the networks defend themselves by declaring that objectivity is impossible. David Brinkley: "Objectivity is impossible to a normal human being." Bill Moyers, "Of all the myths of journalism, objectivity is the greatest."

Miss Efron makes mincemeat of this argument. Objectivity, she says, is not the issue. The problem is that networks unanimously give "preferential status to certain political positions and opinions"—to the Democrats as opposed to Republicans, to the opinions of anti-war people as opposed to those who see some justification for the war, to black militants as opposed to the white middle class ("Not one reporter on CBS or NBC is critical of black power violence during the coverage period").

The networks themselves, in their acceptance of the Federal Communication Commission's "fairness doctrine" and in their concept of "equal time," give assent to the view that it is against broadcasting ethics to give such preferential status to one side of a controversy or political campaign. Nevertheless they clearly do not even bother to try to give a balanced presentation of the wide range of opinions.

"Richard Nixon is President of the United States today in spite of ABC–TV, CBS–TV and NBC–TV," writes Miss Efron.

I find this sentence comforting. It is horrifying to read a statistical analysis of the extent to which the great national television networks try to mold and manipulate public opinion. Nevertheless, despite the fact that I voted for Mr. Humphrey, I find it reassuring to know how much sales resistance the public has.

A SPECIAL HONOR—EAGLE SCOUT JOSEPH POLLOCK

Mr. McINTYRE. Mr. President, fewer than 1 in 100 Boy Scouts ever reach the rank of Eagle Scout, so it is a high honor for any boy to be so named. For Joseph Pollock, Jr., of troop No. 10 in Wilton Center, N.H., becoming an Eagle Scout is an even greater honor. It is a testimony to the kind of courage and determination we all admire, for Scout Pollock has been totally blind since birth and still achieved the rank without medical waivers or special dispensation.

Mr. President, I know that Senators share my respect and admiration for this fine young man, and I am sure they join with me in wishing him the very best of luck at his special court of honor this weekend.

I ask unanimous consent to have printed in the Record the text of an article on Joseph Pollock, published in the Milford, N.H., Cabinet and Wilton Journal.

There being no objection, the article was ordered to be printed in the Record, as follows:

Wilton's Joseph Pollock, Jr., Earns His Eagle Scout Rank

Joseph Pollock, Jr., son of Mr. and Mrs. Joseph Pollock, Sr., of Wilton Center, New Hampshire, appeared before the Algonquin District Eagle Board of Review, Boy Scouts of America, on September 14 and was accepted into the rank of Eagle Scout. The Eagle Scout rank is the highest rank in scouting and is gained by less than one out of one hundred boys in the scouting organization. The Eagle rank is awarded only after a boy demonstrates outstanding achievement over a period of several years in mental and physical fiitness, scout skills and exceptional duty to God, country and to others. In a display of true determination and genuine desire, Joe, although totally blind since birth, achieved the Eagle rank without medical waivers or special dispensation.

ORDER OF THE ARROW MEMBER

At present, Joe is a Junior Assistant Scoutmaster in Troop 10, Wilton. He started his experience in scouting by becoming a Webelos in Cub Pack No. 225 in Watertown, Massachusetts. In 1966, he graduated into Troop 225, sponsored by the Perkins School for the Blind, where he gained his First Class rank. He became an "Ordeal" member of Taskiagi Lodge Order of the Arrow in Minuteman Council and is presently a "Brotherhood" member of Passaconaway Lodge of the Daniel Webster Council.

Eagle Scout Pollock is a student at New Hampton School in New Hampton, New Hampshire, where he is a member of the cross country, wrestling and track teams. He speaks fluent Spanish, holds the Boy Scouts of America interpreters badge and represented his school in Mexico City, Mexico, in December, 1970, at a student exchange culture program.

OUTSTANDING SWIMMER

Some of the highlights in Joe's life both in scouting and in other activities have been: Chosen to attend a Blind Scout Jamboree held at Camp Belair in Baltimore, Maryland, in 1967 where his patrol placed second. He was awarded the trophy for Outstanding Achievement by the Granite State Swimming Association in 1971; elected to the New Hampton School Varsity Letter Club; twice elected Patrol Leader at Camp Carpenter Provisional Camp; and this year elected Senior Patrol Leader. As a member of the Wilton Youth Center Swim Team he received the award for the Most Valuable Boy Swimmer two years in a row. As a member of the Perkins School for the Blind Chorus, Joe was invited to attend and participate in the funeral services for Helen Keller at the National Cathedral in Washington, D.C. in 1967.

Troop 10 Scouts, Leaders and Committeemen are quite proud of this unusual accomplishment and will honor Scout Pollock at a Court of Honor held in Wilton on November 27.

FEDERAL INVOLVEMENT IN HEALTH INSURANCE

Mr. MATHIAS. Mr. President, as Congress begins to debate more vigorously the various proposals to extend the scope of Federal involvement in the area of health insurance, it is essential that careful consideration be given to all types of health care needs. Mr. Melvin L. Schneider, vice president of the Prince Georges County Mental Health Association, has kindly brought to my attention a statement on the important issue of including coverage of mental illness in any new scheme of national health insurance. This statement, entitled "Principles of Mental Health Provisions in National Health Insurance," was issued by the National Association for Mental Health.

The national association has long been active on the local, State, and National levels in setting up community health centers all around the country. Its statement, which emphasizes "total" health needs, argues strongly for inclusion of mental health coverage:

The prospect of enactment of "National Health Insurance" presents at once an opportunity and threat, for, depending on its terms, it can act as a powerful stimulant to the development of comprehensive community mental health centers, or it can result in their economic starvation.

Mr. President, I am sure that many of my colleagues would be interested in the national association's specific proposals, and I therefore ask unanimous consent that its statement be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Principles for Mental Health Provisions in National Health Insurance—As Adopted by the NAMH Board of Directors, June 19, 1971

This Association has devoted a large proportion of its energies in recent years toward fostering the growth and development of comprehensive community mental health centers. We have worked in the communities to plan, organize, and facilitate; we have worked in the States to plan, enact enabling legislation, and advocate; and we have worked nationally on federal legislation and financing, and on standards and education.

This revolution in mental health care is now about 20% completed. We continue to believe that realization of its goal of complete national coverage is the highest national mental health priority today.

The prospect of enactment of "National Health Insurance" presents at once an opportunity and threat, for, depending on its terms, it can act as a powerful stimulant to the development of comprehensive community mental health centers, or it can result in their economic starvation. Stimulation of growth would result if compensation for treatment in these settings is given favorable terms. Starvation would occur if a program is adopted with little or no mental health coverage followed by withdrawal of existing federal financing of comprehensive community mental health centers.

We must, therefore, carefully scrutinize each proposal for federal financing of health care with this over-riding question in mind:

"Will its enactment facilitate the development of comprehensive community mental health centers?"

At the same time, we realize that the present proposals for National Health Insurance are based on historic roots, and we must be alert to urge appropriate coverage for mental health.

Private health insurance programs were originally conceived and sold to compensate hospitals and doctors treating patients in hospitals for services rendered to subscribers. Coverage has increased over the years including more services and for longer periods of time.

Mental health coverage has been added to many of these policies in recent years. In most instances, there were (and are) sharp limitations as to scope and duration of coverage.

This pattern, essentially hospital and surgeon oriented with mental health provisions appearing as limited addenda, has carried over into the Medicare and Medicaid provisions of the Social Security Act. The result has been continuing discrimination against the mentally ill.

We are strongly opposed to this pattern of discrimination and are pledged to influence or alter proposals dealing with national insurance to deal more comprehensively and intelligently with mental illness.

We believe that the following principles should govern the intelligent and humane coverage of mental illness in any program of National Health Insurance:

1. SCOPE

Programs in mental illness should cover a broad range of activities including prevention; active treatment, both in-patient and out-patient; rehabilitation and long-term care and there should be continuing evaluation of all programs. Collateral services to families of the mentally ill should be included.

We cannot accept another insurance program which, in the name of economy does not, in fact, insure individuals against intolerable losses. This is neither humane nor financially defensible.

2. LIMITATIONS

There should be no limitations as to age, sex or condition. Any limits on mental health services should be structured to encourage the development of community mental health centers and to discourage over-utilization on the part of the patient or the provider. Limitations should be determined by regulations based on clinical experience and subject to approval of Citizens' Boards.

3. PROFESSIONAL SERVICES

Payment should be provided for individual visits to psychiatrists and other qualified therapists. There should be no patient fee or co-insurance for at least the first seven visits per spell of illness.

4. CLINICAL OUT-PATIENT SERVICES

There should be full compensation for services rendered in qualified clinics, or comprehensive mental health centers. Home visits by qualified staff members of such facilities should also be covered. Reimbursed services in a clinical outpatient setting should include services provided by all personnel necessary to the treatment program.

5. PARTIAL HOSPITALIZATION

Costs of partial hospitalization should be fully paid without regard to the setting, subject only to qualification.

6. IN-PATIENT SERVICES

Provisions for coverage of in-patient services should be structured to encourage:

a. Evolution and development of comprehensive community mental health centers, and

b. Improvement of public mental hospitals.

There should be a requirement that these two systems be adequately linked so as to provide a continuum of services to all.

7. PRESCRIBED DRUGS

Prescribed drugs should be available without separate charge to the consumer.

8. EDUCATION AND CONSULTATION RESEARCH AND EVALUATION

The important functions of education, consultation, research and evaluation should continue to be funded through grant mechanisms. They should be encouraged in all mental health settings.

9. MANPOWER AND TRAINING

To be truly effective, any final plan must automatically influence and facilitate the recruitment, training and geographical distribution of all categories of manpower necessary to a comprehensive mental health program.

10. CITIZENS' BOARDS

There should be boards of citizens with ultimate responsibility for governing the program. They should set standards and establish continuing vigorous evaluation of all providers. This must include both individuals and organizations who seek payment under National Health Insurance.

There should be substantial representation of all the Citizens' Boards from minority groups and the poor and from professional and lay persons with knowledge in mental health and mental illness.

Laymen so serving should not be engaged in providing services to the mentally ill and should constitute a majority of the Boards.

11. METHOD OF PAYMENT

The program must permit participation by qualified providers with options as to prepayment or compensation for services rendered.

As programs emerge which are demonstrably more efficient than others they should be rewarded by preferential funding.

12. DISCRIMINATION

All providers shall be required to provide services to all persons regardless of race, creed, color, national origin or ability to pay.

WELFARE EXPERIMENTS

Mr. McGOVERN. Mr. President, it has come to my attention that the Department of Health, Education, and Welfare is moving to approve two proposed welfare experiments in the State of New York. The proposals involve far-reaching changes in the operation of the Federal welfare system and deserve very careful consideration. The proposals have already been considerably revised and have only been in their present form for a few days. In the hope that HEW might reconsider its apparent intention to approve the experiments without the careful scrutiny they require, I ask unanimous consent to have printed in the RECORD the analyses of the New York experiments that were prepared by the National Assembly for Social Policy and Development and the Columbia Center on Social Welfare Policy and Law.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

NOVEMBER 11, 1971.

Hon. ELLIOT L. RICHARDSON,
Secretary, U.S. Department of Health, Education and Welfare, Washington, D.C.

DEAR MR. SECRETARY: I am writing to urge your most careful reconsideration of H.E.W.'s expressed intention to allow the New York work-without-pay welfare demonstration. I applaud your Department's decision to end discussions over the companion "Incentive Opportunities" proposal. I know of your own personal reluctance to see work-without-pay incorporated into national welfare policy, and wish to support you in that view.

It is of particular concern to me that H.E.W.'s use of the 1115 waiver in New York would, in this instance, represent a new departure from its customary use in the past. It is a departure that I believe might well establish a most unfortunate precedent. States may be encouraged to use the waiver not to demonstrate better ways of meeting the objectives of the social security welfare titles, but rather of circumventing the law wherever its application proves onerous. The 1115 waiver does not exist to allow large portions of a state's welfare clientele to be treated differently. If then, a project can be approved that so directly jeopardizes the welfare of several hundred thousand New York children, and would require work in return for public assistance payments—contrary to anything allowed by Congress, then states may well expect comparable waivers with respect to Title VI of the Civil Rights Act, or other constitutionally protected rights of welfare recipients.

Moreover, the Work Relief proposal has been described by its authors as providing a pre-test of the Administration's proposed welfare reforms. If indeed this is an accurate representation of the Family Assistance Program's implementation, then that should properly be communicated to the Congress directly, not through the device of an approved 1115 waiver. Your testimony, and that of other Administration spokesmen, has never alluded to work-without-pay as a feature of the Family Assistance Proposal. If it is not, one wonders how it might properly be "pre-tested;" if it is, one wonders why that information has been withheld from both the Congress and public.

There are, of course, more obvious objections to be raised, many set out in analyses prepared by professional and civil liberation organizations. These have been communicated to you. However, even the simplest examination of the proposal, intended to "reduce dependency," "encourage initiative," "restore self-respect," and so forth, raises serious questions as to how any of those objectives might be met by the proposed demonstration. For example, it is difficult to imagine how jobs without training, wages, day care, stability, or adequate protection against losses from work-related expenses can have anything but a deleterious effect on the attitude of welfare recipients toward work.

Because of the questions raised in this instance by H.E.W.'s treatment of the 1115 waiver, I am asking that you provide a listing of all 1115 waivers granted in the last year, with a brief explanation of the regulations which were set aside, as well as the welfare practices being tested.

I wish to express my strong opposition to the proposal to allow a work-without-pay welfare demonstration in New York, and respectfully request your denial of permission to exercise the use of the 1115 waiver in this instance.

Sincerely,

GEORGE MCGOVERN.

NOTES ON H.R. 1—NEW YORK STATE DEMONSTRATION PROJECTS

(By Elizabeth Wickenden)

THE CHALLENGE

Twenty-four thousand one hundred and seventy-four individuals in nearly 7,000 families would have their assistance grants cut from 36% to 50% under a demonstration project proposed by the New York Department of Social Services. They would then be given the "opportunity" to earn back what was taken away by a system of incentive points for work and acceptable behavior. Refusal to work would result in a further reduction, amounting to a total of 60% for a family of four.

This pilot project would be operated in three welfare districts, one of which—Hamilton in West Harlem—has a caseload described as 50% black and 50% Puerto Rican. The other districts are in Rockland and Franklin counties.

In a second project in twenty-five welfare districts all adults judged employable (including all mothers with no children under six) will be required to "work out" their welfare grant at projects provided by the department, unless work is found for them in the regular economy or in public service jobs. This project involves 88,503 families.

The implications, background and status of these projects are summarized below.

BACKGROUND

Three states—New York, California and Illinois—have indicated their intention (with Federal encouragement) to apply for waivers * from provisions of the present law that would permit them to anticipate some of the provisions of HR 1. HR 1, the Social Security Amendments of 1971, containing the administration's proposals for two new family assistance programs, has passed the House and is pending before the Senate Finance Committee. These programs would have become partially effective on July 1, 1972 but President Nixon has recommended a year's postponement as part of his New Economic Program. In any event the opposition of Chairman Russell Long and conflicting views of its impact leaves its prospects in considerable doubt.

When it first became known that the waiver provisions of Sec. 1115 were proposed to be used on a statewide basis in California and New York to cut back selectively on present program standards, a widespread protest arose including that of Senators who saw such action as an invasion of the legislating authority of Congress. A legal action was brought by the Center on Social Welfare Policy and Law in behalf of the National Welfare Rights Organization, the California Welfare Rights Organization, and the City Wide Coordinating Committee for Welfare Organizations (NYC) demanding access to any project submissions and the opportunity to comment on them. As a result the Secretary of HEW has agreed to furnish copies of any applications from California and New York to these parties for their review prior to approval. Under this arrangement these two projects have been released and will not be acted upon until after October 17 by the Secretary. Any expressions of viewpoint to the Secretary, the Governor, or others concerned must, therefore, be made immediately.

DESCRIPTION OF NEW YORK PROJECTS

At this time two inter-related New York project applications have been made. To answer the charge that statewide modifications of policy under existing law cannot properly be regarded as "pilot" projects, they are limited in the one case to three welfare districts and in the other 25 districts involving 25% of the state ADC caseload. This difference in coverage makes necessary the two projects.

Incentive for Independence would be instituted in three districts: (Hamilton—West Harlem—in New York City; Rockland County and Franklin County.)

GRANT REDUCTIONS

In these counties all ADC families without earnings or support payments will have their grants cut to the basic payment level of HR 1. For a family of four this level is $200 a month, a cut of approximately 36% from the present New York payment levels which have already been reduced from budgetary levels. For a large family the cut is almost 50% because of the $3600 ceiling in HR 1.

Should a putatively employable member of a family find it impossible or unacceptable to report for work or training the family grant would be further reduced by $800. This would mean a total reduction of about 60% for a family of four.

INCENTIVE POINTS

Families will then be encouraged to regain at least part of what has been reduced through a system of "incentive points" each worth $25.00 a month or $12.50 each semi-monthly period. This applies both to families with a member deemed employable and those without such an employable member. The ways points may be earned and their semi-monthly values are:

For each school age child, 5–15 years of age, *cooperating with the teacher* (as determined by the caseworker), given automatically in summer months; 1 point; $12.50.

For each child in school, 15 years or older *cooperating with the teacher;* ½ point; $6.25.

For each pre-school child *given all medically required vaccinations and boosters* during previous six months; 1 point; $12.50.

For each unemployable adult *participating in one or more acceptable activities* during previous six months including:

Establishment of paternity
Locating of deserting parent
Participation in rehabilitation
Participation in education
Participation of children in community activities and ten others (See Appendix III); 1 point; $12.50.

For each youth over 15 years of age, *participation in school work program;* 1 point; $12.50, (plus stipend).

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* Under Sec. 1115 which authorizes such waivers to demonstrate on an experimental basis new ways of promoting the objections of the present titles. For a fuller discussion of this provision see *Back to the Poor Law via Section 1115.* (May 4, 1971. Available upon request.)

For each employable member, participation in work (or pre-employment training) either in:

Regular economy

Public service employment

Public service work opportunity projects (work for relief)

Care of children of other recipients; 1 point; $12.50 (plus disregards).

Those with earnings would be permitted to keep a portion without affecting the assistance grant by deducting: the cost of day care, the first $720 of earnings, one third up to 150% of flat grant and one fourth thereafter.

The Public Service Work Opportunities Project is proposed to operate in 25 welfare districts and would involve 25% of the state ADC caseload. Its objective is described as follows: "to determine the impact on welfare dependency when every employable recipient is required to be in work and training." Employability is defined as in H.R. 1. All such persons will be required to work and, if no other employment is available, will be assigned to work out the amount of the family grant either for a governmental agency or in the home caring for children of other mothers. In the districts where the incentives for Independence program is operating it is assumed that the disregard provision described thereunder would apply and that in the other districts the usual policies of the department would apply. The hours of work for the participant would be adjusted to the monthly grant so that the hourly rate would be either the state minimum wage or, if higher, the regular rate paid by the governmental unit for similar work.

CRITIQUE

These two projects are subject to the approval of the Secretary of HEW who must personally approve the waiver of state plan requirements under the law. In making his judgment he must consider questions of (1) compliance with the law (including the Federal constitution), (2) the policy implications of the proposal and (3) its feasibility within the terms described in the project application. Each of these is discussed in turn.

LEGAL CONSIDERATIONS

Sec. 1115 is an exceedingly broad authority to authorize departures from the plan requirements of the assistance titles for "any experimental, pilot or demonstration project which, in the judgment of the Secretary, is likely to assist in promoting the objectives" of such title. Each departure from a plan requirement must be specifically authorized. Constitutional requirements for equal and non-discriminatory treatment cannot properly be waived by any law or executive action. This seems especially true where a deprivation of benefits is proposed as in the Incentive project. In other words where an experimental project involving a study of the impact of additional services and benefits might be considered a "reasonable classification" for research purposes, one involving a deprivation for a selected group below otherwise applicable standards raises serious questions of due process and unequal treatment under the law. This is especially true when one group (Hamilton Center) so selected is composed entirely of members of minority groups, Black and Puerto Rican, according to material submitted with the project application.

Special questions are also raised when the group affected by such deprivation is primarily composed of children whose welfare is supposed to be protected by the state. Just as the law protects children against dangerous medical experimentation so, too, should they be protected against dangerous social experimentation.

Discrimination against selected children under this project is apparent. The mother's autonomy with respect to her children is abridged and her behavior coerced by a reduction of the grant to which other mothers and children in similar circumstances are entitled unless she engages in a variety of actions—including but not limited to employment outside the home.

POLICY CONSIDERATION—IMPACT ON OTHER STATES

Because New York has always been regarded as a leader among the states in welfare policy, its policy innovations can be expected to exert an influence on other states. Thus people all over the country should be concerned with these proposals and the Secretary should review them in this light.

RELATIONSHIP TO H.R. 1

While the Secretary has made the point that the projects of New York, California and Illinois are intended as a pre-test of HR 1, the proposals of New York go far beyond the proposed Federal programs. In fact, it would appear that the New York proposals would make it difficult if not impossible for New York to benefit the hold-harmless provisions of HR 1 which assume a consolidated federal-state program. The language of New York's submission seems to suggest that it looks upon its program as a substitute for or modification of HR 1 which it refers to critically as follows: "Tragically, the Family Assistance Program does not substantially alter the system which, in New York at least, has proven unequal to the job."

A CASTE SYSTEM

Both projects are predicated on mistrust and disapproval of the impoverished families of New York and the assumption that second-class citizenship is the price of state aid. Such families are to be treated as children, rewarded for acceptable behavior by the means of subsistence (as determined by minimal budgetary standards reduced 10%) and punished by withholding of such. Not only are all families reduced by at least 36% prior to such showing of good behavior but those deemed employable and declining to leave their homes and children for outside work are further reduced by an additional $800, thereby reaching—by New York standards—a level of starvation.

In all respects a sub-class of impoverished families is to be created subject to the most detailed scrutiny of their private lives. Not even the Poor Law imposed such conditions and those who sought to overcome its cruelties by requiring an unrestricted cash payment in the Social Security Act can only marvel at such a departure from their intentions.

WELFARE PRACTICES

Current philosophy of the New York and Federal departments holds that casework services and money payment administration should be totally separated so that they can better serve their separate and independent purposes. The Incentive Project goes in precisely the opposite direction since it presupposes the closest kind of monitoring of client behavior. For example, the application states with respect to incentive points for the mothers of school age children based on acceptable cooperation with their teachers "Specific guidelines for use by casework staff will be developed to determine cooperation with school authorities." The inclusive and at the same time vague character of other actions subject to monitoring in the interest of winning incentive points is indicated by the attached Appendix III.

On the other hand, child welfare concepts suggest the desirability of compensatory support for children in poorly functioning families or those having school difficulties, including truancy. This project proposes that such families should be reduced to starvation levels of subsistence.

DAY CARE

New York City has conducted some excellent projects using carefully selected AFDC mothers for home day care of the children of other mothers. The projects propose, however, that such arrangements are to serve as the sole optional alternative for work outside the home for mothers of children over six in the twenty-five welfare districts covered by the Public Services Work Opportunities Project. Thus it appears that these women are to be virtually self-selected without regard to their own fitness, suitability of the home, etc. A type of undertaking of considerable promise when selectively used and supervised could become a substandard custodial pattern of child care for a sub-class of poor children.

FEASIBILITY

Both projects offer formidable administrative difficulties which have not apparently been reviewed with those welfare officials selected to carry them out. This is especially true of the Incentives project.

The Incentives Project assumes the most detailed monitoring of personal behavior by the casework staff and honest reporting of such behavior by the client on an extremely complex series of requirements. Of necessity it also leaves important questions of judgment to the individual worker because of the vagueness of some of these requirements. (See Appendix III for example.) It seems an open invitation to favoritism, discrimination, judgmentalism, petty dictatorship, chicanery, collusion and general chaos in worker-client relationships. The constant variability of payments also present problems of bookkeeping, audit, check writing and appeals procedures which seem almost insurmountable.

The Public Service Work Opportunities Project presents all the problems of large scale work-for-relief programs where hours must be adjusted to differing family payment levels. Experience with FERA work relief programs in the early '30s demonstrated the impossibility of creating a genuine work-experience under these circumstances and led to its abandonment in favor of the WPA monthly wage plan. Such plans on a broad scale quickly deteriorate into a meaningless "work test" with no dignity for the worker and little value to the work they perform.

The option for mothers required to work to accept the children of other mothers for care in their own homes also involves formidable administrative difficulties, epsecially if any effort to maintain standards of physical suitability, health, safety and qualifications are made. Moreover, the whole question of assuring adequate day care for children of the mothers required to work under this large project is scarcely mentioned in the project submission. This is an extremely costly and difficult administrative task under any circumstances yet in this project involving almost 90,000 families it is taken virtually for granted.

APPENDIX III—INCENTIVE OPPORTUNITIES FOR THE UNEMPLOYABLE ADULT

One incentive point shall be earned for each semi-monthly period by each unemployable adult (or woman excused from reporting, employment or training because of a husband living with her who meets these requirements), who undertakes activities which are designed to:

Achieve permanent and adequately compensated employment;

Foster child development; or

Maintain and strengthen family life.

Incentive credits may also be earned upon completion of such activity if the grantee certifies that the unemployable adult engaged in such activity during the previous 6 months. One of the following activities will meet this requirement:

1. Initiating own satisfactory day care plan for children in order to engage in regular employment, training, or public service opportunity.

2. Providing out-of-home day care for a child of another public assistance family.

3. Utilization of remedial medical (health) services by the adult which is designed to enhance employability or self-functioning.

4. Participation by the adult in a program of rehabilitation designed to improve economic independence or self-functioning.

5. Participation by the adult in a program of adult basic education or high school equivalency.

6. Participation in the establishment of paternity for children born out-of-wedlock and/or securing financial support for them.

7. Participation in the location of a deserting parent and/or of securing financial support.

8. Utilization of community resources to overcome problems of child delinquency.

9. Participation of children in citizen building activities, e.g. Boy Scouts, 4-H, community centers.

10. Participation in individual or group activities designed to improve money management or home management.

11. Attendance of the adult at a health education program.

12. Attendance of the adult at a family life education program.

13. Improvement in housing standards by self clean-up or self-repair of dwelling.

14. Providing a child with foster care.

15. Serving as a social services agency volunteer.

Analysis of Proposed New York Projects in Public Assistance Programs

1. *Incentives for Independence.*

2. *Public Service Work Opportunities Project.*

BACKGROUND

Section 1115 of the Social Security Act authorizes the Secretary of Health, Education, and Welfare to waive certain requirements of the public assistance titles of the Social Security Act in order to allow a state to carry on an "experimental, pilot or demonstration project . . . likely to assist in promoting the objectives of [such titles]." (See also Handbook of Public Assistance Administration, Part IV, §§ 8400–8443.)

New York submitted applications under date of September 9 and September 10, 1971 for § 1115 waivers to conduct two experimental projects titled "Incentives for Independence" and "Public Service Work Opportunities" (PSWOP). The overall purposes of the projects are to reduce grants to FAP levels, and to require recipients to participate in work relief projects and conform their life-style to the models selected by the state. On September 22, the Executive Assistant to the Administrator of the Social and Rehabilitation Service in HEW stated that approval of the projects seemed certain.

The swiftness of HEW's decision is somewhat surprising both in view of the agency's previous track record, and the fact that the projects effect a drastic change in the status and grants of the recipients covered and represent a radical departure from the basic federal policies concerning assistance which have been developed from the experience of the last 30 years. For example, under the present Federal statute and regulations, assistance must be a money payment free of any duress on, or agency control of, individuals. Also, the stated purpose of the federal program is to place recipients on a par with all other citizens with the least possible differentiation in treatment and to require recognition of a recipient's personal dignity and right to full enjoyment of his constitutionally protected rights, including the right to privacy. All of these approaches are rejected in the project.

Clearly, such projects cannot be related to promotion of the objectives of the present public assistance statutes.

HEW itself has both implicitly and explicitly recognized that § 1115 does not authorize waivers which allow a state to diminish the rights which an individual would otherwise have. In fact, these projects would constitute the first overt use of § 1115 to give recipients less than they would be entitled to under the regular state plan or to impose eligibility conditions more onerous than those under the plan. Even more specifically, HEW has previously rejected applications for work relief projects on the ground that such projects are clearly inconsistent with the fundamental Congressional purpose that work in return for public assistance payments may not be required or allowed except under the WIN program's priority three work projects or Title IV of the Economic Opportunity Act.

Finally, the projects themselves are extremely complex and leave many unanswered questions as to their implementation so much so that it is difficult to understand how any reasoned decision as to their basic workability and acceptability could be reached. Precipitous action would harm not only tens of thousands of New Yorkers but countless additional citizens. Both California and Illinois have announced plans to file similar applications, and many other states are expected to follow suit.

These projects are but a part of the overall New York work program established by the 1971 legislature. In brief, the effect of that legislation is to:

1. Create a presumption that any person 16 or over receiving AFDC or HR is employable unless he is an AFDC child in school full-time or participating in an "approved" program of vocational training or rehabilitation; e.g., WIN, vocational college. (Persons in such training who are not considered "employable" are nonetheless covered by step 2.)

2. Discontinue mailing of assistance checks to all such persons; the recipient is required to report to the SES (State Employment Service) office every two weeks to pick up his check and to be interviewed for purposes of possible job referrals to private employment.

3. Require such persons to accept assignment to a public works project to "work off his grant," if he is not hired in a job within four weeks after he first goes to SES. (A new applicant who is considered employable by DSS must go to SES and indicate willingness to cooperate in the process before an application will even be accepted.)

At the time the New York legislation was passed, HEW advised the state that amounts for which an individual was required to work did not constitute assistance, and therefore that the state could not claim federal matching for the grants of any AFDC recipients required to participate in a public works project. Accordingly, insofar as the work relief program is concerned, the demonstration projects are simply a device to obtain otherwise unavailable federal funding. The Incentives project imposes an additional sanction to obtain participation in the work program. Thus, under the general work relief and PSWOP, an employable's refusal to participate will cause his needs to be removed from the grant. Under the incentives project a family with employable members can obtain its full grant only if such members participate in a work program. If they do not, the already reduced grant will be further reduced because of the employable member's non-work.

PROJECTS

I. Incentives for independence

(Known in the state agency as the "brownie point program").

A. Project Theory

Everybody starts off with less, some may get as much as they're entitled to, nobody gets more.

No matter what else it may be, the incentives project is not an experiment in income maintenance. No family is even guaranteed the FAP level much less FAP plus their incentive points. Each family's grant is computed by examination of the individual's actual shelter needs so that any effort by a family to decrease shelter costs in order to be able to get greater benefit out of the grant will only decrease the grant.

The stated "primary goal" of the project and its supposed justification is "to see that financial dependency is eliminated for the vast majority of employables now forced to rely on [assistance] for sustenance." Over 26,000 AFDC and HR recipients from over 7100 families will be covered by the project and thereby suffer substantial grant reductions unless they can "earn" incentive points. However, only 1377 individuals are estimated to be unemployed employables. In fact, the project indicates that there are only 50,000 employable adults out of the 1.8 million on assistance in New York State. Clearly it is not the lack of work motivation that has placed the other 1.75 million on assistance. Furthermore, these 50,000 employables including the 1377 people in the project are simply those whose age, physical abilities and home situations would permit work, and they include "many recipients who have never been employed as well as those who lack education, training or skill necessary to obtain employment." (Annual Report of the State Board of Social Welfare, 3/71, Pub. No. 1016) The state's own data destroy its thesis that work is the solution to the problems of the welfare system.

Additional evidence of the insubstantiality of the state's purported objective of placing people in employment is found in the results of the WIN program in New York. The Annual Report of the New York State Board of Social Welfare and the New York State Department of Social Services for the year 1970 (Pub. No. 1016, 3/71) states:

"1970 accomplishments of this program (WIN) have been disappointing. The program has been adversely affected by a lack of employment opportunities caused by the general business slowdown during the past year and by a shortage of day care facilities."

During the year 1970, only 2,947 persons were placed in jobs after completion of WIN training. Since there are currently 14,800 training slots in use in New York State, the question is raised as to how jobs will be found for both WIN trainees and those in the New York projects. The answer is apparent. The latter will be placed in work relief where they will work off their grants in jobs for which state and local governments are not willing to pay a living wage. It is the cruelest form of deception to classify such jobs as training or career opportunities.

Even the estimate of 1,377 employables in the project areas is based on the assumption that the state will be able to provide day care for 1,522 children between the ages of three and eleven. Considering the fact that the state has not even been able to supply day care for children of all the mothers who have volunteered for WIN,[1] there is an obvious question as to the reality or else the quality of the day care which would be provided.[2] It is also noteworthy that no consideration is given to the need for care of children over 11. Presumably such children are to be on their own from the end of the school day until their parents return home at 6:00 or 7:00.

The disproportionate number of unemployables in a project purportedly designed to test work suggests that the project is designed for some other purpose. This other purpose lies in the requirements that will be imposed on unemployables in order to "earn" their full grant. It is at this point that the true character and purpose of the project emerges. Mothers of AFDC families are to be treated as irresponsible and non-caring parents who must be driven to improve the lot of their families through the carrot and stick. Children of recipient families are to be trained to do the housework of society, apparently on the theory that only the poor are responsible for the ecological problems of the nation or that only the poor should be involved in their solution. The social and political judgments embodied in the project do not stop there.

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[1] Report of the Board of Social Welfare, March 1971, p. 7; also April 1970, p. 9.

[2] See discussion of day care under work relief, *infra*.

Thus, in a spirit of admirable honesty the state makes it quite clear that its fundamental purpose is to obtain "behavior modification" (Project, p. 37). For example, the family is to be rewarded for a child's participation in the Boy Scouts or for utilizing community resources to overcome problems of child delinquency. No indication is given as to whether credit will be given for a participation in the Young Lords or the Black Panthers or how a family might earn similar credits if it is not interested in any of these organizations. At a time when much of America is taking a hard look at its own values and life styles and trying to understand its own children, it is proposed to glibly establish a set of absolute standards for proper family behavior, or perhaps, behavior useful to the state.

Clearly it is no more reasonable to look to such factors in a scheme of public benefits, than it would be to adopt a system of taxation based on individual behavior. Both would amount to punishment for unacceptable behavior in both legal and moral terms. Conditioning receipt of public benefits on acceptance of the views of one segment of society (apparently the white middle class) as to "individual betterment" and acceptable behavior patterns would appear to be a violation of the standards of due process and equal protection.

Another facet of the project would be to further institutionalize the segregation of the poor. Assistance recipients are treated as a group to be set apart and dealt with separately from the general population. Thus the project goals are:

(a) Education and motivation of all school age children—a role given over to the schools for other Americans.

(b) Development and use of employability skills in young adults—again a role generally considered appropriate for schools and colleges.

(c) Employment for all able-bodied adults—generally considered the province of the employment services after the establishment of a basic foundation through the schools.

(d) Development of a sense of community and family involvement and responsibility—whether regarded as useful or not, being "involved" is generally not considered to be a mandatory requirement of citizenship.

B. Project Scheme

The fundamental element in the project is to reduce the grant level of all AFDC and HR families to the level of FAP benefits, e.g. $2400 for a family of four as opposed to the current state grant of $3763. The $3763 payment itself purportedly represents only 90% of need and actually represents far less, since the present need standard equals May 1968 prices for the items in the standard. Accordingly, grants under the project would meet only 60% of stated need and an even lesser percentage of actual need if one recognizes the 15% cost-of-living increase since 1968.

Families will "have an opportunity" to "earn" up to their grant level by:

1. Participation in employment, existing public or private jobs.
2. Participation in employment in funded job slots.
3. Participation in work relief.
4. Work training.
5. Cooperation with school authorities.
6. Participation of teen-aged children-students in "community service projects."
7. Participation in self and community improvement (as defined by the state agency).[3]

Families can earn points worth up to $12.50 bi-weekly for such activities.

A family of four would have to earn eight points, larger families more. No family could "earn" more than its maximum grant, i.e. no credit is given for activities over and above the amount needed to earn the former full grant.

Supplementary assistance to families with earned income will be based on the difference between countable income and the payment standard. However, countable income will be determined under a new formula which disregards $720 plus ⅓ of the remainder up to 150% of the FAP level ($3600 for a family of four) and 25% of the remainder. By this method a family of four with a total gross income of $6128 or a take-home pay of $102.65 a week has attained self sufficiency. (The Bureau of Labor Statistics, Lower Living Standard for an urban family of four in May 1970 was $7060.) Under the current state plan, such family would be eligible for supplemental assistance of $631, and medical assistance for all items of care and services covered under Medicaid.[4] The new disregard deprives them of both. The change in Medicaid status is especially significant since such family, when it becomes medically needy only, would be eligible only for a drastically reduced range of medical assistance. Where is the work incentive in a program which deprives a family of all aid at a point where income is obviously insufficient to meet all needs? Clearly there is a positive disincentive to work unless income can be expected to soar far above the cutoff point for aid.

In addition to the disincentive resulting from the reduced income disregard, the "earning" of incentive credits for a family with earned income is a myth. As is demonstrated by the state's own tables, supplementary assistance is based on the difference between countable income and the maximum payment standard. There is not, and functionally there cannot be, any building up from the FAP level, except for a family with only minimal income and practically no incentive credits. In short, any family with earned income will have its grant determined in exactly the same way as under the regular program except that it will receive less money. For example; a family of four entitled to a maximum grant of $313 would have to have countable income under $51 per month to actually receive any benefit from the incentives!

Basic grant	200
Incentive credit for work	25
Incentive credit for school, child under 15	25
	250
Constant factor (subtraction of rental allowance included in the $200 FAP grant, see p. 3 (*supra*)	−92
	158
Actual rental cost (average figure used by state)	+105
	263
Countable income	+50
Total	313

Even in such cases, increases in income would necessarily wipe out any value to the purported incentive.

The details of the work relief component of the project are the same as those of the general work relief project discussed below. However, there is an additional question with regard to work relief in the brownie point system. In calculating the amount of the grant to be worked off, will the agency include the value of earned credits, e.g., assuming a family of four which has earned back to the maximum grant, will its hours of work be based on $200 a month or $313? The project appears to assume the latter, again demonstrating that the "incentive" for work is a simple exercise in "now you see it, now you don't."

The only remaining purpose for the brownie point system would be its utility in compelling recipients to participate in work relief and surrender their rights to privacy and self determination by forcing them to choose between bread for their children and the expression of their own views and perceptions as to their personal goals and responsibilities and the concomitant goals and duties of their government. The particular activities selected for credit and the values assigned thereto are designed to promote both the control and separation of the poor. A full point is earned by school attendance for children under fifteen; a child over fifteen must both regularly attend school and participate in an after-school service project to get a full point. Similarly, only a child under fifteen earns automatic points in the summer; a child over fifteen must work full time in a community service project. Apparently extra-curricular programs such as sports and other school clubs are not considered important for the children of the poor.

Participation in the community service projects is limited to children of assistance families. This reflects not only segregation in fact, but an approach that only children of the poor need to develop motivation for work and good working habits. Furthermore, earning of the incentive credit and of a stipend of $1.60 per hour (exempt in determining assistance) is dependent upon *satisfactory* participation as determined by the work site supervisor and will include consideration of "program behavior, attitudes, etc."

One of the most telling facets of the project is the range of activities omitted from consideration, e.g., between a woman raising her family alone and a woman with a husband in the home. It is only in the case of a two-parent family that the project considers the family stability is aided by the woman's presence in the home. As to the incentive opportunities, "unemployable adult" is clearly a euphemism for female caretaker, and clearly she cannot be expected to even clean her own house without some financial bonus. One imagines some team of white-clothed Mr. Cleans on bi-weekly visits to check dust levels.

She may also utilize remedial medical services, attend adult basic education or high school equivalence and, of course, help locate her deserting spouse or help to establish paternity. The use of the project to compel cooperation in paternity action and location of deserting parents is apparently an attempt to circumvent the growing body of case law which holds that a state may not impose such requirements as a condition of eligibility. As to the other activities, since the caretaker will not be considered unemployable unless she has children at home who require care, it is questionable as to where or how her children will be cared for while she participates in all these numerous self-improvement activities, e.g., most adult basic education courses in New York City are given at night. Also, one can assume that if she can make child care arrangements, the department may well consider her employable since she has available arrangements for her child.

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[3] For a more detailed listing of items 1–6 see appendix 1, attached; item 7, appendix 2.

[4] The diminution in grant is even greater than appears from this comparison. The state's description of current AFDC disregard is based on $30 and ⅓ plus $60 for work expenses. All available information indicates that $60 is not a reasonable estimate of work expenses. Under the state's own figures, deductions for social security, federal and state taxes alone for a family of four with a gross income of $6100 a year cannot reasonably cover all payroll deductions, transportation, lunches, uniforms etc. (In New York City with a 30¢ subway fare, minimum transportation is $3.00 a week or $12.00 a month.)

Assuming the average AFDC family of four, a mother and three children under eleven, the mother has to find a way to build back from $200 a month to $313 a month by earning eight incentive points. If one of the children is a pre-schooler and she keeps him well vaccinated, she can earn $25 a month; assuming that she doesn't disagree or otherwise talk back to the children's teachers she could earn another $50.

She now has to earn two more incentive points a month. At that point she must turn to the "self-improvement" activities. Meanwhile she must choose between the value of her participation and voice in the conduct of her children's schools at the risk of alienating school staff, and the value of getting along with the teacher. Clearly a parent's involvement and voice in the education of children is to become a luxury for the poor.

C. Project Sites

Stated purpose is to have one urban, one rural, one suburban.

URBAN—HAMILTON CENTER, MANHATTAN

18,746 recipients in 5272 families will be affected—only 883 individuals are considered to be unemployed employables.

Six separated centers were considered. Hamilton was the only one with no whites in AFDC caseload and a 50/50 split between Blacks and Spanish-Americans; the only other without whites was 8% Black, 92% Spanish-American.

No explanation is given as to why a separated center was necessary. Since the theory of separation is based on a simplified program with minimal objective eligibility requirements, it would not appear to be relevant to a project which requires numerous complex and subjective determinations of eligibility with evaluative judgments. The need for such determination would seem to demand trained caseworkers rather than the clerical skill of an income maintenance worker.

SUBURBAN—ROCKLAND COUNTY

1762 families (1599 AFDC, 163 HR) with 6677 recipients—only 313 individuals are considered to be unemployed employables.

No solid explanation is given as to why Rockland was chosen, other than that it has a separated center and that its population is "more representative of that of national suburban growth districts."

RURAL—FRANKLIN COUNTY

Approximately 1,600 recipients in 332 families.[5]—181 considered to be employable.

Chosen "because" of its lack of cities and of public transportation. Employment primarily agricultural. Classified by DOL as area of presistent unemployment since November, 1959.

Full information as to the racial characteristics of the Rockland and Franklin districts are not yet available. However, Franklin reportedly has an American Indian population of approximately 2,500 people, and it is probable that there is a high percentage of Indians in the caseload. Is it a coincidence of selection that has led to concentration on areas with insignificant representation of whites in the caseload?

D. Reality of Work Opportunities

The creation of paid public service jobs for the estimated 1,377 employables is based on the receipts of $2,844,293 from the Department of Labor to fund 1,377 jobs at $3,720. These jobs are supposedly to be in fields of environmental quality, health care, housing, etc. and to offer opportunities for career advancement. The salary is to be no less than the state minimum wage or the prevailing rate of pay for similar public employment. Franklin County is primarily agricultural and without public transportation, and has had chronic unemployment since 1959. It may safely be assumed that there is no possibility of creating such employment in that area.

In any case, the present minimum annual salary for state employment is $4,595. In New York City the lowest municipal wage is $5,200. Clearly the state cannot set up 1,377 job slots out of the available funding. Unless the state intends to ask for significant additional amounts of federal funds, the proposed job slots are simply a facade to mask the use of the incentive point program and grant reductions as additional compulsion for cooperation in work relief.

II. Public Service Work Opportunities

A. Project Theory

The project application states that "the basic objective . . . is to determine the impact on welfare dependency when every employable recipient is required to be working or in training." There is no specific suggestion in the materials that working off a grant could have any impact on dependency, much less any rationale to support such a theory.

However, the goals of the project again include the achievement of certain behavioral modifications as well as "improve[ment of] the attitude of the public" and "decreas[ing] the costs of public assistance." Perhaps the last stated goal provides the truest key to the purpose of the project.

It is apparent that the fact that recipients are working off their grants does not in and of itself decrease the costs of public assistance. It could result in a decrease if the program resulted in individuals leaving the rolls or requiring less assistance because they had acquired paying jobs. However, given the fact that work relief is designed for those for whom "employment in the regular economy, training or public service employment is not available *or not appropriate*" and the present poor results of the state's WIN program, it is apparent that the state has no real expectation in this regard. Costs could also be decreased if the program brings attrition, i.e. individuals being dropped for refusal to participate and/or foregoing assistance rather than participating in work relief. For example, a mother who believes that her proper place is in the home caring for her child may well try to eke out a hand to mouth existence rather than seek assistance at the cost of leaving the home.

And finally, the cost of assistance may be decreased even if the dollar expenditure is not reduced, if assistance is looked upon as buying certain services for the state. Certainly $3763, the grant for a family of four for a year, is not a costly figure if it is looked upon as an annual wage for full-time year round employment, i.e. 2034 hours or 51 weeks at $1.85 an hour.

This approach could also explain how work relief can "improve the attitude of the public," i.e. the public may be willing to support the program as a source of cheap labor (so cheap as to be free). It is difficult to conceive of any other relationship between work relief and public attitudes toward welfare except for a somewhat Machiavellian theory allegedly advanced by the state.

Thus, representatives of the state agency have reportedly suggested that the project could be used to show how few assistance recipients are truly employable.[6] Of course, if this is in fact the project purpose, it could be certainly accomplished more expeditiously and more economically, not to mention more humanely, by an informational campaign designed to bring the facts as to the makeup of the caseload to public attention.

The behavioral goals of the project are but another reflection of the stereotyping of recipients and mandating of life styles manifested in the brownie point programs. Thus the project assumes that individuals on assistance are lacking in self respect and initiative and are non-participants in their community and further that these attitudes can be changed by work relief. No rationale or theory is advanced as to how such problems if they exist could be cured by work relief. If one considers the forced nature of the work, the segregation of the assistance recipient in the work setting, the lack of any recourse from arbitrary supervision, as well as the lack of any wage or income increment, it is difficult to see how one's self respect or initiative could be enhanced.

B. Project Scheme

Every family member who is "found to be available for work" by the welfare agency will be required to work off his grant, or in the case of a parent, the family's grant if regular employment is "not available or not appropriate." Provision is to be made for the cost of transportation and lunches. There is no indication as to the amount which will be provided, however, and since the agency only allows $60 a month in the regular program for all work expenses, it can be assumed that the allowance for transportation and lunches will be considerably less. Also it would appear that the allowance will be included in the amount the individual is required to work off.

In general, any non-student child over the age of 16 and any caretaker of a child six or over is available for work unless he or she is unable to work because of illness, incapacity or age. However, the definition of availability distinguishes between a woman raising her family alone and one who shares her home with an adult male relative; the latter is exempted from the work requirement. In addition, it is a stated purpose of the program to insure that every "mother and other female caretaker will be employed in the regular economy, or be in training, or be in a public service program or be providing 'in home' day care to children of other [recipients]." It is apparent that the project is based on the assumption that a mother's role in child rearing is of no value and that caring for one's own children is a luxury not to be wasted on the poor.

A particular activity or job will be considered sufficient if it can be characterized as "maintaining or developing adequate work habits" without regard to whether it develops skills or otherwise offers any potential for upward job mobility. At present, participants in work relief have been used to pick up litter in Central Park. Theoretically, no recipient will be used to fill established unfilled position vacancies in any unit of government. However, considering the extent of public job classification, it is difficult to conceive of any productive work which could be done for a governmental agency which would not fall within a position classification.

New York City is clearly filling existing positions with recipients, apparently on the theory that a frozen position, i.e. one which may not be filled with a paid employee, is not an unfilled position since it is not available for filling. Some indication of the type of jobs which will be included is provided by the fact that the agency felt it necessary to stipulate in the application that "sanitary facilities will be supplied and a basic standard of cleanliness will be maintained." One might think that such conditions would be assumed in most jobs.

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[5] No figures as to total caseload are given in the project. These figures are based on the New York State Department of Social Services Statistical Supplement to Annual Report for 1969, Table 6, Monthly average number of cases and persons.

[6] Comment attributed to Barry Van Lare, Executive Deputy Commissioner, at October 7 meeting with New York community groups and voluntary agencies.

The hourly rate assigned to a work project will be the state minimum wage, e.g. $1.85 for non-agricultural employment, or the wage paid to employees of the governmental unit in comparable work, whichever is higher. New York City will assign hourly rates of $2, $3 and $4. However, it appears that rate variances will depend on subjective judgments of the "hiring" agency rather than any objective classification of the work assigned.

New York City has stated that the average requirement for a home relief recipient in the present program is four days work in a two week period. It should be noted, however, that most home relief recipients would be working off a one or two person grant. The required hours can be expected to rise sharply in the AFDC program where mothers must work off a family grant.

If a recipient fails to participate in the project "without good cause," he or she will be ineligible for AFDC, i.e. the family grant will be reduced by removing one person from the family budget. There is no time limit on ineligibility and the project does not indicate how a recipient could be reinstated to the grant.

What can work relief be other than an enforced servitude, more commonly known as slavery? The individual has no choice as to where he works, or the hours or conditions of his employment and is necessarily subject to any and all demands of his work supervisor, since he is dependent on the continued good will of such supervisor to meet his basic subsistence needs. Should the supervisor determine that the individual is not "cooperating" in his work, he is deemed to not be participating in the program and thereby suffers the loss of his grant.

This total subjection of the individual must be viewed in relation to the express project purpose of obtaining behavioral changes. Apparently the behavior sought is blind unquestioning obedience and acceptance of the fact that being poor is equivalent to being a second-class citizen who has no right to self determination or self expression. In addition the project is a total admission of the failure of American society to find a just and equitable answer to the problem of poverty in a nation whose economy is based on the concept of less than full employment and which has not yet guaranteed good education, good health care and adequate housing for each of its citizens. Shall this then be America's ultimate resolution of the "war fought to free the slaves?"

C. Day Care

In order to ensure availability of mothers for participation in work relief, recipients will be encouraged to work off their grant by serving as in-home day care centers for up to five children. The mothers of the children so cared for will then be required to take other work relief jobs. An AFDC recipient will not have any right to refuse to place her child in such day care, if the agency determines that it is suitable care for her child.

There are no standards specified as to the person or dwelling. Apparently agency workers will be free to make their own decisions as to the suitability of a home for such purpose. No provision is made for any payment to cover the cost of providing meals and snacks to the children, much less to provide any books, games, or any other items which might normally be expected to be present in a "day care" situation. Similarly, although the caretaker is supposedly required to assure the provision of adequate health care and the availability of a person to assist in emergencies, there is no indication of how she is to accomplish this without additional funds or any agency help.

The day care portion is a concrete example on the whole thrust of these projects, i.e., the repeal of the service program for families on assistance and abandonment of the income maintenance principle for assistance payments.

D. Project Sites

The project will cover all AFDC recipients in the Manhattan and Staten Island, some 60,000 families, as well as recipients in Rockland County, 1,599 families; Nassau County, 11,318 families; Niagara County, 3,004 families; Oneida County, 3,201 families; Albany County, 2,761 families; Cattaraugus County, 875 families; Chemung County, 925 families; St. Lawrence County, 1,218 families; Franklin County, 493 families; Greene County, 224 families; Orange County, 2,360 families.

III. Procedural inadequacies

There is a fundamental procedural problem in approval of these projects, the lack of any true project design. The materials submitted by the state are merely a statement of purposes and effects without any detail as to the actual process which will be followed or the standards or guidelines which will be applied. For example, there is no delineation of the standards which will be used by workers to determine "satisfactory" participation in a work program, or "cooperation" with school authorities, or "good cause" for refusal to participate in work relief.

Assuming that any validity at all could attach to the projects, it would seem to be wholly dependent on the sophistication and meaningfulness of such standards, and on the ability of the state to construct standards which are susceptible of at least somewhat objective application. Yet the state has apparently not yet even reached the question of attempting to fashion such standards. It is ludicrous to suggest that HEW could reach any reasoned judgment as to the relationship of the projects to the objectives of the Social Security Act when the materials do not provide any specific details as to the working of the project and, further, are inconsistent on a number of points.

The projects also dispense with most of the basic procedural safeguards which have been established to ensure continuance of assistance to those entitled thereto. Overpayments will be deducted out of subsequent checks regardless of whether the individual still has the money available. Hearings as to the correctness of a denial of incentive points and therefore denial of payments will come after the fact. In fact, there is not even a requirement of retroactive payment to correct erroneous determinations. Similarly there is no specification of hearings requirements in the work relief project. Will the individual have a hearing on the questions of availability for work, suitability of job, refusal without good cause? Will assistance be continued pending the outcome of such hearing?

Suggestions have been made by state representatives that crediting of incentive points will be based on the recipient's declaration of entitlement. Significantly there is no mention of any such declarative method in the project. On the contrary, all the internal evidence indicates the necessity for an affirmative finding. Thus, reference is made to *satisfactory* performance in a work project with reports of supervisors, *determination* of cooperation with school authorities, *certification* and *auditing* of incentive opportunities. Clearly there is no basis on which to infer an automatic crediting of incentive points based on the recipient's declaration.

ADELE M. BLONG,
Staff Attorney.

APPENDIX 1

Incentive points—for all families—dollars credited semi-monthly.

Pre-school child, if parent obtains medically required vaccination and booster during the prior six months. (No explanation of how you earn if medical care not available), $12.50.

Child 5–15, if parent cooperates with the school authorities, $12.50.

Full-time student over 15, if parent cooperates with school authorities, $6.25.

School year participation of six hours every two weeks in "community service program," $6.25.

Summertime participation of up to 60 hours every two weeks in "community service project." (Can be earned without participation if child is in other employment, required to take care of brothers and sisters, or is in a remedial or supplementary education program), $12.50.

Unemployed Employable Adult on assistance for less than four weeks reports to State Employment Service and follows directions, $12.50.

Unemployed Employable Adult on assistance for more than four weeks, reports to SES and participates in manpower training, $12.50.

Employed Employable Adult, $12.50.

APPENDIX 2

INCENTIVE OPPORTUNITIES FOR UNEMPLOYABLE ADULTS

One point for any one activity or combination of activities.

1. Improvement in housing standards by *self clean-up or self-repair* of dwelling.
2. Participation of children in citizen building activities, e.g. *Boy Scouts, 4–H, community centers.*
3. Participation in individual or group activities designed to improve *money management or home management.*
4. Attendance of the adult at *family life education* program.
5. Utilization of *community resources* to overcome problems of child *delinquency.*
6. *Providing* out-of-home *day care* for a child of another public assistance family.
7. Participation in the *establishment of paternity* for children born out-of-wedlock and/or securing financial support for them.
8. Participation in the *location of a deserting parent* and/or of securing financial support.
9. *Initiating* own satisfactory *day care* plan *for* children in order to engage in regular *employment,* training, or public service opportunity.
10. Utilization of remedial *medical* (*health*) *services* by the adult which is designed to enhance employability or self-functioning.
11. Participation by the adult in a *program of rehabilitation* designed to improve economic independence or self-functioning.
12. Participation by the adult in a program of *adult basic education* or high school equivalency.
13. Attendance of the adult at a health education program.
14. Providing a child with *foster care.*
15. Serving as a social services agency *volunteer.*

COMMENT ON REVISION OF NEW YORK'S PROPOSED PROJECTS UNDER SECTION 1115 OF THE SOCIAL SECURITY ACT

The NYSDSS submitted to HEW by letter of November 11, 1971, substantial amendments to its two proposed projects, Incentives for Independence and Public Service Work Opportunities Project (PSWOP). These revisions remove some of the more obviously Orwellian features of the project but leave their basic purpose unchanged i.e., to use public assistance to control individual behavior by conditioning the amount of the grant and its receipt on the manifestation of behavior considered to be acceptable by the state.

The extensive scope of the alterations and the introduction of substantially different mechanisms raise entirely new questions for analysis and comments. However, HEW stated on November 16 that it may approve the projects on November 24. This statement is even more remarkable in view of the fact that the submissions have incomplete and inconsistent data, e.g., the state has neglected to change data related to the change in districts, and there are conflicting figures as to the amount of DOL funding. (HEW was still apparently not aware of the missing links on November 16.) In fact, the overall impression is one of hastily thrown together and incompletely thought out materials.

The following comments are addressed primarily to the changes and should be read in conjunction with our analysis of October 27 for a complete understanding of the total projects.

INCENTIVES FOR INDEPENDENCE

The across-the-board reduction to FAP levels has been abandoned, but families will suffer grant reductions for failure of "employable" members to participate in work or training selected by the agency or failure of a teen-ager, over 14, to participate in a "community service project." In addition, a family will be completely deprived of any control over their grant if a child exhibits "truant behavior" and the family fails to accept and follow through on a plan of counseling and corrective action established by the social services department.

The work requirements for employables are substantially unchanged. The state continues to make no provision for child care for children over eleven whose mothers will be compelled to work. It is now clear that the family grant will be reduced by $800 per year for any person determined to be employable who does not comply. In addition, mothers of children under six, full-time students, and individuals needed in the home on a continuous basis because of illness or incapacity of another family member, will be "counseled and encouraged" to voluntarily register for manpower services, training and employment. The potential * * * the mathematical calculations are $6000 are merely a bit of hastily and carelessly worked up window dressing, and that the intention is to provide jobs at $3720 a year.

Two of the brownie point features have been retained. One is that AFDC children over 14 who are full-time students and not otherwise employed or in a training program will be required to participate in "community service projects." The family's grant is reduced $12.50 per month for any child who refuses to so participate. There is no allowance for, or recognition of the possibility of good cause for a refusal in a particular case. In fact, the proposal even neglects to place responsibility for determination of whether there has been such refusal, i.e. is the determination to be made by DSS, ES, both.

A stipend of $1.60 an hour is to be paid, but payment is limited to 150 hours per year. However, the student apparently can be required to work 360 hours per year, averaging out to a rate of $.67 per hour. (Twelve hours per month for 10 months + 120 hours per month for two vacation months=360 hours.)

The student is required to report to the State Employment Service regardless of whether or not there is a slot available and there is no limit on the number of times a student could be required to report while waiting until a slot is available. Apparently a student who refused to continue reporting to the center without job placement would incur the grant deduction penalty.

There are no employment centers in the neighborhoods in which the affected recipients live. There is no provision for payment for the cost of transportation to the employment center office, nor any identification of the center to which they will be required to report. Carfare could easily run $1.20 round trip and might well cost more.

Finally, there are no provisions or standards with regard to the work which could be required or its possible location, i.e. the community service need not be in the student's own community.

The second brownie feature relates to school attendance. A determination by the social services agency that a child "exhibits truant behavior" can lead to the family's being completely deprived of any control over, or voice in, the use of its grant. If such family does not accept counseling and a plan for dealing with the child which is established by the agency, its grant will be paid to a protective payee to disburse on its behalf. In all probability this payee will be a social services employee.

At the outset, it is to be noted that New York is required to offer such counseling services under the Title IV–A and IV–B services program. 45 C.F.R. § 220.22. Therefore its identification as a service to be provided on an experimental basis seems to indicate that the state is currently violating the provisions of federal law by not supplying these services. In any case, the system of compelled counseling is in direct violation of the federal requirement that a family have the right to accept or reject any plan of services. 45 C.F.R. § 220.16.

Again, the project is so vague as to leave recipients virtually at the mercy of the agency. There is no definition of the term "truant behavior," e.g. the frequency or length of absences. Nor is there any limit on the number or frequency of counseling sessions which a family might be required to attend. Although the plan required for the child is to be reached by "consensus" among the parents, agency worker and school personnel, there is no indication of who has the controlling vote in case of inability to reach an agreement. It may safely be assumed, however, that the views of either school personnel or agency worker or both will carry more weight than those of the parent.

Should the parent not go along with any of these steps in the process, the loss of the grant ensues. As with the teen-age work project, there is no recognition that a parent might have good and valid reasons for refusal in a particular case, e.g., it is not altogether impossible that in a particular situation the child's truancy may be due to school conditions or behavior of school personnel, and that the focus on counseling for the parents is misplaced. Furthermore, there is an inherent anomaly in a so-called counseling program which is really a program to compel parents to follow a specific course of action with their children on pain of financial harm for failure to comply.

Even more fundamentally, the use of the protective-vendor payment device as a penalty for refusing to surrender the normal rights of parental control is the grossest violation of fundamental rights of self determination and self control. If the child's or parent's behavior is not such as to warrant action under the generally applicable provisions of New York law relating to child welfare, the state has neither the right nor the authority to attempt to coerce changes in such behavior.

The use of the protective payment is also in direct contravention of the purposes of the Social Security Act, which limits its use to cases of demonstrated inability to manage funds. This limitation is essential to the fundamental premise of the federal assistance program—direct money payment to the individual concerned.

The original demonstration districts were the Hamilton Center in the West Harlem area of New York City, Rockland County, and Franklin County. The revision substitutes the Bay Ridge Center in Brooklyn for Hamilton Center. Although the prior submittal devoted some length to an analysis of the reasons and justification for selection of the particular demonstration districts, the revision dispenses with any attempt to offer a rational basis for selection. In fact, the form and extent of the revision indicates that rationality had no part in the selection or the overall scheme.

Thus, pages 16 and 19 of the project description and budget, as revised, which constitute the fiscal estimates for the youth work program and the DOL funded jobs, are unchanged, i.e. all the information given relates to Hamilton Center, Rockland and Franklin Counties. No doubt this explains the amazing coincidence by which the estimate of 1377 employables remained constant. This is only one example of the somewhat incredible inattention to "details" which permeates the project proposals.

Notwithstanding the state's lack of concern with such details, which only form the premise for its whole estimate of required funding, it appears to be worthy of some mention that substitution of Bay Ridge has increased the number of affected recipients from 26,000 to 37,000 people and from 7100 to 9100 families. Furthermore, while Hamilton was purportedly chosen because of its good accessibility to an Employment Service Youth Opportunity Center to service the youth work program, there is no YOC in the vicinity of the Bay Ridge area.

The family caseload in Bay Ridge has been variously estimated at 65% Spanish-surname and 15–20% Black,[1] or 55% Spanish, 31% Black.[2]

Although the center has been reorganized to separate income maintenance and services so as to purportedly free caseworkers to concentrate on services, the caseload per caseworker precludes any truly meaningful service activity. As of February, 1971, the average number of cases per caseworker was 213 families (as compared to 171 for Hamilton Center or 134 for Clinton Center).[3]

Another "detail" which is given minimal attention in this project as well as in the separate work relief project is the matter of procedural safeguards to be applied in individual cases. With respect to hearing rights, for example, it is merely stated that those decisions which are "now reviewable, shall be subject to review" and that "in cases in which it is requested, an immediate fair hearing will be provided." There is no specification of the particular determinations which will be subject to review, the issues which could be raised, e.g., whether a particular action did in fact constitute a "refusal," or whether assistance will be continued unchanged pending the state fair hearing. There is not even any assurance that individuals will receive prior notice of any and all proposed charges and of their right to hearing thereon, etc. This is particularly significant since New York is not now complying with the federal fair hearing requirements in its regular programs.

In view of the substantial divergence between state practice and federal requirements there can be no assurance that New York will interpret its hearing commitment consistently with federal policies, unless there is a precise specification in the projects covering each determination included in the process.

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[1] These figures are based on statements of the Director of the Bay Ridge Center.

[2] Figures used by NYCDSS.

[3] The reference to Hamilton and Clinton is not meant as an indicator of the acceptability of such workloads, but merely to indicate the extremity of the problem in Bay Ridge.

PSWOP

The work relief project remains virtually the same. It serves notice to any mother that she will have to choose between staying in the home to take care of her children or receiving assistance to meet her family's needs. Its main purpose is still to "reduce the number of new [AFDC] cases," i.e. to deter parents from claiming the benefits to which they are entitled under state and federal law in order to care for their children. Apparently, not even the state believes that work relief is any meaningful response to a family's need for assistance.

As in the prior submittal, some recipient mothers will be required to serve without pay as in-home day care mothers, while other mothers will be required to place their children in such care in order to work at non-paying public jobs. The project still does not specify the procedures and standards which will be used to determine whether a particular individual is equipped to provide in-home day care and does not even specify that the home must qualify for licensing as a family day care home under the state's general day care program. This is in direct contravention of federal regulations which require the state to establish standards which meet the standards of national standard-setting organizations such as the Child Welfare League of America and the National Council for Homemaker Services, 45 C.F.R. 220.18(c).

There is still no provision made for any payment to meet the costs of meals, snacks, etc. for the children or for any support system to deal with emergency situations.

The agency is to be the sole determinant of the type of day care to be utilized for a particular child based on its assessment of the child's needs. This is again in direct contravention of the federal requirements that the parent be given a choice as to the type of care to be provided where there is more than one kind of day care available. 45 C.F.R. § 220.18.

Another example of the state's mathematical wizardry is found in the substitution of Bay Ridge for the Fordham Center. The total number of New York City cases affected remains exactly the same (Project Appendix). However, the failure to make any adjustments is understandable in view of the fact that the figures given already exceed 25% of the state AFDC caseload, i.e. 25% of the state=85,286 cases, cases covered by demonstration=88,503. But then what's ten or twenty thousand people here or there, when one has already decided that hundreds of thousands can be deprived of statutorily guaranteed rights by administrative fiat.

NOMINATION OF EARL L. BUTZ TO BE SECRETARY OF AGRICULTURE

Mr. HUGHES. Mr. President, whom does Dean Butz, President Nixon's nominee for Secretary of Agriculture, speak for: agribusiness or agriculture?

Just a few months before the Ralston Purina Co. asked Mr. Butz to become a director of their company, he offered his views about one of the crucial issues facing agriculture: vertical integration. Under vertical integration the large companies who previously only sold to the farmer or bought from the farmer, became the farmer. They signed contracts with individual farmers for their production, contracts which often specified what, when, how, and where the farmer would produce. The farmer often became what one commentator called the modern day equivalent of the sharecropper.

During the period that Mr. Butz served on the Ralston Purina board of directors, that company was one of the leading agribusiness companies to vertically integrate into the poultry, eggs, and turkey industry. Today, virtually all the Nation's broilers, for example, are produced under contract with one of the giant agribusiness companies, with Ralston Purina one of the leaders.

During his confirmation hearings in the Senate Committee on Agriculture and Forestry last week, Mr. Butz cited the fact that Ralston Purina is leaving the poultry business as an example of the fact that corporations and big business interests are not taking over agriculture. But a report last week in Feedstuffs indicates that one of the leading contenders to take over Ralston Purina's poultry operations is Donald Danforth, Jr., executive vice president of Ralston Purina, on behalf of the Danforth family, including Donald Danforth, Sr., retired chairman of the Ralston Purina board, and William Danforth, a member of the Ralston Purina board.

The poor poultry farmers are going from the corporate frying pan into the executive fire.

I am submitting for the RECORD two views of the benefits and costs of vertical integration: The first is by Mr. Butz, entitled "Don't Be Afraid of Integration," a speech that was reproduced in Farmers Digest, August–September 1959. He argues to farmers that vertical integration is not bad. The other view is reflected in a report prepared by Mr. Harrison Welford, an associate of Ralph Nader, entitled "Sowing the Wind: Pesticides, Meat, and the Public Interest." It calls into serious question the Butz-Ralston-Purina view that vertical integration is in the farmers' best interests.

I am also submitting for the RECORD some more of the many letters I am receiving from my State expressing the frustration and anger on the part of farmers and rural people toward this nomination.

Finally, I am submitting a letter I received today from Mr. Oren Lee Staley, president of the National Farmers Organization, expressing his opposition to the appointment, and a telegram from Gov. J. James Exon of Nebraska, opposing Dean Butz.

I ask unanimous consent that these items be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

After observing two days of questioning of Dr. Earl Butz at the Agricultural Committee Hearings, we remain firmly convinced that his confirmation as Secretary of Agriculture would be a disaster for farmers. His answers have not satisfied our concerns over his long and close ties to agri-business, his attitudes toward elimination of farmers and the drive by integrators and others to gain control of the food industry, and the conflict of interest arising from his substantial payments as a director of three of the nation's largest agri-business companies.

He did not satisfactorily answer most of the questions put to him by Senators and other Members of congress of both political parties. These included attempts to determine what he might recommend to raise farm prices, how he would get REA and other department funds released by the White House, how he would tighten poultry inspections, and what he would do to halt the drive by integrators and others to take over farm production.

We feel Senate approval of Dr. Butz would be a vote to abandon an historic commitment to opportunity for people on the land. It would, in effect, ratify a policy to drive people out of agriculture, undermine farm and small business enterprises, and destroy rural towns and cities.

The Senate, in voting on confirmation, will be making a choice on the kind of agriculture and rural America our country wants to encourage. This crucial decision, in our judgment, is the most important single farm vote in this Congress. Farmers everywhere are deeply upset over the selection of Earl Butz and hope the Senate will not cast a vote against them. We, therefore, urge you to vote against the confirmation of Dr. Butz.

Respectfully yours,

OREN LEE STALEY,
President, National Farmers Organization.

[Telegram]

GOVERNOR'S OFFICE,
November 17, 1971.

I respectfully urge the United States Senate refuse consent to nominee Dr. Earl Butz for Secretary of Agriculture. Regardless of other considerations, the key reason for my objection to Dr. Butz has been his past record under former Secretary Benson when the nation's farmers suffered their other worst cost-price ratio in the nation's history. We are in deep economic distress in the farm belt. I am concerned that this fact is not fully appreciated or at least placed in its proper perspective in Washington. An indication that the U.S. Senate is concerned and intends corrective action would be evidenced by your declining to act favorably on this nomination.

Respectfully,

GOV. J. JAMES EXON,
Nebraska.

As a college student raised on a family farm in Iowa, I feel obliged to communicate to you my feelings concerning President Nixon's choice for Secretary of Agriculture.

Although America's rural population has declined regularly, and undoubtedly will continue to do so, it remains a unique subculture. Loss of family farms to huge agribusiness concerns would not only destroy a way of life which has striven to provide the world population with food and clothing for decades, but it would also destroy the economic backbone of countless small towns, not only in Iowa, but all across Middle America. This could conceivably cause an economic crisis in state governments of agricultural states such as Iowa.

In addition, conversion to agricultural conglomerates on a large scale would displace persons, although relatively small in number, who have no skill other than that they have spent their lifetimes developing. The American agronomist has developed his trade into a science, business, and industry all rolled into one. After so many years of dedication on the part of rugged individualists, to divert their potential to mere skilled labor so the real profit can go to urban dwellers who can invest large sums of money seems to me to be totally contrary to America's ideal of self-determination. After decades of work on the part of a distinct minority to make agriculture profitable, to rob these people of the reward simply because they haven't the strength of numbers of finances truly is a sad commentary on America.

The President's selection of Mr. Earl Butz as the next Secretary of Agriculture seems to me to be a sellout to big business on the part of the Administration. Mr. Butz' open advocation of agricultural conglomerates makes him a menace to the farmer, rather than a spokesman for him. Emphasis in selecting a man for this position should instead be directed toward organizing farmers so that their small voice can be unified and uncompromised.

I urge you to oppose the appointment of Mr. Butz for the sake of your constituents. It is indeed high time the interests of the American farmer received adequate protection from the federal government.

We as farmers in a livestock and grain area are opposed to President Nixon's nomination of Earl L. Butz as Secretary of Agriculture.

Secretary Hardin has not curtailed the flow of farm families from rural areas, nor has he improved farm prices. The farmer is the "whipping dog" to help keep down the cost of food. All other industries take their profit from our raw material and we get what is left, often this is a loss.

Butz, with his background, looks like a step in the wrong direction.

We would like a man working for the average farmer, not for Purina, International Minerals, Van Camp, or any Life Insurance Company.

As a student in agriculture at Iowa State University at Ames, Iowa, I am very much interested in the nomination of Mr. Earl Butz as the new Secretary of Agriculture. From the news media I understand your stand on this issue is the final defeat of his confirmation. According to your accusations Mr. Butz may eventually lead the administration to believing in the rise of large corporations in farming as favorable, thus leading to the downfall of family farms. I would like you to know that if this is his purpose I am definitely against it and am in complete agreement with you.

Since I grew up on a family farm and plan to return to farming I would like to do whatever is possible in preserving this trend. So I would like to know what I can do, besides just writing this letter, to help defeat the final appointment of Mr. Butz as the Secretary of Agriculture. I *have* a very *definite opinion* on the matter and I want to do all I can to preserve the family farmers. If I can be of help please let me know immediately as to the channels to affect the decision of the Senate's final vote.

Any other information you can give me on helping to control the corporate farming and let family farms survive, would be much appreciated. Thank you for your time and cooperation.

Farmers in this area oppose the appointment of Earl Butz to the Agricultural post. Butz has too many interests in feed companies and fertilizer companies.

We realize that you also are opposed to Butz as Secretary of Agriculture. But we want to tell you of our opposition too

It is well that Hardin resigned but we need a man who is interested in improving the economic status of the farmer, not a man out to run the farmer off the land by low farm commodity prices.

Let's create a desirable economic atmosphere in agriculture to encourage people to remain in agriculture to lessen urban congestion.

So please use your influence to get a Secretary of Agriculture who will obtain 100% parity for the farmer.

I was very much pleased to read in the news releases today that you have taken a definite stand against the nomination of Mr. Earl Butz for Secretary of Agriculture, which will release Mr. Hardin from this very important office so that he can assume the vice-presidency of the Ralston-Purina Corporation, one of the many agri-business giants that Butz has been associated with.

Butz with his entire background, going back to the Benson days, just won't do the family-sized farm people any good. He will try to destroy them.

It may be too much to wish for,—that his nomination will not be confirmed—yet a good stiff fight by those who are opposed to him might get back to enough people to have a significant effect on the 1972 election results.

I am greatly opposed to the appointment of Earl Butz as Secretary of Agriculture.

I know that his being associated with Ralston Purina, even though he resigns, will spell the end to the family farm. Once this is done your constituents will no longer have their cheap food, which we farmers can no longer afford.

Please tend to this matter.

We are shocked that Mr. Butz is even considered for Secretary of Agriculture. We beg you to work against his confirmation.

We family farmers, like the Indians, are truly becoming the forgotten people. We work so hard and such long hours for a bare existence. Many of us can not hang on much longer.

Won't you please help us by seeing that someone is appointed whose main intent isn't directed toward liquidating all but 600,000 farmers.

P.S.—Our Fools Gold (corn) will be more worthless if Mr. Butz is approved.

We are writing you in regard to the appointment of Secretary of Agriculture.

Farmers in Iowa really need someone there who will fight for them, especially as individual farmers, not a part of a machine. We have raised one of the biggest corn crops, and prices have dropped, it's piled on the ground. His past record hasn't been for the farmer, and he doesn't talk it now. We ask for your help in helping fight his appointment.

We as small farmers are very much against the nomination of Earl Butz as Secretary of Agriculture, and we are asking you to try and urge President Nixon to withdraw the nomination.

We don't like his connections with the four large corporations. We would appreciate it so much if you help in this regard. Thank you.

I am writing to commend and support you in your opposition to this disgusting nomination of Earl Butz as Secretary of Agriculture. No man who has been a part of Ralston-Purina could possibly serve the best interests of producing farmers. As you are no doubt aware Ralston-Purina is one of the worst promoters of vertical integration with contracts designed to bankrupt the producers. If Butz was opposed to these methods he would have left Ralston-Purina long ago.

Again I ask you to continue your opposition to this insult to farmers. It is apparently just more of Nixon's government of, by, and for big business.

[From Farmer's Digest, August–September 1959]

DON'T BE AFRAID OF INTEGRATION

[From a talk by Earl L. Butz, Dean of Agriculture, Purdue University]

Agriculture is changing from a way of living to a way of making a living . . . From a business of arts and crafts to a business of science and technology.

The industrial revolution of the past half century by-passed much of agriculture leaving its organization around the relatively small family-type unit. Many of these individual units—perhaps more than half of them—are so small or so inefficient as not to yield their operators a living standard generally regarded as adequate.

The present agricultural revolution, resting on basic science and closely allied with the widespread advance of automation in both production and distribution, is threatening this traditional pattern.

Because *vertical integration* is one of the stage properties being used by science, by technology, and by automation, places it under political suspicion as the villain in the act.

Here are five fundamental characteristics of current agricultural adjustment which bear on the problem:

1. Capital requirements have increased to the extent that it is difficult for an individual to accumulate sufficient capital to finance an economically-sized operating unit. This will become increasingly true in the decades ahead.

2. Management has become the key factor in successful farm operation. This is in sharp contrast to a generation or two ago . . . when many fewer critical managerial decisions had to be made.

3. The trend toward larger and fewer commercial farm units will continue. This trend has been pronounced during the past decade. It will accelerate in the decade ahead.

4. The commercial farm will assume characteristics of a manufacturing plant with the manager assembling "packages of technology," produced by others on a custom basis The share of total farm receipts spent for production items will increase still further, the gross margin per dollar of receipts will become narrower, and profits will depend more and more on growing volume.

5. The process of "Rurbanization" will accelerate. Rural and urban cultures will intermingle. A new community culture will emerge in which the farmer will tend to lose his vocational identity, just as the lawyer, the doctor, or the machinist now loses vocational identity in his own community.

Thus, we have the five basic trends brought on by integration in agriculture. Now let's look specifically at the social implications of the agricultural revolution. They may be grouped under four general headings:

Growing pressure on the combination of owner-manager-operator in one man.

We have departed from this pattern in the majority of other major business sectors of America. Time was we had many family foundry shops, bootmakers, corner grocery stores, and yes, even automobile assembly plants. These have given way to larger units, with more capital, with higher levels of management, with more specialization of labor, and, if you choose, with a higher degree of integration.

In the main, when such changes have occurred, opportunities for profit and for higher living have increased for owners, for managers, and for workers. Some individuals were injured in the adjustment, but on the whole, society gained.

The point is that economic pressures in agriculture make the field ripe for integration to manifest itself. But the critic of the change will often mistake the process of integration as the cause of the change.

Our system of fee simple ownership by individual operators will be under increasing pressure.

The typical cycle of farm ownership and operation under our present system of fee simple ownership by individuals is essentially the life cycle of an individual. In the main, our farms need to be refinanced each generation.

With the process of refinancing, usually comes a disruption of the farm as a going concern.

Industry has avoided this disruption by having divisible shares of ownership. This permits passing ownership from one generation to the next without disrupting management or operation.

The pressure is in this direction in commercial agriculture. However, this does not necessarily mean the growth of corporate farms. This may be accomplished in a number of ways:

We shall see the growth of family shares of ownership of the family farm, instead of placing the farm in an estate to be sold as a unit.

Another way of meeting this problem is single operation of multiple tract ownership. The operator may be either a part owner or a complete tenant. In either event, he shares with others part of the traditional owner-manager-operator function. He surrenders certain freedoms and privileges in the process, but he gains greater rewards in return.

Negotiated pricing will tend to displace the present competitive price-making structure.

This has already taken place in the case of fruits and vegetables grown under contract for specialized processing, broilers produced under contract, and some feeding contracts for large animals. We shall see the development of price bargaining agencies among producers, who will attempt to bargain growing terms and prices before the crop is planted, the eggs put in the incubator, or the livestock bred.

Distribution patterns will change markedly.

Under the kind of price bargaining outlined above, existing marketing institutions will be under pressure. They will be bypassed by increasing quantities of products as they flow from farm to consumer.

Local auction markets will be under pressure. Jobbers, wholesalers, and even retailers may find it difficult to get enough volume to maintain themselves.

POLITICAL IMPLICATIONS OF INTEGRATION

The political implications of vertical integration may be classed under five general headings.

Fewer farmers inevitably means decreased political power for agriculture.

Indeed, that trend has been apparent in recent years, as farm politicians have faced increasing difficulty in holding the Farm Bloc together in Congress.

As commercial agriculture moves away from a "way of life" and becomes more business-like, and becomes more closely integrated with processing and distribution functions, it is inevitable that the relative political power of agriculture will decline. Even so, farmers will continue to exert political influence out of proportion to their numerical strength.

Political leaders will resist vertical integration in agriculture.

The philosophy of the small, owner-operated family farm is deeply ingrained in our sociological and political customs. Political pressure will continue to be to maintain small family farms, even though modern technology dictates that family farms become larger.

There is no prospect that ambitious politicians in Congress will stop demagoging the emotionally explosive family farm issue any time in the foreseeable future.

Governmental aid will become available for producers to organize bargaining units to deal with processors on matters affecting price and production arrangements.

In some states the Agricultural Extension Service will likewise develop aids and guides for producers who want to form some bargaining units.

Sometimes initiators of vertical integration will feel that such aid to producing groups constitutes an unwarranted interference with the price-making structure.

There will be an increase in the amount of regulation over our entire marketing structure.

Increased regulation will be distributed throughout the entire market structure. Some of it will be done by producer groups, some by processor and distributor groups, and much of it by state and federal governments.

The trend will be in the direction of administered prices, determined either through negotiation or by quasi-public regulatory bodies, rather than by direct competition in the market place.

As production of a commodity moves into fewer hands, and the commodity moves toward integration from producer through processor and distributor, increasing pressures will develop to extend the use of marketing orders.

There will be growing governmental discrimination against the larger processors and marketing agencies who attempt to initiate integrated arrangements.

This will place large commercial concerns at a competitive disadvantage *vis-a-vis* the smaller and medium sized concerns. The larger concerns which attempt integration, especially under direct arrangements with producers, will face continuing harassing action from the Federal Trade Commission, the Department of Justice, and Congress itself.

CHANGES NOT NECESSARILY BAD

Many agricultural and political leaders are frightened by the growing vertical integration in agriculture. They should not be any more wary of this change than of other economic and sociological changes occurring in modern society.

Change is the law of progress. The challenge which faces us is to direct the change along constructive and beneficial channels.

There is much good in integration. With proper direction, it will result in increased production and distribution efficiency, added control of quality, a more even flow of product seasonally and geographically, less risk of price and income variation to the producer, more rapid adaptation to scientific and technological innovations, and increased incomes to many producers.

The fact that an individual producer may surrender some of his managerial freedom and may transfer part of his risk-taking to someone else is really a very small price to pay for the advantages that flow out of an integrated system.

It is clear that the forces of politics and the forces of economics are and will continue to be on opposite sides of the vertical integration question. In this engagement, politics will fight a delaying action. They will neither stop nor reverse the economic trend. In the final analysis, the economic forces working in this process will be overwhelming.

None of us would want to live under the economic conditions which prevailed 20 years ago. Yet we vigorously resisted changes which were then occurring in the patterns of production, processing, and distribution. As we look back now, we wonder why.

Likewise, 20 years from now, we'll look back on 1959 and be a little amused that we were so fearful of change, rather than directing our energies toward channeling change down beneficial pathways.

It has been said that the proponents of the "status quo" are often the villains of history.

Those who resist inevitable change frequently perish in the process.

The future belongs to those who prepare for it.

[From Sowing the Wind: Pesticides, Meat, and the Public Interest]

"POULTRY PEONAGE"

(By Harrison Welford)

"Us folks in the chicken business are the only slaves left in this country."—Crawford Smith, Alabama contract farmer.

"They're whipped. We've broken them."—John Bagwell, President Spring Valley Foods, contractor.

The dirt poor hill country of Northern Alabama was the scene of bizarre events in the spring of 1970. Its poor white chicken farmers, rugged individualists to a man, had organized and were out on strike—the first time for farmers anywhere in the South. These family farmers with their rough blue overalls and Jeffersonian agrarian values, walked picket lines before the gates of Pillsbury, Ralston-Purina, and the other food conglomerates which bought their chickens for processing. Equally unprecedented was the decision of federal meat inspectors in the chicken plants to honor the pickets and refuse to enter the plants. Strangest of all, truckloads of black industrial unionists from Birmingham arrived at one plant to cheer the farmers on. The locals swore that the ghosts of Tom Watson and the Populists could be seen dancing in the shadows, their dream of a labor-farmer coalition against the trusts come true at last.

These events were stimulated by profound economic grievances which foreshadow problems for the consumer as well. A study by USDA economists recently reported that poultry growers in Northern Alabama work for an average of *minus* 36 cents an hour.[1] Their economic plight reflects the outcomes of the farmers' man-to-man encounters with the $300,000,000 corporations which buy their chickens.

The problems of the poultry grower have a common cause with the problems of farm workers, environmentalists, and consumers when they confront this nation's agricultural establishment: organized bargaining power is heavily weighted on the side of agribusiness. The concentration of meat production and marketing power in relatively few food conglomerates over the last two decades has not been matched by compensatory restructuring of consumer and farmer power. In dealing with the farmer suppliers at one end and the consumer at the other, Swift, Pillsbury, Ralston Purina, Central Soya and the other agribusiness giants still maintain a man-to-man, eyeball-to-eyeball contact with unorganized individuals. The unequal relationship encourages an irresponsible marketing power which permits the corporation to pass the costs of its mistakes and excessive profit margins either forward to the consumer or backward to the supplier. This imbalance assumes classic proportions in the chicken country of the Deep South.

The corporations see nothing improper in their refusal to deal with debt ridden farmers except as individuals. The Operations Manager of the Pillsbury Company, after refusing to meet with a grower's association, explained:

"Our position continues to be that we will gladly meet with any grower *on an individual basis* to discuss problems, complaints, or questions . . ."[2]

A Wisconsin Turkey grower describes the farmer's leverage in this situation:

"What farmer would want to buck up against a big corporation to fight for his rights, with probably $18 in his checking account, against a staff of 25 attorneys, to which money doesn't mean anything. How can a small farmer compete in this situation."[3]

The infiltration of the corporate state into agriculture is having a profound effect on the economic and social relationships of rural America. As large integrated companies move in, they force more and more family farmers to lose their independent status and become, in effect, organization men in overalls. Large corporations have recently moved into cattle ranching, cotton growing, orcharding and other kinds of farming. Dow Chemical now grows catfish in Texas; Purex is growing vegetables on thousands of acres in the Southwest; American Cyanamid and John Hancock Mutual Life Insurance Company have a joint venture to grow corn, wheat and soybeans on a 35,000 acre farm in North Carolina. Swift, Tenneco, Textron, Campbell Soups, Ralston Purina, Pillsbury, and Central

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Footnotes at end of article.

Soya dominate the beef and chicken industry. When corporations of this size go into farming, they pull the whole agricultural establishment in their wake. Congressional committees and the federal bureaucracy become more attuned to the interests of corporate agribusiness and less sensitive to the needs of small farmers, the rural poor and the consumer.

The corporatization of agriculture has been more rapid in the chicken industry than anywhere else. The chicken farmers of Mississippi, Georgia, Alabama and Arkansas, provide a melancholy model of what the new industrial state may hold in store for rural people. For readers of Southern fiction, this has a special irony. The chicken farmer, while he often cuts a ludicrous figure, was at least his own man farming his own land. He grew his chickens in a back lot, fattened them with diets of home-grown cornmeal and mush and sold them at auction at the county market when he was ready. As late as 1959, nearly 60 percent of all broilers were still grown by independent farmers and then purchased in the open market by large processors for slaughter. By 1970, the situation had drastically changed. Over 98 percent of all chickens are now produced under contract to large integrated corporations.

In contract farming, the corporation contracts for use of the farmer's land and its production resources. In doing so, it gains many of the advantages of family farming (primarily cheap labor) without taking from the farmer the risks of ownership. The farmer sells his commodities directly to the packer or processor at a fixed price agreed on in advance. In ten years from 1954 to 1964, the broiler industry went from 3 to 98% integrator controlled. Mergers of processing and slaughtering firms increased at a rate of 41% during the four years 1960–1964.[4] As a result, the open market, the traditional cushion between the farmer and his corporate buyers, is gone. The chicken farmer is no longer protected by competitive bidding in the marketplace. If a farmer wants to sell chicken, he must sell to a corporation through a contract with a fixed formula price or not at all. There is still an open market for cattle but it is succumbing to contract agriculture, as Swift and other companies increasingly buy fed cattle directly from the feedlot at a fixed price. The American Agricultural Marketing Association estimates that 50% of American food will be produced by farmers under contract to corporations in 1970–1980 and that within 15 years, 75% of agricultural production and marketing will be cornered by contracts.[5]

Until the early Fifties, the chicken industry was fragmented with hatcheries, feed companies, growers and processors all operating more or less separately. Gradually, large companies began to integrate these elements. Feed companies like Ralston-Purina and Pillsbury integrated forward to develop markets for their feeds, while poultry processors integrated backward as a means of controlling costs. Eventually the largest companies absorbed all the stages of chicken production, except the actual raising of the birds. The "integrators" found it more profitable to contract with independent farmers to do that. The big companies grow the feed, hatch the chicks, and then slaughter and process the mature birds. The farmer furnished his land, building, equipment and labor to feed the chickens for eight weeks until they grow to marketable weight of 3½ pounds.

On one level, the integrated chicken industry is the great success story of American agriculture. Before World War II, chicken was still a seasonal dish. Families looked forward to "spring chicken," a by-product of the spring hatch from farm flocks of layers. As demand increased, a few producers begain raising chickens not as egg producers but as fryers for the market. Spurred on by World War II, when people turned to chicken while other meat was scarce, broiler production climbed steeply after the Depression. From 1939 to 1958, poultry sales increased an average 14 percent each year.[6] Production reached nearly 3 billion birds in 1970, up from 310 million in 1947. The American who ate 18 pounds of chicken a year in 1940, consumed 39 pounds a year in 1969. Market specialists estimate that he will consume 45–50 pounds by 1980.

As a result of rapid technological development in genetics, feeds, animal drugs and economies of scale, the price of chicken has actually *declined* as consumption has gone up. In 1950, broilers cost the consumer $.60 a pound; in 1970 the price was $.42 a pound. The price received by the grower has plummeted from $.29 to $.15 a pound in the same period.[7] Retail prices for beef, by comparison, have increased from $.67 a pound in 1955 to nearly $1.00 in 1969.

The farmer has stayed in business by increasing the efficiency of the process by which chickens convert feed into meat. No animal surpasses the chicken as a meat factory. While it takes 8–10 pounds of feed to produce a pound of beef, it takes only 2.4 pounds (the figure is 3.5–4 lbs. of feed if the broiler breeder's feed requirements are included[7a] to produce a pound of chicken, down from 4–5 pounds in 1950. The time needed to grow a broiler to market weight was reduced from 10–12 weeks in 1950, to 8–9 weeks in 1969.[8]

The chickens themselves have become computerized units in a factory environment. The chicken which used to run free to scratch and root in the soil until time for slaughter, now spends its short life in a 12'' x 18'' cage crowded up against three other birds. His day may consist of 16 hours of dull artificial light in a totally programmed environment. Crowding favors disease by creating stress and aiding the buildup of harmful bacteria and parasites, such as *coccidia*. The chicken's feed, therefore, is sprinkled with antibiotic drugs. Other drugs, including arsenic and antibiotics, such as nitrofurans, are fed to increase the rate at which the chicken matures and gains weight. Before going to market, chickens may also be bathed in tetracyclines (antibiotics) or sorbic acid to extend their shelf life. In addition, the birds' chemical diet may contain coloring additives to give its flesh a desired yellowish tint. They are also sprayed regularly with pesticides. With this medicine chest of ready chemicals, the poultryman can cheat on sanitation without suffering severe flock losses, but at the risk of chemical contamination of the final product. The growers' extreme economic deprivation caused by inequitable contracts with the integrators encourages them to cut corners with drugs. They can ignore withdrawal periods and recommended dose levels in applying this chemical technology to their flocks, with little chance of being caught by USDA residue samplers—see ("Hidden Ingredienta.") Stress also induces cannibalism. Chickens are, therefore, debeaked to keep them from destroying their neighbors,[9] and in some cases given tranquilizers.

One indication of how far the chicken industry has come from the barnyard is the development of what must be one of the world's most exotic and highly specialized professions: chicken sexing. For economic reasons, chicks must be segregated by sex at birth. Chicken genitalia being what they are, it is virtually impossible for the untrained eye to distinguish the sex of a day old chick. But in 1925, the Japanese discovered some telltale sign of sex in the chick's anatomy which they jealously guarded as a trade secret. As a result, no modern hatchery is complete without its chicken sexor imported from Japan. The best can sort 800–1,000 baby chicks an hour. The Japanese sexors have recently founded the American Sexing School in Landsdale, Pennsylvania, and will let anyone in on their secret for $1,300 and an 18-week course. To keep their professional standards high, they have, in the best American tradition, formed the American Chicken Sexing Association.

The technical sophistication of chicken growing, especially in disease control, gives an impetus to concentration in the industry. According to Dr. Philip Raup, Professor of Agricultural Economics at the University of Minnesota, one of the determinants of the most effective size of firm in poultry production and beef feeding is a scale of operations large enought to support a resident veterinarian.[10] Without expert advice, the typical farmer cannot develop the skills to use chemical technology effectively. Much of the effort at farmer education in the use of feed additives, farm chemicals and drugs is conducted by private companies who prefer to concentrate on volume users. Dr. Raup notes that our ability to produce this technology has outrun efforts to distribute it in packages useful for the small farmer. He blames the Federal Extension Service and agricultural experiment stations for the failure to develop an effective extension program in animal health.[11]

The pyramiding of economic power in the chicken industry has created a vicious marketing system which can be turned against the consumer as well as the farmer. Up to now, many of the benefits of cost-reducing technology has been passed on to the consumer. But as concentration increases, this may cease. The history of concentration in other industries—the making of automobiles is a classic example—shows that when a few firms dominate the production field, many of the rewards of technological advance are captured by the firms. At the same time, a technological rigor mortis may set in as the firms, freed of competitive pressure in pricing, devote more energy to corporate risk-reduction than product improvement.

In the chicken business, Pillsbury and Ralston-Purina may soon compete in the manner of the soap, detergent and breakfast food makers—by using non-functional advertising to create the illusion of differentiation in essentially similar products. The advertising costs to create the image of "brand name" poultry will be passed on to the consumer.[12] The Pillsbury chicken may soon rival the NBC peacock as the nation's most ubiquitous TV fowl.

Thus far, however, the full weight of the food conglomerates' market power has been turned toward the supplier, not the consumer.

AN HONEST DAY'S PAY

Despite the broiler industry's modernization and growth, the growers have not shared in its prosperity. Of all the links in the chain of chicken production, the actual growing of chickens has the lowest profit margins. As one observer noted: "If the growing of chicks were profitable, it would have been integrated long ago."

This situation exists because the relationship between the farmer and the companies is so extremely one-sided. Even though the farmer has invested nearly 50 percent of his industry's capital, he is hardly an equal partner. The growers have little bargaining power in setting the contract price. Companies deny that they stake out exclusive claims for specific territories, but the fact is that with the exception of Gainesville, Georgia and a few other areas, many growers face local monopoly situations where there is only one company to deal with.[13] The contract price from company to company varies very little. Usually the contract

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is drafted by the company and presented to the grower on a take it or leave it basis.

In 1969–1970, the grower received between one and three-fourth cents and two cents per pound for the birds he raised. The American Farm Bureau estimates that the break even point for the average grower is 2.29 cents per pound. Robert Troy, a skilled observer of the Southern poultry scene gave this description of the economic plight of one Alabama grower, a Mr. Thurmond Banks, who grows chickens for Spring Valley Farms in Empire, Alabama:

"For 84 days, Mr. Banks and his family fed, watered, housed and looked after 22,500 chickens. Mr. Banks estimated his total labor at a minimum of 588 hours. His gross receipts minus direct cost yielded him a net of $317.67, which works out to be $.25 an hour for his investment of labor and capital. But depreciation and tax costs, which the grower rarely takes into account, would come to about $370.00 on his equipment. Thus Mr. Banks and his family were actually making about minus $.08 an hour, which would be a windfall if the negative income tax were enacted." [14]

Many growers are not sophisticated enough in budgeting to realize that a year's net cash flow, without deductions for fixed costs such as depreciation on his buildings and equipment, is a poor measure of income. There is a story about a lady chicken grower who was asked by a labor organizer how she was doing with her chickens. "Great," she said. The surprised organizer then asked if she had figured out her direct and indirect expenses. "Lord no," she answered. "I wouldn't have nothing then." [15]

The fact is that most growers have been working for almost nothing.[16] The Economic Research Service of USDA has estimated that poultry farmers in Georgia earned only $.53 an hour for their labor in 1952, and that income then declined in the next decade to reach a low of $.01 per hour in 1964. They rebounded to $.54 an hour in 1965.[17] Testimony in Senate hearings on the Agricultural Fair Practices Act of 1967 showed that many growers were living off their depreciation. Conditions have not improved much since.

1969 was a record year and yet the net return to the average farmer was approximately $2,000.00 per year, a three-fold improvement since 1960–64, but an income which still puts him well below the poverty line.[18] (These figures do not include depreciation and interest payments. They were figured on the very unlikely assumption that the farmers were debt free.) This represented total farm income for broiler growers and was calculated at 2.1¢ per pound of broilers sold.

An Alabama study of cash flow budgets for broiler growers found that a farmer with a 20,000 bird capacity who produced 3 batches of broilers in 1969, ended up $628 in the red, after payments on housing and equipment loans, depreciation and other fixed costs were taken into account. If production was expanded to 4½ batches a year, the farmer came out ahead but just barely. His net return to labor and management was $890.00. The return on the chickens he sold was only $90.00; he earned the other $800.00 by selling the chicken's manure.[19]

If the farm unit had a 45,000 bird capacity with 4½ batches a year, the total return was $2000 per farm in spendable and non-spendable income, a modest return to say the least for a businessman with a $40,000 investment in housing and equipment alone. If manure and increases in net worth—the non-spendable income—are not included, the farm was over $4,700 in the red.

When this example was cited before the Senate Agriculture Committee in 1969, spokesmen for the integrators said it was unrealistic because it depreciated chicken houses over 5 years rather than 10.[20] It is true that the growers' profits improve with 10 year depreciation. His average spendable income is now a "realistic" $374.62 for the year or $31.00 a month. He has additional non-spendable income of $1800.00 from 360 tons of manure.[21] Whether the depreciation is figured at 5 or 10 years, the result is the same: the grower's profits are literally chicken ———. (Some growers have suffered because chicken manure is not always readily convertible into cash, but help is on the way. The FDA is considering a proposal to use the manure as feed for chickens, cattle and hogs. The manure must be pasteurized to eliminate bacteria and chemical residues must be removed, but these problems are manageable. "This is the recycled generation," says Joe Claybaugh, a poultry consultant for DeKalb Ag-Research, Inc. "Can you envision a 750 steer lot tied to a 100,000 layer operation?" This recycled manure would reduce feed costs 60% or more.)[21a]

The integrators fare differently, to say the least. James Finlayson, a leading poultry consultant for Pillsbury, estimates that on a five year average, publicly held companies essentially in the broiler business, can average a 23–24% return on invested capital before taxes each year.[22]

The chicken farmer is convinced that his small profits are caused as much by the way they are calculated by the integrator as by market conditions. Here the grower has been totally at the mercy of the integrator. The National Broiler Council, the major association of integrators, publishes a code of ethics which states that its members should give the grower a written contract with full documents on his flock, showing the amount of feed used, the condemnation rate, the weight and number of birds slaughtered, and a settlement sheet giving the calculations used in reaching payment. The only problem with the Code of Ethics is that few integrators have observed it.[23] From the beginning of his association with the integrator, the grower is kept in a state of ignorance. According to J. B. Noblin, President of Scott County Farm Buerau in Forest, Mississippi:

"There are no broiler contracts in this area. Integrators simply give the producer a sheet showing what would be paid per pound, based on the feed conversion. The terms of the so-called contracts are not discussed with the producer, nor is it signed by the integrator or producer." [24]

The Packers and Stockyards Administration of USDA reported in 1967 that the grower frequently does not know how many chickens the integrator brought to him, nor how many are eventually taken away, nor how much they weighed. Chickens are neither counted nor weighed at the farm. He has to take the word of the company on all of these matters. The grower is not permitted to inspect the scales of the integrator. Frequently, he is forbidden to see the USDA condemnation and grading certificates on the chickens he markets even though all condemned birds are charged to the grower.[25]

Growers are forced further into debt by the company's requirement that they install expensive equipment such as automatic feeders and elaborate insulation, as condition for receiving the chicks. Ralston-Purina in the mid-Sixties would only contract with growers who agreed to a tie-in purchase of company equipment. During the National Food Marketing hearings in 1966, a grower in East Texas testified that "Purina" made him buy a fan worth $19 at any 5&10¢ store for $50. The National Farmers Organization charges that the companies deliberately increase the growers' indebtedness with these measures so they will be forced to take chickens at any price. The companies claim that their only interest is to improve the quality of the chicken houses and cut their losses.

The grower's contract is so unequal that he has been compared to the sharecropper in both his status and his poverty. The difference in this version of that infamous relationship is that the bossman is an absentee landlord with a corporate, not a personal, identity whose "big house" is in a paneled boardroom in far-away Minneapolis or New York. Otherwise the analogy needs no explanation. The "cropper" is visited by the "field man" who supplies him with his essentials to make a crop (in this case, baby chicks, feed, and technical advice); the field man collects the harvest (eight week old chickens), measures the results (he weighs the chickens, and sets the price), and decides what the cropper's share ought to be. The cropper may even be forced to buy his supplies (his broiler equipment) from the company store. The corporate landlord keeps all the records. When results are totaled up, the poultry "cropper" often finds he has a bigger debt instead of a big payment, and is even more in thrall to his bossman than before.[26]

The poultry farmers have all the insecurities of an organization man and none of the fringe benefits. While not strictly employees of a corporation, and therefore, *without* retirement and medical benefits, these farmers keep chicks in their houses only at the sufferance of the corporation. David H. Sloan, President of the South Carolina Farm Bureau Federation, states: "the poultry producer in most cases has invested everything he has in the property, poultry houses and equipment. He is at the mercy of the processor because he must have birds to grow or go broke." [27] The grower also shares the psychological state of the sharecropper. The latter knew that he could be evicted if he complained; the grower knows that he can be cut off arbitrarily by the integrator and be left with no chickens to raise. A Georgia organizer for the National Farmers Organization used only mild hyperbole when he recently described the growers as "the last slaves to be freed in the South."

THE BURNOUT

Pillsbury, Arkansas Valley Industries, and the other integrators argue that the grower benefits from the contract system and that the system itself has nothing to do with his penury. It is true that in the fifties, contract farming appeared to be a great opportunity for the farmers.

Production was centered in the depressed, rural counties of five Southern states, where there were many unemployed white farmers with a little land and not much else. For many of these marginal farmers, raising chickens seemed to be the last chance to make money off their farms. The contracts promised to take all the risk out of chicken raising. The farmer on contract is somewhat protected from the fluctuations of the free market, but risks remain. Many growers have market related contracts and thus risk loss in a down market. They risk loss from condemnations which may not be their fault and from cutbacks during periods of overproduction; they risk loss through damage to or obsolescence of their equipment.

The integrators justify the growers' economic plight by pleading their own poverty. In the words of John Yarbrough, the militantly pro-integrator publisher of the news weekly, *The Poultry Times:* "Any grower who believes his integrator is making money today is not acquainted with the economic facts of the broiler business." [28] The poultry industry has been plagued with overproduction in 1970–1971 and the broiler divisions of many large integrators have lost money. But on a five year average, as mentioned earlier, the companies can average a 24% return on invested capital, according to a leading poultry consultant. In any case, the losses of the broiler divisions of food conglomerates are not what they seem. Current tax laws permit diversified companies to deduct losses of one operation from the profits of unrelated or

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distantly related operations and substantially reduce their total tax load. An effort by poultry growers to prohibit the use of farm production losses as deductions from nonfarm production operations in tax calculations failed to win support in Senate hearings on corporation farming in 1968. Moreover, in periods of overproduction, large feed manufacturers like Ralston-Purina may make up in profits from selling feed the losses they incur in processing chickens.

One indication of the integrators' financial strength is that they frequently increase their investment in the poultry industry during surplus crises. This was the case with the turkey industry in 1961 and 1967. The head of the Wisconsin Turkey Federation notes:

"When a [conglomerate] goes into farming, profit should be the motive. However we have seen such companies enter into or expand turkey operations during years where there was little or no profit potential. This leads one to feel that profit, for a specific year at least, is not the only motive." [29]

Over-capacity is precisely what keeps the poultry farmer in peonage, for it robs him of any bargaining power he might have. In the South, the growers have a term for increases of production in a falling market. They call it a "burn-out." Only the strongest growers survive, and they are far more vulnerable than before. The Packers and Stockyards Administration in 1967 accused the processors of using this strategy. It reported that integrators use get-rich-quick advertising campaigns to encourage farmers to build new facilities to grow chickens, even in times of surplus.[30]

The farmers cannot match the financial staying power of the integrators in a falling market. As their debts increase, they become more dependent on the contractors. In order to meet mortgage payments and keep their farms, the farmers have to keep their chicken houses filled with birds even if they were losing money. In August, 1970 the Director of a Mississippi Marketing Association described the situation:

"Most broiler farmers are small farmers and land owners. To get into the business, they had to mortgage their small farms and homes to build broiler houses. From this point on, they must have birds in their houses to make payments; they must have birds in their house or they must leave home." [31]

The grower also suffers from the integrator's sleight-of-hand in accounting techniques. Large companies charge feed and sometimes chicks, produced by other divisions, to their broiler divisions at inflated or "puffed" prices. Since the farmer does not pay for feed and chickens, this may seem simply a matter between the integrator and the Internal Revenue Service. But when puffed prices result in paper losses for the broiler divisions, they work against the growers when they bargain for a new contract with the integrator.[32]

SELF-HELP

Whether or not the integrators are responsible, the fact is that when overproduction occurs, the grower, the weakest link in the industry, is forced to make most of the economic sacrifices. Lack of bargaining power, far more than market conditions, is the cause of his plight. This situation was recognized by the Packers and Stockyards Administration of USDA in 1967:

The problem in Southern broiler contracting is the weak bargaining position of the grower. He is ill-equipped to bargain vigorously and effectively with integrators.[33]

The relative defenselessness of the grower and the real incentives for irresponsible use of private economic power it creates provides an interesting test case for the Department of Agriculture and, on a broader level, for the possibilities for reform in the American political system. Should the growers bank on the objectivity of the federal government and look to it to protect their rights? Would Congress respond to their needs with new legislation? Or should the growers dispense with the old institutions and seek self-help through new institutions of their own making? It is clearly an offense to democratic values that individual farmers should have to confront alone the full force of corporate power, but is the political system flexible enough to respond? Here on the humble stage of the chicken farm, one sees exaggerated in microcosm the plight of farm workers, consumers, textile workers, meat inspectors and other groups left exposed to irresponsible corporate power by structural imbalances in the political and economic system.

The federal agency with regulatory responsibility in the area of chicken farming is the Packers and Stockyards Administration. In a strong report entitled *The Broiler Industry* released in 1967, it first brought the growers' situation to national attention. Based on the uncompromising research of James D. Tuggle and Everett Stoddard, the report described the inequities of the contract system in merciless detail. Spurred by these revelations, Secretary of Agriculture Freeman pledged immediate investigation of any complaints of boycotting or other retaliation by contractors against farmers who joined cooperatives in an attempt to better their lot.[34] He also promised new regulations for growers' contracts.

The effect on the poultry industry was electric. The large integrators directed a barrage of criticism at Freeman and the Packers and Stockyards Administration. But in September 1967, in an attempt to gain industry-wide support, Freeman promised that no new regulations protecting the growers would be put into effect until they had been reviewed in advance by an advisory committee which included integrators and growers.[35] Thus began a long series of delay. Regulations giving the grower a more equal voice in negotiating contracts were not proposed until three years later in the fall of 1970. At the request of the National Broiler Council and other integrator associations, they were then further delayed. The regulations require:

(1) A written contract which includes all significant details, including duration, termination and conditions, and payment terms;

(2) Settlement sheets with all information necessary to compute payments due to the grower;

(3) Condemnation and grading certificates;

(4) Grouping or ranking sheets which show the grower's precise position with other growers during the settlement period.

The regulations seem modest enough, by the standards of any other industry, but they are seen as a fundamental threat to the free enterprise system by some integrator spokesmen. John Yarbrough of The Poultry Times called Assistant Secretary of Agriculture Richard Lyng a "pseudo dictator" when he signed the Federal Register notice of the regulations on January 23, 1971. He quoted a poultryman: "If the Secretary of Agriculture can require all of the things contained in the new Packers and Stockyards regulations, we are living in the wrong country. This is just like Russia." [36] The regulations go into effect on June 1, 1971. Their effectiveness depends on their enforcement and, therefore, remains to be tested.

The growers have luckily not waited for USDA to equalize their bargaining terms with the conglomerates. Out of desperation, they have cast aside the separatist ideology of the family farmer and organized in self-defense. They recognized that the old cliches of individualism and economic independence, appropriate perhaps when an open market existed as a buffer between the farmer and the integrator, had now become luxuries they could not afford.

The efforts of farmers to organize against the integrators have a long and often violent history. They began in 1961 with the formation of the Northwest Poultry Growers Association in Arkansas. Its best known leader was Ellis Hale, who with his wife and four children, raised 200,000 broilers a year in Scott County, south of Fort Smith. His efforts to organize growers were at first discouraged, and then actively opposed by Arkansas Valley Industries, Ralston-Purina, and Tysons Foods, the largest integrators in the state. At first Hale was successful with his message that farmers should stop living off the depreciation of their investment and earn a fair return. But in the spring of 1962, the resistance of the integrators became more threatening. In May, when growers congregated at the Scott County Courthouse for one of Hale's meetings, they got an ominous reception. As the farmers arrived, they found that Arkansas Valley Industries had cars and trucks parked strategically on the square around the courthouse, covering all its approaches. Company officials were sitting in the vehicles taking down the names of the growers as they passed by. During the meeting, a company truck with no muffler gunned its motor near the courthouse door, drowning out Hale's words.

In August, Arkansas Valley Industries cancelled its contracts with Hale and his father and brother, all of whom were members of the Northwest Poultry Growers Association. Ralston Purina and Tysons Foods joined AVI in boycotting all growers who had joined the association. Because of the blacklisting, the Hales and dozens of other growers could no longer get chicks for their broiler houses and went bankrupt. The Hales filed a civil suit against the poultry companies in the hopes of recovering their losses, but when they could not put up the $10,000 necessary to prepare and present the case, their attorneys withdrew.[37]

After a lengthy investigation by the Packers and Stockyards Administration, the three integrators were ordered in 1968 to "cease and desist" their harassment of the growers. The order was subsequently overturned for lack of jurisdiction by the U.S. Circuit Court of Appeals in 1969. USDA has still not asked for legislation to give Packers and Stockyards jurisdiction in such cases. Hale lost everything.

The Arkansas case helped inspire new organizing efforts in other states. The holding action in Alabama in the spring of 1970 was organized by the National Farmers Organization, the most militant of the farm organizations which support the growers' demands for collective bargaining. The NFO strike was marred by violence on both sides. Night riders roamed the lonely claytop roads of northern Alabama, burning the chicken houses of striking and non-striking growers alike. Company trucks were fired on, and there were fights on the picket lines. As one observer noted, there was "much violence, with neighbor turned against neighbor. The wounds will not heal completely during this generation." [38]

The striking farmers refused to accept chicks from the integrators. They demanded higher contract payments and the right to monitor the weighing and inspection of their birds. From the beginning, the companies refused to negotiate with the farmers' representative. John Bagwell, the president of Spring Valley Foods in Cullman, Alabama, was asked by a reporter whether he would negotiate with the NFO. He gave a forthright response:

"I'd rather be dead and in hell, than talk with W. O. Thomas (the NFO local President) . . . the day I talk to that bunch, I'll call all the reporters to Cullman and have

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Footnotes at end of article.

W. O. Thomas pull down his britches and I'll kiss him square on the ——."[39]

USDA, while officially an impartial observer of the strike, actually went to great lengths to discourage it. When 87 USDA poultry inspectors refused to cross the NFO picket lines because of the violent atmosphere, the Inspector General investigated them, judged them to be AWOL, and deprived them of pay. All the inspectors received letters of reprimand from the Department. The Alabama Poultry Inspectors Local of the American Federation of Government Employees feels strongly that the investigation by the Office of the Inspector General was biased and unfair.[40] There are also charges that the Farmers Home Administration has made reprisals against striking growers. T. H. House of Addison, Alabama, who has an FHA mortgage on his farm, was told by local FHA representative that his farm would be "a changing hands" if he didn't take chickens from the integrators.[41]

USDA's intervention did give the strike a comic interlude. When the inspectors refused to cross the picket lines, the Consumer and Marketing Service was deluged with demands from the processors to keep inspection going. C&MS then made a nationwide appeal for volunteers to go to Alabama. GS 14's from C&MS Washington headquarters, men who had not seen the inside of a chicken plant for years and probably never wanted to see another one, were dispatched to Alabama in their coats and ties to sub for GS 7 inspectors. The crowning indignity came when the inspector-in-charge at Plant 6666 in Gadsden, Alabama, suspended two of these inspector-bureaucrats for incompetence.

The NFO holding action was temporarily stopped by a court injunction on June 28, and has never really recovered. The picket lines have vanished and some growers are returning to the companies, but the 9 county local is holding on. John Bagwell, President of Spring Valley Foods, boasts: "They're whipped. We've broken them." He may be right. Many of the growers are in bad financial trouble. Crawford Smith, one such grower, observes:

"It's a hard row to hoe. All we're asking is fair wages for a fair day's work . . . Seems like we just keep on losing ground."[42]

More recently, the American Agricultural Marketing Association, an affiliate of the American Farm Bureau Federation, has organized growers against the Maplewood Poultry Company in Belfast, Maine. The growers decided not to accept chicks after the integrator made contract changes which allegedly reduced the grower's income by 20%. The AAMA has asked the Packers and Stockyards Administration to investigate threats and intimidation against growers.

The growers have not as yet received much help from the Congressional arena. The Agricultural Fair Practices Act, better known as S. 109, which was passed in 1967, in practice has proved a triumph of form over substance. It promised to protect the grower against unfair trade practices such as boycotts, black lists, contract cutoffs and harassment, but as early as 1971, USDA had prosecuted no integrator under the act. Responsibility for administering the act was recently transferred from the Farmers Cooperative Service to the Consumer and Marketing Service, a move which, by putting it in a primarily marketing agency, has left the act in a kind of bureaucratic limbo. The Consumer and Marketing Service his thus far failed to give active support to investigation and prosecution under the act.[43] Claude Gifford, an editor of the *Farm Journal*, the leading farm magazine, recently accused USDA of being slow in pressing cases for farmers.[44]

Two other bills, S. 2225, and a bill sponsored by Senator Walter Mondale (D.-Wisc.) go much further in defining and protecting the growers' rights at the bargaining table. They would make the failure of an integrator to recognize a bargaining association an unfair labor practice. These bills are now pending.

According to the National Broiler Council and other integrator spokesmen, these bills threaten the efficiency and life-blood of the processing industry. On the contrary, the right to organize to protect occupational interests is a basic cornerstone of the free enterprise system. This kind of institution building is essential to give balance and fair play to the economic relationships of contract farming.

The integrators' attempt to invoke the ideology of economic independence and individuality to justify their attacks on growers' organizations is particularly ironic because it comes at a time when the integrators are trying to increase their own bargaining muscle through group action. Operating under the umbrella of the Capper-Volstead Act of 1922, Ralston Purina and other integrators have formed the National Broiler Marketing Association which now controls 35–45% of the nation's broilers.[45] The Capper-Volstead Act was designed to allow small producers to legally collude in order to offset the power of large corporate buyers. It seems doubtful that its framers wanted it to be used to allow large integrators and non-farm processors to collude against the small farmer. Neither the Federal Trade Commission nor the Justice Department has challenged the legitimacy of the National Broiler Marketing Association. Both are notorious for their indifference to the impact of corporate concentration on the small farmer.

With the exception of the strong Packers and Stockyards report in 1967, USDA has been at best lukewarm to the attempts of growers to organize in their self-defense. Assistant Secretary of Agriculture Richard Lyng recently gave bargaining associations the weakest possible endorsement: "We are not intrinsically opposed to bargaining associations."[46] He states that many farmers have become disillusioned with farm bargaining, and warns that the "rewards and incentives of the free market system must not be . . . unduly inhibited."[47] Lyng is strangely silent, however, on the free market implications of collusion among the integrators.

CONCLUSION

One must conclude, therefore, that up to now USDA has failed this test of its responsiveness to the needs of small producers. More help may be forthcoming in Congress now that the National Farmers Organization, the National Farmers Union, and the American Farm Bureau Federation have joined forces to support a strong bargaining bill, and the collective bargaining efforts of the National Farmers Organizations continue to gather momentum. These groups must force USDA to reevaluate its relationship to farm bargaining.

For the individual chicken farmer, however, the lesson is clear. The corporations have come to Northern Alabama and the other poultry areas to stay. As the corporate state advances into rural America, the farmer will have to organize in self-defense. The alternative is the neo-feudalism of Northern Alabama.

FOOTNOTES

[1] Robert Troy, "Alabama Farmers on Strike," *South Today*, November, 1970, p. 4.

[2] Letter of George Haefner, Operations Manager, Pillsbury Company, to Ralph Meadows, Poultry Producers Association, Montgomery, Alabama, October 10, 1968.

[3] *Corporation Farming*, Hearings before the Subcommittee on Monopoly of the Select Committee on Small Business, U.S. Senate 90th Congress, Second Session on the Effects of Corporation Farming, Small Business, Great Plains and Upper Midwest, Omaha, Nebraska, May 20 and 21, 1968, Eau Claire, Wisconsin, July 22, 1968.

[4] *Corporation Farming, op. cit.* Statement of Nebraska Grange, Albert J. Ebers, Seward, Nebraska, p. 165.

[5] *Feedstuffs*, December 12, 1970, p. 4.

[6] William E. Cathcart, "Changes in the Poultry Meat Industry and Projections for the Decade," *Poultry and Egg Situation*, April, 1970, USDA Economic Research Service, p. 10.

[7] *Ibid*, p. 19.

[7a] James C. Finlayson, Consultant to the Pillsbury Company, quoted in *Feedstuffs*, January 23, 1971, p. 6.

[8] William E. Cathcart, *op. cit.*, p. 19.

[9] *Feedstuffs*, November 7, 1970.

[10] *Corporation Farming, op. cit.*, p. 247.

[11] *Ibid.*

[12] *Ibid.*

[13] *The Broiler Industry, An Economic Study of Structure, Practices and Problems*, Packers and Stockyards Administration, USDA, 1967, p. 4.

[14] Robert Troy, *op. cit.*, p. 4.

[15] *Ibid.*

[16] Dr. Randall E. Torgerson, "A Vision of Broiler Bargaining in the Future," *Feedstuffs*, December 26, 1970, p. 29.

[17] *The Broiler Industry, op. cit.*, p. 21.

[18] *Cost and Returns: Commercial Broiler Farms*, Georgia, 1969, Economic Research Service, USDA, June, 1970.

[19] Wilson Lee and Morris White, "Typical Cash Flow Budgets for Contract Broiler Growers," Cooperative Extension Service, Auburn University, 1970.

[20] *Agricultural Marketing and Bargaining Act*, Hearings, Senate Committee on Agriculture and Forestry, 91st Congress, 1st Session, November 20 and December 9, 1969, p. 85.

[21] Lee and White, *op. cit.*, Table 6.

[22] Daryl Natz, "Take Good Look at Production Costs, Broiler Firms Advised," *Feedstuffs*, January 23, 1971, p. 82.

[23] *The Broiler Industry, op. cit.*, p. 61.

[24] Letter to USDA Hearing Clerk on 9 CFR Part 201, August, 1970.

[25] *The Broiler Industry, op. cit.*, p. 47.

[26] Many observers of the poultry industry in the Deep South have remarked on the analogy to sharecroppers. *See* Robert Troy's excellent article in *South Today*.

[27] Letter to USDA Hearing Clerk, *op. cit.*

[28] *The Poultry Times*, Northeast-Midwest, April 21, 1971, p. 14.

[29] *Corporation Farming, op. cit.*, p. 285.

[30] *The Broiler Industry, op. cit.*, p. 45.

[31] Letter to USDA Hearing Clerk, *op. cit.*

[32] *The Broiler Industry, op. cit.*, p. 4.

[33] *Ibid.*, p. 63.

[34] *Corporation Farming, op. cit.*, p. 285.

[35] *The Broiler Industry, op. cit.*, p. 45.

[36] *The Poultry Times*, Southeastern, March 17, 1971, p. 14.

[37] Dr. Randall E. Torgerson, *Producer Power at the Bargaining Table*, p. 10.

[38] *Feedstuffs*, December 12, 1970, p. 4.

[39] Quoted to Robert Troy, *South Today, op. cit.*

[40] Letter of Ed Harrison to Ralph Nader, October 21, 1970.

[41] Robert Troy, *op. cit.*

[42] *New York Times*, November 21, 1970.

[43] *Feedstuffs*, December 26, 1970, p. 30.

[44] *Feedstuffs*, January 23, 1971, p. 64.

[45] Dr. Randall Torgerson, "A Vision of Broiler Bargaining in the Future", *Feedstuffs*, December 26, 1970.

[46] *Feedstuffs*, January 23, 1970, p. 64.

[47] *Ibid.*

SUPREME COURT DECISION IN REED AGAINST REED

Mr. BAYH. Mr. President, I was greatly pleased with the Supreme Court's decision today in Reed against Reed, a case which squarely presented the question of the constitutionality of State laws which discriminate against women. In a unanimous consent, the Court struck down an Idaho statute giving automatic preferance to males over females when both are otherwise equally qualified as potential estate administrators. The Court held that—

> The arbitrary preference established in favor of males . . . cannot stand in the face of the Fourteenth Amendment's command that no state deny the equal protection of the laws to any person within its jurisdiction.

I had the privilege of representing the National Federation of Business and Professional Women's Clubs as amicus curiae in the Reed case. I placed a copy of our amicus brief in the RECORD of September 14, and am delighted that the Court has recognized the validity of our argument that women are entitled to the equal protection of the laws under the 14th amendment.

While today's decision is a landmark in the struggle to guarantee equality to all our citizens, I do not believe that it obviates the need for an equal rights amendment to the Constitution. As I pointed out in the amicus brief, such an amendment is still desirable, because of its immense symbolic value. The women of the country must have tangible evidence of our commitment to guarantee them equal treatment under law.

Furthermore, today's decision by the Supreme Court does not reach every instance of sex discrimination. In adopting the 14th amendment test of reasonableness, the Court has left the burden on the woman plaintiff to prove that State action perpetuating sex discrimination is unreasonable. In my brief, I urged the Court to adopt the strictest 14th amendment standard, one which would shift the burden to the State to demonstrate a compelling, overriding interest in the discriminatory practice. The Court has adopted the strictest 14th amendment standard in overturning discrimination in voting power, discrimination against aliens, discrimination against the poor, and most importantly, instances of racial discrimination. I believe that women, too, are entitled to the fullest protection of the 14th amendment, and I regret that the Court did not go further in its decision today. The need for an equal rights amendment is underscored by the inherent limitations of the Reed holding.

I ask unanimous consent that the Supreme Court decision in Reed against Reed be printed in the RECORD.

There being no objection, the decision was ordered to be printed in the RECORD, as follows:

SUPREME COURT OF THE UNITED STATES SYLLABUS REED VERSUS REED, ADMINISTRATOR

APPEAL FROM THE SUPREME COURT OF IDAHO

(NOTE.—Where it is deemed desirable, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Lumber Co.*, 200 U.S. 321, 337.)

No. 70-4. Argued October 19, 1971—Decided November 22, 1971.

A mandatory provision of the Idaho probate code that gives preference to men over women when persons of the same entitlement class apply for appointment as administrator of a decedent's estate is based solely on a discrimination prohibited by and therefore violative of the Equal Protection Clause of the Fourteenth Amendment.

93 Idaho 511, 465 P. 2d 635, reversed and remanded.

BURGER, C. J., delivered the opinion for a unanimous Court.

SUPREME COURT OF THE UNITED STATES

No. 70-4

SALLY M. REED, APPELLANT, v. CECIL R. REED, ADMINISTRATOR, ETC., ON APPEAL FROM THE SUPREME COURT OF IDAHO

[November 22, 1971]

NOTICE.—This opinion is subject to formal revision before publication in the preliminary print of the United States Reports. Readers are requested to notify the Reporter of Decisions, Supreme Court of the United States, Washington, D.C. 20543, of any typographical or other formal errors, in order that corrections may be made before the preliminary print goes to press.

Mr. CHIEF JUSTICE BURGER delivered the opinion of the Court.

Richard Lynn Reed, a minor, died intestate in Ada County, Idaho, on March 29, 1967. His adoptive parents, who had separated sometime prior to his death, are the parties to this appeal. Approximately seven months after Richard's death, his mother, appellant Sally Reed, filed a petition in the Probate Court of Ada County, seeking appointment as administratrix of her son's estate.[1] Prior to the date set for a hearing on the mother's petition, appellee Cecil Reed, the father of the decedent, filed a competing petition seeking to have himself appointed administrator of the son's estate. The probate court held a joint hearing on the two petitions and thereafter ordered that letters of administration be issued to appellee Cecil Reed upon his taking the oath and filing the bond required by law. The court treated §§ 15-312 and 15-314 of the Idaho Code as the controlling statutes and read those sections as compelling a preference for Cecil Reed because he was a male.

Section 15-312[2] designates the persons who are entitled to administer the estate of one who dies intestate. In making these designations, that section lists 11 classes of persons who are so entitled and provides, in substance, that the order in which those classes are listed in the section shall be determinative, of the relative rights of competing applicants for letters of administration. One of the 11 classes so enumerated is "[t]he father or mother" of the person dying intestate. Under this section, then, appellant and appellee, being members of the same entitlement class, would seem to have been equally entitled to administer their son's estate. Section 15-314 provides, however, that "[o]f several persons claiming and equally entitled [under § 15-312] to administer, males must be preferred to females, and relatives of the whole to those of the half blood."

In issuing its order, the probate court implicitly recognized the equality of entitlement of the two applicants under § 15-312 and noted that neither of the applicants was under any legal disability; the court ruled, however, that appellee, being a male, was to be preferred to the female appellant "by reason of Section 14-314 of the Idaho Code." In stating this conclusion, the probate judge gave no indication that he had attempted to determine the relative capabilities of the competing applicants to perform the functions incident to the administration of an estate. It seems clear the probate judge considered himself bound by statute to give preference to the male candidate over the female, each being otherwise "equally entitled."

Sally Reed appealed from the probate court order, and her appeal was treated by the District Court of the Fourth Judicial District of Idaho as a constitutional attack on § 15-314. In dealing with the attack, that court held that the challenged section violated the Equal Protection Clause of the Fourteenth Amendment[3] and was, therefore, void; the matter was ordered "returned to the Probate Court for its determination of which of the two parties" was better qualified to administer the estate.

This order was never carried out, however, for Cecil Reed took a further appeal to the Idaho Supreme Court, which reversed the District Court and reinstated the original order naming the father administrator of the estate. In reaching this result, the Idaho Supreme Court first dealt with the governing statutory law and held that under § 15-312 "a father and mother are 'equally entitled' to letters of administration," but the preference given to males by § 15-314 is "mandatory" and leaves no room for the exercise of a probate court's discretion in the appointment of administrators. Having thus definitively and authoritatively interpreted the statutory provisions involved, the Idaho Supreme Court then proceeded to examine, and reject, Sally Reed's contention that § 15-314 violates the Equal Protection Clause by giving a mandatory preference to males over females, without regard to their individual qualifications as potential estate administrators. 93 Idaho 511, 465 P. 2d 635.

Sally Reed thereupon appealed for review by this Court pursuant to 28 U.S.C. § 1257 (2), and we noted probable jurisdiction, 401 U.S. 934. Having examined the record and considered the briefs and oral arguments of the parties, we have concluded that the arbitrary preference established in favor of males by § 15-314 of the Idaho Code cannot stand in the face of the Fourteenth Amendment's command that no State deny the equal protection of the laws to any person within its jurisdiction.[4]

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[1] In her petition, Sally Reed alleged that her son's estate, consisting of a few items of personal property and a small savings account, had an aggregate value of less than $1,000.

[2] Section 15-312 provides as follows:

"Administration of the estate of a person dying intestate must be granted to some one or more of the persons hereinafter mentioned, and they are respectively entitled thereto in the following order:

"1. The surviving husband or wife or some competent person whom he or she may request to have appointed.

"2. The children.

"3. The father or mother.

"4. The brothers.

"5. The sisters.

"6. The grandchildren.

"7. The next of kin entitled to share in the distribution of the estate.

"8. Any of the kindred.

"9. The public administrator.

"10. The creditors of such person at the time of death.

"11. Any person legally competent.

"If the decedent was a member of a partnership at the time of his decease, the surviving partner must in no case be appointed administrator of his estate."

[3] The court also held that the statute violated Art. I, § 1 of the Idaho Constitution.

[4] We note that § 15-312, set out in n. 2, *supra*, appears to give a superior entitlement to brothers of an intestate (class 4) than is given to sisters (class 5). The parties now before the Court are not affected by the operation of § 15-312 in this respect, however, and appellant has made no challenge to that section.

We further note that on March 12, 1971, the Idaho Legislature adopted the Uniform Probate Code, effective July 1, 1972. Ch. 111 (1971) Idaho Session Laws 233. On that date, §§ 15-312 and 15-314 of the present code will, then, be effectively repealed, and there is in the new legislation no mandatory preference for males over females as administrators of estates.

Idaho does not, of course, deny letters of administration to women altogether. Indeed, under § 15–312, a woman whose spouse dies intestate has a preference over a son, father, brother, or any other male relative of the decedent. Moreover, we can judicially notice that in this country, presumably due to the greater longevity of women, a large proportion of estates, both intestate and under wills of decedents, are administered by surviving widows.

Section 15–314 is restricted in its operation to those situations where competing applications for letters of administration have been filed by both male and female members of the same entitlement class established by § 15–312. In such situations, § 15–314 provides that different treatment be accorded to the applicants on the basis of their sex; it thus establishes a classification subject to scrutiny under the Equal Protection Clause.

In applying that clause, this Court has consistently recognized that the Fourteenth Amendment does not deny to States the power to treat different classes of persons in different ways. *Barbier* v. *Connolly*, 113 U. S. 27 (1885); *Lindsley* v. *Natural Carbonic Gas Co.*, 220 U. S. 61 (1911); *Railway Express Agency, Inc.* v. *New York*, 336 U. S. 106 (1949); *McDonald* v. *Board of Election Commissioners*, 394 U. S. 802 (1968). The Equal Protection Clause of that Amendment does, however, deny to States the power to legislate that different treatment be accorded to persons placed by a statute into different classes on the basis of criteria wholly unrelated to the objective of that statute. A classification "must be reasonable, not arbitrary, and must rest upon some ground of difference having a fair and substantial relation to the object of the legislation, so that all persons similarly circumstanced shall be treated alike." *Royster Guano Co.* v. *Virginia*, 153 U. S. 412, 415 (1920). The question presented by this case, then, is whether a difference in the sex of competing applicants for letters of administration bears a rational relationship to a state objective that is sought to be advanced by the operation of §§ 15–312 and 15–314.

In upholding the latter section, the Idaho Supreme Court concluded that its objective was to eliminate one area of controversy when two or more persons, equally entitled under § 15–312, seek letters of administration and thereby present the probate court "with the issue of which one should be named." The court also concluded that where such persons are not of the same sex, the elimination of females from consideration "is neither an illogical nor arbitrary method devised by the legislature to resolve an issue that would otherwise require a hearing as to the relative merits . . . of the two or more petitioning relatives . . . ." 93 Idaho, at 514, 465 P. 2d, at 638.

Clearly the objective of reducing the workload on probate courts by eliminating one class of contests is not without some legitimacy. The crucial question, however, is whether § 15–314 advances that objective in a manner consistent with the command of the Equal Protection Clause. We hold that it does not. To give a mandatory preference to members of either sex over members of the other, merely to accomplish the elimination of hearings on the merits, is to make the very kind of arbitrary legislative choice forbidden by the Equal Protection Clause of the Fourteenth Amendment; and whatever may be said as to the positive values of avoiding intrafamily controversy, the choice in this context may not lawfully be mandated solely on the basis of sex.

We note finally that if § 15–314 is viewed merely as a modifying appendage to § 15–312 and as aimed at the same objective, its constitutionality is not thereby saved. The objective of § 15–312 clearly is to establish degrees of entitlement of various classes of persons in accordance with their varying degrees and kinds of relationship to the intestate. Regardless of their sex, persons within any one of the numerated classes of that section are similarly situated with respect to that objective. By providing dissimilar treatment for men and women who are thus similarly situated, the challenged section violates the Equal Protection Clause. *Royster Guano Co.* v. *Virginia, supra.*

The judgment of the Idaho Supreme Court is reversed and the case remanded for further proceedings not inconsistent with this opinion.

Reversed and remanded.

FOREIGN AID

Mr. JAVITS. Mr. President, as my colleagues know, the AID legislation is presently in conference between the Senate and the House. The recent defeat of the AID bill has led many of our major private institutions to review their position concerning foreign aid. It is gratifying that the U.S. Chamber of Commerce has reaffirmed the worth of foreign aid.

I ask unanimous consent that the new position of the U.S. Chamber of Commerce which was adopted by the board of directors of the chamber on November 18 be placed in the CONGRESSIONAL RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

U.S. FOREIGN ASSISTANCE AND INTERNATIONAL ECONOMIC DEVELOPMENT

(The Board of Directors of the Chamber of Commerce of the United States of America approved the following statement relating to foreign economic assistance on November 18, 1971)

The National Chamber believes that the United States must recognize the importance of developing countries in its scale of national priorities.

The Chamber reaffirms its belief that legislative and administrative programs to aid economic development should be separated from other programs of security or military assistance and that economic development programs should continue at a meaningful level, and with increased utilization of multilateral assistance.

The Chamber urges that the Administration, in implementing the international aspects of its New Economic Policy, make allowance for the special trade requirements of the developing countries necessary to their economic growth and development.

The Chamber will continue to monitor both bilateral and multilateral economic assistance programs toward optimum benefit of the private sector.

SENATOR SPESSARD L. HOLLAND

Mr. STENNIS. Mr. President, I am deeply grieved at the passing of our friend and former colleague, Senator Spessard L. Holland, of Florida.

It is less than a year since we joined on this floor in well-deserved tribute to Senator Holland, on the occasion of his retirement. That occasion was touched with sadness because we did not like to see him leave this body and leave Washington, but we could enjoy with him the prospect of the pleasures of retirement at his home in Bartow, Fla. This occasion brings us only deep grief and a profound sense of loss.

Spessard Holland was a man of many distinguished talents, who used them unsparingly on behalf of his country, his State, his friends, and his family. He was decorated for heroism in the Army in World War I. He was prosecuting attorney of Polk County, Fla., and he served 8 years in the Florida State Senate. Thirty years ago the people of Florida selected him to serve in their highest office, as Governor. After 4 years, they sent him to the U.S. Senate, until he retired on January 3 of this year, the end of his term.

Spessard Holland's full life, and the way he led it, serving the people, is its own testimonial. He gave his best to every cause he undertook and was a skilled legislator. There is little anyone can say that could add to that testimonial that he carried out in many years of services. I can only say, with affection and admiration, that he lives in my memory as one of the most distinguished Americans I have been privileged to know—a great Senator, and a true friend.

My deep sympathy goes to his wife, Miss Mary, and to his daughter and sons, in their great earthly loss.

Mrs. Stennis joins me in all the sentiments of this statement. Our prayers are that God will continue to bless and sustain Mrs. Holland, their sons and daughter, and their families, now and of the years ahead.

SENATOR HUMPHREY'S TELEGRAM TO PRESIDENT GEORGE MEANY

Mr. HUMPHREY. Mr. President, I ask unanimous consent that my telegram to Mr. George Meany, president of the AFL–CIO be printed in the RECORD.

Due to the important legislation before the Senate, I was unable to fulfill my commitment to address the convention of the AFL–CIO. I did, however, send a message to the convention and to the distinguished president of the AFL–CIO.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

Mr. GEORGE MEANY,
President of AFL–CIO,
Americana Hotel,
Miami Beach, Fla.

DEAR GEORGE: I deeply regret that I must return to Washington rather than address your convention, so that I may vote on one of the most important pieces of legislation of the Twentieth Century. I would appreciate your reading this message to the delegates, whose friendship I value and whose efforts on my behalf I shall always treasure.

President Nixon came to this convention not to seek cooperation but rather with a set script to provoke confrontation; not to correct inequities, but to accentuate differences; not to explain to the convention and the American people his economic program, but rather to demand obedience to executive edict.

An opportunity for bringing America together was cast aside in the interest of personal political gain. A President should act to unify, not divide.

The President says he is for law and order, and so am I. Law and order, however, includes equal application and respect for the law. There is a long-established rule of law that applies to both public and private matters—it is the "sanctity of contract." That rule of law has been ignored by the Nixon Administration in its refusal to honor collective bargaining agreements between labor and management existing prior to the Phase I freeze of August 15. To deny retroactive pay to workers, who have a binding contract with management, violates the basic principles of law and order.

These are contracts that reflect the toll of a three-year rising inflation—contracts that mean purchasing power to help stimulate a lagging economy—contracts that provide some degree of economic justice for the worker.

Much of the reaction to labor's non-acceptance of Richard Nixon's convention rhetoric is artificially stimulated. The American people must never forget that when you are dealing with a pocketbook issue that affects a man's wages and the well-being of his family, he has the right and the responsibility to speak out loud and clear. That's what has been happening and he should be respected, not chastised for doing so.

The Pay Board should fulfill its responsibilities by immediately recognizing the contracts and permitting their terms to become effective. In plain language, this includes retroactive pay.

This Nation owes a debt of thanks to you and to the leaders of organized labor for your courageous and timely efforts to inject economic justice and growth into the Administration's new economic program.

NORMAN COUSINS: ONE OF AMERICA'S GREAT EDITORS

Mr. HUMPHREY. Mr. President, Norman Cousins is one of my dearest and closest friends, a man whose integrity, insights and intellect I deeply respect. In recent days he resigned as editor of the Saturday Review, a successful magazine whose design he created and whose accomplishments stemmed from his creativity and genius. It was a result of Norman Cousins' wisdom and guidance that the Saturday Review became one of the most effective and wholesome influences on the American literary scene. More than that, however, the magazine and Mr. Cousins have played a crucial role in the strengthening of our society's democratic institutions.

The New York Times of November 17 published an article about Mr. Cousins which summarized some of his and the magazine's accomplishments. As I ask unanimous consent to have the article published in the RECORD, I want to say that from my own intimate, personal knowledge, complimentary and fulsome as the accomplishments may appear from a reading of the article, they do not reflect the full measure of Mr. Cousins or his services to our society. No man in private life worked as hard to accomplish world peace and no man deserves greater appreciation for those efforts, the details of which only future historians will record. I welcome the opportunity at this time to pay personal tribute to Mr. Cousins. He deserves much more.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, November 17, 1971]

UNYIELDING EDITOR—NORMAN COUSINS

(By Lawrence Van Gelder)

"It's the kind of wrench that goes up your spine and right to your soul." With those words, 56-year-old Norman Cousins tried yesterday to describe how he felt about resigning as editor of the Saturday Review. When he joined the magazine in 1940, its circulation was 20,000. Now, he said, it is 660,000. "At the time we began," he noted, "there was something of an unwritten law that no magazine of ideas could have a circulation of more than 30,000. I think that was a lot like the four-minute mile, and when we cracked through the umbrella, we saw a lot of sky up there."

Although he expressed pride in the size of the Saturday Review's audience, the graying-and-dammit-thinning-haired Mr. Cousins said:

"I take the greatest pride in the kind of relationship I've been able to have with individual readers of the magazine. What emerges from my mailbag each day is the sense that I'm not just dealing with customers, but with members of the family."

SOME OTHER PRIDES

Six years ago, shortly after a surprise party held in the magazine's offices at 380 Park Avenue in honor of Mr. Cousins' 25th anniversary as editor, he wrote of some of his other prides in the magazine in an editorial entitled "Life Begins at Twenty-Five":

"I am proud that SR was the first magazine to report and write in depth about the implications of the atomic age, and to maintain its concern. I am proud of the part SR played in the campaign for a ban on nuclear testing."

He continued:

"I am proud of SR's role in bringing about reform in the manufacture and dispensing of unsafe drugs, and in giving its readers such an early and authentic awareness of the problems and possibilities of space travel. I am proud of the way SR anticipated the far-reaching changes in music records and recording equipment. I am proud of its service to and standing in the educational community. I am proud of its leadership position in the field of travel. I am proud of its stand on cigarette advertising. I am proud of what it has done in relating the world of books to the world of ideas, and of the battle it has waged for freedom of intellectual inquiry."

Norman Cousins made up his mind at an early age that he was going to be an editor. "As far back as I can remember I've been interested in print," he said yesterday, and in a little album he had in the third grade, he wrote that he wanted to work in newspapers and magazines.

The son of Samuel and Sara Miller Cousins, he was born June 24, 1915, in Union Hill, N.J. A frail and serious boy, he was thought to have tuberculosis and spent a year when he was 11 in a sanitarium. "I came out with a new respect for the preciousness of life," he said.

After attending Columbia University briefly, he became an education writer for The New York Evening Post in 1934 and the following year joined Current History as literary and managing editor. Five years later, he went to the Saturday Review.

Mr. Cousins is the author or editor of several books, among them "Doctor Schweitzer of Lambarene" and "Talks With Nehru."

He has been a ghost writer of speeches for Presidents, a member of the Mayor's Task Force on Air Pollution, an honorary president of United World Federalists, a co-chairman of the National Committee for a Sane Nuclear Policy. He also helped arrange for the so-called "Hiroshima Maidens"—victims of the Hiroshima atomic bombing—to come to the United States for treatment.

Mr. Cousins adopted one of the Hiroshima women, Shigeko Sasamori. He and Mrs. Cousins, the former Ellen Kopf, have four daughters of their own, ranging in age from 21 to 29.

The Cousins make their home in a Georgian-style house surrounded by woodland in New Canaan, Conn.

Asked about his plans after leaving the Saturday Review, Mr. Cousins said, "Well, you're talking to a man who loves to goof off." He spoke of playing tennis, playing golf, catching up on his reading, working on his organ playing, and then said:

"It might last a couple of weeks. And then back into the arena again."

HAPPY BIRTHDAY TO A VETERAN REPORTER OF INTEGRITY AND COURAGE—MR. ARTHUR BARRAIAULT

Mr. BYRD of West Virginia. Mr. President, I was remiss in not realizing that November 17 was the birthday of one of the best liked, one of the most utterly honest, and one of the most respected veteran reporters of activities of Congress. It would take no divine interpretation on your part to know that I refer to Mr. Arthur Barraiault, who happens to work for NBC; but it would make little difference for whom he worked—he would still have the reputation of being charitable with us, when we needed a tolerant attitude, and of being tough with us when we should have been scolded. The majority leader and other Senators have saluted this man of integrity and courage—and now I would like to add my own salute—to a job well done, as they say in the military service in which Mr. Barraiault served during World War II.

DEPARTMENT OF DEFENSE APPROPRIATIONS, 1972

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 487, H.R. 11731. I do this so that the bill be the pending business.

The PRESIDING OFFICER (Mr. CHILES). The bill will be stated by title for the information of the Senate.

The bill was read by title as follows:

A bill (H.R. 11731) making appropriations for the Department of Defense for the fiscal year ending June 30, 1971, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations, with amendments.

ORDER FOR SENATE TO CONVENE AT 10 A.M. TOMORROW INSTEAD OF 9 A.M.

Mr. MANSFIELD. Mr. President, in view of the long day the Senate has had and the lateness of the hour, I ask unanimous consent that the order calling the Senate into session at 9 a.m. tomorrow be vacated and that the Senate convene at 10 a.m.

Mr. GRIFFIN. There is no objection on this side.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that tomorrow after the recognition of the joint leaders there be a period for the transaction of routine morning business for not to exceed 15 minutes, with statements limited to not more than 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR HUGHES ON MONDAY, NOVEMBER 29, 1971

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on Monday, one week from today, November 29, 1971, immediately following the recognition of the two leaders under the standing order, the distinguished Senator from Iowa (Mr. Hughes) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR WEICKER ON TUESDAY, NOVEMBER 23, 1971

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that tomorrow, immediately following the recognition of the two leaders under the standing order, the distinguished Senator from Connecticut (Mr. Weicker) be recognized for not to exceed 15 minutes, just prior to the period for the transaction of routine morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT TO 10 A.M.

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 10 a.m. tomorrow.

The motion was agreed to; and (at 10 o'clock and 28 minutes p.m.) the Senate adjourned until tomorrow, Tuesday, November 23, 1971, at 10 a.m.

NOMINATION

Executive nomination received by the Senate November 22, 1971:

U.S. District Courts

Kenneth K. Hall, of West Virginia, to be a U.S. district judge for the southern district of West Virginia, vice John A. Field, Jr., elevated.

EXTENSIONS OF REMARKS

THE PENTAGON PAPERS

HON. MIKE GRAVEL

of alaska

IN THE SENATE OF THE UNITED STATES

Monday, November 22, 1971

Mr. GRAVEL. Mr. President, I ask unanimous consent to have printed in the Extensions of Remarks the following legal motions, applications, affidavits, memoranda, orders, petitions and other papers dealing with the publication of the so-called Pentagon Papers.

There being no objection, the material was ordered to be printed in the Record, as follows:

Oath of office;

Mr. Gravel letter to Mr. Garrity;

Motion to intervene—Mr. Gravel;

Brief in support of motion to intervene—Mr. Gravel;

Government opposition to motion to intervene;

Notice of hearing;

Motion for specification—Mr. Gravel—and order;

Motion to quash—Mr. Gravel—and order;

Motion to quash—Mr. Rodberg;

Brief in support of motion to quash—Mr. Gravel;

Affidavit of Mr. Dunphy;

Ridgely letter;

Affidavit of Mr. Rodberg;

Affidavit of Mr. Gravel;

Government opposition to motion for specification;

Government brief in opposition to motion to quash;

Mr. Rodberg brief in support of motion to quash;

Memorandum and decision of October 4, 1971;

Second. Mr. Rodberg subpena;

Motion in reconsideration and stay—Mr. Gravel;

Brief in support of motion for reconsideration—Mr. Gravel;

Brief in support of motion for reconsideration—Mr. Rodberg;

Government motion for extension of time;

Motion, and Government brief in opposition to reconsideration;

Government motion for order and order commanding Mr. Rodberg to appear before the the grand jury;

Reply memo for reconsideration;

Motion to intervene—Mr. Webber;

Motion to quash—Mr. Webber;

Order granting motion to intervene—Mr. Webber;

Order granting motion to stay—Mr. Webber;

Motion for further relief—Mr. Gravel;

Motion for stay pending proposition of motion for further relief;

Government for modification of order;

Motion and order denying steno copy of grand jury minutes;

Subpena to N. E. Merchants Bank;

Order denying motion for reconsideration;

Order denying Mr. Rodberg's motion for certification;

Order denying motion for further relief;

Supplemental protective order of October 29, 1971;

Notice of appeal—Mr. Rodberg;

Notice of appeal—Mr. Webber;

Government notice of cross-appeal;

Motion for stay pending appeal—Mr. Gravel;

Motion for stay pending appeal—Mr. Gravel;

Order of October 29;

Motion for postponement of argument;

Order of November 1;

Government brief on appeal;

Brief on appeal—Mr. Gravel;

Motion for order to show cause;

Order to show cause;

Affidavit of Charles Fishman;

Brief on appeal—Mr. Rodberg;

Reply brief—Mr. Gravel;

Government motion in opposition to Mr. Rodberg brief;

Rejected stipulation;

Granted stipulation;

Order withdrawn—order to show cause;

Order granting Government motion in opposition to Mr. Rodberg's brief;

Mr. Rodberg's motion for reconsideration;

Order denying reconsiderations; and

Letter to clerk and attachment.

Oath of Office (Without Compensation)

I, Paul C. Vincent, do solemnly swear that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office of Special Attorney under letter of appointment dated July 2, 1971 authorizing me to assist in presentation to the grand jury and trial of the case or cases in the District of Massachusetts in which the Department is informed that various persons have violated in the District of Massachusetts the laws relating to the retention of public property or records with intent to convert (18 U.S.C. 641), the gathering and transmitting of national defense information (18 U.S.C. 793), the concealment or removal of public records or documents (18 U.S.C. 2071), and conspiracy to commit such offenses and to defraud the United States (18 U.S.C. 371) on which I am about to enter: So help me God.

Paul C. Vincent.

Date of Birth Dec. 4, 1914.

Date of entry upon duty July 7, 1971.

Subscribed and sworn to before me this 7th day of July A.D., 1971, at R———, Mass.

Richard M. Pell,
Clerk.

United States Senate,
Washington, D.C., August 26, 1971.

Hon. W. Arthur Garrity, Jr.,
United States District Judge,
Federal Court House,
Boston, Massachusetts

Dear Judge Garrity: I have been informed by Leonard Rodberg, a personal servant of mine, that he has been subpoenaed to appear before a Federal Grand Jury in Boston at 10 AM, August 27, 1971. I do not know why Mr. Rodberg has been ordered to appear.

However, if Mr. Rodberg has been subpoenaed for the purpose of testifying about any matter or activity done with respect to the performance of my constitutional duties as a United States Senator, I have authorized my attorney, Charles Louis Fishman, to intervene in the matter to assert my constitutional right to be free of any judicial inquiry for such activities.

Specifically, I have ordered Mr. Fishman to intervene if the Federal Grand Jury attempts to inquire into my actions, or the actions of any of my personal servants, in placing the "Pentagon Papers" into the Official Record of the Senate Subcommittee on Buildings and Grounds or releasing a copy of that Official Record.

I thank you for your time and consideration.

Sincerely,

MIKE GRAVEL.

[In the U.S. District Court for the District of Massachusetts, Civil Division, Civil Action No. EBO-71-172]

MOTION TO INTERVENE

(In re the matter of Leonard Rodberg)

Comes now Movant, United States Senator Mike Gravel and moves this Honorable Court for leave to intervene in the above captioned cause and as reasons therefore states:

(1) Leonard Rodberg is a personal servant of the Movant.

(2) As Movant's personal servant, Leonard Rodberg has performed acts which are now the subject of an inquiry by a Federal Grand Jury.

(3) The aforesaid Federal Grand Jury has subpoenaed Leonard Rodberg to appear and give testimony with respect to the aforesaid acts on Friday, August 27, 1971 at 10 a.m.

(4) All of the aforesaid acts performed by Leonard Rodberg for the Movant were under the Movants' direction and control.

(5) All of the acts performed by Leonard Rodberg upon orders from the Movant are immune from judicial inquiry by virtue of Movant's constitutional privileges and constitutional duties.

(6) The question presented herein raises serious and substantial constitutional issues which have not but should be decided by this Court.

(7) No other party to the above captioned cause can adequately represent the interest of Movant.

(8) The granting of this motion would best serve the interest of Justice.

Wherefore, Movant respectfully requests that this Honorable Court grant the above captioned Motion to Intervene.

CHARLES LOUIS FISHMAN,
Attorney for Movant.

[In the U.S. District Court for the District of Massachusetts, Docket No. EBD 71-172]

BRIEF IN SUPPORT OF MOTION TO INTERVENE

(United States of America versus John Doe)

On August 24, 1971, a grand jury subpoena was served upon Dr. Leonard S. Rodberg, who has been and is presently a member of the personal staff of United States Senator Mike Gravel. In moving to quash the subpoena, Dr. Rodberg alleged, *inter alia,* that the subject matter of the inquiry to be made by the grand jury related to acts done by Senator Gravel, with the necessary assistance of his staff, in reading and inserting into the record the so-called "Pentagon Papers" at the June 29, 1971, hearing of the Senate Subcommittee on Buildings and Grounds; and Affidavits have been submitted by Dr. Rodberg in support of this allegation. Counsel for the Department of Justice have not rebutted this allegation in any way; indeed, during oral argument at the August 27 hearing before this Court they declined to state whether it was true or false.[1]

Assuming Dr. Rodberg's allegations to be true—as we must in light of the record of this proceeding—Senator Gravel has moved to intervene in order to protect his right to be free of judicial inquiry of his official acts, secured to him as a United States Senator by Article I, Section 6 of the Constitution. It is our contention that the subpoenaing by a grand jury of a personal assistant of a member of Congress with respect to the acts of that member done in the course of his official duties, or with respect to the acts of a personal staff assistant in aiding that member in the discharge of his duties, violates that member's constitutional privilege. Since the right asserted by Senator Gravel is personal to him and will be abridged if Dr. Rodberg is obligated even to appear before the grand jury, Senator Gravel is entitled to intervene in this proceeding, for only Senator Gravel can adequately represent his own interests.[2]

The argument in support of intervention necessarily involves an analysis of the nature which is threatened by the grand jury subpoena. We will therefore demonstrate in this Brief that: (1) the actions of Senator Gravel concerning the Pentagon Papers were done in the course of his duties as a member of Congress and are totally immune from judicial inquiry of any kind by virtue of the prohibitions of Article I, Section 6; and (2) the Federal Courts are without power to order a staff assistant of Senator Gravel to appear and testify before a grand jury about these matters.

A. THE ACTIONS TAKEN BY SENATOR GRAVEL IN RELATION TO THE PENTAGON PAPERS ARE ABSOLUTELY IMMUNE FROM JUDICIAL INQUIRY

The Constitution provides that members of Congress, "for any Speech or Debate in either House . . . shall not be questioned in any other Place." Article I, Section 6, Clause 1. A literalistic reading of this Clause might imply that Congressional immunity applies only with respect to words spoken on the floor. However, this narrow construction has been rejected by the Supreme Court since the earliest cases. In the landmark decision of *Kilbourn v. Thompson,* 103 U.S. 168 (1881), the Court held that the Speech and Debate Clause affords protection for all normal functions of a member of Congress, including, in addition to words spoken in debate, resolutions offered, votes taken, and actions of committees.

Decisions following ***Kilbourn*** have reaffirmed these principles. Perhaps most significant is *United States* v. *Johnson,* 383 U.S. 169, 179 (1966), where the Court emphasized that the privilege of the Speech and Debate Clause "should be read broadly to include not only 'words spoken in debate,' but anything 'generally done in a session of the House by one of its members in relation to the business before it.' " Moreover, in holding that the privilege was even more applicable to criminal cases than to civil tort suits the Court traced its lineage to the seditious libel prosecutions of members of Parliament whom the Crown believed had acted in subversive or treasonable ways. "[I]t is apparent from the history of the Clause that the privilege was not born primarily of a desire to avoid private suits . . . but rather to prevent intimidation by the executive and accountability before a possibly hostile judiciary." Id., at 180-81. It would seem, therefore, that the subject-matter of the present case—a statement in committee critical of executive conduct in foreign relations—falls squarely within the hard-core protection of the Speech and Debate Clause. *See also Powell* v. *McCormack,* 395 U.S. 486, 502-03 (1969).

Finally it is clear that the privilege cannot be defeated by the Executive challenging the legitimacy of the actions of a member of Congress in committee. If this were so, *Kilbourn,* where the committee members were found to have lacked jurisdiction but were nevertheless immune, and *Powell,* where the committee members were held immune even though found to have acted unconstitutionally, would have been decided otherwise. Similarly, the Supreme Court has held on other occasions that the motivations of committee members and the legality of their conduct in committee are beyond the cognizance of the courts. *Dombrowski* v. *Eastland,* 387 U.S. 82 (1967); *Tenney* v. *Brandhove,* 341 U.S. 367 (1951). If a court were to oblige the Executive by pursuing such inquires, it would leave members of Congress open to the harassment and intimidation which the Clause seeks to prevent.

Accordingly, the actions taken by Senator Gravel in making public the Pentagon Papers are absolutely immune from judicial inquiry.

B. SENATOR GRAVEL'S PRIVILEGE UNDER THE SPEECH AND DEBATE CLAUSE WILL BE VIOLATED IF A STAFF ASSISTANT IS ORDERED TO TESTIFY BEFORE THE GRAND JURY ABOUT HIS OFFICIAL CONDUCT

The Speech and Debate Clause is one of the principle instruments in the Constitution to preserve the separation of powers among the three independent branches of government. The Clause is designed to insure that a member of Congress is able to act fearlessly in the discharge of his official duties, without being afraid of retaliation from a possibly hostile Executive. In order for the Clause to have vitality in achieving this end, it must be construed to immunize a Senator's immediate staff from criminal prosecution or other forms of retaliation for assisting the Senator in carrying out his official duties. No Senator or Congressman could even attempt to meet his official responsibilities without the aid of a personal staff. In determining how to cast his vote on complex issues, in preparing a speech or comments to persuade his colleagues, and in communicating with his constituents, a member of Congress must of necessity rely in part on research and secretarial assistance and the advice of trusted aides. But if a Senator or Congressman is faced with the prospect of possible criminal sanctions against his assistant, he will be deterred from acting courageously on controversial issues. It is no answer to suggest that he will cavalierly sacrifice the interests of those closest to him so as to accomplish the greatest good; this is just the sort of grisly choice which the Speech and Debate Clause sought to foreclose. Nor is it an answer to say that these adverse consequences can be avoided by inviting his staff to desert and isolate him in situations in which he needs their assistance the most. If the Speech and Debate Clause is to have meaning, its privilege must afford protection to a Senator's or Congressman's personal staff.

History and the case law combine with fundamental policy to compel this conclusion. In what is without doubt the single most authoritative interpretation of the scope of Congressional privilege under the Constitution, Thomas Jefferson stated unequivocally that members of the legislature ". . . are at all times exempted from question elsewhere, for anything said in their own House; that during the time of privilege, . . . neither a member himself, his . . . wife, *nor his servants . . . may be arrested* or mesne process, in any civil suit . . . *nor impleaded, cited, or subpoenaed in any court* . . . ". Jefferson's Manual of Parliamentary Practice, Section III, reprinted in Constitution, Jefferson's Manual and Rules of the House of Representatives, p. 124 (1971 edition).[3] (emphasis supplied)

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[1] The subpoena itself is totally devoid of any information on this issue. It does not even contain a statutory reference to the alleged criminal violations under investigation.

[2] This intervention is without prejudice to Dr. Rodberg's asserting his own privileges and rights as a bar to the grand jury summons. And there may, of course, by a confluence of arguments with respect to the scope of the Congressional privilege, in much the same way as would result if an attorney were called before the grand jury and his client intervened and asserted the attorney-client privilege.

Jefferson's interpretation of the scope of the Speech and Debate Clause has gone unquestioned until the present. There are, happily, few cases which have arisen under the Clause and none on this precise issue, for the Executive branch has historically respected the Constitutional privileges of members of Congress.[4] The decided cases do, however, elucidate upon the underpinnings of the Clause in a manner which bears significantly upon this case.

First, the Speech and Debate Clause was drafted as a guarantee of absolute freedom of speech for members of Congress. *See generally Tenney v. Brandhove*, 341 U.S. 367, 372–75 (1951). It drew its roots from the English Bill of Rights of 1689, which declared: "That the Freedom of Speech, and Debates or proceedings in Parliament, ought not to be impeached or questioned in any Court or place out of parliament." The Articles of Confederation and several of the first State Constitutions anticipated the 1789 document in containing similar unequivocal guarantees. The reason for carrying these forward into Article I, Section 6 was stated cogently by James Wilson, who was second only to Madison in his contributions to the Constitution:

"In order to enable and encourage a representative of the public to discharge his public trust with firmness and success, it is indispensably necessary, that he should enjoy the fullest liberty of speech, and that he should be protected from the resentment of every one, however powerful, to whom the exercise of that liberty may occasion offence."[5]

The Supreme Court has emphasized that the legislative privilege set forth in the Speech and Debate Clause "will be read broadly to effectuate its purposes." *United States v. Johnson*, 383 U.S. 169, 180 (1966). The ultimate purpose of the free speech guarantee in the Clause, as with the First Amendment generally, is to vindicate the rights of the people in a representative government. *Tenney v. Brandhove, supra* at 373–74. The public has the right to be represented to the fullest by its elected Senators and Congressmen and the right to be informed to the fullest of their actions. Each of these rights would be jeopardized if a member of Congress cannot rely unhesitatingly upon the assistance of his staff, for otherwise he would be deterred from meeting his constitutional *duties* to his constituents. As the Supreme Court said in *Tenney v. Brandhove, supra* at 377:

"One must not expect uncommon courage even in legislators. The privilege would be of little value if they could be subjected to the cost and inconvenience of a trial upon a conclusion of the pleader, or to the hazard of a judgment against them based upon a jury's speculation as to motives."

Nor would the privilege be of value if a legislator were to fear like action against his staff. The adverse effects of a possible criminal prosecution upon a legislator's freedom of speech is the same whether the named defendant is the legislator or his staff.

Second, the historical underpinnings of the Speech and Debate Clause take on added significance in this particular case. The actions of Senator Gravel which the Executive wishes apparently to make the subject of a criminal prosecution is the disclosure to his colleagues in Congress and to his constituents of material critical of Executive decisions in an area of prime importance to the country. Such retaliation by the Executive not only flies in the face of the free speech guarantees of the Speech and Debate Clause but is also unfortunately reminiscent of the very prosecutions which made the Clause necessary. The immediate root of the Speech and Debate Clause rested in the seditious libel prosecutions brought by the Crown to silence critical members of Parliament. *See generally United States* v. *Johnson*, supra at 178–82; *Powell* v. *McCormack*, 395 U.S. 486, 502–03 (1969). The immediate purpose of the Clause was "to prevent intimidation of legislators by the executive and accountability before a possibly hostile judiciary." *United States* v. *Johnson, supra* at 181. Unless the as yet undenied allegations by Dr. Rodberg are rebutted, we are presented in this case with the same techniques of intimidation of Congress which led, after hundred of years of struggle, to the incorporation of this Constitutional privilege. The historical abuses which brought the Speech and Debate Clause into being ought not be allowed to be resurrected under a perhaps more subtle guise. These abuses are "part of the intellectual matrix within which our own constitutional fabric was shaped," *cf. Marcus* v. *Search Warrants*, 367 U.S. 717, 729 (1961), and if allowed to intrude into the present will have the same disastrous consequences for representative democracy. No exception to the Clause should be made which could make possible the muzzling of Congress.

Third, both the Courts and the Executive have recognized that an official's privilege immunizes his assistants who aid him in the discharge of his duties. The court-created concept of judicial immunity has consistently been read to confer immunity on those who assist judges in deciding cases. *See, e.g., Yaselli v. Goff*, 12 F.2d 396 (2d Cir. 1926), *aff'd per curiam* 275 U.S. 503 (1927). No one would suggest that a judge could fearlessly discharge his obligations if he himself were immune from say, libel suits attacking his opinions but his law clerks and secretary who assisted him in preparing the opinions were fair game. A legislator should expect no less immunity from his staff, particularly when the source of the legislative privilege is a constitutional provision and not merely a common-law rule. Compare *Tenny v. Brandhove, supra*, with *Pierson v. Ray*, 386 U.S. 547 (1967).

The Executive Branch also has asserted that official privilege extends to staff assistants. For the past two and one-half years, Dr. Henry Kissinger and others have refused to accede to the wishes of Congress to testify before Congressional committees. They have so refused on the grounds that as personal staff assistant to the President they may not be held to question by a coordinate branch of Government. The source of this privilege is said to be, by implication, in Article II of the Constitution. Surely the Executive Branch cannot now say that constitutional privilege is a one-way street—that it immunizes the staff of the Executive even from Congressional inquiry but that it gives no protection to the staff of a Senator from hostile Executive action.

We are not arguing, of course, that every individual who acts on behalf of a public official enjoys immunity for his actions. Such an argument would run contrary to the principle of *Marbury* v. *Madison*, 1 Cranch 137, 2 L. Ed. 60 (1803). Persons such as the Sergeant-at-Arms who enforce the orders of Congress are subject to judicial accountability in the same manner as any law enforcement official. *Powell* v. *McCormack, supra* at 504–05; *Dombrowski* v. *Eastland*, 387 U.S. 82 (1967) (general counsel of committee executing orders of committee to conduct illegal search). Similarly, police officials or United States marshals who enforce court orders are not immune from later accountability. *Pierson* v. *Ray, supra*. But these individuals occupy positions and perform functions that differ totally from those who assist a Senator or a judge in his primary official conduct.

Fourth, in one case the Supreme Court has suggested that legislative immunity extends to prohibiting the testimony of staff assistants concerning their actions in concert with the legislator. In *United States* v. *Johnson, supra*, Congressman Johnson was prosecuted for accepting a bribe to give a speech. Both Johnson and his administrative assistant were questioned on how the speech was prepared and written. The Supreme Court unanimously held that this evidence was "clearly proscribe[d]" by the Speech and Debate Clause. *Id.*, 383 U.S. at 173. The vice was not that Johnson himself had testified but that "an intensive judicial inquiry" had been made into the legitimacy of a speech of a member of Congress, and this "violate[d] the express language of the Constitution and the policies which underlie it." *Id.*, at 177. This consequence would entail whether Senator Gravel or Dr. Rodberg were to be subjected to grand jury inquiry with respect to Senator Gravel's actions in making public the Pentagon Papers at a committee hearing.

C. THE MOTION TO QUASH IS NOT PREMATURE, FOR ANY APPEARANCE BY DR. RODBERG WOULD VIOLATE SENATOR GRAVEL'S PRIVILEGE

The Court has asked counsel to brief the issue of what questions might properly be asked Dr. Rodberg by the grand jury. It is our position, as set forth above, that no inquiry may be made about Senator Gravel's disclosure of the Pentagon Papers or about Dr. Rodberg's assistance of the Senator. More fundamentally, however, unless the allegations in Dr. Rodberg's motion are rebutted, the motion to quash the subpoena must be granted. For if the grand jury intends to investigate into the official conduct of a United States Senator and his staff, any action by it in furtherance of that intention is unconstitutional. The Executive branch has asked this Court to invoke its process to compel the grand jury appearance of Dr. Rodberg. We respectfully submit that this Court, before lending its assistance, must determine the purpose and scope of the grand jury proceedings. For, assuming as we must under the present state of the record that the legislative privilege of Article I, Section 6 of the Constitution is in danger of invasion, any order by this Court in aid of the grand jury proceedings may itself work an unconstitutional end.

Further, the legislative privilege of Senator Gravel cannot adequately be protected by waiting until questions are propounded to Dr. Rodberg. Aside from the fact that the questioning itself is barred by the terms of the Speech and Debate Clause, regardless of the outcome of the proceedings, it is important to note that the proceedings themselves are secret. Neither Senator Gravel nor his representatives is entitled to witness the testimony, and the Senator's rights can be assured only by a prior judicial determination of the legal status of the proceedings. This in turn requires counsel for the Department of Justice to state on the record the precise purpose and scope of the grand jury investigation. If the record in this case remains as it is now, the subpoena must be quashed; we respectfully submit that this Court lacks the constitutional power to be a party to the violation of the Speech and Debate Clause.

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[3] The Manual was prepared by Jefferson when he was President of the Senate during his Vice-Presidency, from 1797 to 1801. It has been adopted by both Houses of Congress as governing except when in conflict with a standing rule. The Manual is also considered in Great Britain as an authoritative statement of Parliamentary procedure for the period in which it was compiled.

[4] Only five cases relate directly to the Speech and Debate Clause or discuss it extensively. They are Powell v. McCormack, 395 U.S. 486 (1969); Dombrowski v. Eastland, 387 U.S. 82 (1967); United States v. Johnson, 383 U.S. 169 (1966); Tenney v. Brandhoven, 341 U.S. 367 (1951); and Kilbourn v. Thompson, 103 U.S. 168 (1881).

Other cases in which the Clause is cited are Marshall v. Gordon, 243 U.S. 521 (1917); Williamson v. United States, 207 U.S. 425 (1908); Burton v. United States, 196 U.S. 283 (1905); United States v. Kirby, 7 Wall. 482 (1868); Prigg v. Pennsylvania, 16 Pet. 619 (1843); Anderson v. Dunn, 6 Wheat. 204 (1821); and United States v. Cooper, 4 Dall. 341 (1800).

[5] II Works of James Wilson 38 (Andrews ed. 1896), quoted in Tenney v. Brandhove, *supra* at 373.

CONCLUSION

The constitutional questions set forth in Senator Gravel's motion to intervene are of the highest magnitude. The rights asserted in that motion are personal and can best be represented by the Senator. We therefore request that this Court grant the motion to intervene.

Further, it is our view, as argued above, that any inquiry by the grand jury into the official actions of Senator Gravel, or his staff, through the compulsory testimony of his personal assistant, would do irreparable injury to separation of powers in the Government and is condemned by the Speech and Debate Clause. Accordingly, unless counsel for the Justice Department is prepared to show that the grand jury does not intend and will not inquire into these protected activities, we request this Court to quash the subpoena.[6]

Respectfully submitted,

ROBERT J. REINSTEIN,
CHARLES L. FISHMAN,
*Attorneys for Senator Gravel.**

Certificate of service

I hereby certify that I served this Brief upon counsel for the parties by causing a copy of it to be mailed, postage prepaid, to Doris Peterson and James Reif, 588 Ninth Avenue, New York, New York, 10036, and by causing a copy of it to be hand-delivered to Alice Brady, United States Attorney Office, U.S. Post Office & Court House, Rm. 1107, Boston, Mass.

ROBERT J. REINSTEIN,
Attorney for Senator Gravel.

U.S. DEPARTMENT OF JUSTICE,
Washington, D.C., September 1, 1971.
CHARLES LOUIS FISHMAN,
Washington, D.C.

DEAR MR. FISHMAN: Enclosed please find a copy of the Government's Opposition to your Motion for Intervention in the matter of the appearance of Leonard Rodberg before a Federal Grand Jury and a copy of my letter to Judge Garrity.

PAUL C. VINCENT, *Attorney.*

SEPTEMBER 1, 1971.

Hon. W. ARTHUR GARRITY, Jr.,
U.S. District Judge,
U.S. Post Office & Courthouse Building,
Boston, Mass.

DEAR JUDGE GARRITY: Pursuant to your request, I am enclosing a copy of the Government's Opposition to Senator Gravel's Motion for Intervention in the matter of the appearance of Leonard Rodberg before a Federal Grand Jury.

The original has been filed with the Clerk of the Court and a copy mailed to Mr. Fishman, Attorney for Senator Gravel.

Sincerely,

PAUL C. VINCENT, *Attorney.*

[In the U.S. District Court for the District of Massachusetts, Docket No. EBD–71–172–G]

GOVERNMENT'S POINTS AND AUTHORITIES IN OPPOSITION TO MOTION TO INTERVENE

(In the matter of the grand jury investigation (John Doe))

A Grand Jury in this district is engaged in investigating possible violations of 18 U.S.C. 793 (gathering and transmitting national defense information); 18 U.S.C. 641 (theft or conversion of government property); 18 U.S.C 2071 (concealment of public documents) and 18 U.S.C. 371 (conspiracy to commit such offenses) and possible violations of other laws. A witness, Leonard Rodberg, has been subpoenaed to appear before this Grand Jury. Upon receipt of the subpoena Mr. Rodberg filed a motion to quash that subpoena. United States Senator Mike Gravel has filed a motion to intervene in any actions taken by Mr. Rodberg.

In his motion to intervene, Senator Gravel contends that the subpoenaing of Leonard Rodberg to appear and give testimony before a Federal Grand Jury raises serious and substantial constitutional issues because (1) Leonard Rodberg is a personal servant of the Senator; (2) As the Senator's personal servant Leonard Rodberg has performed acts which are now the subject of an inquiry by the Federal Grand Jury; (3) These acts performed by Leonard Rodberg for the Senator were under the Senator's direction and control, and (4) All of the acts performed by Leonard Rodberg upon orders from the Senator are immune from judicial inquiry by virtue of his constitutional privileges and constitutional duties. The Senator further avers that no other party to this cause can adequately represent his interest.

The only provision in Federal law for intervention is contained in Rule 24, Federal Rules of *Civil* Procedure, which provides:

> Upon timely application anyone shall be permitted to intervene in an action: (1) when a statute of the United States confers an unconditional right to intervene; or (2) when the applicant claims an interest relating to the property or transaction which is the subject of the action and he is so situated that the disposition of the action may as a practical matter impair or impede his ability to protect that interest, unless the applicant's interest is adequately represented by existing parties.

The Federal Rules of Civil Procedure govern the procedure in United States District Courts *only* in suits of a *civil* nature and are not applicable in criminal proceedings. Rule 1, *F.R.C.P.; United States* v *Burdette,* (D.C Mich 1957), 161 F Supp 326, *affd* 254 F.2d 610, *cert. den.* 359 U.S. 976; *United States* v *Solomon* (D.C. Ill 1944), 3 FRD 411.

It is submitted that Rule 24 is not applicable in this matter and, moreover, there is no basis in law for a person to intervene in a matter such as this which involves a criminal investigation being conducted by a Federal Grand Jury

Even if Rule 24 were to be held applicable in a criminal case, it would have no application here because grand jury proceedings are not adversary in nature, and there is no "law suit" here in which to intervene. The right to intervene presupposes the existence of a pending suit. *Davis* v. *Jury Commission of Montgomery County* (M.D. Ala. 1966), 261 F. Supp. 591.

The motion to intervene is based upon speculation and conjecture. The Grand Jury has broad powers of investigation, and the scope of its investigation cannot be questioned by a witness—much less by one not under subpoena such as this movant. In *Blair* v. *United States,* 250 U.S. 273, the Supreme Court stated,

> [The grand jury] is a grand inquest, a body with powers of investigation and inquisition the scope of whose inquiries is not to be limited narrowly by questions of propriety or forecasts of the probable results of the investigation, or by doubts whether any particular individual will be found properly subject to an accusation of crime. As has been said before, the identity of the offender, and the precise nature of the offense, if there be one, normally are developed at the conclusion of the grand jury's labors, not at the beginning.

It is apparent, therefore, that a *witness* cannot control the scope of an investigation by the grand jury. To permit *third parties* to intervene for the purpose of asserting rights with respect to the testimony of subpoenaed witnesses would create chaos in the grand jury system, frustrating the traditionally broad investigatory functions of the grand jury.

At the time the Motion to Intervene was filed with this Court, counsel for Senator Gravel represented that the Motion should be granted since the subpoena served upon the witness Rodberg did not set forth the scope of the grand jury's investigation. It is axiomatic that a witness may be compelled to testify before a grand jury without being apprised, in the subpoena, of the subject matter under inquiry or the names of persons about whom he is to testify. *In Re Meckley,* (D.C.M.D. Penn. 1943), 50 F. Supp. 274; *affd.* 137 F.2d 310; *Cert. den.* 320 U.S. 370.

Even under Rule 24 the intervention of a party as a matter of right presupposes that the intervenor's interests are or may not be adequately represented by existing parties to the litigation. *Sam Fox Publishing Company* v. *United States* (N.Y. 1961), 366 U.S. 683. The movement in this cause contends that the question presented here raises serious and substantial constitutional issues, and that no other party can adequately represent his interest. However, in his motion to quash the subpoena of the grand jury, Leonard Rodberg has contended that his compelled appearance before the grand jury violates Congressional privilege, separation of powers, and the Speech and Debate Clause of the Constitution. Mr. Rodberg expressed the opinion that the matters concerning which he would be questioned will directly relate to and concern the discharge of his responsibilities as a member of Senator Gravel's staff.

Mr. Rodberg also averred that he would show by affidavit the need to insulate from executive and judicial scrutiny the performance of his responsibilities as an aide and agent of a United States Senator, acting at the express direction of the Senator, in order adequately to protect the fulfillment of that Senator's constitutional rights, duties, and responsibilities as a Senator. Moreover, Mr. Rodberg stated his intention to submit the affidavit of Senator Gravel.

It is apparent from the foregoing that the Senator's interests, if any, in this matter can be adequately protected by Mr. Rodberg, who has raised the same constitutional issues noted in the instant motion.

The Government submits that this Motion does not properly lie for all of the foregoing reasons. The Government also submits that the usual and proper method for an individual desirous of protecting his interests before a grand jury is to make an application for his voluntary appearance before that grand jury so that he may present his side of the story and answer any pertinent questions posed by the grand jury.

Wherefore, for all of the foregoing, this motion should be denied.

Respectfully submitted,

PAUL C. VINCENT,
Attorney, Department of Justice.
JON MARPLE,
Attorney, Department of Justice.

CERTIFICATE OF SERVICE

A copy of the foregoing Opposition to Senator Gravel's Motion for Intervention was mailed, postage paid, this date, the first day of September 1971 to Charles Louis Fishman, Esq. 633 East Capitol Street, Washington, D.C. 20003.

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[6] Following Supreme Court practices, we are filing herewith a Motion for Specification and a Motion to Quash the Indictment. Should this Court grant the Motion to Intervene, we ask this Court to then consider these other motions.

*Counsel wish to acknowledge the assistance of Ralph Kates, a third-year student at Temple Law School, in the preparation of this Brief.

PAUL C. VINCENT,
Attorney, Department of Justice.

[In the U.S. District Court for the District of Massachusetts, Docket No. EBD 71-172]

MOTION FOR SPECIFICATION

(United States of America versus John Doe)

Comes now movant, United States Senator Mike Gravel, and respectfully moves this Court for an Order requiring the Government to specify in detail the purpose, scope and exact nature of the questions to be asked of Dr. Leonard Rodberg by the Federal grand jury. Movant submits that absent such specification, the appearance of Dr. Rodberg before the grand jury will violate movant's Congressional privilege to be immune from judicial inquiry of acts done by him and his personal staff in the discharge of his duties as a United States Senator, said privilege secured to movant by the Speech and Debate Clause of the Constitution, Article I, Section 6, Clause 1.

In support of this Motion, movant states as follows:

1. Dr. Rodberg was served with a subpoena on Tuesday, August 24, 1971, which seeks to compel Dr. Rodberg's appearance before a Federal grand jury sitting in this District, to wit, in Boston, Massachusetts.

2. Dr. Rodberg is a personal servant of movant and assisted movant in the discharge of his duties as a United States Senator, and in so doing has acted under movant's direction and control.

[In the U.S. District Court for the District of Massachusetts, Docket No. EBD 71-172]

MOTION TO QUASH GRAND JURY SUBPENA

(United States of America versus John Doe)

Comes now movant, United States Senator Mike Gravel, and respectfully moves this Court for an order quashing a subpoena served upon Dr. Leonard Rodberg on Tuesday, August 24, 1971, which seeks to compel Dr. Rodberg's appearance before a Federal grand jury sitting in this District, to wit, in Boston, Massachusetts.

Movant submits that the subpoena served upon Dr. Rodberg should be quashed because it violates movant's Congressional privilege to be immune from judicial inquiry of acts done by him and his personal staff in the discharge of his duties as a United States Senator, said privilege secured to movant by the Speech and Debate Clause of the Constitution, Article I, Section 6. Clause 1.

In support of this Motion, movant states as follows:

1. Dr. Rodberg is a personal servant of movant and has assisted movant in the discharge of his duties as a United States Senator, and in so doing has acted under movant's direction and control.

2. In his aforesaid capacity as personal assistant to movant, Dr. Rodberg assisted movant in preparing for disclosure.

[In the United States District Court for the District of Massachusetts, Docket No. EBD 71-172]

United States of America versus John Doe

MOTION FOR SPECIFICATION

Comes now movant, United States Senator Mike Gravel, and respectfully moves this Court for an Order requiring the Government to specify in detail the purpose, scope and exact nature of the questions to be asked of Dr. Leonard Rodberg by the Federal grand jury. Movant submits that absent such specification, the appearance of Dr. Rodberg before the grand jury will violate movant's Congressional privilege to be immune from judicial inquiry of acts done by him and his personal staff in the discharge of his duties as a United States Senator, said privilege secured to movant by the Speech and Debate Clause of the Constitution, Article I, Section 6, Clause 1.

In support of this Motion, movant states as follows:

1. Dr. Rodberg was served with a subpoena on Tuesday, August 24, 1971, which seeks to compel Dr. Rodberg's appearance before a Federal grand jury sitting in this District, to wit, in Boston, Massachusetts.

2. Dr. Rodberg is a personal servant of movant and assisted movant in the discharge of his duties as a United States Senator, and in so doing has acted under movant's direction and control.

3. In his aforesaid capacity as personal assistant to movant, Dr. Rodberg assisted movant in preparing for disclosure and subsequently disclosing to movant's colleagues and constituents, at a hearing of the Senate Subcommittee on Public Buildings and Grounds, the contents of the so-called "Pentagon Papers," wnich were critical of the Executive's conduct in the field of foreign relations.

4. It is believed that the questions to be asked of Dr. Rodberg by the grand jury will concern the acts of movant and of Dr. Rodberg set forth in paragraphs 2 and 3.

5. All of the said acts performed by movant and by Dr. Rodberg are immune from judicial inquiry by virtue of movant's constitutional privileges and constitutional duties.

Respectfully submitted.

ROBERT J. REINSTEIN,
CHARLES L. FISHMAN,
Attorneys for Senator Gravel.

CERTIFICATE OF SERVICE

I hereby certify that I served this Motion upon counsel for the parties by causing a copy of it to be mailed, postage prepaid, to Doris Peterson and James Reif, 588 Ninth Avenue, New York, New York, 10036, and by causing a copy of it to be hand-delivered to

ROBERT J. REINSTEIN.

[In the U.S. District Court for the District of Massachusetts]

MOTION TO QUASH GRAND JURY SUBPOENA

(United States of America versus John Doe)

Comes now movant, United States Senator Mike Gravel, and respectfully moves this Court for an order quashing a subpoena served upon Dr. Leonard Rodberg on Tuesday, August 24, 1971, which seeks to compel Dr. Rodberg's appearance before a Federal grand jury sitting in this District, to wit, in Boston, Massachusetts.

Movant submits that the subpoena served upon Dr. Rodberg should be quashed because it violates movant's Congressional privilege to be immune from judicial inquiry of acts done by him and his personal staff in the discharge of his duties as a United States Senator, said privilege secured to movant by the Speech and Debate Clause of the Constitution, Article I, Section 6, Clause 1.

In support of this Motion, movant states as follows:

1. Dr. Rodberg is a personal servant of movant and has assisted movant in the discharge of his duties as a United States Senator, and in so doing has acted under movant's direction and control.

2. In his aforesaid capacity as personal assistant to movant, Dr. Rodberg assisted movant in preparing for disclosure and subsequently disclosing to movant's colleagues and constituents at a hearing of the Senate Subcommittee on Public Buildings and Grounds, the contents of the so-called "Pentagon Papers," which were critical of the Executive's conduct in the field of foreign relations.

3. It is believed that the questions to be asked of Dr. Rodberg by the grand jury will concern the acts of movant and of Dr. Rodberg set forth in paragraphs 1 and 2.

4. All of the said acts performed by movant and by Dr. Rodberg are immune from judicial inquiry by virtue of movant's constitutional privileges and constitutional duties.

5. The appearance of Dr. Rodberg before the grand jury would violate movant's constitutional privileges.

Respectfully submitted,

ROBERT J. REINSTEIN,
CHARLES L. FISHMAN,
Attorneys for Senator Gravel.

CERTIFICATE OF SERVICE

I hereby certify that I served this Motion upon counsel for the parties by causing a copy of it to be mailed, postage prepaid, to Doris Peterson and James Reif, 588 Ninth Avenue, New York, New York, 10036, and by causing a copy of it to be hand-delivered to

ROBERT J. REINSTEIN.

[U.S. District Court for the District of Massachusetts, Docket No. EBD 71-172]

(United States of America versus John Doe)

APPLICATION FOR AN ORDER TO SHOW CAUSE AND A STAY OF A GRAND JURY SUBPOENA

Applicant Dr. Leonard S. Rodberg, upon a grand jury subpoena served upon him on the 24th day of August, 1971, the motion to quash said subpoena, the verified affidavits of Dr. Leonard S. Rodberg and of James Reif and exhibits annexed thereto, and all the proceedings heretofore had herein, respectfully moves this Court:

(1) for the issuance of an Order to Show Cause as annexed hereto and;

(2) for a stay of the execution of the specified grand jury subpoena presently returnable on August 27, 1971, until disposition of applicant's motion to quash said subpoena; and

(3) granting such other and further relief as to this Court may seem just and proper in the premises.

Respectfully submitted

DORIS PETERSON,
JAMES REIF,
c/o Center for Constitutional Rights.
NEW YORK, N.Y., *August 27, 1971.*

[U.S. District Court for the District of Massachusetts, docket No. ——]

(United States of America versus John Doe)

ORDER TO SHOW CAUSE

Upon the grand jury subpoena served upon Dr. Leonard S. Rodberg, the motion to quash, the verified affidavits of Leonard S. Rodberg and James Reif and the exhibits annexed thereto and all the proceedings heretofore had herein let the government show cause before this Court at the United States Courthouse, Boston, Massachusetts, in Courtroom ——, at —— o'clock, on the —— day of —, 1971, why an order should not be granted quashing the above specified subpoena on each of the following independent grounds:

1. that a compelled appearance by Leonard S. Rodberg before the secret grand jury proceedings violates congressional privilege, separation of powers and the Speech and Debate Clause,

2. that it abridges movant's rights to freedom of the press, freedom of expression and freedom of association in violation of the First Amendment,

3. that it violates movant's rights under the Fourth Amendment and Title 18 U.S.C. Sections 2510-20 to be free from unconstitutional and illegal electronic surveillance,

4. that in failing to delimit its scope, the subpoena is unreasonable under the Fourth Amendment, a denial of due process under the Fifth Amendment, and a denial of the right to effective counsel under the Sixth Amendment, and

5. that it constitutes an abuse of process; or alternatively, why a protective order should not be entered limiting the questioning of movant before the grand jury to a scope consistent with law.

Be it further ordered that execution of the above specified subpoena be hereby stayed pending disposition of the motion to quash said subpoena.

And be it further ordered that personal service or by certified mail by the —— day of August, 1971, of this Order to Show Cause and the papers above specified upon which it is granted shall be deemed sufficient.

Dated August —, 1971.

[U.S. District Court for the District of Massachusetts, Docket No. ——]

(United States of America v. John Doe)

MOTION TO QUASH GRAND JURY SUBPOENA AND TO STAY GRAND JURY APPEARANCE PENDING DISPOSITION OF THIS MOTION

Dr. Leonard S. Rodberg respectfully moves this Court for an order quashing a subpoena served upon him on Tuesday, August 24, 1971, which seeks to compel his appearance before a federal grand jury sitting in this district, to wit, in Boston, Massachusetts, on Friday, August 27, 1971 at 10:00 a.m. Alternatively, Dr. Rodberg moves for the entry of a protective order limiting the questioning of movant before the grand jury to a scope consistent with law. Further, Dr. Rodberg respectfully requests that his subpoena be adjourned and his appearance before the grand jury be stayed pending disposition of this motion and that he be permitted time in which to prepare and submit to this Court substantial affidavits and other documentary material in support of this motion.

Movant submits that this subpoena should be quashed upon, *inter alia*, each of the following independent grounds:

a. That it violates Congressional privilege, separation of powers and the Speech and Debate Clause;

b. That it abridges movant's rights to freedom of the press, freedom of expression and freedom of association in violation of the First Amendment.

In support of paragraphs (a) and (b), movant alleges as follows:

1. On June 29, 1971 Mike Gravel, United States Senator from the State of Alaska, in the course of a meeting of the Senate Subcommittee on Public Buildings and Grounds read publicly a portion of the so-called "Pentagon Papers," and inserted the rest of the papers in his possession into the record of the subcommittee.

2. Immediately after that reading and at the express direction of Senator Gravel, aides and assistants to the Senator distributed to members of the press and others copies of the papers from which Senator Gravel had read.

3. On the night of June 29, 1971, movant was and continues to be, down to the present date, a member of Senator Gravel's staff.

4. On Wednesday, August 18, 1971, it was reported and alleged in the Washington Post that Senator Gravel had turned over copies of the "Pentagon Papers" to a Boston, Massachusetts, publisher for publication as a book. It was further alleged that movant here had arranged on Senator Gravel's behalf the transfer and publication of these papers. It was further alleged that movant here had made previous unsuccessful efforts to arrange publication of the papers in Senator Gravel's possession. See *Washington Post* article attached hereto as Exhibit "A."

5. On Tuesday, August 24, 1971, it was reported and alleged in an article in "Boston After Dark," a weekly newspaper, that, after several earlier unsuccessful attempts, movant had, at Senator Gravel's behest, arranged the publication of the papers in Senator Gravel's possession. See the article attached hereto as Exhibit "B."

6. On the evening of that same day, Tuesday, August 24, movant was served at his home in Silver Spring, Maryland, by an agent of the Federal Bureau of Investigation with the instant subpoena which seeks to compel his appearance on Friday, August 27 at 10:00 a.m. before a federal grand jury here in Boston. See subpoena attached hereto as Exhibit "C."

7. It is believed (as shown in the affidavit attached hereto) that the questions to be asked of movant before the grand jury will concern the June 29 meeting of the Subcommittee on Public Buildings and Grounds and the distribution of papers that occurred immediately thereafter.

8. It is further believed that the questions to be asked of movant before the grand jury will concern the allegation made in the newspaper articles attached hereto as Exhibits "A" and "B" that he has been involved in an effort to publish as a book the documents in Senator Gravel's possession.

9. Movant believes that an appearance for the purpose of questioning him regarding these matters raises substantial and fundamental issues concerning the scope of Congressional privilege and of the Speech and Debate Clause, and the distribution of governmental authority among the separate and distinct branches of government.

10. Movant further believes that such questions raise important and delicate issues regarding First Amendment freedoms, particularly freedom of the press, freedom of expression and freedom of association.

11. Movant therefore sought to retain legal counsel in connection with his appearance before the grand jury.

12. Informed late Wednesday, August 25, that Doris Peterson and James Reif were attorneys who had had experience in representing citizens subpoenaed to appear before grand juries, movant contacted them by telephone that same afternoon at their law offices in New York City and arranged to meet with them in person the following morning, Thursday, August 26.

13. Movant met with the aforementioned attorneys on Thursday, August 26. This was the first time they had ever met.

14. After some discussion it became apparent that time would be needed in order properly to protect Dr. Rodberg's rights and, in particular, to prepare and obtain affidavits in support of the claims enunciated above.

15. Therefore James Reif, one of Dr. Rodberg's attorneys, called Paul Vincent, United States Attorney, on Thursday, August 26 seeking a voluntary adjournment of movant's subpoena until movant and his attorneys had had sufficient time to prepare a memorandum of law and affidavits in support of Dr. Rodberg's position.

16. Mr. Vincent declined to adjourn the subpoena. He was thereupon informed of Dr. Rodberg's intention to seek a stay from this Court.

17. The affidavits and documentary material which movant seeks time to prepare, will show that the matters concerning which he would be questioned will directly relate to and concern the discharge of his responsibilities as staff member of the Honorable Mike Gravel, United States Senator from Alaska.

18. Movant would show by affidavit the need to insulate from executive and judicial scrutiny the performance of his responsibilities as an aide and agent of a United States Senator, acting at the express direction of that Senator, in order adequately to protect the fulfillment of the Senator's constitutional rights, duties and responsibilities as a Senator.

In connection with the showing described in this paragraph and paragraph 17, movant intends to submit the affidavit of Senator Mike Gravel, who will describe in detail the responsibilities of his office and his relationship with movant. Senator Gravel is presently in his home state of Alaska and his affidavit is therefore presently unobtainable.

19. The affidavits will further show that Dr. Rodberg's appearance before the grand jury will constitute great and immediate irreparable injury to the First Amendment rights of movant and of others. In particular, movant would show that his appearance would exert a chilling effect and constitute a prior restraint upon the public distribution and publication of the papers in the possession of Senator Gravel and other alleged copies of the Pentagon Papers. The appearance would also chill and inhibit the future discussion and distribution in the press and elsewhere of any facts which may reflect unfavorably on past or present national administrations, facts of which every American citizen must have knowledge if he or she is to fulfill his or her responsibilities as an informed and intelligent participant as a voter and citizen in a democratic society.

21. Movant would further show by affidavits that compelling the appearance of a citizen before a grand jury for the express purpose of testifying about the distribution and publication of materials whose distribution and publication may not, consistent with the First Amendment, be suppressed, *New York Times* v. *United States*, 91 S.Ct. 2140 (1971), would deter the future distribution and publication of the same or other similar materials by deterring persons with access to such materials from supplying them to the press, thus drying up press sources of information about matters of great public importance.

Movant submits that in consideration of the aforegoing he should be excused from appearance before the grand jury or, alternatively, that this Court enter a protective order limiting the permissible scope of interrogation, unless and until the government demonstrates a compelling justification for movant's appearance and testimony. Specifically, movant submits that the government, to meet its burden must show (i) reasonable grounds to believe that Dr. Rodberg has information (ii) relevant to a specific and specified incident the grand jury has grounds for investigating as a possible violation within its jurisdiction of designated statutes, and (iii) that the government has no alternative sources for the same or equivalent information whose use would not entail an equal degree of incursion upon First Amendment rights. Movant further alleges that his subpoena should be quashed on the grounds:

c. That it violates movant's right under the Fourth Amendment and Title 18 U.S.C. Sections 2510–20 to be free from unconstitutional and illegal electronic surveillance; specifically, that the subpoena itself as well as the questions to be propounded to movant are the direct or indirect product of unlawful electronic surveillance of or directed at movant or of premises the surveillance of which movant has standing to object to.

In connection with this issues, movant requests a hearing pursuant to *Alderman* v. *United States*, 394 U.S. 165 (1969) and 18 U.S.C. § 3504, wherein the government must affirm or deny the existence of such surveillance and wherein, if the government represents that no such surveillance has occurred, movant may examine the accuracy and adequacy of that representation.

d. That in failing to delimit its scope, the subpoena is unreasonable under the Fourth Amendment; a denial of due process under the Fifth Amendment; and a denial of the right to the effective assistance of counsel under the Sixth Amendment; and

e. That it constitutes an abuse of process.

Respectfully submitted.

DORIS PETERSON,
JAMES REIF,
c/o Center for Constitutional Rights.

[From the Washington Post, Aug. 18, 1971]

SENATOR GRAVEL TO PUBLISH WAR PAPERS

(By Ken W. Clawson)

Mike Gravel, the Alaska senator who stunned his colleagues with a midnight reading of portions of the secret Pentagon study of the Vietnam war, has turned over the documents to a Boston publisher for compilation into a book.

Beacon Press and Gravel said yesterday the four-volume book would be released in late October in paperback and hard cover editions. New disclosures will be contained in the volumes, they said.

The book will be titled, "The Senator Gravel Edition of the Pentagon Papers: The Defense Department History of Decision Making on Vietnam."

Beacon Press officials said the initial printing would range between 10,000 and 15,000 in paperback and fewer than 5,000 in hard cover.

A Justice Department spokesman said the Beacon announcement is being studied "to determine what, if any, action will be taken." He pointed out that Attorney General John N. Mitchell has said that "no avenue of criminal prosecution has been ruled out in connection with theft and unauthorized disclosure of the classified papers.

Beacon agreed to publish Gravel's copies of the documents after negotiations with Dr. Leonard S. Rodberg, a former University of Maryland physicist who is now a fellow at the Institute for Policy Studies here. Five other publishers turned Rodberg down.

Gravel, in a speech yesterday before the Commonwealth Club in San Francisco, said the controversial papers "deserve the widest possible dissemination." He said that was his reason for shocking the Senate on June 29 by alternately reciting and weeping as he read parts of the documents and placed about 4,000 pages into the record of his public works subcommittee. That record has never been published.

"Every American is entitled to the opportunity of examining and digesting for himself the lessons they contain as a means for ensuring that never again will this great nation be duped into waging a war under false pretenses," Gravel said.

Beacon officials said in Boston the edition would contain 14 times as much of the voluminous papers as has been published in the nation's newspapers or in the Bantam-New York Times book, "The Pentagon Papers," issued in July.

The book will contain 95 per cent of the Pentagon task force narrative on the history of U.S. involvement in Vietnam, Beacon officials said.

Beacon is a nonprofit publishing firm associated with the Unitarian-Universalist Association.

Beacon officials criticized the American press for losing interest in the study after the Supreme Court upheld the right of the New York Times and The Washington Post to publish the classified material. Daniel Ellsberg, who worked on the study in the Pentagon, is awaiting trial in Los Angeles after he admitted disseminating the material to the press as an act of conscience.

Beacon officials said they did not anticipate legal repercussions, because they were printing—with the exception of a foreword by Sen. Gravel—only those documents that the Alaska senator had placed in the subcommittee record.

That record has not been published because Chairman Jennings Randolph (D-W. Va.) reportedly was so furious with Gravel for calling the unauthorized, nongermane subcommittee meeting that he refused to authorize payment of a stenographer or a public record.

Before Beacon agreed about 10 days ago to publish the papers, at least five New York publishing houses and the MIT Press in Cambridge, Mass., turned them down, according to Rodberg.

Rodberg said yesterday the New York publishing house of Simon and Shuster was prepared to publish the documents supplied by Gravel—by an as yet unidentified source—until the Bantam book went on the market in July. He said four other major houses turned down the material, also on grounds that it was a losing commercial venture.

A Beacon spokesman said yesterday the Gravel book is the biggest venture in the history of the small publishing firm. More than $100,000 is required to bring out the book by October, the spokesman said.

The documents and narrative will be published verbatim in contrast to the Bantam book, which also contained New York Times news stories about the documents.

Gravel will receive no royalties. The Times paid contributors to the Bantam book a flat fee for their work in addition to their salaries as editors, reporters, and aides.

The Pentagon Papers was jointly published by Bantam Books and Quadrange Books, a subsidiary of the New York Times. Profits go to the two firms.

Rodberg's involvement with Sen. Gravel stems from the Alaska Senator's June 29 reading, although the physicist's antiwar activities have been increasingly visible.

During the 1969 Senate controversy over the anti-ballistic missile system, Rodberg was one of the authors of a study for Sen. Edward M. Kennedy (D-Mass.) that concluded the ABM would not work and would appear to Russia as an escalation of the arms race.

Rodberg was a member of the executive committee of the Federation of American Scientists in 1967 when the group declared in a policy statement that no university should accept grants that require research findings to be kept secret. Last April, Rodberg edited a book, "The Pentagon Watchers," which explored military propaganda and secrecy.

[From Boston After Dark, Aug. 24, 1971]

WHY MIT AND HARVARD SUPPRESSED THE PENTAGON PAPERS

(By Bo Burlingham)

On the cluttered desk of Howard R. Webber, the director of the MIT Press, sits a double pen holder inscribed with the words "Publish and be damned." Next to it is a sealed box decorated with an intricate, celestial pattern of suns and moons and stars. Beneath the design appears the phrase, "Exorcise the Pentagon."

These sentiments notwithstanding, the MIT Press declined last month to publish the Pentagon Papers out of a fear that the Nixon Administration might retaliate with legal action against the Press and the university of which it is a subdivision.

It had impressive company in its decision. Although several copies of the top secret study are floating around Congress and the New York *Times* has one from which it prepared its articles, no one seemed willing to make it available to the public, until Sen. Mike Gravel of Alaska and the Beacon Press ironed out a publishing agreement at the end of July. Last Tuesday, in simultaneous statements, they announced the publication of a four volume, 2.5 million word, 3000 page Senator Gravel Edition of the Pentagon Papers, to be available in bookstores by late October.

Knowledgeable sources indicated that the Gravel edition will include all of the original study except the section dealing with diplomacy. Dr. Daniel Ellsberg has said that he gave the diplomatic documents only to Sen. William Fulbright, Chairman of the Senate Foreign Relations Committee, because he feared that publicity would compromise secret channels which might prove important in a serious search for peace.

Now the common wisdom has it that the publication of the "complete" Pentagon Papers comes as no surpirse. Yet prior to the Beacon decision, at least six other publishing houses—including the MIT and Harvard University Presses—passed up the opportunity to publish them. It is in fact one of the ironies of the Pentagon Papers episode that, except for the efforts of Sen. Gravel and the Boston Press, the study might have remained unavailable to the public for an indefinite period of time.

Gravel took it upon himself to put the Papers into the public domain shortly after a set came into his possession on July 24. "The Senator believed that the public had a right to the Pentagon Papers," an aide said later. "The executive branch was trying to keep them under wraps, and it was unclear at the time which way the courts would decide. He was determined to get them out by hook or by crook."

Failing in his attempt to introduce the document into the Congressional Record, he called a meeting of his Subcommittee of Public Buildings and Grounds on June 29, at which he read extensively from the study. He placed the entire work on file with the subcommittee and let it be known that reporters could have copies for the asking. The next day, several journalists took him up on his offer. At least one newspaper, the St. Louis *Post-Dispatch*, subsequently ran articles based on the Gravel papers.

Meanwhile, a former physicist at the University of Maryland, now a fellow of the Institute for Policy Studies in Washington, had become involved in Gravel's project. Informed of the Senator's intention to release the Pentagon Papers to the public, Dr. Leonard S. Rodberg attended the July 29 subcommittee meeting as a sort of chronicler of the events. The following Tuesday, July 6, he returned to Capitol Hill to gather background material for an article, at which time he discussed with Gravel the possibility of publishing the entire study. The Senator liked Rodberg and recruited him as his publishing agent.

With Gravel's approval, Rodberg approached a friend of his, well known in left intellectual circles for his ability to get controversial works into print. The friend contacted Simon and Shuster, which expressed an interest in the idea. On Thursday, July 8, Gravel, Rodberg, and a lawyer flew to New York to confer with Bernard Shur-Cliff, the executive editor in charge of the Pocketbooks Division.

They discussed the project well into the night. Gravel insisted, first, that the book appear soon; second, that it be relatively inexpensive; and third, that it be widely distributed. Shur-Cliff considered these terms acceptable and spoke of publishing a mammoth paperback containing the entire narrative, but not the documents (the official memoranda, letters, telegrams, reports, etc., included as an appendix in the original study). The book would be ready in three weeks, and the first edition would run between 100,000 and 200,000 copies. It would sell for $3.95.

On Friday morning, Gravel spoke with the President of the publishing house, Leon Shimkin, and then left for Alaska. Rodberg and the others stayed behind to confer with Simon and Shuster's lawyer (a retired general) and the production personnel.

Later that same day, Bantam Books put on sale a collection of New York *Times* articles, under the title, *The Pentagon Papers*.

On Friday evening, the network newscasts included reports about Bantam's first day on the market, complete with films of the lines of customers who purchased the entire stock at the bookshop in the Pentagon. The executives of Simon and Shuster watched the national news coverage and received their own reports as well. The Bantam edition, they decided, had cornered the market for Pentagon Papers. "We estimated," Shur-Cliff said later, "that Bantam would sell a million copies of its paperback within four or five days. That meant that the Gravel project was no longer commercially feasible for us." At midnight, he telephoned Rodberg to call off the deal.

On Monday, July 19, Rodberg telephoned Arnold Tovell, the editor-in-chief of the Beacon Press, to outline for him Gravel's proposal. Tovell listened and asked him to call back on Tuesday. He then conferred with officials of Beacon and its parent organization, the Unitarian Universalist Association. The next day, he informed Rodberg that Beacon was "very interested" and invited him to come to Boston with the documents. Rodberg flew here on Wednesday to work out an arrangement with Beacon.

Beacon is a relatively small publishing house and could not make an offer comparable to that of Simon and Shuster. It would take the firm two to three months to have its edition in the bookstores; the complete, four volume, paperback work would sell for $20; and the first edition would number not more than 25,000 sets (100,000 books).

Even such an arrangement would strain Beacon's resources to the limits. While it has not given a precise estimate of the cost of producing the *Gravel Edition*, Goban Stair, director of the publishing house, has put the figure at "well in excess of $100,000" and admits, "Frankly, I very much wish somebody else were publishing this." As a non-profit, public-interest corporation, commercial considerations play a secondary role in Beacon's publishing decisions. The publication of the Pentagon Papers, its officials point out, will at least delay the appearance of other works they consider important.

And so when Rodberg left the Beacon offices on Thursday, he was still looking for a publisher for the Pentagon Papers. He had learned that the MIT Press might be interested and, from Logan Airport, he tried to reach its director, Howard Webber. On Friday, July 23, he contacted Webber on vacation in New Hampshire.

Gravel's offer came as a surprise to Webber, but not a shock. By coincidence, members of the faculty board which oversees the operation of the Press had discussed the possibility of publishing the Pentagon Papers at their last meeting in June. Webber described the conversation as "speculative" and "casual," but it was serious enough to lead him to believe that they might well accept Gravel's proposal.

He invited Rodberg to visit him in New Hampshire and to bring along the Papers. Rodberg obliged, and the two spent most of Friday discussing the project.

According to Rodberg, Webber seemed to have little doubt that the MIT Press would publish the study. It was capable of doing the job quickly (in three or four weeks) and distributing the work widely. Moreover, before Rodberg left, Webber telephoned several members of the faculty board, the legal counsel for the Press and the Institute, and Provost Walter Rosenblith—the highest ranking administration official in the absence of MIT President Jerome Wiesner—and received encouragement in the project. Every board member he reached expressed keen interest, though they did advise further consideration.

Rodberg left for Washington on Friday evening believing that the MIT Press would publish the Gravel edition of the Pentagon Papers. It was left that he would discuss the arrangements with Gravel and telephone Webber on Saturday about the Senator's response. The following Wednesday, Charles Fishman, the director of a Washington peace group named War No More, would travel to Boston to handle the final arrangements with the Press. Royalties, it was agreed, would go to War No More.

But Rodberg did not reckon with the administration of MIT or the strength of the Institute's ties to the government, nor did he take into account the fickleness of the faculty board members.

On Monday, July 26, four of the eight members of the board held an extraordinary meeting with Rosenblith, the Institute's lawyer, and Webber in the Provost's office. For two hours, they discussed the project, at the end of which they decided that the MIT Press would not publish the Pentagon Papers—notwithstanding the fact that it met all of their normal criteria for publication.

The difference in this case was the legal factor. After listening to the advice of counsel, the board members concluded that publication of the Pentagon Papers would violate the Espionage Act of 1917, under which Daniel Ellsberg has been indicted. They considered it a good possibility, moreover, that the Nixon administration would decide to prosecute MIT. If the MIT Press knowingly broke the law, so the reasoning went, it would be performing a political act, and that would run counter to Institute policy, i.e., that the university should not take political stands and should not engage in any activity which a significant minority of the university community finds objectionable.

In addition, Rosenblith argued that the publication of the Pentagon Papers by the MIT Press would tend to link MIT and Ellsberg in the public mind. Ellsberg, he said, has been careful to avoid associating MIT with his actions, and the Institute preferred that the separation be scrupulously maintained.

No one, it seems, raised the issue of freedom of the press, nor was the independence of the university thought to be a relevant question. Most important, the board members apparently accepted the lawyer's analysis as the accurate opinion of a competent technician, and did not suggest that another point of view be sought out—say, that of a constitutional rather than a corporation lawyer.

By the end of the meeting, only Webber remained unconvinced. On Tuesday morning, he informed Rodberg of the board's decision.

The latter received the news with dismay. That afternoon he returned to Boston to work out the final arrangements with Beacon. First, however, he had a friend approach the Harvard University Press with the offer of the Pentagon Papers. Director Mark Carroll rejected it out of hand.

Curiously, the legal question played no significant role in Beacon's consideration of the project, nor did it appear to have much influence on the decisions of the New York publishing houses. "They (Gravel's aides) went over the legal implications in some detail with our house lawyer," said executive editor Shur-Cliff of Simon and Shuster, "and we all pretty much agreed that this would present no particular obstacle."

In fact, only with MIT did the possible violation of the Espionage Act become a major factor in the decision not to publish. Skeptics say that it provided a convenient loophole through which the Institute escaped a situation which might have compromised its standing with the Pentagon. They note that MIT holds more Defense Department contracts than any other university in the country.

It is, indeed, remarkable that no one at the meeting challenged the view that publication of the documents would constitute a clear violation of the law. "Anyone who says that," commented one Harvard Law School professor known for his work in constitutional law, "is either very ill-informed or a charlatan, pure and simple."

Said Rodberg, an MIT alumnus, "It's obvious that no one considered the publication of the Pentagon Papers very important. If they had, they would have looked for other advice. . . . But even if you accept their reasoning, you see they had a double allegiance. In the end the members of the board decided that their loyalty to a MIT as it now exists was stronger than their loyalty to a free press, which they are supposedly custodians of."

Some of those present at the special meeting on July 26 point out in self-defense that the board members knew of Beacon's willingness to publish the Papers, "so it wasn't as if we were keeping them from the public."

However, this view was not shared by all members of the board. As one of them, Prof. Ernest Rabinowicz, observed, "If you see a man drowning, you don't count on the next person to save him. You decide either to save him or to let him drown."

In this case, evidently, Rabinowicz and his colleagues decided to let him down.

[U.S. District Court for the District of Massachusetts, Docket No. —]

UNITED STATES OF AMERICA VERSUS
JOHN DOE

Leonard S. Rodberg, being duly sworn, deposes and says:

1. I am thirty-eight years old and have a Ph.D. in physics. I am married, have four children and live in Silver Spring, Maryland.

2. I am presently and have been since June 29, 1971, a member of the staff of Mike Gravel, United States Senator from the State of Alaska. I am also a Fellow at the Institute for Policy Studies in Washington, D.C.

3. Upon information and belief, the purpose of compelling my appearance before the grand jury is to ask questions of me directly relating to the discharge of my responsibilities as an aide to and agent of Senator Gravel.

4. The subpoena to appear before the grand jury on August 27, 1971, at 10:00 a.m. in Boston, Massachusetts, was served upon me without prior notice on Tuesday evening, August 24, 1971, by an agent of the Federal Bureau of Investigation in Maryland.

5. Due to prior professional commitments, attorneys who I had anticipated would be able to represent me proved unable to do so. After some investigation I learned that James Reif and Doris Peterson were attorneys experienced with respect to grand jury proceedings. I contacted them at their office on Wednesday, August 25, 1971, and arranged to meet and did thereafter meet with Mr. Reif and Ms. Peterson on Thursday morning, August 26.

6. Said meeting was the first occasion that I met with either Mr. Reif or Ms. Peterson.

7. Having had no prior notice of my subpoena and having had only one day in which to consult with counsel, I have not had an opportunity to gather affidavits and other material which I believe will support my claim that I should not be required to appear before the grand jury, or that in the alternative a protective order should be entered limiting the scope of the questions that can be asked of me.

8. In particular, I would like to obtain the affidavit of Senator Gravel who, I have been informed, is presently in his home state of Alaska.

9. Further, I would like to obtain affidavits if possible of reporters and publishers relative to the general practice with regard to their sources of information and the reasons for that practice. They would also include affidavits by other persons in the academic community relative to the circulation of documents generally therein. These would be for the purpose of demonstrating the importance of the First Amendment rights which are involved.

10. Upon information and belief, I have been the subject of unlawful electronic surveillance, which surveillance has resulted in the issuance of the subpoena commanding my appearance before the instant grand jury and has tainted the questions to be asked of me therein.

LEONARD S. RODBERG, Ph.D.

[U.S. District Court for the District of Massachusetts, Docket No. —]

UNITED STATES OF AMERICA VERSUS JOHN DOE

James Reif, being duly sworn, deposes and says:

1. I am an attorney-at-law duly licensed as such in the State of New York. I make this affidavit in support of the relief prayed for in the attached motion.

2. On Wednesday afternoon, August 25, 1971, I received a telephone call from Dr.

Leonard S. Rodberg in Maryland, asking that Doris Peterson and I consult with him in connection with a subpoena that had been served on him the previous evening, August 24, 1971, compelling his appearance before a grand jury in Boston, Massachusetts, at 10:00 a.m. on Friday, August 27, 1971.

3. I arranged for Dr. Rodberg to meet with Mrs. Peterson and myself at our office the following morning in New York.

4. On Thursday, August 26, 1971, Dr. Rodberg met with Mrs. Peterson and me at our office. This was the first time either Mrs. Peterson or I had met Dr. Rodberg.

5. After some discussion, we decided that to protect fully Dr. Rodberg's rights, it would be necessary to prepare and obtain affidavits in support of the claims enunciated in the moving papers to which this affidavit is annexed, as well as to prepare a memorandum of law.

6. Therefore I called Paul Vincent, United States Attorney, that same day, Thursday, August 26, 1971, seeking a voluntary adjournment of movant's subpoena until movant and his attorneys had had sufficient time to prepare a memorandum of law and affidavits in support of Dr. Rodberg's position.

7. Mr. Vincent declined to adjourn the subpoena. I thereupon informed him of Dr. Rodberg's intention to seek a stay from this Court.

8. Upon information and belief, the grand jury before which Dr. Rodberg has been subpoenaed is the grand jury which has received widespread notoriety for its investigation of the "Pentagon Papers."

9. Upon information and belief the questions to be asked of Dr. Rodberg before the grand jury will concern the June 29, 1971, meeting of the Senate Subcommittee on Public Buildings and Grounds at which, upon information and belief, Senator Mike Gravel read and put into the record of the Subcommittee part of the Pentagon Papers and through aides, distributed them immediately thereafter.

10. Upon information and belief, the questions to be asked of Dr. Rodberg before the grand jury will concern also the allegation made in the newspaper articles attached hereto as Exhibits "A" and "B" that he has been involved in an effort to publish as a book the documents in Senator Gravel's possession.

11. As an attorney I believe that Dr. Rodberg's interests will be best served if affidavits supporting the attached motion to quash are submitted with it. Due to the shortness of time, however, it has not been possible to prepare or obtain these affidavits upon which Dr. Rodberg's claims will necessarily turn.

JAMES REIF.

CERTIFICATE OF SERVICE

This is to certify that a copy of the aforegoing Motion to Quash and papers submitted in support thereof was served upon Paul Vincent, United States Attorney, Department of Justice, by hand deliver, this 27th day of August, 1971.

——— ———.

[In the U.S. District Court for the District of Massachusetts, EBD 71-172]

BRIEF OF INTERVENER, SENATOR MIKE GRAVEL, IN SUPPORT OF MOTION TO QUASH SUBPOENA

(MIKE GRAVEL, U.S. Senator, intervener versus United States of America in the matter of Leonard S. Rodberg, United States of America versus John Doe)

In our brief of support of Motion To Intervene, filed September 1, 1971, we set forth in detail our reasons for concluding that the appearance of Dr. Rodberg before the federal grand jury under the present record in this proceeding will violate Senator Gravel's privilege to be immune from any judicial inquiry of acts done by him and his personal staff in the course of his duties as a United States Senator this privilege being secured to Senator Gravel by the Speech and Debate Clause of the Constitution. In order to avoid undue repetition, we incorporate those basic arguments by reference and limit this brief to a supplementation of some of the points previously made.

(1) We observed in our previous brief (page 10) that the Executive branch itself has asserted, contrary to the position taken in this proceeding, that an official's privilege to be free from question by a coordinate branch of government extends in full force to his staff assistants. In addition to insulating staff assistants from questioning in Congress, the Executive has invoked the privilege to suppress from Congressional inquiry planning reports prepared by staff assistants which involve important aspects of foreign relations. (See the *Boston Globe*, September 1, 1971, page 8 attached hereto as Exhibit A.) It ill befits the Executive to now contend that a similar privilege does not attached to Members of Congress and to their assistants.

Research has also revealed that the Executive has in fact successfully litigated in court the proposition that subordinate officials and staff assistants are also privileged for acts done in the discharge of their duties.

In *Barr v. Matteo*, 360 U.S. 564 (1959), a subordinate official in the Executive department was sued for libel after maliciously issuing a press release which challenged the integrity of two critics and referred their names to Senator Joseph McCarthy. Barr's only defense was that this communication was absolutely privileged from judicial inquiry.[1] The Supreme Court agreed. After noting that the court has created rules of absolute privilege to immunize judges and their staffs and Executive officers of Cabinet rank, in a matter paralleling the Constitutional privilege of Members of Congress, *id* 569–70, and observing that the reason for each privilege was that adverse court action would otherwise "inhibit the fearless, vigorous, and effective adminstration of policies of government" and "dampen the ardor of all but the most resolute, or the most irresponsible, in the unflinching discharge of their duties," *id* 571, the court held that these considerations dictate its application to subordinate officials.

"The privilege is not a badge or emolument of exalted office but an expression of policy designed to aid in the effective function of government. The complexities and magnitude of governmental action have become so great that there must of necessity be a delegation and redelegation of authority as to many functions, and we cannot say that these functions become less important simply because they are exercised by officers of lower rank in the Executive hierarchy." Id, 572–73. (Footnote omitted.)

Even closer to the factual setting of this proceeding is the companion case to Barr, *Howard v. Lyons*, 360 U.S. 563 (1959). That case was a libel suit against a Captain in the Navy for preparing a memorandum to his immediate superior and sending a copy to Members of Congress, concerning conditions in the Boston Naval Shipyard. Following the principles enunciated in Barr, the Supreme Court held Captain Howard to be immune from suit.

The Barr and Howard decisions therefore lend additional support to the thesis that official privilege, to be viable cannot be cabined in an arbitrary manner to the exclusion of staff assistants. It seems indisputable that were Dr. Rodberg a member of the staff of a judge or Executive official he would be entitled to absolute privilege for the conduct of his duties under official roles. Since the source of the privilege herein asserted is a provision of the Constitution which "itself gives an absolute privilege to Members of both Houses of Congress in respect to any speech, debate, vote, report, or action done in Session," *Barr v. Matteo, supra* 569, the scope of the Congressional privilege surely must be given at least as much respect.

(2) Perhaps in no other area of Constitutional law is Mr. Justice Holmes' admonition so valid that a "page of history is worth a volume of logic." *New York Trust Company v. Eisner*, 256 U.S. 345, 349 (1921). Behind the "simple phrases" of the Speech and Debate Clause "lies a history of conflict between the Commons and the Tudor and Stuart monarchs during which successive monarchs utilized the criminal and civil law to suppress and intimidate critical legislators. *United States v. Johnson*, 383 U.S. 169, 178 (1966). The Supreme Court has reminded us that in considering the application of the Speech and Debate Clause to criminal prosecutions we must "look particularly to the prophylactic purposes of the clause," molded by "the long struggle for Parliamentary privilege in England," *id* 182. Courts must therefore construe the clause bearing in mind the fact, imprinted in our Constitutional heritage, that "there is little doubt that the instigation of criminal charges against critical or disfavored legislators by the Executive in a judicial forum . . . in England and in the context of the American system of separation of powers, is the predominate thrust of the Speech and Debate Clause." *Ibid*.

It is against these contours that the instant proceedings must be judged—striking against the "taproots" of legislative privilege and the "presupposition of our political history." *Tenny* v. *Brandhove*, 341 U.S. 367, 372 (1951). For, under the undisputed facts of this proceeding, the Executive branch has determined to turn the clock back for our Constitutional history. The institution of criminal proceedings in retaliation for a speech of a United States Senator critical of Executive conduct of foreign policy is a recreation of the seditious libel prosecutions which are the historical root of the clause. When Charles I was at first criticized and eventually denied funding from Parliament to continue fighting a needless and bloody war overseas, he struck back at his critics by prosecuting Sir John Elliot and others for "seditious" speeches in Parliament, 3 *How. St. Tr.* 294, 332. The result was the greatest Constitutional crisis in English history, until, in 1668, "after a long and bitter struggle, Parliament finally laid to rest the ghost of Charles I." *Tenny* v. *Brandhove, supra*, 372.[3]

Even if history were not so clear in condemning retaliation by the Executive against Senator Gravel for exposing and criticizing a disastrous chapter in American foreign policy, the subpena would still be void, for it "threatens those consequences which the Framers so deeply feared." *Cf. School District* v. *Shempt*, 374 U.S. 203, 230, 236 (1963). (Mr. Justice Brennan concurring). Invoking the grand jury in such a retaliatory manner jeopardizes separation of powers in the government in three ways:

(A) It deprives the people of adequate representation in Congress. No Member of Congress who fears retaliation against himself or his staff can represent his constituents in the manner intended by the Framers. Such action by the Executive would, to borrow from the language of *Barr* v. *Matteo, supra* 571, "dampen the ardor of all but the most resolute, or the most irresponsible, in the unflinching discharge of . . . duties."

(B) It violates the freedom of speech indispensable to representative government. The people have the right to be informed by their representatives of the complete workings of the government so that they can meaningfully exercise their franchise. "The people, not the government, possess the absolute sovereignty." See *New York Times v.*

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[1] Barr was represented by an attorney from the Department of Justice.

[3] At the opening of every new Parliament since the Great Revolution, the Speaker of the House of Commons has demanded of the King an oath of fidelity to the privilege. (I *Blackstone's Commentaries* * 164–65.)

Sullivan, 376 U.S. 254 (1964). One branch of government does not possess the power to censor another and prevent or deter it from communicating with the people. For the consequence would be censoring the public's right to know. As Madison said, "If we avert to the nature of Republican Government, we shall find that the censorial power is in the people over the Government and not in the Government over the people." 4 *Annals of Congress* 934 (1794).

(C) It is an illegitimate intrusion by the Executive into the Senate's perogatives in foreign affairs and in the conduct of war. With the history of war dictated by the Crown against the wishes of Parliament fresh in their minds, the framers of the Constitution vested the war-making and appropriation powers in Congress. Article I, Section 8, Clause 11–14. As a further insurance of the separation of powers in the foreign relations sphere, the Senate was given the Advise and Consent power on treaties. Article II, Section 2, Clause 2.

In his speech on the Vietnam war and disclosure of the Pentagon papers, Senator Gravel's actions fit into the past and continuing deliberations in the Senate on how its powers should be used to terminate the conflict in Indochina. This debate implicates all of the Constitutional powers and duties of the Senate over foreign affairs. It is a flagrant violation of separation of powers for the Executive to retaliate against critical Senators so as to affect the outcome of deliberations of a coordinate branch of government.

Furthermore, in discharging its obligations over foreign relations, the Senate has the right to obtain and use all relevant information. As the Supreme Court says in *Watkins* v. *United States*, 354 U.S. 178 (1957):

(Citation omitted.)

To put the matter simply the Executive does not possess the Constitutional power to tell the Senate what it may or may not read.

(3) In our previous brief we pointed out the essential differences between a staff assistant and someone such as the Sergeant at Arms, so that Congressional immunity extends to the former but not to the latter. The arguments set forth herein further highlight those differences. The purposes behind the Constitutional privilege—insuring fearless representation or an unfettered communication to constituents, preventing retaliation by a hostile Executive, and preserving other values in our scheme of separation of powers—all require that personal staff assistants be immune for aiding Members of Congress in the discharge of their duties. On the other hand, none of these factors would affect the accountability of persons such as the Sergeant at Arms.

When, as in *Powell* v. *McCormack*, 395 U.S. 486 (1969) and *Kilbourn* v. *Thompson*, 103 U.S. 168 (1881) the Sergeant at Arms and other officers carried out Congressional orders in excluding a Member and arresting a third person, they acted exactly as any federal law enforcement official does in executing a Congressional statute. Similarly, in *Dombrowski* v. *Eastland* 387 U.S. 82 (1967), Sourwine, the General Counsel of the Committee, conspired with others and then carried out an unconstitutional search and seizure, for which he, like every other law enforcement official is subject to accountability in the courts.[4] If the enforcement actions of these persons were not subject to judicial review, the Constitutional rights of citizens could not be preserved and *Marbury* v. *Madison* would be reduced to mere rhetoric. This, indeed, was the reasoning articulated in *Kilbourn* and reiterated in *Powell*. 395 U.S. 506.

No Senator or Congressman will be deterred in discharging his responsibilities, or in communicating freely with his colleagues and constituents, or will be open to retaliation by a hostile Executive because of the fear that a law enforcement official will be held judicially accountable for carrying out the orders of Congress, whether made by resolution or statute. Nor will he be deterred if a person such as Sourwine acts as a policeman is subject to judicial review. On the other hand, each of these adverse consequences will be realized, and judicial review will not be enhanced if a staff assistant can be held liable for advising and helping a Member of Congress in preparing and distributing a speech, casting a vote and otherwise discharging his duties.

CONCLUSION

The subpoena issued by the Executive branch in this case challenges the most basic and bedrock principles of our Constitutional form of government. It cannot withstand analysis under the terms, history and policies of the Speech and Debate Clause. The subpoena must be quashed.

Respectfully submitted,
ROBERT J. REINSTEIN,
CHARLES L. FISHMAN,
Attorneys for Senator Gravel.

[In the U.S. District Court for the District of Massachusets, Docket No. EBD 71–172]

AFFIDAVIT OF ROBERT G. DUNPHY

(MIKE GRAVEL, intervenor, versus United States of America versus John Doe in re Leonard Rodberg)

Robert G. Dunphy, Sergeant at Arms, United States Senate, Washington, D.C. 20510, being duly sworn, deposes and says:

1. By letter to me dated June 29, 1971, Senator Gravel designated Dr. Leonard Rodberg as a member of his personal staff. Senator Gravel's letter is set forth below:

Mr. ROBERT G. DUNPHY,
Sergeant at Arms,
U.S. Senate,
Washington, D.C.

DEAR MR. DUNPHY: Effective this date please add to my personal staff roll the name of Dr. Leonard Rodberg.

Dr. Rodberg will serve as a special assistant to me, with full access to my office, performing duties I assign and under my direct supervision.

Sincerely,
MIKE GRAVEL.

U.S. DEPARTMENT OF JUSTICE,
Washington, D.C.

WILLIAM A. RIDGELY,
Financial Clerk,
U.S. Senate,
Washington, D.C.

DEAR MR. RIDGELY: We would appreciate your causing a search to be made of the official records of the United States Senate to ascertain whether the name of Leonard S. Rodberg appears as an employee of the United States Senate.

Thank you for your cooperation in this matter.

Sincerely,
A. WILLIAM OLSON,
Deputy Assistant Attorney General,
Internal Security Division.

[U.S. District Court, District of Massachusetts, Docket No. EBD 71–172]

AFFIDAVIT

(MIKE GRAVEL, U.S. Senator, intervenor versus United States, United States versus John Doe in re Leonard S. Rodberg)

Leonard S. Rodberg, being duly sworn, deposes and says:

1. I have been subpoenaed to appear before a federal grand jury in Boston, Massachusetts. I make this affidavit to show why my appearance before this secret grand jury would violate the rights and privileges of Mike Gravel, United States Senator from the State of Alaska, and my obligation to assert those rights and privileges, and would violate as well my rights under the First Amendment to the Constitution of the United States.

2. My background, insofar as it bears upon the instant matter, may be summarized briefly:

In 1956 I was awarded a Ph.D. in physics from the Massachusetts Institute of Technology. In the following year I was a Research Associate in nuclear physics at M.I.T. and, in the two years after that, Research Physicist at the University of California at Berkeley, California.

In 1959 I became Assistant Professor of Physics at the University of Maryland, a position I held through 1961, when I obtained a leave of absence to work as a Physical Science Officer in the Disarmament Administration in the Department of State. For this position I received Top Secret Clearance from the Department.

In 1962 when the Policy Research Office of the Science and Technology Bureau of the United States Arms Control and Disarmament Agency was created. I was appointed Chief of that office. In that position I was responsible for directing and conducting studies on United States disarmament policy and had occasion to work with officials from the Defense Department, Central Intelligence Agency, White House, and other agencies concerned with national security questions. I also supervised contract studies with academic and industrial researchers and served as liaison between them and the government. Further, I directed the work of academic consultants on arm control studies of interest to the government. I continued in these various functions until 1966.

I should also mention that in the years 1960–67, I was a Consultant to the Los Alamos Scientific Laboratory on questions relating to nuclear physics. In order to be appointed Consultant I had to and did receive Top Secret clearance from the Atomic Energy Commission.

From 1966 until 1970, I was Associate Professor and Associate Chairman of the Department of Physics and Astronomy at the University of Maryland.

In the period 1967–70, I was also a Visiting Fellow at the Institute for Policy Studies in Washington, D.C. In July 1970, I became a full-time Resident Fellow at the Institute.

3. In addition to my work as described in Paragraph #2, I have also authored numerous written works and speeches. For example, in 1967 I wrote a graduate textbook on physics, *Introduction To The Quantum Theory Of Scattering*, published by Academic Press. In 1966–69, I published several articles and delivered a number of speeches to both university and general audiences on ABM and arms control. The articles included "ABM: Some Arms Control Issues," Bulletin Of The Atomic Scientists (June, 1967) and "Limiting Strategic Technology," Bulletin Of The Atomic Scientists (November, 1969).

4. Since 1966, I have been sought out by a number of members of Congress for advice and suggestions concerning ABM, arms control, the military budget, military policy, economic conversion, how to study and evaluate military organizations and policies, United States policy in Vietnam, and new economic priorities.

In the summer of 1969, I was asked to organize a Congressional conference sponsored by more than fifty Senators and Congressmen, on Planning for New Priorities. I organized, participated in and spoke at that two day conference which was held in the Senate Office Building during June, 1969, After consultation with and under the direction of some of these Congressmen, I secured the participation of approximately fifteen academic experts in foreign and military policies and economics. Press reports were issued on the conference by the Congressional sponsors;

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[4] Indeed, Sourwine was afforded the limited immunity of every police officer who enforces a statute. See *Pierson* v. *Ray*, 386 U.S. 547 (1967).

newsmen were present and reported on the proceedings.

On another occasion, at the request of the sponsoring Congressmen, I spoke at and participated in, and drafted the report for another Congressional conference, which report was subsequently published by the sponsoring Congressmen.

In 1969 I wrote a chapter in a book commissioned by Senator Edward Kennedy, entitled, "*ABM: An Evaluation of the Decision to Deploy an Anti-Ballistic Missile System*" (Harper and Row). Senator Kennedy wrote the introduction to this book. My chapter was entitled "ABM Reliability."

5. In the summer of 1969, I was co-director of a study of United States military organization and policy. A dozen college students participated in this three month conference under my direction. The results of this study were subsequently published in a book I co-edited: *The Pentagon Watchers* (Doubleday, 1970).

During 1970 I directed two student studies—one on defense contracting and the other commissioned by Ralph Nader, on analytical consulting firms. A draft report was written on the first study and press reports issued. A book is in preparation on the second study which will be published next summer.

In my position as Fellow at the Institute For Policy Studies, I have been conducting research and writing on the Vietnam War, particularly the United States decision making process, the operation of the United States national security agencies, military budget, economic conversion and the uses of advanced technology. I also have organized conferences and seminars, directed the research of students and am in communication with scholars from around the country in connection with the aforementioned areas.

In April, 1971 I helped to organize, participated in, spoke at and wrote the report of the Conference on Economic Conversion sponsored jointly by a number of Congressmen and public organizations. In the course of this activity I worked closely with a number of aides to individual Congressmen. The report of the Conference has been published by the Coalition on National Priorities and has been distributed to members of Congress and interested members of the public.

6. Since 1967 I have been on the executive committee of the Federation of American Scientists (hereinafter FAS). FAS is a nonprofit organization of scientists and engineers concerned with the impact of science on public affairs. As an executive committee member of FAS, I participate in developing policy position by preparing expert analyses of issues under consideration based on my special background and access to information. In 1968, I submitted written testimony on behalf of FAS to the House Armed Services Committee. The positions taken by FAS have in the large been opposed to official administration policy. As the only member of the executive committee resident in Washington, I have discussed FAS positions and expert analyses with members of Congress, often at their request.

I have also been on the Executive Board of the Coalition on National Priorities and Military Policy (hereinafter Coalition) since 1969. The Coalition is a coalition of peace groups, church groups and other organizations concerned with military spending, arms control and economic conversion. I have the same role with respect to the Coalition as with FAS. It, too, has adopted positions opposed to current administration policy, primarily concerned with reducing military spending. In the spring of this year I testified on the defense budget on behalf of the Coalition before the Senate and House Armed Services Committees.

7. On June 29, 1971, I was asked by Mike Gravel, United States Senator from the State of Alaska, to become a member of his personal staff and have been acting in that capacity since that date. Everything I have done as Senator Gravel's aide, I have done only after consultation with him and upon his express direction.

8. From the foregoing, it can be seen that my roles have been multiple: research, writing, lecturing, supervising research projects, as well as providing advise, assistance, information, expertise to Senators and Congressmen for the performance of their official duties, as well as liaison to other persons whose expertise Congressmen require. Experience has shown that my success in fulfilling these multiple roles depends upon my ability to maintain access to a wide variety of confidential sources of information. My knowledge of and ability to communicate and advise on issues relating to government policy in the areas mentioned above would be seriously jeopardized if I should be forced to appear before a secret grand jury.

Within the academic community, information concerning matters of political importance often becomes available through confidential sources. These sources are moved to provide previously and otherwise nonpublic information by the unwritten but certain assurance that the fact of their disclosing such information shall remain confidential. Disclosure of that confidence would jeopardize the source in any one of numerous ways, as, for example, loss of one's job.

This has been particularly true with regard to American involvement in Vietnam. As the published reports from the Pentagon Papers make clear, much information bearing directly upon American responsibility for the tragedy of Vietnam has been kept from the American public, wholly without just cause. And much of what the citizenry knows has been supplied to it by the academic world. That community has played a primary role in the dissemination of facts regarding the war in Southeast Asia, and thus has played a significant part in the growth of American opposition, indeed revulsion, toward the war. This role has been fulfilled directly as by the writing of articles, books, monographs, the giving of lectures and speeches, the participation in conferences, discussions and debates. It has been done indirectly as by supplying information to the press or to Senators and Congressmen.

I have fulfilled nearly all these functions in the last several years. My ability to obtain this information which is of substantial importance to the American public has depended in large part upon confidential sources. In connection with American involvement in Vietnam, I have received information from numerous persons who were willing to provide that information upon their belief that the facts surrounding its transfer would not be revealed.

If, contrary to that expectation, I could be questioned regarding those sources, such a possibility would severely undermine my effectiveness as a scholar and writer with regard to Vietnam, for the fear of disclosure of their confidences would force those sources away. Without those sources, my contributions to the education of Americans with regard to Vietnam would necessarily be undermined.

Upon reflection it seems to me that perhaps this is precisely what the government is trying to achieve. Subpoenaing persons within the academic community quite clearly tends to intimidate their continuing to work to get out the truth about Vietnam. My own personal experience since August 4 is testimony to that. By intimidating that small group of scholars who have access to information about Vietnam that is otherwise being kept from the American public, the government can effectively inhibit continued efforts within the academic community to inform the people of the facts about Vietnam. Perhaps this is unintentional, but the motive is irrelevant. Whether intended or not, the inevitable effect of an effort to question that small number of scholars who have access to confidential sources with regard to American responsibility in Vietnam about those sources is to dry up those sources. I feel very strongly that this is most unfortunate: it is only because the public has become increasingly informed about Vietnam that it has been able to exert some small measure of control over executive policy here. And as noted earlier, it is the academic community that has been largely responsible for informing the public.

9. With particular reference to the assistance which I render to Congressman, in addition to jeopardizing necessary confidential sources, my future usefulness to them in the capacities described earlier would be greatly reduced if I should be forced to appear before a secret grand jury where they might think that privileged Congressional information about their functioning in their official role as Congressmen was obtained through me. In view of the fact that grand jury proceedings are secret their reliance on the confidentiality of their relationship with me would be greatly jeopardized.

10. I believe that the danger of losing the confidence of sources presently available to me arises from my appearance before the grand jury, unaffected by whether or not I respond to particular questions. Information is made available to me because my sources believe their communications will be kept in confidence. This confidence is a fragile thing. If sources fear that I can be forced to appear in a secret proceeding to be questioned in any way about their confidences they will assuredly refuse in the future to provide me with other information about which the public has a right to know. It is the appearance *per se* which creates this danger, for sources of information are of course unable to witness or participate in the secret proceedings and thus have no way to assure that their confidences are being preserved.

LEONARD S. RODBERG.

Sworn and Subscribed to before me this 8th day of September, 1971.

NANCY STEARNS,
Notary Public.

CERTIFICATE OF SERVICE

I hereby certify that I served this affidavit upon counsel for the parties by causing a copy of it to be mailed, postage prepaid, to Robert J. Reinstein at 1715 N. Broad Street, Philadelphia, Pa., 19122, and Charles L. Fishman, 633 E. Capitol Street, Wash., D.C., 20003, and by causing a copy of it to be hand delivered to the office of the United States Attorney for the District of Massachusetts, Boston, Mass.

[U.S. District Court for the District of Massachusetts, Civil Action, No. EBD 71-172-G]

AFFIDAVIT OF MIKE GRAVEL

(MIKE GRAVEL, intervenor versus United States of America, United States of America versus John Doe, In Re.: Leonard Rodberg)

I, Mike Gravel, being first duly sworn, do depose and say that Dr. Leonard Rodberg is, and has been since June 29, 1971, a member of my personal staff in the United States Senate.

MIKE GRAVEL.

Subscribed and Sworn to before me this 10th day of September, 1971.

MARGARET M. FLAHERTY,
Notary Public.

GOVERNMENT OPPOSITION TO INTERVENOR'S MOTION FOR SPECIFICATION

(In the matter of a grand jury subpoena served upon Leonard S. Rodberg)

Intervenor, United States Senator Mike Gravel, requests the Court for an Order requiring ". . . the government to specify in detail the purpose, scope and exact nature of the questions to be asked of Dr. Leonard Rodberg by the Federal Grand Jury." The motion is totally without precedent. The Federal Rules of Criminal Procedure certainly do not provide for such an unusual motion. The Federal Rules of Civil Procedure do provide for a "Motion for More Definite Statement," but this is not what movant is requesting, nor is this a civil matter governed by the Federal Rules of Civil Procedure.

On the merits, a witness need not be apprised of the subject matter under inquiry by a Grand Jury. *In Re Meckley,* (D.C.M.D. Penn. 1943), 50 F. Supp. 274; *affd.* 137 F.2d 310; *cert. den.* 320 U.S. 370.

Further, a witness can neither question nor control the scope of a Grand Jury investigation. *Blair* v. *United States,* 250 U.S. 273.

Wherefore, this motion should be denied.

Respectfully submitted,

PAUL C. VINCENT,
Attorney, U.S. Department of Justice.
JON H. MARPLE,
Attorney, U.S. Department of Justice.

(In the matter of a grand jury subpoena served upon Leonard S. Rodberg)

GOVERNMENT'S MEMORANDUM IN OPPOSITION TO LEONARD S. RODBERG'S MOTION TO QUASH A GRAND JURY SUBPENA

(This Memorandum, In Addition To Opposing The Motion of Leonard S. Rodberg Is Also Addressed To The Motion To Quash The Rodberg Subpoena Brought By The Intervenor, Senator Mike Gravel)

I. THE SPEECH AND DEBATE CLAUSE CONFERS NO LEGISLATIVE PRIVILEGE OR IMMUNITY UPON SERVANTS, EMPLOYEES, OR AGENT OR INDIVIDUAL SENATORS

Dr. Leonard S. Rodberg claims that the subpoena served upon him violates the Speech and Debate clause of the United States Constitution on the grounds that he ". . . was and continues to be, down to the present date, a member of Senator (Mike) Gravel's staff." (Motion, p. 2). Further, he claims that his activities directed toward procurement of a publisher for the "Pentagon Papers" were undertaken by virtue of this servant/employee/agent relationship. Assuming that Rodberg occupied a bona fide staff position to the Senator* this allegation is insufficient as a matter of law to establish any privilege to excuse responding to this subpoena regardless of the scope of inquiry of the Grand Jury or the questions to be presented to Rodberg.

The Constitution on its face provides for a very limited privilege:

> The Senators and Representatives . . . shall in all Cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same; and for any Speech or Debate in either House, they shall not be questioned in any other Place. (Art. I § 6).

Hereafter, "immunity" refers to the exemption from arrest; "privilege" refers to the exemption from inquiry on account of a speech made in Congress. The "Speech and Debate Clause," however, refers to entire Constitutional provision quoted herein.

The wording of this clause makes no provision for its extension to even a Senator's family or body servants, much less his professional assistants or staff. In the absence of express provision, this court should be reluctant to find therein, as no other court has yet done, a "privilege" or "immunity" which would exempt an ordinary citizen from the obligations of the law.

Constitutional history shows us that the framers expressly excluded all other persons from protection and for good purpose. At the time this country was founded, England had just succeeded in curbing the excesses of Parliamentary privilege and immunity unreviewable by King or judiciary, which had been gradually extended to the family, servants, and agents of the members of Parliament. *Merrick & Durant* v. *Giddings,* 1 MacArthur & M (11 D.C.) 55 (S.C.D.C. 1879); *Stockdale* v. *Hansard,* 7 C&P 737; as cited in *Long* v. *Ansell* 69 F. 2d 386 at 387 (C.A.D.C. 1934). The fruit of this restatement was codified in an Act of Parliament, 10th George III, Chapter 50, declaring that any person could commence or prosecute an action or suit against any member of Parliament, his family, or his servants; that he was not immune from service of process; that in no wise could an action be stayed, dismissed, or delayed on the basis of a claim of Parliamentary membership. The sole exception thereto was provided in Sec. 2:

> But nothing in this act shall extend to subject the person . . . of any of the members . . . to be arrested or imprisoned upon any such suit or proceeding.

This very limited immunity, the exclusion of the person of the member from physical detainment through civil arrest characterizes the scope of the Speech and Debate Clause as enacted into the Constitution. *Williamson v. United States,* 207 U.S. 425, 446 (1908).

No less an authority than Thomas Jefferson has construed the Speech and Debate Clause in precisely this fashion. In compiling Jefferson's Manual on Parliamentary Practice, soon after the Constitution was ratified he recounted how the Parliamentary Privilege and immunity in England had continually expanded, untrammeled by judicial definition, until the enactment of the aforementioned Statute of 10 G III. However,

> It was probably from this view of the encroaching character of privilege that the framers of our Constitution, in their case to provide that the laws shall bind equally on all, and especially that those who make them shall not exempt themselves from their operation, *have only privileged Senators and Representatives themselves* from the single act of arrest in all cases except treason, felony, and breach of the peace, during their attendance at the session of their respective houses, and in going to and returning from the same, and from being questioned in any other place for any speech or debate in either house. (*Jefferson's Manual, supra,* Sec. III as reprinted in the Senate Manual, 1967 at 382–383)

There has been found no post-revolutionary judicial decision whatsoever which has extended legislative privilege to any member of a Senator's staff, regardless of his status. It must be considered, moreover, that Jefferson's exposition constitutes a present aspect of Senate procedure. Dr. Rodberg can hardly claim an extension of the scope of a Constitutional provision which the Senate itself has not exercised and has in fact disclaimed.

Further, Dr. Rodberg is in no position to claim any exemption for himself even if it extends to him. The rights are owing to the house as a body or to the Senators as an elected official, and the traditional practice has been that, where a member has been served with legal process in the form of a subpoena *duces tecum* or *ad testificandum,* he should receive permission of his house to respond thereto. Cannon's Precedents of the House of Representatives, 1936, §§ 585–588 at pp. 824–829; *Trimable* v *Johnston,* 173 F. 2d 651, 653 (C.A.D.C. 1959). Not being a member of the Senate or of the staff of that body the Senate has no interest in securing his presence for the conduct of legislative business. Consequently, any exemption which Dr. Rodberg could possibly have will have to be claimed by the Senator of whose staff he is a member. Denial of this motion would leave Senator Gravel perfectly capable of asserting whatever privilege or immunity he may feel is due him on account of a subpoena served upon a staff member.

II. NO IMMUNITY SUBSISTS IN A SENATOR TO QUASH A GRAND JURY SUBPOENA ISSUED TO PROCURE TESTIMONY RELATIVE TO ALLEGED FELONIOUS ACTIVITY

Dr. Rodberg claims his legislative immunity by derivation as a staff member of Senator Mike Gravel. Conversely, should the Senator be without immunity to resist a similar subpoena Dr. Rodberg is without immunity as well. As will be demonstrated *infra,* the Constitution grants no immunity for members of Congress to resist criminal process in Grand Jury proceedings.

The Constitutional provision here at issue was adopted for the sole purpose of exempting legislators from the archaic legal measuse of civil arrest. *Williamson* v. *United States, supra.* After a thorough review of the legislative precedents in England and in this country, the Supreme Court concluded in that case that immunity has never been thought to interfere with the administration of criminal justice. In fact, the stipulation relating to "treason, felony, or breach of the peace" is not intended to be limited but having been lifted verbatim from the English Bill of Rights of 1689, 1 W & M, Sess 2, C. 2, refers to ". . . all criminal cases and proceedings whatsoever . . ." Cushing, 9th ed. §§ 546, 567 as quoted in *Williamson, supra,* at 445–446. Thus, Congressman Williamson was indicted, tried and convicted for conspiracy. This is the law today, *United States* v. *Johnson,* 383 U.S. 185 (1966), though prosecution in some cases may be made difficult due to the admissibility in evidence of legislative records not available to the prosecution or that the defendant is privileged from inquiry in that the alleged crime was committed through giving a speech on the floor of Congress. This liability to criminal law is completely in accord with the scope and intent of the Constitutional Convention: to guarantee an unfettered freedom of exchange in the legislative process by removing the prospect of retribution, either through ". . . possible prosecution by an unfriendly executive and conviction by a hostile judiciary. . . ." *United States* v. *Johnson, supra* at 179. Moreover, it serves the "additional function of reinforcing the separation of powers so deliberately established by the founders." *Ibid.,* at 178.

Yet the convention remained aware that government by legislative excess and disregard of the lawful processes was no fanciful danger; and that unless kept within legitimate bounds this power could sap the integrity of our Federal system. Madison pointed out at the time of ratification that "[t]he legislative department is everywhere extending the sphere of its activity, and drawing all power into its impetuous vortex." He believed that specific obstacles had to be erected against such possible abuses of power. See The Federalist, No. 48, pp. 338–340 (Bourne ed. 1914) and Nos. 49, 56 and 73. In the same vein, Jefferson wrote to Madison in 1789 that "[t]he tyranny of the legislatures is the most formidable dread at present, and will be [so] for long years." See *Tenney* v. *Brandhove,* 341 U.S. 367, 375 n.4; *United States* v. *Brown,* 381 U.S. at 443–444, and note 17 (1965). Should legislators succeed in disregarding the judicial powers of inquiry into criminal conduct by refusing compliance with a Grand Jury subpoena, they would have elevated themselves above the criminal law virtually by their bootstraps. No testimony sought here will seek to review a Congressman's political views, his motives or any exercise of legislative discretion. In responding to a subpoena, Senator Gravel would only fulfill his own duty as a citizen to assist the Executive branch in its own Constitutional obligation to enforce the laws of the United States. Should questioning prove self-incriminating, the Senator would retain his own Fifth Amendment privilege, in this regard. To withhold testimony on the basis of exemption would frustrate the separation of powers doctrine by interfering in executive proceedings, and in this case to forswear Senator Gravel's own vested duty to uphold the Constitution and laws of the United States.

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* The Government contends that, in fact, Rodberg was not a staff member of Senator Gravel for purposes of exposure of or soliciting publication of the Pentagon papers. His affidavit, a self-serving statement devoid of specifics, constitutes the sole allegation of his agency; indeed, the news articles filed therewith indicate that he had represented himself to the Washington Post (P. A1, August 18, 1971) and Boston After Dark (P. 1, August 24, 1971) as being a fellow of the Institute for Policy Studies.

The Speech and Debate Clause has been previously construed to require compliance by legislators with proper subpoena issued to obtain testimony in the criminal prosecution of third party defendants. Mr. Justice Chase held, when the issue was first presented, that a Congressman is subject to subpoena regardless of whether Congress might then be in session. *United States* v *Cooper*, 4 Dallas (4 U.S.) 341 (1800). The case has been followed without distinction or overruling for over 170 years, and most recently in *United States* v. *Segar*, 180 F. Supp. 467, 468 (S.D.N.Y. 1960) at n.4. But cf: *Trimble* v. *Johnston*, supra at 653 (dicta).

The Government neither affirms nor denies that this proceeding is brought to investigate the disclosure of the so-called "Pentagon Papers". Yet assuming *arguendo*, that such be the case the Senator could not claim further that the grand jury cannot lawfully inquire into the business of reading and publishing the "Pentagon Papers" as it constitutes privileged legislative business. The speech and debate clause has been construed to protect not only speeches given on the floor of Congress, as in *Johnson, supra*, but also to protect debates and speeches in committee hearings, as well as reports, resolutions, the act of voting and "in short, to things generally done in a session of the House by one of its members in relation to the business before it." *Kilbourn* v. *Thompson*, 103 U.S. 168, 204 (1880). Yet the action of Senator Gravel which he assumes has led to the subpoena of Dr. Rodberg stands in no such footing. The Senator convened a special, unauthorized, and untimely meeting of the Senate Subcommittee on Public Works (at midnight on June 29, 1971), for the purpose of reading the documents and thereafter placed all unread portions in the subcommittee record, with Dr. Rodberg soliciting publication following the meeting. (See news articles attached to motion of Dr. Rodberg). The Congress does not enjoy uncurbed power to conduct business; excursions of committee hearings into private lives unconnected with a legitimate legislative purpose have long been held unconstitutional. *Kilbourn* v. *Thompson, supra; Marshall* v. *Gordon*, 243 U.S. 531 (1917). The power of the judiciary to reject unauthorized legislative activity stands upon no less a precedent than *Marbury* v. *Madison*, 1 Cranch (5 U.S.) 87 (1803). The prerogative of Judicial review has been exercised often in recent years to curb extra-legislative excursions by Congressional committees. *Watkins* v. *United States*, 354 U.S. 178 (1957); *McGrain* v. *Daugherty*, 273 U.S. 135 (1927); *Hentoff* v. *Ichord*, 318 F. Supp. (D.C. 1970). The reading of the paper in question can have no possible relationship to the legislative business with which Senator Gravel has sought to cloak himself. Even the Senate has disclaimed official sanction for his action. (See clipping, Washington Post August 18 attached to motion of Dr. Rodberg). Not being engaged in official subcommittee business, his actions cannot be above scrutiny by those charged to enforce the criminal statutes.

Even if Senator Gravel's activity can be deemed official, his subsequent negotiations for and contracting for the publication of the Pentagon Papers divested him of whatever privilege he may have had. In *Long* v *Ansell*, 69 F. 2d 386 (C.A.D.C. 1934) the court noted that whereas a legislator might be privileged from being called into civil liability for statements made on the floor of the Senate, the privilege stopped with the legitimate conduct of Congressional business; thus, if he republished the statement outside the Senate, he might well be subject for liability therefor. 69 F. 2d at 389. By analogy, whatever legitimate purpose he may have had in conducting Subcommittee proceedings, was lost by republishing the documents under his own name. A subpoena issued to require grand jury testimony relating to such activity would require compliance, and by derivation the compliance of Dr. Rodberg.

III. NO IMMUNITY SUBSISTS IN ANY SENATE STAFF MEMBER TO RESIST A SUBPOENA ISSUED TO PROCURE TESTIMONY IN AN INVESTIGATION CONCERNING UNLAWFUL ACTIVITY

Dr. Rodberg implies in the alternative that he acted and continues to act as a member of the Senate staff of the House and Grounds Subcommittee (as opposed to being a member of Senator Mike Gravel's personal staff). The Government does not concede that such implication represents fact. Moreover, even assuming that Rodberg can support this implication, it affords no grounds to excuse compliance with a subpoena. The law specified criminal liability for Congressional staff members for unlawful acts committed while acting under color of their official duties. *United States* v. *Nathan Voloshen*, Cr. no. 70–20 (S.D.N.Y. November 24, 1970). Congressional staff members have likewise been subject to civil suit for unauthorized or unconstitutional acts committed in their official capacities. Accordingly, the House Sergeant-at-Arms was held liable for false imprisonment as an aftermath of *Kilbourn* v. *Thompson, supra*, and the Senate Judiciary Committee was held subject to suit in tort for false imprisonment in *Dombrowski* v. *Eastland* 387 U.S. 82 (1967). This rule prevails even if the action precipitating litigation was ordered by Congress. *Powell* v. *McCormack*, supra, at 505, and even if the court should find that the Congressmen or Senators themselves would not be susceptible to suit for the same actions or for directing the deeds complained of. *Powell, supra; Trimble* v. *Johnson, supra*, at 654: The law relative to legislative employees thus appears no different than that specifying immunity for other employees or agents of the Executive branch, who can be sued for any activity which was unauthorized or for which the purported authorization was unlawful or unconstitutional. *Bivens* v. *Six Agents*, — U.S. —, 39 U.S.L.W. 4821 (June 21, 1971). By analogy, should this court find that Dr. Rodberg's actions, taken at the behest of Senator Gravel were not strictly in accord with Congressional mandate, or that such mandate was without lawful or Constitutional support, then they are fully subject to whatever criminal or civil implications arising therefrom, and the employee should be required to respond to a subpoena relating thereto. Such a finding would not conflict with any privilege of Senate employees to resist any subpoena issued to procure testimony concerning their official actions properly executed under lawful directive.

IV. A SUBPOENA REQUIRING TESTIMONY BEFORE THIS GRAND JURY IS NOWHERE VIOLATIVE OF THE WITNESS' FIRST AMENDMENT RIGHTS

The most favorable view of the law relating to protection of First Amendment rights upon which movant can rely is that for the Government to justify compelling disclosures which would effect a violation of a witness' First Amendment interest must be demonstrated. *Watkins* v *United States*, 354 U.S. 178 ( ). In conducting Congressional inquiries, for example, "[w]here First Amendment rights are asserted to bar Governmental interrogation resolution of the issue always involves a balancing by the courts of the competing public and private interests at stake in the particular circumstances shown." *Barenblatt* v. *United States* 360 U.S. 109 (1959) at 126. "It is manifest that despite the adverse effects which follow upon compelled disclosure of private matters, not all such inquiries are barred. . . . The critical element is the existence of, and the weight to be ascribed to, the interest of the Congress in demanding disclosures from an unwilling witness." *Watkins, supra* at 198.

The Government contends that these proceedings have not yet reached the stage at which this court must balance the interests of the Government against the infringement to be resulting from testimony.

Since Rodberg has not yet appeared to testify, the questions to which he must respond and the scope of inquiry for which he has been summoned are as yet undetermined. Moreover, the harm to result from answering them cannot be asserted, giving no basis for evaluation. For just this reason (but by way of dicta) a Federal Court dismissed an action for restraining order to prevent compliance with a Senate subpoena in *Cole* v *Trustees of Columbia University*, 300 F. Supp. 1026 (S.D.N.Y. 1969). The plaintiffs in that case failed to show that the mere act of appearance, regardless of questions to be asked, would present an imminent threat of irreparable injury. (400 F. Supp. at 1031). Previous cases allowing a witness exemption from having to give testimony have arisen in the context of prosecution for contempt of Congress, when the subject of inquiry and specific questions had become known.

Should this court deem it necessary to weigh the competing public and individual interests involved, the balance can only tip in favor of compelling testimony. On the part of the witness, the sole claim to individual harm is that by merely being called to give testimony, he will be subject to grave retribution. On the contrary, this duty befalls every good citizen in the same manner as jury duty or serving as witness at trial. Further, Rodberg cannot claim that questions he will answer or responses to be required will subject him to community publicity, social approbation or pecuniary liability since hearings are held in secret. For this reason, Congressional hearing cases such as *Barenblatt* where intimate personal matters were required to be divulged in public are no authority for the proposition that Rodberg will suffer similar ridicule. On the other hand, the Government is engaged in a crucial step of enforcing the criminal law. "The power to investigate is basic." *Anderson* v. *Sills*, 265 A. 2d 678, 56 N.J. 210 (S.C. N.J. 1970). In that case, a state court denied an injunction against the use of certain intelligence-gathering procedures promulgated by the Attorney General of New Jersey. The interests of the Government in enforcing criminal statutes go to the very purpose of Government's existence; to protect citizens and property:

> The First Amendment itself would be meaningless if there were no constituted authority to protect the individual from suppression by others who disapprove of him or the company he keeps. Hence, the First Amendment rights must be weighed against the competing interests of the citizen. If there is no intent to control the content of speech, an overriding public need may be met even though the measure adopted to that end operates incidentally to limit the unfettered exercise of the First Amendment right. [265 A. 2d at 687]

The Government sees no possible circumstances under which the hypothetical deterrents to free speech or freedom of the press alluded to in the witness' motion can inure as a result of his mere appearance at this grand jury investigation. Should questions or testimony be raised which place him at a disadvantage, time enough remains for this court to again weigh the competing interests involved and protect whatever rights are in danger of violation.

IIIA. GRAND JURY PROCEEDINGS CONSTITUTE NO "PRIORITY RESTRAINT" RELATIVE TO THIS WITNESS

A subpoena issued to procure testimony in a grand jury proceeding has no characteristics whatever of a "prior restraint" on the exercise of individual rights under the First Amendment. This proceeding, regardless of outcome, will not affect the publication of any papers of materials such as the witness has succeeded in having published. A "prior restraint" by definition constitutes action taken before the fact to insure that speech or publication of questionable materials does not occur. *Near* v. *Minnesota,* 833 U.S. 697 (1931); *Bantam Books, Inc.* v. *Sullivan,* 372 U.S. 58 (1963). It was the highly publicized litigation brought to restrain previous publication of the "Pentagon Papers" which raised and disposed of the prior restraint question. *New York Times* v. *United States,* —— U.S. ——, 91 S. Ct. 2140 (June 30, 1971). Indeed, that decision excepted treatment of any issues which might be subsequently raised in a criminal proceeding on account of such publication. (Slip Op. of Mr. Justice White, p. 10) * To that extent, *New York Times* is authority for the proposition that these grand jury proceedings have no characteristics of a prior restraint on publication of these documents.

IIIB. TESTIMONY MAY NOT BE EXCUSED ON GROUND OF ITS CHILLING EFFECT ON THE EXERCISE OF FREE SPEECH

In the *New York Times* case the Supreme Court again viewed with approval the deterring effect upon publication of vital defense information effected by the passage of the Espionage Act, 18 U.S.C. § 793, noting that Congress refrained from passing additional provisions allowing the Executive Branch to seek injunction in the belief that criminal sanctions alone would be sufficient. (Slip op. of Mr. Justice White, p. 10). Thus, whatever "chilling effect" is wrought by this statute is deemed no violation whatever of a citizen's First Amendment rights. Many previous cases deciding this same question have reached a like conclusion. *Abrams* v. *United States,* 250 U.S. 616, 619 (1919); *Schenck* v. *United States,* and *Bauer* v. *United States,* 249 U.S. 47 (1918); *Frowork* v. *United States,* 249 U.S. 204 (1918). Having proved the statute Constitutional, the measures prerequisite to its enforcement can in no wise be less so. Moreover, the witness cannot indirectly raise an attack upon the constitutionality of a statute which has long since been proved viable.

Further, validly constituted Grand Jury proceedings convened to enforce a time-tested criminal statute can in no wise be deemed to have such a "chilling effect" upon the exercise of individual Constitutional rights so as to justify exemption from compliance with a lawful subpoena. The Supreme Court has exercised this doctrine only so far as to grant injunctive relief against state officials threatening prosecution under patently unconstitutional criminal statutes when the mere initiation of prosecution insured certain and irrevocable harm. *Dombrowski* v. *Pfister,* 380 U.S. 479 (1965). This does not deny that where Government-instituted Civil litigation will have a deterring effect upon the exercise of individual Constitutional rights, state interests supporting the action must outweigh the need for protection of the individual rights. *National Association for the Advancement of Colored People* v. *Alabama,* 357 U.S. 449 (1958). But where the Federal Government has enacted legislation essential to the national economy and having strong roots in the protection of national security, some slight infringement on the rights of a relatively few individuals will be tolerated. *American Communications Association* v. *Douds,* 399 U.S. 382 (1950). This grand jury proceeding has been initiated as a vital and unavoidable step in the investigation of possible violations of criminal statutes. It threatens no Federal or official sanctions whatever unless the witness should be indicted. Since all testimony will be given and received entirely in secret, no private or community sanctions can attach to any testimony given. As to the potential deterrent effect upon commission of crimes affected by indictment, this as aforestated stands as one of the most approved and intentional effects of criminal jurisprudence.

Finally, the Supreme Court has just this term taken further steps to limit the "chilling effect" doctrine in *Younger* v. *Harris,* 401 U.S. 37 (1971), refusing to enjoin prosecution in a state court unless the danger from prosecution itself presented an unconstitutional and irreparable injury. No such threat can be asserted here.

Indeed, Dr. Rodberg's entire allegation relative to violation of his First Amendment rights amounts to no more than the possibility that the threat of required testimony may inhibit "future discussion" of facts reflecting unfavorably to a national administration. (Motion, p. 5). In so stating, he seeks to invoke the rights of others, a procedure proscribed in *Titleston* v. *Ullman,* 318 U.S. 44 (1943) and to raise Constitutional issues not yet *in esse* nor for which there exists any ascertainable case or controversy. The disposition of his motion in his favor would thus not appear proper judicial treatment of delicate and complex questions.

III. COMPLIANCE WITH THIS SUBPENA WILL CONSTITUTE NO INFRINGEMENT ON THE WITNESS' FREEDOM OF THE PRESS

The witness further seeks to suggest that requiring his testimony series to infringe on freedom of the press. No such problem is presented with respect to him personally as he has alleged neither that he is a reporter nor that he is a publisher. He should not be allowed to obfuscate the issues before this court by raising rights on behalf of others not present and unidentified. But assuming that Dr. Rodberg had sufficient standing to claim a newsman's privilege, there is insufficient legal precedent to sustain his claim. No statute has ever exempted news personnel from testifying in grand jury proceedings, nor has such a privilege been specified in the Bill of Rights. Only scant judicial treatment has been accorded the question.

The Massachusetts Supreme Court has recently ruled, however, that no such privilege exists within this jurisdiction. *In Re Pappas,* 266 N/E.2d 297 (S.C.Mass 1971). In *Pappas* the court ruled that a newsman is required to testify before a grand jury convened to investigate possible unlawful activity by members of the Black Panther Party in the Boston area, even if such testimony required the divulgence of his news sources:

> "Requiring a newsman to testify about facts of his knowledge does not prevent their publication or the circulation of information. Any effect on the free dissemination of news is indirect, theoretical, and uncertain, and relates at most to the future gathering of news . . . We adhere to the view that there exists no constitutional newsman's privilege, either qualified or absolute, to refuse to appear and testify before a court or grand jury. The obligation of newsmen we think is that of every citizen, vis. to appear when summoned, with relevant written or other material when required, and to answer relevant and reasonable inquiries. Such appearance, however, like those of other citizens, are subject to supervision by the presiding judge to prevent oppressive, unnecessary, irrelevant, and other improper inquiry and investigation (and of course, subject to due protection of the privilege of any witness against self-incrimination)." [266 N.E.2d at 302-303; footnotes and citations omitted]

In so ruling, the court expressly rejected a recent Ninth Circuit case, *Caldwell* v. *United States,* 434 F.2d 1081 (C.A. 9 1970) now on certiorari to the Supreme Court (cert. granted 39 U.S.L.W. 3478 (May 3, 1971)). That court allowed a newsman to decline testifying at a grand jury proceeding also convened to investigate Black Panther activity:

> We hold that where it has been shown that the public's First Amendment right to be informed would be jeopardized by requiring a journalist to submit to secret Grand Jury interrogation, the Government must respond by demonstrating a compelling need for the witness' presence before judicial process properly can issue to require attendance.
>
> We go no further than to announce this general rule. As we noted at the outset, this is a case of first impression. The courts can learn much about the problems in this area as they gain more experience in dealing with them. For the present we lack the omniscience to spell out the details of the Government's burden or the type of proceeding that would accommodate efforts to meet that burden. [footnotes omitted]

The unique facts in that case were exceedingly important to the court's holding. The reporter, Caldwell, was a Black newsman who had gained special access to the militant Black Panther Party as a specific source of news that was of great interest to the public. (434 F.2d at 1090). Based upon its finding that on these facts the Government had not shown a compelling need that would outweigh the threat to First Amendment rights, the court recognized Caldwell's right to abstain from both appearing and testifying.

In rejecting *Caldwell,* the *Pappas* court noted that:

> Were we to adopt the broad conclusions of that decision, [Caldwell] that a newsman's privilege exists because of the First Amendment, we would be engaging in judicial amendment to the Constitution or judicial legislation. . . . The opinion in the *Caldwell* case largely disregards important interests of the Federal Government and the several States in enforcement of the criminal law for the benefit of the general public. We are of the view also that the opinion unnecessarily expresses in terms of newly discovered constitutional absolutes, interests of the news media, which (so far as reasonably requiring protection) may be guarded by sound judicial discretion and administration. [266 N.E.2d at 302-303]

These considerations compelled the *Pappas* court to reiterate the following general rule:

> On the meager record before us, we can do no more than to state (1) that a grand jury, to carry out its ancient and important public information, must be allowed appropriate scope of investigation; (2) that it is the duty of all citizens having relevant knowledge to assist in such inquiries when called upon to do so; (3) that the burden rests upon a witness, asserting impropriety in a grand jury inquiry, to establish that the grand jury inquiry is improper or oppressive; and (4) that, in exercising his supervisory discretion, the presiding judge (with respect to the examination of any witness and not merely as to news gatherers) may take into account all pertinent circumstances affecting the propriety, purposes, and scope of the grand jury inquiry and the pertinence of the probable testimony of the particular witness to the investigation in progress. (266 N.E. 2d at 303-304) [Emphasis in original]

CONCLUSION

Dr. Rodberg has alleged no grounds whatever to justify exemption from full and complete cooperation with the Grand Jury hearing now in session. Having been served with lawful subpoena, he is obliged to comply therewith under threat of judicial sanctions.

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*. . . [F]ailure by the Government to justify prior restraints does not measure its Constitutional entitlement to a conviction for criminal publication (Ibid., p. 4)

Dr. Rodberg is no staff member of any United States Senator. Yet if he were, this fact would not exempt him from compliance. The Constitutional privilege extended to members of Congress reaches no further, even to members of their personal staff or their families. Again, even if a Senate staff member were entitled to protection under the Speech and Debate Clause, this exemption can only be claimed by the Senator whom he serves or by the house. Such a privilege, being derivative in nature, cannot be claimed where it would not protect the Senate member concerned; here, Senator Gravel can himself claim no exemption. The Speech and Debate clause was enacted in its present form specifically to insure that Senators would remain subject to obligations and sanctions of the criminal law and it has been applied in precisely this fashion for over 170 years. Accordingly, legislators have been deemed subject to subpoena and have occasionally been prosecuted. Under the "privilege" provision, Congressmen and their servants have always been subject to judicial limitation upon their actions where, even though garbed in the trappings of Congressional propriety, they have issued subpoenas or ordered imprisonment which transgressed their Constitutional powers. Thus, this court has complete powers to find that the activities in which the Senator and Dr. Rodberg were engaged were far removed from legitimate Congressional business and cannot therefore claim the protection of the privilege clause. Even if Senator Gravel's activity in the subcommittee hearing was privileged, efforts to have the "Pentagon Papers" published thereafter comprised no official action. Finally, Dr. Rodberg can claim no immunity by virtue of being a Senate staff member. The law in this area is no different from the laws of immunity governing the officials of the Executive Branch: an official is fully accountable for his actions taken outside the scope of his authority or prescribed in excess of his agency's Constitutional powers. By analogy, he cannot claim immunity from criminal subpoena in connection with any actions characterized as *ultra vires*.

Nor can Rodberg reach for the well-worn cloak of First Amendment privilege. This Grand Jury proceeding constitutes no prior restraint on his freedom of speech or expression; that issue has been previously litigated in *New York Times* v. *United States*. Nor can this proceeding be characterized as having a chilling effect upon the exercise of his rights. This proceeding threatens no patently unconstitutional harm, irretrievable after the initial act of testifying; no courts have ever reached this finding, whose effect would be to disable the administration of criminal justice. And, since Dr. Rodberg is not a newsman he can claim no privileges as such.

The Government has not addressed itself to the Movant's contention involving electronic surveillance, since this Court has previously denied his motion in that respect.

WHEREFORE, for all of the foregoing, it is submitted that this motion should be denied.

Respectfully submitted,

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JON H. MARPLE,
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CERTIFICATE OF SERVICE

Copies of the foregoing Memorandum in Opposition to Leonard S. Rodberg's Motion to Quash a Grand Jury Subpoena were mailed, postage paid, this date, the fifth day of September 1971 to Doris Peterson and James Reif, c/o Center for Constitutional Rights, 588 Ninth Avenue, New York, New York 10036, attorneys for Movant. A copy has also been mailed to Charles Louis Fishman, Esq., 633 East Capitol Street, Washington, D.C. 20003, attorney for Intervenor, Senator Gravel.

JON H. MARPLE,
Attorney, Department of Justice.

[In the U.S. District Court for the District of Massachusetts, Docket No. EBD 71–172]

STATEMENT OF FACTS

(MIKE GRAVEL, U.S. Senator, intervenor versus United States of America, United States of America versus John Doe, in re Leonard S. Rodberg)

THE PRESENT POSTURE OF THE CASE

On August 24, 1971, a subpoena was served on Dr. Leonard S. Rodberg, directing him to appear to testify before a federal grand jury in Boston, Massachusetts, on August 27. The subpoena gives no indication on its face as to the nature of the testimony to be sought from the witness. It does not state what persons or crimes are allegedly the subject of investigation. The person claimed to be the subject of the investigation is designated as John Doe and no statutes are cited.

Dr. Rodberg is a member of the staff of United States Senator Mike Gravel. Under date of August 27, Dr. Rodberg moved this Court to quash the grand jury subpoena and for a stay pending disposition of the motion. The Court under date of August 27 granted such a stay and set the motion for argument on September 10.

In Dr. Rodberg's motion he alleged that the subpoena should be quashed upon, *inter alia*, each of the following independent grounds:

(a) That it violates Congressional privilege, separation of powers and the Speech and Debate Clause;

(b) That it abridges his right to freedom of the press, freedom of expression and freedom of association, in violation of the First Amendment.

On August 27, Senator Gravel moved to intervene in this matter, alleging in essence that Dr. Rodberg was employed by him to perform work in respect to the business of the United States Senate and that all such acts performed by Dr. Rodberg are immune from judicial inquiry by virtue of the constitutional provisions referred to above and the privileges of members of the United States Senate. On September 1 the motion to intervene was granted. On that date Senator Gravel moved to quash the aforesaid subpoena upon substantially the foregoing grounds.

There are thus pending before the Court at this time the motions of Senator Gravel and Dr. Rodberg to quash the subpoena.

THE FACTUAL BASIS FOR THE MOTIONS

This is a further development of the New York Times case (*New York Times Company* v. *United States*, 91 Sup. Ct. 2140 (1971)).

While the government was litigating the question of the right of the *New York Times* to publish the so-called Pentagon papers, to wit, on June 29, 1971, Senator Gravel, in the course of a meeting of the Senate Subcommittee on Public Buildings and Grounds, of which he is chairman, read publicly a portion of said papers and inserted those papers in his possession into the record of the Subcommittee. Immediately after that reading, and at the express direction of Senator Gravel, his aides and assistants distributed to members of the press and others copies of the papers from which the Senator had read.

In connection with Senator Gravel's work on the Pentagon papers, Dr. Rodberg was engaged to perform analytical and advisory work for the Senator because, as the record shows, Dr. Rodberg has been a student of the decision-making process of the United States government, especially in regard to the Vietnam war. Dr. Rodberg's work for the Senator was in the area of his expertise and he assisted the Senator in threading his way through the massive material which the Senator had obtained.

Dr. Rodberg, as the affidavits show, was awarded a Ph. D. in physics from M.I.T. in 1956 and thereafter engaged in research and teaching in that field. From 1960 to 1967 he was a consultant at the Los Alamos Scientific Laboratories on questions relating to nuclear physics. Beginning in 1961 he was engaged by the Disarmament Administration in the Department of State, and in 1962 he became Chief of the Policy Research Office of the Science and Technology Bureau of the United States Arms Control and Disarmament Agency. He thus developed expertise in the field of arms control, disarmament, and the general matter of decision-making process of the government in the war in Vietnam. In addition to publications in his original field of physics, including *Introduction to the Quantum Theory of Scattering*, published in 1967, he wrote a chapter of a book commissioned by Senator Edward Kennedy entitled *ABM: An Evaluation of the Decision to Deploy an Anti-Ballistic Missile System*, and was co-director of the study of U.S. military organizations and policy which resulted in the publication of a book entitled *The Pentagon Watchers*, of which he was co-editor. He has spoken and written extensively on arms control, the ABM, and the strategy and technology of military policies of the United States.

His expertise in these areas led to his developing a consultant relationship with a number of members of Congress who came to him beginning in 1966, and up to the present time, for advice and suggestions concerning arms limitation, the military budget and policy, problems of economic conversion, study and evaluation of military organizations and policies, the United States policy in Vietnam, and the impact of that policy on the allocation of priorities within this country.

Indeed, in the summer of 1969, Dr. Rodberg was asked by a group of Congressmen to organize a Congressional conference on planning for new priorities. The conference, which was held at the Senate Office Building, was sponsored by approximately 50 members of Congress. Dr. Rodberg participated in and spoke at the Congressional conference. Under the direction of Congressmen, he secured for them the participation of academic experts in foreign and military policies and economics. At the request of Congressmen he also spoke at, participated in, and drafted the report for another Congressional conference, which report was subsequently published by sponsoring Congressmen.

In the summer of 1970 Dr. Rodberg became a full-time research fellow at the Institute for Policy Studies, in which position he has been conducting research and writing on the Vietnam war, particularly, the United States decision-making process, the operation of the United States national security agencies, military budget, economic conversion, and the uses of advanced technology. He has also organized conferences and seminars, directed the research of students, and is in communication with scholars from around the country in connection with the aforementioned areas.

In April 1971, he helped to organize, participated in, spoke at, and wrote the report of the Conference on Economic Conversion, sponsored jointly by a number of Congressmen and public organizations. In this activity he worked closely with a number of aides to individual Congressmen. The report of the conference has been published by the Coalition on National Priorities and has been distributed to members of Congress and interested members of the public.

It is evident from the affidavits that Dr.

Rodberg is one of the experts in this country on a great many matters having to do with the decision-making process of the United States and with the war in Vietnam and has, at their request, and supplied his expertise to Senators and Congressmen concerned with the development of public policy in these areas.

As is clear from the affidavits, the relationships with Congressmen and Senators are necessarily confidential and based upon mutual trust. The ability of Dr. Rodberg to furnish his expertise and the willingness of Congressmen and Senators to consult with him is entirely dependent upon the confidential character of their relationships. The ability of Senators and Congressmen to consult Dr. Rodberg and use his expert knowledge and skills would be greatly restricted and hampered if they could not do so in complete confidentiality.[1]

Insofar as the evidence adduced in behalf of movant in *In re Grand Jury Subpoena: Richard Falk, Witness*, EBD 71-165, supports our position, we respectfully incorporate that evidence here.

Argument

I. The subpoena violates the Congressional privilege with respect to speech and debate and, Senator Gravel having asserted that privilege, Dr. Rodberg is barred from responding thereto.

In the instant case the Court has granted a motion to intervene on behalf of Senator Gravel, who has asserted that the subpoena addressed to Dr. Rodberg, a member of Senator Gravel's personal staff, is violative of the Speech and Debate Clause of the Constitution of the United States.

The issue as far as concerns Dr. Rodberg is not whether he has any privilege not to testify but whether indeed he does not have a duty to testify in light of the assertion of the privilege by the Senator.

We will not burden the Court with repetition of the arguments as to the scope and meaning of the Speech and Debate Clause, those issues having been fully presented to the Court by Senator Gravel. Our only concern therefore is to make clear Dr. Rodberg's legal obligation in light of the threatened abridgement of Senator Gravel's constitutional duties. Our submission at this point is that Dr. Rodberg is duty-bound not to testify in the light of the Senator's assertion of privilege.[2] The relationships here are not dissimilar from those that exist between an attorney and a client. The privilege with respect to confidential communications to attorneys, as the courts have repeatedly said, is a privilege of the client, and subject to waiver only by the client—not by the attorney. See *Poliafico* v. *United States,* 237 F. 2d 97 (6th Cir., 1956), *cert. den.,* 352 U.S. 1025; *Magida on Behalf of Vulcan Detinning Co.* v. *Continental Can Co.,* 12 F.R.D. 74 (D. C.N.Y., 1952); *Petition of Sawyer,* 129 F. Supp. 687 (D.C. Wisc., 1955), affirmed, 229 F. 2d 805, *cert. den.,* 351 U.S. 966. As stated by the court in *Timken Roller Bearing Co.* v. *United States,* 38 F.R.D. 57, 64 (D.C.Ohio, 1964): "Thus only the client can unseal his attorney's lips; only the patient can authorize disclosure of sickbed confidences."

Thus in this case Dr. Rodberg is duty-bound to respect the assertion of privilege by Senator Gravel and is in no position to frustrate the Senator's claim under the Constitution.

II. The subpoena must be quashed because under the circumstances of this case Dr. Rodberg's appearance before the grand jury would violate fundamental first amendment rights.

The record establishes that Dr. Rodberg is a highly regarded scholar in the field of the decision-making mechanism regarding Vietnam within the government of the United States. He has not only been able to disseminate ideas directly to the American public through writings and speeches but he has acted frequently as consultant to legislators who have themselves acted upon his advice and expertise.

In this regard Dr. Rodberg is one of a small number of scholars within the academic community who have played and continue to play a unique role with respect to the war in Vietnam. As the Court is undoubtedly aware, opposition to the war did not arise full-blown at the war's inception. Indeed, it is not inaccurate to state that the war was, if not endorsed, at least accepted without question, in 1965 by a substantial majority of Americans. However, as the Court is no doubt equally aware, the last six years have witnessed a staggering change in the opinions of Americans toward the war. Today, the war is strongly opposed by a substantial majority of Americans.

We submit that the key to understanding the full extent of the threat to First Amendment rights posed by the proposed appearance by Dr. Rodberg before the grand jury lies in the understanding of how this profound opposition to further American involvement in Vietnam has grown. We would respectfully suggest two interrelated elements: (1) that opposition has grown largely as a result of information made available to the American people by that small number of scholars of which Dr. Rodberg is one, and (2) that the ability of Dr. Rodberg (and others like him, as for example, Professor Richard Falk) to obtain such information of vital public concern flows ineluctably from sources which are confidential.

American opposition to the war has grown in large measure as a result of the people's growing awareness of the realities of the war. Some of the realities uncovered are notorious: the massacre at My Lai, the corruption of the Saigon regime, the maiming and disfiguring of human beings by the use of napalm, etc. etc. The list is endless, stark newspaper headlines following each upon the other. Equally as important in the American people's understanding of this tragedy has been their education as to the how and the why behind each new story. It is in this regard that Dr. Rodberg and other scholars in the field of American decision-making have performed so vital a function. It is these scholars who through laborious digging and searching have uncovered the how and the why and have then brought them to the attention of the American public. It is the nature of the decision-making process and its implementation which best explain the individual incidents which result.

In digging and searching for information with respect to American decision-making regarding Vietnam, Dr. Rodberg has had access to a variety of confidential sources. Such sources attend the work of a man like Dr. Rodberg in much the same way that confidential sources attend the work of a newspaper man (or indeed the work of federal law enforcement officials). They are indispensable to obtaining the how and the why regarding Vietnam. These sources are persons in sensitive personal positions who are moved to communicate important information with assurances that their communications will be kept confidential. These relationships between sources and Dr. Rodberg are delicate and fragile. They depend upon a trust which, once breached, is not reconstructed. We are not suggesting that Dr. Rodberg or other scholars are the recipients of official secrets or information not lawful to obtain. The wealth of confidential information which they receive is entirely proper, but not available generally for the obvious reason that government experts knowledgeable in these matters do not feel free to air their knowledge or opinions in public.

We take it to be unquestioned that there is a substantial First Amendment interest in the dissemination of information regarding matters of public importance. The Supreme Court has said:

"The newspapers, magazines, and other journals of the country, it is safe to say, have shed and continue to shed, more light on the public and business affairs of the nation than any other instrumentality of publicity; and since informed public opinion is the most potent of all restraints upon misgovernment, the suppression or abridgement of the publicity afforded by a free press cannot be regarded otherwise than with grave concern." *Grosjean v. American Press Co.,* 297 U.S. 233, 250 (1936).

It cannot for a moment be doubted that the interest in the exposure to the American people of information regarding American involvement in Vietnam and the deception of the government with respect thereto, the most important public issue of the day, is as substantial as any other. Were there such doubt, one need only read the enduring words of Justice Black in this regard:

"In the First Amendment the Founding Fathers gave the free press the protection it must have to fulfill its essential role in our democracy. The press was to serve the governed, not the governors. The Government's power to censor the press was abolished so that the press would remain forever free to censure the Government. The press was protected so that it could bare the secrets of government and inform the people. Only a free and unrestrained press can effectively expose deception in government. And paramount among the responsibilities of a free press is the duty to prevent any part of the government from deceiving the people and sending them off to distant lands to die of foreign fevers and foreign shot and shell." *New York Times Co.* v. *United States,* 91 S. Ct. 2140, 2143 (1971).

The *Times* case settled what should have been clear all along—that the foundation of our government is the people's right to know the basic facts upon which governmental policy is based. And the constitutional clause which establishes that principle is of course the First Amendment.

In the *New York Times* case the government sought to impede by injunctive process the constitutional right of the people to "know" the facts upon which their governmental policy was being determined. The Court refused and concluded that the people's right to know far outweighed any claims of the executive to maintain secrecy. The basic point was that it was the purpose and intent of the First Amendment to prevent that very type of secrecy.

The right to acquire information regarding American involvement in Vietnam is a necessary right, one concomitant to the right to disseminate that information. See, e.g., *Caldwell* v. *United States,* 434 F.2d 1081 (9th Cir., 1970), *cert, granted,* 402 U.S. 542 (1971). The principle that information must not unnecessarily be cut off at its source is fundamental to the concept of an unabridged flow of that information to the people. As Madison wrote:

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[1] Due to the shortness of time and the difficulty in contacting several persons including Senators, we have not been able to obtain as of this date the full evidence we intend to present to the Court. However, we expect to receive much of that evidence by the date of the hearing on this motion and will present it at that time.

[2] Had the Senator not intervened, then Dr. Rodberg would have been duty-bound to have asserted the privilege on behalf of the Senator, no differently than is the responsibility of the lawyer to assert the attorney-client privilege on behalf of an absent client. See, for example, *Republic Gear Co.* v. *Borg-Warner Corp.,* 381 F.2d 551, 556 (2d Cir. 1967), where the court dealt with this question precisely and held that the lawyer was "duty-bound to raise the claim [of privilege] in any proceeding in order to protect communications made in confidence" in the absence of his client. Indeed in his first presentation to this Court before the Senator was a party Dr. Rodberg did assert this privilege.

"A popular government without popular information or the means of acquiring it is but a prologue to a farce or tragedy or perhaps both."[3]

The Supreme Court has long recognized that First Amendment freedoms can be violated as readily by indirect abridgement as by direct and has, accordingly, acted to protect those rights however they are threatened. As Justice Stewart declared for a unanimous Court in *Bates* v. *City of Little Rock*, 361 U.S. 561, 523 (1960): "Freedoms such as these are protected not only against heavy-handed frontal attack, but also from being stifled by more subtle governmental interference." Furthermore, the Court has, in an unbroken line of cases, recognized that compelling disclosure of facts intended to be kept confidential may constitute just such a "more subtle governmental interference." See *Sweezy* v. *New Hampshire*, 354 U.S. 234 (1957); *NAACP* v. *Alabama*, 357 U.S. 449 (1958); *Bates* v. *City of Little Rock, op cit.*; *Gibson* v. *Florida Legislative Investigation Committee*, 372 U.S. 539 (1963); *DeGregory* v. *Attorney General of New Hampshire*, 383 U.S. 825 (1966).

In the present case it can be seen that an effort to compel Dr. Rodberg to testify regarding matters disclosed to him in confidence will interfere with the free flow of information regarding Vietnam and thus interfere with the dissemination of ideas which lies at the core of the First Amendment. Sources of confidential information will no longer be sources if their communications are no longer confidential. The people's right to know will suffer accordingly, for the explanation of the how and the why of Vietnam will be based on just that much less information.

That conndential sources of information will dry up if they come to fear exposure is not a novel perception. That fact is shown not only here but in the companion case of Professor Falk. The fact was shown (and judicially recognized) in the landmark case of *Caldwell* v. *United States*, 434 F. 2d 1081 (9th Cir., 1970), *cert. granted*, 402 U.S. 542 (1971). Because *Caldwell* discusses the abridgement of the public's First Amendment right to know that can occur where, as here, a person is subpoenaed to appear and testify before a federal grand jury concerning information disclosed to him in confidence, it is appropriate to examine that case in some detail.

Caldwell involved a newspaper reporter who had access to confidential sources of information which was a matter of general public interest. He demonstrated to the court that the only way he could maintain his line of communication with his confidential sources was to maintain the absolute confidentiality of his relationships. He then argued that the very process of his appearance before a secret grand jury would render him suspect and would dry up his sources of confidential information.

The court in *Caldwell* accepted this proposition and concluded that the public's right to know and Caldwell's need to maintain his lines of communication so as to serve that interest of the public, outweighed any claimed interest of the government to proceed by way of secret grand jury proceedings at least unless the government could show some compelling countervailing justification.

The essence of *Caldwell* is that in respect to persons who function in the area of the dissemination of information in the public interest, and whose very functioning requires the maintenance of confidentiality and trust, the device of a secret grand jury proceeding is recognized as an impermissible interference with such rights absent a strong showing of governmental necessity.

This case, and its companion, that involving Professor Falk, poses exactly the same issue in the context of the work of scholar-journalists who have contributed so much to the final exposure of the deceptive nature of government policy in Vietnam.

The role of scholarship and the dissemination of information on the development of the war in Vietnam is nowhere more clearly revealed than in the careers and work of Dr. Rodberg and Dr. Falk. The current determination by the American people and their representatives in Congress to reassert control over the policies of their government in respect to the war is the product of years of effort by journalists and scholars who have dug deep and have exposed governmental policies.

Scholarship is based upon access to information. The value of the material is such that it is not all available in libraries. Much of the material upon which serious studies have been made comes from personal interviews of a most confidential nature. The ability of a scholar to function—just as the ability of Caldwell to function—is dependent upon the lines of communication remaining open. There is a compelling right of the people to have available to them information regarding a matter not only of general importance but a matter which is the most important issue of the day. Therefore the employment of a process which impedes these lines of communication is an impermissible burden upon the First Amendment, absent a strong showing, not made here, of government necessity. The infringement of the First Amendment is accomplished in this case merely by Dr. Rodberg's appearance before the grand jury. In this regard, *Caldwell* is again instructive.

Emphasizing that "[t]hroughout history secret interrogation has posed problems and caused unease," 434 F. 2d at 1089, the Court of Appeals concluded that because of the *secret* nature of the grand jury proceedings, the First Amendment issues in that case required that the subpoena itself be quashed. The essence of *Caldwell* was that the confidential relationships between a newspaper reporter and his sources of information would be destroyed by the very requirement that he appear for a secret interrogation—after all, nobody could be sure what he would say under compulsory process behind closed doors and the basis of trust would thus be destroyed.

As the court in *Caldwell* said in referring to a reporter's relationship with his sources:

"The relationship depends upon a trust and confidence that is constantly subject to re-examination and that depends in turn on actual knowledge of how news and information imparted have been handled and on continuing reassurance that the handling has been discreet.

"This reassurance disappears when the reporter is called to testify behind closed doors. The secrecy that surrounds Grand Jury testimony necessarily introduced uncertainty in the minds of those who fear a betrayal of their confidences."

The conclusion in *Caldwell* as to the effect of the witness's appearance on his confidential source is as fully applicable to such a source when his communication is to a scholar-writer as when it is to a newspaper reporter. Indeed, the instant case is even stronger than *Caldwell* on the issue that the mere appearance before a grand jury would be destructive of fundamental First Amendment interests. This is because Dr. Rodberg not only makes his expertise, achieved in large measure by reason of confidential information, available to the public at large, but makes it available on a direct consulting basis to Senators and Congressmen.

The facts in the record establish that Dr. Rodberg is a highly regarded scholar in the field of the decision-making mechanism within the government of the United States, particularly on the issues of the Vietnam war. He has been consulted frequently by legislators in that respect. An indispensable element of his ability to function is the complete confidence placed in him by those who give him information, as well as by those who utilize his information. If it was true, in *Caldwell*, that there is a First Amendment public interest in the preservation of the confidential relationship between a newspaperman and his sources of information, how much more true is it that there is a First Amendment public interest in the preservation of confidential relationships between an expert on one of the most important issues of the day, and those Senators and Congressmen who seek his counsel.

It is literally true that the effective functioning of the Congress of the United States would be threatened if its members could not rely on knowledge they obtained in confidence from experts in a field. If the executive branch seeks to force such persons to testify in secret, the legislative process, which is at the heart of the democratic functioning of our society, is impaired.

The issues go far beyond the rights of Dr. Rodberg or even his relationship with a particular Senator. The chilling effect upon all persons engaged in the legislative process—Congressmen, Senators, their aides, and persons called upon to give them the benefit of their knowledge and expertise—can have devastating impact upon the workings of the democratic process. Again, as pointed out in *Caldwell*, the objective of the First Amendment "is the maximization of the 'spectrum of available knowledge'". *Id.* at 1084. How much more true is it that the objective of the First Amendment is to assure the maximization of the spectrum of available knowledge to the representatives of the people engaged in the legislative process.

It is common knowledge, as pointed out in Senator Gravel's brief before this Court, that the executive branch has frequently insisted on its need to have confidential communication within its own branch. Thus, it is notorious that the President has refused to permit Mr. Kissinger to testify before various committees and only last week the administration refused to disclose to the Senate Foreign Relations Committee a planning report on the United States military aid program which the Pentagon had termed an "internal working paper." Attorney General Mitchell in the President's name invoked executive privilege to keep an F.B.I. investigative report out of the hands cf a House subcommittee.

The need of Congressmen and Senators to have the benefit of confidential communication of experts is even greater, for without such communication they have no possibility of being informed of the basis on which they are to exercise their legislative powers. And the interest is not that of legislators; it is rather the interest of the public at large, because the informed functioning of the legislative body allows the expression of the body politic.

What we ask the Court to recognize, exactly as did the Court of Appeals in *Caldwell*, is that the very process of secrecy in interrogation of an expert in American policy who has access to confidential communications is inherently inconsistent with the character of relationships which the First Amendment and the legislative process require to be protected. Legislators will not soon again avail themselves of Dr. Rodberg's expertise, if his communications with Senator Gravel can be scrutinized in secret before a grand jury.

CONCLUSION

This is in large part an unprecedented matter touching upon principles which go to the root of our system of government. If the obligations of the Legislature can be questioned in the manner the Government seeks here, this case will be remembered as a turning point in our constitutional history, a point at which the most basic principle of separation of powers was blurred and our system of checks and balances sacrificed. For the aforegoing reasons, the subpoena served upon Dr. Rodberg should be quashed.

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[3] 6 Writing of James Madison 393 (Hunt ed., 1906).

Respectfully submitted,

JAMES REIF.

SEPTEMBER 8, 1971.

CERTIFICATE OF SERVICE

I hereby certify that I served this brief upon counsel for the parties by causing a copy of it to be mailed, postage prepaid, to Robert J. Reinstein at 1715 N. Board Street, Philadelphia, Pa., 19122, and Charles L. Fishman, 633 E. Capitol Street, Washington, D.C., 20003, and by causing a copy of it to be hand delivered to the office of the United States Attorney for the District of Massachusetts, Boston, Mass.

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[District of Massachusetts, E.B.D. No. 71-165-G]

MEMORANDUM OF DECISION, OCTOBER 4, 1971

(United States of America versus John Doe, in the matter of a grand jury subpoena served upon Richard Falk)

Garrity, J. Petitioner, a prominent professor of international law and critic of the war in Vietnam, seeks to quash a subpoena compelling his appearance before a federal grand jury ostensibly investigating crimes related to the release and dissemination of the much-publicized "Pentagon Papers." At a hearing on August 20, 1971, the court stayed Professor Falk's appearance and ordered that petitioner and the government file affidavits and memoranda of law prior to a further hearing on September 10.

That the grand jury is investigating crimes related to the Pentagon Papers, which were the subject of the decision of the Supreme Court in *New York Times Company* v. *United States,* 1971, 403 U.S. 713, and for whose alleged unauthorized possession and conversion Daniel Ellsberg has been indicated in the Central District of California, is apparent from the prosecuting attorneys' oaths of office on file with the Clerk. They describe the current investigation as being based on information "that various persons have violated in the District of Massachusetts the laws relating to the retention of public property or records with intent to convert (18 U.S.C. 641), the gathering and transmitting of national defense information (18 U.S.C. 793), the concealment or removal of public records or documents (18 U.S.C. 2071), and conspiracy to commit such offenses and to defraud the United States (18 U.S.C. 371)." The parties' arguments have proceeded on this assumption.

The nature of the petitioner's claim, which is supported by thirty affidavits, including his own, is indicated by the following excerpts from his affidavit:

"My motion to quash this subpoena is based on the principal contention that my *mere appearance* before *this particular* Grand Jury will impair greatly my capacity to carry on my professional duties in an effective fashion. This contention arises from the rather distinctive character of my professional identity. Much of my professional work has involved writing and advising on the United States role in the Vietnam War. This effort has been dependent upon the trust of many individuals and upon access to a variety of kinds of confidential information. My contact with the subject-matter of this Grand Jury investigation is solely a consequence of this trust and with the exclusive purpose of carrying out my professional role as an author and a journalist. To require my appearance in a secret proceeding of this type that is concerned with this subject would undermine the confidence of others in my capacity to protect my sources of information against disclosure . . . .

"My professional work involves a number of different roles. In several of these roles relating to writing and advising on matters of United States foreign policy, especially in the setting of the Vietnam War, the relevance of confidentiality should become apparent from a recital of my actual experience over the last several years. In brief, confidentiality of relationship has been essential for me in the following roles: (1) as a scholar devoted to revealing the truth as it relates to issues of American foreign policy and, in particular, to the Vietnam War; (2) as a journalist who writes for the public on these issues in national newspapers and magazines; (3) as a consultant for TV and radio broadcast activity in relation to this subject-matter; (4) as an expert witness for defendants who rely on arguments relating to the legal status of the war; (5) as a consultant and adviser to Members of Congress and other government officials concerned with these issues."

At the hearing, in arguing the breadth of the interest relied upon by petitioner, counsel quoted as follows from the affidavit of Professor Stanley Hoffman of Harvard University, Professor of Government and Chairman of the University's Standing Committee on West European Studies:

"This scholarly function goes beyond the role which the media perform in informing the public, also on the basis of research whose confidentiality must be protected. To be sure, governments do not always like the analyses or advice scholars produce. But the destruction of the function scholars provide is too high a price to pay in retaliation for unwelcome views or unorthodox judgments. Scholars are of course morally and legally responsible for what they prescribe. But such responsibility is one thing, an obligation to divulge their sources is quite another—and would come dangerously close to harassment."

The parties rely heavily on two recent decisions, one by the Court of Appeals for the Ninth Circuit concerning a newspaper reporter and one by the Supreme Judicial Court for Massachusetts concerning a newsman-photographer, in which the Supreme Court has granted certiorari. Petitioner's precedent is *Caldwell* v. *United States,* 9 Cir., 1970, 434 F. 2d 1081, cert. granted 402 U.S. 942. There a federal grand jury conducting a "general investigation" into a possible criminal activity by members of the Black Panther Party subpoenaed petitioner, a black reporter for the New York Times specializing in news concerning Panther activities. By motion in the District Court, petitioner sought to quash the subpoena, arguing (as the court later found) that "compelled disclosure of information received by a journalist within the scope of . . . confidential relationships jeopardizes those relationships and thereby impairs the journalist's ability to gather, analyze and publish the news . . ." *Application of Caldwell*, N.D. Calif., 1970, 311 F. Supp. 358, 361. The district court nevertheless ordered that he testify, entering instead a broad protective order designed to shut off investigation into confidential information while permitting "questions concerning . . . statements or information . . . given to him for publication or public disclosure . . ." *Id.* at 362.

Caldwell refused to appear, and on appeal from the ensuing contempt order the Court of Appeals reversed, holding that even his mere appearance before the grand jury would jeopardize "the public's First Amendment right to be informed . . ." *United States* v. *Caldwell, supra* at 1089.[1] The court emphasized, however, the narrowness of its holding; while recognizing that the threat of lost sources was dominant in the case before it, it stated that "not every news source . . . is as sensitive as the Black Panther Party . . ." *Id.* at 1090.

The government cites *In Re Pappas,* 1971 Mass. Adv. Sh. 69, cert. granted 402 U.S. 942, in which a newsman-photographer employed by a television station refused to answer certain questions of the grand jury about what he saw and heard in a store serving as a Black Panther Headquarters. Pappas had been allowed to enter the headquarters on condition that he not report anything he saw or heard inside the store except a police raid. In rejecting his contentions that his testimony before the grand jury would violate a privilege to protect the source of information acquired in confidence and his rights under the First and Fifth Amendments to the Constitution of the United States, the court stated at 76:

"Were we to adopt the broad conclusions of that [Caldwell] decision, that a newsman's privilege exists because of the First Amendment, we would be engaging in judicial amendment of the Constitution or judicial legislation. Requiring a newsman to testify about facts of his knowledge does not prevent their publication or the circulation of information. Any effect on the free dissemination of news is indirect, theoretical and uncertain, and relates at most to the future gathering of news. The opinion in the *Caldwell* case largely disregards important interests of the Federal government and the several States in enforcement of the criminal law for the benefit of the general public. We are of the view also that the opinion unnecessarily expresses, in terms of newly discovered constitutional absolutes, interests of the news media, which (so far as reasonably requiring protection) may be guarded by sound judicial discretion and administration."

In the court's opinion petitioner does not fit within the *Caldwell* doctrine, though not mainly because he is not a newspaper reporter. The public interest under the First Amendment in the "maximization of the 'spectrum of available knowledge'" which the *Caldwell* court deemed sufficient to override an unlimited grand jury subpoena clearly is of the same general nature as the public interest alleged by petitioner here. In no way do his facts become any less a part of the "spectrum of available knowledge," *Griswold* v. *Connecticut*, 1965, 381 U.S. 479, 482, for appearing in books and articles rather than in a newspaper. Such media are "vehicle[s] of information and opinion" of a type long recognized by the Supreme Court as being within its definition of "the press." *Lovell* v. *Griffin*, 1938, 303 U.S. 444, 452.

Even though a substantial First Amendment right is here involved, the *Caldwell* protection is not applicable because, upon consideration of all the affidavits filed in support of the motion, the court perceives no real likelihood that petitioner's sources of lawfully transmitted information will be inhibited by his mere appearance before the grand jury.[2] The facts here and in the *Caldwell* case are crucially distinguishable. Reporter Caldwell's sources were members of the Black Panther Party, persons often lacking in education and sophistication whose distrust of government, especially of police and prosecutors, is well known. No persuasive analogy can be drawn between a Black Panther's fear of harassment and prosecution and the anxieties of petitioner's sources who likely are highly trained and sophisticated individuals. Such persons, highly placed in the councils of government, education and industry, undoubtedly will continue to "leak" confidential but otherwise lawful information to petitioner and indeed to other scholars, journalists and consultants too. The facts here fall far short of showing a confidential relationship between petitioner and his "contacts" as unique and exclusive as that which obtained between Caldwell and his Black Panther acquaintances.

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[1] "Where First Amendment rights are asserted to bar governmental interrogation, resolution of the issue always involves balancing by the courts of the competing private and public interests at stake in the particular circumstances shown." *Barenblatt* v. *United States,* 1959, 360 U.S. 109, 126.

[2] The issue of the legality of Professor Falk's information and sources is not before the court and for purposes of this decision the information is presumed both lawful and of public value. Obviously, sources of illegally revealed information may and must be "inhibited" by investigation and prosecution.

In addition, the grand jury in the California case was engaged in a "general investigation" not focused on specific crimes. *Caldwell* v. *United States, supra* at 1082. While even such a general investigation may be conducted, *Hale* v. *Henkel*, 1906, 201 U.S. 43, it is clear that one might operate to place reasonable fear of disclosure and jeopardy into the minds of diverse law-abiding citizens. Here, however, the government has indicated the specific statutory offenses which it is investigating, *State* v. *Knops*, 1971, 49 Wis.2d 647, and the reasonableness of such investigation is supported by the fact that at least some of the Pentagon Papers, or copies thereof, were possessed by persons in Massachusetts, since portions were published by a Boston newspaper.[3] Where the investigation is thus focused, the court will not presume that men of substantial intelligence and good intent will be inhibited from pursuing otherwise lawful activity; it is more rational, and more likely, that such persons will presume that the grand jury process will not be misused against them.

The motion to quash is denied. So ordered.

W. ARTHUR GARRITY, Jr.,
U.S. District Judge.

[U.S. District Court for the District of Massachusetts]

SUBPOENA TO TESTIFY BEFORE GRAND JURY

(U.S. versus John Doe)

To: Leonard Rodberg, 420 Eisner Sreet, Silver Spring, Md.

You are hereby commanded to appear in the United States District Court for the District of Massachusetts at P.O. & Courthouse Building in the city of Boston on the 14th day of October 1971 at 11:00 o'clock A.M. to testify before the Grand Jury and bring with you[1]

Please report to: Richard E. Bachman, Asst. U.S. Attorney, Chief, Criminal Division, Rm. 1107 P.O. & Courthouse, Boston, Mass.

RUSSELL H. REID,
Clerk.

Date October 4, 1971.
By Denise Irwin, Deputy Clerk.

[In the U.S. District Court for the District of Massachusetts, No. E.B.O. 71-172]

MOTION OF INTERVENOR-PETITIONER FOR RECONSIDERATION AND STAY PENDING RECONSIDERATION AND/OR APPEAL

(Mike Gravel, United States Senator, Intervenor-Petitioner versus United States, United States versus John Doe, in the matter of a grand jury subpoena served upon Leonard Rodberg)

1. Senator Mike Gravel, intervenor-petitioner, respectfully moves this Court to reconsider its resolution of two issues in the "Memorandum of Decision and Protective Order" entered on October 4, 1971. Movant respectfully submits that these issues ought to be reconsidered because they present complex and important questions of constitutional law and were not heretofore discussed in sufficient depth by the parties. Movant further respectfully submits that given the holding of the Court the appearance of Dr. Rodberg before the grand jury will violate movant's privileges and rights secured by the Speech and Debate Clause.

2. The first issue upon which movant seeks reconsideration relates to this Court's holding that the actions of Senator Gravel to inform fully his constituents about Executive conduct in foreign relations, by arranging for the republication and public distribution of the official record of the Subcommittee on Public Buildings and Grounds, were not protected by the Speech and Debate Clause and could be investigated by the Grand Jury and made the subject of criminal proceedings instituted by the Executive.

3. In the course of its discussion on this issue this Court stated (Slip Opinion, page 12, fn. 5):

"The Senator has made no specific claim that his legislative privilege extends to his actions subsequent to the Subcommittee hearing. However, this claim has been advanced by Dr. Rodberg and contested by the Government and hence the Court has considered it."

Movant respectfully submits that he *did* specifically assert that republication of the Subcommittee record was protected by the Speech and Debate Clause. A significant portion of oral argument was devoted to this issue, and there was an extended colloquy between the Court and counsel for movant. Furthermore, counsel for movant did not anticipate that the Government would argue that the Congressional privilege did not extend to republication, and in fact this argument was contained in only one paragraph of the Government's brief, with citation to dictum in a paragraph of a decision decided 37 years ago. (Government Brief, p. 11). There was at that point no time to file a reply brief, and counsel for movant could only outline their arguments orally.

4. The issue of whether the Grand Jury can interrogate and the Executive institute criminal proceedings against a member of Congress or his staff assistant for republishing a committee record critical of Executive conduct in foreign relations is of utmost importance to separation of powers in our tripartite system of government. As is elaborated in the Memorandum of Law attached hereto, movant believes that the precedents and policies of the Speech and Debate Clause demand that the privilege is applicable to republication of the Subcommittee record under the facts of this case. At the very least, this issue is of such magnitude that a final decision on it should be based on more research and argument of counsel for the parties than has heretofore been presented. Movant therefore respectfully requests this Court to reconsider its decision on this question.

5. The other issue upon which movant seeks reconsideration relates to whether or not the protective order issued by the Court adequately protects movant's constitutional privilege. For the reasons set forth in the accompanying Memorandum of Law, movant respectfully submits that this Court's findings that "the government's interest in (Dr. Rodberg's) testimony pertains to his acts as Senator Gravel's assistant with regard to the Pentagon Papers and that the government attorneys plan to question him about them before the Grand Jury," (Slip Opinion, pages 5-6) when combined with the failure of the government to specify the purpose and scope of the questioning (as it has done in similar cases of privilege) and the secrecy of the Grand Jury proceedings, compels a quashing of the subpoena as a matter of law or at a minimum a more inclusive protective order.

6. Due to the importance and complexity of these issues, movant respectfully requests this Court to stay enforcement and execution of the subpoena served upon Dr. Rodberg pending reconsideration. Such a stay is essential to preserve the status quo and will not unduly affect any legitimate interests of respondent.

7. Should this Court deny reconsideration, movant respectfully requests a stay pending appeal. The issues presented herein, in the context of a criminal proceeding, are of first impression and have never previously been decided by the Court of Appeals or by the Supreme Court. The precedent set in this case will have far-ranging implications in the relations of the three branches of government and in the construction of Article I, Section 6 of the Constitution. A stay pending appeal is necessary to preserve the status quo, and preserve for appeal these important issues. As to movant, the denial of the motion to quash and the motion for specification is a final order, inasmuch as movant himself has not been directed to appear before the grand jury and cannot thereby obtain review by refusal to comply with this Court's order. Appellant's rights cannot be protected by waiting until questions are asked of Dr. Rodberg, because: (a) appellant is not entitled to attend the secret grand jury proceedings; and (b) any questioning of Dr. Rodberg concerning the official actions of appellant itself violates the terms of the Speech and Debate Clause, regardless of the answer given thereto by Dr. Rodberg and regardless of the outcome of the grand jury inquiry.

8. Movant requests oral argument upon this motion.

Respectfully submitted,

CHARLES L. FISHMAN,
HERBERT O. REID,
ROBERT J. REINSTEIN,
Attorneys for Senator Gravel.

[In the U.S. Court of Appeals for the First Circuit, No. —]

MEMORANDUM OF LAW IN SUPPORT OF MOTION OF APPELLANT FOR STAY PENDING APPEAL

(MIKE GRAVEL, U.S. Senator, appellant against United States, appellee)

INTRODUCTION

In the "Memorandum of Decision and Protection Order" issued October 4, 1971, the Court below made three basic findings of fact and ten conclusions of law. The findings of fact, which are relevant to this motion, are:[1]

1. Dr. Leonard E. Rodberg is a personal staff assistant of Senator Gravel. Slip Opinion, p. 4).

2. "[A]s personal assistant to [Senator gravel], Dr. Rodberg assisted [Senator Gravel] in preparing for disclosure and subsequent disclosing to [Senator Gravel's] colleagues and constituents, at a hearing of the Senate Subcommittee on Public Buildings and Grounds, the contents of the so-called 'Pentagon Papers,' which were critical of the Executive's conduct in the field of foreign relations." (Slip Opinion, p. 2).

3. "Viewing together the crimes which this grand jury is investigating and the chronology of acts and events leading up to Dr. Rodberg's subpoena, the Court infers that the government's interest in his testimony pertains to his acts as Senator Gravel's assistant with regard to the Pentagon Papers and that the government attorneys plan to question him about them before the grand jury." (Slip Opinion, pp. 5-6).

The conclusions of law made by the Court below may be summarized as follows:

1. The Speech and Debate Clause "is limited specifically to legislative acts and antecedent conduct so intimately related to them such as cannot be proved without re-

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[3] In *New York Times Co.* v. *United States, supra*, at 754, Mr. Justice Harlan, dissenting, referred to "the seemingly uncontested facts that the documents, or the originals of which they are duplicates, were purloined from the Government's possession and that the [New York Times and Washington Post] newspapers received them with knowledge that they had been feloniously acquired."

[1] Strike the words "and bring with you" unless the subpoena is to require the production of documents or tangible things, in which case the documents and things should be designated in the blank space provided for that purpose.

sort to inquiry into legislative acts." (Slip Opinion, p. 7).

2. Senator Gravel's legislative acts may not consistently with the Speech and Debate Clause be the subject of questioning of any witness before the grand jury. (Slip Opinion, p. 9).

3. All actions taken by Senator Gravel at the June 29 Subcommittee meeting, and in preparation for and intimately related to this meeting, are privileged. (Slip Opinion, pp. 10, 16).

4. The judiciary may not inquire into the purpose or legitimacy of the Subcommittee meeting. (Slip Opinion, pp. 10–11).

5. "[T]he legislative privilege conferred by the Speech or Debate Clause belongs to Congressmen only and not to their assistants and aides." (Slip Opinion, p. 7).

6. However, in order to protect a Senator's privilege, it "must extend to some activities of a member of his personal staff acting at his direction." (Slip Opinion, p. 14.)

7. Therefore, "the Speech and Debate Clause prohibits inquiry into things done by Dr. Rodberg as the Senator's agent or assistant which would have been legislative acts, and therefore privileged, if performed by the Senator personally." (Slip Opinion, p. 14; see p. 17).

8. Dr. Rodberg may be questioned about subjects beyond the protection of the privilege, including "the activities of third parties with whom he and the Senator dealt" and "with his own conduct previous to his joining the Senator's personal staff . . ." (Slip Opinion, p. 8).

9. Senator Gravel's "arranging for private publication of the Pentagon Papers . . . is not embraced by the Speech or Debate Clause," and Dr. Rodberg and other witnesses (Including, presumably, Senator Gravel) may therefore be interrogated about it by the grand jury. (Slip Opinion, p. 12; see pp. 16–17).

10. The protective order which delimits the subject matter of questions which may not be asked of witnesses before the grand jury "fully protects" Senator Gravel's Constitutional rights.

It is our contention that the policies underlying the Speech and Debate Clause and the case law compel the conclusion that the actions of a Senator in republishing and distributing to his constituents the contents of an official, public record of a Senate subcommittee which is critical of Executive conduct in foreign relations is immune from Executive harassment and retaliation and cannot be the subject of interrogation by the grand jury or the institution of criminal proceedings by the Executive. We further believe that under the facts as found by the Court and the conclusions of law reached, the protective order which has been entered by the Court below does not protect adequately Senator Gravel's Constitutional rights.

I. The republication and public distribution by a Senator of an official, public record of a subcommittee critical of executive conduct in foreign relations is protected by the speech and debate clause

A. Republication of Committee Records is Related to the Due Functioning of the Legislative Process

Ever since the landmark decision of *Kilbourn* v. *Thompson*, 103 U.S. 168 (1968), the Supreme Court has rejected attempts to confine the Speech and Debate Clause to words spoken on the floor of Congress and has held that it affords protection for things "generally done in a session of the House by one of its members in relation to the business before it." *Id.*, at 204. Reiterating this test as recently as 1967, the Court added that an action of a Member of Congress is protected by the Congressional privilege if it is "related to the due functioning of the legislative process." *United States* v. *Johnson*, 383 U.S. 169, 172, 179.

In considering whether any given practice falls within these standards, two benchmarks are suggested from the decisions. First, a court may ask whether that practice is necessary to fulfill any of the goals of representative government as established by the Constitution. Second, a court may look for guidance at the actual workings of Congress to determine whether the practice is widely utilized by Members of Congress and uniformly regarded as legitimate; in other words, whether it is "generally done . . . by . . . its members in relation to the business before it."

It is clear that republication of speeches or committee reports or transcripts and their dissemination to the electorate meets each of these criteria. The scheme of representative democracy envisaged by the Framers presupposes the maximum amount of communication between the citizens and their elected representatives. Under our system of government, the ultimate power resides in the people. As Madison, who is appropriately called the Father of the Constitution, said, "The people, not the government, possess the absolute sovereignty."[2] For this system to be viable, the people must be informed fully of the workings of government so that they may be able meaningfully to exercise their Constitutional rights to vote intelligently and to "free public discussion of the stewardship of public officials."[3] Madison well understood that this imposes a *duty* on public officials to inform the electorate:

> "Let it be recollected, lastly, that the right of electing the members of the government constitutes more particularly the essence of a free and responsible government. The value and efficacy of this right depends on the knowledge of the comparative merits and demerits of the candidates for public trust, and on the equal freedom, consequently, of examining and discussing these merits and demerits of the candidates respectively."[4]

James Wilson, another architect of the Constitution, had precisely this in mind when he emphasized the "informing function" of Congress as an essential part of the due functioning of the legislative process:

> "It is the proper duty of a representative body to look diligently into every affair of government and to talk much about what it sees. It is meant to be the eyes and the voice, and to embody the wisdom and will of its constituents. Unless Congress have and use every means of acquainting itself with the acts and the disposition of the administrative agents of the government, the country must be helpless to learn how it is being served; and unless Congress both scrutinize these things and sift them by every form of discussion, the ignorance of the very affairs which it is most important that it should understand and direct."[5]

In concluding that "[t]he informing function of Congress should be preferred even to its legislative function,"[6] Wilson surely was not drawing an unbridgeable distinction between the two. Informing the electorate is a "legislative act" since it is clearly "related to the due functioning of the legislative process." *United States* v. *Johnson*, supra at 172.[7] In fact, it is no exaggeration to say that direct communication with the electorate is an essential bedrock of the legislative process, for it insures that the constituents of a Member of Congress inform *him* and his colleagues of their well-considered views on pending and future legislation—an indispensable prerequisite for a Congressman deciding how to cast his own vote.

It should go without saying that the republication of speeches, committee reports or transcripts is necessary for a Member of Congress to inform and carry on a dialogue with his constituents. Few people have access to the *Congressional Record*, and fewer still to the original transcripts of committee hearings. Nor can the press be depended upon solely to report the views of Congressmen to their constituents. The press gives at best a summary, perhaps overlaid with editorial comment. There is no substitute for the dissemination of the original.

Secondly, if one were to examine the actual workings of Congress to determine whether republication of speeches is "generally done," *Kilbourn* v. *Thompson, supra,* the same conclusion would be reached. The informing function of Congressmen and its relationship to the legislative process has been documented in many scholarly studies. See, e.g., Griffith, *Congress: Its Contemporary Role* (3rd Ed. 1961); Key, *Politics, Parties and Pressure Groups* 3d Ed. 1952). Perhaps every Congressman, without exception and since the earliest days of the Republic, has circulated copies of his speeches to the public, held press conferences elaborating upon what he said on the floor, issued press releases, and spoken directly to his constituents in explaining his votes or speeches and inviting their views. And we doubt that a single Member of Congress could be found who thought that these actions were not "related to the functioning of the legislative process." *United States* v. *Johnson, supra* at 182. "Republication" is not a talismanic phrase signifying an act done outside the proper sphere of Congressional activity. On the contrary, when analyzed it is evident that the term bespeaks an integral part of the legislative process and of the entire system of representative government.[8] Mr. Justice Black expressed this cogently in holding that an executive official was immune from damage suits for issuing a defamatory press release:

> "The effective functioning of a free government like ours depends largely on the force of an informed public opinion. This calls for the widest possible understanding of the quality of government service rendered by all elective or appointed public officials or employers. Such an informed understanding depends, of course, on the freedom people have to applaud or criticize the way public employees do their jobs, from the least to the most important." *Barr* v. *Matteo*, 360 U.S. 564, 577 (1958).

In sum, it is clear that an examination of both the theoretical framework of our representative government and its actual practices leaves no doubt that direct communication by a Congressman to the electorate, through the republication and public distribution of speeches, committee reports or transcripts, is conduct "generally done" by Members of Congress "in relation to the business before it" and is clearly "related to the due functioning of the legislative process" Accordingly this conduct is protected from grand jury investigation by the Speech and Debate Clause.

B. Prior Decisions Confirm that Republication by a Member of Congress of a Speech or Committee Record is Privileged Under the Speech and Debate Clause

Prior to the case at bar, courts have on five occasions expressed views upon the scope of privilege with respect to republication of official documents. We believe that these decisions fully support our position.

1. *Hearst* v. *Black*, 87 F. 2d 68 (D.C. Cir. 1936), was an action to enjoin the Members of a Special Senate subcommittee from retaining possession and distributing copies of documents which it had allegedly secured illegally. The Court of Appeals agreed that the seizure of the documents violated statutory and Constitutional rights, id., at 70, but held nevertheless that Congressional privilege barred the judiciary from intervening in any way with the use of the documents by the Subcommittee, including republication (copying) and distribution to people outside of Congress. The Court stated:

> ". . . The prayer of the bill is that the committee be restrained from keeping the messages or making any use of them or disclosing their contents. In other words, that if we find that the method adopted to obtain the telegrams was an invasion of the ap-

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Footnotes at end of article.

pellant's legal rights, we should say to the committee and to the Senate that the contents could not be disclosed or used in the exercise by the Senate of its legitimate functions. We know of no case in which it has been held that a court of equity has authority to do any of these things. On the contrary, the universal rule, so far as we know it, is that the legislative discretion in discharge of its constitutional functions, whether rightfully or wrongfully exercised, is not a subject for judicial interference.

"The Constitution has lodged the legislative power exclusively in the Congress. If a court could say to the Congress that it could use or could not use information in its possession, the independence of the Legislature would be destroyed and the Constitutional separation of powers invaded . . ." *Id.*, at 71–72.

2. After a twenty-year hiatus, the republication issue was again presented, this time in a libel suit. In *Methodist Federation for Social Action* v. *Eastland*, 141 F. Supp. 729 (D.D.C. 1956) (three-judge court), the Senate Internal Security Subcommitte had printed a limited number of pamphlets accusing several well-known and respectable groups, including the plaintiff, of being Communist-front organizations. The Subcommittee then ordered another 75,000 copies to be printed. Claiming that the accusations in the pamphlet were false and defamatory and would cause irreparable injury, the plaintiff requested a restraining order against republication and distribution of the pamphlet. The Court assumed the plaintiff's assertions to be true but dismissed the case on the grounds of the Congressional privilege of the Speech and Debate Clause holding:

"By express provision of the Constitution, Members of Congress, 'for any Speech or Debate in either House . . . shall not be questioned in any other place.' Art. I, Sec. 6.

"The premise that courts may refuse to enforce legislation that think unconstitutional does not support the conclusion that they may censor Congressional language they think libelous. We have no more authority to prevent Congress, or a Committee or public officer acting at the express direction of Congress, from publishing a document than to prevent them from publishing the *Congressional Record*. If it unfortunately happens that a document which Congress has ordered published contains statements that are erroneous and defamatory, and are made without allowing the persons affected an opportunity to be heard, this adds nothing to our authority. Only Congress can deal with such a problem.

"The Constitutional history called to our attention includes no instance in which an English court has attempted to restrain Parliament, or an American court to restrain Congress, from publishing any statement . . .

"As to the members of the Senate Subcommittee, the complaint is dismissed for lack or jurisdiction. *Cf. Hearst* v. *Black, supra.*" Id., at 731–732.

Thus, in this case, as in *Hearst* v. *Black*, the Court concluded that the Constitutional privilege of Members of Congress embraced republication of Subcommittee reports and placed this action beyond the cognizance of the judiciary.

3. In *Hentloff* v. *Ichord*, 318 F. Supp. 1175 (D.D.C. 1970) the Court held unequivocally that the Speech and Debate protects Members of Congress from any judicial accountability for republishing a committee report. The action was brought to prevent the Members of the House Committee on Internal Security and the public printer from republishing and distributing 6,000 copies of a Committee Report which, if circulated, would infringe the plaintiffs' First Amendment right. The relief sought was an injunction against republication and distribution, limiting the Report's disclosure to insertion in the *Congressional Record* and such discussion as would ordinarily follow in debate on the floor.

Relying on the Speech and Debate Clause, the Court *dismissed the complaint as to the Members of Congress*. After reviewing the precedents, Judge Gesell stated:

". . . These cases establish that the courts lack jurisdiction to entertain an action seeking any remedy against a Member of Congress for any statement made or action taken in the sphere of legitimate legislative activity.

"Plaintiffs contend that . . . this Court may restrain Congressmen from publishing, filing, or distributing, except by insertion in the *Congressional Record*, a report that impinges upon First Amendment rights.

"The Court is of a contrary view. Members of Congress have the same right to speak as anyone else. *Their legislative activities are not limited to speech or debate on the Floor of Congress. Information in this Report involves matters of public concern, and the Court will take no action which limits the use that individual Congressmen choose to make of the Report or its contents on or off the Floor of Congress.* No injunction is appropriate against any Congressman named defendant." Id., at 1179 (emphasis added)

The Court then followed the distinctions in *Kilbourn* v. *Thompson, supra* and *Powell* v. *McCormack, supra*, between Members of Congress, who are totally immune from judicial accountability, and ministerial agents, who may be held liable for enforcing Congressional orders. Thus, the Court restrained the public printer from republication but held the Members of Congress absolutely privileged from accountability. And with respect to the latter, Judge Gesell explicitly stated that the privilege of Congressmen for republication of Committee reports stemmed from the recognition that the informing function of Congressmen was within "the sphere of legitimate legislative activity."[9]

4. The only case which even suggests that a Congressman's privilege may be diluted for republishing a speech or Committee report is *McGovern* v. *Martz*, 182 F. Supp. 343 (D.D.C. 1960). However, a close reading of the facts and opinion in that case shows that it lends but very limited support for the proposition that the Speech and Debate Clause does not extend to republication.

The *McGovern* case involved a libel action by Congressman (now Senator) McGovern, who sued the publisher of a newsletter for falsely reporting that he had sponsored a "Communist front." The defendant counterclaimed that the Congressman had inserted certain defamatory remarks into the *Congressional Record*. There was no republication of these remarks.[10] The Court granted McGovern's motion to dismiss the counterclaim on the ground of Congressional privilege. Id. at 348. The Court then addressed itself to whether the privilege would protect circulation of reprints from the *Congressional Record*. Its remarks on this issue are *obiter dictum* since neither reprints nor unofficial dissemination was involved. Further, the Court recognized that Congressmen must be "protected and thereby free to inform their constitutents," and believed that a privilege, albeit qualified by a malice requirement, was applicable. *Id.* at 348.[11]

It is evident that *McGovern* v. *Martz* can not be read broadly as a precedent that republication of committee reports or transcripts is not protected by the Speech and Debate Clause, for four basic reasons:

(a) The discussion was *obiter dictum*. Due to the failure of proper adversary presentation the Court was unaware of prior precedents, including *Hearst* v. *Black, supra*, which is binding on the District Courts for the District of Columbia. And the only holding of the case related to insertions in the *Congressional Record*.

(b) Even in dictum, the Court did *not* say that republication was not protected by the Speech and Debate Clause. Rather it stated that a privilege existed but was not absolute. As we shall show, *infra section C.*, the Court's logic in a libel suit would compel an absolute privilege in a criminal prosecution case.

(c) In qualifying the privilege by a malice standard the Court was clearly in error. The Supreme Court in *Tenney* v. *Brandhove, supra* at 377, held explicitly that if the privilege exists it is absolute: "The claim of an unworthy purpose does not destroy the privilege." See also *Cochran* v. *Couzens*, 42 F. 2d 783 (D.C. Cir. 1930) cert. denied 283 U.S. 874. Having determined that republication was within "the sphere of legitimate legislative activity," the Court was bound to hold the privilege absolute. And as long ago as 1896, the Supreme Court held that an official's personal malice is relevant only when the official acted "in reference to matters . . . manifestly or palpably beyond his authority." *Spalding* v. *Vilas*, 161 U.S. 483. See also *Barr* v. *Matteo* 360 U.S. 564 (1959).

(d) The qualifying dictum in the *McGovern* case has not been followed. *Hentoff* v. *Ichord, supra* at 1179.

5. The Supreme Court has settled decisively that the privilege of a non-elected Executive official encompasses republication and that the privilege is absolute even in libel cases. In *Barr* v. *Matteo*, 360 U.S. 564 (1959) and its companion case *Howard* v. *Lyons*, 360 U.S. 593 (1959), two subordinate officials in the Executive Department were sued for issuing and circulating copies of defamatory press releases.[12] Invoking the judicially-created doctrine of Executive privilege for acts within the legitimate sphere of official conduct, the Court stated:

". . . It would be an unduly restrictive view of the scope of the duties of a policy-making executive official to hold that a public statement of agency policy in respect to matters of wide public interest and concern is not action in the line of duty." 360 L.S. at 575.

And the Court held: *"The fact that the action here was within the outer perimeter of petitioner's line of duty is enough to render the privilege applicable . . ." Ibid.* (Emphasis added.)

As the Court below observed in its decision (Slip Opinion, pp. 14–15), judicially developed rules in cases of non-Constitutional privilege bear upon the scope of the Congressional privilege since the former "surely does not warrant broader protection than the legislative privilege based upon the Speech and Debate Clause." By a parity of reasoning, the Supreme Court's holding that republication of documents and their distribution to the public by Executive officials is absolutely privileged applies with at least equal force to the Constitutional privilege of Members of Congress. And no amount of legal alchemy can make a public press release by a subordinate official of the Executive department more within his legitimate sphere of activity than the circulation of copies of the official record of a Senate Subcommittee by a Member of Congress who is under the Constitutional obligation to inform his constituents about the workings of government.

In sum, the civil cases which have been heretofore decided uphold the Constitutional privilege of Members of Congress to republish and distribute to the electorate official committee records.

C. The Purposes of the Speech and Debate Clause Require that the Privilege Protect Members of Congress who Inform the Electorate about Executive Conduct of Foreign Affairs, from Intimidation and Harassment by the Executive

Even if prior precedents were ambiguous and qualified the legislative privilege in civil

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Footnotes at end of article.

cases, their logic, when combined with the historical purposes of the Speech or Debate Clause and the sphere of its contemporary importance would establish an absolute privilege to govern the facts of this case. The civil cases presented typically a claim that a Member of Congress was using the authority of his office to violate willfully an individual's rights. That kind of situation creates the maximum temptation for intervention by the judiciary on the side of the individual.

On the other hand, what is now before this court is a classic separation of powers case. The judiciary is not being asked to balance the preferred Constitutional rights of individuals against the privileges of Members of Congress; to the contrary, the Executive branch of government has come to the Court below and claimed that it may determine what a Member of Congress may tell his constituents about matters of overwhelming public concern. We do not exaggerate by saying that this claim challenges the fundamental character of our tripartite system of government. To any such claim, the Constitution must stand as an impenetrable barrier.

First, the Executive's contention that it may institute criminal proceedings against a Congressman for speaking to the electorate flies in the face of the historical purposes of the Speech or Debate Clause. The Clause was drafted to secure absolute freedom of speech for Members of Congress.

It was the end product of a lineage of legislative free speech guarantees from the English Bill of Rights of 1689 to the first State constitutions and the Articles of Confederation. See generally *Tenney* v. *Brandhove, supra* at 372–75. None of these provisions drew a distinction between a speech of a legislator directed at his colleagues and one to his constituents.[13] On the contrary, the Court in *Tenney* stated that the clause was designed to protect both. *Id.*, at 377 and fn. 6. This is consistent with no less an authority than Thomas Jefferson. When a Federal grand jury protested against abuses by Congressmen who disseminated slanderous accusations to the public, Jefferson responded that the framers of the Constitution wrote the Speech or Debate Clause to allow Congressmen to inform the electorate without inhibition:

"[T]hat in order to give to the will of the people the influence it ought to have, *and the information which may enable them to exercise it usefully*, it was part of the common law, adopted as the law of this land, that their representatives, in the discharge of their functions, should be free from the cognizance or coercion of the coordinate branches, Judiciary and Executive." Writings of Thomas Jefferson 158 (Ford Ed. 1896) (Emphasis added).

The privilege must be read to protect republication and public distribution of speeches and committee records. As we have shown above (Part A), this is a principal avenue relied upon by Members of Congress to provide the people with "the information which may enable them to exercise it usefully."[14]

The Constitutional evil which would result from denying the privilege's applicability to the informing function of Congress is magnified when this is done at the behest of the Executive and with respect to material which is critical of Executive behavior. If the Executive branch may, at will institute criminal proceedings against and interrogate Members of Congress before grand juries about publications of their speeches and committee reports which they sent to the electorate, it will possess the power to isolate effectively all but the most courageous legislators from their constituents. If such a rule applies Congressmen will have to watch what they say to the people—in press releases, newsletters and anything spoken outside of the four walls of the Capitol—lest it offend the Executive and open them up to harassment, grand jury inquisitions and prosecutions. Yet if the Speech and Debate Clause means anything, it is that courts and prosecutors are not referees over what Congressmen say to their constituents.

Nor are these consequences mere speculation. For this case reveals the present importance of the Speech and Debate Clause "to prevent intimidation by the Executive and accountability before a possibly hostile Judiciary," *United States* v. *Johnson, supra* at 181. Having for years kept secret from the American people the real history of our involvement in Indo-China, and having attempted to impose a prior restraint on the press, the Executive now retaliates against a Senator who revealed to the people—the true sovereign—the reasons why the Executive, without Congressional authorization, took the country into war. The Executive would thereby establish that it, and it alone, has sole authority to reveal to or withhold from the people any information it chooses. As long as government is to continue as one of separation of power, this cannot be. The proper rule of Constitutional law was stated in *Methodist Federation* v. *Eastland, supra* at 731:

"Nothing in the Constitution authorizes anyone to prevent the President of the United States from publishing any statement . . . similarly nothing in the Constitution authorizes anyone to prevent the Supreme Court from publishing any statement. We think it equally clear that nothing authorizes anyone to prevent Congress from publishing any statement."

In conclusion, we wish to bring to the Court's attention a speech given by Senator Sam Ervin on the Floor of the Senate on September 20, 1971. Coming as it does from an acknowledged expert on Constitutional law, we wish to set forth herein some significant excerpts from this speech:

* * * * *

"The events now transpiring in Boston before a Federal grand jury put into question (a) principle of freedom secured by our predecessors.

* * * * *

"I have in mind, of course, the efforts of the administration to inquire into the actions of the junior Senator from Alaska (Mr. Gravel) in connection with the revelations of the contents of the Pentagon Papers.

* * * * *

"The Administration, through its lawyers in the Internal Security Division of the Justice Department, has made a direct and broadscale attack on the rights of all Senators, upon the prerogatives of the Senate, and upon the Constitutional guarantees which have been established to protect the Congress from harassment by a vindictive Executive. It is an attack on the independence and freedom of this body.

* * * * *

"The privilege of the Speech and Debate Clause protects legislators not only from prosecution by the Executive and from the judiciary. Quite obviously it also protects them from instrumentalities such as the grand jury, which can be used as the Executive's instrument of harassment and persecution.

"It must be stressed that the privilege does more than immunize the legislator against attempts to punish him or to exact retribution for the things he says in the course of performing his legislative duties. The privilege also protects him against having to defend or justify or explain what he has said. The privilege seeks to free the legislator from being harassed by law suits, grand juries, and prosecutors. Were this not so, the independence of the legislator might just as well be destroyed by forcing him to defend himself all over the country.

* * * * *

"There is another reason why the privilege against inquiry into a speech does not depend on the legality or Constitutionality of the act to which it is tied. That is because the privilege seeks to avoid any abridgement of the freedom of a legislator, even from fear of future retribution. If a legislator knew that he had to account for the possibility that he would have to defend or justify his speech sometime in the future, then he would not be as willing to express himself on controversial matters.

* * * * *

"The administration's motives in pressing this action are not only aimed at the privilege, but at a Senator who dared oppose it on the war, and who had the effrontery to use information the administration desired to keep from the people. If the administration were to have its way, we must remain in total ignorance of what has transpired in Vietnam, and anything else the Government does, unless it chooses to tell us. By suppressing this information, the executive branch has tried to keep the Congress and the Nation in total ignorance. Now it tries to dictate what the scope of a Senator's business is, and where and when and how he may conduct it. The tendency if not the intent, of this effort is to harass the Senator from Alaska, and thereby to silence him and other critics in this body along with those who are outside these halls.

* * * * *

"The purpose of the privilege is to protcet the legislative branch from a vindictive executive and a hostile judiciary. It is an element of the principle of separation of powers.

* * * * *

"Here, that is precisely the case. Ultimately, I suppose the question of a criminal action may be involved. But the prosecution will be to protect the special interests of the Executive in its efforts to keep its secrets from the Congress and the people. The motive, of course, is to suppress opposition to Executive policy in the Congress and in the country. When the Speech and Debate Clause is involved in a clash between the executive and the legislative, the history of this legislative immunity is especially important. The immunity was finally gained only after Charles I has lost his head. And he lost his head in part at least because he imprisoned members of Paliament who had opposed him in needless and costly overseas wars, even to the extent of presuming to vote to deny him funds for the war. The establishment of the legislative privilege came during the fight by the legislature to establish its independence from a king who claimed total power. The historical precedents are too close to be ignored. We see history repeating itself."

We respectfully request this Court to grant a stay pending appeal from the decision of the Court below holding that a United States Senator may be subjected to grand jury interrogation and the institution of criminal proceeding for making available to the people copies of an official subcommittee record dealing with Executive conduct in foreign affairs.

II. The protective order does not guarantee adequately Senator Gravel's constitutional rights, and under the facts of the case the subpoena must be quashed

As the Court below stated in its decision, the Constitutional interests which must be protected in this proceeding by virtue of the Speech and Debate Clause are those of Senator Gravel, and not the witness. However, since Senator Gravel is not entitled to be present during the grand jury proceedings, a delicate mechanism is necessary to protect his rights against both what is asked and what the witness may answer. We tendered

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Footnotes at end of article.

such a mechanism in our Motion for Specification, which gave the Justice Department an opportunity to narrow the scope of its inquiry and allow the Court and counsel for Senator Gravel to examine in advance whether the questions to be asked violate the Senator's privilege. Despite disclaimers by the Justice Department to the contrary, this technique has been heretofore voluntarily used by it in other privilege cases. For instance, in *United States* v. *George*, 444 F. 2d. 310 (6th Cir. 1971), the witness moved to enjoin enforcement of a grand jury subpoena on the grounds that his testimony might incriminate his wife and that he was already under indictment for the transactions being investigated. The Justice Department filed an affidavit with the District Court setting forth the scope and purpose of the investigation, and the Court concluded that neither privilege was jeopardized.

Even more directly on point are cases involving First Amendment rights in which the government specified the nature of the proposed inquiry by the grand jury, either voluntarily or pursuant to Court order. In *Caldwell* v. *United States*, 434 F. 2d 108 (9th Cir. 1970), cert. granted 402 U.S. 942 (1971), after Caldwell had filed a motion to quash the subpoena, the Justice Department filed documents stating the extent of legal proceedings already underway with respect to certain members of the Black Panther Party, and particularizing the specific incidents about which it was believed that Caldwell had knowledge and would therefore be questioned by the grand jury. (A summary of this specification is contained in the appendix to the petitioner's brief to the Supreme Court, pages 64–68.) In the case of *In Re Verplank*, 329 F. Supp. 433 (C.D. Cal. 1971), which presented analogous Constitutional issues, the Court ordered a governmental showing of specificity. The specificity technique was utilized in these cases as the only feasible method for obtaining the precise record indispensible for Constitutional adjudication. Otherwise, as both the Justice Department and the Courts recognized, there was a significant chance that substantive rights and privileges would, in effect, bottom out for lack of procedural safeguards. The necessity for such safeguards is surely as great in the present case, which implicates the Constitutional privileges of Members of Congress and basic tenets of our system of separation of powers.

Not only did the Justice Department decline to follow this procedure in this case, but it asserted the right to inquire into the actions of Dr. Rodberg in assisting Senator Gravel and to subpoena the Senator himself and question him about his official actions. Given the record in the case, the District Court's findings are certainly justified "that the government's interest in (Dr. Rodberg's) testimony pertains to his acts as Senator Gravel's assistant with regard to the Pentagon Papers and that the government attorneys plan to question him about them before the grand jury." (Slip Opinion, Pages 5–6). And this finding compels that the subpoena must be quashed, for there are no legitimate areas of inquiry about which the government intends to question Dr. Rodberg. All of the actions taken by Senator Gravel with respect to the Pentagon Papers are privileged under the Speech and Debate Clause, including, as we have shown in Part I *supra*, arranging for its republication. There is not the slightest indication in this record that the Justice Department wishes to question Dr. Rodberg about "his own actions previous to his joining the Senator's personal staff."[16] This speculative hypothesis is foreclosed by the record of this case by the refusal of the Justice Department to specify (which it surely would have done if it were interested in activities of Dr. Rodberg's unconnected with the Senator), and by the District Court's findings of fact. Since, therefore, the subpoena was issued for a wholly unconstitutional purpose, it must be quashed.

The Protective Order is under-inclusive because it does not encompass activities of Senator Gravel with respect to the Pentagon Papers which followed the Subcommittee hearing.

Furthermore, even if we assume *arguendo* that there are legitimate areas into which the grand jury may and intends to inquire of Dr. Rodberg, Senator Gravel's Constitutional rights cannot adequately be protected by the Protective Order of October 4, 1971. The reason is, quite simply that Senator Gravel will not be present during the questioning and cannot assure that the Protective Order is obeyed scrupulously. We do not case aspersions on either counsel for the Justice Department or on Dr. Rodberg by pointing out that they cannot be the final arbiters of Senator Gravel's privilege. It is readily apparent that even with both acting in utmost good faith, counsel for the Justice Department may ask and Dr. Rodberg might answer an illegitimate question. We list the following as examples of how Senator Gravel's rights will be jeopardized by the Protective Order:

a. Counsel for the Justice Department may ask who supplied Senator Gravel with the Pentagon Papers. He may think this justified by referring to the language of the Court's opinion allowing questioning "as to the activities of third parties with whom he and the Senator dealt." We think the question would be barred by Paragraph (1) of the Protective Order[17] and would certainly object to it. Yet we would not be able to and, if Dr. Rodberg decides in his discretion to answer it, he becomes the final arbiter, reaching an unreviewable and unconstitutional end.

b. Similarly, other questions about "third parties with whom . . . the Senator dealt" may well relate to whose advice the Senator sought and received on whether to hold the hearing, who helped in drafting the introductory remarks, and who helped prepare the material for inclusion into the record—all of which, in our view, would be barred by the same provision and possibly Paragraph (2) as well.[18] Here, too, some mechanism is necessary to enable Senator Gravel himself to assert his rights without being forced to depend on the judgments of the witness.

c. The Justice Department may also wish to rely broadly on the Court's statement that Dr. Rodberg may be questioned about "his own actions previous to his joining the Senator's personal staff." Yet those questions may relate directly to Senator Gravel's official activities and blatantly violate the Speech and Debate Clause (and the Protective Order), but there is no means by which Senator Gravel can prevent the witness from answering and turning a Constitutional violation into a *fait accompli*.

Examples such as these can be multiplied many times over. We ask this Court for a stay pending appeal because the order of the Court below has the effect if allowing the violation of Senator Gravel's Constitutional rights in a manner which cannot subsequently be remedied. The probability of irreparable Constiutional violations is so high that questioning of Dr. Rodberg cannot be permitted under the unrealistic hope that Senator Gravel's rights will not be infringed. The government is playing with loaded dice, and this Court cannot wait until it rolls the wrong number. We think there are only three methods that will provide for scrupulous compliance with the Constitution: (a) a detailed specification can be made so that proposed questions may be considered in advance; (b) the grand jury proceedings can be made public so that Senator Gravel may be present; or (c) the subpoena can be quashed. Having rejected the first two, the Justice Department is in no position, under the facts of this case, to oppose the third. Respect for the Constiution is more important than respect for the convenience of the Justice Department. We therefore request this Court to stay the decision of the District Court requiring Dr. Rodberg to appear before the grand jury pending appeal.

CONCLUSION

For the reasons stated herein above, we respectfully request the Court to grant a stay of the decision of the Court below pending disposition of this appeal. The Constitutional issues raised are of utmost importance and must be presented to this Court in a posture in which Senator Gravel's legal position has not been mooted and his rights, if we are correct, irreparably violated.

Respectfully submitted,
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CHARLES L. FISHMAN,
Attorneys for Senator Gravel.

FOOTNOTES

[1] Of course, the District Court made other findings of fact on pages 1–5 of the Slip Opinion. We do not set them out because they are not material to this motion. We do wish to point out, however, a possible error in the District Court's recitation of events leading up to the June 29 meeting of the subcommittee. There may be an inference in the opinion that Senator Gravel read and inserted into the record from the set of Pentagon Papers sent under seal from the President to Congress. This is not true; Senator Gravel read from documents which he had independently obtained. Furthermore, these documents are not identical in every respect to the documents furnished under seal to Congress.

[2] Quoted in *New York Times* v. *Sullivan*, 376 U.S. 254, 274 (1964).

[3] *Id.*, at 275.

[4] *Elliot's Debates* 575 (Virginia Resolution of 1798).

[5] Wilson, Congressional Government 303 (1885), quoted in *Tenney* v. *Brandhove*, 341 U.S. 367, 377 fn. 6 (1951).

[6] *Ibid.*

[7] The term "legislative act," used by the District Court in its decision (Slip Opinion p. 12), does not appear in any Supreme Court opinions. The Court in *Kilbourn* spoke of "things generally done in a session of the House by one of its members in relation to the business before it," 103 U.S. at 204. In *Tenney* v. *Brandhove*, 341 U.S. 367, 376 (1951), the Court referred to "the sphere of legitimate legislative activity," and included investigations whose functions were either to propose legislation or inform the public, *id.*, at 377 and fn. 6. In *Johnson*, the Court used the phrase "related to the due functioning of the legislative process," 383 U.S. at 172, and also quoted the *Kilbourn* language, *id.*, at 179. And in *Powell* v. *McCormack*, 395 U.S. 486 (1969), the Court quoted the above phrases from *Kilbourn*, *Tenney* and *Johnson*.

If, by using the new phrase "legislative acts," the District Court intended simply a shorthand for the above standards, our disagreement is only to its application. On the other hand, if the Court below intended to use the phrase as including only those acts in which a Member of Congress proposes, debates upon and votes on legislation, we think that this is inconsistent with and much narrower than the Supreme Court standard. Certainly, for example, in *Dombrowski* v. *Eastland*, 387 U.S. 82, 82 (1967), the actions of Senator Eastland were not even remotely connected with pending or proposed legislation. And neither are many speeches given on the floor of Congress. Yet surely the Court of Appeals was correct in *Cochran* v. *Couzens*, 42 F. 2d 783 (D.C. Cir. 1930), *cert. denied* 282 U.S. 874, that no showing was necessary that words spoken between Congressmen must be pertinent to any pending or future legislation.

[8] While a Member of the House of Representatives, Madison said: "If we advert to the nature of Republican Government, we

shall find the censorial power is in the people over the Government, and not in the Government over the people." 4 *Annals of Congress* 934 (1794). If the people's representatives default on their duty to inform the electorate, the converse would be true.

[9] In its decision (Slip Opinion, p. 13), the Court below quoted certain language from *Hentoff*. These comments dealt solely with the liability of the Public Printer, and not the scope of the Speech and Debate Clause. Judge Gesell distinguished Committee Reports from the *Congressional Record* because Article I, Section 5 of the Constitution requires a journal of proceedings to be kept; thus the Court would not enjoin the Public Printer from including the report in the *Congressional Record*. 318 F. supp. at 1180. But, as noted in the text, the Court held that the privilege absolutely immunized the Members of Congress themselves from judicial inquiry for causing the Committee report to be republished anywhere. We therefore respectfully submit that the above-quoted language is inapposite to the issue of this case, which is whether a Senator may be held accountable for republishing an official Subcommittee record. *Hentoff* holds that he may not.

[10] A second counterclaim alleged republication of certain other letters by Mr. McGovern. This was held barred by the Statute of Limitations, and was not decided on the merits. 182 F. Sup. at 349.

[11] While the Court stated at one point that the reason for the rule of Congressional privilege was "complete and uninhibited discussion among legislators," it also recognized the informing function as another purpose. Any reading of the Court's opinion which picks out the former to the total exclusion of the latter makes the opinion incomprehensible. Why should the Clause protect intralegislative communication but not a Congressman's statement to his electorate? And if the reason for the privilege related only to intralegislative communications, why should there be even a qualified immunity for distribution of speeches to the public? How would a republication of a libelous speech to another Member of Congress fare? And finally, if *only* intralegislative communication is protected, why have the courts gone beyond the literal language of the Speech or Debate Clause? Each of these questions would have had to be answered by the Court in *McGovern* if it had meant to exclude public dissemination of speeches from the Clause altogether.

[12] In Howard, copies of the press release were sent to various newspapers and wire services and to members of the Massachusetts delegation in the Congress . . ." 360 U.S. at 594. The press release in *Barr* similarly was given wide circulation. In both cases, the Executive officials went far beyond merely sending reports to their immediate superiors.

[13] And when, after the drafting of the Constitution, a British court purported to draw such a distinction (see *Stockdale* v. *Hansard*, 9 A. & E. 1, 112 Eng. Rep. 1112 (1839), the reaction in Parliament was so intense that the decision was almost immediately overruled by statute 3 & 4 Vict. c. 9 (1840).

[14] And even if this were somehow put on the "outer perimeter" of a Congressman's duties, *Barr* v. *Matteo, supra,* teaches that it must be protected by an absolute privilege.

[15] While the witness appeared but refused to answer eight questions, the significance of the case is in the specification made by the Justice Department.

[16] cf. Slip Opinion, p. 8.

[17] Par. (1) provides:

"No witness . . . may be questioned about Senator Mike Gravel's conduct at the meeting of the Subcommittee on Public Buildings and Grounds on June 29, 1971 nor about things done by the Senator in preparation for and intimately related to said meeting." And how, conceivably, could Dr. Rodberg determine whether a question refers to conduct "intimately related" to the Senator's subcommittee meeting?

[18] Par. (2) provides:

"Dr. Leonard S. Rodberg may not be questioned about his own actions as a member of Senator Gravel's personal staff to the extent that they were taken at the Senator's direction either at a meeting of the Subcommittee on Public Buildings and Grounds or in preparation for and intimately related to said meeting."

Memorandum in Support of Motion for Rehearing or Certification and for a Stay

[In the U.S. District Court for the District of Massachusetts, Docket No. EBD 71–172–G]

(Mike Gravel, U.S. Senator, Intervenor v. United States of America; United States of America v. John Doe In re Leonard S. Rodberg)

PRELIMINARY STATEMENT

This is the memorandum of law on behalf of Dr. Leonard S. Rodberg in support of the motion for rehearing or certification of the Court's order entered October 4, 1971, and for a stay pending disposition of the motion. The relevant facts are set forth fully in the affidavit in support of the motion and, accordingly, will not be repeated here.

I. This Court should grant a rehearing on the motion to quash the subpoena served upon Dr. Leonard S. Rodberg

A. The First Amendment

We recognize that a rehearing is an unusual proceeding but we respectfully submit that the special circumstances of this case warrant such rehearing.

In its memorandum decision of October 4, 1971, this Court recognized "the importance and usefulness of th[e] type of work by men like Dr. Rodberg and acknowledg[ed] the existence of First Amendment interests here"[1] but rejected Dr. Rodberg's First Amendment argument for the reasons stated in its contemporaneous opinion in *Application of Falk*, E.B.D. No. 71–165–G. In *Falk*, the Court held that the rights asserted are indeed "substantial" but "crucially distinguishable"[2] from those in *Caldwell* v. *United States*, 434 F. 2d 1081 (9th Cir., 1970) cert. granted 402 U.S. 942 (1971).

In the *Falk* opinion this Court noted that the: public interest under the First Amendment in the "maximization of the 'spectrum of available knowledge'" which the *Caldwell* court deemed sufficient to override an unlimited grand jury subpoena clearly is of the same general nature as the public interest alleged by petitioner here.

* * * *Alabama ex rel. Flowers*, 377 U.S. 288, 307–308 (1964). The Court in *Caldwell* said that when it has been found that requiring testimony before a grand jury may infringe on First Amendment rights the power to compel testimony should not be exercised "until there has been a clear showing of a compelling and overriding national interest that cannot be served by any alternative means."[3]

Mr. Justice Brennan, speaking for the Court in *Smith* v. *California*, 361 U.S. 147, 155 (1959), said that "It is plain to us" that when governmental action (in that case an ordinance) aimed at unlawful activity had "such a tendency to inhibit constitutionally protected expression that it cannot stand under the Constitution." Similarly, the inhibiting effect of a subpoena on lawful First Amendment activity was recognized in *In re Verplank*, 329 F. Supp. 433, 437 (C.D. Cal., 1971).[4] After noting that although there "is nothing inherently sinister in the efforts of a draft counseling center to collect and disseminate that material," the court recognized various adverse effects of the subpoena on the legitimate business of the center:

This court also recognizes that in order for the Center to give valid advice to registrants, it must first obtain personal information from them. The possibility that such information will be revealed indiscriminately could certainly deter many registrants from seeking or receiving information from the Center. Production of lists of medical personnel acting as consultants to the Center may also have an adverse effect on the willingness of any professionals to be connected in any way with its activities.

The court concluded: "Thus, a definite impact on the exercise of First Amendment rights may be readily discerned."

Thus, the facts of this case are closer to the facts of *Caldwell* than this Court understood when it wrote its opinion. Further, the distinction made by the Court between professionals and persons "lacking in education and sophistication . . ." was made without any basis in the record, and was reached without the benefit of the *Verplank* decision which reaches the contrary conclusion and which was handed down before this Court's opinion of October 4. For these reasons, we ask the Court to reconsider its ruling on movant's First Amendment claim. The Court's statement that Dr. Rodberg is "only incidentally a journalist,"[8] should not control in view of this Court's recognition of the First Amendment rights here involved. In *Verplank, supra,* at 437–8, the court said, "All citizens have a right to receive accurate, up-to-date information concerning the selective service system and army induction procedures, as well as a right to associate in order to obtain such information." The draft counseling center supplying that information was certainly not a journalist nor was Rev. Verplank whose subpoena was quashed with respect to matters that threatened First Amendment rights.

Further, we believe that the Court's conclusion that Dr. Rodberg's sources of information are less sensitive than reporter Caldwell's is incorrect as a matter of fact. When it comes to inhibiting the exercise of First Amendment freedoms, professional people are no different from "persons often lacking in education and sophistication." *Falk*, Sl. Op., p. 7. As Judge Gray noted in *Verplank* with respect to a draft counseling center: Production of lists of medical personnel acting as consultants to the Center may also have an adverse effect on the willingness of any professionals to be connected in any way with its activities." *Op. cit.*

The public interest in not frightening off persons supplying information to Dr. Rodberg is greater than in the *Caldwell* case. Here, the rights of a Senator and the people to effectively participate in and control their government is at stake. Such issues are even more important than the right to know which lead the *Caldwell* court to quash the subpoena there.

B. The Speech or Debate Clause

This Court stated unequivocally that "Senator Gravel's legislative acts may not consistently with the Speech or Debate Clause be the subject of questioning before the grand jury."[5] It further holds that "the Speech or Debate Clause prohibits inquiry into things done by Dr. Rodberg as the Senator's agent or assistant which would have been legislative acts, and therefore, privileged, if performed by the Senator personally."[6] In holding that making arrangements for republication of the sub-committee report is not embraced by the Speech and Debate Clause the Court relied *inter alia* on *Hentoff* v. *Ichord*, 318 F. Supp. 1175 (D.D.C., 1970). The court in *Hentoff* specifically noted that that report was "devoid of legislative purpose" and "on its face contradicts any assertion of such a purpose."[7] This Court did not make such a finding. Quite to the contrary, it noted: "It has not been suggested by the Government that the subcommittee itself is unauthorized, nor that the war in Vietnam is an issue beyond the purview of congressional debate and action." *Rodberg*, at p. 11. Furthermore, the Court

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Footnotes at end of article.

in *Hentoff, supra* at 1182, noted that publication of the report "will inhibit free speech and assembly" whereas in this case it is the subpoenaing of Dr. Rodberg that will have the effect of inhibiting free speech and free press. In *Hentoff* the court was protecting individual rights against violation by governmental action. Even so, it specifically refused to enjoin individual Congressmen, stating:

> Their *legislative activities are not limited to speech or debate on the floor of Congress.* Information in this Report involves matters of public concern, and the Court will take no action which limits the use that individual Congressmen choose to make of the Report or its contents *on or off the floor of Congress.* No injunction is appropriate against any Congressman named defendant. *Hentoff, supra* at 1179.

The Court thus held that republication of the report by a Congressman was within the ambit of the Speech or Debate Clause. Only the Public Printer and Superintendent of Documents, performing non-discretionary functions for the House at large could be held accountable.

II. Insofar as it denies the motion to quash, the order of this court involves a controlling question of law as to which there is substantial ground for difference of opinion and an appeal from that order will materially advance the ultimate termination of this litigation, thus making appropriate certification to the court of appeals

Alternatively to the motion for rehearing, Dr. Rodberg respectfully requests that pursuant to 28 U.S.C. § 1292(b), this Court certify its order of October 4, 1971, to permit an appeal to the Court of Appeals and to stay his subpoena pending disposition of that appeal.

The denial of a motion to quash a grand jury subpoena has been held to be an interlocutory order, and such an order is ordinarily not appealable. See *United States* v. *Ryan*, 91 S. Ct. 1580 (1971); *Cobbledick* v. *United States*, 309 U.S. 323 (1940). However, the Interlocutory Appeals Act of 1958 specifically provides an exception to this general rule. Title 28 U.S.C. 1292(b) provides as follows:

> When a district judge, in making in a civil action an order not otherwise appealable under this section, shall be of the opinion that such order involves a controlling question of law as to which there is substantial ground for difference of opinion and that an immediate appeal from the order may materially advance the ultimate termination of the litigation, he shall so state in writing in such order. The Court of Appeals may thereupon, in its discretion, permit an appeal to be taken from such order, if application is made to it within ten days after the entry of the order: *Provided, however,* That application for an appeal hereunder shall not stay proceedings in the district court unless the district judge or the Court of Appeals or a judge thereof shall so order.

Section 129(b) thus provides express statutory authority for appealing this Court's order and for staying execution of movant's subpoena pending that appeal. As stated in § 1292(b) the criteria for such an appeal are that the order involve a controlling question of law as to which there is substantial ground for difference of opinion and that an appeal from the order will materially advance the ultimate termination of this litigation. The Court of Appeals had occasion soon after the enactment of this statute in 1958 to discuss its scope and purpose. See *Oskoian* v. *Canuel*, 264 F. 2d 591 (1st Cir., 1959); *In re Heddendorf*, 263 F. 2d 887 (1st Cir., 1959). We will not repeat that discussion but respectively submit, on the basis of the analyses in those decisions, that both criteria are met in the circumstances of this case and that it therefore warrants certification to the Court of Appeals.

Movant has raised two primary issues: the scope of protection afforded him by the First Amendment and that afforded him by legislative privilege arising out of the Speech or Debate Clause. In the circumstances of this case, his very appearance would violate each of those constitutional safeguards.

As to the First Amendment contention, the Court relied upon its contemporaneous opinion in *Application of Falk*, E.B.D. No. 71–165. The Court agreed with witnesses' contention that "a substantial First Amendment right is here involved."[8]

But the Court held that movants' sources of information would not be inhibited by mere appearance before the grand jury because they "are highly trained and sophisticated individuals."[9] We have discussed in Point I why we feel such a conclusion is not warranted. Whether or not the Court is in agreement with our position it cannot be gainsaid that there is substantial ground for difference of opinion. Specifically, on the question of the chilling effect upon First Amendment freedoms caused by appearance before a grand jury, the court in *In re Verplank*, 329 F. Supp. 433 (C.D.Cal., 1971) has disagreed with the distinction drawn by this Court between professional people and those "lacking in education and sophistication whose distrust of government, especially of police and prosecutors, is well known." *Application of Falk*, Sl. Op. p. 7. The *Verplank* court quashed a subpoena *duces tecum* directed to a Presbyterian minister serving as a draft counselor insofar as the subpoena sought the production of records of counselees or lists of physicians, dentists or psychiatrists to whom counselees had been referred. Like this Court, Judge Gray recognized that "First Amendment activities are involved." *Id*, at 437. But he went further, recognizing not only the inhibiting effect of the subpoena upon registrants seeking or receiving information from the draft counseling center but the inhibiting effect upon "highly trained and sophisticated individuals," *Application of Falk*, Sl. Op. p. 7, the doctors, dentists and psychiatrists:

> Production of lists of medical personnel acting as consultants to the Center may also have an adverse effect on the willingness of any professionals to be connected in any way with its activities. Thus a definite impact on the exercise of First Amendment rights may be readily discerned. 329 F. Supp. at 437

Because the government failed to demonstrate a compelling need for the information sought, Judge Gray prohibited its coerced production. That another federal judge has reached a contrary conclusion on the particular point in question demonstrates, we believe, that there exists a substantial ground for difference of opinion.

The same is true with respect to the one disagreement the Court had with Dr. Rodberg's position under the Speech or Debate Clause. The Court agreed that "Senator Gravel's legislative acts may not consistently with the Speech or Debate Clause be the subject of questioning before the grand jury," Sl. Op. p. 9, and that his insertion of the Pentagon Papers into the Congressional Record was a legislative act. The Court further agreed, because movant was performing non-ministerial duties for the Senator, that "the Speech or Debate Clause prohibits inquiry into things done by Dr. Rodberg as the Senator's agent or assistant which would have been legislative acts, and therefore privileged, if performed by the Senator personally." Sl. Op., p. 15. In light of these holdings the Court's conclusion that Dr. Rodberg could be questioned about alleged republication by Senator Gravel of material already inserted into the Congressional Record because such republication was not legitimate legislative activity is inconsistent with the position taken by Judge Gesell in *Hentoff* v. *Ichord*, 318 F.Supp. 1175 (D.D.C., 1970). In *Hentoff*, plaintiffs sought to enjoin members of Congress, the Public Printer and the Superintendent of Documents from republishing a Congressional report. The plaintiffs conceded what the Court has found here as a matter of law, that insertion of material into the Congressional Record is legitimate legislative activity protected by the Speech or Debate Clause. *Supra* at 1179. However, the plaintiffs sought to enjoin general public distribution of the report and alleged that an injunction would lie against both members of Congress and the Printer and Superintendent. Judge Gesell agreed as to the latter two because they were not members of Congress but rather were "administrative personnel whose non-discretionary duties to the legislative body as a whole in no substantial way related to the specific furtherance of the legislative tasks of individual members." *Rodberg*, Sl. Op., p. 15. But as to the members of Congress, the Court said:

> Plaintiffs contend that the discussion in *Powell*, together with such decisions as *McGovern* v. *Martz*, 182 F. Supp. 343 (D.D.C., 1960), and *Long* v. *Ansell*, 63 U.S. App. D.C. 68, 69 F.2d 386 (1934), indicates that this Court may restrain Congressmen from publishing, filing, or distributing, except by insertion into the *Congressional Record*, a report . . .
>
> The Court is of a contrary view. Members of Congress have the same right to speak as anyone else. Their legislative activities are not limited to speech or debate on the floor of Congress. Information in this Report involves matters of public concern, and the Court will take no action which limits the use that individual Congressmen choose to make of the Report or its contents on or off the floor of Congress. *Hentoff, supra,* at 1179.

The Court thereby held that republication by a member of Congress of a Congressional report was legitimate legislative activity within the sphere of the Speech or Debate Clause, a conclusion at variance with the Court's conclusion here.[10] As noted *supra*, we believe such disagreement demonstrates conclusively that there is substantial ground for difference of opinion.

We further submit that an interlocutory appeal with materially advance the disposition of this litigation. This case presents the unusual, almost unique, situation wherein an appearance by a witness before a grand jury will threaten not only the witness' constitutional rights but the rights of a United States Senator. This the Court has already recognized by granting Senator Gravel's motion to intervene. Ordinarily the denial of a motion to quash a subpoena is deemed interlocutory because it is said the witness can subsequently risk contempt and litigate again the issue(s) he has raised on the motion. But that reasoning does not apply to Senator Gravel who stands on a different legal footing. Since the subpoena is not directed to him, the Senator can in no way refuse to comply with it and then litigate the issues raised here; there can be no contempt proceeding for the Senator because there is no outstanding order of the Court for him to disobey. In other words, as to him, the denial of the motion to quash is a final order and, hence, appealable under Title 28 U.S.C. § 1291.

As noted in the affidavit, we have been informed that Senator Gravel intends to file a notice of appeal if this Court declines to grant a rehearing upon the motion. This case will then be in the following posture: the constitutionality of the subpoena under the Speech or Debate Clause will be properly before the Court of Appeals, but being litigated by the intervenor, rather than the party to whom it is directed. On the other hand, the First Amendment claim, not raised by the Senator will not be before the Court of Appeals and will first have to be litigated at the

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Footnotes at end of article.

District Court level. Neither one of these results is desirable. As long as the issue of the lawfulness of the subpoena under the Speech or Debate Clause will properly be before the Court of Appeals, regardless of what Dr. Rodberg may do, the policy against piecemeal appeals which lies behind the general prohibition against interlocutory appeals, has no application. As long as the issue will be properly appealed by the intervenor there is no sound reason for denying Dr. Rodberg, the man to whom the subpoena is directed, the right to litigate that issue himself.

Secondly, the bifurcation of this case that would be caused by the litigating of the Speech or Debate Clause issue in the Court of Appeals while the First Amendment claim remains at the District Court level itself, directly contradicts the "policy against piecemeal appeals." *Switzerland Cheese Association* v. *E. Horne's Market*, 385 U.S. 23, 24 (1966). Under the unique circumstances presented here, it is wholly consistent with that policy, if not indeed mandated by it, that the Court's order be certified so as to permit litigation in the Court of Appeals of *all* the issues presented to this Court. Such certification would prevent, not encourage, piecemeal appeal.

Finally, we have asked for a stay of movant's subpoena pending disposition of this motion. The subpoena is returnable on Thursday, October 14, 1971, and a stay will therefore be necessary to preserve the status quo while this Court considers the instant application. As noted in the supporting affidavit, a temporary adjournment will not prejudice the government as it has apparently subpoenaed several witnesses for this week. If this Court grants a rehearing to reconsider its decision of October 4, a continuance of the stay would be most appropriate. Likewise, if the Court certifies its order to permit an interlocutory appeal, a stay, authorized by § 1292(b), would be necessary to preserve the status quo and prevent a mooting out of this litigation.

CONCLUSION

For the aforegoing reasons, this Court should grant a rehearing or certify its order, and grant a stay.

Respectfully submitted,
JAMES REIF
DORIS PETERSON
MORTON STAVIS
PETER WEISS,
c/o Center for Constitutional Rights, 588 Ninth Avenue, New York, New York 10036. (212) 265-2500.

NEW YORK, N.Y., *October 11, 1971*.

FOOTNOTES

[1] *Application of Rodberg*, Sl. Op. p. 3.

[2] *Falk*, Sl. Op. p. 6.

[3] *Caldwell*, 434 F.2d at 1086.

[4] The opinion in *Verplank, supra*, was not available to counsel for movant at the time of oral argument. It was officially reported last week.

[5] *Rodberg*, at p. 9.

[6] *Id.*, p. 15.

[7] *Hentoff, supra* at 1182.

[8] *Application of Falk*, Sl. Op. p. 6.

[9] *Ibid.*, P. 7.

[10] This Court relied on Hentoff in its discussion of whether republication of the particular report at issue there fulfilled a valid legislative purpose. It should be noted that the conclusion that republication of that *particular* report did not fulfill a valid legislative purpose can in no way control the determination whether publication of an entirely different document, the Pentagon Papers, fulfills such a purpose. Secondly, the discussion in *Hentoff* was in the context of a discussion of an injunction against persons performing non-discretionary functions for the House generally, a group this Court has itself distinguished from Dr. Rodberg, Sl. Op., p. 15.

[U.S. District Court, District of Massachusetts, United States of America v. John Doe, E.B.D. No. 71-172-G]

MOTION FOR EXTENSION OF TIME WITHIN WHICH TO FILE GOVERNMENT'S BRIEF IN OPPOSITION TO MOTIONS OF LEONARD S. RODBERG AND INTERVENOR MIKE GRAVEL, UNITED STATES SENATOR, FOR RECONSIDERATION AND STAY, ET CETERA, AND ORDER THEREON

(In the Matter of a Grand Jury Subpoena Served Upon Leonard S. Rodberg)

The United States of America moves the Court for an order extending the time within which the government may file its brief in opposition to the motions of Leonard S. Rodberg and Intervenor Mike Gravel, United States Senator, for reconsideration of this Court's ruling on October 4, 1971, and other relief, from Friday, October 15, 1971, to Monday, October 18, 1971, at 12:00 p.m.

This motion is based on the attached affidavit of Warren P. Reese.

Respectfully submitted,
HERBERT F. TRAVERS, Jr.,
U.S. Attorney.
By WARREN P. REESE,
Assistant U.S. Attorney.

Good cause appearing therefore, it is so ordered.

/S/ W. ARTHUR GARRITY,
U.S. District Judge.

Dated: October 14, 1971.

AFFIDAVIT

BOSTON, MASS., OCTOBER 14, 1971.

Suffolk, ss:

Warren P. Reese, being first duly sworn states:

1. I am an Assistant United States Attorney temporarily assigned to assist the United States Attorney for the District of Massachusetts, and I am authorized to represent the government in grand jury investigations and judicial proceedings ancillary thereto.

2. On October 12, 1971, Leonard S. Rodberg, a witness subpoenaed by the grand jury, and United States Senator Mike Gravel, an intervenor in the Rodberg matter, filed motions for reconsideration of this Court's ruling on October 4, 1971, and other relief. During a brief hearing concerning the matter, I agreed and the Court instructed me to file the government's brief in opposition by Friday, October 15, 1971.

3. Because of the complexity of the issues presented and the impact of various conflicting assignments and responsibilities, I requested that attorneys in the Internal Security Division, Department of Justice, write the brief for my approval to assure its timely and well considered preparation. I was informed this date by the responsible attorney that the brief is now being typed in preliminary draft form, and that the review draft would be finished sometime on Friday, October 15.

4. It is my desire and intention to travel to Washington, D.C., following completion of other government business in Boston, to confer with Departmental Attorneys on Friday, October 15, and review the brief for approval. This circumstance is expetced to prevent delivery of the brief to Boston for filing on Friday, even if the brief is considered acceptable in its existing form.

5. To assure appropriate treatment of the issues, and in view of the circumstances, it is respectfully requested that the government be permitted to file its brief by 12:00 p.m. Monday, October 18, 1971.

6. James Reif, Attorney for Rodberg, and Charles Fishman, attorney for Senator Gravel, have been advised of the foregoing and have agreed to the extension subject to the Court's order. Mr. Fishman informed me that, based on our conversation, a reply Memorandum from Senator Gravel might be indicated, and that due to a death in his family which will require his presence in Florida this coming weekend, he would prefer the extension be granted, with the expectation that the Court would allow sufficient time for a reply brief to be filed.

WARREN P. REESE,
Assistant U.S. Attorney.

MOTION FOR ORDER COMMANDING MOVANT TO APPEAR BEFORE THE GRAND JURY ON OCTOBER 28, 1971

(Mike Gravel, U.S. Senator, Intervenor v. United States of America; United States of America v. John Doe; in the matter of a grand jury subpoena served upon Leonard Rodberg)

Comes now the United States by and through the undersigned counsel and moves the Court for an Order commanding Leonard S. Rodberg to appear before the grand jury on October 28, 1971.

In support of the Motion there is attached hereto a Memorandum of Points and Authorities to which this Court's attention is respectfully invited.

Respectfully Submitted,
HERBERT F. TRAVERS, Jr.,
U.S. Attorney.
WARREN P. REESE,
Assistant U.S. Attorney.

OCTOBER 18, 1971.

MEMORANDUM OF POINTS AND AUTHORITIES IN OPPOSITION TO MOTION FOR RECONSIDERATION AND STAY PENDING RECONSIDERATION AND/OR APPEAL

A. BACKGROUND

1. *Status of the proceedings*

This matter arose when a subpoena was served on Leonard S. Rodberg to compel his appearance before the grand jury and testify regarding matters presently under investigation by that body. He filed a motion to quash the subpoena and to stay his order to appear before the grand jury *pendente lite*. Senator Mike Gravel's motion for leave to intervene was granted, and he filed a motion to quash and for other relief.

After briefing and oral argument, this Court entered a memorandum of decision and protective order on October 4, 1971, denying the motions to quash the subpoena but restricting the scope of inquiry. A new subpoena was thereafter served on Rodberg.

Rodberg and the Intervenor now seek to have this Court reconsider its initial decision and grant a stay of the subpoena pending such reconsideration. The Intervenor requests that, if reconsideration of the motion to quash is denied, a stay be granted pending appeal to the Court of Appeals. Rodberg requests a stay and certification of the issue to the Court of Appeals pursuant to 28 U.S.C. 1292(b) and Rule 5(a) Federal Rules of Appellate Procedure, in the event of an adverse ruling.

2. CONTENTIONS OF THE MOVING PARTIES

(*a*) *Intervenor*

(1) The Speech or Debate Clause applies to unofficial publication and distribution, by the Intervenor of a classified study of the Department of Defense covering U.S.-Vietnam relations (hereinafter the "McNamara Papers") and protects the Intervenor and his employees from grand jury inquiry concerning such publication and distribution.

(2) The protective order included in this Court's order of October 4, 1971, does not adequately protect the Intervenor's constitutional rights.

(3) This Court's order of October 4, 1971 is final as to the Intervenor and therefore is appealable.

(*b*) *Leonard Rodberg*

(1) The mere fact of Rodberg's appearance before the grand jury will have a chilling ef-

fect upon First Amendment freedoms of press and association.

(This issue will not be treated in this memorandum in view of this Court's decision in the case of *In the Matter of a Grand Jury Subpoena Served on Richard Falk*, E.B.D. No. 71-165-G, reconsideration denied October 12, 1971, the issues and facts of that case being substantially indistinguishable from those of the instant case.)

(2) The Speech or Debate Clause protects Intervenor from any grand jury inquiry concerning unofficial publication and distribution of the "McNamara Papers"; and Rodberg, by virtue of his status as a member of the Intervenor's personal staff, is also protected.

(3) Should this Court affirm its denial of the motions to quash the subpoena, the issue relating to the Speech or Debate Clause should be certified to the Court of Appeals for review because there is substantial ground for difference of opinion, and appeal will materially advance the ultimate termination of this litigation.

3. *The factual setting*

The facts are essentially not in dispute. They are, as excerpted from the court's opinion, set forth below:

"Dr. Leonard S. Rodberg, a physicist and resident fellow at the Institute for Policy Studies in Washington, D.C., and currently engaged as a staff member of United States Senator Mike Gravel of Alaska, petitioned the court on August 27, 1971, to quash a subpoena ordering him to appear before a federal grand jury ostensibly investigating crimes relating to the release and dissemination of the much-publicized classified study by the Department of Defense entitled 'History of U.S. Decision-Making Process on Viet Nam Policy,' popularly called the 'Pentagon Papers.'

"The crimes being investigated by the grand jury include the retention of public property or records with intent to convert (18 U.S.C. § 641), the gathering and transmitting of national defense information (18 U.S.C. § 793), the concealment or removal of public records or documents (18 U.S.C. § 2071), and conspiracy to commit such offenses and to defraud the United States (18 U.S.C. § 371), as is indicated in the prosecuting attorneys' oaths of office on file with the Clerk. [Footnote omitted]

* * * * *

"Both motions of the Senator allege, and the court finds, that 'as personal assistant to movant, Dr. Rodberg assisted movant in preparing for disclosure and subsequently disclosing to movant's colleagues and constituents, at a hearing of the Senate Subcommittee on Public Buildings and Grounds, the contents of the so-called "Pentagon Papers," which were critical of the Executive's conduct in the field of foreign relations.'

"Late in the evening of June 29, Senator Gravel, a member of the Committee on Public Works, called a meeting of its Subcommittee on Public Buildings and Grounds, of which he is chairman. Earlier that same day, the Senator had added Dr. Rodberg to his personal staff. At the meeting he read extensively from the study and, at its conclusion, placed the entire study comprising 7,000 pages of complex material in 47 volumes on file with the subcommittee, thereby making it widely available to the press. About seven weeks later, on August 18, it was reported in the Washington Post that Senator Gravel had turned over the Pentagon Papers to a Boston publisher, Beacon Press, for compilation into a four-volume book to be released in late October under the title, 'The Senator Gravel Edition of the Pentagon Papers: the Defense Department History of Decision Making on Vietnam;" and that Beacon Press came to agreement with the Senator after negotiations with his assistant Dr. Rodberg. In the August 24 edition of a weekly newspaper, Boston After Dark, an article, 'Why MIT & Harvard Suppressed the Pentagon Papers,' described in detail Dr. Rodberg's prior negotiations with publishers other than Beacon Press. On the evening of August 24, Dr. Rodberg was subpoenaed to appear and testify before the current grand jury."

B. ARGUMENT

1. *The speech or debate clause*

(a) Introductory Statement

Great emphasis is placed by intervenor on the practice and necessity of communications between the electorate and their representatives in his endeavor to persuade this Court to consider the private publication of classified documents as being no different from the republication of speeches and reports delivered and developed in the normal course of legislative activity. Such publication of classified documents which were prepared by an executive agency hardly comports with the test espoused by the intervenor that the Speech or Debate Clause affords protection for things "generally done in a session of the House by one of its members in relation to the business before it" or action "related to the due functioning of the legislative process." (Intervenor's Brief, pp. 4-5.)

Although a legislator's issuance of press releases, the holding of press conferences, and speaking to constituents regarding his views on matters pending before the Congress may be legitimate activity concerning his legislative responsibilities, publication by a legislator through a commercial printer of classified documents under the circumstances herein could hardly have been contemplated historically as a proper subject for protection under the Speech or Debate Clause. The reason for this conclusion is apparent. There has been unwavering consistency in the articulation of the purposes and benefits of the Speech or Debate Clause in the cases in which it has been considered.

Perhaps the earliest declaration of purpose was uttered by Mr. Chief Justice Parsons in *Coffin* v. *Coffin*, 4 Mass. 1, (1808) which was adopted by the Supreme Court in *Kilbourn* v. *Thompson*, 103 U.S. 168:

> These privileges are thus secured, not with the intention of protecting the members against *prosecutions for their own benefit, but to support the rights of the people* by enabling their representatives to execute the functions of their office without fear of prosecutions, civil or criminal. I, therefore, think that the article ought not to be construed strictly, but liberally, that the full design of it may be answered. I will not confine it to delivering an opinion, uttering a speech, or haranguing in debate, but will extend it to the giving of a vote, to the making of a written report, and to every other act *resulting from the nature and in the execution of the office*. And I would define the article as securing to every member exemption from prosecution for everything said or done by him *as a representative, in the exercise of the functions of that office*, without inquiring whether the exercise was regular, according to the rules of the House, or irregular and against their rules. I do not confine the member to his place in the House; and I am satisfied that there are cases in which he is entitled to this privilege when not within the walls of the representatives' chamber (Emphasis added, pp. 203-204.)

The purpose was reiterated in 1950 by Mr. Justice Frankfurter in *Tenney* v. *Brandhove*, 341 U.S. 367 (1950):

> The provision in the United States Constitution was a reflection of political principles already firmly established in the States. Three State Constitutions adopted before the Federal Constitution specifically protected the privilege. The Maryland Declaration of Rights, Nov. 3, 1776, provided: "That freedom of speech, and debates or proceedings, in the legislature, ought not to be impeached in any other court or judicature." Art. VIII. The Massachusetts Constitution of 1780 provided: "The freedom of deliberation, speech and debate, in either house of the legislature, *is so essential to the rights of the people*, that it cannot be the foundation of any accusation or prosecution, action, or complaint, in any other court or place whatsoever." Part The First, Art. XXI. (Emphasis added, p. 373.)
>
> * * * * *
>
> The claim of an unworthy purpose does not destroy the privilege. Legislators are immune from deterrents to the uninhibited discharge of *their legislative duty, not for their private indulgence but for the public good*. (Emphasis added, p. 377.)

Writing for the Majority in *United States* v. *Johnson*, 383 U.S. 169 (1966), Mr. Justice Harlan observed—

> The legislative privilege, protecting against possible prosecution by an unfriendly executive and conviction by a hostile judiciary, is one manifestation of the "practical security" for *ensuring the independence of the legislature*. (Emphasis added, p. 179.)

The initial inquiry then is whether such private publication by a senator of material of the character of the "McNamara Papers" is (1) legitimate legislative activity, and (2) an activity, the protection of which is conducive to the achievement of the constitutional purpose, to secure the independence of the legislature and thereby benefit the public. A more complete answer to these questions requires a determination of the scope of the Speech or Debate Clause.

b. Private Publication by a Senator of Classified Documents is not Embraced Within the Speech or Debate Clause

In ruling that Dr. Rodberg could be questioned concerning arrangements made for private publication of the "McNamara Papers", this Court properly ruled that the privilege embodied in the Speech or Debate Clause does not apply. *McGovern* v. *Martz*, 182 F.Supp. 343 (D.D.C., 1960) and *Long* v. *Ansell*, 69 F.2d 386 (C.A. D.C., 1934), *aff'd*. 293 U.S. 76 also make it clear that "the reason for the rule—complete and uninhibited discussion among legislators—is not here served." Accord, *Restatement of Torts*, 1938 ed. § 590 Comment b.

In reaching its decision, this Court relied in part on *Hentoff* v. *Ichord*, 318 F.Supp. 1175 (D.D.C., 1970). The Government, in discussing the decision in Hentoff, Would hasten to point out that although it does not agree with the holding in that case as applied to the specific facts therein, the rationale employed by the court was proper (any publication which may involve the Speech or Debate Clause requires a determination whether the publication was a part of the legislative process). However, notwithstanding the specific holding in *Hentoff*, the application of the rationale applied there to the facts in this case, which are distinguishable from those in *Hentoff*, demonstrates that this Court's initial decision was proper.

In *Hentoff* v. *Ichord, supra*, the court considered an action for injunctive relief against certain Congressmen and the Public Printer to prevent the printing and distribution of an official study prepared for the House Internal Security Committee. In that case, injunctive relief against Congressmen was denied *not* because the court was unwilling to recognize a broad extension of the Speech or Debate Clause to cloak the acts of individual Congressmen outside the scope and forum of their legislative business. Rather, the Court chose to deny relief as to the Congressmen purely on the grounds of their First Amendment rights:

> Members of Congress have the same right to speak as anyone else. . . . [T]he court will take no action which limits the use that individual Congressmen choose to make of the report. . . . (318 F.Supp. at 1179).

That decision, which held that a legislative employee who was ordered to print the report could be enjoined, supports this Court's decision that the Speech or Debate Clause does not protect extra-legislative publication. And, this much this Court recognized in quoting *Hentoff* in its opinion (p. 13):

> Nothing in the Constitution or the cases suggests, however, that a committee report is a necessary adjunct to speech or debate in Congress. . . . [a]nd its further printing and public distribution is not necessary to give effect of the freedom of Congressmen to speak and debate on or off the floor. (*Hentoff, supra*, at 1180).

(1) *Private publication bears no relation to legislative business*

Such legislative business of the Senate, the Intervenor was engaged in at midnight on June 29, 1971, terminated at the close of the Subcommittee hearing that night. Thus, applying the test suggested by *Kilbourn* v. *Thompson*, 103 U.S. 168 (1880), that the immunity conferred by the Speech or Debate Clause envisions only ". . . things generally done in a session of the House by one of its members in relation to the business before it." 103 U.S. at 204, *Kilbourn* supports the conclusion that any subsequent private publication of any documents disclosed that night is not barred from a grand jury investigation by the Speech or Debate Clause.

More importantly, the Intervenor's or Dr. Rodberg's actions in unofficially publishing these documents through the Beacon Press stand on no different footing than those of any person seeking to print and distribute documents he wishes disseminated. Their actions are thus entitled to no greater privilege from inquiry than those of a private citizen, and this grand jury is entitled to determine whether criminal acts by anyone else have been committed in the process.

2. *Prior decisions confirm that no privilege exists as to unofficial publication outside of Congress of the content of official speeches or Records*

Assuming *arguendo* that certain documents were given by the Intervenor to Beacon Press (or given at his direction) and that they constitute a proper legislative record of the Senate Subcommittee for House and Grounds, no privilege exists whatever insofar as their subsequent publication and distribution outside of Congress is concerned.

The Speech or Debate Clause provides that insofar as members of Congress are concerned:

> ". . . for any speech or debate in either House, they shall not be questioned in any other place."

This provision, therefore, does not apply to statements made or distributed outside of the scope of the official business of the Congress, in which any such statements or documents are used. Instead, the privilege protects and insures only that the official business of the Congress will be free from interference.

The Court of Appeals for the District of Columbia Circuit has already considered and decided a case, controlling here, which raises this question in a factual setting surprisingly close to this proceeding, *Long* v. *Ansell*, 69 F.2d 386 (D.C. Cir., 1934), affd. 293 U.S. 76 (1934). In that case, a libel suit was filed against Senator Long for printing and distributing several libelous articles alleged to be a reprint of a speech made by him in the Senate. The lower court noted, in affirming denial of a motion to quash the subpoena served upon the legislator, that:

> "The charge here is not for slander resulting from a speech made on the floor of the Senate, but for libel in publishing and distributing a copy of the speech. . . . The acts charged have only remote connection with the speech. While the published articles were in part reproductions of the speech, the offense consists not in what was said in the Senate but in the publication and circularizing of the documents."

Long has not only been cited and relied on since 1934 as good law, see, e.g., *McGovern* v. *Martz*, 192 F. Supp. 343 (D.D.C. 1960), but it confirms the long-standing rule in both American and English common law that republication of legislative documents is privileged only to a qualified extent. For example, the American Law Institute's Restatement of Torts § 590, comment b, reads in part:

> "* * * Defamatory matter spoken or otherwise uttered in a legislative proceeding is a publication thereof and a report of the legislative proceeding is a republication of the defamatory matter. Such republication is not absolutely privileged under the rule stated in this Section, but is conditionally privileged under the rule stated in § 611. Thus there is no absolute privilege to disseminate the Congressional Record of reprints therefrom, either by a Senator or a Congressman or by a third person."

See also, *Rox* v. *Abingdon*, 1 Esp. 226 Peake 310 (1795); *Rex* v. *Creevy*, 3 Eq. 2. Cases, 228, 1 M & S. 273 (1813), Kent's Commentaries 249 N.C. (8th ed. 1954), 1 Story, "Commentaries on the Constitution of the United States." (5th Ed. 1905) § 866, N. (a), *Cole* v. *Richards*, 108 N.J.L. 356 A. 466 (1932), and *Methodist Federation for Social Action* v. *Eastland, infra*.

This rule is, of course, in complete harmony with other collateral areas of our legal system. For example, the judicial privilege is also qualified as to unauthorized publication. While a judge enjoys an absolute privilege for the official publication of a judicial statement, i.e., by reading an opinion in open court or filing it in the clerk's office, there is only a qualified privilege for the unofficial circulation of copies of a defamatory opinion. See, e.g., *Murray* v. *Brancato*, 290 N.Y. 52, 48 N.E. 2d 257 (1943); *Francis* v. *Branson*, 168 Okl. 24, 31 F. 2d 870 (1933); and, Note, 12, Ford L. Rev. 193 (1943).

Furthermore, an analysis of the precedents provided by the Intervenor in support of his motion confirms, by the absence of any one point, that there is no authority for the proposition that private publication is performed with the benefit of the Congressional privilege against inquiry after the subsequent publication. In *Hearst* v. *Black*, 87 F. 2d (D.C. Cir. 1936) the court was not even faced with a question regarding republication but, rather, a suit to prevent disclosure *in the first instance* of material gathered for committee investigations. The court ruled only that:

> "If courts cannot enjoin the enactment of unconstitutional laws . . . they cannot enjoin legislative debate or discussion of constitutional measure because of incidental disclosure or publication of knowledge unconstitutionally acquired." 87 F. 2d at 72.

Such a ruling hardly supports any contention that a wholesale private printing and public distribution of the material would be above judicial inquiry after the fact. Here, the Intervenor would have this Court believe that judicial reluctance to exercise supervision over Congressional deliberations *before they had commenced* constituted an acknowledgement that a grand jury was utterly without power to inquire into the activities of non-legislative members after the fact.

And, in *Methodist Federation* v. *Eastland*, 141 F. Supp. 729 (D.D.C. 1956) the court again considered whether it could enjoin a discretionary act of Congress *before* it has transpired on the basis of allegations of irreparable injury. Again, no finding was made that a court could not entertain a suit for redress after the fact and, as in *Long*, assess whatever liability may be appropriate. And, as in *Hearst, Methodist Federation* involved only a request for an injunction against publication prior to the publication.

And *Hentoff* v. *Ichord, supra*, is no support for Intervenor's contention that members of Congress are "absolutely privileged" from accountability for what they do. Moreover, in *Hentoff* v. *Ichord*, even in circumstances where the Court held the members of the House to be absolutely privileged, circumstances not present here, the Court none the less held that their agent was not immune. *Cf Powell* v. *McCormack*, (1969) 395 U.S. 486, 504–506.

In his next case, the Intervenor candidly acknowledges (Mem., p. 13) that *McGovern* v. *Martz*, 182 F.Supp. 343 (D.D.C. 1960) supports the Government position. There the court said:

> "But what of republication? Should an absolute privilege exist to bar suits for defamation resulting from a Congressman's circulation of reprints or copies of the Congressional Record to non-Congressmen? The reason for the rule—complete and uninhibited discussion among *legislators*—is not here served. Accordingly, the absolute privilege to inform a fellow legislator (either by way of speech on the floor or writings inserted in the Record) become a qualified privilege for the republication of the information. 'Though a member of congress is not responsible out of congress for words spoken there, though libelous upon individuals; yet if he causes his speech to be published, he may be punished as for a libel by action or indictment. This is the English and the just law.' 1 Kent's Commentaries 249, note c 8th Ed. 1854). (182 F.Supp. at 347)"

And, in so ruling, a further precedent was created for the proposition that *republication* enjoys only a *qualified* privilege. Even when the Senator alludes (Mem., p. 14 n. 11) to the "informing" function which should be protected by the privilege he points to a portion of the Court' opinion which shows that a qualified privilege fulfills this need completely:

> "Congressmen undoubtedly have a responsibility to inform their constituents, and undoubtedly circulation of the Congressional Record is a convenient method. It does not follow from this however, that an absolute privilege is necessary; a qualified privilege is enough."

The Intervenor's final majority, *Barr* v. *Matteo*, 360 U.S. 564 (1959), is equally inopposite. There, the Court recognized a privilege where executive officials were acting in the scope of their official duties. In *Barr*, an official was sued for defamation caused by a press release he had issued. The Court found that the initial release constituted an act "in the line of duty." Important here is the fact that neither a republication nor a grand jury investigation was involved.

For these reasons, the grand jury should be permitted to inquire into any efforts to effect private publication of the "McNamara Papers."

The four qualifying restrictions with which the intervenor seeks to constrict this inquiry should also be rejected. The above discussion in *McGovern* was in no wise *obiter dictum* as he suggests (Mem., p. 14); but for the ruling as to the extent of privilege, the court would have been obliged to dismiss defendant's counterclaim with prejudice. The discussion is thus the controlling ground of the final result. Even if the *McGovern* court erred in qualifying the privilege by a malice standard as intervenor suggests, that error was on the side of failing to qualify sufficiently the republication privilege. *Tenney* v. *Brandhove*, 341 U.S. 367, (1951) which intervenor cites as authority for an unqualified privilege, involved a defamation suit for an in-committee investigation which resulted in damages. No republication was involved and the Supreme Court concluded, "We have only considered the scope of the privilege as applied to the facts of the present case." 341 U.S. at 378. *Cockran* v. *Couzens*, 42 F. 2d 783 (D.C. Cir. 1930) *cert. denied* 283 U.S. 874 says no more than that an *absolute* privilege applies to *any speeches made on the floor of the Senate* even if unrelated to official business, a conclusion which has no bearing on this proceeding.

3. Rodberg Has No Claim to Derivative Status Under the Speech or Debate Clause.

Given the conclusion that publication of the "McNamara Papers" by the Intervenor through Beacon Press is not protected by the Speech or Debate Clause, Rodberg, as well, has no status under the Clause in the context of that enterprise for a number of reasons. First, his immunity is derived from the Intervenor. Second, it can be no greater than that possessed by the Intervenor, which in this case is none. Finally, an agent can, and often does, have less immunity than does his employer. As stated in a per curiam decision in *Dombrowski* v. *Eastland,* 387 U.S. 82, 85 (1967), in which respondent Sourwine was the chief counsel:

"... It is the purpose and office of the doctrine of legislative immunity, having its roots as it does in the Speech and Debate Clause of the Constitution, *Kilbourn* v. *Thompson,* 103 U.S. 168, 204 (1881), that legislators engaged 'in the sphere of legitimate legislative activity,' *Tenney* v. *Brandhove, supra,* 341 U.S. at 376, should be protected not only from the consequences of litigation's results but also from the burden of defending themselves. This Court has held, however, that this doctrine is less absolute, although applicable, when applied to officers of employees of a legislative body, rather than to legislators themselves. As the Court said in *Tenny* v. *Brandhove, supra,* the doctrine, in respect to a legislator, 'deserves greater respect than where an official acting on behalf of the legislature is sued . . . .' (341 U.S. at 378) Cf. *Wheeldin* v. *Wheeler,* 373 U.S. 647 (1963). In the light of this principle, we are compelled to hold that there is a sufficient factual dispute with respect to respondent Sourwine to require reversal of the judgment below as to him."

Thus, it is difficult to conceive how the independence of the legislature is insured in any way by inclusion within the protective ambit of the Speech or Debate Clause the commercial publication and distribution of classified material by a Senator and therein lies the problem presented by the Intervenor's request.

The basic error of intervenor's position can be simply stated. The privilege conferred by the Speech or Debate Clause lies only where the act done was a part of the legislative process. (Mem., pp. 4–5). Here, intervenor contends that he did nothing more than reprint only what was a part of the Subcommittee's record. Assuming *arguendo* that he is correct and further assuming that his initial insertion of the documents into the record was a proper part of the legislative process, does it follow that any subsequent private publication of that information is, thereby, privileged from inquiry? The obviousness of the answer that it does not renders extended discussion unnecessary.

As the court in *Hentoff* v. *Ichord,* 318 F. Supp. 1175 (D.D.C. 1970) makes clear by its holding, whether or not the initial publication was proper, the legislative privilege, if invoked for any subsequent publication, requires a determination be made anew as to the legislative purpose for the republication. In other words, if a document were published in the *Congressional Record* for a proper legislative purpose, a subsequent republication solely "for exposure's sake" (Id. at 1182) would not be privileged in all circumstances.

Thus, it is of no concern whether the information was originally made a part of any congressional record or report; rather, it must be determined whether the publication at issue served any proper legislative purpose—e.g., was it published "in a session of the House by one of its members in relation to the business before it" and was it "related to the due functioning of the legislative process" (Intervenor's Mem., pp. 4–5) or was it published solely for the private use and benefit of a Member. If it was the latter, then the privilege will not lie. Here, the republication was not accomplished by inserting it in the *Congressional Record* or by making it a part of a Committee report. Nor was it mailed by the Intervenor to his constituents in Alaska. Instead, the publication was accomplished by using the services of a private commercial printer (in Massachusetts) to prepare a four-volume book entitled "The Senator Gravel Edition of the Pentagon Papers . . ." to be sold to purchasers throughout the entire Nation. Notwithstanding the question whether this was really an attempt to inform his constituents in Alaska of his position on matters pending before the Congress, it was undoubtedly not a part of the legislative process; thus, the privilege does not lie in this case.

For all of these reasons, Dr. Rodberg is not immune from any grand jury inquiry into his activities, and, therefore, his and the Intervenor's motions should be denied.

2. This Court's Order Is Not Appealable

As mentioned earlier, both parties have requested a stay of Dr. Rodberg's appearance pending appeal of this Court's Order denying their motions to quash his subpoena. The first issue presented by their requests for a stay is whether or not this Court's Order is appealable.

Thirty years ago, in *Cobbledick* v. *United States,* 309 U.S. 323, the Supreme Court decided the issue whether a district court order denying a motion to quash a grand jury subpoena *duces tecum* was a "final decision of [a] district court" and, as such, reviewable under what is now 28 U.S.C. 1291. In setting forth the basis for its ultimate conclusion that it was not, the Court said:

"Since the right to a judgment from more than one court is a matter of grace and not a necessary ingredient of justice, Congress from the very beginnnig has, by forbidding piecemeal disposition on appeal of what for practical purposes is a single controversy, set itself against enfeebling judicial administration. Thereby is avoided the obstruction to just claims that would come from permitting the harassment and cost of a succession of separate appeals from the various rulings to which a litigation may give rise, from its initiation to entry of judgment. To be effective, judicial administration must not be leaden-footed. Its momentum would be arrested by permitting separate reviews of the component elements in a unified cause. These considerations of policy are especially compelling in the administration of criminal justice. Not until 1889 was there review as of right in criminal cases [footnote omitted]. An accused is entitled to scrupulous observance of constitutional safeguards. But encouragement of delay is fatal to the vindication of the criminal law. Bearing the discomfiture and cost of a prosecution for crime even by an innocent person is one of the painful obligations of citizenship. The correctness of a trial court's rejection even of a constitutional claim made by the accused in the process of prosecution must await his conviction before its reconsideration by an appellate tribunal. * * * 309 U.S. at 325–326.

After reviewing these considerations, the Court found them to be compelling in the context of a grand jury proceeding. The grand jury was in the Court's view an integral part of the criminal justice system, and in that regard, the Court said at 327–328:

"* * * The Constitution itself makes the grand jury a part of the judicial process. * * * The proceeding before a grand jury constitutes 'a judicial injury' * * * of the most ancient lineage. * * * The duration of its life, frequently short, is limited by statute. It is no less important to safeguard against undue interruption the inquiry instituted by a grand jury than to protect from delay the progress of the trial after an indictment has been found. Opportunity for obstructing the 'orderly progress' of investigation should no more be encouraged in one case than in the other. That a grand jury proceeding has no defined litigants and that none may emerge from it, is irrelevant to the issue. The witness' relation to the inquiry is no different in a grand jury proceeding than it was in the *Alexander* case. *Whatever right he may have requires no further protection in either case than that afforded by the district court until the witness chooses to disobey and is committed for contempt.* * * * *At that point the witness' situation becomes so severea from the main proceeding as to permit an appeal.* * * *" (Footnote omitted and emphasis supplied.)

Thus, *Cobbledick* established the firm principle that the interest in avoiding delay overrides the interest of a grand jury witness in interlocutory appellate review of the obligations imposed upon him by a subpoena.

In the years, since a number of lower courts have uniformly applied the *Cobbledick* rule where attempts have been made to seek review of orders denying motions to quash grand jury subpoenaes. See, e.g., *Lampman* v. *United States District Court,* 418 F. 2d 215 (C.A.9) *cert. denied,* 397 U.S. 919; *In re Buckey,* 395 F. 2d 533 (C.A. 6); *In re Grand Jury Investigation of Violations,* 318 F. 2d 533 (C.A. 2), petition for certiorari dismissed, 375 U.S. 802; *Dugan & McNamara* v. *Clark,* 170 F. 2d 118 (C.A. 3).

Very recently the Supreme Court in *United States* v. *Ryan,* 402 U.S. 530 (1971) reaffirmed the principles set forth in *Cobbledick, supra.* There, Mr. Justice Brennan, speaking for the Supreme Court, said:

". . . one to whom a subpoena is directed may not appeal the denial of a motion to quash that subpoena but must either obey its command or refuse to do so and contest the validity of the subpoena if he is subsequently cited for contempt on account of his failure to obey." 402 U.S. at 532

For this reason, the Supreme Court reversed an appellate court decision that a denial of a motion to quash a subpoena is appealable.

Dr. Rodberg's position on this point can be, and was for that matter, simply stated. Citing the Supreme Court's decision in *Cobbledick* and *Ryan,* he said:

"The denial of a motion to quash a grand jury subpoena has been held to be interlocutory order, and such an order is not ordinarily appealable." (Memorandum, p. 12), after which he immediately turned to a discussion of a potential exception to this rule, 1292(b). (This question is discussed in the following section.) If Dr. Rodberg is correct, which he is, all that remains to be determined is whether the Intervenor can appeal the Order.

Originally, Dr. Rodberg was the only moving party in this matter. The Intervenor sought protection of his constitutional privilege and was permitted to intervene on the ground such privilege was potentially subject to invasion, depending on questions put to Rodberg by the grand jury. An appropriate protective order was rendered; the Intervenor has achieved his purpose.

The privilege extended to a Senator is only qualifiedly available to his representatives.[1]

If Rodberg possesses status as the alter ego of the Intervenor such status is only part of Rodberg's legal identity as a witness. For this reason an *interlocutory* protective order is all the Intervenor could hope to expect and that was granted. Thus, he has all the protection he is entitled to receive. Just as Dr. Rodberg can have no greater immunity than that possessed by the Intervenor so it is, by analogy, that the Intervenor can have no greater rights in this case regarding quashing of the subpoena than does Dr. Rodberg. Here, the Intervenor has not been subpoenaed and unlike Dr. Rodberg, the Court's order denying the motion to quash the subpoena in no way affects his rights for they are expressly protected by the protective orders.

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[1] As mentioned earlier, in *Dombroski* v. *Eastland,* 387 U.S. 82 (1967), a plaintiff was permitted to bring an action against the chief counsel for a Senate subcommittee (a decidedly more sensitive position than that occupied by Rodberg) although his employer, the Committee chairman, was found privileged from accountability in the suit.

For these reasons, neither Dr. Rodberg nor the Intervenor has a right under 28 U.S.C. 1291 to appeal this Court's Order.

3. A denial of the motions to quash Dr. Rodberg's subpoena does not constitute grounds for certifying the question to the Court of Appeals

Dr. Rodberg has also asked this Court for an order certifying the questions he raises in his initial motion to the Court of Appeals within the meaning of Title 28 U.S.C. Section 1292(b) and pursuant to Rule 5(a) of the Federal Rules of Appellate Procedure. His request presents one basic issue: Is a denial of a motion to quash a grand jury subpoena, which is not normally appealable, appealable under 28 U.S.C. 1292(b). The short answer is that it is not.

Section 1292(b) affords him no relief for a number of reasons:

(1) There is no controlling questions of law about which there is a *substantial ground for differences of opinion* which will

(2) materially advance the ultimate *termination* of the *litigation*.

The central question presented here is whether a private publication of material, which was also disclosed in part on the floor of the Senate by a Senator, is rendered immune from inquiry by a grand jury by the Speech or Debate Clause. The government's position, as discussed in detail earlier, is that it is not. See, e.g., *Long* and *McGovern*, both *supra*. Neither Dr. Rodberg nor the Intervenor has cited one case in support of his proposition that it is privileged conduct. Thus, the first showing that must be made in order for a question to be certified under 1292(b)—there is a substantial ground for differences of opinion on the controlling question—is not present.

Most obvious here, the second requirement, has not been met for the question would not "materially advance the ultimate termination of the litigation."

The purpose of the second requirement is clearly set out in the Senate Report:

"The bill results from a growing awareness of the need for expedition of cases pending before the district courts. Many cases which are filed in the Federal district courts require the district judge to entertain motions at an early stage in the proceedings which, if determined, against the plaintiff, result in a final order which would then be appealable to the circuit courts of appeals of the United States. However, such motions, if determined in the plaintiff's favor, are interlocutory since they do not end the litigation and are not, therefore, under existing provisions of law, appealable. For example, in a recent case a motion to dismiss for want of jurisdiction was filed in the district court early in the proceedings. The district court denied the motion and the matter then proceeded to trial. The disposition of that case took almost 8 months. Upon final order the case was appealed and the court of appeals determined that the district court did not have jurisdiction and entered an order accordingly.

Had this legislation been in effect at that time, the district judge could have stated in writing his opinion that the motion was controlling and the defendant could thereupon have made application to the court of appeals for a review of the order denying the motion. Had the court of appeals entertained such a motion and reached the conclusion that it ultimately did, it would have resulted in a saving of the time of the district court and considerable expense on the part of the litigants.

"There are many civil actions from which similar illustrations could be furnished. For example, in an antitrust action a plea may be entered that the claim is barred by the the statute of limitations. If this motion is denied, under existing law the matter is not appealable and the case then goes forward to trial. Disposition of antitrust cases may take considerable time, yet upon appeal following final disposition of such cases, the court of appeals may well determine that the statute of limitations had run and for that reason the district court did not have jurisdiction.

"Another instance in which the provisions of this bill might prove useful is where the litigant desires to join a third party defendant. At present, there is no appeal from an order joining a third party defendant or refusing to do so. The instant legislation would permit an appeal within the limitations previously described." S. Rep. No. 2434, 85th Cong. 2d Sess. 2–3, set out in 1958 U.S. Code Cong. & Admins. News 5256.

The House Report also describes other illustrative orders to which § 1292(b) is applicable:

"Without cataloging all of the cases in which interlocutory appeals could be proper, the following categories are those which would generally be affected: (a) cases where an accounting is necessary upon an adjudication of liability under a contract, (b) cases where a long trial would be necessary for the determination of liability or damages upon a decision overruling a defense going to the right to maintain the action, (c) cases involving third party defendants where there would be no reason for continuing the actions if the third parties could not be held liable and (d) cases relating to the transfer of the action where it is claimed that the transfer is not authorized by law." H. Rep. No. 1667, 85th Cong. 2d Sess. 1.

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4. A stay pending appeal should not be granted

It cannot be gainsaid that a stay pending appeal should not be granted where no appeal is permitted by law. Here, as just discussed, neither Dr. Rodberg nor the Intervenor has a right to appeal this Court's Order. Instead, Dr. Rodberg must, if he so chooses, await an order holding him in contempt of court before he can appeal. *Ryan, supra.* Therefore, this Court should deny their motions for a stay pending appeal.

C. CONCLUSION

For all of the foregoing reasons, Dr. Rodberg's and the Intervenor's motion should be denied and this Court should enter an Order commanding movant Rodberg to appear before the grand jury on October 28, 1971, at 10:00 a.m.

Respectfully submitted,

HERBERT F. TRAVERS, Jr.,
U.S. Attorney.
WARREN P. REESE,
Assistant U.S. Attorney.

OCTOBER 18, 1971.

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the attached Motion and Memorandum in Support thereof on Senator Mike Gravel and Leonard S. Rodberg, by mailing a copy thereof to their counsel of record, specifically Charles L. Fishman, Esquire, 633 East Capitol Street, Washington, D.C. 20003, and James Reif, Esquire, c/o Center for Constitutional Rights, 588 9th Avenue, New York City, New York 10036, respectively, this day, October 18, 1971.

WARREN P. REESE,
Assistant U.S. Attorney.

[Mike Gravel, U.S. Senator, Intervenor v. United States of America. United States of America v. John Doe]

MOTION FOR ORDER COMMANDING MOVANT TO APPEAR BEFORE THE GRAND JURY ON OCTOBER 28, 1971

(In the matter of a grand jury subpoena served upon Leonard Rodberg)

Comes now the United States by and through the undersigned counsel and moves the Court for an Order commanding Leonard S. Rodberg to appear before the grand jury on October 28, 1971.

In support of the Motion there is attached hereto a Memorandum of Points and Authorities to which this Court's attention is respectfully invited.

Respectfully Submitted,

HERBERT F. TRAVERS, Jr.,
U.S. Attorney.
WARREN P. REESE,
Assistant U.S. Attorney.

[Mike Gravel, U.S. Senator, Intervenor-Petitioner versus United States.—United States versus John Doe.]

REPLY MEMORANDUM IN SUPPORT OF MOTION OF INTERVENOR-PETITIONER FOR RECONSIDERATION AND STAY PENDING RECONSIDERATION AND/OR APPEAL

(In the matter of a grand jury subpoena served upon Leonard Rodberg)

In our Memorandum in Support of Motion for Reconsideration and Stay, filed October 12, 1971, we stated in considerable detail our arguments underlying our request for this Court to reconsider two of the holdings made in its October 4 decision. The Government on October 18, 1971, filed a Memorandum in opposition to this motion. Since the respective positions of the parties have now been presented at length, we do not wish to burden the Court with further extended discussion, particularly with respect to even more analysis of the cases upon which both sides rely. However, we feel that it is necessary to reply briefly to three salient features of the Government's legal position.

1. In Part II of our Memorandum (pp. 23–29), we argued that the Protective Order entered by this Court does not guarantee adequately Senator Gravel's constitutional rights and that a more sensitive mechanism, such as a specification, was indispensable. We also pointed out that such a mechanism has been heretofore employed in grand jury proceedings involving claims of lesser magnitude. *The Government did not answer these arguments at all in its Memorandum.*

Further support for our position may be found in a long line of cases in which the Supreme Court has imposed extraordinarily strict procedural requirements in situations where the utilization of normal procedures would affect adversely the exercise of First Amendment rights. The Court has, for example, required that a full adversary hearing precede any court order to seize allegedly unprotected written material, *Quantity of Books* v. *Kansas,* 378 U.S. 205 (1964); *Marcus* v. *Search Warrant,* 367 U.S. 717 (1961), or to enjoin allegedly unlawful demonstrations, *Carroll* v. *Princess Anne County,* 393 U.S. 175 (1968). These requirements were imposed as "sensitive tools," *Speiser* v. *Randall,* 357 U.S. 513, 525 (1958), so that protected speech would not be suppressed inadvertently as a result of *ex parte* determinations of constitutionality. Similar procedural mechanisms must be employed in this case, or else there is significant danger that unconstitutional questions will be posed to and answered by the witness, with Senator Gravel not present and unable to object, and therefore without any realistic possibility of judicial review or remedy. Prior judicial determination, in an adversary hearing, of the constitutional status of proposed questions is thus essential. The only constitutional alternative is quashing the subpoena.

2. The Government asserts that the denial of *Senator Gravel's* motion to quash and motion for specification is not a final order and thus not appealable under 28 U.S.C. § 1293 (Govt. Mem., pp. 22–23). No case is cited in support of this proposition,[1] and, with due respect, we believe that it is specious. In *Perlman* v. *United States,* 247 U.S. 7 (1918), the Supreme Court held that a non-witness intervenor could appeal as of right from the denial of his motion to quash a grand jury subpoena. In that case, the Government sought a subpoena directed to a third party to produce for grand jury inspection certain documents owned by Perlman.[2] Perlman moved to intervene and to quash the subpoena on the grounds that it violated his Fourth Amendment rights. Intervention was allowed and the motion to quash denied. On appeal to the Supreme Court, the Government argued that the denial of Perlman's motion to quash was interlocutory. Rejecting this argument, the Court stated that Perlman had no other means to obtain review and therefore the denial of his motion to quash was a final, appealable order. *Id.,* at 12–13.

As in *Perlman,* Senator Gravel cannot obtain review from the denial of the motion to quash except by direct appeal, inasmuch as he has not been called to answer and cannot, by refusal to comply, be adjudicated in contempt. Numerous other cases are in accord with *Perlman* that the denial of a motion to quash a subpoena issued in either a civil or grand jury proceeding is appealable under 28 U.S.C. § 1291 where no other means of obtaining appellate review is available to the person affected, particularly a non-witness. *Covey Oil Co.* v. *Continental Oil Co.,* 340 F. 2d 993 (10th Cir. 1965), *cert. denied.* 380 U.S. 964; *First National Bank* v. *Arisguieta,* 287 F. 2d 219 (2d Cir. 1960), *cert. denied* 365 U.S. 840; *Overby* v. *U.S. Fidelity & Guar. Co.,* 224 F. 2d 158 (5th Cir. 1955) and cases cited therein at p. 162 nn. 3, 4; *In re Investigation by U.S. Atty Gen.,* 104 F. 2d 658 (2d Cir. 1939).[3]

Accordingly, a denial of the motion to quash is, as to Senator Gravel, a final order; and should this Court deny our motion for reconsideration, a stay pending appeal should be granted in order to preserve Senator Gravel's legal position on issues of great constitutional importance for ultimate determination by the appellate courts.

3. The thrust of the Government's argument on republication seems to be that some instances of republication of speeches and committee records by a Member of Congress are protected by the Speech and Debate Clause—e.g., in "press releases, . . . press conferences, and speaking to constituents" (Govt. Mem., pp. 5–6)—while others are not. It chooses to characterize the public committee record in this case as "classified," and invites the court to weigh the motives of Members of Congress and to scrutinize on an *ad hoc* basis the content of committee reports as a prerequisite to permitting Congressmen to inform the electorate about matters of public importance. This argument turns the constitutional privilege on its head, for the privilege was designed to foreclose just those sort of inquiries into motive and propriety. *Tenney* v. *Brandhove,* 341 U.S. 367 (1951); *Cochran* v. *Couzens,* 42 F. 2d 783 (D. C. Cir. 1930), *cert. denied* 282 U.S. 874. By definition, if a *privilege* is applicable to a given activity, it cannot be defeated by an *ad hoc* assertion of illegality.

The essential, undisputed fact is that the material which Senator Gravel has attempted to make available to the people comprises the official public record of the subcommittee of which he is chairman. This conduct by a Member of Congress, in making available to the people a committee record concerning matters of overwhelming importance to the Nation, is an exercise of the constitutional privilege in its classic and most pristine sense.

As stated before, further discussion of the cases relied upon by both parties and their relevance to criminal proceedings would be superfluous.[4] While we believe that our construction of the cases is correct, at the very least it is clear that they give enough support for our position so that the issue is not free from doubt. The constitutional questions presented by Senator Gravel are therefore ripe for final adjudication by the appellate courts. As a Member of the United States Senate, representing the rights of Congress as secured by the Constitution, Senator Gravel is entitled to have these bedrock questions of separation of powers decided by the highest court of the land. For these reasons as well, a stay pending appeal ought to be issued should this Court deny the relief requested by Senator Gravel.

Respectfully submitted,

Robert J. Reinstein,
Temple University Law School.
Herbert O. Reid,
Howard University School of Law.
Charles L. Fishman,
Washington, D.C.

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the attached Reply Memorandum on Dr. Leonard S. Rodberg and the United States by mailing this day a copy to their counsel of record, to wit, Doris Peterson, Esq., Center for Constitutional Rights, 588 Ninth Avenue, New York, N.Y. 10036, and Warren P. Reese, Esq., Office of the United States Attorney, United States Post Office and Courthouse Building, Boston, Massachusetts.

Robert J. Reinstein.

[Mike Gravel, U.S. Senator, Intervenor-Petitioner v. United States.—United States v. John Doe]

Supplemental Certificate of Service

(In the matter of a grand jury subpoena served upon Leonard Rodberg)

I, Harvey A. Silverglate, a Member of the Bar of this Court, hereby certify that I served the following document upon the United States by delivering by messenger on this day a copy of same to Herbert F. Travers, Jr., Esquire, United States Attorney, 1107 U.S. Post Office & Courthouse, Post Office Square, Boston, Massachusetts 02109: "Reply Memorandum [of Mike Gravel] in Support of Motion of Intervenor—Petitioner for Reconsideration and Stay Pending Reconsideration and/or Appeal."

Done this 22nd day of October, 1971.

Harvey A. Silverglate.

[Mike Gravel, U.S. Senator v. John Doe]

Motion To Intervene

(In re the matter of Howard Webber)

Comes now Movant, United States Senator Mike Gravel and moves this Honorable Court for leave to intervene in the above captioned cause and as reasons therefore states:

1. Howard Webber is the editor of M.I.T. Press.

2. As the editor of M.I.T. Press, Mr. Weber had contact and discussions with members of Movant's personal staff which contacts and discussions are now the subject of an inquiry by a Federal Grand Jury.

3. The aforesaid Federal Grand Jury has subpoenaed Mr. Webber to appear and give testimony with respect to the aforesaid contact and discussion on Wednesday or Thursday, October 27 or 28, 1971.

4. All of the aforesaid contacts and discussions between Mr. Webber and members of Movant's personal staff relate to the publication of the June 29, 1971 official transcript of the United States Senate Subcommittee on Buildings and Grounds.

5. All of the aforesaid contacts and discussions between Mr. Webber and Movant's personal servants are immune from judicial inquiry by virtue of Movant's constitutional privileges and duties.

6. The question presented herein raises serious and substantial constitutional issues which have not but should be decided by this Court.

7. No other party to the above captioned cause can adequately represent the interest of Movant.

8. The granting of this motion would best serve the interest of Justice.

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[1] All of the cited cases apply only to *Dr. Rodberg's* position, which is distinct since he can secure review by refusing to appear or answer.

[2] The third party was an attorney who came into possession of the documents as exhibits introduced in a civil case involving Perlman.

[3] And see the decisions holding that an order granting a motion to quash a subpoena, although ordinarily interlocutory, is a final order when "the party seeking the subpoena has no other means of obtaining review." *Horizons Titanium Corp.* v. *Norton Co.,* 290 F. 2d 421 (1st Cir. 1961); *Carter Products, Inc.* v. *Eversharp, Inc.,* 360 F. 2d 868 (7th Cir. 1966); *Westinghouse Electric Co.* v. *Burlington,* 351 F. 2d 762 (D.C. Cir. 1965).

[4] We did not discuss *Long* v. *Ansell,* 69 F. 2d 386 (D.C. Cir. 1934), because it is not a Speech and Debate Clause case. Senator Long refused to accept service of process in the libel suit *only* on the grounds of the immunity from arrest during a session of Congress. As the Court made clear, he did not even argue the privilege of the Speech and Debate Clause as a bar to the service of process. The only reference to the Speech and Debate Clause by the Court is found in *dictum* in a somewhat opaque last paragraph. We do not understand how the Government can assert that *Long* is "surprisingly close to this proceeding." (Mem., p. 11).

9. Movant has no information upon which to determine if Mr. Webber plans to appear before the Grand Jury and give testimony in violation of Movant's constitutional rights.

Wherefore, Movant respectfully requests that this Honorable Court grant the above captioned Motion to Intervene.

ROBERT REINSTEIN,
Temple University School of Law.
HOWARD O. REID, SR.,
Howard University School of Law.
CHARLES LOUIS FISHMAN,
Attorney for Movant.

[United States of America versus John Doe]

MOTION TO QUASH OR STAY GRAND JURY SUBPOENA

(In re the matter of Howard Webber)

Comes now Movant, United States Senator Mike Gravel, and respectfully moves this Court for an order quashing or staying a subpoena served upon Howard Webber which seeks to compel Mr. Webber's appearance before a Federal grand jury sitting in this District, to wit, in Boston, Massachusetts.

Movant submits that the subpoena served upon Mr. Webber should be stayed because it violates Movant's Congressional privilege to be immune from judicial inquiry of acts done by him and his personal staff in the discharge of his duties as a United States Senator, said privilege secured to Movant by the Speech and Debate Clause of the Constitution, Article I, Section 6, Clause 1.

1. The United States has subpoenaed Mr. Webber for the purpose of questioning him about the publication of the official Senate Subcommittee transcript involved in the case of *Mike Gravel, United States Senator* v. *United States* (Docket No. EBD 71-172).

2. This Court has under consideration Movant's Motion For Reconsideration in the case of *Mike Gravel, United States Senator* v. *United States* (Docket No. EBD 71-172).

3. If this Court decides that publication of the official record of a Senate Subcommittee is constitutionally protected the grand jury will be barred from questioning anyone, including Mr. Webber, about his conduct with respect thereto.

4. If this Court decides that publication of the official record of a Senate Subcommittee is not constitutionally protected Movant has asked for a stay of this Court's decision pending appeal. To permit Mr. Webber to testify with respect to the publication of the aforesaid transcript would moot the constitutional claim of Movant prior to the final resolution of the important and complex constitutional issues presented herein.

5. No substantial injury will result to the United States from the granting of this Motion.

Wherefore, Movant respectfully requests that this Honorable Court grant the above Motion to Quash or Stay the subpoena served upon Howard Webber pending final disposition of the case entitled *Mike Gravel*, U.S.S. v. *United States* EBD 71-172.

CHARLES LOUIS FISHMAN,
Attorney for Movant.
ROBERT REINSTEIN,
Temple University School of Law.
HOWARD O. REID, SR.,
Howard University School of Law.

[Mike Gravel, U.S. Senator versus John Doe]

MOTION TO INTERVENE

(In re the matter of Howard Webber)

Comes now Movant, United States Senator Mike Gravel and moves this Honorable Court for leave to intervene in the above captioned cause and as reasons therefore states:

1. Howard Webber is the editor of M. I. T. Press.

2. As the editor of M. I. T. Press, Mr. Webber had contact and discussions with members of Movant's personal staff which contacts and discussions are now the subject of an inquiry by a Federal Grand Jury.

3. The aforesaid Federal Grand Jury has subpoenaed Mr. Webber to appear and give testimony with respect to the aforesaid contact and discussion on Wednesday or Thursday, October 27 or 28, 1971.

MOTION TO QUASH OR STAY GRAND JURY SUBPOENA

[United States of America v. John Doe]

(In re the matter of Howard Webber)

Comes now Movant, United States Senator Mike Gravel, and respectfully moves this Court for an order quashing or staying a subpoena served upon Howard Webber which seeks to compel Mr. Webber's appearance before a Federal grand jury sitting in this District, to wit, in Boston, Massachusetts.

Movant submits that the subpoena served upon Mr. Webber should be stayed because it violates Movant's Congressional privilege to be immune from judicial inquiry of acts done by him and his personal staff in the discharge of his duties as a United States Senator, said privilege secured to Movant by the Speech and Debate Clause of the Constitution, Article I, Section 6, Clause 1.

[Mike Gravel, U.S. Senator, Intervenor-Petitioner vs. United States—United States vs. John Doe]

MOTION FOR FURTHER RELIEF

(In the matter of a grand jury subpoena served upon Leonard Rodberg)

Comes now Movant, Mike Gravel, United States Senator, and respectfully moves this Court for an order granting further relief to prevent the abridgement of Movant's constitutional rights under the Speech and Debate Clause of the Constitution, Article I, Section 6, Clause 1.

In support of this Motion, Movant states as follows:

1. This Court has under consideration Movant's Motion for Reconsideration and/or Stay Pending Appeal of this Court's Memorandum of Decision and Protective Order entered on October 4, 1971 in the above captioned cause.

2. The United States has subpoenaed certain witnesses for the purpose of inquiring into matters protected from inquiry by Article I, Section 6, Clause 1 and the Protective Order issued by this Court on October 4, 1971. Specifically, the government wishes to inquire into how and from whom Movant received certain material commonly referred to as the Pentagon Papers.

3. The United States has subpoenaed certain other witnesses for the purpose of inquiring into Movant's publication of the official transcript of the Senate Subcommittee on Building and Grounds. The constitutional permissibility of such an inquiry is now before the Court for reconsideration in the above captioned cause.

4. Movant has no control over the willingness of those subpoenaed to answer questions prohibited by this Court's Protective Order of October 4, 1971 or Article I, Section 6, Clause 1.

5. Movant has no control over the willingness of those subpoenaed to answer questions concerning Movant's publication of the official transcript of the aforesaid Senate Subcommittee.

6. If this Court decides that publication of the official record of a Senate Subcommittee is constitutionally protected the grand jury will be barred from questioning anyone about his conduct with respect thereto.

7. If this Court decides that publication of the official record of a Senate Subcommittee is not constitutionally protected Movant has asked for a stay of this Court's decision pending appeal. To permit any witness to testify with respect to the publication of the aforesaid transcript would moot the constitutional claim of Movant prior to the final resolution of the important and complex constitutional issues presented herein.

8. If the United States seeks answers to questions prohibited by this Court's Protective Order of October 4, 1971, Movant has no procedure with which to object and to secure a ruling from this Court.

9. If the United States seeks answers to questions concerning publication of the aforesaid official record of a Senate Subcommittee now under submission to this Court, Movant has no procedure with which to object and to secure a ruling from this Court.

10. If this Court permits inquiry into the aforesaid areas and others before the grand jury Movant's constitutional rights will have been irreparably violated.

Wherefore, Movant respectfully requests this Honorable Court to grant the following further relief:

1. To require a listing from the United States of all those who have been subpoenaed or are to appear before the grand jury to give testimony.

2. To hold a hearing to determine which of the listed witnesses has privileged information which, constitutionally, cannot be inquired into, or should not be inquired into pending final determination on reconsideration.

3. To require the United States to specify all questions to be asked each witness, covered by Paragraph 2 above, and to rule on the constitutional permissibility of each said question.

If this Court should deny this Motion, Movant requests this Court to grant a stay of all subpoenas now outstanding or to be issued, pending appeal to the United States Court of Appeals for the First Circuit.

ROBERT J. REINSTEIN,
Temple University School of Law.
HOWARD O. REID, SR.,
Howard University School of Law.
CHARLES LOUIS FISHMAN,
Attorney for Movant.

MOTION FOR STAY OF GRAND JURY SUBPOENAS PENDING DISPOSITION OF MOTION FOR FURTHER RELIEF

(Mike Gravel, U.S. Senator, Intervenor-Petitioner versus United States; United States versus John Doe)

Comes now Movant, Mike Gravel, United States Senator, and respectfully moves this Court to issue an order staying enforcement and execution of all subpoenas now outstanding or to be issued compelling the appearance of witnesses before the Federal grand jury sitting in Boston, Massachusetts, and involved herein, pending disposition by this Court of the Motion for Further Relief filed heretofore by Movant.

Movant requests this stay for the following reasons:

1) The Federal grand jury is scheduled to sit on Thursday, October 28, 1971, at 9:00 A.M. and hear the testimony of witnesses upon whom subpoenas have been heretofore served.

2) This Court has before it a Motion for Further Relief filed by Movant which seeks to prevent the questioning of witnesses before the grand jury concerning matters which Movant asserts is immune from inquiry by virtue of Article I, Section 6, Clause 1 of the Constitution, and this Court's Protective Order of October 4, 1971. Other matters into which the grand jury intends to inquire are before this Court on Movant's Motion for Reconsideration and/or Stay Pending Appeal.

3) A stay of grand jury subpoenas pending disposition of the Motion for Further Relief is necessary to preserve the status quo and prevent Movant's legal position from being mooted and, assuming the correctness of

Movant's legal position, the irreparable violation of Movant's constitutional rights.

Respectfully submitted.

Robert J. Reinstein,
Temple University School of Law, Philadelphia, Pa.
Charles L. Fishman,
Washington, D.C.
Howard O. Reid, Sr.,
Howard University School of Law, Washington, D.C.

Motion for Modification of Order

(Mike Gravel, U.S. Senator, Intervenor-Petitioner vs. United States; United States vs. John Doe, in the matter of a grand jury subpena served upon Leonard Rodberg; in the matter of a grand jury subpena served upon Howard Webber)

The United States of America moves the Court for an Order modifying its Order announced in the above matter on October 28, 1971, staying enforcement of the subpoenas which have been served on Leonard Rodberg and Howard Webber, and barring the questioning of all witnesses regarding republication by Senator Gravel of the Pentagon Papers.

It is requested that the stay Order as to Rodberg and Webber's subpoenas be vacated or modified to permit the taking of evidence from Webber and Rodberg other than by questions bearing upon republication.

The grounds for this motion are that the present stay Order prevents the government from seeking evidence which is not related to the purpose of the protective Order. The general protective Order adequately preserves the status quo to permit resolution on appeal of the issues raised in support of Senator Gravel's Motions to Quash Rodberg's and Webber's subpoenas and will prevent questioning by the Grand Jury which might moot the issue on appeal.

Respectfully submitted.

James N. Gabriel,
U.S. Attorney,
Warren P. Reese,
Assistant U.S. Attorney,
Attorney for the United States.

Motion for Stenographic Copy of Grand Jury Minutes

Mike Gravel, U.S. Senator v. United States; United States v. John Doe

Comes now Movant, United States Senator Mike Gravel, and moves this Honorable Court for an Order requiring that a daily stenographic copy of the transcript of the testimony of all witnesses who have or will in the future testify before the Federal grand jury involved herein. Movant represents that such an Order is necessary to insure his rights as guaranteed by the Constitution and by this Court's Protective Orders.

Respectfully submitted,

Robert J. Reinstein,
Temple University Law School, Philadelphia, Pa.
Charles L. Fishman,
Washington, D.C.
Herbert O. Reid, Jr.,
Howard University Law School, Washington, D.C.

United States v. John Doe

Stephen Parkhurst,
Vice-President and Cashier, New England Merchants Bank, Prudential Center, Boston, Mass.

You are hereby commanded to appear in the United States District Court for the District of Massachusetts at P.O. & Courthouse Building, in the city of Boston on the 10th day of November 1917 at 10 o'clock A.M. to testify before the Grand Jury and bring with you the records of the checking accounts, both special and regular, maintained by the Unitarian Universalist Association, Inc., and Beacon Press, Inc., 25 Beacon Street, Boston, Massachusetts from June 1, 1971 through October 15, 1971, such records to include, but not limited to, all deposits and withdrawals during the aforementioned period of time, and copies of all deposit slips and checks drawn on each account, and items deposited, in the amounts of $10,000 and above.

This subpena is issued on application of the United States.

Please report to: Richard E. Bachman, assistant U.S. Attorney, Chief, Criminal Division, Room 1107, P.O. & Courthouse Building, Boston, Mass.

Date, October 28, 1971.

Motion of Intervenor-Petitioner for Reconsideration and Stay Pending Reconsideration and/or Appeal

(Mike Gravel, U.S. Senator, Intervenor-Petitioner v. United States; United States v. John Doe; in the matter of a grand jury subpoena served upon Leonard Rodberg)

1. Senator Mike Gravel, intervenor-petitioner, respectfully moves this Court to reconsider its resolution of two issues in the "Memorandum of Decision and Protective Order" entered on October 4, 1971. Movant respectfully submits that these issues ought to be reconsidered because they present complex and important questions of constitutional law and were not heretofore discussed in sufficient depth by the parties. Movant further respectfully submits that given the holding of the Court the appearance of Dr. Rodberg before the grand jury will violate movant's privileges and after hearing, motion for reconsideration is denied; motion to stay is allowed to the extent that * * * of the subpoena on Leonard Rodberg is stayed for 10 days.

Motion for Rehearing or Certification and for Stay

(Mike Gravel, U.S. Senator, Intervenor, v. United States of America; United States of America v. John Doe; in re Leonard S. Rodberg)

Upon the affidavit annexed hereto and the supporting memorandum of law, Dr. Leonard S. Rodberg respectfully moves this Court for an order granting a rehearing upon the motion to quash the subpoena served upon him, which motion was denied by Hon. W. Arthur Garrity, Jr. (U.S.D.J.) on October 4, 1971, in a Memorandum of Decision and Protective Order. Alternatively, movant asks for the entry of an order certifying the decision of Judge Garrity as an interlocutory appeal within the meaning of Title 28 U.S.C. § 1292 (b) pursuant to Rule 5(a) of the Federal Rules of Appellate Procedure. Dr. Rodberg further moves for a stay of his appearance before the grand jury, now scheduled for October 14, 1971, pending disposition of the aforesaid alternative motions and, if a rehearing or certification is granted, for an extension of that stay until the motions for rehearing and certification denied; motion for stay is mooted by stay of 10 days, granted on motion of intervenor Sen. Gravel.

Memorandum and Order Denying Motion for Further Relief

OCTOBER 29, 1971

(United States of America v. John Doe; in the matter of a grand jury subpoena served upon Leonard S. Rodberg)

By memorandum of decision and protective order issued October 4, 1971, the court prohibited a grand jury inquiry into the legislative acts of intervenor United States Senator Mike Gravel. By a motion for further relief the Senator seeks a further order requiring the government to list the names of prospective grand jury witnesses and to specify all questions to be asked each witness and moves that the court by a hearing in advance of a witness's appearance determine whether a witness has privileged information which may not be the subject of inquiry consistently with the Speech or Debate Clause of the Constitution of the United States, Art. I, § 6, cl. 1.[*] At a hearing on the motion, counsel for the intervenor submitted that, unless further relief of the type requested is ordered, the court and intervenor have no way of assuring that the court's protective order of October 4, 1971 is being observed and that questions which may arise during the grand jury proceedings regarding the applicability of the protective order will be properly decided. The court denied the motion from the bench and stated that this memorandum and order would subsequently be filed.

Intervenor's motion is denied on the following grounds: (a) The court has no reason to doubt that its protective order will be obeyed. At the hearing, government counsel stated that it would be. Attorneys are officers of the court on whose good faith the court customarily relies and there is no reason why an exception should be made in this case. (b) The court believes that its protective order issued October 4 is unambiguous. The purport of the order is explained at length in the memorandum accompanying it. (c) The relief sought by the intervenor in his motion for further relief would impede the grand jury's investigation. A balance must be struck between the intervenor's right not to be intimidated by the Executive by an inquiry into his legislative acts, *United States* v. *Johnson*, 1966, 383 U.S. 169, 181, and the grand jury's right not to be hobbled by a daily dissection of its activities.

In connection with the court's staying the enforcement of subpoenas on witnesses Leonard Rodberg and Howard Webber, the court has today issued a supplemental protective order prohibiting for a ten-day period inquiry into Senator Gravel's arranging for publication of the so-called Pentagon Papers. At the hearing counsel for the intervenor urged that the same further relief be granted for the purpose of implementing any such supplemental protective order. For the same reasons the court also denies the intervenor's motion as applied to the supplemental protective order.

[United States District Court, District of Massachusetts, E.B.D. No. 71–172–G, E.B.D. No. 71–209–G]

Supplemental Protective Order, October 29, 1971

(United States of America versus John Doe, in the matter of a grand jury subpoena served upon Leonard S. Rodberg, in the matter of a grand jury subpoena served upon Howard Webber)

Garrity, J. In its memorandum of decision dated October 4, 1971 the court rejected the contention of the witness Rodberg and the intervenor Senator Gravel that private publication of the so-called Pentagon Papers may not be inquired into consistently with the Speech or Debate Clause of the Constitution of the United States, Art. I, § 6, cl. 1. However, the arguments urged on behalf of the witness and intervenor are substantial and by no means frivolous. In order that the intervenor's position may be preserved on appeal, the court orders that the following Supplemental Protective Order be entered and remain in effect for ten days: [**]

No witness before the grand jury currently investigating the release of the Pentagon

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[*] The intervenor filed a separate motion that he be furnished with a transcript of the grand jury proceedings to date. By separate order endorsed on the motion it was also denied.

[**] This period corresponds with the duration of the stays ordered on October 28, 1971 staying enforcement of subpoenas on witnesses Leonard Rodberg and Howard Webber on application of the intervenor.

Papers may be questioned about Senator Mike Gravel's conduct in arranging for the private publication of the Pentagon Papers nor about Dr. Leonard S. Rodberg's conduct in arranging for said publication to the extent that what he did was in his capacity as a member of the Senator's personal staff.

——— ———,
United States District Judge.

[In the United States District Court for the District of Massachusetts, No. E.O.B. 71-172]

Mike Gravel, United States Senator, Intervenor-Petitioner versus United States, United States versus John Doe, in the matter of a Grand Jury subpoena served upon Leonard Rodberg)

NOTICE OF APPEAL

Notice is hereby given that Senator Mike Gravel, intervenor-petitioner above named, hereby appeals to the United States Court of Appeals for the First Circuit from the final order, denying the Motion of Quash Subpoena and Motion for Specification, entered in this action on the 4th day of October, 1971.

ROBERT J. REINSTEIN,
HERBERT O. REID,
CHARLES L. FISHMAN,
Attorneys for Senator Gravel.

[In the United States District Court for the District of Massachusetts, No. E.O.B. 71-172]

Mike Gravel, United States Senator, Intervenor-Petitioner versus United States, United States versus John Doe, in the matter of a Grand Jury subpoena served upon Leonard Rodberg)

NOTICE OF APPEAL

Notice is hereby given that Mike Gravel, United States Senator, Intervenor-Petitioner above named, hereby and herein appeals to the United States Court of Appeals for the First Circuit from the final order, denying Movant's Motion For Further Relief or for a stay pending appeal, entered in this action on the — day of October, 1971.

ROBERT J. REINSTEIN,
HERBERT O. REID, SR.
CHARLES LOUIS FISHMAN,
Attorney for Movant.

[United States District Court, District of Massachusetts, No. E.B.D. 71-172]

(Mike Gravel, United States Senator Intervenor—Petitioner versus United States, United States versus John Doe, in the matter of a Grand Jury subpoena served upon Leonard Rodberg)

NOTICE OF CROSS APPEAL

Notice is hereby given that the United States of America hereby appeals to the United States Court of Appeals for the First Circuit from the United States District Court "Protective Order"' entered herein on October 4, 1971.

DAVID R. NISSEN,
WARREN P. REESE,
Assistant U.S. Attorneys.

BOSTON, MASS., OCTOBER 29, 1971.

CERTIFICATE OF SERVICE

Suffolk, ss.

Assistant U.S. Attorneys David R. Nissen and Warren P. Reese hereby certify that they have this day served a copy of the foregoing Notice of Cross Appeal upon:

Robert J. Reinstein, Temple University School of Law, Philadelphia, Pa.; Howard O. Reid, Sr., Howard University School of Law, Washington, D.C.; and Charles Louis Fishman, 633 East Capitol Street, Washington, D.C. 20003 by mailing same to them in franked official envelopes.

DAVID R. NISSEN,
WARREN P. REESE,
Assistant U.S. Attorneys.

[In the United States Court of Appeals for the First Circuit, No. 71-1331]

MOTION FOR STAY PENDING APPEAL

(Mike Gravel, United States Senator, Appellant versus United States, Appellee)

On Appeal from the Final Order of the United States District Court for the District of Massachusetts, Hon. W. Arthur Garrity, Jr., Docket No. E.B.D. 71-172.

HERBERT O. REID, Sr.
ROBERT J. REINSTEIN,
CHARLES L. FISHMAN,
Attorneys for Senator Gravel.

[In the U.S. Court of Appeals for the First Circuit, No. —]

MOTION FOR STAY PENDING APPEAL

Mike Gravel, U.S. Senator, Appellant, versus United States, Appellee

Appellant, United States Senator Mike Gravel, by his counsel respectfully requests that this Court stay pending appeal, the execution and enforcement of the Order of the United States District Court for the District of Massachusetts, Hon. W. Arthur Garrity, Jr., denying Appellant's Motion for Further Relief (attached hereto and made a part hereof as Exhibit "A") which Motion sought to require a listing of all witnesses to be brought before a federal grand jury sitting in Boston, hearing to determine which witnesses have privileged information which should not be inquired into, and specification of all questions to be asked each witness with such privileged information.

Appellant has appealed to this Court from the aforesaid Order on the grounds that such inquiry by the grand jury into the official conduct of a United States Senator violates Appellant's constitutional privilege secured by the Speech and Debate Clause of the Constitution, Article I, Section 6, Clause I and the Separation of Powers Doctrine. Appellant submits the following reasons in support of the Motion for Stay Pending Appeal.

(1) Appellant is a United States Senator from the State of Alaska and at all times material to this proceeding was acting in his official capacity.

(2) On June 29, 1971 Appellant, as Chairman, conducted a meeting of the Senate Subcommittee on Buildings and Grounds.

(3) During the course of the aforesaid Subcommittee meeting a transcript was compiled. Part of the aforesaid transcript consists of material commonly referred to as the "Pentagon Papers."

(4) Subsequent to the aforesaid Subcommittee meeting Appellant made the aforesaid transcript available to the press and the aforesaid transcript was public published.

(5) On August 24, 1971, a Federal grand jury subpoena was served upon Dr. Rodberg, seeking to compel his appearance before a Federal grand jury sitting in the District of Massachusetts, in Boston.

(6) Dr. Rodberg moved to quash said subpoena, alleging, *inter alia,* that the subject matter of the inquiry to be made by the grand jury related to acts done by Senator Gravel, with the necessary assistance of his staff, in reading and inserting into the record the so-called "Pentagon Papers," at the June 29, 1971 hearing of the Senate Subcommittee of Buildings and Grounds and in subsequently arranging to have the record of the subcommittee published.

(7) On August 24, 1971, Appellant, Senator Gravel, filed a motion to intervene before the District Court. Appellant alleged in support of that motion that Dr. Rodberg is a personal staff assistant of appellant, who aided Appellant in the discharge of his official duties, and that the grand jury seeks to inquire of Dr. Rodberg into the official conduct of Appellant and his assistants. Appellant contended that any such grand jury proceeding would violate Appellant's constitutional right to be immune from judicial inquiry into his official conduct and that intervention was necessary in order for Appellant to protect his own rights.

(8) On September 1, 1971, the District Court granted Appellant's Motion to Intervene. That same date, Appellant moved to quash the grand jury subpoena and moved also for a specification of the purpose, scope and questions to be asked of Appellant's assistant by the grand jury. Appellant alleged, *inter alia,* that the grand jury intended to question Appellant's assistant, Dr. Rodberg, about the official acts of Appellant and his staff in preparing for disclosure and subsequently disclosing to Appellant's colleagues and constituents, at a Senate Subcommittee hearing, the contents of the Pentagon Papers, which were critical of the Executive's conduct in the field of foreign relations.

(9) On October 4, 1971, the District Court issued a "Memorandum of Decision and Protective Order" (attached hereto and made a part hereof as Exhibit "B"). The Court found as a fact that Dr. Rodberg is, and has been since June 29, 1971, a personal assistant of Senator Gravel. (Slip. Op., page 3). The Court also concluded, on the basis of (a) the undisputed allegations of Senator Gravel and Dr. Rodberg, (b) the crimes under investigation by the grand jury and (c) the events leading up to Dr. Rodberg's subpoena, that "the government's interest in his testimony pertains to his acts as Senator Gravel's assistant with regard to the Pentagon Papers and that the government attorneys plan to question him about them before the grand jury." (Slip. Op., pages 5-6).

(10) Despite these findings, the District Court denied Appellant's Motion to Quash and Motion for Specification.

(11) The District Court held that the actions of Senator Gravel to inform fully his constituents about Executive conduct in foreign relations, by arranging for the publication and public distribution of the official record of the Subcommittee on Public Buildings and Grounds, were not protected by the Speech and Debate Clause and could be investigated by the grand jury and made the subject of criminal proceedings instituted by the Executive. (Slip. Op., pages 12-13).

(12) The District Court held that the only official actions of Senator Gravel immune from judicial inquiry by virtue of the Speech and Debate Clause related to the preparation for and conduct of the June 29, 1971, meeting of the Subcommittee on Public Buildings and Grounds by the Senator and his personal staff. The District court entered the following protective order:

"(1) No witness before the grand jury currently investigating the release of the Pentagon Papers may be questioned about Senator Mike Gravel's conduct at a meeting of the Subcommittee on Public Buildings and Grounds on June 29, 1971 nor about things done by the Senator in preparation for and intimately related to said meeting.

"(2) Dr. Leonard S. Rodberg may not be questioned about his own actions on June 29, 1971 after having been engaged as a member of Senator Gravel's personal staff to the extent that they were taken at the Senator's direction either at a meeting of the Subcommittee on Public Buildings and Grounds or in preparation for and intimately related to said meeting."

(13) Since October 4, 1971, Appellant has filed a Motion For Reconsideration and/or Stay Pending Appeal from the Memorandum Decision and Protective Order issued by the Court below. The Court below denied the Motion for Reconsideration and for stay pending appeal on October 28, 1971, but granted a 10-day stay in order to present this matter to this Court.

(14) Since October 4, 1971, Appellant has discovered that the United States has subpoenaed several witnesses to appear before the grand jury on October 27 and 28, 1971 for the purpose of inquiring into questions and events prohibited under the Protective Order of October 4, 1971. Specifically, Appellant has

learned that the United States seeks to ascertain how and by whom the "Pentagon Papers" reached Appellant.

(15) Since October 4, 1971, Appellant has discovered that the United States has subpoenaed several witnesses to appear before the grand jury on October 27 and 28, 1971, for the purpose of inquiring into the publication of the official transcript of the aforesaid Senate Subcommittee meeting of June 29, 1971.

(16) Appellant moved the Court below on October 27, 1971 for further relief to prevent the United States from bringing the aforesaid classes of witnesses before the aforesaid grand jury for the aforesaid purposes.

(17) On October 28, the Court below denied Appellant's Motion For Further Relief or for a Stay in excess of ten days Pending Appeal to this Court. A Notice of Appeal was filed on October 28, 1971.

(18) A stay of execution and enforcement of the District Court order is necessary to preserve the status quo and to protect fully the rights of Appellant and will not injure or harm any legitimate interests of Appellee. It is Appellant's contention that any testimony by witness with privileged information before the grand jury under the facts of this proceeding will itself violate Appellant's rights under the Speech and Debate Clause. As to Appellant, the denial of the Motion to Quash and the Motion for Specification is a final order, inasmuch as Appellant himself has not been directed to appear before the grand jury and cannot thereby obtain review by refusal to comply with the order of the District Court. Appellant's rights cannot be protected by waiting until protected questions are asked of the witnesses because: (a) Appellant is not entitled to attend the secret grand jury proceedings; (b) any questioning of the witnesses concerning the official actions of Appellant itself violates the terms of the Speech and Debate Clause, regardless of the answer given thereto by the witnesses and regardless of the outcome of the grand jury inquiry; (c) Appellant has no vehicle for controlling the witnesses or their answers; (d) Appellant has no method of seeking judicial review of the questions asked.

(19) By Order dated October 28, 1971 (a copy of which is not available), the Court below entered a supplemental provision to its Protective Order, effective for an interim period of ten days pending appeal and determination by this Court of Appellant's motion for stay pending appeal. Said supplemental provision prohibits the questioning of any witness concerning the actions taken by Senator Gravel in republishing the Subcommittee Record. For the reasons fully set out in Part II of the Memorandum of Law attached hereto, Appellant submits that the Protective Order, as temporarily amended, does not protect adequately Appellant's constitutional rights. Appellant has no right to be present in the grand jury proceedings, has no method of raising objections to questions which in Appellant's view may be barred by the Constitution and the amended Protective Order, cannot control the witnesses or their inclination to answer, and has no method of securing judicial review. A stay of enforcement of the execution of the subpoenas presently returnable is essential in order to preserve for appeal the contention of Appellant that the only constitutional methods for protecting Appellant's constitutional rights are quashing the subpoenas or requiring a specification, as has been done in other analogous proceedings (see Part II of Memorandum of Law).

(19A) The issues asserted by Appellant involve important questions of separations of powers and the construction of the Speech and Debate Clause and are therefore of the highest magnitude. The precise issues set forth herein have not been heretofore decided by this Court or by the Supreme Court. For the reasons stated in the Memorandum in Support of Stay, attached hereto, Appellant submits that:

(a) the District Court erred in holding that the actions of a United States Senator in republishing and distributing to his constituents the official record of a Senate subcommittee, of which he is Chairman, is not immune under the Speech and Debate Clause from grand jury inquiry and the institution of criminal proceedings by the Executive.

(b) the protective order by the District Court does not adequately protect Senator Gravel's constitutional privileges and rights; and

(c) upon the undisputed facts of this proceeding and the findings made by the District Court, the subpoenas must be quashed as a matter of law.

(20) Appellant has appealed to this Court from the final judgment of the District Court.

Wherefore, Appellant respectfully requests that this Court stay execution and enforcement of all grand jury proceedings pending consideration of the appeal which has been taken by Appellant. Appellant requests a hearing on this motion for stay pending appeal.

Respectfully submitted.

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Robert J. Reinstein, Temple University School of Law, 1715 N. Broad Street, Philadelphia, Pennsylvania.

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Attorneys for Senator Gravel.

[In the U.S. District Court for the District of Massachusetts, No. E.B.D. 71-172]

Motion for Further Relief

Mike Gravel, United States Senator, Intervenor-Petitioner versus John Doe * * * (In the matter of a Grand Jury Subpoena served upon Loenard Rodberg)

Comes now Movant, Mike Gravel, United States Senator, and respectfully moves this Court for an order granting further relief to prevent the abridgement of Movant's constitutional rights under the Speech and Debate Clause of the Constitution, Article I, Section 6, Clause 1.

In support of this Motion, Movant states as follows:

(1) This Court has under consideration Movant's Motion for Reconsideration and/or Stay Pending Appeal of this Court's Memorandum of Decision and Protective Order entered on October 4, 1971 in the above captioned cause.

(2) The United States has subpoenaed certain witnesses for the purpose of inquiring into matters protected from inquiry by Article I, Section 6, Clause 1 and the Protective Order issued by this Court on October 4, 1971. Specifically, the government wishes to inquire into how and from whom Movant received certain material commonly referred to as the Pentagon Papers.

(3) The United States has subpoenaed certain other witnesses for the purpose of inquiring into Movant's publication of the official transcript of the Senate Subcommittee on Building and Grounds. The constitutional permissibility of such an inquiry is now before the Court for reconsideration in the above captioned clause.

(4) Movant has no control over the willingness of those subpoenaed to answer questions prohibited by this Court's Protective Order of October 4, 1971 or Article I, Section 6, Clause 1.

(5) Movant has no control over the willingness of those subpoenaed to answer questions concerning Movant's publication of the official transcript of the aforesaid Senate Subcommittee.

(6) If this Court decides that publication of the official record of a Senate Subcommittee is constitutionally protected the grand jury will be barred from questioning anyone about his conduct with respect thereto.

(7) If this Court decides that publication of the official record of a Senate Subcommittee is not constitutionally protected Movant has asked for a stay of this Court's decision pending appeal. To permit any witness to testify with respect to the publication of the aforesaid transcript would not moot the constitutional claim of Movant prior to the final resolution of the important and complex constitutional issues presented herein.

(8) If the United States seeks answers to questions prohibited by this Court's Protective Order of October 4, 1971, Movant has no procedure with which to object and to secure a ruling from this Court.

(9) If the United States seeks answers to questions concerning publication of the aforesaid official record of a Senate Subcommittee now under submission to this Court, Movant has no procedure with which to object and to secure a ruling from this Court.

(10) If the Court permits inquiry into the aforesaid areas and others before the grand jury Movant's constitutional rights will have been irreparably violated.

Wherefore, Movant respectfully requests this Honorable Court to grant the following further relief:

(1) To require a listing from the United States of all those who have been subpoenaed or are to appear before the grand jury to give testimony.

(2) To hold a hearing to determine which of the listed witnesses has privileged information which, constitutionally, cannot be inquired into, or should not be inquired into pending final determination on reconsideration.

(3) To require the United States to specify all questions to be asked each witness, covered by Paragraph 2 above, and to rule on the constitutional permissibility of each said question.

If this Court should deny this Motion, Movant requests this Court to grant a stay of all subpoenas now outstanding or to be issued, pending appeal to the United States Court of Appeals for the First Circuit.

Robert J. Reinstein, Temple University School of Law, Philadelphia, Pennsylvania.

Charles Louis Fishman, Attorney for Movant, 633 East Capitol Street, Washington, D.C.

Howard O. Reid, Sr., Howard University School of Law, Washington, D.C.

[United States District Court, District of Massachusetts No. E.B.D. No. 71-172-G]

Memorandum of Decision and Protective Order—October 4, 1971

United States of America versus John Doe in the matter of a Grand Jury subpoena served upon Leonard S. Rodberg

Garrity, J. Dr. Leonard S. Rodberg, a physicist and resident fellow at the Institute for Policy Studies in Washington, D.C., and currently engaged as a staff member of United States Senator Mike Gravel of Alaska, petitioned the court on August 27, 1971 to quash a subpoena ordering him to appear before a federal grand jury ostensibly investigating crimes related to the release and dissemination of the much publicized classified study by the Department of Defense entitled "History of U.S. Decision-Making Process on Viet Nam Policy," popularly called the "Pentagon Papers."

The crimes being investigated by the grand jury include the retention of public property or records within intent to convert (18 U.S.C. § 641), the gathering and transmitting of national defense information (18 U.S.C. § 793), the concealment or removal of public records or documents (18 U.S.C. § 2071), and conspiracy to commit such offenses and to defraud the United States (18 U.S.C. § 371), as is indicated in the prosecuting attorneys' oaths of office on file with the Clerk.[1]

At the initial hearing on Dr. Rodberg's motion, the court stayed his appearance before the grand jury until after the parties had filed affidavits and briefs and presented further oral argument. Senator Gravel moved for leave to intervene and, after briefing, intervention was allowed and the court accepted motions by the Senator to quash the subpoena and for specification of the exact nature of the questions to be asked of Dr. Rodberg. Both motions of the Senator allege, and the court finds, that "as personal assistant to movant, Dr. Rodberg assisted movant in preparing for disclosure and subsequently disclosing to movant's colleagues and constituents, at a hearing of the Senate Subcommittee on Public Buildings and Grounds, the contents of the so-called 'Pentagon Papers,' which were critical of the Executive's conduct in the field of foreign relations."

Dr. Rodberg's first contention in support of his motion to quash is separate from the argument advanced jointly by him and Senator Gravel. This contention is that the subpoena violates rights of his under the First Amendment. In a supporting affidavit, Dr. Rodberg states in part that:

"My roles have been multiple: research, writing, lecturing, supervising research projects, as well as providing advice, assistance, information, expertise to Senators and Congressmen for the performance of their official duties, as well as liaison to other persons whose expertise Congressmen require. Experience has shown that my success in fulfilling these multiple roles depends upon my ability to maintain access to a wide variety of confidential sources of information. My knowledge of and ability to communicate and advise on issues relating to government policy in the areas mentioned above would be seriously jeopardized if I should be forced to appear before a secret grand jury."

While recognizing the importance and usefulness of this type of work by men like Dr. Rodberg, and acknowledging the existence of First Amendment interests here, he is only incidentally a journalist and the court rejects this argument for the reasons stated in its memorandum of decision in E.B.D. No. 71–165, *Application of Falk*, filed contemporaneously herewith.

Dr. Rodberg's other contention, identical to that urged by Senator Gravel, is that the grand jury subpoena served upon him contravenes the Speech or Debate Clause, Article I, section 6, clause 1, of the Constitution of the United States.[2] It is based upon an unusual sequence of events occurring at the height of the court battle over newspaper publication of the controversial Papers. The Court of Appeals for the District of Columbia Circuit had ruled that no prior restraint should issue against publication but the Court of Appeals for the Second Circuit had reached the opposite result. Oral arguments had been heard by the Supreme Court on June 26, 1971. Pending decision by the Supreme Court, publication was temporarily barred. Meanwhile the President had sent a set of the documents to the Congress. On June 30, the Supreme Court affirmed the judgment of the District of Columbia Circuit and reversed that of the Second District, thereby permitting publication. *New York Times Company* v. *United States, supra.*

Late in the evening of June 29, Senator Gravel, a member of the Committee on Public Works, called a meeting of its Subcommittee on Public Buildings and Grounds, of which he is chairman.[3] Earlier that same day, the Senator had added Dr. Rodberg to his personal staff. At the meeting he read extensively from the study and, at its conclusion, placed the entire study comprising 7,000 pages of complex material in 47 volumes on file with the subcommittee, thereby making it widely available to the press. About seven weeks later, on August 18, it was reported in the Washington Post that Senator Gravel had turned over the Pentagon Papers to a Boston publisher, Beacon Press, for compilation into a four-volume book to be released in late October under the title, "The Senator Gravel Edition of the Pentagon Papers: the Defense Department History of Decision Making on Vietnam"; and that Beacon Press came to agreement with the Senator after negotiations with his assistant Dr. Rodberg. In the August 4 edition of a weekly newspaper, Boston After Dark, an article, "Why MIT & Harvard Suppressed the Pentagon Papers," described in detail Dr. Rodberg's prior negotiations with publishers other than Beacon Press. On the evening of August 42, Dr. Rodberg was subpoenaed to appear and testify before the current grand jury.

In opposing the motions to quash and for specification, the Government has pointed out that the grand jury proceedings are secret and it has not been proved by the moving parties that Dr. Rodberg will be interrogated about the subjects described in the newspaper stories. However, given the secrecy and flexibility of all grand jury proceedings, no movant ever could demonstrate with certainty the specific facts about which he had been subpoenaed to testify. Viewing together the crimes which this grand jury is investigating and the chronology of acts and events leading up to Dr. Rodberg's subpoena, the court infers that the government's interest in his testimony pertains to his acts as Senator Gravel's assistant with regard to the Pentagon Papers and that the government attorneys plan to question him about them before the grand jury.

The Speech or Debate Clause, in the context of criminal proceedings, has been applied definitively in *United States* v. *Johnson*, 1966, 383 U.S. 169. Defendant Johnson was a Maryland congressman accused of violating the conflict of interest statute, 18 U.S.C. § 281, and conspiring with codefendants to defraud the United States in violation of 18 U.S.C. § 371. As part of the conspiracy, defendant allegedly delivered for pay a speech in Congress favorable to certain loan companies. Johnson and codefendants were convicted of both crimes. The Court of Appeals had upheld the conspiracy conviction of the coconspirators and the conviction of Johnson under the conflict of interest statute, but held that the conspiracy count was "unconstitutional as applied to . . . Johnson." 337 F.2d at 192. In effect, the Court of Appeals read the Speech or Debate Clause to create an immunity against prosecutions for unlawful acts or motives underlying otherwise privileged legislative conduct. On certiorari granted on the Government's petition, the Supreme Court affirmed the judgment of the Court of Appeals but did not agree as to the breadth of the application of the Speech or Debate Clause. Rejecting the interpretation that the privilege barred the conspiracy prosecution, the Supreme Court instead remanded for a new trial on that count, admonishing however that no evidence of, or inquiry into, the privileged speech would be permitted.

In its opinion in the *Johnson* case, the Supreme Court stated that the privilege must "be read broadly to effectuate its purposes," 383 U.S. at 180, and that "the privilege was not born primarily of a desire to avoid private suits . . . but rather to prevent intimidation by the executive and accountability before a possibly hostile judiciary," at 181. The Court also ruled that the Clause does not reach "conduct, such as was involved in the attempt to influence the Department of Justice, that is in no wise related to the due functioning of the legislative process," at 172, and that its "decision does not touch a prosecution which . . . does not draw in question the legislative acts of the defendant member of Congress or his motives for performing them," at 185. Thus, the privilege is limited specifically to legislative acts and antecedent conduct so intimately related to them such as cannot be proved without resort to inquiry into legislative acts.

Another relevant fundamental principle is that the legislative privilege conferred by the Speech or Debate Clause belongs to Congressmen only and not to their assistants and aides. In the first place, the Constitution mentions only Senators and Representatives. Secondly, Thomas Jefferson's authoritative interpretation of the privilege, in Jefferson's Manual of Parliamentary Practice, Section III, reprinted in the Senate Manual, 1967, 382–383, states that "the framers of our Constitution . . . have only privileged Senators and Representatives themselves. . . ." Thirdly, no case or other authority indicates to the contrary. Cf. *Powell* v. *McCormack*, 1969, 395 U.S. 486, 504–506, holding that employees of the House of Representatives might be sued in a civil action which would be barred against Congressmen by the legislative privilege.

It follows that while the Speech or Debate Clause plainly sets limitations upon the grand jury's investigation, the motions to quash the subpoena served on Dr. Rodberg seek too broad a result. Without doubt he may be questioned as to the activities of third parties with whom he and the Senator dealt. He may also be questioned about, and is legally responsible for, his own actions previous to his joining the Senator's personal staff on June 29 and many of his actions thereafter. That the Senator's legislative privilege will serve to bar some questions, as hereinafter ruled, does not by any means excuse Dr. Rodberg from appearing and answering questions on subjects beyond the protection of the privilege.

Similarly, Senator Gravel's motion for specification which seeks an order requiring the Government to specify in detail the purpose, scope and exact nature of questions to be asked of Dr. Rodberg will not be granted in terms. In the court's opinion such an order is unnecessary in the circumstances of this case to afford full protection to the Senator's legislative privilege and would moreover impede the grand jury in the discharge of its investigative duties. As stated in *Blair* v. *United States,* 1919, 250 U.S. 273, 282, regarding the nature of the grand jury,

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[1] Various opinions in *New York Times Company* v. *United States*, 1971, 403 U.S. 713, 727–740, emphasized that a criminal prosecution might lie for acts related to the publication of classified materials. Whether such a prosecution would lie for acts subsequent to the placing of classified materials in the public record of a congressional subcommittee, the Supreme Court opinions did not intimate and we have not considered. Obviously there may be no prosecution for publication of declassified materials.

[2] Art. I, § 6, cl. 1 provides, "The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and paid out of the Treasury of the United States. They shall in all Cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same; *and for any Speech or Debate in either House, they shall not be questioned in any other Place.*" [Emphasis added.] The last clause is known as the Speech or Debate Clause.

[3] Most of the facts stated in this paragraph appear only in Dr. Rodberg's unverified motion which incorporates as exhibits two newspaper stories thereto attached. They have been adopted as findings by the court for purposes of this decision because not disputed in any way by the Government and because underlying the parties' legal submissions.

"It is a grand inquest, a body with powers of investigation and inquisition, the scope of whose inquiries is not to be limited narrowly by questions of propriety or forecasts of the probable result of the investigation, or by doubts whether any particular individual will be found properly subject to an accusation of crime. As has been said before, the identity of the offender, and the precise nature of the offense, if there be one, normally are developed at the conclusion of the grand jury's labors, not at the beginning."

On the other hand, it is equally clear from the *Johnson* case that Senator Gravel's legislative acts may not consistently with the Speech or Debate Clause be the subject of questioning before the grand jury.[4] The question of what constitutes legislative acts has been treated in decisions in civil actions cited with approval in the *Johnson* case. The classic statement appears in *Kilbourn* v. *Thompson,* 103 U.S. 168, 204, as follows:

"It would be a narrow view of the constitutional provision to limit it to words spoken in debate. The reason of the rule is as forcible in its application to written reports presented in that body by its committees, to resolutions offered, which, though in writing, must be reproduced in speech, and to the act of voting, whether it is done vocally or by passing between the tellers. In short, to things generally done in a session of the House by one of its members in relation to the business before it."

In view of the primary purpose of the privilege "to prevent intimidation by the Executive and accountability before a possibly hostile Judiciary," *United States* v. *Johnson, supra* at 181, the protection of the privilege afforded by the Speech or Debate Clause may be broader in criminal proceedings than in civil. Therefore the court sustains Senator Gravel's claim that whatever he did at the subcommittee meeting on June 29 and certain acts done in preparation therefore are privileged.

The Government has argued that the Senator's conduct at the subcommittee meeting is unprivileged because the purpose of the meeting, the reading of the Pentagon Papers, was unrelated to any investigation or undertaking authorized by the parent Committee on Public Works or by the Senate in its delegation of power to the parent committee. Senator Gravel has suggested that the availability of funds for the construction and improvement of public buildings and grounds has been affected by the necessary costs of the war in Vietnam and that therefore the development and conduct of the war is properly within the concern of his subcommittee. The court rejects the Government's argument without detailed consideration of the merits of the Senator's position, on the basis of the general rule restricting judicial inquiry into matters of legislative purpose and operations. "To find that a committee's investigation has exceeded the bounds of legislative power it must be obvious that there was a usurpation of functions exclusively vested in the Judiciary or the Executive." *Tenney* v. *Brandhove,* 1951, 341 U.S. 367, 378.

There are, of course, occasions when a court is obliged to scrutinize the powers of a congressional committee and the relationship of its activities to its legitimate legislative purpose. But such occasions have been limited to cases in which the power of Congress under the Constitution has been at issue, e.g., *Kilbourn* v. *Thompson, supra,* or where the constitutional rights of individuals have been jeopardized by congressional action, as in cases dealing with prosecutions under 2 U.S.C. § 192 for contempt of Congress, e.g., *Watkins* v. *United States,* 1957, 354 U.S. 178. As stated in the latter case, at 205:

"It is, of course, not the function of this Court to prescribe rigid rules for the Congress to follow in drafting resolutions establishing investigating committees. That is a matter peculiarly within the realm of the legislature, and its decisions will be accepted by the courts up to the point where their own duty to enforce the constitutionally protected rights of individuals is affected."

It has not been suggested by the Government that the subcommittee itself is unauthorized, nor that the war in Vietnam is an issue beyond the purview of congressional debate and action. Also, the individual rights at stake in these proceedings are not those of a witness before a congressional committee or of a subject of a committee's investigation, but only those of a congressman and member of his personal staff who claim "intimidation by the executive." *United States* v. *Johnson, supra,* at 181. "The courts have no right to dictate . . . the procedures for Congress to follow in performing its functions. . . ." *United States* v. *Hintz,* N.D. Ill., 1961, 193 F. Supp. 325, 331. Judging the applicability of the legislative privilege in the exercise of the functions of a legislator's office should be done "without inquiring whether the exercise was regular according to the rules of the House, or irregular and against their rules." *Coffin* v. *Coffin,* 1808, 4 Mass. 1, 27.

Senator Gravel's arranging for private publication of the Pentagon Papers by Beacon Press stands on a different footing and, in the court's opinion, is not embraced by the Speech or Debate Clause.[5] The test is not the public benefit or political value of such private publication[6] but whether it is a legislative act, i.e., "related to the due functioning of the legislative process," *United States* v. *Johnson, supra* at 172, or "generally done in a session of the House by one of its members in relation to the business before it." *Kilbourn* v. *Thompson, supra* at 204. Guidance is available mainly in decisions in civil actions dealing with congressmen's civil liability for libel. A distinction has been drawn in the cases between defamatory words inserted in the Congressional Record, held to be privileged, and defamation resulting from a congressman's circulation of reprints or copies of the Congressional Record to his constituents. As to the latter, *McGovern* v. *Martz, D.D.C.,* 1960, 182 F. Supp. 343, held that the absolute privilege of the Speech or Debate Clause does not apply to republication, stating at 347, "The reason for the rule—complete and uninhibited discussion among *legislators*—is not here served." See *Restatement of Torts,* 1938 ed., § 590, comment b. In *Hentoff* v. *Ichord,* D.D.C., 1970, 318 F. Supp. 1175, an issue was whether the court had power to enjoin distribution of a House committee report by the Public Printer and Superintendent of Documents. In holding that it did, the court said at 1180,

"Nothing in the Constitution or the cases suggests, however, that a committee report is a necessary adjunct to speech or debate in Congress . . . and its further printing and public distribution is not necessary to give effect to the freedom of congressmen to speak and debate on or off the floor. The Speech or Debate Clause does not necessarily bar an action to enjoin the Public Printer from printing a committee report for public distribution."

While recognizing a special vitality attaching to the Speech or Debate Clause in criminal proceedings, *United States* v. *Johnson, supra* at 180–182, the court nevertheless concludes that the reasoning of these civil cases is valid and in the instant case controlling.

Having delineated the area of Senator Gravel's conduct which may not be investigated by the grand jury, the court turns to the question whether some of Dr. Rodberg's activities are also protected from investigation, not because of any privilege of his own but by reason of his having acted as the Senator's agent and assistant in the Senator's performing various legislative acts.[7] The Senator and witness submit, and the court agrees, that the legislative privilege enjoyed by a senator must extend to some activities of a member of his personal staff acting at his direction. To rule otherwise would dilute and jeopardize the privilege itself. For example, speeches delivered on the floor of Congress are often drafted by a skilled staff assistant and not by the congressman himself; to make such an assistant accountable for the content of a speech drafted by him would serve to defeat the privilege. A legislator's dependence upon confidential assistants is analogous to a lawyer's, whose client's privilege against disclosure of confidential communications has been held applicable to the lawyer's assistants. *United States* v. *Kovel,* 2 Cir., 1961, 296 F. 2d 918. The opinion in that case stated at 921, "The complexities of modern existence prevent attorneys from effectively handling clients' affair without the help of others . . ." This holding has been adopted by the Proposed Rules of Evidence for the United States Courts, Preliminary Draft, 1969, Rule 5–03(b). Although the attorney-client privilege is of ancient origin, 8 Wigmore Evidence (McNaughton Rev. 1961), § 2290, p. 542, and is grounded on strong social policy, it is not a constitutional privilege and surely does not warrant broader protection than the legislative privilege based upon the Speech or Debate Clause. In this respect the legislative privilege is akin to the executive privilege about which the Supreme Court in *Barr* v, *Matteo,* 1959, 360 U.S. 564, commented at 573:

"The complexities and magnitude of governmental activity have become so great that there must of necessity be a delegation and redelegation of authority as to many functions, and we cannot say that these functions become less important simply because they are exercised by officers of lower rank in the executive hierarchy."

Powell v. *McCormack,* 1969, 395 U.S. 486, and similar cases permitting actions against subordinate employees of legislative bodies are distinguishable. Employees held accountable in such cases were administrative personnel whose non-discretionary duties to the legislative body as a whole in no substantial way related to the specific furtherance of the legislative tasks of individual members. Such institutional employees clearly have less impact upon legislation than personal staff members entrusted by the legislator himself with sensitive and confidential duties. Therefore the court holds that the Speech or Debate Clause prohibits inquiry into things done by Dr. Rodberg as the Senator's agent or assistant which would have been legislative acts, and therefore privileged, if performed by the Senator personally.

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[4] On a later appeal from Johnson's conviction upon retrial, *United States* v. *Johnson,* 4 Cir., 1969, 419 F. 2d 56, it was held that the grand jury's receipt of evidence about Johnson's speech, while "constitutionally impermissible," did not invalidate the indictment, citing *Costello* v. *United States,* 1956, 350 U.S. 359.

[5] The Senator has made no specific claim that his legislative privilege extends to his actions subsequent to the subcommittee hearing. However, this claim has been advanced by Dr. Rodberg and contested by the Government and hence the court has considered it.

[6] The importance of the "informing function of Congress" is described in powerful terms in a quotation from Wilson, Congressional Government (1885), 303, set forth in fn. 6 of the opinion of the Court in *Tenney* v. *Brandhove, supra* at 377.

[7] Despite *Kilbourn* v. *Thompson, supra,* and *Tenney* v. *Brandhove, supra,* the related doctrine of legislative immunity is applicable, though not absolutely, to officers and employees of legislative bodies. *Dombrowski* v. *Eastland,* 1967, 387 U.S. 82, 85. In this sense, therefore, such employees have rights flowing from the Speech or Debate Clause.

Lastly, the relief to which Senator Gravel is entitled under the particular circumstances here presented must be determined in the light of two of the principles derived from the decisions discussed in this memorandum: a congressman may not be prosecuted for legislative acts but may be prosecuted for non-legislative acts; and in any such prosecution no evidence from any source of a congressman's legislative acts may be considered against him. A further consideration is the self-evident proposition that no prosecuting attorney, grand jury foreman or other official has lawful authority to prohibit or foreclose a federal grand jury from investigating any offenses against the United States. Therefore, if Senator Gravel's rights under the Speech or Debate Clause are to be fully protected, a protective order will be required limiting the subject matter of the current grand jury's investigation and not merely the questions which may be put to Dr. Rodberg, the witness under subpoena.

For the foregoing reasons it is ordered that the motion to quash and for specification be denied, but that the following protective order be entered:

(1) No witness before the grand jury currently investigating the release of the Pentagon Papers may be questioned about Senator Mike Gravel's conduct at a meeting of the Subcommittee on Public Buildings and Grounds on June 29, 1971 nor about things done by the Senator in preparation for and intimately related to said meeting.

(2) Dr. Leonard S. Rodberg may not be questioned about his own actions on June 29, 1971 after having been engaged as a member of Senator Gravel's personal staff to the extent that they were taken at the Senator's direction either at a meeting of the Subcommittee on Public Buildings and Grounds or in preparation for and intimately related to said meeting.

W. ARTHUR GARRITY, Jr.,
United States District Judge.

MEMORANDUM OF LAW IN SUPPORT OF MOTION OF APPELLANT FOR STAY PENDING APPEAL

Mike Gravel, U.S. Senator, appellant v. United States, appellee

On Appeal from the Final Order of the United States District Court for the District of Massachusetts, Hon. W. Arthur Garrity, Jr., Docket No. E.B.C. 71-172.

HERBERT O. REID, SR.,
ROBERT J. REINSTEIN,
CHARLES L. FISHMAN,
Attorneys for Senator Gravel.

MEMORANDUM OF LAW IN SUPPORT OF MOTION OF APPELLANT FOR STAY PENDING APPEAL

Mike Gravel, U.S. Senator, appellant v. United States, appellee

INTRODUCTION

In the "Memorandum of Decision and Protection Order" issued October 4, 1971, the Court below made three basic findings of fact and ten conclusions of law. The findings of fact, which are relevant to this motion, are: [1]

1. Dr. Leonard S. Rodberg is a personal staff assistant of Senator Gravel. (Slip Opinion, p. 4).

2. "[A]s personal assistant to [Senator Gravel], Dr. Rodberg assisted [Senator Gravel] in preparing for disclosure and subsequently disclosing to [Senator Gravel's] colleagues and constituents, at a hearing of the Senate Subcommittee on Public Buildings and Grounds, the contents of the so-called "Pentagon Papers," which were critical of the Executive's conduct in the field of foreign relations." (Slip Opinion, p. 2).

3. "Viewing together the crimes which this grand jury is investigating and the chronology of acts and events leading up to Dr. Rodberg's subpoena, the Court infers that the government's interest in his testimony pertains to his acts as Senator Gravel's assistant with regard to the Pentagon Papers and that the government attorneys plan to question him about them before the grand jury." (Slip Opinion, pp. 5-6).

The conclusions of law made by the Court below may be summarized as follows:

1. The Speech and Debate Clause "is limited specifically to legislative acts and antecedent conduct so intimately related to them such as cannot be proved without resort to inquiry into legislative acts." (Slip Opinion, p. 7).

2. Senator Gravel's legislative acts may not consistently with the Speech and Debate Clause be the subject of questioning of any witness before the grand jury. (Slip Opinion, p. 9).

3. All actions taken by Senator Gravel at the June 29 Subcommittee meeting, and in preparation for and intimately related to this meeting, are privileged. (Slip Opinion, pp. 10, 16).

4. The judiciary may not inquire into the purpose or legitimacy of the Subcommittee meeting. (Slip Opinion, pp. 10-11).

5. "[T]he legislative privilege conferred by the Speech or Debate clause belongs to Congressmen only and not to their assistants and aides." (Slip Opinion, p. 7).

6. However, in order to protect a Senator's privilege, it "must extend to some activities of a member of his personal staff acting at his direction." (Slip Opinion, p. 14).

7. Therefore, "the Speech and Debate Clause prohibits inquiry into things done by Dr. Rodberg as the Senator's agent or assistant which would have been legislative acts, and therefore privileged, if performed by the Senator personally." (Slip Opinion, p. 14; see p. 17).

8. Dr. Rodberg may be questioned about subjects beyond the protection of the privilege, including "the activities of third parties with whom he and the Senator dealt" and "with his own conduct previous to his joining the Senator's personal staff . . ." (Slip Opinion, p. 8).

9. Senator Gravel's "arranging for private publication of the Pentagon Papers . . . is not embraced by the Speech or Debate Clause," and Dr. Rodberg and other witnesses (Including, presumably, Senator Gravel) may therefore be interrogated about it by the grand jury. (Slip Opinion, p. 12; see pp. 16-17).

10. The protective order which delimits the subject matter of questions which may not be asked of witnesses before the grand jury "fully protects" Senator Gravel's Constitutional rights.

It is our contention that the policies underlying the Speech and Debate Clause and the case law compel the conclusion that the actions of a Senator in republishing and distributing to his constituents the contents of an official, public record of a Senate subcommittee which is critical of Executive conduct in foreign relations is immune from Executive harassment and retaliation and cannot be the subject of interrogation by the grand jury or the institution of criminal proceedings by the Executive. We further believe that under the facts as found by the Court and the conclusions of law reached, the protective order which has been entered by the Court below does not protect adequately Senator Gravel's Constitutional rights.

I. The republication and public distribution by a Senator of an official, public record of a subcommittee critical of executive conduct in foreign relations is protected by the speech and debate clause.

A. Republication of Committee Records is Related to the Due Functioning of the Legislative Process.

Ever since the landmark decision of *Kilbourn* v. *Thompson*, 103 U.S. 168 (1968), the Supreme Court has rejected attempts to confine the Speech and Debate Clause to words spoken on the floor of Congress and has held that it affords protection for things "generally done in a session of the House by one of its members in relation to the business before it." *Id.*, at 204. Reiterating this test as recently as 1967, the Court added that an action of a Member of Congress is protected by the Congressional privilege if it is "related to the due functioning of the legislative process." *United States* v. *Johnson*, 383 U.S. 169, 172, 179.

In considering whether any given practice falls within these standards, two benchmarks are suggested from the decisions. First, a court may ask whether that practice is necessary to fulfill any of the goals of representative government as established by the Constitution. Second, a court may look for guidance at the actual workings of Congress to determine whether the practice is widely utilized by Members of Congress and uniformly regarded as legitimate; in other words, whether it is "generally done . . . by . . . its members in relation to the business before it."

It is clear that republication of speeches or committee reports or transcripts and their dissemination to the electorate meets each of these criteria. The scheme of representative democracy envisaged by the Framers presupposes the maximum amount of communication between the citizens and their elected representatives. Under our system of government, the ultimate power resides in the people. As Madison, who is appropriately called the Father of the Constitution, said, "The people, not the government, possess the absolute sovereignty." [2] For this system to be viable, the people must be informed fully of the workings of government so that they may be able meaningfully to exercise their Constitutional rights to vote intelligently and to "free public discussion of the stewardship of public officials." [3] Madison well understood that this imposes a *duty* on public officials to inform the electorate:

> "Let it be recollected, lastly, that the right of electing the members of the government constitutes more particularly the essence of a free and responsible government. The value and efficacy of this right depends on the knowledge of the comparative merits and demerits of the candidates for public trust, and on the equal freedom, consequently, of examining and discussing these merits and demerits of the candidates respectively." [4]

James Wilson, another architect of the Constitution, had precisely this in mind when he emphasized the "informing function" of Congress as an essential part of the due functioning of the legislative process:

> "It is the proper duty of a representative body to look diligently into every affair of government and to talk much about what it sees. It is meant to be the eyes and the voice, and to embody the wisdom and will of its constituents. Unless Congress have and use every means of acquainting itself with the acts and the disposition of the administrative agents of the government, the country must be helpless to learn how it is being served; and unless Congress both scrutinize these things and sift them by every form of discussion, the ignorance of the very affairs which it is most important that it should understand and direct." [5]

In concluding that "[t]he informing function of Congress should be preferred even to its legislative function," [6] Wilson surely was not drawing an unbridgeable distinction be-

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tween the two. Informing the electorate is a "legislative act" since it is clearly "related to the due functioning of the legislative process." *United States* v. *Johnson*, supra at 172.[7] In fact, it is no exaggeration to say that direct communication with the electorate is an essential bedrock of the legislative process, for it insures that the constituents of a Member of Congress inform *him* and his colleagues of their well-considered views on pending and future legislation—an indispensable prerequisite for a Congressman deciding how to cast his own vote.

It should go without saying that the republication of speeches, committee reports or transcripts is necessary for a Member of Congress to inform and carry on a dialogue with his constituents. Few people have access to the *Congressional Record*, and fewer still to the original transcripts of committee hearings. Nor can the press be depended upon solely to report the views of Congressmen to their constituents. The press gives at best a summary, perhaps overlaid with editorial comment. There is no substitute for the dissemination of the original.

Secondly, if one were to examine the actual workings of Congress to determine whether republication of speeches is "generally done," *Kilbourn* v. *Thompson, supra*, the same conclusion would be reached. The informing function of Congressmen and its relationship to the legislative process has been documented in many scholarly studies. See, e.g., Griffith, *Congress: Its Contemporary Role* (3rd Ed. 1961); Key, *Politics, Parties and Pressure Groups* (3d E. 1952). Perhaps every Congressman, without exception and since the earliest days of the Republic, has circulated copies of his speeches to the public held press conferences elaborating upon what he said on the floor, issued press releases, and spoken directly to his constituents in explaining his votes or speeches and inviting their views. And we doubt that a single Members of Congress could be found who thought that these actions were not "related to the functioning of the legislative process." *United States* v. *Johnson, supra* at 182. "Republication" is not a talismanic phrase signifying an act done outside the proper sphere of Congressional activity. On the contrary, when analyzed it is evident that the term bespeaks an integral part of the legislative process and of the entire system of representative government.[8] Mr. Justice Black expressed this cogently in holding that an exective official was immune from damage suits for issuing a defamatory press release:

"The effective functioning of a free government like our depends largely on the force of an informed public opinion. This calls for the widest possible understanding of the quality of government service rendered by all elective or appointed public officials or employers. Such an informed understanding depends, of course, on the freedom people have to applaud or criticize the way public employees do their jobs, from the least to the most important." *Barr* v. *Matteo*, 360 U.S. 564, 577 (1958).

In sum, it is clear that an examination of both the theoretical framework of our representative government and its actual practices leaves no doubt that direct communication by a Congressman to the electorate, through the republication and public distribution of speeches, committee reports or transcripts, is conduct "generally done" by Members of Congress "in relation to the business before it" and is clearly "related to the due functioning of the legislative process." Accordingly this conduct is protected from grand jury investigation by the Speech and Debate Clause.

B. Prior Decisions Confirm that Republication by a Member of Congress of a Speech or Committee Record is Privileged Under the Speech and Debate Clause.

Prior to the case at bar, courts have on five occasions expressed views upon the scope of privilege with respect to republication of official documents. We believe that these decisions fully support our position.

1. *Hearst* v. *Black*, 87 F. 2d 68 (D.C. Cir. 1936), was an action to enjoin the Members of a Special Senate subcommittee from retaining possession and distributing copies of documents which it had allegedly secured illegally. The Court of Appeals agreed that the seizure of the documents violated statutory and Constitutional rights, id., at 70, but held nevertheless, that Congressional privilege barred the judiciary from intervening in any way with the use of the documents by the Subcommittee, including republication (copying) and distribution to people outside of Congress. The Court stated:

". . . The prayer of the bill is that the committee be restrained from keeping the messages or making any use of them or disclosing their contents. In other words, that if we find that the method adopted to obtain the telegrams was an invasion of the appellant's legal rights, we should say to the commitee and to the Senate that the contents could not be disclosed or used in the exercise by the Senate of its legitimate functions. We know of no case in which it has been held that a court of equity has authority to do any of these things. On the contrary, the universal rule, so far as we know it, is that the legislative discretion in discharge of its constitutional functions, whether rightfully or wrongly exercise, is not a subject for judicial interference.

"The Constitution has lodged the legislative power exclusively in the Congress. If a court could say to the Congress that it could use or could not use information in its possession, the independence of the Legislature would be destroyed and the Constitutional separation of powers invaded. . . ." *Id.*, at 71–72.

2. After a twenty-year hiatus, the republication issue was again presented, this time in a libel suit. In *Methodist Federation for Social Action* v. *Eastland*, 141 F. Supp. 729 (D.D.C. 1956) (three-judge court) the Senate Internal Security Subcommittee had printed a limited number of pamphlets accusing several well-known and respectable groups, including the plaintiff, of being Communist-front organizations. The Subcommittee then ordered another 75,000 copies to be printed. Claiming that the accusations in the pamphlet were false and defamatory and would cause irreparable injury, the plaintiff requested a restraining order against republication and distribution of the pamphlet. The Court assumed the plaintiff's assertions to be true but dismissed the case on the grounds of the Congressional privilege of the Speech and Debate Clause holding:

"By express provision of the Constitution, Members of Congress, 'for any Speech or Debate in either House . . . shall not be questioned in any other place.' Art. I, Sec. 6

"The premise that courts may refuse to enforce legislation that think unconstitutional does not support the conclusion that they may censor Congressional language they think libelous. We have no more authority to prevent Congress, or a Committee or public officer acting at the express direction of Congress, from publishing a document than to prevent them from publishing the *Congressional Record*. If it unfortunately happens that a documents which Congress has ordered published contains statements that are erroneous and defamatory, and are made without allowing the persons affected an opportunity to be heard, this adds nothing to our authority. Only Congress can deal with such a problem.

"The Constitutional history called to our attention includes no instance in which an English court has attempted to restrain Parliament, or an American court to restrain Congress, from publishing any statement . . .

"As to the members of the Senate Subcommittee, the complaint is dismissed for lack of jurisdiction. *Cf. Hearst* v. *Black, supra.*" Id., at 731–732.

Thus, in this case, as in *Hearst* v. *Black*, the Court concluded that the Constitutional privilege of Members of Congress embraced republication of Subcommittee reports and placed this action beyond the cognizance of the judiciary.

3. In *Hentoff* v. *Ichord*, 318 F. Supp. 1175 (D.D.C. 1970) the Court held unequivocally that the Speech and Debate protects Members of Congress from any judicial accountability for republishing a committee report. The action was brought to prevent the Members of the House Committee on Internal Security and the Public Printer from republishing and distributing 6,000 copies of a Committee Report which, if circulated, would infringe the plaintiffs' First Amendment right. The relief sought was an injunction against republication and distribution, limiting the Report's disclosure to insertion in the *Congressional Record* and such discussion as would ordinarily follow in debate on the floor.

Relying on the Speech and Debate Clause, the Court *dismissed the complaint as to the Members of Congress*. After reviewing the precedents, Judge Gesell stated:

". . . These cases establish that the courts lack jurisdiction to entertain an action seeking any remedy against a Member of Congress for any statement made or action taken in the sphere of legitimate legislative activity.

"Plaintiffs contend that . . . this Court may restrain Congressmen from publishing, filing, or distributing, except by insertion in the *Congressional Record*, a report that impinges upon First Amendment rights.

"The Court is of a contrary view. Members of Congress have the same right to speak as anyone else. *Their legislative activities are not limited to speech or debate on the Floor of Congress. Information in this Report involves matters of public concern, and the Court will take no action which limits the use that individual Congressmen choose to make of the Report or its contents on or off the Floor of Congress.* No injunction is appropriate against any Congressman named defendant." Id., at 1179 (emphasis added)

The Court then followed the distinctions in *Kilbourn* v. *Thompson, supra* and *Powell* v. *McCormack, supra*, between Members of Congress, who are totally immune from judicial accountability, and ministerial agents, who may be held liable for enforcing Congressional orders. Thus, the Court restrained the Public Printer from republication but held the Members of Congress absolutely privileged from accountability. And with respect to the latter, Judge Gesell explicitly stated that the privilege of Congressmen for republication of Committee reports stemmed from the recognition that the informing function of Congressmen was within "the sphere of legitimate legislative activity." [9]

4. The only case which even suggests that a Congressman's privilege may be diluted for republishing a speech or Committee report is *McGovern* v. *Martz*, 182 F. Supp. 343 (D.D.C. 1960). However, a close reading of the facts and opinion in that case shows that it lends but very limited support for the proposition that the Speech and Debate Clause does not extend to republication.

The *McGovern* case involved a libel action by Congressman (now Senator) McGovern, who sued the publisher of a newsletter for falsely reporting that he had sponsored a "Communist front." The defendant counterclaimed that the Congressman had inserted certain defamatory remarks into the *Congressional Record*. There was no republication of these remarks.[10] The Court granted

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McGovern's motion to dismiss the counterclaim on the ground of Congressional privilege. *Id.* at 348. The Court then addressed itself to whether the privilege would protect circulation of reprints from the *Congressional Record*. Its remarks on this issue are *obiter dictum* since neither reprints nor unofficial dissemination was involved. Further, the Court recognized that Congressmen must be "protected and thereby free to inform their constituents," and believed that a privilege, albeit qualified by a malice requirement, was applicable. *Id.* at 348.[11]

It is evident that *McGovern* v. *Martz* cannot be read broadly as a precedent that republication of committee reports or transcripts is not protected by the Speech and Debate Clause, for four basic reasons:

(a) The discussion was *obiter dictum*. Due to the failure of proper adversary presentation the Court was unaware of prior precedents, including *Hearst* v. *Black, Supra*, which is binding on the District Courts for the District of Columbia. And the only holding of the case related to insertions in the *Congressional Record*.

(b) Even in dictum, the Court did *not* say that republication was not protected by the Speech and Debate Clause. Rather it stated that a privilege existed but was not absolute. As we shall show, *infra* section C., the Court's logic in a libel suit would compel an absolute privilege in a criminal prosecution case.

(c) In qualifying the privilege by a malice standard the Court was clearly in error. The Supreme Court in *Tenney* v. *Brandhove, supra* at 377, held explicitly that if the privilege exists it is absolute: "The claim of an unworthy purpose does not destroy the privilege." See also *Cochran* v. *Couzens*, 42 F. 2d 783 (D.C. Cir. 1930) cert. denied 283 U.S. 874. Having determined that republication was within "the sphere of legitimate legislative activity," the Court was bound to hold the privilege absolute. And as long ago as 1896, the Supreme Court held that an official's personal malice is relevant only when the official acted "in reference to matters . . . manifestly or palpably beyond his authority." *Spalding* v. *Vilas*, 161 U.S. 483. See also *Barr* v. *Matteo* 360 U.S. 564 (1959).

(d) The qualifying dictum in the *McGovern* case has not been followed. *Hentoff* v. *Ichord, supra* at 1179.

5. The Supreme Court has settled decisively that the privilege of a non-elected Executive official encompasses republication and that the privilege is absolute even in libel cases. In *Barr* v. *Matteo*, 360 U.S. 564 (1959) and its companion case *Howard* v. *Lyons*, 360 U.S. 593 (1959), two subordinate officials in the Executive Department were sued for issuing and circulating copies of defamatory press releases.[12] Invoking the judicially-created doctrine of Executive privilege for acts within the legitimate sphere of official conduct, the Court stated:

". . . It would be an unduly restrictive view of the scope of the duties of a policy-making executive official to hold that a public statement of agency policy in respect to matters of wide public interest and concern is not action in the line of duty." 360 U.S. at 575. And the Court: *"The fact that the action here was within the outer perimeter of petitioner's line of duty is enough to render the privilege applicable . . ." Ibid* (Emphasis added.)

As the Court below observed in its decision (Slip Opinion, pp. 14–15), judicially developed rules in cases of non-Constitutional privilege bear upon the scope of the Congressional privilege since the former "surely does not warrant broader protection than the legislative privilege based upon the Speech and Debate Clause." By a parity of reasoning, the Supreme Court's holding that republication of documents and their distribution to the public by Executive officials is absolutely privileged applies with at least equal force to the Constitutional privilege of Members of Congress. And no amount of legal alchemy can make a public press release by a subordinate official of the Executive department more within his legitimate sphere of activity than the circulation of copies of the official record of a Senate Subcommittee by a Member of Congress who is under the Constitutional obligation to inform his constituents about the workings of government.

In sum, the civil cases which have been heretofore decided uphold the Constitutional privilege of Members of Congress to republish and distribute to the electorate official committee records.

C. The Purposes of the Speech and Debate Clause Require that the Privilege Protect Members of Congress who Inform the Electorate about Executive Conduct of Foreign Affairs, from Intimidation and Harassment by the Executive.

Even if prior precedents were ambiguous and qualified the legislative privilege in civil cases, their logic, when combined with the historical purposes of the Speech or Debate Clause and the sphere of its contemporary importance would establish an absolute privilege to govern the facts of this case. The civil cases presented typically a claim that a Member of Congress was using the authority of his office to violate willfully an individual's rights. That kind of situation creates the maximum temptation for intervention by the judiciary on the side of the individual.

On the other hand, what is now before this Court is a classic separation of powers case. The judiciary is not being asked to balance the preferred Constitutional rights of individuals against the privileges of Members of Congress; to the contrary, the Executive branch of government has come to the Court below and claimed that it may determine what a Member of Congress may tell his constituents about matters of overwhelming public concern. We do not exaggerate by saying that this claim challenges the fundamental character of our tripartite system of government. To any such claim, the Constitution must stand as an impenetrable barrier.

First, the Executive's contention that it may institute criminal proceedings against a Congressman for speaking to the electorate flies in the face of the historical purposes of the Speech or Debate Clause. The Clause was drafted to secure absolute freedom of speech for Members of Congress. It was the end product of a lineage of legislative free speech guarantees from the English Bill of Rights of 1689 to the first State constitutions and the Articles of Confederation. See generally *Tenney* v. *Brandhove, supra* at 372–75. None of these provisions drew a distinction between a speech of a legislator directed at his colleagues and one to his constituents.[13]

On the contrary, the Court in *Tenney* stated that the clause was designed to protect both. *Id.,* at 377 and fn. 6. This is consistent with no less an authority than Thomas Jefferson. When a Federal grand jury protested against abuses by Congressmen who disseminated slanderous accusations to the public, Jefferson responded that the framers of the Constitution wrote the Speech or Debate Clause to allow Congressmen to inform the electorate without inhibition:

"[T]hat in order to give to the will of the people the influence it ought to have, *and the information which may enable them to exercise it usefully*, it was part of the common law, adopted as the law of this land, that their representatives, in the discharge of their functions, should be free from the cognizance or coercion of the coordinate branches, Judiciary and Executive." Writings of Thomas Jefferson 158 (Ford Ed. 1896) (Emphasis added).

The privilege must be read to protect republication and public distribution of speeches and committee records. As we have shown above (Part A), this is a principal avenue relied upon by Members of Congress to provide the people with "the information which may enable them to exercise it usefully."[14]

The Constitutional evil which would result from denying the privilege's applicability to the informing function of Congress is magnified when this is done at the behest of the Executive and with respect to material which is critical of Executive behavior. If the Executive branch may, at will, institute criminal proceedings against and interrogate Members of Congress before grand juries about publications of their speeches and committee reports which they sent to the electorate, it will possess the power to isolate effectively all but the most courageous legislators from their constituents. If such a rule applies Congressmen will have to watch what they say to the people—in press releases, newsletters and anything spoken outside of the four walls of the Capitol—lest it offend the Executive and open them up to harassment, grand jury inquisitions and prosecutions. Yet if the Speech and Debate Clause means anything, it is that courts and prosecutors are not referees over what Congressmen say to their constituents.

Nor are these consequences mere speculation. For this case reveals the present importance of the Speech and Debate Clause "to prevent intimidation by the Executive and accountability before a possibly hostile Judiciary," *United States* v. *Johnson, supra*, at 181. Having for years kept secret from the American people the real history of our involvement in Indo-China, and having attempted to impose a prior restraint on the press, the Executive now retaliates against a Senator who revealed to the people—the true sovereign—the reasons why the Executive, without Congressional authorization, took the country into war. The Executive would thereby establish that it, and it alone, has sole authority to reveal to or withhold from the people any information it chooses. As long as government is to continue as one separation of power, this cannot be. The proper rule of Constitutional law was stated in *Methodist Federation* v. *Eastland, supra*, at 731:

"Nothing in the Constitution authorizes anyone to prevent the President of the United States from publishing any statement . . . similarly nothing in the Constitution authorizes anyone to prevent the Supreme Court from publishing any statement. We think it equally clear that nothing authorizes anyone to prevent Congress from publishing any statement."

In conclusion, we wish to bring to the Court's attention a speech given by Senator Sam Ervin on the Floor of the Senate on September 20, 1971. Coming as it does from an acknowledged expert on Constitutional law, we wish to set forth herein some significant excerpts from this speech:

* * * * *

"The events now transpiring in Boston before a Federal grand jury put into question [a] principle of freedom secured by our predecessors.

* * * * *

"I have in mind, of course, the efforts of the administration to inquire into the actions of the junior Senator from Alaska (Mr. Gravel) in connection with the revelations of the contents of the Pentagon Papers.

* * * * *

"The Administration, through its lawyers in the Internal Security Division of the Justice Department, has made a direct and broad scale attack on the rights of all Senators, upon the prerogatives of the Senate, and upon the Constitutional guarantees which have been established to protect the Congress from harassment by a vindictive

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Executive. It is an attack on the independence and freedom of this body.

* * * * *

"The privilege of the Speech and Debate Clause protects legislators not only from prosecution by the Executive and from the judiciary. Quite obviously it also protects them from instrumentalities such as the grand jury, which can be used as the Executive's instrument of harassment and persecution.

"It must be stressed that the privilege does more than immunize the legislator against attempts to punish him or to exact retribution for the things he says in the course of performing his legislative duties. The privilege also protects him against having to defend or justify or explain what he has said. The privilege seeks to free the legislator from being harassed by law suits, grand juries, and prosecutors. Were this not so, the independence of the legislator might just as well be destroyed by forcing him to defend himself all over the country.

* * * * *

"There is another reason why the privilege against inquiry into a speech does not depend on the legality or Constitutionality of the act to which it is tied. That is because the privilege seeks to avoid any abridgement of the freedom of a legislator, even from fear of future retribution. If a legislator knew that he had to account for the possibility that he would have to defend or justify his speech sometime in the future, then he would not be as willing to express himself on controversial matters.

* * * * *

"The administration's motives in pressing this action are not only aimed at the privilege, but at a Senator who dared oppose it on the war, and who had the effrontery to use information the administration desired to keep from the people. If the administration were to have its way, we must remain in total ignorance of what has transpired in Vietnam, and anything else the Government does, unless it chooses to tell us. By suppressing this information, the executive branch has tried to keep the Congress and the Nation in total ignorance. Now it tries to dictate what the scope of a Senator's business is, and where and when and how he may conduct it. The tendency if not the intent, of this effort is to harass the Senator from Alaska, and thereby to silence him and other critics in this body along with those who are outside these halls.

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"The purpose of the privilege is to protect the legislative branch from a vindictive executive and a hostile judiciary. It is an element of the principle of separation of powers.

* * * * *

"Here, that is precisely the case. Ultimately, I suppose the question of a criminal action may be involved. But the prosecution will be to protect the special interests of the Executive in its efforts to keep its secrets from the Congress and the people. The motive, of course, is to suppress opposition to Executive policy in the Congress and in the country. When the Speech and Debate Clause is involved in a clash between the executive and the legislative, the history of this legislative immunity is especially important. The immunity was finally gained only after Charles I had lost his head. And he lost his head in part at least because he imprisoned members of Parliament who had opposed him in needless and costly overseas wars, even to the extent of presuming to vote to deny him funds for the war. The establishment of the legislative privilege came during the fight by the legislature to establish its independence from a king who claimed total power. The historical precedents are too close to be ignored. We see history repeating itself."

We respectfully request this Court to grant a stay pending appeal from the decision of the Court below holding that a United States Senator may be subjected to grand jury interrogation and the institution of criminal proceeding for making available to the people copies of an official subcommittee record dealing with Executive conduct in foreign affairs.

II. The protective order does not guarantee adequately Senator Gravel's constitutional rights, and under the facts of the case the subpoena must be quashed.

As the Court below stated in its decision, the Constitutional interests which must be protected in this proceeding by virtue of the Speech and Debate Clause are those of Senator Gravel, and not the witness. However, since Senator Gravel is not entitled to be present during the grand jury proceedings, a delicate mechanism is necessary to protect his rights against both what is asked and what the witness may answer. We tendered such a mechanism in our Motion for Specification, which gave the Justice Department an opportunity to narrow the scope of its inquiry and allow the Court and counsel for Senator Gravel to examine in advance whether the questions to be asked violate the Senator's privilege. Despite disclaimers by the Justice Department to the contrary, this technique has been heretofore voluntarily used by it in other privilege cases. For instance, in *United States v. George,* 444 F. 2d 310 (6th Cir. 1971), the witness moved to enjoin enforcement of a grand jury subpoena on the grounds that his testimony might incriminate his wife and that he was already under indictment for the transactions being investigated. The Justice Department filed an affidavit with the District Court setting forth the scope and purpose of the investigation, and the Court concluded that neither privilege was jeopardized.

Even more directly on point are cases involving First Amendment rights in which the government specified the nature of the proposed inquiry by the grand jury, either voluntarily or pursuant to Court order. In *Caldwell v. United States,* 434 F. 2d 108 (9th Cir. 1970), cert. granted 402 U.S. 942 (1971), after Caldwell had filed a motion to quash the subpoena, the Justice Department filed documents stating the extent of legal proceedings already underway with respect to certain members of the Black Panther Party, and particularizing the specific incidents about which it was believed that Caldwell had knowledge and would therefore be questioned by the grand jury. (A summary of this specification is contained in the appendix to the petitioner's brief to the Supreme Court, pages 64–68.) In the case of *In re Verplank,* 329 F. Supp. 433 (C.D.Cal.1971), which presented analogous Constitutional issues, the Court ordered a governmental showing of specificity. The specificity technqiue was utilized in these cases as the only feasible method for obtaining the precise record indispensible for Constitutional adjudication. Otherwise, as both the Justice Department and the Courts recognized, there was a significant chance that substantive rights and privileges would, in effect, bottom out for lack of procedural safeguards. The necessity for such safeguards is surely as great in the present case, which implicates the Constitutional privileges of Members of Congress and basic tenets of our system of separation of power.

Not only did the Justice Department decline to follow this procedure in this case, but it asserted the right to inquire into the actions of Dr. Rodberg in assisting Senator Gravel and to subpoena the Senator himself and question him about his official actions. Given the record in the case, the District Court's findings are certainly justified "that the government's interest in (Dr. Rodberg's) testimony pertains to his acts as Senator Gravel's assistant with regard to the Pentagon Papers and that the government attorneys plan to question him about them before the grand jury." (Slip Opinion, Pages 5–6). And this finding compels that the subpoena must be quashed, for there are no legitimate areas of inquiry about which the government intends to question Dr. Rodberg. All of the actions taken by Senator Gravel with respect to the Pentagon Papers are privileged under the Speech and Debate Clause, including, as we have shown in Part I *supra,* arranging for its republication. There is not the slightest indication in this record that the Justice Department wishes to question Dr. Rodberg about "his own actions previous to his joining the Senator's personal staff." [16] This speculative hypothesis is foreclosed by the record of this case by the refusal of the Justice Department to specify (which it surely would have done if it were interested in activities of Dr. Rodberg's unconnected with the Senator), and by the District Court's findings of fact. Since, therefore, the subpoena was issued for a wholly unconstitutional purpose, it must be quashed.

The Protective Order is under-inclusive because it does not encompass activities of Senator Gravel with respect to the Pentagon Papers which followed the Subcommittee hearing.

Furthermore, even if we assume *arguendo* that there are legitimate areas into which the grand jury may and intends to inquire of Dr. Rodberg, Senator Gravel's Constitutional rights cannot adequately be protected by the Protective Order of October 4, 1971. The reason is, quite simply that Senator Gravel will not be present during the questioning and cannot assure that the Protective Order is obeyed scrupulously. We do not cast aspersions on either counsel for the Justice Department or on Dr. Rodberg by pointing out that they cannot be the final arbiters of Senator Gravel's privilege. It is readily apparent that even with both acting in utmost good faith, counsel for the Justice Department may ask and Dr. Rodberg might answer an illegitimate question. We list the following as examples of how Senator Gravel's rights will be jeopardized by the Protective Order:

a. Counsel for the Justice Department may ask who supplied Senator Gravel with the Pentagon Papers. He may think this justified by referring to the language of the Court's opinion allowing questioning "as to the activities of third parties with whom he and the Senator dealt." We think the question would be barred by Paragraph (1) of the Protective Order [17] and would certainly object to it. Yet we would not be able to and, if Dr. Rodberg decides in his discretion to answer it, he becomes the final arbiter, reaching an unreviewable and unconstitutional end.

b. Similarly, other questions about "third parties with whom . . . the Senator dealt" may well relate to whose advice the Senator sought and received on whether to hold the hearing, who helped in drafting the introductory remarks, and who helped prepare the material for inclusion into the record—all of which, in our view, would be barred by the same provision and possibly Paragraph (2) as well.[18] Here, too, some mechanism is necessary to enable Senator Gravel himself to assert his rights without being forced to depend on the judgments of the witness.

c. The Justice Department may also wish to rely broadly on the Court's statement that Dr. Rodberg may be questioned about "his own actions previous to his joining the Senator's personal staff." Yet those questions may relate directly to Senator Gravel's official activities and blatantly violate the Speech and Debate Clause (and the Protective Order), but there is no means by which Senator Gravel can prevent the witness from answer-

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ing and turning a Constitutional violation into a *fait accompli*.

Examples such as these can be multiplied many times over. We ask this Court for a stay pending appeal because the order of the Court below has the effect of allowing the violation of Senator Gravel's Constitutional rights in a manner which cannot subsequently be remedied. The probability of irreparable Constitutional violations is so high that questioning of Dr. Rodberg cannot be permitted under the unrealistic hope that Senator Gravel's rights will not be infringed. The government is playing with loaded dice, and this Court cannot wait until it rolls the wrong number. We think that there are only three methods that will provide for scrupulous compliance with the Constitution: (a) a detailed specification can be made so that proposed questions may be considered in advance; (b) the grand jury proceedings can be made public so that Senator Gravel may be present; or (c) the subpoena can be quashed. Having rejected the first two, the Justice Department is in no position, under the facts of this case, to oppose the third. Respect for the Constitution is more important than respect for the convenience of the Justice Department. We therefore request this Court to stay the decision of the District Court requiring Dr. Rodberg to appear before the grand jury pending appeal.

CONCLUSION

For the reasons stated herein above, we respectfully request the Court to grant a stay of the decision of the Court below pending disposition of this appeal. The Constitutional issues raised are of utmost importance and must be presented to this Court in a posture in which Senator Gravel's legal position has not been mooted and his rights, if we are correct, irreparably violated.

Respectfully submitted,

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Attorneys for Senator Gravel.

FOOTNOTES

[1] Of course, the District Court made other findings of fact on pages 1–5 of the Slip Opinion. We do not set them out because they are not material to this motion. We do wish to point out, however, a possible error in the District Court's recitation of events leading up to the June 29 meeting of the subcommittee. There may be an inference in the opinion that Senator Gravel read and inserted into the record from the set of Pentagon Papers sent under seal from the President to Congress. This is not true; Senator Gravel read from documents which he had independently obtained. Furthermore, these documents are not identical in every respect to the documents furnished under seal to Congress.

[2] Quoted in *New York Times* v. *Sullivan*, 376 U.S. 254, 274 (1964).

[3] *Id.*, at 275.

[4] *Elliot's Debates* 575 (Virginia Resolution of 1798).

[5] Wilson, Congressional Government 303 (1885), quoted in *Tenney* v. *Brandhove*, 341 U.S. 367, 377 fn. 6 (1951).

[6] *Ibid.*

[7] The term "legislative act," used by the District Court in its decision (Slip Opinion p. 12), does not appear in any Supreme Court opinions. The Court in *Kilbourn* spoke of "things generally done in a session of the House by one of its members in relation to the business before it," 103 U.S. at 204. In *Tenney* v. *Brandhove*, 341 U.S. 367, 376 (1951), the Court referred to "the sphere of legitimate legislative activity," and included investigations whose functions were either to propose legislation or inform the public, *id.*, at 377 and fn. 6. In *Johnson*, the Court used the phrase "related to the due functioning of the legislative process," 383 U.S. at 172, and also quoted the *Kilbourn* language, *id.*, at 179. And in *Powell* v. *McCormack*, 395 U.S. 486 (1969), the Court quoted the above phrases from *Kilbourn*, *Tenney* and *Johnson*.

If, by using the new phrase "legislative acts," the District Court intended simply a shorthand for the above standards, our disagreement is only to its application. On the other hand, if the Court below intended to use the phrase as including only those acts in which a Member of Congress proposes, debates upon and votes on legislation, we think that this is inconsistent with and much narrower than the Supreme Court standard. Certainly, for example, in *Dombrowski* v. *Eastland*, 387 U.S. 82, 82 (1967), the actions of Senator Eastland were not even remotely connected with pending or proposed legislation. And neither are many speeches given on the floor of Congress. Yet surely the Court of Appeals was correct in *Cochran* v. *Couzens*, 42 F. 2d 783 (D.C. Cir. 1930), *cert. denied* 282 U.S. 874, that no showing was necessary that words spoken between Congressmen must be pertinent to any pending or future legislation.

[8] While a Member of the House of Representatives, Madison said: "If we advert to the nature of Republican Government, we shall find the censorial power is in the people over the Government, and not in the Government over the people." 4 *Annals of Congress* 934 (1794). If the people's representatives default on their duty to inform the electorate, the converse would be true.

[9] In its decision (Slip Opinion, p. 13), the Court below quoted certain language from *Hentoff*. These comments dealt solely with the liability of the Public Printer, and not the scope of the Speech and Debate Clause. Judge Gesell distinguished Committee Reports from the *Congressional Record* because Article I, Section 5 of the Constitution requires a journal of proceedings to be kept; thus the Court would not enjoin the Public Printer from including the report in the *Congressional Record*. 318 F. supp. at 1180. But, as noted in the text, the Court held that the privilege absolutely immunized the Members of Congress themselves from judicial inquiry for causing the Committee report to be republished anywhere. We therefore respectfully submit that the above-quoted language is inapposite to the issue of this case, which is whether a Senator may be held accountable for republishing an official Subcommittee record. *Hentoff* holds that he may not.

[10] A second counterclaim alleged republication of certain other letters by Mr. McGovern. This was held barred by the Statute of Limitations, and was not decided on the merits. 182 F. Supp. at 349.

[11] While the Court stated at one point that the reason for the rule of Congressional privilege was "complete and uninhibited discussion among legislators," it also recognized the informing function as another purpose. Any reading of the Court's opinion which picks out the former to the total exclusion of the latter makes the opinion incomprehensible. Why should the Clause protect intra legislative communication but not a Congressman's statement to his electorate? And if the reason for the privilege related only to intra legislative communications, why should there be even a qualified immunity for distribution of speeches to the public? How would a republication of a libelous speech to another Member of Congress fare? And finally, if *only* intralegislative communication is protected, why have the courts gone beyond the literal language of the Speech or Debate Clause? Each of these questions would have had to be answered by the Court in *McGovern* if it had meant to exclude public dissemination of speeches from the Clause altogether.

[12] In Howard, copies of the press release were sent to various newspapers and wire services and to members of the Massachusetts delegation in the Congress . . ." 360 U.S. at 594. The press release in *Barr* similarly was given wide circulation. In both cases, the Executive officials went far beyond merely sending reports to their immediate superiors.

[13] And when, after the drafting of the Constitution, a British court purported to draw such a distinction (see *Stockdale* v *Hansard*, 9 A. & E. 1, 112 Eng. Rep. 1112 (1839), the reaction in Parliament was so intense that the decision was almost immediately overruled by statute 3 & 4 Vict., c. 9 (1840).

[14] And even if this were somehow put on the outer perimeter" of a Congressman's duties, *Barr* v. *Matteo*, *supra*, teaches that it must be protected by an absolute privilege.

[15] While the witness appeared but refused to answer eight questions, the significance of the case is in the specification made by the Justice Department.

[16] **cf. Slip Opinion, Page 8.**

[17] Paragraph (1) provides:

"No witness . . . may be questioned about Senator Mike Gravel's conduct at the meeting of the Subcommittee on Public Buildings and Grounds on June 29, 1971 nor about things done by the Senator in preparation for and intimately related to said meeting." And how, conceivably, could Dr. Rodberg determine whether a question refers to conduct "intimately related" to the Senator's Subcommittee meeting?

[18] Paragraph (2) provides:

"Dr. Leonard S. Rodberg may not be questioned about his own actions as a member of Senator Gravel's personal staff to the extent that they were taken at the Senator's direction either at a meeting of the Subcommittee on Public Buildings and Grounds or in preparation for and intimately related to said meeting."

[In the U.S. Court of Appeals for the First Circuit, No. —]

MOTION FOR STAY PENDING APPEAL

(Mike Gravel, U.S. Senator, appellant, versus United States, appellee)

On Appeal from the Final Order of the United States District Court for the District of Massachusetts, Hon. W. Arthur Garrity, Jr., Docket No. —.

HERBERT O. REID, Sr.
ROBERT J. REINSTEIN,
CHARLES L. FISHMAN,
Attorneys for Senator Gravel.

[In the U.S. Court of Appeals for the First Circuit, No. —]

MOTION FOR STAY PENDING APPEAL

(Mike Gravel, U.S. Senator, appellant, versus United States, appellee)

Appellant, United States Senator Mike Gravel, by his counsel respectfully requests that this Court stay, pending appeal, the execution and enforcement of the Order of the United States District Court for the District of Massachusetts, Hon. W. Arthur Garrity, Jr., denying Appellant's Motion to Quash a subpoena served upon Howard Webber which seeks to compel his appearance before a Federal grand jury sitting in Boston, Massachusetts to testify concerning the official conduct of Movant in the discharge of his duties as a United States Senator. A copy of said Motion to Quash is attached hereto as (Exhibit "A").

Appellant has appealed to this Court from denial of the aforesaid Motion on the grounds that such inquiry by the grand jury into official conduct of a United States Senator violates Appellant's constitutional privilege secured by the Speech and Debate Clause of the Constitution, Article I, Section 6, Clause I and the Separation of Powers Doctrine. Appellant submits the following reasons in support of the Motion for Stay Pending Appeal.

1) Appellant is a United States Senator from the State of Alaska and at all times

material to this proceeding was acting in his official capacity.

2) On June 29, 1971 Appellant, as Chairman, conducted a meeting of the Senate Subcommittee on Buildings and Grounds.

3) During the course of the aforesaid Subcommittee meeting a transcript was compiled. Part of the aforesaid Subcommittee transcript consists of material commonly referred to as the "Pentagon Papers".

4) Subsequent to the aforesaid Subcommittee meeting Appellant made the aforesaid official transcript available to the press and the aforesaid transcript was publicly published.

5) On August 24, 1971, a Federal grand jury subpoena was served upon Dr. Leonard S. Rodberg, seeking to compel his appearance before a Federal grand jury sitting in the District of Massachusetts, in Boston.

6) Dr. Rodberg moved to quash said subpoena, alleging, *inter alia,* that the subject matter of the inquiry to be made by the grand jury related to acts done by Senator Gravel, with the necessary assistance of his staff in reading and inserting into the record the so-called "Pentagon Papers," at the June 29, 1971 hearing of the Senate Subcommittee of Buildings and Grounds and in subsequently arranging to have the record of the subcommittee published.

7) On August 24, 1971, Appellant, Senator Gravel, filed a motion to intervene before the District Court. Appellant alleged in support of that motion that Dr. Rodberg is a personal staff assistant of appellant, who has aided Appellant in the discharge of his official duties, and that the grand jury seeks to inquire of Dr. Rodberg into the official conduct of Appellant and his assistants. Appellant contended that any such grand jury proceeding would violate Appellant's constitutional right to be immune from judicial inquiry into his official conduct and that intervention was necessary in order for Appellant to protect his own rights.

8) On September 1, 1971, the District Court granted Appellant's Motion to Intervene. That same date, Appellant moved to quash the grand jury subpoena and moved also for a specification of the purpose, scope and questions to be asked of Appellant's assistant by the grand jury. Appellant alleged, *inter alia,* that the grand jury intended to question Appellant's assistant, Dr. Rodberg, about the official acts of Appellant and his staff in preparing for disclosure and subsequently disclosing to Appellant's colleagues and constituents, at a Senate Subcommittee hearing, the contents of the Pentagon Papers, which were critical of the Executive's conduct in the field of foreign relations.

9) On October 4, 1971, the District Court issued a "Memorandum of Decision and Protective Order" (attached hereto and made a part hereof as Exhibit "B"). The Court found as a fact that Dr. Rodberg is, and has been since June 29, 1971, a personal staff assistant of Senator Gravel. (Slip. Op., page 3). The Court also concluded, on the basis of (a) the undisputed allegations of Senator Gravel and Dr. Rodberg, (b) the crimes under investigation by the grand jury and (c) the events leading up to Dr. Rodberg's subpoena, that "the Government's interest in his testimony pertains to his acts as Senator Gravel's assistant with regard to the Pentagon Papers and that the government attorneys plan to question him about them before the grand jury." (Slip. Op., pages 5–6).

10) Despite these findings, the District Court denied Appellant's Motion to Quash and Motion for Specification.

11) The District Court held that the actions of Senator Gravel to inform fully his constituents about Executive conduct in foreign relations, by arranging for the publication and public distribution of the official record of the Subcommittee on Public Buildings and Grounds, were not protected by the Speech and Debate Clause and could be investigated by the grand jury and made the subject of criminal proceedings instituted by the Executive. (Slip Op., pages 12–13).

12) The District Court held that the only official actions of Senator Gravel immune from judicial inquiry by virtue of the Speech and Debate Clause related to the preparation for and conduct of the June 29, 1971, meeting of the Subcommittee on Public Buildings and Grounds by the Senator and his personal staff. The District Court entered the following protective order:

"(1) No witness before the grand jury currently investigating the release of the Pentagon Papers may be questioned about Senator Mike Gravel's conduct at a meeting of the Subcommittee on Public Buildings and Grounds on June 29, 1971 nor about things done by the Senator in preparation for and intimately related to said meeting.

"(2) Dr. Leonard S. Rodberg may not be questioned about his own actions on June 29, 1971 after having been engaged as a member of Senator Gravel's personal staff to the extent that they were taken at the Senator's direction either at a meeting of the Subcommittee on Public Buildings and Grounds or in preparation for and intimately related to said meeting."

13) Since October 4, 1971, Appellant has filed a Motion for Reconsideration and/or Stay Pending Appeal from the Memorandum Decision and Protective Order issued by the Court below. The Court below stayed the execution and enforcement of a second subpoena served upon Dr. Rodberg pending reconsideration. The Court below has not yet decided the Motion for Reconsideration and/or Stay Pending Appeal.

14) Subsequent to October 4, 1971, Appellant learned that the United States has subpoenaed Howard Webber to appear before the grand jury on October 28, 1971 for the purpose of inquiring into the actions of Appellant in attempting to publish and thereby disclose to the electorate the contents of the record of the aforesaid Subcommittee transcript. The legitimacy or illegitimacy of this grand jury inquiry is now under active reconsideration by the Court below in proceedings with respect to the subpoena served upon Dr. Rodberg and the stay entered in that case.

15) On August 24, 1971, Appellant, Senator Gravel, filed a Motion to Intervene before the District Court and a Motion to Quash or Stay the subpoena served upon Mr. Webber (attached hereto as Exhibit "C").

16) On October —, the Court below denied Appellant's Motion to Quash or Stay the subpoena served upon Mr. Webber. The Court below also denied Appellant's Motion for Stay Pending Appeal to this Court. A Notice of Appeal was filed on October —, 1971.

17) A stay of execution and enforcement of the District Court order is necessary to preserve the status quo and to protect fully the rights of Appellant and will not injure or harm any legitimate interests of Appellee. It is Appellant's contention that any testimony by Mr. Webber before the grand jury concerning Appellant's official conduct as a United States Senator will itself violate Appellant's rights under the Speech and Debate Clause. As to Appellant, the denial of the Motion to Quash is a final order, inasmuch as Appellant himself has not been directed to appear before the grand jury and cannot thereby obtain review by refusal to comply with the order of the District Court. Appellant's rights cannot be protected by waiting until protected questions are asked of the witness because: (a) Appellant is not entitled to attend the secret grand jury proceedings; (b) any questioning of the witness concerning the official actions of Appellant itself violates the terms of the Speech and Debate Clause, regardless of the answers given thereto by the witness and regardless of the outcome of the grand jury inquiry; (c) Appellant has no vehicle for controlling the witness or his answers; (d) Appellant has no method of seeking judicial review of the questions asked.

18) The constitutional issues asserted by Appellant involve important questions of separation of powers and the construction of the Speech and Debate Clause and are therefore of the highest magnitude. The precise issue presented on appeal here have not been heretofore decided by this Court or by the Supreme Court. For the reasons stated in the Memorandum in Support of Stay, attached hereto, Appellant submits that:

(a) the District Court erred in holding that the actions of a United States Senator in republishing and distributing to his constituents the official record of a Senate Subcommittee, of which he is Chairman, is not immune under the Speech and Debate Clause from grand jury inquiry and the institution of criminal proceedings by the Executive;

(b) the protective order by the District Court does not adequately protect Senator Gravel's constitutional privileges and rights; and

(c) upon the undisputed facts of this proceeding and the findings made by the District Court, the subpoena must be quashed as a matter of law.

19) Appellant has appealed to this Court from the final judgment of the District Court.

Wherefore, Appellant respectfully requests that this Court stay execution and enforcement of the subpoena served upon Mr. Webber pending consideration of the appeal which has been taken by Appellant.

Respectfully submitted,

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CHARLES L. FISHMAN,
ROBERT J. REINSTEIN,
Attorneys for Senator Gravel.

[In the U.S. District Court for the District of Massachusetts, Civil Division, Civil Action No. —]

MOTION TO INTERVENE

(Mike Gravel, U.S. Senator, versus John Doe, in re the matter of Howard Webber)

Comes now Movant, United States Senator Mike Gravel and moves this Honorable Court for leave to intervene in the above captioned cause and as reasons therefore states:

1) Howard Webber is the editor of M. I. T. Press.

2) As the editor of M. I. T. Press, Mr. Webber had contact and discussions with members of Movant's personal staff which contacts and discussions are now the subject of an inquiry by a Federal Grand Jury.

3) The aforesaid Federal Grand Jury has subpoenaed Mr. Webber to appear and give testimony with respect to the aforesaid contact and discussion on Wednesday or Thursday, October 27 or 28, 1971.

4) All of the aforesaid contacts and discussions between Mr. Webber and members of Movant's personal staff relate to the publication of the June 29, 1971 official transcript of the United States Senate Subcommittee on Buildings and Grounds.

5) All of the aforesaid contacts and discussions between Mr. Webber and Movant's personal servants are immune from judicial inquiry by virtue of Movant's constitutional privileges and duties.

6) The question presented herein raises serious and substantial constitutional issues which have not but should be decided by this Court.

7) No other party to the above captioned cause can adequately represent the interest of Movant.

8) The granting of this motion would best serve the interest of Justice.

9) Movant has no information upon which

to determine if Mr. Webber plans to appear before the Grand Jury and give testimony in violation of Movant's constitutional rights.

Wherefore, Movant respectfully requests that this Honorable Court grant the above captioned Motion to Intervene.

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HOWARD O. REID, Sr.,
Howard University School of Law.

[In the U.S. District Court for the District of Massachusetts, Docket No. —]

MOTION TO QUASH OR STAY GRAND JURY SUBPOENA

(United States of America versus John Doe, In re the matter of Howard Webber)

Comes now Movant, United States Senator Mike Gravel, and respectfully moves this Court for an order quashing or staying a subpoena served upon Howard Webber which seeks to compel Mr. Webber's appearance before a Federal grand jury sitting in this District, to wit, in Boston, Massachusetts.

Movant submits that the subpoena served upon Mr. Webber should be stayed because it violates Movant's Congressional privilege to be immune from judicial inquiry of acts done by him and his personal staff in the discharge of his duties as a United States Senator, said privilege secured to Movant by the Speech and Debate Clause of the Constitution, Article I, Section 6, Clause 1.

1. The United States has subpoenaed Mr. Webber for the purpose of questioning him about the publication of the official Senate Subcommittee transcript involved in the case of *Mike Gravel, United States Senator* v. *United States* (Docket No. EBD 71-172).

2. This Court has under consideration Movant's Motion For Reconsideration in the case of *Mike Gravel, United States Senator* v. *United States* (Docket No. EBD 71-172).

3. If this Court decides that publication of the official record of a Senate Subcommittee is constitutionally protected the grand jury will be barred from questioning anyone, including Mr. Webber, about his conduct with respect thereto.

4. If this Court decides that publication of the official record of a Senate Subcommittee is not constitutionally protected Movant has asked for a stay of this Court's decision pending appeal. To permit Mr. Webber to testify with respect to the publication of the aforesaid transcript would moot the constitutional claim of Movant prior to the final resolution of the important and complex constitutional issues presented herein.

5. No substantial injury will result to the United States from the granting of this Motion.

Wherefore, Movant respectfully requests that this Honorable Court grant the above Motion to Quash or Stay the subpoena served upon Howard Webber pending final disposition of the case entitled *Mike Gravel,* U.S.S. v. *United States* EBD 71-172.

CHARLES LOUIS FISHMAN,
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ROBERT REINSTEIN,
Temple University School of Law.
HOWARD O. REID, Sr.,
Howard University School of Law.

[U.S. District Court, District of Massachusetts]

MEMORANDUM OF DECISION AND PROTECTIVE ORDER

(October 4, 1971)

United States of America v. John Doe, in the matter of a grand jury subpoena served upon Leonard S. Rodberg, E.B.D. No. 71-172-G.

Garrity, J. Dr. Leonard S. Rodberg, a physicist and resident fellow at the Institute for Policy Studies in Washington, D.C., and currently engaged as a staff member of United States Senator Mike Gravel of Alaska, petitioned the court on August 27, 1971 to quash a subpoena ordering him to appear before a federal grand jury ostensibly investigating crimes related to the release and dissemination of the much-publicized classified study by the Department of Defense entitled "History of U.S. Decision-Making Process on Viet Nam Policy," popularly called the "Pentagon Papers."

The crimes being investigated by the grand jury include the retention of public property or records with intent to convert (18 U.S.C. § 641), the gathering and transmitting of national defense information (18 U.S.C. § 793), the concealment or removal of public records or documents (18 U.S.C. § 2071), and conspiracy to commit such offenses and to defraud the United States (18 U.S.C. § 371), as is indicated in the prosecuting attorneys' oaths of office on file with the Clerk.[1]

At the initial hearing on Dr. Rodberg's motion, the court stayed his appearance before the grand jury until after the parties had filed affidavits and briefs and presented further oral argument. Senator Gravel moved for leave to intervene and, after briefing, intervention was allowed and the court accepted motions by the Senator to quash the subpoena and for specification of the exact nature of the questions to be asked of Dr. Rodberg. Both motions of the Senator allege, and the court finds, that "as personal assistant to movant, Dr. Rodberg assisted movant in preparing for disclosure and subsequently disclosing to movant's colleagues and constituents, at a hearing of the Senate Subcommittee on Public Buildings and Grounds, the contents of the so-called 'Pentagon Papers,' which were critical of the Executive's conduct in the field of foreign relations."

Dr. Rodberg's first contention in support of his motion to quash is separate from the argument advanced jointly by him and Senator Gravel. This contention is that the subpoena violates rights of his under the First Amendment. In a supporting affidavit, Dr. Rodberg states in part that:

"My roles have been multiple: research, writing, lecturing, supervising research projects, as well as providing advise, assistance, information, expertise to Senators and Congressmen for the performance of their official duties, as well as liaison to other persons whose expertise Congressmen require. Experience has shown that my success in fulfilling these multiple roles depends upon my ability to maintain access to a wide variety of confidential sources of information. My knowledge of and ability to communicate and advise on issues relating to government policy in the areas mentioned above would be seriously jeopardized if I should be forced to appear before a secret grand jury."

While recognizing the importance and usefulness of this type of work by men like Dr. Rodberg, and acknowledging the existence of First Amendment interests here, he is only incidentally a journalist and the court rejects this argument for the reasons stated in its memorandum of decision in E.B.D. No. 71-165, *Application of Falk,* filed contemporaneously herewith.

Dr. Rodberg's other contention, identical to that urged by Senator Gravel, is that the grand jury subpoena served upon him contravenes the Speech or Debate Clause, Article I, section 6, clause 1, of the Constitution of the United States.[2] It is based upon an unusual sequence of events occurring at the height of the court battle over newspaper publication of the controversial Papers. The Court of Appeals for the District of Columbia Circuit had ruled that no prior restraint should issue against publication but the Court of Appeals for the Second Circuit had reached the opposite result. Oral arguments had been heard by the Supreme Court on June 26, 1971. Pending decision by the Supreme Court, publication was temporarily barred. Meanwhile the President had sent a set of the documents to the Congress. On June 30, the Supreme Court affirmed the judgment of the District of Columbia Circuit and reversed that of the Second Circuit, thereby permitting publication. *New York Times Company* v. *United States, supra.*

Late in the evening of June 29, Senator Gravel, a member of the Committee on Public Works, called a meeting of its Subcommittee on Public Buildings and Grounds, of which he is chairman.[3] Earlier that same day, the Senator had added Dr. Rodberg to his personal staff. At the meeting he read extensively from the study and, at its conclusion, placed the entire study comprising 7,000 pages of complex material in 47 volumes on file with the subcommittee, thereby making it widely available to the press. About seven weeks later, on August 18, it was reported in the Washington Post that Senator Gravel had turned over the Pentagon Papers to a Boston publisher, Beacon Press, for compilation into a four-volume book to be released in late October under the title, "The Senator Gravel Edition of the Pentagon Papers: the Defense Department History of Decision Making on Vietnam"; and that Beacon Press came to agreement with the Senator after negotiations with his assistant Dr. Rodberg. In the August 24 edition of a weekly newspaper, Boston After Dark, an article, "Why MIT & Harvard Suppressed the Pentagon Papers", described in detail Dr. Rodberg's prior negotiations with publishers other than Beacon Press. On the evening of August 24, Dr. Rodberg was subpoenaed to appear and testify before the current grand jury.

In opposing the motions to quash and for specification, the Government has pointed out that the grand jury proceedings are secret and it has not been proved by the moving parties that Dr. Rodberg will be interrogated about the subjects described in the newspaper stories. However, given the secrecy and flexibility of all grand jury proceedings, no movant ever could demonstrate with certainty the specific facts about which he had been subpoenaed to testify. Viewing together the crimes which this grand jury is investigating and the chronology of acts and events leading up to Dr. Rodberg's subpoena, the court infers that the government's interest in his testimony pertains to his acts as Senator Gravel's assistant with regard to the Pentagon Papers and that the government attorneys plan to question him about them before the grand jury.

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[1] Various opinions in *New York Times Company* v. *United States,* 1971, 403 U.S. 713, 727-740, emphasized that a criminal prosecution might lie for acts related to the publication of classified materials. Whether such a prosecution would lie for acts subsequent to the placing of classified materials in the public record of a congressional subcommittee, the Supreme Court opinions did not intimate and we have not considered. Obviously there may be no prosecution for publication of declassified materials.

[2] Art. I, § 6, cl. 1 provides, "The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and paid out of the Treasury of the United States. They shall in all Cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same; *and for any Speech or Debate in either House, they shall not be questioned in any other Place.*" (Emphasis added.) The last clause is known as the Speech or Debate Clause.

[3] Most of the facts stated in this paragraph appear only in Dr. Rodberg's unverified motion which incorporates as exhibits two newspaper stories thereto attached. They have been adopted as findings by the court for purposes of this decision because they were not disputed in any way by the Government and because underlying the parties' legal submissions.

The Speech or Debate Clause, in the context of criminal proceedings, has been applied definitively in *United States* v. *Johnson,* 1966, 383 U.S. 169. Defendant Johnson was a Maryland congressman accused of violating the conflict of interest statute, 18 U.S.C. § 281, and conspiring with codefendants to defraud the United States in violation of 18 U.S.C. § 371. As part of the conspiracy, defendant allegedly delivered for pay a speech in Congress favorable to certain loan companies. Johnson and codefendants were convicted of both crimes. The Court of Appeals had upheld the conspiracy conviction of the coconspirators and the conviction of Johnson under the conflict of interest statute, but held that the consoiracy count was "unconstitutional as applied to . . . Johnson." 337 F.2d at 192. In effect, the Court of Appeals read the Speech or Debate Clause to create an immunity against prosecutions for unlawful acts or motives underlying otherwise privileged legislative conduct. On certiorari granted on the Government's petition, the Supreme Court affirmed the judgment of the Court of Appeals but did not agree as to the breadth of the application of the Speech or Debate Clause. Rejecting the interpretation that the privilege barred the conspiracy prosecution, the Supreme Court instead remanded for a new trial on that count, admonishing however that no evidence of, or inquiry into, the privileged speech would be permitted.

In its opinion in the *Johnson* case, the Supreme Court stated that the privilege must "be read broadly to effectuate its purposes," 383 U.S. at 180, and that "the privilege was not born primarily of a desire to avoid private suits . . . but rather to prevent intimidation by the executive and accountability before a possibly hostile judiciary," at 181. The Court also ruled that the Clause does not reach "conduct, such as was involved in the attempt to influence the Department of Justice, that is in no wise related to the due functioning of the legislative process," at 172, and that its "decision does not touch a prosecut'on which . . . does not draw in question the legislative acts of the defendant member of Congress or his motives for performing them," at 185. Thus, the privilege is limited specifically to legislative acts and antecedent conduct so intimately related to them such as cannot be proved without resort to inquiry into legislative acts.

Another relevant fundamental principle is that the legislative privilege conferred by the Speech or Debate Clause belongs to Congressmen only and not to their assistants and aides. In the first place, the Constitution mentions only Senators and Representatives. Secondly, Thomas Jefferson's authoritative interpretation of the privilege, in Jefferson's Manual of Parliamentary Practice, Section III, reprinted in the Senate Manual, 1967, 382–383, states that "the framers of our Constitution . . . have only privileged Senators and Representatives themselves. . . ." Thirdly, no case or other authority indicates to the contrary. Cf. *Powell* v. *McCormack,* 1969, 395 U.S. 486, 504–506, holding that employees of the House of Representatives might be sued in a civil action which would be barred against Congressmen by the legislative privilege.

It follows that while the Speech or Debate Clause plainly sets limitations upon the grand jury's investigation, the motions to quash the subpoena served on Dr. Rodberg seek too broad a result. Without doubt he may be questioned as to the activities of third parties with whom he and the Senator dealt. He may also be questioned about, and is legally responsible for, his own actions previous to his joining the Senator's personal staff on June 29 and many of his actions thereafter. That the Senator's legislative privilege will serve to bar some questions, as hereinafter ruled, does not by any means excuse Dr. Rodberg from appearing and answering questions on subjects beyond the protection of the privilege.

Similarly, Senator Gravel's motion for specification which seeks an order requiring the Government to specify in detail the purpose, scope and exact nature of questions to be asked of Dr. Rodberg will not be granted in terms. In the court's opinion such an order is unnecessary in the circumstances of this case to afford full protection to the Senator's legislative privilege and would moreover impede the grand jury in the discharge of its investigative duties. As stated in *Blair* v. *United States,* 1919, 250 U.S. 273, 282, regarding the nature of the grand jury.

"It is a grand inquest, a body with powers of investigation and inquisition, the scope of whose inquiries is not to be limited narrowly by questions of propriety or forecasts of the probable result of the investigation, or by doubts whether any particular individual will be found properly subject to an accusation of crime. As has been said before, the identity of the offender, and the precise nature of the offense, if there be one, normally are developed at the conclusion of the grand jury's labors, not at the beginning."

On the other hand, it is equally clear from the *Johnson* case that Senator Gravel's legislative acts may not consistently with the Speech or Debate Clause by the subject of questioning before the grand jury.[4] The question of what constitutes legislative acts has been treated in decisions in civil actions cited with approval in the *Johnson* case. The classic statement appears in *Kilbourn* v. *Thompson,* 103 U.S. 168, 204, as follows:

"It would be a narrow view of the constitutional provision to limit it to words spoken in debate. The reason of the rule is as forcible in its application to written reports presented in that body by its committees, to resolutions offered, which, though in writing, must be reproduced in speech, and to the act of voting, whether it is done vocally or by passing between the tellers. In short, to things generally done in a session of the House by one of its members in relation to the business before it."

In view of the primary purpose of the privilege "to prevent intimidation by the Executive and accountability before a possibly hostile Judiciary," *United States* v. *Johnson, supra* at 181, the protection of the privilege afforded by the Speech or Debate Clause may be broader in criminal proceedings than in civil. Therefore the court sustains Senator Gravel's claim that whatever he did at the subcommittee meeting on June 29 and certain acts done in preparation therefor are privileged.

The Government has argued that the Senator's conduct at the subcommittee meeting is unprivileged because the purpose of the meeting, the reading of the Pentagon Papers, was unrelated to any investigation or undertaking authorized by the parent Committee on Public Works or by the Senate in its delegation of power to the parent committee. Senator Gravel has suggested that the availability of funds for the construction and improvement of public buildings and grounds has been affected by the necessary costs of the war in Vietnam and that therefore the development and conduct of the war is properly within the concern of his subcommittee. The court rejects the Government's argument without detailed consideration of the merits of the Senator's position, on the basis of the general rule restricting judicial inquiry into matters of legislative purpose and operations. "To find that a committee's investigation has exceeded the bounds of legislative power it must be obvious that there was a usurpation of functions exclusively vested in the Judiciary or the Executive." *Tenney* v. *Brandhove,* 1951, 341 U.S. 367, 378.

There are, of course, occasions when a court is obliged to scrutinize the powers of a congressional committee and the relationship of its activities to its legitimate legislative purpose. But such occasions have been limited to cases in which the power of Congress under the Constitution has been at issue, e.g., *Kilbourn* v. *Thompson, supra,* or where the constitutional rights of individuals have been jeopardized by congressional action, as in cases dealing with prosecutions under 2 U.S.C. § 192 for contempt of Congress, e.g., *Watkins* v. *United States,* 1957, 354 U.S. 178. As stated in the latter case, at 205:

"It is, of course, not the function of this Court to prescribe rigid rules for the Congress to follow in drafting resolutions establishing investigating committees. That is a matter peculiarly within the realm of the legislature, and its decisions will be accepted by the courts up to the point where their own duty to enforce the constitutionally protected rights of individuals is affected."

It has not been suggested by the Government that the subcommittee itself is unauthorized, nor that the war in Vietnam is an issue beyond the purview of congressional debate and action. Also, the individual rights at stake in these proceedings are not those of a witness before a congressional committee or of a subject of a committee's investigation, but only those of a congressman and member of his personal staff who claim "intimidation by the executive." *United States* v. *Johnson, supra,* at 181. "The courts have no right to dictate . . . the procedures for Congress to follow in performing its functions. . . ." *United States* v. *Hintz,* N.D. Ill., 1961, 193 F.Supp. 325, 331. Judging the applicability of the legislative privilege in the exercise of the functions of a legislator's office should be done "without inquiring whether the exercise was regular according to the rules of the House, or irregular and against their rules." *Coffin* v. *Coffin,* 1808, 4 Mass. 1, 27.

Senator Gravel's arranging for private publication of the Pentagon Papers by Beacon Press stands on a different footing and, in the court's opinion, is not embraced by the Speech or Debate Clause.[5] The test is not the public benefit or political value of such private publication[6] but whether it is a legislative act, i.e., "related to the due functioning of the legislative process," *United States* v. *Johnson, supra* at 172, or "generally done in a session of the House by one of its members in relation to the business before it." *Kilbourn* v. *Thompson, supra* at 204. Guidance is available mainly in decisions in civil actions dealing with congressmen's civil liability for libel. A distinction has been drawn in the cases between defamatory words inserted in the Congressional Record, held to be privileged, and defamation resulting from a congressman's circulation of reprints or copies of the Congressional Record to his constituents. As to the latter, *McGovern* v. *Martz*, D.D.C., 1960, 182 F. Supp. 343, held that the absolute privilege of the Speech or Debate Clause does not apply to republication, stating at 347, "The reason for the rule—complete and uninhibited discussion among *legislators*—is not here served." See *Restatement of Torts*, 1938 ed., § 590, comment b. In *Hentoff* v. *Ichord*, D.D.C., 1970, 318 F. Supp. 1175, an issue was whether the court had power to enjoin distribution of a House committee report by the Public Printer and Superintendent of Documents. In holding that it did, the court said at 1180:

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[4] On a later appeal from Johnson's conviction upon retrial, *United States* v. *Johnson,* 4 Cir., 1969, 419 F.2d 56, it was held that the grand jury's receipt of evidence about Johnson's speech, while "constitutionally impermissible," did not invalidate the indictment, citing *Costello* v. *United States,* 1956, 350 U.S. 359.

[5] The Senator has made no specific claim that his legislative privilege extends to his actions subsequent to the subcommittee hearing. However, this claim has been advanced by Dr. Rodberg and contested by the Government and hence the court had considered it.

[6] The importance of the "informing function of Congress" is described in powerful terms in a quotation from Wilson, Congressional Government (1885), 303, set forth in fn. 6 of the opinion of the Court in *Tenney* v. *Brandhove,* supra at 377.

"Nothing in the Constitution or the cases suggests, however, that a committee report is a necessary adjunct to speech or debate in Congress. . . . and its further printing and public distribution is not necessary to give effect to the freedom of congressmen to speak and debate on or off the floor. The Speech or Debate Clause does not necessarily bar an action to enjoin the Public Printer from printing a committee report for public distribution."

While recognizing a special vitality attaching to the Speech or Debate Clause in criminal proceedings, *United States* v. *Johnson*, *supra* at 180–182, the court nevertheless concludes that the reasoning of these civil cases is valid and in the instant case controlling.

Having delineated the area of Senator Gravel's conduct which may not be investigated by the grand jury, the court turns to the question whether some of Dr. Rodberg's activities are also protected from investigation, not because of any privilege of his own but by reason of his having acted as the Senator's agent and assistant in the Senator's performing various legislative acts.[7] The Senator and witness submit, and the court agrees, that the legislative privilege enjoyed by a senator must extend to some activities of a member of his personal staff acting at his direction. To rule otherwise would dilute and jeopardize the privilege itself. For example, speeches delivered on the floor of Congress are often drafted by a skilled staff assistant and not by the congressman himself; to make such an assistant accountable for the content of a speech drafted by him would serve to defeat the privilege. A legislator's dependence upon confidential assistants is analogous to a lawyer's, whose client's privilege against disclosure of confidential communications has been held applicable to the lawyer's assistants. *United States* v. *Kovel*, 2. Cir., 1961, 296 F. 2d 918. The opinion in that case stated at 921, "The complexities of modern existence prevent attorneys from effectively handling clients' affairs without the help of others. . . ." This holding has been adopted by the Proposed Rules of Evidence for the United States Courts, Preliminary Draft, 1969, Rule 5-03(b). Although the attorney-client privilege is of ancient origin, 8 Wigmore, Evidence (McNaughton Rev. 1961), § 2290, p. 542, and is grounded on strong social policy, it is not a constitutional privilege and surely does not warrant broader protection than the legislative privilege based upon the Speech or Debate Clause. In this respect the legislative privilege is akin to the executive privilege about which the Supreme Court in *Barr* v. *Matteo*, 1959, 360 U.S. 564, commented at 573:

"The complexities and magnitude of governmental activity have become so great that there must of necessity be a delegation and redelegation of authority as to many functions, and we cannot say that these functions become less important simply because they are exercised by officers of lower rank in the executive hierarchy."

Powell v. *McCormack*, 1969, 395 U.S. 486, and similar cases permitting actions against subordinate employees of legislative bodies are distinguishable. Employees held accountable in such cases were administrative personnel whose non-discretionary duties to the legislative body as a whole in no substantial way related to the specific furthreance of the legislative tasks of individual members. Such institutional employees clearly have less impact upon legislation than personal staff members entrusted by the legislator himself with sensitive and confidential duties. Therefore the court holds that the Speech or Debate Clause prohibits inquiry into things done by Dr. Rodberg as the Senator's agent or assistant which would have been legislative acts, and therefore privileged, if performed by the Senator personally.

Lastly, the relief to which Senator Gravel is entitled under the particular circumstances here presented must be determined in the light of two of the principles derived from the decision discussed in this memorandum: a congressmen may not be prosecuted for legislative acts but may be prosecuted for non-legislative acts; and in any such prosecution no evidence from any source of considered against him. A further consideration is the self-evident proposition that no prosecuting attorney, grand jury foreman or other official has lawful authority to prohibit or foreclose a federal grand jury from investigating any offenses against the United States. Therefore, if Senator Gravel's rights under the Speech or Debate Clause are to be fully protected, a protective order will be required limiting the subject matter of the current grand jury's investigation and not merely the questions which may be put to Dr. Rodberg, the witness under subpoena.

For the foregoing reasons it is ordered that the motion to quash and for specification be denied, but that the following protective order be entered:

(1) No witness before the grand jury currently investigating the release of the Pentagon Papers may be questioned about Senator Mike Gravel's conduct at a meeting of the Subcommittee on Public Buildings and Grounds on June 29, 1971 nor about things done by the Senator in preparation for and intimately related to said meeting.

(2) Dr. Leonard S. Rodberg may not be questioned about his own actions on June 29, 1971 after having been engaged as a member of Senator Gravel's personal staff to the extent that they were taken at the Senator's direction either at a meeting of the Subcommittee on Public Buildings and Grounds or in preparation for and intimately related to said meeting.

W. Arthur Garrity, Jr.,
U.S. District Judge.

[U.S. Court of Appeals for the First Circuit No. 71–1331 and No. 71–1332]

United States of America v. John Doe, Mike Gravel, U.S. Senate, Intervenor, Appellant, Same v. Same, Same

MEMORANDUM AND ORDER

(Entered October 29, 1971)

Hearing have been held on Intervenor's motion for stay pending appeal from the district court's denial of his motion for further relief and, it appearing that: (1) the integrity of the processes of a grand jury must not be lightly regarded; (2) the grand jury here convened is not restricted to investigation of the specific crimes described below; (3) the allegations of possible infringements of the rights of the Intervenor under Article I, Section 6, Clause 1, of the Constitution of the United States as well as allegations of violation of the doctrines of separation of powers, raise important issues of substance, the harm of any such alleged infringements being irreparable; (4) an expedited schedule for hearing appeals on related issues has been adopted, such hearing to be held on November 4, 1971, and it being contemplated that speedy disposition of these issues including those raised by the instant motion, may be forthcoming.

It Is Hereby Ordered that until further order of this court, the grand jury shall not pursue its inquiry into the retention of public property or records with intent to convert (18 U.S.C. § 641), the gathering and transmitting of national defense information (18 U.S.C. § 793), the concealment or removal of public records or documents (18 U.S.C. § 2071), or conspiracy to commit such offenses or to defraud the United States (18 U.S.C. § 371) insofar as these or any other crimes may relate to the so-called "Pentagon Papers", in whatever form. However, it shall be empowered to continue its investigation into any other crimes.

It is further ordered that the parties be excused from reproducing the records on appeals in appendix form, that appellants' brief is to be filed on or before five p.m., Monday, November 1, 1971, and that appellee's brief is to be filed on or before five p.m., Wednesday, November 3, 1971. It is further ordered that the parties are granted leave to file four copies of their briefs in reproduced form to comply with Rule 5(d) and that service of said briefs is to be made in hand.

By the Court:

/s/ Dana H. Gallup, *Clerk.*

[U.S. Court of Appeals for the First Circuit, No. 71-1331, and No. 71-1332]

United States of America v. John Doe, Mike Gravel, U.S. Senator, Intervenor, Appellant, Same v. Same, Same

MOTION FOR POSTPONEMENT OF ORAL ARGUMENT

Comes now Intervenor—Appellant, Mike Gravel, United States Senator, and moves this Honorable Court for a postponement of oral argument until such time as this Court may direct and as reasons therefore states:

(1) Appellees on Friday, October 29, 1971, filed a notice of cross appeal in this case.

(2) Appellees did not notify counsel for Senator Gravel of this action until Monday November 1, 1971 and then the notification was by ordinary mail notwithstanding the expedited schedule adopted by this court and obvious need for oral communication on Friday, Saturday or Sunday.

(3) Intervenor-Appellant has not yet been notified by Appellee of the issues he intends to raise in the cross appeal. Therefore it is impossible for counsel to discuss the issues in his brief.

(4) Intervenor—Appellant is under order from this Court to file its brief on appeal with the Clerk of the Court by 5 p.m. Monday, November 1, 1971. Therefore it will be impossible for Counsel for Senator Gravel to brief the issues involved in the cross appeal even if they were known to counsel.

(5) Intervenor—Appellant is entitled to an opportunity to adequately brief and present his position on the issues whatever they may be, which are raised in the cross appeal.

(6) Whatever inconvenience may result to appellee from the granting of this motion is caused by Appellee's failure to properly and timely notify counsel for Senator Gravel of their cross appeal and the issues presented therein. Counsel for Senator Gravel was available all day Friday, October 29, 1971 in Boston until 8 pm at a location known to counsel for appellee and was not so notified. Counsel was available but not notified all day Saturday and Sunday in Washington at the Senate Office Building where he has been reached by counsel for appellees on various other occasions.

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[7] Despite *Kilbourn* v. *Thompson*, *supra*, and *Tenney* v. *Brandhove*, *supra*, the related doctrine of legislative immunity is applicable, though not absolutely, to officers and employees of legislative bodies. *Dombrowski* v. *Eastland*, 1967, 387 82, 85. In this sense, therefore, such employees have rights flowing from the Speech or Debate Clause.

Wherefore, Intervenor-Appellant respectfully moves this Honorable Court for an order postponing the oral argument scheduled for November 4, 1971, until counsel for Senator Gravel has had a reasonable opportunity to brief the issues presented on appellees cross motion.

CHARLES L. FISHMAN,
Attorney for Senator Gravel.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the attached Motion for Postponement of Oral Argument was hand delivered to the United States Attorney for Massachusetts, U.S. Post Office Building, Post Office Square, Boston, Massachusetts, this first day of November, 1971.

CHARLES L. FISHMAN,
Attorney for Senator Gravel.

[U.S. Court of Appeals, No. 71-1331, No. 71-1332, and No. 71-1335]

United States of America, v. John Doe, Mike Gravel, U.S. Senator, Intervenor, Appellant, Same, v. Same, v. Same

Order of Court, Entered November 1, 1971

It is ordered that the order of this court of October 29, 1971, be amended by striking the third paragraph thereof and substituting the following in place thereof:

"It is further ordered that the parties be excused from reproducing the records on appeals in appendix form, that appellants' brief is to be filed on or before 5:00 P.M. on Thursday, November 4, 1971, that appellees' brief is to be filed on or before 5:00 P.M. on Monday, November 8, 1971, and that these cases be heard at 11:00 A.M. on Wednesday, November 10, 1971. It is further ordered that the parties are granted leave to file four (4) copies of their briefs in reproduced form to comply with Rule 5(d) and that service of said briefs is to be made in hand."

It is further ordered that this new paragraph is to be applicable to the case No. 71-1335.

By the Court:

DANA H. GALLUP, *Clerk.*

[U.S. Court of Appeals for the First Circuit, No. 71-1331, No. 71-1332, and No. 71-1335]

UNITED STATES OF AMERICA V. JOHN DOE, MIKE GRAVEL, U.S. SENATOR, INTERVENOR, APPELLANT, V. SAME, V. SAME

APPEAL FROM AN ORDER OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS

The United States of America has consolidated its brief as Appellant and Appellee for the convenience of the court in order to avoid the making of lengthy arguments in separate briefs which would be in most respects identical.

In the event that Appellant Intervenor raises issues not anticipated by the government, we will file a short supplemental appellee's brief.

I: ISSUES PRESENTED FOR REVIEW

Cross-Appeal by the United States: 1. Does the Speech or Debate clause bar the questioning of persons about legislative activities or conduct related thereto.

On Appeal by the Intervenor: 2. Same as No. 1 above. 3. Has the Intervenor presented an appealable issue for review.

II: STATEMENT OF THE CASE

This is an appeal from an Order entered by the District Court on October 4, 1971, reaffirmed on October 28, 1971, which denied the motions of the Appellant-Intervenor and witness Leonard Rodberg to quash a grand jury subpoena served on Rodberg and granted certain relief to the Intervenor through a protective Order. This Order brought to culmination a series of proceeding precipitated by service of the subpoena on Rodberg which commanded his appearance before the grand jury in Boston on August 27, 1971.

Rodberg moved to quash subpoena on August 27. Thereafter, Appellant-Intervenor moved to intervene alleging that Rodberg was his personal servant; that the grand jury sought to elicit testimony from Rodberg concerning his actions directed and controlled by the Intervenor, and upon his orders, which was immune from judicial inquiry by virtue of the Intervenor's constitutional privileges and duties; and that no other party could adequately represent the interest of the Intervenor. He was permitted to intervene, and he thereupon moved (1) to quash the Rodberg subpoena and (2) for an Order requiring the Government to specify in detail the purpose, scope and exact nature of the questions to be asked Rodberg by the grand jury.

The facts are not essentially in dispute. They are recited favorably to the Intervenor in the District Court's memorandum of decision entered October 4 as follows:

"Dr. Leonard S. Rodberg, a physicist and resident fellow at the Institute for Policy Studies in Washington, D.C., and currently engaged as a staff member of United States Senator Mike Gravel of Alaska, petitioned the court on August 27, 1971, to quash a subpoena ordering him to appear before a federal grand jury ostensibly investigating crimes relating to the release and dissemination of the much-publicized classified study by the Department of Defense entitled 'History of U.S. Decision-Making Process on Viet Nam Policy', popularly called the 'Pentagon Papers.'

"The crimes being investigated by the grand jury include the retention of public property or records with intent to convert (18 U.S.C. § 641), the gathering and transmitting of national defense information (18 U.S.C. § 793), the concealment or removal of public records or documents (18 U.S.C. § 2071), and conspiracy to commit such offenses and to defraud the United States (18 U.S.C. § 371), as is indicated in the prosecuting attorneys' oaths of office on file with the Clerk. [Footnote omitted]

* * * * *

"Both motions of the Senator allege, and the court finds, that 'as personal assistant to movant, Dr. Rodberg assisted movant in preparing for disclosure and subsequently disclosing to movant's colleagues and constituents, at a hearing of the Senate Subcommittee on Public Buildings and Grounds, the contents of the so-called 'Pentagon Papers,' which were critical of the Executive's conduct in the field of foreign relations.'

"Late in the evening of June 29, Senator Gravel, a member of the Committee on Public Works, called a meeting of its Subcommittee on Public Buildings and Grounds, of which he is chairman. Earlier that same day, the Senator had added Dr. Rodberg to his personal staff. At the meeting he read extensively from the study and, at its conclusion, placed the entire study comprising 7,000 pages of complex material in 47 volumes on file with the subcommittee, thereby making it widely available to the press. About seven weeks later, on August 18, it was reported in the Washington Post that Senator Gravel had turned over the Pentagon Papers to a Boston publisher, Beacon Press, for compilation into a four-volume book to be released in late October under the title, 'The Senator Gravel Edition of the Pentagon Papers: the Defense Department History of Decision Making on Vietnam;' and that Beacon Press came to agreement with the Senator after negotiations with his assistant Dr. Rodberg. In the August 24 edition of a weekly newspaper, Boston After Dark, an article, 'Why MIT & Harvard Suppressed the Pentagon Papers,' described in detail Dr. Rodberg's prior negotiations with publishers other than Beacon press. On the evening of August 24, Dr. Rodberg was subpoenaed to appear and testify before the current grand jury."

Rodberg contended that the mere fact of his appearance before the grand jury would have a chilling effect on his First Amendment freedoms of press and association. Both Rodberg and the Intervenor protested that the Speech or Debate Clause[1] insulated them from grand jury questioning regarding (1) the meeting of the Senate Subcommittee on Public Buildings and Grounds on June 29, 1971, during which the Senator read from the Defense Department study on U.S.-Vietnam relations popularly known as the Pentagon Papers, and (2) subsequent efforts by Senator Gravel, through Rodberg, to publish the Pentagon Papers.

The Motions to Quash and for specification were denied in the District Court's decision of October 4 in which the Court made the following conclusions of law, among others:

(1) Intervenor's legislative acts may not consistently with the Speech or Debate clause be the subject of questioning before the grand jury [Memorandum of Decision, p. 9];

(2) The privilege is limited specifically to legislative acts and antecedent conduct so intimately related to them such as cannot be proved without resort to inquiry into legislative acts. [Ibid, p. 7];

(3) Whatever Intervenor did at the subcommittee meeting on June 29 and certain acts done in preparation therefor are privileged [Ibid., p. 10];

(4) Intervenor's arranging for private publication of the Pentagon Papers by Beacon Press is not embraced by the Speech or Debate clause [Ibid., p. 12];

(5) The legislative privilege enjoyed by a Senator must extend to some activities of a member of his staff acting at his direction [Ibid., p. 14];

(6) Therefore, the Speech or Debate clause prohibits inquiry into things done by Dr. Rodberg as the Intervenor's agent or Assistant which would have been legislative acts, and therefore privileged, if performed by the intervenor personally [Ibid., p. 15];

(7) If Intervenor's rights under the Speech or Debate clause are to be fully protected, a protective Order will be required limiting the subject matter of the current grand jury's investigation and not merely to the questions which may be put to Dr. Rodberg, the witness under subpoena [Ibid., p. 16].

The protective order was framed as follows:

"(1) No witness before the grand jury currently investigating the release of the Pentagon Papers may be questioned about Senator Mike Gravel's conduct at a meeting of the Subcommittee on Public Buildings and Grounds on June 29, 1971 nor about things done by the Senator in preparation for and intimately related to said meeting.

"(2) Dr. Leonard S. Rodberg may not be questioned about his own actions on June 29, 1971 after having been engaged as a member of Senator Gravel's personal staff to the extent that they were taken at the Senator's direction either at a meeting of the Subcommittee on Public Buildings and

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[1] Art. I, § 6, cl. 1 provides, "The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and paid out of the Treasury of the United States. They shall in all Cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their attendance at the Session of their respective Houses, and in going to and returning from the same; and for any Speech or Debate in either House, they shall not be questioned in any other Place." The last clause is known as the Speech or Debate Clause.

Grounds or in preparation for and intimately related to said meeting."

The Intervenor filed a motion for reconsideration and for a stay pending decision emphasizing the proposition that his activities concerning republication of the Pentagon Papers fell within the protection of the Speech or Debate clause. Rodberg filed a motion for rehearing or certification to the Court of Appeals, pursuant to 28 U.S.C. 1292(b) as an interlocutory appeal, and for a stay. Rodberg's subpoena was ordered stayed pending the District Court's decision following reconsideration of the October 4 ruling.

In the interim a subpoena was served on Howard Webber, editor of M.I.T. Press, and his appearance before the grand jury was scheduled for October 29, 1971. Intervenor, on October 27, 1971, moved for leave to intervene with regard to the Webber subpoena (which was granted) and for an Order quashing or staying that subpoena. Additionally, the Intervenor moved for the following:

(1) An order requiring the government to provide a listing of all those who had been subpoenaed or are to appear before the grand jury to give testimony;

(2) Hearings to determine which of the witnesses had privileged information which, constitutionally, could not be inquired into, or should not be inquired into pending final determination on reconsideration;

(3) An Order requiring the government to specify all questions to be asked each witness, and a ruling on the constitutional permissibility of each such question.

Finally, the Intervenor moved for an Order staying enforcement and execution of all subpoenas then outstanding or to be issued compelling appearance of witnesses before the Boston grand jury pending disposition of the motion for further relief outlined above in Paragraphs 1, 2 and 3.

All of the foregoing described motions were denied by a Memorandum and Order Denying Further Relief, entered in E.B.D. No. 71-172-G, October 29, 1971. By a supplemental Protective Order entered that same date in E.B.D. Nos. 71-172-G and 71-209-G the Court ordered the Rodberg and Webber subpoenas stayed for 10 days and barred questioning by the grand jury touching upon the Intervenor's conduct in arranging for private publication of the Pentagon Papers and upon Rodberg's conduct in arranging for such publication to the extent that what he did was in his capacity as a member of the Intervenor's personal staff.

The motions for reconsideration were denied and the District Court's decision of October 4 reaffirmed. Rodberg's request for certification was denied.

The Intervenor appeals from the orders denying the motions to quash the Webber subpoena and for reconsideration of the order denying the motions to quash the Rodberg subpoena and for specification of the purpose and scope of the questions to be asked Rodberg.

The Government appeals from the District Court's October 4, 1971 decision (reaffirmed October 28, 1971) (1) that Senator Gravel's legislative acts may not consistently with the Speech or Debate Clause be the subject of questioning before the grand jury; (2) that the Speech or Debate Clause prohibits inquiry into things done by Dr. Rodberg as the Senator's agent or assistant which would have been legislative acts, and therefore privileged, if performed by the Senator personally; and (3) the protective order designed to implement the court's ruling.

On October 29, 1971, Intervenor filed his notices of appeal and the government filed notice of its appeal from the above-mentioned initial protective order. On the same date the Court of Appeals granted Intervenor's motion for a stay pending appeal and halted the grand jury's inquiry until further order of this court.

III: ARGUMENT

[On Intervenor's Appeal]

A. THE DISTRICT COURT PROPERTY DENIED INTERVENOR'S MOTIONS TO QUASH SUBPENAS AND SUPERVISE THE GRAND JURY

1. The "Speech or Debate" Clause Does Not Require or Permit the Granting of the Relief Demanded by Intervenor.

Article 1, Section 6, Cl. 1 of the United States Constitution creates a legislative privilege for "Senators and Representatives" by providing that "for any Speech or Debate in either House, they shall not be questioned in any other Place."

It is the meaning of this clause and the nature and extent of the privilege it creates which will be determinative of the issues raised on this appeal and cross-appeal.

(a) The "Speech or Debate" Clause Does Not Prohibit Questioning Regarding Legislative Activities.

The provision that "they shall not be questioned in any other place" does not mean that legislators may not be asked questions about their speeches or debates outside of Congress. If the clause carried this meaning, fellow legislators, constituents, news gatherers and others could not ask legislators outside of Congress about the meaning of a speech, the basis for factual assertions contained therein, the sources of information employed, or the speaker's motivation, all of which are common matters of inquiry by the groups mentioned above.

The Intervenor has argued, and the District Court apparently concluded, that such questioning of anyone about a legislator's speech or debate activities is violative of the legislative privilege, if the questioning occurs in a *judicial proceeding*. This also is incorrect. The error is due in part to attributing modern day meaning to the words "questioned in any other place" despite the fact that the words are of ancient origin and meaning. The error also stems from failure to note that the clause forbids the questioning of legislators *"for"* speeches or debates, not *about* them, and applies only to legislators, not to other persons.

The proposition that the legislative privilege does not preclude the questioning of legislators or others as witnesses in judicial proceedings, about legislative activity can be demonstrated by two brief illustrations:

Case No. 1:

A legislator enters the House chamber and makes the following speech: "Fellow members, I am appalled by what has occurred here today. This morning on my way to this chamber I came across our colleague John Smith lying on the floor of the corridor with a severe wound in his head. He had been rendered unconscious and robbed. I did not see the crime occur, and do not know who committed it, but I urge the proper authorities to make every effort to apprehend the culprit."

Weeks later, the legislator is called to Court as a prosecution witness in the case against two defendants for assaulting and robbing John Smith. The legislator testifies on direct examination that on the day in question, while walking down the pertinent corridor, he saw two men depart hurriedly from the area where John Smith lay, and he identifies the defendants as the men.

On cross-examination, defendants' counsel would not be precluded from exploring the arguably inconsistent prior statement made by the legislator in his speech. The legislative privilege would not prevent such interrogation because the inquiry is *about* his prior speech and not "for" it, and because he is not being "questioned" for the speech as that term is used in the Speech or Debate Clause, as will be shown hereafter.

Case No. 2:

A legislator makes the following speech on the chamber floor: "Fellow members, I have received detailed information showing that a respected business executive is in fact the head of a criminal syndicate in my District. His name is Paul Brown. Tomorrow in this chamber I will disclose the details."

That evening, the legislator is gravely wounded in an assassination attempt. A grand jury inquires into the the crime and finds circumstantial evidence that Paul Brown directed the attempted murder. The grand jury would not be precluded by the legislative privilege from gathering evidence of Brown's motive by receiving testimony as to the giving of the speech and its content either from the legislator himself, or from others who heard it. Again, this is so because the legislator would not be "questioned" "for" the speech within the meaning of the Speech or Debate Clause, but would merely be asked about it.

The historical antecedents of the Constitution are instructive on what it means to be "questioned" "for" a speech or debate. The Supreme Court in *Tenney* v. *Brandhove,* 341 U.S. 367, 373 (1951), stated that "[t]hat [Speech or Debate] provision in the United States Constitution was a reflection of political principles already firmly established in the States." Comparison of the following is enlightening:

The English Bill of Rights of 1689 provided:

"That the Freedom of Speech, and Debates or Proceedings in Parliament, ought not to be impeached or questioned in any Court or Place out of Parliament." (1W. & M., Sess. 2, C. 2.)

Our Articles of Confederation, 1777, Article V provided:

"Freedom of speech and debate in Congress shall not be impeached or questioned in any Court, or place out of Congress. . . ."

The Maryland Declaration of Rights, Nov. 3, 1776, provided:

"That freedom of speech and debates, or proceedings in the Legislature, ought not to be impeached in any other Court or judicature."

The Massachusetts Constitution of 1780, Article XXI, provided:

"The freedom of deliberation, speech, and debate in either house of the legislature, is so essential to the rights of the people, that it cannot be the foundation of any accusation or prosecution, action or complaint, in any other Court or place whatsoever."

The New Hampshire Constitution of 1784, Part 1, Article XXX, provides:

"The freedom of deliberation, speech, and debate, in either house of the legislature, is so essential to the rights of the people, that it cannot be the foundation of any action, complaint, or prosecution, in any other Court or place whatsoever."

The foregoing provisions make it plain that the word "questioned" as used in the Constitution's Speech or Debate Clause, is synonymous with "impeached," called to account, and called to answer charges in a court of law. In this clause the word simply does *not* have its present day meaning of being "asked about" something.

The Oxford English Dictionary, Vol. VIII (1933), gives the following illuminating information on the historical meaning of the word "Question":

"2.c. In question: Under judicial examination; on trial.

d. To call in (or into) question: To examine judicially, bring to trial; to take to task, call to account.

1611 Bible Acts xix.40

We are in danger to be called in question for this day's uproar.

A1641 Bp. Montague Acts & Mon. (1642) 59

Socrates . . . was called into question, and had sentence of death pronounced against him.

1647 J. Carter Nail & Wheel 78

Presently he was . . . called in question as a delinquent." (p. 47)

"1.b. To examine Judicially; hence, to call to account, challenge, accuse (of).

1637 Heylin Answ. Burton 60

When you were questioned publickely for your misdemeanors.

a1641 Bp. Montague Acts & Mon. (1642) 240

Socrates was questioned and condemned at Athens.

1656 Bramhall Replic. ii 96

He had rather his own Church should be questioned of Idolatry.

1789 Constitution U.S. Art 1, § 6

For any speech or debate in either house [members of Congress] shall not be questioned in any other place.

1839 Macaulay Ess. (1843) II. 458

[He] cannot be questioned before any tribunal for his baseness and ingratitude." (p. 48)

The special meaning of the term "questioned" is illustrated by the case of *Ex Parte Wason*, L.R. 4 Q.B. 573 (1869), in which the Court held that statements made in the House of Lords "could not be made the foundation of civil or criminal proceedings. . . ." (p. 576) Mr. Justice Lush stated that "the motives or intentions of members of either House cannot be *inquired into by criminal proceedings* with respect to anything they may do or say in the House." (emphasis added) (p. 577). This clearly indicates the nature of the questioning prohibited by the legislative privilege. In short, the questions prohibited by the legislative privilege are not those asked by inquirers, but are those raised by the institution of judicial action against the legislator.

(b) The "Speech or Debate" Clause Bars Civil and Criminal Prosecution of Legislators for their Legislative Activities.

In *Coffin* v. *Coffin*, 4 Mass. 1 (1808), Chief Justice Parsons said:

"These privileges are thus secured, not with the intention of protecting the members against prosecutions for their own benefit, but to support the rights of the people, by enabling their representatives to execute the functions of their office *without fear of prosecutions, civil or criminal*. I, therefore, think that the article ought not to be construed strictly, but liberally, that the full design of it may be answered. I will not confine it to delivering an opinion, uttering a speech, or haranguing in debate, but will extend it to the giving of a vote, to the making of a written report, and to every other act resulting from the nature and in the execution of the office. *And I would define the article as securing to every member exemption from prosecution for everything said or done by him as a representative*, in the exercise of the functions of that office, without inquiring whether the exercise was regular, according to the rules of the House, or irregular and against their rules." (emphasis added.)

In the English case of *Stockdale v. Hansard*, 9 Adolphus & Ellis 1 (1839), it was said that by virtue of the legislative privilege:

"whatever is done within the walls of either assembly must pass without *question in any other place*. For speeches made in Parliament by a member to the prejudice of any other person, or hazardous to the public peace, that member enjoys *complete impunity*. For every paper signed by the speaker by order of the House, though to the last degree calumnious, or even if it brought personal suffering upon individuals, *the speaker cannot be arraigned in a court of justice*." (emphasis added)

Both the cases, and text writers describe the legislative privilege as an exemption from civil and criminal prosecution. See, for example, Cushing LEGISLATIVE ASSEMBLIES, § 601 (2d Ed. 1866), which states that:

"[I]n short, * * * the privilege in question secures the members of a legislative assembly against all *prosecutions*, whether civil or criminal, on account of any thing said or done by them, during the session, resulting from the nature and in the exercise of their office." (emphasis added)

Every case found by the government in which a court has held the legislative privilege applicable, has involved a legislator who has had a civil or criminal prosecution brought against him for his legislative activities. For example, several civil cases have found the privilege applicable. In *Kilbourn* v. *Thompson*, 103 U.S. 168 (1880), the court held that representatives could not be sued for false imprisonment based upon what they had done in the course of their legislative activities.

Tenney v. *Brandhove*, 341 U.S. 367 (1951), held that a suit against a California legislator for alleged violation of federal civil rights legislation by virtue of his legislative activities must be dismissed as violative of the legislative privilege. In both the *Tenney* and *Kilbourn* cases, the Supreme Court refers to the *Coffin* opinion, *supra*, as authoritative. In *Cochran* v. *Couzens*, 42 F. 2d 783 (D.C. Cir. 1930); *cert. den.* 282 U.S. 874 (1930), the court affirmed a dismissal of a complaint for slander in a speech on the floor of the Senate. The court held that:

"The words forming the basis of plaintiff's action were uttered in the course of a speech in the chamber of the Senate of the United States, and were absolutely privileged and not subject to 'be questioned in any other place.'"

More importantly, the legislative privilege insures against criminal prosecutions. As the Court of Appeals said in *United States* v. *Johnson*, 337 F. 2d 180, 190 (4th Cir. 1964),

"The constitutional protection against *being called upon to answer* in 'any other place' for a speech delivered in the House is equally impaired whether the court proceedings are criminal or civil. Indeed, fear of criminal prosecution may be the graver inhibition." (emphasis added)

The Supreme Court in *United States* v. *Johnson*, 383 U.S. 169 (1966), approved the Court of Appeals conclusion as follows:

"The legislative privilege, protecting against possible *prosecution* by an unfriendly executive and conviction by a hostile judiciary, is one manifestation of the 'practical security' for ensuring the independence of the legislature." (emphasis added) (p. 179)

* * * * *

". . . it is apparent from the history of the clause that the privilege was not born primarily of a desire to avoid private suits such as those in Kilbourn and Tenney, but rather to prevent *intimidation* by the executive and *accountability* before a possibly hostile judiciary." (emphasis added) (pp. 180–181)

* * * * *

"There is little doubt that the instigation of *criminal charges* against critical or disfavored legislators by the executive in a judicial forum was the chief fear prompting the long struggle for parliamentary privilege in England and, in the context of the American system of separation of powers, is the predominant thrust of the Speech or Debate Clause. In scrutinizing this criminal prosecution, then, we look particularly to the prophylactic purposes of the clause." (emphasis added) (p. 182).

The indictment involved in the *Johnson* cases contained a conspiracy count which alleged that as part of the conspiracy, Representative Johnson was paid to make a speech in Congress and to persuade officials of the Department of Justice to postpone and dismiss a criminal action pending against a co-conspirator.

The Court of Appeals construed the case as raising the issue, not of whether questions could be asked about the speech, but of whether such a prosecution could be brought. The court said:

"This is the first case, within our knowledge, squarely raising the question whether the congressional privilege deprives a court of *jurisdiction to try* a member on a criminal charge of accepting money to make a speech in the House of which he is a member." (emphasis added) (337 F. 2d 186).

The Appellate Court concluded that it was not questions asked about the speech, but the indictment itself which was prohibited by the legislative privilege. The court declared:

"Inevitably, *the indictment* required an inquiry into Johnson's reason for delivering the speech, the very inquiry which the Supreme Court has explicitly declared to be beyond a court's power." (337 F. 2d 189) (emphasis added).

The Supreme Court in *United States* v. *Johnson*, 383 U.S. 169 (1966), reached the same conclusion. In extensive passages, the court indicated that it was the criminal charge, not the asking of questions, which was barred by Art. I, § 6, of the Federal Constitution:

"It is the *application* of this broad conspiracy *statute* to an improperly motivated speech that raises the constitutional problem with which we deal." (emphasis added) (p. 172).

* * * * *

"The constitutional infirmity infecting this prosecution is *not* merely a matter of the introduction of *inadmissible evidence*. The attention given to the speech's substance and motivation was not an incidental part of the Government's case, which might have been avoided by omitting certain lines of questioning or excluding certain evidence. The conspiracy *theory* depended upon a showing that the speech was made solely or primarily to serve private interests, and that Johnson in making it was not acting in good faith, that is, that he did not prepare or deliver the speech in the way an ordinary Congressman prepares or deliveries an ordinary speech." (emphasis added) (pp. 176–177).

* * * * *

"We see no escape from the conclusion that such an intensive judicial inquiry, made *in the course of a prosecution* by the Executive Branch under a general conspiracy statute, violates the express language of the Constitution and the policies which underlie it." (emphasis added) (p. 177).

* * * * *

"The essence of such a *charge* in this context is that the Congressman's conduct was improperly motivated, and as will appear that is precisely what the Speech or Debate Clause generally forecloses from executive and judicial inquiry." (emphasis added) (p. 180).

* * * * *

"The *indictment* itself focused with particularity upon motives underlying the making of the speech and upon its contents:

'(15) It was a part of said conspiracy that the said Thomas F. Johnson should . . . render services, for compensation, . . . to wit, the making of a speech [***] on the floor of the House of Representatives.' * * *

"We hold that a *prosecution* under a general criminal statute dependent on such inquiries necessarily contravenes the Speech or Debate Clause." (emphasis added) (pp. 184–185).

The conclusion is inescapable that the legislative privilege creates an immunity from civil or criminal prosecution. It does not bar the questioning of witnesses about legislative activities in proceedings in which the legislator himself is not being so called to account.

2. Only Senators and Representatives are protected by the Legislative Privilege.

The Intervenor has contended that Leonard Rodberg is his employee and as such shares the legislative privilege given the Intervenor by the Speech or Debate Clause.

This contention is clearly refuted by the language of the Speech or Debate Clause itself, as well as by the holding of *Dombrowski* v. *Eastland*, 387 U.S. 82, 85 (1967).

However, whether the Intervenor or the Government is correct in its view of the law is of no consequence in the present posture of this case. The legislative privilege creates an exemption from civil and criminal prosecutions for the legislative activities of those persons to whom its protection extends. Since witness Rodberg has not been prosecuted civilly or criminally for any activity which he or the Intervenor allege to be privileged, there is no occasion for any Court to decide whether he is covered by the legislative privilege or not. For the Court to do so would make its decision anticipatory and advisory, and would conflict with long established rules of jurisprudence. *United States* v. *Fruehauf*, 365 U.S. 146, 157 (1961); *Muskrat* v. *United States*, 219 U.S. 346 (1911).

3. Senators and Representatives Are Protected by the Legislative Privilege Only in Their Legislative Activities

The intervenor has insisted that the acquisition of documents later used in a speech, and their subsequent publication by a private printer are all activities protected by the legislative privilege.

In fact, the Speech or Debate Clause does not apply to such acquisitions or publications and the reason for the rule would not be served by such an application because such activities are not necessary to give legislators freedom to speak and debate. *McGovern* v. *Martz*, 182 F. Supp. 343 (D. D.C. 1960); *Long v. Ansell*, 69 F. 2d 386 (D.C. Cir. 1934), *aff'd* 293 U.S. 76 (1934); *Hentoff* v. *Ichord*, 318 F. Supp. 1175 (D. D.C. 1970); *Restatement of Torts*, 1938 ed. § 590 Comment b.

The intolerable situation which would be created by cloaking such activities with legislative immunity is readily seen from a simple illustration. If such activities were privileged, a legislator could receive a valuable stolen literary property, enter it as an exhibit in a committee hearing and then dispose of it to a publisher for a handsome profit, all with complete impunity.

Here too, however, the question of whether the Intervenor or the government is correct in its view of the law is of absolutely no consequence in the present posture of this case. Because the Intervenor has not been, and is not now, the subject of civil or criminal prosecution for any activity which he alleges to be privileged, there is no occasion for any Court to decide whether the activities he alleges to be privileged are in fact so privileged. Such a Court decision would be entirely anticipatory and advisory and would contravene long established rules of jurisprudence. *United States* v. *Fruehauf*, 365 U.S. 146, 157 (1961); *Muskrat* v. *United States*, 219 U.S. 346 (1911).

4. The Legislative Privilege Is Enforced by Obtaining Court Action Against Offending Prosecutions.

Because Intervenor has completely misconstrued the nature of the legislative privilege, he has also failed to apprehend the manner in which a legislator obtains its protection. He views the legislative privilege as prohibiting the government from asking any witnesses questions about: (1) how and from whom he received certain stolen government papers, and (2) publication of the papers after he placed them into the record of a Senate subcommittee. His proposed method for securing this fancied privilege is alternatively: (1) to quash the grand jury subpoenas of all witnesses who could be asked such questions, or (2) to supervise the grand jury's investigation himself by: (a) obtaining a list of all grand jury witnesses, (b) determining by Court hearing which witnesses know answers to questions he claims cannot be asked, and (c) obtaining in advance a list of all questions to be asked such witnesses.

However, as has been shown heretofore, the legislative privilege does not forbid the asking of questions but exempts legislators from civil and criminal prosecution. A legislator secures the protection of the privilege when—and only when—a civil or criminal charge is brought against him, for until that time his immunity from prosecution has not been infringed in any way. At such time he may then request the judiciary to dismiss the offending charge. He may not, however, seek to protect his legislative privilege by standing outside the grand jury door and complaining to the Court that he must know what witnesses are being called, what they know, and what they are being asked.

A legislator's immunity from prosecution by virtue of his position is to be guarded in the same way that the immunity of a witness testifying under an immunity statute such as 18 U.S.C. § 2514 is protected. Such a witness cannot complain that other witnesses are being questioned about matters on which he possesses immunity. Nor can he successfully demand a list of witnesses, or disclosure of their knowledge or the questions to be asked them. His immunity simply is not violated unless he is charged with an offense from which he is immune. His remedy—like the legislator's—is then to have the Court remove the offending charge.

In addition to its inappropriateness as a means of securing his legislative privilege. Intervenor's requested "mechanism" for controlling the grand jury would be violate of long-established rules, statutes and case law governing the secrecy of grand jury proceedings. Rules 6, 16, Federal Rules of Criminal Procedure; Title 18, United States Code, Section 3500; *Pittsburgh Plate Glass Company* v. *United States*, 360 U.S. 395 (1959); *United States* v. *Procter & Gamble*, 356 U.S. 677 (1958).

The case of *United States* v. *Johnson*, 383 U.S. 169 (1966), is instructive in this area also. Had Representative Johnson *not* been charged in the Indictment, there would have been no constitutional impediment to the questioning of witnesses concerning the details of his bribe-prompted speech in a prosecution of the other defendants. In fact, they were tried with Johnson and, according to the Supreme Court, at the trial

"Extensive questioning went on concerning how much of the speech was written by Johnson himself, how much by his administrative assistant, and how much by outsiders representing the loan company." (p. 173)

Despite this extensive questioning into matters for which defendant Johnson had legislative immunity, the convictions of Johnson's co-defendants were allowed to stand because they had no right that the evidence not be introduced against them. See *United States* v. *Johnson*, 337 F. 2d 180, 192 (4th Cir. 1964).

On the appeal from his conviction following his retrial, Johnson sought reversal claiming that the grand jury had violated his privilege by hearing evidence concerning his speech. The Appellate Court in *United States* v. *Johnson*, 419 F. 2d 56, 58 (4th Cir. 1969), in no way agreed with his contention but disposed of his argument by saying:

"Johnson contends that the counts of the indictment on which he was convicted are invalid because the grand jury that returned them heard evidence concerning his Congressional speech. Johnson's argument, however, is foreclosed by authorities that we deem controlling." [citing cases including *Costello* v. *United States*, 350 U.S. 359 (1956)]

Although too obvious to mention, it is abundantly clear that the existence of a grand jury investigation does not constitute a civil or criminal prosecution against the Intervenor or anyone else. As the Supreme Court has pointed out in *Cobbledick* v. *United States*, 309 U.S. 323, 327 (1940), "a grand jury proceeding has no defined litigants and . . . none may emerge from it . . ." In *Blair* v. *United States*, 250 U.S. 273, 282 (1919), the Court said of a Grand Jury investigation:

"The identity of the offender, and the precise nature of the offense, if there be one, normally are developed at the conclusion of the grand jury's labors, not at the beginning."

B. THE DENIAL OF INTERVENOR'S REQUESTED RELIEF IN THE DISTRICT COURT IS NOT APPEALABLE

Finality as a condition of review is a longstanding characteristic of federal appellate procedure. Denial of a motion to quash a grand jury subpoena has been held interlocutory and not appealable in *Cobbledick* v. *United States*, 309 U.S. 323 (1940), and *United States* v. *Ryan*, 402 U.S. 530 (1971).

It is true that in the present situation the Intervenor has no means of having himself held in contempt for disobedience to a subpoena so that he could appeal from such an order. However, this does not mean that he faces irreparable injury unless he is allowed to appeal, so as to invoke the rule in *Perlman* v. *United States*, 247 U.S. 7 (1918); permitting an appeal.

Perlman made a claim which if correct and not adjudicated on appeal could have meant that his constitutional right would have been violated. The Intervenor here has made a claim of legislative privilege for himself and his employee covering certain activities, but if the correctness of his claim is not reviewed by this Court he not only does not face irreparable injury, but he faces no injury whatever because no civil or criminal prosecution has infringed his constitutional immunity. In fact, he should not have been permitted to intervene in the District Court, and has no right or privilege to vindicate on this appeal.

If Intervenor's position on appealability were correct, then any legislator who wished to hamper or retard a grand jury investigation could claim a fear that witnesses may be asked about his activities, move to quash their subpoenas, and appeal from the lower courts' denials. If a civil or criminal charge were later brought against him he could seek its dismissal in court on grounds of legislative privilege and could appeal from denial of such a motion.

If a legislator were given such a series of appeals, it would be obvious both that the initial appeals were interlocutory and that he faced no injury—irreparable or otherwise—at the time the initial appeals were taken.

In the event that the Intervenor or his employee were charged with a civil or criminal offense, appeal could be had from any lower court ruling on their claim of legislative privilege. This would be full and adequate appellate review of his constitutional claim. Any review of claims made previous to such time would be premature and advisory.

[On the Government's Appeal]

C. THE DISTRICT COURT'S "PROTECTIVE ORDER" IMPROPERLY LIMITS THE GRAND JURY'S INQUIRY

The District Court's protective order states that: (1) "no witness before the grand jury . . . may be questioned about" certain conduct of Senator Mike Gravel, and that (2) Witness Rodberg "may not be questioned about" certain of his own actions taken at the Senator's direction.

As has been demonstrated in preceding portions of this brief, the Speech or Debate Clause prohibits a legislator from being "questioned" for legislative activities by civil or criminal prosecution, but does not preclude witnesses from being "questioned about" such activities in proceedings in which the legislator himself is not being so called to account.

In view of the nature of the legislative privilege, a protective order to insure a legislator's rights under it is neither necessary nor proper. The privilege creates an immunity from civil and criminal prosecution for legislative activities. This immunity is fully protected by resort to the courts when such an offending prosecution is brought. Any protective order issued in the absence of such a prosecution is entirely anticipatory and advisory, and is an improper interference with the lawful functions of the grand jury.

IV. CONCLUSION

For the reasons previously stated, with regard to the appeal of the Intervenor, the appeal should be dismissed, or in the alternative the District Court's denial of his requested relief should be affirmed.

With regard to the appeal of the government, the District Court's protective order should be vacated.

Respectfully submitted,

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[U.S. Court of Appeals for the First Circuit]

Brief of Intervenor, Appellant

(No. 71-1331—United States of America, verses John Doe, Mike Gravel, U.S. Senator, Intervenor, Appellant)

(No. 71-1332—Same, versus Same, Same)

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Charles L. Fishman,
Attorneys for Senator Gravel.

JURISDICTION

The Jurisdiction of this Court to hear and decide this matter is based upon 28 U.S.C. § 1291, in that this is an appeal from a final order of the District Court denying Appellant's motions to quash subpoenas, for specification, and for further relief. The argument in support of this Court's jurisdiction under 28 U.S.C. § 1291 is presented *infra* at pp. 13–17.

STATEMENT OF THE CASE

Appellant, Mike Gravel, is a duly elected and certified member of the United States Senate and Chairman of the Senate Subcommittee on Buildings and Grounds. On June 29, 1971, he duly convened a public meeting of the Subcommittee, with United States Congressman John Dow testifying as a witness; and during the course of the meeting Senator Gravel read and inserted into the official subcommittee record part of the material commonly referred to as the "Pentagon Papers."

At the end of the hearing, Senator Gravel ordered that the record of the subcommittee hearing be publicly released, and excerpts from it were widely reported in the press. In July of 1971, Senator Gravel ordered a copy of the record delivered to Beacon Press, a nonprofit publishing house operated by the Unitarian-Universalists Association. Also in July the United States Attorney requested the Court below to convene a grand jury.

On August 24, 1971 a subpoena was served upon Dr. Leonard S. Rodberg ordering him to appear and give testimony three days later before the grand jury. Dr. Rodberg had become a member of Senator Gravel's personal legislative staff on the morning of June 29 and acted from that point on under Senator Gravel's direction and control.[1] On August 27, 1971 Dr. Rodberg moved to quash the subpoena in the Court below. On that same date Senator Gravel moved to intervene, which motion was briefed by the parties and granted by the Court below on September 1, 1971.

Senator Gravel then moved to quash the grand jury subpoena or for a specification of the purpose and scope of the inquiry and the questions to be asked. Senator Gravel and Dr. Rodberg both alleged that the government intended to interrogate Dr. Rodberg before the grand jury about the actions of Senator Gravel and his aides in making available to his colleagues and the electorate the contents of the "Pentagon Papers," which were critical of Executive conduct in foreign relations. Evidence in support of this allegation was introduced, and the government did not deny it. On the contrary, the government asserted that none of the actions taken by Senator Gravel, including those at the Subcommittee hearing, were privileged by the Speech or Debate Clause and that the government could subpoena and criminally prosecute Senator Gravel himself.[2] Oral argument was heard on these motions on September 10, 1971.

On October 4, 1971, the Court below issued its Memorandum of Decision and Protective Order (see *infra* pp. 8–11.) which denied Senator Gravel's Motions to Quash or For Specification. The Court below held that Article I, Section 6, Clause I of the Constitution—the Speech or Debate Clause—prohibited the grand jury from making any inquiry of any witness about Appellant's "conduct at a meeting of the Subcommittee on Public Buildings and Grounds on June 29, 1971 [or] about things done by the Senator in preparation for and intimately related to said meeting." (Memorandum of Decision and Protective Order of October 4, 1971, p. 16); and prohibited questioning of Dr. Rodberg "about his own actions on June 29, 1971, after having been engaged as a member of Senator Gravel's personal staff to the extent that they were taken at the Senator's direction either at a meeting of the Subcommittee on Public Buildings and Grounds or in preparation for or intimately related to said meeting." (Memorandum of Decision and Protection Order of October 4, 1971, p. 17.) The Court below held, however, that Senator Gravel's actions in securing the public distribution of the official Subcommittee record by its republication "stands on a different footing and, in the Court's opinion, is not embraced by the Speech or Debate Clause.'' (Memorandum of Decision and Protective Order of October 4, 1971, p. 12).

On October 12, 1971, Appellant filed before the Court below a Motion for Reconsideration and/or Stay Pending Appeal. The Court below stayed enforcement of Dr. Rodberg's subpoena pending reconsideration and asked for a brief from the government on the issues presented. While this Motion was under consideration by the Court below, counsel for Appellant discovered that the grand jury had subpoenaed and intended to question witnesses about matters Appellant believes are protected from inquiry by Article I, Section 6, Clause I, and the District Court's Protective Order of October 4, 1971. Specifically, counsel for Appellant was informed by the United States Attorney that the grand jury wished to inquire into how and from whom Appellant received the material which he read at the Subcommittee hearing. Counsel for Appellant also discovered that the grand jury had subpoenaed and intended to question witnesses about matters which were then under submission to the Court below. Specifically, counsel for Appellant was informed by the United States Attorney that the grand jury wished to inquire into Appellant's and Dr. Rodberg's conduct in releasing the official Subcommittee record for public dissemination. Among these witnesses was Howard Webber, Director of M.I.T. Press, whose activities with Senator Gravel and Dr. Rodberg were described in documents previously filed in the Court below. Appellant moved to intervene and quash the Webber subpoena, alleging that the government intended to interrogate him solely about the above activities. Appellee did not deny any of these allegations, either in the Court below or in this Court on Appellant's Motion for Stay Pending Appeal, and admitted in the Court below that its primary interest in Mr. Webber related to the conduct of Senator Gravel and his aides in attempting to republish the Subcommittee record. Moreover, the subpoena issued on Webber was *duces tecum* and directed him to produce records and notes of conversations held on July 23 with Dr. Rodberg "concerning the Pentagon Papers."

On October 27, 1971, Senator Gravel filed in the Court below a Motion for Further Relief seeking to prevent the inquiries discussed above by providing the Court and Appellant with some judicial mechanism for assuring that the Court's protective Orders and stays were being observed and that questions regarding the applicability of the Court's protective order would be properly decided. The District Court denied Senator Gravel's Motion on three grounds.

"(a) The court has no reason to doubt that its protective order will be obeyed. At the hearing, government counsel stated that it would be. Attorneys are officers for the court on whose good faith the court customarily relies and there is no reason why an exception should be made in this case.

"(b) The court believes that its protective order issued October 4 is unambiguous. The purport of the order is explained at length in the memorandum accompanying it.

"(c) The relief sought by the intervenor in his motion for further relief would impede the grand jury's investigation. A balance must be struck between the intervenor's right not to be intimidated by the Executive by an inquiry into his legislative acts, *United States* v. *Johnson*, 1966, 383 U.S. 169, 181, and the grand jury's right not to be hobbled by a daily dissection of its activities."

The Court below granted Appellant's Motion to Intervene with respect to the subpoena issued on Mr. Webber. While the Court below denied on October 28, 1971, Appellant's Motion to quash Mr. Webber's subpoena, it granted Appellant a ten (10) day stay on Webber's subpoena pending appeal to this Court. On the same day (October 28, 1971) the Court below denied Appellant's Motion For Reconsideration in Dr. Rodberg's case but granted Appellant a ten (10) day stay of Dr. Rodberg's subpoena pending appeal to this Court. On October 28, 1971, Appellant sought by motion but was denied stenographic copies of the grand jury minutes.

On October 29, 1971 the District Court issued a supplemental Protective Order to its Order of October 4, 1971. The Court below characterized Appellant's constitutional claims as substantial and by no means frivolous. To protect Appellant's position the District Court for a period of ten (10) days ordered the grand jury not to question any witness about Appellant's conduct in arranging for the republication of the Subcommittee record or about Dr. Rodberg's conduct in arranging for publication to the extent that Dr. Rodberg was acting in his capacity as a member of the Senator's personal staff.

On October 28, 1971, Appellant filed his notice of appeal in both cases with the Clerk of the District Court and moved immediately in this Court for a stay pending appeal. This Court held an emergency hearing on October 29, 1971 and entered a Memorandum and Order prohibiting, until further order of this Court, any grand jury inquiry in whatever form into any crimes which may relate to the so-called "Pentagon Papers." On October 29, 1971, the United States filed a cross appeal.

FINDINGS OF FACT AND CONCLUSIONS OF LAW BY THE COURT BELOW

In the "Memorandum of Decision and Protective Order" issued October 4, 1971, the Court below made three basic findings of fact and ten conclusions of law. The findings of fact, which are relevant to this appeal, are:[3]

1. Dr. Leonard S. Rodberg is a Personal staff assistant of Senator Gravel. (Slip Opinion, p. 4.)

Footnotes at end of article.

2. "[A]s personal assistant to [Senator Gravel], Dr. Rodberg assisted [Senator Gravel] in preparing for disclosure and subsequently disclosing to [Senator Gravel's] colleagues and constituents, at a hearing of the Senate Subcommittee on Public Buildings and Grounds, the contents of the so-called "Pentagon Papers," which were critical of the Executive's conduct in the field of foreign relations." (Slip Opinion, p. 2.)

3. "Viewing together the crimes this grand jury is investigating and the chronology of acts and events leading up to Dr. Rodberg's subpoena, the Court infers that the government's interest in his testimony pertains to his acts as Senator Gravel's assistant with regard to the Pentagon Papers and that the government attorneys plan to question him about them before the grand jury." (Slip Opinion, pp. 5–6.)

The conclusions of law made by the Court below may be summarized as follows:

1. The Speech or Debate Clause "is limited specifically to legislative acts and antecedent conduct so intimately related to them such as cannot be proved without resort to inquiry into legislative acts." (Slip Opinion, p. 7.)

2. Senator Gravel's legislative acts may not consistently with the Speech or Debate Clause be the subject of questioning of any witness before the grand jury. (Slip Opinion, p. 9.)

3. All actions taken by Senator Gravel at the June 29 Subcommittee meeting, and in preparation for and intimately related to this meeting, are privileged. (Slip Opinion, pp. 10, 16.)

4. The judiciary may not inquire into the purpose or legitimacy of the Subcommittee meeting. (Slip Opinion pp. 10–11.)

5. "[T]he legislative privilege conferred by the Speech or Debate Clause belongs to Congressmen only and not to their assistants and aides." (Slip Opinion, p. 7.)

6. However, in order to protect a Senator's privilege, it "must extend to some activities of a member of his personal staff acting at his direction." (Slip Opinion, p. 14.)

7. Therefore, "the Speech or Debate Clause prohibits inquiry into things done by Dr. Rodberg as the Senator's agent or assistant which would have been legislative acts, and therefore privileged, if performed by the Senator personally." (Slip Opinion, p. 14; see p. 17.)

8. Dr. Rodberg may be questioned about subjects beyond the protection of the privilege, including "the activities of third parties with whom he and the Senator dealt" and "his own conduct previous to his joining the Senator's personal staff . . ." (Slip Opinion, p. 8.)

9. Senator Gravel's "arranging for private publication of the Pentagon Papers . . . is not embraced by the Speech or Debate Clause," and Dr. Rodberg and other witnesses (including, presumably, Senator Gravel) may therefore be interrogated about it by the grand jury and made the subject of criminal prosecution. (Slip Opinion, p. 12; see pp. 16–17.)

10. The protective order which delimits the subject matter of questions which may not be asked of witnesses before the grand jury "fully protects" Senator Gravel's Constitutional rights.

In the "Memorandum and Order Denying Motion for Further Relief" entered on October 29, 1971, the Court below held that Appellant must rely entirely upon the good faith of the United States Attorney to enforce the Protective Order of the District Court.

In the District Court's "Supplemental Protective Order" of October 29, the Court below made the following conclusions of law:

1) Appellant's contentions are substantial and by no means frivolous. (Slip Opinion, p. 1.)

2) The subpoenas served upon Dr. Rodberg and Mr. Webber were stayed for a period of ten (10) days.

3) No witnesses called before the grand jury could be questioned about Appellant's or Dr. Rodberg's conduct in arranging for publication of the so-called "Pentagon Papers" for a period of ten (10) days.

QUESTIONS PRESENTED

I. Whether the decision of a United States District Court denying the Motion of a United States Senator to quash a grand jury subpoena or for specification is appealable under 28 U.S.C. § 1291 when the constitutional rights of the Senator under the Speech or Debate Clause are threatened with irreparable injury by the testimony of third parties over whom the Senator has no control and when the Senator has no other means of securing judicial review?

II. Whether the Executive Branch may seek the aid of the Judicial Branch in convening a grand jury, subpoenaing witnesses and seeking the employment of the Court's contempt powers to assist the Executive in its inquiry into the publication by a United States Senator of the official record of a Senate Subcommittee of which he is Chairman?

III. Whether the Court below committed error in holding that Senator Gravel's constitutional rights were threatened with violation but nevertheless refused to establish any judicial procedures to enforce those rights or provide for judicial review of quesitons of constitutional fact, requiring instead that Senator Gravel rely entirely upon the "good faith" of counsel for the Executive Branch to interpret and enforce the Court's order?

ARGUMENT

I. This court has jurisdiction over this appeal pursuant to 28 U.S.C. § 1291

The Appellee has asserted that the denial of Senator Gravel's motions to quash, for specification and for further relief, is not a final order and thus not appealable under 28 U.S.C. § 1291. In *Perlman* v. *United States*, 247 U.S. 7 (1918), the Supreme Court held that a non-witness intervenor could appeal as of right from the denial of his motion to quash a grand jury subpoena. In that case, the Government sought a subpoena directed to a third party to produce for grand jury inspection certain documents owned by Perlman.[4] Perlman moved to intervene and to quash the subpoena on the grounds that it violated his Fourth Amendment rights. Intervention was allowed and the motion to quash denied. On appeal to the Supreme Court, the Government argued that the denial of Perlman's motion to quash was interlocutory. Rejecting this argument, the Court stated that Perlman had no other means to obtain review and therefore the denial of his motion to quash was a final, appealable order. *Id.*, at 12–13.

As in *Perlman*, Senator Gravel cannot obtain review from the denial of the motion to quash except by direct appeal, inasmuch as he has not been called to answer and cannot, by refusal to comply, be adjucated in contempt. Numerous other cases are in accord with *Perlman* that the denial of a motion to quash a subpoena issued in either a civil or grand jury proceeding is appealable under 28 U.S.C. § 1291 where no other means of obtaining appellate review is available to the person affected, particularly a non-witness, and the injury complained of is irreparable. *Covey Oil Co.* v. *Continental Oil Co.*, 340 F. 2d 993 (10th Cir. 1965), *cert. denied*. 380 U.S. 964; *First National Bank* v. *Arisguieta*, 287 F. 2d 219 (2d Cir. 1960), *cert. denied* 365 U.S. 840; *Overby* v. *U.S. Fidelity & Guar. Co.*, 224 F. 2d 158 (5th Cir. 1955) and cases cited therein at p. 162 nn. 3, 4; *In re Investigation by U.S. Atty Gen.*, 104 F. 2d 658 (2d Cir. 1939).

The inverse situation—appeal of an order granting a motion to quash—although ordinarily interlocutory, has been held final and therefore appealable under 28 U.S.C. § 1291 when no other avenue of judicial review is feasible. *Carter Products* v. *Eversharp, Inc.*, 360 F. 2d (7 Cir. 1966); *Westinghouse Electric Co.* v. *Burlington*, 351 F. 2d 762 (D.C. Cir. 1965). This Court has followed and applied that rule in *Horizons Titanium Corp.* v. *Norton Co.*, 290 F. 2d 421 (1st Cir. 1961). In all of these cases the test has been the availability or lack of alternative means of obtaining judicial review to prevent an irreparable injury.

The government, through the Solicitor General, has acknowledged and applied the *Perlman* rule in a strikingly analogous case.

In *McSurely* v. *Ratliff*, 389 U.S. 949 (1967), officials of the State of Kentucky illegally seized the personal property of McSurely who sought to retain possession of his property through the federal courts. After a statutory three-judge court decided the case in favor of McSurely, 282 F. Supp. 848 (E.D. Ky. 1967), but granted a stay pending appeal to the government, a United States Senate Committee issued a subpoena *duces tecum* to Ratliff. McSurely then moved to quash the subpoena sought by the Senate Committee by moving in the ongoing action. The three-judge District Court refused to quash the subpoena. McSurely then appealed to Circuit Justice Stewart who granted a stay of the subpoena and at the suggestion of the Solicitor General sent the case back to the District Court for a hearing. The Memorandum of the Solicitor General states:

"Appellants' essential contention as stated in their application to the Circuit Justice is that the order of the District Court insofar as it directs officials of the Commonwealth of Kentucky to make available to the Senate Committee the documents here in question precludes them from an effective exercise of their right to test the validity of the Committee's subpoena by contempt or otherwise. Thus they argue that whereas in the ordinary situation where a legislative body direct it's subpoena *duces tecum* to the owner of the records he may present his objections to production to that body, and, if they are overruled, test his claim by reusing to produce and running the risk of a citation for contempt, here, the opportunities to contest will be lost if a third party who has obtained possession without consent should be obliged to produce them directly.

"At the same time the Committee has no purpose to prevent the applicants from securing a judicial determination of the validity of any defenses which they may have, provided that they present their claims expeditiously. Moreover we do not dispute the proposition that their opportuntiy to present such defenses as they might otherwise have should not be lost by virtue of the fact that the documents here involved are in the hands of a third party. Accordingly we acknowledge applicants standing to challenge the subpoena issued to the state authorities. Compare *Reisman* v. *Caplin*, 375 U.S. 440."

On remand the District Court denied McSurely's Motion to Quash and the Supreme Court granted another stay while ordering McSurely to file a jurisdictional statement. 390 U.S. 412 (1968). Thereafter the Supreme Court ruled that the appeal properly belonged in the Court of Appeals for the Sixth Circuit. On remand the Sixth Circuit heard and decided the case in favor of McSurely. See *McSurely* v. *Ratliff*, 398 F. 2d 817 (6th Cir. 1968). The subpoena was quashed. Here, as in *McSurely*, jurdisdiction is in this Court because Senator Gravel has no other available means of securing judicial review to prevent irreparable injury to vested constitutional rights.

For the above reasons Appellant submits that this Court has jurisdiction of this case under 28 U.S.C. § 1291.

Footnotes at end of article.

II. The republication and public distribution by a Senator of an official, public record of a subcommittee critical of Exectuive conduct in foreign relations is protected by the speech or debate clause.

Preliminary Statement

This appeal as distinguished from appellee's cross appeal involves only two conclusions of law from the Memorandum of Decision & Protective Order of October 4, 1971 of the Court below. They are: (1) that Senator Gravel's "arranging for private publication of the Pentagon Papers . . . is not embraced by the Speech or Debate Clause," and Dr. Rodberg and other witnesses (including, presumably, Senator Gravel) may therefore be interrogated about it by the grand jury (Slip Opinion, p. 12); and (2) that the protective order which delimits the subject matter of questions which may not be asked of witnesses before the grand jury "fully protects" Senator Gravel's constitutional rights (see pp. 16–17, Slip Opinion).

The two issues presented before this Court on appeal with respect to the scope of the privilege relate to the constitutional protection to be given to republication of the official record of the June 29 meeting of the Senate Subcommittee on Public Buildings and Grounds by its chairman. We submit that the holding of the Court below that a Member of Congress is privileged for reading material into a committee record but may be subjected to executive inquiry and possible criminal prosecution for then making the record, containing information of overwhelming public concern, available to the public contravenes the history, logic and principles of the Speech or Debate Clause and of separation of powers.

While the Senator's actions at the June 29 Subcommittee meeting are not in question in this appeal but may be in the cross appeal, some discussion of the rationale for the applicability of the privilege to them is necessary for an understanding of the scope of the privilege conferred by the Speech or Debate Clause. We are not suggesting that a Senator is immune from prosecution with respect to all actions taken, simply because of his status as a Member of Congress (e.g. armed robbery or even bribery are obviously beyond the scope of the privilege). The test is not geographical or physical and it does not depend on the fortuitous location of the Senator's activities. Nor does the Clause give Congressional immunity to the speeches of a Senator only when those speeches occur on the Senate floor, as a literalistic reading of the Speech or Debate Clause might imply, for such narrow construction has been rejected by the Supreme Court since the earliest cases. In the landmark decision of *Kilbourn* v. *Thompson*, 103 U.S. 168 (1881), the Court held that the Speech or Debate Clause affords protection for all normal functions of a Member of Congress, including in addition to words spoken in debate, resolutions offered, votes taken, and actions of committees, without reference to the location of these activities.

This test which the Supreme Court applied in *Kilbourn* has been reaffirmed in the decisions following that case, the most significant being *United States* v. *Johnson*, 383 U.S. 169, 179 (1966) where the Supreme Court emphasized that the privilege "shall be read broadly to include not only 'words spoken in debate,' but anything 'generally done in a session of the House by one of its members in relation to the business before it'." The standard to be applied, then, under the Speech or Debate Clause, and the only one consistent with the history and policy of the privilege, is whether or not the activities sought to be protected are "related to the due functioning of the legislative process." *U.S.* v. *Johnson, supra,* at 169, 172, 179. This standard immunizes a Member of Congress for actions taken in the discharge of his duties as a representative of the electorate and prevents harassment and retaliation by the Executive which would thereby endanger our system of separation of powers. Accordingly, the Court below was clearly correct in holding that the privilege must immunize conduct of a Senator taken at a committee hearing. *Kilbourn* v. *Thompson, supra; Tenney* v. *Brandhove*, 341 U.S. 367 (1951); *Dombrowski* v. *Eastland*, 387 U.S. 82 (1967); *Powell* v. *McCormack,* 395 U.S. 486, 502–03 (1969). We think it evident, however, that direct communication by a Senator with the electorate through the publication and distribution of committee records plays as large a roll in our system of representative government and is thus entitled to like protection.

A. Republication of Committee Records is Related to the Due Functioning of the Legislative Process.

As noted above, ever since the landmark decision of *Kilbourn* v. *Thompson*, 103 U.S. 168 (1881), the Supreme Court has rejected attempts to confine the Speech or Debate Clause to words spoken on the floor of Congress and has held that it affords protection for things "generally done in a session of the House by one of its members in relation to the business before it." *Id.,* at 204. Reiterating this test as recently at 1967, the Court added that an action of a Member of Congress is protected by the constitutional privilege if it is "related to the due functioning of the legislative process." *United States* v. *Johnson,* 383 U.S. 169, 172, 179.

In considering whether any given practice falls within these standards, two benchmarks are suggested from the decisions. First, a court may ask whether that practice is necessary to fulfill any of the goals of representative government as established by the Constitution. Second, a court may look for guidance at the actual workings of Congress to determine whether the practice is widely utilized by Members of Congress and uniformly regarded as legitimate; in other words, whether it is "generally done . . . by . . . its members in relation to the business before it."

It is clear that republication of speeches and committee records and their dissemination to the electorate meets each of these criteria. The scheme of representative democracy envisaged by the Framers presupposes the maximum amount of communication between the citizens and their elected representatives. Under our system of government, the ultimate power resides in the people. As Madison, who is appropriately called the Father of the Constitution, said, "The people, not the government, possess the absolute sovereignty." [5] For this system to be viable, the people must be informed fully of the workings of government so that they may be able meaningfully to exercise their Constitutional rights to vote intelligently and to "free public discussion of the stewardship of public officials." [5a] Madison well understood that this imposes a *duty* on public officials to inform the electorate:

> "Let it be recollected, lastly, that the right of electing the members of the government constitutes more particularly the essence of a free and responsible government. The value and efficacy of this right depends on the knowledge of the comparative merits and demerits of the candidates for public trust, and on the equal freedom, consequently, of examining and discussing these merits and demerits of the candidates respectively." [6]

James Wilson, another architect of the Constitution, has precisely this in mind when he emphasized the "informing function" of Congress as an essential part of the due functioning of the legislative process:

> "It is the proper duty of a representative body to look diligently into every affair of government and to talk much about what it sees. It is meant to be the eyes and the voice, and to embody the wisdom and will of its constituents. Unless Congress have and use every means of acquainting itself with the acts and the disposition of the administrative agents of the government, the country must be helpless to learn how it is being served; and unless Congress both scrutinize these things and sift them by every form of discussion, the country must remain in embarrassing, crippling ignorance of the very affairs which it is most importanct that it should understand and direct." [7]

In concluding that "[t]he informing function of Congress should be preferred even to its legislative function," [8] Wilson surely was not drawing an unbridgeable distinction between the two. Informing the electorate is a "legislative act" since it is clearly "related to the due functioning of the legislative process." *United States* v. *Johnson,* supra at 172. In fact, it is no exaggeration to say that direct communication between a Member of Congress and the electorate is an essential bedrock of the legislative process, for it insures that the people will inform *him and his colleagues* of their well-considered views on pending and future legislation—an indispensable prerequisite for each Congressman deciding how to cast his own vote.[9]

It should go without saying that the republication of speeches, committee reports or transcripts is necessary for a Member of Congress to inform and carry on a dialogue with the people. Few individuals have access to the *Congressional Record,* and fewer still to the original transcripts of committee hearings. Nor can the press be depended upon solely to report the views of Congressmen to their constituents. The press gives at best a summary, perhaps overlaid with editorial comment. There is no substitute for the dissemination of the original.[10]

Secondly, if one were to examine the actual workings of Congress to determine whether republication of speeches and committee records is "generally done," *Kilbourn* v. *Thompson, supra,* the same conclusion would be reached. The informing function of Congressmen and its relationship to the legislative process has been documented in many scholarly studies. See, e.g., Griffith, *Congress: Its Contemporary Role* (3rd Ed. 1961); Key, *Politics, Parties and Pressure Groups* (3rd Ed. 1952). Perhaps every Congressman, without exception and since the earliest days of the Republic, has circulated copies of his speech made on the floor and in committee to the public, held press conferences elaborating upon what he said on the floor, issued press releases, and spoken directly to his constituents in explaining his votes or speeches and inviting their views. And we doubt that a single Member of Congress could be found who thought that these actions were not "related to the due functioning of the legislative process." *United States* v. *Johnson, supra* at 182.

"Republication" is not a talismanic phrase signifying an act done outside the proper sphere of Congressional activity. On the contrary, when analyzed it is evident that the term bespeaks an integral part of the legislative process and of the entire system of representative government. The heart of representative democracy is the communicative process between the people and their agents in government. If the people's representatives do not fulfill their duty to inform the electorate, there will be endangered the ideal of self-government upon which our Republic was founded—"If we advert to the nature of Republican Government, we shall find the censorial power in the people over the Government, and not in the Government over the people." [11] Mr. Justice Black expressed this cogently in holding that an executive official was immune from damage suits for issuing a defamatory press release:

"The effective functioning of a free government like ours depends largely on the

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Footnotes at end of article.

force of an informed public opinion. This calls for the widest possible understanding of the quality of government service rendered by all elective or appointed public officials or employers. Such an informed understanding depends, of course, on the freedom people have to applaud or criticize the way public employees do their jobs, from the least to the most important." *Barr* v. *Matteo,* 360 U.S. 564, 577 (1958).

In sum, it is clear that an examination of both the theoretical framework of our representative government and its actual practices leaves no doubt that direct communication by a Congressman to the electorate, through the republication and public distribution of speeches and committee records, is conduct "generally done" by Members of Congress "in relation to the business before it," *Kilbourn* v. *Thompson, supra* at 204, is clearly "related to the due functioning of the legislative process," *United States* v. *Johnson, supra* at 179, and is surely within "the sphere of legitimate legislative activity," *Tenney* v. *Brandhove, supra* at 376. Accordingly this conduct is protected from grand jury investigation by the Speech or Debate Clause.

B. Prior Decisions Confirm that Republication by a Member of Congress of a Speech or Committee Record is Privileged Under the Speech or Debate Clause.

Prior to the case at bar, courts have on five occasions expressed views upon the scope of the Congressional privilege with respect to republication of official documents. We believe that these decisions fully support our position.

1. *Hearst* v. *Black,* 87 F. 2d 68 (D.C. Cir. 1936), was an action to enjoin the Members of a Special Senate Subcommittee from retaining possession and distributing copies of documents which they had allegedly secured illegally. The Court of Appeals agreed that the seizure of the documents violated statutory and Constitutional rights, *id.,* at 70, but held nevertheless that Congressional privilege barred the judiciary from interfering in any way with the use of the documents by the Subcommittee, including republication (copying) and distribution to people outside of Congress. The Court stated:

"The prayer of the bill is that the committee be restrained from keeping the messages or making any use of them or disclosing their contents. In other words, that if we find that the method adopted to obtain the telegrams was an invasion of the appellant's legal rights, we should say to the committee and to the Senate that the contents could not be disclosed or used in the exercise by the Senate of its legitimate functions. We know of no case in which it has been held that a court of equity has authority to do any of these things. On the contrary, the universal rule, so far as we know it, is that the legislative discretion in discharge of its constitutional functions, whether rightfully or wrongly exercised, is not a subject for judicial interference.

"The Constitution has lodged the legislative power exclusively in the Congress. If a court could say to the Congress that it could use or could not use information in its possession, the independence of the Legislature would be destroyed and the Constitutional separation of powers invaded." *Id.,* at 71–72.

2. After a twenty-year hiatus, the republication issue was again presented, this time in a libel suit. In *Methodist Federation for Social Action* v. *Eastland,* 141 F. Supp. 729 (D.D.C. 1956) (three-judge court), the Senate Internal Security Subcommittee has printed a limited number of pamphlets accusing several well-known and respectable groups, including the plaintiff, of being Communist-front organizations. The Subcommittee then ordered another 75,000 copies to be printed. Claiming that the accusations in the pamphlet were false and defamatory and would cause irreparable injury, the plaintiff requested a restraining order against republication and widespread distribution of the pamphlet. The Court assumed the plaintiff's assertions of malicious defamation and irreparable injury to be true but dismissed the case on the grounds of the Congressional privilege of the Speech or Debate Clause, holding:

"By express provision of the Constitution, Members of Congress, 'for any Speech or Debate in either House . . . shall not be questioned in any other place.' Art. I, Sec. 6 . . .

"The premise that courts may refuse to enforce legislation they think unconstitutional does not support the conclusion that they may censor Congressional language they think libelous. We have no more authority to prevent Congress, or a Committee or public officer acting at the express direction of Congress, from publishing a document than to prevent them from publishing the *Congressional Record.* If it unfortunately happens that a document which Congress has ordered published contains statements that are erroneous and defamatory, and are made without allowing the persons affected an opportunity to be heard, this adds nothing to our authority. Only Congress can deal with such a problem.

"The Constitutional history called to our attention includes no instance in which an English court has attempted to restrain Parliament, or an American court to restrain Congress, from publishing any statement . . .

"As to the members of the Senate Subcommittee, the complaint is dismissed for lack of jurisdiction. Cf. *Hearst* v. *Black,* supra." *Id.,* at 731–732.

Thus, in this case, as in *Hearst* v. *Black,* the Court concluded that the Constitutional privilege of Members of Congress embraced republication of Subcommittee reports and placed this action beyond the cognizance of the judiciary.

3. In *Hentoff* v. *Ichord,* 318 F. Supp. 1175 (D.D.C. 1970) the Court held unequivocally that the Speech or Debate protects Members of Congress from any judicial accountability for republishing committee reports. The action was brought to prevent the Members of the House Committee on Internal Security and the Public Printer from republishing and distributing to the public 6,000 copies of a Committee Report which, if circulated, would infringe the plaintiffs' First Amendment right. The relief sought was an injunction against republication and distribution, limited the Reporter's disclosure to insertion in the *Congressional Record* and such discussion as would ordinarily follow in debate on the floor.

Relying on the Speech or Debate Clause, the Court *dismissed the complaint as to the Members of Congress.*

After reviewing the precedents, Judge Gesell stated:

". . . These cases establish that the courts lack jurisdiction to entertain an action *seeking any remedy* against a Member of Congress for any statement made or action taken in the sphere of legitimate legislative activity.

"Plaintiffs contend that . . . this Court may restrain Congressmen from publishing, filing, or distribution, except by insertion in the *Congressional Record,* a report that impinges upon First Amendment rights.

"The Court is of a contrary view. Members of Congress have the same right to speak as anyone else. *Their legislative activities are not limited to speech or debate on the Foor of Congress. Information in this Report involves matters of public concern, and the Court will take no action which limits the use that individual Congressmen choose to make of the Report or its contents on or off the Floor of Congress.* No injunction is appropriate against any Congressman named defendant." *Id.,* at 1179 (emphasis added).

The Court then followed the distinctions in *Kilbourn* v. *Thompson, supra* and *Powell* v. *McCormack, supra,* between Members of Congress, who are totally immune from judicial accountability, and ministerial agents, who may be held liable for enforcing Congressional orders. Thus, the Court restrained the Public Printer from republication but held the Members of Congress absolutely privileged from accountability. And with respect to the latter, Judge Gesell explicitly stated that the privilege of Congressmen was within "the sphere of legitimate legislative activity." [12]

4. The only case which even suggests that a Congressman's privilege may be diluted for republishing a speech or Committee report is *McGovern* v. *Martz,* 182 F. Supp. 343 (D.D.C. 1960). However, a close reading of the facts and opinion in that case shows that it lends but very limited support for the proposition that the protection of Speech or Debate Clause does not extend to republication.

The *McGovern* case involved a libel action by Congressman (now Senator) McGovern, who sued the publisher of a newsletter for falsely reporting that he had sponsored a "Communist front." The defendant counterclaimed that the Congressman had inserted certain defamatory remarks into the *Congressional Record.* There was no republication of these remarks.[13] The Court granted McGovern's motion to dismiss the counterclaim on the ground of Congressional privilege. *Id.* at 348. The Court then addressed itself to whether the privilege would protect circulation of reprints from the *Congressional Record.* Its remarks on this issue are *obiter dictum* since neither reprints nor unofficial dissemination was involved. Further, the Court recognized that Congressmen must be "protected and thereby free to inform their constituents," and believed that a privilege, albeit qualified by a malice requirement, was applicable. *Id.* at 348.[14]

It is evident that *McGovern* v. *Martz* cannot be read broadly as a precedent that republication of committee reports or transcripts is not protected by the Speech or Debate Clause, for four basic reasons:

(a) The discussion was *obiter dictum.* Due to the failure of proper adversary presentation the Court was unaware of prior precedents, including *Hearst* v. *Black, supra,* which is binding on the District Courts for the District of Columbia. And the only holding of the case related to insertions in the *Congressional Record.*

(b) Even in dictum, the Court did *not* say that republication was not protected by the Speech or Debate Clause. Rather it stated that a privilege existed but was not absolute. As we shall show, *infra* section C., the Court's logic in a libel suit would compel an absolute privilege in a criminal prosecution case.

(c) In qualifying the privilege by a malice standard the Court was clearly in error. The Supreme Court in *Tenney* v. *Brandhove,* supra at 377, held explicitly that if the privilege exists it is absolute: "The claim of an unworthy purpose does not destroy the privilege." See also *Cochran* v. *Couzens,* 42 F. 2d 783 (D.C. Cir. 1930) cert. denied 283 U.S. 874. Having determined that republication was within "the sphere of legitimate legislative activity," the Court was bound to hold the privilege absolute. And as long ago as 1896, the Supreme Court held that an official's personal malice is relevant only when the officials acted "in reference to matters . . . manifestly or palpably beyond his authority." *Spalding* v. *Vilas,* 161 U.S. 483. See also *Barr* v. *Matteo* 360 U.S. 564 (1959).

(d) The qualifying dictum in the *McGovern* case has not been followed. *Hentoff* v. *Ichord, supra* at 1179.

5. The Supreme Court has settled decisively that the privilege of a non-elected Executive official encompasses republication and

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Footnotes at end of article.

that the privilege is absolute even in libel cases. In *Barr* v. *Matteo,* 360 U.S. 564 (1959) and its companion case *Howard* v. *Lyons,* 360 U.S. 593 (1959), two subordinate officials in the Executive Department were sued for issuing and circulating copies of defamatory press releases.[15] Invoking the judicially-created doctrine of Executive privilege for acts within the legitimate sphere of official conduct, the Court stated:

"*. . . It would be an unduly restrictive view of the scope of the duties of a policy-making executive official to hold that a public statement of agency policy in respect to matters of wide public interest and concern is not action in the line of duty.*" 360 U.S. at 575. (Emphasis added.)

And the Court held: "*The fact that the action here was within the outer perimeter of petitioner's line of duty is enough to render the privilege applicable . . .*" *Ibid.* (Emphasis added.)

As the Court below observed in its decision (Slip Opinion, pp. 14–15), judicially developed rules in cases of non-Constitutional privilege bear upon the scope of the Congressional privilege since the former "surely does not warrant broader protection than the legislative privilege based upon the Speech or Debate Clause." By a parity of reasoning, the Supreme Court's holding that republication of documents and their distribution to the public by Executive officials is absolutely privileged applied with at least equal force to the Constitutional privilege of Members of Congress. And no amount of legal alchemy can make a public press release by a subordinate official of the Executive department more within his legitimate sphere of activity than the circulation of copies of the official record of a Senate Subcommittee by a Member of Congress who is under the Constitutional obligation to inform his constituents about the workings of government.

In sum, the civil cases which have been heretofore decided uphold the Constitutional privilege of Members of Congress to republish and distribute to the electorate official committee records.[16]

C. The Purposes of the Speech or Debate Clause and the Principles of Separation of Power Require that the Privilege Protect Members of Congress who Inform the Electorate about Executive Conduct of Foreign Affairs, from Intimidation and Harassment by the Executive.

Even if prior precedents were ambiguous and qualified the legislative privilege in civil case, their logic, when combined with the historical purposes of the Speech or Debate Clause and the sphere of its contemporary importance in our system of separation of powers would establish an absolute privilege to govern the facts of this case. The civil cases presented typically a claim that a Member of Congress was using the authority of his office to violate willfully an individual's rights. That kind of situation creates the maximum temptation for intervention by the judiciary on the side of the individual, and there may very well be circumstances, in which no other means is available to safeguard the preferred constitutional rights of the individual, that the judiciary will be compelled to draw the balance on the side of the individual *Cf. Hentoff* v. *Ichord, supra.*

On the other hand, what is now before this Court is a classic separation of powers case. The judiciary is not being asked to balance the rights of individuals, including preferred Constitutional rights, against the privileges of Members of Congress; to the contrary, the Executive branch of government has come to the Courts and claimed that it may determine what a Member of Congress may tell his constituents about matters of overwhelming public concern. We do not exaggerate by saying that this claim challenges the fundamental character of our tripartite system of government. To any such claim, the Constitution must stand as an impenetrable barrier.

The Executive's contention that it may institute criminal proceedings against a Congressman for speaking to the electorate flies in the face of the historical purposes of the Speech or Debrate Clause. The Clause was drafted to secure absolute freedom of speech for Members of Congress. It was the end product of a lineage of legislative free speech guarantees from the English Bill of Rights of 1689 to the first State constitutions and the Articles of Confederation. See generally *Tenney* v. *Brandhove, supra* at 372–75. None of these provisions drew a distinction between a speech of a legislator directed at his colleagues and one to his constituents.[17] On the contrary, the Court in *Tenney* stated that the Clause was designed to protect both. *Id.,* at 377 and fn. 6. This is consistent with no less an authority than Thomas Jefferson. When a Federal grand jury protested against abuses by Congressmen who disseminated slanderous accusations to the public, Jefferson responded that the framers of the Constitution wrote the Speech or Debate Clause to allow Congressmen to inform the electorate without inhibition:

"[T]hat in order to give to the will of the people the influence it ought to have, *and the information which may enable them to exercise it usefully,* it was part of the common law, adopted as the law of this land, that their representatives, in the discharge of their functions, should be free from the cognizance or coercion of the coordinate branches, Judiciary and Executive." 7 *Writings of Thomas Jefferson* 158 (Ford Ed. 1896) (Emphasis added).

The privilege must be read to protect republication and public distribution of speeches and committee records. As we have shown above (Part A), this is a principal avenue relied upon by Members of Congress to provide the people with "the information which may enable them to exercise it usefully."[18]

The Constitutional evil which would result from denying the privilege's applicability to the informing function of Congress is magnified when this is done at the behest of the Executive and with respect to material which is critical of executive behavior. If the Executive branch may, at will, institute criminal proceedings against and interrogate Members of Congress before grand juries about publications of their speeches and committee reports which they sent to the electorate, it will possess the power to isolate effectively all but the most courageous legislators from their constituents. If such a rule applies, Congressmen will have to watch what they say to the people—in press releases, newsletters and anything spoken outside of the four walls of the Capitol—lest it offend the Executive and open them up to harassment, grand jury inquisitions and prosecutions. Yet if the Speech or Debate Clause means anything, it is that courts and prosecutors are not referees over what Congressmen say to people.

Nor are these consequences mere speculation. For this case reveals the present importance of the central historical purpose of the Speech or Debate Clause, "to prevent intimidation by the Executive and accountability before a possible hostile Judiciary," *United States* v. *Johnson, supra* at 181. Having for years kept secret from the American people the real history of our involvement in Indo-China, and having attempted to impose a prior restraint on the press, the Executive now retaliates against a Senator who revealed to the people—the true sovereign—the reasons why the Executive, without Congressional authorization, took the country into war. The Executive would thereby establish that it, and it alone, has sole authority to reveal to or withhold from the people any information it chooses. As long as our government is to continue as one of separation of power, this cannot be. The proper rule of Constitutional law was stated in *Methodist Federation* v. *Eastland, supra,* at 731:

"Nothing in the Constitution authorizes anyone to prevent the President of the United States from publishing any statement . . . similarly nothing in the Constitution authorizes anyone to prevent the Supreme Court from publishing any statement. We think it equally clear that nothing authorizes anyone to prevent Congress from publishing any statement."

In conclusion, we wish to bring to the Court's attention a speech given by Senator Sam Ervin on the Floor of the Senate on September 20, 1971. Coming as it does from an acknowledged expert on Constitutional law, we wish to set forth herein some significant excerpts from this speech:

* * * * *

"The events now transpiring in Boston before a Federal grand jury put into question [a] principle of freedom secured by our predecessors.

* * * * *

"I have in mind, of course, the efforts of the administration to inquire into the actions of the junior Senator from Alaska (Mr. Gravel) in connection with the revelations of the contents of the Pentagon Papers.

* * * * *

"The Administration, through its lawyers in the Internal Security Division of the Justice Department, has made a direct and broadscale attack on the rights of all Senators, upon the prerogatives of the Senate, and upon the Constitutional guarantees which have been established to protect the Congress from harassment by a vindictive Executive. It is an attack on the independence and freedom of this body.

* * * * *

"The privilege of the Speech or Debate Clause protects legislators not only from prosecution by the Executive and from the Judiciary. Quite obviously it also protects them from instrumentalities such as the grand jury, which can be used as the Executive's instrument of harassment and persecution.

"It must be stressed that the privilege does more than immunize the legislator against attempts to punish him or to exact retribution for the things he says in the course of performing his legislative duties. The privilege also protects him against having to defend or justify or explain what he has said. The privilege seeks to free the legislator from being harassed by law suits, grand juries, and prosecutors. Were this not so, the independence of the legislator might just as well be destroyed by forcing him to defend himself all over the country.

"There is another reason why the privilege against inquiry into a speech does not depend on the legality or Constitutionality of the act to which it is tied. That is because the privilege seeks to avoid any abridgement of the freedom of a legislator, even from fear of future retribution. If a legislator knew that he had to account for the possibility that he would have to defend or justify his speech sometime in the future, then he would not be as willing to express himself on controversial matters.

"The administration's motives in pressing this action are not only aimed at the privilege, but at a Senator who dared oppose it on the war, and who had the effrontery to use information the administration desired to keep from the people. If the administration were to have its way, we must remain in total ignorance of what has trans-

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Footnotes at end of article.

pired in Vietnam, and anything else the Goverment does, unless it chooses to tell us. By suppressing this information, the executive branch has tried to keep the Congress and the Nation in total ignorance. Now it tries to dictate what the scope of a Senator's business is, and where and when and how he may conduct it. The tendency, if not the intent, of this effort is to harass the Senator from Alaska, and thereby to silence him and other critics in this body along with those who are outside these halls.

"The purpose of the privilege is to protect the legislative branch from a vindictive executive and a hostile judiciary. It is an element of the principle of separation of powers.

* * * * *

"Here, that is precisely the case. Ultimately, I suppose the question of a criminal action may be involved. But the prosecution will be to protect the special interests of the Executive in its efforts to keep its secrets from the Congress and the people. The motive, of course, is to suppress opposition to Executive policy in the Congress and in the country. When the Speech or Debate Clause is involved in a clash between the executive and the legislative, the history of this legislative immunity is especially important. The immunity was finally gained only after Charles I had lost his head. And he lost his head in part at least because he imprisoned members of Parliament who had opposed him in needless and costly overseas wars, even to the extent of presuming to vote to deny him funds for the war. The establishment of the legislative privilege came during the fight by the legislature to establish its independence from a king who claimed total power. The historical precedents are too close to be ignored. We see history repeating itself."

We respectfully submit that the Court below erred in holding that a United States Senator may be subjected to grand jury interrogation and the institution of criminal proceeding for making available to the people copies of an official subcommittee record critical of Executive conduct in foreign affairs.

III. The protective orders issued by the court below do not adequately guarantee Senator Gravel's constitutional rights, and it was error to deny the motion for further relief

A determination of the ambit of the constitutional protection secured by the Speech or Debate Clause, or, conversely, a delineation of the legitimate scope of grand jury questioning, is only one aspect of the instant litigation. Another aspect, which is equally important, concerns the procedures which must be established to protect adequate these substantive rights. The Supreme Court has admonished on numerous occasions that the vindication of legal rights is largely dependent upon the procedural rules under which these rights are enforced. "[T]he procedures by which . . . as case [is] determined assume an importance fully as great as the validity of the substantive rule of law to be applied. And the more important the rights at stake the more important the procedural safeguards surrounding those rights." *Speiser* v. *Randall*, 357 U.S. 513 (1958).

Since the constitutional rights which seek protection in this proceeding are of the highest order of magnitude, it is essential that the procedures utilized be examined with the strictest scrutiny so that these rights do not, in effect, bottom-out for lack of procedural safeguards. In failing to allow for any procedural mechanism to enforce its protective orders, the Court below has stripped these legal rights of any safeguards. In the first part of this section, we shall demonstrate why the protective orders issued by the Court below, standing alone, do not adequately protect Senator Gravel's constitutional rights. In the second part, we tender an alternative procedure under which the legitimate interests of both Senator Gravel and the respondent may be realized.

A. Because Enforcement of the Protective Order is Vested Unchallengably, and Unreviewably in the Government, it Does Not Guarantee Adequately Senator Gravel's Constitutional Rights.

As the Court below correctly observed in its decision of October 4, 1971, the constitutional interests which must be protected in this proceeding by virtue of the Speech or Debate Clause are those of Senator Gravel, and not prospective witnesses. Ordinarily, a party may protect against illegitimate questioning by the grand jury by simply refusing to answer a given question and securing judicial review. Yet in this case, Senator Gravel will not be present during the questioning and has no means of assuring that the protective orders are not violated. Senator Gravel thus has no method of objecting to questions which in his view may be impermissible under the Constitution and the protective orders. Nor can he control the witnesses and their inclination to answer. Thus a legally prohibited question may be posed and answered without the party whose legal rights are violated—Senator Gravel—being able to object and secure judicial review. Under the decision of the Court below, the prosecutor and the witness are, in their unchallengable and unreviewable discretion, the final arbiters of Senator Gravel's constitutional privilege. Realistically, of course, this reduces to the discretion of the prosecutor. The witness will probably be unaware of the protective orders; [19] if aware, he is hardly in a position to construe them; [20] and even if able, he would have to be willing to risk a contempt citation on behalf of the rights of another.[21] The grand jurors are no check since they too were not informed by the Court below of the protective orders, would not in any event know how to construe them, and might even on their own initiative pursue illegitimate inquiries.

Nor can an after-the-fact remedy cure the illegitimate inquiry. Exclusionary rules are usually relied upon to protect privileges such as the attorney-client and husband-wife, for those privileges seek to bar the use of privileged information in a criminal trial. The privilege of the Speech or Debate Clause, however, by its very terms prohibits the illegitimate *questioning* itself. Such inquiry into the official conduct of a Member of Congress violates the separation of powers principles at the root of the Clause. And, as Senator Ervin stated (*supra*, p. 47), the privilege must protect legislators from instrumentalities such as the grand jury which "can be used as the Executive's instrument of harassment and persecution." He continued:

"It must be stressed that the privilege does more than immunize the legislator against attempts to punish him or to exact retribution for the things he says in the course of performing his legislative duties. The privilege also protects him against having to defend or justify or explain what he has said. The privilege seeks to free the legislator from being harassed by law suits, grand juries, and prosecutors."

And see *United States* v. *Johnson*, 419 F. 2d 56 (4th Cir. 1969), where the Court stated that the grand jury's receipt of evidence about the Congressman's speech was "constitutionally impermissible."

Accordingly, if illegitimate questions are posed to and answered by a witness, with Senator Gravel not present and unable to object, there is no realistic possibility of judicial review or remedy and the constitutional violation becomes an irreparable *fait accompli*. In sum, the Court below has decreed rights without a remedy.

Footnotes at end of article.

The Court below has attempted to justify the creation of these unenforceable unreviewable rights by positing that its protective orders will be complied with scrupulously as a result of the "good faith" of government counsel.[22] With all due respect, we believe that this theory is totally unsupportable for three fundamental reasons.

First, in an adversary system such as ours, no party has ever been forced to depend *entirely* on the untrammelled discretion of his opponent to enforce his vested rights. It is one thing to say that we generally rely in part on the good faith of government officials to carry out their orders; it is quite another for a court to foreclose every opportunity in the party for whom the order is issued—the party whose rights are at stake—to determine for himself whether it is being complied with, to make objections where necessary to obtain a final judicial determination, and, perhaps, to never know with certainty whether his rights were respected.[23] Surely no court would hold that a black plaintiff who proves a denial of his right to vote or right to desegregated education on the grounds of race is then left for his remedy *entirely* to the good faith of the State voting registrars or school board, without any ability to determine whether they comply or to seek judicial review. Yet that is the logic of the Court below, for it found that the government attorneys issued subpoenas for purposes of inquiry before the grand jury in violation of Senator Gravel's rights and nevertheless held that the enforcement of his rights must be unchallengeable and unreviewable. Not only is there no method by which Senator Gravel can object to a question and thereby secure a judicial determination, but the order of the Court below effectively bars any appellate review of questions of constitutional fact. The duty of this Court, as all appellate courts, "is not limited to the elaboration of constitutional principles; [the court] must also review the evidence in proper cases to make certain that those principles have been constitutionally applied." *New York Times* v. *Sullivan*, 376 U.S. 254, 285 (1964). As Mr. Justice Brennan said, "to accept this suggestion"—that judicial review of questions of constitutional fact may be dispensed with—

"Would be to abnegate the responsibility, ultimately the responsibility of the United States Supreme Court, to uphold constitutional guarantees. In . . . areas involving constitutional rights the Court has consistently recognized its duty to apply constitutional standards on the basis of an independent review of the facts of each case." Brennan, "The Supreme Court and the Meikeljohn Interpretation of the First Amendment," 79 Harv. L. Rev. 1, 7 (1965) (footnote citing cases omitted).

We respectfully submit that the order of the Court below amounts to an abdiction of ultimate judicial enforcement that is constitutionally impermissible, is unprecedented in the history of constitutional jurisprudence, and stands the principle of *Marbury* v. *Madison* on its head.

Second, the nature of this particular proceeding must be borne in mind. Senator Gravel has come to court charging the Executive "with intimidation," *United States* v. *Johnson, supra* at 181. This charge is not lightly made; it is shared by respected members of Congress and by noted and objective historians.[24] Nor may its relationship to history be ignored. Perhaps in no other area of constitutional law is Mr. Justice Holmes' admonition so valid that "a page of history is worth a volume of logic." *New York Trust Co.* v. *Eisner*, 256 U.S. 345, 349 (1921). The institution of criminal proceedings against a Member of Congress in retaliation for a speech critical of Executive conduct in foreign affairs is a recreation of the seditious libel prosecutions which are at the historical root of the Clause. *United States* v. *Johnson, supra* at 178. When Charles I was at first criticized and eventually denied funding from Parliament to continue fighting a needless war overseas, he struck back at his critics by prosecuting Sir John Elliot and others for "seditious" speeches in Parliament. The consequence was the greatest constitutional crisis in English history until, in 1668, "after a long and bitter struggle, Parliament finally laid the ghost of Charles I." *Tenney* v. *Brandhover, supra* at 372. As Senator Ervin observed, "We see history repeating itself."

In a conflict such as this one between coordinate branches of government, the very principles and history of the doctrine of separation of powers belies the notion that a legislator must depend for the preservation of his privilege upon the good will of officials of the executive department. As we have noted above, the privilege was the final result of a long and bloody struggle between the Crown and Parliament and secures the rights of legislators on much firmer foundation than the good faith of the executive. This imposes a peculiar obligation on the judiciary to act as a neutral and ultimate arbiter of the privilege. Any rule of procedure which denies this role to the judiciary and, in the face of historical condemnation, places it in the executive, is unconstitutional.

Third, even if the utmost good faith of counsel for the executive is assumed, the Protective Order standing alone would not guarantee adequately Senator Gravel's constitutional rights. For it is readily apparent that with both acting in good faith, counsel for the government may ask and a witness might answer illegitimate questions. All lawyers of experience know that, as with any statute or court opinion, no order of a court can be free from ambiguity or the need for interpretation. Borderline situations are bound to occur, and it does not denigrate counsel for the government to suggest that they surely will be influenced in their construction by their interests and their views of the legal principles involved, which may be very different than our own and those of the court.

Throughout the proceedings in the Court below, counsel for the government vigorously asserted legal arguments on the scope of the Speech or Debate Clause which were based on construing precedents and history in the narrowest possible manner, and we were not able to agree on even minor issues of law. In fact, the government's initial legal position, which has been retreated from reluctantly only in the face of adverse rulings by the Court below, was that the Speech or Debate Clause had no applicability at all to these proceedings and that Senator Gravel could be interrogated by the grand jury and criminally prosecuted for holding the Subcommittee hearing. In light of this and similar positions taken by counsel for the government, it is fanciful to assume that their opinion of the permissibility of questioning will coincide with our's or the court's. Cf. *Alderman* v. *United States,* 394 U.S. 165 (1968).

It should also be pointed out that we and counsel for the government have not been able to agree upon the operative scope of the orders of the Court below. On October 12, 1971, we moved in the Court below for reconsideration on the issue of republication and requested a stay of Dr. Rodberg's subpoena pending reconsideration. The stay was granted, and the Court took the matter under advisement and asked for briefs from the government. While the stay was in effect and the matter under advisement, counsel for the government sought to compel the appearance of Howard Webber, Director of M.I.T. Press, before the grand jury to testify about the conduct of Senator Gravel and his aide, Dr. Rodberg, in attempting to have the subcommittee record republished. Moreover, the subpoena was *duces tecum,* ordering Mr. Webber to produce all records and notes of conversations with Dr. Rodberg on July 23, 1971, "concerning the Pentagon Papers." This action was clearly in violation of the intendment of the stay, and it is hard to believe that counsel for the government did not realize that this action would moot the legal issue taken under advisement. Only as a result of our discovering this accidentally were we able to intervene and preserve our legal position. And even *after* the Court below granted a ten-day stay of Mr. Webber's subpoena to retain the status quo for appeal, the government still intended to enforce the subpoena *duces tecum* by resorting to a strained reading of the stay orders. The only reason that the legal issues before this Court have not been mooted is that this Court, at the conclusion of argument on the motion for stay pending appeal, was able to persuade government counsel to temporarily suspend its efforts to enforce the Webber subpoena.

If the counsel for the government is allowed in their absolute discretion to interpret and enforce the protective orders in the same fashion, the constitutional harm will be irreparable.

Finally, the language of the Memorandum Decision of the Court below and the protective orders do not dispel fears that Senator Gravel's rights will be respected scrupulously. It is apparent that even in good faith illegitimate questions might be posed and answered. We list the following as examples of how Senator Gravel's rights will be jeopardized by sole reliance on counsel for the government and the witness in enforcing the protective orders:

a. Counsel for the Justice Department has informed us that they intend to ask how and from whom Senator Gravel obtained the material which he read to the Subcommittee. Counsel may think this justified by referring to the language of the Court's opinion allowing questioning "as to the activities of third parties with whom [Rodberg] and the Senator dealt." We think the question would be barred by Paragraph (1) of the Protective Order [25] and would certainly object to it. Yet we would not be able to and, if the witness decides in his discretion to answer it, he becomes the final arbiter, reaching an unreviewable and unconstitutional end.

b. Similarly, other questions about "third parties with whom . . . the Senator dealt" may well relate to whose advice the Senator sought and received on whether to hold the hearing, who helped in drafting the introductory remarks, and who helped prepare the material for inclusion into the record—all of which, in our view, would be barred by the same provision and possibly Paragraph (2) as well.[26] See also *United States* v. *Johnson, supra.* Here, too, some mechanism is necessary to enable Senator Gravel himself to assert his rights without being forced to depend on the judgments of the witness.

c. The Justice Department may also wish to rely broadly on the Court's statement that Dr. Rodberg may be questioned about "his own actions previous to his joining the Senator's personal staff." Yet those questions may relate directly to Senator Gravel's official activities and blantantly violate the Speech or Debate Clause (and the Protective Orders), but there is no means by which Senator Gravel can prevent the witness from answering and turning a Constitutional violation into a *fait accompli.*

Examples such as these can be multiplied many times over. The decision of the Court below has the effect of allowing the unreviewable and unremediable violation of Senator Gravel's constitutional rights and of the principles of separation of powers. The probability of irreparable constitutional violations is so high that questioning of the witnesses under the terms set forth by the Court below cannot be permitted under the unrealistic hope that Senator Gravel's rights will not be infringed.[27] The government is playing with loaded dice, and the courts cannot wait until the wrong number is rolled. We now address ourselves to the procedures which we think ought to be applied.

B. The Court Below Erred in Denying the Motion for Further Relief.

A delicate mechanism in this case is essential to protect Senator Gravel's constitutional rights from predictable infringements in these grand jury proceedings. As in First Amendment cases, "sensitive tools" are necessary in order to insure that protected rights are not suppressed through the use of insufficient procedural safeguards. *Speiser* v. *Randall,* 357 U.S. 513 (1958). We believe that a delicate mechanism is available which will safeguard the constitutional rights at stake in this proceeding and at the same time allow the grand jury to investigate into lawful areas of inquiry. But we wish to emphasize, before discussing our proposed procedures, that the burden is not on us but on Appellee to come forward with acceptable procedures.

The grand jury is an integral part of the judicial branch of government and is not merely a tool of the prosecution. *Wood* v. *Georgia,* 370 U.S. 375 (1962); *Brown* v. *United States,* 357 U.S. 41 (1959). The constitutional conflict has arisen in this proceeding because the executive has chosen to ignore the function intended for the grand jury by the Constitution, which is to safeguard constitutional liberties and "to stand between the prosecutor and the accused," *Hoffman* v. *United States,* 341 U.S. 479 (1951), and has determined instead to turn it into an investigative and prosecutorial instrument. The executive does not thereby rely on its own powers and processes; instead, it comes to the Federal courts and asks the judiciary to invoke the judiciary's compulsory process, enforceable by the contempt power, in a manner which will violate important constitutional rights in our system of separation of powers. Unless and until the executive can prove that these rights are not in danger of infringement, the courts must refuse to lend assistance. For, absent such a showing, any order by the courts in aid of the grand jury proceedings will itself work an unconstitutional end by making the judiciary a party to the violation of separation of powers and the privilege of the Speech or Debate Clause. Preventing the government's investigation through the grand jury from being impeded is not a sufficient justification for abridging constitutional rights, as the Supreme Court has emphasized time and again in Fifth Amendment cases:

> "If this result adds to the burden of diligence and efficiency resting on enforcement authorities, any other conclusion would compromise in important constitutional liberty." *Hoffman* v. *United States, supra* at 489–90.

Thus, it must be said, as in *Speiser* v. *Randall, supra* at 529 that the government "clearly has no compelling interest at stake such as to justify a short-cut procedure which must inevitably result in suppressing protected [rights]." To put the matter another way, respect for the Constitution is more important than respect for the convenience of the Justice Department.

Guidance for the construction of constitutionally acceptable procedures in this case is available from analogous First Amendment decisions and techniques on

Footnotes at end of article.

occasion employed before the grand jury. In a long line of First Amendment cases, the Supreme Court has imposed extraordinarily strict procedural requirements in situations where the utilization of normal procedures would affect adversely the exercise of First Amendment rights. The Court has, for example, required that a full adversary hearing precede any court order to seize allegedly unprotected written material, *Quantity of Books* v. *Kansas,* 378 U.S. 205 (1964); *Marcus* v. *Search Warrant,* 367 U.S. 717 (1961), or to enjoin allegedly unlawful demonstrations, *Carroll* v. *Princess Anne County,* 393 U.S. 175 (1968). A similar procedural mechanism is called for in this case. When it becomes apparent that the government seeks to question a certain witness in an area which implicates the constitutional privilege, a prior judicial determination, in an adversary hearing, of the constitutional permissibility of the proposed inquiry is essential.

A technique along these lines has been heretofore used voluntarily by the government in other privilege cases involving testimony before the grand jury. For instance, in *United States* v. *George,* 444 F. 2d. 310 (6th Cir., 1971), the witness moved to enjoin enforcement of a grand jury subpoena on the grounds that his testimony might incriminate his wife and that he was already under indictment for the transactions being investigated. The Justice Department filed an affidavit with the District Court setting forth the scope and purpose of the investigation, and the Court concluded that neither privilege was jeopardized.[28] Even more directly on the point are cases involving First Amendment rights in which the government voluntarily specified the nature of the proposed inquiry by the grand jury or was ordered to do so by a court. In *Caldwell* v. *United States,* 434 F. 2d 108 (9th Cir. 1970), *cert. granted* 402 U.S. 942 (1971), after Caldwell filed a motion to quash the subpoena, the Justice Department filed documents stating the extent of legal proceedings already underway with respect to certain members of the Black Panther Party, and particularizing the specific incidents about which it was believed that Caldwell had knowledge and would therefore be questioned by the grand jury. (A summary of this specification is contained in the appendix to the petitioner's brief to the Supreme Court, pages 64–68 and is reproduced in the margin.) [29] In the case of *In Re Verplank,* 329 F. Supp. 433 (C.D. Cal. 1971), which presented analogous Constitutional issues, the Court quashed a subpena because the government failed to show with sufficient specificity the scope and purpose of legitimate inquiry.

We believe that these precedents suggest sensible and workable procedures which can be used in the instant case. We therefore propose the following:

1. The government should disclose to the Appellant and the Court below the names of all persons who have been subpoenaed or who are to appear before the grand jury in connection with the Pentagon Papers investigations.[30] Disclosure of this information to others may be barred by a protective order.

2. Such a list is necessary because Senator Gravel is obviously in the best position to determine, as a threshold matter, which persons possess privileged information. He will then state to the Court which witnesses do *not,* to his knowledge, possess such information, and they may be called and questioned in the usual manner.

3. With respect to witnesses whom Senator Gravel contends do possess privileged information, the Court can then hold a Fifth Amendment-type hearing, see *Hoffman* v. *United States, supra,* to determine for itself whether there is a colorable claim of privilege.[31]

4. If a colorable claim of privilege is shown for a witness, the government should be required to specify the nature and scope of the porposed inquiry. The specification in the *Caldwell* case, serves as an excellent model.

5. If it is evident from this specification that none of the proposed areas of inquiry implicate the privilege, the witness may then be called. On the other hand, if a cetrain area does implicate the privilege, the government should be required to specify the questions which it intends to ask concerning this area. This detailed specification in a perhaps limited area of inquiry is also not novel, for the government has frequently used it in cases in which it justifies an offer of immunity in a contempt proceeding. *See, e.g., United States* v. *Fitzgerald,* 235 F. 2d 453, 454 (2d Cir. 1956); *In re Ullman,* 128 F. Supp. 617, 628 (S.D.N.Y. 1955), *affirmed* 350 U.S. 422 (1956). The necessity for such a specification, in advance, of the questions to be asked concerning subject matter which implicates the privilege is illustrated in the Webber proceeding. Counsel for the government stated in the Court below that republication of the Subcommittee record was the primary area of intended inquiry and that other areas were "ancillary." Only an examination of the questions to be asked can sort out—and allow for judicial review of—the legitimate and illegitimate.

With respect to other witnesses, on the other hand, the area implicating the privilege may be distinct from other areas of clearly legitimate inquiry, and a specification of questions in only the former area would be required.

6. As a final safeguard, the Court should instruct the grand jurors and the witnesses of its orders and a transcript of testimony should be kept by which the Court can verify *in camera* that its orders have been complied with.

We believe that this procedural mechanism will adequately safeguard the rights of Senator Gravel under the Speech or Debate Clause, will preserve the separation of powers essential to our scheme of government and will allow the grand jury to conduct legitimate investigations. Two arguments appear to be asserted by Appellee against it—impeding the grand jury process and breaching its secrecy. We do not think that these procedures will unduly impede the *legitimate* processes of the grand jury; even if they did, as we have shown *supra,* pp. 63–65, the Supreme Court has consistently held that the balance must be drawn in favor of constitutional rights. Certainly the rule that a witness may leave the grand jury room after each question to confer with counsel is a greater impediment, yet the Sixth Amendment right prevails.[32] So, too, is an impediment created by the colorable claim hearing on the Fifth Amendment enunciated in *Hoffman* v. *United States, supra.* There is no reason why rights secured by the Speech or Debate Clause—rights which insure the continued viability of separation of powers—should be treated with less dignity.

Similarly, the secrecy argument does not provide a compelling reason to renounce these procedures. The secrecy rule was designed to protect witnesses, not prosecutors; and since we seek *prior* determinations of legality, the rule would appear to be inapposite. Moreover, secrecy of grand jury proceedings has never been adhered to absolutely. A party who can show a "particularized need" may obtain a transcript, *Dennis* v. *United States,* 384 U.S. 855, 868–75 (1961); *Pittsburgh Plate Glass Co.* v. *United States,* 360 U.S. 395, 400 (1959); or where there is a "compelling necessity," *United States* v. *Procter and Gamble Co.,* 356 U.S. 677 (1958); or where "good cause" has been shown, *Blumenfield* v. *United States,* 284 F. 2d 46 (8th Cir., 1960) *cert. denied,* 365 U.S. 812 (1961); or where "the ends of justice require it," *Pittsburgh Plate Glass Co.* v. *United States,* 360 U.S. 395 (1959); or where such disclosure may be required "either in the general public interest or in the protection of private rights," *Palmentere* v. *Campbell,* 205 F. Supp, 261 (D.C.Mo., 1962); or finally, where strong or "substantial reasons" have been shown for disclosure, *United States* v. *Elliott,* 266 F. Supp. 318 (D.C.N.Y., 1967). And it is noteworthy that the Court in *Dennis, supra* at 855, rejected the contention that protection of rights can be secured solely by the supervision of the courts:

> "In our adversary system, it is enough for judges to judge. The determination of what may be useful to the defense can properly and effectively be made only by an advocate."

And *cf. Alderman* v. *United States,* supra.

In sum, we are convinced that these procedures are both feasible and constitutionally compelled. It was therefore error for the Court below to have denied the Motion for Further Relief. And as we stated before, the burden of establishing constitutionally acceptable procedures rests on the government, which affirmatively seeks the compulsory processes of the Federal courts to aid its investigation. It is not enough for the government to criticize our proposals—the government must come forward with an acceptable alternative or be denied the assistance of the judiciary to reach an illegitimate end. The Constitution demands no less.

CONCLUSION

For the reasons set forth herein above, Appellant respectfully submits that this Court should reverse the decision of the District Court and hold that (a) the republication by Appellant of the official record of a Senate Subcommittee is immune from grand jury inquiry and (b) Appellant is entitled to the relief requested in Part III of this Brief.

Respectfully submitted.

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the attached Brief of Intervenor-Appellant was hand-delivered to the United States Attorney for Massachusetts, U.S. Post Office Building, Post Office Square, Boston, Massachusetts, this first day of November, 1971.

Charles L. Fishman, Attorney for Appellant.

FOOTNOTES

*Counsel wish to acknowledge the assistance of Ralph Kates, a third-year law student at Temple University Law School, in the preparation of this Brief.

[1] Senator Gravel duly notified the Sergeant at Arms of the Senate of Dr. Rodberg's appointment by letter on June 29, 1971.

[2] Government's Memorandum in Opposition to Motion to Quash, pp. 5–11. This argument was also vigorouly presented orally.

[3] Of course, the District Court made other findings of fact on pages 1–5 of the Slip Opinion. We do not set them out because they are not material to this appeal. We do wish to point out, however, a possible error in the District Court's recitation of events leading up to the June 29 meeting of the subcommittee. There may be an inference in the opinion that Senator Gravel read and inserted into the record from the set of Pentagon Papers sent under seal from the President to Congress. This is not true; Senator Gravel read from documents which he had independently obtained. Furthermore, these documents are not identical in every respect to the documents furnished under seal to Congress.

[4] The third party was an attorney who came into possession of the documents as ex-

hibits introduced in a civil case involving Perlman.

[5] Quoted in *New York Times* v. *Sullivan*, 376 U.S. 254, 274 (1964).

[5a] *Id.*, at 275.

[6] *Elliot's Debates* 575 (Virginia Resolution of 1798).

[7] Wilson, *Congressional Government* 303 (1885), quoted in *Tenney* v. *Brandhove*, 341 U.S. 367, 377 fn. 6 (1951).

[8] *Ibid.*

[9] The Supreme Court has never required that the privilege encompasses only those acts for which a nexus can be shown with pending legislation. On the contrary, the Court has, for example, held investigations privileged whose functions were either to propose legislation or to information the public, since they were "within the sphere of legitimate legislative activity," *Tenney* v. *Brandhove, supra* at 376–77 and fn 6. Similarly, in *Dombrowski* v. *Eastland*, 387 U.S. 82 (1967), Senator Eastland was held privileged for actions which were not remotely connected with pending or future legislation. Neither are many speeches on the Floor of Congress; yet surely the Court of Appeals was correct in *Cochran* v. *Couzens*, 42 F. 2d 783 (D.C. Cir. 1930), *cert. denied* 282 U.S. 874, that no showing was necessary that words spoken between Congressmen were pertinent to pending or future legislation.

[10] Likewise, Congressmen must have, and in fact exercise, wide discretion in selecting modes of direct communication to the electorate with respect to the dissemination of speeches and committee records on matters of public interest. A Subcommittee record of thousands of pages, such as involved here, can hardly be distributed in newsletter form. And the government's attempts in the Court below to characterize the instant publication as a "commercial enterprise" are both misplaced and irrelevant. The undisputed facts in the record establish that Senator Gravel will obtain no royalties from the publication. And, in any event, the Supreme Court has unambiguously held that material of social value which is otherwise protected by the Constitution does not lose that protection because it is published commercially. *New York Times* v. *Sullivan*, 376 U.S. 254, 265–66 (1964). And uncountable public documents are commercialized by the Public Printer and private publishers to enhance circulation.

[11] James Madison, 4 *Annals of Congress* 934 (1794).

[12] In its decision (Slip Opinion, p. 13), the Court below quoted certain language from *Hentoff*. These comments dealt solely with the liability of the Public Printer, and not the scope of the Speech or Debate Clause. Judge Gesell distinguished Committee Reports from the *Congressional Record* because Article I, Section 5 of the Constitution requires a journal of proceedings to be kept; thus the Court would not enjoin the Public Printer from including the report in the *Congressional Record*. 318 F. Supp. at 1180. But, as noted in the text, the Court held that the privilege absolutely immunized the Members of Congress themselves from judicial inquiry, for causing the Committee report to be republished anywhere. We therefore respectfully submit that the above-quoted language is inapposite to the issue of this case, which is whether a Senator may be held accountable for republishing an official Subcommittee record. Hentoff holds that he may not, in an action *"seeking any remedy."* Finally, Judge Gesell did not, as respondents suggested in the Court below, state that the courts would investigate into the purpose of the republication and hold the privilege applicable only if a valid legislation purpose, in the sense of relating to proposed legislation, were shown. On the contrary, the Court had no difficulty in concluding that the report was "devoid of legislative purpose" and "on its face contradicts any assertion of such a purpose," *id.* at 1182, but nevertheless held the Members of Congress unaccountable in the judiciary because the report contained information of public interest and its distribution was thus part of the Congressmen's "legislative activities." *Id.*, at 1179. It may be noted that in the present case, the Court below stated: "It has not been suggested by the Government that the subcommittee itself is unauthorized, nor that the war in Vietnam is an issue beyond the purview of congressional debate and action." (Slip Opinion, p. 11).

[13] A second counterclaim alleged republication of certain other letters by Mr. McGovern. This was held barred by the Statute of Limitations, and was not decided on the merits. 182 F. Supp. at 349.

[14] While the Court stated at one point that the reason for the rule of Congressional privilege was "complete and uninhibited discussion among legislators," it also recognized the informing function as another purpose. Any reading of the Court's opinion which picks out the former to the total exclusion of the latter makes the opinion incomprehensible. Why should the Clause protect intra-legislative communication but not a Congressman's statement to the electorate? And if the reason for the privilege related only to intra-legislative communications, why should there be even a qualified immunity for distribution of speeches to the public? How would a republication of a libelous speech to another Member of Congress fare? And finally, if *only* intralegislative communication is protected, why have the courts gone beyond the literal language of the Speech or Debate Clause? Each of these questions would have had to be answered by the Court in *McGovern* if it had meant to exclude public dissemination of speeches from the Clause altogether.

[15] In *Howard*, copies of the press release were sent to various newspapers and wire services and to "members of the Massachusetts delegation in the Congress . . ." 360 U.S. at 594. The press release in *Barr* similarly was given wide circulation. In both cases, the Executive officials went far beyond merely sending reports to their immediate superiors.

[16] In the Court below, the Respondent placed heavy reliance upon *Long* v. *Ansell*, 69 F. 2d 386 (D.C. Cir. 1934), calling it "surprisingly close to this proceeding." The simple answer is that *Long* is not a Speech or Debate Clause case. Senator Long refused to accept service of process in a libel suit *only* on the grounds of the provision in Article I, Section 6 that immunizes Congressmen from arrest during a session of Congress. As the Court made clear, Senator Long did not even argue the privilege of the Speech or Debate Clause as a bar to service of process, and the only discussion of the Clause is in an extremely brief and somewhat opaque final paragraph.

The Court below did not rely on *Long* v. *Ansell, supra*. It did, however, cite for support *Restatement of Torts*, 1938 ed., Sec. 950, comment b. It may be observed that the rules of defamation proposed by The American Law Institute in 1938 have not, as a general matter, been accepted by the courts in constitutional adjudication. *See*, e.g., *Restatement of Torts*, 1938 ed. Sec. 598, comment a, which was not followed in *New York Times* v. *Sullivan*, 376 U.S. 254, 280 and fn. 2d (1964).

[17] And when, after the drafting of the Constitution, a British court purported to draw such a distinction (see *Stockdale* v. *Hansard*, 9 A.&E.1, 112 Eng. Rep. 112 (1839)), the reaction in Parliament was so intense that the decision was almost immediately overruled by statutes 3 & 4 Vict., c. 9 (1840).

[18] And even if this were somehow put on the "outer perimeter" of a Congressman's duties, *Barr* v. *Matteo, supra*, teaches that it must be protected by an absolute privilege.

[19] Mr. Webber being an example.

[20] How, for instance, could anyone but Senator Gravel object and a court decide the legal question of whether his conduct was "intimately related" to the Subcommittee meeting, as specified in Paragraph 1 of the October 4 Protective Order?

[21] It should be noted in this respect that Mr. Webber was prepared to appear before the grand jury, bring with him notes of conversations with Senator Gravel's aides and perhaps answer all questions about Senator Gravel—until prevented by the stay pending appeal.

[22] Memorandum and Order Denying Motion for Further Relief, dated October 29, 1971, p. 2.

[23] The Court below denied our motion for stenographic copies of grand jury minutes, thus keeping Senator Gravel in an indefinite state of uncertainty as to whether his constitutional privilege was violated.

[24] Henry Steele Commager, "A Senator's Immunity," *New York Times*, October 15, 1971, p. 39 M, col. 5–8.

[25] Paragraph (1) provides: "No witness . . . may be questioned about Senator Mike Gravel's conduct at the meeting of the Subcommittee on Public Buildings and Grounds on June 29, 1971 nor about things done by the Senator in preparation for and intimately related to said meeting."

[26] Paragraph (2) provides: "Dr. Leonard S. Rodberg may not be questioned about his own actions as a member of Senator Gravel's personal staff to the extent that they were taken at the Senator's direction either at a meeting of the Subcommittee on Public Buildings and Grounds or in preparation for and intimately related to said meeting."

[27] Compare *Speiser* v. *Randall*, 357 U.S. 513, 526 (1958): "The vice in the present procedure is that, where particular speech falls close to the line separating the lawful and the unlawful, the possibility of mistaken fact finding . . . will create the danger that the legitimate utterance will be penalized."

[28] While the witness appeared but refused to answer eight questions, the significance of the case is in the specification made by the Justice Department.

[29] The government stated in *Caldwell* that the following matters in the public domain indicate to a limited extent the scope of the matters currently under investigation involving certain members of the Black Panther Party:

(1) On June 24, 1969, several Black Panther Party members were granted immunity by the District Court in connection with an asserted grand jury investigation of possible violations of 18 U.S.C. §§ 2101 and 231, *supra*. They refused to testify, were held in contempt, appealed, lost the appeals; and their cases were pending in this Court in petition for *certiorari*.

(2) On August 26, 1969, a motion was made to quash a grand jury subpoena *duces tecum* seeking records of the Huey P. Newton Fund in connection with an asserted investigation of possible violations of 18 U.S.C. § 1341, *supra*. The subpoena was modified by agreement of counsel and a consent order entered by the District Court, September 9, 1969.

(3) On December 3, 1969, the grand jury indicted Black Panther Party Chief of Staff David Hilliard for a violation of 18 U.S.C. § 871 allegedly committed on November 15, 1969.

(4) On February 5, 1970, the Government moved to compel compliance with grand jury subpoenas served on Black Panther leaders Raymond "Masai" Hewitt, John Seale and Sam Napier, requiring production of documents relating to publication of three numbers (November 22, 1969; December 27, 1969; and January 3, 1970) of the Panther Party newspaper, *The Black Panther*. On March 4, 1970, the Government moved the District Court to grant immunity to grand jury wit-

nesses Sherrie Bursey and Branda Joyce Presley. In connection with these proceedings, the District Court was informed by the Government that threats to kill the President had been published in the three designated numbers of *The Black Panther,* and that the grand jury was investigating possible violations of 18 U.S.C. § 1751, "as well as other matters."

The Government also asserted in *Caldwell* that the "following matters relate to [the] issuance of a subpoena for the testimony of Earl Caldwell:"

(1) In a New York Times article published on December 14, 1969, Mr. Caldwell attributed to David Hilliard the statement that the Black Panther Party "advocate[d] the very direct overthrow of the Government by way of force and violence [and by] . . . picking up guns . . . [and] armed struggle," and went on to note that "[in] their role as the vanguard in a revolutionary struggle the Panthers have picked up guns." This statement "coming after the threat of the Panthers to kill President Nixon, made in the November 22, 1969, issue of *The Black Panther,* and prior to the same threat made in the December 27, 1969 and the January 3, 1970 issues, appeared relevant to an inquiry or investigation of a possible violation in connection with the publication of these statements and related activities of the responsive individuals."

(2) Mr. Caldwell's *New York Times* articles of June 15, June 20, and July 28, 1969 quoted Panther Party Chairman Bobby Seale and Chief of Staff David Hilliard, and recounted Mr. Caldwell's observations and reflections on the Panthers. [ ] (sic) These included observations that the Panthers "had been transformed from a street gang type of organization to an organization based on an ideology," and that the Panthers now talk in terms of such concepts as "class struggle."

(3) After David Hilliard's November 15, speech, "a number of instances of similar statements, made in various parts of the country, were reported by investigative agencies." "In most instances," these statements were attributed to reported Panther Party members, or persons reportedly "linked to it or associated with it in some manner." The statements, in the context of having guns attacking the system, the establishment, etc., and coupled with obscene invective, included "Nixon must die," etc. They were sometimes made "to small groups of sympathizers," sometimes made by "full use of coverage by the press and the facilities of commercial and educational radio and television to disseminate their messages to a wide audience."

(4) On December 3, 1969, a San Francisco disk jockey who had written articles for *The Black Panther,* suggested in a program dedicated to David Hilliard's indictment, that listeners could support free speech by wiring the President a fifteen-word telegram quoting the allegedly threatening passage in Hilliard's Moratorim (sic) Day speech.

(5) On January 5, 1970, Eldridge Cleaver, Black Panther Party Minister of Information, was interviewed over CBS. In the interview, he announced plans to return to the United States from his exile in Africa to go underground, and to lead a "war of liberation from the fascist imperialist social order in the United States," which would include taking off the heads of Senator McClellan and President Nixon. Mr. Cleaver added: "This is not rhetoric."

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[30] When we tendered our Motion for Further Relief, we did not know that this grand jury was investigating other areas. As a result, our request for a list of all witnesses to appear was obviously too broad.

[31] Obviously, this hearing cannot be used to elicit *all* privileged information known to this witness for, as in the analogous Fifth Amendment cases, this would itself defeat the privilege. *Hoffman* v. *United States, supra.*

[32] See also *Sheridan* v. *Garrison,* 273 F. Supp. 637, 684–685 (E.D. La. 1967), Rev. on other grounds 415 F. 2d, 699 (5th Cir. 1969).

[U.S. Court of Appeals for the First Circuit]

MOTION FOR ORDER TO SHOW CAUSE AND FOR IMPOSITION OF COURT SANCTIONS

(No. 71–1331—United States of America versus John Doe, Mike Gravel, U.S. Senator, intervenor, appellant)

(No. 71–1332—Same versus same, same.)

Comes now Movant, United State Senator Mike Gravel, and moves this Honorable Court for an order directing Richard Bachman, Assistant United States Attorney, David Nissen, Assistant United States Attorney, Warren Reese, Assistant United States Attorney and John Doe of the F.B.I. to show cause why they should not be adjudged in contempt of this Court's order entered on October 29, 1971, and as reasons therefor state:

1) On October 29, 1971, this Court entered an order in the above captioned cause. Paragraph 2 of that order states:

"It is Hereby Ordered that until further order of this court, the grand jury shall not pursue its inquiry into the retention of public property or records with intent to convert (18 U.S.C. § 641), the gathering and transmitting of national defense information (18 U.S.C. § 793), the concealment or removal of public records or documents (18 U.S.C. § 2071), or conspiracy to commit such offenses or to defraud the United States (18 U.S.C. § 371) insofar as these or any other crimes may relate to the so-called 'Pentagon Papers' in whatever form. However, it shall be empowered to continue its investigation into any other crimes."

2) On October 28, 1971, the aforesaid grand jury issued two subpoenas *duces tecum* signed by Richard Bachman to the New England Merchants National Bank directing the bank to appear before the aforesaid grand jury on November 10, 1971 at the Post Office Building, Boston, Massachusetts, and to bring with it all records of checks drawn of $5,000 or more on the accounts of Beacon Press or the Unitarian-Universalists Association.

3) The aforesaid subpoenas were served on officials of the New England Merchants National Bank on October 29, 1971.

4) Since October 29, 1971 and pursuant to the aforesaid grand jury subpoenas John Doe and other agents of the Federal Bureau of Investigation have been examining and seizing under the grand jury subpoenas the bank records of Beacon Press and the Unitarian-Universalists Association. This conduct is continuing at the present time.

5) Upon information and belief Movant alleges that the actions of Richard Bachman in issuing the aforesaid subpoena and the agents of the Federal Bureau of Investigation who served and are executing the subpoena and have seized records pursuant thereto were taken under the order, supervision and control of David Nissen and Warren Reese.

6) The actions taken by Richard Bachman, David Nissen, Warren Reese and John Doe are in direct violation of this Court's order of October 29, 1971; were knowingly committed and constitute contemptuous conduct.

Wherefore, Movant respectfully requests that this Honorable Court call Respondents before the Bar of this Court and hold a hearing forthwith and in any event no later than 1 P.M., Friday, November 5, 1971 and order Richard Bachman, David Nissen, Warren Reese and John Doe to show cause why this Court should not adjudge them in contempt of its order of October 29, 1971.

CHARLES LOUIS FISHMAN,
Counsel for Movant.

[U.S. Court of Appeals for the First Circuit, No. 71–1331]

ORDER TO SHOW CAUSE AND FOR IMPOSITION OF COURT SANCTIONS

(United States of America versus John Doe, Mike Gravel, U.S. Senator, intervenor, appellant)

(Same versus same, same)

Richard Backman, David Nissen, Warren Reese and John Doe are hereby ordered to appear before the Bar of this Court on November 4, 1971, at —— M to show cause why they should not be adjudged in contempt of this Court for violation of this Court's order of October 29, 1971.

——— ———,
Judge, U.S. Court of Appeals.

COMMONWEALTH OF MASSACHUSETTS *ss:*

AFFIDAVIT OF CHARLES LOUIS FISHMAN

Charles Louis Fishman, being first duly sworn according to law deposes and say that:

1. I am counsel to United States Senator Mike Gravel in the following cases now before this court, Nos. 71–1331 and 71–1332.

2. On November 4, 1971, I was informed by Norman Zalkind, counsel for Beacon Press and Frank B. Fredrick, counsel for the Unitarian Universalist Association that two subpoenas duces tacum were issued by the grand jury involved in the aforesaid cases to the New England Merchants National Bank commanding the bank to appear before the grand jury on November 10, 1971 and to bring with them all bank records of checks drawn on the accounts of Beacon Press or the Unitarian Universalists Association of $5,000 or more and drawn between June 1, and October 1, 1971.

3. I was further informed that agents of the Federal Bureau of Investigation, under compulsion of the aforesaid subpoenas, have seized and are continuing to seize the aforesaid checks.

4. I was further informed that the aforesaid subpoenas were signed by Richard Backman, Assistant United States Attorney.

5. I notified David Nissen, Assistant United States Attorney of the intended filing of the attached Order To Show Cause on November 4, 1971.

CHARLES LOUIS FISHMAN.

[U.S. Court of Appeals for the First Circuit, No. 71–1335]

BRIEF OF WITNESS-APPELLEE—ISSUES PRESENTED FOR REVIEW

(United States of America, Appellant, v. John Doe, in the matter of a grand jury subpoena served upon Leonard Rodberg)

Whether the protective order entered by the District Court is necessary to protect the rights and interests safeguarded by the legislative privilege embodied in the Speech or Debate Clause of the United States Constitution?

A. Whether the convening of a legislative subcommittee and the insertion of material into the CONGRESSIONAL RECORD and things done in preparation for and related thereto are protected by the Speech or Debate Clause?

B. Whether the protective order issued by the District Court is necessary to protect the rights threatened by Dr. Rodberg's appearance before the grand jury?

PRELIMINARY STATEMENT

This is an appeal by the government from the protective order entered on October 4, 1971 by the District Court for the District of Massachusetts (Hon. W. Arthur Garrity, Jr.) with respect to the scope of the grand jury questioning of Dr. Leonard S. Rodberg that may properly be permitted consistent with the Speech or Debate Clause of the United States Constitution.[1]

On the evening of August 24, 1971, Dr. Rodberg was served at his home in Silver Spring, Maryland with a subpoena which sought to compel his appearance on the morning of August 27 before a federal grand jury in the District of Massachusetts. At that time and since June 29, 1971, Rodberg was a personal aide to Senator Mike Gravel, United States Senator from Alaska. The subpoena was served by the FBI on the same day an article had appeared in the weekly newspapers, *Boston After Dark*, which stated that Dr. Rodberg was a legislative assistant to Senator Gravel who had assisted the Senator in the insertion of the so-called "Pentagon Papers" into the Congressional Record at the June 29, 1971 meeting of the Subcommittee on Public Buildings and Grounds (a subcommittee of the Senate Committee on Public Works). The article further stated that Dr. Rodberg had assisted in the Senator's subsequent efforts to make those documents in the Congressional Record generally available to the public. A similar article had appeared only a few days earlier in the *Washington Post*.

Dr. Rodberg (and Senator Gravel, whose motion to intervene was granted by the district court) moved to quash the subpoena on the ground, *inter alia*, that questioning of Rodberg would violate the legislative privilege embodied in the Speech or Debate Clause. Movants alleged that the government sought to question Dr. Rodberg solely in connection with the insertion of the Pentagon Papers into the Congressional Record and the effort by Senator Gravel to make them generally available to the public. The government did not deny this claim. On October 4, Judge Garrity issued a "Memorandum of Decision and Protective Order." In his opinion the Judge stated:

"[G]iven the secrecy and flexibility of all grand jury proceedings, no movant ever could demonstrate with certainty the specific facts about which he had been subpoenaed to testify. Viewing together the crimes which this grand jury is investigating and the chronology of acts and events leading up to Dr. Rodberg's subpoena, the court infers that the government's interest in his testimony pertains to his acts as Senator Gravel's assistant with regard to the Pentagon Papers and that the government attorneys plan to question him about them before the grand jury." Sl. Op., pp. 5–6.

Although denying the motions to quash, the District Court noted that "the Speech or Debate Clause plainly sets limitations upon the grand jury's investigation."[2] More particularly, "it is . . . clear from the *Johnson* case that Senator Gravel's legislative acts may not consistently with the Speech or Debate Clause be the subject of questioning before the grand jury."[3] The Court "sustain[ed] Senator Gravel's claim that whatever he did at the subcommittee meeting on June 29 and certain acts done in preparation therefor are privileged."[4] Further, relying upon *Barr* v. *Matteo*, 360 U.S. 564 (1960), the Court concluded that "the legislative privilege enjoyed by a senator must extend to some activities of a member of his personal staff acting at his direction. To rule otherwise would dilute and jeopardize the privilege itself." Sl. Op., p. 14.

Therefore, to ensure the adequate protection of the rights threatened by Dr. Rodberg's appearance before the grand jury, the District Court entered the following order:

"(1) No witness before the grand jury currently investigating the release of the Pentagon Papers may be questioned about Senator Mike Gravel's conduct at a meeting of the Subcommittee on Public Buildings and Grounds on June 29, 1971 nor about things done by the Senator in preparation for and intimately related to said meeting.

"(2) Dr. Leonard S. Rodberg may not be questioned about his own actions on June 29, 1971 after having been engaged as a member of Senator Gravel's personal staff to the extent that they were taken at the Senator's direction either at a meeting of the Subcommittee on Public Buildings and Grounds or in preparation for and intimately related to said meeting."

It is this protective order which the government challenges here.[5]

ARGUMENT

The protective order entered by the District Court is necessary to protect the rights and interests safeguarded by the legislative privilege embodied in the speech or debate clause of the United States Constitution.

A disposition of this appeal requires a resolution of two questions: (1) whether the legislative activity in question is legislative activity protected by the Speech or Debate Clause and (2) how can that activity be properly protected against executive interference under the circumstances of this case? We will discuss these issues separately.

A. The convening of a legislative subcommittee and the insertion of material into the Congressional Record and things done in preparation for and related thereto are protected by the Speech or Debate Clause.

The initial inquiry, whether Senator Gravel's convening of the Subcommittee on Public Buildings and Grounds and his insertion into the Congressional Record of the "Pentagon Papers" are safeguarded by the Speech or Debate Clause, need not detain us long.[6] It has been clear for at least ninety years that the Clause protects all normal functions of a member of Congress including, in addition to words actually spoken in debate, resolutions offered, votes taken, and actions of committees. *Kilbourn* v. *Thompson*, 103 U.S. 168 (1881). As the Supreme Court said in *United States* v. *Johnson*, 383 U.S. 169, 179 (1966), in relying upon *Kilbourn*, the Clause "should be read broadly to include not only 'words spoken in debate,' but anything 'generally done in a session of the House by one of its members in relation to the business before it.'" In this light it is apparent that the activities involving Senator Gravel described above are protected by the Speech or Debate Clause, that they are the very essence of the activity which that Clause was intended to safeguard. Indeed, we do not understand appellant to contend otherwise.[7]

B. The protective order entered by the District Court is necessary to protect the rights threatened by Dr. Rodberg's appearance before the Grand Jury.

The government's entire argument is based on the following interpretation of the Speech and Debate Clause: the Clause prohibits the questioning of Senators and Representatives "for any Speech or Debate in either House;" "for" does not include "about"; therefore the executive branch may investigate, probe and question anyone "about" that legitimate legislative activity. As long as no one entitled to the safeguards of the Speech or Debate Clause is *prosecuted*, the executive is in no way limited by the strictures of that constitutional provision.[8] We submit that such an interpretation is fundamentally flawed, that it misconceives the basic thrust and purpose of the Speech or Debate Clause and finds no support in the authoritative decisions of the Supreme Court.

That Court has long rejected the government's claim that the Speech or Debate Clause should be narrowly construed; to the contrary, "the legislative privilege will be read broadly to effectuate its purposes." *United States* v. *Johnson, supra* at 180. And so it has been. For example, as earlier noted, the provision has not been limited to "Speech or Debate in either House," but rather has been interpreted to include anything "generally done in a session of the House by one of its members in relation to the business before it." *Kilbourn* v. *Thompson*, 103 U.S. at 204. Thus, in the very first case to come before it involving the Speech or Debate Clause the Supreme Court plainly rejected the notion that its scope should be confined to narrow, literal terms.

In *Tenney* v. *Brandhove*, 341 U.S. 367, 373 (1951) the Supreme Court observed of the legislative privilege:

"The reason for the privilege is clear. It was well summarized by James Wilson, an influential member of the Committee of Detail which was responsible for the provision in the Federal Constitution. 'In order to enable and encourage a representative of the public to discharge his public trust with firmness and success, it is indispensably necessary, that he should enjoy the fullest liberty of speech, and that he should be protected from the resentment of every one, however powerful, to whom the exercise of that liberty may occasion offence.'" II Works of James Wilson (Andrews ed. 1896) 38.[9]

The Court has made abundantly clear that the "powerful" of whom Wilson spoke, refers primarily to the executive branch. In *United States* v. *Johnson*, the Court said:

"[I]t is apparent from the history of the clause that the privilege was not born primarily of a desire to avoid private suits such as those in *Kilbourn* and *Tenney*, but rather to prevent intimidation by the executive and accountability before a possibly hostile judiciary." *Supra* at 180–1.

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[1] Dr. Rodberg is not now a party in Nos. 71-1331 and 71-1332. The latter involves a subpoena directed to Howard Webber, director of MIT Press. The former is an appeal from the denial of the motion to quash the subpoena directed to Dr. Rodberg. His application for certification of the district court's order so as to permit him to appeal from that order was denied on October 28, 1971. We have therefore confined our discussion here solely to the issue raised by the government's appeal, reserving for the appropriate time other objections. We of course agree with the position urged by Senator Gravel that everything he has done in connection with the Pentagon Papers is within "the sphere of legitimate legislative activity," *Tenney* v. *Brandhove*, 341 U.S. 367 376 (1951) and thus by virtue of the Speech or Debate Clause immune from executive scrutiny in any way.

[2] Sl. Op., p. 8.

[3] *Id.* at 9.

[4] *Id.* at 10.

[5] Counsel for Dr. Rodberg were not informed that the government was appealing the District Court's order until Tuesday, November 2, and then only by virtue of a telephone conversation with counsel for Senator Gravel. We did not receive the government's brief in this matter until late Friday afternoon, November 5. Despite these difficulties we have sought to comply with schedule established by this Court's order entered November 1.

[6] The Clause, which is Article I, Section 6, Clause 1 of the United States Constitution, provides that "for any Speech or Debate in either House, [Senators and Representatives] shall not be questioned in any other place."

[7] The government claimed below that this activity was beyond the purview of the Constitutional provision. However, the District Court flatly rejected this assertion, Sl. Op., pp. 10–12, and the government has not pursued it here.

[8] This argument is the premise of *every* separate section of the government's brief. See pp. 10–11, 21, 22, 23–4, 27, 28 of Consolidated Brief of the United States.

[9] In *Powell* v. *McCormack*, 395 U.S. 486, 503 (1969) the Court again quoted with approval this passage.

In this respect the Clause implicates fundamental considerations involving separation of powers.

This case presents perhaps the clearest possible example of an executive hostile to the legislature. It is a well-known fact, of which this Court may take judicial notice, that a conflict has arisen in recent years between the executive and legislative branches of government over the conduct of the war in Southeast Asia. The conflict is most clearly drawn between the President and the United States Senate. The executive has been the subject of increasing criticism by the Senate over its conduct of the war and the executive's frequent assertions of unquestionable power in the area of foreign affairs, and specifically the war, subject to increasing question. The effort by the Senate to fulfill its constitutional responsibilities with respect to the conduct of the war, and to limit the claims of the executive to sole authority in this area, has grown in direct proportion to the Senate's knowledge about the war and its recognition that much information about the war has been kept from it. Not surprisingly, therefore, the effort by a United States Senator to inform the American public about the facts regarding the war and the reality that much about Vietnam and Southeast Asia has been kept secret meets with executive disfavor. The attempt by the executive to probe the legislative activities by Senator Gravel in this respect presents the classic example of the kind of situation to which the Speech or Debate Clause was meant to apply.

The history and function of the Clause and the particular facts of this case notwithstanding, the government argues that no Speech or Debate question is here presented because there is as yet no sanction sought to be imposed upon those protected by the Clause, as by initiating of a judicial proceeding. Such a reading of the Clause is entirely too narrow and is inconsistent with its very purpose.

In terms of attempting to intimidate the legislative branch, secret questioning before a grand jury can as effectively abridge the interests protected by the Speech or Debate Clause as any other method, if not more so. In many respects, the Speech or Debate Clause overlaps the First Amendment. Wilson wrote that it was "indispensably necessary" that a legislator should have "the fullest liberty of speech." *Op. cit;* by inserting the Pentagon Papers into the Congressional Record, Senator Gravel performs a dual role, each of which is the fulfillment of First Amendment interests. On the one hand, he acts for his constituents and expresses their views; on the other he informs the people of information previously kept from them, thus satisfying the public's right to know, *Lamont* v *Postmaster General,* 381 U.S. 301, 308 (1965) (concurring opinion) by helping to maximize the "spectrum of available knowledge." *Griswold* v. *Connecticut,* 381 U.S. 479, 482 (1965). The intended effect of inserting the Pentagon Papers into the record was, in the words of Justice Black, to "bare the secrets of government and inform the people." *New York Times Co.* v. *United States,* 403 U.S. 713, 717 (1971).

We emphasize the First Amendment roots of the Speech or Debate Clause because the First Amendment cases are the ones which most decisively reject a claim that intimidation of deterrence of constitutionally protected activity does not come until a prosecution is instituted. Over and over, the precedents recognize that compelling an unwilling witness to subject himself to interrogation and investigation may as effectively abridge the performance of constitutionally protected activity as the application of judicial sanctions. See, e.g., *NAACP* v. *Alabama,* 357 U.S. 449 (1958); *Gibson* v. *Florida Legislature Investigation Committee,* 372 U.S. 539 (1963); *DeGregory* v. *Attorney General,* 383 U.S. 825 (1966); *Caldwell* v. *United States,* 434 F. 2d 1081 (9th Cir., 1970), cert. granted 402 U.S. 942 (1971). What the Supreme Court has said with respect to First Amendment rights applies equally well to the related rights under the Speech or Debate Clause:

"The fact that Alabama . . . has taken no direct action . . . to restrict the right of petitioner's members to associate freely, does not end inquity . . . In the domain of these indispensable liberties . . . the decisions of this Court recognize that abridgment of such rights, even though unintended, may inevitably follow from varied forms of governmental action. Thus, in *Douds,* the Court stressed that the legislation there challenged . . . would have the effect 'of discouraging' the exercise of constitutionally protected political rights . . . Similar recognition of possible unconstitutional intimidation of the free exercise of the right to advocate underlay this Court's narrow construction of the authority of a congressional committee investigating lobbying . . ." *NAACP* v. *Alabama, supra* at 461.

Questioning a United States Senator or his legislative aide about the performance of legislative responsibilities in a proceeding whose purpose is to obtain criminal indictments will necessarily deter the vigorous exercise of that legislator's constitutional duties. As the Supreme Court noted in *Tenney* v. *Brandhove,.* "[o]ne must not expect uncommon courage even in legislators." 341 U.S. at 377. It is both understandable and accurate to say that legislators may well curtail the vigor of the performance of their representative duties if they have to fear disclosure of confidential matters or other questioning by the executive branch. The Supreme Court has recognized that the key to the enforcement of the Speech or Debate Clause is not immunity from criminal or civil sanction but immunity from the threat of such sanctions. In *Powell* v. *McCormack,* the Court noted that the Clause "insures that legislators are free to represent the interests of their constituents *without fear* that they will be later called to task in the courts for that representation." *Supra* at 503 [Emphasis added]. In the context of the analogous executive privilege, the Court has spoken of the importance "that officials of government should be free to exercise their duties unembarrassed by the *fear* of damage suits in respect of acts done in the course of those duties . . ." *Barr* v. *Matteo,* 360 U.S. at 571 (Emphasis added).

The *Barr* Court recognized that "the threat of [such suits] might appreciably inhibit the fearless, vigorous, and effective administration of policies of government." *Id.* As the Court has noted in the closely related First Amendment context: "The threat of sanctions may deter . . . almost as potently as the actual application of sanctions." *NAACP* v. *Button,* 371 U.S. 415, 433 (1963).[10] We therefore conclude that the Speech or Debate Clause is a constitutional limitation upon the scope of questioning before the grand jury, and precludes questioning of witnesses about Senator Gravel's activities in connection with his insertion of the Pentagon Papers into the Congressional Record.[11]

Dombrowski v. *Eastland,* 387 U.S. 82, 85 (1967) recognizes that legislative immunity applies to legislative officers and employees (although less absolutely in circumstances not relevant here). In light of that application and from the decisions of the Supreme Court in *Barr* v. *Matteo, supra* and *Howard* v. *Lyons,* 360 U.S. 593 (1959), it is apparent that the second part of the District Court's protective order was constitutionally required. In *Barr* the Supreme Court held that a press release issued by an acting director of a government agency announcing his intention to suspend two agency employees was within the scope of the director's duties and absolutely privileged, despite the claim that the issuance was done maliciously. The Court first quoted from *Spalding* v. *Vilas,* 161 U.S. 483, 498–99 (1896) in establishing the executive privilege. It then held that the privilege was not only available to executive officers but also to executive employees of lower rank as well:

"We do not think that the principle announced in Vilas can properly be restricted to executive officers of cabinet rank, and in fact it never has been so restricted by the lower federal courts. The privilege is not a badge or emolument of exalted office, but an expression of a policy designed to aid in the effective functioning of government. The complexities and magnitude of governmental activity have become so great that there must of necessity be a delegation and redelegation of authority as to many functions, and we cannot say that these functions become less important simply because they are exercised by officers of lower rank in the executive hierarchy." *Supra* at 572–3[12]

Barr thus forcefully established the principle which the government would now have this Court repudiate: that a governmental privilege must necessarily extend to those upon whom a legislator or executive necessarily depend for the performance of official duties. As the District Court said:

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[10] In the present case, the investigation occurs in context of a grand jury proceeding and the threat of criminal sanctions is therefore apparent. But we wish to emphasize that even were such a threat removed, the Speech or Debate Clause would still bar the inquiry which the government seeks. This is because, as we have shown, the Clause guards against *all* deterrence of a legislator's constitutional responsibilities, whatever the source. And it is plain from the experience with the House Un-American Activities (HUAC), now the House Internal Security Committee (HISC), that compelled questioning, even without the threat of criminal or civil sanctions, effectively deters protected activity. (For years HUAC has questioned unwilling witnesses about the details of their political activity with the effect, if not the purpose, of inhibiting that activity, the absence of sanctions not withstanding. See *Stamler* v. *Willis,* 371 F.2d 413, 414 (7th Cir., 1966).

[11] The effort by the government to exclude grand jury investigations from the protection of the Speech or Debate Clause is reminiscent of its argument long ago that the Fifth Amendment privilege against self-incrimination did not apply to such proceedings. See *Counselman* v. *Hitchcock,* 142 U.S. 547, 562–4(1892). The Fifth Amendment declares "no person . . . shall be compelled in any criminal case to be a witness against himself." The Court, in rejecting the argument that the privilege did not apply to grand jury proceedings, noted: "The privilege is limited to criminal matters but it is as broad as the mischief against which it seeks to guard." *Id.* at 562. The legislative privilege must necessarily apply to grand jury proceedings in the same way as the Fifth Amendment, if it is to adequately protect against the "mischief," "against which it is intended to guard," the deterrence of vigorous representative government.

[12] *Howard* v. *Lyons, supra,* a companion case to *Barr* and decided the same day, involved a letter written by the commanding officer of the Boston Naval Shipyard to members of Congress explaining why he intended to withdraw recognition of a labor organization in the shipyard. The Supreme Court held that the executive privilege extended even to this officer and that since his circulation of the letter to Congressmen was within the scope of his official duties, the officer was absolutely privileged from civil liability. *Lyons* is thus even a stronger example on its facts than *Matteo* of the application of a governmental privilege to employees.

"[T]he legislative privilege enjoyed by a senator must extend to some activities of a member of his personal staff acting at his direction. To rule otherwise would dilute and jeopardize the privilege itself. For example, speeches delivered on the floor of Congress are often drafted by a skilled staff assistant and not by the congressman himself; to make such an assistant accountable for the content of a speech drafted by him would serve to dilute the privilege." Sl. Op., p. 14.

The District Court analogized, properly we submit, the legislator's dependence upon confidential assistants to a lawyer's reliance upon assistants to whom the attorney-client privilege regarding confidential communications applies. *United States* v. *Kovel*, 296 F. 2d 918 (2nd Cir., 1961). In order to ensure the accomplishment of the responsibilities which the Speech or Debate Clause seeks to protect, it is necessary to protect not only the legislator but also his personal aides without whom those responsibilities could not be fulfilled.

Powell v. *McCormack, supra,* and similar cases permitting civil actions against subordinate employees of legislative bodies have no application to the facts of this case. Again, as the District Court concluded: "Employees held accountable in such cases were administrative personnel whose non-discretionary duties to the legislative body as a whole in no substantial way related to the specific furtherance of the legislative tasks of individual members. Such institutional employees clearly have less impact upon legislation than personal staff members entrusted by the legislator himself with sensitive and confidential duties." Sl. Op., p. 12.[13] Dr. Rodberg is not an administrative employee of the legislative body as a whole who is assigned ministerial duties (as is, for example, the Sergeant-at-Arms). Rather he is a personal aide to Senator Gravel, charged with the responsibility for the accomplishment of "sensitive and confidential duties." In order to protect the Senator, Dr. Rodberg must therefore be protected from executive scrutiny of his own duties in that regard to the same extent as is the Senator. The protective order entered by the District Court was thus constitutionally required.[14]

CONCLUSION

For the aforegoing reasons, the protective order of the District Court should be affirmed.

Respectfully submitted,

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CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing brief was served by hand deliver upon the office of the United States Attorney for the District of Massachusetts, United States Courthouse, Boston, Massachusetts this 8th day of November, 1971.

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[13] We confess we are surprised at the position taken in this case by the government for it is fully inconsistent with its position elsewhere. For example, presidential aide Henry Kissinger has long refused a Senate request that he appear before committee to be "questioned about" certain aspects of United States involvement in Southeast Asia. He has declined to do so on the basis of the analogous executive privilege.

Moreover in at least two pending lawsuits the same Justice Department which seeks to question Dr. Rodberg has resisted civil actions against legislative employees on the grounds of legislative immunity. In *USSF* v. *Eastland*, Civ. No. 1474–70 (D.D.C.) the plaintiffs seek injunctive relief against execution of a subpoena issued by the Subcommittee on Internal Security of the Senate Judiciary Committee. Asserting the legislative privilege, the government has argued in its "Memorandum in Support of the Defendant's Opposition to Plaintiff's Motion for Order Compelling Answers . . ." that J. G. Sourwine, a defendant and staff counsel to the subcommittee may not be questioned about, by means of depositions, "information secured by him pursuant to his official duties as an employee of the Senate."

McSurely v. *McClellan*, Civ. No. 516–69 (D.D.C.) is an action against a Senator and employees of a legislative subcommittee for damages for the unconstitutional issuance of a Congressional subpoena, alleged to have been issued outside the scope of legitimate activity. The Justice Department has moved to dismiss the complaint or alternatively for summary judgment on the ground that the Senator and the legislative employees are immune from suit by virtue of the legislative privilege. We quote from the Justice Department's "Memorandum of Points and Authorities" in support of those motions:

"Moreover, in light of the details set forth in Senator McClellan's affidavits concerning the involvement of the defendants with the McSurelys, it is equally plain that [the legislative employees] are entitled to legislative immunity. Particularly is this so in view of Senator McClellan's affidavit, which states that all actions of [those employees] in relation to the McSurelys were done within the scope of their duties as agents and employees or representatives of a Senate Subcommittee and that all such actions were taken pursuant to lawful congressional investigation within the legislative authority of the Senate of the United States as assigned to the Senate Subcommittee."

Putting aside the question whether the government lacks equity to seek to enforce a subpoena on the basis of an argument it expressly repudiates in other cases, we submit that if the government is correct in its contentions in the *USSF* and *McSurely* matters, then *a fortiori*, it may not question Dr. Rodberg about his own actions or those of Senator Gravel in connection with the June 29 reading of the Pentagon Papers into the Congressional Record. For we have seen that the Speech or Debate Clause "was not born primarily of a desire to avoid private suits such as those in *Kilbourn* and *Tenney*, but rather to prevent intimidation by the executive . . ." *United States* v. *Johnson, op. cit.* If legislative employees may not be questioned in a civil action about their activities which are alleged to be outside "the sphere of legitimate legislative activity," *Tenney* v. *Brandhove, supra* at 376, then clearly they may not be questioned in the context of a criminal investigation commenced by the executive.

[14] We have discussed the protective order only in the context of the issue presented by the government's appeal: whether it was necessary or proper. While we believe it was, we wish to emphasize that we do not believe it was sufficient to protect the constitutional interests at stake. We believe it should extend to all activities of the Senator and his aides with respect to the Pentagon Papers. Moreover, if, as the District Court held, Dr. Rodberg cannot be questioned about certain of his actions involving activity encompassed by the Speech or Debate Clause, it should follow that no other witness can be questioned about Dr. Rodberg's actions in that regard. Because these qeustions are touched upon in Nos. 71–1331 and 71–1332 and because they are not squarely presented by the government's appeal in this case, No. 71–1335, we do not discuss them at length, but only mention them so as to make our position clear.

[U.S. Court of Appeals for the First Circuit, Nos. 71–1135, 71–1331, and 71–1332]

UNITED STATES OF AMERICA, APPELLANT VERSUS MIKE GRAVEL, U.S. SENATOR, APPELLEE

BRIEF OF INTERVENOR APPELLEE AND REPLY BRIEF OF INTERVENOR APPELLANT

PRELIMINARY STATEMENT

In these proceedings (Nos. 71–1331 and 71–1332), now before this Court, Intervenor Senator Mike Gravel has appealed first the District Court's failure to grant or provide adequate and necessary judicial relief to properly safeguard the Constitutionally protected rights of Senator Gravel arising out of the Speech and Debate Clause recognized by the District Court and secondly, the failure of the District Court to include within the protection of the Speech and Debate Clause the conduct of Senator Gravel in the publication of the official Subcommittee minutes. In No. 71–1335 the government appeals so much of the District Court's order which recognized and applied the Speech and Debate Clause to preclude the Grand Jury from inquiry of the Senator or his aides about the Senator's conduct preliminary to and during the holding of the Subcommittee Hearing, in which the so-called "Pentagon Papers" were made public.

This is Intervenor Senator Mike Gravel's brief as Intervenor—Appellee in No. 71–1335 (the Government's appeal), and Intervenor Appellant's reply brief to Appellee's brief in Nos. 71–1335 and 71–1332. This merger on the part of the Intervenor is necessitated by the consolidated brief of the United States of America filed in Nos. 71–1331, 71–1332, and 71–1335.

The appeal and the cross-appeal in this matter raise the extent of the protection afforded Senator Gravel by the Speech and Debate Clause from Grand Jury investigation into his official legislative conduct in holding a Subcommittee meeting, publishing the minutes of such meeting, and the extent to which his personal aides are likewise barred from interrogation, the necessary protective machinery to guarantee any rights recognized by the Court.

PART I—APPELLEE'S BRIEF

Question presented

The question presented by the government's appeal is whether the Executive Branch may utilize the compulsory processes of secret grand jury proceedings to conduct an intensive investigation into the legislative activities of a Member of Congress.

Argument

The speech or debate clause prohibits interrogation by the grand jury into the legislative activities of a Member of Congress

The government's basic position in this proceeding, as we understand it, is that a Member of Congress has no protection under the Constitution from interrogations by Federal grand juries, accomplished by the use of the court's compulsory processes, about his legislative activities. Although now apparently conceding that Senator Gravel's conduct at the Subcommittee hearing falls within the scope of the Speech or Debate Clause[1], the government nevertheless maintains that the Clause permits the Executive Branch, by use of the compulsory process of the grand jury to compel anyone it wishes, including Senator Gravel, and under threat of contempt sanctions, to testify and produce documents about any and all phases of this protected conduct.

The government's argument proceeds under the headings:

A. The District Court properly denied in-

Footnotes at end of article.

tervenor's motions to quash subpoenas and supervise the grand jury.

1. The "Speech or Debate" Clause Does Not Require or Permit The Granting of the *Relief Demanded by Intervenor.*

(a) The "Speech or Debate" Clause Does Not Prohibit Questioning Regarding Legislative Activities.

(b) The "Speech or Debate" Clause Bars Civil and Criminal Prosecution of Legislators for their Legislative Activities.

2. Only Senators and Representatives are *Covered by the Legislative Privilege.*

3. Only Legislative Activities Are *Covered by the Legislative Privilege.*

4. The Legislative Privilege is Enforced by Obtaining Court Action Against *Offending Prosecutions.*

To argue and conclude at page 20 as follows:

The conclusion is inescapable that the legislative privilege creates an immunity from civil or criminal prosecution. It does not bar the questioning of witnesses about legislative activities in proceedings in which the legislator himself is not being so called to account.

The government argues its cross-appeal for one page under the heading:

C. The District Court's "Protective Order" improperly limits the grand jury's inquiry.

to conclude:

As has been demonstrated in preceding portions of this brief, the Speech or Debate Clause prohibits a legislator from being "questioned" for legislative activities by civil or criminal prosecution, but does not preclude witnesses from being "questioned about" such activities in proceedings in which the legislator himself is not being so called to account.

In view of the nature of the legislative privilege, a protective order to insure a legislator's rights under it is neither necessary nor proper. The privilege creates an immunity from civil and criminal prosecution for legislative activities. This immunity is fully protected by resort to the courts when such an offending prosecution is brought. Any protective order issued in the absence of such a prosecution is entirely anticipatory and advisory, and is an improper interference with the lawful functions of the grand jury.

The crux of the government's position is that Senator Gravel's conduct, including the Subcommittee hearing, is not protected by the Speech and Debate Clause from the instant inquiry, and therefore no agent of the Senator is protected.

The government's case is positioned on the proposition that the Speech and Debate Clause protects only against criminal prosecution, and objection is premature unless the Senator is prosecuted, and information secured in derogation of the privilege is "used."

The grand jury in exercising its legitimate functions is limited by the Speech and Debate Clause to the same judicial restrictions as are placed upon the courts which authorized the grand jury compulsions.

The government's argument misconceives first, the true posture of the grand jury and the relationship between the United States District Attorney and its investigative agents and agencies on one hand, and the grand jury and its function on the other. Secondly, the government's argument misconceives the judicial power of control which may be exercised over the grand jury to constrain that body or persons acting with it from engaging in illegal and unconstitutional conduct.

The Grand Jury is both a sword and a shield of justice—a sword because it is the terror of criminals, a shield because it is the protection of the innocent against unjust prosecution.

United States v. *Cox,* 342 F.2d 167, 186, n. 1 (5th Cir. 1965).

The purpose of the grand jury, historically, has been to stand as a buffer between the citizen and the prosecutive functions of government. It was never supposed to perform the functions of the executive branch. To the contrary, it was intended to stand wholly independent of, and apart from, the executive branch of government.

Historically, this body has been regarded as a primary security to the innocent against hasty, malicious and oppressive persecution; it serves the invaluable function in our society of standing between the accuser and the accused, whether the latter be an individual, minority group or other, to determine whether a charge is founded upon reason or was dictated by an intimidating power or by malice and personal ill will.

Wood v. *Georgia,* 370 U.S. 375, 390 (1962).

There are two ways in which a grand jury may discharge its function. It may commence its own investigation into a particular subject matter. Alternatively, it may pass upon evidence already in the possession of the United States Attorney and presented by the latter to it. In each case the grand jury is to determine whether there is probable cause to believe that a crime has been committed. If it finds probable cause, it is then to return an indictment. If it fails to find probable cause, it is to return a "no bill" or *"ignoramus."*

The subpoena power of the court is used to summon witnesses and to compel their testimony before the grand jury. Since the court's judicial power is employed to effectuate this compulsion, the court may prevent abuses of the employment of subpoenas. The grand jury itself has no independent power to summon witnesses and compel their testimony; only the court has this subpoena power. Similarly, the Department cannot compel the attendance and testimony of witnesses in the furtherance of its investigations or for any other purpose.

As the court observed in *Dunkin* v. *United States,* 221 F. 2d 520, at 522:

" 'The Constitution of the United States, the statutes, the traditions of our law, the deep rooted preferences of our people speak clearly. They recognize the primary and nearly exclusive role of the Grand Jury as the agency of compulsory disclosure.' They do not recognize the United States Attorney's office as a proper substitute for the grand jury room and they do not recognize the use of a grand jury subpoena, a process of the District Court, as a compulsory administrative process of the United States Attorney's office.

"It was clearly an improper use of the District Court's process for the Assistant United States Attorney to issue a grand jury subpoena for the purpose of conducting his own inquisition."

Because of this constraint on the prospective and investigative arm of government, the Department has developed the practice of subpoenaing witnesses to appear before the grand jury and answer questions which the government wishes answered in furtherance of its own investigation. Through this mechanism, the Department achieves by indirection what it could not achieve directly—compulsory interview of witnesses. In such cases, the grand jury does not pursue either of its legitimate functions. It is not passing upon evidence assembled by the prosecutor, which he is presenting in order to persuade the grand jury to indict. Nor in this instance is the grand jury initiating or conducting its own investigation. Instead it is pursuing the investigation initiated and conducted by the prosecutor.

In *United States* v. *O'Connor,* 118 F. Supp. 248, 250–251, the Court stated:

"So far as this Court knows, Congress has never in criminal matters vested the executive with an unrestricted subpoena power to uncover information which might aid in the enforcement of criminal statutes and the preparation of criminal cases. Cf. In re National Window Glass Workers, D.C.N.D. Ohio, 287 F. 219. Rule 17(c) of the Federal Rules of Criminal Procedure, 18 U.S.C.A., has only the limited function of procuring production of papers in use in evidence at a trial. It is not the equivalent of pre-trial discovery. Cf. Bowman Dairy Co. 1. United States, 341 U.S. 214, 220, 71 S.Ct. 675, 95 L.Ed. 879.

"The Constitution of the United States, the statutes, the traditions of our law, the deep rooted preferences of our people speak clearly. They recognize the primary and nearly exclusive role of the Grand Jury as the agency of compulsory disclosure. That is the inquisitorial body provided by our fundamental law to subpoena documents required in advance of a criminal trial, and in the preparation of an indictment or its particularization. See *Hale* v. *Henkel,* 201 U.S. 43, 26 S. Ct. 370, 50 L.Ed. 652."

There probably is no clearer case of the prostitution of the grand jury process than is daily evidenced in the matter of "The Boston Grand Jury Inquiry into the Publication of the Pentagon Papers." The grand jury has not initiated its investigation, nor may it be said that it is conducting its own investigation. Sitting to hear evidence already in the possession of the United States Attorney is the only proper remaining grand jury function. From the inception of this grand jury until the present the government has made it abundantly clear that the executive is conducting an exploratory investigation, using the grand jury compulsion because it possesses no such power of its own while conducting executive investigations.

This Court is thus presented by the government with a flagrant misuse of the subpoena power of the grand jury. The facts show that the Justice Department denied a subpoena power by Congress, *United States* v. *Minker,* 350 U.S. 179, 191 (1956) (Concurring opinion of Black, J.), is seeking to use the subpoena power *of the grand jury* to perform its own executive function of accumulating evidence. This represents a fundamental perversion of the function of the grand jury and a violation of the principle of separation of powers. While the history of the grand jury has been an attempt to establish its full independence from the executive branch of government, the action taken here by that branch is an attempt to subvert that independence and return the grand jury to a position whereby it would be an appendage of the executive branch rather than of the judicial branch. The precedents establish beyond any doubt that grand jury process may not be invoked to perform functions that lie exclusively with the Justice Department. *United States* v. *Minker,* 350 U.S. 179, 190–2 (concurring opinion of Black, J.); *Durbin* v. *United States,* 221 F. 2d 520 (D.C. Cir., 1954); *United States* v. *O'Connor,* 118 F. Supp. 248 (D. Mass., 1953); *United States* v. *Pack,* 150 F. Suppl (D. Del., 1957); *In re National Window Glass Workers,* 287 F. 219 (N.D. Ohio, 1922); *United States* v. *Procter & Gamble* Co., 356 U.S. 677, 683–4 (1957); *United States* v. *Procter & Gamble Co.,* 187 F. Supp. 55 (D.N.J., 1960).

The government seeks to pursue its investigation by the use of the grand jury's compulsory process and argues that the court may not interfere or restrain the grand jury or those acting pursuant to the grand jury powers until the stage of prosecution and use of information which may be objectionable. This is nothing short of executive power "run riot."

The Court held *In re National Window Glass Workers* (N.D. Ohio E.D.) 287 Fed. 219, at 225:

"A grand jury has no existence aside from the court which calls it into existence and upon which it is attending. A grand jury does not become, after it is summoned, im-

> paneled, and sworn, an independent planet, as it were, in the judicial system, but still remains an appendage of the court on which it is attending * * * All indictments or presentments of a grand jury become effective only when presented in court and a record is made of such action. A grand jury is not, therefore, and cannot become, an independent, self-functioning, uncontrollable agency. It is and remains a grand jury attending on the court, and does not, after it is organized, become an independent body, functioning at its uncontrolled will, or the will of the district attorney or special assistant. The process by which witnesses are compelled to attend a grand jury investigation is the court's process and not the process of the grand jury, nor of the district attorney. If a witness fails to attend, the power, as well as the duty, to compel his attendance, is vested in the court. If, after appearing, he refuses to testify, the power, as well as the duty, to compel him to give testimony is vested in the court, and not in the grand jury. It can therefore never become an immaterial matter to the court what may be done with its process or with its grand jury. A court would not be justified, even if it were so inclined, to create or call into existence a grand jury, and then go off and leave it. A supervisory duty, not only exists, but is imposed upon the court, to see that its grand jury and its process are not abused, or used for purposes of oppression and injustice."

See *Levine* v. *United States*, 362 U.S. 610, 617, 4 L.Ed 2d 989, 995, 80 S. Ct. 1038, 1043.

Recently the Supreme Court of the State of Illinois, in *The People of the State of Illinois, Appellee*, vs. *Barnabas F. Sears, Appellant.—The People ex. rel. Barnabas F. Sears et al., Petitioners*, vs. *Joseph A. Power, Judge, et al., Respondents*, Docket Nos. 44287, 44288, 44299, 44348—Agenda 45,—(Decided May, 1971.) held:

> "Much of petitioners' argument deals with the necessity for secrecy of the grand jury proceedings contending that a prosecutor can not fearlessly perform his duties if at any time the court 'can intrude itself in these proceedings and exercise the powers claimed here.' The short answer to that is that the grand jury is an integral part of the court and not the tool of the prosecutor and neither the prosecutor nor the grand jury is vested with power to proceed without regard to due process.
>
> "Nor do we find persuasive the argument that a defendant wrongfully indicted has his day in court at trial, and assuming vindication by acquittal has not been harmed thereby. We argree with the statement *In re Fried* (2d cir.), 171 F. 2d 453, that a wrongful indictment inflicts substantial harm on a defendant not entirely remedied by acquittal. That a court may act prior to indictment to prevent injustice and abuse of process is settled law. See *Austin* v. *United States* (4th cir.), 297 F. 2d 356, and cases cited therein."

The government's contention, if accepted, would effectively vitiate the Speech or Debate Clause as an instrument in the preservation of separation of powers. The Supreme Court made clear in *United States* v. *Johnson*, 383 U.S. 169 (1966), that the Clause was intended to insulate the freedom of speech and activity of Members of Congress from intimidation and harassment by the Executive, and that the Clause was written in the broadest terms to bar *all* forms of legal proceedings which could be used by the Executive to intimidate Congress:

> "Although historically seditious libel was the most frequent instrument for intimidating legislators, this has never been the sole form of legal proceedings so employed, and the language of the Constitution is framed in the broadest terms." *Id.*, at 182–83 (foonote omitted).

The Court therefore concluded that in considering its applicability to any form of legal proceeding, we must "look particularly to the prophylactic purpose of the clause." *Id.*, at 182.

The government attempts to justify its position by a process of construction in which the terms of Speech or Debate Clause are read in the narrowest possible way; "questioned" is thereby transmuted into "prosecuted"; and the Clause is reduced merely to affording a defense to a criminal or civil prosecution. Not only is this technique of construction directly contrary to the Supreme Court')s admonition that "the clause will be read broadly to effectuate its purposes," *United States* v. *Johnson*, 383 U.S. 169, 180 (1966), but the conclusion that the Clause protects the legislator only from accountability has been consistently rejected by the Court. Thus, in *Powell* v. *McCormack*, 395 U.S. 486, 502–503, 505 (1969), the Court explicitly stated that ". . . [T]he clause not only provides a defense on the merits but also protects a legislator from the burden of defending himself," and "insure[s] that legislators are not distracted from or hindered in the performance of their legislative tasks by being called into court to defend their actions." And in *Tenney* v. *Brandhove*, 341 U.S. 367, 373 (1951), the Court said:

> "The privilege would be of little value if [legislators] could be subjected to the cost and inconvenience and distraction of a trial upon a conclusion of the pleader, or the hazard of a judgment against them based upon a jury's speculation as to motives."

See also *Dombrowski* v. *Eastland*, 387 U.S. 82 (1967). It seems incontrovertible that an intensive grand jury investigation into the protected legislative activities of a Member of Congress will result in the same hindrance and distraction from his duties as the actual filing of a suit against him.[2] So too will the concomitant uncertainty as to whether he will be indicted for engaging in protected legislative conduct. For as the Court of Appeals said in Johnson, "Indeed, fear of criminal prosecution may be the graver inhibition." *United States* v. *Johnson*, 337 F. 2d 180, 190 (4th Cir. 1964).

Furthermore, the Supreme Court's decision in *United States* v. *Johnson*, *supra*, held that the Speech or Debate Clause means exactly what it says in barring not only prosecution for but judicial questioning into legislative activities. The Court began its opinion by ruling inadmissible all evidence concerning the preparation of the Congressman's speech (383 U.S. at 173):

> "The language of the Speech or Debate Clause clearly proscribes at least some of the evidence taken during trial. Extensive questioning went on concerning how much of the speech was written by Johnson himself, how much his admininstrative assistant, and how much by outsiders representing the loan company."

Indeed, there was so much evidence introduced about the speech—through the questioning not only of Johnson but his aide and others as well (*id.*, at 173–76, fn. 4, 5)—that the Court held that an entire count of the indictment was tainted:

> "We see no escape from the conclusion that such an intensive judicial inquiry, made in the course of a criminal prosecution by the Executive Branch under a general conspiracy statute, violates the express language of the Constitution and the policies which underlie it . . .
>
> "The essence of such a charge in this context is that the Congressman's conduct is improperly motivated, and . . . that is precisely what the Speech or Debate Clause generally forecloses from executive and judicial inquiry." *Id.*, at 177, 180.

It necessarily follows from these decisions that the Speech or Debate Clause prohibits "executive and judicial inquiry" of the legislative activities of a Member of Congress in grand jury proceedings. And since grand jury proceedings are criminal in nature, the applicability of the Clause to them is more forceful than to civil proceedings such as *Tenney*, *Powell*, and *Dombrowski*, in which there was no involvement by the Executive Branch. This was at least implicitly recognized by the Court of Appeals when Johnson argued, after being convicted a second time, that all indictments against him were void because of illegal questioning in the grand jury. While following the rule of *Costello* v. *United States*, 350 U.S. 359 (1956), and refusing to void the indictments, the Court acknowledged that the grand jury's receipt of evidence about Johnson's speech was "constitutionally impermissible." 419 F 2d 56 (4th Cir. 1969).

Even apart from these decisions, the doctrine of official privilege has always been understood to bar inquiry by one branch of government into the official activities of another. While not of constitutional magnitude, the Executive privilege has been invoked by successive Presidents since Jefferson[3] as a bar to themselves and their personal staff assistants being called to testify before Congressional committees. For the past two and one-half years, Dr. Henry Kissinger and others have refused to appear before Congressional committees, and they have done so on the grounds that they may not be held to question by a coordinate branch of government. The Executive has also invoked its privilege to suppress from Congressional inquiry several planning reports which were prepared by staff assistants and involve important aspects of foreign relations.[4] The source of this privilege is said to be, by implication, in Article II of the Constitution. It ill befits the Executive Branch to now say that privilege is a one-way street—that it immunizes the Executive from Congressional inquiry but that it gives no protection at all to a Senator from the compulsory processes and investigation of the grand jury.

The government's position is even more inconsistent, for it has successfully argued in court that the legislative privilege not only protects Congressmen from accountability but also prohibits testimony about privileged activities. In *United States Servicemen's Funds* v. *Eastland*, Civ. No. 1474–70 (D.D.C. October 21, 1971), an action for damages was brought against Senator Eastland and employees of the Subcommittee for Internal Security for issuing subpoenas which allegedly violated First Amendment rights. The plaintiffs sought to take the deposition of Sourwine, Counsel for the Subcommittee, and he refused to testify or disclose written or verbal information about the Subcommittee's activities which were not of public record. Sourwine was represented by the Internal Security Division of the Justice Department, which is coincidentally the Division involved in the present grand jury proceedings, and they argued as follows:[5]

> "To permit in the present posture of this case, a full-scale examination, by the attempted deposition of the Subcommittee's counsel of the Subcommittee's judgment in issuing its subpoena would be an invasion of the prerogatives of the legislature and a serious interference with Congressional investigations and with Congressional privilege."

The District Court agreed, and held that Sourwine did not have to appear and testify. See also *Smith* v. *Crown Publishers, Inc.*, 14 F.R.D. 514, 515 (S.D.N.Y. 1953).

We hasten to add that the facts of the *Servicemen's* case make the legal issue very difficult. In civil litigation where First Amendment rights are at stake, there are cogent arguments that courts should not permit one part of the Constitution to be used to shield from judicial review the violation of another. Even there, however, the Justice De-

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Footnotes at end of article.

partment had no trouble in asserting the traditional argument that the privilege prohibits judicial inquiry into legislative conduct. It is only now that the shoe is on the other foot that the Executive claims—and in a proceeding which involves the Executive, Legislative and Judicial Branches in a classic confrontation—that the privilege is inapplicable except as a defense on the merits.

Finally, the government argues in its Brief (pp. 12–15) that the Framers, in using the term "questioned" in Article I, Section 6, intended a unique meaning akin to "impeached." First of all, this argument may prove too much. It is clear beyond doubt that "impeached," as used in the Constitution, is not equatable with "prosecuted." In cases of impeachment, the House of Representatives acts precisely like an indicting grand jury. Thus, if the Congressional immunity applies in impeachment proceedings, it is more than a defense on the merits and extends to grand jury proceedings.

In any event, the historical interpretation of a clause in the Constitution should not turn into a dispute over mere semantics or a battle of dictionaries.[6] For behind the "simple phrases" of the Speech or Debate Clause "lies a history of conflict between the Commons and the Tudor and Stuart monarchs during which successive monarchs utilized the criminal and civil law to suppress and intimidate critical legislators." *United States* v. *Johnson*, 383 U.S. 169, 178 (1966). This history reveals beyond doubt that the intimidating conduct which lies at the "taproots" of the Clause, *Tenney* v. *Brandhove, supra*, took a wide variety of forms and was certainly not limited to the institution of criminal proceedings. The Crown's arsenal also included issuing direct orders to the Speaker to cease debate on certain subjects, bribing corruptable Members of Parliament, summarily arresting others and arraigning them before the Star Chamber or directly committing them to the Tower, and spreading rumors of Royal displeasure and threats of retaliation; and each of these actions led Parliament to protest that its freedom of speech and debate was infringed. See generally Taswell-Langmead, *English Constitutional History* 318–21, 336–37, 541–79, 770–772 (4th Ed. 1890).

Secret, inquisitorial bodies with contempt power—the equivalent of the modern-day investigating grand jury—also played their part as the Crown's instruments of intimidation, and were in fact employed to suppress a legislator in one of the most important clashes between the Crown and Parliament prior to the Great Revolution.[7]

The conflict began in 1575 when Peter Wentworth protested on the Floor of Parliament the detention by the Privy Council of another legislator. Queen Elizabeth released the legislator but ordered the elimination of long speeches in Parliament. Undeterred, several legislators, including Wentworth, debated a bill concerning religious rites and the succession; and they were ordered to stop by the Queen, who also caused rumors to be spread of future retribution. Peter Wentworth then took the Floor and delivered "the most remarkable speech on the rights and liberties of the Parliament."[8] Wentworth protested *all* intimidating conduct by the Crown as a violation of Parliament's privileges, and he decried the rumors and royal commands in particular as blatant violations of the rights of the House of Commons. Before he finished, Wentworth was arrested and taken before a committee composed of Privy Council members and other state officials, who interrogated him about his speeches in Parliament. Wentworth responded that if the committee were acting on behalf of the Crown it had no right to question him and he would not answer, the sole body with authority to examine him being the House of Commons; and he was thereupon committed to the Tower for contempt.

We are presented in this case with the use of the grand jury in the same manner which led, after hundreds of years of struggle, to the vindication of the privilege. The abuses which occurred in cases such as Wentworth's and Eliot's, who was persecuted for protesting a disastrous war, were deeply embedded in the memory of those who created our system of government. So firm was the understanding of the widespread nature of these abuses that Thomas Jefferson, in what is without doubt the single most authoritative interpretation of the scope of the Congressional privilege, wrote that it bars intrusions of all forms by the Executive into the unhindered freedom of speech and debate in Congress. *Jefferson's Manual of Parliamentary Practice* (1797–1801), reprinted in Senate Manual (1969), at pp. 413–14.

The abuses which gave rise to the legislative privilege and necessitated its inclusion in the Constitution ought not be allowed to be resurrected under a perhaps more subtle guise. For they are "part of the intellectual matrix within which our own constitutional fabric was shaped," *cf. Marcus* v. *Search Warrant*, 367 U.S. 717, 729 (1961), and if allowed to intrude in the present will have the same disastrous consequences for representative democracy. No exception to the Speech or Debate Clause should be made which makes possible the muzzling of Congress.

PART II—APPELLANT'S REPLY

The government's answer to the first argument of the appellant, that this Court has jurisdiction of this appeal, is contained in the government's consolidated brief under the heading:

"B. The Denial of Intervenor's Requested Relief in the District Court is not Appealable."

The substance of the government's reply is that the District Court's order is not appealable since it is not final because an order to quash a grand jury subpoena has been held to be interlocutory and hence not appealable. Further, the government contends that since the Speech or Debate Clause protects only against prosecution and prosecutional use of information, any objection raised before such prosecution is premature. The government concludes that there is no "irreparable injury" because there is no injury. The government's position is summarized in their consolidated brief, pages 27–28 as follows:

"In the event that the Intervenor or his employee were charged with a civil or criminal offense, appeal could be had from any lower court ruling on their claim of legislative privilege. This would be full and adequate appellate review of his constitutional claim. Any review of claims made previous to such time would be premature and advisory."

The appellant urges upon this Court the conclusion that *United States* v. *Johnson*, 337 F. 2d 180, 191–192 (4th Cir. 1964) disposes of the government's contention adversely:

". . . [T]he process of indictment by a grand jury and inquiry in a court may itself be so devastating that an innocent congressman may well fear it. . . .

"In the case of a congressman, the possibility—even the likelihood—of ultimate vindication in a court proceeding is no substitute for the guarantee held out by the Constitution."

Secondly, the appellant next argued that the republication by Senator Gravel of the record of the Subcommittee meeting was protected by the Speech or Debate Clause. In the consolidated brief the government's reply to appellant's second argument is contained under heading: (See Consolidated Brief of U.S., pp. 21–23.)

"A. 3. Senators and Representatives are Protected by the legislative privilege only in their legislative activities."

The government makes no distinction between grand jury inquiry as to the initial conduct of the Senator in conducting the meeting and the protection of what transpired there on one hand, and subsequent republication on the other. Again the government's position is that the conduct of the meeting and the subsequent republication are not exempt from grand jury inquiry and even if they are in error as to this, any judicial action restraining the grand jury prior to prosecution is premature and advisory.

The government's answer to appellant's final argument, that the protective order issued by the District Court does not adequately protect Senator Gravel's constitutional rights, is contained in the government's consolidated brief at page 28 where the government asserts that:

C—The District Court's "Protective Order" Improperly Limits Grand Jury's Inquiry.

Simply stated the government's position is that since they are correct on the merits there is no need for any protective order. The government makes no effort to address itself to the constitutional claims and issues raised in Senator Gravel's brief either as to remedy or judicial reviewability of constitutional facts.

Appellant respectfully submits that appellees have failed to address themselves in any substantial manner to the claims raised by Senator Gravel in his brief as Intervenor-Appellant.

CONCLUSION

The Framers of our Constitution believed that representative democracy could best be served if Members of Congress were given unlimited freedom in actions within the scope of their legislative activity. They knew that the privilege might be occasionally abused, but they also wisely understood that the risks to democracy in anything less than an absolute privilege, broadly construed and interpreted, were much greater.[9] This perception is as true today as when the Constitution was written. "In the final analysis, no task is likely to be more important to the preservation and ultimate vitality of our governmental system of separation of powers than the widespread popular acceptance of the doctrine of legislative privilege in its most unwavering, pristine and absolute terms."[10] That is the theory of our Republic.

The actions taken by the Executive Branch in this case challenge the most basic and bedrock principles of our constitutional form of government. They cannot withstand analysis under the terms, policies and history of the Speech or Debate Clause and the doctrine of separation of powers. The Court below was clearly correct in holding that the Constitution affords protection to Senator Gravel against these actions. Our dispute with the decision of the Court below, as detailed in our Brief in Nos. 71-1331 and 71-1332, is that it did not go far enough and hold unconstitutional all of the actions which "threaten those consequences which the Framers deeply feared," *School District* v. *Schempp*, 374 U.S. 203, 230, 236 (1963) (Brennan, J., concurring).

Respectfully submitted.
ROBERT J. REINSTEIN,
Temple University Law School,
Philadelphia, Pa.,
HERBERT O. REID, Sr.,
Howard University School of Law,
Washington, D.C.,
CHARLES L. FISHMAN,
Washington, D.C.,
Attorneys for Appellant[11].

FOOTNOTES

[1] In the District Court, the government maintained that it could not only interrogate witnesses about the Subcommittee hearing but prosecute Senator Gravel for it. Government's Memorandum in Opposition

to Motion to Quash (in No. 71-1331), pp. 5-11.

[2] The Court in *Powell* observed that legislators are not distracted from their duties when law enforcement officials who execute their orders are subject to judicial review. Thus suit could be maintained against the Sergeant-at-Arms in the same manner as with respect to any policeman. And see *Dombrowski* v. *Eastland, supra,* where Sourwine, the Subcommittee counsel, was given only a limited immunity when he acted like a policeman and engaged in an illegal search and seizure.

These situations of course differ *toto ceolo* from the situation of the instant case, where a secret grand jury with contempt power seeks to interrogate a Senator's personal aides and others in order to investigate directly into his protected legislative activities. The distraction and inhibiting effect of such an interrogation is patent even if the Senator himself is not subpoenaed.

[3] President Jefferson was subpoenaed by Chief Justice Marshall in the trial of Aaron Burr for treason. Jefferson refused to testify about privileged information.

[4] See the *Boston Globe,* September 1, 1971, p. 8, which describes President Nixon's having invoked the privilege to reject the unanimous demand of the Senate Foreign Relations Committee to see a planning report on the military aid program.

[5] Memorandum in Support of Defendant's Opposition to Plaintiff's Motion for Order Compelling Answers and Production of Documents, pp. 7-8.

[6] The ambiguous quotations of the Oxford English Dictionary (Government Brief pp. 13-14) may be compared with the following from Black's Law Dictionary (4th Ed. 1968), p. 1412:

Question. A subject or point of investigation, examination or debate; theme of inquiry; problem; matter to be inquired into; as a delicate or doubtful question . . .

A method of criminal examination heretofore in use in some of the countries of continental Europe, consisting of the application of torture to the supposed criminal, by means of the rack or other engines, in order to extort from him, as the condition of his release from the torture, a confession of his own guilt or the names of his accomplices.

EVIDENCE

An interrogation put to a witness, for the purpose of having him declare the truth of certain facts as far as he knows them.

[7] The following account of Peter Wentworth's case is taken from Cella, "The Doctrine of Legislative Privilege of Freedom of Speech and Debate: Its Past, Present and Future as a Bar to Criminal Prosecutions in the Courts," 2 Suffolk L. Rev. 1, 6-10 (1968) and Taswell-Langmead, *supra* at 490-94.

[8] Cella, *supra* at 8.

[9] Also, "[P]resumably, legislators will be restrained in the exercise of such a privilege by the responsibilities of their office. Moreover, in the event of their failure in that regard, they will be subject to discipline by their colleagues." *Cochran* v. *Couzens,* 42 F. 2d 783, 784 (D.C. Cir. 1930), *cert. denied* 282 U.S. 874.

[10] Cella, *supra* n. 7, at 43.

[11] Counsel wish to acknowledge the assistance of Ralph Kates, a third-year law student at Temple University Law School, in the preparation of this Brief.

[U.S. Court of Appeals for the First Circuit,
No. 71-1335, No. 71-1331, No. 71-1332]

UNITED STATES OF AMERICA, APPELLANT v. MIKE GRAVEL, U.S. SENATOR, APPELLEE

Appeal from the Final Order of the United States District Court for the District of Massachusetts, Civil Action Nos. E.B.D. 71-172 and E.B.D. 71-209

CERTIFICATE OF SERVICE

I, Harvey A. Silverglate, a Member of the Bar of this Court, hereby certify that I served a copy of "Brief of Intervenor Appellee and Reply Brief of Intervenor Appellant" upon the United States by hand delivering a copy of same by messenger on this day to the Office of the United States Attorney, 1107 U.S. Post Office & Courthouse, Post Office Square, Boston, Massachusetts 02109, to the attention of Warren Reese, Esquire, Attorney for the Department of Justice.

Done on this 9th day of November, 1971.

HARVEY A. SILVERGLATE.

[U.S. Court of Appeals for the First Circuit,
No. 71-1335]

UNITED STATES OF AMERICA, APPELLANT, v. JOHN DOE

Appeal from an order of the U.S. District Court for the District of Massachusetts.

Motion of appellant United States of America for an order that the clerk not file the brief of Leonard Rodberg, or in the alternative that said brief be stricken.

JAMES N. GABRIEL,
U.S. Attorney.
DAVID R. NISSEN,
Assistant U.S. Attorney.
WARREN P. REESE,
Assistant U.S. Attorney.
Attorneys for the United States.

MOTION

Appellant, United States of America, hereby moves this court to order the clerk not to file the brief of Leonard Rodberg, or in the alternative to strike said brief on the ground that Leonard Rodberg is not a party to this appeal.

The District Court's Memorandum of Decision and Protective Order denied Leonard Rodberg any of the relief he requested, and he did not appeal therefrom. The "Protective Order" from which the United States appeals was made for the sole benefit of the Intervenor, and no rights accrue to Leonard Rodberg from it. The district court's decision said:

"Therefore, if Senator Gravel's rights under the Speech or Debate Clause are to be fully protected, a protective order will be required limiting the subject matter of the current grand jury's investigation and not merely the questions which may be put to Dr. Rodberg, the witness under subpoena."

The District Court then ordered that: "(1) no witness before the grand jury . . . may be questioned about" certain conduct of the intervenor, and "(2) Dr. Leonard S. Rodberg may not be questioned about" certain of his own actions on June 29, 1971, taken at the Intervenor's direction.

This protective order gave witness Rodberg no more rights than it did any of the other unnamed witnesses to whom it refers. None of them are parties to the government's appeal from the order.

Respectfully submitted,

JAMES N. GABRIEL,
U.S. Attorney.
DAVID R. NISSEN,
Assistant U.S. Attorney.
WARREN P. REESE,
Assistant U.S. Attorney.
Attorneys for the United States.

CERTIFICATE OF SERVICE

SUFFOLK, SS.

BOSTON, MASS.,
November 8, 1971.

I, William A. Brown, Assistant U.S. Attorney, hereby certify that I have this day sent copies of the within Motion to: Robert J. Reinstein, Temple University Law School, Philadelphia, Pennsylvania, 19122; Charles L. Fishman, 633 East Capital Street, Washington, D.C.; Herbert O. Reid, Sr., Howard University Law School, Washington, D.C.; and James Reif, c/o Center for Constitutional Rights, 588 Ninth Avenue, New York, New York, 10036, by mailing them in franked official envelopes, Air Mail, Special Delivery.

WILLIAM A. BROWN,
Assistant U.S. Attorney.

[U.S. Court of Appeals for the First Circuit,
No. 71-1331, No. 71-1332]

UNITED STATES OF AMERICA, v. JOHN DOE, MIKE GRAVEL, UNITED STATES SENATOR, INTERVENOR, APPELLANT; UNITED STATES OF AMERICA, v. JOHN DOE, MIKE GRAVEL, UNITED STATES SENATOR, INTERVENOR, APPELLANT

STIPULATION

(November 5, 1971)

It is hereby stipulated between the parties hereto that the New England Merchants National Bank need not deliver or turn over any documents relating to the so-called "Pentagon Papers" to any representative of the United States of America and in any case shall not deliver or turn over any such documents to any federal grand jury in the District of Massachusetts until the termination of the restraining order entered by the United States Court of Appeals for the First Circuit on October 29, 1971.

Counsel for Appellants.
Counsel for Appellees.

[U.S. Court of Appeals for the First Circuit,
No. 71-1331; No. 71-1332]

UNITED STATES OF AMERICA, v. JOHN DOE, MIKE GRAVEL, UNITED STATES SENATOR, INTERVENOR, APPELLANT; AND UNITED STATES OF AMERICA, v. JOHN DOE, MIKE GRAVEL, U.S. SENATOR, INTERVENOR, APPELLANT

STIPULATION

It is hereby stipulated between the parties hereto that until the termination of the restraining order entered by the United States Court of Appeals for the First Circuit on October 29, 1971, no representatives of the United States shall seek to obtain documents relating to the so-called "Pentagon Papers" within the District of Massachusetts for their own examination or for the use of a grand jury by the force or use of a subpoena.

______, ______.
Counsel for Appellants.

______, ______.
Counsel for Appellees.

[U.S. Court of Appeals for the First Circuit,
No. 71-1331; No. 71-1332]

UNITED STATES OF AMERICA v. JOHN DOE, MIKE GRAVEL, UNITED STATES SENATOR, INTERVENOR, APPELLANT; UNITED STATES OF AMERICA, v. JOHN DOE, MIKE GRAVEL, U.S. SENATOR, INTERVENOR, APPELLANT

ORDER OF COURT

It is ordered that appellant's request that the motion for order to show cause and imposition of court sanctions be withdrawn be, and the same hereby is, allowed.

By the Court:

DANA H. GALLUP,
Clerk.

[cc: Messrs. Fishman, Reid and Nissen.]

[U.S. Court of Appeals for the First
Circuit, No. 71-1335]

UNITED STATES OF AMERICA, v. JOHN DOE

ORDER OF COURT

On motion of the government,

It is ordered that the brief filed on behalf of Leonard S. Rodberg as purported appellee may be received as and only as brief amicus curiae.

By the Court:

DANA H. GALLUP,
Clerk.

[U.S. Court of Appeals for the First Circuit, No. 71–1335]

United States of America, Appellant v. John Doe

In the matter of a grand jury subpoena served upon Leonard Rodberg.

Motion for reconsideration of Court's order allowing brief of witness-appellee, Dr. Leonard Rodberg, to be received only as a brief amicus curiae.

Witness-Appellee, Leonard S. Rodberg, by his attorneys, hereby moves this Court for Reconsideration of this Court's Order entered November 9, 1971, which allowed Dr. Rodberg's brief to be received as and only as a brief amicus curiae. In view of the fact that the Government's appeal affects the rights of the Witness-Appelle, Dr. Rodberg, he respectfully asks this Court to enter an order accepting his brief as that of a party-appellee. Dr. Rodberg waives his right to participate in oral argument unless this Court should desire to hear from his attorney. This relief is necessary in order that Dr. Rodberg may have standing before this Court and to pursue further relief before this Court and by further appeal.

Respectfully submitted,

Doris Peterson,
James Reif,
Morton Stavis,
Peter Weis,
Attorneys for Leonard Rodberg.

Motion denied.

[U.S. Court of Appeals for the First Circuit, No. 71–1335]

United States of America, Appellant, v. John Doe

ORDER OF COURT

Upon motion,

It is ordered that motion for reconsideration of court's order allowing brief of witness-appellee, Dr. Leonard Rodberg, to be received only as a brief amicus curiae be, and the same hereby is, denied.

By the Court:

Dana H. Gallup,
Clerk.

[From the Washington Post, Nov. 17, 1971]

Race "Quota" in Military Documented

(By George C. Wilson)

The Black Caucus of the House of Representatives released secret papers yesterday which document for the first time the official discussions that shaped the policy of restricting the number of black GIs sent to Iceland.

Caucus co-chairman Shirley Chisholm (D-N.Y.) said the secret material shows that "racism has become institutionalized at all levels of the military."

Rep. Ronald V. Dellums (D-Calif.), the other co-chairman, said the caucus has heard that the governments of West Germany, Greece and Turkey demand the same kind of restrictive assignment procedures for black servicemen. Dellums added that the caucus had not obtained the policy paper it is seeking to document the charge.

Defense Secretary Melvin R. Laird, when newsmen asked him about the alleged quota system for Iceland, said he had not had a chance to study the documents, thus declined to comment.

About 3,000 servicemen are stationed in Iceland, the Pentagon said last night, but the number of blacks was not immediately ascertainable. Leave policies in Iceland long have been restrictive for both blacks and whites in hopes of avoiding unpleasant incidents between servicemen and the Icelandic population.

In the Middle East, American commanders in the past have forbidden Jewish officers and men from going on leave in Arab countries for fear of provoking incidents. The political climate in the host country has traditionally influenced Pentagon personnel policies.

The caucus released a letter, classified secret, and two memos classified confidential. The communications indicate that:

Iceland before 1961 objected to any American black servicemen being assigned there, but relented to allow a token number.

The State and Defense Departments decided to clamp a lid of secrecy on the quota system for Iceland.

The Icelandic government said it would not contradict U.S. government assertions that "there are no racial or other restrictions" covering the assignment of servicemen to Iceland.

William C. Burdett, then acting deputy assistant secretary for European affairs, in the "secret" letter dated Aug. 11, 1961, said the Icelandic government had changed its position from no black servicemen allowed in Iceland to "no objections to 'three or four' colored servicemen in the Defense Force . . ."

The same Burdett letter said the following about the Icelandic government's position on public statements about this quota system: "If there are congressional or other inquiries to which the (State) Department must reply, the Icelandic government will not object to a statement to the effect that because of the small population and other special circumstances existing in Iceland, members of the Iceland Defense Command are especially picked, but there are no racial or other restrictions and, in fact, Americans of all races are currently serving with the command in Iceland."

A memo dated Feb. 17, 1969, and signed by Navy Capt. C. B. Stafford said the Icelandic government's ban on blacks "was not part of the bases agreement" but apparently was "a verbal agreement" between Iceland and the State Department.

Stafford's memo also said that former Navy Secretary Fred Korth in June, 1963, ordered that "two married Negro personnel" be sent to Iceland after inquiries by the President's Committee on Equal Opportunity in the Armed Services and findings of discriminatory practices by Rep. Charles C. Diggs Jr. (D.-Mich.), now a member of the Black Caucus.

"The State Department had effected an agreement in 1961 to permit the assignment of 'three or four' Negro servicemen to Iceland," Stafford said. "This number was expanded in 1965 to 15–20 and is currently 39."

Apparently, that increase in numbers was considered large enough to put Iceland out of the special category, because Stafford wrote that race "is not an assignment factor."

Stafford stated in his memo to the executive assistant and naval aide to the assistant secretary of the Navy for manpower and reserve affairs that "with the rise of black power, we are being persuaded to withdraw from a policy which was arrived at after a great deal of effort."

"Some Negro personnel have had good experiences during assignment to Iceland," Stafford said, "and we appear to be making general progress. The subject of assignment of Negro personnel only exacerbates problems associated with the bases' agreement in Iceland. Official communications relative to this subject are classified secret and above."

The third document released by the caucus was a memo for the Bureau of Naval Personnel by Lt. A. E. Norton dated Sept. 9, 1970. Norton said "the source of the guidance" for keeping the number of blacks in Iceland at a "low limit" were two U.S. Navy memos dated Sept. 9 and 10, 1969.

[In the U.S. District Court, Central District of California, Misc. No. 1821 (WF)]

Memorandum Opinion and Order

(In the matter of: Anthony Russo, Jr. Witnesses Before the Grand Jury)

The issue presented by this proceeding is whether the court has the power to purge a grand jury witness of civil contempt of court upon his promise to testify upon the condition that he be furnished a transcript of his testimony.

The contempt proceedings involving the witness are reported in *Anthony Russo, Jr. v. United States*, —— F.2d —— (No. 71–2046, 9th Cir. August 17, 1971). In summary:

(1) The government began an investigation and presented evidence before a grand jury of this district in regard to possible violations of Title 18 of the United States Code.

(2) As a result of those investigations, Daniel Ellsberg was indicated relative to documents pertaining to the involvement of the United States in Southeast Asia, which documents have been referred to as the Pentagon Papers. *See New York Times Co. v. United States*, 403 U.S. 713 (1971).

(3) On June 23, 1971, Anthony Russo, Jr. was subpoenaed to appear and testify before the grand jury. He refused, claiming the privilege against self-incrimination. The government then filed an application with the court to grant him immunity pursuant to 18 U.S.C. § 2514.

(4) The court granted immunity, but Mr. Russo nevertheless refused to testify. He was then brought before the court and ordered to answer the questions the jury had asked. When he refused, the court adjudged him in civil contempt, and committed him to the custody of the Attorney General until such time as he purged himself of that contempt.

(5) The order of contempt was affirmed by the Court of Appeals for the Ninth Circuit on August 17, 1971. *Russo v. United States, supra.* He was then committed to custody.

(6) On October 1, 1971, Mr. Russo filed a motion for an order (a) to require the government to record and transcribe all matters occurring before the grand jury while he was before it; (b) to require the government to furnish him with a copy of the transcript of his testimony; and (c) to prohibit the government from taking any action against him on account of any disclosures the witness may make regarding any matters which may occur in his presence before the grand jury.

(7) At the conclusion of the hearing, the court ordered that conditioned upon the government's furnishing Mr. Russo with a copy of his testimony, he will have purged himself of contempt of court if he appeared before the grand jury on October 18, 1971, and answered all questions put to him.

(8) On October 18, 1971, the witness appeared before the grand jury ready to answer questions. However, the attorney for the Department of Justice informed him that the government would not furnish him with a transcript of his testimony.

(9) The parties then appeared before the court and the government moved the court to vacate the condition that a copy of the transcript of the witness' testimony be furnished to him.

The government's request is in effect a motion for a finding that the witness has not purged himself of a civil contempt of court. The motion is denied and the court finds that Mr. Russo has purged himself.

The motion raises two questions. The first is the power and propriety of this court to require that the testimony of Mr. Russo be recorded and transcribed. The second is the power to purge the witness of civil contempt of court by accepting his promise to testify if he is furnished a transcript of his testimony.

In regard to the first question, Rule 6(d) of the Federal Rules of Criminal Procedure states that "for the purpose of taking evidence, a stenographer or operator of a recording device may be present while the grand jury is in session", except while the jury is deliberating or voting. That rule along with Rule 6(e), relating to disclosure of matters occurring before the grand jury, unquestionably empower this court to require all or any part of grand jury proceedings to be recorded and transcribed, with the exception of jury deliberations and voting. *See United States* v. *Thoresen*, 428 F. 2d 654 (9th Cir. 1970); *Herzog v. United States*, 226 F. 2d 561, 566 (9th Cir. 1955), *cert. denied*, 352 U.S. 844 (1956).

The rule in the Ninth Circuit is that the recording or transcribing of grand jury testimony is permissible, not mandatory. *United States* v. *Thoresen, supra*; *Loux* v. *United States*, 389 F.2d 911, 916(1968). Because the testimony before a grand jury may have a substantial effect upon the rights and interests of those who appear before it and those indicated by it, this rule has come under heavy attack from many courts and commentators who contend that the recording of grand jury proceedings should be made mandatory. *See, e.g.*, ABA Special Committee on Federal Rules of Procedure, 38 F.R.D. 95, 106; 8 J. Moore, *Federal Practice* ¶6.02[2] at 11 (2nd ed. 1970); *United States* v. *Gramolini*, 301 F. Supp. 39 (D.R.I. 1969). While no circuit has yet gone this far, several have held that the better procedure is to record and transcribe grand jury testimony. *United States v. Aloisio*, 440 F.2d 705 708 (7th Cir. 1971) (appeal pending); *United States v. Hensley*, 374 F.2d 341, 352 (6th Cir. 1967), *cert. denied*, 388 U.S. 923, *reh. denied*, 389 U.S. 891; *United States v. Cianchetti*, 315 F.2d 584, 591 (2nd Cir. 1963). This circuit recently observed.

"Where a defendant, anticipating future grand jury proceedings involving himself, gives notice in advance that he will seek a transcript of the proceedings if an indictment is returned and offers to pay the expense of having a reporter in attendance or shows inability to pay, a sound exercise of discretion would ordinarily call for the granting of a motion that a reporter be in attendance." *United States* v. *Thoresen, supra* at 666.

Although *Thoresen* referred to a request by a "defendant" that the grand jury proceedings be recorded, the holding cannot be limited in that regard. In that case, the first indictment returned against the defendants was dismissed when the statute upon which a portion of the indictment was based was held unconstitutional by the Supreme Court. Anticipating further grand jury proceedings, the defendants moved the court for an order compelling the presence of a court reporter at any subsequent grand jury proceedings involving them. The district court's denial of this motion prompted the above-quoted comment in the circuit court.

The defendants in *Thoresen*, therefore, were in the unique situation of being substantially certain that they would be the subject of future grand jury proceedings and that they would be indicted. It was in this sense that the circuit court referred to them as "defendants". In the instant case, Mr. Russo is not a defendant; indeed, he had been granted immunity. Nevertheless, his activities and those of his associates, are under scrutiny by the grand jury. It is impossible at this point in the proceedings to be certain what Mr. Russo's testimony may reveal, what further information this grand jury may discover, or what effect these proceedings may ultimately have upon the rights and interests of Mr. Russo. It would be folly to assume that his substantial rights may not be jeopardized by a subsequent turn of events. The grand jury in question is investigating a wide range of activity, and its inquiries are being coordinated with those of other grand juries around the country. The record suggests that the government has undertaken a very broad investigation without knowing how long it may extend. It is essential, therefore, that the record of the jury be preserved. For these reasons, this court holds that Mr. Russo has as much interest in a recording of his grand jury testimony as did the defendants in *Thoresen*. Although Mr. Russo has not offered to pay the expense of having a reporter in attendance, or to pay for the transcript, the government has not made his ability to pay an issue. If it subsequently becomes as issue, the matter can be resolved in appropriate proceedings.

Therefore, Mr. Russo's motion that a reporter be present when he testifies is entirely proper, and this court hereby reaffirms its prior order granting that motion. Since the government states that it intends to have a reporter present in any case, this order certainly places no additional burden on it.

The government contends that providing a witness with a transcript of his testimony will invade the secrecy of grand jury proceedings and diminish the effectiveness of the grand jury as an institution. In order to assess this argument, it is necessary to examine the history of the grand jury and its traditions of secrecy.

The institution of the grand jury is deeply rooted in English history. Many authorities regard the Assize of Clarendon, issued by Henry II in 1166, as the origin of the modern criminal grand jury. *See, e.g.*, 1 Holdsworth, *A History of English Law* 312–27 (6th ed. 1938); 1 Stephen, *A History of the Criminal Law of England* 184–86, 250–58 (1883). That decree provided for a body of twelve men in each county, to be summoned by the Crown, whose function was to report to the King's officials persons who, according to public knowledge, were suspected of crimes. At its inception, therefore, the grand jury functioned solely to augment the centralized power of the Crown by acting as public prosecutor to ferret out crime in the counties.

As the grand jury became an established institution, it gradually developed independence of action from the Crown. This was accomplished by enclosing its proceedings in a veil of secrecy which the Crown was unable to penetrate. The body adopted the practice of hearing witnesses in private, rather than in open court. Representatives of the Crown were not permitted in the room while the jury examined the witnesses and deliberated. Simultaneously, the custom of the Crown's judges to examine the jurors on their findings was discontinued. *See* Edwards, *The Grand Jury* (1906). The jurors themselves swore on oath of secrecy which contained no reservation in favor of the government. They were enjoined "the king's counsel, your fellows, and your own, you shall keep secret". 8 Wigmore, *Evidence* § 2360, at 728 (McNaughton rev. 1961).

The true independence of the grand jury, made possible by the institution of secrecy, was realized in 1681 in the *Trial of Stephen College*, 8 How. St. Tr. 549, 550 (1681), and the *Earl of Shaftesbury's Trial*, 8 How. St. Tr. 759, 771–74 (1681). Each of these men was accused by the Crown of high treason. At the insistence of the King's counsel, the grand juries were required to hear the witnesses in open court. After doing so, the jury in each case demanded and was granted the opportunity to examine the witnesses again in private and to deliberate in private. In each case the jury then refused to indict. Edwards, *supra* at 28–30. These two cases are celebrated as establishing the grand jury as a bulwark against the oppression and despotism of the Crown.

Thus, it is important to note that the common law concept of grand jury secrecy developed from a need to protect the jurors and the accused from the tyranny of the Crown. Secrecy insulated the jurors from the pressures of the Crown and permitted the grand jury to guard the people against the oppressive power of autocratic government.

The grand jury was brought to this country without significant change. The experience under British rule instilled in the colonists a healthy distrust of the power of centralized government. Consequently, they provided in the Fifth Amendment that "[n]o person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury". This provision was felt necessary to secure the liberties of the citizens against arbitrary encroachment by the government. *Ex parte Bain*, 121 U.S. 1, 12 (1887); *Hurtado v. California*, 110 U.S. 516, 538–58 (1884) (dissenting opinion). Here, too, secrecy was found necessary to this function. The most celebrated example of grand jury independence in this country is the case of *Peter Zenger* in 1734. In that case, two New York grand juries, resisting heavy pressure by the colonial governor, refused to return an indictment of criminal libel for an attack upon the colonial governor. Note, *The Grand Jury as an Investigatory Body*, 74 Harv. L. Rev. 590, 590–91 (1961).

Over the years, as fear of the oppressive power of the government has subsided, the government prosecutor has regained substantial influence over the grand jury and, consequently, that institution has lost much of its former independence. *See* 8 J. Moore, *Federal Practice* ¶6.02[1]. The grand jury now relies upon the prosecutor to initiate and prepare criminal cases and investigations which come before it. The government attorney is present while the jury hears testimony; he calls and questions the witnesses and he draws the indictment. The only remnant of secrecy with respect to the government which adheres today is the practice of conducting the actual deliberations and voting of the jury in private. However, the prosecutor's influence may be felt even then. *United States v. Gramolini, supra* at 41.

In addition to permitting the grand jury a measure of independence, the institution of grand jury secrecy serves other purposes which were propounded at least as early as the *Earl of Shaftesbury's Trial, supra*, in 1681. See 8 Wigmore, *Evidence* § 2360, at 729. Formulated at a time when the grand jury was struggling to free itself from domination by the Crown, one may speculate whether these justifications were designed to obscure the real purpose of secrecy. Whatever may have been their original motivation, the following justifications for grand jury secrecy are now generally recognized by the courts:

(1) The grand jurors themselves are to be free from the apprehension that their opinions and votes may be subsequently disclosed by compulsion.

(2) The complainants and the witnesses summoned are to be free from the apprehension that their testimony may be subsequently disclosed by compulsion, and this in order that the state may secure willing witnesses.

(3) The guilty accused is not to be provided with such clues as will enable him to flee from arrest or to suborn false testimony or tamper with witnesses.

(4) The innocent accused, who is charged by complaint before the jury but is exonerated by their refusal to indict, is entitled to be protected from the compulsory disclosure of the fact that he has been groundlessly accused. 8 Wigmore, Evidence § 2360, at 734–35. *See also United States* v. *Procter & Gamble Co.*, 356 U.S. 677, 681 n.6 (1958).

The question then is the extent to which providing a witness with a transcript of his own grand jury testimony would be inconsistent with valid reasons for secrecy. In approaching this question, it must be remembered that the policy of grand jury secrecy should be maintained to the full extent necessary to fulfill the ends of justice, and no further. *Atwell v. United States*, 162 F. 97, 100 (4th Cir. 1908).

Unlike the jurors themselves, witnesses before grand juries were not sworn to secrecy at common law, but were bound to refrain from disclosure. *Regina v. Hughes* 1 Car. & K. 519, 174 Eng. Rep. 919 (N.P. 1844); 1 J. Chitty, *The Criminal Law* 317 (5th Am. ed. 1847). The rule in this country is not uniform. In 1946, when the Federal Rules of Criminal Procedure were adopted, only two states, Missouri and Texas, required by statute an oath of secrecy of witnesses. Several states required such an oath as a matter of practice, while still others imposed no obligation of secrecy upon witnesses. *Compare People v. Naughton,* 38 How. Prac. 430 (N.Y. 1870) and *State v. Fish,* 90 N.J.L. 17, 100 A. 181 (1917) *rev'd on other grounds,* 91 N.J.L. 228, 102 A. 378 (no obligation of secrecy), with *State v. Kemp,* 124 Conn. 639, 1 A.2d 761 (1938) (requiring oath of secrecy). In the federal courts, no act of Congress imposed an obligation of secrecy on grand jury witnesses and the majority of districts required no oath of secrecy. However, in approximately 33 of the 85 district courts at that time witnesses were required to take such an oath. *See* Federal Rules of Criminal Procedure, Second Preliminary Draft, Note to Rule 6 (1944); *see also Goodman v. United States,* 108 F.2d 516 (9th Cir. 1939).

The Advisory Committee to the Supreme Court, which drafted the Federal Rules of Criminal Procedure, considered the justifications for imposing secrecy upon grand jury witnesses and determined that such secrecy was not necessary. As adopted in 1946, Rule 6(e) read in pertinent part:

"(e) Secrecy of Proceedings and Disclosure. Disclosure of matters occurring before the grand jury other than its deliberations and the vote of any juror may be made to the attorneys for the government for use in the performance of their duties. Otherwise a juror, attorney, interpreter or stenographer may disclose matters occurring before the grand jury only when so directed by the court preliminarily to or in connection with a judicial proceeding or when permitted by the court at the request of the defendant upon a showing that grounds may exist for a motion to dismiss the indictment because of matters occurring before the grand jury. No obligation of secrecy may be imposed upon any person except in accordance with this rule."

The Committee Notes to Rule 6(e) state:

"2. The rule does not impose any obligation of secrecy on witnesses. The existing practice on this point varies among the districts. The seal of secrecy on witnesses seems an unnecessary hardship and may lead to injustice if a witness is not permitted to make a disclosure to counsel or to an associate."

Witnesses before all federal grand juries, therefore, have been free since 1946 to disclose what transpired during their presence in the grand jury room. *See In the Matter of Petition for Disclosure of Evidence before October, 1959 Grand Jury,* 184 F. Supp. 38 (E.D.Va. 1960); *In the Matter of Hearings before Committee on Banking and Currency of the United States Senate,* 19 F.R.D. 410 (N.D.Ill. 1956), *rev'd on other grounds,* 245 F.2d 667 (7th Cir. 1957). *But see United States* v. *Smyth,* 104 F. Supp. 279, 280 n.5 (N.D. Cal. 1952); *United States v. Owen,* 11 F.R.D. 371, 373 (W.D.Mo. 1951).

There is no evidence that this breach of secrecy has diminished the effectiveness of the grand jury system or adversely affected the ability of the government to investigate crime and bring offenders to justice. Rule 6(e) has been reexamined as recently as 1966. In that year the rule was amended by adding "the operator of a recording device" and "any typist who transcribes recorded testimony" to the list of persons bound by the obligation of secrecy. The fact that it was not felt necessary so to bind witnesses, after twenty years' experience without such an obligation, is further testimony to the success of the rule.

The absence of criticism of Rule 6(e) is easily explained. An examination of the justifications for the policy of grand jury secrecy demonstrates that requiring secrecy of witnesses would serve no purpose. Of the justifications hereinbefore quoted, the first is inapposite. Permitting a witness to disclose his testimony does not interfere with the jurors' ability to deliberate and vote in secrecy. The second justification, that secrecy frees the witness from the apprehension that his testimony may be disclosed and encourages full disclosure by the witness, is most important. Professor Wigmore contends that the nondisclosure of a witness' testimony is a privilege of the witness himself. 8 Wigmore, *Evidence* § 2362. The privilege is not the grand juror's "for he is merely an indifferent mouthpiece of the disclosure" nor is it the government's, for "the state's interest is merely the motive for constituting the privilege". "[T]he *privilege*", he concludes, "must therefore be *that of the witness,* and rests upon his consent." Wigmore, *supra* at 736. Rule 6(e) is entirely consistent with this position. It permits the witness—and only the witness—to disclose the content of his testimony, at least until an indictment has issued or justice otherwise requires disclosure.

The third justification is that secrecy will prevent the guilty accused from fleeing before an indictment has issued, suborning false testimony or tampering with witnesses. Persuasive though this argument may initially appear, it is of little moment within the framework of the issues presented in this proceeding. As a witness may disclose all he knows anyway, furnishing him with an accurate transcript of his testimony cannot possibly affect the justification. The last justification is perhaps hardest to dispel, for the protection of the innocent accused is the cornerstone of our system of criminal justice. However, this court must infer from the absence of criticism of Rule 6(e) over its twenty-five year history that the innocent accused has not suffered under this rule. In large measure, this is undoubtedly attributable to the effectiveness of the government's investigatory process and to the tremendous influence the government prosecutor exerts over the grand jury. In recent history, federal grand juries have seldom, if ever, refused to indict.

A witness before a grand jury, then, is not presently bound to secrecy in any regard. This court can conceive of no reason why furnishing a witness a written transcript of his testimony should interfere with the valid functions of the grand jury any more than does the existing practice.

The provision of a transcript does not weigh differently on the justifications for secrecy than the present rule. In addition, providing a transcript will further the interests of justice and benefit the grand jury and the witness. As the Advisory Committee noted, every witness is entitled to relate the proceedings to his attorney. Indeed, this is essential to safeguard the witness' rights and interests. A written transcript will insure that the attorney is provided an accurate record of the proceedings. Further, the existence of a written transcript would minimize the possibility of the witness' publicizing false information regarding the grand jury proceedings, a possibility which bothered government counsel in this case.

In addition, a review of a written transscript would give the witness and his attorney or associate an opportunity to correct errors in the transcription or inadvertent mistakes in the testimony itself. Any attorney who has ever undertaken the laborious process of deposing witnesses knows how errors and mistakes creep into the reporter's transcript. Any trial judge who has had to determine motions to correct transcripts knows that mistakes are made and how vitally important it is that they be corrected immediately when the testimony is still fresh in the minds of the court, counsel and witnesses. A witness who has been granted immunity is still subject to perjury, and in such a prosecution willingness to correct a misstatement is relevant to the issue of intent. *United States* v. *Lococo,* — F.2d — n. 2(No. 26, 336, 9th Cir. Sept. 27, 1971). The need of a witness for the transcript of his testimony before a grand jury, therefore, is real and founded upon a pragmatic regard for his protection. In short, providing the witness with a written transcript shortly after he testifies will insure an accurate record of the proceedings and will maximize the usefulness of the witness' testimony.

It is important to note that providing a witness a transcript does not force him to divulge the contents of his testimony. Under existing practice, the witness may voluntarily disclose the substance of his testimony to whomever he chooses—his attorney, an associate, the person under investigation, or the news media. On the other hand, he need make no such disclosure if he so prefers. The courts will not require such disclosure absent a showing of "compelling necessity". *Arlington Glass Co.* v. *Pittsburgh Plate Glass Company,* 24 F.R.D. 50, 52 (N.D. Ill. 1959). The availability of a transcript does not affect these options. The witness is free to keep the transcript confidential or reveal it.

It is the conclusion of this court, therefore, that furnishing a grand jury witness a transcript of his testimony shortly after his appearance is not inconsistent with valid reasons for grand jury secrecy and will not diminish the effectiveness of the grand jury system or interfere with governmental efforts to investigate crime.

The government next contends that it is improper for this court to order that a transcript be provided Mr. Russo because the disclosure is not "preliminarily to or in connection with a judicial proceeding," as provided in Rule 6(e). The government has misconstrued the order of the court. The court has not ordered the government to furnish the witness a transcript. The order under consideration merely purged Mr. Russo of civil contempt. Therefore, it is not necessary in the context of this case to determine whether a grand jury witness is involved in a "judicial proceeding."

The government further argues that a grand jury witness must show a "particularized need" to obtain a transcript. The "particularized need" test was formulated by the Supreme Court in *United States v. Procter & Gamble Co.,* 356 U.S. 677 (1958). In that case the government brought civil suit following a federal grand jury investigation of possible criminal violations of the antitrust laws in which no indictment was returned. The trail court granted a motion by the company for discovery of the entire grand jury transcript. The Supreme Court reversed, holding that the company had not shown sufficient "compelling necessity" or "particularized need" to overcome the "indispensable secrecy of grand jury proceedings." 356 U.S. at 682.

The Court relied heavily upon one justification of the rule of secrecy: "[T]o encourage all witnesses to step forward and testify freely without fear of retaliation." 356 U.S. at 682. As hereinbefore discussed providing a witness a transcript of his own testimony is not inconsistent with this policy. Nor is it inconsistent with other justifications there recognized by the Court. *See United States* v. *Procter & Gamble Co.,* 356 U.S. at 681 n.6. Accordingly, this court finds that a witness need make no showing of "compelling necessity" or "particularized need" to be entitled to a written transcript of his testimony. He must show only that his testimony was recorded and a transcript can be made.

This position is not inconsistent with Rule 16(a)(3) of the Federal Rules of Criminal Procedure. Under that rule, which went into effect July 1, 1966, a district court "[u]pon motion of a defendant ... may ... permit the defendant to inspect and copy or photograph any relevant ... (3) recorded testimony of the defendant before a grand jury". Although this rule vests some discretion in the court whether to permit such discovery, it has generally been held that the defendant is entitled as a matter of right to a copy of his own testimony before the grand jury, unless the government affirmatively establishes a substantial reason why it should be withheld. *United States v. Manetti,* 323 F. Supp. 683 (D. Del. 1971); *United States v. Projansky,* 44 F.R.D. 550, 558 (S.D. N.Y. 1968); 8 J. Moore, *Federal Practice* § 16.05[2]; *see also United States v. Cook,* 432 F.2d 1093 (7th Cir. 1970), *Cert. denied,* 401 U.S. 996 (1971).

It cannot be doubted that this court has the power both to hold a witness in contempt for refusing to testify before a grand jury and to purge the witness of contempt when it is satisfied that the dignity of the Court has been restored. The grand jury is subject to substantial supervision and control by the court. As the Supreme Court observed in *Brown v. United States,* 359 U.S. 41, 49 (1959):

"A grand jury is clothed with great independence in many areas, but it remains an appendage of the court, powerless to perform its investigative function without the court's aid, because powerless itself to compel the testimony of witnesses. It is the court's process which summons the witness to attend and give testimony, and it is the court which must compel a witness to testify if, after appearing, he refuses to do so."

Congress has not made refusal to testify a specific offense. Refusal to testify is an affront to the court, and it is for the court to determine the punishment and the cure. The power to punish for contempt is inherent in all courts. *Ex parte Robinson,* 86 U.S. (19 Wall.) 505 (1873). Contempt is punishable because of the necessity of maintaining respect toward the court. The power to punish for contempt is exercised to vindicate the court's dignity for disrespect shown to it or to compel the performance of an order. *See Penfield Co.* v. *Securities & Exchange Commission,* 330 U.S. 585, 593 (1947) *reh. denied,* 331 U.S. 865. The very nature of contempt permits the court the broadest discretion to determine the circumstances in which the interests of the court and the public have been disregarded and to determine what conduct by the condemnor is required to vindicate those interests. As stated by the Supreme Court in *McComb v. Jacksonville Paper Co.,* 336 U.S. 187, 193 (1949): "We are dealing here with the power of a court to grant the relief that is necessary to effect compliance with its decree. The measure of the court's power in civil contempt proceedings is determined by the requirements of full remedial relief. They may entail the doing of a variety of acts ...." *See also Penfield Co.* v. *Securities & Exchange Commission, supra; Gompers v. Bucks S. & R. Co.,* 221 U.S. 418 (1911); *Oriel v. Russell,* 278 U.S. 353, 364–65 (1929).

In the instant case, Mr. Russo was subpoenaed by the court to testify before the grand jury. He refused to testify and was found in civil contempt for refusing to obey the order of court to answer questions. The court's order was that Mr. Russo would be held in custody until such time as he purged himself of contempt. This court now holds that Mr. Russo has purged himself of that contempt by his promise to testify before the grand jury conditioned upon being furnished a written transcript of his testimony within thirty-six hours of his appearance. He is held immune from all penalties by reason of refusing to testify as a witness before a grand jury unless the government agrees that it will furnish him a copy of the transcript of his testimony.

It is further ordered that the clerk this date shall serve copies of this memorandum opinion and order by United States mail upon the attorneys for the parties appearing in this matter.

Dated this 17th day of November, 1971.

WARREN J. FERGUSON,
U. S. District Judge.

CAPTAIN COOK JAYCEES CONDEMN U.N. DECISION ON NATIONALIST CHINA

HON. NICK BEGICH

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1971

Mr. BEGICH. Mr. Speaker, the recent action taken by the United Nations regarding the Government of Nationalist China has caused much controversy. Many people have called for reevaluating our role in the United Nations and of the United Nations role in the world.

For us to judge this action properly, it is important that we consider all points of view.

In a resolution I received recently, the Captain Cook Jaycees have expressed their beliefs on this subject. I believe it is important that their views be expressed and examined. I am inserting a copy of this resolution for my colleagues' inspection:

CAPTAIN COOK JAYCEES—RESOLUTION

The Captain Cook JayCees—

Believing that all nations of the world should have a right to be represented at the United Nations, and

Believing that the Nationalist government, is in truth the legal representative of an independent country, therefore

Condemn the recent action of the United Nations General Assembly, with regard to the replacement of the Nationalist government, and

Hereby direct the secretary to forward this resolution to the Secretary General of the United Nations.

JAMES H. HISSONG,
President.

NATIONAL BIBLE WEEK

SPEECH OF

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 18, 1971

Mr. ASPIN. Mr. Speaker, as this week is National Bible Week, it is only fitting to take a few moments to reflect on the profound impact this book has had on all of us.

It has an unending wealth of historical information in the Old Testament and has a constantly fresh message in the New Testament. The Bible has been, and is, a fundamental part of our lives, and I think it is only fitting that we have a week to give special recognition to this great book.

A PLAINTIVE LAMENT

HON. LEE METCALF

OF MONTANA

IN THE SENATE OF THE UNITED STATES

Monday, November 22, 1971

Mr. METCALF. Mr. President, in all good humor I do not want to attempt to appropriate the mantle of our former colleague Gene McCarthy as poet laureate of the Senate. I do not even present the following as poetry. But it is a plaintive lament that we did not know our good fortune when Ezra Taft Benson was Secretary of Agriculture. Looking backwards to those days the farmers of America are nostalgic. Now that Hardin is leaving and Butz is the new champion there is no place to go but downhill. Therefore I present to the Senate a little rhyme singable too, that does not transgress upon Gene McCarthy's high calling but does voice the exasperation of the dirt farmer with the Nixon farm policy and with the men he chooses to administer it.

I ask unanimous consent that the rhyme be printed in the RECORD.

There being no objection, the rhyme was ordered to be printed in the RECORD, as follows:

EZ BENSON, WON'T YOU PLEASE COME HOME?

(To be sung to the tune of "Bill Bailey, Won't You Please Come Home?")

Won't you come back Ez Benson?
Won't you come home?
This crew is worse than you.
They jigger parity—call it prosperity,
But it's for the favored few.
Farmers are counted out,
Folks leave the farm,
Agribusiness even owns the squeal.
You were a saintly man
Alongside Nixon's flim flam artists.
Benson won't you please come, Ezra won't you please come,
Benson won't you please come home?

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1971

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,600 American prisoners of war and their families.

How long?

REFORMERS GAIN THE UPPER HAND IN THE BIA

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1971

Mr. FRASER. Mr. Speaker, during the past year a dispute has raged within the Bureau of Indian Affairs over the direction of agency policies. Young activists in the agency fought aggressively to give the Indian people a greater role in running BIA programs, while "old line" bureaucrats resisted these changes.

For a time it appeared as if the conservative bureaucrats had the upper hand. Indian groups throughout the country complained loudly that the forces of reaction within the Bureau were blocking efforts to implement the self-determination policies outlined in the President's July 1970 Indian message. President Nixon, himself, admitted recently that the BIA bureaucracy was in need of a "good shakeup."

Now it appears that the reformers have won out—at least for the time being. In the following Minneapolis Tribune article, Frank Wright explains the significance of recent development in the Bureau:

RISKY END RUN BY BRUCE PUTS ACTIVISTS BACK IN SADDLE AT BIA

(By Frank Wright)

WASHINGTON, D.C.—The young activists, aided by a daring bureaucratic end run by Commissioner Louis Bruce, are back in the saddle at the Bureau of Indian affairs (BIA).

They have emerged as the winners in a long and crucial struggle over the personnel shakeup demanded at the agency by President Nixon.

The decisive move came Wednesday when Bruce went to Reno, Nev., and told the annual convention of the National Congress of American Indians, the largest Indian organization in the country, that he was putting several of the activists into key posts in a BIA reorganization and was sidelining several of their more conservative opponents.

The thousand or more Indians at the convention loved it, but it was a risky thing for Bruce to do because he had purposely neglected to seek prior approval of the announcement from his superiors at the Interior Department.

He was acting on his own, a perilous thing for a subordinate government administrator to do.

Bruce's decision to wing it came slowly and in stages.

He had gone to work through channels after the President said in early October that he was dissatisfied with an entrenched bureaucracy that "feeds on itself, defends itself and fights for the status quo and does very little, in my opinion, for progress in the field."

Despite the President's insistence, however, Interior Department officials stalled and delayed, urging further study. They included such people as Undersecretary William Pecora; William Rogers, a deputy assistant secretary who often has dealt with the BIA for Interior Secretary Rogers Morton; Wilma Victor, Morton's special assistant for Indian affairs; and Harrison Loesch, assistant secretary for public land management. Aligned with them was John Crow, BIA deputy commissioner under Bruce.

Bruce, meanwhile, was being pressured by the activists, most of them Indians whom he had recruited more than a year ago to revive the BIA and institute the President's expressed policy of self-determination for the Indian.

With the President publicly on their side, with Indian militancy on the rise and with public awareness of the Indian's depressed plight increasing they felt Bruce should force a breakthrough. They had become increasingly frustrated and restive.

His attempt to go through channels hit a roadblock Nov. 12 when the Interior Department approved a new BIA structure that eliminated the job of associate commissioner. That has been the No. 3 post, and Bruce has planned to elevate to it one of the leading activists, Ernie Stevens, a Wisconsin Oneida who has been director of community services.

The new structure was proposed by Crow, who had been made deputy last summer by Morton and touched off a furor by downgrading several of the activists.

After Nov. 12 Bruce and the activists decided to make their end run as a last alternative.

They agreed to fill the posts in Crow's organizational scheme with their own choices, announce them as quickly as possible, get support from Indian country and hope that officials at the Interior Department would then be afraid to reverse them after the fact.

On Tuesday morning Bruce gave Crow a memorandum instructing him to do the paper work on 15 personnel changes. That afternoon he flew to Reno with Stevens and Alexander McNabb, a Micmac, director of operating services and another leading activist.

The next day Bruce told the convention that:

Stevens was now assistant commissioner for economic development, which includes a $40-a-million-a-year employment assistance program plus defense of tribal and water rights.

Stevens' former deputy and ally, Florie Kelanof, was promoted to assistant commissioner of community services, which includes welfare, housing and other projects.

McNabb was now assistant commissioner of engineering and construction, which includes an upgraded road-building and irrigation program.

His former deputy, Robert Gajdys, was now director of the office of Administrative Services, which oversees a contracting program under which the BIA arranges with tribes to operate many services previously provided by the government.

Harold Cox, who had been associate commissioner for administration, was downgraded to director of a new and small office of management systems.

William Freeman, former director of economic development, and Philip Acker, former head of the employment assistance program, were shunted off to a new Office of Planning. The activists had complained that Freeman was doing nothing to build up reservation economies and that Acker was using the employment assistance program to entice Indians off their land and into dead-end jobs—or no jobs—in the cities.

Calvin Bryce, who had been in charge of the contracting program, was being shipped to Phoenix, Ariz., to become deputy director of the BIA area office there. Activists claimed that he had obstructed tribal efforts in contracting.

Economic development would become top priority at the BIA. As a start, Morton was being urged to decentralize employment assistance by allowing tribes to set up their own job-training programs on the reservations instead of requiring all job-hunters to come to the cities.

Bruce was cheered. The newly elected president of the national congress, Leon Cook, endorsed the commissioner's actions and said he was moving in the right direction. Cook, a Minnesota Chippewa, had been one of the young BIA activists but quit recently because he felt Bruce lacked aggressiveness. Cook has taken a post in the Minneapolis school system.

Bruce returned to Washington Thursday, holding his breath.

Friday morning Morton, reportedly caught by surprise by Bruce's action, issued a terse statement. It endorsed what the commissioner had said about new initiatives in economic development and road construction. But it called the personnel changes "temporary" and said they would be reviewed with the commissioner "in the near future."

The near future apparently came rapidly.

Friday night Bruce called reporters to tell them he had been authorized by officials at the Interior Department to say that he was "very confident" his personnel actions would be approved and had been given "assurances of that."

The commissioner said he was "tickled to death."

VOLUNTEER FIREMEN

HON. J. CALEB BOGGS

OF DELAWARE

IN THE SENATE OF THE UNITED STATES

Monday, November 22, 1971

Mr. BOGGS. Mr. President, it has been my privilege upon occasion to draw attention to the fine job done by volunteer firemen throughout this country.

There are an estimated 1.8 million volunteer firemen in the United States, compared to only 200,000 paid firemen. The existence of volunteer fire companies guarantees many communities protection from fire and accident at little or no cost to the taxpayer.

We are very much indebted to volunteer firemen, who spend large amounts of their time at public service and who live with great inconvenience and even personal danger in order to serve their communities.

It has been my privilege this year to offer two pieces of legislation which I believe would benefit our volunteer fire companies. One was S. 2040, which would include volunteer firemen training under the provisions of the Vocational Education Act of 1963. This bill was accepted as an amendment to the Higher Education Act passed by the Senate earlier this year and is presently in conference with the House of Representatives.

Another bill, S. 2748, was introduced several weeks ago. It would provide a $50,000 death benefit for survivors of policemen, firemen and correction officers killed in the line of duty. This legislation, I believe, would make entrance to police work, correction work, and fire prevention work more attractive to many more young men.

Mr. President, there are more than 6,000 volunteer firemen in my State, and we are very proud of each of them. Recently, Mr. Phil Milford wrote a two-part article in the Wilmington Morning News about our volunteer fire operation. I ask unanimous consent that these articles be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

[From the Wilmington (Del.) Morning News, Nov. 16, 1971]

State's Volunteers Among Best—No Slack Seen in Fire Lines Here

(By Phil Milford)

Although there are indications that the volunteer fire fighter in America is on the way out, the ranks of Delaware's part-time fire force are growing with few signs of decline.

While State Fire Marshal William R. Favinger admits "a volunteer has got to be an oddball," there are more than 6,000 such fire fighters in the state—and they are increasing in both numbers and professionalism as the state, helped by federal monies, continues to support them.

It was not always so.

Within the past 20 years, Delaware has appointed its first full-time fire marshal, instituted a state fire prevention commission, hired six assistant fire marshals, created the office of fire protection engineer, and documented Fire Prevention Rules and Regulations that conform to the best fire prevention code available.

In addition, fire call-boards—actually emergency communications centers—have been set up in two of the state's three counties, and a third call-board is slowly being planned for Kent County. These radio networks provide instantaneous communications when a fire or accident occurs, with a minimum response time.

Earlier this year, a New York Times article explored the "fading role" of volunteer firemen faced with urban progress. In many of the nation's fast-growing suburbs, reporter Jon Nordheimer wrote, "Volunteer fire departments are becoming unworkable and paid firemen are increasingly picking up the slack."

Among the reasons given were the lessening numbers of men available during the day to answer alarms; the vanishing "social role" of the fire house; and the appearance of industrial and apartment complexes that demand advanced skill to fight fires.

Many of the objections to volunteer community service in time of fire and disaster are valid; but in Delaware at least, hiring full-time, paid fire fighters has not been the solution it has in other parts of America. In fact Wilmington, with its several hundred paid professionals, is still the only organization of its type. The rest are volunteer.

In a community such as Newark—a fast-growing urban complex—it is difficult to get enough men to respond to daytime alarms, according to Favinger, a volunteer fireman for 36 years. But the solution has been the "multiple response" alarm used in New Castle County, where several area companies respond to potentially large fires, thus not depending upon only one company's complement for manpower. In addition, Newark's Aetna Hose, Hook & Ladder Company uses woman ambulance drivers to fill the daytime gap.

As for the dwindling value of the fire house as a social center for Delawareans, one has to enter any fire house during the evening hours, or attend the average wedding reception, or join the throng at the annual Mother's Day Dinner, attend the annual Firemen's Convention or "go to Bingo" to see the enthusiasm and dedication of the men and women auxiliary members.

One volunteer recently compared activity at the fire house to that of church organizations and said some churches have the lesser numbers.

The charge that professionalism is lacking among volunteers may be valid in some areas, but not in Delaware. A deputy state fire marshal, pondering the relative value of paid and volunteer fire fighting forces, noted recently that the difference is great for one reason because the paid men are sitting next to the truck when the alarm sounds, and often have a shorter distance to travel, while the volunteer has to get to the fire house first, before he can get to the fire.

Notwithstanding that fact—a result primarily of the economical unfeasibility of paying everyone in surburban companies—Delaware men, once they arrive at the "fire grounds," are probably among the best trained anywhere.

The state fire school near Dover has been cited as among the finest facilities of its kind, and many of the courses it offers, ranging from basic firemanship to crash-rescue work, are brought to the individual's fire houses by the school's instructors, according to Louis J. Amabili, the director.

Delaware is "well along" compared to the rest of the country in volunteer fire fighting, Favinger said. He said that in some states, not only are the men ill trained, but sometimes require the owner of a burning property to be a regular subscriber to the company. "And if your dues aren't paid, the house burns," one fireman recalled recently.

"Delaware is one of the few states that has every mile covered by a fire company," Favinger said, and if the blaze requires more manpower, other companies cooperate and send whatever is needed.

A recent example of such cooperation for the public good was seen during floods that inundated much of Brandywine Hundred and made Chester, Pa., a temporary swamp.

James Roy, chief of the Cheswold Fire Company and member of the Kent County Volunteer Firemen's Association, said recently that several Kent County companies were asked to go north to help clean up and rescue. He said all the companies worked well together with no complaints—something he said might not be the case in other parts of the country where boundaries lines are often sacred.

In the fiscal year ending June 30, 1971, property in Delaware had a total value of more than $1,776,000,000, according to the annual report of the state Fire Prevention Commission. During that period, a total of $4,021,881 was paid by insurance companies for fire losses in recent years.

In the same period, there were 11,362 fire alarms sounded in Delaware, with 114,000 man-units spending 7,000 hours in service. In all, 24 people lost their lives due to fires in the state.

That the loss was not greater is because these highly trained men, most of whom would be termed "non professionals," donated their time and risked their lives for their fellow man.

[From the Wilmington (Del.) Morning News, Nov. 18, 1971]

Favinger Cites Need for Statewide Radio Net—Money Is Firefighters' Foremost Problem

(By Phil Milford)

With paid fire fighters in Wilmington and thousands of volunteers in other parts of the state, the public is protected against man's ancient two-faced friend and enemy as never before.

But although the apparent national trend toward all-paid firemen is not manifest to any great extent in Delaware, and most people will continue to receive protection from many dedicated volunteers, there are definite problems.

The foremost, of course, is money.

One of the major needs in Delaware is for a complete fire radio network in all three counties, according to State Fire Marshal William R. Favinger.

At present, both New Castle and Sussex Counties have "call boards," on the air 24 hours a day. Women handle the calls in Sussex. When someone needs fire equipment, they call the fire board, which immediately pushes the correct buttons to activate the necessary fire sirens in the county. Both boards transmit on the same frequency.

In Kent County, however, a citizen reporting a blaze may dial the number of a private home, a store, or a funeral parlor. Sometimes the call goes directly to the local firehouse. But there is no call board in the county—a situation called "antique" by one fire chief and "behind about 10 years" by a deputy fire marshal.

Hopefully, this dangerous situation, which sometimes necessitates several calls before the fire house door is opened, will be corrected soon, according to Chief James Roy of the Cheswold Fire Company.

Roy is chairman of the Kent County Fire Radio Committee, which Tuesday (Oct. 26) presented a proposal to the County Levy Court requesting $90,000 for the radio network's equipment. The court took the request (accompanied by several hours' presentation by firemen) under consideration, noting that the money must come from the General Assembly.

"We hope to get it pretty soon," Roy said, "but it may take 3 or 4 months."

Meanwhile, the old system prevails, with only Dover, highly urbanized and growing rapidly, having a central dispatcher. The Dover Fire Department, a volunteer group also known as the Robbins Hose Company, dispatches a hand full of companies in the area, but cannot handle all 19 companies in the county.

The money problem, too, limits Favinger's office, but he has extensive plans for the future.

The office of the State Fire Marshal has two basic functions—investigation and inspection. During the fiscal year ending June 30, 1971, for example, the office investigated hundreds of fires; 663 complaints; arrested 47 persons of whom 15 were convicted; apprehended 106 juveniles (responsible for most field fires, firemen says); and spent 211 hours in court. In addition, the 6 deputy fire marshals conducted 2,267 inspections of schools, businesses, hospitals, and other institutions and studied blueprints of 95 planned structures to determine fire safety requirements—a function now filled by the newly appointed fire protection engineer, Benjamin Roy Jr., formerly a deputy.

But the problems central to Favinger's organization occur, he says, because inspections take up too much of his deputies' time, who could better use their technical skill on investigation. Within the next 5 years Favinger would like to hire 9 inspectors to deal solely with examining structures. Unlike the present deputies, the inspectors would not carry guns or have police powers. This would leave deputy fire marshals free for other matters.

Another innovation necessary, but now impossible because of the money problem, is a full-time office in Delaware's most heavily populated area—New Castle County. At present, the office has a part-time staff, with the fire marshals often answering the phones.

With a staffed office, Favinger said, his deputies could spend more time answering complaints, conducting investigations of fires, talking to school and other citizen's groups, and enforcing such regulations as those dealing with explosives and fuel transport.

Favinger would also like to send his deputies, who live in various areas of the state but who are subject to duty anywhere, to more national gatherings of fire marshals, where both training and exchange of ideas on fire fighting are available. "But we're limited by our budget," he said. Favinger also said that in the future he would like competitive examinations for fire marshal deputies to stress investigation more than the present generalities.

Besides the immediate need for a Kent County Fire Board, Favinger is working on various opportunities to obtain federal monies. He said present federal legislation under the Occupational Safety Act may provide dollars for his needs, but added that other funds are available, too.

The Federal Highway Safety Act recently provided money through the state for a vehicle rescue course administered by the State Fire School, directed by Louis J. Amabili of Hockessin. The school offers courses in fire fighting and was subsidized by Washington for an emergency care course for ambulance drivers which is among the first in the country, and a model for other states.

Favinger says there are four independent municipalities in Delaware that govern their own fire departments. But Wilmington. Newark, Dover, and Milford all work with his office and are included in state statistics. Favinger feels that Newark soon may have to pay at least some of their fire fighters—but many company representatives feel that it should be "all or none" due to the human tendency for volunteers to resent paid associates.

But on the whole, Delaware's volunteers are probably here to stay. In a recent survey by mail, more than a third of the 60 volunteer companies returned questionnaires that overwhelmingly rejected the possibility of paid members—at least in the near future.

The companies, composed of men from teen-age to over 60, listed an average age in the early 30's. Their numbers ranged from 25 to about 100, with membership mostly growing but at least remaining stable. Most of the companies were formed in the 1920's.

When asked if they see their roles as volunteers lessening or growing, all but 4 said they are growing. Two of the dissenters cited the lack of interest among service (something contradicted by others) and the negative effect caused by state regulations young people today in the fire—specifically the new licensing law for ambulance attendants.

When asked about a central dispatcher's importance, nearly all companies felt that response time and service to the public would be best served with a radio network. One Kent County company listed the lack of a central dispatcher as its major concern.

Among the gripes listed by the volunteers (questionnaires were sent to company chiefs or presidents) were difficulty in getting manpower in the daytime when needed; money; enlisting business-minded firemen; the misuse of ambulances as taxis; unenforced fire codes; inadequate water supplies; and faulty news media reports. One comment on improving volunteer firefighting in Delaware was that mandatory regular and advanced training should be given annually or semiannually. Another company suggested that in light of dwindling response by citizens to annual fund drives, a "fire tax" may soon be necessary. One New Castle County chief noted that too much equipment is duplicated among companies, with no coordination as to type of apparatus in an area.

One downstate company responded that young people sometimes feel they are not wanted because of their color. The chief said he is now intentionally selecting people without regard to race, and notes that ingrown prejudices among white firemen are declining—and the more people in the community working together, the better the service, he suggests.

NATIONAL BIBLE WEEK

HON. NICK BEGICH

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 18, 1971

Mr. BEGICH. Mr. Speaker, we are now at a point in time that the decisions we are making affect more and more people. This is a time of unprecedented social change where mores are continually changing. What was socially unacceptable yesterday may very well be a viable part of our society tomorrow. In dealing with these changes we must never lose sight of our moral and ethical background.

It is proper then, at this time, that we make an effort to consider and evaluate our religious beliefs. We must be sure that if we are going to deal with moral changes, we must fully understand our own spiritual feelings. For this reason, Gov. William A. Egan of Alaska has proclaimed the week of November 21, 1971, Bible Week.

I am inserting a copy of the Governor's proclamation for my colleagues' inspection.

PROCLAMATION—BIBLE WEEK

Our system of law and justice has been built upon the foundation of the Ten Commandments. Respect for the sacredness, worth, and dignity of the individual, an essential element in our system, is rooted in Biblical teachings.

It is imperative for modern man, confused and perplexed by rapid technological and social changes, to understand the roots of his moral and spiritual belief-system.

Therefore, I, William A. Egan, Governor of Alaska, do hereby proclaim the week of November 21 through 28, 1971, as Bible Week and urge people of all faiths to observe the week by reading the Scriptures and setting up a plan of regular examination of the Foundation Book of Judeo-Christian heritage.

Dated this fourth day of November, 1971.

SECTION 503 OF MILITARY PROCUREMENT AUTHORIZATION

HON. HARRY F. BYRD, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Monday, November 22, 1971

Mr. BYRD of Virginia. Mr. President, the President now has signed into law the Military Procurement Authorization for 1972, which includes legislation to end the dependence of the United States upon Russia for the bulk of its chrome ore. This is section 503 of the authorization bill.

I believe that Congress, in voting on this question, analyzed the issue in terms of its significance to the security of this Nation.

Chrome is a vital U.S. defense material, essential for nuclear submarines, jet aircraft, and all stainless steel products.

Because of an executive order by President Johnson in 1967 resulting from a mandate from the United Nations, the United States has been prohibited from importing chrome from Rhodesia. Thus, having no chrome of our own, we have become dependent on Communist Russia for this vital defense material.

On September 23, the Senate of the United States decided to call a halt to such a ridiculous situation; and on November 10, the House of Representatives concurred. The House vote on the direct issue was a smashing 251 to 100.

It was not a regional vote or a party vote.

Analysing these two critical votes, we find that the proposal to remove the embargo on Rhodesian chrome received strong support from members of both political parties—and from Representatives or Senators from 46 of the 50 States.

Leading the list were California, Texas, Pennsylvania, Illinois, New York, Ohio and Michigan.

I ask unanimous consent that there be printed in the extensions of remarks a State-by-State breakdown of the number of Members of the House of Representatives who voted in favor of retaining section 503 of the military procurement bill on November 10.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

California, 21; Texas, 19; Pennsylvania, 17; Illinois, 15; Ohio, 13; New York, 13; and Michigan, 11.

Florida, 9; Georgia, 9; North Carolina, 9; Virginia, 9; Indiana, 7; Missouri, 7; Alabama, 7; Louisiana, 6; and Tennessee, 6.

Kentucky, 5; Kansas, 5; Wisconsin, 5; South Carolina, 5; New Jersey, 4; Iowa, 4; Connecticut, 4; Minnesota, 4; and West Virginia, 3.

Oklahoma, 4; Maryland, 3; Mississippi, 3; Colorado, 3; New Mexico, 2; Nebraska, 2; Montana, 2; Arizona, 2; and Massachusetts, 2.

Idaho, 2; Oregon, 2; Arkansas, 1; South Dakota, 1; Nevada, 1; New Hampshire, 1; Washington, 1; Maine, 1; and North Dakota, 1.

NEW FORCE IN TEXAS

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1971

Mr. PICKLE. Mr. Speaker, in a ringing, stinging speech to the Texas Women's Political Caucus Saturday in Texas, Liz Carpenter laid it on the line with a rallying cry of not just "register and vote" but "file and run."

It is a tight speech and sums up well a vibrant force growing in this country that will be recognized sooner or later—and if the Caucus has its way, it will be clearly sooner. They will be striving for more women delegates to the presidential conventions and more women candidates at all levels.

Mrs. Carpenter points out striving for full equality in politics and elsewhere does not necessitate any loss of femininity.

As she puts it:

The moonlight doesn't seem any dimmer, the candlelight doesn't flicker any less, the bubbles in the bubble bath don't burst any sooner, when your take-home pay is the same as your male counterpart.

She makes a plea for what she calls "peepul"—for dignity and femininity without being stifled under a cloud of protectionism. And she does so in no uncertain terms, praising the House for its passage of the women's rights amendment. Her words sting and bite and make one flinch occasionally—but they get an important point or two across.

The text of that speech follows:

Thinking Women—The New Politics in Texas

We gather here today as the political parties begin organizing for the 1972 election. We gather here because we are determined that women have an equal voice in the party structures. We gather here because we are determined *this time* to run that gamut from Texas Precinct to National Convention to see that the two major political parties—(and others which emerge)—live up to their glowing words about party reform.

Larry O'Brien, Robert Dole, Gore Vidal—any others—here we come!

But it is no secret that this year while we talk of party politics and party issues, more and more Americans (and particularly young Americans) are being turned off by any party. They are saying, "A plague on both your houses." There are many who have lost faith in both major political parties because they do not believe these parties speak for the mass of American people or that they will live up to their proposed reforms.

Suddenly last summer a new political movement was born which will help them—the National Women's Political Caucus, composed of women from many political parties, old-line organizations, newly formed groups, and many women who are not a member of anything except the human race—almost.

All of us are moving the women's liberation movement into women's participation for human liberation, for better day care programs, better ecological laws, better education, abortion reform, equal opportunities for people of all color and all sex.

Today in Texas this movement takes hold at the grassroots. You will leave here after our workshops committed and equipped with the know-how to organize your towns and counties and be a vital force in placing women in positions of decision-making at every level which affects our lives:

—That means in Government, where our rallying cry in 1972 will not only be "register and vote", but "file and run". Yes, run for office—Delegate, Tax Assessor, the Legislature, Congress. And if you decide you aren't qualified, then support the qualified candidate who lets you know how she or he stands on the human issues. Ask yourself, does he listen to you, a woman voter, a woman with a family or a business or a job, as much as he listens to others? Does he give *you* equal time?

—That means in the corporation where we will no longer be the unwitting consumers of unimaginative male-run conglomerates that neither represent their major employees or their major consumers on their boards. Lyndon Johnson gave us Title 7 in the Civil Rights Act of 1964. Let's use it. Let's sue.

It means in Labor Unions where we are perfectly willing to trade that phoney mantle of protectionism for some equal pay and equal rights. It is high time that George Meany and the AFL–CIO stop dragging their feet and stalling the Senate on the Equal Rights Amendment. I don't know what has bothered George Meany all these years. Can it be that he is a male chauvinist plumber? Well, most of the labor forces are now wise to it. Well, Congress is getting wise to this. The House passed the Equal Rights Amendment this Fall with only 23 voting against it.

Now it's the Senate's turn. Before we go home today, I hope we will wire the leadership of the Senate and Senators Tower and Bentsen—that we want quick, prompt, overwhelming passage of a right that is long overdue.

So let every party chairman know, let every Governor and every candidate for Governor know now—that today in Texas, women are issuing a declaration of independence. We are tired of making the coffee, licking the stamps, and writing the checks.

We are tired of selling the tickets and being locked out of the ball park.

We mean to be in on the decisions.

So—if we seem a little pushy. If we seem a little noisy—it is because, Roy Orr and George Williford, we shout so you will hear us.

And we are going to be busy and organized and on hand May 6 in every precinct meeting in this state—not just to vote, my friends, but to run for delegate.

The 200th anniversary of our nation is almost here. We will no longer take second place to anyone. We care about this country; we care about this state; we care about our home towns—and we are no longer going to take second place to anyone.

We intend to "rip off" a piece of the political action for ourselves in 1972.

And let me tell you, from years of experience, this is where we will separate the men from the boys.

Those who count women in, can count on women.

Those who count women out, can't count on us at all. We are going to leave you behind at the ballot box nursing your boyhood insecurities.

This is not a battle cry for revenge. It is a rallying cry for simple justice. Any male candidate worth electing knows this. And any political candidate today with any pulse-feeling capabilities at all knows there is a new momentum, there is new action, something has happened to women. As Sarah Hughes put it, "We're tired of studying our status. We have graduated."

"The voice of the people may be soprano," Governor Preston Smith told the Status of Women Commission last year.

And he's right. But the voice of power is bass—and it has been getting "base" and "baser."

We are no longer going to be stuck with the ridiculous statistics. More than half of the voting power of this country—53 percent—is women. But only 12 women are in Congress. None on the Cabinet. None on the Supreme Court.

At the last national conventions, only 13 percent of the delegates to the Democratic convention were women. Only 17 percent of the delegates to the Republican convention were women.

And what about Texas?

Texas sent 120 delegates to the Democratic National Convention. Thirteen were women. Thanks for nothing gentlemen.

The Republicans did a little better and this hurts me as a psalm-singing Democrat. They sent 56 delegates to the convention; 15 were women.

The Texas Senate and House have 181 members. Only two are women and anyone who watches it knows. Barbara Jordan and Frances Farenthold are lonely. Let's send them some company.

Every intelligent person, man or woman, in this country knows there are millions of working women being exploited.

You know it when a woman professor makes $7,000 and a man in the same job makes $9,000. You know it when a woman scientist earns $10,000 a year and her male counterpart takes home $13,000.

You know it when a restaurant owner hires waitresses until 6 P.M. just when the good tips start. He smugly argues it's not safe to keep the girls on the job after dark. But he doesn't bat an eye when he has charwomen coming in at 2 A.M. to clean the place up.

Every parent of a college-educated daughter knows it when they pay more than $10,000 to educate her in the professions and she is met time after time with this question: can you type? Some of our strongest allies today, my friends, are middle-income fathers of bright, remarkable young women.

It does seem strange that considering we are almost at the 200th Anniversary of our Nation's founding, that Black men were given the vote over 100 years ago, and White and Black women won the vote more than 50 years ago, we should—at this late date—still have to be talking about winning equality for women.

Some might think it more lady-like if we just bat our eyes, be demure and settle for the tokenism which has been our lot for fifty years within our country and within our parties. But that is not what thinking women do.

One of the great myths of all time is that being a political activist somehow defeminizes us.

I've worked hard all my life. So have millions of other working women. And let me assure you the moonlight doesn't seem any dimmer, the candlelight doesn't flicker any less, the bubbles in the bubble bath don't burst any sooner, when your take-home pay is the same as your male counterpart. You can be sensuous and still think and vote and run for office.

Yes, women are indeed an admirable sex. Through the centuries, we've been wept upon, stepped upon, and slept upon—and we still find something in men to love.

I've worked for woman-power in politics since I started covering Eleanor Roosevelt's Press Conferences 27 years ago, and I do not plan to abdicate my movement because of a little noise. The words "Right On" do not come trippingly off my tongue. But sometimes I'm learning and I'm enjoying it. If the caucus sometimes comes on a little strong, let's remember—these are strong times. But I assure you that this is no burlesque.

If the Democrats and Republicans mean what they say—and we do what we can do—the next National Conventions will not be peopled by the shopworn henchmen and fat-cats of outmoded party structures. They will represent a broader base of every group in this country.

I believe the political party that is truly committed to inner reform by action—one whose delegates are truly from the people—(and I spell it the Sam Rayburn way)—*"peepul"*—will do more to restore the faith of this country in itself than any other single action.

It's in your hands. And let me say to you—for I have worked in the National Media a long time, on both sides of the pad and pencil—let me recall what a public relations man once said to Moses when Moses was leading the children of Israel out of the wilderness of Egypt. (Perhaps you don't know the history of public relations goes back that far . . . but it does.)

As they approached the Red Sea, the public relations man said, "Moses, what are you going to do when you get to the Red Sea?"

"That's easy," Moses replied, "I will simply raise my hands and the waters will part."

The PR man looked aghast. "Wow! You do that and I'll get you two paragraphs in the Old Testament."

So, my friends, if you write people into the political conventions in Miami and San Diego, I believe I can get you two paragraphs when the historians write what women did in the 1970's to make this a more humane, compassionate country.

I have a lot of faith in the women of this country. They have a way of knowing whether you are for them or against them. They can spot a phoney. Perhaps, because we are so deeply involved in the continuity of life, we are more fundamental in our sense of values, more committed to bring this unfinished democracy to fruition where we can all enjoy the pursuit of happiness.

We know that, as a Nation, we simply cannot enjoy the questionable luxury of treating any citizen as less than a total person.

This last year I've traveled over 100,000 miles in this country. In fact, I think I've traveled more than Spiro Agnew and Edmund Muskie combined—and had more to say than Martha Mitchell, if that is humanly possible.

And I find a sad sort of loneliness in this land, an emptiness of spirit, an eroding fear that perhaps permeates a zipcode, areacode, punch card society . . . A fear that there will be no human being to answer a cry in the night. But there is also a plaintive yearning to be *someone* who answers the cry in the night.

That is why it is so right at this particular moment in our Nation's history that we not be timidly transfixed as spectators. That we rally to women's *participation* for human liberation.

I'm glad we are a caucus of many viewpoints. How awful if we were stereotyped, crystallized into a single track mind with no room for growth or change!

And let's remember—not to shortchange each other—women are human. We don't have to approve of each other 100 percent on all issues. Seventy percent will do. How many friends do you endorse 100 percent? If all the varied assortment of people in the American Revolution had waited to *like* each other, we'd still be at Bunker Hill.

Each of us has something to bring to the Women's Political Caucus. Surely women in this new, exciting political movement have reached the point of civilization where we can have many voices, because we are of *one* heart. The movement is big enough for all of us. The question is: Are we big enough for the movement. I think we are. I think we must be. For there is work to be done. And together, we can reach out to this Nation and answer its cry in the night.

COMPREHENSIVE CHILD DEVELOPMENT PROGRAM

HON. JOHN G. SCHMITZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1971

Mr. SCHMITZ. Mr. Speaker, on Monday of this week, November 15, the joint Senate-House conference committee completed its work on S. 2007, the Economic Opportunity Act extension which includes the new comprehensive child development bill. Yet, in a continuation of the most peculiar and objectionable procedures which have marked the handling of this measure from the beginning, no printed report on the conference committee's conclusions has yet appeared, and I am now informed that none is expected until after the Thanksgiving recess.

Not only my own constituents, but concerned parents and citizens from all over the country have been writing to me—and no doubt many of my colleagues have received similar letters—asking for copies of this measure. Except for pages of very fine print in the Congressional Record of September 30, the day we passed the bill, we have nothing to send them, since it was passed on that day as an amendment to the Economic Opportunity Act extension, without a printed committee report being available. Those who ask us for a copy of such an important bill, and have to be told that there is none, naturally wonder why. So do I.

Passage of this measure by the Senate and House in September took place with comparatively little advance warning and debate, and very little publicity before or after the fact. But as more and more people have learned of what we did then, a tide of public anger is rising with which sooner or later we shall have to deal. A good time to begin would be when this conference committee report comes to us for approval. It should be sent back to committee with instructions to remove the "child development" portion so that this could be handled in the normal way, on its own merits or demerits, as a separate bill.

The Comprehensive Child Development Act would provide extensive care—mental, physical, social, and psychological—for all American children below school age. It is far more than the simple custodial day care which many supporters of this legislation who have not studied it carefully still think is its primary or sole purpose.

For anyone—especially government—to try to supplant a child's parents in deciding what their child needs is to mount an assault on the family, the foundation of any stable society. There is no better way to raise children than in the close-knit, mutually loving, deeply personal interrelationship of a family. Both human experience and religious faith testify to this truth.

Interference with the family unit is fundamentally contrary to our Judaeo-Christian heritage. This legislation promises to provide just such interference with, and perhaps eventual elimination of, the responsibility of parents for the upbringing of their children. Thinking men, and religious men, are becoming more and more concerned about this "child development" legislation. Examples could be cited from each of the three major divisions of American religious belief—Protestant, Catholic and Jewish—from Dr. Jerzy Hauptmann, editor of the Lutheran Scholar, to Will Herberg, noted Jewish sociologist and student of comparative religions, to last week's editorial in the Catholic Standard, the diocesan newspaper of Washington, D.C. I would like to insert into the Record at this point for the benefit of my colleagues this brief, but most thought-provoking editorial.

The editorial follows:

[From the Catholic Standard, Washington, D.C., Nov. 11, 1971]

Reconsideration Needed

House and Senate conferees on Capitol Hill are working toward a reconciliation of what they consider relatively minor differences between two versions of the same bill (HR 10351 and S 2007), to be known as the Comprehensive Child Development Act. The Act, if passed, will be an amendment to the Economic Opportunity Act of 1964.

The provisions of the Child Development Act are aimed at giving supportive care to children under the age of six. The Senate has added a highly questionable National Child Advocacy section to the proposed legislation. All of this represents what many think is the opening thrust by government into an area historically reserved to the family. Although the Act purports to guarantee voluntary participation, the step between non-compulsory and compulsory participation can become very tenuous when heavy government funding is involved. The immediate funding to establish the programs would be $100 million with a goal of $2 billion for the next year.

The purposes of this legislation may appear laudatory and indeed many aspects are. But the broader implications are extremely serious. What will result is a "partnership" arrangement between government and parents in an area where rights and responsibilities of parents must be paramount.

We hope that both houses of the Congress will reconsider this legislation. If not, we would expect the President to exercise his veto power with strong recommendations for a reconsideration of the bill.

THE CASE AGAINST LIMITING EARNINGS FOR SOCIAL SECURITY RECIPIENTS

HON. ROBERT H. STEELE

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1971

Mr. STEELE. Mr. Speaker, I include the following article from the AARP news bulletin entitled, "The Case Against Limiting Earnings for SS Recipients," which I thought would be of interest to my colleagues.

The article follows:

The Case Against Limiting Earnings for SS Recipients

(The following excerpts are reprinted by courtesy of Barron's National Business and Financial Weekly. The author is Truman D. Weller, a free-lance writer and member of the Association who during his career was affiliated with Cowles newspapers in Des Moines and later Minneapolis, where he was assistant to publisher. When he retired he was northeast division manager for the U.S. Chamber of Commerce.

In truth, Social Security is killing the initiative and incentive of thousands of people. An elderly Indiana farm couple, for example, found themselves hard-pressed because their interest in a small sorghum crop pushed their income over the prescribed limit, cutting Social Security payments.

Much of the unfairness is caused by the stringent, unjust rules governing the Social Security program. Basically, five points cause these difficulties.

(1) Limiting earnings to $1,680 during a calendar year, so as not to affect benefits. As a result, when a Social Security recipient approaches the ceiling, he is inclined to quit working for the remainder of the year.

(2) The inconsistency of a worker obtaining greater total spendable income by earning less. (In a chart which accompanied the magazine story, it was illustrated how a person on Social Security and earning $3,600 would have more disposable income than another Social Security recipient earning $4,800.)

(3) The inequities which arise from the narrow monetary advantage gained by the person who works and forfeits all or part of Social Security benefits, compared with the individual who only collects the benefits. In a typical example, an individual earning $6,000 a year will enjoy an advantage of only $150 a month more than someone with comparable retirement benefits but not working.

(4) The test which limits earnings by salary

or wages in a single month unless benefits are forfeited. The test says those earning over $140 in a month must forfeit benefits for that month. In many instances, total benefits of husband and wife are greater than $140. Consequently, any earnings between $140 and up to the amount of the total benefits would represent a loss for the couple.

(5) Restrictions of the retirement test to the self-employed retiree and the handicaps to the operation of his own business. This part of the guideline deals with the amount of time a person over 65 may engage in his business and still collect benefits.

Here, the amount of profit is not a restricting factor. One man make $2,000 or $20,000 from his business. Instead, time is the criterion and anyone spending more than 45 hours a month in his business is, as a rule, deemed to be rendering "substantial service" and thus prone to forfeiture of benefits.

Social Security was adopted in this country during the Depression of the Thirties. At the time the legislation was being considered, unemployment varied between seven and 11 million, and the great hue and cry was to remove those over 65 from the labor market in order to provide jobs for the younger workers. Unfortunately, that philosophy still remains with the Social Security program. It does not square with the relative economic affluence of our present age, nor with a shortage of technical manpower predicted by the National Industrial Conference Board.

Every working retiree pays at least two taxes on earnings—the federal income and the Social Security levies. In some states, he also pays a state income tax and many metropolitan cities now levy a city wage tax as well.

Retirees with private pensions are required to pay income tax on their benefits, once the contributory part has been exhausted. Today, one out of five retirees pays such a tax and in another 10 years, the number is expected to double. This serves to put earnings of retirees in a higher bracket, since they already are liable for the income from their pension. And the necessity of paying tax on earnings in a higher range serves as another repressive measure to discourage earnings by retirees.

The choice of whether a person over 65 wants to live a quiet life of leisure or continue working should be an individual decision. But those who choose to work should be free to do so. Older persons should not be hampered by arbitrary rules and regulations.

DEATH BY THE PINT: THE CRITICAL NEED FOR MORE VOLUNTEER BLOOD DONORS

HON. VICTOR V. VEYSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1971

Mr. VEYSEY. Mr. Speaker, on Wednesday, November 17, I introduced H.R. 11828 to establish a Federal program to encourage voluntary blood donation and require that all blood banks be licensed and inspected by the Federal Government. The urgent need for legislation of this type was demonstrated in a recent series of articles in the Chicago Tribune. I am appending the first half of that series to these remarks. I hope my colleagues will join with me on this bill and help end the use of skid-row blood donors and the hepatitis they contribute with their blood.

The first half of the series follows:

"LIFESAVER" IS POTENTIAL KILLER: FIND BLOOD OF PAID DONORS POLLUTED WITH HEPATITIS

Tribune Task Force reporters spent weeks talking to medical experts and traveling in the Skid Row subculture that supplies much of the Chicago area's blood to get the story behind the blood donor dilemma in Chicago. This first report in a series was prepared by Reporters William Jones, Task Force director; Philip Caputo; Pamela Zeikman; and William Currie.

The blood of 26-year-old Robert Irby is a potential killer, but that fact hasn't stopped the unemployed truck driver from selling the precious fluid a dozen times in the last two years to earn spending money.

Irby is considered a professional donor and under the rules of the blood-peddling business, his career should have ended July 22, 1970. On that date, as Irby prepared to collect another $15 for a pint of his blood, technicians at the Mount Sinai Hospital Blood Center discovered hepatitis in his blood.

The discovery meant that Irby must never again give blood because of the grave danger of infecting a recipient. The presence of hepatitis—a debilitating and sometimes fatal disease characterized by yellow skin and extensive liver damage—often tragically reverses successful surgery after the patient receives a transfusion of the tainted blood.

BAD BLOOD POISONS SURGERY

But Irby's blood donor career was not over on that day, and what followed is yet another example of what many medical experts have warned about for years: For every step forward that medical science has taken on the operating table, it all too often falters by pumping poisoned blood back into the patient.

One blood expert estimates that nearly one out of every four persons over the age of 40 who contact hepatitis from blood transfusions will die. And it is the over-40 age group that receives 60 per cent of all blood transfusions.

In Irby's case, his name was stricken forever from the list of potential paid donors at Mount Sinai. A brief form letter was mailed to Irby suggesting that he see his doctor, and that was the end of it. Irby claims he didn't understand why his blood was rejected, and the 26 other blood donor stations in Cook County were never notified.

Since he was never paid for that last pint at Mount Sinai, Irby wasn't about to do business there again even if the center wanted his blood. Instead, he went to the Michael Reese Hospital Blood Center two months later, where the only existing test for hepatitis (an admittedly ineffective process that weeds out only one of four potentially infectious donors) failed to detect the presence of the deadly virus in his blood.

REPORTERS FOLLOW HIS TRAIL

He sold a pint on Sept. 8, 1970, on Nov. 23, 1970, and on Feb. 1, 1971. He again sold blood on April 1.

Task Force reporters were able to document what happened to some of Irby's blood once it was sold and began moving into the medical community.

Three of the four pints were used for research, but a hospital official conceded they could just as well have been used in a transfusion following major surgery. The fourth pint was routed to another hospital, where officials are still attempting to determine how it was used.

According to the American Medical Association, the majority of the nation's blood supply comes from paid donors like Irby—in Chicago they account for as much as 60 per cent of the 250,000 pints drawn annually—and the paid donor is most likely to be an alcoholic or drug addict who needs the money for a bottle of cheap wine or a bag of heroin.

Chicago's four commercial blood operations cater to the blood peddler. They set up their drawing stations in neighborhoods like Uptown and West Madison Street and candidly concede that this is where most of their donors live.

And, health experts say, the thousands of gallons drawn from their veins each year are polluted with hepatitis because most paid donors live in the wretched conditions where the virus thrives.

LIVE IN UNSANITARY CONDITIONS

Dr. J. Garrott Allen, professor of surgery at Stanford University School of Medicine and an authority on blood, puts it this way:

"The paid donor is often a cloistered resident of Skid Row, where he and his colleagues are alleged to enjoy frequently the practice of the communal use of unsterile needles and syringes for the self-administration of drugs. . . . There are also other unsanitary practices that prevail among this kind of population which favor repeated exposures to infectious hepatitis as well. . . . Still another contributing factor is alcoholism, which appears to make such individuals more susceptible to an initial attack of either infectious or serum hepatitis."

And all too frequently, little attention is paid to the blood seller by those who work in commercial blood shops. Task Force reporters posing as drifters discovered they could give blood several times a week if they were willing to run the health risk. After selling a pint at one commercial operation, for example, a reporter was quickly accepted the next day at another location, even tho the scab on his arm was still fresh from the day before. Common medical practice is for donors to wait eight weeks between donations.

HEPATITIS NEAR EPIDEMIC STAGE

"Hepatitis is reaching epidemic proportions in America," notes Dr. Bernard F. Clowdus II, chief of gastroenterology and liver disease at Mount Sinai Hospital.

"The figures from blood bank testing and from the Martin Luther King Health Center indicate that it is reaching epidemic proportions in Chicago. It is presently epidemic among people in Lawndale and of the middle class drug culture."

Clowdus underscored the problem by disclosing that beginning Oct. 1, Mount Sinai will reserve 21 beds for the exclusive use of hepatitis victims.

Dr. Mitchell Spellberg, a gastroenterologist at Michael Reese Hospital, considers blood from paid donors so lethal that in a recent operation he used blood that didn't match that of the patient rather than risk using blood that may have come from a paid donor.

Doctors at Michael Reese now face an added burden in getting blood for transfusions because the facility has banned the use of blood from paid donors.

SEES LESS RISK IN MISMATCH

"I had to give the man blood that didn't quick match. I just decided I had to take the risk, and it just happened to work out okay," Dr. Spellberg said. "It is an added risk, but less of a risk, in my mind, than using paid donor blood, which we can't use at Reese anyway."

Dr. Aaron Josephson, director of the Michael Reese Blood Center, said the ban on paid blood resulted from "overwhelming evidence that the type of paid donor we have in Chicago had a high incidence of hepatitis."

Dr. Josephson and other authorities in blood research note that the hepatitis rate in paid donors is at least 10 times higher than that in volunteers. Other studies show that the ratio in Chicago is 11 to 1.

And when paid donors like Robert Irby and thousands of others like him continue to sell their blood again and again, the statistics can spiral to nightmare proportions.

Howard Schmid, a 57-year-old La Grange factory worker, underwent successful heart surgery in November and was making plans to return to work when the statistics caught up with him.

3 MONTHS LATER, HEPATITIS

Mrs. Rosebud Schmid described her husband's delicate operation as a "huge success" and said her husband was making plans in February to return to work in June. Then, three months after his release, Schmidt's eyes and skin began turning yellow, he felt weak, and his temperature soared to 101 degrees, Mrs. Schmid recalled.

Medical records show that Schmid received 22 pints of blood costing $750 during surgery in Rush-Presbyterian-St. Luke's Hospital.

Twelve of the pints came from the Interstate Blood Bank, a Tennessee corporation which operates three donor stations in Chicago and sells blood to hospitals.

Schmid was taken to Berwyn's MacNeal Memorial Hospital, where he languished for two weeks before Mrs. Schmid received a call.

"They said I'd better come down there because Howard was dying," she recalled. "He died the next day."

Schmid's death certificate lists serum hepatitis as the cause of death, and Mrs. Schmid has filed a $250,000 suit against Rush-St. Luke's.

DIDN'T KNOW THE RISK, SHE SAYS

"No one ever told us when he was operated on that that was the risk he was going to take. That's the part that hurt us the most. If they had just told us, maybe we could have done something," said Mrs. Schmid. "We could have all gotten together, and we could have had good blood given to him."

Richard M. Titmuss, an internationally known authority on the relationship between blood transfusion and hepatitis, has described the blood recipient as a little more than a guinea pig.

The ultimate test of the quality of a unit of blood is whether the recipient contracts hepatitis, Titmuss said, noting that the patient is "in effect the laboratory for testing the quality of blood."

"Blood, like milk, may be bought and sold," Dr. Allen of Stanford points out. "But unlike milk, not all sources of blood are Grade A. The dairy industry is better regulated and is subject to quality control. Milk is a product that carries an implied warranty."

Allen claims that the least that should be done at this point is to label paid donor blood as "high risk" and other volunteer blood as "low risk" in its relationship to hepatitis.

He points out that the laws of 25 states, including Illinois, define blood as a service, not a product, and therefore blood is not subject to warranty. Many hospitals and physicians favor such a legislative definition because it protects them from lawsuits if a patient contracts hepatitis from blood transfusions.

NOT ENOUGH UNPAID VOLUNTEERS

The obvious answer to the problem, of course, is to obtain all blood from volunteer sources. But under the current operating policies of volunteer blood drives, according to Dr. Richard Sassetti, director of the Rush-Presbyterian-St. Luke's Blood Bank, "the demand would soon outstrip the supply. Right now we're in a situation where if a patient in need of transfusions lives long enough to contract hepatitis, we feel we've done him a favor."

Complicating the hepatitis problem is a lack of reliable statistics, a situation which frequently results from poor reporting of the disease. Last year, for example, Chicago hospitals reported only 758 cases of hepatitis to the Chicago Board of Health.

Edward King, assistant city health commissioner, pointed out that his investigators then discovered an additional 648 cases which had gone unreported.

Tomorrow: The men who sell their blood.

MEET THE MEN SELLING BLOOD TO BUY WINE

(There is a crisis in the quality of blood being used in Chicago and the nation and the Tribune Task Force spent weeks investigating the problem. This second part in a series deals with those who sell their blood and was prepared by William Jones, Task Force director; and reporters Philip Caputo, William Currie and Pamela Zekman.)

Philip D. Testard is a peddler and his product is his blood.

He makes his sales calls at any one of several Chicago commercial blood banks and the $5 he receives in exchange for each pint is enough to keep him in cheap wine for a week. When times are hard, he drinks canned heat by cutting it with water and soft drinks.

"I'm on the wine now and I'll be on the wine till I die," said the 41-year-old Testard, an unshaven, toothless ex-convict.

Testard lives in the city's sink—Skid Row. His home is the street, and he sleeps on benches and in abandoned buildings. His diet consists of food scraps filched from garbage. Mostly, tho, he subsists on wine, going on drinking binges that last as long as five days.

He is one of the thousands of derelicts, drug addicts and alcoholics in Chicago who regularly peddle their blood for a few dollars to spend on the binge or the next supply of drugs. Their product carries no guarantee, no warning that it might be poison, even tho it is 10 times more likely to be teeming with potentially lethal hepatitis virus than the blood from a volunteer, an unpaid donor.

CITES HEPATITIS ODDS

Some day, blood from men like Testard may be in your veins. It is being used right now and is causing medical nightmares for surgeons and public health officials alike.

As much as 60 per cent of the 250,000 pints of blood needed in Chicago every year is drawn from the paid professional donor. Hospital blood bank directors report that 1 out of every 20 patients who receive this blood will contract hepatitis, but only 1 out of every 200 recipients who are given volunteer blood will be infected with the disease.

The possibility that their product might kill or debilitate someone does not concern the blood peddlers. Most are so desperate for money to support their habits that they endanger their own health by selling blood—two, three and as many as four times a month.

Some peddlers, like Testard, do not even know what hepatitis is, altho they must profess they never had the disease to be allowed to trade a pint for a few dollars. And the only medical test ever devised to spot hepatitis in a potential donor is effective in only one out of four cases according to medical experts.

BLOOD HIS LIVELIHOOD

"What is hepatitis, anyway?" Testard asked a reporter as he waited to donate at the Beverly Blood Center, 4420 N. Broadway. He had just been told to return later because the center did not immediately need his blood type. The wait relieved Testard because it would give him time to have a few more drinks to compose himself before donating.

Testard said he was worried about being turned down because a rejection would mean the loss of his only source of income. He employs a number of tricks of the blood peddlers trade to avoid being turned away.

One of the rules of the blood buying business limits donations to once every two months. Nevertheless, Testard is able to donate every two weeks—largely because there is virtually no communication between the various blood centers and hospitals that draw blood.

"Sure I give blood every two weeks," Testard said. "It takes five days to a week to get rid of that needle mark and then I'm good for another blood bank."

Occasionally, Testard sells blood twice within two weeks to the same donor station, skirting the rule by using false identification, he said.

Testard said he maintains his strength thru this gruelling schedule by eating garbage.

"You heard of the National Tea, you heard of the A & P, you heard of the Jewel?" Testard asked. "Well, that's how to eat. They throw out-of-date food into the garbage cans in back of the stores and I pick it up. It's tough, tougher than working, but the food isn't bad. I eat the pies and the cakes and the cold cuts. The meat that needs to be cooked I sell to the pizza joints up here [in Uptown] for a few bucks."

RECALLS PAYOFFS

Such eating habits account for the most common hurdle faced by Testard and most other professional donors. Their diet causes them to suffer from a low blood iron level. To qualify for a donation, the donor's iron count must be 41, but many blood peddlers register counts as low as 35.

Testard also knows his commercial blood banks. Some have tough rules while others will overlook a low iron count, especially if they are behind in their monthly quota. He claims that some technicians will pass a donor with low iron in exchange for a cut of his fee.

"There used to be a nurse over that at [a commercial blood firm] who'd pass you if you gave her a buck," Testard said. "What you'd do is tell her that you needed the money real bad and that you'd give her a buck for passing you. She'd class you and then you'd take your voucher and cash it at the currency exchange. Then you'd go back to the blood bank and drop the dollar in a wastebasket next to her desk."

When bribes fail, the donor simply barters his blood at a station where the rules aren't strictly enforced.

Ray Armour has been a blood peddler for 30 of his 50 years and claims he is frequently rejected for a low iron count. Armour describes himself as a vagabond and drunk. On the day he was interviewed, Armour had just been turned down at the Chicago Blood Donor Center, 2320 N. Clark St., but was not discouraged. He said he planned to make the rounds that day and was certain he would find a station that would buy his blood.

LIKE BUTCHER SHOPS

"Some of 'em are like butcher shops," Armour said. "They don't care, just as long as you walk in breathing."

A companion of Armour, who identified himself only as John, said it is possible to sell blood twice in one day, simply by offering your other arm for the second sale. John has sold blood so many times that scar tissue has formed on both arms. Like Testard, Armour and John make their homes in flophouses and under viaducts, using phony addresses on their donor cards.

The practice of using false identification and addresses makes it virtually impossible to track down paid donors who are hepatitis carriers.

Task Force reporters made this discovery when they attempted to find 10 professional donors whose blood was found to be infected with the disease. None were found and their addresses turned out to be vacant lots, park benches, abandoned buildings and warehouses.

Perhaps one or more of them was the peddler whose blood infected Richard S. with hepatitis. A hemophiliac, he asked that his real name not be used because he feared he would lose his job if his employers knew of his condition.

To stay alive, a person suffering from hemophelia often must take numerous transfusions each month of blood products drawn from the blood of several donors.

RISK IS ASTRONOMICAL

Considering that the ordinary patient has an 11 to 1 chance of contracting hepatitis from a paid donor, the chances of the disease's striking a hemophiliac are astronomical.

In October, 1970, it struck Richard S., who has to tranfuse blood products from seven different pints every three weeks.

"It was a real blow to me," he recalled. The doctor said it might take me the rest of my life to recover. Hepatitis on top of hemophilia was almost too much. Two chronic illnesses—it just didn't seem fair."

He has words for the Philip Testards and Ray Armours and the other blood peddlers whom he believes to be imperiling his life for a bottle of wine.

"I'd think that people who sell blood should think about it a little more and realize what might happen if they lie about their condition. It doesn't seem at all fair. Why can't they take someone else into consideration instead of that lousy money? I'll give them the money if they need it, but don't put my life on the line for it."

The text of H.R. 11828, which I introduced November 17, 1971, follows:

H.R. 11828

A bill to establish a Federal program to encourage the voluntary donation of pure and safe blood, to require licensing and inspection of all blood banks, and to establish a national registry of blood donors

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "National Blood Bank Act of 1972."

FINDINGS

SEC. 2. The Congress finds that human blood is necessary for medical treatment and that an adequate supply of pure and safe blood throughout the United States is essential to the welfare of the nation. Congress further finds that interstate shipment of pure and safe whole blood and blood components is necessary for the welfare of the United States; that since human blood is a living tissue which cannot be manufactured, an adequate interstate supply of blood depends upon the willingness of individuals to donate their blood; that since the virus hepatitis is transmitted in human blood and is found significantly more often in the blood of persons who donate for monetary compensation than in the blood of voluntary donors, the purity and safety of the national blood supply is seriously threatened by the inadequate level of voluntary donation and by monetary compensation of blood donors. The Congress therefore finds that the welfare of the United States will be promoted by development of a 100 percent voluntary blood supply as soon as possible, that voluntary donation should therefore be encouraged and promoted, and that certain procedures and standards should be established with respect to the operation of all blood banks in the United States.

ESTABLISHMENT OF PROGRAM; DIRECTOR

SEC. 3. There is established in the Department of Health, Education, and Welfare a National Blood Bank Program to be under the supervision of a Director appointed by the Secretary of Health, Education, and Welfare. The Director of the National Blood Bank Program (hereinafter in this Act referred to as the "Director") shall be appointed subject to the provisions of Title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of Chapter 51 and Subchapter III of Chapter 53 of such Title relating to classification and General Schedule pay rates.

FUNCTIONS AND DUTIES OF DIRECTOR

SEC. 4. (a) NATIONAL BLOOD BANK SYSTEMS.—Upon the application of any group or organization of blood banks, the Director shall designate such group or organization as a National Blood Bank System under this Act if the group or organization—

(1) includes member blood banks in not less than ten States, which member banks have drawn an aggregate of not less than two million units of blood in the year preceding application;

(2) requires by written contract member blood banks, which are not maintained and operated directly by the group or organization, to adhere and be bound by the rules and regulations of the group or organization;

(3) requires all member blood banks to maintain a program for the recruitment of voluntary blood donors;

(4) adopts rules and regulations for the operation of member blood banks which rules and regulations are approved by the Director and certified to be equal to or more stringent than the Standards for Blook Banks and Transfusion Services of the American Association of Blood Banks and the applicable standards of the American Red Cross;

(5) provides for—

(A) accreditation of member blood banks which operate in conformity with the rules and regulations referred to in paragraph (4);

(B) a program approved by the Director of annual, unannounced inspection of accredited member blood banks to determine adherence to such standards; and

(C) recommend the filing, suspension or termination of accreditation of member blood banks which fail to adhere to such standards;

(6) requires that accredited member blood banks—

(A) designate named individuals in such accredited member blood banks to have express responsibility for recruitment of voluntary blood donors;

(B) be open for business on days and at hours most convenient for voluntary blood donors;

(C) cooperate with other blood banks in the recruitment of voluntary blood donors and in other functions; and

(D) label clearly each unit of blood collected as "low risk" when it is from a voluntary blood donor or "high risk" when it is from a paid blood donor.

(b) PROMOTION OF VOLUNTARY BLOOD DONATION.—In order to assure an adequate supply of pure and safe blood throughout the nation, the Director shall:

(1) develop, by grant or contract, new procedures, materials and techniques to inform the public of the need to voluntarily donate blood;

(2) provide direct assistance to establish an adequate supply of voluntary blood in those parts of the country where it is presently unavailable;

(3) develop a national program to honor and recognize all voluntary donors;

(4) establish yearly goals of voluntary donors for each blood bank;

(5) conduct evaluations of the effectiveness of various recruitment techniques and inform the licensed blood banks of the most effective techniques;

(6) classify blood banks which collect no more than a specified percentage of their blood from paid donors as "Class A Blood Banks" and classify all other blood banks as "Class B Blood Banks";

(7) annually increase the allowable percentage of paid donors to qualify as a "Class A Blood Bank": to the highest level consistent with an adequate national blood supply.

(c) DONOR REGISTRY.—The Director shall maintain a registry of all persons who give blood after July 1, 1972, to a licensed blood bank and shall identify individuals on such registry who may have been implicated in the transmission of hepatitis or who should otherwise be disqualified as blood donors. The Director shall notify all blood banks of such disqualifying information.

LICENSE TO OPERATE AS A BLOOD BANK

SEC. 5. (a) LICENSE REQUIRED.—No person may operate as a blood bank unless such person is licensed under this section.

(b) REQUIREMENTS OF LICENSE.—Upon application therefor the Director shall issue a license to operate as a blood bank to any person if—

(1) such person agrees to require identification of each blood donor and such other information relating to each blood donor as the Director may prescribe; and

(2) such person agrees to transmit to the Director such information (including information indicating that the donor may be infected with hepatitis) as the Director may require; and

(3) the application therefor contains or is accompanied by such information as the Director finds necessary and the applicant agrees and the Director determines that the blood bank will be operated in accordance with standards the Director issues to carry out the purposes of this Act, including standards for purity, potency, and safety of blood, donor selection, allowable percentage of paid donors, regulations covering the management of blood inventories; and a requirement that all blood be tested by the best practical test for the presence of hepatitis; and

(4) such person agrees to clearly label each unit of blood collected as "low risk" when it is from a voluntary donor and "high risk" when it is from a paid donor.

(c) PERIOD OF VALIDITY.—A license issued under this section shall be valid for a period of three years, or such shorter period as the Director may establish for any blood bank or class or classes thereof.

(d) FEES.—The Director may require payment of fees for the issuance and renewal of licenses, but the amount of any such fee shall not exceed $125 per annum.

(e) The Director or his designee shall conduct an annual inspection of each blood bank licensed under this section to determine compliance with standards issued under this Act. The time of such inspections shall not be announced prior to the inspection.

(f) The Director may designate a National Blood Bank System as his inspecting agent for purposes of this section. He may accept accreditation by a National Blood Bank System in lieu of this inspection requirement.

(g) REVOCATION, SUSPENSION, OR LIMITATION; NOTICE AND HEARING: GROUNDS.—A blood bank license may be revoked, suspended, or limited if the Director finds, after reasonable notice and opportunity for hearing to the licensee blood bank, that such licensee or any employee of the blood bank—

(1) has been guilty of misrepresentation in obtaining the license;

(2) has engaged or attempted to engage or represented himself as entitled to perform any procedure or category of procedures not authorized in the license;

(3) has failed to comply with reasonable requests of the Director for any information or materials, or work on materials, he deems necessary to determine the blood bank's continued eligibility for its license hereunder or continued compliance with the Director's standards hereunder;

(4) has refused a request of the Director or any Federal officer or employee duly designated by him for permission to inspect the blood bank and its operations and pertinent records at any reasonable time; or

(5) has violated or aided and abetted in the violation of any provisions of this sec-

tion or of any rule or regulation promulgated thereunder.

(h) Legal Procedure; Imminent Hazard to Public Health; Jurisdiction of District Court; Temporary Injunctions or Restraining Orders; Bond; Final Orders.—Whenever the Director has reason to believe that continuation of any activity by a blood bank licensed under this section would constitute an imminent hazard to the public health, he may bring suit in the district court for the district in which such blood bank is situated to enjoin continuation of such activity and, upon proper showing, a temporary injunction or restraining order against continuation of such activity pending issuance of a final order under this section shall be granted without bond by such court.

(i) Appeals; Petitions; Record; Additional Evidence; Modified or New Findings; Jurisdiction of Court of Appeals; Conclusiveness of Findings; Review by Supreme Court.—

(1) Any party aggrieved by any final action taken under subsection (e) of this section may at any time within sixty days after the date of such action file a petition with the United States Court of Appeals for the circuit wherein such person resides or has his principal place of business, for judicial review of such action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Director or other officer designated by him for that purpose. The Director thereupon shall file in the court the record on which the action of the Director is based, as provided in section 2112 of title 28.

(2) If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Director, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Director, and to be adduced upon the hearing in such manner and upon such terms and conditions as the court may deem proper. The Director may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file such modified or new findings, and his recommendations, if any, for the modification or setting aside of his original action, with the return of such additional evidence.

(3) Upon the filing of the petition referred to in paragraph (1) of this subsection, the court shall have jurisdiction to affirm the action, or to set it aside in whole or in part, temporarily or permanently. The findings of the Director as to the facts, if supported by substantial evidence, shall be conclusive.

(4) The judgment of the court affirming or setting aside, in whole or in part, any such action of the Director shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

(j) Violations and Penalties.—Any person who willfully violates any provision of this section or any rule or regulation promulgated thereunder shall be guilty of a misdemeanor and shall on conviction thereof be subject to imprisonment for not more than one year, or a fine of not more than $1,000, or both such imprisonment and fine.

ADVISORY COUNCIL

Sec. 6. (a) Establishment.—There is established an Advisory Council to be composed of the following nine members appointed by the President:

(1) two representatives from each National Blood Bank System, one of whom shall be a person with not less than five years recent experience in blood bank administration;

(2) three representatives of blood consumer groups including:

(A) one hospital administrator,

(B) one representative of organized labor,

(D) one representative of business management; and

(3) two persons experienced in advertising and public relations neither of whom may be employed or retained during their service on the Council, by any firm or other organization which is engaged in operating a blood bank.

(b) Duties of Council.—The Advisory Council shall—

(1) make recommendations to the Director with respect to long term policy goals for the National Blood Banks Program established under section 3 of this Act;

(2) make recommendations to the Director with respect to the encouragement of blood donation and the motivation, recruitment, and recognition of blood donors; and

(3) make recommendations to the Director relating to reciprocal transactions between National Blood Bank Systems to the extent that no agreement relating to such transactions exists between such Systems.

(c) Travel Expenses; Per Diem.—While away from their homes or regular places of business in the performance of services for the Council, members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

ANTITRUST EXEMPTION

Sec. 7. Notwithstanding any antitrust law, as defined in section 2(a) of the Antitrust Civil Process Act (76 Stat. 548; 15 U.S.C. 1311(a)), a National Blood Bank system may exclude or reject from membership in such System any blood bank which does not qualify for tax exempt status under section 501(c)(3) or 501(c)(4) of the Internal Revenue Code of 1954.

BLOOD ASSURANCE PROGRAMS

Sec. 8. No person other than a blood bank which is classified as a "Class A Blood Bank" may maintain any program in which individuals deposit blood in advance of their need for blood or pledge to give blood upon request.

ADMINISTRATION OF PROGRAM

Sec. 9. No provision of this Act and no part of any program established under this Act shall be administered by or under the supervision of the National Institutes of Health.

PURCHASE OF BLOOD BY FEDERAL GOVERNMENT

Sec. 10. No agency, department, or other instrumentality of the Government of the United States shall contract for or pay for the provision of blood from any person other than a "Class A Blood Bank" and such agency, department, or other instrumentality shall take such measures as may be necessary to insure that such blood has been tested according to the best available test for hepatitis.

DEFINITIONS

Sec. 11. For the purposes of this Act, the term—

(a) "Blood" means human whole blood, or any component thereof.

(b) "Blood Bank" means any person or other entity engaged in the bleeding of individuals and performing two or more of the following functions—

(1) recruitment of blood donors;

(2) processing of blood for transfusions;

(3) storage of blood;

(4) crossmatching of blood;

(5) administration of blood to individuals; or

(6) preparation of blood components for transfusion.

(c) "Blood Donor" means a paid blood donor or a voluntary blood donor.

(d) "Paid blood donor" means an individual who receives monetary compensation or an adjustment in his scheduled period of prison confinement for his donation of blood or any component thereof.

(e) "Voluntary blood donor" means any individual donating his blood other than a paid donor.

(f) "Accredited blood bank" means a blood bank accredited by a National Blood Bank System.

AUTHORIZATION

Sec. 13. There is authorized to be appropriated $10,000,000 for the Fiscal Year 1973, $10,000,000 for the Fiscal Year 1974, and $10,000,000 for the Fiscal Year 1975 to carry out the purposes of this Act.

SENATE—*Tuesday, November 23, 1971*

The Senate met at 10 a.m. and was called to order by the President pro tempore (Mr. Ellender).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Eternal God, we thank Thee at this festival season for the good world Thou hast made; for things great and small, beautiful and awesome; for seen and unseen splendors.

We thank Thee for human life; for the variety of our skills and interests; for different ways of thinking and speaking.

We thank Thee for work to do; for useful tasks that need careful study and precise judgment; for the comradeship of daily toil; and for exchanges of good humor and encouragement.

We thank Thee for this place and the privilege it affords of service to our fellow citizens. Equip us with awareness of truth and strength of character so that what is done here may enable our Nation to be an instrument of Thy grace and a beacon of freedom to all men. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, November 22, 1971, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 491 and 492.

The PRESIDENT pro tempore. Without objection, it is so ordered.

RICHARD C. WALKER

The Senate proceeded to consider the bill (H.R. 3749) for the relief of Richard C. Walker, which had been reported from the Committee on the Judiciary with an amendment, on page 2, after line 17, insert a new section, as follows:

SEC. 3. (a) Section 98 of title 28 of the United States Code is amended to read as follows:

"§ 98. Louisiana

"Louisiana is divided into three judicial districts to be known as the Eastern, Middle, and Western Districts of Louisiana.

"Eastern District

"(a) The Eastern District comprises the parishes of Assumption, Jefferson, Lafourche, Orleans, Plaquemines, Saint Bernard, Saint Charles, Saint James, Saint John the Baptist, Saint Tammany, Tangipahoa, Terrebonne, and Washington.

"Court for the Eastern District shall be held at New Orleans.

"Middle District

"(b) The Middle District comprises the parishes of Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, Saint Helena, West Baton Rouge, and West Feliciana.

"Court for the Middle District shall be held at Baton Rouge.

"Western District

"(c) The Western District comprises six divisions.

"(1) The Opelousas Division comprises the parishes of Evangeline and Saint Landry.

"Court for the Opelousas Division shall be held at Opelousas.

"(2) The Alexandria Division comprises the parishes of Avoyelles, Catahoula, Grant, La Salle, Rapides, and Winn.

"Court for the Alexandria Division shall be held at Alexandria.

"(3) The Shreveport Division comprises the parishes of Bienville, Bossier, Caddo, Claiborne, De Soto, Natchitoches, Red River, Sabine, and Webster.

"Court for the Shreveport Division shall be held at Shreveport.

"(4) The Monroe Division comprises the parishes of Caldwell, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, and West Carroll.

"Court for the Monroe Division shall be held at Monroe.

"(5) The Lake Charles Division comprises the parishes of Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, and Vernon.

"Court for the Lake Charles Division shall be held at Lake Charles.

"(6) The Lafayette Division comprises the parishes of Acadia, Iberia, Lafayette, Saint Martin, Saint Mary, and Vermilion.

"Court for the Lafayette Division shall be held at Lafayette."

(b) The district judge for the Eastern District of Louisiana holding office on the day immediately prior to the effective date of this section, and whose official station on such date is Baton Rouge, shall, on and after such date, be the district judge for the Middle District of Louisiana. All other district judges for the Eastern District of Louisiana holding office on the day immediately prior to the effective date of this section shall be district judges for the Eastern District of Louisiana as constituted by this section.

(c) (1) Nothing in this section shall in any manner affect the tenure of office of the United States attorney and the United States marshal for the Eastern District of Louisiana who are in office on the effective date of this section, and who shall be during the remainder of their present terms of office the United States attorney and marshal for the Eastern District of Louisiana as constituted by this section.

(2) The President shall appoint, by and with the advice and consent of the Senate, a United States attorney and marshal for the Middle District of Louisiana.

(d) The table contained in section 133 of title 28 of the United States Code is amended to read as follows with respect to the State of Louisiana:

"Districts	Judges
* * *	* *
"Louisiana:	
"Eastern	9
"Middle	1
"Western	4".

(e) Section 134(c) of title 28 of the United States Codes is amended by deleting the first sentence.

(f) The provisions of this section shall become effective one hundred and twenty days after the date of enactment of this Act.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended, so as to read: "An Act for the relief of Richard C. Walker and to create an additional judicial district in the State of Louisiana."

RIVER BASIN MONETARY AUTHORIZATIONS AND MISCELLANEOUS CIVIL WORKS AMENDMENT ACT OF 1971

The bill (S. 2887) authorizing additional appropriations for prosecution of projects in certain comprehensive river basin plans for flood control, navigation, and for other purposes, was announced as next in order.

Mr. SPONG. Mr. President, on behalf of the city of Alexandria and the county of Arlington, I wish to thank the Public Works Committee for including in the bill a provision which will relieve these financially hard-pressed communities of a portion of the cost of the Four Mile Run flood control project in the Arlandria community of northern Virginia.

Specifically, the bill allocates as a Federal responsibility the cost of replacing the George Washington Memorial Parkway bridge over Four Mile Run. This will mean a savings of an estimated $1,008,000 to Alexandria and Arlington.

Transferring the cost to the Federal Government is in accord with the recommendation of both the Department of Interior and the Chief of Engineers.

In commenting on the project in a letter dated January 23, 1970, to the Chief of Engineers, the Department of the Interior observed that the George Washington Memorial Parkway is a Federal facility classified as part of the national park system, owned and operated by the National Park Service. The Department further stated:

> We believe it was an oversight in formulating the project to consider the Parkway facilities as a highway bridge not eligible for flood control funding. The Parkway should be treated as a federal facility wherein it could be eligible for appropriation for the flood control project. To this end, we recommend incorporating the Parkway replacement into your federal funding category for this project.

The Chief of Engineers in an interim report to the Secretary of the Army dated March 2, 1970, recommended that the bridge replacement be included in the Federal cost of the flood-control project.

The cost was assigned as a local responsibility in order to expedite the authorization and appropriation process last year. However, it is not fair to require local governments to pay for the replacement of a federally owned and maintained bridge. Accordingly, I requested the distinguished chairman of the Public Works Committee, Mr. RANDOLPH, and the distinguished chairman of the Flood Control Subcommittee, Mr. JORDAN of North Carolina, to reinstate the recommendation of the Interior Department and the Chief of Engineers.

I want to thank them publicly and the committee for giving favorable consideration to my request. I especially appreciate the quick action on this matter by the committee.

Mr. President, I would be remiss if I neglected to express again my disappointment that preconstruction planning has not moved more quickly on this urgently needed project. Responsibility for the delay rests with the Office of Management and Budget, which impounded from October 7, 1970, until July 1, 1971, the $170,000 appropriated by Congress for preconstruction planning in fiscal 1971.

Moreover, it was only belatedly that the administration requested $245,000 for the project in fiscal 1972. That amount has been approved by Congress.

I hope the budget request for fiscal 1973 will be in an amount sufficient to reflect an awareness by OMB that the Four Mile Run project is deserving of high-priority status.

The Corps of Engineers has advised that preconstruction planning can be finished in fiscal 1973 if adequate funds are provided. In a letter to me dated August 30, 1971, the corps estimated the total cost of planning at $1,015,000. This means that in the absence of any inflationary factor, $600,000 should be the amount of the budget request for fiscal 1973.

I would hope, of course, that the project can be sufficiently accelerated to justify an appropriation for actual construction in fiscal 1973.

The bill was considered, ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2887

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) in addition to previous authorizations, there is hereby authorized to be appropriated for the prosecution of the comprehensive plan of development of each river basin under the jurisdiction of the Secretary of the Army referred to in the first column below, which was basically authorized by the Act referred to by date of enactment in the second column below, an amount not to exceed that shown opposite such river basin in the third column below:

Basin	Act of Congress	Amount
Alabama-Coosa River	Mar. 2, 1945	$38,000,000
Arkansas River	June 28, 1938	57,000,000
Brazos River	Sept. 3, 1954	20,000,000
Central and southern Florida	June 30, 1948	18,000,000
Columbia River	June 28, 1938	130,000,000
Mississippi River and tributaries	May 15, 1928	97,000,000
North Branch, Susquehanna River	July 3, 1958	17,000,000
Ohio River	June 22, 1936	62,000,000
Quachita River	May 17, 1950	1,000,000
San Joaquin River	Dec. 22, 1944	44,000,000
South Platte River	May 17, 1950	37,000,000
Upper Mississippi River	June 28, 1938	2,000,000
White River	June 28, 1938	4,000,000

(b) The total amount authorized to be appropriated by this section shall not exceed $527,000,000.

Sec. 2. In addition to previous authorizations, there is hereby authorized to be appropriated the sum of $101,000,000, for the prosecution of the comprehensive plan for the Missouri River Basin, approved in the Act of June 28, 1938, as amended and supplemented by subsequent Acts of Congress, and said plan is modified and expanded to include the following items of work, and the monetary authorization is increased accordingly:

(a) The Chief of Engineers, under the direction of the Secretary of the Army, is hereby authorized to perform such work as may be required, including the construction of dikes, to prevent shoaling near the pumping plant intake of the Frazer-Wolf Point irrigation unit on the Fort Peck Indian Reservation, located on the north bank of the Missouri River about thirty miles downstream from the Fort Peck Dam, at an estimated cost of $335,000 subject to the provision that the Bureau of Indian Affairs, Department of the Interior, obtain all necessary lands, easements, and rights-of-way, and maintain the project after completion;

(b)(1) That in connection with the improvements authorized by section 6 of the Act approved October 3, 1962 (76 Stat. 704, 706), to be undertaken on the Crow Creek Sioux Reservation in South Dakota, the Secretary of the Army is authorized and directed to provide the following under plans approved by the Crow Creek Sioux Tribal Council, at an estimated cost of $800,000:

(i) in connection with the community center building which serves as the Crow Creek Tribal Council offices: offices or conference rooms for visiting Bureau of Indian Affairs personnel, auditorium facilities, sufficient offices and conference rooms for tribal offices, and an adequately sized and equipped kitchen to serve community gatherings;

(ii) adequate water, sewer, and drainage facilities;

(iii) a street lighting system throughout the townsite;

(iv) widening of streets and provision of offstreet residential parking;

(v) sufficient parking near the community center for community gatherings;

(2) The Secretary of the Interior is hereby authorized and directed to reimburse the Crow Creek Sioux Tribe, from appropriations authorized by section 2(b)(1) of this Act, for all attorneys' fees and engineering fees, and expenses related thereto, as approved by the Secretary of the Interior, that the tribe has incurred or will incur in obtaining and implementing legislation to remedy difficulties arising from implementation of the Act of October 3, 1962 (76 Stat. 704), but such reimbursement shall not exceed a total of $22,500.

Sec. 3. Section 221 of the Flood Control Act of 1970 (84 Stat. 1824, 1831) is amended by striking the period at the end of subsection (f), substituting a comma therefor, and adding the following: "or to the assurances for future demands required by the Water Supply Act of 1958, as amended."

Sec. 4. The Secretary of the Army, acting through the Chief of Engineers, is hereby authorized to cause a survey to be made for flood control and allied purposes, including channel and major drainage improvements, and floods aggravated by or due to wind or tidal effects on Chiltipin Creek at and in the vicinity of Sinton, Texas.

Sec. 5. The project for flood protection on Fourmile Run, city of Alexandria and Arlington County, Virginia, approved by resolutions of the Committee on Public Works of the United States Senate and House of Representatives, dated June 25, 1970, and July 14, 1970, respectively, in accordance with the provisions of section 201 of the Flood Control Act of 1965 (Public Law 89–298), is hereby modified to provide that the Secretary of the Army, acting through the Chief of Engineers, shall replace the George Washington Memorial Parkway bridge over Fourmile Run, at Federal expense, substantially as recommended by the Chief of Engineers in his report dated March 2, 1970, published as House Document Numbered 91–358.

Sec. 6. The project for flood control and improvement of the lower Mississippi River, adopted by the Act of May 15, 1928 (45 Stat. 534), as amended and modified, is hereby further modified to provide that local cooperation to be hereafter furnished in connection with the Obion River Diversion aspect of the Tiptonville to Obion River, Tennessee project, authorized by the Act approved June 22, 1936 and amended by the Act approved July 24, 1946, shall consist of the requirement that local interests agree to maintain the completed works in accordance with the provisions of section 3 of the Act of May 15, 1928, and hold and save the United States free from damages due to the construction works.

Sec. 7. Nothing in any prior Act of Congress, committee report, or congressional document, shall be construed as requiring the State of West Virginia, in connection with the construction of the Stonewall Jackson Lake, West Fork River, West Virginia, and the Rowlesburg Lake project, Cheat River, West Virginia, to furnish assurances that it will hold and save the United States free from any claims for damages from storage of water.

Sec. 8. The Act entitled "An Act to provide for municipal use of storage water in Benbrook Dam, Texas" approved July 24, 1956 (70 Stat. 632) as amended by Public Law 91–282, is further amended by inserting immediately after the end of the Act the following:

"The Secretary of the Army is authorized to contract with the city of Arlington, Texas, for the use of water supply storage in the Benbrook Reservoir for municipal water supply for any storage not used by the city of Fort Worth or the Benbrook Water and Sewer Authority, for a period not to exceed four years or until such time as the water supply storage is needed for navigation purposes, whichever first occurs."

Sec. 9. (a) In order to protect the environment, promote safety, and provide access to the public use recreation area around Perry Reservoir, Kansas, the Secretary of the Army, acting through the Corps of Engineers, is authorized and directed, notwithstanding any other provision of law, to take such action as may be necessary to improve the following roads in the vicinity of the Perry Reservoir area, Kansas:

(1) The road leading north from United States Highway Numbered 24, at Perry, Kansas, to an intersection with a black top road east of the dam, consisting of approximately three miles;

(2) The road on the west side of Perry Reservoir beginning at the north end of Delaware State Park running north and west and intersecting State Highway K Numbered 92 approximately one and one half miles west of Ozawkie, Kansas, consisting of approximately six miles; and

(3) The road beginning on State Highway K Numbered 92, one mile east of Old Town Public Use Area, and running north approximately eight miles to intersect with State Highway K Numbered 4 and State Highway K Numbered 16 east of Valley Falls, consisting of approximately nine miles.

(b) In carrying out such improvements, the Secretary of the Army shall be authorized to realign and grade such roads, and to pave such roads with a plant-mix bituminous surface (including chemical stabilization), in accordance with secondary road standards of the State of Kansas.

Sec. 10. This Act may be cited as the "River Basin Monetary Authorization and Miscellaneous Civil Works Amendment Act of 1971".

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. I ask unanimous consent that the Senate go into executive session to consider nominations on the calendar, under New Reports.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDENT pro tempore. The nominations on the Executive Calendar, beginning with New Reports, will be stated.

NOMINATIONS PLACED ON THE SECRETARY'S DESK—IN THE COAST GUARD

The second assistant legislative clerk proceeded to read sundry nominations in the Coast Guard, which had been placed on the Secretary's desk.

The PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc; and without objection, the President will be immediately notified of the confirmation of these nominations.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

NOTICE OF VOTES ON THREE TREATIES ON MONDAY, NOVEMBER 29, 1971

Mr. MANSFIELD. Mr. President, after discussing the matter with the distinguished minority leader and the appropriate members of the Committee on Foreign Relations, I ask unanimous consent that following the vote on Executive B, 92d Congress, first session, the Treaty To Resolve Pending Boundary Differences and Maintain the Rio Grande and Colorado River as the International Boundary Between the United States of America and the United Mexican States, signed at Mexico City on November 23, 1970, the Senate proceed to consider Executive E, 92d Congress, first session, the Convention between the United States of America and Japan for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, signed at Tokyo on March 8, 1971, and the Senate will then proceed to the consideration of Executive O, 91st Congress, second session, the protocol, signed at Washington on October 12, 1970, to the convention between the United States of America and the French Republic with respect to taxes on income and property of July 28, 1967. Mr. President, all these measures were reported unanimously from the Committee on Foreign Relations. It is anticipated that before we adjourn for Thanksgiving, these matters will be discussed in detail and final reading will be had. On that basis, if the Senate agrees, there will be three separate rollcall votes on these three treaties on Monday next, November 29, 1971, after our return.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. SCOTT. Mr. President, I ask unanimous consent that my staff assistants Hannah McCornack and Ken Davis be granted the privilege of the floor for the remainder of this week.

The PRESIDENT pro tempore. Without objection, it is so ordered.

THE SENATE'S GOOD HUMOR

Mr. SCOTT. Mr. President, this morning, the Chaplain referred to the importance of proceeding in good humor. I, too, should like to comment on that because I think the closing of our session last night reflects one of the important characteristics of the Senate.

We fought hard for our different points of view. We struck hard blows on both sides of the aisle without at any time striking foul ones. We contended vigorously for our various points of view. We made a record. We made some issues. But at the end of the debate, as always, some people prevail and some people do not prevail; but we closed our session in excellent humor and with mutual respect, each of us for all of the others.

If the Senate is to continue as the greatest deliberative body in the world, it is essential that we at all times recognize the leavening effect of humor and good will and the importance of remembering that we exist only through mutual comity, cooperation, and the tolerance of consent.

I am very glad, having traveled through the valleys and up the hills, that we finally reached the top of the mountain and enjoyed the sharing of refulgent light for our common benefit.

Mr. MANSFIELD. Mr. President, may I join the distinguished minority leader in his remarks. I wish I had said it previous to the vote: that regardless of the outcome of the tax measure, it would be accepted in good faith on this side as it was accepted in good faith on the other side.

It is true that the debate was spirited at times. There are always two sides to every question, of course. Only time will tell who was right. But it was worthwhile because it did help to clear the air. It did bring a very important issue before the Senate for its consideration. I am grateful to the entire Senate, most especially to the Republican side of the aisle, because had they desired to do so, they could have kept us in session on this one issue ad infinitum, because I know they had amendments by the score to keep us running back and forth for many days, if not for weeks, to come.

I am very glad that the issue has been decided. This is the way democracy works in an institution such as the Senate. We sometimes win and sometimes lose. If we win, we take it, hopefully, with grace. If we lose, there will always come another time. But what is important, as the distinguished Senator from Pennsylvania has said, is the comity and understanding on both sides which make this body function.

Mr. SCOTT. I thank the majority leader. It is fortunate, perhaps, that the cognomen of the Secretary of Agriculture designate furnished for us a moment of jocularity.

Mr. MANSFIELD. Mr. President, from now on I intend to watch my language.

ORDER OF BUSINESS

The PRESIDING pro tempore. Under the previous order, the Senator from Connecticut (Mr. WEICKER) is recognized for not to exceed 15 minutes.

ATTENDANCE RECORD OF THE PRESIDENTIAL HOPEFULS

Mr. WEICKER. Mr. President, I rise this "morning after" to note the historical significance of what occurred on this floor yesterday. Compared to the incredible event I am about to relate the "revolutionary campaign funding bill," as writers have termed it, pales into insignificance. The Revenue Act of 1971 all but disappears from view. George Meany's crashing rudeness becomes but a minor slight. Vietnam and phase II lose the center stage.

Specifically I refer to the 100-percent attendance by all the Senate Democratic presidential hopefuls on the campaign funding bill.

This fact only becomes significant when you compare the 100-percent batting average on this overwhelming crucial issue with the batting average on other matters of some concern to the American people.

For instance a random sampling shows—

Vote No. 13. The Appalachia Regional Development Act of 1971 which was geared to providing funds for the needy, rather than politicians. Three of eight absent—63 percent present.

Vote No. 18. A bill to provide a 10-percent increase in social security payments, providing money for the elderly, not politicians. Five of eight were absent—38 percent present.

Vote No. 22. To prohibit sonic booms over the United States, thus protecting the health of people rather than the financial health of politicians. Five of eight absent—38 percent present.

Vote No. 23. SST funding, one of the eight managed to miss this one, among the most controversial measures before the Senate in years—88 percent present.

Vote No. 29. Public service employment, three of eight absent—63 percent present. This one would have provided Federal help for the unemployed, rather than tax support for unemployed politicians.

Vote No. 34. The Ribicoff amendment to the Equal Education Opportunities for Children Act, to provide State planning funds, six of eight were absent—25 percent present.

Vote No. 38. Stennis amendment to Equal Education Opportunities for Children Act, applying criteria on desegregation equally across the country. Three of eight missing—63 percent present.

Vote No. 46. Applying ceilings on wage-price control authority to interest rates. Five of eight absent—38 percent present.

Vote No. 61. Amendment to bar draftees from combat. Four of eight absent—50 percent present.

Vote No. 93. An amendment to increase combat pay. Four of eight absent—50 percent present.

Vote No. 114. Space shuttle. Three of eight absent—63 percent present.

Vote No. 126. The school lunch program, to provide food for needy youngsters rather than for needy politicians. Four of eight absent—50 percent present.

Vote No. 127. A bill designed to help insure jobs for men working for firms faced with bankruptcy, the so-called Lockheed bill, the amendment to bar Lockheed from congressional review. Four of eight absent—50 percent present.

Vote No. 182. The Federal Elections Campaign Act, which perhaps would have made the present Pastore amendment unnecessary, even on this. One of eight was absent—88 percent present.

Vote No. 199. Passage of the Economic Opportunities Act amendments, to provide assistance to the poor, rather than to poor politicians. Four of eight absent—50 percent present.

Vote No. 201. The motion to table the conference report on Draft Act extension. Five of eight absent—38 percent present.

Vote No. 207. The vote to permit imports of chromium ore from Rhodesia, highly controversial. Two of eight absent—75 present.

Vote No. 209. Motion to place MIRV funds in escrow. Seven of the eight absent—13 percent present.

Vote No. 213. Amendment to end the F-14 program. Three of eight missing—63 percent present.

Vote No. 214. The amendment to end ABM contracts. Three of eight absent—63 percent present.

Vote No. 217. Vote on importing Rhodesian chrome ore. Two of eight absent—75 percent present.

Vote No. 223. A move to restore Federal pay raises, meaning money to Federal employees rather than political aspirants. One managed to miss that vote—88 percent present.

Vote No. 228. Move to bar foreign aid funds to Vietnam until it was determined election was fair. Four of eight absent—50 percent present.

Vote No. 243. Repeal of the Formosa resolution. Four of eight absent—50 percent present.

Vote No. 244. Move to strike Cooper-Church from foreign aid bill. Three of eight absent—63 percent present.

Vote No. 247. Ceiling on funds for Cambodia. Four of eight absent—50 percent present.

Vote No. 248. Dealing with U.S. contributions to U.N. voluntary agencies. Four of eight absent—50 percent present.

Vote No. 250. Foreign aid funds to Greece. Six of eight absent—25 percent present.

Vote No. 251. Ceiling of $150 million for Cambodia. Five of eight absent—38 percent present.

Vote 252. To increase Cambodia expenditures ceiling by $91 million. Five of eight absent—38 percent present.

Vote 253. Cut authorizations for development loan fund by $165 million. Five of eight absent—38 percent present.

Vote 254. Amendment to cut U.N. funds. Four of eight absent—50 percent present.

Vote No. 255. To cut military grant authorizations by $113 million. Four of eight absent—50 percent present.

Vote No. 256. Foreign Assistance Act of 1971, final passage, five of eight absent—38 percent present.

Votes No. 384 and 385. Pastore amendment to provide millions in tax dollars to finance political campaigns—none of eight absent—100 percent present.

Mr. President, such a record clearly deserves congratulations for having broken all known records of self-service.

Even though the moon had fallen to science up until yesterday's Democratic spectacular, it was a term used to connote the monetary unattainable for politicians.

Gentlemen, think Mars.

Mr. SCOTT. Mr. President, will the Senator yield?

Mr. WEICKER. I yield.

Mr. SCOTT. I think that an even more amazing side effect of this particular guerrilla raid on the depository of our funds was not the presence of all of the presidential aspirants here, but their significant absence from the high temple of holiness to which they all make some abject obeisance—namely, the convention of the AFL–CIO in Miami.

Their sanctimonious excuse is that they had to be here to vote. However, if anyone would look at a plane schedule, it would be quite obvious that they could have been present at an early breakfast and still have arrived here without missing one or two of the preliminary votes. Yet, somehow, with a unanimity to which they also conform in their presence, there was a unanimity in their absence from this convention. This is the first time in my recollection that anything like this has happened.

The distinguished Senator from Connecticut has made an important point regarding their attendance in the Senate. But I do hope, for the sake of Presidential fairness, that they will be able later to hitch their central wagon to the star by which they are guided and will perhaps have an opportunity to yield to the temptation of one of the declared presidential aspirants who sent word that he was for anything they wanted.

That does not mean a public-be-damned attitude. It means he is for any wage increase no matter how sky high. He is not for maintaining the limitations of the Pay Board or Price Commission, but the Pay Board particularly. This kind of impossibility might be reflected if the other candidates had the opportunity to make in person their ceremonial bows to the lords of labor. As one who has had the endorsement of many unions over the years—dozens of them—they know I am not going to bend a knee to them; I am going to be perfectly independent of them. I think a man who wants to be President of the United States should hold that view.

Maybe I ought to be a candidate for President of the United States, although I am not a candidate now and never have been. But because I have no fear of the consequences of making a statement of this kind, it is more acceptable than bowing to any special interest groups.

I wish that this similar absence of fear would reflect itself more often when dealing with pressure groups, whether it be a chamber of commerce, labor union, veterans' organization, or any other group. Therefore, I shall watch the future sessions of this great body of organized labor, which does meet to protect the sacred rights of collective bargaining and other important rights which have been hard fought for and hard won. But I hope that hereafter our presidential candidates will be able to trek around and make their pilgrimages to the temples where they worship without being put to the inconvenience of rushing back to the Chamber to vote themselves more money.

Mr. COOK. Mr. President, will the Senator yield?

Mr. WEICKER. I yield.

Mr. COOK. Mr. President, I might say to the Senator from Connecticut and the Senator from Pennsylvania that one thing that bothered me more than anything else about it was the fact that we were debating a future change in the political system that has tremendous ramifications, some of which none of us can even foresee. If, in fact, the measure is not received by the American people then, obviously, it will not be in existence and we will go back to the present system.

But I must say that not only were those Senators here yesterday, but they did not miss one vote on one amendment on this matter from the time it was brought up. Yet except for what I think was a fine contribution to the debate by the Senator from Massachusetts in the early stages last week, not a single Senator who is in contention for the nomination of the Democratic Party entered into this debate from time to time during its course. This very important issue is before the American people, and not one word from those Senators is in the RECORD. The RECORD contains words by one contender in the prior to the final vote, after the Pastore amendment had been disposed of and after other amendments had been disposed of.

But the point I really would like to make is that it seems rather strange to me that on an issue that is so important not only to the actions of Congress itself, but in its ramifications on the Presidency, at no time did any of these distinguished Members of this body see fit to enter into this debate. They came when the bell rang, they left after the bell rang five times, and they returned when the bell rang again. This is rather a sad commentary on what could have been historically important as a debate. There could have been interjected into the debate the feelings of those who may well succeed to the high office of President, but their words are absent. They saw fit not to enter into debate.

Mr. WEICKER. Mr. President, will the Senator yield on that point?

Mr. COOK. I yield.

Mr. WEICKER. If you are going to the cookie jar, you do not turn on all the lights and ring the dinner bell.

Mr. COOK. One remark made last night on one of the news programs was that the distinguished Senator from Minnesota said,

> Now the President will not have to worry about whom to invite to dinner because he will not have a long list of people to whom he is obligated.

If all the primaries go off on schedule, and all the money is spent this year, as it was in 1968—it cost over $25 million to get through those primaries—and there will probably be more, there will be a long, long list of people he could invite to the White House to whom he might feel obligated as a result of going through the primaries.

Mr. SCOTT. Mr. President, will the Senator yield?

Mr. WEICKER. I yield.

Mr. SCOTT. Perhaps the presidential aspirants were stricken by the mute nature of the monetary aid that was piling up before their very eyes, and there was no need to talk because their actions speak so loud we could not have heard them anyway.

The PRESIDING OFFICER (Mr. GAMBRELL). The Senator's time has expired.

PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business, for not to exceed 15 minutes, with statements therein limited to 3 minutes.

ATTENDANCE OF DEMOCRATIC SENATORS TODAY

Mr. MANSFIELD. Mr. President, I was privileged to listen to the speeches just made about attendance records—very much interested—and I am happy to report to my Republican colleagues that the attendance of Democrats in the Senate today to consider a very important bill, the Defense appropriation bill, is 100 percent.

Mr. SCOTT. I do confess my unmitigated delight upon receipt of these latest dispatches.

Perhaps I might repeat my inquiry of the distinguished majority leader as the clock tolls on toward 5 o'clock, 6 o'clock, and 7 o'clock this evening. Then we will discover the degree of interest of presidential candidates vis-a-vis the vote on one of the most important bills of the year, the appropriation for the Department of Defense, and we will see if they give up their engagements in the public interest or not. Perhaps my speech may help the distinguished majority leader in keeping his erring flock at home.

Mr. MANSFIELD. May I say that national security always comes first.

Mr. SCOTT. Exactly, sir.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

REPORT ON STATUS OF RESEARCH FACILITIES FUNDS

A letter from the Director of Science and Education, Department of Agriculture, transmitting, pursuant to law, a report on status of research facilities funds, as of June 30, 1971 (with an accompanying report); to the Committee on Agriculture and Forestry.

REPORT ON THE FEASIBILITY OF FEDERAL ASSISTANCE FOR URBAN MASS TRANSPORTATION OPERATING COSTS

A letter from the Secretary of Transportation, transmitting, pursuant to law, a report on the "Feasibility of Federal Assistance for Urban Mass Transportation Operating Costs", dated November, 1971 (with an accompanying report); to the Committee on Banking, Housing and Urban Affairs.

REPORT ON REVIEW OF U.S. PROGRAMS IN AFGHANISTAN

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a secret report on review of U.S. programs in Afghanistan (with an accompanying report); to the Committee on Government Operations.

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

By Mr. BIBLE, from the Committee on Interior and Insular Affairs:

Vincent E. McKelvey, of Maryland, to be Director of the Geological Survey.

By Mr. AIKEN, from the Committee on Agriculture and Forestry:

Earl Lauer Butz, of Indiana, to be Secretary of Agriculture (Executive Rept. No. 92–13), together with individual views.

By Mr. EASTLAND, from the Committee on the Judiciary:

Alfred T. Goodwin, of Oregon, to be a U.S. circuit judge for the ninth circuit;

James S. Holden, of Vermont, to be a U.S. district judge for the district of Vermont;

Levin H. Campbell, of Massachusetts, to be a U.S. district judge for the district of Massachusetts;

Ralph F. Scalera, of Pennsylvania, to be a U.S. district judge for the western district of Pennsylvania;

Charles M. Allen, of Kentucky, to be a U.S. district judge for the western district of Kentucky;

Clarence C. Newcomer, of Pennsylvania, to be a U.S. district judge for the eastern district of Pennsylvania;

William H. Rehnquist, or Arizona, to be an Associate Justice of the Supreme Court of the United States; and

Lewis F. Powell, Jr., of Virginia, to be an Associate Justice of the Supreme Court of the United States.

EXTENSION OF TIME FOR THE FILING OF COMMITTEE REPORTS

Mr. MANSFIELD subsequently said: Mr. President, I ask unanimous consent that the Committee on the Judiciary have until midnight on Tuesday next to file its report and minority views regarding the nominations to the Supreme Court of Mr. Powell and Mr. Rehnquist.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. PERCY (for himself and Mr. FULBRIGHT):

S. 2900. A bill to amend the John F. Kennedy Center Act to authorize funds for operation and maintenance of the nonperforming arts function of that Center. Referred to the Committee on Public Works.

By Mr. MOSS:

S. 2901. A bill to amend the Wild and Scenic Rivers Act by designating a segment of the Colorado River in the State of Utah as a component of the national wild and scenic rivers system. Referred to the Committee on Interior and Insular Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MOSS:

S. 2901. A bill to amend the Wild and Scenic Rivers Act by designating a segment of the Colorado River in the State of Utah as a component of the national wild and scenic rivers system. Referred to the Committee on Interior and Insular Affairs.

AMENDMENT TO WILD RIVERS ACT

Mr. MOSS. Mr. President, I am today introducing a bill to amend the National Wild and Scenic Rivers Act to designate 13½ miles of the Colorado River in Grand County, Utah, as a component of the national wild rivers system. The stretch of the river to be so classified runs from the lower end of the Westwater ranch to the upper end of the Rose ranch. It begins about 6 miles west of the Colorado-Utah State line, and flows west and south in the State of Utah.

The wild rivers designation, as this body well knows, is applied to certain selected rivers of the Nation which have remarkable scenic, recreational, geologic, or other values which should be preserved by keeping the river in its free-flowing condition, and its shore environment in its natural state, so that generations to come may enjoy them unimpaired by man-made incursions.

The stretch of the Colorado River in Utah to which this legislation applies qualifies superbly as a wild river. The river enters into Granite Canyon below Westwater ranch and within a few miles is constricted into narrow gorge of hard black granite rock topped by Navajo sandstone which shades from reds into oranges and yellow. The sheer walls of the gorge rise some 1,000 to 1,200 feet above the river's floor. There are 12 rapids within a 4-mile section of the river, where the water is very rough. The white water coursing swiftly through the gorge is both picturesque and awe inspiring.

Some 200 people ran the rapids in this gorge this past year. The trip is made in small rubber rafts, under the guidance of an experienced riverman. I have run these rapids with Mr. Dee Holladay, of Salt Lake City, and I assure you it is an exhilarating experience. The area is primitive and remote, and completely unspoiled.

The bill I am introducing provides that not only the river and its bed shall be protected and maintained in their natural state, but that about 2 miles on each side of the shore shall be protected also to maintain the complete wilderness character of the area.

The Secretary of the Interior is authorized under the bill to exercise whatever protective measures are necessary to retain this stretch of the river and its environs in their present natural state.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 2097

At the request of Mr. PERCY, the Senator from New Jersey (Mr. WILLIAMS), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Rhode Island (Mr. PELL), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Wisconsin (Mr. NELSON), the Senator from Minnesota (Mr. MONDALE), the Senator from Missouri (Mr. EAGLETON), the Senator from California (Mr. CRANSTON), the Senator from Oregon (Mr. PACKWOOD), the Senator from Illinois (Mr. STEVENSON), the Senator from Colorado (Mr. DOMINICK), the Senator from Ohio (Mr. TAFT), the Senator from Vermont (Mr. STAFFORD), the Senator from New Hampshire (Mr. COTTON), the Senator from Delaware (Mr. ROTH), the Senator from Delaware (Mr. BOGGS), the Senator from California (Mr. TUNNEY), the Senator from New York (Mr. BUCKLEY), the Senator from Iowa (Mr. MILLER), the Senator from Colorado (Mr. ALLOTT), and the Senator from Wyoming (Mr. HANSEN) were added as cosponsors of S. 2097, a bill to establish a Special Action Office for Drug Abuse Prevention to concentrate the resources of the Nation in a crusade against drug abuse.

S. 2465

At the request of Mr. CHILES, the Senator from New Jersey (Mr. WILLIAMS) was added as a cosponsor of S. 2465, a bill to establish the Everglades-Big Cypress National Recreation Area in the State of Florida.

S. 2748

At the request of Mr. BOGGS, the Senator from Maine (Mr. MUSKIE) was added as a cosponsor of S. 2748, a bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide benefits to survivors of police officers, prison guards, and firemen killed in the line of duty.

S. 2825

At the request of Mr. PEARSON, the Senator from New Jersey (Mr. CASE), the Senator from Kentucky (Mr. COOPER), the Senator from Kansas (Mr. DOLE), the Senator from Michigan (Mr. HART), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE), the Senator from Utah (Mr. MOSS), and the Senator from Connecticut (Mr. RIBICOFF) were added as cosponsors of S. 2825, a bill establishing a Government-administered life insurance policy to all Vietnam-era veterans.

SENATE JOINT RESOLUTION 164

At the request of Mr. GRIFFIN, the Senator from Tennessee (Mr. BAKER) was added as a cosponsor of Senate Joint Resolution 164, a joint resolution proposing an amendment to the Constitution of the United States relating to the assignment and transportation of pupils to public schools.

SENATE JOINT RESOLUTION 169

At the request of Mr. HOLLINGS, the Senator from Georgia (Mr. GAMBRELL), the Senator from Maryland (Mr. MATHIAS), the Senator from Alabama (Mr. ALLEN), the Senator from Kentucky (Mr. COOPER) were added as cosponsors of Senate Joint Resolution 169, a joint resolution to pay tribute to law-enforcement officers of this country on Law Day, May 1, 1972.

ADDITIONAL COSPONSORS OF A RESOLUTION

SENATE RESOLUTION 202

At the request of Mr. MATHIAS, the Senator from New York (Mr. JAVITS), the Senator from Pennsylvania (Mr. SCOTT), the Senator from Alabama (Mr. SPARKMAN), and the Senator from ALASKA (Mr. STEVENS) were added as cosponsors of Senate Resolution 202, relating to troop reductions in Europe.

ADDITIONAL COSPONSOR OF A CONCURRENT RESOLUTION

SENATE CONCURRENT RESOLUTION 51

Mr. TOWER. Mr. President, I am pleased to join in sponsoring Senate Concurrent Resolution 51 offered by the distinguished Senator from New York (Mr. BUCKLEY) and the distinguished Senator from Tennessee (Mr. BROCK). The concurrent resolution expresses "the sense of Congress that the President, acting through the United Nations, should present to the United Nations General Assembly in fitting manner the issue of the right to emigrate from and also return to one's country."

The fundamental right of emigration is specifically written into the United Nations' Universal Declaration of Human Rights. However, Communist nations which are member states of the General Assembly have consistently ignored the Universal Declaration of Human Rights by refusing to allow citizens the right to emigrate to the land of their choice.

If the United Nations has a proper role to play in the affairs of the nations of the world, I believe this is a proper subject for the U.N. to consider. The plight of Soviet Jews is perhaps the best example of the totalitarian system perpetrated by the Communist world. Living under a system of constant terror including all forms of political, social, and religious persecution, many Soviet Jews have been denied the right to leave the Soviet Union and emigrate hoping to find a more peaceful life elsewhere. Members of other groups have also sought the right to emigrate from within the Communist world and have been denied the right to do so. The wall separating East and West Berlin continues to symbolize the Communists' total disregard for the universal right of social mobility declared to be the policy of the international community.

Mr. President, I understand that this concurrent resolution has been the subject of hearings in the House of Representatives and that it has gained the support of both the Department of State and the U.S. Ambassador to the United Nations, the Honorable George Bush. The Senate should, therefore, act swiftly on this matter and present to the world community our united stand against Communist brutality in denying fundamental human rights to all the peoples of the world regardless of race, color, or creed.

NOTICE OF HEARING ON NOMINATIONS

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Wednesday, December 1, 1971, at 10:30 a.m., in room 2228, New Senate Office Building, on the following nominations:

Leroy J. Contie, Jr., of Ohio, to be U.S. district judge, northern district of Ohio, vice James C. Connell, retired.

Thomas A. Flannery, of Maryland, to be U.S. district judge for the District of Columbia, vice Leonard P. Walsh, retired.

At the indicated time and place persons interested in the hearing may make such representations as may be pertinent.

The subcommittee consists of the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Nebraska (Mr. HRUSKA), and myself as chairman.

NOTICE OF HEARING ON A NOMINATION

Mr. MCCLELLAN. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Wednesday, December 1, 1971, at 10:30 a.m., in room 2228, New Senate Office Building, on the following nomination:

Donald W. Banner, of Illinois, to be Commissioner of Patents, vice William E. Schuyler, Jr., resigned.

At the indicated time and place persons interested in the hearing may make such representations as may be pertinent.

The subcommittee consists of the Senator from Michigan (Mr. HART), the Senator from North Dakota (Mr. BURDICK), the Senator from Pennsylvania (Mr. SCOTT), the Senator from Hawaii (Mr. FONG), and myself, as chairman.

NOTICE OF HEARINGS BEFORE PUBLIC HEALTH, EDUCATION, WELFARE, AND SAFETY SUBCOMMITTEE OF THE COMMITTEE ON THE DISTRICT OF COLUMBIA

Mr. TUNNEY. Mr. President, in addition to previously announced bills that will be considered in hearings tomorrow, November 24, 1971, by the Subcommittee on Public Health, Education, Welfare, and Safety of the Committee on the District of Columbia, we will also receive testimony on S. 2899, the District of Columbia Medical Facilities Construction Act of 1972.

The hearings will be held on Wednesday, November 24, 1971, at 10 a.m. in room 6226, New Senate Office Building. Persons interested in testifying on this bill should contact Mr. Gene E. Godley, General Counsel, in room 6222, New Senate Office Building.

ADDITIONAL STATEMENTS

NATIONAL BIBLE WEEK

Mr. TOWER. Mr. President, a recent news item from Kenya reported the theft of a case from a house during the night—a case which the thieves later abandoned when they found it contained 160 copies of the Bible. It had been sent to a post office worker from the United States for free distribution in public places. The headline accompanying the article read: "The Word Wasn't What They Wanted."

Something like that might be said of the modern world insofar as it turned away from God: the Word is not what we want. The annual observance of National Bible Week serves to recall us as a people to the moral and spiritual foundations of our society as those foundations are revealed in the Word of God which is the Bible. That Word is truly one of judgment—judgment tempered by mercy, to be sure, but there is always a sense in which it is unwelcome. Some prefer not to hear and to heed the clear call of repentance and conversion of life which runs like a golden thread through the pages of the Old and New Testaments:

> Jerusalem, Jerusalem, return unto the Lord thy God.

In these troubled and difficult days for America it often seems that we might well echo that headline: "The Word Wasn't What They Wanted." And yet, apart from the teaching enshrined in the Bible, we will find neither security nor peace.

The Bible is, as it were, a kind of basic training in life. For Christians the Bible is the greatest book in the world, and for this reason: In the Bible, as in no other book, God speaks to man, makes Himself known, does something to us and for us, and tells us how we are expected to live. We share the Old Testament with two of the other great religions of the world, Judaism and Islam. The New Testament is distinctively Christian, and in its pages the pattern of a perfect life, lived in utter obedience and service, is set forth. For Christians the crowning fulfillment of Scripture is the Word made flesh, the spirit, the mind, and the character of Jesus Christ.

National Bible Week is a call to each of us, individually and in families, as well as in our churches and synagogues, to turn to the Word of God and, above all, to hearken. For many the Bible is little more than a heavy bookend, a dust gatherer more often praised than read.

And yet its message is of such power that it is able to transform the lives of men and nations. Far from being a dead book, the Bible continues to inspire new and contemporary translations suited to the needs of fresh generations of readers throughout the world.

The Bible has always been associated with man's struggle for freedom, dignity, and justice. The historian, J. R. Green, cited the impact of the great King James translation, the familiar authorized version, upon the minds and hearts of those Englishmen who fought valiantly in the 17th century to preserve and extend the blessings of liberty. Their faith is a part of our American heritage. In the words of Sir Walter Scott:

> Within that awful volume lies
> The mystery of mysteries!
> Happiest they of human race,
> To whom God has granted grace
> To read, to fear, to hope, to pray.
> To lift the latch, and force the way.

Modern scholarship has immensely enlarged our knowledge and understanding of the historical background in which the Bible came into being. The result has been a new ecumenical spirit among divided Christian communities, centering in the recovery of the Word as the foundation of Christian life and thought.

Whatever the future may hold, we may be certain that the Bible will maintain its special place, enduring vitality, and perennial relevance. The American poet John Greenleaf Whittier has spoken for every age in these lines:

> We search the world for truth; we cull
> The good, the pure, the beautiful,
> From all old flower-fields of the soul;
> And, weary seekers of the best,
> We come back laden from our quest,
> To find that all the sages said
> Is in the Book our Mothers read.

MICHIGAN STATE UNIVERSITY EXPERTS CRITICIZE BLS REORGANIZATION

Mr. PROXMIRE. Mr. President, in line with the continuing concern about the reorganization at the Bureau of Labor Statistics, Department of Labor, I ask unanimous consent that a letter to the Joint Economic Committee on this matter, signed by 11 members of the Economics Department of Michigan State University, be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JOINT ECONOMIC COMMITTEE.
November 17, 1971.

To the Joint Economic Committee of Congress:

We the undersigned faculty members of Michigan State University are concerned over the reorganization of the Bureau of Labor Statistics as announced in the Department's press release of September 29, 1971. It appears that two professional economists, Mr. Harold Goldstein and Mr. Peter Henle, have for political reasons been demoted or displaced from duties they had been carrying out satisfactorily.

Although new appointments may be based on professional competence, as the release states, the fact that career civil service appointees can lose their posts in this way is bound to put pressure on every government statistician to avoid the presentation of unpleasant facts that might incur the displeasure of their political superiors.

The release also states that the Bureau's statistical procedures and standards will not be affected. We take this reassurance at face value, but the release says nothing about analysis and explanation of the data, and interpretations made to the press and the public by those who have a special bias may be misleading. We therefore feel that official releases accompanying the data should be prepared only by responsible technical experts.

We believe that summary reorganizations and other actions of this kind tend to undermine the integrity of federal statistics. Trust and confidence in data that are essential for analysis of the nation's position have been built up over several decades but could be dissipated in short order.

We therefore urge an investigation of the needs some assurance of fair play from sources outside the administrative channels themselves.
changes already made and any others that are contemplated. The American public

John P. Henderson, Economics; Walter Adams, Economics; Lawrence Officer, Economics; Subbiah Kannafan, Economics; Byron W. Brown, Economics; Maurice Weinrobe, Economics; Mitchell Stengel, Economics; C. Patric Larrowe, Economics; Harry G. Brannard, Economics; Harold Reinholds, Economics; Milton C. Taylor, Economics.

Mr. PROXMIRE. Mr. President, I invite special attention to the second paragraph, referring to the displacement or demotion of two fine economists:

> Although new appointments may be based on professional competence, as the release states, the fact that career civil service appointees can lose their posts in this way is bound to put pressure on every government statistician to avoid the presentation of unpleasant facts that might incur the displeasure of their political superiors.

This fact is frequently overlooked by those attempting to justify the actions.

HONOR TO J. EDGAR HOOVER AND THE FBI

Mr. EASTLAND. Mr. President, the 25th annual meeting of the Southern Regional Conference of Attorneys General met recently in my State. In session at Biloxi, Miss., this distinguished group of legal leaders adopted a series of resolutions expressing their viewpoint on a variety of subjects.

Among these resolutions was one expressing the appreciation of the Southern Regional Conference of Attorneys General to the Federal Bureau of Investigation and its Director, the Honorable J. Edgar Hoover.

Mr. President, I agree—as do many Americans—with the letter and the spirit of this resolution, honoring a great American and the outstanding organization which he heads. The resolution is as follows:

> Whereas, the Federal Bureau of Investigation has earned, through years of dedicated service, high esteem as one of the most reputable and competent law enforcement agencies in the world; and
>
> Whereas, the Director of the FBI, J. Edgar Hoover, in a lifetime of service to our country, deserves a place of honor as one of America's outstanding patriots and leaders; and
>
> Whereas, each of our states has benefited from FBI expertise, not only in carrying out its investigative responsibilities but also in its police training programs, laboratory and fingerprint work and through other services the FBI offers to state and local prosecutors and local law enforcement agencies:
>
> Now, therefore, be it resolved, that the Southern Regional Conference of Attorneys General expresses its appreciation to J. Edgar Hoover and the FBI.

DISCOURTESY TO PRESIDENT NIXON

Mr. GOLDWATER. Mr. President, when AFL–CIO president, George Meany, adopted his rude and hostile attitude toward the President of the United States, he chose to do it in comfortable surroundings of his own making. In other words, while he was mouthing disrespectful wisecracks and making sure that the Chief Executive was not accorded the courtesy due the highest office in the land, he was surrounded by his longtime buddies and henchmen in the labor movement. What he seems to have forgotten was that the entire Nation looks on when a President performs, regardless of attempts to freeze out important parts of the communications media.

I suspect that Mr. Meany is now beginning to understand this condition. From all over the Nation critical editorial comment is rolling in, and it has had the effect of making President Nixon a hero. Typical of the editorial comments was that published in the Nashville, Tenn., Banner of November 20. It is entitled "The Right Speech at the Right Place at the Right Time." Because it is a particularly incisive and accurate appraisal of Mr. Nixon's address to the AFL–CIO convention, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE RIGHT SPEECH AT THE RIGHT PLACE AND TIME

In the address delivered yesterday before the AFL–CIO convention—a revision of his prepared text—President Nixon made the right speech, at the right place and at the right time. With no intention of offending his audience, but with the candor a mutual understanding demands, he told that Miami Beach assembly that he was going to make his economic program work, with or without organized labor's support.

It was not a prejudicial utterance, notwithstanding the fact that AFL–CIO President George Meany has adopted a hostile position to much of the freeze policy as it applies to wages, in Phase II. Mr. Nixon assuredly does not want to alienate any element in the nation's economy; he is bent, rather, on orienting all these components in the mutual interest of all, for economic recovery, stability, and prosperity.

At the same time, he recognizes that the urgency of success in that objective necessitates action for its accomplishment, regardless of any segment that either refuses to lend support or attempts to block it. In still other words, the President is not playing a partisan game; but, in the responsibility that is his, is seeking to mobilize the maximum of economic strength for the job that is to be done.

He could have reminded his audience that some of the very ones opposing his program, including some in positions of labor leadership, are those who most strenuously advocated wage and price controls before they were clamped on.

In acknowledging areas of disagreement on details, the President paid a warranted tribute to the judgment and national devotion of organized labor's rank-and-file.

"What there can be no disagreement on," he said, "is the need to provide more jobs for more Americans; the need to provide a dollar that doesn't decrease in value every time you get a pay raise; the need to increase production; the need to increase trade with other nations and stop subsidizing foreign industry with American jobs, and the need generally to establish a sound and stable economic base which will give us prosperity in time of peace."

The President obviously does not confuse the attitude of Meany & Co. with that of the total constituency. For he knows that, contrary to the stance of those labor leaders who preceded him on that rostrum to berate the administration and impugn its motives and objectives, a substantial segment of organized labor has supported his economic program. For example, the Gallup Poll disclosed on Aug. 28 that the Nixon program was supported by 65 per cent of labor union families interviewed, indicating a wide divergence between the view of union leadership and that of rank-and-file members.

It logically is assumed that President Meany is aware of that, also, and it is a factor in his decision to continue as a member of the Pay Board, notwithstanding his stated disagreement.

President Nixon launched his program in the national interest, and obviously intends for it to succeed. He frankly declared that he knew that when the chips were down, and the objectives of such vital consequence nationally, he could count on labor's support for his policies.

Stating it as frankly as he did, and with it serving notice, it was the proper message indeed, on the proper occasion. More than those at Miami Beach were listening.

THE SITUATION IN PAKISTAN

Mr. PERCY. Mr. President, the tragedy of the South Asian situation deepens, and with the passing weeks we continue to learn of the brutality, homelessness, and starvation suffered by the East Bengalis.

Mrs. Mildred Robbins visited East and West Pakistan from September 30 to October 11 of this year as an observer for the International Peace Academy. In this capacity she visited Karachi, Lahore, and Islamabad in West Pakistan and Dacca and Chittagong in East Pakistan, meeting with Pakistani Government officials, civil servants, private individuals, Pakistani and foreign voluntary nongovernmental agencies, foreign government representatives, U.S. personnel and members of the national and international press. She notes that, even though the number of refugees pouring into India continues to grow, the problem is not lack of relief supplies but inadequate distribution, poor organization, and a breakdown of the transportation system. She also acknowledges that the relief problem cannot really be solved until the political problem is resolved.

Mrs. Robbins' report is the most recent firsthand report of which I am aware. While I do not necessarily agree with all of her conclusions, I believe the report is essential reading for those of us who are deeply interested in the Pakistani situation.

I ask unanimous consent that the text of her report be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

REPORT ON PAKISTAN—SEPTEMBER 30 TO OCTOBER 11, 1971

(By Mrs. Mildred Robbins)

I was in Pakistan—East and West—for twelve days as an observer for the International Peace Academy. I was to report on the current conditions in Pakistan, offer its good offices as a third party and assess the need for and response to the development of training programmes in the fields of disaster relief and rehabilitation.

To try to meet these requirements, I went to Karachi, Lahore, Islamabad in West Pakistan and to Dacca and Chittagong in East Pakistan. I met and spoke with about seventy people. They represented Pakistani government officials, civil servants, private individuals, Pakistani and foreign voluntary nongovernmental agencies, foreign government representatives, U.N. personnel and members of national and international press.

A perspective on Pakistan's history makes the complexity of problems more comprehensible in the light of the current civil war in East Pakistan and the mass exodus of East Pakistanis into India.

Faced with two rival movements, both responding to deep feelings in the sub-continent, the British agreed in 1947 to division, based on Muslim pressures for the creation of two nations. Pakistan was to consist of the Muslim majority areas—much of Bengal and much of the Punjab, together with Sind and the N.W.F.P. To understand the feelings of today one must recall that the Bengalis and the Punjabis never got along well together. Their common religion was their one link—they differ in language and temperament, in skills and development. The Punjabis are thought of as more pragmatic, more government, military and business-oriented, while the Bengalis tend to enjoy politics and literature. The West Pakistanis today consider the East Bengalis as simple people whom they are trying to elevate from their state of under-development, and the Bengalis regard the Punjabis as a rather rough and militaristic people.

The partition in 1947 was accompanied by communal rioting with the loss of tens of thousands of lives. Some six million Muslims fled to Pakistan and a similar number of Hindus and Sikhs fled to India. Despite this vast exchange, Hindus remained in the Bengali wing of Pakistan and Muslims remained in India. In fact, India today, after Indonesia and Pakistan, ranks third in numbers of Muslims. Relations between India and Pakistan reflect a centuries old Hindu-Muslim rivalry and a mutual distrust.

Today, the divisive issues of Kashmir, a Barrage on the Ganges and a few small enclaves are used by Pakistan as examples of India's lack of good faith, its continuing aggression against Pakistan, and its determination not to accept the partition. This bitterness has escalated with the civil strife in East Pakistan and the flight of millions of East Pakistanis, principally Hindu, into India. Pakistan feels that the whole disturbance was caused by and is being exacerbated by India. They are quick to point out India's role in providing sanctuary for the rebels and the arming and training of the forces for Bangla Desh. Pakistan, in further defence against accusations of continuing massacre, point to the fact that they have permitted the U.N. to handle the relief efforts and have agreed to the posting of U.N. observers on their borders whereas India has refused to permit observers. A point here—the Pakistan Southern border near Calcutta is far more difficult to patrol because of its geography than is that of India's border. On the other hand, it is reported that not only has India not permitted U.N. observers, but also has not permitted foreign correspondents, relief agencies, et al, near the borders or the relief camps. Neither countries' hands are completely clean.

There are major troop movements on the borders and the tension is heightening. In West Pakistan signs abound, "Crush India" and civilian evacuees are starting to come in from the borders. This was reported particularly around Lahore, which is considered a border town. To many West Pakistanis who view the civil strife with dis-belief and indignation, the "blame India" movement is another example of not admitting a reality. When questioned about the validity of East Pakistan's grievances, they recount all that has been done for East Pakistan but that reform takes time and resources. They bristle at allegations of their discrimination.

The sad part is that the central government is holding back on initiating reforms, which could serve as a sign of good intent.

With rising civil strife the most prominent activity of the government is the imposition of martial law. True, they have offered general amnesty, they have installed a civilian governor, and they have opened twenty-three reception centres for the safe return of refugees along the borders. They say they will appoint more East Pakistani administrators. However, the credibility of these efforts must be questioned. True amnesty does not exist—in fact, there is a continuing effort to root out individuals—in government and in civilian life—who appear to be opposed to the central government. As for the civil governor—an East Pakistani—he may be trying but he does not have the power. The power in East Pakistan remains with the Army. A General questioned almost flippantly what peace was and felt that Western ideologies had no place in Pakistan and should not be foisted upon them. As another military officer explained to me, the simple people of East Pakistan just were not ready for democracy. They saw democracy as an opportunity to hold meetings and to speak freely.

In justification, the central government is trying to preserve the unity of their nation. Many of them recall all too vividly the horrors associated with the partition and the many sacrifices they were called upon to make to create a new nation, hopefully free of religious prejudice. They feel it imperative to save the nation of Pakistan; that it would be as if one limb were torn from a body. To quote the widow of a former leader, "Pakistan belongs to each one of us as a sacred trust, and we are not going to betray that through our own selfishness, greed, laziness or fear". She said, "The threat of an imminent war, under which we find ourselves today, along with that of destruction, death and disaster, was engineered by those who never in their hearts accepted our sovereign independence; by those who maliciously tried to subvert and mislead some of our own people seeking power for themselves".

Alas, the people of West Pakistan are separated not only by a lack of sympathy and miles, but also by a lack of sympathy and understanding of the problems and realities of the East Pakistani. Government officials, cloistered in the newly-constructed capital of Islamabad, are isolated from the true situation. They make declarations and issue edicts that somehow do not seem to have relevance to the demands of the day.

There is a civil war being waged in Pakistan. Comparisons have been made with the civil war in the United States where one of its most distinguished Presidents waged war for four years but not only to preserve the union, but also to ensure the equal rights of all. The U.S. has learned to live together as a nation. Whether this is possible in Pakistan is doubtful. However, when seeking resolution to conflict one should not admit the inability for reconciliation and should never cease to explore all possibilities for such resolution.

POLITICAL FACTORS

The death of the Pakistani leader Jinnah in 1948 and the assassination of his political successor Prime Minister Liaquat Ali Khan deprived Pakistan of its two most able leaders too early in its life. Political instability followed until a military take-over by General Ayub Khan occurred in 1958. However, he was forced, under the pressures of students and workers, to relinquish his post in March of 1969. General Yahya Khan took over as Martial Law Administrator with his promise of a civilian government to be initiated soon after. He permitted political parties and political activities to be resumed.

On December 7, 1970, Yahya set about "to restore democratic institutions" by holding national elections. It was a free and peaceful election. Eleven different political parties and fifteen independents emerged with seats in the National Constituent Assembly. One party, however, emerged with a majority of votes—one-hundred-and-sixty-seven of the three-hundred-and-thirteen total. The pakistani Awami League, headed by Sheikh Mujibur Rahman, received ninety-eight per cent of the votes of the East Pakistani electorate. He had promised greater autonomy for East Pakistan and had embodied this in six points. East Pakistan has always maintined that it has been under-represented in the central government and denied its proper share of central government resources. Their unity in voting was particularly spurred by the slow response of the central government to their cyclone crisis in November.

The Pakistan's Peoples Party, with the next strongest majority of eighty-one seats, was led by Zulfikar Ali Bhutto. Thus Mujib and Bhutto met with Yahya in the succeeding days after the election to arrive at some understanding before the Assembly convened on March 3. The talks ended in a deadlock and the Assembly meeting was postponed.

This postponement was viewed by the Awami Party as further evidence of discrimination. A non-violent, non-participation movement was started which subsequently led to violence, to provocations against the Army and government, to prisoners being released, to killings, to the hoisting of the Bangla Desh flag. The army moved in to restore law and order and maintain the unity of the country. A whole new series of atrocities were committed, a reign of terror was started and no-one felt safe. Bengali was pitted against Bengali and the Hindus didn't stand a chance. The Bengali members of the Pakistan armed forces refused to fire on other East Bengalis and fled across the borders to India. Those Awami League members who were able to escape were joined by masses of Hindus. Mujib was arrested the first night of the crackdown. Eighty-eight out of the one-hundred-and-sixty-seven elected Awami Leaguers have since been granted amnesty. The government has called for by-elections to fill the empty spots in East Pakistan. Curiously, the Dacca seat won by Mujib and that of his Constitutional expert, Kamal Hosain, are not listed as up for re-election. The ban on political activities, imposed on March 26, was lifted on October 10. Many political parties are now campaigning in East Pakistan all vying for the vacant seats.

Despite the claims of freedom to Campaign, at a press conference called by a retired Air Marshall, he described the fact that there was a black-out of news about him in the papers. "How," he asked, "can you run for an office if the people don't know you are running?" "And how can you equate loyalty to one's country with loyalty to one's government?" He asked, "Why go through the formality of an election, aiming for the creation of democratic institutions if all candidates are not initially permitted to speak out?" Because of this frustration, he withdrew from the running for office. A few days earlier he had made the suggestion that no elections be held and that the Assembly be convened as elected. This suggestion was immediately negated.

If the elections are held in December and January as planned, the results will not reflect the people's first choice—the Awami League—since the Party is banned. Will the elections take place? Will the Mukti Bahini discourage the people from voting? Will the Army force the vote? Will the people cast blank ballots? How many of the Awami accredited electorate remain in East Pakistan? Questions such as these cast credibility upon the elections' results.

REFUGEES

The numbers of refugees now in India, and the numbers still growing, boggle one's mind. According to Pakistan they number two million two hundred, and according to India they number over nine million. Perhaps the truth lies somewhere in between. It is an horrendous human problem which seems to defy solution. India, herself suffering in those regions with the problems of want and starvation, is faced with the enormous problem of the care and feeding. Forty-eight nations have responded to the need with contributions in money and supplies channeled through the U.N. High Commissioner for Refugees as well as by direct national contributions to India. Private relief agencies are also giving assistance, although the Indian government has asked them to absent themselves from the refugee camps, claiming there are enough qualified Indians to handle the problem. A volunteer corps has been developed within the camps made up of qualified personnel who, as doctors, social workers and teachers, are helping to alleviate the conditions of their fellow Pakistani. A long term solution to the problem must be sought but the immediate problem of keeping millions of people alive must be met.

What is the future of the refugees? Will they return? Are there adequate provisions for their safety? Will they be welcomed? Will the displaced person have his house and land returned to him? Who will displace the individual residing there now? There are twenty-three reception centres for the displaced persons set up all along the borders of Pakistan. According to official Pakistani figures on October 11, there were 179,111 returnees of whom 48,119 were processed through the centres; of these 13,000 were non-Muslims. Each centre is set up to handle 500–1,000, but at the moment there is no over-crowding problem because of the small number of returnees.

Reasons given to me for the returnees slipping over the borders and not going through the centres included the possibility that they may be prevented normal return by the Indians; the concentration of the Indian and Pakistani armies on the borders; and the apprehension of reprisals at the centres.

FOOD SITUATION

From all indications, there are adequate food supplies for the next four months and there is a good rice crop soon to be harvested. The difficulty is getting it to the people. There is practically nothing moving. Supplies must be moved out of the port and dispersed into the countryside. Two major factors working against this are the government and transportation.

There seems to be ineffective central authority at the ports. The ships remain loaded in the harbours; rice, a year-and-a-half old lies rotting in the warehouses; dried milk spills out of torn bags; cement bags harden; supplies are stacked in haphazard fashion and cut down on the warehouse capacity; supplies ordered as a result of the November cyclone such as rape seed and roofing still lie about; where there was once many thousands of skilled workers (in unloading and stacking) there are now about five hundred; boats run aground because of over-loading. Further discouraging facts emerge such as the bombing of the laden ships in port, the blow-ups of power lines, of railroads and traffic on the roads, with the intimidation of boatmen and drivers. A real effort has been made to secure an agreement with the Mukti Bahini to permit the supplies to be delivered to the people in U.N. marked cars and boats with assurance that the Army will not be associated with the shipments. The central government has agreed to this. However, constant delays occur with the officialdom and bureaucracy, with harassments such as the requirement of ship captains to sign waivers that guards are not necessary to ensure the safety of their crews, and continuing change of government personnel.

Therefore, contingency plans, though being drawn up for relief, rehabilitation and reconstruction, are still thwarted by the problems of transportation and government. Trucks are being delivered—one hundred white cars with the U.N. symbol have already arrived, with the likelihood of eleven hundred more to arrive. Minibulkers, tugs, ferries and country boats are being secured. But unless the food can be loaded with a minimum of steps into these various means of transportation and dispersed into the fifty-nine sub-divisions of the country, there will be large pockets of hunger in this country of seventy million people and an ever-increasing stock-pile of supplies at the ports.

All these efforts are being co-ordinated by the newly created United Nations East Pakistan Relief Organisation (UNEPRO), which is seeking to bring together the efforts of agencies such as UNICEF, CAO, WHO, World Food Programme, the U.N. High Commissioner for Refugees together with the bilateral efforts of many governments and non-governmental agencies. Pakistan has agreed to this U.N. presence. If UNEPRO is able to feed and care for the people, it will serve as a valuable precedent for other international disaster areas.

There is material law imposed on the citizenry of East Pakistan. There is fear and hunger; no security or safety. There are growing numbers of disturbances by the Mukti Bahini. Bridges are blown, the trains no longer run, ships have been sunk and firing goes on in the countryside and in the cities each night. Repressive acts by the Army occur daily, continuing against suspect East Pakistanis. Democracy is a long way off.

There are rumours—and few substantiated facts—and even these become distorted in the retelling.

The tragedy is that everyone seems to be locked into their situations and positions. Certainly no leader, Yahya included, wants to go down in history as the man who brought about the disruption and dissolution of his country—or the man who perpetrated genocide. He is looking for a way out. But even if he finds it, does he have the power to follow through? How much power does the Army exercise?

West Pakistan feels assured that things are much better in East Pakistan, while the actual situation in East Pakistan worsens daily and the fear and apprehension grow. The Army, securing the unity of the nation, has the whole populace cowering and so does the Razakhar and the Peace Committees. From across the border the Mukti Bahini come each night also sowing fear and destruction. The mass of people don't know which way to turn. But they know they want, at least, autonomy, but if this is not possible they will opt for outright secession. Their leader Mujib is imprisoned and people wonder, if he is now released, what influence he will have.

West Pakistan government officials say they do not condone the excesses that have occurred; they do not exclude any possibility for settlement; they state the U.N. is in complete charge of relief operations; they say that they do not hate India but do insist on her respect.

The government is using nineteenth century colonial action of force to impose its will. The strain on the economic life—as exports decrease and the military budget increases—is being felt, as is the psychological impact on the people. It is a time of human tragedy and political upheaval.

To sum up, current conditions in Pakistan reflect the results of a series of events that started with the November cyclone—slow Pakistan reaction for emergency help—dramatic electoral victory for the Awami League in December—postponement of the Assembly—Awami League's reaction of initial nonviolence and then violence—Army's crushing imposition of martial law—massive stream of refugees into India—continuing civil strife.

Pivotal factors working against reconciliation and the resolution of the refugee problem include:

Growth of terrorism on both part of Army and Mukti Bahini.

Breakdown of the transportation system that inhibits distribution of relief supplies.

Further possible political chaos ensuing as a result of the by-elections.

Growth of tension between India and Pakistan with the concomitant possibility of an outbreak of war.

No apparent solution to the growing number of refugees in India.

The civil war is a national problem. All nations should disengage themselves. The U.N.'s role and impact still remains a question of feasibility and possibility. Though I.P.A. offered its good offices in mediation, it remains to be seen if this offer will be taken up. There was much interest in I.P.A.'s suggestion re: development of training programmes for disaster relief and rehabilitation.

The refugees now in India have produced an international problem.

The whole situation is compounded by interests of the big powers—Russia, U.S.A. and China—in the subcontinent.

Though the peaceful resolution of conflict seems remote, the moral suasion of the international community, both public and private, must persevere. The alternative is further destruction of peoples' lives and homes and nations.

Finally, one must clearly see that it is basically a political problem that must be resolved before the relief problem can be resolved.

RECOMMENDATIONS RE: GOVERNMENTS

1. Assume as neutral a position as possible and disengage from any political involvement. It is not anyone's business but that of Pakistan's. There is a civil war and all foreign interests should remove themselves.
2. The problem of the refugees in India has become an international problem. Massive aid should be directed here.
3. All economic aid to Pakistan should be channeled through the Consortium of thirteen nations joined in Aid to Pakistan, working through the International Bank for Reconstruction and Develoment.
4. All military shipments, including parts, should cease.
5. Quiet diplomacy must continue, both by governments and the U.N.

RECOMMENDATIONS RE: U.N.

Against the background of the two primary difficulties of transportation and government:

1. Urgent need for the effective coordination of all U.N. specialised agencies.
2. The chain of command of the U.N. operations should be clearly defined and the leadership identified.
3. The need for at least one hundred field service personnel to be stationed *permanently* in depots throughout the countryside. This would expedite the delivery and receipt of supplies, ensure, to some extent, that the supplies reach the needy, and serve as a security bulwark for the local population. Permanent assignment would permit the familiarisation with the countryside, the needs and the people. At the moment, the U.N. seems to be trusted by the three factions—the Army, the Mukti Bahini and the people. These nonmilitary outposts should be established rather rapidly as it would further assure the Mukti Bahini that the efforts were geared to the people and they might permit the boats to move again.
4. There is a need for an accurate inventory of the stocks—type, date of delivery, condition—as well as a good housecleaning. Not clear whether this is in purview of the U.N., but certainly should try to exercise influence as to the method of stacking of materials, their site assignment, etc.
5. Discourage, if possible, anymore food supplies for the next four months. There seems to be no imminent danger of famine—the inadequacy lies in the inability to transport the food to the people. As an example, UNICEF is getting the dried milk to the Chittagong area, but can make no deliveries in the Dacca area.
6. UNEPRO should be seen as a pilot project for further U.N. disaster relief operations and for the establishment of such a permanent body within the U.N. At the outset, it seems to be one step ahead of the Biafra Relief operation. Certainly, useful operational guide-lines can be developed from the experience—frustrating though it may be.
7. Will the scope of the U.N. encompass rehabilitation as well as relief under UNEPRO? This would seem to make sense in disaster areas, as the emergency operation must move almost immediately into the other area of rehabilitation.
8. Will the U.N. be effective in East Pakistan? At the moment I am rather pessimistic. It is dependent on how far and how fast the government is prepared to co-operate (despite protestations). The world community has heard that Pakistan has welcomed U.N. to take over the relief operations in East Pakistan. In effect, it has transferred its responsibilities. Therefore, if it is not successful, that responsibility lies with the U.N.

RECOMMENDATIONS RE: IPA

1. Continue to explore possibility of third-party role to seek alternative solutions to end the conflict with "dignity and respect". Many West Pakistanis expressed the hope for "peace and tranquility."
2. Pursue the possibility of working with the new U.N. disaster relief agency, proposed by U Thant, in the development of training programmes.
3. Develop training programmes for disaster-prone areas. The Pakistan government officials were very interested in seeing programmes developed for:—
   (i) Administrators (to include an over-all plan) and
   (ii) Secondary personnel who could then pass on the training to the local levels.
4. Explore the possibility (remote) of improving co-operative relations between volunteer agencies and between specialised agencies.
5. Develop plan for utilisation of armed forces for humanitarian purposes—e.g. relief. First step would have to be to change the people's image of the armed forces.

POST MORTEM ON FOREIGN AID

Mr. CHURCH. Mr. President, Dr. Nasrollah S. Fatemi, director of the Graduate Institute of International Studies at Fairleigh Dickinson University at Teaneck, N.J., recently wrote two articles in support of the view that the American foreign-aid program is generating more problems than it is solving. Dr. Fatemi supports the action of the Senate in defeating the omnibus foreign-assistance legislation last October 29.

Dr. Fatemi, formerly Ambassador from Iran to the United Nations, quite correctly points out that the foreign aid program, as it now operates—

> Has brought us nothing but worries and world problems, should be stopped and be replaced by a multilateral program to which all the rich nations should contribute.

At another point in the articles, published in the Record, of Hackensack, N.J., on November 4, he suggests that the defeat of the foreign aid bill last October:

> Will compel both the Administration and the Congress to study the whole subject anew, and this is a compulsion to be welcomed.

Mr. President, I ask unanimous consent that these two thoughtful articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

AID: WHAT IT COULD BE AND WHY

The United States foreign aid program, as of now killed in its familiar form by the Senate, was based on principles that no longer apply, and it was not working as the country had hoped. It took an extraordinary combination of liberals and conservatives to defeat it, and motivations for voting it down were in striking contrast to one another, but it may well have been the best result possible.

The theory of the aid program when it was devised after World War II was sound enough. There was an actual Russian military threat in Europe, and the nations of Europe were in desperate need of funds for recovery from the war. That was the time when the cold war was at its height, and American thinking became stylized in the mold of the cold war. The aid program which worked among the industrial nations of Europe and the political theory that held the Soviet Union at bay through President Truman's administration were applied as if they were revealed truth for the world as a whole.

The involvement in Vietnam is only the most spectacular of the results. The aid program was applied to help undeveloped nations achieve industry and affluence, and they are further behind the developed nations than they were at the start. The hope from the beginning was that United States foreign aid would advance the cause of freedom. It hasn't done so. The program's title implies that it is non-military, but more than half the $3.3 billion in the bill the Senate killed last week was for military purposes in a world that no longer can afford war. During the debate just before the final vote Sen. Church of Idaho said:

"Even with enormous power and the best of intentions, there are some things we cannot do, things which are beyond our moral and intellectual resources. If we learn nothing else from the experience of the Sixties, it will profit us immeasurably to have learned that being richer and stronger than everybody else has not made us wiser. When it comes to wisdom, we are part of the pack; just knowing that will be wisdom enough."

The foreign aid program was designed when the world had two superpowers and they were in conflict. Emerging today are five superpowers, the United States and the Soviet Union and beyond them united Europe, mainland China, and Japan.

The defeat of the foreign aid program in its familiar form should be seen not as a disaster but as an opportunity. Can its vast bureaucracy be dismantled? Can the Third World actually be helped? What more can be done by multinational agencies collaborating in small projects and so learning to work together in large ones?

The defeat will compel both the administration and the Congress to study the whole subject anew, and this is a compulsion to be welcomed.

FOREIGN AID DIED LONG SINCE AS FAR AS ITS PURPOSES GO

(By Nasrollah S. Fatemi)

The Senate should be applauded for putting an end to a foreign aid program which is ineffective and wasteful and is heping only a few corrupt and authoritarian kings and politicians from Madrid to Malaya, from Taiwan to Teheran. This should have happened 10 years ago to save the United States close to $60 billion in foreign aid and a war in Vietnam which has cost us 55,000 lives and more than $180 billion.

On June 5, 1963, in testimony before the House Committee on Foreign Affairs, I stated:

"The idea of foreign aid is great, and history can show few other examples as generous and as magnanimous. But too many assistance programs and concept under the Foreign Assistance Act have been unrealistic, inefficient, too expensive, and, in some countries, corruption-ridden."

I suggest that the present program, which has brought us nothing but worries and world problems, should be stopped and be replaced by a multilateral program to which all the rich nations should contribute.

If our purpose was to stop and contain Communism, it is unfortunate that since 1946 the population of the Communist world has quintupled. After 20 years of our opposition to Communist China, by an overwhelming vote of 76 to 35, the membership of the United Nations voted to admit the government of the People's Republic of China. Despite the spending of billions of dollars we were not able to get even Iceland, Belgium, Iran, Israel, Ethiopia, Turkey, Laos, Pakistan, Portugal, Morocco, Greece, Thailand, and Spain to vote against the Albanian resolution.

THE PROGRAM HAS BEEN GENEROUS

If our purpose was to help the people of the world fight against poverty, misery, and ignorance, it has failed dismally. A report by the General Accounting Office implies that foreign aid spending has been a kind of diplomatic pork barrel. In most countries receiving our foreign aid the rich are getting richer and the poor are getting poorer. The gap between the poor and the rich nations of the world is much wider today than it was in 1947.

The administration tells us that our balance of payments problem has been caused by foreign speculators, and that military expenditures and foreign aid should not be blamed for it; but figures published by the United States Department of Commerce show that our military expenditures, foreign aid, and grants in 1970 produced a $7.5-billion deficit in our balance of payments. For the current year we are faced with the largest deficit balance in the history of the United States—$10 billion.

In a conference of the rich nations in Paris on Oct. 22, the administration failed to get the support of other nations to tie in a part of the foreign aid to purchases in the United States.

This country accounts for about 45 per cent of the total aid, investments, and loans from the wealthy countries and for 80 per cent of the grants and free assistance. The Soviet Union, West Germany, Japan, France, and the other nations, give very little free aid and grants. Their assistance is mostly investment or interest bearing loans. Every rich nation except the United States ties its loans and investments to credit and the purchase of its goods and commodities.

If our objective was to strengthen democratic regimes vis-a-vis Communist dictatorship, our balance sheet shows many liabilities in Latin America, Spain, Portugal, Greece, the Middle East, Africa, and Southeast Asia. Most of our military and foreign aid has been used by kings, politicians, and generals to wipe out democratic ideas and institutions, to dissolve parliaments, and to crush the opposition. The death of the parliamentary system in Cambodia is the latest in a series of long and unhappy events since 1952.

We have given more than $3 billion to Iran, a country whose capital of four million people is without a sewer system, whose illiteracy rate is over 80 per cent, and whose autocratic Shah spent $100 million to entertain international loafers and freeloaders.

We all owe a vote of thanks to the Senate because:

1. During the last seven years our foreign aid has had no plan, purpose, or leadership. It has been bureaucratic, mismanaged, and corrupt. One third of the total economic and military appropriations is used for salaries, stipends, and other expenses of more than 100,000 civilian and military advisers and staff. There has never been a frank and objective evaluation of its achievements.

IT DIDN'T HELP OUR POLICY

The administration spokesmen claim that our foreign policy will suffer without foreign aid. If this is true and foreign aid has been so essential to our peaceful foreign policy then would somebody explain to the taxpayers what happened in Lebanon, the Soviet penetration of the Middle East and North Africa, the Greek and Turkish conflict, the Indian and Pakistani clashes, the Dominican adventure, and the 10 year war of Indochina?

Why did we have to spend another $200 billion on war and keep a million American troops outside the United States? Why is it possible for other powers to conduct foreign relations without paying protection money to international blackmailers?

2. Our foreign aid since 1954 has had no connection with the original ideas of the Marshall Plan and Point Four. It has been a vehicle to preserve the status quo and military dictatorships. Instead of tailoring it to the needs of the masses in every country, instead of trying to liberate millions of exploited peasants and workers throughout the world, instead of using it to support reform-minded and progressive leaders who fight for justice and democratic institutions, we have allowed it to be used by princes and politicians and generals to erode the very principles of justice and freedom.

3. The present foreign aid is both useless and counterproductive because it is tied to our military adventures: 80 per cent of soft development loans in 1970 was spent in nine countries; 90 per cent of the supporting assistance was granted to three countries, and only 15 countries were the beneficiaries of 87 per cent of the total aid programs.

4. During the last decade, thanks to the bureaucrats in Washington, the war in Indochina, and our many giveaway programs, the richest and the best economic system in the world has been pushed to the brink of bankruptcy.

Our friends and foes know that it is no longer possible for the United States to bear the burden of defense of Europe and to give away billions of dollars for military expenditures and foreign aid.

According to a congressional survey, foreign aid backlog funds appropriated but not spent so far exceed $5 billion; therefore, the Senate vote neither hampers nor hurts the present programs for the next two years.

This will give Congress two years to evaluate past programs and to come out with a new plan which would effectively respond to the objectives and needs of the 1970s. Neither our present foreign aid nor our economic situation meets the changes which both the President and the Senate have been talking about.

The present Humpty Dumpty cannot be resurrected.

PRESIDENT NIXON AND THE AMERICAN INDIAN

Mr. BELLMON. Mr. President, of all the problems that faced President Nixon when he took office in January 1969, none was more perplexing or frustrating than the plight of the American Indians.

Victims of centuries of oppression, substantial numbers of the Nation's 800,000 Indians continued to live in abject poverty—poorly housed, poorly educated, unable to get jobs or to provide for adequate health care and other necessities for themselves and their families.

Despite expenditures of large amounts of Federal funds, the bottom-of-the-barrel position of the "First American" offered tragic evidence that all the efforts of the Federal Government had added up to a dismal failure.

The Nixon administration has not ignored this difficult problem, but instead has recognized the need for new attitudes and effective action programs. Within the relatively short time these new approaches have been applied, already an impressive record has begun to be written.

As a Senator from the State having the largest Indian population—97,731, according to the 1970 census—I am proud to be a part of this effort. Among the legislative proposals which have been developed to help the Indian achieve a better place in our society is a bill which I am sponsoring to establish within the Department of the Interior the position of Assistant Secretary for Indian Affairs. It is my feeling, and the feeling of the Nixon administration, that the growing Indian population of this country deserves to be represented within the Department by its own Assistant Secretary. Under the present administrative framework, the Bureau of Indian Affairs is under the Assistant Secretary for Land Management. This is one of the most dehumanizing conditions that has been allowed to be perpetuated.

The Senate has passed this bill and sent it to the House, where I hope it will receive favorable action, because it is long past time for the Federal Government to start treating American Indians like people and not like property.

The progress being made by the Nixon administration to find solutions to the problems of Indians has been documented in a report prepared by the research division of the Republican National Committee. This is a report which should be of interest to all Members of Congress, regardless of whether they represent sizable Indian populations.

Mr. President, I ask unanimous consent that the report be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

RESEARCH REPORT: AMERICAN INDIANS

It is time for the United States government to focus its full attention on the plight of the American Indians—those first Americans which President Nixon has described as "the most deprived and isolated group in our nation." They have needlessly suffered centuries of injustice. Today, their problems are many and severe. President Nixon said:

"The American Indians have been oppressed and brutalized, deprived of their ancestral lands and denied the opportunity to control their own destiny."

President Nixon has addressed himself to this crucial need. The Nixon approach is two-fold: re-defining the government's attitudes towards American Indians, and translating these new attitudes into *action* designed to solve the problems of Indians.

NIXON ATTITUDES

Under the direction of President Nixon, America has progressed from the question of whether the federal government has a responsibility to Indians to the question of how that responsibility can best be fulfilled. The President has attempted to dramatically break with past approaches to Indian problems. In his Message to Congress on American Indians (July 8, 1970) he suggested "a new and coherent strategy." The essence of this strategy is simple: *that Indians should manage their own affairs*. President Nixon described his goal: "to create the conditions for a new era in which the Indian future is determined by Indian acts and Indian decisions." President Nixon believes that such an approach is the only pragmatic solution to Indian problems. The President observed: "programs which are managed and operated by Indians are likely to be more effective in meeting Indian needs."

An important feature of President Nixon's approach to Indian problems is his unqualified rejection of the *termination* policy—that is, the notion that federal responsibility for Indian reservations can be eventually phased out as those reservations become self-sufficient. The President clearly stated: "This policy of forced termination is wrong." He believes that to terminate the federal government's relationship with American Indians would represent intolerable neglect. The government cannot afford to "terminate" the citizenship rights of *any* segment of American society. Thus, the President has requested that Congress repeal and repudiate the termination policy which was expressed in past legislation.

President Nixon firmly believes that this new attitude will lead to better living conditions for American Indians. But attitude alone is not enough; it must be translated into action. As an elder at the Tesque Pueblo in New Mexico remarked to government officials: "I have seen the thunder and lightning many times before, but I have never seen the rain."

President Nixon is determined to bring the "rain".

NIXON ACTION

Appropriations

The high priority of Indian affairs in the Nixon administration is best reflected by the level of funding given to Indian programs. For instance, the fiscal 1972 budget of the Bureau of Indian Affairs is *$408.3 million*, an increase of *$52.5 million* over the current fiscal year's funding. The 1971 budget request of the Office of Economic Opportunity increased *18%* over 1969. And last year, OEO funds for Indian economic development *doubled* and alcoholism and recovery programs funding *tripled*. Altogether, funding for Indian programs run by the federal government increased from slightly more than *$613 million* in fiscal 1970 to *$716 million* in fiscal 1971. An estimated *$825 million* will be appropriated in fiscal 1972.

Urban Indians

The Nixon Administration has recognized the need to aid Indians living in urban centers. It is estimated that almost as many Indians live in cities as on reservations. Three-fourths of these Indians live in poverty. Since the Bureau of Indian Affairs does not have jurisdiction over non-reservation Indians, efforts must be directed through other channels. As a start, OEO and the Department of Health, Education and Welfare will create seven urban Indian centers in major cities to serve as links between existing government service programs and urban Indians.

Indian lands

The Nixon Administration has made a genuine start towards restoring to Indians some of their rightful lands. For example: the Taos Pueblo Indians used lands at and near Blue Lake in New Mexico for religious and tribal purposes as early as the fourteenth century. In 1906, however, the U.S. Government appropriated these lands from the Indians "without compensation". President Nixon—recognizing this injustice—endorsed legislation which would restore *48,000 acres* of sacred lands to the Taos Pueblo people. That legislation was enacted in December, 1970. Another example: President Nixon asked Congress to approve a settlement of Alaska land claims giving Indians, Eskimos, and Aleuts *$1 billion* over a period of three years and title to *40 million acres* of land.

Health

Health conditions of American Indians have reached tragic proportions:

The average life expectancy for an American Indian is approximately seven years less than for other Americans.

Infant mortality is nearly *50%* higher for Indians and Alaska natives than for the general population.

Indians contract tuberculosis at a rate *eight times* that of the general population.

The suicide rate of Indians is *twice* that of the national average.

"This Administration," President Nixon declared, "is determined that the health of the first Americans will be improved." Six major health areas have been selected for immediate attention: middle ear disease, mental health, alcohol control, maternal and child health, development of community health projects, and manpower development. The President requested $163,692,000 for the Health Services and Mental Health Administration for Indian programs—an increase of $19,003,000 over the 1971 appropriation.

Economic conditions

Indians are the economically poorest segment of American society. Indian households are large, averaging five persons per family (as compared to 3⅓ for the nation). Indian unemployment is ten times the national average, and 80% of the Indians on reservations have incomes below the poverty line.

In an attempt to ease the financial strain of the Indian community, the Nixon Administration has taken steps designed to stimulate Indian business. The Indian Business Development Fund was provided to allocate money grants to serve as cash equity for Indians unable to qualify for small business loans from public or private sources. To date, 241 new Indian-owned small businesses have been granted funds to start their operations and an additional 143 have received funding for expansion purposes. The IBDF has generated a total of $16.4 million in capital for Indian business. These new and expanded Indian businesses will create an estimated 2,800 jobs with an annual payroll of approximately $11.7 million.

The President also proposed the "Indian Financing Act of 1970" which would: (A) Increase the funds of the Revolving Loan Fund (which loans money for Indian economic development projects) from approximately $25 million to $75 million; and (B) Provide loan guarantees, loan insurance, and interest subsidies. Indian unemployment will, hopefully, also be reduced through implementation of the BIA fiscal 1972 budget. The budget provides $14.9 million for the direct employment of over 4,000 Indians. In the first nine months of fiscal 1971, nineteen new commercial and industrial enterprises (started up with BIA assistance) accounted for more than 500 new jobs in Indian areas. Also, Tribal Work Experience Programs have increased. By April, 1971, such programs were in operation on twenty-four Indian reservations and were responsible for the employment of 3,185 workers (with 12,947 persons in their families).

These various programs and initiatives have had dramatic results in selected areas. For example, economic development programs have served to lower the unemployment rate at the Gila River Reservation in Arizona from *56%* to *18%*. Moreover, the median family income was increased by *150%* and the welfare rate was reduced by *50%*.

Education

Indians are severely under-educated. In fact, their educational level is only ¾ that of other Americans. Indians drop out of schools at a rate twice that of the national average. The average educational level for all Indians presently under Federal supervision is less than nine school years.

The Nixon Administration is committed to improving this intolerable situation. Hopefully, the new government policy of self-determination will make such improvement possible. The President observed: "at least part of the problem stems from the fact that the Federal government is trying to do for Indians what many Indians could do better for themselves." Also, the OEO strongly endorsed a report on Indian education which concluded that making an American Indian a "white man" should *not* be the goal of Indian education. In April, 1971, the Commissioner of OEO formed an Indian Education Task Force for the purpose of determining where additional money is needed and how existing money can be best applied. The OEO spent a total of *$60-65 million* on educational activities that directly or indirectly affected Indians in fiscal 1970.

President Nixon has announced an increase in scholarships for Indian college students of *$848,000* (increasing the number of assisted students from 6,100 to 8,400). In addition, the President requested that Congress amend the Johnson-O'Malley Act (which provides for Federal funds to schools with a certain percentage of Indian children) so as to authorize the Secretary of the Interior to channel funds directly to Indian tribes and communities. The Johnson-O'Malley program has been funded at a level of *$20 million* in the current fiscal year.

Funding for education-related programs of the Bureau of Indian Affairs increased *$19.7 million* in fiscal 1972 (from *$144.1 million* to *$163.8 million*).

Self-determination

Prior to President Nixon's Message to Congress on Indian problems—and the subsequent new policy which emerged—Indians were not in control of their own affairs.

At the Bureau of Indian Affairs, 80% of all the positions from grade GS 7 and above were held by non-Indians. Only 2.4% of HEW's Indian health programs were actually run by Indians. And of the Department of Interior's programs directly serving Indians, only a mere 1.5% were under Indian control. Such facts reflect not only an unjust situation but an unlawful one. For an "Indian preference" law has been in existence since 1934.

The Nixon Administration has acted to give American Indians the control which they lawfully deserve. BIA Commissioner Louis R. Bruce (a Mohawk-Sioux) has prepared a new directive which will apply "Indian preference" standards to the agency's hiring and promotions systems. To date, fifteen out of a possible twenty top BIA executive positions have been filled with Indians. The total number of Indians currently in BIA area director positions has risen to six out of a possible eleven (as compared to the one out of eleven previously). In addition, all 200 BIA schools have Indian advisory school boards or education committees. These facts represent substantial evidence that the BIA is truly moving towards active reform.

The President's theme of self-determination has been applied to other areas of Indian life. American Indians, in short, have begun to control their own destiny. Consider these examples:

Indian tribes actively participated in the development of the initial Fiscal 1973 Planning, Programming and Budgeting data.

Several new inter-tribal and national organizations were created in the last year—among them the National Chairman's Association, the North American Indian Women's Association, and the United Tribes of Western Oklahoma and Kansas.

Indian communities run more than sixty community action agencies presently located on Federal reservations. In fact, the OEO spent approximately $57 million in Fiscal 1971 through Indian-controlled grantees.

The BIA's Environmental Awareness Program (which was begun in February) involves thousands of Indian students in 219 Bureau boarding schools.

Conclusion

President Nixon has acted to improve the lives of "the nation's most neglected minority." He has reformed the federal government's attitude towards the American Indian—giving them, for the first time in centuries, ultimate control of their own affairs. He has also attempted to supply government help where it is needed.

American Indians are the physically poorest segment of our society. However, they are undoubtedly one of the richest American groups culturally. At a time in our history when most Americans are frustrated with problems of mass technology, the American Indian's sense of purpose has remained essentially intact. As we become increasingly aware that our natural resources are critically endangered, we remember that American Indians have practiced respect for the environment since their beginnings. As President Nixon observed: "We must begin to act on the basis of what the Indians themselves have long been telling us."

In conclusion, President Nixon has made a genuine effort to help solve the physical problems of Indians. It is his hope that, in return, Indians will help to solve the cultural problems of America. President Nixon believes that "the first Americans"—who have already enormously contributed to their country—may very well show the way to an even greater America.

U.S. LEADERSHIP AGAINST THE CRIME OF GENOCIDE

Mr. PROXMIRE. Mr. President, President Harry Truman, in his letter to the Foreign Relations Committee on the subject of the Genocide Convention, said:

> By the leading part the United States has taken in the United Nations in producing an effective international legal instrument outlawing the world-shocking crime of genocide, we have established before the world our firm and clear policy toward that crime. By giving its advice and consent to my ratification of this convention, which I urge, the Senate of the United States will demonstrate that the United States is prepared to to take effective action on its part to contribute to the establishment of principles of law and justice.

The United States was a leader in the writing of the Genocide Convention. It was largely through the efforts of our Government that this treaty was written and submitted to the nations of the world for ratification. But now we have lost our leadership in this area. For 22 years this treaty has been before the Senate awaiting ratification. During that time 75 nations of the world have ratified it. But the United States, the Nation that is so responsible for the existence of this treaty, has not ratified it. Our failure to act embarrasses us before the other nations and weakens our moral leadership.

Now the Senate has an opportunity to act. On May 4 of this year the Foreign Relations Committee reported the treaty, and it is now on the Executive Calendar of the Senate. We have only to consider it and agree to it to once again assume the position of leadership that we once held in this area. The time to act has come.

Mr. President, the Senate should ratify the Genocide Convention without delay.

INDIVIDUAL TAXPAYER DESERVES SAME TREATMENT AS CORPORATIONS

Mr. BENTSEN. Mr. President, the Revenue Act has been passed by the Senate, and it now goes to conference. Because of the numerous amendments which were offered, and the lateness of the hour, some amendments were not brought to the floor. One of them is an amendment which I considered offering to provide tax carryback treatment for individuals equal to the provisions available to corporations. I recognize, however, that this is a complex amendment that should be studied and, if needed, revised by the Finance Committee. Because other tax bills will be coming to the Senate from the House, the committee will have ample opportunity to consider this carryback amendment in connection with its consideration of one of those bills.

Present tax law permits any taxpayer, corporate or individual, a carryback of net operating losses, excess foreign tax credits, and a variety of other items. The pending tax bill, in revitalizing the investment credit, also provides a carryback benefit for individual as well as corporate taxpayers. With respect to net capital losses, however, the Internal Revenue Code authorizes a 3-year carryback benefit for corporations, but does not provide similar treatment for individuals.

We are all aware of cases of individual taxpayers who, having realized capital gains during the year, sell property at the end of the year at depressed prices in order to realize offsetting capital losses. If the tax law accorded the same capital loss carryback benefit to individuals that it now grants to corporations, much of the pressure for year-end loss selling would be eliminated, and an artificial depressant on the economy would be similarly eliminated.

In withholding an amendment to the Revenue Act of 1971, I wanted assurance that if the Finance Committee, in its wisdom and in its own review of the amendment, hereafter does take favorable action on the proposal, it will adopt an effective-date provision confirming that an excess capital loss realized by an individual in 1972 can be carried back against a net capital gain realized by the individual in his tax year ended December 31, 1971, just as would be the case if the provision had been adopted as a part of the recently passed tax bill.

The intent, is to give to the individual taxpayer consideration equal to that now given to corporations. It is my belief that there should be continued encouragement to the individual; that he should be encouraged to join in the efforts to expand investment and create jobs.

Such a proposal obviously would have some effect on revenues to the Federal Government, but I am told that preliminary estimate indicate that the tax loss would be minimal in the short term, and negligible in the long term.

Mr. President, I hope the committee will give serious consideration to this proposal, and I hope that if its review of the matter results in adoption, it will be done in a manner to include the 1971 taxable year.

HEW SURVEY OF RACIAL ENROLLMENT IN SCHOOLS

Mr. STENNIS. Mr. President, the subject of desegregation in public schools is one that is arousing strong interest and vigorous debate throughout the country and in the Congress. Numbers of bills and amendments are pending in the House and Senate, dealing with busing, implementation of district court orders, limitations on actions of Federal departments, and similar matters. These legislative actions will receive careful attention in committee and on the floor, and it can be anticipated that some pronounced differences of opinion will be debated. The interest of the American people has been brought to bear very sharply on this subject.

I, for one, welcome this development. When the people's voice is strongly heard there will be action taken. I believe that in the matter of school desegregation we are about to begin a concerted move toward a policy that will be moderate in nature, will apply uniformly in all regions of the country, will place less emphasis on assignment of children to schools for purposes of racial percentages, and place more emphasis on providing quality education in neighborhood schools.

For the pending debate of this whole subject to be meaningful in the maximum degree, all of the facts are needed, and they are needed soon.

It will be recalled that the Department of Health, Education, and Welfare conducted, for the school years 1968–69, and 1970–71, national surveys of racial and ethnic enrollment in public schools. For the 1970–71 survey, certain data were made available by HEW in January of 1971, but the data were in such form that a comparison could not be made with the results of the previous 1968–69 survey. It was not until June, 1971, after the end of the school year, that a comparison of the two surveys became available.

I am informed that a third national survey of racial and ethnic enrollment is being conducted by HEW. The findings of this survey are a part of the facts that must be available to Congress in exploring the solutions to the present destructive actions that are taking place in the nation's public schools. The results of the third national survey are needed at the earliest possible date, and if it should be necessary to release the data in preliminary form, subject to further refinement, the preliminary form should be such as to permit comparison with the two previous surveys.

Mr. President, under date of November 9, 1971, I wrote to the Secretary of Health, Education, and Welfare, requesting that the results of this year's survey be made available as soon as possible.

On the following day, November 10, I noted from an article published in the Washington Star that survey data were available on that date to the Board of Education of Prince Georges County, Md., in connection with HEW proceeding to withhold $14 million in Federal funds from the county because the schools are resegregating. The article is entitled "County's Dilemma," by Donald Hirzel.

Mr. President, I hope that when I receive a reply from the Secretary of Health, Education, and Welfare, he will give an assurance of the early availability of the findings of the third national school survey. I sent him a telegram on November 22, emphasizing the early need for this information.

I ask unanimous consent that my letter of November 9 to the Secretary of Health, Education, and Welfare, and Mr. Hirzel's article from the Washington Star be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., November 9, 1971.

HON. ELLIOT L. RICHARDSON,
Secretary of Health, Education, and Welfare,
Washington, D.C.

DEAR MR. SECRETARY: I am informed that the Department of Health, Education, and Welfare is conducting a third national survey of racial and ethnic enrollment in the public schools, similar to those that were made for the school years 1968–69 and 1970–71. It is my understanding that the suspense date for submission of survey data by school districts was established as October 15, 1971.

You will recall that for the survey of the 1970–71 school year, certain data were made available by HEW on January 4, 1971, and on January 14, 1971, in HEW Press Release A–20. These data, however, were in a form that did not lend itself to a comparison of the 1968–69 and 1970–71 surveys. It was not until June 18, 1971, that a comparison of the two surveys became available, in HEW Press Release A–66.

I hope your Department will expedite the compilation and release of this year's survey, and that it will be in a form comparable to the two previous surveys. I believe that members of Congress need the survey figures early in the session, for use in hearings and other legislative considerations, and that it would be unfortunate if the data were not available until the end of the school year, as was the case with the last survey. With a submission date of October 15 for the raw data, it should be possible for computer processing to be completed in a few weeks.

Please advise me when members of Congress may expect to receive the results of the survey of racial and ethnic enrollment for the current school year, in a form comparable to the previous two surveys.

Sincerely,

JOHN C. STENNIS,
U.S. Senator.

[From the Washington Evening Star, Nov. 10, 1971]

COUNTY'S DILEMMA—SCHOOLS RESEGREGATING

(By Donald Hirzel)

Some Prince Georges County schools, mainly in communities near the District line, are moving toward resegregation, school administration statistics show.

The statistics, ordered by the Department of Health, Education and Welfare, were given to the Board of Education yesterday.

HEW has begun proceedings to withhold $14 million in federal funds from the county because it feels the schools are failing to desegregate the student bodies and faculties.

At present there are 156,596 students in the county schools, of whom 22.4 percent are black, compared with 19.9 percent last year.

WHERE RATIOS ROSE

The statistics released yesterday show that some schools which had predominantly black enrollments last year, instead of gaining white students, actually have increased their black enrollment. The schools are in black communities developing near the city.

For example, Central High School has jumped from 66.7 percent black enrollment last year to 81.9 percent this year.

Fairmont Heights, which a few years ago was all black, is now 73.2 percent black, compared with 73.9 percent last year. Fairmont Heights was the scene of massive busing last year in an effort to achieve a more even balance between white and black students. However, many white students transferred to the school withdrew to go to other public schools or to private schools.

HEW has cited Fairmont Heights as one of the areas that should be desegregated. The school board rejected a busing program submitted to it during the summer which would have broken down some of the high concentrations of black students.

In the statistics the pattern becomes more pronounced in the junior high schools and elementary schools. For example, Kent Junior High, in the Landover area, increased from 82.4 percent black enrollment last year to 87.6 percent this year; Mary M. Bethune, in the Eastern Avenue area, has increased from 58.5 percent to 60.1 percent, and Thomas G. Pullen, off Central Avenue, has gone from 81.3 percent to 84.6 percent black.

Many of the schools in the older communities near the city reflect high percentages of blacks this year, moderate increases over last year. Ardmore has a 94.8 percent black student body; Beaver Heights, 100 percent; Columbia Park, 83.2 percent; Glenarden Woods, 99.8 percent; Highland Park, 98.1 percent; Palmer Park 86.6 percent, and Seat Pleasant 97.3 percent.

SCHOOL NEGLECT CITED

One of these schools, Pullen Junior High, also is suffering from neglect, the school's PTA president told the board yesterday.

Joseph Amaral Jr. said that as a result of overcrowding the school has become a "storage and discipline center for unhappy teenagers, frustrated administrators and disillusioned teachers."

He said the conditions are due to "either a callous, indifferent attitude by our school officials or a blatant case of discrimination."

Amaral said the overcrowding at his school could be relieved by transferring students to schools with under-capacity enrollment.

Jesse Warr Jr., the only black member of the school board and one of its leading advocates of school desegregation, said in an interview that resegregation is occurring because of housing patterns.

Warr explained that more and more blacks are moving into the county from Washington and many are buying lower priced homes located, for the most part, in the older communities near the city.

He said he believes the pattern can be reversed in the long run by dispersing blacks throughout the county, rather than concentrating them in specific areas.

Warr said the school system also could adopt a policy guideline insisting that new schools, when opened, reflect the racial balance of the county.

A CRISIS IN CRIME: A SENATOR LISTENS

Mr. CHURCH. Mr. President, the Senate Special Committee on Aging devotes much time and effort to field hearings and field visits.

We on that committee think that we can learn only so much in hearing rooms of the Senate office buildings.

We feel that we should hear directly from the elderly themselves; we feel that we should hear from those who work with the elderly; we feel that there is no substitute for grassroots communication.

My immediate predecessor as committee chairman, the Senator from New Jersey (Mr. WILLIAMS), heartily subscribes to such convictions. He has long been an active searcher out after facts on everything from quackery to the harmful effects of involuntary relocation.

As chairman of our Subcommittee on Housing for the Elderly, Senator WILLIAMS has become especially concerned about the effects of crime and vandalism upon elderly tenants in federally assisted housing. At a hearing a few weeks ago, he heard example after example of elderly persons living like prisoners in their own apartments: afraid to go out at night, afraid to take their social security checks to the bank, afraid of beatings and worse. One 72-year-old man, who had a job a year ago, now is on welfare and he is suffering from a nervous condition. A mugging and a robbery have changed his life around completely.

Even such compelling testimony cannot tell the entire story. A few days ago, Senator WILLIAMS visited a public housing project right here in Washington, D.C. A sensitive report, written by Richard Critchfield, of the Washington Star, told what happened then in a story which appeared on November 26.

I ask unanimous consent that the account be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A SENATOR LISTENS

(By Richard Critchfield)

"You asking me?"

Mrs. Eva Lackey, 86, of 1101 7th St. SE told her surprise visitor she had no idea what could be done about "a crisis in crime" against old people.

But her harrowing account of life in the Arthur Capper public housing project left Sen. Harrison A. Williams Jr. (D-N.J.) persuaded it certainly exists close to the Capitol.

Williams, like most senators, has visited ghettos mostly in his home state. But as chairman of the subcommittee on housing for the elderly which is now investigating crime and as the victim of a holdup a few years ago in his southwest garage—he wanted to see how things were close at hand.

Williams and two aides visited several elderly residents at Arthur Capper and the Potomac Gardens public housing project on Pennsylvania Avenue at 13th Street Tuesday.

Mrs. Lackey gave him an earful.

She said her single-bedroom apartment has been broken into eight times, that last month a group of youths tried to kick the door in one night and that it is impossible to get mail delivered—the letters are stolen and torn open for possible Social Security, pension and welfare checks.

Mrs. Lackey said she used to keep a .32-caliber revolver until that was stolen too, unfortunately, "because I'm a dead shot."

Williams saw rifled mailboxes in the hallway, a floor littered with bits of torn envelopes and an empty apartment next to Mrs. Lackey's used as a "shooting gallery," with bottle caps used to heat heroin, spent matches and a piece of surgical tubing on the floor.

A remarkably cheerful and spry old lady, Mrs. Lackey told the senator that the night the youths tried to smash her door in, she had called back, "Just stay there. I called the police. I'd like you to stay there until they come."

She paid $36 a month for her apartment. A policeman's daughter who has been widowed 45 years, Mrs. Lackey lived on her pension earned after 21 years with the Justice Department.

She explained to the senator that the only safe way residents of her building can get their pension, Social Security and welfare checks is to meet the mailman themselves. When her checks came, she said, she quickly made out a bank deposit card, put both in an already addressed envelope and put that into his mailbag before he moved down the street.

Mrs. Lackey showed no sign of feeling sorry for herself, even though she portrayed life in Arthur Capper as a continuous battleground. "When the younger boys get hurt, I'm a first-aider and I tend to them," she said. She felt most crime was committed by youths 15 to 20 or older.

"There's no rule, rhyme or reason for it," she lamented. "They sing in the hall all hours of the night, there's people who sell dope right in the building."

She ruled out unemployment as the basic cause for rising crime rates. "There are jobs there for people who want to take them. I don't think some of them want jobs, they'd rather steal."

Williams came back from the visit convinced the city was of elderly people who feared for their safety and were so afraid to leave their apartments they were, "in effect, prisoners in their own homes."

SEVAREID ON FOREIGN AID

Mr. CHURCH. Mr. President, the Senate defeated H.R. 9910, the House-passed foreign aid bill, on October 29 by a vote of 27 in favor of the measure and 41 opposed. This action, in my judgment, may be regarded in retrospect as a crucial occasion in terms of the future course of American foreign assistance programing.

Three days after the defeat, Eric Sevareid, commenting on the action of the Senate, discussed the reasons for the defeat and expressed the hope that radical revisions would be forth coming or else, he concluded in his television commentary—

> We will have learned from experience that we are unable to learn from experience.

Mr. Sevareid's perceptions are succinctly stated and to the point. I ask unanimous consent that the text of his commentary be printed in the RECORD.

There being no objection, the commentary was ordered to be printed in the RECORD, as follows:

CBS EVENING NEWS WITH WALTER CRONKITE (EXCERPT)

SEVAREID. The Washington air is filled with cries of horror, Pennsylvania Avenue flowing with tears, crocodile and otherwise. All because the U.S. Senate killed the foreign aid bill on Friday, the bill the President's people had said that he would himself veto if it sharply limited spending in Indo-China.

The White House now warns that the Senate action jeopardizes American security, others that it would create vacuums that Russia will leap to fill. The Washington statement-writing industry, cry of horror department, is in sad need of new blood. The liberal-conservative coalition that killed the bill did so because painful experience has proved that real reform of the program is impossible. There are times when no other instrument except the meat axe will serve; a surgeon's scalpel has never yet cleared a jungle.

This country is not about to stop helping disaster victims, refugees, Israel or hungry children. But if the Senate bloc wins this fight, we will stop or diminish surplus arms shipments to some 50 nations, loan arrangements that get poor countries hopelessly in debt to us, that mostly help the already affluent in those countries and amount to taxpayers' subsidies of selected American business firms. The Senate bloc also hopes to reduce an aid program bureaucracy that now uses more people to run the program in Brazil alone than the British used to run all of India before its independence.

It all goes back to World War II and the immediate postwar years. The approach got a new shot in the arm with President Kennedy and the academic intellectuals around him who thought we could renovate the societies of Latin America in ten short years.

The program has been endlessly tinkered with to no avail because many of its promises were simply wrong. One was that peace, democracy and material progress are not only good, each in itself, but somehow interdependent; another that American money, arms and advisers could produce the kind of governments we would like in alien societies and preserve them; another that the spreading gap between rich and poor countries would produce, not just human misery, which we must try to alleviate, but World War III.

There will be an aid bill, an aid program and an aid apparatus, but if they closely resemble what now exists, then we will have learned from experience that we are unable to learn from experience.

SENATOR SPESSARD HOLLAND

Mr. SPARKMAN. Mr. President, all Senators who had the privilege of serving here with Spessard Holland and, in fact, all those who knew him were shocked and grieved when word came that he had died.

Spessard Holland entered the Senate just about 6 weeks before I did. I had the pleasure of serving with him for more than 20 years. I came to know him as a Senator who worked hard, who studied the legislation before him, and who acted upon it conscientiously and with great legal and legislative ability. I often consulted with Spessard Holland on legislation before the Senate. He was always fair in his appraisal and was often most helpful to me.

Spessard was a gentleman in every sense of the word. He was a wonderful Senator and a good friend.

I believe everyone that knew Spessard and Mary Holland must have been impressed with the wonderful companionship that they manifested. I know the great loss that came to her and to their children when they had to give him up. Mrs. Sparkman and I extend to Mrs. Holland and to their children our deepest sympathy.

THE VIEW FROM JAPAN

Mr. HUMPHREY. Mr. President, I have been critical of this administration's policy toward Japan because I think that it is endangering our relations with that country. We have tended to shunt Japan aside in our recent diplomatic maneuverings, relegating her to a secondary role in international relations, when in fact she plays a major one. I have hoped that the administration would take appropriate measures to counteract its past diplomatic blunders which have created such grave misunderstanding between our two countries.

Months have passed since the President announced his trip to Peking and invoked his new international economic measures and since Secretary Laird visited Japan. Weeks have passed since the U.N. vote on the China question. Still there has been no attempt on the part of our Government to repair the damage. I am not saying that the United States is solely to blame since many of these questions are rooted in much older grievances. I am suggesting that the United States has been clumsy and insensitive in its handling of recent developments affecting the future of American-Japanese relations.

It is not enough to make these observations. It is urgent that we do something, and the administration's refusal thus far to take any action points up a much larger problem. Our willingness may not just be a question of how we view our own priorities; it may be a failure to understand the significance of what we have already done, and a failure to fully comprehend Japanese society. Perhaps, the most serious obstacle to international communication and agreement is the superficial acquaintance with foreign societies and cultures. A lack of sensitivity in this area, leads us farther astray in bilateral and international relations.

A case in point is Japan. I tend to believe that the administration's actions stem from incorrect perceptions of Japanese society and the role of Japan in future international relations. Mr. Frank Gibney, a well-known authority on Japan, has written an excellent piece in the last issue of Foreign Affairs. Mr. Gibney first wrote about Japan in 1953 in his book entitled "Five Gentlemen of Japan" and is now in the process of writing another. He learned to speak Japanese during his service as part of naval intelligence in World War II and has been living in Japan periodically. Frank Gibney is now executive vice president of Encyclopaedia Britannica in Tokyo, where he has lived for 6 years. Before that he was senior editor of Newsweek and an editorial writer for Life, so it is fair to say that Mr. Gibney is both an accomplished writer and an expert observer of contemporary Japanese society.

In his foreign affairs article, Mr. Gibney does a remarkable job of describing American insensitivity to the nuances of the Japanese character. By so doing, he points up the chances we have missed for the solidification of our relations into a true working friendship. He notes that the so-called dialog which has existed between Japan and America is much overrated.

Far from being simply critical, the author offers several suggestions which both countries can follow in order to reduce distortions in United States-Japanese relations. Among them are:

First. An American motion to have Japan seated as a permanent member of the Security Council.

Second. A joint-standing committee on trade to be established.

Third. Greater support to cultural exchange and information conferences begun by Ambassador Reischauer in 1962.

Mr. President, I recommend this article to the Senate and ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE VIEW FROM JAPAN

(By Frank Gibney)

After more than a quarter-century of formally close contact, the real relationship of the American and the Japanese peoples is like that of two men observing each other through the flawed glass and distorting mirrors of a funhouse. Their perspectives are strikingly, sometimes absurdly different. Our dealings of the last 25 years—one war, a successful occupation, unnumbered seminars, government conferences, student exchanges and an $11 billion yearly trade relationship—seem not to have clarified the view.

This would be tolerable in the cases of many nations less closely involved with one another, or in times less troubled. But Japan is not only the principal U.S. trading partner and a pledged political ally; it is the one great world power—outside the West European complex—which shares with the United States common social aspirations, a strikingly similar urban-technological way of life and an intelligent devotion to the democratic principle. The failure, more plainly, of Americans to see Japan and its people as they really are is coming to affect us badly.

For Japanese-American relations are backing into a crisis, in large part because neither party can perceive the other's position. Trade confrontations have escalated into virtual economic warfare. And politically, on the heels of Okinawa revisionism and vexing questions about Japanese "rearmament," came the July announcement of President Nixon's invitation to Peking. The 180-degree turn in the American attitude toward China, made conspicuously without advice from Tokyo and without informing Tokyo in advance, has dramatized the distorted perspectives as nothing else could.

Where and how do they differ? The View from There, *i.e.* the United States as the average Japanese sees it, is at least a three-dimensional study. He sees a people whose achievements and energies spell competence. His regard for American technological skill and the essential modernity of things American verges on the superstitious. American politics, as copiously reported in the Japanese press, may seem an unpredictable blend of toughness and indecision, but even among the far Left there is a certain respect for American "fairness" and "democratic principles."

Socially, the American comes on as likeable, with an enviable informality. (Americans visiting Japan after residence in Europe are interested to find that their nationality is no longer a pejorative.) Culturally, the kinetic modernity of modern Japan—songs, movies, TV quiz-shows, billboards, *sake* vending machines, business management seminars, even the majority of new phrases in its language—expresses itself in American terms. Hemingway, Faulkner and Norman Mailer are nearly as real to Japanese university students as their own Kawabata, Mishima and Kenzaburo Oi.

Thanks to the postwar occupation and their own peculiar reaction to the one military defeat in their history, the Japanese rarely think of the United States as an enemy, past or present—except in the sense of an economic competitor. The ultimate in cities remains New York or, more comfortably, Los Angeles with its Japanese hotels, banks, and shopping sections. The ideal vacation is to go to Hawaii. The ideal baseball team to beat is still the U.S. World Series champions.

Thus the image of America, as Viewed from There, is larger than life-size, and that presents a problem. Accustomed to thinking of the United States, variously, as an elder brother, a cornucopia, or an abode of inexhaustible resources, the Japanese find it hard to realize that a certain portion of their own prosperity is coming out of America's hide—and that this is increasingly resented across the Pacific.

There is one more conspicuous blind spot. With a deep inner pride in their own worth, the Japanese tend to assume that their intense scrutiny of American fads, social ferment, economic indicators, and legislative processes is naturally to some extent reciprocated. Of course it is not. The View from Here is cursory and casual. Its limits are accurately suggested by the relatively minuscule coverage of Japan in the daily and weekly U.S. press. To be sure, there is Economic Japan: a clouded but impressive picture of pell-mell, purposeful industry—Sony-Toyopet-Honda-tanker-Mitsubishi. But the "economic miracle" is generally presented as inexplicable, or the effect of "low wages" and "human wave" salesmanship. It still excites a kind of involuntary anger in American visitors to note that phenomena like the great super-trains of the New Tokaido line were designed and produced with no borrowing from Western sources.

Japan's politics and political figures are almost unknown. The same holds true for political parties, inner economic trends—aside from notes on new car exports—or social statistics. Where the Japanese newspaper reader and TV viewer receives a continuing report on the United States, the comparable American reporting on Japan is spasmodic and hence over-dramatized when it appears, *e.g.* a picture of an isolated student riot in Tokyo, selected by an editor principally for its violence, will probably be all that the average, well-informed American knows about the Japanese university.

About one of the world's liveliest and most sophisticated literatures the American knows nothing, except when one of its major exponents either receives the Noble prize or commits suicide. He is unaware of the urban ferment in discoveries, ideas and new designs for living going on in Japan—the only country whose mass communication and city civilization are facing precisely the same problems of transport, pollution and so on as his own—barring, of course, the racial one. The quaint Japanese are cracking the technological sound barrier right behind us.

Yet behind the textiles and transistors, the American, so relatively sophisticated about the changing situations of Britons, Italians or Russians, sees in the Japanese the same 25-year old image which American soldiers originally brought back from the occupation days: smiling, polite little people (if on occasion deceitful) who are hard-working but inscrutable, living in a lovely country with a big snow-capped mountain, fragile temples, inept taxi drivers and of course, geisha. It was a significant commentary on the View of Japan from Here that *Time magazine,* in an otherwise thoughtful cover story on Japanese business last May, saw fit to illumine its last page with an utterly implausible photograph titled "Businessman Relaxing with Geisha," showing two nude figures in a hot spring bath.

Indeed, the American historical image of Japan is worse. For the myth of the Japanese as a bayonet-wielding soldier, perpetrating the rape of Nanking, somehow was ground into our consciousness through all the "save China" rallies of the thirties and the stored racial prejudice of an earlier era. Japan still bears the marks of an enemy country. Long after the Germans of World War II have resumed their popular status as beer-drinking efficiency experts and shortly after the Chinese hordes who slaughtered Americans on the Yalu in 1951 were transformed into cheerful ping-pong-players, the memory of Pearl Harbor somehow remains green.

Japanese travelers in the United States do not help the image much. Business contacts excepted, their social shyness, linguistic failings and over-sensitivity to mistakes in front of foreigners drive them into self-chosen cultural ghettos. Whether in New York, Düsseldorf or Paris, all but the most sophisticated Japanese businessmen head like homing pigeons for their cotes in the local Nippon Club. This voluntary seclusion adds to the idea of a people hopelessly "inscrutable."

II

If not inscrutable, the Japanese are undeniably unique. Japan is best described as a nation society—a tightly threaded 2,000-year old mesh of human fabric, with an extraordinarily broadly based culture, a low common denominator of artistic tastes and living standards and a talent for narrowing the national energies to certain shared tasks or objectives. It is a meritocracy, where almost every bright boy (and most bright girls) can get to college if he passes the exam. It is a consensus-style democracy, where it is considered bad form for the majority to outvote the minority without compromise. In fact, the Japanese have long achieved of their own free will the kind of society that Marxist ideologues only dream about.

Japan continues to have a recognized Political-Economic-Social Establishment, at a time when from New York to Moscow almost every other Establishment is on the run. The Japanese cult of industry, their strong sense of community, their patience and adaptability to crowded conditions have given them a marvelous cushion against modern technological and cultural shock. The problems that Western man is now desperately trying to solve—how to preserve one's individuality in a society taken over by "group-think," how to develop a social ethic, if not a new morality, strong enough to hold its ground against the pressures of mechanistic progress—the Japanese have been working out for centuries. Like an early commuter who has waited all night for the morning bus, the Japanese is there already.

The Japanese can wax indignant over rising prices, bad housing or faulty sewage systems—and their new consumer movement is formidable—but their resiliency remains prodigious. A U.N. survey recently showed how in all West European countries the incidence of crimes of violence always increased as living standards rose; but in Japan it decreased. In adding his own appreciation of Japan's high social boiling point, a columnist for Tokyo's *Asahi* wrote: "Given what we have here—the world's highest rise in commodity prices, horrible pollution and environment problems, severe housing difficulties—the people of any Western European country would probably have thrown out their government many times over. . . ."

It is partly this kind of inspired groupiness that made the success of "Japan, Inc." so spectacular. But there is another reason: the protective insulation of Japan over two decades. During this time the country could gather its energies for a leap forward quite as it had in the last years of the Tokugawa period, before the samurai of old Edo had become the technicians of the Meiji Restoration. It might be said that the Japanese, considered as members of the world community, passed with rocket speed from the militarist thirties to the scientific sixties, without ever having really lived through the international turmoil of the forties and fifties. In the light of the changes now being wrought by the post-industrial society and the overturn of methods and thought-patterns that the forties and fifties considered modern, this asset seems considerable.

This is hardly to say that the Japanese missed the quarter-century of history which included war and the A-bomb. But during this time they were isolated from the sense of living in an international community, thanks first to the censorship of the militarist government and, later, the avuncular embrace of MacArthur's occupation.

When Japan's energies were released, she immediately fell into the pursuit of economic gain. With undemanding political leadership and an ultimate guarantee of safety under the American nuclear umbrella, the Japanese felt free to concentrate on being "economic animals," and showed a conspicuous disregard for the sensibilities of both their customers and rival tradesmen in the process.

In so doing they also almost deliberately ignored the political conflicts of the ideologically divided world around them (other than to make considerable economic profit from the war in Korea). Intellectuals, comfortably protected from the invasions and implosions of world communism, continued to denounce the fascism and militarism of the thirties as the prime enemies. The people as a whole, having fallen into a chronically Japanese situation of mass dependency during the U.S. occupation, tended to feel that international politics, pro-American or no, were simply not Japan's concern. This political myopia plagues Japan to this day.

Over the last few years, however, the mood has changed. "Economical animal" is becoming a dirty word. A new generation is emerging—more traveled, more outspoken and, indeed, physically bigger than its elders, thanks largely to the spectacular changes in the Japanese diet. There is little of the obviously revolutionary about this generation in Japan. Although young people are quick to denounce inept bureaucrats, greedy businessmen or excessive ceremony, they are possibly less discontented with the structure of their society than young people anywhere. The new generation is genuinely internationalist-minded, with an almost desperate urge to be thought cosmopolitan. It is also vigorously proud of being Japanese, at least tolerant of the Emperor system and anxious that Japan play its rightful role as a great power.

The problem is how. Japan's current political leadership is hardly inspiring. The Sato government has steadily played cautious international politics, content to follow the U.S. lead in most matters, and conservative to a fault. The Socialists, the major opposition party, are not only committed to a kind of high-buttoned shoe Marxism which flies in the face of Japan's economic reality, but their Mao-first, anti-imperialist foreign policy embarrasses the other opposition parties, including the Communist. No party, statesman or party faction has yet appeared who can either rally both Right and Left behind a new foreign policy or dramatize such a policy to the people over the heads of the party leaders.

The Japanese make decisions by consensus. Until a national consensus has been taken, no really active diplomacy is possible. There are signs that a consensus is in the making, impelled by everyone's rising consciousness of great-power status. Major realignments of the two principal parties, at least, are taking place. But until the country makes up its mind, there will be no movement. Many compare this period with the middle and late thirties, when a similar debate was taking place over whether Japan should continue its militarist course, hold its gains, or retreat.

The current drift of thinking, however, is miles away from militarism. The country, most particularly the younger generation, is still determined that a modern great power need not be a military power. Having had their one losing war, the Japanese do not want even the risk of another. Nor has the American failure in Vietnam been reassuring about the virtues of conventional military power. As the almost desperate recruiting posters of the Self-Defense Forces suggest, it takes a lot to get young Japanese marching. They may be fascinated with the currently popular revival of old war songs and memoirs, but this is no more to be confused with a new militarism than Yukio Mishima's startling *hara-kiri* suicide. It is no coincidence that the country's number one popular hit song is called *Senso wo shiranai kodomotachi*—"Children Who Have Never Known War."

The feeling also grows that Japan has too slavishly followed American policy, that Japan alone of the major powers is still practicing bipolar diplomacy in a changed world. This mood has been fueled by the fuss over Okinawa, by the heavy protectionist and rearmament pressure from the United States and, not least of all, by the unilateral China policy of the United States. Not since the sudden flare-up of the 1960 riots against the Japanese-American security treaty has the American-Japanese political relationship been so problematical.

The so-called dialogue which has existed between Japan and America is much overrated. It is, in fact, little more than a series of meetings, seminars and symposia, held by generally the same group of participants—a coterie of U.S. experts on Japan and Japanese experts on America who are well accustomed to hearing each other's views.

Nor have the two governments helped much to clear the view. They have been curiously passive, if for different reasons.

The Japanese Foreign Office is a group of competent professionals who have the misfortune of working without any firm foreign policy to interpret. After the late Premier Shigeru Yoshida laid the foundations for the Japanese-American alliance (while opting out of anything like a military commitment to it), his successor, Hayato Ikeda, went on to further the Japanese economic miracle with a low-posture diplomacy to match his government's self-effacing politics at home. Premier Eisaku Sato has continued this modest stance, partly out of reluctance to exacerbate his domestic problems. Only on economic matters does Japanese diplomacy go into high gear, quick to mobilize in support of the errant businessman. In contrast China, where economic considerations are unfailingly sacrificed to political, Japan's diplomats are instructed to put the economic first.

As a corollary of this, the information effort of the Japanese government is minimal. Even Japan's representation on the U.N. Secretariat is less than half the desired maximum, despite the obvious competence of Japanese civil servants. The Japanese government has yet to develop even a large-scale program for educating students from other Asian countries in Tokyo or, to begin with, teaching them Japanese.

In Southeast Asia, where Japan has a huge economic stake, Japanese businessmen are about as popular as Yankees in Chile. It is a galling fact that the headquarters of the Asian Development Bank, an institution largely dependent on Japan for its success, had to be located in Manila rather than Tokyo because of general anti-Japanese prejudice. (Japanese aid programs tend to be cautious and, in relation to the country's GNP, minimal—another source of resentment.)

Yet with all these handicaps, and despite the emerging national consensus that international communications must be improved, Japan has yet to make a national effort to meet the outside world. The nation will put its best face forward for a 1964 or a 1972 Olympics in Tokyo or Hokkaido, or a 1970 World's Fair in Osaka; everything will be done at such times to assure the happiness of the visitor from Oswego or Indianapolis. But as for presenting the Japanese case in Oswego or Indianapolis, that is a different matter. There is still too much stored ethnic and cultural arrogance within the Japanese and too much visible doubt as to what role he should or could assume in a world outside which is, after all, peopled with foreigners.

III

By comparison, the American government, like American business and academic interests, has every advantage in presenting the American case to Japan. The basic national sympathy toward Americans is so strong that Japanese criticism of the whole Vietnam involvement, through the last seven years, has been, in a relative sense, mild. And Japanese diplomacy gives the impression of an interested bridge partner, waiting to follow the first good bid from the American side.

Good bids have been hard to find. Although the U.S. Embassy in Tokyo is one of the world's largest, it has since the departure of Edwin Reischauer in 1967 largely confined itself to a low posture, of which the most self-effacing Japanese diplomat could be proud. All the visibility comes direct from Washington. The number of U.S. diplomats who speak adequate Japanese is shockingly limited as are the linguists in the U.S. business community. And both groups, not to mention the great bulk of the U.S. press corps, remain largely sealed off from the life around them, for social as well as linguistic reasons.

For all their trust in technology, the Japanese remain an intensely ceremonial people, with an abnormal appreciation for a good or graceful gesture and an abnormal sensitivity to a bad one. Manner is almost as matter to them. They abhor open controversy, except in recognized public bear-baiting sessions like the Diet where it is part of the established order. They dislike litigation, and lawyers occupy an interestingly humble position in their councils. The American businessman who makes decisions and deals after long confrontations between rival teams of lawyers and accountants finds that such forensics often boomerang disastrously.

Despite this obvious Japanese fact of life (which, indeed, General MacArthur exploited to the full in a gesture-packed occupation), the executors of American foreign policy have ignored the advantages of the right gesture or the apt courtesy. On the contrary, in recent years they have concentrated on making the relationship with Japan an exercise in open confrontations and public pressures. Even more than most, the Japanese find it hard to understand our penchant for installing the adversary system of justice in diplomacy.

The three crises which have lately arisen between the United States and Japan are symptomatic of this problem: (1) the trade imbalance, with the loud revival of American protectionism; (2) Japanese rearmament and the U.S. nuclear defense, originally touched off by the Okinawa reversion movement; (3) the projected new American relationship with China, with the implied nese and the American sense for what is ap-downgrading of the U.S.-Japanese alliance. None of them need have reached a crisis point. But in handling all three, the Japanese and the American sense for what is appropriate grew ever further apart—so that the View from Here and the View from There might be from different planets—on the American side, unnecessarily public confrontation politics, on the Japanese side smouldering, but stubborn resistance and resentment.

The textile controversy first damatized the sharpness of economic competition between Japan and America, which grows worse almost hourly. Even allowing for President Nixon's new ten percent import surtax, the imbalance of trade between the United States and Japan this year come close to $2 billion, in Japan's favor. Not since 1965 have accounts been reasonably equal. Japan makes most of its export money to the United States by straight sales, while a good bit of the American export to Japan takes the shape of direct or indirect investment, royalties, patent rights, and so on. Foreign investment in their country is a traditional sore spot with the Japanese, who had the Meiji Restoration, among other things, to forestall it. Japan not only subsidizes its exporters, but fences in foreign investments and imports with an anachronistic web of legal and bureaucratic restrictions unworthy of a great power. While Japanese TV sets, motorcycles, small cars and steel were crashing into the U.S. market, U.S. exporters and investors continued to be cut off from fair competition in Japan. The Americans have just cause for complaint, which the Japanese belatedly recognize.

The Nixon administration set out to solve this problem, however, in the worst possible way. Early in 1969, even before an ambassador had been appointed, the new President sent Secretary of Commerce Stans to Tokyo to give the Japanese government a widely publicized lecture on what would happen if they did not moderate excessive competition with American textile manufacturers.

It is well known in Japan that textiles are far from the most important export to the United States (electronics and automobiles make up 30 percent, textiles barely 10 percent.) It was also widely believed that President Nixon had promised various Southern statesmen to ease competitive pressure on textiles in return for their votes.[1] (The same articles discussing this in the U.S. press were faithfully translated and read in Japan.) As the U.S. government kept publicly emphasizing demands for Japan itself to restrict textile exports to the United States, Japanese indignation went up proportionally. Japanese textile manufacturers have their political lobbies, too, and the somewhat leftist press is always quick to headline any point of confrontation with the Americans. Over the past two and a half years every step in the textile negotiations has been scanned with a magnifying glass on page one of Japanese newspapers.

Meanwhile, more important economic dangers were neglected, more opportunities for negotiation overlooked. On the contrary, when the dollar was suddenly cut loose from gold and the surtax invoked, Washington left little doubt that its principal target was Japan. On no European country ever has the United States publicly used such bludgeoning tactics. On no other country could such tactics have a worse effect. "Never push an adversary into a corner," the late Prime Minister Ikeda was fond of saying, "you give him no room to manoeuvre and he becomes desperate."

The problem of Okinawa and its bases showed the same pattern of neglect, irritation and ultimate crisis. It took 20 years of studiously unimaginative U.S. military government to turn the Okinawans from poor relations of Japan, who in the late forties would have welcomed American annexation outright, to the angry irredentists of the nineteen-sixties. Five years too late for it to be a graceful gesture, the United States agreed to give up Okinawa by 1972. But the Administration's sudden decision to leave ratification of the Okinawa Reversion Treaty to the Senate, where the textile lobby might conceivably block it, removed even the traces of goodwill.

The current stipulations about the United States retaining bases, with the furor over poison gas storage on Okinawa, have brought a second wave of agitation against any special future status for Okinawan bases whatsoever. Here, just as with the trade controversy, the Japanese press headlines the slightest news development, while American readers and viewers remained until recently ignorant that there is a controversy at all.

In the wake of this—and just shortly before Mr. Kissinger returned from China—Secretary of Defense Laird made his recent, well-publicized visit to Tokyo. The Secretary may have been careful in his public statements, but both U.S. and Japanese newspaper reports suggested, most forcibly, that his visit was: (1) part of an American campaign to make Japan increase her conventional armaments; and (2) a corollary effort to persuade Japan to develop her own nuclear warfare capability, in case the so-called U.S. nuclear umbrella over Japan suddenly had to be folded, *e.g.* as a result of SALT commitments.

To the Japanese, the two pressures seemed paradoxical. On the one hand the United States urged them to increase their conventional military forces, designed from the beginning purely as back-up to the American nuclear protective power. Then, in the same breath, it was suggested that this nuclear protection may have to be curtailed. (Meanwhile, some U.S. Congressmen had recently visited Premier Sato to express their concern at the possibility of Japan going "militarist" again.)

From Washington it may have seemed only simple logic that the Secretary of Defense would advise the Japanese to strengthen their own military commitment, now that the United States was phasing out of Okinawa and feeling a general financial pinch about all military commitments overseas. This was, indeed, only a logical continuation of a consistent U.S. effort, begun only five years after MacArthur's anti-war constitution, to have Japan increase its forces.

The View from There is quite different. The Self-Defense Forces in Japan are barely past the status of a public embarrassment. Most Japanese continue to think that a strong economy and a unified society are worth more than numerous divisions. The need for armed forces may be understood by some, but not by many.

Some Japanese commentators even extrapolated the belief that the Laird visit was in fact timed to fit the Kissinger visit to Peking, as a reminder to the Chinese that the United States could still exert military pressure on them, via Japan. However, far from the truth this may be, it had an effect on Japanese intellectuals comparable to the popular indignation against the proposed Soviet fleet maneuvers off Shikoku last year.[2]

IV

The new American relationship with China has brought alive the historic triangle among the three countries, in which the roles of wife and mistress seem to keep switching. Although China's past role in this relationship was more that of a patient than an agent, this can hardly be said today. To many Japanese—right-wing businessmen as well as left-wing editorial writers—China to the west represents a strong and needed counterattraction to the heavy American magnetic pull eastward. (Russians are not much liked in Japan, and their negative postwar diplomacy toward Japan has yet to help the image.) Many elements are involved—curiosity, a bookish nostalgia for China's classical culture, guilt over the Japanese spoilation of China for many decades, not least of all the fascination of opening a new vast hinterland for Japanese products.

Yet for all the talk of *Do-bun do-shu*—"Common culture, common race"—the Japanese do not know China well and have only a superficial interest in knowing more. Fewer than 2,000 students are currently studying the Chinese language, far less than those studying Spanish. There is no modern literature about China to compare with the tons of published comment and translated works on Europe and the United States. Japan's basic concern with China is no more than an unsentimental wish to establish some kind of lasting relationship with such a vast and fearful neighbor—but no less, either.

No one responded with more enthusiasm to Chou En-lai's ping-pong diplomacy than the Japanese. Even the Sato government, borne on a groundswell of public opinion, felt it time to change the attitude toward China from the current opportunistic economic relationship, called by the uninhibited *dogeza gaiko*—"kow-tow diplomacy"—in which Japanese trade representatives and unofficial diplomats regularly make the pilgrimage to Peking, and receive fairly substantial orders after signing declarations denouncing Japanese "militarism," which are then disavowed by the Administration in Tokyo.

Cautiously, Premier Sato's government began to make some overtures. At the same time, Foreign Office spokesmen continued to stress Japan's strong adherence to a joint U.S.-Japanese approach to the China problem; and in particular, regarding Taiwan, where Japan has large business interests.

It was at this point that the Nixon announcement struck with the suddenness of a bucket of cold water. Premier Sato's whole foreign policy toward China, a scaffolding built on the American model, tumbled overnight, as government spokesmen had to admit they had known nothing of the Kissinger visiting until the very instant before the President's announcement.[3]

On the surface, Japanese reaction to the United States overture to China was and is favorable. The current in favor of recognizing China has been running stronger in Japan than in the United States. But underneath ran an undertow of resentment. The Nixon announcement confirmed a long-gathering suspicion that, in any really important Asian diplomacy, the United States would go it alone. Comments ranged from "That proves that there is no Japanese diplomacy" to "In this world, there is no Japan." Trust in the United States has been cracked, and it may never be wholly put together. "Nixon finally freed us," one Japanese friend said to me. "We need never be bound to you again."

As of this writing, the U.S. government has not yet seen fit to make any substantial gesture toward Japan to balance remotely the Peking visit. President Nixon's announcement—made a few days after his surtax declaration—that he would meet Emperor Hirohito's Europe-bound plane in Alaska hardly seems to qualify. It is true that nations and peoples see each other through a glass darkly. But not often in national relationships has there been such a confused view of what is important in such an important relationship.

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[1] Imports from Japan amount to a total of two percent of U.S. textile production.

[2] In March 1970, the Soviet government notified Japan that some of its fleet units would be holding firing practice off the coast of Shikoku, as well as certain other areas north of Japan, the following month. Although these maneuvers were probably part of a pattern aimed to exert *indirect* pressure on China, Moscow completely underestimated the *direct* Japanese reaction. After Foreign Office protests, the Soviet government agreed to cancel the whole business.

[3] Japanese recalled, with some irony, that Premier Kiichiro Hiranuma, Japan's prewar pro-Axis leader, had resigned under similar circumstances, after denouncing the "monstrous complications" of diplomacy, when he was surprised by the announcement of the Nazi-Soviet pact in 1939.

Some things could be done to make the U.S.-Japanese relationship less distorted.

(I) A major step would be an American motion to have Japan seated as a permanent member of the Security Council, along with communist China, in the realignment of that organ which seems inevitable. Japan is a great power in the sense that some present Council members are no longer. A wish for permanent representation in the Security Council has been growing strong in Japan. Yet, in all the talk about the United States sponsoring mainland China membership, in the United Nations and on the Council, only one or two voices have been raised to consider the Japanese.

(2) A joint standing committee should be established to review the Japanese-American trade relationship and suggest mutually palatable ways of easing strains in it before the next venture into courtroom diplomacy. This would mercifully supplement the current periodic, formal joint Cabinet-level meetings.

(3) The cultural exchange and information conferences, started by Ambassador Reischauer in 1962, should receive heavy support both from government and industry. The work should include regular conferences between editors, which might persuade some Japanese journalists that a consistently negative anti-American attitude is not necessarily good news and might persuade their American counterparts that there is a flesh-and-blood Japan, apart from the "bullet train and geisha suicides."

(4) Both the United States and Japan could profit from a structured interchange of ideas on how to deal with the urban technological revolution. Their problems are astonishingly similar both in their scope and their degree of urgency.

(5) Some further work should be done on the reduction of American bases in and around Japan, and either a clear reaffirmation, a clear restatement, or a clear rejection of the nuclear umbrella principle. Before the Nixon announcement about China, one could have said flatly, "The Japanese will not take to nuclear weapons in the next decade, if at all." Now, there is some doubt. Too many American voices have lately been calling the nuclear umbrella into question.

The Japanese have their own fences to mend. The holier-than-thou attitude of Japanese businessmen about American protectionism ignores their own underbrush of protection at home and the hostile measures taken, until recently, against any foreign investment—not to mention the foot-dragging on yen reëvaluation.

These steps may seem weak and incomplete but they would be the beginning of a coöperation long overdue. For behind the distortions in the View from Here and the View from There is the basic breakdown of an alliance—an alliance which began as a military pact with one very senior and one very junior partner. This is so no longer. Japan is no longer a client state, nor must the United States be forever cast in the role of an understanding protector. On the contrary, these are two great powers, with essentially common objectives, vast resources, and few points of friction, present or foreseeable that could not be negotiated on equal terms. It is not too late to reconstruct the alliance on new principles, in which an element of military protection can remain, but subordinate to more positive goals of coöperation in technology and education and an improvement of living standards in the whole area of Asia and the Pacific. But if some drastic changes are not made in its shape and functions—and most importantly, in the commitment of *both* peoples to it—the alliance will soon be dead.

MOTION PICTURE PIONEERS OF THE YEAR

Mr. GRAVEL. Mr. President, "Motion Picture Pioneers of the Year" is a high honor which has just been bestowed. More about it later.

Two men who exemplify American achievement are Samuel Z. Arkoff and James H. Nicholson. Both were of a very modest means when they formed a company in 1954 to produce and distribute motion pictures. Their capital was $3,000 loaned by a friend who had confidence in them, and their other assets were the trust in which they were held by their associates and their own self-respect.

Today American International Pictures, of which James H. Nicholson is president and Samuel Z. Arkoff is chairman of the board, is a leading supplier of motion pictures. And it has had the longest continuous management by its founders of any such organization in America today.

Samuel Arkoff was born in Fort Dodge, Iowa. Although no one in his family had been interested in the entertainment business, he was. After attending the University of Colorado and the University of Iowa he studied law at Loyola University in Los Angeles. While studying for his legal degree he worked in the then-aborning television business. During World War II Arkoff was a U.S. Air Force cryptographer.

James Nicholson is a native of Seattle, Wash., but his early experience in the motion picture business was in San Francisco, where on his 16th birthday he applied for an usher's job in a movie theater, was accepted, and proceeded to learn everything he could about theater operations. To this day Nicholson can run a projector and splice film.

American International Pictures has distributed to theater or television outlets 450 feature films, many of which it has produced, and some that have been acquired. Today this firm releases a minimum of 26 new motion pictures each year, one of the most impressive totals in the industry. It has 29 exchanges in the United States to provide local service to exhibitors and its films are shown throughout the world.

Thanks to the creativity and sensitivity of Samuel Arkoff and James Nicholson, American International has been able to anticipate the taste and interest of important segments of the public and thus has started trends in types of films that have had wide acceptance.

Upgrading of subject matter has always been a concern of Nicholson and Arkoff and their company is now stressing the social and box office value of classics. American International's "Wuthering Heights" and its release of "Julius Caesar" were among the fine attractions recently provided and "Camille," "The House of Seven Gables" are now in production. Robert Louis Stevenson's "Kidnaped" will be available in January.

Arkoff and Nicholson are an American success story, and they are something else too. They have continuously given their time and effort to help others, particularly young people. They and their company have been tireless supporters of Variety Clubs International, which has raised more than $160 million to give children all over the world better lives and better health. Nicholson is an International vice president of their show business charity organization.

Arkoff and Nicholson, who live in California near American International Pictures' home offices in Beverly Hills, are family men. Arkoff is a frequent speaker at colleges and student forums.

"Motion Picture Pioneers of the Year" is certainly a fitting accolade for John H. Nicholson and Samuel Z. Arkoff. In a sense, they are motion picture's pioneers for many years.

Six hundred leaders of the motion picture industry attended the 33d anniversary dinner of the foundation of the Motion Picture Pioneers, Inc., in New York City, to pay tribute to Sam Arkoff and Jim Nicholson on November 22, 1971. They were presented plaques on behalf of the foundation, one of the most prestigious in the entertainment world by Sherrill C. Corwin, president of Variety Clubs International.

Cecil B. DeMille, Adolph Zukor, Darryl Zanuck, and Spyros Skouras are among the 27 motion picture "greats" who had been honored over the years at previous ceremonies. Now John H. Nicholson and Samuel Z. Arkoff have earned and been given this recognition by their peers, as motion picture pioneers of the year. They are a credit to their industry and their Nation.

FREEDOM, LIE DETECTORS, AND THE COMPUTER AGE

Mr. ERVIN. Mr. President, yesterday's New York Times contains an article by Ben Franklin on the use of lie detectors in America to try to determine whether or not a man is fit for employment.

Mr. Franklin has again done some excellent research on governmental and private practices which affect the privacy and constitutional rights of thousands of Americans. His report is alarming, for it reveals that—

> About two hundred thousand persons in private employment—not counting thousands of others in Federal, state, and local government—will be subjected to lie detector, or polygraph examinations this year.

The Constitutional Rights Subcommittee study of privacy and the first amendment has shown that in this computer age, every detail acquired from investigations about a person's life, habits, attitudes, and beliefs can be programed in codes and made available in seconds through cross-country electronic and machine transmissions. Computer printouts aid in this ever-increasing exchange of information among Federal, State, and local governments and among private agencies and corporations. If our freedoms are to remain secure, it is more important than ever that in this sometimes bewildering technocratic age the individual be assured that the information conveyed about him be correct, current, and relevant to the decisions being made about him.

For this reason, all Americans, I believe, will be concerned about Government's use of machines to try to compel people to reveal their innermost thoughts about the most private matters in order to obtain employment. They are increasingly concerned that this attitude toward voluntary expression and toward rights of freedom of thought and mind is being emulated by private industry throughout the country.

On the basis of my research while serving as a judge, I came to the conclusion that the use of these machines on Americans was a form of 20th century witchcraft. I have seen no documentation which alters my view, and Mr. Franklin's investigation merely serves to reinforce my convictions. I was particularly impressed by his account of research which shows that a plant, hooked to the galvanic skin reflex portion of the polygraph, responds with human-like tracings of anxiety when it is threatened with burning by a match or is spoken to harshly.

Mr. President, I realize that many people want to use any methods in the name of efficiency and economy, and I realize further that many folks simply do not want to be interfered with in using such practices.

In spite of this, however, I introduced S. 2156 to protect the privacy and first amendment rights of all Americans. While this bill would not affect law enforcement or State and local governments, it would prohibit the compelling of Americans to submit to lie detectors in order to obtain or to hold a job in the Federal Government or in industries whose activities affect interstate commerce.

The Constitutional Rights Subcommittee is now considering this bill and it is my hope that hearings can be scheduled in the next session to consider all points of view on this problem.

I ask unanimous consent that this perceptive and illuminating article by Ben Franklin, entitled "Lie Detector's Use by Industry Rises; Rights Peril Feared," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

LIE DETECTOR'S USE BY INDUSTRY RISES; RIGHTS PERIL FEARED

(By Ben A. Franklin)

WASHINGTON, November 21.—The lie detector, a device known to millions of readers of Dick Tracy as an implacable breaker of hardened criminals, is quietly coming into far wider use as a "truth-telling" informant in the world of ordinary sinners.

In a decade of rising crime, corporate and insurance company losses from embezzlement, pilfering and outright theft by employees in retail sales, warehousing and delivery services have soared steadily to $10 million a day—more than $3 billion a year—according to the Insurance Information Institute. The losses are greater than those from conventional robbery and burglary together.

More and more, employers have been striking back, trying to weed out dishonest workers by forcing employees to take—and pass—lie detector tests, either as a consideration of continued employment or as part of a pre-employment screening process.

About 200,000 persons in private employment—not counting thousands of others in Federal, state and local government—will be subjected to lie detector, or polygraph examinations this year, according to one informed estimate. Many will fail, although how many will probably never be known. "Discretion," a self-imposed rule of secrecy, veils much of the polygraph industry's impact.

But the spread of commercial lie detector testing—polygraphists call it a "detection of deception" system that gives employees "a moral vaccination" against dishonesty—has begun to generate substantial opposition as an invasion of privacy and a violation of the constitutional guarantee against self-incrimination.

INDUSTRY STILL CONFIDENT

In recent years 12 states and three cities, acting under pressure from labor unions, have restricted or outlawed lie detection in routine corporate personnel screening. The tests, never acceptable in court, have been repudiated by the Federal Bureau of Investigation. And a measure to prohibit their use nationally is pending in Congress.

Nonetheless, the lie detector industry remains confident that many more profitable years lie ahead—the examinations bring in $50 an hour—and that the demand for its services will continue to grow faster than the opposition.

The Insurance Information Institute estimates, for example, that the annual cost of employe stealing and cheating will double to $6-billion in the next decade, reason enough, partisans of the polygraph say, for their business to double too.

Many polygraph practitioners—there are 4,000 to 5,000 in the industry—believe their technique is a bastion of honesty amid a decaying morality. "There comes a time," says J. Kirk Barefoot, a leading polygraphist and former president of the American Polygraph Association, "when your privacy and mine has to be weighed against a company being stolen blind and put out of business."

Their opponents feel, however, that the polygraphists are only adding to the confusion. They point to technical studies asserting that the lie detector technique is scientifically flawed. And they trace its acceptance to a self-perpetuating circle: belief in the machine's efficacy induces confessions; a high rate of confessions induces belief in the machine's efficacy.

CONFESSIONS AS CONFIRMATION

The success of the polygraph industry in obtaining employe confessions is its chief selling point among pragmatic businessmen who regard the outpourings of guilt as confirmation that the system works. According to John E. Reid, the head of a leading Chicago polygraph company, "We get better results than a priest does."

How the process operates, and what its impact on an ordinary individual can be, is shown by the case of Stanley Brundage, a composite person put together for this profile to protect the privacy of the four real persons from whose real polygraph histories he is drawn. Company names in the episode are fictional.

Picture Mr. Brundage as a 25-year-old vending machine service man who married on his return from Vietnam a year and a half ago and now is the father of a year-old son. His brush with the polygraph came this year when he applied for a job with U-Vend-It, a competitor of Automatix, Inc., for which he had been working as a route man for the last seven months.

The new job would have brought him $10 a week more than the $182 a week he had been earning at Automatix. At U-Vend-It he was asked routinely to sign a job applicant's waiver saying:

"I agree that the U-Vend-It Company may require me to take a pre-employment polygraph (lie detector) examination and to take such examinations periodically, as the company may require. I understand that my refusal or failure to take such a test when requested may be grounds for dismissal."

UNEASY OVER QUESTION

The employment questionnaire asked: "Have you ever been tested on the polygraph before?" And, "If so, give dates, places and reasons for the test." Mr. Brundage wrote, "None."

Another question asked, "Have you ever been convicted by any police department for any reason?" Mr. Brundage now says that this question made him uneasy. He knew that the police do not convict, but he had no police record. He answered, "No."

But less than 24 hours later, after 90 minutes of interrogation while connected by wires and tubes to a polygraph instrument at U-Vend-It's private applicant screening firm, Confidential Personnel Services, Inc., Stanley Brundage had not only been barred from the new job, he had also been dismissed from his old one. And he was unlikely to find another in the vending service trade without moving from his native Midwestern city.

For confronted by the lie detector, Mr. Brundage had confessed to taking cigarettes from his employe's stock for his own use and to "borrowing" small amounts of money for short terms—$62 to get his car out of a repair shop was the largest—from his route man's "bank."

The money was a change-making kitty given him every Monday. He had turned it back in—always perfectly accounted for, with the impromptu "loans" repaid—every Friday.

But to the polygraph examiner, an understanding former policeman, Mr. Brundage had also confessed much more—a homosexual encounter at the age of 13, a teenage shoplifting spree, a near court-martial that was quashed by his commanding officer and appeared nowhere in his "honorable" army record and a martial infidelity of more recent vintage.

QUESTIONS ABOUT SEX

Although a number of polygraph examiners insisted in interviews that no one under a routine test as a job applicant should be asked questions about his sex life, nearly all of them acknowledged that such questions are asked fairly widely. In Mr. Brundage's case, the charges against him in Vietnam had involved an alleged rape, and the subject of sex was opened up. He has always maintained his innocence.

His confession began when the examiner informed him that he had shown "sensitivity" on the polygraph chart—a suppression and recovery of respiration, an increase in blood pressure and pulse, and an increase in galvanic skin response, a measure of a minute electrical current at the fingertips that rises with increased perspiration—to the question: "Have you ever taken money, merchandise or property from any employer".

Advising Mr. Brundage to "think about" this finding while he left the polygraph room to "consult a supervisor," the examiner returned to find Mr. Brundage, as the young man recalls it, "prepared to tell him anything he wanted to know—and maybe more. I felt like a very bad guy".

Mr. Brundage was not hired by U-Vend-It. Moreover, Automatix had recently signed an applicant screening contract with the same polygraph agency, the largest in the city, and the "not recommended" rating noted on Mr. Brundage's permanent file card at Confidential Personnel Services surfaced on its first routine sweep of names on Automatix's payroll.

SCOPE OF COMMERCIAL TESTING

Although the polygraph examiner did not disclose details of Mr. Brundage's test or his confession—either would have been a breach of ethics under the code of the American Polygraph Association—the examiner suggested that Automatix "talk to" Mr. Brundage about his test. Mr. Brundage partially confessed again and was dismissed.

Across the country this year similar episodes are shocking the lives of countless persons in commercial employment.

Some idea of the scope of this nongovernmental, nonpolice polygraph activity can be gained by comparing it with current estimates that the lie detector tests given by

Federal agencies number about one-tenth of those conducted for businesses by private practitioners.

There are no recent Federal figures, but a detailed study seven years ago by the House Government Operations Committee, disclosed that, in 1963, 20 Federal agencies gave 24,000 lie detector tests, not counting the classified and unreported tests required by the Central Intelligence Agency, known to be a heavy polygraph user.

Except at C.I.A. and the National Security Agency, a secret Federal cryptographic and intelligence gathering office, most experts think the use of the lie detector has declined since then in Government here. A 1965 guidance issued by the United States Civil Service Commission is supposed to limit polygraph testing to serious national security cases.

The International Conference of Police Associations has had a standing resolution since 1964 that declares that although a policeman properly relinquishes many rights to avoid questioning when he puts on a badge, this "does not include compulsory subjugation to interrogation under an apparatus of questionable accuracy, the reliability of which has never been demonstrated to the courts."

But private, commercial use of the polygraph has been growing steadily for 15 years.

According to the estimate of Mr. Barefoot, who now heads employe security for Cluet, Peabody & Company, an apparel manufacturing and retailing concern based in New York, some 200,000 lie detector tests are now being given each year to private job applicants or to employes.

Mr. Barefoot, 44 years old, is a former policeman, a graduate of the polygraph course—"Police Science and Administration"—at Washington State University, and a former two-term president and board chairman of the American Polygraph Association. This year he is leading the A.P.A.'s lobbying fight against the polygraph prohibition bill of Senator Sam J. Ervin Jr., Democrat of North Carolina.

COMPULSION TO CONFESS

"Most people have a compulsion to confess," Mr. Barefoot said in an intreview. "They hesitate, of course, as long as they feel there is uncertainty as to their guilt. They may be uncertain about it within themselves. But once you remove that uncertainty—the thing the polygraph does best—they confess. Often they go so far that the examiner has to shut them up. But the confession is the acid test, the real validity of the polygraph from the employer's point of view. He wants honest employees and this way he gets them."

Whether the lie detector way to honest dealing is compatible with a free society is the question raised by Senator Ervin, the chairman of the Senate Judiciary Committee's Subcommittee on Constitutional Rights and one of the leading students here of the Bill of Rights.

Calling the polygraph "a tool to compel a man to speak against his will" and "an instrument of 20th century witchcraft, more appropriate to a police state," Mr. Ervin introduced last June a bill that would virtually ban the lie detector. It is to be the subject of hearings before his subcommittee next year.

The bill would forbid, with criminal penalties, the use of the polygraph in employee screening for hiring, firing or promotion in both Government and in private employment affected by interstate commerce—virtually all of it. Police departments and Federal "security agencies" would be exempt.

A DEEPLY IDEOLOGICAL THING

The pro-polygraph rationale, according to Lee M. Burkey, a Chicago labor lawyer who has successfully reversed through arbitration hearing procedures of union contracts a dozen lie detéctor dismissals, is "at its root a deeply ideological thing by people who desperately long for law and order."

"I see employer after employer depending on the lie detector," Mr. Burkey said in an interview. "They are only perpetuating the lack of order in America by going through this magic ritual, with all its terrible injustices. The real criminals don't care about the lie detector. It isn't admissible as evidence in court.

"So the truly amoral people breeze through the polygraph, while the introspective, nervous, sensitive person who probably is guilty of some wrong doing—but perhaps not the theft under investigation—shows all the 'wrong' tracings, believes the machine knows all, and makes damaging confessions."

Polygraph defenders like Mr. Barefoot and Mr. Reid, the courtly, white haired director of one of the country's oldest, busiest and most reputable lie detector firms, John E. Reid & Associates of Chicago, have devoted most of their energies to the long dispute over the accuracy and the scientific basics of their instrument and to efforts to police their own craft.

"If you want to write that there are a lot of rotten people in this business," Mr. Reid said during a day-long interview, "there are. What our critics should do is help us get better examining licensing laws, such as we have here in Illinois, let us throw the rascals out and let us do our work. We have the best investigative thing in the world going and they want to put us out of business."

Mr. Reid dismissed the invasion of privacy argument by saying, "No one who comes here has to take the test. They sign a voluntary statement." But he acknowledged that competition for jobs had given polygraphy a significant boost.

He brushed aside the Fifth Amendment objections, too, as "a protection in criminal law."

"A man is not on trial here," Mr. Reid declared. "He is free to go. I wouldn't be here five minutes if we were putting the finger on the innocent, you know. But the people who resist the test, so many of them are guilty. They try to affect others not to take it, and that tells us a lot."

Mr. Reid called subjects who try to manipulate the polygraph by taking drugs, coughing, sneezing, and giving "sensitivity" responses to control questions such as "did you eat breakfast this morning?" the "biggest suckers for us because if they do that they give themselves away completely."

The standard text book on the lie detector, "Truth and Deception," was written by Mr. Reid and Prof. Fred E. Inbau of the Northwestern University Law School. It suggests that "the recorded observations of a secretary or a receptionist as to the subject's general conduct or behavior while in the waiting room will be very helpful to the examiner" in assessing guilt or innocence.

In the following 10 pages of the Reid-Inbau book, the authors warn that such factors as lethargy, nervousness, muscular tension, apprehension over "accusation or interrogation," and the sensitivity of menstruating female subjects to the respiration-measuring tube around their breasts or to the tube's pressure on "falsies" may cause erroneous "deception" responses.

The procedural admonishments include this:

"In instances where the subject insists that he has never stolen anything at any time in his life the examiner should then ask: 'Did you ever try to steal anything?' If he says, 'No', he should then be asked: 'Did you ever think of stealing anything?' If the answer is 'No', this question will serve as a control."

A footnote adds, however, that "a subject who denies ever having stolen anything in his whole life (after being asked about this as above described) is usually established by the test itself as being a liar regarding the main offense under investigation."

ACCURACY IS CHALLENGED

Doubts about the accuracy of the polygraph and the interpretations of its practitioners have received wide attention during the last decade in scientific and academic circles. A number of tests at independent laboratories—some of them commissioned by Federal military and security agencies under Government contract—have challenged the lie detector industry's claim to "99 per cent accuracy."

In 1961, Prof. Jerome H. Sholnikoff of the Yale Law School concluded in The Yale Law Journal that polygraph lie detection depended "on the myth of infallibility" for its psychological impact in inducing confessions.

A year later, Profs. Richard A. Sternbach, Lawrence A. Gustafson and Ronald L. Colier reported that the polygraph's accuracy was "close to 70 per cent." In the Harvard Business Review, they wrote that "the polygraphic method will be effective only as long as people believe it is a real 'lie detector' and confess their guilt when confronted with fancy-looking squiggles on chart paper."

Reporting on an Air Force-funded study of the polygraph in 1962, Prof. Joseph G. Kubis of Fordham University found that "countermeasures can be developed which confuse and deceive the lie detection operator." An Office of Naval Research study, conducted at the Stanford Research Institute in 1964, found the polygraph only 75 per cent accurate.

BASIS OF RELIGIOUS SECT

Many new uses of polygraph equipment are being tested nowadays, often to the embarrassment of commercial lie detector examiners. One of the instrument's standard physiological tests of truthfulness—the galvanic skin response device, which electrically measures increases in perspiration at the fingertips as a sign of lying—has become the basis of a frankly experimental, California-based religious denomination, the Founding Church of Scientology.

In scientology, parishioners are asked to pay $400 for twelve and a half hours of intensive consultation with a minister, while grasping the electrodes of an "E-meter," a simple, battery-powered galvanic skin reflex device. Questions and responses that elicit "sensitivity" or "inner tension" on the meter—scientology rigorously avoids saying that the meter fluctuations indicate "lies"—are pursued in consultation until the "inner tension is released" in confession.

That the American Polygraph Association is sensitive to such experimental uses of its polygraph instrumentation is indicated by its attitude toward Cleve Backster, a New York City polygraphist and former adviser to the C.I.A. who has been conducting for six years serious experiments with the galvanic response of philodendron plants.

Mr. Backster, the lie detector examiner of such leading criminal lawyers as F. Lee Bailey and Henry Rothblatt, has appeared on network television to demonstrate that a plant, hooked to the galvanic skin reflex portion of the polygraph, responds with human-like tracings of anxiety when it is threatened with burning by a match or is spoken to harshly.

But because the publicity given his work is "bad for public relations," as one A.P.A. official put it, Mr. Backster was warned by the association months ago to "disassociate" his plant experiments from lie detection.

Now, because he cooperated in the preparation of an article in the current issue of National Wildlife Magazine describing the "strenuous" galvanic response reaction not only of plants but also of chicken eggs, A.P.A. officials say Mr. Backster is threatened with expulsion from the association.

THE CANNIKIN NUCLEAR TEST

Mr. GRAVEL. Mr. President, more and more evidence is coming to light that the Atomic Energy Commission's Cannikin underground nuclear test did not go exactly as planned.

The Anchorage Daily News recently revealed that the blast shook Amchitka more severely than AEC scientists had predicted.

This is further evidence that we must be extremely careful in monitoring the effects of Cannikin now and in the future. The unexpected can and does happen.

I ask unanimous consent to have the Anchorage Daily News article reprinted at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BLAST SHOOK HARDER THAN AEC PLAN

(By Allan Frank)

The Atomic Energy Commission said Friday that its five-megaton Cannikin bomb shook Amchitka more severely than AEC scientists had predicted.

AEC public information officer Henry G. Vermillion said: "Preliminary indications are that the beach and ocean floor (Bering Sea) in the near vicinity of the Cannikin site has been lifted permanently by several feet.

"Cliff falls along the Bering Sea for a two-mile stretch were greater than had been predicted."

The AEC also said helicopter surveys "have indicated a lessened number of sea otters in the Bering Sea near the Cannikin site as compared with before the test."

Alaska Fish and Game officials have charged that the AEC blast killed "hundreds" of sea otters and the corpses floated out to sea.

But Vermillion said, "Searches of the shores of Amchitka have located 14 dead sea otters . . . and two additional injured otters and two abandoned otter pups were observed by helicopter. It is assumed these died."

AEC officials say that 16 of the 18 otters were sighted on the Pacific Ocean side, but Alaska Fish and Game officials say the "mass kill" was on the Bering Sea side.

"Of the 14 recovered sea otters bodies, 12 underwent autopsies. Deaths of seven appeared to be from overpressure in water. Two died from rockfalls and three apparently were fatally injured by vertical acceleration (upthrust of the ground)," the AEC said.

"It is not believed likely that more explosion-injured sea otters will be found," the AEC said.

Earlier this week, Fish and Game officials said that "300–800 otters" had died and that AEC scientists had left Amchitka too early to make any meaningful evaluation of the kill.

Four seals also were found and 16 dead birds, seven that died from over-pressure and eight from vertical acceleration, were recovered.

No eagles or peregrine falcons were found dead, although two falcon eyries and five or six eagle nests were destroyed.

The AEC also reported "hundreds of dead fish, mostly greenling, were found on the beaches."

In its June environmental impact statement, the AEC said the "most probable expectation (is) that only a few fish will be killed . . . to the unlikely possibility that casualties may include hundreds of fish in the near shore area such as Pacific cod and dusky rockfish; a few salmon in deeper off-shore water; hundreds of fish such as Atka, mackerel, lantern fish, rockfish and smelt in mid-water off-shore area and thousands of rockfish and Pacific cod in off-shore bottom areas."

Freshwater fish, including Dolly Varden char and three-spine stickle-back, died when the blast ruptured the dike of a pond holding drilling mud, according to the AEC.

About 5,000 cubic yards of the toxic mud from the pond, 4.7 miles from ground zero, flowed into the Pacific Ocean through a 1.5 mile long creek.

"It must be assumed that organisms in the affected part of the creek were destroyed," Vermillion said.

The AEC estimates that the fish and otter populations will be back to normal "within a few years."

It also will take several years for the marine life to recover from the sea floor uplifting, which may run the length of the island. In its impact statement, the AEC had predicted that the "extreme case" of uplift would be about three feet.

Around the blast site, the cavity which formed has a maximum depth of about 60 feet, with a radius of about 2,600 feet.

Drillback into the bomb chamber to test for radioactive materials should be "complete by spring, 1972." Preliminary work for the drillback has begun, although the AEC had not indicated whether the hole actually is being drilled.

The AEC also said that its instruments recorded as expected and that preliminary studies indicate the test went well. Vermillion said no detectable radiation has escaped to the surface.

The AEC'S Lawrence Livermore Laboratory south of San Francisco, indicated that the test yielded "the necessary information."

Environmental surveys of the island also will continue, according to the AEC spokesman.

THE AMERICAN FARMER: THE GREAT EMANCIPATOR

Mr. BELLMON. Mr. President, earlier this year I joined with the distinguished chairman of the Senate Agriculture Committee, Senator TALMADGE, in protesting the tendency of many Americans to kick the farmers around. As a representative of a farming State and as a lifelong rural area resident, I have found that farmers seldom receive the kind of appreciation they deserve for the important contributions they make to our society.

Therefore I was pleased to read an article in the November 1971 issue of the Progressive Farmer by Del Deterling, titled "The American Farmer: The Great Emancipator." This article points out graphically the reasons why agriculture should be strengthened instead of constantly being belittled and blamed.

Along the same line, in my home State of Oklahoma, an excellent brochure, "How Oklahoma Agriculture Helps You," has been published by the agricultural experiment station at Oklahoma State University. It was prepared in cooperation with the agri-business committee of the State chamber of commerce, the Extension Service, the State department of agriculture, and the Oklahoma Young Farmers Association.

Mr. President, I ask unanimous consent that these two items be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

[From the Progressive Farmer, November 1971]

THE AMERICAN FARMER: THE GREAT EMANCIPATOR

(By Del Deterling)

People in this country have become so accustomed to having a varied and generous selection of wholesome food at a relatively low cost that they pretty well take agriculture for granted. In fact, in this age of synthetic fibers and materials, when researchers glibly speak of manufacturing protein from petroleum, algae, and sewage waste, there are many who feel agriculture is diminishing in importance.

Some, in the name of ecology, even say our present systems of food and fiber production are a nuisance and a hazard to the environment that must be curtailed and eliminated.

But eliminating agriculture from the Unite States would have the same impact on the economy as removing one wheel from an automobile. It wouldn't run very far.

Regardless of how taken for granted, ignored, belittled, and even blamed for creating problems of pollution, migration of the masses to the cities, inflation, and diversion of public funds from more lofty goals, the production of food and fiber is still the most essential task of our nation.

People do, after all, need food. All other pursuits take on secondary importance to finding enough food to still a hungry stomach and clothes to repel the heat and cold.

The next time one of your city friends remarks about the declining importance of agriculture, ask him what he thinks would happen to the national economy if you suddenly eliminated an industry that:

Has assets of $300 billion—more than two-thirds the value of all U.S. corporations, half the market value of all stocks listed on the New York Stock Exchange.

Employs 5 million people directly and supports 16 million more in associated businesses—more people than are employed by the steel industry, auto industry, the utilities, and the transportation industries combined.

Spends $55 billion a year for goods and services to produce crops and livestock and for food, clothing, furniture, and other goods; pays $4 billion in real estate and federal and state income taxes.

Consumes 28 billion kilowatt hours of electricity, 5 million tons of steel, 9% of the rubber, and $3.4 billion worth of fuel annually.

And if anyone brings up the subject of Government subsidies, ask him what other country he can think of where customers need use only 16½ cents out of every dollar of income after taxes to pay for essential food, plus about an equal amount to pay for clothing and shelter, leaving two-thirds of each dollar to buy color televisions, boats, a second car, a home on the lake, a better education for his kids, health care for his family, and other things that improve the quality of his life.

You might add that if the American producer hadn't developed the efficiency that enables him to produce food for himself and 50 other people, there would need be many more people engaged in the production of food and fiber, and a lot fewer would be free to build color TV's and boats, keep the golf greens in perfect condition, operate motels and hunting lodges, and provide the other nonessentials to which we have become accustomed.

In contrast, in Russia 55% of the population is engaged in food and fiber production, and 50% of the disposable income of each family unit is required to pay for food. Red China must keep 75% of its manpower tied up with agricultural production. Even in Western Europe and Japan, consumers must shell out one-third or more of their income to buy food.

The question then justifiably could be asked: "Who is subsidizing whom?"

The American farmer, therefore, could rightly be called the "Great Emancipator" for freeing manpower, income, and time from the slavery of grubbing for enough to eat and to wear and for enabling our citizens to enjoy a quality of life never before experienced by any people on this earth.

Such recognition does not come easy nor by itself. The general public is not given to pouring out praise for those things it takes for granted.

Farmers and ranchers must take the initiative in calling attention to the important contributions of agriculture to the health and well-being of the country and the world. Pleas for sympathy will not do the job. Producers must join hands with their agribusiness allies to develop positive programs to get the public to realize that America can be strong and free, that its citizens can enjoy the fruits of abundance, only so long as its food and fiber industry is strong and healthy.

How Oklahoma Agriculture Helps You

AGRICULTURE'S SECONDARY EFFECTS ON THE ECONOMY

Agriculture not only is Oklahoma's largest industry—it also has an unusually high "multiplier effect" in its secondary benefits throughout the state's economy.

Each $1 in personal income from agricultural processing will produce $4.32 in personal incomes for other people.

This effect can be illustrated by the opening of a new meat packing plant.

First, such a plant will create new jobs. These additional employees will increase the demand for gas stations, groceries, stores, transportation, communication, and so on.

Then these service businesses expand and hire more employees. Such service-type employees also increase the demand for services.

The cycle continues until the effect of the new packing plant is felt throughout the economy.

IF YOU ARE A MERCHANT

Oklahoma farmers and ranchers spend about $34 million a year for fuel and oil for their motor vehicles.

Based on recent figures, these producers spend $33 million a year for fertilizer and lime, $10 million for seed, and $146 million for feed.

Building materials businessmen ring up nearly $32 million in yearly sales to agriculture producers.

Merchandisers of hardware and small hand tools in Oklahoma have $7.6 million in annual sales to farmers and ranchers.

Oklahoma's agricultural producers spend $8.8 million yearly for pesticides, $2 million for binding materials, and $2.3 million for veterinary medicine supplies.

In a year's time, they also pay $694,000 for dairy supplies, $458,000 for containers, $387,000 for greenhouse and nursery materials, and $258,000 for harness and saddlery.

IF YOU WORK FOR A FIRM THAT SERVES AGRICULTURE

Transportation and public utility employees in Oklahoma total about 50,000. Service to the agriculture community makes up a sizable portion of their business.

The food-processing industry is the second largest user of power in the state. It buys nearly a fifth of the kilowatt hours used by Oklahoma industry.

Four hundred agriculture service firms have 2,500 employees.

IF YOU WORK IN FOOD OR FIBER HANDLING OR PROCESSING

Nearly 400 Oklahoma firms are manufacturing food and kindred products. They employ 15,000 persons—the largest single segment of Oklahoma manufacturing.

More than 50 percent of the employees in Oklahoma warehousing and storage are in agriculture-product warehousing.

Food stores in the state employ nearly 20,000 workers.

The 460 Oklahoma grain elevators employ about 3,800 persons full and part time. Ninety livestock markets provide jobs for 2,300 persons.

The growing field of forestry finds about 120 lumber and wood products firms hiring more than 2,000 workers.

Apparel and textiles are manufactured by about 100 firms, which hire 10,000 persons.

IF YOU ARE IN THE AUTO OR EQUIPMENT BUSINESS

Investment in motor vehicles and machinery by Oklahoma farmers and ranchers was estimated at about $745 million at the beginning of 1971.

They spent about $126 million for velicle and equipment in one recent year. This included purchases of tractors costing $21 million, trucks worth $26 million, autos at $17 million, and other machinery and equipment costing $62 million.

That same year, these producers paid an additional $28.5 million for repairs, parts, tires, and batteries for their vehicles and equipment.

IF YOU ARE A GOVERNMENT OFFICIAL

Oklahoma farmers and ranchers pay about $40 million in taxes each year on their operations. This includes $30 million in ad valorem taxes on farm real estate, plus $10 million in personal taxes on livestock, farm machinery, and household goods.

Nearly a third of Oklahoma's working force is employed in agricultural industry. About 250,000 persons make up this work force, roughly half on the land, and half in businesses related to agriculture.

These businesses, in turn, generate a multiplicity of other jobs, mostly in urban areas.

IF YOU ARE IN FINANCE

Agricultural producers in Oklahoma were obligated for real estate mortgages of $637.5 million at the beginning of 1970.

Non-real-estate loans by all institutions to Oklahoma farmers and ranchers in a recent year were estimated at $970 million.

DID YOU KNOW?

There are 90,000 farms and ranches in Oklahoma, with an average size of 412 acres.

The state has 37.1 million acres of farmland.

Those 37.1 million acres recently were valued at an average of $173 an acre. This means that Oklahoma agriculture producers have $6.2 billion invested in their land.

The "average" 412 acres of land and buildings thus would cost about $71,000.

In addition, Oklahoma agriculture producers have $815 million invested in livestock, plus $744 million invested in motor vehicles and machinery.

This brings their total investment to $7.8 billion.

So the "average" Oklahoma agricultural unit has about $86,000 invested in land, livestock, and equipment.

Oklahoma ranks second among the states in number of beef cows. Oklahoma City is the largest feeder-cattle market in the U.S.

Oklahoma is third among the states in wheat production.

Sale of agricultural products in the state in a recent year reached nearly a billion dollars—$939,279,000.

Livestock products accounted for 72% of these sales, and crops the other 28%. Beef is the state's major livestock product, and wheat is the major crop.

Other crops have an important place as "freshest and tastiest." For instance, strawberries, peaches, and pecans are grown instate and arrive at food markets fresh, tasty, and with all-around high quality.

NATIONAL FARMERS UNION OPPOSES CONFIRMATION OF NOMINATION OF DR. EARL BUTZ

Mr. HUMPHREY. Mr. President, the Senate Committee on Agriculture and Forestry has completed its hearings on President Nixon's nomination of Dr. Earl Butz as Secretary of Agriculture. Many individuals and organizations testified on this nomination and it was evident in the course of these hearings that considerable opposition to the Senate confirming Dr. Butz to this important post has developed throughout the country, especially among the farm people of this Nation. Farmers, and several of the organizations that represent them on the national level, have filed strong opposition to Dr. Butz' appointment. One of these organizations, which has long been noted for its championing the cause and interests of American family-farm agriculture, is the National Farmers Union. The president of that organization, the very able and talented Tony Dechant, made a very compelling and persuasive statement in opposition to Dr. Butz' confirmation. There is no doubt in my mind that Mr. Dechant's testimony accurately and appropriately reflects the views of the 250,000 farm families who are members of this great national organization.

Mr. President, I also wish to state that I am also opposed to Dr. Butz' confirmation. In the course of our hearings on confirming his nomination, Dr. Butz refused to make any commitments either for himself or for the administration regarding what policies and programs he would pursue to strengthen and improve the prices and income of our Nation's family farmers. Therefore, the only basis left for me to judge what he might do if confirmed, is his past record. And, Mr. President, that record, based upon his previous actions, speeches, and statements he made while serving as Assistant Secretary under former Secretary of Agriculture Ezra Taft Benson, shows no encouragement or sympathy for preserving the family-farm system of agriculture.

Mr. Dechant, in his statement before our committee, hit hard at the threat that Dr. Butz' confirmation would pose for the farmers of this country. Therefore, Mr. President, I ask unanimous consent to have Mr. Dechant's testimony, presented before the Committee on Agriculture and Forestry on Dr. Butz' nomination, printed in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

DECHANT OPPOSES SENATE APPROVAL OF EARL BUTZ AS SECRETARY OF AGRICULTURE

WASHINGTON, D.C., November 17.—The Farmers Union opposed the appointment of Dr. Earl L. Butz as Secretary of Agriculture here today at a hearing of the Senate Agriculture Committee.

The National President of the Farmers Union Tony Dechant told the Committee that Butz' appointment raises serious questions about the future of family farm agriculture in America. He said the National Board of Directors of the Farmers Union voted unanimously to oppose the nomination.

Dechant said, "Dr. Butz' economic views are archaic. He has been in the active service of a number of corporations which seek to dominate the rural economy.

"His appointment as Secretary of Agriculture would suggest:

"1. Farmers can expect a continuation of low farm prices which have been administered by the Nixon Administration.

"2. Farmers can expect little relief from the Nixon Administration's disastrous set-aside land retirement plan which has proven unworkable as a system of supply management.

"3. Farmers can expect a continuation of President Nixon's policies which favor corporations at the expense of producers.

"4. Farmers can expect the farm program to be a pawn in President Nixon's bid for reelection, with possible attempts to sugarcoat the bitter pill of the set-aside program, and with final phase-out of workable farm programs scheduled to follow the November, 1972 election.

"The steep decline of farm parity began during the era of Secretary of Agriculture Ezra Taft Benson, for whom Dr. Butz served as Assistant Secretary. The departure of millions of families from rural America swelled into the greatest mass migration in history. No Administration has been able to reverse the trend which was set in those years. Dr. Butz favored a phase-out of positive supply management long before the term 'set-aside' was coined by the Nixon Administration. He was an exponent of the massive soil bank land retirement plan during the Benson years.

"Dr. Butz' service to Purdue University while he was on the payroll of several large corporations represented a conflict of interests. Since he is philosophically and politically dedicated to the advocacy of their cause, we believe a similar conflict of interests would continue in the President's Cabinet, even though he resigns from his positions of corporate responsibility."

Dechant stated that:

"Dr. Butz has a bad record, but we recognize that a man can change. Our concern is heightened because of the gravity of the present situation for farmers. We cannot afford to provide time for the new Secretary to develop some new approach. The Nixon Administration took nearly two years to shape and refine the present set-aside fiasco. It was not really new—it was the same old massive land retirement scheme advocated by Dr. Butz more than a decade ago. Mr. Chairman, we do not have two years, nor even two months for more political gimmickry at the expense of the American farmer.

"We know what must be done. We must have effective supply management. We must have improved prices. We must have a massive infusion of low interest rate credit to rescue agriculture from the disaster created by our present farm program.

"I believe it is time that the Congress looks seriously at the proposal to create strategic reserves of our basic farm commodies. We must greatly increase our capacity for farm storage. We must raise commodity loans in order to protect farm income when prices are at their lowest. We must scrap the ill fated set-aside plan. Legislative proposals to accomplish all of these goals are before you.

"Farmers like other businesses must be afforded opportunity to make longer range plans. The optional diversion in the 1972 feed grains program, for example, does not fit farmers needs to make such plans. It's time that this administration recognize the need for effective, permanent supply management programs. Piecemeal and stop-gap measures to cope with emergency situations which could have been avoided are not good enough. Farmers deserve better.

"A little over a year ago I called for the resignation of Secretary of Agriculture Hardin. I did so to dramatize the extent of the alarm with which farmers regarded the unworkable set-aside land retirement scheme and the undue pressures of the Administration on the Congress and Senate to adopt it. The former Chairman of this Committee, Senator Ellender said that never in 34 years had he felt such pressures from the Executive Branch. As you know, he refused—as did Senator Herman Talmadge the present Chairman of this Committee—to sign the House-Senate Conference Report which was adopted under Administration pressure."

Dechant said that he is opposing Dr. Butz' appointment in order to dramatize again our deep concern over the future of American agriculture if present trends continue. He said that "if decisive changes are not made in our farm program before spring planting time he would be back again, calling a press conference and asking for the resignation of another Secretary of Agriculture."

NFO OPPOSES CONFIRMATION OF NOMINATION OF DR. EARL BUTZ AS SECRETARY OF AGRICULTURE

Mr. HUMPHREY. Mr. President, the farmers of this country have long looked to the U.S. Department of Agriculture and the man who is appointed to represent that Department in the councils of government to provide them with leadership and assistance. They especially look upon the Secretary of Agriculture as their champion and chief defender and promoter of their legitimate interests. Of course, in order for any Secretary to perform those functions, he must have the basic confidence of the millions of farm families he is to represent in that capacity. The hearings that were just concluded on President Nixon's nominee, Dr. Earl Butz, for Secretary of Agriculture clearly indicate that Dr. Butz would not enjoy such confidence among the farm families of this Nation. Several major national farm organizations presented testimony before our committee in strong opposition to Dr. Butz' appointment as Secretary.

One of the strongest statements presented against Dr. Butz' confirmation was made by Mr. Oren Lee Staley, the very able and aggressive president of the National Farmers Organization. Mr. Staley stated the basic concerns of American farm producers very succinctly when he said:

> Businessmen wouldn't accept appointment of a national labor leader as Secretary of Commerce; laboring men and women wouldn't accept appointment of the president of General Motors as Secretary of Labor; and farmers shouldn't be called on to accept appointment of Earl Butz as Secretary of Agriculture. . . . We oppose Dr. Butz because he has identified completely with agribusiness and preached its gospel while serving in the Department of Agriculture in the 1950's, as an administrator at Purdue University, as a widely-traveled speaker, and as a board member of three agribusiness giants.

Mr. President, it should be noted at this point that only families or individuals who are directly engaged in farming and who depend upon agriculture as their chief livelihood, can become members of the National Farmers Organization. The NFO has been in the forefront of championing collective bargaining for American farmers. They have poineered many new and innovative approaches in that regard and have developed a strong and tightly knit organization of farmers throughout the Nation.

The statement presented by Mr. Staley before our committee on Dr. Butz' nomination and confirmation clearly represents the views and position of his individual members, many of whom I and other Senators have heard from directly.

Mr. President, in addition to his testimony presented before our Committee on Agriculture and Forestry, Mr. Staley also has written a followup letter to me about Dr. Butz' confirmation which I believe every Senator should take time to read. Therefore, I ask unanimous consent that both Mr. Staley's testimony and letter be printed in the Record.

There being no objection, the items were ordered to be printed in the Record, as follows:

National Farmers Organization,
Corning, Iowa, November 19, 1971.

Hon. Hubert H. Humphrey,
Old Senate Office Building,
Washington, D.C.

Dear Senator Humphrey: After observing two days of questioning of Dr. Earl Butz at the Agricultural Committee Hearings, we remain firmly convinced that his confirmation as Secretary of Agriculture would be a disaster for farmers. His answers have not satisfied our concerns over his long and close ties to agri-business, his attitudes toward elimination of farmers and the drive by integrators and others to gain control of the food industry, and the conflict of interest arising from his substantial payments as a director of three of the nation's largest agri-business companies.

He did not satisfactorily answer most of the questions put to him by Senators and other members of Congress of both political parties. These included attempts to determine what he might recommend to raise farm prices, how he would get REA and other department funds released by the White House, how he would tighten poultry inspections, and what he would do to halt the drive by integrators and others to take over farm production.

We feel Senate approval of Dr. Butz would be a vote to abandon an historic commitment to opportunity for people on the land. It would, in effect, ratify a policy to drive people out of agriculture, undermine farm and small business enterprises, and destroy rural towns and cities.

The Senate, in voting on confirmation, will be making a choice on the kind of agriculture and rural America our country wants to encourage. This crucial decision, in our judgment, is the most important single farm vote in this Congress. Farmers everywhere are deeply upset over the selection of Earl Butz and hope the Senate will not cast a vote against them. We, therefore, urge you to vote against the confirmation of Dr. Butz

Respectfully yours,
Oren Lee Staley, *President.*

Testimony of Oren Lee Staley

I appreciate this opportunity to appear in opposition to the nomination of Earl L. Butz as Secretary of Agriculture.

We are shocked and angered at the selection of a man so closely tied to the corporate giants moving into agriculture. It is a disastrous appointment from the producer's standpoint.

Business men wouldn't accept appointment of a national labor leader as Secretary of Commerce; laboring men and women wouldn't accept appointment of the president of General Motors as Secretary of Labor; and farmers shouldn't be called on to accept appointment of Earl Butz as Secretary of Agriculture.

We oppose Dr. Butz because he is a leading spokesman for those who accept the proposition that it is not necessarily bad to continue eliminating hundreds of thousands of farmers each year and permitting integrators and others to gain more control of the food industry.

We oppose Dr. Butz because he accepts bigness in agriculture and the movement of people off the land as inevitable.

We oppose Dr. Butz because he has identified completely with agribusiness and preached its gospel while serving in the Department of Agriculture in the 1950s, as an administrator at Purdue University, as a widely-traveled speaker, and as a board member for three agribusiness giants.

We are opposed to giving a man with these views and associations a national platform and the tremendous power and influence that goes with being Secretary of Agriculture.

There is no point in mincing words on what this confirmation vote means. It means making a choice on the kind of agriculture and the kind of rural America we want to encourage in the years ahead.

In meeting its constitutional responsibility, the U.S. Senate will choose between an historic commitment to opportunity for people on the land and a goal of mechanical efficiency that drives people out of rural areas, eliminates farm and small business enterprises, and destroys rural communities.

In a 1959 speech quoted in Farmer's Digest, Dr. Butz said "the fact that an individual producer may surrender some of his managerial freedom and may transfer part of his risk-taking to someone else is really a very small price to pay for the advantages that flow out of an integrated system." By this statement and by his testimony before this committee yesterday, Dr. Butz makes clear his concern for the whole chain of food production, handling and marketing. Surely he is an honest man.

Gentlemen, we do not believe the big companies like Tenneco, Dow Chemical, Bank of America, Ralston-Purina, Boeing, and Stokely-Van Camp need the sympathetic assistance of a Secretary of Agriculture in order to survive. Certainly our farm families do need understanding and support.

Some of these big companies, like Tenneco for example, readily concede that these intrusions into farming are part of a bold move to dominate the food industry from field to checkout counter by controlling all phases of production, processing and marketing.

Dr. Butz, by serving on the board of two companies directly involved in these activities, is clearly tied to these attempts to destroy the family farm system and usher in a concentrated, corporate agriculture.

The confirmation situation is further complicated by a conflict of interest in which Dr. Butz took in $26,800 a year as a board member of three agribusiness companies while serving as a dean at Purdue. This committee should determine what services Dr. Butz performed for these companies to make him worth that much money.

It also should find out how well he could serve the farmers of his state as dean of agriculture at the same time he was drawing $12,000 a year as a director of an aggressive integrator like Ralston Purina.

Dr. Butz has disclosed the amount of stock he owns in three agribusiness firms he served as a director—International Minerals and Chemicals, Stokely-Van Camp and Ralston-Purina—and disclosed that this represented about one-third of the value of his investment portfolio. What about the other two-thirds? Is it made up of agribusiness companies or others that would be affected by decisions of the Secretary of Agriculture?

This appointment would put him in charge of programs and regulatory agencies that deal with at least three of his own companies, possibly more, a conflict of interest situation that would not be humanly avoided by merely placing his stocks in a blind trust.

On Tuesday the General Accounting Office issued a report stating that poultry inspection had not eliminated unacceptable conditions in most of 68 plants reviewed. It found that unacceptable condition continued in 17 plants criticized in a previous GAO review. The plants are not named, but will Dr. Butz, the ex-director of the biggest single factor in the nation's broiler industry, vigorously straighten out this situation and end the shortcomings in that industry?

The record will show that in poultry inspection hearings in the 1950s he advocated gradualism. Certainly after 15 years unacceptable conditions should not be tolerated, but will they be?

The committee should determine whether or not the companies in which Dr. Butz has been a director have contributed to improved conditions in the areas in which they operate, or whether they have provided leadership in bringing better conditions. I would like to submit to the committee a copy of a recent Nader report, containing a chapter entitled "Poultry Peonage," with which you might start such research.

Dr. Butz can resign his positions with the agribusiness companies he has served but it is unlikely he will be able to resign his longtime agribusiness biases.

Gentlemen, when you put your stock in trust you still own it. You still have your interest in the companies. How can you expect Dr. Butz to protect free and open bargaining between producers and the companies with which he has been associated?

Taking Ralston Purina's far-flung business interests as an example, possibilities of conflict immediately arise in the supervision of the Commodity and Exchange Authority, the food inspection services, the Packers and Stockyards Administration, and the Agricultural Research Service.

There are a number of other important questions that we feel the committee should explore fully with Dr. Butz during these hearings.

Does Dr. Butz favor expansion of cattle feeding by packing companies, for example, or does he favor legislation that would, in effect, limit feeding to those engaged in agricultural production on a fulltime basis?

Does he favor continuation of tobacco allotments now held by family farmers or would he discontinue this program and turn production over to the big tobacco companies?

Does he favor continued agricultural research centering on high volume, huge concentrations of animals and capital and so-called efficiency or does he favor research that considers social efficiency, people and social costs?

Does he favor integration of the hog industry with eventual destruction of the market and a takeover by big agribusiness firms or does he favor doing what is necessary to keep this industry in the hands of independent producers?

Does he favor international commodity agreements with guaranteed price floors or does he favor an export policy that results in sales abroad at any price?

Does he favor an increase of up to 25% in feed grains price supports or does he favor continuation of the present disastrously low levels being paid to producers?

These are some questions Dr. Butz should be asked before these confirmation hearings come to a close.

There has been a real reaction among farmers to this appointment because few men who have served in the Department of Agriculture have made more inflammatory statements than Dr. Butz. His widely-published statement advising farmers to "adapt or die, resist and perish" is typical.

He is widely known among family farmers for his callous lack of concern about their welfare and the reaction you are seeing and feeling today truly come from the grass roots.

We urged the President to withdraw the appointment the afternoon it was announced. We now respectfully urge you to reject formal confirmation of Dr. Butz, and all that he represents in terms of agriculture and rural America, and to advise the President to name someone who is committed to strengthening rural areas and preserving individual enterprise in agriculture.

NOMINATION OF EARL BUTZ TO BE SECRETARY OF AGRICULTURE

Mr. HUMPHREY. Mr. President, I have received several hundred telegrams and messages registering opposition to the confirmation of Dr. Earl Butz as Secretary of Agriculture. Two of those telegrams are of particular importance in that they come from prominent officials and they also express the concern of rural America. I ask unanimous consent that the telegrams from Gov. J. James Exon of Nebraska and the commissioner of agriculture in the State of Minnesota Mr. Jon Wefald, be printed at this point in the Record.

There being no objection, the items were ordered to be printed in the Record, as follows:

Minneapolis, Minn.,
November 17, 1971.

Senator Hubert H. Humphrey:

The nomination of Doctor Earl L. Butz as Secretary of Agriculture is unacceptable to Minnesota Great Farming Industry that I officially represent. A declining farm population and depressed farm economy could expect only hastened disaster from this chief architecture of the devastating policies applied during the sad administration of Ezra Taft Benson. Minnesota and American agriculture need a Secretary of Agriculture who will champion the cause of the family farmer essential to economic growth, rural development and national population stability. Dr. Earl L. Butz in my opinion is at the opposite pole, a demonstrated champion of cooperate farming. I strongly oppose the nomination of Dr. Butz.

Jon Wefald,
Commissioner of Agriculture,
State of Minnesota.

Lincoln, Nebr.,
November 17, 1971.

Hubert H. Humphrey,
U.S. Senator,
Old Senate Office Building,
Washington, D.C.:

I respectfully urge the United States Senate refuse consent to nominee Dr. Earl Butz for Secretary of Agriculture. Regardless of other considerations, the key reason for my objection to Dr. Butz has been his past record under former Secretary Benson when the nation's farmers suffered their other worst cost-price ratio in the Nation's history. We are in deep economic distress in the farm belt. I am concerned that this fact is not fully appreciated or at least placed in its proper perspective in Washington. An indication that the U.S. Senate is concerned and intends corrective action would be evidenced by your declining to act favorably on this nomination.

Respectfully,

J. James Exon,
Governor of Nebraska.

IUE FRIGIDAIRE WORKERS FORGO PAY INCREASES

Mr. TAFT. Mr. President, the IUE workers at General Motor's Frigidaire plant in Dayton, Ohio, have agreed to forgo their pay increases during the next 2 years. They did this to help preserve their jobs and make it economic for General Motors to recall thousands of their fellow workers previously laid off. As a result of their action, General Motors expects to be able to cut prices on Frigidaire appliances.

I commend these IUE workers for their responsible action. We all recognize that the high cost of living makes pay increases highly desirable and even quite necessary. Nevertheless, these workers have understood that by pricing products out of the market they would be destroying their own jobs. Their action is entirely consistent with the President's objectives of increasing productivity and maintaining wage and price stabilization.

These workers understand that productivity is the key to their job security. Only by increasing the productivity of American industry can American workers have a higher standard of living. These Dayton workingmen and women have the good sense to know that if Frigidaire products cannot be sold they will not have jobs.

They also know that the only meaningful job protection is a productive and competitive work force that can make American products better and cheaper than any other work force in the world.

In a word, they have given up short-term gains for more long-term security. If General Motors is able to reduce the price of its appliances, there will be more jobs in the Dayton area and Christmas will not offer such a bleak prospect for these workers and their families.

I ask unanimous consent that an article from the New York Times of November 22, 1971, relating to this matter be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

GM Appliance Workers Waive Raises for 2 Years

Detroit, November 21.—Workers at the General Motors Corporation's appliance plants in Dayton, Ohio, agreed today to give up future pay rises for two years.

In return, General Motors is expected to recall some of the thousands of laid-off workers and cut prices on its appliances.

G.M.'s Frigidaire Division, which makes refrigerators, washing machines and other appliances as well as auto parts such as air-conditioners, has 10,000 employees. Another 3,400 have been laid off.

Earlier this year the company in a letter to its employees complained that they earned $1 to $2 an hour more than other appliance workers in this country.

The Frigidaire workers belong to the International Union of Electrical Workers, but their G.M. contract followed the pattern set by the United Automobile Workers, and the U.A.W. workers generally earn much more than workers in other appliance plants.

The agreement to eliminate the scheduled wage increases was negotiated in Detroit over the weekend and approved by members of the I.U.E. local in balloting at the University of Dayton field house.

The workers agreed to waive a 3 per cent increase that was due them tomorrow and a similar raise scheduled for a year from now. They also voted to waive a cost-of-living increase, probably about 14 cents an hour, that would come due in December, and any future cost-of-living raises during the current contract.

In addition, the union members agreed to extend their contract, which was scheduled to expire in the fall of 1973, to May of 1974.

Any workers recalled or newly hired will start at 25 cents an hour less than the going rate, subject to approval of the Wage and Hour Division of the Department of Labor. Frigidaire workers now earn $4.34 an hour.

The union also accepted a proposal that it be split into two locals, one for the appliance business and one for auto air-conditioner manufacturing.

The workers who build the air-conditioners will get their raises. There are about 6,000 involved in this work.

General Motors is expected to recall 200 workers Dec. 6 and another 650 Feb. 1.

It is known that General Motors felt that the expensive contract settlements in the auto industry, applied to its appliance business, were pricing its goods out of the market. The layoffs began last fall when the latest contracts with the U.A.W. and the I.U.E. was signed.

There were rumors that the company was considering getting out of the appliance business General Motors admitted it was considering making its appliances in Japan and importing them into the United States. It also said it might have them manufactured by another American company and sold under a G.M. label, or it might halt the manufacture of appliances at Dayton and produce them elsewhere.

TRAGEDY IN ULSTER—IX—ROOTS OF THE PRESENT CRISIS, PART 2

Mr. KENNEDY. Mr. President, the London Sunday Times of November 21 contains the second article in its current two-part series on the recent origins of the present tragedy in Ulster.

The first part, which was published on November 14 and which I placed in the Record last Saturday, November 20, traced the course of events from their peaceful beginning in the civil rights movement of the mid-sixties to August 1970, when the deterioration in relations between the Catholic minority and British troops began.

The second part of the series traces the rise of killing and violence by the IRA provisionals, and the slide into the desperate policy of internment announced in August of 1971.

Throughout these events, as the Sunday Times narrative states:

> The thread in the steadily darkening pattern since 1969 has been the complex interaction of military strength and political weakness.

I believe that until Britain learns, as America learned in Vietnam, that there can be no military solution to what is essentially a political crisis, the tragedy of Ulster will grow worse, and the toll of death and brutality will rise.

The essence of Senate Resolution 180, that Senator Ribicoff and I have submitted, is the call for steps to achieve a prompt and reasonable political solution to the Ulster crisis. If the Sunday Times series demonstrates any single point, it is the futility of the current single-minded search for a military solution.

Mr. President, I believe that the present article contains an extremely valuable analysis of the Ulster tragedy, I ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the London Sunday Times, Nov. 21, 1971]

Insight: A Perspective on Ulster, Part 2: Two Shots That Killed a Last Bid for Peace

Last week's narrative plotted the origins of the strife in Ulster. It told how the movement to win equal civil rghts for the Catholics met with reluctant reforms from the Orange supremacy, and with violent repression which in turn fostered increasing Catholic militancy. It told how, by a compound of political misjudgments and ancient suspicions, the role of the British Army was changed—from August 1969, when it was sent in to protect the burning Catholic ghettoes, to August 1970 when it found itself facing a hostile Catholic population. As we take up the narrative, the scene was set for the rise of the gunmen of the Provisional IRA.)

James Callaghan, Labour's Home Secretary, was already planning direct rule in Ulster—control of the province from London—when Labour lost the election in June 1970. Few of his colleagues knew. The Prime Minister, Harold Wilson, did know, and was "dithering," Callaghan remarked at the time. The Cabinet had not been approached.

Callaghan's mind appears to have been made up. He now tends to say merely that he was "reviewing" the situation, but we have no reason to doubt a detailed private account of his intentions which he gave at the time.

In view of what has happened since, it is worth examining both the reasons for Callaghan's direct rule plan and the difficulties his civil servants then foresaw.

Callaghan was fed up. He thought that the Catholics were stringing the British Government along, making fresh demands as soon as old ones were met. Somewhat in contradiction to this, he had also come to doubt the will of the Stormont Parliament to put into effect even the modest reform programme Labour was pressing—and he had equally small faith in the ability of the Ulster Prime Minister, James Chichester-Clark, to carry it out.

"It's absurd," Callaghan said of Stormont, a few days before the 1970 election. "Here they are, with all the panoply of government—even a Prime Minister—with a population no bigger than four London boroughs. They don't need a Prime Minister, they need a good Mayor of Lewisham." (As a model of government, Lewisham may not habitually spring to mind, but Callaghan's wife used to be a GLC councillor there.) With some misgivings, his civil servants agreed.

Much Whitehall staff work had gone into the mechanism for direct rule. At the Home Office Callaghan had a document drawn up examining three possible ways of taking over Ulster. (Since then the document has grown: five possible forms of direct rule have been explored.)

It is said today that direct rule would entail a full-scale military "invasion" of Ulster, followed by an army of Whitehall officials to replace what is seen as a potentially mutinous bureaucracy. That indeed may have to be the scale of any future operation. The 1970 plan was less dramatic.

About 15,000 troops would have gone over—1,000 more than we have there now. Many of the troops, it was thought, could be withdrawn again in a few days. The Ulster Civil Service would carry on, it was reckoned, and only a few dozen Whitehall men, already selected and briefed, were to go over to improve the quality of administration at key points.

The timing of the direct rule intervention depended on the British General Election (June 18, 1970) and events in Ulster. The "season" of Orange marches (June to August) was just about to begin. For a variety of reasons—including the practical difficulty of enforcing a ban—Callaghan was proposing to let the marches go ahead, though several of his colleagues feared bloodshed. If there had been trouble, it would, he recognised, have at least the virtue of justifying direct rule.

This, of course, was the crucial moment when government and the Ulster problem unexpectedly fell into the lap of the Tories and of Reginald Maudling, the new Home Secretary. It is possible that Maudling did not even know what Callaghan had in mind—because of the Whitehall custom of not telling Ministers of new Governments what their predecessors had been up to.

AN ABRUPT END TO THE ARMY'S "HONEYMOON"

As we recounted last week, fears of bloodshed as the Orange marches got under way were amply fulfilled. Within ten days of Maudling taking over, he was faced with the first entry of the gunmen of the Provisional IRA into organised action (during the Protestant seige of St. Matthew's Church, East Belfast, on June 27). And he was faced with the abrupt end of the Army's "honeymoon" with the Catholic population (which can be dated fairly precisely to the Army's July 3–5 curfew and house searches in the Falls Road Catholic ghetto). By the end of that one disastrous week of rioting and disorder, the toll was ten dead, 276 injured and £500,000 of damage.

But instead of responding—as Callaghan had planned to do—with the immediate imposition of direct rule, Maudling left Stormont to impose "law and order" of a different kind.

Anyone who supposes that "firm measures" alone are the cure for the ills of Ulster should examine the next episode with care, for it is hard to imagine that there was ever a measure which was firmer, in its way, than the Criminal Justice (Temporary Provisions) Act 1970.

On Monday, June 29, 1970, after the rioting and shooting which followed from the decision of the Army GOC, General Sir Ian Freeland, to "push the Orange parades through the Ardoyne," the Ulster Cabinet met in a state of something like panic. In anticipation, the Minister of Home Affairs, Sir Robert Porter, and the Attorney-General, Basil Kelly, had spent the weekend cobbling up a new piece of legislation, to provide *mandatory* prison sentences for rioters.

The Cabinet had been toying with this for six months. The chief advocates had been Freeland and Brian Faulkner—as Minister of Housing and Local Government and a member of the Security Committee, he has the most influential hardliner in the Cabinet. Freeland had always pressed for two changes in the law: stiffer sentences and a new blanket charge to cover people who might be merely *present* at a riot.

Without dissent, the Cabinet approved the hastily-drafted legislation, applying minimum six-month jail terms for anyone convicted of "riotous behaviour," "disorderly behaviour" or "behaviour likely to cause a breach of the peace."

Inevitably, the Army was going to be the chief instrument for applying this crude legal device—because the Army would be doing the arresting in riots. The theory was that the Army would hand over anyone arrested to the Royal Ulster Constabulary for charging. But the first that Sir Arthur Young, the head of the RUC—sent by Callaghan in 1969 from the City of London police to clean up the Ulster force—heard of it was when one of his officers, Bill Meharg, burst into his office as the Cabinet broke up and said: "You will never guess what they've done now." Young was appalled.

Freeland saw no problems. He complained at the next meeting of the Security Committee that it was "too little too late." But the more thoughtful members of the RUC saw the peril.

It was, as Porter more or less admitted in Stormont, unnecessary on a strictly legal basis. Already, there was an ample battery of charges to deal with trouble on the streets, ranging from breach of the peace through disorderly and riotous behaviour, unlawful wounding, grievous bodily harm, and even arson, with further penalties for weapons. But all these charges, of course, needed the specialist disciplines and skills of a police force to make them work.

These were the skills the Army lacked. Now, as the police saw it, the law was being bent for the Army's benefit—and normal police work would suffer in consequence. Deprived of the traditional breach of the peace charge, for instance, the police would find it hard to cope with non-sectarian, Saturday night drunks.

The legislation was unstoppable: Stormont rushed it through in a record eighteen-hour debate. Only two MPs challenged it line by line: Ian Paisley, who had just won a by-election, and his ally William Beattie. (Paisley, it should be said for the record, is one of the few men at Stormont with any sort of consistent record in opposing military excess and despotic law. Most people affect to see this as nothing more than concern for the necks of his own more extreme supporters, but there is a certain gristly integrity to Paisley's mind which separates him from the *Eatanswill* traditions of Stormont at large.)

One of Paisley's complaints was that the Bill was so ill-drafted as not to make sense in parts, and Basil Kelly's own words, must surely be unique for an attorney-general recommending a piece of legislation to a parliament. "Inevitably," he said, "harsh cases will arise as a result of this Bill, perhaps even wrong convictions on the basis of mistaken identity."

The spirit in which this warning was received was encapsulated in the words of Captain Robert Mitchell, MP for North Armagh. "It brings in," he said with satisfaction, "an element of ruthlessness."

The results of this hasty legislation were soon made apparent. On August 1, in a disturbance in Belfast, a former chairman of the Civil Rights Association, a dentist called Frank Gogarty, was recording the sounds with a microphone and tape. He was stopped by an Army patrol, bundled against a wall and searched, being thrown against the wall twice in the process. When he protested, he was cursed, kicked and thrown into a jeep, at which he said: "Stop kicking me, you British bastards."

Gogarty was charged with disorderly behaviour and, because of his "insulting and abusive" language, with behaviour likely to cause a breach of the peace."

In court, the soldiers agreed with Gogarty's account of his arrest—as a private put it, he had not been "handled with kid gloves." The magistrate dismissed the disorderly behaviour charge, and the language he found nothing worse than "a case of bad manners."

It did, however, constitute behaviour likely to cause a breach of the peace. Gogarty had to get the mandatory six months—the magistrate saying that he would support a petition for his reprieve.

On appeal, however, Gogarty's sentence was actually *increased:* he was now bound over for two years as well as being jailed.

There may be faster methods of alienating moderates, but it is hard to think what they might be.

A Belfast docker, 20-year-old John Benson, was the next celebrated victim. He painted "No Tea Here" on the wall of his street—a reference to the now defunct practice of giving tea to the troops. Beside such ubiquitous Belfast graffiti as "Taig Bastards Out," this contribution was scarcely inflammatory. But the Army complained to the police, and a constable traced Benson by following a trail of red paint drips back to Benson's kitchen.

Deciding that the slogan was "an obvious attempt to intimidate people," the magistrate gave Benson the requisite six months for breach of the peace.

HOW THE STAGE WAS SET FOR THE PROVISIONALS

This sort of case was so clearly disastrous that Attorney-General Kelly approached the police. Could they, he suggested, "bend the law" a little, and use new charges that did not carry mandatory sentences? There was, according to police sources, an argument of some heat when Young said flatly that the only solution was a repeal of the Act. The judiciary—particularly the magistrates—took the same view.

The Cabinet finally succumbed to pressure in December, 1970, and with some sleight of hand repealed mandatory sentences for everything except riotous behaviour.

But by Christmas, 1970, the damage was done. The Ministry of Home Affairs' statistics reveal the fearsome range of the Act. Between July 1 and December 17, 1970—when repeal took effect—269 people were charged with riotous or disorderly behaviour. The police withdrew 129 of these before they came to court; and reduced the charges in 22 cases. (Nine cases dragged on and had still not been heard when the statistics were assembled.)

In the end, therefore, 109 defendants went to court on charges carrying mandatory prison sentences. *Everyone was convicted.* Only four of 17 sentences that went to appeal were reversed.

But the fact that of 269 charged only 109 finally came to court shows that in effect the police were sabotaging the Act by introducing an element of discretion into its working. This sounds worse but the Catholics maintain, with some justice, that this discretion—extended by the partial repeal—has been consistently exercised in Protestant favour.

Inevitably, the Criminal Justice Temporary Provisions Act 1970 came in Catholic eyes to rank, after the Special Powers Act, as the second most repressive piece of legislation at Stormont's command. *And the Army was Stormont's instrument for enforcing it.* Polarisation was complete. The stage was set for the emergence, at last, of the Provisionals

So far this narrative has made little mention of the headline-takers of today, the gunmen and bombers of the Provisional IRA. The reason is simple. Although the origins of the Provisionals (the Provos) go back beyond the entry of the British troops, their rise to power in the Catholic communities was markedly late, and their descent into war with the British Army later still. Not until February 6 this year was the first British soldier killed by a Provisional. Not until *April* did General Farrar-Hockley sit down to write a military assessment forecasting—accurately—that a Provisional bombing campaign "is *now* inevitable" (our italics).

This lag of 18 months between the entry of British troops and the opening of the Provo offensive is now forgotten. The common argument is that *because* the Provisionals are undoubtedly violent men, many of whom have welcomed conflict with the Army, *therefore* they have caused the trouble. In a context less emotional than Ireland, the non sequitur would not be accepted for a second. As we have tried to demonstrate, the thread in the steadily darkening pattern since 1969 has been the complex interaction of military strength and political weakness. The Provisionals have reacted to these events.

Certainly, the Provisionals are gunmen, bombers, murderers. But why—if they are such conspiratorial desperadoes—did they take 18 months to emerge, and how did they finally do so?

The IRA in Belfast is essentially a different animal from the IRA elsewhere in Ireland, for the cold-blooded reason that the Catholic enclaves of the city, particularly around St. Matthews' in east Belfast, are peculiarly exposed to Protestant reprisal. Previous IRA campaigns have thus avoided the city, and the IRA men there have seen themselves very much as community *defenders* against potential Protestant attack—with highflown ideas about fighting for a 32-county Republic way down their list of objectives.

Given the unchanging geography of Belfast, and the tradition-bound nature of

Ulster society in general it is surprising that there should have been men, like the Belfast Falls IRA leader Jimmy Sullivan, who were actually willing to follow the official IRA Dublin leadership into such new-fangled ideas as supporting Bernadette Devlin's election to Westminster (thus tacitly accepting the separate identity of Ulster as part of the United Kingdom).

But as the IRA leadership moved through the 1960s away from their simple historic dedication to a 32-County Republic and into the Civil Rights movement by way of an optimistic brand of socialism, many old-time Belfast IRA men were inevitably bewildered by this change. Those men became, for the most part, the leaders of the Provisionals.

The split over the leadership's Left-wing policies came in 1964. The IRA in Belfast then consisted of a single "battalion," an impressive title for a scrappy gang of rather under 100 activists. The commander, Billy McKee was overthrown—nominally, in a dispute over the carrying of the Republican tricolour flag on one occasion—and a group of diehards promptly marched out with him. Their names now read like a roll-call of top Provisionals: Joe Cahill (ex-Chief of Staff, now in the South); Seamus Twoomey (present Chief of Staff); Billy Kelly (recent leader of the Provisionals' Third Belfast Battalion, now in the South) and, later, Sean MacNally (now Provisional Quartermaster-General).

To replace McKee, the "official" IRA hierarchy elected Billy McMillen, with Jim Sullivan of the Lower Falls as his number two. But even several of those who stayed "official" were unhappy, notably Francis Card (later to be the Provo's propaganda chief, now jailed) and Leo Martin (still at large).

The collapse of the "official" IRA came over the issue of arms. To raise money to sustain the IRA newspaper, the United Irishman, the Dublin leadership decided in 1968 to sell their now, hopefully, unwanted—weapons to the Free Wales Army (who promptly lost them to the Scotland Yard Special Branch).

This, naturally enough deepened the resentment in Belfast. As violence grew in the summer of 1969, some of the old hands took "precautions." Francis Card secreted three pistols under the bath in his house near the Clonard Monastery, Leo Martin paid £8 for a Smith & Wesson revolver. But rearmament remained on this minuscule scale.

It is a part of Provo mythology that the official Dublin leadership of the IRA actually planned that the Belfast Catholics should be left unarmed before Protestant attack in 1969. The weird theory, supposedly, was that there would be a terrible massacre which would eliminate the troublesome Belfast dissidents and finally bring down Stormont as a byproduct. When the old IRA fears came true, and the Protestants did attack Catholic areas of Belfast in August 1969, the inability of the "official" hierarchy to do their traditional job of community defence finally discredited them.

In September, 1969 after a meeting at which guns were drawn, the IRA leadership in Belfast—under pressure from the old-timers like McKee who had re-joined—declared their independence from Dublin. The actual split in Belfast between the "Provisionals" (the old-timers) and the "officials" (who still looked to Dublin) came in December.

In August, 1969, the "joint" IRA strength in Belfast was just under 150; by December it had swelled to 600. But of these only 80 or so were hard-core, and when the two factions split, although the Provos took about 400 men with them, they took only 30 or so of the trained activists.

This did not worry the Provos. They reckoned that an effective urban guerrilla campaign required a nucleus of only 50 well-trained men.

There were still pockets of Republicanism which preferred to go their own way. The Catholics of East Belfast, clustered around the Short Strand, formed their own "community deference association" and have remained to this day something of a no-man's-land for either IRA faction.

Only the Lower Falls, under Jim Sullivan's sway, remained an Official stronghold plus the Turf Lodge district of west Belfast, where several hundred old Falls' residents had been rehoused (Sullivan had retained his reputation in August 1969 by producing three Thompson sub-machine guns for the defence of the Lower Falls.)

Much of the quiescence of the first six months of 1970 can be accounted for by these regroupings in Belfast. The Provisionals and some of the "neighbourhood defence militia" went training that spring in camps over the border in Donegal, Cork and Wicklow. There was much reading of guerrilla manuals, notably the writings of General Grivas. The Provisionals were simply not strong enough to take anyone on—even if they had wanted to.

Did they want to? The Army's relations with the Catholics were good—though to a large degree that reflected merely the fact that the Army's relations with the Protestants were at that time bad. There is some evidence that the Provisionals were unhappy with this fraternisation, and missed few chances to spread a little disaffection.

Yet, remarkably, until the summer of 1970 the only traceable incidents for which the Provisionals were definitely responsible were one shooting and one bombing. The shooting was on September 28, 1969, when a Protestant crowd made to storm the isolated Unity Walk Catholic Flats near the city centre and a Provisional inside the block tried to frighten them away with a burst of Thompson fire. And on January 27, 1970, in an obscure act of retaliation for an alleged act of Army misbehaviour, the Provisionals blew a hole in the wall of the old police barracks by Unity Flats—the soldiers inside narrowly escaping injury.

Even in the first clash between the British Army and the Catholics—the riots, sparked by an Orange parade, on the Ballymurphy estate in west Belfast over the first three nights of April, 1970—there is evidence that the Provisional leadership thought the Ballymurphy riots should be stopped, and formed a vigilante squad to haul off troublemakers.

There is no evidence that Ballymurphy changed the Provisionals' attitudes. What did, however, decisively affect first the Provisionals' own perceptions and then the Catholic population's readiness to endorse these, were the events of June-July, 1970, which we described in the first article: the shoot-out with the Protestants at St. Matthew's Church and the Army's curfew of the Falls.

These events shook the Provisionals. The St Matthew's battle pointed towards a doctrine of militant self-help. The Falls curfew seemed to indicate that, under the new Conservative Government, the Army was now to take a much tougher anti-Catholic line. The Criminal Justice (Temporary Provisions) Act seemed finally, in the Catholic eyes to cement the military into the structure of Unionist supremacy.

Recruitment to the Provos was dizzily fast in the last half of 1970. There was sporadic Catholic rioting, but it was neither of the Provisionals making nor in their control. By the end of 1970 the Provisionals were in the odd situation of being, at least, the acknowledged leaders of an increasingly uncontrollable community. And Chichester-Clark's reform programme was still in the pending tray.

Chichester-Clark was among the optimists of Ulster. When the troops moved into Derry and Belfast in the 1969 riots, he thought they would be back in barracks within 12 months. When those 12 months in fact ended with the Orange parades and the Falls curfew, he thought the first a success and the second justified. When the winter of 1970 seemed quiet, Chichester-Clark and his Cabinet colleagues began to murmur that the trouble was over. The Army was disconcerted. "We used to tell them: 'For God's sake your troubles are ahead of you,'" one senior army officer recalled. "But they wouldn't listen."

The root of Chichester-Clark's optimism did him credit, however. In 1969 he, like most Ulstermen had blamed the trouble on the IRA. But while his Cabinet colleagues had remained of that fundamentalist persuasion, Chichester-Clark had in 1970 come to believe the IRA at that time was secondary. "The trouble really is communal discontent," he once said privately. And this he thought his reform programme would assuage.

WHY THE REFORM MEASURES COLLECTED DUST

But Chichester-Clark was isolated. He was worried about upsetting his own backbenchers. He had no pressure from the new Conservative Ministers in London to make his party come to heel. So, despite his perception of the ills of Ulster, Chichester-Clark allowed the proposals to stay in the pending tray (when the new Prime Minister, Brian Faulkner, announced his Green Paper of reforms this autumn, it was the year-old draft prepared for Chichester-Clark with Chichester-Clark's own handwritten notes in the margin).

Through the winter of 1970, the only consistent pressure on Chichester-Clark for reform was from the British civil servant Ronald Burroughs. He had been sent to Ulster by Harold Wilson and stayed as the British Government's representative when the Tories came to power.

Yet even his inability to put through reform did not dent Chichester-Clark's optimism. When he told Burroughs that the proposals were "not practical," Chichester-Clark meant merely that he could not yet force them upon his mutinous party. Most particularly (and now most ironically) Chichester-Clark meant that he could not force them through his Cabinet against the objections of Faulkner.

But by the end of 1970 time had run out. In a complex series of interactions, the volatile brew of political timidity, random communal riots and nascent guerrilla terror, was about to explode.

The riots on the Ballymurphy estate, West Belfast, in January, 1971, began a double political process: Chichester-Clark's disenchantment with reform (an odd disillusion since he had not tried it) and his increasing attachment to strong measures. But the riots were remarkable for something else: a secret attempt by the Army to enlist the Provisionals of the IRA in keeping the peace.

The Second Royal Anglian Regiment had assumed the task of controlling Ballymurphy and a wedge of West Belfast some months before. Although the Anglians are a notably unflappable regiment with one of the best reputations for coolness in Ulster riots, the help of the community leaders was clearly needed to keep the peace.

Quietly the Anglians' colonel, Gerrard Wright, resurrected the practice of his predecessor and began to talk to the local Provisionals. The men he met were a formidable trio: Francis Card, number three on the Provisional Brigade Staff, who lived by Kashmir Road in the Clonard; Liam Hannaway, also on the Brigade Staff, and his brother Kevin, commander of the Provisionals' "Second Battalion" covering both Clonard and Ballymurphy, who lived in Cawnpore Street, by the Clonard monastery.

The contacts continued on a regular basis through the months of sporadic rioting in Belfast at the end of 1970. Both sides seem to have seen them as an inexpensive intelligence operation. Neither side can have guessed what they would become.

When the Ballymurphy riots began, the circumstances were such as to suggest to the Army that the contacts with the IRA Provisionals might be helpful.

It was clear to the Army that the petrol bombing was random hooliganism: "At no time," says the Army headquarters log for the time, "was there aggressive action by organised groups. There is eyewitness evidence that the rioting might have been bloodier on January 12/13, 1971 but for the fact that the Provisional leadership were working to stop it. According to two sources, the Provisionals actually placed some youths under armed arrest.

AN ARMY SEARCH ENDS A TACIT TRUCE WITH IRA

On January 13, so far as the participants can now remember, the Army got in touch with the Provisional leadership to appeal for help in cooling Ballymurphy.

The sequence of events—agreed by IRA and Army sources—is that Francis Card was invited to an Army post in North Howard Street, to be warned of a rumored threat against his life. The subject of Ballymurphy was raised—and at a meeting later in his house in Cawnpore Street, Liam Hannaway, told the Army: "If you get out of Ballymurphy we can control it without your assistance."

It was a long meeting, apparently a couple of hours. Leo Martin, who joined the talks with the Army, made the toughest demands. But both sides explored possible solutions. The Provisionals rejected a suggestion that the RUC should go back into Ballymurphy in place of the troops. On the other hand, the soldiers did not apparently reject the idea that they should allow the IRA to keep order.

The meeting was broken up by renewed rioting in Ballymurphy. And the next morning, January 4—acting on the orders of higher authority"—700 troops began a house-to-house search of Ballymurphy.

Before the rioting finished that night, 42 petrol bombs and three bottles of sulphuric acid had been thrown, and guns had at last been used, wounding one soldier.

Even for the Provisionals, the thought of taming Ballymurphy was now daunting. One of the leaders told us much later: "We were in control of Ballymurphy in a normal situation. But it is a big area. There are thousands of teenagers there who detest the British uniform. Every time they saw one in these riots they went berserk. And we couldn't start beating people around because we disliked the British, could we? The people we had in Ballymurphy were swamped—say 20 rioters to one nonrioter. . ."

There is a sliver of evidence that Chichester-Clark learned on January 15 of the Army's discussions. He made the odd public announcement that day to the effect that the Army would not be leaving Ballymurphy "in response to physical force or to any form of political pressure."

But though the Ballymurphy riots were successfully quelled by the evening of January 16, with whatever sort of collaboration between Provisionals and Army, there was dwindling confidence by both sides in the viability of their discussions.

We cannot say how frequently the two sides met during the latter part of January, but contact was apparently "regular" between Colonel Wright, Francis Card and Liam Hannaway. One officer explained: "We felt that some sort of communication was better than no communication at all. Every meeting was calculated to produce some glimmer of contact, spreading one's net. They thought they were conning us. We thought we were conning them. Neither of us was successful."

The Provisionals wanted the political success of an agreement with the Army in Ballymurphy. The Army was equally keen on a tacit truce with the Provisionals, if only to help Chichester-Clark's survival by keeping the streets quiet.

But the Provisionals could not keep their mouths shut. On January 27, William Craig, the hard-line former Minister for Home Affairs, told a sensational story in Stormont. Two RUC constables, he said, had been patrolling in the Clonard area when a pair of Professionals had advised them to leave the area if they valued their lives. The police approached an Army patrol, *who confirmed the advice.*

The first point to be made is that the anecdote is true. The second is that while the Clonard and Ballymurphy areas had for months been virtually "no go" areas—where the police went only by vehicle and by day—Craig's story of expulsion was, to the Unionists, new and sensational.

Was the Army acquiescing in Provisional authority in parts of Belfast? The Provisionals thought the Army was.

According to Liam Hannaway, the Provisionals were promised (at a meeting around February 1, Hannaway thinks) that there would be no military or police activity in the Clonard while talks between the Army and the Provisionals were in progress.

This view is supported independently by another IRA man. The Army's recollection of the date of the meeting is uncertain: either around January 20 or "early February". But senior officers passionately deny that any deal resulted from the meeting.

What happened next certainly ended any faint chance of an agreement.

On Wednesday, February 3, the Second Royal Anglians, on the orders of General Farrar-Hockley, the second in command in Ulster, cordoned and searched the Clonard and Ardoyne areas. Army sources say that the RUC Special Branch had learned of Provisional documents—either stolen or compiled by the IRA—giving personal details about Special Branch men. (Whether these were home addresses and habits, or the sort of material that could lead to blackmail, we do not know.) The Army was asked to retrieve the documents, which, the sources claim, they did—apparently in Hannaway's house.

In the Clonard, the Army stayed around after the search, and Catholic rioting broke out. Then when Protestant workers from the nearby Mackie's engineering works came out to lunch, and began to jeer the Catholic crowds and even pelt them with "Belfast confetti"—as the local mixture of ballbearings and the tiny discs produced by shipyard riveting is called—the Army and police ostentatiously turned their *backs* to the Protestant confetti-throwers and concentrated on the Catholics.

Around four in the afternoon, after a few hours of calm, it was evidently decided to clear the streets. The soldiers did this before the Mackie's workers were due to come out again by roaring up and down in their jeeps. At least two people were knocked down.

The operation was a deliberate show of Army toughness. The idea, we have been told, was to "cut the Provisionals down to size" by demonstrating that the Army could invade their home territory whenever it wished. If the idea was to humiliate the Provisionals, however, its effect was on the contrary to solidify the Clonard behind them.

The rioting over the two nights which followed was the worst the Army had faced in Belfast. In one encounter on the New Lodge Road, five soldiers were wounded in a burst of machine-gun fire. Another had his thigh broken by a gelignite bomb. In the two days eight soldiers were wounded, one seriously.

As these riots moved into their second day Farrar-Hockley appeared on Ulster Television. In answer to the point that the searches had caused serious riots, he made a momentous statement: "We searched this area because we have good evidence that it harbours members of the IRA Provisionals," he said.

He proceeded to name Francis Card, Billy McKee, Leo Martin and Liam and Kevin Hannaway as Provisionals of "some braggadocio." He neglected to say that these were the same Provisionals with whom the Army had been in talks. Martin, who happened to be watching television when Farrar-Hockley spoke, had an interesting reaction: "That's a breach of confidence," he said.

It was also exceedingly embarrassing for the Provisionals, *because their own followers did not know about the discussions and might have been outraged to learn of them.*

There were no more talks. The Provisional leadership now felt it had to prove its readiness to take on the British Army.

On the following night, February 6, Gunner Robert Curtis, aged 20, of 94 Locating Regiment, Royal Artillery was shot dead in the New Lodge Road. He was the first of 36 British soldiers killed at the time of writing. Four of his companions were wounded, one critically.

That same night, three other soldiers were injured. The Army killed one Republican sympathiser, 28-year-old Bernard Watt, and 19-year-old James Saunders, a staff officer in F Company of the Provisionals' Third Battalion.

Chichester-Clark announced on television: "Northern Ireland is at war with the Irish Republican Army Provisionals."

Contemplating Chichester-Clark as he said that, the British representative Burroughs sent back a report to the Home Office—advising them not to give in to the Prime Minister's demands for more force. Whatever they did, he said, "I think Chichester-Clark has shot his bolt."

Chichester-Clark had been talking since January of resigning, but to everyone's surprise he put a good final fight. The mounting IRA campaign of violence impelled him to demand still more troops from Britain and tougher action in the Catholic areas which Maudling and Carrington in London turned down on the advice of the Army.

AN "ASTONISHING" DOCUMENT FROM THE CABINET

Talking at Lisburn shortly before midnight, on Saturday, February 20, 1971, Ronald Burroughs and General Farrar-Hockley received a document from the Stormont Cabinet. It subsequently became famous in high Government circles: one of the dozen or so people who saw it called it "the most astonishing document I have ever seen from a Government department in my life."

It was an ill-typed list, covering two pages, of the Unionists' Military "demands." These included—besides such obvious measures as more troops, and more arrests—block searches, total curfews of Catholic areas, sterner action on the border, and a plan to bring the Ulster Defence Regiment, the reformed B-Specials, into parallel operation with the Army.

But the most startling demand was apparently written in at the foot of the first page as an afterthought. So far as we can gather, the Unionists wanted searches of Catholic areas as straight reprisal raids.

"It was militarily useless, morally wrong, and in the long term politically self-defeating," was one judgment. Burroughs and Farrar-Hockley submitted a joint memorandum to London saying that the document was unacceptable in every major respect. It was rejected. (Many of the measures, however, have since crept into use under Faulkner.)

The *coup de grace* was suplied by the Provisionals. On the evening of March 10, three young Scottish soldiers were shot in the back of the head outside a pub on a country road near Belfast. Scotland Yard detectives later concluded that their murderers were three Provisionals, led, ironically, by an ex-British paratrooper. The reaction to the killings was so intense in Ulster that for about 48 hours, Chichester-Clark feared that the Protestant "backlash" had been precipitated at last.

On March 16, he flew to London to see Heath, Carrington and Maudling. He returned to report to Stormont on March 18 that Westminster had agreed to send another 1,300 troops of the 3,000 he had asked for. "It wasn't anything like enough and everyone knew it," he remarked after the debate.

The next morning, Friday, March 19, he told Downing Street that he intended to resign. At nine that evening, he was sitting in his flat in Stormont Castle eating chicken and chips with three senior civil servants. The telephone rang. It was Heath.

"I didn't realize it was as critical as that," he said. "Why on earth didn't you tell me?" (As Chichester-Clark remarked later: "Short of leaping on the Cabinet table at Number Ten, I thought I could hardly have made it clearer.") Heath tried to dissuade him. "All you're doing, Jimmy," he shouted down the line in tones of unmistakable anguish, "is passing the bloody buck."

The next man in as Prime Minister, chosen by a handsome margin over William Craig, on March 23, was Brian Faulkner.

There is a story about Brian Faulkner which is famous in Unionist circles, and is held to illustrate his most important political gift: agility. It concerns a visit which he paid to the South when Minister of Commerce under O'Neill.

Ulster politicians who happened to hear the Dublin radio that day were startled to hear that Faulkner had visited the Dublin Horse Show—and had been seen in the Presidential box with the arch-Republican, Eamon de Valera himself. They noted that this remarkable event had occurred too late to be reported in the Belfast Telegraph (an evening paper). But still they wondered how Faulkner, a man who had risen on the power of the Orange Right, could hope to get away with it.

They understood next day, when the Belfast News Letter, the morning paper, carried a report of a vibrant denunciation of the Roman Catholic Church—made by Brian Faulkner in one of the Ulster border counties. Having made his gesture towards the South, Faulkner had jumped into his car and driven rapidly north to redress the balance.

Terence O'Neill, when he was Premier of Northern Ireland, used to say that the political style of his most brilliant Minister was summed up in elaborate trade-offs of this kind. And so it was natural that Faulkner, on becoming Prime Minister, should attempt to save the Province with a balancing act. He tried to bring the Catholic-based opposition into the process of government, without alienating his power-base in the Unionist Right.

The collapse of this balancing act led directly to the policy of internment. But Faulkner failed not because he had lost his old instinct for equilibrium: the proximate causes of failure were firstly certain rifle-shots fired by the British Army, and secondly the interplay of personality within the Social Democratic and Labour Party.

Among the Unionists and their rivals in the micro-society of Ulster, individual personality can still sway history. For instance, many people think stability would have been preserved had Faulkner—"a real professional"—become the Unionist leader immediately on the fall of O'Neill in 1969.

He did not do so simply because O'Neill chose to cast his own vote for James Chichester-Clark, the very man whose defection had just brought O'Neill down. "I did it," O'Neill once recalled, "because Jimmy had only been trying to bring me down for six weeks. Brian had been trying for six years. Childish, isn't it?"

The Social Democratic and Labour Party is no less prone to feuding: the bond between its members is less ideology than that all their constituencies have Catholic majorities. The SDLP's leader, Gerry Fitt, is a rumbustious ex-sailor with the back-slapping manner of a minor US Senator. The style does not sort particularly well with that of John Hume, an intellectual meritocrat from Derry. And Fitt has had some mighty personal disputes with Paddy Devlin, an enormous whiskered man who represents the Falls Road area. (On one momentous occasion, they traded punches in Stormont Castle.)

FAULKNER'S "BEST HOUR"—THEN TWO MEN DIE

But these are men of some ability and vitality, frustrated by the prospect of permanent opposition amid the slapstick repartee of Stormont. (Sample: Mr. Currie—"When was the Council of Trent?" Mr. Devlin—"I do not know. It is some bar down around Sandy Row." On June 22 this year in his speech on the Queen's Message, Faulkner made a considerable gesture towards relieving that frustration.

He proposed to add three new and powerful committees to the existing Public Accounts Committee, which would consider Government policies on social services, industrial development and environmental matters. And, much more radically, he proposed that the Opposition should provide salaried chairmen for two of them.

It was an imaginative, even brave, move. Faulkner had taken over against a background of steadily escalating violence. From the end of March the Provisional bombing campaign had really cut loose—37 major explosions in April, 47 in May and 50 in June when Faulkner made his offer.

The SDLP members reacted euphorically. Faulkner's proposals, said Paddy Devlin, "showed plenty of imagination. It was his best hour since I came into the House. . . . The Prime Minister has given Hon Members and indirectly those outside an opportunity to share in decision-making."

John Hume said that "it should be made clear to all people today who say that no change has taken place, that this is simply not true. There have been changes in this community. . . ." Another member spoke of "adulation" coming from both sides of the House: against the background of normal Catholic attitudes to Unionists, "adulation" was fair.

Six days later, Faulkner "balanced." With five members of his Government, including Harry West of the ultra-Right, he made a pilgrimage to Brownlow House, Lurgan, a true shrine of Orange ideals. (Though, to keep the colours straight, Brownlow House is the home, not of the Orange Order itself, but of the Royal Black Institution—the Blackmen being the crême de la crême of Orangemen.)

Faulkner's symbolic gesture to his Right wing might, and ought, to have been tolerable to the Catholics against the substance of his political offer in the face of mounting Unionist anger about the bombing campaign. But nine days later in the Bogside of Londonderry—John Hume's seat—the Faulkner initiative was doomed by a series of accidents.

Relations in the Bogside, Derry, between the soldiers and the Catholic population deteriorated in the first half of 1971 almost as rapidly as in Catholic Belfast. By the night of July 7, rioting had been going on unbroken for four days, and the Royal Anglians had been fired on sixty times by their count. It says a good deal for the fire discipline of his regiment—the Anglians have a reputation for unusual coolness and restraint—that only three shots were fired in reply.

The night of Wednesday, July 7, was noted as "busy" in the Army log. Rubber bullets were fired on several occasions, and shortly after midnight a patrol began to march down William Street, a main thoroughfare where heavy stoning and petrol bombing had been going on.

A man was seen "carrying a rifle" in Fahan Street. According to the Anglians, he was ordered to stand still, but moved to a new position and took aim.

A marksman fired one round from his self-loading rifle, at short range. The man fell, and was immediately borne away by the crowd. When the patrol reached the spot, there were huge pools of blood but no sign of any rifle.

The shot man was Seamus Cusack, an unemployed welder, aged 28. He was hit in the femoral artery, causing heavy bleeding. He was put in a car and driven across the border to Letterkenny Hospital, where he died from loss of blood. Immediate treatment, or even the application of a tourniquet in the car, might have saved his life.

As the Army see it, Cusack's fatal removal across the border is proof that he was an IRA gunman, who could not face treatment in Ulster. But Bogside people injured in riots regularly cross the border for treatment, because they fear that Ulster hospitals might give their name to the security officers.

It was, in other words, a kind of routine to take Cusack to Letterkenny. It appears that sheer inexperience led his rescuers to think that he was not badly hurt.

Cusack was not known to belong to any Republican organization; local opinion is that he was more interested in boxing than politics. Patrick Duffy, a well-known moderate whose peace-keeping efforts have been praised by the Army, says: "I would swear on oath that Cusack was stooping to pick up a helmet knocked off a soldier." Other witnesses think that Cusack was trying to rescue Duffy's little son from the line of fire.

Extreme Protestant opinion holds that a few shootings will bring back law and order. But in Derry that afternoon Cusack's death caused further, bitter rioting.

Just after 3 p.m. an army vehicle was rammed by a hijacked lorry. An Anglian patrol in a Saracen amoured car was called to help, and the Army log records that there were three loud explosions from nail bombs. Petrol bombs were also thrown.

At 3.13, an Anglian marksman again fired one round from an SLR. His target, according to the log, was a man who "fired at him." Desmond Beattie, unemployed, aged 19, died almost instantly.

Father Tony Gillespie, who was standing in a group near Beattie, said at the inquest: "I saw the lad drop to his knees with blood pouring out of him. I could see the hole in his chest." But he said he could not see any trace of a bomb or other weapon.

Henry Curran said that a youth, dressed differently from Beattie, ran past him with "a cylindrical object wrapped in cloth." He threw it at the Saracens, and it exploded. Beattie was shot immediately afterwards.

Forensic scientists found no traces of explosives on Beattie's body, and no sign that he had fired a gun. The soldier who shot him, described only as Mr. A, gave evidence wearing dark glasses, and with his collar turned up to avoid identification.

NO INQUIRY, SO THE OPPOSITION QUITS STORMONT

Mr. A said he saw Beattie with a round dark object in one hand, and what appeared to be a flame in the other. This was surprising, as the first report had spoken of the dead man firing a gun.

An open verdict was returned on Desmond Beattie. By that time, his death had already become a kind of cause celebre.

John Hume tried to call a meeting of the Social Democratic and Labour Party MPs on the weekend after the shootings. He collected Ivan Cooper, from neighbouring mid-Derry, plus Austin Currie, Paddy O'Hanlon and Paddy Devlin. But Gerry Fitt was somewhere in Antrim, out of telephone range. When, finally, a message reached the SDLP leader, his response was that he was not going to Derry for any meeting called by John Hume.

Hume, then, dominated the meeting. He was emotionally concerned about his two dead constituents, and he was politically concerned about being outflanked to the Left. On the same weekend Rory O'Brady, political chief of the Provisional IRA, came over the border to be rapturously greeted by 2,000 Bogsiders. He gave them, in sharp contrast to Hume's careful reformism, the straight "sweep them into the sea" line. "Please God," he cried, "we'll fix it this time!"

John Hume needed urgently to show that he was not the creature of Stormont—a task not eased by the eagerness with which he and his colleagues had embraced Faulkner's committees. So he drafted, and the little meeting approved, a long and powerful statement. It gave the British Government until the following Thursday to set up an independent, public inquiry into the deaths of Beattie and Cusack. Failing that, the SDLP would leave Stormont and set up an "alternative Parliament."

No doubt everyone present knew that Fitt would not approve. But Paddy Devlin, presumably one man who might have cooled the tempers, was still fuming over past disputes with Fitt. So Fitt first learned of his party's new policy when he saw the Sunday night television news. At once, he booked a flight to London for a private chat with Reginald Maudling.

Maudling, obviously, could not yield to the ultimatum. But if he could do something—such as bring forward the inquest, and perhaps increase its status by some means—a way might be found for the SDLP to stay inside the system. Maudling, it seems, was willing to help, and for a while the deal seemed likely to work.

But then, back in Ulster, Austin Currie, another SDLP member, was asked by a radio reporter whether any proposal, such as a special inquest, might settle the Beattie-Cusack affair. No, he said, it would not: there must be a new inquiry. On Tuesday Lord Balniel announced in Westminster that there would be no such inquiry: on Thursday Fitt, fuming, had to lead his men out of Stormont.

It was a symbolic walk-out, because Stormont was not sitting at the time. But it was enough—more than enough—to make the Unionists say that the hand of friendship had been bitten.

It is, of course, possible to say that Faulkner's gesture would have succeeded but for the deaths of Beattie and Cusack. But by mid-1971, such deaths were becoming so frequent in Ulster as to constitute the ordinary risks of politics.

From Faulkner's election in March to the introduction of internment on August 9 there was an average of two bomb explosions a day. In one hectic 12 hours in July, no fewer than 20 explosions wrecked pubs, shops and banks, injuring a dozen civilians. All told more than 100 civilians were wounded in bombings in this period.

The Army, too, felt the impact of the surge of IRA Provisional activity. Four more soldiers died and 29 were injured between April and August; in return the Army killed four civilians, one, William Reid, being described as a known Provisional.

The bombings and the collapse of his political initiative gave Brian Faulkner a persuasive case for internment, and it was his personal achievement that it was finally granted. But internment was not, as it might appear, Faulkner's response to the events of midsummer. When he took over as Prime Minister on March 23 the issue was not *whether* internment was to come but *when* and on what scale?

Throughout 1970 Faulkner was a persistent advocate of internment inside Chichester-Clark's Security Committee—"week after week, it became quite a ritual," one Minister recalled.

Faulkner had been Minister of Home Affairs from 1959 in the IRA campaign of 1956–1962. Ulster's Catholics had given that campaign no support but one of Faulkner's more abiding convictions was that internment was a crucial factor in its defeat.

Chichester-Clark, who was against the idea, learned to stave off Faulkner's demands by simply asking the Army and the police for their opinion each time. This never varied: given the likely degree of success, internment would not be worthwhile. The Army and the police did not know who to arrest.

INTERNMENT: HOW FAULKNER GOT WHAT HE WANTED

Even as Chichester-Clark was falling, internment was not one of his central demands. When Faulkner took over the policy change was immediate. Some time in April, despite the Army's scepticism about internment as a policy, the Director of Military Intelligence at Lisburn set up with the RUC Special Branch a joint "internment working party."

The targets were, from the start, Catholics. The original Ministry of Defence agreement to set up a full scale Military Intelligence in Ulster in March 1970 had been to investigate Protestant extremists, but the IRA bombing campaign had now changed the focus of attention.

The working party had no trouble identifying the leading figures in the Officials and the Provisionals. The Officials, pre-1969, had been highly publicised in the civil rights campaign. And the Provisional leaders were the old-fashioned Republicans that most Special Branch men knew in their sleep. On specialised areas—the bank accounts through which funds passed, for instance—the Army also had good information.

But the younger and newer Provisionals, the actual "gunmen," were almost wholly unidentified. The Provisionals' command structure was equally unknown. (Though Joe Cahill took over as Provisional Chief of Staff when Billy McKee was arrested in March this year, for instance, Intelligence sources seem not to have learned this for five months.)

Filling in the gaps was difficult. In the new housing estates—such as Ballymurphy and Andersonstown, both Provisional strongholds—the police had almost no informers. The Army found it hard to set up an intelligence network (two M15 men who arrived in the late summer of 1970 made a mess of the job). And while the RUC Special Branch had been knocked into fairly good shape by Scotland Yard men in 1970, it was still feeling its way.

Much of the working party's time was spent sorting through thousands of photographs, taken by Army cameramen at riots, funerals, demonstrations, and meetings and comparing the participants with pictures on RUC police files. (Most of the work was done at the RUC headquarters in east Belfast.)

But the working party had no direction whether their list was to cover merely the "gunmen," or all past or present Republicans of any kind. The debate inside the group on this question was interrupted, by a kidnapping and a hold-up.

Around 6 a.m. on July 16, four men dressed in medical-looking white coats walked into the Royal Victoria Hospital in central Belfast, strolled up to Ward 10, and producing Thompson sub-machine guns from under their coats to quell the guards. They removed an IRA Provisional, recently wounded in the leg while placing a gelignite bomb, and drove off with him.

The following evening, July 17, armed men entered the Daily Mirror printing plant in Dunmurry, ordered the workers out of the building, and blew up the presses.

The internment decision effectively stems from that moment. On the Sunday, July 19, Faulkner telephoned Edward Heath in London and said that he thought it was now necessary. When the Army GOC in Ulster, General Harry Tuzo (he had taken over in February) went to London the next day to get a knighthood, the Defense Secretary, Lord Carrington, gave him less welcome news at the same time. Either the Army came up with an alternative policy to internment—which it still opposed—or Faulkner would have to have his way.

Two separate strands are visible in the events that followed: the last-minute efforts to finalise the "internment list," and a search by the Army for an alternative.

Around dawn on July 23, 1,800 troops, and police, raided houses in Belfast and nine other towns in the province. They got what they wanted; both Provisionals and Officials kept no documents on their own activities, but each faction kept excellent files on the other towns in the province. They got what raids followed: by the first days of August, the working party reckoned its list was complete.

There were just over 500 names on it. No more than 120–130 were gunmen or officers in the Officials or the Provisionals. (The breakdown was roughly 80-plus Provisionals to 40-plus Officials.) The other 400 were "sympathisers." A small group actively helped the gunmen—sheltered them, stole cars for them, and so on. Another group was "too close for comfort": speechmakers, editors of news-sheets, and grass-roots radicals whose work coincided at points with that of the Officials.

But there was a special group of eight or ten who were not gunmen, nor had given "aid and comfort," nor preached violence. They were included on the list simply because they were active politicians who, in the wake of internment, would be ringleaders in the uproar. Chief among these was the People's Democracy leader Michael Farrell.

General Tuzo remained highly skeptical about "the Unionists' panacea," as they dubbed internment. It could not work, he said, with the border to the Republic open; and everyone knew there was no chance of the Irish Prime Minister, Jack Lynch, obligingly collaborating by introducing internment in the South, as had happened in the earlier abortive IRA campaign.

Precisely the same conclusion was reached by the Ulster Cabinet. Afterwards, it was said that the British Government only sanctioned internment at the request of the Northern Ireland Government. This is not so.

Faulkner's Cabinet met on Tuesday, August 3. Internment was the main topic, but although on first impression everyone favoured it, such "ifs and buts" emerged that in the end the Ministers reached no consensus, and made no recommendation either way. Nor did Faulkner ask them to make one. Uncharacteristically, he said little the entire meeting.

All that the Ulster Cabinet did agree was that if internment was to be effective, it had to come in the South at the same time. Faulkner said simply "London will have to pursue that."

On Thursday morning, August 5, the Joint Security Committee met in Stormont Castle: Faulkner in the chair as usual and, round the table, politicians like John Taylor, the junior Minister for Home Affairs, a couple of civil servants, the new RUC Chief Constable Graham Shillington, and the Army contingent led by Tuzo. Even here opinion was against internment. Shillington reported that only a minority of the police favoured it, and those mostly men on the border, not officers in hot spots like Belfast.

That afternoon Faulkner and Tuzo left secretly for London. (The first Faulkner's Cabinet heard of the visit was on television news that evening. They were affronted: "Who does he think he is?" was their main reaction.)

At the Ministry of Defence in the office of the Defence Secretary, Lord Carrington, Tuzo repeated his objections to internment. But in the last analysis Tuzo did not object to the policy. He could offer nothing else which held out the hope of checking the violence (91 bomb explosions in July) and he accepted the necessity to do something to restore the morale and authority of Stormont.

Then Carrington walked across Whitehall and into 10 Downing Street for the Cabinet meeting.

ESCALATION AS THE PRICE FOR AN EASY OPTION

Faulkner was impressive at the Cabinet—"full of confidence and raring to go," according to one account. Maudling was shrewd enough to see that the analogies Faulkner had been drawing between his success in 1959 and now were shaky, but Maudling was alarmed and anxious at the increasing violence and he, too, had no other policy: with the Immigration Bill and Ulster it had been a tiring period for Maudling. If Faulkner wanted to try it, why not? He gave his support. So did Carrington and William Whitelaw, the Lord President and Leader of the Commons.

There was no real opposition. Tuzo was called in but not to give his views, merely to answer technical questions about the military requirements of the operation.

Faulkner had got what he wanted.

It requires an effort now to recall the euphoria with which internment was launched and its early results celebrated.

"We have forced the gunmen into the open," said Brian Faulkner. "We've Licked the IRA" cried an Evening Standard headline, quoting Brigadier Tickell, the Army spokesman, five days after the first early-morning arrests. General Tuzo is now a convinced upholder of internment; the Army believes it is getting on top."

At the time the Army's "suggestion" for detention numbered only in the 100 region and the actual order to round up several hundred surprised them.

So far the harsh arithmetic of the three months and 12 days since internment supports Tuzo's earlier position of scepticism: twenty-six British soldiers killed against a total of 10 dead in the previous seven months; 110 wounded against 67.

The RUC has suffered even more severely. Nine policemen—most of them unarmed—have died since internment came in; before that, just two had been killed all year. The impact on civilians has been just as bloody. Up to internment, 15 were known to have been killed; at least 57 have died since then.

The tempo of the bombing has also accelerated alarmingly. In the period up to internment there were just under 300 explosions in which an estimated 3,318 pounds of gelignite were used. Since then a massive 6,200 pounds of explosive has been used in some 380 bombings.

The aftermath of the internment decision has been reported amply and recently in this and other newspapers. The aim in these articles has not been to repeat that exercise, but to reach back in time and reconstruct the circumstances which led the British Government to this desperate choice.

What is worth repeating, however, is that exactly the same process went into the decision as into the previous escalations of 1960 and 1970. That is, the British Government adopted without serious struggle the option which would enable it to stave off for the moment any assumption of direct responsibility for the affairs of Ulster. Brian Faulkner let it be understood, that internment was the price of his own survival.

This is a syndrome which has now worked itself out three times. Each time, it has monstrously inflated the burden of responsibility which some British Government is going to have to assume, some time or other—at least, if the theme of our history is correct.

CORRECTIONS

The 20,000-word first installment last week of A Perspective on Ulster contained a number of errors of detail, mostly minor. They were:

Page 16, col. 7: The self-styled "Chief of Staff" of the UVF was Samuel Stevenson.

Page 17, col. 2: The Commissioner of Police in Belfast was Harold, not Arthur, Wolseley.

Page 17, col. 4: For Shoreland, read Shorland; eight, not ten, extra armoured cars were ordered.

Page 17, col. 5: The Browning calibre is 0.303, not 0.30.

Page 18, col. 1: The RUC man killed in the Shankill riots of October, 1969, was Constable Victor Arbuckle, not an Inspector.

Page 18, col. 3: For Paddy Sullivan, and Paddy Kennedy. (This was an error in setting, as the context will have made clear.).

Page 18, col. 6: Brigadier Hulson's title was Brigade Commander, 39 Brigade.

Page 19, col. 7: The battle in St. Matthew's churchyard took place from the cover of the building, and a few small monuments outside. There are no gravestones.

Page 19, col. 7: For Terence Street police station, read Tennent Street.

Page 19, col. 7. William Long was an ex-Minister for Home Affairs. At the time of the Falls curfew he was Minister of Education.

NOMINATION OF DR. EARL BUTZ AS SECRETARY OF AGRICULTURE

Mr. HUMPHREY. Mr. President, I have recevied a telegram from Mr. Carroll G. Wilson, president of the Minnesota Farm Bureau Federation, in which he states that organization's position in favor of the confirmation of the nomination of Dr. Earl Butz as Secretary of Agriculture.

So that the record will be clear, I wish to point out that at no time have I represented the official position of the Minnesota Farm Bureau Federation to be other than it is.

I have stated that I have received communications from individual members of that organization stating their opposition to Dr. Butz' confirmation. These communications are among several hundred I have received which overwhelmingly oppose his confirmation.

Mr. President, I ask unanimous consent that Mr. Wilson's telegram be printed in the RECORD.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

MINNESOTA FARM BUREAU FEDERATION,
St. Paul, Minn., November 22, 1971.

Senator HUBERT H. HUMPHREY,
Senate Office Building,
Washington, D.C.

HONORABLE HUBERT H. HUMPHREY: Board of director, Minnesota Farm Bureau Federation meeting this date notes, November 20 Minneapolis Tribune wire services story reporting, "The Minnesota Farm Bureau, the State affiliate of the conservative farm organization which usually opposes him (Humphrey), has wired him (Humphrey) to ask him to fight Butz." No officer or member of board of directors has authorized any such statement in any form. Urge you correct wire services story. We believe Mr. Butz, whose lifelong dedication to agriculture is well known, has background equaling or surpassing that of many former Agriculture Secretaries. It is our hope that Senate confirms Earl Butz.

CARROLL G. WILSON,
President.

THE ARROGANCE OF BIG LABOR

Mr. FANNIN. Mr. President, for almost two centuries we and our forefathers have been seeking to maintain a healthy balance among the many competing interests within America.

When any one element has become too powerful, when any one segment begins to dictate to all others, then it is time to make some adjustments and to bring our system back into balance.

When big business became dictatorial, it was slapped down by tough antitrust laws.

Now it is big labor that is out of hand and threatening the well-being of our Nation. Big unions are on a course that is destructive of our economy and our American system of free enterprise.

The arrogance of big labor was on display for the Nation last Friday in Florida. The union chiefs and their yes-men put on a rude demonstration of their disdain not only for the President of the United States but for the people of the United States.

This response to the President obviously was staged by George Meany, president of the AFL–CIO. The sneers and snickers were on cue.

I noted that earlier in the AFL–CIO convention Mr. Meany had taken delight in questioning the intelligence and ability of the nonlabor appointments to the Pay Board.

Mr. Meany made it clear that he has no respect for anyone who does not jump when he or the other officials of big labor give the signal.

The union position as pronounced by Mr. Meany is astounding.

We are told that the unions will cooperate with the President's economic program only when it is to their benefit. They will not cooperate in any instance which calls for the union leaders or members to share in the sacrifices that are necessary to bring stability to our economy.

George Meany and the unions are following a selfish and destructive policy.

It has been said that "statesmanship" is a dirty word among labor leaders. Union chiefs believe that they must continue to push for higher and higher wages and more benefits for workers regardless of productivity or economic conditions or other realities. They operate with blinders on.

Union leaders who now virtually rule industries are ruining many of these industries. They are grasping for political power and for immediate exorbitant benefits at the cost of eventual annihilation for their industries.

Now the unions are threatening to try to ruin the administration's economic program—a program which contains many features long advocated by the union leaders themselves. Yes, the union leaders say they will sabotage the program whenever decisions go against them in the stabilization program.

Mr. President, it will be a disaster if our Government allows a relatively small segment of our population represented by the union leaders to derail our anti-inflation efforts. And it clearly will be their fault if this program should fail.

I applaud President Nixon's declaration that he will follow through with this vital program with or without the cooperation of the support of union officials. It is the President of the United States, not the president of the AFL–CIO, who is in step with the workers and the vast majority of the American people.

Mr. President, the New York Times carried a very interesting editorial on the efforts of the unions to undermine phase II. I request unanimous consent that the editorial be printed at this point in the RECORD:

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

UNDERMINING PHASE II

Organized labor no longer seeks to disguise its basis for participation in President Nixon's anti-inflation program. The resolution adopted by the A.F.L.–C.I.O. convention and the keynote speech by George Meany make it plain that the aim of the labor members on the tripartite Pay Board is to defeat the goal of wage stabilization.

Under the federation's program, unions would keep right on grabbing everything they could at the bargaining table or on the picket line, in an endless repetition of the process that has robbed past pay boosts of any worth in increased purchasing power.

Forgotten are the two years of clamor by labor and its Democratic allies in Congress for Presidential action to control the runaway spiral. Now that Mr. Nixon has belatedly embraced economic activism, labor accuses him of a diabolical plot to "destroy free collective bargaining." And committees of House and Senate are busy redrafting the Economic Stabilization Act to insert weakening provisions the unions could not push through the semi-autonomous Pay Board.

The key element in the A.F.L.–C.I.O. indictment of the board is that it has refused blanket validation of all collective bargaining agreements, no matter how inflationary. Yet the Federal courts, in the gold and mortgage moratorium cases in the early years of Franklin D. Roosevelt's New Deal, laid down the principle that Government's right to fulfill its constitutional responsibilities could not be impaired by pre-existing contracts. That principle was reaffirmed just last month by the three-judge Federal court, which upheld the present wage control law.

Indeed, the five labor members of the Pay Board were themselves ready to compromise inside the board on the issue of contract validity. Their formal written proposal would have made existing pacts subject to review if they called for pay increases "unreasonably inconsistent" with the board's basic criteria. The only real difference between their suggestion and the one finally adopted by the public and industry members was that the labor bloc would have specifically eliminated all increases up to 8 per cent from challenge. The majority plank omits any such figure.

The unfortunate fact is that the official standard contains far too much elastic, as was demonstrated yesterday by the joint vote of the Pay Board's industry and union members to let go into effect unchanged the first-year increases called for by the highly inflationary strike settlement just negotiated in the coal mines.

The three public members who voted against approving the pact estimated that it provided an increase of 16.8 per cent in hourly compensation, or more than triple the 5.5 per cent ceiling established by the board for postfreeze contracts. The industry and union members, putting the increase at something over 15 per cent in pay and fringe benefits, resorted to some tortured rationalizations to explain why none of it breached the general pay rules.

Few will doubt, however, that the decision represented an abject surrender to economic power of precisely the type that organized labor intends to make the norm in its mockery of a control program. The coal operators, with the steel and copper companies and the electric utilities as dominant elements in their industry, were willing to give the shaky leadership of the United Mine Workers what it felt it needed to stay in command. Gov. Arch A. Moore of West Virginia used all his political clout to help lobby the increase through.

Undoubtedly, the Governor will now accompany the operators on a pilgrimage to the Price Commission to win a similar green light for coal price increases far above the economywide level of 2.5 per cent. The commission's chairman, C. Jackson Grayson, has said that the board may balk—as it should—at granting a pass-along in higher prices for labor costs above the basic Pay Board ceiling. There would be no better place to start than with the inflated settlement in coal.

President Nixon, in his speech before the A.F.L.-C.I.O. yesterday, emphasized his own resolve to persist in the war against inflation, whether or not he had the cooperation of labor, industry, or any other group. On this issue we believe the President is entitled to unequivocal support. The initial breach driven by labor and industry into an equitable system of wage-price restraints is one too many.

Mr. FANNIN. Mr. President, an article published in tonight's Washington Evening Star also should be of great interest to the Senate. Columnist David Lawrence is the writer, and his piece is very appropriately entitled "Biggest Monopoly Ever Developed." I ask unanimous consent that the column be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BIGGEST MONOPOLY EVER DEVELOPED

(By David Lawrence)

The real controversy that confronts the nation today is not just between the AFL–CIO leaders and President Nixon but over the continuance or discontinuance of the monopolistic power held by one group in this country.

The antitrust laws forbid businesses to organize and fix their prices together, but national labor unions have assumed the right to set wages at arbitrary levels. These rates of payment imposed by big unions in major industries have been accepted in their lines of work as a proper basis for contract demands.

Whether the wage scales are equitable or whether they reflect the productivity which management needs in order to justify certain wage costs as a basis for price increases that are not inflationary is not given any consideration by the negotiators for unions.

Now when the government steps in with a Pay Board and tries in a national emergency to find some way to bring about a system that will restrain wage increases so that prices will not have to be so high, the cooperation of union labor is withheld by the leaders, who insist they will be their own judges of what the rates shall be.

This defiance of governmental guidelines and mediation is at the moment producing much concern because, unless a method is found to get teamwork from the labor side, there is little hope that inflation will be restrained. Management will have to pay extremely high wage rates, and prices will, of course, have to be raised accordingly.

President Nixon has been trying to persuade labor that the mechanism of the Pay Board is designed to be fair and to apply a judicial attitude toward the questions that arise. But if the unions insist they must have their way, there will be no opportunity to control some of the principal factors that have been causing the inflationary curve to move upward.

What is surprising is that Congress has stood by without taking any steps to enact legislation that is long overdue—namely, to remove the monopoly power held by labor unions. If companies entered into the kind of agreements for an entire industry that unions make, they would be prosecuted under the antitrust laws.

Perhaps one reason for the failure to take up such legislation is that the officials of unions have persuaded a lot of their members to contribute to the campaign funds of senators and representatives. It is believed that a large number in both houses of Congress are obligated to labor-union support.

The law, of course, forbids labor organizations themselves to contribute, but individual members are not restricted from doing so. Campaign committees are set up by unions which canvass workers and obtain contributions for political purposes.

The whole situation has for years been ignored by Congress, which now and then takes up the question of money coming from big contributors to political campaigns but avoids any restrictions on the flow of funds through indirect channels to congressional candidates from labor-union members.

The net result is that labor unions are unrestrained in the exercise of the biggest monopoly that has ever been developed, and they hold the greatest amount of power in our economic system, even though they represent only one quarter of the nation's labor force.

The President of the United States is having a hard time battling with the unions. When they determine not to pay attention to governmental guidelines as he carries on his fight against inflation, there is very little that can be done unless Congress takes a realistic view and writes an effective anti-monopoly law applying to labor organizations.

There are many people who feel that the rank and file of labor favors cooperation with the government. But their leaders evidently hold a different view. They seem to think that their own elections to union offices depend upon demanding higher and higher wages for the members and conducting a fight against the government's efforts to curb inflation and hasten recovery. But, in the long run, if the economy is hurt by such tactics, union members will be hurt too.

RESOLUTION ADOPTED BY THE BOARD OF DIRECTORS OF THE SANTEE ELECTRIC COOPERATIVE, INC.

Mr. THURMOND. Mr. President, the board of directors of the Santee Electric Cooperative, Inc., Kingstree, S.C., in its regular monthly meeting on October 14, adopted a resolution.

This resolution urges the Office of Management and Budget to release all funds appropriated for the REA in order that electric cooperatives may keep pace with increasing costs to improve their systems.

The resolution states that Congress has appropriated for the Rural Electric Administration a sum of $545 million and that the OMB has authorized a release of only a portion of these funds.

Mr. President, I ask unanimous consent that this resolution be printed in the CONGRESSIONAL RECORD.

There being no objection the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION

Whereas, Congress has appropriated for the Rural Electrification Administration a sum of $545,000,000, and

Whereas, The Office of Management and Budget has authorized the release of only a portion of the funds, and

Whereas, there is an immediate need for the release of all of the funds so appropriated to improve electrical systems and to keep pace with the increasing costs.

Now. therefore, be it resolved, That the Board of Trustees of Santee Electric Cooperative, Inc. ask our Senators and Congressmen to request the Office of Management and Budget to release all funds appropriated for the REA in order that electric cooperatives may keep pace with the increasing costs and to improve their systems.

I hereby certify that the above is a true and correct copy of a Resolution duly adopted by the Board of Trustees of Santee Electric Cooperative, Inc., Kingstree, South Carolina, at its regular Board Meeting on the 14th. day of October, 1971.

R. S. BURGESS, Jr.,
Secretary,
Santee Electric Cooperative, Inc.

CONCLUSION OF MORNING BUSINESS

Mr. MANSFIELD. Mr. President, is there further morning business?

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

DEPARTMENT OF DEFENSE APPROPRIATIONS, 1972

The PRESIDING OFFICER (Mr. GAMBRELL). Under the previous order the Chair lays before the Senate the unfinished business, H.R. 11731, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (H.R. 11731) making appropriations for the Department of Defense for the fiscal year ending June 30, 1971, and for other purposes.

The Senate resumed the consideration of the bill.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a quorum call—and it will not be live, so far as the Senator from Montana is concerned—with the proviso that at its conclusion the distinguished Senator from Louisiana (Mr. ELLENDER), the chairman of the subcommittee handling the bill, be recognized; and that he be followed by the distinguished Senator from North Dakota (Mr. YOUNG), the ranking Republican member of the Committee on Appropriations.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ELLENDER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ELLENDER. Mr. President, the bill pending before the Senate this morning is the Defense appropriation bill, I wish to say that the Defense Subcommittee of the Appropriations Committee completed hearings on the original requests in this huge bill last June. Since then, we have been awaiting action on the part of the House. The House, of course, was not able to complete action on the bill, because the authorization bill had not been enacted. It will be recalled that 2 or 3 months elapsed before that bill was enacted and the House could proceed with the appropriation bill.

Mr. President, it is my hope that next year the committee will be able to start early and complete action on the 14 regular bills before June 30. I think that is entirely possible, if we provide a rule that all authorizing legislation must be passed on or before June 1. If the authorizing legislation is not enacted, then it will be up to the Senate and the House to proceed with the remaining appropriations and by way of supplementals provide for necessary items.

I can see no reason why the Defense bill, which entails expenditures of over $70 billion, should be held back, because of a lack of authorization on a few items for hardware. There is no reason, for instance, why we should not provide the sums necessary for continuing programs, such as the pay of civilian and military personnel and the maintenance and operations costs of all three departments. These are the items that are required for the day-to-day operation of the Department of Defense.

This is also true of other departments and agencies. If we were able to enact those general appropriations bills prior to June 30 of next year and the years that follow, I am sure that it would be a great help to the Executive Department.

Unless appropriations bills are enacted prior to June 30, we are forced to resort to continuing resolutions. I do not like that method of financing. It has been established for some years, but at times it has been abused.

Such a procedure places in one bill—the continuing resolution—not only authorizations for a program, but appropriations for that program equal at least to what was spent the year before. An example, this year is the OEO program which is normally considered in the Labor-HEW appropriation bill. Since OEO was not authorized by the time we handled the Labor-HEW appropriation bill in August, it was omitted from that bill but it was authorized and appropriated for in the continuing resolution—so far for almost one-half the fiscal year.

That, Mr. President, has happened not only in OEO, but in several other programs. Foreign aid is another instance. We are continuing the authority for foreign aid in a continuing resolution. Foreign aid, to all intents and purposes, died when the main bill that was passed by the House of Representatives was killed by the Senate recently.

Although the legislation upon which it was to be continued during fiscal year 1972 is dead, the program is continuing under a continuing resolution.

The last continuing resolution that we enacted last week developed as follows: There was a provision made in the House joint resolution that the program would continue during the entire time that Congress would be in session for the first session of this Congress. The Committee on Appropriations of the Senate felt otherwise, and we fixed December 1 as a final date, believing that the bill could be completed by that date.

But, Mr. President, there was something that the Committee on Appropriations did not know at the time. We did not know that the House of Representatives had agreed to recess over the Thanksgiving holiday for 10 days, to come back next Monday. In the meantime, there would be no one on the House side to take care of enacting the extension or a new bill. The House refused to agree to the resolution that the Senate had passed, to make the continuing resolution valid until December 1, and to provide that the expenditure rate would not exceed the rates agreed to in the two authorization bills passed by the Senate.

The Senator from North Dakota (Mr. YOUNG) and I were consulted by the House side, and we also had a meeting at the White House. The President called us there to explain to us what had happened, and the necessity for proceeding with an extension of the resolution. After quite a little debate, it was decided on our part to extend the continuing resolution to December 1. But in the meantime, as I have stated, the House of Representatives failed to pass the continuing resolution that the Senate had passed. Someone objected, the position taken being that there was no possibility of the House of Representatives completing its work by December 1, after it returned from the holiday recess on November 29.

The Members of the Senate who attended the conference at the White House at the time insisted on December 1, as the date to which the continuing resolution should be extended but when we saw that the House of Representatives would not agree to that date, we agreed to extend the continuing resolution until December 8.

It is felt that between the time the House of Representatives returns, and December 8, the President should have on his desk the authorizing legislation necessary not only for the foreign aid program, but also the appropriation for the District of Columbia and for certain supplemental appropriations. It is my hope that as soon as the House of Representatives returns, it will pass authorizing legislation, so that on or before December 8 of this year, we will have completed work on all appropriation bills.

I am sure that that is possible. It would have been possible by December 1, if the House had remained in session, as the Senate has. But all of that, Mr. President, is water under the bridge. I am not blaming the House of Representatives. I now understand that this agreement of recess for 10 days was agreed upon several weeks ago, but there was no mention made of it at the time, and I did not know a thing about it. When we were informed, we readily consented to extend the time to December 8. I reiterate the hope that we will be able to complete all actions on all appropriation bills on or before December 8.

Mr. President, the Defense Department appropriation bill is the largest single bill to be considered by Congress this session, providing, as it does, funds for fiscal year 1972 to operate and maintain our Military Establishment.

The budget request of the Defense Department was $73,543,829,000. That was composed of the original amount that was requested by the Department, which amounted to $71.8 billion, plus four supplemental appropriations that were added as time went on.

The first supplemental was dated April 29, and was for civilian and military pay increases that Congress enacted effective January 1, 1971. That amounted to $1.6 billion.

The second was a budget amendment submitted June 21 for drug abuse corrective programs. It amounted to $34.2 million.

The third, submitted July 30, was for additional F-111D aircraft and other programs, amounting to $111 million.

In addition, $183,570,000 was requested for the Safeguard anti-ballistic-missile system.

All of those items added together amounted to, in round figures, $73.5 billion.

The bill before the Senate has been reduced from that sum to $70,242,513,000, the amount we are considering today. It is a decrease in round numbers from the request of the Defense Department of $3.3 billion and is a decrease from the House allowance of $805.5 million.

Mr. President, at this point I am not going to go into all the details as to how that amount was reached, but I have here an exhibit explaining this action. I ask unanimous consent that the exhibit be printed at this point in the RECORD.

There being no objection, the exhibit was ordered to be printed in the RECORD, as follows:

Recommended reductions in the budget requests

[In millions]

Military personnel	$259.7
Operation and maintenance	435.4
Procurement (authorization reductions)	662.6
Procurement (other reductions)	1,330.0
R.D.T. & E. (authorization reductions)	257.0
R.D.T. & E. (other reductions)	282.3
Special foreign currency program	.3
Safeguard ABM construction activities	74.0
Total	3,301.3

The total reduction of $3.3 billion in the budget requests includes the following major categories of reductions: reductions based on the transfer of funds to appropriations in this bill from other appropriations and revolving funds, $945 million; reductions resulting from reductions in active duty military strengths made in the Manpower Authorization Act, $279,100,000; and reductions in intelligence programs, $390 million.

Mr. ELLENDER. Mr. President, we also took into account the work done by the House, including reductions made. We augmented that by $805,500,000. I shall provide an exhibit indicating exactly how that figure was reached. I ask unanimous consent that it be printed at this point in the RECORD.

There being no objection, the exhibit was ordered to be printed in the RECORD, as follows:

Recommended reductions in the House bill

[In millions]

Military personnel (increase)	$10.3
Operation and maintenance	223.0
Procurement	496.3
R.D.T. & E.	101.7
Safeguard ABM construction activities (increase)	5.2
Total	805.5

The total reduction of $805.5 million in the House bill includes the following major categories of reductions: Reductions based on additional transfers from other appropriations and revolving funds, $330 million; additional reductions in intelligence activities, $68.4 million; and reductions based on revised Army ammunition requirements, $78 million.

Mr. ELLENDER. In addition to the referred to reductions, the committee also made certain transfers from old appropriations and revolving funds in lieu of new appropriations. The committee made reductions totaling approximately $945 million based on the transfer to appropriations in this bill of old appropriations and revolving funds. Although these transfers reflect a reduction in new appropriations recommended, they do not reflect a reduction in programs. However, they do result in a decrease in the total funds available to the Department of Defense for obligation.

SUMMARY BY FUNCTIONS AND ORGANIZATIONS

The total recommended by the committee includes funds for the following functional categories:

Military personnel, $21,032,274,000; retired pay, $3,777,134,000; operation and maintenance, $20,212,481,000; procurement, $17,688,992,000; research, development, test and evaluation, $7,410,062,000; special foreign currency program, $12,000,000 and Safeguard ABM construction, $109,570,000.

The total recommended by the Committee includes funds for the following organizational components:

Army, $20,151,430,000; Navy and Marine Corps, $22,319,519,000; Air Force $22,177,812,000; Defense Agencies/Secrestary of Defense, $1,816,618,000 and retired pay, $3,777,134,000.

Each of these organizational components will be discussed later.

The appropriations for fiscal year 1971, the 1972 budget requests, the House allowances, and committee recommendations for each of the major functional categories and organizational components are set out in the tabulation on page 2 of the report.

SUMMARY

While the committee has recommended reductions of $3.3 billion in the budget requests considered, its reduction in requested programs is about $2.4 billion when the $0.9 billion in transfers are considered.

In the case of the recommended reduction of $805 million below the House bill, $320 million results from additional transfers, so the "program" reduction below the House bill is about $485 million.

Mr. President, I also ask unanimous consent to have printed in the RECORD a summary of the total cost of all the functions of the various departments, concluded as exhibit B.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF BILL BY MAJOR CATEGORIES

Functional title	Appropriation, fiscal year 1971 (new budget obligational authority)	Budget estimate, fiscal year 1972 (new budget obligational authority)	House allowance	Senate committee recommendation	Senate committee bill compared with— Appropriations, 1971	Senate committee bill compared with— Budget estimates, 1972	Senate committee bill compared with— House allowance
Title I—Military personnel	$22,397,857,000	$21,291,969,000	$21,021,974,000	$21,032,274,000	[1] −$1,365,583,000	−$259,695,000	+$10,300,000
Title II—Retired military personnel	3,391,032,000	3,777,134,000	3,777,134,000	3,777,134,000	+386,102,000		
Title III—Operation and maintenance	20,121,894,000	20,647,834,000	20,435,481,000	20,212,481,000	+90,587,000	−435,353,000	−223,000,000
Title IV—Procurement	16,029,110,000	19,681,660,000	18,185,292,000	17,688,992,000	+1,659,882,000	−1,992,668,000	−496,300,000
Title V—Research, development, test, and evaluation	7,004,187,250	7,949,362,000	7,511,762,000	7,410,062,000	+405,874,750	−539,300,000	−101,700,000
(Transfer authority)	(50,000,000)	(50,000,000)	(50,000,000)	(50,000,000)	(−300,000,000)		
Title VI—Special foreign currency program	2,621,000	12,300,000	12,000,000	12,000,000	+9,379,000	−300,000	
Title VII—General Provisions (Additional transfer authority, Sec. 836)	(600,000,000)	(1,000,000,000)	(600,000,000)	(900,000,000)	(+300,000,000)	(−100,000,000)	(+300,000,000)
Title VIII—Anti-ballistic missile construction	334,000,000	183,570,000	104,370,000	109,570,000	−224,430,000	−74,000,000	+5,200,000
Total, Department of Defense	[1] 69,580,701,250	73,543,829,000	71,048,013,000	70,242,513,000	[1] +661,811,750	−3,301,316,000	−805,500,000
(Transfer authority)	[1] (950,000,000)	(1,050,000,000)	(650,000,000)	(950,000,000)		(−100,000,000)	(+300,000,000)

Functional title	Appropriation, fiscal year 1971 (new budget obligational authority)	Budget estimate, fiscal year 1972 (new budget obligational authority)	House allowance	Senate committee recommendation	Senate committee bill compared with — Appropriations, 1971	Senate committee bill compared with — Budget estimates, 1972	Senate committee bill compared with — House allowance
Distribution by organizational component:							
Army	$20,963,596,000	$21,429,762,000	$20,455,796,000	$20,151,430,000	−$812,166,000	$−1,278,332,000	$−304,366,000
Navy	21,031,336,250	23,354,333,000	22,629,095,000	22,319,519,000	+1,288,182,750	−1,034,814,000	−309,576,000
Air Force	22,101,818,000	23,053,940,000	22,366,770,000	22,177,812,000	−75,994,000	−876,128,000	−188,958,000
Defense agencies/OSD	[1] 2,092,919,000	1,928,660,000	1,819,218,000	1,816,618,000	−276,301,000	−112,042,000	−2,600,000
Retired military personnel	3,391,032,000	3,777,134,000	3,777,134,000	3,777,134,000	+386,102,000		
Total, Department of Defense	[1] 69,580,701,250	73,543,829,000	71,048,013,000	70,242,513,000	[1] +661,811,750	−3,301,316,000	−805,500,000
(Transfer authority)	[1] (950,000,000)	(1,050,000,000)	(650,000,000)	(950,000,000)		(−100,000,000)	(+300,000,000)

[1] Includes $300,000,000 provided for combat readiness, South Vietnamese Forces, Defense, for fiscal year 1971.

Mr. ELLENDER. Mr. President, I wish to emphasize one point to the Senate, as to why the amount recommended by the committee was not less than it provided. The Record shows that, although there are a million fewer military and civilian personnel in the Defense Department today than in 1968, the cost is $6.2 billion more than it was that year. In other words, to operate a Department of 1 million fewer personnel, it is costing us $6 billion more. The reason for that is, of course, the various salary increases that Congress voted for our civilian employees as well as for military personnel.

If we use 100 as a base, let us say, in fiscal year 1964, the first salary increase in 1964 made that base rise, insofar as the military basic pay was concerned, from 100 to 110.65 and the classified civilian employee base from 100 to 102.05.

The cumulative effect of all the raises from October 1, 1963, to November 14, 1971, was a base pay rise from 100 to 220.24 for the military and from 100 to 155.39 for classified civilian salaries.

So it can be seen why, with a million fewer people, the cost to the taxpayers is $6 billion-plus more.

Exhibit C details how this occurred. I also ask unanimous consent to have printed in the Record a tabulation of military and civilian pay raises since fiscal year 1964, expressed in percentage figures.

There being no objection, the material was ordered to be printed in the Record, as follows:

MILITARY AND CLASSIFIED CIVILIAN PAY RAISES SINCE FISCAL YEAR 1964

[In percent]

	Military basic pay	Classified civilian salaries
Oct. 1, 1963	14.2	
Jan. 5, 1964		4.1
July 1, 1964		4.2
Sept. 1, 1964	2.3	
Sept. 1, 1965	10.4	
Oct. 1, 1965		3.6
July 1, 1966	3.2	2.9
Oct. 1, 1967	5.6	4.5
July 1, 1968	6.9	4.9
July 1, 1969	12.6	9.1
Jan. 1, 1970	8.1	6.0
Jan. 1, 1971	7.9	6.0
Nov. 14, 1971	11.6	
1. Base prior to fiscal year 1964 raises	100.0	100.0
2. Effective rate in fiscal year 1964	110.65	102.05
3. Cumulative effect of above raises from base 1	220.24	155.39
4. Ratio of current rate to average amount paid fiscal year 1964 (line 3 plus line 2)	191.4	152.3
5. Effective rate (fiscal year 1972)	211.78	

Mr. ELLENDER. Mr. President, I should like to discuss now, in some detail, a few of the programs of the Army. I have already placed in the Record the recommendations of the committee which include $20.2 billion for the Department of the Army for fiscal year 1972. Broken down, the military personnel and operation and maintenance appropriations amounted to $15.3 billion for the support of an active army with an end strength of approximately 893,000 personnel, the Army Reserves with a paid drill strength of 260,000, and the Army National Guard with a paid drill strength of 400,000. All of that, of course, is fixed by the law. The Armed Services Committees authorize the man-year strength of the services. Mr. President, I ask unanimous consent that exhibit D be printed in the Record at this point, showing as it does Army forces for fiscal years 1970, 1971 and 1972.

There being no objection, the summary was ordered to be printed in the Record, as follows:

SUMMARY OF ACTIVE FORCES

	Actual, June 30, 1970	Planned — June 30, 1971	Planned — June 30, 1972
Divisions:			
TRICAP [1]		1	1
Airborne	1	1	1
Infantry	5	3	2⅔
Mechanized	4	4	4
Armored	4	3	3
Airmobile	2	1	1
Total	16	13	12⅔
Independent brigades	4	2	1
Active duty military personnel [2]	1,322,548	[3] 1,107,200	[4] 893,474
Reserve component personnel (paid drill training)	669,846	660,000	660,000
Army National Guard	409,192	400,000	400,000
Army Reserve	260,654	260,000	260,000

[1] The Tricap (Triple Capability) Division is an experimental division consisting of a combination of armored, air cavalry, and air mobile units.

[2] Includes reimbursables.

[3] Reflects revised end strength in fiscal year 1971 column of fiscal year 1972 President's budget.

[4] Reflects change from President's budget to comply with authorized average strength in Public Law 92–129.

Mr. ELLENDER. Mr. President, the total for Army procurement, which is, of course, separate and apart from military and civilian pay and the operation of the Army, is $3.1 billion. This program is discussed in detail in the report at pages 106 to 118 of the report.

This narration is too lengthy for inclusion in the Record. However, the report is available on the desk of each Senator and is also available in the Document Room.

For research, development, test, and evaluation the committee recommends approximately $1.8 billion. This program is discussed on pages 165 to 174 of the committee report. One research and development program is that for Safeguard. The committee has recommended for the Safeguard ABM system $1.2 billion, in round figures, which is the amount authorized by Congress.

I wish to say that this amount is to continue development of Safeguard and to continue deployment at the Grand Forks and the Malmstrom sites. Funds are also included for advance preparation at the third and fourth sites at Whitman, Mo., and Warren, Wyo. The committee's recommendations for Safeguard are discussed on pages 16 and 17 of the committee report.

Mr. MANSFIELD. Mr. President, will the Senator from Louisiana yield?

Mr. ELLENDER. I yield.

Mr. MANSFIELD. May I say, speaking for the State of Montana—I am sure the Senator from North Dakota (Mr. Young) will speak for his own State, because he was the driving force behind this legislation—I appreciate the fact that the impact on these small towns and communities, on the roads and other facilities which will be affected by the placing of the Safeguard system here, is being protected by the Senate and that the word of Congress is being reinforced, because it is most important. The people in my State, just as in the State of North Dakota, made no effort and did not seek to put any pressure on Congress. But we do think that when the Federal Government puts in installations of this magnitude in States like North Dakota and Montana, the Federal Government has an obligation which will take heed of the needs and difficulties which confront the towns, the small cities and the villages in the area.

I want to express my appreciation for what the Senate has done. I want to express personally to the distinguished Senator from North Dakota (Mr. Young), the ranking Republican on the committee, my appreciation for the intense interest he displayed and the effectiveness with which he has pursued this subject.

Mr. YOUNG. Mr. President, I greatly appreciate the comments of the distinguished majority leader. These are huge installations being constructed in a sparsely populated area, with only small towns and villages around. These installations employ at any given time 3,000 or 4,000 people, so that the small towns in the area cannot absorb all the needs and wants of these people without some assistance from the Federal Government. I personally would not have signed the conference report without this money in it.

Mr. ELLENDER. As the Senator knows, we have provided for funds in order to cushion the economic impact.

Mr. MANSFIELD. Sewer systems and roads.

Mr. ELLENDER. Yes; for things of that kind.

I want to point out, so it will not be overlooked, that of the amount we are now providing, there is the sum of $54-plus million which is a cost increase because of inflation and additional costs.

As I said a while ago, there is no money in the bill to provide for construction programs, except for the Grand Forks and the Malmstrom sites. There is, however, a small amount for advance preparation for the third and fourth sites at Whiteman, Mo., and Warren, Wyo., as I have stated.

In order to describe this more fully, I ask unanimous consent to have printed in the Record pages 16 and 17 of the committee report marked as "Exhibit E."

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

Safeguard Antiballistic Missile System

The recommendations of the committee include $1,191.6 million for the continuation of development and deployment of the Safeguard antiballistic missile system, which amount is a production of $177.4 million in the budget requests that total $1,373.5 million.

The Safeguard system consists of two types of phased array radars, the Missile Site Radar and Perimeter Acquisition Radar, their associated data processors, and the two types of missiles, Sprint and Spartan. The Safeguard mission includes protection of land-based retaliatory forces against a direct attack, protection of the American people against a low-level ICBM attack, and protection against the possibility of accidental attacks. However, the Congress has approved only that part of the mission that provides for protection of the land-based retaliatory forces.

The amount included in the request for each appropriation and the amount recommended are set out in the following tabulation:

[In millions of dollars]

Appropriation	Budget request	Committee recommendation
Military personnel, Army	$14.1	$14.1
Operation and maintenance, Army	90.8	74.8
Procurement of aircraft and missiles, Army	[1] 675.0	[1] 640.0
Research, development, test, and evaluation, Army	410.0	357.6
Military construction, Army	[2] 172.5	[2] 98.5
Family house, Defense	11.1	11.1
Total	1,373.5	1,196.1

[1] Includes $1,000,000 for the procurement of communications equipment that does not require annual authorization.

[2] An additional $20,500,000 is included in the Military Construction Appropriation Act, 1972 (H.R. 11418, Public Law 92–). Of this total, $15,300,000 is for plans and design, and $5,200,000 is for access roads.

The program requested in the budget and the program on which the committee's recommendations are based are set out in the following tabulation:

[In millions of dollars]

	Budget program	Recommended program
Continuation of development R.D.T. & E.	$410.0	$357.6
Continuation of deployment at the 2 phase I sites (Grand Forks Air Force Base, N.D., and Malmstrom Air Force Base, Mont.)	726.6	686.6
Cost increases at the 2 phase I sites	None	54.0
Community impact facilities at the 2 phase I sites	5.2	5.2
Initiation of construction of 3d site at Whiteman Air Force Base, Mo.	34.0	None
Advance preparation at 3d site at Whiteman Air Force Base, Mo.	76.0	76.0
Initiation of construction at the 4th site at either Warren Air Force Base, Wyo., or Washington, D.C., area	95.0	None
Advance preparation at the 4th site, Warren Air Force Base, Wyo.	13.0	3.0
Costs not allocated to specific sites	[1] 13.7	[1] 13.7
Total	1,373.5	[1] 1,196.1

[1] An additional $20,500,000 is included in the Military Construction Appropriation Act, 1972 (H.R. 11418, Public Law 92–). Of this total, $15,300,000 is for plans and designs, and $5,200,000 for access roads.

The committee's recommendation for the Safeguard system is in accord with the previous action of the Senate in acting on the Department of Defense Procurement and Research and Development Authorization Act, 1972 (H.R. 8687), which was based on the following recommendation of the Senate Armed Services Committee:

"The committee again this year has decided to confine the authorization for continuation of the Safeguard system to those sites devoted to the defense of the deterrent. However, because of the current construction status, the committee recommends full deployment at only the phase I sites of Malmstrom and Grand Forks. The committee recommends authorization of advance preparation (site survey, land acquisition, and procurement of long-lead items) at Warren and Whiteman Air Force bases only. Authorization of anything beyond study of component configuration of a National Command Authority defensive system is not recommended for fiscal year 1972."

This recommendation of the Senate Armed Services Committee is implemented in Section 403 of the Department of Defense Procurement and Research and Development Authorization Act, 1972 (H.R. 8687), and the funds recommended herein are subject to the restrictions imposed therein. This provision reads as follows:

"Sec. 403. (a) None of the funds authorized by this or any other Act may be obligated or expended for the purpose of initiating deployment of an anti-ballistic missile system at any site; except that funds may continue to be obligated or expended for the purpose of advanced preparation (site selection, land acquisition, site survey, and the procurement of long leadtime items) for anti-ballistic missile system sites at Francis E. Warren Air Force Base, Cheyenne, Wyoming, and Whiteman Air Force Base, Knobnoster, Missouri. Nothing in this section shall be construed as a limitation on the obligation or expenditure of funds in connection with the deployment of an anti-ballistic missile system at Grand Forks Air Force Base, Grand Forks, North Dakota, or Malmstrom Air Force Base, Great Falls, Montana.

Mr. ELLENDER. Mr. President, we now come to another program, the Cheyenne helicopter and the Air Force A–X close support aircraft.

When I first studied these two programs, I found they had the same objective; that is, close air support. I wondered why it was that the Army was building the Cheyenne helicopter and that the Air Force was also building the A–X for the same purpose.

I suggested to Mr. Packard that a selection should be made between them. The Senator from North Dakota (Mr. Young) was present when we discussed this. We both felt at the time that there was no necessity to build two different pieces of hardware to accomplish essentially the same purpose; namely, that of close air support.

In the discussion that took place, as I recall, Mr. Packard at first indicated that a selection would be forthcoming.

After several months of study, however, Mr. Packard came to the conclusion, as I recall it, that there had not been enough study made of either the Cheyenne helicopter or the A–X close air support aircraft. Mr. Packard, as well as two or three others involved in this matter discussed it with the Senator from North Dakota (Mr. Young) and me. They decided not to go ahead with procurement of either one, because they felt it best to have further research done on both of these programs. At the suggestion of the Department the committee decided to provide $9,300,000 for further study of the Cheyenne armed helicopter program. It was believed that after another year's study, the Department would be in a better position to make a decision as to the capability of both that aircraft and the A–X airplane.

The amount necessary to further study the A–X airplane was $47 million and it was provided.

Mr. President, I realize that is quite a large sum of money.

However, the committee felt it was needed so that we could make a definite determination as to which of the two was better.

I feel confident that by the expenditure of the sums just indicated the Defense Department will be in a much better position to say which of the two systems is the better for the mission. In the long run, there is little doubt that this course will save the taxpayers money.

Mr. President, I ask unanimous consent to have printed at this point in the Record exhibit F, which indicates in detail what will be done with this money and the reason why the committee decided as it did.

There being no objection, the material was ordered to be printed in the Record, as follows:

Cheyenne Attack Helicopter Program

The fiscal 1972 budget request for the appropriation "Procurement of Equipment and Missiles, Army" includes a request of $13.2 million for the advance production engineering for the production of the Army's Cheyenne attack helicopter. These funds have been disallowed, in accordance with the action taken in the Department of Defense Procurement and Research and Development Authorization Act, 1972 (H.R. 8687).

The fiscal year 1972 request for the appropriation "Research, Development, Test, and Evaluation, Army" does not include any funds for the continuation of the development of the Cheyenne. However, on May 28, 1971 the Department of Defense submitted a reprograming action proposing an additional $61,260,000 for the Cheyenne development program, to be derived by transfer from funds provided in the "Procurement of Equipment and Missiles, Army" appropriation for the production of these helicopters. Of this $61,260,000, approximately $35 million was for reimbursement to the contractor for services performed, approximately $9.3 million was for the continuation of the development program during fiscal year 1972, and approximately $17 million was for the continuation of the development program during fiscal year 1973. In acting on this reprograming action, the committee approved only that portion that was required for reimbursement to the contractor for services performed, and the Department of Defense was advised that the committee would consider the inclusion of funds * * *.

SEC. 403. (a) None of the funds authorized by this or any other Act may be obligated or expended for the purpose of initiating deployment of an anti-ballistic missile system at any site; except that funds may continue to be obligated or expended for the purpose of advanced preparation (site selection, land acquisition, site survey, and the procurement of long leadtime items) for anti-ballistic missile system sites at Francis E. Warren Air Force Base, Cheyenne, Wyoming, and Whiteman Air Force Base, Knobnoster, Missouri. Nothing in this section shall be construed as a limitation on the obligation or expenditure of funds in connection with the deployment of an anti-ballistic missile system at Grand Forks Air Force Base, Grand Forks, North Dakota, or Malmstrom Air Force Base, Great Falls, Montana.

Mr. ELLENDER. Mr. President, there is another program that was a little contentious. That is the Army XM–803 tank, formerly the MBT–70.

It will be recalled that 4 or 5 years ago we entered into an agreement with Germany to make a joint effort to construct this modern MBT tank. Not long after that agreement was entered into, it seems that the Germans desired to go one way and we another. So the Germans proceeded to construct their version of a tank—which is a little different from ours—and we proceeded to go on our own.

Up to now, over $200 million has been spent on research and development on this tank. The House took up the matter, and, after study, decided, as I understand it, that they would much prefer to have a new tank started. I believe the thinking was that the additional cost of research on the MBT–70 tank would be too great. Also, since there had also been spent $200 million on the tank, by the time it was ready for production, it might cost as much as $1 million apiece.

For that reason the House decided not to provide any more funds to develop the MBT–70 tank.

Instead, they provided $20 million in order to start a new tank program. Of course, much of the technical information that was gathered by the Defense Department in developing the MBT–70 could be utilized as well as such other information as they might have.

We called on the Defense Department for its opinion as to what course to pursue. Mr. Laird indicated that he thought it was a bad idea to abandon the MBT–70 tank. He suggested that at least $62.8 million be appropriated for the research on this tank, notwithstanding the fact that we had already spent in excess of $200 million on research and it appeared that the tank would cost between $600,000 and $1 million each.

We discussed the matter with him. When the committee met to mark up the bill, we discussed the pros and cons of the tank situation. It was decided that the committee would recommend in the bill, not the $62.8 million requested by Mr. Laird, but the $50 million, leaving it more or less in the hands of the Defense Department to decide whether or not it would continue the construction of the tank in question or start upon a new one. In the words of the committee report, "The committee has not approved the continuation of the XM–803 program, nor has it recommended its termination. The intent of the committee is to provide $50 million for the development of a new tank."

If the Senate agrees with our view, it will mean that the Senate will provide $50 million for tank development as against $20 million by the House. Of course, we hope we will be able to iron out our differences in conference.

Mr. President, I ask unanimous consent to have printed in the RECORD an exhibit indicating the full discussion of the tank situation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ARMY TANK PROGRAM

The recommendation of the committee for the appropriation entitled "Research, Development, Test, and Evaluation, Army" includes $50,000,000 for the Army's new tank development program.

The budget included $27,500,000 for the continuation of development and $59.1 million for advanced production engineering for the XM–803 (formerly MBT–70) tank program. The Department of Defense Procurement and Research and Development Authorization Act provides for $62,800,000 for the continuation of the XM–803 research and development program, but does not include any funds for the advanced production engineering.

The House disallowed all funds requested for the XM–803 (MBT–70) program and allowed $20,000,000 for the initation of a new program for the development of a new tank. The effect of the House action is to terminate the XM–803 (MBT–70) program.

The committee has not approved the continuation of the XM–803 program, nor has it recommended its termination. The intent of the committee is to provide $50,000,000 for the development of a new tank.

The Secretary of Defense is requested to review the XM–803 tank program and the new prototype tank program proposed by the House and to determine which of these programs he deems to be the most desirable, and the $50,000,000 recommended by the Committee is available for the program the Secretary selects.

Mr. ELLENDER. Mr. President, I come now to the Navy Department, which includes, of course, the Marine Corps. The recommendation of the committee included $22.3 billion, in round figures, for the Navy and the Marine Corps. About $9.8 billion is recommended for Navy military and Reserve personnel, and operation and maintenance required for support of the Navy. These funds will provide an end strength of about 600,000 men, a fleet of some 658 ships, an active aircraft inventory of about 7,100 aircraft, and a Naval Reserve with a paid drill strength of 129,000.

Mr. President, a summary of this material can be found on page 75 of the report. I ask unanimous consent that the summary may be printed in the RECORD at this point.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF MAJOR NAVY FORCES

	Actual, June 30, 1970	Planned[1] June 30, 1971	June 30, 1972
Commissioned ships in active fleet	769	710	658
Warships	420	411	403
Other	349	299	255
Submarine-launched ballistic	656	656	656
Attack and ASW support carriers	19	18	16
ASW and air defense escort ships	231	226	227
Amphibious assault ships	99	82	76
Aircraft inventory (active)	7,929	7,359	7,141
Tactical aircraft (Navy and Marine Corps)	2,328	2,271	2,208
ASW aircraft	744	759	745
Active duty military personnel Navy	692,435	622,565	603,548
Reserve components personnel (paid drill training): Naval Reserve	127,645	[2] 139,437	129,000

[1] Reflects the President's fiscal year 1972 budget.

[2] Reflects end-strength required to obtain the 129,000 man-year average authorized.

Mr. ELLENDER. Mr. President, I also ask unanimous consent to have printed in the RECORD a summary of Marine Corps forces.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF MARINE CORPS FORCES

	Actual June 30, 1970	Actual June 30, 1971	Planned June 30, 1972
Marine divisions (active)	3	3	3
Marine aircraft wings (active)	3	3	3
Active duty military personnel	259,737	211,548	206,315
Reserve components personnel	47,880	48,276	44,613

Mr. ELLENDER. We have provided approximately $8.5 million for Navy and Marine Corps procurement programs. These are described in the committee report on pages 119–147. A total of approximately $2.3 billion is recommended for the Navy's various research, development, test and evaluation programs. These programs are discussed on pages 174–186 of the committee report.

There were three items of particular interest. One was in reference to the F–14. There was some discussion in committee as to whether or not we should proceed with an option that we have to contract for 48 F–14 aircraft. The committee concluded to concur in the House action.

Under an existing contract we can exercise four separate options with Grumman, the concern now building the aircraft for the Navy. The contract entails construction of 48 planes at a cost of $66.03 million exclusive of initial spares. Some think a better plane can be obtained, but this better plane will cost much more money, and if changes are decided on by the Department, we are going to have to pay a heavy penalty to the manufacturer. In other words, we would experience large-scale cost escalation as we have had on other contracts, such as we have had in the past in connection with the C–5, the F–111, and others.

The expert advice of Mr. Packard and others indicated that it was best for the Government to exercise the first option and buy the 48 planes, even though there is an engine under development which may prove better. Some who opposed this argued that less money would be used if presently available aircraft were utilized after improvement. But we received expert testimony, to my mind, that indicated if we made these changes we would still have an older aircraft and it would be impossible for us to construct it so that it would be as good as the F–14 that we hope to purchase. It was further brought out that a new engine that is being developed for the F–14 and the possibility exists that this improved engine can in later years be installed in the 48 aircraft that we have bargained for. The committee recommends an appropriation of $1,029.8 billion for the F–14 program.

As I said, there is a second option that the Navy is considering for fiscal year 1973. When we consider funding the program for that year, we shall again be faced with a decision as to whether the contractor will be able to perform under the contract.

The committee regrets that all of these 48 aircraft will be of the F–14A configuration without the new technology engine. The committee has requested the Department to take steps to insure that future production of this aircraft will be of the F–14B configuration with the new engine, and to give consideration to equipping the F–14A aircraft with the new engine in order to reduce the number of F–14B's that will have to be produced.

The F–14 program is discussed on pages 21 and 22 of the committee's report.

Mr. President, a more detailed account of this transaction and a description of the plane involved in that option will be shown in exhibit J, which I ask unanimous consent to have printed in the Record at this point.

There being no objection, the exhibit was ordered to be printed in the Record, as follows:

F–14 Tomcat Fighter Aircraft

The recommendations of the Committee include $1,029.8 million for the Navy's F14A/B Tomcat fighter aircraft. The recommended funds are for the following purposes:

Procurement of aircraft.—$600.8 million is recommended for the procurement of F–14A aircraft. The recommended sum and $59.5 million of advance procurement provided in the fiscal year 1971 program will provide a total of $660.3 million for the procurement of 48 of these aircraft.

Advance procurement.—$84.8 million is recommended for advance procurement to support the planned procurement of F–14 aircraft in fiscal year 1973.

Spares and repair parts.—$116 million is recommended for the procurement of initial spares and repair parts for the support of F–14 aircraft.

F–14A development program.—$128 million is recommended for the continuation of the F–14A aircraft development and testing program.

F–14B development program.—$100.2 million is recommended for the continuation of the development of the advance technology engine for the F–14B aircraft. This program is a Navy-Air Force joint program for the development of the advance technology engine for the F–14B aircraft. This program is a Navy-Air Force joint program for the development of an engine for the F–14B and the Air Force's F–15 air superiority fighter. This new engine will have a gas generator (core) that is common to both versions. The Navy version of this new engine will produce approximately 40% more thrust and weigh approximately 25% less than the engine used in the F–14A.

In recommending these funds the Committee expects the Navy to obtain these 48 aircraft in accordance with the existing contract terms. On this point the Chairman of the Board of Directors of the prime contractor in a letter to the Deputy Secretary of Defense, dated July 27, 1971, said:

"In response to your call of last week requesting a commitment from the Grumman Aerospace Corporation that we will build (48) F–14A's as presently configured at the contract price if the Department of Defense Fiscal Year 1972 program for the F–14 is authorized and funds appropriated, *I wish to advise you that we will.* We have arrived at this conclusion after extended conversations with the Navy." (Italic added.)

The F–14A is a two-place, tandem seat, variable sweep wing, supersonic, carrier-based aircraft designed to replace the F–4 aircraft in Naval fighter and fleet air defense roles in the 1973–1980 time period. It will have visual attack and an all-weather capability to deliver Phoenix and Sparrow air-to-air missiles using a modified AN/AWG–9 weapon control system. It will be equipped with the M–61 gun and Sidewinder air-to-air missiles for close-in air-to-air combat. The F–14A version is powered by two TF–30–P–412 engines, and the F–14B version will be powered by two F401–PW–400 advance technology engines.

It is the view of the Committee that the Department of Defense and the Navy should take whatever steps are necessary in order to obtain the F–14B aircraft with the advance technology engine as soon as possible. Furthermore, consideration should be given to the reasonability of equipping all F–14A aircraft with the advanced technology engine.

The F–14 aircraft program is discussed on pages 734–740, 868–869, and 1130–1150 of part 3 of the Committee hearings on the Department of Defense Appropriation Bill, 1972.

Mr. ELLENDER. Mr. President, we have recommended $881 million for five nuclear attack SSN class 688 submarines. In addition $22.5 million was authorized for advance procurement for an additional one. The House allowed the funds, but there is no budget estimate for that. We gave it consideration, but decided not to go along with the request. What we did was to follow the advice of Mr. Packard and Mr. Laird in providing for five submarines, and let the additional one wait until next year.

Pertinent reference will be found in exhibit K, which I ask unanimous consent be made a part of the Record at this point.

There being no objection, the exhibit was ordered to be printed in the Record, as follows:

Nuclear Attack Submarines (SSN Class 688)

The committee's recommendations for the appropriation entitled "Shipbuilding and Conversion, Navy" includes $881 million for the SSN Class 688 nuclear attack submarine program. These funds are for the following purposes:

Construction of submarines.—$767.5 million is recommended for the construction of SSN Class 688 nuclear attack submarines. This sum and $110 million advance procurement provided in prior fiscal years will provide a total of $877.5 million for the construction of five of these submarines.

Advance procurement.—$113.5 million is recommended for advance procurement to support the planned fiscal year 1973 construction program.

This new class submarine was initially funded in fiscal year 1970 when funds were provided for three, and four were funded in fiscal year 1971. These submarines will have, in addition to their high-speed capability, an improved sensor system, improved acoustic countermeasure, an advanced fire control system, a central computer complex, improved navigational capability, and an advanced electronic countermeasures receiver.

This program is discussed on pages 1307–1312 of part 3 of the Committee hearings on the Department of Defense Appropriation Bill, 1972.

Nuclear attack submarine (SSN–688 class).—$767.5 million is recommended for the construction of advanced SSN–688 class nuclear attack submarines. This sum and $110 million advance procurement provided in prior years make a total of $877.5 million available for the construction of five of these submarines. In addition to its increased speed capability, this new class of nuclear attack submarine will have an improved sensor system, improved acoustic countermeasures, and advanced fire control system and a central computer complex to integrate the navigation, fire control and electronics countermeasure receivers in one system. Seven of these submarines were funded in fiscal years 1970 and 1971. The mission of this high-speed vessel is to destroy enemy submarines and surface ships in order to prohibit the employment of such forces in attack and destruction of U.S. or allied targets.

In addition, $113.5 million is recommended for advance procurement of long leadtime equipment for future ships.

Mr. ELLENDER. The committee recommends the appropriation of $194.6 million for the construction of the third nuclear powered guided missile frigate of the DLGN–38 class. The total estimated cost of this ship is $240 million, but this is likely to increase.

At this time, the Department of Defense plans to build only three ships of this class. For this reason, the committee recommends concurrence in the House disallowance of $14.6 million requested for the advance procurement to support the construction of the fourth ship of this class.

This program is discussed on pages 24, 25, and 133 of the committee report. I am sending to the desk exhibit L which I ask to have inserted in the Record.

There being no objection, the exhibit L was ordered to be printed in the Record, as follows:

NUCLEAR GUIDED MISSILE FRIGATES (CLASS DLGN-38)

The committee's recommendation for the appropriation entitled, "Shipbuilding and Conversion, Navy" includes $194.6 million for the construction of a third nuclear guided missile frigate of the DLGN-38 class. The sum recommended, and advance procurement of $45.7 million will provide a total of $240.3 million for the construction of this ship. This ship will have a full load displacement of 10,000 tons, and will be 585 feet long with a maximum beam of 63 feet. It will be equipped with the NUC D2G nuclear propulsion system and will have the capability of a speed of 30 knots. Its ordnance includes 2 5-inch guns, ASW missiles, AAW missiles, and Mk-46 torpedoes. It will also have facilities for an on-board helicopter.

This ship will have the capability to operate offensively in the presence of air, surface or subsurface threats independently or with nuclear or conventional strike forces, and to provide protection to those forces and other naval forces or convoys against air, surface, or subsurface threats.

The budget request included $14.6 million for advance procurement to support the construction of an additional nuclear guided missile frigate (DLGN-38) in fiscal year 1973. However, on May 5, 1971 the Deputy Secretary of Defense advised the Committee of a decision to build only three of these ships at this time. The Secretary stated:

"We are about to negotiate a multi-ship contract for the construction of DLGN-38 class frigates. Before negotiations can proceed, a decision is needed on how many ships the contract should cover. The Navy proposed two alternative programs for the construction of nuclear frigates for the FY 70-74 time frame. One alternative included three ships, the DLGN-38 class vessels funded in FY 70 and FY 71 and requested in the FY 72 Budget. The second alternative was a five-ship program which included two additional DLGN-38 ships to be started in FY 73 and FY 74.

"After reviewing the two options carefully and discussing them at length with the Secretary of the Navy and the Chief of Naval Operations, I have approved the recommendations of the Secretary of the Navy that we proceed with the three-ship program. My reasons were similar to many of the considerations in my decision to postpone construction of an additional nuclear powered carrier. The very substantial overall cost of these ships, limitations on funds available for Defense, and other high priority needs, led me to conclude that we should only plan to build three nuclear frigates at this time.

"This decision was also influenced by the significant increase in the cost of the DLGN-38 over earlier estimates. These cost considerations, coupled with the expected strong pressures on Defense spending over the next few years, made me especially concerned over being committed to a multi-year contract for ships beyond those already funded or proposed to the Congress."

On October 28, 1971 the Deputy of Defense further advised the committee as follows:

"Our current planning does not include funding for a nuclear-powered guided missile frigate (DLGN) in the FY 1973 program. Therefore there is no longer a requirement for the $14,575,000 requested for advance procurement in the FY 1972 budget."

In view of the decision not to proceed with the construction of the fourth DLGN-38 frigate in fiscal year 1973 the committee recommends concurrence in the House disallowance of the $14.6 million requested for advance procurement for this fourth ship.

This program is discussed on pages 1312-1320 of part 3 of the Committee hearings on the Department of Defense Appropriation Bill, 1972.

Mr. ELLENDER. This recommendations of the committee include $763.1 million for the continuation of the Polaris-to-Poseidon submarine conversion program. The total includes funds for the conversion of six of these submarines. The current plan calls for the conversion of 31 of the 41 Polaris submarines to the Poseidon configuration. Through fiscal year 1971, 14 of these conversions have been funded.

The Polaris-to-Poseidon conversion program is discussed on pages 25 and 26 of the committee's report. I ask to have exhibit M, which I am sending to the desk, included in the RECORD.

There being no objection, the exhibit M was ordered to be printed in the RECORD, as follows:

POLARIS-TO-POSEIDON CONVERSION PROGRAM

The recommendations of the committee include $763.1 million for the continuation of the conversion of Polaris submarines to carry the Poseidon missile. These funds are for the folowing purposes:

	Millions
Conversion of 6 submarines (total estimated cost, $387.2 million, less advance procurement of $121.8 million)	[1] $265.4
Advance procurement to support the planned fiscal 1973 conversion program	[1] 123.0
Advance procurement to support the planned fiscal 1974 conversion program	[1] 13.0
Outfitting material and post-delivery costs	[1] 7.0
Procurement of Poseidon missiles	[2] 348.9
Poseidon initial spares	[2] 5.8
Total	763.1

[1] Included in the appropriation entitled, "Shipbuilding and conversion, Navy."

[2] Included in the appropriation entitled, "Procurement of aircraft and missiles, Navy."

The current program calls for the conversion of 31 of the 41 Polaris submarines to carry the Poseidon missile. The Poseidon is a two stage solid propellant missile with improved accuracy, and with a larger payload than the Polaris missile. The Poseidon is equipped with multiple independent re-entry vehicles (MIRV's). Through fiscal year 1971, 14 of these conversions have been funded.

In addition to the funds referred to above, the committee's recommendation for the appropriation entitled, "Research, Development, Test, and Evaluation, Navy" includes substantial funds for the continuation of the development and testing of the fleet ballistic missile system, fleet ballistic missile defense, and fleet ballistic missile command and control.

The Polaris-to-Poseidon conversion program is discussed on pages 1296-1303 of part 3 of the Committee hearings on the Department of Defense Appropriation Bill, 1972.

Mr. ELLENDER. Mr. President, that covers some of the more important Navy procurement items. Of course, Senators will be able to read the detail on this procurement in the report.

For the Department of the Air Force, the recommendation of the committee includes $22,177,812,000. $13.3 billion of that sum is recommended for military and reserve personnel and operation and maintenance. This will support an Air Force with an end strength of about 750,000, an Air Force Reserve with a paid drill strength of about 50,000, and an Air National Guard with a paid drill strength of about 89,000.

The Air Force will have an active aircraft inventory of about 11,900 aircraft and will have 1,054 operational ICBM missiles.

A little over $6 billion is recommended for the various Air Force procurement programs. These programs are discussed in detail on pages 147 and 163 of the report.

In addition, $2,845,944,000 is recommended for the research, development, test and evaluation programs of the Air Force. These programs are discussed on pages 186-196 of the committee's report.

The recommendations of the committee include funds for a number of Air Force programs of general interest.

The committee recommends $485.7 million for the F-111 aircraft. Of this amount $112 million is recommended for procurement of 12 additional F-111F aircraft, as requested in the budget estimates of July 30. An additional amount, aggregating $349.2 million, is recommended for overtarget and unfunded deficiencies for aircraft funded in prior fiscal years. Including the sum recommended, the Congress has now provided a total of $975.5 million for these overtarget costs for all versions of the Air Force is F-111 and for the FB-111 aircraft. The F-111 program is discussed on pages 26 and 27 of the committee report.

I ask unanimous consent to place in the RECORD at this point exhibit N, which describes this matter.

There being no objection, the exhibit was ordered to be printed in the RECORD, as follows:

F-111 AIRCRAFT

The recommendations of the Committee include $485.7 million for the Air Force's F-111 and FB-111 aircraft programs. These funds are provided for the following purposes:

Procurement of F-111F tactical aircraft—$112 million is recommended for the procurement of 12 F-111F tactical aircraft. These funds were requested in an amendment to the budget submitted to the Congress on July 30, 1971 (H. Doc. 92-150). The committee desires to make it clear that it expects the Air Force to obtain these 12 aircraft at a total cost not in excess of $112 million recommended.

The F-111F is the latest model in a series of swing-wing F-111 tactical aircraft. Like its F-111D predecessor, it will have the capability to operate from bases at extended range from its targets, to penetrate sophisticated defenses and to carry out attacks at night and in all types of weather. The F model differs from the F-111D only in its engine and its avionics system. It is equipped with the new P-100 engine, which provides a 25 percent increase in thrust over the older model. Its avionics package is expected to be less costly than the Mark II system used in the D model, but will retain similar navigation capabilities and comparable air-to-ground attack performance against fixed targets. The F-111F is manufactured by the General Dynamics Corporation, Ft. Worth, Texas, and the engines are manufactured by the Pratt and Whitney Division of United Aircraft, East Hartford, Conn.

F-111 and FB-111 aircraft overtarget costs and unfunded deficiencies.—$349.2 million is recommended for F-111 and FB-111 overtarget costs and unfunded deficiencies. Of this total, $183.8 million was requested in a budget amendment submitted July 30, 1971 (H. Doc. 92-150). Simply stated, overtarget costs and unfunded deficiencies are the difference between the estimated contract costs (on which appropriations are based) and the actual contract costs. Through fiscal year 1971 a total of $626.3 million has been provided for these overtarget costs and unfunded deficiencies. (This sum includes a recently approved fiscal year 1971 reprogramming of $190.4 million.)

Including the $349.2 million recommended in this bill, a total of $975.5 million has been provided for these overtarget costs and unfunded deficiencies. The Committee does not expect to consider any future requests for funds for these overtarget costs and unfunded deficiencies.

Initial aircraft spares and repair parts.—$5.3 million is recommended for the procurement of initial aircraft spares and repair parts for the support of F–111F aircraft.

Research and development.—$19.2 million is recommended for the continuation of the F–111 Category I and II testing programs. The current total estimated cost of the F–111 research, development, and testing program is $1,641.5 million. Through fiscal year 1971 a total of $1,616.1 million has been made available for this program.

In addition to the above referred-to funds the Committee's recommendation for the aircraft modification program includes approximately $43.8 million for the modification of F–111 tactical aircraft and approximately $29 million for the modification of FB–111 strategic bomber aircraft.

The F–111 program is discussed on pages 502–514 and 697–700 of part 4 and pages 985–998, 1003 and 1074 of part 1 of the Committee hearings on the Department of Defense Appropriation Bill, 1972.

Mr. ELLENDER. The committee also recommends $321.5 million for the C–5A strategic transport aircraft. The recommended program is the same as the program approved by the Senate in the authorization Act. The funds recommended are subject to the restrictions and limitations imposed in section 504(a) of the authorization Act.

The recommended funds do not provide for the procurement of any additional aircraft. $299.1 million is required to cover funding deficiencies for the 76 production aircraft funded in prior fiscal years. It is now estimated that the C–5A program, which includes five test aircraft and 76 production aircraft, will cost $4,552.7 million, which includes $3,095.5 million for the 76 production aircraft, $1,029.2 million for research and development, and $428 million for initial spares and repair parts.

The C–5A program is discussed on pages 28 and 29 of the committee report. I am sending to the desk exhibit O which I ask to have included in the Record.

There being no objection, the exhibit was ordered to be printed in the Record, as follows:

C–5A Strategic Transport Aircraft

The recommendations of the committee include $321.5 million for the C–5A strategic transport aircraft program. The C–5A is the largest aircraft ever built and has a basic mission payload of 100,000 pounds for a 5,560 nautical mile mission, a maximum speed of 470 knots, a ceiling of 43,500 feet and a ferry range of 7,200 miles. The current plan calls for the procurement of 81 of these aircraft, including the 5 test aircraft.

The funds recommended are for the following purposes:

Prior year unfunded deficiencies.—$299.1 million is recommended to cover funding deficiencies in the 76 production aircraft funded in prior fiscal yars.

Research and development.—$22.4 million is recommended for the completion of the planned C–5A resarch and development program. The current total estimated cost of the C–5A research and development program is $1,029.2 million. Through fiscal year 1971 $1,003.2 million has been made available for this program.

The committee's recommendations are in accord with the provisions of the Department of Defense Procurement and Research and Development Authorization Act, 1972 (H.R. 8687, Public Law 92–56), and the funds recommended are subject to the provisions of Sec. 504 of that Act which reads as follows:

"Sec. 504. (a) The amount of $325,100,000 authorized to be appropriated by this Act for the development and procurement of the C–5A aircraft may be expended only for the reasonable and allocable direct and indirect costs incurred by the prime contractor under a contract entered into with the United States to carry out the C–5A aircraft program. No part of such amount may be used for—

"(1) direct costs of any other contract or activity of the prime contractors;

"(2) profit on any materials, supplies, or services which are sold or transferred between any division, subsidiary, or affiliate of the prime contractor under the common control of the prime contractor and such division, subsidiary, or affiliate;

"(3) bid and proposal costs, independent research and development costs, and the cost of other similar unsponsored technical effort; and

"(4) depreciation and amortization costs on property, plant, or equipment.

Any of the costs referred to in the preceding sentence which would otherwise be allocable to any work funded by such $325,100,000 may not be allocated to other portions of the C–5A aircraft contract or to any other contract with the United States, but payments to C–5A aircraft subcontractors shall not be subject to the restriction referred to in such sentence.

"(b) Any payments from such $325,100,000 shall be made to the prime contractor through a special bank account from which such contractor may withdraw funds only after a request containing a detailed justification of the amount requested has been submitted to and approved by the contracting officer for the United States. All payments made from such special bank account shall be audited by the Defense Contract Audit Agency of the Department of Defense and, on a quarterly basis, by the General Accounting Office. The Comptroller General shall submit to the Congress not more than thirty days after the close of each quarter a report on the audit for such quarter performed by the General Accounting Office pursuant to this subsection.

"(c) The restrictions and controls provided for in this section with respect to the $325,100,000 referred to in subsections (a) and (b) of this section shall be in addition to such other restrictions and controls as may be prescribed by the Secretary of Defense or the Secretary of the Air Force."

The C–5A program is discussed on pages 526–535 and 701–702 of part 4 of the Committee hearings on the Department of Defense Appropriation Bill, 1972.

Mr. ELLENDER. The committee recommends $414.5 million for the Air Force's F–15 air superiority fighter. These funds will provide continuation of the development program for this fighter aircraft which will total $1.7 billion. Twenty test aircraft will be produced and tested in this program with an end toward developing a superior fighter aircraft.

Mr. President, there is another large item that was discussed by the committee, and that concerned the B–1 bomber. The amount we recommended for the B–1 bomber is $370.3 million. That amount is to continue the development program which includes three flight test aircraft and one structural fatigue test airframe. The current estimated cost of the development program is $2.6 billion. That, I want to make plain, is merely to build the prototype. In other words, it is to pay for research in that field. There is nothing in the bill indicating that any moneys are to be used to produce any of these bombers.

It is my position that no obligation would be made by the Government to go into procurement of the B–1's unless and until they are thoroughly tried and thoroughly researched, so that we will not find ourselves in the same situation as we were in other large contracts of this character.

The committee recommends $1,010.1 million for the continuation of the Minuteman missile force. Of this total, $443.2 million is for the procurement of Minuteman II and Minuteman III missiles to replace old Minuteman I missiles. The committee's recommendation is based on an ultimate force of 450 Minuteman II's and 550 Minuteman III's, which are equipped with the multiple independently armed reentry vehicle (MIRV's). This program is discussed on pages 30 and 31 of the committee report.

Mr. President, this matter is discussed in exhibit 1, and I ask unanimous consent that the exhibit be placed in the Record at this point.

There being no objection, the exhibit was ordered to be printed in the Record, as follows:

Minuteman Missile Program

The recommendations of the committee include $1,010.1 million for the Minuteman II and III ICBM program. The Minuteman is a three stage solid propellant intercontinental ballistic missile which is deployed in hardened and dispersed silos. Its mission is the destruction of those strategic targets designated by the national strategic target list. Minuteman II carries one re-entry vehicle and has the capability to carry penetration aids to penetrate enemy defenses. The Minuteman III has an improved capability provided by a post-boost propulsion control system for the deployment of multiple Mark-12 reentry vehicles (MIRVs). The current program calls for an ultimate force of 450 Minuteman IIs and 550 Minuteman IIIs.

The total recommended is for the following purposes:

Minuteman II and III missile procurement.—$443.2 million is recommended for the procurement of Minuteman II and III missiles. The sum recommended and $28.5 million advance procurement provided in fiscal year 1971 will provide a total of $471.7 million for the fiscal year 1972 missile procurement program.

Advance procurement.—$34.2 million is recommended for advance procurement to support the planned fiscal year 1973 missile procurement program.

Minuteman force modernization.—$270.5 million is recommended for the Minuteman force modernization program. This program includes the basic force modernization program which involves modifying launch control facilities to accept the Minuteman IIs and IIIs; the upgrade silo program, which involves the providing of increased prelaunch survivability; and the command data buffer program.

Initial spares and repair parts.—$16.4 million is recommended for the procurement of initial spares and repair parts to support the Minuteman missiles.

Minuteman modifications.—$64.2 million is recommended for the continuation of the Minuteman update program. This program involves the incorporation of post delivery configuration management deficiencies revealed during operational use and various test programs.

Research and development.—$181.6 million is recommended for the continuation of the Minuteman development and testing program.

The Minuteman program is discussed on pages 568–577, 595–596, and 740–743 of part 4 and pages 96 and 993 of part 1 of the Committee hearings on the Department of Defense Appropriation Bill, 1972.

Mr. ELLENDER. The committee has not recommended any additional funds for the advanced development prototype program proposed by the Department of Defense. However, it has authorized the use of $34 million of the funds made available in the various R.D.T. & E. appropriations for this purpose. I shall explain the reasoning behind this:

The budget does not include any funds for the prototype program. The Department proposed a prototype program, and informally submitted to Congress a request for $67.5 million for the program, as follows: Army, $23.5 million; Navy, $20 million; and Air Force, $24 million.

The Authorization Act includes $34 million for the prototype program as follows: Army, $12 million; Navy, $10 million; and Air Force, $12 million.

The House allowed $12 million for the Air Force's prototype program and stated that $6 million was for the light weight fighter and $6 million was for the medium STOL transport aircraft.

The committee has not recommended any funds for the program, but it has authorized the use of funds provided for research and development for the program as follows: Army, $12 million; Navy, $10 million; and Air Force, $12 million.

The prototype program is discussed on pages 13 and 14 of the committee's report. I ask unanimous consent that exhibit Q be included in the RECORD.

There being no objection, exhibit Q was ordered to be printed in the RECORD, as follows:

ADVANCED DEVELOPMENT PROTOTYPE PROGRAM

After the submission of the President's Budget for fiscal year 1972 the Department of Defense proposed a new research and development program, the objective of which was to emphasize the construction of hardware prototypes early in the development stage of weapons systems. In describing the proposed program, a representative of the Department of Defense stated:

"The prototype program will provide for competition in real performance and actual hardware and it will require the competing teams to demonstrate the superiority of their product, rather than the superiority of their salesmanship."

The Department of Defense Procurement and Research and Development Authorization Act, 1972 includes an authorization of $34,000,000 for this program as follows: Army, $12,000,000; Navy, $10,000,000; and Air Force, $12,000,000. However, these funds are not included in the pending budget requests.

The committee encourages the construction of prototypes in the development of weapons systems, especially engineering prototypes on which production decisions may be based. In reviewing the program proposed by the Department of Defense, the Committee was concerned that the emphasis was placed on advanced development prototypes rather than engineering prototypes. In the future the Committee urges the Department of Defense to adopt the engineering prototype concept in the development of more weapons systems, as in the case of the Air Force's A–X close air support aircraft, the new Army tank program for which funds are recommended in this bill. The Committee concurs in the view of the House committee that the Air Force's program for the development of the Subsonic Cruise Armed Decoy (SCAD) should be conducted under a competitive prototype procedure.

The House bill includes $12,000,000 in the appropriation "Research, Development, Test, and Evaluation, Air Force" for the prototype program, and these funds are provided specifically for the lightweight fighter program and the medium STOL aircraft program. The committee has recommended the disallowance of this $12,000,000 because of the lack of a formal budget request. However, the Committee authorizes the use of funds provided for the fiscal year 1972 research and development programs for the prototype program as follows: Army, $12,000,000; Navy, $10,000,000; and Air Force, $12,000,000.

Mr. ELLENDER. I now wish to discuss the support of free world forces. As all of us know, we have been carrying quite a load for quite some time in order to maintain and assist our friends across the sea. As has been pointed out on many occasions before the Senate, we have spent literally billions of dollars in the support of the free world, and this has been going on now for many, many years. We have spent far in excess of $138 billion assisting our friends, and we are still spending a great deal of money all over the world, in Taiwan—that is, Formosa—the Philippines, Spain, Western Europe, and elsewhere. The amounts cannot be well separated to indicate how much we are spending in each of these areas, but an estimate was made several months ago indicating that we are now spending, for Western Europe, the Mediterranean, and Spain, assisting our allies in the neighborhood of $14 billion.

I regret, as I have indicated on many occasions on this floor, that we have been carrying so much of a load in order to assist our allies, particularly in western Europe. These allies are well able to do more than they are now performing in their own defense. Ever since I have been a member of the Armed Services Subcommittee of the Appropriations Committee, I have requested information from every Secretary of Defense as to what they would do about forcing our allies to supply us with more troops, more money to pay our own troops, and more money for hardware procurement.

The record will show, Mr. President, that all I was able to obtain from these Secretaries was, "We'll do our best. We'll try our best."

Last year, members of this administration had a conference with the heads of the different allied governments, and they agreed with what they thought was quite a help. They got our allies in western Europe to agree to provide not quite a billion dollars over a period of 5 years.

Mr. President, to me that is insignificant, because all of the money that these allies are providing is to pay for the construction of facilities on their own soil. Notwithstanding the fact, Mr. President, that we were driven out of France by De Gaulle, we are still assisting in an amount of about 25 percent to 27.5 percent in the cost of building and construction on the soil of the rest of our allies in Western Europe. Aside from all that, Mr. President, we have spent hundreds of millions of dollars in Spain in order to protect ourselves and our allies in Western Europe. We did not go to them and say. "You put up so much to pay for the airports" we did it ourselves. We have three there. We also have one on the Azores. We have a huge port at Cadiz. All of that was constructed with not one red cent paid by any of our allies.

Moreover, Mr. President, we are being called upon to put up more funds in order to provide for the infrastructure programs that are proposed to be built—in part at least because we have been forced to leave France. I thought I would mention that, Mr. President, because I have been traveling in Europe for more than 20 years, and what I am speaking of now, I know from personal knowledge.

I have tried to give good advice as to what ought to be done, but somehow my advice is rarely followed. Some time ago my good friend, the Senator from South Dakota (Mr. MCGOVERN), placed in the RECORD a résumé of some of my reports on my travels abroad, particularly several of them that pertained to Southeast Asia, beginning in 1954, 1955, and 1966.

Those reports show Mr. President, that if the senior Senator from Louisiana had been listened to, we would not be in Southeast Asia today. But no, the Department of Defense and the State Department were holding the reins, and we have been finding ourselves, now, for the past 20 years at least in trouble practically all over the world. Something should be done to stop all this. I am very hopeful that this year and next year will be the turning point in that direction.

For the support of free world forces, we have in this bill a recommendation of $2,303,600,000. This includes $1,909.1 million for the South Vietnamese forces, $138.5 million for the support of local forces in Laos, $68.1 million for local forces in Thailand, and $195.9 million for Korean forces in South Vietnam.

The use of funds appropriated by the U.S. Armed Forces for the support of the military forces of these countries is authorized in section 501 of the Department of Defense Procurement and Research and Development Act. This program is described on page 11 of the committee report, as shown in exhibit R, which I ask unanimous consent to have printed at this point in the RECORD.

There being no objection, the exhibit was ordered to be printed in the RECORD, as follows:

SUPPORT OF FREE WORLD FORCES

Section 738 of the bill authorizes the use of appropriations available to the Department of Defense to support Vietnamese and other free world forces in support of the Vietnamese forces and for the support of local forces in Laos and Thailand and for related costs. The recommendations of the Committee include $2,303.6 million for these purposes for the following countries: South

Vietnam, $1,901.1 million; Korea, $195.9 million; Laos, $138.5 million; and Thailand, $68.1 million.

The recommended amount for these purposes in each appropriation is set out under the appropriate heading in this report.

The funds recommended for these purposes are provided pursuant to and in accord with section 501 of the Department of Defense Procurement and Research Authorization Act, 1972 (Public Law No. 92-   ), which reads as follows:

"SEC. 501. Subsection (a) (1) of section 401 of Public Law 89-367, approved March 15, 1966 (80 Stat. 47), as amended, is hereby amended to read as follows.

"(a) (1) Not to exceed $2,500,000,000 of the funds authorized for appropriation for the use of the Armed Forces of the United States under this or any other Act are authorized to be made available for their stated purposes to support: (A) Vietnamese and other free world forces in support of Vietnamese forces, (B) local forces in Laos and Thailand; and for related costs, during the fiscal year 1972 on such terms and conditions as the Secretary of Defense may determine. None of the funds appropriated to or for the use of the Armed Forces of the United States may be used for the purpose of paying any overseas allowance, per diem allowance, or any other addition to the regular base pay of any person serving with the free world forces in South Vietnam if the amount of such payment would be greater than the amount of special pay authorized to be paid, for an equivalent period of service, to members of the Armed Forces of the United States (under section 310 of title 37, United States Code) serving in Vietnam or in any other hostile fire area, except for continuation of payments of such additions to regular base pay provided in agreements executed prior to July 1, 1970. Nothing in clause (A) of the first sentence of this paragraph shall be construed as authorizing the use of any such funds to support Vietnamese or other free world forces in actions designed to provide military support and assistance to the Government of Cambodia or Laos: Provided, That nothing contained in this section shall be construed to prohibit support of actions required to insure the safe and orderly withdrawal or disengagement of United States Forces from Southeast Asia, or to aid in the release of Americans held as prisoners of war."

Mr. ELLENDER. Mr. President, I wish to point out that the committee is not attempting to reduce defense expenditures so much as the amount of new money to operate the Defense Department.

The budget requested general transfer authority in the amount of $1 billion. The House reduced this authority to $600 million, the amount provided for fiscal year 1971. What we are doing here is increasing the amount that can be transferred from one account to another from $600 million to $900 million, in the hope that we can use this transfer authority to reduce the new obligational authority requested. These funds are subject to the reprograming procedure established between the Department of Defense and the concerned committees. This expanded transfer authority is not to be used for the initiation of the development and/or the production of new weapons systems. Ever since I have been chairman of this committee—and even long before that, while I was serving with the late Senator Russell as well as Senator Hayden—I have watched what the Defense Department did in regard to reprograming. Often, the Defense Department asked for funds to build, let us say, two or three ships. They learned later that they did not need those ships, so they took the money that was going to be spent to construct these ships and requested reprograming approval in order to fund a different program.

So far as I am concerned, as chairman of the committee, I believe that from here on, with programs of that kind, the committee as a whole must know about them, before we embark upon the actual construction. We must have a budget estimate from the President. In that way, I think we will be better off. When it comes to the construction of, let us say, an aircraft carrier that will cost, after being equipped, as much as $1 billion. A program of that kind should be asked for and budgeted by the President. I am very hopeful that in the future this will be done.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD exhibit S, from the committee report.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECTION 736: TRANSFER AUTHORITY

The budget proposed a general transfer authority between appropriations in this Act of not to exceed $1,000,000,000, and the House bill provides for $600,000,000. The committee recommends transfer authority of $900,000,000, and an expansion of the authority to cover all appropriations and funds available to the Department of Defense exclusive of appropriations for military construction. All transfers pursuant to this provision are subject to prior approval under the existing reprogramming procedures.

The committee's objective in recommending the increase in the amount of the transfer authority and expansion to cover other appropriations and funds is to give the Secretary of Defense the flexibility that is required to meet numerous mandatory increases in various programs, such as increase in the CHAMPUS (civilians health and medical program, uniformed services) program, for permanent change of station travel resulting from turbulence in the military personnel programs, increases required for the transportation of equipment resulting from rate increases, and to the extent possible increases required for military and civilian pay increases. It is not the intent of the committee that this expanded authority be used to initiate the development and procurement of weapons systems.

Mr. ELLENDER. Mr. President, there is an item on which I expect that there will be an amendment, and it is with regard to a set-aside for commercial air transportation services. I am not going to spend any time on it, because it will be discussed thoroughly, I understand, as an expected amendment.

Mr. President, there is another amendment that will have to be considered. I understand that the Senator from Mississippi (Mr. STENNIS) probably will offer an amendment to strike the reduction in troops amendment. The committee recommended the inclusion of this provision, the intent of which is to reduce the number of U.S. military personnel in Europe to 250,000 by June 15, 1972. The provision reads as follows:

SEC. 744. After June 15, 1972, no part of the funds appropriated in this Act shall be available for the support of U.S. military personnel in Europe in excess of 250,000.

During the course of the hearings, the committee was advised that there were 294,000 U.S. military personnel stationed in Europe. However, the Department of Defense now states there are 310,000 U.S. troops in Europe, as follows: 195,000—Army; 70,000—Air Force; 45,000—Navy and Marines, including 29,000 with the 5th Fleet in the Mediterranean.

Mr. President, I am not going to discuss that feature of the bill in detail because, as I understand it, an amendment will be offered to strike it. There will be ample opportunity to discuss the program in full.

Mr. President, I am very happy that I have been able to present this bill to the Senate. The hearings, as I said, were completed in June of last year. I hope that with all the information I have presented to the Senate with the excerpts from the report, it will become easier reading for anyone who wants to follow all the actions taken by us before the committee.

Mr. President, if there are any questions, I shall be very glad to answer them, and, if not, I yield the floor to the distinguished Senator from North Dakota (Mr. YOUNG).

Mr. YOUNG. Mr. President, I wish to commend the distinguished chairman of the Senate Appropriations Committee for his statement. Our friend, Senator ELLENDER, has long been considered by Members of the Senate as one who believes in the strictest kind of economy. He worked long and hard to cut this budget in every way he could, without impairing the defense needs of this Nation.

The appropriations bill we are now considering would provide $70.2 billion for defense. It is $806 million below the amount approved by the House and $3.3 billion below the President's 1972 budget estimates. It is one of the largest cuts that has been made in a defense budget request in our history.

This is still a big budget and I would like to see it reduced much further but, at the present time, I believe this is impossible. While the war in Vietnam is winding down and our military forces there are less than one-half what they were at the peak, we still have a sizable fixed cost in this Southeast Asian war.

There are many other fixed costs that there is little we can do about at the present time. One, for example, is the cost of our military personnel. Even though the personnel in our Defense Department has been reduced by 1,300,000 in the past 2 years, the overall cost of personnel is approximately the same as it was in 1964. This is largely because of salary increases.

Congress has raised military and civilian pay nine times since 1964. As a result, it would cost $15.3 billion more for pay and allowances to employ the same number as were on the rolls of the Defense Department in 1964.

Average active duty military pay rates are 83.3 percent higher this year than in 1964, and the average government civilian salary has increased by 58.7 percent. The total cost for manpower and manpower related costs in the Defense Department is still $39.2 billion, even though personnel has been reduced by 1,300,000 in the past 2 years. Personnel costs are approximately 65 percent of the total amount of this bill.

There are many other large military fixed costs which cannot be reduced immediately or during the balance of the fiscal year for which this appropriation is being made.

For example, we have fixed military obligations in many places in the world. One of the larger costs is for the 300,000 troops we have stationed in Germany. We have sizable military bases in Thailand, the Philippines, Okinawa, Japan, Great Britain, and other foreign nations. We still have a great many bases in almost every State of the Union. Many military bases have been closed and I believe still more should be closed.

There are also fixed costs for things such as operation and maintenance which would include, among other things, requirements for diesel fuel, kerosene, gasoline, and other petroleum products, the prices of which have gone up rather than down.

Aside from the pay area and fixed costs, inflation has added approximately $9 billion to the defense budget since 1964 for weapons and equipment and supplies procured by the Armed Forces.

Mr. President, when we deduct all the fixed costs from this total budget of $70.2 billion, there is little more than $15 billion in this budget where cuts could be applied. Thus, the nearly $3.3 billion cut by the House and Senate is a sizable percentage of the budget that actually can be cut.

I believe that even with this sharply decreased budget, we are still providing for most of our top priority requirements in the area of new planes, ships and various other new modern equipment. Unquestionably, if this Nation were financially able to make available more funds for defense we could be developing even more modern military equipment.

Mr. President, we cannot afford to be unconcerned about our overall military posture when Russia is steadily increasing her budget to provide more modern weapons systems.

They already are superior to us in many categories of military strength. We cannot expect to maintain an Army as powerful as Russia's, but we must continue to at least keep apace of Russia in the development of new modern, more sophisticated and effective military weapons systems.

The Russians today are producing high-performance aircraft, such as the Foxbat. It flies higher and faster than any fighter plane we have today. Russia's navy shipbuilding program is steadily increasing in total numbers. Russian nuclear submarine construction each year is far beyond that of the United States. Almost their entire big navy is new and modern while much of ours is old and becoming obsolete.

We have but one new high-performance aircraft coming into production next year—the F–14. Our most modern aircraft, the F–4, was designed way back in 1953.

In the area of intercontinental ballistic missiles, the most powerful, destructive force in the world today, Russia has greatly increased their strength. They have more ICBM's than we have. They have some such as the SS–9 which is bigger and more powerful than anything we have. We should with our more sophisticated ICBM's be at least equal to Russia in this highly important area.

This budget does provide for some research and development for other highly important weapons systems. There is money in this bill to continue the research and development of the new B–1 bomber.

Mr. President, there are many other areas of defense that could and should be covered, but I believe the distinguished chairman of our committee (Mr. ELLENDER) has covered most of them in his statement. He has provided by his detailed information some excellent information.

I have long felt that we overcommitted ourselves in the world far beyond our capability, both militarily and economically. The new Nixon policy of not trying to police the whole world is going a long way toward correcting this. This program, if continued, will reduce our overall military forces and costs.

Mr. President, I have always felt that whatever military force we have should have the most modern military equipment possible. I do not believe that our own national security and well-being could ever permit us to become a second-rate military power to Russia or any other country.

In the long months of hearings and work that went into this Defense appropriation bill, we were fortunate to have some exceptionally able and experienced staff members. I have only the highest commendation for the staff of this committee, headed by Bill Woodruff and the minority counsel, Ed Hartung, Fran Hewitt, and Farrell Egge.

Mr. President, I hope that the defense budget, as recommended by the Senate Appropriations Committee after long and careful consideration, will be approved and without any major changes.

Mr. ELLENDER. Mr. President, I ask unanimous consent that the committee amendments, with the exception of section 744 dealing with the withdrawal of troops from Europe, which appears on pages 48 and 49 of the bill, be agreed to en bloc and that the bill as thus amended be considered as original test for the purpose of further amendment, provided that no points of order be considered as waived.

The PRESIDING OFFICER. Is there objection?

Mr. ALLOTT. Mr. President, reserving the right to object, I would like to inquire if the committee excepted the Mansfield amendment. I did not quite hear him.

Mr. ELLENDER. I did.

Mr. MANSFIELD. Mr. President, reserving the right to object, how does the Senator spell that—e-x-c-e-p-t or a-c-c-e-p-t? I hope it is the latter.

Mr. ELLENDER. The Senate will decide that later.

Mr. MANSFIELD. How is it spelled?

Mr. ELLENDER. Accept.

Mr. ALLOTT. Mr. President, if that is the situation, I shall object. I do not know whether we are being facetious or not. However, I thought the Mansfield amendment was excepted.

Mr. ELLENDER. The Senator is correct. I was just joshing.

Mr. MANSFIELD. I was not being facetious. I am serious about this, and I hope that the Senate will be serious, too.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The amendments agreed to en bloc are as follows:

On page 2, line 10, after the word "elsewhere", strike out "$7,315,637,000" and insert "$7,319,837,000".

On page 2, line 18, after the word "cadets", strike out "$4,555,071,000" and insert "$4,562,071,000".

On page 4, line 18, after the word "law", strike out "$102,616,000" and insert "$101,716,000".

On page 6, at the beginning of line 19, strike out "$6,735,662,000" and insert "$6,598,012,000".

On page 8, at the beginning of line 1, strike out "$5,039,040,000" and insert "$5,021,240,000".

On page 8, line 16, after the word "salaries", strike out "$360,553,000" and insert "$360,077,000".

On page 9, line 19, after the word "Government", strike out "$6,274,381,000" and insert "$6,211,323,000".

On page 10, line 18, after the word "Government", strike out "$1,197,465,000" and insert "$1,208,565,000".

On page 11, line 12, after the word "aircraft", strike out "$369,961,000" and insert "$365,961,000".

On page 12, line 9, after the word "Bureau", strike out "$413,428,000" and insert "$402,328,000".

On page 12, line 20, after the word "Board", strike out "$122,000" and insert "$106,000".

On page 14, line 10, after the word "available", strike out "for obligation until June 30, 1974" and insert "until expended".

On page 14, line 24, after the word "purposes", strike out "$1,040,820,000" and insert "$940,820,000, and in addition, $100,000,000 which shall be derived by transfer from 'Procurement of Equipment and Missiles, Army, 1971/1973' "; and, on page 15, line 2, after the word "available", strike out "for obligation until June 30, 1974" and insert "until expended".

On page 15, line 18, after the word "available", strike out "for obligation until June 30, 1974" and insert "until expended".

On page 16, line 7, after the word "purposes", strike out "$1,496,300,000" and insert "$1,418,300,000"; and, in line 10, after the word "available", strike out "for obligation until June 30, 1974" and insert "until expended".

On page 17, line 3, after the word "purposes", strike out "$527,400,000" and insert "$507,300,000"; and, in line 4, after the word "available", strike out "for obligation until June 30, 1974" and insert "until expended".

On page 17, line 16, after the word "plants", strike out "$3,905,000,000" and insert "$3,855,000,000"; at the beginning of line 17, strike out "$50,000,000" and insert "$100,000,000"; at the beginning of line 19, strike out "$25,000,000" and insert "$75,000,000"; and, in line 21, after the word "available", strike out "for obligation until June 30, 1974" and insert "until expended".

On page 18, line 9, after the word "amended", strike out "$3,017,500,000" and insert "$2,926,200,000, and in addition $5,000,000 to be derived by transfer from 'Shipbuilding and Conversion, Navy 1971–75',"; and, in line 12, after the word "available", strike out "for obligation until June 30, 1976" and insert "until expended".

On page 19, line 9, after the word "plants", strike out "$1,702,803,000" and insert "$1,637,803,000"; in line 10, after the word "addition", strike out "$50,000,000" and insert "$110,000,000"; in line 12, after the word "and", strike out "$25,000,000" and insert "$85,000,000"; and, in line 14, after the word "available", strike out "for obligation until June 30, 1974" and insert "until expended."

On page 19, line 24, after the word "only"; strike out "$118,100,000" and, insert "$103,100,000"; in the same line, after the word "addition", strike out "$10,000,000" and insert "$25,000,000"; and, on page 20, line 3, after the word "available", strike out "for obligation until June 30, 1974" and insert "until expended".

On page 20, line 18, after the word "things", strike out "$2,933,800,000" and insert "$2,899,000,000"; in line 19, after the word "addition", strike out "$108,700,000" and insert "$158,700,000"; in line 22, after the word "and", strike out "$25,000,000" and insert "$75,000,000"; and, in line 24, after the word "available", strike out "for obligation until June 30, 1974" and insert "until expended".

On page 21, line 14, after the word "things", strike out "$1,633,700,000" and insert "$1,633,600,000" and, in line 19, after the word "available", strike out "for obligation until June 30, 1974" and insert "until expended".

On page 22, line 11, after the word "amended", strike out "$1,510,998,000" and insert "$1,478,998,000"; at the beginning of line 12, strike out "$50,000,000" and insert "$90,000,000"; and, in line 14, after the word "available", strike out "for obligation until June 30, 1974" and insert "until expended".

On page 23, line 3, after the word "amended", strike out "$62,971,000" and insert "$52,971,000, and in addition, $5,000,000 to be derived by transfer from 'Procurement, Defense Agencies, 1971/1973,"; and, at the beginning of line 6, strike out "for obligation until June 30, 1974" and insert "until expended".

On page 23, line 14, after the word "law", strike out "$1,769,656,000" and insert "$1,795,656,000"; in line 15 after the word "addition", strike out "$25,000,000" and insert "$51,900,000"; and, in line 17, after "1971/1972", insert a comma and "of which not to exceed $9,300,000 shall be available for the continuation of the development of the AH–56A Cheyenne armed helicopter,".

On page 23, line 26, after the word "law", strike out "$2,358,319,000" and insert "$2,281,319,000".

On page 24, line 10, after the word "law", strike out "$2,892,944,000" and insert "$2,845,944,000".

On page 24, line 24, after the word "law", strike out "$440,843,000" and insert "$437,143,000".

On page 30, line 9, after the word "amended", strike out the semicolon and "(1) under regulations approved by the Secretary of Defense, for transportation from their homes to rest and recuperation centers in the Pacific area and return plus per diem payments of not to exceed $30 per day for each dependent for periods not over two weeks, for dependents of military personnel assigned as province or district senior advisers in Vietnam on voluntarily extended tours of duty totaling not less than eighteen months, during periods when such military personnel are granted special incentive leaves at such rest and recuperation center".

On page 36, line 11, after the word "Defense", strike out "which shall not require the performance of proficiency flying but may permit such flying (except in cases of members who have been assigned to a course of instruction of 90 days or more)"; and, after the amendment just above mentioned, insert "Such regulations (1) may not require such flying except where the Secretary of the Department concerned determines that such flying is required to maintain proficiency in anticipation of member's assignment to combat or other essential flight operations and (2) may permit such flying, except that such flying may not be required or permitted in cases of members who have been assigned to a course of instruction of 90 days or more."

On page 43, line 10, after the word "fleet", insert a colon and "*Provided further,* That funds in this Act shall be available for the procurement of commercial air cargo services only to the extent that the Secretary of Defense determines that such services are required to supplement the cargo airlift capabilities of the Military Airlift Command."

On page 44, line 21, after the word "contract", strike out the comma and "or (4) costs of participation in the United States Transportation Exposition".

On page 45, line 3, after the word "of", strike out "$50,000" and insert "$25,000".

On page 45, line 7, after "Sec. 736.", strike out "Upon" and insert "During the current fiscal year upon"; in line 11, after the word "exceed", strike out "$600,000,000" and insert "$900,000,000"; at the beginning of line 12, insert "or funds"; in the same line, after the amendment just above stated, strike out "contained in this Act" and insert "available to the Department of Defense for military functions (except military construction)"; in line 14, after the word "appropriations", insert "or funds"; and, in line 16, after the word "appropriation", insert "or fund".

On page 49, line 8, after "section 401(a)(1)", strike out "H.R. 8687 as passed by the Senate" and insert "Public Law 92–156"; and, after the amendment just above stated, strike out "$93,300,000" and insert "$98,500,000".

On page 49, line 14, after "section 401(a)(2)", strike out "H.R. 8687 as passed by the Senate" and insert "Public Law 92–156".

Mr. INOUYE. Mr. President, in recent months, a great deal of confusion and contradictory information has evolved from the contractor and the Department of Defense and others concerning the F–14 fighter now under development by the Grumman Aircraft Corp. I hope that my contribution to the F–14 debate will not add further to this confusion.

Critics of this aircraft have suggested that it cannot outperform the Soviet Mig series of fighters, and more basically, some have suggested that the F–14 fighter is not a good air superiority fighter.

Because of this criticism, confusion, and contradictory information, I, like many of my colleagues, decided to conduct a special study of the F–14. For example, I have taken a look at the National Aeronautics and Space Agency and Department of Navy assessments of this aircraft, and have been briefed on the latest flight test data by officials of Grumman Aircraft Corp.

Mr. President, in my humble opinion, I wish to suggest that the F–14 aircraft, after more than 2½ years of development, is meeting or exceeding its guaranteed specifications. For example, I have been advised that:

First, the growth in weight of the F–14 since the contract award is the lowest achieved in naval aviation. More specifically, I have been advised that the weight growth is one-fourth of the average of past naval aircraft. I gather that this factor is an extremely important one, when one considers that these airplanes are required to take off and land on aircraft carriers. The weight factor, therefore, becomes an extremely important one.

Second, the performance estimates of the F–14 developed by the Navy have been substantiated by an independent National Aeronautics and Space Agency assessment made at the request of the Department of Defense.

Third, in 1968, the Department of Navy conducted a study of the Soviet threat to determine if the projected performance of a carrier-based fighter—now the F–14A—was sufficient to maintain air superiority through the 1980 time period. This projected performance of the F–14A was validated and proved vastly superior to modified versions of the F–4 aircraft.

Fourth, more recently, the Department of Navy, at the direction of the Department of Defense conducted comparison studies of the F–14 to the current and projected Soviet threats. Results of their study demonstrate that in close-in dog fighting, against mass raids, or high speed, small cruise missiles, the F–14 is the only weapon system presently available that will or can provide air superiority through the 1980 time period.

Fifth, the F–14 fire control system and the Phoenix long-range missile have enjoyed one of the most successful test programs in the history of weapons development. The design and test phases have been closely monitored and participated in by operational people who will eventually use this system. Although not yet employed operationally, Phoenix tests to date demonstrate that all design performance requirements are being satisfied.

Sixth, the F–14 airplanes are now flying successfully and are rapidly verifying the entire predicted flight envelope. For example, in level flight accelerations, the F–14A is exceeding predictions and F–4 chase planes fall behind by significant distances. The F–4 chase airplanes struggle to keep up with the F–14 as they cruise along at high altitude. The F–14A high speed test aircraft easily exceeded twice the speed of sound recently. F–14A's have flown as much as 12½ hours combined flight time in 1 day, a feat never before achieved with early test aircraft. The F–14A has landed at weights equal to or greater than the carrier landing weight with 6 Phoenix missiles on board, at speeds significantly lower than the specifications and 20 m.p.h. slower than the present F–4 airplanes. The F–14 is meeting or exceeding its predicted maneuverability capabilities at dog fighting speeds by as much as 25 percent.

Mr. President, I am convinced that the air inventory of our Navy needs a weapon system such as the F–14, but at the same time, I am aware of the development details that have been associated with the F–14 program, such as the unfortunate crash of the first test aircraft and the development problems of the advanced technology engine for the F–14B and F–15. The problems associated with the F–14 are not unique. One need only consider the C5A and the F–111. At this juncture, it would be well to ask ourselves a few fundamental questions: Do we need this weapon system? My study indicates that the answer is yes. Can our aerospace industry design and construct this weapon system? Again, I feel that the answer is yes. Has the aerospace industry encountered development problems with new weapon systems? Without question, the answer is yes. Once again, the C5A and the F–111 are presented as striking examples.

Mr. President, if these new weapons and weapon systems are vital and necessary, and if our aerospace industry has demonstrated that it can produce them, can or should the development cycles of these systems be improved? I feel that we should have learned a few lessons from the C–5A and the F–111. One lesson that stands out in my mind is that our Defense Department must be given adequate time for developing new weapons and weapon systems with adequate funding and sufficient technical milestones to indicate whether such new weapons or weapon systems are ready for production or not.

In other words, the concurrency of development and production must be minimized. To put it in better understood lay language, we should "fly before we buy." In the case of the C–5A and the F–111, we unfortunately applied the concept of "buy and fly" instead of the practical "fly before we buy."

Similarly, industry must be given adequate time, also. It should not be unreasonably pressed to a point where its private financing sources dwindle to a point of desperation in order for it to meet unrealistic schedules based on our ill-conceived "buy and fly" contracts—Lockheed should have taught us a lesson. By pushing Grumman, we may end up with another Lockheed-type problem.

Mr. President, the fundamental problems involving development and production must be solved if we are to protect our diminishing and critical resources and get the best buy for our dollar. Mr. President, I will support the Senate Appropriations Committee's recommendation calling for the procurement of 48 F–14A's in fiscal 1972. However, I would hope that, in the consideration of future buys of this new weapon system, the problem of concurrency of development and production be given most serious consideration by the Department and the contractor.

QUORUM CALL

Mr. ELLENDER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

INDEFINITE POSTPONEMENT OF S. 1698

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the consideration of S. 1698, which is listed on page 15 of the calendar under "Subjects on the Table," be indefinitely postponed because I do not intend to call up this measure.

The bill has to do with providing an additional period of time for review of the basic national rail passenger system; to postpone for 7 months the date on which the National Railroad Passenger Corporation is authorized to contract for provision of intercity rail passenger service; to postpone for 7 months the date on which the Corporation is required to begin providing intercity rail passenger service, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Leonard, one of his secretaries.

REPORT ON HEALTH PROGRAM OF THE FEDERAL COAL MINE HEALTH AND SAFETY ACT OF 1969—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER (Mr. STEVENSON) laid before the Senate the following message from the President of the United States, which, with the accompanying report, was referred to the Committee on Labor and Public Welfare:

To the Congress of the United States:

I am pleased to submit to the Congress the first annual report on health matters covered by the Federal Coal Mine Health and Safety Act of 1969.

The report covers the implementation of the health program during its first year of operation under this act. This program has been carried out by the National Institute for Occupational Safety and Health of the Department of Health, Education, and Welfare. The report provides a compendium of health standards, medical specifications, research and public health information activities from December 30, 1969, through December 31, 1970.

Highlighted in this document are the health regulations promulgated under the act, the status of the medical and industrial hygiene research projects, specific health standard recommendations to control and eliminate occupational disease, and proposed research for the future.

It is encouraging to note that as of December 31, 1970, the Department of Health, Education, and Welfare approved 398 coal mine operator plans in which the company is providing an opportunity for confidential medical examinations at no cost to the miner. These plans applied to nearly 76,000 underground miners. Concurrently, 440 physicians sought and obtained certification to participate in the reading of chest roentgenograms. Contracts have also been made by the Public Health Service with medical organizations to provide for chest X-rays of coal miners in seven States at the mines where operators have not submitted such plans, and additional contracts are now being obtained for the remaining 14 States which have underground coal mining operations. A comprehensive research program has been established to develop criteria necessary to set optimal health standards. The Department of Health, Education, and Welfare is moving rapidly to further refine health and safety standards and to assist the Department of the Interior in the implementation of this act.

I commend this report to the attention of the Congress.

RICHARD NIXON.

THE WHITE HOUSE, *November 23, 1971.*

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. STEVENSON) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on Foreign Relations.

(The nominations received today are printed at the end of Senate proceedings.)

QUORUM CALL

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF DEFENSE APPROPRIATIONS, 1972

The Senate continued with the consideration of the bill (H.R. 11731) making appropriations for the Department of Defense for the fiscal year ending June 30, 1972, and for other purposes.

Mr. PROXMIRE. Mr. President, our debate on this bill today brings to an end another year's debate on the size and shape of the military budget. It concludes the third consecutive year in which we have tried very hard to analyze and understand our defense needs both at home and around the world.

But our debate on this bill today also marks a new first. This is the first defense appropriations bill which has been guided through the Senate by a new chairman of the Appropriations Committee, the distinguished Senator from Louisiana (Mr. ELLENDER).

He has done a masterful job, indeed. He has examined in depth the justifications the Pentagon has made for the more than $73.5 billion requested for fiscal 1972. And he has found more than $3 billion which can be deducted from that request with no danger to our national security.

I think I know something about the kinds of pressures my friend from Louisiana faced in recommending so large a cut—the constant arguments against specific cuts, the suggestion that he was undermining our Nation's strength. I do know his response to one such suggestion. That response was "hogwash." It is a very appropriate response, especially since the Senator from Louisiana stands behind not only the $3 billion he has cut, but also the more than $70 billion he has recommended for appropriation.

Mr. President, we in the Senate have a long way yet to go in developing our ability to scrutinize the defense budget. But we have also made some progress in the past 3 years. My friend from Louisiana has played an important role in the process. I commend him highly for the contribution he has made.

The **PRESIDING OFFICER.** The clerk will report the committee amendment on page 48.

The committee amendment was read as follows:

On page 48, line 16, after the word "in", insert "Titles I through VIII of".

On page 48, after line 19 strike out:

"SEC. 744. None of the funds in this Act shall be available for the induction or enlistment of any individual into the military services under a mandatory quota based on mental categories."

And, in lieu thereof, insert:

"of United States military personnel in Europe in exces of 250,000."

Mr. **JACKSON.** Mr. President, I ask unanimous consent that when I call up my amendment No. 750 it take precedence over the pending committee amendment.

Mr. **ELLENDER.** Mr. President, reserving the right to object, I want it understood that the Senator will have the opportunity to present his case, but that no vote will be had on the amendment until the Republican policy committee meeting ends, and I do not know what time that is going to be.

Mr. **JACKSON.** Mr. President, may I say I shall be very pleased to work out a voting time with the distinguished chairman of the committee and that I shall not ask for a vote at this time.

Mr. **ELLENDER.** With that understanding, Mr. President, there will be no objection.

The **PRESIDING OFFICER.** Is there objection? Without objection it is so ordered.

Mr. **JACKSON.** Mr. President, I shall be calling up my amendment No. 750 shortly.

The purpose of the amendment is clear and simple. It calls for an appropriation, pursuant to the authority voted by the Senate last year, to enable the President to make available to Israel on credit terms vital aircraft and other defense equipment essential to maintaining the balance of power in the Middle East.

I know that many Senators share my concern that doubts about the stability of the balance in that troubled part of the world could give rise to a renewal of the conflict between the Soviet-supported Arab States and Israel. In recent days there have been ominous threats by President Sadat of Egypt of an attack against Israeli territory. These threats, however flamboyant and irresponsible, carry with them the danger that loose talk of invasions and war can set in motion a train of events only partially controlled, with consequences that are tragic in the extreme. Looking back, it is difficult to understand how Egypt could have chosen to mobilize for war in June of 1967. Thus, we should take little comfort from the optimistic view that because a renewal of war in the Middle East looks foolish to us, it must necessarily look foolish to those who would initiate it. I, for one, view the prospect of an outbreak of hostilities in the Middle East with the most activated concern.

There is a consensus among experts in these matters that a repetition of the 1967 war would not end, as it did then, in a matter of days—perhaps not even in a matter of weeks. In discussions here and during my visit to Israel I was made painfully aware that the next war, unlike the last, could become a war of attrition in which thousands of innocents could lose their lives, and in which the danger to world peace would increase beyond anything we have known in recent years. No one can take lightly such grim prospects. And no one can responsibly dismiss lightly the rhetoric that brings conflict closer.

I am convinced that at this moment the single most important step this country can take to help bring a measure of stability to the troubled Middle East is to make plain our determination that we will not prejudice Israel's ability to deter by further denying her the aircraft she needs to prevent an invasion across the Suez Canal or a renewal of the war of attrition against her defensive positions in the Sinai.

Mr. President, the principal element of this administration's policy in the Middle East has been a pledge to maintain the military balance in a condition of rough parity. Measuring such a balance is extremely difficult—especially, as in the present case, when superior equipment on the Arab—and Soviet—side is said to be offset by superior training and skill on the part of the Israeli defense forces. How does one compare an Israeli air force, highly skilled, with too few first-line planes with an Egyptian air force that has too many first-line planes and too few skilled pilots? And how, in such an uncertain calculation, should one weigh the massive deployment of Soviet-supplied SAM missiles throughout Egypt, any one of which is capable of destroying an Israeli plane? Finally, how does one estimate the role of the Soviet Union in the event hostilities break out? Can anyone say with certainty that the Soviets will not be drawn into a conflict—that, no matter what happens in the Middle East, they will keep their combat aircraft and their pilots grounded and their fleet at a distance from the conflict?

I emphasize these uncertainties, Mr. President, because they suggest how fragile is a military balance with so many elements—and I have mentioned only three—about which it is impossible to be precise. Moreover, the balance in the Middle East is "subject to rapid change" to use the words of Secretary of Defense Laird. The conditions prevailing today can be dramatically different tomorrow. And in all of this the crucial and decisive factor is the balance in the air; and that balance depends, in large measure, on the available supply of first-line aircraft.

Mr. President, our most urgent immediate task in the Middle East is to acknowledge that the unrestrained flow of sophisticated weapons to Egypt from the Soviet Union has jeopardized the balance of power in a most dangerous way. We can preserve the peace in the Middle East but only if we recognize that it is today threatened by the narrow margin of Israel's air defense capability. With so few planes at her disposal we invite a miscalculation on the part of the Egyptian and Soviet forces leading them to believe that they could eliminate the Israeli air force as a factor in Israel's defense and thereby reverse the events of June 1967.

It is against this background, Mr. President, that I wish to introduce my amendment to the pending appropriations bill. It is a simple amendment that merely gives effect to a policy clearly laid down by an overwhelming majority of the Senate in upholding, by a vote of 87 to 7, the necessary authority under which this appropriation is here offered.

Mr. President, last September, we voted to provide the authority to enable the President to supply credits to Israel in such amounts as may be necessary to provide aircraft and other equipment essential to maintain the balance in the Middle East.

Just a few days ago 78 Senators joined in cosponsoring Senate Resolution 177 calling upon the President to make Phantom aircraft available to Israel.

The President has the authority he needs. He has a mandate from the Senate to exercise that authority by making them available now. All that is required is an appropriation, and my amendment today is nothing more than the necessary appropriation. It would make available $500 million in military credits, half of which—or more—could be used to provide the planes that 87 Senators authorized and that 78 Senators urged be made available at once.

Mr. President, I wish to point out that the Senate version of the Foreign Assistance Act contains the authority for an appropriation of $300 million for military credits for Israel. In my view that authority is superfluous since the authority contained in section 501 of the Defense Procurement Act of 1970 is all that is required. Section 501, by agreement in a House-Senate conference, is still in force and remains in force until September 1972.

But more important is the fact that we do not as yet have a foreign assistance program. We may not get one for weeks or even months. It is subject to uncertainties and delays. None of its several provisions is securely a part of the public law.

Section 501, on the other hand, is the law of the land. I am merely proposing that we make the necessary appropriation to give effect to the policy we have legislated and so recently reaffirmed. Even if the $300 million authorization contained in the Senate version of the Foreign Assistance Act emerges from conference and is enacted into law, we will have nothing that we do not already have in section 501 of the Defense Procurement Act. The difference is that the $500 million I am now proposing can be made available immediately. And in view of the rapid deterioration of the military balance in the Middle East, especially in the last few days, it is urgent that we act at once.

Moreover, Mr. President, the $300 million in requested authority is inadequate for both Phantom aircraft and other essential equipment. The aircraft alone will cost at least $250 million, perhaps more, and considerably more than $50 million has already been committed to supporting equipment. Thus we would face an eventual deficiency appropriation if we were to wait and appropriate funds to carry out the Senate's policy in a piecemeal fashion. If the $500 million requested in my amendment is appropriated here today I would expect the administration to adjust its $300 million request accordingly. And I need not point out that the administration has hardly been overeager to make available the planes it is my intention to fund with this amendment.

I will not go into detail about the state of the Israeli economy and Israel's obvious inability to provide for an adequate defense without credit assistance. Suffice it to say that fully 30 percent of Israel's gross national product goes to defense. And let me add that the annual cost of servicing the foreign debt incurred by Israel, largely as a result of necessary defense outlays, is alone $500 million.

Mr. President, I have long believed that we have failed in our Middle East policy to pay sufficient attention to the cynical role of the Soviet Union in exploiting the tragic conflict between Arabs and Jews. The policy of purposeful instability that the Soviets practice is a menace to international order. And it imposes extraordinary burdens on the innocent victims who must work doubly hard to achieve even minimal security for their precious freedom and independence.

All that I am proposing is that we extend the credits necessary to permit a brave ally to purchase the means with which to defend itself while we look to a better day in a more peaceful world where weapons and credits are no longer needed.

I want to state that I shall call up my amendment now; but, in accordance with the understanding that I have with the chairman of the Appropriations Committee, there will not be a vote on this matter until the two of us work out a mutually satsifactory time.

AMENDMENT NO. 750

Mr. JACKSON. Mr. President, I call up my amendment No. 750 and ask that it be read.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read the amendment (No. 750) as follows:

On page 49, between lines 21 and 22, insert a new title as follows:

TITLE IX—AIRCRAFT AND OTHER EQUIPMENT FOR ISRAEL AS AUTHORIZED BY PUBLIC LAW 91–441

SEC. 901. For expenses, not otherwise provided for, necessary to enable the President to finance sales, credit sales, and guarantees of defense articles and defense services to Israel, as authorized by section 501 of Public Law 91–441 (84 Stat. 909), $500,000,000, including $250,000,000 for sales, credit sales, and guarantees of F–4 Phantom aircraft to

Mr. DOLE. Mr. Chairman, will the Senator yield?

Mr. JACKSON. I yield the floor.

Mr. DOLE. Mr. President, I yield myself 5 minutes, in the absence of the ranking minority member.

The PRESIDING OFFICER. There is no time limitation.

Mr. DOLE. Mr. President, I strongly support amendment No. 750, offered by the distinguished Senator from Washington. I would cosponsor the amendment, but I understand that the Senator from Washington prefers not to have cosponsors at this time. Is that correct?

Mr. JACKSON. I would be happy to, but the problem is that it is so late. I would be delighted if others want to join, but I offered this revised version of the amendment only yesterday. I deeply appreciate the support of the Senator from Kansas on this matter.

It is just a matter of reaching all the interested Senators.

Mr. DOLE. Let me say, Mr. President, that just this morning a group of Senators met with Secretary of State William Rogers. We discussed rather forthrightly and in some detail our concern for the balance of power in the Middle East, a topic which has been raised here today by the distinguished Senator from Washington.

I believe, of course, that America's primary objective in the Mideast must be a peaceful settlement of that region's political problem the secure existence of the state of Israel. This is also the belief of the President and of the Secretary of State.

We also believe, or at least some of us believe, that the military balance at this time between the strength of the Arab countries and that of the State of Israel is not favorable to Israel. This morning, as we met with the Secretary of State, a number of us suggested to the Secretary that Phantom jet be delivered to Israel in the near future.

Mr. President, I would suggest that the proposed troop cuts called for in this bill have unsettled many of our allies in Europe and elsewhere.

Nowhere is the importance of sincere U.S. commitment more crucial to a nation's survival than is the case with Israel in the Middle East. The Israeli's can foresee in the reduction of our commitment to Europe, as suggested in the bill, an erosion of our support for their own cause. Therefore, we must reaffirm our commitments. For to dilute U.S. commitment in Europe must also suggest dilution in the Middle East. Accordingly, I strongly urge that the Senate adopt amendment No. 750, which would provide $500 million for Israel, of which $250 million would be for Phantom F–4 jets, and $250 million for other supporting military assistance.

The fine lines of American commitment to Europe, if reduced as called for, must directly affect Israel, politically and militarily. At the present time there is no solution in sight to the stalemate on the foreign aid bill, which includes $300 million in credit for Israel. Given this certainty, the President will lack flexibility in maintaining the balance of power in the Middle East unless he can have the funding suggested in the amendment proposed by the distinguished Senator from Washington.

This situation has been made more acute by the recent bellicose statements by President Sadat, and his pledge to fight suggests an increasing truculent attitude. The Soviets have recently delivered Badger bombers and are sustaining a high level of arms support. We must permit the President to keep up with these developments.

Much of the growing uncertainty and the intensity of the problem in the Middle East may well have been spawned by the proposed troop cut in Europe.

The stalemate of the foreign aid legislation, good sense, and American interest in maintaining the volatile balance of power in the Middle East strongly support the adoption of the Jackson amendment.

Therefore, Mr. President, as one who is concerned primarily with peace in the Mideast, a peace which I believe will be accomplished only when the parties involved understand that we will continue to support the State of Israel as long as her neighbors seek to overwhelm her. Our goal of peace in the Mideast requires a balance of power which must be preserved until Israel's right to exist is politically secure. I strongly urge the adoption of Amendment No. 750 as a necessary move toward the preservation of this balance.

Mr. ELLENDER. Mr. President, will the Senator yield for a question?

Mr. DOLE. I yield.

Mr. ELLENDER. Did I understand the Senator to say that he had discussed the matter with the Secretary of State today?

Mr. DOLE. Yes.

Mr. ELLENDER. With what response? Can the Senator tell us that?

Mr. DOLE. Well, I can say that the discussion occurred this morning, with the distinguished senior Senator from New York present, as well as the senior Senator from Missouri, the junior Senator from Massachusetts, the senior Senator from Massachusetts, the senior Senator from Connecticut, the senior Senator from Wyoming, and the junior Senator from Kansas.

The discussion concerned our perception of an urgent need to deliver the Phantom jets to Israel. The distinguished Senator from New York, who is now present in the Chamber, had arranged the meeting with the Secretary. As I said before, this was not an effort to lobby the Secretary. We were there because of our interest in peace in the Mideast, and our belief that such peace depends upon the preservation of a balance of power there. The Secretary made no commitment. I did not expect him to make a commitment. But at least the subject was discussed in a forthright manner, and I believe some were encouraged, and perhaps some were discouraged. I do not know the reaction of every Senator. Perhaps the Senator from New York might wish to comment.

Mr. ELLENDER. Mr. President, what I would suggest, for the moment, since the Republican Policy Committee is having a luncheon and since the Democratic

Policy Committee is also having a luncheon, is that we recess for about 30 or 40 minutes. I would like to have some Senators present on the floor to listen to what is being said. It is my considered judgment that there is no authorization for the money now being requested, and I find it strange that the newspapers tell us that the President is doing all he can to accommodate Israel and to protect their efforts. For that to come from Senators rather than the President himself I also find strange.

Those matters I should like to discuss with enough Senators present so that we can have a full discussion of the whole matter.

Mr. JAVITS. Mr. President, will the Senator yield to me?

Mr. ELLENDER. I yield.

Mr. JAVITS. Mr. President, I think that normally the question of moving for a recess would be a prerogative of the leadership. I think the Senator is correct, that Senators ought to listen to this, and there is no use making explanations, which will go into the decision on the vote on this amendment, to an empty Chamber.

Therefore, I would suggest the absence of a quorum, so that we may consult the leadership and see if they are willing to take a short recess. Would the Senator be agreeable to that?

Mr. ELLENDER. Yes. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ELLENDER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS

Mr. ELLENDER. Mr. President, I move that the Senate stand in recess until not later than 1:30 this afternoon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Thereupon, at 12:51 p.m., the Senate took a recess.

The Senate reassembled at 1:30 p.m., when called to order by the Presiding Officer (Mr. CHILES).

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Washington (Mr. JACKSON).

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BENTSEN). Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD of West Virginia. Mr. President, at the direction of the distinguished majority leader, I make the following unanimous-consent request with respect to the pending amendment by Mr. JACKSON, having discussed it with the assistant Republican leader and the distinguished manager of the bill (Mr. ELLENDER), and with the distinguished mover of the amendment (Mr. JACKSON):

I ask unanimous consent that time on the pending amendment by Mr. JACKSON be limited to 1 hour, to be equally divided between and controlled by the distinguished mover of the amendment and the distinguished manager of the bill; provided further, that time on any amendment in the second degree, motion, appeal, or point of order—with the exception of nondebatable motions—be limited to 30 minutes, to be equally divided between the mover of such and the distinguished manager of the bill—and if the manager of the bill does not oppose such, then the time on any such motion, appeal, amendment in the second degree, or point of order to be under the control of the distinguished minority leader or his designee; provided further, Mr. President, that Senators in control of the time on the amendment in the first degree may yield therefrom to any Senator on a motion, appeal, point of order, or amendment in the second degree.

Mr. GRIFFIN. Mr. President, reserving the right to object—and I shall not object—I have conferred with the distinguished ranking Republican member of the Appropriations Committee, the Senator from North Dakota (Mr. YOUNG), the distinguished Senator from Colorado (Mr. ALLOTT), the distinguished Senator from New York (Mr. JAVITS), the distinguished Senator from Kansas (Mr. DOLE), the distinguished Senator from Illinois (Mr. PERCY), and with others who have expressed an interest. So far as I can determine the unanimous-consent request is satisfactory, and accordingly, there is no objection from our side.

The PRESIDING OFFICER (Mr. BENTSEN). Is there objection to the request of the Senator from West Virginia? The Chair hears none and it is so ordered.

Mr. BYRD of West Virginia. I thank all Senators.

The PRESIDING OFFICER. Who yields time?

The Chair awaits the pleasure of the Senate. Time is running.

Mr. DOLE. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be taken out of both sides.

The PRESIDING OFFICER. Without objection, it is so ordered, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BROCK). Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I yield 5 minutes to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York (Mr. JAVITS) is recognized for 5 minutes.

Mr. JAVITS. Mr. President, I hope that the Senate will adopt this amendment of the Senator from Washington (Mr. JACKSON). I think it is a desirable and indeed an essential element in a great drama which is unfolding now concerning Israel and the Arab States, a drama which deeply and importantly concerns the United States.

Mr. President, we are Senators of the United States and so the interests of our country must be paramount. So I should like to state, first, the interests of our country in this matter.

The fact is, that well over 50 percent, as a minimum, by any calculation, of the energy resources, the oil and fuel which powers Europe's industries, comes from the Middle East.

In the case of Japan, the industrial outpost of the free world and the Far East, it is about 90 percent. Japanese reserve stocks are generally considered to be only about 30 days.

In addition, the route through the Suez Canal and the Straits of Tiran and the Red Sea represent the critical passage among three continents. The reason invaders have for centuries fought over Palestine and the contiguous areas is that it is so critically important in terms of the strategy of the world. Under all these circumstances, our country has a critical stake there. The fact is, unhappily for all of us, it is an area which is backward in a most unfortunate way in terms of education, economic progress, social and political development. It is still in a very difficult state and to the world is often an anachronism.

Under these circumstances, to have a vigorous, a courageous and a small nation with the great democratic traditions of our own and of the free world at the very heart of this area, is very much in my mind like having West Berlin in the center of Eastern Europe. It is absolutely indispensable to the hope which, somehow, is needed in the whole area, as this small nation has sought only the means to defend itself. It has never asked the United States for troops. It has asked only for what is necessary in order to safeguard its own national integrity.

It seems to me that this represents an admirable investment by the United States. That is what Senator JACKSON is asking us to do. He is asking us, first to match our policy with the survival and the security of this small state because of its prime interest to us; and second, of course, is the moral point, that we officiated at the establishment of Israel in a very important way, with President Truman. It was rent, shall we say, out of the hearts of mankind who had seen one-third of the Jewish people decimated by Adolph Hitler and who felt the call of conscience to try to give them a safe haven that they could truly call their own—those that wanted to go there.

The only final question is, how do we interpret it now? A settlement in the Middle East becomes the No. 1 priority of American policy.

Senators must make their choice. And 78 Members of the Senate have made their choice on the proposition that if we enable Israel to have a sense of security because of having her own means to defend herself, she will be much more amenable to negotiations and much more likely to be flexible in the negotiations than if she is afraid of her own survival.

With respect to this matter we may

have disagreed with the State Department. However, 78 Senators did sign their names on the dotted line to a resolution to supply Phantom jets for that purpose. As of today the present policy is the idea of denying Israel the jets. This alone will not get them the jets. The President has the right to deliver or not to deliver as he chooses. However, it will show the strong support of the Senate of the United States for the basic defense of Israel, to show that they are not completely vulnerable. That is half, perhaps more than half, of the battle.

Unless that is made crystal clear as we enter into the debate in the General Assembly which will take place soon, there will be tremendous challenges with respect to the United States.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JAVITS. Mr. President, will the Senator yield me 1 additional minute?

Mr. JACKSON. Mr. President, I yield the Senator from New York 1 additional minute.

Mr. JAVITS. Mr. President, this is the last time to make this point. It is for all of those reasons, starting with the national interests of the United States, that I believe the Jackson amendment should be agreed to.

Mr. JACKSON. Mr. President, I yield 5 minutes to the distinguished Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado is recognized for 5 minutes.

Mr. ALLOTT. Mr. President, I thank the distinguished Senator for yielding.

First of all, I want to associate myself with the remarks of the Senator from Washington and the remarks of the Senator from New York in their entirety.

Mr. President, as one of the cosponsors of Senate Resolution 177, I heartily endorse the resolve in the paragraph of that resolution. I ask unanimous consent that the body of that resolution only be printed in full at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. RES. 177

Resolution calling for the shipment of Phantom F-4 aircraft to Israel in order to maintain the arms balance in the Middle East

Whereas the Soviet Union is continuing to supply additional sophisticated weapons including advanced jet aircraft, and has deployed combat pilots, and other military personnel in Egypt, and other Arab States; and

Whereas these actions have seriously affected the military balance in the Middle East and increase the danger of war; and

Whereas the aforementioned developments have encouraged certain Arab States to resist peace negotiations and to threaten the resumption of war; and

Whereas this constitutes a grave threat to peace in the Middle East, prejudicial to the vital interests of the United States; and

Whereas the policy of the United States as expressed by the President and the Congress of the United States is to maintain the arms balance in this region: Therefore be it

Resolved, That—

(1) The United States without further delay should take affirmative action on Israel's pending request for F-4 Phantom aircraft, and provide such supporting equipment and assistance as are essential to maintain Israel's deterrent capability;

(2) The United States Government should oppose any attempts at the United Nations to alter the meaning and effect of Security Council Resolution 242 of November 22, 1967, and should reaffirm the importance of secure and defensible borders as a vital element in a peace settlement to be negotiated by the parties themselves.

Mr. ALLOTT. Mr. President, I think that the Senator from New York has placed his finger on one of the things that bothers me about the Near East, and that is its importance to the peace of the world.

Any person who studies the international geopolitical situation at this time must be concerned almost by the hour with the saber rattling of President Sadat of the United Arab Republic that goes on in the Near East. This saber rattling calls attention to the very limited resources, material, and men, that Israel has.

Israel is the only true democracy in that area of the world. Its continuing survival and vitality is important to this country. Without the existence of a strong Israel, as the Senator from New York has pointed out, the energy resources of the Middle East may soon be chewed up or priced out of our market in this country.

So, like the sponsor of the amendment, the chairman of the Committee on Interior and Insular Affairs, I, as the ranking minority member, and other members of the committee are quite well aware that within the next 3 to 4 years our country is going to face an energy crisis of proportions which we never would have conceived to be possible even just a few years ago.

We cannot convert our energy from gas wells to oil, from coal to oil, or from coal to nuclear energy overnight. For this reason the maintenance of a stable political situation in the Near East is of very, very vital importance to this country. I particularly think that we cannot afford to permit Israel to take a secondary or inferior military position. And we are at the very point where this situation exists at the present time.

Mr. President, I intend to vote for the amendment making aircraft and other arms available to Israel on credit terms. I urge every Senator to examine the facts—Israel's needs and our obligations—and to join in voting for this prudent, equitable amendment.

This amendment will enable the President to exercise the authority given him last year. This amendment will provide $500 million in military credits which the President is authorized to extend. This will enable Israel to purchase those vital instruments of protection, the Phantom jets.

The Senate remembers that the original authorization for this was endorsed by 87 Senators. Subsequently, 78 Senators—myself included—have urged that the planes be made available promptly. The passage of this pending amendment is all that remains to be done to insure the necessary credits—and to insure, insofar as possible, an extended period of at least partial safety for Israel.

This amendment is not a departure from established policy. On the contrary, it conforms to the policy, and the authority, voted by the Senate 1 year ago—a year during which Israel's enemies have armed themselves still more heavily, and avoided negotiations still more determinedly.

This amendment is not bellicose. On the contrary, it asserts our unwillingness to allow a dangerous deterioration in the position of Israel. To do any less would invite dangerous miscalculations on the part of the Soviet Union and its Egyptian clients.

This amendment is not destabilizing. On the contrary, our only worry today should be whether the aid which this amendment will provide will be sufficient to offset the destabilizing influx of Soviet arms. I do not know how to make an exact equation between x number of Israeli fighter planes and y number of Soviet missiles. Nor do I know of anyone else who has mastered that complicated equation.

But, Mr. President, this much I do know. I know that it is the obligation of the United States to err on the side of safety in helping the brave nation of Israel to help itself.

The urgency of this amendment was recently demonstrated by President Sadat of Egypt. Sadat exceeded even Egyptian standards of ominous bluster in his recent speech promising war in the near future. Now is the time for the United States, by means of this amendment, to sober Sadat.

Some persons say that Sadat's speech was "mere words." Perhaps. But these people—and Sadat himself—should know that rash words kindle flames that cannot be controlled by the speaker, however calculating and cynical, he may be. I would remind skeptics, and Mr. Sadat, that the recent history of the Middle East is written in bloodshed by innocent people caught up in the madness of Egyptian leaders who were careless with inflammatory words.

At any rate, this is no time to allow our wishes to be father to our thoughts. This is not the time to indulge facile optimism.

There are those who say that Sadat's promise of war was only an attempt to drag the great powers into imposing a "solution" on Israel. If that is Sadat's intention, then now is the time to answer him by passing this amendment. An imposed solution will be no solution at all. Egypt will either negotiate, or face a stalemate with a determined Israel—an Israel backed by a United States that will not be party to an imposed "solution," and that will not allow Israel to decline into weakness.

Frankly, Mr. President, for some time now I have been skeptical of the optimism radiated by some officials of the U.S. Government with regard to the likelihood of a prompt and peaceful settlement of the tangled Middle East situation.

Perhaps our optimism has been a diplomatic necessity at times. But it has never conformed to the military facts, or to the Soviet and Egyptian intentions which their military moves reveal.

I have seen a variety of new maps for the Middle East. I have seen various proposals for adjusting boundaries; deploying "police forces" of various compositions; for staging a congenial negotiating settlement.

I have seen the Middle East crisis settled on paper many times. But the Middle East crisis will not be settled on papers scribbled over by third parties. The crisis will be settled when the parties directly involved, and most particularly Israel and the Egyptians are brought together for meaningful negotiations. The Israelis stand ready today, as they have in the past, for just that kind of negotiations. Thus the next move is up to the Egyptians and to their ally, the Soviet Union. If the Soviet Union would disengage militarily, and the Egyptians, would engage, diplomatically, we would be well on our way to a settlement.

But until those happy eventualities, there are not many things that we can do.

But the things we can do—virtues of omission and commission—are very important.

The greatest "virtue of omission" would be for us to omit all actions that discourage the Egyptians from coming into direct negotiations with the Israelis. As long as the Egyptians can nourish the hope that we—or some coalition of great powers—will impose a solution on the Israelis, the Egyptians will be reluctant to negotiate seriously.

The greatest positive contribution we can make to peace in the Middle East right now is to vote for the amendment before us.

To repeat, Mr. President, it is the compelling duty of the United States to err on the side of safety in helping Israel to help itself. I wish I were confident that this amendment erred on the side of safety. But I am confident that this amendment does no more than prudent and simple justice demands that we do now.

There is a familiar saying about the hard realities of world politics. It is this: A democracy must win every time, a dictatorship only needs to win once.

We all pray that, in the Middle East, there will not be a "next time" in terms of war. But there may be; the record of recent history makes it, if not a probability, at least a strong possibility. And the recent belliocosity of President Sadat is about as much warning as we or Israel is apt to get.

Therefore, Mr. President, I sincerely hope that other Senators will join in the passage of the amendment of the Senator from Washington.

Mr. President, I yield back my remaining time.

Mr. JACKSON. Mr. President, I commend both Senators, the Senator from New York and the Senator from Colorado, for their excellent statements.

I express my especial appreciation to the Senator from Colorado for raising the important issue of the energy reserves in that part of the world, in the Middle East. The implications for the Western World of the loss of that area are quite obvious. The Senator from Colorado has made a real contribution by pointing up that special problem.

Mr. AIKEN. Mr. President, will the Senator yield?

Mr. JACKSON. I yield.

Mr. AIKEN. Mr. President, as the Senator knows, the foreign aid bill carries two items—one for $85 million, and one for a minimum of $300 million—which are earmarked for Israel. The $300 million is credit sales which can go there if the President desires it, and the $85 million is supporting assistance. In addition to the $300 million earmarked for Israel, there is $250 million more authorized which the President could also use for any country.

If the Senator's amendment to the pending bill should be agreed to, would the Senator then be agreeable to taking the $385 million out of the foreign aid bill.

Mr. JACKSON. The situation, as the Senator knows, is that the authority to appropriate under my amendment was passed last year under section 501 of the Procurement Act.

I would point out that we have $500 million in this amendment. Of that, $250 million is needed for Phantom aircraft, and $180 million of the remainder has already been spent, which leaves only $70 million. In the Foreign Assistance Act there is $85 million in economic assistance.

Mr. AIKEN. That is supporting assistance.

Mr. JACKSON. What is not needed could be taken out.

Mr. AIKEN. The Senator is correct. But the $300 million minimum in the credit ceiling for military supplies should also be taken out.

Mr. JACKSON. That would be up to the conferees, of course. Assuming that the funds are made available, there is no need for the authorization, because it is already authorized by law.

Mr. AIKEN. I say, regardless of what else happens to the foreign aid bill, these two items undoubtedly will stay in there as they are, the $85 million and the $300 million minimum credit for Israel.

Mr. JACKSON. The Senator is correct.

Mr. AIKEN. I would not want to see them in both bills.

Mr. JACKSON. No one knows when we will have a foreign aid authorization bill.

Mr. JAVITS. Mr. President, would the Senator yield further?

Mr. JACKSON. I yield.

Mr. JAVITS. It is a fact that what the question of the Senator from Vermont and the answer of the Senator from Washington leads to is that it is not intended as a duplication of the foreign aid bill in this appropriation, and insofar as there is a duplication, the Senator would contemplate that that duplication would be omitted. Also, is it not a fact that the same Appropriations Committee will have to deal with the foreign aid appropriations and that the committee has two bites at it, one in the authorization and the other in the appropriation?

Mr. JACKSON. The Senator is correct. And there is a basic authorization in the law that runs through September of 1972.

Mr. President, I now yield 5 minutes to the distinguished senior Senator from Connecticut.

Mr. RIBICOFF. Mr. President, my praise and commendation to the distinguished Senator from Washington whose depth of knowledge and understanding of the entire Middle East are a great boon and asset not only to this body, but also to the entire free world.

Mr. President, while the United States has continued to withhold Phantom jets from Israel, considerable quantities of Soviet arms and equipment, including the latest combat aircraft, have continued to flow to Egypt. Additional aircraft have been delivered in recent months. Only last week the State Department, after praising alleged Soviet restraint, was forced to admit heavy bombers with air to surface missiles were supplied to Egypt.

According to open sources, which may be outdated by now, the Egyptian air force today has almost 500 supersonic jet aircraft, most of them late model Mig–21's. Since the cease-fire in August of 1970 Egypt has received more than 120 new supersonic aircraft from the U.S.S.R. Five to seven Soviet combat squadrons are stationed in Egypt flying their own aircraft from bases under exclusive Soviet control.

Recent deliveries to these bases include numbers of Sukhoi 11's—Flagon—and Mig–23's—Foxbat, the newest and best planes in the Soviet arsenal, aircraft never previously deployed outside the Soviet Union. The number of Soviet pilots in Egypt is estimated at close to 200 and the total number of Soviet military personnel is between 15,000 and 20,000, including combat ground forces responsible for the operation and protection of their sophisticated missile systems which include the latest SAM–4's and SAM–6's.

More ominously in the light of President Sadat's bellicose threats, the Soviet Union has been furnishing Egypt a continuing supply of helicopters for troop transport and assault, along with the latest amphibious equipment. This includes quantities of the only operational amphibious tanks in the world today.

The military ties between the Soviet Union and Egypt were confirmed in the agreement signed last May between the Presidents of Egypt and the Soviet Union, and were restated following President Sadat's most recent visit to Moscow. In the joint communique concluding this visit it was announced that "specific steps for the additional strengthening of the military might of Egypt" had been agreed upon. This can be interpreted as indication of a new arms deal between the two countries.

To the extent that Soviet arms deliveries may have been moving at a slower pace in recent months, this can primarily be attributed to the Egyptian army's capacity to absorb so much new equipment. Last year, Soviet deliveries followed a similar pattern.

It should be obvious to American policymakers by now that because of its particular strategic situation and vast numerical inferiority in troops and armor, Israel must rely on its air force as the decisive element in its defense. This explains the acute sensitivity in Israel to any development that threatens its air force's capabilities and the arms balance. By permitting a situation to develop where this balance is not treated on its own merits, the United States is placing Israel at both a military and political disadvantage—and all for the purpose of forcing disastrous concessions from Israel.

Militarily, Israel is now threatened by the prospect of renewed hostilities, prompted by the shift in the arms balance. Politically, the current aircraft embargo weakens Israel's negotiating strength and automatically encourages Arab intransigence. The shift in the arms balance accompanied by the withholding by the United States of aircraft to Israel undermines any political progress and actually enhances rather than lessens the chances of renewed war.

President Sadat has publicly made clear what was obvious to many of us for many weeks, the prospects of an interim Suez Canal agreement are nil. Our Government's diplomatic maneuverings with respect to the interim settlement have not influenced the Egyptians into a more reasonable posture. On the contrary, it has offered them the temptation of renewing the conflict. The good offices role which the United States assumed in an effort to promote an interim settlement has been harmed by its public statements, notably the six-point plan announced at the U.N. which raised serious threats to Israel's security.

If an interim settlement of any kind is to be worked out, and if a genuine overall settlement is to be arranged, the chances for attaining them are damaged, not improved, by withholding planes from Israel, and by making the United States an advocate of Egyptian positions.

The amendment being offered today by the Senator from Washington (Mr. JACKSON) is a logical follow on to Senate Resolution 177, which was introduced by Senator SCOTT along with 77 cosponsors and the original 87 to 7 vote in the Senate approving section 501 of Public Law 91-441.

This amendment is a vital step in directing our Nation's policies toward achieving genuine peace in the Middle East by enabling Israel to have the military means to thwart Soviet ambitions and Arab threats of war at this critical juncture.

Let me emphasize that what this amendment covers are credit sales, not gifts. Unlike other nations upon whom we have lavished billions in military equipment, Israel has so far paid for all of its defense purchases from the United States, despite the crushing burdens imposed on her people. No other nation in the world must devote more than 25 percent of its GNP for its defense.

By approving this amendment today, the Senate will be helping avert the chances of war in the Middle East, by undoing much of the damage that has already been done to American interests in the Middle East by State Department policies of vacillation and wishful thinking.

I urge all the cosponsors of Senate Resolution 177 to implement that resolution today by approving this amendment.

Again, my commendation to the Senator from Washington for his leadership on this particular issue.

Mr. JACKSON. Mr. President, I wish to thank the senior Senator from Connecticut for a very fine statement. He is very modest when he refers to the interest I have taken in this area, because the Senator from Connecticut has been a student of this problem dating back to the days when he served on the House Foreign Affairs Committee with such distinction.

I have no further requests for time on this side of the aisle, Mr. President.

Mr. ELLENDER. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Louisiana is recognized for 5 minutes.

Mr. ELLENDER. Mr. President, I oppose this amendment, because it is not in order. It has not been authorized nor has the President asked for it, except I understand he asked for $300 million in the foreign aid bill passed by the Senate last week.

To say the least, Mr. President, I was taken by surprise when I was informed just 2 hours ago that the pending amendment would be offered to the bill that the Committee on Appropriations considered only last week.

There was no evidence presented to our committee on this amendment. To the contrary, whatever evidence has been submitted has been submitted to the Committee on Foreign Relations. Why this amendment is being proposed to the Defense bill I cannot understand. There is ample time for the Committee on Foreign Relations to take action. There is ample time to consider this in the regular manner rather than appending it to an extraneous bill, the Defense bill, where no hearings have been held.

Mr. President, last year when we marked up the Defense bill the committee did not permit any appropriations that did not have a budget estimate, except for some very small items.

This morning we have reported this bill and we have indicated to the Senate and to the country that the appropriation bill is $3.3 billion below the budget estimate, and over $800 million below the House estimate. Now, in one swoop we are being asked to add $500 million to this bill to assist Israel. I do not like to see that. We have other methods to accomplish whatever is justified.

Above all, I am saying to the Senate that there is no authority under the law by which this appropriation could be appended to the pending bill.

Under the rules of the Senate, before any appropriation can be made there must be authority through the authorizing committee, and it is my contention that there is no such authority at present. The language relied upon by the proponents of the amendment, from my understanding, is included under section 501, title V, general provisions of Public Law 91-441.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. ELLENDER. Mr. President, I yield myself 5 additional minutes.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. ELLENDER. Now, what is that language? Does it specify that a certain amount must be used for the purposes indicated here?

The language appears under the "General Provisions" of the act. It is not a specific provision. If any Senator will simply look at the authorizing legislation for appropriations, they will find that this authority to appropriate is expressly spelled out. But here is what the proponents of this amendment rely on:

> The Congress views with grave concern the deepening involvement of the Soviet Union in the Middle East and a clear and present danger to world peace resulting from such involvement which cannot be ignored by the United States. In order to restore and maintain the military balance in the Middle East, by furnishing to Israel the means of providing for its own security, the President is authorized to transfer to Israel by sale, credit sale, or guaranty such aircraft, and equipment appropriate to use, maintain, and protect such aircraft, as may be necessary to counteract any past, present, or future increased military assistance provided to other countries of the Middle East. Any such sale, credit sale, or guaranty shall be made on terms and conditions not less favorable than those extended to other countries which receive the same or similar types of aircraft and equipment. The authority contained in the second sentence of that section shall expire September 30, 1972.

No mention is made of funds there. It is simply a clause that we find in many bills under the title of "General Provisions." Nowhere in that act is any amount stated or is there anything saying that this money is to be appropriated. In fact, the provision merely gives the President authority to transfer funds.

In a moment I am going to ask the distinguished Senator from Arkansas (Mr. FULBRIGHT) to state what happened last year under this law. Last year, I understand no one objected, and no point of order was made, and $500 million was made available to Israel for credit military sales.

Although that $500 million was made available, we are again confronted with a request for $500 million more.

Mr. President, in addition to that, we have pending now in the foreign aid bill a $300 million item for military credit sales for Israel. So that, if this proposal is enacted, it means that we will add $500 million more to the $500 million that we added last year, and if the foreign aid bill is enacted, there will be another $300 million for Israel, making a total of $1.3 billion available in just 1 year.

What does that mean? Without any specific mention, but simply by an authority to transfer under the general provisions of this act, we appropriated $500 million last year, and we are considering $500 million more now, and $300 million in the foreign aid program. Where is the limit? This is not an open end authorization. There is no mention, as a matter of fact, that this is intended to be an authority to appropriate. There is absolutely nothing in it to show that this money is authorized.

Mr. President, as I previously indicated, before we call for a vote on this amendment, I expect to make a point of order.

Mr. FULBRIGHT. Mr. President, will the Senator yield me 5 minutes?

Mr. ELLENDER. I yield 10 minutes to the Senator from Arkansas.

Mr. FULBRIGHT. Mr. President, the distinguished chairman of the Appropriations Committee, has stated quite accurately the origin of this matter and the alleged authority. I have recently read the law. It does not authorize an appropriation. It simply authorizes the President to transfer aircraft and materials by various means.

I may correct one small detail. I raised the question of procedural propriety last year, because the proposal was brought in without any hearings or proper legislative basis. The Senate, however, in its wisdom, over my objection, did pass the item. But it is not authority; at least, it is not authority to appropriate. It is the type of authority the Senator just mentioned.

So the Senator has correctly stated the situation.

The military credit sales authority in S. 2819 is, as he has said, a credit ceiling of $550 million of which $300 million is earmarked for Israel. The bill also contains an authorization of $85 million of supporting assistance for Israel. The $85 million is a grant which the administration did not request. It was put in the bill in the committee without its being requested by the administration. The administration indicated they tentatively planned to make $300 million in credit sales to Israel.

Actually, there is nothing to prevent the administration, from using all of the $550 million ceiling for Israel if he wants to, but $300 million is earmarked specifically for Israel.

I must say also that Congress passed a provision in the Foreign Military Sales Act which states that no appropriation shall be made except pursuant to an authorization, as the Senator well knows. This seems to be directly contrary to that.

Let me say further on the matter of policy, the administration, under the leadership of the Secretary of State, has been making a strong effort to bring about a negotiated settlement in the Middle East. I believe, and I think the President believes, that this is the only way to bring about peace there. I think what the Senate did last September, and what it is being asked to do today, is creating one of the principal obstacles to bringing about a settlement of the war between Israel and the Arab nations.

I have supported the President's policy. I have made speeches here in the Senate and in other places supporting the President's efforts to bring about a negotiated settlement based upon the United Nations resolution of 1967.

Everyone knows the critical question now is whether Israel is to retain the territory which she conquered in that war. Apparently Israel has made up her mind it is going to retain it, which automatically, I think, prevents the possibility of a negotiated settlement. That is a very controversial matter. It is controversial in Israel. Mr. Ben Gurion, one of Israel's greatest statesmen, is in accord with my view. I quoted a speech he made in this country in which he stated he believed the long term good of Israel depended on settlement, not in a long perpetuation of the war, and not upon military acquisition of territory.

I think Congress is interfering with the efforts of the administration to bring about a negotiated settlement in the Middle East.

I believe it is a great mistake to do so. I realize the emotional appeal of Israel. It is a valiant country. Certainly I do not wish to do anything to undermine its security.

This is a question of judgment as to what is in the interests of this country as well as of Israel. It is my opinion that it is in the interests of this country and of Israel to support the President's efforts to bring about a negotiated settlement. He has judged, and the administration has, that there is a military balance in the Middle East. On that basis, he has up to now declined to provide further Phantom jets, as would be provided by this amendment.

The amendment is designed to force the hand of the President, to bring pressure to bear upon the President to do what evidently is against his better judgment as to the proper way to bring about a settlement in the Middle East. I think that is what it is obviously intended to do.

I have no objection to the Senate taking issue with any President, if they feel that they know enough about the subject matter, and that it is in the interests of this country to do so. In this case, all I am saying is that I agree with the judgment of the President on all counts that the effort to bring about a negotiated settlement is in the interests of the United States as well as those of Israel and people everywhere.

This Government does not want to precipitate or to develop a confrontation with Russia. And there is a very dangerous situation in the Middle East. The President correctly said, not too long ago, that he thought the Russians were being rational in the armament they were providing the Egyptians. That is our information. I know of nothing to contradict that.

So now, while of course the Senate has a right to do what it likes with the public's money, I agree with the President's policy and with what the Senator from Louisiana has said.

In addition to that, I think, as an orderly procedure, if we are ever to be a responsible body, we have to follow the usual, established procedure in this body for the appropriation of large sums of money, which is authorization after hearings, and then an appropriation, also after hearings and deliberations, by the appropriate committees. I think it is a very questionable procedure to bring in amendments to appropriate vast amounts of money without any hearings whatever.

The Foreign Relations Committee does not specifically say to the President, "You have got to give them $250 million in Phantom F–4's." It simply gave him authority to extend military credit sales of $300 million. It seems to me that is ample, under the circumstances, and that it would be unreasonable to go beyond that. As the Senator says, this would be a total of $1.3 billion for military aid to Israel within the space of a little over a year. And in addition there is the $85 million in grants for supporting assistance, which as a practical matter, can be considered an additional amount for the purchase of arms for their own forces.

Lastly, I want to say that I think that those who go too far, who go as far as I think this amendment would do, in support of Israel, run a grave risk——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. FULBRIGHT. I ask for 1 more minute.

Mr. ELLENDER. I yield the Senator 1 minute.

Mr. FULBRIGHT. Run a grave risk of creating an attitude which would be counterproductive, if I may use that terrible word.

In other words, it will be against Israel's interest in the long run. If we do become involved as a result of failure to bring about a settlement in the Middle East, and there would be demands for us to become involved, in view of our stringent circumstances, there is a great danger that there would develop in this country a reaction against Israel, which I would regret. The wisest policy, I think, as I have stated, is that of the President, who is trying to be as even-handed in this area as we can. That was the language, I believe, that the Secretary of State used, to try to be just and equitable to both sides, and above all, for the purpose of bringing about a negotiated settlement in one of the most explosive areas in the world, the area where the United States and Russia are, I would say, closer to a confrontation than in any other area—the area which might lead to a very serious conflict between these two super-powers, neither of which wants it.

So I regret very much that this amendment is offered, and I think the Senator from Louisiana is quite correct.

Mr. ELLENDER. I yield 5 minutes to the Senator from Oklahoma.

Mr. BELLMON. I thank the Senator.

Mr. President, there has been a reference made on the Senate floor this afternoon to saber rattling by President Sadat of Egypt, and I would like to share with my colleagues some of my observations.

I had the opportunity, only about 10 days ago, to meet with President Sadat in Cairo. I was there for a visit to the Aswan Dam, and was in the country for the better part of a week. My meeting was arranged at the President's request, not at mine, and I believe Members of the Senate might be interested in some impressions I gathered during that conversation.

I believe it is necessary, in order to understand what President Sadat may be doing now, to recognize the political situation in Egypt which brought him to power, and the problems he faces in trying to govern his country in a very difficult time. I think we need to recognize that since becoming president of Egypt, President Sadat has taken a great many steps and has made many moves that seemed impossible a few months ago. He has agreed to virtually every requirement of the U.N. resolution. He has agreed to four-power presence, any U.N. presence, or any other presence in the Sinai that would guarantee the access of Israel to the Gulf of Aquaba. He has agreed publicly and repeatedly to defend the existence of Israel as an enduring state in the Middle East. In my opinion, he has been extremely gracious; he has taken these steps at a time when his own government was in an embryonic stage. He simply cannot be expected to go on forever taking the kinds of action he has taken unless the United States or the Government of Israel, or others interested in that area, can give some evidence that those actions are beginning to produce some results.

The Egyptians have a phrase, which I cannot pronounce, which means "empty words." I am of the opinion that from time to time the rulers of Egypt, and even rulers in this country, engage in this exercise partially to keep their own people somewhat appeased. It is my opinion, though I am certainly not quoting President Sadat, that some of the actions we look upon as saber rattling may be taken at this time to help the people of his own country realize that he is a strong leader, that he is not afraid to take a distasteful step if one is necessary, but I believe this we ought to recognize that the things he has actually done and the moves he has actually made are moves, not toward war, but to find a peaceful solution to the difficult and complex relationship between the Arabs and the Israelis.

I am convinced, based on statements by our Government and observations I was able to make while I was in Egypt, that the Russians are not at the present time sending more arms to Egypt. I know, based again upon my observations, that the Egyptians are anxious to see the time when they will need more arms come to an end. I was told repeatedly that Egypt is paying in sterling, once a month, for the cost of whatever military equipment and personnel the Russians have furnished Egypt. I know that the Egyptians are extremely anxious to stop this drain on their national treasury, so that those funds may be applied to the development of their country and toward meeting the very serious social problems that exist there. They realize, and I think everyone in the Senate would agree, that it is ridiculous for a poor country to continue to waste its limited funds on war or preparation for war, and certainly this is true for both the Arabs and the Israelis.

In my opinion, the issue of Phantom jets is largely political. It is intended to attempt to further polarize our country. It is intended to push the United States further into an anti-Arab posture so far as world opinion is concerned. Three times in the last 20 or 25 years, the Israelis have demonstrated their complete military superiority.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BELLMON. Will the Senator yield me 1 additional minute?

Mr. ELLENDER. I yield 1 additional minute.

Mr. BELLMON. I doubt that a further demonstration of this superiority would come any closer to producing a solution to the problem than has already been produced. To me, the answer over there is not a military answer; but, rather, hope for the future lies in seeking a peaceful resolution.

It is plain to me, after the actions President Sadat has taken, that the next move is up to this country or to the Israelis. Since Israel has so completely demonstrated its military superiority—and I think all of us admire the Israelis for what they have done—it seems to me that they are in a position to be somewhat magnanimous in this situation and ought to make a move not toward war but toward peace; and our Government ought to insist and ought to support them in moving in that direction.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. JACKSON. I yield 2 minutes to the distinguished Senator from Arizona.

Mr. GOLDWATER. Mr. President, I have heard it said on the floor today that there is a military balance between Egypt and Israel. If we go just by the measure of equipment, this could be correct in some areas; but if we go in the whole arena, it is not correct.

For example, at the present time, the ground forces of Egypt outnumber those of Israel about 3 to 1. The air forces are even more lopsided. They outnumber the Israelis about 5 to 1.

The question to me in this whole argument is whether we keep our promise or not. Some of us may not like it, but we have made commitments, not in written treaty form. But we made it plain to the Israelis that when they get into trouble, we are going to help them.

I remind my colleagues that the Phantom line, the F-4 line, is very rapidly drawing to a close. Our new Air Force fighter, the F-15, will begin coming off the line sometime next year. Even the purchase of F-4's by Germany is not going to keep that line up indefinitely.

If we are going to continue what we have promised for Israel, it seems to me that now is the time, because we do not have much time left. Frankly, I would hate to see my country fail to keep its word again.

In closing—and with no relationship to this—it is amusing to sit on this side of the aisle and hear my colleagues on the other side say that this is procedurally wrong because it did not go to an authorization committee. We did precisely the same thing yesterday, so I am anxious to see how the Senate will vote on the point of order today.

Mr. JACKSON. I thank the Senator from Arizona for making a very important point in connection with the balance of forces. I think that is something that has not been discussed on the floor, and it is indeed a very valid point.

Mr. President, I wonder whether the Senator from Louisiana wishes to take some time.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Washington has 7 minutes remaining, and the Senator from Louisiana has 2 minutes.

Mr. JACKSON. I yield 5 minutes to the distinguished Senator from Minnesota.

Mr. HUMPHREY. Mr. President, I rise, first, to commend the distinguished Senator from Washington for his leadership in this matter and to join the Senator from Connecticut (Mr. RIBICOFF) in his support of this amendment.

I believe that the Senator from Washington (Mr. JACKSON) has properly answered the issue as to whether or not there is an adequate authorization for the funds that are to be made available under the amendment of title IX, section 901, being proposed by Senator JACKSON. I do not think there is any doubt that the history of section 501 of the Military Procurement Act makes very clear that there is adequate authorization.

Mr. JACKSON. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. JACKSON. I think this is a good time to lay to rest the argument about an inadequate authorization here.

I would point out that during the discussion of this amendment to the Military Procurement Act of 1971—the debate in the Senate on September 1, 1970—the whole argument was over the question of an authorization for appropriation; and the main contention of the Senator from Arkansas (Mr. FULBRIGHT) was that this was an unlimited authorization and appropriation. The RECORD is replete with the discussion on that point; and the Senate adjudicated that question by a vote of 87 to 7.

I think that should lay to rest any argument here about the legislative history of section 501 of the Military Procurement Act.

Mr. HUMPHREY. The Senator from Washington has made it very clear that that is the situation that prevailed a year ago September. It still prevails. The authorization is there. Now the question is, will we make that authorization effective?

The question has been raised about the Foreign Assistance Act. We do not know what is going to happen to the Foreign Assistance Act. There is uncertainty. But there is no uncertainty about what is happening in the Middle East. There is no uncertainty that the Soviet Union has negotiated a new agreement with the United Arab Republic for military assistance. There is no uncertainty as to the fact that those planes are coming into the United Arab Republic. There is no uncertainty that there are Soviet pilots in Soviet planes in Egypt. There are as many Soviet pilots in Soviet planes in Egypt as Israel has in her air force with her planes and Israeli pilots.

Every time our Government vacillates, the situation in the Middle East becomes more grave. Whenever the President of the United States takes a firm stand, the Soviet Union becomes much more willing to talk and the United Arab Republic becomes much more willing to negotiate.

Within the last 48 hours, word has come from Cairo that war may be forthcoming; that President Sadat has been, in a sense, steaming up, stimulating, pleading with his troops to get ready.

I submit that the balance of power in the Middle East is in the vital interest of the United States of America; that Israel today is in danger of being on the weak side of that power structure, and the moment she is, she is in danger of attack.

We are not offering credit sales to Israel out of sheer affection for Israel. The simple fact is that this is one way—and about the only way I see—to preserve any hope of peace in that area that can lead to negotiations.

Therefore, I support vigorously the amendment of the Senator from Washington. A few days ago, on November 16, I entered into the RECORD a statement about Phantom jets for Israel. I pointed out what was beginning to happen: the ratio of airpower in the hands of the United Arab Republic as compared to that of Israel, the modernization of the Egyptian air force, the extensive training of the Egyptian air force. It is not just a matter of jets. The Soviet Union today has a naval base in Egypt. The Soviet Union today mans missiles in Egypt. The Soviet Union is there. I think that the only way we have a chance to preserve any semblance of peace is to support this amendment and insist that the Government of the United States act promptly to make these jets and other military equipment available.

The PRESIDING OFFICER. The time of the Senator has expired.

Who yields time?

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. ELLENDER. I yield.

Mr. MANSFIELD. Does this mean that $500 million will be added to the appropriation bill as reported by the committee?

Mr. ELLENDER. The Senator is correct.

Mr. MANSFIELD. Does this usually take place when the consideration of the foreign aid bill is before us?

Mr. ELLENDER. Well, it will take place.

Mr. MANSFIELD. In military grants.

Mr. ELLENDER. Yes, it will; because in the foreign assistance bill is an item of $300 million and that is authorized.

Mr. MANSFIELD. I see.

Mr. ELLENDER. That will come up in due time.

Mr. MANSFIELD. That means $500 million as appropriated——

Mr. ELLENDER. Right. It is proposed to add it to this bill.

Mr. MANSFIELD. In addition to what the committee reported?

Mr. ELLENDER. Right. It also means that the $500 million that was appropriated last year——

Mr. MANSFIELD. What does the Senator mean; $500 million more?

Mr. ELLENDER. Yes.

Mr. MANSFIELD. Does that mean $1 billion then?

Mr. ELLENDER. Yes, that will be $1,300,000,000 if the Foreign Relations Committee acts favorably on the question.

Mr. FULBRIGHT. It has already acted favorably. It is in conference.

Mr. MANSFIELD. Not in lines of credit but cash appropriations.

Mr. ELLENDER. Yes, cash appropriations, to be used as indicated.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER (Mr. BROCK). One minute remains to the Senator from Louisiana.

Mr. ELLENDER. I thank the Chair.

Mr. President, I cannot say very much in 1 minute except to reemphasize what the Senator from Arkansas said awhile ago, that the President of the United States as well as the Secretary of State have taken care of this matter. The President has not asked for this and neither has the Secretary of State. It is a group of Senators who are now asking that we provide this $500 million and that is in addition to the $500 million we made available last year. If the Foreign Relations Committee——

Mr. FULBRIGHT. The foreign aid bill is in conference.

Mr. ELLENDER (continuing). Comes up with their bill, it will mean a total of $1.3 billion that we shall have available for Israel.

Mr. FULBRIGHT. That is right. It has passed the Senate.

Mr. ELLENDER. I do not believe that is right. This is being proposed, as I say, without authorization.

Mr. President, I want to make a point of order——

Mr. JACKSON. Mr. President, I think it is important to keep the record straight. Section 501 of the Defense Procurement Act of 1971, which we adopted last year, came into being because the Military Sales Act expired on July 1, 1970. There was then no authority to appropriate credits for the State of Israel. We are talking about long-term credits which involve a direct appropriation. I want to make it clear that it requires appropriations to implement it. But I would point out and emphasize that the reason section 501 was passed is that there was no authority; and the reason why there was no authority at that time to extend the credits, and the reason why this amendment is being offered today is that we do not have authorized into law the Foreign Assistance Act. It is pending in conference. It is reasonable to assume that it is highly questionable that an authorization for foreign aid will be approved before we adjourn.

That is why this amendment is being offered here today, because it is pursuant to an authorization approved by the Senate 87-to-7. It is that simple. I would point out that 78 Senators have indicated, by a resolution introduced before the Senate, their support for what we are asking here now.

The PRESIDING OFFICER. All time has now expired.

Mr. ELLENDER. Mr. President, now I wish to make a point of order. As I understand it, there will be 15 minutes to a side, 30 minutes altogether; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. ELLENDER. Mr. President, as I pointed out a while ago——

The PRESIDING OFFICER. The Senator must raise the point of order first.

Mr. ELLENDER. All right. I make the point of order that this proposed appropriation is without authorization, which is contrary to rule XVI, paragraph 1. I therefore make the point of order and I would like to be heard.

The PRESIDING OFFICER. The Senator has 15 minutes on the question of the point of order which is now before the Senate.

Mr. ELLENDER. Mr. President, as I pointed out a while ago, the distinguished Senator from Washington and others argue that this appropriation is authorized by title V, section 501, Public Law 91-441. This is not an authorization. The rules of the Senate provide that the authorization must be expressly stated in legislation. If appropriations are to be made on the basis of what is implied in legislation then we can do away with the authorizing committees.

Since enactment of section 501, Congress has passed the Foreign Military Sales Act, Public Law 91-672 which was approved on January 12, 1971. In section 10a of that act:

> SEC. 10. (a) Notwithstanding any provision of law enacted before the date of enactment of this section, no money appropriated for foreign assistance (including foreign military sales)—it is specifically mentioned—shall be available for obligation or expenditure—
>
> (1) unless the appropriation thereof has been previously authorized by law; or

That is the law now, and that is what is expressly provided in the rules of the Senate.

Mr. President, it is crystal clear that there is no express authorization for appropriating additional funds for military credit sales to Israel.

I have been advised that the Parliamentarian has been furnished a legal opinion by the Office of Legislative Counsel indicating that section 510 of Public Law 91-441 is an implied authorization to make this appropriation for military sales to Israel, and that if a point of order is made against the amendment, it may be that the Chair would rule that it is in order. I do not believe the Chair will so rule.

This matter should be of grave concern to all the authorizing committees. We have always operated under the rule that appropriations must be expressly authorized in legislation. A ruling that this appropriation is in order will establish a precedent that should be of concern to the legislative committees more than to the Committee on Appropriations. It would seem that such a precedent would give to the Committee on Appropriations far-reaching authority to make appropriations where authorizations are only implied.

As long as I am chairman of the Appropriations Committee, I shall continue to insist on express authorizations rather than implied authorizations. I do not feel we should circumvent the rules of the Senate simply because some feel it may be expedient to do so. If we do violence to our Senate rules in this instance such action will haunt us later; mark my words.

Mr. FULBRIGHT. Mr. President, will the Senator from Louisiana yield for a question?

Mr. ELLENDER. I yield.

Mr. FULBRIGHT. Mr. President, according to the theory the Senator referred to by the council, if the Senate authorizes the President to do anything without allowing any appropriation at all, an appropriation is nonetheless authorized. That seems a very odd theory to me. What that means is the authority to transfer planes to Israel. We have hundreds and thousands of planes. That is authority to transfer. That is what section 501 says, to transfer.

It does not say it authorizes the President to give them money. It is the transfer of planes.

I remember we had a question of this nature to come up concerning the authority for the Secretary of State to utilize foreign currencies. The question was raised about whether this was not in violation of the Constitution because it was an appropriation. The Attorney General ruled that it was not an appropriation, because it was not money from Treasury that was authorized. That was a sound distinction.

Here, we are not authorizing an appropriation of money out of the Treasury. It seems to me that the proposed amendment, which is without any authority, makes a shambles of the whole concept of authorization and appropriation.

Mr. ELLENDER. That is my point. In addition to all of that, Congress has additionally acted since that time and has said it shall not be, unless authorized.

Mr. President, I yield to the Senator from North Dakota.

Mr. YOUNG. Mr. President, I have always taken a dim view of a legislative committee trying to appropriate money. Likewise, I think a legislative committee has just as much right to resent the Appropriations Committee trying to authorize the appropriation of money in a strictly appropriations bill.

In the case of this amendment, there is no budget item, no authorization whatever. I never heard of this amendment until this morning. This is a big sum of money, $500 million to appropriate without even a hearing.

Mr. President, I have received correspondence with reference to Senate Resolution 177. However, I am not one of the 78 cosponsors. I agreed when answering letters from constituents that we should sell these F–4 jets to Israel. But not illegally or against the rules of the Senate.

Mr. GRIFFIN. Mr. President, I understand that the time on the point of order has been assigned to the minority leader. On his behalf, I assign the time to the Senator from New York with the understanding that at least 5 minutes be yielded to the Senator from Washington (Mr. JACKSON).

Mr. JAVITS. Mr. President, I thank the acting minority leader. I yield 5 minutes to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington is recognized for 5 minutes.

Mr. JACKSON. Mr. President, the issue here is whether section 501, in order to be effective, must have language which, in effect, authorizes an appropriation. The distinguished senior Senator from Louisiana relies on Public Law 91–672, section 10, subsection (a), in which it states:

> Notwithstanding any provision of law enacted before the date of enactment of this section, no money appropriated for foreign assistance (including foreign military sales) shall be available for obligation or expenditure (1) unless appropriation thereon has been previously authorized by law.

First, let me state that the section we are relying on, section 501, is in fact an authorization for an appropriation. That is the whole point. I ask unanimous consent to have printed in the RECORD the memorandum for the Parliamentarian which was prepared and signed by Mr. Hugh C. Evans, senior counsel for the Office of Legislative Counsel, in which he answers this question, stating that section 501 is an authorization; and he very succinctly outlines his arguments in support of that proposition. He relies heavily on the legislative history on section 501.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

MEMORANDUM FOR THE PARLIAMENTARIAN

This memorandum is written in response to your request for the opinion of this office whether section 501 of Public Law 91–441, approved October 7, 1970, was an authorization for the appropriation of funds to carry out the purposes stated in that section.

Section 501 is contained in the Act authorizing the appropriation of funds for the fiscal year beginning July 1, 1971, for military procurement. Section 501 provides as follows:

> SEC. 501. The Congress views with grave concern the deepening involvement of the Soviet Union in the Middle East and the clear and present danger to world peace resulting from such involvement which cannot be ignored by the United States. In order to restore and maintain the military balance in the Middle East, by furnishing to Israel the means of providing for its own security, the President is authorized to transfer to Israel, by sale, credit sale, or guaranty, such aircraft, and equipment appropriate to use, maintain, and protect such aircraft, as may be necessary to counteract any past, present, or future increased military assistance provided to other countries of the Middle East. Any such sale, credit sale, or guaranty shall be made on terms and conditions not less favorable than those extended to other countries which receive the same or similar types of aircraft and equipment. The authority contained in the second sentence of this section shall expire September 30, 1972.

While this section does not contain the phrase "authorized to be appropriated" or similar language, there are two reasons which convince me that such section is an authorization of appropriation provision.

The first reason is based on the legislative history of the provision. It is clear from this history that the provision was intended to be an authorization for the appropriation of funds. Section 501 was added to H.R. 17123 of the 91st Congress by the Committee on Armed Services of the Senate. (H.R. 17123 was subsequently enacted as Public Law 91–441). At the time that H.R. 17123 was being considered on the floor of the Senate, many Senators believed that the language of section 501 was necessary because (1) it was not likely that a foreign military sales authorization bill would be timely enacted for the fiscal year beginning July 1, 1971, given the respective positions of the Senate Committee on Foreign Relations and the House Committee on Foreign Affairs regarding certain amendments adopted by the Senate to such authorization bill, and (2) even if enacted, there would be insufficient authority to provide adequate military assistance to Israel.

At the time the Senate Committee on Armed Services was considering H.R. 17123, Senator Jackson offered the amendment under discussion and it was agreed to by the Committee. The Senate agreed to the committee amendment with a floor amendment limiting the life of the committee amendment to September 30, 1972. It was during the course of discussion on the Senate floor of an amendment offered by Senator Fulbright to section 501 that the purpose and intent of section 501 was clearly revealed. A copy of the pertinent pages of the Congressional Record pertaining to that amendment by Senator Fulbright is attached for your information.

The apparent purpose of section 501 was to enact a special military sales Act for Israel. The proponents felt that the funds then available to assist Israel were inadequate and that, because of the situation in the Middle East at the time, additional funds were necessary to aid Israel.

The Foreign Military Sales Act authorizes generally the same type of assistance for friendly foreign nations as section 501 authorizes for Israel. Except for cash sales, funds must be appropriated to carry out other types of sales and guarantee arrangements entered into under the Foreign Military Sales Act. Accordingly, if one accepts the position that section 501 was intended as a special military sales Act for Israel, it logically follows that funds were intended to be authorized thereby.

Mr. Woodruff of the Senate Committee on Appropriations informed me, in response to an inquiry made by me, that in requesting funds for military assistance to Israel in the supplemental appropriation bill in 1970, the President cited the provisions of section 501 as the basis of such request. An appropriation of $500,000,000 for military assistance to Israel was included in Public Law 91–665, approved January 8, 1971. House Report Number 91–1688 which accompanied H.R. 19928 (subsequently enacted as P.L. 91–665) states that the funds included for Israel were being appropriated pursuant to the authorization provided for in section 501 (see page 14).

The second reason for believing that section 501 is an authorization for appropriations is that the section authorizes the President to undertake certain acts. The enactment by Congress of a provision of law conferring authority upon the President to perform certain acts itself constitutes authority for the appropriation of funds to carry out those acts, in the absence of a clear legislative intent to the contrary. Otherwise, Congress would be engaging in a useless gesture of authorizing the President to act but not authorizing funds to accomplish that act.

This office has consistently taken the position that language specifically authorizing appropriations is unnecessary to authorize the appropriation of funds to carry out any legislative program enacted by the Congress. The same position is taken by Mr. Reed Dickerson in his book on *Legislative Drafting*:

> § 9.2. Provisions affecting appropriations. In a bill setting up a Federal program it is unnecessary to include a provision that expressly authorizes Congress to appropriate money for the purpose, unless the provision is to name a specific amount or there is another special reason for including it. As an authorization, the provision is unnecessary because by prescribing or authorizing an action Congress impliedly authorizes the necessary appropriation. If such a provision has any effect, it can only be restrictive. Thus, if an existing provision authorizes a specific amount, the appropriation of a larger amount would be subject to a point of order.
>
> If it is desirable in a special case that Congress keep a year-to-year check on the expenditures for a particular program, the draftsman may include a watch-dog provi-

sion. With a provision that action must be "within funds specifically appropriated for the purpose," no money may be spent for the named purpose unless it has been so earmarked by Congress in the appropriations for that fiscal year.

Your attention is also invited to the fact that the executive branch looked upon section 501 as an authorization for the appropriation of funds. On page 76 of the Budget Appendix for fiscal year 1972 the following explanation for a military assistance budget item appears:

> This account was created to fund credit sales to Israel authorized by section 501 of the Defense Procurement Act of 1970. Since the Foreign Military Sales Act has not yet been enacted and credits for Israel were urgently required, Congress enacted the separate authorization. The $500 million appropriated in the Supplemental Appropriations Act, 1971, is shown in this account. No request is being made in this account for 1972 since funds for Israel are included in the regular foreign military credit sales account.

For the foregoing reasons I believe that section 501 of Public Law 91-441 constitutes an authorization for the appropriation of funds.

HUGH C. EVANS,
Senior Counsel.

NOVEMBER 22, 1971.

Mr. JACKSON. I would like to point out, Mr. President, as I did a moment ago, that when section 501 was up for debate on September 1, 1970, the distinguished Senator from Arkansas (Mr. FULBRIGHT) made his case against section 501 on this basis:

> To give an open-ended authorization without any ceiling whatever, I think, is unprecedented for domestic or foreign programs.

Mr. FULBRIGHT. Mr. President, I said authorization to transfer. I do not believe I used the words "authorization to appropriate funds." If I did, it was certainly inadvertently. It was merely an authorization to transfer, which it says in section 501.

Mr. JACKSON. The Senator put the question to me at the time. I will go back and quote from the RECORD.

This is Senator FULBRIGHT:

> Does the Senator know of any precedent in which Congress or the Senate has ever authorized an unlimited appropriation, as this amendment does, for any nation in the world?

And my answer was:

> I cannot cite a specific precedent.

I would say that the U.S. Senate adjudicated this question. If there ever was a case where the legislative history was laid before the Senate and voted upon, it was on the particular question now being raised.

Mr. FULBRIGHT. I have read a part of it. It was just handed to me. This says that it is an implied authorization. There is no doubt the language is quite like it. It was an authorization to transfer, and it was unlimited, no limit whatever. I was making the point that it was without limit and it could have been any amount. It was clear that there was subsequently enacted a prohibition against appropriations without an authorization. And one of the reasons I proposed that provision was to insert clear and specific language to try to stop this kind of circumvention. And that provision became law in January of this year.

There is a double meaning shifting back and forth on this word authorization.

Mr. JACKSON. Mr. President, the Senator not only used the word "authorization," but he also used the words appropriation when he said:—"has ever authorized an unlimited appropriation."

It is very clear that this Senate decided the question. After all, this was the main thrust of the debate, and the Senate voted 87 to 7 to say that this particular section should be approved.

The objection to section 501 was that it was an unlimited authorization for appropriation. Of course, the answer is that the appropriations process controls that. However, running through the whole debate we dealt with this issue. I can go on further in the debate, again quoting:

> Mr. FULBRIGHT. I think this is an unlimited authorization. It could be $10 billion if they wish. . . .

Mr. FULBRIGHT. That is correct, unlimited authorization to transfer planes.

Mr. JACKSON. I mention that only to point out that the Senate—and the Senate must rely on its own precedents—had that question before it. And the Senate voted overwhelmingly to sustain it. And on top of all of that, without taking any more time here—and I have placed it in the RECORD—the legislative counsel of the Senate has said that this is an authorization for an appropriation.

Together with the adjudication of the Senate earlier and the ruling now of the legislative counsel in which he relies heavily on the legislative history, I think it is clear that section 501 is, in fact, an authorization for appropriations, and the magic words "an authorization of appropriations"—which is language used from time to time—is not necessary.

Mr. JAVITS. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from New York is recognized for 2 minutes.

Mr. JAVITS. Mr. President, it seems to me very clear that the executive department itself has considered that this is an authorization and used it so. That is what the opinion says, in the budget and in the appropriation made in January 1971. Further, Mr. President, we are accustomed to authorizations without a specific amount. The law can make open authorizations, which this does. It seems to me what is conclusive about this matter is the last sentence of section 501 which states:

> The authority contained in the second sentence of this section shall expire September 30, 1972.

If it meant nothing but an expression of policy, what was to expire?

Section 501 also states:

> In order to restore and maintain the military balance in the Middle East by furnishing to Israel the means of providing for its own security, the President is authorized to transfer to Israel, by sale, credit sale, or guaranty, such aircraft, and equipment appropriate to use, maintain, and protect such aircraft, or may be necessary to counteract any past, present or future increased military assistance provided to other countries of the Middle East.

At the time this section was passed we were awaiting a foreign aid bill that was bogged down, just as we are now awaiting a foreign aid bill which may be bogged down.

So we gave authority to proceed as to aircraft, although many other military supplies in the Military Sales Act are not referred to in section 501.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JAVITS. I yield myself 30 additional seconds.

That is why when we discussed the question of duplication we made clear we would not duplicate between this and the Foreign Military Sales Act in the same material, for the same nature of supplies.

Mr. President, for those reasons, I believe the point of order should be overruled.

Mr. FULBRIGHT. Mr. President, will the Senator from Louisiana yield to me for 5 minutes?

Mr. ELLENDER. I yield 5 minutes to the Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. FULBRIGHT. Mr. President, with respect to the play on words of "authority," of course, there is authority to transfer in the words of section 501. It referred to the authority to transfer planes. This is not authority to appropriate in the sense that the Senator has used it. The Senator said the Executive considered it as such. If that is true why did they request $300 million for Israel under the foreign military sales program, which we have specifically earmarked in the bill? It is about the only country I can think of with sufficient influence to get funds earmarked. Other countries that are contemplated to receive credit under that program take their chances.

The administration says: "We intend to give Greece and Turkey so much." But this money for Israel is earmarked by our bill. If the executive branch thought that the amendment of last year was sufficient authority I do not know why they did not submit a request for an appropriation under it.

But I emphasize that subsequent to action on the amendment by the Senator from Washington (Mr. JACKSON) last year there was enacted into law section 10 of the Foreign Military Sales Act Amendments of 1971, Public Law 91-672, which was approved January 12, 1971. What could be clearer than this provision? Obviously it was intended to prevent a repetition of the kind of thing that took place last year. It states:

> Notwithstanding any provision of law enacted before the date of enactment of this section, no money appropriated for foreign assistance (including foreign military sales) shall be available for obligation or expenditure.

We had in mind specifically the kind of procedure involved in the amendment before us today.

I did not make a point of order last year. I simply asked that it be held in abeyance until we saw what happened in the conference on the military sales bill because it was not presented in an orderly manner or in accordance with procedures of the Senate. That is what I had in mind.

I repeat this language to which I have referred:

> Notwithstanding any provision of law enacted before the date of enactment of this section, no money appropriated for foreign assistance (including foreign military sales)—shall be available for obligation or expenditure—
>
> (1) Unless the appropriation thereof has been previously authorized by law.

I think it is quite clear that what would be undermined here is the procedures of the Senate. All that vote meant last year, and it was not based strictly on the point of order that is now raised, was that it proved the State of Israel has great support in the Senate.

I repeat that I believe the administration view of how to bring peace to the Middle East is far wiser than that of the supporters of this amendment. The administration does not want to perpetuate an arms race in the Middle East. They hope for a balance that will bring about a negotiated settlement rather than another war which would be won, no doubt, as easily as was the 3 day war that they won in 1967. That took much less than that, actually, to demolish the defenses of Egypt.

There is no question they could do it again. The question is: Is it in the interest of our long term security and their long term security? That is what we are doing here. We would be interfering with the administration's efforts in this matter and we would be doing it in violation of the rules of the Senate and the law.

If this amendment went to committee it could be discussed and considered. The administration's testimony would be heard. I do not know what the result would be. At least it would be in accordance with the rules and principles of the Senate and the way we legislate.

This is about the only instance I know of in which a foreign country has so much influence it can subvert the rules of the Senate, not once but twice. There is no doubt it will get whatever it needs.

Certainly, this administration cannot be accused of being anti-Semitic. Just look back and see what they have gotten. The President gave them $500 million last year. $500 million for a country with 3 million people is a lot of money. Per capita, no country in the world receives as much from this country as Israel. It has not been mistreated. Neither this administration nor preceding administrations have mistreated Israel in the matter of money.

If the Senate does not sustain this point of order we will say whenever we feel like it we will forget about authorizations and appropriating processes and if we have enough friends we will get enough money for our particular projects.

Many of us have been concerned about establishing a reputation of influence and responsibility for the Senate in other capacities. If the Senate does this it will remove any substance from the argument that the Senate is a responsible body and that it should have a greater role in the formulation of foreign policy. If we vote this procedure, I am not sure I could urge others to give greater power to the Senate because I think it is irresponsible in ignoring its own rules and the law already passed.

Mr. JAVITS. Mr. President, in contesting the desirability of passing this amendment on the grounds of whether it will or it will not produce peace in the Middle East, I join my friend, the Senator from Arkansas. I have one view and he has another view. But pinning this on the point of order of some irregularity of procedure, I am sorry but I cannot accept that.

It seems to me that section 501 is clear. It not only uses the word "transfer" but it also states "transfer to Israel, by sale, credit sale, or guaranty."

Mr. President, that does not imply some kind of transfer which is divorced from authority. That is authority. So if the Senator from Arkansas differs from my view on his own substantive grounds, fine. We should vote on that ground.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JAVITS. Mr. President, I yield myself 1 additional minute so that I may yield to the Senator from Washington.

Mr. JACKSON. Mr. President, I point out to my colleague from New York that if this did not contemplate an appropriation it is obvious the only other transfers we would be transferring would be first-line equipment to Israel. That was not the case. The military sales program has always been backed up with an appropriation. This is the same language that has been used for military sales to all countries. There is no dispute about that. The record and the precedents are clear. This is the language we used when we extend capital. We can talk about giving Israel $500 million.

That is why there is a distinction here between an appropriation without any strings attached and an extension of credit. We could not carry out the Military Sales Act, from which the language of section 501 is copied, unless there were an authorization to back it up. That is the rationale. It is as clear as anything can be. No one raised this question before. It went through the Senate by a vote of 87 to 7 after the question was raised whether there should be this kind of appropriation with the authorization. The Senate answered in the affirmative.

Mr. JAVITS. Mr. President, is there any time left?

The PRESIDING OFFICER. The Senator has 2 minutes.

Mr. JAVITS. I am prepared to yield back my time.

Mr. ELLENDER. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 2 minutes.

Mr. ELLENDER. There is nothing else I can add except to emphasize, as I stated awhile ago, that there is positively no authorization for this. Even agreeing to what the Senator from Washington stated about what the Senate did last year, since that time, in order to prevent anything from happening as happened before, the Senate went on record, I repeat, and passed the Foreign Military Sales Act of 1971 wherein it was stated in section 10(a) that:

> Notwithstanding any provision of law enacted before the date of the enactment of this section, no money appropriated for foreign assistance shall be available for obligation or expenditure unless the appropriation thereof has been previously authorized by law.

That has not been done.

I yield back the rest of my time.

Mr. JAVITS. Mr. President, I yield 1 minute to the Senator from Washington.

Mr. JACKSON. Mr. President, I do not want to belabor this point, but the whole question is whether it is authorized by law. I think it is very clear that it was authorized by law in 1970, so that the act passed on January 12, 1971, which requires that it previously be authorized by law, has not changed the argument here at all, because it was authorized by law in 1970, and the statute that has been relied upon does not in anywise change, repeal by implication, or in any other way, the authorization that the Congress approved in section 501 of the Defense Procurement Act of 1971.

Mr. MATHIAS. Mr. President, I wish to express my support for the amendment offered by the Senator from Washington (Mr. JACKSON). It was with deep dismay that I heard the remark of President Anwar Sadat of Egypt earlier this week in which, in effect, he told his country that war with Israel was inevitable. Mr. President, I believe that every Member of this Chamber fervently hopes President Sadat's pessimistic prediction proves false. It is essential, however, that this country, in its efforts to restrain hostilities by withholding military arms to Israel, not be guilty of creating an imbalance in the Middle East situation—one that might embolden one side to unleash an attack. Briefly put, it is essential that we release to Israel the aircraft and other equipment that is necessary to a credible defense.

Mr. President, this country maintains a far more difficult position toward the Middle East than does the Soviet Union, for we try to seek an accommodation between the two sides. The Soviet Union, on the other hand, is eager to "keep the pot boiling" in order to make possible the continued expansion of the Soviet presence in the eastern Mediterranean. The existence of some 20,000 Soviet military personnel in Egypt, sophisticated Soviet missiles fired by Soviet teams, and Soviet-flown aircraft are all evidences of her intentions in this corner of the world.

Sad as this escalation is to the hopes we had maintained for an early accommodation, we dare not continue any longer to permit this imbalance to grow. Accordingly, I shall add my vote to the amendment Senator JACKSON has proposed for the release of aircraft and other equipment for Israel as authorized by Public Law 91-441.

Mr. TUNNEY. Mr. President, in the past several days, the world has listened to President Sadat's statements that efforts at achieving peace have failed and that "there is nothing left for us but the battle."

Egypt's armed forces were said to be in a state of standby alert and leaves were reported canceled in the wake of President Sadat's declaration that he had decided that there was no alternative to fighting.

Mr. President, Mr. Sadat's statements have been made as the United States has continued to withhold Phantom jets from Israel and after the Soviet Union has continued to pour arms and equipment into Egypt.

Some interim settlement is essential. Both Egypt and Israel must make some accommodations to the other and work toward obtaining peace in the explosive region in which they find themselves.

But, in the meantime, it is irresponsible for the Nixon administration to continue to refuse to Israel the Phantom jets which she so desperately needs to maintain for her own survival and a true balance of power in the Middle East.

Toward that end, I shall support the Jackson amendment to the defense appropriation bill, which I suggest is a logical next step to Senate Resolution 177, introduced by 78 Senators, urging immediate credit sales of Phantom jets to Israel.

The immediate sale and delivery of those planes is the best protection we can have—at this critical moment in the Middle East—that war between Egypt and Israel can be averted.

Mr. MUSKIE. Mr. President, I strongly support the amendment to provide $500 million for military sales and credits to Israel. I do so because I believe that additional assistance to Israel at this time is required to maintain the balance of power and peace in the Middle East.

In recent days there has been an atmosphere of intensified rhetoric combined with growing discouragement over prospects for a peaceful settlement. In such circumstances, continued stability depends more than ever on a secure balance of power between rival groups. Yet, because of the administration's strategy of attempting to gain political leverage over Israel by withholding shipments of Phantom jet aircraft, the military balance has been shifting during the last year against Israel. There is a growing threat that Egypt might perceive, in an intense crisis, a margin of military strength that could tip the balance of decision in favor of war. We must not permit that to occur.

While we continue to withhold needed aircraft from Israel, the State Department can only issue protests to the Russians over the latest shipment of aircraft to Egypt—up to 10 additional subsonic TU-16 Badgers which may be capable of firing sophisticated air-to-ground missiles. The Soviets show no signs of stopping the flow of arms into the Middle East.

In these circumstances, I think we must act to reinforce Israeli military strength. The $300,000,000 in credit sales contained in the military assistance bill may not be adequate—and even this authorization may be facing great difficulty before it can be enacted into law.

I therefore support this amendment to appropriate $500,000,000, including $250,000,000 for F-4 Phantom aircraft, under the previous authorization contained in section 501 of the Defense Procurement Act of 1970. I believe we must act to redress the balance of power—and save the peace—in the Middle East.

Mr. THURMOND. Mr. President, amendment No. 750 to the pending defense bill, offered by the distinguished Senator from Washington (Mr. JACKSON) is needed if this country is to aid Israel in offsetting the Soviet arms buildup of Egypt.

The amendment would provide an additional $500 million in credits to Israel to finance essential military equipment and F-4 Phantom jet fighters.

One way to preserve peace in the Middle East is to aid Israel to the extent that Egypt does not gain a military advantage. Just recently the Soviets escalated the arms balance in this area by providing Egypt with bombers.

The security of Israel and America's well-being in the Middle East must be maintained through additional arms shipments when needed. This amendment will provide the President with the tools to preserve the balance of power if and when he deems it necessary.

Passage of this amendment would also indicate strong support of Israel by the Senate. The deterrent effect could be important as Egypt continues to move closer each day to launching attacks against Israel.

Mr. BAYH. Mr. President, for the past 15 months the Nixon administration has played a delaying game on Israeli requests for urgently needed military assistance credits—and I emphasize the term "credits" because this is not a foreign aid giveaway. During the same period, the Soviet Union has continued to supply to Egypt the latest and most sophisticated weapons in its arsenal, including self-propelled SA-4 and SA-6 missiles, Sukhoi 11's, Mig-23's, and Badger bombers.

As a result of our delays and steady Soviet shipments, Egypt now has more than twice as many aircraft as Israel—and even more critical, strategically, it has three times as many supersonic planes. Clearly, the precarious military balance of power in the Middle East, which previous administrations have worked so hard to preserve, is shifting toward Egypt. Such a shift, I fear, is at the heart of President Sadat's recent belligerent statements.

Now is the time for the United States to act to redress that imbalance because a strong and secure Israel is the best deterrent to renewed hostilities in the Middle East.

Mr. President, last September I voted against an attempt to delete the $500-million authorization for military credits to Israel that is now law. That authority still exists. What this amendment seeks to do is to fully fund that authorization so that desperately needed Phantoms and other items can be made available to Israel once again.

The sentiment of Congress on this matter was made clear the other day when 78 of us joined in sponsoring Senate Resolution 177, urging the President to make Phantom jets available to Israel—now.

Some have argued that this amendment is unnecessary in view of the $300-million authorization in the original foreign aid bill. But there is no foreign aid bill now and there may not be one for quite some time. In addition, that $300-million authorization falls short of what Israel needs in the way of Phantoms and other military hardware. The Phantom jets alone will cost at least $250 million. So what is needed is both a larger appropriation and an immediate one.

Mr. KENNEDY. Mr. President, I rise to support the amendment offered by the Senator from Washington to the Defense appropriations bill to appropriate funds to meet the security needs of the Government of Israel.

This is the final step available to the Senate to demonstrate our determination to assure Israel the means necessary to defend itself. It follows a long series of attempts to impress upon this administration the view of the Senate that the military and political balance of power in the Mideast required additional supplies of Phantom jets to the Government of Israel.

On May 28, 1970, 76 Senators sent a letter to the President on this subject. On July 30, 1970, 73 Senators sent a letter to the President expressing our concern over the shifts in the balance of power.

Last year, specific open-ended authorization for military credit sales to Israel was approved by 87 Senators in the 1970 Defense Procurement Act. And only last month 78 Senators introduced a resolution again urging the sale of Phantom jets to Israel.

But despite these expressions of concern, the administration has refused to meet Israeli requests for military assistance to offset the heightened Soviet shipments.

Now I believe this amendment provides us with a vehicle to mandate the sale of Phantom jets which Israel requires for its defense. It would provide $500 million to finance military credit sales, including $250 million specifically earmarked for Phantom jets.

I believe that the security of Israel, and peace in the Middle East depend on Israel maintaining sufficient military force to dissuade any effort by Arab governments to alter the current situation through force of arms.

The best hope that we have for a final negotiated settlement is the belief on the part of the Arabs that military action is a futile road for them to follow in seeking to revise the results of the 1967 war. They must recognize that alterations in boundaries and a general settlement of the issues in dispute can only come at the bargaining table.

For that reason, I have joined in the efforts of other Senators to press the administration to respond to Israeli requests for additional military equipment.

It perhaps should be noted that the military balance of power in the Middle East has shifted drastically in the past 4 years as the Soviet Union has shipped substantial quantities of supersonic aircraft, tanks, and Soviet pilots and advisers to Egypt.

The most recent figures supplied by

the congressional research service show the Egyptian force contains 466 supersonic aircraft, including 156 Soviet piloted jets, compared to the 150-plane Israeli force.

And it should be clearly understood that the Soviet jet deliveries to Egypt include the latest Mig-23 Foxbat jets which are considered by most observers as the most potent jet fighters.

It is in that context that the request of Israel for Phantom jets must be evaluated. The $250 million now in the amendment would provide sufficient funds to meet the requests of the Israel Government. And I believe it would permit Israel to maintain parity in the military balance of power in the Middle East.

Just as important in my mind, Mr. President, is the need at this juncture in the Mideast situation, to provide a reaffirmation of U.S. commitment to the security of Israel. The recent saber rattling statements of the Government of Egypt require some response from the United States to indicate unequivocally the U.S. commitment and the U.S. concern.

Therefore, Mr. President, for these reasons, I strongly urge the Senate to approve this amendment.

Mr. SCOTT. Mr. President. I rise in support of the Jackson amendment appropriating additional funds for the procurement of more F-4 Phantom jets by the Israeli Government.

Just this morning at breakfast with President Nixon, this whole matter was discussed very thoroughly.

President Nixon told me that he was constantly reviewing the situation and assured me that the balance of forces in the Middle East would be maintained at all times.

I am confident that the adoption of the Jackson amendment will help the President keep that commitment.

Mr. PERCY. Mr. President, in voting to make it possible for Israel to purchase aircraft and other military equipment, I feel we are making an important contribution to peace in the Middle East. No action would so undermine the peace as to deny Israel its ability to maintain the military balance which serves as a deterrent to war.

The sum of money seems large, but these are sales, not aid, and Israel has never defaulted on its debt payments. Moreover, this money, to keep the peace in the Middle East, is only a small fraction of what is spent for war in Southeast Asia.

I firmly believe that the amendment is in our national interest and in the interest of peace. I support it enthusiastically.

Mr. GURNEY. Mr. President, the pending amendment takes on special importance coming as it does this week, for once more the drums of war have begun to sound in the Middle East. President Sadat of Egypt has announced his intention to interrupt the present semipeaceful status quo and lead his nation into battle once again.

His boldness cannot be explained in terms of historical perspective. For past military ventures on the part of Egypt have consistently been doomed to failure. Rather his boldness is explained by the undeniable fact that militarily Egypt, and much of the Arab world, has become an outpost of the Russian Bear.

President Sadat has a much better situation militarily than his predecessor had in 1967. In addition to other Russian military hardware, he has the fastest, most agile, military fighter plane in the world in the Mig-23. With thousands of Russian advisers and Russian pilots in Egypt, this nation has taken the position that the Soviet Union would discourage that country and other Arab nations in which they have influence from participating in another reckless military adventure. It has, however, become increasingly clear that this analysis has been borne more from wishful thinking than from a concrete assessment of the realities of the situation.

That in the eyes of Egypt, and the other Arab States who have had their defense bolstered with massive intrusions of Soviet arms and personnel that seem now to believe that they have military superiority over Israel. Israel during the same period has been denied adequate military supplies from nations who have been her suppliers. The Arab nations such as Egypt, therefore, once again they are flexing their muscles in anticipation of the final push of Israelis into the sea.

If once again war comes to the Middle East it will prove a discredit to this Nation. If our closest friend in that area is in fact defeated as a result of inaction on the part of the United States, that defeat will only bring this Nation shame.

Mr. President, I respectfully submit that the time for delay in this extremely sensitive area has long since passed. We should vote approval of this amendment forthwith and enable a good friend and ally of ours, the state of Israel, to obtain the necessary aircraft to preserve the military balance of power in the sensitive area of the Middle East.

For while the Arab nations such as Egypt have been successful in obtaining military hardware, including the Mig-23, to shore up their arsenals and make them a potent military force, Israel has consistently been refused permission by the Western Nations to purchase adequate amounts of military hardware for its defense.

Mr. President, there are two factors to be considered when one discusses the adequacy of Israel's military hardware. The first factor to consider is whether or not the hardware is in fact adequate; in this case adequate to ensure that Israel would be able to defend herself against her enemies.

The second factor to be considered, and one that is perhaps more important in the situation under discussion, is the perceived adequacy of that military hardware. This is the more important question, how strong Israel's posture appears from the vantage point of her enemies. It is clear Israel needs only one item of military hardware to enable her to defend herself, and that is sufficient jet planes to stand off her enemies. With adequate air defense she can survive, without it she cannot.

The United States is her only source of jet fighters. That is why the passage of this amendment is so important.

Mr. ELLENDER. Mr. President, I ask for the yeas and nays.

Mr. JACKSON. Mr. President, the yeas and nays on which? On the amendment?

Mr. ELLENDER. No. On the point of order.

The PRESIDING OFFICER. There has been no ruling up to this time.

UNANIMOUS-CONSENT REQUEST

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that I may proceed for 1 minute.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, at the direction of the distinguished majority leader, and having cleared this request with the distinguished assistant Republican leader, the distinguished manager of the bill, the distinguished Senator from Mississippi (Mr. STENNIS), and the distinguished ranking Republican member of the Appropriations Committee, I ask unanimous consent that upon final disposition of the pending amendment by Mr. JACKSON, the Senate proceed to the consideration of the committee amendment, the so-called NATO amendment, which appears at the bottom of page 48 of the bill, and that time thereon be limited to 80 minutes, to be equally divided between the distinguished manager of the bill and the minority leader or his designee; that time on any amendment in the second degree, motion, or appeal, with the exception of nondebatable motions, be limited to 20 minutes, to be equally divided between the mover of such and the distinguished minority leader or his designee.

The PRESIDING OFFICER. Is there objection?

Mr. GOLDWATER. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ELLENDER. Mr. President, I understood that the Chair had already stated that the question before the Senate would be whether or not there is authority for this action.

The PRESIDING OFFICER. The Chair will make its statement at this point.

PRIVILEGE OF THE FLOOR

Mr. JACKSON. Mr. President, may I ask to make a unanimous consent request?

Mr. President, I ask unanimous consent that Richard Perle, of my staff, be permitted to be on the floor during the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

RULING POINT OF ORDER

The PRESIDING OFFICER (Mr. BROCK). In response to the point of order raised by the Senator from Louisiana, the Chair is aware and has carefully studied the memorandum of the senior legislative counsel supporting the contention that section 501 is authorization for an appropriation such as this. However, the Chair would point out that the point of order is addressed to an interpretation of the law.

The Chair knows of no provision or precedent authorizing the Presiding Officer to interpret the law.

Under rule XX, paragraph 2, the Chair now submits the question to the Senate. The question is: Does the Senate sustain the point of order that the funds contained in the amendment are not authorized by section 501 of Public Law 91-441?

Mr. ELLENDER. Mr. President, I ask for the yeas and nays.

Mr. FULBRIGHT. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. SCOTT. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. SCOTT. If one wishes to support the position taken by the Senator from Washington, the vote would be "nay," and if one wishes to sustain the point of order raised by the Senator from Louisiana, the vote would be "yea." Is that correct?

The PRESIDING OFFICER. The Senator has correctly stated the situation. A vote to sustain the point of order of the Senator from Louisiana would be a "yea" vote.

Mr. ELLENDER. Mr. President, did I understand the Chair to state that there was no precedent for this as one reason why the Chair was submitting the question to the Senate?

The PRESIDING OFFICER. The Chair is not authorized to interpret the law. That is the statement of the Chair.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Mississippi (Mr. EASTLAND), and the Senator from Indiana (Mr. HARTKE) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from New Hampshire (Mr. COTTON) is necessarily absent.

The result was announced—yeas 14, nays 81, as follows:

[No. 390 Leg.]

YEAS—14

Aiken
Bellmon
Church
Ellender
Fulbright
Hart
Hatfield
Hughes
Long
Mansfield
Smith
Stafford
Stennis
Young

NAYS—81

Allen
Allott
Baker
Bayh
Beall
Bennett
Bentsen
Bible
Boggs
Brock
Brooke
Buckley
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Case
Chiles
Cook
Cooper
Cranston
Curtis
Dole
Dominick
Eagleton
Ervin
Fannin
Fong
Gambrell
Goldwater
Gravel
Griffin
Gurney
Hansen
Harris
Hollings
Hruska
Humphrey
Inouye
Jackson
Javits
Jordan, N.C.
Jordan, Idaho
Kennedy
Magnuson
Mathias
McClellan
McGee
McGovern
McIntyre
Metcalf
Miller
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Saxbe
Schweiker
Scott
Sparkman
Spong
Stevens
Stevenson
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams

NOT VOTING—5

Anderson
Cotton
Eastland
Hartke
Mundt

So the point of order was not sustained.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Washington.

Mr. JACKSON. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Washington. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Mississippi (Mr. EASTLAND) and the Senator from Indiana (Mr. HARTKE), are necessarily absent.

I further announce that, if present and voting, the Senator from Indiana (Mr. HARTKE) and the Senator from Mississippi (Mr. EASTLAND), would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from New Hampshire (Mr. COTTON) is necessarily absent.

The result was announced—yeas 82, nays 14, as follows:

[No. 391 Leg.]

YEAS—82

Allen
Allott
Anderson
Baker
Bayh
Beall
Bennett
Bentsen
Bible
Boggs
Brock
Brooke
Buckley
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Case
Chiles
Church
Cook
Cranston
Curtis
Dole
Dominick
Eagleton
Ervin
Fannin
Fong
Gambrell
Goldwater
Gravel
Griffin
Gurney
Hansen
Harris
Hollings
Hruska
Humphrey
Inouye
Jackson
Javits
Jordan, N.C.
Jordan, Idaho
Kennedy
Magnuson
Mathias
McClellan
McGee
McGovern
McIntyre
Miller
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Saxbe
Schweiker
Scott
Sparkman
Spong
Stafford
Stevens
Stevenson
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams

NAYS—14

Aiken
Bellmon
Cooper
Ellender
Fulbright
Hart
Hatfield
Hughes
Long
Mansfield
Metcalf
Smith
Stennis
Young

NOT VOTING—4

Cotton
Eastland
Hartke
Mundt

So Mr. JACKSON's amendment was agreed to.

Mr. JACKSON. Mr. President, I move that the vote by which the amendment was agreed to be reconsidered.

Mr. PASTORE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGE FROM THE HOUSE—ENROLLED BILLS SIGNED

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills:

S. 1810. An act for the relief of Dorothy G. McCarthy;

H.R. 8356. An act to make permanent the authority to pay special allowances to dependents of members of the uniformed services to offset expenses incident to their evacuation; and

H.R. 10203. An act to amend the Water Resources Research Act of 1964, to increase the authorization for water resources research institutes, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, November 23, 1971, he presented to the President of the United States the enrolled bill (S. 1810) for the relief of Dorothy G. McCarty.

DEPARTMENT OF DEFENSE APPROPRIATIONS, 1972

The Senate continued with the consideration of the bill (H.R. 11731) making appropriations for the Department of Defense for the fiscal year ending June 30, 1972, and for other purposes.

The PRESIDING OFFICER. The Senator from Mississippi is recognized. The question is on agreeing to the committee amendment at the bottom of page 48.

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD of West Virginia. Mr. President, may I be recognized?

The PRESIDING OFFICER. The Senator from West Virginia is recognized. Will the Senator from West Virginia indulge the Chair while he tries to get order in the Senate?

The Senate is not in order. The Senator from West Virginia will not proceed until the Senate is in order.

The Senator from West Virginia may proceed.

Mr. BYRD of West Virginia. Mr. President, I thank the Chair. What is the pending amendment?

The PRESIDING OFFICER. The pending amendment is the committee amendment on page 48.

Mr. BYRD of West Virginia. Mr. President, I have cleared this matter with the distinguished minority leader, the distinguished Senator from Mississippi (Mr. STENNIS), the distinguished manager of the bill, the Senator from Louisiana (Mr. ELLENDER), the distinguished Senator from Colorado (Mr. ALLOTT), the distinguished Senator from Arizona (Mr. GOLDWATER), the distinguished Senator from New York (Mr. JAVITS), the distinguished ranking minority member on the committee, the Senator from North Dakota (Mr. YOUNG), and the distinguished Senator from Maine (Mrs. SMITH). At the direction of the distinguished majority leader, I ask unanimous consent that on the pending amendment the time be limited to 80 minutes, to be equally divided between the distinguished manager of the bill and the minority leader or his designee; provided further that the time on any amendment in the second degree, motion or appeal—with the exception of nondebatable motions—be limited to 20 minutes, to be equally divided between the mover of such and the distinguished minority leader or his designee.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. SCOTT. Mr. President, I yield myself 1 minute for the purpose of indicating that if I am not present on the floor, I have designated the Senator from Colorado (Mr. ALLOTT) to handle the time on this side.

The PRESIDING OFFICER. Who yields time? Time is running and will be equally divided. Who yields time?

Mr. ELLENDER. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from Louisiana is recognized for 10 minutes.

Mr. ELLENDER. Mr. President, for the past 15 years some Members of the Senate, including myself, have argued that our forces in Europe should be reduced. When the authority was given by Congress to send our forces to Western Europe, I was one of the 10 or 12 who voted against sending our troops to Western Europe.

At that time that President Truman was given authority to maintain troops abroad, Western Europe was well on the way to recovery. I personally thought that to send as many as 5½ divisions to Europe was not only excessive, but was also unnecessary. The Soviet had taken control of the countries that it now occupies before the NATO agreement was formulated. Eastern Europe was turned into a buffer zone to protect Russia against attack.

Mr. President, when our troops were first sent to Western Europe, there was an understanding that our allies would furnish x number of divisions on their own, and we were to furnish 5½.

Mr. President, we complied with the agreement as to the number of divisions. We fulfilled our promises as to men and materiel. Our allies did not. There is not a NATO commander who represented us in Europe who has said that our allies were doing their share under the NATO agreement. On the contrary, we have heard admissions from them as to the lack of meaningful contributions every year that the appropriation came up for a continuation of our presence in Western Europe.

A great deal of evidence was presented to the committee to indicate that our allies were not complying with their agreement. The divisions that they had agreed to furnish were not at hand in a combat-ready condition.

I can well recall receiving in early 1960 a top secret document from the Defense Department. When I read the actual facts, Mr. President, I was astounded to learn how little help our American troops could have relied upon if they had been faced with attack. After studying that document in 1960, I made a special tour of the NATO countries of Western Europe. There, on the scene, I found that the actual facts, as presented to me on a secret basis, were absolutely correct.

The number of troops available for combat was far below the number these NATO allies were supposed to have in the field.

When I came back to Washington, I reported my findings to the committee. My findings indicated that if the Russians had struck in July, 1960, the only divisions ready to meet the foe would have been our five and one-half divisions and a Canadian brigade. The rest of the so-called divisions were poorly equipped. Some of them were only 30 percent of strength. Others were made up entirely of reservists, and were available for action on paper only.

The PRESIDING OFFICER. The Senator's 10 minutes have expired.

Mr. ELLENDER. Mr. President, I yield myself 5 additional minutes.

Mr. SCOTT. Mr. President, will the Senator yield to permit me to make a brief unanimous consent request?

Mr. ELLENDER. I yield, provided that the time not be charged to me.

Mr. SCOTT. Certainly.

Mr. President, I ask unanimous consent to withdraw my designation of time in support of the motion to strike and that the time heretofore allocated to me and the Senator from Colorado (Mr. ALLOTT) be allocated to the distinguished Senator from Mississippi, the chairman of the Subcommittee (Mr. STENNIS).

The PRESIDING OFFICER. The Senator from Louisiana is recognized for 5 additional minutes.

Mr. ELLENDER. To continue, Mr. President, I returned to Washington and reported that information to the committee. On the strength of conditions that I found, the amount of money made available for Western Europe was, as I recall, cut back substantially.

Since that time, to every Secretary of Defense who appeared before the committee, I invariably said, "I am informed that our allies are not furnishing the number of troops that they should. They are not being armed as they should. Their military hardware is poor and not equal to ours. In short, they are not bearing their share of the load. What are you going to do about it?"

Invariably, the answer was, "Well, we will try to make them come up with more assistance."

The year before last, the question was again posed to Mr. Laird, when he first became Secretary of Defense. I pointed out that for years Western Europe had found shelter under the military umbrella provided by the United States, and had used their resources, and ours, to develop their own economies. Again, the answer was, "We will try to get our allies to furnish more assistance and provide more help."

A short time ago we were told that our allies had made arrangements to give a certain amount of money by way of an additional contribution. Then we were told that it was not money they would provide to help sustain our troops; it was not money they would appropriate in order to increase their military strengths. It was a promise to furnish just under $1 billion over a period of 5 years for NATO infrastructure in Western Europe. In other words, the expenditures would go only to benefit themselves.

As far as I am personally concerned, I have tried in every way I know to reduce our expenses in Western Europe. I have tried in every way I could to have our Western European allies assist us on a meaningful basis, but all in vain. I want to say, Mr. President, that last year, 10 years after my 1960 visit, I returned to Western Europe. I visited most of the NATO countries. There was very little difference to what I had found in 1960, except in the case of Germany.

I say it is high time for us to reduce the number of soldiers we have there now, particularly when we are getting no help abroad with the economic problems we now face.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mr. STENNIS. Mr. President, I yield myself 6 minutes.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. STENNIS. Mr. President, may we have order, please?

The PRESIDING OFFICER. The Senate will be in order.

Mr. STENNIS. I am going to be as brief as I can.

First, Mr. President, without going into detail, this proposed reduction will actually save very little, if any, money. These troops will be brought home and still be in the service, still be entitled to all the allowances and everything that goes with it, housing, transportation, and other benefits. I could discuss that at length, but I say on my responsibility that this will save very little money.

On the question of the balance of payments, the arrangement we have with West Germany cancels out most of that negative effect on our economy.

Now just a word about the number of troops in Europe. This amendment, to which I speak in opposition, provides that we shall reduce that number by June 15 and there were no funds available for the support of other U.S. personnel in Europe. What is Europe? The most accurate count I can get of all the troops we have on the mainland of Western Europe, and England, and another island included there, does not run to these 313,000 or 316,000 troops we talk about. Instead, all those in that entire area, including 30,000 in the Navy, with the ordinary reductions, would be 313,000 next June. So if we are talking about reducing from 310,000 or 313,000—and I will not argue that difference particularly—we are bound to be counting in the 30,000 that we have in the 6th Fleet and those attached to our naval forces in the Mediterranean—approximately 30,000.

I do not think anyone wants us to diminish the strength of the fleet. It is there not only in connection with NATO but in connection with the situation in the Middle East, in which the Senate has overwhelmingly voted additional support for Israel.

Passing on to another point, we have a policy of withdrawal in the Pacific, not only in the war area of Indochina but in other areas. It is well known, and fairly progressive and fairly successful. However, you cannot do these things by 8 o'clock tomorrow morning. I favor some withdrawal. I have said it before, and I say again with emphasis, I favor some withdrawal of the number of troops in Europe, but I think that to have an orderly and effective withdrawal which is safe for us and for others, there ought to be negotiations, some attempt at an understanding. Then, if that fails, notice can be given of the beginning of a withdrawal, say 12 months from the time of that notice. Then start on a modest basis and progressively move forward. That is what I think.

We had this question up this year, and this is the main point I want to make. By the way, I have served notice that I favor any withdrawal program if it is orderly, and I repeat that.

On May 19 of this year, just 6 short months ago plus 4 days, by a vote of 36 to 61, the Senate refused to go along with the idea of making reductions during this calendar year. What kind of signal is this to the Chief Executive of this Nation, the man charged with the responsibility of being our spokesman and negotiator and the chief of our foreign policy? Maybe he is the wrong President—I am not arguing that. Maybe he should not have been elected—I am not arguing that. But he is the President. We have to have a President. When he is no longer there, we will have another President. The principle is the same. I think he is trying hard.

We gave him an unmistakable signal to go on with his negotiations, to go on with his efforts to try to get a mutuality of withdrawal with the Warsaw Pact countries, to go on with his efforts to get some help from our allies.

Certainly the implication was that we would leave him free to continue that. What are we doing here now? Before the ink is dry on what we did just a short time ago, we are making a reduction. What will our allies think? What will the Warsaw Pact countries think? We are on dangerous ground, in almost the last gasp of this session, doing this kind of thing.

I have evidence here. I said I wanted the best evidence we could get from original sources. Here is a letter dated November 22 from the White House, signed by the President of the United States, addressed to me, because I told them I wanted to know:

> This week the Senate will once again consider a proposal to make a substantial unilateral reduction in United States Armed Forces maintained in Europe for the common defense. I believe passage of such a measure would be a great mistake.
>
> The manifest congressional concern for a more equitable sharing of defense burdens in Europe and elsewhere has been a significant factor in the formulation of our national policy. We are currently in the final stages of talks to establish improved arrangements for the sharing of the defense burden in Europe, including an agreement with West Germany to offset nearly two billion dollars of United States costs, and the second phase of the European Defense Improvement Program, to be finalized at the NATO meeting beginning December 8.

That has to be finalized in a few days.

> In the area of East-West relations, we expect that Mr. Brosio will be received in Moscow next week to begin discussions on basic issues in Mutual Balanced Force Reductions. At the same time, the Berlin negotiations have entered the final and most difficult stage. As you know, we are also making significant progress in the SALT negotiations.
>
> Passage of the proposed troop cut would, with one stroke, diminish Western military capability in Europe and signal to friend and adversary alike a disarray and weakness of purpose in the American Government.
>
> We are now preparing to undertake vitally important new initiatives for peace in two great capitals of the world. If these initiatives are to gain positive results in the months and years ahead, I must be able to rely on the firm support and the substantial and creative contribution of a bipartisan Congress.
>
> I believe that this ill-timed measure should be rejected, and that our efforts should be directed toward the positive tasks and the great opportunities for achieving a real peace that lie before us.

That is just commonsense.

Signed by Mr. Nixon.

I think the Chief Executive is trying. He is the man who was selected by the people, and as long as he is trying, I am willing to wait a few more days, a few more months, or whatever is necessary to make this a more orderly procedure.

We are making progress in the Pacific. We are making some progress in the Atlantic area of the world. Especially since we gave this signal in the vote on May 19, I hope, just because we are disappointed in some other things, we will not backtrack and cancel the signal we gave and pull the rug out from under the chief negotiator for all America.

Mr. President, I continue with my prepared remarks:

Mr. President, section 744 of the defense appropriations bill provides that no part of the funds appropriated in that act shall be available for support of U.S. military personnel in Europe in excess of 250,000. The committee report states that the committee's action is based upon the figure of approximately 300,000 men being stationed "in Europe" and thus requiring a reduction of approximately 50,000.

In the first place, Mr. President, there are not this number of men on the European Continent. The best figures I can obtain indicate that there are only about 280,000 men actually stationed on the European Continent at the present time, even including those in Great Britain and in non-European Turkey. In order for the figure of 300,000 men to be reached it is necessary to include not only those men actually in Europe, but also those on board our naval forces of the 6th Fleet in the Mediterranean—approximately 30,000 men. Thus it is clear, Mr. President, that the figures used by the committee do not only refer to our forces in Europe itself, but the committee has taken as a basis for reductions all forces in that part of the world. Thus the first point that I want to make is that if these reductions are carried out in a balanced, across-the-board fashion they will inevitably involve some reduction in our capability to maintain stability on NATO's southern flank. Security and stability are more important today in the mid-East than ever before in light of the tensions between the Arab States and Israel, fostered by the Soviet Union's increasing involvement in that area. To make reductions in our level of forces or those shore installations in southern Europe which are associated with the 6th Fleet's operations would be particularly unwise in the present circumstances.

If our level of forces are not to be reduced, then the cuts required by section 744 must be made in either Air Force or Army personnel in Europe. Although NATO's air forces are outnumbered by Warsaw Pact forces by nearly 2 to 1, they do have certain other advantages in pilot skill and aircraft quality which creates a rough balance in airpower in that part of the world. Recently our allies agreed to spend $420 million to construct approximately 2,000 aircraft shelters and related protective facilities in Europe. The United States will provide no financial contribution in this effort, but our aircraft and personnel will, of course, use the shelters and facilities which will be built. In any potential conflict in Europe it is extremely important to be able to maintain air superiority, and I believe that a reduction at this time in U.S. tactical air forces in Europe would be unwise.

Thus if the cuts required by section 744 become law they would have to be taken almost entirely from the U.S. Army in Germany, which now totals about 190,000. Frankly, Mr. President, I believe that some reductions could be made, in time, in the number of U.S. Army troops stationed in Germany. But a unilateral reduction of about 60,000 in these forces under a legislative fiat is not the way for such reductions to be accomplished. There has been some interest expressed by the Soviet Union last May in mutual force reductions and NATO has just appointed its former Secretary General, the distinguished Mr. Manilo Brosio, to meet with Warsaw Pact representatives next week in Moscow and explore the possibilities of mutual reductions. I have no doubt, Mr. President, that the Soviets are watching and waiting to see if we will take these steps unilaterally and free them of any pressure to agree to mutual reductions.

We must always remember, Mr. President, that there are dual advantages if we can reach an agreement with the Soviet Union for mutual withdrawals from Eastern and Western Europe. Soviet troops in Eastern Europe not only constitute a threat to our allies in the West, but they are also the garrison troops which the Soviet Union requires to subjugate the nations of Eastern Europe. The pressures for nationalism in Eastern Europe as expressed in East Germany in 1953, in Hungary in 1956, and in Czechoslovakia in 1968 are real and important.

The more Soviet troops there are in Eastern Europe the less likely it is that those nations will be able to follow their own paths in trade and in political relationships with the West. Thus it is very much in our own interest to keep pressure on the Soviet Union to relax its hold upon its Eastern Europe empire. Long-range stability in Europe can only benefit by such a relaxation.

If we take the steps to withdraw our own forces unilaterally we will lose any opportunity for a mutual withdrawal. I believe we should give the President the opportunity to proceed with these negotiations and to contribute to long-range peace and stability in Europe by negotiating mutual reductions with the Soviet Union.

Finally, Mr. President, I believe that the primary motivation of those who would make this reduction in this way at this time is an interest in economy. I want to point out, Mr. President, that this amendment as written does not save one dollar. In fact, it will result in increased expenses over the next few years and the long-range savings would be small at best. This amendment does not require or even imply that the 60,000 men to be withdrawn from Europe are to be entirely cut out of the Armed Forces. To make such a reduction in addition to the 100,000-man reduction recommended by the Armed Services Committee and enacted into law last September would be highly irresponsible and highly disruptive for the Army. I believe we can assume that these troops will not be cut out of the Armed Forces altogether, but rather withdrawn from Europe to be based in the United States.

Thus any savings that are made will not be savings in the overall cost of these forces, but only that small portion which can be attributed to their being based overseas—transportation costs, and so forth. This bill will become law half-way through this fiscal year so only about $45 million could be saved in operating costs. But the cost of moving these men and equipment back to the United States and the costs of reducing and closing the appropriate bases will run well over $40 million. In addition, it will cost extra money to construct facilities for them in the United States and, ironically, this will come at a time when we have just finally convinced the West German government to rehabilitate barracks and facilities of our troops in Europe at a cost to the Germans of over $100 million. Thus, this year, a precipitate and sudden withdrawal of this sort would actually cost us money, and this does not include the costs which we would incur later if we wish to provide the equipment necessary to insure that these troops could be redeployed rapidly to Europe in a crisis. Rapid redeployment would require us to purchase a second set of some types of heavy combat equipment to be stockpiled in Europe and such equipment for 60,000 men would cost several hundred million dollars.

I believe we should determine from these arguments, Mr. President, that reductions in our forces in Europe must be careful, deliberate, and well planned. If at all possible they should be carried out in the context of mutual reductions negotiated with the Soviets. But the kind of reduction which would be forced by section 744 of this bill under the present circumstances would be ill timed, injurious to important negotiations, and costly.

I ask unanimous consent to have the President's letter printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, D.C., November 22, 1971.

Hon. JOHN C. STENNIS,
U.S. Senate,
Washington, D.C.

DEAR JOHN: This week the Senate will once again consider a proposal to make a substantial unilateral reduction in United States Armed Forces maintained in Europe for the common defense. I believe passage of such a measure would be a great mistake.

The manifest congressional concern for a more equitable sharing of defense burdens in Europe and elsewhere has been a significant factor in the formation of our national policy. We are currently in the final stages of talks to establish improved arrangements for the sharing of the defense burden in Europe, including an agreement with West Germany to offset nearly two billion dollars of United States costs, and the second phase of the European Defense Improvement Program, to be finalized at the NATO meeting beginning December 8.

In the area of East-West relations, we expect that Mr. Brosio will be received in Moscow next week to begin discussions on basic issues in Mutual Balanced Force Reductions. At the same time, the Berlin negotiations have entered the final and most difficult stage. As you know, we are also making significant progress in the SALT negotiations.

Passage of the proposed troop cut would, with one stroke, diminish Western military capability in Europe and signal to friend and adversary alike a disarray and weakness of purpose in the American Government.

We are now preparing to undertake vitally important new initiatives for peace in two great capitals of the world. If these initiatives are to gain positive results in the months and years ahead, I must be able to rely on the firm support and the substantial and creative contribution of a bipartisan Congress. I believe that this ill-timed measure should be rejected, and that our efforts should be directed toward the positive tasks and the great opportunities for achieving a real peace that lie before us.

With best wishes,
Sincerely

RICHARD M. NIXON.

Mrs. SMITH. Mr. President, with the exception of the Mansfield provision, I support this bill. It is less than I would hope for, but it is a good bill.

I have spoken on this Mansfield troop reduction in Europe before. I have acknowledged that it has some merit and great popular appeal.

But again, I say this is not the way to legislate on such a vital foreign and military policy. This should be done on legislation through the legislative committees after thorough hearings. Not this way in a rider on an appropriations bill.

Mr. JACKSON. Mr. President, will the Senator yield me 5 minutes?

Mr. STENNIS. I yield 5 minutes to the Senator from Washington.

Mr. JACKSON. First of all, I want to associate myself with the remarks of the distinguished Senator from Mississippi, the able chairman of the Senate Armed Services Committee. I think he stated the case very well. There is a need here for mutual efforts to reduce forces.

Section 744 of the pending Defense Appropriations Act will have the effect of reducing unilaterally our strength in Europe by about 60,000 men as of the middle of 1972.

I believe a reduction of this magnitude within so short a period of time should result only from a larger agreement for balanced reductions of both NATO and Warsaw Pact strength in which there is a quid pro quo for our own actions.

At a time when NATO representatives are engaged in exploratory talks with the Soviets on the question of conventional force reductions, it is vitally important to reaffirm that mutuality will be the governing principle in our dealings with the Warsaw Pact. By stipulating such a major American unilateral reduction at this time the pending amendment would encourage further Soviet delay in discussing mutual reductions.

Mr. President, this body has on several occasions considered the most desirable way of resolving the unfinished European business of the Second World War. Throughout those debates, I have emphasized what a continued American troop commitment to Europe can contribute to this search for peace. For the past 25 years, our presence in Europe has been significant enough to convince the Soviets that any crisis they inspire in the NATO area would immediately have become a Soviet-American problem, not just a European one. No token American force would have been capable of demonstrating this.

The primary function of NATO's conventional forces, with their vital American component, has been to meet an emergency as effectively as possible, posing the continual threat that if the crisis grew larger, the risks of escalation would continue to grow larger with it. To perform this function, NATO forces capable of containing a sizable, though limited, attack were required. Anything less would have been a standing temptation to Soviet testing of allied resolve. These forces are still needed today for precisely the same purposes. And they will be required so long as we do not have a general European settlement which deals with the basic causes of tensions in Europe.

It is clear that an agreement on mutual reduction of conventional forces in central Europe can reduce the risks of war and point the way toward a more comprehensive political settlement. It could also open the road to a freer life for the peoples of Eastern Europe by reducing the Soviet military presence—

an oppressive force which stifles national self-expression.

Mr. President, we may well be on the verge of seeing our steady and consistent policy result in important steps toward a general European settlement. The obstacles are still great, but we have begun the process. After all these years, let us not revive Soviet hopes about the prospects for gaining a military advantage in Europe—and thereby dash our own hopes for an East-West understanding based on mutual force reductions.

On a matter as important as this, it is both prudent and wise to make our intentions in passing this legislation as clear and as unmistakable as possible. I cannot believe that any Member of the Senate wants to resolve the unfinished business of Europe by turning America's back on the Continent. The fact is that only by following the course of responsible participation can we insure that Europe remains an area of peace—instead of the cockpit for another war.

Finally, Mr. President, let me remind my colleague of Mr. Brezhnev's speech in Tiflis earlier this year, in which he indicated for the first time—the very first time that the Soviet Union has so indicated since the end of World War II—a willingness to talk about a mutual pullback of forces. How tragic it would be if we should proceed, in the midst of the preparations for those East-West talks, to move and act unilaterally on a matter that requires a mutual approach if we are going to relieve tension and if we are going to bring about a mutual, balanced pullback of forces. I think it would be a great tragedy, after all these years of western perseverance, for this country to make a unilateral move at this time on a matter that involves these mutual discussions. It would clearly indicate to the Russians that we do not have the resolve nor the willingness to stay the course, at a time when it is so important to stay the course, so that we can see a lessening of tension and the beginning of a mutual pullback of forces on both sides of the Iron Curtain.

Mr. ELLENDER. Mr. President, I yield 2 minutes to the Senator from Texas.

Mr. TOWER. Mr. President, I believe the statement which has been made that if we unilaterally pull back from Western Europe we will adversely affect our efforts toward a mutual and balanced troop reduction does not require further explanation by me.

I think we should understand our reasons for being in Western Europe. We do not remain in Western Europe solely because we wish to help our European allies and contribute to their defense. We are there because it is in our national interest to be there, because we have pursued a foreign policy and a defense policy that holds that it is far more desirable for us to maintain our defense perimeter as far from our own shores as possible and as close to any potential enemy's shores as possible. This, basically, is why we are in Western Europe today.

There is no psychological substitute for the presence of American forces in Western Europe. Should we effect unilateral withdrawals from Western Europe, we will encourage Western European powers to make their accommodations with the Soviet Union, and those accommodations would have the increasing effect of isolating the United States, not just from a military or political standpoint, but ultimately from an economic standpoint as well.

One wise man has said that there is a danger, that indeed the trend is apparent——

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. TOWER. One more minute?

Mr. STENNIS. I yield the Senator 1 additional minute.

Mr. TOWER. That there is an apparent trend that Finland will become another Latvia or another Poland, that Sweden will become another Finland, and that Norway will become another Sweden. The Russians are already encircling our northern flank. The Norwegian Sea is practically a Russian lake. They have poured ships into the Mediterranean, and are looking toward the Indian Ocean.

With this increasing presence of Soviet power and increasing military pressures on NATO, we would be very unwise indeed to attempt a unilateral withdrawal of American troops at this time.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ELLENDER. Mr. President, I yield 5 minutes to the distinguished Senator from Missouri.

Mr. SYMINGTON. Mr. President, first I would congratulate the able and distinguished senior Senator from Louisiana as well as a majority of the Appropriation Committee. On this subject he has been a true prophet. If we had listened to him many years ago, our economic problems would be far less than they are today.

Over 20 years ago I was sent to talk with General Eisenhower—visiting his son at West Point—about the possibilities of his going to SHAPE. That is mentioned because the late President Eisenhower was the first to make the suggestion back in 1963 that there might be a major withdrawal of troops from Europe.

Listening to the discussion this afternoon, it sounds like the same old discussion heard year after year after year: "Mañana, mañana, mañana; tomorrow we will, but we do not want to do it now. We do not want to be precipitate. We want it orderly."

Let me say to my colleagues on this floor today, if there is doubt about the fact we are running out of money, they should look at the latest facts and figures about the economy. Year after year this comes up. Year after year we say, "Tomorrow." Year after year our economy continues to deteriorate.

There are people who liked General MacArthur. I did and respected him. The general told me, in the late 1950's, that all the talk about conventional forces in Europe, whether they were a trip wire or a shield was silly; that the word which should be used "parade," that anyone who thought we could stop the enemy on the ground in Europe without utilizing nuclear weapons was very wrong.

It is on the published record that we have over 7,000 nuclear warheads in Europe, and we have many more if you count others around the rest of the world.

That is where the true strength is, not in these terribly expensive European conventional forces.

You cannot blame European countries for wanting to continue to have us support their economy, which we do with these hundreds of thousands of troops, and which I have looked at in detail in recent months. But I would ask this question today of the Senate: If we are going to spend this money abroad for what, in effect, is tradition with no true recognition of modernity in possible future warfare, where are we going to get the badly needed money for our schools, our cities, our rural areas with their serious problems?

There are four categories of voting on the floor of the Senate. The first are those who have been described as ones who can hear the farthest drum before the cry of a single hungry child. Then there is a group who can hear every child, whether he is hungry or not, before they can hear a single drum.

Then you have a third group, who say, "Nothing can happen to the almighty dollar, so we will vote for all the children and all the drums."

The time has come when we must have some priorities with respect to the way we are allocating our steadily decreasing resources, else it should be clear to everybody—that the economy of the United States could well be destroyed.

For these reasons I fully support the position of the Senator from Louisiana.

The PRESIDING OFFICER. Who yields time?

Mr. STENNIS. I yield 4 minutes to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, no one in this body can agree more with the idea that our troop strength and total strength in NATO should have received attention long ago. No one will agree more that they should be withdrawn. But, Mr. President, I must remind my colleagues again that, whether we like it or not, this decision rests with our President; and we cannot in a constitutional way—although we can in our moral way, in our right of expression—say to the President, "We feel that you should be doing more in this field."

The only way in the world we can control bodies overseas that have been sent there by the President is to control the amount of money we appropriate to spend for that purpose; and if we go that route, it takes years and years and years, not just days.

I can understand the great concern of the Senator from Missouri about the economy. I recall the years I have stood on this floor and pleaded with Congress not to waste money, that we have wasted it on almost every domestic enterprise in which we have engaged. Unfortunately, at the same time, the Senate has advised and consented to a great many treaties which have committed us overseas. We are in NATO because this body voted unanimously—I cannot recall a single vote against it—when these 17 treaties were being formulated and were being advised and consented to by the Senate. I cannot recall a single vote being against them.

These are the treaties which commit us to war. Again, whether we like it or not, we have done it. Having made these commitments in the treaties, I think we are honor-bound in this country to pursue them, with the President at the same time pursuing negotiations and discussions that will lead to the reduction of our forces in NATO.

Without knowing what the President's intentions are in Moscow, I feel that certainly one of the points that will be discussed will be the possibility of reducing the power of the Warsaw Pact nations so that the NATO countries, including ourselves, can begin to scale down our operations and our costs there.

Again, this decision is in the hands of the President. While we can tell him in no unmistakable words that we would like him to be doing more about it or getting out completely, he has the constitutional right to ignore completely anything we do in this body; and I think that for the sake of unity and the perpetuation of our constitutional concepts, that is what the President should do.

I think the question is not, "Will we pull out in a hurry or will we pull out slowly?" but, "Will we retain enough strength, at the same time negotiating with other countries to reduce theirs, so that we can fulfill the treaty commitments we have with 17 countries in the North Atlantic Treaty Organization, every one of which carries us to war?"

Mr. STENNIS. Mr. President, I yield 2 minutes to the Senator from Colorado.

Mr. DOMINICK. I thank the Senator.

Mr. President, we are going to come to a vote on this matter soon, and I want to make the Record clear so far as my decision is concerned.

I supported the Senator from Montana when he submitted his resolution urging the President to withdraw a substantial number of troops from Europe. I have felt for a long period of time—and have delivered many public speeches on it—that we should have withdrawn or reduced our forces long before this, not because I was ignorant of the Russian threat—which I think is imminent—but because I felt that the European NATO allies should have taken a far stronger line for their own defense and not just relied on us.

However, having said that, I also voted against the Mansfield move to reduce it by 120,000; and I will vote against this, because I do not believe that Congress either has the power or should have the power to determine where specific troops of the Armed Forces, of which the President is Commander in Chief, should be stationed. Once we do that, we are going to have 535 generals in this body trying to determine where all the troops should be, where the weapons should be, and where they should not be.

Our power is in the power of the purse, the question of the amount of money we are willing to spend on overall defense; but the tactics of it must be determined by the Commander in Chief—the President—and the Joint Chiefs of Staff.

Mr. STENNIS. I thank the Senator.

Mr. President, I understand that the Senator from Montana desires some time.

Mr. MANSFIELD. Yes.

Mr. ELLENDER. I yield to the Senator from Montana such time as he desires.

Mr. MANSFIELD. Mr. President, as always, this has been a most interesting series of speeches, with the same old arguments and with a letter from the President, but without the use of the old guard this time. My arguments very likely will be the same old arguments as well. But I noted that the distinguished Senator from Mississippi asked in his argument, "What do the allies say" about what we are considering, debating, and deciding here?

My answer is another question: What do the American people say about 535,000 military personnel and dependents stationed in Western Europe more than a quarter of a century after the end of the Second World War?

What this proposal would do, as it is incorporated in the appropriation bill now before the Senate, would be to put into effect the Nixon doctrine in Europe; because the Nixon doctrine calls for a low profile not just in Southeast Asia and the Western Pacific but in Europe as well.

The distinguished Senator from Arizona said, referring to the President, "He"—the President—"does have the constitutional right to ignore what we do in this body." If that is the case, why do we not just abolish the Senate. Where is the doctrine of institutional equality which is guaranteed under the Constitution? What are we here—a bunch of robots? We have constitutional responsibilities, too. I was talking to the President some months ago, and, as I recall, he made this statement to me somewhat as follows:

> We pay two-thirds of the cost of the defense of the free world.

We certainly do. In the past 20 years the NATO countries collectively have spent on defense $1,500 billion, and of that amount this country spent $1,095 billion dollars. We have spent it not in the NATO area but to keep our bases throughout the world and carry on the war in Southeast Asia, and for other purposes; but $1,095 billion—I repeat, $1,095 billion—of the people's money was spent during that period of time.

The distinguished Senator from Colorado (Mr. Dominick) thinks that Congress should be ignored. He said that if it is not, we will have 535 generals.

Well, as one who served as a seaman second class in the Navy, a private in the Army, and a private first class in the Marine Corps, and that was my highest rank, I do not believe that I am entitled to wear even one star on my shoulder.

But, I think, as a Senator from the State of Montana, as a U.S. Senator, I have a responsibility and I intend to carry out that responsibility to the best of my ability while I have the honor and privilege to represent the people from the Big Sky country.

Last August and September I took a trip to Europe along with the distinguished Senator from South Carolina (Mr. Hollings). We covered a number of countries—Norway, Denmark, France—which is in and out of NATO—Italy, and Morocco—where we have installations connected with NATO—and the 6th Fleet; a staff member with me went to Germany for a close look over a period of days.

As of the year 1970, we find that of all the nations in NATO, the United States spent 7.8 percent of its gross national product, far more than any other NATO country. We find also that so far as terms of conscription in the NATO countries are concerned, Belgium has a 12-month conscription period; Canada has none; Denmark has a 12-month period—it has even thought of reducing that to 8 months; France has a 12-month period; Germany has a 15- to 18-month period; Greece has a 24-month period; Italy has a 24-month period for the navy and less for the others; Luxembourg, with 550 men in its army, has a 16-month conscription period; The Netherlands has an 18-month period; Norway has 12 months; Portugal has 24 months, mostly for service not in relation to NATO but in relation to Mozambique, Angola, and Portuguese Guinea; Turkey has a 20-month conscription period; the United Kingdom has no conscription; the United States has a 24-month period. I repeat, 24 months.

Mr. President, I would hope that the committee amendment affecting a nominal troop cut in Europe is sustained by the Senate.

It was last May—6 months ago—that the Senate rejected an amendment to cut by one-half, American troops stationed in Europe.

May I say that had that amendment passed at that time, I would have fallen through the floor of the Senate because it was too much of a cut, too quickly, and too soon. The purpose was, after a decade of trying by way of a sense of the Senate resolution, to make a dent in the situation, to bring the matter to the attention of the administration downtown, to bring it to the attention of Congress, to bring it to the attention of our allies, and to get away from ignoring it, as we do so easily in this country on subjects which are discomforting.

Since that time a great deal has happened—enough in my judgment to warrant raising once again in this body the issue of this Nation's involvement in Western Europe and the depth of its commitment there—not its commitment of spirit; there is no question about that; but its commitment of money, of men and supplies. The fact is, U.S. troop levels in Europe have been of great concern for a number of years. That an effort to cut that level 6 months ago was unsuccessful in no way diminishes that concern, nor does it answer the many questions that have arisen in the meantime.

Few in this body will forget the general alarm that was sounded across this Nation and around the globe last May by those who opposed the original effort to reduce U.S. troop strength in Europe. Heard from then were voices of an earlier leadership that had not been heard from in years and years. It was irresponsible, so they said, for America to withdraw unilaterally half its troops from Western Europe. The critics suggested that there would come a cost-sharing program to distribute more equitably the burden of our NATO defense. It has been 6 long months. It is now late November and the cost burden of Europe's defense has not been reduced by a single cent. No such plan has emerged.

Instead, what this military overcommitment has meant to the economy here at home has been made all too clear.

The value of the dollar has decreased 11 percent in Europe. The cost of maintaining the 535,000 troops and dependents in Europe has, therefore, increased by 11 percent that consideration alone.

In the past 6 months Americans have left the consequences of overextension to the near breaking point. Economic controls over our own people are as severe as any imposed since the great depression. Six months ago there was no such thing as a wage-price freeze. Six months ago the devaluation of the dollar was completely out of the picture. Six months ago the import surcharge was not in the trade arsenal. Six months ago there was no mention of phase I, no thought of phase II, of pay boards and price commissions, of rent controls and whatever else must be brought to bear on an economy that simply was left alone for too long.

I do not mean to say that overextension to Europe or anywhere else abroad was solely to blame for America's economic ills; but to sustain 525,000 American troops and their dependents in Europe, the economic consequences have to be paid.

During the August recess, I endeavored to view again firsthand the American military situation in certain selected countries in Europe and in others through a staff member. I was interested not only in the monetary crisis just mentioned and the fallout arising therefrom, but particularly I sought to assess on that continent this Nation's military might that happens to be located there. I was impressed by the increasing problem of morale among American troops; a situation that was perhaps inevitable. A division of highly trained fighting men who have been sent abroad and have as their main occupation worthless, make-work tasks, are going to suffer discontent, disharmony, drug addiction, and all the rest of the maladies that plague troops in such outrageous circumstances. And, Mr. President, do not you believe that this is not true. Soldiers trained to handle the most advanced weapons systems in the world cannot be sent abroad and given virtually nothing to do without turning to different means of occupying themselves.

Because of the continued economic restraints America is experiencing and because of the decrease in morale of our American military personnel, I find it imperative today to make again an effort to achieve a reduction of American military personnel in Europe.

It cannot be characterized as a drastic cutback, I might say. It is nominal only. May I say, furthermore, that I would even be willing to reduce the figure to 35,000 within the same time frame in the attempt to take the first step on the journey to bringing about a gradual reduction.

What must be faced is that the United States, through the Marshall plan, through the economic redevelopment and restoration of Europe which followed, has created a viable, strong, and highly competitive world market. Through our own generous efforts, we have created a world marketplace and now, having done that, we cannot say that we are going to remove ourselves from it and expect our friend and foe alike to supply us because we have supplied them for so long. This is just not the reality of the international economic scene.

In many ways on this issue, the desires of the Government have become similar to Narcissus, of Greek mythological fame. He was the young boy who stooped to drink and became so fascinated by his reflection that he was unable to live in a world where he came in contact with anyone other than himself. For too long the United States has been seeing images of itself around the globe. If it has not been the image, then it has been the attempt the image, be it in Indochina, the Dominican Republic, or wherever else America has gone. The result has been such an overextension of our military power that it has consistently bogged us down in international conflicts, with adverse domestic and economic ramifications.

Mr. President, this bill contains a "phase I." It is "phase I" of an effort for this Nation to return to reality in Western Europe, and to recognize the changes which are occurring throughout the world today, most especially in this first year of the decade of the 1970's. At an appropriate time in the future, phases two and three will be launched and gradually we will find ourselves in a proper role with regard to our NATO commitment. This is a first step. The process, hopefully, will redefine and reevaluate America's entire role overseas. Today all we are saying is that 25 years after the end of World War II, the United States is no longer the sole power in a vacuum created by war.

We are no longer the only society with the technological competence and economic abundance to supply and to compete with others. We are not a second-rate power, neither are we any longer the only first-rate power. There must be taken corrective measures to establish new boundaries of American responsibilities.

There is still the same old question that will always be asked. What of the deep fear of Western Germany—which is half of the old Germany? The argument goes that with a reduced restraining presence of American forces, Germany may seek to expand its own military power. It is this fear that would harden Russia's present position in Europe. This is pure speculation. Not only does it ignore the fact that Bonn has shown no stomach for substantial enlargement of its military forces, but it also denies the growing role of West Germany in the Common Market, its desire to retain its strong ties to the West as well as its eagerness for trade ties with the East.

As for mutual balanced force reductions, we negotiate and we talk and we thrash over these problems. We do not decide. We do not act. I wait now for it to be revealed right here on this floor today that indeed, once again that we are on the brink of a decision that will accomplish MBFR—that any action to effect a nominal U.S. pullback alone will destroy the last flicker of hope for achieving that end. It is a revelation, I must say, that will come as no surprise. If, in fact, Soviet reluctance to reduce its forces is dominated by fear of a nuclear West Germany, unrestrained by our presence, then the Soviets will be no more anxious to reduce its position in central Europe through mutual force reduction talks. In Southeast Asia we have learned too well the painful consequences of failing to face up to and correct bad policy when we are paying the price of it. We have busied ourselves debating the more superficial issues. On this matter, we need to clear the air with constructive action.

Paring the issue down to its simplest terms, no case can be made that a reduction by just one-sixth of our NATO forces would endanger the physical security of Western Europe; nor would it remove any bargaining chips. Why, it is asked in turn, should a unilateral effort to deescalate this European garrison be rejected? I do not oppose good faith talks with the Soviets or with anyone else. But since the Soviets do have considerable independent incentive to achieve force reductions on their own, what is so necessary about moving simultaneously? This initiative would be a reduction, not an escalation of forces. This initiative would ease tensions, not aggravate them. This initiative would enhance, rather than diminish, the prospects for eventual mutual troop reductions.

In summary, I would only stress again that this troop reduction effort does not seek the end of NATO. It seeks only to reduce ever so slightly the size of the U.S. garrison in Europe. It seeks only to bring this Nation's financial contribution to the NATO cause somewhat closer into line with that of other members. It seeks to shift the economic burden of NATO partly away from the American people.

As I see it, the current financial crisis is the handwriting on the wall. A slight shift now should make clear to all nations that our political and military role abroad which was established in another time and circumstance is not properly adjusted to current needs; not our own and not the world's.

I urge that the committee's action be sustained.

Mr. President, I ask unanimous consent that there be printed in the RECORD that portion of my report dated October 19, 1971, entitled "The United States and NATO," containing the charts and other worthwhile material.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

III. THE UNITED STATES AND NATO

Current U.S. policies with regard to NATO ought to be seen in the light of the low level of European contribution to the organization and in the current atmosphere in Europe which is redolent with East-West detente. In this last regard, personal assurances were received from U.S. negotiators in Europe that progress is being made in the SALT talks and that, notwithstanding intra-German differences, a genuine breakthrough has been achieved with regard to the Berlin problem.

These recent evidences of relaxation of European tensions and other indications bear significance for the size of the U.S. deployment in Europe. The latter, presumably, is based on NATO's so-called strategy of "flexible-response" which, in practical terms, means an immediate readiness to engage in any war, short of nuclear, in response to attacks from the East. It is difficult to find people in Western Europe who believe such attacks are within the realm of likelihood. Government officials and military officers, who are trained to prepare for the worst eventuality, of course, concentrate on the possibility and certainly no one can say war is impossible. Insofar as the European governments themselves are concerned, however, they are not "putting their money" on this proposition.

That such is the case is indicated by the percentage of gross national product (GNP) which is being diverted by NATO members for defense. Set forth below is a table showing the defense expenditures of the NATO countries (excluding Iceland, which has no armed forces) expressed in percentages of GNP:

DEFENSE EXPENDITURES—TOTAL AND PERCENT OF GROSS NATIONAL PRODUCT AT CURRENT MARKET PRICES

[Calendar years, in millions of dollars]

[Exchange rates used: Belgium 50 francs, Denmark 7.5 kroner, France 5.554 new francs, Germany (F.R.) 3.66 DM, Greece 30 drachmas, Italy 625 lire, Luxembourg 50 francs, Netherlands 3.62 guilders, Norway 7.14 kroner, Portugal 28.75 escudos, Turkey 15 liras, United Kingdom $2.40 per £ 1, Austria 26 schillings, Spain 70 pesetas, 1.081 dollars]

Country	1962		1963		1964		1965		1966		1967		1968		1969		1970 [1]	
	Defense expenditure	Percent of GNP	Defense expenditure	Percent of GNP	Defense expenditure	Percent of GNP	Defense expenditure	Percent of GNP	Defense expenditure	Percent of GNP	Defense expenditure	Percent of GNP	Defense expenditure	Percent of GNP	Defense expenditure	Percent of GNP	Defense expenditure	Percent of GNP
Belgium	422.0	3.3	445.0	3.2	497.0	3.2	501.0	3.0	526.0	2.9	569.0	2.9	602.0	2.9	630.0	2.8	[2] 695.0	2.8
Denmark	207.0	3.0	220.0	3.0	235.0	2.8	263.0	2.8	277.0	2.7	300.0	2.7	345.0	2.8	352.0	2.5	[2] 368.0	2.3
France	3,994.0	6.0	4,114.0	5.5	4,372.0	5.3	4,556.0	5.2	4,813.0	5.0	206.0	5.0	5,438.0	4.8	5,708.0	4.4	5,900.0	4.0
Germany (F.R.)	4,708.0	4.9	5,443.0	5.3	5,342.0	4.7	5,441.0	4.4	5,533.0	4.2	5,849.0	4.3	5,276.0	3.6	5,895.0	3.6	[2] 6,103.0	3.3
Greece	170.0	4.0	179.0	3.8	188.0	3.6	210.0	3.6	239.0	3.7	313.0	4.3	367.0	4.7	425.0	5.1	450.0	5.0
Italy	1,377.0	3.3	1,649.0	3.4	1,789.0	3.4	1,939.0	3.3	2,146.0	3.4	2,174.0	3.1	2,245.0	3.0	2,259.0	2.7	2,310.0	2.5
Luxembourg	7.1	1.4	7.0	1.3	9.2	1.5	9.5	1.4	9.9	1.4	8.3	1.4	7.5	1.0	7.8	.9	[2] 8.3	.9
Netherlands	604.0	4.5	637.0	4.4	735.0	4.3	750.0	3.9	771.0	3.7	884.0	3.9	906.0	3.6	1,017.0	3.6	[2] 1,096.0	3.5
Norway	192.0	3.6	205.0	3.6	220.0	3.5	266.0	3.8	273.0	3.6	294.0	3.5	336.0	3.7	350.0	3.6	375.0	3.4
Portugal	200.0	6.9	199.0	6.4	224.0	6.6	232.0	6.2	257.0	6.3	333.0	7.2	372.0	7.2	371.0	6.5	400.0	6.3
Turkey	199.0	5.7	211.0	5.0	229.0	5.1	255.0	5.2	266.0	4.7	306.0	4.8	344.0	4.7	360.0	4.6	355.0	4.3
United Kingdom	4,353.0	6.3	4,488.0	6.1	4,799.0	6.0	5,018.0	5.8	5,168.0	5.6	5,463.0	5.7	5,545.0	5.4	5,497.0	5.0	5,950.0	5.1
Total Europe on NATO	16,433.0	5.0	17,797.0	5.0	18,639.0	4.7	19,441.0	4.6	20,279.0	4.4	21,699.0	4.5	21,784.0	4.1	22,872.0	3.9	24,010.0	3.7
Austria	80.0	1.1	100.0	1.3	131.0	1.5	114.0	1.2	135.0	1.3	142.0	1.3	158.0	1.3	158.0	1.3	165.0	1.2
Spain	379.0	3.2	417.0	3.0	460.0	3.0	494.0	2.7	677.0	3.2	832.0	3.6	998.0	3.9	1,033.0	3.6	1,165.0	3.6
United States	52,381.0	9.3	52,295.0	8.9	51,213.0	8.1	51,826.0	7.6	63,571.0	8.5	75,484.0	9.5	80,732.0	9.3	81,444.0	8.7	76,507.0	7.8
Canada	1,674.0	4.4	1,584.0	3.8	1,677.0	3.6	1,535.0	3.0	1,633.0	2.9	1,818.0	3.0	1,783.0	2.7	1,757.0	2.4	[1] 1,906.0	2.4

[1] Estimate.

[2] Actual.

Note: See following table for earlier years. (1) Data shown are on basis of NATO definition of defense expenditures. (2) Data for Germany prior to 1955, Greece for 1955, and Austria and Spain for all years, are estimated. Germany's expenditures through 1955 were largely occupation/support costs. (3) Conversions of national currency data into dollars have been made on the basis of official foreign exchange rates. A uniform exchange rate has been applied for all years in order to preserve the trend of the national currency data and eliminate distorting fluctuations in the dollar figures caused by devaluations. Because of purchasing power disparities comparisons between countries cannot be precise.

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Country	1949		1950		1951		1952		1955		1958		1959		1960		1961	
	Defense expenditure	Percent of GNP	Defense expenditure	Percent of GNP	Defense expenditure	Percent of GNP	Defense expenditure	Percent of GNP	Defense expenditure	Percent of GNP	Defense expenditure	Percent of GNP	Defense expenditure	Percent of GNP	Defense expenditure	Percent of GNP	Defense expenditure	Percent of GNP
Belgium	153.0	2.3	165.0	2.4	268.0	3.4	399.0	4.9	341.0	3.7	366.0	3.5	374.0	3.5	383.0	3.3	391.0	3.2
Denmark	48.0	1.9	48.0	1.7	63.0	2.0	90.0	2.7	123.0	3.2	132.0	2.9	132.0	2.6	148.0	2.7	157.0	2.6
France	862.0	5.5	1,006.0	5.5	1,587.0	7.1	2,256.0	8.6	1,984.0	6.5	2,983.0	6.8	3,228.0	6.6	3,450.0	6.4	3,672.0	6.2
Germany (F.R.)	1,230.0	5.0	1,202.0	4.3	1,701.0	4.9	2,336.0	5.9	2,017.0	3.9	1,872.0	2.8	3,029.0	4.2	3,310.0	4.1	3,600.0	4.0
Greece	54.0	5.9	66.0	6.1	87.0	6.6	88.0	6.4	123.0	5.1	149.0	4.7	158.0	4.8	170.0	4.8	168.0	4.2
taly	482.0	3.7	565.0	3.9	732.0	4.4	833.0	4.6	881.0	3.8	1,035.0	3.5	1,067.0	3.4	1,136.0	3.4	1,199.0	3.2
Luxembourg	2.2	.9	3.4	1.4	5.3	1.6	8.7	2.4	12.3	3.3	8.6	2.0	8.0	1.8	5.3	1.1	5.8	1.1
Netherlands	188.0	4.0	249.0	4.8	293.0	4.9	346.0	5.5	469.0	5.6	457.0	4.6	416.0	3.9	477.0	4.0	556.0	4.4
Norway	52.0	2.7	50.0	2.4	80.0	3.1	116.0	4.0	133.0	4.0	143.0	3.6	155.0	3.6	148.0	3.3	165.0	3.3
Portugal	49.0	3.7	53.0	3.6	54.0	3.4	59.0	3.6	77.0	4.1	86.0	4.0	98.0	4.3	105.0	4.2	171.0	6.4
Turkey	37.0	6.0	40.0	5.8	43.0	5.3	49.0	5.1	72.0	5.1	98.0	4.1	143.0	4.8	160.0	4.9	181.0	5.5
United Kingdom	1,870.0	6.2	2,038.0	6.4	2,755.0	7.8	3,746.0	9.9	3,762.0	8.1	3,819.0	6.9	3,814.0	6.5	3,972.0	6.4	4,102.0	6.2
Total European NATO	5,027.0	4.9	5,485.0	4.8	7,668.0	5.8	10,327.0	7.0	9,994.0	5.5	11,149.0	4.8	12,622.0	5.0	13,464.0	4.9	14,368.0	4.8
Austria									21.0	.5	73.0	1.4	77.0	1.4	73.0	1.2	73.0	1.1
Spain	NA	NA	NA	NA	NA	NA	165.0	4.1	201.0	3.7	249.0	3.0	255.0	3.0	269.0	3.0	295.0	2.9
United States	13,503.0	5.2	14,307.0	5.0	33,059.0	10.0	47,598.0	13.7	40,371.0	10.2	45,096.0	10.1	45,833.0	9.5	45,380.0	9.0	47,808.0	9.2
Canada	344.0	2.3	457.0	2.8	1,128.0	5.8	1,734.0	7.8	1,682.0	6.5	1,610.0	5.1	1,519.0	4.5	1,530.0	4.4	1,587.0	4.4

NA—Not available.

Note: See preceding table for later years. (1) Data shown are on basis of NATO definition of defense expenditures. (2) Data for Germany prior to 1955, Greece for 1955, and Austria and Spain for all years, are estimated. Germany's expenditures through 1955 were largely occupation/support costs. (3) Conversions of national currency data into dollars have been made on the basis of official foreign exchange rates. A uniform exchange rate has been applied for all years in order to preserve the trend of the national currency data and eliminate distorting fluctuations in the dollar figures caused by devaluations. Because of purchasing power disparities comparisons between countries cannot be precise.

It will be noted that the European defense effort in terms of percent of GNP has been dwindling ever since the Berlin crisis of 1961–62. Figures for 1971 when compiled will show further ebbing in many cases. There are all sorts of caveats which can be made in regard to these figures. Nevertheless, they are indicative. The same point is true about the following data relating to conscription in the Alliance countries:

CONSCRIPT TERMS IN NATO COUNTRIES 1951–71

[In months; Key: A—Army; N—Navy; AF—Air Force]

Country	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71
Belgium						18	18	15	15/12	12	12	12	12	12	12	12	12	12	12	12	[1] 12
Canada																					
Denmark						16	16	16	16	16	16	16	16	16 N/AF14	16 AF14	14 AF12	14 AF12	14 AF12	14 AF12	12	12
France						18	(24)18	(24)18	(27)24	(24)18	(24)18	(24)18	18	18	16	16	16	16	16	16/12	12
Germany							12	12	12	12	12	18	18	18	18	18	18	18	18	18	18/15
Greece						(21)18	(21)18	(21)18	(21)18	24	24	24	24	24	24	24	24	24	24	24	24
Italy						18	18	18	18	18	18	18	18 N28	15 N24	15 N24	15 N24	15 N24	15 N24	15 N24	15 N24	15 N24
Luxembourg						12	12	12	12	12	12	12	9	9	9	6					
Netherlands					18	18	18	18	18	18	18	20	20/18	A18 N/AF21	A18 N/AF21	A18 N/AF21	A18 N/AF21	A16 N21 AF18	A16 N21 AF18	A16 N21 AF18	A16 N/AF18
Norway					16	16	16	16	16	16	16	16	16	12	12	12	15	15	15	15	15
Portugal					4	4	4	18	18	18	18	18	18	18	18	18	A12 18	A12 24	A12 24	A12 24	A12 [2] 24
Turkey					24	24	24	24	24	24	24	24	24	24	24	24	24	24	24	[3] 18 [4] 20	20
United Kingdom	24	24	24	24	24	24	24	24	24	24/—											
United States	24	24	24	24	24	24	24	24	24	24	24	24	24	24	24	24	24	24	24	24	24

[1] 15 months for service in Belgium only.
[2] Exceptions according to need of service.
[3] Officers.
[4] Enlisted men.

NOTES

Complete data not available for 1951–55.
/ Denotes change in low during calendar year.
France—156–62. Legal draft was 18 months; conscripts were retained for number of months in parenthesis.
Greece—1956–59. See note re France.

It may be understandable, but it is still regrettable, that the viability of NATO seems yet to depend so much on United States leadership, physical presence and exhortation. The habit is 25 years old and may be hard to break but it is essential for both Western Europe and the United States to move away from this one-sided emphasis. The European governments are so accustomed to the omnipresence of the United States that they continue to insist on their inability to deflect more of their budgets for defense. Yet, there is a failure to comprehend that the same consideration may be true in this country. The point seems to be getting across, at last, but in a disruptive way. That might have been avoided if adjustments in contributions to the military effort in Europe among the NATO members had been pressed in good time.

Even now, with the difficulties at home and the accumulated evidence of relaxed European attitudes towards the East, the United States continues to maintain a swollen and cumbersome military establishment in Western Europe. Indeed, while U.S. military forces in Europe amounted to 291,000 at the end of 1970, by June 30, 1971 they had increased to a figure of 307,000. With them, as of June 30 of this year, were no less than 230,000 American dependents, 150,000 located in Germany alone. In addition, the United States employed almost 90,000 local nationals in connection with maintaining the military presence. These troops, dependents and employees are spread through 60 cities, towns and villages just in Germany, with engineering and supply units located at about 80 sites in that country.

The U.S. command structure in Europe also remains top-heavy. According to EUCOM (U.S. European Command Headquarters) there are still 128 general and flag officers in the theatre, or approximately one for every 2,350 men. The balance of payments and cost-reduction exercises of the past few years have trimmed some fat. Other reductions have resulted from the U.S. military withdrawals on request from France, the shift of technical and other personnel to Viet Nam, the dual-basing concept which permits two-thirds of a division to remain in the United States, and the halving of the MAAG (Military Assistance Advisory Group) missions in Western Europe. It should also be noted that a Department of the Army survey for 1970 reports a 15 percent reduction in headquarters personnel. So long as the over-all command structure remains basically untouched, however, such reductions as have taken place amount to a matter of hacking at the fringes. It is reasonable to expect that the U.S. military complex in Europe will continue to involve upwards of half a million Americans until some hard decisions are made on the initiative of the Administration or precipitated by the Congress.

It is difficult to determine the part of the deficit in the balance-of-payments which is derived from the U.S. military deployment. The figure generally used is about $1.8 billion a year. Against this is a so-called "offset agreement" with West Germany in the amount of roughly $1.6 billion covering the two fiscal years 1970–71. Of the offset, $200 million a year is in the form of West German loans to the United States and some $400 million has gone for annual purchases of military equipment in this country which in all probability would have to be purchased for the German military establishment with or without a U.S. military presence in Europe. In any event, German loans to this nation and arms purchases are hardly ideal ways of closing a balance-of-payments gap.[4] Nor do they have anything whatsoever to do with reducing the cost of the total U.S. commitment to NATO which accounts for about $14 billion of the budget of the Department of Defense. On the contrary, the interest which has to be paid on the offset loan would have the effect of increasing the cost!

Important as the payments deficit or the cost of the NATO deployment may be, they are not the most significant considerations which urge the reduction of U.S. forces in Europe. First and foremost what is involved is a matter of principle. It is a matter of the validity of a policy which, contrary to historical experience, requires the indefinite stationing of heavy concentrations of troops in Western Europe. The presence of large numbers of armed forces overseas for extended periods of time inevitably creates the kind of human problems as well as financial problems which we are experiencing now in West Germany. These constitute a source of weakness rather than strength in relations among allies. Troops serving in distant lands in peacetime lose a sense of clear purpose. The local citizenry lose a sense of solicitude and respect. The mutual resentments grow.[5]

Moreover, it is wrong to expend excessively from public funds almost out of force of habit after a change in the circumstances which precipitated the spending process in the first place. That there has been a change in Europe is indicated by the unwillingness of the European nations to turn aside from their concentration on economic progress in order to accept more of the military burdens of NATO.

It is contended by some European governments that the United States last December bound itself not to take any unilateral action with regard to force reductions and that this restraint must continue to operate for the foreseeable future. In point of fact, the Executive Branch cannot make such an indefinitely binding commitment without concurrent action by the Congress since the commitment is dependent, in the last analysis, on Congressional appropriations. In any event, it should be noted that other NATO members have not bound themselves indefinitely and the actual level of each nation's present commitment to NATO is what each nation is prepared to commit.

Of course the United States or any NATO nation should confer with NATO allies before acting on force-reductions or any other important measure—and this applies to spheres of action other than the military. That ought to go without saying but it is not the same as saying that the United States is bound, any more than other members, by the outcome of such talks. The distinction may be the slender one of whether or not other countries tacitly acquiesce in, or openly disapprove of, the specific action but it is a real distinction.

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[4] Moreover, there appears no way to discover exactly how much our troops and their dependents add to the balance-of-payments deficit by spending in Germany for non-American goods and services. There are items such as the price paid for automobile insurance—not to mention the outlays following car accidents—which may cost Americans in the neighborhood of $20 million annually. Another example of such costs is the high charge for utilities to U.S. personnel; these may run to about $25 to $30 million each year.

[5] While the West German Government may be anxious to keep the U.S. military establishment intact, a good many Germans apparently would not be sorry to see substantial American withdrawals. There are indications of rising bitterness on the part of U.S. servicemen and their dependents because of their treatment in German communities where they are situated. Germany is where the problem is concentrated, because more than half the nearly 400 major bases maintained abroad by the U.S. Defense Department are located there.

In my judgment, the question of substantial reductions of U.S. forces in Europe at this time revolves around a matter of political atmospherics, rather than military necessity. Very few military men will say without numerous reservations that the presence of four and one-third American divisions in Germany, along with the total strength of the alliance can prevent the Soviet Union from reaching the Atlantic if it were to undertake a full-scale conventional attack. The real deterrent is nuclear, along with the expectation of the participation of the United States in the event of any general military conflict in Europe short of nuclear war. That European governments are anxious for insurance on the finality of the U.S. commitment in the form of the presence of American troops is understandable. What is not understandable is the adamancy about the size of the deployment which, it appears, is insisted on not only by the European governments but, perhaps, even more emphatically by the Executive Branch of this government.

It is not suggested now and has never been suggested by me at any time in the past that U.S. forces be completely withdrawn from Europe. Rather what I believe to be long past due is a planned reduction of forces which will cut the size of the present deployment at least in half. That would still leave in Europe substantial U.S. forces as an earnest of this nation's commitment. What is advocated, in short, is an orderly cut in U.S. forces in Europe to a level somewhat higher than that suggested by Dwight D. Eisenhower, as satisfactory for NATO purposes as long ago as a decade!

It seems to me that the excessive deployment which has persisted since that time has not only contributed to our economic difficulties but has warped the character of the North Atlantic Alliance. The continued overemphasis on the military aspects of NATO in the face of a declining need has brought into some question the credibility of the United States commitment to the peaceful development of Western Europe States commitment to the peaceful development of Western Europe. We have not devoted anything like comparable attention to the political, economic and moral aspects of our inter-relationships with the European countries. We should long since have emphasized and consolidated those aspects of the Alliance, while at the same time acting to reduce our military contribution to a more reasonable level.

The hour may now be very late to bring about this adjustment which in any circumstances would be a delicate and difficult task. If it is to be achieved at this time of economic stress, there will have to be the closest attention from the President and, perhaps, even his personal intervention. Indeed, it might be helpful if President Nixon were to include a visit to Western Europe in his travel plans for the months ahead. Congress can and should contribute to the process in every way possible, while at the same time giving the President full support whenever he takes initiatives to strengthen the conditions of peace in Europe.

This moment in intra-European and Euro-U.S. relations offers opportunities to cement that peace. It would be tragic if the opportunities were to be lost either because of faulty reactions to international financial difficulties or because the machinery of our European-NATO policy insists on flailing at the ghosts of the past instead of dealing with present realities.

If there are opportunities in the moment, there are also possibilities for destructive economic sniping and political intrigue. The dangers are there and they will increase rapidly unless the present tendencies towards multiplying trade restrictions and recrimination are held in check and unless the NATO adjustments are forthcoming without further delay. There need not be a slide into what, in the end, may well be the crumbling of Western unity. It is late but there is still time to move into a new and fruitful age of mutuality with Western Europe and within a peaceful Europe.

Mr. STENNIS. Mr. President, I yield 2 minutes to the Senator from Colorado and will then yield to the Senator from Wyoming.

Mr. ALLOTT. Mr. President, there is never a good time for the Senate to act precipitously. There is no such thing as an issue on which the Senate should act hastily. As George Washington once remarked, the Senate is the saucer into which we pour our legislation so that it may cool.

These thoughts come to mind as we consider the proposal to affect a substantial unilateral withdrawal of troops from Europe. It was not so very long ago—May 19—that we dealt with a similar measure. At that time, after a noteworthy and gratifying outpouring of bipartisan support for current policy, the measure was defeated 36 to 61. It was defeated because a substantial maojrity of Senators decided—correctly, in my judgment—that such a unilateral withdrawal is unnecessary, unwise, and directly detrimental to perhaps the very first real prospects for a mutual reduction of troop levels on both sides of the Iron Curtain.

But in spite of all this, we are now being asked to reverse the position we so emphatically affirmed not so long ago. And I cannot but feel that we are in some danger of being swept along in an unmanageable, unreflective riptide of resentments and disillusionment regarding the world role of the United States.

If we act today to reverse our considered judgment of just 5 months ago, I am afraid that will lend credibility to the notion that the Senate is too volatile, too rash, too shortsighted to be a useful partner in the setting of foreign policies.

In the hope of dissuading some Senators from doing this injury to the Senate position, and to the world role of the United States, I want to briefly review some of the substantial reasons for defeating the move to cut our European strength.

Perhaps the most expeditious way of outlining what is at stake here is by making clear what is not at stake. Consider these points:

First. The impending vote on the question of whether or not to withdraw troops from Europe now, unilaterally, is not a referendum on whether we, here in the Senate, want to go on record as favoring troop withdrawals. Virtually every one of us share with the President a desire to reduce the number of Americans stationed abroad. What is at stake are the delicate matters of diplomacy—the questions of when, and how much, and—most importantly—what form of reciprocity is involved.

Second. The question here is not whether, pending mutual troop withdrawals, we should go on paying an unfair share of the burden of defense in Western Europe. In fact, a more equitable pattern of burden sharing is being worked out amongst the allies without any intervention from the Senate being necessary. In fact, an abrupt and unilateral American withdrawal can only demolish all hopes for beneficial negotiations with our allies. Make no mistake about it. Our allies have got the message. They are not dense or stupid or villainous. They have been tardy in picking up their fair share in the burden of defending Western Europe. But American diplomacy has moved our allies, and particularly the Germans, off dead center. This is not the time to disregard these diplomatic efforts.

Third. What is at stake here is not formalizing the end of the cold war. Let us all face at least a portion of the unpleasant truth. However much we desire an end to the strenuous exertions of the cold war, the most that can be said is that the cold war is defrosting. It is not over yet. The way to encourage the defrosting to continue is to encourage a warming wind from the east. That is, we must do nothing that would discourage a Soviet inclination to move toward mutual and balanced force reductions. Clearly the Soviets are uneasy about the new diplomacy involving China. Clearly they would like to reach some accommodation in Europe. Clearly, judging by the flurry of traveling by high Soviet officials, the Soviet Government is moving, ponderously as always but moving nonetheless, toward some sort of genuine negotiations. Today we can vote to cut our troop strength unilaterally, thereby destroying any desire—indeed, any need—for the Soviets to negotiate. Or we can prudently draw back from that position, and respect the integrity of the diplomatic process. Make no mistake about it. A vote for a unilateral cut in troops is a vote of no confidence in the American diplomatic process.

Clearly the United States has much reductions. The principal Soviet instrument for increasing the U.S.S.R.'s influence over Western Europe is the Soviet Army itself. Referring to the Western Europeans, the key element in their ability to resist these pressures rests on their confidence in U.S. military support for their defense.

It is also true that the people of Eastern Europe have much to gain from mutual and balanced force reductions. The massive Soviet force concentrations in Eastern Europe are a terrible burden on the local economies. And the presence of these forces exerts a strong inhibiting pressure against all the forces of liberalization that are struggling to make themselves felt. I know that Americans of Eastern European extraction remain alert to the plight of all peoples in Eastern Europe. These Americans are also alert to shifts in American policy which have an impact on the well-being of Eastern Europeans. The policy we are considering here is one such policy. Any unilateral troop withdrawal will remove the incentive for the Soviets to remove some of their troops from the unhappy nations of Eastern Europe. And I am sure that many Americans are watching us and hoping that we will not remove the incentive.

Now there are those who argue that, in spite of the clear reasons of diplomacy for not taking a unilateral step at this time, still we must move unilaterally because of economic considerations.

This is not true.

First, as a general point, it must be emphasized that we must never be so rigid in our economic policies that we allow economic exigencies to determine policies relating to the most sensitive matters of national security. In fact, when we have problems without balance of payments, we should address those problems with just the kinds of measures currently being employed.

In fact, it is of the utmost importance to note that in the 6 months since we last voted on a similar troop withdrawal proposal, the shift in U.S. international economic policy has taken much of the force from the argument that the balance-of-payments crisis necessitates a unilateral troop withdrawal. The revision of relative currency values combined with the indvidual efforts of NATO partners to reduce the pain of our burden, have vastly reduced the significance of that argument. For example, it is gratifying that our allies are buying many of their weapons systems from us in order to help us offset the balance-of-payments drain in our European commitment.

It is often said that this balance-of-payments drain amounts to $14 billion. That is not so. That is the cost of our entire European military commitment. But the actual balance-of-payments loss is less that $2 billion. It is important to understand that a cutback of troops in Europe will not result in substantial actual savings. After all, units withdrawn will not be disbanded. They will be stationed elsewhere, perhaps in the United States, if sufficient bases are available.

In fact, according to a study prepared by the Rand Corp., if we were to reduce our troop strength in Europe while maintaining a credible commitment, we would need to adopt some form of dual base arrangement, complete with the facility for rapid troop deployment across the Atlantic. This is not an inexpensive proposition. I recount all of this just to reemphasize the fact that there is no way of arguing for troop reductions on the grounds of economic necessity.

Mr. President, this question of the relationship between the United States and Europe has occupied my attention and energies more than any other question in the field of foreign policy. Just this year I have made two trips to Europe, during which I spoke at length with many European officials, and with the highly qualified Americans serving in Europe. Everyone I spoke with agreed on one central point. The U.S. troops immunize Western Europe from suspicion about Germany. Thus our stable commitment there is a necessary basis for the continued development of West European unity. Unilateral reductions in U.S. forces in Europe, taken out of the context of general European reductions would make German forces look uncomfortably large and could thereby have the effect of forcing a reduction in German forces as well—another reduction without a mutual Soviet reduction.

I might add that the only alternative to that scenario is equally ominous. An increase in the old fears of Germany might could lead the smaller nations of Western Europe to seek to come to their own understanding with the Soviet Union. In either case the progress of European unity, from which we all stand to gain, and which has recently gained so much from the decision of the British Government to enter the European Economic Community, would be set back.

In addition, Mr. President, the question of our troop level in Europe is related to fast-breaking events in the economic field.

There is no question that recent changes in U.S. policy regarding economic affairs have given now intensity to old anxieties that are never far below the surface in Western Europe. These are anxieties about the stability of our entire commitment to a long-range partnership—both economic and military—with the Atlantic community.

Recently the so-called dollar crisis has aggravated this anxiety about the basic strength of the United States. This comes at a very crucial and sensitive time, when we are witnessing significant changes in the relations between the Soviet Union and both Eastern and Western Europe. To take just one example, consider the Berlin agreement. Of course, this agreement must be considered a tentative, and at best a first step along the road to a real settlement of the Berlin question. But the crucial point is that there is nearly universal agreement in Europe that if the United States had begun unilateral troop reductions before that first agreement was reached, there would be no agreement at all.

After all, if the American resolve to stand firm in Europe is crumbling, the Soviets need not take any constructive steps. They must merely wait us out, and maintain an enormous and undiminished military presence with which to exert pressure.

Let me emphasize that point. Just as the presence of the 6th Fleet in the Mediterranean has been instrumental in keeping the peace in the Middle East, so, too, the stability of the American commitment to Europe has been instrumental in—indeed, necessary to—the achievement of a partial Berlin settlement.

Likewise, the fact that a tenuous cease fire was achieved in the Middle East was no reason for withdrawing any part of the 6th Fleet. By the same token, the fact that the Berlin talks are meeting with some success; and that the SALT talks are in a crucial stage; and the talks on mutual and balanced force reductions—MBFR—are being prepared—these facts are not reasons for an abrupt departure from past policy. On the contrary, these are all reasons for maintaining that stable policy which at long last is producing results in sober, promising diplomacy.

Mr. President, I do not want American soldiers stationed overseas any longer than is necessary. But my desire to cut back troops is more than countered by the evidence that I have cited. For that reason, I am voting against the unilateral withdrawal of American troops.

Mr. STENNIS. Mr. President, I yield 4 minutes to the Senator from Wyoming.

Mr. McGEE. Mr. President, I rise with reluctance but with serious thought on the trading points advanced by my majority leader, the senior Senator from Montana. I do so in appreciation of a very deep consideration that he has given to this question together with every Member in this body.

I just visited with the junior Senator from Maine (Mr. MUSKIE) who could not be here at this moment, but he has filed a statement for the RECORD opposing the action anticipated here.

I oppose my leader for one essential reason and that is that our procedure here is in the wrong order. We are proceeding in reverse. Of course, it would be great if our allies would carry a more liberal share of the load, and they should. There is one thing that would be worse than our allies dragging their feet and that would be for us to drag our feet in the maintenance of that delicate balance drawn across Eastern Europe. The chance to involve our allies more constructively and the chance to reduce our total manpower commitments in Europe hang on the success with which we maintain that balance. So my position is that we keep our priorities in the right order rather than reverse them.

I, too, am concerned about the economic effect, but the one thing we cannot afford at this stage is to lose that balance in Europe for which we have already paid such a high price. That, in my judgment, would be utter folly.

I would say to my friend from Montana that, as even he confesses now, his earlier efforts to cut back American manpower in Europe by one-half was a trial balloon, and had it passed he would have fallen down on the floor. Worse than that would be the consequence of pulling the rug out from under this body and its responsibility to the free world, a responsibility that is largely ours. The more help we can get from our friends, the better, but help or no help, our best chance rests in sustaining the balance. The balance in Europe cannot be lowered unilaterally, and keep the meaning it permits us to have as we seek a better way to achieve the reduction of armaments of all nations, in the months and years ahead.

Therefore, I would hope that Members of this body will put first things first so that we will win the chance to address ourselves to the very meaningful point of the majority leader; namely, lowering the manpower commitments everywhere. Without the first we will not have a chance to do the second.

Mr. STENNIS. Mr. President, I yield 2 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. PERCY. Mr. President, I feel the

distinguished majority leader has rendered a valuable service to the country in raising this issue. I believe he has many points he has forcefully made and his points will strengthen the hand of the United States in pressing forward with the position we have argued with our NATO allies.

The President has decided to reduce our military force from 3.5 million men to 2.5 million men, and I have not heard a serious proposal that that level of 2.5 million men, which we will reach by July 1, 1972, should be further reduced.

Then, the question is: Where should these men be deployed? The cost of maintaining these men in Europe is no greater and it may be less than it would be in this country.

The problem is the balance-of-payments cost and we are in the midst of serious negotiations with our European allies. There is every hope we shall have successful negotiations to have them recognize the problem. They must meet the problem of the impact on our balance of payments of the costs of our forces in Europe.

I have enumerated any number of times where and how they can meet those costs. We have reduced our troops in Europe from 434,000 men in early 1960 to 310,000 men now.

As we are on the brink of negotiations with the Soviet Union on mutual reduction of forces, I feel after talking with Manlio Brosio when he was here several weeks ago, that we could not have a more competent negotiator on behalf of NATO and U.S. forces in dealing with the Soviet Union.

We should not take the chance that we might disrupt negotiations on burden sharing at this time and we should not unilaterally draw our forces down at this time when there is a possibility that we can have a mutual reduction of forces.

At a time when negotiations between NATO and the Warsaw Pact on mutual and balanced force reductions are in prospect, I believe it would be unwise to reduce U.S. troop levels unilaterally. To do so would be to eliminate the possibility of meaningful negotiations for mutual reductions. And I am absolutely convinced that the peace of Europe and the world is better served by mutual reductions than by a unilateral reduction.

Communist Party Secretary Leonid Brezhnev has indicated on several occasions the willingness of the Soviet Union to begin such negotiations, and last month the NATO Deputy Foreign Ministers appointed Manlio Brosio to make preliminary explorations with the Warsaw Pact on the question of mutual reduction negotiations. It is expected that Brosio will go to Moscow within the next few weeks.

In view of the desire of the United States, the Soviet Union and their allies of both NATO and the Warsaw Pact to seek agreement on mutual and balanced force reductions, I simply cannot see any logic in going ahead, unilaterally, to reduce U.S. force levels in Europe at this time.

Moreover, President Nixon intends to travel to Moscow next May to work toward a more stable relationship between East and West and between the Soviet Union and the United States. Hopefully by then substantial progress toward mutual reductions of forces would have been made, which would immensely increase the possibilities for useful discussions leading further toward a reduction in tensions and toward greater East-West accord.

It can further be argued that unilateral reductions would adversely affect the progress of the talks on strategic arms limitations, and would jeopardize the discussions between East and West Germany on Berlin.

At the 24th party congress, March 30, 1971, Brezhnev said:

> We have come out in favor of reduction of armed forces and armaments in areas where armed confrontation is especially dangerous, primarily in Central Europe.

Can anyone gainsay that a reduction in the Soviet military presence in central Europe would be desirable? Surely we should have enough patience to give negotiations on mutual force reductions a chance.

President Nixon, in his foreign policy statement for the 1970's, said that:

> Reducing the military confrontation in Europe is in the common interest of East and West. Our objective should be to create a more stable military balance at lower levels and lower costs.

The administration is going ahead with mutual and balanced force reductions in order to maintain the security of the West at lower cost and to lower the level of tension in central Europe.

I do not wish to indicate that negotiations on mutual troop reductions will be a simple matter. The views of some 20 governments will be involved, and there will be special difficulties in determining the relationships of the tank-heavy Soviet divisions to the more lightly equipped NATO divisions. There will be great problems in reaching equations that will be acceptably balanced in the minds of all those negotiating.

Nevertheless, if we go it alone now in the matter of troop reductions, the chances for successful negotiations will be undercut seriously.

Mr. President, I ask unanimous consent to have printed in the RECORD an editorial from the Christian Science Monitor of November 23, 1971, entitled "Let's Not Hurry on Troops."

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

LET'S NOT HURRY ON TROOPS

We have the greatest sympathy with Sen. Mike Mansfield's desire to cut down the costs of American military forces in Europe to save money for the taxpayers. And we recognize that he may well be correct in his contention that bringing back 50,000 of the 310,000 Americans now in Germany could happen without seriously weakening NATO's defensive posture or subtracting from President Nixon's bargaining power when he sits down with the Russians in the spring.

However, the cost of keeping those troops in Germany is less than the cost of keeping them at home, and it seems to us that the reasons for going slow about bringing them home are considerably stronger than the reasons for rushing it.

After all, Central Europe is the strategic heart of the world. The American forces located there are the tangible expression of America's very real and continuing interest in what happens in Central Europe. Perhaps the same interest can be conveyed by fewer men, but why the rush?

Manlio Brosio is waiting right now in Brussels for an answer to the request of the allied Western powers for him to go to Moscow to open preliminary discussions aimed at "mutual and balanced withdrawal" of all outside forces from Europe. This mission is intended as a preliminary to the next meeting of the NATO Foreign Ministers in Brussels in early December.

And the Brosio mission with its intended sequel in the December meeting of the foreign ministers is all part of the preparations for President Nixon's trip to Moscow in the spring when he hopes to be able to get into very serious talks with the Russians about mutual troop withdrawals.

In view of all this planning, and all that could hinge on it, it seems to us that the Congress might prudently table any pending resolutions about American troop withdrawals from Europe for the time being. We do not know that the pending Mansfield amendment would do any harm. But we are also confident that tabling it would not do us any harm either. And it does seem to us that, when dealing with something so vital to the peace and stability of the world as Central Europe, it would be better to risk going too slowly than to risk going too fast. The cost of keeping 50,000 American troops in Europe for another six months or a year is not enough in our opinion to justify taking any risks at all.

Mr. PERCY. Mr. President, I also ask unanimous consent to have printed in the RECORD excerpts of replies I have received from 15 of our chiefs of mission to NATO countries in response to a cable I sent them last Friday.

There being no objection, the replies were ordered to be printed in the RECORD, as follows:

ITALY

(By Ambassador Graham Martin)

Although I can well understand the sense of frustration and weariness which may have contributed to the committee action calling for reduction of about 60,000 in American troop levels in Europe by next June 15, I very much hope this will not be the final action of the Congress. Except for two brief interludes, I have had the opportunity to observe at close range the evolution of the NATO Alliance for more than two decades. In this long historical perspective, it has well served the interests of all its members, including the United States which brought it into being with complete bi-partisan support. It is therefore, an American success story—a successful American Foreign Policy initiative—in which all Americans, regardless of party, can take legitimate pride.

Adjustments are necessary to meet changing conditions. We now have the opportunity to negotiate with the Warsaw Pact nations mutual and balanced force reductions. Americans used to be pretty good horse traders, but it is always difficult to trade something for nothing. I happen to have a great deal of faith in American diplomacy, but I really think the Senate should ponder whether it should send my diplomatic colleagues into the forthcoming MBFR negotiations with this kind of handicap, for these negotiations may literally determine whether we can avoid a nuclear confrontation for the balance of this century.

In the beginning, it was inevitable that we should bear the major share of the costs of the alliance. Indeed, there was no other choice. But for some time now, I know of no responsible American or European who does not admit that we are now carrying a disproportionate share of the burden This Administration has worked hard and effectively to redress this balance, and these efforts are now beginning to bear fruit both in actions underway to bring up the force-levels of our other allies to agreed-upon levels, and in other arrangements for a more equitable sharing of the common defense burden. Since our allies, like ourselves, are free and open societies, this process is inevitably slow, agonizingly so at times, but the process is most definitely underway, and a bit of patience is needed. With it, I am confident we shall see a considerable acceleration in the measures that will result in a more equitable sharing of the common burden.

I am more concerned over the psychological and political impact which the proposed action would have in convincing both our friends and our opponents that we have definitely begun to turn our concerns inward. I have never forgotten an article I ran into in Cairo in early 1943. Written by Gerald W. Johnson, its title was "The Inscrutability of the Yankees." Its thrust was that although we attribute to Orientals the inscrutability of countenance and circumlocution of expression that is often baffling, it is really the Americans who confuse the rest of the world. Reviewing the thirties—The Johnson Act, The Neutrality Act, the renewal of the draft by a one-vote margin, Roosevelt's campaign speech in Boston: "Again, again, and again, I assure you that your sons will not fight in a foreign war"—Johnson observed it was perhaps logical for Hitler and Tojo to assume they had a free hand. Yet anyone who really knew America, knew that the response it finally made was one it had to make because it was the kind of country it was. I think Gerald Johnson's essay of 1943 has a certain relevance to 1971. I deeply believe we are still the kind of country we have always been, and that when the chips are finally down we will respond as we always have. Having participated in one war, and having brought back to Arlington a son from another war, I profoundly hope we will not again confuse either our friends or our opponents by giving a signal which I believe is completely contrary to the position the country will finally take when the chips are down.

FRANCE

(By Ambassador Arthur K. Watson)

A. Prospects for Mutual Troop Reduction Negotiations with USSR—

Any unilateral reduction on our part obviously removes the basis for negotiations regarding mutual and balanced force reductions. I have seen no evidence whatsoever that the Soviets or other Warsaw Pact members would make similar unilateral reductions as a kind of parallel action.

B. Effect on Forces of Other Allies—

Other NATO allies are already confronted with question of modernizing and strengthening their forces. We would only make it more difficult for those governments to convince their own parliaments and public opinion to move in this direction if we confront them with a unilateral decision to reduce our own forces.

C. Burden Sharing Negotiations—

The same considerations apply to burden-sharing where Parliamentary and public opinion will again be critical factors in determining public policy in Europe.

D. Psychological and Political Impact in Europe—

I am very concerned about the possibilities for misunderstanding in Europe of the very basic and profound US attachment to our transatlantic relationship, and our very close identity of purpose with Western Europe in all fields, whether political, economic, cultural, or national security. The security interests of the US and Europe are intimately interconnected and I am concerned that our own actions not give rise to any illusions that this is not the case. Any proposal that may be adopted which appears to run counter to our basic interests in Europe can only perplex, confound and dismay the governments and public here who share our basic approach. It would further undermine the credibility of US policy in Europe when added to the unresolved economic and monetary questions in our relations with Europe. I know that you understand this clearly and will emphasize it to the Senate.

THE NETHERLANDS

(By Ambassador J. William Middendorf II)

I would greatly regret the one-sided and incomplete approach of the Mansfield Amendment to a vitally important and very complex problem. To act unilaterally in this way would not only weaken US vis-a-vis the Soviets, but would also indicate that we are beginning to dismantle the alliance which, to my way of thinking, is just as important as it was two decades ago even though its shape and activities are inevitably changing.

A. Prospects for Mutual Troop Reduction Negotiations with USSR—

If we begin major unilateral withdrawals I see no good reason why the Soviets should do anything except sit tight and watch happily the consternation in Western Europe, while confidence in the alliance dissipates on both sides of the Atlantic.

B. Effect on Forces of Other Allies—

I fear that to urge our allies to increase or improve their forces would sound rather hollow against the background of unilateral reduction on our part. Their parliaments—including the Dutch—are faced with heavy budgetary demands in fields more popular than defense (e.g., housing, education, environmental control). I strongly suspect the tendency would be to level forces down rather than bring them up. "If the leading power of the Alliance is so relaxed and so airy about its commitments, what can we Europeans do?" This approach would be particularly strong among the smaller European powers.

C. Burden Sharing Negotiations—

Burden sharing really came about as response to President's pledge last year that given similar actions by allies we would maintain and improve our forces in Europe. If we go back on this, there would seem to be little incentive for Europeans to carry out their defense improvement plans, on which at present they seem to be seriously working.

D. Psychological and Political Impact in Europe—

Passage of the Mansfield Amendment would be a milestone of the wrong kind. We get increasing questions here whether a new isolationism is growing up in the US, and the Mansfield Amendment would be another "proof" to those who think it is.

E. Other Considerations—

I fear there would be a spill-over into other fields such as the financial and commercial if Mansfield Amendment were adopted. Trust in our ability to carry out our commitments would be shaken, with results I think would be highly adverse to our general interests.

FEDERAL REPUBLIC OF GERMANY

(By Ambassador Kenneth Rush)

A. Prospects for Mutual Troop Reduction Negotiations with the USSR—

There is no doubt that a unilateral cut now in US forces in Europe would in practical terms eliminate the possibility of negotiating reductions with the Russians and therefore of bringing about comparable Soviet withdrawals and agreement on other measures such as forward observer posts against unauthorized troop increases which are a major purpose of MBFR negotiations.

B. Effect on Forces of Other Allies—

The immediate result on the German forces would be a strong pressure for comparable reductions in view of the residual suspicion with which Germany is still viewed by its neighbors in Eastern and Western Europe. In these circumstances not only would German forces not be improved, they would probably be reduced.

C. Burden sharing negotiations—

The reduction would have an immediate and negative effect on current burden sharing negotiations with the FRG. Why should the Germans make a large financial contribution based on their desire to retain the American forces here and computed on the basis of the present level of forces when such forces are drastically cut?

D. Psychological and Political Impact in Europe—

I believe there is a serious risk that the planned reduction would be taken in Europe as a signal of a major permanent shift in the American position on international affairs and of subsequent total withdrawal of US forces. This would result in a serious increase of Soviet influence over Western Europe and block the movement towards the more independent, self-sustaining Western Europe we want.

E. Other Comments—

I consider the proposal for reduction, if carried out, would have disastrous consequences both for the prospects of a stronger Western Europe working cooperatively with the US and for negotiated solution of specific East-West differences with the Soviet Union, including the SALT negotiations.

ICELAND

(By Ambassador Luther Replogle)

A. Prospects for Mutual Troop Reduction Negotiations in the USSR—

I believe passage of Mansfield amendment would have seriously damaging effect on possible MBFR negotiations with USSR. Unilateral troop reduction would distort framework of preliminiary discussions with NATO allies and seriously undermine their confidence in US at this critical time. Obviously it would place US at an extreme disadvantage in eventual negotiations with Soviet Union. Such a reduction might lead Soviet Union to conclude that negotiations are no longer important if concessions can be obtained without them.

B. Effect on Forces of other Allies and Burden Sharing—

While it is possible that a US reduction might serve to galvanize the NATO allies into bringing their forces up to agreed-upon levels and assuming more of the defense burden, I believe the contrary to be more likely. The effect of a troop reduction by the US as leader of the Alliance may well lead the European allies to conclude that we consider the Soviet threat to be diminishing and that, therefore, they too can safely maintain their forces at, or reduce them from, present levels.

C. Psychological and Political Impact in Europe—

In my view, the psychological and political consequences resulting from the passage of the amendment would be disastrous. Over the years the US has been the keystone of the NATO alliance. Most of the favorable developments in postwar Europe have come about because of the security NATO has afforded. A troop reduction of this magnitude, decided upon unilaterally, and following closely the Senate's recent action on foreign aid might make it appear that US is in the throes of a basic policy reassessment.

U.S. MISSION TO NATO

(By Charge' George Vest)

Passage of the Mansfield Amendment would have the most serious adverse effects on US security interests in Europe. European security is inseparable from our own.

A. Prospects for Mutual Troop Reduction Negotiations with USSR—

Substantial reduction of US forces in Europe would remove any incentive for the Soviet Union to undertake serious negotiations, just at a time when the Soviets have responded favorably to repeated NATO calls for mutual and balanced reductions. The US military commitment to Europe is the keystone to MBFR. Without it MBFR prospects would collapse. Not only would we lose our chance of setting in motion a process of erosion of Soviet dominance of Eastern Europe, but we would invite doubt about the dependability of US leadership since we have always joined in calls for MBFR negotiations. It might be noted that maintenance of US forces in Europe at current levels is also a major factor in strengthening the hand of the West in other ongoing or potential negotiations such as the Berlin negotiations and a conference on European security and cooperation.

B. Effect on Forces of Other Allies—

Our partners substantially meet agreed force goals now. However, the AD–70S Study last year indicated a need for members of the Alliance to improve their forces qualitatively. Since then, there has been positive allied action. The US has set the example. For the US to engage now in a reduction of the magnitude proposed would not only undercut what we foresee as a continuing improvement on the part of our allies, but would almost certainly precipitate a reversal. Such a reduction would undercut the President's promise that given a similar approach by our allies, the US will maintain and improve its own forces in Europe and not reduce them unless there is reciprocal action from our adversaries.

C. Burden Sharing Negotiations—

The US has been pressing its allies to assume a more equitable share of the burden for the common defense. Our efforts are beginning to bear fruit. The allies volunteered last December to increase their defense spending by $1 billion in the next five years over and above programmed force improvements. If the US drew down its forces and lessened its efforts, it is most doubtful that our allies would make up the resulting deficiencies.

D. Psychological and Political Impact in Europe—

Passage would have a severe impact. Passage might be taken as an indication to our allies, and to the Soviets, that the US was headed back toward isolationism. They would tend to see this as the first step in realizing the central objective of Soviet-European policy, the removal of US military strength and political influence from Western Europe.

E. Other Considerations—

Another consideration is the effect of passage on the strategy of flexible response. Present NATO and US troop strength makes this strategy feasible and believable and provides for a non-nuclear "breathing space" in case of non-nuclear attack. This capability to meet and contain an attack at a level below the nuclear threshold is vital for US security in an era of strategic nuclear parity.

Canada

(By Ambassador Adolph W. Schmidt)

In response to Senator Percy's request, the following are my views on the effect of the Mansfield provision if it were to be carried out.

A. Prospect for Mutual Troop Reduction Negotiations with USSR—

There is no question in my mind that the Mansfield provision would not only reduce Soviet incentives for mutual troop reductions very substantially, but would also make it politically more difficult for the USSR to reduce its troops, whether mutually or unilaterally, or even to engage in negotiations on the issue. (A unilateral reduction by the US would mark for the Soviets, and for our Allies in Western Europe, such a failing of American resolve as would raise for the Soviets for the first time since 1945 a realistic prospect of their long-sought goal of hegemony over all Europe. I firmly believe that prospect would be so attractive that whatever may be Soviet motivations for troop reduction, they would be submerged until either the goal were attained, or Soviet hopes flagged once again.)

B. Effect on Forces of Other Allies—

The Europeans know that no feasible amount of force increase by NATO Allies could compensate for the critical failure of American resolve and commitment to the defense of Europe that would be manifest in implementation of the Mansfield provision.

C. Burden Sharing Negotiations—

I would leave it to my colleagues in European NATO capitals, who are involved, as I am not, in burden-sharing negotiations, to comment directly upon that issue. We could not, however, in good conscience expect to approach the Canadian Government for a long time with any request for an increase in its contribution to NATO.

D. Psychological and Political Impact in Europe—

In a broader context, we are passing through an era in which US influence declines as that of other nations inevitably grows. The world watches our reaction and weighs our future. If in weariness, or disappointment, or self-centeredness, we withdraw at the sacrifice of our own and our Allies' interests, we must not expect a rallying of supportive effort around the globe, but rather the contrary.

Turkey

(By Ambassador William J. Handley)

The following are my comments in response to Senator Percy's questions:

Prospects for Mutual Troop Reduction Negotiations with USSR—

Unilateral US reduction would be seen by Turks as undermining NATO's collective bargaining position and preventing them from having their security concerns fully taken into account in East-West negotiations.

Effect on Forces of Other Allies—

Turkey is seeking and would continue to seek to meet agreed goals. But, its possibilities are largely dependent on US Military Assistance Program. As to efforts of other major allies, Turkey welcomes these but does not view them as in any sense a replacement for US strength in NATO.

Psychological and Political Impact—

Isolated, poor, and having a common border with the Soviet Union, Turkey, even more than the allies, equates NATO with the United States. It relies almost entirely on US both for outside support and for the maintenance of its own forces at any meaningful level of combat-readiness. Already shaken by threats to the US Military Air Program, it would view adoption of the Mansfield Amendment as further evidence of growing US isolationism and disengagement from Europe.

United Kingdom

(By Ambassador Walter H. Annenberg)

I am deeply disturbed that there is again before the Senate a proposal for action by the Congress to limit the level of US forces in Europe. The continued effectiveness of NATO, the security of Western Europe and the United States, the move toward greater unification in Europe, and the prospect of progress toward better relations with Eastern Europe once again hang in the balance. All of these efforts with our allies depend fundamentally on the firm commitment of the United States.

A. Prospect for Mutual Troop Reduction Negotiations with USSR—

I believe that a unilateral reduction of US forces such as is now proposed in the Senate would seriously jeopardize, if not abort, the current move toward negotiations with the Soviet Union and the Warsaw Pact Nations for mutual and balanced force reductions. In the past six years the Russians have undertaken an extraordinary expansion of their strategic capabilities. There is already deep concern in Western Europe about the dangers inherent in reductions on our part unless they are carefully and resolutely negotiated from the premise that the overall defensive posture and capability of NATO must not be diminished in relation to the Warsaw Pact. Unilateral reductions by the United States would inevitably call into question the basic premise of mutual reductions, and some of our NATO allies would feel obliged to review their attitude toward that prospect. I think it likely that some NATO governments would conclude that the NATO policy aimed at mutual reductions should be reversed; the British Government would, I believe, reason that such a conclusion might be unavoidable. The general view of our NATO allies would be that mutual reductions could not be achieved in the face of unilateral US reductions.

B. Effect on Forces of Other Allies—

A unilateral US move would have broader and equally serious effects with respect to the collective NATO effort and individual allied defense efforts. During the past year, and now again this year, European NATO governments have made improvements over and above what had been originally planned in their defense programs. To a large extent, these additional efforts were in response to United States initiatives and to our pledge of continued US force commitments. If that pledge were not to be kept, the political consequences in Europe would oblige many governments to review their own programs, with the probability that support for a continuation of increased efforts would not be forthcoming.

C. Burden Sharing Negotiations—

The negotiations with our allies on various forms of burden sharing would be undermined by independent action by the US to reduce forces. While European governments have accepted the proposition that Europe must do more in its own defense, any arbitrary degradation of the collective defense would reduce the willingness of our European allies to make greater contributions. Why make a bigger effort for a less effective whole?

D. Psychological and Political Impact in Europe—

Such a step must be weighed against the background of what appears increasingly to Europe as a pattern causing apprehension about the essential orientation of the United States and its basic purposes. Such doubts about American actions and intentions gnaw at the confidence of European people and leaders in their own capacity and abilities. The cohesion and collective will of the Alliance are endangered by these misgivings, and the most serious questions are raised about the leadership which, whether sought or not, rests with the United States. I am convinced that the essential interests of the United States lie in common with our NATO Allies and that the continued commitment in cooperation with our allies remains as the most valid base for US policy.

Portugal

(By Ambassador Ridgway Knight)

From personal conversations I know that there is serious concern at top of Portuguese leadership over abrupt US actions such as aid cutoff and previous troop cut moves, which are viewed as emotional and not worthy of free world's leadership. While I well realize that we are seeking to share with others some of the burdens of this leadership, it is a fact—and not a pleasant one—that trust in our qualifications for leadership is being eroded by such moves as the Mansfield provision.

Luxembourg

(By Fred J. Galanto, Chargé)

Possibility of reduction of US Forces in Europe is of major concern here. When official from the US Mission to NATO was interviewed on Radio-Television Luxembourg (listening audience estimated at 12 million) on November 12, this was very first subject to be raised.

In recent weeks high-level GOL officials have voiced to us their fears that any precipitous reduction in US forces would lead to public pressures in other European NATO countries to reduce troop levels.

Government and political leaders would object to any unilateral reduction in forces by the US on two additional grounds. First that there would be no corresponding quid pro quo from the Soviet Union; second, they want to be able to consult on and discuss these issues with the US rather than being presented with a *fait accompli*.

Finally, there is perhaps no other country in Western Europe where the memory and appreciation for the liberating role of the United States in 1917–18 and again in 1944–45 are so keen and alive as in Luxembourg. People here look upon US forces in Europe not only as the guarantor of defense against the Russians but as the primary stabilizing influence among the present Western European allies.

Greece

(By Ambassador Henry Tasca)

My comments on Senator Percy's questions are as follows:

A. Prospects for Mutual Troop Reduction Negotiations in the USSR—

While GOG (Government of Greece) obviously follows subject of MBFR, it has not focussed sharply on matter in light of the so far very slowly evolving situation *vis-a-vis* negotiations with USSA. At same time, since GOG, like most countries assumes best negotiating tactics rest upon position of strength, it would undoubtedly prefer balance to remain as it is rather than accept what it would view as one-sided deterioration.

B. Effect on Forces of Other Allies—

GOG forces are already close to agreed-upon levels. Prospect, particularly in light of current status of US military aid, of major increase in Greek force levels is unlikely.

C. Burden Sharing Negotiations—

Respecting burden-sharing, Greece has made a substantial effort to improve its defense forces. Its defense budget for next year will be greater than the current year's.

D. Psychological and Political Impact in Europe—

Main impact in Greece will be psychological and political. Greeks will indeed link cut in level US forces in Europe with recent vote on foreign aid and other signs of growing isolationism in U.S. Senior Greek officials have expressed to us on number of occasions in last few months their concern that US losing the ability and will to provide the Alliance with continued firm leadership. Approval of Mansfield provision would be particularly disheartening to Greeks, who have so scrupulously adhered to their NATO commitments, and would be seen as further evidence that US faltering in its leadership role.

E. Other Considerations—

While Greece remains firmly committed to NATO, actions of this kind cannot help but cause Greeks to review their options. Adoption of the Mansfield proposal would be not only damaging to our interests here in NATO context but also in relation other matters of strategic importance to US.

Norway

(By Chargé John Campbell, Ausland)

A. Prospects for Mutual Troop Reduction Negotiations in the USSR—

The proposed action would certainly throw away a negotiating counter which we expect to use in the MBFR talks with the Soviet Union.

B. Effect on Forces of Other Allies and Burden Sharing Negotiations—

The proposal would reduce any immediate incentive for the Norwegians to increase their share of our defense burden since we would be starting to pull out of Europe. The possibility of increasing Norwegian defense efforts would decline as they paused to reevaluate this new changing situation.

C. Psychological and Political Impact in Europe—

Proposed action would have an adverse psychological and political effect on Norwegians especially after the Senate's recent negative vote on foreign aid. It would confirm a growing impression here that the U.S. is turning isolationist, in addition to becoming protectionist in its trade policies.

D. Other Considerations—

This proposed action would also be especially demoralizing here just as the Norwegian public is becoming more aware of the growing Soviet military strength along the Norwegian border and more frequent Soviet naval exercises in the Norwegian Sea. The action would raise fundamental questions about our leadership of NATO.

Belgium

(By Chargé Louis Charles Boochever)

If the proposed amendment to the Defense Appropriations Act were to become law, it would create serious doubts within the Belgian Government and public about the willingness and ability of the United States to honor its mutual defense commitments in Europe. As a result, the Belgians' present resolve to maintain and increase their own strength would be shaken.

More specifically, I believe that a unilateral US reduction of the magnitude involved in the amendment would have the following effects:

A. Prospects for Mutual Troop Reduction Negotiations with USSR—

It is clear that we would have lost critical leverage in the prospective MBFR negotiations with the east. The Belgians, on the other hand, would be under domestic pressure to reduce their forces, since parliament and the public could hardly be convinced that any action on the part of a country of less than ten million people could compensate for the considerable lost strength represented by the proposed US withdrawal.

B. Effect on Forces of Other Allies and Burden Sharing—

Likewise, in the face of a unilateral US force reduction of this type, US requests to the Belgian government to increase its own defense budget would find little sympathy here, and the currently bright prospects for force improvements and an increased European willingness to shoulder a more equitable share of the defense burden are likely to fade.

C. Psychological and Political Impact in Europe—

Psychologically, the effect of the Mansfield Amendment, if passed into law, would be substantial in Belgium. In the first place, here and elsewhere, many Europeans would conclude that the US has determined that the threat from the East has diminished. Secondly, although the figures involved will themselves cause grave doubts about US commitments, the reduction would certainly be seen as a first step in a US withdrawal from Europe and world affairs in general. Whatever the true economics involved, Europeans would find it most difficult to believe that the motivation for US reduction did not go far beyond the need to redress economic and financial imbalances. One hears often here the concern that isolationist sentiment in America is growing and that this will inevitably have an effect on the US role in world affairs. A unilateral US troop reduction in Europe will undoubtedly fortify this impression and substantiate doubts about the wisdom of relying on US commitments. Willing to increase their own efforts in order to complement American strength, at least the smaller European countries will in the current circumstances see any effort to replace large-scale American troop withdrawals as futile. The end result would be a Western Europe with weakened defenses and, therefore, in a distinctly disadvantageous position vis-a-vis Warsaw Pact forces.

Denmark

(By Chargé Byron E. Blankinship)

Replies to Questions Posed by Senator Percy are as follows:

A. Prospects for Mutual Troop Reduction Negotiations with USSR—

As seen from Copenhagen, reduction and if possible elimination of US presence and influence in Europe remains one of prime goals of Soviet policy. They remain reluctant, however, to remove their troops from nations of Eastern Europe. Unilateral US troop reduction now would give Soviets a good deal of what they want without requiring any *quid pro quo* on their part. It would also probably encourage them to hold up on any serious mutual withdrawal measures in expectation that internal US political pressures will inevitably bring about more sweeping retrenchment on American side.

B. Effect on Forces of other Allies—

Unilateral US troop cut would militate against chances of securing improvements in Danish armed forces and would encourage reduction in Danish force levels rather than bringing them fully up to snuff.

C. Burden Sharing Negotiations—

Burden sharing negotiations would also be hampered by unilateral US reductions. In Embassy's judgment, Danes would not react by contributing more but by reducing their own share because US withdrawal would accelerate existing tendencies here toward neutralism.

D. Psychological and Political Impact in Europe—

Impact here of troop withdrawals, on top of dramatic cut-off in foreign aid, would greatly reinforce growing impression that US is withdrawing into itself. Most disturbing aspect of this wide-spread opinion is perhaps that Danes do not reproach US for isolationism but regard such development as understandable and inevitable. Danes are already very wary of offending Soviet Union and further growth of idea that US has turned its back on Europe could precipitate strong pressures here for Danish Government to "reinsure" with USSR on whatever terms it is able to obtain for itself. Dangers to US long term interests are obvious and would not repeat not be limited to Denmark or even to Scandinavia as such attitudes would quickly spread elsewhere in NATO, particularly among smaller members.

E. Other Considerations—

Danes have consistently regarded US military presence in Europe regarding security guarantee, which protects them against potentially hostile forces in area. As small country, Denmark is very sensitive to influences from all its neighbors and erosion of assurance provided by disinterested ally such as US could undermine Danish confidence in future development of US-European relationship.

Mr. MANSFIELD. I agree they are part of the establishment but when are we going to stand up as individuals in this body and express our individual judgment?

Mr. STENNIS. Mr. President, I yield 2 minutes to the Senator from Virginia.

Mr. BYRD of Virginia. Mr. President, this is a difficult vote to cast.

My judgment is along the line of that expressed by the distinguished Senator from Missouri (Mr. Symington) and the distinguished Senator from Montana (Mr. Mansfield).

It is vitally important that we reduce the number of U.S. ground troops in Europe. The troops morale is not good; the use of drugs is too prevalent; discipline is too lax. Our balance-of-payments deficit is smashing. Our Federal budget is greatly out of balance and the U.S. dollar is steadily declining in value.

I have read carefully the letter just submitted by the President of the United States to the Senator from Mississippi (Mr. Stennis). I read it several times.

It is a very strong letter from the Commander in Chief urging the Congress not to mandate him to bring home from Europe troops at the rate of 10,000 per month during the next 6 months.

He points out also the delicate stage of the SALT talks and emphasizes he has made new initiatives for peace in two great capitals of the world.

At this delicate time in world history I am inclined to give additional time to the Commander in Chief in a matter of such worldwide significance.

For that reason I shall once again oppose mandating the President on this matter, but it may be the last time I will be able to so vote.

Mr. STENNIS. Mr. President, I yield 2 minutes to the Senator from California.

Mr. TUNNEY. Mr. President, I believe that American forces in Europe should be reduced. But I do not believe that this is the time for the Congress to impose that reduction upon our troop levels.

Last May, I stated that, if the President's progress in negotiating force reductions was inadequate, the Congress should consider a legislative cut in American troops strength in Europe.

I have carefully considered and evaluated the President's position and I believe that the administration has been and still is negotiating in good faith to reduce—mutually with the Soviet Union—American force levels in Europe. Although progress has been slow, I believe that some more time must be allowed.

Therefore, I shall oppose the legislative imposition of the American troops cut at this time. But I wish to make it quite clear that I am opposed to it because I have been assured by the administration that serious efforts are currently underway to achieve a mutual and balanced troops reduction; that at the NATO Deputy Foreign Ministers meeting recently a negotiator was selected who expects to enter shortly into negotiations in Moscow on this issue; and that a common U.S.-NATO negotiating position will be presented to the Warsaw Pact countries in the very near future.

With negotiations so imminent, I do not believe that this is the proper time to reduce unilaterally our forces in Europe.

That conclusion is reinforced, Mr. President, by the escalating language in the Middle East. It would be inappropriate at this time, with President Sadat of Egypt raising his voice and escalating his rhetoric at a level which comes dangerously close to a declaration of war, to withdraw precipitously any of our troops from Europe.

I wish to make it quite clear, however, that my vote today shall in no way foreclose me from reevaluating my position at a later date. If no progress has been made; if the representations I have received proved to be hollow expectations rather than true substantive progress; we can expect this issue to be raised again—and I shall vote to legislatively do what the executive branch has diplomatically failed to do.

I want to make clear that by voting against the Mansfield amendment today, in no way am I foreclosing the possibility of reevaluating my position at a future date and, like the Senator from Virginia, this may be the last time I vote against a Mansfield amendment.

Mr. STENNIS. Mr. President, I yield 2 minutes to the Senator from South Carolina.

Mr. THURMOND. Mr. President, the defense appropriations bill contans a provision, passed in committee by a 14-to-13 vote, which would limit effective next June 15 the number of U.S. forces in the European theater to 250,000.

This provision would require that approximately 60,000 U.S. military personnel in Europe be brought home and relocated in the continental United States within the next 6 months.

First, there should be no illusion on the part of the American people that this will save any money. To my knowledge, none of the advocates of this cut claim that it would save money. In fact, it would initially cost money because bringing men and equipment back to the United States and positioning them somewhere on U.S. soil would obviously require large expenditure. However, this reduction would have a small but favorable impact on our balance-of-payments deficit as it would reduce U.S. spending in Europe to support these men and the additional benefit of ending spending by the dependents of these personnel.

Mr. President, let me say at the outset that I favor some reductions in our NATO personnel. However, I strongly urge the Congress to avoid placing an arbitrary ceiling on force levels in Europe while the President is trying to obtain reductions from the Warsaw Pact nations.

The United States is the "glue" which holds NATO together and any reduction on our part should be carefully coordinated with our allies there and hopefully matched by the Warsaw Pact nations.

Mr. President, I think the complexity of the NATO situation can be illustrated by listing some points on this subject. The fact that any reductions at this time would impact seriously on President Nixon's trip to Russia next year should be obvious. The fact that arbitrary reductions involve complex long-range policy considerations will be amply demonstrated by these points:

First. A cut of 60,000 men will seriously reduce our already weak conventional war capability in NATO. This reduction, which may seem small when compared with our overall forces, would in fact reduce our ground troops by one-third. If we diminish this conventional capability with this cut, then reasons for not cutting further in the next few years will be hard to suppress as U.S. ground forces of around 100,000 will be little more than a tripwire. These remaining men and their dependents would be quickly overrun if war should break out in Europe.

Second. A NATO cut would mean the United States is returning to an all nuclear response capability. Do we want to restrict the President to the use of only nuclear weapons if our European allies become active targets of Soviet expansionism?

Third. A new study by the Brookings Institution suggests that unilateral withdrawal of a part of all of the U.S. commitment in Western Europe would mean more, not less, spending. Most troops in Europe are housed in rent-free facilities.

Mr. President, I ask unanimous consent that a news article on the Brookings report headlined "Troops in Europe 'Budget Bargain' U.S. Study Shows" in the October 21, 1971, issue of the San Diego Union be printed in the Record at the conclusion of my remarks.

Fourth. If we pull out of NATO without mutual reductions by the Warsaw Pact, then our allies, faced by strong military forces across their borders, may take a neutralist stance. This could lead to a vacuum which the Soviets would surely step into. The possibility is an important reason why reductions should be carefully phased on a mutual basis.

Fifth. Efforts to obtain mutual reductions would have no chance of success if the Congress reduces U.S. forces while the President is trying to obtain mutual reductions. It is important to our overall national security that we maintain or improve our defense posture while reducing our burden in Europe through negotiations.

Sixth. An arbitrary step to cut NATO forces, in the face of the President's efforts through negotiations, would signal to the American people that the country is reverting back to fortress America and isolationism.

Seventh. The President is planning a trip to Peking and Moscow next year. We should not tie his hands now by taking action that should wait until after those trips. We have to give him flexibility. When he took office as President in 1969 we had 550,000 troops in Vietnam.

They are now down to 190,000; 25,000 will go out in December and 20,000 more in January, and we will have only about 145,000 there in February.

The President is doing all he can all over the world. He faces a big problem. Let us not tie his hands. Let us give him the flexibility to bring these troops back as early as he can, as I am sure he will do.

Mr. President, before closing my remarks, I ask unanimous consent that a letter to me from Secretary of Defense Melvin Laird, dated November 18, 1971, be placed in the RECORD at the conclusion of my remarks. This letter makes clear that President Nixon and Secretary Laird oppose this NATO withdrawal.

Finally, these seven points are just some of the issues which the Senate should consider in this matter. As I stated earlier, reductions of our NATO commitment are desirable when made in the context of our broader national policy and when linked with mutual withdrawals by the Warsaw Pact nations. The Congress should allow the President time to implement these policies and not weaken his hand during the next crucial months.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the San Diego Union, Oct. 21, 1971]

TROOPS IN EUROPE "BUDGET BARGAIN," U.S. STUDY SHOWS

(By Ray McHugh)

WASHINGTON.—A new study of the American military commitment in Western Europe suggests that unilateral withdrawal of part or all of the 300,000-man U.S. garrison would mean more, not less, defense spending.

In the book "U.S. Troops in Europe: Issues, Costs and Choices," four Brookings Institution specialists have taken sharp issue with Senate Majority Leader Mike Mansfield's arguments for withdrawal. The Montana Democrat, defeated once this year, is again proposing a 50 per cent cut in the European force.

The Brookings Institute is a respected, private, nonpartisan research and analysis organization.

The garrison is actually a "budgetary bargain," says authors John Newhouse, Melvin Croan, Edward R. Fried and Timothy W. Stanley.

Unilateral withdrawal, they warn, could upset the military-political balance in Europe, wreck any hopes for mutual East-West arms reductions, splinter West Europe's still shaky platform for political unity and rouse Atlantic animosities that could cripple the drive for trade and monetary reform.

"If the current American troop strength is maintained and the U.S. commitment to defend Western Europe remains credible to Moscow," they write, "Soviet policy will probably remain much as it is—a combination of detente and negotiation aimed at checking moves toward closer Western European and Atlantic cooperation, while maintaining Soviet control over Eastern Europe.

MOSCOW REACTION

"What would Moscow do if American forces were unilaterally reduced?

"In the short run, probably not very much. The danger of immediate destabilizing Soviet actions would be small, since Moscow would be reluctant to apply threats or pressures that might stimulate Western European defense cooperation and closer Atlantic ties."

Desirable Russian action would be just as unlikely, they add. There would be no longer any incentive to negotiate mutual force reductions.

Any unilateral American withdrawal also could have disastrous effects in West Germany. Without strong conventional American forces in Germany, they argue, Chancellor Willy Brandt's "Ostpolitik" forces would be doomed. Bonn would have to choose between building a national military force to fill the gap—a force that would lack credibility, or take the more palatable short-term political route and order parallel cuts in military spending.

POLITICAL STORMS

"The emergence of a militarily weak and politically disarmed West Germany could strongly attract the U.S.S.R. toward a policy of renewed pressure on Western Europe," the Brookings writers say.

They also point out that any American withdrawal would cause political storms in Western Europe that would impede or even end movement toward unity and would touch off anti-American sentiments that could cripple trade and monetary cooperation.

Treasury Secretary John Connally has repeatedly reassured Western Europe that troop cuts are not considered part of President Nixon's new economic policy.

Today it is NATO's ability to fight for some time without using nuclear weapons that makes strategic deterrence credible, the writers argue, and that ability depends on conventional forces.

SOME SEE ADVANTAGE

Some believe that a unilateral cut in U.S. forces would shock the European NATO countries into strengthening their own defenses and prod them toward political union. The Brookings Institute writers claim that Europe's long dependence on the United States and its current lack of a steady impulse toward unity makes it just as likely that most NATO countries would cut their own forces and follow separate paths toward accommodation with the Soviet Union.

Over a period of time; the writers say, there may be more progress toward European unity, but for now NATO provides the political stability Western Europe needs if it is to achieve the internal progress needed to overcome its military dependence on the United States.

Proponents of U.S. force cuts argue that redeployment to the United States would save money, ease the strain on the U.S. balance of payments, and promote a more equitable distribution of the NATO defense burden. The writers say we would not save money simply by bringing troops back and stationing them in the United States.

AIRLIFT COSTLY

Cost reductions, they add, could be achieved only if we reduced the forces we maintain for European contingencies wherever they are stationed. Simply transferring a U.S. division from Europe to the United States could end up being more costly, because of the need to pay for expensive airlift capacity to return troops to Europe in an emergency, the Brookings writers said.

A solution to the balance-of-payments problem, the writers recommend, lies in negotiating cost-sharing and foreign exchange offset arrangements with NATO partners that would make the cost of U.S. troops in Europe no different from those stationed at home.

THE SECRETARY OF DEFENSE,
Washington, D.C., November 18, 1971.

Hon. STROM THURMOND,
U.S. Senate,
Washington, D.C.

DEAR SENATOR THURMOND: I learned last night that the Defense Appropriations Subcommittee of the Senate has adopted an Amendment offered by Senator Mansfield that would cut US troop levels in Europe. In light of my deep concern over this precipitate action, I immediately issued the following statement:

"The proposal of a Senate Appropriations Subcommittee to slash US military strength in Europe by more than 60,000 men by next June 15 is dangerous, and would undermine chances for the success of mutual and balanced force reduction negotiations. This ill-timed action would threaten the peace which NATO nations in Europe have enjoyed for more than a quarter of a century.

"As we prepare for negotiations with the Warsaw Pact, unilateral disarmament would be reckless. I am confident that the Congress will reject the imposition of an arbitrary ceiling on our deterrent military strength in Europe."

I cannot stress strongly enough my deep concern over the consequences that would flow from Congressional approval of such a troop reduction in NATO at this particular time.

In my judgment, these consequences would entail:

A severe loss of confidence in the ability of the United States to honor its commitments.

Further allied uncertainty concerning our determination to bring prospective negotiations with the Warsaw Pact to a proper conclusion. This could impact on the security of Europe for years to come.

A weakening of our ability to negotiate with the Soviet Union from a position of strength. I have repeated this theme continuously to my fellow ministers of defense, and I intend to continue emphasizing this point during the forthcoming December NATO ministerial meetings.

Undermining the agreements we have already arrived at within the Alliance to meet with members of the Warsaw Pact to discuss mutual and balanced force reductions. The Alliance has selected former Secretary General Brosio to explore the basis for negotiations with the Warsaw Pact and he is now anticipating his first meeting in Moscow. U.S. reductions at this time could seriously undercut the progress already made and the prospects for future progress.

A strong likelihood that our Allies will lose the momentum behind their own force improvements. Not only did European nations last December commit $1 billion above programmed defense expenditures over the next five year period, but they have since projected additional significant expenditures earmarked for force modernization. This is ample evidence that they are committed to an increased shouldering of the common defense burden.

A Soviet conclusion that they can count on a unilateral withdrawal of U.S. forces from Europe, thereby removing their incentive for meaningful negotiation. This could also impact unfavorably on other negotiations we are conducting with the Soviet Union by leading them to believe there is no need to bargain seriously with us. Some Europeans, with their confidence in collective security seriously eroded, could also be given an incentive to move toward accommodation with the Soviets thus further diminishing Soviet incentives to deal with us.

Finally, and perhaps most importantly, creating an impression on our Allies that we are unwilling to keep our pledges. This Administration has established its credibility throughout the world by its willingness and ability to keep its commitments. In Vietnam, in Berlin, in SALT, we have done what we said we would do. It is imperative to our security that we be given the opportunity to improve our posture and reduce our burden in Europe through negotiations.

I am confident that President Nixon's Strategy for Peace can succeed and will succeed if we do not abandon the principle of moving into negotiations from a position of strength.

I would hope that as you have an opportunity to reflect on the impact of this action at this time, you will agree with me that this is not the time for a unilateral weakening of our defense posture in Europe.

Best regards,

MELVIN R. LAIRD.

Mr. STENNIS. Mr. President, I yield one-half minute to the Senator from New York (Mr. JAVITS).

Mr. JAVITS. Mr. President, the size and the nature of the U.S. presence in

Europe in the 1970's is an issue of vital importance on both sides of the Atlantic. For the first time in 25 years basic assumptions regarding the U.S. presence—in all its manifestations—are being questioned and reconsidered.

In the field of military security, the NATO Treaty has completed the 20-year period specified in article 13 and adherence to the treaty is now subject to denunciation by any of its members on 1 year's notice.

At the December 1969 meeting of the NATO Ministerial Council, the Nixon administration pledged to maintain the current U.S. troop levels in Europe at least through mid-1971. The level and the nature of the U.S. military presence in Europe beyond that date is yet to be determined. It will be influenced in an important way by developments relating to other aspects of the U.S. presence in Europe, including trade between the United States and the EEC and aid to the developing world.

Also, the progress of Chancellor Brandt's Ostpolitik, and the prospects for a European security conference, undoubtedly will influence the decision regarding future U.S. troop levels in Germany and Europe as a whole. The success or failure of the Strategic Arms Limitation Talks—the SALT negotiations—between the United States and the Soviet Union could have a profound influence on the nature the western deterrent, not only in global terms but in terms of the conventional—and tactical nuclear—defense of Western Europe.

In my judgment, however, the most important factor determining the military security relationship between the United States and Western Europe in the years just ahead will be, first, the unfolding of the Mideast crisis now reaching the climactic stage; second, trade and financial relations; and third, negotiations between the Soviet Union and the People's Republic of China.

In the Mideast, Europe and NATO are living on a powder keg; in trade and financial relations the United States and Europe are on the verge of a trade war.

As we have discussed today, the stakes in the Mideast for the United States are very high for it is an area of vital security interest to the United States—as it is to Europe. The Mideast—rather than Vietnam—is an area in which the Kremlin has chosen to test U.S. power and resolve, and the tenor of its political leadership of the West.

While the Mideast is an area of high importance to the United States, it is an area of direct, critical importance to Western Europe. The Mideast commands Europe's land, sea, and air routes to Asia and Africa. Fifty percent of Europe's industrial energy resources—and 80 percent of its oil—are obtained from the Mideast. The Mediterranean is the point of attack on Europe's soft underbelly.

Because of the importance of the Mideast to European and U.S. interests, and because of the nature of the Soviet challenge there, the role which Europe plays in the developing Mideast crisis is likely to have a major effect on the nature of United States-European security ties during the 1970's.

The U.S. presence in Europe has, of course, other major facets besides the military. The U.S. economic presence in Europe is a matter of prime importance on both sides of the Atlantic. American investment in European industry continues to elicit controversy. Within the international monetary community, questions concerning U.S. balance-of-payments policy and the future role of the dollar are subjects of highest concern. All of these questions are directly related to the cost and contribution of security expenditures and will bear heavily on decisions regarding the level of U.S. troops maintained in Europe over the next decade.

I wish to emphasize that issues of the highest importance to the United States are now being negotiated in Europe. The issues now under negotiation are of transcendent importance as they could determine the fate of Europe for the remainder of the century. The massive freeze in Western and Eastern European affairs for the past 25 years is cracking and a glacial flow has commenced. In my judgment, it is essential that the United States be alert to the possibilities as well as the dangers inherent in the present situation of flux and that we be prepared to invest the energy, attention, and resources necessary to enable us to join effectively in the shaping of the future of Europe now beginning to emerge.

The critical point has not yet been reached on mutual balanced force reductions. We cannot forego this opportunity. If we risk the situation by giving the signal for withdrawal now by pulling out 60,000 troops we put both the negotiations with the Soviet and Europe in jeopardy. If we leave a vacuum by giving this signal Europe will either move toward the Soviet Union, or West Germany will have to fill this vacuum. If the former, negotiations so promising for peace are over. If the latter the Soviet Union with its deep-seated fear of German nationalism will even more deeply divide Europe, and further jeopardize peace.

Mr. MUSKIE. Mr. President, over the last 6 months, the Nixon administration has both carelessly and unnecessarily strained U.S. relations with some of our principal allies—Canada, Japan, and West Germany, to name a few. Nixon administration actions have been high-handed and unilateral, and they have given scant attention to the problems and interests of our allies. Many of us in the Senate have criticized the President for these actions. By voting now to reduce American force levels in Europe by as many as 60,000 men without prior consultation with our allies, we would be committing the same kind of diplomatic error.

I do not believe that there is any political or military magic in maintaining our current European force level of 310,000. There is fat in our European forces that can and ought to be trimmed. I am convinced that our European forces must be reduced over time by substantial numbers. But these reductions should be made only after consultations with our allies. And such reductions should be part of a planned and orderly program of withdrawal so that both allied and other nations understand our intentions precisely, and are informed as to how many troops are to be withdrawn and how many will remain.

To withdraw without consultation and without such planning might persuade others that we are weakening a European commitment which we actually want to maintain. We should not create such an illusion where the reality is not intended and not desired.

When I voted several months ago against the amendment to make substantial troop cuts in Europe, I said that consultations with our allies and our decision about U.S. troop levels in Europe depended upon a number of other issues: among them, the state of West German Chancellor Willy Brandt's policy of Ostpolitik, the U.S. balance of payments, and negotiations with respect to mutual and balanced force reductions—MBFR.

The fate of Chancellor Brandt's Ostpolitik still hangs in the balance. His government has successfully negotiated agreements with Poland and the Soviet Union. Berlin negotiations with the East German regime are in progress. At this critical juncture, I fear that German opponents of this policy of normalization could use American force reductions to undercut domestic support for Ostpolitik.

The U.S. balance of payments has continued to deteriorate disastrously, and we must act swiftly to reverse the decline. But the removal of 60,000 men from Europe would have very little effect on that problem. Instead, we must demand from our allies additional offsetting payments to neutralize the balance of payments cost of keeping our troops in Europe. But this can only be done appropriately and effectively by means of tough negotiations. To withdraw some troops unilaterally might only undermine ongoing negotiations with our allies for offsetting payments for our remaining troops.

The situation with respect to MBFR has also changed over the last few months, but in the direction of making it even more imperative that a unilateral American troop cut be avoided at this time. Former NATO Secretary General Manlio Brosio has been making the diplomatic rounds, including Moscow, to see what can be done to get these negotiations underway. I believe that mutual and balanced force reductions in Europe represent one of the most critical and important arms control possibilities in the near future, and I urge the administration to move forthrightly toward this goal. But I do not believe unilateral withdrawals, at a time when the Soviets have indicated their willingness to negotiate for mutual withdrawals, will advance the prospects of MBFR.

Mr. President, I do not believe this is the time for making unilateral force reductions in Europe. But I do believe this is clearly the time for tough negotiations and planning for such force cuts in the near future, and I urge the administration to press ahead with negotiations among our NATO allies and with the Soviet Union for mutual and balanced force reductions at the earliest possibility.

Mr. BEALL. Mr. President, last spring the Senate defeated efforts to precipitously reduce U.S. troop strength in Europe. But once again we are confronted with this issue and if it is deleted from this bill, I am sure that it will be brought up again and again. That fact alone does not discredit the merits of this case, however, and I would like to take this opportunity to briefly examine the merits of our commitments in Western Europe.

The North Atlantic Treaty Organization, no matter what its shortcomings may be, has served an immensely important role in the postwar era. The creation of NATO was a direct response to a very real threat. By 1948, it had become clear to everyone that the Soviet Union intended to retain perpetual control over the nations of Eastern Europe and to extend its influence as far westward as possible. NATO was created as a shield to such expansionism and its success can hardly be discounted.

Combined with the Marshall plan, NATO provided the Europeans with the military security that fostered a sense of renewed confidence in their future. As we have seen throughout history, political stability, domestic tranquility, and military security lead to economic growth, cultural creativity and a reduced likelihood of war. NATO helped to tap the immense technical, human and economic resources of postwar Europe.

In recent years, we have seen a distinct lessening of tensions along the Iron Curtain in general and in the Berlin area in particular. The recently negotiated Berlin accords hold out hope of a significantly improved atmosphere for East-West relations throughout Europe. In fact, I believe that it is safe to say that the success of NATO has contributed to a rethinking of Moscow's objectives in the post-Stalin era.

But the past successes of the North Atlantic Treaty Organization do not in themselves warrant our blind allegiance to existing policies. But there are a number of considerations which must be given to any fundamental shift in our Nation's foreign policy.

I think that it is extremely important for all of us to remember that the Constitution charges the President with responsibility for the execution of our foreign policy. If the U.S. foreign policy is to be a success, it must be credible. If it is to be credible, it must be coherent. Thus, we cannot speak to the rest of the world with more than one voice.

Over the last quarter of a century, the Congress has participated in the formation of this policy by ratifying the NATO Treaty, appropriating the funds necessary to implement it, by confirming the various military and diplomatic personnel needed to fulfill America's commitments to NATO, and so forth. Now the Senate, via the appropriations procedure, seeks to precipitously and arbitrarily alter the foreign policy of the United States and perhaps more significantly to usurp from the President, his responsibility for the implementation of said policy. For a Senate which talks a great deal about Presidential credibility, I think it is significant to note that it is not the credibility of the Senate that is at stake in this matter, but the credibility of the United States in its dealings with nations overseas.

I would remind my colleagues in the Senate that the President of the United States is not opposed to a reduction of U.S. forces in Europe. President Nixon's willingness to expend every effort in the search for a just peace is reflected in his willingness to journey to Peking and Moscow, the capitals of our two most formidable adversaries. While in Moscow, it is clear to everyone that the President will be seeking to achieve the reduction of Soviet forces in Eastern Europe to correspond with our reduction of forces in Western Europe. The Deputy Foreign Ministers of the NATO nations recently met to discuss the issue of mutual and balanced force reductions. Manlio Brosio, former Secretary General of NATO, has been asked to travel to Moscow to "explore" the possibilities of initiating MBFR talks. It would be tragic for the U.S. Senate, at this moment in history, to arbitrarily force a unilateral reduction of American manpower in Europe, thus scuttling a perfect chance for a negotiated settlement that could significantly improve the chances of building a lasting peace.

The unilateral cutback of American troops would have an unsettling effect on the Europeans. Our intentions, as well as our will, to carry out our commitments are being questioned. A less secure, less stable, less confident Europe is much more likely to follow policies which will serve to lessen our influence. Thus, they will follow economic, political, military, and diplomatic policies that may run counter to our national interest.

The Middle East is an especially explosive area of the world at the present time and NATO's southern flank extends into this region. In addition, the 6th Fleet patrols the Mediterranean Sea. An arbitrary percipitous cut back now would obviously diminish our ability to maintain the balance of power necessary to insure Israel's security. It would diminish our ability to counter the Russian buildup in the eastern Mediterranean area, and it would further diminish our influence in the remaining pro-Western Arab States—many of which are rich in oil and vital to the economic health of the Western World.

Mr. President, in conclusion I would simply remind my colleagues in the Senate that President Nixon will shortly be journeying to Moscow in an effort to lessen tensions and improve the chances for building a "generation of peace." Whether some of my colleagues in this Chamber are willing to admit it or not, I think history is going to tell us that President Nixon, during his first term in office, clearly and correctly perceived the changes that have taken place in the world today. He may already have achieved for himself the status of being a great President, because he has modernized and redirected our foreign policy in keeping with the needs of the last third of the 20th century. I enthusiastically support the amendment which will strike this provision from the defense appropriations bill. I believe that it is incumbent upon us to support those organizations, commitments, and forces which are working to promote the cause of peace. To do less would undermine the President's position as he prepares to meet with the leaders of the Kremlin. The Senate, by its vote on this measure, will tell the world whether the President goes to Moscow to deal with our adversaries from a position of strength or a position of weakness.

Mr. SCOTT. Mr. President, I think we must consider the consequences which will result from the precipitate action called for by section 744, which would require us to reduce our forces in Europe to some 250,000 personnel by June 15, 1972. Whatever may be said about this section, foremost in my mind is that it fails to take into account one cardinal fact—our forces in Europe are there in our own national interest.

This section calls upon us to reduce our forces by nearly 60,000 men. If we should carry out these cuts we would, of course, make a gift to the Soviet Union of removing and significantly weakening our defense posture in Europe, an area of vital importance to this Nation's security.

The Senate is aware that we are well along the path to serious talks with the Soviet Union and its Warsaw Pact allies on a number of important security matters. Together with 13 of the members of NATO, we have recently appointed Manlio Brosio, former Secretary General of that organization, to explore the willingness of the Soviet Union and its Warsaw Pact allies to enter into serious negotiations on the mutual reduction of forces in Europe. We hope he will soon visit Moscow—but the mere fact of this provision could influence the Soviets not to extend the invitation we have been momentarily expecting.

If we reduce our forces at this time, we shall also substantially reduce our bargaining leverage with the Soviet Union, for what incentive would that nation have to engage in talks about mutual reductions when we move by ourselves unilaterally to remove a substantial number of our own?

Beyond this, we have also indicated our willingness, with evidence of good faith on the other side, to prepare and actively to participate in a conference or conferences on European security. But once again the very success of these and other efforts lies in our willingness to maintain a strong bargaining position—which means our resolve toward Europe must not be lessened.

Clearly NATO's preparations for negotiations on mutual and balanced force reductions, and for a conference on European security would be endangered by a decision on our part unilaterally to reduce our forces.

First of all, such action would be a great shock to our Allies, who would leap to the conclusion that without prior consultation or discussion the United States would unilaterally abrogate the commitments made by its President to maintain its forces in Europe and not to reduce them without reciprocal action by our adversaries. In the disarray and confusion which could follow the adoption of this section, our Allies might well give up in despair the increased defense efforts which they have begun or agreed to undertake toward improving the conventional posture of the alliance and toward a more equitable sharing of the common defense burden and which would amount to over $1 billion. They might well be tempted to strike a bargain with the Soviet Union leading to an increase in its power and influence in Europe, filling the gap left by the withdrawal of the United States.

Section 744 would constitute a giant blow at the foundation of a policy that has been painstakingly constructed in cooperation with our allies since the end of World War II—looking to the day that we seem to be rapidly approaching where both sides are convinced that negotiations are the way to a lasting peace. The fruits of this policy can be seen in the SALT, or in the successful conclusion of the first phase of the Berlin negotiations.

I cannot accept the contention that we should change at this critical hour a policy that has been carried forward steadily by five successive Presidents, backed by overwhelming bipartisan support. I fully support the view that our forces in Europe are there in America's interests; they are not there simply to protect Europeans—our involvement in two world wars on European soil fully substantiates this.

This provision, of course, strikes not only at our ground forces in Europe but at our air and naval forces as well. We have long been concerned with the buildup of Soviet power in the Middle East and particularly with the heavy arms supply program by which the Soviet Union has undertaken to support Egypt. Have we considered, Mr. President, the possible effects on the peace and stability in the Middle East of a significant withdrawal of our naval forces in the Mediterranean? I think this is a matter on which we all should reflect carefully before adopting this language.

I am aware of the desire to see the expenses devoted to the defense of this Nation used, when possible, to help stabilize the economy. But we must not be penny wise and pound foolish—if the forces were demobilized, obviously there would be some savings, but are we willing to see our overall defense posture reduced further? In addition, unless we are prepared to demobilize the forces we return to the United States, there would be no financial savings. I suggest the proponents of this section gather the economic facts entailed in bringing our forces home from Europe and weigh them carefully in light of the political and military consequences of this action.

At this point, let me warn against confusing appearance with reality. There is growing interest in detente and peace. Varying signs exist in all parts of Europe that now may be a time to make strenuous efforts in this direction. The administration is aware of this. Its policies reflect this. However, in Europe we have an ambiguous situation—Europe is in a period of transition.

On one side of the coin there are signs of an evident desire for detente. On the other side of the coin, the Soviet Union maintains in Eastern Germany 20 modern, well-equipped divisions as well as forces in Czechoslovakia and Poland. These are being continually improved. It maintains in Central Europe a modern, strong air force. This represents a force of some 520,000 men in Eastern Europe. Moreover, the Soviet Union is making efforts to modernize and develop the forces of its Warsaw Pact allies. There continues to be a rapid expansion of Soviet military activities in the Mediterranean and a concomitant growing of their influence there. The millennium has not yet embraced Europe.

In 1963, prior to the beginning of the era of flux that I have just noted, General Eisenhower called for a reduction of some of our forces from Europe. You will recall that at that time the United States enjoyed overwhelming nuclear superiority and the strategy of flexible response, which would give NATO strong conventional forces to deal with the age of nuclear parity, was still years away. General Goodpaster explained last year in his testimony before the Subcommittee on Foreign Affairs that General Eisenhower had, from the time we sent 4 divisions to Europe in 1951, assumed European progress toward unity that would eventually permit Western Europe to take over most, if not all, of this responsibility. General Goodpaster said that he believed circumstances that would permit that course without loss of what had been achieved had not come about.

Finally, I believe that there are fundamental misunderstandings about the role our forces play in Europe, the costs of maintaining them there, the impact withdrawal would have on our economic program, and a lack of appreciation for the political and military consequences of a United States withdrawal.

I have no doubt about the importance of recent developments in Europe, the sense of detente in the air, and the opening of new lines of communication to the East. However, I do have great doubt about any move which would significantly weaken our military posture in Europe at a time when we and the Europeans are engaged in serious efforts to make adjustments which can have a vital effect not only on the continent's future peace and security but on that of the United States.

NOW IS NOT THE TIME TO LEAVE EUROPE

Mr. DOLE. Mr. President, I rise to bring the attention of the Senate to the grave implications of the recent course proposed by the Appropriations Committee when it recommended that the troop authorization for the United States in NATO be slashed by 60,000 men.

The Senator from Kansas believes such a move would be detrimental to our relations with Western Europe at a time when the economic climate between the two continents is already strained. It would be ominous in a military sense, and it would be politically injurious to the United States. This action, if accepted by the Senate, would undermine the President's ability to effectively discuss troop levels when he visits Moscow next year. It would also reduce the potential for negotiated efforts toward mutual and balanced troop reductions in Eastern and Western Europe. It would lower the threshold for possible nuclear war by reducing conventional conflict capabilities, and in reality, it would create a greater strain on our finances than would our present deployment in Europe.

If passed by the Senate, the troop cut proposed by the Appropriations Committee would seriously undermine America's present strategy for sustaining peace in Europe. The greatest danger arising from this proposal is its timing which would have it implemented at the same time that the President will be visiting Moscow. This would make it most difficult for the President to discuss mutual balanced troop withdrawals from Europe with the Russians. It would also undermine the President's credibility for bargaining or negotiating on other matters, for the Russian leadership could become increasingly prone to thinking of the U.S. Senate as "Santa Claus."

Today, I would like to discuss the implications of this untimely troop cut proposal in the context of America's successful strategy for peace in Europe.

At the heart of the question of our force levels is the nature of our strategic objectives in Europe. These objectives are the result of plans which have continually been reviewed and subjected to critical scrutiny. These plans have enabled us to sustain a military and political balance calculated to insure the security and stability of Western Europe in a coherent manner.

OUR STRATEGY IN EUROPE REQUIRES MILITARY FLEXIBILITY

Now that more than 25 years have passed the Second World War, we now appear to be entering a period of negotiation with our adversaries. However, it is equally clear that these adversaries and particularly the Russians are as willing as ever to use their military power to promote their own political advantage to our detriment.

Our NATO strategy must counter the military and political might of the USSR. To do so it must be threefold. It must deter war in Europe and provide the Europeans with enough strength to conduct effective negotiations with the USSR and its allies. If deterrence should fail it must ultimately enable the NATO alliance to defend itself successfully. If it is to do so, it must anticipate the entire range of possible threats from conventional to nuclear, for if NATO is to operate as an effective military deterrent, it must have convincing responses to all possible Warsaw Pact initiatives. Today, NATO has such capability but more than ever it is necessary that we sustain NATO's conventional forces capability. We are at a stage when we have nuclear parity—a general and regional nuclear standoff with the Soviets—but under today's conditions great nuclear power capability is no longer a guarantee of military stalemate due to the unacceptable risks inherent in its use at any level.

RELIANCE ON TACTICAL NUCLEAR WEAPONS IS DANGEROUS

Reduction of our conventional forces in Europe without undermining NATO's flexible response strategy is dangerous for it implies huge risks in the event of conflict at any level. Soviet military might both nuclear and conventional—is growing. The Soviet military presence is expanding into the Mediterranean, Near East and Indian Ocean while their grip on Eastern Europe remains as tight as ever. Whether we meet this challenge depends upon the credibility of our military forces and especially our conventional forces.

Some proponents of troop cuts argue that we should rely more on tactical nuclear weapons in Europe so that we could reduce our conventional forces. While it is true that NATO has plans, procedures and ample means for the use of nuclear weapons at every level of conflict intensity, this is equally true of the Warsaw Pact. Therefore, if we initiated the use of nuclear weapons at an early stage of a conflict in order to avoid being militarily overwhelmed, we would face the real risk of retaliation in kind with the grim likelihood of escalation up to full strategic exchange.

Therefore, a strategy of greater reliance on tactical nuclear weapons would confront us with the monumental dilema of either risking military defeat or resorting almost at once to nuclear combat. In addition, a shift to such a strategy, would certainly involve vast damage to the society and economics of our allies in the event of a conflict. Such possibilities would seriously undermine both the European support for NATO, and United States commitment, for it could assure the destruction of Europe and increase the likelihood of general war with the attendant nuclear threat to the United States.

OUR PRESENT FORCE LEVEL IS JUST ENOUGH

As things now stand, NATO forces are of sufficient quality and size that they could conduct a realistic defense of Europe. Our ground forces in the key central region—even without France—are only slightly smaller than those of the Warsaw Pact and, with mobilization, would constitute a formidable military power. The two alliances would be roughly in balance after mobilization of their conventional forces. In short, any Warsaw Pact attempt to invade Western Europe today would require the use of force on such a scale that the Soviet Union is well aware that its own national survival would ultimately be risked. To reduce our NATO based forces now, without a corresponding reduction in Soviet forces, would clearly increase the military risks and decrease the political security of Western Europe. It would thus weaken the alliance and create in Europe—especially Germany—conditions conducive to a decisive political advantage for the Soviet Union.

THE POLITICAL AND LOGISTICAL INADEQUACY OF DUAL BASING

There are some who accept such risks, citing the apparently remote likelihood of a European conflict. They feel that we could do just as good a defensive job if we withdrew some of our forces on the understanding that they would be rapidly returned in the event of a crisis. The trouble with this is that we have already withdrawn 2⅔ divisions, on the understanding that they would return to Europe in a crisis. The transportation of these forces to the European theater will in itself strain our Air Force transport capacity.

Further reliance on forces stationed in the United States would require buying more transport aircraft and the additional prepositioning of equipment in Europe—both at very high cost. Such dual basing in the absence of adequate transportation would gravely weaken NATO. Dual basing would also seriously heighten a preconflict crisis of a political nature to a critical level. For such an overseas mobilization would carry with it to a crisis a momentum which could make conflict almost inevitable. In addition, one might also bear in mind the difficulties of coordinating and integrating United States and European forces on such short notice. In all probability this prospect alone would involve sufficient complexity to make the dual-basing concept wholly impractical as well as politically inadvisable.

FLEXIBLE RESPONSE REQUIRES 310,000 U.S. TROOPS

Our present strategy of flexible response is the best and safest means of sustaining our national security interests in Europe. However, this strategy will remain credible only as long as we maintain a sufficient conventional force level to meet aggression as far forward as possible and at any level of violence. The presence of our 310,000 men in the European theater constitute a force which has been carefully calculated to satisfy such a need. These 310,000 men are scattered from Greenland to the eastern Mediterranean. With a manpower deployment as thin as this, an arbitrary force reduction of 60,000 men—20 percent of our force—would leave dangerous gaps. As they now stand, our troops are a potent force and provide an essential alternative to nuclear conflict. They are the cornerstone of the whole alliance structure, a barometer of our commitment to the defense of Europe and at the heart of a strategy which places a high premium on reducing the risks of nuclear war.

A TROOP CUT WOULD REMOVE SOVIET INCENTIVE TO NEGOTIATE

We are now at a point when negotiations are underway or planned which could lead to far-reaching changes in Europe. We have been engaged in Berlin negotiations and SALT talks with the Russians. The possibility now exists for a conference on European security and negotiations with the USSR and Eastern Europe on mutual and balanced force reductions between NATO and the Warsaw Pact. A cut in our own forces before these various negotiations were concluded or even begun would undercut, if not defeat our overall diplomatic objectives in Europe. If the Soviets believe they can sit back and wait for us to reduce our forces unilaterally, they will have no incentive to make reciprocal reductions. For this reason alone the maintenance of our current force levels in Europe is vital until we have had a chance to test Soviet willingness to engage in serious negotiations.

The simple fact is that a unilateral reduction of our forces at this time would be interpreted by the Russians as well as our European allies as a reduction of our political commitment to defend Europe.

A TROOP CUT NOW WOULD SERIOUSLY UNDERMINE THE PRESIDENT AT MOSCOW

Next spring, President Nixon will journey to Moscow and his agenda will be certain to include a discussion of troop reductions in Europe as well as possible moves to lower tensions in other areas of the world. If the Senate gratuitously offers the Soviets a unilateral reduction of our forces in Europe how can the American people expect their President to persuade the Russian leadership to do likewise? What can he offer in exchange? The major reduction called for in this bill would seriously diminish the negotiating position and even the leadership credibility of the President. For who in Moscow could deny the possibility of other unilateral cuts of American strength elsewhere on the globe by the U.S. Senate?

The Senator from Kansas believes that a "summit" meeting calls for statesmanship and coherency of purpose by all branches of U.S. Government. If the President is to have the respect of his Soviet counterparts, he must have options available for purposes of negotiation. A unilateral troop cut could undermine the President on the eve of his visit to Moscow and diminish the prospects for useful agreements there.

WE MUST REMEMBER

If we were to adopt the reduction of our force level for NATO by 60,000 men we would bring heavy pressures on our European allies to reach accommodations with the Soviet Union and Eastern Europe. Such a development would not be in the national interest of the United States. In recent months and for weighty reasons of national well-being, the United States has imposed its trading partners in Europe—and elsewhere—a 10-percent import surcharge. This move has had particularly strong effects upon our friends in Western Europe, since they have traditionally exported manufactured goods to this country.

If we were to compound the political and economic strains arising out of these economic difficulties with the Europeans by staging a major reduction of our troop levels in NATO, the effect would be highly suggestive of isolationism and diminished American commitment to Western Europe. The balance of power which we have sustained there to contain the imperial ambitions of the Soviet Union would be seriously undermined.

ISRAEL COULD BE WEAKENED BY THE TROOP CUT

The troop cut proposed in the appropriations bill will injure the credibility of U.S. commitments beyond Europe. All of the world is aware of the paramount importance which the United States has historically assigned to Europe as a strategic theater. If we diminish our credibility there by a 20-percent troop cut, how can Israel and the other nations of the Middle East watch unmoved? The friendly and moderate Arab

States will be weakened and will turn more toward the Soviet Union. The radical states in the Middle East will be emboldened. Ultimately, the position of the Soviet Union in the Middle East would be enhanced politically, if not militarily.

The reduction by 20 percent of U.S. troops in Europe as suggested in the pending legislation would weaken our already thinly deployed troop levels across the board. This would affect our troop strength on the southern Mediterranean flank of NATO, and would diminish our ability to contain a conflict situation in the Mediterranean area and specifically, from Israel's point of view, the Middle East.

THE LESSONS OF HISTORY

History clearly shows us how the nations of Europe react to perceptible shifts in political and military commitments. One need look back no further than Soviet-Nazi nonaggression pact or the course of Finland in recent years to appreciate the fact that nations react to preserve their own interests. The interests of Western Europe following diminished American commitment to NATO would flow in the direction of political and economic accommodations with Eastern Europe and the Soviet Union. Such a shift by Europe could only accrue to the immense benefit of the Soviet Union.

I do not believe that conflict is likely to occur in Europe, although possibilities certainly exist there. However, governments must act to cover their bets when political shifts occur and weakened American commitment to NATO would assuredly change the political and military balance in Europe.

The lessons of history show us clearly that the best diplomatic policies are those which prevent weakness and avoid excessive military burdens. I believe that the President is following such a course. We seek stability in Europe and the normalization of Western relationships with Eastern Europe and the Soviet Union. We seek to preserve the independence of all nations and to promote their self-reliance. In Europe we can achieve this by coherent and timely behavior designed to promote successful negotiations between NATO and the Warsaw Pact. We can only expect such understanding to evolve from positions of mutual respect and capability. The troop cut would defeat this objective at the very time that the President would travel to Moscow in pursuit of it.

The proposed troop cut is badly timed. It would defeat our strategic interests in Europe and it would diminish prospects for great power troop negotiations. It would weaken the President at Moscow. I urge that the troop cut proposal be defeated.

Mr. MATHIAS. Mr. President, it is apparent that our friends in the Atlantic community are decidedly uneasy about our intentions for the future. They hear us talk about unilateral reduction of troops stationed in Europe and they feel the impact of unilateral economic steps already taken by the United States. To actually reduce our NATO troop levels without consultation would confirm their worst fears.

We need to have a better relationship with Europe today than at any time since World War II. Europe is our major trading partner. Europe provides vital elements in our defense system. European central banks perform a necessary service in stabilizing the dollar in international money markets.

But we should have a coordinated policy to achieve a reduction in the number of all men under arms in Europe. A constructive alternative to a unilateral cut is the resolution I submitted which proposes a consistent and reasonable approach to that goal. While that resolution is not in order in this debate, I ask unanimous consent that it be printed in the RECORD. I express the hope that it may receive early consideration by the Senate.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION

Resolved, That it is the sense of the Senate that:

1. The United States should revitalize its policy of support for the North Atlantic Alliance and reaffirm the policy of the United States for full partnership in the defense of the entire Atlantic Community on the basis of self-help and mutual support; and

2. The United States should actively seek mutual and balanced force reductions to be brought about through consultations among the NATO Allies with view toward negotiations between the NATO powers and the members of the Warsaw Pact; and

3. The United States should continue consultations with its Allies on the level of American forces required on the Continent to preserve the Atlantic defense potential and on the apportionment of troop reductions among the members of the alliance in event of agreement with the Warsaw Pact powers on mutual force reductions; and

4. In the absence of troop reductions between NATO and the Warsaw Pact, troop reductions undertaken by the Soviet Union, or a significant strengthening of Western European defense capacity, the United States should make no substantial reduction in the current level of its forces deployed in Europe before June 30, 1973, at which time the United States should determine with its European Allies the level of American forces required for Western defense; and

5. The United States should seek, with its European Allies, to immediately improve the effectiveness of forces deployed in Europe and to encourage the development of a common Western European defense effort within the framework of NATO; and

6. The United States should continue to support steps furthering the progress of *detente* in Europe, in ways best designed to maintain the strength of the Atlantic Alliance and reassure its European Allies of its continued commitment to their peaceful development; and

7. The United States should undertake with its European Allies to resolve the current monetary and trade crisis, with a particular view toward augmenting the total strength of the peoples constituting the Atlantic Alliance, while building a new structure of international economic relations for the benefit of all nations.

Mr. KENNEDY. Mr. President, the amendment of the Senate majority leader which was adopted by the Senate Appropriations Committee establishes a reasonable reduction in the size of U.S. forces committed to NATO and stationed in Europe.

I also want to emphasize that the reduction is modest, approximately 50,000, and surely it cannot be argued that this is a new or unexpected development.

Over the past 6 years, the distinguished majority leader has continually sought to bring both Democratic and Republican administrations to face the issue of "How much is enough?" to meet our commitment to NATO.

I joined as a cosponsor of those amendments which were aimed at inducing the executive branch to negotiate a reduction of our share of the NATO burden. The resolutions also were aimed at encouraging negotiations with the Soviet Union to achieve mutual reductions in NATO and Warsaw Pact forces. Yet neither avenue has been pursued with the vigor demanded by the times.

That is why I believe the reduction of 50,000 men is a necessary step to bring our commitment of troops to NATO into line with present reality.

We must recognize that the stage on which we act is far different today from what it was 20 years ago.

The progression of events has made it necessary for us to reshape the responsibilities of the nations of the North Atlantic Alliance to reflect those changing events.

The enormous and positive developments in Europe—economic, political, and social—have occurred without an equivalent adjustment in the internal structure of the Alliance.

There has been a tripling of the per capita gross national product of the Federal Republic of Germany over the past two decades. That is only one indication of the massive changes which have occurred in the capacity of the various nations to contribute to Atlantic security.

The achievements of the Common Market and the impressive beginnings of an all-European space program are further evidence of the changes which have occurred in the past two decades which require an adjustment in the relative shares of the member nations.

I believe it would be unfortunate if we failed to recognize the changes which have occurred and opted for the maintenance of the status quo in the internal relationship of NATO.

This means a greater leadership for Europe within the Alliance. The action last year of the Euro-group should be seen as part of the natural expression of an expanded leadership role by the European nations commensurate with their increased capacities.

And in keeping with that capacity, I believe that a much greater share of the command decisions should be European.

What this also entails in my view is a decrease in the form of the U.S. commitment to the defense of Europe—not in the commitment itself.

It can be said quite clearly and has been in the past, that the first line of defense of the United States is in Europe. That is undoubtedly true. But in many more ways, we have continuing commitment to the security of Europe.

And it is in the context of a change in form not of substance that I believe the two seemingly contradictory elements of a reduction in U.S. troops and a reaffirmation of the U.S. commitment can occur.

I believe that a 50,000-man reduction should not be seen as a reduction in the U.S. commitment and I hope that others will confirm my view that we are willing to accept a long-term commitment for a substantial force level to NATO.

It is in that context that I believe the reduction proposed in the current bill does not reflect a turning away from Europe.

Also, I believe that the comparative troop levels of NATO and the Warsaw Pact demonstrates that this reduction in no way reflects a surrender to a tripwire policy.

Composite statistics from the London Institute of Strategic Studies and the Department of Defense, which were placed in the RECORD last May 13 and which I ask unanimous consent to place in the RECORD again, demonstrate that the NATO division forces have actual manpower of 725,000 men available in the center region compared to 591,000 for the Warsaw Pact.

There being no objection, the statistics were ordered to be printed in the RECORD, as follows:

APPENDIX I

TABLE 1.—WORLDWIDE NATO AND THE WARSAW PACT, MID-1970

	NATO[1]	Warsaw Pact
Manpower:		
Army	3,360,500	2,822,000
Navy	1,029,500	529,500
Air Force	1,340,250	574,000
Total men	5,730,250	3,925,500
Combat aircraft	10,074	12,535
Nominal combat aircraft value	$30,600,000,000	$19,200,000,000
Total Defense budget	$75,526,000,000	[2] $47,158,000,000

[1] Excludes U.S. manpower, combat aircraft, and portion of Defense budget dedicated to Vietnam. Includes France.

[2] At U.S. prices. That is, the United States could "buy" the Warsaw Pact forces—pay the men at our pay scales and build the equipment in our own factories—for about $47,200,000,000 per year.

TABLE 2.—WORLDWIDE NATO AND WARSAW PACT FORCES, OCTOBER 1968

[Excluding U.S. increases for Vietnam]

	NATO	Warsaw Pact
Manpower:		
Army/Marines	3,000,000	2,850,000
Navy	1,070,000	470,000
Air Force	1,400,000	880,000
Total men	[1] 5,470,000	4,200,000
Tactical aircraft:		
Total inventory	11,500	9,000
Nominal inventory value	$27,000,000,000	[2] $16,000,000,000
Total Defense budget	[3] $75,000,000,000	[4] $50,000,000,000

[1] This total includes the forces of France.

[2] Approximate.

[3] Does not include U.S. costs for Vietnam.

[4] At U.S. prices. That is, the United States could "buy" the Warsaw Pact forces—pay the men at our pay scales and build the equipment in our own factories—for about $50,000,000,000 per year.

TABLE 3.—THE MILITARY BALANCE BETWEEN NATO AND THE WARSAW PACT, 1970

	Northern and Central Europe			Southern Europe		
Ground formations	NATO	Warsaw Pact	(Of which U.S.S.R.)	NATO	Warsaw Pact	(Of which U.S.S.R.)
CATEGORY						
Ground forces available to commanders in peacetime (in division equivalents):						
Armored	8	31	19	6	12	3
Infantry, mechanized and airborne	16	38	21	28	22	3
Manpower (in thousands):						
Combat and direct support troops available	580	900	585	525	370	74

	Northern and Central Europe			Southern Europe		
Ground formations	NATO	Warsaw Pact	(Of which U.S.S.R.)	NATO	Warsaw Pact	(Of which U.S.S.R.)
Tanks: Medium/heavy tanks available to commanders: in peacetime	11,000	14,000	8,000	2,100	5,000	1,400
Air forces: Tactical aircraft in operational service:						
Light bombers	16	240	200	----------	30	30
Fighter/ground attack	1,400	1,300	1,000	600	200	50
Interceptors	350	2,000	900	250	850	450
Reconnaissance	400	400	300	100	100	40

TABLE 4.—THE MILITARY BALANCE BETWEEN NATO AND THE WARSAW PACT, 1969

	Northern and Central Europe			Southern Europe		
Ground formations	NATO	Warsaw Pact	(Of which U.S.S.R.)	NATO	Warsaw Pact	(Of which U.S.S.R.)
CATEGORY						
Ground forces available to commanders in peacetime (in division equivalents):						
Armored	8	30	19	6	11	3
Infantry, mechanized and airborne	16	35	20	27	23	4
Manpower (in thousands:						
Combat and direct support troops available	608	925	600	525	375	100

	Northern and Central Europe			Southern Europe		
Ground formations	NATO	Warsaw Pact	(Of which U.S.S.R.)	NATO	Warsaw Pact	(Of which U.S.S.R.)
Tanks: Medium/heavy tanks available to commanders: In peacetime	5,250	12,500	8,000	1,800	4,600	1,300
Air forces: Tactical aircraft in operational service:						
Light bombers	50	260	220	----------	60	60
Fighter/ground attack	1,150	1,285	820	550	215	105
Air forces: Tactical aircraft in operational service:						
Interceptors	450	2,000	885	300	860	295
Reconnaissance	400	250	220	125	50	40

APPROXIMATE STRENGTHS OF MILITARY FORMATIONS

	Division (in men)				Squadron (in aircraft)		
Country	Infantry	Armor	Airborne	Infantry brigade (in men)	Bomber/fighter-bomber	Fighter	Transport
United States	16,000	15,500	13,500	4,000-5,000	12-15	18-25	16
Soviet Union	10,000	8,250	7,000	2,000	9-10	10-12	8-10
China	12,000-14,000	10,000	6,000	3,000	9-10	10-12	8-10
Britain	12,000-15,000	12,000-15,000	--------------	4,000-6,000	8-10	12-14	9-12
France	14,000	16,000	14,000	3,500-4,000	4-12	12-15	16
Germany (West)	15,500	14,500	--------------	3,000-4,000	15-20	15-20	12-18

Sources: Department of Defense, Office of Systems Analysis; The Military Balance, 1970-71, Institute of Strategic Studies, London.

APPENDIX II

TABLE I.—NATO AND WARSAW PACT FORCES (CENTER REGION), MID-1970

	NATO	Warsaw Pact
Land forces—M-Day:		
Divisions	[1] 22	[2] 45
Manpower in divisions	319,000	384,000
Manpower in divisions forces	725,000	591,000
Riflemen (NATO as percent of pact)	98	
Equipment (NATO as percent of pact):		
Tanks	[3] 85	
Antitank weapons	150	
Armored personnel carriers	130	
Artillery and mortars (number of tubes)	[4] 100	
Divisional logistic lift	150	
Total vehicles	135	
Engineers (percent)	137	

	NATO	Warsaw Pact
Tactical air forces:		
Combat aircraft	2,000	2.500
Percentage of force by mission deployed in Europe	20	40
Percentage of force by mission capability (center region):		
Primarily interceptors	10	
Multipurpose fighter/attack	48	15
Primarily attack	9	6
Reconnaissance	13	8
Low performance	20	29
Total (percent)	100	100

[1] Includes 5 French divisions.

[2] 22 of which are Soviet and 23 of which are East European, including 8 Czech.

[3] NATO tanks are generally more modern. The "relative weakness" in tanks reflects NATO's essentially defensive role.

[4] NATO is likely to have superior firepower because of the greater lethality of its ammunition and the logistic capability to sustain higher rates of fire.

Note: Effectiveness—NATO has some superiority in sophistication of equipment (i.e. payload loiter capability) the capability of its aircrews, which have in general higher training standards and fly more hours, and the versatility of its aircraft. The NATO countries also have a worldwide inventory of aircraft far greater than that of the Warsaw Pact and in a situation where total reinforcement can be taken into account would have the greater capability.

TABLE II.—CENTER REGION NATO AND WARSAW PACT FORCES, MID-1968 DATA[1]

	NATO[2]	Warsaw Pact[3]
Land forces—M-Day:		
Divisions	28⅔	46
Manpower in divisions	389,000	368,000
Manpower in divisions forces	677,000	619,000
Riflemen (NATO as percent of Pact)	100	
Equipment (NATO as percent of Pact):		
Tanks	60	
Antitank weapons	150	
Armored personnel carriers	130	
Artillery and mortars (number of tubes)	100	
Divisional logistic lift	150	
Total vehicles	135	
Engineers (percent)	137	

	NATO[2]	Warsaw Pact[3]
Tactical air forces:		
Number of deployed aircraft	2,100	2,900
Percentage of force by mission deployed in Europe	20	4
Percentage of force by mission capability (Center Region):		
Primarily interceptors	10	42
Multipurpose fighter/attack	48	15
Primarily attack	9	6
Reconnaissance	13	8
Low performance	20	29
Total (percent)	100	100
Effectiveness indicators (NATO as percent of pact):		
Payload	280	
Typical loiter time	[4] 250–500	
Crew training	180	

[1] These data relate to the situation prior to the Czechoslovakian crisis. Revised figures have not yet been established but they are unlikely to make a significant difference in the rough balance portrayed in this table. Center region includes West Germany, Belgium, Netherlands, and France for NATO; East Germany, Poland, and Czechoslovakia for the Pact.

[2] Includes 5 French divisions.

[3] 22 of which are Soviet, and 24 of which are East European, including 8 Czech.

[4] Range depends on tactical mission profile assumed.

Mr. KENNEDY. Thus, a reduction of 50,000 men does not in any way reflect a massive deterioration in the conventional military capability of NATO forces, as has been threatened.

In fact, if the composition of our forces were examined, I believe that the 50,000 reduction, when combined with reduction in the numbers of generals, a reduction in the numbers of support troops and a reduction in the numbers of headquarters, can occur without reducing significantly our combat capability.

After this matter was presented to the Military Committee of the North Atlantic Assembly meeting in Ottawa, of which I am cochairman, a resolution was adopted calling for a review of the organizational structure of the military forces.

The resolution which I introduced was specifically aimed at the U.S. force in Europe and at the current ratios of combat to support troops and the numbers and roles of headquarter units in relation to the forces they command. The resolution was later adopted by the General Assembly. I ask unanimous consent to print this resolution in the RECORD at this time.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RECOMMENDATION 11 ON THE MOST EFFICIENT USE OF MILITARY MANPOWER[1]

The Assembly,

Considering that the most efficient use of the available manpower of NATO forces will promote the defence objectives of NATO and the security of Europe;

Considering that there are different organisational structures within the military forces of the different member nations;

Considering that it would be desirable for any changes in force by any member country of NATO to be made in conjunction with a reorganisation of the remaining forces;

Recommends to the Defence Planning Committee of NATO that:

(a) it should undertake a review of the organisational structure of the member nation forces assigned to NATO, paying particular attention to the ratio of combat to support troops and to the numbers and roles of headquarter units in relation to the forces they command;

(b) it should recommend possible steps each nation might take to reorganise its forces in order to achieve an improved capability for the defence of Europe;

(c) it should report on the results of allocating NATO Headquarters and shape in the Brussels area and, according to its findings, recommend next steps to improve their efficiency.

Mr. KENNEDY. Briefly, the question which the chairman of the Senate Armed Forces Committee also raised during hearings on the military manpower authorization bill this year is the following.

U.S. forces in Europe include 4⅓ combat division forces, approximately 200,000 men, very few of whom are actually combat troops.

The vast majority of those troops are support troops. Within the division force there is a 16,000 combat element, a 16,000 initial supporting element, and a 16,000 sustaining support element. In fact, even within the 16,000 combat element, there are 9,000 complementary supporting troops.

While it can be legitimately argued that the combat troops could not exist without the 9,000 complementary supporting troops, and perhaps a similar argument could be made for portions of the 16,000-man initial supporting element, the 16,000 sustaining support element is a totally different matter. They are designed to provide additional support in a time period long after any initial attack. They could easily be airlifted to Europe if they are needed at all.

In addition, we have some 7,000 officers and enlisted men assigned to headquarters commands, including 128 generals or flag officers.

So it is that I believe a 50,000-man reduction in our NATO forces can be accomplished without any major reduction in our combat capabilities. Surely the proposed reduction does not entail the horrendous results that the opponents of the committee amendment are suggesting.

Nor does this step reflect a rejection of the route of mutual balanced force reductions as the ultimate method for ending the present situation of two armed camps straddling the European Continent. If anything, it reflects a U.S. declaration of its readiness to enter into such negotiations.

Thus, I would hope that the legislative history would make clear that any further substantial reductions in the force level would take place only through mutual balanced force reductions.

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[1] Presented by the Military Committee.

Mr. President, I want to emphasize that our commitment to Europe is firm. We are not calling for a complete withdrawal of U.S. troops, nor do I believe that would be in the interest of the United States or in the interest of peace.

For 26 years, U.S. forces have garrisoned Europe. For 26 years, we have talked of the European nations assuming a greater share of the burden of their defense. Yet for 26 years, we have watched the support and logistical tail of our divisions curl around the Continent of Europe.

The time has come to end U.S. domination of the alliance and to permit the European nations to take a greater share of the military burden.

Mr. COOPER. Mr. President, the time for debate on the amendment of the distinguished majority leader, Senator MANSFIELD has been limited to 40 minutes in support and 40 minutes in opposition to the amendment. I oppose the amendment and I will vote "no" on retaining the Mansfield amendment in the pending Department of Defense appropriation bill.

As time is limited, there is no opportunity to give my reasons for opposing the Mansfield amendment.

When a similar amendment was last voted upon, on May 13, 1971—although the reduction sought there was 150,000 rather than 50,000 as in the pending amendment—I spoke upon the subject. I am therefore taking the liberty of placing in the RECORD—in small print—my speech at the time. The reasons I gave then are applicable at this time.

In fact, I believe it is even more important today to reaffirm our adherence and position in NATO, for it appears there is the possibility of serious negotiation on the subject of mutual and planned troop reduction of NATO and Warsaw Pact forces. This type of agreement cannot be secured by unilateral reduction of its forces by the United States.

The speech follows:

STATEMENT BY JOHN SHERMAN COOPER

Mr. President: It is not often that I differ with the distinguished Majority Leader, Senator Mansfield, on questions concerning foreign policy. He is universally respected for his integrity and judgment. But on this issue—the reduction of U.S. forces in the NATO alliance without any corresponding reduction of Soviet forces—I must differ with the Majority Leader and oppose his amendment.

Senator Mansfield's amendment to reduce United States forces committed to NATO has raised a fundamental question. It is a fundamental question that affects the basic security of this country. The amendment to cut United States forces by 150,000 troops poses a serious challenge to the strength and indeed the future existence of the NATO alliance and to the security of the United States.

What is at issue is whether continued U.S. military support of the NATO Alliance is in the United States interest. What is also at issue is whether the policy of deterrence—to prevent war with the Soviet Union, to prevent a nuclear war—that has evolved since the end of World War II will remain in force.

Senator Mansfield has raised valid questions about the cost of United States participation in NATO. Also, it is a valid question whether the actual contribution to NATO made by our European Allies is a true reflection of their economic capabilities and their security concerns.

We cannot minimize the cost the United States has paid and continue to pay to keep the NATO Alliance strong. Over three years ago, in preparing a report for the Military Committee of the Atlantic Assembly, I obtained an estimate of the cost of NATO to the United States from an analysis made for me by the Department of Defense. For the first time, it was revealed that the manpower—ground, air, naval—materiel and all attendant costs of the NATO mission in Europe, in the United States and on the sea, is about $14 billion a year. $3 billion of this $14 billion is for direct support of the approximately 250,000 military personnel we now have in Western Europe.

If the cost of the Sixth Fleet is included, the actual operating costs for our forces and dependents in Europe is about $7 to $8 billion. The remainder is for forces stationed in the United States, for ships and air power positioned in the United States and in the Atlantic and elsewhere, which, in the event of a war in Europe would be sent to reinforce NATO forces. But, as others have pointed out in this debate, and this must be emphasized—the forces cost to the United States would be reduced little, if at all, by the withdrawal of the forces proposed by the amendment before us, unless they were discharged from the service.

If we consider the NATO Military Alliance as necessary for deterrence, as a means of assisting in the prevention of war and a nuclear war and thus necessary for the security of the United States—and I do not believe this concept can be successfully challenged—then we must consider our cost in relation to that of our allies. The United States' contribution of $14 billion to the NATO mission is more than matched by the amounts spent by our NATO partners which is over $22 billion annually.

As for manpower, our allies supply by far the largest share, 20 divisions, while the United States provides 4⅓ divisions. The combined Gross National Product of Western Europe is somewhat smaller than that of the United States. Its total population is about ⅓ larger than the United States. In almost every respect I do not think that it can be argued that the Europeans have not made a substantial contribution to the NATO Alliance. And, now, since and largely because of, the announcement of President Nixon's desire to maintain U.S. strength in Europe and because of his determined efforts and that of Secretary Rogers in the NATO Council and of Secretary Laird, our NATO partners are strengthening their military capabilities and contributing large sums of the Alliance.

The Mansfield "sense of the Senate" resolutions of past years, even though not acted upon by the Senate or the House, have had good effect in urging upon our NATO allies in Europe the necessity of taking the action of improving qualitatively their active forces and reserves, of making contributions to infrastructure solely as English and European undertakings. Our allies are taking these steps today. I believe the passage of this resolution would only serve to undercut the common action of the United States and our allies in strengthening the NATO position and an immensely important objective I now want to discuss.

The joint effort of the U.S. and our NATO allies now positively underway is to provide greater assurance that conventional war and above all, a nuclear war, will continue to be deterred.

Prior to the present program of strengthening qualitatively NATO forces and improving defense facilities and infrastructure, NATO recognized its inability to stand for any length of time against well-armed Soviet and Warsaw Pact forces possessing a capability of speedy mobilization and reinforcement. NATO relied upon the so-called "trip wire" strategy—that is the strategy of meeting a Warsaw Pact attack by the use of tactical nuclear weapons, a situation which all agree would rapidly escalate into all-out nuclear war.

Four years ago NATO adopted the strategy of "flexible response" which had as its purpose a lessening of the likelihood of any kind of war, conventional, tactical or strategic. It was determined that NATO conventional forces should be strengthened to resist any probable attack. Over the past three years and particularly in the last year, significant qualitative improvements have been made. Deficiencies remain, but NATO's deterrent role has been considerably strengthened.

If the forces proposed in the amendment before us should be removed, together with their equipment, the result would be a thin "trip line" across Europe and an increase in our allies' forces could not fill the gap left by U.S. departure. There is no question that a reversion to the "trip wire" strategy which would inevitably follow might cost the United States less in dollars than we spend today, but it would increase the danger of a nuclear war.

I am concerned about the nuclear arms race and all its wasteful costs. All of us are concerned that it will result in an instability that will weaken the present nuclear deterrent and will make nuclear war more likely.

In a very important way, the SALT talks will tell us the direction of our future security. The SALT talks are an attempt by the two great super-powers to institutionalize a new concept of security. That new concept is Parity, or, as President Nixon has defined it, "sufficiency." It is based on the belief that neither super-power can achieve a significant superiority in destructive power over the other. It is a belief that any new developments in technology can be matched, and that neither side can produce enough weapons, no matter how powerful, to overcome the other. The SALT talks are unique in the history of the world because if they are successful neither side will gain any strategic advantage, and both sides will be greatly benefited. If the talks are successful, the great stockpiles of weapons whose destructive force is equivalent to that of 15 tons of TNT per every person on earth can be reduced, equally on both sides, to considerably less than each side now possesses.

In Europe the NATO and Warsaw Pact forces are now at Parity. There is a balance in manpower and weaponry. Neither side has enough superior strength in any category—men or materiel, which cannot be matched by the other side.

I attach, as an appendix, to this statement, the comparative forces of the NATO and Warsaw Pact. I think these tables will show that it is unlikely that either side would launch an attack. It is unlikely because the military facts are such that the result would be, at best, stalemate, and at worst, complete annihilation on both sides, or indeed the entire world.

The United States relies upon the NATO alliance because we do not have the strength to remain secure by ourselves. There is no alternative, except to join with the Western European countries in a common effort to deter war. With our allies, the combination of our joint wealth, manpower and military force, provides for the United States and Western Europe a balance which more than matches the power and the economic resources of the Soviet Union and its allies. Given the existing military strength and economic resources of the Soviet Union and its allies, it is in our interest to have a strong NATO.

By this, I do not mean reductions cannot be made. But, if NATO reduces its forces, it must do so under two conditions—conditions that seem to me reasonable. If we are at parity now with the Warsaw Pact, reductions that are made in NATO should be made mutually by both super-powers. Comparable reductions would have to be made by the Warsaw Pact forces. And, secondly, it only makes sense to make no unilateral reductions unless they are a result of a joint decision of all the NATO allies.

I do not know, and none of us knows Soviet intentions. It seems unlikely that a sensible government would take military action that could lead to war and nuclear war. But we do remember Czechoslovakia, we see the growing strength of Soviet conventional and strategic forces, and Soviet movement into the Mideast and Mediterranean. We know that NATO must have had effect in deterring action in Europe.

I am hopeful at this time when the Soviet Union and the United States are encouraged in negotiations to halt the strategic nuclear arms race at a time when initiatives are being taken toward a settlement of issues which have caused tension and threatened the peace in Europe, as evidenced by West German efforts toward a treaty with the Soviet Union and Poland and bettering relations with East Germany; and at a time when the four powers are attempting to settle the difficult questions concerning Berlin; at a time when the countries of Europe are moving toward greater unity we will not take this step toward disunity, toward a "trip wire" nuclear strategy, toward a lessening of our security.

For these reasons, I cannot support Senator Mansfield's amendment, and I would urge the Senate to continue its support of the NATO Alliance at its present levels, until such time as mutual reductions of forces by the two opposing Pacts can be made. I think greater efforts should be directed toward this end, but, in the meantime, I believe the present course to be the correct one.

In my view, NATO is vital to American security. In the present day in Vietnam, we are engaged in a war and in an area which I do not believe is vital to our security. The Congress and the country desire to get out of the entanglement of Vietnam, with its cost in lives and treasure. We are extricating ourselves from that tragic involvement, but we should not unwisely withdraw from an alliance which has brought us security in the past and which continues to have meaning now.

I consider the maintenance of our present position in NATO under all these conditions an instrument of peace.

Mr. STENNIS. Mr. President, I yield back such time as I may have with the exception of one-half minute, which I yield to the majority leader.

Mr. MANSFIELD. Mr. President, mutual force reduction—if we get it in 10 years, we will be lucky. If we get it in two decades it may be a possibility.

I ask unanimous consent that I may have printed in the RECORD at the conclusion of my remarks a statement made by President Eisenhower and myself which I think will be a counterpoise to the 16 ambassadors, in which he said he had his views as President but because of the delicacy of the question he held for peace, but when he came out of office he said one division would be enough.

What about the 70,000 aliens working at American installations? Just lately have they allowed wives of American servicemen to do KP. Think about that and think about a lot of other things, too.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

STATEMENT

Reduction in NATO forces has been long talked about. As far back as 1963 in the Saturday Evening Post, President Eisenhower said:

"Though for eight years in the White House I believed and announced to my associates that a reduction of American strength in Europe should be initiated as soon as European economies were restored, the matter was then considered too delicate a political question to raise. I believe the time has come when we should start withdrawing some of those troops."

The same critics of troop withdrawals have repeatedly stated such a show of strength was necessary to sustain the morale of our European friends. That argument has worn pretty thin. President Eisenhower put it succinctly when he declared:

"One division can show the flag as definitely as several."

Mr. BYRD of West Virginia. Mr. President, the distinguished majority leader has long advocated and most persuasively argued for a withdrawal from Europe of a substantial number of U.S. forces. So far, his efforts to achieve that desirable end have engendered some agreement but little positive action.

Once again, he is in the vanguard of the forces of pragmatism and it is devoutly hoped that the Members of this body will accord the majority leader their support and assist him to superimpose realism and commonsense on a situation that is jeopardizing the economic future of the United States. And, Mr. President, when the economic future of our country is impaired, the security of our country is endangered.

There can be no argument that the Marshall plan and the formation of the North Atlantic Treaty Organization were sound economics and intelligent strategy. Our NATO allies after World War II were in tatters—their treasuries bare and their military capabilities in dangerous disrepair. We, too, had suffered grievously but of all the Allies, we were best able to finance and man the defenses that prudence dictated had to be established in postwar Europe. The United States assumed this responsibility and largely because we did, there has been peace in Europe for 25 years.

Mr. President, I would be the last to claim that our military presence in Europe stems only from altruism. Our own military security needs imposed the requirement that West Germany, France, Belgium, the United Kingdom, and the other NATO partners be not exposed nakedly to threats of aggression from any quarter.

What it cost the United States to station 300,000 troops and the myriad of ancillary services needed to maintain them was money well spent while we could afford it and while the nations of Europe were struggling to put bread in the mouths of their workers and shoes on the feet of their children. But, Mr. President, these are changed days. The majority of European countries are enjoying healthy growth rates and favorable foreign exchanges. I need not emphasize to Members of this distinguished body that only if the stringent economic measures now being taken by the administration are successful will we be able to extricate ourselves from the economic slough into which we have fallen. The assumption of a very large lion's share of military and financial responsibility while we were affluent was admirable—its retention in our current circumstances, in my opinion, is a disservice to the American people.

We are spending close to 7.7 percent of our gross national product on defense. Our NATO allies average but 4 percent of their GNP on their defense. Our persistent balance-of-payments deficit and the drain on our gold reserves go on apace. Is it not time, Mr. President, that we take what steps we can to alleviate in every way this deteriorating situation? Is it not time that we reordered our priorities and lowered our profile around the world? And is it not time to recognize that our continued and expensive presence in Europe could be substantially, yet safely, withdrawn? It is axiomatic, after all, that the economic well-being of the United States is as important to the overall security of the North Atlantic area as is our defense contribution. With the latter, we help. Without the former, we are helpless.

With their sound economic situations, the nations of the North Atlantic alliance are easily able to contribute substantially more to their own defense, but as long as we continue to bear the brunt, so long will they continue to say "Let Sam do it."

Mr. President, I do not advocate for a moment that the United States should withdraw behind the fastnesses of our frontiers. I would be no party to our abrogating our duties and responsibilities to the world community. But, Mr. President, I feel strongly that we are carrying a disproportionate share of the load in Western Europe and that we will be allowed to continue in that role till we ourselves take positive action to balance the scale. Mr. President, the amendment offered by the distinguished majority leader would be a significant step in that direction and I urge my colleagues to vote for it.

The PRESIDING OFFICER. All time on the amendment has expired.

Mr. STENNIS. Mr. President, I ask for yeas and nays on the committee amendment.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment beginning with line 24, at the bottom of page 48.

Mr. STENNIS. Mr. President, a "nay" vote would be in opposition to the committee amendment for the reduction?

The PRESIDING OFFICER. That is correct.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. ELLENDER. Mr. President, a "yea" vote sustains the committee? Is that correct?

The PRESIDING OFFICER. The Senator is correct.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana

(Mr. Hartke), the Senator from South Dakota (Mr. McGovern), and the Senator from Maine (Mr. Muskie) are necessarily absent.

I further announce that the Senator from Idaho (Mr. Church) is absent on official business.

Mr. GRIFFIN. I announce that the Senator from New Hampshire (Mr. Cotton) is necessarily absent.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

The Senator from Ohio (Mr. Saxbe) is absent on official business.

The result was announced—yeas 39, nays 54, as follows:

[No. 392 Leg.]

YEAS—39

Aiken
Anderson
Bayh
Bible
Burdick
Byrd, W. Va.
Cranston
Eagleton
Ellender
Fulbright
Gambrell
Gravel
Harris
Hart
Hatfield
Hollings
Hughes
Inouye
Kennedy
Long
Magnuson
Mansfield
McClellan
McIntyre
Metcalf
Mondale
Montoya
Moss
Nelson
Packwood
Pastore
Proxmire
Randolph
Ribicoff
Stafford
Symington
Talmadge
Williams
Young

NAYS—54

Allen
Allott
Baker
Beall
Bellmon
Bennett
Bentsen
Boggs
Brock
Brooke
Buckley
Byrd, Va.
Cannon
Case
Chiles
Cook
Cooper
Curtis
Dole
Dominick
Eastland
Ervin
Fannin
Fong
Goldwater
Griffin
Gurney
Hansen
Hruska
Humphrey
Jackson
Javits
Jordan, N.C.
Jordan, Idaho
Mathias
McGee
Miller
Pearson
Pell
Percy
Roth
Schweiker
Scott
Smith
Sparkman
Spong
Stennis
Stevens
Stevenson
Taft
Thurmond
Tower
Tunney
Weicker

NOT VOTING—7

Church
Cotton
Hartke
McGovern
Mundt
Muskie
Saxbe

So the committee amendment on page 48, line 24, was rejected.

Mr. STENNIS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. GRIFFIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 731

Mr. DOMINICK. Mr. President, I call up my amendment No. 731.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 23, line 26, and page 24, line 1, strike out "$2,281,319,000" and insert in lieu thereof "$2,299,619,000".

On page 24, after the period in line 4, insert the following: "Of the $2,299,619,000 appropriated in the preceding sentence, not less than $33,689,000 shall be available for research and development in connection with the surface effect ship program."

The PRESIDING OFFICER. Does the Senator wish to have the amendments considered en bloc?

Mr. DOMINICK. Yes; it is in fact one amendment, but I ask unanimous consent that it be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMINICK. Mr. President, I am perfectly willing to enter into a very short time agreement on this amendment, because I do not think it will require any length of time.

Mr. MANSFIELD. How much?

Mr. DOMINICK. Thirty minutes to a side.

The PRESIDING OFFICER. The Senate will be in order.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a time allocation of 30 minutes on the pending amendment, the time to be equally divided between the manager of the bill and the proponent of the amendment, the time not to begin until after the colloquy between the majority and minority leaders.

Mr. DOMINICK. I did not hear the Senator's last statement.

Mr. MANSFIELD. Half an hour, but it would not begin until after the colloquy between us about the program for the rest of today and tomorrow.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

ORDER OF BUSINESS

Mr. SCOTT. Mr. President, I rise, with the understanding that this time will not be taken out of any amendment, to inquire of the distinguished majority leader as to what is the schedule for the rest of the night, and then as to what will prevail before we depart for the festal board sometime tomorrow.

Mr. MANSFIELD. Mr. President, in response to the question raised by the distinguished minority leader, which I am sure is of interest to the Senate as a whole, it is hoped that we will be able to finish the pending business tonight. The cooperation and accommodation of all Senators and the mood of the Senate seem to indicate that that is a fairly good possibility.

I should like at this time, if the distinguished minority leader would yield, to ask the assistant majority leader to make a series of requests, if he would, about time limitations on other amendments.

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD of West Virginia. I thank the majority leader and the minority leader.

Mr. President, I ask unanimous consent that upon the disposition of the pending amendment by the Senator from Colorado (Mr. Dominick), the Chair recognize the distinguished Senator from Missouri (Mr. Symington) to call up an amendment dealing with national intelligence, the time on that amendment to be limited to 90 minutes, to be equally divided between the distinguished mover of the amendment and the distinguished manager of the bill; that upon the disposition of that amendment, the amendment by the Senator from New Hampshire (Mr. McIntyre), No. 749, be called up, the time on that amendment to be limited to 30 minutes, to be equally divided between the distinguished mover of the amendment and the distinguished manager of the bill.

The PRESIDING OFFICER. Is there objection?

Mr. SCOTT. Mr. President, reserving the right to object, would the distinguished assistant majority leader cover the matter of amendments to amendments?

Mr. BYRD of West Virginia. I was going to do that.

The PRESIDING OFFICER. Is there objection to the unanimous consent request?

Mr. BYRD of West Virginia. I have not completed it.

Mr. GOLDWATER. Mr. President, reserving the right to object—and I will not object—could the leadership tell us whether or not we can expect the yeas and nays on final passage?

Mr. MANSFIELD. I think we should, on a bill of this nature. It is a few billion dollars.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that upon the disposition of the amendment by the Senator from New Hampshire (Mr. McIntyre), the amendment by the Senator from Alaska (Mr. Gravel), No. 747, be called up, the time on that amendment to be limited to 30 minutes, to be equally divided between the mover of the amendment and the manager of the bill.

Provided further, that time on any amendment in the second degree, motion, or appeal, with the exception of nondebatable motions to any of the aforementioned amendments, be limited to 20 minutes, to be equally divided between the mover of such and the manager of the bill.

The PRESIDING OFFICER. Is there objection?

Mr. MAGNUSON. Mr. President, reserving the right to object, I did not hear the Senator from West Virginia mention the proposed amendment by the Senator from Nevada. Do we intend to bring that up now?

How much time is there now on all the requests?

Mr. MANSFIELD. It will speed up. We are wasting time now if we do not get an agreement.

Mr. BYRD of West Virginia. The distinguished Senator from Nevada has not indicated to me as yet how much time he wants.

Mr. CANNON. I am not prepared to indicate at this time. I do not know. As I have indicated earlier, I am going to raise a point of order that I think is good. If the opponents of that position intend to go to a vote on the issue, then I am not going to agree to a time limit, because I want to educate the Senate on the issues involved first.

Mr. SYMINGTON. Mr. President, reserving the right to object, do I correctly understand that my amendment will be called up after the amendment of Senator Dominick?

Mr. MANSFIELD. Yes.

Mr. SYMINGTON. How much time am I allowed?

Mr. MANSFIELD. Ninety minutes, 45 minutes to a side.

Mr. CASE. Mr. President, reserving the right to object, how many more amendments are there?

Mr. MANSFIELD. We have five, on the basis that we understand; and the purpose is to try to finish tonight and adjourn early tomorrow.

Mr. CASE. I understand. But I asked how many there are beyond those mentioned already.

Mr. MANSFIELD. I do not know, except for the one by the Senator from Nevada.

Mr. CANNON. I really do not know. If my point of order is sustained, that will end it. If the Senate overrides it, then I will have some amendments to offer. So I cannot tell at this point.

Mr. CASE. I just suggest that it would make good sense, if we are going to be here until 11 o'clock again, a second night, we might carry it over until tomorrow and finish in a reasonable way.

Mr. MANSFIELD. I do not intend to stay until 11 o'clock tonight.

Mr. CASE. I think there is such a thing as carrying it too fast.

Mr. MANSFIELD. There is such a thing as carrying it too far and too fast.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. Mr. President, following that, if this bill is finished tonight, we will turn to the consideration tomorrow of H.R. 9961, an act to provide Federal credit unions with 2 additional years to meet the requirements for insurance, on which there is a time limitation, which should not take too long.

Then, hopefully, we can bring up the matter of the education bill, in which the distinguished Senator from Rhode Island (Mr. PELL), the distinguished Senator from Alabama, and others are interested.

If something can be worked out about the hold by the Senator from Alaska (Mr. STEVENS) on H.R. 9727 and by Senator MATHIAS relative to S. 1857, we might take up those, also.

Then it is intended—it might be possible; we will have to see—to bring up the post card voter registration bill.

Mr. SCOTT. I thank the distinguished majority leader. I should like to say that I will have a goose in the oven tomorrow, and I should know whether it will be time to go home and turn the oven on during the afternoon. Does the Senator think I might have that time?

Mr. MANSFIELD. It looks reasonably good.

Mr. SCOTT. I thank the Senator. I recall that the cackling of geese saved Rome. They certainly have not saved the Union recently.

Mr. TOWER. When does the majority leader anticipate laying before the Senate the extension of the Economic Stabilization Act?

Mr. MANSFIELD. Tomorrow night, to make it the pending business when we return.

Mr. President, I ask for the yeas and nays on the amendments on which it has been agreed to vote on Monday next. I ask unanimous consent that it be in order to ask for the yeas and nays at this time on the three treaties.

Mr. GOLDWATER. Mr. President, what three amendments?

Mr. MANSFIELD. Three treaties. I beg the Senator's pardon. One treaty has to do with the Rio Grande border with Mexico, resolving the boundary differences, another is the tax convention with Japan, and the other is the tax protocol with France. They all were reported unanimously.

Mr. GOLDWATER. There is nothing about the treaty with Mexico?

Mr. MANSFIELD. That is right.

Mr. GOLDWATER. The Senator might be surprised.

Mr. MANSFIELD. The Senator knows the importance of maintaining the boundary.

Mr. GOLDWATER. I know the importance of maintaining our water, too.

Mr. MANSFIELD. Yes. But we lose nothing. They are routine treaties.

Mr. TOWER. It is all right.

The PRESIDING OFFICER. Does the Senator desire a separate vote on each treaty?

Mr. MANSFIELD. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCOTT. I yield back whatever time I have used.

Mr. MANSFIELD. I thank the distinguished Senator.

DEPARTMENT OF DEFENSE APPROPRIATIONS, 1972

The Senate continued with the consideration of the bill (H.R. 11731) making appropriations for the Department of Defense for the fiscal year ending June 30, 1972, and for other purposes.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. DOMINICK. Mr. President, if I may have the attention of Senators, I think we can be fairly short on this amendment.

I send to the desk a modification of my amendment and ask that it be considered as the amendment upon which we will act.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ELLENDER. Mr. President, will the modified amendment be stated?

The PRESIDING OFFICER. The Chair will state the modified amendment.

Mr. DOMINICK. I think I can explain it better, because all I did was change the figures.

The PRESIDING OFFICER. Without objection, the amendment, as modified, will be printed in the RECORD.

The amendment, as modified, is as follows:

> On page 23, line 26, and page 24, line 1, strike out "$2,281,319,000" and insert in lieu thereof "$2,293,619,000".
>
> On page 24, after the period in line 4, insert the following: "Of the $2,293,619,000 appropriated in the preceding sentence, not less than $27,689,000 shall be available for research and development in connection with the surface effect ship program."

Mr. DOMINICK. Mr. President, the purpose of my amendment is to restore funds to the Navy's R. & D. surface effect ship program. I am concerned lest what I believe to be a misunderstanding leads to an unfortunate setback in a development program which gives great promise for the advancement of our naval capability in the foreseeable future. The Senate bill before us would reduce the appropriation for the surface effect ship program by over $24 million. This is a reduction of over 60 percent from that authorized by the Armed Services Committee and requested by the Navy.

Mr. President, the Research and Development Subcommittee of the Armed Services Committee, of which I am a member, looked at this program very carefully. It was the subcommittee's recommendation that $39.6 million be authorized for fiscal 1972. This recommendation was approved by the full committee, was accepted by the Senate in approving the military procurement authorization bill and was further agreed to in conference. In my opinion, the SES program has undergone ample review and was fully justified.

The reduction of over $24 million, in effect, will preclude an orderly completion of the test effort about to commence for two small craft as well as any preliminary design effort for a follow-on oceangoing version.

I believe that there exists a misapprehension of the Navy's intentions for this program. The Navy has not planned to award the contracts for design, construction, and test of a large, 2,200 ton class, SES in fiscal year 1972. That effort is contemplated as a prototype program in fiscal year 1973. However, the fiscal year 1973 effort will be predicated upon data and experience evolved as a result of the closely related test and evaluation of two 100 ton units with preliminary design study of the 2,200 ton unit in fiscal year 1972. If we cut $24.2 million from this program we will have canceled any preliminary design studies and will have destroyed the parallel development concept of the program.

The Navy plans to provide the data from its ongoing tests of the smaller craft to three or four contractors who will undertake preliminary design studies in fiscal year 1972 for a larger ship of about 2,200 tons. A displacement of 2,200 tons is the smallest which will permit sustained operation in the open sea. Obviously, test and evaluation in the open sea is an essential element of the development effort.

Mr. President, I would like to point out that the interlacing of the design effort for the larger craft with the test and evaluation of the smaller craft is fully consistent with the prototyping concept recently adopted by the Department of Defense and approved by the Congress. In essence, the Navy will be utilizing actual test experience for prototype development instead of theoretical calculations. Further, the interaction of the 100-ton test program with the large model preliminary design studies will reduce the unknowns in the follow-on large 2,200-ton prototype effort. I do not believe we can find a procedure more consistent with the desire of the Congress to substitute hardware experience for paper studies.

Mr. President, it seems to me that maritime technology has been in a static state. Very few important advances have been made in recent years. However, in the surface effect ship we have a potential technological breakthrough which is unequalled since the transition from sail to steam propulsion. By having ships of virtually unlimited displacement that can achieve 80-knot-plus sustained speeds, the surface effect ship could change traditional functions, roles, and missions at sea in ways that cannot now be foreseen. One area of vital concern to our Nation is the possibility the surface effect ship offers of reduced vulnerability to submarine attack and the attendant increased potential for antisubmarine warfare. And, certainly, until we have operational versions in use, we will not be able to employ it effectively or explore its full potential.

Mr. President, I am unable to find anything objectionable to the concurrency of this program. The program is deliberate in its processes, while also losing no time in this vital development. The reduced level of funding in the bill we are now considering would, however, cost at least one year's delay and more than $15 million in pursuing the prototype program.

Therefore, Mr. President, for the reasons I have discussed, I believe it very essential that a significant amount of the funds deleted from this program be restored. My modified amendment would restore $12.3 million which is the minimum needed to pursue the Navy's surface effect ship prototype program. Of the restored money, $9.75 million will be used to continue improvements in the technology, $1.5 million will be used to prepare a Navy test site at Patuxent River, and $1.05 million will permit further study of support requirements and design criteria.

Mr. President, I ask unanimous consent that a breakout of how the restored $12.3 million will be used be printed in the RECORD at this point. I also ask unanimous consent that an extract from Jane's Fighting Ships 1970–71 be printed in the RECORD at this point. It will be evident from the figures in this extract what speeds the Soviet subs are capable of attaining and it becomes clear why we must pursue the technology of a ship that can go 80 to 100 knots.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

TECHNOLOGY

[Dollars in millions]

AERO-HYDRO

Activity and budget:

Hybrid Sidewall Seals, (NSRDC) $.700.

Resistance & Appendages, (Lockheed) $.300.

Turning & Maneuvering, (Contr.) $.350.

Stability Limit-Testing, (NSRDC) $.200.

PROPULSION

Lift System, (Contr./NSRDC) $.250.

Water Inlets, (Hydronautic) $.350.

Water Propulsors, (Contr.) $1.575.

Air Fans, (Contr.) $.225.

Transmissions & Gearing, (Curtiss) $.300.

Advanced Concepts, (Contr.) $.200.

STRUCTURES

Cavitation Damage, Matls., (Contr.) $.400.

Structural Criteria Model, (NSRDC) $.200.

Loads Research, (NSRDC) $.425.

Matls. Development, (Goodyear) $.375.

Compliant Structures, (Bell) $.200.

Full Scale Module Tests, (NSRDC) $.300.

Test Fixtures & Equipment, (Contr.) $.700.

RELATED TECHNOLOGY

Sensor-Weapon-Ship Compatibility, (APL/JHU) $.275.

Collision Avoidance, (Sperry) $.300.

Auxiliary Equipment, (Contr.) $.150.

SES Navigation, C&C, (Contr.) $.275.

Design Guidance Manuals, (Contr.) $.450.

MANNED MODEL CRAFT

Propulsion/Habitability, (ROHR) $.400.

Drag & Seals, (NPGS) $.200.

Modifications & Overhaul, (ROHR) $.650.

Total budget, $9.750.

SURFACE EFFECT SHIP, FISCAL YEAR 1972

FUNDING

[Dollars in millions]

TEST SITE PREPARATIONS

Test Site Engineering (Contr./NAVAIR) $6.

Training & Operation (NATC, PAX-RIVER) $5.

Seal Test Equipment (Contr.) $4.

Total $1.5.

REQUIREMENTS AND DESIGN CRITERIA

Mission Configuration (Contr.) $35.

Weapon System Integration (Contr.) $25.

Support Requirements (Contr.) $45.

Total $1.05.

NUCLEAR POWERED SUBMARINES

BALLISTIC MISSILE TYPES

10 "Y" class

Displacement tons, 8,000 surface, 9,000 submerged.

Length feet (metres), 426.5 (130.0).

Beam feet (metres), 34.8 (10.6).

Draught feet (metres), 32.8 (10.6).

Missiles, 16 "Sawfly" launching tubes.

Torpedo tubes, 8—21 in.

Main engines, Nuclear reactors; steam turbines.

The first units of this class were reported in 1969. The vertical launching tubes are arranged in two rows of eight and the missiles have a range of 1,500 nautical miles.

10 "H II" class

Displacement tons, 3,700 surface; 4,100 submerged.

Length feet (metres), 344.5 (105.0).

Beam feet (metres), 33 (10.05).

Draught feet (metres), 25 (7.6).

Missiles, 3 launching tubes.

Torpedo tubes, 6—21 in (bow).

Main engines, Nuclear reactors, steam turbines; 15,000 shp.

Speed knots, 25.

Complement, 90.

Long range submarines with three vertical ballistic missile tubes in the large "sail", or conning tower. The earlier vessels of the "H 1" class had missiles with a range of 320 nautical miles, but later units known as the "H II" class have ballistic missiles with a range of 600 miles.

CRUISE MISSILE TYPES

5 "C" class

Displacement, tons, 4,000 surface; 5,000 submerged.

Length feet (*metres*), 385.9 (*117.0*).

Beam feet (*metres*), 32.8 (*10.0*).

Draught feet (*metres*), 24.6 (*7.5*).

Missiles, 8 "Shaddock" launching tubes.

Torpedo tubes, 6—21 in.

Main engines, Nuclear reactors; steam turbines.

Speed knots, 30 approx, submerged.

Complement, 100.

Streamlined submarines designed for high speed. First reported extant in 1969. Developed from the "E" class. Large bulbous bow. Short range missile system of eight topside tubes, four to port and four to starboard. (A new type of submarine officially announced in 1968 has a prominent steel bulge around the conning tower).

25 "E II" class

Displacement, tons, 5,000 surface; 5,600 submerged.

Length, feet (*metres*), 393.7 (*120.0*).

Beam, feet (*metres*), 33 (*10.05*).

Draught, feet (*metres*), 27 (*8.3*).

Missiles, 8 "Shaddock" launching tubes.

Torpedo tubes, 6—21 in (bow).

Main engines, Nuclear reactors, steam turbines.

Speed, knots, 22 max; 14 crusing.

Complement, 100.

The design of the "E II" sub-group was a development of most of the "E I" sub-group lengthened to accommodate—more missile launchers, arranged four on each side.

5 "E I" class

Displacement tons, 4,600 surface; 5,000 submerged.

Length feet (*metres*), 383.9 (*117.0*).

Beam feet (*metres*), 33 (*10.05*).

Draught feet (*metres*), 27 (*8.3*).

Missiles, 6 "Shaddock" launching tubes.

Torpedo tubes, 6—21 in (bow).

Main engines, Nuclear reactors, steam turbines.

Speed knots, 20 max.; 12 cruising.

Complement, 92 (12 officers, 80 men).

Long-range submarines, with six cruise missiles in launching tubes elevated from the flush deck and arranged two abreast. Cruise missiles have a range of — nautical miles. "E" class submarines in the Pacific are based at Komsomolsk.

Mr. DOMINICK. I have talked this over with the Senator from New Hampshire (Mr. MCINTYRE) and it is my understanding that he will be agreeable to this amendment. I yield to him now to make such comments as he may care to make.

Mr. McINTYRE. I thank the Senator for yielding to me. I agree with the Senator from Colorado and I fully support the need for developing a ship with this capability. The promise is great for a surface effect ship program. I do not believe that the Navy should go beyond the 100-ton test vehicle for fiscal 1972, but this is a very promising program. Admiral Zumwalt is interested in it. Originally, I think that we funded the whole program of some $34 million, but since the House Committee on Appropriations and the Senate Committee on Appropriations have seen fit to cut it back, we should make clear, as the Senator from Colorado will indicate, if he has not done so already, that the manner in which it has been cut back will seriously jeopardize the ongoing part of the program. As long as the Senator from Colorado has modified his amendment, I certainly will go along with it.

Mr. DOMINICK. I thank the Senator from New Hampshire. This is an important program. I know how hard the Senator has worked on it reviewing each one of the programs item by item.

Now, Mr. President, I yield 3 minutes to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, the distinguished senior Senator from Colorado has proposed an amendment to the fiscal year 1972 military appropriations bill. His action has been ably supported by several of my colleagues. I would offer my comments only to register yet another vote in support of their efforts.

I too am concerned that the reductions in the funding sought for test, evaluation, and technical support of the two 100-ton models of the surface effect ship in fiscal year 1972 would unnecessarily delay the appearance of an ocean-going model of this exciting concept in advanced marine propulsion. Since the 2,200-ton displacement is the lower limit which would permit a deep-ocean military capability, it will not be until the appearance of that model that the full potential of the concept can be assessed.

We are speaking of the fiscal year 1974–77 time frame in regard to the test and evaluation of the 2,200-ton model. I believe this is important to understand when we consider the possibility of further delay in test and evaluation of the 100-ton models. For instance, it is not contemplated that test and evaluation of the 2,200-ton model could begin until sometime in 1976. Weapon and sensor testing must come even later.

Mr. President, I do not believe that the milestone schedule which I have outlined represents a hasty development. It is not contemplated that the contract for the detailed design will be let for approximately another year. The Navy and the Congress will be afforded ample opportunity to evaluate the progress of the development as it unfolds. Certainly, the schedule affords decision points where the course of the development can be altered or terminated if need be.

I do not believe that we have reached one of those decision points at this time. In fact, it is my opinion that we will unnecessarily retard the development by limiting its funds as now proposed in the appropriations bill before us. No substantial reason has been offered to support such limiting action. Until we are provided substantial cause for limiting or discontinuing the funding, I propose that this body support the development as it has been planned by accepting the amendment offered by my colleague from Colorado.

Mr. DOMINICK. I thank the Senator from Arizona. I know that he and the Senator from New Hampshire (Mr. McINTYRE) have probably been the two most active Senators working on the Research and Development Subcommittee. It is awfully good to get their support.

Now, Mr. President, I yield 3 minutes to the Senator from Vermont (Mr. STAFFORD).

Mr. STAFFORD. Mr. President, I strongly support the amendment offered by the junior Senator from Colorado which would provide needed funds for the expeditions development by the United States of the surface-effects ship.

Whether a technological breakthrough is proceeding at too fast or too slow a pace is a matter of subjective judgment, performed in a gray area of facts and data, only partially developed and only hazily perceived by most onlookers. Those best qualified to make such judgments are the scientists, the builders, and the entrepreneurs, who possess the vision and the personal knowledge which have as their origins the conceiving and doing of a project.

I am concerned that we may be caught up in a tide of introspection and self-criticism, of doubt, and of excessive caution on a national scale. If such is the case, we are in imminent danger of stifling the national initiative and thereby throttling one of America's greatest qualities of the past—innovation.

Certainly, few, if any, of us in this room have either the familiarity with the technology concept of the surface-effects ship, or the knowledge of the facts associated with its development to date, to make a flat determination as to whether the project is proceeding too fast or too slow. Yet, we would make such a determination and demand that we be shown, step by step, the justification for proceeding further. This sort of supervision might be justifiable if the Congress were on the spot to confer daily with the doers of the work. But we cannot do this. At best, we are able to devote only a little time annually to hearing and assimilating the facts as we understand them. We are woefully behind, and have been so for several years in enacting even basic funding legislation. How then do we propose to exercise detailed supervision, while avoiding the stultification of progress and the sapping of managerial energy in this and like development?

Do not misunderstand me, Mr. President. I do not advocate the turning over of national resources to individuals without checks and balances. Our military planners are subject to error and miscalculation, as we in this room are subject. But I am not convinced that the qualifications and past record of our military establishment are such as to warrant the distrust ascribed to it today. In my estimation, some of the results for which the military are regarded with the greatest criticism were governed by circumstances largely beyond their control. I have observed with growing dismay the almost continuous stream of doubt and criticism which has been directed at our major military procurements. Some of this was wholly justified. In other instances, project managers have been held responsible for the influences on their projects of national economic ills. And, in still other instances, the criticism has borne all the hallmarks of sideline heckling by persons who offered nothing constructive alternatively.

A great deal of this doubt and criticism has its genesis in the discontent with military matters which has grown to disquieting proportions in the past several years. Few of my colleagues will not agree that our judgments are colored to some degree by the many evidences of this discontent. But we of the legislative branch have a transcendant responsibility to look beyond the tremors and emotions of the present and to seek what is best for this country in the years to follow. I submit that overly centralized control of projects such as the surface effects ship will not provide what is best.

These are my reasons, Mr. President, for supporting the amendment offered by the distinguished senior Senator from Colorado. The development of the 100-ton models of the surface effects ship should be allowed to proceed as planned until we have better evidence that either the development itself or its rate of progress is not in the national interest.

Mr. President, I urge the adoption of the amendment offered by the Senator from Colorado.

Mr. DOMINICK. I thank the Senator from Vermont very much for his comments.

Now, Mr. President, I yield briefly to the Senator from Washington (Mr. MAGNUSON).

Mr. MAGNUSON. Mr. President, I hope that the Senate will adopt this amendment, for this reason: I happen to be personally familiar with the technology involved in these ships. They are not only technologically feasible but they are the most sorely needed ship we need for the whole of our Navy to complement what the Russians are doing in the Mediterranean and other places. This will not be a shot in the dark.

When we talk about an 80-knot Navy, we are telling the truth. With these ships, they are so sophisticated that the Navy will have to use airplane pilots to run them rather than regular ship pilots. No submarine will be able to get near them. I therefore hope that we can go ahead with this program because I happen to know of two things, one being that one of them has already been tested. I guess that two of them are on their way. This is a very important part of our new technology in the Navy. As far as I know, all the naval officers and naval technicians are very high on this phase of our development.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DOMINICK. Mr. President, the Senator is perfectly correct. In looking over the money provided, I was entertained to see not only navigation for pilots but also training, so that they will know what they are doing when they go that fast.

Mr. President, I yield 1 minute to the Senator from Maryland.

The PRESIDING OFFICER. The Senator from Maryland is recognized for 1 minute.

Mr. MATHIAS. Mr. President, I rise to support the amendment. It is an important amendment. I associate myself with the remarks of the Senator from Arizona who makes the point that research is the key to the future. I agree. I think it is the key to a more economic approach and a more effective defense.

That is the purpose which the amendment proposes to effectuate. I hope it will be agreed to.

Mr. DOMINICK. Mr. President, I thank my good friend, the Senator from Maryland. I appreciate his comments.

Mr. President, I yield 1 minute to the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey is recognized for 1 minute.

Mr. CASE. Mr. President, I will not take the minute. I commend the Senator for his initiative and continued interest in this approach. It is a pleasure to find myself associated with the Senator in tandem rather than in opposition. It makes me feel very good.

Mr. DOMINICK. I must say that I am delighted. And I can think of no nicer ally than my friend, the Senator from New Jersey.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Colorado has 1 minute remaining.

Mr. DOMINICK. Mr. President, I yield 1 minute to the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina is recognized for 1 minute.

Mr. THURMOND. Mr. President, the amendment offered by the distinguished Senator from Colorado (Mr. DOMINICK) deserves the support of the Senate.

Restoration of the funds as proposed in this amendment would permit an orderly completion of the test effort for two small but important Navy ships and would allow a preliminary design effort for a follow-on oceangoing vessel.

In this program we have an example of the prototyping concept that so many of the Defense Department critics favor. The Navy is simply trying to test and evaluate these smaller ships and utilize the results in the design of a larger ship. This is a sensible program.

The Senate should also realize that the surface effect ship program is on the threshhold of a new technology in naval warfare. The idea is to have ships with such limited displacement that they can achieve high speeds. This would provide a ship which would be virtually invulnerable to submarine attack while at the same time it would be highly effective in antisubmarine warfare.

The Navy is testing two small ships with two different types of propulsion systems in an effort to achieve speeds of 80 to 100 knots.

Obviously these ships will be traveling on top of the water, not through the water.

The idea is to go with the system which tests out as the better of the two. The winning system would be applied to a larger ship approximately the size of our World War II destroyers.

Mr. President, for these reasons I urge the Senate to approve this amendment so that the Navy may continue an orderly development of this vital program.

Mr. ELLENDER. Mr. President, the committee gave a good deal of thought to the surface effect ships. Up to now we have spent $37.4 million to construct two 100-ton prototype ships.

Last year the House as well as the Senate eliminated all funds budgeted for the project. That was done because, when this program was first started, the Commerce Department took part in it and agreed to put up half the funds necessary for the research. Between one and 2 years after the work on the surface effect ship was started, The Commerce Department withdrew from the program. I understand that the Department withdrew because it was decided such a ship would not be practical for carrying freight and heavy material.

What the Senate did last year was to provide a sufficient sum of money to complete these two prototype ships so that they could be tested adequately.

Mr. President, in order to complete this research work, the House provided the budget estimate of $14.3 million that we are told will complete the two test models so that we can discover the potentials of this type of construction concept.

Admiral Zumwalt, Chief of Naval Operations, agreed last year with the committee that before any further funds were appropriated to carry on the development of the surface effect ship, those two prototypes should be completed, put into the water, and tried.

Mr. President, the $14.3 million in the bill will be spent this year to try out these 100-ton prototypes. That was what agreed too, and that is what the committee did. If we put the amount of money in that the Senator is asking to be placed in the bill, it will mean that we are starting the construction of a 2,000-ton ship before the smaller models are adequately tested. All of the work done will be in that direction. I believe that it would be a waste of money until we find out how the 100-ton prototype ship operates.

That is the picture. The committee carefully provided in the bill the $14.3 million so as to complete these two prototype ships. If these prove successful, then we can proceed to consider funds needed to develop a bigger ship.

Mr. President, we have spent up to now $37,400,000 on the two prototype ships, with $14,300,000 more to come. To allocate more, without trying this new concept out is a waste of money. Let us complete the two prototypes with the money we have available and run the necessary tests. The work will go on. The experiments will go on, and the money we have provided will not only be sufficient to complete the two prototype ships, but it will also provide funds to try them out.

Mr. McINTYRE. Mr. President, will the Senator from Louisiana yield?

Mr. ELLENDER. I yield.

Mr. McINTYRE. I have to take issue with the distinguished Senator and his committee because the funds appropriated do not provide for important general technology to support the 100-ton ship program, and the preparation of the Navy Patuxent River site for the test program. A total of $12.3 million must be restored for these requirements or this program is set back about 1 year. This would delay the availability of this revolutionary new generation of ships.

Mr. ELLENDER. Before we spend any more money in the same direction we want to see whether the 100-ton ship works as hoped. If it does fulfill its promise, then it will be time to start on one that will displace 2,000 tons. That is the objective, and I am supporting it.

As it is now, the two models were to be tested in operation this year, but that schedule has not been met on that basis, I believe until we complete the trial of these ships to see whether or not they work, it would be the height of folly for us to go full steam ahead.

Mr. DOMINICK. Mr. President, will the Senator yield?

Mr. ELLENDER. There is no telling how much the 2,000 ton model will cost. Let us spend $14.3 million provided for in this bill and see if those 2 prototypes work. Next year it will be time enough for us to decide whether to go on with this program.

That is why the House provided the moneys that we now have in the bill for that purpose.

Mr. DOMINICK. Mr. President, will the Senator yield?

Mr. ELLENDER. I yield for a question.

Mr. DOMINICK. I think there must be some confusion on this matter. I really think there must be and I am not trying to be difficult about it because I know how hard the Senator works on these matters. I am not putting in for design; I am putting in $12.3 million for technology which is needed for the Patuxent Base and assistance, and design criteria as they go on working on these currently. It will provide for final technology on these ships and the test site at Patuxent and, while we are doing this we will see if the technology research could be applicable to a bigger ship.

If we want to try before we buy, we had better look at it. We have gone over this in detail. I could not find any place where we are doing other than what the Senator wants or what I want.

Mr. ELLENDER. The Senator will recall that the Pentagon, the Congress, and the taxpayers got into a great deal of spending a lot of money on the C–5 and the F–111 and other projects without testing them adequately, and before we knew what we were doing that is what I am trying to head off.

Mr. DOMINICK. I agree.

Mr. ELLENDER. These two test models will be completed and tests will be run this year. The committee felt that is what should be done and that is what I am advocating here—that we continue work on these prototypes. We will develop the needed technology as we proceed to work on the 100-ton ship.

What I am attempting to do is protect the American taxpayer by proceeding in an orderly and rational manner, step by step. I also desire to protect the Department of Defense, the Navy, and the Congress against having to face some of the expensive errors of judgment of the recent past.

Mr. PELL. Mr. President, I think it is important in acting on these multibillion dollar funding requests for military procurement that we keep an eye on the future. It is often said of generals, admirals, and politicians that they always are preparing to refight the last campaign.

But times change, and it would be both unwise and false economy to agree to spend billions of dollars on the conventional naval vessels today, while refusing to spend the relatively small amounts of money required to develop the naval vessels of tomorrow, ships that may provide more effective and economical defense of our country. And certainly, the surface effect ships hold promise of being an important breakthrough in naval vessel performance.

Accordingly, I support strongly the amendment offered by the junior Senator from Colorado (Mr. DOMINICK) to restore to this appropriation bill the funds requested by the Navy for the surface effect ship program.

Mr. DOMINICK. Mr. President, how much time do we have remaining?

The PRESIDING OFFICER. All time has expired.

Mr. DOMINICK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there

a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment as modified of the Senator from Colorado.

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. Hartke), the Senator from South Dakota (Mr. McGovern), and the Senator from Maine (Mr. Muskie) are necessarily absent.

I further announce that the Senator from Idaho (Mr. Church) is absent on official business.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. Beall), the Senator from New Hampshire (Mr. Cotton), the Senator from New York (Mr. Javits), and the Senator from Maine (Mrs. Smith) are necessarily absent.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

The Senator from Illinois (Mr. Percy) is detained on official business.

The Senator from Ohio (Mr. Saxbe) is absent on official business.

If present and voting, the Senator from Illinois (Mr. Percy) and the Senator from Maine (Mrs. Smith) would each vote "nay."

The result was announced—yeas 59, nays 30, as follows:

[No. 393 Leg.]

YEAS—59

Aiken
Allen
Allott
Baker
Bayh
Bennett
Bentsen
Bible
Boggs
Brock
Brooke
Buckley
Case
Cook
Cooper
Cranston
Curtis
Dole
Dominick
Ervin
Fannin
Fong
Gambrell
Goldwater
Griffin
Gurney
Hansen
Hollings
Hruska
Hughes
Humphrey
Inouye
Jackson
Jordan, Idaho
Kennedy
Magnuson
Mathias
McGee
McIntyre
Miller
Nelson
Packwood
Pearson
Pell
Ribicoff
Schweiker
Scott
Sparkman
Spong
Stafford
Stevens
Stevenson
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams

NAYS—30

Anderson
Bellmon
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Chiles
Eagleton
Eastland
Ellender
Fulbright
Gravel
Harris
Hart
Hatfield
Jordan, N.C.
Long
Mansfield
McClellan
Metcalf
Mondale
Montoya
Moss
Pastore
Proxmire
Randolph
Roth
Stennis
Symington
Young

NOT VOTING—11

Beall
Church
Cotton
Hartke
Javits
McGovern
Mundt
Muskie
Percy
Saxbe
Smith

So Mr. Dominick's amendment, as modified, was agreed to.

Mr. DOMINICK. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GOLDWATER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. Gravel). The Chair recognizes the Senator from Missouri.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. SYMINGTON. I yield to the Senator from Montana.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session, to consider certain nominations at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

U.S. COURTS

The assistant legislative clerk read the following nominations, which were favorably reported earlier today by the Committee on the Judiciary:

James S. Holden, of Vermont, to be a U.S. district judge for the district of Vermont.

Ralph F. Scalera, of Pennsylvania, to be a U.S. district judge for the western district of Pennsylvania.

Clarence C. Newcomer, of Pennsylvania, to be a U.S. district judge for the eastern district of Pennsylvania.

Charles M. Allen, of Kentucky, to be a U.S. district judge for the western district of Kentucky.

Alfred T. Goodwin, of Oregon, to be a U.S. circuit judge for the ninth circuit.

Levin H. Campbell, of Massachusetts, to be a U.S. district judge for the district of Massachusetts.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

Mr. MANSFIELD. Mr. President, I ask that the President be immediately notified of the confirmation of these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COOPER. Mr. President, I am very glad that the Senate has confirmed this evening Judge Charles M. Allen of Louisville, Ky., to be a U.S. district judge for the western district of Kentucky.

The nomination of Judge Allen by President Nixon has received wide approval in Kentucky. By reason of education, experience as a practicing lawyer and as an elected circuit court judge, a court of general jurisdiction in the Commonwealth of Kentucky, Judge Allen has superior qualifications. He is a man of fine and respected family background, of the highest integrity, and he is held in high regard by the bar, his colleagues of the judiciary and by the people of Louisville and Jefferson County.

I am sure that Judge Allen will fill his important office with great ability and honor.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislation business.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF DEFENSE APPROPRIATIONS, 1972

The Senate resumed the consideration of the bill (H.R. 11731) making appropriations for the Department of Defense for the fiscal year ending June 30, 1972, and for other purposes.

Mr. SYMINGTON. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. Senators will take their seats, and attachés will leave the Chamber.

INTELLIGENCE—THE GREAT WASTE IN GOVERNMENT

Mr. SYMINGTON. Mr. President, a premise to these observations, and the amendment which I thereupon plan to offer to this military appropriation bill, is based on a belief that the Senate is as much interested in the question of the overall structure and functioning of our intelligence apparatus as is the House of Representatives.

The PRESIDING OFFICER. Will the Senator send his amendment to the desk, so that it may be reported?

Mr. SYMINGTON. The amendment is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> On page 49, between lines 2 and 3, insert the following:
>
> Sec. 745. None of the funds appropriated in this Act in excess of $4,000,000,000 may be available for expenses by the Central Intelligence Agency, the National Security Agency, and the Defense Intelligence Agency, and for intelligence work performed by or on behalf of the Army, Navy, and the Air Force.

Mr. SYMINGTON. Mr. President, one notes that earlier this month, in its report to the House, the House Committee on Appropriations made the following observations; and inasmuch as those observations confirm both our own thinking and our findings over recent years, I will read them into the Record at this point:

> The Committee feels that the intelligence operations of the Department of Defense have grown beyond the actual needs of the Department and are now receiving an inordinate share of the fiscal resources of the Department.
>
> Redundancy is the watchword in many intelligence operations. The same information is sought and obtained by various means and by various organizations.
>
> Coordination is less effective than it should be.
>
> Far more material is collected than is essential.
>
> Material is collected which cannot be evaluated in a reasonable length of time and is therefore wasted.
>
> New intelligence means have become available and have been incorporated into the program without offsetting reductions in old procedures.

As noted in this House report, their conclusions were based on extensive hearings—let us note also that last year this House Committee held extensive hearings on intelligence activities in the Department of Defense, the bulk of which proceedings were included in the public record.

During these hearings, the then Assistant Secretary of Defense, now Secretary of the Army, Secretary Froehlke, who had been directed by the Secretary of Defense to review the intelligence programs, also testified that he was surprised to find that there was no comprehensive inventory of DOD intelligence assets. He thereupon stated that he concurred with the committee's expressed concern about duplication in the intelligence community.

In addition, this report states that the committee expects to review the intelligence program in total during the hearings on the fiscal year 1973 budget request.

In reviewing the hearings and reports of interested Senate committee's, we can find no comparable interest on their part with respect to the billions appropriated annually for intelligence.

Back in 1966, as a member of both the CIA Subcommittee of the Senate Armed Services Committee and also the Senate Foreign Relations Committee, I became concerned that, because of their lack of knowledge of certain intelligence matters bearing on foreign policy, members of the Foreign Relations Committee were not in a position to make intelligent judgment of certain U.S. policies overseas. Accordingly, I presented this situation as I saw it to the then chairman of Armed Services, the late Senator Russell.

At the beginning of the 90th Congress, in January 1967, Chairman Russell invited three members of the Foreign Relations Committee to sit with the CIA Subcommittee of Armed Services, which committee also included members of the Senate Appropriations Committee. This arrangement presumably continues, but the members of the Foreign Relations Committee participate as a matter of grace, not of right. I say presumably because in any case said CIA Subcommittee has not met once this year, and from what I understand does not plan to meet.

During a markup last week of military appropriations by the Senate Defense Appropriations Subcommittee, no mention was made of the multibillion dollar appropriation requests contained in this bill for most of the some 15 intelligence operating or/and advisory groups in the executive branch of this Government.

As an ex officio member of Appropriations because of being the ranking member of the Armed Services Committee, after the subcommittee meeting I called the staff of Appropriations to ask in general about the intelligence appropriations; but I was told that, except for the five senior members of the Senate Appropriations Committee, they had been instructed not to talk about these multibillion dollar intelligence appropriations, even to the other members of the Appropriations Committee.

Mr. FULBRIGHT. Mr. President, will the Senator yield for a question?

That is such a shocking statement that I thought some attention should be called to it.

Mr. SYMINGTON. I am glad to yield to the able Senator.

Mr. FULBRIGHT. The statement the Senator just made, that he, as a Senator, was told by a staff member—who obviously does know about it—that he could not tell the Senator even the amount or anything else about this, seems to me a shocking and unprecedented situation. I have never heard of this before, except from the executive branch. I have never heard of a member of a Senate staff telling a Senator that he could not tell him what he knew about the relevant business of any committee.

Mr. SYMINGTON. I thank the Senator for his contribution.

Mr. FULBRIGHT. Does the Senator know of any precedent for this?

Mr. SYMINGTON. I do not.

Mr. FULBRIGHT. Did the Senator ever have this experience before?

Mr. SYMINGTON. No; I did not.

Mr. FULBRIGHT. That is what I mean. This is the only time I have ever heard of it.

Mr. SYMINGTON. This means that these billions of dollars of the taxpayers' money are being authorized and appropriated by the Senate with the knowledge and approval of just five of its Members.

As a result of their 3-year investigation—1969–71—of our worldwide treaties and commitment, both staff teams of the Senate Subcommittee on U.S. Security Agreements and Commitments Abroad of the Foreign Relations Committee found heavy duplication—therefore, waste—of the taxpayers' money, in the intelligence field; and, perhaps even more important, they found many conditions which were not known by those on the Senate committees designated to review our military and political policies and position with other countries.

The cover story in a recent issue of Newsweek magazine confirms this confusion and waste, and details general dissatisfaction with much of it. The article states that President Nixon's "major complaints are faulty intelligence, runaway budgets, and a disparity between a glut of facts and a poverty of analysis."

Mr. President, several times today on the floor, people have justified their position on the grounds the President felt this way, or felt that way. Now let me repeat how the President feels about this matter, according to this article:

> President Nixon's "major complaints are faulty intelligence, runaway budgets and a disparity between a glut of facts and a poverty of analysis."

This article also asserts:

> Bureaucracy has transformed what began as an amateurish happy few into a sprawling intelligence conglomerate encompassing more than a dozen government agencies, 200,000 employees and a budget of some $6 billion a year.

As one Member of the Senate, despite my committee assignments, I do not know whether those figures are accurate or inaccurate, too large or too small.

Earlier this month, the news media began calling me one evening about a major reorganization in the intelligence field that had just been announced by this Government. I told them the truth—that I knew nothing about it.

The press carried a story about this reorganization the next morning. I thereupon called the CIA to find out about it and later that day—Saturday—a member of that organization delivered the White House press release to my home, stating that the press release was all the Agency knew about it at the time.

It is clear to anyone familiar with the executive branch that this reorganization: First, could be turning over the intelligence operation to the military—exactly what the National Defense Act of 1947 took careful steps to prevent—and second, places policy control of intelligence in a new committee in the White House, headed by the Assistant to the President for National Security Affairs, Mr. Kissinger, on this committee sit both the Attorney General and the Chairman of the Joint Chiefs of Staff, as well as the Deputy Secretaries of State and Defense.

This gives Executive privilege to the final policymakers, and therefore, except for the power of the purse, enables said policymakers to, in effect, take the entire question of intelligence out of the hands of Congress.

The fact that I do not think such a development is right or proper, Mr. President, is the basic thrust of the amendment that I am offering this evening.

I thereupon made a short talk on the floor of the Senate delineating this extraordinary development, and protesting that such a major change incident to our overall security should not be made without the knowledge let alone the approval, of anybody in the Senate; and I ask unanimous consent that this talk be inserted at the end of these remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SYMINGTON. The Chairman of the newly formed White House Intelligence Committee, Dr. Kissinger, thereupon called me and said I was right, that the change should have been discussed with the proper committees of Congress, that the reorganization details had been handled by Mr. George Shultz, and that he, Kissinger, would arrange for Mr. Shultz to come down and talk to me about it.

I thanked him for his call, but said I felt any such a briefing should be given to the committees, not to an individual Member. That is the last I have heard of it.

In a recent article in the U.S. News & World Report, written by the former Executive Assistant to the Deputy Director of the CIA, a very serious charge was made—namely, that the present setup gives "the military considerable power to shape intelligence estimates." The article went on:

> Whenever you're working on a problem that the military is deeply interested in—because it's affecting one of their programs, or their war in Vietnam, or something—and you're not saying what they want you to say, the browbeating starts: the delaying tactics, the pressure to get the report to read more like they want it to read, in other words, influencing intelligence for the benefit of their own operation or activity.

A former member of the CIA establishment, in a reply to these statements published in the same issue of that magazine, stated:

> In both the Senate and the House there are subcommittees of both Appropriations and Armed Services. In the Senate, members of the Foreign Relations Committee are invited to join briefings of the other subcommittees.

And then states:

> I submit that there is no federal agency of our government whose activities receive closer scrutiny and "control" than the CIA.

Based on the facts presented above, the reverse of that statement is true in my opinion, and it is shameful for the American people to be so misled. There is no Federal agency of our Government whose activities receive less scrutiny and control than the CIA; and the same is true of other intelligence agencies of the Government who reportedly receive billions of dollars more each year than does the CIA.

I have the greatest respect for the five members of the Senate Appropriations Committee who alone of all Senators know the details of this multibillion-dollar authorization and appropriation. But I do not believe that they, and they alone, should render final decision on both said authorizations and appropriations without the knowledge, let alone the approval, of any other Senators, including those on the Armed Services Committee who are not on this five-member Subcommittee of Appropriations, and all members of the Senate Foreign Relations Committee.

The latter committees have fully as much interest in our military and political activities in foreign lands as do members of this Appropriations Subcommittee; in fact, the heads of the CIA in foreign countries operate under the supervision of the Ambassador; and those Ambassadors report to the Secretary of State.

As a matter of fact, and as anybody knows who has traveled around in these foreign countries where we are at war or in what might be called partial peace, the heads of the CIA in these countries operate under the direct supervision of the Ambassador, and those Ambassadors report to the Secretary of State.

Today we all know this Nation faces serious fiscal and monetary problems. Our economy is in grave trouble and one of the chief reasons for this condition has to do with our vast military expenditures at home and abroad.

With that premise, apprehension about this situation can only be increased by the fact the reorganization announced earlier this month by the White House in turn increases the influence of the military in the formulation of intelligence estimates. I was a Secretary in the Defense Department when the National Security Act of 1947 was passed—in fact I monitored the passage of that bill for Secretary Patterson—and therefore know this is exactly what President Truman and his advisers, for the obvious reasons, attempted to avoid.

The wording of the law itself makes the point. I ask unanimous consent that this wording be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. SPONG). Without objection, it is so ordered.

(See exhibit 2.)

Mr. SYMINGTON. Mr. President, if this analysis is correct, many billions of additional and often unnecessary dollars will be added to the defense budget, because that budget is based on intelligence estimates of the plans, programs, and production of the possible enemy; and invariably the estimates of the military have been higher than those of the civilians.

Knowledge—intelligence—about the plans and programs of the possible enemy is generally considered to be at least as important as any other factor in the formulation of the defense budget.

As but one example of that importance, there follows a colloquy between the distinguished present chairman of the Senate Appropriations Committee and former Secretary of Defense McNamara, during the defense appropriations hearings of 1967:

> Senator ELLENDER. What part does the State Department take in making decisions that have resulted in the programs you are presenting to us now?
>
> Secretary MCNAMARA. That State Department is informed of, but does not affect my recommendations as to what ought to be done.
>
> Senator ELLENDER. Are your recommendations founded solely on what you get from the JCS?
>
> Secretary MCNAMARA. No, sir; they are not. The JCS are, of course, the principal military advisers to the President by law, and of much more importance they are actually his military advisers because of their experience. But the national intelligence estimates are taken into account in my recommendations as well as other information.

Again, in that this year the CIA Subcommittee of the Armed Services Committee has not met once, it would appear there is now even more secrecy in the handling of intelligence funds; and this at a time when there is a steadily rising chorus among the people of this country for less secrecy.

Apparently some people believe that the very word "intelligence," in itself, requires that all these billions should only be authorized and appropriated in such great secrecy.

To me, this does not wash. We authorize and appropriate, through the proper congressional committees, tens of billions of dollars annually for the other component parts of the military.

There is nothing secret, for example, about the constantly referred to cost of a nuclear aircraft carrier, or the cost of the C–5A, or the cost of the main battle tank; but knowledge of these costs does not mean that either the Congress or the American public have been informed, in case of a war, how, along with our military personnel, it is planned to utilize these weapons. That would be getting into war plans, something which should be studiously avoided.

By the same token, knowledge of the overall cost of intelligence does not in any way entail the release of knowledge about how the various intelligence groups function, or plan to function.

Why should there be greater danger to national security in making public overall intelligence costs than in making public other overall security costs?

I am certain in my own mind that we would not have engaged in at least one war—killing people and having our own killed—if pressures, combined with unwarranted secrecy, had not been characteristic of our intelligence knowledge and activities in that country; because our political and military actions were approved by the Congress on the basis of misinformation and a lack of information.

In summary, therefore, I do not believe the Senate can meet its responsibilities, or exercise its "constitutional prerogative" if this bill is approved under these circumstances; therefore, I offer this amendment which has been read at the desk and which provides that the Senate impose a ceiling on the amount of funds in this bill that can be expended for intelligence activities during the fiscal year in question.

Responsible news media continue to assert to the American people that the cost of intelligence to the American taxpayer now runs to between $5 billion and $6 billion. I do not believe that figure is necessarily correct, but if it is correct, it but confirms the many informed reports we have had about duplication and waste.

I now ask for the yeas and nays.

The yeas and nays were ordered.

EXHIBIT 1

CONGRESSIONAL OVERSIGHT OF INTELLIGENCE ACTIVITIES

(Statement by Senator Stuart Symington)

Last Friday the White House announced that the President had ordered a reorganization of the intelligence community. I ask unanimous consent that their press release to this end be placed in the Record at the conclusion of these remarks.

As reported by the press, the Administration's plan creates an "enhanced leadership role" for the Director of the Central Intelligence Agency, turns more of the operating responsibility for that Agency over to the Deputy Director, and creates or reconstitutes a variety of boards, committees and groups who are charged with important responsibilities within the intelligence community.

The reported aim of the reorganization is to improve the "efficiency and effectiveness" of United States intelligence activities; and press comments on this move include references to alleged concern over the size and cost of intelligence operations; also to general unhappiness about various specific intelligence estimates. Such reports have been officially denied, but it is acknowledged that this reorganization is the result of "an exhaustive study" of the United States intelligence activities.

It could be that the reorganization announced last week by the White House is a constructive move. In recent years there has been a growing belief that there was heavy duplication and therefore waste within the overall intelligence community. Unfortunately, however, it has been impossible for the public, or even concerned members of Congress, to obtain enough information on this subject for informed judgment.

By the same token, it is equally impossible to determine, at least at this time, whether the organization changes now decreed will accomplish their stated purposes, or to determine what will be their practical effect.

One thing is clear, based on the manner in which the reorganization was handled and announced; namely, the Executive Branch does not consider either the organization, or the operation, of the intelligence community to be matters of concern to the Congress. To my knowledge there was no advance consultation whatever with the Congress regarding this reorganization, or even any advance notice of what had been decided.

In 1947 the Central Intelligence Agency was established by act of Congress. Its powers and duties are specified by law. Its Director and Deputy Director are subject to confirmation by the Senate.

Last year the Congress appropriated an amount estimated by the press to be between five and six billion dollars for the activities of this agency and the other component parts of the intelligence community.

As one member of the Senate, I will not accept the proposition that the Congress' role in organizing the intelligence community ended twenty-four years ago with the passage of the National Security Act, or that our only current and continuing responsibility is to appropriate whatever number of billions of dollars the Executive Branch requests so as to handle this work.

Last Saturday, when I learned from the press about this intelligence reorganization, as ranking member of the Senate Armed Services Committee I wrote the Chairman of that Committee, requesting hearings either by the full Committee or by the CIA Subcommittee, of which I have been a member for some fifteen years. In that letter I presented the fact that this Subcommittee has not met once this year.

This latest reorganization on the face of it raises questions about past, present and future performance of our multi-billion dollar annually intelligence community; questions such as

If it has been inefficient, what and where were its deficiencies?

In what sense does it need to be more "responsive?"

What is implied about the past by the reference in the press release to the objective of insuring "strengthened leadership" in the future?

The White House announcement offers neither answers to these questions, nor explanations of the remedies which have now been unilaterally decreed.

In order to understand properly said action by the Executive Branch, Congress should know the answers to such questions as the following:

How is the leadership role of the Director of the Central Intelligence Agency "enhanced" by the creation of a new and obviously more powerful supervisory committee chaired by the Advisor to the President for National Security Affairs, on which new Board not only sits the Attorney General but also the Chairman of the Joint Chiefs of Staff?

Has this new White House committee been given authority or/and responsibility which heretofore was the responsibility of the CIA; and which the Congress, under the National Security Act, vested in the Agency?

How can the integrity of the intelligence product be assured when responsibility for the most critical aspects of intelligence analysis is taken out of the hands of career professionals and vested in a combination of military professionals and the White House staff?

EXHIBIT 2

CENTRAL INTELLIGENCE AGENCY

SEC. 102. (a) There is established under the National Security Council a Central Intelligence Agency with a Director of Central Intelligence who shall be the head thereof, and with a Deputy Director of Central Intelligence who shall act for, and exercise the powers of, the Director during his absence or disability. The Director and the Deputy Director shall be appointed by the President, by and with the advice and consent of the Senate, from among the commissioned officers of the armed services, whether in an active or retired status, or from among individuals in civilian life: *Provided, however,* That at no time shall the two positions of the Director and Deputy Director be occupied simultaneously by commissioned officers of the armed services, whether in an active or retired status.

Mr. GOLDWATER. Mr. President, if the Senator from Missouri will yield I do not have a copy of the Senator's amendment but I made a note as it was read.

It states:

> The Central Intelligence Agency, the National Security Agency, and the Defense Intelligence Agency, and for intelligence work performed by or on behalf of the Army, Navy, and the Air Force.

Now would the Senator break that down into, say, the intelligence that is acquired by a photorecon flight, one, or the intelligence——

Mr. SYMINGTON. May I ask the Senator if he is speaking on my time or on the time of the opposition?

Mr. GOLDWATER. I am not sure that I oppose it. I want merely to find out how deep the Senator wants to go.

Mr. ELLENDER. I yield 5 minutes to the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona is recognized for 5 minutes.

Mr. GOLDWATER. I thank the Senator from Louisiana for yielding me this time.

What disturbs me, as the Senator knows as well as anyone else in this Chamber, the Army and Navy, the Air Force and the Marine Corps are always, constantly, engaged in obtaining battlefield intelligence and information, some of which applies to the kind of intelligence we are discussing here and some of which applies to intelligence needed to conduct a battle. But the thing that disturbs me is, is there any way to allocate or to determine the cost of that kind of intelligence?

Mr. SYMINGTON. I say to the Senator I do not know. No doubt millions of Americans have seen the chart in Newsweek magazine, however, a chart called "The United States Intelligence Community." It does not give figures for that Agency which, to the best of my knowledge, spent by far the most money, but it does say in the chart that the Army has 38,500 intelligence staffers and a budget of $775 million; that the Navy has 10,000. It does not give the Navy money; that the Air Force has 60,000 staffers with a budget of $2.8 billion. It says the Central Intelligence's budget is $750 million. It says the Defense Intelligence Agency has a budget of $100 million and spends an added $700 million through Armed Forces. Then it goes into additional agencies—six of them, no figures.

I am a member of Armed Services, an ad hoc member of Appropriations, a member of the CIA Subcommittee, and a member of the Foreign Relations Committee, and I would like to know what is going on in this vital field.

When we read that $6 billion is being spent on intelligence, that may be billions of dollars too high, but I would like to know something about it.

Mr. GOLDWATER. The thing I am trying to satisfy in my own mind is how we would go about the bookkeeping of the very elementary type of intelligence-gathering that involves a patrol sent out for intelligence purposes?

Mr. SYMINGTON. The figure I state in the amendment is too high, according to some—$4 billion.

Mr. GOLDWATER. I am not arguing with the Senator about that. I am inclined to agree with him, but I think the amendment would be better—and better understood—if we did not get down to the nitty-gritty of 1 and 1 is 2, at the sergeant or the private level, who is sent out to undertake a photo reconflight.

I am speaking here to their problems and their costs. The question I had is: How far down the hole do we go before we stop?

Mr. SYMINGTON. Let me answer my able friend in this way. We had staff men go in certain areas of the world and they found great duplication. They found the intelligence units of the CIA, the Department of Defense, the Army, the Navy, and the Air Force all directed to particular intelligence, tremendous duplication, therefore waste.

If it is clarification that the able Senator wants, that is what I want—namely, what we are doing month after month with these gigantic sums of money being expended in the intelligence field.

If we are going to have a Congress that means anything, prerogatives, the proper Senate committees ought to be informed.

Mr. GOLDWATER. I am not arguing with the Senator.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. ELLENDER. Mr. President, I yield the Senator from Arizona 1 additional minute.

The PRESIDING OFFICER. The Senator from Arizona is recognized for 1 additional minute.

Mr. GOLDWATER. Mr. President, lack of redundancy is the secret of what to my opinion is the best intelligence of the world, the British Intelligency Agency. We have three separate groups that keep piling in an input of redundancy, and each of them becomes a problem of determining which are the most valid.

I thank the Senator from Missouri.

Mr. SYMINGTON. Mr. President, again the House Appropriations Committee, this month, said:

> The committee feels that the intelligence operation of the Defense Department is growing beyond the actual needs of the department and are now costing an inordinate share of the fiscal resources of the department. Redundancy is the watchword of any intelligence operation. The same information sought to be obtained by various members and various organizations is naturally less effective than it should be.

Naturally that stimulated my interest in trying to get at the facts.

Mr. STENNIS. Mr. President, I want to speak after the Senator from Louisiana. However, will the Senator yield me 2 minutes for the purpose of asking a question on that point?

Mr. ELLENDER. I yield 2 minutes to the Senator from Mississippi.

Mr. STENNIS. Mr. President, I refer to the same sentence that the Senator referred to with respect to the intelligence of the Army, the Navy, and the

Air Force. The Senator does not mean to include what we call tactical intelligence that is done at the level of a battalion?

Mr. SYMINGTON. No.

Mr. STENNIS. He does not mean where a colonel would order a captain to go out and patrol for the purpose of seeking out and getting prisoners to try to get intelligence about the enemy.

Mr. SYMINGTON. I would not want to include the battlefield, but I do want to include all military operations of the Central Intelligence Agency. The Secretary of Defense stated, in open session:

> We have no Pentagon military operations in Laos.

I believe that is true because he said it. This means the Central Intelligence Agency is running the war in Laos, and if so, the Foreign Relations Committee and the Armed Services Committee ought to know at least something about it.

Mr. STENNIS. Mr. President, for one illustration, the Senator's amendment refers to what are in the budget items here for the Central Intelligence Agency, the National Security Agency, and the Defense Intelligence Agency. That is the primary references and inclusions that are in the Senator's amendment.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. ELLENDER. Mr. President, I yield 1 additional minute to the Senator from Mississippi.

Mr. SYMINGTON. No intelligence unit should evade the purposes of my amendment by delegating some of the work they would normally do to the Army, the Navy, or the Air Force.

Mr. STENNIS. I agree.

Mr. SYMINGTON. I feel that without reservation because in this article they state:

> Bureaucracy has transformed what began as an amateurish happy few into a sprawling intelligence conglomerate encompassing more than a dozen government agencies, 200,000 employees and a budget of some $6 billion a year.

Mr. STENNIS. Mr. President, I thank the Senator. We will come back to that point later. I know that the Senator from Louisiana wants to speak now.

Mr. FULBRIGHT. Mr. President, will the Senator yield?

Mr. SYMINGTON. I will be glad to yield on my own time to the Senator from Arkansas.

Mr. FULBRIGHT. Mr. President, I would like to say that the distinguished Senator from Missouri has opened the door on one of the great issues for the country and for the Congress.

The Senator is quite aware that he has touched on a very sensitive nerve because billions of dollars of intelligence funds are contained in this appropriation. No one can tell where in this bill those funds are. When they read a line item and find that there is so much for aircraft, or for a carrier, those may or may not be the real amounts.

This practice gives rise to questions about every item in the appropriation. I want to ask the Senator why he thinks it is necessary to keep secret the amount of money to be allocated from this appropriation to the National Security Agency. Everyone knows what the NSA does. They read about it in the newspapers. Why is it necessary? What purpose is served by keeping it secret?

Mr. SYMINGTON. Mr. President, I do not know. Much of it slips out.

For example, on March 31, 1971, in the Senate Armed Services Committee hearing, I asked the question:

> On page 2 of the congressional data sheet the last item on the table of aircraft procurement program is "classified projects" $579,800,000, requested for 72. This is almost one-fifth of the total aircraft procurement request. Would you please tell us briefly what are the major projects in this category.

General Crow replied:

> Because of classification, it can only be provided in oral briefing.

That exchange was declassified and then made a matter of public record.

In the published hearings last year of the House Appropriations Committee, then Assistant Secretary of Defense Froehlke, now Secretary of the Army, was plenty critical of the intelligence setup.

He said the cost of all military intelligence activities, excluding tactical intelligence, was $2.8 billion; and that figure was published.

I want to be careful that through legislative history we do not counter what we are trying to do, namely, get the facts.

Mr. FULBRIGHT. Every time an appropriation comes along, we are told that the Russians are out-distancing us everywhere. We are told this by the same Senators. It is like the swallows coming back to Capistrano. And I wonder how that can be because we spend a lot more money than the Russians spend. We have asked Mr. Helms about this. One explanation may be that we devote so much of the money in this bill to nonmilitary items such as intelligence. That may be an explanation. It has always been a puzzle to me why we get so little in hardware for our money. We are told that we are a second-class power, that we do not have as many airplanes or ships as the Russians. We hear this all the time.

Either we are, or we are not, as strong as we say. Certainly we spend plenty of money. Are hearings held in the Committee on Armed Services on this issue? Has the Senator ever attended any hearings on the question of the activities of the National Security Agency?

Mr. SYMINGTON. We were briefed by the Director of the Central Intelligence Agency twice, the full committee, last January; and then again this morning.

Mr. FULBRIGHT. Did he discuss how much was spent by the National Security Agency?

Mr. SYMINGTON. I asked but he did not know.

Mr. FULBRIGHT. He does not know?

Mr. SYMINGTON. He does not know about the others, only his own in any detail.

Mr. FULBRIGHT. Is he not the head of what is referred to as the intelligence community?

Mr. SYMINGTON. He is the chairman of the National Security Council Intelligence Committee.

Mr. FULBRIGHT. Then his role is that of a coordinator. If anyone knows about this new reorganization, should it not be Mr. Helms?

Mr. SYMINGTON. That is what we are trying to find out. It is all plenty fuzzy.

Mr. FULBRIGHT. Was there no testimony on the question of intelligence in the Committee on Armed Services that the Senator knows of?

Mr. SYMINGTON. No.

Mr. FULBRIGHT. And the Committee on Armed Services does not authorize anything specifically for intelligence?

Mr. SYMINGTON. There is no authorization in any way to pass upon intelligence activities in the Committee on Armed Services. The able chairman of the committee is in the Chamber. He could so verify.

Mr. FULBRIGHT. How long has the Senator been a member of that committee?

Mr. SYMINGTON. It will be standing 20 years next January.

Mr. FULBRIGHT. Would not the Senator have heard of such hearings if they took place?

Mr. SYMINGTON. I would think so.

Mr. FULBRIGHT. The Senator hears of all hearings that take place in the Committee on Foreign Relations. Is that correct?

Mr. SYMINGTON. Yes.

Mr. FULBRIGHT. What is the motive or reason for keeping secret the amount of money being spent, for example, by the National Security Agency, which I suspect is the largest operation? Why is the amount of money secret? I am not talking about who their spy is, if they have one. Why do they insist on secrecy about the amounts?

Mr. SYMINGTON. I do not know.

Mr. FULBRIGHT. Do they think the Russians do not know we have the National Security Agency?

Mr. SYMINGTON. The worst spy we ever discovered was probably in the National Security Agency, a sergeant who was leading a gay and double life, a spy who, when caught, killed himself.

The point of my amendment is to emphasize that we in the Committee on Armed Services and the Committee on Foreign Relations do not have anything like the necessary facts to properly allocate the increasingly limited resources of this country between international and domestic programs.

Mr. FULBRIGHT. In this overall question the Senator spoke about secrets, and there are classes of secrets, of course. The Senator talks about battlefield secrets. Nobody is asking how many men are being sent out on a foray into enemy territory. We are interested in the amount of money that goes into this bill for intelligence because it is a very large amount. I have not heard any suggestion, any legitimate reason, why that amount should be secret, other than one last suggestion. Is this just a way to cover up expenditures so there can be no accounting to the public or Congress?

Mr. SYMINGTON. There are no five gentlemen anywhere——

Mr. FULBRIGHT. That is not the question.

Mr. SYMINGTON. Let finish my sentence.

There are no five gentlemen, in the Senate or anywhere else I respect more than these four and one lady. But this protest of mine is against the system, not the people involved.

Mr. FULBRIGHT. I hope that the Senator does not infer that my question is based on any suspicion about any Member.

Mr. SYMINGTON. No.

Mr. FULBRIGHT. If the Senator wants to raise that issue let me say that I have the greatest respect for the Senator from Louisiana and I am willing to turn the whole Senate over to him and go home because he has the experience. I am as fond of him as I am of any man in public life. That is not the question.

Mr. SYMINGTON. I agree.

Mr. FULBRIGHT. The Senator from Louisiana is a Member of this body and has been for a long time, and I am sure he does not take the position he should pass on all issues that come here because he has had long experience. That is not the system. I do not understand why the overall amount for these activities has to be secret.

Mr. SYMINGTON. Neither do I.

Mr. FULBRIGHT. It is a very bad practice because it casts doubt on this whole appropriation. When you look at an item in this bill you wonder if it is really the amount of money for the A–14, for example, or if it is for the NSA. One cannot tell what it is.

Mr. SYMINGTON. The Senator is correct.

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. SYMINGTON. I yield to the able Senator from California.

Mr. CRANSTON. Are there references in the appropriation bill to funds for intelligence uses?

Mr. SYMINGTON. No.

Mr. CRANSTON. How are they provided for; by padding other categories?

Mr. SYMINGTON. I am not sure I have enough knowledge to answer. Presumably yes.

Mr. CRANSTON. What is the Senator's answer on what is provided to the intelligence community?

Mr. SYMINGTON. I have heard so many varying facts that is another primary reason I introduced the amendment.

Mr. CRANSTON. The Senator has no estimate?

Mr. SYMINGTON. I have no estimate that in any way could be considered remotely accurate.

Mr. COOPER. Mr. President, will the Senator yield?

Mr. SYMINGTON. I yield.

Mr. COOPER. Do I understand that the purpose of the amendment is that as these appropriations or the money spent in these intelligence functions are not known and are not directly authorized or appropriated by Congress and the Senate, that the Senator wants to make it a matter of precedent and right that the Senate and Congress should actually authorize and appropriate these funds?

Mr. SYMINGTON. That is correct. As a matter of right, I believe there are certain committees, the Committee on Armed Services and the Committee on Foreign Relations, that should know in executive session about the authorization and appropriation of moneys in this intelligence category.

Mr. COOPER. I would make one comment.

It is always a matter that is troublesome because it could involve security, but it is a fact we learned during the last several years that without the knowledge of Congress our country has become involved in pressures that led to a long and costly war.

Mr. SYMINGTON. The Senator is so right. That is one of the primary reasons for my amendment.

Mr. ELLENDER. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. ELLENDER. Mr. President, I regret that the Senator from Missouri saw fit to introduce this amendment. Of course, I am opposing it.

I have been in the Senate for 35 years. I have been on the Committee on Appropriations for about 22 or 23 years. Ever since I have been on that committee, all the appropriations affecting our sensitive intelligence program have been handled by only a few Members of the Senate and a few Members of the House. Twenty years ago we started out with two Members. That number has been increased to five, who are chosen from the Committee on Appropriations. That has been the method that has been followed all these years.

I would hesitate to have these programs submitted to the committee of the whole because of the highly sensitive nature of the material that come before us. In order to justify the amounts asked, we are told the reasons why it is needed.

My fear is that if this material were made widely available, we would do harm to our own intelligence operations. Of course these intelligence operations are a very important part of our overall defense.

I do not understand the extent of the amendment of my good friend from Missouri. The amendment reads:

> The Central Intelligence Agency, the National Security Agency, and the Defense Intelligence Agency, and for intelligence work performed by or on behalf of the Army, Navy, and the Air Force.

Well, of course, much of the intelligence gathered, whether it be tactical or not, is gathered either by the CIA or the Defense Department.

This method of appropriating funds for these intelligence activities has been in effect for at least 20 years that I know of, since I have been on the committee. We five who sit on this committee hear the testimony of those applying for funds. The funds are justified to us. We ask many questions. None of this information is in writing, nor is it recorded, but it is simply given to us, and we weigh it and then recommend appropriations as is seen fitting.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. ELLENDER. I yield myself 5 minutes more.

There is no specific appropriation for the intelligence activities. They are funded from many different appropriations included in the bill.

Mr. President, as I said, this is a rather ticklish subject. It is a subject that I do not care to discuss in the open. I believe that the Senator from Missouri (Mr. SYMINGTON), and, as a matter of fact, any other Senator on the committee who desires to be briefed by the Defense Department or by the Central Intelligence Agency may be briefed. We request it at times. There is nothing to stop the Senator from Missouri (Mr. SYMINGTON) or the Senator from Mississippi (Mr. STENNIS) from calling Mr. Helms before the committee to give them an idea of what he is doing. But this matter of justifying the amount of money asked in order to carry on intelligence has been for years confined to a few people, because of the sensitivity of the subject. I am very hopeful that that method can be continued.

Mr. FULBRIGHT. Mr. President, will the Senator yield for a question?

Mr. ELLENDER. In 1 minute.

When I first became one of the five, I attended these hearings. The late Senator Russell was then chairman of the committee. I attended the hearings and took a good deal of interest in them. After hearing both the Defense Intelligence as well as the CIA requests, I thought that there was somewhat more money asked for than needed. So my first effort as a member of the five was to reduce the number of people engaged in intelligence. As I recall, we asked that the number of persons engaged in certain intelligence activities be reduced by 5,000, and that was done.

Mr. President, I wish to say that this year, instead of trying to reduce the number of persons, we actually reduced the amount of money requested.

I wish to point out that I have discussed this matter with Mr. MAHON, who is chairman of the House Appropriations Committee. We discussed together what ought to be done to reduce the amount of money that was requested for intelligence. I gave him a few ideas of what I proposed to do.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. ELLENDER. I yield myself 3 more minutes.

I wish to say that he not only listened to me, but adopted some of the ideas I gave him. So the House reduced the intelligence request by $320 million, and the Senate committee reduced the amount by $70 million more, making a total reduction for this year in the amount asked of $390 million.

I think that is a substantial reduction in our intelligence. I want to pledge to the Senate that as a member of the five, I shall continue to look more deeply into this matter, in the hope of being able to cut back a good deal more than the cut made this year.

These cuts were made by our committee and by the House after careful hearings of Defense Intelligence as well as the CIA. I would hesitate to suggest that more Senators and more Members of the House be involved in this sensitive work.

Mr. FULBRIGHT. Mr. President, will the Senator yield for a question?

Mr. ELLENDER. I yield.

Mr. FULBRIGHT. This intelligence covers a lot more than intelligence gathering. Does it not also cover, for example, the cost of the organization of the war in Laos, supported by the CIA? Would that not be included in this same amount of money? It is financed through the CIA. This is no secret. It has been published.

Mr. ELLENDER. I saw it publicized——

Mr. FULBRIGHT. Perhaps the Senator does not agree to it, but it has been published. But suppose, as a hypothetical case, that it is carried on by the CIA. Would not that operation be carried in this amount?

Mr. ELLENDER. For that activity?

Mr. FULBRIGHT. Yes, for the manpower. It has been stated that the CIA has 36,000 there. It is no secret. Would the Senator say that before the creation of the army in Laos they came before the committee and the committee knew of it and approved it?

Mr. ELLENDER. Probably so.

Mr. FULBRIGHT. Did the Senator approve it?

Mr. ELLENDER. It was not—I did not know anything about it.

Mr. FULBRIGHT. So the whole idea of Congress declaring war is really circumvented by such a procedure, is it not?

Mr. ELLENDER. Well, Mr. President, I wish to say that——

Mr. FULBRIGHT. Is it not?

Mr. ELLENDER. No; I do not think so.

Mr. FULBRIGHT. Well, if you can create an army and support it through the CIA, without anyone knowing about it, I do not know why it is not. That is a hypothetical question I am asking.

Mr. ELLENDER. I understand. But, Mr. President, I wish to say that I do not know. I never asked, to begin with, whether or not there were any funds to carry on the war in this sum the CIA asked for. It never dawned on me to ask about it. I did see it publicized in the newspapers some time ago.

Mr. FULBRIGHT. Well, this has been publicized often. But the CIA has many large operations. They operated a revolution in Guatemala some years ago, and threw out the government. But does not the Senator think Congress ought to know?

Mr. ELLENDER. Well, let Congress change the rules, if it so desires. Let Congress designate more than the five we have. But I would like to see it proceed in an orderly fashion, the same as it has in the past, and if the distinguished Senator from Arkansas——

Mr. FULBRIGHT. Let me ask, why does the Senator seem to think it is so necessary to keep secret the operations in Laos, as opposed to Vietnam? We have great publicity on Vietnam; why does the Senator think it has to be secret, the operation in Laos?

Mr. ELLENDER. It is apparently not secret, since the Senator knows about it. I think the Senator from Missouri (Mr. SYMINGTON) has sent some investigators out there and secured a lot of information that he made public.

Mr. FULBRIGHT. Well, the newspapers published the information before that. We were alerted to the situation when I first read about it in a newspaper account, and then we sent the people out there to check on it, it was so amazing.

Mr. SYMINGTON. Mr. President, if the able chairman will yield, I have never published any information along this line that was not cleared first.

Mr. FULBRIGHT. One of the reasons why this committee was created was as a result of reading in the newspapers just such stories, because it was incredible that we were supporting an army of 36,000 and paying for it without knowing about it.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mr. ELLENDER. I yield 10 minutes to the Senator from North Dakota.

Mr. FULBRIGHT. I wonder if the Senator would give us the reason why this should all be secret.

Mr. YOUNG. Mr. President, I have served on this Intelligence Subcommittee on Appropriations for 5 or 6 years, and this is the first time I ever attempted to defend what the CIA or any intelligence agency does. In order to do it, you would have to document your case, and one cannot document intelligence and spying. Spying is a dirty business, but it is a business every nation in the world engages in. Russia does a bigger job of it than we do. You cannot disclose secret information. But it is very valuable to us. It was very valuable to know, when we had the showdown with Cuba, just what the Russians would and would not do.

This five-member committee was not publicized or listed until about 3 or 4 years ago. The House of Representatives does not list their names yet.

You always have to have some secrecy in Government. For example, when the atomic bomb was developed, if there had been more than 10 people in the House and Senate who knew about that, it would have been public knowledge. But this was one of the best kept secrets in history.

You have all kinds of intelligence. For example, the satellites are intelligence-gathering vehicles. Would a weather satellite be an intelligence-gathering vehicle? It could be a part of military intelligence. That knowledge is very important to them. Does the Symington amendment include this?

As to all these press stories we read and hear, this is an interesting subject to write about, of course. People like to read them. I do, too. And if you want to read something very interesting and authoritative where intelligence is concerned, read the Penkovsky papers. Penkovsky was a Russian spy who became very disillusioned with the Russian Government, and told us all he knew about Russian intelligence, and he was caught. He knew he was going to be caught eventually, and he was caught and killed.

But this is a very interesting story, on why the intelligence we had in Cuba was so important to us, and on what the Russians were thinking and just how far they would go. For the life of me, I cannot understand what the amount of money we spend for intelligence would have to do with the Committees on Foreign Relations or Armed Services.

What the Senator is interested in is intelligence. So far as I am concerned, there is no objection to that committee from whatever intelligence they are able to get.

Mr. FULBRIGHT. No; I am not interested in the spies and their mistresses, and the Goldfinger type of thing. But here is a vast amount of money. I gave one illustration. Does not the Senator think it is our responsibility to know about the kind of activity in Laos, which I am quite certain is going on? In fact, I know it. But we were first alerted through the newspapers of the army there.

The Senator says it was a tremendous thing to keep the atomic bomb secret. As a matter of fact, suppose it had been known we were making one, what would have been the harm in that? It was not the secrecy that was significant, it was the fact that we succeeded. I do not know why the secrecy was all that important. If they had known we would have it in advance, it is quite possible that we would not have had to drop it. I do not know; that is a speculative matter. But I am not impressed with the argument that it was so important to keep it secret, other than perhaps as far as the technical thing was concerned.

When Roosevelt asked for 50,000 airplanes, everyone knew we were going to build 50,000 airplanes. We did build them, and used them.

But this secrecy and classification has become a god in this country, and those people who have secrets travel in a kind of fraternity like a college secret society, and they will not speak to anyone else. Yet the Senator wants us to appropriate the money and vote for the bill. I want to say that I find it very difficult to vote for a measure as to which I do not know whether the amount involved is $5 or $10 billion. When I think about what a poor, second-class Nation we are said to be militarily, although we spend twice as much as the Russians, it occurs to me that it may be $20 billion, for all I know.

I cannot understand why it is so important to be secret. As the Senator said, we know that the Russians do it, and the Russians know that we do. Everyone knows that we monitor their shots, just like they monitor ours. We all do the same thing. There is no secret about that, except that we do not know what we are spending on it, and how much it is, and we also do not know about the operations that are not intelligence gathering.

It is very unusual that we have an agency called an intelligence agency out operating a war. That is like the Pentagon. It is not gathering intelligence in Laos; I submit it is organizing and paying for a war. It is running airlines and paying for them. That is not intelligence gathering at all.

Mr. YOUNG. Is the Senator talking on his time or mine?

Mr. FULBRIGHT. I just ask the Senator, why should that be a secret? I really do not know. If we hire citizens of other nations to do in Cambodia what our own people are forbidden to do by law, does the Senator think that is good?

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mr. ELLENDER. I yield 1 more minute.

Mr. YOUNG. I read in the magazines and newspapers where the CIA was supposed to be hiring soldiers in Laos. If they hired some there, I am not opposed to it. The British have hired soldiers for 500 years. If someone was hired to interrupt the movement of goods and equipment down the Ho Chi Minh Trail, I am not opposed to that.

Mr. FULBRIGHT. Maybe it is a good thing, but why the secrecy? I am not now saying that it is good or bad. I am asking, why should it be so secret?

Mr. YOUNG. You can find out that much without knowing the amount of money they are appropriated. The amount of money is certainly not so important as the amount of intelligence. The Senator can get that as well as I can.

Mr. FULBRIGHT. If the money in here for intelligence is $20 billion, I think that is very important for the Senate to know.

The PRESIDING OFFICER. Who yields time?

Mr. ELLENDER. I yield 10 minutes to the Senator from Mississippi.

Mr. FULBRIGHT. Could the Senator say what percentage the committee cut the budget? Would he say they cut the budget 20 percent, or 10 percent?

Mr. ELLENDER. We cut the budget $390 million.

Mr. FULBRIGHT. Is that 20 percent, or 10 percent?

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. STENNIS. Mr. President, for what length of time am I recognized?

The PRESIDING OFFICER. The Senator from Mississippi is recognized for 10 minutes.

Mr. STENNIS. May I ask what time remains to the two sides?

The PRESIDING OFFICER. The remaining time is 13 minutes on each side.

Mr. STENNIS. Mr. President, I thank the Senator from Louisiana for yielding to me.

Mr. President, to try to settle a matter such as this, involving our activities all over the world—open and secret—with 45 minutes of debate to a side, to me, is tragic. I want to underscore that to every Member of this body, and with great respect for the author of this amendment. He and I really have rather good feelings for each other, I think.

Mr. SYMINGTON. We certainly do.

Mr. STENNIS. I think it is a great tragedy, and I would like the elected leaders of this body to hear what I am saying about that. It is absolutely impossible even to begin to state the facts, much less argue or explain the procedures about this matter. It is tremendous. It is perhaps the most important work we do in all the national security element.

There has been talk about it not being itemized in the bill. Did you ever see the U-2 itemized in any appropriation bill? Of course not. But it was through the U-2 that we got the most valuable information that perhaps we ever have gotten. It saved us hundreds of millions of dollars—billions, I think—and caused us to arm in time.

I will not go into any further details on that. That is just one illustration.

As I say, you cannot begin to go into this matter. But the question has been raised about the secrecy, why the secrecy, and I refer now to section 6 of the amendments to the National Security Act. The amendments were passed in 1949, as I recall. My time will be up almost by the time I read this special section. This is the law that Congress passed at that time for the security system we were trying to set up.

> Section 6. In the interests of the security of the foreign intelligence activities of the United States, and in order to further implement the proviso of section 403(d) . . . of this title, that the Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure, the agency shall be exempted from the provisions of section 654 of title V . . .

As I recall hurriedly, this relates to the disclosures. Some of these titles have been repealed, but this is the blanket that was put on it then.

> . . . and the provisions of any other law which require the publication or disclosure of the organizations, functions, names, special titles, salaries, or numbers of personnel employed by the agency.

That is the ban of secrecy that was put on it when we enacted this law. That is indicative of what Congress thought about it—suspended all the other requirements, and all laws, and so forth. Further:

> Provided that in referring to this section, the Director of the Bureau of the Budget shall make no reports to Congress in connection with the agency under sections 947 . . . of title V.

I understand that that is a reference to personnel, and I do not know what else. Those sections have been repealed a little, changed a little, reenacted, and so forth.

But there is the secrecy. It was in the atmosphere of this guideline that men such as Styles Bridges, former chairman of the Appropriations Committee—some Members of the Senate knew him; the late Senator Russell—many of the Senators knew him; Leverett Saltonstall; and a good number of others worked out a plan, trying to carry out their functions. They worked out a plan whereby this matter would be taken care of.

My goodness, talking about trying to keep something secret from some other Senator or somebody else. Trying to protect this country. It is in that spirit that this matter has been carried on—not a pleasant duty, by any means. I will get out anytime someone holding a responsible position in the Senate, such as our leader, says who has been selected and who will take my place.

This is the most grave thing I have seen come before the Senate, to handle it this way. I have no criticism of my friend here. But that is the gravity of it. It can be proved by other sections of the law.

The whole Central Intelligence Agency is brought into focus here. I want to say that I have been watching them for quite a while. This Agency is conducted in a splendid way. Except for salary increases, it has been reducing expenditures for the last several years. It has been reducing its budget. It carries on its job in a professional way, in the finest way.

There is a new intelligence plan of some kind. I call it a plan, and we are going into it now. That came out of the White House. We can argue about that, make fun of it. But intelligence is not a laughing matter. We are going into that fully now. I was not advised about it beforehand. I do not expect anybody to give me a great deal of attention, but I wish the chairman of the Armed Services Committee and the ranking member had been advised about it, and Appropriations. But they were not. But we are going into it now.

My impression is that we are talking about someone being kicked upstairs and denied authority and some other fellow put in. I do not know whether that is true or not, but I do not believe it is. Helms does not think so. But we are getting to the bottom of it. As soon as I heard this, I called him up and told him:

> You are the only man who has been approved by the committee and the Senate to be Director of the CIA. You are the only man we approved, and you are the only man, so far as I am concerned, who is going to be its director, until we do something about it.

That was with all deference to the deputy. I want a civilian in control of that agency, for my part. We had to approve this man. He assured me that his dominance over it, his effectiveness, his powers over, it will not be diminished one bit. He told us that today. We had a hearing on this matter.

That is just touching the high points. But we are going into it, and we are going to analyze it and study it and have an investigation—if one wants to use that word—if necessary. We do not take these things lightly. The stakes are too high.

Now, about these other agencies. Senators know what they get into. I am not going to delineate any more. I mentioned the U-2. I do not like some things about intelligence. As has been said, spying is spying. But if we are going to have an intelligence agency, we have to have an intelligence agency, and it cannot be run as if you were running a tax collector's office or the HEW or some other such department. You have to make up your mind that you are going to have an intelligence agency and protect it as such, and shut your eyes some and take what is coming.

This is a great deal of money here. I want to refer now to the last few words in the Senator's amendment. I do not know how far down the line that language goes, but I think it goes much farther down the line of intelligence than anything we handled in the method we talked about.

That language is broad enough to go to tactical intelligence. Every military unit in the field has an intelligence officer. In Vietnam they have to go out—we have heard the Senator tell about it—we send a major or a captain out with a patrol to try to take prisoners, and the prisoners are quizzed, to try to find out about the enemy. I think this language is broad enough to cover that sort of activity: tactical patrols. But it is not a budgeted item in the bill or in any of the matters I have been talking about. We would not know where to start. I do not know how much these tactical intelligence activities cost. It is not a budgeted item. There is no way to calculate it. That is part of running the Army. That is part of running the Navy. Think, for example, about the big sums of money that must have been spent in Korea on such tactical intelligence.

Mr. FULBRIGHT. Mr. President, will the Senator from Mississippi yield for a question?

Mr. STENNIS. I do not yield at this time. This is all so tragic—so little time I have to yield to any Senator—I can talk to Senators about this matter in the cloakroom, or in their offices, or in my office, but here tonight, in just a few minutes on this ending matter, I am not going to use my time to try to answer questions that way. I say again, I wish the leaders were in here—they are busy somewhere else—so that I could try to impress upon them the necessity for further time. I did not hear the unanimous consent request about the limitation. I was handling another matter then. It will take hours and hours fully to explain this matter, so that this body could intelligently pass on it. The Senator is giving an absolute figure here which, according to the interpretation, is far, far beyond what the Senator would intend to do. So in the last 10 seconds here, let me warn about the necessity that the only thing to do now is to vote this amendment down, and then take up the cudgels and the problem again and work it out some other way.

Mr. SYMINGTON. Mr. President, I am impressed with the observations of the chairman of the Armed Services Committee, his stating this amendment is not drawn properly, and so forth. I wish his interest in the subject had developed to the point where he had held just one meeting of the CIA subcommittee this year.

To show the lack of respect the executive branch has for the Senate, there was not one Senator who was approached in any way before the White House made this basic, major reorganization of our entire intelligence apparatus.

Mr. STENNIS. We will attend to that one, Senator, too.

Mr. SYMINGTON. As a longtime member of the Committee on Foreign Relations, as an ad hoc member of the Appropriations Committee and the ranking member of Armed Services, I respectfully plead with my colleagues to allow me to receive in executive session enough intelligence information to in turn form an intelligent judgment on matters which so vitally affect our security; and so I can vote in committee and on the floor of the Senate on the basis of the facts. There have been several cases where I have not been able to do that in the past. In my opinion, this lack of disseminated information has cost the country a great deal of treasure and a number of American lives.

Now, Mr. President, I yield 3 minutes to the Senator from California (Mr. CRANSTON), and then 1 minute to the Senator from Arkansas (Mr. FULBRIGHT).

Mr. CRANSTON. I would like to address some questions to the distinguished chairman of the committee. The chairman stated that he never would have thought of even asking about CIA funds being used to conduct the war in Laos. I am sure I never would have thought to ask such a question. But it appeared in the press that perhaps that was happening. I would like to ask the Senator if, since then, he has inquired and now knows whether that is being done?

Mr. ELLENDER. I have not inquired.

Mr. CRANSTON. You do not know, in fact?

Mr. ELLENDER. No.

Mr. CRANSTON. As you are one of the five men privy to this information, in fact you are the No. 1 man of the five men who would know, then who would know what happened to this money?

The fact is, not even the five men, and you are the chief one of the five men, know the facts in the situation.

Mr. ELLENDER. Probably not.

Mr. CRANSTON. The Senator stated that $390 million has been cut. I applaud that action. Could the Senator tell me what figure in this bill is cut by $390 million, or is there no figure that has been cut specifically?

Mr. ELLENDER. No specific figure.

Mr. CRANSTON. What is the total figure appropriated—the total amount appropriated by the bill?

Mr. ELLENDER. The total of the bill as reported is $70,242,513,000.

Mr. CRANSTON. When we run through the bill, we find that there is allocated money for pay and allowances, for individual clothing, for subsistence, for interest on deposits, for retirement pay, for travel, for operation and maintenance, for medical and dental care, for welfare and recreation, for medals and awards, for emblems and other insignia, and then an itemization for the hiring of people, and miscellaneous items such as procurement of aircraft, procurement of naval vessels, leasing of buildings, the purchase of milk, itemized figures on expenses of prisoners, figures for each of those, and so forth. Is the way these items are handled inflated, or bloated, in fact—some of them, at least—that will cover up what is in this bill for intelligence?

Mr. ELLENDER. Yes, the Senator is correct—some of it.

Mr. SYMINGTON. Mr. President, I yield 1 minute now to the Senator from Arkansas.

The PRESIDING OFFICER (Mr. TALMADGE). The Senator from Arkansas is recognized for 1 minute.

Mr. FULBRIGHT. The Senator from Mississippi, whom we all respect so greatly, I think "protesteth too much." All the amendment does is simply to put a ceiling on the overall amount which may be expended for intelligence activities. The amendment has nothing to do with secrecy. It does not in any way seek to make public any of the State secrets the Senator referred to. His comments are utterly irrelevant to the amendment, I believe. This is a simple amendment, merely trying to put a ceiling on intelligence expenditures. It is also rather odd that the Senator from Mississippi said he does not know what is spent for intelligence, and yet the chairman of the Appropriations Committee said that we cut it $390 million. What was the original amount from which the cut was made? The overall amount to which the Senator from Missouri (Mr. SYMINGTON) refers is the same thing the Senator from Louisiana, who knows what he is talking about and, as chairman of the committee, spoke to this body about. Yet the Senator from Mississippi says he has no idea what is spent for intelligence.

The Senator from Louisiana knows what total he is talking about when he says it was cut $390 million. The Senator from Louisiana certainly has some figure in mind. He was not talking about sergeants going out, looking for booby traps. He had some total figure in mind. It is strange that the chairman of the Armed Services Committee has no idea what the Senator from Louisiana is talking about.

Mr. STENNIS. Will the Senator from Arkansas yield at that point?

Mr. FULBRIGHT. I do not yield to the Senator on my time. The Senator refused to yield to me. The Senator from Mississippi has tried his best to obfuscate this matter. If he is as serious about this thing as he says he is—and I think this is a serious matter, as a matter of fact, the most serious thing we have before us—I do not think it is tragic to bring it up. So why do we not have an executive session and talk about it at length?

If the Senator from Mississippi would like to have an executive session, we could talk about it all day, sometime next week, when we return after Thanksgiving.

We talk about intelligence. It is no secret from anyone that we are waging war in Laos and have been for a long time.

Mr. SYMINGTON. Mr. President, following the thought of the Senator from Arkansas, if the able chairman of Appropriations, the Senator from Louisiana (Mr. ELLENDER) and the able chairman of the Armed Services, the Senator from Mississippi (Mr. STENNIS) will agree to a secret session next week, so we could discuss this matter more thoroughly, I will withdraw my amendment tonight.

I ask the Senator from Louisiana and the Senator from Mississippi if they would agree to such a session?

Mr. ELLENDER. Answering for myself, I would like to complete this bill. If the Senator desires to talk about it after the bill is completed in executive session, that is all right with me. But I would not want it to interfere with the final passage of the bill.

Mr. SYMINGTON. Why not let the bill wait until we get more facts about the many billions of dollars involved?

Mr. ELLENDER. As I have said, we agreed on the time for the Senator to discuss the amendment. I am very anxious to complete the bill today if possible.

Mr. SYMINGTON. Mr. President, there has been much criticism of the time limitation and I see the majority whip on the floor. He would be the first to say I was anxious we not have any limitation. But I did finally agree. I also agree with the Senator from Mississippi that there should not be a limitation on time.

But if we want to proceed I ask unanimous consent we have another 2 hours.

Mr. GOLDWATER. I object.

The PRESIDING OFFICER. Objection is heard. Who yields time?

Mr. FULBRIGHT. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Missouri has 5 minutes remaining.

Mr. SYMINGTON. Mr. President, I say to my colleagues that I have been told in confidence different figures concerning how much money we were actually expending on national intelligence. As a result of people going into foreign lands we now know that much of what we are doing is both costly and unwise, actions we would have undertaken if we had had the right information. As the Senator from California pointed out, if we had had more information on certain important issues, we would have made different decisions.

All this amendment does is say we cannot spend more than $4 billion on intelligence this fiscal year.

I would hope that the Senate would agree.

Mr. FULBRIGHT. Mr. President, will the Senator yield?

Mr. SYMINGTON. I yield.

Mr. FULBRIGHT. Mr. President, I agree with what the Senator from Mississippi said about the importance of this. He said that we cannot dispose of all of this in a few minutes. I agree.

This amendment is a very important amendment. It seems to me that when this matter was brought up before, we did have an executive session and did discuss the matter.

Today we are much more critical of the amount of money we spend than we were at the time when the program developed.

It is important that the Senate, as a whole, understands what the intelligence program is. I would think the Senate would welcome an opportunity to have this explained. It would satisfy curiosity about this matter.

One of the things that worries me most of all is that I do not see any reason why we should pass appropriations for the CIA to organize an army, pay the troops, and conduct a full-scale war in Laos. Yet people of this country think we have a democracy in which a war, if one is to be fought, has to be declared by Congress. Yet Congress did not know about the war in Laos until it was well underway.

Today, while the war is known to everyone, there still is no official acknowledgement. There is nothing in this bill to indicate how much money we will spend in support of the army in Laos. It will be many millions of dollars. I do not see how we could support an army of the size we do without that much money.

I do not see what is wrong with knowing these things. This is an operation. This is not intelligence. It is the difference between the U-2 and the affair in the Dominican Republic, and upsetting the government in Guatemala. Maybe these things are good. But no doubt Congress ought to know about them so that it can decide.

Mr. SYMINGTON. One of the great surprises of my life was to find out how much of the money in this intelligence budget actually goes to the Central Intelligence Agency. The Senator feels the situation in Laos is very wrong. We could talk about other situations.

Mr. FULBRIGHT. The Senator reminds me of something about Mr. Helms. Mr. Helms has been far better with the Congress than any other intelligence man with whom we deal. I would put him at the top. The recent reorganization looks like an effort to curb Mr. Helms in favor of the Pentagon, and this what I do not like.

Mr. SYMINGTON. I do not either, moving into the hands of the military.

Mr. MATHIAS. Mr. President, the old saying that some may apply to this amendment is that one should not stir muddy water. For the Senator from Missouri has focused our attention on water that is not only muddy, but actually murky. Many Members may be reluctant to stir this water for fear of what they may find. I think we cannot delay much longer in turning our attention in this direction for fear that what is there may evade our examination and our concern.

But I find it intolerable that we should attempt to debate and decide this question with such a complete lack of firm facts and reliable information, and with the limitation of time and freedom of expression that is necessary under existing conditions. Under the circumstances, I feel unable to support this amendment at this time. I would support, however, a motion to hold an executive session at an early date at which the whole issue could be thoroughly and thoughtfully considered.

An alternative to an executive session of the whole Senate might be a joint meeting of the Foreign Relations and Armed Services Committees under appropriate conditions that would permit adequate investigation without jeopardizing security. While proper security is a national requirement, yet the Congress must have the facts in order to resolve the issues that are embodied in the reports of a secret war in Laos and other covert activities alleged to be conducted by one or another of our intelligence agencies.

The PRESIDING OFFICER. All time having expired, the question is on agreeing to the amendment of the Senator from Missouri. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. HARTKE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Maine (Mr. MUSKIE), the Senator from Louisiana (Mr. LONG), and the Senator from Utah (Mr. MOSS) are necessarily absent.

I further announce that the Senator from Idaho (Mr. CHURCH) is absent on official business.

Mr. GRIFFIN. I announce that the the Senator from Maryland (Mr. BEALL), the Senator from New Hampshire (Mr. Maine (Mrs. SMITH) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Illinois (Mr. PERCY) is detained on official business.

The Senator from Ohio (Mr. SAXBE) is absent on official business.

If present and voting, the Senator from Illinois (Mr. PERCY) and the Senator from Maine (Mrs. SMITH) would each vote "nay."

The result was announced—yeas 31, nays 56, as follows:

[No. 394 Leg.]

YEAS—31

Bayh
Burdick
Byrd, W. Va.
Case
Chiles
Cooper
Cranston
Eagleton
Fulbright
Gravel
Harris
Hart
Hatfield
Hughes
Humphrey
Inouye
Kennedy
Magnuson
Mansfield
Metcalf
Mondale
Montoya
Nelson
Pell
Proxmire
Randolph
Ribicoff
Stevenson
Symington
Tunney
Williams

NAYS—56

Aiken
Allen
Allott
Anderson
Baker
Bellmon
Bennett
Bentsen
Bible
Boggs
Brock
Brooke
Buckley
Byrd, Va.
Cannon
Cook
Curtis
Dole
Dominick
Eastland
Ellender
Ervin
Fannin
Fong
Gambrell
Goldwater
Griffin
Gurney
Hansen
Hollings
Hruska
Jackson
Jordan, N.C.
Jordan, Idaho
Mathias
McClellan
McGee
McIntyre
Miller
Packwood
Pastore
Pearson
Roth
Schweiker
Scott
Sparkman
Spong
Stafford
Stennis
Stevens
Taft
Talmadge
Thurmond
Tower
Weicker
Young

NOT VOTING—13

Beall
Church
Cotton
Hartke
Javits
Long
McGovern
Moss
Mundt
Muskie
Percy
Saxbe
Smith

So Mr. SYMINGTON's amendment was rejected.

Mr. ELLENDER. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. STENNIS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNANIMOUS-CONSENT AGREEMENTS

Mr. MANSFIELD. Mr. President, it has been a long and hard 3 weeks. I know that some Senators are getting tired. Some would like to put the bill over until tomorrow. Others—I believe a majority—would like to finish it tonight.

It is my understanding that as of now we have only one amendment in contention, and the distinguished Senator from New Hampshire (Mr. MCINTYRE) has indicated that he would be willing to agree to a limitation of 20 minutes.

I ask unanimous consent that the Senator from New Hampshire be allotted 15 minutes and that the manager of the bill be allotted 5 minutes on that amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I understand that another possibly contentious amendment will not be offered, and that there will be an amendment offered by the distinguished Senator from Nevada (Mr. CANNON) and by the distinguished Senator from Mississippi, both of which will be accepted, or at least accommodated. It would appear, if the Senate would agree, that we could come to a final vote on the bill at 9 o'clock or thereabouts.

Mr. BROOKE. Mr. President, I have an amendment which I hope would be accepted.

Mr. MANSFIELD. If it is not accepted, would the Senator agree to the most limited time possible in view of the circumstances?

Mr. BROOKE. Yes.

Mr. MANSFIELD. How much time?

Mr. BROOKE. Twenty minutes.

Mr. HUMPHREY. Mr. President, I have an amendment which I would like to propose, and I would be willing to limit it to a very small amount of time.

Mr. MANSFIELD. Ten minutes?

Mr. HUMPHREY. Ten minutes.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the time on the amendment of the distinguished Senator from Massachusetts (Mr. BROOKE) be limited to 20 minutes, with time to be equally divided, and that time on the amendment of the Senator from Minnesota (Mr. HUMPHREY) be limited to 10 minutes, the time to be equally divided.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MANSFIELD. And that, at the conclusion of the consideration of these amendments, the Senate proceed to third reading and final passage.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. McINTYRE. Mr. President, I call up my amendments No. 749.

The PRESIDING OFFICER. The clerk will read the amendments.

The assistant legislative clerk proceeded to read the amendments.

Mr. McINTYRE. Mr. President, I ask unanimous consent that further reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McINTYRE. Mr. President, I ask unanimous consent that notwithstanding the fact that the figure on page 23, line 26, and page 24, line 1 has been amended, I be permitted to offer an amendment changing the same figure.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendments of Mr. MCINTYRE (No. 749) are as follows:

> On page 23, line 26, and page 24, line 1, strike out "$2,293,619,000" and insert in lieu thereof "$2,341,069,000".
>
> On page 24, lines 10 and 11, strike out "$2,845,944,000" and insert in lieu thereof "$2,875,944,000".
>
> On page 24, lines 24 and 25, strike out "$437,143,000" and insert in lieu thereof "$442,143,000".

Mr. McINTYRE. Mr. President, I ask unanimous consent to add as cosponsors of my amendment the distinguished Senator from Texas (Mr. BENTSEN), the distinguished Senator from Arizona (Mr. GOLDWATER), and the distinguished Senator from Colorado (Mr. DOMINICK), all members of the Subcommittee on Research and Development of the Armed Services Committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McINTYRE. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McINTYRE. Mr. President, I would be remiss if I did not compliment the distinguished chairman of the Appropriations Committee and the members of that committee for the fine work they have done on the fiscal year 1972 defense appropriations bill. All of us in the Senate realize what a fine job the Senator from Louisiana has done. Their action which resulted in a cut of about $3 billion from the amount requested is highly commendable.

I am moved, however, to express my concern with one particular aspect of their actions. This involves a general reduction of $112 million in the research and development appropriations. Of this amount, $77 million was assessed to the Navy, $30 million to the Air Force, and $5 million, which also had been cut by the House, to the Advanced Research Projects Agency.

In my view, Mr. President, to reduce the budget request by a lump sum amount is unwise. It may be interpreted as sidestepping to a degree the need to examine the details of the major programs so that specific reductions can be made where and when supported by the facts. It may also be interpreted as relinquishing to the Department of Defense the responsibility for deciding how to spread the reduction; and that decision by Defense may not turn out to have been wise or in the best interest of the country. It is certainly an unjustified cut in the one R. & D. program of the Department of Defense which is the key to our technological lead over the Soviet Union.

Originally our subcommittee, in frustration, undertook to make percentage cuts which were entirely judgmental and arbitrary. When the full committee considered the subcommittee recommendations, I recall being asked why a given percentage was selected and why it could not be twice that or half that. I could not, in good conscience. I would guess, Mr. President, that the Appropriations Committee would have some degree of difficulty if similar questions were asked about the general reductions of $112 million. The fact that the Navy was requested to consider spreading their $77 million reduction among 57 programs at their discretion, and the Air Force $30 million among 33 programs at their discretion does not help the situation. If anything, this will cause a lot of squabbling within the services and the Department of Defense. I am concerned, too, that logic may be subordinated to loud and forceful proponents, or other unjustified influences.

I have learned my lesson well. In reviewing the fiscal years 1971 and 1972 R. & D. requests, although we were limited in time and had to devote many long hours in hearings and briefings, the major part of the budget was covered in detail. We on the subcommittee bit the bullet, Mr. President. As a consequence, we were able to come up with specific recommendations by individual programs right down the line, and they were sustained by the full committee and the Senate as a whole.

I cannot condone this practice, Mr. President, which to me is counterproductive in every sense of the word. It also contradicts the principles which we on the R. & D. Subcommittee have taken such great pains to uphold in steering the Research and Development Subcommittee through the authorization request for research and development.

To correct this situation, Mr. President, I have introduced amendment No. 749 to the pending bill which would accomplish the following:

First, it would restore $58,700,000 of the $77 million general cut made in the Navy program. Of the difference of $18,300,000, $12,300,000 has been proposed to be restored by an amendment introduced by my distinguished colleague from Colorado to the surface effect ship program. The remaining $6 million is not proposed for restoration because it is in excess of the total amount provided in the fiscal year 1972 military procurement authorization bill as passed by the Senate.

Second, it would restore the $30 million general cut made in the Air Force program.

Third, it would restore the $5 million general cut made by the House and sustained by the Senate Appropriations Committee in the program of the Advanced Research Projects Agency.

These actions, Mr. President, would restore these appropriations to levels which would be within the total amounts provided for these agencies in the military procurement authorization bill as passed by the Senate.

I should mention, Mr. President, that my comments are not intended to apply solely to the Appropriations Committee in its action on the defense budget. They apply to all committees of both Houses of Congress which have the responsibility for legislation involving the use of the taxpayer's dollar.

I certainly hope that the amendment will receive the approval and the backing of my fellow Senators.

Mr. President, I point out that my serious objection here is summed up in a statement on page 176 of the report of the Appropriations Committee, as follows:

> *General reduction.*—It is the view of the committee that substantial savings can be made by a careful review of the requirements for the numerous projects included in the planned fiscal year 1972 program, and a $77,000,000 general reduction is recommended. While this reduction has not been applied to specific projects, the committee requests the Navy to consider the application of the total reduction to the following projects:

And then it lists about 70 of them.

Mr. President, in the subcommittee of the Appropriations Committee that I chair, we went to work on some 17 of these particular programs, and in some instances, when the case was made, for example, by the Navy, we sustained their request; in other instances, we cut them back.

I think that is the intelligent way we should go at it, especially when we are dealing with what DOD and many military observers feel is our preeminence in the field of technology.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. DOMINICK. Mr. President, will the Senator yield me 2 minutes?

Mr. McINTYRE. I yield the Senator 1 minute.

Mr. DOMINICK. I just want to congratulate the Senator from New Hampshire, the chairman of the R. & D. Subcommittee, on his efforts. I know what a tremendous job he has done on this measure. Time after time, he has been totally surrounded by papers, talking with witnesses, trying to find out what we were really doing in this R. & D. area. He has gone into extraordinary detail, in I think probably the most fruitful program we have had for a long time to delve into the enormous amount of money spent on research and development.

I merely wanted to congratulate the Senator and say I am happy to support his amendment.

Mr. McINTYRE. I thank the Senator for his support. I yield 1 minute to the distinguished Senator from New York.

Mr. BUCKLEY. Mr. President, the McIntyre amendment will provide for the restoration of the minimum funds required for the vitally important development of our future defense capabilities. It will mitigate to some small extent the damage to our defenses which will result from the sharp cuts in defense spending reflected in the defense appropriation bill now under consideration.

It should be kept in mind that the President's originally requested expenditure of $73.5 billion for fiscal year 1972—a level of expenditure which many experts considered to be dangerously low—has been cut by $3 billion, most of it out of those funds allocated for research, development and procurement.

In considering what is or is not an adequate rate of expenditure for various aspects of our national defense, we must focus on the magnitude of the threat which is now being posed by the rapid, purposeful expansion of the Soviet Union's conventional and strategic forces. I have had occasion earlier this year to describe the rate at which the Soviet Union is overtaking us in her strategic and naval capabilities. Just last Sunday, the New York City newspapers carried two items describing our relative decline in still other areas.

The first of these was a column which appeared in the New York Daily News under the title, "The Shock of Being Second in Air Power." I ask unanimous consent that the column be reprinted in full at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BUCKLEY. The second item, which appeared in the New York Times, contained the following quotation from the 1971–72 edition of the authoritative "Jane's Weapons Systems":

> Russia now has the initiative in weapons technology. Whereas for a long time it was assumed—with considerable justification—that the NATO countries had a clear lead in the development of sophisticated weapons, it is now clear that the U.S.S.R. has extinguished that lead and is outstripping the West.

I ask unanimous consent that the article from the Times be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. BUCKLEY. It would be well for Members of this body to ponder the implications of the statement quoted from "Jane's Weapons Systems." The case has been made in such diverse organs as the "International Institute for Strategic Studies," "Jane's Fighting Ships," and "Jane's All the World's Aircraft" that the United States has already fallen behind the Soviet Union in so many categories of strategic weaponry, that the credible threat of a successful Soviet preemptive first strike upon U.S. strategic forces is now within the realm of feasibility. It now appears that we are also losing—if we have not already lost—the technological base from which to restore the primacy of our forces and to equip them with the kind of modern weapons which will be required to defend our security, and to enable the President to implement our legitimate foreign policy objectives.

The defense appropriations bill currently before the Senate has gone far beyond mere cost-cutting economy measures. It is on the verge of destroying the vital technology base of our research and development community which is necessary to support any crash effort we may be required to make to modernize and expand our military forces on an emergency basis.

Our memory should not be so short as to forget that we had a year or two of warning after the initiation of hostilities in Europe in World War II before we were forced into war. This gave us barely enough time to develop a minimum defense establishment with which to enter the war. No one believes that we will be granted an equivalent period of time for mobilization should the Soviet Union seek to exploit its military advantage in the near future.

The aggregate amount of funds appropriated for R. & D. in the bill before the Senate are barely enough for a cost-of-living adjustment, and thus they provide no opportunity to improve our technology base at a time when the Soviet Union is actively improving its own. The restoration of funds provided for in the McIntyre amendment is the absolute minimum required by the elemental imperatives of national survival. I urge its adoption.

EXHIBIT 1

THE SHOCK OF BEING SECOND IN AIR POWER

(By Jerry Greene)

WASHINGTON, November 20—The late Gen. Hoyt Vandenberg had a word for it 20 years ago, a descriptive one-liner laying out the picture far better than a batch of statistics. And the little known tragedy of today is that we are rapidly nearing the same status once again.

"We have a shoestring, one-shot Air Force." Vandenberg told a House committee only a half-dozen years after the United States had fielded the mightest aerial combat armada in history.

A couple of days ago President Nixon signed a $21.3 billion defense authorization bill for fiscal 1972. The $70 billion-plus defense appropriations bill is now before the Senate.

The appropriations bill carries nearly $3 billion for procurement and modernization of aircraft and purchase of spare parts and support equipment. More than a billion dollars is allocated for 200 new planes.

Yet in the face of these enormous outlays, in relation to Russia and the Warsaw Pact nations, USAF is in a sorry state for manned aircraft, running very hard to stand still—in second place.

For all of the quibbling over shipment of F–4 Phantom jets to Israel, if this sale of 50 planes was ordered immediately the aircraft would have to be taken away from an American squadron.

As of today the Air Force has only 102 more F–4 fighter aircraft on order, 16 to be delivered this fiscal year, 75 in fiscal 1973, and 11 in fiscal 1974.

The 1972 budget, for a year nearly half gone already and the appropriation still not passed by Congress, provides for the purchase of 164 aircraft of all kinds for USAF, the smallest annual buy since 1935.

Since 1968, the procurement of aircraft for USAF has not been sufficiently large to replace losses from all causes, the largest coming from the Vietnam war.

At latest reports, USAF had about 6,000 combat aircraft. Russia had 10,000 such planes.

Such a comparison lends support to the comment by one of the top military planners who told us, "under the best possible assumptions our ability to win the air superiority battle are very chancy, a very high risk involved. It appears very doubtful that in Western Europe we could win air superiority in the early stages."

It might be noted in passing that not since the battle of El Alamein early in World War II have American ground forces been engaged in combat without complete air superiority. Those who have been under air attack can tell the curious that it does make a difference.

The basic reason for the sad state of USAF as regards aircraft is quite simple: Most of our latest models are quite old in either design or production or both—and it will be years, even if Congress is willing, before we get new ones.

But, apart from the ICBM and the ABM and the costly troubles of the C–5A cargo plane of the Air Force, we thought we'd take a look, after all of the propaganda of the annual appropriations time. What we found was neither pretty nor reassuring.

A LOOK AT MANNED PLANES

There can be no precise comparison of the Air Force of today and that of World War II, of course, because so much of the modern potency lies in the strategic arm, where the heavy element resides in the ICBM force. We are looking here at the flying end of the spectrum, the planes with pilots and air crews, bombers and fighters.

Some idea of the competition can be seen in the fact that in the last 15 years, Russia has produced at least 20 different fighter aircraft of which eight types are currently operational. During the same time the U.S. has built exactly one completely new fighter, the highly controversial F–111, destined far more for interdiction bombing than for air fighting.

The F–4 Phantom, now in the "E" model, was first delivered to USAF for service in 1964. This aging aircraft can handle what the

Russians have built up to the Mig-21 fighters, but we are told there would be grave difficulty with the newer Mig-23 and the SU-7.

The Mig-23s are coming off the Soviet assembly lines at the rate of three per month. And the Russians have two newer prototype fighters undergoing tests.

GOOD PLANES IN THE WORKS

We've got something that will match the Russians best, but not any time soon. That is the Air Force's F-15 and the Navy's F-14, the first purely air-to-air fighter planes in a generation. The Navy has three prototype F-14s flying tests. But under the best possible speed, the Air Force F-15 won't make its first flight until July 1972. The last research and development model isn't slated to come off the assembly lines until 1974.

Perhaps the arms limitation talks and President Nixon's peace initiatives will one day remove the necessity for any of this costly and deadly new stuff. Unhappily, nobody seems to have convinced the Russians that expenditures for modern combat aircraft are either unnecessary or undesirable for the present.

EXHIBIT 2

SOVIET SAID TO LEAD IN ADVANCED ARMS

LONDON, Nov. 20.—The Soviet Union now is ahead of the West in the development of highly sophisticated weapons, an authoritative British reference book said this week.

Moscow's advance was made possible to a great extent by costly duplication of effort by members of the North Atlantic Treaty Organization, according to Jane's Weapons Systems 1971-72. The 586-page volume, published in its third annual edition, is a companion reference work to Jane's Fighting Ships and Jane's All the World's Aircraft.

"Russia now has the initiative in weapons technology," the publishers said. "Whereas for a long time it was assumed—with considerable justification—that the NATO countries had a clear lead in the development of sophisticated weapons, it is now clear that the U.S.S.R. has extinguished that lead and is outstripping the West."

Recent advances in the Soviet early-warning radar system, Jane's said, plus "the modern Soviet Navy and the nature of its armament and equipment, and the existence of an operational antiballistic missile system around Moscow are evidence of the Soviet ability to take the initiative in weapon system development and deployment."

The PRESIDING OFFICER. Who yields time?

Mr. McINTYRE. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 5 minutes remaining.

Mr. McINTYRE. I yield 1 minute to the Senator from Mississippi.

Mr. STENNIS. Mr. President, this is a matter of opinion. I would just like respectfully to disagree with the chairman and the ranking minority member of the committee here.

This subcommittee, chaired by the Senator from New Hampshire, has done much splendid work and brought to the Senate a real analysis of many projects that have saved millions and millions of dollars in the last 3 or 4 years. I respect their judgment and know about their hard work. I was not able to be present at the markup of this part of the bill, but I am convinced of the value of the Senator's amendment. It backs up the work the Senator did on the authorization.

I support the amendment.

Mr. McINTYRE. I thank the Senator from Mississippi, and I reserve the remainder of my time.

Mr. ELLENDER. Mr. President, I wish to say that the committee went over this program very carefully, and from a total of $7.9 billion, which was the amount that the House provided, we reduced the Army by $155.8 million, the Navy by $150.1 million, and Air Force by $171.1 million, and defense agencies $62.3 million, for a total of $539.3 million.

The committee, as I have stated, went over these research appropriations very carefully, and we felt, that we are cutting the various services, that is, the Army, the Navy, the Air Force, and the other defense agencies, this amount of money, aggregating $539.3 million, that the remainder, which was $7.4 billion, would be ample to carry on the work in the research field.

Of course, if the Senate should vote for this amendment, it would simply add to the bill about $93 million.

Mr. President, no one can make me believe that with three agencies spending as much as $7.9 billion there is not some waste. What we did before we made the cut was ask that they select which of the programs named on pages 176 and 177 of the committee report could stand the reductions. We deducted, as I have stated, the $539.3 million, and left it to them to state where the sums were to be taken.

Mr. President, it is a huge sum, $7.9 billion, that we are talking about now, and as I have stated, I just canot believe that with such a large sum of money being spent for research, there is not bound to be some duplication in it, and I feel confident that if the three services follow our prescription, they can do very well with the amount of money that we have provided.

As I have stated, it is left to them to make the cuts they desire among the various programs outlined in the report.

I yield to the Senator from North Dakota.

Mr. YOUNG. Mr. President, in a way I am happy to see these amendments offered to increase appropriations. Our committee, responding to what we thought was the mood of the Senate and the mood of the country, tried to cut this budget as far as we could without hurting the military, and I think we did.

There is one provision we put in that I think would be very helpful. The House provided $600 million in transfer authority. We increased that to $900 million.

The PRESIDING OFFICER. The 5 minutes of the Senator from Louisiana have expired, and the Senator has no more remaining time.

Does the Senator from New Hampshire yield time to the Senator from North Dakota?

Mr. McINTYRE. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 4 minutes.

Mr. McINTYRE. I yield 1 minute to the Senator from North Dakota.

Mr. YOUNG. We increased the transfer authority from $600 million to $900 million, and we believe that will help them take care of many of their problems.

Mr. McINTYRE. Mr. President, will the distinguished chairman of the committee yield to me, on my time, for a question?

Mr. ELLENDER. I yield.

Mr. McINTYRE. Can the Senator tell me why the proposed reduction was not $56 million, or one-half of this $112 million? What is the logic that stands behind the $112 million?

Mr. ELLENDER. It was our idea to accomplish a $500 million reduction, and that is how we obtained it. We asked the department to give us a list of the projects in which this cut would be made, and this list is printed on pages 176 and 177 of the report. That is how the amount was reached.

Mr. McINTYRE. What was the logic of the $500 million cut?

Mr. ELLENDER. As I said, we did our best to reduce the bill in various areas. We reduced in other areas than research and development, and we sought to fix an amount, a round figure, and the amount that was cut from this huge $7.9 billion—almost $8 billion—in research was only this $539 million.

Mr. McINTYRE. With the unobligated funds put against that, there is a net cut of $7.4 billion. Is that not true?

Mr. ELLENDER. It would be $7.4 billion that would be left, yes.

Mr. McINTYRE. So it amounts, actually, to a $600 million cut.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. McINTYRE. I thank the Senator.

Mr. HATFIELD. Mr. President, at this time, I wish to call attention to some language in the House report on this bill, which I urge be implemented with all due dispatch.

I refer to the serious problem confronting the private ship repair industry today, as the smaller yards see a lesser and lesser percentage of Navy ship repair available for their yards.

I call attention to language in the House report on this bill on page 63 of the report. There, the House report states:

> Likewise, it is equally important that a realistic portion of conversion and overhaul work be assigned to private shipyards to retain an industrial base for instant reaction in the event of a national crisis. As illustrated at the beginning of the Southeast Asia conflict, private shipyards were able to satisfy the increased demands of the Navy for the rapid activation of ships and vessels for combat operations.

Mr. President, I concur with these sentiments. In my opinion, and I am sure it would have the support of others of my colleagues here this evening, I think that a better distribution between nuclear and non nuclear repair work must be developed. The current plans penalize the smaller shipyards that are unable to bid on the large nuclear repair work.

The Navy has been able to point to a certain percentage, or a certain dollar figure in support of their contention that the private yards get a fair share of the dollar volume.

The awarding by the Navy of a few nuclear repair jobs to the big yards beefs up the dollar volume and the percentage figures, but many of the smaller yards are left out in the cold.

Mr. President, in my opinion, the House report would have been improved with the addition of the words "nonnuclear" to that sentence I referred to earlier. The phrase should have read, in my opinion, "a realistic portion of nonnuclear conversion and overhaul."

Mr. President, it is essential to the defense posture of this country that we have viable private shipyards. They can be activated in short order in emergencies, and should be maintained at as high a level of productivity as possible. I am aware of arguments advanced in support of the Naval repair yards, but I think that much of what is offered in support of the Navy yards pertains and centers more on the larger repair work, and not on the smaller, nonnuclear work.

Employment in the smaller private repair yards is at a critically low level in many areas. In my State, the yards are operating at a fraction of their potential strength.

I will not go into great detail at this point regarding this provision in the House report. I hope that the Navy will see that the private yards receive an equitable share of the smaller, nonnuclear repair work. I intend to pursue this over the course of the next year, and I hope that when we consider the next military appropriations bill that I will have some good news in this area to report to my colleagues.

I ask unanimous consent that a letter from the Portland local of the International Association of Machinists and Aerospace Workers discussing the employment situation in Portland appear at this point in the RECORD.

INTERNATIONAL ASSOCIATION OF MACHINISTS AND AEROSPACE WORKERS,
Portland, Oreg., August 2, 1971.

Hon. MARK O. HATFIELD,
Senate Office Building,
Washington, D.C.

DEAR SIR: On behalf of members of Willamette Lodge No. 63, International Association of Machinists and Aerospace Workers, we would like to call to your attention a very serious problem confronting the ship repair industry and its several thousand skilled mechanics here in Portland.

Since World War II we have had an available manpower pool of approximately 3,000 workers for the shipyard industry. These people are not an itinerant group but are stable citizens of the community who contribute substantially to its overall economic and social development.

The impact of a serious reduction in ship repair activity has been much in evidence since early in 1970 where today only about 200 of our people are employed, and many of these on a part-time basis.

We are now in great danger of losing permanently such of the skill and know-how which has identified Portland as the most productive and least costly ship repair port on the Pacific Coast.

It is obvious that there has been a substantial decrease in the amount of work available, particularly on U.S. Navy vessels which has in the past been the source of the major portion of the work load for Portland.

We can understand how a reduction in the number of ships of the fleet should have an effect on all sectors of the industry, both government and private. However, we cannot understand and find it even more difficult to explain to our unemployed members why during this very difficult period the U.S. Navy is permitted to maintain their yards at near peak employment while the private sector stands idle.

The implementation of the fallacious "Home Port Rule" where under the guise of permitting the crews to be with their families at the vessel's home port while it is being repaired and then at great expense to the government transferring that vessel along with its crew, their families and personal belongings to another Navy yard location to make the repairs is unjust and is being manipulated by the Navy for their own benefit.

Also, the recent policy change of placing all repair work on noncombatant auxiliary type naval vessels in their own yards and removing these vessels from the historical practice of being repaired in private yards on a competitive bid basis will force a greater reduction in private yard employment and will lead to the closure of many.

If this happens, it will be a devastating blow to both the government and the taxpayer and certainly will be damaging to our defense mobilization base.

We want you to know that labor protests these changes vigorously and asks that you take whatever steps are necessary to force a discontinuance of these new policies.

Very truly yours,

JOHN D. PETROFF,
Secretary-Treasurer, Williamette Lodge No. 63 IAMAW.

THE AIR WAR IN NORTH VIETNAM

Mr. HUGHES. Mr. President, the current defense appropriations bill contains several billion dollars for continuing the air war in Indochina. According to the air war study by scholars at Cornell University, this cost is likely to level off at between $2 and $4 billion for the indefinite future. These are harsh and expensive facts.

Although there has been a great deal of discussion about the air campaigns in Laos and Cambodia, I have noticed very little talk about the continued air war against North Vietnam. In order to inform myself and now my colleagues, I wrote to Secretary Laird asking for more information on this aspect of the Indochina war.

Compared with the costs and severity of the air campaigns in neighboring areas, the continued attacks on North Vietnam are not very significant.

But at a time when we are being told that the war is winding down, the fact is that the air war in North Vietnam is being increased.

So far this year there have been 82 so-called protective reaction strikes against North Vietnam. This figure is more than four times the 20 such strikes reported for all of 1970.

In November alone, there have already been 13 such attacks. Admittedly, November is a month when infiltration normally increases and U.S. attacks along the trails can be expected to increase. Yet, the 13 strikes this month are a significant increase over 1970, when there were only two such strikes, over 1969, when there was one, and over 1968, when there were three.

No one can question the right of pilots who are attacked to defend themselves. But not all of these strikes have been in response to direct attacks, since the current rules of engagement give pilots the right to retaliate whenever antiaircraft radar "lock on" to their own planes.

The New York Times reported this change in the rules last January, citing instructions to pilots to take "more aggressive actions." One source described this more permissive atmosphere in this way: "The emphasis now is clearly to attack at the slightest hint of a threat. Unless the North Vietnamese keep their radar off, we'll see more cross-border operations."

That prediction was, of course, quite accurate.

The new mood of pilots was reflected in a story in the Baltimore Sun last May. Reporter Michael Parks said that Navy planes were "waiting to pounce on Communist antiaircraft facilities at the slightest sign of hostile action in the steadily escalating air war over Indochina." He quoted pilots who spoke of "beating the other guy to the draw" and "getting there first with the most." No doubt this situation has continued.

We should remember, Mr. President, that the North Vietnamese also have an inherent right of self-defense. After 4 years of devastating air attacks, they are naturally suspicious of any American plane flying over their territory.

What do their radars see? When we send an unarmed reconnaissance flight over North Vietnam, it is escorted by four fighter-bombers. Presumably, retaliation will occur whenever enemy radar locks on to any of those planes. It is thus highly misleading for our officials to claim that its strikes are in response to threats to unarmed aircraft.

Even these claims account for only 20 of the protective reaction strikes this year—and for only eight strikes in all of 1970.

Over 50 of the strikes so far this year were justified as retaliation for threats to aircraft on admittedly hostile missions in Laos and South Vietnam. Yet in 1970 there were only four such retaliations. These attacks may also include retaliation against enemy artillery and other military threats.

There is a third type of "protective reaction strike," one which hardly deserves that label. These are the "limited duration" strikes which the Pentagon says are attacks "upon a AAA/SAM threat that is not immediate."

Up until a year ago, when massive raids were launched in conjunction with the raid on the abandoned Son Tay prison camp, there had been seven such large scale attacks in the 2 years of official suspension of bombing of North Vietnam. In the past year alone, a larger number—eight—of such strikes have occurred. The most recent was on September 23, when 200 sorties were flown against oil depots as well as antiaircraft gun and missile sites. More recently, planes on November 7 carried out the largest raids since September 21. And on November 8, the retaliating planes carried bombs rather than rockets.

These large scale raids are the hardest to justify as protective reactions and the most damaging to our supposed understanding with the North Vietnamese. How can we expect them to reduce their own involvement in the war when we continue to threaten their homeland? It is wholly plausible, as Jack Anderson has reported, that the Joint Chiefs have prepared scenarios for a full-scale resumption of the bombing campaign against North Vietnam.

I do not question the figures which

have been supplied to me by the Defense Department. I am troubled, however, to read newspaper accounts which are at variance with these official statements. For example, a Baltimore Sun story on November 2 says that through September there had been 82 protective reaction strikes in 1971, while the official figure is 63. A New York Times story on September 24 says that the mission on that day was the 62d for September and that the number for August was 14. The official figures are 10 and seven, respectively. I earnestly hope that we have not been misled by some definitional quirk into believing that the figure is lower than it actually is.

The facts on this air war may not be as startling or frightening as those of the other air wars being waged in Indochina, but the consequences are still quite important.

As long as this bombing of North Vietnam continues, the war will continue. As long as we send pilots over that nation, we are risking their lives and adding to the list of prisoners of war.

And most distressing of all, as long as this war escalates as it has been doing in recent months, we will be signaling to friend and enemy alike that we intend to step up rather than end this tragic war.

Mr. President, in order that others may have the full facts on this issue, I ask unanimous consent to include in the RECORD a table showing the number of strikes over North Vietnam by month since November 1968.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

PROTECTIVE REACTION STRIKES AGAINST NORTH VIETNAM

Month	January	February	March	April	May	June	July	August	September	October	November	December	Total
1968													
Type:													
I[1]	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	1	17	18
II[3]	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	2	5	7
III[4]	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	0	0	0
Total	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	3	22	25
1969													
I	3	0	3	8	6	7	2	1	1	2	0	0	33
II	1	1	8	3	15	12	0	1	0	0	1	0	42
III	0	0	0	0	0	0	0	0	0	0	0	0	0
Total	4	1	11	11	21	19	2	2	1	2	1	0	75
1970													
I	1	3	0	1	1	1	1	1	0	0	0	0	8
II	1	0	1	0	0	0	0	0	1	0	1	0	4
III	0	0	2	1	4	0	0	0	0	0	1	0	8
Total	2	3	3	1	5	1	1	1	1	0	2	0	20
1971													
I	1	1	0	4	3	0	0	3	3	1	[5]3	....	19
II	6	5	1	7	8	2	2	4	6	4	[5]4	....	49
III	0	3	3	0	0	0	0	0	1	0	[5]0	....	7
Total	7	9	4	11	11	2	2	7	10	5	[5]7	....	75

[1] Immediate protective reaction for NVN reconnaissance missions. From 1968 to May 1970 there may be some few strikes that were delayed.

[2] Not applicable.

[3] Immediate protective reaction for aircraft in Laos/RVN near NVN border. There may be a very limited number of strikes generated in response to enemy action against U.S./Allied forces other than aircraft operations near the NVN border.

[4] Limited duration protective reaction strikes.

[5] Figures through Nov. 15.

SOME UNRESOLVED ISSUES IN CLOSE AIR SUPPORT

Mr. **PROXMIRE**. Mr. President, I want to talk briefly today about one set of issues related to the bill before us. During the past 5 years the Department of Defense has funded, at a cost of nearly $600 million, the development or procurement of three new close support aircraft—the A-X, the Harrier, and the Cheyenne. Each of these aircraft has been specifically designed to provide close-range, highly responsive aerial fire support to our combat troops in the field.

Everyone recognizes the fundamental importance of the close support mission. If a full-scale conventional conflict should ever erupt in Europe, we would have far more need for front-line close support against advancing enemy tanks than we would for interdiction strikes against enemy trucks in Poland.

But the importance of the close support mission is no grounds for buying three new close support aircraft. The different aircraft duplicate each other's functions, while costing far more than if one were produced in quantity. In fact, the more important the close support mission is, the greater the justification for buying a large number of the best available plane for the mission.

Accordingly, there has been a good deal of concern the past few years about the need to choose between our close support options. Up to now, however, there has been a lot of talk and very little action. And what action there has been appears to be action in the wrong direction—toward an expansion rather than reduction in the number of candidate systems. The A–X, the Harrier, and the Cheyenne all remain alive. And we are also considering future purchase of the A–7D, the Cobra/TOW, the King Cobra, and the Black Hawk.

I do not want to talk in depth today about my own proposed solution to the problem—which involves heavy primary reliance on the A–X, backed up by some 60 Harriers and a limited number of Cobra/TOW's. I have already explained its rationale in an MCPL report on close support and in testimony earlier this month to the Senate Armed Services Committee's Close Support Subcommittee. But I do want to talk about two specific points directly related to funds provided in this bill.

I. CHEYENNE HELICOPTER FUNDING

Earlier this year the Army sought to reprogram $61.3 million into Cheyenne helicopter research and development work, a purpose for which no funds were sought in the official Defense Department budget. While I recognized that funds were available for reprograming from the canceled Cheyenne production contract, I felt that it was highly inappropriate to rely on such back-door methods for the financing of controversial programs.

Accordingly, I wrote to the distinguished Senator from Louisiana (Mr. ELLENDER) as chairman of the Appropriations Committee and asked that he disapprove the reprograming request. I suggested then that any Cheyenne funding thought necessary by the Appropriations Committee could be provided instead through a committee amendment to the defense appropriations bill. Such an approach would not hurt the Cheyenne program, I noted, while it would preserve the integrity of the normal budget process and allow Cheyenne critics a chance to challenge further funding on the floor.

COOPERATION APPRECIATED

I would like to thank my friend from Louisiana (Mr. ELLENDER) for his gracious and cooperative response to my request. He pointed out to me that $35 million of the $61.3 million requested by the Army represented funds due Lockheed in settlement of litigation over the canceled production contract. I agreed with him that there was no overriding reason why this money could not be reprogramed as the Army sought, with the balance of the request being considered during action on this bill. As a result of that consideration, the bill now contains $9.3 million for continued Cheyenne research and development work. I deeply appreciate the assistance of the Senator from Louisiana (Mr. ELLENDER) in reaching this accommodation.

Because of my personal opposition to the Cheyenne program and my belief that it should be canceled, I have considered offering at this time an amendment to strike the $9.3 million in the bill for the program. I will not do so, however, for the following reasons.

First, the Appropriations Committee, in reporting out the bill, made clear that it, too, wants a choice soon between the AX and the Cheyenne. Let me quote from the committee report:

> It is the view of the committee that the development of the Cheyenne should be continued in order that it may be fully evaluated along with the A-X light attack aircraft to determine *which* should be produced for the close air support mission. *It is hoped that this decision will be rejected in the budget for fiscal year 1973.*

Second, the Senate Armed Services Committee is itself in the process of concluding hearings on the close support question, hearings which should enable it to make its own recommendations for a solution to present problems sometime in the next month or two.

With both these important committees committed to a prompt resolution of these problems, it would not be appropriate for me to preempt them at this time. I trust that constructive action will be forthcoming soon. And I remain convinced that the advantages of the A–X over the Cheyenne will be plainly perceived when the decision is made.

II. A–7D ADVANCE PRODUCTION FUNDING

Let me turn my attention now to a second specific subject—the $5.8 million in advance procurement funds for a fiscal 1973 A–7D buy which were contained in the bill as reported by the House, but which were deleted by the Senate Appropriations Committee. I strongly support the Senate committee's action and believe it important to state precisely why.

First, we have no need for additional A–7D's in the primary interdiction bombing role for which they have always been purchased. Air Force and Navy purchases of different A–7 models have already totaled almost 1,200 for fiscal years 1967 through 1972. And Secretary Laird stated in testimony to Congress last March that the 97 A–7D's in the fiscal 1972 budget "will complete our planned procurement of A–7D's." It should also be noted that no advance procurement funds would be needed if the Defense Department changed its mind and decided that more A–7D's were in order. In that event the Department could stretch out this year's buy to permit a smoother production rate through next year, thereby saving money overall for the 2-year period and obviating the need for advance procurement funds this year.

Second, there is no reason to buy more A–7D's and keep the line open to provide a hedge against difficulties in the A–X program. I doubt to begin with whether such a hedge is needed. But even if it is, we already have plenty of available A–7D's for use in a fly-off with the A–X. And if it were decided to continue with the A–7D after that fly-off, it would cost only $20 million to reopen the A–7D line, a cost which should be contrasted with the $70 million cost of keeping it open through next fiscal year. In fact, we are already planning to keep open through fiscal 1976 the A–7E line on which a very similar plane is turned out. That is why the costs of reopening the A–7D line would be so low.

I believe, therefore, that there is no sound defense policy consideration which calls for the appropriation of A–7D advance procurement funds at this time. And the defense budget is not the proper vehicle for boosting profits and employment opportunities in selected areas of the country. I sincerely hope, therefore, that the conference committee will support the Senate's action on these advancement procurement funds.

Mr. EAGLETON. Mr. President, again this year, the Army's "dream tank," which long ago turned into a taxpayer's nightmare, has squeaked through, alive if not well.

The Senate Appropriations Committee has decided not to follow the lead of the House, which deleted all funds requested by the administration—$86.6 million—for the MBT–70/XM–803 program and recommended that $20 million be spent in search of ways to improve the current generation of tanks. The committee, to quote its report, did "not approve the continuation of the XM803 program, nor has it recommended its termination." Instead, the Senate Appropriations Committee has requested the Secretary of Defense to review the XM803 program, something that has been done before, apparently without benefit.

In each of the last 3 years the MBT–70/XM–803 has come under fire. In 1969 the GAO reported that the tank program was in need of serious review. Secretary Packard assured Congress that such a review would be conducted. At the end of the "review" Secretary Packard promised a cost reduction of $250,000 per tank, from $850,000 to $600,000.

However, by early 1971 costs were again soaring.

Earlier this year, the House Armed Services Committee revealed, and the Senate Armed Services Committee confirmed, that the MBT–70/XM803 would cost over $1.1 million per unit, not $600,000. And although the MBT–70/XM803 program was cut from the $86.6 to $62.8 million in authorization, this rolling blunderbuss survived an effort by the House Armed Services Committee to bring it to a halt.

As the House Armed Services Committee stated earlier this year:

> Recurring expressions of concern, both within the Army and by independent external observers, that the tank is nearing the end of its era of combat capability also influenced the Committee in its decision. New anti-tank weapons, including missiles, have brought about this obsolescence; and Soviet technical capabilities would permit them to field such anti-tank weapons before the MBT–70, or any alternative tank, has been in the force structure very long. In this connection, the Committee notes that both Russia and Germany appear to have recognized the diminishing utility of the heavy tanks and are placing more and more emphasis on light, hard-hitting, anti-tank vehicles and weapons. Although the USSR will probably continue to use its medium tank, its heavy tank is no longer in production, and is being gradually phased out of inventory. In any event, the U.S. M60A1 and the M60A1E2 are qualitatively equal to or better than any USSR tank now in the field or anticipated in the foreseeable future.

Less than 2 weeks ago, the House Appropriations Committee, after intensive study of the MBT–70/XM–803 program by the members and committee staff, recommended that all funds for the program be deleted, and that $20 million be added to R. & D. for the purpose of initiating a prototype program to provide a reasonably priced tank for the 1970's. In its report, the House Appropriations Committee stated of the tank:

> The Committee had its Surveys and Investigations staff conduct a thorough study of the main battle tank program during 1971. It was found that the Army simply was unable to support its cost estimates for the austere version of the tank and that it would in all probability cost between $850,000 to over $1,000,000 each depending upon whether or not total program acquisition costs are used in computing the unit cost. The Committee is firmly convinced that no tank is worth that much money, particularly when Army witnesses advise that the less costly M60A1 is as good or better in some respects than deployed Soviet battle tanks. Taking into consideration the size of the existing Soviet armor threat in Europe and the advertised capabilities of the MBT–70/XM803, it is highly doubtful that the United States could devote the necessary resources to acquire at such a high cost an MBT–70/XM803 in sufficient numbers to satisfy the requirements of the Army in meeting the Soviet tank threat.
>
> The Committee continues to feel that the MBT–70/XM803 is unnecessarily complex, excessively sophisticated, and too expensive, and that the Army, by eliminating or modifying relatively minor features, has failed to satisfy the recommendation in the committee report on the fiscal year 1970 bill. For these reasons the Committee has recommended that all funds for the MBT–70/XM803 be deleted from the fiscal year 1972 budget and the program terminated. In its stead, the Committee has recommended that $20,000,000 be added to the Army R.D.T. & E. budget for the purpose of initiating a prototype program to build a limited number of tanks of two different designs for test and evaluation. While the Committee does not consider the austere MBT–70/XM803 to be a prototype candidate, that tank does have certain design features such as spaced armor, low silhouette, turret stabilization, and a gun capable of firing a kinetic energy round that should be incorporated in the prototype. The use of Daimler-Benz engine, which was developed as a back-up engine during the joint development program with the Germans, should also be seriously considered for one of the prototype designs.

On November 16, 1971, the able chairman of the House Appropriations Committee, Mr. Mahon, echoed what I have been saying for several years. He stated:

> *It is felt that to continue the main battle tank program would be to throw good money after bad* . . . The proposed XM–803 is unnecessarily complex, excessively sophisticated, and too expensive.

Chairman Mahon is not against a strong defense. Neither is Congressman Stratton, who has done an outstanding job of bringing the MBT–70/XM–803 program under the scrutiny of the House Armed Services Committee. Neither am I. No responsible Member of Congress wants a weak America.

But for far too long, a "strong defense" has been equated in too many minds with the most sophisticated and costly weapons systems that money can buy. And that simply is not a valid calculation.

To drain our treasury, to spend ourselves into bankruptcy, in pursuit of super and super-expensive weapons which other countries do not feel obligated to have, has been the hallmark of defense spending since the 1960's. In pursuit of the "blockbuster," we have overlooked functional and less expensive weapons.

Many of us in Congress have been saying during the last 3 years that more costly and technologically fancy weapons do not necessarily add to our security—that, in fact, wasteful military spending can seriously impair our overall ability to defend ourselves.

The House Committee has already recognized this and the Senate Committee seems to be on the verge of doing so. Granted, much more must be done. But by deleting funds for the MBT–70/XM–803 program, the House Committee has taken an important step toward reestablishing sanity to our search for security. I urge the Senate to accept the House recommendation in conference.

Mr. HATFIELD. Mr. President, Monday's Washington Post should be mandatory reading for those who are fond of talking about the war in Vietnam that is "winding down." On page one we read:

> Thousands of South Vietnamese troops, spearheaded by an armored column, pushed north from Highway 7 in eastern Cambodia today in the start of a new offensive . . . Scores of U.S. helicopters and advisers moved into Tayninh to support the operation.

In an adjoining article about the war in Cambodia titled, "Bloody Little Battle" we read this description of the villages on the outskirts of Phnom Penh:

> The Communists are massed in the fields and bushes, attracting Cambodian artillery, South Vietnamese bombers, and American helicopter gunships. Along the roads, there are hundreds of refugee families, in carts drawn by cows, taking their possessions to a nearby village or pagoda, only to move again when that refuge is threatened . . . Last weekend the Communists seized the railroad station town of Toul Leap, about three miles from here, wiping one whole Cambodian battalion in the process. The bombers and gunships went to work and the enemy has been run out. But there is no more town.

On the editorial page in a column written from Svayrieng, Cambodia, we read:

> Meanwhile, refugees at a camp near here, whose homes were destroyed by U.S. bombing and allied artillery fire, exist with a pitiful shortage of food, shelter, clothing. American funds must be reserved, officials explain, for the military and essential economic programs which other countries won't provide . . . Thus Cambodia has found its place in the Southeast Asian dilemma. It looks to the United States to be able to survive, and about all the United States knows how to do is help speed destruction. Having become involved this far, America can't decently tell the Cambodians to forget it and lose. But neither can either country gain from a bloodier war.

Then, back to page 1, we read:

> Meanwhile, in Saigon, the U.S. Command announced one of the deepest bombing raids this year inside North Vietnam, against an anti-aircraft gun site near Vinh . . . It was the 80th "protective reaction" strike by U.S. planes over North Vietnam this year, and the fifth within the last eight days . . . U.S. Air Force and Navy fighter-bombers made their 79th "protective reaction" strike of 1971 inside North Vietnam earlier Sunday." The same article states, "U.S. headquarters also reported three more B–52 raids in the northwest corner of South Vietnam along the Laos Border . . . Saigon headquarters reported a Vietcong mortar shelling early Monday of Hoian . . . In the same area, Saigon headquarters said, an enemy unit shelled and attacked a regional force position Monday morning near the district town of Ducduc . . . Fresh fighting was also reported in the Central Highlands.

Perhaps Gary Wills' column in the same paper sums it all up best:

> Vietnam has always been the invisible war. We were in it before we knew we were in. And we have forgotten it before we are out. There is a feeling that if the war is not an issue, it is nothing; it does not exist . . . So we hear a great deal about withdrawals, each time there are some, while our bombing is increased; our "support troops" keep the Thieu regime in office, its own troops in the field; and "Vietnamization" means continuation of the war until we can entirely forget it—and then all the pretensions on which it has been prolonged can collapse unnoticed. For the aim of the war is no longer to win it, but to forget it.

It is an indictment of our moral insensitivity for this body to vote more money for continuing the war, while in the same breath we talk about the war's end—if we talk about the war at all.

It is worth noting just how long we have been winding down this war. The Paris talks, begun ostensibly to bring the war to a close, first met on May 13, 1968. That was almost 3½ years ago—we have been in the process of "winding the war down" or ending the war for that long. The war had already been going on with substantial American involvement since 1965.

As one who fought in World War II, I cannot help but remember that it took about 3½ years for that war, against Germany and Japan, to begin, escalate, and totally cease. In other words, by the end of the year, we will have been in the process of just ending this war for about as long as it took us to fight all of World War II, and with no real end to the fighting and bloodshed in sight.

Just how is this war winding down? First of all, in terms of the U.S. troops actually there on the ground. This we all know. The total number of troops in Vietnam has been reduced by about 67 percent. Furthermore, in 1967, U.S. troops made up 34 percent of the total allied troops there. Presently, they comprise about 10.6 percent of those forces. There has been a corresponding drop in the percentage of Americans killed in action among all those of the allied forces who die. Through 1971 thus far, U.S. soldiers have comprised about 6 percent of those allied forces killed in action, compared to about 38 percent in 1967. But that is one of the few dramatic ways in which the ugly statistics of bloodshed and death in Indochina are changing.

Consider, for example, the rate of overall casualties in Indochina. In 1967, there were about 24,000 to 25,000 deaths from hostile action among allied forces; these figures include estimates of allied deaths in Laos. At the very peak of the war in 1968, there were over 45,000 allied deaths. If we look at the average rate of overall total casualties among the South Vietnamese, Americans, and other allies, we find that from 1966 through this year, that average has been about 30,400 deaths per year. Now, when we look at the overall allied casualty rate for this year, and assume that will continue to be about the same, we find that there will be about 31,590 total deaths from hostile action in 1971—a figure higher than the level in 1967, when our troop strength was growing to its peak level. Of course, the current level of overall casualties among the allied forces has reduced from that during the Laotian invasion, earlier this year, and from the Cambodian invasion last year. But taken on the whole, and put into perspective since 1966, we find that overall military deaths from the fighting in Indochina are continuing this year at an alarming level, only slightly reduced from last year. The substantial reduction of American deaths has not been matched by any similar reduction in the Vietnamese who are dying in this war. And the official statistics reporting enemy deaths would lead us to believe that at our present rate, we will kill about 20 percent more enemy soldiers this year than last. My point is that as far as the Vietnamese are concerned, this war is not winding down.

Civilian casualties further reflect the reality of a war whose destruction and suffering for the people of Indochina knows no end. Precise figures and trends are not known. The Pentagon has never seen the need to make the kind of estimates of civilians killed in the way as they have for the number of enemy soldiers who die, and are computed each week. The only estimates that we do have come from sources outside of the executive branch, such as the Senate Subcommittee on Refugees. The evidence suggests that as the overall bomb tonnage over South Vietnam has decreased in the past 2 years, civilian casualties may be reduced from the peak of the war in 1968. Yet, as the bombing has begun in earnest in Cambodia since early 1970 and has significantly intensified in Laos since the beginning of 1969, civilian casualties in those countries have become significantly intensified. Estimates placed the number of refugees in Laos during June of this year at 315,000, or more than 10 percent of the entire population of the country. This amounts to an increase of 240 percent since 1969. And in Cambodia, the refugee toll since April 1970 is believed to be about 1.5 million people.

When the total tragic toll of this war's continuing human cost is taken, we find that the suffering for the people of Indochina is not winding down at all. In fact, it can be argued that the overall suffering of the war—those killed, wounded, and made refugees—has actually been rising this year compared to last. During the time that we have been "ending the war," the human suffering it is causing, while somewhat less intense within South Vietnam, has been tragically magnified throughout Laos and Cambodia in ways unknown during the Johnson years of the war.

The human toll of the war's suffering has always been most heavily inflicted by the bombs that have fallen on Indochina.

By the end of this year, we will have dropped 6 million tons of bombs on Indochina, an area about the size of Texas. That is 3 times the total tonnage used in World War II. Nearly half of this total will have been dropped during the first 3 years of this administration. In fact, the 2.9 million tons dropped since the beginning of 1969 through August of this year is more than the total tonnage dropped during the last 3 years of the Johnson administration, when the bombing of North Vietnam was being undertaken. That 2.9 million tons also exceeds the combined total of the bombing during World War II and the Korean war, and is only slightly less than the 3.2 million tons dropped during the 4 years of President Johnson's bombing policies.

It has been pointed out that the total of bombs dropped over Indochina has decreased in the past 2 years, and this is true. Primarily this reflects the substantial decrease in the level of bombing in South Vietnam proper, as well as the cessation of bombing over North Vietnam at the end of 1968.

What is far more revealing, however, is the way in which new air war has been opened in Cambodia, and the ongoing air war has been greatly intensified in Laos.

During the height of the bombing of North Vietnam, our bombs were falling at the rate of 200,000 tons per year. It is thought that during the peak there were at least 1,000 civilian casualties per week.

The effects of that bombing campaign were well documented by authors and members of the press who were allowed to visit North Vietnam during that time. And as the Pentagon papers reveal, the "Rolling Thunder" was a carefully orchestrated attempt to bring North Vietnam to their knees by our bombing.

Revealing comparisons between that bombing and our present level of bombing can be made. The bombing in Laos, for instance, increased by 2½ times in 1969 over 1968, and has remained since then about 44,000 tons per year—more than twice the level of the bombing of North Vietnam. About 90,000 tons of bombs will fall on Cambodia this year, in that country's relatively young air war. And in South Vietnam, the one place where our bombing has decreased under the present administration, we will drop about 270,000 tons this year—still higher than the peak of our bombing of North Vietnam.

We could phase out the U.S. bases for our planes within South Vietnam next year. But our planes based in Thailand, on carriers, and at Pacific bases will remain for the air war that will continue for years into the future, if there is no political settlement of this war.

It cannot be seriously contended that the air war is winding down or ending. There are overall decreases in total tonnage dropped, but of far greater consequence for those who live in Indochina is that the air war has escalated geographically over new areas previously spared from our bombs. The human consequences are revealed in thousands of new casualties and refugees from those same locations.

We have been winding down the rhetoric about this war; it has been talked about so little lately that you would think it is over. But little else about this tragedy is being wound down or ended.

The Mansfield amendment which has now become law declares it to be the policy of the United States to withdraw all of its forces and end all military operations at the earliest practicable date. In implementing that policy, it calls upon the President to set that date certain.

The administration, however, has announced that they intend to disregard the Mansfield amendment which has become the law of the land.

We have heard about this war winding down for long enough. And the people of Indochina have suffered under this perpetually "ending" war for long enough.

By voting for the defense appropriations bill, we are all voting to continue the war that we are trying so hard to forget. Therefore, I shall vote against the bill, and urge other Senators to do likewise until the President announces the date for our total military withdrawal from Indochina.

Let us vote to stop this tragedy and save ourselves and our country.

Mr. President, I ask unanimous consent that four articles published in the Washington Post on Monday, November 22, to which I have referred, appear at this point in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the Washington Post, Nov. 22, 1971]

Saigon Launches New Offensive Inside Cambodia

UNITED STATES TAKES SUPPORT ROLE IN OPERATION

Saigon, November 22 (Monday).—Thousands of South Vietnamese troops, spearheaded by an armored column, pushed north from Highway 7 in eastern Cambodia today in the start of a new offensive.

U.S. advisers said the drive is aimed at raiding staging areas from which elements of three North Vietnamese divisions could attack South Vietnamese bases on the highway, about 90 miles northwest of Saigon.

South Vietnamese field commanders said they anticipated that the new operation would also relieve enemy pressure on Phnom Penh and on the 20,000-man Cambodian government force battling Communist-led troops on the northeastern front in Cambodia.

Initial reports said that more than 5,000 South Vietnamese soldiers were involved in the opening thrust. The number was expected to increase.

There were no immediate reports of significant ground contact, but South Vietnamese air strikes killed 40 enemy soldiers west of the town of Krek, officers in the field said.

Officers said the operation could last up to 30 days, depending on what the South Vietnamese find.

Scores of U.S. helicopters and advisers moved into Tayninh to support the operation. Tayninh, 55 miles northwest of Saigon, is the forward command post for South Vietnamese operations into eastern Cambodia.

Communist-led forces who have fought their way to within 10 miles of the Cambodian capital are known to be resupplied from bases in the border region.

The South Vietnamese field commanders felt that the Communist-led forces would have to divert some men from fighting elsewhere in Cambodia to protect their base camps and storage depots in the border region north of Highway 7.

Meanwhile, in Saigon, the U.S. Command announced one of the deepest bombing raids this year inside North Vietnam, against an antiaircraft gun site near Vinh.

The command said four Navy A-7 Corsairs based on a carrier in the Tonkin Gulf struck at the site Sunday afternoon after North Vietnamese guns fired on an unarmed Navy reconnaissance plane.

It was the 80th "protective reaction" strike by U.S. planes over North Vietnam this year, and the fifth within the last eight days.

The command said that results of the strike were not known and that there was no damage to the four attack bombers or the reconnaissance plane, which apparently was on a photo mission over North Vietnam.

Vinh, a major North Vietnamese city about 145 miles north of the Demilitarized Zone, is at the hub of five supply routes. The site was eight miles west of the coast, the command said.

U.S. headquarters also reported three more B-52 raids in the northwest corner of South Vietnam along the Laos border.

South Vietnamese headquarters said its propeller-driven Skyraiders attacked North Vietnamese positions near Chrum in eastern Cambodia and pilots claimed 40 North Vietnamese killed. The claim was not confirmed by a body count on the ground.

Saigon headquarters reported a Vietcong mortar shelling early Monday of Hoian, a coastal province capital 15 miles south of Danang. The shelling hit a U.S. compound, wounding five American servicemen, and also damaged South Vietnamese installations, wounding four militiamen and four civilians.

In the same area, Saigon headquarters said, an enemy unit shelled and attacked a regional force position Monday morning near the district town of Ducduc, about 25 miles south of Danang. Headquarters said the attack was repelled.

Fresh fighting also was reported in the Central Highlands. Fields reports said a battalion of North Vietnamese attacked the Pleidjereng South Vietnamese ranger camp, 25 miles west of Pleiku and 12 miles from the Cambodian border, on Sunday.

There was no immediate word on casualties. It was the second attack on the camp in three days.

U.S. Air Force and Navy fighter-bombers made their 79th "protective reaction" strike of 1971 inside North Vietnam earlier Sunday. Pilots said they knocked out two enemy antiaircraft 80 miles north of the DMZ and near the North Vietnam-Laos border when the site fired on an American bomber on a mission over the Ho Chi Minh Trail.

[From the Washington Post, Nov. 22, 1971]

Bloody Little Battle

NIGHT FIGHT NEAR PHNOM PENH LEAVES THE QUESTION: WHY?

(By Peter Osnos)

Prey Khieu, Cambodia, November 21.—For the better part of five hours early today, Cambodian soldiers withstood a determined enemy ground attack atop this bump in the rice paddies, just 15 miles from the center of Phnom Penh.

When it ended at sunrise, 13 Cambodians were dead, including three soldiers' wives and one child. Another 23 people were wounded. Sime of these were women and children, too.

The enemy left two bodies behind. One, found near the Cambodians' skimpy command post, was wearing only shorts and a skull cap. He carried a grenade bag and had made himself darker with charcoal. He looked Vietnamese.

It was a tough and bloody little battle that proved nothing. But it was close enough to the capital to be considered part of the enemy's dramatically stepped-up activity in the area, and for that reason it was significant.

American officials maintain that the attacks are merely harassment and not intended to culminate in a drive on Phnom Penh. That remains to be seen. For the moment, the city itself seems as quiet and lovely as always, except for the sound of constant artillery fire at night.

But in the villages on the outskirts to the northwest, there is considerable fear. The Communists are massed in the fields and bushes, attracting Cambodian artillery, South Vietnamese bombers and American helicopter gunships.

Along the roads, there are hundreds of refugee families, in carts drawn by cows, taking their possessions to a nearby village or pagoda, only to move again when that refuge is threatened.

The family of 48-year-old Nop Sim, his wife, children and grandchildren, fled from their home a month ago and came to a pagoda called Angtaloenk because Vietcong and Khmer Rouge were gathering in the vicinity.

Today, because of the fighting at Prey Khieu, a mile or so away, they were preparing to go again, taking Nop Sim's sister along also because now her village is endangered too.

At midday, A-37 bombers were making strike after strike just a few hundred yards from the bumpy road where the farmers and some of the weary defenders of Prey Khieu were making their way to safety.

The company atop the knoll had been there for a month, with only a few light contacts. Then at 1:30 a.m. this morning the enemy struck with rocket and mortar fire and, at practically the same time, moved in on the ground.

In one corner of the Cambodian outpost the attackers killed three soldiers and one wife. From the way the dead looked, they were hit pointblank. A shallow trench had been dug where the enemy fortified the tiny stronghold they had taken.

Ut Seng Ean, 35, commander of the company at Prey Khieu, said that at the height of the fighting there were 40 Communists, while his force was 120 men strong. The Cambodians must have held their own, because the enemy withdrew. But the company was tired so replacements were brought in.

What is most distinctive about the Cambodian position is how weak it looks. Although they had been there for weeks, the soldiers had built no bunkers and relied on lean-tos made of palm leaves. The new company seemed content to leave things that way.

There is every likelihood that the Communists will make another try for the knoll, and probably, if they risked enough men, could take it. But then what? The hill is high ground, commanding a view as far as Phnom Penh, but is also a prime target for bombers and gunships.

Last weekend the Communists seized the railroad station town of Toul Leap, about three miles from here, wiping out a whole Cambodian battalion in the process. The bombers and gunships went to work and the enemy has been run out. But there is no more town.

At Toul Leap, the Communist surrounded the Cambodian battalion's camp in one section of the town and allowed most of the villagers to flee. Fighting went on for four days, and when it was over fewer than 10 of the Cambodians made it out. The rest were killed, captured, or wounded.

The Cambodians counterattacked with a brigade led by Lon Non, the mercurial brother of Prime Minister Lon Nol. By the standards of the Cambodian war, air support was very heavy.

It took four days to rout the enemy, and when the Cambodians finally made their way to the town they met very little resistance. The official government news agency declared that their soldiers' victory was "astonishing."

This morning, as if to prove that they are still around, the Communists fired about 20 mortar rounds into the rubble of the town and killed three Cambodians.

For the enemy, taking Toul Leap accomplished little more than would overrunning Prey Khieu—at least the town had food. The Communist must have a reason for what they are doing, the Cambodians say, but nobody has a clue what it is and that is what makes them especially nervous.

In the meantime, all that is known for sure is that the enemy is hitting closer and closer to the capital.

AN INVISIBLE WAR IS SOON FORGOTTEN

(By Garry Wills)

Vietnam has always been the invisible war. We were in it before we knew we were in. And we have forgotten it before we are out. There is a feeling that if the war is not an issue, it is nothing; it does not exist. Even its critics, among the politicians, are afraid to run hard against it, for fear they will base their campaign on a non-existent thing. And the administration, of course, keeps taking credit for having ended the war because it is in the process of ending it.

So we hear a great deal about withdrawals, each time there are some, while our bombing is increased; our "support troops" keep the Thieu regime in office, its own troops in the field; and "Vietnamization" means continuation of the war until we can entirely forget it—and then all the pretensions on which it has been prolonged can collapse unnoticed.

For the aim of the war is no longer to win it, but to forget it. We cannot withdraw entirely without remembering the pesty thing. If we phase out, the same thing will, in time, take place that would have followed on a complete withdrawal two years ago. But "phasing out" lets us avoid looking at what is happening. That is worth a great deal to us, and we are paying a great deal for it, in money and lives (our own and others').

The worst danger is that our prolongation of "phase-out," to achieve forgetfulness, will lead to an open-ended minimal "presence" in Vietnam, with a residual force just sufficient to keep the Vietnamese fighting each other for another decade. It would be our last cruel gift to this country we have absent-mindedly ravaged so long, and it would guarantee a hatred for us quite earned, a hatred felt by all sides (as already it is felt in some measure, by followers of a Diem or Ky no less than by partisans of the Vietcong).

Our rulers do not tend to think in terms of "costs" to others. But even they see one danger in the "residual force" solution—the danger of a rear-guard massacre, once our residual troops reach a dangerously exposed minimum.

It is on this subject that the China and Moscow visits can be most useful. Our President, like the other rulers, must deny that the fate of Saigon and Hanoi will be settled in the absence of either regime's representatives. And it is true that direct settlement of the war cannot be conducted at such meetings. But our cordial relations with such "big brothers" of the Communist world must give Hanoi pause at anything so offensive as a slaughter of remaining Americans.

On the other hand, pressure can be put on us through this network of forces making for coexistence to take our tempting exposed last targets out for good and all. In this way, the politics of these visits may betray Mr. Nixon into statesmanship, into a real ending of the war, not mere hypnotic lullings of our consciousness that it goes on.

He can probably, even in those conditions (of total withdrawal), conclude the hidden war with a disguised defeat, getting credit for doing now what he could have done earlier, under better terms, without the intervening loss of life. The Vice President, with his customary candor, has stated the real goal: "It will be Nixon's peace, and his alone." Well, all right—let it be his. But let it be.

CAMBODIA FINDS ITS PLACE IN THE ASIAN DILEMMA

(By Flora Lewis)

SVAYRIENG, CAMBODIA.—This key junction on the major road between Pnom Penh and Saigon is now firmly in Cambodian hands, and the road is—usually—open. But some 15 miles back toward Pnom Penh, at Neak Leung, whole blocks lie in ruins. A devastating Communist raid took Neak Leung by surprise not long ago, and most of the people fled.

North and northwest of here, vast areas of Cambodia are denied to government control, about half of the national territory, although it would be too much to say that the region is all under Communist control.

Every bridge along the canal-laced road from Pnom Penh has been blown at least once. Almost every bridge in Cambodia has been blown, many replaced by Bailey bridges donated by Britain. Here, unlike in Laos and even much of Vietnam, it is a war of destruction and disruption rather than selective combat.

It has led Cambodian nationalists to believe that the North Vietnamese don't just want to impose a sympathetic government in this country, but want to subjugate it. Now whole platoons of soldiers, living with their wives and babies in tiny pup tents made of grass and thatch, guard the vital bridges.

In the circumstances, it may be surprising to hear that Cambodian and American officials alike are pleased with the military situation. It is, as they point out, much better than might have been expected. A year and a half after the fighting started, they no longer veil the dire realities of Cambodia's wildly risky plunge into Vietnam's war.

Now it is conceded that the Vietnamese could probably have taken Pnom Penh at any time they wished in the summer of 1970, but didn't wish to pay the price because they couldn't have mustered enough Cambodian supporters for a victory parade. They were modest, or shrewd, enough to choose against a show of purely Vietnamese Communist strength in the Khmer capital.

The intervening months have been used to multiply the Cambodian army almost 10-fold, provide some equipment and training and establish a defense organization for the first time. The Communists have also used the time, however, to recruit supporters.

Official figures, which must be considered decidely conservative, show the difference. In the first months of the war, Cambodian officials spoke of the local pro-Communist force, the Khmer Rouge, as negligible. No more than 2,000, they said. They still call the Khmer Rouge negligible. Only 15,000, they say, though that is a 750 per cent growth in something over a year.

But there is a certain stabilization of the front. Neither side has made, nor apparently expects to make, much change in the areas of control for the visible future.

This is really a Nixon doctrine war. The Cambodians and the Vietnamese are fighting. The United States and, on the other side, Russia and China, are providing the wherewithal. Since the Nixon doctrine remains imprecise, however, there are naturally arguments among both Americans and Cambodians about how it should be applied.

Cambodian officials, with support from American military officers, think the United States should Americanize the war at least in the technical sense, with helicopters and tanks and heavy artillery, if not with manpower. The Cambodian plea, which I heard repeatedly from Premier Lon Nol, his partner Deputy Premier Sirik Matak, Lon Nol's rambunctious and lively younger brother Lt. Col. Lon Non, down through the chain of command to the young captain who reported on the tactical situation at Svayrieng, was this: If you won't give us as much as South Vietnam, a more populous country, at least you should give us half as much.

Brig. Gen. Theodore Mataxis, who heads the U.S. "military equipment delivery team" here, thinks Cambodia should have more of a chance to fight the American way, with more American support. His Pnom Penh staff, after much argument, was recently limited to an expanded complement of 150 Americans, but he has another 75 working on military help to Cambodia under him in Saigon.

A U.S. mission from Pacific command headquarters recently recommended another 50 people to handle the flow of supplies. U.S. Ambassador Emory Swank, slipping but still trying to cling to the "low-profit" policy in this war, has proposed that the United States hire under contract other nationals—South Koreans, Filipinos, Thais—to do the job more discreetly.

Essentially, Swank and his advisers rely on Congress to limit the funds that would be needed for a bigger American role with men or major weapons. They don't admit it, but congressional truculence is their main defense in resisting the insistent pressures to "really support Cambodia."

Meanwhile, refugees at a camp near here, whose homes were destroyed by U.S. bombing and allied artillery fire, exist with a pitiful shortage of food, shelter, clothing. American funds must be reserved, officials explain, for the military and essential economic programs which other countries won't provide. Humanitarian needs are left to those countries, but they have too many other requests to notice.

Thus Cambodia has found its place in the Southeast Asian dilemma. It looks to the United States to be able to survive, and about all the United States knows how to do is to help speed destruction. Having become involved this far, America can't decently tell the Cambodians to forget it and lose. But neither can either country gain from a bloodier war.

There are no clean answers, now that war unhappily exists here too. For the United States, however, the only helpful answer is to sustain economic aid and refute the Cambodians' belief that what we want most from them is to fight, or that the American way of fighting is the way for Indochina.

The PRESIDING OFFICER. The Senator from New Hampshire has 2 minutes remaining.

Mr. McINTYRE. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. McINTYRE. In conclusion, Mr. President, I wish to say that the original request by the Department of Defense for research and development was almost $8 billion. In effect, the result of the Appropriations Committee utilizing unobligated funds brings that, for all practical purposes, down $600 million. The effect of the amendment offered by the Senator from New Hampshire would be to restore that $100 million. The net addition is $93 million for the research and development which is badly needed and should be restored.

Mr. ELLENDER. Mr. President, will the Senator yield?

Mr. McINTYRE. I yield the remainder of my time to the Senator from Louisiana.

Mr. ELLENDER. The amount of money was not $8 billion. It is $7.9 billion.

Mr. McINTYRE. $7,950,000,000.

Mr. ELLENDER. $7.95 billion. So that it is not $600 million that we cut it. The total amount is $539.3 million.

Mr. McINTYRE. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has expired.

The question is on agreeing to the amendment of the Senator from New Hampshire. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. HARTKE), the Senator from South Dakota (Mr. McGOVERN), the Senator from Maine (Mr. MUSKIE), the Senator from Louisiana (Mr. LONG), and the Senator from Utah (Mr. Moss) are necessarily absent.

I further announce that the Senator from Idaho (Mr. CHURCH) is absent on official business.

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from New York (Mr. JAVITS), the Senator from Arizona (Mr. GOLDWATER), the Senator from New Hampshire (Mr. COTTON), and the Senator from Maine (Mrs. SMITH) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Illinois (Mr. PERCY) is detained on official business, and if present and voting, would vote "nay."

The Senator from Ohio (Mr. SAXBE) is absent on official business.

If present and voting, the Senator from Maine (Mrs. SMITH) would vote "yea."

The result was announced—yeas 53, nays 33, as follows:

[No. 395 Leg.]

YEAS—53

Allen
Baker
Bellmon
Bennett
Bentsen
Bible
Boggs
Brock
Brooke
Buckley
Byrd, W. Va.
Cannon
Chiles
Cook
Cranston
Curtis
Dominick
Eastland
Ervin
Fannin
Fong
Gambrell
Griffin
Gurney
Hansen
Hollings
Hruska
Humphrey
Inouye
Jackson
Jordan, N.C.
Jordan, Idaho
Kennedy
Magnuson
Mathias
McGee
McIntyre
Miller
Packwood
Pastore
Pearson
Schweiker
Scott
Sparkman
Stennis
Stevens
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams

NAYS—33

Aiken
Allott
Anderson
Bayh
Burdick
Byrd, Va.
Case
Cooper
Dole
Eagleton
Ellender
Fulbright
Gravel
Harris
Hart
Hatfield
Hughes
Mansfield
McClellan
Metcalf
Mondale
Montoya
Nelson
Pell
Proxmire
Randolph
Ribicoff
Roth
Spong
Stafford
Stevenson
Symington
Young

NOT VOTING—14

Beall
Church
Cotton
Goldwater
Hartke
Javits
Long
McGovern
Moss
Mundt
Muskie
Percy
Saxbe
Smith

So Mr. MCINTYRE's amendment was agreed to.

Mr. McINTYRE. Mr. President, I move that the vote by which the amendment was agreed to be reconsidered.

Mr. BYRD of West Virginia and Mr. CANNON moved to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CANNON obtained the floor.

Mr. CANNON. Mr. President, I yield to the Senator from Montana.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that amendment No. 747 which was to have been offered be vacated.

The PRESIDING OFFICER (Mr. CHILES). Without objection, it is so ordered.

Mr. CANNON. Mr. President, I had intended to raise a point of order against a provision contained in H.R. 11731, providing appropriations for the Department of Defense.

Mr. President, on page 43, line 11 of section 731 the Committee on Appropriations, in violation of the Rules of the Senate—rule XVI—has proposed new legislation in an appropriations bill. The legislation is contained in the following language:

Provided further, That funds in this Act shall be available for the procurement of commercial and cargo services only to the extent that the Secretary of Defense determines that such services are required to supplement the cargo airlift capabilities of the Military Airlift Command.

Mr. President, in seeking to explain its action, the Committee on Appropriations, on page 6 of its report, contends that such legislation does not violate rule XVI because it is germane to section 731 of the House bill and is therefore in order.

While I dispute that interpretation and while the Senate may have an opportunity to make a finding whether it is germane, I rise to point out that the amendment completely contradicts and nullifies what has been the policy of Congress and the executive branch of the U.S. Government for more than 15 years.

In light of the violence done by this amendment to longstanding Government policy I am incredulous, Mr. President, that the Appropriations Committee would even consider making such a far-reaching and profound change in policy knowing that this matter has been under review by the Commerce Committee for the last 9 months. Furthermore, I am advised that this subject was never before the committee during hearings on the appropriations bill, nor was the matter discussed, even in passing, by members of the committee during its markup session on the Defense appropriations bill.

Mr. President, it appears to me as though this amendment was inserted in the appropriations bill following a written recommendation by the chairman and the ranking minority member of the committee. That recommendation was made at the direct request of the Deputy Secretary of Defense. Secretary Packard was apparently motivated by the fact that the Committee on Commerce had recently ordered reported legislation reaffirming longstanding policy regarding the role of the Nation's civil air carriers in augmenting the Nation's airlift capability in time of peace as well as in time of national emergency or war.

The Secretary of Defense, the chairman of the Senate Appropriations Committee and the Appropriations Committee staff know that this has been a matter of vital concern to the Senate Commerce Commitee since February of this year. To date, the Aviation Subcommittee which I chair, has held at least 5 days of hearings on the subject—has exchanged voluminous correspondence on it and finally, in total exasperation, has reported a bill S. 1821—Senate Report 92-503—introduced by my distinguished colleague from Washington, Senator MAGNUSON, forcing the Department of Defense to adhere to the policies established by the Congress and the President.

Apparently believing that it could circumvent the committees possessing jurisdiction in this manner, and thinking that Senator MAGNUSON'S legislation could be effectively thwarted through the appropriations process, the Department of Defense surreptitiously and without consulting either Senator MAGNUSON or myself offered an amendment to this bill which does have the effect of killing the provisions of S. 1821. Mr. President this is an unwarranted and devious attempt, by the Department of Defense, to subvert the rules and practices of the Senate to effect a change in policy which has not been authorized by the President or the Congress.

As far back as 1957, the Senate Committee on Appropriations, recognizing the distinction between the role of the Military Air Transportation Service, MATS—now known as MAC—and the civil air carriers in meeting the Nation's airlift needs said:

> Last year in the conference committee on the Defense appropriations bill the Senate jointed with the House in stating in a letter to the Secretary of Defense that the Government should, to the greatest extent practicable, adjust its use of air transportation so as to use existing unutilized capacity of United States air carriers. This statement was based upon our position that maximum utilization by the Department of Defense of United States civil air carriers is essential both in the promotion of our free enterprise economy and in the provision of the necessary ready reserve civil airlift for national defense; and that Government operations of its own air transport facilities should be limited to that essential to military security. (Senate Report 543, 85th Congress, First session, page 13)

Since that time, several committees of Congress including the Appropriations Committees of both Houses and the Armed Services Committees of both Houses have, time and again, concurred in that view. I will have more to say about that later.

Mr. President for the last several years the Department of Defense and the U.S. Air Force have been slowly undermining this long acknowledged policy. Since acquiring its new fleet of more than 250 C–141 Starlifters, and more than 40 C–5A Galaxies, the Air Force has sought to utilize these aircraft to completely reverse the roles of the Military Airlift Command and the U.S. civil carriers in meeting the international airlift requirements of the Department of Defense.

In fiscal year 1960, the total volume of military cargo which was moved by air was approximately 170,000 tons, of which only 17,500 tons or 10.5 percent was handled by the civil carriers. In the years which followed, the total volume of military cargo increased dramatically, largely as a result of the expanding war in Vietnam. The civil carriers, responding to the need, greatly expanded their cargo capacity, and the Department of Defense, in accordance with its announced policies, allocated to them an ever-increasing amount of military cargo. In percentage terms, the civil carriers' share of military cargo reached its peak in fiscal year 1962, when they carried 40.5 percent of all cargo moved by air. In terms of tonnage, the peak was reached in fiscal year 1967, when the civil carriers handled a total of 202,000 tons, which represented 33.6 percent of the total military cargo shipped that year.

Then, very suddenly, the trend was reversed. Although total military cargo shipments continued to grow in fiscal years 1968 and 1969, the amounts allocated to the civil carriers fell to 163,000 tons or 24 percent in 1968, and 148,000 tons or 20.3 percent in 1969.

In fiscal years 1970 and 1971 the total military cargo shipped began to decline, due to the reduction in the level of warfare in Vietnam. The amount carried by the civil carriers, however, fell off much more dramatically. In 1970, the airlines carried only 15.7 percent or 104,000 tons.

What has happened is obvious. There has been a complete reversal of policy. After inducing the civil carriers to acquire substantial cargo capacity by offering them a fair share of military cargo business, the Department of Defense has simply pulled the rug out.

In a memorandum submitted by the Air Force to me on April 7, this reversal of policy is quite clearly revealed. That memorandum states that—

> Efficiency and economy dictate the use of this (MAC) capability to satisfy logistic support requirements. (p. 1.)

It further states that—

> The primary role now developing for the civil air carriers is to replace the MAC aircraft on their worldwide DOD logistics support route when they are diverted to carry out a wartime deployment. (p. 2.)

Otherwise, the only role contemplated for the civil carriers, so far as international cargo is concerned, is—

> To satisfy peak international cargo demands. (p. 3.)

In "The Role of MATS in Peace and War," the definitive document on U.S. policy, the very first item listed under the heading "Presidentially Approved Courses of Action" reads as follows:

> 1. That MATS be equipped and operated in peacetime to meet approved military hardcore requirements in a general war and in situations short of general war, and such other military requirements as cannot be met adequately by commercial carriers on an effective and timely basis. (p. 5)

The Air Force has now turned this policy on its head. It proposed to use the civil carriers only for "such other military requirements as cannot be met adequately" by the military. The amendment in section 731 of this Appropriations bill seeks to ratify this change in policy.

Aside from being militarily shortsighted, the new Air Force policy is contrary to the whole philosophy of our free enterprise system. In effect, MAC is now running a cargo airline, at the taxpayers' expense, in direct competition with the commercial carriers. In the 1950's, the Congress repeatedly criticized MATS, MAC's predecessor for engaging in precisely this kind of competition with private enterprise. The Department of Defense ultimately recognized the validity of this criticism, and specifically altered its policies in response to it. This, indeed, is what "The Role of MATS in Peace and War" was all about.

Contrary to what the Air Force would have the Senate believe, MAC's cargo operations today go far beyond the requirements of minimum training of flight crews. Until recently, MAC's cargo fleet was operating as much as 8 hours per day, and it is only because the volume of cargo has diminished that it is now proposing to reduce its operations to 4 to 4½ hours per day. The Air Force memorandum submitted to me on April 7 makes it crystal clear that its utilization of military cargo aircraft is now being pegged to military cargo requirements, rather than training and hard-core requirements. This is squarely contrary to established policy, and constitutes direct competition with the commercial carriers.

The current Air Force policy flouts not only the longstanding policy of the President, but also the recommendations made just last year by the House Airlift Subcommittee. In its report, that committee specifically disapproved the reduction in the civil carriers' share of military cargo traffic:

> This reduction in cargo airlift allocated to the CRAF participants is no incentive for the commercial carriers to order new cargo aircraft to offset the existing deficit.
>
> The C–5A was designed to airlift vehicles and cargo outsize to the C–141, not troops or general cargo. Yet the Air Force and MAC now propose to use the C–5 in peacetime for movement of general cargo—both bulk and palletized—under the guise of maintaining flight crew proficiency.
>
> The effect of such a policy will be the elimination of a substantial commercial cargo airlift capability now available from the civil carriers, in particular the supplementals. . . . (H.A.S.C. No. 91–59, pp. 9236–37.)

The Air Force seems to think it can use its own aircraft for routine cargo carriage in times of peace, and still expect the civil carriers to take over that function in times of emergency or of "peak" demand. Clearly, this makes no economic sense. The commercial carriers cannot afford idle capacity—their present financial posture makes that clear enough. If the Department of Defense does not use their cargo capability, then they will be forced to put it to work elsewhere or dispose of it. Either way, it will not be available to provide immediate airlift service for the military in times of national crisis. And certainly the civil carriers will not be willing or able to expand their cargo capacity unless there is an immediate and continuing market for it.

The basic concept of the policies which

were developed and applied so successfully in the early 1960's was that MAC, not the civil carriers, should retain a substantial reserve capacity for use in times of emergency. The routine cargo missions, which must be performed in peace as well as in war, were to be handled by the civil carriers, thus leaving MAC free not only to carry the "hardcore" traffic, but also with sufficient capacity in reserve to expand its hardcore operations in times of crisis. If MAC aircraft are heavily committed to routine supply missions, the will be unable to respond to an emergency without causing a substantial disruption of normal service. Moreover, unless the civil carriers are used to perform this function in times of peace, they will simply not have the capacity which would be needed in time of war.

Even from a training viewpoint, the current Air Force policy makes no sense. It seems elementary that if MAC is to carry hardcore traffic in times of crisis, it must train for that mission by performing the same functions in peacetime. This principle was recognized in a MATS document entitled "Review of the Civil Reserve Air Fleet Program" issued in 1963:

> It is imperative that any concept or system which is to be employed in wartime must be nothing more than an expansion of the system utilized in peacetime. Therefore there must be designed and tested in peacetime the operational concept and organization which must do the job in war. (p. 16.)

EXCESSIVE UTILIZATION OF MAC AIRCRAFT

The Air Force has programed 4.25-hours per day average utilization for its long-range cargo aircraft—claiming this is necessary to provide adequate training and to maintain proficiency and to maintain maximum surge capacity. In fact, this rate of utilization is far in excess of that needed for training and leaves far too little opportunity to increase utilization when surges are needed.

Using, as the Air Force does, three crews per aircraft, 4.25-hours utilization per day provides an average of 42½-flying hours per month for each crew member. The Air Force has reported to the committee that in fact the average hours flown per month by MAC airlift aircrews during August 1971 was as follows:

Aircraft commanders, 47.2 hours. Copilots, 44.3 hours. Navigators, 59.2 hours. Flight engineers, 48.5 hours. Loadmasters, 45.1 hours.

The average flying hours of an airline pilot working full-time ranges from 60 to 80 a month. Civil air carriers have testified that 6 to 8 hours flying time per month is adequate to maintain a pilot's proficiency.

In testifying before the committee the Air Force spelled out the Military Airlift Command's mission priorities as follows:

> The highest priority for peacetime use of MAC Aircraft is internal training of the MAC force for combat readiness. The next priority is joint training and exercises with other elements of the armed forces. The third priority is performance of special airlift missions not suitable for incorporation in the MAC channel airlift system. Movement of DOD channel traffic on military airlift aircraft is the lowest priority peacetime mission for those aircraft. To the extent, however, that productive airlift capability is created through training activities, we believe it to be in the interests of the national defense and of the taxpayer to minimize the cost to the Government by using this capability effectively to meet current transportation needs.

However, under questioning the Air Force testified that its flying hours are distributed among the training priorities in the following pattern.

First, internal training of the force for combat readiness: 8.4 percent.

Second, joint training and exercises with other elements of the Armed Forces: 15.4 percent.

Third, performance of special airlift missions: 12.1 percent.

Fourth, movement of DOD channel traffic on military aircraft: 48.5 percent.

Thus only 35.9 of the total flying hours performed by MAC crews is devoted to three highest mission priorities. The lowest priority mission—the one the civil carriers are capable of performing—accounts for nearly half of the total flying time of the Military Airlift Command force.

Clearly, this is indicative that the flying hours are inflated over and above those necessary to provide adequate training to meet the MAC mission and the Committee on Commerce is of the view that the current flying hour program could be significantly reduced without impairing the training and exercise of the MAC force.

The MAC aircraft themselves, of course, need no training. On the contrary, these extremely expensive logistic aircraft, purchased for high priority military cargo, are being needlessly utilized and worn out at too fast a pace in routine cargo operations. These expensive logistic aircraft were not procured for the purpose of flying routine cargo, post exchange goods and footlockers around the world.

As to surge capability, it is obvious that the larger the number of hours flown regularly, the smaller the number of hours remaining for expanding operations. If any proof were needed, the very limited ability of MAC to expand its operations in the past few months clearly shows that its surge capability is reduced by its excessive commitment to routine cargo operations.

MAC'S MISSION

MAC's wartime mission requires it to be capable of performing such combat missions as troop drops with the C–141, short field landings with the C–141 and C–5A, and other difficult and specialized military operations. The idea that MAC can achieve meaningful training for its combat role by performing routine logistical support missions in and out of major airports or military airfields in peacetime is simply unrealistic. And it is even more unrealistic to think that a large and modern civil cargo fleet can simply be available, on a standby basis, "to replace the MAC aircraft on their worldwide DOD logistics support routes when they are diverted to carry out a wartime deployment," or even "to satisfy peak international cargo demands." Anyone who thinks this is possible has not read the history of the 1950's.

Even the Air Force has acknowledged that the continuation of the Civil Reserve Air Fleet—CRAF—is essential to the Nation's defense system. The CRAF concept, which was originated in 1952, has been periodically modified to meet changing defense needs, and to reflect economic realities.

Recent history has dramatically demonstrated the need for civil augmentation of military airlift to meet emergency situations. In every major crisis since World War II—the Berlin blockade, the Korean conflict, the Cuban missile crisis, the Vietnam war—the civil carriers have played an important role in providing essential transportation service to the military. Although the need to activate CRAF has never arisen, this is only because the civil carriers responded to the need voluntarily. And the fact that they had the capacity to respond was, especially in recent years, largely the result of the CRAF program.

An essential part of that program is the procurement policy which was developed in the early 1960's. Under this program, each carrier's military business is related directly to its CRAF commitments, not only in terms of the number of aircraft committed but also the size and type of aircraft involved. Before this procurement policy was initiated, the CRAF fleet was woefully inadequate. Today, as a result of the enlightened policies of the early 1960's, the CRAF passenger fleet consists of 126 long-range passenger jets and 196 cargo jets, of which 12 are fully convertible.

As the House Airlift Subcommittee observed in its recent report, however, "modernization of the CRAF is a continuous process." H.A.S. C. No. 91–59, p. 9236. In particular, the committee noted that "current firm orders for new aircraft do not indicate production of enough convertible or cargo aircraft to fulfill projected wartime requirements." Ibid. And continuous expansion and modernization of the entire fleet is obviously essential if it is to be capable of meeting tomorrow's needs as well as those of today.

The recent decision of the Air Force to withdraw almost all international military cargo traffic from the civil carriers is certainly not calculated to preserve and strengthen CRAF. On the contrary, its inevitable effect will be to weaken the ability of the civil carriers to respond in time of crisis—particularly in the area of cargo capacity, where a shortage already exists. What we are witnessing today is a repetition of the same shortsighted policies, which, in the 1950's prevented the expansion of the civil fleet.

BACKGROUND

The concept that an effective military airlift system must be based upon a partnership between what was then known as the Military Air Transport Service—MATS—and the civil air carriers can be traced back to the late 1940's and early 1950's, when a series of Defense Department studies all concluded that programs and policies must be developed for the rapid mobilization of civil aircraft to augment the military airlift system in time of national crisis. Pursuant to Executive Order No. 10219, issued by President Truman on February 28, 1951, the Department of Defense developed the first plan for the establishment of a "Civil Reserve Air Fleet"—CRAF—which was issued on March 20, 1952.

It was recognized very soon thereafter that in order to have a large and modern civil fleet available for use in time of crisis, the Government would also have to use that fleet for routine traffic in peacetime. Thus, in 1954, a report entitled "Civil Air Policy" prepared for President Eisenhower by the Air Coordinating Committee, comprised of Government officials of both military and civil agencies, advanced the following recommendations, among others:

> (3) In determining the extent to which air transportation will be used in meeting military peacetime and wartime airlift requirements, the Department of Defense should continue its policy not to engage in competition with private industry, and to support the expansion of the nation's civil airlift capability on an economically sound basis. (p. 17)
>
> (4) The Government should, to the greatest extent practicable, adjust its use of air transportation so as to use existing unutilized capacity of United States air carriers. (p. 17)
>
> (5) Federal Agencies should, within . . . sound . . . supply management, expand their use of civil cargo airlift as it becomes available for routine, non-emergency use. (p. 24.)

In 1955, the Hoover Commission's Report on Transportation recommended:

> That the peacetime operations of the integrated Military Air Transport Service be restricted and realistically limited to persons and cargo carefully evaluated as to necessity for military air transportation and, only after commercial carriers have been utilized to the maximum extent, should transportation on Service carriers be authorized. (p. 59)

In the same year, the Comptroller General's audit report on the Civil Aeronautics Board included the following statement:

> We believe it important that the Congress direct the Department of Defense to transfer, wherever possible, military mail, cargo and passengers to United States certificated air carriers. As stated in the (Air Coordinating) Commission's report, prompt action by the Department would result not only in a significant reduction in subsidy for international carriers, but also in the development of an economic self-sufficient civil airline system, thus providing a substantial reservoir of airlift to be available to meet mobilization emergencies. (p. 30)

These policies, however, were not really implemented in the 1950's. As the MATS fleet of military aircraft expanded, the Department of Defense tended increasingly to utilize these aircraft for purposes which could appropriately be served by the civil carriers. Several congressional committees took note to this problem, and asked the Defense Department to correct the situation. For example, in 1956 the House Appropriations Committee emphasized the fact "that commercial air facilities, including scheduled and nonscheduled airlines, are an essential part of the overall mobilization transport strength of the United States," and called upon the Air Force to—

> Give attention to handling its air transport business in such a way as to assist in keeping the non-scheduled and other airlines in a reasonably sound financial and operating position. (R. Rep. No. 2104, 84th Cong., 2nd Sess., p. 46 (1956)).

The Senate committee fully concurred with this view, as I noted above.

In 1958, a comprehensive investigation of the entire relationship between the civil carriers and the Department of Defense was undertaken by the Military Operations Subcommittee of the House Government Operations Committee. The committee produced a lengthy and thorough report, containing 22 specific recommendations. Among them were the following:

> Recommendation No. 2:
>
> The Military Air Transport Service should concentrate on outsize and special-cargo traffic and technical missions, leaving to the civil air carriers the primary responsibility for the transportation of passengers and the more conventional kinds of military cargo.
>
> Recommendation No. 3:
>
> The applicable military directives and regulations should be redrafted to eliminate the preferential position of the Military Air Transport Service in peacetime military airlift and to establish, consistent with other recommendations in this report, a full partnership role for civil carriers in moving peacetime military traffic and in contributing to war readiness through the Civil Reserve Air Fleet.
>
> Recommendation No. 4:
>
> In the event the applicable military directives and regulations are not redrafted to eliminate the preferential position of the Military Air Transport Service and an effective program is not developed for expanding the use of commercial air services, the Congress should adopt appropriate legislation to achieve these objectives.
>
> Recommendation No. 5:
>
> The Civil Reserve Air Fleet should be expanded and more closely integrated with military airlift missions. It is especially important that the Air Force encourage the civil air carriers to procure more modern cargo aircraft for the Civil Reserve Air Fleet, by allocating to these civil carriers a larger share of the cargo traffic of the Military Air Transport Service. Such action would more adequately provide the incentive necessary to overcome the dangerous risk inherent in the deficit that now exists in meeting overall wartime requirements for cargo airlift. (H.R. Rep. No. 2011, 85th Cong., 2nd Sess., pp. 5–7 (1958)).

Another detailed investigation was conducted in 1960 by the Airlift Subcommittee of the House Armed Services Committee. Its report clearly revealed the extent to which the Defense Department's underutilization of civil carriers had seriously weakened the Nation's overall airlift capability:

> In the cargo area the CRAF capability is not only grossly inadequate in terms of capacity, but it is limited and outmoded in terms of equipment . . . There is not a single aircraft in CRAF's cargo fleet which was specifically designed for cargo operations. It is this gross deficiency which gives rise to an overriding requirement that new, turbine-powered cargo aircraft be procured by the civil carriers who participate in CRAF and that there be created an incentive for such participation. (H.R. Rep. No. 53, 86th Cong., 2nd Sess., p. 4042 (1960)).

To meet this problem, the subcommittee recommended that new procurement policies be devised which would create a greater incentive for the civil carriers to modernize and expand their cargo capacity.

In the same year, the Department of Defense issued a detailed report of its own on the entire problem, entitled "The Role of Military Air Transport Service in Peace and War." This report, for the first time, articulated a clear division between the respective roles of the military and civil in the total airlift system:

> In the context of the philosophy of maintaining within the Armed Forces only the resources or capability essential to the effective implementation of military strategy, MATS ideally should perform only the "hard core mission" leaving to the commercial carriers the job of providing airlift for routine logistic supply and normal personnel movements in accordance with criteria prescribed by the Department of Defense. This is a realistic delineation between military and commercial carriers for programming purposes. However, for peacetime operations economic considerations will dictate some adjustment. (p. 9).

The report also noted that:

> Current airlift procurement policies and practices are not accomplishing the desired results in promoting a healthy growth of United States overseas commercial cargo airlift capability. With Congressional approval, if necessary, they should be better adapted to reflect the long-term interest of the Department of Defense in commercial airlift capability and provide the continuity and stability required for effective and economical support of military forces. (p. 4).

A number of specific "Presidentially Approved Courses of Action" were set forth in the report designed to implement the policies and objectives noted above. These included the curtailment other than hardcore traffic, and the expanded utilization of commercial carriers for these purposes. To provide greater incentive for expansion of the civil cargo fleet, the report called for the elimination of competitive bidding, which had generally produced uneconomical rates for the transportation of military cargo, and the substitution of CB ratemaking in this area. In addition, it proposed a major overhaul of the CRAF program, and the development of a formula by which a carrier's share of military traffic would be determined by such factors as the quantity and relative value of the aircraft which it has committed to CRAF, and its willingness to acquire cargo aircraft.

"The Role of MATS in Peace and War" was the product not only of Defense Department studies, but also of the work which had been done over the years by various committees of the Congress. The policies which it contained were promptly implemented, and resulted in a rapid expansion and modernization of both the military and civil segments of the airlift system.

As a result of the new policies adopted at the beginning of the decade, the cargo capacity of both the military and civil carriers was greatly expanded and modernized in the 1960's. On the military side, MAC has acquired a massive fleet of C–141's now being supplemented by the C–5A's On the civil side, new modern turbine-powered cargo and cargo-convertible aircraft have been acquired and committed to CRAF. The total civilian capacity in cargo ton-miles committed to CRAF has increased five and one-half fold since 1960.

The benefits of the policy are well described in a 1966 report of the Military Airlift Subcommittee of the House Armed Services Committee as follows:

> This increased activity on the part of the commercial carriers in support of military requirements has benefited both the military and the civil airlines. The commercial airlift relieved military aircraft to perform other missions and to be available to meet military contingencies that arose. The civil carriers benefited from this Government business at a minimum rate determined to be fair and reasonable by the Civil Aeronautics Board. The revenue from this Government business has served the intended purpose of helping the commercial airlines to modernize their fleet by acquiring new long-range jet aircraft which are more efficient, reliable and less costly to operate. This increased capability, especially in the long-range jet cargo equipment, becomes an important asset to our national airlift inventory, and will make a substantial contribution in the future toward meeting the military requirement for airlift in times of emergency.

The military-civil partnership which was fostered by the policies of the 1960's yielded enormous benefits to the Government, the air transport industry, and, most importantly, the Nation as a whole. It provided an essential military airlift capacity at a cost far below what the taxpayers would have had to spend if that capacity had been provided primarily by the military services themselves. Simply by using civil carriers for the performance of needed military cargo and passenger transportation, at rates which were far below those paid by commercial passengers and shippers, the Government was able to obtain not merely efficient transportation service, but also a huge reserve fleet of aircraft which is available on a moment's notice to augment the military airlift capability in time of war. This reserve fleet, which has an estimated value of $3 billion, was created without cost to the Government, entirely through private financing.

The acquisition by the carriers of aircraft suited to the needs of the Department of Defense was no mere accident. It was the result of a carefully planned procurement policy, designed to encourage and reward such acquisition. The continued modernization and expansion of this fleet will depend upon the continuation of the same kind of policy.

The procurement policy which the Air Force has adopted in the last year or two ignores the demonstrated benefits of the military-civil partnership concept which was developed in the 1960's. It ignores also the need for the continued maintenance and modernization of the civil fleet. It represents a return to the policies of the 1950's, which failed to produce an adequate airlift capability and which were condemned by the Congress and the President.

Mr. President, the subject matter covered in the committee amendment to section 731 of this bill is fully treated in the hearings on S. 1821, a bill now on the calendar. I do not expect to call that bill up until sometime after the first of the year. However, it has been the subject of a number of days of hearings and diligent work on behalf of the committee. The amendment proposed in this bill which, as I said, I believe to be subject to a point of order, would completely undo the work that the committee has put into S. 1821 after long and involved hearings and study.

Before making a point of order, I discussed this matter with the distinguished Senator from Louisiana, the chairman of the committee, and he and I and Senator MAGNUSON have reached an agreement under which the Committee on Appropriations will agree to strike the amendment in section 731.

Mr. ELLENDER. The Senator is correct. And the language to which he refers appears on page 43, lines 11 to 15 of the bill. And when the bill that he mentioned, S. 1821, is called up, an amendment will be added to the bill indicating that the bill will not be applicable to fiscal year 1972. With that understanding, I agree to strike from the bill the language to which the Senator objects.

Mr. CANNON. I will accept such an amendment to S. 1821, at such time as it is before the Senate to postpone the effective date of the bill until July 1, 1972.

Mr. ELLENDER. The Senator is correct.

Mr. MAGNUSON. Mr. President, may I say that I deeply appreciate what the Senator from Louisiana has agreed to on this matter. Obviously the Senate must tackle this problem in its legislative committees. I do not know, but I doubt that the bill will be taken up before next year. I understand it is on the calendar.

Mr. CANNON. It is on the calendar. It will not be taken up until after the first of January when we come back from the recess.

Mr. MAGNUSON. This is a fair and equitable solution.

WHY NOT A CEILING ON C–5A SPENDING?

Mr. PROXMIRE. Mr. President, in the Military Authorization Act for fiscal year 1972, we carried forward the C–5A funding restrictions first imposed last year with reference to the contingency fund approved for this program.

The Senate Armed Services Committee insisted on continuing this restriction, and in its conference with the House Armed Services Committee, prevailed over what I understand were very strenuous objections to this language.

The act now provides that the prime contractor, the Lockheed Corp., is precluded from including bid and proposal costs, independent research and development costs, and costs of other similar unsponsored technical effort, or depreciation and amortization costs on property, plant, or equipment, in those costs recoverable under the C–5A aircraft program.

It is my understanding that this restriction could save the taxpayer a maximum of $20 million. This is not an insignificant sum. It is a lot of money. And I am very pleased at the Senate committee's strong position to continue the funding restriction.

However, we are talking about a program that is expected to cost $4.5 billion. That at least is the most current Air Force estimate of the total program costs to the Government.

Is it not true that if the costs increase again under the new reimbursement type contract, the Government will have to pay them? Why not impose a ceiling on the Government costs for this program?

I believe that Congress ought to legislate a ceiling on the C–5A.

It is universally acknowledged that the C–5A will experience one of the largest cost overruns in the history of weapons procurement. The overrun that is now expected will be extremely high both in absolute dollars and as a percentage of the original estimated unit cost.

It was originally estimated that 120 aircraft would cost $3.4 billion, or about $28 million each. It is now estimated that 81 aircraft will cost $4.5 billion, or more than $58 million per copy. If the original planning estimate is adjusted for the reduced quantity to be purchased, the dollar amount of the overrun is about $2 billion. I might add that the Air Force reduced the quality of C–5A's precisely because of the cost overrun that was being experienced.

On top of the unfortunate cost history is the fact that current Air Force plans call for keeping the C–5A in a largely idle condition. I understand that the distinguished chairman of the Senate Armed Services Committee has himself raised questions about the planned utilization rate for the C–5A. I have read the testimony of the Air Force given in the Senate Armed Services Committee hearings this year and, in my judgment, the distinguished chairman's questions on this point were not satisfactorily answered.

We all recall Lockheed's demands for additional funds to finance this program. In response to those demands, and after long negotiations between Deputy Secretary David Packard and the Lockheed Corp., the original contract was, in effect, torn up and a new one was put in its place. The old contract was a fixed-price incentive type. The new contract is a cost reimbursement type, with a fixed-loss provision.

This cavalier treatment of the contractual obligations entered into in writing by both parties is indicative, in my judgment, of the permissive attitude toward defense contractors in general, and toward the contractor in the C–5A program in particular. I would hope that this incident will serve as an answer to those who in the future might raise questions about the sanctity of Government contracts.

The practical effect of a cost reimbursement agreement is the removal of the lid on the costs of this program. Congress, under the new contract, is now liable for all C–5A costs no matter how high they go. In theory, there was at least a limit to the amount of Government liability under the old fixed-price contract. Presently there is not even a theoretical limit, as the Pentagon, by writing a new agreement, has obligated itself to pay any and all costs of this program.

The question is, why should the Congress go along with this kind of arrangement? Why not legislate a ceiling on the C–5A program, placing a limit to the Government's liability? Certainly, under the circumstances, considering the enormous cost overruns and the technical problems and structural defects that have plagued this program, Congress would be well justified to drawing a line and saying, beyond this point we will pay no more for the C–5A.

In David Packard's testimony to the

Senate Armed Services Committee this year, it was indicated by him that the Department of Defense has unofficially taken a similar view toward any cost increases in this program, for the time being anyway. Mr. Packard stated then:

> I have advised the Secretary of the Air Force that I am not going to request funds beyond our current estimate of program costs. It is up to him to get the aircraft within these funds.

Why should not the Congress take Mr. Packard at his word and incorporate his views into the legislation by adding a ceiling?

The ceiling I would impose would be quite liberal. I would use the Air Force's current estimate of total Government costs to complete this program, which I understand is $4.5 billion, and use that figure as the ceiling. If the Air Force is confident that the program will not grow beyond this amount, why not insist that they live by it?

OPEN ENDED C-5A THROW AWAY MAKES NO SENSE IN VIEW OF 40-PERCENT RESERVATION FOR COMMERCIAL CARGO

Mr. PROXMIRE. I am adamantly opposed to any language that would require the Air Force to shift a portion or a fixed amount of its cargo business to commercial carriers. But this is what the Senate would do in 1973.

Any such provision would be a new Government subsidy to private industry. It would also compound the waste and add to the costs of the C-5A program. I believe the American taxpayer has paid enough for this aircraft. The agreement has been made to enforce further C-5A idleness.

In order to see this problem in perspective, it may be useful to review some of the facts about the C-5A.

It has been one of the most mismanaged military procurements in our history. The cost overrun is expected to be about $2 billion. On a unit cost basis, the aircraft will run about twice as much as the original estimates, from $28 million to $58 million each.

The chances that the program will involve additional costs for the Government are, in my judgment, all too good. Under the new cost reimbursement contract entered into between the Pentagon and Lockheed earlier this year, the Government is liable for all and any costs in this program. If one of the planes is in an accident, regardless of whose fault it is, the Government must pay for the repairs.

If, because of poor workmanship or any other failing on the part of the contractor, an aircraft is damaged or destroyed, the Government must pay. If there are structural defects in this plane that need to be corrected, the Government must bear the costs, even though the defects were brought about by the contractor.

In fact, the Government has already paid dearly for the numerous deficiencies that have turned up on this plane. The total costs are expected to be about $4.7 billion, most of which has already been spent.

Now, the question is whether the Air Force ought to get some use out of the program that has cost so much. The facts about current plans to use the C-5A are very discouraging.

The daily utilization rate for the C-5A so far has been 3 hours. The Air Force plans to increase this utilization rate eventually to 4.75 hours. But this is far below the norm.

Commercial cargo carriers employ a 10 to 14 daily hour utilization rate for their aircraft, for the 707 and for the DC-8. Thus, the Air Force plans call for using the C-5A at the most about one-third the commercial utilization rate. The C-5A is already a largely idle aircraft.

The reason for this is quite simple, and very similar to the plight of the commercial airlines. The Air Force has purchased more cargo planes than it needs. There is now a tremendous overcapacity of military cargo planes. I recently asked the General Accounting Office to compile some figures on utilization rates of military cargo carriers and of actual cargo carried.

I ask unanimous consent to print in the RECORD at this point the tables compiled by the General Accounting Office.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
October 15, 1971.

Hon. WILLIAM PROXMIRE,
Chairman, Subcommittee on Priorities and Economy in Government, Joint Economic Committee, Congress of the United States.

DEAR MR. CHAIRMAN: In response to an informal request from your committee, we have furnished to you various statistical information concerning the utilization of military cargo aircraft. In confirming this information below, we are presenting the data in the order requested.

AVERAGE DAILY HOURLY UTILIZATION OF EACH TYPE OF MILITARY CARGO AIRCRAFT USED BY THE MILITARY AIRLIFT COMMAND DURING FISCAL YEARS 1969, 1970, AND 1971.

Type of aircraft	Fiscal year— 1969	1970	1971
C-133	5.1	4.8	4.2
C-141	7.8	7.2	6.4
C-5a	None	.57	3.0

Source of Information: Report RCS—SSA 41, History of USAF Hours for Planning and Reference.

Actual cargo carried (in million ton miles) by the military airlift command—including contract—carriers for fiscal years 1961 through 1971

1961	1421.2
1962	1771.6
1963	2049.8
1964	2075.2
1965	2293.5
1966	3442.8
1967	5474.9
1968	7467.2
1969	7341.5
1970	6095.9
1971	4910.1

Source of Information: Headquarters, Military Airlift Command.

AVERAGE DAILY HOURLY UTILIZATION OF EACH TYPE OF MILITARY CARGO AIRCRAFT USED BY THE MILITARY AIRLIFT COMMAND DURING FISCAL YEARS 1961 THROUGH 1968

Aircraft type	Fiscal years 1961	1962	1963	1964	1965	1966	1967	1968
C-97		3.4	3.8					
C-18	5.2	4.5	4.2	3.8	4.1			
C-121	4.8	4.2	4.0	3.3				
C-124 (troop carriers)	2.4	2.4	2.3	3.0	2.8	2.8		
C-124 (cargo transport)	4.4	4.3	3.8	4.0	4.1	4.3	3.8	4.2
C 130			3.3	3.8	4.5	5.8	6.6	6.5
C 133	4.0	3.6	3.7	4.2	3.0	5.3	5.5	5.4
C-135		4.5	4.5	5.0	4.7	5.3	6.3	4.2
C , 141					4.2	4.7	6.6	7.1

Source: RCS-SSA 41, "History of USAF Hours for Planning and Reference."

The committee subsequently asked that we clarify a discrepancy concerning the average daily hourly utilization of C-141 during fiscal year 1970. The 7.2 hourly utilization rate which the Air Force had provided to us was in conflict with testimony by Mr. Robert C. Seamans, Jr., Secretary of the Air Force, before the Committee on Armed Services, United States Senate, on S. 939 (H.R. 8687). A schedule submitted by Secretary Seamans appeared on page 1237 of these hearings with a footnote stating that the Military Airlift Command C-141 force was flying an 8.0 utilization rate in fiscal year 1970.

Further investigation by the Air Force showed that the 7.2 hourly utilization was correct and that Secretary Seamans had quoted the 8.0 programmed hourly rate rather than the actual rate.

We informed the Committee that the information which we furnished was provided to us through our Air Force liaison office in the Department of Defense. Because of the immediate need for the information, it was not independently verified by the General Accounting Office. The sources of the information are those identified to us by the Air Force liaison office.

We will be glad to furnish any additional information required by you or the committee.

Sincerely,

R. F. KELLER,
Deputy Comptroller General of the United States.

Mr. PROXMIRE. It will be noted that the utilization rate of the C-5A for fiscal year 1971, indicated in the first table, was 3 hours. This compares with the 6.4 hour utilization rate for that year for the C-141, and the 4.2 hour utilization rate for the C-133.

If we look at the fiscal year 1969 column, we find that the C-133 was used 5.1 hours per day, and the C-141 was used 7.8 hours per day.

I am informed that the utilization rates of both the C-133 and the C-144 are expected to decrease even further. What is the explanation for the reduced utilization rates for these aircraft?

The explanation is that the adding of the C-5A into the Air Force's inventory has given it a tremendous overcapacity of cargo carriers. As this overcapacity grows it is necessary to reduce the utilization of the other military transports.

This represents, not a conservation of aircraft, but a huge waste. It is wasteful to purchase equipment that you do not need. It is wasteful for military aircraft, purchased with taxpayers' money to be underutilized. And it is clear to me and it should be clear to all that a 3-hour utilization rate or a 4.75-hour utilization rate is much too low and is wasteful.

The current proposal would aggravate this situation. To require the Air Force to give a fixed amount of its cargo business to commercial airlines would inevitably further reduce the utilization rates of military aircraft, especially the C–5A.

I have been an outspoken critic of the C–5A program. I still criticize it. It costs too much, it has been mismanaged by the Air Force, and the contractor's performance has been poor. In my opinion, the public has been bilked. We did not need the 81 planes that the Air Force agreed to buy in the first place.

But now we have the C–5A's. Most of them have been built and delivered to the Air Force. A number of them are flying. What are we to do, ground them while the work they are designed to do is carried on by the commercial airlines?

Mr. President, this amendment will add to the costs of the C–5A and it is an unnecessary and unwarranted proposed subsidy.

Mr. ELLENDER. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

Delete lines 11 through 15 on page 43.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana.

The amendment was agreed to.

Mr. BROOKE. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be reported.

The legislative clerk read as follows:

On page 23, lines 14 through 15, strike $1,795,656,000 and insert in lieu thereof $1,796,256,000.

Mr. BROOKE. Mr. President, included in the Defense appropriations bill as passed by the House of Representatives and reported by the Senate Appropriations Committee is a reduction of $600,000 for food research by the Natick Laboratories in Natick, Mass.

The amount involved in this reduction is very small—it is perhaps one of the smallest items in the entire bill. But it is a particularly important item in terms of our overall military objectives.

For years, the Natick Laboratories have done food research for the Department of the Army. In that time, the laboratories have developed a vast array of new methods for preparing, preserving, and distributing food products to American servicemen. As anyone who has served in the Armed Forces well knows, the morale-boosting effect of a well-prepared meal cannot be overstated. I well remember, in my own career, how much it meant to have a small can of fruit cocktail on a hot, dusty train in North Africa. And I can well imagine how equally important it must be for men in the field in Vietnam to be able to eat flavorful radiation-preserved meats or freeze-dried fresh vegetables while on patrol.

So well have the dedicated men and women at the Natick Laboratories done their job that their responsibilities have been expanded, as of July 1, 1971, to cover not only the Army's food research programs but similar programs for the entire Department of Defense. Scientists at the laboratories are presently working on ways to freeze-dry the making of an entire cherry pie so that it can be preserved and used many months later in the field or on board a submarine. They are trying to develop ways of fresh-freezing lettuce and other garden vegetables so that servicemen may have fresh salads the entire length of a 25- or 30-day voyage by sea.

In these days when we are moving toward an all-volunteer army, the quality of the food which is served to the military plays a vital role in encouraging and retaining volunteers. Simply stated, better food can mean more volunteers, higher morale, a lower turnover rate, and a consequent cost saving in terms of training and disciplinary procedures.

But the new responsibilities which have been thrust upon the Natick Laboratories have come at a very unfortunate time in terms of their overall budget.

In fiscal year 1971, the laboratories had a budget of $3.6 million for food research for the Army. In fiscal year 1972, the Department of Defense requested $6.2 million for the expanded program. This amount was reduced to $5.7 million by the authorizing committee and was reduced another $600,000 by the House of Representatives. This further reduction was sustained by the Senate Appropriations Committee.

Yet certain items included in this budget were irreducible: Because of inflationary pressures, the laboratories required $4 million just to maintain present operating level. In addition, it has become absolutely essential that they purchase new bars of cobalt-60 for their food irradiation program. Funds for the purchase of this cobalt have been in every appropriations request since 1967, but in each case they have been disapproved and the purchase has been deferred for another year. This year, the purchase can no longer be postponed. The bars of cobalt presently in place have been utilized to their maximum capacity. The radiation facility has been operating on three continuous shifts per day in order to achieve the amount of radiation needed within the time prescribed. Overtime pay for the operators of the facility has eaten into many of the funds originally allotted for other projects. The laboratory must have its new cobalt-60 this year.

Research projects which will have to be postponed to pay for the Cobalt-60 include new cooking and baking techniques, studies on the preservation and preparation of food at high altitudes for the Air Force and the NASA space program, development of heating systems for individual rations for men in the field, studies on the prevention of insect infestation of certain food products, and a host of other equally worthwhile and desirable projects.

Mr. President, an additional $600,000 does not seem too much to ask for so important and constructive a program. With a total of $5.1 million—the full amount authorized by the Armed Services Committee—the Natick Laboratories could begin to meet the requirements of the Navy, the Marine Corps, and the Air Force by initiating new projects suited to the particular operating conditions of these services. I strongly urge that the Senate restore this $600,000 for food research. I have discussed this amendment with the distinguished chairman of the Appropriations Committee, Senator ELLENDER, and with the distinguished ranking member, Senator YOUNG, and would welcome their comments on this amendment.

Mr. KENNEDY. Mr. President, I am happy to join today with Senator BROOKE in an amendment urging the restoration of $600,000 to the Department of Defense food research and development program. During the debate on authorization for this program we were concerned with restoring $2.2 million to the budget request for this program carried out at the U.S. Army Natick Laboratory in Massachusetts. Today this amendment seeks to restore $600,000 to the appropriation.

A budget reduction of $600,000 for this research and development program can only be termed shortsighted. It may be true that the food technology program at one time was designed to study food delivery technique for the Department of the Army alone. But that is no longer true. This program serves all branches of the military service including the Air Force, Navy, Marines, as well as the Army.

It may be true that when the program was begun no one foresaw the implications for the civilian community of the success or failure of the program. But that is no longer true. This research and development is the pivotal link in governmental research into food preservation for civilian as well as military uses.

It may be true that troop reduction in Southeast Asia means that adequately preserved and nutritious food is in less demand, because of fewer numbers. But that is not the whole truth. There are thousands of men and women serving in the Armed Forces to whom meals and morale are still important; and we owe them the best we can deliver in the way of fast and appealing meals.

A cutback in funding for the food research and development program at the Natick Army Labs could affect a most important area of research and development: Studies in garrison feeding for all branches of the Armed Forces. Approximately 52 percent of servicemen entitled to eat in military dining facilities buy their meals at restaurants. This involves not only a waste of effort and technique in military dining facilities, but a great disservice to the man or woman serving in the military service who finds it so depressing or unattractive to take advantage of these meals, that he or she feels compelled to leave the base. Research into the delivery of appealing and nutritious meals to large numbers could be very important to schools, hospitals, and other institutions faced with similar problems.

If there is any reduction in this program, while the savings may be small, the numbers affected include those thousands serving in all branches of the military service. This program, designed to serve all the services jointly, was originated to save money and avoid duplication of effort. Each branch of the service does not request funding individually for research into food service technology as the Department of the Army, primarily at the Natick Labs in Massachusetts, is now responsible not only for solving the Army's unique food delivery problems, but all the branches' individual requirements as well as those problems they face jointly in terms of food delivery.

The White House Conference on Food, Health, and Nutrition in 1969 investigated the problems of food technology within the Armed Forces. And as Senator PERCY of Illinois pointed out, the implementation of their recommendations regarding feeding systems, food production facilities, food processing, and food service personnel could result in a savings of as much as $500 million annually and possibly as much as $1 billion a year.

The Natick Army Labs are researching fast, efficient, effective, and safe feeding systems. Dr. Edward S. Josephson, assistant director for radiation at Natick, points out that the Department of Defense food R.D.T. & E. for fiscal 1972 is the initial attempt to bring all the important technologies to bear on a coordinated effort to upgrade the feeding systems in all of the services. A pilot experiment at Fort Lewis increased attendance in military dining facilities from 48 to 78 percent while reducing food service manpower 40 percent. There is no reason why an enlisted man who is entitled to meals as part of his compensation should prefer restaurant facilities to the military dining facilities. He is not entitled to second-rate meals, but to attractive, appealing and nutritious food.

Based on the results of this experiment we have good reason for high expectations at the conclusion of the research program to improve feeding systems. Dr. Josephson points out that it is critical now to support this important work, and the restoration of the $600,000 will allow a continuation of the research and engineering that will lead to even further improvements.

In addition to developing new garrison feeding systems, Natick Army Labs is conducting research into new cooking and baking techniques designed to produce high quality food products with increased yield. This research program could result in a savings of as much as $1 million annually. No trend in food technology is more significant than that of increasing the nutritional value of food as yield is also increased. For too long we have paid little attention to the nutritional value of food, but there has been an awakening among consumers. Some foodstores are experimenting with nutrition content labeling. Leading scientists and physicians are outlining for us the importance of nutrition to health and well-being. And surely the less wealthy countries must look forward to a technology which allows an increased yield without the loss of nutritional quality.

The Army research program has also concentrated its efforts in frozen food product research. As in the other areas of research and development this too has high potential for the civilian sector. Research which has outlined successful methods of freezing and a continuing inquiry into the preservation of nutritional value in frozen foods unfortunately has not been accompanied by successful technology for improving frozen food appeal. In some cases frozen food has become so unattractive as to be of little value, because it is so seldom used. This research program attempts to increase the acceptability of frozen foods, making them more attractive to the consumer.

The argument that this type of R. & D. should be left to the commercial food industry is not well founded. A spokesman for the food industry recently pointed out that at least 90 percent of their R. & D. results are considered proprietary. Their engineering and technology does not have the same specific goals and is not designed to serve the same ends. There is little requirement on the commercial market for expansive feeding systems. The food industry—faced with its own problems in technology—is not conducting research to be turned over to the Army for military use.

The military services have always been the leaders in the area of food technology. Because of the needs of Napoleon's army, canning was developed. Many of our commercial packaging techniques resulted from military service techniques. All of the innovative research and development into radiation processing has progressed as the result of military needs to deliver nutritional and varied food items to the Armed Forces.

We do not have a higher priority than the alleviation of hunger and human misery. And it is to this end that the national food radiation program, also conducted at Natick Labs, is directed. Surplus commodity distribution within the United States and emergency food delivery around the world will benefit from the answers we find in this program.

I can think of no finer success for the Department of the Army than the development of the most efficient method of delivery of food in emergency situations. As I have said before, as chairman of the Subcommittee To Investigate Problems connected with refugees and escapees, I have seen time and time again what fast and efficient food delivery in an emergency situation means. It can mean the difference in terms of growth, in terms of health, and very often in terms of survival.

In restoring $600,000 to the DOD food technology program appropriation we will assure continued research and development into a field in which the Army has already demonstrated its success. To abandon or reduce such a program at this point is not only to lose an investment in talent and money, but to significantly affect hundreds of thousands of men and women serving in the Armed Forces. And ultimately this affect will be felt in the civilian community as well. I urge that the $600,000 be restored for this program.

Mr. ELLENDER. What is involved in the amendment?

Mr. BROOKE. The restoration of $600,000 to the defense appropriation bill for more research, food research for the Department of Defense. The Natick Laboratories were doing research for the Department of the Army. It is now expanded to include all of the services. The House cut back the appropriation request of the Department of Defense by $1.1 million. It was then further cut back by $600,000.

Mr. ELLENDER. And the Senator's amendment simply restores the $600,000?

Mr. BROOKE. The Senator is correct.

Mr. ELLENDER. Mr. President, in view of the adoption of the amendment of the Senator from New Hampshire, I have consulted with a few members of the committee. We are willing to accept the amendment and take it to conference.

I yield back the remainder of my time.

Mr. BROOKE. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having expired, the question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment was agreed to.

Mr. STENNIS. Mr. President, on behalf of myself and the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Wisconsin (Mr. PROXMIRE), I send an amendment to the desk and ask that it be stated. The vote will be a voice vote.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

On page 34, line 17, after the word "duty" insert "subject to existing laws".

Mr. STENNIS. Mr. President, I have sent to the desk a short clarifying amendment which I hope will cause no Senator any difficulty. The distinguished Senator from Wisconsin (Mr. PROXMIRE) and the distinguished Senator from Massachusetts (Mr. KENNEDY) are interested in this matter and have asked to be cosponsors of this amendment.

Section 713(c) on page 34 of the appropriations bill is normally included in each defense appropriations bill. It merely provides that if it is necessary for the President to increase the number of military personnel on active duty beyond the number for which funds are provided in this act, the Secretary of Defense is authorized to provide for the cost of such increased personnel. Such a provision is necessary for emergencies, for the President must have the authority to pay the reservists which he can call to active duty upon the declaration of a national emergency. This year, however, in the draft bill we imposed firm legislative ceilings for the first time on both the numbers of men who can be inducted into the Armed Forces and the average active duty strength of each service. These ceilings allow the President the flexibility to respond to emergencies but only—and I would emphasize only—by calling up the Reserves.

Section 301 of the Selective Service Act makes it clear that these ceilings are firm ones except that the President may exceed them by ordering to active duty the Ready Reserve after declaring a national emergency. My concern is to make it perfectly clear that the passage of section 713(c) does not repeal the firm ceilings which were placed upon the numbers of draftees who may be inducted by the President and the average active duty strength. The amendment which I propose simply clarifies section 713(c). Under the amendment I propose the President would still have the authority to call up 1 million members of the Ready Reserve to active duty after declaring a national emergency and he would have the authority to pay these men. But it would be clear that section 713(c) does not repeal the important ceilings on draft calls and on average active duty strength.

I want to stress, Mr. President, that I am certain that the Appropriations Committee did not intend to repeal these ceilings by including section 713 (c). The section is what lawyers often call "boiler plate"—that is, a section which is ordinarily included in legislation. The section is necessary to insure that reservists called to active duty may be paid. But it must be clarified so that the executive branch will not again be able to involve the United States in a large-scale conflict without declaring a national emergency and without clear-cut manpower authority granted by the Congress.

MANPOWER AMENDMENT

Mr. KENNEDY. Mr. President, I rise to join the distinguished chairman of the Armed Services Committee and the Senator from Wisconsin in offering an amendment to the defense appropriations bill, H.R. 11731.

Essentially it is a technical amendment, erasing any confusion that might exist between the language in the current bill and the provisions of the draft bill which were enacted into law.

Those provisions, which were amendments I offered to the draft bill, placed absolute ceilings on the numbers of men who could be drafted each year and absolute ceilings on the number of active duty personnel in the Armed Forces.

The amendment setting an absolute ceiling on inductees, which included a perfecting amendment by Senator Stennis setting the level at 130,000 for fiscal year 1972 and 140,000 for fiscal year 1973, passed 78 to 4 on June 9.

The amendment setting an overall ceiling on the size of the active duty military personnel and denying the President any escape clause passed by a vote of 79 to 0 on June 21.

However, the current section 713(c) of the appropriations bill contains a section which permits the President to increase the numbers of men beyond the numbers that can be paid by the appropriations in the present bill. This creates some confusion and to avoid that confusion, our amendment would simply state that the permission given to the President to increase the number of active duty personnel is subject to the provisions of the draft bill. In that way, there is no way in which he can violate the ceilings on the active duty force without coming to Congress for approval.

This reinforces the congressional intent to limit Presidential discretion—in the absence of an emergency—to increase the size of the Armed Forces. It does so without affecting his ability to respond to emergencies by calling up the Reserves.

The reasons I gave then for proposing the amendment to limit Presidential discretion perhaps should be repeated.

We have seen the history of our past involvement in Vietnam and the steady rise in the number of draftees and the size of the Armed Forces over the past 7 years. This escalation occurred without the check of periodic congressional votes on the rising number of inductees and the rising size of the Armed Forces.

We have been virtual bystanders as the number of draftees soared, as the size of the Armed Forces rose, and as the number of American deaths passed 45,500.

We have been permitted to receive only those documents and those messages that would vindicate the foreign policy decisions already made by the Executive.

And we have watched uncomfortably as congressional influence in the design and execution of American foreign policy has dissolved.

Our action in establishing absolute congressionally mandated ceilings reflects a restoration of congressional involvement in foreign policy decisionmaking.

Reasserting the responsibility of the Congress to establish the size of the Armed Forces also reflects a reassertion of the Constitution.

Article 1, section 8, of the Constitution provides:

> The *Congress* shall have power to . . . raise and support armies . . . to provide and maintain a Navy . . . to make rules for the government and regulation of the land and naval forces.

Thus, this action in the draft bill to establish congressionally mandated levels for the Armed Forces represents a recognition that the administration's request for military manpower must be treated as a request, with the final decision-making power assigned by the Constitution to the Congress.

This is not to say that in an emergency situation the President's hands are bound. He has the power, given to him by the Congress, to call up the Reserves in case of emergencies.

The concept of a reserve force capable of responding to national emergencies is in keeping with our historic reliance on the citizen-soldier. But again, it is only in the case of a national emergency and reports must be made to the Congress on the use of those Reserves.

In this way, I believe the amendments which I introduced and which were enacted into law represent a reassertion of congressional responsibility for the size and method of raising the Armed Forces. I believe that purpose was accomplished without curtailing the President's ability to respond to emergencies.

And now with the amendment presented today, we are assured that those goals will not be lost. Therefore, I strongly urge the Senate to accept the amendment now before it to require that the ceilings established in the draft bill remain in force.

Mr. ELLENDER. Mr. President, there is no objection to the amendment.

Mr. STENNIS. Mr. President, I yield back the remainder of my time.

Mr. ELLENDER. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having expired, the question is on agreeing to the amendment of the Senator from Mississippi.

The amendment was agreed to.

Mr. HUMPHREY. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk proceeded to state the amendment.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be printed in the Record.

The amendment ordered to be printed in the Record, reads as follows:

On page 49, between lines 21 and 22, insert a new title as follows:

TITLE IX—DISPOSITION OF SURPLUS MILITARY EQUIPMENT IN VIETNAM

Sec. 901. (a) There is established in the Department of Defense an office known as the Office of Vietnam War Surplus, hereinafter in this title referred to as the "Office", which shall be headed by a civilian appointed by the Secretary. The head of such office shall be directly responsible to the Secretary of Defense.

(b) Notwithstanding any other provisions of law, it shall be the function of the Office to—

(1) determine the kinds and amount of equipment and materials owned by the Department of Defense in South Vietnam and which is no longer necessary for the use of the Armed Forces of the United States in Vietnam;

(2) assess and evaluate such equipment and material for the purpose of determining whether it can be used by Federal, state, or local governments in the United States or by private enterprises or persons in the United States in either urban or rural areas;

(3) serve as a central office for the disposition of all such equipment and materials;

(4) make such equipment and materials available to other departments and agencies of the Federal government and to state and local governments without charge;

(5) make such equipment and materials available without charge to private non-profit organizations determined by the Secretary of Defense, after consultation with the Secretary of Health, Education and Welfare, the Secretary of Housing and Urban Affairs, the Secretary of Agriculture, and the Director of the Office of Economic Opportunity to be engaged in programs of urban or rural development or programs of assistance to low income persons.

Sec. 902. The Secretary of Defense shall submit a written report to the Congress within 90 days after the date of enactment of this title indicating what action has been taken to carry out the provisions of this title. He shall include in such report such recommendations for legislation as he deems appropriate for the improvement of the program provided for herein.

Mr. HUMPHREY. Mr. President, I will take just a moment to discuss the amendment. I will read some of its contents because it explains itself.

I have asked in the amendment that there be established in the Department of Defense an office to be known as the Office of Vietnam War Surplus, hereinafter in this title referred to as the "Office," which shall be headed by a civilian appointed by the Secretary. The function of the Office shall be to—

First. Determine the kinds and amounts of equipment and materials owned by the Department of Defense in South Vietnam and which is no longer necessary for the use of the Armed Forces of the United States in Vietnam;

Second. Assess and evaluate such equipment and material for the purpose of determining whether it can be used by Federal, State, or local governments in the United States or by private enterprises or persons in the United States in either urban or rural areas;

Third. Serve as a central office for the disposition of all such equipment and materials;

Fourth. Make such equipment and materials available to other departments and agencies of the Federal Government and to State and local governments without charge;

Fifth. Make such equipment and materials available without charge to private nonprofit organizations determined by the Secretary of Defense, after consultation with the Secretary of Health, Education, and Welfare, the Secretary of Housing and Urban Development, the Secretary of Agriculture, and the Director of the Office of Economic Opportunity, to be engaged in programs of urban or rural development or programs of assistance to low-income persons.

Section 902: The Secretary of Defense shall submit a written report to the Congress within 90 days after the date of enactment of this title indicating what action has been taken to carry out the provisions of this title. He shall include in such report such recommendations for legislation as he deems appropriate for the improvement of the program provided for herein.

The purpose of the amendment is quite clear. We have immense amounts of material that are going into surplus as we withdraw from Vietnam. Some of that will obviously be made available to the Government of South Vietnam. Other parts of it will be in surplus.

We have tracks, jeeps, trucks, bulldozers, and vast amounts of metallic products, items that can be used and would be of great help to our own people, particularly those in low-income areas and community action projects and municipalities.

I realize, of course, that we have a surplus disposal program. However, I want to be sure that the first priority on the use of these surplus products is for the people of the United States insofar as it is possible to make it available for them.

I recognize that some of it would not be shipped back. It might be uneconomic to make it available. However, where it is economically advisable to do so, I would hope that we might be able to expedite this specal use.

Mr. President, I offer the amendment on behalf of myself and my distinguished colleague, the senior Senator from Minnesota. I know that serious consideration is being given to this sort of project within some of the agencies of our Federal Government. It seems to me that we in the Senate and in the House of Representatives ought to express our interest in it and also assent and consent to whatever may develop.

Mr. President, I have no other argument to make, because I think on its face it makes great and good sense. The question is whether we will use this material which can be made available economically or leave it, as has happened in many other instances with people who will not care for it, who will not put it to its proper use. It can be used to great advantage in the localities of the countries and cities and towns and counties of our country that have serious financial needs and that need every bit of help they can get.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. STEVENS. Mr. President, does the Senator desire to establish a priority under the department for the disposal of surplus property in the Department of Defense?

Mr. HUMPHREY. If we place the main responsibility in the Secretary of Defense. However, he would be able to delegate that for himself; he would declare that which he deems to be surplus.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. ELLENDER. Mr. President, I wish to make a point of order that this is legislation pure and simple and is contrary to rule XVI of the Rules of the Senate.

The PRESIDING OFFICER. The Chair has examined the amendment and finds it is legislative in intent and under rule XVI it would be out of order.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that it be considered to be in order since it relates to surplus in the Department of Defense and property that should be used for public purposes.

Mr. GRIFFIN. I object.

The PRESIDING OFFICER. Objection is heard.

Without objection, the action of the Senate striking the committee amendment on page 48, beginning on line 24, will have no effect on the committee amendment striking out lines 20 through 23 on the same page.

SEVERAL SENATORS. Vote! Vote!

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill (H.R. 11731) was read the third time.

LET US GET STARTED NOW ON THE AIR FORCE LIGHTWEIGHT FIGHTER

Mr. PROXMIRE. Mr. President, for the last few years everyone has been giving lip service to the need for a new "Fly Before You Buy" weapons acquisition policy. Yet concurrency between development and production remains the rule on most new systems and, with the exception of the A–X, there have been no new competitive development programs in the past several years.

Against this background, the new advanced prototype program announced earlier this year by Deputy Defense Secretary Packard seemed a welcome development indeed. Each of the three services had agreed to initiate a series of prototype development programs, many of them competitive, on which no production decisions would be made until development had been completed.

PROTOTYPE PROBLEMS

It seemed like the first small step in a new direction. But how badly we have stumbled in its taking. Now, less than 6 months after the program was announced, no funds are earmarked for it in this bill and its future is very much in doubt. The reasons why, in retrospect, are clear.

For one thing, the military services had only a limited enthusiasm for the new plan. Oh, they were for it all right, if it would alleviate congressional criticisms of their standard procurement policies and if they were given extra funds—above those requested in original budget submissions—for the new prototype projects. But they were not anxious to take prototype money out of their own hides.

And Secretary Packard's own commitment to the program was ambivalent. Inside the Pentagon, he was quite willing to "sell" the services on the idea of getting more money for additional projects not covered in their budgets; but he was not about to assert his manager's prerogative and demand that priorities for prototypes be established. On the Hill, meanwhile, he extolled the virtues of the new program and hinted that more funds would be useful; but he never made a formal budget request for the extra $67.5 million the prototype projects would cost, perhaps in embarassment over the $7.9 billion request for new research funds already pending before the Congress.

In addition, some of the prototype projects themselves were suspect. The House Appropriations Committee expressed disappointment that "the prototyping concept was not applied to some of the higher priority existing development efforts" already included in the Pentagon's budget and noted that some of the projects to which it was applied were "low priority programs similar to other programs which have been discussed for some years but have not received funding because of the many higher priority efforts which absorbed the available funds."

For all these reasons, the funds provided for Secretary Packard's prototype program have dwindled steadily as it has passed through the legislative process. The Senate-House conference committee on the military procurement bill provided only $34 million specifically earmarked for the $67.5 million program. This sum was cut to $12 million by the House Appropriations Committee. And funds were eliminated altogether by our own Appropriations Committee in its markup on this bill.

JUSTIFIED CRITICISM

On balance, I agree with the critical appraisal these committees have made of the Packard prototype program. It has not given prototyping the priority it needs within the Department of Defense. And unless it gets that priority, any funds provided by the Congress could be money down the drain, money earmarked for the kind of low priority defense needs to which the House Appropriations Committee referred.

I am also pleased to note the warm endorsement these committees gave to the basic prototyping concept, notwithstanding their criticism of the specific Packard package. And this endorsement has been translated into effective action by the committees' welcome call for a competitive prototype development approach both to the Air Force Subsonic Cruise Armed Decoy—SCAD—program and to the new replacement for the Army's gold-plated Main Battle Tank.

ONE UNFORTUNATE SIDE EFFECT

But I must object to one unfortunate side effect of the Senate Committee's action on the Packard package—its deletion from the bill of all funds specifically earmarked for the new Air Force lightweight fighter prototype program. Unlike some of the projects in the Packard package, this lightweight fighter is not a low priority program; in fact, it would provide for one of the highest priority procurement needs we face at the present time.

We are now embarked on the development and procurement of two very complex and very expensive air superiority fighters—the F-14 and the F-15. The issue is not simply whether we need both these aircraft. Let us assume here that we do. The fact remains that we will never be able to buy them in anywhere near the numbers needed to maintain the present size of our fighter force structure.

Let us look briefly at the facts. The F-14 is now estimated to cost $16.7 million per copy, an estimate which is likely to rise when a Grumman bail-out occurs and when the "B" engine is added to the plane. Yet even at its present estimate, the F-14 costs three to four times the cost of the F-4's it is replacing. Under these circumstances, there is no way we could hope to replace with F-14's on a 1-to-1 basis the 1,500 fighter aircraft purchased for the current generation of Navy-Marine Corps fighters. In fact, the Navy is presently planning on a far more realistic 300 aircraft buy.

And the situation in the Air Force is not much different. The F-15 is presently budgeted at only twice the cost of an F-4, but this ratio is likely to increase before we go too far. And whatever the final ratio turns out to be, it is sure to be so high that a 1-to-1 replacement of the almost 3,000 current Air Force fighters in the inventory is far beyond the realm of hope.

A SIMPLE ALTERNATIVE

These economic facts of life present us with a simple alternative—either we supplement the F-14's and F-15's in our inventory with high performance lightweight fighters or we dangerously jeopardize our security.

The Senate Armed Services Committee summed it up in reporting out its authorization bill:

> If we can afford a permanent force structure of only one-fifth as many fighter aircraft or tanks as our potential adversaries—because our systems are about five times as expensive as theirs—then a future crisis may find us at a sharp numerical disadvantage.

And the House Appropriations Committee echoed the thought:

> The Committee has been deeply concerned about the very great cost of producing new fighter aircraft which are now costing in the vicinity of $15 million per copy and feels that we must try to develop viable, small, lightweight fighter aircraft so that our forces will not be overwhelmed by vastly superior numbers of enemy aircraft.

Mr. President, the need for a new light weight fighter is universally recognized. And the Air Force has initiated a lightweight fighter program, for which $10 million was requested informally for fiscal 1972. But there is no money earmarked for that lightweight fighter in this Appropriations bill, and in the House bill there is only $6 million so identified.

I recognize that there was no formal request for these funds, but are we in Congress to allow an act of omission in the executive branch to determine our response to this clear-cut military need?

Are we going to go on spending $2 billion annually on the F-14 and F-15 while failing to spend the $90 million needed over the next 3 years for a lightweight fighter competitive prototype development program?

Mr. President, it is late in this session and there is much important business waiting to be conducted. Accordingly, I do not propose to take up the Senate's time with a formal amendment on the lightweight fighter issue. I sincerely hope, however, that our conferees on this bill will recognize the widespread interest which has been shown—both in the Armed Services Committee and on the Senate floor—in moving ahead now with a lightweight fighter program. I hope that they will accede to the House position on this issue. And I hope that the Air Force would then reprogram the $2 to $4 million which might be needed in addition to move out on the lightweight fighter according to its present plans. I would note in this regard that Mr. Packard in a letter to the distinguished Senator from Mississippi (Mr. STENNIS) dated November 19, has given assurances that he intends to support this program with whatever reprogramed funds are needed during fiscal 1972.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD of Virginia. Mr. President, I have one brief question I wish to address to the distinguished chairman of the Committee on Appropriations.

May I inquire as to the amount of the unfunded military retirement surplus of the Government?

Mr. ELLENDER. The estimated unfunded liability costs for military personnel for fiscal year 1972 is $118.6 billion.

Mr. BYRD of Virginia. The last figure I had was $116 billion.

Mr. ELLENDER. I believe that was the approximate amount for fiscal year 1971.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. HARTKE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Maine (Mr. MUSKIE), the Senator from Louisiana (Mr. LONG), the Senator from Utah (Mr. MOSS), the Senator from Illinois (Mr. STEVENSON), and the Senator from New Mexico (Mr. ANDERSON) are necessarily absent.

I further announce that the Senator from Idaho (Mr. CHURCH) is absent on official business.

I further announce that, if present and voting, the Senator from Illinois (Mr. STEVENSON) would vote "yea".

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from New Hampshire (Mr. COTTON), the Senator from New York (Mr. JAVITS), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Maine (Mrs. SMITH) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Ohio (Mr. SAXBE) is absent on official business.

If present and voting, the Senator from Maine (Mrs. SMITH) would vote "yea".

The result was announced—yeas 80, nays 5, as follows:

[No. 396 Leg.]

YEAS—80

Aiken
Allen
Allott
Baker
Bayh
Bellmon
Bennett
Bentsen
Bible
Boggs
Brock
Brooke
Buckley
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Case
Chiles
Cook
Cooper
Cranston
Curtis
Dole
Dominick
Eagleton
Eastland
Ellender
Ervin
Fannin
Fong
Gambrell
Griffin
Gurney
Hansen
Hart
Hollings
Hruska
Hughes
Humphrey
Inouye
Jackson
Jordan, N.C.
Jordan, Idaho
Kennedy
Magnuson
Mathias
McClellan
McGee
McIntyre
Metcalf
Miller
Mondale
Montoya
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott
Sparkman
Spong
Stafford
Stennis
Stevens
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

NAYS—5

Fulbright
Gravel
Harris
Hatfield
Mansfield

NOT VOTING—15

Anderson
Beall
Church
Cotton
Goldwater
Hartke
Javits
Long
McGovern
Moss
Mundt
Muskie
Saxbe
Smith
Stevenson

So the bill (H.R. 11731) was passed.

Mr. ELLENDER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. GRIFFIN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ELLENDER. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized in the engrossment of Senate amendments to H.R. 11731 to correct the figure beginning on line 26 on page 23 and line 1 on page 24 to $2,352,319,000 and correct the figure in the amendment by the Senator from Colorado from $2,293,619,000 to $2,352,319,000.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ELLENDER. Mr. President, I move that the Senate insist on its amendments and request a conference with the House on the disagreeing votes thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. ELLENDER, Mr. MCCLELLAN, Mr. STENNIS, Mr. PASTORE, Mr. SYMINGTON, Mr. YOUNG, Mrs. SMITH, and Mr. ALLOTT conferees on the part of the Senate.

TRIBUTES TO SENATOR ELLENDER, SENATOR YOUNG, AND OTHERS ON PASSAGE OF DEFENSE APPROPRIATIONS

Mr. MANSFIELD. Mr. President, once again the distinguished senior Senator from Louisiana (Mr. ELLENDER), the able chairman of the Committee on Appropriations, has demonstrated his outstanding legislative skill and ability by steering this enormous funding measure through the committee and to successful Senate consideration on the floor today. Senator ELLENDER has performed again the outstanding public service that has marked his long and illustrious career in this body.

It must be said that no item contained in this highly complex proposal was inserted without his full and personal understanding and appreciation for its consequences and impact.

The Senate and the American people may rest assured that their defense dollar under the supervision of Senator ELLENDER is being spent as effectively as possible. We are deeply grateful.

The Senate is grateful as well for the efforts of the distinguished senior Senator from North Dakota (Mr. YOUNG). His contributions and splendid cooperation as the ranking minority member of the committee were indispensable to this overwhelming success. Senator YOUNG assured expeditious and efficient consideration. This is only typical of his many contributions.

To those Senators who offered amendments we are particularly grateful. Of special note was the contribution of the distinguished Senator from Missouri (Mr. SYMINGTON). By raising a most significant issue of intelligence he has called attention to a matter of immense importance. He has raised an issue which is just now in its infancy, but which in time I am confident will grow to enormous proportions. It is time, in my judgment, that we take a long, hard look at our intelligence community, its function and objectives.

Other Senators also are to be commended. The distinguished Senator from Washington (Mr. JACKSON), the distinguished Senator from Mississippi (Mr. STENNIS), and many others joined to assure full consideration of this most important funding measure.

To the Senate I am personally grateful. Especially do I appreciate the cooperation of every Member in coming in early and staying late to complete action on the Nation's business.

CREDIT UNION SHARE INSURANCE AMENDMENTS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 438, H.R. 9961. I do this so that it will be the pending business.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read the bill by title, as follows: A bill (H.R. 9961) to provide Federal credit unions with 2 additional years to meet the requirements for insurance, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that on the Proxmire amendment, on which the Senate had previously granted 2 hours of debate, the time be reduced to 1 hour under the same circumstances.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

PROGRAM

Mr. MANSFIELD. Mr. President, there undoubtedly will be a rollcall vote on the Proxmire amendment, which I anticipate will come around the hour of 10:30 a.m.

Following disposition of H.R. 9961, the Senate will turn to the consideration of Calendar No. 439, H.R. 9727, a bill to regulate the dumping of material in the oceans, coastal, and other waters, and for other purposes. I understand that there is a distinct possibility that there will be a rollcall vote on that bill.

Following the disposition of that bill, the higher education bill will be taken up. Whether or not there will be votes on that, I am certain there will be a certain amount of colloquy.

ORDER TO ADD NAME OF SENATOR WILLIAMS TO INDIVIDUAL VIEWS IN SENATE REPORT 507

Mr. MANSFIELD. Mr. President, I ask unanimous consent to add the name of Senator WILLIAMS to the individual views contained in the report (Rept. No. 507) of the Senate Committee on Banking, Housing, and Urban Affairs on S. 2891, the Economic Stabilization Act Amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

ECONOMIC STABILIZATION ACT AMENDMENTS OF 1971—AMENDMENT

AMENDMENT NO. 751

(Ordered to be printed and to lie on the table.)

Mr. CRANSTON (for himself, Mr. DOLE, Mr. ERVIN, Mr. COOK, Mr. JORDAN of North Carolina, Mr. GRAVEL, Mr. EAGLETON, Mr. MONDALE, Mr. TUNNEY, Mr. MCINTYRE, and Mr. MCGEE) submitted an amendment intended to be proposed to the bill (S. 2891) to extend and amend the Economic Stabilization Act of 1970, as amended, and for other purposes.

ADDITIONAL COSPONSOR OF A BILL

S. 2767

At the request of Mr. THURMOND, the Senator from Alaska (Mr. STEVENS) and the Senator from Indiana (Mr. BAYH) were added as cosponsors of S. 2767, a bill to authorize nonregular military service personnel to elect retirement as early as age 50.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session.

There being no objection, the Senate proceeded to consider executive business.

TAX CONVENTION WITH JAPAN; TAX PROTOCOL WITH FRANCE; AND TREATY WITH MEXICO RESOLVING BOUNDARY DIFFERENCES

Mr. MANSFIELD. Mr. President, I move that the Senate proceed to the consideration of Executive O, 91st Congress, second session, Executive E, 92d Congress, first session, and Executive B, 92d Congress, first session.

The motion was agreed to, and the Senate, as in Committee of the Whole, proceeded to consider Executive O, 91st Congress, second session, the tax protocol with France, Executive E, 92d Congress, first session, the tax convention with Japan, and Executive B, 92d Congress, first session, the treaty with Mexico resolving boundary differences, which were read the second time, as follows:

PROTOCOL TO THE CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND THE FRENCH REPUBLIC WITH RESPECT TO TAXES ON INCOME AND PROPERTY OF JULY 28, 1967

The President of the United States of America and the President of the French Republic, desiring to amend the Convention between the United States of America and the French Republic with respect to taxes on income and property of July 28, 1967, have appointed for that purpose as their respective Plenipotentiaries:

The President of the United States of America: William P. Rogers, Secretary of State of the United States of America, and

The President of the French Republic: Charles Lucet, Ambassador Extraordinary and Plenipotentiary of the French Republic at Washington,

who have agreed upon the following provisions:

ARTICLE 1

(1) The following new paragraph (6) shall be added to Article 9 (Dividends) of the Convention:

"(6) (a) A resident of the United States who receives a dividend from a French corporation which, if received by a resident of France would entitle such resident to a tax credit (avoir fiscal), shall be entitled to a payment from the French Treasury equal to such credit (avoir fiscal), subject to the deduction from such payment of withholding tax in the amount provided for in paragraph (2) (a) of this article.

"(b) The provisions of subparagraph (a) shall be applicable to the following residents of the United States:

"(i) An individual or other person (other than a corporation or an entity treated under United States law as a corporation) who is a resident of the United States;

"(ii) A corporation which is not a regulated investment company and which, within the meaning of the provisions of the United States Internal Revenue Code providing a credit for taxes paid by a foreign corporation, owns less than 10 percent of the voting stock of the French corporation referred to in subparagraph (a); or

"(iii) A corporation which is a regulated investment company owning less than 10 percent of the voting stock of the French corporation referred to in subparagraph (a) and which has less than 20 percent of its shares owned by persons who are neither citizens nor residents of the United States.

"(c) The payment provided for under subparagraph (a) shall be deemed to be a distribution by the French corporation.

"(d) The competent authorities may prescribe regulations to implement the provisions of this paragraph and further define and determine the terms and conditions under which any payment provided for in subparagraph (a) may be made."

(2) Paragraph (3) of Article 9 of the Convention shall be amended to read as follows:

"(3) Paragraphs (2) and (6) of this article and, in the case of dividends derived by a resident of France, paragraph (1) of this article, shall not apply if the recipient of the dividends has a permanent establishment in the other Contracting State and the shares with respect to which the dividends are paid effectively connected with the permanent establishment. In such a case, the provisions of Article 6 shall apply."

(3) Paragraph (5) of Article 9 of the Convention shall be amended to read as follows:

"(5) When the prepayment (précompte) is levied by reason of dividends paid by a French corporation to a resident of the United States, who is not entitled to the payment described in paragraph (6) with respect to such dividends, such resident shall be entitled to the refund of that prepayment, subject to deduction of the withholding tax with respect to the refunded amount in accordance with paragraph (2) of this article."

ARTICLE 2

This Protocol shall be ratified and instruments of ratification shall be exchanged at Paris. It shall enter into force one month after the date of exchange of the instruments of ratification.

Its provisions shall for the first time have effect for dividends declared on or after the first day of January 1970.

ARTICLE 3

This Protocol shall remain in force as long as the Convention between the United States of America and the French Republic with respect to taxes on income and property of July 28, 1967 shall remain in force.

IN WITNESS WHEREOF, the respective Plenipotentiaries have signed the present Protocol and affixed thereto their seals.

DONE at Washington in duplicate in the English and French languages, both texts being equally authoritative, the 12th day of October 1970.

For the President of the United States of America:

[SEAL] WILLIAM P. ROGERS

For the President of the French Republic:

[SEAL] CHARLES LUCET

CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND JAPAN FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

The United States of America and Japan,

Desiring to conclude a new convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,

Have agreed upon the following articles:

ARTICLE 1

(1) The taxes which are the subject of this Convention are:

(a) In the case of the United States, the Federal income taxes imposed by the Internal Revenue Code, hereinafter referred to as "United States tax", and

(b) In the case of Japan, the income tax and the corporation tax, hereinafter referred to as "Japanese tax".

(2) This Convention shall also apply to taxes substantially similar to those covered by paragraph (1) of this article which are imposed in addition to, or in place of, existing taxes after the date of signature of this Convention.

(3) For the purpose of Article 7, this Convention shall also apply to taxes of every kind imposed by a Contracting State or a political subdivision or local authority thereof. For the purpose of Article 26, this Convention shall also apply to taxes of every kind imposed by a Contracting State.

ARTICLE 2

(1) In this Convention, unless the context otherwise requires:

(a) The term "United States" means the United States of America and, when used in a geographical sense, means the states thereof and the District of Columbia.

(b) The term "Japan", when used in a geographical sense, means all the territory in which the laws relating to Japanese tax are in force.

(c) The term "a Contracting State" or "the other Contracting State" means the United States or Japan, as the context requires.

(d) The term "person" means an individual, a corporation, or any other body of persons.

(e) (i) The term "United States corporation" means a corporation which is created or organized under the laws of the United States or any state thereof or the District of Columbia, or any unincorporated entity treated as a United States corporation for purposes of United States tax; and

(ii) The term "Japanese corporation" means a juridical person which has its head or main office in Japan or any organization without juridical personality treated for purposes of Japanese tax as a Japanese juridical person.

(f) The term "competent authority" means:

(i) In the case of the United States, the Secretary of the Treasury or his delegate, and

(ii) In the case of Japan, the Minister of Finance or his authorized representative.

(g) The term "citizen" means:

(i) In the case of the United States, a citizen of the United States, and

(ii) In the case of Japan, a national of Japan

(2) As regards the application of this Convention by a Contracting State, any term used in this Convention and not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State relating to the taxes which are the subject of this Convention.

ARTICLE 3

In this Convention:

(1) The term "resident of Japan" means:

(a) A Japanese corporation, or

(b) Any other person resident in Japan for purposes of Japanese tax.

(2) The term "resident of the United States" means:

(a) A United States corporation, or

(b) Any other person (except a corporation or any entity treated under United States law as a corporation) resident in the United States for purposes of United States tax, but in the case of an estate or trust only to the extent that the income derived by such person is subject to United States tax as the income of a resident.

(3) An individual who is a resident of both Contracting States shall be deemed to be a resident of that Contracting State in which he maintains his permanent home. If he has a permanent home in both Contracting States or in neither Contracting State, he shall be deemed to be a resident of that Contracting State with which his personal and economic relations are closest (center of vital interests). If the Contracting State in which he has his center of vital interests cannot be determined, he shall be deemed to be a resident of that Contracting State in which he has a habitual abode. If he has a habitual abode in both Contracting States or in neither Contracting State, he shall be deemed to be a resident of that Contracting State of which he is a citizen. If he is a citizen of both Contracting States or of neither Contracting State, the competent authorities of the Contracting States shall settle the question by mutual agreement. An individual who is deemed to be a resident of a Contracting State and not a resident of the other Contracting State by reason of the provisions of this paragraph shall be deemed to be a resident of the first-mentioned Contracting State for all purposes of this Convention, including Article 4.

ARTICLE 4

(1) A resident of a Contracting State may be taxed by the other Contracting State on any income from sources within that other Contracting State and only on such income, subject to any limitations set forth in this Convention. For this purpose, the rules set forth in Article 6 shall be applied to determine the source of income.

(2) The provisions of this Convention shall not be construed to restrict in any manner any exclusion, exemption, deduction, credit, or other allowance now or hereafter accorded—

(a) By the laws of a Contracting State in the determination of the tax imposed by that Contracting State, or

(b) By any other agreement between the Contracting States.

(3) Except to the extent provided in paragraph (4) of this article, this Convention shall not affect the taxation by a Contracting State of its residents (and, in the case of the United States, its citizens).

(4) The provisions of paragraph (3) of this article shall not affect:

(a) The benefits provided under Articles 5, 7, 21, and 25; and

(b) The benefits provided under Articles 19, 20, and 22, but in the case of benefits conferred by the United States only if the person claiming the benefits neither is a citizen of, nor has immigrant status in, the United States.

(5) There shall be allowed, for purposes of United States tax, in the case of a resident of Japan who is not a resident of the United States (other than an officer or employee of the Government of Japan or local authority thereof), in addition to the deduction for one personal exemption provided in section 873 of the United States Internal Revenue Code as in effect on the first day of December 1968, a deduction for personal exemptions, subject to the conditions prescribed in sections 151 through 154 of the Internal Revenue Code as in effect on the said date, for the spouse of the taxpayer and for each child of the taxpayer present in the United States and residing with him in the United States at any time during the taxable year, but such additional deduction shall not exceed that proportion thereof which the taxpayer's gross income from sources within the United States which is treated as effectively connected with the conduct of a trade or business within the United States within the meaning of section 864(c) of the Internal Revenue Code for the taxpayer's taxable year bears to his entire income from all sources for such taxable year.

(6) The United States may impose its personal holding company tax and its accumulated earnings tax notwithstanding any provision of this Convention. However, a Japanese corporation shall be exempt from the United States personal holding company tax in any taxable year if all of its stock is owned, directly or indirectly, by one or more individuals who are residents of Japan (and not citizens of the United States) for that entire year. A Japanese corporation shall be exempt from the United States accumulated earnings tax in any taxable year unless such corporation is engaged in trade or business in the United States through a permanent establishment at any time during such year.

(7) Where, pursuant to any provision of this Convention, a Contracting State reduces the rate of tax on, or exempts from tax, income of a resident of the other Contracting State and under the law in force in that other Contracting State the resident is subject to tax by that other Contracting State only on that part of such income which is remitted to or received in that other Contracting State and under the law in force in that other Contracting State the resident is subject to tax by that other Contracting State, then the reduction or exemption shall apply only to so much of such income as is remitted to or received in that other Contracting State.

Article 5

(1) Double taxation of income shall be avoided in the following manner:

(a) In accordance with the provisions of the law of the United States, as in force from time to time, regarding the allowance of a credit against United States tax of tax payable in any country other than the United States, the United States shall allow to a citizen or resident of the United States as a credit against United States tax the appropriate amount of Japanese tax and, in the case of a United States corporation owning at least 10 percent of the voting power of a Japanese corporation from which it receives dividends, shall allow credit for the appropriate amount of Japanese tax paid by the Japanese corporation paying such dividends with respect to the profits out of which such dividends are paid. For the purpose of applying the United States credit in relation to taxes paid to Japan, the rules set forth in Article 6 shall be applied to determine the source of income.

(b) In accordance with the provisions of the laws of Japan, as in force from time to time, regarding the allowance of a credit against Japanese tax of tax payable in any country other than Japan, Japan shall allow to a resident of Japan as a credit against Japanese tax the appropriate amount of United States tax and, in the case of a Japanese corporation owning at least 10 percent of the voting shares of a United States corporation from which it receives dividends, shall allow credit for the appropriate amount of United States tax paid by the United States corporation paying such dividends with respect to the profits out of which such dividends are paid. For the purpose of applying the Japanese credit in relation to taxes paid to the United States, the rules set forth in Article 6 shall be applied to determine the source of income.

(2) The tax of a Contracting State which shall be credited by the other Contracting State in accordance with this article shall include any tax on income on profits imposed by any political subdivision or any local authority of the first-mentioned Contracting State.

Article 6

For purposes of this Convention:

(1) Dividends shall be treated as income from sources within a Contracting State only if paid by a corporation of that Contracting State.

(2) Interest shall be treated as income from sources within a Contracting State only if paid by that Contracting State, a political subdivision or local authority thereof, or by a resident of that Contracting State. Notwithstanding the preceding sentence, if the person paying the interest (other than interest paid on indebtedness incurred in connection with the purchase of ships or aircraft)—

(a) Whether or not such person is a resident of a Contracting State, has a permanent establishment in a Contracting State in connection with which the indebtedness on which the interest is paid was incurred and such interest is borne by such permanent establishment, or

(b) Is a resident of a Contracting State and has a permanent establishment in a State other than the Contracting States in connection with which the indebtedness on which the interest is paid was incurred and such interest is borne by such permanent establishment,

such interest shall be deemed to be from sources within the State in which the permanent establishment is located.

(3) Royalties for the use of, or the right to use, property (other than ships or aircraft) or rights described in paragraph (3) (a) of Article 14, and gains to the extent that they are contingent on the productivity, use, or disposition of such property or rights described in paragraph (3)(b) of Article 14, shall be treated as income from sources within a Contracting State only if the royalties, or the amount realized on the sale, exchange, or other disposition from which the gain is derived is paid for the use of, or the right to use, such property or rights within that Contracting State.

(4) Income from real property, including royalties in respect of the operation of mines or quarries, or the exploitation of any natural resources and gains derived from the sale exchange, or other disposition of such property or of the right giving rise to such royalties, shall be treated as income from sources within a Contracting State only if such property is situated in that Contracting State.

(5) Income from the rental of tangible personal property (other than from the rental of ships or aircraft) shall be treated as income from sources within a Contracting State only if such property is situated in that Contracting State. Income from the rental of ships or aircraft derived by a person not engaged in the operation of ships or aircraft in international traffic shall be treated as income from sources within a Contracting State only if the lessee is a resident of that Contracting State.

(6) Income (other than directors' fees described in paragraph (5) of Article 18) received by an individual for his performance of labor or personal services whether as an employee or in an independent capacity shall be treated as income from sources within a Contracting State only if such services are performed in that Contracting State. Income from labor or personal services performed aboard ships or aircraft operated by a resident of a Contracting State in international traffic shall be treated as income from sources within that Contracting State, if rendered by a member of the regular complement of the ship or aircraft. For purposes of this paragraph, income from labor or personal services includes pensions (as defined in paragraph (2) of Article 23) paid in respect of such services. Notwithstanding the preceding provisions of this paragraph, remuneration described in Article 21 shall be treated as income from sources within a Contracting State only if paid by, or out of the funds to which contributions are made by, that Contracting State or a political subdivision or local authority thereof. Directors' fees described in paragraph (5) of Article 18 shall be treated as income from sources within a Contracting State only if the corporation of which the individual is a director is a corporation of that Contracting State.

(7) Income from the purchase and sale of personal property (other than gains defined as royalties in paragraph (3)(b) of Article 14) shall be treated as income from sources within a Contracting State only if such property is sold in that Contracting State.

(8) Notwithstanding paragraphs (1) through (7) of this article, industrial or commercial profits which are attributable to a permanent establishment which the recipient, being a resident of a Contracting State, has in the other Contracting State, including income derived from real property and natural resources and dividends, interest, royalties (as defined in paragraph (3) of Article 14), and capital gains, but only if the property or rights giving rise to such income, dividends, interest, royalties, or capital gains are effectively connected with such permanent establishment, shall be treated as income from sources within that other Contracting State. To determine whether property or rights are effectively connected with a permanent establishment, the factors taken into account shall include whether the property or rights are used in or held for use in carrying on industrial or commercial activity through such permanent establishment, and whether the activities carried on through such permanent establishment were a material factor in the realization of the income derived from such property or rights. For this purpose, due regard shall be given to whether or not such property or rights or such income were accounted for through such permanent establishment.

(9) The source of any item of income to which paragraphs (1) through (8) of this article are not applicable shall be determined by each of the Contracting States in accordance with its own law.

Article 7

(1) A citizen of a Contracting State who is a resident of the other Contracting State shall not be subjected in that other Contracting State to more burdensome taxes

than a citizen of that other Contracting State who is a resident thereof.

(2) A permanent establishment which a resident of a Contracting State has in the other Contracting State shall not be subjected in that other Contracting State to more burdensome taxes than a resident of that other Contracting State carrying on the same activities. This paragraph shall not be construed as obliging a Contracting State to grant to individual residents of the other Contracting State any personal allowances, reliefs, and deductions for taxation purposes on account of civil status or family responsibilities which it grants to its own individual residents.

(3) A corporation of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which a corporation of the first-mentioned Contracting State carrying on the same activities, the capital of which is wholly owned or controlled by one or more residents of the first-mentioned Contracting State, is or may be subjected.

ARTICLE 8

(1) Industrial or commercial profits of a resident of a Contracting State shall be exempt from tax by the other Contracting State unless such resident is engaged in industrial or commercial activity in that other Contracting State through a permanent establishment situated therein. If such resident is so engaged, tax may be imposed by that other Contracting State on the industrial or commercial profits of such resident but only on so much of such profits as are attributable to the permanent establishment.

(2) Where a resident of a Contracting State is engaged in industrial or commercial activity in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to the permanent establishment the industrial or commercial profits which would be attributable to such permanent establishment if such permanent establishment were an independent entity engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the resident of which it is a permanent establishment.

(3) In the determination of the industrial or commercial profits of a permanent establishment, there shall be allowed as deductions expenses which are reasonably connected with such profits, including executive and general administrative expenses, whether incurred in the Contracting State in which the permanent establishment is situated or elsewhere.

(4) No profits shall be attributed to a permanent establishment of a resident of a Contracting State in the other Contracting State merely by reason of the purchase of goods of merchandise by that permanent establishment, or by the resident of which it is a permanent establishment, for the account of that resident.

(5) The term "industrial or commercial profits" includes income derived from manufacturing, mercantile, insurance, agricultural, fishing, or mining activities, from the operation of ships or aircraft, from the furnishing of personal services, and from the rental of tangible personal property (other than ships or aircraft). Such term also includes income derived from real property and natural resources; dividends, interest, royalties (as defined in paragraph (3) of Article 14); and capital gains but only if the right or property giving rise to such income, dividends, interest, royalties, or capital gains is effectively connected with a permanent establishment which the recipient, being a resident of a Contracting State, has in the other Contracting State. Such term does not include—

(a) Income received by an individual as compensation for his personal services either as an employee or in an independent capacity, or

(b) Income derived by a corporation or other entity of a Contracting State from sources within the other Contracting State from furnishing personal services of an individual who does not or would not qualify for exemption under paragraph (2) of Article 18 by reason of paragraph (3) thereof.

ARTICLE 9

(1) For the purpose of this Convention, the term "permanent establishment" means a fixed place of business through which a resident of a Contracting State engages in industrial or commercial activity.

(2) The term "fixed place of business" includes but is not limited to:

(a) A branch;
(b) An office;
(c) A factory;
(d) A workshop;
(e) A warehouse;
(f) A mine, quarry, or other place of extraction of natural resources; and
(g) A building site or construction or installation project which exists for more than 24 months.

(3) Notwithstanding paragraphs (1) and (2) of this article, a permanent establishment shall not include a fixed place of business used only for one or more of the following:

(a) The use of facilities for the purpose of storage, display, or delivery of goods or merchandise belonging to the resident;

(b) The maintenance of a stock of goods or merchandise belonging to the resident for the purpose of storage, display, or delivery;

(c) The maintenance of a stock of goods or merchandise belonging to the resident for the purpose of processing by another person;

(d) The purchase of goods or merchandise, or the collection of information, for the resident; or

(e) Advertising, the supply of information, the conduct of scientific research, or similar activities which have a preparatory or auxiliary character, for the resident.

(4) A person acting in a Contracting State on behalf of a resident of the other Contracting State, other than an agent of an independent status to whom paragraph (5) of this article applies, shall be deemed to be a permanent establishment in the first-mentioned Contracting State if such person has, and habitually exercises in the first-mentioned Contracting State, an authority to conclude contracts in the name of that resident, unless the exercise of such authority is limited to the purchase of goods or merchandise for that resident.

(5) A resident of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because such resident engages in industrial or commercial activity in that other Contracting State through a broker, general commission agent, or any other agent of an independent status, where such broker or agent is acting in the ordinary course of his business.

(6) The fact that a resident of a Contracting State is a related person with respect to a resident of the other Contracting State or with respect to a person who engages in industrial or commercial activity in that other Contracting State (whether through a permanent establishment or otherwise) shall not be taken into account in determining whether that resident of the first-mentioned Contracting State has a permanent establishment in that other Contracting State.

ARTICLE 10

(1) Notwithstanding Article 8 and Article 16, income which a resident of the United States derives from operation in international traffic of ships or aircraft registered in the United States and gains which a resident of the United States derives from the sale, exchange, or other disposition of ships or aircraft operated in international traffic by such resident and registered in the United States shall be exempt from Japanese tax.

(2) (Notwithstanding Article 8 and Article 16, income which a resident of Japan derives from the operation in international traffic of ships or aircraft which are either registered in Japan or leased by such resident and gains which a resident of Japan derives from the sale, exchange, or other disposition of ships or aircraft operated in international traffic by such resident and registered in Japan shall be exempt from United States tax.

ARTICLE 11

(1) Where a resident of a Contracting State and any other person are related and where such related persons make arrangements or impose conditions between themselves which are different from those which would be made between independent persons, then any income, deductions, credits, or allowances which would, but for those arrangements or conditions, have been taken into account in computing the income (or loss) of, or the tax payable by, one of such persons, may be allocated and utilized in computing the amount of the income subject to tax and the taxes payable by such resident of that Contracting State.

(2) A person is related to another person if either person owns or controls directly or indirectly the other, or if any third person or persons own or control directly or indirectly both. For this purpose, the term "control" includes any kind of control, whether or not legally enforceable, and however exercised or exercisable.

ARTICLE 12

(1) Dividends derived from sources within a Contracting State by a resident of the other Contracting State may be taxed by both Contracting States.

(2) The rate of tax imposed by a Contracting State on dividends derived from sources within that Contracting State by a resident of the other Contracting State shall not exceed—

(a) 15 percent of the gross amount actually distributed; or

(b) When the recipient is a corporation, 10 percent of the gross amount actually distributed if—

(i) During the part of the paying corporation's taxable year which precedes the date of payment of the dividend and during the whole of its prior taxable year (if any), at least 10 percent of the voting shares of the paying corporation was owned by the recipient corporation, and

(ii) Not more than 25 percent of the gross income of the paying corporation for such prior taxable year (if any) consists of interest or dividends (other than interest derived from the conduct of a banking, insurance, or financing business and dividends or interest received from subsidiary corporations, 50 percent or more of the outstanding shares of the voting stock of which is owned by the paying corporation at the time such dividends or interest is received).

(3) Paragraph (2) of this article shall not apply if the recipient of the dividends, being a resident of a Contracting State, has a permanent establishment in the other Contracting State and the shares with respect to which the dividends are paid are effectively connected with such permanent establishment.

ARTICLE 13

(1) Interest derived from sources within a Contracting State by a resident of the other Contracting State may be taxed by both Contracting States.

(2) Notwithstanding paragraph (1) of this

article, interest derived from sources within the United States by the Bank of Japan or by the Export-Import Bank of Japan, or by any resident of Japan with respect to debt obligations guaranteed or indirectly financed by either of such banks or with respect to debt obligations insured by the Government of Japan pursuant to the Law concerning Export Insurance of March 31, 1950 (Law No. 67), shall be exempt from United States tax.

(3) Notwithstanding paragraph (1) of this article, interest derived from sources within Japan by any Federal Reserve Bank in the United States or by the Export-Import Bank of the United States, or by any resident of the United States with respect to debt obligations guaranteed or insured or indirectly financed by any of such banks, shall be exempt from Japanese tax.

(4) The rate of tax imposed by a Contracting State on interest derived from sources within that Contracting State by a resident of the other Contracting State shall not exceed 10 percent.

(5) Paragraphs (2), (3), and (4) of this article shall not apply if the recipient of the interest, being a resident of a Contracting State, has a permanent establishment in the other Contracting State and the indebtedness giving rise to the interest is effectively connected with such permanent establishment.

(6) Where any interest paid by a person to any related person exceeds an amount which would have been paid to an unrelated person, the provisions of this article shall apply only to so much of the interest as would have been paid to an unrelated person. In such a case, the excess payment may be taxed by each Contracting State according to its own law, including the provisions of this Convention where applicable.

(7) The term "interest", as used in this Convention, means income from bonds, debentures, Government securities, notes, or other evidences of indebtedness, whether or not secured, and whether or not carrying a right to participate in profits, and debt-claims of every kind, as well as all other income assimilated to income from money lent by the taxation law of the Contracting State in which the income has its source.

ARTICLE 14

(1) Royalties derived from sources within a Contracting State by a resident of the other Contracting State may be taxed by both Contracting States.

(2) The rate of tax imposed by a Contracting State on royalties derived from sources within that Contracting State by a resident of the other Contracting State shall not exceed 10 percent.

(3) The term "royalties", as used in this article, means—

(a) Payment of any kind made as consideration for the use of, or the right to use, copyrights of literary, artistic, scientific works, or motion picture films or films or tapes used for radio or television broadcasting, patents, designs or models, plans, secret processes or formulae, trademarks, or other like property or rights, or know-how, or ships or aircraft (but only if the lessor is a person not engaged in the operation in international traffic of ships or aircraft), and

(b) Gains derived from the sale, exchange, or other disposition of any property or rights referred to in subparagraph (a) of this paragraph (other than ships or aircraft) to the extent that the amounts realized on such sale, exchange, or other disposition for consideration are contingent on the productivity, use, or disposition of such property or rights.

(4) Paragraph (2) of this article shall not apply if the recipient of the royalty, being a resident of a Contracting State, has in the other Contracting State a permanent establishment and the property or rights giving rise to the royalty are effectively connected with such permanent establishment.

(5) Where any royalty paid by a person to any related person exceeds an amount which would have been paid to an unrelated person, the provisions of this article shall apply only to so much of the royalty as would have been paid to an unrelated person. In such a case, the excess payment may be taxed by each Contracting State according to its own law, including the provisions of this Convention where applicable.

ARTICLE 15

(1) Income from real property, including royalties in respect of the operation of mines or quarries, or the exploitation of any natural resources and gains derived from the sale, exchange, or other disposition of such property or of the right giving rise to such royalties, may be taxed by the Contracting State in which such real property, mines, quarries, or natural resources are situated. For purposes of this Convention, interest on indebtedness secured by real property or secured by a right giving rise to royalties in respect of the operation of mines or quarries, or the exploitation of any natural resources shall not be regarded as income from real property.

(2) Paragraph (1) of this article shall apply to income derived from the usufruct, direct use, letting, or use in any other form of real property.

ARTICLE 16

Gains from the sale, exchange, or other disposition of capital assets derived by a resident of a Contracting State shall be exempt from tax by the other Contracting State unless—

(1) The gain is derived by a resident of a Contracting State from the sale, exchange, or other disposition of property described in Article 15 situated within the other Contracting State,

(2) The gain arises out of the sale, exchange, or other disposition described in paragraph (3) (b) of article 14,

(3) The recipient of the gain, being a resident of a Contracting State, has a permanent establishment in the other Contracting State and the property giving rise to the gain is effectively connected with such permanent establishment, or

(4) The recipient of the gain, being an individual who is a resident of a Contracting State—

(a) Maintains a fixed base in the other Contracting State for a period or periods aggregating more than 183 days during the taxable year and the property giving rise to such gains is effectively connected with such fixed base, or

(b) Is present in the other Contracting State for a period or periods aggregating more than 183 days during the taxable year.

ARTICLE 17

(1) Income derived by an individual who is a resident of a Contracting State from the performance of personal services in an independent capacity may be taxed by that Contracting State. Except as provided in paragraph (2) of this article, such income shall be exempt from tax by the other Contracting State.

(2) Income derived by an individual who is a resident of a Contracting State from the performance of personal services in an independent capacity in the other Contracting State may be taxed by that other Contracting State, if:

(a) The individual is present in that other Contracting State for a period or periods aggregating more than 183 days in the taxable year, or

(b) The individual maintains a fixed base in that other Contracting State for a period or periods aggregating more than 183 days in the taxable year, but only so much of it as is attributable to such fixed base, or

(c) The individual is a public entertainer, such as a theater, motion picture or television artist, musician, or athlete, and the income is derived from his personal services as such public entertainer, unless such individual is present in that other Contracting State for a period or periods not exceeding a total of 90 days during the taxable year and such income does not exceed 3,000 United States dollars in the aggregate or its equivalent in Japanese yen in the aggregate during the taxable year.

ARTICLE 18

(1) Wages, salaries, and similar remuneration derived by an individual who is a resident of a Contracting State from labor or personal services performed as an employee, including remuneration derived by an officer or a member of the board of directors of a corporation, may be taxed by that Contracting State. Except as provided in paragraph (2) of this article, such remuneration derived from sources within the other Contracting State may also be taxed by that other Contracting State.

(2) Remuneration of the type described in paragraph (1) of this article derived by an individual who is a resident of a Contracting State shall be exempt from tax by the other Contracting State if—

(a) He is present in that other Contracting State for a period or periods not exceeding in the aggregate 183 days in the taxable year;

(b) He is an employee of a resident of the first-mentioned Contracting State or of a permanent establishment of a resident of a State other than the first-mentioned Contracting State if such permanent establishment is situated in the first-mentioned Contracting State (such resident, including a corporation or other entity to which the permanent establishment belongs, is referred to in this article as "the employer"); and

(c) The remuneration is not borne as such by a permanent establishment which the employer has in that other Contracting State.

(3) Paragraph (2) of this article shall not apply to remuneration of the type described in paragraph (1) of this article if the individual receiving such remuneration is a substantial owner of the employer and 50 percent or more of the income of the employer for the taxable year from sources within that other Contracting State is derived from furnishing the labor or personal services of one or more individuals (computed without deductions for compensation paid to such individuals) each of whom is a substantial owner of the employer. For purposes of the preceding sentence, an individual shall be treated as the substantial owner of the employer if the employer is a corporation or other entity and such individual—

(a) Owns directly or indirectly 25 percent or more of the total voting power of all classes of stock entitled to vote, or of the total value of all classes of stock, of such corporation or other entity, or

(b) Has directly or indirectly an interest of 25 percent or more in the assets, or has a right to 25 percent or more of the profits of such other entity.

In computing the ownership of an individual, he shall be deemed to own the stock, assets, or rights owned directly or indirectly by his brother, sister, spouse, ancestor, or descendant.

(4) Notwithstanding paragraph (2) of this article, remuneration derived by an individual from the performance of labor or personal services as an employee aboard ships or aircraft operated by a resident of a Contracting State in international traffic shall be exempt from tax by the other Contracting State if such individual is a member of the regular complement of the ship or aircraft.

(5) Notwithstanding paragraph (2) of this article and Article 17, a director's fee derived

by an individual resident of a Contracting State in his capacity as a member of the board of directors of a corporation of the other Contracting State, which cannot be taken as a deduction by the corporation but is treated as being a distribution of profits in that other Contracting State, may be taxed by that other Contracting State.

Article 19

(1) An individual—

(a) Who is a resident of a Contracting State at the beginning of his visit to the other Contracting State, or

(b) Who was, immediately before receiving the invitation referred to below, exempt from tax in that other Contracting State under paragraph (1) (a) of Article 20,

and who, at the invitation of the Government of that other Contracting State or of a university or other accredited educational institution situated in that other Contracting State, is temporarily present in that other Contracting State for the primary purpose of teaching or engaging in research, or both, at a university or other accredited educational institution shall be exempt from tax by that other Contracting State on his income from personal services for teaching or research at such university or educational institution, for a period not exceeding two years from the date of his arrival or the date he completed the study, training, or research in that other Contracting State with respect to which the exemption in paragraph (1) (a) of Article 20 applied.

(2) This article shall not apply to income from research if such research is undertaken not in the public interest but primarily for the private benefit of a specific person or persons.

Article 20

(1) (a) An individual who is a resident of a Contracting State at the beginning of his visit to the other Contracting State and who is temporarily present in that other Contracting State for the primary purpose of—

(i) Studying at a university or other accredited educational institution in that other Contracting State, or

(ii) Securing training required to qualify him to practice a profession or professional specialty, or

(iii) Studying or doing research as a recipient of a grant, allowance, or award from a governmental, religious, charitable, scientific, literary, or educational organization,

shall be exempt from tax levied by that other Contracting State with respect to the amounts described in subparagraph (b) of this paragraph for a period not exceeding five taxable years from the date of his arrival in that other Contracting State.

(b) The amounts referred to in subparagraph (a) of this paragraph are—

(i) Gifts from abroad for the purpose of his maintenance, education, study, research, or training;

(ii) The grant, allowance, or award; and

(iii) Income from personal services performed in that other Contracting State in an aggregate amount not in excess of 2,000 United States dollars or its equivalent in Japanese yen for any taxable year.

(2) An individual who is a resident of a Contracting State at the beginning of his visit to the other Contracting State and who is temporarily present in that other Contracting State as an employee of, or under contract with, a resident of the first-mentioned Contracting State, for the primary purpose of—

(a) Acquiring technical, professional, or business experience from a person other than that resident of the first-mentioned Contracting State, or

(b) Studying at a university or other accredited educational institution in that other Contracting State,

shall be exempt from tax by that other Contracting State for a period of 12 consecutive months with respect to his income from personal services in an aggregate amount not in excess of 5,000 United States dollars or its equivalent in Japanese yen.

(3) An individual who is a resident of a Contracting State at the beginning of his visit to the other Contracting State and who is temporarily present in that other Contracting State for a period not exceeding one year, as a participant in a program sponsored by the Government of that other Contracting State, for the primary purpose of training, research, or study, shall be exempt from tax by that other Contracting State with respect to his income from personal services in respect of such training, research, or study, performed in that other Contracting State in an aggregate amount not in excess of 10,000 United States dollars or its equivalent in Japanese yen.

Article 21

(1) Wages, salaries, and similar remuneration, including pensions or similar benefits, paid by, or from public funds of, the United States, or a political subdivision or local authority thereof to a citizen of the United States for labor or personal services performed for the United States or for any of its political subdivisions or local authorities in the discharge of governmental functions shall not be subject to Japanese tax, if such individual is not a national of Japan and has not been admitted to Japan for permanent residence.

(2) Wages, salaries, and similar remuneration, including pensions or similar benefits, paid by, or out of funds to which contributions are made by, Japan, or local authority thereof to an individual who is a national of Japan for labor or personal services performed for Japan or for any of its local authorities in the discharge of governmental functions shall not be subject to United States tax, if such individual is not a citizen of the United States and does not have immigrant status in the United States.

Article 22

(1) Reimbursed travel expenses shall be subject to Articles 17 through 21, but such expenses shall not be taken into account in computing the maximum amount of exemptions specified in paragraph (2) of Article 17 and in Article 20.

(2) If an individual qualifies for benefits under more than one of the provisions of Articles 17 through 21, he may apply those provisions which are most favorable to him. He may not claim benefits under more than one of the provisions of such articles with respect to the same income.

(3) The benefits provided under Article 19 and paragraph (1) of Article 20 shall extend only for such period of time as may be reasonably or customarily required to effectuate the purpose of the visit, but in no case shall any individual have the benefits provided therein nor more than a total of five taxable years from the date of his arrival.

Article 23

(1) Except as provided in Article 21, pensions and annuities paid to an individual who is a resident of a Contracting State shall be taxable only in that Contracting State.

(2) The term "pensions", as used in this article, includes periodic payments made after retirement or death in consideration for services rendered, or by way of compensation for injuries received, in connection with past employment, including United States and Japanese social security payments.

(3) The term "annuities", as used in this article, includes a stated sum paid periodically at stated times during life, or during a specified number of years, under an obligation to make the payments in return for adequate and full consideration (other than services rendered).

Article 24

Nothing in this Convention shall affect the fiscal privileges of diplomatic and consular officials under the general rules of international law or under the provisions of special agreements.

Article 25

(1) Where a resident of a Contracting State considers that the action of one or both of the Contracting States results or will result for him in taxation not in accordance with this Convention, he may, notwithstanding the remedies provided by the national laws of the Contracting States, present his case to the competent authority of the Contracting State of which he is a resident. Should the resident's claim he considered to have merit by the competent authority of the Contracting State to which the claim is made, it shall endeavor to come to an agreement with the competent authority of the other Contracting State with a view to the avoidance of taxation contrary to the provisions of this Convention.

(2) The competent authorities of the Contracting States shall endeavor to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of this Convention. In particular, the competent authorities of the Contracting States may consult together to endeavor to agree—

(a) To the same attribution of industrial or commercial profits to a resident of a Contracting State and its permanent establishment situated in the other Contracting State;

(b) To the same allocation of income, deductions, credits, or allowances between a resident of a Contracting State and any related person;

(c) To the same determination of the source of particular items of income; or

(d) To the same meaning of any term used in this Convention.

(3) The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of this article. When it seems advisable for the purpose of reaching agreement, the competent authorities may meet together for an oral exchange of opinions.

(4) In the event that the competent authorities reach such an agreement, taxes shall be imposed, and refund or credit of taxes shall be allowed, by the Contracting States in accordance with such agreement.

Article 26

(1) The competent authorities of the Contracting States shall exchange such information as is pertinent to carrying out the provisions of this Convention or preventing fraud or fiscal evasion in relation to the taxes which are the subject of this Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than those (including a court or administrative body) concerned with assessment, collection, enforcement, or prosecution in respect to the taxes which are the subject of this Convention.

(2) In no case shall the provisions of paragraph (1) of this article be construed so as to impose on a Contracting State the obligation—

(a) To carry out administrative measures at variance with the laws or the administrative practice of that Contracting State or the other Contracting State;

(b) To supply particulars which are not obtainable under the laws or in the normal course of the administration of that Contracting State or of the other Contracting State; or

(c) To supply information which would disclose any trade, business, industrial, commercial, or professional secret or trade process, or information, the disclosure of which would be contrary to public policy.

(3) The exchange of information shall be either on a routine basis or on request with reference to particular cases. The competent

authorities of the Contracting States shall agree on the list of information which shall be furnished on a routine basis.

(4) The competent authorities of the Contracting States shall notify each other of any amendments of the laws relating to the taxes referred to in paragraph (1) of Article 1 and of the adoption of any taxes referred to in paragraph (2) of Article 1 by transmitting the texts of any amendments or new statutes at least once a year.

(5) The competent authorities of the Contracting States shall exchange the texts of all published material interpreting this Convention under their respective laws, whether in the form of regulations, rulings, or judicial decisions.

Article 27

(1) Subject to the provisions of paragraph (2) of this article, each of the Contracting States shall endeavor to collect such taxes imposed by the other Contracting State as will ensure that any exemption or reduced rate of tax granted under this Convention by that other Contracting State shall not be enjoyed by persons not entitled to such benefits. The Contracting State making such collections shall be responsible to the other Contracting State for the sums thus collected. The competent authorities of the Contracting States may consult together for the purpose of giving effect to this article.

(2) In no case shall this article be construed so as to impose upon a Contracting State the obligation to carry out administrative measures at variance with the regulations and practices of either Contracting State or which would be contrary to the first-mentioned Contracting State's sovereignty, security, or public policy.

Article 28

(1) This Convention shall be ratified and instruments of ratification shall be exchanged at Washington as soon as possible. It shall enter into force on the thirtieth day after the day of the exchange of instruments of ratification. Its provisions shall for the first time have effect:

(a) In the case of Japan—

For income derived during any taxable year beginning on or after January 1 of the year next following the year in which this Convention enters into force; and

(b) In the case of the United States—

(i) As respects taxes withheld at source on dividends, interest, royalties, and similar payments, to any obligation to pay such taxes arising on or after January 1 of the year next following the year in which this Convention enters into force; and

(ii) As respects other taxes on income, to taxable years beginning on or after January 1 of the year next following the year in which this Convention enters into force.

(2) The Convention between the United States of America and Japan for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income signed at Washington, D.C. on April 16, 1954, modified and supplemented by the Protocols signed at Tokyo on May 7, 1960, and August 14, 1962, shall terminate and cease to have effect in respect of income to which this Convention applies under paragraph (1) of this article.

Article 29

This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention at any time after five years from the date on which this Convention enters into force by giving to the other Contracting State notice of termination at least six months before the end of any calendar year through diplomatic channels. In such event, this Convention shall cease to have effect:

(1) In the case of Japan—

For income derived during any taxable year beginning on or after January 1 of the year next following the year in which the notice of termination is given; and

(2) In the case of the United States—

(a) As respects taxes withheld at source on dividends, interest, royalties, and similar payments, on January 1 of the year next following the year in which the notice of termination is given; and

(b) As respects other taxes on income, for any taxable year beginning on or after January 1 of the year next following the year in which the notice of termination is given.

In witness whereof, the undersigned, duly authorized thereto, have signed this Convention.

Done at Tokyo, in duplicate, in the English and Japanese languages, the two texts having equal authenticity, this eighth day of March, 1971.

For the United States of America:
Armin H. Meyer. [seal]
For Japan:
Kiichi Aichi. [seal]

TREATY TO RESOLVE PENDING BOUNDARY DIFFERENCES AND MAINTAIN THE RIO GRANDE AND COLORADO RIVER AS THE INTERNATIONAL BOUNDARY BETWEEN THE UNITED STATES OF AMERICA AND THE UNITED MEXICAN STATES

The United States of America and the United Mexican States,

Animated by a spirit of close friendship and mutual respect and desiring to:

Resolve all pending boundary differences between the two countries,

Restore to the Rio Grande its character of international boundary in the reaches where that character has been lost, and preserve for the Rio Grande and Colorado River the character of international boundaries ascribed to them by the boundary treaties in force,

Minimize changes in the channels of these rivers, and should these changes occur, attempt to resolve the problems arising therefrom promptly and equitably,

Resolve problems relating to sovereignty over existing or future islands in the Rio Grande,

And finally, considering that it is in the interest of both countries to delimit clearly their maritime boundaries in the Gulf of Mexico and in the Pacific Ocean.

Have resolved to conclude this Treaty concerning their fluvial and maritime boundaries and for such purpose have named their plenipotentiaries:

The President of the United States of America, Robert H. McBride, Ambassador of the United States of America to Mexico, and

The President of the United Mexican States, Antonio Carrillo Flores, Secretary of Foreign Relations,

Who, having communicated to each other their respective full powers, found to be in good and due form, have agreed as follows:

Article I

In order to resolve the pending boundary cases of the Presidio-Ojinaga Tracts, the Horcon Tract, Beaver Island, and islands, in which the territory of one of the Contracting States has been placed on the opposite bank of the Rio Grande, and to restore this river as the international boundary, the United States and Mexico have decided to modify the position of the Rio Grande in certain reaches, in accordance with the following terms:

A. To change the location of a section of the channel of the Rio Grande in the area of the Presidio-Ojinaga Tracts, so as to transfer from the north to the south side of the Rio Grande an area of 1606.19 acres (650 hectares). This relocation shall be effected so that the middle of the new channel follows the alignment shown on the map of the International Boundary and Water Commission, United States and Mexico (hereinafter referred to as the "Commission"), entitled Relocation of the Rio Grande in the Presidio-Ojinaga Tracts, attached to and forming a part of this Treaty.

B. To change the location of the channel of the Rio Grande upstream from and near Hidalgo-Reynosa, so as to transfer from the south to the north of the Rio Grande an area of 481.68 acres (194.93 hectares). This relocation shall be effected so that the middle of the rectified channel follows the alignment shown on the Commission's map entitled Relocation of the Rio Grande Upstream from Hidalgo-Reynosa, attached to and forming a part of this Treaty.

C. To change the location of the channel of the Rio Grande downstream from and near Presidio-Ojinaga, so as to transfer from the south to the north of the Rio Grande an area of 252 acres (101.98 hectares). This relocation shall be effected so that the middle of the rectified channel follows the alignment shown on the Commission's map entitled Relocation of the Rio Grande Downstream from Presidio-Ojinaga, attached to and forming a part of this Treaty.

D. Once this Treaty has come into force and the necessary legislation has been enacted for carrying it out, the two Governments shall determine, on the basis of a recommendation by the Commission, the period of time appropriate for each of them to carry out the following operations:

(1) The acquisition, in conformity with its laws, of the lands to be transferred to the other and of the rights of way for the new river channels;

(2) The orderly evacuation of the occupants of the lands referred to in paragraph D (1) of this Article.

E. The changes in location of the Rio Grande referred to in paragraphs A, B and C of this Article, shall be executed by the Commission as soon as practical in accordance with the engineering plans recommended by it and approved by the two Governments. The cost of these changes in location shall be equally divided between the two Governments, through an appropriate division of work recommended by the Commission in the same engineering plans.

F. On the date on which the two Governments approve the Commission's Minute confirming the completion of the relocations of the channel of the Rio Grande provided for in paragraphs A, B and C of this Article, the change of location of the international boundary shall be effected in each case and the middle of the new channels of the Rio Grande and of the present channels north of the Horcon Tract and north of Beaver Island shall become the international boundary; and consequently the following territorial adjustments shall take place:

(1) By reason of the rectification referred to in paragraph A of this Article, there shall pass from the north to the south of the Rio Grande within the territory of Mexico, 1606.19 acres (650 hectares) in the Presidio-Ojinaga Tracts.

(2) By reason of the rectification referred to in paragraph B of this Article, there shall pass from the south to the north of the Rio Grande 481.68 acres (194.93 hectares) to form a part of the territory of the United States. This transfer is in recognition of the fact that the Horcon Tract and Beaver Island, located south of the Rio Grande, comprising a total area of 481.68 acres (194.93 hectares) now under the sovereignty of the United States shall pass to and become part of the territory of Mexico.

(3) By reason of the rectification referred to in paragraph C of this Article, there shall pass from the south to the north of the Rio Grande 252 acres (101.98 hectares) to form a part of the territory of the United States. This transfer is in recognition of the fact that, upon the adoption of the new boundary in accordance with Article II of this Treaty, Mexico will receive a greater number and acreage of islands than the United States.

ARTICLE II

In order to resolve uncertainties relating to the sovereignty over islands and to restore to the Rio Grande its character as the international boundary in those locations where this character has been lost between the Gulf of Mexico and its intersection with the land boundary, the Contracting States agree that:

A. Except as provided in Articles I (F), III (B) and III (C) of this Treaty, from the date on which this Treaty enters into force, the international boundary between the United States and Mexico in the limitrophe sections of the Rio Grande and the Colorado River shall run along the middle of the channel occupied by normal flow and, where either of the rivers has two or more channels, along the middle of the channel which in normal flows has the greater or greatest average width over its length, and from that time forward, this international boundary shall determine the sovereignty over the lands on one side or the other of it, regardless of the previous sovereignty over these lands.

B. For the purposes of this Treaty, the Commission shall in each case determine the normal flows, which shall exclude flood flows, and the average widths, referred to in the preceding paragraph of this Article.

C. The Commission, on the basis of the surveys which it shall carry out as soon as practical, shall with appropriate precision delineate the international boundary on maps or aerial photographic mosaics of the Rio Grande and of the Colorado River. In the future, the Commission shall make surveys as frequently as it may consider justifiable, but in any event at intervals not greater than ten years, and shall record the position of the international boundary on appropriate maps. Each of the Governments shall bear half of the costs and other expenses determined by the Commission and approved by the two Governments for the surveys and maps relating to the boundaries.

ARTICLE III

In order to minimize problems brought about by future changes in the limitrophe channels of the Rio Grande and the Colorado River, the Contracting States agree that:

A. When the Rio Grande or the Colorado River moves laterally eroding one of its banks and depositing alluvium on the opposite bank, the international boundary shall continue to follow the middle or the channel occupied by normal flow or, where there are two or more channels, it shall follow the middle of the channel which in normal flow has the greatest average width over its length.

B. (1) When the Rio Grande or the Colorado River, through movements other than those described in paragraph A of this Article, separates from one Contracting State a tract of land, which might be composed of or include islands, of no more than 617.76 acres (250 hectares) and with an established population of no more than 100 inhabitants, the Contracting State from which the tract of land has been separated shall have the right to restore the river to its prior position and shall notify the other Contracting State, through the Commission, at the earliest possible date whether or not it proposes to restore the river to its prior position. Such restoration must be made at its own expense within a period of three years counted from the date on which the Commission acknowledges the separation; however, if such restoration should have been initiated but not completed within the period of three years, the Commission, with approval of both Governments, may extend it for one year. The boundary shall remain in its prior location during the periods herein provided for restoration of the river, notwithstanding the provisions of Article II(A) of this Treaty.

(2) If at the conclusion of the periods herein provided the river has not been restored to its prior position, the international boundary shall be fixed in accordance with the provisions of Article II(A) of this Treaty, and sovereignty over the separated tract of land shall, as of that date, pass to the Contracting State on whose side of the river the separated tract is then located. Should the Contracting State from whose territory the tract was separated notify the other Contracting State of its intention not to restore the river to its prior position, the international boundary shall be fixed in accordance with the provisions of Article II(A) of this Treaty, and sovereignty over the separated tract shall change as of the date on which notification is given through the Commission.

(3) When a tract of land passes from the sovereignty of one Contracting State to the other in accordance with paragraph B(2) of this Article, its area shall be ascertained and recorded by the Commission as a credit in favor of the Contracting State from which it was separated, for later compensation by an equal area in a natural separation of a tract of the other Contracting State which is not restored or in a future rectification recommended by the Commission and approved by the two Governments in the same river. The costs of such rectifications shall be divided equally between the Contracting States and, upon completion, the middle of the new channels shall become the international boundary and the Commission shall cancel the corresponding credit.

C. When the Rio Grande or the Colorado River, by movements other than those provided in paragraph A of this Article, separates, from one Contracting State a tract of land, which might be composed of or include islands, having an area of more than 617.76 acres (250 hectares) or an established population of more than 100 inhabitants, the international boundary shall remain in its prior position and sovereignty over the separated tract of land shall not change, notwithstanding the provisions of Article II(A) of this Treaty. In such cases the Commission shall restore the river to its prior channel as soon as practical, equally dividing the costs between the Contracting States. As an alternative procedure the Commission, with the approval of the two Governments, may rectify the channel of the river in the same section in which the separation occurred, so as to transfer an equal area to the Contracting State from which the tract of land was separated. The costs of these rectifications shall be divided equally between the two Governments and, upon their completion, the middle of the new channels shall be the international boundary, as defined in Article II(A) of this Treaty.

D. The Commissioners shall exchange all information coming to their attention about possible or actual separation of lands as referred to in paragraphs B and C of this Article. The Commission shall promptly make the necessary surveys and investigations in all cases of separation and determine, in accordance with the provisions of paragraphs B and C of this Article, which type of separation has taken place.

E. Pending any changes in sovereignty brought about by the application of paragraphs B or C of this Article, each Contracting State shall extend to the nationals of the other such facilities for transit through its territory as may be necessary to permit the use and enjoyment of separated tracts as before the separation, including such exemption from customs duties and immigration procedures as may be necessary.

F. When in the limitrophe reaches of the Rio Grande and Colorado River, a part of the channel temporarily loses its character as the boundary by reason of the changes contemplated in paragraphs B and C of this Article, the international character of the use and consumption of those waters, in the order established under Article 3 of the Treaty of February 3, 1944 shall not be modified.

ARTICLE IV

In order to reduce to a minimum the shifting of the channels of the Rio Grande and the Colorado River in their limitrophe sections, and the problems that would be caused by the separation of tracts of land, the Contracting States agree that:

A. Each Contracting State, in the limitrophe sections of the Rio Grande and the Colorado River, may protect its bank against erosion and, where either of the rivers has more than one channel, may construct works in the channel or channels that are completely within its territory in order to preserve the character of the limitrophe channel provided, however, that in the judgment of the Commission the works that are to be executed under the paragraph do not adversely affect the other Contracting State through the deflection or obstruction of the normal flow of the river or of its flood flows.

B. (1) Both in the main channel of the river and on adjacent lands to a distance on either side of the international boundary recommended by the Commission and approved by the two Governments, each Contracting State shall prohibit the construction of works in its territory which, in the judgment of the Commission, may cause deflection or obstruction of the normal flow of the river or of its flood flows.

(2) If the Commission should determine that any of the works constructed by one of the two Contracting States in the channel of the river or within its territory causes such adverse effects on the territory of the other Contracting State, the Government of the Contracting State that constructed the works shall remove them or modify them and, by agreement of the Commission, shall repair or compensate for the damages sustained by the other Contracting State.

C. (1) The Commission shall recommend to the two Governments the execution of works it may consider advisable and practical for improvement and stabilization of the channels of the Rio Grande and of the Colorado River in its limitrophe sections, including among others the following measures: clearing, channel excavations, bank protection and rectifications. The Commission shall include in its recommendations an estimate of the costs of construction, operation and maintenance of the works, and a proposal for the division of the work and costs between the Contracting States.

(2) As soon as may be practical, after the two Governments approve the Commission's recommendations, each of the Contracting States shall execute, at its expense, its share of the construction, operation and maintenance referred to in paragraph C(1) of this Article.

ARTICLE V

The Contracting States agree to establish and recognize their maritime boundaries in the Gulf of Mexico and in the Pacific Ocean in accordance with the following provisions:

A. The international maritime boundary in the Gulf of Mexico shall begin at the center of the mouth of the Rio Grande, wherever it may be located; from there it shall run in a straight line to a fixed point, at 25°57'-22.18" North latitude, and 97°8'19.76'' West longitude, situated approximately 2,000 feet seaward from the coast; from this fixed point the maritime boundary shall continue seaward in a straight line the delineation of which represents a practical simplification of the line drawn in accordance with the principle of equidistance established in Articles 12 and 24 of the Geneva Convention on the Territorial Sea and the Contiguous Zone. This line shall extend into the Gulf of Mexico to a distance of 12 nautical miles from the baseline used for its delineation. The international maritime boundary in the Gulf of Mexico shall be recognized in accordance with the map entitled International Maritime Boundary in the Gulf of Mexico, which the Commission shall prepare in conformity with the foregoing description and which, once approved by the Governments, shall be annexed to and form a part of this Treaty.

B. The international maritime boundary in the Pacific Ocean shall begin at the westernmost point of the mainland boundary; from there it shall run seaward on a line the delineation of which represents a practical simplification, through a series of straight lines, of the line drawn in accordance with the principle of equidistance established in Articles 12 and 24 of the Geneva Convention on the Territorial Sea and the Contiguous Zone. This line shall extend seaward to a distance of 12 nautical miles from the baselines used for its delineation along the coast of the mainland and the islands of the Contracting States. The international maritime boundary in the Pacific Ocean shall be recognized in accordance with the map entitled International Maritime Boundary in the Pacific Ocean, which the Commission shall prepare in conformity with the foregoing description and which, once approved by the Governments, shall be annexed to and form a part of this Treaty.

C. These maritime boundaries, as they are shown in maps of the Commission entitled International Maritime Boundary in the Gulf of Mexico and International Maritime Boundary in the Pacific Ocean, shall be recognized as of the date on which this Treaty enters into force. They shall permanently represent the maritime boundaries between the two Contracting States; on the south side of these boundaries the United States shall not, and on the north side of them Mexico shall not, for any purpose claim or exercise sovereignty, sovereign rights or jurisdiction over the waters, air space, or seabed and subsoil. Once recognized, these new boundaries shall supersede the provisional maritime boundaries referred to in the Commission's Minute No. 229.

D. The establishment of these new maritime boundaries shall not affect or prejudice in any manner the positions of either of the Contracting States with respect to the extent of internal waters, of the territorial sea, or of sovereign rights or jurisdiction for any other purpose.

E. The Commission shall recommend the means of physically marking the maritime boundaries and of the division of work for construction and maintenance of the markers. When such recommendations have been approved by the two Governments the Commission shall construct and maintain the markers, the cost of which shall be equally divided between the Contracting States.

ARTICLE VI

A. The lands and improvements which, upon relocation of the international boundary under the provisions of Articles I, III and IV of this Treaty, are transferred from one Contracting State to the other, shall pass to the respective Contracting State in the absolute ownership, free of any private titles or encumbrances of any kind; compensation to the owners of the lands to be transferred shall be the responsibility of the delivering Contracting State. No payments shall be made between the two Governments for value of the lands and improvements transferred from one Contracting State to the other as a result of the change of location of the international boundary.

B. The relocation of the international boundary and the transfer of portions of territory or any other provision of this Treaty shall not affect in any way:

(1) The legal status with respect to citizenship laws, of those persons who are present or former residents of the portions of territory transferred;

(2) The jurisdiction over legal proceedings, of either a civil or criminal character, which are pending on the date on which the relocation is effected or which were decided prior to that date;

(3) The jurisdiction over acts or omissions occurring within or with respect to the said portions of territory prior to their transfer;

(4) The law or laws applicable to the acts or omissions referred to in paragraph B (3) of this Article.

C. (1) All materials, implements, equipment and repair parts intended for the construction, operation and maintenance of the works required to carry out the provisions of this Treaty shall be exempt from taxes relating to imports and exports. For this purpose, each Section of the Commission shall furnish verification certificates covering all materials, implements, equipment and repair parts intended for such works.

(2) The personnel employed either directly or indirectly on the construction, operation or maintenance of the works required to carry the provisions of this Treaty shall be permitted to pass freely from one country to the other for the purpose of going to and from the place or location of the works, without any immigration restrictions, passports, or labor requirements. For this purpose, each Section of the Commission shall furnish adequate means of identification to the personnel employed by it on the aforesaid works.

ARTICLE VII

The boundary on international bridges which cross the Rio Grande or the Colorado River shall be shown by an appropriate monument exactly over the international boundary determined by this Treaty at the time of demarcation. When in the judgment of the Commission the variations of the international boundary should warrant that the monument on any bridge should be relocated, it shall so recommend to the two Governments and with their approval may proceed to the reinstallation. This monument shall denote the boundary for all the purposes of such bridge. Any rights other than those relating to the bridge itself shall be determined in case later changes occur, in accordance with the provisions of this Treaty.

ARTICLE VIII

The following agreements shall be terminated as of the entry into force of this Treaty, without prejudice to any right, title or interest which has accrued thereunder except as otherwise provided in this Treaty with respect to such right, title or interest:

A. the Convention Touching the International Boundary line, signed on November 12, 1884;

B. the Convention for the Elimination of Bancos in the Rio Grande, signed on March 20, 1905; and

C. to the extent that they are inconsistent with this Treaty:

(1) Article V of the Treaty of Guadalupe Hidalgo, signed on February 2, 1848;

(2) Article I of the Gadsden (Mesilla) Treaty, signed on December 30, 1853;

(3) Article IV of the Convention establishing the International Boundary Commission, signed March 1, 1889; and

(4) Article VI of the Convention on Rectification of the Rio Grande, signed February 1, 1933; and

D. any other agreement, or any part thereof, between the United States of America and the United Mexican States which is inconsistent with this Treaty, to the extent of that inconsistency.

ARTICLE IX

The present Treaty shall be ratified in accordance with the constitutional processes of each Contracting State and the instruments of ratification shall be exchanged in Washington, D.C. as soon as possible. It shall enter into force on the date of the exchange of ratifications.

Done at the City of Mexico, the twenty-third day of November, nineteen seventy, in the English and Spanish languages, each text being equally authentic.

For the United States of America:
ROBERT H. MCBRIDE.
For the United Mexican States:
ANTONIO CARRILLO FLORES.

Mr. MANSFIELD. Relative to the Treaty with Mexico, I ask unanimous consent that various excerpts from the report (No. 92–11) be printed in the RECORD at this point.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

TREATY WITH MEXICO RESOLVING BOUNDARY DIFFERENCES

BACKGROUND

For over a century the erratic rivers—the Rio Grande and the Colorado—forming parts of the United States–Mexico boundary have caused administrative uncertainties regarding the exact location of that boundary. Consequently, disputes have arisen with respect to national sovereignty over those islands and tracts of land which have shifted from one side of the river to the other. Since 1884, the two Governments have unsuccessfully attempted, through a series of treaties, to resolve these differences and to establish a procedure for determining sovereignty.

During the past several years, the Governments of the United States and Mexico, through the International Boundary and Water Commission seated at El Paso, Texas, and Ciudad Juarez, Chihuahua, have studied and discussed these boundary difficulties in search of a solution. On the basis of those discussions, the U.S. Secretary of State and the Mexican Secretary for Foreign Relations reached an accord on the basic principles for a comprehensive treaty. These principles were approved by President Nixon and President Diaz Ordaz in Puerto Vallarta, Mexico, on August 20, 1970, and a treaty incorporating them was signed in Mexico City on November 23, 1970. This treaty was submitted to the Senate on April 21, 1971.

PROVISIONS OF TREATY

The final version of this treaty consists of a short preamble and nine articles. A summary of its major provisions is set forth below.

Articles I and II settle three specific boundary problems.

First, the long-standing dispute over the land known as the Presidio-Ojinaga Tracts (Texas-Chihuahua) is resolved by assigning 1606.19 acres to Mexico and 555.81 acres to the United States.

Second, the Horcon and Beaver Island Tracts in the lower Rio Grande Valley will pass to Mexico and the Mexican Government will cede, as compensation to the U.S., an equal amount of nearby acreage (481.68 acres).

Third, the boundary is re-established in the middle of the river. Where there is more than one channel the boundary will run in the center of the wider or widest channel regardless of its depth. Under this arrangement, Mexico will receive a greater number and acreage of islands than the United States. In order to offset this loss, the Mexican Government has agreed to cede 252 acres of land in the Presidio Valley to the U.S.

After the treaty comes into force and enabling legislation has been enacted, the International Boundary and Water Commission will then proceed to relocate the Rio Grande with the two Governments sharing the costs equally. Thereafter, all lands belonging to Mexico will be south of its channel, and all lands belonging to the U.S. will be north of its channel.

The Commission is also required to prepare, as soon as practical, maps showing the exact location of the international boundary. These maps will be revised in the future at intervals not greater than 10 years.

Article III provides a procedure for the handling of land transfers when a river shifts or adopts a new channel. In the case of a small tract of land or island no larger than 617.76 acres nor having a population of more than 100, the Government of the country from which the tract is separated must restore the river to its prior location within three years (with a possible one year extension) or the boundary will be altered. In the case of larger tracts, where restoration is likely to be in the interest of both Governments, the Commission will restore the acreage to the country from which it was cut, either where the cut was made or at a more advantageous place in the same section of the river, with the two Governments sharing the cost equally.

If a Government chooses not to restore a small tract, that country will receive a credit for the lost territory. This credit will be cancelled either when the river naturally cuts land of equal acreage to its side of the river or in a future project to straighten or rectify the same river. Therefore, neither country will permanently lose territory through sudden shifts in a river.

Article IV authorizes the Commission to undertake projects to preserve the boundary channels. It prohibits the construction of works which will deflect or obstruct the flow of a river to the disadvantage of the other country. Each Government will be obliged to remove or modify works that do cause damage and to repair or compensate for any damage actually caused by such works.

Article V establishes permanent maritime boundaries in the Gulf of Mexico and the Pacific Ocean which will be drawn to a distance of 12 miles from the coasts, based on the principle of equidistance contained in articles 12 and 24 of the Geneva Convention on the Territorial Sea and the Contiguous Zone. A short, inshore segment of the boundary on the Gulf side will continue to move with the mouth of the river, swinging from a fixed point 2,000 feet off the present mouth to the middle of the river, wherever it may be at any time.

Article VI obliges the Governments to transfer, free of any private titles or encumbrances, those lands and improvements that pass from one Government to the other under this treaty. When lands are ultimately transferred to the other country, private citizens will be compensated by their own Government which will, over a period of time, recoup much of this cost from the sale of lands similarly transferred to it from the other country.

The Commission will also be authorized to move material, equipment, personnel, etc., from one country to the other without customs, immigration, and labor restrictions.

Article VII authorized the movement of boundary markers on bridges in order to conform to a river's movement under the bridge.

Article VIII terminates the boundary conventions of 1884 and 1905 and all provisions in other treaties which are inconsistent with this treaty.

Article IX provides that this treaty will enter into force when ratifications are exchanged in Washington.

COMMITTEE ACTION

The Committee on Foreign Relations held a public hearing on the Treaty With Mexico Resolving Boundary Differences on the morning of November 19, 1971, at which time the following witnesses testified: Mr. Robert Hurwitch, Deputy Assistant Secretary of State for Inter-American Affairs; and Mr. Joseph F. Friedkin, U.S. Commissioner, International Boundary and Water Commission, U.S. and Mexico.

In the afternoon of November 19, 1971, the Committee met in executive session and ordered the Treaty With Mexico Resolving Boundary Differences reported favorably to the Senate for advice and consent to ratification.

The statements of Mr. Hurwitch and Mr. Friedkin are appended to this report.

Mr. MANSFIELD. Mr. President, I make the same request with respect to the report (No. 92–12) on Executive E, 92d Congress, first session, the tax convention with Japan, and Executive O, 91st Congress, second session, the protocol signed at Washington on October 12, 1970, to the convention between the United States of America and the French Republic with respect to taxes on income and property.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

TAX CONVENTION WITH JAPAN AND TAX PROTOCOL WITH FRANCE

I. TAX CONVENTION WITH JAPAN

A. PURPOSE

The purpose of this convention, which was signed on March 8, 1971, is to replace the existing income tax convention with Japan dated April 16, 1954, as modified and supplemented by protocols of May 7, 1960, and August 14, 1962. According to the Administration, it follows in general the pattern of income tax conventions now in force between the United States and a number of other countries and reflects changes in American and Japanese tax laws and recent developments in treaty policy of both countries. To the extent that policy and technical considerations permit, the convention follows the model draft convention published in 1963 by the Organization for Economic Cooperation and Development which the United States and Japan joined in 1961 and 1964, respectively. In addition, it is similar to income tax convention recently concluded by the United States with France, Finland and Belgium.

B. PROVISIONS OF CONVENTION

The Tax Convention with Japan contains a preamble and 29 articles. These are summarized in the Under Secretary of State's letter of submittal which is incorporated in the President's message transmitting the convention to the Senate. According to the Department of State, the following changes from the existing convention represent substantive improvements:

1. The force of attraction rule would be eliminated. Under the new convention the reductions in the rate of withholding tax on investment income would be applicable as long as the investment income is not effectively connected with a permanent establishment which the taxpayer has in the taxing country. Under the existing convention the mere existence of a permanent establishment makes the reductions inapplicable.

2. Interest income can be taxed at 10 per cent under both the existing and new conventions, and both conventions provide an exemption for interest received by the Bank of Japan and the Export-Import Bank of Japan and the Federal Reserve Banks of the United States and the Export-Import Bank of the United States. The new convention extends the exemption from Japanese tax to interest received by residents of the United States on debt obligations guaranteed or insured or indirectly financed by those United States banks and reciprocally extends the exemption from United States tax to interest received by residents of Japan on debt obligations guaranteed or insured or indirectly financed by those Japanese banks or insured by the Government of Japan.

3. The definition of direct investments for purposes of the 10 per cent withholding rate on dividends would be changed to reduce the stock ownership requirement from more than 50 per cent of the stock to at least 10 per cent of the voting stock.

4. Rental income from tangible personal property not connected with a permanent establishment of the recipient would be exempt under the new convention, whereas the existing convention applies the 10 per cent royalty rate to rental income. The exemption would not, however, apply to rent from leases of ships or aircraft by a person not engaged in the operation of ships or aircraft in international traffic.

In addition, at the time the convention was signed, there were two exchanges of notes relating to understandings with regard to certain provisions of the agreement. The Department of State's explanation of these two exchanges (reprinted on pp. 25–28 of the President's message) is set forth below:

"One of the related exchanges of notes deals with exemptions of United States residents deriving international shipping or aircraft income from Japanese enterprise tax (or tax substantially similar to the enterprise tax) if state, county, or local governments in the United States do not impose an income tax (or a tax substantially similar to the Japanese enterprise tax) on the operation by a Japanese resident of ships or aircraft in international traffic."

"The other exchange of notes relates to the application of the exemption for international shipping and aircraft income to income from containers used in international shipping and to income from a lease of a ship or aircraft by a person engaged in international traffic to another person engaged in international traffic. This exchange also recognizes that interest income is derived from a debt obligation indirectly financed by the Export-Import Bank of Japan where that bank provides funds in the form of export, import, or investment credit to a resident of Japan for the purpose of making a loan to a U.S. resident."

C. DATE OF ENTRY INTO FORCE

Pursuant to the provisions of Article 28, the convention will enter into force 30 days after the date on which instruments of ratification are exchanged and its provisions will have effect for taxable years on or after January 1 of the year following which the treaty comes into force. The convention may be terminated by either party five years after it enters into force by giving notice of termination at least six months before the end of any calendar year.

II. PROTOCOL TO FRENCH TAX CONVENTION

A. PURPOSE AND BACKGROUND

The purpose of this protocol, which was signed on October 12, 1970, is to extend to certain United States residents the benefits of a tax credit available under French law to residents of France who receive a dividend from a French corporation. In effect, this would require France to give American portfolio investors in French corporations a credit equal to one-half of the French corporate income tax paid with respect to profits out of which dividends are distributed.

According to the Administration, under French law, when a shareholder residing in France receives a dividend from a French corporation, he is considered to have paid half the profits tax charged to the corporation. The French corporate tax is nominally 50 per cent, but it is viewed as though the corporation paid a tax of 25 per cent and withheld the other 25 per cent on behalf of the government from the dividends distributed to the shareholder. The shareholder includes the latter portion in his income and then claims it as a credit against his personal tax liability, receiving a refund in appropriate cases.

As explained in the State Department's letter of submittal, this type of credit was introduced for residents of France in 1965. During the negotiation of the 1967 treaty with France, the United States proposed the inclusion in the agreement of a similar credit for American investors, largely on the ground that the French tax on U.S. shareholders should not be greater than on French shareholders. The French would not accept the proposal at that time but agreed to reopen discussions on the subject in the future if the credit were to be granted to nonresidents of any other country. France has since undertaken negotiations on this matter with certain other countries and for this reason agreed to the pending protocol.

B. PROVISIONS

The protocol contains one substantive provision which adds a new paragraph (6) to Article 9 (relating to the taxation of dividends) of the existing 1967 tax convention with France. Pursuant to the terms of the protocol, the investors who would be entitled to the French tax credit or (*a*) United States resident individuals; (*b*) United States corporations owning less than 10 percent of the shares of the paying French corporation; and (*c*) United States regulated investment companies of which 80 per cent or more of the shares are owned by United States residents and citizens.

It should be noted that related corporations (where the recipient owns 10 per cent or more of the shares of the paying corporation) will not be entitled to the credit with respect to dividends between them. This is confirmed in an exchange of diplomatic notes which took place at the time the protocol was signed. The notes are included in the President's message transmitting the protocol to the Senate.

C. DATE OF ENTRY INTO FORCE

Under the terms of Article 2, the protocol will enter into force one month after the instruments of ratification are exchanged and its provisions will have effect for dividends declared on or after January 1, 1970. The protocol will remain in force as long as the 1967 convention continues in force.

COMMITTEE ACTION

The Committee on Foreign Relations held a public hearing on the Tax Protocol with France and the Tax Convention with Japan on November 19, 1971. At that time, Mr. Edwin Cohen, Assistant Secretary of the Treasury in charge of tax policy, testified in support of the Protocol and Convention. His prepared statement is reprinted in the Appendix to this report. Also included in the Appendix is a copy of the letter from Mr. Laurence M. Woodworth, Chief of Staff of the Joint Committee on Internal Revenue Taxation, together with memoranda on the Protocol and the Convention. Mr. Woodworth's letter states that the staff of the Joint Committee is not aware of any objection to the proposed Convention or Protocol.

Following the hearing on November 19, the Committee met in executive session and ordered the Protocol and Convention reported favorably to the Senate with the recommendation that the Senate give its advice and consent to ratification of the agreements.

The **PRESIDING OFFICER**. Without objection, the convention, the protocol, and the treaty will be considered as having passed through their various parliamentary stages up to and including the presentation of the resolutions of ratification, which will be read for the information of the Senate.

The legislative clerk read as follows:

Resolved (two-thirds of the Senators present and concurring therein), That the Senate advise and consent to the protocol, signed at Washington on October 12, 1970, to the Convention between the United States of America and the French Republic with Respect to Taxes on Income and Property of July 28, 1967 (Ex. O, 91–2).

Resolved (two-thirds of the Senators present and concurring therein), That the Senate advise and consent to the ratification of the Convention between the United States of America and Japan for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed at Tokyo on March 8, 1971 (Ex. E, 92–1).

Resolved (two-thirds of the Senators present and concurring therein), That the Senate advise and consent to the ratification of the Treaty to Resolve Pending Boundary Differences and Maintain the Rio Grande and Colorado River as the International Boundary Between the United States of America and the United Mexican States, signed at Mexico City on November 23, 1970 (Ex. B, 92–1).

Mr. **MANSFIELD**. Mr. President, just to emphasize what has already been said, the vote on the first treaty will occur at 10 o'clock on Monday next. The vote on the second comes at 11 o'clock that day. Then the vote on the other treaty and the other protocol, rollcall votes, will follow.

So the Senate can anticipate three rollcall votes on the first day of the renewal of the session after the Thanksgiving Day recess, which I must emphasize for the benefit of the press amounts to only 2 days.

LEGISLATIVE SESSION

Mr. **BYRD** of West Virginia. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

TRIBUTES TO THE LATE SENATOR HOLLAND AND THE LATE SENATOR ROBERTSON

Mr. **BYRD** of West Virginia. Mr. President, I ask unanimous consent that there be an extension of 10 days for tributes to our late departed colleague, Senator Holland.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **MANSFIELD**. Mr. President, will the Senator yield?

Mr. **BYRD** of West Virginia. I yield.

Mr. **MANSFIELD**. May I say that at an appropriate time, the joint leadership will request the distinguished present Presiding Officer of the Senate, the Senator from Florida (Mr. Chiles) and his associate, the distinguished Senator from Florida (Mr. Gurney) to initiate some time during which the Senate can express its feelings toward our late departed colleague, and the same situation will develop in relation to the two distinguished Senators from Virginia (Mr. Spong and Mr. Byrd) relative to the passing of our late beloved colleague, Senator Robertson.

UNANIMOUS-CONSENT AGREEMENT WITH RESPECT TO S. 2824

Mr. **BYRD** of West Virginia. Mr. President, at the direction of the distinguished majority leader, having cleared the matter with the distinguished Senator from New Hampshire (Mr. Cotton), the distinguished Senator from Washington (Mr. Magnuson), and the distinguished assistant Republican leader, I ask unanimous consent that at such time as S. 2824, the so-called Fish Inspection Bill, is brought up for consideration, there be a time limitation on the bill of 3 hours, to be equally divided between the distinguished Senator from New Hampshire (Mr. Cotton) and the distinguished Senator from Washington (Mr. Magnuson), and that time on any amendments in the second degree, motions, and appeals, with the exception of non-debatable motions, be limited to one-half hour, to be equally divided by the mover and the manager of the bill;

Provided further, that Senators in control of time on the bill may yield therefrom to any Senator on any amendment, motion, or appeal, with the exception of non-debatable motions.

The **PRESIDING OFFICER**. The Senator did not specify the time on amendments.

Mr. **BYRD** of West Virginia. One-half hour on amendments in the first degree and the second degree.

The **PRESIDING OFFICER**. Is there objection? Without objection, it is so ordered.

ORDER FOR TRANSACTION OF MORNING BUSINESS TOMORROW

Mr. **BYRD** of West Virginia. Mr. President, is there an order for morning business tomorrow?

The **PRESIDING OFFICER**. There is not.

Mr. **BYRD** of West Virginia. I ask unanimous consent that immediately following the recognition of the two leaders tomorrow, there be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 3 minutes.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **BYRD** of West Virginia. I ask unanimous consent that at the conclusion of morning business tomorrow, the Chair lay before the Senate the unfinished business.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

PROGRAM

Mr. **BYRD** of West Virginia. Mr. President, the program for tomorrow has already been stated by the distinguished majority leader.

ADJOURNMENT UNTIL 9 A.M.

Mr. **BYRD** of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 9 o'clock tomorrow morning.

The motion was agreed to; and (at 9 o'clock and 45 minutes p.m.) the Senate adjourned until tomorrow, Wednesday, November 24, 1971, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate, November 23, 1971:

DIPLOMATIC AND FOREIGN SERVICE

Robert Foster Corrigan, of Ohio, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Rwanda.

William A. Stoltzfus, Jr., of New Jersey, a Foreign Service officer of class 2, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the State of Kuwait, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the State of Bahrain and to the State of Qatar.

CONFIRMATIONS

Executive nominations confirmed by the Senate November 23, 1971:

U.S. COAST GUARD

The nominations beginning Richard E. Sardeson, to be commander, and ending David L. Nelson, to be lieutenant commander, which nominations were received by the Senate and appears in the CONGRESSIONAL RECORD on November 18, 1971.

U.S. CIRCUIT COURTS

Alfred T. Goodwin, of Oregon, to be a U.S. circuit judge for the ninth circuit.

U.S. DISTRICT COURTS

Charles M. Allen, of Kentucky, to be a U.S. district judge for the western district of Kentucky.

Levin H. Campbell, of Massachusetts, to be a U.S. district judge for the district of Massachusetts.

Clarence C. Newcomer, of Pennsylvania, to be a U.S. district judge for the eastern district of Pennsylvania.

Ralph F. Scalera, of Pennsylvania, to be a U.S. district judge for the western district of Pennsylvania.

James S. Holden, of Vermont, to be U.S. district judge for the district of Vermont.

EXTENSIONS OF REMARKS

THE PUBLIC STATEMENTS OF WILLIAM H. REHNQUIST—PART II

HON. BIRCH BAYH

OF INDIANA

IN THE SENATE OF THE UNITED STATES

Monday, November 22, 1971

Mr. BAYH. Mr. President, last week I placed in the RECORD excerpts from the speeches, writings, and testimony of William H. Rehnquist, President Nixon's nominee to replace John Marshall Harlan as an Associate Justice of the Supreme Court. Today, I ask unanimous consent to provide further excerpts from Mr. Rehnquist's public statements. These excerpts are from Mr. Rehnquist's testimony before several congressional committees, and an article he wrote for the Harvard Law Record in 1959 concerning the role of the Senate in the confirmation process. I bring these additional statements by Mr. Rehnquist to the attention of the Senate so that the full RECORD will be available when the nomination comes to be considered by the Senate as a whole.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

FURTHER EXCERPTS FROM THE WRITINGS AND TESTIMONY OF WILLIAM H. REHNQUIST

K. Excerpts from testimony at hearings on Executive Order No. 11065 (SACB) before the Senate Subcommittee on Separation of Powers (October 5, 1971) (unprinted):

* * * * *

Senator ERVIN. What organizations' activities is the Attorney General empowered, or alleged to be empowered, to scrutinize?

Mr. REHNQUIST. Well, under the provisions of 11605, which is President Nixon's Executive Order, it would be organizations which are totalitarian, fascist, communist, subversive, as more fully defined in a later section of the order, plus organizations which have adopted a policy of unlawfully advocating the commission of acts, of force or violence, to deny others their rights under the Constitution or laws of the United States, or which seek to overthrow the Government of the United States or state or subdivision thereof by any unlawful means.

Senator ERVIN. Is not President Nixon's Order far broader than President Eisenhower's?

Mr. REHNQUIST. I think not, Mr. Chairman. I am inclined to agree with Senator Gurney that it is actually narrower. It expands one category, in that it specifically mentions the commission of acts of force or violence to deny others their rights under the constitution or laws of the United States or any state, and I do not believe that that was contained in President Eisenhower's Executive Order. But the definitional sections found on pages 3, 4 and 5 of the Order tend to be tighter than those found in President Eisenhower's Order.

Senator ERVIN. Do you not agree that President Eisenhower's Order was specifically directed toward persons already enjoying or actually seeking federal employment?

Mr. REHNQUIST. Well, I think you have to take the situation as it existed at that time. 10450 did not exist by itself. It existed along with the provision for the Attorney General to compile a list of organizations—and I cannot accurately paraphrase the language in one sentence, but who advocated the overthrow of the Government by force or violence.

Senator ERVIN. Where does the Attorney General get that authority?

Mr. REHNQUIST. He originally got it—Or the origin was an order by President Roosevelt which was not really as refined as the later order issued by President Truman. But I think the customary way of discussing it is to say that it originally came from the Order issued by President Truman.

Senator ERVIN. My point is: What statute empowers the Attorney General to petition the Subversive Activities Control Board to designate an organization, for example, as totalitarian as set out in President Nixon's Order?

Mr. REHNQUIST. Well, I would say the statute that confers upon the President the right to determine suitability and qualifications for federal employment.

Senator ERVIN. Does that statute give the President the power to have the Subversive Activities Control Board, upon petition of the Attorney General, place the organizational membership of all Americans, all Americans, under the scrutiny of the Subversive Activities Control Board?

Mr. REHNQUIST. The statute certainly does not, but much the same objection was raised in these two cases I refer to in my testimony, that it was an improper delegation by the President and it lacked statutory authority, and the Court of Appeals for this Circuit said otherwise.

Senator ERVIN. Well, what statute gives the President authority to confer upon the Subversive Activities Control Board, by an executive order, the power to scrutinize the activities and the acts of every group in America who commits acts of force or violence, or unlawfully damages or destroys property or injures persons, or violates laws pertaining to treason, rebellion or insurrection, riots or civil disorders, seditious conspiracy, sabotage, trading with the enemy, obstruction of the recruiting and enlistment service of the United States, impeding officers of the United States or related crimes or offenses?

That is what this is all about, is it not? It undertakes to give this power.

Mr. REHNQUIST. The Order certainly does undertake to empower the Board to do that, and the general notion that the President could confer this type of power on the Attorney General under the statutory authority vested in him by Congress to review the qualifications of federal employees was upheld by the Court of Appeals for this Circuit.

Now, the added question remains: Can he transfer that power from the Attorney General to the Subversive Activities Control Board?

Senator ERVIN. I believe there is a question prior to that. What statute gives the Subversive Activities Control Board the power to investigate violations of criminal statutes which are punishable as crimes after trial in the courts of this country. And what statute gives the President the power to confer jurisdiction in respect to criminal acts upon the Subversive Activities Control Board?

Mr. REHNQUIST. Well, he was previously upheld in his conferring jurisdiction of much the same type on the Attorney General, under the delegation statute. In my opinion, he can confer that authority on the Attorney General, he can likewise confer it on the Subversive Activities Control Board. Clearly, he can make these findings himself.

Senator ERVIN. The difference is fundamentally that the Attorney General is an executive officer. He is the head of the Department recognized by the Constitution. The Subversive Activities Control Board is an agency created by the Congress, not by the Constitution, and its powers are defined by the Congress.

Mr. REHNQUIST. Mr. Chairman, the Attorney General is a creation of the Congress.

Senator ERVIN. Yes, but he is also a head of the Department, and the head of a department is an officer recognized by the Constitution.

Mr. REHNQUIST. Well, but I really do not think that is significant in this respect. The Constitution says the President may call upon the heads of various departments for their opinion, but certainly that does not pretend to circumscribe what the President may confer in the way of authority upon the heads of departments, nor does it——

Senator ERVIN. You consider that the President would have authority to let the Subversive Activities Control Board try criminal cases?

Mr. REHNQUIST. No, sir, certainly not.

Senator ERVIN. But you do contend that he has the power from some undesignated source to let them investigate things, or acts, which are crimes under state law, and things which are crimes under Federal law, do you not? Is that not your position?

Mr. REHNQUIST. Yes. I do not think it is from some undisclosed source. I think it is from a rather specific congressional statute, his power to define and pass upon the qualifications for federal employment, and the Subversive Activities Control Board, in discharging this function, is not purporting to assess criminal liability. It is purporting to make findings as to the activities of particular organizations for the benefit of potential federal employers who are entitled to take this into consideration, knowing their sympathetic membership in this type of organization.

Senator ERVIN. I have inserted in the record the statutory provisions cited by the President in Executive Order 11605 to sustain issuance of this Order, and I am unable to find a single syllable in any one of them that empowers him to make this vast extension of powers to hte Subversive Activities Control Board.

Mr. Rehnquist. Well, I understand your position, Mr. Chairman. I simply find myself in respectful disagreement with it.

Senator Ervin. Well, of course, as a Chief Justice once said, we probably read the same books and found different conclusions, but I would be awfully glad if you would point out some specific provisions in these statutes cited by the President to justify this exercise of power, denied by an Act of Congress, to give the Subversive Activities Control Board that power.

Mr. Rehnquist. Well, when you say "denied by an Act of Congress," Mr. Chairman, I take it you do not mean affirmatively denied but simply not affirmatively conferred upon it?

Senator Ervin. Affirmatively implied.

Mr. Rehnquist. Well, I think that the prior delegation of President, the two I have mentioned in my prepared statement, to, you know, the seven independent agencies which have a good deal more claim to be outside of the Executive Branch than the Subversive Activities Control Board, more than supports this.

* * * * *

Senator Ervin. I just want to say that as far as I am concerned, I do not think any prior Executive Orders should be cited to justify the assertion of further authority by a President, because, that way, Presidents could lift themselves far up above the Constitution by their own bootstraps, and, as for statutory authority, I do not think the President has the right to issue an Executive Order which has the effect of legislation.

* * * * *

Senator Ervin. Does not the Executive Order of President Nixon undertake to empower the Subversive Activities Control Board, upon petition of the Attorney General, to investigate any organizations which the Attorney General alleges fit the qualifications prescribed in the Executive Order regardless of whether any of the members of those organizations are employed by the Federal Government or seeking employment by the Federal Government?

Mr. Rehnquist. I agree with the thrust of your question, except for the use of the word "investigate," Mr. Chairman. On page 22, as I read it, the section (c) says:

"The Subversive Activities Control Board shall, upon petition of the Attorney General, conduct appropriate hearings to determine whether any organization is" such and such.

But certainly there is no triggering mechanism that a member of an organization must first have applied for federal employment before that goes.

Senator Ervin. Yes. So, it gives him the power to investigate all organizations; that is, to conduct hearings to determine whether organizations fit into any of these categories when the Attorney General files a petition to that effect, regardless of whether those organizations have among their members any federal employees or any persons who have any intention ever of seeking employment with the Federal Government?

Mr. Rehnquist. There is certainly no nexus between a member seeking employment and the right of the Board to conduct the hearing.

Senator Ervin. Now, also, it gives the Subversive Activities Control Board, on petition of the Attorney General, the power to conduct hearings in respect to crime, the crimes enumerated in the Executive Order, regardless of whether those crimes are committed by any federal employee or any person who ever contemplates seeking employment with the Federal Government, does it not?

Mr. Rehnquist. It does, Mr. Chairman. I think that that is the only way it can be done in a situation like this. If the President considers that membership in an organization of this type ought to be a factor to be taken into consideration, the various means for applying for federal employment and the tremendous decentralized nature of the program prevent that from being centralized, and so the only practicable way to handle it is to put it in the hands of those administering the Federal Government employment program, such findings as the Board may make.

Senator Ervin. Would not the practicable thing be to establish a mechanism for determining the organizational membership of persons who are actually employed by the Federal Government or persons seeking employment by the Federal Government, instead of putting all Americans under the scrutiny of the Subversive Activities Control Board?

Mr. Rehnquist. I think, in this way, Mr. Chairman, that that would be an extraordinary unworkable way, because the first person, say, who is a member of the Weathermen, that applies for a position in the Federal Government, at that point, under your theory, the SACB would be authorized to investigate or to hold hearings with respect to the Weatherman. Now, then, you have the long process of the Justice Department investigation, hearings, findings of fact by the Board, all of this while the particular individual is presumably having the decision on his employment held up.

Senator Ervin. Do you think that the American people are so lacking in intelligence that they need the Subversive Activities Control Board to tell them that the Weatherman faction of the Student's for Democratic Society are an undesirable organization?

Mr. Rehnquist. I think it is desirable, Mr. Chairman, to have some sort of a formal fact-finding process. Perhaps, the Weatherman is an obvious case. But I think it is quite conceivable that having a membership in an organization by a federal employee without the benefit of the fact-finding process might conclude they were somewhat suspect. If the fact-finding process concludes that they do not meet the test of the Order, that, in effect, would permit people to be employed, and it would not be resolved just on the basis of suspicion or on the basis of a particular hunch that the employing officer may have but rather on the basis of a hearing on the record with evidence presented.

Senator Ervin. Well, it would seem to me the intelligent way to go about this, if the purpose is to ensure loyalty in the federal establishment, would be to investigate the membership of people who are employed, who seek federal employment or who enjoy federal employment, rather than investigating organizational membership of all of the Americans, all of the American people, regardless of whether they are employed by the Federal Government or ever seek employment with the Federal Government.

Mr. Rehnquist. I think, initially, Mr. Chairman, that would provide a different approach than this. I think that within a matter of a couple of years it would rapidly become exactly the same thing, because you have enough applicants for federal employment and enough belonging to a number of different organizations so that the triggering mechanism would have been put into effect, and the Board would be investigating exactly what it would be investigating now.

In addition, under your system, you would have a system of investigation of organizations with respect to which there is no reason to believe at all that they meet the requirements of the Order, whereas, the way the Order is drawn, the Justice Department must first make some sort of a finding of probable cause before the petition.

Senator Ervin. Yes, but you cannot tell whether they meet this criteria unless you investigate it. In other words, it seems to me that this is like sailing clear across the Atlantic Ocean when your objective is to get across the creek.

L. Excerpts from testimony at hearings on equal rights for men and women, 1971, before a subcommittee of the House Judiciary Committee (1971).

Mr. Rehnquist.

* * * * *

While the Department supports the enactment of House Joint Resolution 208, the equal rights amendment, there is no denying that opponents of that amendment have raised significant quesitons which deserve the serious consideration of the committee. The placing in the Constitution of such broad general language as is to be found in House Joint Resolution 208 would, by reason of doubt as to the scope of its language, add substantial uncertainties in this area of constitutional law which would probably require extensive and protracted litigation to dispel. Those who have testified in favor of the amendment in the past do not themselves appear to be in agreement as to the sweep of its language. Yet it is conceded that however broad its sweep, it would not reach many practices of private individuals which unjustifiably differentiate between men and women. The Department of Justice feels that the amendment, no matter how construed, would not be a substitute for legislation, such as H.R. 916.

Some proponents of the amendment have stated that ambiguities in its language cannot be taken care of by legislative history. This rather short answer, however, is not entirely satisfactory.

* * * * *

Hearings before the Senate Judiciary Committee last year have highlighted the extraordinary breadth of construction urged by some of the amendment's supporters. While the President, the administration, and undoubtedly most of the Nation are united in their desire to achieve equality for women, as that term has been commonly understood, there is some question as to whether the broadest possible construction of the amendment may not go substantially beyond that common understanding. We would have some doubts as to whether there is a national consensus for compelling all levels of government to treat men and women across the board as if they were identical human beings. Certainly many people feel that publicly maintained restrooms should continue to be separate, that differing ages of consent and majority are, under some circumstances, justifiable, and that laws which are adopted with the genuine purpose of protecting women, rather than as a disguise for discriminating against them, are likewise permissible. Even if one were to determine for himself that all of these differences in treatment ought to be abandoned, under a Federal system such as ours, the question would remain as to whether a unitary rule should be promulgated by constitutional amendment which would deny to each State the right to choose for itself among rational alternative policies.

* * * * *

In spite of the reservations of the Department of Justice and of these developments which have intervened between the time that the President spoke in 1968 and the present time, the administration is committed to the support of House Joint Resolution 208. The desirability of obtaining some such declaration of policy in the Constitution outweighs the disadvantages of this particular proposal.

Whatever may be the resolution of the committee with respect to House Joint Resolution 208, there is no question but what many of the serious inequalities of treatment suffered by women occur in the area of private conduct, rather than public conduct, and can therefore be reached only by legislation such as H.R. 916.

* * * * *

We are agreed that the EEOC needs additional enforcement machinery to function effectively. However, we favor legislation providing for direct actions in the district courts by the Commission, rather than legislation like H.R. 916 providing for administrative cease and desist orders, as a means of strengthening the EEOC's enforcement powers.

* * * * *

I have taken, from your statement, that you prefer the legislative approach, and I would like to ask you directly—if you had the choice, would you take the legislative approach or the constitutional approach?

Mr. Rehnquist. You mean if one could have only one of the two?

Mr. Keating. All right, let's start out with that one.

Mr. Rehnquist. Yes. If one could have only one of the two, I think I would prefer the legislative approach. I think it reaches more evils that are of general concern to women than the constitutional amendment would.

M. Excerpts from testimony at hearings on U.S. Government information policies and practices—The Pentagon Papers, before the House Subcommittee on Foreign Operations and Government Information (1971).

Mr. Horton. Would you like to amplify on the position of the Justice Department?

Mr. Rehnquist. I will be happy to. I suspect after you hear me amplify, you might rather see it in writing, and I will be glad to.

Section 2954 of title 5, United States Code, which is the statute in question, is derived from section 2 of the act of May 29, 1928. Section 1 of that act provided for the repeal of 128 statutes requiring the submission of reports to Congress, which either had become obsolete or which served no useful purpose.

Section 2 of the 1928 act, which has now become section 2954 of title 5, United States Code, was designed to enable Congress to obtain, if needed, the information theretofore contained in the discontinued report. And we think that is indicated in the Senate report made to the Congress in the enactment of the 1928 statute, and I will quote from that:

"To save any question of the House of Representatives to have furnished to it any of the information contined in the reports proposed to be abolished, a provision has been added to the bill requiring such information to be furnished to the Committee on Expenditures in the Executive Department or upon the request of any seven members thereof.

"This section makes it possible to require any report discontinued by the language of this bill to be resubmitted to either House upon its necessity becoming evident to the membership of either body."

That is the end of the quotation from the Senate report. And it was our conclusion that the legislative history from which the section was derived indicates that its purpose was to serve as a vehicle for obtaining information theretofore embodied in routine annual reports to Congress submitted by the several agencies rather than the extremely broad purpose, which I cheerfully concede is a permissible interpretation of the language itself.

Mr. Horton. In other words, the Executive has put a very narrow interpretation on that section?

Mr. Rehnquist. Well, a narrow and entirely justifiable one, I believe, but it's certainly a narrow one rather than a broad one?

Mr. Horton. Well, what does it mean? What is its meaning?

Mr. Rehnquist. Well, to me it would mean that the types of annual reports, the requirement of submission to Congress of which was discontinued by section 1 of the 1928 statute can nonetheless be selectively demanded by any seven members of the committee if they wish them.

Mr. Horton. In other words, that is the limit to which this statute applies?

Mr. Rehnquist. That is our interpretation.

Mr. McCloskey. Mr. Rehnquist, the rule that permits you to look at the legislative history applies only when the wording of the statute is ambiguous, that is correct?

Mr. Rehnquist. It's a rule, but it has its exceptions.

Mr. McCloskey. Do you know of any legal exception in your experience which justifies looking behind the clear language of section 2954, by the executive branch?

Mr. Rehnquist. Yes, sir. Well, the executive branch is simply trying to forecast what a court would say in interpreting it.

Mr. McCloskey. Is there any ambiguity in that statute? This is exceptionally clear language. Can you point to me any ambiguity in that statutory section which would justify seeking explanation of that ambiguity?

Mr. Rehnquist. I don't think it's that clear.

Mr. McCloskey. Is there any ambiguity in the section that you should find? Can you read the law specifically so the subcommittee at this point can be aware of the ambiguity which, in your judgment, would require going to the legislative history of the statute?

Mr. Rehnquist. An executive agency on the request of the Committee on Government Operations in the House of Representatives or of any seven members thereof shall submit any information requested of it relating to any matter within the jurisdiction of the committee.

Mr. McCloskey. Is there any ambiguity there, Mr. Rehnquist?

Mr. Rehnquist. I don't think the words "any information" are necessarily that sweeping.

Mr. Horton. Well, what we have to do is define any information, because, at the present time at least, the Executive has put an interpretation on it to the effect that it has to do only with reports which were discontinued. You may be right, but if we are to seek any type of information other than the type, according to the testimony that you have given, and you are giving a factual legal interpretation of it, then we are going to have to make some changes in our legislation, is that not correct?

Mr. Rehnquist. To obtain it under that statute, yes.

Mr. Horton. In other words, when Mr. Reuss wrote his letter signed by several members asking for the report from the committee headed by Dr. Richard Garwin, that was not a subject of the section? It was not a matter included within the section, according to the letter of Mr. Ehrlichman, and also according to the statement that you have made?

Mr. Rehnquist. That was our interpretation, yes.

Mr. Horton. And then also, I did not sign the letter, but the letter recently signed and transmitted by Mr. Moorhead and several members of this committee asked to be served with reports from the Department of Defense. It is your interpretation that this also would be without the scope of the interpretation of this particular section, because they are not reports that had been required and then discontinued, is that correct?

Mr. Rehnquist. If that is the nature of the reports requested. I am not familiar with it, but certainly as you describe it, that would be correct.

Mr. Moorhead. Would the gentleman yield?

Mr. Horton. All right.

Mr. Moorhead. I understand the Ehrlichman letter refers to an article dated April 1961, in the George Washington Law Review. I think that it would be important to identify the authors of that article.

Mr. Robert Kramer, footnote in the article, was Assistant Attorney General, United States Department of Justice, 1959–61, and Mr. Herman Marcuse, the other author, was and still is, an attorney, United States Department of Justice, Office of Legal Counsel, in your office, Mr. Rehnquist. I think that their positions at the time they wrote the article are significant.

The second thing that I think should be pointed out is that this statute in question, while originally enacted in May of 1928, was amended and reenacted—on September 6, 1966—so that reenactment and reaffirmation of what I consider this broad and sweeping language should be considered by the Congress and signed by the President, approved this language on two occasions.

I don't see how it could be amended to be any broader. If there is any action, I think it should be tested in the courts.

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Mr. Moorhead. Now, the staff has prepared an analysis of two significant cases referred to by Mr. Rehnquist, in his statement; that is, *U.S.* v. *Reynolds,* and *U.S.* v. *Curtiss-Wright Export Corp.*, and I think that staff memorandum should also be inserted in the record at this point. That will be so ordered.

(The memorandum follows:)

MEMORANDUM BY LEGAL STAFF, HOUSE GOVERNMENT OPERATIONS COMMITTEE ON THE STATEMENT OF WILLIAM H. REHNQUIST, ASSISTANT ATTORNEY GENERAL, OFFICE OF LEGAL COUNSEL, DEPARTMENT OF JUSTICE, TESTIFYING ON EXECUTIVE PRIVILEGE, JUNE 29, 1971

The statement declares: "The right of the Executive to withhold certain types of information from the other coordinate branches has been equally well recognized." It refers to two Supreme Court cases as buttressing that assertion. The first case involves the Government's claim of privilege to resist judicial discovery in a tort claims action: *U.S.* v. *Reynolds* (345 U.S. 1 (1953). The second involves a question of the constitutionality of a delegation by Congress of certain legislative power to the President: *U.S.* v. *Curtiss-Wright Export Corp.* (200 U.S. 304 (1936)).

Both cases should be examined closely, since they support Mr. Rehnquist's declaration above only in a highly qualified fashion (*Reynolds* case) or by remote inference derived from orbiter dicta (*Curtiss-Wright* case).

* * * * *

Mr. McCloskey. Thank you, Mr. Chairman. Mr. Rehnquist, going back to this letter of Mr. Ehrlichman dated June 20, which is before you now, that letter referred to a report on the SST prepared in 1969 by a committee headed by Dr. Richard L. Garwin, and on June 20, the following year, the White House, through this letter, declined to reveal that report on the SST to a committee of Congress of competent jurisdiction.

If I recall correctly, the administration, at that time, was proposing to the Congress in its budget message, that both the House and Senate approve an expenditure of $290 million in 1970 for the SST.

Now, this brings squarely into focus the question of the lawmaking power of Congress when we are asked to vote for or against the SST, and the right of the executive to withhold a report prepared at taxpayer expense relating to that issue affecting whether we should or should not fund the SST. In your judgment, does the executive privilege, which I believe you said was based—in your testimony, on page 18 yesterday—on the generally recognized premise that the President must be free to receive absolutely impartial and disinterested advice from his advisers.

In your judgment, does the right of the Executive to receive impartial and disinterested advice entitle the Executive to refrain from giving to Congress a memorandum on the very subject which the Congress is to legislate?

Mr. Rehnquist. Certainly, in many situations, I think it would.

Mr. McCloskey. What, about the SST, could possibly justify claiming executive privilege for a memorandum prepared by the committee for the President?

Mr. Rehnquist. I am not familiar with the memorandum itself, nor am I intimately familiar with the questions that are involved—

Mr. McCloskey. This is the question, Mr. Rehnquist. Can you recall the question that I asked you?

Mr. Rehnquist. Perhaps the reporter would read it back.

(The reporter read the record as requested.)

Mr. Rehnquist. If this was a memorandum prepared by way of advice to the President as to whether or not he should recommend the funding of the SST, it is, in my judgment, the sort of advice from a subordinate to the Chief Executive which is covered by executive privilege.

Mr. McCloskey. Even though the Executive is asking the Congress to legislate on the SST, is that your testimony?

Mr. Rehnquist. Yes. The alternative would be that whenever Congress has a subject of legislation before it, and the administration sends a witness down and says this is our position, Congress would be perfectly free to compel testimony, well, how about A through Z, who all participated in it as to advising him, and how did they reach their opinions, and I think that is exactly what it covers.

Mr. McCloskey. Mr. Rehnquist, first of all, the President, in his letter to the chairman, John Moss of this committee, on April 7, 1969, said that the scope of executive privilege must be very narrowly constructed. Under this administration, executive privilege would not be asserted without specific Presidential approval.

Now, if you extend executive privilege to any recommendation made to the President on an issue of pending legislation, isn't that a broad definition of executive privilege which would cover any report prepared for the President on pending legislation?

Mr. Rehnquist. I don't think that is a broad construction. I think that is one of the classical areas where most people have agreed that the doctrine applies.

Mr. McCloskey. Well, this committee, headed by Richard Garwin, that was asked for a report on the SST, is that any different from any Presidential adviser or consultant or contractor who is asked to prepare a report on the merits of a pending proposal?

Mr. Rehnquist. I don't know the circumstances of the Garwin committee report, or how it was contracted for, or who Mr. Garwin is, for that matter. But on the hypothesis that he was making a recommendation to the President as to whether or not something should be done, I think that it doesn't require a broad construction of the doctrine to say that that is within it.

Mr. McCloskey. On a project like highway construction, where one highway engineer within the Department of Transportation prepared a report recommending the highway, and another member of the Department of Transportation prepared a report pointing out defects in the highway proposal, would executive privilege be properly invoked for both reports, in your judgment?

Mr. Rehnquist. Well, there you are taking it down the line a ways. I mean, many of these recommendations, the highway-type recommendations, are not to the President, they are to one of his subordinates.

Mr. McCloskey. Well, I don't think Mr. Garwin's report was directed to anyone other than the Secretary of Transportation, was it?

Mr. Rehnquist. I am not familiar with the circumstances.

Mr. McCloskey. Let me make the assumption that the Garwin report which was finally released to the Congress in 1970 was, in fact, a representation to the Secretary of Transportation. Is there any difference between that report and a report prepared by the President himself?

Mr. Rehnquist. It is a question of degree, I think.

Mr. McCloskey. Let's be precise on this. If Dr. Garwin's committee report was prepared for the Secretary of Transportation, would that, in your judgment, make it subject to executive privilege?

Mr. Rehnquist. It could, if it was on a subject on which the Secretary of Transportation was expected to advise the President.

Mr. McCloskey. Well, isn't every subject considered by the Department of Transportation investigated on something to ultimately advise the President?

Mr. Rehnquist. No, I would think the highway thing would stop well below the President.

Mr. McCloskey. What about the SST?

Mr. Rehnquist. I think that is an example of something that was a Presidential decision.

Mr. McCloskey. The President, in his budget, proposed to us that we fund the SST and also the highway program. I find no difference between the highways and the SST, do you?

Mr. Rehnquist. Yes, I do.

Mr. McCloskey. What distinction?

Mr. Rehnquist. Well, that the decision as to where individual highways should be located, or the amounts that should be spent on them, are not things that the President participates in.

Mr. McCloskey. Doesn't he participate when he recommends to the Congress each year a budget message which contains, say, $3 billion for highways? Isn't that his recommendation to the Congress?

Mr. Rehnquist. I suppose in legal theory, it is, but as a practical matter, that is not the sort of decision that is made by the President or that is ultimately decided by the President.

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Because the subcommittee's inquiry is a wide-ranging one, it may be helpful if I outline what I conceive to be three related but different situations, all of which have recently received considerable public notice, and all of which are doubtless of interest to the subcommittee.

The doctrine of executive privilege, as I understand it, defines the constitutional authority of the President to withhold documents or information in his possession or in the possession of the executive branch from compulsory process of the legislative or judicial branch of the Government. This doctrine is implicit in the separation of powers established by the Constitution.

Related to the doctrine of executive privilege, but by no means coextensive with it, is the classification of material in the possession of the executive branch under the provisions of executive orders. These executive orders established rules governing the classification of documents involving national defense information, and prohibit disclosure by executive branch personnel of documents so classified to anyone not authorized to receive them. The Freedom of Information Act, which may be said to have established a "right to know" on the part of the public, as against the Government, exempts from its disclosure requirements "matters that are * * * specifically required by executive order to be kept secret in the interest of the national defense or foreign policy." This exemption in the Freedom of Information Act justifies refusal on the part of the executive to make classified material available to the general public. But the mere fact of classification by itself, of course, does not constitute a sufficient basis for withholding information from a committee of Congress, since most, if not all, congressional committees themselves are fully authorized to receive classified documents.

Third, and particularly in the public eye now, is the extent of the authority of the executive branch to seek the aid of the judicial branch in preventing or punishing the publication of material where such publication would be dangerous to the national security. By hypothesis, in this third situation, the material in question is already in the hands of the potential publisher, so there is no question of the executive being compelled to furnish it in order that it may be published. It is this question, of course, which has been the subject of the current litigation in the cases involving the New York Times and the Washington Post.

I will devote my testimony primarily to the question of executive privilege, and to the matter of compliance with the President's 1969 memorandum, since that is what the Attorney General and I understand that you wish, Mr. Chairman. I will, to the extent of my ability, and to the extent that it will be appropriate, be happy to respond to questions about any other matters which are within my competence.

The Constitution nowhere expressly refers either to the power of Congress to obtain information in order to aid it in the process of legislating, nor to the power of the Executive to withhold information in his possession, the disclosure of which he feels would impair the proper exercise of his constitutional obligations. Nonetheless, both of these rights are firmly rooted in history and precedent.

It is well established that the power to legislate implies the power to obtain information necessary for Congress to inform itself about the subject to be legislated upon, in order that the legislative function may be exercised effectively and intelligently.

The right of the Executive to withhold certain types of information from the other coordinate branches has been equally well recognized. In *Reynolds* v. *United States,* 345 U.S. 1, the Supreme Court upheld the applicability of such a privilege against judicial subpena. The claim of the Executive to withhold this type of information from Congress goes back to the administration of President Washington. In 1792, the House of Representatives embarked on its first effort to investigate the conduct of the executive branch in connection with the ill-fated expedition of General St. Clair into the Northwest Territory. When demand was made upon the Secretary of War for the production of all papers connected with that expedition, President Washington called upon his Cabinet for consultation "because it was the first example and he wished that as far as it should become a precedent, it should be rightly conducted * * *. He could readily conceive that there might be papers of so secret a nature as they ought not to be given up."

The Cabinet concluded unanimously on April 2, 1792, that the House of Representatives had the right to institute inquiries, and that it might call for papers generally and "that the Executive ought to communicate such papers as the public good would permit and ought to refuse those the disclosure of which would injure the public. Consequently we're to exercise a discretion."

That is an excerpt from Jefferson's notes of that Cabinet meeting.

President Washington determined that in this particular instance, the disclosure of the papers would not be contrary to the public interest and instructed the Secretary of War to make the papers requested available to the House of Representatives.

In 1796, in connection with the appropriation of the funds required to carry out the financial provisions of the Jay Treaty, the House of Representatives requested the President to produce the instructions to the Minister who negotiated that treaty. This time, President Washington advised the House that he could not comply with its request.

* * * * *

The nature of foreign negotiations requires caution, and their success must often depend on secrecy; and even when brought to a conclusion a full disclosure of all the measures, demands, or eventual concessions which may have been proposed or contemplated would be extremely impolite; for this might have a pernicious influence on future negotiations or produce immediate inconveniences, perhaps danger and mischief, in relation to other powers.

As, therefore, it is perfectly clear to my understanding that the assent of the House of Representatives is not necessary to the validity of a treaty; as the treaty with Great Britain exhibits in itself all the objects requiring legislative provision, and on these the papers called for can throw no light, and as it is essential to the due administration of the Government that the boundaries fixed by the Constitution between the different departments should be preserved, a just regard to the Constitution and to the duty of my office, under all the circumstances of this case, forbids a compliance with your request.—Richardson, "Messages and Papers of the Presidents," Vol. I, pp. 194–196.

Since that time virtually every President has had occasion to determine whether the disclosure of information to Congress was appropriate.

The Supreme Court, in *United States* v. *Curtiss-Wright Corp.*, decided in 1936, 299 U.S. 304, 319–321, based its decision in part on the authority of the President to withhold information in the field of foreign relations from Congress, and refers to some of the instances when Congress acknowledged this authority in the President. The disputes between Congress and the Executive over the invocation of executive privilege have not been so much about the existence of the authority, as they have about the extent and manner in which it is exercised.

The President's authority to withhold information is not an unbridled one, but it necessarily requires the exercise of his judgment as to whether or not the disclosure of particular matters sought would be harmful to the national interest. As is the case with virtually any other authority, it has a potential for abuse; but as in the case of other authorities, the potential for abuse has never been deemed a sufficient reason for denying the existence of the authority.

The doctrine of executive privilege has historically been pretty well confined to the areas of foreign relations military affairs, pending investigations, and intragovernmental discussions. I will mention a few pertinent examples, and attempt to indicate the reasoning behind the claim of privilege in each of these fields.

* * * * *

There is another category of situations in which Congress has recognized the validity of claims of executive privilege. They center around what may be called the freedom of the executive branch from legislative interference with its decisionmaking process. It includes the confidentiality of conversations with the President, of the process of decisionmaking at a high governmental level, and the necessity of safeguarding frank internal advice within the executive branch. Here, too, I will advert to some examples.

* * * * *

The reasoning behind the claim of executive privilege in these four classical categories seems to me to be as thoroughly defensible in principle as it is well established by precedent.

In the field of foreign relations, the President is, as the Supreme Court said in the *Curtiss-Wright* case, the "sole organ of the Nation" in conducting negotiations with foreign governments. He does not have the final authority to commit the United States to a treaty, since such authority is reposed in the U.S. Senate and, of course, if implementing legislation is required, that legislation must come from the Congress. But the frequently delicate negotiations which are necessary to reach a mutually beneficial agreement which may be embodied in the form of a treaty often do not admit of being carried on in public. Frequently the problem of overly broad public dissemination of such negotiations can be solved by testimony in executive session, which informs the members of the committee of Congress without making the same information prematurely available throughout the world. The end is not secrecy as to the end product—the treaty—which, of course, should be exposed to the fullest public scrutiny, but only the confidentiality as to the negotiations which led up to the treaty.

The need for extraordinary secrecy in the field of weapons systems and tactical military plans for the conducting of hostilities would appear to be self-evident. At least those of my generation and older are familiar with the extraordinary precautions taken against revelation of either the date or place of landing on the Normandy beaches during the Second World War in 1944.

The executive branch is charged with the responsibility for such decisions, and has quite wisely insisted that where lives of American soldiers or the security of the Nation is at stake, the very minimum dissemination of future plans is absolutely essential. Such secrecy with respect to highly sensitive decisions of this sort excludes not merely Congress but all but an infinitesimal number of the employees and officials of the executive branch as well.

I have summarized earlier in my testimony the reasons given by Attorney General Jackson, and reaffirmed by Attorney General Mitchell, as to the need for confidentiality of open investigative files.

Finally, in the area of executive decisionmaking, it has been generally recognized that the President must be free to receive from his advisers absolutely impartial and disinterested advice and that those advisers may well tend to hedge or blur the substance of their opinions if they feel that they will shortly be second-guessed either by Congress, by the press, or by the public at large.

Again, the aim is not for secrecy of the end-product. The ultimate Presidential decision is and ought to be a subject of the fullest discussion and debate, for which the President must assume undivided responsibility. But few would doubt that the Presidential decision will generally be a sounder one if the President is able to call upon his advisers for completely candid and frequently conflicting advice with respect to a given situation.

I would add, finally, that the integrity of the decisionmaking process which is protected by executive privilege in the executive branch is apparently of equal importance to the legislative and judicial branches of the Government. Committees of Congress meet in closed session to "mark up" bills, and judges of appellate courts meet in closed conference to deliberate on the result to be reached in a particular case. In each of these instances, experience seems to teach that a sounder end result—which will be in the fullest object of public scrutiny—will be reached if the process of reaching it is not conducted in a goldfish bowl.

Indeed, if additional precedent were warranted, the decision of the Founding Fathers to conduct in secret all of its deliberations at the Constitutional Convention of 1787 appears to be very much in point.

While reasonable men may dispute the propriety of particular invocations of executive privilege by the various Presidents during the Nation's history, I think most would agree that the doctrine itself is an absolutely essential condition for the faithful discharge by the Executive of his constitutional duties. It is, therefore, as surely implied in the Constitution as is the power of Congress to compel testimony.

Mr. MOORHEAD. You referred throughout your testimony to the authority of the executive branch to withhold information from Congress. Your legal argument to the authority of the Executive, the President.

Do you claim a power of the executive branch in addition to that of the President to withhold information from the Congress?

Mr. REHNQUIST. No; in my testimony the terms may be used interchangeably, and I think it helps a little to do that, because frequently the information sought, or the documents sought are not in the personal possession of the President, but I do not intend by that interchangeable use to suggest that anybody in the executive branch has a right to say, "I am claiming executive privilege and I will not furnish the document."

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Mr. REID. Let me try and narrow my question from the broad principle.

Does the Executive in your judgment have the right to withhold from Congress information that is central to a congressional decision, which information is embarrassing to the Executive because it may not be on all fours with public executive statements?

Mr. REHNQUIST. You mean simply on the ground that it makes the President look bad?

Mr. REID. Yes.

Mr. REHNQUIST. No, I don't believe he does.

Mr. REID. And, equally, you would hold, therefore, that Congress has the right to obtain documents and information—whether it be on the war or on other questions that are fundamental—at a time that it is relatively timely to fundamental decisions?

In other words, let me put it another way.

* * * * *

I can well appreciate the confidentiality of conferences between the chiefs of states, and I don't think anyone would seriously question that. But that right, it seems to me, does not extend to fundamental questions, such as a major change in the direction of a war, nor does this permit the Executive to conceal a change or, indeed, proceed on a basis that would fool the public or mislead the Congress.

Mr. REHNQUIST. Well, insofar as your suggestion that it is undesirable and bad for the President to fool the public or mislead the Congress, I certainly agree with you.

If you mean to say, in addition, that the top-level advice that is recently and currently given to the President is for that reason to be made fully available to Congress by compelling those advisers to testify to it, I think the executive privilege suggests that is not the case.

Mr. REID. Finally, if the Congress in the exercise of oversight function, that I believe it has, determines certain documents have been improperly classified by the executive, that either the Congress or the American people are entitled to know about, would you question at all the right of the Congress to declassify and make public these documents?

Mr. REHNQUIST. The right of Congress on its own initiative to make public documents which had been classified by the executive, but which Congress felt were improperly so classified?

Mr. REID. That is correct.

Mr. REHNQUIST. Yes, I would question that right.

Mr. REID. Well, I would merely hold that I think the Congress does have that right.

Thank you very much for your testimony.

Mr. REHNQUIST. When I say I question it, Mr. Reid, I don't mean to say that I have thought the thing through. But it certainly isn't apparent on the face of it to me that Congress has that right.

* * * * *

Mr. REID. Permit me to turn to your testimony on page 1. You state that:

"The doctrine of executive privilege, as I understand it, defines the constitutional authority of the President to withhold documents or information in his possession * * *"

You say a little further on.

"This doctrine is implicit in the separation of powers established by the Constitution."

When you say "implicit" you do not mean absolute, I take it.

Mr. REHNQUIST. I meant it is not stated in the Constitution; it is implied from the structure of the Constitution, and certainly it is not absolute in the sense that the President could willy-nilly withhold any number of things requested by Congress just because he did not feel like giving them.

Mr. REID. And there, of course, the Congress has the clear right to compel the production of those documents if they are central to the congressional purpose. And merely the Executive's embarrassment should not trigger a claim of executive privilege. The only point I make here today is that Congress does not necessarily recognize the right of the executive privilege in the extent that claim may be made for it, and different Members have evaluated this differently. It has to be a relatively narrow privilege not in conflict with congressional rights. But I detect from your testimony that you think that it is a rather broad executive privilege; am I incorrect in that?

Mr. REHNQUIST. Well, I suppose it is the old question of compared to what?

Mr. REID. Compared with coordinate balance between the Congress and the Executive. It should not be so broad that it conflicts with congressional powers and rights.

Mr. REHNQUIST. No; and I think generally it does not. I think there are conceivably cases where Congress is pursuing a very legitimate legislative investigation and where there is no question of Congress' right to obtain information generally in the area. Nonetheless, if a particular document were sought which may be quite relevant to the investigation by the standards of *McGrain* v. *Daugherty*, even a conservative justification of executive privilege could justify the withholding of that document, if the President should determine that its disclosure would jeopardize the national security.

Mr. REID. On page 2, if you look at your testimony there, you say,

"These Executive orders establish rules governing the classification of documents involving national defense information, and prohibit disclosure by executive branch personnel of documents so classified to anyone not authorized to receive them."

Would you hold that to be the case if the documents were improperly classified?

Mr. REHNQUIST. The question arises, what is meant by improper classification? The Ninth Circuit decided in a case last year on the Freedom of Information Act that the only review the courts would make of an executive classification was whether it was arbitrary or unreasonable. They would not attempt themselves to decide whether it should have been classified in the manner it was.

Mr. REID. Well, leaving aside the question of the mechanics, would you hold this is a privilege even though the document was improperly classified by any reasonable test? We in the Congress would not hold that you had that right if they were improperly classified.

Mr. REHNQUIST. I think if one can show that the classification was arbitrary or unreasonable—maybe that is just a paraphrase perhaps of what you are saying—that the provisions of executive orders as to dissemination would probably not govern.

Mr. REID. Now, in connection with that, are you familiar with section 18 of the Executive order?

Mr. REHNQUIST. Not word for word.

Mr. REID. Specifically it provides that:

"The head of each Department and agency shall designate a member or members of his staff to conduct continuing review of the implementation of directives within the Department or agency concerned, to insure that no information is withheld here under which the people of the United States have a right to know * * * and will insure that the information is properly safeguarded in conformity therewith."

Is there anyone in the Justice Department charged with the responsibility of a continuing review of the classification used by that Department?

Mr. REHNQUIST. I think that Mr. Nelson in the Internal Security Division is the Department security officer and is the person who is primarily responsible for the administration of that provision of the order.

Mr. REID. Might I turn to page 4 of your testimony, in which you refer to a case, *Reynolds* v. *United States:*

"The right of the Executive to withhold certain types of information from the other coordinated branches has been equally well recognized."

As I read your comment there, you are talking about the right of the Executive to withhold information. And the Court held in that case, as I understand it—the Supreme Court held in *United States* v. *Reynolds*—that such claims are not conclusive, the Court saying:

"The Court itself must determine whether it is appropriate for the claim of privilege."

In other words, the Court in the case which you cited held that that was not the ultimate determination of the Executive, but that the Court ought to see whether the Executive had properly interpreted and exercised the rights that he might have in that regard.

Mr. REHNQUIST. I wouldn't read any of that language from *Reyonlds* quite that way, Mr. Reid. I have read it as meaning that the general area must be an appropriate one for the claim of executive privilege, not that the Court would itself review and determine for itself whether the thing was properly classified.

* * * * *

Mr. MOSS. Let me ask about the power of the court to enforce this against Congress. Let's go to another area. Supposing we keep a considerable body of information classified within the Executive Department and the Congress becomes impatient to get over the red-tape involved in getting access to this, and is faced with the clear fact that it has lost confidence in the objectivity of the executive in classifying information. Couldn't the Congress, by conditioning appropriation, deny any funds for the custody, use, and preservations of such records within the executive department?

Mr. REHNQUIST. I think the appropriations power is so extensive that very, very likely, Congress should include some such provision.

Mr. MOSS. Now, that is why I refer to this as a gray area. At no point in our history have we ever gone to the mat to test the final power, but I would like to illustrate that the Congress does have, of all the branches of government, it can withhold funds from the courts. It has the power of impeachment. It has powers given to neither of the other branches.

If there is a doctrine inherent in the Constitution, we in the Congress have the doctrine of oversight. We exercise the residual powers of the people, unless they expressly exercise them.

Mr. REHNQUIST. Well, I have some trouble with the idea that the Congress has a sort of residual power from the people and the President has none.

Mr. MOSS. I would think so. I realize this is very broad and far-fetched, but we seem to be dealing in a lot of that in asserting a very broad executive privilege which, stripped of all of its trappings, and in the final analysis, the President alone determines the national interest and what the Congress can have, and I don't buy that.

I think there is a concurrent authority for the Congress, if it wants to be as insistent as the Executive, to compel the production of the information it seeks. Would you challenge that?

Mr. REHNQUIST. Do you mean a concurrent authority which would overrule a legitimate claim of executive privilege?

Mr. MOSS. I don't know what a legitimate claim of executive privilege is. I know what we finally accommodated to. This committee, working with President Nixon, as with his two immediate predecessors in office, has arrived at a narrowed basis of accommodation of executive privilege, as asserted by the Executive. It is not implied that the committee recognizes that there is a valid claim, but within the scope of that claim there is a means of accommodating; isn't that correct?

Mr. REHNQUIST. Yes; I think so.

Mr. MOSS. Certainly, if the Congress were to enact a statute which spelled out a system of classification and specified that be the only system of classification, that would dominate, or do away with the classification under Executive Order 10501, wouldn't it?

Mr. REHNQUIST. Yes; I think Congress could supersede Executive Order 10501 so long as it didn't infringe on the constitutional prerogatives of the President.

Mr. MOSS. Well, the President has a very real constitutional responsibility imposed upon him to take care that the laws are faithfully executed, and if that was a law he would have just as much of a mandate to take care that it did be faithfully executed as he would to enforce the Internal Revenue laws, wouldn't he?

Mr. REHNQUIST. Unless he felt the law were unconstitutional.

Mr. MOSS. You mean he is going to act as a separate Supreme Court and determine that a law is unconstitutional? Wouldn't he follow the processes of law to determine whether or not that law was unconstitutional?

Mr. REHNQUIST. Well, I think the processes of law in that case would be to somehow submit the matter to the courts.

Mr. MOSS. That is correct. You would go to the courts, not the President. And he wouldn't make that unilaterally and have that binding on anyone, would he?

Mr. REHNQUIST. No.

Mr. MOSS. Then he would be bound to take care, unless and until the courts determined that the law exceeded the constitutional authorities of the Congress?

Mr. REHNQUIST. I don't believe necessarily that in the interim he would be obligated in the manner you indicate. I think he would have a right to take appropriate steps to have the law tested.

Mr. MOSS. Of course he would have a right to test it. I wouldn't question that. That is the system of Government by law that I believe is certainly inherent in the Constitution.

Mr. REHNQUIST. I do, too.

Mr. MOSS. That is why I say he would not unilaterally move to achieve this objective. He would do it through the courts, and it would become unconstitutional only if the courts concur with his contention; isn't that correct?

Mr. REHNQUIST. Certainly.

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Mr. ERLENBORN. Thank you.

In that case then, Mr. Chairman, I will proceed.

Mr. Rehnquist, I want to thank you for your appearance and your testimony. If I ask any questions that you feel get into areas of the litigation, please feel free to so comment.

I would like to ask you what I consider to be a rather broad background question.

First of all, there is the question of freedom of the press that is quite current today. Not referring to this litigation, but to the general principle, is freedom of the press complete and absolute or are there limitations, as the court has already found there are limitations on freedom of speech?

Mr. REHNQUIST. Well, I can certainly give you my interpretation from reading that I have done in the field. Certainly the *Near* case, headed some 40 years ago, indicates that there are some limitations to freedom of the press.

Mr. ERLENBORN. The question then I think becomes to whom does freedom of the press extend? Is this a right to be exercised by the so-called working press, or is it a right that exists in the people?

Mr. REHNQUIST. I think under our Constitution legally it extends to the working press, but I think in a philosophical sense it exists to benefit not the working press but to benefit the public at large.

Mr. ERLENBORN. So if you do attribute this to the working press, then we have some unresolved questions as to how you define the working press. I have always wondered when the press used that term "working," who they had in mind as "nonworking press." But beyond that, would you think that the underground newspaper mimeographed on the college campus comes within that classification, or would I as an individual using a Xerox machine come within that classification?

Mr. REHNQUIST. I think the question, though it is difficult to answer in the terms you pose it, is perhaps more easily answerable if you consider that the freedom of speech is protected in the same way as freedom of the press, and I can't imagine any idea or piece of news or statement of opinion however put forth, that wouldn't be protected either by freedom of the press or freedom of speech.

That is not to say that either one is absolute, but I think the mechanics by which it is expressed are not controlling.

Mr. ERLENBORN. You are saying, I take it, that they are somewhat extensive viewed in the same light and are subject to the same limitations. In other words, those things that you should not be able to express through freedom of speech because that area is circumscribed would also be circumscribed under the freedom of the press? Would that be a legitimate conclusion?

Mr. REHNQUIST. I wouldn't want to be held to it precisely. I think there are intimations in some Supreme Court cases that a type of inflammatory oratory in a large group, such as being in effect told, "Let's go burn that building across the street down," might not be subject to the protections of the first amendment, whereas a more abstract pamphlet of the same nature might be.

That may not be a good example, but I do think there are some distinctions.

Mr. ERLENBORN. Now to get the question of what limitations can be exercised. We hear the phrase, "prior restraint" relative to the first amendment and freedom of the press.

Is the Government system of classification of documents in itself sort of prior restraint?

Mr. REHNQUIST. Not in my opinion. I think prior restraint in the sense it is used in talking about the constitutional right of the press means a restraint on the press to print information which is already in its hands and does not extend, at least in the same broad scope, to the right of the press to obtain information which is not presently in its hands.

Mr. ERLENBORN. Prior restraint then might be limited to a judicial restraint?

Mr. REHNQUIST. I think that is the only restraint of that sort that could exist in this country.

N. Excerpts from testimony at hearings on Executive impoundment of appropriated funds, before the Senate Subcommittee on Separation of Powers (1971).

Mr. REHNQUIST.

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But this, I think, is not the kind of question that presents difficulty. The question is where either Congress is not clear in the intent with which it writes a statute, or in the case where that Congress is crystal clear—take the language that Congressman Vinson from Georgia sought to introduce into the military appropriations bill for fiscal 1963, that the Defense Department, in effect, is directed, mandated—and uses all the mandatory words possible. Surely in the latter case there is no question as to what the intent of Congress is. Then the question becomes one of whether, given a mandatory intent on the part of Congress, the Executive has a right to impound.

In the question of trying to find a mandatory intent on the part of Congress, it is not a question of looking for the word "shall" as opposed to "may." Our office, in the memo that was published in the Congressional Record in December 1969, concluded that in providing for certain formula grants for schools—I think it was impacted aid, but I am not sure—Congress had indicated that these were to be spent, not necessarily because it said they shall be spent, but just from taking the overall language of the authorization bill, the enabling statute if there was one in the particular appropriations language, and construing them together to try to find on a reasonable basis what intent Congress manifested.

Well, when it comes to the action of the Executive in these situations, I take it that it is conceded that the President, as I believe Mr. Weinberger suggested yesterday, must consider all the laws in determining whether or not spending is mandated in a particular case. That is not to say that Congress could not pass a law saying notwithstanding the provisions of any other law. I think that is the way that the Arizona Legislature used to draft at least half its laws. I do not think it is a happy form of draftsmanship, but presumably, Congress could, if it wanted to, exempt from the provisions of all other laws a particular appropriation. I think many would feel that was not a wise action, but there is no doubt of Congress' power to do it. But in the absence of language of that sort, you have the provisions of the Anti-deficiency Act, the provisions of the Debt Ceiling Act, and, conceivably, other laws likewise would be relevant in trying to determine from all the circumstances what was the intent of Congress with respect to this particular piece of appropriations legislation.

If, on the basis of consideration of all the laws, the conclusion is that the intent of Congress was to mandate the spending, then our office has taken the position, in the memorandum I previously referred to, that the President is not at liberty to impound in the case of domestic affairs which have no national defense or foreign policy considerations. This is not the position of the Department of Justice. The Department of Justice, through the Attorney General, has taken no position on the matter and it is not the position of the administration. I think the administration, as such, as an institution, has not taken any position on the matter. But that, nonetheless, was and is the position of our office under the particular circumstances there.

But if one gets into the area of national defense spending, I think from the debates in the fiscal 1963 Military Appropriations Act, it is clear that more than one Senator expressed the view that the President had authority in the area of national defense, by virtue of his constitutional standing as Commander in Chief, which might permit him to withhold in that area where he could not have in the strictly domestic area. In fact, I would go further and say that certainly Members of Congress from time to time have taken the view that Congress can't force the President to spend money of any sort. Congressman Laird, before he became Secretary of Defense, and Congressman Flood from Pennsylvania, during debates in Congress in October of 1968, both expressed that view.

So when I say the Office of Legal Counsel has taken the position that the President must spend in the domestic area when it is clearly mandated that he do so, I recognize that there are views to the contrary and that this is not an easy question or one that admits of no argument on the other side.

In the foreign affairs field, also, there is probably an exception, though it is not anything one would want to opine on until he had a problem before him. But given the foreign affairs power of the President and a case like the *Curtiss Wright* case, which certainly indicates that the President's power in that area is quite different from the domestic field, I think a different conclusion could well be reached.

I think that Thomas Jefferson, when he was President, objected to Congress appropriating money to pay specific salaries to his ambassadors. His view was that Congress, under the doctrine of separation of powers, ought to appropriate a lump sum for the payment of ambassadors and he would decide who got what. That battle was never renewed, so far as I know, and I think it was resolved in favor of congressional specification. But it is some indication of the fact that people right there at the founding of the country, someone like Jefferson, felt that foreign affairs powers were quite different than the power of the President in domestic affairs.

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Professor JOHNSON. What recourse does the Congress have if the President does impound funds despite a mandatory appropriation?

Mr. REHNQUIST. That is not an easy question to answer. I think Congress, as such, probably does not have judicial recourse. Whatever recourse it is has a political one. If the act of Congress is sufficiently clear that identifiable beneficiaries were intended to get the funds, that those beneficiaries may have some sort of legal action to compel the allocating of the funds to them I think has to be regarded as a debatable question. I think 20 years ago, one would have said there simply is not that right in any beneficiaries, but with the expansion of the doctrine of standing, I think you cannot be quite so confident of it now.

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Professor STOLZ. Assuming that the Department is prepared to approve this bill, do you see any objection to broadening it to include the Comptroller General instituting an action to prevent an illegal impoundment?

Mr. REHNQUIST. I can see a good deal of objection from the point of view of the Executive. Traditionally, there has been rivalry between the Comptroller General and the Attorney General. By the way that things are set up, the Comptroller General is basically an agent of Congress and the Attorney General is an agent of the Executive. And every time you confer additional authority on the Comptroller General, you are subtracting something from the executive branch. I am sure the executive branch would not take the position that you must never subtract anything. But I think it would want to look very carefully at what was being subtracted.

Professor STOLZ. Well, I suppose that the theory behind this measure is an alternative to what the chairman was talking about as a way of resolving these disputes as they come up, a somewhat more legitimate, polite way than the internecine use of political clout.

Is there any real objection—if that is the theory of it and the Department is preparing to accept it with respect to illegal expenditure—is there any reason why they should not be prepared to accept it with respect to illegal nonexpenditures?

Mr. REHNQUIST. I think the separations are distinguishable. I think the claim of the Comptroller General to get in at the beginning of a dispute over whether money should be expended, where he contends that it can be expended, is a logical extension of his power to audit accounts, which is the basic power conferred on him under the Budgeting and Accounting Act of 1921, whereas I think nothing in his power to audit accounts suggests to the same extent that he have the authority to force expenditures. I mean, if you do not spend money that you ought to spend, presumably, your accounts are not going to be surcharged.

Professor STOLZ. That is true, they are not going to be surcharged, but it is at least possible that it is just as illegal not to spend money as it is to spend it improperly.

Mr. REHNQUIST. I suppose, speaking in the abstract, that it could be. In theory, one might be obligated to spend just as surely as he is obligated not to spend.

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Professor BICKEL. Maybe Congress did not choose to make that a case. But it seems to me a different case from what is now the very broad area of foreign relations, where all kinds of monies are appropriated for all kinds of purposes, and if that whole area is put in a special position, this is a rather slender foundation to rest that argument on.

Passing on to the war power, I am even more puzzled. It is difficult for me to see why, as Commander in Chief, with his independent powers to command the Army and the Navy and the Air Force, why that means that if Congress appropriates money for 50 bombers and he decides he does not need 50 bombers, even though Congress appropriates it in mandatory fashion, which is the only real case we are talking about, he can override it. Whereas in what seems to me an even more crucial case, from the point of view of the Commander in Chief function, if Congress fails to appropriate money for the 50 bombers and he figures he needs them, he cannot generate the money and spend it. Either way, it seems to me the Commander in Chief is subject to the will of Congress. He commands whatever the Congress provides or fails to provide.

Mr. REHNQUIST. You have a specific thing in the Constitution that no money shall be withdrawn from the Treasury unless appropriated by Congress. Certainly a more general power such as the power of the Commander in Chief would not be construed, I should not think, to override that. But you do not have the same categorical direction at all in the Constitution as to whether the President must spend where Congress has appropriated. That is much more doubtful.

Professor BICKEL. One wonders about that. That brings us to the basic constitutional position. But one wonders whether the power of Congress to make laws, which is stated, of course, in substantive terms and implies the power to spend the money that is appropriated and appropriate the money necessary to carry out such purposes. The very distinctly stated duty of the President to execute laws, just as distinct as the prohibition against spending money that is not appropriated by law, referring it back to section 8 of article 1 for the affirmative power of the Congress—the distinct duty of the President to execute the law is just as distinct as the prohibition against spending unappropriated money. One wonders why that does not mean that he is to carry out the laws of the Congress. When Congress says spend $50 million, he spends $50 million, because that is not just—because behind that is always, in the constitutional scheme, a substantive policy, which is the law. That is really the law which he is supposed to carry out in substantive policy.

Now, you know, in modern times, problems have arisen and a practice has arisen that indicates that that is not enough. Those simplicities are not enough. Problems arise after the money has been appropriated and some mind has to be applied to them and a judgment has to be made. And it is that practice that we are here dealing with. But the original constitutional position seems to me to go across the board and to be all in favor of Congress.

Mr. REHNQUIST. Well, to say that because the President is required to take care that the laws be faithfully executed, that he simply has a ministerial duty to carry out whatever law Congress has passed regardless of the fact, say, that it may, in his opinion, and quite justifiably, infringe on some constitutional prerogatives of his, is not an idea you would subscribe to.

Professor BICKEL. No, I certainly would not. Nor did I suggest that.

Mr. REHNQUIST. But you are saying that the authority to take care that the laws be faithfully, or his direction to take care that the laws be faithfully, executed is by itself some sort of direction to him to simply carry out the will of Congress without regard to—

Professor BICKEL. Certainly; it is the only foundation upon which one can argue that when Congress passes a statute establishing Social Security Administration and medicare or something, and says, this is the policy and this is how we want people taken care of—the only foundation for saying that the President, after having vetoed the law—well, take a specific example. Congress passes the Internal Security Act of 1952, or the Taft-Hartley Act, and the President vetoes it and Congress overrides his veto. The only foundation for saying that the President can't impound that policy is that the Constitution says he is charged with taking care that the law is executed. Now, that does not mean he does not have any discretion, he does have an Executive function, nor does it mean that Congress can override the Executive function. They cannot come in and tell him how to execute it or monitor his directives to his subordinates. As you say in one opinion, Congress can't come in between the President and the Commissioner of Education. It can't speak to the Commissioner of Education over the President's head. It can't, in other words, shortcut the Executive function. But it sets the policy. That is what is meant by law and the position is that the President has to carry it out or Executive discretion reaches farther than I am sure you would argue that it ought to reach.

So my problem is that I have difficulty seeing where the power of the Commander in Chief or the power of foreign relations as such cuts into this general scheme and allows for the argument that whereas a mandatory appropriation in the domestic field would have to be obeyed, a mandatory appropriation to buy tanks or to hand over $50 million to Israel or Saudi Arabia does not have to be obeyed.

Mr. REHNQUIST. Well, I think it gets difficult to probably make an impression on one or the other in the abstract. I do think it is clear beyond dispute that, for instance, a number of Senators during the 1963 debate made a point that the power of Congress to compel spending in the national defense area, where you are talking about whether you are going to have additional planes or not, is not the same as its authority in the domestic field. And I suspect that I could cite examples from either the foreign affairs field or from the defense field where Congress can't compel the President to act, whether it be spending money or otherwise, to the same extent it can in the domestic field.

Now, given that difference——

Professor BICKEL. If I may interrupt, Mr. Rehnquist, I would dispute that except as you come to very specific functions that can be defined as those of the Commander in Chief, just as very specific functions can be defined as those of an Executive which the separation of powers prevent Congress from taking over. Congress can't tell you who should command a regiment, who should command a division. It can't tell you how to command those troops tectically or, if you will, strategically. But I do not follow that this has a sort of vague, continually outgoing reach. It has been the fashion since World War II, I think, to regard the foreign affairs and war power as sort of interminable vistas that reach out into an undefinable future and I think one of the salutary things about the day we are living in now is that people are reexamining that and reexamining the rather vague, general, and indiscriminate statements of the past that of course, the Commander in Chief, or of course, the President is in charge of foreign relations, and he can do virtually anything.

Mr. REHNQUIST. I fully agree with you.

Professor BICKEL. Maybe we had better stop right there.

Mr. REHNQUIST. Maybe we had.

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Mr. REHNQUIST. Senator, certainly so far as the power of the purse being the power to insist that money be appropriated before it is spent, I do not have the slightest doubt and I take it that no one who has studied the matter would. I think it is a more difficult question when you start talking about the power to compel money to be spent.

Let me, if I might, pose an example that would certainly trouble me and I would hope it would trouble those who are partisans of the other view. Supposing Congress appropriates a million dollars and says it has to be spent to equip all the people in regiment "A" with blue uniforms and the President decides he does not want blue uniforms on regiment "A." Now, I think, clearly within his power as Commander in Chief, he has a right to prescribe the mode of dress of that regiment. Can he be compelled to spend that money even though he is perfectly free under the Constitution to refuse to use the proceeds of it?

Senator ERVIN. I respectfully disagree with you, because I think the power to make rules for the Government and regulation of the land and navy forces includes the power to say what kind of uniforms they should wear if Congress should so specify. I think the President is authorized to direct their fighting and authorized to direct them when they are called out to suppress insurrections. I think that is the power of the Commander in Chief, but not to determine whether their uniform shall be blue or some other color.

Professor BICKEL. It seems to be something going more to the heart of the function of the commander is discipline, is it not? Yet the Constitution happens to provide on that subject. It is Congress which decides that a breach of discipline gets tried by a jury of a man's peers or gets tried by six majors and one colonel or what the penalty for it is or whatever. Because Congress is given that power specifically by the Constitution. I think all that is reserved is what you can define as the power to command and what is left of the power of command after you carve out the things that belong to Congress.

Mr. REHNQUIST. I do not agree with the view that power to make regulations governing land and naval forces would go as far as you suggest.

Professor BICKEL. You do not agree?

Mr. REHNQUIST. No.

Professor BICKEL. If it is enacted by Congress, the President could not decide not to enforce it.

Mr. REHNQUIST. I would suggest as far as the Congress suggested it, it would go.

Professor BICKEL. If you are living under a constitution where Congress can say what the means are for enforcing discipline on your troops, you have swallowed the camel. That certainly should enable you to swallow the gnat of Congress also saying what kind of uniforms they ought to wear.

Mr. REHNQUIST. No, I do not think that follows. I think it is two different kinds of things.

Professor BICKEL. A camel and a gnat.

Mr. REHNQUIST. I do not agree that they are so different in size.

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Professor MILLER. I ask Mr. Rehnquist what he sees in the inherent Executive power of the Commander in Chief and foreign affairs? Do you find any limits at all that you can perceive, Mr. Rehnquist?

Mr. REHNQUIST. I would not speak of it as inherent Executive power.

Professor MILLER. Excuse me. Then where does it come from?

Mr. REHNQUIST. The power of the Commander in Chief and the foreign affairs power that is impliedly conferred by the Constitution, is certainly recognized in the *Curtiss-Wright* case.

Professor MILLER. As a matter of technical law, Mr. Rehnquist, what Mr. Justice Sutherland said in that case was dicta, was it not, not necessary to the case itself? You are relying on a pretty flimsy straw when you rely on *Curtiss-Wright*. I know it is about all you have.

Mr. REHNQUIST. Well, we have a nearly unanimous opinion written by Sutherland, and concurred in by Brandeis and Cardozo. I would not regard that as flimsy.

PROFESSOR MILLER. I mean the language about the delegation of the power to the Executive. What the *Curtiss-Wright* case, in effect says, is that the National Government has all the powers of any sovereign, despite the Constitution's basic theory that the National Government is one of limited delegated power. That is the import, it seems to me, of the *Curtiss-Wright* case. It does not really go to the question of the division of powers between the President and Congress and to rely on it for presidential power seems to me is going far beyond what the court said.

Mr. REHNQUIST. It may be carrying it beyond what was necessary for the holding of the case, but the Court speaks in terms of the President, not of the National Government when it is talking about the foreign affairs power.

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Professor MILLER. Let's jut stay with the expression of the Senate, at least, that there should be no ground troops in Cambodia or Laos.

Professor WINTER. For any purpose?

Professor MILLER. All right. I am just asking whether or not the Commander in Chief power would go as far as thought desirable?

You are putting forth the theory of Executive power which has a good deal of political theory behind it, of course. The English term for it is "reason of state." There are certain areas where the President does have a sort of inherent power where he can act, without regard to law or without regard to anything else. I am asking whether you think in that context, whether you believe, could the President flout or ignore what Congress wants and quietly say, "I am going to send troops in anyway?"

Mr. REHNQUIST. Giving the widest latitude to the discussion format that the chairman has set up, which I appreciate and think is very valuable, I nonetheless think that as an officer of the administration, it would be inappropriate for me to express a view on something that particular and specific in a format like this. Let me try in another way to answer the question.

Supposing instead of the Cooper-Church amendment, the Congress had passed a law or a resolution saying that in no circumstance should another assault be made on "Hamburger Hill." To me, that would be a rather clear invasion of the President's power as Commander in Chief.

Professor MILLER. Why is it clear? To be clear, you have to have standards to judge by. All I am asking for are the standards. Where do you find them and who sets them out or do you set them out in each case that comes along?

Mr. REHNQUIST. I think that you try to find them from historical precedents, from what was meant by the Framers at the time they gave the Commander in Chief power to the President, and from reasoning from other provisions of the Constitution. It is the most difficult area of all of the Constitution, I think, because it is amorphous. But I think it was designed by the framers to be amorphous and we just have to wrestle with it the best we can.

O. Exchange of Correspondence Between William Rehnquist, Assistant Attorney General and Edward M. Kennedy, a Senator from Massachusetts Concerning Pocket Vetoes (1970).

WASHINGTON, D.C.,
December 29, 1970.

Hon. JOHN N. MITCHELL,
Attorney General, Department of Justice, Washington, D.C.

DEAR MR. ATTORNEY GENERAL: As you know, on December 26 it was announced that the President would not sign S. 3418, the "Family Practice of Medicine Act," and that the bill would therefore be subject to a "pocket veto," under which Congress would have no opportunity to reconsider the legislation in light of the President's objections.

Whatever the merits of this particular bill—and I strongly supported it in the Senate—the President's action raises extremely serious questions that far transcend the bill itself and that go to the heart of the distribution of power under the Constitution between Congress and the Executive Branch with respect to the enactment of Federal legislation. Surely, contrary sporadic practice notwithstanding, the Pocket Veto provision of the Constitution—Article I, Section 7, Clause 2—was intended to apply only in circumstances involving an adjournment *sine die* at the end of a Congress or at the end of a session of Congress, and was not intended to apply to brief adjournments of Congress during a session such as the recent Christmas period. This is all that the leading decisions of the Supreme Court appear to have held. See *Wright* v. *United States*, 302 U.S. 583 (1938); *Pocket Veto Case*, 279 U.S. 655 (1929). Indeed, in *Wright* v. *United States*, the Supreme Court expressly suggested that the Pocket Veto provision might not be applicable in a case involving a brief adjournment within a session.

In light of the discrepancy between the theory and practice involving the Pocket Veto provision, I would be grateful to receive a clarification of the Administration's position on this issue.

Sincerely,

EDWARD M. KENNEDY.

DEPARTMENT OF JUSTICE,
Washington, D.C., December 30, 1970.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: The Attorney General has asked me to reply to your letter to him of December 29 relating to the pocket veto of S. 3418, inasmuch as I had given the advice to the White House that under the circumstances a pocket veto by the President would be appropriate.

In your letter you state that the pocket veto "was intended to apply only in circumstances involving an adjournment *sine die* at the end of a Congress or at the end of a session of Congress, and was not intended to apply to brief adjournments of Congress during a session such as the recent Christmas period. You also state that "in *Wright* v. *United States*, the Supreme Court expressly suggested that the pocket veto provision might not be applicable in a case involving a brief adjournment within a session." Suggesting a "discrepancy between the theory and practice involving the pocket veto provision", you have requested a clarification of the Administration's position on this issue.

The position of this Administration on the "pocket veto" issue is, as nearly as I can determine, entirely consistent with that of preceding Administrations which have considered the question. The two decided Supreme Court, cases, both of which are cited in your letter, have, with one exception, pretty well marked out the boundaries of the pocket veto power, and in my opinion the President's exercise of that power in declining to sign S. 3418 conforms both to these judicial precedents and to the consistent practice of other Presidents during the last quarter century.

The Pocket Veto Case, 279 U.S. 655 (1929), decided by a unanimous Court, seems to me to have expressly rejected your contention that the pocket veto provision was intended to apply only in circumstances involving an adjournment *sine die* at the end of a Congress or at the end of a session of Congress. Although the adjournment of Congress there involved was for a period of several months, it was neither an adjournment at the end of the session nor at the end of the Congress, since the Senate adjourned on July 3rd until November 10th, while the House adjourned on July 3rd *sine die*. Notwithstanding the difference in length of time of adjournment between that case and the situation respecting S. 3418, the Court in the *Pocket Veto Case* was required to interpret the following language from the constitutional provision authorizing the "pocket veto": ". . . if any bill shall not be returned by the President within 10 days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress by their adjournment prevent its return, in which case it shall not be a law." (Art. I § 7, United States Constitution.)

The bill which was pocket-vetoed by President Coolidge in the *Pocket Veto Case* had been presented to him on June 24, 1926, and the adjournment of Congress took place on July 3rd. The Court said:

"The specific question here presented is whether, within the meaning of the last sentence—which we have italicized—Congress by the adjournment on July 3rd prevented the President from returning the bill within ten days, Sundays excepted, after it had been presented to him. If the adjournment did not prevent him from returning the bill within the prescribed time, it became a law without his signature; but, if the adjournment prevented him from doing it, it did not become a law. This is unquestioned." 279 U.S. at 674.

The Court went on to say that the term "adjournment" as used in the constitutional provision authorizing pocket vetoes did not refer only to the final adjournment of Congress. It pointed out in support of this conclusion that the word "adjournment" is used both in section 5 of Article I in reference to the power of a smaller number than the majority of each House to "adjourn" from day to day, and in the fourth clause of the same article, in reference to the prohibition that neither House during the session of Congress shall, without the consent of the other, "adjourn" for more than three days.

The Court then stated:

"We think that under the constitutional provision that the determinative question in reference to an 'adjournment' is not whether it is a final adjournment of Congress or an interim adjournment, such as an adjournment of the first session, but whether it is one that 'prevents' the President from returning the bill to the House in which it originated within the time allowed. It is clear, and as we understand it, it is not questioned, that since the President may return a bill at any time within the allotted period, he is prevented from returning it within the meaning of the constitutional provision, if by reason of the adjournment it is impossible for him to return it to the House in which it originated on the last day of that period." 279 U.S. at 680.

The Court then concluded that since Congress had adjourned prior to the expiration of the ten day period given President Coolidge by the Constitution in which to decide whether or not to veto the particular bill there involved, the pocket veto provision became operative. It seems clear to me that the Court's decision did not turn on the length of the adjournment, any more than on its finality, but that it turned instead on the fact that the adjournment commenced within the ten day period allotted to the President by the Constitution to decide whether or not to veto the measure in question.[1]

The most recent formal expression on the pocket veto provision appears in the opinion of Attorney General Biddle of July 16, 1943, 40 Op. A.G. 274. The Attorney General after reviewing the cases and the historical practice, advised President Roosevelt that an adjournment of Congress within a session was an occasion for a pocket veto.

In the memorandum on the same subject transmitted to the White House in November, 1968 by my predecessor in this office, the precedents then existing were summarized in this language:

"The experience of the past quarter of the century discloses the following practice. If the tenth day (Sundays excluded) after the presentation of the bill fell into a period in which neither House was in session, Presidents uniformly exercised their pocket veto power, even if the period of adjournment were short, or if Congress reconvened on the day following expiration of the constitutional period."

The following instances were relied upon in support of this statement:

(1) In the spring of 1944, the Congress adjourned from April 1st to April 12th. A private bill had been presented to the President on March 30, 1944, 90 Cong. Rec. 3380. The tenth day (Sundays excepted) following the day of presentation was April 11, 1944, i.e., the day preceding the reconvening of the Congress. On that day, President Roosevelt signed a memorandum of disapproval. The bill was considered to have been pocket-vetoed. 90 Cong. Rec. 3408.

(2) In the spring of 1956, both Houses of Congress adjourned from March 29th to April 9th. A private bill had been presented to the President on March 22nd, and the tenth day following the day of presentation was therefore April 3, 1956. President Eisenhower withheld his approval from the bill, and it was considered to have been thereby pocket-vetoed as of April 3, 1956. 108 Cong. Rec. Index 732.

(3) In the summer of 1964, both Houses of Congress adjourned from August 21 to August 31 during the Democratic presidential nominating convention. A private bill had been presented to the President on August 14, 1964, and the tenth day following the day of presentation was August 26, 1964. President Johnson signed a memorandum of disapproval on August 24, 1964, which was communicated to the House of Representatives on September 2, 1964. 110 Cong. Rec. 21409.

Most recently, in the summer of 1968, President Johnson pocket-vetoed a bill relating to cotton importation during an adjournment of both Houses of Congress of approximately one month. 4 Weekly Comp. Pres. Docs. 1222.

Similar precedents may be found going back a good deal further than the quarter century period covered in the memorandum described above. Those which occurred prior to 1928 are collected in House Doc. No. 493. 70th Cong. 2d Sess. They include pocket vetoes during Christmas adjournment of Congress by Presidents Andrew Johnson, Benjamin Harrison, and Grover Cleveland.

In *Wright* v. *United States*, 302 U.S. 583 (1938), a majority of the Court held that where only one House had adjourned, and the adjournment of that House was for a period of only three days, "Congress" as that term is used in the constitutional provision authorizing pocket vetoes, had not adjourned, and therefore a pocket veto was not available to the President in that situation. The Court's majority declined to speculate on the result if one House had adjourned for more than three days.[2]

The Court in *Wright* summarized its ruling in these words:

"We hold that where the Congress has not adjourned and the House in which the bill originated is in recess for not more than three days under the constitutional permission while Congress is in session, the bill does not become a law if the President has delivered the bill with his objections to the appropriate officer of that House within the prescribed ten days and the Congress does not pass the bill over his objections by the requisite votes." 302 U.S. at 598.

In the situation confronting President Nixon with respect to his disapproval of S. 3418, both Houses of Congress had adjourned for a period of longer than three days—the Senate from December 22nd to December 28th, and the House from December 22nd to December 29th—and by their adjournment had prevented the President from having the full ten day period allotted him under the Constitution to decide whether or not to veto in the ordinary manner the bill in question. In my opinion, therefore, on these facts the general rule of the *Pocket Veto Case*, rather than the exception to that general rule carved out in the *Wright* case, governed, and the President was not only authorized to exercise a pocket veto, but if he wished to disapprove it at all, he very probably had no choice as to the form of veto.

You state in your letter that the President's action raises extremely serious questions that far transcend the bill itself and go to the "heart of the distribution of power under the Constitution between the Congress and the Executive branch with respect to the enactment of federal legislation". While I believe that the President was on very firm legal ground in taking the action he did, there is no doubt that the use of the pocket veto power has been a bone of contention between the President and the Congress throughout the years. Indeed, the *Pocket Veto Case, supra,* apparently resulted from an effort on the part of the House of Representatives to repudiate the traditional interpretation of the pocket veto clause—by then more than a century old—and to limit the exercise of that form of veto to the final adjournment of Congress. This effort on the part of the House was, of course, unsuccessful. Again in 1940, Congress passed a bill, H.R. 3233, 76th Congress, which purported to repeal as of the date of their "enactment" all bills and joint resolutions which prior to the beginning of the 76th Congress had been pocket-vetoed, during an adjournment of the Congress other than a final adjournment. President Roosevelt vetoed the bill on the ground that it was inconsistent with the constitutional practices going back to President Adams, as well as with the Supreme Court's interpretation of the Constitution in the *Pocket Veto Case*, 88 Cong. Rec. 8024. The veto was sustained.

Thus, while the Administration's position with respect to presidential use of the pocket veto provision is largely at odds with the position taken in your letter, I believe it is consistent both with the decided cases and with quite well established historical practice.

Yours very truly,
WILLIAM H. REHNQUIST,
Assistant Attorney General, Office of Legal Counsel.

P. Article by William Rehnquist, "The Making of a Supreme Court Justice," Harvard Law Record October 8, 1959.

THE MAKING OF A SUPREME COURT JUSTICE

(By William H. Rehnquist)

(NOTE.—This article was written shortly before Mr. Justice Stewart was named to the Supreme Court. It was delayed by the editors, pending his confirmation by the Senate.)

The Supreme Court of the United States is now in the midst of one of the storms of criticism which have periodically assailed it. Bills have been introduced in Congress to limit the jurisdiction of the high court, to overrule some of its controversial non-constitutional decisions, and to declare the sentiment of the Senate as to the necessity of judicial background on the part of a nominee to the Court. It has been urged that the "advice" of Senate be sought by the President before any nomination to the Court is made.

Criticism of the Supreme Court can easily become frustrating to the critics, because the individual justices are not accountable in any formal sense to even the strongest current of public opinion. Nonetheless, it ill behooves the critics of the present Court to seek imposition of new curbs on it until such controls as now exist are fully tested and found wanting.

Specifically, until the Senate restores its practice of thoroughly informing itself on the judicial philosophy of a Supreme Court nominee before voting to confirm him, it will have a hard time convincing doubters that it could make effective use of any additional part in the selection process.

As of this writing, the most recent Supreme Court Justice to be confirmed by the Senate was Charles Evans Whittaker. Examination of the Congressional Record for debate relating to his confirmation reveals a startling dearth of inquiry or even concern over the views of the new Justice on constitutional interpretation. Mr. Justice Whittaker was nominated by President Eisenhower in

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[1] The Court in that case also said (though the statement does not appear to have been necessary to its holding) that even though one or both Houses of Congress were to authorize an agent to receive messages from the President, "the delivery of the bill to such officer or agent . . . would not comply with the constitutional mandate." 279 U.S. at 684. While *dicta* is not entitled to the same weight as is a holding, the fact that the language is subscribed to by a unanimous Supreme Court, and the fact that it is found in one of the only two cases from that Court dealing with the question, make it the best available authority on the point.

[2] The Court majority in *Wright* rejected the argument that because the originating House was the one which had adjourned for three days, the President was prevented from returning the bill within the meaning of the constitutional language. While some of its reasoning, in so doing, if lifted out of context, could be said to undercut the reasoning in the *Pocket Veto Case*, the fact that the *Wright Court* reserved the question of the effect of an adjournment of even one House alone for more than three days would indicate that its language is to be confined to the fact situation there presented.

March, 1957. *Brown* v. *Board of Education* (the Segregation Cases), 347 U.S. 483, had been decided three years before, and implementing decisions had been handed down in the interim. *Slochower* v. *Board of Higher Education,* 350 U.S. 551, where the Court held by a vote of 5–4 that the New York School Board could not fire a teacher for the reason that he had invoked the Fifth Amendment before a Congressional Committee, had been decided less than a year before. At the moment of Whittaker's nomination, the services of cases involving the rights of Communists to be admitted to practice law in a state and to refuse to answer questions put to them by legislative investigating committees was pending on the docket of the Supreme Court,[1] of antisocial activities.

If any interest in the views of Mr. Justice Whittaker on these cases was manifested by the members of the Senate, it was done either in the cloakroom or in the meeting of the Judiciary Committee. The discussion of the new Justice on the floor of the Senate succeeded in adducing only the following facts: (a) proceeds from skunk trapping in rural Kansas assisted him in obtaining his early education; (b) he was both fair and able in his decisions as a judge of the lower federal courts; (c) he was the first Missourian ever appointed to the Supreme Court; (d) since he had been born in Kansas but now resided in Missouri, his nomination honored two states.

Given in addition the fact that Mr. Justice Whittaker had been an eminently successful courtroom lawyer, the fact that he had been a leader in the activities of the organized bar, and the fact that he had been very highly regarded as a judge of the lower federal courts—all of which he was—the Senators could still have no indication of what Mr. Justice Whittaker thought about the Supreme Court and segregation or about the Supreme Court and Communism.

Less than thirty years before, the Senate had made no bones about its concern with the judicial philosophy of a Supreme Court nominee. Then, too, the Supreme Court was nearing the vortex of a storm—but it was a storm raised by the very groups who are claimed to be the special wards of the Warren court. State and federal laws regulating minimum wages, maximum hours, and other business practices were being struck down by the Court as violative of "freedom of contract;" a freedom which, the Court said, was embodied in the phrase "due process of law." The labor injunction, the strike as a conspiracy, and the "yellow-dog" contract were in their heyday. When, in February, 1930, President Hoover sent to the Senate the name of Circuit Judge John J. Parker to be Associate Justice of the Supreme Court, he sparked one of the most remarkable battles over a judicial nomination in the history of the upper chamber.

Objections to Parker's confirmation were at once voiced by two groups: organized labor, and the National Association for the Advancement of Colored People. Labor's objection was based on Parker's opinion, as a judge of the Circuit Court of Appeals for the Fourth Circuit, in the so-called "Red-Jacket" case.[2] His opinion for that court had upheld an injunction forbidding certain union organizers from attempting to organize a mine, and thereby induce the employees of the mine to breach their "yellow-dog" contracts. The objection of the NAACP stemmed from a campaign speech made by Parker in 1920, while running for governor of North Carolina on the Republican ticket. In this speech he had said:

"The Negro, as a class, does not desire to enter into politics. The Republican party of North Carolina does not desire him to do so. We recognize the fact that he has not yet reached the stage in his development where he can share in the burdens and responsibilities of government. This being true and every intelligent man in North Carolina knows that it is true . . . the participation of the Negro in politics is a source of danger to both races."

No very definite issue developed as to the campaign speech. It seemed agreed by most of the participants in the debate that the statements were understandable in the context of North Carolina politics, but that from a hindsight born with Parker's nomination for national office they would much better have been left unsaid.

As to the labor injunction, though, precise battle lines were drawn and the issue was debated in editorial columns, in masses of letters and telegrams to the Senate Judiciary Committee, and finally on the floor of the Senate. The most surprising fact about this great debate of 1930 was that none of the protagonists on either side doubted that the question should be: What were Parker's views on labor injunctions and yellow dog contracts? *The New York World,* in opposing Parker's confirmation, probably spoke for both sides when it said editorially on April 23, 1930:

"The Senate has every right, if it so chooses, to ask the President to maintain on the Supreme Court bench a balance between liberal and conservative opinion in the country as a whole, and every right on this premise to object that the presence of Judge Parker on the bench would increase, rather than lessen, the top heavily conservative bias of the Supreme Court as now constituted."

Most of the participants further agreed that the result reached by the Court of Appeals in the "Red-Jacket" case was undesirable; Parker's antagonists contended that he approved the result, or at least never batted an eye in reaching it, while his defenders claimed that he was bound by controlling decisions of the Supreme Court on the question, and as a judge of an intermediate appellate court had no choice but to follow them.

A few glittering generalities were hurled by each side, but to a remarkable degree editorial writers, members of the bar, and Senators engaged in a case-by-case analysis of the law as Parker found it when he had written the "Red-Jacket" opinion three years previously. The administration stood squarely behind its nominee, and Attorney General Mitchell even prepared a legal memorandum reaching the conclusion that Parker had no choice in writing the opinion that he did. On the Senate floor, the forces in favor of confirmation were nominally led by Senator Overman from the nominee's home state of North Carolina. But though Overman did a prodigious amount of work behind the scenes, he took little part in the debate on the law. The forces opposing confirmation were led by Senator William E. Borah of Idaho.

Senator Borah's principal speech began in the afternoon of one day and concluded the following day. The first part of it, before any requests to yield were made, occupies nine of the full, closely printed pages of the *Congressional Record.* Borah spoke to a question charged with emotion and public interest, and on which most of the demagogic fireworks were in the armory of his side. Yet his speech is anything but rabble rousing. Instead it is a closely reasoned, masterful exposition of the role of the Supreme Court in our system, coupled with an analysis of the precedents in an attempt to show that Parker must have reached his "Red-Jacket" result by choice, since the controlling cases did not compel it.

Almost any reply to Borah would have been anti-climactic, yet Senator Gillett of Massachusetts gave the Idahoan no quarter. He did not quarrel with the propriety of the inquiry, but he took vigorous issue with Borah's interpretation of the state of the law as Parker found it. In what appears to be an even closer reading of the cases than Borah's Gillett ably defended the proposition that Parker was doing only what the Supreme Court decisions required him to do. After extended debate, the Senate refused to confirm Parker by a vote of 41–39.

Several times during this debate Senator Borah made clear his views as to the nature and scope of the Senate's inquiry into the philosophy of a Supreme Court nominee. In his principal speech, he mentioned that the case of *Hitchman Coal Co.* v. *Mitchell,* 245 U.S. 229, upholding the legality of "yellow-dog" contracts, had been decided thirteen years earlier by the Supreme Court. At this point he was interrupted by Senator Carter Glass of Virginia:

GLASS. "And we have sat here all these years and permitted that to remain the law?"

BORAH. "No; we have tried by an Act of Congress to repudiate that principle, but the Supreme Court of the United States said that our action was null and void. Mr. President, that is what makes this matter so very important. They pass upon what we do. Therefore, it is exceedingly important that we pass upon them before they decide upon these matters. I say this in great sincerity. We declare a national policy. They reject it. I feel I am well justified in inquiring of men on their way to the Supreme Court something of their views on these questions."

Again, during the debate on Parker's confirmation, Borah said:

"Upon some judicial tribunals it is enough, perhaps, that there be men of integrity and of great learning in the law, but upon this tribunal something more is needed, something more is called for, here the widest, broadest, deepest questions of government and governmental politics are involved."

Surely the first part of this last quotation epitomizes the Senate's attitude, as manifested in discussion on the floor, toward the confirmation of Mr. Justice Whittaker. His integrity, his learning, his success at the bar, would be the only necessary subjects of inquiry in the case of a judge appointed to a lower court. Indeed, perhaps no further inquiry would be proper in the case of a judge of a lower court. He is not there to apply his own judicial philosophy, willy-nilly, to the litigants before him, but rather to decide the case of those litigants by application of the principles laid down by higher courts. Such a process involves the use of the same ability to reason by analogy as lawyers call on constantly, and therefore the legal ability of an appointee to a trial court is of paramount importance.

Similarly, in the case of the judge who actually tries the case, we do not expect a decision between individual litigants strictly in terms of popular sentiment. The people through their legislative representatives enact what laws they will, subject to constitutional limitations. But once a law is written, neither the people nor their representatives are further consulted as to what was meant by it; the written words, together with relevant background material, are interpreted by a presumably impartial judge. Democracy ends at the courthouse door, and Joe Doaks is not to be imprisoned simply because a majority of the people sitting in the jury box or on the courthouse steps think he should be.

These reasons suggest that the primary concern with an appointee to an inferior federal court should be his ability to apply rules laid down by more authoritative sources, rather than his feeling as to whether this material is right or wrong. But in the case of the Supreme Court, the "something more" which Borah spoke of comes into play. I would prefer to interpret this phrase, not as meaning that it takes more ability to be a Justice of the Supreme Court than a judge of the lower federal courts, but rather that there are additional factors which come into play in the exercise of the function of a Supreme Court Justice.

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[1] *Schware* v. *New Mexico Board of Bar Examiners,* 353 U.S. 232; *Konigsberg* v. *State Bar of California,* 353 U.S. 252; *Watkins* v. *U.S.,* 354 U.S. 178; *Sweezy* v. *New Hampshire,* 354 U.S. 254.

[2] *International Organization, United Mine Workers* v. *Red Jacket Consolidated Coal & Coke Co.,* 4th Cir., 18 F2d 839, decided April 18, 1927.

The Supreme Court, in interpreting the constitution, is the highest authority in the land. Nor is the law of the constitution just "there," waiting to be applied in the same sense that an inferior court may match precedents. There are those who bemoan the absence of *stare decisis* in constitutional law, but of its absence there can be no doubt. And it is no accident that the provisions of the constitution which have been most productive of judicial law-making—the "due process of law" and "equal protection of the laws" clauses—are about the vaguest and most general of any in the instrument. The Court in *Brown* v. *Board of Education,* supra, held in effect that the framers of the Fourteenth Amendment left it to the Court to decide what "due process" and "equal protection" meant. Whether or not the framers thought this, it is sufficient for this discussion that the present Court thinks the framers thought it.

Given this state of things in March, 1957, what could have been more important to the Senate than Mr. Justice Whittaker's views on equal protection and due process? It is high time that those critical of the present Court recognize with the late Charles Evans Hughes that for one hundred seventy-five years the constitution has been what the judges say it is. If greater judicial self-restraint is desired, or a different interpretation of the phrases "due process of law" or "equal protection of the laws", then men sympathetic to such desires must sit upon the high court. The only way for the Senate to learn of these sympathies is to "inquire of men on their way to the Supreme Court something of their views on these questions."

RURAL ELECTRIFICATION NEEDED IN ALASKA

HON. NICK BEGICH

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1971

Mr. BEGICH. Mr. Speaker, the development of rural electrification is an extremely important program in Alaska. When I testified before the Subcommittee on Farm Credit and Rural Electrification of the Senate Agriculture Committee on October 26, 1971, I said that Alaska is the potentially richest supplier of energy in the United States, but also we are the most underdeveloped power-rich State in the Union. Much has been done in this area, but there is much more to be done. For continuing progress, we must turn to the National Rural Electric Cooperative Association for aid and assistance. They realize the problems involved in this area and are working to solve them with the knowledge accumulated across the Nation.

Every year the rural electrification systems hold regional meetings to discuss mutual problems and to discuss avenues of action on these problems. This year there were 389 farm and rural leaders at the regional meeting and they represented 93 cooperatives from the States of Alaska, California, Idaho, Montana, Nevada, Oregon, Utah, and Washington.

These men are dedicated to the task of providing for the needs of the rural electrification system. I have received a copy of the resolutions that were passed at the October meetings, and I believe it is important that we turn to these resolutions for guidance. I am sure that my colleagues will find the following resolutions educational and valuable:

NATIONAL RURAL ELECTRIC COOPERATIVE ASSOCIATION

REGION IX—SPOKANE, WASH.,
October 10–12, 1971.

9–1. REAFFIRMING PAST ACTIONS

Resolved, we reaffirm our support of the Continuing Resolutions be adopted at the NRECA Annual Meeting at Dallas, Texas, February, 1971, subject to the following deletions and amendments:

Be it resolved that the following Continuing Resolution be deleted:

17. *Hydroelectric Development of Snake River*

Be it resolved that the following Continuing Resolutions be amended as shown:

5. *Preference Principle.* Change "Federally-financed nuclear projects" to "Federally-financed power facilities or portions of power facilities".

18. *Payout Status of Colorado River Storage Project.* Change last sentence to "We also urge the Bureau of Reclamation to make available to all preference customers definitive marketing criteria and rates on all interim power of proposed projects in ample time for the area preference customers to avail themselves of this power."

32. *Rural Telephone Program.* We reaffirm our support for the rural telephone program and pledge our backing of adequate REA telephone loan appropriations, as determined and recommended by the National Telephone Cooperative Association, and we pledge support to the newly-formed Rural Telephone Bank.

38. *Rural Housing.* We recommend that the level of the Farmers Home Administration insured housing program be set at 300,000 units a year beginning with the current fiscal year so as to make possible the achievement of the rural part of the national housing goal set by Congress in 1968. We urge NRECA, statewide associations, power supply and distribution systems to continue their vigorous support of the National Rural Housing Campaign which in large measure has been responsible for the tremendous momentum gained by the FmHA rural housing program during the past year.

48. *Safety Accreditation.* Delete period after the word "program", and add the following phrase: "and as a step towards compliance with the Federal Occupational Safety and Health Act of 1970."

Be it further resolved that the following resolutions be added to the list of continuing resolutions:

63. *Reorganizing USDA.* We recommend that as an alternative to the Administration's proposal for reorganizing the Department of Agriculture out of existence that the USDA be given the official overall responsibility for the mission of rural development which it is obviously better suited to perform than any other existing or proposed department by virtue of its rural and farm orientation, its long experience working with rural people, and its extensive local field operations. Further, we recommend that Congress devise a comprehensive, nationwide rural development program to be undertaken by the Department of Agriculture with provisions for additional components that the USDA will require along with provisions for expanding existing components and for changes or innovations in existing USDA structure that will be necessary to insure success.

64. *Community Facilities.* We recommend that the Farmers Home Administration insured water and sewer loan program beginning in fiscal 1972 be set at a level of $750-million and that the accompanying grant program be set at $250-million. Water and waste disposal systems for rural America are especially essential for the sound orderly growth and ecology of the country. We urge rural electric systems to help develop, support, and organize such services as necessary and to provide necessary management, maintenance and other technical assistance to them as appropriate to maintain their feasibility.

65. *Streamline FmHA.* We urge Farmers Home Administration to streamline its administrative procedures in order to increase the productivity of its local county offices involving such things as standardization of regulations, enlisting the assistance of third parties in preparing loan documents, and contracting for as much of the detail work of servicing loans as possible. We also urge the Congress to appropriate adequate funds for additional FmHA personnel in order to handle the agency's tremendously expanded workload.

66. *Mobile Home Standards.* Because there is no required national uniform inspection or certification program for mobile homes, we encourage member systems to seek adoption as a minimum standard of their state government, the industry standard for Mobile Homes, A119.1, American National Standards Institute.

67. *Anti-Trust Laws.* We urge Congress to give high priority to strengthening the nation's anti-trust laws to the effect that encroachment in any manner upon territory served by rural electric cooperatives, and by municipal, and other publicly owned nonprofit distribution systems would be restraint of trade and at the expense and detriment of local people and their locally owned systems.

68. *Geothermal Resources.* We urge the Congress to amend the present law on disposition of geothermal resources underlying public lands, first, to provide that the U.S. Geological Survey shall explore and assess the magnitude of such geothermal resources; and secondly, to establish by law policies governing the disposition of such resources to prevent monopoly control over them and to assure preference in their sale to publicly owned and consumer-owned power systems.

69. *National Power Grid.* We reaffirm our support for development of a national power grid capable of moving large blocks of electricity back and forth across the country as may be required to meet load requirements; with various segments of the system to be owned and operated by individual electric systems or voluntary combinations of such systems without limitation as to type of ownership, and in such manner as to preserve the pluralistic character of the industry and the integrity of individual participating systems. The capacity of the grid should be planned so as to accommodate the needs of all systems desiring to participate in its utilization. We support and urge construction and operation by the Federal government of such transmission facilities as are necessary segments of a national power grid, but are uneconomic in terms of return necessary to justify private investment.

70. *Women's Action.* We strongly urge that women be made equals in the rural electrification program. Women can and must be placed in positions of leadership. They should be nominated and elected to the board of directors of our electric cooperatives. They can competently serve on advisory commit-

tees and aid effectively in special projects sponsored by the systems. We especially recommend that all systems develop an active program to involve women in cooperative governmental affairs committees. We recognize the need for zealous interest in consumer affairs. Women are substantial users of electricity and are the major purchasers of appliances, furniture, clothing, foods and other supplies used in the home. Our cooperatives must offer assistance, aid in securing educational resource persons and materials, and support efforts by women in securing better laws and protection for the consumer.

9-2 ESSENTIALITY OF REA LOANS AT 2-PERCENT INTEREST AND CFC PROGRAM

Whereas, many people's needs for modern central station electric service are being met only because of the Federal program of loans at two percent interest to consumer-owned rural electric systems, and

Whereas, the economic development of rural areas, especially those which are, either because of economic problems or declining population or both, disadvantaged, is possible only if those areas have electric service on a par with that of more fully developed areas at fully competitive rates, and

Whereas, the rural electric systems which borrow capital from the Rural Electrification Administration sign and carry out agreements—in return for the privilege of borrowing at an interest rate of two percent—to serve customers in remote areas on the same basis as those living near the sources of electric power, and

Whereas, many systems have expressed their willingness to supplement their REA loans with higher cost capital, and have for this purpose organized and invested in their own self-help supplemental financing institution, the CFC (National Rural Utilities Cooperative Finance Corporation);

Now, therefore, be it resolved that we oppose any and all efforts to phase out the REA program in its present form with interest rates at two percent;

Be it further resolved that we petition the Administration and the Congress to provide adequate funds for loans at two percent interest to meet the full capital requirements of both distribution and power supply cooperatives serving areas suffering from lack of population or from economic underdevelopment while at the same time meeting the basic requirements in all other rural service territories;

Be it further resolved that we pledge our cooperation with each other to assure the success of our supplemental financing operation through CFC and to assure adequate funding for the REA program in its present form.

9-3. FARM CREDIT LEGISLATION OF 1971

Whereas, the credit needs of agriculture and of rural America continue to grow and have changed significantly since the original Farm Credit System laws were enacted, and

Whereas, the Commission on Agricultural Credit, a panel of 27 farm and rural leaders which included NRECA General Manager Robert D. Patridge, conducted a 10-month study of present and future credit needs of farmers and rural communities which resulted in recommendations for modernizing and expanding the scope of the Farm Credit System's lending operations to meet the changing needs of rural America, including the growing need for loans for rural farm and non-farm homes and home improvements, and

Whereas, these recommendations are the basis for the Farm Credit legislation introduced in the first session, 92nd Congress, and approved by the Senate;

Now, therefore, be it resolved that we commend the Commission on Agricultural Credit for its forward looking recommendations in this area, the Farm Credit Administration for translating these recommendations into proposed legislation and the Senate for passing the Farm Credit legislation;

Be it further resolved that we urge the House of Representatives to act promptly and favorably on the bill as passed by the Senate;

Be it further resolved that a copy of this resolution be sent to the Members of Congress representing this Region.

9-4. RURAL HEALTH

Whereas, the health of rural people is jeopardized by a shortage of doctors, dentists and nurses by the emphasis being placed in the medical profession on the training of specialists rather than the training of general practitioners, by the absence or inadequacy of hospitals and other medical facilities in many rural areas, and by the rapidly escalating cost of medical services, and

Whereas, this situation poses a serious problem to rural people, which, if not corrected now, will reach crisis proportions as the rural doctors now in general practice retire;

Now, therefore, be it resolved that we urge the medical profession to train more doctors and nurses, including general practitioners;

Be it further resolved that we in the rural electric program work with other groups on programs to improve rural medical facilities and hospitals and to encourage doctors to enter the practice of medicine in rural America.

9-5. ENVIRONMENTAL REGULATIONS

Whereas, the rural electric cooperatives serve electricity to the rural areas over transmission and distribution lines that cover great expanses of the Federal and State land in Western United States, and,

Whereas, each rural electric cooperative is interested in the environmental problems facing both Federal and State governments and is desirous of supporting regulations, fair, reasonable and consistent, and,

Whereas, it appears that there is a developing problem of complexity, duplication and delay in electric power line construction because of regulations enforced by the various responsible public agencies, and,

Whereas, the rural electric cooperatives deem it appropriate to support the environmental movement with constructive suggestion.

Now, therefore, be it resolved, that the appropriate Federal and State environmental control agencies are hereby urged to adopt and implement appropriate simplified regulations and procedures that recognize particular problems inherent in western public land areas that eliminate the duplication of Federal and State regulatory controls, that give greater authority and flexibility to local area offices, and that recognize the difference between distribution and transmission lines.

Be it further resolved, that a sincere effort be made to keep the costs of complying with environmental regulations from defeating the basic purpose and intent of the Rural Electrification Act, including the concept of area coverage.

9-6. BPA SERVICE TO PREFERENCE CUSTOMERS

Whereas, consumer-owned power distribution systems are classified as preference customers under the Bonneville Act, and as such are entitled to service from the Bonneville Power Administration under established BPA rate schedules, and

Whereas, Elmhurst Mutual Power & Light Company; Alder Mutual Light Company; Ohop Mutual Light Company; Parkland Light & Water Company; Eatonville Power & Light Company; Town of Milton; Town of Fircrest; Town of Steilacoom; are consumer owned systems which meet the qualifications of preference customers but have been unable to obtain service from the Bonneville Power Administration, and

Whereas, under present circumstances these systems are unable to directly share in the benefits and responsibilities of participation in regional power supply programs as are the customers of BPA, and

Whereas, it is the feeling of the NRECA Region IX Session Committee that this right to participate in direct Federal power supply by all or any consumer-owned utilities under local autonomy in utility service should be maintained, and

Whereas, the above systems desire to become Bonneville customers; therefore be it

Resolved, that we strongly urge the Administrator of BPA to accept these systems as customers and take steps necessary to provide service to them either directly or by wheeling agreements at the earliest possible date.

9-7. ELECTRIC RESEARCH

Whereas, we recognize the urgent need for electric power research and development programs, particularly for the Liquid Metal Fast Breeder Reactor, and

Whereas, voluntary contributions are being solicited which will be most helpful for this purpose, and we urge all systems in Region IX to contribute, but

Whereas, vast sums will be required to carry on adequate research and development programs for new concepts in generation, transmission and distribution methods, including the LMFBR;

Now, therefore, be it resolved, that we urge that intensive legislative efforts be made to obtain adequate funds from as broad a public base as possible, preferably through Federal appropriations.

9-8. KEEPING G-T A VIABLE FORCE

Whereas, Generation-Transmission loans are, and have been from the beginning, a most vital element in the REA program because they have provided the rural electric systems with an effective bargaining leverage and have given the systems a realistic alternative when existing power suppliers refuse to provide wholesale power on acceptable terms and conditions, and

Whereas, this bargaining leverage is even more important to the rural electrics today as they have to struggle to survive in an industry where technology and economics are putting a dangerous squeeze on the smaller electric systems, and

Whereas, the G-T program cannot serve as a bargaining tool if wholesale power suppliers can feel assured that Congressional and/or Administrative policy decisions will put a lid on G-T loans;

Now, therefore, be it resolved, that we respectfully urge both Congress and the Administration to support the G-T program that it might continue to be a viable force, recognizing that REA has never had adequate funds for this job but also recognizing that the need for help at the wholesale power negotiating table is now greater than ever.

9-9. NATIONAL FUEL POLICY

Whereas, the United States is currently experiencing a progressively worsening shortage of fossil fuels, including natural gas, coal and oil, which threatens the ability of electric utility systems to meet their public responsibility of providing reliable service, and

Whereas, this shortage has been accompanied by sharp increases in gas, oil and coal unit prices of from 50 percent to 100 percent, and

Whereas, there exists a significant interlock of corporate control over the production and processing of otherwise competitive power plant fuels; for example, nine major oil companies, which also produce large quantities of natural gas, hold substantial interests in the coal, oil shale and uranium industries, and

Whereas, such interlocking control could reduce or eliminate price competition between various fuel types, thereby raising the cost to the American public of nearly all goods and services, and

Whereas, certain types of anti-trust law violation can, as a practical matter be prosecuted only by the Federal Government, which in some cases is also uniquely capable of preventing repetitions of such violations;

Now, therefore, be it resolved that we urge the President, the Congress, the Federal Trade Commission and the Department of Justice to explore all avenues which may uncover evidence of potential violations of existing anti-trust laws in the fuel industry, to vigorously prosecute all such violations and to enact laws designed to prevent future abuses of the economic power peculiarly inherent in large energy companies;

Be it further resolved, that:

(1) We urge the Federal Trade Commission to investigate the mergers of major oil and coal companies, and urge Department of Justice cooperation in such investigations;

(2) We urge the Department of Justice to conduct a grand jury investigation of coal prices;

Be it further resolved that we urge the President and the Congress to take all further measures necessary to assure the nation of an adequate fuel supply in future years, including limitation on export of coal and removing restrictions on import of oil.

9–10. NUCLEAR FUEL ENRICHMENT

Whereas, the U.S. Atomic Energy Commission has abandoned its long-established policy of performing nuclear fuel enrichment services at a price reflecting actual cost to the Government of the work involved, and has initiated new fuel enrichment pricing criteria based on the hypothetical cost of rendering such service in a new, privately constructed and operated plant, including allowances for taxes foregone, return on private investment and the private cost of borrowed capital, and

Whereas, the Controller General of the U.S. and the U.S. Attorney General are in disagreement as to the legality of AEC's new fuel enrichment pricing criteria, and

Whereas, the apparent justification for AEC's new enrichment pricing criteria is a desire to suppress widespread objection to the Administration's announced goal of selling AEC's fuel enrichment plants to private owners, and

Whereas, private operation of such plants would substantially further raise the price of nuclear fuel, thereby increasing the nation's electricity bill by approximately $1-billion per year;

Now, therefore, be it resolved, that we strongly oppose AEC's revised nuclear fuel enrichment price criteria, and urge prompt passage of legislation requiring that such prices be based on actual cost incurred by the Government in providing the service.

9–11. NATIONAL ENERGY POLICY

Whereas, the economic and social structure of our country is dependent upon an abundant and reliable supply of electric energy, and

Whereas, the people in many parts of the Nation live in constant danger of blackouts and brownouts, and

Whereas, the Nation's requirements are increasing 100 percent every 10 years, much faster than supply facilities are being expanded, and

Whereas, industry and commerce, which take 60 percent of our total consumption of electric energy, can expand only when and where they can get adequate electric service, and

Whereas, the American laboring man and woman increase their productivity by using ever-increasing amounts of electric energy—the present amount used by the average worker being equal to the labor of 560 persons, and

Whereas, increases in generation and transmission of electric power are inhibited by many factors including environmental problems, inadequate supplies and high prices of desirable fuels, a trend toward monopolistic control of energy sources, inadequate technology in the production and use of new fuels and in extra high voltage transmission, and lack of a national power grid, and

Whereas, our national resources can be marshalled and allocated properly to meet the power crisis only if the Nation develops a national power policy;

Now, therefore, be it resolved that we give our utmost support to the prompt development of a national energy policy aimed at ensuring all Americans an abundant, dependable, enduring supply of electric power at lowest possible cost consistent with conserving our environment and resources;

Be it further resolved, that we seek the active help of all groups and individuals who are, or can be made aware of their vital stake in such a policy;

Be it further resolved that we ask the major political parties and candidates for national office to take policy positions on this matter to the end that during the next campaign there will be a fair debate of the issues leading to affirmative action in the next Congress.

9–12. EXTENSION OF DEFERMENT PERIOD ON REA LOANS

Whereas, the House and Senate Committee on Appropriations in reporting in the Department of Agriculture Appropriations for fiscal 1971, and again for 1972, endorsed the self-help supplemental financing organization, National Rural Utilities Cooperative Finance Corporation (CFC), established by REA rural electric systems borrowers, and

Whereas, both Appropriations Committees expressed interest in encouraging rural electric systems to invest in CFC and urged REA to assist its borrowers to make such investments;

Now, therefore, be it resolved, that the rural electric systems of this Region support the concept of deferment of principal payments on loans beyond the present three-year allowance with the understanding that rural electric borrowers requesting and receiving such extended deferment invest amounts equivalent to the deferred quarterly principal payments on such loans in Capital Term Certificates of CFC.

9–13. COOPERATIVE-MUNICIPAL COOPERATION

Whereas, the electric cooperatives which are assisted by the Rural Electrification Administration require continued assistance to serve the more sparsely settled and remote regions, and

Whereas, it would provide rural electric cooperatives a distinct advantage in serving their customers with low cost electric service if they could jointly participate with municipal utilities in issuing bonds to finance an electric generating station, and

Whereas, Representative Vernon Thompson has introduced legislation which would amend Section 103(C) of the Internal Revenue Code to include rural electrics among exempt person, thus making them eligible to buy power from electric plants financed with tax exempt bonds without jeopardizing the tax status of the bonds,

Now, therefore, be it resolved, that NRECA strongly endorse Representative Thompson's legislation and urge the members of the rural electric cooperatives take an active role in supporting this legislation.

9–14. ELECTRIC RATES

Whereas, the concept of lowest cost electricity has proved to be an important factor in the development of our Nation and the improvement in the standard of living of our citizens, and

Whereas, the cost of electricity is an important element in the cost of all goods and services, and

Whereas, numerous power companies and Federal power agencies have announced their intentions to seek substantially higher power rates, and

Whereas, these proposed higher rates will inevitably result in continued inflation;

Now, therefore, be it resolved, that while we recognize that increased costs experienced by power suppliers do mean that some increase in electric rates may be inevitable, we reaffirm our support of the concept of lowest-cost power; and

Be it further resolved, that we urge the Administration, as a part of its avowed policy of combatting inflation, to do all within its authority to hold the line on electric power rates of Federal Power Marketing Agencies, and

Be it further resolved, that the Administration use its good offices to discourage power companies from seeking massive rate increases, and

Be it further resolved, that we deplore the current high level interest rates which are feeding inflation and raising the cost of all goods and services, including electric power rates, and we urge prompt action to lower rates from their present unconscionable levels, and

Be it further resolved, that we commend Congressman Wright Patman of Texas for his continuing efforts.

9–15. HUNGRY HORSE PROJECT

Whereas, the Hungry Horse Project Act of 1944 is applicable throughout Montana, and power from or attributable to the Hungry Horse Project shall be made available throughout Montana by means of requirements contracts between Montana rural electric cooperatives and appropriate Federal power marketing agencies;

Now, therefore, be it resolved, that we urge the Secretary of the Interior to request Congress for appropriations to construct transmission lines or enter into transfer agreements with the owners of transmission lines from other Federal dams in Montana to rural electric cooperatives; and

Be it further resolved, that we urge that the wholesale price of power throughout eastern Montana be the same at each point of delivery regardless of whether power is delivered from a Federal transmission line or is transferred over the facilities of a private utility or other owner.

9–16. HYDRO-THERMAL PROGRAM

Whereas, the electric utilities of the Pacific Northwest have reached a hydrothermal accord on the proper timing of construction of thermal generating plants in the Pacific Northwest and the addition of hydro-peaking capacity to enable all the electric utilities to meet the continued demand for electric energy; and

Whereas, implementation of this hydrothermal program requires the participation of the Federal Government, through the Corps of Engineers and the Bureau of Reclamation, to provide peak generating capacity at existing federal project with a minimum investment for maximum benefits, and the participation of the Bonneville Power Administration to maximize the use of the federal transmission grid. The rural electric cooperatives will participate in obtaining financing and the development of the thermal generating plants, and

Whereas, the hydro-thermal accord emphasizes the location of thermal plants near load centers, properly sized to minimize the number of plants, thereby preserving lands and right-of-way which would be required for transmission lines, and the failure to continue the hydro-thermal accord will result in smaller generating projects, the piecemeal development of smaller transmission systems, and higher cost for electric energy, and

Whereas, the comprehensive plan outlined in the hydro-thermal accord will insure that electric consumers in the Northwest will have sufficient powers for industry, for irrigation and for domestic use,

Now, therefore, be it resolved, that the President of the United States, the Bureau of the Budget, and the Congress continue to implement the hydro-thermal program with net billing procedures as presented by the Pacific Northwest utilities.

9-17. TRANSMISSION LINES AND COAL RESOURCES

We favor construction of transmission and substation facilities to integrate Federal and public power projects in the Missouri River Basin and the Pacific Northwest in order to achieve maximum benefits of low cost electric energy. Specifically, we urge construction of Federal transmission lines between these two areas to permit development of the vast low-cost coal resources available in Montana to meet future customer load requirements in both areas.

We emphasize the lack of reliability and capacity in the Montana Power Company present 115 KV line Rainbow to Cut Bank, and urge the immediate consideration of the 161 KV Rainbow to Browning line to provide a loop feed and the capacity and reliability presently denied this area.

9-18. MIDDLE SNAKE

Whereas, the hydroelectric power which would be produced at multiple purpose dams on the Middle Reach of the Snake River is vitally needed in the Pacific Northwest and represents the cleanest, most efficient, new energy resource available to the region, and

Whereas, the Federal Power Commission Examiner has recommended that a hydroelectric license be issued to the Washington Public Power Supply System and Pacific Northwest Power Company to jointly build and operate a Middle Snake project;

Now, therefore, be it resolved, that we urge the Federal Power Commission to issue a license to the joint applicants for construction of this vitally needed multipurpose project.

9-19. BUREAU OF RECLAMATION PAYOUT SCHEDULES

Whereas, Federal legislation has established a criteria of 50-year payout for multiple purpose water resource projects and NRECA has supported and promoted such projects;

Now, therefore be it resolved, that we urge that NRECA and its members request the U.S.B.R. to revise the payout schedules to conform with Federal legislation, resulting in rate stability.

9-20. LINE RELOCATION ON PUBLIC LANDS

Whereas, many State and Federal highways are either being rebuilt or new ones constructed, and

Whereas, many of these highways cross public lands and electric utilities have distribution and transmission lines adjacent to them, and

Whereas, electric line rights-of-way across public lands are revokable upon demand for any public use, such as for highway construction or improvement, with the utility receiving no compensation for vacating its rights-of-way, and

Whereas, electric utility use is public use,

Now, therefore, be it resolved, that we respectfully urge that Congress and the various State Legislatures pass laws that will require the agency funding State or Federal highway construction on improvement reimburse electric utilities their actual costs for any electric line relocation required.

9-21. UTILITY CORRIDORS

Whereas, this country is witnessing ever increasing demands that more land be made available for use by the general public, and

Whereas, the amount of land that can be made available for public use is rapidly diminishing, and

Whereas, all utilities, whether they be electric, telephone, water, sewer, public roadways, etc., are each year requiring more and wider strips of lands for their rights-of-way.

Now, therefore, be it resolved, that utility corridors be established along all State and Federal highways constructed in the future and the accommodation of all utilities become a part of the planning of new highways.

9-22. PREFERENCE POWER IN NORTHERN CALIFORNIA

Whereas, the City of Santa Clara, California, is a preference customer of the Bureau of Reclamation, Department of the Interior, and

Whereas, the Bureau has withdrawn a major portion of the city's power supply forcing the city to purchase a substitute quantity from Pacific Gas and Electric Company at exorbitant rates, and

Whereas, this action is most unfair and penalizes the citizens of Santa Clara to the benefit of the power company,

Now, therefore, we urgently request that Congress and the Department of Interior institute a complete study on the matter of supplying preference power in Northern California to insure that private power companies are not receiving preference power to which they are not entitled.

9-23. AREA LOAN FUNDS

Whereas, the practice of approving REA loans to cover the needs of systems for a period of only one year instead of two years is uneconomical and requires considerable extra work,

Now, therefore, be it resolved that we urge full funding of the program so REA can return to the policy of granting two-year loans at the earliest date possible.

9-24. MULTIPLE PURPOSE POWER PROJECTS

Whereas, the authorization and construction of multiple-purpose projects benefits the economy of the nation, and many of these projects are in this region;

Now, therefore, be it resolved, that we urge the Congress to appropriate funds to complete planning and begin construction of the following projects at the earliest possible dates:

Bradley Lake, Alaska;
Auburn-Folsom, California;
Bonneville, Oregon-Washington (second powerhouse);
Ice Harbor, Washington (new units);
Chief Joseph, Washington (new units);
Lower Teton, Idaho;
Asotin, Washington-Idaho; and
Dixie Project, Southern Utah.

Be it further resolved, that we urge the Congress to authorize Federal construction of the following multiple-purpose projects:

Burns Creek, (Crandall), Idaho;
Kootenai Falls, Montana;
Fort Benton-High Cow Creek, Montana;
Lower Flathead, Montana;
Lenore, Idaho; and
Ben Franklin, Washington.

9-25. IN MEMORIAM

Whereas, we feel deeply the loss of several of Region IX's finest rural electric cooperative leaders during the past year,

Now, therefore, be it resolved, that we pause a moment in silence and pay our respects to those leaders who have served our program so long and so well.

9-26. APPRECIATION

Whereas, the success of the rural electrification program depends to such a large extent upon the drive, work and leadership of many people and groups, all of whom deserve recognition and a warm thank you;

Now, therefore, be it resolved, that the delegates of this Region do hereby express their deep appreciataion to all those who have been, and are, contributing to the success of the program. Particularly, this resolution gives special recognition to:

1. The NRECA Board of Directors and the staff for providing the high level of leadership and wide variety of valuable services to the NRECA membership.

2. Robert D. Partridge, General Manager of NRECA, for his dynamic leadership and to his staff for their services and devotion to our program.

3. David A. Hamil, Administrator of REA, and his staff for their great devotion to rural electrification.

4. The REA staff members both in the field and at headquarters for their loyal, devoted and efficient work on behalf of the program.

5. Friends of rural electrification in legislative bodies and executive branches of the Federal Government, as well as in the States, for their assistance on issues crucial to our program.

6. Henry Curtis of Northwest Public Power Association for his generous help to the Resolutions Committee.

7. The many individuals, suppliers, the Ridpath Hotel, the Washington Statewide Association and its manager Bob Smith, his staff and member electric systems, and other organizations for contributing to the success of this regional meeting.

9-27 GENERATORS AT GRAND COULEE

Whereas, the power load in the Pacific Northwest will be increasingly supplied by thermal generation which must be operated at high load factor to obtain maximum efficiency and such base-load operation will require large amounts of hydroelectric generation to meet the peak loads; and

Whereas, the Congress has authorized and the Bureau of Reclamation is now constructing a third powerplant at Grand Coulee Dam consisting of six 600-Mw hydroelectric generating units; and

Whereas, the Grand Coulee Reservoir provides a regulated supply of water sufficient for the peaking operation of additional generating units; and

Whereas, the Bureau in its design has made provision for increasing the size of the Third Powerplant by six additional 600-Mw generating units when authorized; and

Whereas, the Third Powerplant provides one of the most economical sources available for such large amounts of peaking power generation; and

Whereas, this Third Powerplant peaking generation can be obtained without polluting the environment or depleting non-replaceable fuel resources; and

Whereas, it is recognized that the Bureau of Reclamation will require time to prepare a report requesting authorization of these additional units for submittal to the Congress; and that the Congress will then require time for deliberation on the authorization of these additional units; and that the Bureau of Reclamation will then require time to prepare designs, procure equipment, and construct and install these additional units;

Now, therefore, be it resolved that the members fo Region IX both individually and jointly, press for and lend support to the authorization and construction of an additional six generating units in the Grand Coulee Third Powerplant in as timely and orderly manner as possible.

9-28. NORTH SLOPE TRANS-ALASKA PIPELINE

Whereas, we are facing an energy crisis in the United States and particularly on the west coast and the Pacific Northwest, and

Whereas, there exists large oil and gas reserves on the north slope of the State of Alaska, and

Whereas, the best available information indicates that the proposed pipeline is the safest and most practical method of transport to make these resources available to the people of the United States, and

Whereas, we believe that by careful planning, construction and management, energy resources can be utilized to meet human needs with minimal environmental damage;

Now, therefore, be it resolved that Region IX endorses and urges the Secretary of Interior to issue the permit for the immediate construction of the North Slope Trans-Alaska pipeline from the Arctic to Valdez, Alaska;

Be it further resolved that copies of this resolution be delivered to the President of the United States, the Secretary of the Interior and to the Senators and Representatives of Region IX states.

9–29. 18-YEAR-OLD VOTER

Whereas, we believe that the education of young people (both urban and rural) in the principles of cooperation and in the encouragement of their involvement in citizenship processes is one of the top priorities of the rural electric program, both locally and nationally;

Be it resolved that Region IX endorse the resolution of the NRECA Board of Directors, calling for an extensive national voter education and registration program among the new, young voters;

Be it further resolved that rural electric women be encouraged by local boards and managers to help in this very vital field of endeavor.

9–30. AMERICANA CRAFT FAIR

Whereas, the first rural electric Americana Craft Fair held in conjunction with the NRECA Annual Meeting in 1971 was an unqualified success and a splendid monument to cooperation, and

Whereas, we believe that this project is a creative implementation of Continuing Resolution, "Women's Participation", since proceeds were given to the Rural Electric Building of the Agricultural Hall of Fame and to ACRE;

Now, therefore, be it resolved that Region IX women participate in the Craft Fair at Las Vegas in 1972; and that proceeds from the fair be divided equally between ACRE and the Agricultural Hall of Fame;

Be it further resolved that each state in Region IX cooperate fully in planning a regional booth, thereby saving in efforts and expenses on the part of each of the eight states.

WEST VIRGINIA 4–H CLUBS HONORED FOR ENVIRONMENTAL IMPROVEMENT ACTIVITIES

HON. JENNINGS RANDOLPH

OF WEST VIRGINIA

IN THE SENATE OF THE UNITED STATES

Tuesday, November 23, 1971

Mr. RANDOLPH. Mr. President, there is no more potent weapon for use in the improvement of our country than the youth of America. The dedication, energy, and idealism of our boys and girls are regularly focused on the needs of America at all levels. The results of their involvement are widespread.

I am gratified that a group of young West Virginians was selected for national recognition of their work in behalf of a better environment. The Hustlers and Crackerjacks 4–H Clubs, of White Sulphur Springs, were chosen to receive the national youth award of Keep America Beautiful at its convention in Washington on November 11 and 12.

The members of the clubs were honored for their active program, which is part of the total community effort to qualify White Sulphur Springs as an All-American City by 1976. They used to good advantage, a week visiting Washington, the highlight of which was presentation of the award.

Adults who accompanied the club members were Mrs. Fred Halterman, Mr. and Mrs. Marshall Bostis, Mrs. Treva Weikel, Glen Simmons, and Lantie Cole.

The club programs are carried out under the supervision of Donette Zickafoose, Greenbrier County extension agent for 4–H work.

Participants from the clubs were Debbie Humphrey, Patty Bostic, Robin Bostic, Chuck Bostic, Eddie Cook, Joyce Kaptis, Sharon Houdyshell, Linda Houdyshell, Danny Hall, Pam Weikel, Dean Weikel, Beverly Coleman, Addia Tate, Berry Weese, Cindy Collins, Joan Wilson, Christie O'Neil, Donna Ford, Elaine Ayers, Debbie Ford, Shirley Ayers, Kathy Ford, Mike Honaker, Charles Vallandingham, Danny Honaker, David Vallandingham, Donna Honaker, Rhonda Stidom, Kathleen Wilson, Patricia Baud, Darrell Hinkle, Delbert Hinkle, Philip Watson, and Billy Erwin.

Mr. President, the award from Keep America Beautiful was accepted by Kathleen Wilson for the Crackerjacks and Hustlers 4–H Clubs. She described in detail the activities that earned the award, and I ask unanimous consent that her acceptance speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

KEEP AMERICA BEAUTIFUL ACCEPTANCE SPEECH

(By Kathleen Wilson)

Good afternoon.

I am Kathleen Wilson, and I am a representative of the White Sulphur Springs Crackerjacks and Hustlers 4-H Clubs. The clubs are urban groups in Greenbrier County, southeastern West Virginia. We have been involved in state youth conservation programs for several years. In 1970 we expanded our anti-litter and beautification activities. We, the young people of these clubs, committed ourselves to an extended anti-litter and anti-pollution program in connection with the town-wide "spirit of 76" 5-year improvement project in preparation for the 1976 bi-centennial of the United States and of White Sulphur Springs.

The following are various projects our club undertook:

Gleaned litter from neglected and rural areas of our community.

Shovelled snow from sidewalks and raked leaves from lawns of the senior citizens.

Cleared litter and raked leaves from the high school and elementary school lawns.

Wrote, directed, and performed a skit, entitled "Litterbugs Miss All the Fun" for the children of our community.

Sponsored a "Beautification Week" of anti-litter activities.

Sponsored and participated in an Anti-Litter Day with groups competing for prizes donated by the Chamber of Commerce for the group collecting the most trash. And one conscientious group of 4th graders even accused another group of stealing their trash, but the 4th graders still won first prize.

Presented programs on litter and pollution to the Girl Scouts, the Women's Izaak-Walton League, and a community public meeting. On the day that we presented the skit for the Women's Izaak-Walton League, we had planted 5,000 pine tree seedlings donated by the Forestry Service in the small community of Auto. To make things complicated, on the way home the truck which was transporting us had three flat tires, and we ended up having only half-an-hour to take showers, put on clean clothes, eat, and be at the meeting ready to perform the skit. Anyone could have guessed what we spent the day doing since we still smelled like pine.

Attempted to convince town officials to leave the city dump open for public use and to have the police issue strong warnings about the enforcement of litter laws.

Displayed "live litterbug" (a mirror in a box) in a local store. This was a small box with the words "see the live litterbug" printed on it. When you looked into the box, you saw your reflection in the mirror. People would look inside the box, get embarrassed, and refuse to tell the person behind him what it was; they would let the other person see for themselves.

Sponsored and participated in a Litter Parade to dramatize the need for litter prevention.

The Green Mitt Garden Club, Greenbrier Business and Professional Women's Club, the Women's Izaak Walton League, White Sulphur Springs Women's Club, all the junior high school bands in the county, Cub Scouts, Girl Scouts, and Boy Scouts, and many church organizations took part in the conservation parade.

Our club presented a float in the parade made of tin cans in the shape of a horse, entitled "Nightmare of the Highway." After the parade someone even stole our "Nightmare."

Participated in the community's annual Christmas Parade with a live float stressing the conservation theme with the slogan, "Time, Our Greatest Gift to Our Community."

Cleaned litter from the town parking lot and Memorial Park, a playground area used by the community's children. We provided a trash can in the playground for the children's litter.

Distributed litterbags, donated by the Forestry Service, to motorists driving through the community.

Prepared and presented programs on litter-prevention and pollution control at the Greenbrier County 4–H Round-Up. Our skits won first and second prizes. One of the skits was written by a young club member and presented by the younger members of the club.

The conservation chairman of the club appeared on radio station WRON and talked about the club's anti-litter beautification program and urged citizens to get involved in similar projects.

Researched litter and other pollution problems and prepared articles that were published in community newspapers.

Wrote to leading detergent companies, asking them what they were doing toward anti-pollution of water. Then we tried the various products of the companies—some low in phosphates, some with no phosphates. We found that the no-phosphate detergent did not clean as well as the products we had been using in our homes. But we did find one low-phosphate detergent, Wisk, that performed equally well. We wrote to the Lever Company for samples and informational brochures. These we distributed over White Sulphur Springs, asking the people to try Wisk and if they found it to be comparable to their present detergent, to buy and use Wisk. We are still in the process of finding out the results of these efforts.

Prepared a proclamation on Conservation Education Month urging everyone to be concerned with conservation and secured the Mayor's signature and endorsement for the project.

Toured pollution abatement facilities of WESTVACO (Bleached Board Division) plant and heard a lecture on pollution control.

Participated in the West Virginia Youth Conservation Program sponsored by the West Virginia Department of Natural Resources and the Sears Roebuck Foundation. The club's conservation projects were honored with awards presented at the West Virginia Youth Conservation program meeting. In 1969, 1st place; 1970, Governor's Cup; 1971, 4th place.

The Greenbrier Valley Conservation District sponsored an Art Poster Contest and provided cash awards for the winners. Several of our members entered the contest.

The White Sulphur Springs Star and the West Virginia Daily News provided full coverage of our anti-litter efforts.

The goal of the White Sulphur Springs "Spirit of 76" project is to make the town as "All-American City" by 1976, and the Crackerjacks and Hustlers 4-H Clubs have committed themselves to improving the city "ecology-wise" as much as possible before the end of the program. These clubs have taken the initiative by launching and carrying through anti-litter, anti-pollution, and conservation projects. As a result, other organizations and a number of community officials have been encouraged to join in and participate in a town-wide environmental improvement program. And we hope that if you are ever in our part of the state of West Virginia that you will appreciate the beauty we have created.

A HOLIDAY MESSAGE

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1971

Mrs. ABZUG. Mr. Speaker, I received a most thoughtful and moving holiday message the other day. I would like to share it with you and all of my colleagues:

This year my brother and I will observe Christmas, as we did a year ago, in prison.

Our mother, 85 years old, will observe the holiday at home, waiting, pondering, hoping. She waits not for our release alone, but for the release of all prisoners, here and everywhere. She awaits in her prayer and longing, the release of humanity from the iron conscienceless prison of war . . .

She supported us during our "crime" and our trial, she visited us in prison. When questioned on T.V. about our breaking the law, she said simply, "It was not God's law they violated." Her words had gone, we feel, to the heart of the matter, not only for us, but for all Americans, and especially for American women . . .

Certainly the trouble is not that we do not want peace. We have seen enough war, we are sick unto death of death. The war has come home like a stalking corpse, trailing its blood, its tears, its losses, its despairs—seeking like an American ghost, the soul of America.

We want peace. But the rub is that we do not want to pay the price of peace. We still dream of a peace that has no cost attached. We want peace, but we live content with poverty and injustice in our midst, with the murder of prisoners and students, the despair of the poor, to whom justice is endlessly denied. We long for peace, but we also wish to keep undisturbed an arrangement of privilege and power that ensures the economic misery of two-thirds of the world's people.

Obviously there will be no genuine peace, while such a violent scheme of things continues. America will extricate itself from the bloody landscape, the ruined villages and mutilated dead of Vietnam. But nothing will be settled there, nothing mitigated at home. Nothing changed, that is, until a change of heart leads to a change of the social structure of every area of our national life.

In this change, women will of necessity play a great part, and thus liberate themselves.

But to do this, they must see clearly the nature of their enslavement. The modern state is perpetually mobilized for war; a mobilization of conscience, appetite, cupidity and fear. Such a dragnet necessarily takes captive the 51% of Americans who are women. Women are part of the war making state . . . Women are irreplaceable cogs in the cyclic machinery of cupidity and consumerism: they produce the children who fight the hot wars and accept the cold wars, both as inevitable conditions of life. Women, too, are champions of private property, defenders of lily white schools, resisters against neighborhood integration, advocates of corrupt "nine points of the law" politics of those in possession.

Liberation from such slavery will not be an easy achievement. For some women, it will mean casting off a role of predestined poverty and exploitation. Women will refuse to be victims. For others, liberation will mean refusal to play the power game, realizing how cruelly dispassionate the will to power is, they will realize that the slavemasters inevitably becomes the victim of violence, greed and hate.

The season we celebrate speaks of the liberation of peoples. In Jewish and Christian tradition, freedom is both a gift of God and an achievement of people. It costs: blood, tears, imagination, energy—above all and including all: love, the instrument and end of all human striving.

Greetings to you and yours, from prison. Peace and liberation.

DANIEL BERRIGAN,
PHILIP BERRIGAN.

REHABILITATION WORKING AT RFK YOUTH CENTER

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1971

Mr. MOORHEAD. Mr. Speaker, how many Atticas do we need before we will admit that our prisons are not accomplishing the task of prisoner rehabilitation?

Some will say that the job of prisons is merely to incarcerate and nothing more. I do not agree.

With the high rate of recidivism, it is obvious that much of the crime in our Nation is caused by those already familiar with institution walls, be they city, State, or Federal.

For this reason, it is always heartening to see a prison rehabilitation program working.

In this instance I am referring to the record of the Robert F. Kennedy Youth Center, in Morgantown, W. Va., where some of the most innovative rehabilitation programs are functioning, and functioning well.

A recent article in the Pittsburgh Post-Gazette tells just what is taking place at the RFK Youth Center. I think all of my colleagues will be interested in this institution and its techniques:

STONE WALLS DO NOT THIS PRISON MAKE—RFK CENTER GIVES YOUNG OFFENDERS CHANCE

MORGANTOWN, W. VA.—One night this week, three young men climbed out a dormitory window, raced across a dimly lit campus and disappeared into the darkness.

Another evening at the same campus, a young man looked up from a pool game during a dormitory dance. "Man, this place is called prison," he said, "but it's the first decent chance I've had to do anything in 17 years."

He had gotten a message that the three who ran away had missed.

Most inmates at the Robert F. Kennedy Youth Center do see the light—a light that the federal government is trying to find for a troubled correctional system that has led to Atticas and San Quentins.

"What we're trying to do," says a youth center official, "is to say to troubled young men and women that we want to help, how about giving us a chance."

The chance—for 235 young offenders here—is a multi-million-dollar rehabilitation experiment which has produced convincing results in less than three years.

Without bars or high wire fences, the Kennedy Youth Center is easy to leave. And many have escaped—about 100 since the facility opened in December, 1968.

But records also show that more than 300 of the 400 who have been released from the center are still free—a success rate of about 75 per cent.

"That's not an ideal figure," says Roy Gerrard, former director of the center who is now deputy director of the U.S. Bureau of Prisons. "But it's a lot better than any other place I know of."

Inmates who escape from the Kennedy center don't get a second chance there. Records show that most of the 100 escapees were apprehended and sent elsewhere, mostly to maximum security institutions.

There are no cells at the Kennedy center. Instead, there are individual rooms in seven dormitories that dot a 250-acre campus just outside Morgantown, home of West Virginia University. Scattered on the grounds are athletic fields, a gymnasium, classroom buildings and an indoor swimming pool, part of an $11 million physical plant.

For the center's 210 males and 25 females, who range in age from 16–23, life is far different than at practically any other penal institution.

"The objective is to normalize the environment, to keep an offender in the same community environment in which he must eventually live," says Jay Flamm, center director.

All inmates are involved in some kind of educational or work program.

An important ingredient in the formula is money. Flamm says the government spends about $34 per day on each inmate, easily the highest per capita expenditure of any federal penal facility. This cost includes the $11 million price tag on the physical plant.

The average expenditure for all federal prisons is about $10.50 a day for inmate, according to federal prison officials in Washington.

At Kennedy Center, inmates receive at least six hours of instruction per day in areas lavishly equipped to teach electronics, woodworking, power technology, graphics, aeromechanics, basic and remedial education courses and data processing.

Classes are taught by 22 instructors hired as guidance counselors and then trained to teach vocationally.

The counselors attempt to work in small discussion groups outside of classes. Gerrard says they have been quite successful in avoiding the problems of race and homosexuality that plague most penal institutions. The center population is about 50 per cent black.

Most of the inmates here are persons who have stepped outside the federal law for the first time. They are referred here by the courts and by other penal institutions when officials spot a potential for rehabilitation.

"Society hasn't come up with many answers for corrections," says Gerrard. "A lot of the things we're doing at Kennedy might point the way to a better future."

A typical Friday night at the center will find a dance in one of the dormitories, where coeds and social workers from West Virginia University come for the evening.

"The mission of the center is a pioneering one," says Flamm.

"What we're finding is that you can do things differently and make a go of it."

"At the center the students know we care and will try to help them," Gerrard says. "That's what it's all about anyway."

"The answers we're finding can be applied in other places if the public is willing to pay the price."

Outside a dance one recent Friday night, an inmate who was to be released in two days said his life may have been turned around in the past nine months.

"If you could see where some of us come from," he said, "you'd know why more don't run away. This place is better than most of our homes. And some of us have found out here that this might be our last honest chance to turn our life around."

NEWSPAPERS TELL CITIZENS HOW TO WORK FOR A BETTER ENVIRONMENT

HON. JENNINGS RANDOLPH

OF WEST VIRGINIA

IN THE SENATE OF THE UNITED STATES

Tuesday, November 23, 1971

Mr. RANDOLPH. Mr. President, Americans are concerned with the threat that pollution poses to life. We know that unless we discontinue our wasteful, damaging ways, much of the world will not be a fit environment in which to live.

Desire to improve the situation, however, is not always enough. We need to know how our concern can be transformed into action.

I am pleased by the attention being given to this matter by newspapers in West Virginia and throughout the Nation. Many of them are taking the lead to inform readers just what they can do for a cleaner, better environment.

The Inter-Mountain, published in my hometown of Elkins, recently published a concise checklist of ways in which individual citizens can help improve the environment in their communities. It contains valuable advice for all Americans.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BATTLE WITH POLLUTION BEGINS AT HOME

Homeowners can familiarize themselves with pollution-stopping actions. Here are some suggestions:

1. Acquaint yourself with anti-pollution ordinances and make sure you abide by them. When you see a flagrant violation, report it to the proper authorities.

2. Don't burn leaves or trash. Better to start a compost heap and return the nutrients to the soil. Remove weeds in the lawn by hand rather than applying a herbicide.

3. Use insecticides sparingly, and only when absolutely necessary, to kill flies, mosquitos and midges. If you must use them, follow directions carefully.

4. Plant trees and shrubs. They absorb carbon dioxide, produce oxygen, help purify the air and prevent soil erosion.

5. Use a hand mower if your lawn is small. Keep gasoline-powered tools in top operating condition so noise and exhaust fumes will be minimized.

6. Be careful with matches around wooded or grassy areas. Forest and grass fires cause air and water pollution.

7. When on a picnic, be sure to properly dispose of all paper dishes, cups and other refuse. Pick up any discards left by others. Littering of picnic grounds spoils them for everyone.

8. When building a house, be sure it is well insulated and tree-shaded. This will minimize fuel consumption in winter and air-conditioning loads in summer.

9. In winter, turn your thermostat down a few degrees. Have your home heating system checked annually, or any time it appears to be operating inefficiently.

10. If you live in the city, don't litter the sidewalks. Use litter baskets—and curb your dog!

11. Observe parking regulations so that the sanitation department can collect garbage and clean the street without obstruction.

12. Encourage and support your sanitation department when it seeks more modern and efficient collection and disposal equipment.

13. If you live in a building with an incinerator, follow instruction carefully so you don't litter incinerator rooms. If you put your garbage out on the street for collection, make sure you use a spill-proof container.

14. Start a campaign to save newspapers, cans and bottles for collection and recycling where facilities are available.

15. Never flush away what you can put in your garbage pail. Organic materials like cooking fat clog plumbing and septic tanks, causing sewage overflow.

16. Measure detergents carefully, using only enough to get your clothes clean. Try to run your dishwasher only once a day or less, depending upon the size of your family.

17. Don't use heavy electrical appliances, such as washers and driers, during those hours, usually 5 to 7 p.m., when the electrical load is at its peak. The strain at the local generating station may contribute to air pollution. Install low wattage bulbs in lamps not used for reading. Turn out lights not being used to conserve power.

18. Don't drive a car when you don't have to. Walk, bicycle, or use mass tranportation, if possible. When you do drive, avoid quick starts and stops. Don't leave the engine running while parked. Car exhaust is a pollutant.

19. Make sure your car is equipped with required antipollution devices and have them checked regularly. If you buy a new car, read the instructions in your owner's manual regarding maintenance and up-keep of these devices. Match horsepower ratings to your needs. Don't buy a high horsepower car if you don't need it.

20. Burn a fuel rated most efficient for your engine, in terms of the reduction of emissions.

21. Get an engine tune-up every 10,000 miles or at least once a year. Be sure to change oil and air filters regularly.

22. Carry a litterbag in your car—and in you boat too. Bring the bag back with you and dispose of it properly at the end of your trip.

23. Help reduce noise pollution. Don't use your horn unless safety dictates. Keep your muffler and tail pipe repaired.

THE LATE HONORABLE J. HOWARD EDMONDSON

HON. JOHN J. ROONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 17, 1971

Mr. ROONEY of New York. Mr. Speaker, the untimely passing of the Honorable J. Howard Edmondson, former Governor and Senator from the State of Oklahoma, was indeed a shock. Howard Edmondson was in the prime of life yet he had already achieved more than most men could ever aspire to in their entire careers. In 1953, he served as a chief prosecutor in the county attorney's office in Tulsa and the following year was elected county attorney and reelected to that post 2 years later. In 1958, he was elected Governor of the State of Oklahoma and in the capacity introduced many innovative reforms. In 1963, he came to the U.S. Senate to fill the unexpired term of the late Senator Robert S. Kerr. At the time of his unexpected death he was managing the Senate campaign of our distinguished colleague ED EDMONDSON, his brother. To his wife and children and to his brother I extend the Rooneys' deepest sympathy on their terrible loss.

KENTUCKIAN REELECTED PRESIDENT OF KEEP AMERICA BEAUTIFUL—SENATOR RANDOLPH RECEIVES AWARD

HON. JOHN SHERMAN COOPER

OF KENTUCKY

IN THE SENATE OF THE UNITED STATES

Tuesday, November 23, 1971

Mr. COOPER. Mr. President, representatives of citizen organizations, dedicated to a clean and attractive America gathered in Washington on November 11 and 12 for the 18th annual meeting to Keep America Beautiful.

This organization and its State and local affiliates work at the grassroots level in the crusade for a better environment. Such groups are essential to any effort to improve our world.

Mr. President, for the past year, Keep America Beautiful has operated under the active leadership of its president, James C. Bowling, a native of Paducah, Ky. I am proud that a former citizen of my State is so deeply involved in this important work. During the 2-day meeting, members of Keep America Beautiful demonstrated their appreciation for Mr. Bowlings work by reelecting him to a second term as president. I know that their confidence is well-placed.

This annual meeting, attended by more than 600 persons, was addressed by my friend and colleague, Senator JENNINGS RANDOLPH, of West Virginia, the chairman of the Senate Committee on Public Works.

Keep America Beautiful also presented a special award to Senator RANDOLPH with the following citation:

> Presented to the Honorable Jennings Randolph, senior senator from West Virginia for distinguished leadership and personal dedication to improving the environment for the citizens of his state and country.

Mr. President, I am pleased to add my commendation to Mr. Bowling and Senator RANDOLPH for their outstanding leadership for a better America. I have had the opportunity to know, as a fellow member of the Committee on Public Works, of the long record of initiatives and leadership to protect the environment.

CITIES SERVICE OIL SETS THE PACE IN WILDLIFE AND MARINE LIFE CONSERVATION

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1971

Mr. COLLINS of Texas. Mr. Speaker, America is proud of the innovations in wildlife and marine life conservation made by Cities Service Oil. Cities Service has received a first place award in petroleum engineer's environmental control development program for its fee land operations which have developed more than 30,000 acres of lands and waters for recreational benefits and improved air environment.

The awards program will be a continuing part of Petroleum Engineer Publishing Co.'s editorial program in Petroleum Engineer, Pipeline & Gas Journal and Hydrocarbon News, and is designed to disseminate to the public and throughout the industry the positive story of the petroleum industry's developments in pollution prevention. We salute Cities Service for their achievement in environmental control which was recognized in the award statement:

Cities Service Oil Sets the Pace in Wildlife and Marine Life Conservation

Through Cities Service Oil Co.'s land management program, the company is following its corporate philosophy of being a good neighbor wherever it operates and a good steward and conservator of its landholdings and natural resources.

Cities Service cites its fee land operations and development in Ouachita, Moorehouse and Union parishes in North Louisiana.

More than 30,000 acres of fee lands and water have been developed to improve value of the land, provide recreational benefits, and improve the air environment—all within the business concept.

Some 1400 acres covered by water and known as Black Bayou Lake is a satisfying and productive fishing spot. As a good neighbor, Cities Service keeps the latch string to the lake on the outside, permitting anyone to fish and hunt duck without charge.

Following guidelines of the Louisiana Wildlife and Fisheries Commission, a 240-acre pond for the raising of crawfish was developed on a small area near a bayou which was unsuitable for conventional farming. Thus, the oil company is producing high protein fish food in a highly engineered pond that surfaces over a gas field and tieing the two operations together as natural resource-related. In doing so, Cities Service is supplying an increasing demand from Louisianians for crawfish, the poor man's delight and the gourmet's delicacy.

More than 13,000 acres have been dedicated to the Louisiana Wildlife and Fisheries Commission's wildlife management area. While the company will continue to cut timber from this area, the land becomes part of a large reserve managed by the state commission and available to the public for hunting.

Cities Service has more than 22,000 acres in timber within the 3-parish area. First planting of pine was in 1955, first "thinning" in 1970. Typical of the company's pine planting program: in one year, pine seeds were broadcast from a helicopter on 1250 acres. In addition, 400,000 pine seedlings were planted on another tract.

Cities Service recognizes that trees are essential to a healthful environment, and, figured on the accepted formula, reports its timber holdings are creating enough oxygen to supply the annual needs of almost 400,000 people.

More than 2400 acres are dedicated to farming on a tenant basis. Pecan farming is another innovation on the fee lands. Some 400 acres already are planted in pecan trees and an additional 600 trees will be planted annually for the next few years.

In its land management program. Cities Service feels it is attaining stature as a good steward of its fee lands—developing the natural resources to their utmost, replenishing renewable natural resources, maintaining and improving the environment and extending land usage for recreational purposes.

SISTER CITIES PROGRAM

HON. J. CALEB BOGGS

OF DELAWARE

IN THE SENATE OF THE UNITED STATES

Tuesday, November 23, 1971

Mr. BOGGS. Mr. President, I wish to pay tribute to an organization which is doing the shirt-sleeves work of creating international understanding and good will. I speak of the Town Affiliation Association of the United States.

President Eisenhower provided the inspiration for the Town Affiliation Association when he announced a broad people-to-people program in 1956. Since then, with the cooperation of the National League of Cities and the U.S. Information Agency, TAA has promoted "sister-city" programs between 370 American cities and towns and 445 cities and towns in 60 foreign countries.

Once the groundwork for a sister-city affiliation has been laid by a local affiliation committee, usually with the mayor as honorary chairman, the stage is set for a long and varied friendship between the cities. Since sister-cities are chosen on the basis of mutual interests, projects involving visitor exchanges, letter writing, school affiliations, and business and cultural exchanges develop naturally.

We in Delaware are particularly proud of the fact that TAA has flourished in recent years under the presidency of a dynamic and distinguished business leader from Dover, Del., Mr. Frederick W. Brittan. Mr. Brittan has accomplished what everyone said should be done but no one knew quite how to do. He has brought people to people across thousands of miles in a way that is personally meaningful to them.

Thanks to Mr. Brittan's tireless efforts, Delaware has an active sister-city program. It has enriched the lives of Delawareans with numerous cultural, social, educational, and commercial exchanges. Wilmington has for many years enjoyed a sister-city affiliation with Kalmar, Sweden. Likewise, Newark, Del., is affiliated with La Garde Freinet, France, and Dover is affiliated with two foreign cities—Lamia, Greece, and Tunja, Colombia.

Mr. President, I merely wish to draw the attention of Senators to this outstanding program which is deserving of our support and our appreciation.

Recently, Dr. George G. Wynne, Information Officer at the U.S. Mission to International Organizations in Geneva, who has long been associated with the sister-city program, wrote an excellent report on the Town Affiliation Association, highlighting the association's history, its achievements, and its current worldwide activities. It is a fine article. I ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Town Affiliation: The U.S. Experience

(By Dr. George G. Wynne)

The age of mass communications has increased the possibilities of direct contact between peoples across national frontiers. A gradual rise in living standards in many parts of the world, coupled with the progressive easing of travel and currency restrictions in the twenty-two years that have passed since World War II have brought international travel within the reach of ever greater numbers of people. With particular reference to the United States, this means that during 1969 more foreign nationals (excluding Mexico, 1 million, and Canada, 9 million)—an estimated 2 million—visited the U.S. than at any time in history.

To the extent that travel and personal contact between people of different nationalities strike at the roots of fear and hostility in the relations of governments, they help bring about that wide base of international understanding to which governments, fashioned of people and limited in varying degrees by their support, need be responsive. The proposition is basic and simple: what we don't know, we begin to fear and what we fear we begin to hate. As soon as the unknown quantity resolves itself into people with the same cravings and aspirations as our own, we begin to understand each other and to tolerate what may be differences in customs and behavior. Mutual suspicions are replaced by that other widespread trait of our gregarious human family—a natural curiosity about the other fellow and what makes him tick. From this realization of common humanity flows mutual friendship, respect and compassion

With the advent of community affiliations (Sister Cities) and other organized personal contacts on a local level in the interest of international understanding, but outside the direction and control of central government, a powerful new force has entered the international arena: that of people dealing with people, directly or through the private and professional groups that claim their interest. In the future this concept may not only prove an important adjunct to conventional moves by enlightened governments in the promotion of world peace and understanding, it might actually stake out the limits of popular support for government actions detrimental to international unity.

What then is the American experience and the challenge for the future held by people to people diplomacy? This paper will confine itself to the town affiliation or sister city movement which currently links more than 350 American communities ranging in size from New York City to Oakland, Nebraska (pop. 1,400) in mutually stimulating programs of information and cultural exchange that help widen the horizon of participating communities.

THE TOWN AFFILIATION ASSOCIATION

In September, 1956, former President Eisenhower announced the People-to-People program, holding the basic concept that the citizens of this country, representing the great strength of the United States, could and should make contributions to improve the image and understanding of our country abroad. This very sound concept was to involve people at all levels of our society in "personal diplomacy." Many ideas and committee endeavors were suggested and tried as elements of the program.

Of the original committees established in 1956, the principal purpose of the Civic Committee of People-to-People was to establish town affiliation relationships. Thirteen years have passed since the program was announced, and many of the other original committees no longer exist. However, the Town Affiliation (sister city) program has proved to be one of the most viable, far-reaching and effective in its impact.

In 1957, the U.S. Information Agency asked the National League of Cities, because of its broad-based municipal membership throughout the United States, to serve as a clearinghouse and in an administrative capacity to help expand the program. Today, more than 350 American cities have established affiliations with more than 450 cities in 60 other nations of the free world. These cities are actively engaged in meaningful international relations on behalf of the 1 out of every 4 Americans represented by the combined population of more than 45 million persons in these United States cities.

In the early years of the program, no more than a dozen active affiliations existed. As the number increased, the necessity developed for some type of clearinghouse through which interested cities could obtain pertinent informatiton as to affiliation procedures, leads to foreign cities available for affiliation, receive information regarding successsful and unsuccessful programs and how to do it materials. During that same period, the USIA had established the Office of Private Cooperation, serving in an advisoy and liaison capacity, to assist those cities wishing to obtain expert knowledge or desirable project ideas and to service embassy requests from abroad.

This combination proved to be most effective in the early years of the program; there were not too many cities then affiliated, and communication with them was relatively easy. However, as more cities heard about the program, more joined and requests doubled and tripled. The oroginal informal working relationship began to prove confusing, and efforts were initiated to give a more formal structure and policy to the entire national movement.

In 1965, the first efforts were made along these lines at a Western Regional Sister City Conference, held in Portland, Oregon, at which the delegates unanimously recommended the establishment of a national association. Following this action, the League of California Cities and the League of Oregon Cities adopted resolutions supporting the idea during their annual meetings. The Executive Committee of the National League of Cities took identical action at its meeting late in 1965. An interim Board of Directors was named, so that Article of Incorporation and By-Laws could be drafted and other procedures established to accomplish this organization. At the 10th Anniversary Conference of the Town Affiliation Program held in Washington in September, 1966, delegates unanimously supported this idea, and the incorporation was completed. Additional meetings were held to formalize the structure of the organization, a fund raising drive was launched, and the association finally became a reality on June 12, 1967, in the District of Columbia.

The National League of Cities and many State Leagues of Cities wholeheartedly support the Town Affiliation Association. However, town affiliations are basically citizen-oriented.

They should be citizen-directed and involve widespread citizen participation. It is the consensus of the leadership of the NLC that its role, and that of any organization of city officials, should be one of participation and support, rather than one of policy-making and administration. Therefore, at the will and direction of the cities currently involved, the Town Affiliation Association of the United States, Inc. was founded in 1967.

A RECORD OF ACHIEVEMENT

The joining of forces in the U.S. over the past three years of national and civic organizations for a nation-wide promotion of community affiliations has pushed the number of active information and cultural exchange programs in effect between American and foreign cities to a historic high at the time of this writing. These have been recognized as a promising new technique in intercultural relations at the local level designed to bring the talents and resources of private citizens to bear on the problem of eliminating sources of intolerance, prejudice and suspicion among nations.

Even though negotiations aimed at establishing specific affiliations normally take six months or more, involving as they sometimes do local legislative action in both communities, the organization of committees and action programs, international correspondence and the scaling of language barriers, new affiliations are now coming into being at the rate of one every six days.

Efforts are now under way to strengthen the content and impact of existing programs through an exchange of views, program ideas and case studies of successful projects in a monthly newsletter designed to serve as a vehicle for the exchange of information between participating American communities.

The significance of this combined effort in the initiation of international relations at the city level has been recognized in feature articles appearing in such nationally noted magazines as The Reader's Digest and Look Magazine. Leaders of American thought and action, including Presidents Eisenhower, Kennedy, Johnson, and Nixon, legislators, judges, scientists and educators, have hailed the achievements of the program in establishing enduring friendships between America and their neighbors on this shrinking planet. Introduced on a number of occasions on the floor of Congress and reported in the Congressional Record, these remarks have added their weight to the scores of positive evaluations by the nation's leaders on both sides.

As the type of activities undertaken by American Cities in their exchanges with foreign affiliates generally fall into the same categories, no attempt will be made to single out or evaluate the projects of specific cities. The scope of this paper does not permit such project summaries. The highlights presented below are grouped rather according to functional areas in which sister city programs have already advanced the cause of international friendship and cooperation while giving evidence to progressively increasing the scope and depth of their contribution.

RAPPROCHEMENT BETWEEN VITAL WORLD AREAS

Eighty Japanese communities with a combined population in excess of 30 million are now linked with an equal number of American cities in a massive rebirth of sympathy between the citizens of two nations locked in mortal struggle within the memory of the present generation. The movement has spread so rapidly in Japan that city governments have made it a point of municipal policy to be the first in their area to obtain an American affiliation. Unlike the programs of American communities which are financed almost entirely by private and voluntary contributions, Japanese municipalities often underwrite the affiliation activities out of city funds as a project in the public interest.

Besides an impressive exchange of delegates and visits considering the distances involved, the program here has been characterized by the trading of permanent and dramatic tokens of goodwill between communities. These have ranged from a full-size replica of San Diego's 20-ton Guardian of the Waters statue now facing eastward across the Pacific from a waterfront shrine in Yokohama, to cast bronze temple bells and entire pagodas shipped by Japanese communities to U.S. sister cities as a symbol of their lasting friendship and goodwill. In the course of these exchanges even a San Francisco cable car, an object of local lore, representative of a vanishing era, has found its way to enshrinement in the public park of Osaka—San Francisco's sister city. Thousands of young people in both countries are corresponding with each other, school systems are cooperating in exchanges of information and exhibits and many more local officials, opinion makers, students and businessmen on both sides of the Pacific are getting to know each other in that climate of goodwill, mutual trust and local loyalties established by the sister city program, than would otherwise have been possible.

The same holds true of affiliations with German speaking communities, some of which like that of Worthington, Minnesota and Crailsheim, Germany date back to the early postwar period and have been productive ever since to student and teacher exchanges. Several affiliations have even resulted in marriages. A case in point is provided by the Hagerstown, Maryland-Wesel, Germany affiliation where former Mayor Winslow Burhans' daughter married the son of a Wesel municipal judge.

Though this paper has confined itself to the American experience, we understand that the hundreds of Franco-German twinnings of cities have contributed dramatically because of their geographical closeness and the ease of travel to a physical rapprochement between the two countries.

The day may come when such exchanges will also contribute to the lessening of East-West tensions, but such a development presupposes a workable method to limit and hold to parity the role of government in community programs.

LEARNING FROM EACH OTHER

The existence of sister city links has resulted in thousands of privately financed student and teacher exchanges instrumental in building a lasting appreciation of the overseas neighbor's society and culture among today's opinion makers and tomorrow's leaders. In obtaining personal knowledge of each other's ways, problems and aspirations, exchange visitors have time and again gained a priceless awareness that the standards of their own society are relative rather than absolute and that the essential unity of the human family is of greater significance than its manifold divisions.

Exchanges of delegations and organized group visits of local citizens in the course of their vacations, or specifically for study purposes have also contributed to this objective. These private exchanges of persons, hurdling political and language barriers, would not have come about without the sister city program. This applies in like measure to the exchanges of information in the form of exhibits, correspondence, newspaper articles, films and tape recordings, besides the more obvious exchanges of book and magazine collections which are daily bringing American cities and their foreign affiliates closer together in an appreciation of each other's culture and viewpoints.

Ingenious methods have been adopted by the program committees of sister cities in mobilizing the financial and human resources of the community in support of their worthwhile endeavors. Fund-raising devices to finance scholarships, teacher exchanges, library presentations and other program work have included trade fairs (Riverside, Cal.), fashion shows (Denver, Colo.), dances (Forest Heights, Md.), the general solicitation of contributions by local industry and the registering of sister city programs as non-profit corporations qualifying for tax-exempt membership dues and contributions (York, Penn.; Montclair, N.J.; San Diego, Cal., etc.).

The importance of foreign language study brought home to affiliated communities in the course of their association has resulted in accelerated language teaching efforts at the local level with built-in incentives for proficiency in place of earlier indifference. Sister Cities have in some instances been successful in obtaining the services of exchange teachers invited to the United States under government grants and local school systems in affiliated cities are making a greater effort to participate in government sponsored teacher exchanges with particular reference to the city of their choice.

In what is reportedly to be one of the most massive U.S. efforts of its kind, the public schools of York, Pennsylvania affiliated with Arles in southern France—are providing regular instruction in French to thousands of primary and high school students. The program uses the services of exchange teachers provided by Arles and has been in force for a number of years. Other affiliated cities are likely to follow suit with the growing interest in foreign travel, language and culture now spreading throughout the country. Local radio stations and the National Association of Educational Broadcasters are cooperating in this effort by organizing instruction programs in major world languages. Adult education programs have followed suit by offering evening classes of instruction in the languages of affiliated cities. A recent example is Downey, California where some 70 leading citizens joined an intensive Spanish language course in preparation for a group visit to Guadalajara, Mexico, their new sister city to the south.

MUNICIPAL COOPERATION

Communities linked in town affiliation programs are exchanging technical information on municipal problems such as waste disposal, traffic control, fire fighting, zoning regulations and the like. They have even started to help each other by exchanging the services of experts on requests to deal with specialized local problems. A New York traffic engineer has gone to Tokyo and port officials in Seattle and Kobe have swapped places to study their problems from a new perspective. Taking a busman's holiday and sampling life abroad in the process, the Jakobstad, Finland fire chief fought fires with the Jamestown, New York fire department and vice versa.

There are other examples of this kind, but technical cooperation at the municipal level is just beginning and it provides a challenge for international action through such organizations as the United Nations, since the costs and specialized skills involved generally exceed the resources available to single communities. Participating cities and the U.N. technical cooperation program could well afford to take a closer look at how their skills and resources could best be combined to bring the know-how of advanced municipalities to bear on the problems of urban centers now emerging from centuries of social neglect.

Also contributing to the impact of sister city programs have been technical exchanges sponsored by private industry, such as skilled craftsmen from Arles working in the Home Furniture Company of York, Pennsylvania, or a builder from Wesel employed for a year by a Hagerstown, Maryland firm. Opportunities provided by the regular exchange programs of government and private organizations have sometimes been utilized by enterprising city affiliators in providing transportation for such specialists as newspaper and radio reporters. A newsman from Rennes, France, for instance, served on the staff of the Rochester, New York Daily and a Sendai, Japan reporter has worked with the Riverside, California press.

A FRIEND IN NEED . . .

Sister cities have rallied to aid each other when stricken by disaster or faced by critical needs and sudden emergencies. Wesel, Germany residents rallied to aid Hagerstown, Maryland, faced by severe unemployment in the winter of 1961. When severe earthquakes ravaged Chile one summer, the community of Sausalito, California, affiliated with Vina del Mar, raised several thousand dollars for relief operations. Iron lungs have been flown to Japan to combat a polio epidemic, and a twin-engined plane was presented to Goiania, Brazil by Orlando, Florida to service the educational needs of Indian tribes in scattered jungle locations.

Los Angeles sent crates of medical supplies to typhoon-damaged Nagoya, Japan. Places for medical interns from Graz, Austria, where medical facilities were overcrowded in the postwar years, have been provided annually by Monclair, New Jersey; a children's health clinic established in Brest, France by Denver, Colorado, and a ward financed in the Mercara, India community hospital by Darien, Connecticut, to mention but a few examples of Sister City assistance.

MAKING BETTER CITIZENS

In helping their country by making and keeping friends abroad, Americans engaged in the program are not only gaining a sympathetic awareness of the problems of the other fellow, from the frank discussions and exchanges of views that typify the best affiliations, they are learning to see themselves as others see them. The work of the town affiliation committee, focusing the efforts of local groups and of citizens in all walks of life into a positive community objective, moreover provides a constructive experience of working together with one's neighbor for a common goal representative of man's noblest aspirations.

Their association in this relatively selfless endeavor tends to generate among participants a climate of mutual respect and appreciation. Former San Jose Mayor Robert Doerr noted in a representative evaluation of sister city committee work at the 1959 Civic Committee Conference that, "a great many things have happened in San Jose as a result of the affiliation which have contributed to what we might call an era of good feeling.

Local citizens working together for the first time on a program for the good of the community and the nation found they could cooperate. When called together for other civic projects, they knew each other personally and were off to a good start." The mechanism established by city affiliators in initiating and coordinating projects involving all community service organizations, the schools, churches, city officials, newspaper, and radio station, thus provides a vehicle for obtaining community action on local issues in the public interest.

A well-rounded sister city committee is a truly representative group that often provides a more accurate cross-section of community interest, occupations and concerns than the men officially charged with the city's affairs. As such, it can help channel community feelings into constructive endeavors and respond quickly to local, national and international challenges.

With the depth and the impact of sister city programs constantly on the increase, this widening experience in local action for international goals cannot help but produce more internationally conscious and thoughtful citizens across the length and breadth of America. This may well be on an age of national inter-dependence.

SOME CAUTIONS

While this power has so far confined itself to the positive aspects of town affiliations a number of definite cautions need to be observed by the committees operating the program to insure that it takes advantage of the opportunity to improve international relations. If these common sense cautions are consistently ignored, an affiliation can lead to more harm than good in the sum total of frayed tempers, irritations and mutual recriminations it will generate.

The author believes that the national organizations promoting the program as a pathway to peace and international cooperation are aware of the dangers inherent in projects not carefully planned and thought through. As will be shown in the succeeding section, their assistance to local committees is of a type specifically designed to avoid these pitfalls.

THE SUPERFICIAL APPROACH

If groups in a community embark on an international program without concern for a lasting and serious relationship, paying attention only to the local and transitory rewards of publicity, their foreign counterparts will soon come away disenchanted from a relationship that provides only the means to an essentially selfish end. A lasting affiliation cannot be built on a lavish one-time spectacle, nor on a drawn-out but empty ritual of contact which fails to deal in meaningful terms with mutual problems and curiosities substituting mere form and motion for the content of human relations.

Conversely, sincere but overly-enthusiastic approaches by American community groups steeped in the pragmatic tradition that in an age of salesmanship tends to get deafened by the sound of its own voice, may frighten and put on their guard overseas communities used to more formal and low-keyed approaches.

UNREQUITED AFFECTION

If repeated demonstrations of goodwill and suggestions of affiliation encounter only silence, if so to speak, the hand proffered in friendship is ignored by the prospective partner, people soon turn away with irritation and injured pride from their unsuccessful international experiment. They may become more parochial and less tolerant in their outlook than they were before. Equally as bad is the acquiescence of an uninterested city, too polite to refuse the insistent advances of a foreign community, but unwilling to live up to the foreign relations responsibilities it has acquired by following the line of least resistance. More perishable than most commodities, the tender shoots of municipal friendship need friendly care and protection during the planting period to insure they will thrive in the soil that receives them.

POLITICAL EXPLOITATION

Like the Olympic Games, city affiliations are intended to match the talents of skilled amateurs, in this case amateurs in the field of international relations. Participants in sister city activities work at the enjoyment of friendship across national frontiers as an avocation, a rewarding hobby in addition to their full-time pursuits. If governments, which are supposed to stay out of these private associations, infiltrate and exploit them for their own political objectives by dispatching trained "professionals" in the guise of "amateurs," the contest is likely to turn into an unequal propaganda exercise. Privately financed community efforts are no match for a government project able to absorb the travel costs of centrally available revenues.

MEETING THE PROBLEM

By intensive servicing of present and prospective town affiliations with information, advice and study guides, the organizations active in coordinating the program on a national level are seeking to avoid superficial or thoughtless approaches to experiments in international communication on the part of local communities. The Town Affiliation Association provides information on foreign countries, on customary procedures employed in establishing affiliations and on the tried and tested projects of other American communities. Affiliation committees are referred to program aids such as pertinent books or services available from private or public organizations and the experiences of other American cities in exchange programs with the country of their choice. There is much room for improvement in this field.

At present, only a handful of people are working nationally on this vital problem of servicing an information exchange, while the number of affiliations keeps increasing at an accelerating pace. The danger of affiliations going sour because they lack sustained initiative, guidance and information calls for a considerably greater servicing effort than is now being expended. The disproportionately positive influence on foreign relations wielded by the sister city program in terms of national cost and effort more than merits such an increase in the scope and depth of professional servicing.

THE INTERMEDIARY

To avoid embarrassing rebuffs and the need for future disentanglements of one-sided affiliations that have become a liability rather than an asset to the international standing of a community, the Town Affiliation Association took its role as an intermediary between U.S. and foreign communities very seriously. In cooperation with foreign municipal and other organizations and with resident Americans abroad, the initial reaction of foreign city governments and local organizations to a proposed affiliation is carefully searched out.

If the answer is "no," be it because of other commitments, the pressure of more urgent projects, or just plain lack of interest, the middleman technique employed by TAA avoids hurt feelings at this point and the city looks elsewhere for a partner. Acting as a buffer between communities before they establish contact, the TAA approach on behalf of a member city permits an unwilling prospect to bow out more gracefully than would be possible after direct contact is established between the cities. The impersonal role of TAA as a broker allowed cities to react realistically rather than politely and avoids problems later.

KEEPING PROGRAMS OUT OF GOVERNMENTAL CONTROL

In order to maintain town affiliations on a non-political level, outside of domination by power structures opposed to free information exchange and the principles of representative government embodied in the municipal structure of U.S. communities, the Town Affiliation Association and other cooperating members in the western hemisphere decided to work only with the professional and non-political organizations affiliated with the International Union of Local Authorities in the pursuit of sister city programs.

American communities favor exchanges of persons and information with all countries but prefer, according to TAA, that these be carried on informally in cases where there is danger that an official city affiliation could be exploited for its own purposes by a hostile central government acting through local administrators.

A SISTER CITY PLAN

An outline of the process by which an American community establishes and operates a sister city program normally includes these steps:

An individual or a group becoming aware of the purposeful nature of town affiliations seeks to obtain community support through the Mayor's office by means of a steering committee including to the extent possible a cross-section of community leaders and organizations.

The committee reviews the human and physical resources of the community from the standpoint of starting and carrying through a successful affiliation program. The mayor usually serves as honorary chairman of this committee, which decides on the country and, in some cases, even the city or cities desired as prospective partner(s). Historical ties, ethnic composition of the community, factors of size and economy, cultural interests should have some bearing on the choice.

The committee will consult the list of foreign cities already affiliated with American communities to avoid duplicate efforts and secure information on existing programs and techniques from the Town Affiliation Association of the United States.

When the choice is narrowed down to a country or a particular city, the committee transmits its wishes to the Director of Town Affiliations at the Town Affiliation Association, together with background information, pamphlets, photos and other available graphic and visual material on the community to help TAA and its foreign affiliates in effecting a proper "introduction" to the prospective partner overseas.

The Town Affiliation Association working with local resident Americans or government officials overseas assures itself of reciprocal interest by local authorities in the proposed foreign city. When that interest is established, direct contact ensues between the two cities who will have established counterpart committees to carry on exchange projects.

The first such project is the official act of affiliation, in the form of a resolution passed by the city council, which is exchanged with the municipal government of the sister city at ceremonies in both cities by representatives of the foreign city or its national government.

While these first contacts between sister cities are made at the municipal level, the next contacts take place on a continuing basis between organized counterpart groups in each community—the schools, service clubs, Chambers of Commerce, labor unions, professional associations, women's clubs, veterans, youth and hobby groups. From these official and organizational relations comes the people to people contacts that alone assure the success and continuity of a sister city program.

The scope and nature of the privately-sponsored exchanges of ideas, persons and objects, which form the core of a continuing town affiliation, is limited only by the imagination and resources of participating communities. Information on the types of successful projects undertaken by U.S. communities is available without charge from the Town Affiliation Association of the United States, 1612 K Street, N.W., Washington, D.C.

A survey by the Town Affiliation Association of existing town affiliation conducted by questionnaire has clearly established that the most active sister city programs are those supported to the greatest extent by the mass media of the community. To insure that the program filters down to the third and most important level of sustained people-to-people contact, it is essential that exchange projects, fund-raising drives and local events connected with the sister city receive frequent and extensive coverage by the newspaper, radio/TV stations and the public service advertising of the commercial community.

The elements of continuing personal contact and wide community participation constitute in the American experience the only basis of a town affiliation that lives up to its promise of passing on to the next generation a heritage of improved relations on a very small planet.

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1971

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,600 American prisoners of war and their families.

How Long?

LET'S BUILD A SPACE SHUTTLE

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1971

Mr. TEAGUE of Texas. Mr. Speaker, Industrial Research, one of the leading technical-managerial journals of today regularly conducts polls among its readers on significant national issues. The development of a low cost space transportation system, I am convinced, is not only essential for a strong national space program but also for our national security and the long-range economic well-being of our Nation. The November 1971 issue of Industrial Research asked its readers a number of significant questions about our national space program and particularly the development of a low cost transportation system—the space shuttle. The results of that poll overwhelmingly support the need for a space shuttle program. I am including this poll in the CONGRESSIONAL RECORD because of its significance in the decisions that will have to be made by the Congress in the near future.

The poll follows:

OPINION POLL RESULTS—LET'S BUILD A SPACE SHUTTLE

A significant majority, more than 83%, of respondents to the August "Opinion Poll" questionnaire favor a continued emphasis on space exploration via the space shuttle.

Forty-one percent of the survey respondents thought the space shuttle program will provide the most economical approach to future space exploits now that the Apollo flights are nearing completion. Only a few respondents felt that employment, national security, and our position in space were important factors in considering the shuttle project.

Little concern was evidenced, only 17%, that the space shuttle program would siphon money away from purely scientific space projects.

Tabular results of the August poll are presented below:

Q. 1: Do you favor the proposed space shuttle project?

	Percent
Yes	83
No	17

Q. 2. Which one of the following arguments cited by shuttle supporters do you think is most significant?

	Percent
It is the most economical approach to future exploits	41
It will aid employment and national security	8
Without it the U.S. will become a second-rate power in space	6
It is critical to the survival of NASA	4
All of the above	35
None of the above	6

Q. 3. Which of the following arguments cited by shuttle opponents do you think is most significant?

	Percent
It will take funds away from needed social problems	42
The economies proposed are unlikely	8
There is little application for such a vehicle	5
Now that we've reached the moon, there is no need for further space involvement	2
All of the above	6
None of the above	37

Q. 4. Some scientists oppose the shuttle program because they fear it will take dollars away from purely scientific space projects. Do you agree?

	Percent
Yes	17
No	83

Q. 5. If the shuttle program is defeated, NASA will have no major projects following the Apollo flights. In your opinion, what should be the future of NASA?

	Percent
Continue to seek other major space projects	56
Exist as smaller organization for limited space work	21
Conversion to work on other national priorities	19
Disbandment after completion of current programs	4

Q. 6. Why is the space program—the glorious offspring of the 1960s—now fighting for its life in the 1970s?

	Percent
Public now is more concerned with social problems	25
Involvement in Vietnam has drained funds and interest	11
A growing dissatisfaction with science and technology	16
Goal of being first on moon was accomplished	6
All of the above	38
None of the above	4

SENATE—*Wednesday, November 24, 1971*

The Senate met at 9 a.m. and was called to order by the President pro tempore (Mr. ELLENDER).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Eternal God, ruler of men and nations, at this festival of thanksgiving our hearts are warmed and our minds uplifted as we think of Thy goodness and mercy to our Nation and to each of us.

We thank Thee for home and family; for children, for their brave play and startling frankness; for youth, and their high idealism, their irreverence for worn-out values; their search for freedom and their solemn vows.

We thank Thee for growing up and growing old, for wisdom deepened by experience.

We thank Thee especially for this good land which Thou hast given us for our heritage; for freedom under Thy rulership; for institutions created and illumined by Thy Spirit; for Thy guiding hand on our pilgrimage through the years that are past; and for a place of honor and service among the nations.

We thank Thee for the bright hope of a world of justice and righteousness and for every advance which brings nearer the day of Thy kingdom.

We thank Thee for all that has been done to eliminate poverty and disease and to provide a better life for all the people.

We thank Thee especially for reduced combat, for diminishing bloodshed on faraway battlefields and for the hope of peace with justice and security.

We thank Thee for leaders who put their trust in Thee and for all workers whose motive is service to all mankind.

Come upon us afresh to make us new with Thy divine spirit that we may "be strong in the Lord and in the power of His might."

Send us to our homes and our churches with thanksgiving in our hearts and praise to Thee on our lips.

We pray in the Redeemer's name. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, November 23, 1971, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider a nomination in the Geological Survey, under New Reports.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDENT pro tempore. The nomination on the Executive Calendar, in the Geological Survey, under New Reports, will be stated.

GEOLOGICAL SURVEY

The second assistant legislative clerk read the nomination of Vincent E. McKelvey, of Maryland, to be Director of the Geological Survey.

The PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed; and without objection, the President will be immediately notified of the confirmation of the nomination.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

MAJOR GENERAL SHOUP—A MARINE'S MARINE

Mr. MANSFIELD. Mr. President, Newsweek magazine for November 29, 1971, contains an article entitled "A Marine's Marine."

It refers to the former Commandant of the Marine Corps, Maj. Gen. David Monroe Shoup, who, incidentally, happened to be born in a place called Battleground, La.

I ask unanimous consent to have the article printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHERE ARE THEY NOW?—A MARINE'S MARINE

In the fall of 1959, when Maj. Gen. David Monroe Shoup was catapulted over the heads of nine senior officers to become the 22nd commandant of the U.S. Marines, divided leadership and controversy over hard-nosed training methods had driven the fabled morale of the Corps to an all-time low. Almost from the day he took charge, however, the bespectacled, barrel-chested Shoup—a Medal of Honor winner for his gritty leadership of the marines' bloody victory at Tarawa—began to revive the Corps' sagging esprit. In the process, he pointedly defied many of the most cherished Marine traditions, overhauling the training program, replacing obsolete landing craft with helicopters and even abolishing the swagger stick. But Shoup also insisted upon strict adherence to the old-fashioned personal virtues and ramrod discipline that had made him the epitome of a marine's marine.

Ironically, it was not until several years after his retirement in 1963 that the general public first learned about the maverick side of Shoup's character. Shoup's widely reported observation that "the whole of Southeast Asia is [not] worth the life of or limb of a single American" severely jolted the nation's military brass in 1966. And later, the increasingly dovish ex-general shocked the entire military-industrial complex by asserting that the U.S. should "keep [its] dirty, bloody, dollar-crooked fingers out of . . . these [exploited] nations."

DOOMED

Today, although he seems less eager to enter the verbal arena than in years past, Shoup believes that his criticisms of the Vietnam war effort have long since been confirmed. "I was among the first," he recalls somewhat wearily, "to say we could not win because we were not permitted to go to the heart of the war—to North Vietnam." For the same reason, he believes, President Nixon's Vietnamization program is also doomed to failure. "As soon as we get out," the peppery, white-haired grandfather of four asserts, "North Vietnam will be able to move right in and take over." Sadly, he adds: "After all that killing—it is frustrating, frustrating."

At 66, Shoup and his wife, Zola, live in a hilly, wooded enclave of Arlington, Va., just a few miles away from the Pentagon. Shoup plays an occasional game of golf, but he is far more interested in working on his autobiography. Yet if he spends more time looking backward these days, Shoup still remains vitally interested in the future. He confidently predicts that "as long as the Navy operates on water, we will need the Marines." As for the future of military leadership, though, Shoup is not quite so certain. "Machines will probably be making the decisions," he conjectured with undisguised regret last week. "The human brain is just too slow to cope with the complexities of modern warfare."

TROOP REDUCTIONS IN VIETNAM

Mr. SCOTT. Mr. President, the current issue of Life magazine contains two very dramatic illustrations. On pages opposite each other there are two maps, one showing the presence and location of U.S. forces in Vietnam at about the beginning of this administration, and another showing the near absence of U.S. combat allocations in Vietnam at this time. The maps illustrate more cogently, I think, than most prose, how near we are to ending this war. In fact, the article is entitled "The U.S. Pulls Out of Vietnam."

Mr. President, tomorrow is Thanksgiving Day. I verily believe that the year 1972 will mark the end of active U.S. participation in Southeast Asia.

I hope that next Thanksgiving Day, 1972, we will be able to comment in this Chamber—should we be here that late—earlier if we are not here that late—that the war has ended so far as the United States is concerned. I hope also that the war will have ended so far as Vietnam is concerned.

Let me repeat the warning I made here some time ago—my very sincere hope that the United States will not become involved in the dreadful crisis developing between India and Pakistan. It would be so easy, by giving a little aid here or a little aid there, a few arms here and a few arms there, for us to get involved in a far bigger place than South Vietnam—and involved indefinitely with almost untellable consequences.

I hope that we in this Chamber, and elsewhere in the country, will resolutely remain not aloof, as one indifferent remains aloof, but apart as one who truly wishes to preserve neutrality remains apart.

I have not heard many voices on this subject, but I sincerely believe that the way to stay out of war is to see it coming and plan what we have to do. The way to stay out of trouble is to plan against trouble.

Thus, Mr. President, I hope that we will stay out of this dreadful involvement that is developing between India and Pakistan.

Mr. MANSFIELD. Mr. President, I join in the distinguished minority leader's comments and commend him for his remarks.

I, too, hope that by this time next year there will be no more U.S. troops in Vietnam, that the war will be behind us, and that what we will be considering will be the rehabilitation of that which has been destroyed.

I also join the distinguished minority leader in his remarks relative to not becoming involved physically in the India-Pakistan situation, which seems to be reaching highly dangerous proportions.

Let me express the hope—and I am sure that the distinguished minority leader will join me—that this is the time—now, today—not tomorrow, but today—for the Security Council in the United Nations to act. It operates the year round. It is a small group. There is no reason why it should not engage its great prestige; the Security Council is composed of the greatest nations in the world. If they have any power, if they have any clout, now is the time to exercise it.

I also join the distinguished minority leader in commending the President for reducing U.S. forces in Vietnam, since he assumed office, from 546,000 to around 180,000 at the present time.

Let me say in conclusion that insofar as the remarks made by the distinguished minority leader are concerned, as to our not becoming involved elsewhere—at least, that was his implication—I trust that we will not become involved in any more Vietnams anywhere in the world, because the price is too high, the cost is too high, the casualties are too high. The reputation of this Nation has suffered enough because of the misadventure in Southeast Asia.

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business, not to exceed 15 minutes, with statements therein limited to 3 minutes.

Mr. GRIFFIN. Mr. President, may I be recognized?

The PRESIDENT pro tempore. The Senator from Michigan is recognized.

Mr. GRIFFIN. Mr. President, I yield my time to the distinguished minority leader.

CAUTION ABOUT U.S. PARTICIPATION IN INDIA-PAKISTAN CONFLICT

Mr. SCOTT. Mr. President, I thank the distinguished assistant minority leader. I asked for additional time, first, to make the point, about which I am sure the distinguished majority leader and I are in agreement, that my comment on the India-Pakistan debacle does not indicate in any sense an incallous disregard of human suffering and that it does not in any way deny continuing commitments to relieve those suffering from natural disasters on from the tragedies that come to people who are caught in them.

I understand that our aid to the East Pakistan refugees is greater than has been given by all the world combined.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. SCOTT. I yield.

Mr. MANSFIELD. Mr. President, I join wholeheartedly in what the distinguished minority leader has just said. From a humanitarian point of view, I think we must and should do everything possible. However, I was referring to a physical military involvement. I think we have had enough of that for some time to come.

Mr. SCOTT. Mr. President, I thank the majority leader.

PROPOSED EXPEDITION OF SENATE WORK NEXT YEAR

Mr. SCOTT. Mr. President, the conferences of both parties in the Senate have been considering a matter on which I will report only from this side of the aisle. However, I am advised that the feeling is very general. I say this now merely to get it on the record for the benefit of all Senators.

Beginning next year we have simply got to consider a way to expedite the processes of the Senate.

On my side of the aisle—and the distinguished majority leader can comment, if he wishes to, concerning the other side—it is our feeling that we should dispose of all authorizations next year before the end of June. Someone said, "What is the penalty?" The penalty is that if one does not get an item included in an authorization bill, anything that he gets will have to come through a supplemental appropriation bill later.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. SCOTT. I yield.

Mr. PASTORE. Mr. President, I have run up against this problem several times and have remarked on it on the floor of the Senate. I have handled the Independent Offices Appropriations bill, and many times we had completed our hearings and were ready for markup, but no authorization measure had been passed. We had to wait and wait and wait.

Mr. SCOTT. That has been true time and time again. Another illustration is the defense appropriations bill—a $77 billion bill—which is often held up because a $2 billion item has not been authorized.

This is no way to conduct legislative business, as I see it. I believe that reform is in order.

The PRESIDENT pro tempore. The time of the Senator has expired.

Mr. BYRD of West Virginia. Mr. President, if I may be recognized, I yield my 3 minutes to the distinguished majority leader.

The PRESIDENT pro tempore. The majority leader is recognized for 3 minutes.

Mr. MANSFIELD. Mr. President, once again, I agree wholeheartedly with what the distinguished minority leader has just said. It is my understanding that the Republican conference has agreed unanimously to such a procedure. The Democratic Policy Committee has agreed unanimously to such a procedure. We are delighted that the Republican conference took the initiative in this respect. We are very happy to join them.

I have no doubt that the Democratic caucus, if one is called, would unanimously approve of such a procedure as well.

It is interesting to note that the distinguished President pro tempore is in the chair. He is also the chairman of the Appropriations Committee. May I say that he has done not only an outstanding, but also a magnificent job in getting the appropriations bills, insofar as the Senate was concerned, to the floor in an expeditious manner. I know that he would like to have this assurance. Beginning next year, if authorization bills are not ready by June 30—and that is giving them a long time—we anticipate and expect that the Appropriations Committee will go ahead, and any pieces of legislation authorized thereafter having to do with appropriations can be taken up in a supplemental bill.

May I ask the distinguished minority leader if he would convey this message to the White House so that they—and they have done a very good job this year all over—would be aware of this action, so that their messages and recommendations could come up in sufficient time and their witnesses would be ready, so as to enable this kind of procedure to go into effect?

Mr. SCOTT. Mr. President, I would be glad to do so and to express it very strongly.

I join with the distinguished minority leader in praising the great chairman of the Committee on Appropriations, who has done one of the most magnificent jobs in getting these matters handled that I have seen in the 13 years I have been in the Senate.

Mr. MANSFIELD. Mr. President, I should like to include in that commendation the distinguished Senator from North Dakota (Mr. YOUNG), who in a quiet way has been most diligent in working as a team with the Senator from Louisiana. Together, the team of ELLENDER and YOUNG make a great combination.

Mr. SCOTT. Oh, it is a fine old firm.

PETITIONS

A petition was laid before the Senate and referred as indicated:

By the PRESIDENT pro tempore:

The petition of David W. Fuller, Springfield, Mo., praying for the enactment of legislation relating to termination of citizenship in the United States of America; to the Committee on the Judiciary.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. COOPER:

S. 2902. A bill to amend the Railroad Retirement Act of 1937 so as to increase the amount of the annuities payable thereunder to widows and widowers. Referred to the Committee on Labor and Public Welfare.

By Mr. TOWER:

S. 2903. A bill to amend titles 10 and 14, United States Code, to provide for the issuance of a medal to be known as the prisoner of war medal. Referred to the Committee on Armed Services.

By Mr. ANDERSON:

S. 2904. A bill authorizing the Secretary of the Interior to hold certain property in trust for the benefit and use of the Acoma Indian Tribe, New Mexico. Referred to the Committee on Interior and Insular Affairs.

By Mr. MILLER (for himself, Mr. CURTIS, Mr. DOLE, Mr. HRUSKA, Mr. HUGHES, and Mr. PEARSON):

S. 2905. A bill to provide for the disposition of funds appropriated to pay judgments in favor of the Sac and Fox Indians, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. COOPER:

S. 2902. A bill to amend the Railroad Retirement Act of 1937 so as to increase the amount of the annuities payable thereunder to widows and widowers. Referred to the Committee on Labor and Public Welfare.

Mr. COOPER. Mr. President, I introduce today a bill to provide certain amendments to the Railroad Retirement Act of 1937. The purpose of these amendments is to increase the amount of annuities payable to widows and widowers.

This bill is identical with H.R. 5521, which was introduced in the House by Congressman PEPPER on March 3, 1971.

By Mr. TOWER:

S. 2903. A bill to amend titles 10 and 14, United States Code, to provide for the issuance of a medal to be known as the prisoner of war medal. Referred to the Committee on Armed Services.

Mr. TOWER. Mr. President, I introduce legislation which would authorize the President of the United States to award a prisoner of war medal to those members of the Armed Forces who have been captured in the line of duty and held as a prisoner of war for any period of time subsequent to January 1, 1960, by any foreign government or power.

Tomorrow, our great Nation will pause for a day to give thanks for the multitude of blessings that we enjoy as American citizens. We will contemplate our bountiful tables, the security of our homes and the freedoms and privileges of the Bill of Rights. I urge my fellow countrymen to join me tomorrow in praying for the humane treatment and early release of the American prisoners of war whose plight is a result of their individual determination, dedication, and courageous efforts to preserve the integrity and the security of our great Nation.

We are deeply aware of the sacrifices that these brave men have made for all Americans so that we might enjoy the use and protection of our institutions of freedom. Today, there are 1,136 Americans missing in action and 463 Americans who have been acknowledged as prisoners of war in Southeast Asia. Tomorrow the families of 1,599 of our finest men will be celebrating a Thanksgiving while a beloved family member is held captive on the other side of the world or whose whereabouts are completely unknown. The families have made their own personal contribution to America and Americans owe them an expression of gratitude.

Mr. President, at this time I ask unanimous consent that the following information concerning the status of Americans who are missing in action or who are prisoners of war be placed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATUS OF U.S. PRISONERS OF WAR AND MISSING IN ACTION, PRISONER RELEASES, AND ESCAPES IN SOUTHEAST ASIA AS OF NOVEMBER 6, 1971

A. BY COUNTRY

Country	Missing	Captured	Total
North Vietnam	407	378	785
South Vietnam	478	82	560
Laos	251	3	254
Total	1,136	463	1,599

B. BY SERVICE

Branch	Missing	Captured	Total
Army	375	63	438
Navy	108	143	251
Marine Corps	91	23	114
Air Force	562	234	796
Total	1,136	463	1,599

C. STATISTICAL RECAPITULATION BY YEAR

	1964[1]	1965	1966	1967	1968	1969	1970	1971	Total
Missing	4	54	206	247	284	200	92	49	1,136
Captured	3	74	93	162	113	11	4	3	463
Total	7	128	299	409	397	211	96	52	1,599

[1] Between 1961 and 1964, only a few U.S. military personnel were captured or missing in action in Southeast Asia, all of whom subsequently escaped, were released, died in captivity, or have otherwise been accounted for.

American Prisoners of War and Missing in Action in Communist China as of November 6, 1971.

Two American military officers (one Navy, one Air Force) have been captured by Chinese Communist forces during the Vietnam war. Both are currently listed by the Defense Department as being "interned" in China. In addition, five naval personnel, whose aircraft was hit over North Vietnamese territory, "are thought to have gone down in China." They are listed as missing in action.

Prisoner of War Releases

Since the beginning of the war, the North Vietnamese have released only nine Americans. The Vietcong have freed 24 Americans, three by means of battlefield negotiations.

IV. ESCAPES BY U.S. PRISONERS OF WAR

Army	11
Navy	2
Marine Corps	10
Air Force	1
Total	24

Source: U.S. Defense Department. Directorate of Information, Assistant Secretary, Public Affairs. Telephone conversations, Nov. 9 and 11, 1971.

Mr. TOWER. Mr. President, I feel that the courage of these men should be officially recognized by our Government For this reason, I am introducing this legislation creating a medal to be awarded to these men.

I urge my fellow Senators to give this matter their careful consideration. I feel that this action will be significant in demonstrating once again the solidarity of the American people in their determination to obtain humane treatment and release of our prisoners of war.

At this time, I ask unanimous consent to include the full text of my bill in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2903

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 357 of title 10, United States Code, is amended—

(1) by inserting in section 3744 "prisoner of war medal," immediately after "distinguished-service medal," in subsections (b), (c), and (d);

(2) by striking out in section 3744(c) "distinguished himself" and inserting in lieu thereof the following: "has distinguished himself or has been a prisoner of war";

(3) by adding immediately after section 3750 a new section 3750a as follows:

"§ 3750a. Prisoner of war medal: award; limitations

"(a) The President may award a prisoner of war medal with a rosette or other device to be worn in place thereof, to any person who, while serving as a member of the Army on active duty, is captured in line of duty and held as a prisoner of war for any period of time subsequent to January 1, 1960, by any foreign government or power.

"(b) Not more than one prisoner of war medal may be awarded to any person. For each 180 day period that any person was held as a prisoner of war, following the initial period of 180 days he was so held, the President may award such person a suitable bronze star device; and the President may award a suitable silver star device to any person held as a prisoner of war for any period or periods totaling two and one-half years."; and

(4) by inserting in section 3752 (a) "prisoner of war medal," immediately after "flying cross,".

(b) The catch line of section 3744 of such title is amended to read as follows:

"§ 3744. Medal of honor; distinguished-service cross; distinguished-service medal; prisoner of war medal: limitations on award".

(c) The table of sections at the beginning of such chapter 357, is amended—

(1) by striking out

"3744. Medal of honor; distinguished-service cross; distinguished-service medal: limitations on ward."

and inserting in lieu thereof

"3744. Medal of honor; distinguished-service cross; distinguished-service medal; prisoner of war medal: limitations on award."; and

(2) by inserting

"3750a. Prisoner of war medal: award; limitations." immediately after

"3750. Soldier's Medal: award; limitations.".

SEC. 2. (a) Chapter 567 of title 10, United States Code, is amended—

(1) by adding immediately after section 6246 a new section 6246a as follows:

"§ 6246a. Prisoner of war medal

"(a) The President may award a prisoner of war medal with a rosette or other device to be worn in place thereof, to any person who, while serving as a member of the Navy or Marine Corps on active duty, is captured in line of duty and held as a prisoner of war for any period of time subsequent to January 1, 1960, by any foreign government or power.

"(b) Not more than one prisoner of war medal may be awarded to any person. For each 180 day period that any person was held as a prisoner of war, following the initial period of 180 days he was so held, the President may award such person a suitable bronze star device; and the President may award a suitable silver star device to any person held as a prisoner of war for any period or periods totaling two and one-half years.";

(2) by inserting in section 6248 "prisoner of war medal," immediately after "Marine Corps Medal," in subsections (a) and (b);

(3) by striking out in section 6250 "distinguishes himself" and inserting in lieu thereof the following: "has distinguished himself or has been a prisoner of war";

(4) by inserting in section 6251 "the prisoner of war medal," immediately after "silver star medal,"; and

(5) by inserting in section 6254 "prisoner of war medals," immediately after "silver star medals,".

(b) The table of sections at the beginning of chapter 567 is amended by inserting

"6246a. Prisoner of war medal."

immediately after

"6246. Navy and Marine Corps Medal.".

SEC. 3. (a) Chapter 857 of title 10, United States Code, is amended—

(1) by adding immediately after section 8743 a new section 8743a as follows:

"§ 8743a. Prisoner of war medal: award; limitations

"(a) The President may award a prisoner of war medal with a rosette or other device to be worn in place thereof, to any person who, while serving as a member of the Air Force on active duty, is captured in line of duty and held as a prisoner of war for any period of time subsequent to January 1, 1960, by any foreign government or power.

"(b) Not more than one prisoner of war medal may be awarded to any person. For each 180 day period that any person was held as a prisoner of war, following the initial period of 180 days he was so held, the President may award such person a suitable bronze star device; and the President may award a suitable silver star device to any person held as a prisoner of war for any period or periods totaling two and one-half years.";

(2) section 8744 is amended by—

(A) inserting "prisoner of war medal," immediately after "service medal," in subsections (b), (c), and (d); and

(B) striking out in subsection (c) "distinguished himself" and inserting in lieu thereof the following: "has distinguished himself or has been a prisoner of war";

(3) section 8745 is amended by inserting "prisoner of war medal," immediately after "distinguished-service medal,";

(4) the catch line of such section 8745 is amended to read as follows:

"§ 8745. Medal of honor; Air Force cross; distinguished-service medal; prisoner of war medal; delegation of power to award";

(5) Section 8747 is amended by inserting "prisoner of war medal," immediately after "silver star,";

(6) the catch line of such section 8747 is amended to read as follows:

"§ 874. Medal of Honor; Air Force Cross; Distinguished Service Cross; Distinguished Service Medal; Silver Star; Prisoner of War Medal; replacement";

(7) section 8748 is amended by inserting "8743a," immediately after "8743,";

(8) the catch line of such section 8748 is amended to read as follows:

"§ 8748. Medal of Honor, Distinguished Service Cross; Distinguished Service Medal; Prisoner of War Medal; Silver Star Medal; availability of appropriations"; and

(9) section 8752 is amended by inserting in subsection (a) "Prisoner of War Medal," immediately after "Distinguished Flying Cross,".

(b) The table of sections at the beginning of such chapter 857 is amended—

(1) by inserting

"8743a. Prisoner of War Medal; award; limitations."

immediately after

"8743. Distinguished Service Medal award."; and

(2) by striking out

"8747. Medal of Honor; Air Force Cross; Distinguished Service Cross; Service Medal; Silver Star; replacement.

"8748. Medal of Honor; Air Force Cross; Distinguished Service Cross; Service Medal; Silver Star: availability of appropriations."

and inserting in lieu thereof

"8747. Medal of Honor; Air Force Cross; Distinguished Service Cross; Service Medal; Silver Star; Prisoner of War Medal: replacement.

"8748. Medal of Honor; Air Force Cross; Distinguished Service Cross; Service Medal; Silver Star;; Prisoner of War Medal: availability of appropriations.".

SEC. 4. (a) Chapter 18 of title 14, United States Code, is amended—

(1) by adding immediately after section 493 a new section 493a as folows:

"§ 493a. Prisoner of War Medal

"(a) The President may award a Prisoner of War Medal with a rosette or other device to be worn in place thereof, to any person who, while serving as a member of the Coast Guard on active duty, is captured in line of duty and held as a prisoner of war for any period of time subsequent to January 1, 1960, by any foreign government or power.

"(b) Not more than one prisoner of war medal may be awarded to any person. For each 180 day period that any person was held as a prisoner of war, following the initial period of 180 days he was held, the President may award such person a suitable bronze star device; and the President may award a suitable silver star device to any person held as a prisoner of war for any period or periods totaling two and one-half years.";

(2) section 496 is amended by inserting "prisoner of war medal," immediately after "Guard medal," in subsections (a) and (b) (2);

(3) section 497 is amended by inserting "prisoner of war medal," immediately after "Guard medal,"; and

(4) the first sentence of section 498 is amended by striking out "distinguishes himself" and inserting in lieu thereof the following: "has distinguished himself or has been a prisoner of war".

(b) The table of sections at the beginning of such chapter 13 is amended by inserting

"493a. Prisoner of war medal."

immediately after

"493. Coast Guard medal.".

SEC. 5. The time limitations imposed by clauses (1) and (2) of sections 3744(b), 6248 (a), and 8744(b) of title 10, United States Code, and clauses (1) and (2) of section 496 (a) of title 14, United States Code, shall not apply to "the awarding of the prisoner of war medal (authorized by the amendments made by this Act) to any person otherwise eligible for such medal by reason of his status as a prisoner of war during any period bteween January 1, 1960, and the date of enactment of this Act, if—

(1) the prisoner of war medal authorized by this Act is awarded within five years after the date of enactment of this Act in the case of members of the Navy, Marine Corps, and Coast Guard or three years after the date of enactment of this Act in the case of members of the Army and Air Force; and

(2) a statement setting forth the service on which the award is based and recomemnding official recognition of such service is made by the person's superior through official channels within three years after the date of enactment of this Act in the case of members of the Navy, Marine Corps, and Coast Guard or two years after the date of enactment of this Act in the case of members of the Army and Air Force.

By Mr. MILLER (for himself, Mr. CURTIS, Mr. DOLE, Mr. HRUSKA, Mr. HUGHES, and Mr. PEARSON):

S. 2905. A bill to provide for the disposition of funds appropriated to pay judgments in favor of the Sac and Fox Indians, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. MILLER. Mr. President, I introduce for printing and appropriate reference a bill to provide for the disposition of funds appropriated to pay judgments in favor of the Sac and Fox Indians.

In February 1970 a final award was made in Indian Claims Commission docket No. 153 to the three Sac and Fox Indian tribes. Later that year the money to pay the award was appropriated by the Congress. However, before payment can be made, Congress must enact legislation setting forth the purposes for which the funds will be used. That legislation has been delayed because the tribes have not been able to agree upon a distribution formula.

The bill I am introducing calls for a percentage distribution based primarily on the original land holdings of the three tribes. The Sac and Fox of Mississippi in Iowa and the Sac and Fox of Missouri in Kansas and Nebraska support this approach. The Sac and Fox of Oklahoma apparently desire a distribution on the basis of present day enrollment and the two Oklahoma Senators have introduced such a bill (S. 1069).

The three Sac and Fox Tribes operate under different constitutions and bylaws and different enrollment requirements. It is my understanding that the enrollment requirements of one of the tribes has been liberalized, and therefore, the other two tribes feel that distribution of the award on the basis of present day enrollment would not be equitable.

I believe that both distribution proposals should be before the Senate Interior and Insular Affairs Committee when they consider this matter, and that is why I am introducing this measure.

I am joined in introducing this bill by my colleague from Iowa and the Senators from Kansas and Nebraska.

Mr. President, I ask unanimous consent that a copy of a joint resolution by the Sac and Fox of Mississippi in Iowa and the Sac and Fox of Missouri in Kansas and Nebraska be included in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

JOINT RESOLUTION OF SAC AND FOX OF MISSISSIPPI IN IOWA AND SAC AND FOX OF MISSOURI IN KANSAS AND NEBRASKA

Whereas, in a meeting at Kansas City, Missouri, held on July 24, 1971, between the three tribes of the Sac & Fox—Oklahoma, Iowa and Missouri—for the purpose of arriving at a division of claims award docket 153: the three tribes decided by a vote of two in favor "Missouri and Iowa" and one against "Oklahoma" that the claims award be divided on a percentage basis as follows: 46% to the Sac & Fox of Oklohoma; 39% to the Sac & Fox of Mississippi in Iowa; and 15% to the Sac & Fox of Missouri in Kansas and Nebraska.

Whereas, it was decided democratically between the three Sac & Fox Tribes by a vote of 2 to 1, that the same percentages be used for division of all future joint claims awards made to the three Sac & Fox tribes, and

Whereas, it is the feeling of the "Missouri" and "Iowa" Sac & Fox tribes that the percentage division adopted by majority vote at the Kansas City meeting on July 24, 1971, be the deciding and final step to settle the claims controversy, between the three Sac & Fox tribes, and

Whereas, the three Sac & Fox tribes operate under three different constitution and by-laws and enrollment requirements thus nullifying division on current or present day enrollment basis, and

Whereas, the division of claims dockets 138 and 143 was made on the basis of percentage division, and by majority approval of the three groups, at a meeting held at Topeka, Kansas, May 7, 1966, and

Whereas, the Oklahoma tribe has liberalized their enrollment requirements and as a result their membership increased from approximately 800 in 1949, to approximately 1900 today, and

Whereas, the percentages adopted at the Kansas City meeting July 24, 1971, were arrived at on the basis of original land holdings of the three tribes, and further, the Sac & Fox tribes were and are three distinct separate entities. And rightfully the division should be made equally between the three tribes, but to resolve the controversy the Sac & Fox tribes of Iowa and Missouri have again made the concession to allow the Sac & Fox of Oklahoma, a larger percentage.

Now therefore be it resolved that the Sac & Fox of Mississippi in Iowa and the Sac & Fox tribe of Missouri in Kansas and Nebraska in a joint meeting held at Omaha, Nebraska, on September 30, 1971, hereby reaffirm the action taken at the Kansas City, Missouri, meeting held on July 24, 1971; where it was agreed by majority vote that the division of claims award funds under docket 153, and all future joint claims to the three tribes, be made on the following percentage basis: 46% to the Sac & Fox of Oklahoma; 39% to the Sac & Fox of Mississippi in Iowa; and 15% to the Sac & Fox of Missouri in Kansas and Nebraska.

And be it further resolved, that the congressional delegations of the State of Kansas and Nebraska and Iowa be requested to introduce legislation on behalf of the two tribes to effect this proposed division and be it further resolved that copies of this resolution will be forwarded to the Commissioner of Indian Affairs, Secretary of Interior, House and Senate Committees, on Interior, and Insular Affairs, and any other officials or individuals interested in the affairs of the Sac & Fox tribes.

CERTIFICATION

The above joint resolution was adopted by the tribal council of the Sac & Fox tribes of Iowa and Missouri at a meeting held in Omaha, Nebraska, on September 30, 1971, at the Holiday Inn.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 2349

At the request of Mr. TUNNEY, the Senator from Minnesota (Mr. MONDALE) was added as a cosponsor of S. 2349, the Voting Rights Act Amendments of 1971.

S. 2383

At the request of Mr. BYRD of West Virginia, for Mr. BURDICK, the Senator from Michigan (Mr. HART) was added as a cosponsor of S. 2383, to amend certain provisions of chapter 311 of title 18, United States Code, relating to parole.

S. 2509

At the request of Mr. SCOTT, the Senator from Maine (Mr. MUSKIE) was added as a cosponsor of S. 2509, to incorporate Pop Warner Little Scholars, Incorporated.

S. 2676

At the request of Mr. TUNNEY, the Senator from Vermont (Mr. STAFFORD), the Senator from Colorado (Mr. DOMINICK), and the Senator from Delaware (Mr. BOGGS) were added as cosponsors of S. 2676, the National Sickle Cell Anemia Prevention Act.

S. 2732

At the request of Mr. BYRD of West Virginia, for Mr. BURDICK, the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor of S. 2732, relating to the nullification of certain criminal records.

ECONOMIC STABILIZATION ACT AMENDMENTS OF 1971—AMENDMENTS

AMENDMENTS NOS. 752, 753, 754, AND 755

(Ordered to be printed and to lie on the table.)

AMENDMENTS TO ECONOMIC STABILIZATION ACT NEEDED TO PROTECT INTERESTS OF UTILITY CONSUMERS

Mr. METCALF. Mr. President, I am today submitting a series of amendments to S. 2891, a bill to extend the Economic Stabilization Act of 1970.

The purpose of these amendments is twofold: First, to make it unmistakably clear that Congress intends the price freeze to stay on major public utilities until the President or his delegate determines that any requested increases will not be inflationary; and, second, to provide a full opportunity for the consumer and other members of the public to challenge these and other price increases and Presidential stabilization rulings at both the administrative level and in the courts, including the ultimate right to obtain injunctive relief.

Mr. President, while the Banking and Currency Committee is to be commended for making a number of improvements over the administration's bill, such as the authority to roll back windfall profits, remedies for victims of overcharges, exemptions for individuals with substandard earnings, and other protections, the basic danger in the legislation remains. That is that the President is given sweeping powers to stabilize prices, wages, interest rates, and dividends, but he is also given equally sweeping powers to grant general exceptions and exemptions from what he determines to be the inflationary norm.

Indeed, I share the fear of many Members of this body that we may be creating—at his own request—a veritable Frankenstein in the Presidency with life and death control over our economic lives. But I fear more the inequities that are already beginning to develop when the "big boys" apply their political, legal, and economic pressures to get out from under the umbrella of control to the detriment of the consumer, the small businessman, and the public who do not have the resources and the lawyers and accountants to fight "city hall."

An example of a serious inequity through exemption is to be found with respect to public utilities. It is in this area that the consumer is locked in. He has to use these services. He has virtually no way to avoid the sting of inflationary price increases and the economic impact of the country of rate hikes for electricity, gas, telephone, mass transit, rail and air transportation, which if permitted, will total billions of dollars.

But what was one of the first acts of the administration in moving into phase II of its economic policy? It virtually took off the freeze—as a practical matter—on public utilities by leaving the decision up to dozens of weak, understaffed, regulatory agencies—Federal, State, and local. They are supposed to make the crucial decisions as to national inflationary impact. Anyone who has any experience in public utility regulation knows that State regulatory agencies, for the most part, are dominated by the businesses they regulate, because of the inequities in regulatory procedures. The commissions have neither the resources, staffing, nor inclination to generate an aggressive testing of the evidence produced by the companies. To rest with these agencies the additional role of enforcing a coordinated, national economic policy installs the rabbits as guardians of the public's lettuce.

The Committee on Banking and Urban Affairs, on page 5 of its report on S. 2891, cites this public utility situation as an example of the "broad authority for such general exemptions or exceptions as are necessary" under the legislation. I cannot believe that the committee had time to consider the far-reaching implications of the situation. It is what the industry wanted—business as usual—fragmented regulation—fractured federalism—out of reach of national control and enforcement.

The administration has made a gesture toward keeping some control over the larger companies. Those with $100 million or more in gross receipts are required to notify of their intentions to seek a rate increase. Those with $50 million or more are required to notify when they have received a rate increase. In each case, the administration has imposed upon itself a limitation of 30 days in which to take action, otherwise the increases go forward. This shotgun technique is tantamount to no effective control, or worse, irrational and inequitable decisionmaking.

Mr. President, we are attempting through this legislation to coordinate strong powers at the national level to pull us out of an economic crisis. This is why I feel so strongly that we must keep the lid on utility prices charged by larger utilities, and place the burden directly on them to seek special relief and on the President to justify any relief he grants them.

One of my proposed amendments would, in essence, turn the existing process around. It would enjoin any public utility with $10 million or more in annual gross operating revenues from charging a rate greater than that charged by it on August 15, 1971, without first obtaining approval from the President or his delegate, and such approval must be consistent with the standards for price increases published under the legislation and not in excess of the level of price increases permitted for businesses generally. As the economy improves, the President may wish to relax the guidelines and approve a greater number of increases, or even grant exemptions to classes of utilities. But for the moment, under my amendment, he holds the reins securely in his hands. He has dropped the reins under the present regulations and the committee bill.

No mechanism for control and enforcement—however strong on paper—is immune from abuse, inequities, negligence, or indolence. This has certainly been proven true in the area of economic regulation. That is why many of my colleagues in both Houses and I have fought persistently and vigorously for the right of an independent advocate for consumer interests to be brought into the regulatory system to "keep the big boys honest" to use the slogan of our own distinguished senior Senator from Washington (Mr. MAGNUSON) and Virginia's Lieutenant Governor-elect, State Senator Henry Howell.

The committee bill creates at least the implication, if not the congressional presumption, that the regulatory process is a bilateral relationship between the President as regulator, and the business companies affected. Indeed, there is a very important third party to this contract, and it is the consumer, the public.

At the moment, the administration has created a Price Commission to be an advisory commission to the President, but its recommendations have been given the power of Presidential authority. Is this authority to be exercised as a result of decisions secretly arrived at, and perhaps secretly negotiated with industry, or will the public have the right to know what is going on? These are not trivial questions, given our democratic process of government.

My first amendment in the area of public representation would require the President to establish procedures which shall be available to any person for the purpose of seeking an interpretation, modification, or rescission of, or seeking an exception or exemption from, any rules, regulations, or orders issued by the President or his delegate, together with a right to administrative review. S. 2891 gives such a right of administrative review only to interpretations of rules, regulations, and orders. There is no opportunity to seek a stoppage of bad decisionmaking before it goes into the enforcement process.

Another of my amendments seeks to make it clear in the legislation that a person in interest—in addition to the party directly affected by a regulation or order of the President—can seek an interlocutory or permanent injunction restraining the enforcement, operation or execution of such regulation or order. That means that a consumer, for himself, or on behalf of a class, would be able to challenge not only the regulations applying to a group of companies, but any exception or exemption to a single company.

Under the committee bill, the wording would tend to restrict the right to obtain such a far-reaching injunction only to affected businesses as directed to the Government. Under my amendment, the consumer party could seek to obtain the equitable relief in both directions—against the Government and against the company. This is a fair approach. And the mere authority for outside plaintiffs to challenge the operations of the economic enforcement mechanism could have a salutary effect.

Mr. President, time is already running on phase II. The freeze has thawed. I have obtained information that as of November 19, 67 applications have been made to the Price Commission for approval of price increases under the 30-day rule. Among these applicants are some of the largest public utilities in the country. I am also informed that certain utilities and other companies are being put on the "72-hour list" which may mean that decisions are, or have been, issued within 72 hours—certainly an outrageously short period of time to act on such important matters.

It is my intention to investigate this matter more fully before floor action is taken on the legislation.

The bill is complicated in its procedural parts relating to citizen's rights, and as wide as a barn door in its substantive parts relating to the authority of the President. I am not at all sure that I will vote for it whatever the outcome of improving amendments. We have here public advisory committees making governmental judgments that affect every citizen. We have bilateral negotiations between bureaucrats and business firms. We have decisionmaking going on behind closed doors, with precious little opportunity for the public to know anything. We have a virtual freeze on critical information about industries and companies which the bureaucrats can see but the public cannot. I refer to section 205 of the bill.

And we have confusion, particularly among those in our democracy who want to do the right thing to help the Government, but are not sure how to do it, or what they should do. I would hope that the Senate can move to restore some order to the system, now that phase II is upon us.

The Congress is giving utilities additional tax advantage, in the Revenue Act of 1971. It is increasing the investment tax credit available to public utilities from 3 to 4 percent. Furthermore, as a ranking member of the House Ways and Means Committee has pointed out, the Congress wrote in safeguards—for utilities, not the public, I would add—safeguards to help insure that the public utilities share in the benefits, and that these benefits are not all flowed through as adjustments in utility charges. The Revenue Act also incorporates the 20-percent leeway in depreciation that the Treasury provided earlier by administrative action.

Mr. President, to the extent that wage-price controls are successful and the interest costs decrease the needs of utilities for rate increases will diminish. Some of the present rate increase requests—based on projections made before the August freeze, should instead become rate decreases. Yet the United Press International ticker this noon carries an article about huge utilities with above-average earnings, such as Commonwealth Edison in Illinois and Consumers Power, the misnamed Michigan investor-owned utility, applying to the Price Commission for quickie increases.

The list of huge corporations asking for fast action goes on and on—Michigan Bell, Eastern Gas and Fuel Associates, which is a large holding company, Wisconsin Gas, Seaboard Coast Line, and, of course, Penn Central.

What I am saying, Mr. President, is that the Congress has created another big bonanza for the huge utility corporations. If we are to take our responsibilities to our constituents seriously, we should write into the Economic Stabilization Act of 1971 the safeguards which I propose.

Mr. President, I send my amendments to the desk for printing.

AMENDMENT NO. 756

(Ordered to be printed and to lie on the table.)

Mr. MATHIAS (for himself, Mr. BEALL and Mr. KENNEDY) submitted an amendment intended to be proposed by them jointly to the bill (S. 2891) to extend and amend the Economic Stabilization Act of 1970.

AMENDMENT NO. 757

(Ordered to be printed and to lie on the table.)

Mr. McGEE (for himself and Mr. FONG) submitted an amendment intended to be proposed by them jointly to the bill (S. 2891), supra.

AMENDMENT NO. 758

(Ordered to be printed and to lie on the table.)

Mr. NELSON submitted an amendment intended to be proposed by him to the bill (S. 2891), supra.

AMENDMENTS NOS. 760, 761, AND 762

(Ordered to be printed and to lie on the table.)

Mr. PROXMIRE submitted three amendments intended to be proposed by him to the bill (S. 2891), supra.

HIGHER EDUCATION ACT OF 1971—AMENDMENT

AMENDMENT NO. 759

(Ordered to be printed and referred to the Committee on Labor and Public Welfare.)

Mr. BAYH submitted an amendment intended to be proposed by him to the House amendment to S. 659, the Higher Education Act of 1971.

ADDITIONAL COSPONSORS OF AN AMENDMENT

AMENDMENT NO. 751

Mr. CRANSTON. Mr. President, for reasons relating to the first amendment and freedom of the press, I have submitted an amendment exempting media from wage and price controls which I intend to propose to S. 2891, the Economic Stabilization Act.

The original cosponsors were Senators DOLE, ERVIN, COOK, EAGLETON, GRAVEL, JORDAN, MCINTYRE, MCGEE, MONDALE, and TUNNEY.

I ask unanimous consent that at the next printing of amendment No. 751, the following Senators be added as cosponsors:

Senators AIKEN, GOLDWATER, HUGHES, HUMPHREY, MCGOVERN, STEVENS, and THURMOND.

The PRESIDING OFFICER (Mr. GAMBRELL). Without objection, it is so ordered.

CORRECTION OF A COMMITTEE REPORT ON S. 1938, CONSUMER CREDIT PROTECTION ACT OF 1971

Mr. EAGLETON. Mr. President, in order to save the expense of a star print to correct a typographical error in the report of the Committee on the District of Columbia on S. 1938, the Consumer Credit Protection Act of 1971, I wish publicly to correct that report through the CONGRESSIONAL RECORD so that there will be no misunderstanding as to what the committee meant.

On page 20 of the committee report, in the committee's discussion of section 9, it is stated:

> In the committee's judgment, based upon its full and very careful consideration of the matter, the exemptions from the District of Columbia usury law must include mortgage bankers and other institutional investors retroactively to 1913,

The typographical error that I mentioned is that the word "usury" is incorrect and should be stricken, and the words "Loan Shark" substituted therefor.

I know that in the rush toward adjournment the Government Printing Office is deluged with work for Congress, and I can easily understand how an error such as this occurred.

ANNOUNCEMENT OF HEARINGS BEFORE THE SUBCOMMITTEE ON BUSINESS, COMMERCE AND JUDICIARY OF THE COMMITTEE ON THE DISTRICT OF COLUMBIA

Mr. BYRD of West Virginia. Mr. President, on behalf of the Senator from Illinois (Mr. STEVENSON), I ask unanimous consent that an announcement by the Senator with respect to hearings before the Subcommittee on Business, Commerce and Judiciary of the District Committee be printed in the RECORD.

There being no objection, the statement by Mr. STEVENSON was ordered to be printed in the RECORD, as follows:

Mr. President, I am today announcing hearings on the following bills by the Subcommittee on Business, Commerce, and Judiciary of the Senate District Committee:

S. 1363, to revise and modernize procedures relating to licensing by the District of Columbia;

S. 1338, to authorize the government of the District of Columbia to fix certain fees;

S. 2208, to improve the laws relating to the regulation of insurance in the District of Columbia; and

S. 2209, District of Columbia Law Enforcement and Criminal Justice Act.

The hearings will be held on Wednesday, December 1, 1971, at 9:30 a.m. in room 6226, New Senate Office Building. Persons interested in testifying on these bills should contact Mr. Gene E. Godley, general counsel in room 6222, New Senate Office Building.

ADDITIONAL STATEMENTS

PRAYERS AT THANKSGIVING

Mr. CURTIS. Mr. President, during this Thanksgiving season we should turn our thoughts to our men who are held as prisoners of war by the Communist and those men who are missing in action.

As we gather to give thanks for our many blessings, we should earnestly pray for the safe return of those brave men who have sacrificed so much for our country. We should earnestly pray that all men listed as missing in action be accounted for and returned. We should also petition our Heavenly Father for special care for the wives, children, parents, and other loved ones of these prisoners of war and those missing in action.

WHAT'S RIGHT WITH AMERICA

Mr. HANSEN. Mr. President, recently, Senator GOLDWATER addressed the American Industrial Bankers Association in Hamilton, Bermuda. Scarcely more than a half dozen years ago, Senator GOLDWATER was regarded by a majority of Americans as a man to be feared. His candor, reflecting his inate honesty, was hit upon time and time again by those opposing the presidential Republican nominee as a basis for persuading Americans that he was a wreckless warmonger.

But history has a way of revealing facts which may be submerged or hidden for a while. Today a great many Americans of both parties, and indeed many others with no party affiliation at all, are forced to respect this great American. He has a way of telling it like it is. I feel certain that Senators will enjoy reading what he had to say recently on the subject of "What's Right With America." I ask unanimous consent that the speech be printed in the RECORD

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

WHAT'S RIGHT WITH AMERICA

(An Address by Senator Barry Goldwater of Arizona, at the Closing Luncheon of the 37th Annual Convention, American Industrial Bankers Association, Hamilton, Bermuda, Nov. 12, 1971.)

Mr. Chairman and honored guests, I wish it were possible for me to explain to you how happy I am to be with you here today and to share my thoughts about the United States of America, its problems and its tremendous accomplishments.

It may interest you to know that sometime ago in my weekly newspaper column I suggested that the time had come for a prolonged period of counting our blessings. I suggested we begin accenting the positive aspects of American life rather than harping constantly on every litle thing that does not measure up to an arbitrary standard erected by some individuals or groups that feel they know better than anyone else what our nation needs.

The response to that one newspaper article was rather astounding. I received letters from all over the nation agreeing with me and congratulating me as though I had stumbled on something entirely new.

And now today you have kindly asked me to address this closing luncheon of your convention and direct my remarks to the general topic of "What's Right With America."

When you stop and think of it, it is rather astounding that our nation should have received such a huge and constant dose of criticism and carping and downgrading and debunking that an organization as important as yours should think that the positive side of our life in the United States requires special attention and special emphasis.

I wish I didn't have to, but I agree with your analysis one hundred per cent. The time is long past for us to count our blessings honestly and place our problems in proper perspective.

What's right with America? Let us count the ways. But how can you in the space of one short speech possibly enumerate the great advantages which have led millions of immigrants to our shore and which have given millions of Americans the most bountiful standard of living the world has ever seen? You can't, so I must warn you that the best I can do is try and hit a few high spots.

Perhaps I am not sounding a political popular theme. From listening to the many men who would like to become an official nominee to replace President Nixon in the White House, you begin to get the idea that the only way to curry favor with the American voters is to criticize and downgrade and if I may use the expression "put down" the greatest country on earth in every one of the many aspects in which it fails to measure up to perfection. To hear some of the President's critics talk you would believe that we are on our last leg as a nation merely because Utopia has not been achieved. You hear more talk about poverty levels and illiteracy than about the fact that the world has never seen a nation which has gone as far as the U.S. in wiping out poverty and improving education.

On balance, the criticism of our nation is way out of proportion. Sure, there are many things wrong which we would like to see corrected. We do have a problem with inflation. We do have a problem with crime. We do have a problem with drug addiction. And we do have a problem with racial tension. But we have always had problems and I dare say that as long as the nature of man remains unchanged we shall continue to have problems. But they should be viewed in the light of challenges to our best efforts rather than the material of disaster and cataclysm and a reason for revolution.

I am not suggesting, ladies and gentlemen, that this country of ours should sweep its problems under the rug and pretend that they do not exist. I believe we must put forth our best efforts as responsible members of society to correct them as quickly as we can. But I object strenuously to what has almost become a national frame of mind which says because we have problems there is something terribly wrong with the system; that because we have problems there is something evil about the men who run our government and make and enforce our laws. I am sick and tired of reading in my newspaper and viewing on my television screen and hearing on my radio a steady stream of news which emphasizes, stresses, enlarges and in many instances exaggerates the difficulties which plague the American social system. I believe we have gone overboard in our attempts to ferret out every little thing in American life which does not measure up to a standard of perfection. I'm reminded of a story which I heard about a large automotive executive in the United States whose small son asked him the question: "What's a sin, Daddy?" and got the quick reply, "Anything that doesn't please Ralph Nader."

All joking aside, the practice of debunking anything and everything has become almost a national hysterical pasttime in our country. And I hasten to say that much of the campaign is generated by honest advocates of purity in air, food and water. The drive for ecology—while highly laudable and highly important—has produced some injurious side effects, not the least of which is to convince many Americans that we are hell-bent on catastrophe. Not long ago the federal government discovered that the use of phosphate detergents, while admittedly a pollutant, may be preferable to the substitutes of a non-polluting nature. As Surgeon General Jesse L. Steinfeld put it, the new substitutes "are highly caustic and clearly constitute a health hazard which the phosphates do not." He went on to say, "my advice to the housewives would be use a phosphate detergent. It is safe for the household."

When you consider all the publicity and all the activity that has gone on to remove phosphates as a major pollutant in recent years this development comes as a distinct shock. Two years ago, the federal government called for removing phosphates for reason of pollution and the detergent industry began to substitute other materials. What's more many cities enacted legal bans against the use of phosphates on the strength of the federal government's pollution advice. Now in many areas the campaign for clean air and clean water has had some fine results. In others, as in the case of the phosphates, the cure has turned out to be worse than the disease.

In effect, ladies and gentlemen, our country has literally been on a binge of self-flagellation and self-criticism. Every edition of our newspapers contains more complaints about more things that aren't perfect. Every news broadcast provides a similar fare. But how often do you hear anyone in public life or in private conversation talk about what's right with America? How often do you hear our people publicly expressing their gratitude for having the privilege of living in the greatest climate of individual freedom and opportunity that the civilized world has ever known? How often do you hear anyone mention the many benefits that we enjoy but which the rest of the world does not? How often do you hear people marvelling at the fact that nearly 80 million Americans are now gainfully employed at salaries and wages higher than any before known anywhere in the world—even allowing for the inroads made by price inflation.

A strange facet of American life is that United States citizens take all the great benefits which they enjoy completely for granted and many of them complain bitterly and protest publicly because they aren't made better faster.

Let me tell you what the actual figures compiled by government agencies show about this society of ours which is so deficient that there is a televised street demonstration nearly every day with people agitating for revolution for destruction of the system or the establishment or whatever you want to call it.

Let me explain to you how ridiculous are many of these claims of American shortcomings.

Did you know that eight out of every ten American families now own at least one automobile and that one of every four families own two or more? Household expenditures for new and used cars now exceed $30 billion a year and that figure is climbing steadily. And, unlike every other part of the world, almost every American home is today wired for electricity. Almost all of them have TV, radios, refrigerators and electric irons. About forty per cent of all American homes have both a color and a non-color TV set. Would it surprise you to know that ninety-five per cent of all U.S. homes have vacuum cleaners and clothes washers; about ninety per cent have telephone service; and about forty per cent have electric or gas clothes dryers?

To give you an idea about American material abundance let me point out that in 1946, there were 21.4 million refrigerators in U.S. homes; now, there are 63.9 million, for an increase of almost two hundred per cent. The number of electric washing machines rose from 18.8 million in 1946 to 59 million in 1971 for a 214 per cent increase.

Home freezers, which were very rare in the '40's, now adorn some 20 million American households. Clothes dryers can be found in 29 million homes and 26 million room air conditioners are busy cooling American homes.

And we can't leave out the homes themselves. In 1945, 20 million Americans owned homes. Today, that figure is over 40 million for a one hundred per cent increase.

As I recount some of these figures, I can almost hear the professional critics of American life pointing to the fact that we have many more people in the United States today. Well, let's look at that figure. In 1946, we had 141,936,000 people in this country. The latest population figure put out by the Census Bureau this year stands at 207,372,000. So where does that leave us? Population in the U.S. is up 46 per cent, civilian employment is up 44 per cent; but home ownership is up one hundred per cent, automobile ownership is up 130 per cent; savings are up a whopping 696 per cent.

It might surprise many Americans to understand that our economy today is actually running at record high levels. Business activity is running an annual rate of more than a trillion dollars as measured by the total of all goods and services produced in the nation. That is a 12 per cent rise from the peak reached in late 1969. And, when you allow for inflation, the percentage increased is 2.5 and rising.

For all of the bad-mouthing and complaining that goes on today, the individual income on the average in the United States now stands at a record $3,614.00 a year after taxes.

So this is what we have. As of today, more people are gainfully employed than ever before. More automobiles are being sold. More homes are being started. More goods are being sold. In other words, our economic catastrophe is showing signs of being the most prosperous and affluent catastrophe in world history.

Since we are continually hearing complaints about health and education in the United States it behooves us to take a look at those figures, too. While American population was increasing by 46 per cent the number of people covered by hospital insurance increased 335 per cent. While the population was increasing by 46 per cent, the number of Americans attending college was increasing 304 per cent. And while the population was increasing 46 per cent, vacation time taken yearly by Americans increased 176 per cent.

And right here I would like to make a point that is seldom even mentioned in all the public discussions about American society. And that point is that there is so much right with America these days that this very fact is one of our problems. How are you going to get people, especially the younger people, to understand what American affluence really means to them personally if they have never known anything else? For those of us who went through the depression and were baptized in economic fear, it is plain to understand that the American people—at least in a material sense—have never had it so good. What's more, no people any place on earth have ever had it so good. But it is amazing how few people understand this obvious fact.

And perhaps you gentlemen can see some of this also in terms of the business community. I am sure you realize that there are literally millions of business executives today who have never known what it meant to have their enterprises threaten to dry up and to find financial and industrial failure staring them in the eye. Sometimes I feel that we lost something when our large industries and commercial enterprises began operating by committee. We need, and I believe we need desperately, today the kind of individual leadership and courage that we had when this nation was being built in between savage economic depressions. Things may be too right with America in this sense. Things may be so right that we are losing our individual moral courage, we are losing our competitive spirit and we are losing our determination to win out over every obstacle.

Did it ever occur to you that some of the things that are causing most of the trouble in this country today may be the result of default on the part of responsible citizens like you and me? How many of you today are going along with the idea of non-involvement and of standing aloof from the problems and the tensions which are racking this nation? With all due respect, I would suggest that some of you might need to examine your own attitudes and decide whether you as an individual and as a business leader are doing your part to emphasize what is right and to work and strive for the policies which you endorse. I'm sorry to say I run into too many responsible citizens today who would rather not commit themselves who sometimes for business reasons would rather not take sides between the forces which are criticizing us into a national attitude of pessimism and the forces which are courageously standing up for the truth and sanity. You may not realize just how much some of us politicians know about corporate tendencies to keep hands off partisan matters. Time and time again I have encountered business executives who have long shared my feeling about government policies and about fiscal responsibility but who carefully contribute just as much to my opponent's campaign as to my own.

I believe that the time has come for all of us to stand up for what is right. I believe the time has come for all of us to put our energies and our money where our hearts lie. I believe in short, that it is time for all responsible Americans and especially financial leaders such as yourself to take sides, to join the forces which are advocating the policies which you think are best for the United States and for the American economy.

It does little good, say for a leader in the aerospace industry to contribute his hard-earned money to Senators or Congressmen who are working to kill off American technology and who are working to deprive the United States aerospace industry of the worldwide markets which it deserves. The rollcall vote which defeated the American Supersonic Transport project is a case in point. We will never know how many hundreds of thousands of jobs and billions of dollars in wages and profits we threw away when the Senate voted to scuttle that important technological advance.

Ladies and gentleman, I should like to say that there is so much right with America that we cannot see the forest for the trees. We have been measuring our condition, not against those that prevailed here even ten years ago and not against those that prevailed in other countries, but against somebody's idea of how things should be.

Much of the agitation for revolution comes from young people in this country and too much of it comes from a small minority with questionable motives who refuse absolutely to listen to anyone's view except their own. They constantly tell us that our generation has made a mess of things. I am inclined to agree with them but I am also absolutely convinced that the mess our generation is leaving to the youngsters of the 1970's is much less of a mess than was ever left to any other generation. We don't owe this small infinitesimal claque of radicals any explanation for the way our generation performed. We owe them a chance and an opportunity in a climate of freedom and nothing more. We do not owe them the right to sit in judgment upon their elders and we do not owe them the right to measure our efforts against some Utopia promised in theory but not in practice by Mao Tse-tung or Karl Marx.

And one of the great things that is right with America today is its human resources. In this my reference is to those millions of responsible, honorable, patriotic, hardworking Americans who have created an age so affluent that even the enemies of our system make use of it to drive and fly all over the country complaining about its evil. Every generation makes mistakes and always will. Ours is no different and the one to which that small, loud minority belongs is no diffferent either. They'll make their mistakes and they better hope that they can keep their average as low as the one which has been established in the past quarter century in this bountiful land of America.

Ladies and gentlemen, it really is time for us to count our blessings and count them loud enough that we may hopefully drown out some of the negative, ill-informed criticism that some discontented Americans seem to have adopted as a natural birthright.

SCOTLAND YARD

Mr. BYRD of West Virginia. Mr. President, one of the most pressing problems facing our society is the restoration of law and order. The permissiveness of family life, the permissiveness of our courts and the apparent reluctance of authorities ever to risk criticism of denying the criminal's rights even to the jeopardy of the rights of law-abiding people are deeply disturbing.

A story by Alfred Friendly, from London, published in the Washington Post, regarding the impending appointment of a new Chief for Scotland Yard has particular application to our judicial and criminal processes in the United States.

Mr. President, I ask unanimous consent that Mr. Friendly's report be printed in the Record. I commend it to the attention of the Senate.

There being no objection, the article was ordered to be printed in the Record, as follows:

Scotland Yard's New Chief Hits Defendants' Rights Rule

(By Alfred Friendly)

London.—The prospective new chief of Scotland Yard, Robert Mark, is hailed—and correctly—as the most enlightened and progressive police officer in Britain.

Yet of all people, it is he who has mounted the most provocative attack in many years on the very core of the liberals' conventional wisdom about protecting the legal rights of persons accused of crime.

His thesis may be even more germane to the United States than to Britain, for the problem of crime is enormously more acute there than here, as is the public worry about deterring it.

The issue is whether justice is really best served by the increasingly rigorous safeguards for the rights of criminal suspects built up by law and judicial decisions over the years.

What Mark is questioning are the British equivalents of the American Fifth Amendment protection against self-incrimination, as expounded in the Miranda and many other Supreme Court decisions.

A word, first about the man. He was once the youngest chief constable (of Leicester) in Britain, at age 39. Now 54 and deputy commissioner of metropolitan police, he will succeed to the top post in April.

MOST INFLUENTIAL OFFICER

Although there is no federal police organization in the United Kingdom, the relationship between the force for metropolitan London and those in the rest of the country is such that the head of Scotland Yard is the most influential police director in the land and comes close to being a national director.

Urbane, literate, impeccably liberal in his views about the rights of minority dissent and the legitimacy of demonstrations and protest manifestations, a preacher and unfailing practitioner of minimum force, Mark is the antithesis of the stereotype of the heavy-booted, thick-headed cop.

So much so, in fact, that news of his appointment provoked ill-concealed distrust and dismay among some of the more traditionalist top officials of Scotland Yard.

In a series of recent speeches, however, Mark has been advancing a thesis dear to the hearts of the "law and order" devotees: that the highly refined devices of the law and courtroom to protect those accused are anachronisms, that they do not serve the cause of justice but that of the minority of criminals—the hard-core professionals—who, indeed, are the only ones he feels really menace the society gravely.

When the criminal law was essentially punitive in intent and conception, Mark argues, and involved death, flogging and transportation to penal colonies, and when punishments came also to being or were in fact irreversible, it was proper and understandable that unfairness to the accused was of much greater concern to the society than unfairness to itself.

But are the safeguards which, he is certain, now "largely destroy the effectiveness of the criminal law" really appropriate today when the law's primary purposes are the prevention of crime, the reformation of the offender and the protection of the community at large?

SWEEPING CONCLUSION

In a startlingly sweeping conclusion, Mark says he does not believe that the safeguards are of any help today to an innocent man. But they are, he says, the means of escape of the professional criminal—or whom 40 per cent brought to trial in Britain are acquitted. (In the United States, incidentally, the corresponding acquittal rate is 92 per cent.)

"The criminal trial today," Marks says, "is less a test of guilt or innocence than a competition in which the knowledge of the rules, gamesmanship, and, above all, self-control, is likely to decide the outcome: a kind of show-jumping contest in which the rider for the prosecution must clear every obstacle to succeed.

"To the police, perhaps better than to anyone else, it demonstrates only too well the distance between the Olympian heights of theoretical justice and the foothills of crime and ordinary human behavior.

"There is only one way to lessen that distance . . . by matching the growing humanity of the criminal law with increased effectiveness as a means of establishing truth rather than technical guilt.

"And the only way of doing that is to put an end to the entitlement of the suspected or accused person to play an entirely negative part in that process. He should *not* be required to answer questions either before or during his trial. But his unwillingness to do so, either to the police or from the witness box, should be the subject of comment by the prosecution.

"The formal caution against self-incrimination before arrest should be abolished and there should be recognition that every person, including a suspected person, has a moral obligation to reveal what he knows about a crime or an alleged crime.

"Such a change would be unthinkable against a background of hanging and flogging; but is it so unreasonable today . . .?"

PROBABILITY OF CONVICTION

Contrary to many experts in the field, Mark holds that it is not principally detection and apprehension that deters the professional, inveterate criminal, but only the certainty or high probability of conviction. Present practice, he insists, does not provide that deterrent.

Surprisingly, in this very civil-rights-conscious country, there has been no great public attack on Mark's philosophy from the liberal press or from the civil liberties and criminal justice organizations, although there doubtless would be if Parliament ever set about changing the law as he proposes.

Whether he is right or not, Mark has touched a matter of growing concern here. The question is not an easy one, as the bitter controversy over it in the United States attests.

IN DEFENSE OF THE PHILADELPHIA EAGLES

Mr. SCOTT. Mr. President, I noted with great interest that President Nixon made a visit to the Redskin practice field yesterday. He, as you know, has been referred to many times as America's No. 1 football fan. But the Redskins will need a little more this weekend than just the plaudits and the enthusiasm of their greatest supporter. Mr. President, the Redskins meet the most improved team in the National Football League, the fast closing Philadelphia Eagles. Now you, my colleagues, and many across this great land know what happened the last time I spoke out about a Pennsylvania team. It was the Pittsburgh Pirates. They beat the Baltimore Orioles in the world series and as a result my colleague, Senator SCHWEIKER, the junior Senator from Pennsylvania, joined me in taking a free elephant ride across the parking lot in front of the Capitol, courtesy of the Senators from Maryland, Messrs. BEALL and MATHIAS. Now, I do not propose to make a wager with the President of the United States, but I do expect Sunday's game with the Philadelphia Eagles to be a Jim-dandy and one that will demonstrate one of the best defenses in the league meeting one of the most improved football teams in the league. I am sure Ed Kyhat's Philadelphia Eagles read the newspapers. The visit by the President should give the Eagles an extra psychological boost to make this game an outstanding one. Go Philadelphia! Go Eagles!

UNFAIR TRADE PRACTICES IN THE MEAT INDUSTRY

Mr. METCALF. Mr. President, I vigorously object to the nomination of Mr. Earl Butz as Secretary of Agriculture and will vote "no" on his confirmation when the Senate takes it up next week.

Others have addressed themselves to the nominee's more recent history, but I should like to talk today about his service as an Assistant Secretary of Agriculture since it is reasonable for a man to be required to run on his record, as Senators know.

While serving as Secretary Benson's assistant, Earl Butz, by stifling an investigation that the law clearly required, was, in my opinion, guilty of misfeasance. When questioned, he said he took full responsibility and "would do the same thing again." That is malfeasance.

Mr. President, that is the outline of the sorry chronicle of this nominee's performance as a public official. The full story which I am about to relate appears in the hearings of the Subcommittee on Antitrust and Monopoly of the Senate Committee on the Judiciary, 85th Congress, first session, pursuant to Senate Resolution 57 on S. 1356, a bill to vest with the Federal Trade Commission jurisdiction to prevent monopolistic practices in the meat and meat products industry. The hearings are entitled "Unfair Trade Practices in the Meat Industry," and appear in volume 1221 of the Senate committee hearings, 1956–57 which I obtained from the Senate Library. But as copies are not readily available and as its importance to the consideration of Mr. Butz cannot be overestimated, I feel it is imperative that it be printed. I, therefore, ask unanimous consent that the testimony to which I have reference be printed in its entirety in the CONGRESSIONAL RECORD at the conclusion of my remarks.

The title of the hearings and the title of the bill tell us the issues. The subcommittee had reason to believe that the Packers and Stockyards Act was not being implemented and sought to determine if a change in jurisdiction should be effected to honor the intent of Congress.

Mr. Butz was one of the witnesses for the Department of Agriculture who defended his execution of existing law and the Department's adverse report and proposed amendments to the pending bill.

The amendments would have exempted grocery chains from application of the Packers and Stockyards Act, and for purposes of instituting proceedings, would have brought the chains under the jurisdiction of the Federal Trade Commission when the Secretary of Agriculture found, in his discretion, that it would be in the public interest so to do.

The committee sought to determine, by the record of departmental regulatory activities, under title II of the Packers and Stockyards Act, what might be expected under the amendments they proposed. Mr. Butz said that the Department had "not had evidence of any widespread unfair or illegal practices in the livestock and meat industry in recent years" and said there had been relatively few complaints. Of a suit brought by the Department of Justice in 1948 he said that charges were dropped in 1954 after a rather extensive investigation and "the Department of Agriculture cooperated fully with the Department of Justice in its action." Mr. Butz went on to say that the Department had attempted to administer the act to the fullest extent possible by, first, a "shift in emphasis" and, second, within the available funds. He subsequently admitted that the sum of $20,000 had been transferred for enforcement activities but that there had been no direct request to Congress for money for such purposes for which Mr. Butz was responsible as Assistant Secretary for Marketing and Foreign Agriculture. Mr. Butz presented a study prepared by the Secretary on "Current Activities and Problems Under the Packers and Stockyards Act" dated April 4, 1957.

The policy in 1957 seems to parallel recent Department of Agriculture actions suppressing information respecting the presence of dangerous substances in foodstuffs.

The Department of Agriculture recently held up for several months, allegedly for further tests, a positive finding of a carcinogenic drug, de-ethyl stilbesterol, DES, in the livers of cattle. The tests subsequently confirmed presence of the drug and the information was released.

Mr. Butz said that it was the practice of the Department then "under investigative procedures to give no publicity unless we develop the facts that indicate rather clearly there is a case." Asked if the Department ever conducted "investigations which do not result in the filing of cases but in which you persuade or induce the parties to desist from certain practices," Mr. Butz responded affirmatively. Mr. Pettus, acting director of the livestock division, appearing with him, enlarged on this theme. He said:

> The reason we do not announce actions in this case—and there are many cases that may be borderline cases, where it appears there may be a violation occurring—is because we advise the person involved of this. They agree if it is questionable, even though they may think it is not a violation. They will agree to refrain from that type of a practice, and we have not believed in the past that giving publicity to that is justified, because there may be some question even legally as to whether or not the practice is a direct violation of the act.

Mr. Butz agreed that the trend toward vertical integration in the food industry had dangerous implications "but not so great they could not be overcome by proper regulation and proper safeguarding of competition."

In response to questions respecting abuses in vertical integration by food chains and the use of Department personnel to enforce the law, Mr. Butz said that there was a study underway of a chain whose name he preferred not to divulge, and continued:

> It is quite true for 26 years it (the law) has not been adequately enforced, but don't you think when the sinner confesses and resolves to do better he should be given a chance?

Let us look at how Mr. Butz improved the enforcement of the Packers and Stockyards Act when its implementation was one of his responsibilities as an Assistant Secretary of Agriculture, after confession and resolution to do better.

Questioning by the committee disclosed the fact that he had overruled the recommendation of his department head that a suit be filed against Safeway stores for the use of newly acquired feedlot operations to depress prices on the west coast. Instead, he "broadened" the issue into an economic study, the subject of which he was loathe to name. Mr. Butz said that this decision, not to invoke the Packers and Stockyards Act as prescribed by Congress, and to turn the matter instead over to the Agricultural Marketing Service for study, was made in his office "And I would accept full responsibility for that and would do the same thing again."

Mr. President, Mr. Butz' admissions in the record, and his promise to continue to bypass the Packers and Stockyards Act, speak for themselves. This is no confessed sinner, seeking absolution by virtue of a promise to do better. This is a man who saw nothing wrong in failing to execute the law as intended by Congress, and said he would do the same thing again. I believe the Senate has no choice except to deny confirmation to a Cabinet post of a man who intends to abide by the law selectively.

I shall vote "no."

I ask unanimous consent to have printed in the RECORD an excerpt from the hearings before the Subcommittee on Antitrust and Monopoly of the Judiciary Committee on the subject of unfair trade practices in the meat industry.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

UNFAIR TRADE PRACTICES IN THE MEAT INDUSTRY, MAY 22, 1957

(Before the Subcommittee on Antitrust and Monopoly of the Committee on the Judiciary, Washington, D.C.)

The subcommittee met, pursuant to recess and subsequent postponement, at 10:10 a.m., in room 424, Senate Office Building, Senator Joseph C. O'Mahoney presiding.

Present: Senators O'Mahoney, Watkins, and Dirksen.

Also present: Donald P. McHugh, cocounsel, antitrust; Wilbur D. Sparks, attorney, antitrust; Peter Chumbris, counsel for minority, antitrust; Tom Collins, professional staff member; Carlile Bolton-Smith, counsel to Senator Wiley; and Dr. Reed L. Frischknecht, legislative assistant to Senator Watkins.

Senator O'MAHONEY. The session will come to order. Unfortunately, the pressure of senatorial business on other lines has kept most of our members away this morning. Senator Wiley, who has been intensely interested in this bill, is attending the Foreign Relations Committee meeting. Senator Watkins, cosponsor, is in conference with the Governor of Utah in his own office, and then he must take the Governor to the Appropriations Committee, so he can not be here.

Mr. Butz, the committee is very glad to have you proceed. I note that the report of the Department has been received this morning, signed by Mr. True D. Morse, Acting Secretary, dated May 20. That report will be made a part of the record at this point.

(The report referred to is as follows:)

DEPARTMENT OF AGRICULTURE,
Washington, D.C., May 20, 1957.

Hon. JAMES O. EASTLAND,
Chairman, Judiciary Committee, United States Senate.

DEAR SENATOR EASTLAND: Reference is made to your letter of March 27, 1957, requesting our views on S. 1356, a proposed amendment to the Packers and Stockyards Act to transfer jurisdiction over the meatpacking industry to the Federal Trade Commission.

This bill is designed to clarify the jurisdiction which the Secretary of Agriculture and the Federal Trade Commission have over certain practices in the food and meatpacking industry. It would eliminate title II of the Packers and Stockyards Act and amend other sections of the act and the Federal Trade Commission Act.

The Packers and Stockyards Act is a carefully integrated act, all parts of which are interrelated and supplement each other for the purpose of accomplishing the objective of assuring producers the true value of their livestock and poultry. The act in its present form provides the Secretary with sufficient authority to maintain open competitive market places and to prevent and correct practices of any organization in the livestock marketing and meatpacking or merchandising industries which restrict or limit competition for livestock, poultry, meats, and poultry or dairy products. The close relationship between merchandising practices and the determination of prices for livestock and poultry makes coordination of responsibility for all phases of a meatpacker's operations essential to the maintenance of open competition. A division of this regulatory authority could seriously handicap the accomplishment of the purposes of the present act.

At present, approximately 2,000 meatpackers are under the jurisdiction of the Packers and Stockyards Act, and around 1,000 stockyards are posted or eligible for posting under this act. This bill as now written would create a conflict in jurisdiction since the Department would retain jurisdiction over the livestock transactions of meatpackers at posted stockyards while losing jurisdiction over their livestock operations elsewhere. The transfer of jurisdiction over the direct country buying operations of meatpackers and over their merchandising practices would make it impossible for the Department to assure that apparent competition at public livestock markets is, in fact, true competition; nor could it effectively prevent or uncover many important restrictive discriminatory, or monopolistic practices at points away from public stockyards affecting the prices to be paid at public stockyards. In fact, the Department would be left with the responsibility for maintaining competitive livestock markets but without jurisdiction over some of the meatpacking companies, 1 of the 2 main parties to competition at these markets.

The Department recognizes the need for some changes in the present law due to the complexities which have developed in modern food merchandising. The Department does not favor the bill in its present form but would recommend that in lieu of the amendments to the Packers and Stockyards Act contained in the proposed bill there be substituted the following amendments to this act:

(1) By amending section 201 (7 U.S.C. 191) to read as follows:

"SEC. 201. When used in this Act—

"The term 'packer' means any person principally engaged in the business (a) of buying livestock in commerce for purposes of slaughter, or (b) of manufacturing or preparing meats or meat food products for sale or shipment in commerce, or (c) of buying livestock in commerce for purposes of slaughter and of manufacturing or preparing meats or meat food products for sale or shipment in commerce, or (d) of manufacturing or preparing livestock products for sale or shipment in commerce, but no person engaged in such business of manufacturing or preparing livestock products shall be considered a packer unless also engaged in any business referred to in clause (a) or (b) above."

This amendment eliminates the application of the packer provisions of the act to persons who are primarily engaged in some other activities but have acquired an interest in the packing industry which represents a relatively minor part of their operations; e.g., grocery chains. Such persons who are presently subject to the Packers and Stockyards Act would under this amendment be subject to the Federal Trade Commission Act.

(2) By striking the words "It shall be unlawful for any packer or any live-poultry dealer or handler to:" at the beginning of section 202 (7 U.S.C. 192) and inserting in lieu thereof "It shall be unlawful for any packer or live-poultry dealer with respect to any activity, or any other person with respect to buying livestock or live poultry for purposes of slaughter, to:" and by striking the word "packer" wherever it appears in sections 203, 204, and 205 and inserting in lieu thereof the word "person."

Under this amendment packers and live-poultry dealers as redefined in amendments (1) and (3) would be subject to the jurisdiction of the Department of Agriculture as heretofore. Other persons heretofore subject to the jurisdiction of the Department under Title II—Packers of the act would be subject to the jurisdiction of the Department with respect only to the buying of livestock and live-poultry for purposes of slaughter, and with respect to all other activities would be subject to the jurisdiction of the Federal Trade Commission.

(3) By inserting after the word "person" in the second sentence of section 503 (7 U.S.C. 218b) the word "principally."

This amendment changes the definition of live-poultry dealer so that for the purposes of title II of the act only persons principally engaged in the business of buying or selling live poultry in commerce for the purpose of slaughter will fall within the definition of live-poultry dealers.

(4) By striking the period at the end of subsection (b) of section 406 and inserting in lieu thereof ", or in any case where the Secretary determines it to be in the public interest for the Federal Trade Commission to institute a proceeding under which circumstances it shall have authority to exercise in connection therewith all the powers, functions, and authority of the Secretary under this Act." (7 U.S.C. 227.)

This amendment will authorize the Federal Trade Commission, upon a determination by the Secretary of Agriculture that it is in the public's interest, to institute proceedings exercising all of the Secretary's authority against persons subject to the Packers and Stockyards Act.

These amendments would have no effect on the present budget of the Department.

The Bureau of the Budget advises that there is no objection to the submission of this report.

Sincerely yours,

TRUE D. MORSE,
Acting Secretary.

STATEMENT OF EARL L. BUTZ, ASSISTANT SECRETARY OF AGRICULTURE; ACCOMPANIED BY ROY W. LENNARTSON, DEPUTY ADMINISTRATOR, AGRICULTURAL MARKETING SERVICE; NATHAN KOENIG, SPECIAL ASSISTANT TO THE ADMINISTRATOR, AGRICULTURAL MARKETING SERVICE; DAVID M. PETTUS, ACTING DIRECTOR, LIVESTOCK DIVISION, AGRICULTURAL MARKETING SERVICE; CHARLES BUCY, ASSISTANT GENERAL COUNSEL, U.S. DEPARTMENT OF AGRICULTURE; AND ROBERT L. FARRINGTON, GENERAL COUNSEL, U.S. DEPARTMENT OF AGRICULTURE

Mr. BUTZ. Mr. Chairman, on behalf of the Department of Agriculture I am pleased to respond to your request for views on S. 1356, which would amend the Packers and Stockyards Act to transfer jurisdiction over meatpackers to the Federal Trade Commission.

The Secretary of Agriculture has primary responsibility among the executive agencies of the Government for most activities directly concerned with agriculture, including the production and marketing of livestock and livestock products. Within the Department of Agriculture there are several major regulatory activities directly concerned with agricultural products and other items of food. These include enforcement of the Perishable Agricultural Commodities Act and the Commodities Exchange Act, which also have regulatory provisions similar to those contained in the Packers and Stockyards Act of 1921, as amended. The Packers and Stockyards Act, which has been administered by the Department since its passage 36 years ago, has as its primary purpose the assurance of fair competition and fair trade practices in the marketing of livestock and livestock products.

The objectives of the Packers and Stockyards Act are the prevention and correction of irregularities and abuses on the part of persons engaged in the livestock marketing and meatpacking industry. These include unfair, discriminatory, and deceptive practices or the control of prices or the development of monopolies. The act seeks to assure farmers and ranchers of open competitive market conditions and reasonable marketing costs in the livestock and meatpacking industry. Also involved is the determination and control of rates and charges of stockyard companies and the market agencies at the various public stockyards. The act provides protection to the livestock and meat industry itself from unfair, deceptive, unjustly discriminatory, or monopolistic tendencies of competitors, large or small.

A brief review of the background of the Packers and Stockyards Act may be helpful at this time. Prior to and particularly during World War I, a few firms in the meatpacking industry expanded sharply, and there were some that engaged in undesirable trade practices. In 1917, legislative hearings were held by committees of both Houses of Congress on bills designed to eliminate packer monopolistic practices. Subsequently, President Wilson directed a thorough investigation be made by the Federal Trade Commission of the meatpacking industry and its related activities. While this investigation was underway as a result of a specific directive from the President, the Department of Justice instituted antitrust proceedings against the five largest meatpackers. Those legal proceedings were concluded in 1920 when the then Big Five packers signed the famous packers' consent decree, thereby agreeing to divest themselves of ownership of stockyard property, to refrain from retail merchandising of meat, and the like.

At this same time there was increasing interest in obtaining legislation with which to deal directly with the livestock and meatpacking industry. As a result, Congress, in 1921, passed the Packers and Stockyards Act. This act provided new legal authority over trade practices and monopolistic tendencies relating to the livestock and meat industry beyond that which was already available. The act vested in the Secretary of Agriculture, among other things, the authority to issue cease-and-desist orders after hearings with respect to packers who engaged in practices theretofore prohibited under other legislation.

The legal responsibilities and the authority of the Department of Justice under the antitrust laws to deal with restraint of trade, monopolistic practices, mergers, etc., were not changed when packer jurisdiction was placed with the Department of Agriculture.

Under the Packers and Stockyards Act the Secretary of Agriculture is authorized to regulate stockyards and all persons engaged in business on such yards in connection with livestock transactions. The act requires the posting of stockyards, registration of marketing agencies and dealers, provides for bonds for the protection of producers, and permits prescribing reasonable rates for livestock agencies and stockyards when charges are found to be unreasonable. The act prohibits unfair trade practices whether or not related to restraint of trade or of monopoly. It provides for reparation proceedings to protect injured parties against damages suffered from unfair trade practices, etc. Thus the act provides protection from unfair competition to producers and consumers as well as to the meat industry itself.

S. 1356, the legislation with which this hearing is concerned, is designed to transfer to the Federal Trade Commission jurisdiction which the Secretary of Agriculture now has over certain practices of the meatpacking industry. This would be done through the elimination of title II of the Packers and Stockyard Act and changes in other sections of the act applicable to meatpackers.

The Department of Agriculture readily concedes the need for some changes in the Packers and Stockyards Act but does not favor the enactment of S. 1356 in its present form.

Livestock comprises an important segment of our agricultural economy today, just as it did at the time the Packers and Stockyards Act was passed. In fact, over one-half of farmers' cash receipts come from the sale of livestock and livestock products.

The Packers and Stockyards Act is a carefully integrated act. All parts of it are interrelated and supplement each other for the purpose of accomplishing all objectives of the act. In its present form the act provides the Secretary of Agriculture with sufficient authority to maintain open, competitive market places and to prevent malpractices by any organization in the livestock market, or in the meatpacking industry, which would tend to restrict competition in or monopolize the business of buying and selling livestock, poultry, meat, or other livestock products.

Mr. MCHUGH. Mr. Butz, I wonder if you would explain to the subcommittee at this point in what way this transfer would interfere with the Department's function of assuring open competition of public livestock markets.

Mr. BUTZ. It is my understanding this legislation if enacted would transfer from the Department of Agriculture regulation over the buying activities of the packers not on posted stockyards. We supervise them on posted stockyards and also have general supervision over them on stockyards not posted.

Mr. MCHUGH. By permitting the Federal Trade Commission to have jurisdiction over the regulation of buying practices at country buying points, in what way would that interfere with the ability of the Department of Agriculture?

Mr. BUTZ. You would have divided jurisdiction. You would have part of the livestock being sold through posted stockyards and part through nonposted stockyards, with 2 agencies of Government supervising the complete buying practices, 1 agency supervising on the posted stockyards and another on the nonposted stockyards.

Mr. MCHUGH. Is there any reason to believe that because you do have that division of jurisdiction, which you have now between the Department of Justice and Federal Trade Commission in connection with the administration of several statutes, it would interfere with the Department of Agriculture's ability to proceed against unfair practices in the stockyards?

Mr. BUTZ. I think it would not interfere with our ability to proceed against unfair practices on the posted stockyards, but that is not the point. There is a great deal of competition at buying points between what we call the central markets and the interior markets, or in a broader sense the posted yards and nonposted yards. The posted yards in the main are the larger yards, and the nonposted yards in the main are the smaller interior yards. This is a struggle that has been going on for some time, and it involves a deep philosophical struggle regarding the pricing of livestock and regarding competition in the whole area of marketing livestock. It is our feeling that if the supervision over those two different types of markets were split between two agencies of Government it would be difficult to integrate properly the enforcement of proper trading practices. It would be difficult to prevent a ruling that might favor one class of market as against a different class of market.

Mr. MCHUGH. Would it be possible for you to detail for us more specifically in what way action taken by the Federal Trade Commission at country buying points might complicate your problems in enforcing the same provisions on the stockyards?

Mr. BUTZ. It would be difficult for me to detail that except to say that you might have a different kind of action taken on one class of stockyards than you have on the other class of stockyards. That would throw the competitive balance to the posted yards or to the nonposted yards, as the case may be.

Mr. McHugh. Can this be handled by a degree of liaison between the Federal Trade Commission and Department of Agriculture?

Mr. Butz. I presume it could be, but the best liaison, of course, would be if it were all in the same department.

Mr. McHugh. I understand that the position of the Department is that you are very anxious to have jurisdiction over buying practices at the country buying points, not on the stockyards. Has the Department of Agriculture instituted any proceedings involving this type of unfair trade practice at country buying points?

Mr. Butz. I have Mr. Pettus, Director of the Livestock Division, to answer that question.

Senator O'Mahoney. Will you state your full name for the record, please?

Mr. Pettus. I am David M. Pettus, Acting Director of the Livestock Division, Agricultural Marketing Service.

Senator O'Mahoney. How long have you held this position?

Mr. Pettus. I have held this position since the first of February this year.

Senator O'Mahoney. I notice you call yourself Acting Director. Is there presently a Director?

Mr. Pettus. No, sir. The Director retired at the end of January this current year.

Mr. Butz. May I say the Director retired, and Mr. Pettus was the Deputy Director for how many years?

Mr. Pettus. Since 1950.

Mr. Butz. Since 1950 he has been Deputy Director.

Senator O'Mahoney. Thank you.

Mr. Pettus. We have had a specific instance of this nature this last year at Nashville, in which we issued charges against packers for unfair trade practices in the country. These practices were related to the buying practices at the stockyards, and it was through the buying practices at the stockyards that we found the improper buying practices in the country, and the interrelation between the two made it much easier to determine violation.

Mr. McHugh. When was this, Mr. Pettus?

Mr. Pettus. It was in the past year. I think it was last summer when we actually issued the charges. I would have to refer to the record for the specific date.

Mr. McHugh. This was a complaint that was formally filed?

Mr. Pettus. No; it was an investigation that we carried out on the basis of our observation at the market.

Mr. McHugh. Did it result in the filing of a complaint?

Mr. Pettus. Yes.

Mr. McHugh. Would you give us the name of that complaint?

Mr. Pettus. I do not have it here. I can get it for you and submit it for the record.

(The material referred to follows):

U.S. Department of Agriculture—Before the Secretary of Agriculture

(P. & S. Docket No. 2224)

PRELIMINARY STATEMENT, FINDINGS OF FACT, CONCLUSIONS, AND ORDER

In re: J. L. Richardson, Respondent

Preliminary statement

This is a disciplinary proceeding under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), hereinafter referred to as the act. The Order of Inquiry and Notice of Hearings filed by the Director, Livestock Division, Agricultural Marketing Service, on June 19, 1956, alleged that the respondent engaged in various unfair, unjustly discriminatory, and deceptive practices, in violation of the act. On November 27, 1956, respondent admitted the allegations contained in the Order of Inquiry and Notice of Hearing, waived the right to an oral hearing and to the report of the examiner, and consented to the issuance of an order, with findings of fact, requiring him to cease and desist from the practices complained of in said Order of Inquiry and Notice of Hearing, and suspending his registration for a period of four months. The Livestock Division, by its attorney, has recommended that such an order be issued.

Findings of fact

1. The Union Stock Yards, Nashville, Tennessee, hereinafter referred to as the stockyard, was at all times mentioned herein and is now a posted stockyard subject to the provisions of the act.

2. The respondent, an individual, is registered with the Secretary of Agriculture as a dealer to buy livestock for slaughter at the stockyard and various other posted stockyards, and at the times of the transactions of respondent hereinafter referred to was so registered. At such times respondent was employed as a packer buyer by Neuhoff Packing Company at the stockyard.

3. On or about March 12, 1955, respondent engaged in a secret speculative transaction with M. N. Townsend, an employee of Watkins Commission Company, Inc., a registered market agency at the stockyard, and W. Woodis, a registered dealer at the stockyard, in which 82 cattle were purchased from Dewey Campbell, a livestock producer, Winchester, Tennessee, at less than their fair value; such cattle were resold at the stockyard through the facilities of Watkins Commission Company, Inc., and Nashville Livestock Commission Corporation, a registered market agency at the stockyard, on March 14, 1955, for a net profit of $393.80 which was divided equally among respondent, Townsend, and Woodis; Campbell was led to believe that he was required to pay yardage and commission charges to Watkins Commission Company, Inc., for handling the cattle and was assessed such charges in the amount of $145.70 whereas respondent, Townsend, and Woodis were liable for such of the charges as were required to be paid and Watkins Commission Company, Inc., furnished no selling service in connection with the sale of the cattle by Campbell; and false entries were made in a sales invoice and an account of sale issued by Watkins Commission Company, Inc., in the name of Woodis and in scale tickets issued by the stockyard company in connection with such cattle, copies of which were made a part of the accounts records, and memoranda of Watkins Commission Company, Inc., and the stockyard company, respectively.

4. On or about April 25, 1955, respondent engaged in a secret speculative transaction with W. Woodis, a registered dealer at the stockyard, in which 9 cattle were purchased from Elliott T. Rives, a livestock producer, Pembroke, Kentucky, at less than their fair value; such cattle were resold at the stockyard through the facilities of Nashville Livestock Commission Corporation, a registered market agency at the stockyard, the same day for a net profit of $185.25 which was divided equally between respondent and Woodis; Rives was led to believe that he was required to pay yardage, commission, and other marketing charges to Nashville Livestock Commission Corporation for handling the cattle and was assessed such charges in the amount of $17.52 whereas respondent and Woodis were liable for such of the charges as were required to be paid and Nashville Livestock Commission Corporation furnished no selling service in connection with the sale of the cattle by Rives; and false entries were made in an account of sale issued by Nashville Livestock Commission Corporation in the name of E. Rives and in a scale ticket issued by the stockyard company in connection with such cattle, copies of which were made a part of the accounts, records, and memoranda of Nashville Livestock Commission Corporation and the stockyard company, respectively.

5. On or about March 18, 1955, respondent assisted H. S. Pugh, Vice President and cattle salesman for Nashville Livestock Commission Corporation, a registered market agency at the stockyard, in carrying out a secret speculative transaction through the facilities of Nashville Livestock Commission Corporation for Pugh's own account in which 15 cattle were purchased by Pugh from Glenn Foust, Foust Bros., J. D. Foust, and Howell Foust, livestock producers, Clarksville, Tennessee, at less than their fair value; such cattle were resold at the stockyard through the facilities of Nashville Livestock Commission Corporation on March 21, 1955, for a net profit of $230.67 to Pugh; the livestock producers were led to believe that they were required to pay yardage, commission, and other marketing charges to Nashville Livestock Commission Corporation for handling the cattle and were assessed such charges by Nashville Livestock Commission Corporation in the amount of $29.10 whereas Pugh was liable for such of the charges as were required to be paid and Nashville Livestock Commission Corporation furnished no selling service in connection with the sale of the cattle by the livestock producers; and false entries were made in accounts of sale issued by Nashville Livestock Commission Corporation in the names of Foust Bros., J. D. Foust, and Howell Foust and in scale tickets issued by the stockyard company in connection with such cattle, copies of which were made a part of the accounts, records, and memoranda of Nashville Livestock Commission Corporation and the stockyard company, respectively.

Conclusions

By reason of the facts set out in Findings of Fact 3, 4, and 5 above, it is concluded that respondent has wilfully violated section 312 (a) of the act and section 10 of an act entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes" (15 U.S.C. 50), which section is incorporated in and made a part of the Packers and Stockyards Act, 1921, by section 402 of the latter act (7 U.S.C. 222).

Inasmuch as respondent has consented that an order be issued requiring him to cease and desist from the practices complained of in said Order of Inquiry and Notice of Hearing and suspending his registration for a period of four months, and complainant has recommended that such an order be issued, the order will be issued.

Order

Respondent shall cease and desist from engaging in the unfair, unjustly discriminatory, and deceptive practices set out in the Findings of Fact above.

Respondent's registration under the act is suspended for a period of four months.

This order shall become effective on the sixth day after service.

Copies hereof shall be served upon the parties.

Done at Washington, D.C., this 20th day of December 1956.

Thomas J. Flavis, *Judicial Officer*.

U.S. Department of Agriculture—Before the Secretary of Agriculture

(P. & S. Docket No. 2224)

RECOMMENDATION OF COMPLAINANT IN RE J. L. RICHARDSON, RESPONDENT

Respondent, on November 27, 1956, filed an amended answer admitting the allegations contained in the Order of Inquiry and Notice of Hearing, waiving the right to an oral hearing and to the report of the examiner, and consenting to the issuance of an order, with findings of fact, requiring him to cease and desist from the practices complained of in the Order of Inquiry and Notice of Hearing and suspending his registration for a period of four months.

Complainant, in view of all of the circumstances in the case, recommends that such order be issued.

Jerome S. Ducrest,
Attorney for Complainant.

U.S. DEPARTMENT OF AGRICULTURE—BEFORE THE SECRETARY OF AGRICULTURE

(P. & S. Docket No. 2224)

AMENDED ANSWER, IN RE J. L. RICHARDSON, RESPONDENT

Respondent admits the allegations contained in the Order of Inquiry and Notice of Hearing, waives the right to an oral hearing and to the report of the examiner, and consents to the issuance of an order, with findings of fact, requiring him to cease and desist from the practices complained of in said Order of Inquiry and Notice of Hearing, and suspending respondent's registration for a period of four months.

J. L. RICHARDSON.

NOVEMBER 26, 1956.

Subject: In re J. L. Richardson, Respondent, P. & S. Docket No. 2224.

ALDERSON REPORTING CO.,
306 Ninth Street, NW.,
Washington, D.C.

GENTLEMEN: This will confirm the telephone request from this office that, pursuant to your contract with the Department No. 12-01-100-54, you furnish a stenographic record of the hearing to be held in connection with the subject proceeding. The time and place of the hearing, and other pertinent information are set forth below.

Date and time of hearing: November 30, 1956, at 10 a.m.

Place of hearing: Room 845, United States Courthouse, Nashville, Tennessee.

Type of delivery of transcript: Ordinary.

No. of copies of transcript: Original and three.

Delivery instructions: All copies and exhibits to the Hearing Clerk.

Very truly yours,

AGNES B. CLARKE,
Hearing Clerk.

E. R. Meyer, 11-26-56.

cc: L. D. Sinclair, P. & S. Branch, Livestock Division, AMS.

Jerome S. Ducrest, Office of the General Counsel.

NOVEMBER 23, 1956.

Certified return receipt requested.

Subject: *In re J. L. Richardson, Respondent,* P. & S. Docket No. 2224.

Mr. J. L. RICHARDSON,
2517 Barclay Drive
Nashville 6, Tennessee

DEAR MR. RICHARDSON: Enclosed is a copy of the Hearing Examiner's notice that the oral hearing herein, heretofore set for 10 a.m. on Friday, November 30, 1956, will be held in Room 845, United States Court House, Nashville, Tennessee.

Very truly yours,

AGNES B. CLARKE,
Hearing Clerk.

Enclosure.

E.R. Meyer, 11-23-56.

cc. Jerome S. Ducrest, Office of the General Counsel, with copy of notice.

L. D. Sinclair, P. & S. Branch, Livestock Division, AMS, with copy of enclosure.

J. Fred Matteson, 214 Livestock Exch. Bldg., Nashville 3, Tennessee, with enclosure.

U.S. DEPARTMENT OF AGRICULTURE—BEFORE THE SECRETARY OF AGRICULTURE

(P. & S. Docket No. 2224)

NOTICE OF HEARING IN RE J. L. RICHARDSON, RESPONDENT

The above docket was assigned to me on November 19, 1956.

The oral hearing herein, heretofore set for 10 a.m. on Friday, November 30, 1956, will be held in Room 845, United States Courthouse, Nashville, Tennessee.

JACK W. BAIN,
Hearing Examiner.

NOVEMBER 23, 1956.

SEPTEMBER 10, 1956.

Registered return receipt requested

Subject: *In re J. L. Richardson, Respondent,* P. & S. Docket No. 2224.

Mr. J. L. RICHARDSON,
2517 Barclay Drive, Nashville 6, Tennessee.

DEAR MR. RICHARDSON: Enclosed is a copy of the Chief Hearing Examiner's notice of oral hearing which is to be held in this proceeding in Nashville, Tennessee, at 10 a.m., local time, on November 30, 1956. You will be notified at a later date of the exact place of the hearing.

Copies of the transcript of testimony taken at the hearing will not be available for distribution; however, a copy will be furnished to Mr. J. Fred Matteson, 214 Livestock Exchange Building, Nashville, Tennessee, and may be inspected there. If you prefer to purchase a copy, arrangements can be made with the reporter at the hearing, or you may place your order in advance by writing direct to the official reporter, Alderson Reporting Company, 306 Ninth Street NW., Washington 4, D.C.

Very truly yours,

AGNES B. CLARKE,
Hearing Clerk.

Enclosure.

E. R. Mayer, 9-10-56.

cc: John L. Currin, Office of the General Counsel, with enclosure

L. D. Sinclair, P. & S. Branch, Livestock Division, AMS, with enclosure

J. Fred Matteson, 214 Livestock Exch. Bldg., Nashville 3, Tennessee, with enclosure

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U.S. DEPARTMENT OF AGRICULTURE—BEFORE THE SECRETARY OF AGRICULTURE

(P. & S. Docket No. 2224)

NOTICE OF HEARING, IN RE J. L. RICHARDSON, RESPONDENT

Notice is hereby given that the hearing in reference to the above matter will be held in Nashville, Tennessee, at 10 o'clock a.m., local time, on November 30, 1956. All parties will be notified at a later date of the exact place of the hearing.

GLEN J. GIFFORD,
Chief Hearing Examiner.

SEPT. 7, 1956.

Subject: *In re J. L. Richardson, Respondent,* P. & S. Docket No. 2224.

Mr. J. L. RICHARDSON,
2517 Barclay Drive, Nashville 6, Tennessee.

DEAR MR. RICHARDSON: This will acknowledge receipt of your letter of July 12, 1956, which has been filed as your answer to the order of inquiry and notice of hearing in the subject proceeding. You will be informed when further action is taken in this matter.

Very truly yours,

AGNES B. CLARKE,
Hearing Clerk.

E. R. Meyer, 7-19-56.

cc: John L. Currin, O. G. C., copy of answer served personally

L. D. Sinclair, P. & S. Branch, Livestock, Division, AMS, with copy of answer

J. Fred Matteson, 214 Livestock Exch. Bldg., Nashville 3, Tennessee, with copy of answer

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J. L. RICHARDSON,
2517 Barclay Drive, Nashville 6,
Tennessee, July 12, 1956.

Re: J. L. Richardson, Respondent, P. & S. Docket No. 2224.

HEARING CLERK,
U.S. Department of Agriculture,
Washington 25, D.C.

SIR: I must deny that I have willfully violated the Packers and Stockyards Act, 1921. What I have done I am happy to admit, in fact I have already given a statement. It may be, though, it would surprise me, that something I have done constitutes a violation of the Act. But certainly I have not intentionally violated it.

With reference to paragraph III, Order of Inquiry: I did not participate in this transaction. I merely passed on to Woodson Woodis the information that M. N. Townsend knew, so he told me, where some cattle could be bought. I was genuinely surprised (and pleased, too, of course) when, after Woodson Woodis purchased the cattle—and until he informed me to that effect some time later I had no knowledge of it nor was concerned—he thanked me and gave me his personal check in the amount of $131.25, which he indicated was a third of what he had cleared on his purchase.

Even a naive person, if he thinks he is doing something wrong, would have sense enough to not expose his connection with the deed by accepting a personal check.

As to paragraph IV: There is nothing at all secret about this transaction so far as I am concerned. And naturally it was speculative as all commercial transactions are, if by that you mean that it was hoped a profit would result. But quite the contrary of paying less than their fair value for the nine (9) head of cattle, the owner was paid more than they were worth, or at least fully as much as they were worth. This is proved by the fact that the next purchaser who bought them at only a normal markup lost money on them.

I neither made, nor authorized anyone to make, any false representation or false entry.

Referring to paragraph V: I had no connection whatsoever with this transaction. I neither participated in it nor profited from it, if there was any profit in it. I was simply a guest passenger in the car of Hilton Pugh who was given me a lift to Hopkinsville, Kentucky, when he en route stopped to look at some cattle. I saw them, too; I don't recall that I offered to buy them, however; at any rate, they were not sold to me.

Respectfully,

J. L. RICHARDSON.

U.S. DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., June 21, 1956.

Registered Mail Return Receipt Requested

Subject: In re J. L. Richardson, Respondent, P. & S. Docket No. 2224.

Mr. J. L. RICHARDSON,
Care of Neuhoff Packing Company,
3107 Adams Street, Nashville, Tennessee.

DEAR MR. RICHARDSON: Enclosed is a copy of an order of inquiry and notice of hearing under the Packers and Stockyards Act, 1921, as amended, which has been filed by Mr. H. E. Reed, Director, Livestock Division, Agricultural Marketing Service, naming you as respondent.

A copy of the rules of practice governing proceedings under the Packers and Stockyards Act is on file in the office of Mr. J. Fred Matteson, 214 Livestock Exchange Building, Nashville, Tennessee; it is available there for reference if you are not already familiar with these rules.

In accordance with these rules of practice, you may have 20 days after the receipt of this letter within which to file with the Hearing Clerk an answer, in quadruplicate, containing a precise statement of the facts which constitute the grounds of defense and specifically admitting, denying, or explaining each of the allegations of the inquiry and notice.[1]

Within the same time allowed for the filing of your answer, you may, if you wish, request an oral hearing. Failure to file such a request will constitute a waiver, on your part, of oral hearing.

Your answer, as well as any motions or requests that you may wish to file hereafter for the attention of the hearing examiner may be addressed to the Hearing Clerk, United States Department of Agriculture, Washington 25, D.C.

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[1] Failure to file an answer to or plead specifically to any allegation of the complaint shall constitute an admission of such allegation.

Very truly yours,

AGNES B. CLARKE,
Hearing Clerk.

Enclosure:
E. R. Meyer, 6–21–56.
cc: John L. Currin, O. G. C., with enclosure
L. D. Sinclair, P & S. Br., Livestock Exch. Bldg., Nashville 3, Tenn., with enclosure

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U.S. DEPARTMENT OF AGRICULTURE—BEFORE THE SECRETARY OF AGRICULTURE

(P. & S. Docket No. 2224)

ORDER OF INQUIRY AND NOTICE OF HEARING IN RE J. L. RICHARDSON, RESPONDENT

There is reason to believe that J. L. Richardson, hereinafter referred to as the respondent has willfully violated the Packers and Stockyards Act 1921, as amended and supplemented (7 U. S. C. 181 et seq.), hereinafter referred to as the act, and, therefore, this order of inquiry and notice of hearing is issued alleging the following:

I

The Union Stock Yards, Nashville, Tennessee, hereinafter referred to as the stockyard, was at all times mentioned herein and is now a posted stockyard subject to the provisions of the act.

II

The respondent, an individual, is registered with the Secretary of Agriculture as a dealer to buy livestock for slaughter at the stockyard and various other posted stockyards, and at the times of the transactions of respondent hereinafter referred to was so registered. At such times respondent was employed as a packer buyer by Neuhoff Packing Company at the stockyard.

III

On or about March 12, 1955, respondent engaged in a secret speculative transaction with M. N. Townsend, an employee of Watkins Commission Company, Inc., a registered market agency at the stockyard, and W. Woodis, a registered dealer at the stockyard, Dewey Campbell, a livestock producer, Winchester, Tennessee, at less than their fair value; such cattle were resold at the stockyard through the facilities of Watkins Commission Company, Inc., and Nashville Livestock Commission Corporation, a registered market agency at the stockyard, on March 14, 1955, for a net profit of $393.80 which was divided equally among respondent, Townsend, and Woodis; Campbell was led to believe that he was required to pay yardage and commission charges to Watkins Commission Company, Inc., for handling the cattle and was assessed such charges in the amount of $145.70 whereas respondent, Townsend, and Woodis were liable for such of the charges as were required to be paid and Watkins Commission Company, Inc., furnished no selling service in connection with the sale of the cattle by Campbell; and false entries were made in a sales invoice and an account of sale issued by Watkins Commission Company, Inc., in the name of Woodis and in scale tickets issued by the stockyard company in connection with such cattle, copies of which were made a part of the accounts, records, and memoranda of Watkins Commission Company, Inc., and the stockyard company, respectively.

IV

On or about April 25, 1955, respondent engaged in a secret speculative transaction with W. Woodis, a registered dealer at the stockyard, in which 9 cattle were purchased from Elliott T. Rives, a livestock producer, Pembroke, Kentucky, at less than their fair value; such cattle were resold at the stockyard through the facilities of Nashville Livestock Commission Corporation, a registered market agency at the stockyard, the same day for a net profit of $185.25 which was divided equally between respondent and Woodis; Rives was led to believe that he was required to pay yardage, commission, and other marketing charges to Nashville Livestock Commission Corporation for handling the cattle and was assessed such charges in the amount of $17.52 whereas respondent and Woodis were liable for such of the charges as were required to be paid and Nashville Livestock Commission Corporation furnished no selling service in connection with the sale of the cattle by Rives; and false entries were made in an account of sale issued by Nashville Livestock Commission Corporation in the name of E. Rives and in a scale ticket issued by the stockyard company in connection with such cattle, copies of which were made a part of the accounts, records, and memoranda of Nashville Livestock Commission Corporation and the stockyard company, respectively.

V

On on about March 18, 1955, respondent assisted H. S. Pugh, Vice President and cattle salesman for Nashville Livestock Commission Corporation, a registered market agency at the stockyard, in carrying out a secret speculative transaction through the facilities of Nashville Livestock Commission Corporation for Pugh's own account in which 15 cattle were purchased by Pugh from Glenn Foust, Foust Bros., J. D. Foust, and Howell Foust, livestock producers, Clarksville, Tennessee, at less than their fair value; such cattle were resold at the stockyard through the facilities of Nashville Livestock Commission Corporation on March 21, 1955, for a net profit of $230.67 to Pugh; the livestock producers were led to believe that they were required to pay yardage, commission, and other marketing charges to Nashville Livestock Commission Corporation for handling the cattle and were assessed such charges by Nashville Livestock Commission Corporation in the amount of $29.10 whereas Pugh was liable for such of the charges as were required to be paid and Nashville Livestock Commission Corporation furnished no selling service in connection with the sale of the cattle by the livestock producers; and false entries were made in accounts of sale issued by Nashville Livestock Commission Corporation in the names of Foust Bros., J. D. Foust, and Howell Foust and in scale tickets issued by the stockyard company in connection with such cattle, copies of which were made a part of the accounts, records, and memoranda of Nashville Livestock Commission Corporation and the stockyard company, respectively.

VI

By reason of the facts alleged above, respondent willfully violated section 312(a) of the act (7 U.S.C. 213(a)), and section 10 of an act entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," (15 U.S.C. 50), which section is incorporated in and made a part of the Packers and Stockyards Act, 1921, by section 402 of the latter act (7 U.S.C. 222).

Wherefore, this inquiry and notice as to the truth of the matters hereinbefore alleged is instituted and the Agricultural Marketing Service requests:

1. That unless the foregoing matters are admitted or satisfactorily explained in writing within 20 days from the receipt of this order of inquiry this matter be set down for oral hearing in conformity with the rules of practice governing proceedings under the act (9 C.F.R. 202 et seq.); and

2. That such order or orders be entered as are authorized by the act and warranted in the premises.

Done at Washington, D.C., this 19th day of June, 1956.

H. E. REED,
Director, Livestock Division, Agricultural Marketing Service.

CONTINUATION OF HEARING

Mr. McHUGH. Was this a complaint against a meatpacker or several meatpackers?

Mr. PETTUS. It is a complaint against market agencies and meatpackers involved in the transactions. Both market agencies and meatpackers were involved in alleged violations of the act.

Mr. McHUGH. Were these alleged violations of title II?

Mr. PETTUS. May I ask our attorney if he recalls specifically?

Mr. BUCY. I do not recall the particular case, but title II applies to all of the packers' operations. Therefore, when livestock transactions of a packer are involved we bring the charge with respect to the packer under title II, because of the breadth of title II to cover the actions on the posted stockyards as well as off, whereas title III only applies to actions on posted stockyards. If you got into a proceeding otherwise under title III involving transactions on the posted stockyards and off the posted stockyards, if your case developed that the unfair practices took place off the yards, we would go through a proceeding uselessly and not be able to issue a C and D against the packer, because his unfair practices took place off the yard rather than on the yard; whereas under title II, where we have jurisdiction over all of his livestock transactions, we can issue the C and D no matter where it develops factually the actual unfair practice took place.

Senator O'MAHONEY. So that the readers of the transcript may understand, will you explain what you mean by C and D?

Mr. BUCY. Cease and desist order.

Mr. McHUGH. You stated you will be able to furnish a copy of this complaint?

Mr. PETTUS. Yes.

Mr. McHUGH. Will you tell us, if you know, the status of this complaint?

Mr. PETTUS. The complaint is partially settled as far as some of the firms are concerned. Part of it I believe is still pending. I cannot at this time recall exactly which firms and which companies have the complaint settled, but I will be glad to furnish that for the record.

Senator O'MAHONEY. Please do.

Mr. McHUGH. In addition to this case which you have just mentioned, within the past 15 years has the Department of Agriculture instituted any other proceedings against meatpackers, charging them with any type of unfair or discriminatory practices in connection with their country buying?

Mr. BUTZ. This will be covered later in the statement, Mr. Chairman, if I could proceed with it. This is covered later in my statement.

Senator O'MAHONEY. You may proceed.

Mr. BUTZ. At present, approximately 2,000 meatpackers are under the jurisdiction of the Packers and Stockyards Act, and around 1,000 stockyards are posted or eligible for posting under the act. S. 1356 would create a conflict in jurisdiction which would tend to defeat the objectives of the act. As an example, if S. 1356 were enacted in its present form the Department would retain jurisdiction over the livestock transactions of packers and others on posted stockyards while jurisdiction over such transactions in commerce elsewhere would be vested in the Federal Trade Commission. The transfer of jurisdiction over the direct country-buying operations of packers would interfere with the Department's function of assuring that apparent competition at public livestock markets is, in fact, adequate or true competition. Nor could the Department effectively prevent or uncover many important restrictive, discriminatory, or monopolistic practices at points away from posted stockyards affecting the prices to be paid at posted stockyards. In fact, the Department would be left with the responsibility for assuring competitive livestock markets, but without jurisdiction over the meatpacking industry—the principal purchasers—which is so important in the competition and trade at those markets. The Department believes that this proposed bill, if enacted in its present form, would substantially reduce the potential effectiveness and the ultimate value of the Packers and Stockyards Act to the livestock producers and feeders.

During most of the period since enactment of the Packers and Stockyards Act the Department has given attention to enforcing all of its provisions, not only those concerned with stockyards. The Department has administered the Packers and Stockyards Act to prevent unfair and undesirable practices by the packing industry and in the buying and selling of livestock. We have not had evidence of any widespread unfair or illegal practices in the livestock and meat industry in recent years and, in fact, there have been relatively few complaints of violations of the Packers and Stockyards Act.

The Department has given considerable attention to enforcing the provisions of the act which are concerned with stockyards, including stressing fair trade practices, prompt and accurate returns, and reasonable charges in connection with the selling and buying of livestock and the services provided at the yards. Over the years there has been somewhat less emphasis on the work under title II of the act, that is, the so-called packer provisions, but title II has not been neglected. In fact, during World War II, and again during the Korean emergency, the livestock and meat industry was under direct rigid Government controls, including price and slaughter controls, compulsory grading, meat-distribution controls, etc. Also, in 1948 the Department of Justice brought charges against the leading packers under the Sherman Antitrust Act. After a rather extensive investigation, the charges were dropped in 1954. The Department of Agriculture cooperated fully with the Department of Justice in its action.

Among the formal investigations currently underway, 17 involved meatpackers' operations, including questions of monopoly, price discrimination or price manipulation, restriction of competition, unfair practices in merchandising or advertising, including restriction of competition in buying livestock. The Department has attempted to administer the act to the fullest extent possible within the available funds which have been appropriated and allocated for this work. It may be, however, that both the Department and Congress may have followed a too modest course of providing funds for administering the act.

Mr. McHugh. These additional regulations over meatpackers which you speak of here have nothing to do with further control under any of the authority exercised by the Department of Agriculture, I gather?

Mr. Butz. You are talking about the wartime controls?

Mr. McHugh. The ones you have spoken of in your statement.

Mr. Butz. No; we have cooperated with the Justice Department in these controls you speak of.

Senator O'Mahoney. Which Department initiated the matter; Justice or Agriculture?

Mr. Butz. We have two types of actions indicated in this paragraph. One was the wartime controls during World War II and during the Korean emergency which were exercised by the Department. The other was the antitrust action brought in 1948 by the Department of Justice in which our Department cooperated, but the initiative was taken by the Department of Justice.

Mr. McHugh. The wartime controls you are speaking of have nothing to do with controls exercised by the Department of Agriculture under the authority of the Packers and Stockyards Act?

Mr. Butz. I think that is correct. These controls were under a wartime act.

Mr. McHugh. So this is additional authority as a result of Congress instructions to exercise certain wartime authority?

Mr. Butz. Yes, sir.

Senator O'Mahoney. I gather, Mr. Secretary from what you said, that you had no difficulty in cooperating with the Department of Justice?

Mr. Butz. So far as I am aware there was no difficulty.

Senator O'Mahoney. Is that right, Mr. Pettus?

Mr. Pettus. That is correct.

Senator Watkins. That was prior to your time in the Department, Mr. Butz?

Mr. Butz. Yes, sir.

Mr. McHugh. In connection with the Department of Justice case in 1954, I wonder if you would explain for us just what the extent of the cooperation between the Agriculture and Justice Departments consisted of in that matter.

Mr. Butz. May I ask our Deputy General Counsel to do that?

Mr. Bucy. I think probably the administrative people had more knowledge of the detail, but they cooperated with the Department of Justice in furnishing them information that was available in the Department of Agriculture with respect to operations on posted stockyards and other places. In other words, it was a cooperation with the investigation of the Department of Justice in making available to their investigators and attorneys the data and information that could be more readily obtained through the Department of Agriculture.

Senator O'Mahoney. That being the case, if the Department of Agriculture can cooperate with the Department of Justice, is it not reasonable to assume that it could cooperate also with the Federal Trade Commission?

Mr. Bucy. The Department of Agriculture I am sure can cooperate in any way in enforcement of the law.

Senator O'Mahoney. Very well. Then you will cooperate with the committee.

Mr. Butz. Mr. Chairman, I think that one of the points inferred from this paragraph has not been clearly made here, and that is, that during World War II and again during the Korean war we had a rather complete control over the packing industry. Then we had this action by the Department of Justice under the Sherman Antitrust Act. That ran from 1948 until 1951, and was dismissed. During both of those times it was not found that there was in fact monopoly in the meatpacking industry. I think that the point is that these two actions would indicate that the mere absence of a lot of activity on the part of Agriculture under title II through these years does not necessarily mean there was a lack of enforcement.

Mr. McHugh. Mr. Butz, you have stated it was found that there was no monopoly in the meatpacking industry. Found by whom?

Mr. Butz. The action was dropped by the Department of Justice.

Mr. McHugh. Do you know the reason that action was dropped?

Mr. Butz. No, sir; I do not. I would assume if there were evidence of monopoly they would have pressed the action further.

Mr. McHugh. Are you familiar with the fact that the Attorney General announced one of the principal reasons for the discontinuance of that action was because of the ruling by the trial court limiting the kind of evidence which the Department would be able to put in in time, making it difficult to proceed with the prosecution of that suit?

Mr. Butz. I am not familiar with the details of it.

Mr. McHugh. Are you familiar with the general theory of the charge made against the packers in that case?

Mr. Butz. No. This is before I came with the Department. I might ask Mr. Bucy to comment on that.

Mr. Bucy. The general theory, the main one general theory involved, was that there was a combination there of the packers to gain a monopoly in restraint of trade and competition. I am not entirely familiar with all the theories that the counsel in the Department of Justice may have had in the case, but that was the major theory.

Mr. McHugh. Is it not true, Mr. Bucy, that there was no determination made by the Department of Justice in connection with this proceeding, or no determination made by any court, as to whether or not there remained in fact any monopoly, or conspiracy to monopolize, in the meatpacking industry?

Mr. Bucy. I cannot speak for what determination was made within the Department of Justice. The matter was dismissed by the courts, not on the matter of merits but because the Department of Justice, as I understand it, requested that the matter be dismissed. In other words, it was the same as choosing not to prosecute further. As to what the Department of Justice had concluded on the whole facts before them, I think probably they can speak better than I could.

Senator Watkins. May I ask this question: Did Agriculture participate in the decision to drop the case?

Mr. Bucy. Not to my knowledge.

Senator Watkins. Were you consulted about it?

Mr. Bucy. I was not consulted.

Senator Watkins. What position were you occupying at the time?

Mr. Bucy. I was an attorney in 1954. I was Assistant General Counsel. They changed the name since then, but I was Associate Solicitor in the Department of Agriculture in charge of marketing and regulatory laws.

Senator Watkins. And that had to do with, of course, the packing industry?

Mr. Bucy. All regulatory laws, including the packers and stockyards.

Senator Watkins. Since you were not consulted, you took no part in making a decision to drop the case?

Mr. Bucy. You are correct, Senator?

Senator Watkins. Do you know who started the investigation that finally led to the suit?

Mr. Bucy. I would assume it was the Department of Justice, it being an antitrust prosecution.

Senator Watkins. Did Agriculture play any part whatsoever in gathering the evidence or cooperating with the Department of Justice in the preliminaries to the bringing of the suit?

Mr. Bucy. As I previously stated, Senator, the Department of Justice requested the Department of Agriculture, as I understand it, to make available to them certain information and to have their men come over and work with the Department of Agriculture's men in gathering information that was available in the Department of Agriculture in furtherance of their investigation.

Senator Watkins. There was no initiative, then, on the part of Agriculture in beginning this suit? That would be a fair conclusion; would it not?

Mr. Bucy. I think that is a fair conclusion.

Senator Watkins. Do you know what the charges were against the packers?

Mr. Bucy. Right today I do not recall in detail, but as I said before my recollection is that the charges were that they were acquiring and combining to monopolize and to restrain trade and that it would lead to a monopoly.

Senator O'Mahoney. Senator Watkins, it has been agreed by Mr. Pettus, who is the Acting Director of the Marketing Branch, to present the committee with the full text of this complaint.

Mr. Butz. May I proceed?

Mr. McHugh. May I ask some more questions?

Senator O'Mahoney. Yes, indeed.

Mr. McHugh. Is it not true, Mr. Butz, that essentially the charge of conspiracy to monopolize was brought by the Department of Justice, and involved changes of market sharing, divisions of markets by agreement among the defendant meatpacking companies?

Mr. Butz. I am not familiar with the charges.

Mr. McHugh. Mr. Bucy?

Mr. Bucy. I believe it did. I suppose the best evidence on that would be for the committee to have before it the complaint that was filed by Justice, which would give the full details of the charges, but I believe there was involved in the combination to restrain trade a matter of apportionment of sales areas.

Senator O'Mahoney. Off the record.

(Discussion off the record.)

Mr. McHugh. Are you familiar with the fact that considerable statistical data were obtained by the Department of Justice at that time, pervious to the discontinuance of the case, to support the charges that there was a division of the markets in various sections of the United States?

Mr. Butz. I am not familiar with it.

Mr. McHugh. Are you familiar with the fact that the Department of Justice had assembled considerable information, statistical and otherwise, in support of its charges that there was a division of the markets among the meatpackers in various areas of the United States?

Mr. Bucy. I am not familiar with what the Department of Justice has in its investigation file. I would assume that they felt they had evidence in support of the charges that they made in their complaint, and that any action of this kind does involve a rather extensive investigation, which will involve a great deal of statistical matter. We have encountered it in proceedings in the Department in that field, and it does involve substantial statistical research and investigation.

Mr. McHugh. After the discontinuance of this suit by the Department of Agriculture in 1953, has the Department continued to make a study and analysis of the record of the evidence that was accumulated at that time, bearing upon the charges of market sharing?

Mr. Pettus. I am sorry. I did not get the question.

Mr. McHugh. Since the discontinuance of the suit by the Department of Justice in 1953, at which time considerable statistical data was available to support the charges of market sharing, has the Department of Agriculture continued to investigate the charges of market sharing in various areas of the United States?

Mr. Pettus. Not as a specific followup of that overall case, but in our various types of records that we get on packers, the reports that we get each year, and our observations, we have continued to look over the entire question of sharing.

Mr. McHugh. Have you made studies to determine whether or not the pattern of market buying by the packers has continued along the same lines since the discontinuance of the suit, or whether it has altered in any way?

Mr. Pettus. We have not made what you might call formal studies and published reports on it; no, sir.

Senator Watkins. What have you done in an informal way?

Mr. Pettus. We have observed from their reports and from the information that we get on our market what the situation is as far as packer expansion and as far as the buying of small packers by larger ones. The general picture has been under observation.

Senator Watkins. Have you made any active move to get facts, yourself, rather than to observe what other people have dug up for you?

Mr. Pettus. Well, this information is some that we get ourselves directly from the packers, under the act, as well as the information that our Department gathers on the size of packers, their operations, and so forth.

Senator Watkins. Who gathers evidence on the packers?

Mr. Butz. Mr. Chairman, many of these comments bear on comments in the next 2 or 3 pages of the testimony here. I think it will be helpful if we complete the testimony and then take up the questions.

Senator Watkins. I have no objection to that. I did not know whether it was covered or not. I thought since we were in the matter we might as well pursue it to get all the information.

Mr. Butz. It will take just a few minutes to finish the statement, and I think that will answer some of these questions.

Senator O'Mahoney. You may proceed. We will take it up afterward though, Mr. Butz.

Mr. Butz. The Department recognizes the importance of this regulatory problem and, in fact, we have begun recently to expand the staff and regulatory activities under the act. At the present time, with additional funds appropriated, we are working toward posting all eligible stockyards, and we have increased our activities in connection with trade practices of meatpackers, as well as with buyers and sellers at stockyards.

We are going to continue to give stronger emphasis to the trade practices work under the act. We recently have redirected an additional $20,000 of Department funds for Packers and Stockyards Act enforcement during the last part of this fiscal year, with the funds to be used for additional staffing, particularly in connection with title II activities. In addition, we plan to make available for title II work at least an additional $75,000 during the coming year from funds which are available within the Department. We also anticipate requesting from Congress additional funds for administering the act, particularly title II, in our next budget request. Expanded attention to all parts of the act is desirable and is anticipated.

The fact that this regulatory function has been conducted with little public notice in recent years should not be considered as an indication of inaction. Investigative and regulatory functions of the Government frequently are given little publicity. The present Secretary of Agriculture appreciates the importance of effective administration of the act, and earlier this year Secretary Benson, himself, initiated a survey of the activities and regulations under the Packers and Stockyards Act. Last month a report of that study was made public, and we are now following through to make the necessary changes and improvements indicated by this report. Since reference has been made to this report by several of the witnesses who have testified before this subcommittee, I should like to suggest at this time that it be made a part of the record of this hearing.

Senator Watkins. May I ask you at this point, has Congress ever turned you down in any request for funds to administer that act, particularly title II?

Mr. Butz. It is my understanding they have not turned down any request for title II specifically, but they have turned down a request for funds for the Packers and Stockyards Act. It is my understanding that in our request to Congress we do not spell out title I and title II. We simply request funds, for the Packers and Stockyards Act.

Senator Watkins. I think there might be some question as to the accuracy of that statement. I think some of the requests indicate very clearly what part of the administration they are asking the funds for.

For instance, you asked for one-hundred and seventy thousand-odd dollars this year to post stockyards. You seemed to spell it out.

Mr. Butz. We asked for that increase for the purpose of posting additional stockyards, but beyond that it is my understanding we did not indicate the division.

Senator O'Mahoney. The budget goes into detail with respect to every expenditure of every department, and the justification which is submitted to Congress with every budget leaves no detail unmentioned.

Mr. Butz. Quite right; except for our personnel in the field, particularly, there is some overlapping of duties, and sometimes they are working on title I and sometimes on title II.

Senator O'Mahoney. I think an examination of the budget will clearly reveal what requests were made. For example, what requests did the Department of Agriculture make this year in the present pending budget for the enforcement of this act

Mr. Butz. We asked for an increase, as I recall, of one-hundred and seventy-some-odd-thousand dollars this year the Packers and Stockyards Act, and the justification we gave this year was to expand the stockyards posting activities.

Senator O'Mahoney. Would the appropriation which was requested for the Department of Agriculture in the budget be sufficient to enable you to carry on the work that you are outlining here?

Mr. Butz. No, sir. Since the budget was submitted, we have within the Department transferred a sum into the Packers and Stockyards Division to strengthen this enforcement division.

Senator O'Mahoney. That was since the initiation of this bill?

Mr. Butz. Yes, sir. This was done following the study that Secretary Benson asked be made of the work under the Packers and Stockyards Act.

Senator O'Mahoney. So that it would be necessary for the Department of Agriculture to file a supplemental budget request to carry out the program that you are outlining this morning?

Mr. Butz. Either that or to make transfers within the departmental budget.

Senator O'Mahoney. Do you have enough money in the departmental budget now to take away from one activity and switch to another activity?

Mr. Butz. We have moved about $20,000, as I will point out in a subsequent paragraph here if I can get to it.

Senator O'Mahoney. Twenty thousand thousand dollars is not much out of the $5 billion which is in the budget for the Department of Agriculture.

Mr. Butz. Quite right. That is for the remainder of this fiscal year, which is a very small part of the fiscal year, and then we have allocated another approximately $75,000 during the coming year into this work. This is in the subsequent paragraph, if I may proceed.

Mr. McHugh. Do I understand then, Mr. Butz, that in connection with the 1957 request for an increase in the appropriation for enforcement of the Packers and Stockyards Act, there were no requests for any funds to be used in connection with the administering of the unfair trade practices provision of title II of the act?

Mr. Butz. There was no direct request for that purpose. Our request was for additional personnel to post additional stockyards, and those people do sometimes work on this activity. If I may proceed, that is covered in these subsequent paragraphs.

Senator Watkins. May I say this: There were bills introduced in the last session of the Congress, last July, and all of this, of course, has occurred subsequent to that time. Whatever you did not ask for, of course, the failure was since that time as well.

Mr. Butz. For the last 2 years, Senator, we have been strengthening the enforcement of title II, however, from funds available within the Department and from personnel available in the Department.

Senator Watkins. Would you furnish us with a statement showing just what you did with respect to that and how much you transferred and how much that enforcement was increased?

Mr. Butz. Yes, sir. I just read that paragraph at the top of page 6.

Mr. McHugh. Are you telling us that the Department of Agriculture did reserve special funds for the enforcement of title II activities, previous to the beginning of this committee's investigation of the meatpacking industry in June of last year?

Mr. BUTZ. No, sir; but there was some reassignment of emphasis on the way personnel was used. As you will note from the paragraph I just read at the top of page 6, we have in the last 2 years stepped up our activities of investigations under title II. It was done with existing personnel in the field.

Mr. MCHUGH. Has not that activity been stepped up substantially since last summer?

Mr. BUTZ. It is my understanding it has been over the last 2 years. Mr. Pettus, would you answer that question, please?

Mr. PETTUS. It has been longer than since last summer, but I would say we have increased our activities even more since last summer. But it preceded last summer—the increase in this area.

Senator O'MAHONEY. You will give Senator Watkins and myself a little credit for stepping up this activity by introducing this bill; won't you?

Senator WATKINS. Mr. Chairman, I wonder if we might have the Department give us the number of people who are engaged in activities in any way related to the enforcement of title II of the act; also their names and their location where they are working, and what other activities they may be engaged in in the Department other than enforcement of title II. I think we ought to have a detailed list of that information.

Mr. BUTZ. That will be provided. Mr. Chairman, may I proceed with the statement? Much of this is covered in the statement.

Senator O'MAHONEY. Proceed.

Senator WATKINS. The information I just asked for?

Mr. BUTZ. No; this is not in the statement.

Senator WATKINS. I did not think it was.

Mr. BUTZ. Much of what we have been talking about is in the statement.

Senator WATKINS. And I would like the address of each of those people.

Mr. BUTZ. In that connection, I would like to point out that in a very real sense most of our people in the field are or may be at times concerned with the enforcement of title II. If something comes up that needs the attention of personnel, they are shifted from one function to the other, and it is difficult to say that individual X is on title II and individual Y is on title III. There is fluidity in our whole staff with respect to the enforcement of both titles III and II.

Senator WATKINS. There may be, but there a clear-cut distinction between title III and title II, is there not, in the law?

Mr. BUTZ. Yes, indeed; but that distinction does not go as far as to say that individual X can work only on title II and individual Y only on title III.

Senator WATKINS. I understand there is a possibility even those that are assigned directly to title II may spend most of their time on title III.

Mr. BUTZ. Indeed; and those assigned to title III may spend most of their time on title II.

Senator WATKINS. That is exactly what I would like to find out.

Mr. MCHUGH. Can you tell us the name of the man who is in charge of the section that is handling the unfair trade practices under title II?

Mr. BUTZ. That is one of Mr. Pettus' men.

Mr. PETTUS. Mr. Donald Bowman is head of our Trade Practices Section in the Packers and Stockyards Branch.

Mr. MCHUGH. At the time the committee requested that Mr. Lee Sinclair also appear, we were under the impression that that was Mr. Sinclair's function. What is his role?

Mr. PETTUS. His duty is chief of the entire packers and stockyards operations.

Mr. MCHUGH. So these duties would come under Mr. Sinclair?

Mr. PETTUS. That is right.

Mr. MCHUGH. Someone else, then, is directly in charge; is that it?

Mr. PETTUS. Of the trade practice work; yes.

Senator O'MAHONEY. Who is in charge at the Secretarial level? I do not mean the Secretary, of course. I mean who on the Secretarial staff.

Mr. BUTZ. The Assistant Secretary for Marketing and Foreign Agriculture, which position I hold; and directly under me is Mr. Wells, who is the Administrator of the Agricultural Marketing Service, and Mr. Lennartson, his deputy, is here today. Mr. Pettus, as acting head of the Livestock Division, reports to the Administrator of the Agricultural Marketing Service.

Senator O'MAHONEY. So that the expansion of the activities of the Department of Agriculture would be directed by you?

Mr. BUTZ. Yes, sir.

Senator O'MAHONEY. What have you done?

Mr. BUTZ. Sir?

Senator O'MAHONEY. What have you personally done in the past year to expand activity under title II?

Mr. BUTZ. Well, the chief thing I think has been—in consultation with Mr. Wells and Mr. Lennartson—we have for the remainder of this fiscal year transferred some $20,000 into this activity, to permit the expansion of personnel and activities under the program during the remaining part of the fiscal year. That is a bigger sum than $20,000 on a fiscal year basis, you see. We have made tentative provision to transfer some $75,000, if we can find the competent personnel, to strengthen the work next fiscal year.

Senator O'MAHONEY. Is that the measure of the expansion—$20,000 for the remainder of this fiscal year and $75,000 tentatively?

Mr. BUTZ. I would say that is not a complete measure of the change in emphasis, because, as we pointed out before, the personnel already available under the Packers and Stockyards Act are eligible for shifting, as the case may be, and we have shifted emphasis on this as we brought out here earlier. We have investigations going forth.

Senator O'MAHONEY. Have you taken any steps to prepare the supplemental budget which so clearly will be necessary?

Mr. BUTZ. We think this is not necessary as a supplemental budget for this next year. We will make a request in the budget that will be submitted for the following fiscal year. But it has been possible, we feel, within the budgetary items to make the necessary shifts for the next year.

Senator O'MAHONEY. So that enforcement of title II will depend upon the shifts that you make during fiscal 1958 from other activities to this activity?

Mr. BUTZ. Yes, sir; the shifts in budget plus the shift in emphasis. And Mr. Pettus reminds me of one more thing. We are asking for an increase of $170,000 for posting, and those personnel also will be available to assist with this in cases where evidence of malpractice comes up on the yards that are posted.

Senator O'MAHONEY. That is the measure of the new activity?

Mr. BUTZ. That is one measure of new activity.

Senator O'MAHONEY. Have you got it all in? Let's get it all in.

Mr. BUTZ. $175,000 that we have requested in the budget for next year as an increase for the Packers and Stockyards Act, and then we expect within the Agriculture budget to transfer some additional $75,000 into strengthening of title II, which will make approximately $250,000.

Senator O'MAHONEY. What agricultural activity for which you have already submitted a budget will suffer or be neglected by reason of this shift?

Mr. BUTZ. What we plan is discontinuance of a contract that we have had in the fruit and vegetable merchandising training program which has been going for approximately 10 years, which, after consultation with those responsible, we feel has essentially accomplished its purpose and can go on its own. We have been in consultation with the Appropriations Committee on this item and feel we can make the shift all right.

Senator O'MAHONEY. That isn't what I heard, Mr. Secretary. I have heard considerable complaints about the supermarkets and the food chains with respect to the pricing of fruits and vegetables and other commodities raised on truck farms.

Mr. BUTZ. Oh, yes; but this is a separate project.

Senator O'MAHONEY. Are you going to abandon those poor farmers?

Mr. BUTZ. No, sir. This was a separate project that we had that involved training techniques for wholesale and retail merchandising. It has been going for 10 years. It has been in cooperation with wholesalers around the country, and they put in a substantial share of the cost. It is our feeling and their feeling they can now pick it up and run with it. There is no disposition to abandon the fruit and vegetable producers. Don't misunderstand me.

Senator O'MAHONEY. I think you may proceed with your statement. You are making a very interesting statement, which stimulates a lot of questions.

Mr. BUTZ. I welcome the questions. I would like to finish this if I could.

Senator WATKINS. Mr. Chairman, I come from a fruit area, and we have had some very grave questions in our minds as to whether we are getting fair treatment in that area, and before we get through with this I might like to ask some questions about that as to how many people are working on it.

Mr. BUTZ. I will be happy to have you do that. This was a project working with the wholesalers and retailers; not with producers.

Senator WATKINS. The people I am inclined to complain about are the wholesalers, particularly, who go out in the fruit areas to buy fruit. Some of them do not have very much competition in that field in our area.

Mr. BUTZ. Proceeding with the statement, I would suggest that the study which the Secretary had made and which has been referred to, be made a part of the record.

Senator O'MAHONEY. This study will be made a part of the record.

Senator Watkins.

Senator WATKINS. I take it, later on probably, after we have studied it a little further we may have some questions to ask of the Secretary with respect to it.

(The study referred to above is as follows:)

DEPARTMENT OF AGRICULTURE,
Washington, D.C., April 4, 1957.

REPORT ON CURRENT ACTIVITIES AND PROBLEMS UNDER THE PACKERS AND STOCKYARDS ACT

I. THE ACT AND ITS MAIN PROVISIONS

This report is the result of a survey of current activities and problems relating to the investigation and regulation of trade practices in livestock buying and meat merchandising under the Packers and Stockyards Act. The survey was undertaken in the Department of Agriculture at the direction of the Secretary of Agriculture. The purpose was to review problems relating to livestock-buying and meat-merchandising practices in order to appraise the adequacy of the Department's resources and current policies in this field.

The Packers and Stockyards Act was enacted by Congress in 1921. The primary purpose of this act is to assure fair competition and fair trade practices in livestock marketing and in the meatpacking industry. The objective is to safeguard farmers and ranchers against receiving less than the true market value of their livestock and to protect consumers against unfair business practices in the marketing of meats, poultry, etc. Protection is also provided to members of the livestock marketing and meat industries from the unfair, deceptive, unjustly discriminatory, and monopolistic practices of competitors, large or small.

Three general areas of regulation are encompassed by the act. The regulation of packers is provided for in title II. Title III provides for the regulation of stockyards posted under the act (operating in interstate commerce and having an area of 20,000 square feet or more) and of market agencies and dealers operating at such stockyards. Title V provides for the regulation of live-poultry dealers and handlers at cities or places that may be designated under the act. The other titels of the act, title I and title IV, cover definitions and general provisions.

Summary of principal provisions

The act provides that meatpackers subject to its provisions shall not engage in practices that restrain commerce or create a monopoly. They are prohibited from buying or selling any article for the purpose of or with the effect of manipulating or controlling prices in commerce. They are also prohibited from engaging in any unfair, deceptive, or unjustly discrminiatory practice or device in the conduct of their business, or conspiring, combining, agreeing, or arranging with other persons to do any of these acts.

Commission men, dealers, and stockyard operators at markets posted under the act are prohibited by its provisions from engaging in any unfair, deceptive, or unjustly discriminatory practice or device in the conduct of their business. The Secretary of Agriculture is authorized to require such commission men and dealers to furnish reasonable bonds to assure payment for livestock bought or sold at a stockyard.

Stockyard owners and market agencies are required to furnish reasonable stockyard services without discrimination and to charge reasonable and nondiscriminatory rates. Stockyard owners and market agencies are also required by the act to file with the Secretary schedules of their rates and charges and of any changes that may be made in them. These rates and charges are subject to review by the Secretary, and if found to be unreasonable the Secretary may fix ones that are reasonable.

Meatpackers, commission men, dealers, and stockyard operators are required by the act to keep such books and records as fully and correctly disclose all their transactions. Such books and records are required to be made available to authorized representatives of the Secretary for examination and copying as may be deemed necessary. Provision is made in the act for filing such reports as the Secretary may require and for the issuance of supenas to compel production of such books and records and for the giving of testimony by witnesses.

Under the act, commission men and dealers found to be violating its provisions may be suspended from doing business. Among the various enforcement provisions, the act also provides for the issuance, after formal hearings, of cease and desist orders against meatpackers and all other persons subject to it.

II. BACKGROUND OF THE ACT

Some years following enactment of the Sherman Antitrust Act, which sought to make more effective the common-law doctrine against restraint of trade, agitation arose for legislation dealing directly and separately with the packers or at least the dominant firms in the industry. In 1917, after legislative hearings had been held by committees of both Houses of Congress on a series of bills dealing with the packer monopoly problem, the President directed the Federal Trade Commission to investigate meatpacking and related activities.

The resulting report indicated that the big meatpacking firms virtually had complete control of the trade, from the producer to the consumer. The report also indicated that one of the essential means by which this control of the trade was made possible was through the packers' ownership of a controlling part of the stock in the stockyards companies of the country. This controlling interest gave the meatpackers a "whip hand" over not only the operations of the stockyards but also over the activities of the commission men and dealers.

Two actions followed in the chain of events. One was a Department of Justice action which led to the consent decree of 1920 under which the four largest meatpacking firms agreed to divest themselves of the ownership of stockyard properties and to refrain from the retail merchandising of meat. The other was the action by Congress which resulted in the enactment of the Packers and Stockyards Act in 1921.

Key position of stockyards recognized

The bill that provided the basis for the Packers and Stockyards Act recognized that if the packer problem was to be solved it was necessary to have additional authority. This was needed particularly with respect to the stockyards and the transactions in livestock conducted there in order to protect the producers of livestock from the results of unfair practices. Therefore, although in the first instance the question was raised by reason of monopolistic practices among the large meatpackers, the legislative program enacted embraced two largely separate legislative schemes—the one dealing with packers and the other with the regulation of stockyards and transactions taking place at stockyards by all persons including the packers.

Thus, in some respects the Packers and Stockyards Act provided for new legal authorities while in some others it provided for trade practice or antitrust powers additional to the general authorities already available to the Department of Justice. The act vested the Department of Agriculture with authority to issue cease-and-desist orders after hearing with respect to packers who engaged in practices such as those prohibited under the Federal Trade Commission Act and the so-called antitrust laws administered by the Department of Justice. The Department of Agriculture was also vested with authority to regulate stockyards and all persons engaged in business on such yards in connection with livestock transactions. This regulatory phase of the act encompassed a field of regulation outside the scope of the antitrust laws; namely, prescribing reasonable rates for stockyards and market agencies, posting stockyards, registering market agencies and dealers, requiring bonds for the protection of producers, prohibiting unfair trade practices whether or not relating to restraint of trade or monopoly, providing reparation procedures to insure protection of producers and others suffering from unfair trade practices, etc. This field of stockyards regulation was not only primarily but solely the responsibility of the Department of Agriculture. The fundamental purpose was to insure the fairness of the marketplace where the country's livestock production first enters the channels of commerce to reach the consumer in the form of meat products.

The keystone position held by the stockyards in the flow of livestock from the country's farmers and of meat to the Nation's consumers is highlighted in a Supreme Court decision, in a 1922 case involving the Packers and Stockyards Act, in which Chief Justice Taft stated:

"Thousands of head of livestock arrive daily (in the large stockyards) by carload and trainload lots, and must be promptly sold and disposed of and moved out to give place to the constantly flowing traffic that presses behind. The stockyards are but a throat through which the current flows, and throat through which the current flows, and only incident to this current from the West to the East, and from one State to another * * * " (*Stafford* v. *Wallace*, 258 U. S. 495, 515–516).

The object sought by the regulation of marketing at the stockyards, Chief Justice Taft stated, "Is the free and unburdened flow of livestock" in interstate commerce, and the "chief evil feared is the monopoly of the packers, enabling them unduly and arbitrarily to lower prices to the shipper who sells, and unduly and arbitrarily to increase the price to the consumer who buys * * * "

III. ADMINISTRATION OF THE ACT IN THE DEPARTMENT OF AGRICULTURE

After its enactment in 1921 the Packers and Stockyards Act was administered in the Department of Agriculture under the Office of the Secretary until 1927, when it was placed in the Bureau of Animal Industry. It remained in the Bureau of Animal Industry until 1939, when the administration of the act was transferred to the Agricultural Marketing Service. The successor agencies of this earlier Agricultural Marketing Service have had various names and responsibilities, but since 1942 the Packers and Stockyards Act has been administered by the Packers and Stockyards Branch of the Department's Livestock Division—now one of the chief operating divisions in the new Agriculture Marketing Service established in the fall of 1953.

During the first 2 years under the act, 1922 and 1923, all of the stockyards then eligible for posting or regulation were brought under the act. The organization was built up on the basis of 260 positions in the fiscal year 1923, sufficient not only for regulation of the stockyards but also for a substantial volume of investigative activities. Over the next 2 years this was cut in half, or to 130 people, in fiscal year 1925.

Over the next twenty-odd years attention was given chiefly to regulating the stockyards, including particular stress on returns and charges in connection with the servicing and selling of livestock at the yards. The position of the Department in this regulatory work was upheld by the favorable court decisions on its approach to ratemaking cases initiated in the first few years after the act became law. During the twenty-odd years from 1924 to 1945, appropriations provided by Congress for administering the act ranged mostly from a little more than $300,000 to somewhat over $400,000 a year, sufficient to maintain a staff of around 100 employees.

After World War II greater emphasis was placed on trade practices, with less emphasis on ratemaking investigations. The investigations were concerned principally with the practices of buyers and sellers at stockyards. Operations of meatpackers beyond the stockyards also came under scrutiny, particularly with respect to investigation of complaints received. The Department continued to cooperate with the Department of Justice in any investigations or other actions taken in connection with their enforcement of the antitrust laws against meatpackers.

During the postwar period, appropriations for administering the Packers and Stockyards Act have ranged mostly between more than $700,000 to well in excess of $600,000 per year. However, the higher wage scale and operating costs did not permit increasing personnel above the previous average figure of around 100 employees—in fact, the number fell below that figure. The course followed in administering the act was aimed at making the most effective use of the rather limited funds available from the standpoint of the broad public interest and the most direct and immediate value to procedures of livestock.

Increased stress on trade practices

Within the last 2 years there has been a broadened emphasis on the operation of meatpackers under the act. A a result more work is now being done in connection with trade practices of meatpackers as well as trade practices of buyers and sellers at stockyards. Among the many inquiries currently underway, there are about 46 important investigations being made under the act. Of this total, 29 are concerned primarily with the operations and practices of stockyard companies and registrants and 17 involve investigations of meatpackers.

Among the 29 investigations which primarily involve operations and practices of stockyard companies and registrants under the act, 2 have so far reached the stage of formal charges. Although the 29 investigations cover many types of violations under the act, they may be grouped into the following 4 broad categories: 6 involve restriction of competition, monopoly, and price manipulation; 8 relates to fraudulent prices or weights; 2 concern stockyard rate determinations; and 13 involve unfair or deceptive practices, failure to furnish adequate services, etc.

Among the 17 investigations of meatpackers subject to the act are some that originated as far back as 2 years ago and are at or near the stage of formal charges. These 17 packers investigations may be grouped into 3 broad categories as follows: 6 concern primarily questions of monopoly, price discrimination or price manipulation, or restriction of competition in the sale of meats or other products; 6 involve unfair practices in merchandising or advertising of meat or other products; and 5 pertain to unfair livestock buying practices of packers or restriction of competition in buying livestock.

The broadened emphasis that has been placed on scrutinizing trade practices, monopoly, and related problems in the meatpacking industry is expected to continue. To a considerable extent, however, the attention that can be devoted to this depends upon the funds and personnel available. In general, with the rather limited funds available over the last 15 years, the Department has felt that the most returns to livestock producers, as well as the public generally, could be obtained from regulatory and investigative activities at the market or livestock-buying level.

The regulatory problems under the Packers and Stockyards Act, especially as they apply to stockyards and to the day-to-day purchase of livestock, have been greatly expanded by the development of truck transportation and the rapid decentralization of livestock marketing which started in the mid-1920's. Where there were around 80 major rail centered livestock markets at the time the Packers and Stockyards Act was passed, the number has greatly increased since then, especially with the rise of auction markets. As a result, it is estimated that currently there are altogether some 900 to 1,000 markets with 20,000 square feet or more of space with the act provides shall be posted or regulated.

This has meant that the Department either had to spread its regulatory staff so thin as to give ineffective supervision or to limit the number of yards posted. In order to assure effective supervision of posted yards, it was necessary to limit the number of yards posted. As a result, the situation had been reached in 1952 where only about one-third of the eligible yards were posted. Since these were the major yards, it is estimated that they accounted for about 80 percent of the sales of livestock through public stockyards. As a result, the policy decision was reached in the Department to ask for additional funds and personnel over a period of 3 years which would allow the posting of all eligible stockyards, starting with the appropriation request for fiscal year 1957.

In the funds appropriated by Congress for the 1957 fiscal year, the Department received for administering the act an increase of approximately $100,000 for posting more markets this year. This increase in available funds makes it possible for the Department to post and supervise about 200 additional auction markets and to exercise its authority over the buying practices of packers as well as other buyers at these markets. For the 1957-58 fiscal year, the Department has requested an additional increase of about $178,000 in appropriated funds which, if granted, would total around $980,000, providing for a total staff of about 120 employees. This increase would be for the purpose of posting additional markets and for further expanding investigatory activities under the act.

IV. PERSONNEL AND THE NATURE OF THEIR WORK

A total of 93 full-time and 5 part-time employees currently constitutes the staff of the Packers and Stockyards Branch of the Livestock Division which is responsible for administering the Packers and Stockyards Act in the Agricultural Marketing Service. The number now employed represents an increase in fiscal year 1957 of 15 new marketing specialists, 1 scale and weighing specialist, 1 clerk, and a change of 8 part-time clerks to full-time duty during this fiscal year as a result of additional funds provided by Congress for further extending operations under the act.

Of the total number engaged in the work of the Packers and Stockyards Branch, 15 are full-time employees in the Washington office, 78 are full-time employees in the field, and 5 are part-time employees in the field. The positions held by these employees, both in Washington and in the field, are shown in the following table:

	Washington	Field	
		Full time	Part time
Administrative officer (Chief)	1		
Marketing specialist	5	44	
Accountants		12	
Valuation engineers	1	3	
Scale and weighing specialists	1	2	
Clerical	7	17	5
Total	15	78	5

Direction for all investigatory and supersory work is handled under the Chief of the Packers and Stockyards Branch by seven specialists on the Washington staff. The primary responsibility for investigation and market supervision rests on a field staff of 61 marketing, accounting, and engineering specialists stationed in 20 field or district offices throughout the country. These are specialists who are familiar with the problems of the livestock marketing and meatpacking industries.

The organization that is maintained in administering the Packers and Stockyards Act permits a high degree of flexibility in planning and conducting major investigations and in meeting the fluctuating demands of different district offices. This is because the entire field force may be actively utilized in such an investigation whenever necessary. Individual field staff members are able to study problems common to all districts and also provide prompt assistance to their districts as the need may arise.

In recent years on major investigations, as many as a dozen experienced specialists have been detailed from their districts for varying periods of time to assist specialists in other districts. This permitted major investigations to be conducted without the cost and delay incident to the employment and training of additional temporary personnel. The use of temporary, untrained personnel is in fact not practical in such investigations.

All of the specialists and technicians employed in connection with the administration of the act have a high degree of training for their work. Almost all the marketing specialists and all such specialists employed in the last 10 years have practical farm and livestock experience, are college educated, and have received intensive on-the-job and other special training in investigational techniques and procedures. Most are college graduates in animal husbandry or economics and several have advanced degrees in these fields. In addition, some have law degrees, and a considerable number had been employed in the livestock-marketing and meatpacking industries and in this way have acquired first-hand practical experience.

V. THE MEATPACKING INDUSTRY

The number of meatpacking establishments in the United States has tended to increase gradually over most of the period covered by census data. In 1899 there were 882 such establishments; by 1909 the number had risen to 1,221, and information from the 3 most recent census periods is as follows:

Year:	*Number of meatpacking establishments*
1939	1,478
1947	2,153
1954	2,367

These totals are reported to include only those plants engaged primarily in slaughtering operations and exclude plants which have as their main business the production of sausage, other prepared meat products, etc.

While the relative importance of the largest packers has varied considerably since pre World War II there has been no tendency for their share of the total livestock slaughter and volume of meat handled to increase, at least for the United States as a whole. The following tabulation shows the proportion of the total number of livestock slaughtered by the top four meatpacking companies during recent years in relation to the total commercial slaughter.

PERCENT SLAUGHTER BY TOP 4 PACKERS IS OF TOTAL COMMERCIAL SLAUGHTER

Year	Cattle	Calves	Sheep	Hogs
1920	49	36	63	44
1921	46	33	60	40
1922	48	34	59	40
1923	49	36	61	43
1924	50	37	62	41
1925	51	40	65	40
1926	51	40	68	40
1927	52	43	68	40
1928	51	47	69	40
1929	50	47	70	40
1930	48	46	69	38
1931	47	46	69	40
1932	45	43	65	39
1933	49	45	69	43
1934 [2]	44	48	68	43
1935 [2]	45	46	69	42
1936 [2]	49	49	70	45
1937	44	47	68	41
1938	45	44	68	43
1950	37	33	63	41
1951	32	32	63	40
1952	35	32	63	39
1953	36	34	61	38
1954	34	32	60	39
1955	32	31	58	38

[1] Commercial slaughter excludes farm kill.

[2] Excludes slaughter for Government account.

In recent years there has been an overall tendency for the smaller companies to increase their slaughter of livestock, cattle especially, in relation to the total commercial slaughter. This is indicated by the fact that for the 15 top-ranking companies the percentage of both cattle and sheep and lambs slaughtered in relation to total commercial slaughter has for most species shown some decline between 1950 and 1955 with relatively little change in other livestock slaughtered.

The changes that have taken place are shown in the following table:

TOP-RANKING COMPANIES IN TOTAL COMMERCIAL SLAUGHTER (FEDERAL INSPECTION AND OTHER WHOLESALE AND RETAIL), CALENDAR YEAR 1955 COMPARED WITH 1950

[Percent of total slaughter]

Number of companies	Cattle	Calves	Sheep and lambs	Hogs
1955:				
1st 3	29.7	32.2	56.9	35.6
1st 5	33.7	35.2	64.1	45.0
1st 8	38.2	37.8	71.0	54.6
1st 10	39.1	38.7	73.0	59.6
1st 15	40.4	39.9	74.2	64.3
1950:				
1st 3	32.9	31.2	57.5	35.5
1st 5	38.6	34.8	67.2	45.0
1st 8	42.3	37.8	76.0	54.6
1st 10	43.6	38.9	77.1	58.8
1st 15	45.6	39.5	78.0	63.7

While the meatpacking industry is large and dispersed throughout the country, only a few firms are highly diversified in their business operations—producing, handling, and selling a range of different products. Insofar as the buying, slaughtering, processing, and selling of meats are concerned, the operations of meatpacking firms tend to be quite similar. However, the entry of chainstores into the meatpacking business has complicated the picture to some extent, as have the country buying and direct marketing of livestock.

Chainstores and other multiple-unit companies have become more and more important factors in the distribution of meats as well as other foods and other groceries. Grocery-store companies operating 4 or more stores increased their percentage of the total grocery-store sales from 38.5 to 43.3 percent between 1930 and 1954. Companies with 11 or more stores did 34.4 percent of the grocery-store business in 1948 and 39.4 percent in 1956.

VI. COVERAGE AND SCOPE OF OPERATIONS UNDER THE ACT

Of the total number of meatpackers in the United States, approximately 2,000 engaged in interstate commerce are under the jurisdiction of the Packers and Stockyards Act. In addition, approximately 2,600 buyers who purchase livestock for these meatpackers are registered to buy for them at the posted markets and are supervised under the act.

Some of the meatpackers, particularly the larger ones, process, handle, and sell many other products in addition to meat or meat food products. These include such items as poultry, eggs, butter and other dairy products, oleomargarine, soaps, dog foods, cleansers, fertilizers, and so forth. The merchandising and other practices followed in connection with these products are also subject to scrutiny under the act.

Included among those classified as meatpackers under the act are those chainstores that also have meatpacking and meat-processing operations. There are 14 chainstores presently filing reports as meatpackers under the act. This number includes six of the leading chains. These 6 chains, in addition to their meatpacking or meat-processing operations, have approximately 10,900 retail grocery stores. The remaining 8 smaller chains have less than 100 stores each in addition to their meatpacking or processing operations.

There currently are 375 livestock auction markets and 64 terminal markets posted under the act. By the end of the present 1957 fiscal year about 100 more auction markets will be posted, bringing the total to 500 or more markets. If posting of livestock markets is continued during the next fiscal year as contemplated, complete market supervision should be made available to livestock producers at 150 or more auctions. The number of posted stockyards under the act each year since operations started is shown in the following table:

Stockyards posted under Packers and Stockyards Act, 1922–57

Year	*Number posted stockyards*
1922	78
1923	76
1924	79
1925	77
1926	80
1927	(1)
1928	75
1929	71
1930	73
1931	91
1932	93
1933	93
1934	99
1935	107
1936	124
1937	140
1938	166
1939	181
1940	199
1941	222
1942	217
1943	205
1944	202
1945	196
1946	193
1947	201
1948	207
1949	207
1950	308
1951	333
1952	327
1953	325
1954	322
1955	335
1956	352
1957[2]	439

[1] No figures available.

[2] Through Mar. 18.

In the early years of the act there were relatively few livestock markets and these were located primarily in large terminals. All of the markets eligible under the act were posted. As transportation facilities, particularly roads and trucks, improved and with decentralization of marketing, the number of livestock markets eligible for posting increased. The posting of these markets, however, did not keep pace with the rise in numbers. At the present time about half the eligible markets are posted.

There are registered to do business at the markets posted under the act 1,300 livestock commission firms and about 2,000 livestock dealers. Approximately 2,000 scales at posted stockyards and at buying stations owned by interstate meatpackers are required by Department regulations to be tested regularly to assure accuracy.

The Department also has the responsibility of reviewing and approving rates and charges by commission firms and stockyard operators. These rates and charges amount to more than $92 million per year. Facilities and services rendered by the commission firms and stockyard operators are examined to determine if such facilities and services are reasonable and nondiscriminatory.

In 16 cities designated under the act, supervision is exercised over the business operations of 1,300 poultry dealers, agents, and handlers.

REPORTS REQUIRED TO BE FILED

With the exception of employee packer buyers, all packers, stockyard operators, dealers, and others subject to the act are requred by regulation of the Department of Agriculture to file annual reports of their operations. The employee packer buyers are not required to file such reports because reports are filed by the packers for whom they purchase livestock.

The annual reports of meatpackers are received by the 20 district offices that are maintained by the Packers and Stockyards Branch. Each packer sends his report to the district office in which his headquarters is located. Information contained in these reports is primarily concerned with ownership, organization, and feeding purposes are also reported. The reports received from packers are reviewed by personnel of the district offices and there kept on file. The annual reports of the top four packers are forwarded to the Washington office of the Branch, where they are retained in a permanent file.

Although the annual reports of packers are reviewed, there is no tabulation or statistical analysis made of the information contained in them for the purpose of determining industry trends, problems, or conditions. This is also true generally of reports required to be filed by others under the act. However, information concerning the feeding operations of packers has been requested each year from 1954 forward. This information has been tabulated and consolidated into a report which shows the significance of this feeding activity, and will, over a period of years, disclosed the industry trend.

The annual reports of all stockyard companies, terminal or auction, are also received by the district offices. Copies of the reports are made for the district office files. The originals are forwarded to the Washington office where they are used principally in determining the reasonableness of existing rates or charges and of requests for increases. These determinations require review and analysis of items of expense and income. Much of the information required for this purchase is contained in the reports submitted by the stockyard companies.

Market agencies and dealers operating at posted stockyards file their annual reports of operations at these markets with the district offices where they are retained. The information contained in these reports is reviewed for evidence of change in ownership or organization which would require change in registration, for volume of business which may require a change in bond coverage, for income and expense information in connection with agency rate determinations, and for indications of possible violations of the act. Some analysis of these reports is made in certain instances when this is necessary in carrying out marketwide investigations. Dealers operating only as packer buyers are not required to submit annual reports.

Poultry dealers, agencies, and handlers licensed to operate at designated markets also submit their annual reports to the district offices where they are filed and retained. These reports consist for the most part of ownership and organization information and include a financial statement. The information shown on these reports is used principally to assure that each licensee is properly licensed and meets the financial requirements of the act.

Extent of activities last year

At the end of the 1955–56 fiscal year there were 352 posted stockyards under the act. In the field of trade-practice investigations, the principal emphasis during the past year has centered on practices at terminal stockyards, because of the influence these markets have on prices received by livestock producers at all markets and by those selling direct. Thus, the limited funds available have been concentrated on the elimination of deceptive, collusive, and other price restrictive practices at these markets in order to permit full competition to determine livestock values. Also under scrutiny at the same time were packer buying practices at stockyards as well as some other aspects involving the conduct of their businesses.

The trade-practice investigations for the most part involved practices which seriously affect the net return to the livestock producer and which may give certain buyers an unfair competitive advantage to the detriment of other buyers or of producers or consumers. These included false weighing, switching of livestock and other fraudulent practices, unfair turn systems, restrictions on bidding and other monopolistic buying practices, deceptive and collusive arrangements between packers, dealers, sellers' agents and their employees affecting the disposition of livestock or the price paid to the livestock producer, unreasonable selling or buying services, failure to pay for livestock, and speculation by agents in their principals' livestock.

During the past fiscal year there were an estimated 40 important investigations underway, 74 formal cases initiated, and 129 audits completed. Between 2,000 and 3,000 informal complaints were handled by the field force responsible for supervisory work under the act. A total of 1,704 scales were tested. This number included 862 stockyards scales, 749 scales used by packers for weighing livestock, and 93 scales used for weighing poultry. Bonds in force totaled $47,368,000. The work done during the year in reviewing increases in stockyards rates and charges resulted in modifications which saved $482,000 for livestock shippers.

An approach in which the operations of an individual market are investigated and analyzed in detail continues to prove itself unusually effective. Perhaps the most recent investigation of this sort which has paid rather large dividends took place on one of the major hog markets. This investigation started around the beginning of the 1956 fiscal year and involved not only one individual but all of the registered hog dealers at that particular market. The results of this investigation were far reaching. The fraudulent weights alone represented an annual loss of an estimated $750,000 per year which was brought to a halt as a result of this market-wide investigation.

Cooperation with other agencies

Because the Packers and Stockyards Act contains many provisions that are similar or supplemental to provisions of other regulatory acts passed by Congress, it is necessary to maintain close working relationships with agencies such as the Department of Justice, the Federal Trade Commission, and the Interstate Commerce Commission. In particular, provisions of the Packers and Stockyards Act are related to the Federal Trade Commission Act as to fair trade practices, to the Interstate Commerce Act as to reasonable rates that may be charged at stockyards, and to the antitrust laws as to monopoly and other related prohibited acts.

Where appropriate, there is collaboration with the Federal Trade Commission to the benefit of both the Department and the Commission. In areas of business where the Federal Trade Commission has jurisdiction over a particular phase and the Department has jurisdiction over meatpackers in the same field, the Department coordinates its approach with that of the Federal Trade Commission so as to avoid conflicting policies and actions in the same areas of business. On many occasions meetings are held with Commission officials to discuss problems of mutual interest.

The Department has also had occasion to collaborate in the same way with the Interstate Commerce Commission.

Under the antitrust laws, the Department of Justice has concurrent jurisdiction with the Secretary of Agriculture over the meatpacking industry. In actions brought against meatpackers for alleged violations of the antitrust laws, the Department of Agriculture has cooperated with the Department of Justice in various ways.

Cases involving violations of criminal provisions of the Packers and Stockyards Act are sent to the Department of Justice each year through the Department of Agriculture's Office of General Counsel. Also actions to recover civil penalties or to restrain persons from violations of orders issued under the act go to the Department of Justice for prosecution. In recent years several quite important cases arising under the act have been decided in the United States courts of appeal. In these cases, both the Department of Justice and the Department of Agriculture appeared, and the cases were argued by attorneys from the Department of Agriculture.

VII. PROBLEM AREAS UNDER THE ACT

Analyzing operations under the Packers and Stockyards Act, it is apparent that there are some practical operating problems as well as a question as to further increasing activities in order that the trade practice sections of the act may be more effectively administered.

Insofar as producers are concerned, the primary purpose to be served by the act is the prevention of any actions or practices which deprive them of the full and true market value of livestock and poultry. Such practices are also detrimental to consumers and others who buy livestock and poultry products. The prevention of such practices involves the maintenance of open, competitive, efficient, and economical markets for livestock and poultry producers, and also the continuous review of the purchasing and merchandising practices of the meat-packing industry.

The maintenance of livestock and poultry markets that are open to all buyers is essential to and makes possible true market values but does not guarantee them. Continued inquiry, observation, and investigation are necessary to assure that apparent competition is true competition and to prevent and uncover price manipulations and deceptive, discriminatory, or monopolistic practices. This requires, of course, continual supervsion or observation of the livestock marketing, meatpacking, and merchandising processes. The objective is to provide the protection which the act seeks to insure for the livestock producers, the marketing and meatpacking industries, and the consuming public.

Accepting these objectives, the four main problem areas which emerge from the survey of current activities under the Packers and Stockyards Act are:

(1) *Complying with the provision of the act which requires that all stockyards with 20,000 square feet or more of space and operating in interstate commerce shall be posted or regulated.*—The policy of the Department is to complete the posting of all eligible stockyards over a period of 3 years beginning with the 1956–57 fiscal year for which an increased appropriation was requested. Congress made available for the year around $769,000, which included an increase of about $100,000 for posting more markets. This will permit bringing the total of posted stockyards to at least 500 or more by the end of the fiscal year, as compared with a total of 352 posted yards at the end of the previous fiscal year. This will include all eligible stockyards in 15 central and western States. Many of the remaining 33 States have eligible stockyards but not all of them are posted. The Department's program proposes to cover the eligible stockyards in these States.

For the 1957–58 fiscal year the Department has requested additional funds in its budget to permit the posting of all eligible stockyards in 10 more States. These States would include the remaining 7 North Central and Corn Belt States, the 5 Western States, and 4 South Central States. This would leave 17 Eastern States to be completely posted during the following year of the program. If the appropriation request is granted, the increase would amount to about $178,000 or a total appropriation of around $980,000 for administering the act. By the end of the 1957–58 fiscal year, with the necessary appropriation granted, it is anticipated that the number of posted stockyards will total around 700.

Altogether, it is estimated that a total of approximately 900 to 1,000 stockyards are probably eligible for posting under the Packers and Stockyards Act. With 500 or more stockyards expected to be posted at the end of the current fiscal year and around 700 at the end of the 1957–58 fiscal year, the objective of the Department is to continue moving along with the posting program as rapidly as possible. The extension of posting operations is expected to continue under the Department's program into the 1958–59 fiscal year and perhaps for a year or so beyond, depending on the availability of funds.

The 900 to 1,000 stockyards believed eligible for the posting under the Packers and Stockyards Act are out of a total of approximately 2,400 interstate public stockyards in the country. The interstate stockyards ineligible for posting are not subject to the act because they have less than 20,000 square feet of area.

Those public stockyards doing an interstate business but not posted are not restricted in their business-getting practices nor are they required to provide and maintain the standard of facilities and services required of posted stockyards. A few of these ineligible yards handle as large a volume of business as do competing posted stockyards. The use of unfair competitive practices to obtain business by unposted stockyards poses some problems for the posted stockyards that have to compete with them—problems which cannot be controlled under the act.

The posting of all eligible yards under the act, however, will give producers and the trade substantially more protection than has been the case over recent years. Further, the additional personnel necessary for stockyards supervision will contribute materially to the more effective investigation of trade practices not only in the livestock marketing but also at the meatpacker and merchandising level.

(2) *The question as to how much increased emphasis should be given to investigation of trade practices having to do with livestock buying and packer operations including merchandising.*—This covers not only the problem of trade practices within the stockyards themselves but also such broader investigations as may be necessary in order to assure that unfair, collusive, discriminatory practices are not being carried forward at the packing and merchandising levels in such a way as to limit competition or adversely affect free determination of market prices. There is also the question as to whether more adequate and useful data might not be obtained by a revision of the various reports now required under the act.

The great amount of emphasis that has been placed over the years on eliminating undesirable trade practices in stockyards has produced highly beneficial results. However, changes in the marketing of livestock and poultry have introduced new factors that needed to be examined. For example, the direct marketing of livestock and the rapid growth of auction markets require an ever-increasing amount of attention. Practices involved in the increasing direct marketing of livestock and country buying by meatpackers have given rise to a number of complaints.

Significant problems that arise from changes and shifts in the production and marketing system pose important questions for investigation and study in the field of trade practices. These questions are raised by such problems as (1) direct marketing of livestock and country buying practices of packers, (2) schedule selling in the sale of livestock at public markets, (3) consignment slaughtering and carcass sale by packers and livestock producers and their effects on competition in the determination of livestock and meat values, (4) merchandising policies and practices of meatpackers, (5) weighing practices at other than terminal stockyards, (6) feeding operations of meatpackers and their effects on the determination of livestock prices, and (7) acquisition of meatpacking plants by competitors and the effects on competition for livestock and the sale of meats in certain areas.

Most of the cases under the act do not involve broad economic problems but are local in nature and effect and do not require long involved studies or large numbers of personnel. Investigations of alleged monopolistic practices, however, do become more involved and may require studies over an extended length of time by quite a number of personnel and entail a great deal of work by Department of Agriculture attorneys.

Recent experience has demonstrated that investigations and supervision necessary for the enforcement of title II of the act can for the most part be carried out as part of the regular duties of the specialists and other workers located in the field. However, the workload requirements at certain district offices located in important slaughter centers and major metropolitan consuming areas pose the question of whether some additional marketing specialists and accountants should be stationed at these offices. With further expansion of work in the field, some addition in the Washington staff would be needed to plan and direct this phase of the work, assist the field forces in complicated investigations, and provide field direction for those investigations and studies of national scope or significance.

Effective administration and prompt enforcement of any regulatory measure such as the Packers and Stockyards Act are highly dependent upon the availability of adequate information and the use made of this information in the job that must be done. Packers and others subject to the act are now required to file annual reports. In the past, the Department has consistently adhered to a policy of requesting from those subject to this act a minimum of information in their reports.

This raises the question as to whether both the timeliness and the content of these reports from packers might be improved and whether the information supplied should be in more pertinent detail for analysis and interpretation. Such reports would help pinpoint industry or individual problems and assist in bringing about more effective and economical administration of the act. This is so, particularly in view of the information such reports can reveal relating to trends, shifts, emphasis, degree of concentration in the industry, etc. Moreover, greater knowledge of the operations of the industry can have a salutary effect on the industry itself, and in that way, also add to the effectiveness of administering the act.

It must be recognized, however, that packer operations throughout the country are so detailed that it is obviously impractical to obtain from regular reports all of the information that would be necessary in handling complaints under the act. Consequently, in the investigation of individual cases, special reports would undoubtedly be required from packers in order to determine whether or not there are violations.

(3) *The question as to how trade-practice investigations and actions should be carried forward in connection with the nonlivestock products handled by firms which fall within the "packer" classification under the Packers and Stockyards Act.*

The definition of what constitutes a "packer" under the Packers and Stockyards Act poses some problems in the fields of administration and enforcement. The term "packer" is defined in the act to include any person engaged in the business (a) of buying livestock in commerce for purposes of slaughter or (b) of manufacturing or preparing meats or meat food products for sale or shipment in commerce. The definition would also include, among others, a person engaged in the business of marketing meats, poultry, or dairy products in commerce if such person owns or controls any interest referred to in (a) or (b). Thus, for example, a company engaged in the business of marketing ice cream and other dairy products in commerce could be a packer within the definition for shipment in commerce. The same holds true in the case of a chainstore company.

The act provides that the Federal Trade Commission shall have no power or jurisdiction with reference to any matter which the act makes subject to the Secretary of Agriculture. However, the Secretary may request the Commission to make investigations and report to him. The Secretary has the sole authority under the act to take enforcement action on the basis of investigations conducted by the Department or by the Commission on his request.

(4) *The question of providing more adequate and wider information coverage of operations and actions under the Packers and Stockyards Act as an aid in developing an improved public understanding and contributing to more effective administration.*

An improved understanding of objectives and operations under the act is apparently needed not only among the general public but also among livestock producers and the various elements in the livestock marketing and packing industries. This raises the question of wider public release of more adequate information.

There is an important public interest in greater knowledge of the meatpacking industry and other segments under the act. This poses a question of whether useful industrywide information which may be provided by reports filed by packers and others should be adapted for general public release in a manner, of course, that would in no way divulge the kind of information required to be kept confidential under that act.

Enforcement and related cases are also of interest. Press releases are issued on formal cases, especially those of significance. Administrative and informal actions are usually not covered by press releases. Formal administrative actions are included in outline form in a monthly report which goes to approximately 300 industry members who requested being on the mailing list. All formal decisions in cases are also published in the Department's "Agriculture Decisions" which has limited circulation. The present procedure for releasing information relating to enforcement and other cases raises a question as to whether changes need to be made in the handling of such information so as to best serve the public interest and also contribute to more effective administration of the act.

Continuation of Hearing

Senator O'Mahoney. Any member of the committee who desires to base any questions upon this report will have the privilege of doing so.

Mr. McHugh. You state here that investigative and regulatory functions of the Government frequently are given little publicity. You are referring here, I assume, to regulatory procedures in the Department of Agriculture?

Mr. Butz. Yes, sir, especially investigative procedures. It is our practice under investigative procedures to give no publicity unless we develop the facts that indicate rather clearly there is a case.

Mr. McHugh. Unless it results in the filing of a case?

Mr. Butz. Yes, sir.

Mr. McHugh. The only way there is any publicity attached to these proceedings would be if a formal proceeding were filed?

Mr. Butz. Yes, sir.

Mr. McHugh. That is the only way in which consumers and livestock producers would learn the rules the Agriculture Department is in fact prescribing for the conduct of competition in this area?

Mr. Butz. No, the rules are well stipulated. We have rules on all posted markets we follow, but the reason we do not give publicity to the investigations that we make is that we do not want to harm an innocent party. If an allegation has been made of some malpractice and we conduct an investigation and the evidence does not show substantive evidence of malpractice, then we do not want to subject that individual to the light of unfavorable publicity.

Mr. McHugh. Do you ever conduct investigations which do not result in the filing of cases but in which you persuade or induce the parties to desist from certain practices?

Mr. Butz. Yes, sir.

Mr. McHugh. Isn't this the sort of a matter which would deserve public attention?

Mr. Butz. That does get the public's attention.

Mr. McHugh. In what way?

Mr. Pettus. May I comment on that, please? In the past we have not followed the practice of giving that type of an investigation publicity.

Mr. McHugh. Why is that?

Mr. Pettus. It has been the policy which was followed because it was deemed in the interest of the type of operation that we were following to correct the practice without causing complaint, or to continue to get the cooperation of the people involved in enforcing the act.

Mr. McHugh. Even though there were practices involved which in the opinion of the Department of Agriculture were harmful?

Mr. Pettus. It has been our practice, yes.

Mr. McHugh. The reason you do not file a complaint or that you do not institute proceedings to which publicity is attached is because you do not want to take action which would alienate the support of people upon whom you are relying?

Mr. Pettus. I would not say that is the complete story. The reason we do not announce actions in this case—and there are many cases that may be borderline cases, where it appears there may be a violation occurring—is because we advise the person involved of this. They agree if it is questionable, even though they may think it is not a violation. They will agree to refrain from that type of a practice, and we have not believed in the past that giving publicity to that is justified, because there may be some question even legally as to whether or not the practice is a direct violation of the act, but it borders on reducing competition, for example, and when we get compliance with that sort of thing we do not feel justified in issuing press releases and formal statements regarding it.

Mr. McHugh. I assume if you ask the companies in question to give up the practice and to cease and desist from this conduct, the Department must have considered that such practices were harmful.

Mr. Pettus. I believe that is right. May I give an example of the type of thing I have reference to here. A packer who is buying through a dealer the livestock which he intends to slaughter we feel may increase the competition on the market if he will put his own buyer on the market, so that there are not only the orders of this packer through his own buyer but also other orders through the dealer that the packer was using. So by increasing the number of people on the market we think we get more competition, and we think we get higher prices for livestock. However, it is not a direct violation for a packer to use a dealer, unless we can prove that the result of that is a restraint of trade, and that is pretty difficult to prove. But it is pretty obvious in a good many cases that you get increased competition when you separate these packers' orders and put them on the market in the hands of an individual packer representative rather than consolidate them in one dealer.

Mr. McHugh. In the course of these investigations which the Department of Agriculture is conducting, if it determines that certain conduct has been engaged in which is improper, is it presently the enforcement policy of the Department to enter into arrangements with the company involved, in which the companies would agree to abandon the practice, without the necessity of filing formal complaints?

Mr. Pettus. Is it our policy?

Mr. McHugh. Is that the policy of the Department of Agriculture now?

Mr. Pettus. To do what concerning these cases?

Mr. McHugh. In connection with its investigations, where it determines that certain practices are being conducted which are improper, in the opinion of the Department, is it the policy to get these companies to agree to abandon the practice without the necessity of filing of formal complaints and instituting formal proceedings?

Mr. Pettus. I would say it is our policy to handle such cases where we can without getting into formal arrangements, on an informal basis, because of the fact that they can be handled much more expeditiously and at far less cost if we can get an agreement with them. Some of these may result in a cease-and-desist order.

Mr. McHugh. I am speaking of situations now that do not involve formal complaints and that do not involve a cease-and-desist order. You are speaking now of a kind of voluntary arrangement between the Department and the companies in question?

Mr. Pettus. Yes. I think perhaps you are speaking of a stipulation, where the Department stipulates with the person involved that they will not indulge in this type of an operation.

Senator O'Mahoney. It is quite habitual to refer to corporations with the personal pronoun. It is understandable. But I think it ought to be borne in mind that we are dealing here not so much with persons as we are with very large corporations, so that the personal pronoun actually does not apply. As I understand Mr. McHugh's questions and your answers on this particular point that we are developing now, the Department has followed the policy of avoiding the publication of charges for fear that an injustice might be done against a company or an organization or an individual against whom a complaint or an allegation has been made in some manner. You do not want unproven charges given

Mr. Pettus. That is correct.

publicity. That is my understanding.

Senator O'Mahoney. Then you have conferences with representatives of the organizations involved in borderline cases and in other cases. Does that mean that you seek to get voluntary agreements among the packers to adopt a particular kind of practice?

Mr. Pettus. Individual packing companies?

Senator O'Mahoney. Yes.

Mr. Pettus. Rather than packing companies as a group. I am not sure, Senator, whether you meant we agreed with the group or with individuals. We do seek to get voluntary agreement with individuals to discontinue certain action.

Senator O'Mahoney. I understood you to testify with respect to the situation which develops when a purchaser on the market, a dealer, represents several buyers.

Mr. Pettus. Our contract there is with the individual buyer in the case that I illustrated, rather than the dealer.

Senator O'Mahoney. With the individual buyer and not the dealer. So that your conferences are not with the group but with the individuals?

Mr. Pettus. That is right, sir.

Senator O'Mahoney. By "individuals" I mean the individual purchasers, corporate or personal, as it may be.

Mr. Butz. Shall I proceed?

Senator O'Mahoney. I think it is your turn, Mr. Secretary.

Mr. Butz. Thank you. I am now at the middle of page 7.

There have been a number of changes in the livestock and meat industry in recent years which have tended to complicate the administration of the Packers and Stockyards Act. Among these changes are such things as an increased number of livestock markets, changes in methods of marketing livestock and meat, increases in the number and kinds of firms in the meat industry, and the growth and development of the food industry, particularly the retail segment.

Regulatory problems applying to stockyards and the purchase of livestock have been greatly expanded by the developments in transportation and the decentralization of livestock marketing. At the time the Packers and Stockyards Act was passed, there were around 80 livestock markets which were eligible for posting under the act. These were most rail-centered terminal markets. Since that time the number of important livestock markets has greatly increased, due to developments in transportation. There has been a great increase in the number of auction markets, buying stations, concentration yards, and so forth. As a result, it is estimated that currently there are some 900 to 1,000 markets which are eligible for posting and regulating under the act.

Another factor which has helped make administration of the act more difficult has been the rapid increase in the number of meatpacking establishments. The rate of expansion between 1939 and 1947 was very rapid with the number of plants increasing by 46 percent in a span of just 8 years. The increase has been somewhat slower since then, although there has been about a 10 percent increase in the past 7 years.

Even with the large number of firms in the meatpacking industry, there is considerable concentration, and there has been for a long time. But there has not been increased concentration nor is there an unusual degree of concentration in the meatpacking industry when compared with a number of other industries. In fact, today the four largest packers are slaughtering a smaller share of total commercial slaughter than in 1920. The actual number of livestock slaughtered by the four largest firms has increased by 40 percent since 1920, but during the same period total commercial slaughter has increased 64 percent.

During recent years vertical integration has developed to a considerable degree within many industries. This has been the case particularly in the retail food field. Insofar as livestock and meat are concerned, some firms have developed vertical integration in their operations to the extent that some are now producers, feeders, slaughterers, processors, wholesalers, retailers, and they also carry on other related activities.

Some chains dealing in food and nonfood products have come within the jurisdiction of the Packers and Stockyards Act in recent years by virtue of acquiring interest in meatpacking operations even though their principal business is not meatpacking or activities related to it.

Senator Watkins. Could I ask a question at this point? What do you think is motivating these groups to get small packing plants and add them to their business operations?

Mr. Butz. There is a difference of opinion on that. It may be the whole economic pressure toward vertical integration that makes them do it. Some maintain, of course, they do it to come under the administration of the Packers and Stockyards Act.

Senator Watkins. Don't you think that has had considerable to do with it?

Mr. Butz. There is no evidence as far as I am concerned that it has or has not. Some have alleged that it has. I think one of the principal things is the trend toward integration in the whole food industry. As I want to point out later here, I do not think they should be under the Packers and Stockyards Act.

Mr. McHugh. Dr. Butz, do you think the trend toward integration in the meatpacking industry has any dangerous implications in terms of maintenance of free competition?

Mr. Butz. I think I would have to answer your question in the affirmative. Although it is very difficult to answer, this trend toward integration is one, of course, that is a trend in many industries besides the meatpacking industry, as you well know. It is a trend in many nonagricultural industries. I think a certain amount of vertical integration of that kind is inevitable as the process of efficiency and increased productivity in our whole society moves forward. There are, I think, inherent dangers in the process, but they are I think not so great that they could not be overcome by proper regulation and proper safeguarding of competition. I am not prepared right now to say what that should be.

Mr. McHugh. Is the Department of Agriculture making studies or conducting investigations to determine whether or not there has been any abuse of vertical integration by people who are subject to its jurisdiction?

Mr. Butz. Yes, sir. I think the most pronounced illustration of vertical integration we have is in the poultry industry, where at the present time a very high percentage of our poultry is produced under a closely integrated process that goes all the way from the hatching of the chicks to the marketing of the birds and even the processing of the birds. We are studying in that particular case the impact of that process on the whole industry, the impact on the producers and the impact on the level of profitability in the industry, and the like of that.

Mr. McHugh. Are these investigations which might result in the filing of charges of violation of the Packers and Stockyards Act?

Mr. Butz. No; these would not.

Senator Watkins. Do you think this vertical integration has a tendency to create monopolies?

Mr. Butz. It moves in that direction. I would say it would make it easier to have monopolistic practices.

Senator Watkins. I wonder if you would agree with a statement made to me in a letter from Mr. H. M. Blackhurst, general manager of the Utah Poultry Farmers Cooperative of Utah.

Mr. Butz. A very capable chap.

Senator Watkins. It is dated May 17 this year.

"Thanks for your letter of May 6, enclosing the House resolution concerning the study of the Nation's poultry business by the new subcommittee of the Agriculture and Forestry Committee. As you are undoubtedly aware, the poultry business nationwide has been facing difficult times during the past several years. This includes turkeys, market poultry, and egg producers, as well as broiler raisers. Vertical integration, so-called, has virtually taken over in the large broiler-producing areas, making some inroads among egg producers. Continuation of such a program would perhaps eliminate the egg and broiler industry in Utah among our small- and medium-size farmers. Our economy, as you know, is made up of small producers who in years past accounted for a considerable surplus in egg production in Utah which before the war found its market outlets in the New York area and since the war has used the west coast, along with our home market. We are fast coming to a point where we are producing only about as many eggs as are consumed locally, both because of the increased population as well as industrial expansion, which has taken our young people off the farms. This trend to vertical integration in the industry puts control of the production in the hands of the large feed manufacturers or other operators, and the small producers soon become hired hands. Whether or not an investigation would be helpful in maintaining the integrity of the small farm or farmer, or if the trend to specialization and resulting concentration in the hands of a few is too far advanced to be checked by some remedial program to maintain their independence would have to await development."

I call your special attention to that. Have you been making investigations in that field to see whether or not the small farmer and small producer in the poultry industry is actually being put out of business, as this correspondent indicates, just becoming hired hands of the feed manufacturers and larger groups?

Mr. Butz. Yes, Senator, there is much truth to what he says. This has been the result of an economic change in poultry production. As far as I am aware, there is no evidence of collusion among the large poultry producers, and as far as I am aware no evidence of monopolistic practices in restraint of trade.

Senator Watkins. Have you investigated that?

Mr. Butz. We have studied this whole question of integration and the impact of it on the small producer.

Senator Watkins. We can understand that, but have you investigated to see whether or not there is any unfair trade practice taking place in connection with this development?

Mr. Butz. We have done that in the Packers and Stockyards Act.

Senator Watkins. That is what I am trying to find out—whether your investigation is going on. This is a real thing to those people in my State. They have hundreds or thousands of these producers, and in other States likewise. Their markets are going by reason of this type of competition. Now, whether there is anything unfair about it or not, we do not know, but we certainly look to the Department of Agriculture to find out if that is going to be the role of the Department in respect to these matters. Of course, if these unfair trade practices lead to integration and that is a bad thing for competition and brings about less competition, then it ought to be investigated.

Mr. Butz. I think our evidence indicates this integration results primarily from the fact that there is a great deal of economy of skill in chicken and egg production at the present time. We now have labor efficiency in broiler production down to a point where one man can handle twenty to twenty-five thousand birds and handle 3 to 4 batches a year. So one man can now handle from eighty to a hundred thousand birds a year. This simply means that to be efficient and meet competition you have to have almost that scale of operation. The same thing to a lesser extent is taking place in other segments of the poultry industry. I think this is a result of tremendous technological advances in the poultry industry rather than as a result of collusion among the producers.

Senator Watkins. Let me finish Mr. Blackhurst's letter.

"We are certainly in favor of the exercise of the law of supply and demand. The operation of a free market in the poultry industry has never been sympathetic to Government subsidy, but they are beginning to feel that something should be done to help preserve their independence. In Utah we have worked diligently to keep the prices where our producers could operate their small units profitably, but competitive conditions have been rather acute. As an example, 1 of the large retail distributors of food was able to retail broilers at 3 cents per pound less than our wholesale price, and some of the small stores could buy at retail and sell at our wholesale price to their customers. This, of course, is not a common occurrence, but it shows what can be done. We have done a great deal of work to avoid such cutthroat methods and have been rather successful in keeping it at a minimum, but eternal vigilance is necessary."

I think that is all of the letter that is pertinent.

Mr. McHugh. Dr. Butz, since poultry dealers have been subjected to the Packers and Stockyards Act, has the Department instituted any investigations looking toward the filing of any complaints against poultry dealers?

Mr. Pettus. Yes, we have, I would say, a good many complaints against poultry dealers and unfair trade practices in marketing of poultry.

Senator Watkins. You mean in the selling of poultry to the consumer?

Mr. Pettus. No, the selling of poultry producers at a poultry market.

Senator Watkins. What about the sales to the consumer, such as I just called to your attention through this letter?

Mr. Pettus. I do not know of any cases that we have had recently on sales of poultry to the consumer.

Senator Watkins. Or to the wholesalers by intermediate brokers and others?

Mr. Pettus. Of dressed poultry?

Senator Watkins. Yes.

Mr. Pettus. I do not know of any cases we have had in that field, sir.

Senator Watkins. Do you have enough staff that you could really go to work and investigate that if it were called to your attention?

Mr. Pettus. I think we would have to expand our staff to adequately handle that, Senator.

Senator Watkins. You would have to expand it probably as much as a thousand percent, would you not, to really do a job?

Mr. Pettus. No, sir, I do not think so, because we have I think a much larger number of people working on these problems than is generally presumed, because we have all of our market supervisors throughout the country working on these problems whenever they come to the attention of our people.

Mr. McHugh. Mr. Butz, can you tell me whether or not the Department of Agriculture has ever conducted any investigations under title II of an abuse of vertical integration by retail chains, and in particular of charges that certain retail chains have abused their control or ownership over feed lot operations for the purpose of depressing prices?

Mr. Butz. There is one underway in the West now that has not been completed.

Mr. McHugh. Will you tell us what that one is?

Mr. Butz.We have not divulged it, because we are collecting the evidence.

Mr. McHugh. Can you tell us against whom that investigation is directed?

Mr. Butz. I prefer not to. I will be glad to tell the chairman in confidence. I do not want it in the record.

Mr. McHugh. Can you tell us without mentioning the name whether or not this is in the form of a study that is being conducted now?

Mr. Butz. I understand it is a study. We have had some allegations of malpractice in that area against a large firm, and we are investigating it.

Senator O'Mahoney. Mr. Secretary, I will take advantage of your suggestion, and I will ask you to see that a member of our staff is given the opportunity to review the details of that procedure.

Mr. Butz. We will be glad to.

Senator Watkins. Mr. Secretary, with respect to the question that I asked you a moment ago about having sufficient help, is it not true that in the Ogden, Utah area you have 2 marketing specialists and 1 clerk, 3 people to regulate 26 parkers in 3 States, 12 of them in Utah, 13 in Idaho, and also 1 in Oregon?

Mr. Pettus. Those are the people permanently assigned to that location. When we have an investigation underway we frequently bring in people from other markets and from our Washington area and add to our staff.

Senator Watkins. If they do not have any bigger staff in other areas than in these areas, what would you have to enforce the law where you are moving them from?

Mr. Pettus. We leave a reduced staff.

Senator Watkins. For instance, in Billings, Mont., you have 1 marketing specialist and 1 half-time clerk, as I get it, to regulate 5 packers in Utah, 3 in Idaho, 2 in Wyoming, and 11 in Montana, 21 altogether. How in the world can you take anybody from that area to help somewhere else such as the Ogden, Utah area, if the others are manned the same way?

Mr. Butz. If it is pertinent to the discussion, may I ask how many personnel the Federal Trade Commission has in the same area?

Senator Watkins. I do not know. If they had jurisdiction over these people. I assume they would have a lot more.

Mr. Butz. They would expand their staff a great deal.

Senator Watkins. They would have to expand it, certainly. They already have 400 lawyers that are skilled in the matter of detecting unfair trade practices and knowing how to bring the actions. How many lawyers do you have in that field?

Mr. Butz. We have 400 too, I guess.

Senator Watkins. Not in this particular field. I hope not. If you have they have certainly been hiding down there in the Department. We have been trying to find out how many people you actually had working on it. About three is all we can find down in Washington.

Mr. Butz. It is possible to shift personnel.

Senator Watkins. You would have to shift them awfully fast.

Mr. Butz. We had a case in the Ogden market 2 years ago. Would you explain how you shifted personnel to the Ogden market at the time we were doing that investigation in the Ogden market?

Mr. Pettus. In the first place, we had an accountant go out there and work on the problem where we suspected a violation. After the accountant looked into the records and got some information, he sent it to our Washington staff, and they sent people out to look into the situation. I cannot recall at the moment how many people we had looking into the particular transaction, but we try to operate it with as few people as possible because we are spread so thin, Senator.

Senator Watkins. I recognze you are spread thin, and that is our complaint—that you do not have enough force to do the job in title II.

Mr. Pettus. We agree with you, and I think that is pointed out.

Senator Watkins. You have not had for nearly 36 years.

Mr. Pettus. I agree with you, sir.

Senator Watkins. We think that is a long enough trial period. With all the problems that have been handed to Agriculture, we thought we would certainly find someone who would be glad to get rid of this matter of law enforcement in the field, in which the Federal Trade Commission has a special interest by reason of the act of Congress creating it as an independent regulatory agency—a special arm of the Congress.

Mr. Butz. It is quite true for 26 years it has not been adequately enforced, but don't you think when the sinner confesses and resolves to do better he should be given a chance?

Senator Watkins. Am I to take this today as a confession? I did not think it was that.

Mr. Butz. For a number of years our enforcement has been inadequate. The last 2 years we have been building up again.

Senator Dirksen. Mr. Butz—and maybe Mr. Pettus wants to answer this—Congress helps to keep you thin, does it not? If I remember correctly, the House took $178,000 out of your appropriations in your budget request for packers and stockyards activities this year; did they not?

Mr. Pettus. That statement has been made and covered by the Secretary earlier in his testimony, sir. We feel that both we and Congress may have not been as diligent in this field as would have been desirable, looking backwards on it particularly.

Senator Watkins. We would be very happy to have you give a bill of particulars with respect to Congress. If Congress is to blame, I think we ought to have the evidence, and if we are we certainly will have to reform.

Senator Dirksen. Mr. Butz, I wanted to emphasize this for clarity now, because it was stated here that you are operating rather thinly. Of course, that simply means insufficient personnel. When you ask for personnel, the only place you can get it is if Congress gives you the money. So you go before the House committee and ask for the $981,000 to enforce the Packers and Stockyards Act, and they short change you and give you $178,000 less than your budget request.

Mr. Butz. Yes, Senator. I think through the 20 or 30 years of this act the various Secretaries of Agriculture have felt that they first wanted to proceed with the posting of the yards, that they thought this was the point where the producers sell their livestock, and they wanted to proceed with that. And the Packers and Stockyard Division has proceeded vigorously with that. We feel in the next year or two we will pretty well have completed the posting of the yards eligible for posting, and now having done that, we will be prepared to move vigorously into the other field. But I think the Secretaries of Agriculture through many administrations over a period of 30 years have given priority to the posting process first with the limited funds they have had available for the packers and stockyards portion.

Senator Watkins. Then the Congress is not to blame if they had not asked for the money.

Mr. Butz. I think Secretaries have asked for it, but within the limited resources they got they decided the top priority was on posting.

Senator O'Mahoney. I am in perfect accord with the Senator from Illinois in his concern.

Senator Dirksen. I do not mean by that that the Senate is going to restore the money.

Senator O'Mahoney. I am not going to suggest that at the moment, because I know that the climate in the Appropriations Committees of the Senate and the House is against additional appropriations. Therefore, I am very fearful that the suggestion that Secretary Butz is making here for duplicating and overlapping operations requiring additional appropriations by the Department of Agriculture will result only in the postponement of the enforcement of the Packers and Stockyards Act, particularly with respect to title H. We must deal with the climate that we have. As the Hoover Commission recommends, there should be an abolition of duplicating and overlapping operations in Government. This bill that Senator Watkins and I are sponsoring is intended to accomplish that purpose.

Mr. Butz. I think on my last page I have some proposals that will meet this same objection.

Senator O'Mahoney. I am anxious for you to get to them.

Mr. Butz. I am equally anxious. If I can proceed for one more page, I will be finished. I am now at the bottom of page 8.

At the present time 14 food chain organizations are filing reports as meatpackers under provisions of this act. This number includes 6 of the leading food chains in the country, with approximately 10,000 retail outlets, and 8 smaller food chains having less than 100 stores each, in addition to their packing operations.

Senator O'Mahoney. Will you furnish the committee with a list of names?

Mr. Butz. Yes, we can do that.

(The list is in the subcommittee files.)

Senator O'Mahoney. Proceed.

Mr. Butz. The possibility has been expressed by some, including witnesses before this subcommittee, that nonfood firms would buy into the meatpacking field as a means of avoiding laws administered by the Federal Trade Commission. In view of this, the Department is recommending at this time that Congress amend title II of the Packers and Stockyards Act to prevent the possibility of such occurrence and to further clarify the jurisdiction of the Department of Agriculture and the Federal Trade Commission under this act. We propose that the Packers and Stockyards Act be amended, as indicated in our report, so as to accomplish the following:

(1) Redefine packers and live-poultry dealers as those principally so engaged.

Senator O'Mahoney. How would we define "principally engaged"?

Mr. Butz. This is a matter I think that would have to be worked out, I should think, in the legislative report.

Senator O'Mahoney. What suggestions do you have? Ten percent? Twenty-five percent? Forty?

Mr. Butz. I should think at least half or over half.

Mr. Farrington. "Principally," I should think, Mr. Chairman, would be over half.

Mr. McHugh. Is that in terms of dollar sales?

Mr. Farrington. Basically, yes, sir; but we hope that through the legislative history of this we could reach a very good definition which would implement this general standard of "principally engaged." Certainly dollar sales would be an important factor.

Senator O'Mahoney. Have you reached a decision in the Department which would ripen into a recommendation? In the report from the Secretary, there is no definition now. Are you prepared to offer a definition?

Mr. Farrington. It was our thought, Mr. Chairman, that "principally engaged" would be a sufficient general standard for the legislation. If not, we would try to develop something else.

Senator O'Mahoney. Please finish reading the amendment.

Mr. Butz. Yes, sir.

(2) With respect to others not included in this modified definition, the Department of Agriculture would retain jurisdiction only over their livestock and live-poultry transactions; and (3) provide that, upon a determination of the Secretary of Agriculture that it is in the public interest in any case, the Federal Trade Commission would be authorized to proceed against any person subject to the Packers and Stockyards Act, exercising all the authority vested in the Secretary.

Senator O'Mahoney. Before you go on with that last paragraph, do I understand this to mean that you are proposing to throw the food chains to the wolves in the Federal Trade Commission while shielding the packers behind the Department of Agriculture?

Mr. Butz. No, sir; there is no throwing to the wolves and no shielding. We feel that the food chains are not principally packers and should not come under the Packers and Stockyards Act as they now do if they acquire an interest in a packing plant. The Department of Agriculture does not want to build an empire here. As I heard Secretary Benson say many times, we are not reaching for authority, and we feel this is not a matter of throwing to the wolves—I hate to use that term of reference—of the Federal Trade Commission.

Senator Watkins. Why do you think all these food chains want to get over into the Agriculture Department rather than Federal Trade Commission?

Mr. Butz. I have no evidence that they want to get under the Department of Agriculture. They may well have purchased a packing firm just in the process of economic integration. I don't know.

Senator Watkins. But the minute they are proceeded against in the Federal Trade Commission they immediately say, "You can't do anything to us. We are under the jurisdiction of the Department of Agriculture."

Mr. Butz. They naturally take advantage of the existing law. That law should be changed.

Senator Watkins. It seems as though there must be something attractive, at least to them, that may look like they would enjoy more immunity under the Department of Agriculture.

Mr. Butz. It may well be they purchased a meatpacking plant just as a step in the process of economic integration.

Senator Watkins. I cannot understand this stampede, apparently, of the food chains to get away from the Federal Trade Commission over into Agriculture.

Mr. Butz. There are only 14 of them that have done so.

Senator Watkins. Six of the leading chains. I am talking about the big boys.

Senator O'Mahoney. Mr. Secretary, let me proceed with the line that I was following. Reports came to us last year that Safeway Stores was carrying on an operation on the west coast whereby, through their feed lots, they were depressing the prices of livestock to individual producers, and, in fact, maintaining control of the prices to the disadvantage of the producers and of the packers. If such in fact were the case, would Safeway Stores be free from enforcement under the Department of Agriculture and subject to control? I mean under the legislation you suggest.

Mr. Butz. Under the legislation we suggest, that practice would be, I understand in Agriculture.

Senator O'Mahoney. Suppose such a condition exists?

Mr. Butz. I will have counsel to answer that.

Mr. Bucy. The same law would apply to that transaction or a transaction involving livestock, and that is the factual situation you set forth as presently applied. In other words, a livestock transaction would be subject to the Packers and Stockyards Act, and the Packers and Stockyards Act in its prohibited acts is equally as broad, if not broader, than the other statutory authority that is exercised by the Federal Trade Commission.

Senator O'Mahoney. If I understand you correctly, you mean that, under this amendment, such practices as were alleged to have been followed by Safeway would be prosecuted by the Department of Agriculture?

Mr. Bucy. They would be within the jurisdiction of the Department of Agriculture, and if the facts supported a charge that they were engaging in an unfair practice in restraint trade they would be subject to prosecution.

Senator O'Mahoney. Are you familiar with whether or not there was such a charge made in the Department of Agriculture against Safeway?

Mr. Bucy. Such a charge was not referred to the General Counsel's Office, Senator.

Senator O'Mahoney. Was not referred?

Mr. Bucy. Not that I recall.

Senator O'Mahoney. Do you recall, Mr. Butz?

Mr. Butz. I think no charge has been formally made like that. Those allegations have been made, and we have discussed a research project, along with some of the cattle organizations in the West, looking into this whole area of the buying practices of Safeway.

Senator O'MAHONEY. There were allegations of malpractice by Safeway, were there not?

Mr. BUTZ. Oh, yes. They have been kicking around for some time.

Senator O'MAHONEY. I know, because they have been kicked around to this committee. The information has come to us, and the principal allegation, as I recall, was that Safeway was using its feed-lot operations for the express purpose of depressing the price to the livestock grower.

Mr. BUTZ. It is my understanding—and I am not sure about this, Senator, but it is my understanding—Safeway has pretty well divested itself of its feed-lot operations.

Senator O'MAHONEY. Did this come to your attention, Mr. Secretary?

Mr. BUTZ. Yes. They came in over the last couple or 3 years, with quite a lot of criticism from the producers' group primarily because of their feed-lot operations, and I understand they are in the process of divesting themselves of their feed-lot operations, if they have not entirely done so.

Senator O'MAHONEY. Is this one of the cases that you had in mind earlier when I interrogated you?

Mr. BUTZ. Yes; this was part of the case.

Senator O'MAHONEY. Mr. McHugh, have you in your collection of material gone to the Department and secured any information on that?

Mr. McHUGH. Yes. We have been permitted to examine certain records in the files of the Department of Agriculture in connection with this matter.

Mr. Butz, was there a recommendation made within the Department that a full-scale investigation be conducted of the practices of Safeway, looking toward a possible violation of title II of the Packers and Stockyards Act?

Mr. BUTZ. Yes; within the Department there was a recommendation made that we considered at high level on this matter, and some of initial inception. It involves the whole area of the impact on pricing of certain buying practices. We felt, and I was one of those likewise who felt, that this was a proper subject for an economic analysis of the whole question of the impact of this type of practice on the pricing structure, because it was broader than Safeway itself.

Mr. McHUGH. But there were specific charges brought to the Department's attention involving Safeway on the west coast; is that correct?

Mr. BUTZ. I would say allegations, not charges; general allegations brought to the Department. I would not say specific charges.

Mr. McHUGH. Was there some preliminary inquiry conducted by the Department in connection with these charges or allegations?

Mr. BUTZ. I am not familiar with the details of this. I understand that there was some preliminary investigation done. Mr. Pettus is familiar with the details of that. He could answer that. But I understand there was some preliminary investigation done, and this was the basis of our decision to study the whole area.

Mr. McHUGH. Mr. Pettus, was there not a recommendation within the Department that there be a full-scale investigation conducted of these practices, to determine whether or not they violated title II of the act?

Mr. PETTUS. Yes, sir.

Mr. McHUGH. What happened to that recommendation?

Mr. PETTUS. What Mr. Butz explained. It was considered at high level, and they decided it was a broader question than this specific case which we brought up and should be a matter of a research study.

Mr. McHUGH. This research would be conducted by whom?

Mr. BUTZ. By the Agricultural Marketing Service.

Mr. McHUGH. Does that mean this matter then would be transferred out of the jurisdiction of the Packers and Stockyards Branch?

Mr. BUTZ. Not necessarily. If any evidence develops that there is malpractice there, it is always back in the Packers and Stockyards Branch.

Mr. McHUGH. But for the time being it has been referred to another section for the purpose of making this kind of an economic study?

Mr. BUTZ. Yes, sir. The question is broader than the specific case.

Mr. McHUGH. Is that study now being conducted?

Mr. BUTZ. It is my understanding it is. We are working on it in the Agricultural Marketing Service.

Mr. McHUGH. Can you give us any idea when any recommendation will be made?

Mr. BUTZ. I am not familiar with the progress of it at the moment.

Senator O'MAHONEY. You have raised a very interesting question by your answers, Mr. Secretary. I understand you to say that Safeway is divesting itself of its feed-lot operations. It that right?

Mr. BUTZ. That is my understanding. This is under no pressure from the Department. They decided to do this on their own.

Senator O'MAHONEY. They decided to do that on their own?

Mr. BUTZ. Yes, sir.

Senator O'MAHONEY. But did you regard the fact that there were feed-lot operations which did depress the market as one of significance that ought to be clearly covered by law?

Mr. BUTZ. I am not prepared to admit the feed-lot operations did in fact depress the market. There is difference of opinion on that. This is one of the reasons that I, among others in the Department, decided we should have some economic analysis made of this question before proceeding further. There were simply allegations that the feed-lot operations depressed the market. There was some evidence they did. There is evidence on the other side. This whole question involves, I think, a very broad and deep economic analysis, and that is the type of thing we want to get before we can proceed further.

Mr. McHUGH. If these charges could be sustained, would they not constitute a violation of title II of the Packers and Stockyards Act?

Senator O'MAHONEY. Mr. Pettus nods affirmatively.

Mr. PETTUS. If they could be sustained.

Mr. McHUGH. In view of that, don't you think that the Department has the enforcement responsibility under that act to make the investigation to determine whether or not those charges are true?

Mr. BUTZ. You cannot determine that in the face of this broad economic question unless you have some economic analysis made of it. The operating facts are well known. What we need now is the analysis.

Senator O'MAHONEY. What you are saying, Mr. Secretary, is that you had a specific charge against a specific chain, and that instead of proceeding with that charge you decided to have an economic analysis made of the whole business of integration, and thereby dismissed the case against Safeway?

Mr. BUTZ. Not necessarily. I do not think we had a specific charge. We had a general allegation that this practice, which was done not alone by Safeway—other people do the same practice, too, and some packers indulge in the same practice of having feed lots. The general allegation was that this practice results in lower livestock prices. We wanted to get the answer to that.

Senator O'MAHONEY. That is one of the reasons this bill is before the committee, because there are such practices. We find the record to be that the Department of Agriculture has not thoroughly suppressed these practices. Otherwise you could not testify here this morning that they do exist. You have just said that not only do the food chains follow these practices, but the packers do, too.

Mr. BUTZ. Mr. Chairman, I would be the last to conclude in a summary fashion without the benefit of additional economic analysis that such practices should be suppressed.

Senator O'MAHONEY. What would be a better way to determine whether or not such practices had a bad effect in depressing prices than by going through with the recommendation that was made to you?

Mr. BUTZ. I think in this case you have got to have some broad economic analysis of the impact of this kind of practice on the price structure. So far as I know, Safeway Stores, to use a case in point, violated no law in owning the feed lot. Am I correct in that, Mr. Pettus?

Mr. PETTUS. That is right.

Mr. BUTZ. They were perfectly within their legal rights in having a feed lot, and any large packer, so far as I am aware, is perfectly within his legal rights in having a feed lot. Am I correct in that?

Mr. PETTUS. That is right.

Mr. BUTZ. Therefore, we took the decision that before we proceeded with anything approaching a criminal action or investigation that might result in a cease-and-desist order on this kind of question we simply had to have more analysis of the whole practice.

Senator O'MAHONEY. Mr. Secretary, this illustrates precisely the point of this whole hearing and of this whole bill. Of course it is not forbidden by law. I know of no law forbidding a chainstore from buying a feed lot. What we are dealing with is the Federal Trade Commission Act and the Packers and Stockyards Act, both of which were intended to suppress unfair practices. If the feed lot was used as an unfair practice to depress prices, it was a violation of law. What you are testifying to the committee is that you postponed or stopped the proceeding against Safeway in order to make a broad, theoretical examination into integration.

Mr. BUTZ. Quite right, because we had no conclusive evidence, as far as I know, and as of this date we have no conclusive evidence that this practice does in fact depress prices. Those who indulge in this practice are few, on the other hand.

Senator O'MAHONEY. There is no sense in you and I arguing about it. You have the facts. You promised me that you would submit to use the proceedings in that matter.

Mr. BUTZ. We will do that. Let me cite the other side of the case, because this Safeway case is much broader than Safeway, as you know. Packers particularly who have feed lots argue, I think with some validity, that the mere presence of a reserve supply of livestock in their feed lots permits them to even out the day-to-day variations in the flow of livestock, and as you well know if you have a killing floor set up there is some economy in having a constant flow of volume, not depending on the day-to-day variations in market receipts. They argue, I think with some validity, that their own feed-lot operations permit them in days of small receipts to pull in from their own feed lot to get a constant killing operation. On the other side it can be argued, as some producer groups argue, that the mere presence of packer-owned livestock permits them to reduce their buying in the free market, and is price depressing. Those are the two sides of the coin.

Senator O'MAHONEY. We are trying to assess them both.

Mr. Butz, you have almost finished your paper. I am going to suggest that you finish it, and the committee will then take a recess until 2 o'clock this afternoon. Senator Dirksen, who is a member of the committee and who will occupy the chair of the minority leader on the floor this afternoon, has agreed to ask permission for this committee to sit this afternoon, and I am sure that permission will be granted. We will let you finish this paragraph.

Mr. McHugh, we hope that you and the staff will sit down with the staff of the Secretary and go into this Safeway matter, and then this afternoon we will cross-examine Mr. Butz on the whole business.

Senator Watkins. I wanted to ask one question so they can be thinking it over and maybe have the answer by 2 o'clock. Maybe he has it now. With respect to the proposed amendment—I will read it again: "Redefine 'packers and live poultry dealers' as those principally so engaged."

Now, with respect to others not included in this modified definition reading "with respect to others not included in this modified definition, the Department of Agriculture would retain jurisdiction only over their livestock and live poultry transaction."

May I ask as a matter of fairness to all businesses whether or not the Department of Agriculture would attempt to regulate under your proposal, packers' wholesale and retail activities in fields other than just meatpacking? Would you keep that in your jurisdiction, or would that go over to the Federal Trade Commission?

Mr. Butz. This is covered in item 3 in that paragraph:

"Provided, That upon a determination of the Secretary of Agriculture that it is in the public interest in any case, the Federal Trade Commission would be authorized to proceed against any person subject to the Packers and Stockyards Act exercising all the authority vested in the Secretary."

This would mean, for example—let us take a specific case. Currently I understand the Federal Trade Commission has a case pending against a number of ice-cream manufacturers, and one of the ice-cream manufacturers is a packer. So that in this case the Secretary of Agriculture could say, "Well, let's take them all together, and you exercise jurisdiction in the case." Or take another packer which has a large sporting goods industry, for example. This is one where jurisdiction over that obviously could be transferred to the Federal Trade Commission.

Senator Watkins. In the case of the activities of some of the big packers, where they have nonpacker activities and want to get still more of them, I understand they are now asking to have the consent decree modified to permit vertical and especially horizontal expansion. Would you agree that then those activities all ought to be under the Federal Trade Commission?

Mr. Butz. I should think so.

Senator Watkins. Now you have a splitting up again, do you not, with two departments operating on the same people?

Mr. Butz. These large packers are pretty well departmentalized. I suspect the sporting goods of Wilson & Co. is pretty well separate form the meatpacking business.

Senator Watkins. That may be so, but in the Government departments you have part of the activity in Agriculture and part over in the Federal Trade Commission. Why not all in one place? If you can do a better job in Agriculture, maybe we better give it all to you folks.

Mr. Butz. We want the meat there because the meat phase is an integrated operation.

Mr. Chairman, may I still finish my statement?

Senator O'Mahoney. If you will, please.

Senator Watkins. I thought you had or you had waived it.

Senator O'Mahoney. Put it in the record.

Mr. Butz. I will waive it. It can be copied in.

(The concluding paragraph of Mr. Butz' prepared statement is as follows:)

Mr. Butz. With the amendment we propose, the Department of Agriculture would continue to have its necessary jurisdiction over the meatpacking industry and at the same time the Federal Trade Commission could exercise jurisdiction over the operations of companies which today may be unwarrantedly classified as packers under the Packers and Stockyards Act. This would assure appropriate regulation of all segments of the industry and would avoid the possibility of duplication and provide for necessary coordinated regulation.

Mr. Chairman, we now have some of the information you asked for earlier on the decisions issued in the Nashville case. We have that here if you want to put it in the record. Here is the press release.

Senator O'Mahoney. Very well. That may be made part of the record.

[Press release, Department of Agriculture, Washington, December 26, 1956]

DECISIONS ISSUED, HEARINGS HELD, ON PACKERS AND STOCKYARDS ACT VIOLATIONS AT NASHVILLE

Suspension of the registration of the Watkins Commission Co., Inc., Nashville, Tenn., under the Packers and Stockyards Act, for 4 months beginning February 1, 1957, was announced today by the United States Department of Agriculture.

Registrations of Woodson Woodis, a livestock dealer, and of J. L. Richardson, a registered buyer for Neuhoff Packing Co., a division of Swift & Co.—both of Nashville—also have been suspended for 4 months, beginning 6 days after cease and desist orders are served on these respondents, probably in early January.

The Watkins Commission Co., Woodson Woodis, and J. L. Richardson consented to the issuance of cease and desist orders growing out of alleged violations of the Packers and Stockyards Act. This act is a Federal statute having the primary objective of assuring lovestock producers open, competitive markets, free of unfair trade practices.

Persons and firms whose registrations are suspended under the Packers and Stockyards Act may not operate in the livestock business at posted stockyards during the suspension period.

The Department also announced that cases are pending in connection with Packers and Stockyards Act violations charged against the Nashville Livestock Commission Corp., and against William Grissim III, doing business as Grissim Commission Co. These two firms are market agencies.

In the Watkins case (docket No. 2218), the judicial officer for the Department found that shippers' proceeds had been used for the company's own purposes, such as the financing of one of its salesmen in the purchase of livestock, and that on two occasions this resulted in a deficit in the company's custodial funds.

The judicial officer also found that an employe had been permitted to engage in a secret speculative transaction with a registered dealer and a packer buyer at the stockyard, and that livestock owned by employees of the company had been sold in competition with consigned livestock. Another finding was that the company had made false entries in its books and records.

In the Woodis case (docket No. 2220), the Department's judicial officer found that Mr. Woodis had entered into secret speculative transactions with salesmen and owners of market agencies, and in some instances with packer buyers, for the purchase of cattle from farmers at less than fair value. The cattle were resold through the facilities of market agencies at the stockyard, and the profit either kept by the respondent or shared with the salesmen and packer buyers. In most instances the farmers had been led to believe they had to pay the commission and yardage on the livestock.

Another finding was that Mr. Woodis had entered into secret speculative transactions with a salesman in the purchase of cattle at the stockyard and that consigned livestock was used to fill the order. The profit from these transactions was shared by the respondent and the salesman. The judicial officer also found that false scale tickets, accounts of sale, and other records had been made at the stockyard, and that Mr. Woodis had failed to keep proper books and records.

It the Richardson case, the Department's judicial officer found that Mr. Richardson had entered or assisted others to enter into speculative transactions with a registered dealer and salesman of commission firms for the purchase of livestock from farmers at less than its fair value. The livestock were resold through commission firms or registered market agencies at the stockyard, and the profit divided. Farmers had been charged yardage and commission on the cattle, but no actual selling service had been performed. Another finding was that false scale tickets, accounts of sale, and other records were made at the stockyard.

Oral hearing of alleged violations by the Nashville Livestock Commission Corp. (docket no. 2221) was concluded at Nashville on November 30. A number of farmers testified at this hearing with regard to their transactions with the corporation. The Department will announce its decision later.

Oral hearing in the case of William H. Grissim III, doing business as Grissim Commission Co. (docket No. 2222), was concluded at Nashville on December 4, and decision is pending.

(Note to editors: Full text of dockets cited in this release is obtainable from the Livestock Division, Agricultural Marketing Service, United States Department of Agriculture, Washington 25, D.C.)

CONTINUATION OF HEARINGS

Mr. Butz. Mr. Chairman, this material includes some of our original files. We wonder if you might include it in the record and have permission to withdraw it after it is incorporated in the record.

Senator O'Mahoney. We will have a copy of it made.

May I say that Mr. McHugh reminds me that in our letter to the Department we requested the presence of Mr. Sinclair. Will you have him here this afternoon?

Mr. Butz. We will be glad to have Mr. Sinclair here.

Senator O'Mahoney. The committee will stand in recess until 2 o'clock this afternoon.

(Whereupon, at 12:01 p.m., the committee recessed, to reconvene at 2 p.m.)

AFTERNOON SESSION

Senator O'Mahoney. The session will resume. Mr. McHugh?

Mr. McHugh. I wonder, Mr. Butz, referring to the tail end of your testimony this morning, if you would briefly restate for us again what the effect of your proposed amendment is.

Mr. Butz. What the effect of it is?

McHugh. Yes. Just describe again what this would do.

Mr. Butz. Well, the effect would be, I think, to thoroughly define what is meant by packer. That would be somebody who is principally a packer by whatever criterion Congress should decide to set up, and he would come under the jurisdiction of the Packers and Stockyards Act. The Secretary would also retain jurisdiction with respect to other than those who are primarily packers—retain jurisdiction only over their livestock operation. With respect to those who were primarily packers, the amendment would permit the Secretary at his discretion to request the Federal Trade Commission to exercise authority over such nonlivestock product activities of theirs as may be deemed appropriate or in certain cases even over certain livestock product activities.

Mr. McHugh. It would also be broad enough to cover certain livestock product activities at the request of the Federal Trade Commission?

Mr. Butz. At the discretion of the Secretary.

Mr. McHugh. Would Agriculture under this proposal retain jurisdiction over people who are primarily in the meatpacking business? Does that mean that the Department of Agriculture would have the authority to proceed against unfair trade practices in any case involving the market of meat and meat products by meatpackers?

Mr. Butz. Yes.

Mr. McHugh. Do I understand from that that the Department would then conduct investigations and file complaints where it found that there were certain discriminatory pricing practices in connection with the marketing of meat and meat products?

Mr. Butz. Yes, sir.

Mr. McHugh. I wonder if you can tell us what the criterion is as used by the Department for determining what kind of discriminatory pricing practices in the marketing of meat and meat products are illegal or would be prohibited under this act?

Mr. Butz. Yes. That is an operating question. I would like for Mr. Pettus to answer, please.

Mr. Pettus. You are talking now about the proposed amended act or the present act as it stands?

Mr. McHugh. No. I am assuming from what Mr. Butz has said that under the proposed amendment the Department of Agriculture retains jurisdiction over the activities of those who are primarily meatpackers, in connection with their marketing of meat and meat products. In conducting an investigation involving such practices, where there has been a charge of discriminatory pricing, what would be the criterion? What is the standard of illegality as used by the Department in such cases?

Mr. Pettus. Well, unfair trade practices cover a wide scope of operations. I could give you many examples of what we consider unfair trade practices, but we do not have a list of all of the unfair trade practices that we consider prohibited.

Mr. McHugh. The trade practice I am referring to here is a specific one. It is the charge that meatpackers have been engaging in discriminatory pricing practices, that they sell to different buyers of the same goods at different prices. In investigating such complaints, what is the criterion used by the Department in determining whether or not those pricing practices should be prohibited?

Mr. Pettus. If they are practices which favor one of the customers of a packer over another one so that it gives that customer an unfair advantage in selling his product, if in selling to a chainstore, for example, or any other store the packer reduces his prices so that that store can undersell others and thereby tend to increase this packer's outlet——

Mr. McHugh. It would be prohibited?

Mr. Pettus. We would consider it an unfair trade practice if he made lower prices to these people than to others unless it was a competitive situation where a certain large-sized operator, because of the volume he took, received lower prices in carload lots or something of that nature.

Mr. McHugh. There are several questions suggested by your answer. In connection with the latter, involving volume buying, do I understand you to say that if a large buyer was getting the advantage of lower prices because of the volume which he purchased, regardless of the competitive effects of such sales on competitors of that buyer, the Department would consider that to be normal competition?

Mr. Pettus. No, sir. I did not intend to leave the impression that just because he was a large buyer he would be given a clear bill of health on lower prices. My point was that there are instances where lower price is a natural result of larger volume.

Mr. McHugh. In connection with discriminatory sales of meat products by a packer, would the Department consider that such a sale was illegal and should be prohibited if that sale merely had the effect of injuring one single buyer?

Mr. Pettus. I don't believe I could give a direct answer to that kind of a situation without knowing all of the facts involved.

For example, it may be that a small operator or a large operator would be able to buy meat at a lower price than some other competitor in a purely and completely legal manner in a competitive manner and because of his operations he might be in a position to take over some of the business of his competitors. But it could arise from a purely economic situation which has nothing to do with unfair trade practices.

Mr. McHugh. In other words, all discriminatory pricing would not be viewed as unlawful?

Mr. Pettus. Well, I am not sure that I understand just what you mean by discriminatory pricing. I thought you meant different pricing. If discriminatory pricing is merely a different price, then I would say that it is not considered unlawful because, as I previously pointed out, large volume or small volume carload lots compared with less-than-carload lots, and such as that, would affect the prices at which the product is sold and I would not call it discriminatory.

Mr. McHugh. Has the Department of Agriculture worked out any standards for determining when different prices are discriminatory and when they are not, and has it worked out any standards for determining under what circumstances competition might be injured by such prices?

Mr. Pettus. I do not believe we have any such set of written standards. May I request Mr. Sinclair, who is head of our Packers and Stockyards Act, to confirm that or comment on it?

Mr. Sinclair. Well, we follow this general policy that so long as it merely reflects a saving to the packer in volume, he can reflect that in his pricing. But there can't be discrimination in that field either. Everybody can buy in the same volume at the same price. That is all right. It is a little bit of a saving, oftentimes maybe quite a bit of saving to a packer to sell in volume as compared with piecemeal selling, and that saving to him in that volume may be reflected in his price and not be unjust discrimination. And our act says unjust discrimination.

Obviously there is some discrimination there but it can be reflected in a price so long as everybody has the same opportunity for that same volume.

Mr. McHugh. Is this to suggest that a cost justification on the part of the seller, then, would be a complete defense?

Mr. Sinclair. That is true.

Mr. McHugh. Do I understand from that you are saying the Department of Agriculture follows the same standards of legality and observes the same defenses that are available to buyers and sellers under the Robinson-Patman Act?

Mr. Sinclair. We generally follow and we study the decisions of the Federal Trade and the courts along that line and do follow the same general principle that they apply in their cases. I have read many of their decisions along the same line and I believe we are in line with the policies that they have adopted through their own decisions or through court decisions.

Mr. McHugh. Is it not true that the act which you are enforcing, specifically title 2 of the Packers and Stockyards Act does not set up any criteria for determining what constitutes discriminatory pricing?

Mr. Sinclair. That is true. It just says unjust discrimination and that is very broad general language.

Mr. McHugh. Isn't it true that there have been no court rules as to what constitutes unjust discrimination under this title of the act?

Mr. Sinclair. Well, only what I am saying now, administratively, that is the way we construe it. I can't point my finger at a particular case at the moment to refer you to one, but that would be our general attitude, the policy on that particular question, and again I say I believe it is in line because we have studied the decisions of the Federal Trade and of the courts.

Senator O'Mahoney. You say it would be your general policy?

Mr. Sinclair. Yes, sir.

Senator O'Mahoney. And practice?

Mr. Sinclair. Yes.

Senator O'Mahoney. Can you give us an instance where it has been your policy?

Mr. Sinclair. Well, we have had some cases where we have made studies. I can't refer to a case right now that is in point that went to a decision, but we have had cases such as Colonial Stores in Boston where we made an investigation and applied that rule to their operations and they, I believe, agreed in that case to comply with that general rule.

Senator O'Mahoney. You said you believe. Who is your adviser?

Mr. Sinclair. Mr. Bowman. He is in charge of our Trade Practice Section.

Senator O'Mahoney. Yes. I know.

Mr. Sinclair. That was Colonial Provision, Boston. There they agreed informally—they didn't have a formal case—they agreed to comply with that application of that rule.

Senator O'Mahoney. What were they charged with doing?

Mr. Sinclair. Well, discriminatory pricing of their product to various outlets.

Senator O'Mahoney. How did you define discriminatory pricing in that case?

Mr. Sinclair. Well, giving undue advantages to one over another in price.

Senator O'Mahoney. The facts were so clear that the company involved accepted your judgment without going to court about it?

Mr. Sinclair. That is right.

Senator O'Mahoney. Is that correct?

Mr. Sinclair. That is correct.

Senator O'Mahoney. How extensive was it?

Mr. Sinclair. Well, it was limited to that general area. It was not a nationwide thing.

Senator O'Mahoney. What was the name of the organization?

Mr. Sinclair. Colonial Provision.

Senator O'Mahoney. Was it a packer?

Mr. Sinclair. Yes.

Senator O'Mahoney. Was it also a distributor?

Mr. Sinclair. Well, they were a packer and, of course, wholesale and retail—it wasn't retail, wholesale, wholesale to delicatessens and small stores, and that kind of a distribution.

Senator O'Mahoney. Was there any such case in which the interpretation, the practice and policy you were following, was adjudged by a court?

Mr. Sinclair. Not of our cases that I can point to.

Senator O'Mahoney. About how many such cases could you point to?

Mr. Sinclair. There would be very few. I wouldn't know how many, but that would be—that one I remember, that was handled informally. I would have to review all the cases to see whether we had any such other cases on that particular point.

Senator O'Mahoney. I was trying to develop whether or not your practice was directed to the future or whether it had been established in the past.

Mr. Sinclair. That has been our standard policy.

Mr. McHugh. Isn't it true, Mr. Pettus, that there have never been any court decisions interpreting title II of the Packers and Stockyards Act in the entire history of the act?

Mr. Pettus. Might I ask our legal counsel to give you an answer on that?

Mr. Farrington. Mr. Bucy.

Mr. Bucy. There have been administrative proceedings applying this question of discrimination and, of course, the Robinson-Patman Act court decisions are available as interpreting what, is unjust discrimination in price under the Packers and Stockyards Act. There have not been any court cases, that is, any of the final decisions in administrative proceedings have not been the subject of court review involving this particular question.

Mr. McHugh. Is it not true that we have a very well defined body of law explaining what constitutes an unlawful discriminatory price as a result of enforcement of certain statutes by the Federal Trade Commission?

Mr. Bucy. As a result of actions by the Federal Trade Commission and the Department of Justice, we have cases interpreting and holding what is a discriminatory price and those are equally applicable and available in cases under the Packers and Stockyards Act.

Mr. McHugh. But the Department of Agriculture in making its determination of what constitutes the legal tie-in sale and a legal exclusive contract or a discriminatory price is not bound by decisions of a court interpreting the statutes where the Federal Trade Commission and the Department of Justice have instituted suit.

Mr. Bucy. I would think that if they attempted to deviate substantially from the court's interpretation of what that term means that they would find themselves subject to reversal in the court and the language in the act is very substantially the same and the Congress has passed these acts and some interpretations of them.

In the Robinson-Patman Act they say certain practices shall not be considered discriminatory pricing and that act was passed since the Packers and Stockyards Act, and certainly any executive agency would look to the interpretation of that term by the Congress and the courts in reaching a sound, nonarbitrary decision as to what constituted discrimination of price.

Mr. McHugh. Since there have been no cases filed, at least within the past 19 years, by the Department of Agriculture involving such practices, isn't it true that the courts have not had occasion to pass upon it and there has been no way of knowing whether or not the Department of Agriculture has applied appropriate tests and standards in determining legality in these cases?

Mr. Bucy. I am not sure that your number of years is accurate as to there not having been filed any cases. There have been some seventy-odd proceedings under this act involving packers in trade practices in their merchandising aspects. Some 50 of those were in the merchandising aspect. The last one dealt with poultry in 1940. So we have had cases down through the years in the early stages of the administration of this act that could have been the subject of court review, and some cease and desist orders are still effective against packers under those early cases.

Senator O'Mahoney. Secretary Butz, I wanted to ask you some questions I had in mind this morning with respect to the nature and the interpretation of the amendment which you suggest. If you will turn to page 9 of your recent statement, you will find it set forth there. Your first suggestion is the redefinition of packers and live poultry dealers as those principally so engaged, and you and your counsel agree that by "principally" you mean at least 50 percent.

Mr. Butz. I think so.

Senator O'Mahoney. Then on No. 2 you say, "With respect to others not included in this modified definition, the Department would retain jurisdiction only over their livestock and live poultry transactions." What do you mean by "transactions"?

Mr. Butz. Well, this gets at the country buying of livestock and poultry. This would be one of those companies whose minor line of activity would be its packer activity. We want to retain jurisdiction over their livestock and poultry activities.

Senator O'Mahoney. You mean activities and operations, as well as transactions?

Mr. Butz. Well, I should think the operations involving their livestock and poultry buying, slaughtering——

Senator O'Mahoney. There seems to be some——

Mr. Butz. As I read the report we made on the bill now, that is corect. It does say with respect to any live poultry dealer, with respect to any activity or any other person with respect to buying livestock and poultry.

Senator O'Mahoney. You want to confine it to buying?

Mr. Butz. Yes. I think so. The country buying transactions. This is covered in the report we made on the bill.

Senator O'Mahoney. I don't think that I have made my question clear. Unfortunately, you know, Mr. Secretary, most of the litigation that takes place in the world is caused by a dispute over what the law means.

Mr. Butz. Yes. May I——

Senator O'Mahoney. Therefore, when you are trying to draft a piece of legislation, it is wise to get the meaning of it as clear as possible.

Mr. Butz. Yes.

Senator O'Mahoney. No. 2 is, "With respect to others not included in this modified definition." That means with respect to others, meaning packers and live poultry dealers, not included in this definition. That is to say, those who are only 49 percent engaged in packing and poultry dealing.

Mr. Butz. Yes, I think——

Senator O'Mahoney. The Department would retain jurisdiction only over their livestock and live poultry transactions. I am trying to determine whether by transactions you mean to include activities and operations, or whether you mean only selling.

Mr. Butz. Let me read what is in the report we made on the bill which I think clarifies this, and we might put it in the record at this point, Mr. Chairman.

The language we had in the report was follows:

"It shall be unlawful for any packer or live poultry dealer with respect to any activity or any other person with respect to buying livestock or live poultry for purposes of slaughter—

And then there is some legal language here, and then it goes on to explain. It says:

"Under this amendment packers and live poultry dealers as redefined in amendments (1) and (3) would be subject to the jurisdiction of the Department of Agriculture as heretofore. Other persons—

And those are the ones we speak of now——

Senator O'Mahoney. Where are you reading from?

Mr. Butz. From the report, page 3, the first full paragraph.

"Other persons—

And those are the ones we speak of now—heretofore subject to the jurisdiction of the Department under Title II: Packers, of the act would be subject to the jurisdiction of the Department with respect only to the buying of livestock and live poultry for purposes of slaughter and with respect to all other activities would be subject to the jurisdiction of the Federal Trade Commission."

Mr. Frischknecht. This would be a firm like Hot Shoppes, which is primarily in the restaurant business and which owns a packing plant and under the definition now contained in the law is classified as a packer.

Mr. Butz. And, under the present definition, Hot Shoppes are subject entirely to the Packers and Stockyards Act. Under this amendment only their livestock-purchase operations would be subject to it.

Senator O'Mahoney. Since you used the word "only," can you tell the committee what, in your interpretation, is excluded from the jurisdiction of the Department of Agriculture by your proposal?

Mr. Butz. I think in this case we would exclude all the nonpacking activities of that particular company; the Hot Shoppes, for example, is primarily a restaurant. That entire operation would be excluded. Their purchase of foodstuffs from elsewhere would be excluded. We would supervise only their operations concerned with the purchase of livestock.

Senator O'Mahoney. By whom or what Government agencies would those excluded operations be supervised?

Mr. Butz. Federal Trade Commission.

Senator O'Mahoney. You want that to be clearly stated in any amendment that you propose?

Mr. Butz. Yes, sir.

Senator O'Mahoney. Now, then, we proceed to No. 3. I am reading from your statement now.

"*Provided* that, upon a determination of the Secretary of Agriculture that it is in the public interest in any case, the Federal Trade Commission would be authorized to proceed against any person subject to the Packers and Stockyards Act exercising all the authority vested in the Secretary."

As I read that, it means, first, that there must be a determination by the Secretary.

Mr. Butz. That is——

Senator O'Mahoney. Before the Federal Trade Commission——

Mr. Butz. That is correct, the way this reads.

Senator O'Mahoney. Before the Federal Trade Commission would be authorized to proceed. How is this determination to be obtained?

Mr. Butz. Well, I should think it could be obtained in a number of ways. I think, for example, of a current case, the case where the Federal Trade Commission is investigating the sale of ice cream in some of the Northwestern States. One of the agencies involved there is a packer which, under the proposed definition here, would still be a packer. It is a major packer. The Secretary of Agriculture, either on his own initiative or after consultation with the Federal Trade Commission, could decide that this is a case that can best be handled in the public interest by transferring jurisdiction to the Federal Trade Commission so that they could handle all the companies together in this particular case.

Senator O'Mahoney. Isn't it a fact, therefore, that the Federal Trade Commission would have to petition the Secretary of Agriculture to permit it to look into a particular case?

Mr. Butz. Not necessarily. I think in this particular case, as I understand it, our attorneys have been working concurrently with the attorneys in the Federal Trade Commission on this case. In this case the Secretary of Agriculture on his own initiative may decide that this is best handled by transferring it to the Federal Trade Commission.

Senator O'Mahoney. Let me point out, Mr. Secretary, we are not dealing with the present Secretary; we are not dealing with you, personally.

Mr. Butz. I understand that.

Senator O'Mahoney. We are just using you as a witness now, and you are doing a good job of testifying. You speak clearly and very promptly. I compliment you as a witness.

Mr. Butz. Thank you, sir.

Senator O'Mahoney. It helps greatly to have a person who is skilled in the use of language when you are trying to draft a piece of legislation. But, under the statement as it is contained in your testimony, it is wholly within the power of any Secretary to determine.

Mr. BUTZ. You are right. That is correct.

Senator O'MAHONEY. To determine whether or not the Federal Trade Commission can act.

Mr. BUTZ. That is right.

Senator O'MAHONEY. He may say "Yes"; he may say "No."

Mr. BUTZ. At the present time, he does not even have that power. At the present time, as I understand——

Senator O'MAHONEY. Don't you think it would be well, if any procedure were to be had along these lines, to state definitely in the law what the standards are? Don't you think there should be standards? For example, the Secretary has to make a determination that it is in the public interest in a particular case. What are the standards by which he should determine whether it is in the public interest? Do you care to provide any?

Mr. BUTZ. I suppose that is a case where the Secretary would fall back on legal counsel to answer that.

Senator O'MAHONEY. Can we fall back on legal counsel to help draft the amendment that you proposed this morning and have not made clear?

Mr. FARRINGTON. Mr. Chairman, under the language as written, the Secretary, of course, would look at all the facts and, on the basis of those facts—and, as you know, they vary in every particular case—determine whether it would be more expeditious, would bring about a quicker settlement and all the other factors, to decide whether or not Agriculture should keep it or turn it over to the Federal Trade Commission. The present ice-cream case is an example where I feel sure it will be turned over.

Senator O'MAHONEY. Don't you think it is incumbent upon Congress, when it is drafting a law, to write down specifically and clearly what the standards of action by a Government official are and must be?

Mr. FARRINGTON. Well, it is certainly desirable whenever you can, Mr. Chairman. I can see that.

Senator O'MAHONEY. Don't you agree with me that the language here is not so drafted?

Mr. FARRINGTON. No. The language here, as I say, is very general, and there are many instances, sir, when you have to leave something to discretion. It is very difficult to draft standards which would apply to all cases. I am sure you know.

Senator O'MAHONEY. Are you of the opinion, then, that Congress should give to the Secretary of Agriculture the complete jurisdiction to determine whether or not the Federal Trade Commission should proceed in a particular case? He is going to determine by your language here if it is in the public interest. Congress is the body that ought to determine what is in the public interest.

Mr. FARRINGTON. Surely.

Senator O'MAHONEY. All I am trying to do is secure your assistance.

Mr. FARRINGTON. We will assist every way we can, Mr. Chairman, certainly.

Senator O'MAHONEY. Your assistance in trying to specify in understandable language how that public interest is to be determined.

Mr. FARRINGTON. We will be glad to work with you, sir.

Senator O'MAHONEY. Then you acknowledge it is not perfect now?

Mr. FARRINGTON. Well, I will say, sir, that it does not have any specific guides by which that decision could be made.

Senator O'MAHONEY. There could be a disagreement between the Federal Trade Commission and the Secretary of Agriculture.

Mr. FARRINGTON. That is true.

Senator O'MAHONEY. He would have complete authority under this language to sweep the thing under the table.

Mr. FARRINGTON. Yes.

Senator O'MAHONEY. And say, forget it.

Mr. FARRINGTON. Yes. And, of course, that is not unusual in vesting discretion in administrative officers.

Senator O'MAHONEY. That is one of our troubles. We vest too much discretion in administrative and executive officers to discharge the functions of Congress. I told Secretary Butz that I am inherently opposed to granting broad discretionary powers to an administrative official because it changes the legislative power from the public's elected representatives to those who are not the representatives of the people, but administrative officers selected in whatever manner may be provided by law.

Mr. BUTZ. You see, Mr. Chairman, at the present time the Secretary of Agriculture has no discretion whatever in this. In the ice cream case we mentioned, he has no legal authority at the present time, as I understand it, to request the Federal Trade Commission to take action concurrently against a major meatpacker involved in the case. Let me say, for example—

Senator O'MAHONEY. Let me interrupt you long enough to say there was a Secretary of Agriculture by the name of Jardine who, without any legal authority to do so, did rule that no attention would be paid to title II.

Mr. BUTZ. Yes, but in this case, as I understand it, our lawyers are going forward concurrently in developing information on the ice cream case. Is that correct?

Mr. FARRINGTON. That is correct.

Senator O'MAHONEY. We are making some progress and it is always helpful to lay things on the table.

Mr. FRISCHKNECHT. Of course, under the law now, the Secretary of Agriculture can ask the Federal Trade Commission to conduct investigations for him.

Mr. BUTZ. But not to prosecute.

Mr. FRISCHKNECHT. No. But upon which he can base decisions either to or not to proceed to prosecute.

Mr. BUTZ. That is right. But the Secretary of Agriculture still must make the decision under existing law as to what action would be put forth.

Mr. FRISCHKNECHT. He has it now. You are complaining because he has it all, now you want to let him be selective of cases for which he will and will not assume responsibility.

Mr. BUTZ. What we are asking for is the right, where it seems prudent to do so, to delegate that authority.

Senator O'MAHONEY. Let me ask one more reference to the concluding phrase in your suggested amendment. The words are "exercising all the authority vested in the Secretary."

Was it the purpose in drafting that phrase to limit the discretion of the Secretary to authorize the Federal Trade Commission to have such authority only as that which is vested in the Secretary of Agriculture by the law?

Mr. FARRINGTON. Not necessarily, Mr. Chairman.

Senator O'MAHONEY. You see, that illustrates how important it was for me to ask these questions. I saw everybody on that side of the table shaking his head no, no, that isn't what we want. But that is what you said you want.

Mr. BUCY. No, that isn't what this amendment does, Mr. Senator. This amendment is an addition to a provision which says——

Senator O'MAHONEY. Mr. Butz, why do they say that about the words you used?

Mr. BUTZ. You know lawyers better than I do, Mr. Chairman.

Mr. BUCY. The amendment says the Federal Trade Commission shall not exercise their authority under their own act except presently where the Secretary requests an investigation and report.

This would say except also where he determines it is in the public interest to institute a proceeding. So they could proceed both under their own act and under this act, amended act. In other words, they could draw a complaint charging under both acts.

Senator O'MAHONEY. Under both acts?

Mr. BUCY. That is correct.

Senator O'MAHONEY. This doesn't say so.

Mr. BUCY. This provision with this amendment added to it would say so.

Senator O'MAHONEY. Show me the language in the amendment that would do that.

Mr. BUCY. You have to read the provision of the Packers and Stockyards Act, Senator.

Senator O'MAHONEY. We are talking about an amendment.

Mr. BUCY. This is an amendment to a provision of the Packers and Stockyards Act, so therefore you must read the whole provision in order to interpret the amendment.

Senator O'MAHONEY. All right.

Mr. BUCY. Under the Packers and Stockyards Act, section 406–B:

"On and after the enactment of this Act and so long as it remains in effect, the Federal Trade Commission shall have no power or jurisdiction so far as relating to any matter which by this Act is made subject to the jurisdiction of the Secretary of Agriculture, except—

And then it refers to pending proceedings at the time this legislation was passed, and then it goes down further and says,

and except when the Secretary of Agriculture in the exercise of his duties hereunder shall request of the Federal Trade Commission that it make investigations and report in any case—

And with the amendment it would continue—

or in any case where the Secretary determines it to be in the public interest for the Federal Trade Commission to institute a proceeding, under which circumstances it shall have authority to exercise in connection therewith all the powers, functions" under the act.

Senator O'MAHONEY. Now, in interpreting that, if I may interrupt you, we must bear in mind the history that Secretary Butz recited this morning of the writing of the Packers and Stockyards Act. When that was written, the Federal Trade Commission had just completed an investigation at the request of the President of the United States of the alleged unfair activities of the big packers. It brought in a report which resulted in the filing by the Department of Justice of a suit against the big packers under which the big packers, choosing not to fight, to plead not guilty, in other words, accepted a consent decree which divested them of their ownership in the stockyards, divested them of their facilities in retail distribution. It was after that historic development that this Packers and Stockyards Act was written. That is what prompted the representatives of the packers to go to the conferees of the Senate and the House and to induce them to say, to use the language which you have just read, that the Federal Trade Commission should not have any power. The Federal Trade Commission had been so successful that the packers didn't want any more of them.

What you are proposing now is that the Secretary of Agriculture is the only authority who can give the Federal Trade Commission the power to exercise the authority Congress gave it first.

Mr. BUCY. The Congress itself, of course, took that power away from the Federal Trade Commission.

Senator O'MAHONEY. Senator Norris of Nebraska delivered a wonderful speech on the floor.

Mr. BUCY. We are attempting to give some of it back to the Commission. With respect to everyone other than those principally engaged as packers.

Senator O'MAHONEY. May I suggest that you go into conference in the Department and see if you can't give back some more. [Laughter]

I think we have demonstrated the point.

Mr. Frischknecht, were you indicating a desire to ask something?

Mr. FRISCHKNECHT. Just to recapitulate now with respect to which activities under the amendments proposed by the Department would remain with the Department and which would remain with the Federal Trade Commission or which would go to the Federal Trade Commission. Now, as I understand it, and as Senator Watkins understood it this morning, all of the meatpacker activities as defined, per your proposal, would remain with the Department of Agriculture. That would include the buying and selling of livestock, the processing and the wholesaling and the retailing, of meat products, that is, authority to regulate, trade practices involved in all of those levels by a meatpacker would remain with the Department of Agriculture.

Now, all of the nonmeat and nonfood products, wholesaling and retailing activities by a packer as newly defined per your proposal would also remain with the Department of Agriculture.

Mr. BUTZ. Those who are primarily packers.

Mr. FRISCHKNECHT. As defined in your amendment.

Mr. BUTZ. Correct.

Mr. FRISCHKNECHT. Now, then, you would also——

Senator O'MAHONEY. If they were primarily packers.

Mr. FRISCHKNECHT. Yes.

Senator O'MAHONEY. That is to say, the nonfood activities of those organizations the operations of which were 50 percent packing would not be under the jurisdiction of the Federal Trade Commission.

Mr. BUTZ. That is right.

Mr. FRISCHKNECHT. And you would also include within the jurisdiction of the Department of Agriculture all of the so-called meatpacker activities of the nonpacker, newly defined, that is all of the meatpacker activities now of a nonpacker as newly defined within the law.

Mr. BUTZ. The acquisition activities——

Mr. FRISCHKNECHT. That is what I am speaking of now. The buying and selling of livestock by a nonpacker as newly defined. You would keep that in the Department of Agriculture. That is the buying and selling of livestock by a nonpacker as newly defined. You would keep that in the Department.

Mr. BUTZ. Yes, sir. That is——

Mr. FARRINGTON. Buying for purposes of slaughter.

Mr. FRISCHKNECHT. Nonpacker, redefined.

Mr. FARRINGTON. For purposes of slaughter.

Mr. FRISCHKNECHT. Then in the Federal Trade Commission would remain regulatory authority over the nonmeat activities of all firms not defined as a packer under your proposal.

Mr. BUTZ. That is right.

Mr. FRISCHKNECHT. That is correct, isn't it? Now, this morning when Mr. McHugh directed some questions toward Mr. Butz relating to country buying and mentioned or spoke of the liaison and relationships the Department had with Justice, I think you folks indicated that you got along well where you had that kind of concurrent jurisdiction.

Senator O'MAHONEY. Mr. Frischknecht, can you hold that question for a minute? I have just been called to the phone. If you will excuse me, please.

(Recess.)

Senator O'MAHONEY. Proceed. Thank you very much for your courtesy.

Mr. FRISCHKNECHT. When the chairman was called to the phone, Mr. Butz, I was making an observation with respect to something you had said this morning in reply to Mr. McHugh to the effect that perhaps the best liaison would be to have all jurisdiction in one department rather than separate it, perhaps, as you said S. 1356 now does with respect to country buying activity.

Now, on the other hand, isn't that exactly what we have involved in this proposal of the Department? With respect now to the wholesaling and the retailing by a packer as defined under your amendment of its nonmeat food and its nonfood-product activities? Yet with respect to a grocery store that may own a packing plant you will regulate his livestock buying activities in the Department of Agriculture, his buying and selling of livestock, but the Federal Trade Commission will regulate all of his nonmeat-buying activity. So, under your proposal, then, we would have divided jurisdiction with respect to control over the nonmeat food products and the nonfood products of packers on the one hand which would stay in Agriculture and those same activities of nonpacker as defined in your proposal. Is not the latter all your amendments actually leaves in the Federal Trade Commission.

Mr. BUTZ. Well, I think that is true. However, in the case of those who are principally engaged in packing, their nonmeat and nonfood activities would be a relatively small proportion of their business, you see. We feel in that case it is necessary to have general supervision over that because sometimes, as has been alleged, they may use profits in their nonmeat activities to engage in discriminatory pricing practices on the meat.

Mr. FRISCHKNECHT. Mr. Chairman, Senator Watkins asked that certain portions of a study identified as report of the Federal Trade Commission on industrial concentration and product diversification in the 1,000 largest manufacturing companies, 1950, published January 1957, be included in the record at this point. This is the portion beginning with the third paragraph on page 64 down through the second paragraph on page 65. His reason for making the request is that this particular material shows that at least 1 or more of the 4 largest packers ship 21 classes of nonfood products in interstate commerce, in addition to their meat products, and that they ship some 51 classes of nonfood products in interstate commerce, and also because this information reveals that although the shipments of fresh meats by the 8 largest companies primarily engaged in fresh meat production, consisted of about one-half of their total shipments, another 29 percent consisted of prepared meats. In addition, about another 10 or 11 percent consisted of non-meat-food products and another 10 or 11 percent of nonfood products entirely.

So that outside the scope of their meatpacking activities, these largest packers, according to this study, have substantial interests of a nonmeat kind regulation of trade practices with respect to which, in Senator Watkins' judgment, ought to be under the jurisdiction of the Federal Trade Commission, rather than the Department of Agriculture as would be the case under the Department's proposal.

Senator O'MAHONEY. The material may be made part of the record.

REPORT OF THE FEDERAL TRADE COMMISSION ON INDUSTRIAL CONCENTRATION AND PRODUCT DIVERSIFICATION IN THE 1,000 LARGEST MANUFACTURING COMPANIES: 1950. JANUARY 1957, PAGES 64–65

Fresh meats constituted almost exactly half the total shipments of all products made by the eight companies principally engaged in the industry. Another 29 percent consisted of prepared meats. Of the remainder, which amounted to $1,228 million, somewhat more than half consisted of nonfood products. Table 35 lists some of these product classes, the number of companies making shipments, and the percent each product class constituted of the total shipments of the 8 companies. Under each of the headings (1) meat products, (2) food products other than meat, and (3) nonfood products, the classes of larger commercial importance are listed first.

TABLE 35.—PERCENTAGE DISTRIBUTION OF THE SHIPMENTS OF 8 COMPANIES PRINCIPALLY ENGAGED IN FRESH MEATS, BY CLASS OF PRODUCTS, 1950

Product class	Number of companies	Percent of companies' shipments
Total, all products	8	100.0
Meat products	8	81.8
Fresh meats	8	50.5
Prepared meat products for human consumption, including lard	8	29.2
Dressed poultry and small game	4	2.1
Food products other than meat	5	6.6
Butter	4	1.0
Dairy products, except butter	4	1.6
Shortening and salad oils	4	1.9
Margarine	4	.8
10 other classes of food products	5	1.3
Nonfood products	8	11.6
Soap and glycerine	4	.7
Grease and tallow	8	.8
Hides, bones and inedible meats	8	2.7
Feed and fertilizer byproducts	8	.7
58 other classes of nonfood products	5	6.7

Every firm necessarily shipped the immediate byproduct of the slaughterhouse, but these byproducts represented less than 4 percent of their total shipments. One of the smaller firms among the 8 large companies principally engaged in fresh meats reported shipments of certain animal oil products other than fatty acids, and in another instance 1 of the smaller firms shipped grain mill products other than wheat flour, cornmeal or prepared animal feed. With these 2 exceptions, all of the shipments in industries other than fresh meats or prepared meats were made by the 4 largest of the 8 companies principally engaged in fresh meats. These companies carried on extensive manufacturing operations not necessarily a part of the production of fresh meats and prepared meats, although almost always bearing some relation to their major business. The 4 companies shipped varying numbers of a total of 21 classes of food products and 51 classes of nonfood products. The distribution of these 72 product classes by the number of the 4 companies involved was as follows:

Number of classes of products shipped by—	Food	Nonfood
All of the 4 largest meatpackers	9	4
3 of the 4 largest meatpackers	4	7
2 of the 4 largest meatpackers	2	13
1 of the 4 largest meatpackers	6	27
1 or more of the 4 largest meatpackers	21	51

With respect to the 21 classes of food products, in all but 2 instances shipments by these companies amounted to at least $1 million. Of the 51 classes of nonfood products, there were 29 classes of which the shipments by these companies amounted to at least $1 million. Among the classes of products of which the value of shipments cannot be reported without disclosing figures on individual companies, well over half the companies' shipments were of fertilizers, leather, or the products of vegetable oil mills.

TABLE SHOWING FOOD AND NONFOOD PRODUCTS SHIPPED BY 4 LARGEST COMPANIES SHIPPING FRESH MEATS AND BYPRODUCTS

APPENDIX D, TABLE 4. PRODUCTS SHIPPED BY COMPANIES IN THE SAME LINE OF BUSINESS

[Number of companies, among the 1,000 largest manufacturing companies principally engaged in each industry, that made shipments in each industry and product class, the value of such shipments and the percent they constituted of all shipments by the companies principally engaged in the industry, 1950]

Industry and product class in which shipments were made	2011 Fresh meats and byproducts; 20111 Fresh meats						2013 or 20133 Prepared meat products for human consumption, including lard			2833 Medicinal chemicals 28332 Inorganic and organic medicinals (bulk type)		
	All companies			4 largest companies								
	Number	Value of shipments (thousands)	Percent	Number	Value of shipments (thousands)	Percent	Number	Vaue of shipments (thousands)	Percent	Number	Value of shipments (thousands)	Percent
All industries	8	$6,024,798	100.0	4	$5,143,114	100.0	4	$800,774	100.0	4	$205,675	100.0
Food and kindred products industries	8	5,491,423	91.1	4	(1)	(3)	4	(1)	(3)			
2011 Fresh meats and byproducts	8	3,023,344	53.2	4	2,698,681	52.5	4	353,316	44.1			
20111 Fresh meats	8	3,041,413	50.5	4	2,550,491	49.6	4	342,234	42.7			
20114 Hides, bones, and inedible meats	8	161,931	2.7	4	148,190	2.9	4	11,082	1.4			
2013 or 20130 Prepared meat products for human consumption, including lard	8	1,756,445	29.2	4	1,390,402	27.0	4	411,645	51.4			
2015 or 20150 Dressed poultry or small game	4	128,340	2.1	4	128,340	2.5						
2021 or 20210 Butter	4	59,326	1.0	4	59,326	1.2	2	(1)	(3)			
2022 or 20220 Natural cheese	4	28,761	.5	4	28,761	.6	2	(1)	(3)			
2023 Concentrated milk	3	(1)	(3)	3	(1)	(3)	1	(2)	(3)			
20231 Dried milk, dried buttermilk, etc	2	(1)	(3)	2	(1)	(3)						
20232 Canned milk	1	(1)	(3)	1	(1)	(3)						
20233 Bulk evaporated and condensed milk (whole milk, skim milk, buttermilk and whey)	3	(1)	(3)	3	2,316	(4)	1	(2)	(3)			
20234 Ice cream mix and ice milk mix	2	(1)	(3)	2	(1)	(3)						
‹024 or 20240 Ice cream and ices	3	(1)	(3)	3	(1)	(3)						
2025 Special dairy products, not elsewhere classified	4	31,491	.5	4	31,491	.6	1	(1)	(3)			
20251 Special dairy products, including cottage cheese, malted milk powder, etc	1	(2)	(3)	1	(2)	(3)						
20252 Process cheese	4	(1)	(3)	4	(1)	(3)	1	(1)	(3)			
4011 Fresh milk and cream: 40113 Bulk fresh milk and cream	4	1,833	(4)	4	1,833	(4)	1	(1)	(3)			
2033 Canned and preserved food products, except fish and meat	2	(1)	(3)	2	(1)	(3)						
20336 Canned baby foods	1	(1)	(3)	1	(1)	(3)						
20337 Canned soups and poultry products	1	(1)	(3)	1	(1)	(3)						
20339 Canned and preserved products, not elsewhere classified	1	(1)	(3)	1	(1)	(3)						
2041 and 2045 Flour and meal, including prepared flour: 20414 Rye flour, hominy grits, and other grain-mill products, not elsewhere classified	1	(2)	(3)									
2042 Prepared animal feeds	4	28,724	.5	4	28,724	.6	2	(1)	(3)			
20421 Prepared animal feeds, except dog and cat food	3	(1)	(3)	3	(1)	(3)	1	(2)	(3)			
20422 Dog and cat food, prepared	4	(1)	(3)	4	(1)	(3)	2	(1)	(3)			
2071 Confectionery products	1	(2)	(3)	1	(2)	(3)	1	(2)	(3)			
20711 Confectionery products, except solid chocolate bars							1	(2)	(3)			
20715 Salted, roasted, and blanched nuts	1	(2)	(3)	1	(2)	(3)						
2090 or 20900 Eggs (liquid, frozen and dried)	4	24,368	.4	4	24,368	.5						
2092 or 20920 Shortening and salad oils	4	114,892	1.9	4	114,892	2.2						
2093 or 20930 Margarine	4	47,691	.8	4	47,691	.9	1	(2)	(3)			
2097 or 20970 Manufactured ice	2	(2)	(3)	2	(2)	(3)						
2099 Food preparations, not elsewhere classified, including milled rice	3	(1)	(3)	3	(1)	(3)	1	(2)	(3)			
2099 Food preparations, not elsewhere classified, including milled rice	3	(1)	(3)	3	(1)	(3)	1	(3)	(3)			
20996 Roasted coffee							1	(2)	(3)			
Entries withheld to avoid disclosures		66,210	1.1		(1)	(3)		(1)	(3)			
Industries outside the food group		533,375	8.9		(1)	(3)		(1)	(3)	4	205,675	100.0
2211 or 22110 Scoured wool, and other products of scouring and combing plants	1	(1)	(3)	1	(1)	(3)						
2293 or 22930 Paddings and upholstery filling	2	(1)	(3)	2	(1)	(3)						
2393 or 23930 Textile bags, except laundry and wardrobe bags (code 23929)	1	(2)	(3)	1	(2)	(3)						
2422 Veneer: 24222 Softwood veneer	1	(2)	(3)	1	(2)	(3)						
2444 Wooden boxes: 24448 Box shook: fruit, vegetable, industrial, etc	1	(1)	(3)	1	(1)	(3)						
2751 or 27510 Letterpress and gravure printing, except books (code 27320) and greeting cards (code 27710)	1	(1)	(3)	1	(1)	(3)				1	(1)	
2761 or 27610 Lithographing, except books and pamphlets (code 27320) and greeting cards (code 27710)	1	(2)	(3)	1	(2)	(3)						
2819 or 28190 Sulfuric acid, synthetic ammonia, chlorine compounds, and other industrial inorganic chemicals, not elsewhere classified	3	3,112	.1	3	3,112	.1				2	(1)	(3)
2823 Plastic materials: 28231 Cellulose plastic materials										1	(2)	(3)
2829 Organic chemicals, not elsewhere classified: 28291 Synthetic organic chemicals, not elsewhere classified	1	(1)	(3)	1	(1)	(3)				2	(1)	(3)
28293 Nonsynthetic organic chemicals other than hardwood distillation products (code 28610), softwood distillation products (code 28620), essential oils (code 28920) and fatty acids (code 28870)										1	(2)	(3)
2831 or 28310 Biological products										1	(2)	(3)
2832 or 28320 Botanical products other than preparations (codes 28341–4)										2	(2)	(3)
2833 Medicinal chemicals	3	(1)	(3)	3	(1)	(3)				4	106,253	51.7
28331 Drugs of animal origin, uncompounded (bulk)	3	(1)	(3)	3	(1)	(3)				2	(1)	(3)
28332 Bulk antibiotics, alkaloids, vitamins, etc										4	(1)	(3)
2834 Pharmaceutical preparations	2	(1)	(3)	2	(1)	(3)				4	59,981	29.2
28341 and 28343 Ethical and proprietary preparations for human use	2	(1)	(3)	2	(1)	(3)				4	(1)	(3)
28342 Ethical preparations for veterinary use	1	(2)	(3)	1	(2)	(3)				1	(2)	(3)
28344 Proprietary preparations for veterinary use										1	(2)	(3)
2841 Soap and glycerine	4	41,902	0.7	4	41,902	0.8	1	(2)	(3)	1	(1)	(3)
28413 Glycerine	3	(1)	(3)	3	(1)	(3)	1	(2)	(3)			
28415 Soaps, including cleansers containing abrasives, and washing powders (excluding speciality soaps)	4	34,616	.6	4	34,616	.7	1	(2)	(3)			
28416 Specialty soaps: Mechanics hand soaps, medicated soaps, shaving soaps	1	(2)	(3)	1	(2)	(3)	1	(2)	(3)	1	(2)	(3)
2842 Cleaning and polishing preparations	1	(2)	(3)	1	(2)	(3)						
28421 Synthetic organic detergents, including those combined with soap or with alkaline detergents	1	(2)	(3)	1	(2)	(3)						

Footnotes at end of table.

TABLE SHOWING FOOD AND NONFOOD PRODUCTS SHIPPED BY 4 LARGEST COMPANIES SHIPPING FRESH MEATS AND BYPRODUCTS—Continued

APPENDIX D, TABLE 4. PRODUCTS SHIPPED BY COMPANIES IN THE SAME LINE OF BUSINESS—Continued

[Number of companies, among the 1,000 largest manufacturing companies principally engaged in each industry, that made shipments in each industry and product class, the value of such shipments and the percent they constituted of all shipments by the companies principally engaged in the industry, 1950]

Industry and product class in which shipments were made	2011 Fresh meats and byproducts; 20111 Fresh meats						2013 or 20133 Prepared meat products for human consumption, including lard			2833 Medicinal chemicals 28332 Inorganic and organic medicinals (bulk type)		
	All companies			4 largest companies								
	Number	Value of shipments (thousands)	Percent	Number	Value of shipments (thousands)	Percent	Number	Value of shipments (thousands)	Percent	Number	Value of shipments (thousands)	Percent
28423 Specialty detergents (for window glass, wallpaper, paint, etc.)	1	(2)	(3)	1	(2)	(3)						
2871 Fertilizers	3	(1)	(3)	3	(1)	(3)						
28711 Mixed fertilizers	3	(1)	(3)	3	(1)	(3)						
28712 Fertilizer materials of organic origin	1	(2)	(3)	1	(2)	(3)						
28713 Superphosphate	2	(1)	(3)	2	(1)	(3)						
2881 or 28810 Cottonseed oil mill products	2	(1)	(3)	2	(1)	(3)						
2883 or 28830 Soybean oil mill products	2	(1)	(3)	2	(1)	(3)						
2884 or 28840 Vegetable oil mill products, not elsewhere classified	3	(1)	(3)	3	(1)	(3)						
2885 or 28850 Marine animal oil mill products, excluding vitamin oils (code 28332)	1	(2)	(3)	1	(2)	(3)						
2886 Grease, tallow, and related products	8	$89,586	1.5	4	$79,189	1.5	4	$15,440	1.9			
28861 Grease and ttallow	8	46,090	.8	4	40,981	.8	4	5,437	.7			
28862 Feed and ferijizer byproducts	8	43,496	.7	4	38,208	.7	4	10,003	1.2			
2887 or 28870 Fatty acids	3	8,387	.1	3	8,387	.2						
2889 Animal oils, not elsewhere classified	5	5,274	.1	4	(1)	(3)						
28891 Raw and acidulated soap stock and roots (all types)	4	478	(4)	4	478	(4)						
28892 Stearin and other animal oil mill products other than fatty acids	5	4,797	.1	4	(1)	(3)						
2893 Toilet preparations: 28932 Hair preparations, including shampoos	1	(2)	(4)	1	(2)	(3)					(1)	(3)
28931 Perfumes, toilet waters and colognes										1	(1)	(3)
28932 Hair preparations, including shampoos										1	(2)	(2)
28934 Cosmetics and toilet preparations other than perfumes, toilet waters, colognes, hair preparations and dentifrices										1	(1)	(2)
2894 Glue and gelatin	4	11,688	.2	4	11,688	.2						
28941 Glue (vegetable and animal)	3	(1)	(3)	3	(1)	(3)						
28942 Gelatin, except ready-to-mix desserts (code 20991)	1	(1)	(3)	1	(1)	(3)						
2896 or 28960 Compressed and liquified gases, except liquified petroleum gas (code 29116)	1	(2)	(3)	1	(2)	(3)						
2897 or 28970 Agricultural insecticides and fungicides	1	(2)	(3)	1	(2)	(3)				1	(2)	(3)
2898 or 28980 Salt (sodium chloride, edible)	2	(1)	(3)	2	(1)	(3)						
2899 Chemical products, not elsewhere classified: 28993 Chemical specialties, not elsewhere classified	1	(2)	(3)	1	(2)	(3)				3	$711	.3
28991 Household insecticides and repellants										2	(2)	(3)
28893 Chemical specialities, not elsewhere classified										2	(2)	(3)
2952 Roofing felts and coatings: 29522 Asphalt and tar coatings, cements and pitches	1	(2)	(3)	1	(2)	(3)						
3111 Leather, tanned and finished	2	(1)	(3)	2	(1)	(3)						
31111 Cattlehide and kip side leathers	2	(1)	(3)	2	(1)	(3)						
31112 Calf and whole kip leathers	2	(1)	(3)	2	(1)	(3)						
31113 Sheep and lamb leathers	2	(1)	(3)	2	(1)	(3)						
31114 Leathers other than cattle, calf, and sheep	2	(1)	(3)	2	(1)	(3)						
3121 Industrial leather products	1	(1)	(3)	1	(1)	(3)						
31211 Industrial leather belting	1	(1)	(3)	1	(1)	(3)						
31213 Textile leathers, and other industrial leather products	1	(2)	(3)	1	(2)	(3)						
3131 Boot and shoe cut stock and findings: 31311 Boot and shoe cut stock	2	(1)	(3)	2	(1)	(3)						
3141 Footwear, except rubber	1	(2)	(3)	1	(2)	(3)						
31413 Women's, misses' and children's dress shoes	1	(2)	(3)	1	(2)	(3)						
31416 Playshoes	1	(2)	(3)	1	(2)	(3)						
3171 and 3172, or 31710 and 31720 Handbags and small leather goods	1	(2)	(3)	1	(2)	(3)						
3291 Abrasive products: 32911 Nonmetallic abrasives	1	(1)	(3)	1	(1)	(3)						
3295 Minerals and earths, ground or otherwise treated: 32952 Minerals and earths ground or otherwise treated	1	(2)	(3)	1	(2)	(3)						
3496 or 34960 Collapsible tubes										1	(1)	(2)
3551 Food-products machinery: 35514 Milling, canning, packing and other food-products machinery, not elsewhere classified								(2)	(3)			
3639 or 39390 Musica linstruments other than pianos and organs	1	(2)	(3)	1	(2)	(3)						
3949 or 39490 Sporting and athletic goods	1	(1)	(3)	1	(1)	(3)						
Entries withheld to avoid disclosure		373,426	6.2		(1)	(3)		(1)	(3)		39,441	19.2

	4011 Fresh milk and cream; 40112 Bottled fresh milk and cream						2092 and 20920 Shortening and salad oils		
	All companies			4 largest companies					
	Number	Value of shipments	Percent	Number	Value of shipments	Percent	Number	Value of shipments	Percen
All industries	7	$1,615,811	100.0	4	$1,498,299	100.0	3	$406,022	100.0
Food and kindred products industries	7	1,577,670	97.6	4	(1)		3	200,875	49.5
2013 or 20130 Prepared meat products for human consumption, including lard	1	(1)	(3)	1	(1)	(3)			
2021 or 20210 Butter	7	87,178	5.4	4	82,730	5.5			
2022 or 20220 Natural cheese	7	47,143	2.9	4	45,730	3.0	1	(2)	(3)
4011 Fresh milk and cream	7	722,776	44.7	4	(1)	(3)	1	(1)	(3)
40112 Bottled fresh milk and cream	7	646,060	40.0	4	576,840	38.5	1	(2)	(3)
40113 Bulk fresh milk and cream	6	76,714	4.7	4	(1)	(3)	1	(2)	(3)
2023 Concentrated milk	7	111,079	6.9	4	(1)	(3)	1	(2)	(3)
20231 Dried milk, dried buttermilk, etc	6	36,550	2.3	4	(1)	(3)			
20232 Canned milk	3	44,450	2.8	2	(1)	(3)			
20233 Bulk evaporated and condensed milk (whole milk, skim milk, buttermilk and whey)	7	18,379	1.1	4	17,800	1.2	1	(2)	(3)
20234 Ice cream mix and ice milk mix	7	11,698	.7	4	10,851	.7			

	4011 Fresh milk and cream; 40112 Bottled fresh milk and cream						2092 and 20920 Shortening and salad oils		
	All companies			4 largest companies					
	Number	Value of shipments	Percent	Number	Value of shipments	Percent	Number	Value of shipments	Percent
2024 or 20240 Ice cream and ices	7	$277,468	17.2	4	$244,416	17.0			
2025 Special dairy products, not elsewhere classified	7	(1)	(3)	4	(1)	(3)			
20251 Speical dairy products, including cottage cheese, malted milk powder, etc	6	(1)	(3)	4	(1)	(3)			
20252 Process cheese	4	(1)	(3)	3	(1)	(3)			
2031 or 20310 Canned fish and other seafood							1	(1)	(3)
2033 Canned and preserved food products, except fish and meat	2	(2)	(3)	2	(2)	(3)	1	(1)	(3)
20334 Canned fruit juices	1	(2)	(3)	1	(2)	(3)			
20335 Canned vegetable juices	1	(2)	(3)	1	(2)	(3)			
20338 Jams, jellies, and preserves							1	(1)	(3)
2034 Dried and dehyrated fruits and vegetables: 20341 Dried fruits	1	(2)	(3)	1	(2)	(3)			
2035 Pickles and sauces	2	(1)	(3)	2	(1)	(3)	2	(1)	(3)
20353 Mustard and other meat sauces, except tomato	1	(2)	(3)	1	(1)	(3)	1	(2)	(3)
20354 Salad dressings, including mayonnaise	2	(1)	(3)	2	(1)	(3)	2	(1)	(3)
2037 Frozen foods	1	(2)	(3)	1	(2)	(3)	1	(2)	(3)
20371 Frozen packaged fish							1	(2)	(3)
20372 Frozen fruits and juices	1	(2)	(3)	1	(2)	(3)			

[1] $1,000,000 or more

[2] Less than $1,000,000.

[3] Withheld to avoid disclosure of figures reported by an individual company.

[4] Less than one-half of one percent.

Mr. Butz. Mr. Chairman, may I ask Mr. Frischknecht how many of these products he mentioned as nonfood products are livestock-related products such as hides, bones, and so forth?

Mr. Frischknecht. The information with respect to that is contained in the table.

Mr. Butz. But a substantial quantity would be related or livestock-derived products.

Mr. Frischknecht. Table—table 35 I am now referring to shows that——

Senator O'Mahoney. It has been said those products include almost everything except the squeal of the hog.

Mr. Frischknecht. Table 35 shows that the nonfood products in the category Mr. Butz asks about consist of some 4.9 percent of the total of all products sold. In addition, 58 classes of nonfood products, exclusive of the byproducts from the meat operations—the 4.9 percent of the total referred to—were shipped in interstate commerce and they comprise some 6.7 percent of the total shipments made by these 8 companies.

Senator O'Mahoney. Mr. McHugh?

Mr. McHugh. Dr. Butz, it has been reported to this committee that the Department of Agriculture has never exercised its rights under section 406-B of referring for study any matter to the Federal Trade Commission.

Mr. Butz. I am informed that is correct.

Mr. McHugh. Can you tell us whether or not there was any consideration given to referring this Safeway matter, which you described this morning, to the Federal Trade Commission under this authority?

Mr. Butz. Not that I am aware of.

Mr. McHugh. Can you tell us why the Department of Agriculture has never seen fit to refer any of these matters for study to the Federal Trade Commission?

Mr. Butz. Well, I think they involve primarily the buying and selling of livestock and the movement of meats. You mentioned the Safeway case this morning. That was, we felt, properly under the jurisdiction of the Packers and Stockyards Act and of the Department of Agriculture.

Mr. McHugh. But, nevertheless, the Department did not see fit, as I understand from your testimony, to proceed with making an investigation looking to possible violation of the Packers and Stockyards Act.

Mr. Butz. The Department is going forward with a very broad investigation of this. As I pointed out this morning, we decided to make it broader than the specific allegations which had been made. Over the noon hour I got a list of the topics of investigation which are currently going forward. We have six different areas of investigation.

Mr. McHugh. Investigation of what?

Mr. Butz. Let me read the topics, if I may.

It will give you some idea of the whole area and this grows out of the allegation that came with respect to the Safeway Stores because, as I said this morning, this is much broader than Safeway. It involves a whole philosophic concept of marketing and pricing and what a particular group of agencies in the market structure can or cannot do.

These are the six general headings under which studies are currently going forward.

Senator O'Mahoney. I call your attention to the fact that what you have just now said amounts to a declaration that it was the judgment of the Department of Agriculture that the charges, whatever they were, in the Safeway matter were postponed of all consideration while you entered into this broad study involving other areas and other matters.

Mr. Butz. And these specific charges are being investigated as a part of the broader study. I wouldn't say they are postponed. They are a part of that broader study.

Mr. McHugh. Do you distinguish between an investigation and a study?

Mr. Butz. It is very difficult to make that distinction. I can call that investigation, if you wish. The research people would call it a study, I presume. The words are interchangeable.

Mr. McHugh. The study that is now being conducted is a study of the overall problem including the Safeway matter. Is that correct?

Mr. Butz. Yes, sir.

Mr. McHugh. This is not an investigation of the particular Safeway practices looking toward possible filing of a complaint if the charges are sustained?

Mr. Butz. As I understand it, if, as a part of this investigation, we develop the evidence that indicates there are malpractices involved then, with very little, if any, additional investigation, charges can be filed.

Mr. McHugh. Was there a preliminary investigation conducted here by the Department of Agriculture in connection with the Safeway allegations?

Mr. Butz. Not to my knowledge; was there? Yes, there were some.

Mr. McHugh. Will you tell us about that, please?

Mr. Butz. Can you, Mr. Pettus?

Mr. Pettus. We received some letters and some reports that there were activities on the part of packers in certain southwestern areas which were in violation of the act. We sent one of our personnel out to investigate the situation to see what basis there was for the charges that we received. He made a report of his findings and that report was given consideration and is the basis on which this decision was made to have the broader study.

Mr. McHugh. Did he make a recommendation?

Mr. Pettus. Yes, he did.

Mr. McHugh. This was a report by whom?

Mr. Pettus. This was a report—our investigator who made the report was Mr. Donald Bowman. His report was transmitted by the then Director of the Livestock Division.

Mr. McHugh. That was reviewed by Mr. Bowman's immediate supervisor?

Mr. Pettus. Yes.

Mr. McHugh. That would be who?

Mr. Pettus. Mr. Lee Sinclair.

Mr. McHugh. Did Mr. Sinclair make any recommendations based on this?

Mr. Pettus. I don't recall at the moment whether he made recommendations or not, but I presume he concurred in the recommendation that went forward from the Director of the Livestock Division.

Mr. McHugh. Perhaps, since Mr. Sinclair is here, he can answer this question.

Mr. Sinclair. My recollection of that is what I wrote a covering memorandum with Mr. Bowman's report. I believe I directed it to Mr. Harry Reed, who was then Director of the Livestock Branch, in which I enclosed his report, referred to it generally and made a specific recommendation in my memorandum.

Mr. McHugh. What was that recommendation?

Mr. Sinclair. That the case, so far as it had been developed, a preliminary investigation indicated violations of the Packers and Stockyards Act and that the case be fully investigated and that we attempt to get sufficient funds to carry out that investigation.

Mr. McHugh. Is it your opinion that based upon this preliminary investigation, these charges, if sustained, would constitute a violation of the Packers and Stockyard Act?

Mr. Sinclair. We felt, in viewing what we had, that there was sufficient evidence to warrant a full-scale investigation; that the facts indicated a violation. Of course, it was a preliminary one, in which we did not seek to fully develop all facts, and determine whether we should go forward or not. We felt there were sufficient facts.

Mr. McHugh. You were overruled in this recommendation, then, in the Department?

Mr. Sinclair. Well, the case came back with a memorandum on it that, in effect, there was an overruling, yes.

Mr. McHugh. Was the matter considered again after it was returned to you with this notation for conducting a study?

Mr. Sinclair. Well, I brought it up again myself about January of this year with Mr. Reed, the Director of the Livestock Branch, and I told him I still wondered about the wording of the memorandum, because it was not very lengthy, and I did not feel very clear on it, and I would like to have it discussed to make sure that it still meant that we should not investigate this case.

Mr. Reed told me later that he had taken it up again and that the memorandum did mean what he told me it meant, that is, that we should not investigate it.

Mr. McHugh. Did Mr. Reed say with whom he took that up?

Mr. SINCLAIR. Well, he said, "across the street," that was all that I recalled. That meant with his superiors.

Mr. MCHUGH. What did that mean to you? With whom?

Mr. SINCLAIR. Well, I understood it to mean his superiors, who would be Mr. Lennartson, Mr. Wells, and Mr. Butz.

Mr. MCHUGH. After that, did you concur in the decision that was made not to go forward with this investigation, but to conduct this research study?

Mr. SINCLAIR. Well, we weren't asked about that. We were told that we should not investigate it.

Mr. MCHUGH. Did your opinion on the manner in which this should be conducted change any?

Mr. SINCLAIR. My opinion?

Mr. MCHUGH. Did your opinion as to the best manner of handling this problem change any?

Mr. SINCLAIR. No.

Mr. BUTZ. Mr. Chairman, may I point out at this point that this was discussed in my office with Mr. Wells and Mr. Lennartson, and we decided there to broaden the scope of this investigation.

Senator O'MAHONEY. That has already been testified to, I think. It is clear from what has been said.

Mr. BUTZ. And I would accept full responsibility for that and would do the same thing again.

Senator O'MAHONEY. Evidently, Mr. Bowman and Mr. Sinclair agreed in the recommendation that there should be an immediate further investigation of a particular case, and the decision of the secretariat was that it should be merged in a broader study.

Mr. BUTZ. Yes, sir.

Senator O'MAHONEY. Do we have those papers?

Mr. MCHUGH. We have seen some, Senator.

Senator O'MAHONEY. Have you everything that the staff needs?

Mr. MCHUGH. Yes, I think that we have everything the staff needs, and the Department has been very cooperative in providing us with all the information that we need.

Mr. Butz, can you tell us what action the Department is presently taking in connection with the Armour & Co., complaint involving unfair advertising in connection with margarine sales?

Mr. BUCY. That is presently in the solicitor's office, the General Counsel's office, and we are considering at this time whether or not there are sufficient facts to institute a formal proceeding. There have been, as I understand it, substantial changes and discontinuance of some of the aspects of the advertising that were in question in the original Federal Trade Commission case, and presently the advertising differs substantially from that advertising.

We are presently getting the information as to the latest advertising, the current advertising, with a view to a possible issuance of complaint if it is determined that it warrants a complaint on the basis that it constitutes a violation of the Packers and Stockyards Act.

Mr. MCHUGH. In determining whether or not deceptive advertising in the sale of oleo violates the Packers and Stockyards Act, do you use exactly the same standard that the Federal Trade Commission does under section 5 of the Federal Trade Commission Act?

Mr. BUCY. Our standard might be broader than that and include theirs plus a broader field. Because we will be dealing with the broad aspect of unfair practice, misrepresentation. That oleo provision, as I recall it, deals with representing or suggesting that the oleo is a dairy product.

Now, there might be representations that did not deal with whether it was a dairy product or not, but if they were false representations we would feel that we would still proceed. But certainly we would proceed on any product which was not a dairy product that represented or suggested that it was a dairy product.

Mr. MCHUGH. In other words, in bringing actions of this nature under the Packers and Stockyards Act, you do have a different set of criteria than those used by the Federal Trade Commission?

Mr. BUCY. I would say we have theirs plus a broader one in this instance.

Mr. MCHUGH. In which case it is a different setup?

Mr. BUCY. It is different in that it covers broader territory.

Mr. MCHUGH. Which means that people in the business of manufacturing and selling oleo, depending upon whether or not they are packers, may be subjected to different types of cases in connection with their advertising of oleo?

Mr. BUCY. No. As long as they are a packer, they are only subject to the Department of Agriculture at the present time.

Mr. MCHUGH. I say, depending upon whether or not they are packers, which will determine whether or not the Department of Agriculture or the Federal Trade Commission brings the suit.

Since you concede that there are different standards employed by the two agencies, I am suggesting that the result of this is that for deceptive acts in the sale of oleo you may have wholly different standards now being used by enforcement agencies.

Mr. BUCY. That is correct. They would both be subject to the oleo provision, but they might be subject to additional different standards on the broad concept of what constitutes misrepresentation.

Senator O'MAHONEY. Any other questions? Mr. Bolton-Smith, representing Senator Wiley, have you any questions?

Mr. BOLTON-SMITH. May it please the chairman, I have two.

Mr. Secretary, is the amendment which the Department of Agriculture is proposing in S. 1356 the same as the proposed amendment which Senator Dirksen filed on May 20, which has been printed, with two exceptions?

I hand you a copy of that proposed amendment.

The two exceptions, it appears to me, might be on the top of page 3 of Secretary Morse's letter, where you propose striking out the word "packer" wherever it appears in sections 203, 204, or 205, and inserting in lieu thereof the word "person."

Mr. BUTZ. Yes; that is the first difference.

The second difference, of course, is that we propose still an additional section to what Senator Dirksen had, which would place nonpacker activities under the Packers and Stockyards Act as well as under the Federal Trade Commission.

It would give the Secretary discretion to transfer nonpacker activities to the Federal Trade Commission.

Mr. BOLTON-SMITH. But the Federal Trade Commission would have authority to proceed under the Packers and Stockyards Act as well as under acts administered by the Federal Trade Commission?

Mr. BUTZ. You are correct; yes.

Mr. BOLTON-SMITH. That would mean, then, I assume, that someone who was a packer would, with respect to his nonpacking activities, be subject to an additional statute to the one that any other nonpacker would be subject to?

Mr. BUTZ. That is correct.

Mr. BOLTON-SMITH. So this will create some additional burden on the packer as compared with the nonpacker?

Mr. BUTZ. I think that is right. He would be subject to the provisions of two acts in that case. But I should point out that the acts are very similar, however.

Mr. BOLTON-SMITH. If there is no objection, Mr. Chairman, I would appreciate it if the Secretary would read into the record the six points of the study that he is having conducted that grew out of the complaints about Safeway. Those are not confidential, are they?

Mr. BUTZ. Indeed not.

I will be glad to.

The first general area is economic analysis of the whole meat distribution in the San Francisco Bay area. That is nearing completion.

The second, economic effects of the distribution of beef by United States grades. We had gotten a good deal of complaint about pricing by grades.

Third, Los Angeles chainstore beef procurement and wholesale pricing study.

Fourth, special problems in marketing slaughter cattle in the West.

Fifth, economic analysis of the changing locations of the livestock slaughter and processing.

Six, price behavior and price relationships among country and terminal markets for hogs.

Mr. BOLTON-SMITH. That is all, Mr. Chairman.

Senator O'MAHONEY. Mr. Collins, do you have any questions?

Mr. COLLINS. No questions.

Senator O'MAHONEY. Mr. Frischknecht, have you any questions to ask? I know the Senator is detained on the floor. He may want you to ask some questions.

Mr. FRISCHKNECHT. In page 2, Mr. Butz, of your statement, the last sentence reads as follows:

"The act vested in the Secretary of Agriculture, among other things, the authority to issue cease-and-desist orders after hearings with respect to packers who engage in practices heretofore prohibited under such legislation."

And over on page 4, the first full paragraph at the top of that page implies that the act gives the Secretary sufficient authority, including cease-and-desist orders, to maintain open and competitive markets.

Some time ago Senator Watkins requested from the Department some information with respect to cease-and-desist orders, and so forth, that is, as to how many of them nad been brought under title II of the P and S Act. Do you have any idea how many have been issued since 1921?

I was just speaking with Mr. Sinclair to see if he did not have a copy of that letter.

Mr. BUTZ. Mr. Bucy has that.

Mr. BUCY. What was you question addressed to? The number of proceedings or the number of cease-and-desist orders?

Mr. FRISCHKNECHT. I suppose what you are going to need first is your reply to Congressman Celler's request for information relative to cease-and-desist orders.

Mr. BUCY. I am familiar with that. But I have statistics written down here without reference to that if you are interested.

Mr. FRISCHKNECHT. Fine.

Now, how many cease-and-desist orders under title II since 1921?

Mr. BUCY. Under title II, there are 11.

Mr. FRISCHKNECHT. There are 11. I have here copy from a letter, which I think has already been placed in the record, from Congressman Celler to Senator O'Mahoney.

Senator O'MAHONEY. That is in the record.

Mr. FRISCHKNECHT. It suggests there have been some 32 cease-and-desist orders under title II.

Mr. BUCY. I beg your pardon. That 11 related to merchandising transactions. There have been 21 additional relating to livestock transactions, a failure to pay for livestock, giving checks that bounced, and that sort of thing.

There are 32 altogether.

Mr. FRISCHKNECHT. There are 32 altogether, are there not?

Mr. BUCY. That is correct.

Mr. FRISCHKNECHT. Now, have any of these related to country buying?

Mr. Bucy. Yes.

Mr. Frischknecht. Some have related to country buying. Now, how many of these 32 cease-and-desist orders have been for refusal to pay for livestock, for example?

Mr. Bucy. Well, in the field, if you lump it, the field other than merchandise—and I assume you are interested in whether it is failure to pay or misrepresentation on livestock—there are 22.

Mr. Frischknecht. Well, perhaps you have more recent information than contained in this letter, but this one suggested some 19. So that nearly two-thirds of these cease-and-desist orders title II are for failure or refusal to pay for livestock.

Mr. Bucy. That is correct.

Mr. Frischknecht. Yes. Now, this morning, in his testimony, Mr. Butz suggested that one of the problems associated with S. 1356 is the fact that it would make for divided jurisdiction with respect to regulation of buying activities, to include country buying.

Mr. Bucy. Right.

Mr. Frischknecht. Now, if S. 1356 is enacted, for example, after an amendment perhaps to title III which would remove the restrictions limiting the regulation of buying and selling at stockyards, by broadening that scope of jurisdiction to include country buying, the Department would have all the authority that it might need, would it not, with respect to regulating the buying and selling of livestock?

Mr. Bucy. What you are saying is that if the act is amended so that Agriculture exercises full authority over all livestock buying, would that be enough? The answer is "Yes"—with respect to livestock.

Mr. Frischknecht. With respect to livestock.

Now, I am referring here to section 201 of title VII of the United States Code, which deals with some definitions of terms such as dealers, and market agents; and to section 213(a) which is entitled "Prevention of Unfair Discriminatory or Deceptive Practices."

I will pass this over, so that you can take a look at it.

The question that Senator Watkins wanted me to ask you today is this. Suppose we were to remove that phrase "at a stockyard," which appears in section 201(c). This now reads as follows:

"The term 'market agency' means any person engaged in the business of (1) buying or selling in commerce livestock at a stockyard, on a commission basis, or (2) furnishing stockyard services."

If that phrase "at a stockyard" were removed, you would have about the same authority as you now have under title II.

Mr. Bucy. No. If you removed that phrase, we would have to register people who engaged in buying all over the United States. We would have to get down into a registering basis with respect to buying for feed-lot purposes, for that type of activity.

Mr. Frischknecht. The Senator's concern here is that we perhaps could broaden this definition to include more than "at a stockyard."

We could broaden the definition to include more than the restriction here "to a stockyard" so as to include country buying.

Mr. Bucy. In other words, title III can be amended so as to give us jurisdiction over all livestock transactions.

Mr. Frischknecht. Right.

Mr. Bucy. But I don't think that is the place to do it.

Mr. Frischknecht. We can do that with respect to the term, here, identifying or defining a market agency, and a dealer; as well as in section 213 (a), which is the substantive provision here. We could also amend that, could we not, to take care of the objection the Department has to S. 1356?

Mr. Bucy. Oh, yes. That could be amended so as to broaden our jurisdiction to apply to all livestock transactions. It is just another way of accomplishing the same thing that we take care of in our amendment by providing that we should have jurisdiction over any person with respect to buying livestock for slaughter.

Mr. Frischknecht. Now, if we were to do that, we could take care of that major objection, couldn't we? It is not an insurmountable problem; is it?

Mr. Bucy. That particular objective, as to giving jurisdiction to the Department, could be obtained by 2 or 3 different kinds of amendment.

Mr. Frischknecht. The reason the Senator was interested in this particular question was because so many of these cease-and-desist orders are for refusal to pay for livestock, some 19, and there are some 5 more here, according to this letter I have referred to, that relate to fraud involving weight and grading, some 5 of these, you see, and we wondered why they were brought under title II rather than title III.

You explained that this morning.

Mr. Bucy. It was because they were packers. And then some of the other activities that have still cease-and-desist orders out, as to packers with respect to apportioning territory, price control, exchanging price information, and that sort of thing. So that they are under C and D orders with respect to some of those activities.

Mr. Frischknecht. Yes, but with some type of amendment of the language now in title III, you could still bring those in areas other than at a posted stockyard under title III, could you not?

Mr. Bucy. Oh, yes; you could transfer that from II to III.

Senator O'Mahoney. Thank you very much, Mr. Secretary, you and all your staff. Again I say you are frank and clear in your responses and very cooperative. We are very much obliged to you.

Who is the next witness?

Mr. McHugh. The next witness, Senator, is Mr. Fred Olander.

Senator O'Mahoney. Thank you very much for your patience, Mr. Olander. We protracted this hearing longer than I anticipated when you arrived this morning. But we are ready to have you proceed now.

Statement of Fred Olander, Chairman, River Markets Livestock Group, Kansas City, Mo.

Mr. Olander. It was very interesting.

Mr. Chairman, and gentlemen of the committee, my name is Fred Olander. I am just an old cowpoke from the stockyards at Kansas City.

I have a statement here which I have placed in the hands of the committee, and I do not intend to take the time of the committee to read it, except portions of it.

Senator O'Mahoney. May I say, then, that the whole statement will be made a part of the record as though delivered, and you may summarize it as you desire.

Mr. Olander. Very well, sir.

My name is Fred Olander. I am an owner of the National Livestock Co., a livestock market agency engaged in business at the Kansas City Livestock Market. My service as an agent and representative of the grower and feeder in the sale and purchase of livestock covers a period of 40 years. I have served as president of the National Livestock Exchange and the Kansas City Livestock Exchange. I am at the present time chairman of the River Markets Livestock Group. This group comprises the associations of buyers and sellers of livestock known as livestock exchanges located at Omaha, Nebr.; Sioux City, Iowa; Sioux Falls, S. Dak.; St. Joseph, St. Louis, and Kansas City, Mo.; and Denver, Colo. The market agency members of this group, commonly referred to as commission firms, represent in the course of a year's business in the sale and purchase of livestock many hundreds of thousands of livestock growers and feeders. During 1956 the 7 markets handled 37 percent of all cattle, calves, hogs, and sheep marketed at the 63 posted public central livestock markets of the United States.

At the group's most recent meeting held in St. Joseph, Mo., April 12 and 13 of this year, all member livestock exchanges were represented. A motion was presented and I quote the action taken from the minutes:

"It was moved, seconded and unanimously carried that the group go on record as supporting S. 1356 which would confer upon the Federal Trade Commission jurisdiction of those engaged in commerce in meat and meat products for the purpose of preventing unlawful restraints in commerce or monopolistic acts or practices."

The action taken which I have presented to the members of this committee speaks for itself and represents the considered judgment of men who have long been engaged as market agents in the representation of livestock producers at major public stockyards of the Middle West. Their decision to support this bill to restore to the Federal Trade Commission jurisdiction in connection with unfair trade practices and monopolistic acts of meatpackers was not hurriedly reached. It expresses the best judgment of these men.

The market agencies with which they are connected are subject to regulation by the Secretary of Agriculture as to rates, charges, and unfair practices under the provisions of the Packers and Stockyards Act of 1921. As agents representing livestock producers in the sale and purchase of livestock on public central markets they are a part of agriculture and are properly subject to the jurisdiction of the Secretary of Agriculture as provided in that act. * * *

"PROJECT POLE" EMPHASIZES POSITIVE SIDE OF POLISH CULTURE

Mr. SCHWEIKER. Mr. President, a good friend of mine from Pennsylvania, Ed Piszek, has begun an interesting public relations project—"Project Pole." He has launched a national advertising campaign to emphasize to all Americans the positive contributions that the Polish people have made to our country, and to the world.

As the Senate sponsor of S. 23, the Ethnic Heritage Studies Centers Act of 1971, I am encouraged by this further step to inform all Americans about the backgrounds, heritages, and cultures of the various ethnic groups that make up our country. I believe that this kind of educational effort can help break down misunderstandings and prejudices that unfortunately result in so much divisiveness in society.

I was privileged to meet with Ed Piszek and review his advertising campaign, "Project Pole," and I think all Senators may be interested in his efforts. Recently, he appeared on NBC Television's Today show, to discuss "Project Pole." I ask unanimous consent that the transcript of that discussion be printed at the conclusion of these remarks. In addition, I ask unanimous consent that an article about "Project Pole," published in the Wall Street Journal, be printed in the Record.

There being no objection, the items were ordered to be printed in the Record, as follows:

PROJECT POLE

For: NBC "Today"
Program: Today
Date: November 10, 1971, 7:00 a.m.
Station: WNBC–TV and NBC Television Network
City: New York, N.Y.

FRANK McGEE. For some time now, we've had a rash of Polish jokes. Polish Americans, many of them, are simply not amused, a reaction that other ethnic groups in this country have had when they were made the butt of similar gibes. Polish-Americans also have never appreciated the term 'dumb Polack,' no matter how friendly the tone of voice in which it's said. Smiling is not enough.

In fact, Mr. Edward Piszek, a successful businessman of Philadelphia—and he is of Polish descent—believes that Poles in this country generally have not enjoyed their proper status, and so, he's given a half-million dollars toward a public relations campaign called "Project Pole." The idea is to let America know the contributions that Poles have made, not only to this country but the world, and the Director of Project Pole is Father Walter Ziemba—Ziemba, did I get it correct?

Father WALTER ZIEMBA (laughing). More or less.

McGEE. He is a Polish-American, also, and he is the president of Orchard Lake School, a private college and seminary in Michigan. Welcome, gentlemen. And let me ask, first a question that I posed just before we had our little break: do you oppose all jokes involving Poles, or just the ones that we've been hearing that make the Poles out to be dumb and stupid and sloppy?

EDWARD PISZEK. No, we're not against all jokes, because Poles love humour, and I think we like—at least I can speak for myself—I like a joke, a Polish joke, that I can laugh along with the joke-teller. But when the joke is told at our expense, we don't seem to like it. At least, I don't like it.

McGEE. Um-hmm. It seems to many of us that there was a wave of Italian jokes first. I guess this would depend on the part of the country in which you're living. At any rate, here in the Northeast, it seemed to be that we had a great wave of Italian jokes and then, suddenly, the same kind of joke was being told but the cast had been changed.

Now, it was Poles. And what I'm asking is, have you launched this campaign as a result of the Italo-Americans' efforts to have an anti-defamation league? Are you following in step behind them?

PISZEK. Well, I think ours—we're trying to do it in a positive way. We're trying to show that, over the millennium, the Poles have done more than their share, but for one reason or another, they didn't learn to communicate, maybe to put all the time, money, and energy that it takes to communicate in mass media to the society in which they live and, as a matter of fact, to the entire world.

McGEE. What is the one thing you find that you can tell a person who's not acquainted with the contribution that Poles have made? What is the one thing you tell them that they find most surprising?

ZIEMBA. I think recently the most surprising thing came from the reaction to the first advertisement that we put in which told the public that Copernicus was of Polish background—Nikolai Coperkny (?)—and they'll say . . .

McGEE. That was his name?

ZIEMBA. Yes. Nikolai Coperkny was his original, full Polish . . .

McGEE. Nikolai meaning . . .

ZIEMBA. Nikolai, Nicholas.

McGEE. Nicholas, huh?

ZIEMBA. And Coperkny, Copernicus. The people will say, "I knew Chopin was Polish; I knew Madame Curie was Polish, but I didn't know that Copernicus was Polish." Or the second advertisement called attention to the fact that Joseph Conrad was Yusef Korzeniowsky, and they find these things rather surprising, which means that the ethnic joke, which is kind of a part of the American phenomenon, can be a way of introducing people to more substantial and more profound and more serious hits of information which, as Americans, they're richer for knowing:

McGEE. Well, I'll confess I'm your typical example. I knew about Chopin, I knew—I think I knew about Madame Curie; I'm not sure about that. I did not know about Copernicus. That came as—I would have thought he was Italian.

ZIEMBA. Project Pole is a success.

(Laughter.)

PISZEK. Mr. McGee, would you believe that I was 52 years old before I, as a Pole, knew that Copernicus was Polish? This is part of the real problem. The real problem is to get this information to the Polish-Americans. They themselves are not knowledgeable about these facts.

ZIEMBA. Americans don't know that in 1608 there were seven Polinians or Poles in the Jamestown Colony, and one of our experiences at the Center for Polish Studies and Culture at Orchard Lake brought a letter from a ten-year-old who claimed this in class, and the teacher said, "Good heavens! What are you talking about? There were no Poles in America in 1608." So he wrote back, almost tears on the paper, saying, "Would you please send me the substantiation for the fact that there were, because my Dad told me." And so we sent him the whole history of the Jamestown Colony.

McGEE. Well, there is a thing going on in the country where people of various national backgrounds or racial backgrounds or religious backgrounds are insisting that they be—what shall I say? Be given proper recognition, be treated with proper respect, and that people be made aware of their contribution to the overall American culture. Can this be done, do you think, without fragmenting the American society?

PISZEK. I would say very much so. The central reason for what we're trying to do is to really motivate and inspire the Pole with more information about himself, so he can make his total contribution to America. If this wasn't a program to strengthen America, all peoples in America, I, for one, would be no part of it. It is not just for the Poles; it is for all the total society, so that we can make our full contribution.

ZIEMBA. Project Pole is about three weeks old, now, and the flood of mail from non-Polish-background Americans is most surprising: people who're identifying with their own ethnic background saying, "This is wonderful." One letter from a black in Oregon for two pages went on applauding what we were doing, with some advice as to how to do it better.

[Laughter.]

McGEE. What was his advice?

ZIEMBA. Well, he said how the blacks went about doing it: getting the positives in front of the people, and telling your own people about their own background if they don't know about it, so that they can have the kind of personal security about themselves, ego enhancement, ego image-building. A secure person is a happy person, and a happy person is a productive person. Project Pole would like to make all ethnics productive people in America.

McGEE. In what sequence did the greatest wave of Polish immigration occur in this country?

ZIEMBA. There were two: about 1870 was the first great immigration; ended about 1920. And then, the post-Second World War there was a great number of immigrants coming, just under two million. Two completely different kinds of immigrations: the first, a peasant immigration, a kind of horizontal cut of the lowest class in terms of economic security; the post-World War II immigration was a very, very educated group, the displaced person, the engineer, the lawyer, the doctor, the scientist.

McGEE. Were there a lot of Jews among this latest wave of Polish immigrants?

ZIEMBA. Numerically and relatively, perhaps not so many, because so many were killed in Poland before they even had a chance to get out.

McGEE. That raises an interesting question. Is Project Pole for the benefit of all Poles, Christians and Jews, or is it Christian Poles?

PISZEK. Well, it would be for all Poles, for all peoples. As I said before, we sincerely hope that this is a strengthening of America, that we kind of are part of that mosaic where the differences will bring out the beauty and strength in our country, and not any fractionalization, but rather a knitting together of something that was stronger than it ever was before.

ZIEMBA. Part of Project Pole was born in a gesture from an American of Polish-Jewish background, Mr. Leo Stang (?) of Detroit, who gave the Orchard Lake Center $10,000 to publicize itself, because he said that 'nobody knows anything about you. Here's ten thousand dollars, and get yourself an ad in Life Magazine—which we did. And Mr. Piszek picked up the mass-media line of it, and continued to evolve the whole concept of Project Pole.

McGEE. Okay. Who was this Polish king who knew that men could differ, yet live together productively, and did something about it?

ZIEMBA. Boleslas the Fourth, and he said that every man has the right to be a person unto himself, and he gave equal rights to Christians and non-Christians, the non-Christians in Poland being those of Jewish background, so that the Jew and the Pole were equal in the eyes of the Polish government in the 14th century.

McGEE. Would it be fair to say that what you're really doing is not saying, "Don't tell jokes about Poles," but "Don't tell just one kind of joke about a Pole, and let us tell jokes and then join you in the laughter. Don't do it at our expense; let us be a part of it, and, at the same time, bear in mind that that's not a complete picture of the Polish people. There's a little more to it than that."?

PISZEK. I would say that's a good summation, there.

Mr. McGEE. Well, I don't see how anybody could fault you for trying to do that.

ZIEMBA. We're trying to be unique in our own—unique, and to express and to do something in our own way. For instance, we learned from—when the black men said, "Black is beautiful"—personally, when I heard that the first time, it didn't sound—it sounded—but the more I thought about it . . .

McGEE. There's a man going this way, and it means I've got to go away. Time for a station break.

[From the Wall Street Journal, Oct. 12, 1971]

POLISH-AMERICANS HIT ETHNIC SLURS, PRAISE THEIR CULTURE IN ADS—WAS COPERNICUS TRYING TO TELL US SOMETHING? YES, AND IT'S FAR FROM A JOKING MATTER

(By Greg Conderacci)

ORCHARD LAKE, MICH.—Have you heard the story about the Polish millionaire who spent $500,000 to help stamp out Polish jokes?

It's no joke.

It's "Project Pole," an effort to place a half-million dollars worth of pro-Polish advertising in newspapers across the country.

"Polish jokes should set up in a man a determination to prove they're not true," says Edward J. Piszek, president of Mrs. Paul's Kitchens, Inc. of Philadelphia and the man bankrolling the campaign. "In a positive way, it's an answer to the jokes—instructively

You eliminate the opportunity to originate the joke by proving it's not true."

So today a pilot campaign, in the form of a half-page advertisement, will appear in Detroit newspapers with the headline: "The Polish astronomer Copernicus said in 1530 that the earth revolved around the sun. What was he trying to tell us?" The answer, Mr. Piszek says, is that Polish-Americans are every bit as good as any other Americans.

SECOND-CLASS CITIZENS?

Mr. Piszek's problem is not only that he has to convince the other Americans. He has to convince the Polish-Americans, too. Henry J. Dende, editor and publisher of the Polish-American Journal, a national newspaper based in Scranton, Pa., says Polish-Americans face such a publicity crisis that Project Pole is "a necessity."

"You have to go through a daily newspaper with a magnifying glass to find anything with a Polish theme," he says, and because Polish-Americans don't read much about themselves "they relegate themselves to second-class citizens." He contrasts meager media coverage of Pulaski Day to coverage of Columbus Day and St. Patrick's Day. "We can't even get a big story in the paper when 250,000 Poles march in New York," he asserts.

To make matters worse, most Polish references in the media are bad, he says. "I watched a television program the other night in which the phrase 'dumb Polack' was used seven times. I counted them. I don't mind an ethnic joke now and again, but why do they have to beat us over the head with it?"

Poles who emigrated to the United States weren't representative of all Poles in Poland, says Project Pole's director, Father Walter J. Ziemba. "The Polish peasant immigrant—poor, deprived, ambitious, independent, courageous—came from a dismembered nation with no political identity and without opportunity for education. All he knew were his prayers and his songs. When he came to this country he couldn't tell people about Poland's 1,000-year history. So now Project Pole must tell him these things," he says.

The Copernicus ad is only the first of a series designed to educate Polish and other Americans in Polish history. Famous Poles—Joseph Conrad, Marie Curie, Chopin—are featured. One ad proclaims: "Before there was a United States there was a Poland."

Project Pole is the first campaign of its kind, Father Ziemba says, adding that the campaign will be a sustained effort for "at least a year." In Detroit, at least 12 to 16 ads will run in daily papers. Washington, D.C.; Hartford, Conn.; Philadelphia, Buffalo, and Chicago, also will be targets of Project Pole, he says, and about 29 Polish newspapers across the country will begin carrying Project Pole ads this week.

ART AND IMAGINATION

Father Ziemba, the friendly, bespectacled president of Orchard Lake School here, a tiny private Catholic college and seminary he likes to call "the Polish Notre Dame," says he hopes people will read the Copernicus ad and say, "Hmmm, I didn't know Copernicus was Polish." He says he also hopes people will clip the ad's coupon and send for a) "Poland," a "magnificent art book" ($6), or b) "The Imagination of Poland," a "48-page colorful booklet" that details Polish achievements (50 cents), or c) a poster that "shows at a glance the great men and women of Poland" ($1).

The money goes to Mrs. Paul's, a frozen-food processor owned by Mr. Piszek's family, to defray some of the cost of the campaign. Mr. Piszek says he expects to get about $200,000 of his money back—"unless it turns out to be a total turkey."

Most Polish leaders are enthusiastic about Project Pole. "I think the Polish-American community will welcome it," says Aloysius A. Mazewski of Chicago, president of the Polish-American Congress.

But not everybody is sold on Project Pole. One prominent Polish-American, who asks not to be identified, says the project probably will fail "because you can't sell culture the way you sell fish. Project Pole is just an attempt on the part of the Polish community to get something into the media that's favorable. The Negro has stopped the harassment of the media, but Rowan and Martin are still free to malign the Poles on television. I fervently hope Project Pole works, but I'm not very confident of its success."

ADDRESS BY SENATOR MUSKIE

Mr. PELL. Mr. President, the Senator from Maine (Mr. MUSKIE) addressed the Oregon State School Boards Association in Portland on November 9. He discussed the fiscal crisis that is facing our Nation's schools and especially the high property taxes which limit the resources devoted to education. The Senator from Maine eloquently called for increased Federal initiatives and full funding of present authorizations in order to relieve pressure on property taxes and to remove the present constraints on school budgets.

The junior Senator from Maine has an intense interest in securing better education for our Nation's youngsters and for increasing the whole quality of our educational system. He is a man whose personal familiarity with these problems as a Senator, Governor, and last but not least, as a father, all help qualify him to speak on the subject.

He is also a man who, I believe and hope, may be the next President of the United States. For all these reasons, I believe his statement would be particularly interesting to the Senate. I ask unanimous consent that his remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS BY SENATOR EDMUND S. MUSKIE

When a politician speaks in 1971, sensible school board officials automatically raise their guard.

For a generation, you have listened to the pledges of candidates on the campaign trail. You have heard phrases of easy assurance—that electing this new Governor or that new President is somehow the answer to the problems of public education. But in recent years, you have seen the problems become a crisis—and crisis become a code word for more excuses, more delay, and more inaction. Just weeks ago, a distinguished educational writer concluded: "High rhetoric and low budgets have failed American education in the past. Can we live with an encore?"

We know the answer: A society cannot live without schools—and our schools cannot continue to live with society's half-hearted support. And each of you has learned that in some very painful ways.

Only ten of your State's three hundred and thirty-eight school districts are strong enough to finance public education without yearly tax increases.

The difference between per pupil expenditures in your highest and lowest spending districts is over a thousand dollars a year.

You face a 6 percent limit on annual budget increases for public education—and that limit can be lifted temporarily only by voter approval. But the voters are saying "No" . . . even to budgets that are already austere.

And here in Portland, the school board has been forced to reduce the school year by sixteen days. At the same time, the school lunch program is $150,000 short—and Portland will end up short of teachers in 1972.

Now multiply Oregon's crisis across the country. You will find the same pattern everywhere: taxes that are too high for people and too low for schools—budgets that are down while prices are up—teachers without jobs and school boards whose best hope is bare survival. No wonder a national newsmagazine reports that, in the worst places. Public education is literally on the verge of collapse.

A decade and more ago, we asked why Johnny couldn't read. At the present rate, the answer will soon be simple: the schools can't afford to buy enough books.

And who is at fault? At the State and local level, everyone and no one. Everyone has failed public education. But no one has enough resources to provide enough help for our schools.

In most cities, public institutions are rapidly turning into caretaker Governments, merely trying to hold the line against urban decline. Who, for example, could find more money for education in Philadelphia's budget—which was balanced by across the board cuts in police patrols, prison security, and food allowances for needy children? And how can Milwaukee stay even on schools when 24,000 taxpayers have fled the city in the last ten years?

So for a while, school financing depended on higher taxes . . . higher taxes on those who were left behind in the cities—and higher taxes on those who found out that education was expensive in the suburbs and the countryside, too. But not in 1971. In 1971, property tax increases and bond issues are losing more elections than Harold Stassen ever did. It's easy to blame the voters. But it's hard to persuade them to pay more when their real earnings are actually less than in 1965. The schools are in trouble—but so is the average income American. And property taxes are not the solution.

They are not a solution in Oregon—where people will not settle for a reduced standard of life just to stay in their own neighborhoods.

And they are not a solution in cities like Newark—where a $900 a year tax on $10,000 worth of property has driven people out of their homes and that city.

The property tax is the wrong tax . . . wrong for people and wrong for education. We cannot pay for progress in our schools with a regressive tax. Americans will not support it. And they will vote almost anyone out of office who does.

And so we look to the states to save our schools. In New York, the six largest cities have demanded a phased state takeover of education costs. Here in Oregon, some officials are asking the state to guarantee a minimum academic budget—while others want Salem to provide financial support to equalize the disparities in local property tax revenue.

Few states have done as much as they should—here or anywhere else in America. In Oregon, the State's share of the cost for elementary and secondary education has fallen from 27% in 1970 to 23% in 1971. And local taxes have hit workers and homeowners harder and harder in the last twelve months.

So it is important for the state to do better—after all, what is at stake is the future of Oregon's children. But state assistance alone is not the best answer. In 1971, the fiscal crisis which started in cities and school districts has spread to statehouses throughout America. The states can do more than they have—but that will add up to less than what must be done.

Indeed, the real fault now is not in state capitals or local school districts, but in three long years of federal failure.

There is something wrong with an administration that vetoes appropriations for education—while it prolongs a war no general can win and no reason can make right.

There is something wrong with an administration that puts the anti-ballistic missile ahead of promised appropriations to teach our sons and daughters how to read.

There is something wrong with an administration that now asks for more defense spending—and asks each year for less Federal aid to education.

And there is something wrong when the Federal Government collects 90% of the Nation's income tax revenues—and only pays 7% of the Nation's bill for public education.

Our schools are in trouble. And the administration in effect says that whatever the States and localities cannot do for their citizens, simply will not be done.

I believe our children and our schools deserve more than that. I believe three immediate steps are essential.

First, the Federal Government must share Federal revenues with States and localities.

I am not talking about special revenue sharing for education—which may leave you with even less than you had before. What we need now—what we have needed for over a year—is general revenue sharing. The program must allow very broad discretion in allocating aid—which is the only way local officials like you can meet the mounting costs of education. And a program of revenue sharing must also put our money where our problems are—which cannot be done by an administration formula that leaves a gold coast resort like Miami Beach with twice as much aid per capita as its hard-pressed neighbor, the city of Miami.

The second essential step is welfare reform. In 1971, state and local welfare costs are draining resources from our schools. The U.S. Commissioner of Education recently reported that some central cities find themselves with only a third of their budgets left for public education after they pay the bill for programs like public assistance. A phased federal takeover of welfare would free billions of dollars at the state and local level—and that could mean better schools for millions of children.

Finally, the administration must request full funding for federal education programs. School library appropriations were $50 million in 1968—and they should not be where they are in 1971—down to nothing. Guidance funds were $17 million three years ago—and they should not be down to nothing this year. The congress was willing to spend far more. The president was not. And the congress is still willing—if only the president will respond.

Obviously, these immediate steps are only interim measures. They will permit public education to survive, but not to advance. Yet progress in our schools is now vital. The educational community is filled with the ferment and the ideas of reform. And ultimately reform depends upon the vast new commitment of federal resources.

But we cannot treat education in isolation from the other shortcomings of our society.

Before we can truly move ahead in education—before we can move beyond mere survival—we must ask and answer overriding questions about the future and the fate of America.

Of course legislation like revenue sharing can stave off disaster—and that is why revenue sharing is so important. But the programs we are pushing now will only postpone the crisis to another day. Five years after they have passed, I can see you meeting again to worry about the crisis in public education.

That will happen—unless we muster all the wealth and all the ideas at our command to make America as good and great as it can be.

We have the wealth and we can find the ideas. What we seem to lack is the will.

We know that we must shift our attention from the task of death abroad to the tasks of life at home. But recently the administration asked for a $4.5 billion increase in the defense budget. And so what we have to show for our efforts is not results, but worn out phrases like new priorities.

And we know that we must reform our tax laws—to put the burdens of our society where they belong—on those who are able to pay the bill. Yet some millionaires still pay less than their secretaries. Great fortunes still pass through tax loopholes virtually intact. And giant corporations still spend millions lobbying for tax preferences—and still save billions from them.

The real victims of all this are your schools and our children—the cities of America and the health of Americans. The blunt truth is that we can achieve very little in our national life until we have changed far more in our nation's laws. Not the laws which give us programs—too often, the only thing in a new program is a new name. But the laws which determine how we raise our revenues and whether we use them for war or peace.

What it all adds up to is a need for leadership—from the local level to the nation's capital. And I am convinced that most Americans are now ready to be led again as they have been led before. They are ready to believe again that government truly can improve the way people live.

The crisis we have seen in our schools is only a symptom of a wider crisis. You can see it in the broken buildings and boarded up windows of an abandoned slum—as well as in the town which has a new savings and loan association but a sixty year old school. And you can see it in the Americans who go without medical care—as well as in the students who go without books or lunches at school.

We can change that.

We can take the first steps to insure survival.

And we can move beyond survival—to a time when American schools and American life finally will equal America's hopes and boasts.

In the end, it will all depend on citizens like you.

You can make your voices heard and your views count in hundreds of local communities.

You can reach more people and speak more persuasively than any politican.

And you can help to save not only our schools, but our society.

I hope you are ready to try.

NOMINATION OF EARL BUTZ TO BE SECRETARY OF AGRICULTURE

Mr. HUGHES. Mr. President, even Mr. Butz' friends are apparently not too enthusiastic about his selection for Secretary of Agriculture. Reporter Nick Kotz of the Washington Post, in an article in this morning's paper, related that the American Farm Bureau Federation, whose president has endorsed the nomination, is now asking the White House for concessions as a condition for continued activity on Mr. Butz' behalf. I am submitting that article at the end of this statement.

That report reflects the mail I have been receiving from Farm Bureau members opposing the nomination of Mr. Butz. One letter from Iowa expresses the "strong opposition" of 16 Farm Bureau members to Mr. Butz' selection. It is becoming increasingly clear that America's farmers, those most directly served and affected by the Department of Agriculture, find the President's choice unacceptable.

In a column in today's Washington Post, Mr. William Raspberry deals with another of the issues against Dean Butz Approximately half of the budget of the Department of Agriculture is devoted to food programs, including food stamps and free lunches for needy children. The Senator from Wisconsin has submitted into the Record on Monday, November 22, a transcript of a speech given by Mr. Butz in April 1971, expressing his scorn for the food stamp program as it is presently constituted as well as the President's proposed welfare reform program. I do not think that this is the kind of compassionate, concerned leadership that we need at this point at the Department of Agricutlure.

There is some ambiguity in the statements made at Mr. Butz' recent hearings in the Agriculture Committee concerning his association with the policy of his Agriculture boss in the 1950's, Ezra Taft Benson. Considerable attempt was made to stress that Mr. Butz joined the Department of Agriculture after the Benson legislation was enacted. In case there is any uncertainty about where he stood on that program, let us look at the record.

In 1953, before joining the Benson administration, Mr. Butz told the St. Louis Post Dispatch—February 19, 1953:

> We need a longtime program that doesn't lead us blindly into a policy of curtailed output, because never can any sector of our economy be prosperous unless it produces fully.

He attacked the previous rigid support policy, and advocated laissez-faire in agriculture.

When Mr. Butz left the Department, the senior Senator from South Dakota (Mr. Mundt) called Mr. Butz, "one of the strong men" of Benson's Department—Washington Post, April 23, 1957. Soon after leaving, Mr. Butz, in 1957, told the St. Louis Post Dispatch—November 14, 1957:

> One hundred percent of parity wouldn't solve his (the farmer's) problem. There isn't much any kind of price support program can do for him. His crying need is for an opportunity to expand production. But his government prevents him from producing enough to make a decent living.

When asked at his confirmation hearings, Mr. Butz stated that he still held to the basic agricultural philosophy he supported in the Benson administration, although he now felt that the present farm programs were necessary in the short run. However, he stated that he still subscribed to the "free market" philosophy as a "longrun goal."

Is Mr. Butz a converted man? Has he abandonned his old laissez-faire positions? Perhaps. But there is still a serious question in my mind about his commitment to a strong farm program.

I ask unanmous consent that articles on the nomination be printed in the Record.

There being no objection, the items were ordered to be printed in the Record, as follows:

[From the Washington Post, Nov. 24, 1971]

White House's Farm Ally Demands Concessions for Supporting Butz

(By Nick Kotz)

The Nixon administration's closest ally on farm issues is now demanding concessions from the White House in return for supporting the nomination of Earl C. Butz as Secretary of Agriculture.

The American Farm Bureau Federation, the nation's largest and most conservative farm group has let the White House know that it wants public commitments from Butz and the administration in support of a farm bargaining bill and several other measures in Congress.

The Farm Bureau's lobbying help could be needed to assure Butz's confirmation by the Senate. Opponents claim they already have 35 to 40 commitments to vote against the nomination, but the White House said President Nixon is "absolutely not" considering withdrawing it.

The Farm Bureau wants the administration to support a bill requiring food processors to bargain collectively with groups of farmers.

STRIKE ACTION SOUGHT

In addition, the Farm Bureau wants the White House to take action to end a West Coast dock strike that has contributed to a corn surplus. It also wants White House backing of legislation to regulate Cesar Chavez's United Farm Workers Organizing Committee. A key provision would forbid strikes during harvest.

Originally, William Kuhfuss, Farm Bureau President, publicly praised Butz's nomination in a telegram, which Farm Bureau officials now say privately was soilcited by the White House.

Kuhfuss repeated his personal praise of Butz yesterday, but he also pointedly told reporters that he would like to see "some positive statements" from Butz and wanted Butz and the administration specifically to endorse farm bargaining legislation.

Butz last week in Senate testimony endorsed the general principle of farm bargaining but did not commit himself to support legislation.

MEMBERS PROTESTED

The nomination has set off a wave of protests among rank-and-file Farm Bureau members, because Butz has served as a director of at least one firm. Ralston Purina Co., which has refused to bargain with Farm Bureau groups. Furthermore, Ralston Purina was a leader in developing a vertically integrated poultry industry in which a single company raises, processes and distributes poultry.

Explaining the opposition of his members, one Farm Bureau official said yesterday: "What do you expect? He's been on the boards of the very companies that have refused to bargain with farmers, and who are now lobbying against a farm bargaining bill.

Butz, 62, former dean of agriculture at Purdue University, also has been criticized because he served as an assistant to President Eisenhower's unpopular Agriculture Secretary, Ezra Taft Benson.

Lack of active support from the Farm Bureau could hurt Butz badly since the National Farmers Union and National Farmers Organization already oppose the nomination.

Opponents are hoping that Butz can be beaten by a coalition of farm organizations, organized labor, advocates for the poor, and environmentalists.

OPPOSED BY WOODCOCK

Yesterday Leonard Woodcock, president of the United Auto Workers, announced his opposition, saying the nomination "means huge agribusiness enterprises will be encouraged to continue to drive the small farmer off the land and deeper into poverty."

A Senate Small Business Committee hearing meanwhile heard testimony critical of Ralston Purina and other firms Butz has served as a director, though Butz was not mentioned by name.

Harrison Wellford, of the Center for the Study of Responsive Law, Jim Hightower of the Agribusiness Accountability Project, and Roger Blobaum, an agricultural consultant from Iowa, all stressed that Ralston Purina and other giant agribusiness firms had integrated the broiler industry at the expense of the small farmer.

Moreover, they told the corporate-secrecy hearing that agribusiness is being permitted to take over the nation's food supply system without public debate or scrutiny.

The witneses complained that present reporting procedures of the Internal Revenue Service and the Securities and Exchange Commission and inactivity of the Agriculture Department have obscured dramatic changes in ownership of the food supply system.

[From the Washington Post, Nov. 24, 1971]

Senate Committee Approves Nomination of Dr. Butz

(By William Raspberry)

It is no great surprise, really, that the Senate Agriculture and Forestry Committee has approved (by an 8–to–6 vote) the nomination of Dr. Earl C. Butz to be Secretary of Agriculture.

But it is curious, to put it mildly, that the committee hearings dwelt almost exclusively on the small farmer-agribusiness issue and virtually ignored the question of Butz's feelings about Agriculture-sponsored food assistance programs.

Barbara Bode, who doesn't put it mildly, is shocked, dismayed, incredulous and occasionally unprintable. And with good reason, considering that one-fourth of the Agriculture Department's budget goes for food assistance.

As executive director of the Children's Foundation, a public nonprofit service to groups organized for child-welfare and hunger issues, she has been deeply involved in school-lunch and other federally subsidized food programs, and she understands the importance of official attitudes.

"From press reports (the hearings were closed), we get the impression that no one raised any really substantive questions about his attitudes toward school lunches, school breakfasts, food stamps or similar programs," she said.

She quoted from an old speech in which Butz chided those who talk about poverty in modern-day America. "There will always be a 'lower fifth' of our society," Butz was supposed to have said, "But let us not forget that the 'lower fifth' of our society today is better off than the 'upper fifth' in my day."

"Given his ye-have-the-poor-always-with-you attitude," Miss Bode wondered, "does he believe that the Department of Agriculture shouldn't be involved in 'giveaway' programs? Or that they should be cut back?

"I think some questions should have been raised."

The Agriculture Department already has been under attack for its regulations (later rescinded) lowering the poverty cut-off for free lunches, effectively eliminating a million or more children from its coverage, and for foot-dragging on other assistance programs.

With the Administration's posture thus revealed, and with Butz coming in as the new tough guy to shape things up, he will have considerable power to do more of the things that many people regard as anti-poor.

Thus Miss Bode's astonishment that no one on the committee made Butz talk about his views and his plans for dealing with the assistance programs.

She was particularly upset that the certified liberals on the committee—Humphrey and McGovern—let the issue slip by.

Jerry Berman of the Center for Community Change echoes that view.

"If anybody was to point out that more than the price of corn is involved in the Butz nomination," he said, "it should have been McGovern or Humphrey. Although both voted against confirmation, neither seemed to give much importance to the question of poverty.

"It's almost as though we're going back to the days of the invisible poor."

Some observers have also wondered at the silence of the so-called Hunger Lobby—the UAW, AFL–CIO, Leadership Conference on Civil Rights, the churches, Common Cause and others.

"The questions simply weren't raised," Miss Bode said. "Apparently they (committee members) thought the Midwestern vote was crucial and that for Midwesterners the small-farmer question is more important than hunger."

Nor could she raise them officially herself. Her position with the Children's Foundation, a publicly supported agency, makes it illegal for her to lobby against the President's nominee.

But if she had the chance to speak her mind before the committee, there is no doubting what her testimony would be: No ifs, ands—or Butz.

[From the Washington Post, Nov. 23, 1971]

Earl Butz and a Way of Life

(By Tom Braden)

We are like men about to continue a journey, looking around to see whether we have forgotten something. If we find it, do we really want it? Or shall we leave it behind? The Senate isn't so much questioning whether Earl Butz would be a good secretary of agriculture as it is asking itself: "Shall we take along that small farm?"

It has served a useful past. "It gave me and my family a good living," wrote a farmer in Jefferson's time, "and left me, one year with another, 150 silver dollars, but I have never spent more than $10 a year which was for salt, nails and the like. Nothing to wear, eat or drink was purchased, as my farm provided all."

But it has been of diminishing importance for a long time. Chances are you could count the senators who grew up on 160 acres on the fingers of one hand. One-hundred and sixty acres won't farm any more. "Farming is not a way of life," Mr. Butz has said, "it's a way to make a living."

They measure farms these days in sales. Farms which produce $8,000 in annual sales have only 8 per cent of the market, those who farm them earn less than $3,000 cash per year.

So maybe we ought to leave the small farm behind. Thirty million people have left it in the last 30 years; 2,000 farms a week are selling out to the large owners who control 24 per cent of the market and gross an average of $270,000 annually.

But there are disadvantages, too. The Senate seems to be saying so as it ponders Mr. Butz, who represents agribusiness, thinks the number of farms ought to decrease and sees nothing wrong with the vertical arrangements whereby Del Monte, Swift, A & P and Campbell Soup own or lease the land from which they buy the crop and make the product.

The disadvantages lie partly in the cost and quality of the food. The price goes up. We eat hard tomatoes because hard tomatoes can be picked by a machine. We shall shortly eat hard strawberries for the same reason.

Is there also a social cost in leaving the small farm behind? For every six farms which fold, a small-town business folds too. By 1980, according to the Department of Agriculture, another million farms will go out of business. Do we want to keep traces of the Middle West of Zona Gale? Do we care about preserving crossroads towns, white houses, the traces of self-sufficiency left over from the yeoman dream?

If we do, we shall have to do a lot more than question Mr. Butz. We shall have to prop up the independent farmer with the same zeal with which we have propped up

> the great combines. We could start by insisting that the $4 billion annually which the government spends to buy food be spent with the independent farmer. We could fund small farmers in co-operatives; we could insist that the $234 million annually which we spend on land-grant colleges be used to pioneer and produce cheap farm equipment instead of being used to research for the benefit of agribusiness.
>
> It would require a major turnaround, and it probably won't take place. Those who yearn may ease their consciences by voting against Mr. Butz. Doing more than that would require battle with large interests who will argue, "You can't fight progress."
>
> But it is well to pause and look around. Is rural America to be a factory or a place to live? That is the real question behind the question of Earl Butz.

NOMINATION OF EARL L. BUTZ TO BE SECRETARY OF AGRICULTURE

Mr. CRANSTON. Mr. President, the nomination of Dr. Earl L. Butz as Secretary of Agriculture not only raises disturbing questions about this administration's game plan for rural America—it suggests that the die has already been cast. Small farmers can expect little help from the Department that is supposed to be their spokesman in Government if Dr. Butz is confirmed.

Three days of hearings before the Senate Agriculture Committee did little to quiet my doubts about Dr. Butz. It is clear that his basic philosophy has not changed since he helped to design and implement the disastrous farm policies of Ezra Taft Benson, the controversial Secretary of Agriculture during the Eisenhower years. His long-standing ties with industro-agriculture, his tendency to equate bigness with efficiency, and his philosophy on price supports, supply management, farmer bargaining, and cooperatives indicates that the rural America favored by Dr. Butz will amount to little more than a giant food factory.

In addition, there is increasing evidence that Dr. Butz has little understanding of the environmental crisis which threatens every citizen in every city and town in America. In an April 26, 1971 speech released by Senator PROXMIRE, Dr. Butz said:

> I'm going to talk about something this morning that I think is a real threat to American agriculture . . . And that's the threat that comes from the environmentalists, or from the do-gooders, or from consumerism, or from whatever you want to call it.

He goes on to suggest that growing national concern about the continued abuse of our environment is mere "faddism"—that 1971 can be termed the "year of the environment" and that 3 or 4 years ago:

> What were we marching for then? Then the big clamour was hunger and malnutrition . . . And what came out of that? Out of that came a food stamp plan—so generous, so extensive—that it's just short of ridiculous in some parts of this country. Out of it came a welfare program that President Nixon is recommending to the Congress that is so far out that even the Democrats in Congress won't buy it.

I find these statements appallingly insensitive. They show little concern about the urgency of the environmental crisis and the need for Federal food assistance programs. This is certainly an inappropriate stance from the man who will head the U.S. Forest Service which administers 187 million acres of public forest lands in 42 States, the food stamp program which now feeds more than 10.5 million needly people, and the school lunch program which assures a balanced meal to every needy school child.

In California alone, the State has identified 1 million needy pupils, or about 25 percent of the school population.

In fiscal 1972, nearly 40 percent of the total budget for the Department of Agriculture is allocated to Federal food programs.

Mr. President, the nomination of Dr. Butz indicates that President Nixon has made his choice for rural America. He has chosen to allow the continued migration from farm to city of millions of small farmers, small businessmen, and farm workers. He has chosen the further demise of the family farm—both as an economic unit and as a way of life.

He has chosen to allow giant corporations to continue their invasion of the production phases of agriculture, a trend which is most directly responsible for the precarious position in which the small farmer finds himself in 1971.

An economic and technological revolution is sweeping agriculture, and the small farmer is its chief victim. As large diversified corporations enter the production phases of farming, more and more small farms are forced to close. More than a million farms will close up in the next 10 years. As the small farmer leaves, the small businesses lose their customers. The huge investment required to get started in farming today is beyond the reach of the young, and they leave the farm as soon as they are able. Behind them remain the old and the young—the very groups that need the community services which the dwindling rural tax base can no longer support. Churches, schools, hospitals, and community centers are boarding up their doors. Whole towns stand silent and deserted as ghostly reminders of a better day in rural America.

Mr. President, these trends are not inevitable.

The myth that the small farmer is leaving because he is "inefficient" is false. The small farmer is not inefficient, but he cannot compete with giant conglomerates with multibusiness revenues, who can afford to operate with small margins of profit. The farmer has only one source of income—his crop. If he is undersold by industro-agriculture, his very livelihood is threatened.

I believe that the Senate's vote on this nomination will indicate our choice for rural America. It will indicate that we have either decided in favor of an agriculture that is little more than a giant food factory or an agriculture that allows people to live and work in dignity. I believe it is essential that we choose the latter. Therefore, I urge the Senate to reject this unwise nomination.

THE NOMINATION OF WILLIAM REHNQUIST

Mr. BAYH. One of the most important constitutional powers of the Senate is its power—and its concomitant responsibility—to play a meaningful role in the process of selecting Justices of the Supreme Court. In the classic and particularly fitting words of Senator George Norris of Nebraska during the debate over President Hoover's ill-fated nomination of Judge John Parker to the Court more than 40 years ago:

> When we are passing on a judge, we not only ought to know whether he is a good lawyer, not only whether he is honest—and I admit that this nominee possesses both of these qualifications—but we ought to know how he approaches the great questions of human liberty.

I have reluctantly concluded that William Rehnquist approaches the great questions of human liberty in a way which reveals a dangerous hostility to the great principles of equal justice for all people and individual freedom under the Bill of Rights. For this reason I must vote against advising and consenting to his nomination.

On three separate occasions in the past 7 years, Mr. Rehnquist plainly demonstrated a persistent unwillingness to allow law to be used to promote racial equality in America. In 1964 in Phoenix he spoke out vehemently against a local ordinace designed to assure equal access to public accommodations regardless of race. He argued after the ordinance had been approved by a unanimous city council that—

> It is, I believe, impossible to justify the sacrifice of even a portion of our historic individual freedom for a purpose such as the ordinance.

Upon being nominated to the High Court, Mr. Rehnquist told the Senate that he has changed his mind and would no longer oppose a public accommodations ordinance. But it is hardly comforting that during the mid-1960's, when the entire country was demanding equal rights for all Americans and significant laws were being passed by Congress and state legislatures, Mr. Rehnquist did not feel black people should be accorded equal access to drug stores in Phoenix. In addition, other actions after 1964 make it unwise to rely on the nominee's change of heart, first announced at the confirmation hearings.

In 1966, Mr. Rehnquist opposed two key provisions of a Model State Antidiscrimination Act. The first of these would simply have permitted an employer, subject to the approval of State agency, to hire new employees and fill vacancies in such a way as to reduce or eliminate imbalances with respect to race, religion or sex, if he wished to do so.

The second would have banned "blockbusting" by realtors for their own profit—practices which Robert Braucher, then chairman of the committee and a professor at Harvard Law School and now a Justice of the Supreme Judicial Court of Massachusetts, called "vicious, evil, nasty, and bad" and without any "merit whatever." Yet Mr. Rehnquist saw both "unconstitutional and a serious policy question" about this provision. Both of these provisions were included in the Model Act notwithstanding Mr. Rehnquist's opposition to them.

Moreover, Mr. Rehnquist wrote a public letter in 1967 in opposition to efforts to promote integration in the Phoenix public school system in which he stated that—

> We are no more dedicated to an "integrated" society than to a "segregated" society.

He has never disassociated himself from that statement despite many chances to do so during the hearings. And if Mr. Rehnquist himself is no more dedicated to integration than to segregation, he is outside the mainstream of modern American thought.

Mr. Rehnquist's unwillingness to allow law to be used to promote equality has two significant implications which argue strongly against his confirmation. First, his views are such that one must fear the interpretation he may give to the grand promise of the 14th amendment: equal protection of the laws. Indeed, one must fear the limits he would impose on a legislature's power to redress 200 years of racial injustice. Second, there is the question of the appearance of fairness and impartiality. At a time when many Americans, young and old alike, doubt the responsiveness of our system of Government, we cannot afford to put on the Supreme Court a man whose public words and deeds show that he is insensitive to the role that law must play in achieving a fair and just society.

The second set of reasons which underlie my decision to vote against William Rehnquist have to do with his lack of dedication to the fundamental individual freedoms of the Bill of Rights. Mr. Rehnquist has consistently interpreted constitutional clauses which confer power on the executive, or protect property rights, to their utmost breadth, while narrowly construing those which confer rights on the individual. One need only compare, to take a single example, his sweeping reliance on the Republican Form of Government Clause to justify Government surveillance with his stringent and narrow interpretation of the first amendment arguments against such conduct.

Indeed, it was in the context of testifying about surveillance that Mr. Rehnquist made his astounding comment that—

> I think it quite likely that self-discipline on the part of the Executive branch will provide an answer to virtually all of the legitimate complaints against excesses of information gathering.

This widely condemned statement reveals Mr. Rehnquist's views concerning the balance of power. He is a person who consistently favors executive over legislative or judicial power—a view of our system of government particularly dangerous for a man who seeks confirmation as a Justice of the Supreme Court. For example, Mr. Rehnquist has vigorously defended the Nixon administration's position on so-called national security wiretapping, under which the Attorney General claims the right to listen to private conversations whenever he believes a domestic threat to the national security is involved, without prior judicial authorization. When these views are combined with Mr. Rehnquist's public statements on the Subversive Activities Control Board, the executive privilege, the right to bail, and the rights of public employees to free speech, among others, a clear pattern of insensitivity to the fundamental individual freedoms of the Bill of Rights emerges.

These are the major reasons which have led me to decide to vote against Mr. Rehnquist. I will analyze his record and present my position in greater detail in the individual views I plan to file to the Judiciary Committee's report.

Since President Nixon has called both Mr. Rehnquist and Mr. Powell conservatives, the question arises why I have decided to vote for one and not for the other. The answer is that they are very different sorts of men, and the label "judicial conservative" serves to confuse analysis rather than aid it. Based upon a thorough investigation of Lewis Powell's record and his testimony to the Senate Judiciary Committee, I am convinced that he is within a great American tradition of legal philosophy—the tradition of Holmes and Frankfurter and Harlan. This tradition has often been called conservative. But whatever it is called, it has played a vital role in preserving and protecting the fundamental liberties of the Bill of Rights and according equal justice to all Americans.

I believe Lewis Powell is dedicated to equal justice under law. My belief is confirmed by the fact that Mr. Powell's nomination is supported by several leaders of the black community in his hometown of Richmond, including the first black member of the Richmond School Board, who served with Mr. Powell from 1953 to 1961. It is confirmed by the fact that the Leadership Conference on Civil Rights, which has vigorously opposed the nomination of Mr. Rehnquist, has not opposed the nomination of Mr. Powell. And it is confirmed by the testimony of Mrs. Jean Camper Cahn, an outstanding black lawyer who played a leading role in creating the OEO legal services program, who has written eloquently of the humanity, empathy, sense of decency, fair play and commonsense of Mr. Powell. It is this distinction, this recognized open-mindedness that distinguishes Mr. Powell from Mr. Rehnquist.

I am willing to accept a nominee who may be described by the President as a judicial conservative, but I am unwilling to accept a nominee of any philosophy who exhibits an insensitivity to those basic human rights that distinguish our society from others. We in the Senate have a responsibility to look beyond the pressures of the moment to the interest of the thousands of litigants and millions of Americans whose very lives may be affected by Mr. Rehnquist's decisions, not just for the duration of this administration, but perhaps for the remainder of this century. Every Senator has a responsibility to study Mr. Rehnquist's philosophy in this light. Having made that study, I must oppose him.

Mr. President, I ask unanimous consent that a copy of Mr. Rehnquist's 1964 letter and public testimony opposing a local public accommodations ordinance, the 1967 letter concerning our Nation's commitment to an integrated society, a statement I made concerning Mr. Rehnquist's position with respect to a Model State Antidiscrimination bill, my statement in support of Lewis Powell, and a memorandum which has been prepared for me concerning Mr. Rehnquist be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

PUBLIC ACCOMMODATIONS LAW PASSAGE IS CALLED "MISTAKE"

Editor, The Arizona Republic: I believe that the passage by the Phoenix City Council of the so-called public accommodations ordinance is a mistake.

The ordinance is called a civil rights law, and yet it is quite different from other laws and court decisions which go under the same name. Few would disagree with the principle that federal, state, or local governments should treat all of its citizens equally without regard to race or creed. All of us alike pay taxes to support the operation of government, and all should be treated alike by it, whether in the area of voting rights, use of government-owned facilities, or other activities.

The public accommodations ordinance, however, is directed not at the conduct of government, but at the conduct of the proprietors of privately owned businesses. The ordinance summarily does away with the historic right of the owner of a drug store, lunch counter, or theater to choose his own customers. By a wave of the legislative wand, hitherto-private businesses are made public facilities, which are open to all persons regardless of the owner's wishes. Such a drastic restriction on the property owner is quite a different matter from orthodox zoning, health, and safety regulations which are also limitations on property rights.

If in fact discrimination against minorities in Phoenix eating-places were well nigh universal, the question would be posed as to whether the freedom of the property owner ought to be sacrificed in order to give these minorities a chance to have access to integrated eating places at all. The arguments of the proponents of such a sacrifice are well known; those of the opponents are less well known.

The founders of this nation thought of it as the "land of the free" just as surely as they thought of it as the "land of the equal." Freedom means the right to manage one's own affairs, not only in a manner that is pleasing to all, but in a manner which may displease the majority. To the extent that we substitute, for the decision of each businessman as to how he shall select his customers, the command of the government telling him how he must select them, we give up a measure of our traditional freedom.

Such would be the issues in a city where discrimination was well nigh universal. But statements to the council during its hearings indicated that only a small minority of public facilities in the city did discriminate. The purpose of the ordinance, then, is not to make available a broad range of integrated facilities, but to whip into line the relatively few recalcitrants. The ordinance, of course, does not and cannot remove the basic indignity to the Negro which results from refusing to serve him; that indignity stems from the state of mind of the proprietor who refuses to treat each potential customer on his own merits.

Abraham Lincoln, speaking of his plan for compensated emancipation, said:

"In giving freedom to the slave, we assure freedom to the free—honorable alike in what we give and in what we preserve."

Precisely the reverse may be said of the public accommodations ordinance: Unable to correct the source of the indignity to the Negro, it redresses the situation by placing a separate indignity on the proprietor, it is as barren of accomplishment in what it gives to the Negro as in what it takes from the proprietor. The unwanted customer and the disliked proprietor are left glowering at one another across the lunch counter.

It is, I believe, impossible to justify the sacrifice of even a portion of our historic individual freedom for a purpose such as this.—William H. Rehnquist [June 1964].

COMMENTS OF WILLIAM REHNQUIST, ON THE PUBLIC ACCOMMODATIONS ORDINANCE PROPOSED FOR THE CITY OF PHOENIX (JUNE 1964)

Mr. Mayor, members of the City Council, my name is William Rehnquist. I reside at 1817 Palmcroft Drive, N.W., here in Phoenix. I am a lawyer without a client tonight. I am speaking only for myself. I would like to speak in opposition to the proposed ordinance because I believe that the values that it sacrifices are greater than the values which it gives. I take it that we are no less the land of the free than we are land of the equal and so far as the equality of all races concerned insofar as public governmental bodies, treatment by the Federal, State or the Local government is concerned, I think there is no question. But it is the right of anyone, whatever his race, creed or color to have that sort of treatment and I don't think there is any serious complaint that here in Phoenix today such a person doesn't receive that sort of treatment from the governmental bodies. When it comes to the use of private property, that is the corner drugstore or the boarding house or what have you. There, I think we—and I think this ordinance departs from the area where you are talking about governmental action which is contributed to by every taxpayer, regardless of race, creed or color. Here you are talking about a man's private property and you are saying, in effect, that people shall have access to that man's property whether he wants it or not. Now there have been other restrictions on private property. There have been zoning ordinances and that sort of thing but I venture to say that there has never been this sort of an assault on the institution where you are told, not what you can build on your property, but who can come on your property. This, to me, is a matter for the most serious consideration and, to me, would lead to the conclusion that the ordinance ought to be rejected.

What has brought people to Phoenix and to Arizona? My guess is no better than anyone else's but I would say it's the idea of the lost frontier here in America. Free enterprise and by that I mean not just free enterprise in the sense of the right to make a buck but the right to manage your own affairs as free as possible from the interference of government. And I think, perhaps, the City of Phoenix is not the common denominator in that respect but that it is over on one side, stressing free enterprise. I have in mind, the state of the Housing Ordinance, last year, which a great number of people—you know, the opinion makers, leaders of opinions, community leaders were entirely for it. I happen to favor it myself and yet it was rejected by the people because they said, in effect, "we don't want another government agency looking over our shoulder while we are running our business". Now, I think what you are contemplating here is much more formidable interference with property rights than the Housing Ordinance would have been and I think it's a case where the thousands of small business proprietors have a right to have their own rights preserved since after all, it is their business.

Now, I would like to make a second point very briefly, if I might, and that is on the mandate existing to this Council and this again, of course, is a matter of one man's opinion against another. As I recall, the position taken by the preceding Council, of which I know you, Dr. Pisano, Mr. Hyde, Mr. Lindner were all on, was that there would be no compulsory public accommodations ordinance and as I recall, when this Council ran against the Act Ticket, which I would have thought would be the logical ticket, if elected, to bring in an ordinance like this, nothing was said about any sort of change that the voters might guide themselves by in voting in this particular matter. I don't think this Council has any mandate at all for the passing of such a far reaching ordinance and I would submit that if the Council, in its wisdom, does determine that it should be passed, it has a moral obligation to refer it for the vote of the people because something as far reaching as this without any mandate or even discussion on the thing at the time the election for City Council was held is certainly something that should be decided by the people as a whole rather than by their agents, honorable as you ladies and gentlemen are. I have heard the criticism made by the groups which have favored this type of ordinance in other cities that we don't want our rights voted on but of course, it is they who are bringing forward this bill. The question isn't whether or not their rights will be voted upon but instead, it's a question of whether their rights will be voted upon by you ladies and gentlemen who are the agents of the people or the people as a whole. Thank you very much for your time. (Transcribed from tape on record at Phoenix city clerk's office.)

[From the editor, the Arizona Republic]

"DE FACTO" SCHOOLS SEEN SERVING WELL

The combined effect of Harold Cousland's series of articles decrying "de facto segregation" in Phoenix schools, and The Republic's account of Superintent Seymour's "integration program" for Phoenix high schools, is distressing to me.

As Mr. Cousland states in his concluding article, "whether school board members take these steps is up to them, and the people who elect them." My own guess is that the great majority of our citizens are well satisfied with the traditional neighborhood school system, and would not care to see it tinkered with at the behest of the authors of a report made to the federal Civil Rights Commission.

My further guess is that a similar majority would prefer to see Superintendent Seymour confine his activities to the carrying out of policy made by the Phoenix Union High School board, rather than taking the bit in his own teeth.

Mr. Seymour declares that we "are and must be concerned with achieving an integrated society." Once more, it would seem more appropriate for any such broad declarations to come from policy-making bodies who are directly responsible to the electorate, rather than from an appointed administrator. But I think many would take issue with his statement on the merits, and would feel that we are no more dedicated to an "integrated" society than we are to a "segregated" society; that we are instead dedicated to a free society, in which each man is equal before the law, but in which each man is accorded a maximum amount of freedom of choice in his individual activities.

The neighborhood school concept, which has served us well for countless years, is quite consistent with this principle. Those who would abandon it concern themselves not with the great majority, for whom it has worked very well, but with a small minority for whom they claim it has not worked well. They assert a claim for special privileges for this minority, the members of which in many cases may not even want the privileges which the social theorists urge be extended to them.

The schools' job is to educate children. They should not be saddled with a task of fostering social change which may well lessen their ability to perform their primary job. The voters of Phoenix will do well to take a long second look at the sort of proposals urged by Messrs. Cousland and Seymour.

STATEMENT OF SENATOR BIRCH BAYH, ON MR. REHNQUIST'S ACTIONS CONCERNING UNIFORM STATE ANTIDISCRIMINATION ACT, NOVEMBER 22, 1971

In the past few days I have come upon additional information which casts some light on Mr. William Rehnquist's attitude toward the great quest for equality in America. The attitude indicated by this new information—especially when taken together with other information already before the Senate—is disturbing indeed.

At its 1966 annual meeting the National Conference of Commissioners on Uniform State Laws took up a proposed State Model Anti-Discrimination Act, which had been three years in the preparation. The Act created State Commissions on Human Rights to deal with discrimination in employment, public accommodations, educational institutions, and real property transactions. Mr. Rehnquist represented Arizona at the proceedings. The transcripts of the deliberations of the Committee of the Whole reveal that Mr. Rehnquist opposed two important provisions of the Model Act.

The first was a proposal which was, in the words of the Commissioners Comments, "designed to permit the adoption [by an employer] of voluntary plans to reduce or eliminate" racial, religious, or sex imbalance in its workforce. These plans were to be subject to the approval of the Commission on Human Rights, and they could apply only to the hiring of new employees or the filling of vacancies. According to the debates, four states already had enacted similar laws: Indiana, Massachusetts, Illinois, and California. Mr. Rehnquist opposed this provision, and, in effect, moved to delete it. Another Commissioner called this "a direct attack upon the power granted in the statute to eliminate racial imbalance." The issue then came to a vote and Mr. Rehnquist's motion was defeated. The provision now appears as Section 310 of the Model Act.

The second proposal that Mr. Rehnquist opposed was one designed to prohibit vicious "blockbusting" tactics by which realtors sometimes play on racial fears for their own profit. As the Reporter-Draftsman of the Act, Professor Norman Dorsen of New York University, said during the deliberations, a number of cities and at least one state (Ohio) had antiblockbusting provisions by 1966. Mr. Rehnquist moved to delete this section. He said:

"It seems to me we have a constitutional question and a serious policy question, and in view of the combination of these two factors, plus the fact that it doesn't strike me this is a vital part of your bill at all, I think this would be a good thing to leave out."

Mr. Robert Braucher, then Chairman of the Special Committee on the Model Anti-Discrimination Act and a Professor at Harvard Law School, and now a Justice on the Supreme Judicial Court of Massachusetts, then made an eloquent defense of the anti-blockbusting provision:

"I would like to speak for just a moment to the merits of this. The practices that are dealt with in this provision are practices that have no merit whatever. They are vicious, evil, nasty, and bad. These are people who go around—and this is not a hypothetical situation; this is something that has happened in every big city in the United States—and run up a scare campaign to try to depress the value of real estate. They will, if possible, buy one house, and then they will throw garbage out on the street; they will put up "For Sale" signs; they will perhaps hire twenty badly clad and decrepit-looking Negroes to occupy a single-family house, and so forth, and then they go around to the neighbors and say: "Wouldn't you like to sell before the bottom drops out of your market?

"And the notion that that type of conduct should be entitled to some kind of protection under the bans of free speech is a thing which doesn't appeal to me a tiny bit."

A vote was then taken on Mr. Rehnquist's motion to delete the section, and the motion failed. The section now appears as Section 606 of the Model Act.

While Mr. Rehnquist subsequently authored the Justice Department's opinion upholding the "Philadelphia Plan"—requiring that substantial numbers of minority employees be hired to redress the effects of earlier discrimination—his arguments at the Conference suggest that his personal philosophy and policy preference is to the contrary. And when his statements are combined with other views he has expressed within the last seven years—his vehement opposition to a 1964 Phoenix public accommodations ordinance, and his public letter in 1967 stating that "we are no more dedicated to an integrated society than we are to a segregated society"—a persistent unwillingness on Mr. Rehnquist's part to permit law to be used to promote racial equality in America is revealed.

Statement of Senator Birch Bayh on the Supreme Court Nomination of Lewis Powell, Nov. 11, 1971

The President has said that few decisions are as important as the nomination of a Justice for the Supreme Court of the United States. I agree. And no less important is a Senator's decision whether to advise and consent to such a nomination. With this in mind, and in light of the difficult struggles we have had in recent years over nominations to the high court, I have devoted my most careful attention to the two nominees presently before the Senate. I have today concluded that I will support the nomination of Lewis Powell.

I have stated what I felt were the three qualities the nation demands of a nominee to the Supreme Court: outstanding legal ability, unimpeachable integrity, and a demonstrated commitment to fundamental human rights. In the course of the Senate hearings on the Powell nomination no question was raised concerning his competence as a lawyer or his personal integrity. Few men or women in America could earn the active support of as many leading lawyers and legal scholars, many of whom have testified or written about their personal knowledge of the nominee's qualifications and their enthusiastic support for him. The American Bar Association not only found that Mr. Powell "meets high standards of professional competence, judicial temperament and integrity," the highest rating given to Supreme Court nominees by the ABA Committee on the Federal Judiciary, but voted unanimously that Mr. Powell meets this standard "in an exceptional degree."

The focus of the Senate hearings on Mr. Powell's nomination has been a discussion of the third criterion I mentioned earlier, demonstrated commitment to fundamental human rights. In exploring the nominee's commitment, the Committee has properly inquired into his judcial philosophy. I believe that the power and the responsibility of the Senate to make such inquiry is now generally accepted—and the President himself encouraged an investigation of judicial philosophy by announcing that these nominees had been selected because of their philosophy. Mr. Powell cooperated fully with the Judiciary Committee in this inquiry, and is to be commended for his conduct.

Lewis Powell and I disagree on some matters of judicial philosophy. Were the power of nomination mine, I might well have nominated someone whose views coincided more nearly with my own. But that is not the issue here. Based upon my investigation of Lewis Powell's record and his testimony to the Senate Judiciary Committee, I am convinced that he is within a great American tradition of legal philosophy—the tradition of Holmes and Frankfurter and Harlan. This tradition has often been called conservative. But whatever it is called, it has played a vital role in preserving and protecting the fundamental liberties of the Bill of Rights and according equal justice to all Americans. For these reasons, I will vote for the confirmation of Lewis Powell.

I have not come to this decision without careful thought and some hesitation. Because of specific questions that have been raised, I have undertaken a careful review of the record before us, especially in the areas of civil liberties and civil rights.

For me the most serious question about Mr. Powell's civil liberties views was raised by an article he wrote originally for the Richmond, Virginia *Times-Dispatch*, which has been reprinted in other publications, including the *New York Times*. In that article Mr. Powell appeared to defend certain positions of the Nixon administration which I consider dangerous, including wire-tapping without a prior court order. But I have found upon consideration of the entire record that this question is less serious than had originally been thought. First, Mr. Powell testified that the article was written not as a careful analysis of the legal problems involved, but rather as an effort to counteract what he believes are unwarranted charges among the young of systematic and widespread repression in the United States. Thus the article cannot be taken as expressing Mr. Powell's considered legal views. Moreover, Mr. Powell clarified in his testimony before the Committee several aspects of the article. For example, he acknowledged that, not withstanding a contrary implication in the article, "in most cases it would not be difficult to draw" the line between foreign threats and alleged domestic threats to the national security. Finally, Mr. Powell both on other occasions and in his testimony has expressed strong dedication to civil liberties. In 1967, for example, he said "We rightly cherish the privacy of citizens in their conversations. Indeed, unless substantial privacy exists the very fundamentals of free speech are threatened. . . . Certainly, no serious thought should be given to granting an unlimited right to eavesdrop." And while testifying on Monday Mr. Powell said that "I would not trust any government to self discipline, Senator Bayh. I think the purpose of the Bill of Rights was to assure there are limitations on what the government can do."

I have also been troubled by questions concerning Lewis Powell's record in the area of civil rights. In particular, I was disturbed by the eloquent testimony presented to the Committee by Representative John Conyers and by Attorney Henry Marsh of Richmond. There are certainly decisions which Lewis Powell made over the course of his career on the Richmond and Virginia school boards with which I disagree; there may be some which, in the bright light of hindsight, seem unjustifiable. Perhaps Lewis Powell did not do everything humanly possible to end segregation in Virginia during the troubled decade following *Brown* v. *Board of Education*. But if that were the test for appointment to the Supreme Court, few in public life, north or south, could pass it. Unfortunately, we must all share that indictment.

I wonder how many of us can recall the climate of that period in the South, how many of us are aware of the tremendous pressures on those who sought in good faith to abide by the decision in *Brown* v. *Board of Education*. Perhaps Armistead L. Boothe put it best in his testimony in support of Mr. Powell when he said, "From July 1954 onward the issue in the State was just as sharp as a new knife blade between an assignment (or freedom of choice) plan, to keep the schools open, or massive resistance, to cripple them.

Lewis Powell, like my friend and colleague Bill Spong, was one of the courageous men in Virginia who was determined to obey the law of the land, and not to engage in massive resistance to the School Desegregation Cases. As he told the Committee this week "the task of my Board, and my task as I conceived it, was to keep the schools open, and that we did, and finally they were integrated." There may be some who think that his opposition to massive resistance was simply a subterfuge designed to perpetuate segregation. But as one who knows Lewis Powell, who listened to him testify, and who remembers the difficult times during which he sat on the school boards, I believe he is dedicated to equal justice under law.

My belief is confirmed by the statements of other concerned persons. Mr. Powell's nomination is supported by several leaders of the black community in Richmond, including the first black member of the Richmond School Board, who served in that capacity with Mr. Powell from 1953 to 1961. The Leadership Conference on Civil Rights, which has opposed William Rehnquist, has taken no position with respect to the Powell nomination. Mrs. Jean Camper Cahn, an outstanding black lawyer who played a leading role in creating the OEO Legal Services Program, has written concerning the crucial role of Lewis Powell in implementing that program. In addition, Mrs. Cahn said: "My support is based upon the fact that I am drawn inescapably to the sense that Lewis Powell is, above all, humane, that he has a capacity to emphathize, to respond to the plight of a single human being to a degree that transcends ideologies of fixed positions. And it is that ultimate capacity to respond with humanity to individualized instances of injustice and hurt that is the best and only guarantee I would take that his conscience and his very soul will wrestle with every case until he can live in peace with a decision that embodies a sense of decency and fair play and common sense."

But perhaps no one has said it more plainly than Lewis Powell himself, who said on Monday:

"I had a mother and father who had a deep conviction that all human beings were equal and that no one was better than anyone else; and I inherited that and have never departed from it."

That inheritance will serve Lewis Powell well on the Supreme Court.

Memorandum for Senator Birch Bayh on the Nomination of William Rehnquist to be an Associate Justice of the Supreme Court of the United States

1. It now seems to be generally accepted that the Senate, in the exercise of its constitutional obligation of "Advice and Consent" to the President's nomination of a Supreme Court Justice, is properly concerned with the nominee's views and values which may affect his approach to the important issues that come before the Court. The propriety of the Senate's consideration of a nominee's ideology (in this sense) is documented by the *Memorandum on the Role of the Senate in Considering the President's Nominees for Appointment to the Supreme Court of the United States*, addressed to Senator Bayh and to Senator Tunney by Professors Paul Brest, Thomas C. Grey and Arnold M. Paul. Mr. Rehnquist's article, *The Making of a Supreme Court Justice*, Harvard Law Record, October 8, 1959, p. 7, also urges that the Senate has the obligation "of thoroughly informing itself on the judicial philosophy of a Supreme Court nominee before voting to confirm him." (*Id.*, at 7.)

2. There are two basic conclusions to be drawn from what Mr. Rehnquist has publicly written and said. The first is that he places a very low value upon concerns of equality and individual liberties—that he consistently gives these concerns far less weight than that to which they are entitled by

their high place in the Constitution of the United States and their vital role in the fabric of contemporary American society. The second is that Mr. Rehnquist is essentially closed-minded; that he is rather a legal apologist than a legal reasoner; that he reasons backward from his desired conclusions to their justifications, instead of suspending judgment until the reasons which should inform judgment have been impartially considered.

3. The first conclusion is exemplified by a number of specific points:

a. *Racial Equality.* In his testimony and writing concerning the Phoenix public accommodations ordinance, Mr. Rehnquist expressly says that he values a business proprietor's interest in choosing his customers above a Negro's interest in having equal, non-discriminatory access to business premises. The proprietor's interest in the use of his property may properly be subordinated to the values reflected in zoning, health and safety regulations, but not to the value of racial equality. Mr. Rehnquist's suggested distinction between telling a business man "what you can build on your property" and "who can come on your property" is obviously unsubstantial. It is a verbalism which only partly conceals a preference for the interests protected by zoning over the interest of equality. (See his 1964 testimony and letter.)

b. *Speech and Political Association.* It is instructive to compare Mr. Rehnquist's treatment of the values which conflict in the area of government surveillance. On the one hand, he rejects the notion of judicial control over surveillance on the ground that the very process of litigation will impede the investigative activities of the Executive and will—in Learned Hand's borrowed phrase—"dampen the ardor of all but the most resolute" public officials. He does not explore the extent of the impediment, or consider available devices (such as *ex parte* or *in camera* judicial proceedings) which would minimize it. On the other hand, he denies that surveillance raises First Amendment questions, resolutely rejecting the argument that it may "dampen the ardor" of political dissenters. The acknowledged possibility of abuse of surveillance does not call for judicial controls; but the possibility of abuse of judicial process calls for executive immunity from judicial controls. The government's investigative interests must be protected from the "chilling effect" of litigation; but the First Amendment interests of political dissenters need no protection from the "chilling effect" of the investigation. *See generally,* "Privacy, Surveillance, and the Law" (March 19, 1971); testimony on "Investigative Authority of the Executive" (March 9, 17, 1971); "Law Enforcement and Privacy" (July 15, 1971).

Obviously, such conceptions as "possibility of abuse" and "chilling effect" have differing application to the facts and values on the two sides of the surveillance controversy; and, carefully analyzed, they may cut more heavily on one side than the other. But anyone who seeks fairly to resolve the controversy must fairly examine the applicability of these conceptions to the contentions on both sides, not just one. To be concerned with degrees of impairment of investigation that result incidentally from judicial supervision, but unconcerned with degrees of impairment of political expression that result incidentally from surveillance, bespeaks sensitivity to law enforcement values but none to the values of free speech. That sums up Mr. Rehnquist's approach. He uncritically accepts—and expands—such notions as "dampening the ardor" of investigators; but, when it comes to the First Amendment, he is content to stand equally uncritically upon the proposition that: "No decided case of the Supreme Court of the United States has ever held or said that the 'chilling effect' of a governmental activity by itself, unaccompanied by either an attempt to impose governmental sanctions to compel the involuntary divulgence of information or to impose criminal or other sanctions on the basis of the information obtained amounted to a violation of the First Amendment."

This last proposition appears to be wrong. See *Bantam Books, Inc.* v. *Sullivan,* 372 U.S. 58 (1963). But even were it correct, Mr. Rehnquist's refusal to "extrapolate from decided Supreme Court cases" in the First Amendment area starkly contrasts with his far-reaching extrapolations in other areas; for example, (i) his extrapolation of a broad power of federal Executive surveillance from the "faithfully executed" Clause as construed by *In re Neagle,* 135 U.S. 1 (1890), and the "Republican Form" Clause *see* Testimony on Investigative Authority of the Executive (March 9, 17, 1971); (ii) his extrapolation of a broad Presidential war-making power from the "Commander in Chief" Clause *see* Expansion of the War into Cambodia: The Legal Issues, 45 N.Y.U.L. Rev. 628 (1970); and (iii) his extrapolation of a concept of "qualified martial law," apparently authorizing the Executive arrest and detention of thousands of citizens, from decided cases which scarcely go so far. One who makes *these* extrapolations, but limits *N.A.A.C.P.* v. *Alabama ex rel. Patterson,* 357 U.S. 449 (1958), and *Bates* v. *Little Rock,* 361 U.S. 516 (1960), to the adventitious circumstances that both involved a "governmental legal sanction" is treating the First Amendment as a constitutional stepchild. So is one who asserts that a doctrine of "purely commercial advertising" permits the government to prohibit the advertising of literature whose *sale* the First Amendment concededly protects *see* Testimony on H.R. 11031 (Sept. 25, 1969).

The same scant regard for the First Amendment appears in Mr. Rehnquist's analysis of the free-speech rights of public employees. *See* Public Dissent and the Public Employee, 11 Civ. Serv. J. 7 (1971). Although it purports to employ a "balancing" approach, this article casts the balance very heavily against freedom of expression. This is hardly surprising once the "interest on the other side of the scale [is] . . . described as the interest of the government in governing effectively." Closely examined, the various "factors [used] . . . to meet the balancing test" plainly appear designed to paint *Pickering* v. *Board of Education,* 391 U.S. 563 (1968), into the narrowest possible corner. But more significant than Mr. Rehnquist's conclusions is his analytic method of "balancing." When he discusses the weights on the government employer's side, he examines in lavish and loving detail all of the justifications for stifling speech—" 'loyalty,' 'harmony,' . . . avoidance of 'dissention,' " the chief Executive's "popular mandate," and the intolerability of "insubordination." On the other side, he aligns a "claim for freedom of speech" to which he devotes no such detailed analysis. Surely this "claim" also has its several components, including not only the public employee's interest in speaking (which Mr. Rehnquist appears to see as the only First Amendment interest involved) but the public's interest in hearing—and, in particular, a self-governing people's interest in hearing about governmental policies from those most knowledgeable concerning them. About these concerns Mr. Rehnquist says nothing, because he reserves his "critical analysis" for the weights in the other pan. Indeed, he not only slights but also distorts the First Amendment interests involved: for example, he treats the expression of individual views by public employees as some sort of plebiscite which would "control" their employer. This sort of "critical analysis" and "balancing" manifests either a calculated stacking of the weights against the First Amendment or, at the least, a callous insensitivity to what the First Amendment is all about.

c. *Rights of Arrested Persons.* Mr. Rehnquist shows the same insensitivity to Bill of Rights guarantees in the criminal process, and particularly to the rights of arrested persons. Discussing the May Day arrests, he treats the problem of delayed preliminary hearings as though the function of a preliminary hearing were principally to prevent protracted investigative detentions *see* "Which Ones Have the White Hats?" (May 5, 1971). In fact, another major function of the preliminary hearing is to enforce the Fourth Amendment's prohibition of arrests without probable cause, by requiring the arresting officer to justify his arrest before a judicial examiner. Mr. Rehnquist stresses the point that preliminary hearings are more difficult to hold—but he ignores the point that they are also particularly important to hold—in a time of indiscriminate mass arrests.

This treatment of the Eighth Amendment is astounding. On the one hand, he reads it (together with the Fourth and Fifth Amendments) as broadly expressive of a "right to be let alone," which he then broadens into "the right to be free from robberies, rapes, and other assaults on the person by those not occupying an official position"—a concept which warrants governmental use of preventive detention as a device to prevent criminal depradations. Here, certainly, is an extrapolation which dwarfs even Mr. Rehnquist's extrapolations from the "Republican Form" and "Commander in Chief" Clauses of the Constitution. *supra.* But when the detained man points to the Eighth Amendment, Mr. Rehnquist replies that "the framers of this Amendment deliberately chose language confined to a relatively narrow set of circumstances" *see* "Official Detention, Bail, and the Constitution" (Dec. 4, 1970); and that, read with proper narrowness, the Amendment "does not establish a right to bail; it forbids judges from requiring excessive bond in cases where the defendant has a statutory right to bail" (p. 82). The latter grudging construction ignores much history and logic (see Foote, *The Coming Constitutional Crisis in Bail,* 113 U. PA. L. REV. 959, 1125 (1965)); but, if it were correct, it would surely render the Eighth Amendment unavailable as a source of Mr. Rehnquist's "right to be let alone." It appears that this Amendment means whatever Mr. Rehnquist wants it to mean: *viz.,* preventive detention.

Mr. Rehnquist also takes his own liberties with the Supreme Court's criminal procedure decisions. Whatever view one entertains upon the difficult question of the constitutionality of "no-knock" statutes, it is plainly misleading to assert that they are "actually nothing more than a codification of constitutional law, and of practices which were held not to violate the Constitution in a case decided a few years ago by the Supreme Court of the United States" *see* "The Administration of Criminal Justice" (Dec. 2, 1970). Presumably, Mr. Rehnquist refers to *Ker* v. *California,* 374 U.S. 23 (1963), in which the Supreme Court split 4–4 on the relevant issue. (Mr. Justice Harlan's decisive vote was based upon another ground, which Justice Harlan had abandoned in deference to precedent several years before Mr. Rehnquist's speech.)

It should be made plain that, in the foregoing pages, the quarrel is not principally with Mr. Rehnquist's results in particular cases. Fair-minded men will often disagree on constitutional questions, as on others. What leads to the conclusion that Mr. Rhenquist is heedless of the basic constitutional guarantees of civil rights and liberties is his reasoning process, not his results. Consistently, he overlooks or understates the nature and significance of whatever civil-liberties claim he purports to be assessing. Consequently he consistently dismisses such claims without having given them a fair and adequate hearing. He invariably reads constitutional clauses and judicial decisions which promote civil-liberties interests narrowly, without explaining why; and equally invariably he reads constitutional clauses and judicial decisions which militate against civil-liberties interests broadly, without explaining why. He accords the most painstaking and sympathetic analysis to all of those considerations which—he ultimately concludes—require the subordination of civil-liberties values; but the competing civil liberties values themselves receive no such analysis. Confronted with a civil-liberties claim, he does not pause to consider it dispassionately; instead his critical faculties are bent immediately toward the fashioning of reasons for its rejection.

A final example of this penchant is his treatment of the rule excluding unconstitutionally obtained evidence in criminal trials. The exclusionary rule is a controversial subject, to be sure. But controversial questions are not responsibly resolved by begging them, as Mr. Rehnquist does with this one. His discussion begins and ends with the unexamined premise that the exclusionary rule can be defended only as a means of forbidding unfair prosecutive practices—rather than as a means of deterring illegal searches and seizures. Once he adds to this assumption the further assumption that there is nothing inherently unfair about convicting a man upon the basis of illegally seized evidence, he unsurprisingly comes out where he started: with a strong distaste for the exclusionary rule. *See* "Which Ones Have the White Hats?" (May 5, 1971). Surely, however, there is something missing in a consideration of the exclusionary rule which does not face up to the rule's basic purpose of enforcing the Fourth Amendment.

4. Much of what has just been said also undergirds the second conclusion: that Mr. Rehnquist does not display the balance in reasoning which should characterize a Supreme Court Justice. Specifically:

(a) He habitually manufactures unsubstantial and merely verbal distinction whose only purpose is to justify whatever conclusions he wishes to reach. Examples are his distinction between limiting a businessman's choice of what is built on his property and who comes on it, drawn for the purpose of opposing a public-accommodations ordinance *see* part 3(a), *supra*, and his distinction between intimidation of political dissenters by "compulsory process" or other "legal sanction" and intimidation of political dissenters by other means *see* part 3(b), *supra*. He reads cases which can be made to support his desired results with unexampled breadth (e.g., *Neagle; Valentine* v. *Chrestensen; Ker*, but denies the plainest logical implications of cases which stand in his way (e.g., *N.A.A.C.P.* v. *Alabama; Pickering, see* parts 3 (b) and (c), *supra*.

(b) He construes constitutional clauses which confer Executive power with the utmost breadth (e.g., the "Republican Form" Clause; the "Commander in Chief" Clause), while construing guarantees of individual liberty with persistent stinginess (e.g., the First Amendment; the Eighth Amendment *see* part 2(b), *supra*. His approaches to interpretation of these two sorts of constitutional provisions differ as do day and night. No explanation is ever offered why Mr. Rehnquist chooses one or the other approach; and the obvious explanation is—to borrow Mr. Rehnquist's words in criticism of the Warren Court—"ideological sympathy at the expense of generally applicable rules of law".

(c) When he purports to "balance" interests, he does so unfairly. He subjects a governmental interest to "critical analysis" or not, depending upon whether it gains or loses force from critical analysis. (Compare his treatment of the government's interest in restricting its employees' freedom of speech *see* part 2(b), *supra*, with his treatment of its interest in preventive detention *see* part 2(c), *supra*.) The governmental interest is given the benefit of such concerns as "chilling effect" (under other names) while the competing interest of individual liberty is not. The governmental interest is minutely inspected and dissected for the purpose of increasing its bulk, while the competing interest is left unexamined or dissected for the purpose of throwing half of it away. Mr. Rehnquist's treatment of civil disobedience *see* "The Law: Under Attack From the New Barbarians" (May 1, 1969) is exemplary. It recognizes—for the purpose of urging the immorality of even symbolic disobedience—that coercive law enforcement is no substitute for self-governance. But it ignores or denies the same perception when it takes University administrators to task for failing to use coercive measures on the campus. It develops in fine detail every aspect of the corrosive effects of symbolic disobedience, while saying nothing at all about the plight of the minority which is so deprived of access to the forums of public opinion that it must carry its case to the public conscience by suffering the consequences of an unjust law. Much is said about the irrelevance of Gandhi, but nothing about the relevance of Martin Luther King, Jr.

Other aspects of Mr. Rehnquist's writings demonstrate the same sort of intellectual double-standard:

(d) His decisive argument against symbolic civil disobedience emphasizes, first, the value of majority rule in a democracy and, second, the historical fact that majorities are capable of responding to minority interests. A classic instance of this latter fact, he asserts, is Congressional passage of the 18-year-old voting act. Mr. Rehnquist does not mention that he opposed that act, and urged submission of the 18-year-old voting issue to the constitutional amendatory process, upon the precise ground that social change of this nature should await the action of "extraordinary majorities both in Congress and among adopting States" *see* Testimony on Lowering the Voting Age to 18 (March 10, 1970). Plainly, Mr. Rehnquist shifts back and forth between majoritarianism and his notion of "consensus" as may suit his purposes: to discourage both social change and the effective advocacy of social change.

(e) The same double standard is shown in his analysis of *Valentine v. Chrestensen*, 316 U.S. 52 (1942). Mr. Rehnquist cited this case as posing a constitutional problem for an anti-blockbusting provision of a Model State Anti-Discrimination Act while he was a Commissioner on Uniform State Laws. This is apparently the only time that Mr. Rehnquist has given the First Amendment wide scope—and, significantly, it is a time when his argument cut against the interests of racial equality. Contrast that narrow reading of *Valentine* with the incredibly broad reading he gave the same case when arguing that it was constitutional for the government to prohibit the advertising of allegedly obscene materials which concededly could not be banned themselves. *See* Testimony on H.R. 11031 (Sept. 25, 1969).

(f) Mr. Rehnquist purports to advocate both stern law enforcement measures and prison reform *see* "The Administration of Criminal Justice" (Dec. 2, 1970). His zeal for prison reform is limited, however, by the realistic assessment that "the case for prison reform must be sold in competition with the case for any number of other worthwhile expenditures of public money." This appears to be the only reference in his writings to the economic costs of a program which he professes to approve. He never considers, for example, the costs of government surveillance, preventive detention, federal administration of an anti-bombing statute, etc. Economic concerns, like analytic ones, emerge in his thinking only to support the results he wants to reach.

(g) Mr. Rehnquist aligns himself with those who decry the lack of "judicial self-restraint" of the Warren Court. See Rehnquist, *The Making of a Supreme Court Justice*, Harvard Law Record, October 8, 1959, pp. 7, 9. On the other hand, he defends the Justice Department's use of wiretapping despite doubts concerning its constitutionality, on the ground that "[i]f the Department of Justice were to refuse to enforce the legislation of Congress because of doubts as to its constitutionality, the matter would never get to court for decision," and it is "to the courts, that any final decision as to the constitutionality of legislation passed by Congress is confided." Indeed, he goes further, and suggests that the Executive would be derelict in its role and duty if it "refused to push for legislation" authorizing preventive detention, despite the admitted possibility that such legislation might be unconstitutional. In other words, the Executive and Congress are to push ahead with legislation that may be unconstitutional, on the theory that constitutionality is the Supreme Court's business; but Court decisions of unconstitutionality are to be criticized for overriding the will of the Executive and Congress. The Executive and Congress are to watch out for law enforcement; the Supreme Court is to watch out for the Executive and Congress; and no one is to watch out for the Constitution.

(h) If there is a constant characteristic in Mr. Rehnquist's legal writings, it is the employment of this sort of double standard. Ideas and arguments that are ideologically uncongenial to him are subjected to a critical analysis which his own ideas and arguments need not undergo. Always demanding strict proof of an unwelcome view but never of a welcome one, Mr. Rehnquist largely uses legal analysis as a means of liberating himself from claims that he does not wish to recognize, so that he can do as he pleases

5. It may be objected, certainly, that Mr. Rehnquist has heretofore spoken as an advocate, and that he may speak. But this is hardly persuasive. First, Mr. Rehnquist has said quite explicitly that his selection for his present position reflects his intellectual compatability with the views that he advocates in that position. Rehnquist, *The Old Order Changeth: The Department of Justice under John Mitchell*, 12 ARIZ. L. REV. 251; 252–253 (1970). Second, the most troubling features of his writings and speeches relate not to the ultimate positions which he advocates but to the reasoning process by which he advocates them. These reasoning processes, surely, are his own, whatever may be the advocate's use to which he puts them. If he *is* capable of balanced reasoning—of subjecting his own viewpoints to the criticism which he wields against others—he has never given any affirmative indication of it. and finally, nothing in the testimony he gave at the hearing gives one cause to believe that his advocate's views were different from his own.

6. This memorandum does not deal with his testimony in the confirmation hearing. But it is worth noting that his testimony tends to confirm the conclusions drawn from his previous writings. Where he withdrew from previously held positions—for example, with regard to the public accommodations ordinance and some aspects of government surveillance—he did so in a way, and for stated reasons, which reflect no different basic views, values, or reasoning processes than the ones which led him to his original positions. Once again it must be emphasized that it is those views, values and reasoning processes—not Mr. Rehn-

quist's positions on specific issues—that appear to be dangerous. In addition, Mr. Rehnquist's testimony at the confirmation hearings was less than wholly forthright. His claim of "privilege" was, of course, in a technical sense, entirely unfounded; what it amounted to—if something more than an evasion—was a preference for the public image of the Justice Department over the constitutional role of the Senate in the confirmation process.

SALUTE TO VETERANS' PROGRAM AT WOODBRIDGE, N.J.

Mr. CASE. Mr. President, last month the Allied Council of New Jersey Veterans' Organizations held a most successful salute to veterans' program at the Woodbridge Veterans' Memorial Park in Woodbridge, N.J.

I am pleased to pay tribute to the Allied Council of New Jersey Veterans Organizations for the fine work it is doing in behalf of the Vietnam veterans in New Jersey.

I ask unanimous consent that the letter I have received from Martin Kaufman, commander of Elin-Unger Post No. 273, Jewish War Veterans, and chairman of the salute to veterans' program, be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Hillside, N.J.,
October 28, 1971.

Senator Clifford P. Case,
Senate Office Building,
Washington, D.C.

Dear Senator Case: This is the first opportunity in which I have been able to sit down and write to you about the just concluded Salute To Veterans Program held at Woodbridge Center, Woodbridge, New Jersey, Oct. 25–27, 1971.

If any program was to receive an Americanism Award this program should be at the top of the ladder. Opening day we attracted over 100,000 people. The highlight was Governor Cahill and may I add that your kind message was read before those in attendance and was warmly received. The highlight of the second day was the Stage Door Canteen. We entertained forty patients from East Orange Veterans Hospital and forty patients from Lyons Veterans Hospital.

The highlight for the third day was to us the most important part of the three day program. The Job Seek Program which was run in the Community Hall between the hours of four and nine. Some fifty industrial and government agencies participated and we had 125 Veteran applicants seeking out these organizations for employment.

As for the Salute To Veterans Program we had participating over forty (40) veteran, civic and government groups and we attracted over 250,000 people.

Sincerely yours,
Martin Kaufman, *Chairman.*

CHEYENNE HELICOPTER DEVELOPMENT

Mr. THURMOND. Mr. President, in view of some remarks placed in the Record last night with reference to future weapon systems for close air and close fire support, I feel the Senate would benefit from some points in favor of the Cheyenne helicopter gunship program.

The Cheyenne is the Army's most urgent requirement. The helicopter gunship saved countless lives in Vietnam. It is the only airborne machine which can provide suppressive and sustained fire in support of transport helicopters which deliver our fighting men to hot spots on the battlefield.

Development of the Cheyenne is practically complete. It would be foolish to develop an advanced gunship and then cut off the money needed to fully test and evaluate it.

The utility of the helicopter gunship is a matter of record:

First. The Air Force owns helicopter gunships and uses them to extract downed pilots and protect airbases in Vietnam.

Second. The Navy uses helicopter gunships for the same purposes plus river patrols and along shorelines.

Third. The Marines have helicopter gunships—Cobras—integrated into each of its ground divisions just as the Army wants to do with the Cheyenne.

Fourth. Israel and other nations are using helicopter gunships. Israel used them successfully in raids on Egyptian territory. As evidenced at the recent Paris Air Show, the U.S. is behind in various aircraft development, but it is ahead in helicopters.

Justification for the Cheyenne can be fully met on one point—its ability to operate in bad weather and at night when fixed wing planes are grounded. During Tet in Vietnam the weather was so bad that at one location during February fixed wing planes were grounded for 24 of the 28 days, and helicopter gunships provided all close air support. The weather in Europe is bad more often than it is good.

While the Cobra is a good gunship, the Cheyenne carries three times as much ordnance and possesses armor plating for protection. The Cheyenne also fires the TOW anti-tank missile, an essential weapon in destroying enemy armor.

The army of the future is to be smaller and based on mobility. Presently over 90 percent of the Soviet divisions are mobile—mainly moving in personnel carriers. The U.S. Army is developing the Tri-Cap Division, one-third helicopter borne, one-third tank, and one-third air cavalry with helicopter gunship units. This concept will have to be abandoned if the Cheyenne program dies.

Approval by the Senate last night of the $9.3 million for the Cheyenne will assure continued development, testing, and evaluation. We need the information which would be obtained from such testing to make a decision in 1973.

Mr. President, the Senate should realize that the Army has given up a sizable amount of equipment to absorb the cost of the Cheyenne. The Marines gave up F-4 squadrons to allow for the cost of the Harrier. The Army wants the Cheyenne badly enough to sacrifice for it as the Marines did to get the Harrier.

Thus, the cost of the Cheyenne has to some degree already been absorbed in the budget. If the Cheyenne program is not completed, then the military planners will have to go with the Air Force AX close support plane which is still in the early stages of development. The Air Force wants seven wings of the AX over and above the present 21-wing tactical air wing structure while the Army would be using the Cheyenne in lesser numbers as an integrated part of the ground fightng forces.

The man on the ground, the man with the "mud on his boots" who takes the brunt of any war, deserves the added protection and support which can only be provided by an-advanced helicopter gunship. No one can deny that the gunship has unique capabilities which will save lives among our foot soldiers.

I am pleased that the Senate has approved the Appropriations Committee request that $9.3 million be allowed in the Defense bill for continued development of the Cheyenne helicopter gunship.

THE SUPREME COURT NOMINATIONS

Mr. HANSEN. Mr. President, over the past several weeks, statements have appeared, both in the Record and in the media, on the qualifications of Lewis F. Powell and William H. Rehnquist to serve as Justices of the U.S. Supreme Court.

The Senate Committee on the Judiciary has held hearings on the President's nomination of these two gentlemen and I congratulate the committee on its fine work in developing a clear record on which every Senator can base his vote on confirmation.

I have had some opportunity to study the record of Mr. Powell and Mr. Rehnquist.

They are individuals of great academic and professional accomplishment.

It is my intention to vote in favor of the confirmation of both these able men.

Lewis F. Powell, Jr., is, without question, one of the outstanding lawyers in the South and, indeed, in the entire Nation. He exercised leadership in his early years when he served as president of the student body of his university. He was elected to Phi Beta Kappa and holds both a bachelor's and a master's degree in law.

Mr. Powell's professional reputation is founded on his many years of activity as a member of Hunton, Williams, Guy, Powell and Gibson, one of Virginia's oldest and most respected law firms. His career is a testimony to public service. He has acted as a leader and stabilizing force within his community, and his contributions are many and most significant.

In 1964–65, Lewis Powell served in the prestigious postion of president of the American Bar Association, an organization representing 117,000 attorneys, judges, and teachers of law. The record of Lewis F. Powell superbly qualifies him for service on the U.S. Supreme Court.

While the nomination of William H. Rehnquist has generated some controversy, there is no question in my mind that this man embodies those qualifications and attributes required for service as a member of our Nation's highest Court.

William Rehnquist's academic credentials are of the highest order. He was elected to both Phi Beta Kappa and the Order of the Coif. His accomplishments led to his selection as law clerk to the late U.S. Supreme Court Justice Robert

H. Jackson, an honor reserved only for the few.

Mr. Rehnquist turned to private practice in Phoenix, Ariz., where he established himself as a prominent and capable member of the legal community. His interest and participation in public affairs led to his appointment as Assistant Attorney General, Office of Legal Counsel, U.S. Department of Justice, a position which President Nixon has described as the President's attorney's attorney. Indeed, William Rehnquist's capable execution of his duties in this post may in large measure be responsible for the criticism he has endured in recent weeks. He has proved to be a strong and persuasive advocate for the administration positions which he has had the duty of representing. This is not to say that he has not agreed with these positions. But all of us can appreciate the position of an advocate and William Rehnquist himself has stated that he would not hesitate to adopt a position as a justice different from one he had advocated as an attorney or as counsel for the Justice Department.

It is impossible to find a man with whom a person can agree on every point. In fact, if an individual does agree with another all of the time, there is a good chance that the individual is willing to compromise his own principles in order to satisfy the demands of the other person. But total agreement on philosophy is not a prerequisite for Senate confirmation of a nomination to the Supreme Court.

Mr. Herbert Ely, chairman of the Democratic Party in Arizona, a man who has known Mr. Rehnquist for over 10 years and who has often engaged in philosophical and political combat with the Supreme Court nominee, said:

> Although I would not have nominated William Rehnquist as Justice of the Supreme Court, nevertheless, as a Senator I would vote to confirm the appointment. From a decade of personal experience with William Rehnquist, I found him to be qualified to serve on the U.S. Supreme Court both in intellect and legal scholarship. He is a man who happens not to share my political philosophy. But in my opinion he is neither an extremist or a bigot.

Mr. President, on November 21, an editorial entitled, "Proper Yardstick for a Justice", appeared in the Denver Post and reminds us that William Rehnquist himself in a 1959 article, defended the right of the Senate to inquire into the nominee's views on issues that might come before the Supreme Court. That same editorial referred to a New York Times article by Senator John McClellan.

Our distinguished colleague set forth three issues which face the Senate in determining a nominee's qualifications for the Supreme Court and stated:

> After personal integrity and professional competency, what is crucial, in my judgment, is the nominee's fidelity to the Constitution.

I agree with the senior Senator from Arkansas, in finding that both William H. Rehnquist and Lewis F. Powell, Jr., meet this high standard and are most competent individuals.

I heartily support the confirmation of their nominations by the Senate.

Mr. President, I ask unanimous consent that the editorial to which I referred earlier be printed in the Record at this point.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

PROPER YARDSTICK FOR A JUSTICE

It is almost as if the liberal members of the Senate Judiciary Committee this month had been following the advice of William Rehnquist himself—contained in the 12-year-old article reprinted on this page from the Harvard Law Record—in their determined inquiry into the conservative lawyer's views on issues that might come before him as a Supreme Court justice.

In the article Rehnquist approved this procedure as necessary to enable the Senate to influence the tone, and indeed the decisions, of a court whose latitude for interpretation is intentionally very broad. Now that he has actually gone through such an inquiry, he may look at the matter differently however.

After parrying a question from Sen. Hiram Fong, R-Hawaii, with the statement that it would be "inappropriate" for him as a Supreme Court nominee to answer, Rehnquist was asked by Sen. Ted Kennedy, D-Mass.:

"What kind of questions should we be asking you?"

To which Rehnquist replied: "I simply am not able to answer that, Senator."

He did tell Sen. Philip Hart, D-Mich., that "I would disassociate my personal philosophy to the greatest extent possible from my role as a judge."

And when Sen. John McClellan, D-Ark., asked him if he would "hesitate to adopt a position as a justice different from one you had advocated as an attorney or as counsel for the Justice Department," Rehnquist replied: "I would not."

So in effect, Rehnquist wound up saying much the same thing that Felix Frankfurter said in 1939 when he, as one of Franklin Roosevelt's liberal appointees (who later became an outstanding court conservative), appeared before the first senate inquiry of this sort: "I would think it not only bad taste but inconsistent with the duties of the office for which I have been nominated for me to attempt to supplement my past record by present declarations."

We are impressed with what Senator McClellan said about qualifications in an article in the New York Times earlier this month:

"There is room on the United States Supreme Court for liberals and conservatives, Democrats and Republicans, Northerners and Southerners, Westerners and Easterners, blacks and whites, men and women—these and other similar factors neither qualify nor disqualify a nominee. After personal integrity and professional competency, what is crucial, in my judgment, is the nominee's fidelity to the Constitution."

By that threefold test, both Rehnquist and his fellow nominee, Lewis F. Powell Jr., appear to qualify for the Senate approval they seem at this point certain to receive.

THE BIGGEST CITY—AND THE LOWEST CRIME RATE

Mr. SCOTT. Mr. President, I was extremely interested to read on the editorial page of the Washington Post for Tuesday, November 23, an article which begins as follows:

> Tokyo today boasts the largest population of any city in the world, if that's anything to boast about—11,513,669, give or take a few births and deaths since the most recent reading; and it also boasts the lowest rate of crime among all the world's great metropolises.

This opening sentence on the editorial page of one of our prestigious newspapers caught my eye and I read to the end of the article. It is written by Alan Barth, one of the Washington Post's top writers, who is currently visiting in Japan with his wife. Among the statistics he cites with some astonishment is that in 1970 there were only 213 murders in Tokyo compared with 1,117 murders in New York City. There were only 474 robberies compared with 74,000 in New York, and 500 rapes compared with over 2,000. There were only six bank robberies in Tokyo during 1970.

The traditional reporter, the man with an inquiring mind, would obviously question how this situation came about. He would seek for reasons, and would hope therefrom to draw some ideas for improvement of our disgraceful record. Some of the reasons found by Alan Barth are described in the article which I read. They make good reading, if not happy reading, but the conclusion Mr. Barth reaches is pretty hard to contradict.

He says:

> It would be worth a considerable price if citizens in the Capital of the United States were able to walk around the streets at night in comfort and security, without fear of footpads, as citizens do commonly and unconsciously every night of the week in the Capital of Japan.

Mr. President, the article in question made a great impression upon me, and it should likewise make a great impression upon every thinking citizen. The situation on our streets today screams for correction. Even here, in the city which is the Capital of the United States, in the complex of buildings which constitute our national legislature, where the representatives of all the people meet daily in the Congress of the United States, and are served in their offices by thousands of dedicated, toiling workers, it is a disgraceful condition that the secretaries working for us fear to walk the sidewalks outside their buildings after dark.

It is absolutely unacceptable that a young woman leaving her office to walk a block or two to her car or to a bus stop must be escorted there by a policeman, or run the risk of being robbed, raped or otherwise molested. The situation that exists upon the very doorstep of the Congress of the United States should bring the blush of shame to every Member of the Congress.

Mr. President, we cannot allow this to continue. Tokyo, a city many of ours would do well to emulate, has found an answer. Mr. Barth has suggested some of the methods the Japanese have used. I do not suggest that all these means will serve us equally as well, but I do suggest that the striking difference between the statistics of crime in Japan and in the United States indicates that we, here, have not done our duty.

Mr. President, I ask unanimous consent that the entire text of this outstandingly thoughtful article by Mr. Alan Barth be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

TOKYO—THE LOWEST CRIME RATE

(By Alan Barth)

TOKYO.—Tokyo today boasts the largest population of any city in the world, if that's anything to boast about—11,513,669, give or take a few births and deaths since the most recent reading; and it also boasts the lowest rate of crime among all the world's great metropolises.

There were only 213 murders in Tokyo during the course of 1970—and only three of them, incidentally, were accomplished by pistols—as compared with 1,117 murders in New York City which is now smaller in population by about 30 per cent. There were only 474 robberies in Tokyo compared with 74,102 in New York, 7,268 assaults compared with 18,410, and 500 rapes compared with 2,141.

If the comparison is made in terms of crime per 100,000 of population in 1970, Tokyo's homicide rate stands at 1.9, New York's at 10.5 and Washington's at 11.4. The forcible rape rate during 1970 was almost as striking: 4.4 for Tokyo; 19.9 for New York; 23 for Washington, D.C.

There was a total of six bank robberies in Tokyo during the whole course of last year; and there were just 625 purse snatchings.

In an effort to find out the reasons for this contrast, I talked with a police superintendent, a distinguished professor of criminal law and several newsmen, American as well as Japanese. They suggested a number of explanations, some obvious, some less so. Perhaps the basic explanation lies in the homogeneity of the Japanese people. There is no ethnic problem in this country, no major racial minority disadvantaged and made desperate by discrimination. Koreans are rather disliked and sometimes mistreated in Japan; but they are not numerous enough to constitute a very serious problem. And there is a class of outcasts rather like the Indian untouchables, called Eta, traditionally victimized by discrimination; but they are mostly in rural areas, and the tradition is fast fading.

The racial homogeneity of the Japanese is fortified by their common cultural background. The multiple strands of melting-pot America do not exist in Japan. And Japanese tradition gives much more value to conformity than to individuality; it operates to promote respect for the law and for authority. Despite a strong strain of violence in their history—made manifest contemporaneously by the student demonstrations—the Japanese are an order-loving and highly disciplined people.

Moreover, Japan is a set of small islands without the long land borders that make the United States so vulnerable to narcotics smuggling. There is virtually no narcotics problem in Japan; heroin addiction is looked upon with horror and is almost unknown.

Apart from these natural advantages, however, the Japanese have done some things about the causes of crime and have taken steps to combat it realistically in ways that might be effective in America as well.

There are now practically no slums in Tokyo, no areas which by their squalor and deprivation and lawlessness breed criminals in the way that stagnant pools breed mosquitoes. There is desperate overcrowding but there is no ghetto and no inner city set apart from the rest of the community as a sinkpot. Besides, there is now no unemployment in Japan; on the contrary there is a labor shortage, so that pretty nearly everyone who wants to work can find a job. To facilitate employment, besides, the Japanese have almost completely wiped out illiteracy. The public schools do a formidable job of making the Japanese the most enthusiastic readers in the world—and making them singularly well equipped to do useful work in an industrial society.

Another way in which the people of Tokyo have managed to curb crime is by giving status, support and dignity to their police force. The force, consists of 35,000 officers, and it is believed to be as free from corruption as any law enforcement body in the world. The Tokyo police constitute a department of a national police body in this geographically small country; there are no state divisions of authority or difference of custom and procedure to impede effective operation on a nationwide basis.

More important, police work is a career to which top graduates of Japanese universities aspire. Men of the highest ability—often men of great cultivation and learning—are moved into authority in the law enforcement ministry. In consequence, the police department has developed an extremely high esprit de corps. It has a tradition of discipline, of service and of high reputation that put it on a par with other departments of the national government. Men who serve it in administrative capacities take great pride in its prestige. And to a Japanese, nothing is more painful or shameful than to bring disgrace in any way upon his family, his school or his organization.

The Japanese do one other thing that helps immeasurably, in the opinion of the authorities I talked with, to keep the crime rate down. They maintain a rigid control of firearms. They regard the pistol as a dangerous weapon, useful only to criminals. And so the law regarding pistols is very simple indeed: it provides that no one—that is to say nobody at all, excepting a soldier or a policeman and a tiny number of specially circumstanced civilians—may purchase, purvey, play with or possess a pistol in any form or of any caliber. Even toy pistols are frowned upon here; they may be made only of plastic and they must be colored red or white to keep them from being mistaken for the real thing. Possession of a pistol is considered a serious offense subject to drastic punishment.

Regarding rifles and shotguns, the law is much more lenient. Anyone may own a long gun—provided that he register it with the police and obtain from them a permit in advance. The gun must be kept unloaded except when used for hunting or target shooting; and it must be kept securely locked up so that children cannot fire it unexpectedly when showing it off to their younger siblings.

There are about 75,000 guns registered in Tokyo. And the Japan Times was moved to an annoyed editorial the other day about what it called "the spreading gun mania." "With the opening of the hunting season," the editorial complained, ". . . we can expect another rash of fatalities." Last year there were 280 hunting accidents reported to police. These accidents occur despite the fact that the police require those holding hunting licenses to attend a lecture session on the proper handling of guns.

Possession of lethal weapons has always been narrowly restricted in Japan. From feudal times onward, only the samurai, very limited in number, could carry swords. And the tradition was carried forward respecting the possession of firearms.

Control over the private ownership of guns was advanced, Prof. Hideo Tanaka of the University of Tokyo law school told me, by the American Army of occupation. The occupation authorities were extremely firm about the private possession of firearms. Uninhibited by constitutional niceties about unwarranted searches, they saw to it that every gun in the country—or pretty nearly every gun—was turned in.

Occupation by a foreign power and the acceptance of random searches are, manifestly, too high a price to pay even to solve the gun problem. But then the shooting, annually of upwards of 200,000 Americans within the borders of their own country is a rather high price to pay for the pleasure of our domestic Nimrods and marksmen. Perhaps rational men could devise some modest measure of control that lies in between the two.

The crime rate, when all is said and done, is nothing but a thermometer of social sickness. The striking disparity between the incidence of crime in Japan and in the United States suggests pretty plainly that Americans are running a high social fever.

When such a symptom manifests itself, it is a good idea to try to diagnose its causes. The cost of neglect can be far greater than the cost of correction.

It would be expensive, no doubt, to eradicate the slums of Washington, to improve the schools so that everyone got enough education to earn a living, to put a stop to racial segregation and discrimination so that men were not made outcasts by reason of their color and to end the sordid traffic in weapons designed for the killing of human beings. But it would be worth a considerable price if citizens in the Capital of the United States were able to walk around the streets at night in comfort and security, without fear of footpads, as citizens do commonly and unconsciously every night of the week in the Capital of Japan.

THE HISTORIC ALABAMA-AUBURN FOOTBALL GAME

Mr. ALLEN. Mr. President, on Saturday following Thanksgiving, thousands of Alabamians and millions of other Americans wherever they may be, briefly will lay aside their concerns of everyday life and devote their attention to an action that will take place Saturday afternoon in Legion Field in Birmingham, Ala. Yes, most of the Nation will focus on Legion Field where two of the finest college football teams in the country will line up for a resumption of a rivalry that goes back to 1892. I speak of the annual football game between the Crimson Tide of the University of Alabama and the Tigers of Auburn University.

Saturday's game will mark the 23d consecutive year and the 35th time that these two great schools have met, and the record book, which shows an almost even split in this series, is indicative of the friendly rivalry that exists between them.

What makes this year's game of even greater interest—of nationwide interest—is that Alabama and Auburn will be playing for the championship of the great Southeastern Conference—and possibly as a forerunner of the National Championship. Saturday's game will be the first time in the conference's 30-year history that two undefeated teams will meet in the final game of the regular season, and this is the first time that both Alabama and Auburn hold an undefeated record coming into their annual game.

For this 1971 season, Alabama has a 10–0 record while Auburn sports a 9–0 record, both having played against some of the finest college teams not only in the Southeastern Conference but also in the entire Nation.

Of added interest is the fact that Saturday's game will feature three All-American football players, Johnny Musso, the outstanding running back for the Tide, Pat Sullivan, the Auburn quarterback, and Terry Beasley, Auburn's fine pass receiver. Sullivan and Musso are in the running for the Heismann

Trophy, the winner of which will be announced tomorrow night during the nationally televised football game between two other great competitors, the University of Georgia and Georgia Tech, playing in Atlanta.

As of this moment, Pat Sullivan will need to engineer only one more touchdown to set a new national career scoring record. He has been responsible for a total of 71 touchdowns over his 3 year playing career, surpassed only by the 72 touchdowns manufactured by Army's great halfback Glenn Davis who played for West Point from 1943 to 1946.

But every Auburn and Alabama player is a star in his own right.

Not only will Saturday's football game pit undefeated teams and All-American players against one another, but it will also feature two coaches who are ranked among the top 20 coaches in the Nation.

Coach Paul "Bear" Bryant, who is head coach at the University of Alabama, has won more football games than any other active college coach in the country. During his 27 year career as head coach he has established a record of 209 wins, 66 losses and 16 ties.

Coach Ralph "Shug" Jordan, head coach at Auburn University has an equally enviable record. Now in his 21st year of coaching at Auburn, he sports a record of 146 wins, 66 losses, and 5 ties.

Alabama's appearance in 25 bowl games is unmatched by any other team in the Nation, and when Coach Bryant takes his Tide into the Orange Bowl on New Year's Day it will mark the 13th consecutive bowl appearance by his team since he became head coach at Alabama in 1958.

Auburn University, will appear in the Sugar Bowl, the 9th postseason bowl appearance for this great university.

Mr. President, there is still another unusual feature in this game to be played Saturday. Each of the head coaches is directing the team for his own alma mater. Coach Jordan graduated from Auburn in 1932 after an outstanding playing career. Coach Bryant graduated from Alabama in 1936 after having played in the Rose Bowl and having been captain of his team in 1935.

Coach Bryant and Coach Jordan represent the finest attributes to be found among coaches and other leaders of our youth. They teach their players the value of dependence on one another, and they fill their young men with the will to give their best and to play to win. And, at the same time, they teach their boys the meaning of true sportsmanship, that while the goal is to win, it is how you play the game that counts most. The ranks of outstanding college coaches are filled with men who have played under or coached under Coaches Bryant and Jordan, and the high standards found in American college football are due, in great part, to these two great Alabama coaches.

Mr. President, the whims of fate may influence the outcome of Saturday's historic meeting between the University of Alabama and Auburn University, but the outcome will be determined in larger measure by the efforts of those fine young men who will find themselves in the eyes of the Nation under the piercing lens of the network television cameras.

The entire Nation will be able to see this game between two teams, either one of which is worthy of being No. 1 in the Nation. And when the bowl games are played, either Alabama or Auburn could well be No. 1.

NOMINATION OF EARL L. BUTZ AS SECRETARY OF AGRICULTURE

Mr. JACKSON. Mr. President, American farmers are growing more and earning less. They feel threatened by low farm prices, the growth of corporate giants in agriculture and a national administration which has failed to develop a constructive farm policy.

There is nothing in the background or philosophy of Earl Butz to reassure the thousands of farmers who look to the Secretary of Agriculture to represent their interests. They have already experienced him in action at the Department of Agriculture—and it was not a pleasant experience. And they know that Mr. Butz has shown little concern for the independent farmers working outside the realms of the corporate food producers with whom he has been so closely associated.

There are other grounds for doubts about the wisdom of this appointment. Since Mr. Butz last served in Government, there has been a dramatic change in attitudes toward our environment. I see no evidence that Mr. Butz understands this. As the author of the National Environmental Policy Act, I am seriously concerned over his ability to administer agriculture programs—which have broad impact on the environment—with due respect for the mandate of that act.

In any event, the fact that farmers lack real confidence in Mr. Butz foredooms any chance for reforming this administration's farm programs. Without broad support in the farm belt, Mr. Butz cannot hope to build a consensus for progressive farm policies. Under these circumstances, and particlarly in light of Monday's vote in the Senate Agriculture Committee, the President should withdraw this nomination.

WHAT IS HAPPENING TO JEWS IN RUSSIA

Mr. MATHIAS. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the Committee of Concern, headed by the outstanding soldier, business leader, and humanitarian General Lucius D. Clay. The statement acquires an added significance when coupled with the knowledge of what is happening to Jews in Russia. I am sure that Senators will find the statement to be educational and valuable.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

COMMITTEE OF CONCERN,
October 7, 1971.

STATEMENT ON JEWS IN RUSSIA

The distressing and increasingly alarming reports which we have received in recent days from most reliable sources concerning the threat to the survival of the remnants of Syrian Jewry, prompts us once again to speak out.

Following are details concerning the plight of the Jewish community in Syria:

1. The Syrian authorities are holding in jail 12 young Syrian Jews, charged with having attempted to flee the country. The names of 11 of them are: Isaac Hamra, Sheila Hamra, Misses Badio Dibbo, Boukehi, Melles, and Yachar; Messrs. Abdo Saadia, Simon Bissou, and Azur Blanga. The last named is 27 years old and was arrested with his wife (24) and his four-year-old son. The others are all believed to be in their late teens or early twenties.

2. The Syrian security police have interrogated the relatives of the 12 Jews and the relatives of others who have either succeeded in fleeing the country in the past or who were suspected of planning an escape and going to Israel. There are reports that they have been interrogated under torture, and held under strict solitary confinement for periods up to three months.

3. All who have been released after confinement are, without exception, reported to be physically ill or bodily maimed or mentally deranged. Jews who did succeed in escaping to Israel or other countries in the free world report that those who have fallen into Syrian hands are being subjected to electrical torture, the ripping off of fingernails and cigarette burns on various extremities of the body. Jewish girls have been abducted, raped and thrown naked into the streets of the Jewish ghetto in Damascus. Recently, Jewish homes were set on fire in the Damascus ghetto.

4. The desperate attempts of groups of Jews to flee the country are prompted by the cruel conditions to which the community has been subjected for years. Among the restrictions imposed upon the Jews of that country are:

(a) A total ban on Jewish emigration. Jews are also forbidden to leave the country for visits to relatives or for medical treatment. Moslem Syrians are readily able to visit neighboring countries and more than 500,000 Syrians have visited Lebanon thus far this year alone.

(b) Even within Syria itself travel by Jews is restricted to three kilometers from one's home address. Further movement requires a special permit which is generally not granted.

(c) Distinctive Jewish identity cards marked with a red stamp, "Member of the Mosaic faith."

(d) Prohibition of employment in government offices, public bodies or banks.

(e) Other restrictions on the normal conduct of their personal lives, such as non-installation of telephones and non-issuance of new driving permits.

(f) The authorities have turned over houses in the Jewish quarter to occupation by Palestinian Arabs who harass the remaining Jewish residents in the quarter.

(g) A Higher Committee for Jewish Affairs (composed of representatives of the Interior Ministry and the security services) maintains a constant surveillance over the Jewish community and carries out frequent arrests, interrogations, and sudden house searches invariably at night.

(h) Jews are prohibited from selling their houses or other real estate.

(i) Army personnel and government employees may not make purchases in Jewish-owned stores.

(j) When a Jew dies, his property is transferred to a Government authority for Palestinian Affairs. His family must then pay rent for the continued use of the home or business property.

(k) Jews have become convinced of the futility of bringing petitions against Moslems to the law courts since the rulings are always in favor of the latter.

(l) Except for doctors and pharmacists,

Jewish professionals are banned from practice.

(m) Most Jews who worked for Moslems have been dismissed without compensation. Most Jewish vendors have had their licenses revoked. The majority of the community has been reduced to abject poverty.

(n) The property and assets of a Jew who succeeds in fleeing the country are automatically confiscated.

(o) Jewish schools have been taken over by the state. Moslem principals have been appointed and Jewish religious studies have been drastically reduced. General school examinations are now always held on Saturday, the Jewish Sabbath. Only a very few Jews are permitted to pursue university studies.

(p) The Jewish cemetery in Damascus has been almost entirely destroyed and a highway has been built through it. The petition for a new cemetery has been turned down and in the small area that remains graves have to be opened to accommodate new burials.

We call on the Syrian authorities to cease their persecution of the Jewish minority, to free those unjustly imprisoned and to permit those Jews who wish to emigrate to do so.

EUGENE CHARLES HEIMAN AWARDED RANK OF KNIGHT IN SOVEREIGN ORDER OF CYPRUS

Mr. CHILES. Mr. President, I should like to recognize a fellow Floridian who has received a particularly high honor. He is Eugene Charles Heiman, a distinguished attorney practicing in Miami and Stuart, who was awarded the rank of Knight in the Sovereign Order of Cyprus in recognition of outstanding service to mankind. The award was made at the Chapel of the United Nations in New York.

The purpose of the Sovereign Order of Cyprus is to strive for maintenance of the spiritual ideals of liberty and dignity of man and to oppose all types of oppression. One of the four oldest orders of chivalry, it was founded in 1192 by the then King of Cyprus and Jerusalem and confirmed by Pope Innocent III in 1200.

The order honors writers, artists, men of science, culture, education, medicine, and other walks of life regardless of race or creed. In 800 years only 900 persons have received the knighthood.

PRESIDENT NIXON AT AFL–CIO CONVENTION

Mr. PACKWOOD. Mr. President, President Nixon deserves a word of praise for his courage and determination in going before the AFL–CIO convention in Miami Beach last week. Despite the warnings that his presence was not welcomed, and that he faced the prospect of rude and hostile treatment, the President chose to appear at the convention to give his side of the story. Organized labor and the American public were entitled to know the administration's assessment of the progress of the new economic policy to date, and to know the President's position on the continued participation of the labor movement. The President discussed both topics forcefully and forthrightly.

In announcing his new economic policy last August, and in formulating the post-freeze phase of his program, the President has repeatedly made clear that he deemed labor's cooperation essential. They were consulted prior to the promulgation of the elements of phase II, and their key recommendations were incorporated into the President's program.

In going before the AFL–CIO convention last week the President was walking the extra mile to convince labor leaders that his economic program is neither antilabor nor probusiness—it is a program for all Americans. The President made it abundantly clear that he would proceed with or without the support of organized labor, making the statement without bitterness or condemnation. Saying what he did before the obviously anti-Nixon convention took a great deal of courage and intellectual honesty. It may have been Mr. Nixon's finest hour.

I congratulate the President for going to Miami and hope that his display of frankness and determination has convinced labor leaders of the President's sincerity. In his own words, if the new economic policy fails to revitalize the American economy, we all lose—not labor, not Government, not business, but the entire Nation.

Though some may disagree with the President's approach to our economic problems, he deserves the time and the cooperation to allow his initiatives the chance to work. Organized labor can make an enormous contribution to the success of the program, but only if it remains as a fulltime, full participating partner in the process.

The President recognized this and thus, risked personal embarassment to say so before the AFL–CIO convention. The ball is now in Mr. Meany's court, and based on his past record of public spiritedness, most of us are sure of his continued cooperation.

WES BARTLETT, FIRST IOWAN TO HEAD KIWANIS INTERNATIONAL

Mr. MILLER. Mr. President, Iowa is proud that the 55th president of Kiwanis International is an Iowan.

Wes Bartlett of Algona is the first Iowan to head this great service organization and, as the Algona Upper Des Moines newspaper put it:

> Algona is undoubtedly the smallest town by far ever to have one of its residents serve as president of any of the Nation's three largest service clubs.

A native Iowan, Wes Bartlett has lived in Algona some 26 years and has been a force in community development ever since. He has earned the reputation of a man who makes things work. His interests range across the board—the Boy Scouts, chamber of commerce, united fund, board of education, the Industrial Development Corp., and, of course, the United Methodist Church.

The October 1971, issue of the Kiwanis magazine contains a profile of "The Man From Iowa." I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE MAN FROM IOWA

(By Dennis Moore)

July 6, 1971, was a big day in Algona, Iowa. That morning more than a hundred townspeople gathered on the street and sidewalk in front of the Foster Furniture store for an old-fashioned celebration complete with placards, band music, and window dressing. But that was only the prelude to the day's merrymaking. Still to come were speeches cheers, a presentation of the key to the city by no less a personage than the mayor himself, and a great many laughs from start to finish.

But even more remarkable than the trappings of the affair was the reason for it, for the people of Algona were not celebrating the Fourth of July two days late, nor were they assisting at a grand opening. In fact, Foster Furniture has stood on the same spot in Algona for many years, and on July 6 there wasn't even a sale in progress. But the owner of Foster Furniture was there—for the first time in several weeks, actually—and that was the source of the hoopla. Or, as the Algona *Upper Des Moines* put it, "With pride and honor—and considerable humor—some one hundred friends and fellow Kiwanis members and their wives welcomed home Wes Barlett Tuesday morning."

It was a fitting tribute to the man who the week before had been officially elected the 55th President of Kiwanis International, and as Wes Bartlett put it, "Could you imagine anything like this happening in Chicago?" Indeed you couldn't, but the simple fact is that things are different in Algona, and it is impossible to fully appreciate the new leader of Kiwanis without first understanding that difference. The *Upper Des Moines* explained part of it: "Never before has an Iowan been named president of the organization. Probably more remarkable, Algona is undoubtedly the smallest town by far ever to have one of its residents serve as president of any of the nation's three largest service clubs." But behind that simple statement of fact is a deeper truth, for Algona, Iowa, is one of those rare rural American enclaves where, despite the passage of time, things still seem to work. And Wes Bartlett is one of the men who makes them work.

At first glance, everything about Algona seems somehow larger than life. The business district looks large enough to support a population of 10,000 or more, but the real figure is only half that. Churches dot the town landscape and the constable still walks a leisurely beat down the main street, checking the time on his parking meters. A lovely country club rolls over the farmland north of town, but the county fair is still the biggest social event of the year. Railroad passenger service is only a memory now and the nearest large airport is some fifty miles distant, but residents still ask, "How can you stand to live in the city?"

Wes Bartlett has been part of this Algona scene for some twenty-six years now. A southern Iowan by birth, he first entered Algona history by marrying one of its daughters, his charming wife Mary, in 1941. Then, after giving up a highly successful teaching career in nearby Ames in 1945, he moved to Algona to take over Foster Furniture. It didn't take him long to get involved in community affairs, but then it never had. While teaching in Primghar he had been a member of the local Lions club, the only service club in town. Later, in Eagle Grove he had served a brief term as a member of Rotary, the only service club there. In Algona, however, he had a choice between Rotary and Kiwanis. At the urging of his Kiwanian father-in-law, he chose the latter.

His introduction to Kiwanis, however, was somewhat disturbing. "Come when you can," he was told on joining. "You don't have to do anything." Wes came, all right, and has kept on coming every week for the past twenty-five years. And despite the "no sweat" welcome, he has worked diligently for Kiwanis. By 1950 he had risen to the post of club president, and the very next year served as lieutenant governor of his division. From there it was strictly onward and upward. In 1953 he served as governor of the Nebraska-Iowa District, then went on to become a member of several International committees, including the Special International Committee on a Permanent Home, which planned Kiwanis' move to its own headquarters building in Chicago.

Wes' next major step toward the top came at the 1964 International Convention in Los Angeles, where he was elected to the International Board of Trustees, the only new man named to the Board that year. At the 1968 Convention in Toronto he was chosen as Vice-President of the organization, then served as Treasurer in 1969–70, President-elect in 1970–71, and finally, at the International Convention in San Francisco last June, was lifted to the highest office in Kiwanis by a unanimous vote of the House of Delegates.

But even aside from his thorough training in Kiwanis administration, Wes has been a leader in civic affairs for all of his adult life. He has been active in Boy Scout work for thirty-seven years, earning both the Silver Beaver Award and membership in the Order of the Arrow. He is a past president of the Algona Chamber of Commerce, United Fund, Industrial Development Corporation, and the Kossuth Community Concert Association. He was a member of the Kossuth County Board of Education for twenty-two years, serving as president of the board for twelve of those years. As a high school teacher in Ames, he even found time to coach the school golf team, which under his leadership won the Iowa state championship in 1945.

The church has also played an important role in his life. An active member of the Algona United Methodist Church, he has served as a lay delegate to the Iowa Area of the Conference, and as a member of its board of trustees. More recently, he has devoted long hours to the church building fund and is the man largely responsible for the new facilities recently added to the church.

Mary Bartlett too has participated fully in the civic life of Algona. Aside from her work with the ladies of the church, she has been at Wes' side every Thursday as pianist for the Algona Kiwanis club. And through it all Wes and Mary have raised three children—a daughter, Barb, and sons Bill, an osteopath, and Brett, a senior in college.

When you talk with Wes Bartlett, two facets of his conversation strike you. The first is his sense of humor, which runs naturally and easily through his speech. A smile is never far from his face, and he is an incurable kidder. The second is a phrase that pops up consistently as Wes talks about problems and their solutions, both within and outside Kiwanis. It is "getting together around a table." That's the way they do things in Algona, whether it's the Chamber of Commerce, the church, or the local Kiwanis club. When there's something to be done, everyone gets together around a table, decides what's to be done—and does it.

And there's a third concept that emerges again and again in conversation with Wes: his concern with Kiwanis at the local level, for it is there, he believes, that the primary emphasis must be placed. "We have followed a wise path," he says of his years on the International Board, "for by adopting the new administrative year and the concept of a single emphasis program we have helped to strengthen Kiwanis at the local level, and this is where the job must be done."

Wes believes that the 1971–72 major emphasis program, "Unite for Progress in Operation Drug Alert and Project Environment," will be of great help to the individual Kiwanis club in terms of cooperation with youth and membership development. "It's amazing," he says, "how many men have joined Kiwanis as a result of Operation Drug Alert. I think Project Environment will give us that same sort of boost." Does Wes see membership as a problem? "Internally it's our greatest concern," he says. "But it's not only a case of membership development; it's membership retention as well. We have to give men coming into the organization something to do, we have to follow up on men moving from one community to another."

Wes is equally concerned with the problem of youth relations. "Kiwanis, Key Club, Circle K—it's just like a family as far as I'm concerned," he says, "and what we all have to do in the coming year is sit down jointly and lay everything on the table. What are the problems? How do we attack them? Do we need broader help? These are the questions that we have to ask, and it has to be done at the local level." In the area of drug abuse, Wes believes, "We're past the point of alerting. It's time to cooperate with more professional organizations. We can't do the entire job, but we can be the coordinating group and provide the manpower necessary to set up, for example, a local clinic for drug users."

In the realm of environment too, Wes—a zoology major in college—sees community coordination as the answer. "We have to see ecology," he says, "as something more than just pulling debris out of a stream. We have to see it as the sum total of our environment—and that's a big area, one that we can't possibly handle alone. But we can help establish Community Councils on Ecology, and through them we can coordinate the efforts of all those groups and individuals who have a knowledge of, and are concerned about environment. As a matter of fact, we've already done that here in Algona."

Things do seem to work in Algona. Perhaps the town is a latter-day Brigadoon, rising from a prairie mist every hundred years, unchanged and unchanging. Or perhaps the only magic of Algona is its people—people like Wes and Mary Bartlett.

Last July 6 when all the welcome-homes had been said and all the honors bestowed, Wes took time out to answer reporters' questions inside the door of Foster Furniture. Back outside a man was dismantling the speaker system set up for the celebration. Wes excused himself for a moment, stuck his head out the door, and ask, "Need any help?"

SUPPORT FOR THE HELLS CANYON-SNAKE NATIONAL RIVER BILL

Mr. PACKWOOD. Mr. President, several days ago I spoke of an article published in the Sport Fishing Institute Bulletin regarding S. 717, the Hells Canyon-Snake National River bill.

I am delighted to share with Senators a letter I received from Richard H. Stroud, executive vice president, Sport Fishing Institute, in which he discusses the resolution adopted at the SFI regular semiannual session at Key Biscayne. The resolution urges the administration to support Congress in passage of S. 717.

I ask unanimous consent that Mr. Stroud's letter and the resolution be printed in the Record.

There being no objection, the items were ordered to be printed in the Record, as follows:

Sport Fishing Institute,
Washington, D.C., November 24, 1971.

Hon. Robert Packwood,
Senate Office Building,
Washington, D.C.

Dear Senator Packwood: I have the honor to transmit to your attention and possible consideration the following Resolution recently adopted by the Board of Directors of the Sport Fishing Institute: Hells Canyon-Snake National River.

It is our hope that this expression of Institute views will be helpful in your deliberations of appropriate related action.

Sincerely yours,

Richard H. Stroud,
Executive Vice President.

Sport Fishing Institute, Board of Directors Resolution: Hells Canyon-Snake National River

Whereas, a substantial portion of the remnant anadromous salmon and steelhead trout of the Columbia River Basin find their ancestral spawning grounds in the principal tributaries of the Middle Snake River; and

Whereas, interception en route to their vital spawning sites with resulting further decimation of these fish stocks, whether by an impassable or poorly passable high dam in the Hells Canyon area of the Snake River or, farther upstream, either by another dam such as the once-favored Nez Perce Dam on the Snake River immediately below the mouth of the Salmon River, or by the once-approved High Mountain Sheep Dam on the Middle Snake River with its related companion Lower Canyon Dam on the Salmon River, or by the currently-recommended Pleasant Valley-Mountain Sheep project on the Middle Snake River, above the Salmon River, would undoubtedly break the backbone of the irreplaceable Columbia River Basin anadromous fisheries; and

Whereas, a current proposal (S. 717) to establish a "Hells Canyon-Snake National River" would, if enacted, provide substantial long-term protection for these vital remaining anadromous fish stocks, at the same time preserving outstanding recreational and scenic values of unique national significance:

Now, therefore, be it resolved, that the Board of Directors of the Sport Fishing Institute, meeting in regular semi-annual session at Key Biscayne, Miami, Florida, this sixth day of November, 1971, do herewith urge the Administration to support and the Congress to pass without substantial alteration the "Hells Canyon-Snake National River" Bill (S. 717), as introduced by Senator Robert Packwood of Oregon, with co-sponsorship by a substantial fraction of the whole U.S. Senate, thereby prohibiting construction of additional dams on a 120-mile stretch of the Snake River along the Oregon-Idaho border, extending from a southernmost point near Homestead, Oregon, to a northernmost point near Asotin, Washington, and including one of the world's deepest natural gorges.

KGW—AN OUTSTANDING EXAMPLE OF WHAT A BROADCASTING STATION CAN DO

Mr. PACKWOOD. Mr. President, during recent days, the Senate has been spending a great deal of time discussing financing of political campaigns. There are probably as many different thoughts about the ideal solution as there are members of the Senate. No matter what our individual preferences may be, I believe we can all agree the broadcasting industry is tremendously significant. That is why I would like to bring to your attention the story of what one broadcasting facility is my home State of Oregon has done to discharge its responsibility in this critical area of national life.

The station to which I refer is KGW, in Portland. Forrest Amsden is the general manager, and it was under his direction that the following program was broadcast over KGW-TV, KGW-AM radio, and KINK-FM radio.

Earlier this year, Mr. Amsden and his staff began planning a Speak Up Campaign. The Speak Up Campaign was designed to accomplish exactly what the title says: Get citizens involved in the problems of their community, their State and the Nation and work for changes through our political system.

Mr. Amsden and his staff met with the State party chairmen of the Democrat and Republican Parties in Oregon as the first step in the Speak Up Campaign. From that meeting came a decision to incorporate the Speak Up Campaign in Oregon as a nonpartisan effort. An advertising agency in Portland then agreed to donate its time to help coordinate the campaign. Elaborate and detailed plans culminated this fall in the staging of the 5-week Speak Up Campaign on KGW radio and television.

Two hundred and eight 1-minute and 30-second spots were run on KGW-TV, including many in prime time. One hundred and sixty-three were run on KINK-FM and 136 on KGW-AM.

These spots asked the audience for their thoughts on government. Was government functioning as it should be functioning or should it be changed? The audience was then encouraged to either call or write KGW for additional information. As a result of this intensive and original campaign, more than 4,500 requests were received asking for additional information on how they could become involved. KGW then sent each person a questionnaire asking them to express their views on a variety of issues such as identifying the key problems of the State, or how they felt about farm labor legislation, or how they felt about some other current issue.

It was not an easy questionnaire to fill out, but those involved in the Speak Up Campaign believed it was the best way to obtain meaningful participation. On the bottom of the questionnaire, there was an appeal for the person returning the questionnaire to donate money to the party of his choice. He could designate the party, or it would be divided equally between the Republican Party and the Democratic Party if no preference were listed. Most marked a preference. The results from the intensive campaign resulted in $443 for the Democrats, $319 for the Republicans and $1 for the Socialist Labor Party. I should add here that the Socialist Labor Party has filed a protest against license renewal application of KGW, alleging that the Speak Up Campaign did not attempt to further the cause of minor parties. The protest, of course, is ridiculous because KGW has performed a valuable public service—a public service which personifies the responsible broadcaster.

Both political parties in Oregon took advantage of this special campaign to launch their own door-to-door campaigns of collecting dimes and dollars during this period. It was a superb example of how good communications works in the public interest and in concert with our two political parties.

This campaign was staged at considerable personal expense to KGW. When a person was sent a questionnaire, he was also sent a self-addressed, stamped envelope. Nothing was left to chance. Mr. Amsden estimates that the promotion will cost KGW about $2,500 in actual cash. This does not include the time of those involved in arranging for the Speak Up Campaign, the production of the spot announcements for radio and television, or the air time for the spots. Neither does it include the time of the advertising agency personnel who helped coordinate the project.

KGW is now planning to air a one-half hour program giving results of the questionnaire and outlining what they believe was accomplished.

I applaud KGW Radio and Television in Portland, Oreg., for this novel approach in attempting to gain greater citizen participation in government. I encourage KGW to perform this same kind of public service in the future and know that they have every intention of doing this. I would also encourage other broadcasters to take the cue from KGW and become similarly involved. This is a fine example of commercial broadcasting performing in the public interest.

DEVOTED SERVICE TO PATIENTS AT VETERANS' ADMINISTRATION HOSPITALS

Mr. MILLER. Mr. President,

> I have the deepest admiration for the individuals who devote their service to others at the VA hospitals.

This quotation appears in a letter to the editor of the Dubuque Telegraph-Herald of October 11, and does much to counteract criticism of the Veterans' Administration by some individuals. Donald F. Brus, who wrote the letter, is a paraplegic and thus is in a position to know of what he speaks.

I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

LETTER

The AP article of Monday, October 4 in The Telegraph-Herald titled, "VA hospital waiting lists are mounting," was of great interest to me. Why, because every time one of these reporters wants to write an article, they try and find something wrong with a VA hospital. It seems they will keep questioning until they find someone to complain. In most every article they are questioning long-term patients who not only have a disability but the strain of staying for a long period for treatment.

I happen to be a paraplegic who spent many months in hospitals, private and VA. Since this article deals with the VA hospital, so shall I. The two months at the Iowa City VA hospital were two months of excellent care with proper turning at all times and the best of help with aids, nurses, and doctors.

The next eight months were spent at Hines VA hospital at Hines, Ill. with also the best of treatment. As an example, a doctor is on the spinal-cord injury ward 24 hours of every day of the year. On Thanksgiving Day I had a temperature of 104 degrees and the doctor was there within five minutes after discovery of the high temperature. The treatment and therapy was excellent.

I was surprised to read the statement Mr. Glen Mayer made in the article of the long wait in the personal care clinic. This does happen at times but it can be narrowed down to possibly one or two of the help which would turn out to be a local problem, with the individual possibly having too much civil service protection. As for Mr. Mayer, I spoke with him last week while at Hines and he is doing very well after being readmitted, while at death's door, within minutes.

I have the deepest admiration for the individuals who devote their service to others at the VA hospitals. The many benefits a long-term patient receives at a VA hospital can only happen at one of these institutions. They not only have the best of medical care, but also physical, educational, and occupational therapy available to them at all times.

I have read so many derogatory articles on VA hospitals that I felt it was time some people might hear some of the good points. If it were not for the VA hospital I cannot see how I could have made it financially. Hines VA hospital also requests that I return each six months for follow-up checkups. Where else can one receive such fine service?

In place of our government cutting down on aid to VA facilities they should increase aid to them. I would hope the AP reporter who wrote the article could spend a little time in the direction of trying to assist VA facilities in place of only looking for complaints.

DONALD F. BRUS.

COAL GASIFICATION—CONGRESS SHOULD ACT ON PRESIDENT NIXON'S REQUEST FOR FUNDS NECESSARY TO MEET NATION'S ENERGY NEEDS

Mr. SCHWEIKER. Mr. President, on June 4 President Nixon sent to the Congress a special message in which he emphasized the importance to the Nation of a plentiful supply of clean energy. The President said:

> A sufficient supply of clean energy is essential if we are to sustain healthy economic growth and improve the quality of our national life.

The President's recommendations for achieving the clean energy goal included a commitment to complete the successful demonstration of the liquid metal fast breeder reactor by 1980, and an expanded program to convert coal into a clean gaseous fuel. The President subsequently asked Congress for the necessary funds to implement the recommendations contained in his energy message, but final action is still ahead of us. My purpose today is to call attention to the urgency to act if the objective of a plentiful supply of clean energy is to be reached.

I am especially interested in the President's recommendation for an accelerated effort to gasify coal. My interest stems in part, of course, from the fact that Pennsylvania is a major coal producing State. But beyond that, coal gasification represents our chief hope of overcoming the increasingly serious shortages of natural gas, which everyone acknowledges to be the cleanest of the fossil, or conventional, fuels.

Many gas distributors already are feeling the supply pinch and are warning their industrial and commercial customers of possible interruptions in supply this winter. New commercial and industrial customers are being turned away in almost every section of the country. Fortunately, however, our abundant coal reserves offer a rich source of additional gas if we will only take advantage of the opportunity open to us.

The President called for a cooperative program involving Government and industry to speed the development of an economically acceptable gasification process. Industry, through the American Gas Association, responded by agreeing to put up $10 million, or one-third of the first-year cost of an accelerated program. It is now up to the Congress to demonstrate its good faith by putting up its two-thirds share, or $10 million on top of the $10 million appropriated earlier this year for gasification research.

Within the last few weeks the Department of the Interior, anticipating congressional approval of the accelerated gasification effort, signed a $24.8 million contract with Bituminous Coal Research, Inc., for the development of one promising commercial coal gasification process. This, incidentally, was the largest contract ever awarded by Interior's Office of Coal Research.

The contract calls for BCR, the research affiliate of the National Coal Association, to build and operate a coal gasification pilot plant at Homer City, Pa., near a plentiful source of bituminous coal. The plant will use the BI–GAS process of conversion which BCR, under the sponsorship of OCR, has been investigating at a smaller scale level for the past 7 years. This pilot plant will be in addition to coal gasification pilot plants in or near operation by other organizations which have Interior Department funding.

I am informed, Mr. President, that the reason for this multiplant effort is that there are a number of potential approaches to gasifying coal, each with its own technology, cost, and suitability for various coal resources. All of these are still to be proven in the critical pilot plant stage. Gasification research and development along a number of lines increases the chances for the much needed successful development of one or more commercially viable coal gasification processes. As OCR Director George Fumich has said, "we do not have all our eggs in one basket in an effort that is vital to our future domestic gas supply."

The acceleration of Government-industry support of coal gasification represented by the OCR–BCR contract is definitely needed despite plans announced by individual fuel companies to build gasification plants using existing technology. Of course, the basic technology for coal gasification has been well established for years. I am told that before BCR elected to develop its BI–GAS process, it evaluated 65 different gasification processes that have been conceived or used here or abroad.

The Nation's urgent need now, however, is for a coal gasification process that will be economically viable in our future fuel economy. The day will will probably come when the Nation will need a supplement for natural gas at any cost, but the principal objective of current U.S. research and development is to bring the cost of synthetic gas within the competitive range of rising prices for imports of such substitutes as liquefied natural gas and gas made from imported hydrocarbon liquids such as naphtha.

In any case, current coal gasification processes to be tested in Government-industry sponsored pilot plants offer promise without technological duplication. In announcing the contract award to Bituminous Coal Research, Secretary Morton said:

> A key feature of the BI–GAS process is its inherent straightforward simplicity.

The experts say that the advantages of the BI–GAS process certainly qualify it for accelerated development as a method of converting all ranks of coal—from lignite to bituminous coal—to pipeline-quality gas, which means the process gas is pure enough and has the high heat value necessary or interchangeability with natural gas in the Nation's pipelines. The yield from the BI–GAS process is a clean-burning gas rich in methane—the principal ingredient in natural gas itself. But the other processes being pursued by Government and industry also have potential advantages. It is likely, I understand, that the final commercial process may well be a combination of several of the research processes.

I understand that the BI–GAS process and others being researched also meet the demand for a nonpolluting fuel, eliminating from the final gas product such unwanted elements as sulfur compounds. Selective purification systems remove the pollutant and pass it to a separate unit for recovery of sulfur. Under favorable market conditions, the recovered sulfur could be sold as a byproduct, giving the process an operating credit against the cost of producing gas.

Although the BI–GAS pilot plant is designed to consume only 120 tons of coal per day and to produce a relatively small amount of pipeline gas—about 2 to 3 million cubic feet a day—it will provide the necessary data to design a plant capable of using 12,000 tons of coal and producing 250 million cubic feet of gas a day—the gas output considered necessary for commercial success.

The capital investment in a coal gasification plant of that size has been estimated at about $250 million—a far greater sum than that called for in pilot plant development and one that will be borne by industry, not by Government. Federal spending on coal gasification research and development is now helping to pay merely for the technological base of the huge synthetic fuel structure that industry will build to assure the Nation's energy future.

Mr. President, we hear much these days about the possibility of fuel shortages which could lead to brownouts or blackouts. I do not want to be an alarmist, but it seems to me that prudence and commonsense tell us we must get along with the program the President has recommended. I trust Congress will see fit to act very soon on the supplemental money requests he has made for the purpose of assuring the Nation a plentiful supply of clean energy. For if it does not, the program envisioned by President Nixon for accelerated research and for the emergence of a synthetic fuel industry in this decade will be jeopardized.

CONCLUSION OF MORNING BUSINESS

The PRESIDENT pro tempore. Is there further morning business? If not, morning business is concluded.

A UNANIMOUS-CONSENT AGREEMENT—TIME FOR ROLLCALL VOTES ON TREATIES AND PROTOCOL ON MONDAY, NOVEMBER 29, 1971

Mr. MANSFIELD. Mr. President, I ask unanimous consent that this time not be charged against either side.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order providing for the three rollcalls on the two treaties and one protocol to begin at 11 o'clock Monday next be changed to 1 o'clock Monday next.

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. Mr. President, it can be anticipated, then, that the debate on phase 2 will begin at the conclusion of the morning business on Monday next.

CREDIT UNION SHARE INSURANCE AMENDMENTS

The PRESIDENT pro tempore. In accordance with the previous order, the Chair lays before the Senate the unfinished business, which the clerk will report.

The assistant legislative clerk read as follows:

> Calendar No. 438, H.R. 9961, a bill to provide Federal credit unions with 2 additional years to meet the requirements for insurance, and for other purposes.

The Senate resumed the consideration of the bill.

The PRESIDENT pro tempore. Debate on the bill is controlled. Who yields time?

Mr. BENNETT. Mr. President, I yield myself 5 minutes on the bill.

The PRESIDENT pro tempore. The Senator from Utah is recognized for 5 minutes.

Mr. BENNETT. Mr. President, just 13 months ago on October 19, 1970, a program of Federal share insurance was established. The law required that all Federal credit unions apply for the insurance and authorized State-chartered credit unions to apply. The law provided that,

> The Administrator shall reject the application of any credit union for insurance of its member accounts if he finds that its reserves are inadequate, that its financial condition and policies are unsafe or unsound, that its management is unfit, that insurance of its member accounts would otherwise involve undue risk to the fund, or that its powers and purposes are inconsistent with the promotion of thrift among its members and the creation of a source of credit for provident or productive purposes.

If the application of a Federal credit union was rejected by the Administrator, because it failed to meet the requirements for insurance, the credit union was allowed a 1-year period in which to correct any deficiencies and obtain insurance. If it was not insurable within the year, the law required the Administrator to either suspend or revoke its charter.

At the present time, there are just under 1,300 active credit unions whose shares have not been insured. Unless the requirement of the present Credit Union Act that the Administrator suspend or revoke the charter of Federal credit unions which do not become insured within 1 year from the initial rejection is amended, the liquidation of Federal credit unions could begin in January of 1972.

Section 1 of H.R. 9961 would extend the time period during which Federal credit unions may qualify for share insurance for an additional 2 years, or a total of 3 years. The Administrator of the National Credit Union Administration has estimated that about half of the initially rejected credit unions will be qualified for insurance within the year from the date of their initial rejection and that, given additional time, all but about 365 credit unions would become insurable.

This is an estimate looking forward for a 2-year period.

Section 2 of the bill provides that Federal share insurance may not be denied to State credit unions which may accept demand deposits under State law, if the credit union otherwise meets the requirements for insurance established under the act, provided however, that the demand deposits are not covered by the Federal share insurance and that the demand deposit accounts are subordinate to share accounts in the event of the liquidation of such an insured State credit union. This provision was approved by the committee in response to a situation existing in the State of Rhode Island where the legislature enacted legislation which permitted credit unions chartered by the State to offer demand deposits subject to certain conditions.

Section 2 of the committee bill does not provide demand deposit authority for federally chartered credit unions nor is it intended in any way to either encourage or discourage demand deposit authority for credit unions which are under State jurisdiction.

Section 3 of the bill provides the Administrator of the National Credit Union Administration with additional authority in the liquidation of a credit union or in assisting a credit union which may be in financial difficulty. Under present law, the Administrator is authorized to merge a credit union under his jurisdiction only with another insured credit union. He is authorized to guarantee the obligations of a credit union only to a third party insured credit union. The committee bill would authorize the Administrator to make such appropriate arrangements with any credit union, individual, partnership, corporation, trust, estate, cooperative, association, government or governmental subdivision or agency, or other agency, for the purpose of merger or for the purpose of improving the financial status of the Federal Credit Union.

Mr. President, the bill before us bears the number H.R. 9961 and is, in effect, identical with the bill passed by the House. During discussion in committee, an amendment was presented which was rejected, but I understand it will be presented on the Senator floor today.

With this brief explanation of the purpose of the bill, I will yield the floor. I expect to claim more time to discuss the amendment if it is offered.

The PRESIDENT pro tempore. Who yields time?

Mr. SPARKMAN. Mr. President, I yield myself 3 minutes.

The PRESIDENT pro tempore. The Senator from Alabama is recognized.

Mr. SPARKMAN. Mr. President, I certainly support and concur in prompt legislation that will prevent some Federal credit unions from being forced into liquidation.

The Senator from Utah is the Senator who is entitled to the credit for bringing share insurance into being. He advocated it in the beginning, and this year introduced the legislation we are considering today. So far as I know, there is no controversy on the bill. We all agree that the legislation should be enacted.

As has already been noted, last year we enacted legislation providing Federal credit unions with share insurance program. In addition, we provided that State chartered credit unions could obtain share insurance if they wished to do so and if they could meet the qualification for share insurance contained in the legislation.

The law establishing the share insurance program provided that Federal credit unions would have 1 year after an application for share insurance had been rejected to correct deficiencies—to get their houses in order—to obtain insurance. The law further required that if a Federal credit union did not meet the standard within that year, the Administrator of the National Credit Union Administration could either suspend or revoke the union's charter.

Since enactment of last year's law, some 11,400 or about 88 percent of all Federal credit unions have been insured. About 1,200 have not. It is estimated that three-fourths of those that have not been insured can and will qualify for insurance. Certainly, Mr. President, I do not and I dare say that no one in this body wishes to cause any credit union to be suspended from operation or have its charter revoked because it cannot presently qualify for insurance.

Last year's legislation was an attempt to provide security and insurance for those who place their hard earned savings in credit unions. The legislation was for the very purpose of protecting the credit union saver. Failure now to enact legislation extending the time to allow credit union to qualify for insurance would seem to me to nullify exactly what we were trying to accomplish by providing the insurance program initially.

PRIVILEGE OF THE FLOOR

Mr. SPARKMAN. Mr. President, I ask unanimous consent that Mr. Dudley L. O'Neal, staff director of our committee, and Mr. Reginald Barnes, may be permitted on the Senate floor during the debate on the bill.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, will the Senator from Alabama yield me for 3 minutes on the bill?

Mr. SPARKMAN. I yield to the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, my remarks on H.R. 9961 will be necessarily brief because I believe the main controversy is on my amendment to the bill, and we will discuss that on separate time.

I believe it is safe to say that all members of the Committee on Banking, Housing, and Urban Affairs agreed that some immediate legislation is needed to prevent the forced liquidation of over 1,300 Federal credit unions. H.R. 9961 as reported by the committee provides a limited solution to the problem. I believe my amendment provides a far better solution; however, if my amendment should fail, I intend to support H.R. 9961 as reported.

In order to understand the need for legislation, it is necessary to review the legislative history of the credit union share insurance program enacted last year. Under this legislation, credit unions were given the same type of deposit insurance available to commercial banks and savings and loan associations. Each account was insured for a maximum of $20,000. The entire program operates on insurance premiums collected from the credit unions themselves, hence, there is no involvement of the taxpayers' money.

I think that is very important, and I will bring it up again when my amendment is before the Senate.

Under the law, share insurance was made optional for State-chartered credit unions, but mandatory for federally chartered credit unions. The administration of the program was assigned to the National Credit Union Administration. The Administrator of that agency is directed to apply certain standards to those credit unions applying for insurance. Federal credit unions which fail to meet these standards are given one additional year from the time of their initial application to qualify. If at the end of the 1-year period they still fail to qualify, their Federal charter must be revoked or suspended. Unless such a credit union were able to obtain a State charter, it would be required to liquidate, and in many cases at a loss to its savers.

The need for remedial legislation is primarily due to the strict interpretation given to the law by the Administrator of the National Credit Union Administration, Gen. Herman Nickerson. Under General Nickerson's administration, over 10 percent of all federally chartered credit unions have failed to meet the insurance standards. This rejection rate is five times the rate originally estimated by the former Administrator of the National Credit Union Administration during congressional hearings on the share insurance legislation. Moreover, it has taken considerably longer than 1 year for those rejected credit unions to meet the higher reserve requirements established by the present Administrator. Because of these unforeseen developments, some legislation is thus a vital necessity.

H.R. 9961 as reported by the committee would remedy the problem by extending for 2 additional years the time period which Federal credit unions have to qualify for share insurance. As I will indicate later in my statement in support of my amendment to H.R. 9961, I believe a simple 2-year extension of the time period is an inadequate solution to the problem. However, it is clearly better than no legislation, and should my amendment fail I would intend to support H.R. 9961 as reported.

The PRESIDENT pro tempore. Who yields time?

Mr. BENNETT. Mr. President, I yield myself 1 minute from the bill for the purpose of asking unanimous consent that Mr. Mike Burns of the committee staff be permitted to be on the Senate floor during the debate on the bill.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Who yields time? What is the pleasure of the Senate?

Mr. SPARKMAN. Mr. President, I do not care to use any further time.

The PRESIDENT pro tempore. The bill is open to amendment.

AMENDMENT NO. 702

Mr. PROXMIRE. Mr. President, I call up my amendment, No. 702, and I modify it by adding a final sentence as follows. Incidentally, this modification is a suggestion of the chairman of the committee, and it is a good suggestion:

> The Administrator shall also encourage State Credit Union Stabilization Funds or similar funds to reimburse the Credit Union Share Insurance Fund for any insurance payments made on behalf of accounts at insured credit unions whose application for insurance has been disapproved.

The PRESIDENT pro tempore. Does the Senator ask unanimous consent to modify his amendment?

Mr. PROXMIRE. As I understand, the yeas and nays have not been ordered on my amendment, so I do not need unanimous consent to modify it.

The PRESIDENT pro tempore. There is a unanimous consent agreement on the amendment, the Parliamentarian informs the Chair.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that I may so modify my amendment.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I ask unanimous consent to have the Senator from New Jersey (Mr. WILLIAMS) and the Senator from Wisconsin (Mr. NELSON) added as cosponsors of my amendment.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Will the Senator send his modification to the desk?

Mr. PROXMIRE. Yes, I am sending it to the desk.

I ask unanimous consent to have the reading of the amendment dispensed with, and I will explain it.

The PRESIDING OFFICER. Without objection, it is so ordered.

Amendment No. 702, as modified, is as follows:

> On page 1, strike out lines 3 through 6 and insert the following:
>
> SECTION 1. (a) Paragraph (2) of subsection (c) of section 201 of the Federal Credit Union Act (12 U.S.C. 1781(c)(2)) is amended by striking out "reject" and inserting in lieu thereof "disapprove".
>
> (b) Subsection (d) of such section 201 (12 U.S.C. 1781(d)) is amended to read as follows:
>
> "(d) In the case of any Federal credit union whose application for insurance is disapproved, if such Federal credit union has annually transferred such a percentage of its gross income to its reserves as is required under section 116(a) and notwithstanding any reserving requirements established under section 116(b) of this Act, the Administrator shall nonetheless issue to such Federal credit union a certificate of insurance which shall be valid for a period of two years. The Administrator shall suspend or revoke the charter of any Federal credit union which has failed, upon the expiration of such two-year period of insurance, to file an application for insurance which is approved by the Administrator in accordance with subsection (c). A Federal credit union which is insured under this subsection for a period of two years is an insured credit union under the provisions of this title for such period of two years. The Administrator shall offer technical assistance, management training, and management counseling to all credit union whose application for insurance has been disapproved so as to enable the maximum number of such credit unions to meet the standards for insurance required by this title. In furnishing such technical assistance, management training, and management counseling, the Administrator may utilize moneys in the National Credit Union Share Insurance Fund as provided under section 203(a) of this title. The Administrator shall also encourage to the maximum extent feasible, that such technical assistance, management training, and management counseling be made available through State stabilization funds, similar funds, or similar State credit union organizations. The Administrator shall also encourage State credit union stabilization funds or similar funds to reimburse the credit union share insurance fund for any insurance payments made on behalf of accounts at insured credit unions whose application for insurance has been disapproved."

Mr. PROXMIRE. Mr. President, this amendment would provide provisional share insurance for a 2-year period to those federally chartered credit unions who have failed to meet the insurance standards laid down by the Administrator of the National Credit Union Administration. If at the end of the 2-year period the credit union still fails to meet the insurance standards, it would have its Federal charter revoked, and in most cases would be required to liquidate.

So this is not an amendment that would qualify Federal credit unions which are unsound or which cannot meet the standards eventually.

At the present time, there are over 1,300 credit unions which have failed to meet the insurance standards. The Administrator of NCUA estimates that by the end of 2 additional years, all but 365 of these credit unions would be able to qualify for Federal share insurance. These 365 credit unions have assets of $35 million, reserve deficiencies of approximately $2 million, and about 50,000 members.

The principal difference between my amendment and the committee bill as reported is what happens to these 365 credit unions and their savers at the end of the 2-year period. Under the committee bill, the 365 credit unions would be required to liquidate, most of them at a loss to their savers. These losses could approach $2 million. While the average loss per saver may not be high, many individual savers could lose hundreds or even thousands of dollars.

Under my amendment, any losses by the 365 credit unions would be paid by the credit union share insurance fund. Thus, there would be no loss to the individual savers in those credit unions which fail to meet the insurance standards.

Mr. President, I wish to emphasize that my amendment in no way weakens or modifies the insurance standards set by the Administrator of NCUA. Nor does it provide permanent share insurance to credit unions which cannot meet the insurance standards. Like the committee bill, my amendment would give rejected credit unions a 2-year period to qualify for permanent share insurance. In no way would my amendment perpetuate or condone unsound financial practices.

Neither the committee bill nor my amendment will prevent losses from occurring at the 365 credit unions which cannot meet the standards. These losses could be as high as $2 million. The only difference between the two approaches is who is going to pay for these losses. Under the committee bill, the losses would become a liability of the individual savers. Under my amendment, the losses would be paid by the credit union share insurance fund.

The very purpose of the share insurance program is to protect credit union savers against loss. Prior to the share insurance legislation, credit unions were the only financial institution without deposit insurance; and I think that undoubtedly hundreds, perhaps thousands, of people who invested in credit unions thought that their investments were protected and that they were insured because, of course, that is true of banks, savings and loan associations, and so forth.

At long last, this gap in our system of financial regulation and protection has been closed. However, it would be most ironic and unfortunate if the share insurance program were to inflict sizable losses on credit union savers. Yet that is exactly the result if the committee bill is not amended. The major purpose of the share insurance program would be frustrated. I do not believe Congress intended such a result when it enacted the share insurance program last year.

Mr. President, I believe the 2-year provisional insurance offered by my amendment is a much better solution to the problem compared to the committee bill. First of all, I believe the provisional insurance amendment is fair and more equitable to the approximately 50,000 savers who could lose their savings under the committee bill. Many of these savers are persons of modest means and can least afford to lose their life savings. I believe the Federal Government and the credit union movement as a whole has a moral obligation to insure all credit union savers against loss. Federal credit unions rejected for insurance were chartered by the Federal Government, and those who entrusted their savings to them had every reason to expect that they were financially safe and solvent. Most credit union savers are average people and are not highly sophisticated in financial matters. One might argue that these credit union savers should have known better and should not have placed their money in a shaky institution. According to this line of argument, it is improper for the Federal Government or other credit unions to bail out these savers from the consequences of their own mistakes.

Remember, this is not taxpayers' money we are talking about; this is a fund that is created as a result of premiums paid by credit unions themselves, and the credit union movement supports my amendment.

I believe this argument could be applied to those who buy stock in a large corporation such as Lockheed Aircraft. When a large company gets into trouble, the stockholders should bear the loss. But I believe this is far too harsh a doctrine to apply to the average credit union saver who is not experienced in financial matters, and certainly it is not investing in a stock, in which he can expect to make a gain or suffer a loss.

Mr. President, following the unprecedented Lockheed bailout, the Congress is now being asked to apply the principles of Adam Smith to the small credit union saver. If we can provide protection for the big corporation, why cannot we help the little man who has his life savings tied up in a failing credit union?

The credit union movement was founded upon the principles of self-help and mutual cooperation. I believe the vast majority of credit unions would rather see that no credit union saver loses his money. I see no problem in permitting credit unions to use their own money which they have paid into the insurance fund to pay for losses suffered by savers in credit unions forced to liquidate because of their failure to meet the share insurance standards. The share insurance program itself is indirectly responsible for these forced liquidations. It is therefore entirely proper and fair that the losses be assumed by the share insurance fund. My amendment would accomplish this objective by providing provisional insurance to rejected credit unions.

Mr. President, my amendment will not cost the Federal taxpayer one nickel. The moneys in the credit union share insurance fund are contributed not by the taxpayer but by the credit unions themselves. We are dealing solely with credit union money. It is entirely reasonable that we use credit union money to solve a problem in a manner which is most consistent with the traditional ideals of the credit union movement itself.

Mr. President, there is a second and more practical reason for providing provisional insurance. If we permit 365 credit unions to fail at a loss to their savers, the public's confidence in the solvency and integrity of all credit unions could be severely affected. Like Caesar's wife, financial institutions must be above suspicion. If one person loses money in a credit union, the adverse publicity can cause many more to withdraw their savings from other credit unions. This unfortunate result would be prevented by my amendment, since any losses would be paid by the insurance fund.

A third reason for extending provisional share insurance to nonqualifying credit unions is that it will help restore their financial solvency. If a credit union is rejected for insurance, it will have difficulty in attracting new deposits and in keeping their existing deposits. How many people would want to keep their money in a credit union which has been rejected for insurance because its reserves are inadequate? The stigma of being rejected for insurance will make it increasingly difficult for these credit unions to achieve the growth they need for restoring their financial solvency.

The lack of provisional insurance will work a particular hardship on limited income credit unions which have the authority to accept deposits from nonmembers such as banks, churches, corporations, or other groups or persons outside the credit union's field of membership. The only way limited income credit unions can become self-supporting is to attract deposits from nonmembers. The income earned from these additional deposits will enable the limited income credit union to pay its operating expenses and build up its reserves. However, these outside deposits will not be forthcoming unless provisional insurance is granted. Thus the committee bill will deny limited income credit unions the means of gaining financial solvency.

The fourth reason for providing provisional insurance is that it will increase the authority of the Administrator over those credit unions rejected for Federal share insurance. The Administrator has a great deal more regulatory authority over insured credit unions than he does over uninsured credit unions. For example, he can issue a cease-and-desist order directing an insured credit union to refrain from engaging in unsafe or unsound practices. He can also order a change in the management of an insured credit union. These supervisory controls are not available with respect to an uninsured credit union.

This means that my amendment would permit the Administrator himself not only to save credit unions the faliure of which might otherwise result in a loss on the part of their depositors, but also to take the kind of steps that are necessary to put them on a sound basis.

If my amendment is adopted, the Administrator of NCUA would have much more authority over those credit unions rejected for permanent share insurance. He would be in a stronger position to supervise their operations so that they would have a much better chance of meeting the insurance standards by the end of the 2-year period.

Finally, Mr. President, I believe that adequate precedent exists for my provisional insurance amendment. Last year, when Congress passed the Securities Investor Protection Corporation Act, it insured brokerage firm customers against any losses arising from a brokerage firm failure. All brokerage firms were covered by the insurance program regardless of their financial condition. Each account in a brokerage firm was insured for a maximum of $50,000.

Brokerage firms are not supervised or examined by the Federal Government as are credit unions. Moreover, brokerage firms underwent losses far in excess of those ever experienced in the 34-year history of credit unions. And yet brokerage firms were automatically provided with insurance while credit unions are required to pass a rigid test.

Brokerage firm customers certainly need protection. But as a group, they are far more knowledgeable about financial matters than are credit union savers. Surely credit union savers are entitled to at least the same degree of protection which Congress decided to give brokerage firm customers.

Mr. President, I find it wholly inconsistent that the Congress would apply one standard for the rich and well-to-do, and another standard for the person of modest income. If blanket insurance can be extended to all brokerage firms, why cannot the same treatment be given credit unions, whose insurance involves much less of a risk compared to the brokerage industry.

Mr. President, it might be argued that provisional insurance would, or could, impose an undue burden on the credit union share insurance fund. I believe this is a wholly specious argument. As I have indicated, the maximum losses are estimated at only $2 million. The credit union share insurance fund will have at least $18 million in reserves by the end of the 2-year period, thus there is more than enough money in the fund to pay any losses which might result. Some have suggested that the fund might be faced with an insurmountable cash flow problem if it were required to purchase the assets of liquidating credit unions. According to this argument, the immediate cash drain on the insurance fund could far exceed the ultimate losses realized by the liquidation.

I believe this argument ignores the other options available to the Administrator of the insurance fund. First, any cash flow problem can be alleviated by borrowing from the Treasury. Under the law, the Administrator can borrow up to $100 million from the Treasury if required. Second, the Administrator can sell the assets of a liquidating credit union to other credit unions or other organizations on a guaranteed basis. By using guarantees, the insurance fund thus obviates the need for using its own cash to carry the assets.

Finally, Mr. President, it has been argued that perhaps individual savers will not lose money after all—that their losses might be assumed by the various stabilization funds operated by State credit union leagues. Mr. President, I believe this argument is merely an exercise in wishful thinking. The moneys in the State stabilization funds available for losses is far short of the $2 million in potential losses resulting from the liquidation of the 365 credit unions which cannot be expected to meet the insurance standards. Moreover, these funds are unevenly distributed throughout the various States. Some States have no stabilization funds at all. In other States, only token amounts are available. Thus we cannot afford to rely upon the notion that the State stabilization funds might somehow be able to solve the problem.

The language that has been suggested by the chairman of the committee helps substantially, I think, in this regard.

Mr. President, my amendment is strongly supported by the Credit Union National Association—CUNA—which represents over 92 percent of the credit union movement. In a recent poll conducted by CUNA, credit unions voted by a margin of 6 to 1 to favor provisional insurance. It is not surprising that credit unions favor the provisional insurance amendment for the reasons I have just listed. Since the credit unions themselves are overwhelmingly in favor of provisional insurance, I do not see why the Congress should deny them the right to use their own money to solve their own problem as they see fit at no expense to the Federal taxpayer.

In summary, Mr. President, my amendment will protect credit union savers from suffering unfair losses; it will promote public confidence in the credit union movement; it will permit nonqualifying credit unions to rebuild their financial solvency; it provides the Administrator with greater authority over nonqualifying credit unions; and, finally, it will not cost the Federal taxpayers a single penny. I urge the Senate to approve my amendment.

Mr. President, I would like to add one further word. I think this amendment has been very substantially improved by a modification suggested by the chairman of the committee (Mr. SPARKMAN), when he suggested that we strengthen the provisions that are implicit, but not set forth, that the administrator should be aggressive and do all he can to assist credit unions that are in difficulty. This is the language that I added at the suggestion of Senator SPARKMAN:

> The Administrator shall offer technical assistance, management training, and management counseling to all credit unions whose application for insurance has been disapproved so as to enable the maximum number of such credit unions to meet the standards for insurance required by this title. In furnishing such technical assistance, management training, and management counseling, the Administrator may utilize moneys in the National Credit Union Share Insurance Fund as provided under section 203(a) of this title. The Administrator shall also encourage to the maximum extent feasible, that such technical assistance, management training, and management counseling be made available through State stabilization funds, similar funds, or similar State credit union organizations."

Mr. President, I hope, in view of the fact that this amendment provides what the credit unions themselves overwhelmingly say they want, and the organization that represents 92 percent of the credit union movement supports this amendment very vigorously, that the Senate will, in turn, vote favorably on my amendment.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. SPARKMAN. Mr. President, would the Senator from Utah like to use some time now?

Mr. BENNETT. I see other proponents——

Mr. SPARKMAN. I will be glad to yield to the Senator from Utah.

Mr. BENNETT. I would assume that, since I have managed the bill and am in opposition to the amendment, the Senator from Alabama will yield control of the time to me.

Mr. SPARKMAN. Oh, yes.

Mr. WILLIAMS. Mr. President, will the Senator yield?

Mr. BENNETT. I yield.

Mr. WILLIAMS. I have a short statement in support of the amendment offered by the Senator from Wisconsin.

The PRESIDING OFFICER. Who yields time?

Mr. PROXMIRE. Mr. President, I am happy to yield to the Senator from New Jersey, and then I would suggest that the Senator from Utah use some of his time, so that we do not use up all of our time before the opposition speaks.

How much time does the Senator wish?

Mr. WILLIAMS. Three minutes.

Mr. PROXMIRE. Mr. President, I yield 3 minutes to the Senator from New Jersey.

Mr. WILLIAMS. Mr. President, under the committee bill approximately 350 Federal credit unions will be denied share insurance. However, under the amendment offered by the senior Senator from Wisconsin (Mr. PROXMIRE), of which I am a cosponsor, these credit unions and their shareholders would be granted 2 additional years of temporary insurance. During that time, they will be required to solve their reserve and delinquency problems or face expulsion.

The issue now before us is whether or not these credit unions should be automatically insured. The opponents of our amendment argue that it is not fair to insure credit unions that do not meet the current standards of the act because thousands of other credit unions have been able to comply. We have been told that it is poor business practice to cover these credit unions; that they will fail anyway and that the insurance fund should not bear the brunt of the loss. However, the National Credit Union Administration has estimated that these 350 credit unions have shares worth approximately $35 million and a reserve deficiency of $2 million. In other words, the ultimate loss from the share insurance fund would be at the most $2 million from a fund that now amounts to $7 million and will amount to $20 million by the end of the additional 2 years. And this $20 million is made up of assessments levied on individual credit unions—the very same credit unions that favor 2 additional years of blanket coverage. It is a sad day indeed when the Congress tries to tell our Nation's credit unions that they are prohibited from insuring their own members with their own premium dollars because the risk is too great.

Therefore, in my opinion, we can dismiss the argument that insuring all credit unions is likely to be a serious blow to the fund and that the preponderance of credit unions are opposed to blanket insurance coverage. CUNA, representing the great majority of our Nation's credit unions, adheres to the credit union principle of mutual assistance and fully supports the adoption of this amendment.

The real issue involved is a simple one: Is the Congress going to permit several thousand credit union members to suffer losses which in some instances cover their life savings because their credit union is liquidated for failing to meet insurance requirements? Or are we going to take constructive action to prevent these credit union members, many of whom are from our Nation's lower-income groups, from suffering severe financial loss?

I, for one, do not believe that we in the Congress, or the members of insured credit unions, are so materialistic in our beliefs, so selfishly profit minded, so blinded by managerial efficiency that we will not show our concern for these credit union shareholders by providing them with insurance coverage. We should express the same concern as we did last year when we provided complete insurance coverage for our Nation's stockbrokers in their time of financial crisis.

The real issue is not whether the National Credit Union share insurance fund is faced with a $2 million payout. It is whether we are willing to take the steps which are necessary to prevent credit union shareholders from losing their savings. And the best way to do this is the way that the majority of our credit unions favor—it is to give insurance coverage to all credit unions now when they need it most. I, therefore, urge this body to adopt the amendment offered by the senior Senator from Wisconsin (Mr. PROXMIRE). I strongly support it.

The PRESIDING OFFICER. Who yields time?

Mr. BENNETT. Mr. President, I yield myself such time in opposition to the amendment as I may require. It is the understanding of the Senator from Utah that he has 30 minutes.

The PRESIDING OFFICER. The Senator is correct.

Mr. BENNETT. I will try not to use that much time.

Mr. President, it is important that the Senate approve this legislation without undue delay. The committee bill would allow an additional 2 years for Federal credit unions to meet the standards of safe operation required for share insurance. If an extension of time is not granted, some Federal credit unions that have not been able to meet the minimum standards will lose their Federal charters early next year.

As the principal sponsor of the legislation which provided insurance for credit union shares, I feel a particular responsibility toward those which have been unable to obtain insurance and recommend strongly that the committee bill be approved.

Mr. President, the committee bill is supported by the Administrator of the National Credit Union Administration, the National Credit Union Board which represents credit unions from all districts in the Nation, credit union organizations, and credit unions throughout the Nation. It is certainly true that some credit unions and some credit union organizations, while supporting the extension of time as necessary, have also asked that the Administrator be required to insure all Federal credit unions regardless of the fact that they have been rejected for insurance because of insufficient reserves, unsafe or unsound operations and policies, unfit management, or because they are not fulfilling the objectives of credit unions.

The proposition that all Federal credit unions be insured regardless of their operating soundness is strongly opposed by the National Credit Union Administration, credit union organizations, and many credit unions on grounds of equity, equality of treatment between State-chartered and federally chartered credit unions, and the concept that credit unions, to really serve their members, should be required to meet certain minimum standards of financial soundness in their operations.

Incidentally, a survey taken by the National Credit Union Administration indicated that credit unions divide about evenly on this issue. I might add, I believe there are obvious reasons why the CUNA results referred to by the Senators from Wisconsin are biased.

Granting an additional 2 years for federally chartered credit unions to qualify for insurance will not only provide an opportunity for most of the credit unions which should continue in operation to become insured, but also it will provide an opportunity for the Administrator and the board of the National Credit Union Administration to develop the basic facts on which a decision can be made as to what congressional action, if any, should be taken with regard to those which do not meet minimum standards of safe operation during that period. The Administrator, in testimony before our committee on this section of the bill, said:

> All I am asking now is for two years past a one-year grace in order that I can give you facts on which you can make a judgment.

This bill, as unanimously approved by the committee, provides those 2 years. It does not make a final judgment on whether additional assistance should be granted through congressional action at a later time. It does, however, make the judgment that credit unions known to be financially unsound will not automatically be insured by the Administrator. I believe it is important to recognize at this point that some of the credit unions which have had their initial application for insurance rejected have assets of as much as $10 million, and many of them have assets of over $1 million. There is, in my view, no justification for the Congress to lower the standards and insure all Federal credit unions of this size when thousands of smaller credit unions have been required to meet the standards approved by the Congress last year.

Mr. President, the committee carefully considered this issue; and an amendment offered by the Senator from Wisconsin which would have provided insurance to all Federal credit unions, so long as they had met the annual requirement to transfer a specified percentage of gross income to statutory reserves, was turned down. According to the National Credit Union Administration, all rejected Federal credit unions have met this requirement. The fact that a credit union has met this annual requirement for a transfer to reserves has little, if any, relationship to the adequacy of its reserves, the soundness of its policies, or the solvency of the credit union. We were fully aware of this when we enacted the original share insurance legislation and specifically provided the Administrator with authority to establish special reserves either by regulation or when found to be necessary in any special case.

The fact that a credit union might have met the regular reserve requirements was never intended to prohibit the Administrator from assessing special reserve requirements where the credit union's financial condition was inadequate; on the contrary, it was expected. By and large, the special reserve requirement that the Administrator has assessed against some credit unions has been as a result of their excessive loan delinquency. This loan delinquency, if charged off by many of the credit unions, would make them insolvent or at least would be equal to all the reserves that were set aside. Such a circumstance would certainly indicate financial unsoundness and fall directly within the intent of Congress in providing for a special reserve requirement.

Transfers to the regular reserve are usually made only at the end of a dividend period—quarterly, semiannually, or annually, usually the latter. If a Federal credit union experiences rapid growth, required transfers to the regular reserve do not enable that account to keep pace with growth in members' savings and in loans to members. As a specific example, a Federal credit union chartered in 1967 had accumulated assets in excess of $2.3 million when its application was reviewed earlier this year. Loans to members amounted to almost $2.2 million. Delinquent loans totaled $25,700, almost $13,000 of which were delinquent more than 12 months. To protect against probable losses from loans which were seriously delinquent and against possible losses from other loans totaling over $2.1 million, the credit union had reserves of only $22,400.

Federal credit unions which experience high losses on loans to members do not accumulate adequate reserves, even though statutory transfers to the regular reserve are made, because the reserves are depleted by the absorption of uncollectible loans. Doubt is cast upon the collectibility of delinquent loans in credit unions having a high loss ratio that is not present in credit unions which have a history of no losses or relatively small losses.

The present statute provides that 10 percent of gross income is transferred to the regular reserve until the reserve shall equal 7½ percent of the total outstanding loans and risk assets, then 5 percent of gross income until the regular reserve shall equal 10 percent of the total of outstanding loans and risk assets. If a credit union does not recognize and charge off loans that are without value, it is possible for the credit union to be in a position of "no transfer" or a reduced transfer to regular reserve at the end of a dividend period, yet have inadequate reserves. To cite another example, a Federal credit union had assets of $1,100,000, shares—savings—of $908,000, and loans of $962,000. The regular reserves totaled $97,500—over 10 percent of loans. The credit union, then, was in a "no transfer" position. It had, however, $182,000 in delinquent loans, $114,000 of which was in loans delinquent more than 12 months. Loans considered to be losses exceeded reserves.

In another case, a Federal credit union had $160,000 in loans, with reserves of $12,300. Reserves were 7.6 percent of loans. The Federal credit union was in a reduced transfer position, yet it had $13,600 in loans delinquent more than 12 months. Loans totaling almost $12,000 were considered probable losses, which would practically wipe out all reserves if they were charged off.

These credit unions had made the regular reserve transfers required by the Credit Union Act, yet reserves in relation to needs were inadequate and the credit unions therefore uninsurable.

Mr. President, the committee bill grants an additional 2 years in which these credit unions can become insurable. The committee by its action has retained the authority for the Administrator of the National Credit Union Administration who supervises Federal credit unions to require them to comply with minimum standards of soundness in order to have Federal share insurance, as provided in the share insurance bill last year which received a unanimous vote in the Senate, a unanimous vote in the House Banking and Currency Committee, and no opposition on the House floor. In addition, on November 1 of this year, the House of Representatives, by a vote of 349 to 0, upheld the requirement that these same standards of operation be maintained in approving H.R. 9961 in the same form as approved by the Senate Committee.

Before taking a vote in our committee, we discussed at great length the possibility that some who now have their savings in credit unions may be subject to possible losses if their credit union could not obtain insurance in the additional 2-year-time period provided by the committee bill. Frankly, I have more faith in the credit union movement than to believe that national organizations of credit unions will not use their best efforts and their own special funds to assure that there will be no losses to individual savers.

In our hearings, it was established that the stabilization funds of the various credit union organizations in the States as well as on a national level total about $7½ million. It was pointed out that this total amount is not liquid but that it could be made available to assist individual credit unions to comply with insurance standards or to offset losses by individual credit union members in the event of liquidation of uninsured credit unions.

In opposing less Federal share insurance just 2 years ago, it was argued by those who now are requesting that unsound Federal credit unions be insured, that there was no need for Federal share insurance because the stabilization funds were sufficient to assure that no members would experience of any affiliated credit union a loss. At that time, the stabilization fund assets amounted to just over $6 million. Now, the Federal share insurance fund has been established to take on the responsibility of insuring against loss, all members holding 95 percent of total shares in all Federal credit unions. Thus the responsibility to be met by stabilization funds has been greatly reduced. At the same time, the stabilization fund assets have increased to about $7½ million. There is no doubt in my mind that these funds can be used to assure that no individual member of an uninsured credit union will lose any of his savings.

Representing CUNA, Inc., before our committee, Mr. J. Paul White, managing director of the Utah Credit Union League, testified that the Utah League has already taken action to assure that the Federal credit unions in Utah which have not yet been able to comply with insurance requirements will be made eligible for insurance or that there will be no loss to members in the event of liquidation. The Utah League is to be highly commended for this action which is demonstrative of the self-help concept that has been the basis of the success of the credit union movement in the past. While we do not know how many other State leagues have taken this type of action or what the national association has done in this respect, certainly one would expect them to be interested enough in their members to use their stabilization fund assets which greatly exceed even the highest estimates of possible loss. If past experience is an indication, we should be able to count on all of the State leagues to meet this challenge and assure that members in uninsured credit unions do not lose any of their savings.

Actually, the availability of these stabilization on funds was used as an argument against the need for Federal insurance. If these were adequate to protect 100 percent of all member credit unions then they are more than adequate to make insurable the 3 percent that are expected to fail to meet that test at the end of 2 years.

Mr. President, the sponsors of this amendment have used the broker-dealer insurance measure enacted by Congress last year to bolster their amendment by saying that we provided complete coverage for all stockbrokers in their time of financial crisis.

I would like to clear the record on this issue. First, it should be remembered that there was indeed a financial crisis last year which resulted in the enactment of the broker-dealer insurance. I believe the Senator from New Jersey, the chairman of our Securities Subcommittee, knows as well as anyone that broker-dealer business was drastically depressed both because of volume decline of about 30 percent, compounded by about an equal decline in share prices on which commission income of securities firms is based, and, as the Senator from New Jersey said at that time:

> Some of our Nation's largest brokerage firms have reported losses of up to $8.9 million in 1969.

No one has suggested that share insurance for credit unions was enacted because of a crisis. In fact, there was no confidence crisis when the share insurance was enacted and there is no confidence crisis now. This was made very plain, and it is not a service to the credit union movement to even intimate that there will be a crisis even if certain credit unions should liquidate. The sponsors of this amendment know very well that even if 365 credit unions were to liquidate because they could not get insurance, that would be fewer than the normal number of annual Federal credit union liquidations which totaled 541 in 1970 and 561 thus far in 1971.

Now let me just say that the sponsors of this amendment also know that the comparison between what we did for the customers of broker-dealers was not in any way to insure all, regardless of their financial condition, as would be the case under this amendment. Before enacting the insurance for broker-dealer customers, it was made clear that the industry would take responsibility for customer losses sustained by all firms in capital violation prior to the effective date of the legislation. What this means is that the insurance fund excluded possible losses from those marginal firms from insurance coverage. That is what was done when the banks were insured. That is what was done when the savings and loan associations were insured, and that is what we did when we enacted the share insurance for credit unions, and that is what would be done if the existing stabilization funds were used as I have suggested. The difference, however, is that we have given credit unions a period of time to become insurable and, now, the committee bill gives them another 2 years. Further, no final decision is made as to what will be done at the end of the 2 years. We will then have the information on which to base a rational decision and could provide even a further time extension.

Mr. President, there is another matter that must be considered in connection with this proposal to insure all Federal credit unions regardless of the soundness of their operations. When we enacted the share insurance legislation, we were very careful not to discriminate between Federal credit unions and State credit unions. In fact, the act itself contains a nondiscriminatory provision stating that:

> It is not the purpose of this title to discriminate in any manner against State-chartered credit unions and in favor of Federal credit unions, but it is the purpose of this title to provide all credit unions with the same opportunity to obtain and enjoy the benefits of this title.

Now we have this amendment before this body which has as its intent the insuring of all Federal credit unions so long as they meet the minimal requirements of reserve transfers contained in Section 116(a) of the act. The amendment would, in fact, literally force the Administrator to insure all of the Federal credit unions which he has rejected because of other deficiencies which the act requires the Administrator to take into account before providing share insurance. The amendment, however, does not alter the present standards so far as State-chartered credit unions are concerned. If the amendment were to be accepted, it would therefore lower the standards required of Federal credit unions to a level that all would be insured, but it would not lower the standards for State credit unions. It would therefore be discriminatory against State credit unions. I, for one, cannot support such a result.

Let me add, it is interesting that CUNA is now recommending such discrimination. Last year their spokesmen expressed deep concern over many provsions in the bill which he said might weaken the dual system of credit unions. Certainly different standards for insurance would weaken the dual system.

Mr. President, to indicate the feeling on this issue of discrimination, I would like to read part of a letter I received from one of the largest State-chartered credit unions in Utah:

> Our credit union is state-chartered, and we are considering the insurance on a voluntary basis, but frankly, we will not subscribe if the Credit Union Administrator, Herman Nickerson, is compelled to insure approximately 1,420 'sick' credit unions. . . . An alternative is to give the credit unions who cannot comply a year or two to get their house in order, and if unable to do so, merge with a good strong organization that has a common bond.
>
> I realize that this recommendation is contrary to what CUNA is recommending to Congress, but we believe common sense would dictate a different approach.

I am not including the entire letter in the RECORD for obvious reasons. However, I ask unanimous consent to have printed in the RECORD a telegram I received from the President of the Association of State Credit Union Supervisors stating his view on this issue.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

> OLYMPIA, WASH.
>
> Senator WALLACE F. BENNETT,
> *Washington, D.C.:*
>
> I wish to urge passage of H.R. 9961, pertaining to an extension of 2 years for Federal Credit Unions to qualify for share insurance. As president of the association of State Credit Union Supervisors. I want to see the integrity of the insurance fund protected. Since a number of substantial state credit unions al-

ready have obtained the coverage. And others are considering it. H.R. 9961 represents a much more rational alternative to granting temporary insurance coverage to weak credit unions since this could invite considerable abuse. The prospect of marginal credit unions being able to solicit shares with the shelter of temporary coverage is not reassuring. As the official responsible for supervision of state credit unions in Washington, I also hope that H.R. 9961 prevails.

WILLIAM E. YOUNG.

Mr. BENNETT. Mr. President, I hope that the Senate will approve the proposed legislation as reported by our committee, without amendment, to assure that the administrator of the National Credit Union administration will not be required to revoke or suspend the charter of any Federal credit union for at least 2 more years because it has not met insurance standards, and also to assure that reasonable operating standards be required not just for State credit unions but also for Federal credit unions in order to obtain Federal share insurance.

Mr. President, I think the best way to explain why, in good conscience, I must oppose this amendment is to go over the history of how Federal share insurance for credit unions came to be.

I am the author of the bill that provided the insurance. We have heard here today that the Credit Union National Association supports the amendment. The Credit Union National Association was unalterably opposed to Federal share insurance for its members 2 years ago. They discovered that their membership would not support that position; and before we finally voted, they had to reverse it.

The statement has been made here today that we should be sorry for these perhaps 350 little credit unions that at the end of 2 more years may not be able to qualify; that, therefore, we should give them share insurance, and that we should let them get into the system without qualifying. That is what CUNA wanted to do with all credit unions. When my bill was passed, that approach was rejected. Furthermore we are not just dealing with 350 credit unions.

This amendment says:

> We want to give 1,250 credit unions, more or less, a privilege we have denied to about 12,000 Federal credit unions and approximately the same number of State credit unions. We want to let them slip in under the tent. We want to let them go on doing the things that have gotten them into the condition in which they now find themselves.

We did not give the same privileges to approximately 22,000 or 23,000 others.

The point has been made that these are so few and the loss would affect these people so much that we should make an exception in their case. The Federal credit union insurance program is, in effect—given the difference in the systems—a copy of the insurance program we have for the banks and the savings and loan associations.

In the bank closing in 1932, no banks were open that were insolvent. We did not give any of them a chance to slip in under the tent. Those that could not meet the specifications of the Treasury remained closed, and the stockholders and the depositors in many cases lost far more than is at stake here.

The Federal savings and loan associations all had to qualify for insurance under the FSLIC. We say this is the same kind of business, but we must be especially kind to these organizations that have made very bad loans and investments. We say that to allow 350 or 365 credit unions to be closed would be a tragedy that would sweep across this country and wipe out faith in credit unions.

For the last 2 years, an average of 550 credit unions have been liquidated for various reasons including poor management but the credit union movement has not been rocked to its foundation.

It is very amusing to me to have dragged into this argument the insurance that was set up to take care of the stock brokerage crisis of a couple of years ago. An attempt has been made to relate that to this credit union situation. Actually, what the proponents did not bring out is that before any brokerage house could be insured, the industry itself was required to put up $50 million—private funds—to take out of the list of brokerage houses those that were in trouble. For a reason which has already been indicated, and on which I would like to build, funds to take out these potential 350 losses already exist in the Federal credit union movement but no commitment has been made to use these funds, nor is any required in this amendment.

When the original share insurance legislation was introduced and CUNA fought it so vigorously, their basis was, "We have private funds to insure our members, and we do not need to have Federal credit union insurance."

They were referring, of course, to the stabilization funds that exist today in the amount of some $7.5 million. Very interestingly my colleague, the author of the amendment, has now modified it to express the pious hope that some of the money will be used to help these people in need of help. My own State of Utah has six Federal credit unions that have not qualified for share insurance. In testimony before the committee, the president of the Utah Credit Union League said they would use their stabilization funds to see that no Federal credit union is in a position where they cannot get insurance.

Those funds were raised as a quasi-insurance fund to protect their members. Now that the burden of insurance has been lifted from the association, the funds still remain. If they are not going to be used for purposes of this kind, then they remain as funds to be spent for any purpose the association may want to use them for, including lobbying with Congress, which has been going on at a terrific rate since this bill was reported.

It seems to me that the proposal that we give a special privilege to as many as 1,250 to 1,300 organizations which cannot qualify for insurance, is the kind of last face-saving gesture that, "We have got to win something out of this debate."

Mr. President, there is another aspect of this legislation that no one has discussed. There are approximately 1,250 credit unions today that have not been able to qualify.

It is assumed that some 900 of these would qualify if given 2 years additional time.

Acting under the authority of the law, the administrator of the Federal Credit Union administration has required those organizations which are in doubtful condition, to sign agreements to increase their transfer to reserves against bad loans in order to obtain insurance.

Now, Mr. President, if we are going to let 1,250 credit unions have insurance without any additional limitation or requirements, would it not be only fair that the administrator must go back to the people on whom he has imposed the additional burdens in order to make them solvent and say, "I can no longer require you to perform under this order. You are free from the responsibility of setting up greater reserves," because, obviously, he is not going to have the power to require the 1,250 to set up the reserves.

Well, where are we today?

The House has passed a bill providing for 2 years. They rejected the proposition represented by the Senator from Wisconsin. It seems to me that we would be wise to take the same step.

There is another consideration I would also mention in summary. The bill does not give any special relief to any State-chartered credit union. Obviously no program should be operated by the Federal Government that is not fair to every person who may become a part of a given system. There are undoubtedly State-chartered credit unions that cannot qualify for insurance. This bill would give them no help. So, by giving a special dispensation, a special privilege to federally chartered credit associations, we will be unfair to the State associations.

I have had correspondence from some of the State associations in my State expressing very strong opposition to the creation of this unfair situation.

The author of the amendment talked earlier about the stabilization funds. If the Credit Union National Association and the State Leagues have the same kind of brotherly consideration for their members as they had before the Federal credit union share insurance bill was passed, I think they should be prepared to make a public statement saying that they are prepared to use the stabilization funds which they gathered for the protection of their members. But, except for my own State of Utah, whose State League is to be highly commended, I have heard no such statement. If they would do that, there would then be no necessity to load onto the more than 11,000 Federal credit unions, which have qualified and are paying their assessments into the insurance fund, the weakness and the failure of those that cannot qualify. If we want to be really fair, as I say, why did not we in the beginning say that everyone gets insurance without any qualification? That is what CUNA wanted in the beginning. That is what the Senate turned down.

As I remember it, the author of the amendment joined the rest of us in opposing blanket insurance for all credit unions when the bill was passed.

Mr. TOWER. Mr. President, will the Senator yield for a question?

Mr. BENNETT. I yield.

Mr. TOWER. Mr. President, I share the view of the Senator from Utah that it is not appropriate for us here to cover these credit unions which cannot meet the standards set by the National Credit Union Administration. And I share his view that probably the stronger unions that are sound end up paying for the losses of those that are unsound.

I think that all those that do not qualify ought to be allowed time to qualify. However, I think even on a provisional basis that we should not try to insure them now. After all, Congress insures on the basis of this kind of procedure, in situations involving the Federal Deposit Insurance Corporation and the Federal Savings and Loan Insurance Corporation.

The Senator said that some 1,200 to 1,300 credit unions cannot qualify. How many of those could conceivably qualify in the next 2 years? Could the Senator give me a figure on that?

Mr. BENNETT. Mr. President, let me restate the figure there. Approximately 1,250 do not now qualify. It is assumed that about 350 of those will not be able to qualify after 2 years.

Mr. TOWER. About 350 will not be able to qualify.

Mr. BENNETT. The Senator is correct. It could be assumed that these probably are credit unions that are currently deteriorating or are on the verge of failure.

They are in very bad shape now, or otherwise the Administrator would not have been able to make such an estimate.

Mr. TOWER. Mr. President, let me ask the Senator from Utah if there is any other type of assistance available to those credit unions that do fail in the next 2 years.

Mr. BENNETT. The Senator from Utah made it clear that funds gathered from both Federal credit unions and the State credit unions were gathered specifically to help their members if they got in trouble. It seems to me that this is an ideal time for them to come forward and say, "Now that we have the Federal credit union insurance, we will help our members to qualify and offset the losses of those who cannot qualify."

Mr. TOWER. Mr. President, I thank the Senator from Utah.

Mr. BENNETT. Mr. President, I yield the floor.

Mr. PROXMIRE. Mr. President, I yield 3 minutes to the Senator from Georgia.

The PRESIDING OFFICER. The Senator from Georgia is recognized for 3 minutes.

Mr. GAMBRELL. Mr. President, I thank the Senator from Wisconsin for yielding me 3 minutes to comment on the amendment. I supported the amendment in the committee and I plan to support it again on the floor today.

I might say that the support I have given it has not been as a result of any pressure or suggestions on the part of the Credit Union Association. In fact, I did not hear from any representatives of the Credit Union Association until after the committee vote on this subject was taken.

My own impression that the amendment is desirable is based on policy considerations.

First, the Federal credit unions—and I might say in this regard that they are different from the large State credit unions—have as part of their name the word "Federal." I think the Federal Government owes some duty to consider depositors who have relied on this being covered under a Federal system. Presumably people think that it may have some Federal sponsorship, and they rely upon that fact.

Second, I think it would be a mistake to visit on the depositors the misdeeds, the miscalculations, and mismanagement of the managers of these cooperative funds. This is not like an operating company in which people have risked their money for profit in reliance on some business manager in whom they had confidence. Most of these depositors have put their money into the funds on the theory that it is a federally-sponsored program which the Federal Government offers some protection to and some insurance concerning the solvency. Perhaps that is a mistaken impression. However, primarily these are people who are employees and who are simply looking for a cooperative way in which to make a return available to themselves.

I think it is very important in order to assure the public confidence in these funds that the Federal Government take steps such as this amendment proposes to take to assure that depositors will not suffer losses by misplaced reliance on these funds.

Mr. President, for these reasons, I intend to support the amendment on the floor today.

Mr. BENNETT. Mr. President, I am prepared to yield back the remainder of my time, if the Senator is.

Mr. SPARKMAN. Mr. President, I would like to make a few remarks.

Mr. PROXMIRE. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Wisconsin has 5 minutes remaining.

Mr. PROXMIRE. Mr. President, I yield 4 of those 5 minutes to the Senator from Alabama.

Mr. BENNETT. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Utah has 10 minutes remaining.

Mr. SPARKMAN. Mr. President, I feel myself in a rather peculiar position with reference to this amendment. I voted against the Proxmire amendment in the committee. However, the amendment was not in the same form then that it is now. Members of the committee will remember that I repeatedly urged that an effort be made by the Administrator to help these credit unions that he felt would not be able to qualify. Even though that is mere speculation on his part, that they will not be able to qualify, I point out that the Senator from Wisconsin has included in his amendment something that I urged upon the Administrator. And, by the way, I have received a letter from the Administrator in which he says:

> I wish to make it absolutely clear that the National Credit Union Administration has a very extensive program for assisting credit unions which are in difficulty. This is particularly so with low income credit unions, credit unions whose insurance applications were rejected, and credit unions that have peculiar difficulties. Every effort is being made to help credit unions that have not been insured to qualify. As I have personally studied each application to date, I shall continue to do so in the future. I assure you that I have not rigidly followed criteria only but I have personalized each case, giving due consideration to the credit union's individual circumstances.

Mr. President, I ask unanimous consent that this letter and my reply to it be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NATIONAL CREDIT UNION ADMINISTRATION,
Washington, D.C., November 11, 1971.

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I wish to take this opportunity to express my appreciation for the action of the Committee on Banking, Housing and Urban Affairs on H.R. 9961.

The National Credit Union Administration is convinced that an extension of time for rejected credit unions to put their houses in order is the proper course to take.

In reflecting on my testimony before the Committee, there were several areas which I believe need clarification. I wish to make it absolutely clear that the National Credit Union Administration has a very extensive program for assisting credit unions which are in difficulty. This is particularly so with low income credit unions, credit unions whose insurance applications were rejected, and credit unions that have peculiar difficulties. Every effort is being made to help credit unions that have not been insured to qualify. As I have personally studied each application to date, I shall continue to do so in the future. I assure you that I have not rigidly followed criteria only but I have personalized each case, giving due consideration to the credit union's individual circumstances.

If H.R. 9961 is passed by the Senate, I intend to report periodically to the Committee. After a reasonable period of time, I will be in a position to assess the specifics confronting the credit unions not then insured.

I would also like to state the National Credit Union Board was consulted by me and approved my recommendation to extend the time that a rejected credit union could qualify for insurance from one year to three years, as provided in H.R. 9961.

Let me assure you that it is the desire of the National Credit Union Administration to do everything possible to ensure that all credit unions become insured if at all possible.

Sincerely yours,
HERMAN NICKERSON, Jr.,
Administrator.

NOVEMBER 11, 1971.

Gen. HERMAN NICKERSON, Jr.
National Credit Union Administration, Washington, D.C.

DEAR GENERAL NICKERSON: Thanks for your letter of November 11. I appreciate your comments in it. I am very glad to have your statement regarding an "extensive program for assisting credit unions which are in difficulty." I do hope that as many as possible of those small credit unions can be helped to qualify for the share insurance.

With best wishes and kindest regards, I am

Sincerely,

JOHN SPARKMAN.

Mr. SPARKMAN. Mr. President, as I have pointed out, the Senator from Wisconsin has included a requirement in his amendment that the Administrator put on an intensive program of assistance. I urged in the hearings before the committee that if an effort were made, management could be bettered and assistance could be given in getting better financial management. I pointed out that the greatest cause of failure in small businesses is poor management. Therefore, when the Small Business Act was passed, we wrote a requirement in the law that every effort should be made and training courses should be given to help management and to lend assistance of every kind to small businesses. I stated that the same thing could be done here.

I have the Administrator's assurances that he will carry on that kind of training and assistance program. Furthermore, I was very much impressed with what the gentleman who testified for this kind of program—and he was from Utah—told us that Utah had utilized the stabilization fund to help those small credit unions that are in trouble to pull out.

I think it should be done throughout the whole country. Unfortunately, we cannot compel it at the present time. But in this amendment it is provided that the Administrator shall make every effort to get the people—the leagues within the individual States—to use this stabilization fund for the purpose of helping credit unions that are in trouble.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. SPARKMAN. Mr. President, how much time do I have remaining on the bill?

The PRESIDING OFFICER. The Senator has 8 minutes remaining.

Mr. BENNETT. I am happy to yield time to the Senator on the amendment.

Mr. SPARKMAN. I thank the Senator. I only need a couple of minutes.

Mr. BENNETT. I yield 3 minutes to the Senator.

Mr. SPARKMAN. On page 12 of the report there is shown the credit unions which to date have been rejected. It also shows the number in the individual States. It so happens that California has the largest number. I believe Texas has the next largest number, or Pennsylvania, probably. But at any rate many of those unions can be pulled out of trouble.

I tried repeatedly to find the characteristics of some of these small credit unions during the hearings. I was not able to get it but later I did get it with respect to my State of Alabama. I believe there are 28—22 now since the bill has been reported out; six of those qualified—but there are 22 now.

I find that every one of them is a high unemployment area. I hope in the 2 years we can get some betterment of this unemployment situation and that these credit unions will be able to pull out.

As the Senator from Utah pointed out, there is no such amendment in the House bill. The House bill is just as the Senate reported the bill. This will be a matter for conference. I am not perfectly satisfied with the situation. I wish we could find some way to work it out but I suggest we take the amendment to conference and let us work it out that way.

Mr. President, that is all I wanted to say but I want to take advantage of this opportunity to pay our respects to the members of our staff who have worked so diligently on this matter. I particularly refer to John Evans, who is a professional staff member. He is the man who did the work and who assisted the Senator from Utah (Mr. BENNETT) in presenting the original matter of share insurance and he has done a tremendous job throughout. I pay my respects to him and to the other members of the staff, Michael Burnes, Dudley O'Neal, Reginald Barnes, and all members of the staff.

Mr. TOWER. Mr. President, will the Senator yield?

Mr. SPARKMAN. I yield.

Mr. BENNETT. This is on my time.

Mr. TOWER. Will the Senator yield to me for 30 seconds?

Mr. BENNETT. I yield 1 minute to the Senator from Texas.

Mr. TOWER. Mr. President, I would like to associate myself with the remarks of the Senator from Alabama relative to the staff. They have done this work in the face of the matters they were involved in in connection with the Phase II legislation. They had a considerable load on them and they performed very well.

Mr. BENNETT. Mr. President, in this kind of debate there are always one or two things that get by a person and it is hard to keep them all in mind.

The Senator from Wisconsin made note of the fact that there was no Federal money involved in this insurance. That is true of all deposit insurance funds. It is not unique, and it is the savers from the solvent credit unions who will be asked to put up the money to take care of these people.

One final thought which has been inspired by the last comments of the chairman. Why do we not let this bill stand as it is, with an understanding that 1 year from now or a year and a half from now we will look at the situation and see how many of these institutions are in trouble?

It seems to me that the prudent thing to do is to let 1 year or a year and a half of that run and then ask the Administrator where his problems are and how big they are and what kind of problem it is, and then I think we could legislate more wisely and prudently.

Otherwise, we would be potentially insuring, or blanketing in about 900 that are going to qualify anyway.

Mr. President, if this amendment is agreed to and we go to conference on it, I will attempt in conference to suggest postponement of the automatic insurance until we get closer to the end of the 2 years, rather than to do it now.

Mr. President, I do not think the yeas and nays have been requested. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. BENNETT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. A quorum would not be in order until the other side has yielded its time.

Mr. PROXMIRE. We may have a sufficient number now.

Mr. BENNETT. Mr. President, I ask for the yeas and nays again.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BENNETT. I yield back my time.

Mr. PROXMIRE. Mr. President, I have only 1 minute remaining so I wish to state very quickly that the 365 or 350 credit unions that are not qualifying at the present time would not be permitted to continue past the 2-year period unless they qualified. The amendment is clear on that. It states:

> The administrator shall suspend or revoke the charter of any Federal credit union which has failed, upon the expiration of such 2-year period of insurance, to file an application for insurance which is approved by the administrator in accordance with subsection (c).

Also, the Administrator is in a position under this amendment—because once insurance is provided he has cease and desist powers—to remove management and take other steps to improve the union. This is an effective way to see that the smallest number of credit unions liquidate and that there will be no loss to depositors.

I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wisconsin, as modified. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Oklahoma (Mr. HARRIS), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

I further announce that the Senator from Illinois (Mr. STEVENSON), the Senator from Idaho (Mr. CHURCH), and the Senator from Georgia (Mr. TALMADGE) are absent on official business.

I further announce that, if present and voting, the Senator from Illinois (Mr. STEVENSON) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Ohio (Mr. SAXBE) is absent on official business.

The Senator from Tennessee (Mr. BAKER), the Senator from New Hampshire (Mr. COTTON), the Senator from Colorado (Mr. DOMINICK), the Senator from Arizona (Mr. FANNIN), the Senator from Hawaii (Mr. FONG), the Senator from Illinois (Mr. PERCY), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from New Jersey (Mr. CASE) is detained on official business.

If present and voting, the Senator from New Jersey (Mr. CASE) would vote "yea."

The result was announced—yeas 62, nays 17, as follows:

[No. 397 Leg.]

YEAS—62

Aiken
Allen
Bayh
Beall
Bellmon
Bentsen
Boggs
Brock
Brooke
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Chiles
Cranston
Dole
Eagleton
Eastland
Ellender
Ervin
Fulbright
Gambrell
Gravel
Griffin
Gurney
Hart
Hartke
Hatfield
Hollings
Hughes
Humphrey
Jackson
Javits
Jordan, N.C.
Magnuson
Mansfield
Mathias
McClellan
McGee
Metcalf
Miller
Mondale
Montoya
Nelson
Packwood
Pastore
Pearson
Pell
Proxmire
Randolph
Ribicoff
Schweiker
Scott
Smith
Sparkman
Spong
Stafford
Stennis
Stevens
Tunney
Williams
Young

NAYS—17

Allott
Anderson
Bennett
Bible
Buckley
Cook
Cooper
Curtis
Goldwater
Hansen
Hruska
Jordan, Idaho
McIntyre
Roth
Taft
Thurmond
Tower

NOT VOTING—21

Baker
Case
Church
Cotton
Dominick
Fannin
Fong
Harris
Inouye
Kennedy
Long
McGovern
Moss
Mundt
Muskie
Percy
Saxbe
Stevenson
Symington
Talmadge
Weicker

So Mr. PROXMIRE's amendment (No. 702), as modified, was agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. SPARKMAN. Mr. President, I yield to the Senator from Arkansas.

THE EAST AND GULF COAST DOCK STRIKE

Mr. McCLELLAN. Mr. President, the east and gulf coast dock strike is now 54 days old. According to press reports today, negotiations between longshoremen and the shipping industry broke off last night because of economic differences, and they have been recessed indefinitely.

Mr. President, America can ill afford the devastating blow this strike is inflicting on our economy, particularly on our agricultural industry. Farmers throughout the Nation, and especially in my area, are being hard hit by the inability to move their products. Arkansas farmers are incurring heavy daily losses, and as the strike continues the losses will spread throughout related industries as plants, processors, packagers and distributors feel the further paralyzing effects of the work stoppage. Our competitive position in the world markets has slipped dangerously and many of these markets may well be lost forever through our inability to deliver.

Mr. President, the situation is critical and calls for immediate and effective action to open the idle docks. I have today called upon President Nixon to use the full powers of his office, including, if necessary, immediate invoking of the Taft-Hartley Act. I ask unanimous consent, Mr. President, to have printed in the RECORD at this point, the text of my telegram to President Nixon today urging this action.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

TELEGRAM

Hon. RICHARD M. NIXON,
President of the United States,
The White House,
Washington, D.C.

I respectfully urge that you use the full power of your office immediately—including, if necessary, the Taft-Hartley Act—to halt the devastating strike which has shut down all of our Eastern and Gulf State ports. This stoppage—presently in its 54th day with negotiations now recessed indefinitely—is having catastrophic effects on our nation's economy—both at home and abroad—and on the many thousands of farmers, allied tradesmen and workers throughout the United States who produce and distribute American grain commodities to worldwide markets.

As a result of this strike:

We are rapidly losing hundreds of millions of dollars in soybean, rice and corn sales to foreign countries. (Soybean losses alone are mounting to around $540 million. Grain shipments to Japan are down more than 1 million tons during the first three months of this new fiscal year.)

We are quickly and irrevocably losing countless commodity export markets to international competitors through our failure to meet current shipping commitments. (Western Europe and Japan have already sought new arrangements with Africa and South America for various grain substitutes. Already our foreign competitors have stepped into the breach we have left in Japan—Australia's sales to her having gone up by 325,000 tons, S. Africa's by 100,000 tons, Canada's by 150,000 tons and Korea's by 60,000 tons, with Thailand to supply another 1 million tons.)

We are further impairing our already bleak balance of trade position with the loss of American ports responsible for more than two-thirds of our agricultural export traffic and which accounted for some $5.2 billion in export sales in 1970.

We are causing irreparable losses to America's largest and most vital industry—agriculture. (Already 1.2 million tons of grain exports have been lost since July because of these dock strikes. Already soybean crush statistics have begun to fall—showing a 6 million bushel decrease for October. Already the price for soybean meal has begun to depress—now down more than $9 per ton from a year ago.)

The State of Arkansas has been particularly hard hit by this grave situation. It is faced with a $75 million loss in its rice harvest—about one half of this year's total production.

Arkansas is faced with the loss of more than half of this year's soybean crop—amounting to around $150 million.

Arkansas is faced with wholesale shutdowns of factories and widespread unemployment as countless numbers involved in the processing, packaging and shipping of these precious food commodities are being laid off and plants made idle.

Arkansas is faced with farm bankruptcies and distressed farm sales.

Arkansas is faced with a severe recession in many of its smaller towns whose economies are so directly dependent on the dollars generated by this foreign trade.

In short, Mr. President, Arkansas is hurting and hurting bad from this strike. And the situation becomes more and more intolerable each day that it is allowed to continue.

During the past year, Arkansas farmers received approximately one-third of their entire income from export sales—including $73.2 million from rice, $52.1 million from cotton, $108 million from soybeans, $25.7 million from vegetable oil and $33.5 million from protein meal. It is regrettably apparent that Arkansas will not be able to match these figures—let alone exceed them—because of the growing losses materializing from this strike.

Multiply Arkansas' manifold hardships across this great land, and the ramifications and consequences of this strike on the backbone of American industry and the taxpayer are evident. These consumptive and competitive losses are not ephemeral, Mr. President. They are permanent, and mean fewer jobs, less income and a weakened American economy at a time when America can ill afford such a calamitous reversal from one of its strongest income producing sectors.

The past should be our guide to the action which must be taken now. We must not allow the recent 1968 Eastern-Gulf port strike situation to reoccur. We must not allow the irreparable damage it caused to be repeated. The wounds from that deleterious national disruption have yet to fully heal—its harmful effects still haunt the national purse and the pocketbooks of millions. It is time to act, Mr. President. I respectfully urge you to use the power of your office to reopen our critically needed ports.

JOHN L. MCCLELLAN,
U.S. Senator.

Mr. SPARKMAN. Mr. President, will the Senator yield?

Mr. McCLELLAN. I am glad to yield to the distinguished Senator from Alabama.

Mr. SPARKMAN. I appreciate the Senator's bringing up this matter, because it has a deadening effect in many respects to have these dock strikes. The port of Mobile is one of the largest ports in the country. A great deal of shipping goes out of there. The farmers in Alabama have been caught with no place to store their soybeans. One ship has been loaded and has gone out, but there is a crying need for others, in order to give relief to the soybean farmers in the State of Alabama, and I certainly hope that something can be done toward working it out.

Mr. McCLELLAN. I thank the Senator.

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. McCLELLAN. I yield to the distinguished Senator from South Carolina.

Mr. THURMOND. Mr. President, I would like to associate myself with the remarks of the distinguished Senator from Arkansas, and with his position. This strike has been devastating to the farmers of our State. We have one of the finest ports in the Nation at Charleston, S.C., and that port has been on strike. Soybeans and other goods have not been shipped, and it has been most harmful to the economy of our State. I sincerely hope the President will take prompt action on this most important matter.

Mr. MILLER. Mr. President, will the Senator yield?

Mr. McCLELLAN. I yield to the distinguished Senator from Iowa.

Mr. MILLER. Mr. President, I certainly share the concern of the Senator from

Arkansas over the problem caused our farmers and our grain shippers by virtue of the strikes, especially at the Gulf ports. However, I understood the Senator from Arkansas to state that he has been asking the President to invoke the Taft-Hartley law.

I must say with all deference that my understanding, from the legal counsel in the Department of Labor, that the President cannot take action under the Taft-Hartley law because the Taft-Hartley law will require a Federal judge to make a finding that a national emergency exists. It is for this reason that the Senator from Iowa introduced a bill 2 years ago, and again this year, to extend the President's authority in the case of a regional emergency.

My guess is that the President will simply have to advise the Senate that he does not have the authority under the Taft-Hartley law to move and that the Senate should take action on my bill, which will give him this authority in the case of a regional emergency.

I might say that the Committee on Labor and Public Welfare held hearings on my bill more than a month ago. I pointed out during the hearings the tragic consequences of regional emergencies being caused by these dock strikes not only to farmers but also to workers and to businesses, and I asked for prompt action.

I regret to say to the Senator from Arkansas that no action has been forthcoming from the Committee on Labor and Public Welfare at this moment.

Mr. GRIFFIN. Mr. President, a point of order. I do this very reluctantly, because I agree with what the Senators are saying on this subject. But this is in violation of the Pastore rule. There is going to be a rollcall vote on final passage of the pending business, and some Senators are anxious to get away. I wonder whether we could stick to the business.

Mr. McCLELLAN. If the Senator will yield me 1 more minute——

The PRESIDING OFFICER. The Senator's point is well taken. This is not germane to the subject matter.

Mr. McCLELLAN. Mr. President, will the Senator yield?

Mr. GRIFFIN. The Senator can ask unanimous consent.

Mr. McCLELLAN. Mr. President, I ask unanimous consent to proceed for 1 minute.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. McCLELLAN. Mr. President, speaking about a national emergency, already our foreign competitors have stepped into the breach we have left in Japan. Australia's sales to her have gone up by 325,000 tons, South Africa's by 100,000 tons, Canada's by 150,000 tons, and Korea's by 60,000 tons, with Thailand to ship a million tons of grain.

If that is not a national emergency, with the conditions in America what they are today, I do not know what is. We have depressed our already weakened economy further by not being able to fulfill our export commitments—totaling into hundreds of millions of dollars—because of this dock strike. In turn countless thousands are being laid off and plants made idle in Arkansas and all across our land. If this deplorable situation does not create a national emergency, I do not know what will.

The PRESIDING OFFICER. The time of the Senator has expired.

CREDIT UNION SHARE INSURANCE AMENDMENTS

The Senate continued with the consideration of the bill (H.R. 9961) to provide Federal credit unions with 2 additional years to meet the requirements for insurance, and for other purposes.

Mr. BENNETT. Mr. President, I yield back the remainder of my time.

Mr. HRUSKA. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Oklahoma (Mr. Harris), the Senator from Hawaii (Mr. Inouye), the Senator from Massachusetts (Mr. Kennedy), the Senator from Louisiana (Mr. Long), the Senator from South Dakota (Mr. McGovern), the Senator from Utah (Mr. Moss), the Senator from Maine (Mr. Muskie), and the Senator from Missouri (Mr. Symington) are necessarily absent.

I also announce that the Senator from Illinois (Mr. Stevenson), the Senator from Georgia (Mr. Talmadge), and the Senator from Idaho Mr. Church) are absent on official business.

I further announce that, if present and voting, the Senator from Illinois (Mr. Stevenson) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Ohio (Mr. Saxbe) is absent on official business.

The Senator from Tennessee (Mr. Baker), the Senator from New Hampshire (Mr. Cotton), the Senator from Colorado (Mr. Dominick), the Senator from Arizona (Mr. Fannin), the Senator from Hawaii (Mr. Fong), the Senator from Illinois (Mr. Percy), and the Senator from Connecticut (Mr. Weicker) are necessarily absent.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

The Senator from New Jersey (Mr. Case) is detained on official business.

If present and voting, the Senator from Hawaii (Mr. Fong) and the Senator from New Jersey (Mr. Case) would each vote "yea."

The result was announced—yeas 79, nays 0, as follows:

[No. 398 Leg.]

YEAS—79

Aiken
Allen
Allott
Anderson
Bayh
Beall
Bellmon
Bennett
Bentsen
Bible
Boggs
Brock
Brooke
Buckley
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Chiles
Cook
Cooper
Cranston
Curtis
Dole
Eagleton
Eastland
Ellender
Ervin
Fulbright
Gambrell
Goldwater
Gravel
Griffin
Gurney
Hansen
Hart
Hartke
Hatfield
Hollings
Hruska
Hughes
Humphrey
Jackson
Javits
Jordan, N.C.
Jordan, Idaho
Magnuson
Mansfield
Mathias
McClellan
McGee
McIntyre
Metcalf
Miller
Mondale
Montoya
Nelson
Packwood
Pastore
Pearson
Pell
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott
Smith
Sparkman
Spong
Stafford
Stennis
Stevens
Taft
Thurmond
Tower
Tunney
Williams
Young

NAYS—0

NOT VOTING—21

Baker
Case
Church
Cotton
Dominick
Fannin
Fong
Harris
Inouye
Kennedy
Long
McGovern
Moss
Mundt
Muskie
Percy
Saxbe
Stevenson
Symington
Talmadge
Weicker

So the bill (H.R. 9961) was passed.

Mr. SPARKMAN. Mr. President, I move that the vote by which the bill was passed be reconsidered.

Mr. ALLOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SPARKMAN. Mr. President, I move that the Senate insist on its amendment and request a conference with the House, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer (Mr. Chiles) appointed Mr. Sparkman, Mr. Proxmire, Mr. Williams, Mr. Tower, and Mr. Bennett conferees on the part of the Senate.

DAVID J. CRUMB

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 494, S. 888.

The PRESIDING OFFICER (Mr. Chiles). The bill will be stated by title.

The assistant legislative clerk read as follows:

S. 888, for the relief of David J. Crumb.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary with an amendment, on page 1, line 10, after "section 5742", insert "(a)"; so as to make the bill read:

S. 888

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is authorized and directed to pay out of the appropriations available for payment of travel expenses to David J. Crumb, formerly stationed in Roseberg, Oregon, who incident to permanent change of station was ordered to report for duty at his new station in Pinedale, Wyoming, on December 31, 1967, the real estate expenses which would have been payable to him under the provisions of section 5742(*a*) of title 5, United States Code, and Bureau of the Budget Circular Numbered A-56, revised October 12, 1966, without regard to the time limitation contained in section 4.1d of the Circular: *Provided*, That no part of the amounts authorized to be paid by this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with the claim of Mr. Crumb, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92-508), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of the bill as amended is to authorize the Secretary of the Interior to pay to David J. Crumb out of funds appropriated for payment of travel expenses, expenses incurred in the sale and purchase of a residence, to which expenses he would have been entitled under section 5724(a) of title 5, U.S. Code, and Bureau of the Budget Circular Numbered A-56, revised October 12, 1966, without regard to the time limitation contained in section 4.1d of the Circular.

STATEMENT

Mr. Crumb was an employee of the Bureau of Land Management who was transferred from Roseburg, Oregon, to Pinedale, Wyoming, on January 12, 1968. At that time, there was no available housing in Pinedale. It was therefore necessary to leave his family in his residence at the old station at Roseburg. Housing did not become available at Mr. Crumb's new station until six months after the effective date of transfer, at which time he proceeded to purchase a home, and arranged to sell the residence at the old official station.

Mr. Crumb entered into a contract to sell his house on November 13, 1968. The sudden death of his wife on November 23, 1968, necessitated changing all the documents to remove references to Mrs. Crumb. This process was delayed because Mr. Crumb was unable to obtain a copy of the death certificate until January 1969. The sale and purchase arrangements were complete on February 20, 1969. Under the existing regulations, the matter should have been terminated by January 12, 1969—one year after Mr. Crumb's transfer—in order for him to qualify for payment of settlement costs.

This claim was submitted to the Comptroller General, but payment was judged not allowable under Circular A-56. However, the Department of the Interior feels that Mr. Crumb's case is unique and that relief is justified in the circumstances. He sold his house with ample time left to complete the transaction within the time limit. Only his wife's death prevented him from doing so. Moreover, after his wife's death he acted as quickly as possible in processing the necessary papers, but narrowly missed completing the sale within the specified period in order to be eligible for reimbursement. The amount of Mr. Crumb's claim is $2,308.50.

The Committee is in agreement with the Department of the Interior and recommends that the legislation be favorably considered.

MARINE PROTECTION AND RESEARCH ACT OF 1971

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 439, H.R. 9727, on which I understand there will be a rollcall vote in a very short while.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 9727) to regulate the dumping of material in the oceans, coastal and other waters, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

The Senate proceeded to consider the bill which had been reported from the Committee on Public Works with an amendment to strike out all after the enacting clause and insert:

That this Act may be cited as the "Marine Protection and Research Act of 1971".

FINDING, POLICY, AND PURPOSE

SEC. 2. (a) Unregulated dumping of material into the oceans, coastal, and other waters endangers human health, welfare, and amenities, and the marine environment, ecological systems, and economic potentialities.

(b) The Congress declares that it is the policy of the United States to regulate the dumping of all types of material into the oceans, coastal, and other waters and to prevent or strictly limit the dumping into the oceans, coastal, and other waters of any material which could adversely affect human health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities. To this end, it is the purpose of this Act to regulate the transportation of material for dumping into the oceans, coastal, and other waters, and the dumping of material by any person, subject to the jurisdiction of the United States from any source if the dumping occurs in waters beyond the territorial jurisdiction of the United States.

DEFINITIONS

SEC. 3. For the purposes of this Act the term—

(a) "Administrator" means the Administrator of the Environmental Protection Agency.

(b) "Oceans, coastal, and other waters" means oceans, gulfs, bays, salt water lagoons, salt water harbors, other coastal waters where the tide ebbs and flows, the Great Lakes and their connecting waters, and the Saint Lawrence River.

(c) "Material" means, but is not limited to, dredged material, solid waste, incinerator residue, garbage, sewage, sludge, munitions, radiological, chemical, and biological warfare agents, high-level radioactive waste, chemicals, biological and laboratory waste, wrecker or discarded equipment, rock, sand, excavation debris, and industrial, municipal, agricultural and other waste; but such term does not mean oil within the meaning of section 11 of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1161), and does not mean sewage from vessels within the meaning of section 13 of such Act (33 U.S.C. 1163).

(d) "United States" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, the territories and possessions of the United States, and the Trust Territory of the Pacific Islands.

(e) "Person" means any private person or entity, or any officer, employee, agent, department, agency, or instrumentality of the Federal Government (except as to the provisions of subsections (a) through (f) of section 104), of any State or local unit of government, or of any foreign government.

(f) "Dumping" means the addition of any material or combination of materials to that part of the oceans, coastal and other waters beyond the territorial jurisdiction of the United States: Provided, That it does not mean a disposition of any effluent from any outfall structure where such disposition is regulated under the provisions of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1151-1175) or under the provisions of section 13 of the Rivers and Harbors Act of 1899, as amended (33 U.S.C. 407), nor does it mean a routine discharge of effluent incidental to the propulsion of, or operation of motor-driven equipment on, vessels: Provided further, That it does not mean the construction of any fixed structure or artificial island nor the intentional placement of any device in the oceans, coastal, and other waters or on or in the submerged land beneath such waters, for a purpose other than disposal, when such construction or such placement is otherwise regulated by Federal or State law or occurs pursuant to an authorized Federal or State program: And provided further, That it does not include the deposit of oyster shells or other materials when such deposit is made for the purpose of developing, maintaining, or harvesting fisheries resources and is otherwise regulated by Federal or State law or occurs pursuant to an authorized Federal or State program.

(g) "District court of the United States" includes the District Court of Guam, the District Court of the Virgin Islands, the District Court of Puerto Rico, the District Court of the Canal Zone, and in the case of American Samoa and the Trust Territory of the Pacific Islands, the District Court of the United States for the District of Hawaii, which court shall have jurisdiction over actions arising therein.

(h) "Secretary" means the Secretary of the Army.

(i) "Dredged material" means any material excavated or dredged from the navigable waters of the United States.

(j) "High-level radioactive waste" means the aqueous waste resulting from the operation of the first cycle solvent extraction system, or equivalent, and the concentrated waste from subsequent extraction cycles, or equivalent, in a facility for reprocessing irradiated reactor fuels, or irradiated fuel from nuclear power reactors.

(k) "Transport or transportation" means the carriage by a vessel, and related handling, of any material or combination of materials for the purpose of adding such material or combination of materials to the oceans, coastal, and other waters.

TITLE I—OCEAN DUMPING

PROHIBITED ACTS

SEC. 101. (a) No person shall transport any radiological, chemical, or biological warfare agent or high-level radioactive waste, or, except as may be authorized in a permit issued under this title, and subject to regulations issued under section 106(c) hereof by the Secretary of the department in which the Coast Guard is operating, any other material from the United States for the purpose of dumping into the waters described in section 101(b).

(b) No person shall dump any radiological chemical, or biological warfare agent or high-level radioactive waste, or, except as may be authorized in a permit issued under this title, any other material, (1) in a zone contiguous to the territorial sea of the United States, extending to a line twelve nautical miles seaward from the base line from which the breadth of the territorial sea is measured, to the extent that it may affect the territorial sea or the territory of the United States, or (2) in said contiguous zone or in other high seas areas of the oceans, coastal, and other waters, when transported by any person subject to the jurisdiction of the United States by the fact of removing material therefrom.

(c) No officer, employee, agent, department, agency, or instrumentality of the United States shall transport any radiological, chemical, or biological warfare agent or high-level radioactive waste, or, except as may be authorized in a permit issued under this title, any other material from any location outside the territory of the United States for the purpose of dumping it into the oceans, coastal, and other waters.

ENVIRONMENTAL PROTECTION AGENCY PERMITS

SEC. 102. (a) Except in relation to radiological, chemical, and biological warfare agents and high-level radioactive waste, as provided for in section 101 of this title, the Administrator may issue permits, after notice and opportunity for public hearing, for the transportation of material for dumping or for the dumping of material into the waters described in section 101(b), where the Administrator determines that such transportation, or dumping, or both, will not degrade or endanger human health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities. The Administrator shall establish and apply criteria for reviewing and evaluating such permit applications, and, in establishing or revising such criteria, shall consider, but not be limited in his consideration to, the following:

(A) The need for the proposed dumping.

(B) The effect of such dumping on human health and welfare, including economic, esthetic, and recreational values.

(C) The effect of such dumping on fisheries resources, plankton, fish, shellfish, wildlife, shorelines and beaches.

(D) The effect of such dumping on marine ecosystems, particularly with respect to—

(i) the transfer, concentration, and dispersion of such material and its byproducts through biological, physical, and chemical processes,

(ii) potential changes in marine ecosystem diversity, productivity, and stability, and

(iii) species and community population dynamics.

(E) The persistence and permanence of the effects of the dumping.

(F) The effect of dumping particular volumes and concentrations of such materials.

(G) Appropriate locations and methods of disposal or recycling, including land-based alternatives and the probable impact of requiring use of such alternate locations or methods upon considerations affecting the public interest.

(H) The effect on alternate uses of the oceans, such as scientific study, fishing, and other living resource exploitation, and nonliving resource exploitation.

In establishing or revising such criteria, the Administrator shall consult with the Secretaries of Commerce, Interior, State, Defense, Agriculture, Health, Education, and Welfare, and Transportation, the Atomic Energy Commission, and other appropriate Federal, State, and local officials. With respect to such criteria as may affect the civil works program of the Department of the Army, the Administrator shall also consult with the Secretary. In reviewing applications for permits, the Administrator shall make such provision for consultation with interested Federal and State agencies as he deems useful or necessary.

(b) The Administrator may establish and issue various categories of permits, including the general permits described in section 103(c).

(c) The Administrator may, considering the criteria established pursuant to subsection (a) of this section, designate recommended sites or times for dumping and, when he finds it necessary to protect critical areas, shall, after consultation with the Secretary, also designate sites or times within which certain materials may not be dumped.

(d) Any application for a permit under this section for the transportation for dumping or dumping of dredged material into the waters described in section 101(b) shall be accompanied by a certificate from the Secretary that the area chosen for dumping is the only reasonably available alternative and, unless the Administrator finds that the material to be dumped will adversely affect municipal water supplies, shellfish beds, wildlife, fisheries (including spawning and breeding areas), or recreation areas, such permit shall issue.

PERMIT CONDITIONS

SEC. 103. (a) Permits issued under this title shall designate and include (1) the type of material authorized to be transported for dumping or to be dumped; (2) the amount of material authorized to be transported for dumping or to be dumped; (3) the location where such transportation for dumping will be terminated or where such dumping will occur; (4) the length of time for which the permits are valid and their expiration date; (5) any special provisions deemed necessary by the Administrator, after consultation with the Secretary of the department in which the Coast Guard is operating, for the monitoring, surveillance, and enforcement of the transportation or dumping; and (6) such other matters as the Administrator deems appropriate.

(b) The Administrator may prescribe such processing fees for permits and such reporting requirements for actions taken pursuant to permits issued by him under this title as he deems appropriate.

(c) Notwithstanding any other provision of this title, the Administrator may issue general permits for the transportation for dumping, or dumping, or both, of specified material or classes of materials for which he may issue permits, which he determines will have a minimal adverse environmental impact.

(d) Any permit issued under this Act shall be reviewed not less frequently than every three years, and, if appropriate, revised. The Administrator may limit or deny the issuance of permits, or may alter or revoke partially or entirely the terms of permits issued by him under this title, for the transportation for dumping, or the dumping, or both, of specified material or classes of material, where he finds that such material cannot be dumped consistently with the criteria and other factors required to be applied in evaluating the permit application. No action shall be taken under this subsection unless the affected person or permittee shall have been given notice and opportunity for hearing on such action as proposed.

(e) The Administrator shall require an applicant for a permit under this title to provide such information as he may consider necessary to review and evaluate such application.

(f) Information received by the Administrator as a part of any application or in connection with any permit granted under this title shall be available to the public as a matter of public record, at every stage of the proceeding subject to the provisions of section 552 of title 5 of the United States Code. The final determination of the Administrator shall be likewise available.

(g) A copy of any permit issued under this title shall be placed in a conspicuous place in the vessel which will be used for the transportation or dumping authorized by such permit, and an additional copy shall be furnished by the issuing official to the Secretary of the department in which the Coast Guard is operating, or his designee.

PENALTIES

SEC. 104. (a) Any person who violates any provision of this title, or of the regulations promulgated under this title, or a permit issued under this title shall be liable to a civil penalty of not more than $50,000 for each violation to be assessed by the Administrator. No penalty shall be assessed until the person charged shall have been given notice and an opportunity for a hearing on such violation. In determining the amount of the penalty, the gravity of the violation, prior violations, and the demonstrated good faith of the person charged in attempting to achieve rapid compliance after notification of a violation shall be considered by said Administrator. For good cause shown, the Administrator may remit or mitigate such penalty. Upon failure of the offending party to pay the penalty, the Administrator may request the Attorney General to commence an action in the appropriate district court of the United States for such relief as may be appropriate.

(b) In addition to any action which may be brought under subsection (a) of this section, a person who knowingly violates this title, regulations promulgated under this title, or a permit issued under this title shall be fined not more than $50,000, or imprisoned for not more than one year, or both.

(c) Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this Act or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this Act, shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than six months, or by both.

(d) For the purpose of imposing civil penalties and criminal fines under this section, each day of a continuing violation shall constitute a separate offense as shall the dumping from each of several vessels, or other sources.

(e) The Attorney General or his delegate may bring actions for equitable relief to enjoin an imminent or continuing violation of this title, of regulations promulgated under this title, or of permits issued under this title, and the district courts of the United States shall have jurisdiction to grant such relief as the equities of the case may require.

(f) A vessel, except a public vessel within the meaning of section 13 of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1163), used in a violation, shall be liable in rem for any civil penalty assessed or criminal fine imposed and may be proceeded against in any district court of the United States having jurisdiction thereof; but no vessel shall be liable unless it shall appear that one or more of the owners, or bareboat charterers, was at the time of the violation a consenting party or privy to such violation.

(g) If the provisions of any permit issued under section 102 are violated, the Administrator may revoke the permit or may suspend the permit for a specified period of time. No permit shall be revoked or suspended unless the permittee shall have been given notice and opportunity for a hearing on such violation and proposed suspension or revocation.

(h)(1) Except as provided in paragraph (2) of this subsection any person may commence a civil suit on his own behalf to enjoin any person, including the United States and any other governmental instrumentality or agency (to the extent permitted by the eleventh amendment to the Constitution), who is alleged to be in violation of any prohibition, limitation, criterion, or permit, established or issued by or under this title. The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such prohibition, limitation, criterion, or permit, as the case may be.

(2) No action may be commenced—

(A) prior to sixty days after notice of the violation has been given to the Administrator and to any alleged violator of the prohibition, limitation, criterion, or permit; or

(B) if the Attorney General has commenced and is diligently prosecuting a civil action in a court of the United States to require compliance with the prohibition, limitation, criterion, or permit; or

(C) If the Administrator has commenced action to impose a penalty pursuant to subsection (a) of this section, or has initiated permit revocation or suspension proceedings under subsection (f) of this section; or

(D) if the United States has commenced and is diligently prosecuting a criminal action in a court of the United States or a State to redress a violation of this title.

(3)(A) Any suit under this subsection may be brought only in the judicial district in which the violation occurs.

(B) In any such suit under this subsection in which the United States is not a party, the Attorney General, at the request of the Administrator, may intervene on behalf of the United States as a matter of right.

(4) The court, in issuing any final order in any suit brought pursuant to paragraph (1) of this subsection may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure.

(5) The injunctive relief provided by this subsection shall not restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any standard or limitation or to seek any other relief (including relief against the Administrator of a State agency).

(i) No person shall be subject to a civil penalty or to a criminal fine or imprisonment for dumping materials from a vessel if such materials are dumped in an emergency to safeguard life at sea. Any such emergency dumping shall be reported to the Administrator under such conditions as he may prescribe.

RELATIONSHIP TO OTHER LAWS

SEC. 105. (a) After the effective date of this title, all licenses, permits, and authorizations other than those issued pursuant to this title shall be void and of no legal effect, to the extent that they purport to authorize any activity regulated by this title, and whether issued before or after the effective date of this title.

(b) Prior to issuing any permit under this title, if it appears to the Administrator that the disposition of the material, other than dredged or fill material, to be transported for dumping or to be dumped may affect navigation in the navigable waters of the United States or may create an artificial island on the Outer Continental Shelf, the Administrator shall consult with the Secretary and no permit shall be issued if the Secretary determines that navigation will be unreasonably impaired.

(c) After the effective date of this title, no State shall adopt or enforce any rule or regulation relating to any activity regulated by this title. Any State may, however, propose to the Administrator criteria relating to the dumping of materials into the waters described in subsection 101(b) which might affect waters within the jurisdiction of such State and, if the Administrator determines, after notice and opportunity for hearing, that the proposed criteria are not inconsistent with the purposes of this title, he may adopt those criteria and may issue regulations to implement such criteria. Such determination shall be made by the Administrator within one hundred and twenty days of receipt of the proposed criteria. For the purposes of this subsection, the term "State" means any State, interstate, or regional authority, Federal territory or Commonwealth, or the District of Columbia.

(d) Nothing in this title shall be deemed to affect in any manner or to any extent any provision of the Fish and Wildlife Coordination Act as amended (16 U.S.C. 661–666c).

ENFORCEMENT

SEC. 106. (a) The Administrator may, whenever appropriate, utilize by agreement, the personnel, services, and facilities of other Federal departments, agencies, and instrumentalities, or State agencies or instrumentalities, whether on a reimbursable or a nonreimbursable basis, in carrying out his responsibilities under this title.

(b) The Administrator may delegate responsibility and authority for reviewing and evaluating permit applications, including the decision as to whether a permit will be issued, to an officer of his agency, or he may delegate, by agreement, such responsibility and authority to the heads of other Federal departments or agencies, whether on a reimbursable or nonreimbursable basis.

(c) The Secretary of the department in which the Coast Guard is operating shall conduct surveillance, monitoring as requested by the Secretary of Commerce, and other appropriate enforcement activity to prevent unlawful transportation of material for dumping, or unlawful dumping. Such enforcement activities shall include, but not be limited to, enforcement of regulations issued by the Secretary of the department in which the Coast Guard is operating, establishing specifications for safe transportation, handling, carriage, storage, and stowage. Upon request by other departments and agencies having responsibilities under this Act, the Secretary of the department in which the Coast Guard is operating shall supply such information as they may require on a reimbursable basis.

REGULATIONS

SEC. 107. In carrying out the responsibilities and authority conferred by this title, the Administrator and the Secretary of the department in which the Coast Guard is operating, are authorized to issue such regulations as they may deem appropriate.

INTERNATIONAL COOPERATION

SEC. 108. The Secretary of State, in consultation with the Administrator, shall seek effective international action and cooperation to insure protection of the marine environment, and may, for this purpose, formulate, present, or support specific proposals in the United Nations and other competent international organizations for the development of appropriate international rules and regulations in support of the policy of this Act.

EFFECTIVE DATE AND SAVINGS PROVISION

SEC. 109. (a) This title shall take effect six months after the date of the enactment of this Act.

(b) No legal action begun, or right of action accrued, prior to the effective date of this title shall be affected by any provision of this title.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 110. There are hereby authorized to be appropriated not to exceed $3,600,000 for fiscal year 1973 or $5,500,000 for fiscal year 1974 for the purposes and administration of this title.

ANNUAL REPORTS

SEC. 111. The Administrator shall report annually on or before June 30 of each year beginning June 30, 1972, to the President and to the Congress on his administration of this title, including recommendations for additional legislation if deemed necessary.

TITLE II—COMPREHENSIVE RESEARCH ON OCEAN DUMPING

SEC. 201. (a) The Secretary of Commerce, in coordination with the Secretary of the Department in which the Coast Guard is operating and with the Administrator shall, within six months of the enactment of this Act, initiate a comprehensive and continuing program of research regarding the effects of the dumping of material in the ocean, coastal and other waters, and shall from time to time report his findings (including an evaluation of the short-term ecological effects and the social and economic factors involved) to the Congress.

(b) There are authorized to be appropriated for the fiscal year in which this Act is enacted and for the next two fiscal years thereafter such sums as may be necessary to carry out this section, but the sums appropriated for any such fiscal year may not exceed $1,000,000.

SEC. 202. (a) The Secretary of Commerce, in consultation with other appropriate Federal departments, agencies, and instrumentalities shall, within six months of the enactment of this Act, initiate a comprehensive and continuing program of research with respect to the possible long-range effects of pollution, overfishing, and man-induced changes of ocean eco-systems. In carrying out such research, the Secretary of Commerce shall take into account such factors as existing and proposed international policies affecting oceanic problems, economic considerations involved in both the protection and the use of the oceans, possible alternatives to existing programs, and ways in which the health of the oceans, coastal and other waters may best be preserved for the benefit of succeeding generations of mankind.

(b) In carrying out its responsibilities under this section, the Secretary of Commerce, under the foreign policy guidance of the President and pursuant to international agreements and treaties made by the President with the advice and consent of the Senate, may act alone or in conjunction with any other nation or group of nations, and shall make known the results of its activities by such channels of communication as may appear appropriate.

(c) In January of each year, the Secretary of Commerce shall report to the President and to the Congress on the results of activities undertaken by it pursuant to this title during the previous fiscal year.

(d) Each department, agency, and independent instrumentality of the Federal Government is authorized and directed to cooperate with the Secretary of Commerce in carrying out the purposes of this title and, to the extent permitted by law, to furnish such information as may be requested.

(e) There are authorized to be appropriated for the fiscal year in which this Act is enacted and for the next two fiscal years thereafter such sums as may be necessary to carry out this section, but the sums appropriated for any such fiscal year may not exceed $1,000,000.

PRIVILEGE OF THE FLOOR

Mr. STEVENS. Mr. President, I ask unanimous consent that a member of my staff may have the privilege of the floor during debate on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, I ask

unanimous consent that majority and minority counsel be granted the privilege of the floor during the debate on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

Mr. HOLLINGS. Mr. President, man's wastes have reached the oceans since time immemorial, for the oceans are the natural repository of water running off the land, and of particles settling out of the air. The oceans have an enormous capacity to assimilate wastes, although we can look into our own history and find examples where organic wastes, which we normally expect to be assimilated easily by the oceans, must have caused problems. As far as I can tell, the first regulation of wastes into the ocean originating from the United States in 1675, when Governor Edmund Andros of New York decreed that all persons were forbidden—

> To cast any dung, dirt or refuse of ye city, or anything to fill up ye harbor or among ye neighbors or neighboring shores, under penalty of forty shillings.

But since the industrial revolution we have seen an ever-accelerating amount of waste being poured into our rivers, and, more recently, increased amounts dumped at sea. We have treated the oceans as enormous and indestructible, as the universal sewer of mankind. Previously we thought that the legendary immensity of the ocean was such that man could do nothing against such a gigantic force. Just the opposite is now true. Since World War II, our technological productivity has created exotic, highly toxic wastes that are not found in a natural state. And these toxic wastes are frequently long lived and can induce untold harm to birds, fish, ocean mammals, and to man.

Against a background of burgeoning wastes from our society and a growing concern for their disposal, the Council on Environmental Quality published a report to the President, entitled "Ocean Dumping—A National Policy," in October 1970. The report summarizes the dimensions and immediacy of the problems created by disposal of wastes at sea and the need for clear national policy and legislation to regulate the pollutants being added to the oceans by the United States. It also calls for appropriate international action. Of particular significance were their summary findings on current regulatory authority and activities:

> Current regulatory activities and authorities are not adequate to handle the problems of ocean dumping. States do not exercise control over ocean dumping and generally their authority extends only within the 3-mile territorial sea. The Army Corps of Engineers authority to regulate ocean dumping is also largely confined to the territorial sea. The Corps has responsibility to facilitate navigation, chiefly by dredging navigation channels. As such, it is in the position of regulating activities over which it also has operational responsibility. The Coast Guard enforces several Federal laws regarding pollution but has no direct authority to regulate ocean dumping. The authority of the Federal Water Quality Administration does not provide for issuance of permits to control ocean dumping. And the Atomic Energy Commission has authority only for disposal of radioactive materials. . . ."

Acting on the recommendation of the Council on Environmental Quality, the President submitted proposed legislation early in the 92d Congress to regulate ocean dumping. The bill was introduced by Senator Caleb Boggs for himself and 37 Senators as S. 1238, and was referred jointly to the Committees on Commerce and Public Works. Other bills were also introduced to regulate or ban the disposal of waste materials in the oceans. These include S. 192, introduced by Senator Nelson, S. 1082, introduced by Senator Case, and S. 1286, introduced by Senator Boggs.

Hearings were held in the Committee on Commerce by the Subcommittee on Oceans and Atmosphere during March and April of this year. At the same time, the House Committee on Merchant Marine and Fisheries was acting on a companion bill, H.R. 9727, which passed the House on September 28. After three executive sessions, the Committee on Commerce ordered H.R. 9727 reported favorably, with amendments in the nature of a substitute text and an amended title, on November 8. The bill was reported with the concurrence of the Committee on Public Works, to which, as I pointed out earlier, the bill had been jointly referred.

As reported, H.R. 9727 is divided into two titles: title I—Ocean Dumping, and title II—Comprehensive Research on Ocean Dumping.

The purpose of title I of the bill is to regulate the dumping and transportation for dumping of waste material in those parts of the oceans, coastal and other waters beyond the territorial jurisdiction of the United States. The bill bans under all circumstances the transportation for dumping and dumping in waters beyond the territorial jurisdiction of the United States of radiological, chemical, or biological warfare agents and high level radioactive wastes. The bill also bans the transportation for dumping and dumping beyond the territorial jurisdiction of the United States of all other waste materials unless authorized by a permit issued by the Administrator of the Environmental Protection Agency, EPA.

The Administrator of EPA is authorized to issue permits for the transportation for dumping and dumping of materials when he deems that such action will not degrade the marine environment or endanger human life, in accordance with criteria that he is to establish by regulation. Civil penalties may be assessed by the Administrator, after notice and opportunity for hearing, and an action may be brought to impose criminal penalties for knowingly violating title I.

The sum of $3.6 million is authorized to be appropriated for fiscal year 1973, and $5.5 million for fiscal year 1972 to carry out the purposes and administration of title I.

Title II of the bill authorizes and directs the Secretary of Commerce, in coordination with the Secretary of the Department in which the Coast Guard is operating and the Administrator of EPA, to initiate a comprehensive program of research on the effects of ocean dumping. There is authorized to be appropriated not to exceed $1 million to carry out the provisions of section 201 and not to exceed $1 million to carry out the provisions of section 202 for each of the 3 fiscal years following enactment.

Mr. President, this bill was referred jointly to the Committees on Commerce and Public Works. As reported, H.R. 9727 reflects an agreement between the chairmen of the two committees insuring consistency between H.R. 9727 and the proposed Federal Water Pollution Control Act Amendments of 1971 (S. 2770). By way of background, the Committee on Commerce has exclusive legislative jurisdiction over transportation within the internal and territorial waters of the United States, and beyond in the contiguous zones and other high seas areas of the oceans. The committee shares equally with the Committee on Public Works jurisdiction over legislation affecting the discharge of pollutants into the territorial waters of the United States, other than from outfalls extending from land. Beyond the territorial waters of the United States, the Committee on Commerce has exclusive legislative jurisdiction over discharge of pollutants into the contiguous zone and other high seas areas of the oceans, with the exception of outfalls extending from land into such areas.

Under the agreement between the Commerce and Public Works, all dumping of waste materials and pollutants into the Great Lakes and the territorial seas surrounding the United States, and all discharges from outfall structures extending from land, would be governed and regulated under the proposed Federal Water Pollution Control Act Amendments of 1971 (S. 2770). All dumping and transportation for dumping of waste materials and pollutants in those parts of the oceans beyond the territorial jurisdiction of the United States would be governed and regulated by the Marine Protection and Research Act of 1971 (H.R. 9727). Both acts would be administered by the Administrator of the Environmental Protection Agency. Both acts contain the same criteria requirements to be established by the Administrator. Both acts contain similar enforcement and penalty provisions. In as many ways as possible, Mr. President, the Committees on Commerce and Public Works have worked together to insure the consistency between our respective bills, and to erase the possibility of loopholes in the two bills, with respect to ocean dumping.

Mr. STEVENS. Mr. President, as a member of the Committee on Commerce, and as the ranking minority member of the Subcommittee on Oceans and Atmosphere which conducted hearings on this legislation, I rise to urge that the Senate pass the bill, H.R. 9727, in substantially the same form as it was reported by our committee. Although in due course I intend to bring up a minor perfecting amendment to the bill, I want to express at this time my complete support for the legislation, and commend my colleagues on the committee for the truly bipartisan approach which has been adopted in our efforts to eradicate this growing threat of ocean pollution.

I would like to commend our distinguished chairman of the Committee on Commerce (Mr. MAGNUSON) and the distinguished chairman of our Subcommittee on Oceans and Atmosphere (Mr. HOLLINGS) for their attention to this problem and for the capable leadership they have provided the committee in its deliberations on this matter.

The bill which we are today considering, H.R. 9727, is an amended version of the bill passed by the House of Representatives on September 9, 1971. Although it differs greatly in scope, it takes the same regulatory approach as was taken in the House passed bill, and as recommended to the President by the Council on Environmental Quality in their October 1970 report entitled "Ocean Dumping: A National Policy." That approach was incorporated in the bill, S. 1238, introduced by Senator BOGGS at the request of the administration, and which among other bills was the subject of several days of hearings by our subcommittee in March and April of this year.

As previously stated, the scope of H.R. 9727 as we are considering it today is largely a result of an agreement between the Committee on Commerce and the Committee on Public Works, to whom both the bill, as originally introduced (S. 1238), and as passed by the House (H.R. 9727), were referred jointly. This agreement, arrived at to facilitate consideration of the legislation pending before the respective committees, provided that all dumping of waste materials and pollutants into the Great Lakes and the territorial seas surrounding the United States, and all discharges from outfall structures extending from land, would be governed and regulated under the proposed Federal Water Pollution Control Act Amendments of 1971 (S. 2770). This legislation, reported by the Committee on Public Works, was approved by the Senate on November 2, 1971.

As for the Marine Protection and Research Act of 1971 (H.R. 9727), it was determined that it would regulate all dumping and transportation for dumping of waste materials and pollutants into those waters beyond the territorial jurisdiction of the United States.

Thus, the purpose of H.R. 9727 is threefold:

First, it would completely ban the transportation for dumping and dumping of radiological, chemical, or biological warfare agents and high level radioactive wastes in the oceans beyond the territorial jurisdiction of the United States;

Second, it would ban such transportation for dumping and dumping of all other materials in those waters unless authorized by a permit issued by the Administrator of the Environmental Protection Agency, subject to certain criteria; and

Third, it would authorize and direct the Secretary of Commerce to initiate a program of research into the short-term and long-term effects of such dumping.

Mr. President, the need for this legislation is well established and begs no additional documentation. H.R. 9727 is the result of our relatively sudden realization that the sea is not a bottomless septic tank, but a delicately balanced ecosystem dependent upon the good sense of man for its continued existence. It differs from other bodies of water only in its physical dimensions and the corresponding conceptions in our minds. As the world has grown smaller, so have the scales of that delicate balance grown more tenuous, until we have finally become aware of the weight of unnecessary pollutants which we ourselves have been tipping against our own best interests. We now take a step which will help tip those scales back a little, and gives us a means to control the deposit of such wastes to protect the marine life upon which we grow increasingly more dependent.

Yet, such unilateral action on behalf of the Congress and the United States is not enough to afford us and our oceans the kind of protection which we need. I am pleased with the assertion that legislation such as this will greatly enhance our position in deliberations for the 1972 United Nations Conference on the Human Environment. It is my hope that that conference and similar international gatherings will produce an important and effective agreement for the control of marine pollution.

The importance of such an agreement was given emphasis recently by an observation of Thor Heyerdahl at the International Conference on Ocean Pollution conducted by our Subcommittee on Oceans and Atmosphere. It is an observation which makes some of our jurisdictional assertions here in Congress seem problematic at best, although we recognize their regrettable necessity. Mr. Heyerdahl said:

> There is no such thing as territorial water . . . We can draw a line on the ocean floor and lay claims to the static land on the bottom, but the body of water above it is as independent of the map as is the atmosphere above dry land . . . The salt sea is a common human heritage. We can divide the ocean floor between us, but we shall forever be doomed to share the common water which rotates like soup in a boiling kettle: The spices any nation puts in will be tasted by all the consumers.

I urge that the Senate today adopt this legislation so essential to our national program of pollution control, and I look forward to a cooperative spirit that will produce similar commitments by all nations on behalf of our world environment.

Mr. HOLLINGS. Mr. President, we have an amendment from the Senator from Wisconsin (Mr. NELSON). We have a couple of amendments from the Senator from New Jersey (Mr. CASE). And we have an amendment from the Senator from Alaska.

I hope to have worked out the one with the Senator from Wisconsin, and we will try to take that up and engage in a dialog without a rollcall vote. I cannot say until the Senator from New Jersey appears whether that matter can be worked out without a rollcall. I hope so.

We will accept the amendment of the Senator from Alaska.

I yield now to the Senator from Wisconsin to call up his amendment for the convenience of those Senators who may want to engage in a dialog and then leave the floor later.

AMENDMENT NO. 630

Mr. NELSON. Mr. President, I send to the desk a modification of my amendment No. 630 and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

At the end of the bill insert the following:

TITLE III—MARINE SANCTUARIES

SEC. 301. (a) The President, after obtaining the views of the Secretaries of Commerce, Defense, Interior, State and Transportation and the Administrator, shall designate as marine sanctuaries those areas of the oceans, coastal, and other waters, as far seaward as the outer edge of the Continental Shelf, as defined in the Convention on the Continental Shelf (15 U. S. T. 741; TIAS 5578), which he determines necessary for the purpose of preserving or restoring the ecological, esthetics, recreation, resource and scientific values of and related to such areas.

(b) Prior to designating a marine sanctuary which includes waters lying within the territorial limits of any State or superjacent to the subsoil and seabed within the seaward boundary of a coastal State, as that boundary is defined in section 2 of title I of the Act of May 22, 1953 (67 Stat. 29), the President shall consult with, and give due consideration to the views of, the responsible officials of the State involved. As to such waters, a designation under this section shall become effective sixty days after it is published, unless the Governor of any State involved shall, before the expiration of the sixty-day period, certify to the President that the designation, or a specified portion thereof, is unacceptable to his State, in which case the designated sanctuary shall not include the area certified as unacceptable until such time as the Governor withdraws his certification of unacceptability.

(c) When a marine sanctuary is designated, pursuant to this section, which includes an area outside the United States Territorial Seas, the Secretary of State shall take action, as appropriate, to enter into agreements with other Governments, in order to protect such sanctuary and promote the purposes for which it was established.

(d) The President shall make his initial designations under this section within two years following the date of enactment of this title, and no mineral leases shall be issued for the area seaward of the territorial sea off the east coast of the United States to the outer edge of the Continental Shelf as defined in the Convention on the Continental Shelf (15 U. S. T. 741; TIAS 5578) until such designations have been made. Thereafter, he shall periodically designate such additional areas as he deems appropriate. The President shall submit a report annually to the Congress, setting forth a comprehensive review of his actions under the authority under this section, together with appropriate recommendations for legislation considered necessary for the designation and protection of marine sanctuaries.

(e) Before a marine sanctuary is designated under this section, the President shall hold public hearings in the coastal area which would be most directly affected by such designation, for the purpose of receiving and giving proper consideration to the views of any interested party. All public hearings required under this title must be announced at least thirty days before they take place, and all relevant materials, documents, and studies must be made readily available to the public for study at least thirty days in advance of the actual hearing or hearings.

(f) After a marine sanctuary has been designated under this section, the President shall issue necessary and reasonable regulations to control any activities permitted within the designated marine sanctuary, and no permit, license, or other authorization issued pursuant to any other authority shall be valid unless the President shall certify that the permitted activity is consistent with the purposes of this title and can be carried out within the regulations promulgated under this section. Such regulations shall be applied in accordance with recognized principles of international law, including treaties, conventions, and other agreements to which the United States is signatory.

Sec. 302. (a) Whoever violates any regulation issued pursuant to this title shall be liable to a civil penalty of not more than $50,000 for each such violation, to be assessed by the President. Each day of a continuing violation shall constitute a separate violation.

(b) No penalty shall be assessed under this section until the person charged has been given notice and an opportunity to be heard. Upon failure of the offending party to pay an assessed penalty, the Attorney General, at the request of the President, shall commence action in the appropriate district court of the United States to collect the penalty and to seek such other relief as may be appropriate.

(c) A vessel used in the violation of a regulation issued pursuant to this title shall be liable in rem for any civil penalty assessed for such violation and may be proceeded against in any district court of the United States having jurisdiction thereof.

(d) The district courts of the United States shall have jurisdiction to restrain a violation of the regulations issued pursuant to this title, and to grant such other relief as may be appropriate. Actions shall be brought by the Attorney General in the name of the United States, either on his own initiative or at the request of the President.

Sec. 303. There are authorized to be appropriated for the fiscal year in which this Act is enacted and for the next two fiscal years thereafter such sums as may be necessary to carry out the provisions of this title, including sums for the costs of acquisition, development, and operation of marine sanctuaries designated under this title, but the sums appropriated for any such fiscal year shall not exceed $10,000,000.

Mr. NELSON. Mr. President, I ask unanimous consent that the names of the Senator from Montana (Mr. Metcalf) and the Senator from Michigan (Mr. Hart) be added as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, I have discussed this amendment in some detail with the Senator from Rhode Island (Mr. Pell), the Senator from South Carolina (Mr. Hollings), the senior Senator from Washington (Mr. Magnuson), the junior Senator from Washington (Mr. Jackson), the Senator from New Mexico (Mr. Anderson), and the Senator from West Virginia (Mr. Randolph). Although we are all in accord on the objectives sought to be accomplished by my amendment, there are some difficult jurisdictional problems and international problems that we need to be sure we have carefully resolved in the drafting of the amendment.

As everyone here knows, there are several jurisdictional matters involving the Continental Shelf and the water columns above it, with the 50 States having jurisdiction over the first 3 miles and the Federal Government having jurisdiction of the waters above the shelf out to the 12-mile limit, with our Government not claiming jurisdiction over the fisheries beyond the 12-mile limit. Some other governments do. However, our Government asserts jurisdiction over the Continental Shelf for purposes of the extraction of minerals.

The object and purpose of my amendment is to establish marine sanctuaries off our coast as far out as the Continental Shelf goes for purposes of protecting these ocean areas against the extraction of minerals or other activities which might destroy their wealth.

It is not the objective of the amendment to assert jurisdiction of our country over the marine fisheries in the water columns above the shelf beyond the 12-mile limit. That is where the difficulty comes in drafting the amendment and reaching agreement on it.

I think there is no dispute between any of us on the fact that at this stage of history, the United States does assert the right to control the extraction of oils and minerals from the Continental Shelf itself out from the coastline to the end of the Continental Shelf.

I have had discussions, as I previously mentioned, with the distinguished Senators who are chairmen of the various committees with jurisdiction over various aspects of the issues here.

It concerns, as everyone knows, the right of the States in the first 3 miles, and the Commerce Department jurisdiction over the fisheries above the shelf out for 12 miles. It involves the jurisdiction of the Secretary of the Interior and the authority to issue permits for the extraction of minerals for the whole width of the Continental Shelf.

Mr. HOLLINGS. Mr. President, after careful study of the rationale for marine sanctuaries as proposed in title III of the House-passed version of H.R. 9727, and now by Senator Nelson in his amendment, the Committee on Commerce concluded that such sanctuaries should be rejected as proposed. The issue is not the usefulness or the desirability of marine sanctuaries. As I will show later, marine sanctuaries are very desirable in certain circumstances. But the issues are how to establish them, to whom they will apply, and with what ramifications on other interests of the United States. In raising the question of marine sanctuaries in international waters, we are caught in the middle of one of the most complex international legal arenas known today. And when all the interests are weighed in balance, I feel that we must reject the proposal.

The committee believes that the establishment of marine sanctuaries is appropriate where it is desirable to set aside areas of the seabed and the waters above for scientific study, to preserve, unique, rare, or characteristic features of the oceans, coastal, and other waters, and their total ecosystems. We envision such sanctuaries as natural areas set aside primarily to provide scientists the opportunity to make baseline ecological measurements. In coastal areas such measurements will be essential to many coastal and estuarine zone management decisions that will have to be made, as well as helping to predict and measure the impact of human activity on the natural ecosystem. Such sanctuaries should not be chosen at random, but should reflect regional differentiation and a variety of ecosystems so as to cover all significant natural variations.

Scientific research and ecological data can aid significantly in providing a rational basis for intelligent management of coastal and estuarine areas where such sanctuaries might be located. They could be used to monitor vital changes in the estuarine environment, or forecast possible deterioration from anticipated human activities. In our hearings on coastal zone management, Dr. Eugene Odum, director of the Institute of Ecology, University of Georgia, likened such sanctuaries to "pilot plants." He told us:

> Scientists have to have "pilot plants" to check out broad theories on a large environmental scale, just as an industrialist would not want to market a product directly from a laboratory; he would want to have a "pilot plant" study first.

And it was with these thoughts in mind that the Committee on Commerce reported out favorably S. 582, the National Coastal and Estuarine Zone Management Act of 1971, which contains a provision for estuarine sanctuaries and authorizes $6 million to be appropriated for them. Sanctuaries authorized under that act, however, could not extend seaward farther than the outer limits of the territorial waters of the United States. And therein lies the principal difference between our committee's provision and the Nelson amendment.

As presently written, the Nelson amendment purports to authorize the Secretary of Commerce to designate marine sanctuaries in international waters which are not subject to the jurisdiction and control of the United States. This is the fatal flaw. It would extend American jurisdiction in violation of international law and contrary to the very interests that the United States is trying to promote in the 1973 law of the sea conference.

The 1973 conference on the law of the sea has been called by the 25th U.N. General Assembly to produce agreements on a wide spectrum of outstanding, unresolved oceans issues. The United States is actively involved in the preparations for that conference and has proposed a draft seabeds convention, among other things. But central to American objectives in that conference is the need to obtain international agreement on a narrow territorial sea and guaranteed transit through and over international straits, so as to insure the continued mobility of our military and naval forces and merchant fleets around the world. These objectives can best be achieved through multilateral agreement, and are most seriously threatened by unilateral coastal state claims over areas of the high seas. It is very important that we do not attempt to exert control over ocean areas beyond national jurisdiction unilaterally, without multilateral international agreement, thereby encouraging other countries to do so.

Advocates of the marine sanctuaries argue that the Nelson amendment would not be a unilateral grab of high seas areas, which would exclude foreigners from the sanctuaries. They argue that the amendment would only apply to Americans. Perhaps. But it completely avoids the international issue and our historical experience. This thinking is very similar to the fine distinctions that the United States made when President Truman declared that the Continental Shelves surrounding the United States are subject to the jurisdiction and control of the United States. We claimed that we were not asserting full sovereignty over the shelves. We claimed that the rights of freedom of navigation in high seas areas were unimpaired. We claimed a number of international legal niceties to justify and limit the extent of the American claim to the resources of the Continental Shelves.

No other nation complained. In fact, many thought we had a good idea. So good, that they went well beyond, and the rest is history. The claims of Latin American countries to full sovereignty over the oceans and seabed and subsoil extending 200 miles from land grew from that original limited U.S. claim. And you can see some of the results every time Ecuador or Peru hauls in one of our tuna boats for violating their territorial waters, even though they may be 150 miles from land.

The advocates for the Nelson amendment have a legal nicety when they say that our unilateral designation of marine sanctuaries in high seas areas would govern only Americans. But, in fact, what they are trying to achieve is well known in the literature as "creeping jurisdiction." And it puts the United States in an untenable position in our international negotiations. On the one hand we would be nibbling away at the international freedoms of the high seas, unilaterally asserting authority to regulate activities in high seas areas. On the other hand we are taking the position in international negotiations that our best interests are served by narrow territorial claims and the greatest freedom of navigation. The two are diametrically opposed.

Mr. President, there are methods by which we can create marine sanctuaries in high seas areas without violating international law and without taking an inconsistent stance in international negotiations on the law of the sea. But the methods involve use of the treaty power under our Constitution, and not the unilateral assertion of authority through domestic legislation alone.

The Committee on Commerce has already reported a bill that would provide estuarine sanctuaries. And it would provide for those sanctuaries in an area where the United States has exclusive jurisdiction, recognized by all nations of the world, and consistent with our national objectives on the law of the sea. For this and the reasons that I have just stated, I recommend that the Senate vote to reject the Nelson amendment.

Mr. NELSON. Since very difficult problems are involved here, I understand that the distinguished Senator from Washington is prepared to give this matter hearings in his committee jointly with the other committees which have jurisdiction if I, at this time, withdraw the amendment.

Mr. JACKSON. Mr. President, will the Senator yield for that purpose?

Mr. NELSON. I yield.

Mr. JACKSON. The Senator from Wisconsin is correct. We had a discussion prior to this colloquy in the cloakroom with the chairman of the Commerce Committee, the Senator from Washington (Mr. MAGNUSON), the Senator from New Mexico (Mr. ANDERSON), and the Senator from West Virginia (Mr. RANDOLPH), the chairman of the Public Works Committee.

It would be my suggestion that in view of the fact that the amendment does involve jurisdictional questions pertaining to the Committee on Interior and Insular Affairs as it relates to the Continental Shelf itself, and the fisheries as it relates to that activity with its impact on the Commerce Committee, and the question of pollution and its involvement both on the Commerce Committee and the Public Works Committee, hearings held upon the point in connection with the Senator's amendment.

I would be glad to arrange for such a hearing and call in, on a joint basis, the Public Works Committee and the Commerce Committee and any other committee that might be involved in this.

I would further point out that under the authority of the Senate we are undertaking an energy study in the Interior and Insular Affairs Committee, as the Senator knows. Involved in that energy study, of course, is the whole question of the conflict between the need for energy on the one hand and the environmental impact on the other.

So, for all these reasons and others that I have not mentioned, I would be very pleased at an appropriate time to arrange for such a hearing in concert with other committees that would be involved. We could get into the whole question effectively.

I certainly applaud the Senator's concern which has been a long and continuous one regarding this problem. It is a serious problem.

I further point out that there has been an oil or gas discovery just to the north of Maine, I believe, on an island off the coast of Nova Scotia, which could have an impact on this question of fisheries and the environment as a whole, and it raises some considerations regarding the need for joint consultations with the Canadian Government.

I raise this as a further part of this question as it relates to east coast activity in the Outer Continental Shelf.

Mr. NELSON. I appreciate the comments of the Senator and his assurance that we will have an opportunity to explore this before the appropriate committees.

As I said previously, I know we share the same concern. We have issued Federal permits for ocean oil wells—some 6,600, or thereabouts—in the Gulf of Mexico—and also off the west coast—and are now beginning to consider the issuance of permits off the east coast, with Canada already having oil wells drilled off its east coast.

We all agree our concern is that when we proceed, we proceed with sensible controls that protect the recreational values of the shoreline of the east coast, and that we be sure we do not destroy fisheries or important marine habitat or other ocean environment and economic values by authorizing extractions in the Continental Shelf on other activities.

I know we are all in agreement on that. The question is the best way to proceed.

Mr. JACKSON. Mr. President, will the Senator yield briefly?

Mr. NELSON. I yield.

Mr. JACKSON. In a speech a few days ago I pointed out the need for a joint energy policy with Canada. I believe the Senator's amendment raises some good questions in that area. If we are going to solve our energy problem, consistent with the maintenance of a good environment, we have to look at the continent of North America. This area obviously is critical for our own requirements, but whatever we do in this area as it pertains to the sea—Canada and the United States—it can adversely affect either; as a matter of fact, it could adversely affect both Canada and the United States.

Mr. ALLOTT. Mr. President, will the Senator yield?

Mr. NELSON. I yield to the Senator from Colorado.

Mr. ALLOTT. Mr. President, I wholly approve of the remarks, particularly of the Senator from Washington, the chairman of the Committee on Interior and Insular Affairs; and I think it is advisable, and I am sure we all appreciate the attitude of the distinguished Senator from Wisconsin in withdrawing the amendment at this time.

This does involve many important considerations. I have been discussing the matter with members of the Interior Committee this morning, particularly Senators JACKSON, ANDERSON, and BIBLE, and some minority members of that committee, and since we are in a position where this bill would go to conference, I have some remarks dealing with some of the questions posed by this particular amendment, or title III, as it appears in the House bill.

Mr. President, the provisions of title III as passed by the House of Representatives, H.R. 9727, contains a title III which authorizes the Secretary of Commerce ". . . after consultation with the Secretaries of State, Defense, Interior, and Transportation and the Administrator . . ." to designate as marine sanctuaries those areas of the oceans, coastal, and other waters, as far seaward as the outer edge of the Continental Shelf, as defined in the 1958 convention, which he determines necessary for the purpose of preserving or restoring such areas for their "conservation, recreational, ecological, or esthetic values." Where State waters are included within a sanctuary, the Governor of the State has 60 days to certify that the State portion or any specified portion thereof is unacceptable and that area will remain outside the sanctuary until the Governor withdraws his certification of unacceptability. When an area beyond the 12-mile limit is included within a sanctuary, the Secretary of State is instructed to enter into such agreements with other governments

". . . in order to protect such sanctuary and promote the purposes for which it was established."

After a sanctuary is established, ". . . no permit, license, or other authorization issued pursuant to any other authority shall be valid unless the Secretary shall certify that the permitted activity is consistent with the purposes of this title and can be carried out within the regulations promulgated under this section."

Enforcement is in any U.S. district court, and penalties include a civil penalty of $50,000 for each violation—each day constitutes a separate violation—in rem civil penalties against vessels, and authority to restrain the offending activity.

The Secretary shall make his initial designation within 2 years of enactment, and from time to time thereafter he shall add new areas "as he deems appropriate." An annual report is to be submitted to Congress, and hearings are to be held in the affected area upon 30 days notice.

As Senators know, the bill (H.R. 9727) was reported to the Senate with title III stricken. However, since it is in the House-passed version it will be a matter before the conference committee, and therefore, I believe that these comments are both pertinent and timely:

First. By authorizing the Secretary of Commerce to designate marine sanctuaries for the purpose of preserving or restoring such areas for their "conservation, recreational, ecological or esthetic values", the title would appear to extend the jurisdiction of the United States over the water column—as opposed to merely the shelf itself—overlying the Outer Continental Shelf in contravention of recognized international law which regards under the high seas doctrine, such waters as high seas. A coastal nation may not exercise any claims of sovereignty over such waters. Title III would authorize such prohibited claims of sovereignty over portions of the high seas, and is, therefore, inconsistent with recognized principles of international law.

Second. If the intent of title III is to authorize the executive department to withdraw certain areas of the Outer Continental Shelf from use for future leasing purposes, this committee has already made adequate provision for such withdrawals in its Outer Continental Shelf Lands Act, which at 43 U.S.C. 1341(a) provides:

> The President of the United States may, from time to time withdraw from disposition any of the unleased lands of the Outer Continental Shelf.

This section has been used by the President as the principal source of authority for his withdrawing an area of the Outer Continental Shelf to create a marine sanctuary. President Eisenhower on March 17, 1960, withdrew portions of the Outer Continental Shelf adjacent to Key Largo, Fla. to create a Coral Reef Preserve—see 25 F.R. 2352. Accordingly, there is no need for the Congress to repeat itself by providing new authority for such withdrawals when ample authority already exists.

Third. The Secretary of Commerce would be withdrawing areas of the Outer Continental Shelf which are under the jurisdiction of the Secretary of the Interior for mineral leasing. As Chairman Aspinall stated on the floor of the House:

> The enactment of this title could result in locking up unnecessarily offshore resources valued at billions of dollars, reducing revenues available in the land and water conservation fund for the acquisition of much needed recreation areas, park areas, and wildlife refuges, and curtailing the President's program for meeting the growing energy needs of this Nation.

Furthermore, to authorize one Cabinet member to select areas of the Outer Continental Shelf for leasing and another Cabinet member to select areas which will not be leased would only promote mischief, conflict, and ineffective government within the executive branch.

Fourth. Under the authority of Senate Resolution 45, the Senate Interior Committee with the participation of the Commerce Committee, the Public Works Committee, and the Joint Committee on Atomic Energy are conducting a comprehensive energy study. One of the major sources for petroleum resources is the Continental Shelf. To provide for the locking up of vast areas of the shelf before our energy needs have been examined and the potential sources have been explored to determine availability of the sources, tends to preempt a large part of the study. Certainly, the potential for satisfying our energy needs from the OCS will be a significant part of the energy study.

Fifth. The Department of State, Department of Defense, and the Office of Management and Budget as well as the Department of the Interior have expressed their concern about the claim to extraterritorial jurisdiction proposed in title III. It may suffice to note that any such assertion of jurisdiction beyond established limits has been carefully and properly avoided in title I of the same bill.

Sixth. The Secretary of State is instructed to enter into agreements with other governments in order to protect the sanctuaries. Such agreements should, ordinarily be in the form of conventions, and as such would be subject to Senate ratification. The bill tends to preempt the constitutional powers of the President to negotiate treaties and of the Senate to ratify treaties. Such a provision is of doubtful constitutionality and could not only be a source of embarrassment to the executive branch and the Senate, but would appear to be a proper subject for review by the Foreign Relations Committee.

Mr. President, I have raised these six points concerning title III of the House bill for the purpose of pointing out some of the complicated issues involved. None of my remarks should be construed as a prejudgment on my part as to the bill to be introduced in accordance with the colloquy between the chairman of the Interior Committee and the Senator from Wisconsin (Mr. NELSON). However, I do hope that the draftsmen of that measure as well as the conferees on H.R. 9727 will take cognizance of them in their respective endeavors.

Mr. NELSON. I certainly appreciate any commentary or evaluation of the proposal since what we are seeking to do is to get an amendment which accomplishes what we would like to accomplish without creating problems in the international law field or jurisdictional problems.

Mr. ALLOTT. It does create very complicated questions. I thank the Senator for yielding to me.

Mr. RANDOLPH. Mr. President, will the Senator yield?

Mr. NELSON. I yield to the Senator from West Virginia.

Mr. RANDOLPH. Mr. President, I associate myself with the comments which we have been privileged to hear. The chairman of the Committee on Commerce (Mr. MAGNUSON) has for some time been addressing himself to this subject matter, as has the Senator from Wisconsin.

The Senator from Washington (Mr. JACKSON), the chairman of the Committee on Interior and Insular Affairs, and the chairman of the subcommittee (Mr. HOLLINGS) handling this important legislation, as well as the Senator from Colorado (Mr. ALLOTT), are all concerned about the objective sought by the Senator from Wisconsin.

There are several facets of the problem, as Senator NELSON well understands, and as he says now he would withdraw the amendment. This of course, would not indicate in any wise that any of us will withdraw from continued cooperation with him in the months ahead as we develop the base on which his concept can logically be incorporated into law.

I pledge, as chairman of the Committee on Public Works, to the other chairmen (Mr. MAGNUSON and Mr. JACKSON) who are interested and concerned with this subject, that I am eager and anxious to proceed with the legislation proposed by Senator NELSON because his purpose is good, he is knowledgeable on the subject, and he brings to our attention an important recommendation.

Mr. NELSON. I thank the Senator.

STATEMENT IN OPPOSITION TO NELSON AMENDMENT

Mr. STEVENS. Mr. President, I oppose amendment No. 630 offered by the distinguished Senator from Wisconsin (Mr. NELSON). With all due respect to the Senator, I consider such an amendment inconsistent with previous action taken by the Committee on Commerce on other legislation; inadvisable from the standpoint of current efforts now being undertaken internationally with respect to the Law of the Sea Conference; and unnecessary because of existing provisions of the bill and existing authority now exercised by the Secretary of the Interior.

First, I would like to emphasize that if such an amendment is adopted here in the Senate and if it becomes law, it will do so without the benefit of hearings either here or in the House. Without such hearings and an attendant opportunity to hear differing views and differing interpretations, there exist numerous questions concerning both its intent and its effects.

Testimony has been received by the

Committee on Commerce with respect to estuarine sanctuaries, and as a result of favorable committee action, section 312 of S. 582, the National Coastal and Estuarine Zone Management Act of 1971, deals with such a concept. The bill, S. 582, as reported by the Committee on Commerce, woud authorize the Secretary of Commerce—the same Secretary which would administer the proposed marine sanctuaries program—to make available to the States grants of up to 50 percent of the cost of "acquisition, development, and operation of estuarine sanctuaries for the purpose of creating natural field laboratories to gather data and make studies of the natural and human processes occuring within the estuaries of the coastal and estuarine zone."

The bill provides for a first-year authorization of $6,000,000—as opposed to $10,000,000 in the proposed amendment—for up to 15 such sanctuaries, with the Federal share of the cost of each such sanctuary not to exceed $2,000,000.

The provisions of this section of S. 582 are well understood; they are supported by a majority of the committee's membership; and they accomplish what I would understand to be the major purpose of the amendment offered by the Senator from Wisconsin—that of preservation. In addition, it is more consistent with the following recommendation of the Council on Environmental Quality in its report on ocean dumping than is the proposal before us now:

> High priority should be given to protecting those portions of the marine environment which are biologically more active: namely the estuaries and the shallow near-shore areas in which many marine organisms breath or spawn. These biologically critical areas should be delimited and protected.

On the other hand, the committee, after thorough consideration of title III of the House-passed bill, and after studying the rationale for such a title as expressed during the House debate, chose to reject such a provision as a part of its legislation regulating ocean dumping. Its reasons for doing so have been well set forth by Senator HOLLINGS, as well as in the report of the Committee on Commerce to accompany H.R. 9727, beginning on page 14—see Senate Report No. 92–451.

Of great importance in my own rejection of such an amendment is its apparent intent—as opposed to the provisions of S. 582—to establish marine sanctuaries in the waters extending beyond both the territorial sea and the contiguous zone. Such a unilateral action on the part of the United States—irrespective of the questionable supposition that it would apply to Americans only—without the benefit of a prior treaty or international agreement to which the United States is signatory, would seem inadvisable.

As a member of the Committee on Interior and Insular Affairs, I must observe that the proposed amendment No. 630 would provide for a duplication of laws. If, in fact, one of the purposes of the proposed amendment—as indicated in section 302(d) thereof—is to protect certain marine areas from damage as a result of mineral extraction, then I would point out that such protection is already afforded by the Outer Continental Shelf Lands Act administered by the Secretary of Interior.

If the purpose also is to protect certain marine areas from the effects of dumping, then I wish to point out that such protection is already authorized in section 102(d) of H.R. 9727. This section would authorize the administrator to designate recommended sites or times for dumping; and, if he deems it necessary to protect critical areas, he is directed to designate both sites and times within which no dumping can occur.

Mr. President, as I stated previously, in the absence of prior opportunity to inquire and satisfy, I find there are several ambiguities in the proposed amendment:

First. Despite numerous assertions by Members of the House during debate in that body, I am not at all satisfied that the designation of the marine sanctuaries is discretionary. Despite the word "may" which appears in section 302(a), I find the following language in subsection (d):

> The Secretary shall make his initial designation under this section within two years following the date of enactment of this title . . .

Would this be considered the operative section which would become binding on the Secreary? If so, then the designation of such sanctuaries is clearly mandatory.

Second. What is meant by the language appearing in section 302(a):

> . . . or which hereafter may become subject to such jurisdiction and control?

This would seem to suggest the possibility that if the Secretary should decide that at some future point in time the United States would assert jurisdiction over a 200-mile territorial sea, he could now estabilsh a sanctuary encompassing the full 200 miles.

Third. What would be the extent of the activities controlled pursuant to subsection (f)? Would this include, for example, the development of certain fisheries resources even though such development would be excluded from the definition of dumping in title I of H.R. 9727?

Fourth. What is the justification for an authorization of $10 million?

For all of the above stated reasons, I urge that amendment No. 630 proposed by the Senator from Wisconsin be rejected.

Mr. RIBICOFF. Mr. President, as a cosponsor, I am pleased to support the amendment offered by the distinguished Senator from Wisconsin (Mr. NELSON) to the Marine Protection and Research Act now before the Senate.

It has become all too clear that the Interior Department and the oil companies have their eyes on possible oil and gas deposits off the east coast. If we who live on the east coast hope to prevent its spoilation, now is the time to act. Before a single exploratory well is drilled the most thorough examination possible must be made of the area in order to protect the vital recreational and environmental resources which still exist.

Under the amendment, the Federal Government would be given 2 years to designate an initial set of sanctuaries to protect marine resources, recreation, ecological and esthetic values in the ocean. This provision is similar to title III of the House-passed version of H.R. 9727, which was deleted by the Senate Commerce Committee.

The amendment further provides that, in the case of east coast offshore waters, Federal leasing for oil well drilling may not begin until after the 2-year period for the initial establishment of permanent marine sanctuaries.

While the amendment's marine sanctuary authorization would apply to U.S. Pacific Ocean and Gulf of Mexico areas, the 2-year delay in oil leasing would not, inasmuch as oil drilling is already underway in these waters.

To avoid any conflict with questions of international jurisdiction, the amendment specifically provides that the marine sanctuaries must be established and regulated in accordance with principles of international law.

The amendment is strongly supported by the national environmental organizations, including the Sierra Club, Izaak Walton League, Friends of the Earth, Environmental Action, National Wildlife Federation, Wildlife Management Institute, and the National Audubon Society.

I urge all my colleagues to join with Senator NELSON and I in reinstating this important provision.

Mr. NELSON. Mr. President, I ask unanimous consent to have printed in the RECORD a statement in support of my amendment prepared for delivery by the distinguished Senator from Massachusetts.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR KENNEDY

Mr. President, I rise to join the Senator from Wisconsin in support of his amendment to H.R. 9727 which is designed to give the Atlantic Coast a 2-year moratorium on any off-shore oil drilling.

Essentially, the amendment would establish this two-year period to permit the establishment of marine sanctuaries along the Atlantic Coast, areas where there are unique research, conservation, recreational, ecological or esthetic values.

Equally important, the two-year mortatorium would permit independent evaluations of the risks of off-shore oil drilling on the Atlantic seaboard.

Currently, the Department of the Interior has a tentative schedule that could permit the sale of oil leases as early as 1973. A schedule which was released by the department in June and which has not been substantively altered as it affects the Atlantic, calls for a hearing notice to be issued next August, with a sale possible later that year.

But even that date is much too close for comfort.

I merely want to call to the attention of my colleagues what occurred on January 28, 1969, when an oil well being drilled in the Santa Barbara channel blew out.

At that time more than $1 billion damage was estimated to have occurred and for months the beaches of the southern California coast were blackened by the oil slicks from the Union Pacific wells.

When we understand the dimensions of the dangers and imagine the 3.25 million gallons of oil rolling ashore on Cape Hatteras or Cap Cod, then I think we begin to understand the importance of providing the Congress with the time necessary in which to obtain independent studies of the ecological hazards of offshore drilling in the Atlantic.

In this regard, let me remind my colleagues of the recent experience with the Cannikin underground nuclear test. There, we expected that all agency evaluations of the environmental impact of the proposed test would be public documents.

Yet, for more than a year, the key report by the President's chief environmental adviser, the chairman of the Council of Environmental Quality, remained hidden.

It took a court order before we were able to see even portions of that report and that was 3 days prior to the test.

If we do not take steps now to assure ourselves that we will have the information necessary to act; then two years from now we may find ourselves without the information we need to protect the Atlantic coastline.

Therefore, I have recently asked the National Academy of Sciences to undertake an independent study of the potential hazards to the environment involved in off-shore drilling in the Atlantic, along with possible alternatives.

I want to also note that I have asked for a separate independent study as well by the environmental protection agency. These investigations would go beyond the more narrow responsibility of EPA under the National Environmental Protection Act.

I also have asked the governors of the Atlantic seaboard States to join me in my request for independent studies.

Passage of this amendment would be one step to assure that we have the time to thoroughly investigate the hazards to the environment created by the proposed sale of offshore oil leases in the Atlantic.

Mr. HOLLINGS. Mr. President, for the purpose of the RECORD, and on behalf of the committee at this time, 2 weeks ago we enacted the Federal Water Pollution Control Act Amendments of 1971, which came from the Committee on Public Works, governing, among other things, dumping within the coastal waters out to the 3-mile limit of the U.S. territorial seas, and granting to the Environmental Protection Agency the authority to issue permits.

Now, we are trying to pick up in the Committee on Commerce to enact legislation to authorize the Environmental Protection Agency to issue permits for transportation for ocean dumping, and the general control over ocean dumping in a contiguous zone extending from the 3-mile limit to 12 miles from our shores.

The difficulty with the amendment offered by Senator Nelson is not the intent to establish marine sanctuaries. The Committee on Commerce will report shortly the coastal zone management bill (S. 582), which will provide estuarine sanctuaries to the outer limits of our territorial waters. But the language designating as marine sanctuaries those areas of the oceans coastal, and other waters as far seaward as the outer edge of the Continental Shelf, would put it out 100 miles in the case of my State of South Carolina, and in the case of the State of Alaska, it would go out 600 miles. These are obviously in international waters and not subject to the jurisdiction and control of the United States.

At this point there is no use to belabor the problem. The Senator has agreed to withdraw the amendment. We are all working together to establish these sanctuaries.

Mr. President, at this time I ask unanimous consent to have printed in the RECORD the correspondence which the Senator from Washington (Mr. MAGNUSON) has received from the Department of State, the General Counsel of the Department of Commerce, the Executive Office of the President, and the Secretary of the Department of the Interior, Mr. Rogers C. B. Morton, as well as a tentative schedule of Outer Continental Shelf leasing prepared by the Department of the Interior.

There being no objection, the correspondence was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF STATE,
Washington, D.C., November 24, 1971.
Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to a request from a member of your staff for the Department of State's views on amendment 630 to HR 9727 as proposed by Senator Nelson.

We have serious problems with this amendment as we did with the original Title III of HR 9727. While it is US policy to seek solution to the problems of marine environment, it is of the highest importance that we do not attempt to exert control over ocean areas beyond national jurisdiction unilaterally and thereby encourage others to do likewise. This involves a very important aspect of our national security as unilateral extensions of national jurisdiction over the oceans restrict the areas in which the US has the right of free navigation without dispute.

Although the proposed amendment to HR 9727 appears in Section 302(a) to limit the authority of the Secretary to designate marine sanctuaries to waters subject to the jurisdiction and control of the US, i.e., the territorial sea, this appears to be contradicted by paragraphs C and D which would appear to claim authority to act in areas further seaward. Under current international law the US has no authority unilaterally to take such actions as designating and controlling marine sanctuaries beyond three miles.

We are seeking international agreements to protect the marine environment beyond our territorial sea. We expect that the 1972 Conference on Human Environment, the 1973 Conference on the Law of the Sea and the 1973 Intergovernmental Maritime Consultative Organization (IMCO) Conference will all make significant contributions in this area and will result in the adoption of international conventions to help in the protection of the ocean environment.

The Administration expects, of course, to work with the Congress in an effort to solve these problems. If we should take any unilateral actions which would exceed the authority of the U.S. under international law, we would thereby make it more difficult to achieve success in our efforts to find international solutions to environmental and law of the sea problems.

We therefore strongly urge that H.R. 9727, as reported out by the Senate Commerce and Public Works Committee on November 12, 1971, be adopted by the Senate without the amendment proposed by Senator Nelson.

Sincerely,

DAVID M. ABSHIRE,
Assistant Secretary for Congressional Relations.

GENERAL COUNSEL OF THE DEPARTMENT OF COMMERCE,
Washington, D.C., November 24, 1971.
HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce, United States Senate, Washington, D.C.

DEAR MR. CHAIRMAN: We have reviewed Amendment No. 630 to H.R. 9727, an Act, to regulate the dumping of material in the oceans, coastal and other waters, and for other purposes. Amendment No. 630 would add to the bill provisions relating to marine sanctuaries. Specifically, the amendment would authorize the Secretary of Commerce, after notice and public hearings, to establish marine sanctuaries in waters subject to the jurisdiction of the United States. It would provide that, with respect to prospective sanctuaries to be located within the territorial limits of any state, the Governor of such state would have the right to withdraw lands from the proposed sanctuary. Under the amendment, all activities in the sanctuary would be subject to regulation by the Secretary of Commerce. Furthermroe, the amendment would require that all Federal mineral leasing activities off the east coast of the United States would be banned until initial establishment of the sanctuaries.

The Department of Commerce recognizes that there may be important scientific or ecological values the preservation of which would justify special portective measures as to particular areas of the ocean. However, we feel that the issue requires considerable additional study and we recommend against enactment of this amendment for the following reasons:

1. The amendment does not clearly define the areas in which the Secretary would be authorized to establish sanctuaries. The present authority of the United States to provide that degree of control of the seabed and the superadjacent water column necessary for maintenance of a sanctuary does not extend into the contiguous zone. The amendment, however, would suggest an intention that the sanctuaries extend into the contiguous zone and beyond. There should be no attempt to extend the territorial jurisdiction of the United States beyond international norms to which the United States adheres.

2. The amendment provides no guidelines regarding the criteria for the establishment and administration of any sanctuaries authorized to be established under this Act. We believe that any proposal for the establishment of such sanctuaries and their reasonable use should be based on a balancing of ecological factors against the short-term economic gains as well as the long-term economic potentials of a particular area.

3. We also find that the banning of all Federal leasing activities off the entire east coast, pending the initial designation of sanctuaries, is unnecessary at this time. Moreover, we note the Secretary of the Interior in his November 4, 1971 statement did not at that time contemplate any leasing activities in the subject area for the next two years.

4. Finally, the authority of the Environmental Protection Agency and the authority of the Department of the Interior under the Outer Continental Shelf Lands Act, if exercised consistently with the philosophy of the National Environmental Policy Act and the requirements of the Fish and Wildlife Coordination Act, provide a basis for the protection of critical areas of the marine environment against unwise exploitation.

We have been advised by the Office of Management and Budget that there would be no objection to the submission of our report to the Congress from the standpoint of the Administration's program.

Sincerely,

MICHAEL F. BUTLER,
General Counsel

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., November 24, 1971.
Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
United States Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to an informal request from a member of your staff for the Administration's views regarding Amendment 630 to H.R. 9727, the "Marine Protection and Research Act of 1971." This amendment, sponsored by Senator Nelson, would authorize the Secretary of Commerce to designate marine sanctuaries, would require him to make the initial such designation within two years after enactment, and would bar mineral leasing activities off the U.S. east coast until such initial designation had occurred.

The Departments of State, Defense, Commerce and the Interior, in separate letters to you in opposition to the subject amendment, will discuss in some detail the various international, national security, and natural resources problems to which enactment of Amendment 630 could give rise. We fully concur with the views expressed in those letters, and likewise urge that the Congress not enact legislation of this type. We also wholeheartedly endorse the rationale set out on pages 14 and 15 of the November 12, 1971 report of the Senate Commerce Committee, concurred in by the Public Works Committee, for rejecting the marine sanctuaries provisions of the House-passed H.R. 9727, which provisions are substantively the same as those in Amendment 630.

In this letter we wish to emphasize two additional considerations. Under this Amendment, the Secretary of Commerce would, at the least, be injected statutorily into the energy development responsibilities of Interior, the foreign policy implementation responsibilities of State, the national defense concerns of Defense, and the environmental protection mission of EPA. Such a broad range of considerations should not devolve, in our judgment, upon a single cabinet department, especially given the limited time frame provided by the Amendment for the initial designation of marine sanctuaries. We believe that this easily could lead to confusion and conflicts that could impede our attainment of important national objectives.

Our second concern arises from the apparent absence of any consideration of the potential costs associated with formally establishing marine sanctuaries, as compared with any scientific or ecological benefits which might be realized thereby. This could mean in some cases potentially heavy losses of Federal revenue from mineral leasing, without commensurate benefits to environmental quality. Creating sanctuaries in the fashion envisioned in Amendment 630 might involve "taking" the rights of States or private parties, with concomitant Federal indemnification costs that are difficult to estimate but which could be very significant.

The Administration recognizes that there very well may be good reasons, having to do with scientific studies or environmental protection, to take special protective measures in certain areas of the oceans and coastal waters under our jurisdiction. The ocean dumping controls that would be provided under H.R. 9727 will make a major contribution in this regard. In addition, we have initiated special measures to minimize other dangers to the marine environment, particularly in connection with the development of the resources of the outer continental shelf. More generally, the National Environmental Policy Act of 1969 was enacted by the Congress to require that, in the conduct of their programs, all Federal agencies must give full consideration to environmental protection, and we strongly believe this approach to be the preferable to the restrictive one contemplated by Amendment 630.

The comprehensive ocean dumping regulatory authority which H.R. 9727, as reported by your Committee, would confer on the Administrator of EPA will enable us to make important strides toward our common objective of protecting and preserving the resources and environmental quality of the oceans. Accordingly, we urge the prompt enactment of this legislation without Amendment 630.

Sincerely,
CASPAR W. WEINBERGER,
Deputy Director.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., November 23, 1971.

DEAR MR. CHAIRMAN: This responds to your request for our comment on Amendment No. 630, which would add to H.R. 9727 as reported by the Committee a Title III concerning the designation of marine sanctuaries. This Department concurs in the decision of your Committee to strike a similar title from H.R. 9727 as passed by the House, and strongly recommends against the adoption of Amendment No. 630.

With respect to the program responsibilities of this Department, we are very much concerned about the prospective effect of Amendment No. 630. It provides generally for designation by the Secretary of Commerce of marine sanctuaries within a broad area of the oceans, coastal and other waters, and for the regulation of any activities permitted within the designated marine sanctuary. Unlike the House provision deleted by your Committee, Amendment No. 630 would also prohibit the issuance of mineral leases in an area "seaward of the territorial sea off the East Coast of the United States" until such time, within two years from enactment, as the Secretary of Commerce makes his initial designation of a marine sanctuary.

We do not believe that the designation of marine sanctuaries as contemplated by Amendment No. 630 is either a necessary or desirable means of assuring full consideration of environmental values in developing the resources of the Outer Continental Shelf. You are no doubt aware that section 12(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1341(a)) provides the Secretary of the Interior with authority to withdraw from mineral leasing particular areas of the Outer Continental Shelf, or in the exercise of his discretion, to withhold certain tracts within an area otherwise available for leasing. Both the National Environmental Policy Act of 1969 and regulations promulgated by this Department pursuant to the Outer Continental Shelf Lands Act, a copy of which is attached, require thorough consideration of environmental consequences prior to the issuance of mineral leases and during extraction, if a lease is issued. The several agencies of this Department, with broad program responsibility for outdoor recreation, fish and wildlife, and related values, as well as resource development, are acutely aware that extractive activity must be conducted so as to avoid environmental degradation.

The enactment of the provision in Amendment No. 630, which would seem to have the practical effect of prohibiting for two years mineral leasing seaward of the East Coast, is unnecessary. As I announced on November 4, no decision has been made to conduct an Atlantic Outer Continental Shelf oil and gas lease sale, and no such decision is now planned. While the tentative schedule for Outer Continental Shelf leasing released on June 15 (copy attached) indicates that a sale of Atlantic resources *could* be held prior to 1976, it is now quite obvious that we could not possibly proceed with any action on exploratory drilling for two years. I can assure you, Mr. Chairman, that no decision to proceed would be made in any event without public hearings and an opportunity for complete exchange of information with all parties, public and private.

The Department of the Interior has long expressed concern about the environmental effects of ocean dumping, and we recommend that dumping be regulated through enactment of H.R. 9727 as reported by your Committee. We appreciate your interest in this important matter, and stand ready to provide what ever additional information you might require.

Sincerely yours,
ROGERS C.B. MORTON,
Secretary of the Interior.

Mr. HOLLINGS. I wish to say to the Senator from Wisconsin that I think this language from Secretary Morton sets forth the problem. He stated in his letter dated yesterday:

> As I announced on November 4, no decision has been made to conduct an Atlantic Outer Continental Shelf oil and gas lease sale, and no such decision is now planned. While the tentative schedule for Outer Continental Shelf leasing released on June 15 (copy attached) indicates that a sale of Atlantic resources *could* be held prior to 1976, it is now quite obvious that we could not possibly proceed with any action on exploratory drilling for two years. I can assure you, Mr. Chairman, that no decision to proceed would be made in any event without public hearings and an opportunity for complete exchange of information with all parties, public and private.

Does that complete the record as the Senator desired it?

Mr. NELSON. Yes. I introduced a bill, which is in the Committee on Interior and Insular Affairs, to amend the Outer Continental Shelf Lands Act, to establish a National Marine Mineral Resources Trust, and offshore management areas with comprehensive regulations to reconcile ocean use conflicts and protect marine values, and for other purposes, on January 26, 1971.

I think it would be appropriate to submit that bill for printing in the RECORD at this place, and I ask unanimous consent to do so.

Mr. President, I also ask unanimous consent that a statement that I made on February 19, 1970, on the introduction of the Marine Environment and Pollution Control Act of 1970, similar to S. 275 of this Congress be printed at this point in the RECORD.

There being no objection, the statement and the bill were ordered to be printed in the RECORD, as follows:

[From the CONGRESSIONAL RECORD,
Feb. 19, 1970]

S. 3484—INTRODUCTION OF THE MARINE ENVIRONMENT AND POLLUTION CONTROL ACT OF 1970

Mr. NELSON. Mr. President, I am introducing legislation today which, in its broadest terms, is a human survival act. Its concern is with the pollution of the Great Lakes, and now, of the sea, a situation that poses dangers to the future of the human race that rank with those posed by the threat of nuclear war.

The legislation is entitled the Marine Environment and Pollution Control Act of 1970. One portion of the bill would establish a tough new national policy to halt the reckless exploitation and the destruction of our vital marine environment, and would substitute an environmental management plan beyond State waters that would be aimed at achieving a harmonious relationship between man and the source of all life, the sea.

Another part of the legislation would deal specifically with the disposal of tens of millions of tons of wastes into the sea from New York and other major cities on the ocean coastlines, in the Gulf of Mexico, and in the Great Lakes. I will explain in detail the provisions of this legislation later in the statement.

For the past year, the tragic story about the destruction of the sea has been unfolding at an accelerating pace. For people the world over, it is a shocking, surprising story, which they may first receive in disbelief. Throughout history, we have believed the sea was a limitless resource, as indestructible as the earth itself. And, as with all our other resources, we have acted accordingly, abusing it in the name of "Progress," somehow never realizing until very, very late that, like all other systems of the planet, the sea is a fragile environment, sensitive and vulnerable to the debris of civilization.

Our persistent refusal to accept these facts about all environments on earth is, in the view of many scientists, hurling us headlong to unprecedented worldwide disaster.

The sea is a fragile environment because among other things, its only really productive areas are extremely limited. They are the Continental Shelves, the narrow bands of relatively shallow, highly fertile areas that extend from our coastlines, the same areas on which our myriad and dramatically increasing ocean activities are focused. Our shipping, mineral extraction, fishing, recreation, and waste disposal all are concentrated in these relatively small, fragile areas.

Destroy life on the Continental Shelves—which is what we are doing now—and, for practical purposes, the oceans are rendered a desert. Fertile coastal waters are 20 times as productive as the open ocean.

Destroy the richness of the sea, and you eliminate one of the greatest potential resources for feeding an exploding world population. Even today, there are nations, such as Japan, that depend almost entirely on the sea for their food and for many other critical resources.

Upset the intricate ecological systems of the oceans, and you run the grave risk of throwing all natural system so seriously out of balance that the planet will no longer sustain any life.

The evidence is pouring in that we are already well on the way to causing drastic and lasting damage to the ocean's environment.

Citing the steady buildup of toxic, persistent pesticides in the oceans, many scientists now believe that another 25 to 50 years of pesticide use will wipe out the oceanic fisheries.

Scientists investigating a massive dieoff of seabirds last year off Britain found in the dead birds unusually high concentrations of another deadly pollutant, toxic industrial chemicals used in making paints and plastics, and in other industrial processes. Concentrations of toxic mercury and lead have been reported in instances at alarming ocean levels.

Scientists now see new dangers to marine life and human beings as well from the potential buildup through the food chain of long-term poisons from the crude oil leaked into the oceans by man's activities at a rate of 1 million tons a year.

The oil is showing up far from its original sources. Scientists towing a net recently in the Sargasso Sea hauled in oil tar lumps as much as 2 inches thick. The Sargasso Sea is 500 miles south of Bermuda in the Atlantic Ocean.

In additioin to oil, author-explorer Thor Heyerdahl sighted plastic bottles, squeeze tubes and debris in the mid-Atlantic during his papyrus raft trip last year. At one point, the ocean water was so filthy the raft crew could not use it to wash the dirty dishes.

In the Pacific Ocean, some still undetermined ecological change has caused a population explosion among a species of starfish. It might be just another fascinating incident if it were not for the fact that the starfish, which feeds on living coral, can, in great enough quantities, cause serious erosion on islands protected by coral reefs and lead to the destruction of food-fish populations that inhabit the reefs.

Closer to home, the oil well blowout in the Santa Barbara Channel last year stunned our Nation. Anyone who still believes the sea is invulnerable to the same devastation we now see in rivers across the land should talk to the citizens of Santa Barbara.

Or they should ask the residents of Cleveland, Detroit, Toledo, Chicago, Milwaukee, Green Bay, or Duluth-Superior. For the past several decades, we have been methodically destroying the Great Lakes, among the largest bodies of fresh water on earth. Lake Erie is degraded almost to the point of a cesspool. Lake Michigan is seriously polluted, and is about to be ringed with nuclear power-plants discharging massive heat wastes. Lake Superior, the largest, cleanest Great Lake, is now threatened. On the Minnesota north shore, a mining company is dumping 60,000 tons of iron ore process wastes into the lake each day.

One need only to have glanced over the newspapers for the past few days to get a sense of the pattern that is developing off our coastlines. Off the gulf coast, an intense fire has been burning out of control for several days on an oil well platform. If the situation is not brought under proper control, raw oil from the well could seep over vast areas of the gulf, spreading to wildlife and bird preserves, stretches of coastal marshland and recreation beaches. Off Nova Scotia, oil spreading from a wrecked tanker has contaminated nearby shores and is killing sea birds, and the same thing is happening off Florida as oil spreads from another wrecked tanker.

The situation in a few years will be much worse. If present trends continue, according to a recent report by the President's Panel on Oil Spills, we can expect a Santa Barbara-scale disaster every year by 1980.

The report also confirmed that we do not have the technology to contain the oil from massive blowouts and spills. In fact, scientists are pointing out that current control techniques, such as massive use of detergents to break up oil slicks, can be even more damaging than the spills themselves.

Yet, in blunt testimony to our sorry history of exploiting our resources at any risk to the environment, 3,000 to 5,000 new oil wells will be drilled annually by 1980 in the marine environment. The pressure is on even in polluted Lake Erie, where only widespread public resistance has prevented drilling there to date.

By ironic coincidence, Federal plans for new oil lease sales in U.S. offshore areas were announced only a few days before the Presidential panel's 1969 oil spill report.

Because of the dramatic and sudden nature of its occurrences and damages, oil pollution has been the most visible of the marine environment problems. A second, less visible, but just as significant threat is from the wastes that are overrunning the industralized, crowded metropolitan areas along our coastlines.

Progress—American style—is adding up each year to 200 million tons of smoke and fumes, 7 million junked cars, 20 million tons of paper, 76 billion "disposable" containers, and tens of millions of tons of sewage and industrial wastes.

It is estimated that every man, woman, and child in this country is now generating 5 pounds of refuse a day from household, commercial, and industrial wastes. To quote Balladeer Pete Seeger, Americans now find themselves "standing knee deep in garbage, throwing rockets at the moon."

The rational way out of this dilemma would be using the country's technology and massive resources to develop systems to recycle our wastes, making them valuable "resources out of place," or treating wastes to the highest degree that technology will permit.

Instead, in the classic American style, we have been taking the easy way out. Rather than planning ahead to handle the byproducts of our affluent society, we have invariably taken the cheapest, most convenient route to their disposal, regardless of the environmental consequences. Until fairly recently, the easy way has been to dump our debris outside the city limits, or into the nearest river or lake.

But now, the end of one city means the beginning of another, especially in our sprawling metropolitan areas. And either the river or lake is already grossly polluted with other wastes, or water quality standards are demanding that the polluters install decent treatment facilities.

With this tightening situation, one might think that we would finally begin a national effort to establish effective and environmentally safe waste management plans.

Instead, we have found another way to avoid the costs of environmental controls: Dump the debris into that supposedly bottomless receptacle, the sea. The attractions are many. The fact is that environmental regulations in our coastal waters are so loose it is like frontier days on the high seas, a field day for laissez faire polluters. One recent private report points out the inadequacies in offshore environmental regulations.

Few applications for offshore waste dumping permits are ever denied, even when environmental agencies strongly oppose the dumping. In fact, the report could find no instance where the U.S. Army Corps of Engineers—in most cases, the lead agency for regulating the dumping—had ever rescinded a disposal permit, even when the polluter had clearly violated it. The reason, according to the report, is that authorities and responsibilities in the marine environment, are so uncertain that public agencies may be reluctant to take action that might lead to court tests;

Furthermore, most dumping is carried out so far offshore that no present regulations of any Federal, State or local agency explicitly apply;

Although many public agencies are concerned in various ways with ocean dumping, rarely do any of them have a comprehensive picture of the total offshore waste disposal activities in the area;

Regular monitoring of ocean dumping is almost nonexistent, leaving the way wide open for abuse of already inadequate permit terms;

Finally, guidelines to determine how dumping will affect fragile ocean ecology and the marine food chain do not exist. Thus, decisions on the dumping permits are made with a tragic lack of vital information as to the consequences.

In this situation, it is often cheaper for a city to send its municipal wastes out to the ocean depths via a barge; or for an industry to relocate to the coastline from an inland area with tough water quality standards, so it can discharge its wastes directly into coastal waters without having to install costly pollution control equipment.

Because the effects of the ocean dumping are slow to appear, it is a problem that only now is breaking into public view. But when all the facts are in, I am convinced that continued unrestrained dumping clearly will spell a tragedy that will make Santa Barbara pale by comparison.

In the United States, cities, industries, and other polluters are now disposing 37 million tons of wastes into the marine environment every year, and this does not include Great Lakes figures.

Predictably, our mass consumption, mass disposal society is responsible for one-third to one-half the world's pollution input to the sea.

The cities and metropolitan areas involved include San Francisco, Los Angeles, San Diego, Boston, New York, Philadelphia, Baltimore, Charleston, St. Petersburg, Miami, Port Arthur, Galveston, Texas City and Houston.

The wastes—dumping at sea from barges and ships—run the gamut of by-products from the "affluent" society. They include garbage and trash; waste oil; dredging spoils; industrial acids, caustics, cleaners, sludges, and waste liquor; airplane parts; junked automobiles and spoiled food. Radioactive wastes, poison gas, and obsolete ordnance have also been dumped in the sea by atomic energy and defense agencies.

Along our Pacific coast, 8.8 million tons of these wastes were dumped in 1968 alone.

Along the heavily populated east coast, 23.7 million tons were dumped that year.

And along the gulf coast in 1968, 14.6 million tons of wastes were dumped.

A leader for the whole country in the dumping of wastes into the sea is metropolitan New York. In a recent year, dumping for this area off the New Jersey and Long Island coasts came to 6.6 million tons of dredge spoils, 4 million tons of sewage sludge, 2.6 million tons of dilute industrial waste acids, and 573,000 tons of cellar dirt.

The sewage sludge, dumped 11 miles offshore, has spread over a 10- to 20-square-mile area of the ocean bed, killing bottom life, cutting oxygen levels, poisoning the sea waters. A wide area outside the dumping grounds is also contaminated, possibly by the sewage sludge. Dumping of other wastes is being carried out in five other undersea areas off New York.

The results of several decades of ocean waste disposal off this vast metropolis are grim portents for the future of much of the U.S. marine environment if the practice is allowed to continue.

Off New York, outbreaks of a strange fish disease, where fins and tails rot away, have been reported since 1967.

Recreation-destroying red tides have recently closed local beaches, particularly during the summer of 1968.

Massive growths of nuisance organisms, such as seaweeds and jellyfish, are now prevalent.

Once huge oysterbeds in New York Harbor have been all but eliminated.

Nearly all local clamming areas have been closed because of contamination.

Many swimming beaches are now closed every summer for the same reason, and there are indications that the sewage sludge dumped far offshore may now be creeping back in on the currents.

Now, in the face of this marine disaster, suggestions are being made that the New York dumping grounds be moved anywhere up to 100 miles offshore. Whether this is feasible on even an interim basis, it is highly doubtful it offers any permanent solution. New Yorkers 40 years ago thought they had escaped much of their waste problem when the present offshore dumping grounds were selected. Past history gives little cause for confidence that dumping even 100 miles into the sea will prevent grave consequences 40 years from now.

In fact, the evidence from the present New York situation, and from the effects of other United States and worldwide marine activities, indicates firmly that if we are to avoid setting off further disaster in our vital offshore areas, the dumping should be phased out entirely along our coastlines and the Great Lakes. The legislation I am proposing would require such a phase-out in 5 years, a deadline which respected authorities have indicated would be reasonable, if a concerted effort is started now to find alternative, safe means of waste disposal or recycling.

The only exception would be when the Secretary of the Interior determined that an alternative was not yet technically available. Then, a temporary permit could be issued until an alternative was developed.

The legislation will also deal with the wastes pouring directly into the ocean and the Great Lakes from numerous outfalls of municipal and industrial waste disposal systems. As I pointed out earlier, the alternative of piping our wastes directly into the sea is becoming increasingly attractive from an economic point of view, as water quality standards are tightened inland. Yet from an environmental point of view, moving to the edge of the sea for cheap waste disposal and cheap water supplies will only accelerate the pollution of the sensitive offshore areas. It is a trend that must be halted now, and the legislation I am introducing will allow only liquid, nontoxic wastes, treated at levels equal to the natural quality of the receiving waters, to be disposed of at sea, with the exception noted above, where an alternative was not technically available.

Now, on one 30-mile stretch of the New Jersey coast alone, there are 14 sewer outfalls discharging directly into the ocean, with more planned. In New York harbor, 20 New Jersey companies are either in court or under orders to halt pollution. According to Federal figures several years ago, the estuarine waters of the United States received 8.3 billion gallons of municipal waste discharges per day.

Clearly, wholesale waste disposal and dumping into the ocean environment is a practice that is rapidly becoming a national scandal. It reflects another near total failure of our institutions to come to grips with a grave new challenge of this modern, complex age. And it is one more tragic instance of polluters and Government, with the consent of a lethargic public, avoiding rational environmental planning now, and letting future generations pay the price.

To date, we have been spending only a pittance in this country on new, more effective ways of handling our wastes, while we spend tens of billions of dollars to put man on the moon, or to fight the Vietnam war. Legislation now pending before the Senate, the Resource Recovery Act, would be an important step forward in the urgently needed effort to manage this country's mounting solid wastes.

Ironically, while we continue to accelerate the gruesome process of polluting the sea, industry, our crowded cities, commercial ventures of all kinds, and even public agencies are making big new plans to carve up this rich, little regulated frontier for profit or for the tax dollar.

Already, the Defense Department holds one of the biggest chunks of marine environment—a total of approximately 300,000 square miles used for missile testing grounds and military operations.

But jurisdictions are so confused in the increasingly busy offshore waters that one mining operator had to turn back his sea bed phosphate lease when he found it was in an old Defense Department ordnance dump.

Crowded metropolitan areas are looking to the sea as the answer not only to their waste disposal problems, but for their space shortages as well. In the next few years, it is possible that construction of floating airports will begin for New York City, Los Angeles, and Cleveland. Floating seaports and floating cities may not be far behind.

And population and use pressures on our coastal areas will continue to escalate. Already, more than 75 percent of the Nation's population, more than 150 million people, now lives in coastal States, and more than 45 percent of our urban population lives in coastal counties.

Now, the coasts provide recreation for tens of millions of citizens. And the demand for outdoor recreation is increasing twice as fast as our burgeoning population. Yet in the face of these growing needs and expectations, the coasts are in danger of being crowded and polluted out of the market as recreation resources. In effect, Americans are slamming the door on their last escape route to a livable world. Our choice now is to either clean up our environment, or survive in surroundings we never thought we would have to accept.

Again, we look to the sea for distant answers. Within 33 years, we can expect permanent inhabited undersea installations and perhaps even colonies, according to the commission on the year 2000, a group established by the American Academy of Arts and Sciences.

In another activity, oil tankers, a more frequent source of pollution than oil wells, are being built to huge scales, cutting transportation costs but increasing environmental danger. The *Torrey Canyon* tanker was carrying 118,000 tons of crude oil when it broke up off England in 1967, a disaster that soaked miles of beaches with oil and killed more than 25,000 birds. Today, there are tankers being designed with a 500,000 ton capacity.

In addition to bringing new pollution dangers, the tankers will probably help create a new industrial seascape off our coasts. Since our ports are not big enough to handle these super ships, offshore docking facilities will have to be built.

In the Gulf of Alaska, heavy tankers could soon be operating to ship oil from the southern end of the proposed Trans-Alaska pipeline. Meanwhile, other oil and gas interests are proposing leases for drilling in the gulf. Leasing could put the tankers and oil rigs on a collision course, with massive oil spills as a result.

In another area of resource use, a company will soon begin an experimental mining operation off the southeast Atlantic coast in which a vacuum device will draw materials off the sea bed, and half way up, separate out fine wastes and spew them into the undersea in a broad fan. An almost certain result will be the smothering of bottom life over a wide area.

On Georges Bank, a rich international fishery off the New England coast, studies have identified areas with tremendous oil and gas potential, posing possible conflicts.

The evidence is clear. If tough environmental management steps are not taken now, the outcome of this bustle of new activity is certain. We will ultimately make as much a wreckage of the oceans as we have of the land. There will be constant conflicts between users, more reckless exploitation, perhaps the total destruction of marine life, and through the whole process, public agencies will be relegated to their all too frequent ineffective role of referees between competing resource users.

The legislation I am proposing today as the Marine Environment and Pollution Control Act of 1970 prescribes far-reaching steps to establish rational protection of the ocean environment.

The first section makes it unlawful for U.S. citizens, which includes corporate and municipal officers, to dispose of refuse materials into the Great Lakes, the territorial sea, Outer Continental Shelf waters, or the high seas without a permit from the Secretary of the Interior issued with the concurrence of the Council on Environmental Quality in the White House. Before the Secretary can grant such a permit, he will be required to undertake a broad-ranging investigation into the effects the disposal would have on the marine environment. In addition, public hearings will be held if requested, to give concerned citizens the opportunity to speak on the matter. In general, this legislation provides for public involvement in the decisionmaking process at every available opportunity, an involvement that has far too frequently been lacking in the making of Federal environmental policies.

Under this bill, the Secretary will only grant a waste disposal permit if there is convincing evidence that the disposal will not have any adverse effects on plant and animal life and the marine environment generally. As I have pointed out earlier, consideration of the impact of dumping on the fragile marine ecology of dumping has been entirely inadequate.

The bill would phase out all marine dumping by June 30, 1975, which is a reasonable and essential step for environmental protection, except for the exceptions noted earlier in the statement. It also provides a fine of not more than $1,000 per ton of material disposed of in violation of the act.

In the important second section of the bill, a system for marine environment management is established, which will apply to the submerged offshore lands under the jurisdiction of the Secretary of the Interior. As a first step, the bill provides for an Advisory Committee on the Marine Environment, to be appointed by the Secretary with the concurrence of the Council on Environmental Quality. The private citizen committee will include scientists trained in disciplines dealing with marine environment concerns. It will be responsible for the general scientific overview of the whole new program.

Also called for is a series of comprehensive programs and studies designed to increase our knowledge of the marine environment and its complex ecological systems, and the effects of our activities on this vital environment. Under the bill, the Secretary would develop models of physical and ecological systems of the marine environment which would be used to predict in advance the effects of proposed activities, an unprecedented step in marine environment protection.

I have also included a provision in the bill requiring truly long range forecasts of our needs and requirements, not only for minals, but for recreation, fisheries, shipping, and natural ecological balance, over the next 50 years, another unprecedented step fundamental to making sound decisions about our ocean activities. This information will be made available to the public as it is developed by the Secretary, with the advice and recommendations of the scientific commission.

The next section of the bill provides for the application of the information and knowledge gained by the Secretary and the commission to the development of comprehensive resource management plans for the marine environment. Such plans will be developed whenever the Secretary is notified that present or proposed uses of the marine environment involve a risk of serious environmental damage or serious conflict with present or future users, or when any submerged lands under the jurisdiction of the Secretary are proposed to be leased. As a part of the plan, the Secretary would conduct an intensive study of the specific area involved, and of all the plant and animal life in it, and would attempt to develop means for avoiding adverse effects or conflicts among uses. The Secretary will also seek the views of the Governors of the coastal States in the vicinity of the area of proposed activity.

These efforts will culminate in a management plan which will be submitted to the Advisory Committee on the Marine Environment and also to the Council on Environmental Quality and there will also be opportunity for a public hearing. After concurrence of the council in the plan, the Secretary will implement it in public regulations which will constitute a comprehensive and mandatory guide for the use of the seabed and waters governed by the plan.

I believe these management plans would be a major step in avoiding Santa Barbara-type disasters brought on by lack of foresight and information, and this approach might well merit consideration by the States for the Great Lakes and their offshore territorial waters. Public participation would be an important part of the development of these plans.

It should be made clear that even the adoption of this legislation will only be a beginning in protecting our oceans. Inland, our water standard and cleanup programs must be strictly enforced and well financed, not only for the sake of our rivers and lakes, but for the future of the sea itself, which ultimately receives these wastes. And it is clear too that although the activities of this Nation are a major factor in the threat to the sea, all nations are having an impact, and have responsibilities which they too must exercise if this common world resource is to be protected. It is clear this will require new international cooperation and agreements.

Mr. President, I introduce this legislation for reference to the appropriate committee, and ask that it be printed in the CONGRESSIONAL RECORD at this point.

S. 275

A bill to amend the Outer Continental Shelf Lands Act, to establish a National Marine Mineral Resources Trust, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Outer Continental Shelf Lands Act (67 Stat. 462; 43 U.S.C. 1331–1343) is amended by the addition of the following new sections to title 43 of the United States Code:

"SEC. 1344. (a) There is established in the Department of the Interior an Advisory Committee on the Marine Environment, appointed by the Secretary of the Interior with the concurrence of the Council on Environmental Quality, comprised of eleven members who shall be qualified by training and experience to advise the Secretary of the Interior in the management and protection of the marine environment of the United States. The disciplines represented by the members of the Committee shall include, among others, marine biology and ecology, physical or chemical oceanography, marine geology, resource economics, and marine resources law. The Committee shall consult with and advise the Secretary in the discharge of his responsibilities under section 1345 and in the development of the inventories and analyses required by subsections (c) and (d) of section 1347, and shall analyze and review management plans under subsection (e) of section 1347 and the implementation and enforcement of such plans. The Committee shall conduct annual or more frequent studies of the status and quality of the Secretary's efforts undertaken to implement section 1345, investigations of the quality and the effectiveness of management plans developed under section 1348, including investigations of the effectiveness of public participation in the development of such plans, reviews of the Secretary's actions in the implementation and enforcement of management plans, and generally shall make such investigations, studies, and recommendations at such times as are required for the successful implementation and administration of the program under sections 1344–1349.

The Committee shall transmit the reports of its investigations, studies, and recommendations to the Secretary and the Council on Environmental Quality, and shall make such reports available to the public. The Committee also shall transmit to the Secretary and the Chairman of the Council and make publicly available a report annually on the progress achieved during the preceding year in protecting and enhancing the marine environment together with its recommendations.

"(b) No officer or employee of the United States or of any State shall be appointed to membership on the Committee. The Committee shall be served by a permanent professional staff comprised of persons who are qualified by training and experience in the disciplines relevant to the management and protection of marine environment.

"(c) Members of the Committee shall each receive $100 per diem when engaged in the actual performance of duties of the Committee and reimbursement of travel expenses, including per diem in lieu of subsistence, as authorized in section 5 of the Administrative Expenses Act of 1946, as amended (5 U.S.C. 73b–2), for persons employed intermittently.

"(d) The Committee shall appoint and fix the compensation of such personnel as it deems advisable in accordance with the civil service laws and the Classification Act of 1949, as amended. In addition, the Committee may secure temporary and intermittent services to the same extent as is authorized for the departments by section 15 of the Administrative Expenses Act of 1946 (60 Stat. 810), but at rates not to exceed $100 per diem for individuals.

"(e) As used in sections 1344–1348, the term—

"(1) 'marine environment' means the air, the waters, and the submerged lands of the Outer Continental Shelf lying seaward of the boundaries of the coastal States of the United States, and all the resources and values of such air, water, and submerged lands, and

"(2) 'Secretary' means the Secretary of the Interior.

"SEC. 1345. (a) The Secretary, in regular consultation with the Advisory Committee on the Marine Environment and in cooperation with other Federal and State agencies, shall conduct—

"(1) comprehensive programs for the continuing collection and analysis of data concerning the physical systems existing in the marine environment including, but not limited to, data on tides and wind and ocean currents and geological and topographical data, and develop and refine models of such physical systems which will adequately describe the operation of such systems and also provide reliable predictions of the effects of various activities conducted in the marine environment upon such systems;

"(2) comprehensive programs for the continuing collection and analysis of data concerning the plant and animal life found in the marine environment and data concerning the sensitivity of unique as well as representative species of such life to changes in the marine environment resulting from development or use of the marine environment;

"(3) comprehensive investigations of the ecological systems of the marine environment, and develop and refine models of both unique and representative ecological systems which will adequately describe such systems and also provide reliable predictions of the effects of various activities conducted in the marine environment upon such systems;

"(4) a continuing comprehensive analysis of the several activities presently being conducted in the marine environment or likely to be conducted there in the reasonably immediate future, and present and likely future conflicts among such uses with a view to developing an understanding of the basic purposes which those activities serve and to minimizing such conflicts through development of novel and alternative means of serving those purposes;

"(5) a program for the development of baseline data concerning the marine environment, and a comprehensive monitoring program for the marine environment designed to provide immediate notice of changes in such environment;

"(6) far-reaching, long-range studies which will yield forecasts and predictions concerning the activities which may be carried out in, and the uses which may be made of, the marine environment and its resources during the period ending fifty years from the date of each such study, including analyses of the characteristics of and means by which such activities and uses may be conducted, analyses of the likely impact of and constraints imposed by such activities and uses upon other uses of the marine environment, and the likely effects of such activities and uses upon the marine environment itself, predictions of the frequency and significance of future conflicts among uses of the marine environment and of the frequency and the magnitude of any damages to the marine environment which may result from such activities and uses, and recommendations concerning development of technology, management concepts, or other means of preventing or minimizing conflicts among uses of the marine environment and of preventing or minimizing adverse effects upon the marine environment;

"(7) studies necessary to the development of criteria and standards for the protective management of unique or unusually valuable types or species of plant and animal life, of types or species of plant and animal life which are particularly susceptible to damage or destruction from alteration of the marine environment, of areas of the marine environment which present special hazards of environment damage or conflicts among uses, and of areas which exhibit unique or unusually valuable characteristics or values; and

"(8) continuing studies of the susceptibility of the marine environment and its resources to present and future beneficial uses for commercial and sport fisheries, production of fuel and other mineral resources, marine transportation, enjoyment of natural beauty and other nonexploitative recreational uses, scientific research, national defense, and other purposes.

"(b) The Secretary shall publish on a regular basis the reports and results of the studies and investigations and programs authorized by subsection (a) of this section.

"Sec. 1346. (a) The Secretary shall establish by regulation in the Department of the Interior an Inter-Agency Committee on Marine Resources Management to be comprised of one representative each of the Departments of Defense, State, Transportation, Health, Education, and Welfare, Housing and Urban Development, and Commerce, and the Chairman of the Atomic Energy Commission, the Director of the National Science Foundation, and the Secretary of the Smithsonian Institution. The Committee shall assist the Secretary in the development of management plans for the management and protection of the marine environment.

"(b) (i) Whenever the Secretary is advised by the Chairman of the Council on Environmental Quality, the head of any department or agency of the United States or other organization named in subsection (a) of this section, or the Governor of any coastal State of the United States, that any present or proposed use or uses of the marine environment involves a potential risk of serious environmental damage or potential risk of serious conflict with present or likely future uses of the marine environment, and (ii) whenever any submerged lands of the Outer Continental Shelf are proposed to be offered for leasing for oil and gas or sulfur or other minerals, or (iii) whenever it appears to the Secretary that such action is desirable, he shall immediately publish notice pursuant to subsection (e) of section 1347 of his intention to develop a management plan, and shall thereafter proceed with the development of a management plan, for the area identified as being susceptible of potential environmental damage, or within which risks of conflicts among uses may occur, or the area proposed to be offered for leasing, or the area which he judges should be the subject of a management plan. The oil, gas, sulfur, and all other mineral resources of the Outer Continental Shelf which are unleased on the date of enactment of these amendments are hereby designated as the National Marine Mineral Resources Trust and shall be held in an unleased status until the Secretary, with the concurrence of the Council on Environmental Quality, determines (i) that there are technological, managerial, and other means adequate to prevent damage to the marine environment resulting from exploration, extraction, and transportation of marine mineral resources in accordance with these amendments, and (ii) that ecologically sensitive areas of the marine environment will be identified and permanently preserved in accordance with these amendments, and (iii) that there is a national requirement for these resources which cannot be satisfied, consistent with the requirements of national security, by any other practicable means. In no event shall any submerged lands of the Outer Continental Shelf be leased except in strict compliance with a management plan developed, approved, and implemented in accordance with the provisions of sections 1344–1349.

"Sec. 1347. (a) The development of management plans shall be preceded by public notice given in the manner prescribed by subsection (b) of this section and shall reflect the results of the inventories and studies required by subsection (c) of this section, the analyses specified in subsection (d) of this section, and information developed in the course of consultations and public hearings pursuant to subsection (c) of this section in the manner specified in section 1348.

"(b) The notice required by subsection (b) of section 1346 of the Secretary's intention to develop a management plan for an area shall be published in the Federal Register and in a newspaper of general circulation in the general vicinity of the area for which the management plan will be developed. The notice shall indicate that a management plan will be developed for the marine environment in the area described in the notice, indicate that uses of the area involved will be affected by adoption of the management plan, describe the area for which the management plan will be developed, describe the procedural steps by which the management plan will be developed, and state that an opportunity will be extended to all interested persons to express their views and recommendations with respect to development of the management plan.

"(c) As soon as practicable after publication of the notice of intention to develop a plan for an area of the marine environment pursuant to subsection (b) of section 1346 the Secretary shall develop an inventory of the plant and animal life and nonliving resources and intangible values of the area, studies of the physical and ecological factors and systems present in the area, and an inventory of present uses and forecasts of future uses of the area.

"(d) Concurrently with development of the inventories and studies conducted under subsection (c) of this section, the Secretary shall analyze the characteristics of the plant and animal life and nonliving resources and intangible values of the area, the physical and ecological factors and systems present in the area, and the characters and purposes of the present and future uses of the area with a view to developing a comprehensive detailed model or models of the area which will adequately describe the systems existing in the area and their responses to the activities presently being conducted in the area and also provide reliable predictions of the longer range effects of present uses of the area and reliable predictions of the effects of future activities upon the systems and resources existing in the area. In analyzing the present and future uses of the area, the Secretary shall develop information on the frequency and seriousness of present conflicts among uses of the area and the effects of such conflicts on the marine environment, and projections of the frequency and seriousness of future conflicts among such uses, including estimates of the probable frequency of such conflicts, and the types and degrees of seriousness of potential damage to the marine environment resulting from such conflicts. The Secretary also shall include in his analysis under this subsection an investigation of available technological, managerial, or other means of preventing or reducing the adverse impact of activities conducted in the marine environment on the marine environment and on other uses of it and shall identify present and future needs for new or improved technological or other means for preventing or reducing the adverse effects of particular types of activities on the marine environment or on other uses of the marine environment.

"(e) In conducting the inventory under subsection (c) of this section and the analyses required by subsection (d) of this section, the Secretary shall consult with the Advisory Committee on the Marine Environment established by section 1344 and shall request all interested departments and agencies of the Federal Govrenment to prepare and submit to him written reports concerning their interests in the present and future uses of the area for which a management plan is being developed for commercial and sport fisheries, production of fuel and other mineral resources, marine transportation, enjoyment of scenic beauty and other nonexploitative recreational purposes, scientific research, national defense, and other uses, together with their recommendations with respect to the final form, content, and operation of the management plan. In developing the inventory and analyses, the Secretary shall solicit the views and recommendations of the Governor of the coastal State or States in the vicinity of the area for which a management plan is to be developed and invite the views and recommendations of industry and other interested groups and may hold public hearings in the vicinity of such area for the purpose of obtaining the views and recommendations of other interested persons.

"(f) The reports of inventory and analyses conducted pursuant to subsections (c) and (d) of this section, the reports submitted by the interested departments and agencies of the Federal Government, the submissions by the Governors of coastal States and by industry and other interested groups, and the records of any public hearings held by the Secretary shall be included in the administrative record of the proceedings for the development of the management plan and shall be public documents which shall be made available upon request and payment therefor to any interested person.

"Sec. 1348. (a) After completion of the inventory and analyses under subsections (c) and (d) of section 1347 and receipt of the views and recommendations of the Governors of coastal States, interested industry and other groups, and other interested persons under subsection (e) of section 1347, the Secretary shall make comprehensive written findings of fact and written conclusions concerning the area of the marine environment which will be subject to the management plan and shall develop a comprehensive management plan for the area of the marine environment described in the notice issued pursuant to subsection (b) of section 1346 which shall preserve the quality of the marine environment at the highest practicable level and enhance the quality of the marine environment to the highest practicable level where damage to the marine environment already has taken place, prevent or minimize the adverse effects of present and future activities in the marine environment on such environment and its resources and values, and prevent or minimize conflicts among competing uses of the marine environment.

"(b) The management plan shall identify, describe the locations of, and afford appropriate protection for plant and animal life, ecological systems, and recreational and other values which are so unique or valuable or important that they should not be exposed to the risks associated with particular uses of the marine environment and describe any areas of the marine environment which present special hazards of environmental damage or conflicts among uses or which exhibit unique or unusually valuable characteristics or values.

"(c) The management plan shall be expressed in the form of public regulations which shall be consistent with international law and agreements and which will provide a mandatory guide for the use of the land and water areas covered by it. To the maximum degree permitted by international law and agreements, it shall include such prohibitions, constraints, and conditions upon the conduct by citizens of the United States and of foreign nations of specified activities within specific areas covered by it as are appropriate to the protection of the environmental features within such areas or any other areas in which the effects of such activities within the specified areas might be manifested or are necessary to prevent or minimize conflicts among uses of such areas.

"(d) Upon completion of the management plan for an area of the marine environment, the Secretary shall submit such plan to the Advisory Committee on the Marine Environment and to the Council on Environmental Quality. Upon request of any interested party and after not less than thirty days' notice, he shall hold one or more public hearings in the general vicinity of the area covered by the management plan at which all interested parties shall be given an opportunity to express their views with respect to any matter pertaining to the management plan.

"(e) After considering the views of the Advisory Committee and the Council on Environmental Quality, and after reviewing the record of any public hearing held pursuant to subsection (d) of this section, the Secretary shall affirm or modify, as appropriate, the written findings and conclusions made pursuant to subsection (a) of section 1348, and the management plan, if necessary, and submit it together with his written findings and conclusions to the Council on Environmental Quality for its concurrence.

"(f) Upon the concurrence of the Council of Environmental Quality, the Secretary shall adopt and order the implementation of the management plan and shall publish comprehensive regulations embodying the management plan in the manner specified in section 553 of title 5 of the United States Code. No management plan shall be adopted by the Secretary unless it has been concurred in by the Council on Environmental Quality.

"(g) In making his written findings of fact and conclusions pursuant to subsection (a) of section 1348 and in the development and adoption of management plans pursuant to this section, particular activities and uses shall not be permitted in specific areas covered by the management plan except upon the Secretary's findings, supported by clear and convincing evidence, that such activities and uses can be conducted in such areas without significant risks of environmental damage or conflicts among uses. In no event shall any management plan afford a lesser degree of protection to the marine environment than that degree of protection afforded by the laws and regulations of the coastal State or States to marine areas under State jurisdiction which are situated adjacent to or in the vicinity of the area covered by such management plan.

"SEC. 1349. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of sections 1344–1348."

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. NELSON. I yield.

Mr. MAGNUSON. Mr. President, I want to join the distinguished chairman of the Committee on Public Works in assuring the Senator from Wisconsin of the fact that what we are doing here in no way diminishes my support of the objectives of the Senator's amendment, and I am looking forward to those hearings.

The reason I am pleased to say that is that at those hearings we may resolve America's position on fisheries. We have a constant international struggle going on, with us claiming a 12-mile fisheries limit, others a 200-mile limit, and others threatening to go to 1,500 miles. At those hearings we may resolve that problem.

It is pretty hard to separate what is being proposed from marine life in the area. Our problem is that it is going to put them in such a position that it may cause some controversy in the hearings. But I assure the Senator that both Senators from Alaska and both Senators from Washington and other Senators are going to bring up the question of the U.S. territorial limits in relation to fish at those hearings. And we may be able to do a great deal toward resolving this problem internationally.

I congratulate the distinguished Senator from Wisconsin for what he is doing.

Mr. NELSON. I appreciate the comments of the Senator from Washington. As everyone here knows, the distinguished Senator from Washington (Mr. MAGNUSON) has a long, long record of involvement in constructive activity in the preservation and integrity of the environment for the past quarter of a century.

Mr. President, I ask unanimous consent that my amendment be withdrawn.

The PRESIDING OFFICER. The Senator has a right to withdraw his amendment, and the amendment is now withdrawn.

The bill is open to further amendment.

Mr. AIKEN. Mr. President, I wish to offer an amendment to correct an apparent oversight in the preparation of the bill, on page 26, line 26, to strike out the second "and" and the period at the end of the line and add "and its connecting waters." By "connecting waters" I mean to also include "tributaries."

The reason for this amendment is that most of the connecting waters of western Vermont and northeastern New York empty into Lake Champlain, which in turn empties into the St. Lawrence River. There are other rivers and lakes in Vermont the waters of which empty into the St. Lawrence River. Those should be covered because we have had considerable trouble with dumping of sludge and waste material in some of them.

I hope the sponsor of the bill, the Senator from South Carolina, will accept the amendment, because, as I say, it was an oversight. This is important because it is about the largest body of fresh water in the United States.

Mr. HOLLINGS. Mr. President, the committee agrees that it is an oversight and we appreciate the Senator from Vermont's pointing it out. We will be glad to have the language added at the end of the line "and its connecting waters."

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

AMENDMENTS NOS. 729 AND 730

Mr. CASE. Mr. President, I call up my amendments (Nos. 729 and 730) and ask that they be stated.

The PRESIDING OFFICER. The clerk will read the amendments.

The assistant legislative clerk proceeded to read the amendments.

Mr. CASE. Mr. President, I ask unanimous consent that further reading of the amendments be dispensed and that they be printed in the RECORD in full at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments (No. 729) are as follows:

On page 44, line 11, strike out "(a)".

On page 44, strike out lines 21 through 25.

On page 46, strike out lines 3 through 12, and insert in lieu thereof the following:

"SEC. 203. (a) The Secretary of Commerce shall conduct, and encourage, cooperate with, and render financial and other assistance to appropriate public (whether Federal, State, interstate, or local) authorities, agencies, and institutions, private agencies and institutions, and individuals in the conduct of, and to promote the coordination of, research, investigations, experiments, training, demonstrations, surveys, and studies for the purpose of determining means of ending all dumping of materials within five years of the effective date of this Act.

"(b) Each department, agency, and independent instrumentality of the Federal Government is authorized and directed to cooperate with the Department of Commerce in carrying out the purposes of this title and, to the extent permitted by law, to furnish such information as may be requested.

"(c) There are authorized to be appropriated such sums as may be necessary to carry out this title.".

Mr. CASE. Mr. President, the purpose of the amendment is to broaden the admirable bill which has been reported by the committee and to add to it authority for the Secretary of Commerce to obtain the resources of public and private organizations and industries outside the Federal Government for research.

The bill as written provides for research only by the Federal Government itself. In addition, this amendment provides new authority for research into alternate means of disposing of wastes that are currently dumped into the oceans. The bill as submitted reads "for research into the effects of ocean dumping." This additional research would be into alternate means of disposal of the wastes that are dumped, and not just the effects on the oceans of dumping.

It also would have a goal for the research, that is, to find, within 5 years, the means for not halting all dumping of material into the oceans.

It is in line with legislation that I have introduced in separate bill form.

I hope very much that it will be possible for the committee to accept this amendment and incorporate additional authority in the bill. As I have said, it is an admirable bill as it is now, but I would like to make it an even better bill.

Mr. HOLLINGS. Mr. President, the difficulty we have with this particular amendment—and I am passing to my colleague from New Jersey a proposed alteration of the amendment to see if we cannot agree and forego a rollcall—is that the amendment knocks out the authorization provisions of sections 201 and 202, which limit the expenditure to $1 million on research under each of the two sections.

The Senator from New Jersey is not a member of the Commerce Committee, which has insisted that we do not leave these authorizations for appropriations open-ended. Otherwise, the actual goal of trying within 5 years to set a policy against dumping the committee will welcome and gladly go along with, but we are trying to set a specific limit on the amount. I am trying to see if the Senator would not agree. My proposed amendment to his involves one-third of the moneys authorized under sections 201 and 202.

Mr. CASE. I appreciate that suggestion and also the spirit in which it is offered. I am afraid that it would lead to a very niggardly result. It seems to me if we take $1 million and divide it into three parts, we are not going to have very much for serious research into an alternate means of dumping, which I think, frankly, ought to include a pilot plant or two, so we could make an all-out effort along this line.

Would the Senator give me his thinking about that? We have got to find out how these things work and we cannot do it on an experimental basis except with the help of the Federal Government.

Mr. HOLLINGS. We are trying to fix an authorization therein. I would think that, rather than delete sections 201 and 202 from the bill, we could include that and put in a dollar figure in this particular amendment of the Senator from New Jersey.

How much does the Senator want?

Mr. CASE. I think the Senator's idea is a very good one. What would he think about $10 million?

Mr. HOLLINGS. I think that would be a good figure.

Mr. CASE. Mr. President, I ask unanimous consent to incorporate in the amendment language which will be sent to the desk to put a limitation of $10 million on this particular authority.

The PRESIDING OFFICER. The Senator has a right to modify his amendment.

Mr. CASE. It is so modified.

Mr. HOLLINGS. Would the Senator also modify it by not striking out the authorizations in sections 201 and 202?

Mr. CASE. I am very happy to accept that suggestion, and do so modify my amendment.

The PRESIDING OFFICER. The amendment will be so modified.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. CASE. I yield.

Mr. STEVENS. I note, on page 2 of the amendment the following language:

> For the purpose of determining means of ending all dumping of materials within five years of the effective date of this Act.

I call the Senator's attention to the fact that some materials that are dumped, for instance organic fish wastes, are returning to the oceans natural waste. I point out that millions of salmon in my State die in the streams after they spawn. They then are washed down into the bays. Or canneries that catch a part of the salmon return the organic waste of the fish-canning process to the sea. We have an amendment here later dealing with that.

By the goal of attempting to end all dumping of materials, I would assume that the Senator means the dumping of harmful or nonorganic materials, not that he is trying to set a congressional goal of ending all dumping per se. Is that correct?

Mr. CASE. The Senator is quite right. The purpose here, in any event, is not to place an embargo upon dumping, but rather to provide for research which will make it possible for us to decide, on the basis of an orderly means, what dumping is harmful and what dumping is permissible, which would be a later decision. The purpose here is to discover the alternate means.

Mr. STEVENS. I thank the Senator. I have no objection to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Jersey (Mr. Case), as modified.

The amendment, as modified, was agreed to, as follows:

On page 46, after line 12, insert the following:

"Sec. 203. (a) The Secretary of Commerce shall conduct, and encourage, cooperate with, and render financial and other assistance to appropriate public (whether Federal, State, interstate, or local) authorities, agencies, and institutions, private agencies and institutions, and individuals in the conduct of, and to promote the coordination of, research, investigations, experiments, training, demonstrations, surveys, and studies for the purpose of determining means of ending all dumping of materials within five years of the effective date of this Act.

(b) There are authorized to be appropriated for the first fiscal year after this Act is enacted and for the next two fiscal years thereafter such sums as may be necessary to carry out this section, but the sums appropriated for any such fiscal year may not exceed $10,000,000.

AMENDMENT NO. 730

Mr. CASE. Mr. President, I call up my amendment No. 730, and ask for its immediate consideration.

The second assistant legislative clerk proceeded to read the amendment.

Mr. CASE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with, and that the amendment be printed in the Record at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. Case's amendment (No. 730) is as follows:

On page 33, immediately after the period in line 11, insert the following: "In designating recommended sites, the Administrator shall give preferences to locations beyond the edge of the Continental Shelf.".

On page 34, strike out lines 14 through 19.

On page 34, line 20, strike out "(d)" and insert in lieu thereof "(c)".

On page 35, line 9, strike out "(e)" and insert in lieu thereof "(d)".

On page 35, line 12, strike out "(f)" and insert in lieu thereof "(e)".

On page 35, line 19, strike out "(g)" and insert in lieu thereof "(f)".

On page 41, line 6, strike out the period and "Any" and insert in lieu thereof "unless such rule or regulation meets or exceeds the minimum requirements of this title. In addition, any".

On page 44, line 15, after "of" insert "monitoring and".

On page 44, line 17, strike out "from time to time" and insert in lieu thereof "on a semiannual basis".

On page 45, line 23, after "January" insert "and in July".

On page 46, line 2, strike out "fiscal year" and insert in lieu thereof "six months".

Mr. CASE. I further ask unanimous consent that the several amendments embraced herein be considered en bloc. I would be happy to have separate consideration of any that were desired.

Mr. HOLLINGS. Mr. President, let me make this observation: I have no objection to their being considered en bloc, but what we have here is language that "in designating recommended sites, the Administrator shall give preference to locations beyond the edge of the Continental Shelf."

Mr. President, I oppose this proposed amendment. I oppose it because it tends to diminish the discretion of the Administrator in selecting sites for ocean dumping, and because dumping beyond the edge of the Continental Shelf may, in some cases, do more damage to life in the sea and on the ocean floor than would dumping closer to shore in shallower waters.

Mr. President, written into the bill in section 102 are stringent criteria which the Administrator must meet in reviewing permit applications. Properly applied, these criteria will provide the Administrator with adequate information to minimize or eliminate any adverse impact that any given ocean dumping of materials might have. The Administrator must consider: first, the need for the proposed dumping; second, the effect of such dumping on human health and welfare, including economic, esthetic, and recreational values; third, the effect of such dumping on fisheries resources, plankton, fish, shellfish, wildlife, shorelines, and beaches; fourth, the effect of such dumping on marine ecosystems, particularly with respect to the transfer, concentration, and dispersion of such material and its byproducts through biological, physical, and chemical processes, potential changes in marine ecosystem diversity, productivity, and stability, and species and community population dynamics; fifth, the persistence and permanence of the effects of the dumping; sixth, the effect of dumping particular volumes and concentrations of such materials; seventh, appropriate locations and methods of disposal or recycling, including land-based alternatives and the probable impact of requiring use of such alternate locations or methods upon considerations affecting the public interest; and eighth, the effect on alternate uses of the oceans, such as scientific study, fishing, and other living resource exploitation, and nonliving resource exploitation.

These criteria undoubtedly would guide the Administrator in his designation of recommended sites for ocean dumping. But the effect of the Case amendment would be to tend to cut off his review of these criteria. And it seems to me wholly arbitrary for the Congress to give the Administrator discretion to apply criteria, based on scientific knowledge and careful monitoring, and then to nibble away at it by requiring him to give preference to sites beyond the edge of the Continental Shelf. The arbitrariness is compounded because we do not know sufficiently what is beyond the edge of the Continental Shelf. And that is the only basis—knowledge—on which we shall be able to deal effectively with ocean pollution. The amendment would tend to perpetuate the "out of sight, out of mind" philosophy on which we have been operating to date, and should be opposed.

This makes the duty on the Administrator a little tenuous. In Alaska, he could not consider any kind of permit unless it went out, under that mandatory directive, some 500 or 600 miles. The Senator has only to look at a map of the Alaska Continental Shelf to see what I mean.

We would not mind this being included as a part of the criteria, but to put in first the criteria section, and then later putting in this one, that the Administrator shall give preference to locations beyond the edge of the Continental Shelf, I think unduly burdens the Administrator. It is unrealistic, and does not give due cognizance to the fact that the Administrator, under the general provisions of the bill, must give consideration, before issuing a permit for the proposed dumping, to the effect of such dumping on human health and welfare, fisheries resources, plankton, fish, shellfish, wildlife, and marine ecosystems.

All of those things are being considered. We would not mind this as a consideration. But we do not want it as a mandatory provision that he has got to give preference to determining first whether it can possibly be dumped beyond the Continental Shelf.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. CASE. If I may first comment, I shall be happy to yield to the Senator from Alaska.

I appreciate the attitude the manager of the bill has taken, and it is not my desire to interfere with the work of the Administrator, or to make this the sole criterion by any means. My first concern is providing emphasis on and the direction of all our thinking to the fact that it is in the area near the shore, on the Continental Shelf, that most of the activity which we want to protect exists, that is, the breeding of fish and wildlife and all the rest, and where the danger of pollution and its effects undoubtedly will be found by the research contemplated by this bill to be most harmful.

It is therefore a matter of emphasis and direction of everyone's thinking, including particularly the administrator's thinking, toward the fact that we want to get at pollution where it is most harmful.

Mr. HOLLINGS. That is why we have included in the criteria that the Administrator must determine the effect of such dumping on fisheries resources, plankton, fish, shellfish, wildlife. All of that, as the Senator has indicated, occurs in breeding areas usually within 3 or 4 miles of the coastline, and those criteria are in there. But if when the Senator says "beyond the Continental Shelf" he means going out 70 or 80 miles, where there is no breeding and spawning——

Mr. CASE. Some places it is closer than that, and there is sensitivity to the close-at-hand places we are particularly concerned about in our part of the world.

But as to the suggested change, I am perfectly agreeable, with the colloquy we have had.

Mr. HOLLINGS. Would the Senator want to reward it, and put it in as a part of the criteria?

Mr. CASE. I will amend the amendment in that fashion, and appropriate language will be inserted.

The PRESIDING OFFICER. Will the Senator send his modification to the desk?

Mr. CASE. Yes, I shall do that in due course.

The PRESIDING OFFICER. The amendment is so modified.

Mr. CASE's amendment (No. 730), as modified, is as follows:

On page 32, after line 16, insert the following new subsection (I): (I) In designating recommended sites, the Administrator shall utilize wherever possible locations beyond the edge of the Continental Shelf.".

On page 44, line 15, after "of" insert "monitoring and".

On page 44, line 17, strike out "from time to time" and insert in lieu thereof "on a semiannual basis".

On page 45, line 23, after "January" insert "and in July ".

On page 46, line 2, strike out "fiscal year" and insert in lieu thereof "six months".

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. CASE. I yield.

Mr. STEVENS. I agree that the administrator should, wherever possible, utilize these locations beyond the Continental Shelf, but there are areas, such as Alaska, where it would be almost impossible to go beyond the Continental Shelf, and I would think, if we have an injunction to utilize areas beyond the edge of the Continental Shelf wherever possible, that that would meet the objections of the Senator from New Jersey, rather than requiring him to give preference to those areas. It is possible, in some areas of Alaska, to go beyond the Continental Shelf, but not very many. I would call that to the attention of the Senator from New Jersey. We have 65 percent of the areas off the coast of Alaska where it is not possible to go beyond the Continental Shelf.

Mr. CASE. I would suggest that the amendment we have already agreed to, taking away the effect of absolute priority, but rather to include it as an inclusion among the several criteria, would take care of the objection the Senator from Alaska has in mind.

Mr. STEVENS. Would it be possible, before the amendment is finally offered, for us to examine the language that the Senator has in mind? I particularly, for instance, would like to understand the reasons for striking out subsection (c) on page 34. This goes to another subject, but as I understand it, the Senator from New Jersey is objecting to the authorization to issue permits for transportation for dumping, or for dumping, or both, of classes of material that the administrator determines will have a minimal adverse environmental effect.

Keeping in mind the transitional period we are dealing with, I think that it would be almost impossible to live with that section. That was a very critical section, subsection (c) on page 34.

Mr. HOLLINGS. I would hope, Mr. President, if the Senator from New Jersey will yield, that the Senator will not insist on this one. This is a part of the proviso, as the Senator from Alaska has pointed out, that the Administrator shall have the authority to issue general permits.

Section 103(c) which Senator CASE's amendment would delete, authorizes the Administrator to issue general permits in connection with specified material or classes of material which are determined to have a minimal adverse environmental impact on the areas designated. The amendment would propose to delete that authority.

Mr. President, we have proceeded under this bill on the knowledge that all ocean dumping is not harmful. Some materials are highly toxic, and we have either banned the dumping of them or have set criteria on which permits could not be issued for such substances. But in other cases, materials are inert or have no known adverse impact on the marine environment. And there are nonproductive areas of the oceans into which they could be dumped without damage. The sea is not uniformly productive. Some areas are more comparable to deserts than to highly productive agricultural lands.

All that section 103(c) does is reduce the administrative burden for the Administrator and applicants in those cases where there are periodic or continuing dumping activities of materials that have little or no adverse environmental impact when dumped. I urge that this authority be retained.

Mr. CASE. Mr. President, will the Senator yield? I believe the Senator is talking on my time. Perhaps it does not matter.

I understand the purpose of the provision, in the first place, and the concern of the Senator from Alaska as well as the manager of the bill. I do not want to do anything that is silly.

On the other hand, I do not want the town of Nome, or whatever the place may be, to get a general permit to dump *x* pounds of sludge wherever it wants to, make no report, dump it anywhere it pleases, and do it with any waste material of that sort. The point is that I do want this under complete control, and I do not want the administrator, once he has issued a permit to anyone, to figure that he has done his job and does not have to follow up what is actually being done, get reports in precise detail of the amount of the stuff, and how often it is dumped. That is the purpose.

Mr. HOLLINGS. The general proviso is that they have to report at least once a year. He is given authority to keep it under constant review.

Mr. CASE. The administrator must make his report once a year.

Mr. HOLLINGS. That is right.

Mr. CASE. We must make it clear that we want him to keep an eye at all times on the people who get these permits so that he knows actually what they are doing.

Mr. STEVENS. I think we are entirely in accord with the Senator from New Jersey.

The preceding subsection authorizes the administrator to prescribe reporting requirements for actions taken pursuant to the permits, which would be periodic reports of those who have the permits, stating to the administrator what had been done under the permits. There is a further injunction to the administrator to periodically review the permits themselves.

We are in a transitional period. I think the prior amendment of the Senator from New Jersey indicates that we are working to study what is happening in the 5 years. Subsection (c), I think, would completely jeopardize the transitional aspects.

Mr. CASE. The Senator from New Jersey has no desire even to suggest, let alone put to a test, anything that is regarded as arbitrary or unreasonable. I will be happy to withdraw those two parts of the amendment and leave, however, as quite seriously offered, the last section—namely, the one dealing with the authority of the States. That is one about which my State is deeply concerned, because we have very strict statutory regulation of dumping; and the authorities in the State—the Governor and his administrator—are most anxious, as I am, not to see any impairment of that strict regulation.

I would suggest to the manager of the bill, if I may, that perhaps he might accept my suggestion here and then go to conference with the House, in case he wanted to work out some language—because the House bill contains some provision for Federal preemption—so that whichever is the stricter of the two regulations will clearly apply, and that people subject to the New Jersey law now will not be able, once this bill is passed, as surely it must be passed, to escape the New Jersey regulation.

The PRESIDING OFFICER. Will the Senator please send the modification to the desk? The clerks cannot follow it if they do not have the modification.

Mr. CASE. I will be happy to do so.

Mr. STEVENS. Could the Chair delay that? There may be further modifications.

Mr. HOLLINGS. I think we will have to have a little dialog here, which will give time to take the first two parts of the amendment that the Senator wrote and the parts that were stricken.

The PRESIDING OFFICER. The Chair has a problem. The Senate has already agreed to one amendment as modified, without the written modification. That still is not at the desk. So there is no way that the Chair can follow this question or that the clerks can do so, without the modifications, until we receive the modifications.

Mr. CASE. Mr. President, I suggest the absence of a quorum, so that the desires of the Chair may be accommodated.

The PRESIDING OFFICER. The Clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CASE. Mr. President, I ask unanimous consent that the order of the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CASE. Mr. President, I have sent to the desk a modified amendment and ask that it be stated.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk proceeded to state the amendment.

Mr. CASE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with and that the amendment be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, ordered to be printed in the Record, reads as follows:

> On page 32, after line 16, insert the following new subsection (I):
>
> "(I) In designating recommended sites, the Administrator shall utilize wherever possible locations beyond the edge of the Continental Shelf.".
>
> On page 44, line 15, after "of" insert "monitoring and".
>
> On page 44, line 17, strike out "from time to time" and insert in lieu thereof "on a semiannual basis".
>
> On page 45, line 23, after "January" insert "and in July".
>
> On page 46, line 2, strike out "fiscal year" and insert in lieu thereof "six months".

Mr. CASE. Mr. President, the manager of the bill, the Senator from South Carolina (Mr. Hollings), the Senator from Alaska (Mr. Stevens), and I have agreed on this amendment. It is satisfactory with us all. The only thing I want to do is to express my appreciation for the consideration of the Senators. While I have agreed to strike the provision, as I had it originally ready as to the preemption of State laws, I do want it understood that the bill is not intended, and as far as we are concerned, would not have the effect of taking away from New Jersey a particular right that it has under its statutes now. It would not preclude the barring of loading of ships in New Jersey. We are not precluding what the State does have a clear right to do.

Mr. HOLLINGS. Mr. President, I want to join in the concern of the Senator from New Jersey that we do not take any police power from the State or attempt to do so by legislation with respect to the State. Each State retains its control of dumping within its jurisdictional limits that is within the 3-mile limit.

The concern we had—which is now deleted—was when we had on page 41:

> No State shall adopt or enforce any rule or regulation relating to any activities regulated by this title.

We then went on to say in effect, "as originally proposed unless within the minimum standard." Inferentially we were saying to a State, "As long as you abide by the Federal standards, you can go ahead and legislate thereon to enforce standards equally as strong. And if the State wants stronger measures, we provide a way for those measures to be adopted by the Administrator.

The State does not have jurisdiction beyond the 3-mile limit. I do not think that by legislation we could give the States jurisdiction.

We wanted to clarify that matter. That is one point of confusion. The other point is the general criteria that the Senator from New Jersey pointed out were needed. That is, that wherever utilization is possible, the Administrator shall designate sites beyond the edge of the Continental Shelf.

Those are the two substantial changes. We deleted the amendment that would give the States any jurisdiction under this bill as to matters regulated by the bill. The intent again, as I said, is to make a start where the Federal Water Pollution Control Act Amendments of 1971 stopped, that is, beyond the 3-mile limit, and pick up there in this measure and have jurisdiction from the 3-mile limit on out on the global oceans.

Mr. CASE. Mr. President, I appreciate very much the Senator's statement in that respect. I point out that what I have said is meant to improve the difficulty with "transport," namely, the language on "transport" on page 29 of the bill.

Mr. HOLLINGS. Mr. President, the Senator from Alaska has a statement to make and then we will be willing to accept the amendment.

Mr. STEVENS. Mr. President, I thank the Senator from New Jersey for his modification. I am sure that wherever possible, consideration will be given to areas like Alaska where we have areas of 500 or 600 miles in talking about the possibility of using areas beyond the Continental Shelf in that light.

I am grateful to the Senator for having clarified that in terms of this very far-reaching bill. I think these are two substantial improvements to the bill.

Mr. CASE. Mr. President, I thank both Senators. I would be very happy to have a vote at this time.

Mr. HOLLINGS. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Jersey.

The amendment was agreed to.

Mr. CASE. Mr. President, for the record, I make the statement that I have agreed upon and incorporated in the first amendment I offered the change we were working on, and that it will so appear in the Record.

Mr. HOLLINGS. That will so appear in the Record. It will be limited to $10 million for each of the first 3 fiscal years after enactment.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. HUMPHREY. Mr. President, I do not have an amendment, but I want to comment on the bill. First I want to commend the distinguished Senator from South Carolina (Mr. Hollings) not only for this particular legislation, an act to regulate dumping of materials in the oceans, coastal, and other waters, but for his leadership in this body on the subject of marine resources and engineering development, commonly called oceanography.

It was my privilege for better than 2 years to serve as chairman of a body established by Public Law 89–454, known as Marine Resources and Engineering Development Council. It was established under an act of Congress in 1966, and I served as chairman of that Council as Vice President of the United States. I want to call to the attention of the Senate the work of that Council and the importance of its continuity.

In 1966, there was established a Commission on Oceanography, and also a Council on Marine Resources and Engineering Development. The commission made its study and reported to the President and Congress.

The Council, which was a form of organization to coordinate the activities of several offices of the Federal Government, continued to work under appropriation and has presented several reports to the President and Congress.

The distinguished Senator from Washington (Mr. MAGNUSON) was a prime mover in the establishment of both the Council and the Commission. I want to again commend him for his foresight.

The establishment of the Marine Resources Council was over the objection of the executive branch, as was the Commission.

These two initiatives came as a result of congressional action, without any counsel, advice, or encouragement from the executive branch of Government. I have always felt that the executive branch in previous administrations and now has been derelict in the field of oceanography.

The field of oceanography has a national security involvement. The Soviet Union has a tremendous program in the study of the oceans for purposes of national security, and for purposes of defense. It also has a tremendous program in terms of utilizing the oceans for purposes of food, for purposes of study of the environment, and a host of other activities.

It is only because this Congress and others before it have emphasized anything in the field of oceanography that we have a program.

I know the Senator from South Carolina (Mr. HOLLINGS), under the mantle of the Committee on Commerce, is giving us leadership in Congress in this field of oceanography and marine resources and sciences. It is a subject matter that is given all too little attention by Congress.

I suggest it relates not only to our national security, but it relates also to sources of food, and it relates to proper use of our estuaries, rivers, and coastal waters, the industry called fishing, and to the environment.

This particular bill before us is a basic environmental protection bill. I want to say, however, in order for this bill to be truly effective our Government must take the lead in international activities. We are imposing under this bill severe limitations and restrictions upon the disposal of waste by the people of the United States, the Government of the United States, industries, and other areas of our economy. The oceans are international waters.

We have read only recently of the Mediterranean Sea and how it is in danger of becoming a dead sea. We know, for example, that the so-called beautiful Blue Danube is a flowing sewer. We know the Rhine River has become actually a fire hazard. The Rhine River, because of oil slicks and other waste, is subject to becoming a fire hazard to the industries around it.

I commend the committee for its report. On page 16 of the report there is a section entitled "International Impact of This Legislation." I would hope we would look beyond it, not only from the environmental point of view, but the economic point of view because whatever restrictions we impose on ourselves will cost money, which is entirely proper, but I think we also have to understand that the European nations, in particular, have been using the oceans as a dumping ground, as an easy economical way of getting rid of industrial and human waste, and the oceans have currents, just like the rivers, as we know, so the debris and waste going into the oceans from Western European countries, Japan, and any industrialized nations, finds its way to the shores of this land, just as the debris and waste which we put in the oceans along our coast finds its way to London, Stockholm, and other parts of the world.

Of course, we are going to pass this act. This is a tremendous improvement in the environmental protection. It may be one of the most significant pieces of legislation because what happens in the oceans can affect everything on land. We know that a slight degress of change in temperature in the ocean waters can change the entire environment of a planet. Studies show this can be dangerous to plant and human life. Also, as the ocean floor is cluttered with debris and waste it affects life of the sea, and that life is very delicate and fragile.

So I urge on Congress that we put special emphasis on coordinating agencies of the Federal Government in the field of oceanography and marine resources. It is vital that this be done. I hope the President will activate the Marine Resources and Engineering Development Council. I understand it is in limbo now. This is unfortunate. That Council helped to write the Sea Bed Treaty which was ultimately passed by the United Nations. I had a hand in that, so I know something about it. Dr. Edward Wenk, who was a top technician from the Legislative Research Service of the Library of Congress, was staff director. He is an unusual man. He is presently a professor at the University of Washington in Seattle. He is one of the most competent men in his field.

My purpose is to commend the committee. I see my friend, the senior Senator from Washington (Mr. MAGNUSON), in the Chamber. We owe him a debt of gratitude for his foresight. Believe me, we do, just as we owe a debt of gratitude to Representative ROGERS from the other body, Representative LENNON, from the other body, and others who made contributions.

I have served with the Senator from South Carolina (Mr. HOLLINGS). I know he conducted seminars and studies in marine resources and development.

Having served for more than two and a half years as Chairman of that Council, I know of no more important work that could be undertaken by this Congress. The safety of this Nation may be involved. We are a maritime power. We have thousands of miles of coastline. In Alaska alone there are many thousands of miles of coastline. We have the Great Lakes, we have the coastal waters; we have a great stake in the resources of the ocean.

In terms of resources near our coast and the Continental Shelf we have a great stake but, as a maritime power, and we are basically a maritime power—let me make that clear—we should be studying the oceans with meticulous detail.

I believe there is a serious danger to the future of this country if we ignore the meaning and value in hidden secrets of the oceans, as a nation that has been proud of its Navy, as a nation that has been proud of its commerce. If we neglect this area, not only in terms of environmental protection, but also the economic resources and the scientific data which can be discovered, it will be at our peril.

So I rise to make these general observations, not as a theorist, but as one who has been deeply involved and who has made a good deal of study of this matter.

I have in my hand a document known as House Document No. 275, a report of the 90th Congress, second session, "Marine Science Affairs—A Year of Transition." It is a report of the President to the Congress on Marine Resources and Engineering Development. That report outlines what we attempt to do every year.

To show my colleagues the nature and complexity of this subject, may I point out that that Council consists of the State Department, the Department of the Interior, the Department of Commerce, the Department of Health, Education, and Welfare, the Department of Transportation, the Atomic Energy Commission, the National Science Foundation, the National Aeronautics and Space Administration, the Smithsonian Institution—which, by the way, pioneered this area—the Agency for International Development, the Bureau of the Budget, the Council of Economic Advisers, and the Director of the Office of Science and Technology. The respective Cabinet officers served on the Council, and I insisted, during my vice presidency, that the Cabinet officer be there, and not one of his underlings, because this is so important, it seemed to me, that we ought to give it priority attention.

Mr. MAGNUSON. Mr. President, will the Senator from South Carolina yield to me?

Mr. HOLLINGS. I yield.

Mr. MAGNUSON. I am glad I was on the Senate floor when the Senator from Minnesota made his statement. I have been involved in this subject for a long time. When we first started, I learned that there were 28 different departments and agencies dealing with the field of oceanography, the Navy being the biggest in the field. I became interested in it mainly because I come from a coastal State, and I realized the importance of all forms of oceanography. I come from a university that is steeped in the tradition of oceanography. It was the one university that gave a degree in oceanography for a long time. Now there are three or four. So I have a long background in this subject.

It has been a long struggle in the Government to get these matters together. In handling the space appropriation, I used to sometimes make the remark, less in jest than in seriousness, that we ought to have a Department of Oceonography like the Space Agency. I found that we know more about the back side of the moon than we know of three-quarters of the earth's surface. That is still true today. I do not depreciate the space program, but we should have had both going, because this subject is very important.

But we have finally come around and we have made a turnaround. That first happened when the Senator from Massachusets Mr. Kennedy, before he became President, and I tried to correlate these different efforts into the field of oceanography. The Senator from South Carolina (Mr. Hollings) has done yeoman work in establishing NOAA, and in other matters.

I would be somewhat derelict, knowing what has happened in this field, if I did not suggest to Senator Humphrey that when we finally had the Council, and when all these other matters were established, through the help of the Senator from Minnesota—and I believe it was my bill that established the Stratton Commission——

Mr. HUMPHREY. That is right.

Mr. MAGNUSON. Of which I was a member. I must say, in all frankness, that through the years there were many feuds and jealousies between the different departments as to who should be handling the program. I think we are piecing them together.

The Senator from Minnesota, when he was Vice President, never lost an opportunity that I know of to try to reach this objective. I think we have succeeded. When we total up all the appropriations, they are eight or 10 times higher in the field of Federal contributions than they were 10 or 12 years ago, or when President Kennedy and I started on this program. We first got involved in it when he was in the U.S. Senate because he came from Massachusetts and I came from the State of Washington. We both had fishery problems. We started to look at these problems together.

I think the Senator from Minnesota has done so much work on this matter that I would be derelict if I did not mention it to the Senate, and he has followed it through.

I am glad we have this bill. This is one facet. We are going to have hearings on the marine sanctuaries of the Senator from Wisconsin (Mr. Nelson), which will cover many other facets. We have been moving ahead.

Mr. HUMPHREY. Exactly.

Mr. MAGNUSON. We do not know much about the bottoms. We are going to have to rely on fish for supplying large quantities of protein to the world in the next 2 or 3 generations. There are enough fish in the oceans to take care of the protein needs of millions of people for a long, long time, if we just practice conservation in what we do.

Referring to defense purposes, we are going to have submarines that will be going down to 20,000 feet some day. What do we know about the pressures and the other problems connected with that?

I am so glad to have been here today, because this is an important facet of the whole problem, and to have listened to the Senator from Minnesota and to acknowledge the great work that the chairman of the Subcommittee on Oceans and Atmosphere is doing in this field. It is a many faceted problem. It is not an exact science, either; it is a combination of many things.

I want to mention one more thing and then I shall conclude.

Ten or 15 years ago there was hardly a youngster growing up in the United States who had any interest in pursuing oceanography. There may have been studies of fisheries in some schools, but very few knew anything about it and most did not have any interest in it. Now schools that provide teaching in this field have more applicants than they can take care of.

Mr. HUMPHREY. May I thank my colleague and say that this effort, which the Senator from Washington and others have been behind, has been a godsend in terms of marine resources study.

The Senator made the point of appropriations. May I say the appropriations are not only greater but are very well balanced. For the first time in the last few years we have had some relationship between the appropriations of different agencies and what the priorities are and how they are to be used, instead of doing it in a helter-skelter fashion.

My point is that I want to see the council's work continued so the executive branch can help us here in Congress better to do our job as legislators.

I ask unanimous consent that page 16 of the report under the heading "International Impact of This Legislation," be printed at this point in the Record.

There being no objection, the extract was ordered to be printed in the Record, as follows:

International Impact of This Legislation

The United States is presently proceeding with the negotiation of an international convention to deal with ocean dumping on a global scale. These negotiations are taking place in the forum provided by sessions of a working group preparing for the 1972 UN Stockholm Conference on the Human Environment. The present U.S. efforts would be materially aided by prompt passage of a separate ocean dumping act along the lines of H.R. 9727, as reported by the Committee.

Other negotiations on new environmental conventions also are underway in three different forums. Besides the ocean dumping topic, work taking place for the Stockholm Conference also covers proposals for a World Heritage Trust and protection of endangered species. The 1973 Law of the Sea Conference preparatory committees are examining the environmental aspects of seafloor mining and drilling activities. And the 1973 Intergovernmental Maritime Consultative Organization (IMCO) Conference will consider measures to control pollution from ships, including replacement of the 1954 Oil Pollution Convention with a more stringent set of provisions, and ship construction standards for carriers of oil and other noxious substances, which like Public Law 89–551 will be considered by the Committee on Commerce at such future date, if such international action is taken. Together, these efforts should culminate in a new second generation of environmental conventions, following on the first set of agreements relating only to oil spills negotiated through IMCO in 1969.

Most of the subjects now being discussed are important not only environmentally but economically as well. Since much of current economic concern stems from the relative competitive position of different nations in world markets, it is important to get as many nations as possible to impose like environmental restraints upon themselves.

At the moment, each of the subjects of the foregoing conventions relate to a matter which is traditionally a focus of international concern. Even though the U.S. draft convention did not reach into international affairs in the ocean dumping negotiations the U.S. has found that a number of eastern and western European nations are so concerned about this possibility that they have stated that they will resist any application of such a convention to such matters. Accordingly, the U.S. domestic legislation can promote international agreement by treating the subject of ocean dumping in international waters separately. By taking this route, the U.S. can tend to equalize our competitive position relative to European industry. A good part of European industry uses the sea as a dumping ground for wastes. Under the proposed U.S. draft convention these practices would have to change, resulting in a considerable economic impact.

Mr. HUMPHREY. Mr. President, I also ask unanimous consent that the transmittal letter from the National Council on Marine Resources and Engineering Development and an extract from the report be printed in the Record.

There being no objection, the letter and extract were ordered to be printed in the Record, as follows:

THE VICE PRESIDENT,
Washington.

THE PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I am pleased to forward the second annual report of the National Council on Marine Resources and Engineering Development entitled "Marine Science Affairs—A Year of Plans and Progress."

This report is an account of policies, programs, and accomplishments of the Federal Government for utilizing the oceans more effectively in meeting goals and aspirations of our Nation. The report highlights opportunities deserving special emphasis and details funding requirements for marine sciences included in your Fiscal Year 1969 proposals to the Congress. Finally, the report contains an evaluation of progress toward meeting public needs and identifies impediments to further advancements related to this Nation's stake in the sea.

During the past year the agencies of our Government, separately and collectively, have continued to develop a substantial base of research. And they have focused ideas, facilities, and manpower with a clearer sense of direction and priorities to:

Strengthen our economy by identifying new sources of food, fuel, and mineral resources; by encouraging innovation in marine technology; and by enlarging U.S. participation in the world's maritime activities;

Enhance the quality of urban living by arresting degradation and erosion of the shoreline, fostering urban waterfront development, and expanding water recreation opportunities;

Strengthen world understanding and security through international, cooperative marine endeavors, international legal arrangements to avoid potential conflicts, and an unexcelled naval capability to deter aggression;

Foster education and training of oceanographers, engineers, technicians, and those from other professions through collaboration with and assistance to our universities and technical institutes.

The Council has endeavored to clarify goals, to identify unmet needs and opportunties—especially those of concern to several agencies—and to meet urgent problems by encouraging constructive programs. We have provided guidance for implementing the marine science initiatives that you recommended to the Congress last year.

Finally, we have endeavored to utilize the high quality base of science and engineering within an institutional framework which will insure that new concepts can be translated effectively and promptly into practice—a framework that includes participation by State and local Governments, private industry, and the academic community.

The Council has selected several areas for additional emphasis in Fiscal Year 1969, and is recommending that we:

Inaugurate an expanded program of international ocean exploration;

Intensify our use of Food from the Sea in the War on Hunger;

Promote optimal use of the Coastal Zone with stress on Federal, State, and regional cooperation;

Prepare for improvements to our harbor and port systems;

Institute new measures to insure safety of life and property at sea;

Increase investments in manpower and research, including support of the Sea Grant College programs;

Foster marine applications of new technological developments such as spacecraft, deep ocean buoys, and automatic data processing;

Improve our capabilities to work in the deep oceans;

Expand Arctic and subpolar research;

Extend reconnaissance mapping of the Continental Shelf.

There have been many recent reminders that our task has only begun. The world population continues to grow while food supplies stretch thinner. The U.S. has slipped from fifth to sixth place among fishing nations. Oil slicks frequently wash ashore on our beaches. The need for new recreational opportunities becomes increasingly critical as our coastal cities expand and impose new demands on our limited seashores. And attempts by some nations to unilaterally abrogate the traditional freedoms of the seas have threatened long-standing principles of international law.

The Marine Resources and Engineering Development Act of 1966 established a clear mandate for this Nation to employ the sea, as we do the land, to meet the growing needs of our expanding population. I can report to you that with the full cooperation and support of all agencies we shall use our marine resources to respond to the challenge of the decades ahead.

This program is dedicated to the pursuit of excellence. It is proving how the power of science, transformed through our various institutions and the democratic process to a technology, may serve our Nation's diverse interests.

Sincerely,

HUBERT H. HUMPHREY.

A REPORT TO THE PRESIDENT FROM THE NATIONAL COUNCIL ON MARINE RESOURCES AND ENGINEERING DEVELOPMENT, FEBRUARY 1968

INTRODUCTION

America's involvement with the sea began when maritime explorers from Europe discovered and settled this new land. America's utilization of the sea began soon after. Our history reveals cycles of maritime interest and apathy, and today we are re-examining our stake in the oceans in a new context of modern science and technology.

The early seaboard colonies, with a hostile wilderness to their backs, depended for survival on a thread of logistic support 3,000 miles long. As a consequence, this Nation's founding fathers recognized the importance both of the concept of the freedom of the seas and of the necessity for expanding maritime programs and policies.

In the 19th Century we began to explore and develop a continent. Steam power replaced sail; the railroads replaced the pony express; and the people turned their attention to the opening of the West, strictly a land frontier. Interest in the oceans declined.

Only in the 20th Century, as the United States became a great world power, did the importance of the surrounding oceans and of seapower once again become evident. Two world wars demonstrated to the United States that it must have both a strong Navy and merchant fleet.

Since World War II, the Nation has become increasingly aware of the geography of economic and strategic competition, in which the oceans are the principal highways to world trade.

Man's involvement with the oceans is, however, far broader than national security and trade:

The oceans are the principal source of rainfall.

They help to stabilize our climate, for the seas gain and lose heat from the sun more slowly than the land.

They supply food of great variety, rich in protein.

The seabed contains abundant oil, gas, minerals, and precious metals.

The coastal zone is a major arena for rest and recreation and the nursery for marine life.

The entire marine environment serves as a gigantic laboratory of science.

In the middle 1950's, the Government requested a major review by the National Academy of Sciences to assess the importance of oceanography in peace and war. The resulting landmark study treated two important questions:

Should both naval and civil uses of the sea be expanded to help meet national goals and aspirations?

Is man's basic knowledge of the marine environment growing in proportion to his diverse requirements?

Answers to these questions were influenced by broad developments in economic and political affairs at home and abroad, and, after 1959, by specific developments in the marine sciences themselves. The United States had become ever more deeply concerned over the danger of conflicts and threats to world order. Simultaneously, advances in scientific research and space exploration had made man appreciate how little he knew of his natural world and impatient to apply science and technology, whenever possible, to the improvement of society.

In the maritime field, a new impetus occurred to explore and exploit the sea. First, a technological readiness began to emerge from broad advances in science and engineering. Next, important new international conventions provided a legal framework more conducive to orderly development of marine resources. Finally, over the past decade, the United States developed a high-quality fleet of research ships, supporting laboratory facilities, and a substantial body of scientific and engineering personnel.

Despite such evidence of progress in the oceans, the Nation remained undecided as to what fraction of its scientific and industrial resources should be devoted to marine science affairs.

In 1966, declaring that the public interest required a clear statement of national determination to utilize the seas and the Great Lakes more effectively, the Congress created a mechanism by which Federal marine science programs would have greater momentum and sharper direction.

It passed the *Marine Resources and Engineering Development Act of 1966, Public Law 89–454*.[1] This measure set forth an unprecedented national policy to intensify study of the sea and to convert to practical reality its inherent promise for man's benefit. It reaffirmed the leadership of the President of the United States in marine science affairs. It provided the President with two new instruments of assistance—a policy planning and coordinating Council at Cabinet-level chaired by the Vice President, and an advisory Commission of distinguished citizens to develop long-range recommendations.

As the Act recognized, scientific research, exploration, and development of resources in the oceans must be related to man's activities on land. Thus, while marine science goals, policies, and programs must be examined in terms of unique characteristics of the natural environment which they share in common, they must also be examined in relation to the social environment—the major goals of society and the Nation.

The Chairman of the Marine Sciences Council enumerated many of these relationships between the sea and society when he reported to the Congress that:

"There are one and one-half billion hungry people in the world. The full food potential of the seas, seriously neglected in the past, must be realized to combat famine and despair. Technologies now at hand can be directed toward increasing the world's fishing catch and enriching the diets of the underfed.

"Seventy-five percent of our population lives along our coasts and Great Lakes. Nine of our fifteen largest metropolitan areas are on the oceans and Great Lakes, and there are on ocean tributaries. Twenty million children live in these metropolitan areas within sight of potential water recreation areas but are often denied their use. Only three percent of our ocean and Great Lakes coastline has been set aside for public use or conservation.

"More than 90 percent by value of our intercontinental commerce travels by ship. Although there have been rapid changes in the character of ocean cargoes and technologies of cargo handling, the average age of our port structures is 45 years and the average age of our merchant ships is 19 years.

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[1] Following are some abbreviations and definitions generally used in the marine sciences field:

The Act is customarily called the *Marine Sciences Act*.

The National Council on Marine Resources and Engineering Development is usually abbreviated to the *Marine Sciences Council*.

The Commission on Marine Science, Engineering, and Resources is usually referred to as the *Marine Sciences Commission*.

Marine science is a term employed in Public Law 89–454 to describe scientific research, engineering, and technological development related to the marine environment.

The *marine environment* is considered to include the oceans, the Continental Shelf and estuaries of the United States and its territories, the Great Lakes, and the resources of the oceans and Great Lakes.

"The continuing threats to world peace require our Navy to maintain a high level of readiness and versatility through a sea-based deterrent and undersea warfare capability. Middle East conflicts following closure of the Gulf of Aqaba vividly emphasize the urgent need for a strengthened code of international law of the sea.

"Thirty million Americans swim in the oceans, eleven million are saltwater sport fishermen, and eight million engage in recreational boating in our coastal States. All these activities are threatened by the dumping of industrial wastes into ocean tributaries. This pollution will increase seven-fold by the year 2000 unless there are drastic changes in waste handling.

"Ocean-generated storms cause millions of dollars of damage annually along our coasts, but marine weather warning services are available to less than one-third of our coastal areas."

The first annual report to the President, entitled *Marine Science Affairs—A Year of Transition*, described initial efforts to respond to these challenges. It emphasized the transition from scientific oceanography to application of these scientific discoveries, and the transition from considerations largely at the program level to a new concern and responsibility at the policy level of Government. The phrase *marine science affairs* reflects the necessity of coupling marine science and technology to the publicly agreed upon needs and desires of our society.

During the past year, the agencies of the United States Government, separately and in collaboration, have made many accomplishments.

The transition to more effective use of the seas has been continued and accelerated.

This Second Annual Report to the President is entitled *Marine Science Affairs—A Year of Plans and Progress*. The first chapter outlines the Government-wide program and approach and highlights new developments. The next six chapters describe Federal programs in marine sciences that serve the following basic needs and national purposes:

Expanding international cooperation and understanding

Accelerating use of food from the sea

Encouraging development of non-living resources

Enhancing benefits from the Coastal Zone

Facilitating transport and trade

Strengthening military programs for national security.

The remainder of this report is primarily devoted to activities oriented to serve a variety of purposes, namely:

Understanding and surveying the ocean environment

Information management

Scientific research

Manpower: education, training, and facilities

Engineering in the ocean.

Each chapter sets forth priority areas in marine sciences recommended by the Council to the President and reflected in the President's budget for Fiscal Year 1969, now before Congress. To place these special areas in perspective, the report also discusses ongoing efforts and associated funding for the Government as a whole, with funding data delineated both by purpose and by agency.

Mr. HOLLINGS. Mr. President, I yield to the Senator from North Carolina.

Mr. ERVIN. Mr. President, I just want to say that North Carolina has two schools of oceanography, one at the University of North Carolina and one at Duke University. The Senator from Minnesota stated a moment ago that the River Rhine is now a fire hazard. I want to tell a South Carolina story that was once very funny, when the rivers of South Carolina were pure water.

South Carolina has always excelled in all respects, in the character of its Senators and also in the character of the liars it has produced.

In Darlington County they had one of the most gifted liars, who was known as Huckleberry Hart. He could tell a magnificient lie on any occasion, with the slightest opportunity or provocation. One day he was driving along the road, and one of his friends met him, and said:

> Huckleberry, tell us a lie.

He said:

> I will not do it. I haven't got time. And besides the Pee Dee River is on fire, and I have got to put it out.

That was before rivers became fire hazards, and while the rivers of South Carolina were still pure streams.

I commend the Senator from South Carolina for doing a most magnificent job for his country in the area covered by this bill. I believe he deserves the thanks of all the people of this country for his magnificent efforts in behalf of this measure. I thank the Senator very much.

Mr. HOLLINGS. I thank my colleague from North Carolina, and also the Senator from Minnesota and the Senator from Washington, the chairman of our committee.

Mr. President, I know the troops are restless. Thanksgiving is coming, and everyone wants to go.

Mr. JORDAN of North Carolina. Mr. President, will the Senator give me 1 minute?

Mr. HOLLINGS. I yield 1 minute.

Mr. JORDAN of North Carolina. I join with my colleague (Mr. ERVIN) in congratulating the Senator from South Carolina.

As Senator ERVIN has pointed out, we have two schools of oceanography in our State, one at the University of North Carolina, and one at Duke University. The one at Duke has a very large ship, which they use to go far out to sea and to foreign lands. North Carolina realized a long time ago that we have to take care, not only of our inland waters, but also of ocean waters, because shellfish is a big part of our industry in eastern North Carolina, along with regular fish, oysters, clams, and all those fish, just as it is in South Carolina. We set out to protect that industry a long time ago, and we have been doing a good job; and I congratulate the Senator from South Carolina on this fine piece of legislation.

Mr. HOLLINGS. I thank the Senator from North Carolina. I want to observe in commending our distinguished chairman, the Senator from Washington, that he has been working for 12 years on this subject. Our former Vice President, the Senator from Minnesota (Mr. HUMPHREY) was most active in the Marine Science Council, which brings me to the point of President Nixon's program.

Under the succeeding Vice President, the Marine Science Council did not even meet for more than 6 months before going essentially defunct, and I have been critical of the Vice President on that score. But President Nixon has initiated the National Oceanic and Atmospheric Administration. And I would only hope that the Nixon administration would ride on, and that they would realize we have a real program here, as evidenced by the colloquy we have had on this floor this afternoon.

Recently we passed a big public service employment bill, in the interest of getting everyone back on the job. When I asked, during the Appropriations Committee hearings, what they could do, I was told that they could clean up, they could pick up cans in the park, and work in the city halls and the Statehouses, when the fact of the matter is that we could have taken that billion dollars and several more and put it into the work of the National Oceanic and Atmospheric Administration, and used it to hire engineers, technicians, and others in this marine science field. That is the purpose of S. 1986, which I have introduced, and on which I hope we will act in the next session. I hope we can get a little cooperation from the people at the Office of Management and Budget and the White House. And, with the help of the Senator from Alaska, who has done an excellent job, I would hope we can have a very effective program.

The point of this is that the United States is a maritime power, but we are quickly becoming second class. The sea is essential to us for our national security, but we do not fund the ULMS adequately. The sea has a potential economic return far surpassing anything in space, but we appropriate only nickels and dimes, while thousands of scientists, engineers, and technicians are unemployed. The seas are dying according to Jacques Cousteau, but we have not done much to find out whether he is right or not. And if we wait much longer, we may not have the luxury of time to find out. Because if the oceans die, we die. I appreciate very much the remarks of the Senator from Minnesota and the chairman of the Commerce Committee. They are absolutely right about the need for a strong national oceanic program, and the bill we are acting on today is but one step in that direction.

I yield to the Senator from Alaska for the purpose of offering an amendment.

Mr. STEVENS. Mr. President, I call up an amendment which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> On page 27, lines 9 and 10, strike "and does not mean".
>
> On page 27, line 11, strike the period and insert in lieu thereof ", or organic fish wastes."

Mr. STEVENS. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, the purpose of this amendment is to exempt from the provisions of the act organic fish wastes, including such materials as meat, bones, scales and mollusk and fish processors, both floating and ashore, dispose of these items as residue and byproducts of their operations.

Mr. MAGNUSON. Will the Senator yield?

Mr. STEVENS. I yield.

Mr. MAGNUSON. I am aware that, although these materials are not utilized by the processors, they are quickly eaten by fish and other marine life. They contribute in no discernible way to oceanic pollution. In fact, many forms of marine life have come to depend upon such residue for their existence.

I was wondering, however, whether there is any pollution from such residue solids suspended in cannery waste water.

Mr. STEVENS. Recent studies in Alaska and British Columbia indicate only doubtful ecological benefits from reducing the biological oxygen demand—BOD—in cannery waste water. There appears to be no appreciable effect on oxygen levels in marine receiving waters.

Mr. MAGNUSON. Will this amendment affect the disposition of fish found to be unfit for human consumption and seized under authority of law by government officials?

Mr. STEVENS. No. It would have no effect on the disposition of such fish.

Mr. MAGNUSON. That brings up another point. This act will unnecessarily impose severe economic hardships upon many coastal processors, particularly in Washington, Alaska, and the Pacific Northwest, if such an exemption is not adopted.

Mr. STEVENS. Yes. To cite but a single example. One such company, Washington Fish & Oyster Co. headquartered in Seattle, but with significant operations in Kodiak and Wrangell, Alaska, and employing many people in my State, wrote me nearly 2 years ago on this subject. They indicated that individual salmon canneries and small communities do not have the financial resources available to comply with such laws economically. Prohibitions against oceanic discarding by small processors may mean that salmon cannery operations as presently conducted will virtually cease to exist, the cost will be so great. They said, and I quote part of their letter:

> Salmon, unlike our other sea products, die and decompose immediately after spawning. Their life cycle is complete *except for furnishing the fingerlings with the necessities of life made available by the decomposition process*. Salmon cannery waste is essentially the same product reduced to smaller pieces that is normally put into the same waters by the spawned out fish. In some areas it is necessary to add artificial food to bring the cycle back to balance when the food levels are depleted due to successive years of poor spawning.
>
> "It appears that continuation of the resource needs this waste food and if it is not available then some other food, not natural to the waters, will have to be provided by man.
>
> "Why spend money to remove this food only to spend more money to replace it? I'm not against pollution control but feel the requirements of this resource are unique and totally unlike mining, logging, manufacturing, etc. Nothing is being added to the sea that would not be there if the industry did not exist.
>
> "In Kodiak we anticipate 24 million Pink Salmon during the months of July and August, 1970. If no fishery operates, all 24 million fish will die in the streams and bays by October, 1970. A normal Salmon operation would result in about 40 million pounds less decaying Salmon solids than if no operations exist.
>
> "I feel Alaska Salmon processing operations should be treated accordingly and separately when final pollution controls are put into effect.

This letter, which I have retained in my files, was dated November 25, 1969 and signed by W. C. Hingston, president of King Crab, Inc., of Kodiak, Alaska, and vice president of Washington Fish and Oyster Co.

Mr. MAGNUSON. You can see how important this amendment is for the economic well-being of our States which are so heavily dependent upon fishing. As that letter indicates, nothing is being added to the sea that would not be there if the fishing industry did not exist. They are just returning to the sea what came from it. I urge that the amendment be adopted.

Mr. STEVENS. I thank the distinguished chairman very much for clarifying the purposes and effects of this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska.

The amendment was agreed to.

Mr. HUMPHREY. Mr. President, will the Senator from South Carolina yield?

Mr. HOLLINGS. I yield to the Senator from Minnesota.

Mr. HUMPHREY. Mr. President, I have just been advised by legislative counsel that the law which established the Marine Science Council has expired, on June 30 of this year. I say that this is a regrettable development. That Council could be of great help in the proper programing of the resources of the Federal Government. I know it can be effective in doing a job that needs to be done in coordinating and broadening the work of these agencies of the Federal Government to do the job that they ought to do in conjunction with State and local governments and private industry, and in international areas.

I shall not offer any amendment here today. I merely suggest to the committee chairman and to the subcommittee chairman that we look into this matter. It was a very economical operation, and frankly, it does not need any additional appropriation; it can be funded out of the executive office itself. But I believe we need it.

Mr. HOLLINGS. Mr. President, if the Senator will yield, we do have a Federal interagency coordinating committee with the Administrator of NOAA himself chairing that committee, and it takes the place of the Marine Science Council. The Senator's point is well taken; we were trying to continue the function but we wanted to avoid duplication. I would only hope, as a result of the Senator's observation, that coordinating can continue along that line.

Mr. HUMPHREY. Mr. President, I respectfully suggest to the distinguished Senator from South Carolina, who in his work in this field has so well covered it, that at the appropriate time, the subcommittee of which he is chairman look into this matter to see whether or not that coordination is under way and is truly sufficient, and doing the job of long range planning that needs to be done as well.

Mr. HOLLINGS. I thank the Senator.

Mr. President, I ask unanimous consent that the amendment of the Senator from Vermont (Mr. AIKEN), which was to page 26, line 26, reading "and connecting waters" should read "and its tributaries and connecting waters," so that there will be no misunderstanding. I ask unanimous consent that it read in that fashion.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment of the Senator from Vermont (Mr. AIKEN), as modified, is as follows:

> On page 26, line 26 strike the second "and" and the period at the end of the line and add "and its' tributaries and connecting waters"

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

Mr. STEVENS. Mr. President, I commend the chairman of the subcommittee for his actions. This bill deals with the area beyond the 3-mile limit. We have already dealt with the water pollution subject that came from the Committee on Public Works, and the area within the 3-mile limit off the United States.

This is probably the most far-reaching bill we have dealt with in terms of this ocean dumping bill, and it is a significant contribution.

As has been pointed out today, my State has 56 percent of the coastline and 65 percent of the Outer Continental Shelf more directly affected by this bill than any other State in the Union. We support it wholeheartedly as a way to prevent pollution from coming to our great north country, and we hope it will combat the pollution in what we call the South 48.

Mr. HOLLINGS. Mr. President, it is a distinct privilege to work with the Senator from Alaska (Mr. STEVENS) on this measure. We have worked together, we have traveled together, and we have conducted most of the hearings together.

As he has indicated, his State represents more than 50 percent of the coastline of the United States. He has done an outstanding job, without question.

Mr. BOGGS. Mr. President, I wish to express my strong support for the Senate version of H.R. 9727, the Marine Protection and Research Act of 1971. This is legislation that will effectively regulate the dumping of pollutants into the oceans off the United States.

As my colleagues have noted, this legislation was reported by the Committee on Commerce with the concurrence of the Committee on Public Works. Such concurrence was necessary because the Committee on Public Works holds responsibility for legislation that affects the disposition of pollutants, while the

Committee on Commerce holds responsibility for matters relating to ocean transportation and basic oceanographic and marine research.

This legislation, S. 9727, is essential if our Nation is to have an effective total program for environmental enhancement. Without control over ocean disposal of wastes, we could not assure pollution abatement for our Nation.

Three weeks ago, the Senate adopted amendments to the Federal Water Pollution Control Act by a vote of 86 to 0. These amendments would control pollution anywhere within the 3-mile territorial sea of the United States, as well as by any outfall pipe into the ocean.

For the information of my colleagues, I ask unanimous consent that the report language dealing with ocean dumping from the Senate report on the Federal Water Pollution Control Act amendments be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BOGGS. Those advances could be lost unless disposal of wastes by vessels beyond 3 miles is effectively controlled. The control system established in title I of the bill should prove a fair and effective one. It requires the issuance of permits by the Environmental Protective Agency for any dumping of wastes, a system and a criteria similar to that established under EPA for waters within 3 miles.

The Senate Subcommittee on Air and Water Pollution held a very informative and helpful hearing on the problems of ocean dumping in Rehoboth Beach, Del., on March 26, 1971. During the daylong hearing, the subcommittee took testimony from numerous witnesses pointing out the danger of unregulated ocean dumping.

For example, sewage sludge from municipal waste treatment plants is dumped by barge regularly about 12 miles outside the entrance to Delaware Bay. This dumping has caused the closing of the area to shellfishing, and thus hampered the local fisheries industry.

In addition, there is a danger that eventually this sludge, or other forms of dumping, could endanger local recreational beaches in New Jersey or Delaware.

A permit system established by H.R. 9727 would allow dumping only if it can be shown that the disposal will not "endanger human health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities."

I urge my colleagues to support this important bill. I believe it is an essential component of any full and effective national environmental enhancement program.

EXHIBIT 1

SENATE REPORT 92-414: SECTION 403—OCEAN DISCHARGE CRITERIA

This section sets standards under which a permit can be issued for a discharge of pollutants into the territoral sea, the contiguous zone, or the ocean.

The Administrator shall establish guidelines on the effect of disposal of pollutants on human health and welfare, on marine life, and on recreational and economic values, as well as guidelines for determining the persistence of the pollutant and other possible locations for its disposal.

The Committee on Public Works has exclusive jurisdiction over legislation affecting the discharge of pollutants into the navigable waters of the United States. This includes territorial seas of the United States, which under present law, is a band of the oceans extending in most States three miles from the shore. In addition, the Committee has exclusive jurisdiction over the discharge of pollutants from any facility located within States through a pipeline into any part of the oceans including the contiguous zone or beyond. The Committee has established a regulatory framework to control the discharge of pollutants into the navigable waters and from pipelines beyond the territorial seas in Sections 301, 402 and 403. The framework is in concert with the ultimate objective of the Act to eliminate the discharge of pollutants.

The Committee shares equally jurisdiction with the Senate Commerce Committee over the disposal of pollutants from vessels beyond the territorial seas. Both the Committee on Public Works and the Commerce Committee have had before them several bills which would create a regulatory scheme to control the discharge of pollutants from vessels beyond three miles. Both Committees have held hearings on the subject of ocean degradation. There can be no doubt that there is presently serious deficiency that exists in present law that must be repaired if this Nation is to lead in protecting the quality of the ocean.

In order to expedite the legislative process, the Committee on Public Works and the Committee on Commerce have jointly agreed on a bill to provide the regulatory framework to control the dumping of pollutants from vessels into the waters beyond the territorial seas. It has been further agreed that this provision will be contained in a bill to be reported from the Commerce Committee with the concurrence of the Committee on Public Works as to those portions on which there is a joint agreement. The basic outline of the bill would provide the Administrator of the Environmental Protection Agency with authority to control all dumping of pollutants from vessels beyond three miles to twelve miles to control discharge of pollutants from vessels beyond 12 miles wherever such pollutants are generated in the territorial jurisdiction of the United States.

Coupled with the provisions in the bill reported by the Committee on Public Works, the bill to be reported from the Commerce Committee should enable the United States to have complete and integrated regulation of the disposal of pollutants into all waters and over all sources of pollutants subject to its jurisdiction. It is expected that the leadership so exercised by the United States will be the model for other nations and should in a short time produce the framework for international agreement over the protection of the oceans.

The disposal of pollutants into ocean waters is regulated under this bill when it involves a discharge from any outfall beyond the shoreline of the United States or any discharge into the territorial sea from a vessel. Under a bill to be jointly reported by the Committee on Public Works and the Committee on Commerce, the discharge of pollutants from vessels into the waters of the contiguous zone and the oceans would be regulated.

Under section 403, no discharge into ocean waters would be allowed, except in compliance with the criteria established under this section. The Federal role in establishing conditions on any permit for discharge into ocean waters could not be waived. In subparagraph (c) (1) (A) of the section, the contamination of marine organisms or waters which prevents the harvesting of sea food that is safe to eat, the use of oceans for recreation, or its use as drinking water after desalination, among other things, would be recognized as detrimental to human health or welfare.

The ocean's waters are in constant circulation, so that any discharge beyond any arbitrary limit, such as 3 or 12 miles, may reach the beaches of the United States. Thus, in considering discharge effects, the Administrator must consider the effect that the discharge may have elsewhere on the integrity of marine systems.

In subparagraph (c) (1) (G) the Committee wishes to emphasize the need to preserve the ocean in as natural a state as possible at least until we understand its tolerances and characteristics, so that discharges permitted today will not irreversibly modify the oceans for future uses. Any discharge which would so alter the ocean's character that scientific study of that feature of the ocean is forever destroyed would seem to the Committee inconsistent with the objective of maintaining the integrity of the Nation's coastal waters, which constantly circulate with waters in the open ocean. For example, discharge of a harmful pollutant at 15 miles may migrate into the coastal zone region, killing large numbers of one or more species, altering the character of the marine ecosystem characteristic of the coastal zone, and preventing study of the zone's natural features before alteration by man's discharges.

Mr. ROTH. Mr. President, I support the pending bill.

The people of my State are vitally concerned with the effects that unlimited and unregulated dumping in the oceans can have on our shoreline and, in turn, on our economy. We are concerned with the disastrous effects it can have not only on our shoreline as we consider it for recreational purposes, but also for the disastrous effects it has, for example on the shellfish industry on which many of our citizens depend for a living. And we are concerned, in the larger sense, with the effects that indiscriminate ocean dumping can have on marine life which does not directly relate to the economy of my State.

The recent report of the Council on Environmental Quality made it perfectly clear that there is a critical need today for a national policy on ocean dumping.

For that reason, I was pleased to join many other Senators earlier this year in sponsoring legislation (S. 1238) to prevent harmful ocean dumping. This bill essentially would permit the U.S. Government to regulate what is dumped into the oceans insofar as the material to be disposed of originates in the United States, by requiring permits to transport material to be dumped.

The enactment of this legislation will be a significant step toward alleviating a potential crisis in our oceans insofar as the Federal Government is concerned, I believe it to be most important that complete authority to regulate and manage the disposal of waste in the oceans be vested in one agency and that agency should be the Environmental Protection Agency, whose primary mission is to protect and enhance our environment. Fairness and efficiency demand that our municipalities, as well as industry, should have to deal with only one Federal agency rather than a multiple of agencies in processing applications for disposal of wastes at sea.

I do, of course, have a particular interest in the immediate effects ocean dumping has on my State of Delaware and I know it is a concern which is shared by all of us.

I believe the bill is of vital importance, not only to the coastal States most immediately effected, but to everyone who is concerned about the protection of our environment.

I wholeheartedly support the bill.

Mr. COOPER. Mr. President, the bill before the Senate today, H.R. 9727, The Marine Protection and Research Act of 1971, is a necessary complement to the bill recently passed the Senate to amend the Federal Water Pollution Control Act, S. 2770. In what I believe is an outstanding example of the legislative process, the Committee on Public Works and the Committee on Commerce have acted together to grant authority to the EPA to provide for the comprehensive and integrative control of the discharge and dumping of pollutants into the waters of the oceans.

The chairman of the Committee on Public Works, Senator Randolph, and the chairman of the Committee on Commerce, Senator Magnuson, and the ranking member of the Committee on Commerce, Senator Cotton, deserve special commendation for their unusual manner in which the committees have acted.

As stated in the report of the Committee on Commerce accompanying H.R. 9727, the Committee on Public Works concurs in the provisions of H.R. 9727 to regulate the dumping of pollutants in the oceans beyond 3 miles. I would like to point out that the bill, S. 2770 the 1971 amendments to the Federal Water Pollution Control Act controls the addition of pollutants to the waters within the 3-mile limit, as well as all discharges beyond the 3 miles where such discharge occurs through outfall structures. Together the bills would provide comprehensive framework to regulate the discharge of all pollutants which are generated within the territorial jurisdiction of the United States. In addition, the bills set forth essentially the same criteria for guidance to the Administrator in the exercise of his regulatory authority.

I am especially interested in the problems of the discharge of pollutants into the ocean, Mr. President, for in addition to serving on the Committee on Public Works, I serve on the Committee on Foreign Relations where the international implications of the problems related to the environment are becoming of paramount importance. I believe it is especially appropriate for the United States to take very progressive and forthright action to regulate the discharge of pollutants which are generated within its territorial boundaries as they affect the oceans. This Nation, along with the other nations of the world is preparing for the 1972 United Nations Conference on the Environment to be held in Stockholm, Sweden. One of the primary issues before that Conference will be degradation of the world's oceans.

The action the Senate takes today, along with the action it took on the bill S. 2770—actions, I am confident, that will be supported by the House of Representatives—will be an exercise of leadership which will provide example to the other nations of the world. The actions the United States takes today are not self-serving, the protection of the oceans is a matter which is important to all mankind.

I compliment the administration and the Congress for acting together in taking such a vital step in establishing environmental quality.

Mr. President, the provisions of the bill H.R. 9727 and the appropriate portions of the bill, S. 2770 together will conform basically to the recommendations of the administration as contained in the bill, S. 1238, introduced by Senator Boggs as part of the President's environmental package. The bill S. 1238 would implement the report of the Council on Environmental Quality on Ocean Dumping. The President deserves special commendation for his leadership in recognizing the importance of regulating the discharge of pollutants into the ocean and recommending to the Congress appropriate legislation. I think the bill before the Senate today implements the basic elements of the President's proposal.

The control of the environmental impact resulting from the maintenance of navigation is one of the most difficult problems of environmental quality. It is essential to have a uniform plan of regulation in control of dredging if we are to avoid uncertainty and recrimination that will serve no ones interest. I believe the provision concerning dredging was worked out through the efforts, among others, of Senator Randolph, Senator Muskie, Senator Boggs and Senator Ellender is sound and fair.

I therefore hope that the Senate conferees will insist on retaining the provisions first adopted in the Senate passed Federal Water Pollution Control Act.

I also congratulate the Senator from South Carolina, Senator Hollings, for his fine work in the development and management of the bill and Senator Stevens who has labored to protect his State and all the United States.

WE MUST PROTECT THE OCEANS

Mr. RANDOLPH. Mr. President, the oceans which cover vast areas of the globe are perhaps man's greatest natural resource. Since the dawn of time man has utilized the seas as a source of food, as a means of transportation and, regrettably, as a dumping place for his wastes. The seas have, on occasion, been worshipped as gods, but they have not always been treated with the respect due a diety.

It is late, but I am glad we have realized that the oceans, for all of their great expanse, cannot be subjected to endless abuse. It is also gratifying that the United States, among the nations of the world, is taking the lead in establishing controls over use of the oceans. We are demonstrating good world citizenship in regulating the dumping of materials into the oceans.

We know that the oceans are the one great world resource and that the abusive actions of one nation can seriously affect people everywhere.

Mr. President, the bill before the Senate was developed by the Committee on Commerce and was concurred in by the Committee on Public Works which shares jurisdiction in this area. This distinguished Senator from Washington (Mr. Magnuson) who chairs the Committee on Commerce has provided leadership. The Senator from South Carolina (Mr. Hollings) is a leading advocate of effective controls over ocean dumping and made valuable contributions to the measure before us.

A special commendation has been earned by the Senator from Tennessee (Mr. Baker) who is the only Senator who is a member of both the Commerce and Public Works committees. In this role he provided liaison between the two bodies so that each was fully aware of the work and viewpoints of the other.

Mr. President, the Federal Water Pollution Control Act Amendments of 1971 contains provisions for control of ocean dumping under certain circumstances. These provisions and those of the measure now before the Senate were coordinated to be compatible with the jurisdictions of the two committees and to provide complete controls over ocean dumping. The Senator from Kentucky (Mr. Cooper) has discussed this aspect of the legislation fully and I concur with his observations.

Recent Senate passage of the Water Pollution Act was an important step in strengthening control over the misuse of the oceans. This control cannot be complete, however, without enactment of H.R. 9727.

Mr. GURNEY. Mr. President, I should like at this time to make clear my support for the pending legislation, H.R. 9727. Coming from the State of Florida with its 13,058 miles of coastline potentially affected by ocean pollutants the provision of this bill regulating ocean dumping are exceptionally important to me.

Of particular note is the provision which would ban the transportation and dumping of radiological, chemical, or biological warfare agents or high-level radioactive wastes in our oceans. I say of particular importance because, if you recall, only a year ago despite the firm protests of many of us, the Department of the Army dumped some 65 tons of liquid nerve gas off the coasts of South Carolina, Georgia, and Florida. Fortunately, no side affects have occurred from that dumping up until this point in time. However, possible dangers still exist, and dangers from future actions of this sort exist as well.

While the bill does permit the authorization of exceptions to this overall prohibition, the restrictions involved in obtaining a permit for such dumping would be a significant improvement over the present situation.

Another provision worth mentioning is that present license and permits authorizing the performance of such actions as dumping or dredging and filling have not been grandfathered in. I think that this provision is important. I think it is necessary that a review be made not only of future actions of this nature but of presently approved actions if we are to maintain some semblance of environmental protection.

The practice of ocean dumping has, of course, been with us for quite awhile. After all, what are the famed canals of Venice but open sewers. The Norwegian explorer and scientist, Thor Heyerdahl in describing his trip from Egypt to the New World on a papyrus raft quite graphically pointed out the fact that not only are inland waters polluted but the very Atlantic Ocean itself has become a sea of refuse.

Thus, we see that ocean dumping has been with us since early time. Doing something about this ocean pollution is long overdue, and the Nation will unanimously applaud the passage of this bill.

I should like to also commend title II of the pending bill dealing with comprehensive research on ocean dumping. We have neglected such research far too long and know far too little about the possible long-range affects of pollution, overfishing, and man-induced changes of ocean ecosystems. It is my hope that this legislation will help, and help rapidly, correct this situation.

Mr. President, I do not mean to indicate that I believe that the pending legislation regulating ocean dumping is the absolute answer to our increasingly serious problem of ocean pollution. What I do mean to indicate is, that I believe that it represents an important and significant step toward rectifying environmental imbalances that have resulted from centuries of ignorance and neglect.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. McGOVERN), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PASTORE), the Senator from Missouri (Mr. SYMINGTON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Louisiana (Mr. LONG), and the Senator from Wyoming (Mr. McGEE) are necessarily absent.

I further announce that the Senator from Illinois (Mr. STEVENSON), the Senator from Georgia (Mr. TALMADGE), and the Senator from Idaho (Mr. CHURCH) are absent on official business.

I further announce that if present and voting, the Senator from Rhode Island (Mr. PASTORE), the Senator from Illinois (Mr. STEVENSON), and the Senator from Massachusetts (Mr. KENNEDY), would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Ohio (Mr. SAXBE) is absent on official business.

The Senators from Tennessee (Mr. BAKER and Mr. BROCK), the Senator from New Hampshire (Mr. COTTON), the Senator from Colorado (Mr. DOMINICK), the Senators from Arizona (Mr. FANNIN and Mr. GOLDWATER), the Senator from Hawaii (Mr. FONG), the Senator from Illinois (Mr. PERCY), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

Also, the Senator from Utah (Mr. BENNETT), the Senator from New York (Mr. JAVITS), and the Senator from Ohio (Mr. TAFT) are necessarily absent.

If present and voting, the Senator from Hawaii (Mr. FONG) would vote "yea."

The result was announced—yeas 73, nays 0, as follows:

[No. 399 Leg.]

YEAS—73

Aiken
Allen
Allott
Anderson
Bayh
Beall
Bellmon
Bentsen
Bible
Boggs
Brooke
Buckley
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Case
Chiles
Cook
Cooper
Cranston
Curtis
Dole
Eagleton
Ellender
Ervin
Fulbright
Gambrell
Gravel
Griffin
Gurney
Hansen
Harris
Hart
Hartke
Hatfield
Hollings
Hruska
Hughes
Humphrey
Jackson
Jordan, N.C.
Jordan, Idaho
Magnuson
Mansfield
Mathias
McClellan
McIntyre
Metcalf
Miller
Mondale
Montoya
Nelson
Packwood
Pearson
Pell
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott
Smith
Sparkman
Spong
Stafford
Stennis
Stevens
Thurmond
Tower
Tunney
Williams
Young

NAYS—0

NOT VOTING—27

Baker
Bennett
Brock
Church
Cotton
Dominick
Eastland
Fannin
Fong
Goldwater
Inouye
Javits
Kennedy
Long
McGee
McGovern
Moss
Mundt
Muskie
Pastore
Percy
Saxbe
Stevenson
Symington
Taft
Talmadge
Weicker

So the bill (H.R. 9727) was passed.

The title was amended, so as to read: "An act to regulate the transportation for dumping and dumping of material in the oceans, coastal, and other waters, and for other purposes."

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical corrections in the engrossment of the bill, and that the bill be printed as passed.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILLS

Messages in writing from the President of the United States were communicated to the Senate by Mr. Leonard, one of his secretaries, and he announced that on today, November 24, 1971, the President had approved and signed the following acts:

S. 389. An act for the relief of Stephen Lance Pender, Patricia Jenifer Pender, and Denese Gene Pender;

S. 2216. An act to amend the Investment Company Act of 1940, as amended; and

S. 2339. An act to provide for the disposition of judgment funds on deposit to the credit of the Pueblo of Laguna in Indian Claims Commission, docket numbered 227, and for other purposes.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. GAMBRELL) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on the Judiciary.

(The nominations received today are printed at the end of Senate proceedings.)

ECONOMIC STABILIZATION ACT OF 1971

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 493, S. 2891. I do this so that the bill may be the pending business.

The PRESIDING OFFICER. The bill will be stated by title.

The ASSISTANT LEGISLATIVE CLERK. S. 2891, to extend and amend the Economic Stabilization Act of 1970.

The PRESIDING OFFICER. Is there objection to the consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. MANSFIELD. Mr. President, there will be no debate on the pending measure, which is Phase II of the President's economic program. However, it will be the pending measure upon our return next Monday.

As I see the distinguished chairman of the committee in the Chamber, let me say that it is quite possible the debate will get underway sometime after the Senate comes in and before the votes on the two amendments and the one protocol to which the Senate has agreed to previously as to time.

Mr. SPARKMAN. Mr. President, if I may ask the Senator, did the leader say before?

Mr. MANSFIELD. In view of the changes in the situation with the votes occurring at 1 o'clock p.m. rather than at 11——

Mr. SPARKMAN. I did not realize that——

Mr. MANSFIELD. That we may get started on the consideration——

Mr. SPARKMAN. Yes, I understand. I notice there is to be a period for the transaction of routine morning business for 30 minutes. Would it be agreeable to have a quorum call at that time in order that we may have enough notice to come over here.

Mr. MANSFIELD. Oh, yes, indeed. I think that is wholly proper. We will do our best to keep in touch with the distinguished chairman of the committee who will manage the bill and the distinguished ranking minority leader, the Senator from Texas (Mr. TOWER), at all times.

PROGRAM

Mr. MANSFIELD. Mr. President, for the information of the Senate, when above bill is disposed of, and I hope it can be disposed of within 2 days—but I would not guarantee it—it would be the intention of the joint leadership to call up the nomination of Mr. Earl Butz, to be Secretary of Agriculture. And hopefully that could come on a Wednesday or Thursday. Following that the two nominations to the Supreme Court will be called up, marking, I would assume, the end of the first session of the 92d Congress. However, in the meantime conference reports will have a preferred status. The appropriations bills still to be considered, the supplemental and the District of Columbia appropriation bill, will be brought in where the opportunity offers.

What will happen to the conference report on the foreign aid bills, I do not know. However, the conferees meet again on Monday. Hopefully everything can be resolved so that we can adjourn sine die at the end of next week. No one should venture the hope. It will take a good deal of accommodation and understanding on the part of Senators to achieve that worthwhile goal.

Mr. BURDICK. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. BURDICK. Mr. President, would the majority leader consider setting the votes on the treaties over until 2 o'clock instead of 1? Many of us come from the West and have bad connections.

Mr. MANSFIELD. The majority leader is in a difficult position. I understand the Senator's desires, coming from the same part of the country. However, I have developed a great deal of confidence in the efficiency of the Northwest Airlines lately. I hope that they can get the Senator here in time.

The reason that I had hemmed and hawed was that I had originally set the vote at 11 o'clock, and because several Senators could not get here at that time, it was changed to 1 o'clock. Since that time a distinguished Member of this body has indicated that he had set his schedule on an 11 o'clock basis and could not accommodate it to the 1 o'clock time. So, no matter which way we turn, we lose. I hope the Senator will be able to get here. Let us try. It is tough, but maybe providence will be smiling on the Senator that day.

Mr. MONDALE. Mr. President, how much time will be allotted on the Butz nomination?

Mr. MANSFIELD. That would be up to the Senate. I would anticipate a full day. However, it could be longer or shorter. The collective will of the Senate will decide.

Mr. SPARKMAN. Mr. President, will the distinguished Senator yield for a moment?

Mr. MANSFIELD. I yield.

Mr. SPARKMAN. Mr. President, as far as I am concerned, I would be perfectly willing to work out time limitations on the bill. However, the Senator from Texas is not here at the moment. However, I am sure that he would be willing to work out an agreement.

Mr. President, this is a rather complex measure. It has a great many matters in it that are more or less technical and may require considerable discussion. There may be some amendments offered to it. I do not know of any. I think it is a good bill as it is. It was reported unanimously by the committee. However, I call attention to the fact that the House committee has not completed action on a companion measure. They will take it up in the committee on Tuesday.

I am quite sure that there will be differences between the two committees. I do not know how difficult the conference will be on it. I hope that it will not be very difficult. However, I assume that it is desired that this legislation be completed before sine die adjournment.

Mr. MANSFIELD. Yes, indeed. I would hope that it would take no more than 2 days to complete the consideration of the pending business and dispose of it. However, I may be sanguine on that. We will have to roll along and do the best we can in view of the circumstances which exist at a given time.

Mr. SPARKMAN. Mr. President, the House, of course, will be operating under a rule which will set a time. I am sure that we can get to conference quickly, and I hope that we might resolve our differences quickly. I wanted to put the Senate on notice as to the situation.

Mr. MANSFIELD. Mr. President, I hope that the Senators would consider the possibility of a time limitation on the bill come Monday.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. BAYH. Mr. President, I was impressed by the analysis of the distinguished leader of the workload still left before the Senate before we can get out by the end of next week and his emphasis on the need for accommodation and particularly by his fairness in suggesting that the length and duration of the debate on some of these issues will be determined in the final analysis by the will of the Senate.

I think the record will show that the Senator from Indiana has not been dilatory in the past, and I do not intend to change that habit. I have been trying to be as accommodating as I can as one Member of the Senate.

I was alarmed as we came out of the Judiciary Committee meeting yesterday at the speculation by some of our friends in the press that a filibuster might be brewing over one of the nominations by the President to be a Supreme Court nominee.

The Senator from Indiana does not have any desire to participate in a filibuster of that nomination. I do not feel that a filibuster existed in the case of the two nominations turned down in the past by the Senate. However, I believe that if this body is to be responsible in fulfilling its responsibility in the advice and consent process, we should look at one nomination with particular care.

The nomination of Mr. Powell was reported unanimously. I enthusiastically support that nomination. As one Member of this body I feel a responsibility to bring to the Senate the issues concerning the nomination of Mr. Rehnquist. This is a fundamental philosophical question. It is not a clear-cut case involving ownership of stock in a party to litigation, or involving a white supremacy speech, as we had in two previous nominations.

I hope that the Senate will be willing to take sufficient time to hear the arguments and deliberations on this matter, and to give them some significant thought. And although this is a difficult position for a Member of the Senate to be in at the end of a busy session, when everyone wants to be home with his family at Christmas, I think we have a great deal of responsibility to see that a nominee to the Supreme Court is not confirmed until this body has an opportunity to hear and consider all the arguments presented.

I say that without really having any firm idea as far as time is concerned. But I hope that no one feels that we should have a 6-hour limitation or a 24-hour limitation or any other limitation that would not permit us to fulfill our responsibility.

I doubt very much if Senators can form an opinion on this matter in that length of time. I know that is not what the leader suggested. I simply feel it is our responsibility at least to suggest to the Senate that we should be prepared to give this matter some time and study.

Mr. President, I do not mean that as an insinuation or a threat that we will get into any of the various parliamentary tactics sometimes resorted to.

Mr. MANSFIELD. Mr. President, frankly I did not say anything, to the best of my knowledge, that would indicate otherwise than what the distinguished Senator from Indiana has just said.

There will be no attempt to curb any Senator and there never will be as long as I am majority leader. If there are to be consent agreements, they will be made on the basis of the consent of the Senate as a whole. And as far as a time limitation is concerned, the only time limitation which has been mentioned today, I might say in passing has to do with the President's phase II economic program.

Let no Senator need be concerned that he will be curbed because no Senator will be curbed.

Mr. BAYH. Mr. President, if my statement is reread, I think the leader will agree that I made it clear that I did not suggest that, but I thought it important for the Senator to be alerted to the fact that we had a subtle and complicated matter before us.

It is not going to be an easy one to decide in the minds of some Senators. I was struggling with it myself. I was looking for an easy way out. That may be a confession, but I think I was. I think the case can be made easily that there are serious questions about the philosophy of Mr. Rehnquist.

I hope the Senate is willing, under the circumstances, to make the study that is necessary and to put the matter above our personal convenience.

Mr. MANSFIELD. The Senator has made a valid point. It is well taken, and the Senate is now on notice that there may be some considerable debate and the Senate should guide itself accordingly. That is as it should be.

I thank the distinguished Senator from Indiana for raising the question he has.

HIGHER EDUCATION ACT OF 1971—UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when it is made the pending business of the Senate, there be a time limit of 6 hours on S. 659, that there be 2 hours on each amendment thereto, and one-half hour on amendments in the second degree; provided that 3 days notice be given prior to the consideration of S. 659 by the Senate, and that that will be sometime in January—very likely toward the end of the month.

In the interim, I ask unanimous consent that the message on S. 659 be referred to the Committee on Labor and Public Welfare, to be reported at will by the committee.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. Mr. President, reserving the right to object——

Mr. BYRD of West Virginia. Mr. President, reserving the right to object, and I shall not object, of course, will the able majority leader include in the request an equal amount of time for motions and appeals, except nondebatable motions, as he has included with respect to amendments in the second degree?

Mr. MANSFIELD. Yes, indeed. I am sorry I overlooked that.

Mr. ALLEN. Mr. President, reserving the right to object, I believe the limitation on amendments in the second degree to 30 minutes is too short because it is the understanding of the junior Senator from Alabama that there will be an amendment filed to the House amendment, a substitute, which would be an amendment in the first degree, and the real amendments would be amendments in the second degree, which would not be limited to 30 minutes.

Mr. MANSFIELD. Would the Senator be satisfied if we changed the one-half hour to 1 hour?

Mr. ERVIN. Perhaps we could change this to state that amendments to the bill or a substitute to the bill should have 2 hours to a side. That would take care of the Senator's objection.

Mr. MANSFIELD. That is all right with me.

Mr. ALLEN. Very well.

Mr. GRIFFIN. Mr. President, reserving the right to object, the changes suggested by the distinguished majority whip would indicate there were motions which were nondebatable. Many times we end up not too clear as to whether a motion to table is debatable.

I think a motion to table should be in order. Are they intended to be in order?

Mr. BYRD of West Virginia. My request has nothing to do with whether or not a motion to table is in order. My suggestion would not rule out motions to table. It merely provides for a time on any motions that are debatable.

Mr. GRIFFIN. Yes; but that indicates some motions will be made that are not debatable. I want to clear up whether a motion to table an amendment would be in order under the agreement. One way or another we should know.

Mr. BYRD of West Virginia. Nothing has been said here to rule out motions to table.

Mr. GRIFFIN. Then a motion to table would be——

Mr. BYRD of West Virginia. Yes.

The PRESIDING OFFICER. Under the proposed agreement a motion to table would be in order.

The Chair needs a clarification on the division of time on amendments to the bill.

Mr. MANSFIELD. One hour, equally divided between the distinguished Senator from Rhode Island (Mr. PELL) and the distinguished Senator from North Carolina (Mr. ERVIN).

Mr. ERVIN. I understood the modification——

Mr. ALLEN. Two hours for these amendments.

Mr. MANSFIELD. Two hours for the substitute, but 1 hour for amendments.

Mr. ALLEN. No, sir; because they would really be amendments in the first degree, although from a parliamentary standpoint they would be amendments in the second degree. There would be amendments to what had been offered as a substitute. They would have the effect of amendments in the first degree, although technically they would be amendments in the second degree.

Mr. MANSFIELD. I hope, and the record should be clear that we would vote at a time certain because if we drag it out for 1 hour or 2 hours, Lord knows where we will end up.

So in this agreement, if we could have a certain number of days certain, with the extension of 2 hours, it would be satisfactory.

Mr. ERVIN. The point the Senator from Alabama is making—I understand the committee will probably, after consideration of the House action, recommend a substitute for the House action. So I think we can take care of that shortly if we agree, as the Senator from Alabama suggested, that amendments proposed to the original bill, in that the original bill is returned by the committee, or amendments proposed to a substitute by the committee in the event the committee offers a substitute in lieu of the original bill, shall have a time limitation of 2 hours.

Mr. MANSFIELD. Fair enough, equally divided.

Mr. ERVIN. That would be sufficient, I think, to take care of it.

Mr. MANSFIELD. Equally divided.

Mr. ALLEN. There will be no amendments to that because that would be an amendment in the second degree.

Mr. MANSFIELD. There are ways and means.

Mr. ERVIN. I think that takes care of the situation—2 hours.

Mr. MANSFIELD. Can the Senator give us an idea of how many days we will be on the proposal?

Mr. ERVIN. I do not think there will be so many amendments because we are as anxious to bring this to a vote as the Senator from Rhode Island is.

Mr. MANSFIELD. Would the Senator consider agreeing to vote at the end of 1 day or possibly 2 days?

Mr. ERVIN. I do not believe we could very well agree to that at this time.

Mr. MANSFIELD. I guess we do not have much choice.

Mr. ERVIN. Those of us who have antibus amendments, and amendments of that character, are just as anxious to bring this matter to a vote as the proponents of the bill or any substitute because we are not going to filibuster in favor of something we are trying to take action on.

To show that I am not assuming this, I wish to point out I have consulted with as many of the cosponsors of these amendments as possible, and I have been assured by the Senator from Alabama (Mr. ALLEN), the distinguished Senator from Virginia (Mr. BYRD), the distinguished Senator from Georgia (Mr. GAMBRELL), the distinguished Senator from South Carolina (Mr. HOLLINGS), my distinguished colleague (Mr. JORDAN), the distinguished Senator from Arkansas (Mr. MCCLELLAN), the distinguished Senator from Mississippi (Mr. STENNIS), the distinguished Senator from Texas (Mr. TOWER), and the distinguished Senator from South Carolina (Mr. THURMOND), that they are in complete harmony with this kind of an agreement.

Mr. ALLEN. That is correct.

The PRESIDING OFFICER. The Chair wishes to ask about control of time on the bill and the amendments.

Mr. MANSFIELD. The time to be equally divided between the manager of the bill, the distinguished Senator from Rhode Island (Mr. PELL), and the distinguished Senator from North Carolina (Mr. ERVIN).

The PRESIDING OFFICER. Is there objection to the unanimous-consent agreement? If not, it is so ordered.

Mr. BAYH. If the Senator from Rhode Island does not mind, now that the bill has just been referred to the committee to iron out some differences, I would like to offer a comment. I would hope that he and the members of the committee, while they have the bill under their consideration, would also consider the possibility of adding an amendment which the Senator from Indiana feels very strongly about. I am referring to an amendment that would eliminate some of the discrimination on the basis of sex which exists in our education institutions.

As the Senator well knows, the last

time this question was considered the Senator from Indiana's amendment to deal with this problem was ruled nongermane. Thus the matter ended. I did appeal from the ruling of the Chair and was defeated on a parliamentary point. I think this is a critical matter.

I have discussed this with some of our distinguished colleagues who opposed me on this proposal, and I think we have come up with an amendment which will be acceptable to almost anyone. We deal with graduate and undergraduate schools, but we do except from the provisions of this language those undergraduate institutions which are substantially—and the legislative history suggests this refers to about 90 percent—one: sex institutions, primarly all women or all men. We except also those institutions which are religious institutions where the tenet of the particular religion would make it impossible for the member of the opposite sex to be admitted.

Basically, what we are trying to do here, very frankly, is to except military and single-sex undergraduate institutions. This will still permit us to get at the large number of graduate institutions of higher education that are all men and all women institutions. It would exempt the Citadel, which was a matter of grave concern to our friend, the Senator from South Carolina, or West Point, or the Naval Academy, or the Air Force Academy. I believe the matter was of concern to the Senator from Virginia, who has a fine military institution in his State.

We direct our attention to the matter of discriminatory practice going on today in which institutions readily accept women but require them to meet higher standards than men. We direct our attention without exemption to the graduate schools, such as law, medicine, and the arts. I think we ought to root out that kind of discrimination. I think we should assure that we provide equal education opportunities for all our boys and girls, regardless of where they want to go to school.

I wonder if the Senator and his committee would be willing to consider this type of amendment.

Mr. PELL. Mr. President, I have the highest regard and affection for the Senator from Indiana. I can assure him we will consider it, but can give him absolutely no commitment as to the result of our consideration. Beyond that I cannot go at this time.

Mr. BAYH. I understand that the distinguished lady from Oregon (Mrs. Green) has put an amendment in the House bill which is very similar to the one suggested by the Senator from Indiana.

Would the Senator from Rhode Island care to give us his comments relative to whether he could support this kind of antidiscrimination measure in the conference committee or in the conference report?

The Senator from Indiana does not want to deter the work of the Senator from Rhode Island or his committee, because this bill is indispensable, but equally indispensable is the establishment of strong principle behind this amendment, that we should root out the discrimination which still exists in many institutions of higher learning.

Mr. PELL. As the Senator knows, in the House bill there was a provision in that regard, and it has some pretty strong advocates in the other body. So, whatever happens, it will not only be considered by our committee at the request of the Senator from Indiana, but it will be considered in conference. Beyond that I think we must see what the will of the conference is and be guided by the majority.

Mr. BAYH. A parliamentary question, Mr. President. Is it appropriate, now that this measure has been referred back to the committee, for the Senator from Indiana to offer an amendment thereto and to submit it?

The PRESIDING OFFICER. The Chair needs to confer with the Parliamentarian.

Will the Senator restate his inquiry?

Mr. BAYH. Is it appropriate now that the higher education bill has been referred back to the committee for the Senator from Indiana to submit to the Senate an amendment which would root out discrimination, which exists in many institutions of higher learning, with regard to women?

The PRESIDING OFFICER. The Senator may submit an amendment to the bill and have it referred to the committee.

Mr. BAYH. I submit an amendment to S. 659, in order that my amendment may be referred to the committee, so the Senator from Rhode Island and his colleagues on the committee will consider it. I hope he can give it favorable consideration, but I understand the limitations he described.

And, Mr. President, I ask unanimous consent that the text of my amendment and a short explanation of it be printed at this point in the Record.

There being no objection, the amendment and explanation were ordered to be printed in the Record, as follows:

Amendment No. 759

At the appropriate point in the bill, insert the following Section:

"Sec. —. No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance, except that this subsection shall not apply—

"(1) in regard to admissions to an undergraduate educational institution in which 90 percentum or more of the students are of the same sex,

"(2) in regard to admissions, for one year from the date of enactment, nor for six years thereafter, in the case of an educational institution which has begun to process of changing from being an institution which admits only students of one sex to being an institution which admits students of both sexes, but only if it is carrying out a plan for such change which is approved by the Commissioner of Education, or

"(3) to an educational institution which is controlled by a religious organization and where the application of this subsection would not be consistent with the religious tenets of such organization."

Explanation

This amendment would outlaw sex discrimination in higher education. Three exceptions are provided: (1) Substantially (90% or more) single-sex *undergraduate* schools—like the service academies—could continue to limit admissions by sex; (2) schools electing to expand to coeducational status could continue to control admissions by sex over a 7-year transition period where approved by HEW; and (3) certain religious institutions would be exempt. This measure has wider coverage than both the Green amendment reported by the House Education Committee—which would also have exempted single-sex graduate schools—and the Erlenborn amendment, adopted by the House—which would have exempted all undergraduate schools, not just those substantially of one sex.

THANKSGIVING GREETINGS

Mr. MANSFIELD. Mr. President, before the Senate adjourns today, I should like to extend to the Members of this body, both Republican and Democrat, and to the Vice President, the Presiding Officer of this body, my best wishes for a good and worthwhile Thanksgiving.

That wish would also go to the President of the United States, who has a most difficult and onerous responsibility.

I would like, at this time of the year, this season of rejoicing, to express my personal thanks to every Member of this body for the accommodation and understanding which he has shown to the joint leadership, and I include the distinguished Senator from Pennsylvania, the minority leader (Mr. Scott), the distinguished assistant minority leader, the Senator from Michigan (Mr. Griffin), the assistant majority leader, the Senator from West Virginia (Mr. Byrd); to the staffs, and to everybody connected with the Senate, for their fine services during this session, which hopefully is drawing to a close.

So I hope that all of us would, over the next 3 or 4 days, come back rehabilitated in a certain sense, resurrected in another, and be prepared to apply with diligence and application whatever skills we may have to the remaining bills which lie ahead.

So to everyone, a joyful Thanksgiving. To our country, peace and love.

Mr. GRIFFIN. Mr. President, the words of the distinguished majority leader are most kind and most typical of the distinguished Senator from Montana, and I want to make it abundantly clear, of course, that insofar as he extends best wishes to the other Members of this body and to the President concerning this holiday season, his wishes are joined in by the leadership on both sides of the aisle.

THE FAMILY ASSISTANCE PLAN

Mr. BYRD of Virginia. Mr. President, no proposal pending before the Congress will have greater impact on the Nation as a whole, and on government finances in particular, than the new welfare proposal (H.R. 1) being urged by the administration.

It is vital that the true scope and impact of this program be thoroughly understood by the Senate and the Nation.

This new program is "revolutionary and expensive."

Those are not my words. Those are the words used to characterize this program by Secretary Richardson of the Department of Health, Education, and Welfare.

Mr. Richardson's description is most apt.

Now before taking up the merits of the family assistance plan, let me say that I agree that the present welfare system is outmoded. It should be changed.

I also believe that in the period until a satisfactory new program is worked out, the administration of the present welfare system must be tightened. This is very important.

As we move toward changing the present system, however, I think we must make sure we are getting something better—and not just an expanded and more expensive program.

The President himself has requested that the effective date be deferred until July 1, 1973. The committee and the Senate should take adequate time and get a full understanding of the costs and ramifications. Once the Nation goes into a gigantic program like this, there is no turning back.

I think that this might be an appropriate time to enact my proposal—Senate Joint Resolution 39—to create a broad-based national commission to study welfare problems and make recommendations.

I cannot support Secretary Richardson's "revolutionary and expensive" program for the following reasons:

One, it lacks adequate work incentives.

Two, I doubt the wisdom of writing into law the principle of a guaranteed annual income.

Three, the annual cost of the new program would be at least $5.5 billion greater than the present program.

Four, the number of welfare recipients would be increased from 12 million persons in 1970 to 25 million persons.

Five, Richard P. Nathan, Deputy Under Secretary for Welfare, says the Government would need to hire an unprecedented 80,000 new Federal employees to administer the program.

With 101,000 employees, the Department of Health, Education, and Welfare already is so huge that it is almost impossible to effectively administer. One can well imagine the added confusion and chaos if 80,000 more workers are added to that Department.

I feel that the Government has an obligation to our fellow citizens who are physically or mentally unable to earn a living. But the "revolutionary and expensive" proposal of Secretary Richardson goes far beyond that. It does not have adequate work incentives, nor does it have adequate provisions to keep off the welfare rolls able-bodied citizens who should be seeking jobs instead of handouts.

The new "revolutionary and expensive" welfare plan is not in keeping with—and, indeed, runs directly counter to—the President's anti-inflation efforts.

It is not welfare reform. It is welfare expansion.

I submit we are not going to be able to lick inflation until the Government puts its own financial house in order.

The Government had a Federal funds deficit last year of $30 billion; it will have a Federal funds deficit this year of $35 billion.

The "revolutionary and expensive" program of Mr. Richardson will add an additional $5.5 billion to the deficit—and to the national debt, which is now $412 billion.

But an even more important objection, in my view, is that Secretary Richardson's "revolutionary and expensive" welfare plan would double the number of welfare recipients.

With the huge deficits the Government has been running it is neither logical nor sound to attempt to double the number of people drawing public assistance.

If the Government cannot now effectively administer the present welfare program, how can it effectively administer a program with twice as many persons drawing Government checks?

One evidence of the difficulty of administration is this: In New York City at the present time 1,000 welfare families are being housed in New York City hotels.

I wrote the Department of Health, Education, and Welfare to ascertain the average monthly rental being paid by the taxpayers for those families.

I was informed in a letter from HEW that the average monthly rental per family is $763.

I have devoted hours and hours of time in an effort to obtain accurate cost figures—and accurate figures as to the number of full-time permanent employees of HEW.

I submit a table showing the cost for public assistance in billions of dollars for the fiscal years 1962 through 1972, and ask unanimous consent that it be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

FEDERAL COSTS FOR PUBLIC ASSISTANCE

(In billions of dollars)

1962	$2.7
1963	3.0
1964	3.2
1965	3.5
1966	3.8
1967	4.5
1968	5.6
1969	6.8
1970	8.6
1971	11.6
1972	14.2

(Source: U.S. Department of Health, Education and Welfare.)

Note.—According to testimony of Secretary Richardson of HEW, the total welfare, or public assistance, cost for FY 1973, under H.R. 1, would be $19.7 billion.

Mr. BYRD of Virginia. If the proposal advocated by Secretary Richardson, namely H.R. 1, is approved by the Senate, the cost for fiscal year 1973 would be $19.7 billion, or a 40 percent increase over the cost for fiscal year 1972.

When President Nixon was a candidate for President in 1968, he stated again and again that he wanted to reverse the trend to the welfare state.

But the administration's proposal for revising the welfare laws would double the number of welfare recipients.

The question I have been asking for the last 18 months—and I ask it again in the Senate today—is this: How does one reverse the trend to the welfare state by doubling the number of people on welfare?

There are 100 Members of this body. If the trend toward the welfare state can be reversed by doubling the number of people on welfare, then it would seem that at least one Member of the Senate could tell his colleagues just how it can be done.

In closing, I ask the question again, Mr. President: How does one reverse the trend to the welfare state by doubling the number of persons on welfare?

ORDER TO PRINT S. 659 AS AMENDED BY THE HOUSE OF REPRESENTATIVES

Mr. PELL. Mr. President, I ask unanimous consent that the bill (S. 659) the higher education bill and the amendment of the House of Representatives thereto be printed as referred to the Committee on Labor and Public Welfare.

The PRESIDING OFFICER. Without objection, it is so ordered.

ECONOMIC STABILIZATION ACT OF 1971—AMENDMENTS

AMENDMENTS NOS. 760, 761, AND 762

CONGRESS SHOULD NOT TURN ITS BACK ON RESPONSIBILITY FOR ANTI-INFLATION POLICIES

Mr. PROXMIRE. Mr. President, it is my understanding that on Monday we will begin to debate, discuss, and work on the phase II economic bill which has emerged from the Banking, Housing, and Urban Affairs Committee, of which I am a member. Today I am submitting three amendments to that bill, S. 2891, the Economic Stabilization Act Amendments of 1971. I send the amendments to the desk, and ask that they be printed and made available to Senators on Monday, when we will discuss this legislation.

The PRESIDING OFFICER. The amendments will be received and printed, and will lie on the table.

Mr. PROXMIRE. The first of these amendments would terminate the expiration date of the Stabilization Act on April 30, 1972. This is the date on which the present Stabilization Act expires. The committee bill extends the legislation to April 30, 1973.

Should this amendment fail, I intend to offer two additional amendments to S. 2891. The first amendment would exempt State and local governmental employees from the phase II wage controls as of April 30, 1972 unless the President or the Pay Board determined a particular wage increase was unreasonably inconsistent with the wage guidelines.

The second amendment would exempt the so-called tier III firms—that is, the small firms, the great generality of firms in this country—and labor unions from the phase II controls as of April 30, 1972 unless their price or wage increases were unreasonably inconsistent with the guidelines.

The Economic Stabilization Act gives the President sweeping and unprecedented power to control every segment of our economy from large corporations to the corner drug store. This power, incidentally, which has never been exercised before, not even in wartime, even in the World War II era. During each of those periods prices and wages were frozen. But the new phase II is not a freeze. Prices and wages will rise. They will rise by variable amounts. This is going to be extraordinarily difficult to administer fairly or to enforce at all. We have never tried to do this before.

What is the administration going to do now? I think there is some justification for their approach, and I do not disagree at all with the President's freeze and with the fact that he has to decontrol in a gradual way. What the administration is doing, however, is something enormously difficult and complicated. He is providing that prices may increase. In some cases, they can increase 5 percent, 10 percent, 20 percent. In other cases, not at all. The goal is 2.5 percent. He provides that wages can increase—not frozen as they were during the freeze period or other previous periods of wage or price control. Again, the amount they can increase is variable. There is a 5.5 percent guideline, but there are exemptions from that of various kinds. As a matter of fact, in any employer group, you can increase one person's salary 10, 20, 30, or 100 percent, so long as the average increase of the group does not exceed 5.5 percent.

We have no idea how fairly or effectively these controls will be exercised. No one is exactly sure how the guidelines of the Pay Board or the Price Commission will operate.

I believe it is an abdication of our constitutional responsibility to give the President such sweeping power for a 17-month period without providing for a congressional renewal at the earliest possible date. There is no reason to do it. This act does not expire until April 30. Congress again and again fails to extend actions that do expire. We probably are not going to renew the Foreign Aid even this year, even though the authorization expired last July 1. Both this stabilization act does not expire for more than 5 months, and we are being pushed into renewing it before we have an opportunity to see how it works.

Once we see how the program has been operating, we may wish to make substantial changes or modifications in the scope and direction of the phase II economic program. However, by extending the act for 17 months, we have given the entire initiative to the President and have surrendered any realistic hopes for modifying the legislation. For these reasons I have introduced the amendment to roll the expiration date back to April 30, 1972.

Some people say, "Well, if it isn't working, Congress can change it." I would like to see the day that can happen. If the President does not want us to change it, he has a substantial number of Members of his own party in the Senate who will support the President's position. Any change can be delayed, and the President can veto it. As a matter of fact, busy as we will be next year, we are not going to change this act at all until some time in 1973, if we provide for an extension of the expiration date. Once we have done that, Congress is out of the act entirely; we lose whatever real power or authority we may have.

Should the amendment fail, I believe it is important for Congress to establish its own timetable for exempting sectors of the economy from the phase II guidelines. We should not give the President the authority to provide exemptions without any congressional guidance, whatsoever, particularly during an election year.

The amendment exempting employees of State and local governments is intended to give Governors and mayors more flexible authority over wages and salaries paid to their employees. The President has exempted Federal workers from the wage guidelines and I see no reason why State and local employees should not be treated in a similar manner.

They are Government employees. I think the Governors and the mayors should be made aware of the President's goal, and they should be made aware of the desirability of staying within the guidelines. But they have the same kind of pressure—much more pressure, as a matter of fact—to hold down their expenditures than we have here. I think the pressure for them not to provide wage increases is going to be very great without arrogating to the Federal Government this kind of authority.

Many State and local employees have been extremely underpaid and it is unfair to rigidly apply the wage guidelines to these employees. If the President of the United States can be trusted to establish fair wages and salaries for Federal employees outside the scope of the guidelines, I see no reason for not trusting Governors and mayors to act in an equally responsible fashion.

The exemption for State and local employees would not take place until April 30, 1972. By that time, the inflationary pressures on the economy should have substantially subsided and an exemption would not have serious economic effects. However, my amendment still retains the authority of the President to regulate wages of State and local employees if a particular wage settlement is substantially out of line with the wage guidelines. Similar language has been agreed to by the committee concerning the payment of retroactive and deferred pay increases due workers under contracts executed prior to the wage-price freeze.

The authority of the President to regulate the pay of State and local employees is a substantial departure from our American system. We should not tolerate Federal interference in State and local affairs any longer than absolutely necessary to bring inflation under control. My amendment would provide for a reasonable termination to this authority while still giving the President the flexibility to act in unusual circumstances.

Mr. President, my third amendment would exempt the so-called tier III firms from the phase II controls as of April 30, 1972. Tier III firms are defined as those with annual sales or revenues of less than $50 million during their most recent fiscal year. This is the same definition included in the regulations of the Price Commission.

The amendment also exempts the so-called tier III labor unions from the phase II controls as of April 30, 1972. The amendment would exempt the pay adjustments which apply to or affect less than 1,000 employees. A similar definition is contained in the Pay Board regulations.

Mr. President, I think it is important that we start and that Congress provide clear direction and guidelines for decontrolling our economy. We have had 5 solid weeks of testimony before the Joint Economic Committee on the new economic program. We have had several days of testimony before the Senate Banking Committee. I have been in attendance at every one of those hearings. We had some of the top economists in the country, some who have been the most experienced in this area. For any economy to escape from controls is not easy. I think Congress should begin to move in this direction. We know that we are not in the kind of usual inflationary situation, the kind of demand-pull inflation where you have scarce goods and where your capacity is being strained to the limit.

Quite the opposite, we have ample capacity. We have almost 5 million people unemployed. There is no fundamental economic reason why we should have inflation. The reason we have it is that big labor unions have been able to get wage settlements which push up costs and prices. And big corporations have taken advantage of their power to increase prices because of of their monopolistic power. That is the heart of it, and that is what we should concentrate on. We should not interfere with millions of firms which are competitive and which have no such capacity to push prices up, and who are going to be hurt badly and are going to deeply resent this program as the weeks and months pass.

Right now there is euphoria about the program that may continue for a few more days or weeks. But, believe me, there is every indication that this is going to be limited. People react very strongly to something that affects their pocketbook, and this is going to affect the pocketbook of virtually every businessman in the country.

Under my amendment, these exemptions can be reversed by the President if he finds that a particular wage or price increase is unreasonably inconsistent with the standards published by the Pay Board or Price Commission. Thus, the President has the flexibility to act in particular cases without subjecting millions of firms and workers to the phase II controls.

Most economists feel that the real source of inflation lies with large corporations and labor unions. These are the companies and unions which have the power to administer prices and wages. It is the sector of the economy in which the forces of competition have little or no effect. If we are to have price and wage controls, we should concentrate on these large corporations and labor unions.

Smaller firms and labor unions do not initiate inflationary pressures; rather they react to the price and wage actions taken by the larger companies and unions. Thus, if we control these highly concentrated sectors, we can substantially control the entire economy.

There is no reason to establish rigid price and wage controls on small companies and unions since they are more effectively regulated by the forces of competition. Moreover, the regulations of the Price Commission discriminate against the smaller firms. In order to justify a price increase, a firm must be able to estimate its increase in cost and productivity.

A firm to be safe here should have a really impressive array of economists, statisticians, and cost accountants, and should have an effective cost accounting system. Some of the very big firms have that. When Mr. Grayson testified before our committee, he estimated that 25 percent to 50 percent of the big firms did not know what their productivity is. I think we all know that practically none of the small firms are really able to understand that concept and apply it effectively.

So they are in the dark and fearful. This may have a salutary effect from the standpoint of inflation. People are frightened to increase prices even though they have good economic reasons for trying to do so. But this is a poor way, and an unfair and unjust way to secure price stability. This is a system which will engender great hostility. It is a system that will break down, a system that is unnecessary, because the small firms are not responsible for inflation because of the kind of economic situation we are in now.

The larger firms, with their battery of lawyers and accountants, should have no difficulty in justifying their price increases. However, most of the smaller firms will be unable to acquire the complex data needed to justify a price increase. Most of these small business firms will simply be scared into freezing their prices for fear of violating the price guidelines. Small business will thus be required to shoulder a disproportionate burden of the fight against inflation.

I believe this is wrong and unfair. We should terminate these controls on small business and small unions as soon as practicable. My amendment would require the President to exempt small business and small unions not later than April 30, 1972. I believe these exemptions should be given considerably sooner; however, in no event do I believe they should be needed beyond the April 30, 1972 deadline.

If we are to give the President such sweeping control over our free economy, we should certainly establish a specific and definite timetable for decontrolling those sectors that are least responsible for inflation. To do anything less would be to surrender our constitutional responsibility to the executive branch.

Mr. President, I want to serve notice now that on Monday I expect to give a long speech—and I mean a very long speech, of several hours at least—on the bill before I call up any of my amendments, because this is such a profound, new, and unique economic action that the Government of the United States has taken that it should be discussed in great detail. The very helpful analyses made by some of the ablest people in this country to the committees on which I serve should be made available to the Senate. I intend to do that on Monday next.

Mr. GRIFFIN. Mr. President, will the Senator from Wisconsin yield?

Mr. PROXMIRE. I yield.

Mr. GRIFFIN. While the junior Senator from Michigan may not find himself supporting each of the amendments referred to, I do want to commend the Senator from Wisconsin for his keen interest in this matter. I consider much of what he has said to be constructive. I commend him, for example, for recognizing that the inflationary period in which we find ourselves now is not the typical demand-pull inflation. Rather, it is cost-push inflation, for the most part. The Senator from Wisconsin put his finger on the biggest problem when he referred to the power of the big union organizations to extract unreasonable wage settlements—settlements that are a major cause of the cost-push inflation.

I would agree with the Senator from Wisconsin that there is not so much of a problem, so far as the small companies and small unions are concerned.

I would add to what the Senator from Wisconsin has said, my concern that many, many small companies and their employees are not covered by pension programs, whereas the large companies and the members of large unions, generally speaking, are covered. It is in the public interest, I believe, that smaller companies be encouraged—not discouraged—to establish pension programs for those employees not covered whether they are represented by labor organizations or not.

I am a bit concerned, frankly, that the guidelines indicated by the administration will discourage smaller companies from putting pension programs into effect. Unless the cost triggers unreasonable price increases, such pension programs are essentially noninflationary.

Indeed, it is noninflationary for increased compensation to be channeled into pension programs, under which benefits do not reach employees until after they retire. So that it seems to me that if the small firms are not to be excluded altogether from control, at least the desirability of encouraging pension special consideration should be given to programs: such benefits should not come under the 5.5-percent wage guideline unless the cost thereof will be used as excuse to raise prices. Has the Senator's committee heard testimony on this subject and, if so, I would be interested in what was indicated.

Mr. PROXMIRE. Yes. The Senator from Texas brought that up at a meeting of the Joint Economic Committee the other day. We heard from Judge Boltd from the Pay Board who came before us at that time.

The Senator from Texas pointed out exactly as the Senator from Michigan has done here, that pensions should be encouraged, but present regulations discourage them. Pensions as the Senator has said are not inflationary in the usual sense. But they do increase costs and in that sense they would be somewhat inflationary.

The Pay Board took the position that because it would affect costs, pensions and other fringe benefits, no matter how desirable and how socially useful they may be, must be, in their view, considered as part of compensation and treated exactly the same way as a wage increase. The Senator from Texas was not convinced and he will offer an amendment—at least I think he will——

Mr. GRIFFIN. Which Senator from Texas is the Senator from Wisconsin referring to?

Mr. PROXMIRE. The junior Senator from Texas (Mr. BENTSEN). He is a member of the Joint Economic Committee. He said he would be interested in offering an amendment to exempt pension payments from the 5.5-percent guideline. That amendment has considerable merit. There is an argument on the side of recognizing that this would tend to increase costs and the Price Commission probably would be inclined—if they were applied to big firms where they approved of the cost increases, and where competition may not be so effective, they might be inclined—to permit that to be passed through on a price increase. But the small firms, I would say to the Senator from Michigan, are unlikely to be so benefited because of the force of competition. So such arrangements are unlikely to be inflationary.

Mr. GRIFFIN. I thank the Senator from Wisconsin. I also agree with him that it was unfortunate—a bad precedent—for the Wage Board to approve the unreasonable and inflationary settlement reached by the mineowners and the United Mine Workers.

Mr. PROXMIRE. I wholeheartedly agree with that. It is tragic that this was the first decision. This is the most visible decision, the first example, so that there is no way of avoiding a precedent in this matter now. It exceeded the guidelines threefold. There is no way we can have a stabilization program if we are going to permit that kind of example to be repeated in the future for such a large sector of the economy.

Mr. President, I yield the floor.

ORDER FOR THE SENATE TO MEET NEXT WEEK, ON TUESDAY, WEDNESDAY, THURSDAY, FRIDAY, AND SATURDAY, AT 9 A.M.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate meets on Tuesday, Wednesday, Thursday, Friday, and Saturday of next week, it meet at 9 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR THE COMMITTEE ON LABOR AND PUBLIC WELFARE TO FILE REPORTS ON THE DRUG BILL

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Committee on Labor and Public Welfare may have until midnight tonight to file a report on the drug bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. BYRD of West Virginia. Mr. President, I suggest what I hope may be the last suggestion concerning the absence of a quorum for today.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. PROXMIRE). Without objection, it is so ordered.

ORDER FOR A PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS ON MONDAY NEXT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on Monday at the conclusion of the remarks by the distinguished Senator from Iowa (Mr. HUGHES), there be a period for the transaction of routine morning business for not to exceed 30 minutes with statements therein limited to 3 minutes and that at the conclusion of the transaction of routine morning business, the Senate resume its consideration of S. 2891, a bill to extend and amend the Economic Stabilization Act of 1970.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BYRD of West Virginia. Mr. President, the program for Monday is as follows:

The Senate will convene at 10 a.m. Immediately following the recognition of the leadership, the Senator from Iowa (Mr. HUGHES) will be recognized for not to exceed 15 minutes, after which there will be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes.

At the conclusion of the period for the transaction of routine morning business, the Senate will resume its consideration of S. 2891, a bill to extend and amend the Economic Stabilization Act of 1970, the so-called phase II of the President's economic proposal.

At 1 p.m. the Senate will temporarily lay aside the unfinished business and will proceed in executive session to conduct three consecutive rollcall votes on the following three measures and in the order stated:

First, a treaty to resolve pending boundary differences between the United States and Mexico;

Second, a convention between the United States and Japan for the avoidance of double taxation; and

Third, the protocol between the United States and France regarding taxes on income and property.

Following the three aforementioned rollcall votes, the Senate will resume the consideration of S. 2891, the economic stabilization measure, and rollcall votes can be expected that day on phase II.

As to Tuesday, as far as can be seen at the moment, the Senate will continue its consideration of S. 2891, the Economic Stabilization Act, if that bill has not been finally acted upon by then. Rollcall votes can be anticipated on Tuesday. It is certainly hoped that the final action on the Economic Stabilization Act can be completed on Tuesday. I doubt that it can be completed on Monday.

As to Wednesday, the Senate will resume its consideration of S. 2891, the Economic Stabilization Act, if that bill has not been disposed of prior to that time. If the economic stabilization measure has been disposed of, as I hope it will have been, the Senate will proceed to the consideration of the nomination of Mr. Earl Butz for Secretary of Agriculture. It is hoped that the Senate can complete action on that nomination on Wednesday.

As to Thursday and Friday and Saturday, of course, the program cannot be stated at this time. However, it can be said that following Senate action on the confirmation of the nomination of Mr. Butz, the Senate will take up the two Supreme Court nominations. Inasmuch as the Judiciary Committee has until midnight Tuesday, November 30, to file minority views, it is hoped that the Supreme Court nominations can be called up on Thursday, December 2. Hopefully, and I underline the word hopefully, the two nominations can be disposed of Thursday and Friday or, at the latest, Saturday, December 4.

Aside from the matters I have mentioned, the District of Columbia appropriation bill may be ready for action by the Senate on Friday, December 3. The supplemental appropriations bill may, hopefully, be ready for floor action on Saturday, December 4.

Other than conference reports, which may be called up at any time—and on which rollcall votes may occur—the items I have enumerated constitute the remaining "must" business to be conducted prior to sine die adjournment.

At anytime during the week, other calendar measures which would not consume much time may be interspersed when feasible. I am unsure as to what, if anything, will be done about foreign aid.

So, as a reminder, the three consecutive rollcall votes on Monday begins at 1 p.m. There will likely be additional rollcall votes during the day on phase II. Senators should anticipate rollcall votes daily throughout next week.

ADJOURNMENT TO 10 A.M. MONDAY, NOVEMBER 29, 1971

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, pursuant to the provisions of House Concurrent Resolution 466, as amended, that the Senate stand in adjournment until 10 a.m. Monday, November 29, 1971.

The motion was agreed to; and (at 2 o'clock and 16 minutes p.m.) the Senate adjourned until Monday, November 29, 1971, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate November 24, 1971:

U.S. DISTRICT COURTS

Morell E. Sharp, of Washington, to be a U.S. district judge for the western district of Washington, vice George H. Boldt.

DEPARTMENT OF JUSTICE

Joseph L. Tauro, of Massachusetts, to be U.S. attorney for the district of Massachusetts for the term of 4 years, vice Herbert F. Travers, Jr., resigned.

CONFIRMATION

Executive nomination confirmed by the Senate November 24, 1971:

GEOLOGICAL SURVEY

Vincent E. McKelvey, of Maryland, to be Director of the Geological Survey.

EXTENSIONS OF REMARKS

JOHN FITZGERALD KENNEDY

HON. RICHARD T. HANNA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1971

Mr. HANNA. Mr. Speaker, it seems difficult to believe that 8 years have passed since the assassination of the 35th President of the United States, John Fitzgerald Kennedy. Few can deny that the 2 years, 10 months, and 2 days which he served in the highest elective office of the land had a great effect on the country. He was able, during this short time as President, to change the image of the United States, both at home and abroad.

I hope that my colleagues will take a moment to reread the inaugural address given on January 20, 1961, by the late President, for it still has meaning for us today:

INAUGURAL ADDRESS OF JOHN FITZGERALD KENNEDY, PRESIDENT OF THE UNITED STATES, WASHINGTON, D.C., JANUARY 20, 1961

Mr. Chief Justice, President Eisenhower, Vice President Nixon, President Truman, Reverend Clergy, Fellow Citizens, we observe today not a victory of party, but a celebration of freedom—symbolizing an end as well as a beginning—signifying renewal, as well as change. For I have sworn before you and Almighty God the same solemn oath our forebears prescribed nearly a century and three quarters ago. The world is very different now. For man holds in his mortal hands the power to abolish all forms of human poverty and all forms of human life. And yet the same revolutionary beliefs for which our forebears fought are still at issue around the globe—the belief that the rights of man come not from the generosity of the state, but from the hand of God.

We dare not forget today that we are the heirs of that first revolution. Let the word go forth from this time and place, to friend and foe alike, that the torch has been passed to a new generation of Americans—born in this century, tempered by war, disciplined by a hard and bitter peace, proud of our ancient heritage—and unwilling to witness or permit the slow undoing of those human rights to which this Nation has always been committed, and to which we are committed today at home and around the world.

Let every nation know, whether it wishes us well or ill, that we shall pay any price, bear any burden, meet any hardship, support any friend, oppose any foe, in order to assure the survival and the success of liberty. This much we pledge—and more.

To those old allies whose cultural and spiritual origins we share, we pledge the loyalty of faithful friends. United, there is little we cannot do in a host of cooperative ventures. Divided, there is little we can do—for we dare not meet a powerful challenge at odds and split asunder.

To those new States whom we welcome to the ranks of the free, we pledge our words that one form of colonial control shall not have passed away merely to be replaced by a far greater iron tyranny. We shall not always expect to find them supporting our view. But we shall always hope to find them strongly supporting their own freedom—and to remember that, in the past, those who foolishly sought power by riding the back of the tiger ended up inside.

To those peoples in the huts and villages across the globe struggling to break the bonds of mass misery, we pledge our best efforts to help them help themselves, for whatever period is required—not because the Communists may be doing it, not because we seek their votes, but because it is right. If a free society cannot help the many who are poor, it cannot save the few who are rich.

To our sister republics south of our border, we offer a special pledge—to convey our good words into good deeds, in a new alliance for progress, to assist free men and free governments in casting off the chains of poverty. But this peaceful revolution of hope cannot become the prey of hostile powers. Let all our neighbors know that we shall join with them to oppose aggression or subversion anywhere in the Americas. And let every other power know that this hemisphere intends to remain the master of its own house.

To that world assembly of sovereign states, the United Nations, our last best hope in an age where the instruments of war have far outpaced the instruments of peace, we renew our pledge of support—to prevent it from becoming merely a forum for invective—to strengthen its shield of the new and the weak—and to enlarge the area in which its writ may run.

Finally, to those nations who would make themselves our adversary, we offer not a pledge but a request: that both sides begin anew the quest for peace, before the dark powers of destruction unleashed by science engulf all humanity in planned or accidental self-destruction.

We dare not tempt them with weakness. For only when our arms are sufficient beyond doubt can we be certain beyond doubt that they will never be employed.

But neither can two great and powerful groups of nations take comfort from our present course—both sides overburdened by the cost of modern weapons, both rightly alarmed by the steady spread of the deadly atom, yet both racing to alter that uncertain balance of terror that stays the hand of mankind's final war.

So let us begin anew—remembering on both sides that civility is not a sign of weakness, and sincerity is always subject to proof. Let us never negotiate out of fear. But let us never fear to negotiate.

Let both sides explore what problems unite us instead of laboring those problems which divide us.

Let both sides, for the first time, formulate serious and precise proposals for the inspection and control of arms—and bring the absolute power to destroy other nations under the absolute control of all nations.

Let both sides seek to invoke the wonders of science instead of its terrors. Together let us explore the stars, conquer the deserts, eradicate disease, tap the ocean depths, and encourage the arts and commerce.

Let both sides unite to heed in all corners of the earth the command of Isaiah—to "undo the heavy burdens and let the oppressed go free."

And if a beachhead of cooperation may push back the jungle of suspicion, let both sides join in creating a new endeavor, not a new balance of power, but a new world of law, where the strong are just and the weak secure and the peace preserved.

All this will not be finished in the first 100 days. Nor will it be finished in the first 1,000 days, nor in the life of this administration, nor even perhaps in our lifetime on this planet. But let us begin.

In your hands, my fellow citizens, more than in mine, will rest the final success or failure of our course. Since this country was founded, each generation of Americans has been summoned to give testimony to its national loyalty. The graves of young Americans who answered the call to service are found around the globe.

Now the trumpet summons us again—not as a call to bear arms, though arms we need; not as a call to battle, though embattled we are; but a call to bear the burden of a long twilight struggle, year in, and year out, "rejoicing in hope, patient in tribulation"—a struggle against the common enemies of man: tyranny, poverty, disease, and war itself.

Can we forge against these enemies a grand and global alliance, North and South, East and West, that can assure a more fruitful life for all mankind? Will you join in that historic effort?

In the long history of the world, only a few generations have been granted the role of defending freedom in its hour of maximum danger. I do not shrink from this responsibility—I welcome it. I do not believe that any of us would exchange places with any other people or any other generation. The energy, the faith, the devotion which we bring to this endeavor will light our country and all who serve it—and the glow from that fire can truly light the world.

And so, my fellow Americans, ask not what your country can do for you: Ask what you can do for your country.

My fellow citizens of the world: Ask not what America will do for you, but what together we can do for the freedom of man.

Finally, whether you are citizens of America or citizens of the world, ask of us the same high standards of strength and sacrifice which we ask of you With a good conscience our only sure reward, with history the final judge of our deeds, let us go forth to lead the land we love, asking His blessing and His help, but knowing that here on earth God's work must truly be our own.

THE PUBLIC STATEMENTS OF WILLIAM H. RENQUIST—PART III

HON. BIRCH BAYH

OF INDIANA

IN THE SENATE OF THE UNITED STATES

Wednesday, November 24, 1971

Mr. BAYH. Mr. President, as the Senate approaches its consideration of the nomination of Mr. William Rehnquist to be an Associate Justice of the Supreme Court, it is extremely important that all the relevant information that has been brought forward about this nominee be made available to the whole Senate. For that reason, I have twice before placed into the Record excerpts from Mr. Rehnquist's public statements—November 18, 1971, at 42131 and November 23, 1971, at 42964.

Today I ask unanimous consent that two additional items be printed in the Record. The first is a copy of the questions addressed to Mr. Rehnquist by the Senator from Michigan (Mr. Hart), the Senator from Massachusetts (Mr. Kennedy) and myself, and the nominee's replies. The other is excerpts from the transcript of the deliberations of the Committee of the Whole of the National Conference of Commissioners on Uniform State Laws on the Model State Anti-Discrimination Act. Both of these items became available only after the Judiciary Committee hearing record was closed, but both are significant in helping each Senator assess whether Mr. Rehnquist has exhibited the commitment to fundamental human rights that we must demand of a Supreme Court Justice.

There being no objection, the excerpts were ordered to be printed in the Record, as follows:

Further Excerpts From the Public Statements of William Rehnquist

Q. Supplementary Questions Addressed to Mr. Rehnquist by Senator Bayh, Senator Hart and Senator Kennedy, and the Nominee's Replies of November 20, 1971.

QUESTION

1. In your testimony at the Judiciary Committee hearings you stated that you had advised the Justice Department to abandon the argument that the executive branch has the inherent power to wiretap without prior judicial authorization in cases involving the national security. You said (p. 321):

"I feel it was a mistake for the Government to take the position there was inherent power, and that the case could best be put forward both from the point of view of the Government in its more limited interests as an adversary and in the interests of the Government in the larger point of view framed in terms of whether it was an unreasonable search and seizure under the Fourth Amendment, rather than some . . . overriding inherent power."

(a) Would you explain for the Committee what you meant by "the interests of the Government in the larger point of view?"

(b) What in theoretical and in practical terms is the significance of abandoning the inherent power theory in favor of an argument of reasonableness under the Fourth Amendment?

(c) You refused to answer certain questions during the course of the hearings because of a claim of attorney-client privilege (see, for example, pp. 100, 101, 102, 132, 133, 135, 136, 212, 247). Please explain how revealing that you advised the Justice Department to abandon a public position on wiretapping differs from other situations in which you invoked the attorney-client privilege. In light of the answer you gave quoted above, are you now willing to answer the questions you declined to answer by invoking the attorney-client privilege? If so, please do so.

ANSWER

1. (a) When I used the phrase "the interests of the Government in the larger point of view," I meant that the Government is under a greater obligation than the ordinary adversary in a lawsuit to make a reasoned, responsible presentation of its case.

(b) One implication of the "inherent power" position was that in this area the Executive was not subject to the requirements of the Fourth Amendment. The effect of the abandonment of the "inherent power" theory in favor of the argument of reasonableness under the Fourth Amendment was to recognize that the Executive is subject to the restraints of the Fourth Amendment in this area as elsewhere. The practical result was to recognize that the courts would decide whether or not this practice amounted to all unreasonable search which would violate the Fourth Amendment.

(c) During the course of the hearing I declined to answer the questions enumerated because I felt it inappropriate for one who has spoken as an advocate for the Attorney General or for the President to thereafter offer his personal opinion on the same subject. I see nothing inconsistent between that position and my willingness to explain my contribution to a Departmental position which was primarily developed by the Internal Security Division, and ultimately publicly expounded by the Solicitor General.

QUESTION

2. In 1964 you wrote a letter to the *Arizona Republic* opposing a city public accommodations ordinance. You stated at the hearings that your views on this matter had changed and you added (p. 145):

"I think the ordinance really worked very well in Phoenix. It was readily accepted, and I think I have come to realize since, more than I did at the time, the strong concern that minorities have for the recognition of these rights. I would not feel the same way today about it as I did then."

(a) Can you provide the Committee with any indication that your public views on this matter changed before your nomination to be a Supreme Court Justice?

(b) When and why did you come to realize "more than (you) did" in 1964 "the strong concern that minorities have for the recognition of these rights?"

(c) Would your present views be different as to the desirability of such legislation if the ordinance had not been as readily accepted as it was?

ANSWER

2. (a) In a speech delivered in Houston for Law Day, April 29, 1970, I referred to the fact that "dramatic progress has been made by minorities in all of the civil rights areas in the past generation." I would not have referred to a law of the type I had opposed in 1964 as representing "dramatic progress" if I still opposed that type of law.

(b) It is impossible for me to pick out any particular date on which I came to realize "more than I did" in 1964 "the strong concern that minorities have for the recognition of these rights." When I spoke in Phoenix in 1964 I placed a good deal of emphasis on the fact that very few restaurants in Phoenix actually did discriminate and therefore the denial of these rights in practice was infrequent. In the intervening years, at least in part as a result of having become acquainted with more members of minority groups, I have come to appreciate the importance of the legal recognition of rights such as this without regard to whether or not that recognition results in a substantial change in custom or practice.

(c) No. While the manner in which the ordinance was accepted was a factor in changing my opinion, my realization of the depth of feeling of the minorities about this sort of right would not be diminished, and would control, even though the ordinance had been less readily accepted.

QUESTION

3. Four years ago in a letter to the *Arizona Republic* you stated your opposition to proposals to alter the "de facto segregation" of the Phoenix schools. Professor Gary Orfield of Princeton University has told this Committee that the "integration program" you found "distressing proposed no frontal attack on segregation, but called for freedom of choice desegregation with students paying their own bus fares to attend other high schools. The local superintendent also called for more exchanges between the various schools." (p. 13 of prepared testimony)

(a) Does your recollection of the program you opposed comport with that which Professor Orfield described? If not, how does your recollection differ?

(b) Would you explain for the Committee in more detail why you opposed the plan?

(c) Did you regard the scope of that effort in Phoenix in 1967 as an excessive commitment to an integrated society?

ANSWER

3. (a), (b) This question refers to a letter to the Editor appearing in the *Arizona Republic* on Saturday, September 9, 1967, which is captioned " 'De facto' Schools Seem Serving Well." The question characterizes the letter as stating my "opposition to proposals to alter the 'de facto segregation' of the Phoenix schools." The letter, of course, speaks for itself; the caption above the letter was not chosen by me. My position, as stated in the letter, was clearly not opposed to a number of the proposals advanced by Superintendent Seymour for reducing *de facto* segregation.

While I have not had an opportunity to review the series of articles by the newspaper reporter, Mr. Harold Cousland, to which my letter refers, I have reviewed a copy of an article in the *Arizona Republic* describing the Superintendent's "integration program" for Phoenix high schools. Referring to this letter, and to my own recollection of the situation in Phoenix at that time, I think that Professor Orfield's description of the Superintendent's proposal is materially inaccurate. Professor Orfield says that the "integration program" called for "freedom of choice desegregation with students paying their own bus fare to attend other high schools." This was not a part of the Superintendent's *proposal* at all; it was a program *already in effect* in Phoenix at that time. I was in full agreement with this program. Superintendent Seymour, according to the article, in fact commented that there was little evidence that minority groups had taken advantage of this existing "open enrollment" policy.

Thus, Professor Orfield confuses the program of open enrollment which was already in effect in Phoenix with a series of additional proposals made by Superintendent Seymour in September, 1967. Among these proposals was the appointment of a policy advisor who was skilled in interpersonal relations and problems, the organization of a city-wide citizens advisory committee representing minority groups, the formation of a human relations council at each high school, and the promotion of a voluntary exchange of students among racially imbalanced schools. He went on to suggest, in addition to this voluntary exchange of students, that he would not rule out busing of students as a partial solution.

As is clear from my letter, I was speaking out in favor of the neighborhood school system, which is entirely consistent with a number of Superintendent Seymour's proposals. It was not, however, consistent with his statement that he would "not dismiss busing of students as a partial solution." In the context of a proposal which had already discussed voluntary exchange of students, and which was made in the context of an existing open enrollment program, the sort of busing envisioned by Superintendent Seymour was inconsistent with the neighborhood school concept. The reason for my opposition to this type of busing can best be expressed in the words which I used at that time:

"The school's job is to educate children. They should not be saddled with the task of fostering social change which may well lessen their ability to perform their primary job."

3. (c) To the extent that the term "that effort" used in this question refers to the suggestion of busing outside of neighborhood schools solely for the purpose of establishing racial balance, I regarded it as undesirable for the reasons stated in my letter and therefore excessive. I certainly did not consider the open enrollment program already in effect in Phoenix in 1967, which is basically that described in the quoted language of Professor Orfield, as being in the least excessive.

QUESTION

4. Mr. Clarence Mitchell has submitted to the Committee an affidavit from State Senator Cloves Campbell which alleges that following your testimony in opposition to the Phoenix public accommodations ordinance in 1964 you said to Mr. Campbell "I am opposed to all civil rights laws" (see p. 465). Did you make that or a similar statement to Mr. Campbell as alleged? If so, would you please elaborate on the circumstances and on what you meant by that statement?

ANSWER

4. I did not make the statement described in question 4, or any similar statement, to Senator Cloves Campbell.

QUESTION

5. In response to a question which asked for "a thumbnail sketch" of "what in your . . . background . . . demonstrates a commitment to equal rights for all . . ." you answered at the hearings (p. 127):

"It is difficult to answer that question, Senator. I have participated in the political process in Arizona. I have represented indigent defendants in the Federal and State courts in Arizona. I have been a member of the County Legal Aid Society Board at a time when it was very difficult to get this sort of funding that they are getting today. I have represented indigents in civil rights actions. I realize that that is not, perhaps, a very impressive list. It is all that comes to mind now."

(a) Would you care to add anything to that list which has come to mind since the hearings?

(b) Please explain in more detail the nature of the civil rights actions in which you represented indigents, and please tell the Committee how many such actions there were.

(c) Was your membership in the Legal

Aid Society Board *ex officio* by virtue of your position in the county bar association?

ANSWER

5. (a) I have recalled since my testimony at the hearings that in 1963 I served as an Associate Member of the American Bar Association Special Committee on the Defense of Indigent Persons Accused of Crime. Since becoming Assistant Attorney General, I have publicly testified in support of the ratification of the Genocide Convention and in support of the Equal Rights Amendment. As Assistant Attorney General, I also supervised and personally participated in the preparation of the Attorney General's Opinion upholding the lawfulness of the so-called "Philadelphia Plan."

(b) (Note: With respect to this question, and subsequent questions which call for historical recollection of legal cases or political activities in which I participated, I have tried as best I can to recall the events requested. I have not had the benefit of my case files or of any other contemporaneous written material, which might have been of significant aid in sharpening my recollection.)

Throughout my practice in Phoenix, I took cases on a regular rotating basis from the Legal Aid Society, a practice followed by many but by no means all of the Bar. In addition, after the *Gault* decision was handed down, I responded to a request from the then Juvenile Court judge for lawyers with some experience to appear without compensation representing juvenile defendants. I would estimate that in addition to the three cases mentioned below, there would be several times that number of the same general description, the particulars of which I cannot now recall.

I recall the following fairly recent representation of indigents outside the criminal defendant area:

(i) I was requested by the Juvenile Court judge of Maricopa County to represent the interests of a woman who had been committed to the State mental hospital during a juvenile proceeding in which she had been deprived of custody of one of her children.

(ii) I represented an elderly woman who was threatened with the sale of her interest in a home as a result of a judgment taken against her by a collection agency in which, as I recall, she contended she had a defense which she had no opportunity to assert because of lack of proper notice of proceedings.

(iii) I spent a good number of hours, partly on the Navajo Reservation and partly in my office in Phoenix, counselling with a group of Indians who constituted one faction in a tribal dispute revolving around whether certain actions taken by the tribal chairman could properly be taken by him, or whether instead they required the approval of the tribal council.

(c) My recollection is that either as Vice President of the Maricopa County Bar Association, or as its immediate past President, I was an *ex officio* member of the Legal Aid Society Board. It would be a mistake to assume from the word *ex officio* that the position was by any means a ceremonial one; it was the principal bar association duty of the officer filling that post. At the time I served, the County Bar Association contributed a substantial part of the total funds available to the Legal Aid Society Board for its operating budget, and I took an active part in the work of the Board.

QUESTION

6. You testified before the Committee as follows in response to a question concerning your role in the government's efforts to prevent publication of the Penatgon Papers:

"It does seem to me that because the government ultimately took a public legal position and argued the matter in the courts, that I would not be reaching the attorney-client relationship to answer your question.

"I am hesitant, but I believe that I am right in saying that I had a slipped disk operation in the latter part of May, and was either at home in bed or in the hospital until about the latter part of the second week in June. I am just trying to recall from memory. Then I started coming back into the office half days, and found that I was overdoing the first couple of days, so I stayed out again. And I think it was either on a Monday or Tuesday I was back in, perhaps for the third time, on a half-day basis, and the Attorney General advised me that the Internal Security Division was going to file papers that afternoon in New York to seek a preliminary restraining order and asked me if I saw any problem with it. And it was a short-time deadline, and I rather hurriedly called such of the members of my staff together as I was able to get.

"When we reviewed it we came across Near versus Minnesota, and advised him that basically it was a factual question so far as we could tell, if the type of documents that were about to be published came within the definition of the language used by Chief Justice Hughes in Near versus Minnesota, there was a reasonable possibility that the Government would succeed in the action.

"I believe I had one other conference with the Attorney General, and I think that was as to who should appear for the United States in the proceedings in New York and in the second circuit. I then went to the beach for a week during which time the arguments took place in the Courts of Appeal, and I think the Supreme Court case was argued while I was at the beach, too, and I have no further involvement in it than that."

(a) Did you have any involvement in the government's action in this matter which is omitted from this statement? Did you for example place any phone calls to any newspapers asking them to refrain from publishing the Pentagon Papers?

ANSWER

6. I took one action in connection with proposed litigation by the Government against *The Washington Post* in connection with its publication of portions of the Pentagon Papers. At the request of the Attorney General, on a date which I believe was Friday, June 18, I telephoned Mr. Ben Bradlee, Executive Editor of *The Washington Post*, and requested on behalf of the Justice Department that the *Post* refrain from further publication of these papers. Mr. Bradlee told me that the *Post* would not accede to this request. I believe that my telephone conversation with Mr. Bradlee was described in a story in the *Post* on Saturday, June 19.

QUESTION

7. Various Supreme Court nominees, including yourself, have properly refused to answer questions put to them by the Senate which would require the nominee prematurely to state his opinion on a specific case likely to come before him once on the bench. Some nominees have also properly declined to answer questions concerning cases they decided or opinions they wrote while sitting on the bench because answering them would have jeopardized the integrity and independence of the judiciary. You invoked yet a third doctrine to decline to answer certain questions at the hearings: the attorney-client privilege. Are you aware of any precedent in the Senate's consideration of a federal official nominated to the Supreme Court or any legal precedent in decided cases or the cannons of ethics or elsewhere, which supports a nominee's invoking the attorney-client privilege to refuse to give the Senate his personal views on matters of public importance on which he had advocated an Administration's position?

ANSWER

7. I know of no other Supreme Court nominee who, having acted as a representative or spokesman for the Executive Branch, was then asked by the Judiciary Committee to express his personal views on the matters with respect to which he had served as a spokesman or advocate. There is, therefore, so far as I know, precedent neither for the questions being asked, nor for the answers being declined.

QUESTION

8. You and Senator Tunney had the following exchange during the hearings:

Senator TUNNEY. Senator Ervin then went on to question you, "don't you agree with me any surveillance which would have the effect of stifing such activities, namely, the first amendment, those activities which are privileged under the first amendment, would violate those constitutional rights?" Your answer was, "No, do not." . . .

Mr. REHNQUIST. I am not sure I do agree with that now. I am inclined to think that it is a fact question and I was perhaps resolving the fact question in my own mind on the basis of the line of inquiry that Senator Hart made yesterday, where thousands of people came, knowing there was going to be such surveillance, on the basis of Judge Austin's decision in Chicago, where he found as a fact that there was no stifing effect.

I do not think I would want to categorically say that such surveillance could not have a stiffing effect. I think I would treat it as a question of fact.

Senator TUNNEY. I appreciate your answer.

(a) When you said that you are not sure you would agree with your prior statement now, were you expressing a personal opinion or were you expressing a Justice Department position?

(b) If you were expressing a personal opinion, why in your view was this situation different from other situations in which you refused to state a personal view on positions you had taken as an advocate for the Administration?

ANSWER

8. (a) I was expressing the position that I felt any reasonable spokesman for the Department would have taken had he been aware of this aspect of the problem at the time of his original testimony.

(b) Not applicable.

QUESTION

9. At the time that you testified before Senator Ervin's Subcommittee on Constitutional Rights with regard to the government's intelligence-gathering activities, you said that it was "quite likely that self-discipline on the part of the executive branch will provide an answer to virtually all of the legitimate complaints against excesses of information gathering."

(a) Were you aware at that time as reported in the press, that Federal Bureau of Investigation agents in at least one part of the country had been instructed to conduct interviews for the purpose of making dissenters believe that "there is an agent behind every mailbox" (see, *e.g.*, p. 425–26, 581)?

(b) Does this document give you any reason to alter your views that executive self-restraint will provide sufficient protection of first and fourth amendment freedoms?

ANSWER

9. (a) I was not.

(b) This question characterizes my views as being "that Executive self-restraint will provide sufficient protection of First and Fourth Amendment freedoms." I do not believe this is a fair characterization of the views which I expressed before the Ervin Subcommittee, and it is therefore all but impossible to answer the question as stated. I made quite plain in my testimony, I thought, that both the First Amendment and the Fourth Amendment imposed significant limitations on governmental information gathering. The context in which I made my statement about "Executive self-restraint" was one in which the protections of the First and Fourth Amendments to the Constitution, and such additional statutory limitations on the Executive as those pertaining to wiretapping in the Omnibus Crime Bill of 1968, were already in existence, and the question to which I was addressing myself was whether additional statutory restrictions were desirable.

To the extent that the actual activities of the FBI, as opposed to the characterizations of such activities by a particular agent or by the press, were in fact such as to have a chilling effect, there would be an added factor to be weighed in making a constitutional determination under the First Amendment. If such activities were at all prevalent, I indicated in my testimony before the Ervin Subcommittee that the Department would give careful consideration to remedial legislation.

Following is the text of my statement on these points:

"I think it quite likely that self-discipline on the part of the Executive Branch will provide an answer to virtually all of the legitimate complaints against excesses of information gathering. No widespread system of investigative activity, maintained by diverse and numerous personnel, is apt to be perfect either in its conception or in its performance. The fact that isolated imperfections are brought to light, while always a reason for attempting to correct them, should not be permitted to correct them, should not be permitted to obscure the fundamental necessity and importance of federal information gathering, or the generally high level of performance in this area by the organizations involved.

"In saying this, I do not mean to suggest that the Department of Justice would adamantly oppose any and all legislation on this subject. Legislation which is carefully drawn to meet demonstrated evils in a reasonable way, without impairing the efficiency of vital federal investigative agencies, will receive the Department's careful consideration. But it will come as no surprise, I am sure, for me to state that the Department will vigorously oppose any legislation which, whether by opening the door to unnecessary and unmanageable judiciary supervision of such activities or otherwise, would effectively impair this extraordinary important function of the federal government."

QUESTION

10. Please describe in as much detail as possible your position (including title and the manner in which you were selected), responsibility, and activities in connection with Republican Party efforts to challenge Democratic voters in Arizona for each of the following elections, separately: 1958, 1960, 1962, 1964, 1966, 1968.

In addition, please answer the following questions concerning your position, responsibility or activities in each of the abovementioned years:

(a) Did you personally engage in challenging the qualifications of any voters? If so, please describe the nature and extent of the challenging you did and the bases on which the challenges were made.

(b) Did you train or counsel persons selected to be pollwatchers or challengers about the procedures to be used in challenging? If so, please elaborate concerning how the persons were selected, and the training that you gave. Did you in any of the abovementioned years train or counsel persons selected to be pollwatchers on the bases on which challenges could be made? If so, please elaborate concerning what you advised these persons were proper bases under law for challenges in each of the relevant years.

(c) Did you prepare, select or advise on the use of printed passages from the Constitution designed to be employed by challengers to determine the literacy of a potential voter? Did any such practice come to your attention? Did you think it proper and lawful? If not, did you take steps to curb such procedures?

ANSWER

10. During the course of the Committee's deliberations, I submitted the following affidavit to the Chairman of the Committee.

"I have read the affidavits of Jordan Harris and Robert Tate, both notarized in Maricopa County, Arizona. Insofar as these affidavits pertain to me, they are false. I have not, either in the general election of 1964 or in any other election, at Bethune precinct or in any other precinct, either myself harassed or intimidated voters, or encouraged or approved the harassment or intimidation of voters by other persons."

In order to fully respond to question 10, an understanding of the background of Republican challenging procedures in Maricopa County is necessary. I have therefore tried as best I can to recall and set forth that background.

A combination of the peculiarities of Arizona election law, the customary practices of the Board of Supervisors in appointing precinct election officials, and the numerical weakness of registered Republicans in part of the Country resulted in the fact that the only method by which a Republican observer or poll watcher could be stationed inside a particular polling place in many precincts in order to watch for voting irregularities was to be there as a "challenger." While he was authorized by law to challenge voters, the prospects of his being successful were not great, since the challenges he made were ruled upon by a three-man election board (two judges and an inspector) and in the precincts with extraordinarily heavy Democratic registration at least two and often three members of this board would be Democrats.

The challenger's real usefulness to the Party, therefore, was not that he was going to be able to prevail upon the election board to disqualify any large number of voters, but that his mere presence as a party representative would have a tendency to discourage any large-scale irregularities in voting procedures at that precinct. My recollection is that the most frequent cause of dispute which arose on Election Day during the late 50s and early 60s was the nature of the credentials required for a challenger to be allowed to enter and remain in a polling place, since in many of these precincts there had never been a Republican representative on the scene during Election Day.

With respect to the specific questions posed, I have attempted to refresh my recollection by speaking with several persons in Arizona who acted in Republican Party affairs during the years covered in this question and to Judge Hardy, who was active for the Democratic Party at the same time. I have also had occasion to see two local newspaper articles which appeared in the Fall of 1964, describing my position during the elections of 1960, 1962, and 1964. I recall that at the time there were written schedules, instructions, and the like prepared at least for the elections of 1960, 1962, and 1964, but I have not found anyone who was able to locate any of this written material, and it may no longer be in existence.

In 1958, I became involved in the Election Day program on quite short notice, and spent all of the day at Republican County Headquarters in Phoenix answering questions as to the election laws on the telephone. So far as I remember, I was the only person having this responsibility at County Headquarters. I don't believe I had a title, and I cannot remember by whom I was selected. As I recall, Don Reese, then of Phoenix but presently of Houston, Texas, was County Chairman in 1958.

My attention has been called to a clipping from the *Arizona Republic* in October 1964, which states that in 1960 I was co-chairman of the "Ballot Security Program." I do not have any independent recollection of this fact, but I have no reason to dispute the account in the newspaper. As I recall, however, the program in 1960 was not called the "Ballot Security Program," since I don't remember hearing that term used before 1964.

In 1960, I supervised and assisted in the preparation of envelopes to be mailed out in advance of the election for the purpose of challenging voters on the basis of their having moved from the residence address shown on the poll list; I also recruited about a half a dozen lawyers to work on a "Lawyers Committee" on Election Day. I did not myself recruit challengers, but I did speak to a "school" held for challengers shortly before election, in order to advise them on the law. I believe I also supervised and assisted in the assembling of returns of our mailings which were returned "addressee unknown", so that they could be made available to the particular challenger who was stationed in the precinct in which the address was located. On Election Day, I believe that I spent most of the day in County Headquarters. In that year, however, we had enough other lawyers available in County Headquarters so that I probably spent some of the day going to precincts where a dispute had arisen, and attempting to resolve it.

I cannot remember whether Don Reese or Ralph Staggs was County Chairman in 1960; I believe I was designated by whoever was County Chairman that year.

With respect to 1962, I have been shown an article in the October 1964, *Arizona Republic* which states that I was Chairman of a Lawyers Committee which operated on Election Day. This is consistent with my own recollection. I do not believe that in this year I participated in the mailing out of envelopes prior to election, though I may have. I did speak at a school for challengers, I believe, in much the same manner as in 1960. On Election Day, my recollection is that I spent most of the day in Republican County Headquarters; however, I think that on several occasions in 1962, just as in 1960, I went to precincts where disputes had arisen in an effort to resolve them.

With respect to 1964, I have seen an article in the *Arizona Republic* dated October 1964, stating that I was Chairman of the "Ballot Security Program." This is consistent with my recollection. I presume that I had overall responsibility for the mailing out of envelopes, the recruiting of challengers, and the recruiting of members of the Lawyers Committee to work in County Headquarters; however, I believe that there were individuals other than me who were directly responsible for each of these aspects of the program. At this time, Wayne Legg was Chairman of the Republican County Committee, and I presume it was he who designated me as chairman. My recollection is that on Election Day during this particular election I spent all of my time in County Headquarters.

I also think, though I am not certain, that I spoke at the school for challengers held just before the election; if I did not speak to the school, I believe I was present when someone else spoke on the law. Challengers were advised in this year, pursuant to an opinion issued by the State Attorney General, that challenging at the polls on the basis of literacy or interpretation of the Constitution was unlawful by virtue of the Federal Civil Rights Act of 1964.

In 1966, my best recollection is that I played no part at all in the election activities, though I am not absolutely certain. If I played any part, it was simply to serve as a lawyer on duty at County Headquarters for a period of several hours in order to handle questions that might come in over the phone.

In 1968, I played no part at all in the election activities.

(a) In none of these years did I personally engage in challenging the qualifications of any voters.

(b) The recruitment of challengers in each of these years was under the direct supervision of someone other than me. However, in at least two of these elections—1960 and 1962—and perhaps in 1964, I spoke at a challengers' school conducted shortly before the election. The purpose of my talk was to advise the various persons who were to act as challengers as to what authorization was required in order to enable them to be present in a polling place during the time the election was being conducted, and also as to the various legal grounds for challenging as provided by applicable Arizona law. My recollection is that I simply recited the grounds set forth in the Arizona Revised Statutes as to the basis for challenge, the method of making the challenge, and the manner in which the challenge was to be decided by the Election Board of the precinct in question.

(c) I did not. No such practice came to my attention until sometime on Election Day, 1962. The manner in which I saw this type of challenge being used, when I visited one precinct, struck me as amounting to harassment and intimidation, and I advised the Republican challenger to stop using these tactics. Since no question was raised at that time as to the propriety or lawfulness of the use of printed passages from the Constitution by challengers in conjunction with the election board in an otherwise courteous and lawful manner, I did not consider it. Shortly after the election, I discussed this type of challenge with Charles Hardy, now Judge of the Superior Court of Maricopa County, and expressed my vigorous disapproval of any scattergun use of literacy challenges. By the time of the next biennial election, in 1964, such challenges were no longer permitted under federal law.

QUESTION

11. To what extent are you able to confirm Mr. Richard G. Kleindienst's statement found in the *Arizona Republic* of November 7, 1962 that the Republican challengers who worked in 1962 "are the same persons, under the same instructions, who have been doing this in Maricopa and Pima counties since 1956?"

ANSWER

11. I cannot speak at all for Pima County, and I cannot speak at all for 1956. I did not myself directly supervise the recruiting of challengers in Maricopa County in any of these years. If challengers were instructed in any formal way in 1958, I do not remember it. Substantially the same legal advice as to challenging, more fully described in the answer to 10(b) above, was given by me in both 1960 and 1962. I do not presently remember whether the same challengers operated in 1958, 1960, and 1962, but I believe there was some turnover each time, and a rather substantial turnover between 1960 and 1962.

QUESTION

12. You testified that one of the roles you played in the Republican efforts to challenge Democratic voters was "to arbitrate disputes that arose" along with a Democratic counterpart" (p. 149). Did any of the disputes as to the roles of the Republican challengers which you sought to mediate involve opposition to the type of challenging procedure being employed or the basis of the challenge, as distinct from the right of the Republican challenger to function at all in such a capacity in the precinct in question? If so, please explain the challenging procedures which came under attack.

ANSWER

12. As described in my answer to 10(c), I recall one instance in which a Republican challenger was himself going down the line and requiring prospective voters to read some passage of the Constitution, rather than presenting his challenge to the Election Board in an orderly way. I advised him to stop this practice, and to make any challenges in the manner provided by the law.

QUESTION

13. Judge Charles L. Hardy in a letter to Senator Eastland describes the tactics of the Republican Party in Phoenix in 1962 as follows:

"In 1962, for the first time, the Republicans had challengers in all of the precincts in this county which had overwhelming Democratic registrations. At that time among the statutory grounds for challenging a person offering to vote were that he had not resided within the precinct for thirty days next preceding the election and that he was unable to read the Constitution of the United States in the English language. In each precinct *every* black or Mexican person was being challenged on this latter ground and it was quite clear that this type of challenging was a deliberate effort to slow down the voting so as to cause people awaiting their turn to vote to grow tired of waiting and leave without voting. In addition, there was a well organized campaign of outright harassment and intimidation to discourage persons from attempting to vote. In the black and brown areas, handbills were distributed warning persons that if they were not properly qualified to vote they would be prosecuted. There were squads of people taking photographs of voters standing in line waiting to vote and asking for their names. There is no doubt in my mind that these tactics of harassment, intimidation and indiscriminate challenging were highly improper and violative of the spirit of free elections."

(a) Please describe the relationship between your role in planning and implementing Republican election day challenging efforts that year and the tactics described by Judge Hardy.

(b) Did any of the practices described by Judge Hardy come to your attention before or during election day in 1962? If so, did you seek to curb such procedures or were they in your view proper?

ANSWER

13.(a) My role in 1962 was, to the best of my recollection, that described above. I neither advised nor suggested that scattergun challenges be made on the basis of literacy. I neither advised nor suggested the handing out of handbills, nor the photographing of voters at the election places. My talk to the challenging "school" in 1962 as to the law governing elections was, I believe, substantially the same as that which I gave in 1960. In 1958 and in 1960 virtually the entire thrust of the Republican challenging effort was devoted to preventing unregistered persons, or persons who had moved from the address from which they were registered, from voting, and as I recall the main disputes which arose in those years with respect to the right of the Republican challengers to enter the polling place to which he was assigned. I did not realize the change in emphasis during Election Day of that year. I therefore feel that there was no connection between my role and the circumstances related by Judge Hardy.

(b) The practices described by Judge Hardy, to the extent that they did in fact obtain, did not come to my attention until quite late in the day of the election in 1962. At that time I believe that the County Chairman decided to remove the Republican challenger from Bethune Precinct because of the serious trouble his actions were causing. The challenging procedures relating to residence described by Judge Hardy were, in my opinion, generally proper; those relating to indiscriminate use of literacy challenges were entirely improper.

QUESTION

14. Were you present at the Bethune precinct at any time on election day, November 3, 1964? If so, while you were there, did you speak to any persons waiting to vote regarding their qualifications to vote under the state literacy laws or other laws, or regarding their ability to read the Constitution? Did you ask anyone waiting to vote at the Bethune precinct in 1964 to read from any printed material which you or anyone else presented to the potential voter? Were you engaged in any dispute at the Bethune precinct in 1964 with Democratic workers regarding efforts by yourself or other Republican representatives to challenge voters? If so, please describe the incident in detail.

ANSWER

14. I was not present at Bethune Precinct at any time on Election Day in 1964.

QUESTION

15. The *St. Louis Post-Dispatch* of November 18 carries a story which states that "documents have been discovered suggesting" that you were "once a member of a rightwing organization" called "Arizonans For America," or "For America." You have previously denied that you are or at any time in the past have been a member of the John Birch Society. Have you been a member of the "Arizonans For America" as is alleged by the *St. Louis Post-Dispatch?* Do you have any additional response to the article?

ANSWER

15. I have never been a member of Arizonans for America or For America. I have seen a newspaper clipping from a local newspaper in 1958 which indicates that I was one of four panelists who appeared at a meeting of Arizonans for America in 1958 to discuss the federal income tax. While I have no independent recollection of speaking at such a meeting, I have no reason to dispute the newspaper account.

R. Excerpts From the Transcript of the Deliberations of the Committee of the Whole of the Commissioners on Uniform State Laws on the Model State Anti-Discrimination Act, August 1, 1966.

Mr. DORSEN. . . .

Section 312, Alternative A, comes from the federal law:

"Nothing contained in this chapter requires an employer, employment agency, labor organization, or joint labor-management committee subject to this chapter to grant preferential treatment to an individual or to a group because of the race, color, religion, sex, or national origin of the individual or group on account of an imbalance which may exist with respect to the total number or percentage of persons of any race, color, religion, sex, or national origin employed by an employer, referred or classified for employment by an employment agency or labor organization, admitted to membership or classified by a labor organization, or admitted to, or employed in, an apprenticeship, or other training or retraining programs, in comparison with the total number or percentage of persons of the race, color, religion, sex, or national origin in the State or a community, section, or other area, or in the available work force in the State or a community, section, or other area."

Alternative A is, of course, a mouthful, and I wouldn't want to be put on my oath as to what it means, but it is taken from the federal law, and it was inserted in the federal law to deal with the problem that has already been mentioned of racial imbalance. The point was that you are not required to hire anybody or, if you are a labor union, refer for employment, because of an imbalance in a particular work force, or what have you. That's in the basic Act.

Alternative B of Section 312 is not for the basic Act; it's for the model Act, and it says:

"It is not a discriminatory practice for a person subject to this chapter to adopt and carry out a plan to eliminate or reduce imbalance with respect to race, color, religion, sex, or national origin if the plan has been filed with the Commission under regulations of the Commission and the Commission has not disapproved the plan."

The history of this section in worth taking a moment to mention. Several states—Indiana, Massachusetts, Illinois, and California—and various communities, but these states, have adopted various forms of statutes which go well beyond this in at least two instances, dealing with racial imbalance.

The Committee's feeling was that if there is going to be anything dealing with racial imbalance, (1) It should come about only under a plan that somebody comes forward with; that the Commission should not be of its own motion promulgating such a plan; and, secondly, that if you have a plan of this kind, you have to go to the Commission and file the plan and give the Commission an opportunity to reject it. As I say, several states have already done one form or another of this, and we put it in as the model Act provision.

Mr. BRAUCHER. In the Section meeting with respect to Alternative B to Section 312 the question was raised whether there should not be time limits imposed on these plans, either some waiting period after they are filed before they go into effect, or some maximum length of time during which you could carry out such a plan, and we propose to add to the comment a statement that that kind of time limitation is the sort of thing which is left to regulations of the Commission.

Mr. DAVIS. Mr. Chairman, I gather here that you are encouraging discrimination. It seems to me that discrimination is going to be bad—if it is bad—regardless of whether you are discriminating for a good motive or a bad motive, and I do not see any justification to legalize discrimination, if the whole purpose of the Act is to try to prevent it.

Mr. BRAUCHER. This is a problem, and it has been argued in various places. There are now judicial decisions in some states—New Jersey comes to mind—where there have been judicial indications that what Commissioner Davis calls discrimination is not the kind of discrimination that is forbidden.

Now, there is a problem here as to how far a state is competent to permit this, if it violates the federal statute. My own guess would be that as long as the discrimination is what is sometimes called benign discrimination, if that's a permissible phrase—my guess is that the Equal Employment Opportunities Commission probably would not get around to prosecuting that for quite a while.

The fact is that if you think in terms of the Telephone Company in a substantial city, such as—the one which comes to my mind, naturally, is Boston—and they find that they do not have any colored employees, and they are confronted with the prospect of people marching around in large numbers in front of their offices—their problem is to get themselves some colored employees, and if that is discrimination, it's a condition they are confronted with.

Now, I think the history of this in the northern states, where this kind of thing has happened, is that the Commissions Against Discrimination or the Human Relations Commissions have on the whole not been very diligent in prosecuting against that kind of discrimination. Recognizing the problem that we might be departing from what's allowed under the federal law, it seemed to us that this was a plase where we could ease the lot of some of our employers who distinctly have problems here.

Now, notice that we have allowed the Commission to step in and say: No, you can't do it. I think that's necessary, because, of course, this could be misused. It could be used to foster and perpetuate a kind of discrimination that's not benign in any sense; but it's a problem, and this thing is an optional section which we thought might be helpful to some people who are otherwise in this rather uncomfortable situation of being whipsawed between two opposing forces. And there is the problem of the fact that several states have moved in this direction.

Mr. EVERETT. Just in terms of the technical presentation, it seems to me it's somewhat misleading as it is stated in Alternative A and B, in that you are expected to pick one or the other, whereas a very real alternative would be to take both.

Mr. DORSEN. Why don't we deal with that?

Mr. MORGAN [D.C.]. As I understand this, it is to avoid taking certain steps because of race, color, sex, and so forth. I'm an old-fashioned lawyer, and with all due respect to the Committee, I must be practical. I am surprised that a group of lawyers would recommend that if it's discrimination not to employ a person because of race, color, or sex, and that the same Act provides that it is unlawful not to employ someone because of his race, color, and so forth—which is the guts of this so-called imbalance——

Mr. DORSEN. I wouldn't add to what Professor Braucher has said. This is a provision that is found in different forms in four states, and in my own knowledge I know of employers who have been put into a very awkward position. It wasn't the Telephone Company, but it was a major employer, and it seems to me the provision is eminently desirable.

Mr. MORGAN. I think you overlook the fact that the very fact that such a provision is put in an act prepared by the Conference of Commissioners on Uniform State Laws gives it a certain character to which it is not entitled legally, and I don't think it should be in any Act that is even proposed by this Conference.

You are a lawyer. You ought to know that if it is unconstitutional to deny education to a person because of color, it is equally unconstitutional to move a child to another jurisdiction or school just because he happens to be of a particular color or race.

Mr. BRAUCHER. Commissioner Morgan, I'm not perfectly clear. There are two different points lurking here. At one point I thought you were saying that we were saying that something was a discriminatory practice at one point and was not a discriminatory practice at another point. In so far as that is a difficulty—the stylistic problem—I think that disappears. Discriminatory practice is the term of art as to what we prohibit. We prohibit discrimination on account of race, color, and so forth, in the first sections, and then we make the exceptions in the later sections. This is not a direct exception. It says it is not a discriminatory practice to carry out a particular type of plan, and it doesn't verbally conflict with anything we have said before.

The other point you are raising is a substantive question of law, and there are two sides to it. That is the question whether it is discrimination in a sense which makes it illegal under various statutes now on the books to cure a pre-existing situation of discrimination. It's very hard to cure a discriminatory situation without discriminating, and in so far as you do, we are trying to resolve that question here so far as it's within the power of the state to resolve it, that in curing a discriminatory situation the inherent—whatever you want to call it—reverse discrimination or benign discrimination or counterdiscrimination—is a thing which is permitted by private action.

Now, notice we are not allowing anybody to command it or to require it, but only to allow the private employer to go forward with a plan.

Mr. MORGAN. May I give you an example? Let's take the Telephone Company.

If some Negro comes to the Telephone Company and wishes to be employed, and they do not employ him because of his color, it's discrimination. However, if he wants to balance, you say that it's not discrimination for him to discharge, or favor certain positions occupied by white people, in order to employ colored people, or some other race, to make balance of that employment. I say that is just as much discrimination as refusal to employ a man because of his color.

Mr. BRAUCHER. Well, I think the case you put is not one that is likely to be an actual case, where you discharge a group of your long-standing employees in order to bring in some new ones. I think what is likely to happen is, particularly in apprentice training programs and the like, that the people in charge make an effort to stir up applications from the people who are short in the existing supply, and this has happened. Employers have felt that they were more or less forced into it. Some of your employers, of course, are subjected to boycotts of their products, and the like, and the pressures get pretty severe.

Mr. MORGAN. Under that condition the ordinary rule against discrimination applies. If you have got jobs open——

Mr. BRAUCHER. Yes, but the point is that some people have made efforts to try to introduce a number of employees of a kind they had not previously had. Now, arguably it's not discrimination at all. I think that's what you are saying. Arguably it is discrimination; and we are going to have to get the facts. But we are saying that this is the sort of thing that the Commission can devote its attention to and develop standards, and, subject to the action of the Commission in disapproving it, we are allowing the employer to go forward with a clear hand.

Mr. MORGAN. Let's suppose there is one position open, and a white man and a colored man come in for employment, and the white man is better equipped than the colored man, but the employer says: I want to employ the Negro, in order to avoid imbalance.

I say this is discrimination, and ought to be punished, if you are going to punish employers at all.

Chairman SCHWARTZ. Gentlemen, I think we have time for just one more comment.

Mr. DAVIS. I want to ask a question, if I may, with reference to this plan. Does the

Committee understand that this plan would have to be all-inclusive, or could it eliminate the imbalance only between males and females, or only between white and black?

Mr. Dorsen. It would not have to be all-inclusive, and I think that should be said in the comment. I think it's a fair point.

Mr. Millimet. I think Commissioner Morgan has one point which the draft doesn't treat with, and that is Alternative B to Section 312 does not prohibit discharging as part of a plan of reducing imbalance, and it does seem to me that's a little bit different from promoting balance by hiring new employees.

Mr. Dorsen. I think that should be treated differently. That's a fair point.

Mr. Rehnquist. Mr. Chairman, I have a comment to make on 312, which is the section we were on immediately before lunch, I believe, pertaining to imbalance.

It seems to me there is a very definite substantive question here as to whether or not it is desirable to permit benign discrimination, as Mr. Braucher referred to it, and I would like to see any part which would grant any affirmative authorization under this Act to permit this type of discrimination deleted, and therefore I move that in line 19 of Section 312, after the word "out", there be placed a comma, and the phrase, "if otherwise authorized by law" inserted.

It seems to me that this will keep the laws authorizing this thing in states which already have them, and yet not delegate to an administrative body the terrific problem of defining the term "racial imbalance", which is, as far as I know, primarily a term found in the newspapers. This confers a very broad authority on the Commission without any real bounds to it.

Mr. Braucher. If I understand Commissioner Rehnquist, he is saying on line 19, after the word "out", to insert "if otherwise authorized by law".

Mr. Rehnquist. Yes, sir.

Mr. Braucher. ". . . a plan to eliminate or reduce imbalance . . ."

I think in order that you may understand what it is we are doing—you will remember that this morning we undertook to limit this section so that it would not authorize the discharge of existing employees, but would deal only with the employment of new employees, and so the proposal that we have now, aside from Commissioner Rehnquist's motion, would be to insert after "a plan" the words "of filling vacancies or hiring new employees so as". I'll read that again.

On the same line, "adopt and carry out a plan" and then insert "of filling vacancies or hiring new employees so as to eliminate or reduce imbalance with respect to".

Mr. Rehnquist. I heartily concur in that suggestion.

Mr. Braucher. That was a suggestion made this morning, and since it is in the same sentence you are proposing to amend, I thought we should understand how it would fit.

As I understand the proposal, it would be to amend it:

It is not a discriminatory practice for a person subject to this chapter to adopt and carry out, if otherwise authorized by law, a plan of filling vacancies or hiring new employees so as to eliminate or reduce imbalance with respect to . . . and so forth.

Mr. Rehnquist. It sounds as though my language fits in.

Mr. Braucher. I think it does. I think it does. I thought it was worthwhile to have our proposal with your suggestion added.

Now, as I understand it, this is a motion. The Committee obviously has not met on this proposal. I'm a little troubled by it, myself, because it seems to me that, in the absence of legislation, action by private employers to employ employees is authorized by law. If you don't pass any legislation, it's authorized.

All we were trying to do in this section was to prevent this new legislation in a state where it is new, or this type of statute—this anti-discrimination law—from fettering employers in a freedom which they have enjoyed traditionally to select their own employees on these bases that seem proper to them. The whole thrust of this statute is to limit the preexisting power of private citizens to discriminate in employments, employing employees, and I would suppose in the absence of this statute discrimination among employees on the ground of race is thoroughly authorized. The trouble is that you have the federal statute which forbids certain types of discrimination, and if you mean by your amendment merely if permissible under federal law, you wouldn't have so much trouble with it; but if you mean if authorized by law in some other sense, I find myself in some difficulty.

Our thought was that we are coming in, in some states at least, with a new regulation, and in other states we are displacing existing legislation on discrimination, and we were trying to simply limit the reach of the new legislation. Now, you are suggesting that there is some requirement. Either you have the same notion I have, that anything that isn't forbidden is authorized, or you mean there must be some affirmative authorization in a law somewhere for an employer to select his employees.

Mr. Rehnquist. Commissioner, if I might respond, the Comment on page 22 states that Alternative B is for the model Act and is "designed to obviate a possible repeal by implication of statutory authorization of plans to cure imbalance." As I conceive my amendatory language, it would retain such statutory authorization where it exists, but it would not cover any additional authorization by this section where it does not already exist by statute.

Mr. Braucher. The suggestion has been made from the Committee: Would it meet your point—I am just trying to understand what it is we are trying to accomplish here. Would it meet your point if we said, "if not inconsistent with other law"?

Mr. Rehnquist. If I may respond, I don't believe it would meet my point. To me the substantive question here involved is: Do you permit at all benign discrimination, as you referred to it?

The section as drafted authorizes private employers to benignly discriminate. The purpose of any amendment is to sharply limit that permission, so that it has to be created in some other statute already in effect. It would save those statutes, but not authorize under 312 what I regard as a highly controversial type of discriminatory legislation.

Mr. Joiner. I think this motion is a direct attack upon the power granted in the statute to eliminate racial imbalance. It's a complete frontal attack, and raises the issue rather squarely, as I have listened to the discussion. I have heard an articulation of what has always seemed to me to be the real reason for a provision of this kind, and that is that in many areas of employment, and in other areas as well, there has for a long period of time been some kind of discrimination which has, as a result, created a very great imbalance; and this is a direct method—this provision, as I understand it—is a direct method to permit a catch-up of this particular situation, and I think it would be a grave mistake to allow this attack to pass, and I think we should vote "No" on the motion.

Chairman Schwartz. Any other discussion? [No one responded.] Are you ready for the question?

The motion, as I understand it, is to insert in line 19 after the word "out" the words "if otherwise authorized by law".

[The motion was put to a voice vote.]

Chairman Schwartz. I think the motion is lost.

Mr. Rehnquist. I call for a division.

Chairman Schwartz. All right. Will you raise hands?

Mr. Witherspoon. Mr. Schwartz, will you announce how you are taking this vote, so we will know?

Chairman Schwartz. We are voting with raised hands, one hand apiece, "Aye," if you are so minded. [Laughter]

[A hand vote was taken, and the motion was lost.]

Mr. Rain. Mr. Chairman, I think that Professor Joiner was right as to the purpose of the section and what it is designed to do, and it obviously is the view of the Conference that that is desirable. In that light I think the Comment is misleading. It ought to state exactly what the purpose is—to catch up.

Mr. Dorsen. I think that's right. [Reading.]

Section 606. [Blockbusting.] It is a discriminatory practice for a person, for the purpose of inducing a real estate transaction from which he may benefit financially.

(1) to represent that a change has occurred or will or may occur in the composition with respect to race, religion or national origin of the owners or occupants in the block, neighborhood, or area in which the real property is located, or

(2) to represent that this change will or may result in the lowering of property values, an increase in criminal or antisocial behavior, or a decline in the quality of schools in the block, neighborhood, or area in which the real property is located.

I'm sure you know that provisions of this kind, of which this is a quite narrow one, were begun in cities. Many small cities—and large cities, for that matter—have ordinances roughly of this kind. A couple of years ago Ohio passed a statute dealing with this problem, which has been a recurring one. We thought we could draft a much better one than the one that some of the smaller towns had put together, and we proceeded to do so, and this is the result.

Mr. Morgan [D.C.] Mr. Chairman, the objection to that provision is that, in the first place, it lacks reality, and in the second place, I think it violates the constitutional freedom against free speech.

Mr. Joiner. I ask the question: Why do you leave color out of this section, when we have been carrying color all the way through?

Mr. Dorsey. It should have been included. That's a typographical error.

Mr. Rehnquist. Mr. Chairman, I have great reservations about Section 606, even in a Model Act. It forbids what could be a perfectly truthful representation, and it forbids what certainly could be a representation made with a good faith belief in its truth, and I read the case of *Valentine* v. *Christensan*, and I think it's certainly very commendable that the word "see" was presented in the Comment in that case. The fact that you can prohibit a man advertising on a handbill in New York City certainly does not mean that you can prohibit a man making a representation that somebody else is trying to sell a house in the privacy of the man's home.

I therefore move that Section 606 be deleted.

Mr Dorsey. I was just going to say, about your reference to the *Valentine* case: The statutes and ordinances which exist on this subject go well beyond in every respect the way we drafted it, and in particular I would like to draw your attention to Lines 2 and 3 of the section, where we included specifically the phrase "for the purpose of inducing a real estate transaction from which he may benefit financially", in order to make sure that we weren't dealing with gossip, we weren't dealing with non-commercial representations, or representations that did not have a commercial purpose.

Now, I feel that there is plenty of room for argument. There may be plenty of room for argument both on the constitutional question that you raised and even on the policy question. I do think that if you looked at the ordinances that have been passed, you would agree that the drafting we have done has substantially improved—I don't mean to be immodest about it, because it's not my draft. I can assure you it was worked over very carefully by the members of the Committee, and I think it's a substantial improvement over what we have seen, and I think that it's a desirable provision, if only to limit the scope of potential blockbusting statutes and ordinances that are already on the books.

Mr. REHNQUIST. I have never thought it was the function of the Conference, because it saw some bad laws on the books somewhere, to draw a law slightly less bad. It seems to me our function is to draft something that we can put our approval on. It seems to me we have a constitutional question and a serious policy question, and in view of the combination of those two factors, plus the fact that it doesn't strike me this is a vital part of your bill at all, I think this would be a good thing to leave out.

Mr. BRAUCHER. Mr. Chairman, I don't want to add anything on the constitutional question. We were very conscious of the constitutional problem, and this is very much cut down from the standard—I say "standard"; from the various provisions in these municipal ordinances.

The State of Ohio did include a provision of this kind in its statute, and we have more or less followed that, although I think we are less subject to constitutional doubt than the Ohio statute.

However, I would like to speak for just a moment to the merits of this. The practices that are dealt with in this provision are practices that have no merit whatever. They are vicious, evil, nasty, and bad. These are people who go around—and this is not a hypothetical situation; this is something that has happened in every big city in the United States—and run up a scare campaign to try to depress the value of real estate. They will, if possible, buy one house, and then they will throw garbage out on the street; they will put up "For Sale" signs; they will perhaps hire twenty badly clad and decrepit-looking Negroes to occupy a single-family house, and so forth; and then they go around to the neighbors and say: Wouldn't you like to sell before the bottom drops out of your market?

And the notion that that type of conduct should be entitled to some kind of protection under the bans of free speech is a thing which doesn't appeal to me a tiny bit.

Now, you may be able to get five Justices of the Supreme Court to say that that is unconstitutional. I don't believe it, myself; but if you do, I would like to give them a chance to vote the other way before I withdraw this statute.

[Calls of "Hear! Hear!"]

Mr. ABRAMS. I would like to ask the Committee whether the word "or" between Section 606 (1) and (2) should be "and", because it doesn't seem to read quite right, unless it is.

In Section (2) it refers to "this change", which would not read properly unless Section (1) also was in there to define—

Chairman SCHWARTZ. Where are you?

Mr. ABRAMS. Page 35, Section 606, (1) and (2).

Mr. DORSEN. You are referring to the "or" on Line 7?

Mr. ABRAMS. Yes. It should be an "and", because that is the kind of representation that you are referring to. Is that not right?

Mr. DORSEN. There is an article by a gentleman from Texas, Professor Witherspoon of the University of Texas Law School, in which he points out that it's really done in all kinds of ways, including spreading of rumors of crime waves, and so forth. It's more than one technique, and sometimes it's done with only innuendo, without expression specifically of color, and we were trying to include that, and that was the reason for the "or".

Mr. ABRAMS. But isn't the intent that the change to which you refer will have the effect that is set forth in Section (2)? Isn't that the change?

Mr. DORSEN. To the extent that that is perhaps the ultimate effect to be effected, you are quite right, but the key word, I think, is "represent", and the process can take place without the representation under (1)—and has, as I understand it—and that's why we put it in the alternative.

Mr. MORGAN [D.C.]. Mr. Chairman, I come from a section where if a Negro moves into the area, it will reduce prices, and I don't think it's a crime for a real estate agent to tell the property holders that a Negro family has moved into the area, and it will reduce values.

Chairman SCHWARTZ. It is not a crime in any event, under this Act.

Mr. MORGAN. It is.

Chairman SCHWARTZ. There is no criminal punishment. There is a cease and desist order.

Mr. MORGAN. Well, it is a discriminatory practice.

Chairman SCHWARTZ. That's right. There are no criminal penalties except contempt, if you go to court.

Mr. MORGAN. How can you have a law without a sanction?

Chairman SCHWARTZ. You have a cease and desist order enforced by a court order.

Mr. MORGAN. I don't think that's appropriate.

Chairman SCHWARTZ. Is there a motion before the house?

[Calls of "Yes! Yes!"]

Chairman SCHWARTZ. The motion, as I understand it, is to delete Section 606 in its entirety. Are you ready for the question?

[The motion was put to a voice vote and was lost.]

IMPROVING THE QUALITY OF LIFE

HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1971

Mr. ANNUNZIO. Mr. Speaker, I would like to call to the attention of my colleagues an article entitled "Improving the Quality of Life" written by Dr. Irving Abrams, medical director of the Chicago Board of Education; Mrs. Louise G. Daugherty, assistant superintendent, pupil personnel services and special education, Chicago Board of Education; Dr. Richard S. Abrams, psychiatrist, Northwestern University Medical School; and Dr. Michael Vanecko, associate medical director, Chicago Board of Education.

Dr. Irving Abrams, whom I know personally, is an eminent physician and a recognized authority in the field of public health administration. He has given many, many years of dedicated service to the schoolchildren of the city of Chicago, and in his capacity as medical director, he has instituted countless new programs benefiting the health and welfare of the students in the public schools of our city.

Speaking from the vantage point of broad experience, Dr. Irving Abrams and his distinguished coauthors review the relationship of poverty and health defects, which contribute to a child's failure to learn and to achieve, and point out that although health is a contributory factor, social, economic, and political factors contribute as well to behavior disorders and health-learning problems.

Citing some of the shortcomings of current HEW programs, the authors make 10 recommendations aimed at "improving the quality of life" for all Americans. The article—parts I and II—which appeared in the June and October 1971 editions of the Journal of School Health, including these 10 recommendations, follows:

IMPROVING THE QUALITY OF LIFE [1]

(By Irving Abrams, M.D., F.A.A.P., Louise G. Daugherty, Richard S. Abrams, M.D. and Michael Vanecko, M.D.[2])

In this article we shall point up some of the problems that reduce the quality of health, education, and welfare.

The "child in school" is different than the child at home. On entering school, he meets formal competition with his peer group for the first time. He needs satisfying experiences for proper growth and development. He must learn to respect restrictions, to obey, to play cooperatively, to speak clearly, to read, to spell, to write, to develop good health practices and to perform more complicated tasks as he reaches toward maturity.

The child who has the best chance is the one with a good heredity, a smooth parental experience, an uneventful natal day and parents who set proper examples of total living. He needs good preschool and school years embracing optimum or near-optimum health-welfare and educational programs. He should attend a school that has a school doctor and nurse. If he shows signs of educational or health failure he needs a staffing conference by a trained doctor and educator so that a diagnosis can be made and a "direction" given to the child, the teacher, and parents.

Many children do not have this. Many come from homes burdened with large families, with insufficient money, lack of experiential surroundings, lack of motivation, lack of good health and good food habits and a high incidence of reproductive casualty. To some millions of children across the nation, the expression "the parent has the primary responsibility for the health of the child" is meaningless. It is urgent that we promote, protect and restore the health of school children. Health and education and welfare must be tied together intimately.

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[1] This article is published in two parts. Part I is herein presented. It deals with a multiplicity of factors that reduce the quality of living. Part II deals with programs the authors recommended to improve the quality of life. Because of the length of the entire article, Part II will be published in the October 1971 issue.

[2] From the Chicago Board of Education. I. Abrams, Medical Director, L. Daugherty, Assistant Superintendent, Pupil Personnel Services and Special Education, R. S. Abrams, Psychiatrist, Northwestern University Medical School and M. Vanecko, Associate Medical Director, Chicago Board of Education.

At the federal level the expression is HEW, but down the line, H is separated from E and from W in the actual programs that are carried out. The word comprehensive is used loosely if for example a child is seen in a clinic and found to be a "healthy specimen," but who, at the same time, is failing in school, or is a run away or a drug abuser, or is acting out in the classroom, so that the teacher cannot conduct class procedures for the benefit of all the pupils. Somewhere along the line, the poor family has been the victim of commission or omission in terms of adequate health, education, and welfare services from private and/or public agencies.

It is indicated to present the problems that prevent the boy or girl from achieving near their full potential. The failure to achieve in school at the elementary and/or high school level is as serious to the child as other handicapping illnesses or conditions.

In the Chicago Public Schools, children are tested seven times, at periodic intervals, from the entering primary grades through the eleventh grades. About 2 or 3 weeks after entrance to the primary grades, the children are tested with the Metropolitan Readiness Tests. In order for teachers to prepare individual approaches to children, they need to know as much as possible about the children in all categories of function. Testing is only one method of getting some information. The child brings to the primary grades the knowledge and skills of the total past experience in the home and community together with the influences of the heritable traits built into the genes.

Each child, therefore, comes to school with different qualitative and quantitative skills and attitudes. Some of these are tested in the Readiness Tests (1) which embrace word-meaning, listening, matching, alphabet, numbers, copying, and an optional Draw-A-Man Test. As the children advance in grade, other tests are employed.

In January of 1970, the Chicago Public Schools' City-Wide Testing results (2) of the period 1968–1969 were made public for the first time in the school systems' history. What had been known to many in the school system was a shock to the public. The newspapers headlined various test results.

Below is Table One showing the scores of the city public schools as compared with the National Norms (3).

TABLE 1

[In percent]

	Entering 1st-year readiness	
	National	City
Ready	69	52
Probably not ready	24	35
Not ready	7	13

It is noted that ½ of all the children (35% +13%=48%) are "probably not ready" and "not ready".

Let us select at random a school of low income black and compare it with a middle income white. Table Two gives the test readiness of the low-income school (4).

TABLE 2

[In percent]

	Entering 1st-year readiness		
	National	City	Low-income black school
N=91			
Ready	69	52	24
Probably not ready	24	35	44
Not ready	7	13	32

In this school, 76 percent of entering first grade pupils are 'probably not ready' and 'not ready', as compared with 48 percent at the citywide level and 31 percent at the national level.

Table Three gives the test readiness of a middle-income white school (5).

TABLE 3

[In percent]

	Entering 1st year readiness		
	National	City	Middle-income white school
N=77			
Ready	69	52	90
Probably not ready	24	35	8
Not ready	7	13	2

In this school, only 10 percent of the entering first grade pupils are 'probably not ready' and 'not ready.' This is a far better picture than in the black-pupil school and far better than the national level.

If we follow the testing of pupils in each of the two schools we find the pupils in the low-income school score lower than the white pupils in the middle-income school in later grades also, in terms of learning ability, reading, arithmetic computation, and in intelligence quotient. These facts hold up generally in inner city black low-income school children as compared to middle income white school children.

From our experience and from the tests, it means that many low-income children enter primary grades already educationally retarded, and continue on this path. Many are promoted because a child becomes too old and/or too big to be held back, and/or it is expensive to hold a child back. These facts point up the seriousness of the national situation, in which hundreds of thousands of boys and girls from grade and high schools in the U.S.A., are graduated without the multiple skills they need to "make it on their own". The social and political consequences are also serious and are a great danger to the boy and girl, the city, the state and the nation.

The failure to learn is not a simple matter of lowered I.Q., or of brain damage or intellectual impairment or of malnutrition or hunger, or heart murmur or large tonsils. We submit that in our experience on a large scale, *the major causes of failure to learn are social, political and economic*. We feel that many of the programs funded by the Federal Agencies and others are not and will not do the needed job because of prevailing built-in failures.

In recent years, great social changes have crystallized into specific demands. People want health needs met. They know it is poor practice to have to wait and wait in out-patient clinics for health care. They want jobs without regard to racial and ethnic origins. They want more and better food. They know the value of good nutrition. They want better housing. They are tired of seeing their children crippled and dead from lead ingestion and lead inhalation. They want money and energies and people involved in construction, rather than in destruction. People want "in" from the big unions. They want jobs and a part in building our U.S.A. They want better education. They are depressed with seeing their children grow up and not have the skills to get a decent job.

Educational retardation does not necessarily mean mental retardation. The big majority of the hundreds of thousands of boys and girls who are in school and not achieving, are suffering from a pseudo-mental retardation which manifests itself as educational retardation. Perhaps only five percent or less have a real mental retardation of a varying degree.

Of the five percent or less of the mental retardates, seventy-five percent are in the educable mentally handicapped group with I.Q. between 50 and 75. These children are indeed educable with special approaches and programs (6).

Of the five percent or less of the mental retardates, about 20 percent are in the trainable mentally handicapped (T.M.H.) group. Their I.Q. is 30–50. Many children with Down's Syndrome are in this group (although there are some who function near the normal range and at the normal range). The T.M.H. children can be mostly trained and can be educated only to a varying degree.

Of the five percent or less of the mental retardates, only five percent are in the very severe group with I.Q. less than 30. Many of these are in institutions. They cannot be educated. They can be trained in elemental habits only with great patience and a multi-discipline approach.

It is clear to us that there is a large section of our low-income population who are pseudo-retarded and therefore "at risk" because of the restricted opportunities to compete in a competitive society and it is most often engendered by conditions and situations beyond their control.

It is necessary to look at the situations and conditions that terminate in educational retardation for almost ½ of our child population, in order to plan, promote, and implement needed programs. Among these situations and conditions are:—

Health defects of a heritable, congenital and acquired nature; poverty or low-income; father not in the home. Mother overburdened and/or frustrated, and/or working outside the home; no good job for father and frustration from lack of success; inadequate diets and various nutritional abnormalities; lack of experience among the family constellation; numerous infections among the children; crowded housing; teachers trying to keep order and all too often a lack of time and motivation to teach; children acting out in school; frequent absenteeism; frequent moving; failure to develop adequate identification; mental retardation; language barrier; ethnic and racial group emotional immaturity; confused goals; insufficient material possessions such as clothing, furniture, beds, space, food, etc.; general insecurity; trauma from noise, crowding, etc.; gangs; peer group pressures for drug abuse, theft, vandalism, delinquency, crime, etc.; failure to learn to read; unrecognized worm infestations; fragmentation of health services; separation of health from education and welfare and separation of emotional health from physical health.

It is our opinon that most of the health defects are generally, minor causes of failure to learn. *However, some health defects often assume major proportions because of the failure to combine properly the health needs with the educational and welfare needs.* It is necessary nevertheless to state the health defects so that they can be best seen in relation to learning and to low income and poverty. There is abundant empiric and/or specific evidence that the following hazards go hand in hand:—poverty; inadequate nutrition; prematurity and low birth weight babies; small-for-dates babies; some neurologic deficits arising from prematurity; educational retardation; some health-learning problems; some emotional illness associated with frustration, lack of success experiences, failure to achieve near the potential, etc.; many physical illnesses, such as worm infestations, lead poisoning, some anemias, some malnutrition syndromes; some mental retardation; some of the drug and sex scene; some of the crime scene; and on and on.

In recent years a large number of reports in medical journals called attention to the various relationships between poverty, malnutrition, low birth weight, educational failure, mental retardation, neurologic deficit, low income families and so on.

In a study of the physical and mental status of 500 single-born premature infants, and 492 infants born at term. Knobloch (7) et al reported that the incidence of abnormalities increased as the birth weight decreased and that among the infants with birth weights less than 1501 grams, the defects were 50.9 percent. The defects ranged from minor neurological damage to severe intellectual deficiency. Some of these also had major visual handicaps. The authors called attention to a continuum of reproductive casualty resulting from brain damage, with a lethal component consisting of abortions, stillbirths, and neonatal deaths and a sublethal component with a gradation of damage extending from cerebral palsy through epilepsy and mental deficiency to the minor dysfunctions that could result in behavior disorder. This continuum affects the human from the sperm and ovuum union, until well after the baby is born. At birth the reproductive casualty factors are joined by the environmental factors and both then become operative on the baby. Pasamanick et al (8) stated in 1956 there appeared positive and probable etiologic relationships between low socio-economic status and prenatal and paranatal abnormalities which may in turn serve as precursors to retarded behavioral development and to certain neuropsychiatric disorders of childhood. Again in 1958, Pasamanick (9–10) and Knobloch called attention to the likelihood that inadequate diets in early pregnancies as a result of the summer heat might result in fetal cerebral-anoxia-producing complications, that in turn might account for an increase in mental deficiency and possibly other constituents of a continuum of casualty. There is a popular opinion among people generally that abnormalities of pregnancy are rare. This of course is not true.

Between 10 percent and 20 percent of recognized pregnancies end in spontaneous abortion. C. R. Green (11) stated that of 34 embryos two weeks after fertilization, 10 or 29 percent had major abnormalities

Lilienfeld (12) in 1954 studied the records of 564 epileptic children and stated that they showed significantly more complications of delivery, prematurity, and other abnormal neonatal conditions than a similar number of matched controls. He also points up the continuum of reproductive casualty. Incidentally, he feels that because of his findings there is some doubt as to the genetic basis of convulsive disorders.

In 1955, Lilienfeld and Pasamanick (13) emphasized that the nonmechanical abnormalities, such as bleeding during pregnancy and toxemia, appear to be important in the continuum of casualty and that mental retardation should be added to the sublethal component of the continuum.

Goldberg et al (14) studied 553 legally blind children of single birth in New York State and suggests that blindness in children be added to the continuum of reproductive casualty. They point out that congenital cataract was the most notable affliction associated with low birth weight in their study group.

Knobloch and Pasamanick (15–16) in a paper on Heredity and Intelligence state that in the full-term control infants (studied in relation to their several investigations of reproductive casualty), re-examined at the age of 3 years, there was a "marked racial divergence in adaptive and language behavior, while motor behavior and personal-social behavior are essentially unchanged". For white children, the general development quotient rose to 110.9 and for black children, fell to 97.4. Similarly, language rose to 106.0 in the white children and fell to 90.1 in the nonwhites. There was no change in gross motor behavior between the races, the quotients remaining at 113.7 and 112.5 respectively. These findings point to the major impact of socio-economic deprivation factors on the development of language ability among young black children.

Investigative work indicates that the genetic information is stored (17) in the DNA and is transmitted to the protein-making machinery of the cell, so that a specific nucleotide sequence in DNA gives rise to a unique amino-acid sequence in the polypeptide chains of proteins. It may be said that DNA contains a coded message with instructions for the manufacture of specific proteins. DNA directs the synthesis of a specific RNA and this, in turn, directs the synthesis of a specific protein. Mutagenic changes affect genetic structures. Genes determine the activity of critical proteins, their quantity or quality, or the milieu in which the proteins operate. Work with mutants showed that in over 95%, each mutant had a single gene defect and lacked, by nutritional analysis, the ability to supply a single nutrient in optimal amount. Subsequent work shows many mutants do not contain appreciable amounts of a particular enzyme for synthesizing the essential substances. *Some mutants make some enzymes but less than an adequate amount.* Thus it is that the normal or distorted actions of a single gene can infringe on a wide variety of related actions and in this way influence metabolic patterns, cellular structures and morphologic units. *Nutrition is at the formation of life and at the development of a life into a functioning human.* The role of nutrition is basic.

A large number of inborn errors of metabolism have been reported involving proteins, fats, carbohydrates and pigments. Some of the conditions are fatal. Some are crippling. A few are understood and remediable, among which are diabetes and PKU.

A consideration of the large number of noxious elements and medications that are lethal or crippling to the fetus, infant, and child is extremely important. However, if we look at just one, namely the Thalidomide (18) affair, we gain an insight to the massive job that needs to be done in the field of medication—the hundreds of things we need yet to know. Thalidomide first came out as Grippex in 1956 and was thought to be effective in flu. Later it was found to be a sedative and was used as a sleeping tablet. It was marketed under a great many different names. The brakes were off and in its wake, thousands of despaired and mourning parents were left with their dead or crippled children. Fortunately incidents like these may be only "one-shot affairs". But socio-economic influences stay with us and take a heavier toll.

There is an overflowing literature on the effects of social (19) and economic and family environmental (20) conditions on the health and function of infants and children. The effects on growth and health such as very high infant mortality, slow rate of growth and physical and mental lethargy, is well-documented in some underdeveloped countries and areas such as among deprived groups in Central America. Patton and Gardner (20) stated, that maternal deprivation, even in high socio-economic homes can produce growth failure with symptoms of physical and mental retardation and severe associated emotional disturbance.

If we were to look at all of the sequelae of the noxious influences plaguing humans and zero in on the target of the day, it would be taking a look at the life wastage in terms of spontaneous abortions, immature stillbirths, premature stillbirths, premature livebirths, (which die soon after birth), and then the premature livebirths, which stay alive with various types of morbidities and defects. Being even more specific, it would be the non-white low birthweight baby in cities that have large numbers of low income black residents, and the white low birthweight babies in areas that have large numbers of low income white residents.

Clifford (21) stated the problem is like an iceberg in which we see only the deaths and the casualties, with the greater number and variety of morbidities hidden deep. The prevention of prematurity is the Sine Qua Non for reducing mental retardation and other neurologic disorders.

Bacala et al (22–23) in two studies, one of low birth weight babies 1500 grams and less, and one of babies 1500 to 2500 grams found that in the under 1500 gram group, 50 percent had borderline mental devleopment or actual mental retardation.

Williams and Scarr (24) found after careful studies that learning ability in low birth weight infants is directly associated with CNS damage.

Eaves et al (25) stated that many authors find as the birth weight decreases, there is a gradually increasing incidence of mental retardation and psychoneurologic defect.

We must take a look at the trends in prematurity in the U.S.A. (26). The following table shows the trends:

TABLE SHOWING PERCENT OF LIVE BIRTHS OCCURRING IN HOSPITALS AND PERCENT LOW-BIRTH-WEIGHT INFANTS U.S.A. 1950–1960–1967

	White		Nonwhite	
Year	Born in hospitals	Low birth weight	Born in hospitals	Low birth weight
1950	92.8	7.1	57.9	10.2
1960	98.8	6.8	85.0	12.8
1967	99.4	7.1	92.9	13.6

It is apparent that from 1950 to 1967 the incidence of prematurity or low birth weight babies has not changed significantly in the white group. However, in the non-white group the incidence of low birth-weight babies increased from 10.2 percent to 13.6 percent. The incidence is almost twice the percent in non-white over white.

A symposium was recently held on the role of malnutrition in the pathogenesis of slums (27). The speakers pointed up a long chain of abnormal conditions, each feeding on the other in an unbroken pattern. Some of the abnormal conditions are:—poverty in the home—maternal malnutrition—small weight baby—brain size smaller than normal. The placenta showing a reduced number of cells as well as differences in composition of DNA, RNA, protein and trace minerals. The brain size may be less than normal, with appreciable reduction in numbers of brain cells, DNA, RNA, protein and lipids. There may be intellectual limitations—growth impairment — frustration — infections — emotional deprivation and disturbance—health-learning difficulties, etc.

In a recent article (28) by Bergner and Susser, it is pointed out that the effects of poverty increase the chances of children growing up and marrying into the poorer classes and keeping up the cycle of poverty and reproductive disadvantages. Kallen (29) agrees with the abnormal effects of severe malnutrition, but states that the effect of mild chronic malnutrition on intelligence is not clear. It is suggested that among the consequences of malnutrition are apathy, uninvolvement in the world, unresponsiveness, interference with learning, interference with using the skills already present, negative self-image, feeling of incompetency, reduced social mobility, etc.

David Coursin (30) stated, "the question is not does malnutrition affect the brain, but how much does it and by what means?" He states that the requirements for prevention of malnutrition are at hand but the concerted efforts of medical, economic, political, educational, psychological, and social forces are needed to implement them successfully. Max Seham (31) stated that 11 million or more American children are suffering from the "deprivation syndrome", and that the poor, especially the Negro, have been trapped in a relentless cycle of poverty for many years.

K. Mehlinger (32) in a hard-hitting article states the milieu of the ghetto is sick and other ethnic groups as Mexican-Americans, Latin-Americans, Puerto Ricans, and Appalachian-Americans are afflicted with the same endemic illness. He states, "oppressive social conditions destroy the protective function of the black family and rob the child of the inner security and self-esteem needed for mature growth . . . the ghetto child (ghettonaught) plods and shuffles in a vacuous never-never land of unlimited nothingness.

PSYCHOLOGIC STATUS

Psychiatric service today is sorely lacking in most aspects of human need. When a child or parent show symptoms indicating psychiatric treatment is needed, the service seems not to be easily and readily available on an early and continuous basis. Preventive psychiatry is rare indeed.

A frequent need for the psychiatrist is from the school boy and school girl and their parents. The school is the first major competitive challenge in a person's life. The other major competitive challenge is when the young man and woman "go out into the world to seek fame and fortune," or in other words, when they enter the work force and need to compete to get the job, to hold the job, to change jobs, to get a raise, to gain recognition and so on: Preventive mental health programs practically are not making headway because a look at the world scene shows: widespread social illness, enslavement, mass murders, cruelty, almost unbelievable materialism, poverty, malnutrition, hunger and air-food-water pollution. Strangely, these exist side by side with affluence, good health, compassion, and charity.

If we look at the school scene we find:

Too many children act out.
Too many do not achieve well.
Too many are on drugs.
Too many are truant.
Too many are emotionally disturbed.
Too many are undernourished.
Too many are sick with defects.
Too many are defiant.
Too many do not have clear goals.
Too many are all of these.

In interviewing many children with some or all of these troubles, we find many have confused goals. Many have great difficulty and are actually in crisis, trying to establish and identify with themselves, with adulthood, with their families, with the school, with their future. Many do not have a clear idea of their role and are depressed and fearful of the future. Many gravitate to the peer group or the gang or club, out of sheer need for comfort in belonging with others, who feel as they do. Many neglect their nutrition because of general depression and hopeless outlook. Many put on a rebellious and pseudo-independent front and attempt to hide their inner depression. Many turn to promiscuity or to self-punishment or punishment of others. Many are unable to bring proper relationships to the id, ego and superego and the result is failure to establish optimum or near optimum function. The present drug scene in our opinion has a strong element of depression of youth, and the drug scene is only one symptom of this widespread depression. Society is faced with a great challenge. It would take a major change of direction on the national and world scene to make effective priority changes. It would take an Herculean effort to change entrenched committees, departments and groups all along the line, to move rapidly to give service to people. Is this probable?

As the infant grows he needs just enough frustration and challenge and motivation to develop skills as they are challenged to appear, and also so that the individual pattern of skill development will indeed unfold in as near an optimal manner as possible. On the part of the mother and father this means knowledge, love, understanding, compassion, and relative freedom from want of the basic necessities to live. It also means relative freedom from fear of living in any particular country where the climate is far to the right or far to the left. The parents must set examples of good total living so that the milieu of the infant will be best for optimal growth and development. The parents need to have some knowledge of child behavior and child growth and development, especially in regard to diet, inoculations to prevent disease, periods of development, puberty, adolescence, and so on. Many people of foreign ethnic groups in their own foreign countries had little knowledge of these things, but they had love and a father in the home and work to do, and they had a simple, non-rush type of society and milieu. Thus, their built-in skills of being a father and mother were quickly developed when needed.

To expect a mass of black poor, Mexican poor, Puerto Rican poor, Appalachian poor, and rural poor in various parts of the country, to meet the challenge of parenthood when they face more prematurity, poor health care, poor housing, poor education, increased infections and segregation from the more affluent, is, to say the least, unrealistic. Or to expect that many of the existing Federal Health and Education programs can do the job is indeed an amateurish approach to serious widespread problems.

As these children of poverty grow into the adolescent period, they need to identify with interests outside the homes such as friends, loves, groups, jobs, goals, school, clothes, sex, sports and so on. With the total past of so many, it is no wonder the expansion of interest is the gang and its accompanying school failure, truancy, delinquency and the rest.

As this country developed, rationalism took over, but neglected the emotional needs of the ever-increasing population. Rationalism developed from expediency and together they led to steel, brick, mortar, guns, wars, crimes, and lack of participation in decision-making by the young. The materialistic developments continued at a fast pace but wasn't enough to meet the needs of peoples' minds, and changing needs, and changing desires. As the young presented their claims and desires, they feel they were met with a tightening-up of the status quo. We should recommend and implement programs that will surely improve the plight of the needy. The cost of the programs that will work is immaterial—if they work. The vista of planners often is palliative rather than curative—often expedient rather than groundbreaking in imagination.

Finally, we would like to give you our definition of proper nutrition. It should mean proper food intake, proper air intake, proper water intake and proper thought intake.

This world was indeed fortunate to have had a Bobby Kennedy who said:

"Some men see things as they are and say, why? I dream things that never were and say, why not?" We think the world needs to think in the broad aspects embodied in Bobby Kennedy's work.

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Improving the Quality of Life—II[1]

(By Irving Abrams, M.D., F.A.A.P., Louise Daugherty, Richard S. Abrams, M.D. and Michael Vanecko, M.D.)

In June of 1971, Part I of "Improving the Quality of Life", was published in this Journal. Part I emphasized the widespread existence of educational retardation and reviewed the possible and probable relationships of poverty with health defects, but stressed the fact that while health defects were very important in the general failure to learn to achieve, the most important causes were social, economic, and political. A long list of defects, conditions and situations were brought together. Among these are:—poverty, which breeds poverty, inadequate nutrition, prenatal and paranatal abnormalities, low birth-weight babies, increased infections, neurologic deficits, apathy, emotional immaturity, lack of self-esteem, negative self-image, reduced social mobility, identity confusion, high infant mortality, environmental and cultural deprivation, and the concept of a "continuum of reproductive casualty resulting from brain damage, with a lethal component consisting of abortions, stillbirths, and neonatal deaths, and a sublethal component with a gradation of damage extending from cerebral palsy through epilepsy and mental deficiency to the minor dysfunctions that could result in behavior disorder and some health-learning problems."

Part I pointed out the school situation in which too many children act out, too many do not achieve well, too many are on drugs, too many are truant, too many are emotionally disturbed, too many are undernourished, too many are sick with defects, too many do not have clear goals, and too many are all of these.

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The national situation is serious. However, the problems are complex. To attempt to meet the challenges and to fulfill the needs, with a "business-as-usual" methodology is again destined to keep alive many preventable situations and to lose time and lives and materials and energy. This would be a repetition of much that is happening now. Many of the Federal HEW programs are not "on target". Many of the E.S.E.A. programs are burdened with administrative details and administrative overhead so that the recipients of the services are shortchanged. Many non-medical persons who are overseers or "funding people", use their energies to accumulate numbers and quantities of services rather than quality of services with personal and individual concern.

Some of the trends in services actually removes responsibility from the parents and places it squarely on the community. There should be a strong trend to provide health services in which a general practitioner or pediatrician would be the "family doctor", and to practice in groups so that the family doctor would have access to specialty services when needed. This is similar to the old "Mayo Clinic" concept and is good. However, the Head Start program clearly separates the Head Start child from the family health care, and, indeed, splinters the family health care. In E.S.E.A. programs, the personnel paid by E.S.E.A. funds cannot serve children eligible for Model Cities' health service, and cannot serve Head Start children eligible for Head Start health service, even if the E.S.E.A. child is in the same school as the Head Start child, or any other child. This necessitates duplicating personnel and school visits. To us, as doctors, this is characteristic of the unrealistic splintered planning at ton levels.

Another negative aspect of what is taking place in big cities is the frequent changes of professional staff in some medical centers that serve low-income families so that a child or family finds it difficult to establish a necessary intimate relationship with the family doctor concept.

The solutions are not easy. There will need to be plenty of time, materials, labor, production, cooperation, willingness to do the job, careful planning for the present and for the long-range. Plugging holes unfortunately has been substituted for effective planning. Fragmentation has too often sidetracked comprehensive integrative programs. To come anywhere near filling the needs of our American society will require revolutionary concepts, Herculean efforts, massive amounts of money, and better national goals than now exist. It could be easy if the problems were only of a health nature, because a health program of comprehensive scope would be the answer. What makes the solutions difficult and complex is the fact that health is tied in closely with education and welfare and one cannot be separated from the other.

In days gone by, if a person was sick, and needed a hospital, and didn't have the money to pay, his illness was attended to at a charity hospital, but the welfare needs were not considered too seriously because the family didn't complain too seriously and "suffered in relative silence", so to speak. Today, there is an organization of people into groups, and they are aware of the needs and they articulate them clearly.

Also, it is apparent from years of observation of the passing scenes, that the greatest causes of present-day health problems are due to social, economic and political reasons. Thus the solutions must consider programs of social, economic and political significance in order to improve health, welfare and education. Furthermore, the acuteness of the problems requires unusual and massive programs to be effective. For example, feeding children breakfast and lunch in school isn't going to solve the nutritional and welfare problems of the poor family (33). The problems of the poor family are intergenerational, that is, passed on from one generation to the other. This is one reason why the social and economic factors are of major importance.

Can the U.S.A. afford massive planning and massive programs? The answer, of course, is yes! The President of the U.S.A. called for revolutionary planning. We need refer only to World War I and II and the Korean and South Vietnam Wars, and the space program and then think of the huge amounts of money, manpower, materials and organizations that went into them. The true statistics of these wars would stagger anybody. We are not expressing any opinions about wars except to state that the capacity of this great nation indeed can solve all the major problems.

IMPROVE THE QUALITY OF LIFE

To improve the quality of life will surely need more than just vitamin research or teaching some women to use contraceptives, or building some neighborhood health centers, or any planning that may be sporadic, or integrating a few schools or a few teachers, or adding some more children to Head Start. All of these help some, but the problems will always be ahead of the solutions and improvements.

The word "adequate" seems insignificant and so little. It is used so often. Yet, it carries a profound meaning and has the vista of mountains, and costs billions of dollars. The following programs and actions are recommended. They embrace the interests of total living rather than just medicine, because health cannot be separated from other necessities of living, such as education welfare and religion in all its meanings.

We recommend the following:—

1. A conference of World Religious leaders, representing all major religions, to consider practical aspects of population control, of promoting ecumenicalism, of preventing war, and of teaching children the benefits and positive aspects of religion so that the spectre of condemnation of any religion will eventually disappear from all teaching and religious practice. The conference should be regularly scheduled similar to the way management and labor are brought together to settle differences for the common good. The "common good" is in deeper trouble in the area of religious differences, religious bigotry, population out-of-control, wars rampant, and so on, than the common good of any differences of labor and management. Why does the world press pay headline attention to strikes of labor against management rather than to the urgencies herein stated?

Of course, we are fully aware of the obstacles and complexities involved in possible but improbable meetings of world religious leaders. But isn't it high time that religious leaders faced their responsibilities squarely and made themselves accountable to the betterment of mankind and the improvement of the quality of living? Is it too much to expect them to meet and "iron out" differences exactly as labor and management meet in emergency sessions? We know for sure that sometime in the future, this will be done if people are to survive, so why not now, and shouldn't political leaders on the national scene take responsibility to bring about these meetings.

2. A World Congress of the Great Powers to do the following:—

a. Elimination of pollution of air, drinking water, food, lakes, rivers and oceans. A definite timetable must be instituted world wide. Agreements must be reached. Following agreements on a world basis, each nation must start a large-scale de-pollution process.

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b. Elimination of wars through a World Body. This must be accomplished through meetings of the Great Powers. Our own country, the U.S.A., must spend enough to keep militarily strong, but must avoid wars of mistakes.

c. Guarantee freedom of small democratic nations based on compassion, understanding and justice, rather than on oil and real estate.

d. World-wide controlled food program. There is enough food to feed the world. This must be done through the Great Powers. The food production capacity can be mobilized to do the job. In the U.S.A. a nation-wide food plan to eliminate hunger and quantitative and qualitative defective diets is necessary so that the people will be exposed to the knowledge of adequate diets and will have the means to purchase them. This should not reduce research in basic foods and metabolic problems and enzyme systems, etc. However, it offers the quickest and most effective method of reducing under-nutrition and much malnutrition and reducing prematurity and a lot of other troublesome traumas. The cost of feeding the large number of needy of the low-income group is big. However, the long-term cost of the sequelae of inadequate diets is far greater. The impetus needs to be national.

3. Health-Education-Welfare Educational Program. Health education, and education, and welfare education, in all its aspects to the community is sporadic and mostly crisis-inspired practically all over the nation. We send children to school to receive education, to increase their experience, their knowledge, their judgment and their maturity. We neglect the adults. The adults of the nation need information on a regular basis on health matters, economic matters, morality and ethics matters, business matters, legal matters, welfare matters and so on. While all this information is available to anybody who wishes to set out and get it, the fact remains that the great majority of adults (parents and others) do not get it nor do they get enough of it to take advantage of modern knowledge and facilities and services.

In these regards, the press of the national, radio, T.V. and the rest of the communications media needs to be mobilized to bring to the doorstep the things people need to know such as:—

Our National Goals—3 minutes.

The Sacredness of Marriage—3 minutes.

The Responsibilities of a Father—3 minutes.

The Responsibilities of a Mother—3 minutes.

The Importance of Going to School Every Day—3 minutes.

Home Reading for the Family—3 minutes.

High-Risk Pregnancies—3 minutes.

Local Health Facilities—3 minutes.

Local Welfare Facilities—3 minutes.

Your Eyes—3 minutes.

Your Child's Eyes—3 minutes.

Drug Use—3 minutes.

Drug Abuse—3 minutes.

Opportunities for You—3 minutes.

Evening School Program—3 minutes.

Vocation Adult Program—3 minutes.

How to Answer Your Child's Sex Questions—3 minutes.

Any and Every Practical Subject, of Which There are Many Hundreds.

These 3 minute releases should be given, one a week, in the daily press, T.V., radio and other communication channels. If necessary, new channels of communication should be opened. The author of each 3 minute segment should be a practical expert in the field. All of the present attempts before the public are fragmented and piece-meal in substance. This suggested program can integrate health education with other education and welfare of the people. The subject matter is endless. The releases will vary with the community. However, the communication channels must be used more for the benefit of the people than ever before. The "Press" has done a good job but needs to do better. It is not enough to headline a sporadic outbreak of diphtheria or encephalitis. It is necessary to headline the preventive and accepted aspects of total living, so that the people are informed for the common good. There are no politics in reading on the front page the location of various human services. There are no politics in carrying on the front page a 3 minute article on the psychologic needs of children or on the things a person should expect on a trip to the doctor's office, or on why a child needs to attend school every day or on HEW material the parents should know about, and so on. A massive continuing HEW program to the total community can be conducted by a Board of Education in cooperation with a medical society. This can indeed be quite practical.

4. Massive Rehabilitation and Vocational Program, to train people in need of skills that will make them fit to enter the productive work force and remove some of them from a life of frustration, depression, dependency, failure and charity. It is long overdue to train all people who can be trained in skill-development. Our nation needs the skills of people. Giving skills to people now who are "failures", "cripples" and so on, would restore their hopes in many instances. There are thousands of possible jobs in which many people can be trained, people who now are not producing but who are passively receiving help and who wish to contribute to the extent of their time and strength and within the terms of their defects. This program should not be compulsory but needs to be organized so as to reach out to the people in a friendly, helpful, cooperative way.

5. Sharp increases in school budgets for health services. This will afford a real opportunity to bring health services to children where they are needed. For example, the child in school manifests many health problems inside the school building. The improvement and correction of these defects need to be meshed in with an in-depth understanding of the schools' educational system and the nature of the child's competitive challenge and needs. Therefore, physicians need to have some exposure to the school system, before they can be effective in making decisions about the child's school problems. There needs to be a program of medical student and/or interne and/or resident training in school systems. Medical-education planners need to incorporate the school systems into their curricula and programs, so as to round-out the medical education of doctors and other professionals so they will have a knowledge of health, and education and welfare rather than of health and only a smattering of school health knowledge and solutions.

6. A National Health Plan, in which the family doctor will give the primary service in group offices, clinics and hospitals, and in which the family doctor will have access to all specialty services and specialists. We cannot see that people in poverty can pay totally for needed services. A national plan of some sort seems practical. However, the details need to be worked out at conferences of government with health leaders and community representatives. The participation of the non-professional community is vital.

7. A National Plan of stimulating and motivating high school boys and girls to think of, and plan, and enter, the medical, paramedical and nursing and laboratory fields. This is done by having selected students, especially in low-income areas, visit hospitals once a week, 2 hours each week, for a semester, to get exposed to surgery, medicine, pediatrics, laboratory, x-ray, and all other departments in hospitals, on a planned basis, with high-school credit given to the student. This will guarantee a steady supply of manpower to all low-income areas of the nation. This plan is being developed citywide in Chicago by Dr. Frederick Stenn (34) of Northwestern University Medical School and Wesley Memorial Hospital, with the cooperation of the Chicago Board of Education Medical Bureau, and Department of Special Education and Pupil Personnel Services. Students go to the hospital nearest the particular high school, by arrangements all prepared in detail.

8. A massive plan of building new schools, new hospitals, and restructuring those that can be fixed. This needs to be a continuous new program and replacement program because the need is great. This will open up many jobs to help cut unemployment, as well as to care for the educational needs of children, and the health needs of all.

9. A massive plan of building new low-cost housing and reconstructing those that can be fixed. For new housing, the units should be separated and no more than 1 or 2 stories high in order to remove the trauma and crowding of high-rise dwellings. Arrangements need to be made for beautifying the houses with land, park, playground and trees and so on. This program will, of course, be continuous and on-going. It will open up many jobs. It will bring confidence and security to poor people. It will bring hope to the depressed. Private industry can indeed afford to "get in the act" and still retain low-cost aspects, if government will clear the way.

10. Programs of crime prevention must be instituted. Public officials must not "look the other way".

Of course, there are other programs needed. Again, the cost of all of these programs is less than the cost of war, the cost of property damage from frustrated youth all across the country, the cost of keeping youth in prison, who could have been in legal productive jobs, etc. Taxes need not go up. Private industry can absorb most of the programs and with profit. What is needed is initiative and cooperation from government. Also, what is needed is the same powerful massive push for these programs that surely will improve the quality of life, the same vigorous push that is given to wars. Depressions need not occur, if peace breaks out.

Finally, the success of massive programs depends on the skill and integrity of the planners. It surely wasn't the intent of the Medicare planners to pay Nursing Homes enormous sums of money for room and board for elderly men and women, when a great many of these "homes" treated the elderly with neglect. It surely wasn't the intent of Medicare to pay enormous sums to many doctors when *some doctors* did not give adequate quality service to the elderly sick.

We realize it is important to be practical. While some of the 10 programs herein recommended are hardly likely to be implemented, we do feel that saying what we've said here is long overdue.

SUMMARY

Parts I and II reviews some of the available evidence linking poverty with health defects. It is pointed out that, while these associations are probably true, the most important etiological factors are not primarily health, but rather are social, economic and political. Large-scale programs are recommended to improve the quality of life.

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PROBLEMS OF THE AGING

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1971

Mrs. ABZUG. Mr. Speaker, there are 20,000,000 Americans over the age of 65. The elderly are the one age group in our society that has become poorer in recent years, and the number of elderly poor continues to increase. The Government has set $1,750 as the poverty level for an individual and $2,200 for a couple. Of the total number of single people over the age of 65, 47 percent live below the poverty level. And 17.6 percent of all aged families live below the poverty level, while one-third of these families have incomes of less than $2,670. Most of these people are dependent upon income from social security benefits.

Because of inflation and skyrocketing costs of food and medical care, the elderly are not able to meet their needs. Medicare, for example, only pays 40 percent of health bills. Property insurance rates have increased 60 percent since 1957; in the same time period, property taxes have risen 50 percent. The cost of housing has increased by more than 25 percent and the cost of transportation has risen by something over 35 percent. Social security and pension benefits have not kept pace with the cost of living increases and the elderly find themselves increasingly excluded from the mainstream of our society.

The Special Studies Subcommittee of Government Operations, of which I am a member, has been holding hearings on the problems of the aging. With the cooperation of our distinguished chairman, Mr. WILLIAM RANDALL, we have had the privilege of hearing witnesses from New York who are particularly familiar with the problems of the urban aging at these hearings. Because their testimonies pinpoint and highlight the problems of the urban aging in particular, I would like to insert them in the RECORD in their entirety:

STATEMENT OF ESTHER LEVITT, DISTRICT 65, RETAIL WORKERS UNION, NEW YORK CITY

In speaking of the needs of the elderly in our country, we would not wish to negate the need for additional money, Social Security, housing, medical care, etc. Our Union has 3,000 retirees, our Pensions are better than average. Nonetheless, our members income falls below the minimum as described by the Bureau of Labor Statistics.

The housing that our retirees—White, Black and Puerto Rican—live in, ranges from adequate to the cell-like rooms in ramshackle rooming houses, where there is no privacy for either cooking or bathroom privileges. However, even in the face of this lack of privacy and with adequate income, the hardest and saddest part of their existence is the constant and never relieved loneliness.

There are some elderly people who make an attempt to hang on to the last vestige of involvement with other human beings. It is one of the most pathetic sights in contemporary America to alight from a bus or train and find the elderly flotsam that inhabits bus and train depots. They are also found in all night cafeterias throughout the city. This is unconscionable in our vital affluent society.

But, there are some even more pathetic. Those are the elderly who do not ever have this capacity to seek human relationships. They are utterly confined to a quasi existence. These are the ignored and the loneliest people in the country. They venture forth only to make their meager purchases and have no contact of any sort with any other human being.

It is to these hundreds of thousands of lonely citizens that we must direct our attention and energies. We must "Reach Out" to these people. We think that the best way to institute this "Reach Out" operation would be the agency which we have at this very moment.

The Social Security Administration should be the instrument for preparing people for retirement and for insuring that once retired they are not cast off from the American mainstream. We have a nucleus of a staff that they might draw from in the ranks of those currently retired. It has been said repeatedly that our most priceless asset is our people. Should people just shrivel up like autumn leaves and be swept away because they have worked all their lives and retired? Where are the Golden Years? What do they mean? What could they mean?

We have done much to extend life. Middle age now reaches into the 60's. We know many vital people who are well into their 70's and some in their 80's. Let us use some of these vital elderly people to "Reach Out" to the lonely, timid retirees.

The mechanics of such an operation to "Reach Out" are available through, let us repeat, the Social Security Administration. Currently, we in District 65 have just instituted such a program, and are gratified at the number of people who have responded to our first attempt. But, we are just one institution in one great city. If this "Reach Out" Program were adopted as National Policy, we could retrieve millions of wasted lives.

It is obviously beyond the power of private organizations to contribute greatly to this vast need. You in this room have the instrument and the power to break down the walls of indifference, apathy and loneliness.

Thank you.

STATEMENT OF ROLAND N. WILLOUGHBY, RETAIL WORKERS UNION, NEW YORK CITY

The needs of America's Senior Citizens are many.

There is hope that the White House Conference on Aging scheduled November 28 to December 3, will make a genuine effort to make life better for older Americans.

The fact is that millions of men and women age 65 or over are still without adequate income—many of them lacking the cash necessary to participate in the Medicare Program.

Some of the problems affecting the aged which require prompt attention include:

1) Higher Social Security increases
2) Housing for the Elderly
3) Medicare improvements
4) Nursing Home standards
5) Transportation needs

All Americans should have an adequate income as a matter of National policy and to the extent that this level of income is not achieved through private and public retirement programs, income supplementation should be provided from general revenues of the United States Treasury.

To achieve this level, a 25% Social Security increase effective January 1, 1972, over and above the 5% Social Security increase proposed in the Social Security Welfare Bill, is necessary. When last year's Social Security Bill was introduced, it was greeted as necessary and indispensable legislation. The special committee on Aging has called the problems of the elderly an "unnoticed crisis." There is no doubt it is a crisis which affects a majority of the 20 million elderly Americans and threatens to embrace many more millions of people nearing retirement age.

Senior Citizens are entitled to a level of income sufficient to eliminate poverty. There has to be further development of programs to assure elderly citizens reasonable comfort and security and a better balance between income after retirement and income before retirement; to maintain the power of the elderly by increasing retirement income in line with improvements in living standards of the employed segments of our society.

A nation as wealthy as ours can afford to do more for its older people. Government has the duty and the responsibility to serve as a strong advocate for the beneficiaries of the programs it provides. In a representative democracy, government at all levels is the servant of the people. For older people with their special problems of income and health problems, government has the responsibility of seeing that the older people have a fair share of our nation's resources.

HOUSING FOR THE ELDERLY

The housing crisis confronting older Americans is appalling. Six years ago, the Older Americans Act declared that, "in keeping with the inherent dignity of the individual, older people of our nation are entitled to suitable housing—individually related, designed and located with reference to special needs and available at costs which older people can afford."

Recently, the planning staff for the White House Conference on Aging made this finding: "It is apparent that the decade of the 1970's finds the housing circumstances of older people as critical as ever."

"Millions are still forced to live in the dilipidated dwellings of the central cities and in economically deprived rural areas. Most are too poor to afford anything better."

"Many are lonely and isolated, afraid to venture into the city streets. They are immobilized by the lack of transportation and are deprived of needed services from their communities."

Although we have a wide range of Federally financed programs for the elderly, the progress in providing elderly housing units over the past decade—an optimistic estimate of 375,000 units (an average of 37,000 units per year)—is pathetic when measured against the absolute need of at least three million units.

A state of acute emergency exists now with respect to the housing conditions of the elderly—a denial of their "essential dignity" which compels them to live their later years in neglected dwellings in cities and in deprived rural areas.

The situation is worsening. A program—Section 202 of the Housing Act—which provided direct loans to non-profit organizations to build housing for the elderly, a program off to a most promising start, was phased out in 1970 in favor of a program requiring these non-profit organizations to compete in a tight and high interest mortgage market.

We note that the Report of the President's Task Force on the Aging of April, 1970 described this 202 program as "a particularly effective program to meet the housing needs of the elderly."

The developments of housing units for the elderly has been further blocked by the downgrading of concern for senior housing in the Department of Housing and Urban Development. For a period of several years, up to 1969, HUD had a position of Assistant Secretary for Senior Housing.

By Administration policy, the housing needs of the elderly have been submerged in a program of meeting the housing needs of the low-income generally. This concerned the President's Task Force on Aging which observed that this "will inevitably deny to the elderly consideration of their needs for special living arrangements." The record shows that this is happening.

Two decades ago, Congress adopted as a national goal provision of "a decent home and a suitable living environment for every American family." Our lack of progress toward this goal is shameful and for the elderly—particularly the low-income elderly—grim and cruel.

To ease this situation, a five year housing program with the following timetable is needed:

a) Immediate release of $928 million in housing fund appropriated by Congress but impounded by the Administration.

b) Full funding of housing programs to achieve the national goal of 2,600,000 units a year with specific allocations for the construction of a minimum of 120,000 units for the elderly each year.

c) Substantial upward revision of income limits for eligibility for low and moderate income housing.

d) Continuance of and additional authorization for direct loans under the Federal Housing Act's 202 program with an amendment to include life supportive services under direct loan, low interest financing.

e) Use of Federal influence to obtain relaxation of zoning regulations which restrict construction of low income housing for the elderly where the need exists.

In view of the large number of housing units now inhabited by older people which are being lost by deterioration and decay, we urge an emergency program of rehabilitation to encourage and implement the creation on the State level of volunteer or other rehabilitation and repair programs for housing occupied by the elderly.

An Assistant Secretary for Housing for the Elderly should be appointed in the Department of Housing and Urban Development, given statutory authority and charged with initiating, review and implementing housing programs for the elderly.

The ratio of housing charges or rent should not exceed 20 per cent of income. A governmental rental supplement program should be adequately funded to provide the necessary subsidy for this purpose.

Congress should enact legislation providing a national agency to set-up and administer a nation-wide program of home owner and allied insurance protection to be available at reasonable, uniform cost without regard to the area involved or the character of the neighborhood population.

The achievement of these recommendations would be a partial solution to the housing needs of America's elderly, but one further step is necessary. The alarmingly growing crime rate in our nation's cities strikes fear into the hearts of our citizenry. Senior Citizens are afraid to walk the streets or even within the outer confines of their dwellings.

There should therefor, be provisions for adequate professional security protection for elderly citizens in housing projects.

ON ANOTHER SUBJECT—MEDICARE IMPROVEMENTS

Top quality comprehensive health services should be available to every American as a matter of right without regard to social position, income, race or religion.

The Health Security Bill—S-3 in the Senate and H.R. 22 in the House of Representatives, is designed to provide top health services under a program of Federally operated national health insurance.

This would pay at least 70% of the average citizens health expenses as compared to a smaller percentage of health costs covered under Medicare, the Federal program of health insurance for those age 65 or over.

However, pending enactment of a much sorely needed National Health Insurance Program, improvements in the present Medicare program are vitally essential. These include:

a) Elimination of the premium charged for Medicare, Part B insurance. Medicare, Part A and Part B, should be combined and the Medicare, Part B eliminated. Medicare, Part B benefits should be financed through taxes on rising payrolls and through Federal general revenues.

b) Out-of-hospital prescription drugs. Medicare should pay the full cost of prescription drugs. It now pays for drugs or other medications prescribed during hospitalization, but not for drugs prescribed for use on an out-patient basis.

c) Abolish limitations on hospital care. The Medicare benefit period should cover the entire period of treated illness or disability. Present limitations on Medicare coverage of hospital care should be eliminated up to $60 as should the additional out-of-pocket payments for hospitalization beyond 90 days and the limit of 100 visits under a spell of illness under Medicare home health services.

d) Immediate determination of eligibility for extended care. Many Medicare beneficiaries enter extended care facilities believing Medicare coverage is assured only to learn, frequently, after weeks or months, that Medicare officials have ruled against reimbursements.

The United States Department of H.E.W. should promptly devise procedures to insure early decision as to the patients eligibility for reimbursement for extended care under Medicare.

e) Medical costs should be reduced through maximum use of predetermined reimbursement rates for doctors and other providers of health services and not through additional charges to the patient. Our government should move quickly to institute a "watch-dog" agency for this purpose until superior health services can be provided through a National Health Program for all Americans.

NURSING HOME STANDARDS

Safety in Nursing Homes has been an ongoing concern of millions of elderly who must live in these institutions. President Richard Nixon recently spoke about the ghastly conditions in our Nursing Homes. Pressure for higher standards of Nursing Home care has been increasingly exerted by organized labor, the American Association of Homes for the Aging, Senior Citizens Councils and other humanitarian groups.

What is needed is the establishment of professional standard review organizations and an inspector general for health administration and public access to records concerning an institution. Many of our elderly have become frightened and alarmed over the prospect of being shut out from the outside world by being confined to a Nursing Home.

The Nursing Home industry has greatly expanded since the mid 1960's. A substantial portion of United States Nursing Homes provide substantial services to patients in their care. Independent studies of the Nursing Home industry have proved this.

Incidents of neglect and brutal treatment of patients in Washington, D.C. area Nursing Homes were reported on the floor of the House of Representatives a few short months ago. Public hearings in many areas of the nation to demonstrate the extent of the seriousness of deficiencies in our nation's Nursing Homes are required. A resolution was introduced in the House of Representatives calling for a Congressional investigation of the Nursing Home industry. Make this resolution the law of the land.

TRANSPORTATION

Older Americans rank transportation as a major problem. Without adequate transportation the elderly are denied easy access to shopping areas, church services, recreational facilities, gainful employment and social contacts with friends and relatives.

Cut off from these vital contacts, the elderly tend to become isolated with resulting mental and physical deterioration. For most aged persons, transportation is a heavy expense—accounting for about nine cents of every dollar of the average retired person's budget. It is the top expenditure after food and housing needs.

Senior Citizens see the need for a Federally aided mass transportation, equal in scope to the Federal highway program which, it is estimated will have cost $50 billion when it is completed in 1974. To this end, Older American groups urge Congress to earmark a substantial portion of revenues from Federal gas, oil, and motor vehicle taxes for improvement of mass transit service.

Some U.S. cities have granted their elderly residents the privilege of riding on public transit lines at reduced fares during nonrush periods. State and local authorities across the nation are urged to extend this privilege to elderly men and women.

Substantial reductions in bus, train and domestic air fares are required for the elderly. This would promote the health and comfort of seniors by making it easier for them to visit distant members of their families and friends and to spend their leisure time in travel.

Those are some of the problems and some of the solutions. These problems have been with us for centuries. It is up to you ladies and gentlemen to insure that they are not with us a hundred years from now. Thank you.

STATEMENT OF GERTRUDE W. WAGNER OF HUDSON GUILD-FULTON CENTER FOR SENIOR CITIZENS

Mr. Chairman and members of the Committee. Thank you for this opportunity to present some ideas relating to the aging.

In this country of affluence, the aged are truly among the poorest of the poor. Shunted aside from the mainstream of the work-a-day life, even though their skills may still be intact, they are soon barely surviving on the sums of pensions, annuities and social security. Many are deprived of comfort, health and adequate nutrition.

The Hudson Guild-Fulton Center is located on the lower west side of Manhattan in Chelsea—an area a square mile in size and 22.6% of whose population is now sixty years of age or over. As a voluntary agency with a registered membership of some eight hundred persons, in this age category, and also offering services to many other elderly, we feel that some of the concerns are indeed amenable to solution, in whole, or in part, by Congressional action and we should like to highlight them. Although we represent the urban population, with many intensified problems stemming from living in an impoverished, complicated city, nonetheless, there is a communality among all elderly.

One such concern is the inadequacy of income, which affects many other problems. Our own records indicate the 70% of our members have incomes below the $185 monthly food stamp eligibility level. We would suggest that a basic minimum decent income based on the moderate Bureau of Labor Statistics tables, adjusted to locality, be provided through Social Security payments and supplemented from general tax funds.

Administration through the Social Security system would eliminate fragmented, costly, ineffective programs, such as Welfare and Food Stamps, and would provide for needs in a dignified and humane way. However, sufficient basic income would only, in part, alleviate such problems as inadequate and expensive housing; poor but expensive health care services; lack of security; inadequate transportation; poor nutrition and inadequate meals.

We believe that testimony will be offered here on housing needs, but we would indicate nonetheless that requests from our members for help with housing makes us well aware that there are no apartments available for the thousands (said to be 34,000) Seniors who have been "processed" as eligible for public housing. We suggest that the Congress assume responsibility for enforcing a continuing rent freeze and rent control in such cities as New York—which is due in January 1972, for rent increases and the elimination of the temporary program of rent increase exemptions for Seniors. We further suggest that federal housing programs be realistic so that communities can indeed build or renovate housing.

Further, we urge inclusion of provisions for needed services—as an example—for security police, especially where there is a high concentration of elderly. As part of the large urban community, the elderly would urge effective help at the federal level for increasing police and security forces and in providing for effective drug prevention and addiction treatment programs.

Few would contend that medical services for the aged are adequate. In the Chelsea area, the Hudson Guild has been struggling with local hospitals and other agencies to find some way to meet the needs of temporarily or chronically ill persons who with minimum help could remain safely and comfortably in their homes. The Hudson Guild employs two elderly persons to provide escort and personal services, including assistance with Medicaid, Medicare, Social Security problems, etc., but many more elderly in the area need similar or expanded services. Medicare regulations for home health aides are restrictive and unrealistic and do not provide such necessary services. But, the ever-increasing need for these are aggravated by malnutrition, anxiety, loneliness, etc.

A more comprehensive health service program in which the needs of the aging would be given a high priority is clearly indicated but until such a program is properly legislated, Medicare now must be expanded to include such items as medication, glasses, prosthetic appliances. Good, professionally-determined standards for payment of services by the carriers must be set and be available for inspection. The federal supervision of the Medicaid programs of the several states must insure that services to the poor, including the elderly poor, not be continuously eroded. The current reduction of services in New York State through a 20% co-insurance and the elimination of payment for medication, glasses, dental services, means that New York State is not providing help to the medically indigent.

Since these are days of cost and benefit considerations, let us weigh the results of this deprivation in terms of cost to the taxpayer. And while so doing, let us be mindful of the fact that these older people have by virtue of their longer lives paid more taxes than many others and that those monies which they are now receiving (if indeed they rate Social Security) were paid for partly by them and partly by their employers.

During the past three years, some 30 nutrition projects throughout the country were partially funded by the Administration on Aging under Title IV of the Older American Act of 1965. Types of food services varied greatly from center city to rural areas, from multi-ethnic to homogeneous groups, from meals in large group settings to small gatherings in the homes of participants.

Common denominators of all of these projects were sound nutritional value of meals, nutrition education and social interchange. Most of them also had a home delivery service built in for those physically unable, due to advanced age and, or infirmities, to bring themselves to the meal service.

The net results have been more viable people (for the elderly are people) the ability to remain longer in their homes, in their communities, thus postponing the advent of custodial care; earlier discharge from hospital because meal service was available first at home and later back in the group setting.

For the hard facts and figures in terms of the comparative cost of subsidizing such meal programs and the cost of either longer hospital care or custodial care maintenance, I respectfully refer you to Item 6, page 100, of Joint Hearings before the Special Committee on Aging and the Sub-Committee on Aging of the Committee on Labor and Public Welfare, United States Senate, Ninety-second Congress, March 25th of this year, Senator Frank Church, Chairman.

It is now a year and a half since the recommendations of the Panel on Aging of the White House Conference on Food, Nutrition and Health was released. The Preamble states: "The present crisis among the aged demands immediate national action to relieve poverty, hunger, malnutrition and poor health. . . . Certain priorities exist:

(1) Provision of adequate income to the aging. (2) Provision of adequate nutrition for the aging. (3) Provision of adequate health services to the aging. (4) Federal, state and local funding to insure immediate implementation for (1), (2) and (3) above. (5) Prompt provision of substantial increases in federal funding for support of education, research and development in nutrition and gerontology."

There follow eleven specific proposals for immediate action, proposals which are the results of their thoughtful considerations.

The recommendations from all the states to the White House Conference on Aging held in 1961, while not quite so specific, were very similar and covered all of the nutritional and health care priorities as well as many other areas to which today other speakers here have or will address their remarks.

Nation-wide conferences cost a considerable amount of money. I can see no cost consciousness in a repeat performance if we fail to implement with fitting legislation the studied recommendations of such conferences, the implication of the findings resulting from our research and demonstration experiences.

I respectfully urge prompt legislative implementation of the recommendations of the White House Conference on Food, Nutrition and Health as previously outlined, such legislation to include adequate monitoring of allocated funds. All this, I submit, is in the interest of more for the tax dollar.

Mr. Chairman, I want again to express my appreciation for this opportunity to present these recommendations for your consideration. I sincerely hope that the presentations given here today will prove helpful to your Committee in its continuing effort to formulate and enact into law legislation which will drastically improve the lot of the lower-income elderly and, at the same time, achieve a worthwhile return for the tax dollar expended.

Statement of the Office for the Aging

by Alice M. Brophy, Director

Chairman Randall, Distinguished Members of the Special Studies Committee: I am delighted to testify before you this morning as the representative of New York City's one million elderly who represent 5% of the total elderly in America. Because 60% of all the elderly in the nation live in urban areas, much of the information gathered by my office in research projects covers many specific areas of concern relevant to the work of your Committee.

Today I wish to call for your help in putting an end to the "medical starvation" of the elderly. In the past month, we have been concerned that one hundred fifty thousand older New Yorkers were removed from Medicaid or had their benefits severely cut back. Although the decision by the Federal court last week restrained the medicaid cutback, older people are constantly subjected to this recurring threat. And yet another setback was the anouncement by HEW Secretary Elliot Richardson that the elderly will pay $68 instead of $60 in 1972 for each hospitalization under Medicare.

The hard facts are that our elderly are not only poor, but that they live daily with chronic and debilitating illness. More than ¾ of our aged suffer from at least one chronic disease and ½ from two or more. The incidence of illness increases as family income decreases. With half the aged living on less than $3,000 and one-third living on less than $2,000 a year. Medicaid cutback threatens the precarious health of our poorest elderly. Medicaid has permitted the elderly poor not only to see physicians, but even more important, paid for prescription drugs, dentures, for non-welfare client.

The average out-of-pocket health costs for the elderly was $248 in 1969 with $70 spent on medication. These costs cannot be carried by persons living in abject poverty.

Thousands of elderly face rapid physical deterioration, loss of dignity and independence and ultimately expensive hospital and nursing home care. And when they are hospitalized, Medicare will now pay less of their bill.

In a National Health Survey of 1959 (and we have no reason to think the picture of chronic illness has changed) 86% of older people in the lowest income bracket suffered from chronic illness, while at the higher income levels only 76% reported such illnesses. The higher incidence of chronic illness among our poorest older people undoubtedly reflects the inadequacies of health care during their earlier years. The Urban League in their study *Double Jeopardy* notes that black people reaching old age are the victims of double jeopardy, their earlier health and income deficiencies being severely compounded by the problems of old age.

Utilization of physicians' services increases with old age. Post-Medicare data from HIP in 1968 revealed that utilization of services per aged person was almost double that of persons under 65.

Furthermore, the elderly tend to spend a longer amount of time in hospitals. In 1964, the city's aged population averaged 16.4 days per hospital stay, while the total population averaged 13.2 days per hospital stay.

Let us now turn to the question of costs and who pays the medical bills of the elderly. Because of their poorer state of health, the elderly are forced to spend a higher proportion of their incomes for health, even with Medicare.

In 1969, the total bill for personal health care for older people in the U.S. was $13.5 billion. Although the elderly were at that time almost 10% of the population, their health care expenditures constituted 26% of the total spent on health in the country. The average health bill for each older person that year was $692, six times the total of persons under 19 and 2½ times that of persons 19 to 64.

Almost all persons in New York City over 65 are enrolled in one or both parts of Medicare, about 210,000 are covered by Medicaid[1] and several hundred thousand carry private insurance as well. It might seem on the face of it that older people have to pay very little of their medical expenses out-of-pocket.

Not so. In 1969, with Medicare in full-swing, older people were still paying an average of 30% of their medical costs out of their own pockets. If the average bill in 1969 was about $700 and an older person paid 30% of this, this means at least $210 was borne by the individual. And this did not include the $48 annual premium for Medicare. With family incomes of $2000 and $3000, medical bills for a couple could average $500 or upwards of a quarter of their incomes.

While Medicare and Medicaid cover about 90% of hospital bills and 80% of doctors' fees, there remain serious gaps. 24% of nursing home care is paid for privately while the expenses of drugs, eyeglasses, hearing aids, dental care, nursing and therapists as well as many types of preventative health care are borne almost wholly by individuals. Since many of the uncovered items are connected with chronic care, these expenses tend to go on unremittingly year after year.

Moreover, it may well be that the average costs quoted under estimate out-of-pocket expenses inasmuch as these averages include persons who have no medical expenses and persons whose expenses are fully covered. We must recognize that for too many individuals out-of-pocket expenses can be more catastrophic than the illness itself.

Not only do individuals continue to bear a significant portion of their health care expenses but the dollar amounts have risen and are continuing to rise, at a skyrocketing rate. Here in New York City where medical costs have risen higher than the national average, medical prices jumped 10% last year. Over the past three years room charges in hospitals have increased 65% as doctors' fees rose 12% and drugs 5%. It is estimated that last year elderly New Yorkers paid $70,000,000 for drugs alone. It has been estimated that with the general increase in medical costs in the last three years, the 20% co-insurance payment alone may be more than the individual's total payments for health services *prior to Medicare*. And the outlook for the future is bleak.

The implication of these facts for older people is even more frightening when we bear in mind the low incomes on which they live. Fixed retirement incomes unlike doctors' and hospital fees, do not rise proportionately.

But cost is only one factor in limiting the utilization of health services by the elderly. Lack of coverage under Medicare and Medicaid and fragmentation in the delivery of care are two other important areas of concern.

The Senate Special Committee on Aging declared that "There is reason to believe that millions of old people in our Nation today postpone treatment until the crisis stage because . . . gaps in Medicare and Medicaid coverage make it difficult for them to receive high-quality health services and supplies except during and immediately after hospitalization."

Medicare at the present time does not cover drugs, dental care, eyeglasses and hearing aids, prosthetics, many diagnostic and treatment services whether in or out-of-hospital and long range psychiatric care.[2] For example:

85% of the elderly had no private insurance for out-of-hospital prescription drugs in 1969. But that year the per capita costs of drugs and drug sundries paid by the elderly was $70.25 and for those with more than one severe illness the expense can rise to over three times that amount. According to Dr. James G. Haughton, formerly First Deputy Administrator of the New York City Health Services Administration the drug costs relating to chronic illnesses may be sufficient "to spell the difference between a Social Security beneficiary's financial independence and his need for public assistance."

Over 50% of the elderly, according to National Health Survey data, had not seen a dentist in more than five years. Less than 1% had private insurance for dental care in 1969.

Although eyeglasses and hearing aids are not reimbursable medical items, two out of every ten older persons has impaired vision and one out of six partial or total deafness.

Home health aides, who can provide health care service to the elderly in their homes far less expensively and far more advantageously psychologically are in serious short supply. In 1969 when there were approximately 2000 such persons available, it was estimated that a minimum of 4000 were needed. Extremely restrictive Federal regulations have held to a minimum this vitally needed service.

Although it is true that homemakers are not always available, even when they are neither Medicare, Medicaid nor private insurance will pay for these services. It is estimated that at least 10% of the nursing home residents in New York City are institutionalized because of lack of adequate care in their own homes. Many could be discharged to their homes and many hospital stays could be reduced by days, and sometimes weeks, if homemaker services could be provided. The present alternative is institutional care at public expense.

A shortage of nursing-home beds for long-term care patients estimated to be between 400 and 700 beds on any given day, keeps patients occupying expensive, no longer needed hospital beds longer than they should.

Fragmentation of services is another serious problem affecting health care for older people. The general practitioner has almost vanished from the scene. It has been estimated that although there are 168 medical doctors per 100,000 persons in the Middle Atlantic states, the ratio drops to 50 per 100,000 in inner city areas where so many elderly live. It is not unusual for an older person to have to drag himself from clinic to clinic, often at different locations and on different days. And too often older people cannot get to clinics because transportation facilities are too expensive, poorly scheduled or simply lacking.

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[1] Roughly one out of four are enrolled in both programs.

[2] 190 day lifetime limitation on treatment in mental hospitals; payment of 50% of doctors' fees, and an annual limit on out-patient care of $250.

Each organizational deficiency causes financial, social and moral problems for the elderly. Until these deficiencies are resolved, the economic problems of the elderly will be needlessly intensified and their physical suffering neglected.

The soaring costs of health care, the lack of availability of health resources, wide variation in quality of care and lack of preventive care has become a matter of prime national concern. There are now before Congress over a half dozen major bills relating to health care and others are anticipated. It is even expected that Congress will act upon health care in this Session.

The Nixon Proposal, which concerns itself primarily with financing, would use the private sector to finance and provide most health care and would continue Medicare for the elderly but actually reduce coverage of the present program. For example, the plan calls for a reduction in the number of fully-covered hospital days from 60 to 13 and will probably raise the deductibles for hospital and doctors' fees. Nor do the Medicredit plan of the AMA or the Healthcare plan of the insurance companies make provision for any of the present gaps in health care. The Javits plan builds on the Medicare program and offers improvements in coverage, especially in the areas of preventative medicine and drugs. The most comprehensive of all, the Kennedy-Griffiths bill would cover the many gaps that now exist but there is serious question as to its passage. We must work to see that whatever bill is passed extends rather than erodes benefits to older people.

However, no one knows whether a National Health Bill will actually pass this Session. Meanwhile there are many improvements in health care that can be provided for older people.

On the National level within the framework of Medicare it is urgent that drugs, appliances, prosthetics and preventative and diagnostic services and homemaker services be covered.

At the local level, neighborhood based geriatric clinics affiliated with hospital complexes are a vital necessity to overcome many of the gaps and problems in health care and delivery to older persons. These facilities diminish the fragmentation of care by enhancing continuity of care and reduce costs by establishing preventive medicine and rehabilitation. It makes better use of scarce professional manpower. And, in communities where it has been tried, it has reduced the hospitalization rate by as much as 50%.

For now, however, medical starvation is public policy. Medicare cannot continue to escalate medical costs for the elderly which results in their further pauperization and poor health.

I thank you for this opportunity to speak for adequate health services for the elderly and extend to you most cordially the information materials of the New York City Office for the Aging so that we may all work together. To do any less would be tragic for the older people of New York and the nation.

Testimony of William R. Hutton

I am William R. Hutton, Executive Director of the 3,000,000-member National Council of Senior Citizens, largest U.S. organization of the elderly.

The National Council of Senior Citizens is grateful to Chairman Chet Holifield of the House Committee on Government Operations and to Chairman William J. Randall of the Special Studies Subcommittee of the Government Operations Committee for holding these hearings.

However, our membership feels there is something very wrong in a nation as well off as ours, when there is no space available for a Special Committee on Aging to make members of the House of Representatives aware of the many desperate problems of the low- and moderate-income elderly among their constituents.

There are 20,000,000 Americans age 65 or over and another 20,000,000 in the 55–65 age bracket most of whom have problems about which House members should be kept fully informed, National Council members feel.

Our members have long regretted that the House of Representatives is without a counterpart committee to carry on serious studies in the area of aging being continually undertaken by the Senate Special Committee on Aging.

The Senate Special Committee on Aging is not a legislative committee but it has nevertheless performed brilliantly year after year over its 10-year history by providing factual information that has helped call attention of the Senate to the neglect and suffering imposed on so many U.S. elderly by our changing society.

Thus, during 1969 and 1970, the Senate Special Committee on Aging published a series of powerful studies that documented the grim facts about the needs of the elderly.

This series, entitled "Economics of Aging: Toward a Full Share of Abundance," brought out the tragic fact that the elderly are the one age group in our society that has become poorer, that private industrial pensions are a great benefit to those who collect them but that the great majority of seniors will never collect such a benefit and must depend on Social Security for their retirement income, that despite Medicare, the Federal health insurance program for the elderly, more and more elderly are being denied the benefits of medical care because of the steadily rising out-of-pocket payments required of Medicare beneficiaries.

Included in the series are these studies published in 1969: Social Security for the Aged: International Perspectives; Health Aspects of the Economics of Aging; and Employment Aspects of the Economics of Aging. The Committee in 1970 published the widely quoted Pension Aspects of the Economics of Aging.

I note that Subcommittee Chairman Randall in announcing this hearing said (and I quote): "We must understand the emotionalism that attaches to the difficulties older people encounter in coping with the problems of keeping well and comfortable and satisfying their needs in these inflationary times but our Subcommittee must look beyond emotion in this area and find answers for as many of the immediate problems of the elderly citizens as we can. . . . Beyond that, we must seek solutions that will make the way easier for coming generations of aged citizens."

Mr. Chairman and other distinguished members of this Subcommittee, the National Council of Senior Citizens is eager to cooperate with you not only during the present hearing but in all further investigative efforts to get the facts about the problems of the low- and middle-income elderly.

The task you have set will surely require a great deal of time and effort. The National Council of Senior Citizens would like to work with you for as long a time as it takes to carry out the task assigned this Subcommittee.

National Council President Nelson H. Cruikshank and the National Council leadership have given some thought to how best our organization can be of assistance to this distinguished body.

Perhaps, to start with, it would be well for me to tell you about the National Council of Senior Citizens and how it endeavors to influence national policy as it affects the problems of older Americans.

The National Council of Senior Citizens has become the major spokesman for the nation's elderly in the short time since retired Congressman Aime J. Forand of Rhode Island organized it back in 1961.

As you know, Forand had become nationally known as the advocate for health insurance for the elderly (now Medicare). Ill health forced Forand to retire from Congress in 1960 but he continued to work for health legislation for the elderly by setting up the National Council of Senior Citizens.

With the enactment of Medicare in 1965, the National Council remained in the field to promote meaningful Social Security benefits levels, better health care, substantially increased housing for the elderly at prices within their means, Federally funded community service employment for the low income elderly, tax relief for elderly home owners living on limited income and reduced fares for the elderly on public transportation systems.

However, the National Council is more than a special interest group for the elderly. Our organization has supported the lowering of the voting age to 18, consumer protection legislation, Federal occupational safety and health legislation, the war on poverty and other measures of general concern to the nation.

Our membership believes what's good for America is good for older Americans and they ask for no benefits at the expense of their children and grandchildren.

Forand was first President of the National Council of Senior Citizens but ill health forced him into permanent retirement in 1963. Nelson H. Cruikshank, now President of the National Council, is the retired Director of the AFL–CIO Social Security Department and an internationally recognized authority on social insurance.

The National Council is a non-partisan, non-profit organization operated democratically by the membership.

National Council policy is determined by delegates from approximtaely 3,000 affiliated clubs meeting annually and between annual meetings by a 55-member board of directors chosen at the annual meetings.

At the National Council's 1971 annual convention held in Washington last June, the delegates' policy resolutions were addressed to the 14 areas of concern that will be considered at the approaching White House Conference on Aging (scheduled November 28 to December 2).

With your permission, Mr. Chairman, I would like to submit for the record of this hearing a dynamic document, entitled "A Platform for the Seventies for All Older Americans", which is based on resolutions adopted at the National Council's 1971 convention.

This document is co-sponsored by representatives of the National Council of Senior Citizens and eight other national organizations concerned about the desperate situation of the nation's elderly.

At this point, you may ask what particular message do today's elderly have for this Subcommittee?

Briefly, the message they send you is this. The elderly of this nation—despite the hardships of two world wars and the great depression—have contributed much to our economic growth and to ever higher standards of living. They are used to making sacrifices and they put national interest before their own personal interest. But they should not be expected in their old age to bear the brunt of inflation or of efforts to control inflation.

To understand the real impact of inflation on the elderly, we must examine three basic and inter-related questions. Where do they get their income? How much do they have? How are they affected by price rises?

Furthermore, we must recognize that certain social and economic trends of the last few decades make inflation an especially acute problem for today's elderly, a problem that cries for immediate national attention and solution.

Retired persons are increasingly dependent on money incomes from Social Security. Savings are no longer likely to be in the form of ownership of a farm or small business. There are not only more people who have reached their 65th birthday, but a larger proportion of them have attained advanced years.

The "aging" of the aged population means particularly great increases in the numbers of widows and other older women living alone, a particularly disadvantaged group economically and socially.

The trend toward early retirement—much of it involuntary—adds to the years during which the older person living on a fixed income suffers acutely from price rises.

Sources of income. Where, then, do the elderly get their income?

Employment—the source that automatically provides a hedge against inflation through rising wages—was on a steady decline for the older population long before unemployment became the serious problem for the nation that it now is. Only about one in every six people aged 65 or older is in the labor force at all and fewer than half of these hold fulltime jobs.

Furthermore, realistic assessment of labor force conditions gives little hope that the economy will generate enough job opportunities to solve the income problem of older people, especially the oldest of them, now or in the years ahead. The elderly population's main hope for increased employment opportunities lies in an expansion of part-time paid community service jobs.

Nearly nine out of ten older people now receive Social Security benefits. For many it is the major or only source of income. One-fourth of the aged couples on the rolls at the end of 1967 and two-fifths of the non-married beneficiaries, depended on Social Security for virtually their entire support—except perhaps for about $300 per person for the year. Significantly, too, there had been little improvement in this respect since the incomes of aged beneficiaries were surveyed a decade earlier.

One in ten of the people over 65 receive Old-Age Assistance, more than half of them as supplementation of inadequate Social Security benefits.

One in five, perhaps, receives a private pension—and that can be as low as ten dollars per month. (Here, it is relevant to point out that only the most exceptional pension plan attempts to adjust to rising prices.)

For a very small proportion of older people income from assets is an important source of income. For the average elderly person, however, the major asset is the owned-home—an asset that is too often a *drain* on income rather than a *source* of income.

Clearly, then, our elderly population's best hope—one might even say "only hope"—for protection against the impact of inflation is through the Social Security system.

Amounts of income. In 1970, half of all families with a head over age 65 had incomes below $5,053. Half of all single aged individuals had incomes below $1,951.

Thanks mainly to an increase in Social Security benefits, the median income in 1970 was 5.2 percent above 1969. But over the same period, the Consumer Price Index had gone up 6 percent.

Of all families with an aged head, 16.3 percent had incomes below the poverty level in 1970 and another 8.3 percent were on the borderline—a total of one out of every four elderly families. Of elderly persons living alone or with non-relatives, nearly six out of every ten were classified as poor or near poor.

For your purposes, Mr. Chairman, it is appropriate to examine these figures on the incomes of elderly people in the light of what it costs them to live in today's economy. The Bureau of Labor Statistics has updated its three budgets for urban retired couples. In the Spring of 1970, BLS estimates that the cost for an elderly couple would have been $3,109 at the lower level—in effect, a poverty level—$4,489 at the intermediate level and $7,114 at the higher level—and even the higher level is by no means lavish.

Nearly two out of every five aged couples had insufficient income to afford the intermediate budget. For two-thirds of the single aged persons, the equivalent intermediate budget costing $2,469 was out of reach.

These comparisons take on special significance when it is recognized that, for both the lower and the intermediate budgets, about eight out of every ten dollars is allocated to housing, food, transportation and medical care. These are the costs of surviving from day to day. They are not expenditures that can be postponed until "the price is right".

This nation has experienced unprecedented price rises: an increase in the CPI of 5.4 percent in 1969 and 6 percent in 1970, the two sharpest rises in nearly two decades. As of August 1971, the cost of living had registered increases for 55 consecutive months—the largest unbroken string in the 58 year history of the CPI. And, even more important, many of the price rises have been especially steep for the items on which the elderly are most dependent, items that take up an overwhelming share of their limited incomes.

As an example, let's look at what has been happening to medical costs. Here I would insert a word of gratitude from the members of the National Council of Senior Citizens for the invaluable protection afforded by Medicare. But Medicare covers little more than $2 out of every $5 of their total medical costs, a proportion that has dropped recently and that still leaves unprotected a larger medical bill than the total bill for the average younger person. While the Consumer's Price Index for all items rose by nearly 40 percent from the 1957–59 base, physicians' fees rose about twice as fast or by nearly 80 percent. The increase for hospital daily service charges amounts to over 200 percent, meaning that these charges are now more than triple what they were some twenty years ago.

Total housing costs have risen by more than 25 percent during this period. Some of the costs of home ownership have seen much sharper rises, threatening the ability of the older person to continue to own the home—his major form of accumulating an asset that would be available in his old age after retirement had cut his income in half. Property taxes have risen by nearly 50 percent throughout the nation, according to the CPI, but we know that for many of our members they have doubled or tripled, in some instances exceeding the amount of the total downpayment made on the home years ago with the hope that old age could be secure. Property insurance rates are up more than 60 percent. So are the costs of home maintenance and repairs on which the elderly, whether owners or renters, are increasingly dependent as advanced age curtails the ability to "do it yourself".

The cost of transportation too puts a special burden on the elderly. The cost of all forms of transportation has risen by something over 35 percent since 1957–59 but the cost of local transit fares has more than doubled. And it is on local transit that so many of our elderly are dependent.

The President's wage-price freeze

Against this background—and before offering the recommendations of the National Council of Senior Citizens for dealing with the problem of the impact of inflation on the elderly—I would like to spend a few moments summarizing our reactions to the Administration's 90-day freeze as it affected our elderly population.

When the freeze was announced, we foresaw grave danger that an undue portion of the burden of the so-called economic crisis would be borne by the most vulnerable of our citizens—welfare recipients and other elderly people living on low incomes.

The National Council was greatly dismayed when the President virtually abandoned his welfare reform legislation. We saw very real danger that the economic mood of the administration might even result in an effort to postpone the meagre 5 percent cost-of-living adjustment passed by the House and awaiting Senate action as H.R. 1.

Therefore, on August 20, Nelson H. Cruikshank, President of the National Council of Senior Citizens wrote to President Nixon on behalf of our membership to ask for assurance that the badly needed improvements of H.R. 1 would not be lost in the effort to slow inflation. With your permission, I will introduce Mr. Cruikshank's letter to the President for the record. (There is no need to burden your record with the superficial staff acknowledgement of its receipt by the White House.)

Because of its relevance to the deliberations of the Committee, I would like to quote just one paragraph from Mr. Cruikshank's August 20 letter to the President:

"The price freeze offers little hope to our older people. Very few Social Security beneficiaries are going to be dashing out to buy new cars. Your order was too late to save our older people from rent increases, which many landlords put into effect as soon as Social Security beneficiaries got their last increase in June. Those who own their homes are provided no protection against sharply rising property taxes. Elderly people and the younger members of their families who are forced to borrow to meet urgent family needs find nothing in your plan to protect them against rising interest rates."

I turn now to the recommendations of the National Council of Senior Citizens for easing the burden of price rises for the elderly.

A major reform of the Social Security system is long overdue. We need an immediate substantial increase—we recommend an across-the-board increase of 25 percent—in Social Security benefits, coupled with a Federally financed and administered guarantee of a floor of financial assistance to bring income above the poverty level.

Members of the National Council of Senior Citizens and the elderly generally are disturbed and alarmed at the rising out-of-pocket payments under the Medicare program as I have previously noted. Although Medicare lifts much of the burden of medical costs from the elderly, it pays less than half (40 percent) of their health bills.

For this and other reasons, our membership strongly supports national health security legislation—S-3 in the Senate and H.R. 22 in the House of Representatives—which would guarantee at least 70 percent of the health costs of all Americans, ending the era of so-called deductible and co-insurance payments (out-of-pocket) payments required for Medicare beneficiaries.

Medicare was a great social advance but we must recognize health care as a matter of right for all Americans. The National Council of Senior Citizens favors health care benefits for all Americans from the cradle to the grave.

However, the National Council asks that Congress apply the lessons learned in the operation of the five-year-old Medicare health insurance program for the elderly in setting up a Federal health care program for all Americans.

When Congress enacted Medicare health insurance for the elderly in 1965, it expected doctors and hospitals would exercise restraint in fixing charges for their services and also that insurance firms, serving as

Medicare's fiscal intermediaries, would influence them in this direction.

Both assumptions proved woefully inadequate and the costs have skyrocketed.

The lesson to be learned is that, in the face of rising demand for a very limited supply of available services, doctors, hospitals and other providers of services have no incentive to keep costs down and the private insurance industry can neither provide the incentive nor impose the necessary controls to stabilize health costs.

It is time to think in terms of planning a health care system that assures all Americans equal access to comprehensive and continuous health services of high quality at the lowest possible cost.

However, until this nation has achieved National Health Security for the total population, the fixed incomes of our elderly people will be threatened by heavy and unpredictable health costs—unpredictable insofar as any one individual is concerned but predictable in that a continued escalation is inevitable. The National Council of Senior Citizens strongly supports National Health Security under which the government would assume responsibility for improving the organization and delivery of high quality economical health and health-related services as well as responsibility for the financing mechanism. Pending the enactment and development of National Health Security, we urge immediate improvements in Medicare and Medicaid to extend protection, to control costs, and to reverse the trend toward ever heavier copayments and deductibles.

We believe that the government should actively promote the development of the public service jobs that are so badly needed by the nation and so appropriate for the employment of older persons.

We further recommend immediate enactment of a nationwide Senior Citizens Community Service program—modeled on such as the Senior AIDES program of the National Council—to provide part-time community services for the elderly, administered through the Labor Department as a special employment program for the elderly.

The National Council of Senior Citizens is deeply concerned that the needs of the *elderly* housing have been submerged by the Department of Housing and Urban Development in a program of meeting the housing needs of the low income group generally—to the serious neglect of the millions of elderly who are poor or close to the poverty level.

The truth is that this Administration's resistance to categorical aid and assistance is depriving older Americans in almost every area of Government operation. So we are asking the forthcoming White House Conference on Aging to support us in the contention that appropriate identification of programs and funds for the aged is necessary if our elderly are going to get a fair shake in America's youth oriented society.

In conclusion, the National Council of Senior Citizens recognizes that the nation's elderly depend on America's economic strength and have a real stake in all efforts to promote economic stability. But, I want to emphasize, the particular nature of their problems requires special efforts to achieve economic security for them.

Henry Street Settlement—Urban Life Center—Nutrition Program for the Elderly

The project, known as the Good Companions Luncheon Project, is conducted in the basement facilities of Vladeck Houses, a low-income housing project on the Lower East Side. The address, 344 Madison Street, New York 10002.

The population served by the Good Companions' Luncheon Project are the elderly impoverished people living in the public housing projects in the neighborhood of Henry Street Settlement. They are economically disadvantaged. 70 percent of this group are Jews; the rest are black and Puerto Rican residents of the projects.

At the turn of the century, over one million Jews settled in the area of Manhattan known as the Lower East Side; this group was followed years later by additional waves of Orientals, Puerto Ricans and American blacks from the South—all of these groups seeking the economic promise of the northern United States. Most of the children and grandchildren of the earlier immigrants have moved uptown or out of town, into secure jobs and more comfortable housing, leaving the old people and the new minorities behind to live in poverty, rising crime and poor nutrition.

As a result of the population shift, the proportion of elderly living on the Lower East Side is twice that of the national average. For the nation as a whole, 9.5% of the population are over 60 years of age; on the Lower East Side, 20.5% are over 60 years of age (City Planning Commission, 1965).

The Urban Life Center of Henry Street serves an area within the Lower East Side of approximately 25,000 people. Of these, 55% are white, 29% are Puerto Rican and 16% are black. Among the aged, a higher proportion are white. Their poverty is as severe and as damaging as the other groups; they are the "hidden poor".

The elderly poor who live in Henry Street's neighborhood have a multitude of problems that control their day-to-day lives. Their budgets allow little to spend on food. 7% report an income below $500 annually. Another 14%, between $500—$1,000; 32% between $1,000—$1,500, and 18% between $1,500—$2,000. Thus, the majority of elderly using Henry Street services live, not close to the poverty line, but well below it. This is aggravated by the tendency among the elderly to avoid going on public assistance.

Before the existing luncheon program was set up, an analysis was made of the nutritional level of Good Companions members. Diets were found to be inadequate from all standards of judgment. Daily calorie intake was about 30% below requirement, and these were to a great extent high starch content calories. The analysis did not cover the distressingly high number of elderly people in the neighborhood who are regularly found searching through garbage cans for crusts of bread.

THE GOOD COMPANIONS' LUNCHEON PROJECT

For many years, Henry Street's services to the elderly have been run by the elderly who formed an organization known as the Good Companions. Under the leadership of the Board of the Good Companions, this program is far more dynamic than many centers for the elderly that provide bingo and little else. The participants in the program have been active in many local social service projects including volunteer work at the Gouverneur Hospital clinic. In the early days the program membership was 100% Jewish; in recent years, again under the leadership of the Board of the Good Companions not one of which is under 70 years of age, the program has made an active effort and has seen unusual success in recruiting black and Puerto Rican old people into the program.

In 1968, Henry Street Settlement in conjunction with the Good Companions accepted a three year grant from the federal government to run a demonstration program in providing hot meals for the elderly. Under the terms of the grant, nutritious hot lunches were provided daily at minimal cost for those who wished them; simultaneously, a study was undertaken that sought to demonstrate that the psychological and physical well-being of elderly people is far improved when they are adequately nourished.

Not surprisingly, the demonstration was proved true, and this nutrition program has become vital to the health and welfare of some 400 elderly poor people, many of whom would have to go into nursing homes if the program were to end.

FURTHER ASPECTS OF THE PROGRAM

The Good Companions and the Henry Street Board felt that the program was vital and should be run at all costs. It has proved to be vital, and it has had some significant side effects which were not even suspected when the program began.

One of these has been the formation of the Mealtime Companion Corps of the Good Companions, a group of elderly volunteers who take turns taking the meals out to the housebound and ill and offering them companionship and light housekeeping help. Another beneficial side effect was the way in which the Good Companions learned how to perform many of the services connected with providing the meals; they have been training and acting as kitchen aides, cashiers, dining room managers, etc. and have thus earned small amounts which they have been able to use to pay for their meals. In this way, they have been able to sustain their dignity and sense of independence by paying $.60 for each meal—without dipping into their very small budgets to do so.

The training that the luncheon participants receive in the normal course of their programs at the Good Companions provides an excellent opportunity for part-time employment in the neighborhood, in restaurants or in the Gouveurneur Clinic and Hospital where they could earn useful funds as cashiers, hostesses, meal time aides, etc. These kinds of jobs have little potential for growing or expanding and thus they are not desired by younger people; they could be very important and constructive sources for continued independence and dignity for elderly people.

SUMMARY

Services to the Elderly at Henry Street Settlement attempts to (1) provide nutritionally adequate meals at a low cost to economically deprived older persons, (2) educate these elderly persons in sound nutritional practices and (3) provide them with social interaction, leisure-time activities and opportunities for participation in community projects.

Evaluation during a three year period of the nutrition program showed that the physical and mental well being of the participants improved, that the meals program tended to act as a stimulant to a broad range of social activities and, further, that the low proportion of homebound elderly participating in the program who required institutionalization indicated the project's success in sustaining the elderly homebound in the community without resort to institutionalization.

Approximately 2,230 lunches are served each month to elderly people who come into the Good Companions Center. Of those, about 600 meals are taken out to the homebound each month, and 50 additional frozen meals are purchased every Friday for weekend use. These meals are vital to the well-being of several hundred people, proud but needy examples of the "hidden poor" in America today. An end to these meals would mean hardship for all—public institutions for many.

Statement of Steven Solarz, American Jewish Congress

My name is Steven Solarz. I am a member of the New York State Assembly from the District of Brooklyn and of the American Jewish Congress' Commission on Urban Affairs and its Governing Council. The AJ Congress is an organization that for many years has sought to expand social and economic benefits available to both senior citizens and the general public.

The American Jewish Congress is a national organization of more than 300 chapters and divisions committed to the preservation and creative survival of the Jewish people. In this regard we are deeply involved in social, political and economic problems affecting both American Jews as well as the nation as a whole. We view the problems of the Jews as intimately tied to the well-being and security of the American nation, and any recommendation we make here we feel will benefit not just the aging Jewish poor, but all of the nation's poor.

I have been invited to appear before this committee in order to discuss the special problems of the elderly Jewish poor. In the two days of hearings, we shall hear many poignant descriptions of the plight of the aged poor. Their numerous and complicated problems have been reviewed, and many recommendations have been made, which if enacted, would go a long way towards ameliorating their problems and enable them to live a more fulfilling life.

The AJ Congress' Commission on Urban Affairs just completed a study entitled *The Jewish Poor and the Anti-Poverty Program*. This study is relevant to the concern of this committee because so many of the Jewish poor are elderly and because it is a glaring example of how the needs of the aged have been disregarded by those charged with administering the poverty program.

I request that the committee accept this study which includes legislative recommendations, as part of the record. I would like, however, to summarize some of the outstanding points made in this study that are relevant to the mandate of this committee.

In 1970 there were 943,212 persons 65 years of age and over in New York City. They represent 12 percent of the city's population.

There are only three states (California, Illinois and Pennsylvania) in the U.S. that have as many elderly people as are found in N.Y.C. alone.

The number of senior citizens is growing rapidly. In the five year period, from 1960 to 1965, there has been an estimated increase of 25 percent in the population of the city, 65 and over. From 1960 to 1970 the increase was 15.9 percent. In 1920 the elderly segment of the population was only three percent; by 1940 it reached six percent by 1960 it had risen to 11 percent, and today it is 12 percent and rising steadily.

In 1968 there were 86,296 Jewish elderly poor living in those areas designated as poverty areas in New York City. There are no exact figures as to the total number of Jewish aged living in the city (i.e. in the poverty areas and outside these areas), but it is estimated that there are approximately 300,000.[1] If as is true of the aged as a whole that one-half of households headed by senior citizens have an annual income of less than $3,000, it would follow that there are 150,000 Jewish aged poor in N.Y.C., with 86,296 living in poverty areas and 60,000–70,000 living in other sections of the city.

With this background I would like to comment upon a few of the problems the elderly poor, and especially the elderly Jewish poor, have in participating in the poverty program.

The criteria used to determine the boundaries of poverty areas, as well as the allocations to programs within these areas, discriminates against the elderly, and especially the Jewish elderly. Thus, the three basic factors involved in determining allocations are juvenile delinquency rates, live births in municipal hospitals, and welfare rates. The first two obviously lack any applicability to older citizens and the third, because of the long standing tradition of independence among many of the Jewish and non-Jewish elderly, is only slightly applicable. Other factors that are involved in determining allocations, such as the venereal disease rate, are equally inappropriate for measuring poverty among the aged.

We request that the Congress take steps to correct this situation by mandating the use of income as the sole or basic factor involved in determining both poverty area allocations and boundaries. Whatever criteria are used, they must accurately measure the poverty of the aged poor.

In N.Y.C. less than 1% of monies funnelled from the city and Federal governments through the N.Y.C. Council Against Poverty are allocated to programs dealing with the problems of the aged. Thus, but $500,000 of close to $70,000,000 is spent on such programs. This is barely $1.00 per person per year for the estimated 400,000 impoverished senior citizens living in N.Y.C. Furthermore, out of more than 250 delegate agencies in N.Y.C.'s Poverty Program, only eight of them have programs devoted to senior citizens.

The problem, however, is not just N.Y.C.'s. Much of the fault may be placed on the U.S. Congress. That body's appropriation for the Senior Opportunities Program under the EOA, is but $8,000,000, or once again barely $1.00 per older person per year on a national basis (this is but two percent of the many allocated to Head Start). When a few weeks ago Congressman Scheuer sought to significantly increase that figure by $50,000,000, his proposal was readily defeated.

Our recommendations here is that the funding sections of the Economic Opportunity Act must be changed to provide more money for senior citizens' programs. Thus, in more than half a dozen places (Sections 126, 221–223, Titles III, VI and VIII), the Economic Opportunity Act makes special note of the needs of the aged. Without proper funding these sections are meaningless. It is time that Congress gave them meaning by appropriating adequate sums of money to meet the needs of this group.

Another problem is that sections of the EOA have not been implemented on the local level and the national office of Economic Opportunity has failed to take sufficient steps to see that they are implemented.

For example, in Title I, part B, Work and Training Programs for Youth and Adults, there is a section which provides:

The director shall provide that programs under this part shall be designed to deal with the incidence of long term unemployment among persons 55 years and older. In the conduct of such programs, the director shall encourage the employment of such persons as regular, part time and short term staff in component programs.

This has rarely been done. And again, in the section of funding the Community Action Programs, there is the following provision:

The director may provide financial assistance to the community action agencies for the planning, conduct, administration and evaluation of community action programs and components. These components may involve, without limitation, other activities and supporting facilities designed to assist participants, including the elderly poor, to secure and retain employment . . . make better use of income . . . to provide and maintain adequate housing . . . (Sec. 221)

If these mandates were properly implemented, the Jewish and other elderly poor would benefit substantially.

Many of the elderly Jewish poor, perhaps half of them live outside of poverty areas. In practice this means that they are excluded from participating in the various programs funded under the Economic Opportunity Act.

We ask that poverty be treated on the basis of need and not of residence. It is unfair to an impoverished citizen who resides in East Flatbush to be told that he is ineligible to participate in the poverty program because he does not live a block away in the Crown Heights section which is a defined poverty area.

Title II, Section A, should have a provision clearly mandating that citywide programs be established to cover poor persons not living in defined poverty areas and that such persons also have the opportunity to participate (perhaps on a voucher basis) in the various community programs established even in areas in which they do not reside. This should not be left to local regulations; rather, it should be Federally mandated.

Title II, Sec. B, dealing with Special Programs (Senior Opportunities & Services) should include a provision specifically stating that these programs are not to be limited to poverty areas and that the poor throughout the city should have access to them.

Lastly, Office of Economic Opportunity Memo 81, which was designed to implement the 1967 Amendments to the Economic Opportunity Act specifies that the boards of directors of community act agencies should take measures to include such potentially unrepresented groups as the elderly. This has not been done. We request that community action agencies throughout the country be required to do so.

In conclusion, it has often been stated that a society will be judged by the way it cares for its children, its sick and its aged. It is time that this nation began to pay serious attention to its too frequently forgotten older persons.

STATEMENT PRESENTED BY ANNE SHORE, ON BEHALF OF LOCAL 1199, DRUG AND HOSPITAL UNION, RWDSU AFL–CIO

My name is Anne Shore, I am the Assistant Director of the two Pension Funds of Local 1199 Drug and Hospital Union in New York City. Our Union has a membership of fifty thousand persons in the greater New York and New Jersey area comprised of workers in Voluntary and Private Hospitals and Nursing Homes, the Retail Drug Industry and other health organizations. In addition, the National Union of Hospital and Nursing Home Employees, with which we are affiliated, represents another twenty thousand workers in these fields in other parts of the country. Of these seventy thousand workers about 70% are black, 10% Puerto Rican and 20% white. The majority of those working in hospitals and nursing homes are women.

The composition of hospital workers across the nation, essentially follows this same pattern except that in western Pennsylvania and the midwest the majority are poor white women.

INADEQUATE INCOME

In the brief time that I have today, I want to concentrate on the one main problem of the elderly and that is inadequate income. I want, particularly, to touch on the income of single men and women over age 65 and the special plight of the black elderly. Abject poverty is still the major problem facing all persons over 65 in our country. Let me give you a few examples.

* Statistics are from the position paper prepared for the 1971 White House Conference on Aging entitled "Income—Background and Issues" by Yung-Ping Chen, PhD.

The government has set $1,750 as the poverty level for an individual and $2,200 for a couple. Yet 17.6% of all the aged families now live below this level and 41% of these are aged black families. Individual older persons are far worse off. 47% of all single persons over 65 are compelled to exist on less than $1,750 a year. Translated into weekly income this is something under $34.00 a week. In addition the number of elderly poor continues to increase. From 1968 to 1969 two hundred and fifty thousand more older person's income dropped below the poverty level. Permit me to enlarge on what this means in dollars and cents!

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[1] The council of Jewish Federations and Welfare Funds is currently doing a demographic study of the Jewish aged in N.Y.C. Until that study is available, all figures are approximate. The figure, 300,000 was arrived at by the Jewish Assoc. for Services for the Aged (JASA) in the following way: Jews represent 25 percent of the total population of N.Y.C. They represent about 30 percent of the aged, since the Blacks and Puerto Ricans have a shorter life span.

The Bureau of Labor Statistics moderate budget for an urban retired couple issued in 1969 was $4,192 and $2,880 for an individual. Yet nearly 70% of all single women and 32% of all single men over 65 had total annual incomes under $2,000 and one third of all aged families had incomes of less than $2,670.

The terrible plight of black women over 65 is shocking. Over 75% live in dire poverty.

In a city like New York for instance there are over one million persons over age 65, and the cost of living is the fourth highest in the nation, and also higher than any other major city. The plight of the aged almost defies description.

The items which consume the greatest part of a retired persons income are food, housing and medical care and these are the three items which have increased faster and greater than any other components.

MEDICAL CARE

Although the passage of medicare did improve the quantity of medical care for persons over 65, it also escalated the cost of services for the entire population. After five years experience we note that only 47% of the medical expenses of the aged are covered by medicare. Copayments and increased medical fees have eroded much of the benefits. The average annual cost of medical care for a working family is $265.00 nationally (in New York it is much higher). For those over 65 the average annual cost is $650.00. After Medicare has paid its share, $350.00 remains to be met. In families where only one member is over 65, (usually the former wage earner) the problems are even greater since the spouse under 65 is not covered for Medicare.

The sharp cutbacks in Medicaid, have also put an additional financial burden on the aged poor who must also pay for medication, dental care, and eye glasses. Since many of them cannot meet these costs they just settle for less than an adequate level of health care.

DECLINING STANDARD OF LIVING

There is another popular fiction that retired people live on a "fixed income". In reality they are trying to live on "fixed dollar incomes" which are being eroded every day by inflation.

The Senate Special Committee on Aging, in its report dated March 1969, page XI states "The Social Security Benefit payable to a couple who retired in December, 1950 . . . despite periodic adjustment . . . would now purchase a much smaller fraction of the Bureau of Labor Statistics 'moderate' budget—than at the time of retirement". Unless someone can come up with a surer formula whereby the aged can learn to live retroactively, we will have to concede that our current program guarantees attrition of the aged by a systematic and painful process of starvation.

PRIVATE PENSION PROGRAM

Although it may be said that private pensions have raised the incomes of those covered to place them among the elite of the elderly, the facts are that only 19% of married couples; 13% of single men and 5% of single women are actually receiving them. Available information shows that the income of those receiving private pensions in addition to Social Security is still below the moderate budget of the Bureau of Labor Statistics.

Many older people—even those not living in absolute poverty—must travel from one government agency to another to seek assistance such as food stamps to supplement their inadequate incomes. Such bureaucratic splintering of this responsibility is not only a waste of everyone's time but robs the aged of their dignity and self-respect. New York has a rent exemption program which requires that all aged applicants be subjected to a means test. But even this inadequate and demeaning program is being terminated and sharp rent increases will unquestionably follow.

Medicaid is all but unavailable to those over 65 who are not on Old Age Assistance, and of course also requires a means test, and coinsurance.

There is the ultimate indignity of Welfare for many individuals who have been self-sufficient all their lives—many of whom have "managed" for years on Social Security and Pensions, only to see skyrocketing prices force them to accept what they consider as charity.

UNION RETIREES DEMANDS

At a Pre-White House Conference on Aging held by our Union in the spring of 1971, our retired members proposed a guaranteed minimum income for a retired couple of $7,600 and $5,000 for a single person. These figures are comparable to the "higher" of the B.L.S. budgets. Our retired members are not willing to settle for the B.L.S. "moderate budget" which would give a couple $360.00 a month and a single person $240.00 a month (the summary of this Conference is attached). We must demand that Congress establish realistic income standards which meet the needs of all of our people—a national standard which guarantees an adequate annual minimum income for every elderly person in our country. Such a program should then be reviewed regularly for the purpose of making any necessary adjustments to guarantee that its purpose is continued.

NATIONAL COMPREHENSIVE HEALTH CARE

A Comprehensive Medical program to replace the stop-gap measures of Medicare and Medicaid. The cost of both of these programs continues to escalate while the services are diminished. The fact is that neither of these programs have attempted to deal realistically with the medical needs of the elderly or any other section of the population. The major funding for a 20th century national health program must come from General tax revenues as well as Social Security taxes. Many other countries with higher old age pensions are able to finance them through general tax revenues. In order to achieve this goal we will, of course, have to first reestablish our national priorities. Congress and the Administration must decide whether the health of our people is more or less important than flying to the moon, policing the world, building highways to nowhere or subsidizing corporate projects.

HOUSE COMMITTEE ON AGING

The Senate Committee on Aging provides leadership and factual material for many organizations. The Senators on the Committee have become advocates on behalf of the Aging. A comparable Committee in the House would give greater leadership and recognition to the problems of 10% of our population.

CONCLUSION

The above brief picture of the economic plight of the elderly in our country has been amply and fully documented many times in the past few years. I am not an economist and do not pretend to have presented facts from an economists point of view—rather I speak from my years of day to day experience with the elderly.

Retirement for most people is bleak indeed. At a time in life that should be tranquil there is instead insecurity. Instead of the opportunity to enjoy well-earned leisure and pursue new ventures, there is poverty and isolation. Instead of respect and appreciation of a life-time of knowledge and experience there is neglect, and disregard. Finally there is the dreadful spectre which haunts every elderly person—the unchallenged knowledge that if you live long enough you will become poorer and poorer.

The concern of our union, Local 1199, is not limited to the interests of our members. Our goal is that Congress enact legislation which will guarantee that our affluent society demonstrate its concern for the elderly by enacting legislation which will permit them to live out the balance of their lives with reasonable comfort, dignity and self respect. We cannot afford to compromise for anything less.

STATEMENT BY MRS. ELIZABETH STECHER TREBONY, PROJECT FIND

I am the Director of Project FIND, a senior citizens program on the Lower West Side of Manhattan in New York City's 19th Congressional District, represented by Congresswoman Bella S. Abzug. We started as a demonstration program in July 1967, funded by the Office of Economic Opportunity through the National Council on the Aging.

Our program was continued with local OEO funds after the demonstration funds were discontinued in October 1968. The need for the service aspect of our program was evident: when we started in 1967 there were no service agencies exclusively working with the aged, who constitute 23% of the total population, or 27,000 persons over the age of 65, living in a 240 square block area, 34th to 74th Streets, Fifth Avenue to the Hudson River.

Ours has been an unusual program in that we persistently out-reach in the community to bring services to senior citizens; anything that affects the aged in the 240 block area we consider to be our responsibility. We are responsive to all events from supporting senior citizens being evicted because of building demolition to launching a door-to-door information campaign about the availability of Food Stamps.

During the 4½ years of work in the community, our staff has serviced almost 7,000 senior citizens. Today we have a network of senior citizens clubs in donated space in four church basements and one settlement house. Our club membership numbers close to 1,000.

eW have recently opened up a free coffee house for senior citizens, jointly sponsored by Project FIND, the Port of New York Authority, the New York City Office for the Aging, and the Travelers Aid Society of New York. It is a community effort to answer a serious problem evidenced in every urban area: senior citizens congregating in public places because they have no place else to go. The FIND Coffee House is funded privately by the Port of New York Authority, the Federation of Protestant Welfare Agencies, the New York Foundation, and individual contributors. Daily attendance has reached 115 persons.

We started FIND with a staff of 35 senior citizen aides, working part-time, and two caseworkers. Our program was cut to 7 senior citizen aides and 3 full-time staff, the Director, one Caseworker, and one Assistant Caseworker, when demonstration funds were discontinued and we became funded by New York City's umbrella organization for OEO funds, the Community Development Agency.

Our work consists of service to the homebound—escort service to doctors, hospitals and clinics; emergency homemaker and home visiting program—casework and referral; advocacy intervention and organizing senior citizens into community action groups; as well as staffing five senior citizen clubs.

Because of cuts in our OEO grants—our staff has received no raises in the past four years—transportation costs for escort service excluded and meeting supplies discontinued, we have raised a small amount of private funds for transportation and service to the homebound. As well as local church and tenant groups support a free soup-and-sandwich lunch program at our five clubs. We serve free lunches to close to 500 senior citizens every week. Four local churches have joined together and formed volunteer groups to open the FIND Coffee House every Sunday.

I have taken the liberty of attaching several reprints about our program to this Statement.

I welcome this opportunity of bringing to your Committee's attention several very important problems which will directly affect senior citizens, particularly in the year ahead. Many of us in the field of the aging believe that in the ensuing year senior citizens will be facing the greatest crisis in living conditions in New York City than faced in the past ten years.

The crisis is caused largely by actions taken this year by the New York State Legislature.

Yet, I know I speak for the majority of my colleagues in the field of the aging in the City, when I state that the New York State delegation to the White House Conference on Aging (November 28 to December 3rd, 1971) can in no way truly represent our points of view as to what this crisis is.

While two-thirds of all of the State's aged population or 1.3 million 65 years and older, live in the downstate area—New York City, Nassau, Suffolk, Westchester, and adjoining counties to Westchester, our delegation to the White House Conference, chosen by Governor Rockefeller, has such characteristics as to preclude significant City representation, both of the aged poor, leaders in the field of the aging, workers in the field of direct service to the aging, and City Officials.

Almost one half of the State's aged reside in New York City—close to one million over age 65. Yet, instead of one half of the State's delegation of 135, 41 (excluding 7 State Commissioners or high level State officials with Manhattan addresses), *not* 68 delegates will represent New York City. Twelve of the City's delegation of 41 have no business or agency affiliation. Six of the twelve unaffiliated reside in Manhattan, but not all are senior citizens and none of those who are senior citizens reside in poor neighborhoods and could be considered representative of the aging poor in Manhattan. No senior citizen is included in the State delegation residing on the Upper and Lower West Sides, the Lower East Side, Harlem or East Harlem.

The following are criteria set by the National Planning Board, and communicated to Governor Rockefeller on June 8th by Elliot Richardson, Secretary of HEW. The first listed states that:

> The diversity of population in each State be reflected in the composition of the State delegates, and that due recognition be given to ethnic, minority, and economically disadvantaged groups of older persons in each State population.

I state unequivocably that the aged poor from Manhattan, which houses 207,000 over the age of 65, or 11% of the aged in New York State, and probably a greater percent of whom are poor than any other county in the State, are completely without representation at the White House Conference on Aging.

The fourth criterion states that:

> The individual's capacity to undertake follow-up action in his State and community, subsequent to the National conference, and his leadership potential be given weight. Insofar as possible, state legislators with responsibility for matters affecting the aged should be considered.

Since leaders in the City's umbrella organizations in the field of the aging have been by-passed, since New York City officials have been by-passed, and since organizations, like geriatric hospitals and voluntary direct service organizations have been by-passed, this criterion has been completely ignored in the choices for delegates representing New York City.

It should be pointed out that each delegate invited to serve as state Delegates will be provided round-trip transportation and $25 per diem for four days. Efforts to gain Federal funds for these stipends originally focused on the need to make it possible for the elderly poor to attend the White House Conference. I would venture to say that every delegate from Manhattan and the majority of the other delegates from New York City, could well afford to pay his own way to Washington. It is a disgrace that Federal funds, gained ostensibly for the purpose of giving a voice to the aged poor, are *not* being used for this purpose.

It could have been very important to have proper representation from Manhattan and New York City because the crisis older people will be facing in the year ahead is probably a uniquely urban problem. This by-passing of those persons who have been most vocal about the urban crisis as it affects the aged, is only symtomatic of the deaf ear our City receives from the New York State Administration and the State Legislature.

When facing our State Legislators in New York City with those issues vitally affecting their constituents, they advise that older people must bring their cause to up-State Legislators because City Assemblymen and Senators lack the number of votes to have an impact on the power of the up-State votes. Yet, the cause of the aged poor in New York State is overwhelmingly a City cause, since ⅔rds of the aged live down-State.

A significant impact through Senior Power on up-State Legislators seems wishful thinking, because the weight of the senior citizen population, even if seniors joined together in their demands, is singularly a small minority in up-State counties.

Thus from the City, we in the field of the aging beg for compassion for the cause of the elderly poor, and if not openly criticized for our aggressiveness by our colleagues in the field of the aging up-State, we are simply ignored as rebels by up-State Legislators.

Examples of the regressive legislation which promises to make life unbearable in the coming year for our senior citizens in New York City are cuts in the State Medicaid program, the removal of vacant New York City apartments from Rent Control, and a State Law which prohibits our City Council from extending senior citizen rent increase exemptions in January 1972, one of six bills included in the vacancy de-control package supported by Governor Rockefeller.

In addition, we in the New York City area have been warned that Federal provisions for new senior citizen service programs may be rejected by the New York State Legislature. Under Title XVI of the Social Security Act, the Federal Government is offering to put up 75% of the cost of service programs, with the State 12½% and the City 12½%. The New York State Legislature reportedly may refuse to put up the 12½% required as the State's share to bring the Federal 75% share of new funds into the State.

Again, the area to suffer most greviously for such disregard for the aged in the State of New York, will be the down-State area. No amount of clamor from New York City, apparently will move the up-State Legislators to realize the enormous needs of the aged poor in the down-State area for such programs. It would seem that somehow the State must be by-passed if New York City is to get such vitally needed funding.

The cuts in Medicaid passed by the State Legislature last June are being held up presently by a lawsuit. But, it is now rumored and City machinery is now being readied to put the cuts into effect in January 1972. These cuts directly affect the aged and disabled. If an elderly person has Medicaid but is not receiving Welfare, after January 1972 he will no longer get coverage through Medicaid for prescription medicines, appliances like hearing aids, crutches, eyeglasses, wheelchairs, and home health aides—the very services which help to keep elderly people living independently in the community, out of institutions.

Some 200,000 senior citizens in New York City have Medicaid, yet less than 60,000 are Welfare clients; the majority of elderly people are too proud to accept Welfare. These 200,000 elderly New Yorkers will have those services for which they relied on Medicaid discontinued; their hospital and doctor bills are covered by Medicare.

If Medicare for all senior citizens is not extended to cover what is called preventive medical care, like prescription medicines, e.g., eyedrops for glaucoma, medication for heart disease or diabetes and medical appliances which can upgrade the general physical condition of an aged person, at least Medicaid broad enough to include these needs should be continued for the aged poor. The restoration of Medicaid benefits to the aged and disabled as it appears now will not pass at the next session of the New York State Legislature, however, unless pressure is brought from all areas of community life and all parts of the State or Federal controls are mandated to the State Legislature to give due recognition to the needs of the aged and disabled poor.

Vacancy decontrol of Rent Controlled apartments in New York City is just another action which heightens the already horrifying housing crisis in New York City, to affect the aged more cruelly than any other age group. Landlords in New York City, and most particularly in Manhattan, are harassing aged people so that apartments can be freed from Rent Control and rents can be appreciably raised.

Obviously the philosophy at work is that it is simple to harass an old woman or man and because of fraility, he or she may not react quickly enough to avoid eviction. The tragic effects of vacancy de-control on senior citizens—70% of whom are renters in New York City—are compounded by rising rents in residential hotels, one of the few housing resources for the aged in Manhattan, an inadequate stock of senior citizen residences, and in adequate nursing homes.

At the same time, there are nowhere near enough new or renovated housing projects for the aged in the City to be other than a drop in the bucket toward the need for accommodations for elderly persons being displaced, either because of luxury development, institutional expansion, or the allout effort to drive older people out of their long-term occupancy of Rent Controlled apartments.

In other words, there is absolutely no place for elderly people to move to today in New York City if they lose the small hotel rooms or Rent Controlled apartments which they now have.

It is vitally important that for the sake of the aged poor and middle income senior citizens in New York City the freeze on rents be continued at the Federal level. Let the housing situation for the aged in New York City be cited as a National emergency with no worsening of conditions allowed, until steps can be taken to provide new or renovated housing for the aged living in the City today.

If the freeze is not continued, some 29,000 low-income senior citizens in New York City will get a 22% increase in rent as of January 1972. This will occur because the State has prohibited the City from continuing Rent Increase Exemptions granted in the Fall of 1970 and the Spring of 1971. It is not so simple to say that those who cannot afford a rent increase will just have to take welfare; this would demoralize the majority such that it amounts in real terms to signing their death warrants.

One practical solution would be Federal rent subsidies to be granted directly to older low-income people, regardless of where they live: Rent Controlled apartments, hotels, adult residences, non-controlled housing units. But the prognosis for this seems dim. Rent subsidies in the past have been restricted to new apartment dwellings, mainly to allow for establishing an economically mixed tenant community which otherwise would be totally middle and upper income.

What's called for is some imaginative programming instituted through the Housing and Urban Development Administration. Here we are in New York City with an old present housing stock which does not meet standards set for being granted funds for renovation.

Everyone it seems has his vision set for 50 or 100 years in the future. If in advance it cannot be surely proved that a building will provide sound housing, with all of the improvements deemed necessary for the health of older people, which will still be serving as sound housing some 50 or 75 years from now, Federal funds cannot be put into the renovation. Yet, all the while, the majority of older people are living under sub-standard housing conditions in our City with none of the safety or comfort devices deemed absolutely necessary.

Somehow it must be possible to exercise imagination in renovating present housing just to meet minimum conditions, raising sub-standard conditions. For example, on the Westside, the housing presently occupied by a great number of senior citizens are old law tenements, with toilets in the halls and bathtubs in the kitchen. These are four and five flight walk-up tenements.

Another large housing stock are old brownstone and limestone family houses which have been converted to small apartments or single room occupancy dwellings. One idea would be to acquire the brownstones through non-profit community housing corporations and convert them into old-fashioned boarding houses, which abounded at the turn of the century, with communal dining rooms and the personal ministrations of a patient landlady.

But financing for renovation of the brownstones seems bogged down because it is not financially feasible nor physically possible to install elevators. In effect, Federal guidelines for feasible programs for the aged dictate that it is not healthy for older people to climb stairs! Isn't it amazing to note that countless thousands of elderly people climb 3 and 4 and 5 flights of stairs everyday, and someone observed that maybe it's for doing that that their hearts are as healthy as they are. It is only chronic heart patients who absolutely should not climb stairs. I am not advocating intentionally asking an elderly person to test his endurance by climbing stairs, because it is possible to install simple seat elevators on staircases for the upper levels, but this short-range (that is 25 or 30 years) approach is apparently not feasible according to HUD.

Another failure in New York City has been the response of older people to Federal Food Stamps. A fraction—less than 25,000, of those known to be eligible (the requirements are the same for Medicaid and 200,000 have applied for Medicaid) are using Food Stamps.

It is perfectly understandable why Food Stamps are not working—older people in Urban communities have roots in these communities; the grandson of one's schoolmate might be at the check-out counter of the A & P. It is really too much to ask that elderly people suffer the indignation of fumbling around with Food Stamp handouts. The old system for surplus food distribution at least maintained a needy person's anonymity; your neighbor doesn't necessarily know where a shopping basket of food came from.

I have purposely avoided remarks about increasing Social Security allotments, and while I advocate increases, I believe these problems are of more moment today. Even an increase in the amount of Social Security will not help an elderly poor person meet the total projected increases in rent or those medical costs formerly provided by Medicaid.

Thank you.

[From the New York Times, Oct. 15, 1971]

BUS TERMINAL HABITUÉS GET OWN COFFEEHOUSE

(By Paul L. Montgomery)

Mrs. Bertha Moore is 80 years old and lives alone in a $35-a-month room on Tenth Avenue. About the only pastime she used to be able to afford was a trip to the Port Authority Bus Terminal waiting room to watch the world go by.

"When I started over there, the cops would come and chase us out," she recalled yesterday. "They would come and look and look at you. I don't like them looks. Here, you come and nobody looks."

Mrs. Moore was one of 150 guests yesterday at the formal opening of the FIND Coffee House at 425 West 43d Street, a place where elderly habitués of the terminal can come and enjoy one another's company.

The opening was the culmination of two years of work by the New York City Office for the Aging, the Port of New York Authority, the Travelers Aid Society of New York and Project FIND, a program for the elderly begun by the Office of Economic Opportunity.

FIRST OF ITS KIND

"This is the first project of its kind in the country," said Mrs. Elizabeth Stecher Trebony, the executive director of FIND (an acronym for Friendless, Isolated, Needy, Disabled). "We've already had inquiries from all over the world about it."

Mrs. Trebony formed a committee two years ago to study the elderly habitués of terminal. The other key members were Mrs. Stella B. Allen of the city Office for the Aging, Marvin Weiss, who was then manager of the terminal, and the late Herbert Rummel of Travelers Aid.

One of the first tasks was to check on the habits of the terminal sitters. This was accomplished by Mrs. Mary Z. Butler, who is 67, and Mrs. Stella G. Trebony, Mrs. Trebony's mother-in-law, who is 72. They set up a table in the terminal waiting room and began gathering data on 84 regulars and 189 sporadic visitors.

They met some resistance at first, but after a time the habitúes began to talk, usually prefacing their remarks with something like, "Don't tell anyone, but I do sit here a lot." The median age of the sitters was 69, the average income $1,500 a year. About 70 per cent of the regulars sat alone; 25 per cent came from outside Manhattan.

TOTAL OF $35,000 CONTRIBUTED

In the meantime, Mrs. Trebony's committee was gathering money and support for the planned coffeehouse. The Port Authority, the Federation of Protestant Welfare Agencies and the New York Foundation made contributions totaling $35,000, and there were also individual donations.

Last year, a place was found. The Port Authority provided workmen to do much of the renovation. Since June, about 400 elderly people have joined the project, and each weekday from 11 A.M. to 5 P.M. they fill its spruce quarters on the ground floor of two adjacent brownstones to chat, sip coffee, play cards, or read.

An arts and crafts program is offered and so is a referral service for those who have problems they want to discuss.

There is no charge for membership. The average age of the members is 70, and the average income, $1,650 a year. Mrs. Trebony says that the coffeehouse can operate on a budget of $35,000 a year, which is about one-third the average cost of a city-sponsored senior citizens center.

"This is the closest thing to home they've got," said Mrs. Allen. "It's really like an extended family situation. You can talk about things here that you couldn't talk about in a more structured place."

"I like it very much," said Mrs. Moore. "I was here the first time it was open and I saw it was nice. They talked to me so nice, I said to myself, these are the friends I should know."

HEALTH, FOOD AND RENT: THREE CRISES FOR THE ELDERLY

(By Elizabeth S. Trebony)

Project FIND's Fourth Annual Conference, "Senior Citizens Report to Congress," on May 21st came at a time this year which could be described as the most serious crisis for the elderly people trying to live in this city.

The West Side's three Congressional Representatives, Bella Abzug, Edward Koch, and William F. Ryan, gave up most of their day for the event, which was co-sponsored by the East Harlem Committee on Aging, Inc. First the Congressmen came to St. Paul the Apostle Church for the morning session on the West Side and then they travelled to East Harlem for the afternoon. Jack Ossofsky, Deputy Director of the National Council on the Aging, was moderator both on the West Side and the East Side. More than 1,000 senior citizens attended.

Frustration was the keynote of the day, expressed both by the Congressmen and all of the seniors who spoke out. The idea of the meeting was, as Jack Ossofsky put it, "to bring together the people of the community, the ordinary citizen of our town with their Representatives in Congress who make the legislative decisions."

The Congressmen all stressed the importance of Senior Power and exerting pressure. Many seniors wanted to know how must Senior Power was necessary beyond what they had shown and were showing that day in the pouring rain by being there and speaking their minds. One lady in East Harlem said, "Do you expect older people to go to Washington or Albany, when most can't afford carfare to City Hall?"

The meetings were planned months ago before many of the recent events occurred which can spell real crisis to the aged in the year ahead. Here are some of the current issues:

The State Legislature has passed a bill cutting Medicaid, which appears to be directed straight at older people, because those payments being cut are the only things elderly people rely on Medicaid for: dental care, eyeglasses, prescription medicines, appliances for the handicapped, home health aides for the sick.

Federal Food Stamps are slated to cost more next September. Now the minimum an eligible person pays is $9 for stamps with which he can buy $14 worth of food. Stamps are to cost more after September.

Mayor Lindsay is cutting the budget and threatens to discontinue the New York City Office for the Aging, the only agent through which elderly people have a voice in City government.

Governor Rockefeller has pushed through his proposal to discontinue rent control in vacant City apartments. Elderly people are already harassed because of rent increase exemptions, which are slated to be revoked in January 1972; the Governor's proposal will mean that older people will be surely pushed out of their apartments by landlords employing one technicality or another.

Medicare is being whittled away year after year such that, while it never covered preventive care that Medicaid presently picks up (eyeglasses, etc.), it is becoming inadequate for proper hospital coverage—last year the cost was increased and this year—in May, Senior Citizens Month—the duration of full hospital care has been cut from 60 to 30 days a year.

As Stella Allen, director of the West Side Office for the Aging, guest speaker at the West Side meeting, said, "Cut, cut, cut . . . increase, increase, increase. Higher rents in hotels and apartments, higher prices; increase everything that it takes to live a dignified, comfortable and adequate life.

Jack Ossofsky and everyone of the Congressman deplored the "upside-down priorities in this country." Congressman Koch called for the end of the war; William Fitts Ryan condemned legislators for "putting ahead of human beings, the military, SST, and other irrelevancies;" Congresswoman Abzug called for "a National Bill of Rights for elderly citizens, who are entitled to decent Social Security, decent medical care, decent housing, regardless of their ability to pay."

In his summary statement, "A Mandate to Congress," Jack Ossofsky said, "Obviously your message to our Congressmen in New York is that you require action very fast; less talk and more action. This is the message that came through to me as I review the discussions on the West Side and on the East Side today."

He summed up those needs expressed in both communities as adequate Social Security, total health care without the need for additional payments, new and better housing at levels they can afford to pay, with a moratorium on rent increases in hotels and present rent controlled apartments, and finally, more vigorous effort on the part of the police to make the streets and homes safe for elderly people.

In addition to getting the undivided attention of all of our Congressmen for this event, the conference this year had several unique features. Present were invited delegations from every senior club and center on the West Side, from Hudson Guild-Fulton Senior Center on 19th Street to Goddard-Riverside Senior Center on 93rd Street, a number of which made donations toward the cost of free lunch for close to 600 on the West Side.

The day ended with a volunteer guest artist from a professional dance group, organized by Eleanore Kingsley, who was elected last September a director of the Community Corporation of the Lower West Side.

The dancers, directed by the world-famous choreographer-Balletmaster R. Antic, were from the Pan American Ballet Company: Eleanore Kingsley, Jon Von Erb, and Constanza Piccirillo. Also performing was Miss Indra Nila, who presented dances of South India.

One elderly lady said after the hour's entertainment, "I forgot there was such beauty left in the world."

With all the bad news, I guess we all had.

PROJECT FIND: SEEKING OUT THE ISOLATED

(By Jerome D. Bona)

"Hello, Mary," George McDermott called out to Mary Greene. "She's a real old timer," George explained. "We all come here from the neighborhood and to the other FIND clubs, to pass the time of day with each other. And the people from Project FIND help us with our problems. Anything that cames up, you name it, they try to help us. They have a Newsletter which this time tells about senior benefits we ought to know about."

In spite of gale winds, snow and ice this bitter cold March day, some thirty seniors had braved the foul weather, and had gingerly made their way down the steps for the weekly Thursday meeting of the FIND Club held at the Sacred Heart Church on West 51st Street. Elizabeth Stecher Trebony, Director of FIND, sat in one corner, answering special problems, which one-at-a-time seniors were raising in response to their Newsletter.

Mrs. Trebony said FIND was currently working with city-wide groups in the field of the aging to convince older people that they should take advantage of the federal food stamp program and city rent increase exemptions.

"They are adverse to welfare and are against taking charity. But they have a right to programs like food stamps and rent increase exemptions, as past and current contributing members of our society," she said. "And seniors must be encouraged to overcome the stigma these programs seem to have."

Project FIND has developed into a wholly responsive program, adapting itself to whatever causes senior citizens seem to be facing as time goes by. The present under-utilization in the city by seniors of food stamps and rent increase exemptions are just two current examples. Another example is the crises FIND met head on in helping hundreds of seniors when they were being evicted from hotels in the Times Square area two years ago.

Marie Peterson says she's known about Project FIND for a little over a year. "Margaret Lehrfeld came to me from FIND because a neighbor told her about one of my problems, which I'm glad to forget now because it was worked out for me," she said.

"I'm 71 years old now," says Marie. "Unlike the boy who leaves home, I'm that girl who ran away from home to join the circus. I only weighed about 90 pounds then," said Marie, who looks as if she couldn't weigh much more than that today. "I did aerial work on the trapeze, the rings, and the ladders. They liked me because I was light, I guess.

"In the 1920's, I rode the elephants bare back, you know, with the Downie Brothers Circus all up and down the East Coast. They used to have to singe the elephant's hair for me, otherwise it was like bristles," she explained.

Two others, almost as tiny as Marie, are the Greene sisters, Margaret and Mary, both in their 70's. They told about how the West Side was "peaceful" in the old days. "It was most neighborly. Nobody was beaten up just walking down the street. Nowadays it's hard to know which people to trust. Project FIND helps a lot.

"We've always lived on the West Side," says Mary Greene. "And in just two houses all our lives. About three or four years ago, we had to move from 42nd Street to Ninth Avenue when the Port Authority expanded the Lincoln tunnel."

"We were lucky," said Margaret Greene. "We were recommended by an old friend, and were able to get our apartment in a four-family house, and there has only been the one vacancy there in many years."

Mrs. Trebony emphasizes that housing for the elderly is the worst problem in both Clinton and Lincoln Square, where FIND's staff members, who now number 10, seven of them senior citizens, have accomplished an impressive record in servicing the very high number of elderly residents.

Project FIND is an "out-reach" organization. That is, it makes definite moves to seek out isolated senior citizens, mobilizes resources, and reacts to all issues which affect the elderly community. Since it was started three and one-half years ago, FIND has been able to service about 15% of the senior citizen population in the areas. That is well over 5,000 of the 36,000 over-age-60 residents.

Originally one of 12 Federal projects in the nation, New York City's FIND is the only one still in existence; the others didn't have the power to gain local funding after their neighborhood surveying had been completed.

FIND is now funded by the Community Corporation of the Lower West Side with War on Poverty (Office of Economic Opportunity) funds from the Community Development Agency of the City's Human Resources Administration.

Rabbi Gerald A. Goldman, then with the Stephen Wise Free Synagogue, on West 68th Street, was the first chairman of Project FIND's advisory committee. He has now been followed by Rev. Kevin Sheehan, C.S.P., of St. Paul the Apostle Church, just south of Lincoln Center.

Mrs. Trebony is quick to stress that the problems of senior citizens are nowhere near being met. Many live in the 55 or so low-and-middle rent hotels between 34th and 74th Streets. "The majority of these hotels are falling into deterioration," she points out, "as landlords take their profits, simply waiting for their property values to increase as the hotels and walk-up apartment buildings give way to high rate commercial buildings, institutional development, and luxury apartment towers.

"We need housing for the elderly desperately," Mrs. Trebony emphasizes. "But the transition of the West Side makes the acquisition of property prohibitive, except for luxury development and institutional expansion.

"If the elderly and other longtime residents of the West Side are to be protected," Mrs. Trebony maintains, "if the area is to be kept a mixed community ethnically, religiously, and financially, more land has got to be acquired by the city, just as it has been from 50th to 56th Streets, where the Clinton Housing Association is now sponsoring the construction of some 3,000 mixed income housing units."

In keeping with its style of responding to current needs, Project FIND, through its recently founded non-profit corporation, FIND Aid for the Aged, Inc., is also working on the acquisition of brownstones, apartment buildings, and hotels, to turn them into old-fashioned boarding houses, licensed under state law as residences for the elderly. "If we can do this," says Mrs. Trebony, "people evicted from SRO's (single room occupancy buildings) and run-down hotels would have a place to go. But here again, financing is an almost insurmountable problem.

Frances McLaughlin agrees about the relevance of Project FIND. "I became a West Sider nine years ago when the building I lived in on East 73rd Street was renovated," Frances explained. "I had to move out. I was alone down here and didn't know anybody. Then I heard about Project FIND when I went to Show Stoppers one night at Hartley House. For three years now Project FIND has given me a lot of pleasure. I never need be lonesome. I always have a place to go.

"You know I'm 87 years old," says Frances. "Elizabeth just helped me out of a scrape with my landlord. And I've been on TV twice to talk up for senior citizens and Project FIND. Now that we have four FIND clubs, we have some place to go every day."

Clubs are an important activity for FIND staff. In addition to giving seniors a place to go and a free lunch, the clubs are the focal point of the seniors' community action activities, which, next to direct service to seniors in their homes, is the heart of FIND's efforts on behalf of the elderly community.

There are club meetings every day in donated quarters: Tuesdays at St. Luke's Lutheran Church, 308 West 46th Street; Thursdays at Sacred Heart Roman Catholic Church, 457 West 51st Street; Mondays, Wednesdays, and Fridays at St. Stephen's Episcopal Church, 120 West 69th Street; and Tuesdays and Thursdays at Lincoln Square

Neighborhood Center, 218 West 64th Street.

With the numerous churches involved, it's an ecumenical project; it's relevant; it's filling a vital need for the neighborhood's older citizens, this Project FIND.

[From Newsday, July 29, 1971]

PROJECT FIND—SOON TO BE FORGOTTEN?

(By Penelope McMullan)

Only seven elderly women are left of Project Find in New York. But their search for abandoned old people in West Side tenements and hotels, and their attempts to help them, is still one of the few well-coordinated community efforts to help the aged in the country.

Project FIND survives, unknown and unthanked, the only one of 12 "FINDs" the Office of Economic Opportunity funded around the country four years ago to study the old. Its an acronym—for friendless, isolated, needy, disabled.

"It's me, Betty," says Margaret Drain, 73, staring expectantly at a chipped gray door of a third-floor walkup. Clutched to her chest, is a bag filled with milk, Marlboros and soup. She waits.

The gray door gives way to an acrid odor of cat and Margaret marches through in her accustomed way and sets down what Elizabeth Z, 69, had told her she needed.

In this Project FIND area—from 34th to 74th Streets, Eighth Avenue to the Hudson River—there are 36,000 people over 60. Most, like Betty Z, live alone, on an income of around $1,500, their total Social Security *plus* savings. "Decaying" is too good a word for the buildings or hotels they live in, but most of their money goes for rent. Their landlords wish they would die or leave; rent control will end in these buildings the day the tenants go.

"There's no mail," Margaret Drain says importantly, her large blue eyes magnified by the lens of her glasses. Betty Z picks at her nightgown; it slips because her left side has been paralyzed by two strokes. When she suffered the last one they had to break down her door to get to her.

"There never is [any mail]" she replies, and sits down at her kitchen table. Her apartment is ugly—exposed pipes, dirty walls, grimy windows that block light, and amidst the clutter, such things as a dusty man's cap perched on a nail. Betty Z doesn't know where it came from—one of the infrequent visits from her sons, maybe.

Mrs. Drain is paid $2,080 a year for this work, but it is not the money she is after; she is being useful. Soon, she leaves to take an 88-year-old woman to a clinic. Chin thrust forward, she seems to march down the streets.

The objectives of all 12 projects set up by the Office of Economic Opportunity in 1967 were the same: they were to hire senior citizens who needed the money, have them search out their peers, and then mobilize their communities. OEO hoped to pave the way toward a national network of FINDs.

But it didn't happen. Eleven groups closed down, leaving only a joint report, "The Golden Years—A Tarnished Myth," behind. As it turned out, local agencies didn't really help them; their communities didn't really care, and then the money ran out.

New York's agencies and West Side community were no better, but this FIND group survived in spite of them. "The aged in New York have no priority," Stella Allen, head of the West Side Office of the Aging, says frankly. "There's just fragmentation and no planning." The city's aged population, 943,212 (12 per cent)—the only segment in the city that is increasing—is way down on the priority list. In Project FIND, for example, when the distribution of the OEO funds that support it changed hands from the National Council on Aging to New York City, the budget fell from $99,000 to its present $50,000.

What happened with this one group was that it was not only well-organized but quickly involved the senior citizens. (Almost the day their doors opened at 1966 Broadway, one of the hotel owners decided to close, and sent eviction notices to more than 250 people who had no place to go and no money for moving.)

"We are advocates," Margaret Lahrfeld, 75, says carefully. She's been a FIND worker from the beginning, and has learned the government jargon. Belieing a lifetime spent on West 24th Street, she refers to "pockets of poverty," "advocacy," and her job—"therapy for me."

But the workers never had a chance to be just "finders." Issues like the hotel eviction made them advocates immediately. And when they won a promise from the hotel owner to pay $25,000 to his tenants, they took heart, and prepared never to lose again.

"They got personally involved," Elizabeth Stecher Trebony, FIND's director all four years, says. "In the first months we had two clubs opened up, by the next May two more." This space, donated by four churches in the area, was the catalyst they all needed: a place to meet for recreation and a place to organize for their rights.

Meanwhile the aides continued what Stella Allen calls the "day-to-day services," the little odd jobs like escorting and shopping the aged who have no families to do for them. And, they knew how to get Medicare, Medicaid, or food stamps for the people they found needed help, and how to convince them that taking welfare wasn't the end of the world.

"They don't know their rights," Mrs. Lehrfeld says. "They don't have radios and televisions, most of them, and they don't see the papers."

FIND has to be careful not to offend. "Most people say they'd rather die than go on welfare," Mrs. Lehrfeld says, for these are people come from a time when poverty meant laziness. "These are proud people," Mrs. Trebony says.

Outside volunteers haven't worked out for that reason. At one point, some women from the East Side planned to do a "telephone reassurance service," telephoning shut-ins once a day.

"They were going to do it, but then they said they didn't want to use their real names," Mrs. Trebony says, her eyes darkening at the memory. "They were afraid the old people would start calling them back. But you can't take a dignified old person and say, 'Hello, this is Miss S.' "

In one club, for example, Teresa O'C sits alone, waiting patiently for the free lunch. Painfully, she answers a few questions about herself, but her eyes beg off. When the food comes she swiftly eats as much as she can get, stiffening slightly when she sees her hunger has been noticed.

Mrs. Trebony is protective and dedicated. She fell into this work as a volunteer, and gets an ironic satisfaction from using techniques of the business world (she formerly was an editor at McGraw-Hill) to push for old people instead of profits.

Last year, for example, FIND wrote a report on the "sitters"—about 200 old people who journey from all over the city, and even New Jersey, to the Port Authority Bus Terminal, where they sit in the waiting rooms from morning until night. There are so many that sometimes there's no place for the travelers to sit.

"It's quite a phenomenon," says one FIND staffer. "They do it in Grand Central, too, and if they had the money, you can bet they'd be out at the ariports."

Mrs. Trebony's study led to press coverage of "the sitters," and then to money from two foundations and the Port Authority itself for a free "coffee shop," to be run by FIND, at 425 W. 43rd St. FIND will try to get "the sitters" to go there instead.

It will be for others, too; Mrs. Lehrfeld tells Richard K about it when she visits him in his tiny one-room apartment at W. 45th St. To save electricity, he wasn't using his fan, but he turned it on when she came, and pulled out a folding beach chair for her to sit on.

He said he would go to the coffee shop. "It's so monotonous," he told her. "I go from this chair here to that chair over there and back again." His apartment is barely furnished; the "chair here" is one by the front window (most have chairs by their windows), and the "chair there" is next to a small kitchen table. Add a bed, night table and a sewing machine (so he can repair his own clothes) and that's it.

K is an example of how budget cutbacks and funding affect the elderly on the West Side. His apartment is under rent-control, which a Rockefeller-sponsored state bill now abolishes—once the tenant leaves "voluntarily." Even if a senior tenant doesn't leave, there will be an automatic 22 per cent increase in January. Joseph Giamo, K's landlord, simply refuses to make repairs: a broken sink, no cold water, and two rat holes that should be plugged up. If it gets worse, maybe the 88-year-old man would leave "voluntarily."

The state also cut back on Medicaid services—payments for eyeglasses, hearing aids and prescription medicines. So K, who pays $60 a month out of an $82-a-month Social Security check, will simply not get those things, even though he is deaf and going blind.

But Mrs. Lehrfeld tells him she will take him to an eye doctor she's found. "He's a human being," she says, proud of her discovery, "you know, beyond medicine." She also spotted a sign in a Woolworth's that seniors can get their shoes resoled at half price; K's shoes will make that visit. And then there's the television. Mrs. Lehrfeld convinced a woman who had three to part with one. K watches the little red portable often. Ch. 11 is all he can reach on it, but "Beat the Clock" is better than nothing.

Still, FIND's future is not secure. A FIND Fund tries to raise money from private sources, but that's not all they worry about.

"The lack of priority starts at the federal level," Mrs. Trebony says, "and works its way down to the state and city. Right now we're facing the worst year of all, as I see it. The cuts in state aid, and now, federal food stamps will cut cost more. The cuts seem to be directed against the aged, and nobody seems to realize that these are people who just don't have time to wait."

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1971

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,600 American prisoners of war and their families.

How Long?

BILL SCOTT REPORTS

HON. WILLIAM LLOYD SCOTT

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1971

Mr. SCOTT. Mr. Speaker, since coming to the Congress, I have sent a regular newsletter to citizens of the Eighth District of Virginia and I am inserting in the RECORD at this point a copy of the November 1971 newsletter:

YOUR CONGRESSMAN—BILL SCOTT REPORTS

ELECTION REFORM BILLS

Three major bills relating to campaign spending and reporting will be considered in the House of Representatives after the Thanksgiving holiday. One of the measures has been passed by the Senate, a different one reported by the House Interstate and Foreign Commerce Committee; and still another one reported by the House Administration Committee. All measures are different, controversial, and political. Few people would want anyone to be permitted to spend enough money to buy an election and most would agree on the need for a more complete reporting and disclosure of expenditures. However, there are differences of opinion as to the amount of spending limits; whether officials within the Congress, the General Accounting office, or a new Federal Election Commission should supervise spending and reporting by candidates. There are also differences regarding equal time requirements for television and radio, credit card restrictions, limitations on candidates contributions to their own campaign and whether violations of the election laws should result in forfeiture of the election, or in a fine, or imprisonment. We are not sure which of the three basic bills will be adopted in the House, but are reasonably certain that there will be numerous amendments offered on the Floor. Because of the wide differences of opinion within the committees, between individual members and between the Democratic-controlled Congress and the White House there is some doubt as to whether any election reform bill will receive sufficient support to become law before the next Presidential election.

DISTRICT OF COLUMBIA REVENUE ACT

The District of Columbia Revenue Act passed the House of Representatives early this month by a vote of 248 to 50. It contains the largest amount ever authorized to be spent by the District of Columbia Government and provides increases in gasoline tax, corporate income tax, and the Federal payment from $125 million to $170 million but omits any authorization for the imposition of a commuter tax by the District of Columbia Government. Of course, Virginia and Maryland Congressmen had all appeared before the District of Columbia Committee and testified against the levying of this tax. The voice vote in the House on the proposal was overwhelmingly against it. The Senate is also opposed. So we can be sure that there will be no commuter tax for at least another year and hopefully not at any time.

MIDDLEBURG MINISTER

The Chaplain of the House of Representatives has arranged for Reverend W. Michael Nobel, Minister of the Middleburg United Methodist Church to offer the opening prayer in the House on Thursday, December 2. Reverend Noble was Pastor of the Beaverdam Methodist Church in Hanover County prior to being transferred to Middleburg where I was the Layman's Day speaker last month.

FERRY FARM

On December 10, the Director of the National Park Service, the Chief Historian of the Park Service and a representative of the Southeast Region will join me in Fredericksburg to visit Washington's boyhood home at Ferry Farm across the Rappahannock River. The Fredericksburg Area Chamber of Commerce will serve as host to the visitors and are arranging a luncheon and a presentation of the history of the property. A total of 38 members of the House have now co-sponsored the bill to acquire, preserve and restore this historic site and others have indicated a desire to join in the introduction of an identical bill. Therefore, we are hopeful that the House Committee on Interior and Insular Affairs will hold hearings some time next year.

HIGHER EDUCATION BILL AMENDMENTS

Spurred by the tremendous public sentiment against forced busing to achieve racial balance, the House approved an amendment to the Higher Education Act of 1971 that would delay busing under any lower-court order until all legal appeals have been exhausted. It also approved another anti-busing amendment which bars the Federal Government from pressuring or requiring school districts to spend local or state money on busing aimed at achieving racial balance. I voted for both of these amendments and hope they will be retained in the bill by the Senate. Final passage of the measure by a vote of 332 to 38 came after the House had worked on the bill for four days and had engaged in a marathon session which ended at 2:30 a.m. Friday.

INTERSTATE 66

As you may have read, the Federal District Court at Alexandria has determined that there is no justification or legal requirement for further delay in completing the construction of Interstate Route 66. A primary concern, of course, is the portion between the Beltway and the Theodore Roosevelt Bridge which has been discussed many times with the Virginia Highway Commissioner. In a recent letter the Department of Highways advised that an environmental impact statement has been forwarded to the Federal Highway Administration and that the portion of the highway between Glebe Road and Kirkwood Drive, at the intersection of Route 29–211, will be advertised for bids March 15. A second project, from the Beltway to the intersection of Route 7, is now being formalized and should be advertised for contract in early summer. I have again contacted the Secretary of Transportation and urged that every effort be made to expedite the completion of this interstate highway which is not in any sense a substitute for the Metro System. It is contemplated that Metro will utilize the median strip of the highway for its trains.

EAST COAST DOCK STRIKE

A number of constituents including businessmen and representatives of state and county farm bureaus have contacted the office urging that action be taken to terminate the East Coast dock strike. Some have cited loses in excess of a half-million dollars per day primarily to farmers producing grain, soybeans, and tobacco. We are told that railroads are refusing to pick up harvested crops for fear of spoilage while the crops are in their possession and cannot be unloaded because of the strike. Several days ago, therefore, I contacted the President with the request that the Taft-Hartley Act be invoked. In the early stages of the dock strike, the White House refused to invoke it because the strike was not general in nature and negotiations for settlement were under way. However, it has since spread to most East Coast ports and the President has been urged to reevaluate the situation in order to alleviate the loss to farmers and businessmen. The White House has promised that full consideration will be given to the request.

SENIOR CITIZENS

Sometimes we fail to utilize the talent and experience of older people who may not want complete retirement. In all probability, among our constituency, there are people with long years of legislative or Capitol Hill experience who would like to be employed on a part-time basis. Therefore, I am allocating one space in the office to alternate on a four hour a day, or twenty hour a week basis, for persons between the ages of 50 and 65, who would like to work part-time on Capitol Hill. An individual could commence work at 8 a.m. 12 noon or 4 p.m. on a weekday and if fully experienced in research, legislative, journalism or other Congressional activity, be of material help to this office and at the same time relieve the boredom of not being gainfully employed. If you meet this qualification and would be interested, please submit a résumé of your background, experience and salary requirements. Of course space and available funds require that this proposal be limited to no more than three persons working twenty hours per week.

DUPLICATE NEWSLETTERS

We would like to correct our mailing list and would appreciate it if you will advise us if you are receiving more than one copy of the newsletter or if your mailing address should be corrected in any way.

CALENDARS AND CONSUMER INFORMATION

We have a limited number of Government calendars which will be made available in the order that written requests are received in the office until our supply is exhausted. There are two types, the regular stiff back House of Representatives calendar and the one sponsored by the Capitol Historical Society, which features a number of Washington scenes. If you would like one, please specify your choice and indicate whether or not you would like the other type if the supply of the one you prefer is exhausted.

Also available are copies of a 16-page catalog, or index, of selected Federal publications on how to buy, use and take care of consumer products. About one-fourth of the publications listed are free, and the rest can be obtained for a nominal charge. Individual publications cover such products as appliances, autos, child care, clothing and fabrics, food, health, housing and pest control. Let us know if you'd like a copy of this publication catalog.

SOMETHING TO PONDER

The vote by which Formosa was expelled from the United Nations and Communist China admitted has been described merely as a recognition of reality. However, it may be time for a realistic look at the way the U. N. operates and for the adoption of a U.S. policy more in line with this reality.

The U.N. is said to be $176,699,974 behind in dues collections and other assessments from its members. Some 76 nations are delinquent. The Soviet Union owes nearly $87 million, and the rest of the Communist bloc owes the United Nations another $31 million. In other words, Communist nations owe nearly $118 million to the organization which just voted to accept another huge Communist country. The United States pays one-third of all the operating costs of the U.N. We might ask, is it realistic to have one nation paying 33⅓ percent of the costs of a body that supposedly represents all the nations of the world and allots each member equal voting rights?

RESOLUTION TO EXPEL BYELORUSSIA AND THE UKRAINE FROM THE UNITED NATIONS

HON. WILLIAM S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1971

Mr. BROOMFIELD. Mr. Speaker, I lend my full support for the resolution introduced by my distinguished colleague, Mr. BURKE of Florida, asking President Nixon to direct our representatives in the United Nations to take the necessary steps for the expulsion of Byelorussia and the Ukraine from the United Nations.

The Congress and the people of America have been distressed by the recent actions taken by the U.N. to expel the Nationalist Chinese from this world body. If this free, sovereign, and independent state can be expelled, why should two constituent republics, indivisible of the Soviet Union, be allowed to remain.

Byelorussia and the Ukraine are two of the 16 republics that make up the U.S.S.R. They relate to the U.S.S.R. roughly in the same way that Michigan and California relate to the United States. Despite this obvious fact, the Soviets persuaded our war-weary political leaders in 1944 and 1945 that Ukraine and Byelorussia were separate states.

Twenty-six years have passed since then, and Ukraine and Byelorussia, on the contrary, have become more an integral part of the U.S.S.R. They are not allowed to carry on their own sovereign foreign relations, nor have they any semblance of a nation-state which is the criteria for acceptance into the U.N. for all other members.

Any body of nations that expels from its membership an independent nation like Nationalist China, which has defended its borders from intruders for more than 25 years, and at the same time, countenances that retention of Byelorussia and the Ukraine as full-fledged members with an equal vote is practicing the most gross form of hypocrisy. Since Byelorussia and the Ukraine, like Nationalist China, were charter members of the U.N., they too can be expelled by the same method as was used to eliminate the Nationalist Chinese.

The United States has been the primary backer of the U.N. since its inception, paying at least 31.52 percent of the annual U.N. budget. Despite our heavy contributions, the U.N. is virtually in a state of financial collapse. This is quite understandable when one realizes that countries like the Soviet bloc nations owe $118 million alone, while some countries do not pay their dues at all. Two-thirds of the votes in the General Assembly belong to countries which together pay only 4½ percent of the annual U.N. budget.

Mr. Speaker, now is the time to start making the U.N. a truly representative body—a body of independent nations, free and sovereign. I believe that the responsible course is to try to translate the high feelings generated by the China vote into support for national voting procedures and to reform the finances of the U.N.

To conclude, if the U.N. is to be a meaningful and useful body of world states, it must have integrity. The unequal representation of Byelorussia and the Ukraine cannot be tolerated by a group of equal nations.

HOUSE OF REPRESENTATIVES—*Monday, November 29, 1971*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Let the peace of God rule in your hearts . . . and be thankful.—Colossians 3: 15.

At the close of our Thanksgiving recess, our Father, we pause to thank Thee again for Thy goodness to our Nation and to us. Throughout the year Thy presence has attended our ways and Thy spirit has blessed our days and we are grateful.

Now as we enter the Advent season help us to hear and to heed Thy voice endeavoring to lead us in the paths of righteousness, truth, and love. We are disturbed as we face the experiences of these troubled times and we pray that Thou wilt keep us aware of Thy spirit, strengthening us, guiding us, and seeking to establish among us the ways of peace.

Bless our President, our Speaker, our Members of Congress, and our people. Keep us all faithful to the high task of making America great in goodness and good in greatness—to the glory of Thy holy name. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 3749. An act for the relief of Richard C. Walker;

H.R. 5419. An act for the relief of Corbie F. Cochran, Jr.;

H.R. 6283. An act to extend the period within which the President may transmit to Congress reorganization plans concerning agencies of the executive branch of the Federal Government, and for other purposes;

H.R. 9727. An act to regulate the dumping of material in the oceans, coastal, and other waters, and for other purposes;

H.R. 9961. An act to provide Federal credit unions with 2 additional years to meet the requirements for insurance, and for other purposes;

H.R. 10947. An act to provide a job development investment credit, to reduce individual income taxes, to reduce certain excise taxes, and for other purposes;

H.R. 11341. An act to provide additional revenue for the District of Columbia, and for other purposes; and

H.R. 11731. An act making appropriations for the Department of Defense for the fiscal year ending June 30, 1972, and for other purposes.

The message also announced that the Senate had passed bills, joint and concurrent resolutions of the following titles, in which the concurrence of the House is requested:

S. 247. An act for the relief of Albert G. Feller and Flora Feller;

S. 641. An act for the relief of Luis Guerrero-Chavez, Guadalupe Guerrero-Chavez, and Alfredo Guerrero-Chavez;

S. 888. An act for the relief of David J. Crumb;

S. 1089. An act for the relief of Robert Rexroat;

S. 1299. An act for the relief of Dr. Biman K. Khastagir;

S. 1436. An act for the relief of Dr. Alfredo Rivera Soliva;

S. 1466. An act to authorize the Secretary of the Army to grant certain rights-of-way for road improvement and location of public utility lines over a portion of Fort DeRussy, Hawaii;

S. 1481. An act for the relief of Jose Amaral de Souza;

S. 1675. An act for the relief of Antonio Plameras;

S. 1893. An act to restore the golden eagle program to the Land and Water Conservation Fund Act, provide for an annual camping permit, and for other purposes;

S. 1923. An act for the relief of Harold Donald Koza;

S. 2048. An act for the relief of Mrs. Jun Kuen Chiu Yee (Jun Kuen McNeeley Yee);

S. 2601. An act to provide for increases in appropriation ceilings and boundary changes in certain units of the national park system, and for other purposes;

S. 2878. An act to amend the District of Columbia Election Act, and for other purposes;

S. 2887. An act authorizing additional appropriations for prosecution of projects in certain comprehensive river basin plans for flood control, navigation, and for other purposes;

S.J. Res. 149. Joint resolution to authorize and request the President to proclaim the year 1972 as "International Book Year";

S.J. Res. 176. Joint resolution to extend the authority of the Secretary of Housing and Urban Development with respect to interest rates on insured mortgages, to extend and modify certain provisions of the National Flood Insurance Act of 1968, and for other purposes; and

S. Con. Res. 50. Concurrent resolution authorizing the printing of the handbook entitled "Guide to Federal Programs for Rural Development" as a Senate document.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 9961) entitled "An act to provide Federal credit unions with 2 additional years to meet the requirements for insurance, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. SPARKMAN, Mr. PROXMIRE, Mr. WILLIAMS, Mr. TOWER, and Mr. BENNETT to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 10947) entitled "An act to provide a job development investment credit, to reduce individual income taxes, to reduce certain excise taxes, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. LONG, Mr. ANDERSON, Mr. TALMADGE, Mr. BENNETT, and Mr. CURTIS to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 11731) entitled "An act making appropriations for the Department of Defense for the fiscal year ending June 30, 1972, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. ELLENDER, Mr. MCCLELLAN, Mr. STENNIS, Mr. PASTORE, Mr. SYMINGTON, Mr. YOUNG, Mrs. SMITH, and Mr. ALLOTT to be the conferees on the part of the Senate.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House:

WASHINGTON, D.C.,
November 22, 1971.

The Honorable, the SPEAKER OF THE HOUSE OF REPRESENTATIVES.

DEAR SIR: Pursuant to the authority granted by the House on November 19, 1971, the Clerk received today the following messages from the Secretary of the Senate:

That the Senate agreed to the House amendments on S. 1810, An Act for the relief of Dorothy G. McCarty;

That the Senate passed without amendment H.R. 8356, An Act to make permanent the authority to pay special allowances to dependents of members of the uniformed services to offset expenses incident to their evacuation; and

H.R. 10203, An Act to amend the Water Resources Research Act of 1964, to increase the authorization for water resources research institutes, and for other purposes.

With kind regards, I am,

Sincerely,
W. PAT JENNINGS, *Clerk,*
House of Representatives.
By W. RAYMOND COLLEY.

ANNOUNCEMENT BY THE SPEAKER REGARDING SIGNING OF ENROLLED BILLS

The SPEAKER. The Chair desires to announce that pursuant to the authority granted him on Friday, November 19, 1971, he did, on Monday, November 22, 1971, sign the following enrolled bills of the House:

H.R. 1836. An act for the relief of Ruth V. Hawley, Marvin E. Krell, Alaine E. Benic, and Gerald L. Thayer;

H.R. 1867. An act for the relief of Bernadette Han Brundage;

H.R. 1899. An act for the relief of Mrs. Maria G. Orsini (nee Mari);

H.R. 1931. An act for the relief of Jesus Manuel Cabral;

H.R. 1962. An act for the relief of Dah Mi Kim;

H.R. 1970. An act for the relief of Mrs. Andree Simone Van Moppes and her son, Alain Van Moppes;

H.R. 2087. An act for the relief of Park Ok Soo and Noh mi Ok;

H.R. 2107. An act for the relief of Jose Bettencourt de Simas;

H.R. 2108. An act for the relief of Nemesio Gomez-Sanchez;

H.R. 2408. An act for the relief of Louis A. Gerbert;

H.R. 2706. An act for the relief of Miguelito Ybut Benedicto;

H.R. 2803. An act for the relief of In Kyong Yi;

H.R. 2814. An act for the relief of Rea Republica Ramos;

H.R. 3041. An act for the relief of Mary James Kates, owner of the Gladewater Daily Mirror;

H.R. 3082. An act for the relief of Ronnie B. (Malit) Morris and Henry B. (Malit) Morris;

H.R. 3383. An act for the relief of Mrs. Mauricia A. Buensalido and Jacqueline A. Buensalido;

H.R. 3425. An act for the relief of Helen Tziminadis;

H.R. 3475. An act for the relief of Paul Anthony Kelly;

H.R. 5422. An act for the relief of The American Journal of Nursing; and

H.R. 7085. An act for the relief of Eugene M. Sims, Sr.;

And on Thursday, November 23, 1971, signed enrolled bills of the House, and an enrolled bill of the Senate as follows:

H.R. 8356. An act to make permanent the authority to pay special allowances to dependents of members of the uniformed services to offset expenses incident to their evacuation;

H.R. 10203. An act to amend the Water Resources Research Act of 1964, to increase the authorization for Water Resources Research Institutes, and for other purposes; and

S. 1810. An act for the relief of Dorothy G. McCarty.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House:

WASHINGTON, D.C.,
November 23, 1971.

The Honorable the SPEAKER,
House of Representatives.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 12:35 p.m. on Tuesday, November 23, 1971, and said to contain a message from the President transmitting the 1970 Annual Report on Health Program of the Federal Coal Mine Health and Safety Act of 1969.

With kind regards, I am,

Sincerely,
W. PAT JENNINGS,
Clerk, House of Representatives.
By W. RAYMOND COLLEY.

THE 1970 ANNUAL REPORT ON HEALTH PROGRAM—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Education and Labor:

To the Congress of the United States:

I am pleased to submit to the Congress the first annual report on health matters covered by the Federal Coal Mine Health and Safety Act of 1969.

The report covers the implementation of the health program during its first year of operation under this act. This program has been carried out by the National Institute for Occupational Safety and Health of the Department of Health, Education, and Welfare. The report provides a compendium of health standards, medical specifications, research and public health information activities from December 30, 1969, through December 31, 1970.

Highlighted in this document are the health regulations promulgated under the act, the status of the medical and industrial hygiene research projects, specific health standard recommendations to control and eliminate occupational disease, and proposed research for the future.

It is encouraging to note that as of December 31, 1970, the Department of Health, Education and Welfare approved 398 Coal Mine Operator Plans in which the company is providing an opportunity for confidential medical examinations at no cost to the miner. These plans applied to nearly 76,000 underground miners. Concurrently, 440 physicians sought and obtained certification to participate in the reading of chest roentgenograms. Contracts have also been made by the Public Health Service with medical organizations to provide for chest x-rays of coal miners in seven States at the mines where operators have not submitted such plans, and additional contracts are now being obtained for the remaining 14 States which have underground coal mining operations. A comprehensive research program has been established to develop criteria necessary to set optimal health standards. The Department of Health, Education and Welfare is moving rapidly to further refine health and safety standards and to assist the Department of the Interior in the implementation of this act.

I commend this report to the attention of the Congress.

RICHARD NIXON.

THE WHITE HOUSE, *November 23, 1971.*

HON. TOM MURRAY

(Mr. BLANTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLANTON. Mr. Speaker, it is my sad duty to inform the House of the death of a distinguished former Member of this body. Former Representative Tom Murray died yesterday in his hometown of Jackson, Tenn. He served for nearly a quarter of a century, until 1966. The funeral will be at 10 a.m., Tuesday in Jackson, Tenn.

Mr. BOGGS. Mr. Speaker, will the gentleman yield?

Mr. BLANTON. I yield to the distinguished majority leader, the gentleman from Louisiana (Mr. BOGGS).

Mr. BOGGS. Mr. Speaker, I am sure that I express the sentiments of the Members on both sides of the aisle when I say that all of us are saddened at the passing of Tom Murray.

Mr. Murray served here for almost a quarter of a century. He was, for years, chairman of one of the most important committees of the House. He gave most of his life in service to this body.

I was glad that he lived to a ripe old age and I hope that his last days were happy days.

Mr. Speaker, I again say that all of us who served here with him shall miss him.

Mr. BLANTON. I thank the distinquished majority leader for his kind remarks.

Mr. GERALD R. FORD. Mr. Speaker, will the gentleman yield?

Mr. BLANTON. I yield to the distinguished minority leader, the gentleman from Michigan (Mr. GERALD R. FORD).

Mr. GERALD R. FORD. Mr. Speaker, I join with the distinguished majority leader and the gentleman from Tennessee (Mr. BLANTON) in noting the unfortunate passing of Tom Murray. He was a very unique individual. He was unique in that his previous Government experience fully qualified him to be chairman of the House Committee on Post Office and Civil Service. He served that committee very well in the capacity as chairman. He was as strong as a rock. He was firm in his convictions. He handled the important matters of that committee with great skill and great dedication. He was a delightful person. We all enjoyed his company and we respected his views.

Mr. Speaker, the country lost a great public servant when Tom Murray left the Congress and we have lost a great citizen with his passing.

Mr. BLANTON. I thank the distinguished minority leader for his remarks.

Mr. FULTON of Tennessee. Mr. Speaker, Tom Murray gave many productive years to the House of Representatives, a body which he loved and in which he served for more than two decades with distinction, from 1943 until 1967.

Prior to his election to the House Mr. Murray was an attorney and a Post Office Department employee.

During his career in the House he always maintained an active interest in that Department and in our Federal employees. In 1947 he was named ranking minority member of the newly formed House Post Office and Civil Service Committee.

Two years later, at the commencement of the 81st Congress, Mr. Murray became chairman of that committee, a position of responsibility which he held until leaving the House two decades later.

In addition to his interest in the welfare of Federal employees he actively supported and sponsored legislation to remove political influence from Federal employment practices.

Mr. Tom was well known and highly regarded in Tennessee, particularly in his west State home region. We all deeply regret his passing and extend our deepest sympathies to his survivors.

Mr. DULSKI. Mr. Speaker, I appreciate this opportunity to pay my respects to the late Tom Murray of Tennessee, for 24 years a Member of the House of Representatives.

Tom Murray long was "Mr. Tennessee" in the House and he served his district and his State well over the years.

He came to Washington in 1933, early in the administration of President Franklin D. Roosevelt, and joined the staff of the Post Office Department. This assignment was to set the pattern of his Federal service in both the executive and legislative branches.

As some Members will recall, a crisis occurred in the postal service early in the Roosevelt administration with regard to airmail service. President Roosevelt ordered the Army Air Corps to fly the mail, a drastic and controversial order.

I am told that it was Tom Murray who played a key role in settling that unfortunate dispute and restoring normal airmail service by the airlines.

He was elected to Congress in 1942, and promptly followed his postal interests by seeking membership on postal committees.

When the House was reorganized, effective in January 1947, Tom Murray became the ranking Democrat on the Post Office and Civil Service Committee, newly created by a merger of separate committees under the old system.

Two years later, in 1949, he became chairman of the full committee and continued at the helm except for the 83d Congress when he again served as ranking minority member.

Tom Murray worked hard for improved postal facilities and service. He made good use of his basic understanding of postal problems gained from his long service downtown.

But his committee concern was not restricted to postal affairs. He also took deep interest in the problems of manpower utilization in the Federal Government.

He gave new status to the Manpower Subcommittee and supported fully the efforts to keep close tabs on Federal employment. He was early to recognize the increasing demand and need for highly skilled and professional talent in the Federal service. But, at the same time, he also was persistent in his efforts to eliminate jobs which became no longer necessary.

In handling legislation, in his committee and in floor debate, Tom Murray was recognized as a master parliamentarian. He studied carefully the intimate details of each bill and fought hard for the issues in which he believed.

Mr. Speaker, it was my privilege to learn this House committee and legislative systems under then chairman, Tom Murray. I recall well his thoughtfulness and courtesy to me as a freshman Member and the encouragement which he gave to me along the way.

The passing of Tom Murray takes from us a dedicated legislator who built a fine record of public service to his country, to his State, and to his district. I join my colleagues in extending my deepest sympathy to his family.

GENERAL LEAVE

Mr. BLANTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days during which to extend their remarks on the life and service of the late Hon. Thomas Murray.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

CONFERENCE REPORT ON S. 1116, PROTECTION OF WILD HORSES AND BURROS (H. REPT. NO. 92-681)

Mr. BARING submitted the following conference report and statement on the bill (S. 1116) to require the protection, management, and control of wild free-roaming horses and burros on public lands:

CONFERENCE REPORT (H. REPT. No. 92-681)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1116) to require the protection, management, and control of wild free-roaming horses and burros on public lands, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill, and agree to the same with an amendment as follows: In lieu of the matter inserted by the House amendment insert the following:

That Congress finds and declares that wild free-roaming horses and burros are living symbols of the historic and pioneer spirit of the West; that they contribute to the diversity of life forms within the Nation and enrich the lives of the American people; and that these horses and burros are fast disappearing from the American scene. It is the policy of Congress that wild free-roaming horses and burros shall be protected from capture, branding, harassment, or death; and to accomplish this they are to be considered in the area where presently found, as an integral part of the natural system of the public lands.

SEC. 2. As used in this Act—

(a) "Secretary" means the Secretary of the Interior when used in connection with public lands administered by him through the Bureau of Land Management and the Secretary of Agriculture in connection with public lands administered by him through the Forest Service;

(b) "wild free-roaming horses and burros" means all unbranded and unclaimed horses and burros on public lands of the United States;

(c) "range" means the amount of land necessary to sustain an existing herd or herds of wild free-roaming horses and burros, which does not exceed their known territorial limits, and which is devoted principally but not necessarily exclusively to their welfare in keeping with the multiple-use management concept for the public lands;

(d) "herd" means one or more stallions and his mares; and

(e) "public lands" means any lands administered by the Secretary of the Interior through the Bureau of Land Management or by the Secretary of Agriculture through the Forest Service.

SEC. 3. (a) All wild free-roaming horses and burros are hereby declared to be under the jurisdiction of the Secretary for the purpose of management and protection in accordance with the provisions of this Act. The Secretary is authorized and directed to protect and manage wild free-roaming horses and burros as components of the public lands, and he may designate and maintain specific ranges on public lands as sanctuaries for their protection and preservation, where the Secretary after consultation with the wildlife agency of the State wherein any such range is proposed and with the Advisory

Board established in section 7 of this Act deems such action desirable. The Secretary shall manage wild free-roaming horses and burros in a manner that is designed to achieve and maintain a thriving natural ecological balance on the public lands. He shall consider the recommendations of qualified scientists in the field of biology and ecology, some of whom shall be independent of both Federal and State agencies and may include members of the Advisory Board established in section 7 of this Act. All management activities shall be at the minimal feasible level and shall be carried out in consultation with the wildlife agency of the State wherein such lands are located in order to protect the natural ecological balance of all wildlife species which inhabit such lands, particularly endangered wildlife species. Any adjustments in forage allocations on any such lands shall take into consideration the needs of other wildlife species which inhabit such lands.

(b) Where an area is found to be overpopulated, the Secretary, after consulting with the Advisory Board, may order old, sick, or lame animals to be destroyed in the most humane manner possible, and he may cause additional excess wild free-roaming horses and burros to be captured and removed for private maintenance under humane conditions and care.

(c) The Secretary may order wild free-roaming horses or burros to be destroyed in the most humane manner possible when he deems such action to be an act of mercy or when in his judgment such action is necessary to preserve and maintain the habitat in a suitable condition for continued use. No wild free-roaming horse or burro shall be ordered to be destroyed because of overpopulation unless in the judgment of the Secretary such action is the only practical way to remove excess animals from the area.

(d) Nothing in this Act shall preclude the customary disposal of the remains of a deceased wild free-roaming horse or burro, including those in the authorized possession of private parties, but in no event shall such remains, or any part thereof, be sold for any consideration, directly or indirectly.

SEC. 4. If wild free-roaming horses or burros stray from public lands onto privately owned land, the owners of such land may inform the nearest Federal marshall or agent of the Secretary, who shall arrange to have the animals removed. In no event shall such wild free-roaming horses and burros be destroyed except by the agents of the Secretary. Nothing in this section shall be construed to prohibit a private landowner from maintaining wild free-roaming horses or burros on his private lands, or lands leased from the Government, if he does so in a manner that protects them from harassment, and if the animals were not willfully removed or enticed from the public lands. Any individuals who maintain such wild free-roaming horses or burros on their private lands or lands leased from the Government shall notify the appropriate agent of the Secretary and supply him with a reasonable approximation of the number of animals so maintained.

SEC. 5. A person claiming ownership of a horse or burro on the public lands shall be entitled to recover it only if recovery is permissible under the branding and estray laws of the State in which the animal is found.

SEC. 6. The Secretary is authorized to enter into cooperative agreements with other landowners and with the State and local governmental agencies and may issue such regulations as he deems necessary for the furtherance of the purposes of this Act.

SEC. 7. The Secretary of the Interior and the Secretary of Agriculture are authorized and directed to appoint a joint advisory board of not more than nine members to advise them on any matter relating to wild free-roaming horses and burros and their management and protection. They shall select as advisers persons who are not employees of the Federal or State Governments and whom they deem to have special knowledge about protection of horses and burros, management of wildlife, animal husbandry, or natural resources management. Members of the board shall not receive reimbursement except for travel and other expenditures necessary in connection with their services.

SEC. 8. (a) Any person who—

(1) willfully removes or attempts to remove a wild free-roaming horse or burro from the public lands, without authority from the Secretary, or

(2) converts a wild free-roaming horse or burro to private use, without authority from the Secretary, or

(3) maliciously causes the death or harassment of any wild free-roaming horse or burro, or

(4) processes or permits to be processed into commercial products the remains of a wild free-roaming horse or burro, or

(5) sells, directly or indirectly, a wild free-roaming horse or burro maintained on private or leased land pursuant to section 4 of this Act, or the remains thereof, or

(6) willfully violates a regulation issued pursuant to this Act,

shall be subject to a fine of not more than $2,000, or imprisonment for not more than one year, or both. Any person so charged with such violation by the Secretary may be tried and sentenced by any United States commissioner or magistrate designated for that purpose by the court by which he was appointed, in the same manner and subject to the same conditions as provided for in section 3401, title 18, United States Code.

(b) Any employee designated by the Secretary of the Interior or the Secretary of Agriculture shall have power, without warrant, to arrest any person committing in the presence of such employee a violation of this Act or any regulation made pursuant thereto, and to take such person immediately for examination or trial before an officer or court of competent jurisdiction, and shall have power to execute any warrant or other process issued by an officer or court of competent jurisdiction to enforce the provisions of this Act, or regulations made pursuant thereto. Any judge of a court established under the laws of the United States, or any United States magistrate may, within his respective jurisdiction, upon proper oath or affirmation showing probable cause, issue warrants in all such cases.

SEC. 9. Nothing in this Act shall be construed to authorize the Secretary to relocate wild free-roaming horses or burros to areas of the public lands where they do not presently exist.

SEC. 10. After the expiration of thirty calendar months following the date of enactment of this Act, and every twenty-four calendar months thereafter, the Secretaries of the Interior and Agriculture will submit to Congress a joint report on the administration of this Act, including a summary of enforcement and/or other actions taken thereunder, costs, and such recommendations for legislative or other actions as he might deem appropriate.

The Secretary of the Interior and the Secretary of Agriculture shall consult with respect to the implementation and enforcement of this Act and to the maximum feasible extent coordinate the activities of their respective departments in the implementation and enforcement of this Act. The Secretaries are authorized and directed to undertake those studies of the habits of wild free-roaming horses and burros that they may deem necessary in order to carry out the provisions of this Act.

And the House agree to the same.

WALTER S. BARING,
HAROLD T. JOHNSON,
JOHN P. SAYLOR,
JOHN KYL,
Managers on the Part of the House.

HENRY M. JACKSON,
FRANK CHURCH,
LEE METCALF,
LEN B. JORDAN,
MARK O. HATFIELD,
Managers on the Part of the Senate.

JOINT STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1116) to require the protection, management, and control of wild free-roaming horses and burros on the public lands, submit this joint statement in explanation of the effect of the language agreed upon by the managers and recommended in the accompanying conference report.

The language agreed upon by the managers is the language of the House amendment with several amendments. There were eight points of difference between the Senate version and the House amendment wherein compromise language was agreed upon. These differences and the disposition of them are as follows:

1. The House amendment provided for a definition of the term "range". The Senate version did not. Included in the definition in the House amendment was the phrase "and which need not be fenced". The Committee of Conference agreed to delete this language on the basis that the reference to fencing implies that ranges would or might ordinarily be fenced. The conferees believe that the wild free-roaming horses and burros should be protected and preserved in their natural habitat without undue interference and unnecessary confinement. Reliance on ranges, and particularly fenced ranges, would defeat the purpose of the legislation, i.e., the survival of wild free-roaming horses and burros, and substitute a "zoo-like" concept. The conferees are of the opinion that the confinement of these animals to such ranges, except in unusual circumstances, should be discouraged and that the animals should be considered as integral parts of the public lands, which should be administered on concepts of multiple use. The principal goal of this legislation is to provide for the protection of the animals from death and harassment at the hands of man and not the single-use management of areas for the benefit of the wild free-roaming horses and burros. Hence, the inclusion of the phrase "in keeping with the multiple-use management concept for the public lands".

2. The House amendment included provision for recognition of the role that a state wildlife agency may play in an advisory capacity to the Secretary concerning the management of the wild free-roaming horses and burros. The Senate version did not. The Committee of Conference agreed to modify the language in the House amendment to emphasize "consultation" between state and Federal agencies and also to emphasize the intent as expressed in both the House and Senate versions of the legislation for achievement of an ecological balance on the public lands.

3. The House amendment provided that the remains of a deceased wild free-roaming horse or burro could be disposed of in any customary manner not prohibited by the Act. The Senate version permitted any customary method of disposal so long as the remains, or any part thereof, were not sold for any consideration. The Committee of Conference agreed to the adoption of the Senate language. The conferees recognize the difficulties that may be encountered when it is necessary to dispose of the remains of a deceased wild free-roaming horse or burro and believe that the customary methods of disposal should be permitted, as long as the remains are not sold for any consideration directly, or indirectly.

4. Both the House amendment and the Senate version of S. 1116 allow the mainte-

nance of wild free-roaming horses or burros by individuals. The Senate version would require the individual maintaining such animals to notify the Secretary and report a reasonable approximation of the number of animals so maintained. The House amendment does not include this requirement. The Committee of Conference agreed to the adoption of the Senate language in order to assist the Secretary in the administration of the Act.

5. The Committee of Conference agreed to delete the phrase "except for normal and prudent husbandry needs" from the language contained in the House amendment. The Act carefully establishes a series of safeguards designed to protect the wild free-roaming horses and burros from death and harassment at the hands of man. Permitting individuals to remove or attempt to remove the animals from the public domain on their own authority would negate these safeguards.

6. The Senate version recognizes "harassment" as a prohibited activity under the terms of the Act. The House amendment refers to "substantial harm." The Committee of Conference agreed to the adoption of the Senate terminology in order to widen the scope of prohibited activities. Concern was expressed by the conferees for activities which although not immediately causing substantial harm, would have a cumulatively detrimental effect on the health and welfare of the animals.

7. Both the House amendment and the Senate version contain language with delineates specific acts for which criminal charges can be brought. The Senate version authorizes the Secretary to assess fines for violations. The House amendment does not contain provision for assessment of fines by the Secretary. The conferees recognize the need for prompt and effective enforcement of the Act and note that both versions of the legislation contain language which will permit the Secretary to contribute to the expediency of suspected violators being brought to trial. With respect to the assessment of fines, the Committee of Conference adopted language which provides for trial and sentence by any United States Commissioner or magistrate designated for that purpose by the court by which he was appointed.

8. The Senate version of the bill authorizes and directs the Secretary to undertake studies of the habits of the animals. The House amendment does not. The Committee of Conference agreed to the adoption of the Senate language in light of the apparent lack of adequate knowledge regarding many of the habits of these animals.

It is the opinion of the conferees that the compromise version of this legislation as embodied in the conference report will prove to be an effective measure. It should be pointed out that the Secretaries of Interior and Agriculture are given a high degree of discretionary authority for the purposes of protection, management, and control of wild free-roaming horses and burros on the public lands. The Act provides the administrative tools for protection of the animals from depredation by man. This is the paramount responsibility with which the Secretaries are charged under the terms of the statute.

The Congress has declared that wild free-roaming horses and burros enrich the lives of the American people. The conferees, by recommending the language of the conference report, hope to insure the preservation and protection of the few remaining wild free-roaming horses and burros in order to enhance and enrich the dreams and enjoyment of future generations of Americans.

WALTER S. BARING,
HAROLD T. JOHNSON,
JOHN P. SAYLOR,
JOHN KYL,
Managers on the Part of the House.

HENRY M. JACKSON,
FRANK CHURCH,
LEE METCALF,
LEN B. JORDAN,
MARK O. HATFIELD,
Managers on the Part of the Senate.

APPOINTMENT OF CONFEREES ON H.R. 11731, DEPARTMENT OF DEFENSE APPROPRIATIONS, 1972

Mr. MAHON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 11731) making appropriations for the Department of Defense for the fiscal year ending June 30, 1972, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Texas? The Chair hears none, and appoints the following conferees: Messrs. MAHON, SIKES, WHITTEN, ANDREWS of Alabama, FLOOD, ADDABBO, MCFALL, MINSHALL, RHODES, DAVIS of Wisconsin, WYMAN, and BOW.

PERMISSION TO FILE A PRIVILEGED REPORT ON DISTRICT OF COLUMBIA APPROPRIATIONS, 1972

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on the District of Columbia appropriation bill for fiscal year 1972.

Mr. DAVIS of Wisconsin reserved all points of order on the bill.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

CONFERENCE REPORT ON S. 2007, ECONOMIC OPPORTUNITIES AMENDMENTS OF 1971 (H. REPT. NO. 92–682)

Mr. PERKINS submitted the following conference report and statement on the Senate bill (S. 2007) to provide for the continuation of programs authorized under the Economic Opportunity Act of 1964, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 92–682)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2007) to provide for the continuation of programs authorized under the Economic Opportunity Act of 1964, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act may be cited as the "Economic Opportunity Amendments of 1971".

EXTENSION OF ECONOMIC OPPORTUNITY ACT

SEC. 2. Sections 171, 245, 321, 408, 615, and 835 of the Economic Opportunity Act of 1964, as amended, are each amended by striking out "five succeeding fiscal years" and inserting in lieu thereof "seven succeeding fiscal years".

AUTHORIZATION OF APPROPRIATIONS

SEC. 3. (a) (1) For the purpose of carrying out parts A, B, and E of title I (relating to work and training) of the Economic Opportunity Act of 1964, there are authorized to be appropriated $900,000,000 for the fiscal year ending June 30, 1972, and such amounts as the Congress may determine to be necessary for the fiscal year ending June 30, 1973.

(2) For the purpose of carrying out Neighborhood Youth Corps programs under paragraphs (1) and (2) of section 123(a) of such Act, there is further authorized to be appropriated $500,000,000 for the fiscal year ending June 30, 1972. No State shall receive less than $3,000,000 of the amounts appropriated pursuant to this paragraph or six-tenths of 1 per centum of the amounts so appropriated, whichever is less.

(b) For the purpose of carrying out the Project Headstart program described in section 222(a) (1) of the Economic Opportunity Act of 1964 and the Follow Through program described in section 222(a) (2) of such Act, there is authorized to be appropriated $500,000,000 for the fiscal year ending June 30, 1972. For the purpose of carrying out the Follow Through program described in section 222(a) (2) of such Act, there is further authorized to be appropriated $70,000,000 for the fiscal year ending June 30, 1973.

(c) (1) For the purpose of carrying out titles II, III, VI, VII, VIII, and IX of the Economic Opportunity Act of 1964, there are authorized to be appropriated $950,000,000 each for the fiscal year ending June 30, 1972, and for the succeeding fiscal year.

(2) Notwithstanding any other provision of law, unless expressly in limitation of the provisions of this section, of the amounts appropriated pursuant to paragraph (1) of this subsection for each fiscal year, the Director of the Office of Economic Opportunity shall for each such fiscal year reserve and make available not less than $328,900,000 for programs under sections 221, 226, and 227 of the Economic Opportunity Act of 1964 and not less than $61,000,000 for Legal Services programs under section 222(a) (3) and title IX of such Act, and the remainder of such amounts shall be allocated and made available, subject to the provisions of section 616 of such Act, in such a manner that for each such fiscal year—

(A) $378,900,000 shall be for the purpose of carrying out title II of which $114,000,000 shall be for the purpose of carrying out the Comprehensive Health Services program described in section 222(a) (4), $62,500,000 shall be for the purpose of carrying out the Emergency Food and Medical Services program described in section 222(a) (5), $25,000,000 shall be for the purpose of carrying out the Family Planning program described in section 222(a) (6), $8,800,000 shall be for the purpose of carrying out the Senior Opportunities and Services program described in section 222(a) (7), $18,000,000 shall be for the purpose of carrying out the Alcoholic Counseling and Recovery program described in section 222(a) (8), $18,000,000 shall be for the purpose of carrying out the Drug Rehabilitation program described in section 222(a) (9), $5,000,000 shall be for the purpose of carrying out the Environmental Action program described in section 222(a) (10), $10,000,000 shall be for the purpose of carrying out the Rural Housing Development and Rehabilitation program described in section 222(a) (11), and $117,600,000 shall be for the purpose of carrying out programs and activities authorized under sections 230, 231, 232, and 233 of such title;

(B) $38,000,000 shall be for the purpose of carrying out part B of title III (relating to assistance for migrant and seasonal farmworkers);

(C) $18,000,000 shall be for the purpose of carrying out title VI (relating to administration and coordination) and title X (relating to evaluation);

(D) $58,000,000 shall be for the purpose of carrying out title VII (relating to community economic development); and

(E) $45,000,000 shall be for the purpose of carrying out part A of title VIII (relating to VISTA).

If the amounts appropriated pursuant to paragraph (1) of this subsection for any fiscal year are not sufficient to assure that the full amount specified for each of the purposes set forth in clauses (A) through (E) of this paragraph will be provided for each such fiscal year, then the amount specified for each such purpose in each such clause (after deducting from any amount so specified any amount otherwise specifically provided for such purpose by an appropriation Act for that fiscal year) shall be prorated to determine the allocation required for each such purpose.

(3) In addition to the amounts authorized to be appropriated and allocated pursuant to paragraphs (1) and (2) of this subsection, there are further authorized to be appropriated for carrying out the Economic Opportunity Act of 1964 the following sums:

(A) $2,000,000 for the fiscal year ending June 30, 1972, and $62,000,000 for the fiscal year ending June 30, 1973, to be used for the Community Economic Development program under title VII;

(B) $79,000,000 for the fiscal year ending June 30, 1972, and $109,000,000 for the fiscal year ending June 30, 1973, to be used for the Legal Services program under title IX.

(C) $5,000,000 for the fiscal year ending June 30, 1973, to be used for the Rural Housing Development and Rehabilitation program described in section 222(a)(11).

TRANSFER OF FUNDS

SEC. 4. (a) Section 616 of the Economic Opportunity Act of 1964 is amended by inserting "for the fiscal year ending June 30, 1971, and not to exceed 25 per centum" immediately before the words "for fiscal years ending thereafter".

(b) Section 616 of such Act is further amended by striking out the semicolon the first time it appears therein and all matter thereafter through "$10,000,000" the second time it appears in such section.

COMPREHENSIVE HEALTH SERVICES CHARGES

SEC. 5. Section 222(a)(4)(A)(ii) of the Economic Opportunity Act of 1964 is amended by striking out "such services may be available on an emergency basis or pending a determination of eligibility to all residents of such areas" and inserting in lieu thereof "pursuant to such regulations as the Director may prescribe, persons provided assistance through programs assisted under this paragraph who are not members of low-income families may be required to make payment, or have payment made in their behalf, in whole or in part of such assistance".

DRUG REHABILITATION PROGRAM

SEC. 6. (a) Section 222(a)(8) of the Act is amended by striking out the last sentence thereof.

(b) Section 222(a)(9) of the Act is amended by striking out the last sentence and inserting in lieu thereof the following: "The Director is authorized to undertake special programs aimed at promoting employment opportunities for rehabilitated addicts or addicts enrolled and participating in methadone maintenance treatment or therapeutic programs, and assisting employers in dealing with addiction and drug abuse and dependency problems among formerly hard core unemployed so that they can be maintained in employment. In undertaking such programs, the Director shall give special priority to veterans and employers of significant numbers of veterans, with priority to those areas within the States having the highest percentages of addicts. The Director is further authorized to establish procedures and policies which will allow clients to complete a full course of rehabilitation even though they become non-low-income by virtue of becoming employed as a part of the rehabilitation process.

NEW SPECIAL EMPHASIS PROGRAMS

SEC. 7. Section 222(a) of the Economic Opportunity Act of 1964 is further amended by inserting at the end thereof the following:

"(10) An 'Environmental Action' program through which low-income persons will be paid for working on projects designed to combat pollution or to improve the environment. Projects may include, without limitation: cleanup and sanitation activities, including solid waste removal; reclamation and rehabilitation of eroded or ecologically damaged areas, including areas affected by strip mining; conservation and beautification activities, including tree planting and recreation area development; the restoration and maintenance of the environment; and the improvement of the quality of life in urban and rural areas.

"(11) A program to be known as 'Rural Housing Development and Rehabilitation' designed to assist low-income families in rural areas to construct and acquire ownership of adequate housing, to rehabilitate or repair existing substandard units in such areas, and to otherwise assist families in obtaining standard housing. Financial assistance under this paragraph shall be provided to rural housing development corporations serving areas which are defined by the Farmers Home Administration as rural areas, and shall be used for, but not limited to, such purposes as administrative expenses; revolving development funds; nonrevolving land, land development, and construction writedowns; rehabilitation or repair of substandard housing; and loans to low-income families. Loans under this paragraph may be used for, but not limited to, such purposes as the purchase of new housing units, the repair, rehabilitation and purchase of existing units, and to supplement existing Federal loan programs in order that low-income families may benefit from them. The repayment period of such loans shall not exceed thirty-three years. No loans under this paragraph shall bear an interest rate of less than 1 per centum per annum, except that if the Director, after having examined the family income of the applicant, the projected housing costs of the applicant, and such other factors as he deems appropriate, determines that the applicant would otherwise be unable to participate in this program, he may waive the interest in whole or in part and for such periods of time as he may establish except that (1) no such waiver may be granted to an applicant whose adjusted family income (as defined by the Farmers Home Administration) is in excess of $3,700 per annum and (2) any applicant for whom such a waiver is provided shall be required to commit at least 20 per centum of this adjusted family income toward the mortgage debt service and other housing costs. Family incomes shall be recertified annually, and monthly payments for all loans under this paragraph adjusted accordingly.

COMMUNITY ACTION BOARDS

SEC. 8. The last sentence of section 211(b) of the Economic Opportunity Act of 1964 is amended by striking out "three" and inserting in lieu thereof "six" and by striking out "six" and inserting in lieu thereof "twelve".

NON-FEDERAL CONTRIBUTION CEILING

SEC. 9. Section 225(c) of the Economic Opportunity Act of 1964 is amended by inserting after the second sentence thereof the following new sentence: "The Director shall not require non-Federal contributions in excess of 20 per centum of the approved cost of programs or activities assisted under this Act."

TERMINATION OF ASSISTANCE

SEC. 10. Section 231 of the Economic Opportunity Act of 1964 is amended by adding at the end thereof the following:

"(d) If any member of a board to which section 211(b) applies files an allegation with the Director that an agency receiving assistance under this section is not observing any requirement of this Act, or any regulation, rule, or guideline promulgated by the Director under this Act, the Director shall promptly investigate such allegation and shall consider it; and, if after such investigation and consideration he finds reasonable cause to believe that the allegations are true, he shall hold a hearing, upon the conclusion of which he shall notify all interested persons of his findings. If he finds that the allegations are true, and that, after being afforded a reasonable opportunity to do so, the agency has failed to make appropriate corrections, he shall, forthwith, terminate further assistance under this title, to such agency until he has received assurances satisfactory to him that further violations will not occur."

DISTRIBUTION OF FINANCIAL ASSISTANCE

SEC. 11. Section 244 of the Economic Opportunity Act of 1964 is amended by adding at the end thereof the following:

"(8) Consistent with the provisions of this Act, the Director shall assure that financial assistance under this title will be distributed on an equitable basis in any community so that all significant segments of the low-income population are being served."

AMENDMENT TO MIGRANT FARMWORKERS PROGRAM

SEC. 12. Section 312(b)(3) of the Economic Opportunity Act of 1964 is amended by inserting after the word "Government" the words "employment or".

CHILD DEVELOPMENT

SEC. 13. (a) Title V of the Economic Opportunity Act of 1964 is amended to read as follows:

"TITLE V—CHILD DEVELOPMENT PROGRAMS

"STATEMENT OF FINDINGS AND PURPOSE

"SEC. 501. (a) The Congress finds that—

"(1) millions of children in the Nation are suffering unnecessary harm from the lack of adequate child development services, particularly during early childhood years;

"(2) comprehensive child development programs, including a full range of health, education, and social services, are essential to the achievement of the full potential of the Nation's children and should be available to children whose parents or legal guardians shall request them regardless of economic, social, and family backgrounds;

"(3) children with special needs must receive full and special consideration in planning any child development programs and, pending the availability of such programs for all children, priority must be given to preschool children with the greatest economic and social need;

"(4) while no mother may be forced to work outside the home as a condition for using child development programs, such programs are essential to allow many parents to undertake or continue full- or part-time employment, training, or education;

"(5) comprehensive child development programs not only provide a means of delivering a full range of essential services to children but can also furnish meaningful employment opportunities for many individuals, including older persons, parents, young persons, and volunteers from the community; and

"(6) it is essential that the planning and operation of such programs be undertaken as a partnership of parents, community, and State and local government with appropriate assistance from the Federal Government.

"(b) It is the purpose of this title to provide every child with a fair and full opportunity to reach his full potential by establishing and expanding comprehensive child development programs, and services designed to assure the sound and coordinated development of these programs, to recognize and build upon the experience and success gained through the Headstart program and similar efforts, to furnish child development services for those children who need them most, with special emphasis on preschool programs for economically disadvantaged children, and for children of working mothers and single parent families, to provide that decisions on the nature and funding of such programs be made at the community level with the full involvement of parents and other individuals and organizations in the community interested in child development, and to establish the legislative framework for child development services.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 502. (a) For the purpose of carrying out this title, there is authorized to be appropriated $2,000,000,000 for the fiscal year ending June 30, 1973. Any amounts appropriated for such fiscal year which are not obligated at the end of such fiscal year may be obligated in the succeeding fiscal year.

"(b) For the purpose of providing training, technical assistance, planning, and such other activities as the Secretary deems necessary and appropriate to prepare for the implementation of this title, there is authorized to be appropriated $100,000,000 for the fiscal year ending June 30, 1972.

"ALLOCATION OF FUNDS

"SEC. 503. (a) The amounts appropriated for carrying out this title for any fiscal year after June 30, 1972, shall be made available in the following manner:

"(1) $500,000,000 shall first be used for the purpose of providing assistance under parts A, B, and E of this title for child development programs focused upon young children from low-income families, giving priority to continued financial assistance for Headstart projects;

"(2) not to exceed 10 per centum of the remaining amounts so appropriated shall be used for the purpose of carrying out parts B, C, D, and E of this title, as the Secretary deems appropriate; and

"(3) the remainder of such amounts shall be used for the purpose of carrying out part A of this title.

"(b)(1) From the amounts available for carrying out comprehensive child development programs under part A of this title, the Secretary shall reserve the following:

"(A) not less than that proportion of the total amount available for carrying out such part A as is equivalent to that proportion which the total number of children of migrant agricultural workers bears to the total number of economically disadvantaged children in the United States, which shall be apportioned among programs serving children of migrant agricultural workers on an equitable basis, and to the extent practicable in proportion to the relative numbers of children served in each such program;

"(B) not less than that proportion of the total amount available for carrying out such part A as is equivalent to that proportion which the total number of children in Indian tribal organizations bears to the total number of economically disadvantaged children in the United States, which shall be apportioned among programs serving children in Indian tribal organizations on an equitable basis, and to the extent practicable in proportion to the relative numbers of children in each such program;

"(C) not less than 10 per centum of the total amount available for carrying out this title, which shall be made available for the purposes of section 512(2)(I) of such part (relating to special activities for handicapped children);

"(D) not to exceed 5 per centum of the total amount available for carrying out such part A, which shall be made available under section 513(f)(3) of such part (relating to model programs).

"(2) The Secretary shall allocate the remainder of the amount available for part A of this title (after making the reservations provided for in paragraph (1) of this subsection) among the States so as to provide the following geographical distribution:

"(A) 50 per centum thereof so that the amount allotted for use within each State bears the same ratio to such 50 per centum as the number of economically disadvantaged children through age 14 in the State, excluding those children in the State who are eligible for services funded under clauses (A) and (B) of paragraph (1) of this subsection, bears to the number of economically disadvantaged children in all the States, excluding those children in all the States who are eligible for services funded under clauses (A) and (B) of paragraph (1) of this subsection;

"(B) 25 per centum thereof so that the amount allotted for use within each State bears the same ratio to such 25 per centum as the number of children through age 5 in the State, excluding those children in the State who are eligible for services funded under clauses (A) and (B) of paragraph (1) of this subsection, bears to the number of children through age 5 in all the States, excluding those children in all the States who are eligible for services funded under clauses (A) and (B) of paragraph (1) of this subsection;

"(C) 25 per centum thereof so that the amount allotted for use within each State bears the same ratio to such 25 per centum as the number of children of working mothers and single parents in the State, excluding those children in the State who are eligible for services funded under clauses (A) and (B) of paragraph (1) of this subsection, bears to the total number of children of working mothers and single parents in all the States, excluding those children in all the States who are eligible for services funded under clauses (A) and (B) of paragraph (1) of this subsection.

"(c) Not to exceed 5 per centum of the total funds allotted for use within a State pursuant to subsection (b)(2) may be made available for grants to the State to carry out the provisions of section 517 of this title.

"(d) The Secretary shall apportion the remainder of the amount allotted for use within each State (after making allocations under subsection (c)) among the localities in each such State so as to provide the following geographical distribution:

"(1) 50 per centum thereof so that the amount apportioned to each locality bears the same ratio to such 50 per centum as the number of economically disadvantaged children through age 14 in the area served by the locality bears to the number of economically disadvantaged children in the State;

"(2) 25 per centum thereof so that the amount apportioned to each locality bears the same ratio to such 25 per centum as the number of children through age 5 in the area served by the locality bears to the number of children through age 5 in the State;

"(3) 25 per centum thereof so that the amount apportioned to each locality bears the same ratio to such 25 per centum as the number of children of working mothers and single parents in the area served by the locality bears to the number of children of working mothers and single parents in the State.

"(e) The portion of any allotment or apportionment under subsection (b) or (d) for a fiscal year which the Secretary determines will not be required, for the period for which such allotment or apportionment is available, for carrying out programs under this part shall be available for reallotment or reapportionment from time to time, on such dates during such period as the Secretary shall fix, to other States in the case of allotments under subsection (b), or to other localities in the case of apportionments under subsection (d), in proportion to the original allotments to such States under subsection (b), or the original apportionments to such localities under subsection (d), for such year, but with such proportionate amount for any of such States or localities being reduced to the extent it exceeds the needs of such State or locality for carrying out activities approved under this part, and the total of such reductions shall be similarly reallotted among the States or reapportioned among the localities whose proportionate amounts are not so reduced. Any amount reallotted to a State or reapportioned to a locality under this subsection during a year shall be deemed part of its allotment or apportionment under subsection (b) or (d) for such year.

"(f) In determining the numbers of children for purposes of allotting and apportioning funds under this section, the Secretary shall use the most recent satisfactory data available to him.

"(g) As soon as practicable after funds are appropriated to carry out this title for any fiscal year, the Secretary shall publish in the Federal Register the allotments and apportionments required by this section.

"PART A—COMPREHENSIVE CHILD DEVELOPMENT PROGRAMS

"FINANCIAL ASSISTANCE

"SEC. 511. The Secretary of Health, Education, and Welfare shall provide financial assistance for carrying out child development programs under this part to prime sponsors and to other public and private agencies and organizations pursuant to plans and applications approved in accordance with the provisions of this part.

"USES OF FUNDS

"SEC. 512. Funds available for this part may be used (in accordance with approved applications) for the following services and activities:

"(1) planning and developing child development programs, including the operation of pilot programs to test the effectiveness of new concepts, programs, and delivery systems;

"(2) establishing, maintaining, and operating child development programs, which may include—

"(A) comprehensive physical and mental health, social, and cognitive development services necessary for children participating in the program to profit fully from their educational opportunities and to attain their maximum potential;

"(B) food and nutritional services (including family consultation);

"(C) rental, remodeling, renovation, alteration, construction, or acquisition of facilities, including mobile facilities, and the acquisition of necessary equipment and supplies;

"(D) programs designed (i) to meet the special needs of minority group, Indian, and migrant children with particular emphasis on the needs of children from bilingual families for the development of skills in English and the other language spoken in the home, and (ii) to meet the needs of all children to understand the history and cultural backgrounds of minority groups which belong to their communities and the role of members of such minority groups in the history and cultural development of the Nation and of the region in which they reside;

"(E) a program of daily activities designed to develop fully each child's potential;

"(F) other specially designed health, social, and educational programs (including after school, summer, weekend, vacation, and overnight programs);

"(G) medical, dental, psychological, educational, and other appropriate diagnosis, identification, and treatment of visual, hearing, speech, nutritional, and other physical, mental, and emotional barriers to full participation in child development programs, including programs for preschool and other children who are emotionally disturbed;

"(H) prenatal and other medical services to expectant mothers who cannot afford such services, designed to help reduce malnutrition, infant and maternal mortality, and the incidence of mental retardation and other handicapping conditions, and postpartum and other medical services (including family planning information) to such recent mothers;

"(I) incorporation within child development programs of special activities designed to identify and ameliorate identified physical, mental, and emotional handicaps and special learning disabilities and, where necessary because of the severity of such handicaps, establishing, maintaining, and operating separate child development programs designed primarily to meet the needs of handicapped children, including emotionally disturbed children;

"(J) preservice and inservice education and other training for professional and paraprofessional personnel;

"(K) dissemination of information in the functional language of those to be served to assure that parents are well informed of child development programs available to them and may become directly involved in such programs;

"(L) services, including in-home services, and training in the fundamentals of child development, for parents, older family members functioning in the capacity of parents, youth, and prospective parents;

"(M) use of child advocates, consistent with the provisions of this title, to assist children and parents in securing full access to other services, programs, or activities intended for the benefit of children;

"(N) programs designed to extend comprehensive prekindergarten early childhood education techniques and gains (particularly parent participation) into kindergarten and early primary grades (one through three), in cooperation with local educational agencies, including the use of former assistant Headstart teachers or similar early childhood education teachers as instructional aides (in addition to those employed by the schools involved) working closely with classroom teachers in the kindergarten and such early primary grades in which are enrolled children they taught in Headstart or other early childhood education programs, providing for full participation of parents of the children involved in program planning implementation, and decision-making and for career development opportunities and advancement through continuing education and training for the instructional aides involved (including teacher salaries, educational stipends for tuition, books, and tutoring, career counseling, arrangements for academic credit for independent study, fieldwork based on their teaching assignments, and preservice and inservice training) and for the classroom teachers and principals involved; and

"(O) such other services and activities as the Secretary deems appropriate in furtherance of the purposes of this part; and

"(3) staff and other administrative expenses of Child Development Councils established and operated in accordance with this part.

"PRIME SPONSORS OF CHILD DEVELOPMENT PROGRAMS

"SEC. 513. (a) In accordance with the provisions of this section, a State, locality, combination of localities, Indian tribal organization, or public or private nonprofit agency or organization, meeting the requirements of this part may be designated by the Secretary as a prime sponsor for the purpose of entering into arrangements to carry out child development programs under this part, upon the approval by the Secretary of a prime sponsorship plan which—

"(1) describes the prime sponsorship area to be served;

"(2) sets forth satisfactory provisions for establishing and maintaining a Child Development Council which meets the requirements of section 514;

"(3) provides that the Child Development Council shall be responsible for developing and preparing a comprehensive child development plan for each fiscal year and any modifications thereof;

"(4) sets forth arrangements under which the Child Development Council will be responsible for planning, supervising, coordinating, monitoring, and evaluating child development programs in the prime sponsorship area;

"(5) in the case of an applicant which is a State, a locality, or a combination of localities, provides for the operation of programs under this part through contracts with public or private agencies or organizations, including but not limited to community action agencies, single-purpose Headstart agencies, community development corporations, parent cooperatives, organizations of Indians, employer and employee organizations, and local public and private educational agencies and institutions, which will serve children in a community or neighborhood or other area possessing a commonality of interest; and

"(6) provides assurances that, where available, the Council will provide itself, or by contract or other arrangement with State, local, or other public agencies or private nonprofit organizations—

"(A) child-related family, social, and rehabilitative services;

"(B) coordination with educational agencies and providers of educational services;

"(C) health (including family planning) and mental health services;

"(D) nutrition services; and

"(E) training of professional and paraprofessional personnel.

"(b) The Secretary shall approve a prime sponsorship plan submitted by a locality which has a population of 5,000 or more persons and is a (1) city, (2) county, or (3) other unit of general local government, if he determines that the plan so submitted meets the requirements of subsection (a) of this section and includes adequate provision for carrying out comprehensive child development programs in the area of such locality. In the event that the area under the jurisdiction of a unit of general local government described in clause (1), (2), or (3) of the preceding sentence includes any common geographical area with that covered by another such unit of general local government, the Secretary shall designate to serve such area the unit of general local government which he detemines has the capability of more effectively carrying out the purposes of this part with respect to such area and which has submitted a plan which meets the requirements of this section and includes adequate provisions for carrying out comprehensive child development programs in such area.

"(c)(1) In the event that the Secretary determines that a locality does not meet the requirements for designation as a prime sponsor under this section, he shall take steps to encourage the submission of a prime sponsorship plan, covering the area of such locality, by a combination of localities which are adjoining and possess a sufficient commonality of interest.

"(2) The Secretary shall approve a prime sponsorship plan submitted by a combination of localities, having a total population of 5,000 or more persons, if he determines that the plan so submitted meets the requirements of subsection (a) of this section and includes adequate provisions for carrying out comprehensive child development programs in the area covered by the combination of such localities.

"(d) The Secretary shall approve a prime sponsorship plan submitted by an Indian tribal organization if he determines that the plan so submitted meets the requirements of subsection (a) of this section and includes adequate provisions for carrying out comprehensive child development programs in the area to be served.

"(e) In the event that the Secretary determines, with respect to the area of a particular locality, that a prime sponsorship plan meeting the requirements of this section has not been submitted by a locality or combination of localities covering such area, or by an Indian tribal organization, or in the event that prime sponsorship designation has been disapproved or withdrawn in accordance with subsection (h) of this section, the Secretary may, with respect to the impending fiscal year when no such prime sponsorship designation will be in effect, approve a plan submitted by the State which meets the requirements of subsection (a) of this section and includes adequate provisions for carrying out comprehensive child development programs in such area.

"(f) The Secretary may approve a prime sponsorship plan submitted by a public or private nonprofit agency, including but not limited to a community action agency, single-purpose Headstart agency, community development corporation, parent cooperative, organization of migrant agriculture workers, organization of Indians, employer organization, labor union, employee or labor-management organization, or public or private educational agency or institution, if he determines that the plan so submitted meets the requirements of subsection (a) of this section and includes—

"(1) provisions setting forth arrangements for serving children in a neighborhood or other area possessing a commonality of interest in the area of any locality with respect to which there is no prime sponsorship designation in effect or with respect to any portion of an area where the prime sponsor is found not to be satisfactorily implementing child development programs which adequately meet the purposes of this part, or for making available special services, in accordance with criteria established by the Secretary, designed to meet the needs of economically disadvantaged or preschool children or children of working mothers or single parents; or

"(2) arrangements for providing comprehensive child development programs on a year-round basis to children of migrant agricultural workers and their families; or

"(3) arrangements for carrying out model programs especially designed to be responsive to the needs of economically disadvantaged, minority group, or bilingual preschool children.

"(g) The Governor or appropriate State agency shall be given not less than thirty nor more than sixty days to review applications for designation filed by other than the State, offer recommendations to the applicant, and submit comments to the Secretary.

"(h) A prime sponsorship plan submitted under this section may be disapproved or a prior designation of a prime sponsor may be withdrawn only if the Secretary, in accordance with regulations which he shall prescribe, has provided (1) written notice of intention to disapprove such plan, including a statement of the reasons, (2) a reasonable time in which to submit corrective amendments to such plan or undertake other necessary corrective action, and (3) an opportunity for a public hearing upon which basis an appeal to the Secretary may be taken as of right.

"(i)(1) If any party is dissatisfied with the Secretary's final action under subsection (h) with respect to the disapproval of its plan submitted under this section or the withdrawal of its prime sponsorship designation, such party may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such party is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

"(2) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence. The Secretary may make new or modified findings of fact and may modify his previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall be conclusive if supported by substantial evidence.

"(3) The court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(j) When a unit (or combination of units) of general government is maintaining a pattern and practice of exclusion of minorities, the Secretary shall give preference in the approval of applications for prime sponsorship to an alternative unit of government or to a public or private nonprofit agency or organization in the area representing the interests of minority and economically disadvantaged persons.

"(k) In the event that a State, a locality, a combination of localities, or an Indian tribal organization has not submitted a comprehensive child development plan under section 515 or the Secretary has not approved a plan so submitted, or where the Secretary has not designated or has withdrawn designation of prime sponsorship under section 513, or where the needs of migrants, pre-school-age children, or the children of working mothers or single parents, minority groups, or the economically disadvantaged are not being served, the Secretary may directly fund projects, including those in rural areas without regard to population, that he deems necessary in order to serve the children of the particular area.

"CHILD DEVELOPMENT COUNCILS

"SEC. 514. (a) Each prime sponsor designated under section 513 shall establish and maintain a Child Development Council composed of not less than 10 members as follows—

"(1) not less than half of the members of such Council shall be parents of children served in child development programs under this part; and

"(2) the remaining members shall be appointed by the chief executive officer or the governing body, whichever is appropriate, of the prime sponsor to represent the public, but (A) not less than half of such members shall be persons who are broadly representative of the general public, including government agencies, public and private agencies and organizations in such fields as economic opportunity, health, education, welfare, employment and training, business or financial organizations or institutions, labor unions, and employers, and (B) the remaining members, the number of which shall be either equal to or one less than the number of members appointed under clause (A), shall be persons who are particularly skilled by virtue of training or experience in child development, child health, child welfare, or other child services, except that the Secretary may waive the requirement of this clause (B) to the extent that he determines, in accordance with regulations which he shall prescribe, that such persons are not available to the area to be served. At least one-third of the total membership of the Child Development Council shall be parents who are economically disadvantaged. Each Council shall select its own chairman.

"(b) In accordance with procedures which the Secretary shall establish pursuant to regulations, each prime sponsor designated under section 513 shall provide, with respect to the Child Development Council established and maintained by such prime sponsor, that—

"(1) the parent members described in paragraph (1) of subsection (a) of this section shall be chosen by the membership of Headstart policy committees where they exist, and, at the earliest practicable time, by project policy committees established pursuant to section 516(a) (2) of this part;

"(2) the terms of office and any other policies and procedures of an organizational nature, including nomination and election procedures, are appropriate in accordance with the purposes of this part;

"(3) such Council shall have responsibility for approving basic goals, policies, actions, and procedures for the prime sponsor, including policies with respect to planning, general supervision and oversight, overall coordination, personnel, budgeting, funding of projects, and monitoring and evaluation of projects; and

"(4) such Council shall, upon its own initiative or upon request of a project applicant or any other party in interest, conduct public hearings before acting upon applications for financial assistance submitted by project applicants under this part.

"COMPREHENSIVE CHILD DEVELOPMENT PLANS

"SEC. 515. (a) Financial assistance under this part may be provided by the Secretary for any fiscal year to a prime sponsor designated pursuant to section 513 only pursuant to a comprehensive child development plan which is submitted by such prime sponsor and approved by the Secretary in accordance with the provisions of this part. Any such plan shall set forth a comprehensive program for providing child development services in the prime sponsorship area which—

"(1) identifies all child development needs and goals within the area and describes the purposes for which the financial assistance will be used;

"(2) meets the needs of children in the prime sponsorship area, to the extent that available funds can be reasonably expected to have an effective impact, including infant care and before and after school programs for children in school with priority to children who have not attained six years of age;

"(3) (A) provides that funds received under section 503(a) (1) will be used for child development programs and services focused upon young children from low-income families, giving priority to continued financial assistance for Headstart projects by reserving for such projects from such funds in any fiscal year an amount at least equal to the aggregate amount received by public or private agencies and organizations within the prime sponsorship area for programs during the fiscal year ending June 30, 1972, under section 222(a) (1) of the Economic Opportunity Act of 1964, and (B) provides that programs receiving funds under section 503(d) will give priority to providing services for economically disadvantaged children by reserving not less than 65 per centum of the cost of programs receiving such funds for the purpose of serving children of families having an annual income below the lower living standard budget as determined under paragraph (5) of section 571;

"(4) gives priority thereafter to providing child development programs and services to children of single parents and working mothers not covered under paragraph (3);

"(5) provides procedures for the approval of project applications submitted in accordance with section 516;

"(6) provides, in the case of a prime sponsor located within or adjacent to a metropolitan area, for coordination with other prime sponsors located within such metropolitan area, and arrangements for cooperative funding where appropriate, and particularly for such coordination where appropriate to meet the needs for child development services of children of parents working or participating in training or otherwise occupied during the day within a prime sponsorship area other than that in which they reside;

"(7) provides that, to the extent feasible, each program within the prime sponsorship area will include children from a range of socioeconomic backgrounds;

"(8) provides comprehensive services (A) to meet the special needs of minority group children and children of migrant agricultural workers with particular emphasis on the needs of children from bilingual families for development of skills in English and in the other language spoken in the home and (B) to meet the needs of all children to understand the history and cultural background of minority groups which belong to the communities and the role of members of such minority groups in the history and cultural development of the Nation and the region in which they reside;

"(9) provides equitably for the child development needs of children from each minority group or significant segment of the economically disadvantaged residing within the area served;

"(10) provides, insofar as possible, for coordination of child development programs with other social programs (including but not limited to those relating to employment and manpower) so as to keep family units intact or in close proximity during the day;

"(11) provides for direct parent participation in the conduct, overall direction, and evaluation of programs;

"(12) provides to the extent feasible for the employment as both professionals and paraprofessionals of persons resident in the neighborhoods from which children are drawn;

"(13) includes to the extent feasible a career development plan for paraprofessional and professional training, education, and advancement on a career ladder;

"(14) provides that, insofar as possible, persons residing in communities being served by such projects will receive jobs, including in-home and part-time jobs, and opportunities for training in programs under part B of this title, with special consideration for career opportunities for low-income persons;

"(15) provides for the regular and frequent dissemination of information in the functional language of those to be served, to assure that parents and interested persons in the community are fully informed of the activities of the Child Development Council and of delegate agencies;

"(16) assures that procedures and mechanisms for coordination have been developed in cooperation with preschool program administrators and administrators of local educational agencies and nonpublic schools, at the local level, to provide continuity between programs for preschool and elementary school children and to coordinate programs conducted under this part and programs conducted pursuant to section 222(a) (2) of the Economic Opportunity Act of 1964 and the Elementary and Secondary Education Act of 1965;

"(17) establishes arrangements in the area served for the coordination of programs conducted under the auspices of or with the support of business or financial institutions or organizations, industry, labor, employee and labor-management organizations, and other community groups;

"(18) sets forth provisions describing any arrangements for the delegation, under the supervision of the Child Development Council, to public or private agencies, institutions, or organizations, of responsibilities for the delivery of programs, services, and activities for which financial assistance is provided under this part or for planning or evaluation services to be made available with respect to programs under this part;

"(19) contains plans for regularly conducting surveys and analyses of needs for child development programs in the prime sponsorship area and for submitting to the Secretary a comprehensive annual report and evaluation in such form and containing such information as the Secretary shall require by regulation;

"(20) provides that services for handicapped children, at both the State and local levels, will be used wherever available in programs approved under the plan;

"(21) provides assurances satisfactory to the Secretary that the non-Federal share requirements will be met;

"(22) provides for such fiscal control and funding accounting procedures as the Secretary may prescribe to assure proper disbursement of and accounting for Federal funds paid to the prime sponsor;

"(23) provides that consideration will be given to project applications submitted by public, private nonprofit, and profitmaking organizations with emphasis given to ongoing programs, and that comparative costs of providing services shall be considered along with the quality of such services;

"(24) provides that programs or services under this title shall be provided only for children whose parents or legal guardians have requested them; and

"(25) provides assurance that in developing plans for any facilities due consideration will be given to excellence of architecture and design, and to the inclusion of works of art (no representing more than 1 per centum of the cost of the project).

"(b) No comprehensive child development plan or modification thereof submitted by a prime sponsor under this section shall be approved by the Secretary unless he determines, in accordance with regulations which the Secretary shall prescribe, that—

"(1) each community action agency or single-purpose Headstart agency in the area to be served previously responsible for the administration of programs under this part or under section 222(a) (1) of the Economic Opportunity Act of 1964 has had an opportunity to submit comments to the prime sponsor and to the Secretary;

"(2) the local educational agency for the area to be served and other appropriate educational and training agencies and institutions have had an opportunity to submit comments to the prime sponsor and to the Secretary; and

"(3) the Governor of the State has had an opportunity to submit comments to the prime sponsor and to the Secretary.

"(c) A comprehensive child development plan submitted under this section may be disapproved or a prior approval withdrawn only if the Secretary, in accordance with regulations which he shall prescribe, has provided (1) written notice of intention to disapprove such plan, including a statement of the reasons, (2) a reasonable time to submit corrective amendments to such plan or undertake other necessary corrective action, and (3) an opportunity for a public hearing upon which basis an appeal to the Secretary may be taken as of right.

"(d) In order to contribute to the effective administration of this title, the Secretary shall establish appropriate procedures to permit prime sponsors to submit jointly a single comprehensive child development plan for the areas served by such prime sponsors.

"PROJECT APPLICATIONS

"SEC. 516. (a) Financial assistance under this part may be provided to a project applicant for any fiscal year only pursuant to a project application which is submitted by a public or private agency and which provides—

"(1) that funds will be provided for carrying out any child development program under this part only to a qualified public or private agency or organization, including but not limited to a community action agency, single-purpose Headstart agency, community development corporation, parent cooperative, organization of migrant agricultural workers, organization of Indians, private organization interested in child development, employer or business organization, labor union, employee or labor-management organization, or public or private educational agency or institution;

"(2) for establishing and maintaining project policy committees composed of not less than 10 members as follows—

"(A) not less than half of the members of each such committee shall be parents of children served by such project, and

"(B) the remaining members of each such committee shall consist of (i) persons who are representative of the community and who are approved by the parent members, and (ii) at least one person who is particularly skilled by virtue of training or experience in child development, child health, child welfare, or other child services, except that the Secretary may waive the requirement of this clause (ii) where he determines, in accordance with regulations which he shall prescribe, that such person is not available to the area to be served;

"(3) for direct participation of such policy committees in the development and preparation of project applications under this part;

"(4) that adequate provision will be made for training and other administrative expenses of such policy committees (including necessary expenses to enable low-income members to participate in council or committee meetings);

"(5) that project policy committees shall have responsibility for approving basic goals, policies, actions, and procedures for the project applicant, including policies with respect to planning, overall conduct, personnel, budgeting, location of centers and facilities, and direction and evaluation of projects;

"(6) that programs assisted under this part will provide for such comprehensive health, nutritional, education, social, and other services, as are necessary for the full cognitive, emotional, and physical development of each participating child;

"(7) that adequate provision will be made for the regular and frequent dissemination of information in the functional language of those to be served, to assure that parents and interested persons are fully informed of project activities;

"(8) that with respect to child development services provided by programs assisted under this part—

"(A) no charge will be made with respect to any child who is a member of any family with an annual income equal to or less than $4,320 with appropriate adjustments in the case of families having more than two children, except to the extent that payment will be made by a third party (including a public agency); and

"(B) such charges as the Secretary may provide will be made with respect to any child of any other family, in accordance with an appropriate fee schedule established by him, based upon the ability of the family to pay, which payment may be made in whole or in part by a third party in behalf of such family, except that any such charges with respect to any family with an income of less than the lower living standard budget (as determined in accordance with paragraph (5) of section 571) shall not exceed the sum of (i) an amount equal to 10 per centum of any family income which exceeds the highest income level at which no charges would be made with respect to children of such family under subparagraph (A) but does not exceed 85 per centum of such lower living standard budget, and (ii) an amount equal to 15 per centum of any family income which exceeds 85 per centum of such lower living standard budget but does not exceed 100 per centum of such lower living standard budget, and, if more than two chil- to this part because of their participation additional charges may be made not to exceed the sum of the amounts calculated in accordance with clauses (i) and (ii) with respect to each such additional child;

"(9) that children will in no case be excluded from the programs operated pursuant to this part because of their participation in nonpublic preschool or school programs or because of the intention of their parents to enroll them in nonpublic schools when they attain school age;

"(10) that programs will, to the extent appropriate, employ paraprofessional aides and volunteers, especially parents, older children, students, older persons, and persons preparing for careers in child development programs;

"(11) that no person will be denied employment in any program solely on the ground that he fails to meet State or local teacher certification standards;

"(12) that programs assisted under this part will provide for the utilization of personnel, including paraprofessional and volunteer personnel, adequate to meet the specialized needs of each participating child;

"(13) that there are assurances satisfactory to the Secretary that the non-Federal share requirements will be met; and

"(14) that provision will be made for such fiscal control and fund accounting procedures as the Secretary shall prescribe to assure proper disbursement of and accounting for Federal funds.

"(b) A project application may be approved by a prime sponsor upon its determination that such application meets the requirements of this section and that the programs provided for therein will otherwise further the objectives and satisfy the appropriate provisions of the prime sponsor's comprehensive child development plan as approved pursuant to section 515.

"(c) A project application from a public or private nonprofit agency which is also a prime sponsor under section 513(f) shall be submitted directly to the Secretary, together with the comprehensive child development plan.

"(d) A project application submitted directly to the Secretary by a public or private agency may be approved by the Secretary upon his determination that it meets the requirements of subsection (a) of this section.

"SPECIAL GRANTS TO STATES

"SEC. 517. Upon application submitted by any State, the Secretary is authorized to provide financial assistance for use by such State for carrying out activities for the purposes of—

"(1) identifying child development goals and needs within the State;

"(2) assisting in the establishment of Child Development Councils and strengthening the capability of such Councils to effectively plan, supervise, coordinate, monitor, and evaluate child development programs;

"(3) encouraging the cooperation and participation of State agencies in providing child development and related services, including health, family planning, mental health, education, nutrition, and family, social and rehabilitative services where requested by appropriate prime sponsors in the development and implementation of comprehensive child development plans;

"(4) encouraging the full utilization of resources and facilities for child development programs within the State;

"(5) disseminating the results of research on child development programs;

"(6) conducting programs for the exchange of personnel involved in child development programs within the State;

"(7) assisting public and private nonprofit agencies and organizations in the acquisition or improvement of facilities for child development programs;

"(8) assessing State and local licensing codes as they relate to child development programs within the State; and

"(9) developing information useful in reviewing prime sponsorship plans under section 513(g) and of comprehensive child development plans under section 515(b)(3).

"ADDITIONAL CONDITIONS FOR PROGRAMS INCLUDING CONSTRUCTION

"SEC. 518. (a) Applications for financial assistance for projects including construction may be approved only if the Secretary determines that construction of such facilities is essential to the provision of adequate child development services, and that rental, renovation, remodeling, or leasing of adequate facilities is not practicable.

"(b) If any facility assisted under this part shall cease to be used for the purposes for which it was constructed, the United States shall be entitled to recover from the applicant or other owner of the facility an amount which bears to the then value of the facility (or so much thereof as constituted an approved project) the same ratio as the amount of such Federal funds bore to the cost of the facility financed with the aid of such funds, unless the Secretary determines in accordance with regulations that there is good cause for releasing the applicant or other owner from the obligation to do so. Such value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which the facility is situated.

"(c) All laborers and mechanics employed by contractors or subcontractors on all construction, remodeling, renovation, or alteration projects assisted under this part shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5). The Secretary of Labor shall have with respect to the labor standards specified in this section the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

"(d) In the case of loans for construction, the Secretary shall prescribe the interest rate and the period within which such loans shall be repaid, but such interest rates shall not be less than 3 per centum per annum and the period within which such loan is to be repaid shall not be more than twenty-five years.

"(e) The Federal assistance for construction may be in the form of grants or loans, provided that total Federal funds to be paid to other than public or private nonprofit agencies and organizations will not exceed 50 per centum of the construction cost, and will be in the form of loans. Repayment of loans shall, to the extent required by the Secretary, be returned to the prime sponsor from whose financial assistance the loan was made, or used for additional loans or grants under this title. Not more than 15 per centum of the total financial assistance provided to a prime sponsor under this part shall be used for construction of facilities, with no more than 7½ per centum of such assistance usable for grants for construction.

"(f) In the case of a project for the construction of facilities and in the development of plans for such facilities due consideration shall be given to excellence of architecture and design and to the inclusion of works of art (not representing more than 1 per centum of the cost of the project).

"USE OF PUBLIC FACILITIES FOR CHILD DEVELOPMENT PROGRAMS

"SEC. 519. (a) The Secretary, after consultation with other appropriate officials of the Federal Government, shall within sixteen months after enactment of this title report to the Congress with respect to the extent to which facilities owned or leased by Federal departments, agencies, and independent authorities could be made available to public and private nonprofit agencies and organizations, through appropriate arrangements, for use as facilities for child development programs under this title during times and periods when not utilized fully for their usual purposes, together with his recommendations (including recommendations for changes in legislation) or proposed actions for such use.

"(b) The Secretary may require, as a condition to the receipt of assistance under this part, that any prime sponsor under this part agree to conduct a review and provide the Secretary with a report as to the extent to which facilities owned or leased by such prime sponsor, or by other agencies in the prime sponsorship area, could be made available, through appropriate arrangements, for use as facilities for child development programs under this title during times and periods when not utilized fully for their usual purposes, together with the prime sponsor's proposed actions for such use.

"PAYMENTS

"SEC. 520. (a) In accordance with this section, the Secretary shall pay from the applicable allocation or apportionment under section 503 the Federal share of the costs of programs, services, and activities, in accordance with plans or applications which have been approved as provided in this part. In making such payment to any prime sponsor, the Secretary shall include in such costs an amount for staff and other administrative expenses for the Child Development Council not to exceed an amount which is reasonable when compared with such costs for other prime sponsors.

"(b)(1) Except as provided in paragraphs (2) and (3) of this subsection, the Secretary shall pay an amount not in excess of 80 per centum of the cost of carrying out programs, services, and activities under this part. The Secretary may, in accordance with such regulations as he shall prescribe, approve assistance in excess of such percentage if he determines that such action is required to provide adequately for the child development needs of economically disadvantaged children.

"(2) The Secretary shall pay an amount equal to 100 per centum of the costs of providing child development programs for children of migrant agricultural workers and their families under this part.

"(3) The Secretary shall pay to each prime sponsor approved under section 513(d) an amount equal to 100 per centum of the costs of providing child development programs for children in Indian tribal organizations.
amount equal to 100 per centum of the costs programs assisted under this part may be provided through public or private funds and may be in the form of cash, goods, services, or facilities (or portions thereof that are used for program purposes), reasonably evaluated, or union or employer contributions. Fees collected for services provided pursuant to section 516(a)(8) shall not be used to make up the non-Federal share, but shall be used by the project applicant for the same purposes as payments under this section, except that, in the case of projects assisted under a comprehensive child development plan, such fees shall be turned over to the appropriate prime sponsor for distribution in the same manner as the prime sponsor's allocation under section 515(a)(3).

"(d) If, with respect to any fiscal year, a prime sponsor or project applicant provides non-Federal contributions for any program, service, or activity exceeding its requirements, such excess may be applied toward meeting the requirements for such contributions for the subsequent fiscal year under this part.

"(e) No State or locality shall reduce its expenditures for child development or day-care programs by reason of assistance under this part.

"PART B—TRAINING, TECHNICAL ASSISTANCE, PLANNING, AND EVALUATION

"PRESERVICE AND INSERVICE TRAINING

"SEC. 531. The Secretary is authorized to make payments to provide financial assistance to enable individuals employed or preparing for employment in child development programs assisted under this title, including volunteers, to participate in programs of preservice or inservice training for professional and nonprofessional personnel, to be conducted by any agency carrying out a child development program, or any institution of higher education, including a community college, or by any combination thereof.

"TECHNICAL ASSSISTANCE AND PLANNING

"SEC. 532. The Secretary shall, directly or through grant or contract, make technical assistance available to prime sponsors and to project applicants participating or seeking to participate in programs assisted under this title on a continuing basis to assist them in planning, developing, and carrying out child development programs.

"EVALUATION

"SEC. 533. (a) The Secretary shall, through the Office of Child Development unless the Secretary determines otherwise, make an evaluation of Federal involvement in child development activities and services, which shall include—

"(1) enumeration and description of all Federal activities which affect child development;

"(2) analysis of expenditures of Federal funds for such activities and services;

"(3) determination of the effectiveness of such activities and services;

"(4) the extent to which preschool, minority group, and economically disadvantaged children and their parents have participated in programs under this title; and

"(5) such recommendations to the Congress as the Secretary may deem appropriate.

"(b) The results of the evaluation required by subsection (a) of this section shall be reported to the Congress not later than eighteen months after the date of enactment of this title.

"(c) The Secretary shall establish such procedures as may be necessary to conduct an annual evaluation of Federal involvement in child development programs, and shall report the results of each such evaluation to Congress.

"(d) Prime sponsors and project applicants assisted under this title and departments and agencies of the Federal Government shall, upon request by the Secretary, make available, consistent with other provisions of law, such information as the Secretary determines is necessary for purposes of making the evaluation required under subsection (c) of this section.

"(e) The Secretary may enter into contracts with public or private agencies, organizations, or individuals to carry out the provisions of this section.

"(f) The Secretary shall reserve for the purposes of this section not less than 1 per centum, and may reserve for such purposes not more than 2 per centum, of the amounts available under paragraphs (2) and (3) of section 503(a) of this title for any fiscal year.

"FEDERAL STANDARDS FOR CHILD DEVELOPMENT SERVICES

"SEC. 534. (a) Within six months after the enactment of the Economic Opportunity

Amendments of 1971, the Secretary shall, after consultation with other Federal agencies and with the Committee established pursuant to subsection (c) of this section, promulgate a common set of program standards which shall be applicable to all programs providing child development services with Federal assistance under this title, to be known as the Federal Standards for Child Development Services. If the Secretary disapproves the Committee's recommendations, he shall state the reasons therefor.

"(b) Such standards shall be no less comprehensive than the Federal Interagency Day Care Requirements as approved by the Department of Health, Education, and Welfare, the Office of Economic Opportunity, and the Department of Labor on September 23, 1968.

"(c) The Secretary shall, within sixty days after enactment of this title, appoint a Special Committee on Federal Standards for Child Development Services, which shall include parents of children enrolled in child development programs, representatives of public and private agencies and organizations administering child development programs, specialists, and others interested in the development of children. Not less than one-half of the membership of the Committee shall consist of parents of children participating in programs conducted under part A of this title and section 222(a)(1) of this Act and title IV of the Social Security Act. Such Committee shall participate in the development of Federal Standards for Child Development Services and modifications thereof as provided in subsection (a).

"DEVELOPMENT OF UNIFORM MINIMUM CODE FOR FACILITIES

"SEC. 535. (a) The Secretary shall, within sixty days after enactment of the Economic Opportunity Amendments of 1971, appoint a special committee to develop a uniform minimum code for facilities, to be used in licensing child development facilities. Such standards shall deal principally with those matters essential to the health, safety, and physical comfort of the children and the relationship of such matters to the Federal Standards for Child Development Services under section 534.

"(b) The special committee appointed under this section shall include parents of children participating in child development programs and representatives of State and local licensing agencies, public health officials, fire prevention officials, the construction industry and unions, public and private agencies or organizations administering child development programs, and national agencies or organizations interested in the development of children. Not less than one-half of the membership of the committee shall consist of parents of children enrolled in programs conducted under part A of this title and section 222(a)(1) of this Act and title IV of the Social Security Act.

"(c) Within one year after its appointment, the special committee shall complete a proposed uniform minimum code for facilities and shall hold public hearings on the proposed code prior to submitting its final recommendation to the Secretary for his approval.

"(d) After considering the recommendations submitted by the special committee in accordance with subsection (c), the Secretary shall promulgate standards which shall be applicable to all facilities receiving Federal financial assistance under this title or in which programs receiving Federal financial assistance under this title are operated. If the Secretary disapproves the committee's recommendations, he shall state the reasons therefor. The Secretary shall also distribute such standards and urge their adoption by States and local governments. The Secretary may from time to time modify the uniform code for facilities in accordance with procedures set forth in this section.

"PART C—FACILITIES FOR CHILD DEVELOPMENT PROGRAM

"MORTGAGE INSURANCE FOR CHILD DEVELOPMENT FACILITIES

"SEC. 541. (a) It is the purpose of this part to assist and encourage the provision of urgently needed facilities for child care and child development programs.

"(b) For the purpose of this part—

"(1) The term 'child development facility' means a facility of a public or private profit or nonprofit agency or organization, licensed or regulated by the State (or, if there is no State law providing for such licensing and regulation by the State, by the municipality or other political subdivision in which the facility is located), for the provision of child development programs.

"(2) The terms 'mortgage', 'mortgagor', 'mortgagee', 'maturity date', and 'State' shall have the meanings respectively set forth in section 207 of the National Housing Act.

"(c) The Secretary of Health, Education, and Welfare is authorized to insure any mortgage (including advances on such mortgage during construction) in accordance with the provisions of this section upon such terms and conditions as he may prescribe and make commitments for insurance of such mortgage prior to the date of its execution or disbursement thereon.

"(d) In order to carry out the purpose of this section, the Secretary of Health, Education, and Welfare is authorized to insure any mortgage which covers a new child development facility, including equipment to be used in its operation, subject to the following conditions:

"(1) The mortgage shall be executed by a mortgagor, approved by the Secretary of Health, Education, and Welfare, who demonstrates ability successfully to operate one or more child care or child development programs. The Secretary of Health, Education, and Welfare may in his discretion require any such mortgagor to be regulated or restricted as to minimum charges and methods of financing, and, in addition thereto, if the mortgagor is a corporate entity, as to capital structure and rate of return. As an aid to the regulation or restriction of any mortgagor with respect to any of the foregoing matters, the Secretary of Health, Education, and Welfare may make such contracts with and acquire for not to exceed $100 such stock or interest in such mortgagor as he may deem necessary. Any stock or interest so purchased shall be paid for out of the Child Development Facility Insurance Fund, and shall be redeemed by the mortgagor at par upon the termination of all obligations of the Secretary of Health, Education, and Welfare under the insurance.

"(2) The mortgage shall involve a principal obligation in an amount not to exceed $250,000 and not to exceed 90 per centum of the estimated replacement cost of the property or project, including equipment to be used in the operation of the child development facility, when the proposed improvements are completed and the equipment is installed.

"(3) The mortgage shall—

"(A) provide for complete amortization by periodic payments within such term as the Secretary of Health, Education, and Welfare shall prescribe, and

"(B) bear interest (exclusive of premium charges for insurance and service charges, if any) at not to exceed such per centum per annum on the principal obligation outstanding at any time as the Secretary of Health, Education, and Welfare finds necessary to meet the mortgage market.

"(4) The Secretary of Health, Education, and Welfare shall not insure any mortgage under this section unless he has determined that the child development facility to be covered by the mortgage will be in compliance with the Uniform Minimum Code for Facilities approved by the Secretary pursuant to section 535.

"(5) The Secretary of Health, Education, and Welfare shall not insure any mortgage under this section unless he has also received from the prime sponsor designated under part A of this title a certificate that the facility is consistent with and will not hinder the execution of the prime sponsor's plan.

"(6) In the plans for such child development facility, due consideration shall be given to excellence of architecture and design, and to the inclusion of works of art (not representing more than 1 per centum of the cost of the project).

"(e) The Secretary of Health, Education, and Welfare shall fix and collect premium charges for the insurance of mortgages under this section which shall be payable annually in advance by the mortgagee, either in cash or in debentures of the Child Development Facility Insurance Fund (established by subsection (h)) issued at par plus accrued interest. In the case of any mortgage such charge shall be not less than an amount equivalent to one-fourth of 1 per centum nor more than an amount equivalent to 1 per centum per annum of the amount of the principal obligation of the mortgage outstanding at any one time, without taking into account delinquent payments or prepayments. In addition to the premium charge herein provided for, the Secretary of Health, Education, and Welfare is authorized to charge and collect such amounts as he may deem reasonable for the appraisal of a property or project during construction; but such charges for appraisal and inspection shall not aggregate more than 1 per centum of the original principal face amount of the mortgage.

"(f) The Secretary of Health, Education, and Welfare may consent to the release of a part or parts of the mortgaged property or project from the lien of any mortgage insured under this section upon such terms and conditions as he may prescribe.

"(g)(1) The Secretary of Health, Education, and Welfare shall have the same functions, powers, and duties (insofar as applicable) with respect to the insurance of mortgages under this section as the Secretary of Housing and Urban Development has with respect to the insurance of mortgages under title II of the National Housing Act.

"(2) The provisions of subsections (e), (g), (h), (i), (j), (k), (l), and (n) of section 207 of the National Housing Act shall apply to mortgages insured under this section; except that, for the purposes of their application with respect to such mortgages, all references in such provisions to the General Insurance Fund shall be deemed to refer to the Child Development Facility Insurance Fund, and all references in such provisions to 'Secretary' shall be deemed to refer to the Secretary of Health, Education, and Welfare.

"(h)(1) There is hereby created a Child Development Facility Insurance Fund which shall be used by the Secretary of Health, Education, and Welfare as a revolving fund for carrying out all the insurance provisions of this section. All mortgages insured under this section shall be insured under and be the obligation of the Child Development Facility Insurance Fund.

"(2) The general expenses of the operations of the Department of Health, Education, and Welfare relating to mortgages insured under this section may be charged to the Child Development Facility Insurance Fund.

"(3) Moneys in the Child Development Facility Insurance Fund not needed for the current operations of the Department of Health, Education, and Welfare with respect to mortgages insured under this section shall be deposited with the Treasurer of the United States to the credit of such fund, or invested in bonds or other obligations of, or in bonds or other obligations guaranteed as to principal and interest by, the United States. The Secretary of Health, Education, and Welfare may, with the approval of the Secretary of the Treasury, purchase in the open market debentures issued as obligations of the Child Development Facility Insurance Fund. Such purchases shall be made at a price which will provide an investment yield of not less than the yield obtainable from other investments authorized by this section. Debentures so purchased shall be canceled and not reissued.

"(4) Premium charges, adjusted premium charges, and appraisal and other fees received on account of the insurance of any mortgage under this section, the receipts derived from property covered by such mortgages and from any claims, debts, contracts, property, and security assigned to the Secretary of Health, Education, and Welfare in connection therewith, and all earnings on the assets of the fund, shall be credited to the Child Development Facility Insurance Fund. The principal of, and interest paid and to be paid on, debentures which are the obligation of such fund, cash insurance payments and adjustments, and expenses incurred in the handling, management, renovation, and disposal of properties acquired, in connection with mortgages insured under this section, shall be charged to such fund.

"(5) There are authorized to be appropriated to provide initial capital for the Child Development Facility Insurance Fund, and to assure the soundness of such fund thereafter, such sums as may be necessary.

"PART D—FEDERAL GOVERNMENT CHILD DEVELOPMENT PROGRAMS

"PROGRAM AUTHORIZED

"SEC. 546. (a) The Secretary is authorized to make grants for the purpose of establishing and operating child development programs (including the lease, rental, or construction of necessary facilities and the acquisition of necessary equipment and supplies) for the children of employees of the Federal Government.

"(b) Employees of any Federal agency or group of such agencies employing eighty or more working parents of young children who desire to participate in the grant program under this part shall—

"(1) designate or create for the purpose an agency commission, the membership of which shall be broadly representative of the working parents employed by the agency or agencies; and

"(2) submit to the Secretary a plan approved by the official in charge of such agency or agencies, which—

"(A) provides that the child development program shall be administered under the direction of the agency commission;

"(B) provides that the program will meet the Federal interagency standards for child development;

"(C) provides a means of determining priority of eligibility among parents wishing to use the services of the program;

"(D) provides for a scale of fees based upon the parents' financial status; and

"(E) provides for competent management, staffing, and facilities for such program.

"(c) The Secretary shall not make payments under this section unless he has received approval of the plan from the official in charge of the agency whose employees will be served by the child development program.

"PAYMENTS

"SEC. 547. (a) Not more than 80 per centum of the total cost of child development programs under this part shall be paid from Federal funds available under this title.

"(b) The share of the total cost not available under paragraph (a) may be provided through public or private funds and may be in the form of cash, goods, services, or facilities (or portions thereof that are used for program purposes), reasonably evaluated, fees collected from parents, or union or employer contributions.

"(c) If, in any fiscal year, a program under this part provides non-Federal contributions exceeding its requirements under this section, such excess may be used to meet the requirements for such contributions for the succeeding year.

"(d) In making grants under this part, the Secretary shall, insofar as is feasible, distribute funds among the States according to the same ratio as the number of Federal employees in that State bears to the total number of Federal employees in the United States.

"PART E—RESEARCH AND DEMONSTRATION

"DECLARATION OF PURPOSES

"SEC. 551. The purposes of this part are to focus national research efforts to attain a fuller understanding of the processes of child development and the effects of organized programs upon these processes; to develop effective programs for research into child development; and to assure that the result of research and development efforts are reflected in the conduct of programs affecting children through the improvement and expansion of child development and related programs.

"RESEARCH AND DEMONSTRATION PROJECTS

"SEC. 552. (a) In order to further the purposes of this part, the Secretary shall carry out a program of research and demonstration projects, which shall include but not be limited to—

"(1) research to determine the nature of child development processes and the impact of various influences upon them, to develop techniques to measure and evaluate child development, to develop standards to evaluate professional and paraprofessional child development personnel, and to determine how child development and related programs conducted in either home or institutional settings affect child development processes;

"(2) research to test alternative methods of providing child development and related services, and to develop and test innovative approaches to achieve maximum development of children and programs for training adolescent youth in child development;

"(3) evaluation of research findings and the development of these findings and the effective application thereof;

"(4) dissemination and application of research and development efforts and demonstration projects to child development and related programs and early childhood education, using regional demonstration centers and advisory services where feasible;

"(5) production of informational systems and other resources necessary to support the activities authorized by this part; and

"(6) integration of national child development research efforts into a focused national research program, including the coordination of research and development conducted by other agencies, organizations, and individuals.

"(b) In order to carry out the program provided for in subsection (a), the Secretary is authorized to make grants to or enter into contracts or other arrangements with public or private nonprofit agencies (including other Government agencies), organizations, and institutions, and to enter into contracts with private agencies, organizations, institutions, and individuals.

"COORDINATION OF RESEARCH

"SEC. 553. (a) Funds available to any Federal department or agency for the purposes stated in section 551 or the activities stated in section 552(a) shall be available for transfer, with the approval of the head of the department or agency involved, in whole or in part, to the Secretary for such use as is consistent with the purposes for which such funds were provided, and the funds so transferred shall be expendable by the Secretary for the purposes for which the transfer was made.

"(b) The Secretary shall coordinate, through the Office of Child Development, established under section 572 of this title, all child development research, training, and development efforts conducted within the Department of Health, Education, and Welfare and, to the extent feasible, by other agencies, organizations, and individuals.

"(c) A Child Development Research Council, consisting of a representative of the Office of Child Development established under section 572 of this title (who shall serve as Chairman), and representatives from the Federal agencies administering the Social Security Act and the Elementary and Secondary Education Act of 1965 and from the National Institute of Mental Health, the National Institute of Child Health and Human Development, the Office of Economic Opportunity, the Department of Labor, and other appropriate agencies, shall meet at least annually and at such more frequent times as they may deem necessary, in order to assure coordination of child development and related activities under their respective jurisdictions and to carry out the provisions of this part so as to assure—

"(1) maximum utilization of available resources through the prevention of duplication of activities;

"(2) a division of labor, insofar as is compatible with the purposes of each of the agencies or authorities specified in this paragraph, to assure maximum progress toward the achievement of the purposes of this part; and

"(3) recommendation of priorities for federally funded research and development activities related to the purposes of this part and those stated in section 501.

"ANNUAL REPORT

"SEC. 554. The Secretary shall make an annual report to Congress summarizing his activities and accomplishments during the preceding year under this part; the grants, contracts, or other arrangements entered into during the preceding year under this part, and making such recommendations as he may deem appropriate.

"PART F—GENERAL PROVISIONS

"DEFINITIONS

"SEC. 571. As used in this title, the term—

"(1) 'Secretary' means the Secretary of Health, Education, and Welfare;

"(2) 'State' means the several States and the District of Columbia, Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands;

"(3) 'child development programs' means programs provided on a full-day or part-day basis which provide the educational, nutritional, social, medical, psychological, and physical services needed for children to attain their full potential;

"(4) 'children' means individuals who have not attained the age of fifteen;

"(5) 'economically disadvantaged children' means any children of a family having an annual income below the lower living standard budget (adjusted for regional and metropolitan, urban, and rural differences, and family size), as determined annually by the Bureau of Labor Statistics of the Department of Labor;

"(6) 'handicapped children' includes mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled, or other health impaired children or children with specific learning disabilities who by reason thereof require special education and related services;

"(7) 'program' includes any program, service, or activity, which is conducted full or part time, day or night, in child development facilities, in schools, in neighborhood centers, or in homes, or which provides child development services for children whose parents are working or receiving education or training;

"(8) 'locality' means any city or other municipality or any county or other political subdivision of a State having general governmental powers, or any combination thereof;

"(9) 'parent' means any person who has day-to-day parental responsibility for any child;

"(10) 'single parent' means any person who has sole day-to-day responsibility for any child;

"(11) 'working mother' means any mother who requires child development services under this title in order to undertake or continue full- or part-time work, training, or education outside her home;

"(12) 'minority group' includes, but is not limited to, persons who are Negro, American Indian, Spanish-surnamed American, Portuguese, or Oriental, and, as determined by the Secretary, children who are from environments in which a dominant language is other than English and who, as a result of language barriers, do not have an equal educational opportunity, and, for the purpose of this paragraph, Spanish-surnamed Americans include persons of Mexican, Puerto Rican, Cuban, or Spanish origin or ancestry;

"(13) 'Bilingual' includes, but is not limited to, persons who are Spanish surnamed, American Indian, Oriental, Portuguese, or others who have learned during childhood to speak the language of the minority group of which they are members and who, as a result of language barriers, do not have an equal educational opportunity;

"(14) 'local educational agency' means any such agency as defined in section 801(f) of the Elementary and Secondary Education Act of 1965;

"(15) 'institution of higher education' means any such institution as defined in section 1201(a) of the Higher Education Act of 1965.

"OFFICE OF CHILD DEVELOPMENT

"Sec. 572. The Secretary shall take all necessary action to coordinate child development programs under his jurisdiction. To this end, he shall establish within the Department of Health, Education, and Welfare an Office of Child Development, administered by a Director, which shall be the principal agency of the Department for the administration of this title and for the coordination of programs and other activities relating to child development.

"NUTRITION SERVICES

"Sec. 573. In accordance with the purposes of this title, the Secretary of Health, Education, and Welfare shall establish procedures to assure that adequate nutrition services will be provided in child development programs under this title. Such services shall make use of the Special Food Service Program for children as defined under section 13 of the National School Lunch Act of 1946 and the Child Nutrition Act of 1966, to the fullest extent appropriate and consistent with the provisions of such Acts.

"SPECIAL PROVISIONS

"Sec. 574. (a) The Secretary may make such grants, contracts, or agreements, establish such procedures, policies, rules, and regulations, and make such payments, in installments and in advance or by way of reimbursement, or otherwise allocate or expend funds made available under this title, as he may deem necessary to carry out the provisions of this title, including necessary adjustments in payments on account of overpayments or underpayments. Subject to the provisions of section 575, the Secretary may also withhold funds otherwise payable under this title in order to recover any amounts expended in the current or immediately prior fiscal year in violation of any provision of this title or any term or condition of assistance under this title.

"(b) The Secretary shall prescribe regulations to assure that programs under this title have adequate internal administrative controls, accounting requirements, personnel standards, evaluation procedures, and other policies as may be necessary to promote the effective use of funds.

"(c) The Secretary shall not provide financial assistance for any program, service, or activity under this title unless he determines that persons employed thereunder, other than persons who serve without compensation, shall be paid wages which shall not be lower than whichever is the highest of (A) the minimum wage which would be applicable to the employee under the Fair Labor Standards Act of 1938 (29 U.S.C. 206), if section 6(a)(1) of such Act applied to the participant and if he were not exempt under section 13 thereof, (B) the State or local minimum wage for the most nearly comparable covered employment, or (C) the prevailing rates of pay for persons employed in similar occupations by the same employer.

"(d) The Secretary shall not provide financial assistance for any program under this title which involves political activities; and neither the program, the funds provided therefor, nor personnel employed in the administration thereof, shall be engaged, in any way or to any extent, in the conduct of political activities in contravention of section 603 of this Act.

"(e) The Secretary shall not provide financial assistance for any program under this title unless he determines that no funds will be used for and no person will be employed under the program on the construction, operation, or maintenance of so much of any facility as is for use for sectarian instruction or as a place for religious worship.

"(f) A child participating in a program assisted under this title shall not be required to undergo medical or psychological examination (except to the extent related to learning ability), immunization (except to the extent necessary to protect the public from epidemics of contagious diseases), or treatment, if his parent or guardian objects thereto in writing on religious grounds.

"WITHHOLDING OF GRANTS

"Sec. 575. Whenever the Secretary, after reasonable notice and opportunity for a hearing for any prime sponsor or project applicant, finds—

"(1) that there has been a failure to comply substantially with any requirement set forth in the plan of any such prime sponsor approved under section 515; or

"(2) that there has been a failure to comply substantially with any requirement set forth in the application of any such project applicant approved pursuant to section 516; or

"(3) that in the operation of any program or project carried out by any such prime sponsor or project applicant under this title there is a failure to comply substantially with any applicable provision of this title or regulation promulgated thereunder;

the Secretary shall notify such prime sponsor or project applicant of his findings and that no further payments may be made to such sponsor or applicant under this title (or in his discretion that any such prime sponsor shall not make further payments under this title to specified project applicants affected by the failure) until he is satisfied that there is no longer any such failure to comply, or the noncompliance will be promptly corrected. The Secretary may authorize the continuation of payments with respect to any project assisted under this title which is being carried out pursuant to such plan or application and which is not involved in the noncompliance.

"ADVANCE FUNDING

"Sec. 576. (a) For the purpose of affording adequate notice of funding available under this title such funding for grants, contracts, or other payments under this title is authorized to be included in the Appropriations Act for the fiscal year preceding the fiscal year for which they are available for obligation.

"(b) In order to effect a transition to the advance funding method of timing appropriation action, subsection (a) shall apply notwithstanding that its initial application will result in the enactment in the same year (whether in the same Appropriation Act or otherwise) of two separate appropriations, one for the then current fiscal year and one for the succeeding fiscal year.

"PUBLIC INFORMATION

"Sec. 577. Applications for designation as prime sponsors, comprehensive child development plans, project applications, and all written material pertaining thereto shall be made readily available without charge to the public by the prime sponsor, the applicant, and the Secretary.

"FEDERAL CONTROL NOT AUTHORIZED

"Sec. 578. No department, agency, officer, or employee of the United States shall, under authority of this title, exercise any direction, supervision, or control over, or impose any requirements or conditions with respect to, the personnel, curriculum, methods of instruction, or administration of any educational institution.

"NONDISCRIMINATION PROVISIONS

"Sec. 579. (a) The Secretary shall not provide financial assistance for any program under this title unless the grant, contract, or agreement with respect to such program specifically provides that no person with responsibilities in the operation of such program will discriminate with respect to any program because of race, creed, color, national origin, sex, political affiliation, or beliefs.

"(b) No person in the United States shall on the ground of sex be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in connection with, any program or activity receiving assistance under this title. The Secretary shall enforce the provisions of the preceding sentence in accordance with section 602 of the Civil Rights Act of 1964. Section 603 of such Act shall apply with respect to any action taken by the Secretary to enforce such sentence. This section shall not be construed as affecting any other legal remedy that a person may have if on the ground of sex that person is excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with, any program or activity receiving assistance under this title.

"LIMITATION OF RESEARCH AND EXPERIMENTATION

"Sec. 580. The Secretary is directed to establish appropriate procedures to insure that no child shall be the subject of any research or experimentation under this title other than routine testing and normal program evaluation unless the parent or guardian of such child is informed of such research or experimentation and is given an opportunity as of right to except such child therefrom.

"PARENTAL RESPONSIBILITY

"Sec. 581. (a) Nothing in this title shall be construed or applied in such a manner as to infringe upon or usurp the moral and legal rights and responsibilities of parents or guardians with respect to the moral, mental, emotional, or physical development of their children. Nor shall any section of this title be construed or applied in such a manner as to permit any invasion of privacy otherwise protected by law, or to abridge any legal remedies for any such invasion which are otherwise provided by law."

(b) In order to achieve, to the greatest degree feasible, the consolidation and coordination of programs providing child development services, while assuring continuity of existing programs during transition to the programs authorized under this title, the Economic Opportunity Act of 1964 is amended, effective July 1, 1973, as follows:

(1) Section 222(a)(1) of such Act is repealed.

(2) Section 162(b) of such Act is amended by striking out "day care for children" and inserting in lieu thereof "assistance in securing child development services for children but not operation of child development programs for children".

(3) Section 123(a)(6) of such Act is amended by striking out "day care for children" and inserting in lieu thereof "assistance in securing child development services for children", and adding after the word "employment" the phrase "but not including the direct operation of child development programs for children".

(4) Section 312(b)(1) of such Act is amended by striking out "day care for children,".

(c) The Secretary of Health, Education, and Welfare shall promulgate regulations to assure that other federally funded child development and related programs, including title I of the Elementary and Secondary Education Act of 1965 and section 222(a)(2) of the Economic Opportunity Act of 1964, will coordinate with the programs designed under this title. The Secretary shall insure that joint technical assistance efforts will result in the development of coordinated efforts between the Office of Education and the Office of Child Development.

(d)(1) Section 203(j)(1) of the Federal Property and Administrative Services Act of 1949 is amended by striking out "or civil defense" and inserting in lieu thereof "civil defense, or the operation of child development facilities".

(2) Section 203(j)(3) of such Act is amended—

(A) by striking out, in the first sentence, "or public health" and inserting in lieu thereof "public health, or the operation of child development facilities",

(B) by inserting after "handicapped," in clause (A) and clause (B) of the first sentence the following: "child development facilities,", and

(C) by inserting after "public health purposes" in the second sentence the following: ", or for the operation of child development facilities,".

(3) Section 203(j) of such Act is amended by adding at the end thereof the following new paragraph:

"(8) The term 'child development facility' means any such facility as defined in 541(b)(1) of the Economic Opportunity Act of 1964."

(e) Section 205(b)(3) of the National Defense Education Act of 1958 is amended (1) by adding after the word "nonprofit" the phrase "child development program or" and (2) by striking out "and (C)" and inserting in lieu thereof "(C) such rate shall be 15 per centum for each complete academic year or its equivalent (as so determined by regulations) of service as a full-time teacher in public or private nonprofit child development programs or in any such programs assisted under title V of the Economic Opportunity Amendments of 1971, and (D)".

PLAN REPORTING DATE

Sec. 14. Section 632(3) of the Economic Opportunity Act of 1964 is amended by inserting at the end thereof the following: "Such plan shall be presented to the Congress no later than March 1, 1972, and the documents updating such plan shall be presented to the Congress no later than January 31 of each succeeding calendar year."

GUIDELINES

Sec. 15. Part B of title VI of the Economic Opportunity Act of 1964 is amended by adding at the end thereof the following new section:

"GUIDELINES

"Sec. 639. All rules, regulations, guidelines, instructions, and application forms published or promulgated pursuant to this Act shall be published in the Federal Register at least thirty days prior to their effective date."

COMMUNITY ECONOMIC DEVELOPMENT

Sec. 16. (a) The Economic Opportunity Act is amended by inserting immediately after title VI the following new title:

"TITLE VII—COMMUNITY ECONOMIC DEVELOPMENT

"STATEMENT OF PURPOSE

"Sec. 701. The purpose of this title is to encourage the development of special programs by which the residents of urban and rural low-income areas may, through self-help and mobilization of the community at-large, with appropriate Federal assistance, improve the quality of their economic and social participation in community life in such a way as to contribute to the elimination of poverty and the establishment of permanent economic and social benefits.

"Part A—Special Impact Programs

"STATEMENT OF PURPOSE

"Sec. 711. The purpose of this part is to establish special programs of assistance to private locally initiated community development corporations and related nonprofit agencies or organizations conducting activities which (1) are directed to the solution of the critical problems existing in particular communities or neighborhoods (defined without regard to political or other subdivisions or boundaries) within those urban and rural areas having concentrations or substantial numbers of low-income persons; (2) are of sufficient size, scope, and duration to have an appreciable impact in such communities, neighborhoods, and rural areas in arresting tendencies toward dependency, chronic unemployment, and community deterioration; and (3) hold forth the pospect of continuing to have such impact after the termination of financial assistance under this title.

"ESTABLISHMENT OF PROGRAMS

"Sec. 712. (a) The Director is authorized to provide financial assistance to community development corporations and to nonprofit agencies in conjunction with qualifying community development corporations for the payment of all or part of the costs of programs which are designed to carry out the purposes of this part. Such programs shall be restricted in number so that each is of sufficient size, scope, and duration to have an appreciable impact on the area served. Such programs may include—

"(1) economic and business development programs, including programs which provide financial and other assistance (including equity capital) to start, expand, or locate businesses in or near the areas served so as to provide employment and ownership opportunities for residents of such areas, and programs including those described in title IV of this Act for small businesses in or owned by residents of such areas;

"(2) community development and housing activities which create new training, employment, and ownership opportunities and which contribute to an improved living environment; and

"(3) manpower training programs for unemployed or low-income persons which support and complement economic, business, housing, and community development programs, including without limitation activities such as those described in part B of title I of this Act.

"(b) The Secretary shall conduct programs assisted under this part so as to contribute, on an equitable basis between urban and rural areas, to the elimination of poverty and the establishment of permanent economic and social benefits in such areas.

"REQUIREMENTS FOR FINANCIAL ASSISTANCE

"Sec. 713. (a) The Director, under such regulations as he may establish, shall not provide financial assistance for any program or component project under this part unless he determines that—

"(1) such community development corporation is responsive to residents of the area under guidelines established by the Director;

"(2) all projects and related facilities will, to the maximum feasible extent, be located in the area served;

"(3) projects will, where feasible, promote the development of entrepreneurial and management skills and the ownership or participation in ownership of assisted businesses and housing by residents of the area served;

"(4) projects will be planned and carried out with the maximum participation of local businessmen and financial institutions and organizations by their inclusion on program boards of directors, advisory councils, or through other appropriate means;

"(5) the program will be appropriately coordinated with local planning under this Act, the Demonstration Cities and Metropolitan Development Act of 1966, and with other relevant planning for physical and human resources of the areas served;

"(6) the requirements of subsections 122(e) and 124(a) of this Act have been met;

"(7) preference will be given to low income or economically disadvantaged residents of the areas served in filling jobs and training opportunities; and

"(8) training programs carried out in connection with projects financed under this part shall be designed wherever feasible to provide those persons who successfully complete such training with skills which are also in demand in communities, neighborhoods, or rural areas, other than those for which programs are established under this part.

"(b) Financial assistance under this section shall not be extended to assist in the relocation of establishments from one location to another if such relocation would result in an increase in unemployment in the area of original location.

"(c) The level of financial assistance for related purposes under this Act to the area served by a special impact program shall not be diminished in order to substitute funds authorized by this part.

"APPLICATION OF OTHER FEDERAL RESOURCES

"Sec. 714. (a) Small Business Administration Programs.—

"(1) Funds granted under this part which are invested, directly or indirectly, in a small business investment company or a local development company shall be included as 'private paid-in capital and paid-in surplus,' 'combined paid-in capital and paid-in surplus,' and 'paid-in capital' for purposes of sections 302, 303, and 502, respectively, of the Small Business Investment Act of 1958.

"(2) Within ninety days of the enactment of the Economic Opportunity Amendments of 1971, the Administrator of the Small Business Administration, after consultation with the Director, shall prescribe such regulations as may be necessary and appropriate to insure the availability to community development corporations of such programs as shall further the purposes of this part.

"(b) Economic Development Administration Programs.—

"(1) Areas selected for assistance under this part shall be deemed 'redevelopment areas' within the meaning of section 401 of the Public Works and Economic Development Act of 1965, and shall qualify for assistance under the provisions of title I and title II of that Act and shall be deemed to fulfill the overall economic development planning requirements of section 202(b)(10) thereof.

"(2) Within ninety days of the enactment of the Economic Opportunity Amendments of 1971, the Secretary of Commerce, after consultation with the Director, shall prescribe such regulations as may be necessary and appropriate to insure the availability to community development corporations of such programs as shall further the purposes of this part.

"(c) PROGRAMS OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.—The Secretary of Housing and Urban Development, after consultation with the Director, shall take all necessary steps (1) to assure that community development corporations assisted under this part, or their subsidiaries, shall qualify as sponsors under section 106 of the Housing and Urban Development Act of 1968, and sections 221, 235, and 236 of the National Housing Act of 1949; (2) to assure that land for housing and business location and expansion is made available under title I of the Housing Act of 1949 as may be necessary to carry out the purposes of this part; and (3) to assure that funds are available under section 701(b) of the Housing Act of 1954 to community development corporations assisted under this part.

"(d) COORDINATION AND COOPERATION.—The Director shall take such steps as may be necessary and appropriate, in coordination and cooperation with the heads of other Federal departments and agencies, so that contracts, subcontracts, and deposits made by the Federal Government or in connection with programs aided with Federal funds are placed in such a way as to further the purposes of this part.

"(e) REPORTING ON OTHER FEDERAL RESOURCES.—On or before six months after the date of enactment of the Economic Opportunity Amendments of 1971, and annually thereafter, the Director shall submit to the Congress a detailed report setting forth a description of all Federal agency programs which he finds relevant to achieving the purposes of this part and the extent to which such programs have been made available to community development corporations receiving financial assistance under this part including specifically the availability and effectiveness of programs referred to in subsections (a), (b), and (c) of this section. Where appropriate, the report required under this subsection also shall contain recommendations for the more effective utilization of Federal agency programs for carrying out the purposes of this part.

"FEDERAL SHARE

"SEC. 715. Federal grants to any program carried out pursuant to this part, including grants used by community development corporations for capital investments, shall (1) not exceed 90 per centum of the cost of such program including costs of administration unless the Director determines that assistance in excess of such percentage is required in furtherance of the purposes of this part, and (2) be made available for deposit to the grantee, under conditions which the Director deems appropriate, within thirty days following approval by the Director and the local community development corporation of the grant agreement. Non-Federal contributions may be in cash or in kind, fairly evaluated, including but not limited to plant, equipment, and services. Capital investments made with funds granted as a result of the Federal share of the costs of programs carried out under this part, and the proceeds from such capital investments, shall not be considered Federal property.

"PART B—RURAL PROGRAMS

"STATEMENT OF PURPOSE

"SEC. 721. It is the purpose of this part to meet the special economic needs of rural communities or areas with concentrations or substantial numbers of low-income persons by providing support to self-help programs which promote economic development and independence. Such programs should encourage low-income families to pool their talents and resources so as to create and expand rural economic enterprise.

"FINANCIAL ASSISTANCE

"SEC. 722. (a) The Director is authorized to provide financial assistance, including loans having a maximum maturity of 15 years and in amounts not resulting in an aggregate principal indebtedness of more than $3,500 at any one time, to any low-income rural family where, in the judgment of the Director, such financial assistance has a reasonable possibility of effecting a permanent increase in the income of such families, or, in the case of the elderly, will contribute to the improvement of their living or housing conditions, by assisting or permitting them to—

"(1) acquire or improve real estate or reduce encumbrances or erect improvements thereon;

"(2) operate or improve the operation of farms not larger than family sized, including but not limited to the purchase of feed, seed, fertilizer, livestock, poultry, and equipment; or

"(3) participate in cooperative associations, or to finance nonagricultural enterprises which will enable such families to supplement their income.

"(b) The Director is authorized to provide financial assistance to local cooperative associations in rural areas containing concentrations or substantial numbers of low-income persons for the purpose of defraying all or part of the costs of establishing and operating cooperative farming, purchasing, marketing, and processing programs. Costs which may be defrayed shall include but not be limited to—

"(1) administrative costs of staff and overhead;

"(2) costs of planning and developing new enterprises;

"(3) costs of acquiring technical assistance; and

"(4) initial capital where it is determined by the Director that the poverty of the families participating in the program and the social conditions of the rural area require such assistance.

"LIMITATIONS ON ASSISTANCE

"SEC. 723. (a) No financial assistance shall be provided under this part unless the Director determines that—

"(1) any cooperative association receiving assistance has a minimum of fifteen active members, a majority of which are low-income rural persons;

"(2) adequate technical assistance is made available and committed to the programs being supported;

"(3) such financial assistance will materially further the purposes of this part; and

"(4) the applicant is fulfilling or will fulfill a need for services, supplies, or facilities which is otherwise not being met.

"(b) The level of financial assistance for related purposes under this Act to the area served by a program under this part shall not be diminished in order to substitute funds authorized by this part.

"PART C—SUPPORT PROGRAMS

"TRAINING AND TECHNICAL ASSISTANCE

"SEC. 731. (a) The Director shall provide directly or through grants, contracts, or other arrangements such technical assistance and training of personnel as may be required to effectively implement the purposes of this title. No financial assistance shall be provided to any public or private organization under this section unless the Director provides the beneficiaries of these services with opportunity to participate in the selection of and to review the quality and utility of the services furnished them by such organization.

"(b) Technical assistance to community development corporations and rural cooperatives may include planning, management, legal, preparation of feasibility studies, product development, marketing, and the provision of stipends to encourage skilled professionals to engage in full-time activities under the direction of a community organization financially assisted under this title.

"(c) Training for employees of community development corporations and for employees and members of rural cooperatives shall include, but not be limited to, on-the-job training, classroom instruction, and scholarships to assist them in development, managerial, entrepreneurial, planning, and other technical and organizational skills which will contribute to the effectiveness of programs assisted under this title.

"DEVELOPMENT LOAN FUND

"SEC. 732. (a) The Director is authorized to make or guarantee loans (either directly or in cooperation with banks or other organizations through agreements to participate on an immediate or deferred basis) to community development corporations eligible for financial assistance under section 712 of this title, to families under section 722(a), and to local cooperatives in rural areas eligible for financial assistance under section 722 (b) for business, housing, and community development projects which the Director determines will carry out the purposes of this title. No loans, guarantees, or other financial assistance shall be provided under this section unless the Director determines that—

"(1) there is reasonable assurance of repayment of the loan;

"(2) a loan is not otherwise available on reasonable terms from private sources or other Federal, State, or local programs; and

"(3) the amount of the loan, together with other funds available, is adequate to assure completion of the project or achievement of the purposes for which the loan is made.

Loans made by the Director pursuant to this section shall bear interest at a rate not less than a rate determined by the Secretary of the Treasury taking into consideration the average market yield on outstanding Treasury obligations of comparable maturity, plus such additional charge, if any, toward covering other costs of the program as the Director may determine to be consistent with its purposes, except that, for the five years following the date on which funds are initially available to the borrower, the rate of interest shall be set at a rate considered appropriate by the Director in light of the particular needs of the borrower, which rate shall not be lower than 1 per centum. All such loans shall be repayable within a period of not more than thirty years.

"(b) The Director is authorized to adjust interest rates, grant moratoriums on repayment of principal and interest, collect or compromise any obligations held by him, and to take such other actions in respect to such loans as he shall determine to be necessary or appropriate, consistent with the purposes of this section.

"(c)(1) To carry out the lending and guaranty functions authorized under this part, there shall be established a Development Loan Fund consisting of two separate accounts, one of which shall be a revolving fund called the Rural Development Loan Fund and the other of which shall be a revolving fund called the Community Development Loan Fund. The capital of each such revolving fund shall remain available until expended.

"(2) The Rural Development Loan Fund shall consist of (A) repayments of principal and interest and other receipts from the lending and guaranty operations of such revolving fund and the revolving fund previously established under section 306 of this Act, the assets and liabilities of which shall be transferred to the Rural Development Loan Fund, effective July 1, 1972, and (B) such amounts as may be deposited in such Fund by the Director out of funds made available from appropriations for the purposes of carrying out this title.

"(3) The Community Development Loan Fund shall consist of (A) repayments of principal and interest and other receipts from the lending and guaranty operations of such revolving fund, and (B) such amounts as may be deposited in such fund by the Director out of funds made available from appropriations for the purpose of carrying out this title. The Secretary may make deposits in the Community Development Loan Fund in any fiscal year in which he has made available for grants to community development corporations not less than $60,000,000 out of funds made available from appropriations for the purpose of carrying out this title.

"EVALUATION AND RESEARCH

"SEC. 733. (a) Each program for which grants are made under this title shall provide for a thorough evaluation of the effectiveness of the program in achieving its purposes, which evaluation shall be conducted by such public or private organizations as the Director may designate, and all or part of the costs of evaluation may be paid from funds appropriated to carry out this part. The results of such evaluations, together with the Director's findings and recommendations concerning the program, shall be included in the report required by section 608 of this Act.

"(b) The Director shall conduct, either directly or through grants or other arrangements, research designed to suggest new programs and policies to achieve the purposes of this title in such ways as to provide opportunities for employment, ownership, and a better quality of life for low-income residents. The Director shall particularly investigate the feasibility and most appropriate manner of establishing development banks and similar institutions and shall report to the Congress on his research findings and recommendations not later than June 30, 1973.

"PART D—GENERAL

"PROGRAM DURATION AND AUTHORITY

"SEC. 741. The Director shall carry out programs provided for in this title during the fiscal year ending June 30, 1972, and for the two succeeding fiscal years. For each fiscal year only such sums may be appropriated as the Congress may authorize by law."

(b) Part D of title I of the Economic Opportunity Act of 1964 is repealed.

(c) Effective after June 30, 1972, part A of title III of the Economic Opportunity Act of 1964 is repealed.

LEGAL SERVICES PROGRAM AND EVALUATION OF PROGRAMS

SEC. 17. (a) The Economic Opportunity Act of 1964 is amended by adding at the end thereof the following new titles:

"TITLE IX—NATIONAL LEGAL SERVICES CORPORATION

"DECLARATION OF POLICY

"SEC. 901. The Congress hereby finds and declares that—

"(1) it is in the public interest to provide greater access to attorneys and appropriate institutions for the orderly resolution of grievances and as a means of securing orderly change, responsiveness, and reform;

"(2) many low-income persons are unable to afford the cost of legal services or of access to appropriate institutions;

"(3) access to legal services and appropriate institutions for all citizens of the United States not only is a matter of private and local concern, but also is of appropriate and important concern to the Federal Government;

"(4) the integrity of the attorney-client relationship and of the adversary system of justice in the United States require that there be no political interference with the provision and performance of legal services;

"(5) existing legal services programs have provided economical, effective, and comprehensive legal services to the client community so as to bring about a peaceful resolution of grievances through resort to orderly means of change; and

"(6) a private nonprofit corporation should be created to encourage the availability of legal services and legal institutions to all citizens of the United States, free from extraneous interference and control.

"ESTABLISHMENT OF CORPORATION

"SEC. 902. (a) There is established a nonprofit corporation, to be known as the 'National Legal Services Corporation' (hereinafter referred to as the 'Corporation') which shall not be an agency or establishment of the United States Government. The Corporation shall be subject to the provisions of this title, and, to the extent consistent with this title, to the District of Columbia Nonprofit Corporation Act. The right to repeal, alter, or amend this title is expressly reserved.

"(b) No part of the net earnings of the Corporation shall inure to the benefit of any private person, and it shall be treated as an organization described in section 170(c)(2)(B) of the Internal Revenue Code of 1954 and as an organization described in section 501(c)(3) of the Internal Revenue Code of 1954 which is exempt from taxation under section 501(a) of such Code.

"PROCESS OF INCORPORATION AND ORGANIZATION

"SEC. 903. (a) There shall be a transition period of six months following the date of enactment of the Economic Opportunity Amendments of 1971 for the process of incorporation and initial organization of the Corporation.

"(b) There is established an incorporating trusteeship composed of the following persons or their designees: the president of the American Bar Association, the president of the National Legal Aid and Defender Association, the president of the Association of American Law Schools, the president of the American Trial Lawyers Association, and the president of the National Bar Association. The incorporating trusteeship shall meet within 30 days after the enactment of the Economic Opportunity Amendments of 1971 to carry out the provisions of this section.

"(c)(1) Not later than sixty days after the enactment of the Economic Opportunity Amendments of 1971, the incorporating trusteeship, after consulting with and receiving the recommendations of national organizations of persons eligible for assistance under this title, shall establish the initial Clients Advisory Council to be composed of eleven members selected, in accordance with procedures established by the incorporating trusteeship, from among individuals eligible for assistance under this title.

"(2) Not later than sixty days after the enactment of the Economic Opportunity Amendments of 1971, the incorporating trusteeship, after consulting with and receiving the recommendations of associations of attorneys actively engaged in conducting legal services programs, shall establish the initial Project Attorneys Advisory Council to be composed of eleven members selected, in accordance with procedures established by the incorporating trusteeship, from among attorneys who are actively engaged in providing legal services under any existing legal services program.

"(3) To assist in carrying out the provisions of this subsection, the Director of the Office of Economic Opportunity shall compile a list of all legal services programs publicly funded during the fiscal year ending June 30, 1971, and the subsequent fiscal year and furnish such list to the incorporating trusteeship. In order to carry out the provisions of this subsection, the Director of the Office of Economic Opportunity shall make available to the incorporating trusteeship such administrative services and financial and other resources as it may require.

"(d) Not later than ninety days after the enactment of the Economic Opportunity Amendments of 1971, all lists required to be submitted as provided in section 904(a) for persons to serve on the initial board of directors shall be submitted to the President.

"(e) During the ninety-day period of incorporation of the Corporation the incorporating trusteeship shall take whatever actions are necessary to incorporate the Corportation, including the filing of articles of incorporation under the District of Columbia Nonprofit Corporation Act, and to prepare for the first meeting of the board of directors, except the selection of the executive director of the Corporation.

"(f) During the ninety-day period immediately following the period specified in subsection (e) of this section the board shall take whatever action is necessary to prepare to begin to carry out the activities of the Corporation six months after the enactment of the Economic Opportunity Amendments of 1971.

"DIRECTORS AND OFFICERS

"SEC. 904. (a) The Corporation shall have a board of directors consisting of seventeen individuals appointed by the President, by and with the consent of the Senate, one of whom shall be elected annually by the board to serve as chairman. Members of the board shall be appointed as follows:

"(1) Six members shall be appointed from among individuals in the general public, not less than three of whom shall be members of the bar of the highest court of a State.

"(2) Two members shall be appointed from lists of nominees submitted by the Judicial Conference of the United States.

"(3) Two members shall be appointed from among individuals who are eligible for assistance under this title from lists of nominees submitted by the Clients Advisory Council.

"(4) Two members shall be appointed from among former legal services project attorneys from lists of nominees submitted by the Project Attorneys Advisory Council.

"(5) Five members shall be appointed as follows—

"(A) one member from lists of nominees submitted by the American Bar Association;

"(B) one member from lists of nominees submitted by the Association of American Law Schools;

"(C) one member from lists of nominees submitted by the National Bar Association;

"(D) one member from lists of nominees submitted by the National Legal Aid and Defender Association; and

"(E) one member from lists of nominees submitted by the American Trial Lawyers Association.

Each initial list and any subsequent list shall include at least three and not more than ten names for each position to be filled.

"(b) The directors appointed under subsection (a) shall be appointed for terms of three years except that—

"(1) the terms of the directors first taking office shall be effective on the ninety-first day after the enactment of the Economic Opportunity Amendments of 1971;

"(2) the terms of the directors first taking office shall expire, as designated by the President at the time of appointment, as follows—

"(A) in the case of directors appointed under paragraph (1) of section 904(a), two at the end of three years, two at the end of two years, and two at the end of one year;

"(B) in the case of directors appointed under paragraph (2) of section 904(a), one at the end of two years, and one at the end of one year;

"(C) in the case of directors appointed under paragraph (3) of section 904(a), one at the end of three years and one at the end of one year;

"(D) in the case of directors appointed under paragraph (4) of section 904(a), one at the end of three years and one at the end of two years; and

"(E) in the case of directors appointed under paragraph (5) of section 904(a), (i) the term of the director appointed under clause (A) shall expire at the end of three years, (ii) the term of the director appointed under clause (B) shall expire at the end of three years, (iii) the term of the director appointed under clause (C) shall expire at the end of two years, (iv) the term of the director appointed under clause (D) shall expire at the end of one year, and (v) the term of the director appointed under clause (E) shall expire at the end of one year; and

"(3) any director appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

"(c) The Corporation shall have an executive director, who shall be an attorney, and such other officers, as may be named and appointed by the board of directors at rates of compensation fixed by the board, who shall serve at the pleasure of the board. No individual shall serve as executive director of the Corporation for a period in excess of six years. The executive director shall serve as a member of the board ex officio and shall serve without a vote.

"(d) No political test or qualification shall be used in selecting, appointing, or promoting any officer, attorney, or employee of the Corporation. No officers or employees of the Corporation shall receive any salary from any source other than the Corporation during the period of employment by the Corporation.

(e) All meetings of the board, executive committee of the board, and advisory councils shall, whenever appropriate, be open to the public, and proper notice of such meetings shall be provided to interested parties and the public a reasonable time prior to such meetings.

"(f) No member of the board may participate in any decision, action, or recommendation with respect to any matter which directly benefits that member or any firm or organization with which that member is then currently associated.

"(g) Any board after the initial board shall, in consultation with the respective advisory councils, provide for rules with respect to the subsequent meetings of the Clients Advisory Council and the Project Attorneys Advisory Council.

"ADVISORY COUNCILS; EXECUTIVE COMMITTEE

"SEC. 905. (a) The board, after consulting with and receiving the recommendations of national organizations of persons eligible for assistance under this title, shall provide for the selection of a Clients Advisory Council subsequent to the first such council established under section 903(c)(1) of this title to be composed of not more than eleven members selected in accordance with procedures established by the board, including terms of office, qualifications, and method of selection and appointment, from among individuals who are eligible for assistance under this title. Such procedures must insure that all areas of the country and significant segments of the client population are represented, and in no event may more than one representative on such council be from any one State. The Clients Advisory Council shall advise the board of directors and the executive director on policy matters relating to the needs of the client community and may act as liaison between the client community and legal services programs through such activities as it deems appropriate, including informational programs in languages other than English. The Clients Advisory Council shall submit the lists of individuals for appointment as members of the board in accordance with section 904(a).

"(b) The board, after consulting with and receiving the recommendations of associations of attorneys actively engaged in conducting legal services programs, shall provide for the selection of a Project Attorneys Advisory Council subsequent to the first such council established under section 903(c)(2) of this title to be composed of not more than eleven members selected in accordance with procedures established by the board, including terms of office, qualifications, and method of selection and appointment, from among attorneys who are actively engaged in providing legal services under this title. Such procedures must ensure that all areas of the country are represented, and in no event may more than one representative on such council be from any one State. The Project Attorneys Advisory Council shall advise the board of directors and the executive director on policy matters relating to the furnishing of legal services to members of the client community. The Project Attorneys Advisory Council shall submit the lists of individuals for appointment as members of the board in accordance with section 904(a).

"(c) The board shall provide for sufficient resources for each Advisory Council in order to pay such reasonable travel costs and expenses as the board may determine.

"(d) The board may establish an executive committee of not less than five members nor more than seven members which shall include the chairman of the board, at least one director appointed pursuant to paragraph (1) of section 904(a), one director appointed pursuant to paragraph (3) or (4) of section 904(a), and one director appointed pursuant to paragraph (5) section 904.

"ACTIVITIES AND POWERS OF THE CORPORATION

"SEC. 906. (a) Effective six months after the enactment of the Economic Opportunity Amendments of 1971, in order to carry out the purposes of this title, the Corporation is authorized to—

"(1) provide financial assistance to qualified programs furnishing legal services to members of the client community;

"(2) provide financial assistance to pay the costs of contracts or other agreements made pursuant to section 903 of this title;

"(3) carry out research, training, technical assistance, experimental, legal paraprofessional and clinical assistance programs;

"(4) through financial assistance and other means, increase opportunities for legal education among individuals who are members of a minority group or who are economically disadvantaged;

"(5) provide for the collection and dissemination of information designed to coordinate and evaluate the effectiveness of the activities and programs for legal services in various parts of the country;

"(6) offer advice and assistance to all programs providing legal services and legal assistance to the client community conducted or assisted by the Federal Government including—

"(A) reviewing all grants and contracts for the provision of legal services to the client community made under other provisions of Federal law by any agency of the Federal Government and making recommendations to the appropriate Federal agency;

"(B) reviewing and making recommendations to the President and Congress concerning any proposal, whether by legislation or executive action, to establish a federally assisted program for the provision of legal services to the client community; and

"(C) upon request of the President, providing training, technical assistance, monitoring, and evaluation services to any federally assisted legal services program;

"(7) establish such procedures and take such other measures as may be necessary to assure that attorneys employed by the Corporation and attorneys paid in whole or in part from funds provided by the Corporation carry out the same duties to their clients and enjoy the same protection from interference as if such an attorney was hired directly by the client, and to assure that such attorneys adhere to the same Code of Professional Responsibility and Canons of Ethics of the American Bar Association as are applicable to other attorneys;

"(8) establish standards of eligibility for the provision of legal services to be rendered by any grantee or contractee of the Corporation with special provision for priority for members of the client community whose means are at least adequate to obtain private legal services;

"(9) establish policies consistent with the best standards of the legal profession to assure the integrity, effectiveness, and professional quality of the attorneys providing legal services under this title; and

"(10) carry on such other activities as would further the purposes of this title.

"(b) In the performance of the functions set forth in subsection (a), the Corporation is authorized to—

"(1) make grants, enter into contracts, leases, cooperative agreements, or other transactions, in accordance with bylaws established by the board of directors appropriate to conduct the activities of the Corporation;

"(2) accept unconditional gifts or donations of services, money, or property, real, personal, or mixed, tangible or intangible, and use, sell, or otherwise dispose of such property for the purpose of carrying out its activities;

"(3) appoint such attorneys and other professional and clerical personnel as may be required and fix their compensation in accordance with the provision of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule rates;

"(4) promulgate regulations containing criteria specifying the manner of approval of applications for grants based upon the following considerations—

"(A) the most economical, effective, and comprehensive delivery of legal services to the client community in both urban and rural areas;

"(B) peaceful resolution of grievances and resort to orderly means of seeking change; and

"(C) maximum utilization of the expertise and facilities of organizations presently specializing in the delivery of legal services to the client community;

"(5) establish and maintain a law library;

"(6) establish procedures for the conduct of legal services programs assisted by the Corporation containing a requirement that the applicant will give assurances that the program will be supervised by a policymaking board on which the members of the legal profession constitute a majority (except that the Corporation may grant waivers of this requirement in the case of a legal services program which, upon the date of enactment of the Economic Opportunity Amendments of 1971, has a majority of persons who are not lawyers on its policymaking board) and members of the client community constitute at least one-third of the members of such board.

"(c) In any case in which services, otherwise authorized, are performed for the Federal Government by the Corporation, the Corporation shall be reimbursed for the cost of such services pursuant to an agreement between the executive director of the Corporation and the head of the agency of the Federal Government concerned.

"(d) The Corporation shall ensure that attorneys employed full time in programs funded by the Corporation refrain from any outside practice of law unless permitted as pro bono publico activity pursuant to guidelines established by the Corporation.

"(e) The Corporation shall ensure (1) that all attorneys who are not representing a client or group of clients refrain, while engaged in activities carried on by legal services programs funded by the Corporation, from undertaking to influence the passage or defeat of any legislation by the Congress or State or local legislative bodies by representations to such bodies, their members, or committees, unless such bodies, their members, or their committees request that the attorney make representations to them, and (2) that no funds provided by the Corporation shall be utilized for any activity which is planned and carried out to disrupt the orderly conduct of business by the Congress or State or local legislative bodies, for any demonstration, rally, or picketing aimed at the family or home of a member of a legislative body for the purpose of influencing his actions as a member of that body, and for conducting any campaign of advertising carried on through the commercial media for the purpose of influencing the passage or defeat of legislation.

"(f) The Corporation shall ensure that no attorneys or other persons employed by it or employed or engaged in programs funded by the Corporation shall, in any case, solicit the client community or any member of the client community for professional employment; and no funds of the Corporation shall be expended in pursuance of any employment which results from any such solicitation. For the purpose of this subsection, solicitation does not include mere announcement or advertisement, without more, of the fact that the National Legal Services Corporation is in existence and that its services are available to the client community, and does not include any conduct or activity which is permissible under the Code of Professional Responsibility and Canons of Ethics of the American Bar Association governing solicitation and advertising.

"(g) The Corporation shall establish guidelines for consideration of possible appeals to be implemented by each grantee or contractee of the Corporation to ensure the efficient utilization of resources. Such guidelines shall in no way interfere with the attorney's responsibilities and obligations under the Canons of Professional Ethics and the Code of Professional Responsibility.

"(h) At a reasonable time prior to the Corporation's approval of any grant or contract application, the Corporation shall notify the State bar association of the State in which the recipient will offer legal services. Notification shall include a reasonable description of the grant or contract application.

"(i) No funds or personnel made available by the Corporation pursuant to this title shall be used to provide legal services with respect to any criminal proceeding.

"NONPROFIT AND NONPOLITICAL NATURE OF THE CORPORATION

"SEC. 907. (a) The Corporation shall have no power to issue any shares of stock, or to declare or pay any dividends.

"(b) No part of the income or assets of the Corporation shall inure to the benefit of any director, officer, employee, or any other individual except as reasonable compensation for services.

"(c) The Corporation may not contribute to or otherwise support any political party or candidate for elective public office.

"(d) The Corporation shall insure that all employees of legal services programs assisted by the Corporation, while engaged in activities carried on by legal services programs, refrain (1) from any partisan or nonpartisan political activity associated with a candidate for public or party office, and (2) from any voter registration activity other than legal representation or any activity to provide voters or prospective voters with transportation to the polls. Employees of the Corporation or of programs assisted by the Corporation shall not at any time identify the Corporation or the program assisted by the Corporation with any partisan or nonpartisan political activity associated with a candidate for public or party office. The Board of the Directors of the Corporation shall set appropriate guidelines for the private political activities of full time employees of the Corporation or of programs assisted by the Corporation.

"ACCESS TO RECORDS AND DOCUMENTS RELATED TO THE CORPORATION

"SEC. 908. (a) Copies of all records and documents pertinent to each grant and contract made by the Corporation shall be maintained in the principal office of the Corporation in a place readily accessible and open to public inspection during ordinary working hours for a period of at least five years subsequent to the making of such grant or contract.

"(b) Copies of all reports pertinent to the evaluation, inspection, or monitoring of grantees and contractees shall be maintained for a period of at least three years in the principal office of the Corporation subsequent to such evaluation, inspection, or monitoring visit. Upon request, the substance of such reports shall be furnished to the grantee or contractee who is the subject of the evaluation, inspection, or monitoring visit.

"(c) The Corporation shall afford notice and reasonable opportunity for comment to interested parties prior to issuing regulations and guidelines, and it shall publish in the Federal Register on a timely basis all its bylaws, regulations, and guidelines.

"(d) The Corporation shall be subject to the provisions of the Freedom of Information Act.

"FINANCING OF THE CORPORATION

"SEC. 909. In addition to any funds reserved and made available for payment to the Corporation from appropriations for carrying out the Economic Opportunity Act of 1964 for any fiscal year, there are further authorized to be appropriated for payment to the Corporation such sums as may be necessary for any fiscal year. Funds made available to the Corporation from appropriations for any fiscal year shall remain available until expended.

"RECORDS AND AUDIT OF THE CORPORATION AND THE RECIPIENTS OF ASSISTANCE

"SEC. 910. (a) The accounts of the Corporation shall be audited annually in accordance with generally accepted auditing standards by any independent licensed public accountant certified or licensed by a regulatory authority of a State or political subdivision. Each such audit shall be conducted at the place or places where the accounts of the Corporation are normally kept. All books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Corporation and necessary to facilitate the audit shall be made available to the person conducting the audit, consistent with the necessity of maintaining the confidentiality required by the best standards of the legal profession, and full facilities for verifying transactions with the balance, or securities held by depositories, fiscal agents, and custodians shall be afforded to any such person. The report of each such independent audit shall be included in the annual report required under this title. The audit report shall set forth the scope of the audit and include such statements as are necessary to present fairly the assets and liabilities, and surplus or deficit of the Corporation, with an analysis of the changes therein during the year, supplemented in reasonable detail by a statement of the income and expenses of the Corporation during the year, and a statement of the sources and application of funds, together with the opinion of the independent auditor of those statements.

"(b)(1) The accounts and operations of the Corporation for any fiscal year during which Federal funds are available to finance any portion of its operations may be audited annually by the General Accounting Office in accordance with the principles and procedures applicable to commercial corporate transactions and under such rules and regulations as may be prescribed by the Comptroller General of the United States, consistent with the necessity of maintaining the confidentiality required by the best standards of the legal profession. Any such audit shall be conducted at the place or places where accounts of the Corporation are normally kept. The representative of the General Accounting Office shall have access to all books, accounts, records, reports, files, and all other papers, things, or property belonging to or used by the Corporation pertaining to its accounts and operations including the reports pertinent to the evaluation, inspection, or monitoring of grantees and contractors required to be maintained by section 908(b) and necessary to facilitate the audit, and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. All such books, accounts, records, reports, files, papers, and property of the Corporation shall remain in the possession and custody of the Corporation.

"(2) A report of each such audit shall be made by the Comptroller General to the Congress. The report to the Congress shall contain such comments and information as the Comptroller General may deem necessary to inform the Congress of the operations and conditions of the Corporation, together with such recommendations with respect thereto as he may deem advisable. The report shall also show specifically any program, expenditure, or other transaction or undertaking observed in the course of the audit, which in the opinion of the Comptroller General, has been carried on or made without authority of law. A copy of each report shall be furnished to the executive director and to each member of the board at the time submitted to the Congress.

"(c)(1) Each grantee or contractee, other than a recipient of a fixed price contract awarded pursuant to competitive bidding procedures, under this title shall keep such records as may be reasonably necessary to fully disclose the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(2) The Corporation or any of its duly authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this title. The Comptroller General of the United States, or any of his duly authorized representatives shall also have access thereto for such purpose during any fiscal year for which Federal funds are available to the Corporation.

"REPORTS TO CONGRESS

"SEC. 911. The Corporation shall prepare an annual report for transmittal to the President and the Congress on or before the 30th day of January of each year, summarizing the activities of the Corporation and making such recommendations as it may deem appropriate. This report shall include findings and recommendations concerning the preservation of the attorney-client relationships and adherence to the Code of Professional Responsibility of the American Bar Association in the conduct of programs supported by the Corporation. The report shall include a comprehensive and detailed report of the operations, activities, financial condition, and accomplishments of the Corporation, together with the additional views and recommendations, if any, of members of the board.

"DEFINITIONS

"SEC. 912. As used in this title, the term—

"(1) 'State' means the several States and the District of Columbia, Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands;

"(2) 'Corporation' means the National Legal Services Corporation established pursuant to this title;

"(3) 'client community' means individuals unable to obtain private legal counsel because of inadequate financial means;

"(4) 'member of the client community' includes any person unable to obtain private legal counsel because of inadequate financial means;

"(5) 'legal services' includes legal advice, legal representation, legal research, education concerning legal rights and responsibilities, and similar activities (including, in areas where a significant portion of the client community speaks a language other than English as the predominant language, or is bilingual, services to those members of the client community in the appropriate language other than English);

"(6) 'legal profession' refers to that body composed of all persons admitted to practice before the highest court of at least one State of the United States; and

"(7) 'nonprofit', as applied to any foundation, corporation, or association means a foundation, corporation, or association, no part of the net earnings of which inures, or may lawfully inure to the benefit of any private shareholder or individual.

"PROHIBITION ON FEDERAL CONTROL

"SEC. 913. Nothing contained in this title shall be deemed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the Corporation or any of its grantees or contractees or employees, or over the charter or bylaws of the Corporation, or over the attorneys providing legal services pursuant to this title, or over the members of the client community receiving legal services pursuant to this title.

"SPECIAL LIMITATIONS

"SEC. 914. The board shall prescribe procedures to insure that—

"(1) financial assistance shall not be suspended for failure to comply with applicable terms and conditions, except in emergency situations, unless the grantee or contractee has been given reasonable notice and opportunity to show cause why such action should not be taken; and

"(2) financial assistance shall not be terminated, an application for refunding shall not be denied, and an emergency suspension of financial assistance shall not be continued for longer than thirty days, unless the grantee or contractee has been afforded reasonable notice and opportunity for a timely, full, and fair hearing.

"COORDINATION

"SEC. 915. The President may direct that particular support functions of the Federal Government, such as the General Services Administration, the Federal telecommunications system, and other facilities, be utilized by the Corporation or its grantees or contractees to the extent not inconsistent with other applicable law.

"TRANSFER MATTERS

"SEC. 916. (a) Notwithstanding any other provision of law, on and after such date as may be prescribed by the Director of the Office of Management and Budget, or six months after the enactment of the Economic Opportunity Amendments of 1971, whichever is the earlier, all rights of the Office of Economic Opportunity to capital equipment in the possession of legal services programs assisted pursuant to sections 222(a)(3), 230, 232, or any other provision of the Economic Opportunity Act of 1964, shall become the property of the National Legal Services Corporation.

"(b) Effective six months after the date of enactment of the Economic Opportunity Amendments of 1971, all personnel, assets, liabilities, property, and records as determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with any function of the Director under section 222(a)(3) of this Act shall be transferred to the Corporation. Personnel transferred (except personnel under schedule A of the excepted service) under this subsection shall be transferred in accordance with applicable laws and regulations, and shall not be reduced in classification or compensation for one year after such transfer. The Director shall take whatever action is necessary and reasonable to seek suitable employment for personnel who would otherwise be transferred pursuant to this subsection who do not wish to transfer to the Corporation.

"(c) Collective bargaining agreements in effect on the date of enactment of the Economic Opportunity Amendments of 1971 covering employees transferred pursuant to subsection (b) of this section shall continue to be recognized by the Corporation until altered or amended pursuant to law.

"TITLE X—EVALUATION

"COMPREHENSIVE EVALUATION OF PROGRAMS

"SEC. 1001. (a) The Director shall provide for evaluations that describe and measure with appropriate means and to the extent feasible, the impact of programs, their effectiveness in achieving stated goals, their impact on related programs, and their structure and mechanisms for delivery of services and including, where appropriate, comparisons with appropriate control groups composed of persons who have not participated in such programs. He may, for these purposes, contract or make other arrangements for independent evaluations of those programs or individual projects.

"(b) The Director shall to the extent feasible develop and publish standards for evaluation of program effectiveness in achieving the objectives of this Act.

"(c) The Director may require community action agencies to provide independent evaluations.

"(d) Federal agencies administering programs related to this Act shall—

"(1) cooperate with the Director in the discharge of his responsibility to plan and conduct evaluations of such poverty-related programs as he judges appropriate, to the fullest extent permitted by other applicable law; and

"(2) provide the Director with such statistical data, program reports, and other materials as they presently collect and compile on program operations, beneficiaries, and effectiveness.

"(e) In carrying out evaluations under this title, the Director shall, whenever possible, arrange to obtain the opinions of program participants about the strengths and weaknesses of the programs.

"(f) The Director may consult, where appropriate, with State agencies, in order to provide for jointly sponsored objective evaluation studies of programs on a State basis.

"(g) The Director shall publish summaries of the results of evaluative research and evaluations of program impact and effectiveness no later than sixty days after its completion.

"(h) The Director shall take necessary action to assure that all studies, evaluations, proposals, and data produced or developed with Federal funds shall become the property of the United States.

"(i) The Director shall publish summaries of the results of activities carried out pursuant to this title in the report required by section 608."

(b) (1) During the fiscal year 1972 the Director of the Office of Economic Opportunity shall take such action as may be necessary, in cooperation with the executive director of the National Legal Services Corporation, to arrange for the orderly continuation by such corporation of financial assistance to legal services programs assisted pursuant to sections 222(a)(3), 230, 232, or any other provision, of the Economic Opportunity Act of 1964. Whenever the Director of the Office of Economic Opportunity determines that an obligation to provide financial assistance pursuant to any contract or grant agreement for such legal services will extend beyond six months after the date of enactment of this Act, he shall include in any such contract or agreement provisions to assure that the obligation to provide such financial assistance may be assumed by the National Legal Services Corporation, subject to such modifications of the terms and conditions of that contract or grant agreement as the Corporation determines to be necessary.

(2) Effective six months after the date of enactment of this Act, section 222(a)(3) of the Economic Opportunity Act of 1964 is repealed.

(3) Notwithstanding any other provision of law, after the enactment of this Act but prior to the enactment of appropriations to carry out the Economic Opportunity Act of 1964 for the fiscal year ending June 30, 1972, the Director of the Office of Economic Opportunity shall, out of appropriations then available to him, make funds available to assist in meeting the organizational expenses of the Corporation and in carrying out its activities.

(4) Title VI of the Economic Opportunity Act of 1964 is amended by inserting after section 622 thereof the following new section:

"INDEPENDENCE OF NATIONAL LEGAL SERVICES CORPORATION

"SEC. 623. Nothing in this Act, except title IX, and no reference to this Act unless such reference refers to title IX, shall be construed to affect the powers and activities of the National Legal Services Corporation."

(c) (1) Subsection (a) of section 113, subsections (b) and (c) of section 132, section 154, section 233, and section 314(b) of the Economic Opportunity Act of 1964 are repealed.

(2) Section 632(2) of such Economic Opportunity Act of 1964 is amended by striking out "carry on a continuing evaluation of all activities under this Act, and".

(3) Sections 132 and 314 of such Act are each amended by striking out "(a)".

SPECIAL PROGRAMS AUTHORIZED

SEC. 18. Part B of title II of the Economic Opportunity Act of 1964 is amended by adding at the end thereof the following new sections:

"DESIGN AND PLANNING ASSISTANCE GRANTS

"SEC. 226. (a) The Director shall make grants or enter into contracts to provide financial assistance for the operating expenses of programs conducted by community-based design and planning organizations to provide technical assistance and professional architectural and related services, relating to housing, neighborhood facilities, transportation and other aspects of community planning and development to persons and community organizations or groups not otherwise able to afford such assistance. Such programs shall be conducted with maximum use of the voluntary services of professional and community personnel. In providing assistance under this section, the Director shall afford priority to persons in urban or rural poverty areas with substandard housing, substandard public service facilities, and generally blighted conditions. Design and planning services to be provided by such organizations shall include—

"(1) comprehensive community or area planning and development;

"(2) specific projects for the priority planning and development needs of the community; and

"(3) educational programs directed to local residents emphasizing their role in the planning and development process in the community.

"(b) No assistance may be provided under this section unless such design and planning organization—

"(1) is a nonprofit organization located in the neighborhood or area to be served with a majority of the governing body of such organization comprised of residents of that neighborhood or area;

"(2) has as a primary function the goal of bringing about, through the involvement of the appropriate community action agency or otherwise, maximum feasible participation of local residents, especially low-income residents, in the planning and decisionmaking regarding the development of their community; and

"(3) will carry out its design and planning services principally through the voluntary participation of professional and community personnel (including, where available, VISTA volunteers).

"(c) Design and planning organizations receiving assistance under this section shall not subcontract with any profitmaking organization or pay fees for architectural or other professional services.

"(d) The Director shall make whatever arrangements are necessary to continue pilot or demonstration projects of demonstrated effectiveness of the type described in this section receiving assistance under section 232 of this Act during the fiscal year ending June 30, 1971.

"YOUTH RECREATION AND SPORTS PROGRAM

"SEC. 227. (a) In order to provide to disadvantaged youth recreation and physical fitness instruction and competition with high-quality facilities and supervision and related educational and counseling services (including instruction concerning study practices, career opportunties, job responsibilities, health and nutrition, and drug abuse education) through regular association with college instructors and athletes and exposure to college and university campuses and other recreational facilities, the Director shall make grants or enter into contracts for the conduct of an annual Youth Recreation and Sports Program concentrated in the summer months and with continued activities throughout the year, so as to offer disadvantaged youth living in areas of rural and urban poverty an opportunity to receive such recreation and educational instruction, information, and services and to participate in such physical fitness programs and sports competitions.

"(b) No assistance may be provided under this section unless satisfactory assurances are received that not less than 90 per centum of the youths participating in each program to be assisted under this section are from families with incomes below the poverty level, as determined by the Director, and that such participating youths and other neighborhood residents, through the involvement of the appropriate community action agency or otherwise, will have maximum participation in program planning and operation.

"(c) Programs under this section shall be administered by the Director, through grants or contracts with any qualified organization of colleges and universities or such other qualified nonprofit organizations active in the field with access to appropriate recreational facilities as the Director shall determine in accordance with regulations which he shall prescribe. Each such grant or contract and subcontract with participating institutions of higher education or other qualified organizations active in the field shall contain provisions to assure that the program to be assisted will provide a non-Federal contribution (in cash or in-kind) of no less than 20 per centum of the direct costs necessary to carry out the program. Each such grant, contract, or subcontract shall include provisions for—

"(1) providing opportunities for disadvantaged youth to engage in competitive sports and receive sports skills and physical fitness instruction and education in good health and nutrition practices;

"(2) providing such youth with instruction and information regarding study practices, career opportunities, job responsibilities, and drug abuse;

"(3) carrying out continuing related activities throughout the year;

"(4) meeting the requirements of subsection (b) of this section;

"(5) enabling the contractor and institutions of higher education or other qualified organizations active in the field located conveniently to such areas of poverty and the students and personnel of such institutions or organizations active in the field to participate more fully in the community life and in solutions of community problems; and

"(6) serving metropolitan centers of the United States and rural areas, within the limits of program resources."

FUNCTIONS OF DIRECTOR

SEC. 19. Notwithstanding any other provision of law, unless enacted hereafter in limitation of the provisions of this section, no new transfers of delegations of programs administered by the Director of the Office of Economic Opportunity under titles II, III, VI, and VII of the Economic Opportunity Act of 1964, as amended, shall be made to the head of any other agency, during the fiscal year ending June 30, 1972, and the succeeding fiscal year.

PUERTO RICO

SEC. 20. (a) Notwithstanding any other provision of law, the Director of the Office of Economic Opportunity shall reserve, for the purpose of section 225(a) of the Economic Opportunity Act of 1964, not more than 4 per centum of the appropriated sums for the fiscal year ending June 30, 1972, for Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands, according to their respective needs.

(b) Effective after June 30, 1972, section 225(a) of such Act is amended by striking out "Puerto Rico,".

(c) Effective after June 30, 1972, the first sentence of paragraph (1) of section 609 of such Act is amended by striking out the word "or" the second time it appears in such sentence and inserting in lieu thereof a comma and the following: "Puerto Rico, or".

TECHNICAL PROVISIONS

SEC. 21. (a) The application of the formula prescribed by section 225(a) of the Economic Opportunity Act of 1964 for the allotment of funds among the States may be waived by the Director to the extent he deems necessary to prevent hardship in the allotment of funds for programs under title II of such Act resulting from the discontinuance of the authorization for section 222(a) (1) of such title by this Act.

(b) The Director may extend assistance under sections 221 and 222(a) of the Economic Opportunity Act of 1964 to a community action agency or other agency which is in excess of the maximum prescribed in section 225(c) of such Act, if he determines, in accordance with such regulations as he shall prescribe, that the ability of such agency to provide its share of the program costs pursuant to such section 225(c) has been impaired by virtue of the discontinuance of the authorization for section 222 (a) (1) of such Act to an extent which justifies such additional assistance.

AMENDMENT TO THE OLDER AMERICANS ACT OF 1965

SEC. 22. (a) Section 611(a) of the Older Americans Act of 1965 (42 U.S.C. 3044(b)) is amended by adding at the end thereof the following new sentence: "The Director of ACTION may approve assistance in excess of 90 per centum of the cost of the development and operation of such projects if he determines, in accordance with regulations establishing objective criteria, that such action is required in furtherance of the purposes of this section."

(b) The amendment made by subsection (a) of this section shall be effective from the date of enactment of this section. In the case of any project with respect to which, prior to such date, a grant or contract has been made under such section or with respect to any project under the Foster Grandparent program in effect prior to September 17, 1969, contributions in cash or in kind from the Bureau of Indian Affairs, Department of the Interior, toward the cost of the project may be counted as part of the cost thereof which is met from non-Federal sources.

And the House agree to the same.

Carl D. Perkins,
Augustus F. Hawkins,
William D. Ford,
Phillip Burton,
Joseph M. Gaydos,
William L. Clay,
Shirley Chisholm,
Mario Biaggi,
Ella Grasso,
Ogden Reid,
Managers on the Part of the House.

Gaylord Nelson,
Edward Kennedy,
Walter F. Mondale,
Alan Cranston,
Harold E. Hughes,
Adlai Stevenson,
Jennings Randolph,
Jacob K. Javits,
Richard S. Schweiker,
Managers on the Part of the Senate.

Joint Explanatory Statement of the Committee of Conference

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two houses on the amendment of the House to the Senate bill (S. 2007) to provide for the continuation of programs authorized under the Economic Opportunity Act of 1964, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The points in disagreement and the conference resolution of them are as follows:

The Senate bill authorized the appropriation of $3,031,000,000 for fiscal year 1972 for all programs under the Act. For fiscal year 1973 $3,121,000,000 was authorized for all programs other than those operated under the authority of title I, parts A, B, and E (manpower). For these latter programs the bill authorized such sums as Congress may determine to be necessary.

The Senate bill in fiscal year 1972 authorized the appropriation of $900,000,000 for programs relating to work and training under title I and an additional $500,000,000 for Neighborhood Youth Corps programs to be distributed among the States so that no State would receive less than $3,000,000 or .6 of 1 centum of the sums appropriated.

There was authorized to be appropriated for fiscal year 1972 the sum of $500,000,000 for Head Start and Follow Through plus an additional $100 million for technical assistance and training in preparation for the expansion of the Child Development program.

The Senate bill further authorized the appropriation of $950,000,000 for titles II, III, VI, VII, VIII, and IX for fiscal year 1972 and for fiscal 1973 the sum of $950,000,000. Of these sums the following reservations were made:

$328,900,000 for local initiative programs under section 221 and sections 226 and 227; and

$61,000,000 for programs under section 222 (a) (3) and title IX (Legal Services).

The House amendment authorized the appropriation of $2,194,066,000 for fiscal year 1972 and $2,750,000,000 for fiscal year 1973 and reserved from the appropriation $350,000,000 to be spent on local initiative programs each fiscal year.

The House amendment contained no earmarking but the House report suggested recommended levels of funding corresponding to Senate earmarks.

The House receded with an amendment earmarking $5 million for Environmental Action and $10 million for Rural Housing Development and Rehabilitation, and authorizing $70 million for Follow Through in fiscal year 1973.

Both the Senate bill and the House amendment extended all existing authorities under the Economic Opportunity Act for two years. The Senate bill in light of the adoption of the Child Development provisions did not extend the authority under Sec. 523, the day care provisions of Title V–B. In view of House adoption of similar day care amendments striking Title V–B, the extension of Sec. 523 in the House amendment was unnecessary and the House receded.

The House amendment, but not the Senate bill, established a general eligibility requirement of $4,500 for a family of four below which payment may not be required for Head Start services. Eligibility requirements could be varied to reflect family, geographic, and special program variations. The House receded.

The House amendment, but not the Senate bill, permitted the Director of the Office of Economic Opportunity to require payment for medical services provided the near or non-poor under the Comprehensive Health Services program. The Senate receded. By permitting the extension of medical services to the near or non-poor the Conferees most emphatically do not mean that the poor are to be supplanted. The authority to require part or whole payments for such medical services might tempt some administrators to favor participants who can make a contribution to their medical expenses. This is not to be condoned. The poor are intended by the Conferees to continue to have preference and there is to be no reduction in service to the poor in any Comprehensive Health facility in order to accommodate those who can make payment.

The House amendment deleted two sentences in the Economic Opportunity Act which required dollar reservations for fiscal years 1970 and 1971 for the Alcoholic Counseling and Recovery program and the Drug Rehabilitation program—these reservations having, by their terms, become inoperative. The House amendment, but not the Senate bill, further amended Sec. 222(a)(9) of the Act relating to the Drug Rehabilitation program and encouraged the Director to undertake special programs promoting employment opportunities for drug dependent individuals. Priority was required for programs serving veterans and employers of significant numbers of veterans. The House amendment, in addition, permitted completion of the course of rehabilitation even though the drug dependent individual has ceased to be "low-income" by virtue of his participation in an employment program. The Senate receded.

The conference substitute adopts the provisions of the House bill with the modification that "employment opportunities for rehabilitated addicts" was modified to include addicts enrolled and actively participating in methadone maintenance treatment programs. The conferees were concerned that the term "rehabilitated addicts" could be defined to mean only those former addicts who have become "drug free" whereas a rehabilitated addict can be one who is participating in methadone maintenance treatment and other therapeutic programs.

The Office of Health Affairs of OEO has reported that approximately 1,000 drug addicts were enrolled in methadone maintenance treatment programs, and an additional 2,615 were enrolled in a variety of other drug treatment programs as of September 1, 1971.

The conference substitute further includes, along with rehabilitated addicts, other drug abusers who are enrolled and participating in other drug treatment and rehabilitation programs. The conferees believe that it is important that employment opportunities be provided for the addict/patient as soon as possible, rather than await completion of a treatment program.

The conference substitute further provides that, in undertaking employment opportunity special programs with special priority to veterans and employers of significant numbers of veterans, there be an additional priority to those areas in the States having the highest percentage of addicts.

The House amendment added a new national emphasis program known as Environmental Action to provide payment for low-income persons working on projects combating pollution and improving the environment. There was no comparable provision in the Senate bill. The Senate receded.

The House amendment authorized an additional new national emphasis program known as Rural Housing Development and Rehabilitation to assist in the alleviation of housing problems of low-income families in rural areas. There was no comparable provision in the Senate bill. For this program there was authorized to be appropriated $10 million for fiscal year 1972 and $15 million for fiscal year 1973. The Senate receded.

The Senate bill required the Director to reserve not more than 4% of the sums appropriated or allocated for sections 221 and 222(a) of the Act in fiscal year 1972 for Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands. After June 30, 1972, Puerto Rico was to be treated as a State for purposes of the allocation formula. The House amendment treated Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands each as States for purposes of the entire Economic Opportunity Act. The House receded.

The House amendment, but not the Senate bill, forbade the Director of OEO to require non-federal contributions of more than 20% of the program cost. The Senate receded.

The House amendment established a procedure under which a Community Action board member might require the Director to investigate allegations that a State Economic Opportunity office was not observing the requirements of the Act or regulations promulgated under it. Where reasonable cause is found the Director was required to hold hearings and was authorized to cut off SEOO funds until satisfactory assurances were provided that such violations would be prevented. There was no comparable Senate provision. The Senate receded.

The House amendment required the Director to assure that Community Action funds are distributed on an equitable basis in any community so that all segments of the low-income population are being served. There was no comparable Senate provision. The Senate receded.

By recognizing in Sec. 312(b)(3) the existence of "employment" as well as "training" programs in the Federal manpower arsenal, the House amendment encouraged the Director to conduct programs to enable farmworkers to take advantage of the opportunities available to them in "work" as well as "training" programs. There was no comparable Senate provision. The Senate receded.

The Senate bill amended Sec. 616 to increase the portion of an allocation that may be transferred from one program or activity to another from the current 15% to 25% in fiscal years 1972 and 1973. The Senate bill also deleted the limitation which places a ceiling on the amount that may be transferred into a program. Existing law provides that such transfers may not result in increasing by more than 100% any program for which there is available $10 million or less or by increasing by more than 35% any program for which amounts available are in excess of $10 million. The House amendment reduced the authority of the Director to transfer earmarked funds to 10% of the amount appropriated or allocated. The House amendment further limited the degree to which the program or activity might be increased to 10%. The House receded.

The House amendment provided that the 5-year national poverty plan, required to be presented on an annual basis to the Congress by Sec. 622, must be presented by December 31 of each calendar year beginning in 1971. There was no comparable Senate provision. The Senate receded with an amendment requiring the presentation of a report on March 1 in 1972 and on January 31 in 1973 and in each succeeding year.

The House amendment required all rules, regulations, guidelines, etc., promulgated under the Economic Opportunity Act to be provided to the House and Senate Committees no less than 30 days prior to their effective date. There was no comparable Senate provision.

The Senate receded with an amendment requiring that all rules, regulations, guidelines, instructions, application forms, etc., promulgated pursuant to this Act be published in the Federal Register thirty days prior to their effective date. The conferees intend that all such documents promulgated pursuant to the Act by OEO, the Department of Labor or HEW be published and that any new category of document not specifically listed but fulfilling the same purpose be included.

The House amendment consolidated into a new title all existing authorities for conducting evaluation activities. The Director was required to develop and publish standards for evaluation of program effectiveness and to measure programs against those standards when considering extension or supplementation of a grant or contract. Independent evaluations might be required of CAAs. Federal agencies administering related programs were required to cooperate with the Director and to provide statistical data and reports consistent with their collection process. The poor were to be consulted in the evaluation process, as were the State agencies. Evaluation results had to be published within 60 days of completion. All such studies and evaluations were to be the property of the United States. The Senate bill had no comparable provision. The Senate receded with a number of amendments. The Director continues to be required to provide for evaluations that describe and measure the impact of programs and their effectiveness and their impact on related programs, but he is only required to do so "with appropriate means and to the extent possible". Similarly, the requirement that the Director shall develop and publish standards for evaluation of program effectiveness in achieving the objectives of this Act is similarly modified by the prepositional phrase "to the extent feasible". The mandatory requirement that the Director consider the extent to which published standards have been met in deciding on grant renewals and supplements was stricken. This, and other amendments to the House provision, were in recognition by the conferees of the inexact nature of the evaluation process and the desire not to cause damage to programs. Similarly, the requirement that the Director consult with State agencies to provide for jointly sponsored evaluation studies was modified to permit such consultation, but not to require it. The publication requirement for results of evaluative research and evaluations of programs and of other activities carried out under this title are modified so that the Director is only required to publish summaries of such materials.

The House amendment corrected an oversight that occurred when the Foster Grandparents Program was transferred out of the Economic Opportunity Act. It gave the Director of ACTION authority to approve assistance in excess of 90% of costs where he determines such action is required. There was no comparable Senate provision. The Senate receded.

The Senate bill extended the length of time a person might serve on a community action board from three to six consecutive years and increased the total number of years a person might serve to twelve years. There was no comparable House provision. The House receded.

The Senate bill combined the existing title I-D Special Impact Program and title III-A Rural Loan Program into a new unified Community Economic Development Program (title VII). This new title provided expanded authorization for grants as well as loans to rural cooperatives and authorized the appropriation of $60 million in fiscal year 1972 and $120 million in fiscal year 1973. The House receded.

The Senate bill established a new program in title II—Design and Planning Assistance Grants—that would authorize the Director to make grants to community-based design and planning organizations to provide technical assistance and professional services to community organizations. There was no comparable House provision. The House receded.

The Senate bill established a Youth Recreation and Sports Program to provide disadvantaged youth with recreation and physical fitness instruction. The House had no comparable provision. The House receded. The conferees intend that maximum use of volunteers be encouraged in the Youth Recreation and Sports Program. It is hoped that the college administrators, instructors and athletes engaged will give freely of their time to provide disadvantaged youth with recreation, physical fitness instruction, and other services authorized. To insure that payment to such persons shall be reasonable, where payment must be made, the Director is expected to establish and promulgate standards as to what constitutes a reasonable rate of compensation. Those standards should not, of course, be inconsistent with sec. 610-1(a) of the Economic Opportunity Act of 1964, as amended.

The Senate bill prohibited further transfers or delegations of programs administered by the Director under titles II, III, VI and VII of the Economic Opportunity Act of 1964, as amended. There was no comparable House provision. The House receded.

The Senate bill permitted the Director to waive the allotment and Federal share provisions of title II to relieve any hardship resulting from the failure to continue Head Start under section 222(a)(1) when the new title V takes effect. There was no comparable House provision. The House receded.

Both the Senate bill and the House Amendment amend title V of the Economic Opportunity Act to establish a new comprehensive child development program.

The House amendment provided that comprehensive child development programs should be available to "children regardless of economic, social, and family backgrounds" whereas the Senate bill provided they should be available "as a matter of right to all children whose parents or legal guardian shall request them regardless of economic, social, and family backgrounds".

The conference agreement provides that programs "should be available to children whose parents or legal guardians shall request them regardless of economic, social, and family backgrounds."

The Senate bill included in the Statement of Findings and Purpose the goal of furnishing meaningful employment opportunities in carrying out child development programs for older persons, parents, young persons, and volunteers. The House amendment did not contain this language.

The House recedes.

The House amendment included the purpose of making services available to all children "who need them" whereas the Senate bill in this respect referred to furnishing service to "those children who need them most."

The House recedes.

With respect to parents, the Senate bill called for their "direct participation . . . in the development, conduct, and overall direction of programs at the community level" whereas the House called for their "full involvement."

The Senate recedes.

For the purpose of carrying out this child development title, the Senate bill authorized appropriations of $2,000,000,000 for fiscal year 1973, while the House amendment authorized the appropriation of such sums as may be necessary for fiscal year 1973 and each succeeding fiscal year.

The House recedes.

The Senate bill authorized the appropriation of $100,000,000 for fiscal year 1972 for planning and technical assistance to prepare for implementing this title. The House amendment authorized the Secretary to provide financial assistance to prime sponsors for planning and development expenses in the current and succeeding fiscal years.

The conference agreement contains the Senate authorization with respect to planning and technical assistance.

The Senate bill provided that $500,000,000 of the amount appropriated shall be used first to provide services for children from low-income families, giving priority to Headstart projects. The House amendment did not contain this reservation.

The House recedes.

The Senate bill provided that up to 10% of the remainder (after allocation of $500,000,000 to Headstart-type programs) could be set aside by the Secretary for the parts of this title authorizing training and technical assistance, for programs for children of Federal employees, for reseach and evaluation, and for child advocacy projects.

The House amendment contained annual authorizations of $45,000,000 for training, $5,000,000 for programs for children of Federal employees, and such sums as may be necessary for evaluation, and for research and demonstration.

The conference agreement contains the Senate authorization in this respect, except that the authorization for child advocacy projects is dropped since the conference agreement does not contain that part of the Senate bill.

In conformity with the Senate bill, the conference agreement provides that the remainder of the appropriation (after the Headstart reservation and the 10% available to the Secretary as described in the preceding paragraphs) is to be used for carrying out comprehensive child development programs under part A.

With respect to funds for comprehensive child development programs, the conference agreement contains provisions, which were similar in both the Senate bill and the House amendment, requiring the Secretary to reserve funds for programs for children of migrant agricultural workers and Indian children in the ratio which the number of such children bears to the total number of economically disadvantaged children in the United States.

The Senate bill also provided for reserving not less than 10 percent of the funds available for the title for special activities for handicapped children. The House amendment reserved not less than 7 percent of such funds for such purpose.

The House recedes.

The Senate bill provided for making available not to exceed 5 percent of the funds available for comprehensive child development programs to be used for model programs. The House amendment provided that not to exceed 5 percent of funds could be used in the Secretary's discretion.

The conference report contains the Senate provision in this respect.

Both the House amendment and the Senate bill allocated funds among and within States on the same basis, but the House amendment provided for reallotment or reapportionment of unused funds according to the basic formula, whereas the Senate bill made no specific provision for reallotment or reapportionment.

The Senate recedes.

The Senate bill provided that up to 5 percent of funds allocated for use in a State could be made available by the Secretary for grants to the State for technical assistance (section 517 in both the Senate bill and the conference agreement).

The House recedes.

The Senate bill unlike the House amendment required apportionments to be published in the Federal Register.

The House recedes.

Both bills set forth a number of eligible uses of funds for child development programs. The Senate bill specifically included among the permitted uses of funds programs to meet the needs of all children to understand the history and cultural backgrounds of minority groups; the House amendment did not include this language.

The House recedes.

The Senate bill specifically authorized prenatal and other medical services to expectant mothers who cannot afford such services in order to reduce malnutrition, maternal aid, infant mortality, mental retardation and other handicaps. The House amendment did not contain such a provision.

The House recedes.

With respect to the dissemination of program information in the language spoken by the parents, the Senate bill referred to the purpose of enabling them to "participate in such programs", whereas the House amendment referred to the purpose of enabling them to "become directly involved in such programs."

The Senate recedes.

The Senate bill specifically authorized programs designed to extend prekindergarten early childhood education techniques and gains (particularly parent participation) into kindergarten through third grade. The House amendment contained no such provision.

The House recedes. It is the expectation of the conferees that no significant amount of funds under this title will be used for such programs, and that local educational agencies should be urged to use funds under titles I and III of the Elementary and Secondary Education Act for teachers' salaries in order to extend Headstart gains into the primary school grades.

Both the Senate bill and the House amendment provided for States, units of general local government (counties and cities), combinations thereof, Indian tribes, and other public and private non-profit agencies to be eligible to be prime sponsors.

The House amendment, unlike the Senate bill, did not allow a unit of general local government with a population of less than 10,000 to be a prime sponsor.

The conference agreement provides that units of general local government are eligible to be prime sponsors and that localities having a population of 5,000 or more persons shall be designated prime sponsors if they meet the requirements of the statute and submit plans which include adequate provisions for carrying out comprehensive child development programs in the area to be covered.

Unlike the Senate bill, the House amendment required as a condition for prime sponsorship designation that a State, city, county, or combination thereof, provide for operating programs by contract with public or private nonprofit agencies.

The Senate recedes.

Unlike the House amendment, the Senate bill in defining what agency may be designated by the Secretary as a prime sponsor stressed the capacity of the applicant for prime sponsorship to provide for, or arrange for the provision of, the comprehensive social, health, educational, rehabilitative and other services as well as carry out the coordinative and administrative functions.

The conference agreement requires the applicant for prime sponsorship to provide assurances that the Child Development Council will provide such services, where available, either directly, or by contract or other arrangement with State, local, or other public or private nonprofit agencies or organizations.

The Senate bill, unlike the House amendment, made it a condition for prime sponsorship designation that an applicant provide adequate assurances that administrative costs for Child Development Councils not exceed 5% of the total cost of the comprehensive child development program except in the first operational year or in response to special needs defined by regulation.

Instead of making such provision a condition to be pre-judged prior to designation of a prime sponsor, the conference agreement sets forth in the payments provision (section 520) that the Secretary shall include in the costs on which the Federal share is based, in making payments to prime sponsors in any fiscal year, an amount for staff and other administrative expenses for the Child Development Council not to exceed an amount which is reasonable when compared with such costs for other comparable child development programs.

The Senate bill provided for the Secretary to encourage the combination of a number of units of local government for prime sponsorship where one unit's application for such sponsorship was not approvable for the reason that it failed to meet the administrative expenses limitation or that it lacked the capacity to provide or enter into arrangements for child-related services.

The conference agreement provides that, if the Secretary determines that a locality fails to meet any requirement set forth in the section, he shall encourage the submission of a prime sponsorship plan by a combination of localities.

The House amendment made any "Indian tribal organization" eligible to be a prime sponsor, whereas under the Senate bill any "Indian tribe or a Federal or State reservation" was eligible.

The Senate recedes.

Both the Senate bill and the House amendment provided for the designation of public or private nonprofit agencies as prime sponsors in the absence of a governmental prime sponsor or where a designated prime sponsor was not satisfactorily implementing a child development program or where such sponsorship was for the purpose of providing programs for migrants. The House amendment, unlike the Senate bill, provided waiting periods before the Secretary could make such a designation of a public or private nonprofit agency. First, a unit of general local government or a State would have 120 days after the implementation of the section by the promulgation of regulations to submit an application. In the initial year under the House amendment a local governmental unit would have 240 days from such implementation to file a plan before the Secretary could designate another agency and such unit of government would have 90 days prior to the start of each succeeding fiscal year to file its annual plan. Both bills permitted the Secretary to designate a public or private nonprofit agency as a prime sponsor designed to meet the needs of economically disadvantaged children, preschool aged children, or children of working mothers or single parents even though residing in an area served by another prime sponsor designated by the Secretary and the Senate bill also authorized such action by the Secretary to carry out model programs "especially designated to be responsive to the needs of economically disadvantaged and minority groups or bilingual preschool children."

The conference agreement contains the Senate provisions in these respects.

Both in the Senate bill and the House amendment the application of an Indian tribal organization or an eligible city for prime sponsorship designation had priority over the application of a State. However, the House amendment, unlike the Senate bill, gave the Secretary the discretion to designate the State in preference to an otherwise approvable application of a county or a combination of units of local government.

The House recedes.

The House amendment provided that the Governor may have sixty days within which to review and comment on applications for prime sponsorship. The Senate bill provided a reasonable opportunity for such review, in accordance with regulations.

The conference agreement gives not less than thirty nor more than sixty days for such review and comment.

The House amendment provided an applicant for prime sponsorship designation 60 days to submit corrective amendments where Secretary disapproves application or proposes to withdraw designation. The Senate bill required a "reasonable time" for such amendments or other corrective action.

The House recedes.

The House amendment made clear that, in judicial review of Secretary's action with regard to prime sponsorship designation, the findings of fact by the Secretary shall be conclusive if supported by substantial evidence. The Senate bill contained no such provision.

The Senate recedes.

The House amendment, unlike the Senate bill, required the Secretary to give preference to an alternate unit of Government or to a public or nonprofit agency or organization in the area representing the interests of minority and economically disadvantaged persons where a unit of general local government has a practice of excluding minorities.

The conference agreement makes such requirement applicable where any unit of government is maintaining a pattern and practice of exclusion of minorities.

The House amendment, but not the Senate bill, contained a provision that the Secretary may directly fund programs, including those in rural areas without regard to population, where he deems it necessary, in the event that a State, or unit or combination of units of general local government, or Indian tribal organization has not submitted a comprehensive child development plan or the Secretary has not approved a plan so submitted, or where a prime sponsorship designation is not in effect, or where the needs of migrants, preschoolage children, or the children of working mothers or single parents, minority groups, or the economically disadvantaged are not being served.

The Senate recedes.

The Senate bill and the House amendment both required all prime sponsors to establish Child Development Councils except that, under the House amendment, a public or private nonprofit organization was not so required.

The conference agreement follows the Senate provisions in this respect.

The Senate bill, unlike the House amendment, provided for a minimum Child Development Council membership of ten. The House amendment set forth no minimum.

The House recedes.

The Senate bill required that at least one-half of the members of Child Development Councils be parents of the children served with parental representation on Child Development Councils initially chosen by existing Headstart policy committees and subsequently by project policy committees. The House amendment required that one-half of the members of the Child Development Councils be elected representatives from Local Policy Councils (comparable to project policy committees in the Senate bill). The House amendment required that at least one person from each Local Policy Council be a member of the Child Development Council.

The conference agreement contains the Senate provisions in these respects.

The Senate bill required that half of the non-parental representatives on the Council be child development specialists except where they are not available. The House amendment required at least one child development specialist.

The House recedes.

The Senate bill required that, with the exception of the child development specialists, all non-parental members of the Child Development Council must be approved by the parent members.

The Senate recedes.

The House amendment provided that at least one-third of the membership of Child Development Councils be parents who are economically disadvantaged; the Senate bill in this respect required that one-fourth of Child Development Council members be "persons broadly representative of the economically disadvantaged."

The Senate recedes.

With respect to child development plans submitted by prime sponsors, the House amendment required priority for preschool children of working mothers and single parents, whereas the Senate bill simply required priority for preschool-age children.

The House recedes.

The House amendment required that funds be reserved for economically disadvantaged children from Federal funds allocated in any fiscal year in an amount at least equal to the aggregate funds in the prime sponsorship areas for Headstart programs in fiscal year 1972. The House amendment further provided that 65 percent of the remainder of such funds be for children of families having an annual income below the lower budget for an urban family of four persons; the Senate bill provided that not less than 65 percent of the total cost of programs receiving financial assistance shall be for child development programs and services for such children.

The conference agreement contains provisions in this respect which are substantially the same as the House amendment.

The Senate bill, but not the House amendment, required comprehensive services to meet the need of all children to understand the history and cultural background of minority groups.

The House recedes.

The House amendment required equitable services for each minority group in the community to be served; the Senate bill contained the same requirement but also referred to significant segments of the economically disadvantaged.

The House recedes.

The House amendment required coordination of child development programs with other social programs, including employment and manpower programs, to keep members of the family as close together as possible. The Senate bill contained a similar provision which made no reference to other social programs or to manpower programs.

The Senate recedes.

The House amendment required that the comprehensive plan provide for direct parent participation in the conduct, overall direction, and evaluation of programs; the Senate bill did not set forth this specific provision.

The Senate recedes.

The House provision contained provisions, not contained in the Senate bill, for employment as professionals and paraprofessionals of neighborhood residents and for career development for such persons.

The Senate recedes.

The Senate bill provided that preference for program jobs be given insofar as possible to unemployed or low-income persons residing in the project area; the House amendment provided that preference be given to any person residing in the project area.

The conference agreement provides that, insofar as possible, persons residing in the community served will receive jobs, with special consideration for career opportunities for low-income persons.

The House amendment provided that the comprehensive plan assure that local educational agencies and private educational agencies have developed "linkage and coordination mechanisms" to provide continuity between preschool and school programs and between child development programs and EOA programs and ESEA programs. The Senate bill had comparable language but required the prime sponsor to develop these procedures in cooperation with public and private schools.

The conference agreement contains the Senate language.

Both the Senate bill and the House amendment required the comprehensive plan to include requirements for arrangements in the project area with business, industry, labor and other community groups. However, the Senate bill also included a reference to "financial institutions".

The conference agreement includes the Senate language.

Both the Senate bill and the House amendment authorized delegation of arrangements for delivery of services to public or private agencies, under the supervision of the Child Development Council; but the Senate bill, unlike the House amendment, did not authorize delegation of administrative responsibility for development of the comprehensive child development plan.

The conference agreement contains the Senate provision in this respect.

The House amendment, but not the Senate bill, required comprehensive plan to provide for coooperative arrangement to be entered into under which public agencies, at both the State and local levels, responsible for handicapped children programs will make such services available to programs when appropriate.

The conference agreement requires the comprehensive plan to provide that services for handicapped children, at both the State and local levels, will be used wherever available in programs approved under the plan.

The House amendment, unlike the Senate bill, required the comprehensive plan to assure coordination of child development programs for which financial assistance is provided under the authority of other laws.

The House recedes.

The House amendment, but not the Senate bill, required that comprehensive plans provide that consideration be given to applications by public and private profitmaking and nonprofit organizations "with emphasis to on-going programs" and that comparative costs of providing services will be a factor in deciding among applications.

The conference agreement contains this provision with the modification that the comparative cost be considered in relation to the quality of services.

The House amendment contained provision in comprehensive plan requirements that services be provided only for children whose parents or legal guardians have requested them. The Senate bill did not set forth this provision, which was set forth in the Statement of Purpose, in the comprehensive plan requirements.

The Senate recedes.

The House amendment, but not the Senate bill, contained a provision requiring consideration for "excellence of architecture and design" and "inclusion of works of art" in plans for construction.

The Senate recedes.

Both the Senate bill and the House amendment contained the requirement that each community action agency, single purpose Headstart agency, and local educational agency operating Headstart programs be afforded an opportunity to submit comments on a proposed comprehensive plan. They differ only in that the House amendment provided for local educational agency comments only if that agency had operated a Follow Through or Headstart program.

The conference agreement contains the Senate provisions in this respect.

The Senate bill, unlike the House amendment, contained a provision requiring the Secretary to establish procedures to permit prime sponsors to submit jointly a comprehensive child development plan for the areas they serve.

The House recedes.

The House amendment provided for local policy councils selected by parents in each neighborhood or sub-area possessing a commonality of interest, or for a nongeographic grouping of appropriate size. The Senate bill provided for project policy committees to be established by each project applicant, composed of the following: (i) not less than one-half parents of children served; (ii) persons representative of the community approved by the parent members and (iii) persons between one-third and one-half of members appointed as community members who have skills in child development.

The conference agreement contains the Senate provisions in these respects except that only one child development specialist (where available) is required on the project policy committee.

The Senate bill provided that project policy committees develop and prepare project applications, whereas local policy councils under the House amendment determine needs and priorities, make recommendations with respect thereto and encourage project applications to meet those needs.

The House recedes.

The Senate bill provided for the project policy committees to approve project policy committees' basic goals, policies, actions, and procedures for the project applicant including policies, planning, personnel, budget, facilities and evaluation. The House amendment did not contain such specific provisions.

The House recedes.

The House amendment required that charges be made for participation of children according to ability of family to pay; the Senate bill provided that no fee be charged to economically disadvantaged children but that children from families not so disadvantaged pay a fee according to schedule established by the Secretary based on the ability of the family to pay.

The conference agreement provides that no charges be made to families with an annual income equal to or less than $4,320, with adjustments in the case of families with more than two children. Charges for other families may be made in accordance with a fee schedule established by the Secretary based on ability to pay. However, such fees may not exceed 10 percent of the difference between the free services level and 85 percent of the lower living standard budget, and then 15 percent of any income between that level of 85 percent of the lower living standard budget and 100 percent of the lower living standard budget.

The House amendment provided that no person shall be denied employment solely on the ground that he fails to meet State teacher certification standards; the Senate bill contained same provision but added "or local" teacher certification standards.

The House recedes.

The House amendment provided that project application provide for the utilization of personnel, including paraprofessional and volunteer personnel, adequate to meet the specialized needs of each participating child; the Senate bill did not contain this specific language.

The Senate recedes.

The House amendment set forth provision that project application otherwise further the objectives and satisfy the requirements of the comprehensive child development plan. The Senate bill did not specifically so provide.

The conference agreement contains this requirement.

The House amendment, but not the Senate bill, contained a provision for a public or private nonprofit agency which is a prime sponsor to submit a project application directly to the Secretary.

The conference agreement includes such a provision.

The Senate bill provided that a project application submitted to the Secretary by a public or private agency may be approved upon the Secretary's determination that it meets the statutory requirements.

The conference agreement contains this provision.

The Senate bill contained authority, not included in the House amendment, for the Secretary to provide funds to States to enable them to provide special technical assistance to Child Development Councils and for encouraging State agencies to cooperate in the development and implementation of the comprehensive child development plans of prime sponsors which request such help. (The allocation formula provides that 5 percent of funds under the title may be used for these special grants to States.)

The House recedes.

Both bills provided that applications for financial assistance may be approved if rental, renovation, remodeling, or leasing of adequate facilities is not practicable. The Senate bill, unlike the House amendment, provided for the Secretary to make this determination.

The House recedes in this respect.

It is the understanding of the conferees that lease-purchase arrangements where payment schedules are comparable to rental or leasing arrangements shall be considered within the meaning of the term "leasing".

The House amendment did not authorize the Secretary to recover the value of a facility from grantee after 20 years from its completion if the facility ceases to be used for the purpose for which it was constructed; the Senate bill permitted such recovery at any time the facilities cease to be so used.

The House recedes.

The House amendment authorized loans and grants for construction; the Senate bill permitted grants only.

The Senate recedes.

The House amendment provided that no more than 15 percent of total financial assistance to a prime sponsor could be for construction and only 7½ percent could be for grants for construction. The Senate bill limited grants for construction to 15 percent of total assistance.

The conference agreement contains the House provisions in this respect.

The House amendment, unlike the Senate bill, amended the Education Professions Development Act to authorize the Office of Education to provide assistance for training or retraining professional and nonprofessional personnel for child development programs. In addition, the Senate bill and the House amendment contained similar provisions authorizing the Secretary of Health, Education, and Welfare to support the training of personnel employed, preparing for employment, or volunteering for work in a child development program.

The conference agreement contains the Senate provisions in these respects.

Both the Senate bill and the House amendment required the Secretary to make an evaluation of Federal involvement in child development activities. The bills differed in the following respects:

(a) The House amendment, but not the Senate bill, specified that the evaluation shall be made through the Office of Child Development. The conference agreement provides for such evaluation through the Office of Child Development unless the Secretary determines otherwise.

(b) The Senate bill, but not the House amendment, required the evaluation to include the extent to which preschool, minority groups, and economically disadvantaged children and their parents have participated in programs. The House recedes.

(c) The Senate bill required the evaluation results to be reported to Congress not later than two years after enactment, the House amendment no later than 18 months after enactment. The Senate recedes.

(d) Both the Senate bill and the House amendment required Federal agencies to provide such information as the Secretary determines necessary for the evaluation. The Senate bill, unlike the House amendment, also imposed this requirement upon prime sponsors and project applicants. The House recedes.

(e) The Senate bill, but not the House amendment, provided that the Secretary shall reserve between 1 and 2 percent of funds for this evaluation section. The House recedes.

The House amendment provided that the Secretary establish Federal standards for child development services after approval of a Special Committee. The Senate bill provided that the Secretary consult with such Committee and other Federal agencies and that he give his reasons if he disapproved the Committee's recommendations.

The House recedes.

The Senate bill, but not the House amendment, provided that Child Development Standards shall be no less comprehensive than the Federal Interagency Day Care Requirements as approved by HEW, OEO and the Department of Labor on Sept. 23, 1968.

The House recedes.

The House amendment provided that parents of Title IV Social Security Act programs must be represented along with Headstart parents on the Special Committee to develop standards. The Senate bill did not so provide.

The Senate recedes.

The House amendment provided that on the committee to develop uniform minimum code for facilities standards one-half shall be parents, including Title IV Social Security Act parents; the Senate bill provided one-third shall be parents and did not refer to Title IV.

The Senate recedes.

The House amendment gave the uniform facilities code committee 6 months to report; the Senate bill gave it a year.

The House recedes.

The House amendment provided that promulgation of facilities code required concurrence of the committee. The Senate bill required the Secretary to consider recommendations of the committee.

The House recedes.

The House amendment, unlike the Senate bill, contained provisions authorizing mortgage insurance for child development facilities.

The Senate recedes.

The Senate bill and the House amendment each authorized support for child development programs for the children of Federal employees, except as follows:

(a) The Senate bill limited such assistance to children of civilian employees (not military personnel), whereas the House amendment was not so limited. The Senate recedes.

(b) The Senate bill, but not the House amendment, characterized the programs as "model" programs. The Senate recedes.

(c) The Senate bill and the House amendment provided that no more than 80 percent share shall be paid from funds under this part. The House amendment, unlike the Senate bill, provided that after the first two years of a program's operation, no more than 40 percent of program costs shall be paid from Federal funds. The House recedes.

(d) The House amendment, but not the Senate bill, provided that funds for Federal employee programs shall be distributed among the States, insofar as feasible, in proportion to the number of Federal employees. The Senate recedes.

The Senate bill authorized the Secretary to carry out a research and development programs. The House amendment was similar but established a National Center for Child Development within the Office of Child Development for research purposes.

The conference agreement generally follows the Senate title except that it does not establish a National Center for Child Development.

The Senate bill, but not the House amendment, provided for research to test alternative child development methods.

The House recedes.

The House amendment, but not the Senate bill, included among research activities the following purposes:

(a) production of information systems to support Center activities;

(b) integration of national child development research efforts into a focused national research program.

The Senate recedes.

The Senate bill, but not the House amendment, provided that the Secretary shall give priority in assisting research and demonstration projects to programs carried out by multicounty local development districts under the Appalachian Regional Development Act and the Public Works and Economic Development Act.

The Senate recedes.

Although specific mention of research and demonstration funding for child development programs of multicounty local development districts established under the Appalachian Regional Development Act of 1965 and the Public Works and Economic Development Act of 1965 has been deleted in the conference agreement, this action is in no way to be construed as a rejection of such agencies as being eligible or to preclude the funding of any research and demonstration programs presently conducted by the Appalachian Regional Commission. Such agencies are eligible for research and demonstration grants as are individuals, public or private nonprofit organizations, universities, colleges and community service type organizations.

The House amendment required an annual report on research activities to Congress, a provision not contained in the Senate bill.

The Senate recedes.

The Senate bill, but not the House amendment, authorized a program of national child advocacy projects in various regions of the United States.

The Senate recedes.

Both the Senate bill and the House amendment provided for an Office of Child Development in the Department of Health, Education, and Welfare, to be the principal agency for administering and coordinating child development programs. The Senate bill, unlike the House amendment, contained a statutory provision for Director of the Office of Child Development.

The House recedes.

The House amendment, unlike the Senate bill, required the President to take appropriate steps to establish mechanisms for coordination at the State and local level of child development programs.

The House recedes.

The Senate bill, but not the House amendment, required the Secretary of Health, Education, and Welfare to establish procedures to assure adequate nutrition services in the child development programs, making use of the Special Food Service Programs for Children and the Child Nutrition Act.

The House recedes.

The Senate bill, unlike the House amendment, authorized the Secretary to withhold funds in order to recover amounts expended in the current or immediately prior fiscal year in violation of any term or condition under this legislation.

The House recedes.

The Senate bill, but not the House amendment, required the Secretary to prescribe regulations to assure that programs have adequate internal administrative controls and policies to promote the effective use of funds.

The House recedes.

Both the Senate bill and the House amendment had provision for payments of minimum and prevailing wages which were comparable. They differed in two respects: (1) The Senate bill imposed the duty of compliance directly on the Secretary whereas the House amendment made it a part of the project application and (2) the House amendment would have exempted volunteers from the requirements.

The conference agreement follows the Senate provision, except that persons who serve without compensation would be exempt from such provisions.

The Senate bill prohibited the Secretary from providing financial assistance for any program involving political activities or where funds or personnel are in any way engaged in the conduct of political activities in contravention of section 603 of the Economic Opportunity Act. The House bill did not contain this provision.

The House recedes.

The Senate bill contained language, not in the House amendment, prohibiting use of funds for construction, operation, or maintenance of so much of any facility as is for use for sectarian instruction or as a place or religious worship.

The House recedes.

The Senate bill, but not the House amendment, contained the standard provisions for withholding funds after reasonable notice and opportunity for a hearing.

The House recedes.

The House amendment contained advance funding authority, not set forth in the Senate bill.

The Senate recedes.

The House amendment contained the usual provision that Federal control of education is not authorized. The Senate bill did not contain the provision in this title.

The Senate recedes.

The Senate bill, unlike the House amendment, contained a specific provision prohibiting the Secretary from providing financial assistance unless the recipient provides nondiscrimination assurances.

The House recedes.

The House amendment, unlike the Senate bill, provided that no person should be discriminated against on the ground of sex in any program under this legislation, to be enforced under title VI of the Civil Rights Act.

The Senate recedes.

The House amendment, unlike the Senate bill, called for the Secretary to promulgate regulations "to guarantee" that other Federal funded child development programs including Title I of the Elementary and Secondary Education Act and Follow Through be coordinated with this act. The House provision also called for joint technical assistance efforts which result in coordinated efforts between the Office of Child Development and the Office of Education.

The conference agreement follows the House provisions, but states that regulations shall "assure" such coordination.

The House amendment, unlike the Senate bill, amended the Federal Property and Administrative Services Act to allow child development programs the benefits of surplus property disposals.

The Senate recedes.

The House amendment, but not the Senate bill, provided NDEA student loan forgiveness of 15 percent a year for service as a teacher in a child development program.

The Senate recedes.

The Senate bill defined "economically disadvantaged children" to mean any children of a family having an annual income below the lower living standard budget determined by the Bureau of Labor Statistics. The House amendment defined "economically disadvantaged child" to mean a child of a family whose annual income is at a rate inadequate to permit the purchase of child development services for him, as determined by the Secretary in accordance with criteria in regulations, considering factors taken into account in determining fee charges in other federally assisted child development programs.

The House recedes.

Both the Senate bill and the House amendment repealed provisions in other titles of the Economic Opportunity Act authorizing day care and provided that day care services shall be purchased under the new title V.

The conferees, in providing separate new authority for child development programs, direct that there be no reduction in the child development services available for work and training programs conducted under Title I of the Economic Opportunity Act. Rather, it is anticipated that in developing programs for services under the new Title V authority, the Secretary of Health, Education and Welfare shall ensure that full consideration is given to those which serve work and training program enrollees. However, if no such services are available under Title V authority, it is expected that work and training program sponsors shall purchase into suitable existing child development programs provided by other public or private non-profit agencies.

Both the Senate bill and the House amendment added a new title to the Economic Opportunity Act creating a National Legal Services Corporation. The following differences in the provision were resolved as follows:

In the declaration of policy relating to the Legal Services Corporation the Senate bill stated it is in the public interest "to provide greater access to attorneys and appropriate institutions" while the House amendment said it is in the public interest "to promote and encourage resort to attorneys and appropriate institutions". The House receded.

The Senate bill contained a more detailed and precise definition of the Corporation as a tax exempt organization than did the House amendment. The House receded.

The Senate bill and the House amendment were identical in substance, providing for the establishment of an incorporating trusteeship. The House amendment, in addition, required the trusteeship to establish procedures for lists of nominees by the national professional associations of attorneys in the nominations to the permanent board. The House receded.

The Senate bill provided for two separate initial Advisory Councils—one for clients and one for project attorneys—composed of eleven members each. The House amendment provided for a single Advisory Council to be composed of sixteen members selected from among legal services attorneys and the client community of whom no more than eight were to be individuals eligible for legal services assistance. The Senate bill provided for separate meetings of the Clients Advisory Council and the Project Attorneys Advisory Council for submission of lists of nominees to the permanent board. The House amendment provided that the client members of the Council and the project attorney members should each submit recommendations—in substance, the same effect. The House receded.

The Senate bill provided for a board of directors of fifteen members selected in the following manner:

1 appointed by the Chief Justice of the United States after consultation with the Judicial Conference of the U.S.;

9 appointed by the President with the advice and consent of the Senate as follows: four from the general public; three eligible for legal services assistance chosen from a list submitted by the Clients Advisory Council; two chosen from a list submitted by the Project Attorneys Advisory Council;

5 shall be members by virtue of holding the following offices: President of American Bar Association or his designee; president of National Legal Aid and Defender Association or his designee; president of American Association of Law Schools or his designee; president of American Trial Lawyers Association or his designee; president of National Bar Association or his designee.

The House amendment provided for a board of directors consisting of 17 members appointed by the President and with the advice and consent of the Senate in the following manner:

1 member from lists of nominees submitted by the Judicial Conference of the United States;

7 members from individuals in the general public, three of whom must be attorneys admitted to practice before the highest court in their jurisdiction;

2 members from persons eligible for assistance under this Title, after having given due consideration to the recommendation of client members of the Advisory Council;

2 members from among former legal services project attorneys after giving due consideration to the recommendations of the attorney members of the Advisory Council;

1 member from lists of nominees submitted by the Association of American Law Schools;

4 members from lists of nominees submitted by the American Bar Association, National Bar Association, National Legal Aid and Defender Association, and the American Trial Lawyers Association, in accordance with procedures established by the incorporating trusteeship.

The conference agreement provides for a seventeen member board, all appointed by the President with the advice and consent of the Senate selected in the following manner;

6 members from the general public, three of whom must be admitted to practice before the highest court in their jurisdiction;

2 members from lists submitted by the Judicial Conference of the United States;

2 members who are former legal services project attorneys from lists submitted by the Project Attorneys Advisory Council;

2 members from among persons eligible for legal services assistance from lists submitted by the Clients Advisory Council;

5 members one each from lists submitted individually by the American Bar Association, National Bar Association, National Legal Aid and Defender Association, American Trial Lawyers Association and the Association of American Law Schools.

Regarding the constitution of the initial board of directors of the corporation, it is the intention of the conferees that all groups submitting lists to the President of prospective nominees should do so at the earliest possible time in order that the President may submit to the Senate all of his nominees to constitute the board of directors as quickly as possible, thereby permitting all directors to be duly appointed and the board authorized to begin to function no later than 90 days after enactment of the bill and well in advance of the date—six months from the date of the bill's enactment—when the corporation is fully empowered as a successor to the OEO legal services program.

Both the House amendment and the Senate bill provided for three year terms for board members with staggered terms to insure continuity. The differences between the House amendment and the Senate bill generally reflected the different make-up and means of selection of the board of directors in the respective bills.

The conference agreement provides that the terms of six of the initial board members shall expire after one year: one of the members appointed from lists submitted by the Judicial Conference; two of the members from the general public appointed by the President; one of the members from lists submitted by the Clients' Advisory Council; and the member appointed from lists provided by the National Legal aid and Defender Association; and the member appointed from lists submitted by the American Trial Lawyers Association.

The following six board members are appointed for an initial three-year term: two of the members from the general public appointed by the President; one of the members appointed from lists submitted by the Clients' Advisory Council; one of the members appointed from lists submitted by the Project Attorneys Advisory Council; and the member appointed from lists submitted by the National Bar Association.

The following six members are appointed for an initial three-year term: two of the members from the general public appointed by the President; one of the members appointed from lists submitted by the Clients' Advisory Council; one of the members appointed from lists submitted by the Project Attorneys' Advisory Council; the member appointed from lists submitted by the American Bar Association; and the member appointed from lists submitted by the American Association of Law Schools.

The Senate bill authorized the establishment of an executive committee of not less than 5 nor more than 7 members which was to consist of the chairman of the board, the executive director of the Corporation, and one member each representing the general public, the eligible clients or the project attorneys, and the various professional legal associations. There was no comparable House provision. The House receded with an amendment authorizing the establishment of a similar executive committee which was to include the chairman of the board, at least one member representing the public, at least one member representing either the eligible clients or the project attorneys, and at least one member representing the various legal professional associations. The mandatory inclusion of the executive director on the executive committee was deleted. In so doing the conferees do not intend that the executive director necessarily must be excluded from membership on the executive committee. Membership of the executive director on the executive committee is thus left to the members of the board of the Corporation to decide.

The House amendment assured that attorneys are to be bound by the same canons and codes of behavior as other attorneys in their jurisdiction. There was no similar Senate provision. The Senate receded with an amendment providing that the Corporation shall assure that the project attorneys adhere to the American Bar Association's Code of Professional Responsibility and Canons of Professional Ethics.

Both the Senate bill and the House amendment authorized the Corporation to establish standards of client eligibility. The House amendment, however, required the standards to be "consistent with those established by the Office of Economic Opportunity for the provision of legal services". The Senate bill contained no such limitation. The House receded.

On a related matter, the Senate receded from a provision in the Senate bill which directed the board of the Corporation to establish graduated fee schedules to allow the near-poor to pay all or part of the cost of legal services provided them. There was no similar House provision. It is the intention of the conferees that the Corporation should not provide funds to afford free legal assistance to individuals or corporations who can afford to employ private counsel. The decision not to include a specific requirement that the standards of eligibility be consistent with those established for legal services programs by the Office of Economic Opportunity should not be understood to imply any dissatisfaction on the part of the conferees with those standards. Rather, the conferees intend that the Corporation should give serious consideration to the guidelines heretofore established by the Office of Economic Opportunity for the Legal Services program. However, the conferees thought it wise to provide authority to the Corporation to make such adjustments as time and experience may require.

The House amendment required that approval of grants be based on economical comprehensive delivery of services in both urban and rural areas. There was no Senate reference to urban and rural concentration. The Senate receded.

The Senate bill authorized the Corporation to be reimbursed for the cost of services rendered to other Federal agencies. There was no comparable House provision.

The House receded with an amendment to make clear that reimbursement would take place only where arrangements for such services were "otherwise authorized".

The House amendment prohibited attorneys or other persons employed by the Corporation, or engaged in programs funded by the Corporation, from solicitation of clients except that the Corporation was to be allowed a "mere announcement or advertisement" of its existence in the community. The Senate receded with an amendment which made clear that the prohibition against solicitation was not intended to include any conduct or activity permissible under the provisions of the Code of Professional Responsibility of the American Bar Association governing solicitation and advertising.

The Senate bill directed the board to establish graduated fee schedules to allow near-poor to pay all or part of the cost of services. There was no comparable House provision. The Senate receded.

The House amendment required the Corporation to notify the Bar Association of the State of grant approvals within that State thirty days prior to their actual approval. There was no comparable Senate provision. The Senate receded with an amendment requiring notification "within a reasonable time prior" to approval of a grant instead of "thirty days prior" to the approval of a grant.

The Senate bill prohibited the use of funds for criminal proceedings or extraordinary writs, such as habeas corpus or coram nobis, except pursuant to guidelines established by the Corporation. The House amendment contained a flat prohibition against the use of funds or personnel provided by the Corporation to provide legal services in any criminal proceedings. The Senate receded. The conferees want to make clear that this prohibition does not in any way relieve any attorney from specific or general responsibilities imposed on him as an officer of the court by the courts before which he practices.

The House amendment made the Corporation liable to any prevailing defendant for the payment of legal fees or court costs awarded in connection with any proceeding brought by attorneys employed by the Corporation. There was no comparable Senate provision. The House receded.

The Senate bill required all employees of legal services programs, while engaged in activities connected with those programs, to refrain from any partisan political activity associated with a candidate for public or party office and from any voter registration activity or from providing transportation to the polls. The House amendment applied the provisions of the Hatch Act to all full-time employees of the Corporation and of programs funded by the Corporation and, in addition, prohibited non-partisan political activity.

The conference agreement provides that such full time employees while engaged in activities carried on by the Corporation refrain from partisan or nonpartisan political activity including voter registration or transportation. Full time employees must also refrain from identifying the Corporation with any candidate for political or party office. The Corporation is directed to establish appropriate guidelines dealing with free time political activities of the full-time employees of the Corporation or its grantees.

The Senate bill provided that the financial transactions of the Corporation, its grantees and contractors, were to be subject to annual audit by the General Accounting Office. The House amendment expanded the authority of the General Accounting Office and, in addition to financial audits, authorized the General Accounting Office to examine the accounts, operations, reports of evaluations, and inspections of the Corporation, its grantees and contractors. The Senate receded.

The Senate bill included in the definition of "legal services" the provision of bilingual legal services to residents of communities when the predominant language is other than English. There was no comparable House provision. The House receded.

The Senate bill provided that rights to capital equipment of legal services programs were to be transferred to the Corporation on the date of enactment. The House amendment prescribed that all such rights should transfer at a time prescribed by the Director of the Office of Management and Budget or six months after enactment, whichever is earlier. The House provision insured the existence of responsible persons and organizational structure to take responsibility for such capital equipment. The Senate receded.

Both the Senate bill and the House amendment provided for the transfer to the Corporation of all personnel, assets, liabilities, property, and records used in connection with the Office of Economic Opportunity Legal Services program. Non-lawyer personnel transferred were protected by the Senate bill in that transfers were to be effected in accordance with applicable laws and regulations (including the continuation of benefits provided under civil service laws relating to seniority, classification of positions, retirement benefits, compensation for work injuries, health insurance, group life insurance, and similar matters) and "without reduction" in classification or compensation for one year following the transfer. The Director of the Office of Economic Opportunity was further required to take the necessary and reasonable actions to "find" suitable employment for such persons who did not wish to transfer. The House receded with clarifying language to the effect that non-lawyer personnel shall be transferred in accordance with applicable laws and regulations and "shall not be reduced" in classification or compensation for one year. Further amendment required that the Director take such action as was necessary and reasonable to "seek" suitable employment for all those persons who did not wish to be transferred.

The Senate bill protected existing collective bargaining agreements covering personnel transferred to the Corporation. There was no comparable House provision. The House receded.

Carl D. Perkins,
Augustus F. Hawkins,
William D. Ford,
Phillip Burton,
Joseph M. Gaydos,
William L. Clay,
Shirley Chisholm,
Mario Biaggi,
Ella Grasso,
Ogden Reid,
Managers on the Part of the House.

Gaylord Nelson,
Edward Kennedy,
Walter F. Mondale,
Alan Cranston,
Harold E. Hughes,
Adlai Stevenson,
Jennings Randolph,
Jacob K. Javits,
Richard Schweiker,
Managers on the Part of the Senate.

APPOINTMENT OF CONFEREES ON REVENUE ACT OF 1971

Mr. MILLS of Arkansas. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 10947) to provide a job development investment credit, to reduce individual income taxes, to reduce certain excise taxes, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas? The Chair hears none, and appoints the following conferees: Messrs. Mills of Arkansas, Ullman, Burke of Massachusetts, Mrs. Griffiths, Messrs. Byrnes of Wisconsin, Betts, and Schneebeli.

U.S. ECONOMY IS FARING BETTER

(Mr. GERALD R. FORD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GERALD R. FORD. Mr. Speaker,

on November 19, the Washington Post acknowledged that the U.S. economy is faring better. And indeed it was right. Revised statistics show that the real gross national product grew at an annual rate of 3.9 percent during the third quarter of 1971, rather than the 2.9 percent shown in earlier projections. Simultaneously, inflation, as measured by the GNP deflator, rose at an annual rate of 3 percent during the third quarter, as compared to 4 percent in the second quarter and 5.3 percent in the first. The rise in the Consumer Price Index during the month of October was 0.1 percent, after seasonal adjustment. This was the smallest monthly rise in the CPI since April 1967.

It is obvious that President Nixon's new economic policy is working. Phase I—the freeze—was a great success. It clamped down hard on the inflationary spiral which we inherited from the fiscal irresponsibility of the previous administration. It united the American people in a massive attack on the monster which has been eating away at the purchasing power of the American worker. In constructing phase II the administration has sought to incorporate a high degree of equity into the framework of its policies. Requests for exception to or exemption from the guidelines of the Pay Board and the Price Commission will be examined carefully on an individual basis.

Because of these positive, innovative administration policies, 1972 will fulfill President Nixon's prediction that it will be a great year economically. The prestigious Organization for Economic Cooperation and Development Secretariat has predicted that the U.S. economy will grow at a real rate of over 6 percent during the first 6 months of 1972. Economic expansion at this rate will constitute a strong recovery from the economic slowdown which we experienced during most of 1970 and will return us to a path of steady economic growth in a climate of price stability.

THE PRESIDENT'S PREDICTIONS

(Mr. BOGGS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOGGS. Mr. Speaker, I listened with great interest to the statement just read by the distinguished minority leader.

I would express the hope that his rosy prediction would come to pass. But if the past and if the present are any indication of the future, then I am afraid that the result will be quite different.

We have had phase II now for several weeks—and most people do not know what it is. I have had more inquiries about what it is and what it does, and what it means and what it does not mean, and what it freezes and what it does not freeze or unfreezes, than any other so-called economic policy that this country has ever seen.

Certainly, you see the results in the confusion and utter pandemonium now prevailing elsewhere in the free world. There has never been a time when the balance-of-payments deficit has been so large nor has there ever been a time in modern history when the balance of trade has been in such a deficit position. The stock market which some claim to be a barometer of business conditions, although it had apparently a little advance on Friday, has been going down and down and down. Unemployment remains at almost 6 percent and our industrial capacity is still unused to the extent of about 30 percent.

So I say, Mr. Speaker, if these conditions present a rosy picture, I would hate to see a gloomy one.

AMERICAN PEOPLE SHOULD KNOW WHAT PRESIDENT PLANS TO DISCUSS WITH COMMUNIST LEADERS

(Mr. PUCINSKI asked and was given permission to address the House for 1 minute.)

Mr. PUCINSKI. Mr. Speaker, I read with great interest over the weekend that President Nixon will tell Prime Minister Trudeau, Prime Minister Heath, Prime Minister Pompidou, Prime Minister Sato, Prime Minister Brandt, and a lot of other foreign leaders what it is that he plans to discuss with the Communist leaders in Peking and with the Communist leaders in Moscow.

I wonder if it would be asking too much for the President to be good enough to tell the American people and to tell the Congress of the United States what he intends to discuss with the Communist leaders in Peking and Moscow.

We have heard a great deal of talk about the President's contemplated visit to Peking and Moscow, but at this moment nobody in this country really knows what it is that the President hopes to achieve at Peking and Moscow.

In view of the dismal track record of summit meetings by previous Presidents—including Yalta—I think it would be pretty nice if the American people knew what their President plans to do before all these foreign dignitaries. After all, its the American taxpayer who is funding these trips and it is not asking too much that he be taken into the President's confidence.

CALL OF THE HOUSE

Mr. DORN. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. BOGGS. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 411]

Anderson, Calif.
Anderson, Tenn.
Arends
Ashley
Aspinall
Badillo
Barrett
Bell
Betts
Blatnik
Burton
Byrne, Pa.
Caffery
Camp
Celler
Chappell
Chisholm
Clark
Clausen, Don H.
Clay
Collins, Ill.
Colmer
Cotter
Davis, S.C.
Dent
Derwinski
Dickinson
Diggs
Dowdy
Dulski
Edwards, La.
Eilberg
Erlenborn
Eshleman
Evins, Tenn.
Foley
Fraser
Gallagher
Grasso
Gray
Green, Oreg.
Green, Pa.
Griffin
Gubser
Halpern
Hanna
Hébert
Heckler, Mass.
Helstoski
Hillis
Hogan
Jarman
Jones, N.C.
Landrum
McClory
McCloskey
McCormack
McKevitt
Martin
Mayne
Michel
Miller, Calif.
Minish
Mitchell
Nelsen
Pepper
Pike
Pirnie
Poage
Pryor, Ark.
Railsback
Rangel
Reuss
Rhodes
Rodino
Rogers
Roy
Roybal
Sandman
Saylor
Scheuer
Shriver
Sikes
Slack
Springer
Steele
Stephens
Stuckey
Thone
Ullman
Waldie
Whitehurst
Whitten
Wiggins
Wilson, Charles H.

The SPEAKER. On this rollcall, 335 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

APPOINTMENT OF CONFEREES ON H.R. 9727, MARINE PROTECTION, RESEARCH, AND SANCTUARIES ACT OF 1971

Mr. DINGELL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 9727) to regulate the dumping of material in the oceans, coastal and other waters, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and request conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Michigan? The Chair hears none, and appoints the following conferees; Messrs. GARMATZ, DINGELL, LENNON, PELLY, and MOSHER.

FEDERAL ELECTION REFORM

Mr. HAYS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 11060) to limit campaign expenditures by or on behalf of candidates for Federal elective office; to provide for more stringent reporting requirements; and for other purposes.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 11060, with Mr. BOLLING in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Thursday, November 18, 1971, the Clerk had read the enacting clause of the bill.

For what purpose does the gentleman from Massachusetts (Mr. MACDONALD) rise?

AMENDMENT OFFERED BY MR. MACDONALD

Mr. MACDONALD of Massachusetts. Mr. Chairman, pursuant to House Resolution 694, I offer an amendment in the form of a new title I.

The Clerk read as follows:

Amendment offered by Mr. MACDONALD of Massachusetts: Page 1, after the enacting clause insert the following:

TITLE I—CAMPAIGN COMMUNICATIONS

SHORT TITLE

SECTION 101. This title may be cited as the "Campaign Communications Reform Act".

DEFINITIONS

SEC. 102. For purposes of this title:

(1) The term "communications media" means broadcasting stations, newspapers, and magazines.

(2) The term "broadcasting station" has the same meaning as such term has under section 315(d) of the Communications Act of 1934.

(3) The term " Federal elective office" means the office of President of the United States, or of Senator or Representative in, or Resident Commissioner or Delegate to, the Congress of the United States (and for purposes of section 104(b) such term includes the office of Vice President).

(4) The term "legally qualified candidate" with respect to Federal elective office, or nomination for election to such office, has the same meaning as such term has when used in section 315 of the Communications Act of 1934.

(5) The term "voting age population" means resident civilian population, eighteen years of age and older.

(6) The term "State" includes the District of Columbia and the Commonwealth of Puerto Rico.

REPEAL OF EQUAL-TIME REQUIREMENT FOR CANDIDATES FOR PRESIDENT AND VICE PRESIDENT

SEC. 103. (a) The first sentence of section 315(a) of the Communications Act of 1934 (47 U.S.C. 315(a)) is amended by inserting before the colon the following: ", except that the foregoing requirement shall not apply to the use of a broadcasting station by a legally qualified candidate for the office of President or Vice President of the United States in a general election".

(b) The second sentence of such section is amended by striking out "any such candidate" and inserting in lieu thereof "any legally qualified candidate for public office".

MEDIA RATE REQUIREMENTS

SEC. 104. (a) Section 315(b) of such Act is amended to read as follows:

"(b) The charges made for the use of any broadcasting station by any person who is a legally qualified candidate for any public office shall not exceed the lowest unit charge of the station for the same amount of time in the same time period."

(b)(1) To the extent that any person sells space in any newspaper or magazine to a legally qualified candidate for Federal elective office, or nomination thereto, in connection with such candidate's campaign for nomination for, or election to, such office, the charges made for the use of such space in connection with his campaign shall not exceed the charges made for comparable use of such space for other purposes.

(2) If any person sells space in any newspaper or magazine to any legally qualified candidate for Federal elective office, or nomination thereto, in connection with such candidate's campaign for nomination for, or election to, such office, such person shall make equivalent space available on the same basis to all legally qualified candidates for the same office, or for nomination to such office, as the case may be.

LIMITATIONS OF EXPENDITURES FOR USE OF COMMUNICATIONS MEDIA

SEC. 105. (a)(1) No legally qualified candidate in an election (other than a primary or primary runoff election) for a Federal elective office may—

(A) spend for the use of communications media on behalf of his candidacy in such election a total amount in excess of 10 cents (or such greater amount as may be certified under paragraph (4)(A)) multiplied by the voting age population (as certified under paragraph (4)(B)) of the geographical area in which the election for such office is held, or

(B) spend for the use of broadcast stations on behalf of his candidacy in such election a total amount in excess of 50 per centum of the amount determined under subparagraph (A) with respect to such election.

(2) No legally qualified candidate in a primary election for nomination to a Federal elective office, other than President, may spend—

(A) for the use of communications media, or

(B) for the use of broadcast stations,

on behalf of his candidacy in such election a total amount in excess of the amount's determined under paragraph (1) (A) or (B), respectively, with respect to the general election for such office. For purposes of this subsection a primary runoff election shall be treated as a separate primary election.

(3)(A) No person who is a candidate for presidential nomination may spend—

(i) for the use in a State of communications media, or

(ii) for the use in a State of broadcast stations,

on behalf of his candidacy for presidential nomination a total amount in excess of the amounts which would have been determined under paragraph (1) (A) or (B), respectively, had he been a candidate for an election for the office of Senator from such State (or for the office of Delegate or Resident Commissioner in the case of the District of Columbia or the Commonwealth of Puerto Rico).

(B) For purposes of this paragraph, a person is a candidate for presidential nomination if he makes (or any other person makes on his behalf) an expenditure for the use of any communications medium on behalf of his candidacy for any political party's nomination in an election to the office of President. He shall be considered to be such a candidate during the period—

(i) beginning on the date on which he (or such other person) first makes such an expenditure (or, if later, January 1 of the year in which the election for the office of President is held), and

(ii) ending on the date on which such political party nominates a candidate for the office of President.

For purposes of this title and of section 315 of the Communication Act of 1934, a candidate for presidential nomination shall be considered a legally qualified candidate for public office.

(C) The Attorney General shall prescribe regulations under which any expenditure by a candidate for presidential nomination for the use in two or more States of a broadcasting station, newspaper, or magazine shall be attributed to such candidate's expenditure limitation in each such State, based on the number of persons in such State who can reasonably be expected to receive such broadcast, newspaper, or magazine.

(4)(A) During the first week of January 1974, and during such week in every second subsequent year, the Secretary of Commerce shall certify to the Attorney General and publish in the Federal Register an amount which bears the same ratio to 10 cents as the value of the communications price index for the last calendar year ending before the date of certification bears to the value of such index for 1972. The communications price index shall be a price index, using 1972 as a base year, measuring changes in the charges to candidates for the use of communications media. Such index shall be established and maintained by the Secretary of Commerce.

(B) During the first week of January 1972, and during such week in every second subsequent year, the Secretary of Commerce shall certify to the Attorney General and publish in the Federal Register an estimate of the voting age population of each State and congressional district for the last calendar year ending before the date of certification.

(5) Amounts spent for the use of communications media on behalf of any legally qualified candidate for Federal elective office (or for nomination to such office) shall, for the purposes of this subsection, be deemed to have been spent by such candidate. Amounts spent for the use of communications media by or on behalf of any legally qualified candidate for the office of Vice President of the United States shall, for the purposes of this section, be deemed to have been spent by the candidate for the office of President of the United States with whom he is running.

(6) For purposes of this section and section 315(c) of the Communications Act of 1934, spending and charges for the use of communications media include not only the direct charges of the media but also agents' commissions allowed the agent by the media.

(b) No person may make any charge for the use by or on behalf of any legally qualified candidate for Federal elective office (or for nomination to such office) of any newspaper or magazine, unless such candidate (or a person specifically authorized by such candidate in writing to do so) certifies to such person in writing that the payment of such charge will not violate paragraph (1), (2), or (3) of subsection (a), whichever is applicable.

(c) Section 315 of the Communications Act of 1934 is amended by redesignating subsection (c) as subsection (e) and by inserting after subsection (b) the following new subsections:

"(c) No station licensee may make any charge for the use of such station by or on behalf of any legally qualified candidate for Federal elective office (or for nomination to such office) unless such candidate (or a person specifically authorized by such candidate in writing to do so) certifies to such licensee in writing that the payment of such charge will not violate any limitation specified in paragraph (1), (2), or (3) of section 105(a) of the Campaign Communications Reform Act, whichever paragraph is applicable.

"(d) For the purposes of this section:

"(1) The term 'broadcasting station' includes a community antenna television system.

"(2) The terms 'license' and 'station licensee' when used with respect to a community antenna television system, mean the operator of such system.

"(3) The term 'Federal elective office' means the office of President of the United States, or of Senator or Representative in, or Resident Commissioner or Delegate to, the Congress of the United States."

REGULATIONS

SEC. 106. The Attorney General shall prescribe such regulations as may be necessary or appropriate to carry out sections 102, 104 (b), 105(a), and 105(b) of this Act.

PENALTIES

SEC. 107. (a) Whoever violates any provision of section 104(b), 105(a), or 105(b) or any regulation under section 106 shall be assessed a civil penalty of not more than $1,000 for each violation.

(b) Any legally qualified candidate who willfully violates section 105(a) or any regulation under section 106 shall be punished by a fine of not more than $10,000 or by imprisonment of not more than one year, or both.

EFFECTIVE DATE

SEC. 108. Sections 103 and 104 of this Act and the amendments made thereby shall take effect on January 1, 1972. Section 105 and the amendments made thereby shall apply only to expenditures for the use on or after such date of communications media.

Mr. MACDONALD of Massachusetts (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The CHAIRMAN. The gentleman from Massachusetts is recognized for 5 minutes.

Mr. MACDONALD of Massachusetts. Mr. Chairman, I think all of us are quite aware that the legislation we have before us today will affect the political life of America for many years to come. Many of us who served here a year ago understand well the bill that was passed at that time, but I think for the benefit of those who have either forgotten or who were not here at that time, it might be well to review the history of this bill.

In 1970, this House by a vote of 272 to 97 passed a bill which is terribly similar to what is now called title I of the Hays bill. That bill had been passed out of the House Commerce Committee. It stayed strictly within the jurisdiction of that committee, as it properly should. It was passed by the Senate by a vote of 60 to 19. Then the conference report came over to the House. Incidentally, the Senate, in conference had for once, adopted all of our measures except the effective date of our bill, and the conference report was overwhelmingly adopted.

What the bill did then and what it will now is to limit the amount of money that can be spent on so-called communications media blitzes. The bill, of course, then went to the President, and for whatever reasons he had, and despite the great display of bipartisan support, the bill was vetoed at the White House. In the veto message the President indicated that a bill would be forthcoming from the administration which would plug more holes. As I recall, the President said that the bill he was sent plugged only one hole in the sieve. He acknowledged the fact that spending was getting out of hand in all Federal elections and, indeed, other elections as well.

We waited for a long time for another bill to be sent up and we never got one.

In his veto message the President indicated also that he thought the broadcasting media were being discriminated against, inasmuch as there was no limitation placed on newspapers or magazines. So in order to avoid another veto, and because we do have jurisdiction over both newspapers and magazines, they were added to this bill.

Specifically, with relation to title I of the bill, it would, first, repeal section 315(a) of the Communications Act of 1934 with respect to candidates for President and Vice President. And for those of you who are not all that familiar with the Communications Act that means the networks, the broadcasters, if they give free time to the Republican Party, the Democratic Party, or another well-known third party, do not have to give time to Lon Daly in Chicago, the Vegetarian Party, or any of the other fringe parties.

Second, title I places an overall limitation on the amount of money which can be spent by or on behalf of any candidate for Federal office.

And this, of course, is to stop the loophole of money being spent by committees for a candidate, and yet the candidate does not have to report a cent of it.

The limit in title I is obtained by multiplying 10 cents times the voting age population—that is people who are eligible to vote whether they register or not. The bill further limits the amount which a candidate could spend of that 10 cents through the broadcast media to 50 percent of that, which obviously is 5 cents. So no candidate can come in and hire a hotshot so-called advertising agency.

The CHAIRMAN. The time of the gentleman from Massachusetts has expired.

Mr. VAN DEERLIN. Mr. Chairman, because of the importance of the gentleman's amendment, I ask unanimous consent that he be allowed to proceed for an additional 5 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MACDONALD of Massachusetts. Mr. Chairman, as we all know, the television blitz has worked on both sides.

The last time this was a bipartisan effort, and I hate to see this become a partisan effort, even though I have heard rumors that is what it is about to develop into, because we have had our transgressors on this side and obviously there have been transgressors on that side of the aisle.

It has been said this is an incumbent's bill. It is not. It is a public interest bill, because the public interest should be protected. If one is sold a package of soap or razor blades or anything else that turns out to be defective by an advertising blitz tactic, the person has a right to go to a consumer agency or to the FTC and to complain. However, if the voter is sold a bad bill of goods by a television blitz and gets a packaged candidate who never even really appears on TV, but has an advertising agency do all spot announcements, the person has nowhere to turn to complain except 6 years later for some candidates, 4 years later perhaps for others, and in our case 2 years later. So this seems to me not to be an incumbent's bill but a public interest bill.

Third it has separate limits both as to primaries and general elections. In the case of the presidential primaries, the candidates' expenditures are limited on a State-by-State basis with the candidate able to spend no more than a candidate for the Senate would be able to spend within that State.

Fourth, the broadcast stations would be required to extend to the candidates their lowest unit costs, which are their lowest costs, rates that they set themselves. Newspapers and magazines are not held to that amount but can charge a candidate their standard open or transient rate and treat us political candidates from every level as they would somebody selling a commercial product.

Fifth, no advertising would be accepted from or on behalf of any candidate unless the candidate certifies in writing that the expenditure involved is within his spending limitation.

I know this is a very important bill, and I know that our time is limited. I am not going to transgress on the time of other Members.

Mr. EDMONDSON. Mr. Chairman, will the gentleman yield?

Mr. MACDONALD of Massachusetts. I yield to the gentleman from Oklahoma.

Mr. EDMONDSON. Mr. Chairman, I congratulate the gentleman and the committee on which he serves with great distinction as a subcommittee chairman upon a very fine job of legislative craftsmanship on this bill.

I recognize that there are some things that pinch everybody's toes in this, and I recognize there are some things that are not perfect in the bill. To my way of thinking, however, it is a balanced, thoughtful, and carefully written piece of legislation that meets a national need and also meets the primary objections that were raised in the President's veto message, and meets them very, very effectively. I congratulate the gentleman on the job he has done on it.

I hope, as the gentleman does, that this will be a measure that will be beyond partisanship in the final work that is done on it in this House. I think the public is entitled to this kind of legislation. I think it is in the interest of this country to have the House pass it, and I hope it will receive the overwhelming support of this House.

Mr. MACDONALD of Massachusetts. Mr. Chairman, I thank the gentleman. I would like to point out that this bill is in substance exactly the same bill that came out of the Subcommittee on Communications a year ago with not a dissenting vote, and which came out of the full Committee on Interstate and Foreign Commerce with only one dissenting vote.

No amendments were put on in the subcommittee or, after it left the subcommittee, either in the full committee or here in the House. It passed overwhelmingly, with bipartisan support, a year ago here in the House. It passed the Senate with bipartisan support. The conference report was accepted with a bipartisan spirit.

For the life of me I cannot see how in the space of 1 year, when we met the objections—tried to meet and believe we have met the objections—of the veto message, it suddenly should become a partisan issue.

PARLIAMENTARY INQUIRY

Mr. BROWN of Ohio. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BROWN of Ohio. May I ask the procedure now with respect to H.R. 11231. Is my understanding correct that the bill is now to be read section by section, or to be considered section by section for amendment?

The CHAIRMAN. The amendment of the gentleman from Massachusetts (Mr. MACDONALD) has been read, and is open to amendment at any point.

Mr. BROWN of Ohio. Under the rule?

The CHAIRMAN. Under the rule and the unanimous-consent agreement.

Mr. BROWN of Ohio. I thank the Chair.

AMENDMENT OFFERED BY MR. FREY TO THE AMENDMENT OFFERED BY MR. MACDONALD OF MASSACHUSETTS

Mr. FREY. Mr. Chairman, I offer an amendment to the amendment offered by the gentleman from Massachusetts (Mr. MACDONALD).

The Clerk read as follows:

Amendment offered by Mr. FREY to the amendment offered by Mr. MACDONALD of Massachusetts: Page 1, strike out lines 7 and 8 and insert in lieu thereof the following:

"(1) The term "communications media" means broadcasting stations, newspapers, magazines and outdoor advertising facilities."

Page 4, strike out lines 8 through 21, and insert in lieu thereof the following:

"SEC. 105. (a)(1) No legally qualified candidate in an election (other than a primary or primary runoff election) for a Federal elective office may—

"(A) spend for the use of communications media on behalf of his candidacy in such election a total amount in excess of the greater of—

"(i) 10 cents (or such greater amount as may be certified under paragraph (4)(A)(i)) multiplied by the voting age population (as certified under paragraph (4)(B)) of the geographical area in which the election for such office is held, or

"(ii) $50,000 (or such greater amount as may be certified under paragraph (4)(B)(ii)), or

"(B) spend for the use of broadcast stations on behalf of his candidacy in such election a total amount in excess of 60 percentum of the amount determined under subparagraph (A) with respect to such election."

Page 6, beginning on line 15, strike out "a broadcasting station, newspaper or magazine," and insert in lieu thereof "communications media."

Page 6, beginning on line 19, strike out "receive such broadcast, newspaper or magazine" and insert in lieu thereof "be reached by such communications media."

Page 6, beginning on line 24, strike out "in the Federal Register" and all that follows down through "1972." in line 3 on page 7, and insert in lieu thereof the following: "in the Federal Register—

"(i) an amount which bears the same ratio to 10 cents, and

"(ii) an amount which bears the same ratio to $50,000, as the value of the communications price index for the last calendar year ending before the date of certification bears to the value of such index for 1972."

Page 8, beginning on line 7, strike out "any newspaper or magazine" and insert in lieu thereof "any newspaper, magazine, or outdoor advertising facility."

Mr. FREY. Mr. Chairman, let me very simply explain what this amendment does.

First. It establishes as the limit on spending the greater amount of $50,000 or 10 cents multiplied by the voting age population. In the present Macdonald of Massachusetts proposal we have a 10-cent-per-voter limitation and we have a subceiling within the Macdonald of Massachusetts proposal that 5 cents can be spent on TV and on radio.

The second item in my amendment goes to allow a little more discretion for TV and radio. In essence, it would allow 6 cents to be spent or 60.1 of the $50,000, whichever is greater, on radio, TV of the total amount.

The third item of my amendment goes to increase the area of coverage. It increases it by one item—outdoor advertising.

Let me make one thing very clear now. This amendment is offered in terms of a compromise. In the committee I felt that we should have complete flexibility. I think we had a very interesting debate on the complete flexibility that should be allowed to candidates. It seems to me that if it is a sin to spend 9 cents on newspapers, then it is equally a sin to spend 9 cents on radio and television. Because districts vary, I think a candidate should be able to pick and choose. The sin is on the amount of money spent and not on how it is spent. To do otherwise is to discriminate against radio and TV.

This came to be a very partisan fight in the committee. My amendment to allow complete flexibility won several times and finally lost on a vote of 24 to 21. Because of my personal feeling that we have only this chance to get a campaign reform bill through and if we miss it this time we will not get it through at all, I am willing to take something less than I want.

As with any compromise, this is not what I want completely. I am sure that there are people who fought equally as hard on the other side against my amendment. But unless we can work out a compromise, I believe this bill will be defeated, and I do not think this should happen.

I think it is abundantly clear that the American people want it. I took a poll in my district of 23,400 people. Eighty-four percent were for limitations on campaign spending. The chairman of the committee stated before recess that the Gallup poll recently showed 78 percent of the people wanted a limitation on campaign reform.

Our credibility is at stake today. We need this bill. While I think it still is discriminatory toward television and radio, it is better than the original Macdonald bill. We need campaign reform—now. For this reason, and this reason only, I offer this amendment and certainly hope that the distinguished chairman of the subcommittee, Mr. MACDONALD, who worked so hard and who has been extremely fair, would accept this amendment.

Mr. MACDONALD of Massachusetts. Mr. Chairman, will the gentleman yield to me?

Mr. FREY. I am delighted to yield to the chairman of the subcommittee.

Mr. MACDONALD of Massachusetts. I appreciate the spirit in which the amendment is offered. If indeed it will help to bring out a bill that is so badly needed, I do not think that there is anything magic about the difference of 10 and 5 and 5 or 6 and 4 as a formula. Within a very narrow range.

I compliment the gentleman on his work both on the bill and in the subcommittee even though we did have some differences.

As far as I am concerned, I would be happy to accept this amendment.

Mr. FREY. I thank the gentleman.

Mr. HAYS. Will the gentleman yield?

Mr. FREY. I am happy to yield to the chairman.

Mr. HAYS. I have not had the privilege of seeing a copy of the gentleman's amendment. Does the gentleman's amendment set a top ceiling on all expenditures?

Mr. FREY. Yes, sir. By the way, the amendment was printed in the RECORD before we adjourned for Thanksgiving. The ceiling is on five items, radio, television, newspapers, magazines, and outdoor advertising. It sets a top limit of 10 cents per vote for voting age population or $50,000, whichever is greater.

Mr. HAYS. I thank the gentleman.

Mr. ANDERSON of Illinois. Will the gentleman yield?

Mr. FREY. I am delighted to yield to the gentleman.

Mr. ANDERSON of Illinois. If I understand the gentleman's amendment correctly, in essence, what you are doing is conforming this particular communications section of the bill to the Senate bill in that the Senate bill also contains billboards and contains interchangeability features. The difference is however, that the overall limitation that the gentleman is suggesting is $50,000 whereas I think it was a $30,000 limitation in the Senate bill. Am I correct on that?

Mr. FREY. Yes, with one caveat. There is a total in the Senate bill of $60,000, $30,000 for broadcast and $30,000 for nonbroadcast items.

Mr. ANDERSON of Illinois. With broadcasting and nonbroadcasting a total of $60,000.

Mr. FREY. Yes.

Mr. ANDERSON of Illinois. As one who originally espoused the idea stated by the gentleman of complete flexibility within any ceiling and of a five-item ceiling, I want to congratulate the gentleman for the spirit of compromise in which he has offered this amendment.

Mr. FREY. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. FREY) to the amendment offered by the gentleman from Massachusetts (Mr. MACDONALD).

The amendment to the amendment was agreed to.

AMENDMENT OFFERED BY MR. VAN DEERLIN TO THE AMENDMENT OFFERED BY MR. MACDONALD OF MASSACHUSETTS

Mr. VAN DEERLIN. Mr. Chairman, I offer an amendment to the amendment offered by the gentleman from Massachusetts.

The Clerk read as follows:

Amendment offered by Mr. Van Deerlin to the amendment offered by Mr. Macdonald of Massachusetts: Page 2, strike out line 18 and all that follows down through line 5 on page 3, and insert in lieu thereof the following:

"PARTIAL REPEAL OF EQUAL-TIME REQUIREMENTS; STUDY

"Sec. 103. (a) (1) The first sentence of section 315(a) of the Communications Act of 1934 (47 U.S.C. 315(a)) is amended by inserting before the colon the following: ', except that the foregoing requirement shall not apply to the use of a broadcasting station by a legally qualified candidate for the office of President or Vice President of the United States, or a legally qualified candidate for the office of United States Senator, in a general election'.

"(2) The second sentence of such section is amended by striking out 'any such candidate' and inserting in lieu thereof 'any legally qualified candidate for public office'.

"(b) The Federal Communications Commission shall conduct a study to determine what safeguards may be necessary to assure reasonable access to broadcasting stations by legally qualified candidates for Federal office following the repeal of section 315(a) of the Communications Act of 1934 in the case of general elections for such offices. Not later than January 3, 1973, the Commission shall submit its recommendations for implementing legislation to the Committee on Interstate and Foreign Commerce of the United States House of Representatives and the Committee on Commerce of the United States Senate."

Mr. VAN DEERLIN. Mr. Chairman, this amendment undertakes to carry out in regard to the Presidential campaign the terms of a bill which this House and the Senate both passed last year, to repeal section 315 of the communications law as it applies to campaigns for President and Vice President. It would extend that repeal to campaigns for the U.S. Senate. It would not, however, extend repeal of section 315 at this time to campaigns for the House of Representatives.

Instead, the Federal Communications Commission would be mandated to conduct a special investigation into the conditions that might prevail if section 315 were repealed across the board.

The Commission would report not later than January 3, 1973, to the Commerce Committees of both House and Senate. At that time we would be able to take another look, to determine whether a beefing up of the Fairness Doctrine or other steps might be desirable before we were ready to see section 315 repealed across the board.

The problems are very different in regard to equal time guarantees as they apply to Presidential candidates, U.S. Senate candidates, and House candidate.

In the presidential area, we have the problem of fringe party candidates—11 or 12 of which were on various State ballots in 1968. Under present law it is impossible for broadcast licensees and, therefore, his networks to offer free time to any candidates, for panel discussion or in formal debate, as long as this restriction is in the law. This means that in the greatest political decision that the American people have to make every 4 years—the choice of a President—they do not have full availability of the greatest communications asset that the world has ever known. Television and radio are effectively denied a role in presenting candidates for President without including the Socialist Labor Party candidate, the Prohibition Party candidate, the Vegetarian Party candidate or for that matter, the Nudist Party candidate.

I would further point out that this repeal was apparently acceptable to the President, because in his veto message last year he did not state objections to repeal of section 315 in the Presidential campaign.

In the normal senatorial campaign, no single broadcaster or handful of broadcasters can really determine the outcome of a statewide election. Therefore, there is not the same peril to a Senator or a candidate for the Senate in this regard.

These races occur every 6 years. Candidates for a U.S. Senate seat are more likely to be in the news—and they cannot be ignored, nor can the issues they raise be ignored.

The U.S. Senate this year, by an overwhelming majority, has passed a bill repealing section 315 for all Federal offices, themselves included.

A different problem exists for House Members, and challengers for House seats. Many of our districts have a single broadcasting outlet, or a very small handful of broadcasters. Most of these broadcasters, I believe, are fully responsible people. But I think, and I believe most of you agree, that we should move very slowly, very cautiously in the repeal of section 315 across the board.

We need the kind of examination of this problem that could be made in the intervening 2 years by the Federal Communications Commission, and hence I have in this amendment asked that such a study be conducted, with a report to be returned to the committees of the Congress. There would not be a full repeal of section 315 until and unless both Houses of the Congress had agreed to it.

Mr. HARVEY. Mr. Chairman, I rise in opposition to the amendment offered by my good friend, the gentleman from California (Mr. Van Deerlin), and I do so for this specific reason. I can see no logical basis nor a commonsense basis whatsoever for treating the President of the United States any differently under section 315 than we treat a Member of the House of Representatives, whether that Member be my friend, the gentleman from California, or whether it be a Member of the U.S. Senate. We are all elected officials. Section 315, which goes to certain public officials, as we have written it into law, applies equally to all of us.

Mr. Chairman, they have said that this is not a partisan question, and that it should not be a partisan question, and with that I wholeheartedly agree. But let us not kid ourselves one bit. I have been in this House of Representatives since 1960, and I can recall in 1964 when the Republicans were trying desperately to repeal section 315, and when that bill was killed in the House-Senate conference under strict orders from the White House. If you do not believe me, I can quote you the page number of the Congressional Record where Senator Mansfield made a motion to table it, and it was tabled, and there was no question as to why it was done.

I can also point out to you in 1968, and many of you who were here then may have forgotten it, but that was the reason we stayed in session for almost 24 hours, around the clock. That was the reason some people missed 35 or more quorum and rollcalls at one particular time. It certainly was a partisan issue then, indeed.

For 1 minute, Mr. Chairman, let us look at some of the arguments that are given. One of the arguments advanced by my good friend, the gentleman from California (Mr. Van Deerlin)—and let me say that he is my good friend, and he is certainly one of the ablest members of our committee—but one of the arguments given is that when you run for President as contrasted to House Members, it should be repealed because there are so many more different parties, minor parties, that otherwise clutter up the presidential race, that the networks cannot give equal time.

All over the United States in the last presidential election there were some 19 different parties, and this includes all of the local parties as well which might run in one State and not run in another State.

Actually, there were only some six what I would call major-minor parties, such as the American Party that Mr. Wallace headed and so forth. There were only six of those.

Now let us look at the congressional situation just a minute. In the 1970 general election there were a total of 35 minor parties fielding candidates in Federal elections in the House and Senate. In addition to that, I might say, there were any number of candidates that listed themselves as "independent"—which I do not class as a particular party of any kind at all.

I would point out that in the Senate races in 1970 18 minor parties fielded senatorial candidates. The total number of candidates supported by these parties was 41, with six additional candidates listed as independent. The total number of candidates therefore seeking office in the U.S. Senate in 1970 other than on the Democratic or Republican ticket was 47. I would point out that, in the Senate, two of those got elected and I refer to the Senator from New York (Mr. Buckley) who was elected as a Conservative and the Senator from Virginia (Mr. Byrd) who was elected as an independent.

Now let us look at the House for a minute. It is proposed to give the House some special treatment by the Van Deerlin amendment. For some reason it is said the Members of the House should be singled out and made benefactors under this law. That is not true for the Senate and the President.

Now, what has happened in the House races?

In 1970 again in the House races, 30 minor parties fielded a total of 163 candidates for office with an additional 20 candidates running as independents. So we have 183 minority party candidates running in 152 House districts. I do not have to tell you, of course, that none of them were successful. I could go on and on and point out what the comparison was for Governor and what it was in other races.

But it seems to me, it is clear that the profusion of parties is just as common and just as much of a danger as to House candidates and Senate candidates, as to the President.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

(Mr. HARVEY asked and was given permission to proceed for 5 additional minutes.)

Mr. HARVEY. Mr. Chairman, the argument that is made that somehow there are more parties in the race for President and, therefore, we should treat the President differently just does not hold water. There are just as many parties in the election of House Members and the election of Senate candidates concerned as there are in presidential races.

Mr. VAN DEERLIN. Mr. Chairman, will the gentleman yield?

Mr. HARVEY. If the gentleman will let me go on further for just a second, I will be glad to yield to my friend, if I can just answer his second argument, if possible.

The gentleman also, and I am referring to my friend, the gentleman from California, makes the point that we should treat House Members differently and that we should give ourselves this special bonus benefit, and special treatment as selected individuals under the repeal of section 315 because of the fact, he says, the statewide nature of Senate races makes Senate candidates less vulnerable to a single broadcaster, than a Congressman, for example. But look at the facts:

First, five States have only one congressional district: Alaska, Delaware, Nevada, Vermont, Wyoming;

Second, 10 States have two congressional districts: Hawaii, Idaho, Maine, Montana, New Hampshire, New Mexico, North Dakota, Rhode Island, South Dakota, Utah;

Third, two States have three congressional districts: Arizona, Nebraska;

Fourth, three States have four congressional districts: Arkansas, Colorado, Oregon.

Thus, 20 States—or 40 percent—have four congressional districts, or less. These 20 States have a total of 43 congressional districts or 10 percent.

In addition, there are 164 congressional districts—or 37 percent—in what must be considered major metropolitan areas. Certainly, these congressional districts have a multiplicity of broadcast outlets. These areas and the number of congressional districts in or around them include the following:

Atlanta, five; Baltimore, eight; Boston, five; Chicago, 18—including areas of Indiana; Dallas, six; Detroit, 10; Houston, six; Los Angeles, 19; Miami, four; Milwaukee, five; New York, 37—including areas of New Jersey and Connecticut; Philadelphia, 12—including areas of New Jersey; San Francisco, nine; St. Louis, five; Washington, D.C., five—including areas of Maryland and Virginia.

My friends, the sole question when you repeal section 315, whether you add the President, the Senate, or the House of Representatives is whether or not you believe that the broadcasters across America have achieved that degree of maturity so that you can trust them without section 315 as we have written it into law.

You say that you can trust them as to the President and you can trust them as to the Senate, but we do not trust them as to the House Members and so, therefore, we are going to exempt the President from 315 and we are going to exempt the Senate, but not the House Members.

Let us just take a look at this.

Mr. VAN DEERLIN. Mr. Chairman, will the gentleman yield on this point?

Mr. HARVEY. I yield to the gentleman in just a moment, if my friend will just allow me to finish this point—then I will be glad to yield.

The real question, Mr. Chairman—and this is going to come up later because we are going to have amendments offered to leave section 315 in in its entirety and to take 315 out in its entirety—but really the question is are you going to treat Senators differently from the way you treat Congressmen? Are you going to treat the President differently from the way you treat Congressmen? I submit that basic fairness requires that they all be treated alike, Mr. Chairman.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. HARVEY. I yield to my good friend, the gentleman from Ohio.

Mr. BROWN of Ohio. I should like to ask the gentleman how many networks are likely to cover a presidential contest. We have only three networks in this country. Why is that different from the situation of a Member of Congress who has three stations, say, covering his campaign in his own district? It seems to me that if you had all three networks against you, you might have as difficult a time as a congressional candidate with only three stations in his district and all of them against him.

Mr. HARVEY. I would say to my friend that I have gone through this; I have racked my brain studying it, and I see no difference. They say that it should be studied. What are you going to study? Three hundred and fifteen is the same as to Senators and as to House Members and as to the President.

Mr. VAN DEERLIN. Mr. Chairman, will the gentleman yield?

Mr. HARVEY. I will yield to the gentleman in just a moment.

Mr. VAN DEERLIN. The gentleman will then be out of time.

Mr. HARVEY. There is plenty of time. There is no effort to cut off the debate. I do not feel that is in the air. My friend is well aware, since he has been in Congress for some time, of the effect of this. The bill will go to conference, and on the basis of my experience, I can see ahead what is going to happen in conference. We are going to take out the amendment as it pertains to Senators, and then once again we will single out the President. Mr. Chairman, the amendment should be defeated.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. HAYS. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Ohio is recognized.

Mr. HAYS. Mr. Chairman, I oppose the amendment for practically all the reasons the gentleman from Michigan has outlined, plus a couple more. I think the amendment does treat the House differently, and I do not want it treated that way, because it says that we shall be subject to a study by the FCC. I have heard plenty of speeches from both sides of this aisle about the Congress surrendering its power to the executive branch, and if that is not another surrender I do not know what it is. I do not want the FCC telling me what we have to do in this body and how we have to run our campaigns. We are competent to make decisions ourselves and to make our own studies. We do not need the FCC to do it.

Mr. DINGELL. If the gentleman will yield, we are not setting ourselves up for a study by the executive. We are setting ourselves up for study by a creature of the Congress, the Federal Communications Commission, which is an arm and a creature of this body.

Mr. HAYS. I will say to my friend from Michigan that you can believe that if you want to, but I do not. I know it was set up originally as an arm of Congress, but it has not functioned that way. It has served as an arm of the executive branch, which is what all these commissions' functions are.

The gentleman from Michigan (Mr. HARVEY) said, "Do you trust the television stations in the case of the President and in the case of the Senate but not in the case of the House?" My answer is, I do not trust them at all, period. I do not think you can trust them to be discreet about whom they give time to and whom they do not. I do not think you can trust them to be fair about how and to whom they give time and from whom they withhold it. I do not think there is a remote possibility that they would not be prejudiced and do exactly as they please. Certainly that would apply in the case of House Members even more, because in many a district one television station dominates the district, and you are not going to get help. In my case, for example, a station in Cleveland which reaches part of my district would probably not give time to either me or my opponent if the main station in my district decides to support me or support my opponent.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. HAYS. I yield to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Chairman, do

I understand then that the gentleman in the well is opposed to the provision which is in the Macdonald bill currently, which would repeal section 315 for the President?

Mr. HAYS. Mr. Chairman, I would put it this way. On principle I do not think we ought to repeal it at all, but I am willing to go that far in the case of the President. I think we ought to have an amendment in there, I will be candid, so if there is a third party that got 10 percent in the last election, it ought to be treated as a major party. I did not vote for George Wallace, I would not, I did not support him, but fair is fair and unfair is unfair.

Mr. BROWN of Ohio. If we repeal it for the President?

Mr. HAYS. I will tell the gentleman about my position on this. Whenever an amendment is offered to strike it, watch how I vote.

Mr. MACDONALD of Massachusetts. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to point out to my good friend, the gentleman from California, the danger that is contained in repealing section 315 past that for the President and Vice President. I think all of us who have dealt closely with the broadcasters know they have enough power already to be a real force to be reckoned with. I commend whoever set up the Communications Act of 1934 when television was just a dream maybe, and all those people were afraid of was the power of radio, and time has proved them right. If we take a look at the senatorial campaigns and obviously the presidential campaigns, and take a look at where all the money is spent, and take a look at the people who can come in overnight, as I said in my earlier remarks, we will see the parties on both sides and people on both sides can buy their way into office.

What I keep trying to make clear is we are not trying to protect ourselves, we are not trying to protect the President, we are not trying to protect the Senate, but we are trying to protect the public interest. Any time this political system gets to be such that a candidate has to either be very rich indeed or become indebted to people who are, or who have financial resources which they expend on behalf of the candidates, and automatically Members of the House and Senate and perhaps other branches of the Government become indebted to these people—I think that is a terrible threat. I think it should be stopped. I, for one, having dealt with the broadcasters, know how arrogant they are anyway—they are arrogant enough already. The only protection we have against turning over the control of the political system to the broadcasters, both radio and TV, but especially TV, is section 315.

I respect the gentleman from California, who has done a great job, but I point out to him and to other Members the great danger in repealing 315 unless we want the broadcasters to dictate who is going to sit on the Senate side, and who is not going to—not in all instances, but in many instances, and who is going to sit in this body.

Mr. UDALL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this is one of the most important amendments we will consider in this debate. I see great division on both sides of the aisle. There are members of the Democratic Party who are not about to repeal section 315 for anybody under any circumstances and members on the Republican side who feel the same way. This is a matter that deals directly with their own elections and a matter that is important and controversial.

Mr. Chairman, I think the gentleman from California has a middle-ground position that deserves our support. Here is the situation. The Macdonald bill, the House Committee bill, repeals section 315 only for the President and Vice President.

The Senate bill, on the other hand, repeals 315 across the board, for President, Senate, and House.

To my Democratic friends, one of the problems we have in getting a bill this year is, frankly, whether we can have enough compromise and enough modification of the hardline positions and reach some common ground and commonsense, which will result in a bill.

The gentleman from Florida offered a compromise that was agreed to this afternoon in the spirit that I would like to see in the Chamber as we debate this important matter.

One of the fears our Republican friends have is that this 315 repeal for the President only is a gun pointed at Richard Nixon and the Republican Party. They say that in 1968 we were anxious to have it repealed so that our underfinanced candidate could debate their candidate. And now we are playing a different game, where they have the White House and we face an uphill battle.

So, as a show of good faith, the amendment offered by the gentleman from California says:

> All right; we will repeal it for the President across the board permanently, and we will repeal it for the Senate across the board permanently.

Senators of both parties said they are for this repeal and it was adopted by a wide bipartisan margin. But he says:

> For the House Members we have a different problem.

Presidents will lose some stations and will win some. They will have bitter opponents among the broadcasters, and they will have friends.

Senators, in most States, will have many outlets and have diverse responses for many broadcasters.

But there are Members on both sides of the aisle in this House who are under the thumb of just one broadcaster in particular situations. We ought to study these situations before we move.

The fact is that under the Van Deerlin amendment no House Member will ever face this equal time problem—and mark this well—unless the Congress acts.

Perhaps the FCC is not the right body to make the study. Perhaps it ought to be somebody else, and the House and the Senate ought to make studies.

The fact is that under the amendment there will be no repeal for House Members until and unless some future Congress acts. We will certainly not act on it next year.

So I strongly support the amendment offered by the gentleman from California. It is a middle-ground position and it puts us on the right track. It makes sure a bill cannot be vetoed on the grounds of favoritism in this particular area. I should like to see this amendment agreed to.

Mr. VAN DEERLIN. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from California.

Mr. VAN DEERLIN. Let me say that after hearing the gentleman's eloquence, I feel much better not only about my amendment, but about myself as well.

Mr. HARVEY. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Michigan.

Mr. HARVEY. I thank my friend from Arizona for yielding.

If we are going to have a study of this, then why should we not have a study of it for all three offices; the President as well as the Senate and House Members?

My friend is very eloquent, but in my judgment he has not made any case as to why we should treat the Senators in a different manner and the President in a different manner.

Mr. UDALL. The President and the Senate have been studied forever. We have study after study on the question. We cannot produce any new arguments about the presidency. But no one has ever looked at the 435 House districts to determine whether in a fair way we could administer a 315 repeal. I am not sure that I want it repealed for my district or for the districts of my colleagues. That is the reason why the House is in a special situation.

Mr. HARVEY. If my friend will yield for one moment further, there was nothing in the 1960 act or the 1968 act that had anything to do with any study whatsoever. So far as I know, there have been no legislative action on that matter.

Mr. UDALL. The gentleman may be right, but scholars, journalists, and Members of the House and of the Senate have studied this question. I suspect there are any number of volumes which have been written on this.

I am pained to see the gentleman from Michigan tell us how wrong and selfish we were as Democrats in 1968 and in 1964. He told the story. Now he wants us to do what he urged we do in 1964.

Let us do the right thing. If it was right in 1964 it is right today. Why does the gentleman object to it now?

The CHAIRMAN. The time of the gentleman from Arizona has expired.

(On request of Mr. MACDONALD of Massachusetts, and by unanimous consent, Mr. UDALL was allowed to proceed for 2 additional minutes.)

Mr. MACDONALD of Massachusetts.

Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to my friend from Massachusetts.

Mr. MACDONALD of Massachusetts. I should like to ask, through the gentleman in the well, if this is so bad this year why did the gentleman who spoke so eloquently against the amendment vote for the repeal for President and Vice President twice last year?

Mr. UDALL. Now suddenly, in 1972, he finds this a very evil thing.

I suggested to him we were wrong in 1964. We should have had repeal.

This does not mean an incumbent President has to debate. This is an equal time provision and has little to do with debate.

I said earlier that I do not believe Richard Nixon will lose a single vote if he says, as an incumbent President, "I decline to debate." I do not think we would make any "brownie points" with the voters as a challenger against an incumbent President on that.

Mr. HARVEY. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Michigan.

Mr. HARVEY. We are talking about a distinct broadcast station. We are not talking about the networks. There are stations in Phoenix, Ariz., in Cleveland, Ohio, and all across our country which have their rights. As licensees what they do or fail to do affects the President as well as the Senate and the House Members.

Mr. UDALL. I do not trust them any more than the gentleman does.

The CHAIRMAN. Does the gentleman yield further?

Mr. UDALL. I decline to yield for just a moment.

If I should run statewide, I would get help by some and would be hurt by some. But in my own limited district the situation might be different. That is why I think you can logically and philosophically defend a special position for the House. It is because you have 435 special problems there that do not confront a President running nationwide or a Senator running statewide.

Mr. HARVEY. I think the same can be said for the Senate, though.

Mr. ECKHARDT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, because the amendment offered by the gentleman from California is a middle-ground position, he seems to be getting a rather impassioned attack from both sides.

If I understand his amendment, it does not disturb the proposition that there should be an opportunity for the type of open debate in the presidential race that has existed in the past by temporarily removing the restriction of 315. It does not, on the other hand, as I understand it, disturb the protection of every Member of this House to equal time if he is in a situatilon where radio and television outlets are limited and controlled. The only difference his amendment makes is to extend the 315 removal to the Senate race.

I do not think that that is so innovative or so terribly dangerous; nor do I consider it to be so terribly helpful. It seems to me that his position is truly a middle ground and one in which there can be considerable argument on both sides.

I think that it is absolutely clear that we should not remove 315 from House coverage for reasons in addition to those previously stated. The main reason why I say this is because, although we may consider ourselves able to command attention of the media, it seems to me that the media can frequently ignore a House Member and freeze him out simply by not mentioning him. They cannot do that with regard to a Senate race in any State that I know of. They certainly cannot do it with regard to a presidential race.

Mr. BROWN of Ohio. Will the gentleman yield to me?

Mr. ECKHARDT. I yield to the gentleman.

Mr. BROWN of Ohio. I am hard pressed to understand the subtle distinction in the arguments presented by the gentleman from Texas between the broadcast media and newspapers or other forms of printed media. Newspapers can certainly freeze out a candidate if they wish to, can they not?

Mr. ECKHARDT. Yes, they can. But I think the difference is this: television and radio are so much more powerful because in effect television and radio constitute a parade. The listener or the observer must see what is paraded across the screen. The newspaper is more like a circus. You can take your choice of rings. It seems to me it is much more important that television and radio afford equal time, because I think they have more of the power to make or break a candidate for Congress.

Mr. BROWN of Ohio. Will the gentleman yield further?

Mr. ECKHARDT. Surely.

Mr. BROWN of Ohio. For 160 years in this country we did not have television and radio. During that period of time the newspapers frequently dominated the community just as the gentleman is alleging that television and radio do now. We survived as a society and have come this far with newspapers under the protection of the first amendment. Now, does the gentleman feel that the current media control is such that there is a problem here, or is the gentleman speaking out against the first amendment providing the media with an opportunity to make such a news assessment or editorial judgment.

I am a little confused about the gentleman's position.

Mr. ECKHARDT. How does the gentleman find that it is in violation of the first amendment? The first amendment does not give a man a right to demand that a newspaper give him equal treatment. The first amendment does not even demand that a newspaper sell a person advertising

Mr. BROWN of Ohio. Under the protection of the first amendment——

Mr. ECKHARDT. I rather agree with the gentleman that section 315 should have been extended to a newspaper situation which is a monopoly but, perhaps, it is a little late to raise that question at this time.

Mr. BROWN of Ohio. Mr. Chairman, if the gentleman will yield further, under the first amendment the newspapers were free to do what they wished in terms of coverage of election campaigns and our system survived.

Does not the gentleman think we can survive if section 315 is repealed in all cases with reference to television and radio stations?

Mr. ECKHARDT. I suppose we could survive it, but I think it would be very harmful to our system.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(By unanimous consent (at the request of Mr. Hays) Mr. Eckhardt was allowed to proceed for 2 additional minutes.)

Mr. HAYS. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Ohio.

Mr. HAYS. I think there is one big difference that the gentleman from Ohio (Mr. Brown) has failed to point out. I understand the gentleman owns both newspapers and radio stations.

Mr. BROWN of Ohio. Could I correct the gentleman?

Mr. HAYS. If I am wrong.

Mr. BROWN of Ohio. The gentleman from Ohio (Mr. Hays) is wrong.

Mr. HAYS. You do not own any newspapers?

Mr. BROWN of Ohio. We do not own any radio stations.

Mr. HAYS. All right. I just wanted to make sure that you only owned newspapers.

Mr. Chairman, the point I would like to make which it seems to me has not been made, is this: In my district people can subscribe to any one of a dozen different daily newspapers, but there is only one television station. So, there is a big difference between newspapers and television—a big difference.

The only recourse you have with television is to turn it off, and if you do that, in certain parts of my district, then, you could not see any program.

So, I think you are talking on the one hand about a monopoly and on the other hand about newspapers from which the public can pick and choose.

Mr. ECKHARDT. It seems to me that what the gentleman is stating here, and very ably so, is that if it is a good thing to have section 315 apply to radio and television, it might have been a good thing in the past to have applied the same kind of rules to newspapers.

Mr. HAYS. Maybe we ought to do that now.

Mr. ECKHARDT. But, we certainly should not restrict section 315 from coverage of television and radio today. I think that is what the author of the bill is talking about. I think the gentleman from California also takes that position. The only difference, I think, between them is with respect to what should be done in the Senate races. I, marginally, favor the position of the gentleman from California, but I strongly believe that the protection of section 315 should be applied to House races.

Mr. PODELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to take unenthusiastic opposition to the gentleman's amendment.

It is obvious that all of us realize the importance of removing section 315 as to President and Vice President. Certainly, the gentleman from Michigan referred to his prior votes in that direction. He than afforded us a lot of statistics, some of which makes one wonder if we were not discussing President Nixon's sixth phase program for the moment.

Mr. Chairman, the issue before the House is simply whether or not section 315 as it applies to Members of the House of Representatives is important.

It is not truly an issue with regard to the President and Vice President of the United States because the stations themselves would want them to discuss the issues which they deemed important in debate. This admittedly should include the major party candidates, but not the Vegetarian Party and all various other party candidates which would insist upon equal time. As to the President and Vice President section 315 should and must be repealed.

Insofar as Members of the House are concerned, while you and I are sitting here today every local radio station, every local TV station have what they call an editorial policy.

Each one of these editorials that come on daily are being responded to by some individual back in your district. We have something like eight or nine different channels in New York City, that do this very thing. I never get a chance to respond to the editorial policies because a. I do not hear it in Washington, and b. I am unable to respond because by the time it is transmitted to me and I finally attempt to respond, any one of a number of people have already responded. So we operate at a disadvantage. For this additional reason I think section 315 is important for Members of the House of Representatives and should be retained.

As to Members of the Senate, and we have spent an hour of debate here on whether or not they want to retain section 315. If they want it, well, then, let them have it. If they do not want it, then let them not have it but that should be their decision and not ours. This can be accomplished in conference.

It seems to me the best thing to do is to just pass the bill in its original form, and if the Senate wants to insist upon it in conference we should have no objection.

Mr. GERALD R. FORD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have listened with great interest to the arguments pro and con, and the impression I get is that if we pass this amendment that has been offered by the gentleman from California (Mr. VAN DEERLIN) that then we have taken definitive action for the President, Vice President, and the candidates for the Senate in the repeal of section 315, and on the other hand we are going to have the Federal Communications Commission conduct a study—the impression being that the study would only be applicable to the problem of section 315 as it relates to the House of Representatives.

But as I read this proposed amendment it certainly involves all Federal elective offices, those for whom we have repealed section 315, and the Members of the House of Representatives for whom we have not repealed section 315.

It seems to me, Mr. Chairman, that this highlights the inconsistency of this particular amendment. We want to protect ourselves while yet a study is made, but we want to repeal section 315 for the President, the Vice President, and the Senate, while the study is being made. I think it makes us look a little ridiculous. I think you might call it a House of Representatives self-interest, or self-protection amendment.

Why can we not be consistent, either repeal it as to all, or repeal it as to none? At least the other body had the consistency of repealing section 315 as to everybody, the President, Vice President, Senate, and House of Representatives.

It would make us, in my opinion, look interested in our self-perpetuation, it would make us appear to be completely inconsistent if the Van Deerlin amendment is approved.

I personally think we are much more qualified in the House Committee on Interstate and Foreign Commerce or the comparable committee in the other body to conduct any study that involves the repeal or nonrepeal or modification of section 315.

Mr. Chairman, I strongly oppose the amendment offered by the gentleman from California (Mr. VAN DEERLIN).

Mr. MACDONALD of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. GERALD R. FORD. I yield to the gentleman from Massachusetts.

Mr. MACDONALD of Massachusetts. Mr. Chairman, I thank the gentleman for yielding, and I respect the distinguished minority leader, as I am sure the gentleman knows, but when did the gentleman from Michigan change his mind? Because last year this part did not bother the gentleman at all. The gentleman voted twice last year to repeal section 315 just for the President and the Vice President.

Mr. GERALD R. FORD. There is quite a difference between this amendment and the action we took last year. This amendment perpetuates self-interests for the Members of the House. I do not see where this amendment relates at all to what the House did last year.

Mr. MACDONALD of Massachusetts. Does the gentleman feel that the broadcasters in various sections of this country—and, incidentally, it will not be occurring in my section—but in various sections of the country is the gentleman willing to turn over to the broadcasters who will be and who will not be successful candidates? Because I would point out to the gentleman and to all other Members of the House that a broadcaster can give free time to one candidate and refuse to sell time to the other candidate if section 315 is repealed.

Mr. GERALD R. FORD. I understand what the gentleman is saying, but how can you justify the House treating itself differently from the candidates for President, the Vice President, or the Senate?

I do not see any rational difference whatsoever in the relationship between a broadcaster and a House Member and a broadcaster and any candidate for the Senate or the President or Vice President.

I do not think our constituents see any difference. We are all seeking a Federal elective office and should be treated the same under section 315.

In the interim under this amendment offered by the gentleman from California, it treats House Members differently from others while the study is going on. I think it is inconsistent and inequitable and I think the amendment ought to be defeated.

Mr. MACDONALD of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. GERALD R. FORD. I yield to the gentleman, if I have any time remaining.

Mr. MACDONALD of Massachusetts. Mr. Chairman, the gentleman is a very practical politician, and the gentleman knows the public would not stand for three networks giving free time to just one candidate for President because the national interest is obviously concerned.

The gentleman also understands, I would think—I do not know this—but I would guarantee on the presidential, that in any given State you cannot keep a bona fide senatorial candidate off of television without a terrific protest, but you can keep a congressional candidate off in a congressional district.

Mr. GERALD R. FORD. I would point out to the gentleman that the broadcasting media are trying and are doing a reasonably good job in protecting the interest of all candidates.

Mr. DINGELL. Mr. Chairman, I move to strike out the last word and rise in opposition to the amendment.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from California. I have high regard for the gentleman from California. He is a man of great ability and great integrity and fundamental decency and he is a very useful and valuable member of the Commerce Committee and we are very proud of him.

The gentleman from California has a viewpoint—he comes from the broadcasting industry and this tends to somewhat color his attitude toward that particular industry.

I think the amendment should be viewed as being essentially an industry amendment. It is one which either leads at this time or ultimately will lead to the foot of the broadcasting industry being on the throat of every single candidate for public office in the United States.

I think it is time that we understand there is a distinct difference between a candidate for the Presidency and a candidate for the Senate and a candidate for the House. These three offices are essentially different in their impact and in the way the broadcasting industries are going to view them. A candidate for the Presidency is probably going to be treated essentially fairly by the networks—which is something that does not obtain with regard to a candidate for the Senate and of the House or to Members of the House or Senate.

This body has had a continuing sequence of scrutinies by the Commerce

Committee of the fashion in which the broadcasting industry has conducted its responsibilities in the public trust.

I would like to take this opportunity to recall to my colleagues some of the scrutinies that have been engaged in by the Commerce Committee and by its Subcommittee on Investigations so that you can see whether or not Members of this body want to put the foot of the broadcasting industry on the throats of Members of the House of Representatives and candidates for the House of Representatives.

Not long back, a Member of the House of Representatives had a situation foisted upon him which I think cries to the heavens for investigation and redress.

A chairman of a committee of this body was defeated because the broadcasters in his area turned over to his opponent on election eve, an immense amount of free time which was utilized against him for his incumbent opponent—and that Member is no longer with us.

I just think that if that could happen to a chairman of a committee of this body, it could happen to any other Member.

Let me recount a few other things. Recall the program "Say Goodbye." We had a careful investigation of some of the outrageous things which took place in there, the compendium of pictures of polar bears shot from aircraft, which was foisted on the American public as something to be regarded as reprehensible, and it turned out later that the polar bear depicted as being shot from an aircraft was in fact, shot with a tranquilizer by a game warden as part of a game management program—and later released alive and unhurt.

Recall how the hunger in America documentary was utilized as a vehicle to stir public emotions with a child pictured as starving to death, a child which turned out to be a premature baby. The welfare line was generated by the broadcasters having the doors closed to the welfare agency. Remember, these are the friendly broadcasting people who utilized their resources to electronically eavesdrop at a meeting of the Democratic National Committee. Recall some of the things done by the broadcasters at the Democratic Convention, to facilitate circumstances showing people engaged in violence in order to generate a situation where the aura of outrage would be very clear to the American people to the hurt of the Democratic party.

I will not say the entire broadcasting industry is bad. That is not true. There are honorable men in it. Most of the men in the broadcasting industry are honorable. But the temptation is to seek something sensational. The broadcasting industry by its very nature tends to be a sensational type of industry. In times past they have utilized means which we have questioned after careful scrutiny by committees of the Congress.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. The gentleman is confusing me with examples of bias on the part of networks in terms of their coverage.

Mr. DINGELL. I mentioned network. The gentleman is a member of the Commerce Committee and has heard reference to what I am speaking about.

Mr. BROWN of Ohio. I am trying to determine whether the gentleman is arguing that the networks will be fairer to the President than will individual broadcast stations to Members of Congress and their constituency.

Mr. DINGELL. I am glad the gentleman gleaned that from my remarks. That is exactly the impression I intended to make. The fact of the matter is an amendment which would authorize that kind of situation is very bad.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

(On request of Mr. HOLIFIELD, and by unanimous consent, Mr. DINGELL was allowed to proceed for 3 additional minutes.)

Mr. HOLIFIELD. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to my good friend from California.

Mr. HOLIFIELD. I was very interested in the gentleman's illustrations. I think it is something we all know has happened and will continue to happen under the present procedures of the broadcasting industry. I would merely like to take this time to point out that both CBS and NBC presented so-called public interest television documentaries in which they gave me some 3½ minutes to state a position on an important matter and then proceeded to give the other 55 or 56 minutes to the opposing viewpoint and absolutely knock it down, and having had that experience on both CBS and NBC, I unhesitatingly say that I have no confidence in the integrity of either of these chains or any other television operator who is given the right to so victimize the American people as they have done on numerous occasions.

Mr. DINGELL. The gentleman is entirely correct. I would just like to add that this body, not long back, unanimously condemned the activities of one of the networks where they took—they did broadcast "falsehoods" on the air—what they did was that they took and doctored a statement of public officials and then broadcast them so that the public officials said something very differently from what they had actually said in the interview.

I think this House must understand one thing. With the immense power of the broadcasting and television media, the one protection that every citizen of this country must have is a protection from the excesses and abuses by broadcasters and the television industry, and they can get that by seeing to it that the equal-time provision, section 315, remains intact, and that the fairness doctrine, which affords another similar protection, remains intact with regard to persons who are Members of the Senate or the House or candidates for the Senate or the House.

Mr. VAN DEERLIN. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from California.

Mr. VAN DEERLIN. The gentleman has mentioned the fairness doctrine. Both what my California dean, and most of what the gentleman has complained about would have reference to the fairness doctrine, and not to section 315.

Mr. DINGELL. Mr. Chairman, I have mentioned one case which deals directly with section 315. The gentleman has a good enough imagination to see how, if section 315 is repealed, the broadcasters in his district can do things which will impinge upon his candidacy.

Mr. VAN DEERLIN. The gentleman has impinged upon my reliability.

Mr. DINGELL. I did not.

Mr. VAN DEERLIN. The fact of the matter is that the Senate, with only two dissenting votes, has indicated its willingness to submit themselves to the fairness of the broadcasters.

Mr. DINGELL. I will be glad to discuss the Senate another time.

Mr. ALBERT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman. I take this time primarily to commend the gentleman from Ohio (Mr. HAYS) and the gentleman from West Virginia (Mr. STAGGERS) and the gentleman from Massachusetts (Mr. MACDONALD) for bringing these matters to the House. I do this because I think election reform is a top priority measure facing this Congress. I am grateful that the committees have reported these bills.

This legislation is important to the House because it is important to the American people. There are too many signs of a loss of faith in government for us not to be concerned and to take positive action to restore public confidence in the political process. When 47 million eligible voters do not think it is worth bothering to vote for the candidates for the highest office in the land, I think it is time for us to be concerned.

The accelerating costs of running for public office are becoming a serious national problem. Spending in the last Presidential campaign exceeded $44 million—a 50-percent increase over 1964 and 100 percent more than in 1960. Total spending for all campaigns across the Nation in 1968 has been estimated at $300 million, and the massive outlays in last year's statewide elections indicates that an even greater escalation is in the works for 1972 unless we call a halt. We are literally on the crest of a deluge which threatens to get completely out of hand and make a mockery of the democratic process.

Our political system is predicated on the broadest possible participation and the broadest possible opportunity to seek political office. We undermine that cardinal principle when the electoral process threatens to become the exclusive preserve of wealthy men. The blocking of opportunity to run for office is a cause for deep concern to every American.

It is not a question of integrity. It is not a question of corruption. It is a question of elemental democracy, and it is a question that often results in the creation of a climate of opinion that elections are up for sale. That climate is not conducive to public faith in government.

It is not a matter of whose ox is gored between incumbent and challenger. It is the disenchantment of the public that must be our concern.

Each of us in this Chamber has a personal stake in restoring reason and sanity to campaign practices. As individuals who have all been burdened with the onerous and sometimes demeaning task of raising funds, we should welcome relief from the spiraling rate of campaign expenditures. We must, it seems to me, encourage meaningful presentation of the issues to the broadest public possible.

I believe that the American people expect us to enact significant reform. It is my deep conviction that we should. An election reform bill will cap a responsible and productive first session of this Congress.

Mr. HAYS. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments to this amendment cease in 20 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. Under the unanimous consent agreement, Members will be recognized for approximately 1½ minutes each.

The Chair recognizes the gentleman from Florida (Mr. FREY).

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman yield?

Mr. FREY. I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. Mr. Chairman, I rise in support of the amendment offered by the gentleman from California (Mr. VAN DEERLIN). I want to make clear at the outset that I have firmly supported the principle of across-the-board repeal of equal time clause. One of the most distressing aspects of our election process in recent years has been the wholesale adoption by candidates of the 10-, 20-, and 30-second spot commercials. While these broadcasts can sometimes make a positive contribution in allowing a new candidate to develop name recognition, on the whole, they fail almost completely in fulfilling the essential task of providing the voting public with detailed insight and knowledge about a candidate's capabilities and positions on the issues.

Yet because of the greater dollar efficiency involved in repeated spot commercials as opposed to longer broadcasts it is almost certain that this trend will continue. I think the answer to that dilemma is a public subsidy for program time similar to the voter's time proposal I introduced with a bipartisan group of 80 cosponsor sponsors earlier this year. However, since it is clear that we are not yet ready to take a step of that kind, I think the next best alternative is to remove the 315 restriction so that broadcasters will be free to offer at least limited amounts of program time for debates and indepth presentations by major candidates.

Mr. Chairman, this objective of elevating political dialog during campaigns is the fundamental rationale for repeal of the equal time clause. It is therefore impossible to avoid the conclusion, I think, that the Macdonald subcommittee failed miserably in its treatment of this issue. It makes no sense to repeal 315 for presidential races only, unless you are willing to suggest that voters need indepth exposure to the abilities and positions of presidential candidates, but not to candidates for the House and Senate. Instead of adhering to this important objective of increasing meaningful candidate exposure to the electorate, the Democratic majority of the committee chose to take a cheap partisan shot at the President which has nothing whatsoever to do with genuine reform.

Mr. Chairman, I know the gentleman from Massachusetts (Mr. MACDONALD) has expressed the view, sometimes with considerable agitation and alarm, that repeal for congressional candidates would be a license for local broadcasters to discriminate against candidates they oppose. While I do not think this danger is as great as the gentleman would have us believe, it cannot be dismissed completely and requires that a repeal of 315 be accompanied with some kind of new safeguards, albeit more flexible ones. I think particularly in metropolitan media markets like New York City where there would be nearly 80 House candidates, or in Los Angeles where there would be 35 candidates there is special need for safeguards to insure fair treatment for all major candidates. But there is not reason why the committee could not have developed these over the past year if it would have had a mind to.

Mr. Chairman, because of this negligence on the part of the Macdonald committee we are now confronted with an impasse that could well mean the life or death of the entire campaign finance reform effort this year. A repeal of 315 for the President only has no place in an honest reform measure and must be stricken or replaced. Yet it would be impossible at this late date to write a bill on the floor that would provide the safeguards for House candidates that I think must accompany an across-the-board repeal. The Van Deerlin amendment, therefore, provides a way out, although it is a second best approach to be sure. By mandating the FCC to propose legislation that would provide safeguards following the repeal of 315 for House candidates, it will force the Communications and Power Subcommittee to face the issue that it so studiously avoided this time around.

Mr. Chairman, this amendment is a fair compromise and I understand the gentleman from Massachusetts will agree to it. It is the only approach to 315 that will strengthen rather than weaken the Senate bill on final passage. So I would say to those who would either not yield on the current repeal for President only or who would hold out for an immediate across-the-board repeal: Do you want a bill or an issue? I think the American people overwhelming demand reform of our election process. If the House again becomes a burial ground for reform, it may well be because too many of us were content to play politics on this issue when the choice to support reform was clear indeed. I hope that will not happen. The Van Deerlin offers the opportunity for those who genuinely want reform to see that it does not.

The CHAIRMAN. The Chair recognizes the gentleman from Iowa (Mr. MAYNE).

Mr. MAYNE. Mr. Chairman, I yield back my time.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. COLLINS).

(By unanimous consent, Mr. COLLINS of Texas yielded his time to Mr. BROWN of Ohio).

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Chairman, the question of broadcast domination has come into this discussion with charges that monopolies are more common in broadcast media than in print media. I should just like to suggest that with respect to monopoly coverage that we should look at the numbers of broadcasters as opposed to the numbers of newspapers. Let us look at the statistics which exist at this moment.

We currently have in the United States almost as many TV stations as we do daily newspapers. With cable coming into many communities we are going to have a great many more outlets than we do daily newspapers.

We have as many radio stations, AM and FM, as we do weeklies in the United States.

If the move is to try to control the public expressions and the campaign attitudes of those people who have broadcast media usable in campaigns. Then what are we going to do about the magazines, the newspapers, or even mailings by private individuals and their right to take sides in campaigns.

I think we tread on very dangerous first amendment territory in this 315 thing, and we have for many years. I would like to point out, as I tried to in my earlier questions, that newspapers once dominated the mass media in this country. It was not too many years ago. We have been "protected" by the Communications Act only since 1934. That was only 37 years ago. We had gotten along until that time on the basis of free speech without control through this Congress of what people could say or print in newspapers during political campaigns.

It seems to me what we are talking about is not a lack of confidence or the existence of confidence in the media but, rather, of a lack of a confidence in the average citizens of our country. It seems to me that the average citizen is smart enough to see through biased media when he is being subjected to only one viewpoint.

The chairman of the subcommittee agreed with that. As Mr. MACDONALD said, the public will not tolerate three networks giving only one side of the presidential picture, and I am sure that that is true of public confidence in media in individual congressional districts.

Besides that, media economics will require that many different viewpoints be represented. And media economics includes print media as well as radio and television. The philosophical spectrum will be covered. History has proved that there is a sound regard for balance and fairness in the exercise of free speech.

But history tells us that law is not an effective limitation on free speech when the people desire to express themselves.

The multiplicity of voices and the diversity of outlets in our country are what protect us in our freedoms and our rational political judgments.

I am not so sure that there is anything wrong, on occasion, with running against the media. It is done sometimes, and I think it is done with some success. We only have to look at the history of campaigning in this country. If you look at the old-time newspapers of a century or more ago when they were the only voice in a district and you did not have radio and television, you will see that they took sides and sometimes they took sides ferociously and with strong bias. Nevertheless, the voters made their own judgments and we survived.

The CHAIRMAN. The time of the gentleman has expired.

The Chair now recognizes the gentleman from Minnesota (Mr. FRENZEL).

(By unanimous consent, Mr. FRENZEL was allowed to yield his time to Mr. BROWN of Ohio.)

Mr. BROWN of Ohio. When Mr. FRENZEL and I put in our bill, the Senate piece of legislation on this subject, we consciously wanted a total repeal of section 315 as it applies to all Federal officeholders.

We do not see how we can logically discriminate between a President covered by three major networks. That is where the presidential election coverage will come from. It will not originate from the local broadcasters. The local stations will get their story on the campaign through the three major networks. For those of us who have districts where there are no television stations or where we are ringed about by television stations in nearby areas, it is those local stations from which a portion of our coverage will come. The networks will not play a part in such local campaigns. We ought to have confidence. I believe in the ability of the average citizen to judge if they are getting bad coverage or biased coverage just as they can in newspapers and magazines. We ought to have discretion enough and honesty enough in this body to repeal 315 for all Federal officeholders and not try to legislate our own protection under a law which I think is long since outmoded.

The CHAIRMAN. The Chair recognizes the gentleman from Oregon (Mr. DELLENBACK).

Mr. DELLENBACK. Mr. Chairman, each time since I have come to the House that we have had a measure dealing in any wise with the broadcast media I have made it a point to call to the attention of my colleagues in the House that I am one of those who have a minority interest in a licensee of a radio and television station. I do so once again.

I recall when I first came here listening to the gentleman from Arizona (Mr. UDALL) commenting on the potential conflict of interest and making a point when any such situation does exist where we can be accused, that, of course, we have the right to say we plead this situation and then vote "present." But he advised then, and I think soundly, that a preferable procedure is to more full disclosure and then proceed to vote in the public interest.

It seems to me that in a situation like the one facing us, which goes far beyond self-interest by anyone involved in a minority ownership position of such an interest, it is important that we face up to the broader impact of what this amendment would do.

And, for this reason, I intend to vote on the substance of this measure and not to vote merely "present."

Mr. Chairman, on this particular point before us now, I would say it would be sound and fair and in the public interest that we vote to repeal section 315 across the board. Lacking that, it would seem to me sound and fair and in the public interest that we leave it in existence across the board.

I, personally, think that fairness and equity does not rest on the side of those who say that we should let it apply partly but not across the board.

The CHAIRMAN. The Chair recognizes the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Chairman, I wish to make only three points before we vote.

First, this amendment is an attempt to arrive at a compromise in order to get a bill that can be passed and signed into law.

The Senate said, repeal 315 for everyone. The committee position which I probably would have supported, given the lack of the necessity of compromise, says for the President and Vice President only. It clearly says we will do it for the President and the Senate now and see whether or not it is feasible to repeal section 315 for 435 House congressional districts.

Mr. Chairman, the second point is the fact that the Senate has already said they do not mind having section 315 repealed for Senate seats. The amendment gives them what they have asked for and approved.

Finally, I would like to make the point that the House is protected. Section 315 will never be repealed for any House Member until a future Congress acts on the proposed study. So, you can vote for this amendment with the certainty that nothing will be done with reference to your district until a study is made and reported back to the House and the Senate.

Mr. Chairman, I think probably the finest hour in our political history was in 1960 when we had the great debates between former President Kennedy and President Nixon.

We can get back some of the potential of television if we take off the shackles and in effect maybe bring the Lincoln-Douglas debates into the living room. Therefore, I think this is a sound amendment and one which should be adopted.

The CHAIRMAN. The Chair recognizes the gentleman from Georgia (Mr. THOMPSON).

(By unanimous consent, Mr. THOMPSON of Georgia yielded his time to Mr. HARVEY.)

The CHAIRMAN. The Chair recognizes the gentleman from Michigan (Mr. HARVEY).

Mr. HARVEY. Mr. Chairman, I just want to make these two points. First of all, I was very shocked to hear my very good friend from Illinois (Mr. ANDERSON) say, particularly to the Members on my side of the aisle, that if they truly wanted election reform then they should vote for this amendment.

I say to my friends on both sides of the aisle, if you want election reform, then vote down this amendment.

Members of the committee may recall that before the recess I appeared in the well and said that if you truly want election reform, then you will vote for the substitute which will be offered by Mr. FRENZEL and Mr. BROWN of Ohio and which I will introduce later. Why do I say this? I say this because there are two things going for it. The Senate has already approved it and the White House has said it is perfectly fine with them and that they will accept it.

Mr. Chairman, if the members of the Committee of the Whole House on the State of the Union want to get election reform, then vote down this amendment. If you do not want election reform, then go ahead and vote for this amendment and further clutter up the bill.

I say vote this amendment down if you want election reform.

The next point is a point which we have gone over, back and forth, but there seems to be no clear understanding of it. There is nothing in section 315 of the Communications Act that applies to networks. It applies to licensees and broadcasters. I submit to you that exactly the same situation applies in Boston, Mass. or Detroit, Mich. or in any other State of the Union—the exact same broadcasters handle broadcasting as it pertains to the President, the Senators and Members of Congress.

You cannot make a distinction between them. However, that is what this amendment would do.

So, I plead with you to give the President a break, give the Senate a break, and give the House Members a break and treat them the same. They are all candidates for Federal elective office. I see no reason why they should not be treated alike.

Therefore, I urge you to vote down the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Massachusetts (Mr. KEITH).

Mr. KEITH. Mr. Chairman, it seems to me that, as has been mentioned by the gentleman from Michigan (Mr. HARVEY) that the real reform the people want and that the Nation really desires lies in the field of full disclosure, in the limitation on expenditures, and in the fair treatment for the President commensurate with that of the Congress.

It is not strange that it was the finest hour for the gentleman from Arizona when the record was put on the line, as it was in 1960, and when they tried to nail Nixon to the mast. But by the same logic if you did not do this in 1964 and if you did not do it in 1968, then we should not do it now. You have an incumbent defending a record that is a good record, but there are always disagreements about such a record, many of us have contributed to this. So I believe Section 315 should be kept the same as it was in 1968 and in 1964.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. Van Deerlin).

Mr. VAN DEERLIN. Mr. Chairman, second only to hearing myself described as a spokesman of industry on the floor today, I am concerned about having been referred to as somehow or other advancing a self-interest piece of legislation. The minority leader very forcefully described my amendment as something that would protect only House Members. Well, I believe I should point out—although it seems so obvious that it should not require me to point it out—that this also would protect the opponents of Members of the House who run for reelection. As it is now, in many areas the sitting Congressman might logically expect to have a better time with the existing broadcasters than his lesser-known opponent is going to have. So the opponent should have an equal interest in requiring, before we move in, helter-skelter, to repeal section 315 across the board, that the matter be given ample study—for final determination by the House and Senate—by the agency with the most appropriate ability to conduct such a study, which, of course, is the Federal Communications Commission.

Mr. Chairman, I rest my case.

The CHAIRMAN. The Chair recognizes the gentleman from West Virginia (Mr. Staggers).

Mr. STAGGERS. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from California (Mr. Van Deerlin). I do so very reluctantly because of my friendship for the gentleman from California. I agree with what has already been said, that he is one of the finest gentlemen we have in the House of Representatives. I disagree with the gentleman very strongly on the conclusions he has reached in this matter, and indeed I have disagreed with the gentleman before, but always we have done so in a way that has been friendly.

Mr. SPRINGER. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Illinois.

Mr. SPRINGER. Mr. Chairman, may I say that I admire the distinguished gentleman from California (Mr. Van Deerlin). The gentleman has contributed greatly to our committee. However, on this very important question I fully agree with the Chairman that, after having discussed this matter back and forth for 12 years, that we are on the right track at the present time, and that this proposed amendment in my opinion is not in the public interest.

Mr. STAGGERS. Mr. Chairman, I thank the gentleman from Illinois for his statement, and I share his views, and I also agree with many of the other statements that have been made that we are after election reform.

However, from the way we seem to be moving we are not going to be a democracy for very long; we are going to be a plutocracy, and ruled by wealth.

The CHAIRMAN. The time of the gentleman from West Virginia has expired.

The Chair recognizes the gentleman from Ohio (Mr. Hays).

(By unanimous consent, Mr. Hays yielded his time to Mr. Staggers.)

The CHAIRMAN. The Chair recognizes the gentleman from West Virginia (Mr. Staggers).

Mr. STAGGERS. Mr. Chairman, I thank the gentleman from Ohio for yielding. I did not mean to raise this subject, but since I have, I hope that I can dispose of it in just a moment or two.

If we are going to continue to have a democracy then we must continue to elect our representatives "of the people, for the people, and by the people."

It is getting to the point today that an ordinary person in America cannot be elected to the Congress of the United States, and we might as well recognize that.

When I first ran for office, it was a different proposition. You could run for office and go around seeing people and talking to them and telling them things. You cannot do that today.

I say that we have to make a real reform legislation out of this bill. Legislation that will have some teeth in it and set some limits so that all men and women, regardless of what party they belong to, can run for high office and be elected. But you cannot do it today—I do not care what party you belong to. You have to have a great deal of wealth or access to it.

We, as representatives of the people, have to pass reform legislation. A bill that is really worthwhile and one that has some teeth in it and one that is fair to those who are out of office and is fair to the one who is in office.

The CHAIRMAN. All time has expired on the amendment.

The question is on the amendment offered by the gentleman from California (Mr. Van Deerlin), to the amendment offered by the gentleman from Massachusetts (Mr. Macdonald).

The question was taken; and on a division (demanded by Mr. Van Deerlin) there were—ayes 23, noes 83.

So the amendment to the amendment was rejected.

AMENDMENT OFFERED BY MR. SPRINGER TO THE AMENDMENT OFFERED BY MR. MACDONALD OF MASSACHUSETTS

Mr. SPRINGER. Mr. Chairman, I offer an amendment to the amendment offered by the gentleman from Massachusetts.

The Clerk read as follows:

Amendment offered by Mr. Springer to the amendment offered by Mr. Macdonald of Massachusetts: Page 2, line 6, strike out "(and for" and all that follows down through line 8 on such page, and insert in lieu thereof a period.

Page 3, strike out line 6 and all that follows down through line 5 on page 4.

Page 4, line 8, strike out "Sec. 105" and insert in lieu thereof "Sec. 104".

Page 8, line 24, strike out "105" and insert in lieu thereof "104".

Page 9, line 14, strike out "Sec. 106" and insert in lieu thereof "Sec. 105".

Page 9, strike out line 16 and insert in lieu thereof the following:

out sections 102, 104(a), and 104(b) of this Act.

Page 9, line 18, strike out "Sec. 107" and insert in lieu thereof "Sec. 106".

Page 9, strike out line 19 and insert in lieu thereof the following:

104(a) or 104(b) or any regulation under section 105 shall

Page 9, strike out line 23 and insert in lieu thereof the following: "lates section 104(a) or any regulation under section 105 shall be".

Page 10, strike out line 4 and insert in lieu thereof the following:

"Sec. 107. Section 103 of this Act and the amend-".

Page 10, line 6 strike out "105" and insert in lieu thereof "104".

POINT OF ORDER RESERVED

The CHAIRMAN. For what purpose does the gentleman from West Virginia (Mr. Staggers) rise?

Mr. STAGGERS. Mr. Chairman, I do not know what this amendment has in it and I cannot tell a thing about it, so I would reserve a point of order against the amendment until I hear an explanation of the amendment.

The CHAIRMAN. The gentleman from West Virginia reserves the point of order against the amendment.

Mr. SPRINGER. Mr. Chairman and my colleagues, this is a simple amendment even though it seems to be somewhat complicated in the fact that there are some 13 alterations in the bill in order to arrive at this amendment. This amendment was to be introduced by Mr. Nelsen, of Minnesota, who could not be here today because of a family emergency. It does three things: First, it eliminates the section which covers the entire question of rates for political broadcasting. Also it eliminates the "comparable" test for newspapers. Finally, it eliminates that portion which compels newspapers to give equal access to all candidates.

I want to consider first the newspaper situation, if I can. Most of you probably received this brief which was made up by the School of Journalism of the University of Missouri, Columbia, Mo., in September of 1967, the Freedom Information Center Report No. 187, advertising the right to refuse. There is a serious constitutional question involved.

Under the amendment to the Constitution which provides freedom of the press it has been repeatedly held in any number of court decisions, which I will not attempt to point out for lack of time, which state that newspapers may deny any advertising it sees fit to deny. There is a serious question about whether this section of the bill is constitutional or not.

That is the first point.

The second, having to do with newspaper rates, which forces the newspaper to give a comparable rate to a Member of Congress that it would give to any other comparable person who seeks advertising, to me is unconstitutional, because it seems to me that a newspaper has the right to set any rates it wishes to, and you are forcing them to set rates which I think the Supreme Court would say in essence is a rate which would put a newspaper out of business, if they are forced to give rates low enough to deny the newspapers to pay their own costs it is wrong even if constitutional. That is the second one.

The third one has to do with TV giving you the lowest unit rate. It seems to me that in this area we must remember that we have made the media a free enterprise. We have made it a free enterprise in essence because we have given them the right to charge what they believe to be reasonable rates to make a profit.

What in essence we are doing in this section of the Macdonald bill is to force the TV to give you the lowest unit rate. In the second place we have said that newspapers must give you a comparable rate. In the third place we have said the newspapers must give you equal access. I think the first thing you are going to get—and I think the newspaper association has said that this is going up to the Supreme Court to determine whether or not Congress has the power to impose a regulation of this kind upon newspapers. Personally I have not been overcharged in my own area either by a newspaper or by a TV station, in my opinion. I have tried to compare those rates in view of what appears in the Macdonald bill with newspapers of similar size all over the country, and I find that in our area they are charging approximately the same rate. Some are a little lower; some are a little higher. I can understand that because of the question of size of circulation and amount of advertising that each individual newspaper has. But on the whole it is comparable.

As to TV rates, TV rates in my area are lower than they are in other parts of the country. So I do not say that we are being overcharged. Some of you might be interested in determining for yourselves in your own areas whether or not you are being overcharged or undercharged. But I think TV would be willing to listen to anybody who wants to talk about this thing as to what a fair charge should be for TV time.

It seems to me in the first place when you are in the newspaper field you are clearly on serious constitutional grounds.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

(By unanimous consent, Mr. SPRINGER was allowed to proceed for 3 additional minutes.)

Mr. COLLIER. Mr. Chairman, will the gentleman yield?

Mr. SPRINGER. I yield to my colleague, the gentleman from Illinois (Mr. COLLIER).

Mr. COLLIER. Mr. Chairman, just one question. I do not think the problem that has developed with respect to rates has been directed to rates that are not comparable in different geographical areas. It was my understanding that this was directed to comparable rates for advertising within a given publication. In other words, are we suggesting it is wrong to say that a political candidate should not be permitted, for example, to buy two columns by 4 inches of advertising at a rate higher than what the local businessman pays in the same newspaper in the same issue?

Mr. SPRINGER. What I have said to this date was in trying to compare rates in different parts of the country.

I think the gentleman strictly speaking is more nearly right as to what the intent of the Macdonald section is, which is to do what the gentleman is talking about, but I think the gentleman is right that there is a serious question of whether we have the right to do it.

Mr. COLLIER. It is not an uncommon practice in many parts of the country to charge a political candidate a rate which is generally a premium rate over what is charged for other advertising.

Mr. SPRINGER. That is right. I do not argue that question with the gentleman at all. I merely say we are on constitutional grounds as to whether that can be done—not as to whether they can charge higher or lower rates, but whether it can be done at all.

I do think it is a question of whether we ought to say that the TV station must charge us the lowest unit rate, because when we come to politics, I think all of us realize this is a temporary thing, and this is the reason—I have had explained to me by some newspapermen—that it is a limited thing, and in some cases it is limited to 2 or 3 weeks over the year.

Mr. HAYS. Mr. Chairman, will the gentleman yield?

Mr. SPRINGER. I yield to the gentleman from Ohio.

Mr. HAYS. Mr. Chairman, I am a little uncertain as to where the gentleman does stand on the newspaper thing. My experience on television in my district is that they will give me the same rate as anybody else is given for the time I use. If I want 50 spot announcements, I get the 50-spot rate.

At least one newspaper out there I know charges for political advertising exactly 50 percent more than it does for other casual ads paid in advance. Is that constitutional?

Mr. SPRINGER. I think it is.

Mr. HAYS. In other words, there is no discrimination?

Mr. SPRINGER. The gentleman is talking about newspapers?

Mr. HAYS. Yes.

Mr. SPRINGER. The newspapers, I think, are bound by the Constitution. In other words, they have a freedom, and this brief which has been made up by the University of Missouri School of Journalism is accurate.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

(By unanimous consent, Mr. SPRINGER was allowed to proceed for 2 additional minutes.)

Mr. SPRINGER. Mr. Chairman, I think the list of decisions is very conclusive on the question of whether or not they can refuse.

Mr. HAYS. As I understood the testimony of the man who spoke for the newspaper association, it was that they did not object to an equal payment by political candidates. The thing they did not want was for political candidate to get preferential treatment as though they were advertising over 365 days of the year. I am sure I heard the gentleman right, and I was there, that he had no objection to an equal treatment for political candidates, and he purportedly spoke for the whole association.

Mr. SPRINGER. If I understand the gentleman correctly, I think it is true on the question of discrimination there is no question that I think that would be objectionable. But I think the point being raised by the gentleman from Massachusetts (Mr. MACDONALD) in his amendment is we would have to charge a comparable rate for the same kind of service. That is in the Macdonald bill, which I understand the gentleman from Ohio says is a different kind of problem.

Mr. HAYS. I am saying newspapers should charge the political candidate the same thing they would charge a fellow who advertises only twice a year, but in some instances they charge the political candidate a 50-percent premium.

Mr. SISK. Mr. Chairman, will the gentleman yield?

Mr. SPRINGER. I yield to the gentleman from California.

Mr. SISK. Mr. Chairman, in view of the fact that the gentleman raised the question of constitutionality of setting newspaper rates, or the fear that there would be a constitutional question; in the letter the newspaper association put out on this, they, as a part of that package, at least in the letter I received, they cited the fact they do not endorse this business of gouging political candidates and they have indicated the desire to eliminate that.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

(On request of Mr. SISK, and by unanimous consent, Mr. SPRINGER was allowed to proceed for 2 additional minutes.)

Mr. SISK. They further cite that some six States in the United States at present do set, by State law, a limitation.

The thing which raises its head immediately with me is the question why, on the one hand, were they making a big argument it would be unconstitutional for us to enter into the so-called rate-setting area and yet at the same time use as an argument, for a lack of need, the fact that some six, seven, or eight States already have a ceiling in connection with political advertising in newspapers.

For example, the State of Maryland right out here, I understand, has a law in regard to newspaper rates for political advertising. I believe the State of Hawaii has such a law. I believe the State of Arizona does. I do not have those in front of me.

Mr. SPRINGER. May I say to my colleague, that has never been tried out in any of those States. It has never gone to the supreme court of the State, and never to the Supreme Court. On the basis of the cases that have gone up at the present time, it is my opinion it is unconstitutional.

Mr. TIERNAN. Mr. Chairman, will the gentleman yield?

Mr. SPRINGER. I yield to the gentleman from Rhode Island.

Mr. TIERNAN. I thank the gentleman for yielding.

As the gentleman knows, the hearings clearly indicate we had the representatives of newspaper associations before the subcommittee. At that time, there was never a question about the constitutionality of this provision raised before the committee.

Second, it was at their suggestion that the present language in the proposal before us, the Macdonald of Massachusetts proposal, was included. That is the language they suggested to the committee.

The CHAIRMAN. The time of the gentleman from Illinois has again expired.

(By unanimous consent, Mr. SPRINGER was allowed to proceed for 1 additional minute.)

Mr. SPRINGER. Mr. Chairman, may I read this so that there will be no misunderstanding:

> The attachment from the Freedom of Information Center traces a long line of cases which hold that the publishing of a newspaper is a private business, and that publishers are under no obligation to accept advertising from all who apply for it. There is little doubt that Section 4(b)(2) of the Macdonald bill would violate the holdings of these cases.
>
> The attached story from Publishers' Auxiliary indicates that there is very little need for a federal law regulating the rates which newspapers charge for political ads. Yet this is exactly what Section 4(b)(1) of the Macdonald bill and 103(b) of the Frenzel-Brown bill would do.

I am reading from a letter signed by William G. Mullen, general counsel of the National Newspaper Association.

Mr. TIERNAN. What was the date of that letter?

Mr. SPRINGER. November 24, 1971.

Mr. TIERNAN. Then he has changed his mind since he came before the subcommittee.

I would suggest, as the gentleman from California has already suggested, that we had testimony before the subcommittee that this type of language is in State statutes now and has not been challenged by any of the respective associations in the various States as to constitutionality.

Mr. SPRINGER. I have just this brief. That is all I have to go by.

The CHAIRMAN. Does the gentleman from West Virginia (Mr. STAGGERS) insist on his point of order?

Mr. STAGGERS. No, Mr. Chairman. I withdraw my point of order. I believe the subject is germane to the bill.

Mr. MACDONALD of Massachusetts. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this amendment is a very sweeping one and goes to the very heart of the bill.

In the first place, I could not follow everything that was contained in the memorandum of the gentleman from Illinois from the Missouri School of Journalism, but I believe we ought to take in order not the newspapers first but the broadcasters first.

It is perfectly clear that the Congress has jurisdiction over communications, and it is perfectly clear that the question of constitutionality never has been raised before, either at the time the gentleman voted for a similar bill last year or in our committee. Therefore, I am rather surprised it is raised at this late date.

However, I have a copy of the Constitution with me, and there are two places in which we get jurisdiction not just over communications so far as the broadcast media are concerned but also so far as the newspapers are concerned.

First I would like to go to the subject of broadcasters.

The point has been raised that we have no right to set rates for the broadcasters. I point out to the gentleman something that I think I do not need to point out to him, because I am sure he knows it; namely, they set their own rates and they set their own lowest unit rates. I also point out to the gentleman, which I know he knows very well indeed, that the Federal Government gives them the right to operate on public property. When they are issued a license by the Federal Communications Commission they are not using their own property; they are using the public airwaves. As such, it seems to me, if they are going to live up to the promise that they make when they get that license to serve the public convenience, necessity, and need and to serve in the public interest, certainly they should have and, as far as I am concerned—and I deal with them almost daily if not weekly—I have had no protest about this section of the bill from any broadcaster.

As a matter of fact, the three presidential broadcasters have indicated they have no objection to this personally, and I have not heard from a single broadcaster because they understand that they do get a license to serve in the public interest.

So obviously the lowest unit rate is a fare matter. Is it fair for them to sell soap at a low unit rate? What good does that do the community? They have a license to serve the community, and if they do not live up to that license, the only argument that makes any sense to me is, when their license comes up for renewal, as it does every 3 years, you can take that matter up then.

In any event, it seems perfectly clear to me that the broadcasters are and should be and must be included unless we are going to let spending once again take over the political processes of this country.

It was President Nixon himself who asked in his veto message that we also include newspapers.

As the gentleman well knows, in the bill he voted for last year it included television and radio. We sent this down to the President by an overwhelming margin both out of the House and the Senate, and the conference report was equally well received. The President said he wanted to veto it because in his judgment it only plugged one hole in the sieve, and the newspapers, the magazines, and the other forms of advertising should also be included.

We did that in order to avoid another veto. We are just doing in this title I bill what the President indicated to us he wanted.

Second, as is very clear to me, in many sections of the country, including my own section, it is unfair for the newspapers to raise rates just because you are a candidate for political office, so it seems to me they, too, should serve somewhat in the public interest, although I agree with the gentleman from Illinois that that section is not as clear and raises some problems, to me at least, with regard to that section.

However, inasmuch as the President asked for it and inasmuch as he said he would send up a bill that you could take and inasmuch as the President did not send up a bill which contained newspapers and magazines, our subcommittee and the full committee saw fit to do it for him.

So it strikes me rather peculiarly that the gentleman, who I know is a loyal follower of the President, should be going against the message that the President sent up to us and told us to put into an acceptable bill.

Therefore, I urge as strongly as I possibly can the defeat of this amendment, because it goes to the very heart and soul of the money spent.

In my judgment—and this was seriously suggested years ago—the broadcasters using the public airwaves in the public interest should give time.

Mr. HARVEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. SPRINGER. Mr. Chairman, will the gentleman yield?

Mr. HARVEY. I will in just a moment.

First, Mr. Chairman, I want to say that I rise in wholehearted support of the amendment which has been offered by the gentleman from Illinois. I do not believe that this section ought to be in the bill. I believe this amendment to strike this section is well taken.

Mr. SPRINGER. Now, Mr. Chairman, will the gentleman yield?

Mr. HARVEY. Yes, I yield to the gentleman from Illinois.

Mr. SPRINGER. There have been questions raised here by my distinguished colleague, a member of the committee from Rhode Island; also a question by the chairman of the committee, and at least one other member with reference to what was said at the time this bill was heard.

I read from page 207 from a statement of Mr. John Howell, publisher, Warwick Beacon, Warwick, R.I., wherein he said:

> Mr. Chairman, my name is John Howell. I am the publisher of the Warwick Beacon, Warwick, Rhode Island. I am here today testifying on behalf of the National Newspaper Association.

Then on page 208 after the seventh paragraph, I quote:

> The bill's lowest unit rate requirement would wreak havoc on newspaper publishers. Typically, rates for newspaper advertising space take into consideration such factors as the frequency of publication, size of the advertisement, the complexity and hazard of the copy, and the amount of service required to prepare the copy for publication. Of course, there are other factors which enter into figuring rates in specific instances.

Now, another paragraph, the third paragraph below that which I just quoted which reads as follows:

> In addition, we are of the opinion that section 4(b)(2) clearly infringes on the free press guarantees of the Constitution. This section requires newspapers and magazines to make advertising space available to all candidates for an office once they sell such space to any candidate for that office.

Mr. Chairman, I wanted to be sure that the Record showed that when this testimony was delivered, Mr. Howell speaking for the National Newspaper Association, exactly what was said.

Mr. TIERNAN. Mr. Chairman, will the gentleman yield?

Mr. HARVEY. I yield to the gentleman from Rhode Island.

Mr. TIERNAN. I agree with the gentleman. It is in the Record and that is why the gentleman from Rhode Island remembered it so well and inasmuch as he represents the area from which Mr. Howell comes. That is when we changed the lowest unit rate for newspapers to a comparable transient rate and agreed with that. He suggested that very language. They said that a newspaper should charge the comparable transient rate for people running for public office.

Mr. SPRINGER. Mr. Chairman, if the gentleman will yield further, may I say that is not what is now said by the National Newspaper Association. I read it to the gentleman and there is no question about their position.

Mr. TIERNAN. I do not question what the gentleman read and I hope the gentleman does not question what I said that Mr. Howell said before our committee. So, you can take your choice as to which time he meant it. His language is in the bill.

Mr. HARVEY. I want to say, Mr. Chairman, I do not think we have any business getting into whether we provide equivalent space in newspapers and, therefore, I hope the amendment passes.

Mr. HAYS. Mr. Chairman, will the gentleman yield?

Mr. HARVEY. Yes; I yield to the gentleman from Ohio.

Mr. HAYS. I want to say to the gentleman from Illinois that I was talking about the hearings before the House Administration Committee in which another different person representing the newspapers spoke, and I sent for a copy of what he said. I believe I am right in the fact that he said that they had no objection to a comparable rate for transient advertisers, which is what I understand the Macdonald amendment now proposes; is that correct?

Mr. MACDONALD of Massachusetts. Mr. Chairman, if the gentleman will yield, yes.

Mr. HAYS. And, I believe further in answer to a question I asked he stated he did not believe it was proper to charge a political candidate 50 percent more than you would a fellow who came in who wanted to run an ad for a photography shop or something like that.

Mr. THOMPSON of Georgia. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have nothing but the highest regard for our ranking minority member, the gentleman from Illinois.

I do, however, take exception with his views in this matter.

I, personally, feel that a good lawyer, given 15 legal-sized sheets of paper and a typewriter, could make a convincing argument either way as to the constitutionality of this matter. For my part, I, personally, believe the provision to require that a comparable rate be charged is constitutional.

What we are trying to do in this bill is to come up with a measure that is equitable not only for incumbents, but for challengers as well. We are trying to provide a means by which the American public can look at two candidates or more and try to determine in their own opinion which one of these is going to serve them best.

I personally believe that we are not interfering with the freedom of the press when we tell the newspapers that if they are going to charge one advertiser a certain rate for so many insertions and for a certain place in the paper, and a certain size, that they shall not charge a political advertiser more money. We are not trying to set the rates for them. All we are trying to do is to require that equity be accomplished.

Personally, I am opposed to the section in the bill which requires the broadcaster or a TV station to charge the lowest rate to a political candidate. If we want to make as a requirement relating to the obtaining of a license for the use of the public airways that one of the required public services is free time or reduced time, so that each station knows that this is the payment he has to make for use of public airways then that is a different matter. But we have not done this and should not do this after the fact—that is after a license is granted. Since we have not done it I personally hope that we will support the amendment to be offered by the gentleman from Texas (Mr. Pickle). I believe it will provide for equity. I believe equity in this particular instance, insofar as the newspapers are concerned, is to require a comparable rate be charged just as it should be for radio and TV.

Mr. STAGGERS. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON of Georgia. I yield to the gentleman from West Virginia.

Mr. STAGGERS. Mr. Chairman, I would like to associate myself with the remarks being made by the gentleman from Georgia (Mr. Thompson).

I also want to say that I commend the gentleman for the statement that he has been making in the well.

Mr. PICKLE. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON of Georgia. I yield to the gentleman from Texas.

Mr. PICKLE. Mr. Chairman, it is my intention to offer an amendment just as soon as it is possible that would make the rates for advertising with broadcasters or newspapers the same. I am glad the gentleman has mentioned the amendment that I will offer.

Mr. THOMPSON of Georgia. Mr. Chairman, I would just like to conclude by stating this: That everyone in this body should look on this matter as you would upon any issue based on equity. In my view, equity provides that newspapers in dealing with advertisers, whether they be the local hardware store or drygoods merchants or political advertisers, should be charged with the same amount for the same space. A political candidate should not be charged a premium nor should the newspaper publisher be required to give him a discount.

Mr. HAYS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do not know who really speaks for the National Newspaper Association, but I want to read you some quotations from our hearings—and the gentleman from Michigan (Mr. Harvey) was involved in this, and I will start there:

> Mr. Harvey. I have a question. Mr. Mackey, I can see why the newspapers would be opposed to the lowest unit cost for a candidate's advertising which you mentioned in your statement, but I have considerable difficulty understanding why the newspapers feel they should be able to charge a greater rate for political advertising than they would for any other type of advertising.
>
> Mr. Mackey. Our rates are based on local advertisers and national advertisers and we charge the same rate for political ads as we do for our national advertisers.

Now, Mr. Mackey happens to be from the local paper in my home county, and I can verify his statement about the same rate for political ads as for others.

So we go on down a little further, and I point out that Mr. Mackey is claiming that that is exactly what they do, and then I say that we should have something in the legislation that they should not be able to single out, and I am quoting: "political candidates for an exceptionally high charge."

Then Mr. Harvey said:

> I certainly agree with Chairman Hays in this regard. I think such a provision is badly needed.

Then a fellow by the name of Mr. Serrill gets into the act. He was sitting out there. The record reads:

> Mr. Serrill. May I comment on that, Mr. Chairman.
>
> Mr. Abbitt. Mr. Serrill.

It turns out that Mr. Serrill is the executive vice president of the National Newspaper Association and listen to what he says.

I said:

> If the gentleman will yield—

He was going along talking about what Mr. Harvey said and saying that they did not do that.

I said:

> If the gentleman will yield, do you have any objection to having a section in the bill that says that they can't charge a higher rate?

Meaning what they would charge anyone else—

> Mr. Serrill. Than the established card rate?
>
> Mr. Hays. Yes.
>
> Mr. Serrill. That is all right. We would not object to that.

Then he goes on to say:

> In fact as I say, over the many years—and I have been in newspaper management association work since 1944—

That they have been doing that in most instances, but he thought it was bad public relations to have a surcharge for political advertising.

I do not know whether they had a man testifying to a different thing in front of the other committee but this is exactly what they said in the hearings Mr. Abbitt conducted for the Committee on House Administration.

Mr. TIERNAN. Mr. Chairman, I move to strike out the last word.

Mr. MACDONALD of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. TIERNAN. I am happy to yield to the gentleman.

Mr. MACDONALD of Massachusetts. Mr. Chairman, I would like to have the attention of the gentleman from Illinois inasmuch as he raised the question of the constitutionality of this measure. I do not know what the gentleman quoted, but I will quote two things that might clear up his problem.

In the first place, the Associate Deputy Attorney General Wallace Johnson of the Department of Justice accompanied by William Nichols, the legislative counsel, who testified before our committee and in this testimony which the gentleman can find at the bottom of page 186 and continuing over to the top of page 187 reads as follows and he is talking about our bill. He says:

> Some proposals would require broadcasters to charge candidates the lowest unit rates charged others for similar time blocks. At least one of the bills before you would extend the lowest unit rate provision to purchasers of nonbroadcast media.

And then he said:

> The department—meaning the Department of Justice—favor such a provision and strongly feels it should be made applicable to both broadcast and nonbroadcasting communications media.

That was the Assistant Deputy of the Department of Justice.

Then going on farther to a higher, perhaps, plane—a letter was forwarded to me by Richard Kleindienst, Deputy Attorney General. On page 3 of that letter which is dated, June 23, 1971, Mr. Kleindienst said:

> H.R. 8628 is a far better bill than H.R. 8627. It would extend the lowest unit rate provision to newspapers and magazines as well as to the broadcast media. We favor that provision.

So, if the gentleman can top that, for constitutionality, I will be surprised.

Mr. SPRINGER. Mr. Chairman, will the gentleman yield?

Mr. TIERNAN. If the gentleman will get me some additional time, I will yield to the gentleman at this time if he wants to respond to that.

Mr. SPRINGER. I just want to read this now so that there can be no misunderstanding about how the National Newspaper Association stands. There is the brief accompanying it, which I would be happy to insert in the RECORD but I understand I cannot ask permission to do so now because we are in Committee of the Whole, but I will get permission to put it in the RECORD when we are in the House.

But they do say here:

NATIONAL NEWSPAPER ASSOCIATION,
Washington, D.C., November 24, 1971.
Hon. WILLIAM L. SPRINGER,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. SPRINGER: I am enclosing some material which may be helpful to you when the House again takes up Federal Election Reform. The principal bill, H.R. 11060, and two related bills are now scheduled for floor action on Monday, November 29, at noon.

The attachment from the Freedom of Information Center traces a long line of cases which hold that the publishing of a newspaper is a private business, and that publishers are under no obligation to accept adevrtising from all who apply for it. There is little doubt that Section 4(b)(2) of the Macdonald bill would violate the holdings of these cases.

The attached story from Publishers' Auxiliary indicates that there is very little need for a federal law regulating the rates which newspapers charge for political ads. Yet this is exactly what Section 4(b)(1) of the Macdonald bill and 103(b) of the Frenzel-Brown bill would do. We realize that some individual members of the Congress have problems with political advertising rates of certain newspapers. All I can say is that this association is pledged to eliminating these inequities as rapidly as possible. Great improvements have been made in this area within the last ten eyars.

Once again, on behalf of the more than 6,600 community publishers represented by NNA, we ask that you support amendments to delete the newspaper provisions of Section 4 of the Macdonald bill and Section 103(b) of the Frenzel-Brown bill.

Since floor action on these bills is set for a Monday, there is a great deal of importance attached to your presence on the House floor during the consideration of these amendments if they are to be successful.

Your consideration of the views of weekly and small city daily newspaper publishers is deeply appreciated. Please call upon me if you have any questions or need additional information on this matter.

Sincerely yours,
WILLIAM G. MULLEN,
General Counsel.

[From Freedom of Information Center Report No. 187]

ADVERTISING: THE RIGHT TO REFUSE

(NOTE.—This paper, which surveys the legal bases for the right of newspapers to refuse advertising, was prepared by David C. Hamilton, a graduate student in the School of Journalism.)

When, in December 1964, Fred G. Bloss complained before Michigan courts that advertisements for his Eastown Theatre had been refused publication in Battle Creek's *Inquirer* and *News*, the defendant, Federated Publications Inc., was in a position to show the court ample evidence that it was within its rights in choosing to turn down the advertising. This case, which was decided November 9, 1966, in Division Three of the Court of Appeals of Michigan, is the latest in more than half a century of legal debate over the question of a newspaper's right to refuse advertising.

Like many manifestations of this complex society, advertising was not anticipated as a problem in either constitutional or common law. When questions as to the nature of newspapers and newspaper advertising first arose, they naturally became wards of the courts—and subject to the relative vagaries of judicial reasoning. After nearly fifty years of deliberations the courts have ruled overwhelmingly—with only one decision to the contrary—in favor of the newspaper's right as a private business to contract with whom it pleases. That right has been questioned in terms of unfair business practices, in terms of monoply, and in terms of the so-called "public interest" nature of American newspapers.

Bloss reported to the Michigan court that the defendant had accepted his advertisements for about 30 days prior to November 3, 1964, when it notified Eastown Theatre by mail that it would not accept Eastown advertisements effective November 4, 1964. Bloss sought court agreement that the newspaper was "clothed with a public interest" and that therefore it should be forced to accept his advertising. Federated exhibited a copy of the plaintiff's advertising, and, in the language of the record, "did not wish to accept advertising for theaters containing suggestive or prurient material, and plaintiff's advertising required extensive editorial effort by defendant's employees to meet defendant's published standards."

In *Eastown Theatre v. Federated Publications, Inc.*, the court said:[1]

"The First Amendment to the Federal Constitution declares and safeguards the sanctity of freedom of the press. Our founding fathers recognized that well-informed citizens are essential for the preservation of democratic institutions, and toward this end, an independent press is indispensable. The public interest, therefore, insofar as it affects the operation of a newspaper, demands that the press shall remain independent, unfettered by governmental regulations regardless of whether that regulation stems from legislative enactments or judicial decisions. . . . We subscribe to and are bound by the prevailing authority, that a newspaper is strictly a private enterprise."

ONE LANDMARK: SHUCK V. CARROLL DAILY HERALD

In arriving at this decision, the court, noting the absence of action on this question in Michigan, turned to the landmark case in this area, *Shuck v. Carroll Daily Herald* and an annotation on it in the *American Law Review*.

In this 1933 case in the Iowa Supreme Court, a clothes cleaner and repairer in the city of Carroll named Shuck sought to reverse a lower court decision refusing to grant his request for an injunction forcing the Carroll *Daily Herald* to print his advertising. Shuck claimed the *Herald* "orally agreed to publish" his advertisement, then did not. Further, he said, the *Herald* published advertising from "both residents and nonresidents" and from "others in the same business class." He asked $400 in damages, "for failure to publish advertising tendered," and an injunction forcing the *Herald* to halt what Shuck considered discriminatory practice. The defendant newspaper countered that "only the legislature can legislate a control to advertising which does not now exist," and claimed "the private right of the defendant to contract."

In deciding the case, the court reduced the question to whether a newspaper is required to accept advertising or not, and produced a capsule history of legal thought on the matter:

"The first English newspaper is believed to be the weekly *News*, issued in London in 1622. In the United States, *Publick Occurrences* was started in Boston in 1690; the *Boston News Letter* followed in 1704; but the oldest existing newspaper in the United Staes is the New Hampshire *Gazette*, founded in 1756.

"Our common law is generally dated at about the time of the Declaration of Independence, or perhaps at the time of the Revolution. Newspapers had then existed in England for one hundred and fifty years and in America for almost a hundred years. During that period they operated side by side with carriers and inns. The rules forbidding the latter to discriminate between customers were established, yet nobody goes so far as to even claim that there is any holding at common law under which a newspaper was bound by the same rules."

Turning to court decisions, the Iowa justices cited *Friedenberg* v. *Times, in re Louis Wohl, Mack* v. *Costello, Commonwealth* v. *Boston Transcript Co.*, and *Wooster* v. *Mahaska County*. The holdings of these cases, in abbreviated statements, are as follows:

Footnotes at end of article.

CASE SUMMARIES

Friedenberg v. *Times*. The Louisiana court, ruling in 1930, said:

"The weight of authority is that the publishing of a newspaper is a strictly private enterprise, and the publishers thereof are free to contract and deal or refuse to contract and deal with whom they please. And at any rate, it is for the Legislature, and not for the courts, to declare that a business has become impressed with a public use."

Mack v. *Costello*. In this 1913 decision, a South Dakota court declared:

". . . it may be that the publishing of a newspaper is a quasi-public business; but if so, it is only because, from long existence, it is regarded as a public necessity. But as much might be said of the hardware or grocery business, and yet no one would contend that a grocer or hardware dealer could be compelled by mandamus to sell his wares if he preferred to keep them on the shelves."

The question arose when Georgia Costello, published of the Cavour *Clarion*, lone Cavour newspaper, refused to publish a petition renderd to her by Mack and others in order to fulfill a South Dakota statute requiring the publishing of legal petitions. The court further stated:

"It is true, the statute defines a legal newspaper and requires that legal notices be published in newspapers so designated . . . but it nowhere attempts to impose any obligation to publishing any and all notices, . . . neither can the publication of a newspaper be held to be an office, trust or station (and) because appellant's course may impose a hardship upon respondents does not authorize the court to exercise a jurisdiction not conferred by statute."

Commonwealth v. Boston Transcript Co. In 1924, a Massachusetts court ruled that "the legislature has no power to require any newspaper, at any time, to publish anything whatever against its will," and declared unconstitutional a statute which forced papers to publish labor commission findings.

Wooster v. Mahaska Co. Also an Iowa court ruling, this 1904 decision said: ". . . neither the legislature, nor the board, could compel any paper to publish the proceedings, no matter what compensation might be fixed therefor." Publisher Wooster and others had sought to collect a higher rate for publishing county board of supervisor announcements than had been paid them for a year's publication. "He was under no obligation to do the work," the court concluded.

In re Louis Wohl. In 1931 a federal district court discussed the Michigan case in which Wohl, principal stockholder in a bankrupt company, had reorganized his business and sought to advertise with the Detroit *News* and Detroit *Times*, both of which had lost money to Wohl's bankrupted enterprise. The newspapers required Wohl to make good their previous losses before dealing with him again; he did, but subsequently sued to regain his money on the basis of restraint of trade.

Wohl asked an injunction directing the newspapers to deal with him on the basis that "a newspaper must print advertising offered to it. The court ruled that the restraint of trade accusation was based upon the second half of Wohl's complaint, and therefore limited its decision to the question of whether newspapers should be required to accept advertising.

Wohl sought to prove that "the newspaper business has become of such great public importance . . . that the owners have granted the public an interest in the property" (using the landmark railroad decision *Munn v. Illinois* as the basis for this "public utility" claim); "and further, that . . . the Detroit *News* and the Detroit *Times* exercise what is virtually a monopoly in the evening newspaper field." On this point, the court reminded Wohl that monopoly as a test of public interest had been rejected in *Brass v. North Dakota* and applied itself to the question of whether public interest in personal contracts as defined by *German Alliance Insurance Co. v. Lewis* could be applied to the newspaper industry. In support of his claims, Wohl cited *Tyson v. Banton*, in which theater ticket brokers had been declared clothed with a public interest, and *Ribnik v. McBride*, in which an employment agency had been declared the same.

The court noted itself cognizant of the precepts of *Inter-American Publishing Co. v. Associated Press*, in which the AP "was held to be a business upon which a public interest was engrafted"; of the holdings of *Uhlman v. Sherman*, the lone decision requiring a newspaper to accept advertising (to be discussed at greater length); and of the decision in *Wolff Packing v. Industrial Court*, which said that a business, if found clothed with a public interest, "is bound by the common law to serve without discrimination." It nevertheless ruled:

". . . while it may be true that legislation declaring businesses affected with a public interest as a ground for regulating such businesses may be merely declaratory of the common law . . . it has not been pointed out that any state has ever attempted to regulate the business of a newspaper on the ground that such business is one clothed with a public interest.

"I find from the foregoing that there is no such trend of decision as the trustee urges. A newspaper is not at common law a business clothed with a public interest."

The court cited a number of cases as influential to its decision, including *Commonwealth* v. *Boston Transcript Co.* and *Wooster* v. *Mahaska Co.*, discussed above. Also of interest are *Lake County* v. *Lake County Publishing and Printing Co.*, and *Belleville Advocate Printing Co.* v. *St. Clair County*, two Illinois decisions. In the former, read in 1917, the court said: ". . . . a printer is at liberty to publish or not." The case was similar to *Wooster* v. *Mahaska Co.* in that the printer had sued to collect a higher rate for printing delinquent tax lists than the country would allow.

In the *Belleville* decision (1929), the court made the same ruling against a printer who sought higher rates for printing tax assessment lists, saying that the newspaper "was at liberty to print or not."

THE SHUCK UMBRELLA

The area of protection thus seen to be encompassed in the *Shuck* v. *Carroll Daily Herald* decision is great: no recourse to common law is possible; the right to refuse advertising is protected from both court-made and legislative law; hardship to the potential advertiser is rejected as a cause for complaint; the condition of monopoly is specifically denied as a basis for denial of the right. The newspaper is defined as a private enterprise, completely free to deal or to refuse to deal with whomever it may choose.

To this landmark decision, the *American Law Review* appended an annotation which concludes:

"With the exception of one case, *Uhlman* v. *Sherman*, it has been uniformly held in the few cases which have considered the question that the business of publishing a newspaper is a strictly private enterprise, as distinguished from a business affected with a public interest, and that its publisher is under no legal obligation to sell advertising to all who may apply for it."

In addition to the *Lake County* and *Belleville* decisions, discussed above, ALR cites *State ex rel Baraboo* v. *Page, Journal of Commerce Publishing Co.* v. *Tribune Co.*, and *Clegg* v. *New York Newspaper Union* in support of its commentary. Pertaining matter in these decision includes:

State ex rel Baraboo v. *Page*. This 1930 Wisconsin decision concerned publisher H. K. Page, who accepted the title of "official newspaper" for his Baraboo *News-Republic* from the town's council and then refused to print council minutes. The council sued, but the court said:

"Those statutes (which require publication of council activities) . . . do not constitute, or authorize the city to constitute, the proprietor, publisher or editor of the official newspaper a public officer; . . . they are not required to take an oath, and they exercise none of the functions of sovereignty, which are some of the usual characteristics of public office."

The court said, further, that the city should have sued Page for breach of contract for his failure to print the council minutes, rather than having attempted to vest the newspaper with public character.

Journal of Commerce Publishing Co. v. Tribune Co. In this case, in which the Tribune Company sought to establish its right to maintain a fleet of carriers separate from that maintained by the Journal of Commerce Publishing Company, a 1922 Illinois judgment said: "The publication of a newspaper is a private business."

Clegg v. New York Newspaper Union. This 1887 New York case—one of the earliest citations—was decided in favor of appellant Clegg. From the ALR conclusions concerning the *Journal* and *Clegg* cases, it is assumed that this decision, like *Journal*, is useful in transferring the fact of "private business" from cases involving distributorship to cases contending advertising rights.

Thus, to the mandates of decisions covered by *Shuck v. Carroll Daily Herald*, the ALR appended two affirmations of the non-public character of newspaper publishing. The Michigan court, in deciding *Eastown Theatre v. Federated Publications Inc.*, could have little doubt, in view of *Shuck* and the *American Law Review* statement, of its decision. A little doubt, however, did exist.

A MINORITY VIEW: UHLMAN V. SHERMAN

It may be symbolic, and it is at least ironic, that the lone case standing against the tide of decisions favoring the newspaper's right to refuse advertising occurred in the Common Pleas Court of Defiance County, Ohio. There, in 1919, gathered Sherman and others of the Crescent Publishing Company to oppose the efforts of Uhlman, a mercantile trader, to have them forced to accept his advertisements. Sherman testified to disliking Uhlman's business practices, but filed no answer to the plaintiff's brief.

Judge J. Hay, in what was to become *Uhlman v. Sherman*, allowed that, "Ordinarily, persons cannot be forced into contracts." But, citing Elliott on Contracts (Sections 570–571), he noted that railroads, street railways, canals, turnpikes, gas and water, telephone and telegraph, heating and the like were not exempted. Public wharves, grain warehouses, grist mills, stockyards, fire insurance, grain elevators, hack lines, theaters and "other public places of amusement," he said, had been remanded to public control.

Citing *Munn v. Illinois* to the effect that "when private property is affected with a public interest, it ceases to be *juris privati* only," the judge prepared his statement on newspaper rights:

"Newspapers in this country have become universal. They are now practically in every home. . . . They publish . . . the one and the hundred other things which people desire to read and know. . . . They are favored by the law in the matter of printing public notices.

"These all add to the interests of the public in the business and serve to make it a success, and cause the public to depend upon newspapers not only for knowledge of current events both local and foreign, but also for a knowledge of these matters of public concern which virtually affect every citizen and taxpayer.

"We believe that the growth and extent of the newspaper business, the public favors and general patronage received by the publishers from the public, and the general dependence, interest, and concern of the public in their home papers, has clothed this particular business with a public interest and rendered them amenable to reasonable regulations and demands of the public."

Judge Hay was quick to point out in his concluding remarks that a newspaper should have control over its news space, and that if it did not allow advertising to others of the same class, it could not be required to accept advertising. Also, the justice noted, no decision similar to his could be found in court records.

Although the *Uhlman* decision has found its way into most of the cases tried in this area since 1920, it has not found a supporter. The Iowa court upholding the Carroll *Daily Herald* said, "The Uhlman case has been before two respectable courts since it was given forth. . . . Both have refused to follow it." The Michigan court preparing *in re Wohl*, after studying the majority of precedents, including *Uhlman*, concluded: "I find from the foregoing that there is no such trend of decision as the trustee urges. A newspaper is not at the common law a business clothed with a public interest." The most recent Michigan decision, involving Eastown Theatre, said of *Uhlman*:

"That the Uhlman case was not followed by another Ohio court is evidenced by the case of *Sky High Theatre, Inc. v. Gaumer Publishing Co.* (Unreported, No. 22820) in the Common Pleas Court of Champaign County. The court therein stated:

" 'Under the circumstances, is the court bound by the decision in the Uhlman case? The judgment of the circuit court of one district is not conclusive authority upon the judges of another district though the view obtains that the decisions by one court should be followed in other circuits unless it clearly appears to the latter circuits that the decision is wrong. . . . It should be followed unless it clearly appears to this court that the decision is wrong—which is the case.' "

Although the Uhlman decision will remain as a temptation to those who would test the newspaper industry's right to refuse advertising, it would seem that the growing weight of decisions to the contrary will render it useless.

ANOTHER LEG: APPROVED PERSONNEL, ET AL.

Although sufficient bases for defense in a case involving refusal of advertising are provided by the umbrella cited in *Eastown Theatre v. Federated Publications, Inc.*, and above, there exists another branch of legal thinking which was cited as recently as 1965 in a Florida case, *Approved Personnel, Inc., et al. v. The Tribune Co.* The conclusions struck three familiar chords:

". . . the law seems to be uniformly settled by the great weight of authority throughout the United States that the newspaper publishing business is a private enterprise and is neither a public utility nor affected with the public interest. The decisions appear to hold that even though a particular newspaper may enjoy virtual monopoly in the area of its publication, this fact is neither unusual nor of important significance. The courts have consistently held that in the absence of statutory regulation on the subject, a newspaper may publish or reject commercial advertising tendered to it as its judgment best dictates without incurring liability for advertisements rejected by it."

The case involved the Tampa *Tribune* and Tampa *Times* which, without giving a reason, refused to accept advertising from three private employment agencies. The appellors sought to prosecute on grounds of breach of contract and monopoly. The "breach" suit was dismissed at the appeal level, since no contract, as such, existed. Supporting its conclusions on the other half of the suit, the court cited especially *Shuck v. Carroll Daily Herald, J. J. Gordon Co. v. Worcester Telegram Publishing Co.*, and *Poughkeepsie Buying Services v. Poughkeepsie Newspapers, Inc.*

The conclusions of the last-named are included in the *Gordon* decision. In it the plaintiff, a real estate dealer, complained to a Massachusetts court in 1961 that the *Daily Telegram, Evening Gazette* and *Sunday Telegram*, after accepting his advertisements for "about a year," on March 15 "cancelled an advertisement after one publication thereof and (has) since without just cause, maliciously refused and continues to refuse to accept for publication in (its) newspapers further advertising by the plaintiff corporation." Gordon alleged that the newspaper was a public utility, but the Telegram Publishing Co. filed a demurrer and was sustained, the court holding that "we judicially know that under our law a newspaper is not a public utility."

In its concluding statement, the court said:

"Although the precise question here has not often been before the courts, the prevailing view in the few cases that have considered the question—and in our opinion the correct one—is that the publisher of a newspaper is under no obligation to accept advertising from all who may apply for it."

Supporting Cases

Integral to the court's decision, in addition to cases already discussed,[3] were *Lepler v. Palmer, Poughkeepsie Buying Services v. Poughkeepse Newspapers, Inc., Philadelphia Record Co. v. Curtis-Martin Newspapers, Inc., Lorain Journal v. United States*, and *Times-Picayune Publishing Co. v. United States.* Short abstracts follow.

Lepler v. Palmer. A New York court, ruling in 1934 in a case involving the right of a newspaper to determine who its retailers should be, said: "The publication and distribution of newspapers is a private business, and the publishers have the right to determine for themselves by whom the papers should be sold." Lepler had been turned down by the New York Publishers' Association (represented by Palmer) in his bid to obtain a newsstand franchise, and the court upheld the Association's decision. "Unless done pursuant to a combination with other publishers to injure him," the court said, the newspaper was free to deal or to refuse to deal.[3]

Poughkeepsie Buying Services v. Poughkeepsie Newspapers, Inc. This 1954 New York ruling dismissed the Buying Service's attempt to obtain an injunction to force the Poughkeepsie *New Yorker*, a monopoly paper, to accept its advertisements, confirming that:

". . . in New York, the newspaper business is in the nature of a private enterprise, and in the absence of valid statutory regulation to the contrary, publishers of newspapers have the general right either to publish or reject commercial advertisement tendered to them; their reasons for rejecting them being immaterial, unless they are connected with fraudulent conspiracy or with furthering an unlawful monopoly.

"Refusal to maintain trade relations with any individual is an inherent right which every person may exercise lawfully for reasons he deems sufficient or for no reason whatsoever; and it is immaterial whether such refusal is based upon reason or is the result of mere caprice, prejudice or malice, it being part of the liberty of action which constitutions, state and federal, guarantee to citizens."

The court limited its own jurisdiction in the matter, saying:

"The fact that the legislature has not seen fit to reasonably regulate the newspaper advertising business does not confer power upon the courts to impose rules for conduct of such business."

The court rejected the *Uhlman* theory, concluding:

". . . it is contrary to general and fundamental doctrine laid down in our decisional law. For instance, we find decisions here, though not in point, in which it has been generally held that the publication and distribution of newspapers is a private business and that newspaper publishers lawfully conducting their business have the right to determine the policy they will pursue therein and the persons with whom they will deal."

Philadelphia Record Co. v. Curtis-Martin Newspapers, Inc. Pennsylvania courts ruled in 1931 that Curtis-Martin could not force Philadelphia Record Company to use the same distributors for its "bulldog" (night) editions, saying, "The publication and sale of newspapers is a private enterprise, . . . not in any sense (a) public service corporation."

Lorain Journal v. United States. "The publisher claims a right as a private business concern to select its customers and to refuse to accept advertisements from whomever it pleases," the U.S. Supreme Court summarized in this 1951 case which arose when the publisher of the Lorain (Ohio) *Journal* refused to sell advertising to those Lorain merchants who purchased advertising with Lorain radio station WEOL, which was owned by the publisher of the close-by Elyria *Chronicle-Telegram*. The court said:

"We do not dispute that general right . . . Most rights are qualified . . . The right claimed by the publisher is neither absolute nor exempt from regulation. Its exercise as a purposeful means of monopolizing interstate commerce is prohibited by the Sherman Act . . . In the absence of any purpose to create or maintain a monopoly the act does not restrict the long recognized right of the trader or manufacturer engaged in an entirely private business, freely to exercise his own independent discretion as to parties with whom he will deal."

Times-Picayune Publishing Co. v. United States. A second U.S. Supreme Court opinion was delivered in 1953, following proceedings instigated against *Times-Pisayune* by the U.S. Attorney General's office to test the company's policy of selling "combination ads" which required that purchasers of space in the morning *Times-Picayune* also buy lineage in the afternoon *Daily States*. The court reiterated its statements in *Lorain Journal v. United States* in ruling that "combination ads" were not a form of monopoly.

The strands of judicial thought gathered together by *Approved Personnel, Inc., et al. v. The Tribune Co.* are as diverse as those covered by the *Shuck* umbrella, and, in conjunction with that line of defense, form an airtight case for the publisher—provided he does not overstep the boundary of monopoly legislation. Claims of "public utility" are rejected; license is expanded to the point of not requiring a reason for refusal of advertisement; and the right to publish is plugged into the well-developed current of judicial decision on the right to control distribution outlets. In addition, affirmation of the right of the publisher to refuse advertising has been gained from the highest tribunal, the U.S. Supreme Court.

Footnotes at end of article.

Any test of the right to refuse advertisements could most probably stand upon the legs drawn above; however, along the twisted trail of jurisprudence lie a few more decisions worthy of mention.

A recent Texas case, *Mid-West Electric Cooperative, Inc., et al.* v. *West Texas Chamber of Commerce* (1963) was decided very strongly in favor of the Chamber of Commerce, publisher of a magazine. The Electric Cooperative, having been refused publication of a politically oriented advertisement, hoped to prove that the Chamber had discriminated against it. Leaning heavily upon *Shuck* v. *Carroll Daily Herald* and the *American Law Review* annotation to it, the court ruled:

"Publishers of newspapers or magazines are generally under no obligation to accept advertising from any and all who may apply for its publication but are free to deal and decline to contract with whom they please."

Sharon Herald Co. v. *Mercer County*, a 1938 Pennsylvania case, stands as a firm statement of the non-public character of newspapers. In it, the court was asked if the Sharon *Herald* were within its rights in raising the rate for legal advertising done by Mercer County officials, who sought to establish a ceiling on such rates or to advertise at a rate lower than that announced by the paper. "Newspapers are not public utilities subject to governmental control and supervision as to the reasonableness of their advertising rates," the court concluded.

Amalgamated Furniture Factories v. *Rochester Times-Union Co.* (1927, New York) contributes to the body of law in this area the ruling that a newspaper not only has the *right* to refuse *untrue* advertising, but, in fact, is charged with the duty to refuse to give publicity to statements known to be untrue." The furniture company was known to the newspaper to be only a distributor and not a manufacturer, and the publication refused to print Amalgamated advertisements after printing only 4,045 lines of a 15,000-line contract. The court affirmed the right of the newspaper to break the contract under the given circumstances.

CONCLUSIONS

The right of a newspaper to refuse advertising seemingly admits of no loopholes—except where purposeful restraint of trade can be proven. However, it may prove worthwhile to recall the nature of the law.

The "right" is totally dependent upon judicial opinion, and the possibility of a second *Uhlman* v. *Sherman* decision surfacing (though in light of the weight of opinion to the contrary, the possibility is admittedly slim) must forever be admitted.

FOOTNOTES

[1] Law library citations for all decisions noted in the paper are as follows:

Amalgimated Furniture Factories v. Rochester Times-Union Co., (219 N.Y.S. 705, 128 Misc. 673)

Approved Personnel, Inc., et al. v. The Tribune Co. (177 So. 2d 704)

Belleville Advocate Printing Co. 1. St. Clair County (168 N.E. 312)

Brass v. North Dakota (153 U.S. 391, 14 S. Ct. 857, 38L.Ed. 757)

Clegg v. New York Newspaper Union (44 Hun 630, 9 N.Y.S.R. 235)

Collins v. American News Co. (34 Misc. 260, 69 N.Y.S. 641)

Commonwealth v. Boston Transcript Co. (35 A.L.R. 1, 144 N. E. 400, 249 Mass. 477)

Eastown Theatre v. Federated Publications, Inc. (145 N.W. 800)

Friedenberg v. Times Publishing Co. (127 So. 345, 170 La. 3)

German Alliance Insurance Co. v. Lewis (233 U.S. 389, 34 S.Ct. 612, 58 L.Ed. 1011)

In re Louis Wohl (50 F. 2d 254)

Inter-American Publishing Co. v. Associated Press (184 Ill. 448, 56 N.E. 882)

J. J. Gordon Co. v. Worcester Telegram Publishing Co. (343 Mass. 142, 177 N.E. 2d 586)

Journal of Commerce Publishing Co. v. Tribune Co. (286 Fed. Ill)

Lake County v. Lake County Publishing and Printing Co. (280 Ill. 243, 117 N.E. 452)

Lepler v. Palmer (270 N.Y.S. 440, 150 Misc. 546)

Locker v. American Tobacco Co. (121 App. Div. 443, 106 N.Y.S. 115)

Lorain Journal v. United States (342 U.S. 143, 72 S.Ct. 181, 96 L.Ed. 162)

Lucomsky v. L. B. Palmer (141 Misc. 278, 252 N.Y.S. 529)

Mack v. Costello (32 S.D. 511, 143 N.W. 950, An. Cas. 1916A 384)

Midwest Electric Cooperative, Inc., et al. v. *West Texas Chamber of Commerce* (369 S.W. 2d 842)

Munn v. *Illinois* (94 U.S. 113, 24 L.Ed. 77)

People ex rel Burnham v. *Flynn* (49 Misc. 328, 9d N.Y.S. 198)

Philadelphia Record Co. v. *Curtis-Martin Newspapers, Inc.* (157 A. 796, 305 Pa. 372)

Poughkeepsie Buying Services v. *Poughkeepsie Newspapers, Inc.* (131 N.Y.S. 2d 515, 205 Misc. 982)

Ribnik v. *McBride* (227 U.S. 350, 48 S.Ct. 545, 72 L.Ed. 913, 56 A.L.R. 1327)

Sharon Herald Co. v. *Mercer County* (200 A. 880, 132 Pa. Super. 245)

Shuck v. *Carroll Daily Herald* (215 Iowa 1276, 247 N.W. 813, 87 A.L.R. 975)

Shuck v. *Carroll Daily Herald Annotation* (87 A.L.R. 979)

Sky High Theatre, Inc. v. *Gaumer Publishing Co.* (Unreported No. 22820, Court of Common Pleas, Champaign County, Ohio)

State ex rel Baraboo v. *Page* (229 N.W. 40)

Times-Picayune Publishing Co. v. *United States* (345 U.S. 594, 624–25, 73 S.Ct. 872, 97 L.Ed. 1277)

Tyson v. *Banton* (273 U.S. 418, 47 S.Ct. 426, 71 L.Ed. 718 58 A.L.R. 1327)

Uhlman v. *Sherman* (22 Ohio N.P., N.S. 225, 31 Ohio Dc. N.P. 54, 46 C.J.)

Wolff Packing v. *Industrial Court* (262 U.S. 522, 53 S.Ct. 690, 67 L.Ed. 1103, 27 A.L.R. 1280)

Wooster v. *Mohaska County* (98 N.W. 103)

[2] *Journal of Commerce* v. *Tribune Co., in re Wohl, Shuck* v. *Carroll Daily Herald, Friedenberg* v. *Times Publishing Co., Mack* v. *Costello, and Commonwealth* v. *Boston Transcript Co.*

[3] In reaching this conclusion, the court cited *Collins* v. *American News Co., Lucomsky* v. *L. B. Palmer, Locker* v. *American Tobacco Co., People ex rel Burnham* v. *Flynn, and Journal of Commerce Publishing Co.* v. *Tribune Co.*, each of which outlines the right of a private business to control its retailers. The importance of the Lepler decision is, of course, that the court's statement included "publication" as well as "distribution" as a private right of newspaper publishers.

[From the Publishers' Auxiliary, October 2, 1971]

SURVEY

(By Sharon Mikutowicz)

WASHINGTON.—In a National Newspaper Assn. survey of newspapers on political advertising rates, the overwhelming majority of the respondents said they charge the same rates for political advertising as they do for local and national advertising.

The survey was conducted through state newspaper associations. The survey was made in regard to the "Fair Election Campaign Act of 1971," the Senate version of which would require newspapers to offer candidates for national offices their "very best advertising rate" or the same rate a newspaper offers its biggest contract advertiser.

The survey showed that state association member papers generally receive anywhere from at least $16,000 in political advertising in election years to $400,000, on a state-wide basis.

The survey asked state association managers how many member newspapers in the state charge higher rates for political advertising than for any other type of advertising.

Newspapers were asked whether their local and national political ad rates are higher or lower than local or national advertising rates.

Most newspapers get their advertising through agencies or through their state newspaper association, the survey indicated. It also showed that agencies supplied more of the advertising than associations.

Robert E. Miller, manager for the Montana Press Assn. pointed out that some papers in his state, as in other states, have two rates—one for advertising submitted by local people, and one for advertising submitted by an agency or by the Montana Advertising Service on which a commission is paid.

"But in each case the political advertising is not segregated and it is charged the same as for other advertising within that category," he said.

According to the response received by NNA, few, if any Montana newspapers charge higher rates for political advertising than for other advertising.

Stewart W. Gainan, retail advertising manager for the Billings (Mont.) Gazette explained that his paper offers political candidates its retail rates on contract. "If they desire to use the same amount of space, they will receive the lowest rate as our largest advertiser," he said.

Herb Patridge, advertising director for the Medford (Ore.) Mail Tribune, said that local political advertisers qualify for the same earned rates or contract rates that any other advertiser has available. ". . . The political advertiser would pay local open rate or a lesser rate, depending on his volume and frequency," he said. But there are no earned rates nor contract rates offered to any national advertisers, including political.

"National political advertisers qualify, as do all national advertisers, for our 18-cent per line rate," Partridge said.

He estimated that his paper received $4,000 in revenue in the last statewide election and approximately the same amount in the last presidential election.

Reports from 114 newspapers in Pennsylvania, mostly dailies, reveal that four charge higher prices for political advertising, 10 charge more than local rates, but less than national for political advertising, while 100 charge the same local rates for political ads.

The Arizona Newspapers Assn. said that 19 of its newspapers charge higher rates for political advertising than any other advertising while four charge less.

The association estimates that it handles $32,000 in political advertising for newspapers in election years and that metropolitan dailies received at least twice as much for political ads.

Some papers are governed by state laws as to what they can charge politicians for their advertising.

Allied Daily Newspapers of Washington said that statutes in this state limit charges to no more than the national advertising rate.

It is also illegal to charge higher rates for political advertising in the state of Maryland, the Maryland-Delaware-D.C. Press Assn. said. The association said that 20 percent of its Delaware papers do charge more and in the District of Columbia, some newspapers charge the same as the national rates while others charge less than the local open rate for local political advertising.

Ronald Hicks, manager for the Louisiana Press Assn. told NNA that Louisiana law also prevents charging candidates a rate higher than the highest local open or national rate.

The vast majority of Ohio daily newspapers have the same political and national line rates. Among the exceptions are the two Columbus metropolitan papers and the Cleveland metropolitan papers.

At least two papers, the Ohio Newspaper Assn. said, offer lower votes to political candidates.

"As far as weeklies are concerned," said John J. Ahern, assistant director of the association, "we simply don't permit them to charge any more on anything going through our ad service." He estimated that their ad service handles just about all the non-local political advertising the newspapers get.

Ahern said that last year this association handled about $30,000 in political advertising for the weeklies for the primary campaign of ex-governor Rhodes.

Arthur E. Strang, manager of the Illinois Press Assn., said that less than five percent of the newspapers in his state are charging higher rates for political advertising.

Executive vice president of the North Dakota Newspaper Assn., Paul C. Schmidt, said he knew of no paper in his state that had a rate for political advertising that was more than the local or national rates.

In Georgia, only one paper charges more for political ads. The Rome News-Tribune, a daily, charges 25 percent more for political advertising. Most of the advertising for the paper comes from an agency or the state association. Glenn McCullough, executive manager of the Georgia Press Assn. said. The papers stand to gain $250,000 in election years, he said.

Likewise there is only one known paper in Michigan that charges more for political ads, said Elmer E. White, executive secretary of the Michigan Press Assn. He said a Detroit weekly, the Michigan Chronicle, has higher rates for political advertising than for other advertising. White said a "hot campaign" year could bring as much as $350,000 in advertising to Michigan newspapers.

"In Texas we have 56 newspapers (out of 602) that charge higher rates for political advertising than display advertising (national rate)," reported Bill Boykin, general manager of the Texas Press Assn.

"Our rough estimate for statewide or national political advertising for our newspapers last year was somewhere between $200,000 and $300,000," he added. "We handled $86,000 through this office," he said, "and we know a lot more was placed locally."

Only two dailies, and no weeklies, have higher political ad rates in Oklahoma, reported Ben Blackstock, secretary-manager of the Oklahoma Press Assn. He noted that some papers charge less for political ads.

"The overall rate is less than combined open national rate," Blackstock said. "We refuse to sell ads higher than regular open national line rate."

The manager also said that most statewide or national political advertisements come through an agency or the association and the advertising is commissionable.

On the average, Blackstock said, newspapers in Oklahoma stand to make $400,000 in a political year.

A spokesman for the Utah State Press Assn. Inc. said, "no Utah weekly paper charges more for political advertising than any other kind. This office placed $16,000 in political advertising in our member papers during 1970.

"Most of our papers, the spokesman said, have a one-rate system but local advertisers can earn a lower rate based on large amounts of space used. Political advertising is treated the same as national and any placed locally can earn the same discount as any other advertiser.

Most of the political advertising placed through an advertising agency or the Utah State Press Assn. is commissionable at a national rate, according to the association.

Mr. MACDONALD of Massachusetts. I am happy to have it in the RECORD.

Mr. Chairman, will the gentleman yield further?

Mr. TIERNAN. I yield to the gentleman from Massachusetts.

Mr. MACDONALD of Massachusetts. I would just like to clear this up at this point. Does the gentleman from Illinois take the word of a trade association about constitutionality or the word of Richard G. Kleindienst, Deputy Attorney General, as to the constitutionality of the bill?

Mr. SPRINGER. As I have said, I am going to put this brief, which I believe to be accurate, in the RECORD, and I think it speaks for itself. I believe it.

Mr. MACDONALD of Massachusetts. I recommend that the gentleman send it down to the Department of Justice, whose witnesses testified before our committee as well as wrote us letters about this very subject.

The CHAIRMAN. The time of the gentleman from Rhode Island has expired.

(On request of Mr. MACDONALD of Massachusetts, and by unanimous consent, Mr. TIERNAN was allowed to proceed for 5 additional minutes.)

Mr. TIERNAN. Mr. Chairman, most of what I was going to say has been covered by the ranking member of the committee, Mr. SPRINGER and Mr. MACDONALD of Massachusetts, the chairman of the subcommittee, but I would like to make reference at this time to a book written by Herbert E. Alexander, the title of which is "Financing of the 1968 Election." On page 113 of that book, after quite a disseration about the additional cost of campaigning in 1968 over previous years, there is this quote, and I would like to read it to the distinguished ranking member of the committee, Mr. SPRINGER.

It states—

> Newspapers frequently specify rates usually higher for political advertising. For instance, the New York Post political rate, according to standard rate data is 30 cents a line more than the open rate.

We had before our committee the testimony of the representatives of the newspaper association, and as Mr. HAYS has pointed out and as the chairman of the subcommittee pointed out, at that time their objection was to the language in the Senate bill and also in the Brown bill that was introduced here in the House. That language, I would point out to the gentleman again, requires that the rate that would be charged not exceed the lowest unit rate charged to others by the person furnishing such media.

As a result of the testimony of those witnesses, the subcommittee changed the language from the lowest-unit rate to read that the charge made would be for comparable use of such space in the newspaper.

Gentlemen, I do not think we could have gone any further in trying to accommodate the newspaper publishers of this country than to provide that the newspaper publishers charge the same amount that they charge anyone using their newspapers for advertising. I do not believe that people who aspire for public office should be charged a higher rate than what would be charged any other person using that media for advertising.

To get back to Mr. SPRINGER's citing the association, naturally they do not want to have something that will cut into their ability to charge a rate that will mean additional profits to them, but the statement of the witnesses of the U.S. Department of Justice before our committee was—

> Some proposals would require broadcasters to charge candidates at the lowest unit rates charged others for similar time blocs, and at least one of the bills before you would extend the lowest-unit-rate provision to space purchased in nonbroadcast media.

This is using the words "lowest unit rates," which was even more severe than what we put in this bill. Continuing—

> The department favors such a provision and strongly feels it should be made applicable to both broadcasters and nonbroadcast communication media.

So, gentlemen, I hope, and I am sure the House will vote down the amendment of the gentleman from Illinois (Mr. SPRINGER), because you know that the veto message of the President clearly spelled out to Congress that he would not sign into law any bill that provided for regulation of broadcasters only. Therefore, we had to include the press and other media in this most urgent reform bill.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. TIERNAN. I yield to the gentleman from Iowa.

Mr. GROSS. Is the gentleman talking about a card rate which takes into account several factors including the number of insertions and so on?

There is quite a difference as to whether a card rate is used which takes into account the frequency of advertising insertions or frequency of broadcasters. When we speak of class A or prime time on television or radio, the lowest per unit cost might be class C time. It seems to me that we ought to have a clarification of what the gentleman is talking about.

Mr. TIERNAN. If the gentleman will refer to page 3, it clearly states that it will not exceed the charge made for a comparable use for such space for other purposes. That language is acceptable. It was the language suggested in the hearings before the committee by representatives of the National Newspaper Association, in fact, by the publisher of the paper in my hometown.

Mr. ECKHARDT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, there is no constitutional question here serious enough to deserve long consideration, but since the question has been raised and since the school of journalism's report has been cited, I have taken the opportunity to look at it, and it does not deal with the question here at all. What it deals with is the question of whether or not a private advertiser in competition with other advertisers may demand that his advertisement be taken by a newspaper where there is no statutory provision that demands that it do so. The courts have obviously held that the refusal to accept the other advertiser's advertisement is in no wise prohibited by law.

The other kind of case cited in the school of journalism's survey was that which involved a State law which required a newspaper to print public notices, and in that instance the court said that it would not be so required, being a private enterprise.

But these cases do not involve the question of Congress exercising its authority under the commerce clause or under the specific provisions of the Constitution authorizing Congress to regulate Federal elections. It is perfectly clear that the commerce clause gives Congress the power to regulate in areas affecting interstate commerce, and, of course, the commerce clause has been most broadly construed.

Furthermore, there is a specific authority contained in the Constitution in article I, section 4:

> The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the places of choosing Senators.

The bill and the section which is sought to be amended does not require newspapers to print any political advertising. All it says is if any person sells space in any newspaper or magazine to any legally qualified candidate for Federal elective office or nomination thereto in connection with such candidate's campaign, they have to sell to all. They do not have to sell to any, but if they sell to any, they must sell to all.

There is no question but what Congress can enter this field of Federal elections, and this title is wholly limited to Federal elections. Congress has regulated Federal elections with respect to contributions by corporations and with respect to contributions by labor unions. It has dealt with all manner of questions regarding Federal elections, and clearly this is justified under the Constitution.

Now then, some would attempt to stretch in some peculiar way the first amendment to some kind of protection to the newspapers to do precisely what they want to do with respect to using space. What the first amendment protects is the people's right not to have their right of free speech abridged. It is in plain terms. It says that Congress shall make no law abridging the right of free speech.

Do we abridge free speech by requiring that if a newspaper prints one political advertisement it must likewise print another political advertisement by the opponent of that person running for office? Obviously the first amendment is not involved in any sense of the word.

The only question that could possibly have been raised was the question of the power of Congress. That has so long been resolved that it seems futile and ridiculous to raise the point here.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. Springer) to the amendment offered by the gentleman from Massachusetts (Mr. Macdonald).

TELLER VOTE WITH CLERKS

Mr. SPRINGER. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. SPRINGER. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman appointed as tellers Messrs. Springer, Macdonald of Massachusetts, Hays, and Thompson of Georgia.

The Committee divided, and the tellers reported that there were—ayes 145, noes 219, not voting 67, as follows:

[Roll No. 412]

[Recorded Teller Vote]

AYES—145

Abernethy
Anderson, Ill.
Andrews, N. Dak.
Archer
Arends
Baker
Belcher
Betts
Biester
Blackburn
Bow
Bray
Brinkley
Broomfield
Brotzman
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burke, Fla.
Byrnes, Wis.
Byron
Caffery
Carter
Chamberlain
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Collier
Collins, Tex.
Coughlin
Crane
Daniel, Va.
Davis, Wis.
de la Garza
Dennis
Devine
Duncan
Dwyer
Edwards, Ala.
Esch
Fascell
Findley
Fish
Ford, Gerald R.
Frenzel
Frey
Fuqua
Goldwater
Goodling
Grover
Gude
Hall
Hammerschmidt
Hansen, Idaho
Harsha
Harvey
Hastings
Heckler, Mass.
Heinz
Hicks, Wash.
Hosmer
Hungate
Hunt
Jarman
Johnson, Pa.
Keating
Kemp
King
Kuykendall
Kyl
Landgrebe
Latta
Lent
Long, La.
McClure
McCollister
McCulloch
McDade
McDonald, Mich.
McEwen
McKinney
Mahon
Martin
Mathias, Calif.
Mathis, Ga.
Mayne
Melcher
Minshall
Mizell
Montgomery
Morse
Mosher
O'Konski
Powell
Price, Tex.
Quie
Quillen
Randall
Rarick
Roberts
Robinson, Va.
Robison, N.Y.
Rogers
Rousselot
Runnels
Ruppe
Ruth
Satterfield
Schmitz
Schwengel
Scott
Sebelius
Shoup
Shriver
Skubitz
Smith, Calif.
Smith, N.Y.
Spence
Springer
Stanton, J. William
Steed
Steele
Steiger, Ariz.
Steiger, Wis.
Stubblefield
Talcott
Thomson, Wis.
Thone
Veysey
Waggonner
Wampler
Ware
Whalen
Whalley
Widnall
Wiggins
Wilson, Bob
Winn
Wyatt
Wylie
Young, Fla.
Zion
Zwach

NOES—219

Abbitt
Abourezk
Abzug
Adams
Addabbo
Albert
Alexander
Anderson, Tenn.
Annunzio
Ashbrook
Ashley
Aspin
Baring
Begich
Bennett
Bergland
Biaggi
Bingham
Blanton
Boggs
Boland
Brademas
Brasco
Brooks
Brown, Mich.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Cabell
Carey, N.Y.
Carney
Casey, Tex.
Celler
Collins, Ill.
Conable
Conte
Conyers
Corman
Culver
Daniels, N.J.
Danielson
Davis, Ga.
Delaney
Dellenback
Dellums
Denholm
Dent
Dingell
Donohue
Dorn
Dow
Downing
Drinan
Dulski
du Pont
Eckhardt
Edmondson
Edwards, Calif.
Evans, Colo.
Fisher
Flood
Flynt
Foley
Forsythe
Fountain
Fraser
Frelinghuysen
Fulton, Tenn.
Galifianakis
Garmatz
Gaydos
Gettys
Giaimo
Gibbons
Gonzalez
Grasso
Green, Oreg.
Green, Pa.
Griffin
Griffiths
Gross
Hagan
Haley
Hamilton
Hanley
Hansen, Wash.
Harrington
Hathaway
Hawkins
Hays
Hechler, W. Va.
Helstoski
Henderson
Hicks, Mass.
Holifield
Horton
Howard
Hull
Hutchinson
Ichord
Jacobs
Johnson, Calif.
Jonas
Jones, Tenn.
Karth
Kastenmeier
Kazen
Keith
Kluczynski
Koch
Kyros
Lennon
Link
Lloyd
Long, Md.
Lujan
McCormack
McFall
McKay
McMillan
Macdonald, Mass.
Madden
Mailliard
Mann
Matsunaga
Mazzoli
Meeds
Metcalfe
Mikva
Miller, Calif.
Miller, Ohio
Mills, Ark.
Mills, Md.
Minish
Mink
Monagan
Moorhead
Morgan
Moss
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nedzi
Nix
Obey
O'Hara
O'Neill
Passman
Patman
Patten
Pelly
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Podell
Poff
Preyer, N.C.
Price, Ill.
Pucinski
Purcell
Rangel
Rees
Reid, N.Y.
Riegle
Roe
Roncalio
Rooney, N.Y.
Rooney, Pa.
Rosenthal
Rostenkowski
Roush
Roy
Ryan
St Germain
Sandman
Sarbanes
Scherle
Scheuer
Schneebeli
Seiberling
Shipley
Sisk
Smith, Iowa
Snyder
Staggers
Stanton, James V.
Stephens
Stokes
Stratton
Sullivan
Symington
Taylor
Teague, Calif.
Teague, Tex.
Terry
Thompson, Ga.
Thompson, N.J.
Tiernan
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vigorito
Waldie
White
Williams
Wolff
Wright
Wydler
Wyman
Yates
Yatron
Young, Tex.
Zablocki

NOT VOTING—67

Anderson, Calif.
Andrews, Ala.
Aspinall
Badillo
Barrett
Bell
Bevill
Blatnik
Bolling
Burton
Byrne, Pa.
Camp
Cederberg
Chappell
Chisholm
Clark
Clay
Colmer
Cotter
Davis, S.C.
Derwinski
Dickinson
Diggs
Dowdy
Edwards, La.
Eilberg
Erlenborn
Eshleman
Evins, Tenn.
Flowers
Ford, William D.
Gallagher
Gray
Gubser
Halpern
Hanna
Hébert
Hillis
Hogan
Jones, Ala.
Jones, N.C.
Kee
Landrum
Leggett
McClory
McCloskey
McKevitt
Michel
Mitchell
Mollohan
Nelsen
Nichols
Pirnie
Poage
Pryor, Ark.
Railsback
Reuss
Rhodes
Rodino
Roybal
Saylor
Sikes
Slack
Stuckey
Whitehurst
Whitten
Wilson, Charles H.

So the amendment to the amendment was rejected.

AMENDMENT OFFERED BY MR. PICKLE TO THE AMENDMENT OFFERED BY MR. MACDONALD OF MASSACHUSETTS

Mr. PICKLE. Mr. Chairman, I offer an amendment to the amendment offered by the gentleman from Massachusetts (Mr. Macdonald).

The Clerk read as follows:

Amendment offered by Mr. Pickle to the amendment offered by Mr. Macdonald of

Massachusetts: On page 3 of H.R. 11231 strike out line 9 and all that is following through line 13 and insert in lieu thereof the following:

"(b) The charges made for the use of any broadcasting station by any person who is a legally qualified candidate for any public office shall not exceed the actual charges made by such station for any comparable use of such station for other purposes."

Mr. PICKLE. Mr. Chairman, the amendment which I have offered will place broadcasters, newspapers, and magazines under the same rule, that is, under the earned or under the comparable rate. The Macdonald bill provides that newspapers will be able to charge the comparable or earned rate.

The same bill, though, provides that broadcasters would be required to charge the lowest unit rate.

It seems to me that we ought to make both media the same. If it is fair for one then logically it ought to be fair for the other.

I think the committee would be interested in knowing that this amendment was adopted in our committee.

As a bit of background, our committee had an amendment offered at one time to take newspapers out of the bill entirely. It was pointed out that the bill a year ago was vetoed by the President primarily on the ground that it was not fair to put limitations or restrictions solely on broadcasters and not on newspapers, and for that reason, among others, he vetoed it.

The committee felt then, that we were on solid ground in including newspapers into this bill, and therefore the committee voted down the amendment offered that would take newspapers entirely out of this bill.

I pointed out that the votes ought to be the same. Then the gentleman from Massachusetts (Mr. MACDONALD), offered an amendment that would make newspapers be allowed to charge this comparable rate. I pointed out that that ought to apply also for the broadcasters. Therefore, I offered this amendment which is before us now, and it was adopted in the committee by a vote of 19 to 4.

At the very end of the debate, however, as we passed out the bill, a substitute was offered, and this particular amendment was swallowed up and lost, but it had been approved by the committee.

Now, the intent of my amendment is simply to say that a man buying time, whether he goes to the newspaper office, or to the radio station, in effect ought to be charged an earned rate on the local card. We do not use the term "local card," because that term, legally speaking, varies so much over the country that it was very difficult to say what was or what was not a "local card."

My intent is to say that a man buying time whether in broadcasting or for newspapers would be able to get an earned rate, that is the discount rate based on the number of inches he buys or based on the number of times he runs a spot.

It is not my intent to say that he can charge the one time national rate.

You will notice the language says that he is allowed the actual charges. This means if in the broadcasting business you give a rate to any person, you have to give everybody else in effect that same rate. The same would apply to newspapers. You cannot discriminate one as against the other.

I think it is eminently fair and this would simply make these two units and the charges the same.

In view of the fact that we have just voted down the amendment offered by the gentleman from Illinois (Mr. SPRINGER), I would assume and I would hope that he and his side would now support this particular amendment.

So we say to both these medias, broadcasting and newspapers, you would actually be charging the same unit of rate, and that would mean the earned rate.

I cannot expand on the technicalities of it any more fully than to say simply that they should charge the same rate. I think it is fair.

Mr. ABBITT. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from Virginia.

Mr. ABBITT. Mr. Chairman, I commend the gentleman from Texas on offering this amendment. I think it will be a great improvement. As the gentleman has so ably pointed out, it simply puts television and newspapers and other media in the same category. I think it is unfair for candidates to expect to get the lowest rate. The only thing they should ask for is equal treatment and that is what your amendment does and I hope the amendment will be adopted.

Mr. PICKLE. I thank the gentleman.

Mr. ABOUREZK. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman.

Mr. ABOUREZK. Mr. Chairman, I do not want to burden Members with another lengthy exposition of the need for reform of campaign finances. Many Members have spoken far more eloquently than I could about the effect of unlimited spending on the quality of public life in this Nation. Many have worked hard to insure that the legislation we are writing here today is truly effective. It is my understanding that Congressmen UDALL and ANDERSON will also be proposing a series of perfecting changes. I hope that the House will see fit to accept their recommendations.

I do, however, want to express my concern about the provision we are examining here. It seems to me that asking broadcasters or newspapermen to sell advertising to political candidates at artificially low rates is nothing more than asking them to subsidize political campaigns. Passage of this provision would mean that the lower total amounts that can be spent will be nullified by a lower per unit cost with the net result that the average citizen will still face a blizzard of 30-second spots every Halloween.

If a used car salesman were asked to sell cars to political candidates at a reduced rate it would be a scandal. Yet we think nothing of requiring broadcasters to do the very same thing. If a campaign subsidy is to be provided at all, and there are good arguments to suggest that it should be, then the Government, not the media, should provide that subsidy.

I know there are many here who find it hard to work up much sympathy for large television outlets or major newspapers. But in States like South Dakota, our newspapers and radio and television stations are considerably smaller. They have much less income, and they usually operate with a very small profit margin. Reducing income to these people by forcing them to sell at below their normal local advertising rates, could be a financial blow to an already marginal operation.

Please keep in mind, Mr. Chairman, that these are small operations run locally in small towns often as a "Ma and Pa" family business. Certainly, I want campaign spending reform, but I also want these small newspapers and broadcasters to survive. For this reason, I intend to support strong spending reform legislation, but I would hope we could do it without forcing the lowest unit rate provision on these small-town operations.

Mr. WRIGHT. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman.

Mr. WRIGHT. Is it not true that the President vetoed the bill last year on the ground that it discriminated against the broadcasting media and did not treat the broadcasting media the same as the newspapers? Would this amendment not correct that situation?

Mr. PICKLE. That is correct. It would make them the same.

Mr. MACDONALD of Massachusetts. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, it is with some reluctance that I come to the well to oppose this amendment. However, I think the idea behind the amendment goes to the very heart of the bill.

With all due respect to Mr. PICKLE and his statement which was absolutely correct, that this amendment did pass the committee, the gentleman recalls that it passed with no debate and it was tacked on under a time limitation and not everyone was quite sure what it meant. Could I ask the gentleman from Texas if he feels that the position of newspapers and broadcasters is the same so far as the media is concerned?

Mr. PICKLE. I think the unit charge should be the same. The argument can be made and has been made that broadcasters should give the lowest unit rate, because they have a license and, therefore, they must protect and operate in the public interest.

If I may expand on that and if I take up too much of the gentleman's time, I will ask for additional time for the gentleman—that is an argument that I know many of us here in the House envisioned at the time—that broadcasters ought to give special consideration, or a special rate.

Years ago, right after the war, I had an interest in a radio station—I have not had for 20 years, but I did then—and

I can say to you that a radio station gives a great deal of time in the public interest. We carried an endless amount of time in the public service. If the gentleman would want to differentiate between the two and say the only test for public service is the unit rate he charges for advertisements, then I think he is taking a very limited and narrow view.

Mr. MACDONALD of Massachusetts. I appreciate the gentleman's remarks. I would like to point out to the gentleman that the Congress will not be setting rates to be charged by broadcasters. The broadcasters will be setting their own rates, and as the gentleman wisely said—and I hope he agrees with what he did say—they get a license to operate in the public interest, and not only do they get a license to operate in the public interest, but they get a monopoly to operate in the public interest. If you lived in Austin, Tex., and a broadcast station there—I think there is one, and I do not know how many newspapers——

Mr. PICKLE. There are three television stations.

Mr. MACDONALD of Massachusetts. Three—but my point is that if you feel you want to serve the public and also want to make some money by starting a newspaper, you can do it. But you do it with your own money. You do not come to the FCC or any other arm of the Government and say, "Give me a license to operate in the public interest," and then refuse to serve the public interest by bringing to the public qualified candidates who are running for office who just do not have as much money as their opponent. As a matter of fact, I think that this amendment has some merit, but I think it should be defeated for the reasons I have advanced, the main reason being that the broadcasters and the newspapers are not the same. They are not treated the same and should not be treated the same. Newspapers are not licensed, never will be, and never should be. Broadcasters are and will continue to be, despite what has been said by certain officials downtown who have urged that virtually all regulations be taken away from broadcasters.

Personally, I have not been contacted by one broadcaster who indicated that he felt this was unfair. I have talked to the presidents of the three networks and they are in favor of giving lowest unit rate.

As you recall, this whole thing started some 2 years ago when a bill was presented to our committee in which it was urged that the broadcasters be forced to give free time in the public interest. We defeated that. We thought that was going too far. But certainly I do not think there is any Member of this House who thinks it is going too far to make somebody who has literally a license to steal, once that license comes out, to, in the public interest, give the lowest unit cost, not just to incumbents, but to anybody who is a legally qualified candidate who is ready to run for a Federal office, and I urge defeat of this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. Pickle) to the amendment offered by the gentleman from Massachusetts (Mr. Macdonald).

The question was taken; and on a division (demanded by Mr. Macdonald of Massachusetts) there were—ayes 74, noes 52.

TELLER VOTE WITH CLERKS

Mr. JAMES V. STANTON. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. JAMES V. STANTON. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman appointed as tellers Messrs. Pickle, Macdonald of Massachusetts, Harvey, and Thompson of New Jersey.

The Committee divided, and the tellers reported that there were—ayes 219, noes 150, not voting 61, as follows:

[Roll No. 413]

[Recorded Teller Vote]

AYES—219

Abbitt
Abernethy
Abourezk
Adams
Anderson, Ill.
Andrews, N. Dak.
Archer
Arends
Ashbrook
Aspinall
Baker
Baring
Begich
Belcher
Bennett
Betts
Bevill
Biester
Blanton
Boland
Bow
Bray
Brinkley
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Burke, Fla.
Burleson, Tex.
Byron
Cabell
Caffery
Carter
Casey, Tex.
Cederberg
Chamberlain
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Collins, Tex.
Conable
Conte
Coughlin
Crane
Culver
Daniel, Va.
Daniels, N.J.
Davis, Ga.
Davis, Wis.
de la Garza
Dellenback
Denholm
Dennis
Dorn
Downing
Dulski
Duncan
du Pont
Dwyer
Edmondson
Esch
Evans, Colo.
Findley
Fish
Fisher
Flood
Flowers
Flynt
Ford, Gerald R.
Forsythe
Fountain
Frelinghuysen
Frenzel
Frey
Galifianakis
Gettys
Giaimo
Goldwater
Gonzalez
Goodling
Griffin
Gross
Grover
Gubser
Gude
Hagan
Haley
Hall
Hamilton
Hammerschmidt
Hanley
Hansen, Idaho
Harvey
Hastings
Heinz
Henderson
Hicks, Wash.
Horton
Hosmer
Hull
Hungate
Hunt
Hutchinson
Jacobs
Jarman
Johnson, Pa.
Jonas
Jones, Tenn.
Kazen
Keating
Kee
Keith
Kemp
King
Kuykendall
Landgrebe
Lennon
Lent
Lloyd
Long, La.
Lujan
McClory
McCollister
McCulloch
McDade
McDonald, Mich.
McEwen
McFall
McKinney
McMillan
Mahon
Mailliard
Mann
Mathias, Calif.
Mathis, Ga.
Mazzoli
Melcher
Mills, Ark.
Mills, Md.
Mizell
Montgomery
Morse
Mosher
Myers
Natcher
Nedzi
Nichols
O'Hara
O'Konski
Passman
Pelly
Pettis
Pickle
Poff
Powell
Preyer, N.C.
Price, Tex.
Pucinski
Purcell
Quie
Quillen
Randall
Rarick
Riegle
Roberts
Robinson, Va.
Robison, N.Y.
Rogers
Roush
Rousselot
Runnels
Ruth
Sandman
Satterfield
Scherle
Schmitz
Schneebeli
Schwengel
Sebelius
Shoup
Shriver
Skubitz
Smith, N.Y.
Snyder
Spence
Stanton, J. William
Steed
Steiger, Wis.
Stephens
Stratton
Stubblefield
Symington
Talcott
Taylor
Teague, Calif.
Terry
Thompson, Ga.
Thomson, Wis.
Vander Jagt
Veysey
Vigorito
Waggonner
Wampler
Ware
Whalley
White
Widnall
Williams
Wilson, Bob
Wright
Wylie
Wyman
Young, Fla.
Young, Tex.
Zion
Zwach

NOES—150

Abzug
Addabbo
Alexander
Anderson, Tenn.
Annunzio
Ashley
Aspin
Bergland
Biaggi
Bingham
Blackburn
Boggs
Brademas
Brasco
Brooks
Buchanan
Burke, Mass.
Burlison, Mo.
Byrnes, Wis.
Carney
Celler
Collier
Collins, Ill.
Conyers
Corman
Danielson
Delaney
Dellums
Dent
Dingell
Donohue
Dow
Drinan
Eckhardt
Edwards, Ala.
Edwards, Calif.
Fascell
Foley
Ford, William D.
Fraser
Fulton, Tenn.
Fuqua
Gallagher
Garmatz
Gaydos
Gibbons
Grasso
Green, Oreg.
Green, Pa.
Griffiths
Hansen, Wash.
Harrington
Harsha
Hathaway
Hawkins
Hays
Hechler, W. Va.
Heckler, Mass.
Helstoski
Hicks, Mass.
Holifield
Howard
Ichord
Johnson, Calif.
Karth
Kastenmeier
Kluczynski
Koch
Kyl
Kyros
Latta
Leggett
Link
Long, Md.
McCormack
McKay
Macdonald, Mass.
Madden
Martin
Matsunaga
Mayne
Meeds
Metcalfe
Mikva
Miller, Calif.
Miller, Ohio
Minish
Mink
Minshall
Mollohan
Monagan
Moorhead
Morgan
Moss
Murphy, Ill.
Nix
Obey
O'Neill
Patten
Pepper
Perkins
Peyser
Pike
Podell
Price, Ill.
Rangel
Rees
Reid, N.Y.
Roe
Roncalio
Rooney, N.Y.
Rooney, Pa.
Rosenthal
Rostenkowski
Roy
Ruppe
Ryan
St Germain
Sarbanes
Scheuer
Scott
Seiberling
Shipley
Sisk
Smith, Calif.
Smith, Iowa
Springer
Staggers
Stanton, James V.
Steele
Steiger, Ariz.
Stokes
Sullivan
Thompson, N.J.
Thone
Tiernan
Udall
Ullman
Van Deerlin
Vanik
Waldie
Whalen
Wiggins
Winn
Wolff
Wyatt
Wydler
Yates
Yatron
Zablocki

NOT VOTING—61

Anderson, Calif.
Andrews, Ala.
Badillo
Barrett
Bell
Blatnik
Bolling
Burton
Byrne, Pa.
Camp
Carey, N.Y.
Chappell
Chisholm
Clark
Clay
Colmer
Cotter
Davis, S.C.
Derwinski
Devine
Dickinson
Diggs
Dowdy
Edwards, La.
Eilberg
Erlenborn
Eshleman
Evins, Tenn.
Gray
Halpern
Hanna
Hébert
Hillis
Hogan
Jones, Ala.
Jones, N.C.
Landrum
McCloskey
McClure
McKevitt
Michel
Mitchell
Murphy, N.Y.
Nelsen
Patman
Pirnie
Poage
Pryor, Ark.
Railsback
Reuss
Rhodes
Rodino
Roybal
Saylor
Sikes
Slack
Stuckey
Teague, Tex.
Whitehurst
Whitten
Wilson, Charles H.

Mr. CULVER changed his vote from "no" to "aye."

So the amendment to the amendment was agreed to.

AMENDMENT OFFERED BY MR. SYMINGTON TO THE AMENDMENT OFFERED BY MR. MACDONALD OF MASSACHUSETTS

Mr. SYMINGTON. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. Symington to the amendment offered by Mr. Macdonald of Massachusetts: Page 8, insert after line 4 the following:

"(7) For purposes of this section and sec-

> tion 315c, any expenditure for the use of any communications medium by or on behalf of the candidacy of a candidate for Federal elective office (or nomination thereto) shall be charged against the expenditure limitation under this subsection applicable to the election in which such medium is used."

Mr. HAYS. Mr. Chairman, will the gentleman yield?

Mr. SYMINGTON. I am glad to yield to the gentleman from Ohio.

Mr. HAYS. Mr. Chairman, I have asked the gentleman to yield for the purpose of trying to arrive at a limitation of debate on the Macdonald of Massachusetts amendment. I wonder how many more amendments are pending? Are there any more at the desk?

The CHAIRMAN. There are three at the desk in addition to the one which has been offered by the gentleman from Missouri.

Mr. HAYS. I thank the gentleman for yielding.

Mr. Chairman, in due time I shall ask unanimous consent to close debate on the Macdonald of Massachusetts amendment.

Mr. SYMINGTON. Mr. Chairman, I have a very brief amendment and I shall briefly speak to it.

The purpose of this amendment is simply to protect the intent of this House, the intent of Congress in passing whatever legislation we do pass that achieves the objective of limiting campaign expenses. I do not think that the Reading Clerk's presentation was well heard here and, therefore, I would like to state what is hoped to be achieved as a result of the adoption of this amendment.

Mr. Chairman, we know now that all of these bills provide limits for both the primary election and the general election, and you can spend the upper limit in each of those two elections. What we want to be sure does not happen is that a candidate accrues debts in the primary election campaign and pays them then for communications media purposes which are actually used for the general election, during the time in which the general election campaign is carried on.

The bill is not really sufficiently clear as it stands right now to prevent an imaginative finance chairman and a very necessitous candidate from achieving this subversion of the intent of Congress in this way.

Since I do have the time, I will turn your attention to page 8 of Mr. MACDONALD's bill which would read at the end of line 4 as follows:

> For purposes of this section and section 315(c), the use of any communications medium by or on behalf of the candidacy of a candidate for Federal elective office (or nomination thereto) shall be charged against the exepnditure limitation under this subsection applicable to the election in which such medium is used.

That is the language carefully chosen to achieve the result.

Mr. Chairman, I have had the opportunity to speak to various leaders here today who are sponsors of the various bills, and I hope it is no presumption to say that they have given me encouragement to believe that they favor this amendment.

We want to be very sure, for example, should we establish let us say a $50,000 limit for the primary and a $50,000 limit for the general election, that we do not permit a fellow who has no primary opposition or very weak primary opposition to accumulate a lot of debts during his primary for purposes that he intends to use in the general campaign, and charge them to his primary campaign limit and, therefore, go into the general election with, effectively, a $100,000 limit instead of a $50,000 limit.

Mr. HAYS. Mr. Chairman, if the gentleman will yield, the gentleman is saying that you cannot pay for time during the primary, and then not use it, and then carry it over and use it in a general election. Is that the sense of the amendment?

Mr. SYMINGTON. That is correct.

Mr. HAYS. Mr. Chairman, as far as I am concerned, for whatever worth it is, I accept the amendment.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. SYMINGTON. I yield to the gentleman from Iowa.

Mr. GROSS. The gentleman spoke of time. Does this also apply to newspaper advertising?

Mr. SYMINGTON. It would apply.

Mr. GROSS. To both media?

Mr. SYMINGTON. To all communications media, yes. That is, if you would buy newspaper advertising and magazine advertising, and then find it inconvenient, let us say, to use it for the purpose of your primary election, and save that space and use it in the general election, it would be charged to the general election.

Mr. GERALD R. FORD. Mr. Chairman, if the gentleman would yield, the gentleman from Missouri talked to me about this amendment and, as I recollect, he had one for the Macdonald bill, one to the Senate version, and one to the Hays bill, and the one that the gentleman has offered here is only applicable to the electronics media and the newspaper media?

Mr. SYMINGTON. That is right; the gentleman is correct. This amendment is merely offered to the Macdonald bill, which covers only the communications media.

Mr. HAYS. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments to the Macdonald of Massachusetts amendment close at 5:30.

Mr. SPRINGER. I object, Mr. Chairman.

The CHAIRMAN. Objection is heard.

Mr. SPRINGER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, may I ask the distinguished gentleman from Missouri (Mr. SYMINGTON) some questions, as I may not be opposed to his amendment? However, I am not sure from the reading of the amendment that I understand exactly what the gentleman has in mind.

Now, it is the purpose of your amendment to limit expenditures in the primary to a total of $50,000?

Mr. SYMINGTON. If the gentleman will yield; no, I merely used that as an illustration.

Mr. SPRINGER. What is the purpose of the amendment?

Mr. SYMINGTON. The purpose of the amendment is to insure that whatever limitation applies upon a candidate's primary and general election campaign, that the sums that he spends for communications media will be charged to the limitation applicable to the campaign in which they are actually used.

Mr. SPRINGER. Let me ask the distinguished gentleman this question:

Suppose that the gentleman is a candidate from the State of Missouri, and he has no opposition. I am assuming the gentleman spends $50,000 in the primary, even under his amendment.

Mr. SYMINGTON. That would be possible, yes; if you are going to the $50,000 limitation.

Mr. SPRINGER. If he spends $50,000 that would be legal?

Mr. SYMINGTON. Yes, that would be legal. It is legal, certainly, to charge $50,000 to his primary campaign.

Mr. SPRINGER. Even though he is unopposed?

Mr. SYMINGTON. Yes.

Mr. SPRINGER. He applies this under this amendment solely and alone to cover the TV and radio media?

Mr. SYMINGTON. Well, the thrust of my amendment is merely to those matters covered by the Macdonald amendment which do indeed include the communications media; that is, newspapers, magazines, and broadcasters. He could spend the money on other things that are not included within the definition such as billboards and matchboxes, and this would not be covered under the amendment.

Mr. SPRINGER. In other words, he could spend an extra $50,000 in the primary with no opposition if he did not spend it on TV, radio, magazines, and newspapers; is that correct?

Mr. SYMINGTON. You are addressing your question merely to the Macdonald amendment itself, and the Macdonald amendment itself covers only the communications media. There are other bills before us which cover—and which will be before us—which will cover other forms of advertising; other forms of campaign expense.

Mr. SPRINGER. I would like to get this straightened out and that is the purpose of my taking this time.

I want to repeat—the $50,000 limitation that the gentleman is talking about, which has to do only with these forms of communication in the Macdonald bill would be for radio, television, magazines, and newspapers. Are you agreed on that?

Mr. SYMINGTON. I think it might be helpful at this point, if I were to refer the gentleman to the gentleman from Massachusetts who wishes to speak at this point.

Mr. MACDONALD of Massachusetts. I would like to point out that when the Frey amendment was adopted my bill was expanded to include billboards, so you are right if you are talking about the Macdonald amendment, as amended.

Mr. SPRINGER. Are you then, may I ask the gentleman from Missouri, including billboards?

Mr. SYMINGTON. My amendment includes only communications media. If billboards are to be included as communications, they would be included under my amendment.

Mr. SPRINGER. All right now, that is the question I am trying to get cleared up. Is this amendment clear enough—and he is trying to make it concise and he is given credit for that in the report—I want to be sure it is—what is involved in this figure that is limited to $50,000?

Mr. HARRINGTON. I would use the $50,000 figure as a hypothetical figure. The 10 cents per eligible voter figure is covered by the Macdonald bill really—the 10 cents per eligible voter figure is in fact the figure we would use.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

(Mr. SPRINGER asked and was given permission to proceed for 2 additional minutes.)

Mr. SPRINGER. Mr. Chairman, I have asked for the additional time to get this straightened out. Perhaps I can accept this amendment.

Mr. FREY. Mr. Chairman, will the gentleman yield?

Mr. SPRINGER. I yield to the gentleman.

Mr. FREY. I believe the amendment that was passed by the House redefines communication media and in the Macdonald bill, section 2, subparagraph (1) to include broadcasting stations, newspapers, magazines, and outdoor advertising, billboard.

I think my understanding of the gentleman's amendment, the gentleman from Missouri, this would in essence be the definition so it would include it.

Mr. SPRINGER. And you are talking only of those forms of media covered by your amendment within the 10-cent limit; am I right?

Mr. SYMINGTON. That is correct.

The language of my amendment covers any communication media covered by the Macdonald amendment, as adopted.

Mr. SPRINGER. You cannot carry over any part of that after the last date of the primary; is that correct?

Mr. SYMINGTON. I think—as to billboards—let us say you put up your billboards and put up $10,000 worth of billboard advertising for 1 week.

Mr. SPRINGER. And that is before the primary?

Mr. SYMINGTON. That is right—1 week before the elections—and you leave it up for a number of weeks after perhaps all the way through the general election.

I think my amendment is sufficiently clear, given the regulations that we assume to be promulgated by the Attorney General to clarify the details to permit that portion of billboard use which was used during the primary to be allocated to the primary limitation and that portion used during the general election to be allocated to the general.

Mr. SPRINGER. That is what you intend and do you think that is what your amendment does?

Mr. SYMINGTON. That is my intent and that is what I would hope to achieve by this amendment. I believe it does, because it states that it shall be charged against the limitation applicable to the election in which such media was used.

Mr. SPRINGER. Mr. Chairman, I think the legislative history has been made and if that is the gentleman's thought, I have no objection to the amendment.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. Springer) has expired.

(Mr. SPRINGER asked and was given permission to proceed for 2 additional minutes.)

Mr. MINSHALL. Mr. Chairman, will the gentleman yield?

Mr. SPRINGER. I yield to the gentleman.

Mr. MINSHALL. I should like to ask the gentleman from Missouri why in reference to news media and communications media; namely, radio and TV you include billboards solely?

Let me ask this question. If you had x number of dollars in so many brochures and if you had x number of dollars in so many match boxes and you did not use all in the primary and only used half; would those be counted or could you use those in the fall campaign—or are they to be charged against your fall campaign?

Mr. SYMINGTON. I think that the portion of materials of that kind now covered under the Macdonald amendment which would be used in the general campaign would be charged against the general campaign and the portion used in the primary would be charged against the primary.

Mr. HAYS. Mr. Chairman, will the gentleman yield?

Mr. SPRINGER. I yield to the gentleman from Ohio.

Mr. HAYS. I think the answer to the gentleman from Ohio is that this particular amendment applies only to the Macdonald amendment. The only things covered by the Macdonald amendment are newspaper, radio, television, and billboards. So anything else would have to be covered in another way. If there is a prohibition, a ceiling, say, of $50,000, and it survives, then you would have to offer an amendment to cover that. As it stands now, the amendment applies only to newspapers, radio, television, and billboards.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri (Mr. Symington), to the amendment offered by the gentleman from Massachusetts (Mr. Macdonald).

The amendment to the amendment was agreed to.

AMENDMENT OFFERED BY MR. FREY TO THE AMENDMENT OFFERED BY MR. MACDONALD OF MASSACHUSETTS

Mr. FREY. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. Frey to the amendment offered by Mr. Macdonald of Massachusetts: Page 2, line 19, strike out "PRESIDENT AND VICE PRESIDENT" and insert in lieu thereof "FEDERAL ELECTIVE OFFICE".

Beginning on line 24 of page 2, strike out "legally qualified candidate for the office of President or Vice President of the United States in a general election" and insert in lieu thereof "legally qualified candidate for Federal elective office (or nomination thereto)".

Mr. FREY. Mr. Chairman, I listened with a great deal of interest to the amendment offered by the gentleman from California (Mr. Van Deerlin). I supported that amendment and was disappointed that it was not agreed to because I thought it provided an opportunity for compromise, a chance to get something with which we all could live.

I listened also with interest to the debate about protecting the interests of the House and how the amendment could hurt the interests of the House, and what it would do to the Senate and the Presidency.

I am sure that everyone would agree that the important question is, what is best for the country? Is it wrong basically to want more debate? Is it wrong to want more interest in an election? Is it wrong to get more people to vote in an election? Is it wrong to want to keep spending down? Is it wrong to treat all candidates for Federal office equally?

I think the answer in each case is, "No." For this reason I have offered this amendment which repeals 315 for all Federal offices.

We have had section 315 repealed for the Presidency only one time since 1927. That was in 1960. Because of this we do not have a great many facts to go on, certainly not as many as we would like. But we do have some facts. For example, in 1960, when section 315 was suspended for the Presidency, we had 82 hours and 30 minutes of free time given. In 1964 we had only 26 hours, and in 1968 only 27 hours.

We had more interest in 1960. The Roper poll in 1956 asked the question, "How many people were 'very much interested' in the campaign?" Forty-six percent of the people were interested in September and 47 percent were interested in October. In 1960, when section 315 was repealed, the same question was asked. There were 45 percent interested in September, and then it jumped, when we had the debates, to 54 percent in October. Over 115 million people watched the debates.

Let us look at where it really pays off, because what we are talking about is people and votes. We are talking about people becoming involved in our political process. In 1960, we had the best turnout percentagewise in the presidential election and the election for Members of the House that we have had in recent years; 64 percent of the eligible voters participated in the presidential election—59.6 voted in the U.S. House races. That compares to an off-election year of 42 to 46 percent in the House and for instance 61.8 percent for the Presidency in 1968.

Let us look at spending. CBS, for instance, during the 1960 campaign, because of the repeal of 315, gave 32½ hours free time to the President and the Vice President, which they stated was equal to $2 million. If you use that figure as a basis you will see that the networks gave about $6 million of free time in 1960. If we are talking about cutting down costs, here is a chance to provide the opportunity across the board in all Federal elections.

Furthermore, we heard a great deal about how the Presidency is different than the Senate and House—nobody will deny that. But I think also no one will deny that the House and the other body together are equally important.

Certainly one congressional race is not going to attract the attention that the presidential race will or that a Senate race may, but taken together en toto they are equally important. I think the public has a right to have Federal office seekers stand up and debate or discuss the issues whether the person is a candidate for the presidency, the Senate, or the House. I think the public should know what we believe.

We have heard a great deal about not trusting the radio or TV people. I do not distrust the TV and radio as many here do. Furthermore, if I had to choose, I would much rather take a chance on the local people than I would on the networks.

For these reasons, I would like to see section 315 repealed across the board. It should apply to everybody in Federal office equally. Discrimination against the President just does not make sense.

Mr. HAYS. Mr. Chairman, I rise in opposition to the amendment. This is a very simple decision we have to make. If the Members want every television announcer in the United States to be running for Congress, they should vote for this amendment, because this releases the stations and the networks from any responsibility whatever to treat anybody fairly or to give equal time. We can envision a television announcer in our districts—and I saw it happen in the district next to mine—run for Congress, and if this is repealed, at the beginning of a newscast an announcer can say, "This is Joe Doakes, candidate for Congress, bringing you the news," and at the end of his broadcast he can say, "The news has been presented by Joe Doakes, candidate for Congress."

That is exactly what this amendment will do. I can predict if this passes that in about 250 districts around the country that is exactly what we will find will happen.

Mr. FREY. Mr. Chairman, will the gentleman yield?

Mr. HAYS. I yield to the gentleman from Florida.

Mr. FREY. Mr. Chairman, there is a little bit of confusion between 315 and the fairness doctrine. If 315 is repealed, the fairness doctrine would still apply.

Mr. HAYS. I suggest that the gentleman get the 315 fairness applied in time for his campaign if he can, but I am opposed to this amendment, and I think everyone in this House who wants to preserve some ability to have some fairness, whether he is a challenger or an incumbent, should vote against the amendment.

Mr. THOMPSON of New Jersey. Mr. Chairman, will the gentleman yield?

Mr. HAYS. I yield to the gentleman from New Jersey.

Mr. THOMPSON of New Jersey. Mr. Chairman, the gentleman from Ohio has characterized this amendment accurately. It should by all means be defeated. It is so transparent it needs no further explanation than that which the gentleman has given.

Mr. HAYS. I thank the gentleman from New Jersey.

Mr. MACDONALD of Massachusetts. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to this very dangerous amendment. I think it is terribly dangerous because anybody who tries to pull a rabbit out of the hat and say that the fairness doctrine is going to protect candidates for office just does not understand the fairness doctrine.

In the first place, 315, the equal time provision, is law, and the fairness doctrine is merely a rule. The fairness doctrine does not go to political debates. It covers controversial issues. If somebody is given time on a TV or radio station to present his point of view about a controversial issue—busing or something like that—then the responsible opponent gets, under the fairness doctrine, also such time to be heard. But under the fairness doctrine the opponent does not have to be given the same time level or the same time socket.

I have said before—and I am getting bored with myself saying it—that if we repeal 315, the broadcasters of this country are going to run our political life.

I would like to clear up the matter of debates. Of course, the debates in 1960 were a high point, as has been said several times, in our political life, but obviously there is nothing in our bill that would make it mandatory for anyone to debate anyone he did not want to debate. It merely is a shield against the arrogance and the power—not potential power, but actual power—of the broadcasters to pick candidates for the Senate and to pick candidates for the House in certain areas, and it will not affect all areas.

If it affects two areas, that is two too many. I do not believe we should abrogate our protection.

I do not believe we should turn the political process over to the broadcasters, and especially the TV broadcasters who have such tremendous control already.

I point out, for those Members who were not here before, if we repeal 315 a TV station can give time to your opponent, just give him time, and refuse to sell you time, and there would not be a blessed thing you could do about it.

If you really want to put a dent in our political system, adopt this amendment. I urge you not to.

Mr. FRENZEL. Mr. Chairman, I move to strike the last word.

I also voted for the Van Deerlin amendment, and I hope the maker of that amendment will keep it around until he has an opportunity to use it again later. Nevertheless, faced with the choice we have before us now, it seems to me elementary we should vote in favor of the Frey amendment. What we are being told by the chairman of the subcommittee, the gentleman from Massachusetts, the chairman of the Committee on House Administration, the gentleman from Ohio, and others, is that what is fair for some of us is not fair for the rest of us, and it is a bad thing for the broadcasters to pick the people who will take charge of one office but not another.

It seems to me what is fair for one should be fair for all. If we are going to have a repeal, it should be a total repeal or no repeal at all. If we are going to have real fairness, it seems to me that the Frey amendment is worthy of our total support.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. FREY) to the amendment offered by the gentleman from Massachusetts (Mr. MACDONALD).

TELLER VOTE WITH CLERKS

Mr. FREY. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. FREY. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman appointed as tellers Messrs. FREY, HAYS, MACDONALD of Massachusetts, and FRENZEL.

The Committee divided, and the tellers reported that there were—ayes 95, noes 277, not voting 59, as follows:

[Roll No. 414]

[Recorded Teller Vote]

AYES—95

Anderson, Ill.
Andrews, N. Dak.
Archer
Arends
Belcher
Biester
Bow
Bray
Brinkley
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Byrnes, Wis.
Carter
Cederberg
Chamberlain
Clausen, Don H.
Clawson, Del
Cleveland
Collier
Collins, Tex.
Conable
Conte
Coughlin
Dellenback
Dennis
Devine
Duncan
du Pont
Esch
Fish
Flowers
Ford, Gerald R.
Frenzel
Frey
Goldwater
Grover
Gubser
Hansen, Idaho
Harsha
Harvey
Hastings
Heckler, Mass.
Heinz
Horton
Jarman
Keating
Kemp
Kuykendall
Latta
McCollister
McDade
McEwen
McKinney
Mathias, Calif.
Mathis, Ga.
Mayne
Mills, Md.
Morse
Mosher
O'Konski
Passman
Powell
Quie
Quillen
Reid, N.Y.
Robinson, Va.
Robison, N.Y.
Ruppe
Ruth
Schneebeli
Schwengel
Scott
Sebelius
Shoup
Shriver
Steiger, Wis.
Talcott
Terry
Thomson, Wis.
Thone
Vigorito
Waldie
Wampler
Ware
Whalen
Wiggins
Wilson, Bob
Wyatt
Wydler
Wylie
Zion
Zwach

NOES—277

Abbitt
Abernethy
Abourezk
Abzug
Adams
Addabbo
Albert
Alexander
Anderson, Tenn.
Annunzio
Ashbrook
Ashley
Aspin
Aspinall
Badillo
Baring
Begich
Bennett
Bergland
Betts
Bevill
Biaggi
Bingham
Blackburn
Blanton
Boggs
Boland
Brademas
Brasco
Brooks
Broyhill, Va.
Buchanan
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Byron
Cabell
Caffery
Carey, N.Y.
Carney
Casey, Tex.
Celler
Clancy
Collins, Ill.
Conyers
Corman
Crane
Culver
Daniel, Va.
Daniels, N.J.
Danielson
Davis, Ga.
Davis, Wis.
de la Garza
Delaney
Dellums
Denholm
Dent
Dingell
Donohue
Dorn
Dow
Downing
Drinan
Dulski
Dwyer
Eckhardt
Edmondson
Edwards, Ala.
Edwards, Calif.
Evans, Colo.
Fascell
Findley
Fisher
Flood
Flynt
Foley
Ford, William D.

Forsythe
Fountain
Fraser
Frelinghuysen
Fulton, Tenn.
Fuqua
Galifianakis
Gallagher
Gaydos
Gettys
Giaimo
Gibbons
Gonzalez
Goodling
Grasso
Gray
Green, Oreg.
Green, Pa.
Griffin
Griffiths
Gross
Gude
Hagan
Haley
Hall
Hamilton
Hammerschmidt
Hanley
Hansen, Wash.
Harrington
Hathaway
Hays
Hechler, W. Va.
Helstoski
Henderson
Hicks, Mass.
Hicks, Wash.
Holifield
Hosmer
Howard
Hull
Hungate
Hunt
Hutchinson
Ichord
Jacobs
Johnson, Calif.
Johnson, Pa.
Jonas
Jones, Tenn.
Karth
Kastenmeier
Kazen
Keith
King
Kluczynski
Koch
Kyl
Kyros
Landgrebe
Leggett
Lennon
Lent
Link
Lloyd
Long, La.
Long, Md.
Lujan
McClory
McCormack
McCulloch
McDonald, Mich.
McFall
McKay
McMillan
Macdonald, Mass.
Madden
Mahon
Mailliard
Mann
Martin
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Mikva
Miller, Calif.
Miller, Ohio
Mills, Ark.
Minish
Mink
Minshall
Mizell
Mollohan
Monagan
Montgomery
Moorhead
Morgan
Moss
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nedzi
Nichols
Nix
Obey
O'Hara
O'Neill
Patman
Patten
Pelly
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Podell
Poff
Preyer, N.C.
Price, Ill.
Price, Tex.
Pucinski
Purcell
Randall
Rangel
Rarick
Rees
Riegle
Roberts
Roe
Rogers
Roncalio
Rooney, N.Y.
Rooney, Pa.
Rosenthal
Rostenkowski
Roush
Rousselot
Roy
Runnels
Ryan
St Germain
Sandman
Sarbanes
Satterfield
Scherle
Scheuer
Schmitz
Seiberling
Shipley
Sisk
Skubitz
Smith, Calif.
Smith, Iowa
Smith, N.Y.
Snyder
Spence
Springer
Staggers
Stanton, J. William
Stanton, James V.
Steele
Steiger, Ariz.
Stephens
Stokes
Stratton
Stubblefield
Sullivan
Symington
Taylor
Teague, Calif.
Teague, Tex.
Thompson, Ga.
Thompson, N.J.
Tiernan
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Veysey
Waggonner
Whalley
White
Widnall
Williams
Winn
Wolff
Wright
Wyman
Yates
Yatron
Young, Fla.
Young, Tex.
Zablocki

NOT VOTING—59

Anderson, Calif.
Andrews, Ala.
Baker
Barrett
Bell
Blatnik
Bolling
Burton
Byrne, Pa.
Camp
Chappell
Chisholm
Clark
Clay
Colmer
Cotter
Davis, S.C.
Derwinski
Dickinson
Diggs
Dowdy
Edwards, La.
Eilberg
Erlenborn
Eshleman
Evins, Tenn.
Garmatz
Halpern
Hanna
Hawkins
Hébert
Hillis
Hogan
Jones, Ala.
Jones, N.C.
Kee
Landrum
McCloskey
McClure
McKevitt
Michel
Mitchell
Nelsen
Pirnie
Poage
Pryor, Ark.
Railsback
Reuss
Rhodes
Rodino
Roybal
Saylor
Sikes
Slack
Steed
Stuckey
Whitehurst
Whitten
Wilson, Charles H.

So the amendment to the amendment was rejected.

AMENDMENT OFFERED BY MR. HARVEY TO THE AMENDMENT OFFERED BY MR. MACDONALD OF MASSACHUSETTS

Mr. HARVEY. Mr. Chairman, I offer an amendment to the amendment offered by Mr. Macdonald of Massachusetts.

The Clerk read as follows:

Amendment offered by Mr. Harvey to the amendment offered by Mr. Macdonald of Massachusetts: Page 2, line 7, strike out "104" and insert in lieu thereof "103".

Page 2, strike out line 18 and all that follows down through line 5 on page 3.

Page 3, line 7, strike out "Sec. 104" and insert in lieu thereof "Sec. 103".

Page 4, line 8, strike out "Sec. 105" and insert in lieu thereof "Sec. 104".

Page 8, line 24, strike out "105" and insert in lieu thereof "104".

Page 9, line 14, strike out "Sec. 106" and insert in lieu thereof "Sec. 105".

Page 9, strike out line 16 and insert in lieu thereof the following: "out sections 102, 103(b), 104(a), and 104(b) of this Act."

Page 9, line 18, strike out "Sec. 107" and insert in lieu thereof "Sec. 106".

Page 9, strike out line 19 and insert in lieu thereof the following: "103(b), 104(a), or 104(b) or any regulation under section 105 shall".

Page 9, strike out line 23 and insert in lieu thereof the following: "lates section 104(a) or any regulation under section 105 shall be".

Page 10, strike out line 4 and insert in lieu thereof the following:

"Sec. 107. Section 103 of this Act and the amend—".

Page 10, line 6, strike out "105" and insert in lieu thereof "104".

Mr. HARVEY (during the reading). Mr. Chairman, I ask unanimous consent that the further reading of the amendment be dispensed with, and that it be printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. HARVEY. Mr. Chairman, the reason I made the unanimous-consent request to dispense with further reading of the amendment is because the amendment is lengthy, but what it does is very simply this: This is the all-or-nothing amendment with regard to section 315. It does just the reverse of the previous amendment offered by the gentleman from Florida (Mr. Frey). Instead of completely repealing section 315 as to the President, as to the Senate, and as to the House Members, my amendment does just the reverse. It says section 315 has served us well. Let it alone. Let us not do anything with it with regard to the President, with regard to the Senate, and with regard to the House Members. Let us treat them all equally. Let us leave section 315 of the Communications Act in the law as it is written right now.

Mr. Chairman, once again the basic question for this House on what to do with section 315 is the question whether or not we trust our broadcasters. I gather from the last vote which was 277 to 95 against repealing section 315 that the House resoundingly went on record that they did trust the broadcasters, and they do not want to repeal section 315. I hope the same number of people are now going to march down the aisle and say just exactly that, that we do not want to repeal section 315; that we should leave section 315 in the law as it is, and as it applies to the President, to the Senate, and the House Members as well.

Let me just say this. This Communications Act goes all the way back to 1934. It is not a new law we are talking of. The equal time amendment has served us very well. You can make a good argument either way here whether you believe in the equal time section 315 or whether you oppose it.

Back in 1958 there was considered the question before the House at that time whether the equal time amendment was actually preventing some appearances on television. So at that time the Congress saw fit to amend it, and they put in what they called the Lar-Daly amendment, named after the gentleman from Chicago. That specifically exempted from the section 315 statute and I quote:

First. Bona fide newcast.

Second. Bona fide news interviews.

Third. Bona fide news documentaries.

Fourth. On-the-spot coverage of bona fide news events.

These are excluded from section 315 and, therefore, they are not covered. An appearance can be made on a broadcast station that is covered by the equal time law by a candidate for President, Senate, or the House, and providing it fits into these "news" exceptions, it is still not a violation of section 315. I am referring now to such programs as "Face the Nation," "Issues and Answers," Huntley and Brinkley, Walter Cronkite, and the other news programs that the Lar-Daly amendment to section 315 was intended and does exclude. My point is that we can adopt my amendment, thereby leaving section 315 as it is, and candidates for Federal office can still appear as they have been appearing in the past on these programs.

Let me point out one other advantage of leaving it the way it is. Section 315 now providing equal time is written into the law. I think that is important. There has been a case history of this law. Lawyers understand it and candidates can be advised.

If you do not believe me, I might refer you back to the several very eloquent statements made over on the other side of the aisle with regard to why we should not repeal section 315 just a few moments ago.

I hope you heed this statement now and do not repeal it.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. HARVEY. I yield to the gentleman.

Mr. GROSS. Do I understand that this reinstates section 315 into the law? Precisely what does the gentleman's amendment do?

Mr. HARVEY. What the amendment does is to strike from the Macdonald amendment all references to the repeal of section 315, as they apply only to the President and it leaves in the law section 315 as it applies to the President, the Senate and the House Members at the present time.

Mr. GROSS. Were not there amendments adopted here today that go to section 315?

Mr. HARVEY. No, none have been adopted thus far, I will advise my friend.

The Macdonald amendment goes to section 315 and would affect only the President, but it is pending at this time and has not been voted upon, I will say to the gentleman.

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman yield?

Mr. HARVEY. I yield to the gentleman.

Mr. ANDERSON of Illinois. Mr. Chairman, I intend to support the amendment offered by the gentleman from Michigan for no repeal of section 315 even though I previously supported what I felt was a viable compromise in an attempt to erect statutory safeguards as well in an across-the-board repeal including the House, the Senate, and the President.

It seems to me that the time has come, as the gentleman has said, in view of all the trouble that this issue seems to be causing for this reform bill, to lay it aside and send it back to the committee with the hope that they will in due time come back to the House with a better provision.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

(Mr. HARVEY, at the request of Mr. ANDERSON of Illinois, was granted permission to proceed for 2 additional minutes.)

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman yield further?

Mr. HARVEY. I yield to the gentleman.

Mr. ANDERSON of Illinois. Mr. Chairman, as I was saying, with the hope that in time the Commerce Committee of the House will come back with an acceptable provision dealing with this very sensitive subject.

I am not sure I can agree that section 315 has served us so well over the years. I am reminded of some figures that were brought in in hearings that were held before your committee.

In 1964 there were 20 States where there were only 2 candidates running as candidates of major parties. In other words, there were no minority party candidates or so-called frivolous fringe candidates.

Yet, despite that fact in the broadcasting industry in those 20 States, only 27 percent of the television stations offered any free time at all to the major party candidates.

So I am afraid that all too often equal time has simply meant no time for political candidates to discuss the issues. Nevertheless, I support the gentleman in his effort because I think it does make sense in view of the action the House has taken earlier this afternoon to try to lay aside this issue and get on with the balance of the bill.

Mr. HARVEY. I thank the gentleman for his support.

Mr. HAYS. Mr. Chairman, will the gentleman yield?

Mr. HARVEY. I yield to the gentleman from Ohio.

Mr. HAYS. I just want to ask the gentleman this question: If his amendment prevails, are you then going to support the substitute, which will turn around and repeal everything again?

Mr. HARVEY. No; I will say to the gentleman at that point that if the amendment prevails, I will support the substitute without the section in it which would repeal section 315.

Mr. HAYS. In other words, you want to go through all this again in the substitute?

Mr. HARVEY. I do not——

Mr. HAYS. Yes or no?

Mr. HARVEY. I intend to offer a substitute, and the substitute will not contain that.

Mr. HAYS. It will not contain that?

Mr. HARVEY. Not if this amendment prevails.

Mr. THOMPSON of New Jersey. Mr. Chairman, will the gentleman yield?

Mr. HARVEY. I yield to the gentleman from New Jersey.

Mr. THOMPSON of New Jersey. I am constrained to agree with the gentleman from Michigan and the gentleman from Illinois, and think that in effect the gentleman's amendment would let section 315 alone as it is now. Is that correct?

Mr. HARVEY. That is correct.

Mr. THOMPSON of New Jersey. I would hope that your amendment would prevail.

Mr. HARVEY. I thank the gentleman.

Mr. MACDONALD of Massachusetts. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Massachusetts is recognized.

Mr. MACDONALD of Massachusetts. Mr. Chairman, the amendment is rather unique. I must say there is some merit in what the gentleman has said but also I have some reservations about the amendment. I might point out to the gentleman that I do not think the vote which was just taken shows we do not trust broadcasters. We just do not like to see them put in the position of great temptation, and I do not think that they would be in a position of great temptation as far as presidential equal time is concerned or even senatorial time. So, I repeat, I think the position I have expressed is consistent.

The amendment came as a surprise to me, although maybe the amendment has been seen by others on the floor. I think it is a terribly serious amendment. I still believe in my opening remarks. I think that the broadcasters do a better job than any other media, the TV people do a better job than anybody in bringing the candidates into the living rooms of the people of the United States. It gives the public a chance, if there are debates, to see what candidates stand for, how they handle themselves, et cetera. I therefore, feel that in the public interest, although I am not convinced that there will be any presidential debates this year no matter what we do here today, I am not convinced that the incumbent President—and I am not sure I blame him for it—I am not sure he wants to debate. However, the general public has a right to see the candidates, to see what they stand for. We have talked about 1960, the great number of people who participated in our govermental process by watching those debates, and while it appears to be a simple answer merely to say "Leave 315 alone," I think 315 has served us well. I think we should not tamper with it. As it stands now, 315 has been suspended in the past, and I think we owe it to the public to give them the right to see their candidates and to make their own judgments.

That is the reason the licensees have their license to serve the public interest. I believe the public interest is best served by repealing 315 for presidential and vice presidential candidates to permit the networks not to be burdened by the choice of no free time for major candidates, or to better serve our country.

Mr. SPRINGER. Mr. Chairman, I move to strike out the requisite number of words.

The CHAIRMAN. The gentleman from Illinois is recognized.

Mr. SPRINGER. I think there are two things that everyone should know. There is what is called the fairness doctrine, which has nothing to do with equal time, which this amendment goes to the heart of. The fairness doctrine applies in those instances where someone says something over TV or radio on some public or positive position on a question involving the local community, the State or the Nation. The fairness doctrine demands that the people who do that do one of two things: They either report it in balance or, if it is not reported in balance, the person on the other side in all fairness may have a right to answer.

They can do it in either one of those two ways. That is the fairness doctrine.

Let us come now to the equal time, which is an entirely different section, the equal time section, which is section 315. Equal time has to do with public candidates. All the talk that is going on here today would make us think only the President and House and Senate are involved. From all I have heard this afternoon, I know there is a very definite impression in the minds of many Members that 315 is applicable solely to the President and Members of the House and Senate. But 315 applies to any office for which anybody runs, from dogcatcher, through the State legislature, to Congress and the Presidency.

For any office equal time would apply. If a local candidate for mayor is put on, then the other candidate may demand equal time and get it.

When we are talking about repeal of the equal time, we are talking about repeal for everybody. The point I am trying to make here today in the light of the amendment offered by the gentleman from Michigan is that we ought not to tamper with this under any circumstances.

Section 315 was put in this bill in 1934, and if the people who wrote that into the 1934 act on both sides of the aisle knew what we were doing with this in the last few years, they would turn over in their graves.

Section 315 is applicable to us and to the Senate—and that is in essence what we have said, I take it, by the defeat of the amendment offered by the gentleman from California. We have said it is applicable only to the President, but not to us nor to the Senate. If it should be applicable to the President because, as they say, they bring him to more people in their living rooms, why should it not be just as applicable to us in the House or in the Senate?

I think the gentleman from Ohio made

a good statement a few minutes ago that if we just want to see our opponents on and not be able to appear, then we should vote 315 out. Why is not 315 as applicable to us as to the Senate or to the Presidency? It is as applicable to one as to the other. Section 315 ought not be tampered with for any purpose. If we want more people in their living rooms to hear the President of the United States, we ought to be able to bring ourselves and our opponents into the living rooms. This ought to be as applicable to us as to the President, and part of being able to demand equal time.

Let me say that in 1964 I did everything I could with the networks to see if we could get some kind of equal time. Even though 315 was not repealed, I could not get an answer from NBC, CBS, or ABC as to equal time in 1964. In other words, they just said, "We are not going to give anybody any time."

But if anybody has any time in this election, it ought to be within the province of the Republican President or his challenger to say, "I want equal time," and be able to get it. The gentleman from Massachusetts indicated there may not be any debate, but the point I am trying to get over is if the President makes a political statement, his opponent ought to be able to ask for equal time, and if his opponent makes a statement on TV, then the President of the United States, if he wants it, ought to be able to ask for equal time.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

(By unanimous consent, Mr. SPRINGER was allowed to proceed for 2 additional minutes.)

Mr. SPRINGER. Mr. Chairman, this 315 is, in my estimation, one of the very fundamental things upon which the whole electoral process in this country depends. We just must have 315 available. I am not saying it ought to be used every time. I am saying it ought to be available to any candidate for any office. Where any media such as radio or TV uses it for one candidate, then the other candidate ought to be able to say, "I want equal time," and get it under the law, and not have to ask the TV owner if he will give the time as a matter of grace, but be able to ask it as a matter of right under the law.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. SPRINGER. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, I want to say to the gentleman I very reluctantly have come here this afternoon to the same conclusion the gentleman has.

I shall vote for the amendment.

There are two important lessons for us here.

One is that no incumbent President is going to debate. Lyndon Johnson did not want to do it in 1964, and President Nixon does not want to do it in 1972.

If we hang on to this very divisive issue, it may be that we will lose the whole bill in the thought that we somehow can force an incumbent President to debate. We cannot.

The second lesson is that we should not decide important issues like this too close to an election. It was just a year ago that this same provision passed the House by an overwhelming margin. The fact is that in the shadow of an election we cannot resolve it.

Tonight I believe the thing to do is to take 315 out of the debate entirely. It does not amount to a hill of beans. I urge those who want a bill this year, who want to get at the reporting, at the disclosure, and to do something about TV blitzes, to vote for this amendment and take this whole thing out of contention.

Mr. ADAMS. Mr. Chairman, will the gentleman yield?

Mr. SPRINGER. I yield to my colleague from Washington, a member of the committee.

Mr. ADAMS. I should like to say that the difference between House races and presidential races is the very reason why we passed the bill which the House passed 2 years ago.

For example, in 1968 there was a suggestion that there be debate, but there were 18 candidates for President, and nobody wanted that, not President Nixon or challenger HUMPHREY.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. ADAMS. Mr. Chairman, I move to strike the requisite number of words.

If I might continue my colloquy with my colleague on the committee, we did go through this in 1968. Many of us will remember that we debated it very late at night, and finally passed it, and passed it only with regard to the Presidency, for this reason: NBC, CBS, and others indicated in the 1968 election they would make debate time available for the two major candidates. They were not saying either one would take it, but it would be available. The American people wanted this.

The only basis on which they could do it for the Presidency was in some way to avoid making time available to 18 candidates.

In the election of the gentleman, or in my election, or elections of Members of the House or of the Senate, yes, sometimes we end up with three or four parties, but they still manage to get us all on and allow other parties to participate.

There is a fundamental difference between the Presidency and other offices.

For my colleague from Arizona I would say I, too, would like to see a bill passed, but I believe it is important, with respect to 315, not only for this election facing us but for the next one and the next one after that. The people of America would like to have the candidates offered an opportunity to debate. If they wish to refuse, they can refuse.

The present circumstances are very different from those of 1934. One cannot go to the major networks and say, "We will have a debate with 18 candidates."

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from Arizona.

Mr. UDALL. I said that I would support the amendment, and one of my colleagues asked me a question about it, and I should like to ask a question of the gentleman from Illinois.

All the amendment does is to leave 315 exactly where it is today, with no change in the law, and it does not tamper with any other provisions of the bill?

Mr. ADAMS. I yield to the gentleman from Illinois.

Mr. SPRINGER. I believe it would be better for the author of the amendment to answer the question.

Mr. ADAMS. I yield to the gentleman from Michigan.

Mr. HARVEY. The answer is "Yes."

Mr. UDALL. My support is predicated on the understanding that what we are doing is leaving 315 exactly where it is, and that the gentleman makes no other changes in the committee bill.

Mr. ADAMS. Mr. Chairman, I hope the House will adhere to its position of 1968 and defeat the amendment, so that there will be an opportunity, at least, to debate. Then the Members can go home and say to their constituents, "We gave the candidates an opportunity to debate, whether they want to or not."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. HARVEY) to the amendment offered by the gentleman from Massachusetts (Mr. MACDONALD).

The amendment to the amendment was agreed to.

AMENDMENT OFFERED BY MR. HATHAWAY TO THE AMENDMENT OFFERED BY MR. MACDONALD OF MASSACHUSETTS

Mr. HATHAWAY. Mr. Chairman, I offer an amendment to the amendment offered by the gentleman from Massachusetts.

The Clerk read as follows:

Amendment offered by Mr. HATHAWAY to the amendment offered to Mr. MACDONALD of Massachusetts: On page 3, line 22, strike out "sells" and insert "makes available."

The CHAIRMAN. The gentleman from Maine will be recognized for 5 minutes in support of his amendment.

Mr. HATHAWAY. Mr. Chairman and members of the committee, this is a rather simple amendment to cover up what I believe to be a gaping loophole in the section in question.

The section is very brief, and I shall read it. It begins on line 22, page 3, of the Macdonald amendment, and it states:

> (2) If a any person sells space in any newspaper or magazine to any legally qualified candidate for Federal elective office, or nomination thereto, in connection with such candidate's campaign for nomination for, or election to, such office, such person shall make equivalent space available on the same basis to all legally qualified candidates for the same office, or for nomination to such office, as the case may be.

The loophole I envisage is, in view of the fact that it says if a publisher sells space, he has to make available equivalent space to the opposition candidate at the same rate, it does not cover the situation of the publisher simply giving a candidate the space. That is all my amendment does. It covers both the sale and the gift of advertising space.

Mr. COLLIER. Will the gentleman yield?

Mr. HATHAWAY. Yes. I yield to the gentleman.

Mr. COLLIER. I think, to clarify that, to avoid what could be a very serious situation, might I suggest you say "advertising space," because as your amendment is written this would apply to making any space available, which, of course, is news space as well as advertising.

Mr. HATHAWAY. I think we can clairfy that by the colloquy we are having on the floor that this is not intended in any way to abridge the rights of the press under the first amendment to the Constitution, that it does not apply to news and it does not apply to editorial comment, but it does apply only to advertising. I think that taken in the context of section 104, "Media Rate Requirements" would be so interpreted.

I yield further to the gentleman.

Mr. COLLIER. I still feel that this could create, as the amendment is proposed, a grave question, and by the insertion of the word "advertising," I think you eliminate any possibility of such confusion.

Mr. HATHAWAY. If the gentleman wants to offer that as an amendment to my amendment, I will accept it.

Mr. COLLIER. Thank you.

Mr. MACDONALD of Massachusetts. Will the gentleman yield for one question?

Mr. HATHAWAY. Yes. I yield to the gentleman.

Mr. MACDONALD of Massachusetts. What does "makes available" actually mean?

Mr. HATHAWAY. Well, it means makes open on any basis whatsoever. The reason I chose the phrase is because the same phrase is used later on in the same section, page 4, line 2, where it says "such person shall make equivalent space available." It would mean, in my opinion, whether they sell or in any way convey to any individual advertising space.

Mr. MACDONALD of Massachusetts. Is it aimed at, let us say, a large labor union or a large corporation giving a candidate space and, if that happens, then the paper has to make available the same amount of space?

Mr. HATHAWAY. No. It means only if the newspaper publisher himself is making available that space.

Mr. MACDONALD of Massachusetts. Right; but make available for free or make available for money?

Mr. HATHAWAY. Make available for either—free or for money.

Mr. VAN DEERLIN. Mr. Chairman, will the gentleman yield?

Mr. HATHAWAY. I yield to the gentleman from California.

Mr. VAN DEERLIN. Is it the gentleman's intention for this amendment to deal exclusively with advertising and not with news and editorial opinion?

Mr. HATHAWAY. Yes; it is the gentleman's intention to deal only with advertising and not with news or editorial comment.

Mr. THOMPSON of Georgia. Mr. Chairman, will the gentleman yield?

Mr. HATHAWAY. I yield to the gentleman from Georgia.

Mr. THOMPSON of Georgia. I thank the gentleman for yielding.

May I ask this question: As we all know, corporations are prohibited from making financial contributions to political candidates. I will have to confess that I am not knowledgeable enough to know whether or not a corporation—a newspaper operating under a corporate structure—is prohibited from giving advertising space to a political candidate.

Does the gentleman from Maine know what the answer is to that question?

Mr. HATHAWAY. In my opinion they would be so prohibited, but I shall yield to the chairman of the committee or the subcommittee for the purpose of answering the gentleman's question.

The CHAIRMAN. The time of the gentleman from Maine has expired.

(By unanimous consent (at the request of Mr. Thompson of Georgia) Mr. Hathaway was allowed to proceed for 3 additional minutes.)

Mr. THOMPSON of Georgia. Mr. Chairman, if the gentleman will yield further, I will repeat the question in order that the chairman of the subcommittee, if the gentleman will yield for that purpose may answer the question.

Mr. HATHAWAY. I yield for that purpose.

Mr. THOMPSON of Georgia. May a newspaper operating under a corporate structure give advertising space to a candidate?

Mr. MACDONALD of Massachusetts. Under the terms of title I, because we close the loophole by saying "money" and this would be a form of money or a contribution which must be okayed by the donee and he must signify in writing the amount of money.

Mr. THOMPSON of Georgia. Mr. Chairman, I could not hear the gentleman's answer.

Mr. MACDONALD of Massachusetts. In section 104, on page 3, we indicate that any money spent by or on behalf of a candidate—and I would think if an opponent raised this question that that would be considered as money even though it was donated in lieu of money, and I think would be included within the prohibitions of this bill.

Mr. THOMPSON of Georgia. If I understand the gentleman's answer, the gentleman is simply stating that that would be in lieu of money and included in the limitations of the bill?

Mr. MACDONALD of Massachusetts. Money spent on behalf of a candidate is covered.

Mr. THOMPSON of Georgia. My question, actually, goes to the law which prohibits a corporation from making a cash contribution to a candidate.

Would the giving of space by a newspaper operating under a corporate structure be prohibited under another law—not this law—in other words, may a newspaper legitimately give space without running afoul of other Federal laws, give space to any one candidate?

Mr. MACDONALD of Massachusetts. That question the gentleman cannot answer, but as the gentleman knows it is not presently included in this bill.

Mr. THOMPSON of Georgia. So, we do not have an answer to that question.

Mr. HATHAWAY. Let me say to the gentleman that I assume the gentleman is correct to the effect that a corporation cannot make a contribution of this kind. Nevertheless there are some newspapers owned by individuals and I suppose they would be free to give space.

The CHAIRMAN. The time of the gentleman from Maine has again expired.

Mr. KAZEN. Mr. Chairman, I move to strike the requisite number of words.

Will the gentleman in the well tell me whether by the adoption of his amendment he intends to make editorial space available?

Mr. HATHAWAY. Mr. Chairman, if the gentleman will yield; no, this applies to advertising only. This in no way is intended to fringe upon the newspaper's right to comment editorially in favor of or against any candidate or to affect news policy. But it does apply to advertising only.

Mr. KAZEN. Newspapers generally endorse candidates, so if a particular newspaper endorsed one candidate, under this amendment they would not be obligated to give equal editorial space to the other candidate?

Mr. HATHAWAY. That is correct.

Mr. KAZEN. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maine (Mr. Hathaway) to the amendment offered by the gentleman from Massachusetts (Mr. Macdonald).

The question was taken; and on a division (demanded by Mr. Hathaway) there were—ayes 46, noes 32.

So the amendment to the amendment was agreed to.

AMENDMENT OFFERED BY MR. KEITH TO THE AMENDMENT OFFERED BY MR. MACDONALD OF MASSACHUSETTS

Mr. KEITH. Mr. Chairman, I offer an amendment to the amendment offered by the gentleman from Massachusetts (Mr. Macdonald).

The Clerk read as follows:

Amendment offered by Mr. Keith to the amendment offered by Mr. Macdonald of Massachusetts, as follows: Insert on page 9 after line 12 a new section, as follows:

"EXTENSION OF CREDIT BY REGULATED INDUSTRIES

"Sec. 401. The Civil Aeronautics Board, the Federal Communications Commission, and the Interstate Commerce Commission shall each promulgate, within ninety days after the date of enactment of this Act, its own regulations with respect to the extension of credit, without security, by any person regulated by such Board or Commission to any candidate for Federal office (as such term is defined in section 301(c) of the Federal Election Campaign Act of 1971), or to any person on behalf of such a candidate, for goods furnished or services rendered in connection with the campaign of such candidate for nomination for election, or election, to such office."

POINT OF ORDER

Mr. STAGGERS. Mr. Chairman, I rise to make a point of order against the amendment in that the amendment is not germane to the amendment.

The CHAIRMAN. Does the gentleman from West Virginia desire to be heard on his point of order?

Mr. STAGGERS. I do, Mr. Chairman, if the Chair would indulge me.

The facts are that we are now considering a bill for the limitation of expenditures by candidates for TV, radio, CATV, newspapers and magazines. The amendment offered by the gentleman from Massachusetts (Mr. Keith) limits the extension of credit to candidates on an entirely different subject not covered by the amendment offered by the gentleman from Massachusetts (Mr. Macdonald) in any way. For that reason I say that it is not germane.

The CHAIRMAN. Does the gentleman from Massachusetts desire to be heard on the point of order?

Mr. KEITH. I do, Mr. Chairman.

Mr. Chairman, I offered this amendment in committee. It was discussed and rejected, but a point of order was not made against it at that time.

It is argued by the chairman now that the bill does not deal with the regulation of newspapers, radio and telephone communications.

I think in its present form the bill has been amended and is truly a reform bill that speaks to this point and that certainly this is within the jurisdiction of the committee and within the jurisdiction of the bill.

It is an abuse recognized on the Senate side where candidates for high public office ran up telephone bills and air travel bills and, then having lost the election, were unable to pay those bills.

The Commerce Committee does have jurisdiction over this subject matter. It truly is a reform thing and all my amendment will do is to require agencies to issue regulations to deal with this problem. It certainly is germane to the problem, and I believe it is germane to the bill.

The CHAIRMAN (Mr. Bolling). The Chair is ready to rule.

The Chair has had an opportunity to examine both the Macdonald amendment and the amendment offered thereto by the gentleman from Massachusetts (Mr. Keith).

The provisions of the Macdonald amendment deal with a limited area; limitation of expenditures by candidates for radio, TV, newspapers, and billboards. The provisions of the amendment of the gentleman from Massachusetts (Mr. Keith) go well beyond that area—extension of credit, as well as Civil Aeronautics Board and other regulatory agency rules.

Therefore, the Chair holds the amendment not germane and sustains the point of order.

Mr. KEITH. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I am disappointed, of course, in the ruling of the Chair. I understand the logic. The Senate bill however does contain my amendment. It seems this is an appropriate time to make the point that I hope in some form this amendment will be before us. In this way we can show our great concern for the abuses that have occurred in recent campaigns.

There is a problem confronting the Congress—particularly those Members whose committee assignments give them specific jurisdiction in regulation of communications and air travel.

Here we find, for example, the case of a candidate, a member of such a committee, running up extensive bills for services rendered in connection with his campaign, then being unable to pay these bills. How does he vote when the question comes as to tightening up, or correcting abuses, on legislation affecting airlines?

To remedy this problem, I intend to offer the amendment which I offered in the executive session of the full Commerce Committee. This amendment would have prohibited federally regulated industries from advancing credit to candidates for Federal elective office unless the debt so created is secured by a bond or by other collateral. It would have required the Civil Aeronautics Board, the Federal Communications Commission, and the Interstate Commerce Commission to promulgate regulations to implement this requirement. But the Parliamentarian has declared that it is not germane.

I shall press for these reforms because I believe it imperative that the Congress act now to bring an end to the practice under which, all too often, money is the prime determining factor in nomination and election to Federal office.

If we are going to go ahead with the kind of reform that we have shown here today that we really want, then the problem of extension of credit by regulated industries is something we must get to later in this debate. We can do so when we take up the Senate substitute.

I hope that the House will at that time agree that it will make this legislation much more effective in coping with this very real abuse.

Mr. PRICE of Illinois. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, on November 18, during the debate on H.R. 11060, I spoke of certain reservations I had about whether the several elements of election finance reform under consideration would, in fact, accomplish any true and lasting reform in this knotty problem area.

I also spoke of several vital elements of any genuine reform plan, which are not now a part of any of the measures we will be considering.

Principal among these missing elements is any focus on how to actively generate, from the proper sources, the moneys legitimately needed for this most essential and basic political communication. Clearly, the answer lies in the creation of a public mechanism to encourage, and properly discipline the flow of numerous small campaign contributions into the fundamental political process.

In my remarks I stated that I would soon offer for the consideration of my colleagues, a program intended to meet not only this primary objective, but one that would also reach to the full spectrum of the campaign finance dilemma.

The program I offer is to supplement whatever we may eventually enact now, but, if it holds to its promise and to the prophecies of quite a number of knowledgeable individuals in this field, it may in a short time prove to be all that we need to dispose of this problem once and for all.

I regret that as yet the program has not been researched in all the minute details that should be examined before it is offered in the form of legislation. Thus I do not intend to officially introduce it at this time. But that research is going on and when it has been satisfied it will be appropriately presented.

My purpose in introducing my colleagues to the plan at this time is so that they will know that there is more to come. More that can be counted on to get to the positive side of the issue, while not interfering with whatever steps in the right direction we can accomplish now. I respectfully ask my colleagues to consider the proposal and offer their most forthright comment and criticism.

The plan can best be set forth in the following excerpt from a paper prepared to explain its function. It first establishes 14 objectives, which are as follows:

That the right solution to the problem should:

Not restrict necessary political dialogue;
Be flexible enough to accommodate to widely varying resources requirements;
Support year around political party machinery;
Take into account minority and dissident party efforts when they have sufficient constituency to be viable;
Not overly insulate incumbents;
Be essentially non-partisan in application;
Cover all elective offices in the U.S.;
Involve contribution increments small enough for the donor to expect nothing in return yet large enough to generate a sense of involvement;
Provide a more direct link between the contributor and his choices;
Eliminate corrupt practices reporting hypocrisy;
Be accountable;
Involve minimum change from existing means of fund raising;
Provide dignity for the contributor and the candidate; and
Above all be constitutional.

More will be said about these later.

Neither the present law nor the proposals so far advanced even come close to filling this bill. What is needed is a wholly different attack, rethought along the lines of finding an internally disciplined laissez faire approach. The rethinking must encompass more than the traditional legislative technique of prohibition and sanction, it must involve disciplines like merchandising, banking and any other that contributes to the attainment of the desired end. Stated another way, a system regulated by natural law has a higher reliability potential than a strictly police method of control.

Having in mind the complexity of the problems involved in financing a modern-day political campaign, let us examine on the basis of certain assumptions, an entirely different approach.

First, assume at the worst Oswald Spengler's contention that "Money organizes elections in the interest of those who possess it." While this is only partially true—for there are numerous campaign resources other than money—it nevertheless does have more versatility than any other. Money being the single best equalizer of other inherent disparities that are natural in any contest, then let us further assume a source of money in small enough increments to be free of any potential conflict of interest, available in direct proportion to the size of the constituency to which the candidacy is aimed.

Let us next assume that any candidate prefers no-strings contributions—a safe assumption—and that the public will respond to an intelligently marketed self-interest approach to monetary campaign participation.

Within such an assumptive framework, could a program be developed that might well accomplish all the objectives set forth earlier?

Let us explore the possibilities.

For now, let us set up a program and call it operation clean bill.

Operation clean bill involves thinking in terms of three concepts: Clean bill candidates, clean bill organizations, and clean bill certificates. Its operations would be carried out by a federally chartered nonprofit corporation, which we will call for the moment the American campaign fund trust.

A clean bill candidate would be any duly qualified candidate for any elective office in the United States. At the time of filing and certification by the appropriate election authority, the candidate would be provided with a form to identify himself to the trust and the trust would in turn establish an account for the candidate and authorize him to advertise himself as a "clean bill candidate"—something like a seal-of-approval.

A clean bill organization would be any national political party—as defined by law—or any State or local branch of such. The organization would similarly apply to the trust for participation as a clean bill organization and be authorized similar privileges.

The clean bill certificate would be serial numbered, coded for data processing, legally protected against counterfeiting, savings bond like, two-part form. For reasons of simplicity and accountability, it should be in a single denomination—say $20.

The governance of the trust would be by a blue-ribbon board of trustees representing such interests as business, labor, education, political parties, State and local governments, the public and the trust itself. While most of these interests would be expected to have political bias, the balance of the interests should insure ultimate fairness in the trust's operation. It should be financed initially by the sale of Government guaranteed bonds so that no appropriated funds would be involved in the operations. The trust also should be able to accept tax deductible contributions of up to, say $100, from anyone, corporate, union or individual.

Come election time anywhere, and borrowing heavily on Madison Avenue methods, the trust would initiate a highly professional plan of merchandising clean bill certificates and the entire clean bill concept, much in the same manner as the marketing of savings bonds.

Using as its marketing premise, the same that all sound promotions do, the self-interest of the purchaser, the trust would aggressively promote "get out the vote" and the sale of "clean bills" through over 30,000 post offices, 50,000 bank and credit union offices, credit card solicitations, company and government payroll deduction, union checkoffs, income tax refunds and numerous other outlets. The trust's direct promotion would be assisted by tie-ins with commercial advertisers, public service radio and TV, flyers in bank statements, credit card billing, monthly statements, co-advertising with the candidates, and so forth.

With such distribution machinery at work, virtually anyone who is persuaded to buy a clean bill will find the opportunity to do so not only easy but recurring. If he happens not to have the $20 available when he is next in his post office, bank, savings and loan, or credit union office—where of course he would be reminded by point-of-purchase display material—then he may have, when he is canvassed by his local political organization, or at the meeting of his civic club. Or even if not at any of these times then he might make a deferred purchase arrangement by "ordering" one on his credit card, or by signing up for a payroll deduction or union checkoff plan.

The idea here is simply the same that effective mass marketers long ago learned; that, however salable a product, it must have distribution machinery immediately available after a successive number of motivations to buy has stimulated the latent demand.

When the sale of a clean bill certificate has been consummated, the purchaser would detach the receipt portion and retain it. On the other portion he would fill in the name of the candidate or political organization whom he is supporting and hand it over directly. This might be by mail, by handing it to the candidate at a conventional fundraising event, or any way at all.

The clean bill candidate or organization receiving it would then forward this portion singly or in multiples to the Trust for immediate reimbursement according to the method explained below.

The purchaser would attach his retained portion of the "clean bill" to his next Federal income tax filing and claim a tax credit for one-half or $10, or in multiples, a tax deduction for purchases up to $100. This would be per individual, so double these figures would apply to joint returns. Later the two portions of the clean bill certificate would be reconciled by the Trust.

So far the plan involves essentially a matching Federal subsidy, plus a system of merchandising. But its perhaps most unique aspect lies in the method of redemption from the Trust to the candidate or political party organization.

Suppose a candidate for Governor had qualified with the Trust to run as a "clean bill" as well as had his State and county political party units. He then has a fundraising event—barbecue, corn roast, testimonial dinner, a direct mail request to the party faithful, or what have you. From the event he receives a hundred clean bills—$2,000 face value—from his supporters.

Along with a simple cover sheet he forwards these to the Trust and the same day it is received he is mailed a check for 75 percent of the face amount, or $1,500. Simultaneously a check for 20 percent of the face amount, or $400, is mailed to the previously qualified national political party or the State or local branch of one, designated by the person redeeming the certificate. If the party redeeming the clean bill certificates happens to be a political organization it still must designate another. The remaining 5 percent or $100 is retained by the Trust for its cost of operations.

To objections that the original purchaser has no control over where 20 percent of his contribution is going there are two responses. First, that after taxes the purchaser really contributed only half the amount, and the part passed to the political party and the Trust was from the governmental subsidy. Or, the original donor might be assured by the recipient that the clean bill would be redeemed separately and the party portion would be designated to go according to the purchaser's wishes.

The arithmetic involved in the plan is not accidental. An allocation of the subsidy portion is necessary so that candidates for relatively inexpensive offices may not finance their total campaigns from their own tax deductible moneys. This would tend to create too many artificial candidates as publicity seekers or advertisers. But more important, it is a disciplined way of providing public support to party resources not dependent on handouts from higher up, and to provide more initiative to grassroots fundraising efforts.

The possibilities presented by this system of fund flow are numerous. Local political units might expect candidates which they endorse to turn back a part or all of their designated amounts to the unit treasuries or the unit might independently raise funds for the ticket. Funds could flow upward from the locals to State or National levels or downward or laterally as the demands were seen to exist.

A candidate, incumbent or challenger, could, of course, raise funds at any time he chose but actual campaigning time could be somewhat regulated by the trust fixing a specific date before the election, at which time it would commence to make redemption for candidates.

Returning to the objectives of the "right" campaign finance plan mentioned earlier, it is worthwhile to examine the anticipated results of operation clean bill on the individual points:

First. Not restrict necessary political dialog—under the clean bill system there would be no limits on spending except those set by the laws of diminishing returns and marginal productivity. Several political managers have already noted that more was learned in 1970 about what not to do again—especially with TV spots—than what to do in the future. But, more important, we focus too much on the campaign period and not enough on the continuing political education of the voter, thus enabling him to make a more considered choice at election time.

Second. Flexible enough to accommodate to widely varying resources requirements: The realities of politics do not yield to uniform financial demands. The costs of comparable offices in different localities may vary by a factor of 10 or more. Since more persons than just those voting in the more expensive races have a stake in the outcome it is only proper for their moneys to take some part in these contests. Under the clean bill system, assuming the budgeted figure of $400 million were achieved, $80 million or more would be available to be moved within the party structures as the priorities demanded. What such a system does not do, as some other forms of subsidies would, is to channel large sums to a single authority who in turn might reallocate them in a manner which overly obligates the recipient.

Third. Support year-round political party machinery: A large part of the party money generated by operation clean bill presumably would go for "nuts and bolts" purposes. One factor in the high cost of lower level campaigns particularly, is their slap dash organization which comes from hasty and often unprofessional planning. An ongoing party organization obviously can be better prepared for campaigns. In countries like West Germany—where political parties have a statutory organizational basis—direct subsidies can and, in fact, do work for candidates and parties alike. But in a loose knit party organization system like ours, Federal assistance must be channeled by other means if it is to bear a direct relationship to numbers in the constituency and thus be equitable. Given the legitimate role of political parties in our system and responsible functions they can perform, a wherewithal directly proportional to the membership's willingness to financially support the party efforts is vitally important to campaign reform. Of all the proposals so far mentioned none adequately provides for this type of political party assistance.

Fourth. Take into account minority and dissident party efforts when they have sufficient constituency to be viable: Most studies of this problem dwell on how to fairly support reform elements within the parties and third party efforts. Clearly if public financial assistance goes only to the two major parties, no such outside movements could succeed however well supported they may be by the electorate. Under this system one can participate with his dollars and where the numbers are sufficient the effort will be sustained. Keep in mind, the number of dollars per individual are few, so whatever the economic profile of the dissident or third party element, it still is capable of rising to whatever level the members who support it will provide. Though the history of success of such efforts is spare, the effect they have in shaping the political philosophies of the major parties has been quite considerable and such efforts should be permitted and publicly supported proportionately to any other.

Fifth. Not overly insulate incumbents: No system can fully compensate for certain inherent values built into incumbency. And that is not all bad. Public office like any other calling demands a certain know-how that naturally improves with experience. That incumbents succeed themselves more often than not is due not only to the added exposure the office provides, but also to the fact that the incumbent has a record to run on or to defend. This also means sources of campaign funds are available to support or oppose him as his record will justify, and these sources generally are better organized for the incumbent than they are for the challenger. Therefore, any system which automatically restricts both to the same resources is inherently inequitable. A flexible system on the other hand, that favors neither, except to the extent that one has more supporters than the other, should provide a means for either to win fairly and without any strings, implicit or otherwise.

Sixth. Be essentially nonpartisan in character: Historically certain segments of the electorate have been continuingly identified with one or the other political party. Therefore campaign finance reforms that weigh heavier on any one or several of these segments versus others necessarily take on partisan overtones. This adds another dimension of difficulty to an already tough enough problem. Essentially campaign giving is another form of "voting" for a person or a position and it should be regarded with the same seriousness as the Australian ballot. Any move weighted to give partisan imbalance would not only be of doubtful legality but more important would surround the debate with such acrimony as to make observance of the law unwilling at best. Though party complexions change there still remains the great body of labor and minority elements which the Democrats claim and the silent majority which the Republicans claim, both groups equally capable at the proposed contribution level to participate in numbers sufficient to pay the bill.

Seventh. Cover all elective offices in the United States: Many constitutional as well as practical questions of Federal support of State and local races exist in the current proposals for reform. But realistically the question cannot be ignored when about a third of the total budgets of these governmental units derive from Federal funds. While participation in a program such as clean bill would be voluntary, it is difficult to imagine someone refusing it. Thus the same benefits accruing to Federal candidates would flow to these other offices with the resulting reduction of conflict of interest in these offices. If these results obtain, the Federal expenditure can be justified.

Eighth. Small contribution increments: This general proposition—the initial premise of operation clean bill—is universally accepted as the solution to potential conflict of interest stemming from campaign contributions. But that is by no means its only value. Recently a very wealthy officeholder, who for the most part finances his campaigns from a relatively few large contributors, commented that he would much prefer more smaller contributions, even if it cost more to raise the money. His argument was that once large contributors had anted up they felt their participation to be complete. On the other hand, the contributor who put up $20 or $25 felt that he had to support his donation with additional effort, so he often did additional work in the campaign.

Full participation in the elective process involves more than just money, or as another officeholder commented "Give me the guy who will put his mouth where his money is." A system of campaign finance involving more people as well as just the dollars needed should have the effect of reducing some of the needs for which the money is raised in the first place.

Ninth. A more direct link between the contributor and his choices: Small contributors provide most of their support through organizations such as political action groups who in turn place the combined sums according to the decisions of a few at the top. For the most part the individual's participation ultimately gets to candidates or causes sympathetic with his philosophy; but by no means do all such contributors support all the recipients of their funds. With contributors of say $1,000 or more to committees of one sort or another, a different kind of dilution occurs in the transfers between committees as party fund needs vary. Though this is no serious problem, a system providing a more direct connection between the contributor and the translation of his contribution into political action would undoubtedly be more democratic.

Tenth. Eliminate corrupt practices reporting hypocrisy: The present system contains so many reporting loopholes that it can fairly be said to be no reporting system at all. The so far proposed systems indeed strive to remedy this defect, but one simple reality—cash—can render these as useless as the present. In the absence of an auditable reporting system the remaining discipline of limits—except for broadcast expenditures—likewise becomes uncontrollable. The system proposed here also would be open to circumvention by the passing of cash but if the premise that the system can and will generate adequate resources with clean bill certificates, the use of cash would be obviated, and with the tax incentive surely the contributor would prefer to buy a clean bill than to pass the straight cash.

Eleventh. Be accountable: With the clean bill certificate coded for data processing and with the subsequent reconciliation of the two parts after completion of the transaction, the greatest amount of information ever developed on this phase of national expenditure would be at fingertip. We could finally learn what elections cost, where, and the true effect of money on our most basic process. Chances are that there would be revealed much less to rue than the present obfuscated mess insinuates.

Twelfth. Involve minimum charge from existing fund raising techniques: Political campaigns like other human experience tend to habituate into certain provincialisms. A barbecue at one place is a corn roast at another, a black tie dinner at another, a fish fry at another. Not only candidates but supporters have accustomed themselves to these quaint bits of Americana and for more reasons than one they should survive. Even so durable a system as ours cannot survive too much shock, so our proven institutions should continue to be used as they fit the localities and situations where they have arisen. The system proposed here accommodates to every type of existing fundraising effort in addition to opening up many new ones. If big money in small sums is to be realized, the maximum number of opportunities for contribution is vital.

Thirteenth. Provide dignity to contributor and candidate: Something of an elitism has grown up around campaign giving. Society pages carrying pictures and stories of dignitaries at $1,000 per plate dinners naturally tend to suggest to those who cannot afford to attend such affairs that those who do enjoy some preferential treatment, whether true or not. That the pecking order is still apparent at these or even lesser priced affairs, does not abate the generally bad taste that the climate, and too often the food, leave with the guests as well as the public. With a basic contribution increment of $20, after taxes reduced to $10, virtually everyone can participate.

Fourteenth. Be constitutional: Of late, more emphasis has been placed on this problem with respect to limits, and so forth, than heretofore. Of course one cannot predict what the courts might hold on whether limiting one's ability to financially support his position abridges free speech, but prominent constitutional scholars by no means dismiss the implications. A program like clean bill, involving only tax incentives and an initial loan guarantee, certainly is less open to constitutionality hazards than the other proposed means of control.

Would the public respond in the kind of numbers necessary to raise a substantial, if not the total amount of the funds needed? At least two experiences suggest an affirmative answer. Last year a total of over $4.66 billion of new money went into the purchase of savings bonds. True, there were almost as many redemptions, but it still was by no means the most profitable investment available in this period of extremely high interest rates. So, one could conclude that effective marketing based on a public interest appeal was productive.

As of mid-June 1971 the public interest lobby, Common Cause, according to a Wall Street Journal article, had enlisted in a 10-month period over 170,000 members at $15 each and reported new recruitments coming in at the rate of 4,000 to 5,000 per week. This is not savings, in fact the $15 is even a nondeductible expenditure. This too suggests the public's willingness to support public interest undertakings.

It is interesting to note that a reliable research center found, following the 1968 elections, that of a sample of 1,346 adults surveyed, some 8.3 percent had made political contributions. But, only 23 percent of the sample had been asked to contribute. Of that number 38 percent gave. If some less than half that proportion of the voting population bought just one $20 clean bill, it would more than cover the costs of every elective office in the United States in 1972.

Though the funds projections properly should be viewed over a 4-year cycle, even the presidential year campaigns, which would account for half the 4-year totals, present a seemingly, easily attainable goal.

The November 1972 population total is projected to be about 210 million with approximately 140 million of voting age. It would require some less than 15 percent of this total, or 20 million persons buying single clean bills to cover every election cost in the United States. Since many will make multiple purchases, the participation percentage will lower. While the past experience of about 8 percent of the voters contributing may be insufficient, the figure mentioned earlier from the 1968 survey of 38 percent of those asked to make contributions doing so, the goal of some less than 15 percent participation seems by no means ambitious. Even if the fullest desired effects were not attainable from the outset, what was accomplished would be salutary.

Though such a notion may seem incompatible with the seriousness with which this entire issue should be treated, a very sure way to insure the sales of enough clean bills to do the job, would be to add a lottery feature to it. At the outset, at least, the psychological factors involved might tend to obscure the real purposes of the undertaking and thus diminish the sense of participation in the electoral process, which is a main element of the plan.

Perhaps a better question is what happens if the system generates more money than needed and Parkinson's Law sets in. This would mean that the "needs" would rise to the available level of funds thus reversing the main objective of the plan.

Initially, this could be managed by the trust drawing off a larger share than 5 percent and using the extra funds to provide research and other services on a strictly public and nonpartisan basis. Or if this proved insufficient or practically unmanageable, the trust could petition Congress to reduce the tax incentives thus shrinking the sales to at or near the appropriate levels.

There is undoubtedly a growing scrutiny into how we pay for our politics. That certain long standing customs may in fact be less innocuous and devoid of any effective political venality than they have been represented to be will not quiet the movement to bring the whole matter out into the open. Inertia to change is natural but so is change itself. The options are not change versus status quo but which form the changes will take. The issue is no longer one of politics, it is one of government. The chances for success of an undertaking like clean bill are only as good as the soundness of the hypotheses on which it is based, but given the known defects in the alternatives, and given the fact that any results it does produce would be a step in the right direction, it is surely worthy of being examined more closely.

Regrettably the plan sounds complicated. So would any marketing plan for the simplest 5-cent item used by every housewife in America, if viewed in its total context. The plan is not complicated if seen only from the critical viewpoint of where the dollars change hands. There is a true value to the purchaser, sufficient communication—advertising—for him to comprehend this value, recurring motivation for him to act and a distribution machinery readily available to consummate the transaction.

There will be gaps between what is conceived in the hypothetical and what will occur is practice. Between these points there should be a more detailed pro forma complete with budgets, projections, tests, comments, and so forth. If such an operation as proposed here did withstand this extra scrutiny, it would well be worth the investment even if for no other reason than better understanding of this truly knotty problem.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts (Mr. MACDONALD), as amended.

The amendment, as amended, was agreed to.

Mr. HAYS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. BOLLING, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 11060), to limit campaign expenditures by or on behalf of candidates for Federal elective office; to provide for more stringent reporting requirements; and for other purposes, had come to no resolution thereon.

THE POLITICS OF CANCER

(Mr. SYMINGTON asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. SYMINGTON. Mr. Speaker, I would like to call the attention of my colleagues and the public to an informative article, "The Politics of Cancer," written by Cristine Russell. The item appeared in the Washington Post on Sunday, November 28, 1971.

The article is an excellent summary of congressional action against cancer. Moreover, it is a vivid account of the vital role Representative PAUL G. ROGERS has played in this legislation. As a member of Mr. ROGERS' Subcommittee on Public Health and Environment, I heartily agree with the author's assessment that "the Rogers bill represents a significantly enhanced commitment to cancer research."

Whatever the outcome of the conference on this matter, Representative ROGERS well deserves the praise given him in this article.

Mr. Speaker, I insert in the RECORD at this point the article entitled "Politics of Cancer":

THE POLITICS OF CANCER

(By Cristine Russell)

Congress is not noted for rejecting programs with deep mass appeal for quieter approaches that have a greater chance of success. Quiet successes do not win elections. But in the case of cancer research, the lawmakers, with President Nixon following behind, appear headed for the quieter attack. This approach, recently adopted by the House, provides considerably increased funding for cancer research, but it does not suggest that swift cures for cancer can be found in a crash program.

It has taken a considerable battle for this view to come to the fore—including fighting the powerful health lobby of Mary Lasker, persuading the President to change his mind for a second time, battling grass-roots emotions stirred by syndicated columnist Ann Landers, and opposing one cancer-stricken lobbyist who made last-ditch telephone appeals from his hospital bed.

The first major thrust for new cancer legislation came early last December, in a report to the Senate by a group called the Panel of Consultants on the Conquest of Cancer. Calling for a national crusade to conquer cancer, the panel suggested a bold approach involving creation of an independent agency whose sole mission would be to coordinate and expand cancer research.

The stimulus behind this group: Mary Lasker, philanthropist, widow of advertising executive Albert Lasker (who died of cancer in 1952), head of the foundation bearing the Lasker name, and a major influence on much of the nation's health legislation. Mrs. Lasker, who has stressed the areas of mental health and cancer, is credited with a considerable role in persuading Congress to increase appropriations for the National Institutes of Health (NIH) from $2.5 million in 1945 to more than $1.6 billion last fiscal year.

MRS. LASKER'S IMPATIENCE

As a member of the Advisory Council for NIH's National Cancer Institute, Mrs. Lasker and her informal health lobby became increasingly frustrated with both the bureaucratic inertia which slowed down the research pace and the stagnant cancer budget. While her doctor allies indicated that research leads were increasingly promising, the cancer budget only moved from $175 million in 1967 to $190 million in 1970, not even keeping pace with inflation.

The Panel of Consultants' report reflected Mrs. Lasker's impatience with the existing structure. The cochairmen—Dr. Sidney Farber, director of the Boston Childrens Cancer Research Foundation, and Benno Schmidt, a New York investment banker—both have close ties with her. Many of the 26 panel members have also been leaders of the American Cancer Society, of which she is an honorary chairman.

Legislation to implement the panel's recommendations was introduced by then-Sen. Ralph Yarborough of Texas, another Lasker ally who was chairman of the Labor and Public Welfare subcommittee on health. Yarborough also had introduced the Senate resolution creating the panel in the first place, and Mrs. Lasker contributed $5,000 to his losing bid for reelection in 1970.

Last January, Sen. Edward M. Kennedy (D-Mass.) stepped into Yarborough's subcommittee chairmanship, and he soon reintroduced the bill to create an independent cancer agency.

Kennedy, Lasker, the American Cancer Society and such cancer specialists as Dr. Farber were convinced that a concentrated agency effort such as NASA's moon-shot program was needed to push cancer research into significant breakthroughs. "The NIH cathedral doesn't want this type of targeted, practical research," complained Mike Gorman, a longtime promoter of the Lasker health lobby.

NIH, the Laskerites charge, concentrates far too much on supporting basic research—that is, the study of fundamental life processes—and how it relates to diseases. Like many political leaders, the Laskerites don't see enough practical results—the cure of human beings—resulting from the tax dollars invested in research.

THE NIXON SWITCH

The political potency of cancer research soon made it a bipartisan issue. Elmer Bobst, an 85-year-old pharmaceutical millionaire who also served on the Panel of Consultants, prodded his close friend Richard Nixon into joining the cancer battle. Sometimes called the President's "honorary father," Bobst is a life member of the American Cancer Society as well as a $63,000 contributor to the 1968 Republican campaign.

In his January State of the Union address, President Nixon proposed an additional $100 million for cancer research this fiscal year. But he initially resisted Kennedy's tactic of moving cancer research out of the NIH. In a speech last February, his science adviser, Edward E. David Jr., said: "It is the President's belief that having honed and sharpened our biomedical research mechanism, the National Institutes of Health, we should now use it and call upon it . . . Indeed, we do not believe in an AEC or NASA for cancer."

Support for Kennedy's proposal, however, continued to snowball, particularly after Ann Landers, a friend of Mary Lasker's used her nationally syndicated column last April to endorse it.

"Who among us," she wrote, "has not lost a loved one to cancer? Is there a single person in my reading audience so incredibly lucky that his life has not been changed in some way by this dread disease? More Americans died of cancer in 1969 than were killed in the four years of World War II. Of the 200-million Americans alive today, 50 million will develop cancer. Approximately 34 million will die of it. Cancer claims the lives of more children under 15 years of age than any other illness."

Her appeal prompted hundreds of thousands of letters to Senate offices. California Sen. Alan Cranston's office alone received more than 50,000 messages.

In a May 11 announcement President Nixon reversed his position on the Kennedy bill, just as it was about to be reported out of committee. Ann Landers claimed credit for changing Mr. Nixon's mind: "When he figured he couldn't beat us, he joined us." Bobst, during visits to the White House, is also said to have influenced the President.

Mr. Nixon said he would "ask Congress to give the cancer-cure program independent budgetary status and make its director directly responsible to the President."

But the Lasker forces and their Senate friends did not feel that an administration bill, introduced the day of the President's announcement, moved far enough toward independent status. Weeks of negotiations ensued between Kennedy subcommittee aides and the administration. Changes they made in the bill were cleared, via telephone to New York, with Panel of Consultants' cochairman Benno Schmidt. Finally there emerged a compromise bill, which proposed to keep the cancer agency nominally within NIH but essentially with independent status.

"We breathed life into the President's bill, using scissors and scotch tape," remarks subcommittee staff counsel Leroy Goldman.

Only Sen. Gaylord Nelson (D-Wis.), a member of the Kennedy subcommittee, dismissed the compromise measure as a "face-saving political compromise, without scientific merit." When the bill reached the Senate floor, he was the 1 in the 79–1 vote by which it passed.

UNITING THE OPPOSITION

While the Senate vote represented an overwhelming victory for the Lasker-Kennedy forces, it also produced an effect they had not anticipated: It galvanized most major organizations of scientists into opposing the independent agency concept and favoring instead a continued effort within NIH.

This unusual mobilization was spearheaded by three Washington-based scientists—Dr. John A. D. Cooper, president of the Association of American Medical Colleges, Dr. Philip Handler, president of the National Academy of Sciences, and Dr. John Hogness, president of the Academy's newly created Institute of Medicine.

The scientific opposition hit fertile ground when the legislation reached the House. It was assigned to the Public Health and Environment Subcommittee, whose chairman, Rep. Paul G. Rogers (D-Fla.), had long disagreed with the Kennedy idea of separating cancer research from NIH. While Rogers was a newcomer to the health field, he had beaten the administration once before in the area: By parading scientific witnesses at subcommittee hearings, he had forced the Nixon administration to keep control of narcotics legislation in the Department of Health, Education and Welfare, instead of giving it to the police-minded Justice Department.

Rogers followed the same tactic after he introduced a "cancer-attack" bill in September. Rejecting the Senate bill as "a cosmetic approach to a complex problem," he held four weeks of hearings in which 51 witnesses built their case for attacking cancer through the NIH system.

Scientist after scientist testified that breakthroughs on the cancer front would depend upon long-term advances in fundamental science—virology, immunology, genetics and cell biology. Since basic research of this type is funded under several institutes at NIH, advances in the cancer area could conceivably come from any of them.

Dr. David Baltimore, a Massachusetts Institute of Technology scientist, for example, made a discovery 18 months ago about virus enzymes which has important implications for cancer causation. His work was funded by the National Institute of Allergy and Infectious Diseases. Baltimore feels that "cancers are still a mystery . . . To maintain progress, we need a strong, broadly based research effort, not a channeled, directed attack. Only when the problem is better understood will a crash program be justified."

Since no one knows exactly why a cell becomes malignant, "an all-out effort at this time would be like trying to land a man on the moon without knowing Newton's laws of motion," remarked Dr. Sol Spiegelman, a cancer specialist at Columbia University.

Moreover, cancer is not one but hundreds of diseases, and "it is likely that progress will be made in different forms of cancer at different rates. Most scientists do not believe that we are likely to have anything like a penicillin for all forms of cancer," stated Dr. Carl Baker, current director of the National Cancer Institute.

Many scientists also feared that a separate agency would be a giant step toward dismantling NIH because other institutes would press for independence. Indeed, the American Heart Association has already served notice that if cancer is put into a separate agency it will seek similar status for heart diseases, which kill twice as many Americans annually as cancer.

"OILING" THE MACHINERY

Based on the testimony, Rogers and his subcommittee found no major scientific case for separatism. The most judicious balance between fundamental and applied research seemed to be offered by intensifying the cancer effort through the NIH machinery. "Let us oil it and refuel it and shift into high gear to win the race against cancer," said Dr. Phillip Lee, former assistant secretary of health and scientific affairs at HEW.

The Rogers bill provides the "oil" by streamlining the lengthy administrative process that bothered the Panel of Consultants. The cancer institute is accorded special status, allowing the director to speed up the procedure for approving research grants and to send his budget directly to the President;

officials at NIH and its parent department, HEW, could make comments but not changes. Because of the President's desire to oversee the program, a three-man watchdog panel would monitor the cancer institute and report to him.

The House bill authorizes $1.5 billion over the next three years (the Senate bill left funding opened), adds 15 more clinical research centers and reinstates the cancer control programs that were financially phased out a year ago (these include Pap tests for cervical cancer, breast cancer detection, and personnel training). Without making false promises that a speedy cure is in the offing, the Rogers bill represents a significantly enhanced commitment to cancer research.

The Rogers subcommittee, including the three Republican members, stood firmly behind their position, despite last-minute lobbying for the Senate approach. A Citizens Committee for the Conquest of Cancer, cochaired by Dr. Farber, and backers of the American Cancer Society sponsored a $56,000 advertising campaign in three major city newspapers and 21 home papers in subcommittee members' districts. In addition, the Cancer Society's Washington lobbyist, Col. Luke C. Quinn Jr., himself stricken with cancer, made phone calls from his hospital bed to try and get subcommittee members to reverse their stand. But the Rogers bill moved easily from committee to House, where it passed two weeks ago, 350–5.

A House-Senate conference on the two bills is scheduled for this week, but the final collision of the measures is more likely to produce a dull thud than a hard-hitting clash. Through his health adviser, Dr. James Cavanaugh, who helped engineer both the Senate compromises and the final House bill, and through Rep. William Springer (R-Ill.), ranking Republican on the Commerce Committee, which cleared the Rogers bill, President Nixon is now giving tacit approval to the House version. American Cancer Society sources privately indicate that they, too, find the Rogers bill acceptable, though they formally favor the Senate version. All this should help the Rogers position prevail in conference.

Whatever the final language of the measure, the congressional battle itself has been of considerable benefit. It should make clear to the public, on the one hand, that it cannot expect instant cures to cancer—and that Congress, anyway, cannot legislate the remedies. On the other hand, it should serve as ample reminder to scientists that the public has a deep stake in their research, and that it will not tolerate for too long the ivory tower attitudes that sometimes do creep into their work. The scientists will have to give a convincing performance that they are, indeed, progressing toward practical payoffs.

HOW OUR NAVY "SHOWS THE FLAG" IN ECUADORIAN WATERS

(Mr. VAN DEERLIN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. VAN DEERLIN. Mr. Speaker, our fishermen continue to play a losing game in Latin American waters, thanks to the megalomanic claims to territorial limits of some of these alleged good neighbors.

As is well known, our own Government has been sluggish in its response to the high-handed acts of piracy so regularly perpetrated against U.S.-flag fishing boats with the temerity to exercise their right to operate in these waters.

So far this year, 50 of these vessels have been seized by Ecuador alone, 23 of them in the past 3 weeks. All these boats operating beyond the 12-mile limit recognized by the United States and most other seafaring nations, but all apparently were within the 200-mile reaches claimed so extravagantly by Ecuador and six other of the minipowers to the south.

Our fishermen are used to this sort of treatment, but even so they have always tried to cooperate with our Government in its efforts, thus far unavailing, to negotiate a settlement in the fishing rights dispute.

In return, one would think, Mr. Speaker, that the fishermen should be able to expect at least a consistently decent show of concern for their plight from our State and Defense Departments, and any agencies with a piece of the diplomatic action in those troubled waters.

The fishermen, after all, are pawns of the policies—such as adherence to the concept of a 12-mile limit—which we are trying to promote down there, and on that basis alone they deserve special consideration.

So the news, last week, that one of our U.S. submarines, the *Blackfin*, was paying a "good will" visit to Ecuador at a time when U.S. tunaboats were being held in another Ecuadorean port came as a particular shock.

One group of U.S. sailors partied with the Ecuadoreans, while other groups—those who sail for a living—sweated out the release of their ships.

This seemed a bit much, even for the namby-pamby world of statecraft.

Imagine, if you can, the chagrin felt by crews of these vessels when they spotted the submarine on her way out to sea from the friendly visit. For years the fishermen have been seeking the protection of our Navy, but here all they got was contempt—or at least total indifference—to their problems.

Who in our Government would authorize such a courtesy call, by a U.S. Navy warship, in the face of the repeated and criminal indignities heaped upon our fishermen? And could we expect a repeat of this type of visit?

The answers, naturally, have been slow in coming.

But today I receive word from the State Department that future proposals for courtesy calls to Ecuador and Peru, another nation with a penchant for piracy, will be subject to higher level review in the State Department than has been the case in the past.

I assume and hope this new caution reflects increased sensitivity on the part of our officials to the distress of our fishermen. In the past, such visits by U.S. Navy ships could be authorized by our Ambassador to the country to be visited. But under the new arrangement for Peru and Ecuador, such calls will ultimately have to be approved by State Department headquarters in Washington before they can be carried out. The same precautions have been taken for some time in the case of visits to Chile, because of the political situation in that country.

While I am pleased by this slight action, I must repeat my demand for the recall of nine Navy ships now on loan to Ecuador. To permit the Ecuadoreans to retain these ships, some of which have actually been used in making seizures, seems the height of absurdity, and a gratuitous insult to the fishermen.

At this point I shall include a pertinent editorial published November 22 in the San Diego Union, and an article from yesterday's New York Times:

Piracy Calls for Stern Action

By now it should be apparent that the issues in the so-called "tunaboat war" in international waters off Ecuador go deeper than money, sovereignty or fishing rights.

No nation could have been more patient and understanding than the United States of America about the outright maritime robberies that have been pursued along the South American coast since 1952 by nations that claim a 200-mile maritime limit.

We have tried to discuss the matter bilaterally and in the international arena. We have pleaded, threatened, paid ransom, even withheld a little military aid as a persuader. These steps have served only to embolden the brigandage, as the seizure of more than 40 American tuna vessels by Ecuador this year alone exhibits. Now the tempo is increasing, and our inaction has encouraged other South American nations to participate in the lucrative "piracy."

Apologists remind us that the United States is a large, rich and powerful nation, one that can turn the other cheek to gnat stings, or write the ransom off as a sort of international welfare program.

It is becoming plain, however, that while we may at times turn the other cheek, we simply cannot continue to expose our heart.

In this case international law, equity and tradition are all on the side of the United States. Pure reason supports us, too. If, for example, we established a 200-mile maritime sovereignty on our own part, we could claim that Cuba lies in our territorial waters—and vice versa. If every nation did the same, there would be a chaotic effect on commerce—not to speak of peace—throughout the world.

It is plain that we must act—now—to put an end to this behavior that hurts us more with each passing day. We can begin by enforcing federal laws which require withholding of aid and military equipment from nations that illegally seize our ships. Additionally, we can escort our tuna fishermen with armed Navy vessels, leaving no doubt but that we mean business—just as the British meant business when they furnished naval protection for their fishermen off Iceland, and as the French did when they protected their shrimp fleets in the Gulf of Mexico.

Undoubtedly our action would generate a great outcry from the Communists. So be it. The United Nations might pass a resolution condemning the United States. So be it. The Latin American nations affected might threaten to expropriate private U.S. properties. Whom would that hurt most in the end?

These reactions are all unimportant—outweighed, in any event, by our obligation to protect American citizens on the high seas. Beyond this, however, our resolute conduct might well regenerate a few great qualities that have been lacking in the United States in recent years—pride, courage and a real sense of national purpose. There is a reward that exceeds all valuation.

"Tuna War" Stand of Navy Assailed

(By Everett R. Holles)

San Diego, November 27.—The Navy was criticized here this week because the officers and men of a United States submarine were entertained for three days as the "goodwill" guests of the Ecuadorian Navy at a time when the latter's gunboats were seizing American tuna boats off that country's coast.

Capt. James Varlay of Submarine Flotilla One here said it was "sort of an accident" that the submarine Blackfin was visiting Guayaquil last weekend while several American tuna seiners were under guard in the nearby port of Salinas after being seized 60 to 120 miles off shore.

In the last 18 days 23 American tuna boats—most of them out of San Diego—have been seized by the Ecuadorian Navy to enforce that country's claim to territorial sovereignty up to 200 miles at sea.

Many of the seizures have been carried out by naval craft acquired by Ecuador from the United States, either on loan or as outright gifts.

The Blackfin's friendship visit to Guayaquil with State Department blessing came as owners of the California-based fishing fleet were renewing demands that the Navy provide them with armed escorts.

VISIT CALLED COWARDICE

An official of the American Tuna Boat Association described the Blackfin's visit as "an act of timidity and cowardice in the face of this escalating high seas piracy."

Representative Lionel Van Deerlin, Democrat of California who lives in San Diego, said he was "flabbergasted" by the visit. Mr. Van Deerlin has proposed that nine United States Navy vessels on loan to Ecuador and reported to have been involved in the seizures be recalled by this country.

Captain Varlay said the Blackfin's call at Guayaquil following similar stops at Nicaragua and Colombia, had been scheduled long before the new outbreak of the "tuna war" and had no connection with the seizures.

Last Tuesday, immediately following the submarine's departure from Guayaquil for a visit to Peru, the 600-ton tuna seiner Vivian Ann was fired upon and seized 60 miles from shore. Two other American ships were seized later that afternoon.

Just before the Blackfin's visit, Robert H. Finch, Counselor to President Nixon, was in Quito for two days at a meeting of the Pan American Highway Conference and talked for eight hours with Ecuador's President, José María Velasco Ibarra, and other officials about the ship seizures. No understandings appeared to have been reached. Ecuadoran officials have insisted that their position is "not open to negotiation."

There were seizures of American tuna boats the day before Mr. Finch's arrival in Quito and others after his departure but none during his stay there.

$2 MILLION IN FINES

The recent seizures brought to 50 the number of American tuna boats seized by Ecuador this year and released only after payment of fines and penalties aggregating some $2-million.

Ecuador's Navy is reported to receive 76 per cent of the fines. They are levied at five times the normal $20-per-ton fee that Ecuador requires for a license to fish within 200 miles of its coast.

The fine is doubled for a second seizure and the American skippers have been threatened with confiscation of their ships for a third violation.

The American tuna fishermen say they refuse to purchase Ecuador's fishing licenses on advice of the State Department lest recognition be given to Ecuador's territorial claims.

Short of armed convoys, the tuna fleet owners are pressing for new and stronger economic sanctions against Ecuador. The State Department earlier this year was authorized to deduct the amount of the tuna boat fines and penalties from United States foreign aid allocations to Ecuador.

The Senate Commerce Committee this week held hearings on a House-approved bill that would make such recovery of the fines mandatory. The fines are guaranteed and paid by the United States Government by arrangement with the tuna fleet.

FRAUD PERPETRATED BY PRICE COMMISSION ON TENANTS IN NEW YORK CITY

(Mr. RYAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RYAN. Mr. Speaker, while the House was in recess, the Price Commission blew a large hole in the so-called economic stabilization policy by exempting from the freeze rents in New York City apartments which had been subject to the freeze up to that point but now face rent increases of 7.5 percent as of January. This was an outrageous fraud perpetrated upon the tenants in New York City.

One of the most outrageous aspects of the Price Commission's decision of November 22 is the fact that it violated its own previously announced procedures. On November 12 the Price Commission announced that guidelines for rents would be developed after consultations with the rent board, which was to be appointed. In the interim the freeze on rents was to continue.

Then, last Monday, after a series of meetings with New York City real estate interests, the Price Commission announced that private, rent-controlled apartments would no longer be subject to the Federal freeze when there were local rent control laws. This decision was made before the rent board had been appointed. To attempt to cover this discrepancy, the appointment of the members of the rent board was announced the next day. So the rent board was appointed the day after the rent policy was announced. This is a most reprehensible charade, played out at the expense of the tenants in New York City's 1.3 million rent-controlled apartments. For they will now be subject to rent increases of 7.5 percent per year, under a local New York City law which was passed before the administration's economic stabilization program was initiated. This is, of course, exactly what the New York City real estate interests wanted.

During this entire period of economic stabilization I have attempted to forestall such a grossly unfair circumstance from arising.

On September 28, I introduced H.R. 10945, with cosponsors, which would freeze rentals and carrying charges by statute.

On October 28, I urged the Chairman of the Cost of Living Council to continue the freeze on rents by administrative action throughout phase II of Economic Stabilization.

On November 3, I again wrote Secretary Connally urging that there be adequate tenant representation on the rent board, so that decisions rendered would be fair to tenants.

And on November 22, I telegraphed Dr. Jackson Grayson, Chairman of the Price Commission, urging that no decision on rents be reached prior to appointment of the rent board, and urging further that no decision on rents be rendered without consultation with tenant groups and other concerned parties.

And yet the Price Commission has acted in arrogant disregard of tenant interest and in flagrant violation of the Commission's own procedures. This decision should be rescinded forthwith. The rent board must be consulted on rent policy, and representatives of tenants' organizations as well as concerned public officials should be allowed to present their views before a final rent policy is formulated.

APPLAUSE FOR DR. BUTZ

The SPEAKER pro tempore (Mr. BROOKS). Under the previous order of the House, the gentleman from Illinois (Mr. FINDLEY) is recognized for 5 minutes.

Mr. FINDLEY. Mr. Speaker, since President Nixon nominated Earl Butz to be Secretary of Agriculture, much has been said about why he should not be confirmed for that Cabinet seat. I disagree with those who oppose Dr. Butz. On the contrary, I feel President Nixon could search the country wide and not find a man better qualified for the position.

I have written Senator TALMADGE expressing my total support for confirmation of Dr. Butz. Attached as part of these remarks is a copy of that letter.

Also attached is a statement by Richard B. Ogilvie, Governor of Illinois, and editorials from several publications which, likewise, support Dr. Butz. The statement by Governor Ogilvie expresses the views of the Nation's Republican Governors adopted at their recent conference.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., November 22, 1971.

Hon. HERMAN E. TALMADGE,
Chairman, Senate Committee on Agriculture and Forestry, Washington, D.C.

DEAR MR. CHAIRMAN: As a Member of the House Committee on Agriculture I am, of course, very hopeful that the U.S. Department of Agriculture will have high quality leadership in the future. Therefore, I have followed very closely what is transpiring in the Senate concerning the nomination of Dr. Earl Butz as Secretary.

In my view, Dr. Butz is exceptionally well qualified and will fill the position with distinction. I base this assessment on what I have learned of his education, experience, talents, and commitment.

Few persons could equal his broad formal education and experience in agri-business. When to this is added his exceptional administrative experience in this same field, both in education and government, his credentials are impressive indeed. Dr. Butz's involvement in corporate agri-business adds a new desirable dimension to his experience and therefore to his understanding of farm problems.

Qualities of a more personal nature are also obvious. Integrity, candor, determination, eloquence—these will serve him well in what must be one of the most challenging assignments in public life.

It does not surprise me, and it should surprise no one, that he is not universally applauded. Indeed, it would seem to me unnatural for presidential aspirants of either party who wish to woo the farm vote to miss the chance to find fault with any nominee.

Beyond the question of presidential ambitions, farm legislative policy provokes controversy that inevitably touches the office of Secretary. Everything revealed, so far, in the course of hearings, strengthens my conviction that the nomination deserves prompt consent of the Senate. I am sure that Dr. Butz will fill the position with great honor, devotion, skill, and success, advancing the interests of all Americans and especially farmers.

I hope you will find it possible to make this a part of the hearings.

Best wishes.

Sincerely,

PAUL FINDLEY,
Representative in Congress.

[From the Wall Street Journal]

CLINGING TO THE PAST

Earl L. Butz, President Nixon's choice for Secretary of Agriculture, knows a great deal about the subject. Aside from previous duty in Washington's farm bureaucracy, Mr. Butz has spent a lifetime studying and teaching agricultural economics.

The only objection voiced by some Senators is that Mr. Butz has had ties to corporate farming, through directorships of companies with large agricultural interests. In their view, in other words, he isn't likely to show great enough dedication to saving the small family farms.

Well, saving the family farms has been a pet project of Washington politicians for about four decades now. All sorts of control mechanisms have been built, and they all wind up benefiting chiefly the bigger farmers.

What has been happening, of course, is that farms, like the rest of the economy, have been changing. New and much more efficient machines and methods have been developed, so that even a modest-size farm now requires much more than a modest investment.

In case the politicians haven't noticed, the average farm has steadily gotten bigger, whatever ideas happened to prevail in Washington. Corporations haven't been the only participants in this trend, either; the more efficient family-owned farms have expanded too.

Unlike most of the politicians, Mr. Butz has been a long-time student of this trend. Just conceivably he might be able to help devise federal policies that would not only permit the farm economy to continue to become more efficient but provide help for those farmers who really need it.

[From the Chicago Tribune]

PHONY ISSUE

The holier-than-thou attitude on the part of some politicians is seldom illustrated better than in the ruckus over Senate confirmation of Dr. Earl L. Butz, a Purdue University dean and agricultural economist, as secretary of agriculture. The Senate Agriculture Committee approved Butz's confirmation by a close 8 to 6 vote, and his critics hope his nomination can be defeated by the full Senate.

The critics include Sen. McGovern, the Democratic Presidential hopeful from South Dakota. He sets himself up as defender of the family farmer, while accusing Dr. Butz, who has been associated with agriculture all his life, as an agent for giant agri-business firms which threaten to destroy the family farm. One of the companies Sen. McGovern seems to find so objectionable is International Minerals & Chemicals Corp., of which Butz has been a director and stockholder.

McGovern and other Democratic foes of Dr. Butz, including Sen. Humphrey of Minnesota and Sen. Talmadge of Georgia, chairman of the Senate committee, overlook the obvious fact that International Minerals and other agri-business firms depend on the solvency and success of family farms to stay in business. Family farms, which comprise more than 95 per cent of all farming units in the United States, are their customers or sources of raw materials. The companies can hardly be accused of wanting to destroy what is essential to their businesses.

Aside from that, however, Sen. McGovern has admitted to THE TRIBUNE that he accepted free airplane transportation on two occasions on a jetliner owned by International Minerals. One flight took the senator and his wife to the Virgin Islands, and another took him to Washington from Memphis. The flights occurred in 1969 and 1970 when McGovern was working with International Minerals to promote the Food for Freedom campaign, which benefited family farmers by sending surplus food abroad.

To serve his own purposes, McGovern had no qualms about accepting free plane rides and working closely with one of those giant agri-business firms he finds so obnoxious in Dr. Butz's associations. The senator's own actions point up the hypocrisy of his words.

[From the Chicago Tribune, Nov. 22, 1971]

ANOTHER CONFIRMATION SQUABBLE

While the Senate Judiciary Committee argues over Supreme Court justices, the Agriculture Committee is concluding an equally pointless debate on the confirmation of Dr. Earl L. Butz as secretary of agriculture. Critics accuse Dr. Butz, a Purdue University dean and agricultural economist, of being an agent of "giant corporations that are destroying family farms and driving farmers off the land."

Not surprisingly, efforts to smear Dr. Butz, a Republican, are led by two Democratic Presidential hopefuls, Sen. McGovern of South Dakota and Sen. Humphrey of Minnesota, along with Sen. Harris of Oklahoma, who also had his eye on the White House until recently. Also adding their 2 cents' worth against Dr. Butz are Sen. Kennedy of Massachusetts, who spends much of his time running about the country declaring he is not running for the Presidency, and Sen. Stevenson of Illinois, whom nobody has yet accused of being Presidential timber.

This coterie apparently regards Butz's nomination as a good sounding board on which to further their political aspirations by playing upon the frustration and unrest among farmers over low farm prices and incomes. Their accusations are based largely on Dr. Butz's connections as a director and stockholder in three companies which either produce farm supplies or process food. They refuse to be mollified by his resignations from the directorships, his offer to sell his stock, and his repeated pledges that he would be a vigorous spokesman for agriculture.

Fortunately for the accusers, the nature of congressional hearings precludes their being cross-examined on their charges. The fact is that more than 95 per cent of the nation's farms are family owned and operated, and there is little evidence that they are endangered by a corporate takeover. Indeed, in recent years there have been several spectacular failures among corporate conglomerates that have tried their hand at farming.

Department of Agriculture studies clearly show an increase in the number of family farms with sufficient capital and volume of business to engage successfully in modern agriculture. On the other hand, since World War II there has been a sharp decline in the number of smaller, inefficient farms with not enough acreage, capital, or management skill to compete in an industry undergoing rapidly changing technology.

This decline was at the rate of about 100,000 farms a year during the eight years of the Johnson and Kennedy administrations when Sen. Humphrey's former Minnesota political pal, Orville Freeman, was secretary of agriculture. We didn't hear a single squawk in those days from the Humphreys, McGoverns, et al., about corporations running farmers off the land. Nor did we hear very many complaints from the Democrats in Congress when they helped the Nixon administration put over the Agriculture Act of 1970, under which Dr. Butz will have to operate as secretary.

Both political parties must share the blame for the farmer's plight. As we said the other day on this page, Dr. Butz is a good choice for secretary of agriculture and should be confirmed. But it doesn't make much difference who has the job as long as the politicians in Congress and in whatever administration occupies the White House continue to place politics over economics in trying to solve the farmer's problems.

[From the Journal & Courier (Lafayette, Ind.), Nov. 15, 1971]

RIGHT MAN FOR THE JOB

It is with great pride that the Lafayette community and Purdue University share Dr. Earl L. Butz with the nation.

For more than 30 years, Dr. Butz has been one of our first citizens and now, as the new U.S. Secretary of Agriculture he receives that recognition from the nation.

Dr. Butz is regarded as one of the founders of modern agricultural economics, and he quickly built the Purdue department into a major fount of such knowledge for the world. Students and teachers who studied under him carried his work and ideas afar.

Then, as dean of Purdue's School of Agriculture, he did much to modernize and strengthen this Purdue powerhouse of prestige, research, teaching and service.

And most recently as Purdue vice president for continuing education, Purdue Research Foundation vice president for development, and director of the multi-million Purdue Centennial Fund Appeal, he helped even more to improve the university's prospects.

In the meantime he served during the Eisenhower Administration as assistant Secretary of Agriculture, administering the department's surplus commodities programs; ran for the Republican nomination for governor of Indiana; and headed the state Republican Campaign Finance Committee, raising the amounts needed for the conduct of the 1970 Indiana campaign.

While all of this was going on, Dr. Butz was helping as always with civic and organizational worthy causes, contributing more of his talent and leadership.

So it is a most able, experienced and talented man of rare humor and perspective that President Richard M. Nixon obtains for the nation to handle and solve the pressing and vexing problems of agriculture. That it is a tough job, George Doup, Indiana Farm Bureau president, emphasized when he declared that, "If anybody can do the job, Earl is the man."

Dr. Butz is a trailblazer who for some years has been itching to have a part in taking off the patches and weaving a new fabric of agricultural service and policy. He now has the office. It remains for the Administration, the Congress and the farmers to give him the chance.

His ultimate goal, he says, is a reduction of government involvement in agriculture and a better position for the farmer in the free marketplace.

It is a fitting recognition for a distinguished man and a wise choice for solving difficult problems to place the 61-year-old Dr. Earl L. Butz in this Cabinet position.

One friend, Dr. John Hicks of the Purdue president's staff, said the appointment was "a marvelous climax" for a great career.

But we believe there will be still more deserved recognition for, and distinguished service from, this great fellow townsman. And we look forward to it.

[From the Daily Pantagraph, Bloomington, Ill.]

NO OFFICIALDOM CAN REVERSE FARM TREND OF HALF-CENTURY

The best farm policy for the United States is one which insures that agriculture shares in over-all economic growth and provides job opportunities for low-income rural families.

The naming of Dr. Earl Butz to the post of agriculture secretary (or anyone else, for that matter) will have little impact on the broad problem posed by loss of income and loss of people in rural America. In the recent past, at least, the occupant of the office of secretary of agriculture had relatively little to do with the establishment of farm policy.

The farm policies of the United States are written by the members of Congress who serve on the agriculture committees. The secretary outlines Administration goals. No president since Harry Truman has had an easily understood farm program, one which was translated into new law.

American agriculture will not be reborn, change the course of the last 50 years or die on the vine because Mr. Butz is involved in agricultural industries and the academic community.

Rather, he or anyone else in the job can best represent the producers of food and fibre by playing it straight with the farmer and the rest of us. Playing it straight will require that the Department of Agriculture distinguish between farms and producing farmers. The difference is critical for judging farm programs.

The revolution in American farming—tilling of larger and more productive holdings by fewer and fewer individuals—occurred in spite of, not because of, federal farm policy. Nothing Mr. Butz does can turn things around. Little that he or the government can do can halt continuation of the march to bigness.

Already two out of three American farmers receive more than half their annual earnings from off-farm sources. Off-farm income has increased at a far more rapid pace than farm income.

Even among the commercial farmers, nonfarm income is growingly important. There are about 1.1 million farmers with over $10,000 in annual farm product sales. Together they account for 90 per cent of all cash receipts from farming. Nearly all reported some off-farm income. The lower half, with average total income of $9,660, counted a third of that income as off-farm.

In McLean County in 1969, 24 per cent of farmers worked off the farm 100 days or more, according to the agricultural census. No doubt farm operators and their wives felt the need to supplement incomes, which grew much slower than the incomes of non-farm population in the last decade. But the key to the trend can also be found in the technological breakthroughs that cut deeply into the time required to operate a farm efficiently.

This is the picture of today's farming. The farm industry is not made up of bucolic folk trading farm produce for non-farm necessities. Rural life needs rescuing, certainly. But the effort to preserve rural life, and even turn back the flow to urban areas, requires different programs than do farm matters.

The boosting of farm income through subsidy will not benefit the 1.5 to 2 million small farmers. The bigs will benefit most as they have in the past.

STATEMENT OF RICHARD B. OGILVIE, GOVERNOR OF THE STATE OF ILLINOIS

President Nixon has nominated Dr. Earl Butz to become secretary of Agriculture. Dr. Butz, born and raised on an Indiana farm, has established himself as a distinguished scholar, a tireless public servant, and an articulate spokesman for American agriculture. He has been recognized both here and abroad for his perception and his knowledge of agricultural problems.

In the confirmation hearings now being conducted by the Senate, witnesses are appearing to subject Dr. Butz to the rankest form of character assassination to serve the political motives of the assassins. Most of those who have accused Dr. Butz of being captive of big business interests have failed to recognize that agriculture IS the nation's biggest business. The problems of agriculture are complex. The solution to those problems requires a broad background, training and experience with all segments of agriculture.

Dr. Butz is a strong advocate of the competitive enterprise system. He has said repeatedly that America's commercial farmers are best equipped to manage agriculture and has opposed government management of the nation's farms. Most of those who now criticize him would prefer to turn over the management of American agriculture to the federal government.

Few men have worked harder to improve farm income, and yet Dr. Butz is now being accused of opposing the small farmer. President Nixon has outlined a broad program of rural development which recognizes the complex problems of farmers and farming. He could choose no better man to help solve those problems than Earl Butz.

If farmers want a secretary of agriculture who understands them and can work effectively to solve the farm income problem, they should support the nomination of Earl Butz, and I feel confident most of them do. If the Senate is really interested in American agriculture and its future which has a profound effect on the entire American economy, it will confirm his nomination without delay.

[From the Republican Congressional Committee Newsletter]

VANISHING U.S. FARMS—THE RECORD

"It is a difficult job. I have no illusions about the difficulty of the job. I know you can't possibly please everyone. Even the farm organizations don't agree on most issues."

As a realist, the new Secretary of Agriculture-designate, Earl L. Butz, holds no illusions about a "magic" answer to the farm problem, as he stated to the Senate Agriculture and Forestry Committee at hearings on his confirmation.

Democrats immediately jumped to the offensive. They attempted to exhume rural class warfare—to divide agriculture into the "little man" versus the "giant corporations" and to claim that Butz was "against" the small farmer.

Harkening back to the days when Butz was an assistant to Secretary of Agriculture Ezra Taft Benson, the Democrats claimed that Butz was the architect of a program that has reduced the number of U.S. farms. But the Democrats' charges have been labeled as a smokescreen to hide some embarrassing figures on their party's record on "saving the family-sized farm."

The Democrats had complete control of Congress and the Executive Branch during the decade of the 1960s. During this period, 26 percent, or one in four U.S. farms, disappeared. This was under Democrat-appointed Secretaries of Agriculture and under farm programs enacted by Democratic-controlled Congresses. From 3,962,000 farms in 1960, the figure dropped to 2,924,999 in 1970. Many of these were "family-sized farms" that the Democrats "plowed under," to use their own descriptive terms.

Butz, realistically, has noted that the trend is to fewer and larger farms. Despite the Democrats' attempts to pin the blame on the GOP, the drop in the number of farms has actually come about at a steady pace since World War II. From 6,003,400 farms in 1944 to 2,876,000 farms today, the drop has been steady, regardless of Administrations.

TAX DEDUCTION FOR ADOPTION COSTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. Aspin) is recognized for 15 minutes.

Mr. ASPIN. Mr. Speaker, I am today introducing a bill which is desperately needed by thousands of families wishing to adopt children. This bill allows a deduction of up to $1,500 for the expenses incurred in adopting a child.

The sad facts are that many Americans would like to adopt children, many children are available for adoption; yet the expense is often prohibitive. We should do all we can to encourage adoption, and yet the current tax laws make it difficult for many people who simply cannot afford these expenses.

Under current law a taxpayer is allowed to deduct all of his own and his family's medical costs—including maternity expenses—over 3 percent of his adjusted gross income. But taxpayers cannot deduct expenses involved in the adoption of a child, such as legal fees, which can go as high as $750; medical costs, which may reach $600; and correspondingly steep agency fees. My bill would permit deduction of actual adoption costs, as well as these agency fees and other costs, up to a total of $1,500.

Mr. Speaker, the present system is all wrong. We should be providing real incentives for families to adopt children, not keep costs so high that many people are discouraged from adoption. Today, the number of adoptions lags behind the number of children available. For example, while the number of people trying to adopt a child nearly doubled from 1958 to 1967, the number of children eligible for adoption tripled during the same period. By increasing the number of adoptions, we can also relieve city and State adoption agencies of the high costs of raising a child in foster homes or institutions.

Mr. Speaker, I hope that this legislation will receive full and prompt attention, so that we can begin to provide the type of incentive we need to encourage adoption.

LOUIE WADSWORTH TYPIFIED CONTRIBUTION OF WEEKLY PAPERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. Fuqua) is recognized for 10 minutes.

Mr. FUQUA. Mr. Speaker, an era in American journalism has ended.

Louie C. Wadsworth has retired as publisher of the Suwannee Democrat in Live Oak, Fla., and thus closes a distinguished career of service by an outstanding gentleman.

The weekly newspaper, typified by the Suwannee Democrat, is very much a part of life in these United States. Their impact far exceeds their circulation and their influence is felt far and wide when a paper is in the hands of a dynamic and dedicated newspaperman—men like Louie C. Wadsworth.

His has been a great career of service, leaving a mark of excellence in the world of journalism and in the military.

The one thing that each of his friends has denoted about General Wadsworth is his courage. Many of the things for which he fought for his community have borne fruit and much of the progress of this fine agricultural section came from his innovative approaches to problems and tireless efforts to see his plans become a reality—often in the face of overwhelming odds.

On a more personal note, Louie Wadsworth has been my friend and adviser. He counseled me nearly a decade ago when a very inexperienced young State legislator asked for the opportunity to serve in the Congress.

I could never forget his insight and his predictions that we would win made some of the darkest moments in that stimulating race brighter.

What he did then is typical of what so many others have told me about this fine gentleman.

He was one of those who first supported a young man for Governor before World War II, when most people knew very little about that candidate. That man won the governorship and went on to become the greatest statesman our State has produced—the late U.S. Senator Spessard L. Holland.

Florida's commissioner of agriculture, Doyle Conner, had his support in a race when only a few papers supported him. Now my friend and colleague, LAWTON CHILES, has been the recipient of his support—again and again Louie Wadsworth has taken those candidates he believed in, and time and time again he has been proved to be correct in his analysis.

In 1966, I had the opportunity to join in paying tribute to General Wadsworth as he retired as a major general in Florida's National Guard. He established a record of service in the military that will serve as an example for years to come for members of that Guard.

Perhaps the most fitting tribute of his life came when the National Guard named its handsome new armory in Live Oak in his honor.

A man of integrity, vision, courage, and ability. What tribute can we pay a friend? It is this—he has been my friend and my life has been richer because of his friendship.

A dedicated newspaperman, he spent most of his adult life in the service of the Suwannee Democrat. A strong belief in public service and love of his country have permeated his years as head of one of Florida's oldest and most recognized weekly newspapers.

A firm believer in publishing a weekly newspaper that the people it serves will respect, support, and have confidence in has been his philosophy as a journalist.

In response to an inquiry regarding the publication of a weekly paper sometime ago he noted:

> I believe the community does not owe its newspaper its support, but rather prefer to believe that a newspaper owes a responsibility to the community it serves. The more successful the newspaper, the greater this responsibility becomes . . . I believe that a newspaper should have a strong editorial policy that deals with issues and not personalities. A newspaperman should use his influence to see that policies of his newspaper are adopted and should never dodge his community service responsibility. Properly handled, a newspaper can be a powerful force in a small community and a publisher should strive to see that his newspaper is just that.

Under his leadership, the Suwannee Democrat has been cited with most of Florida's major weekly newspaper awards, but more important has been in the forefront of activities which lead to the progress of the county and its people. A review of issues over the past years will reveal a strong and fervent interest in the development of this county and the providing of progressive movements for its people.

Born on May 30, 1906, in Mayo, he moved to Live Oak at the age of six and has made his home here since that time with the exception of the time spent in college and in the armed services.

The son of Mrs. Nellie Wadsworth, of Live Oak, and the late Charles Randell Wadsworth, Sr., he attended Suwannee High School and graduated with the class of 1924.

Following graduation, he entered Davidson College in North Carolina and was graduated in 1929.

While in college he received the Gold Quill Award for outstanding work on the college newspaper, which foreshadowed the profession he was to enter in later years. He gained his degree in political science and was a member of Theta Upsilon Omega social fraternity and served as manager of the basketball team.

Following graduation, he worked for the Addressograph Co. for 1 year as a salesman and returned to Live Oak in 1930.

In January of 1931 he became editor of the Suwannee Democrat and has been connected with this paper since, with the exception of the years spent in active service during World War II.

He began his military service in 1923 when he joined the Live Oak National Guard and rose to the rank of second lieutenant when he was called into active Federal service in November 1940. He was promoted five times through the ranks and was separated with the rank of colonel on April 26, 1946, the same day he purchased the Democrat from C. P. Helfenstein.

He served as president of the National Guard Officers Association in Florida in 1950. As I noted at the outset, he retired as a major general after a brilliant career of leadership and service.

The Suwannee County Chamber of Commerce is another organization which claimed much of his time and energies. He served two terms as president in 1954–55 and 1955–56. During this time he saw the chamber grow to a record membership with an unprecedented number of projects undertaken.

For his service in this position, in addition to long years of community service, he was named the "Man of the Year" for Suwannee County for 1955.

One of the organizers of the chamber in 1946, he served as a director for 11 years.

Another primary interest in his civic life was his membership on the board of trustees of the Suwannee County Hospital, a position he has held for many years beginning in 1953. In those years he saw much progress made in adding new facilities for the care of the people of the area, and delighted in an expansion program that kept the hospital second to none in the country among small county hospitals.

He is a member of the Kiwanis Club and has been active in various other civic groups. He served as lieutenant governor of the Florida District of Kiwanis Clubs.

He served as president of the Rotary Club in 1938, and was president of the Junior Chamber of Commerce in 1940. He served as commander of the Suwannee Post 107, American Legion, in 1951.

One of his continuing interests has been the Suwannee County Fair, having served twice as president. He was one of the founders of the fair.

He served as postmaster in Live Oak from July of 1947 to September of 1948.

In 1956, he served as chairman of a county commission-appointed committee to construct the coliseum for large public gatherings and events.

The publication of the Suwannee Democrat and the operation of its plant, however, was his primary interest and concern through the years. Active in the Florida Press Association, he served as president in 1948–49, and served for 11 years as a director of the association.

As publisher of the paper, he directed the Suwannee Democrat to a position of high regard among the press of Florida.

He also published the Dixie County Advocate in Cross City, the Mayo Free Press in Mayo, and the Branford Herald for Branford, for a number of years.

The Wadsworths make their home on the corner of 11th Street and Pine Avenue in Like Oak. He is married to the former Miss Clara Staley of Live Oak, and they have two married daughters, Mrs. Gayle McCrimon of Live Oak and Mrs. Charlotte Casey of Lake City.

Perhaps the greatest source of pride are five grandsons—all active and inquisitive youngsters who continue to make life exciting.

This month, Louie Wadsworth turned the reins of the Suwannee Democrat over to Danny McCrimon, his son-in-law, and Walter Lee Olive.

Now he can enjoy the rest which he so richly deserves.

Might I say that I feel I am speaking here not only for myself, but for so many others who know of the inner man, who have benefited by his counsel, who have been inspired by his example.

Those of us who have been privileged to know him count it as a rare privilege, and for them and for myself, might I make this sincere tribute to him for a life well spent in service to others.

The world is richer because of what Louie Wadsworth was able to accomplish.

WHEN IS A PROMISE NOT A PROMISE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. PODELL) is recognized for 30 minutes.

Mr. PODELL. Mr. Speaker, the recent disclosure that the United States would refuse Israel's request for additional supersonic Phantom jet planes on the basis of a State Department finding that the balance of power has not changed in the Middle East is a serious disappointment to all of us who are concerned about Israel's national security.

If, as Clemenceau said, war is too important to be left to the generals, then pursuit of a lasting peace in the Middle East is too vital to be left to the Arabists who occupy positions of power in our State Department. One wonders how evenhanded these specialists can be after spending their foreign service careers almost exclusively in Arab countries. It may also be questioned how evenhanded the State Department as a whole can be in view of the influence exerted upon the Department continuously, over the past half century, by the silver-tongued lobbyists of the oil industry—an industry which quivers when any official in the Arab world raises his voice.

I too favor the use of quiet diplomacy to achieve a solution to the Middle East crisis. Certainly, diplomacy is preferable to a contest of arms. But quiet diplomacy is not doing its job when it is used to quiet the truth and to endanger Israel, America's only true friend in that troubled part of the world.

For 23 years, the Israelis have defended themselves from Arab aggressors who seek their destruction. Throughout her existence, by contrast, Israel has sought as her first priority a lasting peace with her Arab neighbors. This remains Israel's goal today.

But the issue is no longer an insulated Arab-Israeli conflict, as it was 4 years ago during the unforgettable 6-day war. Israel today faces the most up-to-date Soviet jet aircraft, flown by Russian pilots and serviced by Russian technicians. All of Egypt bristles with the latest Soviet missiles manned by Soviet personnel.

Three times during the last 23 years, Israel has shown how well she can fight to defend herself. Unlike the South Vietnamese, Israel does not need American combat soldiers to assist her, nor does she want them. What Israel does need is the right to purchase American military equipment with which to defend herself against her enemies.

In 1968, during his campaign for the Presidency, Mr. Nixon declared his firm and unqualified support for Israel's position in the Middle East. He stated:

> Israel must possess sufficient power to deter an attack. As long as the threat of an Arab attack remains imminent, sufficient power means the balance must be tipped in Israel's favor.

Then he continued:

> We support Israel because we oppose aggression in every form. We support Israel because it is threatened by Soviet imperialism, and we support Israel because it offers hope in the Middle East. . . . Israel cannot afford to lose even once.

Unfortunately, although Mr. Nixon asserted that his administration would support Israel in the hour of her need, the past 3 years have been marked by postponements and other delaying games in response to urgent Israeli requests for military assistance.

During this period, the military balance of power in the Middle East, without a shadow of doubt, has tilted precariously in favor of Israel's opponents as the leaders of the Soviet Union have embarked on a major program of rebuilding and modernizing the shattered Arab military machine. The Soviets have supplied Egypt with some of the most sophisticated weapons in Moscow's arsenal, including self-propelled SA-4 and SA-6 missiles, Sukhoi 11's, Mig-23 and Badger bombers and other offensive instruments of mass destruction.

The Israelis are especially concerned about the recent supply to Egypt of nine Soviet long-range bombers of the Tupolev-16 type. With this latest consignment, Egypt now is believed to have some 25 such bombers. These Tupolev-16 planes are fitted with air-to-ground rockets with a range exceeding 60 miles.

They are a low-flying aircraft which can come close to an opponent's lines without being detected by conventional radar. These rockets which the Soviets have so far supplied are of the type code-named "Kennel" by NATO. They have nonatomic warheads weighing about a half-ton each. The mere presence of this potent weapon in the Egyptian arsenal increases the burden of the Israeli Air Force, regardless of whether fighting is in progress.

In addition, the Soviets have supplied the Egyptians with a number of Russian-made 203-millimeter long-range guns with high destructive power which are part of the Egyptian arsenal on the Suez Canal front. At present, the strength of Egyptian troops on the Suez Canal front is estimated by Israeli sources at six or seven troop divisions of 11,000 men each. They are believed to be equipped with 1,000 pieces of artillery and slightly less than 1,000 tanks.

Soviet leaders Brezhnev and Kosygin are not pursuing an "even-handed" policy in the Middle East, Unlike the United States, which seeks an accommodation between the warring parties, the Soviets are eager to "keep the pot boiling" in order to make possible the continued expansion of Soviet influence in the Eastern Mediterranean. The presence in Egypt of some 20,000 Soviet personnel along with sophisticated Russian military hardware is an unmistakable indication of Communist intentions in this corner of the world.

As a result of the combination of repeated American delays and steady Soviet shipments, Egypt today possesses more than twice as many aircraft as Israel and more than three times as many supersonic planes. Clearly, contrary to State Department utterances, the balance of power in the Middle East which previous administrations have labored to preserve has obviously shifted in the direction of Egyptian superiority.

Elated by extensive Soviet military assistance, Egyptian President Sadat recently told his people that war with Israel was inevitable. His statement followed closely on the heels of his return from a visit to Moscow, where, upon his departure, the Russians and Egyptians issued a joint communique stating bluntly that the two nations had agreed on "measures aimed at strengthening the military might of Egypt."

Israel is a Western-oriented multiparty democracy, a nation that has had a close and lasting friendship with the United States. In contrast, the Arab nations are controlled by anti-American dictators who, despite their abundant natural oil resources and the military assistance received from the Soviet Union, have failed to shatter the glass of antiquity and enter the 20th century in such vital areas as education, industry, health care and even agriculture.

Israel's current conflict with Egypt and the Soviet Union, combined with Israel's proven readiness to sacrifice her own blood and treasure, calls for the extension of the Nixon Doctrine to the Middle East. First enunciated at Guam and explained in the President's State of the World message a year ago, this doctrine states:

> We shall provide a shield if a nuclear power threatens the freedom of a nation allied with us, or of a nation whose survival we consider vital to our security and the security of the region as a whole.
>
> In cases involving other types of aggression, we shall furnish military and economic assistance when requested and as appropriate. But we shall look to the nation directly threatened to assume the primary responsibility of providing the manpower for its defense.

Israel qualifies, under that doctrine, for American help and support—not only against her Arab foes, but against the Soviet Union as well. For the sake of preserving the balance of power in the Middle East, the United States should supply Israel with Phantom planes and whatever other military assistance this valiant little nation needs to defend herself against the array of forces that have sworn to end her national existence.

THE BUSINESS OF GIVING

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ROSTENKOWSKI) is recognized for 10 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, retarded children will have it a little better next year thanks to Cheri Marek and the Mentally Retarded Olympian Program, Inc. Cheri is studying at MacMurray College in Jacksonville, Ill., on a scholarship provided her by the Olympian program. Out of 300 applicants from a dozen colleges and universities throughout the State of Illinois, Cheri was selected as one of three award recipients to be granted a full-year scholarship to study special education.

When she entered MacMurray College, Cheri wanted to teach.

> I had always enjoyed working with children and teaching seemed like an acceptable thing to do.

But, not long into her freshman year, Cheri began volunteer work at the Pathway School for the mentally retarded in Jacksonville.

> It was a mere three hours a week, which quickly became a focal point in my life.

Cheri has a realistic view of her approaching career—she calls it "educational equality."

> A disadvantaged child cannot be placed in a class with the so-called normal children. They cannot achieve at the same levels. To pressure the disadvantaged child beyond his physical or mental capabilities is emotionally detrimental . . . If you expect too much from

a handicapped child, then you are defeating the expressed purpose of Special Education. And, if you expect too little, the child may fail to progress to the point of becoming self-dependent and a useful member of society.

Behind this new scholarship program is the Mentally Retarded Olympian Program Inc., and its president John McHugh.

Since 1968, the Olympian program has entered 3,500 retarded athletes in national competition and countless numbers in local and State competition. From the 50-yard dash, to exhibition diving contests, these children are given the unique opportunity to exhibit their talents and skills in rewarding competitive games. In mid 1972 the Olympian calender will expand into the arts, sponsoring competitions in music and crafts.

Mr. McHugh and his program have, with the aid of the Joseph P. Kennedy, Jr. Foundation, opened doors wide for mentally retarded children and special education. These children who "love without hate and share their joy and pride unselfishly," are a valuable resource in this country and, as yet, a shamefully untapped resource.

I am proud that Chicago is the home of the Mentally Retarded Olympian Program, Inc. I am proud to be associated with Jack McHugh and his fine work.

Mr. Speaker, it is good to note, on occasion, that the business of giving, thrives.

CONGRATULATIONS TO DR. ROBERT R. MARTIN

(Mr. PERKINS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PERKINS. Mr. Speaker, on November 9. the American Association of State Colleges and Universities inaugurated as its president a distinguished educator from my home State of Kentucky.

Dr. Robert R. Martin is president of Eastern Kentucky State University in Richmond, Ky.

For nearly 40 years, he has worked in the service of education in our State, having served as a teacher, a school administrator, as the elected State Superintendent of Public Instruction, and as Commissioner of Finance in the administration of former Kentucky Governor Bert T. Combs.

Dr. Martin is no ivory-tower educator, but a man dedicated to his profession and accustomed to the hard, nuts-and-bolts, knuckle-skinning task of making theories work in the classroom and in the laboratories—and more importantly, in the practical, workaday world of men.

I would like to share with the House some of the press comment from Kentucky newspapers on Dr. Martin's latest recognition as president of the American Association of State Colleges and Universities:

[From the Richmond (Ky.) Daily Register, Nov. 5, 1971]

EKU PRESIDENT TO HEAD NATIONAL ASSOCIATION

Dr. Robert R. Martin, president of Eastern Kentucky University, will become president Tuesday of the American Association of State Colleges and Universities during its annual meeting at Denver.

Dr. Martin, who has served one year as president-elect of the association, succeeds Dr. Darrell Holmes, president of East Stroudsburg (Pa.) State College.

The incoming president has also served as a director of the association and as chairman of its Committee on Federal Relations. The association has a membership of 275 colleges and universities representing a total enrollment of more than 1.7 million students.

The membership spans the U.S. and reaches to Guam and the Virgin Islands. Representing about 25 per cent of college and university students, the Association is made up of state supported institutions, most of them former teachers' colleges.

[From the Lexington (Ky.) Herald, Nov. 8, 1971]

HONOR FOR DR. MARTIN

Nearly 40 years ago Dr. Robert Martin began an educational career as a high school history teacher in Mason County.

On Tuesday he will become president of the American Association of State Colleges and Universities—an organization of 275 colleges and universities.

For Dr. Martin it will be the high point of a long and distinguished career which has seen him rise from teacher to state superintendent of public instruction to president of Eastern Kentucky University.

Dr. Martin's leadership and drive, as well as his business and financial management skill, have turned Eastern into a large, sprawling university of which all Kentuckians can be proud.

We congratulate him on his new lofty position. May his tenure be as successful.

[From the Sunday Herald-Leader, Sunday, Nov. 14, 1971]

THE RISE OF DR. MARTIN

Our congratulations to Dr. Robert R. Martin, Eastern Kentucky University president who has become president of the American Association of Colleges and Universities.

Dr. Martin is a brilliant man—one whose imprint as an educator and leader lies heavily on the teeming and orderly campus of Eastern.

By intelligence and good judgment he has risen to university president from a high school teacher's job in Mason County during the depression years.

He long has been an education leader in Kentucky and through his important job his influence can become more widespread and more widely beneficial.

[From the Courier-Journal, Louisville, Ky., Nov. 10, 1971]

MARTIN TAKES HELM OF NATIONAL GROUP

(By Richard Wilson)

Eastern Kentucky University President Robert R. Martin, 60, who began his career in education nearly 40 years ago as a high-school history teacher, last night became the national president of the association whose member institutions produce nearly half of the nation's public-school teachers.

He was installed for a one-year term as head of the American Association of State Colleges and Universities at the group's annual meeting in Denver.

He assumes the presidency at a time when the association's 282 member schools, enrolling 1.8 million students, are striving for a new identity.

The association's schools—located in 46 states, Guam, the Virgin Islands and the District of Columbia—have evolved from state teachers' colleges into regional universities and state colleges.

Now they are trying to find an expanded role amid the nation's rapidly growing community colleges, private colleges and the more prestigious and larger multi-purpose state universities.

DISAGREES WITH CRITICS

"We think of ourselves as institutions that can have increased roles in public service," said Martin in a recent interview. He said the association's institutions vary in size from still-small teacher-oriented colleges to large urban universities.

Goals will differ according to each school, but Martin said the association will continue to be concerned primarily "with improving the quality of teaching and research and public service focused on this mission."

He scoffed at critics who contend the state colleges and regional universities are headed toward becoming carbon copies of the larger state universities.

"The larger universities are going to have a tremendous component of research, but if we restrict ourselves to the improvement of teaching, related research and public service, that may be enough distinction for us," he said.

He stressed that this does not mean the schools will not be adding or expanding programs. He explained that colleges in the association undoubtedly will continue producing a large number of teachers, but that they will also be graduating students in such newer areas as urban affairs, law enforcement, environmental science and allied health.

In addition, he said, he hopes they also will offer expanded opportunities in fields which require less than four years of college training.

Martin, a former state superintendent of public instruction and Kentucky finance commissioner, is optimistic about the future of the association's member schools, but he also concedes that they must contend with numerous problems.

Top priority, he said, must go to finding adequate funds to meet escalating educational costs.

The association and other national higher-educating groups are hoping for new federal legislation providing general aid to the nation's colleges and universities.

IMPROVED CURRICULA WANTED

Although the government already provides large sums to colleges in research grants and other special aid, it has never before provided operating funds for institutions to use at their own discretion.

Martin said colleges also must focus more attention on improved curricula and career advising programs for students, adding: "We've got to deal with students in an effective way so they can make the best use of their time and find their best career choice."

His association post will not require Martin to relinquish any of his presidential duties at Eastern. He says the post will only require "nominal leadership," primarily because the association has a full-time Washington staff and a permanent executive director.

But the post will thrust the Eastern chief into the national spotlight as head of the agency that presently educates about 25 per cent of the nation's college and university students.

FREQUENT EFFORTS TO WEAKEN GUN CONTROL LAWS

(Mr. BINGHAM asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BINGHAM. Mr. Speaker, efforts to weaken the Federal gun control laws have been frequent since the Congress passed the Gun Control Act of 1968. In 1969, ammunition used only in long guns was exempted from provisions of the law which require records to be kept of all ammunition sales. In 1970, and again this year, the Ways and Means Committee has reported legislation (H.R. 3599) to further exempt .22 caliber rimfire ammunition, which is used in both long guns and handguns, from these important recordkeeping requirements.

I strongly opposed the .22 rimfire exemption bill in 1970, and have informed all Members of the House that I intend to oppose it again this year. House consideration of H.R. 3599 was scheduled for November 15, but the bill was unexpectedly removed from the agenda without explanation.

Anticipating that this legislation will be rescheduled and will yet be acted upon in the remaining days of the current session of the Congress, I want to outline my case against the bill in some detail so that all Members will have ample opportunity to reflect on it.

Proponents of H.R. 3599 say it is justified because the information required to be recorded on .22 rimfire ammunition sales has "never led to a successful investigation and prosecution of a crime." The committee report quotes an unnamed Justice Department official to that effect, and also refers to a Treasury Department statement indicating that in no instance had ammunition sales records "been helpful in law enforcement."

Such a claim, of course, infers that Federal and other law enforcement agencies have made a real effort to make use of the records of ammunition sales for criminal investigations and prosecutions. I have information from the Treasury Department indicating that such is not the case. In response to a letter from me dated January 12, 1971, inquiring to what extent the Treasury Department has attempted to use the data on .22 caliber ammunition purchases in the investigation and/or prosecution of suspected criminal activity, I received a letter dated February 8, 1971, signed by Samuel R. Pierce, Jr., general counsel. In that letter Mr. Pierce indicates that all but three of the 22 branch offices of the Alcohol, Tobacco, and Firearms Division of the Internal Revenue Service indicated that they have made no such attempt. Furthermore, in response to another letter from me on this matter, Deputy Attorney General Richard G. Kleindienst replied on February 5, 1971, that: "No facilities have been developed, or are planned, to permit ammunition records to be stored and retrieved so that they may be used for the investigation and/or prosecution of suspected criminal activity," and the Treasury Department confirms that.

The Treasury letter says:

> There have been no facilities developed and none are planned by the Internal Revenue Service concerning the storage and retrieval of ammunition transactions. The recording of information concerning ammunition transactions in the records of the licensed dealer does not become the property of the Federal Government but remains the property of the dealer. The records are not collected at any location or locations nor is there any intention to accumulate them at any central location.

How does the Federal Government know that .22 caliber ammunition records are worthless for law enforcement if they have made virtually no attempt at all to make use of those records? It seems to me that what has happened here is that certain policy makers in the executive branch have seen fit to assume that these records are useless, and have proceeded to make that a self-fulfilling prophesy by making no effort to utilize the records systematically in law enforcement.

Indeed, Mr. Speaker, there is evidence that when efforts have been made to make use of .22 ammunition sales records, such information has been helpful. The same Treasury letter to which I have already referred, for example, reports the following:

> The Dallas Branch Office reported three instances where special investigators obtained .22 caliber ammunition record information for local officers which was used in the investigation and trial of three criminal cases. The Cincinnatti Branch Office reported two instances where .22 caliber ammunition records were used by State Police in the investigation of homicides. In one instance .22 caliber ammunition purchased at a local store was used in the killing of a moonshiner. The branch office reported that the ammunition transaction was verified by sales records. In the other instance, State Police arrested a juvenile for the murder of his father. The day preceding the crime, the juvenile purchased .22 caliber ammunition at a local store which was verified by disposition records of the dealer.
>
> The Los Angeles Branch Office reported that the Phoenix Police Department requested assistance in checking records concerning ammunition transactions in an investigation involving the murder of a policeman with a .22 caliber weapon.

This information seems to me directly to contradict the Treasury's contention that .22 caliber ammunition sales information is useless for law enforcement.

That contention is further contradicted by a spot check of ammunition sales records made last year by a U.S. Senate Judiciary Subcommittee. That spot check revealed that a number of known felons and others with criminal arrest records had purchased ammunition—an act which, in itself, is a violation of the law. In fact, 21 percent of the out-of-State sales checked were made by individuals with criminal records. This suggests that a systematic police check of all .22 caliber ammunition sales could provide grounds to rearrest large numbers of convicted felons, or at least make it much more difficult for them to obtain ammunition. But that has not been done, and one of the reasons it has not been done is that Federal officials charged with enforcing the laws have chosen to look upon ammunition sales records as useless.

Another argument made by proponents of H.R. 3599 is that the recordkeeping requirements on ammunition are onerous—that they impose "unreasonable burdens" on sportsmen and gun dealers. The facts are, however, that the information required to be recorded is no more extensive or complex than the information recorded whenever any consumer makes any purchase by check or credit card, and is only slightly more detailed than the information most merchants record on the ordinary sales slip or receipt for any merchandise.

I had hoped and planned, Mr. Speaker, to bring out the evidence I have obtained on this matter, and my views on it, in public hearings on this legislation. However, no such hearings have been held despite the fact that I, for one, requested an opportunity to be heard. At least one national organization representing many citizens concerned about gun control, the National Council for a Responsible Firearms Policy, also filed a written request to testify.

Mr. Speaker, it seems to me that, if anything, the evidence suggests that we should be expanding our efforts to utilize ammunition sales data in law enforcement, rather than throwing up our hands and abandoning recordkeeping altogether. It seems to me there is considerable evidence that the executive branch has chosen to ignore the intent of Congress in its treatment of .22 caliber ammunition sales records. Surely the Congress did not require these records to be kept in order then to be ignored. Yet that is exactly what is happening.

In any case, the executive branch has certainly not made a convincing case for terminating .22 caliber rimfire sales recordkeeping. If such a case can be made, let the executive branch come before the Congress in public hearings and present that case. If a case can be made that this recordkeeping is burdensome and too voluminous to be useable in law enforcement, let the Treasury Department document that argument for all the Members of this Congress and the public. But this legislation is too important to be acted upon only on the basis of the assertions of the executive branch—assertions which have little to support them and plenty that contradicts them.

In recent months an increasing number of Members of the Congress have come to realize the need to ban the manufacture and possession of cheap handguns, commonly called Saturday night specials, in view of the fact that these weapons have no sporting value and are useful only as weapons of crime. A great many of these so-called Saturday night specials use .22 caliber rimfire ammunition. Does it then make sense to terminate recordkeeping on .22 rimfire ammunition sales? I certainly think it does not.

Lest anyone suppose that .22 rimfire ammunition is harmless or is used only by sportsmen, let me remind the Members of this Congress that it was a .22 rimfire shot that killed Senator Robert Kennedy.

I urge the Members of the House to join me in opposing H.R. 3599 and any similar weakening of our gun control laws at least until these issues have been fully aired and examined in public hearings before the relevant committee of the House.

CONSTITUTIONALITY OF INDIVIDUAL CAMPAIGN SPENDING LIMITS

(Mr. BINGHAM asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BINGHAM. Mr. Speaker, as I have previously advised my colleagues in the House, I intend at the appropriate time to offer an amendment to the substitute to be offered by the gentleman from Michigan (Mr. HARVEY) which would incorporate in the substitute the same limitations on individual campaign contributions which are now contained in section 4 of H.R. 11060.

Since some question has been raised as to the constitutionality of such limitations, I have previously inserted in the RECORD—at page 41921—a letter to my friend and colleague, the gentleman from New Jersey (Mr. THOMPSON) from Professor Albert J. Rosenthal of the Columbia Law School sustaining the constitutionality of such a provision.

Mr. THOMPSON has now made available to me copies of telegrams he has received from two other distinguished professors of constitutional law, expressing the same point of view. I include these telegrams herewith:

NEW HAVEN, CONN.

Hon. FRANK THOMPSON, Jr.,
House of Representatives, Washington, D.C.

In my judgment a $5,000 or higher limitation on campaign contributions is a reasonable measure to insure the integrity of the Federal political process and therefore constitutional.

ALEXANDER BICKEL, *Yale Law School.*

BOSTON, MASS.

Hon. FRANK THOMPSON, Jr.
House of Representatives, Washington, D.C.

In my judgment it is entirely consistent with the first amendment to place a limit of $5,000 or more on individual political contributions. If the bill does not apply to direct expenditures by individuals the constitutional question virtually dissolves. Even if such expenditures are covered the limit is a fair accommodation between political activity and the need to curb the dominating power and influence of large contributions. Personal participation and expression are the central first amendment values and these are left free. The Hatch Act precedent is more than adequate for the bill.

PAUL A. FREUND, *Harvard Law School.*

MAURICE J. O'ROURKE

(Mr. RYAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. RYAN. Mr. Speaker, it is with a deep sense of personal sadness that I bring to the attention of the House the fact that Maurice J. O'Rourke, President of the New York City Board of Elections, died Saturday night.

A man's memory is sustained by the legacy he leaves behind him. Marcy O'Rourke has left us a legacy of public dedication and personal friendship that will not be forgotten.

Understanding that citizen participation is the very foundation of our democracy, Maurice O'Rourke's dedication to making the electoral process work was unwavering. And he was untiring in his commitment to afford the opportunity of involvement in the political process to all of our citizens.

Under his innovative leadership, the New York City Board of Elections set up various programs which brought registration officials into the community through the use of mobile votemobiles and by stationing registration officials in the city's firehouses. And as a result of his efforts, the opportunity to register to vote was made available where before it had all too often been denied.

Marcy O'Rourke's keen sense of justice and fair play was reflected in the fact that during his tenure the board of elections applied the election law in a nonpartisan way, treating regular and insurgent alike regardless of personality or party faction.

He himself summed it up best when he stated that:

> Our job is to make the election system work. It's the greatest thing we Americans have.

Perhaps there can be no greater tribute that we can pay to him than rededicating ourselves to the task to which he devoted his life.

Maurice O'Rourke will be missed not only by those of us who had the opportunity to know him as a warm and close friend, but by all those who had come to look upon him as a meaningful force for change for the betterment of our society.

I extend my deepest sympathy to his widow, the former Alice Russell, and to his brothers and sisters.

I include in the RECORD a tribute to Maurice J. O'Rourke which appeared in the New York Times of November 29, 1971:

[From the New York Times, Nov. 29, 1971]

MAURICE J. O'ROURKE, 58, DEAD; HEADED CITY'S ELECTION BOARD

Maurice J. O'Rourke, president of New York City's Board of Elections, died Saturday night of a heart attack at Good Samaritan Hospital in Suffern, N.Y. He was 58 years old and lived at 215 East 60th Street.

A vigorous, often ebullient advocate of election reform, Mr. O'Rourke pursued his $17,500-a-year job full time in his effort to register voters and run elections smoothly. The public knew him from his trips around the city in a police car each Election Day to look in on all kinds of troubles, from machine breakdowns to reports of voter harassment.

Mayor Lindsay, who is in Honolulu attending the 48th annual congress of the National League of Cities, issued a statement calling Mr. O'Rourke "a fine and devoted public servant, a man of gentle humor and unlimited kindness and a firm friend."

"We will all miss him very much," he said.

Known most of all in Democratic circles as an enormously friendly man and an enthusiastic story-teller, Mr. O'Rourke served as president of the National Democratic Club of New York and was a fiercely local ally of the late Senator Robert F. Kennedy.

BECAME A MAVERICK

Mr. O'Rourke, known as Marcy to his friends, joined the four-man, bipartisan Board of Elections in 1963 as a Democratic party regular from Manhattan. Within a few years, he had become something of a political maverick by turning against the board's reliance on party patronage for its own staff members and election inspectors.

He was eventually hailed by civic groups and Reform Democrats for his advocacy of change. Last year, as a member of Mayor Lindsay's election reform task force, he proposed replacement of the bipartisan board with a single commissioner and a civil service staff.

"I have no enemies," Mr. O'Rourke once said. "I just like everybody. I know that sounds corny, but I really enjoy participating with people in anything I think progressive and good."

The major changes advocated by Mr. O'Rourke required approval by the State Legislature, which, in 1970, approved instead a measure that would have created a 10-member bipartisan board and raised the members' salaries. The bill was vetoed by Governor Rockefeller on the ground that it only increased political patronage.

Mr. O'Rourke was elected president of the board this year by the members. But even when he was a commissioner, he virtually ran the elections because his fellow members were beyond retirement age and did not take a full-time interest in the job.

Although his major proposals for reform were not put through Mr. O'Rourke did accomplish some changes. Last year, for instance, he eliminated 16,000 election inspector jobs that had traditionally gone to housewives and elderly citizens as a form of political patronage. He implemented the cut by assigning the inspectors to each of the city's 1,500 polling places, rather than to each of the 5,300 election districts.

Never shrinking from publicity to push for voter registration, Mr. O'Rourke used roving "votemobiles" and the city's fire stations to get more citizens particularly blacks and Puerto Ricans, on the rolls. More recently, he pushed for more time to register the country's newest voters, those under the age of 21.

"Our job is to make the election system work," he once said, and then added with pride: "It's the greatest thing we Americans have."

Some of Mr. O'Rourke's efforts met with hostility among the regular, and when civic groups and liberals criticized the Board of Elections for sluggishness and red tape, they often singled out Mr. O'Rourke for praise for his efforts to improve things. He thus earned his reputation as a maverick.

Asked once how he got started on this course, he replied: "I don't want to be a maverick, but when I first went to the board I let it be known that I was going to do a job. I feel obligated, as a Catholic gentleman, to fulfill that pledge."

Nevertheless, Mr. O'Rourke did on occasion find his job, as he termed it, a "frustrating adventure," and in 1969 he resigned briefly to work for Howard J. Samuels, who was then seeking the Democratic nomination for Governor. The next year, however, Mr. O'Rourke was reappointed to run the 1970 elections.

Maurice Joseph O'Rourke was born into a Roman Catholic family and educated in Roman Catholic schools. He went to Cathedral College with the idea of becoming a priest, but eventually went to work for the city's Department of Hospitals.

During World War II, he served in the Marine Corps in the Pacific. Afterwards, he worked for the Internal Revenue Service and the Civil Court, where he had a lifetime appointment as assistant general clerk.

He got his political start in Democratic clubs on Manhattan's East Side, and was secretary to the Manhattan organization when he was appointed to the Board of Elections.

Surviving are his widow, the former Alice Russell; two brothers, Thomas and Brian, and three sisters, Mrs. Nora May O'Leary, Mrs. Margaret Martin and Mrs. Cathleen Woestman.

A funeral is to be held at St. Patrick's Cathedral Wednesday at 10 A.M.

TAKE PRIDE IN AMERICA

(Mr. MILLER of Ohio asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MILLER of Ohio. Mr. Speaker, today we should take note of America's great accomplishments and in so doing renew our faith and confidence in ourselves as individuals and as a nation.

In Western Europe, approximately 25 percent of the worker's income goes for groceries. In Russia, the take is 50 percent, and in the Far East it is as much as 75 percent. In the United States—though we are the healthiest people on earth—only 16½ percent of the family's income goes for food products.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. BURTON (at the request of Mr. VAN DEERLIN), for week of November 29, 1971, on account of official business.

Mr. EILBERG (at the request of Mr. BOGGS), for today and remainder of week, on account of official business.

Mr. ROYBAL (at the request of Mr. BOGGS), for today, on account of official business.

Mr. COTTER (at the request of Mr. BOGGS), for today, on account of illness.

Mr. DAVIS of South Carolina (at the request of Mr. BOGGS), for today, on account of official business.

Mr. BLATNIK (at the request of Mr. BOLLING), for Wednesday, November 17, Thursday, November 18, Friday, November 19, and for the week of November 29, 1971, on account of illness.

Mr. McCLORY (at the request of Mr. GERALD R. FORD), for November 29 through December 1, on account of official business.

Mr. McKEVITT (at the request of Mr. ARENDS), for Monday, Tuesday, and Wednesday (November 29, 30, and December 1), on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. SCHMITZ), to revise and extend their remarks, and to include extraneous matter:)

Mr. FINDLEY, today, for 5 minutes.

(The following Members (at the request of Mr. DENHOLM), to revise and extend their remarks and to include extraneous matter:)

Mr. ASPIN, today, for 15 minutes.

Mr. GONZALEZ, today, for 10 minutes.

Mr. FUQUA, today, for 10 minutes.

Mr. PODELL, today, for 30 minutes.

Mr. ROSTENKOWSKI, today, for 10 minutes.

Mr. CONYERS, on December 1, for 60 minutes.

Mr. FOUNTAIN, on December 9, for 60 minutes.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. SPRINGER, to include extraneous material with his remarks today during debate in the Committee of the Whole.

(The following Members (at the request of Mr. SCHMITZ) and to include extraneous matter:)

Mr. SPRINGER.

Mr. SCHERLE in 10 instances.

Mr. FINDLEY in two instances.

Mr. CONABLE.

Mr. CONTE.

Mr. GERALD R. FORD.

Mr. GROSS.

Mr. WYMAN in two instances.

Mr. DU PONT.

Mr. LLOYD.

Mr. DERWINSKI.

Mr. ESCH in two instances.

Mr. GUBSER.

Mr. STEIGER of Arizona in three instances.

Mr. MICHEL.

Mr. RIEGLE.

Mr. SCHWENGEL.

Mr. McDONALD of Michigan.

Mr. ASHBROOK in two instances.

Mr. KEMP in two instances.

Mr. SCHMITZ in two instances.

(The following Members (at the request of Mr. DENHOLM) and to include extraneous matter:)

Mr. CORMAN.

Mr. PUCINSKI in six instances.

Mr. FLOOD.

Mr. DRINAN in two instances.

Mr. FISHER in six instances.

Mr. HAMILTON in eight instances.

Mr. MITCHELL.

Mr. GONZALEZ in two instances.

Mr. HAGAN in three instances.

Mr. ROGERS in five instances.

Mr. KLUCZYNSKI in six instances.

Mr. FOUNTAIN in three instances.

Mr. ANDREWS of Alabama in two instances.

Mr. WALDIE in six instances.

Mr. MURPHY of New York.

Mr. RANGEL in four instances.

Mr. HUNGATE in three instances.

Mr. JONES of Tennessee in five instances.

Mr. PATTEN.

Mr. TEAGUE of Texas in eight instances.

Mr. PERKINS.

Mr. RARICK in three instances.

Mr. BEGICH in five instances.

Mr. ROONEY of Pennsylvania in four instances.

Mr. RODINO.

Mr. VANIK in two instances.

Mr. BOLAND.

Mr. BRINKLEY.

Mr. MAZZOLI.

Mr. HARRINGTON.

Mr. DAVIS of Georgia in five instances.

Mr. PICKLE in five instances.

Mr. EDWARDS of California in two instances.

Mr. ALEXANDER.

Mr. WILLIAM D. FORD in two instances.

Mr. EDMONDSON in two instances.

Mr. DENHOLM.

SENATE BILLS JOINT AND CONCURRENT RESOLUTIONS REFERRED

Bills joint and concurrent resolutions of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 247. An act for the relief of Albert G. Feller and Flora Feller; to the Committee on the Judiciary.

S. 641. An act for the relief of Luis Guerrero-Chavez, Guadalupe Guerrero-Chavez, and Alfredo Guerrero-Chavez; to the Committee on the Judiciary.

S. 749. An act to authorize United States contributions to the Special Funds of the Asian Development Bank, to the Committee on Banking and Currency.

S. 888. An act for the relief of David J. Crumb; to the Committee on the Judiciary.

S. 1089. An act for the relief of Robert Rexroat; to the Committee on the Judiciary.

S. 1299. An act for the relief of Dr. Biman K. Khastagir; to the Committee on the Judiciary.

S. 1436. An act for the relief of Dr. Alfredo Soliva; to the Committee on the Judiciary.

S. 1466. An act to authorize the Secretary of the Army to grant certain rights-of-way for road improvement and location of public utility lines over a portion of Fort DeRussy, Hawaii; to the Committee on Armed Services.

S. 1481. An act for the relief of Jose Amaral de Souza; to the Committee on the Judiciary.

S. 1675. An act for the relief of Antonio Piameras; to the Committee on the Judiciary.

S. 1893. An act to restore the golden eagle program to the Land and Water Conservation Fund Act, provide for an annual camping permit, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 1923. An act for the relief of Harold Donald Koza; to the Committee on the Judiciary.

S. 2010. An act to provide for increased participation by the United States in the International Development Association; to the Committee on Banking and Currency.

S. 2048. An act for the relief of Mrs. Jun Kuen Chiu Yee (Jun Kuen McNeely Yee); to the Committee on the Judiciary.

S. 2601. An act to provide for increases in appropriation ceilings and boundary changes in certain units of the national park system, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 2878. An act to amend the District of Columbia Election Act, and for other purposes; to the Committee on the District of Columbia.

S. 2887. An act authorizing additional appropriations for prosecution of projects in certain comprehensive river basin plans for flood control, navigation, and other purposes; to the Committee on Public Works.

S.J. Res. 149. Joint resolution to authorize and request the President to proclaim the year 1972 as "International Book Year"; to the Committee on the Judiciary.

S. Con. Res. 50. Concurrent resolution authorizing the printing of the handbook entitled "Guide to Federal Programs for Rural Development" as a Senate document; to the Committee on House Administration.

ENROLLED BILLS SIGNED

Mr. HAYS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1836. An act for the relief of Ruth V. Hawley, Marvin E. Krell, Alaine E. Benic, and Gerald L. Thayer;

H.R. 1867. An act for the relief of Bernadette Han Brundage;

H.R. 1899. An act for the relief of Mrs. Maria G. Orsini (nee Mari);

H.R. 1931. An act for the relief of Jesus Manuel Cabral;

H.R. 1962. An act for the relief of Dah Mi Kim;

H.R. 1970. An act for the relief of Mrs. Andree Simone Van Moppes and her son, Alain Van Moppes;

H.R. 2087. An act for the relief of Park Ok Soo and Noh Mi Ok;

H.R. 2107. An act for the relief of Jose Bettencourt de Simas;

H.R. 2108. An act for the relief of Nemesio Gomez-Sanchez;

H.R. 2408. An act for the relief of Louis A. Gerbert;

H.R. 2706. An act for the relief of Miguelito Ybut Benedicto;

H.R. 2803. An act for the relief of In Kyong Yi;

H.R. 2814. An act for the relief fo Rea Republica Ramos;

H.R. 3041. An act for the relief of Mary

James Kates, owner of the Gladewater Daily Mirror;

H.R. 3082. An act for the relief of Ronnie B. (Malit) Morris and Henry B. (Malit) Morris;

H.R. 3383. An act for the relief of Mrs. Mauricia A. Buensalido and her minor children, Raymond A. Buensalido and Jacqueline A. Buensalido;

H.R. 3425. An act for the relief of Helen Tziminadis;

H.R. 3475. An act for the relief of Paul Anthony Kelly;

H.R. 5422. An act for the relief of the American Journal of Nursing;

H.R. 7085. An act for the relief of Eugene M. Sims, Sr.;

H.R. 8356. An act to make permanent the authority to pay special allowances to dependents of members of the uniformed services to offset expenses incident to their evacuation, and

H.R. 10203. An act to amend the Water Resources Research Act of 1964, to increase the authorization for water resources research institutes, and for other purposes.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1810. An act for the relief of Dorothy G. McCarty.

BILLS AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. HAYS, from the Committee on House Administration, reported that that committee did on the following days present to the President, for his approval, bills and a joint resolution of the House of the following titles:

On November 19, 1971:

H.J. Res. 946. Joint resolution making further continuing appropriations for the fiscal year 1972, and for other purposes.

On November 23, 1971:

H.R. 1836. A bill for the relief of Ruth V. Hawley, Marvin E. Krell, Alaine E. Benic, and Gerald L. Thayer;

H.R. 1867. A bill for the relief of Bernadette Han Brundage;

H.R. 1899. A bill for the relief of Mrs. Maria G. Orsini (nee Mari);

H.R. 1931. A bill for the relief of Jesus Manuel Cabral;

H.R. 1962. A bill for the relief of Dah Mi Kim;

H.R. 1970. A bill for the relief of Mrs. Andree Simone Van Moppes and her son, Alain Van Moppes;

H.R. 2087. A bill for the relief of Park Ok Soo and Noh Mi Ok;

H.R. 2107. A bill for the relief of Jose Bettencourt de Simas;

H.R. 2108. A bill for the relief of Nemesio Gomez-Sanchez;

H.R. 2408. A bill for the relief of Louis A. Gerbert;

H.R. 2706. A bill for the relief of Miguelito Ybut Benedicto;

H.R. 2803. A bill for the relief of In Kyong Yi;

H.R. 2814. A bill for the relief of Rea Republica Ramos;

H.R. 3041. A bill for the relief of Mary James Kates, owner of the Gladewater Daily Mirror;

H.R. 3082. A bill for the relief of Ronnie B. (Malit) Morris and Henry B. (Malit) Morris;

H.R. 3383. A bill for the relief of Mrs. Mauricia A. Buensalido and her minor children, Raymond A. Buensalido and Jacqueline A. Buensalido;

H.R. 3425. A bill for the relief of Helen Tziminadis;

H.R. 3475. A bill for the relief of Paul Anthony Kelly;

H.R. 5422. A bill for the relief of the American Journal of Nursing;

H.R. 7085. A bill for the relief of Eugene M. Sims, Sr.;

H.R. 8356. A bill to make permanent the authority to pay special allowances to dependents of members of the uniformed services to offset expenses incident to their evacuation; and

H.R. 10203. A bill to amend the Water Resources Research Act of 1964, to increase the authorization for water resources research institutes, and for other purposes.

ADJOURNMENT

Mr. DENHOLM. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 39 minutes p.m.), the House adjourned until tomorrow, Tuesday, November 30, 1971, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1304. A letter from the Secretary of State, transmitting a report on the implementation of section 620(u) of the Foreign Assistance Act of 1961, as amended; to the Committee on Foreign Affairs.

1305. A letter from the Director, Office of Legislative Affairs, Agency for International Development, Department of State, transmitting a copy of a determination of the Secretary of State No. 72-1, made pursuant to section 620(b) of the Foreign Assistance Act of 1961, as amended; to the Committee on Foreign Affairs.

1308. A communication from the President of the United States, reporting his determination that it is in the national interest for the Export-Import Bank of the United States to guarantee, insure, extend credit, and participate in the extension of credit in connection with the purchase or lease of any product or service by, for use in, or for sale or lease to the Socialist Republic of Rumania, pursuant to section 2(b)(2) of the Export-Import Bank Act of 1945, as amended; to the Committee on Banking and Currency.

1309. A letter from the Director of Science and Education, Department of Agriculture, transmitting a report on the disbursement of funds during fiscal year 1971 to States to provide additional facilities for research at the State agricultural experiment stations; to the Committee on Agriculture.

1310. A letter from the Deputy Director, Office of Management and Budget, Executive Office of the President, transmitting a report that the appropriation to the Occupational Safety and Health Review Commission for the fiscal year 1972, has been reapportioned on a basis which indicates the necessity for a supplemental estimate of appropriation, pursuant to 31 U.S.C. 665; to the Committee on Appropriations.

1311. A letter from the Secretary of the Army, transmitting a draft of proposed legislation to authorize the transportation of dependents of certain military personnel to and from rest and recuperation centers, and for the payment of per diem allowances for such dependents, and for other purposes; to the Committee on Armed Services.

1312. A letter from the Secretary of the Air Force, transmitting a report showing the number of Air Force officers above the grade of major receiving flight pay as of October 31, 1971, and the average monthly flight pay authorized by law to be paid to such officers during the year ended on the date, pursuant to 37 U.S.C. 301(g); to the Committee on Armed Services.

1313. A letter from the Assistant Secretary of Transportation for Administration, transmitting during the period April 16 through October 31, 1971, a list of the purchases and contracts made/by the U.S. Coast Guard under 10 U.S.C. 2304(a) (11) and (16), pursuant to section 2304(e); to the Committee on Armed Services.

1314. A letter from the Secretary of the Interior, transmitting an annual report for calendar year 1970 on progress made in achieving the purposes of the Federal Coal Mine Health and Safety Act of 1969; to the Committee on Education and Labor.

1315. A letter from the Assistant Administrator of General Services, transmitting a draft of proposed legislation to establish a fund for activating authorized agencies, and for other purposes; to the Committee on Government Operations.

1316. A letter from the Chairman, Federal Power Commission, transmitting a copy of a map entitled, "Major Natural Gas Pipelines, June 30, 1971," and of the publication entitled, "Sales of Firm Electric Power for Resale, 1965–1969"; to the Committee on Interstate and Foreign Commerce.

1317. A letter from the national adjutant-paymaster, Marine Corps League, transmitting the minutes of the league's 48th annual convention and the audit report for the 1970–71 fiscal year, together with similar reports for the Marine Corps League Auxiliary, pursuant to 50 Stat. 559 and 36 U.S.C. 58; to the Committee on the Judiciary.

1318. A letter from the Secretary of the Army, transmitting a letter from the Chief of Engineers, Department of the Army, dated September 24, 1971, submitting a report, together with accompanying papers and illustrations, on Escambia River, Fla. and Ala., requested by a resolution of the Committee on Public Works, House of Representatives, adopted July 31, 1957; to the Committee on Public Works.

1319. A letter from the Administrator of Veterans' Affairs, transmitting a draft of proposed legislation to amend chapters 31, 34, and 35 of title 38, United States Code, to increase the rates of vocational rehabilitation, educational assistance, and special training allowance paid to eligible veterans and persons; to provide for advance educational assistance payments to certain veterans; to make improvements in the educational assistance programs; and for other purposes; to the Committee on Veterans' Affairs.

RECEIVED FROM THE COMPTROLLER GENERAL

1306. A letter from the Comptroller General of the United States, transmitting a report on U.S. programs in Afghanistan; to the Committee on Government Operations.

1307. A letter from the Comptroller General of the United States, transmitting a report of the audit of the financial statements of the St. Lawrence Seaway Development Corporation, Department of Transportation, for the calendar year 1970 (H. Doc. No. 92–177); to the Committee on Government Operations and ordered to be printed.

1320. A letter from the Comptroller General of the United States, transmitting a report on fees allowed nonsponsored not-for-profit organizations by various Government agencies; to the Committee on Government Operations.

1321. A letter from the Comptroller General of the United States, transmitting a report on savings available by consolidating certain reserve fleet activities of the Departments of Commerce and Defense; to the Committee on Government Operations.

1322. A letter from the Comptroller General of the United States, transmitting a report on progress and problems of urban and transportation planning, Department of Housing and Urban Development and Department of Transportation; to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BARING: Committee of conference. Conference report on S. 1116 (Rept. No. 92–681). Ordered to be printed.

Mr. PERKINS: Committee of conference. Conference report on S. 2007 (Rept. No. 92–682). Ordered to be printed.

Mr. EVINS of Tennessee: Select Committee on Small Business. Report on third party prepaid prescription programs (Rept. No. 92–683). Referred to the Committee of the Whole House on the State of the Union.

Mr. NATCHER: Committee on Appropriations. H.R. 11932. A bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending June 30, 1972, and for other purposes (Rept. No. 92–684). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ASPIN:

H.R. 11915. A bill to amend the Internal Revenue Code of 1954 to allow a deduction from gross income for adoption fees and related costs incurred in connection with the adoption of a child by the taxpayer; to the Committee on Ways and Means.

By Mr. BARING:

H.R. 11916. A bill to convey Federal land to the Fort McDermitt Paiute and Shoshone Tribe; to the Committee on Interior and Insular Affairs.

H.R. 11917. A bill to permit the Secretary of the Treasury to purchase mined silver at such prices as he may deem appropriate; to the Committee on Banking and Currency.

By Mr. BUCHANAN:

H.R. 11918. A bill to amend section 151 of the Internal Revenue Code of 1954 to make a personal exemption available to certain taxpayers who support dependents who are under age 19 or are students but who are not the children of the taxpayer; to the Committee on Ways and Means.

By Mr. BURTON:

H.R. 11919. A bill to amend the Postal Reorganization Act of 1970, title 39, United States Code, to eliminate certain restrictions on the rights of officers and employees of the Postal Service, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. CLANCY:

H.R. 11920. A bill to amend the Internal Revenue Code of 1954 to permit the amortization, over a 60-month period, of certain solid waste treatment facilities; to the Committee on Ways and Means.

By Mr. FUQUA:

H.R. 11921. A bill to provide for the designation of law schools as depository libraries; to the Committee on House Administration.

H.R. 11922. A bill to provide special advisory and counseling assistance to veterans at institutions of higher education and to authorize, on a trial basis, a special program to aid veterans with academic deficiencies to gain entrance to institutions of higher education; to the Committee on Veteran's Affairs.

By Mr. GUDE:

H.R. 11923. A bill to promote fair practices in the conduct of election campaigns for Federal political offices, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. KEATING:

H.R. 11924. A bill to provide for the prevention of sickle cell anemia; to the Committee on Interstate and Foreign Commerce.

By Mr. KEATING (for himself, Mr. Danielson, and Mr. Sarbanes):

H.R. 11925. A bill to strengthen interstate reporting and interstate services for parents of runaway children, to provide for the development of a comprehensive program for the transient youth population for the establishment, maintenance, and operation of temporary housing and psychiatric, medical, and other counseling services for transient youth, and for other purposes; to the Committee on the Judiciary.

By Mr. LLOYD:

H.R. 11926. A bill to amend the Internal Revenue Code of 1954 with respect to the limitation on the deduction of certain amounts for business gifts; to the Committee on Ways and Means.

By Mr. PEPPER (for himself, Mr. Waldie, Mr. Brasco, Mr. Mann, Mr. Murphy of Illinois, Mr. Rangel, Mr. Wiggins, Mr. Steiger of Arizona, Mr. Winn, Mr. Sandman, and Mr. Keating):

H.R. 11927. A bill to promote research and development of drugs or chemical compounds for use in the cure, prevention, or treatment of heroin addiction; to the Committee on Interstate and Foreign Commerce.

By Mr. RUPPE:

H.R. 11928. A bill to amend title II of the Social Security Act to eliminate the reduction in disability benefits which is presently required in the case of an individual receiving workmen's compensation benefits; to the Committee on Ways and Means.

By Mr. SPRINGER:

H.R. 11929. A bill to amend the Communications Act of 1934 to establish orderly procedures for the consideration of applications for renewal of broadcast licenses; to the Committee on Interstate and Foreign Commerce.

By Mr. TEAGUE of California:

H.R. 11930. A bill to amend the Tariff Schedules of the United States with respect to the rates of duty on sets of tuned bells; to the Committee on Ways and Means.

By Mr. THOMPSON of Georgia (for himself, Mr. Eilberg, Mr. Gaydos, Mrs. Grasso, Mr. Harrington, Mrs. Hicks of Massachusetts, Mr. Córdova, Mr. Kemp, and Mr. Rangel):

H.R. 11931. A bill to amend title 39, United States Code, to authorize the transmission, without cost to the sender, of letter mail to the President or Vice President of the United States or to Members of Congress, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. NATCHER:

H.R. 11932. A bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending June 30, 1972, and for other purposes.

By Mr. BURKE of Florida:

H.R. 11933. A bill to provide for the issuance of a commemorative stamp in honor of the first enlisted women in the U.S. Armed Forces; to the Committee on Post Office and Civil Service.

By Mr. HANNA:

H.R. 11934. A bill to amend section 408(d)(4) of the National Housing Act (relating to certain prohibited transactions on the part of savings and loan holding companies); to the Committee on Banking and Currency.

By Mr. HARSHA (for himself and Mr. Broyhill of Virginia):

H.R. 11935. A bill to provide for the development of certain real estate in the District of Columbia; to the Committee on the District of Columbia.

By Mr. HÉBERT (for himself and Mr. Arends) (by request):

H.R. 11936. A bill to authorize the transportation of dependents of certain military personnel to and from rest and recuperation centers, and for the payment of per diem allowances for such dependents, and for other purposes; to the Committee on Armed Services.

By Mr. LONG of Maryland:

H.R. 11937. A bill to provide for the application of the prohibitions contained in the Sherman Act to the business of organized professional team sports; to the Committee on the Judiciary.

By Mr. VANDER JAGT:

H.R. 11938. A bill to amend section 6 of the United Nations Participation Act of 1945 to require approval by the Congress of the use of Armed Forces of the United States under article 42 of the Charter of the United Nations; to the Committee on Foreign Affairs.

By Mr. ASPIN:

H. Con. Res. 468. Concurrent resolution expressing the sense of the Congress with respect to speedy trials; to the Committee on the Judiciary.

By Mr. ECKHARDT:

H. Con. Res. 469. Concurrent resolution to provide for the printing as a House document a compilation of the eulogies on the late Justice Hugo L. Black; to the Committee on House Administration.

By Mr. QUIE:

H. Res. 716. Resolution calling for the shipment of Phantom F–4 aircraft to Israel in order to maintain the arms balance in the Middle East; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

286. By the SPEAKER: Memorial of the Legislature of the territory of Guam, relative to acquisition by the U.S. Navy of Sella Bay; to the Committee on Interior and Insular Affairs.

287. Also, memorial of the Legislature of the State of California, relative to motor vehicle damages; to the Committee on Interstate and Foreign Commerce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BAKER:

H.R. 11939. A bill for the relief of the Farmers Chemical Association, Inc.; to the Committee on the Judiciary.

By Mr. EDMONDSON:

H.R. 11940. A bill to provide for the striking of medals in commemoration of Jim Thorpe; to the Committee on Banking and Currency.

By Mr. HELSTOSKI:

H.R. 11941. A bill for the relief of Miss Stanislawa Mazur; to the Committee on the Judiciary.

H.R. 11942. A bill for the relief of Mr. and Mrs. Salvatore Ilardi; to the Committee on the Judiciary.

By Mr. PELLY:

H.R. 11943. A bill for the relief of Kiichi Tomiyama; to the Committee on the Judiciary.

By Mr. SISK:

H.R. 11944. A bill for the relief of Sixto M. Pagaran; to the Committee on the Judiciary.

By Mr. TEAGUE of California:

H.R. 11945. A bill for the relief of Hyun Ki Hong; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

162. By the SPEAKER: Petition of the Puerto Rico Free Federation of Labor, Santurce, relative to exempting Puerto Rico from the wage-price freeze; to the Committee on Banking and Currency.

163. Also, petition of the Puerto Rico Free Federation of Labor, Santurce, relative to extending the National Labor Standards Act of 1938 to Puerto Rico; to the Committee on Education and Labor.

164. Also, petition of the Puerto Rico Free Federation of Labor, Santurce, relative to ending the war in Vietnam; to the Committee on Foreign Affairs.

165. Also, petition of the City Council, New York, N.Y., relative to the international traffic in illegal narcotics; to the Committee on Foreign Affairs.

166. Also, petition of the Puerto Rico Free Federation of Labor, Santurce, requesting that Puerto Rico be considered on an equal footing with the States with regard to social and economic rehabilitation measures; to the Committee on Interior and Insular Affairs.

167. Also, petition of Louise Steadtler Hoff, South Norwalk, Conn., relative to redress of grievances; to the Committee on the Judiciary.

168. Also, petition of Daniel Leveque, Sheboygan, Wis., relative to redress of grievances; to the Committee on the Judiciary.

169. Also, petition of James T. Moore, Springfield, Mo., relative to renunciation of citizenship; to the Committee on the Judiciary.

SENATE—*Monday, November 29, 1971*

The Senate met at 10 a.m. and was called to order by the President pro tempore (Mr. ELLENDER).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Eternal Father, who has watched over us and brought us to this time and place, we thank Thee for hours of memory and thanksgiving, for rest to frayed and fevered spirits, and for renewal of mind and body. We thank Thee for this reverential pause before demanding hours lay their firm grip upon us. Empty us of all ugly prejudices and unworthy motives which would obstruct us from being the healing channel Thou dost desire for our common humanity. Grant us this day light to guide us, courage to support us, and the boundless compassion of love to unite us.

We lift our prayer in the name of the Great Redeemer. Amen.

REPORT OF A COMMITTEE SUBMITTED DURING ADJOURNMENT

Under authority of the order of the Senate of November 24, 1971, Mr. HUGHES, from the Committee on Labor and Public Welfare, reported favorably, with additional amendments, on November 24, 1971, the bill (S. 2097) to establish a Special Action Office for Drug Abuse Prevention to concentrate the resources of the Nation in a crusade against drug abuse, and submitted a report (No. 92–509) thereon, which was printed.

THE JOURNAL

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, November 24, 1971, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

WAIVER OF THE CALL OF THE CALENDAR

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the call of the legislative calendar, under rules VII and VIII, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The PRESIDENT pro tempore. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. SCOTT. Mr. President, I ask unanimous consent that my staff assistants Hannah McCornack and Ken Davis be granted the privilege of the floor for the remainder of this week.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SCOTT. Mr. President, I yield back the remainder of my time.

ORDER OF BUSINESS

The PRESIDENT pro tempore. Under the previous order, the distinguished Senator from Iowa (Mr. HUGHES) is now recognized for not to exceed 15 minutes.

Mr. BYRD of West Virginia. Mr. President, having received word from the able Senator from Iowa (Mr. HUGHES) that he would like to have the order vacated, I ask unanimous consent that the order be vacated and that I be recognized in his stead.

The PRESIDENT pro tempore. Without objection, it is so ordered.

THE U.N. ROLE IN THE MIDDLE EAST

Mr. BYRD of West Virginia. Mr. President, according to recent reports, the situation in the Middle East has come to a point where Egypt and Israel are practically poised for battle. It would appear that the diplomatic efforts of the United States and other interested countries have failed to produce a climate other than distrust and hostility between the rival states. The distinct impression is given that the differences are irreconcilable. If this is, indeed, true, the consequences for the world could be disastrous.

In this connection, it would seem that the United Nations, to which the United States contributes 32.52 percent of the total annual general budget, should be more effective than has been the case during the years of tension. I am fully aware that member nations always put their major national interests ahead of their responsibilities as members of the U.N. and that reality is one which renders agreed solutions to international problems extremely difficult, if not impossible. Nevertheless, it disturbs me that the prestige and efficacy of the world body is so lightly regarded that it has so far been unable to inject its presence to fill the gap between the Egyptian demand for full Israeli withdrawal from territory formerly held by Egypt and the Israeli position of partial cession.

A case in point is the Sinai Peninsula, which, until the 6-day war, had been Egyptian territory since 1906. No general agreement between Israel and Egypt is possible without disposition of the Sinai satisfactory to both sides. Israel has indicated a willingness to surrender the bulk of the Sinai, provided that its forces remain in Sharm el Sheikh to insure free passage of ships bound for Elath and provided these forces are connected to Israel by the coastal road Israel has built. However reasonable this may seem, it has the serious flaw that no Egyptian Government can accept a cession of territory that was Egyptian for more than half a century as a bargaining condition without incurring the fierce enmity of its own people. So we have an impasse, that lacking resolution, makes general agreement between the parties out of the question.

Nevertheless, if the saber rattling being heard on both sides of the Suez is to be stilled, a workable formula has to be found. Unilateral, bilateral, and multilateral diplomacy appears to have made no impression—the antipathies are as strong today as they were 17 years ago. It troubles me that the United Nations seems unable to make any practical contribution other than to have had that admittedly able diplomat, Dr. Gunnar Jarring, as its special representative on the scene for 4 years. I would not advocate the United Nations should wield a big stick—even if it had one. I am fully aware of the organization's limitations when it is faced by recalcitrant member nations whose interests are diametrically opposed. But it seems to me, Mr. President, that the vast amounts of money contributed to the U.N. by the American taxpayer over the past quarter century give these taxpayers the right to ask whether they can reasonably expect a return on their investment, in terms of an effective peacekeeping instrument.

This statement should not be interpreted as an attack on the United Nations or as a conclusion that it has outlived its usefulness. I am just as convinced as is any Member of this distinguished body that some kind of an international forum is a necessity in this heterogenous world of sharply conflicting interests and ideologies. If, however, Israel and Egypt will not settle the Middle East crisis between themselves and multilateral diplomacy by other nations is ineffective, what else do we have? The claims of Israel and Egypt both have some historical and legal tenability; it seems to me most unfortunate that what we might reasonably expect to be the best diplomatic brains in the world at the United Nations are unable to reconcile these claims and come up with a peaceful solution acceptable to both sides.

It is sad to contemplate, but perhaps we should resign ourselves to the conclusion that a political solution of the problem is unrealistic and fall back on the frequently effective method of deterrence. Though words and actions on both sides have frequently been provocative, the most recent bellicosity came from Egyptian Premier Anwar Sadat when he told the Egyptian forces that a negotiated settlement was now impossible and they would have to fight to restore our land, honor, and dignity."

It is more probable than possible that the Premier's speech was strictly for home consumption, but in case it had some substance, this might be an opportune time to consider sending to Israel the Phantom jets she has long wanted from the United States. Unless emotion and indiscretion totally overcome prudence, it is unlikely that Premier Sadat's bellicosity would be translated into action if Israel's deterrent power were increasingly obvious.

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, a period of 30 minutes has been set aside for the transaction of routine morning business, with statements therein limited to 3 minutes.

Is there morning business?

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

LEAVE OF ABSENCE

Mr. BYRD of West Virginia. Mr. President, pursuant to paragraph 1, rule V of the Standing Rules of the Senate, I ask unanimous consent that the distinguished majority leader (Mr. MANSFIELD) be granted a leave of absence from the Senate today.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that following the recognition of the two leaders tomorrow there be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements limited therein to 3 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STEVENSON, from the Committee on the District of Columbia, without amendment:

S. 1362. A bill to authorize the Commissioner of the District of Columbia to enter into contracts for the payment of the District's equitable portions of the cost of reservoirs on the Potomac River and its tributaries, and for other purposes (Rept. No. 92–510);

S. 1367. A bill to authorize the Commissioner of the District of Columbia to lease airspace above and below freeway rights-of-way within the District of Columbia, and for other purposes (Rept. No. 92–511);

H.R. 10383. An act to enable professional individuals and firms in the District of Columbia to obtain the benefits of corporate organization, and to make corresponding changes in the District of Columbia Income and Franchise Tax Act (Rept. No. 92–512); and

H.R. 11489. An act to facilitate the amendment of the governing instruments of certain charitable trusts and corporations subject to the jurisdiction of the District of Columbia, in order to conform to the requirements of section 508 and section 664 of the Internal Revenue Code of 1954, as added by the Tax Reform Act of 1969 (Rept. No. 92–513).

By Mr. STEVENSON, from the Committee on the District of Columbia, with amendments:

S. 2204. A bill to provide for improvements in the administration of the government of the District of Columbia, and for other purposes (Rept. No. 92–514).

By Mr. EAGLETON, from the Committee on Labor and Public Welfare, with amendments:

S. 1163. A bill to amend the Older Americans Act of 1965 to provide grants to States for the establishment, maintenance, operation, and expansion of low-cost meal programs, nutrition training and education programs, opportunity for social contacts, and for other purposes (Rept. No. 92–515), together with supplemental views.

By Mr. KENNEDY, from the Committee on Labor and Public Welfare, with an amendment:

S.J. Res. 75. Joint resolution to provide for a study and evaluation of the ethical, social, and legal implications of advances in biomedical research and technology (Rept. No. 92–517).

By Mr. BURDICK, from the Committee on the Judiciary, with an amendment:

S. 1975. A bill to change the minimum age qualification for serving as a juror in Federal courts from 21 years of age to 18 years of age (Rept. No. 92–516).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. SCHWEIKER:

S. 2906. A bill to amend section 401 of title 37, United States Code, to include, under certain circumstances, grandchildren of members of the uniformed services within the definition of the term "dependent" for purposes of travel and quarters allowances of such members. Referred to the Committee on Armed Services.

By Mr. HUMPHREY:

S. 2907. A bill for the relief of Roy D. Martin, major, U.S. Army (Reserve). Referred to the Committee on Armed Services.

By Mr. FONG (for himself and Mr. INOUYE):

S. 2908. A bill to authorize a study of the feasibility and desirability of establishing a unit of the national park system in order to preserve and interpret the site of Honokohau national historical landmark in the State of Hawaii, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. HARTKE (for himself and Mr. PERCY):

S. 2909. A bill to establish a Federal program to encourage voluntary donation of pure and safe blood, to require licensing and inspection of all blood banks, and to establish a national registry of blood donors. Referred to the Committee on Labor and Public Welfare.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HARTKE (for himself and Mr. PERCY):

S. 2909. A bill to establish a Federal program to encourage voluntary donation of pure and safe blood, to require licensing and inspection of all blood banks, and to establish a national registry of blood donors. Referred to the Committee on Labor and Public Welfare.

NATIONAL BLOOD BANK ACT

Mr. HARTKE. Mr. President, there will be more than 2 million blood transfusions performed in the United States this year. One out of every 150 of these will cause a death from serum hepatitis in the over 40 age group. Many more transfusions will cause sickness in younger people.

Hepatitis is a growing menace to our Nation's health. Dr. J. Garrot Allen, of Stanford Medical Center, has estimated that at least 455,000 hospital bed-days are devoted to this disease every year. Effective measures, however, can go far to wiping out this disease. The bill I am introducing today is designed to provide the means necessary to accomplish that goal.

In many communities throughout the Nation, there is a critical shortage of blood. To meet this need, blood banks have been established. Most of these blood banks are highly reputable and have performed invaluable service to those in need; but there are far too many unscrupulous blood banks which have failed to screen properly those who donate their blood.

Much of the serum hepatitis in this country comes from the paid blood donor. He may be an alcoholic or a drug addict seeking money for his habit, and some commercial blood banks are all too willing to give him the few dollars he seeks without checking into his background.

Profitmaking blood banks have been established because—regrettably—the voluntary donor system has not been able to meet the demand for blood. Hospitals have no choice but to turn to the commercial blood bank for their supply, yet reliable studies have shown that the risk of contracting hepatitis from the blood of paid donors is from 11 to 70 times greater than the risk from voluntarily donated blood.

Today I introduce on behalf of myself and the Senator from Illinois (Mr. Percy) the National Blood Bank Act. This legislation is identical to a bill recently introduced in the House by Congressman Victor Veysey of California. In essence, this bill requires all blood banks to live up to reasonable standards.

Although the Federal Government is already involved in the regulation of blood banks, the National Institutes of Health license only 166 of the 7,000 blood banks in this country. They do not license or inspect the companies that import massive quantities of human blood from foreign countries, nor do they require that blood be tested for the presence of hepatitis. Even the practices of those 166 licensed blood banks have been clouded with doubt.

To meet the problems of regulation, my bill would establish a new office in the Department of Health, Education, and Welfare, to license, inspect, and regulate all blood banks in this country. The poor track record of NIH's Division of Biological Standards is proof enough that this responsibility must be placed elsewhere.

Because the lack of voluntary blood is the only justification for using paid donors, my bill provides for a national effort to recruit voluntary donors. It also requires that the source of each pint of blood be clearly stated on its label.

Under my proposal, the Director of the National Blood Bank is to inspect, license, and regulate all blood blanks. It authorizes $9 million for a national program to recruit voluntary donors, include efforts to develop new procedures and techniques to inform the public of the need to donate blood voluntarily.

The Director will be assisted by an advisory council made up of representatives of blood banks, consumers, and the public relations industry. The council will advise in the development of long range policy for the blood bank program and provide expert advice on proposed regulations and voluntary recruitment efforts.

Recognizing that the National Blood Bank Systems of the American Red Cross and the American Association of Blood Banks deserve special attention, the bill authorizes the Director to accept their inspection and accreditation program in lieu of Federal inspections.

Among its other provisions, it would establish two classes of accredited blood banks. Class A blood banks are those having a maximum percentage of voluntary donors. Class B blood banks are all others. The Director is required to update annually the percentage to qualify for Class A status to the highest level consistent with an adequate national blood supply. Federal agencies are prohibited from purchasing blood from other than Class A blood banks.

Mr. President, 17 States have no laws governing blood blanks. Another 21 have laws which prevent patients infected by contaminated blood from collecting monetary damages. It is time that the Federal Government acted to protect the health of the American public.

A serious illness or accident is tragedy enough without the danger of receiving contaminated blood. The quality of blood available to hospitals is nothing short of disgraceful. The legislation I introduce today will make it possible for us to eradicate this disgrace without further delay.

Mr. President, I ask unanimous consent that the text of my bill be printed at this point in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2909

A bill to establish a Federal program to encourage voluntary donation of pure and safe blood, to require licensing and inspection of all blood banks, and to establish a national registry of blood donors

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "National Blood Bank Act of 1972".

FINDINGS

Sec. 2. The Congress finds that human blood is necessary for medical treatment and that an adequate supply of pure and safe blood throughout the United States is essential to the welfare of the Nation. Congress further finds that interstate shipment of pure and safe whole blood and blood components is necessary for the welfare of the United States; that since human blood is a living tissue which cannot be manufactured, an adequate interstate supply of blood depends upon the willingness of individuals to donate their blood; that since the virus hepatitis is transmitted in human blood and is found significantly more often in the blood of persons who donate for monetary compensation than in the blood of voluntary donors, the purity and safety of the national blood supply is seriously threatened by the inadequate level of voluntary donation and by monetary compensation of blood donors. The Congress therefore finds that the welfare of the United States will be promoted by development of a 100 per centum voluntary blood supply as soon as feasible, that voluntary donation should therefore be encouraged and promoted, and that certain procedures and standards should be established with respect to the operation of all blood banks in the United States.

ESTABLISHMENT OF PROGRAM; DIRECTOR

Sec. 3. There is established in the Department of Health, Education, and Welfare a National Blood Bank Program to be under the supervision of a Director appointed by the Secretary of Health, Education, and Welfare. The Director of the National Blood Bank Program (hereinafter in this Act referred to as the "Director") shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

FUNCTIONS AND DUTIES OF DIRECTOR

Sec. 4. (a) National Blood Bank Systems.—Upon the application of any group or organization of blood banks, the Director shall designate such group or organization as a national blood bank system under this Act if the group or organization—

(1) includes member blood banks in not less than ten States, which member banks have drawn an aggregate of not less than two million units of blood in the year preceding application;

(2) requires by written contract member blood banks, which are not maintained and operated directly by the group or organization, to adhere and be bound by the rules and regulations of the group or organization;

(3) requires all member blood banks to maintain a program for the recruitment of voluntary blood donors;

(4) adopts rules and regulations for the operation of member blood banks which rules and regulations are approved by the Director and certified to be equal to or more stringent than the standards for blood banks and transfusion services of the American Association of Blood Banks and the applicable standards of the American Red Cross;

(5) provides for—

(A) accreditation of member blood banks which operate in conformity with the rules and regulations referred to in paragraph (4);

(B) a program approved by the Director of annual, unannounced inspection of accredited member blood banks to determine adherence to such standards; and

(C) recommend the fining, suspension, or termination of accreditation of member blood banks which fail to adhere to such standards;

(6) requires that accredited member blood banks—

(A) designate named individuals in such accredited member blood banks to have express responsibility for recruitment of voluntary blood donors;

(B) be open for business on days and at hours most convenient for voluntary blood donors;

(C) cooperate with other blood banks in the recruitment of voluntary blood donors and in other functions; and

(D) label clearly each unit of blood collected as "low risk" when it is from a voluntary blood donor or "high risk" when it is from a paid blood donor.

(b) Promotion of Voluntary Blood Donation.—In order to assure an adequate supply of pure and safe blood throughout the Nation, the Director shall—

(1) develop, by grant or contract, new procedures, materials, and techniques to inform the public of the need to voluntarily donate blood;

(2) provide direct assistance to establish an adequate supply of voluntary blood in those parts of the country where it is presently unavailable;

(3) develop a national program to honor and recognize all voluntary donors;

(4) establish yearly goals of voluntary donors for each blood bank;

(5) conduct evaluations of the effectiveness of various recruitment techniques and inform the licensed blood banks of the most effective techniques;

(6) classify blood banks which collect no

more than a specified percentage of their blood from paid donors as "Class A Blood Banks" and classify all other blood banks as "Class B Blood Banks";

(7) annually increase the allowable percentage of paid donors to qualify as a "Class A Blood Bank" to the highest level consistent with an adequate national blood supply.

(c) Donor Registry.—The Director shall maintain a registry of all persons who give blood after July 1, 1972, to a licensed blood bank and shall identify individuals on such registry who may have been implicated in the transmission of hepatitis or who should otherwise be disqualified as blood donors. The Director shall notify all blood banks of such disqualifying information.

LICENSE TO OPERATE AS A BLOOD BANK

Sec. 5. (a) License Required.—No person may operate as a blood bank unless such person is licensed under this section.

(b) Requirements of License.—Upon application therefor the Director shall issue a license to operate as a blood bank to any person if—

(1) such person agrees to require identification of each blood donor and such other information relating to each blood donor as the Director may prescribe; and

(2) such person agrees to transmit to the Director such information (including information indicating that the donor may be infected with hepatitis) as the Director may require; and

(3) the application therefor contains or is accompanied by such information as the Director finds necessary and the applicant agrees and the Director determines that the blood bank will be operated in accordance with standards the Director issues to carry out the purposes of this Act, including standards for purity, potency, and safety of blood, donor selection, allowable percentage of paid donors, regulations covering the management of blood inventories; and a requirement that all blood be tested by the best practical test for the presence of hepatitis; and

(4) such person agrees to clearly label each unit of blood collected as "low risk" when it is from a voluntary donor and "high risk" when it is from a paid donor.

(c) Period of Validity.—A license issued under this section shall be valid for a period of three years, or such shorter period as the Director may establish for any blood bank or class or classes thereof.

(d) Fees.—The Director may require payment of fees for the issuance and renewal of licenses, but the amount of any such fee shall not exceed $125 per annum.

(e) The Director or his designee shall conduct an annual inspection of each blood bank licensed under this section to determine compliance with standards issued under this Act. The time of such inspections shall not be announced prior to the inspection.

(f) The Director may designate a national blood bank system as his inspecting agent for purposes of this section. He may accept accreditation by a national blood bank system in lieu of this inspection requirement.

(g) Revocation, Suspension, or Limitation; Notice and Hearings; Grounds.—A blood bank license may be revoked, suspended, or limited if the Director finds, after reasonable notice and opoprtunity for hearing to the licensee blood bank, that such licensee or any employee of the blood bank—

(1) has been guilty of misrepresentation in obtaining the license;

(2) has engaged or attempted to engage or represented himself as entitled to perform any procedure or category of procedures not authorized in the license;

(3) has failed to comply with reasonable requests of the Director for any information or materials or work on materials, he deems necessary to determine the blood bank's continued eligibility for its license hereunder or continued compliance with the Director's standards hereunder;

(4) has refused a request of the Director or any Federal officer or employee duly designated by him for permission to inspect the blood bank and its operations and pertinent records at any reasonable time; or

(5) has violated or aided and abetted in the violation of any provisions of this section or of any rule or regulation promulgated thereunder.

(h) Legal Procedure; Imminent Hazard to Public Health; Jurisdiction of District Court; Temporary Injunctions or Restraining Orders; Bond; Final Orders.—Whenever the Director has reason to believe that continuation of any activity by a blood bank licensed under this section would constitute an imminent hazard to the public health, he may bring suit in the district court for the district in which such blood bank is situated to enjoin continuation of such activity and, upon proper showing, a temporary injunction or restraining order against continuation of such activity pending issuance of a final order under this section shall be granted without bond by such court.

(i) Appeals; Petitions; Record; Additional Evidence; Modified or New Findings; Jurisdiction of Court of Appeals; Conclusiveness of Findings; Review by Supreme Court.—

(1) Any party aggrieved by any final action taken under subsection (e) of this section may at any time within sixty days after the date of such action file a petition with the United States court of appeals for the circuit wherein such person resides or has his principal place of business, for judicial review of such action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Director or other officer designated by him for that purpose. The Director thereupon shall file in the court the record on which the action of the Director is based, as provided in section 2112 of title 28.

(2) If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Director, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Director, and to be adduced upon the hearing in such manner and upon such terms and conditions as the court may deem proper. The Director may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file such modified or new findings, and his recommendations, if any, for the modification or setting aside of his original action, with the return of such additional evidence.

(3) Upon the filing of the petition referred to in paragraph (1) of this subsection, the court shall have jurisdiction to affirm the action, or to set it aside in whole or in part, temporarily or permanently. The findings of the Director as to the facts, if supported by substantial evidence, shall be conclusive.

(4) The judgment of the court affirming or setting aside, in whole or in part, any such action of the Director shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

(j) Violations and Penalties.—Any person who willfully violates any provision of this section or any rule or regulation promulgated thereunder shall be guilty of a misdemeanor and shall on conviction thereof be subject to imprisonment for not more than one year, or a fine of not more than $1,000, or both such imprisonment and fine.

ADVISORY COUNCIL

Sec. 6. (a) Establishment.—There is established an Advisory Council to be composed of the following nine members appointed by the President:

(1) two representatives from each national blood bank system, one of whom shall be a person with not less than five years' recent experience in blood bank administration;

(2) three representatives of blood consumer groups including:

(A) one hospital administrator,

(B) one representative of organized labor,

(C) one representative of business management; and

(3) two persons experienced in advertising and public relations neither of whom may be employed or retained during their service on the Council by any firm or other organization which is engaged in operating a blood bank.

(b) Duties of Council.—The Advisory Council shall—

(1) make recommendations to the Director with respect to long-term policy goals for the National Blood Banks Program established under section 3 of this Act;

(2) make recommendations to the Director with respect to the encouragement of blood donation and the motivation, recruitment, and recognition of blood donors; and

(3) make recommendations to the Director relating to reciprocal transactions between national blood bank systems to the extent that no agreement relating to such transaction exists between such systems.

(c) Travel Expenses; Per Diem.—While away from their homes or regular places of business in the performance of services for the Council, members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

ANTITRUST EXEMPTION

Sec. 7. Notwithstanding any antitrust law, as defined in section 2(a) of the Antitrust Civil Process Act (76 Stat. 548; 15 U.S.C. 1311(a)), a national blood bank system may exclude or reject from membership in such system any blood bank which does not qualify for tax-exempt status under section 501 (c)(3) or 501(c)(4) of the Internal Revenue Code of 1954.

BLOOD ASSURANCE PROGRAMS

Sec. 8. No person other than a blood bank which is classified as a "Class A Blood Bank" may maintain any program in which individuals deposit blood in advance of their need for blood or pledge to give blood upon request.

ADMINISTRATION OF PROGRAM

Sec. 9. No provision of this Act and no part of any program established under this Act shall be administered by or under the supervision of the National Institutes of Health.

PURCHASE OF BLOOD BY FEDERAL GOVERNMENT

Sec. 10. No agency, department, or other instrumentality of the Government of the United States shall contract for or pay for the provision of blood from any person other than a "Class A Blood Bank" and such agency, department, or other instrumentality shall take such measures as may be necessary to insure that such blood has been tested according to the best available test for hepatitis.

DEFINITIONS

Sec. 11. For the purposes of this Act, the term—

(a) "Blood" means human whole blood, or any component thereof.

(b) "Blood bank" means any person or other entity engaged in the bleeding of individuals and performing two or more of the following functions—

(1) recruitment of blood donors;

(2) processing of blood for transfusions;

(3) storage of blood;

(4) crossmatching of blood;

(5) administration of blood to individuals; or

(6) preparation of blood components for transfusion.

(c) "Blood donor" means a paid blood donor or a voluntary blood donor.

(d) "Paid blood donor" means an individual who receives monetary compensation or an adjustment in his scheduled period of prison confinement for his donation of blood or any component thereof.

(e) "Voluntary blood donor" means any individual donating his blood other than a paid donor.

(f) "Accredited blood bank" means a blood bank accredited by a national blood bank system.

AUTHORIZATION

Sec. 13. There is authorized to be appropriated $10,000,000 for the fiscal year 1973, $10,000,000 for the fiscal year 1974, and $10,000,000 for the fiscal year 1975 to carry out the purposes of this Act.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 1975

At the request of Mr. Tunney, the Senator from Michigan (Mr. Griffin) was added as a cosponsor of S. 1975, to lower the minimum age for service on Federal juries from 21 to 18 years of age.

S. 2052

At the request of Mr. Hartke, the Senator from Wyoming (Mr. McGee) was added as a cosponsor of S. 2052, a bill to amend title 38 of the United States Code in order to establish a National Cemetery System within the Veterans' Administration, and for other purposes.

S. 2676

At the request of Mr. Tunney, the Senator from Maryland (Mr. Beall), and the Senator from Wisconsin (Mr. Nelson) were added as cosponsors of S. 2676, the National Sickle Cell Anemia Prevention Act.

S. 2870

At the request of Mr. Hartke, the Senator from Utah (Mr. Moss) was added as a cosponsor of S. 2870, a bill to provide for regulation of franchises.

S. 2898

At the request of Mr. Hartke, the Senator from West Virginia (Mr. Randolph), the Senator from South Dakota (Mr. McGovern), the Senator from Utah (Mr. Moss), the Senator from Alaska (Mr. Stevens), the Senator from New Jersey (Mr. Williams), and the Senator from New Mexico (Mr. Montoya) were added as cosponsors of S. 2898, a bill to provide college tutors for the homebound handicapped.

S. 2900

At the request of Mr. Percy, the Senator from California (Mr. Tunney) was added as a cosponsor of S. 2900, to amend the John F. Kennedy Center Act to authorize funds for operation and maintenance of the nonperforming arts function of that center.

ADDITIONAL COSPONSORS OF RESOLUTIONS

SENATE RESOLUTION 203

At the request of Mr. Hatfield, the Senator from Virginia (Mr. Byrd), the Senator from Mississippi (Mr. Eastland), and the Senator from Massachusetts (Mr. Brooke) were added as cosponsors of Senate Resolution 203, to express the sense of the Senate that United States fishing industry representatives be included in the U.S. delegation to the 1973 United Nations Law of the Sea Conference.

ECONOMIC STABILIZATION ACT AMENDMENTS OF 1971

AMENDMENT NO. 763

(Ordered to be printed and to lie on the table.)

Mr. HARRIS submitted an amendment, intended to be proposed by him, to the bill (S. 2891) to extend and amend the Economic Stabilization Act of 1970.

AMENDMENT NO. 764

(Ordered to be printed and to lie on the table.)

Mr. BENTSEN (for himself, Mr. Humphrey and Mr. Nelson) submitted an amendment, intended to be proposed by them, jointly, to Senate bill 2891, supra.

AMENDMENT NO. 765

(Ordered to be printed and to lie on the table.)

Mr. TAFT submitted an amendment, intended to be proposed by him, to Senate bill 2891, supra.

AMENDMENT NO. 766

(Ordered to be printed and to lie on the table.)

Mr. PERCY (for himself, Mr. Javits, Mr. Ribicoff, and Mr. Proxmire) submitted an amendment, intended to be proposed by them, jointly, to Senate bill 2891, supra.

AMENDMENT NO. 767

(Ordered to be printed and to lie on the table.)

Mr. CRANSTON (for himself, Mr. Dole, Mr. Ervin, Mr. Allott, Mr. Cook, Mr. Jordan of North Carolina, Mr. Gravel, Mr. Eagleton, Mr. Tunney, Mr. McGee, Mr. Mondale, Mr. McIntyre, Mr. McGovern, Mr. Goldwater, Mr. Humphrey, Mr. Stevens, Mr. Hughes, Mr. Thurmond, Mr. Hartke, Mr. Inouye, and Mr. Nelson) submitted an amendment, intended to be proposed by them, jointly, to Senate bill 2891, supra.

AMENDMENT NO. 768

(Ordered to be printed and to lie on the table.)

Mr. HARTKE submitted an amendment, intended to be proposed by him, to Senate bill 2891, supra.

AMENDMENT NO. 769

(Ordered to be printed and to lie on the table.)

Mr. JAVITS (for himself and Mr. Percy) submitted an amendment, intended to be proposed by them, jointly, to Senate bill 2891, supra.

AMENDMENTS NOS. 770 THROUGH 772

(Ordered to be printed and to lie on the table.)

Mr. PROXMIRE (for himself and Mr. Harris) submitted three amendments, intended to be proposed by them, jointly, to Senate bill 2891, supra.

AMENDMENT NO. 773

(Ordered to be printed and to lie on the table.)

Mr. PROXMIRE (for himself, Mr. Harris, and Mr. Stevenson) submitted an amendment, intended to be proposed by them, jointly to Senate bill 2891, supra.

NOTICE OF HEARINGS ON S. 2362, S. 2841 AND 2842

Mr. MAGNUSON. Mr. President, I announce that the Surface Transportation Subcommittee of the Committee on Commerce will conduct hearings on S. 2362, the Surface Transportation Act of 1971, relevant portions of S. 2841, the Transportation Assistance Act of 1971, and on S. 2842, Transportation Regulatory Modernization Act of 1971, on December 7 and 8, 1971. Hearings will commence at 10 a.m. in room 5110, New Senate Office Building. Any person who wishes to testify should notify the committee staff, 225-9325 or 225-9351.

NOTICE OF CANCELLATION OF HEARING BY THE SUBCOMMITTEE ON HANDICAPPED WORKERS

Mr. BYRD of West Virginia. Mr. President, at the request of my distinguished senior colleague (Mr. Randolph), I ask unanimous consent to have printed in the Record a notice of cancellation of a hearing by the Subcommittee on Handicapped Workers.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Statement by Senator Randolph

Mr. Randolph. Mr. President, on behalf of the Subcommittee on Handicapped Workers, I desire to give notice that the hearing scheduled for Thursday, December 2, 1971, at 10 a.m. in room 4200, New Senate Office Building, has been cancelled. The hearing to receive further testimony on proposed amendments to the Randolph-Sheppard Act has been rescheduled for Thursday, December 9, 1971, at 10 a.m. in room 4200, New Senate Office Building.

ADDITIONAL STATEMENTS

THE MEANING OF THE WHITE HOUSE CONFERENCE ON THE AGING

Mr. PERCY. Mr. President, the long-awaited and widely-heralded White House Conference on the Aging opened yesterday here in Washington. For this conference, over 3,000 experts in the field of the aging have come to the Nation's Capital to discuss the various problems confronting today's 20 million elderly citizens. The delegates will be meeting throughout this week in an effort to determine how best the Government, and citizens in general, can help senior citizens in the areas of health, income maintenance, housing, employment, education, nutrition, transportation, and long-term care.

Perhaps the greatest, and most basic, problem confronting today's senior citizens is their lack of status in our society. In earlier days—and even today in other societies—growing old was accompanied by an increase in prestige, and by growing respect from younger generations. Old people were better cared for, and even sought after for their wisdom gained from decades of experience with life and contact with several generations.

Today, being old too often means loneliness and great hardship. Just at the time in his life when the older American could benefit most from a higher income, he often suffers a drastic drop in income. Just as he discovers that he is less nimble and therefore less mobile, he sees that transportation costs are rising, while service is deteriorating—if not disappearing altogether. As he begins to find it necessary to buy more medication and visit the doctor more often, he sees hospital and medical costs rapidly increasing beyond his means, suggesting that the cards in the game he must play with life and death are stacked in favor of the latter. And just at the age when—because of his decreased mobility, inadequate income, and declining health—he feels the greatest need to live in comfortable, familiar surroundings close to the people he knows and loves, he frequently is forced to give up his home or move to another environment.

In an article in yesterday's Washington Post, Colman McCarthy eloquently described the plight of today's elderly citizens. So that my colleagues might have the benefit of Mr. McCarthy's perceptive analysis of their situation and the reasons for it, I ask unanimous consent that his article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHY ARE THE OLD PUT ON SHELVES?

(By Colman McCarthy)

Everyone wants to live a long life, but there is one trouble—you have to grow old to do it. For many of America's 20 million citizens who make it past 65, the trouble is hardly worth it. Unless you are rich or have especially devoted children, chances are that old age may be a time of anguish, loneliness and sadness, worse for some than others. Perhaps the greatest torture of being old is that one must go about it surrounded by products and services that are ever new and ever fresh. Last year's model, last year's fashion, last year's wardrobe—this feverish custom of discarding what in many cases is only slightly old leads naturally to a throwaway mentality. Thus, easily put out of sight and out of mind are last year's people, the old.

The White House Conference on Aging, beginning today and running through the week, will likely have much to say on the cruel ways in which old people are neglected by the government and by institutions. But this running tragedy is not so much a planned horror as it is a reflection of a deep-set attitude. Along with racism and sexism, there is now "oldism," an intolerance of people too slow, too wrinkled and too tired for the American pace. Dr. Robert Butler, a Washington psychiatrist and one of the few in the country who practices "life-cycle therapy," believes a strong feeling exists "of not wanting to have all these ugly old people around."

How has this happened? Since abandoning another human being is not a natural instinct, the reason may be cultural. It is regularly pointed out, to the point of fatigue, that America is obsessed with the young, a fudge of idolatrous concern that thickens with each new fad. But saying the country is over-fascinated with a youth cult is only part of it, and even then it is inaccurate; if we care so much about kids, why must educators constantly beg for money, why are school lunch programs left unfunded, why are stores allowed to sell flammable sleepwear for children? The deeper cultural reality that allows the old to be the nation's resident castoffs is that American values have been largely shaped by both the Calvinist mystique of achievement and the American frontier notion of self-reliant individualism. These two creeds naturally exclude the elderly because old men and old women are seen as no longer achieving and no longer self-reliant. They are non-producers who should be stripped of their "we try harder" buttons; after that, what else can be done but stash them on a shelf? As Dr. Robert Butler has noted, "Our society serves the productive. We view ourselves as an organism that can all too easily dispense with its parts, which are subject to facile replacement. Most of our national policy decisions are economic and technological rather than moral. The Office of Management and Budget decides. There is a Gross National Product, however important, that is closely watched but there is no Human Value Index."

If putting away old people—removing them from budget priorities, from family circles—fits in well with the American way, it is also true that this wasn't always the case or style with all Americans. One can visit ethnic families in the Northeast industrial towns—Italians, Poles, Slovaks, Greeks and others—and inevitably an old person is found to be an honored and wanted member of the family. Unlike others, many ethnics insist on keeping the parents and grandparents in the main path of travel if only because the young know that one day they must go that way, too. If you are kind to your parents, Irish children are told, you will have a long life. But keeping to this tradition of respecting the old is not easy for ethnic Americans. Professor Michael Novak, soon to publish a book on ethnics ("The Rise of the Great Unwasped" from Macmillan), has written: "One of the more poignant prices ethnics had to pay to become Americanized was to learn not to care for one's parents or grandparents, to learn that life belongs most to those between the ages of 15 and 50. In the public schools, the ethnic child was taught to make fun of one's parents and grandparents—their accents, their gestures, their values. 'Old fashioned' became a word used not for the respect due to wisdom but for contempt due to inferiority or being different from Wasp America. It was silly to care for one's aging parents, to put up with their complaints, customs and needs. 'The American way' was to ship off the old folks to some sanitized rest home; but most ethnic people couldn't quite bring themselves to do that. For cattle maybe, but not for one's parents. The solution often was to find some small apartment, a separate room, in which the old folks could live in some compromised way, not quite in the center of the family as *their* parents had been, but assuredly not institutionalized as 'the Americans' were."

A word and concept now in heavy use is "community." Real estate men no longer build developments, they create communities, the young go off to found communes. But this talk of community is strange; how can you have a common unity when no place is given to the elders of the tribe. "Traditionally," Nathan W. Shock, head of NIH's Gerontology Branch, has said, "the older person in the community had a role in that he had lived longer, he therefore had more experience, he was wiser . . . he knew where the tigers were in the jungle."

The sources of this tradition are easily found, even without going to the East where the old have always been revered. In the 6th century Rule of St. Benedict, for example, one of the earliest charters for community living, the fathers and brothers of the monastery are told in chapter 37 that the old are worthy of special treatment. "Although human nature inclines us to show pity and consideration to the old . . . still it is proper that the authority of the Rule should provide for them. Let their weakness be always taken into account, and let the full rigour of the Rule as regards food be in no wise maintained in their regard. There is to be a kind consideration for them, and permission is to be given them to anticipate the regular hours." Even today, in the many European and American Benedictine monasteries and convents, old members of the community are cherished and honored for their wisdom.

These are rare enclaves of charity, however, and the spirit of compassion has not spread. But it persists at least. In the end, the main impact of this week's White House Conference on Aging must be less on American politicians or programs than on American values—the principal source of many of the elderly's sufferings. Some of these are inevitable, the results of sickness or family scattering. But many are not; they are caused by a value system that plays down filial respect while playing up much that is passing and cheap. In a recent book on the elderly, French writer Simone de Beauvoir asked, "What should a society be like that in his old age a man can remain a man?" The answer: "He must always be treated like a man."

This is not an easy goal, neither for wide-open conferences nor for closed-up minds. But if it is true that every country is entitled to a few mistakes, then perhaps we are now coming around to recognizing one. America, compared with other countries, is still young—exactly the time to see that the realities of aging do not become the horrors of aging.

THE TRAGIC CONFLICT BETWEEN INDIA AND PAKISTAN

Mr. ALLEN. Mr. President, the human tragedy that is taking place in Asia, where India and Pakistan have renewed their border fighting and threaten all-out war, must not engulf the United States. This is not the first time that these giant countries have squared off against one another, but unless the leaders of those two countries come to their senses, the skirmishes now taking place may well be the forerunner of a bloodbath egged on by increasing enmities between Communist China and Communist Russia.

Red China is backing Pakistan in this fight, while Russia and India just last April signed a treaty of cooperation.

Americans cannot be accused of being callous to the human suffering that is taking place in this subcontinent occupied by Pakistan and India.

During the past 25 years the United States has given India more than $8 billion in aid, more than any other country in the world has received except for South Korea and South Vietnam where we still have military forces. During this same period, we have provided aid to Pakistan totaling almost $4.5 billion. These figures do not include the $414 million earmarked for India and $220 million for Pakistan under the 1972 foreign economic assistance package which was passed in the Senate last month. Nor do they include the millions of dollars in private donations by Americans for relief in last year's tragic typhoon and to the almost 10 million refugees in India from Pakistan.

Despite these humanitarian efforts by the United States to help the 550 million people of India and 110 million people of Pakistan, we now find that those countries have alined themselves with

Communist Russia and Red China. That is the kind of appreciation we have received from our assistance programs.

The tragic insistence of India and Pakistan to go to war simply adds further proof of the bankruptcy of the United Nations which was supposedly formed to maintain international peace and security. The Security Council has complete authority to use its influence and the power of the United Nations whenever there is a threat to peace.

But the record clearly and unmistakably portrays the failure of the U.N. as a world peacekeeping organization. Since 1947, just 1 year after the U.N. was created, there have been 73 wars or civil conflicts throughout the world. But on only 10 occasions has the Security Council provided peacekeeping forces or observer teams, and the United States provided the bulk of the support in most of those. Even those few actions are marred by failures, such as the abrupt withdrawal of U.N. forces along the Suez Canal in 1967 resulting in the so-called 6-day war between Israel and the Arab States, a war that threatens to resume at any time. And the U.N. now stands on the sidelines watching this new India-Pakistan war.

The United States continues to place unjustified faith in the U.N., but no other country in the world is so willing to settle its international disputes by peaceful means. While millions of their people live constantly on the edge of starvation the Governments of India and Pakistan are more interested in spending money for war than they are in developing their agricultural economies to feed their teeming millions or in helping develop an economy that would provide jobs and a decent living for their people.

We have absolutely nothing to gain and everything to lose if we try once again to intervene and take sides in foreign conflicts. Recently, under pressure from Congress, the President very properly cut off deliveries of military supplies for Pakistan, and I hope that he will exert every other precaution to keep the United States out of this unsolvable mess.

While I am saddened at human suffering wherever it may be, I am unalterably opposed to the United States getting involved in the growing conflict between India and Pakistan.

LAND CLAIMS OF ALASKAN NATIVES

Mr. BUCKLEY. Mr. President, the Senate and House conferees have begun to meet in executive session to resolve the differences between their respective versions of H.R. 10367, to provide for the settlement of certain land claims of Alaskan Natives. I would like to reiterate at this time, my support of the approval to the allocation of lands which was compiled in the bill adopted by the Senate (S. 35).

In assessing the fairness of the Senate formula for the settlement of the Alaskan Natives' claims, it is important to keep in mind some very simple but compelling historical facts. Beneath the complexities and contemporary ramifications of settling these land claims there lies the indisputable reality of Native use and occupation of virtually all of Alaska from time immemorial; literally for thousands of years. In a historical and anthropological sense, there is no question but that until very recently Alaska has been "their" land; and even now relatively little of it has been preempted by newcomers.

It is instructive to recall the situation as it existed in 1867 when the United States purchased sovereignty of the Alaskan Territory from Russia. At that time, with the exception of a few trading posts, there had been virtually no penetration of Russian settlement beyond the southern coastal areas, and it had always been clear to the Russians that the aboriginal inhabitants had exclusive rights to the interior landmass. Indeed, the 1867 Treaty did not purport to extinguish Native title to the Alaskan land, but rather left the matter to be resolved by U.S. law, and in 1864 Congress explicitly protected Native land rights against interference by third parties.

The historical reality of Native dominion over Alaskan land continued unabated, with very few exceptions—chiefly along the southeastern coastal panhandle—well into the 20th century; and until the 1940's, when Alaska's strategic military importance brought a wave of change, the Natives remained a majority of the Alaskan population. Even today, 13 years after statehood and a decade of impressive development, the Native people remain the bulk of the population outside of a few major cities and the southeastern coastal strip.

It is significant, Mr. President, that the Natives of Alaska have never been conquered in war; they have never lost their property rights through treaty or act of Congress; and until now they have never relinquished their claim to most of Alaskan land. Indeed, claims filed with the Department of the Interior assert Native title to roughly 80 percent of contemporary Alaska. It is also very significant, and of particular relevance in reaching a resolution on the bill now before the conferees, that Congress specifically provided in the 1958 Statehood Act that—

> The state and its people do agree and declare that they forever disclaim all right and title . . . to any lands or other property (including fishing rights) the right or title to which may be held by any Indians, Eskimos, or Aleuts.

The courts have reaffirmed the integrity of the Natives' titles. For example, in 1962, the Supreme Court held that the 1958 Statehood Act preserved the status quo with respect to lands claimed under Indian title, Metlakatla against Egan, Kake against Egan; and in 1969, in a decision which the Supreme Court declined to review, the ninth circuit court of appeals refused to hold that lands held under Native title could be selected by the State in fulfillment of the Statehood Act land grants, Alaska against Udall.

These are the legal arguments in support of the Natives' claims, Mr. President. I prefer to rest my position, however, on the very compelling moral rights which, in my judgment, the historical facts support. Whatever legal obligations the United States may have to deal fairly with the Natives of Alaska, it seems to me that any reasonable reading of the historical record indicates a clear moral obligation to strike generous and honorable bargain with the Native people as we extinguish their claims.

The central thrust of the land section of the Senate bill is that the Natives are given the option either to select 40 million acres of traditional village land, or to select half that many acres of village lands plus an additional 10 million acres of commercially valuable land in areas away from the villages. Mr. Donald Wright, president of the Alaska Federation of Natives, has stated that the Native villages will overwhelmingly opt for 40 million acres of their ancestral lands. I regard the retention of the option to choose 40 million acres in fee simple title as essential to the achievement of a just settlement of this long-outstanding dispute.

Mr. President, everything I know about this issue indicates that the allocation of 40 million acres, which will provide the 200 Native villages with a viable land base for their cultures and economies, constitutes—in combination with the monetary compensation which is provided—an eminently fair and honorable basis for settling the Native claims. I very much hope that this provision will be adopted by the conference.

KEYNOTE SPEECH ON BEHALF OF RURAL AMERICA

Mr. HUMPHREY. Mr. President, as chairman of the Senate Subcommittee on Rural Development of the Committee on Agriculture and Forestry, I have heard many eloquent words spoken this year about the problems and promise of the American countryside.

However, there is a new organization in this city, whose leaders seem to have an even better than usual insight into what must be done to promote a reasonable economic and social balance between urban and rural America.

That organization is the Coalition for Rural America, led by former Governors Edward Breathitt of Kentucky and Norbert Tiemann of Nebraska.

On November 4, Governor Breathitt made the keynote address at the annual meeting of the National Association of State Departments of Agriculture. I ask unanimous consent that this speech be printed into the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

GOVERNOR BREATHITT'S KEYNOTE SPEECH

A popular songwriter once asked this Nation facetiously, "How Ya Gonna Keep 'Em Down on the Farm, After They've Seen Paree?"

That was a funny song for the revelers in Broadway speakeasies following World War I. But in a way, the song proved to be prophetic, and we in the new Coalition for Rural America don't think it's funny anymore.

You and I have too quietly witnessed the greatest migration of human beings in the history of mankind. Thirty million Americans have left the countryside in th past thirty years for the major cities. Our farm population has dwindled to the point where 800,000 farms produce 90 percent of all our food and fiber. 95 percent of our people live on 10 percent of the U.S. land area, and 14 million people have been left behind in rural America—many of them in terrible poverty.

The President's National Advisory Committee on Rural Poverty concluded in 1967:

"Rural poverty is so widespread, and so acute, as to be a national disgrace, and its consequences have swept into our cities violently. The urban riots during 1967 had their roots in considerable part in rural poverty. A high proportion of the people crowded into city slums today came there from rural slums."

No, we of the Coalition for Rural America don't think it's funny any longer, and I suspect that Mayor Lindsay and many others along old Broadway no longer see its humor either.

The Coalition is newly formed and has come into existence to deal with a problem of long standing in our country.

Through a complete lack of any governmental policy we have permitted rural America to deteriorate like a rusting hand plow languishing in a fallen down barn while the social and economic problems once scattered across the thousands of square miles of our great land have become compacted into urban ghettos where they have become both more evident and more volatile.

As former Secretary of Agriculture Freeman says, this process couldn't have occurred in a more insidiously efficient way if we had planned it in our national policy councils.

Governor Tiemann and I have been chosen to lead the Coalition for Rural America. In directing the activities of the Coalition, we will be guided by these principles:

We are strongly in support of a structure of agriculture that includes prosperous family farms and an economically viable marketing and processing system based in rural areas.

In building rural America, our aim is to see that development is consistent with the preservation and enhancement of a quality environment.

We are concerned, not just with the aggregate development of the rural economy, but with eliminating the causes and ameliorating the effects of rural poverty, through such measures as welfare reform and public service employment.

We are committed to the priciple of equal concern for, and equal involvement of, all the people of rural America, without discrimination on any basis.

One thing is certain. The Great American Dream resides uneasily in the suburbs of our great cities, while the news media and the policy makers have all but forgotten the hardworking people in Rural America.

It is not only the rural poor who have been forgotten. Since the Depression we have paid great lip service to the family farm while generally pursuing farm policies designed to promote corporate and conglomerate farming.

The farmer spends over $40 billion a year for goods and services to produce crops and livestock; and another $16 billion to buy the things which city people buy like appliances, clothing, drugs and furniture. Three out of every ten jobs in this country exists because they are related, in some way, to agriculture.

Our food is inexpensive because one hour of farm labor produces nearly seven times as much food and other crops as it did in 1919. Crop production per acre has doubled.

That's the kind of friend we all have in the American farmer. Yet what do we give him in return.

The President doesn't even bother to send a farm message to the Congress. Last year's farm bill was rammed down the throat of Congress with the threat of "either this or nothing". A proposal has been made to abolish the U.S. Department of Agriculture, combining it into an omnibus agency that would clearly favor urban areas.

And what is happening in the countryside? The farmer is getting 17 cents a pound for hogs; 90 cents a bushel for corn; and as little as $1.10 a bushel for wheat. His net profit margin hovers around two or three percent.

Parity is at 68 percent, the lowest level since the Depression.

Something is seriously wrong, and I suggest that it's simply a matter of fact that there aren't enough people in Washington who any longer give a hoot about rural America.

Well I care. And I know that you do too. But we have to get the message to the people who count.

Now let me ask you to do me a favor right here and now. Stand with me here and let's show *our* appreciation to the hardworking men and women who have the courage to stick it out in American agriculture today. Let's stand here and give them an ovation:

Since the depression we have heard talk about rural development, but something seems wrong. Somehow there has been only talk and not much action.

In the past ten years we have heard a lot of talk about balanced national growth—a balance between rural and urban America. Again, we have just heard talk. There are about 200 federal assistance programs designed in whole or in part to help rural America, and somehow they are not having an economic impact that would promote balanced growth.

Balanced growth for the United States is hardly a controversial objective. It is accepted on both sides of the aisle as something that is desirable and which should be encouraged. But what does it really mean and how can it be accomplished? These are questions that have never really been adequately answered, by either government or the private sector, and the search for these answers is one of the principal reasons the Coalition has been formed. Clearly some new approaches are needed.

Some of our rural programs—especially some of the farm programs—are relics of an earlier time when things were different than they are now. These programs were developed without realization of what farm mechanization, three wars and vast urban industrial expansion would do.

As a matter of fact, there is considerable evidence that much of the continuing research and human development efforts of the Federal Government do not promote balanced national growth, but merely speed up the migration process from rural to urban society.

The U.S. Department of Agriculture, for instance, is still sponsoring research into the development of more efficient machinery which will take more and more people off the farm.

It's easy to understand the motivation for these efforts. They are part of a desire to increase production and decrease operating costs. But when is someone going to take cognizance of the social costs of continued migration out?

Take a long look at the age of our farm population. It's old.

Obviously certain factors will take hold to prevent this from happening, but at the present rates of farm family outmigration, in 20 years there will be no one left in America who knows how to operate a farm. Then no amount of fancy new machines will be enough to restore our proud claim as the best fed nation in the world at the lowest cost in terms of take home pay.

This dire prediction is not going to take place. But who are our farmers likely to be if the trend continues? They will be employees of large corporations.

There are some who will give reasons why this will not come to pass, either, but few can contest the fact that a young man today who is not born into the ownership of farm land will find it all but impossible to get a start in agriculture.

These new approaches must also recognize that the solutions to our rural problems must be arrived at in a far different manner than has historically been the case.

Our problems are totally inter-related and equally complex, and they cannot be resolved in isolation. As the President said in his 1970 State of the Union message:

"What rural America needs most is a new kind of assistance. It needs to be dealt with not as a separate nation but as part of an overall growth policy for America."

With this in mind, the Coalition has developed certain legislative objectives described by Governor Tiemann as:

"The direct infusion of dollars into the rural economic system—the investment or job tax credit, non-agricultural credit, and the regional approach toward public works assistance.

"Our reasoning is simple enough. Our organization is composed of former governors. Through sometimes brutal experience, they have learned what works to stimulate economic development."

Both Governor Tiemann and myself testified on behalf of S. 2223. This bill provides for a rural development credit and incentives. Introduced by Senator Hubert H. Humphrey and Senator Herman E. Talmadge to promote rural economic development, this legislation has been cosponsored by fifty members of the U.S. Senate. It is important, because it would reverse a serious trend and begin to infuse new money into the development and growth of Countryside U.S.A.

This is a big and complicated bill. It may not pass without the aggressive support of groups like yours.

Again I say we must stop talking about balanced national growth and begin to do something about it. Take a look at what has been done in the past to stimulate economic development in rural areas, such as waterway development and reclamation projects. They worked. They stimulated development where there was none before. They were among the few Federal actions planned and executed on the basis of a cost-benefit ratio.

The Humphrey-Talmadge rural development credit bill would expand the activities of the Secretary of Agriculture to encompass all Federal rural development projects—a total approach, rather than one based solely on farming.

This is something I believe is sorely needed. We have rural development programs scattered among so many government departments that President Nixon's Task Force on Rural Development couldn't even locate all of them.

The Federal Government is a large employer of hundreds of thousands of people who take home millions and millions of dollars worth of paychecks. But where are the federal facilities located?

Now this is a good example of how they care about balanced growth:

At one time, those federal offices were in the central cities. But now the government doesn't even have the courage to leave the jobs in the central cities. It's moving them out to the suburbs, following the trend of private business.

Where is the Department of Agriculture located? Is it in a rural area? How long has it been since the assistant secretary for rural development has spent a protracted period of time out there with the people whom he presumes to help?

Is the Bureau of Indian Affairs located where the Indians are? Is the small communities section of the Department of Housing and Urban Development located anywhere near a small community that is not directly affected by some metropolis?

Even the regional offices of the departments which are totally concerned with rural development are smack dab in the middle of hundreds of thousands of people who have forgotten the rural people left behind.

Obviously much could be done to stimulate economic development in existing rural growth centers if the government would adjust its policy of locating federal facilities so that they are closer to the people they serve. Title IX of last year's farm bill is an excellent beginning in this regard, but it must be implemented.

Each year, the Federal Government spends millions for many kinds of research and development. But where does that money go?

It goes to the Harvards and the M.I.T.'s and the Berkleys. It might be argued that those institutions have the Nobel prize winners. But I ask simply if the Nobel prize winners aren't there because the Federal R&D dollars are there? And I also wonder how many of these men would have become Nobel prize winners without the R&D money.

If we really want balanced national growth, why don't we spend some of these dollars at places like the University of Kentucky or the University of South Dakota? I submit that this is partly because no one has ever questioned the system before.

And what about credit?

There simply isn't enough of it available in rural America to stimulate local growth and a real trend toward balanced development.

Small town banks either don't have the resources to lend great amounts of money for venture and enterprise capital, or they tend to hoard assets. There are small towns in this country where the banks don't even give auto loans.

I believe that the President's call for an investment tax credit will do much to stimulate economic development in rural areas. In fact, the Coalition feels sufficiently strong about the use of tax incentives to spur economic development that we are vigorously supporting an amendment by Senator Pearson of Kansas to provide a differential in favor of enterprises that locate in rural areas.

An investment tax credit of the type proposed by Senator Pearson of Kansas to provide a differential in favor of enterprises that locate in rural areas.

An investment tax credit of the type proposed by Senator Pearson is a powerful economic tool. It can be used quickly and is relatively simple to administer. Since it relies on the initiative to the private sector, it has the potential to be more effective than direct Federal spending. The leverage gained from such an incentive can be tremendous. For example, under Senator Pearson's Amendment, if new rural investment is stimulated and takes advantage of the investment tax credit, every dollar lost to, or in effect spent by, the Federal Treasury will be matched by seven dollars invested by the private sector in rural America. It also has the advantage of encouraging rural industrial development without destroying the tax base of rural communities—when tax incentives are left to the state or local communities alone, those who can least afford the loss of revenues are often those who have to make the biggest concessions to attract industry.

Now I want you to notice something. I began this speech talking about family farmers, and now I am talking about drill press operators.

The reason for this is quite simple. Rural America is no longer made up of predominantly farm population. It is as complex a society as urban America and must be viewed accordingly. The Coalition clearly recognizes the need to tie together these diverse interests in order to mutually reinforce all segments of rural America. Unless this happens the future of Rural America will continue to be marked by continued outmigration and a further loss of our youth to the cities. This need not happen. This will not happen if strong and vigorous leadership is able to define and fight for the real Rural America in all its complexities. This is your challenge.

Your challenge because you have successfully in the past represented that key figure in our population—the farmer. We must now expand our horizons and develop a Rural America that can successfully bring together all of the different economics so that all can together create a strong and dynamic Rural America.

TRAFFIC JAMS

Mr. COOK. Mr. President, a noteworthy article entitled "Traffic Jams: What To Do?" appeared in the Washington Evening Star last evening which I feel all my colleagues should avail themselves to read.

It is a wonder in itself that our dedicated commuter force musters enough courage every morning and evening to face bumper to bumper traffic, screeching tires, tooting horns, and discourteous verbal assaults.

Even with the accomplishment of this truly outstanding task, the victory falls short, even though great skill is involved. Having bested the opponent, the commuter is still faced with the perilous task of outmaneuvering his mortal enemy for a place to park. Even with this done, the financial woe ensues.

Fred Barnes' article is enlightening in that it presents several alternatives to the massive commuter congestion problem. Particularly, he notes that steps are underway that may all but alleviate the problem. The relief that is coming is in the form of a 4-day workweek which transportation officials are considering introducing as a way to ease rush hour traffic snarls.

As you know, Mr. President, I am the author of S. 2463, the 4-day workweek bill. I have contended that the time is right for the country to evolve to such an innovative work schedule, and Mr. Barnes' article certainly sheds some favorable light on its necessity. I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Freeway Alternates—Traffic Jams: What to Do?

(By Fred Barnes)

Transportation officials are considering a series of schemes, including the four-day work week, designed to ease rush-hour traffic snarls in the Washington area without building new freeways.

These plans, known as "non-facility solutions" to the transportation problem were presented today to the Transportation Planning Board of the Metropolitan Washington Council of Governments. The council took them under consideration.

Besides the four-day work week, the proposals call for an increased program of staggered work hours for government and private employes and a plan called "Gleitzeit," which has been used successfully in Germany.

Gleitzeit would allow employes to work an eight-hour period of their choice between 7 a.m. and 7 p.m. For instance, some might choose to work from 7 a.m. until 3 p.m., while others might prefer to work from 11 a.m. until 7 p.m.

"If everyone were happy with the current schedule, there would be no change," said a report from the COG staff. "On the other hand, if people were really bothered by peak hour congestion, there could be major changes in current traffic patterns," it added.

The report said the four-day week has been tried in Los Angeles and a study there concluded that it "could have a major impact on relieving congestion at traffic bottlenecks."

The federal government already staggers the work hours of many of its agencies, but the COG report noted that this practice "is less common for private firms." The report suggested that much more staggering would be helpful in the private sector.

"A change in work schedules could have a major impact on the amount of peak hour traffic which must be accommodated," the report said. Each of the schemes "has the advantage of providing a relatively immediate reduction in peak hour congestion especially in the downtown area," it added.

"Because of the growing social and environmental concerns over building transportation facilities for peak travel demands, it is essential to explore all non-facility alternatives that might reduce such demands," the report said.

"The social and economic benefits of these plans might even outweigh the transportation implications," it said. "Both improved utilization of company equipment as well as more flexible scheduling of individuals' daily activities could result."

But the report said there are possible drawbacks in the schemes, including a possible "reduction in car pooling" that might see more commuters drive their own cars alone.

At today's board meeting, Thomas F. Airis, director of the D.C. Department of Highways and Traffic, said officials found it easy to stagger work arrival times, but encountered problems in getting people to go home over a staggered period.

Airis said most people want to leave around 5 p.m. "We wind up with really heavy congestion on the city streets at that time," he said.

ELGIN BAYLOR

Mr. TUNNEY. Mr. President, this month Elgin Baylor, one of the great legends of basketball, retired from the Los Angeles Lakers basketball team.

Those of you who have been here in Washington and follow sports know of his great playing days here as a prep star. He went on to a remarkable college career and excelled through 13 years with the Lakers.

Earlier this month the Los Angeles Times Staff Writer Mal Florence had this to say about Mr. Baylor:

> No man contributed more to the success and popularity of the Lakers since they moved to Los Angeles in 1969 than Baylor.

As an athlete, the graceful 6-foot, 5-inch forward had no peer. He was a man of a thousand offensive moves and his hang-in-the-air acrobatics are part of the legend and lore of pro basketball.

Mr. President, I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Baylor Ends Fabulous Career After 13 Years—Lakers' Captain Says He Quit in Fairness to Fans, Team, Self

(By Mal Florence)

Elgin Baylor, one of the greatest basketball players in the history of the game, has retired.

The famed Laker captain came to this decision Thursday afternoon after a remarkable 13-year career in the NBA.

The 37-year-old Baylor will remain with the Lakers in a public relations and scouting capacity. He also will be a TV analyst on the college basketball game of the week.

No man has contributed more to the success and popularity of the Lakers since they moved to Los Angeles in 1969 than Baylor.

As an athlete, the graceful, 6-5 forward had no peer. He was a man of a thousand offensive moves and his hang-in-the-air acrobatics are part of the legend and lore of pro basketball.

"I hoped to end my career after one last, successful season," said Baylor. "Out of fairness to the fans, to the Lakers and to myself, I've always wanted to perform on the court up to the level and up to the standards I have established throughout my career.

MAINTAIN STANDARDS

"I do not want to prolong my career to the time when I can't maintain those standards."

Baylor has made several comebacks from injuries during his career. But none was more serious than the severed Achilles tendon that enabled him to play in only two games last season.

Yet, when the present season started there was old double-deuce performing at his familiar starting cornerman position. Still, he wasn't at his physical best and this knowledge contributed to his retirement announcement.

JERSEY RETIRED

Baylor, who carried himself with dignity both on and off the court, will never see his No. 22 jersey worn by another Laker.

Laker owner Jack Kent Cooke has seen to that, saying, "that is as it should be."

"One of the privileges I've enjoyed as owner of the Lakers is being associated with the man who deserved the description superstar as much as any athlete who has ever lived," said Cooke.

Sharman, who used to play against Baylor when he was a star Boston Celtic guard, expressed his admiration for the man who is probably the all-time NBA forward.

"I've always admired Elgin Baylor and knew him to be a super star," said Bill. "Now, after coaching and working with him I've also found him to be a super person.

"I felt that Elgin made a tremendous effort considering his many injuries including the serious Achilles tendon injury. His attitude and cooperation never diminished and he always put out with a 100% effort."

Schaus echoed Sharman's sentiments when he said:

". . . This is a sad day for me because of the wonderful 11 seasons we had Angels with the Lakers. But I'm happy and pleased with the realization that Elgin will be an important member of our staff for the next three years. I say without reservation that Elgin Baylor is the greatest cornerman who ever played pro basketball."

NO. 3 SCORER

Baylor retires as the third greatest scorer (23,149 points) in NBA history behind Wilt Chamberlain and Oscar Robertson.

More amazing is the fact he's reached this lifetime total while missing 170 games in 13 seasons.

He was also the greatest rebounder for his size in the league. In a domain that belongs to the giants of the game, Baylor was fifth on the all-time rebounding list (11,463). Elgin earned other statistical credits—second ranked in the NBA in field goals attempted and made and No. 5 in free throws converted.

And, it was almost 11 years ago today that Baylor scored 71 points against the New York Knicks at Madison Square Garden—the highest figure ever recorded by an NBA forward.

Of the 20 all-time high point games in the NBA, 17 belong to Chamberlain and three to Baylor.

Elgin was almost a perennial all-league selection since his rookie season with the Minneapolis Lakers in 1958–59. He was also a member of the NBA All-Star team on 10 occasions.

About the only honor to accrue to Baylor was playing on an NBA championship team. But he and Jerry West fought the good fight, battling the Boston Celtic dynasty in some historic title series—many going to the seventh and deciding game.

Elgin still has the distinction of scoring a record high 61 points in a playoff game against Boston in 1962.

Body control was, perhaps, the key to his offensive proficiency—shots that defied description.

Only two years ago, Knick forward Dave DeBusschere was saying, "I've thought I've seen all of the old man's moves, but he showed me a few tonight I had never seen. He's a marvel of the ages."

SELECT GROUP

Baylor also has long, strong fingers and once he clamped his hands on the ball, it was his.

Baylor leaves the NBA with a lifetime scoring average of 27.5 points and the legacy that he was a member of a select group—the Russells, Wests, Chamberlains, Robertsons, Cuseys—that promoted pro basketball from a barnstorming; second-rate sport to the high level of popularity it now commands.

Elg came to the Lakers as an exciting All-American from the University of Seattle. Bob Short, then the Minneapolis owner, recently reflected on Baylor's worth to the franchise.

"If he had turned me down then, I would have been out of business. The club would have gone bankrupt."

Formal retirement ceremonies are planned by the Lakers in the near future. They'll be honoring a class player and a class person.

THE FRENCH CONNECTION

Mr. HARTKE. Mr. President, on March 2 of this year, I introduced Senate Resolution 64 which called upon the President to take effective diplomatic and economic measures designed to curb the international traffic in heroin. That resolution was based upon the obvious fact that there is a significant international network of heroin traffickers; and, until they are eliminated, we will not be able to eradicate the scourge of heroin addiction in the United States.

A few months ago, the Government of Turkey announced that opium production would be illegal in all of that nation's provinces by next year. This was welcome news, but no source of comfort. First, the 1-year grace period gave Turkish opium producers a chance to stockpile. Second, the Turkish program in and of itself does not guarantee that illegal production will be eliminated. Third, there is an ample source of supply from other nations, particularly those in Southeast Asia. We will be spending $35 million to assist the Turkish Government embark upon its program, but I very much doubt if that effort will make more than a minor dent in the source of the world's supply of heroin.

There is a contemporary motion picture making the rounds these days called The French Connection. It is a dramatized version of a well-planned effort to smuggle heroin from Marseilles, France to New York City. One need not, however, go to his neighborhood movie theater to learn the details of this escapade, for it is being played on the front pages of every newspaper in this country.

Recently, we have learned that there may be truth in the allegation that government officials in France are involved, either directly or indirectly, in the international heroin traffic. I have often wondered why Marseilles could be a major center for refining opium into heroin without risking government crackdown. If the current case ever goes to trial, either in the United States or in France, we may know whether the suspicions of some are based on facts.

In the immediate aftermath of the revelations of this case, it has come to my attention that John Cusack, the representative of the Bureau of Narcotics in Europe, has been transferred to another post. Some weeks ago, I entered into the Record two interviews with Mr. Cusack which were printed in French newspapers. I also entered a third article which recounted the official displeasure which Mr. Cusack's remarks evoked. He raised the possibility of involvement on the part of government officials in narcotics, and he pledged a hard fight to stamp out international drug traffickers in Europe. If Mr. Cusack is being punished for taking a hard line on the peddlers in drugs and destruction, this administration has truly reached the height of hypocrisy.

Mr. President, I ask unanimous consent that newspaper and magazine articles related to this subject be printed in the Record.

There being no objection, the article were ordered to be printed in the Record, as follows:

Heroin Smuggler's Story—Probing the Anatomy of a "French Connection"

(By Morton Mintz)

Last Dec. 15, according to the U.S. government, Col. Paul Fournier, a supervisory agent in the French counterpart of the CIA, recruited Roger X. L. DeLouette, 48, who holds the Croix de Guerre for his service in World War II, for an unusual mission: to smuggle heroin into the United States.

DeLouette, who had been dismissed some months earlier by another French government agency believed to be an espionage front, the Bureau for Agricultural Development, and who is the father of four sons and two daughters, agreed.

Here is the sequence of events that followed, according to U.S. government sources and DeLouette:

Fournier, whose agency is known as SDECE (Service de Documentation Exterioure et de Contre-Espionage), and who has an office in Paris in Les Invalides, arranged for DeLouette to meet someone the government calls "John Doe."

Meeting, as instructed, the next day at the Paris Cafe in Paris, DeLouette made an agreement to smuggle 96 pounds of pure heroin, with an estimated "street corner" value of $12 million, into the United States. For his services, "John Doe" told him, he would get $1,200 per kilogram, or $50,000.

At the same meeting, the unidentified man instructed DeLouette to obtain a visa for entry into the United States, to buy a Volkswagen camper, in which the heroin would be hidden, and to arrange for shipping the camper to this country.

A secondary preliminary meeting, also set up by Fournier, was held at the King Cafe in Paris in mid-February. This time, "John Doe" gave DeLouette the equivalent of $5,500 in French currency for the purchase of the VW and other expenses associated with his mission.

DeLouette bought the camper from the Garage Michel-Ange, V.W., in Paris on Feb. 25. To avoid the French sales tax, he paid for it with a check for 14,079 Swiss francs drawn on the Credit Suisse in Geneva, where he has account No. 195-715.

The next day, DeLouette went to Geneva to deposit enough to cover it.

On March 15, Fournier got in touch once more with DeLouette. He told him to drive the VW to Pontchartrain, about 25 miles from Paris, and there, the next day, meet another unidentified man—"Robert Roe"—who would be driving a green Simca and who would give him the 96 pounds of heroin.

DeLouette did this, and he and "Robert Roe" hid the narcotic in wall panels and under the floorboards of the VW.

The day after, DeLouette drove the VW to LeHavre, where he consigned the camper to Pacific Intermountain Express for shipment to Port Elizabeth, N.J. On March 18, he told Fournier the details of the shipment, including the date of arrival in this country and the name of the hotel in New York City in which he planned to stay, the Park-Sheraton.

On April 3, Fournier told DeLouette to fly to New York. He did so the following day, on TWA Flight 803, and went to the Sheraton.

At Port Elizabeth, meanwhile, a Bureau of Customs inspector, Lynn Pelletier, 21, who had been on the job only a couple of months, was spot-checking imported vehicles. She discovered the heroin in the VW.

When DeLouette went to Port Elizabeth on April 5 to claim the VW, he was arrested.

By then a major investigation was underway—by the Bureau of Narcotics and Dangerous Drugs of the Justice Department, the Bureau of Customs and the U.S. attorney in Newark, Herbert J. Stern.

Almost at once, DeLouette was questioned by American authorities together with a French policeman, Commissaire Daniel Hartwig.

DeLouette's final instruction from Fournier, which was aborted by the arrest, had been to drive the VW to the Park-Sheraton and await an unidentified contact, who would take the heroin and pay him the $50,000 delivery fee.

In Paris on April 6, the day after the arrest, the Central Office for the Suppression of Illicit Drug Trafficking entrusted an official inquiry to Investigating Magistrate Gabriel Roussel.

A week later, in a letter to prosecutor Stern, Roussel said that under French law he could not proceed against Fournier without a statement from DeLouette.

Later, Stern obtained permission from District Judge Lawrence Whipple to appoint an official of the Bureau of Narcotics to ask the questions of DeLouette that Roussel wanted asked—and to ask them in the presence of a French narcotics policeman, Claude Shaminadas, who is assigned to the French consulate in New York.

DeLouette's court-appointed attorney, Donald A. Robinson of Newark, balked. He wanted assurances that DeLouette's answers (and testimony he gave in the meantime to the grand jury) would not be used against him in France.

Without such protection from self-incrimination, which in the United States is guaranteed by the Fifth Amendment to the Constitution, he would not let DeLouette answer Roussel's questions.

To resolve the dilemma, Stern said, Honare Gevaudan, assistant director of the Police Judiciare in Paris, suggested that Stern request Roussel to immunize DeLouette from prosecution in France.

Stern made the request in a letter in which he said that immunizing DeLouette would enable the French "to proceed against the 'high-ups' in a criminal organization which is operating between our two countries."

Roussel has never told Stern whether he will grant immunity. As late as Friday, however, French government spokesmen were insisting that Roussel lacked power to immunize DeLouette. The prosecutor's office disputes this, not only because the idea had a French source, Gevaudan, but also because of special provisions in a French-American agreement on fighting narcotics trafficking.

Another effort to mesh the legal systems of the two countries was made in Washington on Sept. 14, at a meeting attended by Stern and assistant; Donald W. Merkelbach; Bureau of Narcotics officials; Gevaudan and Michel Nocquet, also of the Police Judiciare, and Shaminades, the consulate narcotics policeman.

Recounting the meeting in letters to Roussel and Max Fernet of the French Criminal Police in Paris, Stern said the French participants made it clear they believed DeLouette was lying about Fournier.

Accordingly, Stern said he proposed a lie detector test, with the understanding that if DeLouette should refuse to take it or should fail, he would prosecute him and recommend the maximum sentence for conspiring to import narcotics, 20 years.

On the other hand, Stern said in the letters, the French agreed that if DeLouette took the test and passed, they would "proceed with an appropriate prosecution" of Fournier.

Privately, Shaminadas bet Stern a meal in a French restaurant that DeLourette wouldn't take the test—but he did, on Sept. 21, with the Justice Department administering it. "The results of the test were positive indicating that DeLouette was telling the truth," Stern told Fernet.

One of the questions was, "Did Fournier give you a contact in the French consulate in New York?" DeLouette's answer was yes. The person he named—not Shaminadas—is a middle-level official. Stern has submitted written questions to this official that are supposed to be answered Monday.

(Later, on October 4, DeLouette took a second polygraph test to answer questions submitted by Shaminadas, who was present. The machine indicated that DeLouette was untruthful only when he denied he had told a certain friend of the heroin smuggling.

Nine days later, Stern sent Fernet, the police official in Paris, a copy of the polygraph examination, which, he said, "indicates to me beyond any doubt that Mr. DeLouette is telling the truth concerning the involvement of Col. Fournier." Stern has never had a reply from Fernet.

The same day, although French police had interviewed DeLouette as far back as April 5. Magistrate Roussel wrote Stern to ask for additional information in order to "identify" DeLouette.

Stern, who by then had turned over all of the evidence in his possession to the French, sent along photos and fingerprints.

But, obviously seeing stalling tactics in all of this, the prosecutor told Roussel—in a letter hand-delivered in Paris on Nov. 5—that his "primary emphasis" seems to be on arresting and extraditing and prosecuting Fournier. And, he said, if Roussel did not act, the grand jury would.

Last Monday, the grand jury indicted Fournier and DeLouette. The next morning DeLouette pleaded guilty.

For two hours, Judge Frederick B. Lacey reviewed with DeLouette every detail of the conspiracy charge, as given earlier in this article.

Judge Lacey ended by saying he was satisfied that the guilty plea was factually based, uncoerced and made in awareness that it carried a mandatory sentence of at least five years. DeLouette, unable to put up $500,000 bond, is in custody awaiting sentencing.

In France, official sources issued a series of denunciations of DeLouette and Stern and defenses—echoed by the American embassy—of the vigor with which the two countries fight the narcotics traffic.

There was no sign at all of a possible prosecution of Fournier, who, Stern told police official Max Fernet, had been cleared by a four-day "investigation."

Instead, in a statement authorized by Defense Minister Michel Debre, Fournier challenged Stern to prove him guilty. Stern replied that Fournier, if innocent, should be willing to come here to stand trial.

In the midst of all of this, it became known that the European chief for the Bureau of Narcotics, John Cusack, who had publicly hinted in August that official complicity underlies France's role as the source of the vast majority of heroin reaching the United States, was being transferred to the United States. The bureau said this was a normal rotation.

On Friday, Roger Barberot, head of the Bureau for Agricultural Development, where DeLouette once worked, said in an interview, on Radio Luxemborg in Paris, that agents of Fournier's SDECE had organized illegal traffic in narcotics, currencies and jewels. The true name of Fournier, a former master sergeant in the French Air Force, was Paul Ferrer, he said. Magistrate Roussel ordered the tape of the interview seized.

[From Drugs & Society, November 1971]

FRANCE: BUSINESS AS USUAL

August 26, 1971 . . . Mr. John Cusack of the US Bureau of Narcotics accuses the French authorities of failing to deal with their own drug problem.

August 26, 1971 . . . M. Pompidou writes to all members and prospective members of the EEC calling for a joint initiative against drug trafficking in Europe.

For many years it has been known that unprocessed opium from the Middle East was being manufactured into heroin and shipped to the United States from the Marseilles region of France. Yet nothing effective has ever been done about this problem, largely it would appear because the arrangement suited the French since it kept the drug from circulating in their less profitable market; and the Americans were happy to keep the production of the drug away from their shores. Occasional consignments of opium and heroin were seized, but never of much consequence and none of the illegal heroin laboratories supposed to exist in southern France were ever located. Some change in the situation may be expected following President Nixon's current drive against drugs.

M. Marcellin, the French Minister of the Interior, visited Washington in July 1970, and this resulted in the Franco-American Protocol on Narcotics Control. The protocol agreed to 'the setting up of a close cooperation between the specialised services engaged in the fight against the illicit traffic in narcotics of the two countries.'

It was after this that France began to recognise the extent of its drug problem. In March, *Paris-Jour* headlined a story, 'Un Cri d'Alarme: 37% Des Drogues Est Moins De 21 Ans'; and M. Marcellin himself, in July this year, called for the introduction of the death penalty for those caught trafficking in narcotics. External pressures were also mounting. Two visiting US Congressmen suggested that France was not doing everything in her power to combat the illegal production of heroin on French soil, an allegation that was echoed by John Ingersoll, head of the Federal Bureau of Narcotics.

However, the real bombshell came at the end of August when John Cusack, Director of the Paris-based European division of the Federal Bureau, launched an all-out attack on the failure of the Marseilles police to tackle their illegal manufacturing problems. In an interview with the southern newspaper *Le Méridionale-la* France, he said, "Right now there are in Marseilles three or four big shots of the drug racket who feel secure, fortified with their bank accounts, their connections and the respect that surrounds them." He cited as evidence the fact that in five years not a single illegal heroin laboratory had been located.

French reaction was swift. The following day M. Joseph Comiti, Minister for Youth and Sport, said, "The impotence of the American police should not seek an alibi in accusing the French police." The Marseilles police leapt to their own defence by demanding to know why the finger of guilt was always being pointed at them. "Why no arrests in Lebanon, Turkey or Germany?" they demanded.

But perhaps the most effective countermove of all coincided with the date of the interview's publication. For on the very day that Cusack's accusations were made public, the French President, responding to both internal and external pressure, announced that he was inviting his European partners to join with him in combating the European drug problem. Pompidou's initiative was successful (intentionally or otherwise) in diverting attention away from the American accusations. The Marseilles police at a special conference were able to remind Cusack that it was their problem not his—and after all if they choose not to solve it that is their prerogative.

The Council of Europe, in session at the time, discussed the drugs question and welcomed the President's initiative. They ignored the American accusations and with suitable regard for the urgency of the problem announced that they were to hold an international symposium on drugs in March 1972.

Meanwhile the illegal manufacture of heroin continues unabated.

IVOR GABOR.

TURKEY: NIXON'S NEW VIETNAM?

President Nixon's escalation of his war on drugs already looks very much like another Vietnam. It may well be as equally interminable and unsuccessful as the Asian enterprise. The name of the game surely is not to combat addiction: that should take care of itself. The real issue is the elimination of those social and economic problems which permit large-scale drug abuse to take root in the first place. But the annual 'financial costs' of the addiction problem—whatever that means—now approaching $2000 million, simply can not be ignored; nor can the 'human costs', rightly reckoned to be far higher. Hence the decision to crack down on this menace in the pre-Election year.

As a result of direct pressure from the American government, the Turks have decided to ban outright the cultivation of opium from mid-1972. 'The United States' drive to police the world is bad enough,' one Turkish official told me, 'but seeking to be its narcotics agent as well is just too much'. Yet the arguments in favour of the action taken do seem to have a certain logic. According to Washington, Turkey is the largest single supplier of opium to the American black market, accounting for between 70 and 80 per cent of total annual consumption. Eliminating this source would certainly be a useful step in the right direction.

Seen from Ankara, cooperation with the US has its manifest benefits. Of the $750 million or so annual investment expenditure required by the Turkish government, about one-third comes in the form of direct and indirect aid or other subsidies granted by the United States.

But the real question is, will it all work? In Turkey, the government's opium control law of 30 June 1971 appears to call into question not only the livelihood of some 70,000 families in central Anatolia, but also to raise the highly-emotive matter of Turkey's national sovereignty. Given the delicateness of Turkey's internal political balance in the first place, the introduction of this issue could be critical.

Even if the political hurdle is overcome, there remains the question of enforcement of the new law. As one Turkish government publication points out, illegal trafficking in opium made 'great progress' in 1970 owing to the operations of an 'internationally organised band of smugglers'. As a result, the official opium crop declined to about half the 1969 harvest—a fact which suggests that some 200 tons of raw opium has already been stockpiled for sale on the black market. A similar disposition of the 1971 harvest would double this stockpile. In terms of the United States market, this means that there would already be available opium sufficient to meet the anticipated demands for heroin for the next six years or so.

And Turkey is, of course, not the only source of opium to the United States, but only the most accessible and competitive in a chain of more than half a dozen supplier-countries stretching eastward to the south-east Asian peninsula. Eliminating Turkey as a source of supply will most likely mean that cultivation of opium will increase somewhere else along the 'opium crescent'.

What would President Nixon do then? The text of a recent message to Congress, with its reference to 'worldwide escalation of existing (anti-narcotics) programmes', provides some clue. If the analogy with Vietnam is accurate, Nixon's war on drugs will soon have to move into another Laos or Cambodia.

WILLIAM DORSEY,
Editor of "Arab Report & Record."

[From the New York Times, Nov. 21, 1971]

FRENCH SECRET SERVICE SCANDAL SPREADS IN WAKE OF DRUG CASE

(By John L. Hess)

PARIS, November 20.—A narcotics case in New Jersey was leading today to a spreading scandal in the French secret service.

Col. Roger Barberot, director of a Government foreign aid agency, declared in radio and newspaper interviews that a former operating chief of the Service de Documentation Extérieure et de Conte-Espionnage has been dismissed last year on suspicion of high treason.

The accused official was Col. René Bertrand, whose cover name is Col. Jean Beaumont. This evening, he announced that he had engaged the country's most prominent trial lawyer, Jean-Louis Tixier-Vignancourt, to sue Colonel Barberot for libel. He said he would ask one million francs ($180,000) in damages.

Colonel Barberot was closeted for an hour and a half today with Gabriel Roussel, the examining magistrate, who is investigating the charges made by Roger Delouette, a former agent indicted in Newark on a charge of conspiracy to smuggle 96 pounds of heroin into the United States.

On emerging, Colonel Barberot said he had shed no new light on smuggling but called for a thorough investigation and housecleaning of the agency. In radio and newspaper interviews, he had expressed the belief that some agents were involved in the drug traffic and that the arrest of Delouette might have been arranged as revenge by other agents.

There was no immediate comment by Col. Paul Fournier, accused by Delouette as having organized the heroin shipment interception at New York and identified by Colonel Barberot as Paul Ferrer. It was reported without confirmation today that Colonel Fournier is the director of research, or operating chief—of all agencies—having succeeded Colonel Bertrand in that post.

At Strasbourg, where the ruling Gaullist party is holding its congress, Defense Minister Michel Debré declared today that the Government had full confidence in the intelligence agency and that its high quality made it inevitable that it be subjected to hostile campaigns.

"A former occasional employe of the service seems to me to have fallen into deplorable operations in recent months," Mr. Debré said. "To lighten the sentence that awaits him, the accused has hurled grave charges. That's in the nature of things, just as it's in the nature of things that imaginations quickly build up fictional serials."

However, the sparks thrown by Delouette's testimony, continued to set off explosions.

It is generally believed that the discord within the agency is at least partly a reflection of the shifts in French foreign policy since the war. Agents who were in the Free French forces, then active in the cold war, in Indochina and in the Algerian repression, were suddenly ordered to reverse themselves and engage in intelligence activity sometimes directed against former allies.

"OLD COMRADES" COMPLAIN

Successive scandals, quickly quenched, and successive purges left bitterness among present and former agents of The Swimming Pool, as the agency's bleak headquarters in eastern Paris is called. Colonel Barberot, who indicated that he was not himself an agent, said a number of his "old comrades" had come to him with complaints about the agency and he had been conducting "a little personal investigation for three days."

Colonel Barberot, 56 years old, was a naval ensign when he deserted the Vichy regime in June, 1940, joined the British Eighth Army in North Africa, then fought in a Marine command under General de Gaulle, ending the war as a decorated captain. He returned to service with a colonel's rank in Algeria in 1956, but resigned two years later to denounce Army abuses, including torture.

After serving as Ambassador to the Central African Republic and to Uruguay, the colonel became director of the bureau for Development of Agricultural Production, a foreign aid agency.

He said he hired Delouette, an experienced farm manager, in 1968 and sent him on a long mission to Cuba, which he handled satisfactorily.

Delouette's next mission was to Sierra Leone, unaccountably, Colonel Barberot said, he disappeared and was finally dismissed. The colonel indicated that it was at about the time that Delouette was recruited by the intelligence agency.

It was widely noted here that Colonel Barberot is a leading figure in that faction of left-wing Gaullists that continues to support the Pompidou Government. Coincidentally, the lawyer who will handle the libel suit against him in behalf of Colonel Beaumont, Mr. Tixier-Vignamcöurt, is the leader of the far right that also supports the Government.

As for Colonel Fournier, or Ferrer, newspapers here described him as a man of 52 who had joined General de Gaulle's secret service in 1940.

Colonel Fournier was credited with having bugged Arab embassies in Berne during the Algerian war, and, according to the right-wing newspaper L'Aurore, with thwarting American efforts to spy on the Concorde supersonic airliner.

According to L'Aurore, the colonel "did not hesitate to use information amiably communicated to him by certain services of eastern countries," and, "talked of drug routes, of the collusion of C.I.A. members in these rackets, etc."

Newspaper accounts here said that at least three men arrested on drug charges in recent years had worked for the intelligence agency.

Colonel Barberot said he was convinced that the Delouette affair had been "mounted in Paris," that the heroin smuggling was an amateur job and that the tipoff came from other intelligence agents, possibly American.

[From the New York Times, Nov. 19, 1971]

CONSULAR OFFICIAL QUERIED ON HEROIN SMUGGLING PLOT

(By Ronald Sullivan)

NEWARK.—United States officials delivered a series of questions to an unidentified official in the French Consulate in New York City today, asking him what he knew about an alleged international criminal conspiracy that had smuggled $12-million in heroin into this country.

The questions were posed by Herbert J. Stern, the United States Attorney for New Jersey, who issued demand that the questions be answered within 24 hours. French authorities at the consulate, at 934 Fifth Avenue, informed Mr. Stern that the official's answers would be delivered tomorrow.

The consular official was identified as a "contact" in illegal narcotics smuggling conspiracy allegedly masterminded by Col. Paul Fourier, a high official in the French Service of Exterior Documentation and Counterespionage.

Colonel Fournier was indicted by a Federal grand jury here Monday. The same indictment also named Roger Delouette, a former counterespionage agent who worked for Colonel Fournier and who testified that the colonel recruited him into the conspiracy last year.

GUILTY PLEA ON TUESDAY

Delouette pleaded guilty here Tuesday after testifying that Colonel Fournier directed him to smuggle 96 pounds of heroin into Port Elizabeth last April concealed in a Volkswagen camper.

In a lie-detector test, Delouette also said that Colonel Fournier had given him the name of a "contact" at the French Consulate in Manhattan. According to authoritative sources, the consular official has refused to appear before the grand jury here, contending he was protected by diplomatic immunity.

However, the official who—French and United States officials refused to identify because he has not been charged officially with any crime—did agree to respond to written questions put to him today by Mr. Stern.

In Paris, meanwhile, Colonel Fournier issued a statement, approved by French authorities, in which he denied any part in the conspiracy. He also issued the following challenge to Mr. Stern.

"If I am guilty, Mr. Stern, prove it and justice will follow its course."

FOURNIER CHALLENGED

In turn, Mr. Stern issued the following bitter response here tonight in what Federal officials described as a highly unusual trans-Atlantic confrontation between an American and French official:

"If you are innocent, Colonel Fournier, come to this country and stand trial. If you are innocent, you have nothing to fear. You are assured of a fair and impartial trial by our system of justice. Don't hide behind an anonymous service and an international order."

Mr. Stern also made public several new letters to French authorities in which he repeated his earlier request for their cooperation in prosecuting Colonel Fournier.

Mr. Stern re-emphasized in the letters an agreement he had reached with the French police that "once Delouette had taken and passed a lie-detector test, the French police would immediately proceed against Colonel Fournier."

In fact, Mr. Stern said, one French policeman, Michel Noquet, had bet him an expensive dinner in a good French restaurant that Delouette would never voluntarily submit to a lie-detector test.

Actually, Delouette volunteered to take two tests—the first administered by French officials, the second at the request of French officials here who posed the questions put to him.

In a letter to Max Fernet of the French criminal police in Paris, dated Oct. 13, Mr. Stern said that Delouette's responses indicated "beyond any doubt" that he was "telling the truth concerning the involvement of Colonel Fournier."

In contrast, the French had steadfastly portrayed Delouette as a liar who was attempting to save himself from a long prison term by implicating Colonel Fournier.

In his letters, Mr. Stern emphasized that he still had not received any word of whether the French authorities would grant Delouette immunity in France, since he now faces at least five years' imprisonment here on his guilty plea. Mr. Stern said Delouette's testimony was vital "to aid the French authorities in their investigation against the 'higher ups' in this criminal conspiracy."

[From the New York Times, Nov. 19, 1971]

U.S. Transfers Agent

PARIS, November 18.—John Cusack, the chief American narcotics agent in Europe, who has been embroiled in controversy with his French colleagues, is being transferred to another post at a time when controversy between France and the United States over narcotics trafficking is hotter than ever.

The United States Embassy confirmed the transfer of Mr. Cusack without saying where he was going or why he was being removed. The tough, 48-year-old agent, who has waged a five-year fight in Italy, Turkey and France against the smuggling of narcotics to the United States, was said tonight to be out of Paris and unavailable for comment.

The move was immediately connected by French observers with the case of Col. Paul Fournier, the French counter-espionage agent who is under indictment by a Federal grand jury in New Jersey on narcotics smuggling charges.

French-American cooperation in controlling the flow of narcotics to the United States developed while Mr. Cusack was European director here. It has reached a low point with the Fournier affair.

NO PROSECUTION PLANNED

The secret agent, who is a veteran of the French counterespionage services, has received full backing from his Government, which made it known last night that it would not take action against him on the narcotics charge.

According to the authoritative Le Monde today, Mr. Fournier is 52 years old and has been a secret agent since 1941, when he joined the Free French under Charles de Gaulle. The paper said Fournier was not his real name.

It was widely suggested here that Mr. Cusack was being removed in an effort to improve the climate of cooperation that both governments seek. Although he has maintained good relations with the French police working on narcotics, Mr. Cusack also has on occasion been a thorn in their side.

U.S. INTERNATIONAL ECONOMIC MEASURES

Mr. STEVENSON. Mr. President, President Nixons' announcement on August 15 that a new U.S. posture on international trade was forthcoming touched off a worldwide reaction. To some for whom the U.S. dollar has been the foundation of economic reconstruction and growth since World War II, the announcement signified a renunciation of responsibility with far-reaching political and economic repercussions as the result. Others commended the President for recognizing that the United States no longer could, nor should, bear the burden of maintaining the stability of world markets while our trading partners prosper at our expense.

In an article from World Events published by the Chicago Council on Foreign Relations, Mr. Bruce A. Blomstrom sets forth the political as well as the economic aspects of this controversy by explaining the rationale behind the positions taken by the United States and its principal trading partners. His succinct presentation of the problems facing each of those nations makes this article an important contribution to our knowledge of the current international economic situation.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

U.S. International Economic Measures—Overkill or Economic Statesmanship?

(By Bruce A. Blomstrom)

(EDITOR'S NOTE.—Mr. Blomstrom, a Vice President of the Council, is a graduate of MIT's Alfred P. Sloan School of Management and the Director of International Product Management for the worldwide operations of Libby, McNeill & Libby. Widely experienced in international trade in Canada, Japan, Europe, the Middle East and Africa, he has participated in GATT negotiations involving European and African countries, among others, and has contributed significant articles to Harvard Business Review and the Journal of Marketing. His following article is a penetrating analysis of President Nixon's new international trade policies.)

On August 15, 1971, President Nixon announced to the world that the United States was prepared to take drastic measures to improve its international economic position. On this day, in addition to wage and price controls, he announced:

a 10% surcharge on all imports for 90 days.

suspension of the convertibility of dollars into gold.

a 10% cut in foreign economic aid.

He also requested Congress to enact:

a tax incentive to encourage exports.

a 10% investment tax credit with a "buy American clause" in it to exclude foreign competition.

In explaining these actions to our principal trading partners, Treasury Under-Secretary Charles Walker indicated that nations with major surpluses must:

revalue their currencies vis a vis the dollar (perhaps 10% for Europe and 15% for Japan).

carry a greater share of the free world's defense and foreign aid burden.

To many, this was a welcome program. It served notice to all that we would no longer be pushed around in international matters and that we would now exert the necessary force to correct the wrongs of the past. It has given courage to protectionists that perhaps the liberal trade policy of the past forty years is now dead. It clearly demonstrated that we have a President who is prepared to act at the highest political level on such matters.

Others felt that the U.S. used about as much skill and diplomacy as a bull in a china shop. Did we really need to bludgeon out trading partners with a 10% import surtax when severing the gold backing of the dollar (with some vigorous behind the scenes activity) will have roughly the same effect? Could we not have achieved more lasting solutions through joint international action? Have we really attacked the fundamental reason for our balance of payments deficit?

THE U.S. SITUATION

When considering these problems, it helps to put the U.S. position in international trade and monetary matters in perspective.

The U.S. dollar has become the principal reserve currency of the world. Other countries hold it, alongside gold, as a major part of their international reserves. Many countries define the value of their currency in terms of the dollar rather than gold. The U.S. action suspending dollar convertibility is now causing governments to reevaluate their dollar holdings. In all likelihood, some sort of international mechanism will be devised to replace the dollar as the world's principal reserve currency.

The U.S. accounts for almost one-fifth of all free world exports. These have increased from $10 billion in 1950 to $42 billion in 1970. While our share of world exports has declined slightly since 1950, from 22% in 1950 to 18% in 1970, we still remain the single largest factor in world trade.

Our foreign trade is not a significant part of our economy. It only accounts for 4% of our gross national product.

In contrast, our major trading partners are more heavily dependent on international trade for their economic well being. In Canada, international trade is five times more important than for the U.S. It accounts for 20% of their GNP. The table below compares the U.S. situation to the principal countries of the world.

Foreign Trade as a Percent of GNP

Canada	20
West Germany	19
Italy	15
United Kingdom	15
France	10
Japan	10
United States	4

In Western Europe and Japan, foreign economic matters are vitally important. They are given vigorous attention by legislators. In the U.S., we are far more concerned about domestic economic policy. International trade and monetary questions have normally taken a back seat. This is why Dr. George Schultz, one of the President's principal economic advisors, could say, only three months prior to the President's August 15 action, that international monetary matters were not "at the top of the (economic) priorities list."

THE U.S. BALANCE OF PAYMENTS

Our balance of payments has been in chronic deficit for the past 20 years. Taking the most recent 10 year period as an example, and making some gross simplifications, the deficit has totaled $16 billion. Table 1 highlights the major elements of our balance of payments (current account and long term capital only). Of concern now is the fact that 1971 is expected to show a larger deficit than in any of the preceding 10 years.

TABLE 1.—U.S. BALANCE OF PAYMENTS

[In billions of dollars]

	1961	1962	1963	1964	1965	1966	1967	1968	1969	1970	Total
U.S. Government expenditures	−5.6	−5.3	−5.4	−5.4	−5.4	−6.3	−7.3	−6.9	−6.8	−7.1	−61.5
Travel and transportation	−1.0	−1.2	−1.3	−1.1	−1.3	−1.4	−1.8	−1.6	−1.8	−2.0	−14.5
Net private investment surplus	1.4	1.5	.7	.4	.7	2.7	3.0	7.4	5.9	4.7	28.4
Trade surplus	5.6	4.6	5.2	6.8	4.9	3.9	3.9	.6	.7	2.1	38.3
Other	−.7	−.6	−.6	−.7	−.7	−.7	−.9	−.9	−.8	−.8	−7.4
Rounding errors correction	.3		.1			.2	−.1	.1	−.1	.1	.6
Balance of payments deficit	0	−1.0	−1.3	0	−1.8	−1.6	−3.2	−1.3	−2.9	−3.0	−16.1

Source: Survey of Current Business, U.S. Department of Commerce, June 1971, p. 30.

The largest drain, some $60 billion over the past 10 years, has been expenditures by the U.S. government for military bases overseas and aid, mainly of a military or security nature, to foreign governments. The President has attacked this problem by asking Western Europe and Japan to bear a greater share of these expenditures. Troop cutbacks in Viet Nam will help alleviate this situation provided that our economic aid does not amount to more than the savings resulting from bringing the troops home. There appears to be a gradual shrinking of our worldwide military network of bases but unless it is augmented by a substantial reduction of our European troop commitments, the balance of payments effect will probably be inconsequential.

The second major use of dollars abroad is for travel and transportation. American travelers have managed to spend $15 billion abroad over the last 10 years. President Johnson toyed with the possibility of an international transportation tax in 1967 but quickly dropped the idea. Traditionally, governments that have a balance of payments problem adopt some form of exchange control. This limits the amount of money that an individual can take abroad. Those who have friends in England may recall that, during their payments crisis, each traveler was allowed to take only a few hundred dollars when he left the country. There do not appear to be any plans by the current administration to adopt such controls.

The funds for financing our international expenditures have come traditionally from the trade surplus. We have always exported more than we have imported. At least that was the situation from 1898 to 1970. We are now faced with a trade deficit in 1971, not because our exports have fallen off, but because imports have soared dramatically. During the ten year period, 1961 to 1970, our trade surplus amounted to $38 billion. Comparing the two most recent 5 year periods, our surplus dropped by 60%. It was $27 billion in 1961–65 and only $11 billion in 1966–70. In the period from 1961 to 1965 it ranged as high as from $5 to $7 billion per year. But those days appear to be receding swiftly into the past. At least they were until Mr. Nixon's dramatic announcement.

COULD RESTORE TRADE SURPLUS

A 10–15% revaluation of Western Europe and Japanese currencies, combined with the 10% import surcharge and government measures to encourage exports, should do much to boost our exports while keeping import growth at a minimum. This could restore our trade surplus to what it was in the early sixties.

In recent years much attention has been given to U.S. private investment abroad. Direct investment expenditures by U.S. companies, using American dollars, have gradually increased from $1.6 billion annually in the early sixties to about $4.4 billion in 1970. At the same time, income from direct U.S. investments abroad has consistently exceeded this outflow. Since 1968, income on our investments abroad has surpassed that from trade. This excess amounted to $25 billion between 1961 and 1970. This suggests that a complete shut-off of investment abroad will eventually eliminate the income that it produces. In an early effort to improve our balance of payments, the U.S. government established the Office of Foreign Direct Investments (OFDI) in the mid-sixties, its purposes was to set limits on the amount of dollars that could be exported for investment purposes and to regulate the flow of dividends, royalties and profits from these investments. Although this has helped increase our net investment income in recent years, there is a danger that it could, over the long term, seriously limit returns from the private sector.

From a balance of payments standpoint, the principal problem areas are Japan, Canada, and Asia/Africa. See Table 2. Our largest deficit was with Canada ($1.7 billion). Japan was next at $1.6 billion. Viet Nam is probably the main cause of the Asia/Africa deficit of $1.5 billion.

TABLE 2.—U.S. BALANCE OF PAYMENTS BY AREA

[In billions of dollars]

	1968	1969	1970
United Kingdom	−0.1	−1.1	0.3
EEC	.9	1.7	.5
Other Western Europe	1.0	.5	.2
Eastern Europe		.1	.1
Australia, New Zealand, South Africa	.7	.8	.8
Latin America	.1	.5	.2
Canada	−.5	−1.4	−1.7
Japan	−1.2	−2.1	−1.6
Other countries of Africa and Asia	−1.7	−1.7	−1.5
International organizations and unallocated	−.7	−.1	−.5
Balance	−1.3	−2.9	−3.0

TRADE IMBALANCES

Except for Canada and Japan, we have trade surpluses with every other area of the world. See Table 3. The largest is with Western Europe and amounted to $3 billion in 1970. While Western Europe is not our major problem now, there are signs of a protectionist attitude and various restrictive measures which could lead to a trade imbalance in the future.

TABLE 3.—U.S. TRADE SURPLUS BY AREA

[In billions of dollars]

	1968	1969	1970
United Kingdom	−0.1	−0.1	0.3
EEC	.2	1.0	1.7
Other Western Europe	.3	.5	.9
Eastern Europe		.1	.1
Australia, New Zealand, South Africa	.5	.3	.5
Latin America	.1	.3	.6
Canada	−.4	−.8	−1.7
Japan	−1.1	−1.4	−1.2
Other countries of Africa and Asia	1.3	.7	.9
International organizations and unallocated	.1		
Balance	.6	.7	2.1

JAPAN

As far as trade and investment are concerned, the worst offender is Japan. It still operates as if it had a severe balance of payments problem. The Japanese have, by and large, kept U.S. investors out. Where we have been allowed in, investment has normally been limited to less than a 50% share.

While Japanese exports have risen sharply, imports have been limited by quotas, licensing fees and other nontariff barriers to trade. The result is that Japan today holds reserves of $11 billion, the third largest in the world.

Japan has been liberalizing over the past few years, but most U.S. businessmen consider it to be an overly cautious, very slow process. The automobile industry is an example. Sales of Japanese cars to the U.S. have multiplied 6–7 times, from 64,000 vehicles in 1966 to 415,000 in 1970, in part due to the fact that the U.S. has only a 3.5% duty and a 5% excise tax (plus sales taxes in some states). The Japanese counter with a 10% tariff, a commodity tax which increases the price 30–40%, and annual road taxes 5 times higher on U.S. autos than for Japanese cars. It was only this year that the Japanese allowed 3 major U.S. automobile manufacturers to purchase a maximum of 35% of the shares of counterpart Japanese firms. In most other parts of the world, U.S. companies own 100% of their overseas partners.

The problems with Japan that have received the most attention in the U.S. have been their exports of textiles and steel. These have increased so rapidly that U.S. manufacturers have been screaming for help.

As a result of the U.S. action, the Japanese have reluctantly allowed the Yen to float and anticipate an export decline of about $1-2 billion. Coming so soon after the U.S.'s China initiative, and with Prime Minister Sato having tied his administration to U.S. policy, it is reported that these two U.S. moves, both coming as a surprise and with an adverse impact on Japan, could lead to the fall of the Sato government.

CANADA

Canada is our largest single export market. It also accounted for our largest trade deficit ($1.7 billion) in 1970. This is quite a change from the early sixties when we had a small surplus. The main reason is an agreement which encouraged the manufacturing of automobiles for shipment to the U.S. We had a surplus of $700 million with Canada on automobiles alone in 1965. By 1970 this had turned into a deficit of $900 million.

Because 70% of its trade and half of its trade surplus are with the U.S., anything we do is of vital importance to Canada. Canada has estimated that 25% of its trade is in danger as a result of the U.S. import surcharge. Exports to America are so important that Canada is considering setting up a special fund to assist their businessmen in recovering from any damages caused by the surcharge.

Despite increasing signs of nationalism, our businessmen have been able to freely trade and invest in Canada. Our traditionally friendly relations and the lack of border restrictions make it hard for Canada to understand why the 10% surcharge must be applied to it. Except for the size of our trade imbalance, Canada is clearly quite a different situation than either Japan or the EEC. It is one which deserves special attention.

EEC POSITION

The EEC has taken the U.S. measures in stride. Currencies have been allowed to float in all major countries. Overall there is a creep toward the 10% revaluation goal of the U.S. There are some internal disagreements between France and Germany about the common monetary position they should adopt, but these may be more a problem of communications than substance. What seems to worry Europeans most is the possibility that Japan will now direct its competitive energies toward them.

Western Europe is an important trading partner of the U.S. and one with whom we have a sizeable trade surplus. However, developments in agriculture, preferential trading arrangements, and non-tariff barriers suggest that this surplus is in danger of diminishing.

The EEC has by far the highest level of agricultural protection of any major country. Post Kennedy round import protection for agriculture amounted to the following:

Percent ad valorem equivalent

EEC	33
Japan	9
United Kingdom	7
United States	4

On individual items the EEC Common Agricultural Policy (CAP) has resulted in substantial increases in protection:

PERCENT AD VALOREM PROTECTION LEVELS

	Pre-CAP	Post-CAP
Butter	30	35
Meat	19	52
Cereals	14	72
Dairy produce	19	137

In addition, imports subject to the variable levy system, which increases import prices to an agreed-upon protective price level, have declined in value from $642 million in 1966 to $340 million in 1969. Non-tariff barriers like this have caused exporters of American products a great deal of grief. Excessive licensing costs and quotas are examples of other restrictive devices.

The expansion of the Common Market to include most of the countries of Europe and Africa has worried many Americans. It was not hard to accept the inclusion of the 18 African countries who were former colonies of France, Belgium, and Italy. But the list now includes special reciprocal trading relations with Israel, Greece, Turkey, Tunisia, Morocco, Egypt, Libya, Lebanon, Malta, Cyprus, Yugoslavia, Algeria, Austria, Kenya, Uganda, Tanzania, and Spain. About half of these are still in the negotiating stage.

Combine this with the probable entry of the UK into the EEC and the subsequent inclusion of Denmark, Norway, and Ireland, plus special trading deals with members of the British Commonwealth, and you have covered over 250 million people and 40% of the world's trade. While the extent of potential U.S. trade losses has not yet been identified, they could be substantial.

U.S. TRADE RESTRAINTS

Lest one think that the U.S. is a perfect trading partner and the only real free trade nation in the world, we should consider the following:

18% of all imports into the U.S. are covered by quotas or voluntary restraints.

The list of non-tariff barrier complaints against the U.S. is lengthy and compares in magnitude to those we have against our European partners.

Other countries do not consider the U.S. to be an open market on many items.

According to Harold Malmgren, the major erection of non-tariff barriers since the Kennedy Round has taken place in the United States.[1] These include voluntary restraints on:

steel from Japan and the EEC
canned mushrooms from Taiwan
ceramic tiles from Japan

They call for limits by the supplier on the amount exported to the U.S. Furthermore, the U.S. is pressing hard for a textile agreement on products from Japan. Other countries have used similar schemes in recent years, but none have been so broad or had the same impact as the ones enacted by the U.S.

These agreements are outside the framework of the GATT, the international organization created after World War II to solve multilateral trade problems. As such, they encourage other nations to violate GATT principles.

CONCLUSIONS

1. The measures enacted by President Nixon can stem the deterioration in our trade surplus and make our exports more competitive in the short term. This could restore our trade balance to what it was in the sixties. Failure to stem inflation or increase productivity can quickly erase these gains.

2. The timing is ripe to hold an international conference, similar to "Bretton Woods," to create a new international trade, investment and monetary system. The GATT agreement needs to be discarded or brought up to date to cover changed world conditions. At this time, negotiations could be held to eliminate non-tariff barriers and reduce duty levels, but only if the U.S. is willing to reciprocate. It cannot be a one-way street.

3. Our balance of payments will continue to run a deficit unless we are able to stem the flow of government expenditures for military and economic support abroad. Correction can come through increased support by our allies for free world defense and aid burdens now carried by the U.S. Alternatively, cuts in our troop and aid commitments abroad or limits on tourist expenditures are the only major alternatives left to improve our balance of payments. The trade surplus alone will not do it, even after the application of measures to encourage exports and discourage imports.

4. Failure to come to grips with these fundamental economic problems in the near future and provide the leadership necessary to work out international solutions on a fair, equitable, and negotiable basis will tilt the scale toward the possibility of economic warfare. While no early solutions can be expected, the process of solving the major problems we have with other nations of the world should lead to a system with a minimum of artificial restraints which will set the basis for a renewed expansion of international trade.

5. In the process of doing all this the U.S. must solve to the satisfaction of all its major allies the problem of European security. It must deal with Japan's fear that they have been sold out on the China and trade issues and reassure our friends in the Pacific that they are an important and vital ally. Canada must be dealt with in a way which recognizes its special relationship with the U.S., without bringing forth a burst of nationalistic sentiment which could lead to a closing of the border. The developing world must be heard and their problems dealt with fairly. By starting at the highest political level, the President has increased the chances that we can arrive at a mutually satisfactory solution to these problems, provided they are treated as a whole and not on a case by case approach.

6. If the August 15 statement is used to develop solutions on the above lines, the President has begun a course of action that could demonstrate economic statesmanship of the highest order. If the August 15 actions are used only as clubs on our allies, for short term gains in our balance of payments and to rectify imagined wrongs of the past few years, the political losses are likely to far outweigh the economic gains.

THE NIXON ADMINISTRATION AND FREE SPEECH

Mr. HARTKE. Mr. President, few acts by the administration have been more deplorable than its attempts to stifle the first amendment's freedom of the press. The White House, in conjunction with the FBI and the Justice Department, after similar incidents involving New York Times reporter Neil Sheehan, is now attempting to scare CBS news correspondent Daniel Schorr.

After voicing some strong criticism of Mr. Nixon and his administration, Mr. Schorr was the recipient of a call from the White House expressing the administration's dissatisfaction with his reporting of the news. The next word from the White House was that they were considering Mr. Schorr for an important Government job. Under this flimsy guise, the

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[1] *Trade Wars or Trade Negotiations*, Harold B. Malmgren, The Atlantic Council, p. 17. 1970.

FBI is investigating him and questioning his neighbors and colleagues about his personal life and professional qualifications. Whatever may be the result of the controversy involving Mr. Schorr, it is clear that the object of this governmental snooping is not to find any skeletons in his closet, but rather to implant the fear of Government retribution in his mind.

The job of a reporter is to gather and report all the news as he sees it. Naturally, every administration will find reporters favoring its point of view and reporters who oppose it. The President is not the only person or group to experience such treatment. Senators, Representatives, mayors, city councilmen, and hundreds more who are involved in public or political life experience the same thing. All prior adminstrations have coped with the bad reports and reveled in the good. Surely this administration must be extremely paranoid if it feels compelled to harass those reporters who it does not like.

There is little a reporter fears more than a Government spy leaning over his shoulder and digging into his private life. When a reporter fears such a reprisal, the result is poor press coverage. The loser, in the long run, is the American public. Nothing is more important to the functioning of a free and open democracy than a free and open exchange of ideas on all issues of importance to the people of the United States.

The present administration has a poor track record when it comes to the protection of individual rights. No freedom is more important to the existence of the American experiment—none more dear to democracy—than that of freedom of speech and of the press.

We cannot tolerate the existence of a climate of fear in which reporters and others fear to tread upon the toes of bureaucrats and politicians. Today it is Mr. Schorr; tomorrow it could well be any one of us. Truly, this administration suffers from an arrogance of power. The authority it possesses is awesome. It is also a public trust. Should the adminstration continue to misuse that power, it will prove itself to be unworthy of that trust.

ACTION TO PREVENT GENOCIDE

Mr. PROXMIRE. Mr. President, there are two actions which the United States can take to prevent the recurrence of the crime of genocide. First, the Senate can give its consent to the ratification of the International Convention on the Prevention and Punishment of the Crime of Genocide. By this action we will be showing the world our abhorrence of this crime.

Second, the Congress can pass the necessary enabling legislation to put the provisions of the Genocide Convention into effect. This legislation may recognize a concurrent jurisdiction among the Congress and the several States in this area. It will provide for the arrest, trial, and punishment within the United States for Americans accused and convicted of acts of genocide that occurred in the United States. And, of course, the accused will be accorded all the rights and protections of the Constitution.

Just as the United States has many extradition treaties covering such crimes as murder and robbery, so the United States may at some future time enter into treaties that provide for extradition for genocide. Genocide will become one of the many crimes for which the United States will grant extradition. Like all extradition treaties that the United States is a party to, it will provide adequate protection for American citizens.

Mr. President, the first step is the ratification of the Genocide Convention. I call upon the Senate to give its consent to that ratification.

NEW YORK STATE WELFARE

Mr. RIBICOFF. Mr. President, in recent weeks much publicity has been generated about a change in New York State welfare law which requires recipients to come to State employment offices in person to claim their public assistance checks. Under the old system, checks were mailed out.

Early reports, which received nationwide attention, indicated that 20 percent of the checks remained unclaimed, leading many people to believe that this figure indicated an ineligibility rate of 20 percent.

Unfortunately, the facts of rebuttal never caught up with the original beliefs.

A detailed followup study indicates that 40 percent of those not reporting to claim their checks had valid reasons for not doing so. The majority of the remaining recipients not collecting their checks failed to appear for reasons which regularly occur in the administration of the welfare system and are unrelated to eligibility.

Analysis of this data reveals that less than 4 percent of 30,000 recipients covered by the New York law had their cases closed for failure to qualify for welfare.

Jule Sugarman, human resources administrator for New York City, has provided me with the results of the followup study. I ask unanimous consent that they be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Human Resources Administration,
New York, N.Y., October 20, 1971.

Hon. Abraham A. Ribicoff,
U.S. Senate,
Washington, D.C.

Dear Senator Ribicoff: Several weeks ago the New York State Department of Social Services released a preliminary study to report the activity of local welfare districts in complying with the new state law which requires employable public assistance recipients to pick up their checks at the local office of the New York State Employment Service and to make themselves available for work.

The report, which received widespread national publicity, showed that twenty percent (20%) of the public assistance checks remained unclaimed at New York State Employment offices in New York. The study, and subsequent remarks by State officials, created a widespread public impression that the 20% unclaimed checks indicated 20% ineligibility. Such a conclusion is totally unfounded and does a great disservice to all reasonable attempts at significant welfare reform.

Enclosed is a detailed analysis of the activity in New York City in compliance with the new state law which I am pleased to share with you. This study indicates that more than 40% of those not reporting had valid reasons for not doing so. Of the remainder, the greatest proportion were for reasons which regularly occur in the administration of public welfare. The study also reveals that less than four percent (4%) of the thirty thousand (30,000) public assistance recipients affected by the law failed to comply and thereby had their cases closed.

If I can be of additional help in interpreting the attached information, please let me know.

Sincerely,

Jule Sugarman,
Administrator.

Analysis

Less than 4% of the approximately 30,000 New York City welfare clients required to participate in the state's new employment program in August failed to comply with the regulations and had their cases closed, the Department of Social Services reported to the state yesterday.

In announcing the figures today, Human Resources Administrator/Social Services Commissioner Jule M. Sugarman said:

"The combined results of two special studies of clients referred to the New York State Employment Service in August begins to shed the first bit of light on the situation underlying the failure to report or comply at NYSES.

"The most significant conclusion drawn from the study is that less than 4% of the total cases referred to NYSES actually failed to comply with the law and were terminated. The balance of the closings were for reasons unrelated to the work relief program and the recent amendment to the Social Service Law.

"This is a highly important insight because it begins to provide additional perspective on the reaction of the employable unemployed welfare population to the recent amendments.

"Contrary to outside initial reaction based on partial and undifferentiated information—the widely quoted 20% no-show rate—this information suggests that most of the employable welfare population is actually complying with the law."

Commissioner Sugarman's report to the state shows that during the month of August 1,152 welfare clients had their cases closed or were removed from a case budget because they failed to report to NYSES to pick up their welfare check, or failed to comply with a requirement to seek or accept employment.

The 1,152 figure is 3.9% of the 29,389 clients who were required to participate in the program in August. The figure was determined on the basis of a detailed investigation of more than half the 2,483 employable cases closed during the month.

It found that 54% of the cases that were closed were attributable to situations unrelated to compliance with the employment program: death, increased earnings or resources, moved or whereabouts unknown.

"The size of the sample more than justifies extending the percentages to all the closed cases," Mr. Sugarman said.

During August, the report concludes, 5,911 persons failed to report or comply with the program. Of these, 2,402 or 40% had legitimate reasons for not doing so and have either been reclassified as unemployable or subsequently complied with the regulations; 875 have asked for a department review or have such requests pending; 151 are still under investigation; 2,483 or 42% have had their cases closed, more than half of them for reasons unrelated to the employment program.

Commissioner Sugarman's letter and report to the state are attached.

DEPARTMENT OF SOCIAL SERVICES,
HUMAN RESOURCES ADMINISTRATION,
New York, N.Y., October 1, 1971.
Hon. BERNARD SHAPIRO,
Commissioner, New York State Department of Social Services, New York, N.Y.

DEAR COMMISSIONER SHAPIRO: I am enclosing the final results on the study, which we agreed to perform, on the individuals who failed to report to or comply at the New York State Employment Service (NYSES) offices during the month of August.

The results of the completed study reflect the correction of some earlier figures, based on a detailed review of the cases previously reported and additional information collected on 1,174 cases not covered by our first report.

As you can see from the statistical summary, the impact of the new procedures and Central Office monitoring is being realized in all centers:

Follow-up on individuals who either failed to report or failed to comply at NYSES is being properly performed in all centers;

2,379 cases were closed and 104 individuals were removed from the case budgets as required by law;

875 are still awaiting decision, largely because of delays mandated by law, and will reach disposition during the next two weeks.

Also included for your information are the results of an analysis of the reason for the closing of 1,366 of the 2,379 cases reported above (see Attachment II of report). The combined results of the two studies, viewed in the perspective of the total numbers of persons referred to NYSES begins to shed the first bit of light on the situation underlying the failure to report or comply at NYSES.

The most significant conclusion drawn from the study is that less than 4% of the total cases referred to NYSES actually failed to comply with the law and were terminated. The balance of the closings were for reasons unrelated to the work relief program and the recent amendment to the Social Service Law.

This is a highly important insight because it begins to provide additional perspective on the reaction of the employable unemployed welfare population to the recent amendments to the Social Service Law.

Contrary to outside initial reaction based on partial and undifferentiated information—the widely quoted 20% no-show rate—this information suggests that most of the employable welfare population is actually complying with the law.

While this information is encouraging, it is not conclusive, and furthermore, in no way lessens the need for the continuation of efforts to tighten up the administration of the program in the fashion evidenced in the first part of this letter. As mentioned in my earlier letter, we will be ready shortly to review with you a detailed work plan that will include a schedule for the systematic review and improvement of all elements of the program. At the same time, work is proceeding on the development of improved reporting forms and information systems, as well as the planned training of new employment specialists by NYSES which is scheduled to begin next Friday.

Sincerely,

JULE SUGARMAN,
Commissioner,
Department of Social Services.

OCTOBER 1, 1971.

To: Jule Sugarman, Commissioner, Department of Social Services.
From: Paul J. Elston, Director, Employment Programs.
Subject: Final report on State request for detailed information on individuals who failed to report or comply at NYSES during August.

I hereby submit the final results of the State-requested study concerning the status and disposition of those persons referred to New York State Employment Service (NYSES) offices in August who either failed to report thereto or comply with the requirements of the recently amended Social Services Law pertaining to employable unemployed individuals receiving public assistance.

SUMMARY AND EXPLANATION OF THE RESULTS

The following is a summary and explanation of the results as presented in the attached chart:

1. The total number of individuals from the 43 centers who failed to report or comply at NYSES during August was *5,911*.

2. We were not able to complete the collection of information on *151* cases and they are not included in the totals.

3. Of the *5,760* FTR's and FTC's, M3C forms (Notices of closing if review is not requested within seven days) were sent to *3,358* individuals to whom M3C's were sent:

A. The cases of *2,379* individuals were closed.

B. *104* individuals were removed from the budgets.

C. *809* cases are awaiting the elapse of the 7-day period allowed to request a review.

D. *66* individuals have requested reviews which have been scheduled, but not yet held.

5. Of the *2,402* individuals to whom M3C's were not sent:

A. *643* were reclassified to another category of assistance.

B. *895* were determined not available for employment and recoded appropriately.

C. *37* are awaiting verification of a medical or other problem which may result in a reclassification or recoding as not available for employment.

D. *564* were determined to have a valid reason for failing to report and were instructed to report to NYSES during the following cycle.

E. *48* individuals were determined to have a valid reason for failing to report, and were subsequently assigned to a Public Works Project (PWP).

F. *215* individuals had actually reported to NYSES during the cycle, but were reported as FTR's because their checks were sent to the wrong NYSES center.

While completing this effort we were in a position to collect firm information on the actual reasons behind the closing of those cases involving persons failing to report to or comply at NYSES offices in August. Our sample of 1,366 of those 2,379 closings reported on (see Attachment II), illustrates that in fact 54% of the eventual closings were not related to the Work Relief Program on the requirements of the recently amended Social Services Law pertaining to the employable unemployed receiving public assistance.

An additional analysis of our data, pertaining to the composition of the population of 29,384 individuals referred to NYSES in August, is also particularly pertinent here. This analysis demonstrates the following:

a. 5,911, or 20%, of the 29,389 individuals referred to NYSES in August failed to report to or comply thereat.

b. 2,402, or 40%, of the 5,911 persons failing to report to or comply at NYSES in August, were determined to have so failed for *legitimate reasons* (see items 3–8 on Attachment I).

c. No conclusion can be drawn at this time on the 912 FTR and FTC cases still involved in the M3C review and verification stages.

d. Public assistance was discontinued for 2,483 of the 29,389 individuals referred to NYSES in August, or 8%.

e. The sample results projected against the total of 2,483 persons removed from public assistance indicate only 1,152 individuals were removed for reasons related to their willingness to work. This population represents less than 4% of the total number of persons referred to NYSES in August.

On the basis of the above analyses, therefore, the data appears to indicate at this time that in fact a minor segment of the NYSES referral population can be categorized as truly delinquent in so far as the requirements of the Work Relief Program are concerned. This initial conclusion is in contrast to the widely held impression that a very substantial portion of the employable HR population is seriously violating the requirements of the Work Relief Program.

PAUL J. ELSTON,
Director,
Employment Programs.

ATTACHMENT I

STATISTICAL SUMMARY—REPORT ON NYSES FTR's AND FTC's

DSS Center 43	Number for August
1. Total number NYSES FTR and FTC	5,760
2. M3C forms sent	3,358
A. Case closings	2,379
(1) Closings in August	1,420
(2) Closings in September	959
B. Budget removals	104
(1) Removals in August	67
(2) Removals in September	37
C. Cases where M3C sent but response period not yet lapsed	809
D. Reviews scheduled but not yet held	66
3. Person reclassified	643
4. Persons recoded	895
5. Medical or other verification pending	37
6. Valid failure to report to NYSES	564
7. Assigned to public works project	48
8. Clerical errors	215
9. Not reported on	[1] 151

[1] Not included in total.

ATTACHMENT II

ANALYSIS OF REASONS FOR CLOSINGS—SAMPLE OF 1,366 CASES

Reported reasons for closing	Number of cases	Percent of total
Reasons related to work relief program:		
Refused to register for or seek employment	229	17
Refused employment at NYSES	139	10
Refused other employment offer	15	1
Refused training or education	5	.5
Refused to comply	240	17
Total	628	45.5
Reason not related to work relief program:		
Death	12	1
Increased earnings	192	14
Obtained employment	31	2.5
Client's request	148	11
Admitted to private or public institution	15	1
Moved, whereabouts unknown	296	22
Miscellaneous	44	3
Total	738	54.5
Total	1,366	100

TAX BENEFITS FOR POLITICAL CONTRIBUTIONS, AND OF THE ELECTIONS REFORM ACT OF 1971

Mr. CANNON. Mr. President, last week the Senate passed the revenue bill of 1971 including provisions for a tax credit or an alternative tax deduction for contributions to candidates for Federal, State, and local elective office in any kind of election, primary, special, or general. Additionally, the Senate approved an amendment to the bill to permit all taxpayers to indicate that $1 of their tax money should be diverted by the Treasury for support of candidates for the offices of President and Vice President.

This approach to Federal support of candidates and political parties is not new, Mr. President; it has been proposed for many years. In 1961 President John F. Kennedy created a Commission on Campaign Costs to make recommendations with respect to improved ways of financing expenditures required of nominees for the offices of President and Vice President. In April of 1962 the Commission, comprised of members from both major political parties and from various sections of the country, filed its report. Among the several recommendations contained in the report is one endorsing the principle of granting tax incentives for political contributions. The Commission recommended a credit against tax due, not to exceed $10 per individual, or a deduction from taxable income, not to exceed $1,000.

In its report the Commission stated that:

> The bulk of presidential campaign funds available to both parties is now supplied by a relatively small group of contributors giving sums ranging from a few hundred to several thousands of dollars. . . . We hope that this incentive to medium-sized gifts, coupled with the incentive to small gifts, will stimulate the massive giving needed by the parties.

Former Presidents Eisenhower and Truman and former Vice President Nixon endorsed the recommendations of the Commission. Richard M. Nixon, while campaigning for Governor of California in 1962, called the report a significant contribution to the strengthening of our two-party system and commended it to the attention of every citizen.

What was said about the recommendations of the President's Commission in 1962 is of even greater importance and significance today. Costs of campaigning continue to rise during every election year. Candidates and parties are even more heavily obligated to the special interest or pressure groups and rely ever more necessarily upon the wealthy for financial support.

Witnesses appearing before Senate and House Committees, outside groups studying the problem of political financing, newspapermen, and other commentators, and other specialists all agree that something must be done to end the tremendous pressures brought upon candidates and political parties to raise funds for the presentation of issues and programs.

Mr. President, the Senate has provided two major pieces of legislation designed to remedy this situation. On August 5, 1971, S. 382, the Election Reform Act of 1971 was passed in the Senate by a vote of 88 to 2. That bill will require the detailed, frequent public disclosure of campaign contributions and expenditures by every candidate for Federal office and by every political committee which receives or spends $1,000 or more during a calendar year. It will insure that the citizens of the United States will be informed as the source of campaign money and the manner in which it is spent.

The amendments which were passed here in the Senate offering tax credits or tax deductions for political gifts and the $1 checkoff for the benefit of presidential and vice presidential elections should, if approved by the House of Representatives, provide a measure of sanity and control to our runaway campaigns. I urge the House of Representatives to support and approve both the Election Reform Act, S. 382, and the Pastore amendments which were added to the revenue bill.

Mr. President, I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks two articles which appeared in the Washington Post this morning. One is an editorial entitled, "The Campaign Spending Legislation," and the other is a commentary by Rowland Evans and Nobert Novak, entitled, "Matter of Money and Politics."

These articles point out the need for reform and the efforts being considered to nullify reforms.

There being no objection, the editorial and article were ordered to be printed in the RECORD, as follows:

THE CAMPAIGN SPENDING LEGISLATION

It is extremely unfortunate that the issue of campaign spending has suddenly been enveloped in a fog of partisan politics. With that fog hanging over Capitol Hill as Congress attempts to finish up its business this week, the objectives of the campaign legislation which has passed the Senate are likely to be hard to discern. But their importance is not diminished. Both bills—the spending limitations bill which is before the House and the financing bill which is tacked onto the President's tax proposals—are aimed at breaking an unhealthy connection between big money and elective office.

The legislation limiting spending is, perhaps, the more crucial of the two. If the House does what it ought to do—pass the Senate bill and the MacDonald Bill—the first major step toward getting campaign spending under control will have been taken. Indeed, the votes cast in the House this week will provide a record of which members really want to make American politics more democratic and which want to continue a system that requires candidates for many federal offices either to be wealthy or to become obligated to wealthy persons or organizations. Those votes will also provide a record of who does and who does not want the people back home to know where the money for political campaigns comes from. The issues in that bill, concerning both its spending limitations and its disclosure provisions, are just that simple.

The issues involved in the financing provision attached by the Senate to the tax bill are almost, but not quite, as simple. This proposal is a small first, imperfect step toward public financing of campaigns. The first half of it would let individuals deduct on their federal income tax bills small contributions to candidates or parties of their choice. The other half would let each taxpayer earmark $1 of his tax for the presidential candidate of the party of his choice or for a fund from which presidential candidates could draw. The presidential candidate who chooses to finance his campaign this way would be limited to about $20 million in total spending and barred from raising money from private sources. With a presidential election less than a year off, and with the Republicans floating in cash and the Democrats floundering near bankruptcy, the political aspects of this proposal are obvious.

The debate in the Senate over this funding mechanism served only to enmesh the whole campaign spending question further in party line politics. So eager are the Republicans to capitalize on their current financial dominance that many of them spoke as if it were dishonest for a politician not to want to sell out to big contributors. The Democrats, on the other hand, are so eager to find some way out of their financial hole that many of them spoke as if it were dishonest for a politician to accept any contributions. That kind of overstated and occasionally nasty debate did nothing to improve the proposal offered by the Democrats although they did accept an important amendment by Senator Mathias, giving the taxpayer more choice about where his dollar goes.

The financing proposal, too, now faces a test in the House. When it comes to a vote there, members ought to regard it in terms of what it means for the future—not just for what it means for 1972. Undoubtedly, it will help the Democrats in the 1972 presidential campaign. But just as certainly it will be followed in subsequent years, if it works, by an expansion of a public financing system until it includes all federal offices. That, we submit, is a goal to be pursued vigorously. It is the best known way to get rid of the corrupting influence of money in elections.

MATTER OF MONEY AND POLITICS

(By Rowland Evans and Robert Novak)

Shrinking from the horrible consequences of vetoing the Democratic scheme for government financing of presidential campaigns, the White House is now fashioning an ingenious scheme of its own to prevent the bill from affecting the 1972 election.

No final decision has been made, but under serious consideration by President Nixon's inner circle is this counterploy: Sign the tax bill containing the checkoff of tax funds to finance presidential campaigns, then order the Internal Revenue Service (IRS) to completely ignore the checkoff provision on grounds of constitutionality.

That would propel an outraged Democratic National Committee into federal court to force the IRS to distribute the money. With constitutional issues raised, the lawsuit might remain in the courts long enough to prevent the checkoff from being used in the 1972 campaign.

A less audacious scenario, keeping the President above the battle, is also being thought through at the White House. The Republican National Committee, at the President's private urging, would bring a "citizen's suit" against the checkoff. That, too, might prevent the plan's operation for 1972.

Such war-gaming reflects the gravity with which the White House regards the checkoff, which would have each taxpayer choose whether or not the government could use $1 of his tax payment to fund presidential campaigns. That would yield up to $20.4 million each for the Republican and Democratic nominees in 1972.

The political explosiveness of the checkoff is appreciated at the White House. In tandem with a separate reform bill (up in the House this week) limiting campaign contributions and spending for congressional candidates, it revolutionizes financial aspects of American politics. Specifically, Mr. Nixon's huge money advantage for 1972 would be nullified and the cloud of bankruptcy hovering over the Democratic Party since 1968 would evaporate.

Hence, the immediate White House reaction after Senate passage of the checkoff a week ago was to veto the entire tax bill even though it includes the tax cuts Mr. Nixon regards as essential for economic recovery. The tax cuts would then be quickly passed in a new bill before Congress adjourned for 1971.

But this veto sentiment subsided within 48 hours after the Senate vote. High economic officials brought reality home to the White House inner circle. A veto of the tax bill would grievously add to the present economic uncertainty, which even now is depressing the stock market and impeding strong economic recovery. A veto, they warned, would be catastrophic.

What's more, it quickly became clear that the increasingly truculent Democratic leadership on Capitol Hill would not permit a new bill containing the tax cuts to pass without the political checkoff. To Democrats, the checkoff has become a matter of life and death.

Accordingly, by the middle of last week, a new consensus had developed at the White House: if the massive revenue loss of the senate-passed tax bill were reduced in conference, as expected, the bill should not be vetoed merely because of the political checkoff.

That triggered an eleventh-hour White House effort to generate Southern Democratic opposition to the checkoff in the House that would influence the final version drafted in the Senate-House conference. Would not the checkoff push both parties leftward, since neither would depend upon business contributions? Would it not splinter the left wing of the Democratic Party into ideological factions, each wanting to take advantage of the federal bononza by running its own presidential candidate?

Administration officials rejoice that Rep. Joe D. Waggonner, Jr., of Louisiana, an increasingly influential conservative Democrat, actively opposes the checkoff. But the even more influential Rep. Wilbur D. Mills of Arkansas is all for the checkoff. Thus, odds for its final adoption are overwhelming.

That leaves the courts as the last resort for the Republicans, who would challenge the checkoff as a violation of the 14th amendment's equal protection provisions.

The most dramatic route to a court test would be for Mr. Nixon to instruct the IRS not to obey the new law. Even more turbulent relations between the Democratic Congress and Republican President would be exacerbated by such a ploy. But considering the political stakes, Mr. Nixon may well take the risk.

NEW APPROACHES TO FINANCING PUBLIC SCHOOL EDUCATION

Mr. HARTKE. Mr. President, recently a great deal of attention has been focused on the need to find new approaches to finance public school education. Nevertheless, this is not a new problem for millions of propertyowners throughout the Nation. They have known for years that rising real estate taxes were forcing both businesses and private citizens to leave communities in which they had been established for some time. At the same time, the increased local taxes were unable to keep pace with the rising costs of elementary and secondary education.

It has been fashionable for politicians to decry spiraling real property taxes and to call for cuts in spending. This type of political irresponsibility ignores the fact that the citizen must pay at one time or another. For instance, if there is inadequate money to finance a good public school system, the result will be students who are ill equipped to serve as productive and aware members of their community. The dollar cost of this deficiency cannot be measured. It is reflected in decreased human productivity, higher welfare costs, higher crime rates, and the like. Surely, the cost of this frugality is far higher than the cost of a good education.

None of us has the ultimate solution to the financing problem, but there are several good suggestions which must be pursued. Excellent articles on this subject appeared in the November 20, 1971, edition of the Saturday Review. I ask unanimous consent that they be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

EDUCATION IN AMERICA

PRESSURES FOR CHANGE

In recent months American higher education has been subjected to an avalanche of reports, critiques, analyses, and proposals for change. They range from the reports of the prestigious Carnegie Commission on Higher Education, headed by Clark Kerr, and HEW Secretary Elliott Richardson's influential task force, headed by Frank Newman, to the writings and recommendations of individual scholars and critics. But nearly all, and especially the more eminent critics, call for radical rethinking of the entire higher education enterprise.

One may well wonder why, after a decade or more of unprecedented growth, affluence, and apparent success, our colleges and universities should suddenly be faced by so many demands for fundamental reform. There are, of course, a number of obvious reasons: the upgrading of the high schools during the 1950s and 1960s that made many freshman-year programs obsolete, the earlier maturing of young people and their greater sophistication as a result of exposure to so many sources of knowledge and experience outside the classroom, and the growing insistence on more schooling in preparation for the world of work—not to mention the more overt pressures for change exerted by the civil rights movement, the student rebellion, and, more recently, Women's Lib.

But these factors and forces, relevant as they are, fail to explain the widespread demands for radical change. Rather, it appears that these demands aim much more deeply than mere accommodation to surface, and sometimes transient, pressures—that they challenge the very assumptions on which higher education is founded. Two examples will illustrate the point.

The first concerns the assumptions we have made about who is capable of "college level work." In the past higher education has always been designed primarily to serve an elite—whether social or intellectual. But the pressures of recent years have forced open the door of the Academy to admit a far wider range of individuals than ever before, and the results have been revealing. Many questions remain, but analysis of the experience of many institutions with "high risk" students has called into serious question our assumptions about who is college material, and who is not. Late last month, for instance, Oberlin College reported that entering black students have test scores that average 100 points lower than white students, but that both groups graduate with point averages that are nearly identical.

The second assumption that is being challeged concerns the kinds of studies that should comprise higher education. Our colleges and universities have proved beyond doubt their capacity for developing the kinds of knowledge and skills demanded by a technological society. But, in the process, they have often ignored almost all the rest of the wide spectrum of human talents. We have, for example, been called a nation of visual illiterates—not least because we have rarely placed the same value on the ability to communicate in the visual and performing arts that we have placed on the ability to communicate in the languages of mathematics or physics. The point was well made recently by Dr. John Ziman, professor of physics at the University of Bristol. Writing about the highly trained specialists who dominate so much of our society, he observed: "We must somehow sensitize these earnest, owlish experts early to think of people, of pain, of freedom, and of beauty."

The contemporary critiques of higher education demand not the destruction of our colleges and universities, but a fundamental rethinking of their role in the modern world. Their message is that superficial tinkering and accommodation to transient pressures are not enough.

THE CALIFORNIA DOCTRINE

(By Arthur E. Wise)

On August 30, 1971, the Supreme Court of California announced what may become as historic a decision as *Brown vs. Board of Education*. In *Serrano vs. Priest*, the court tentatively concluded that the state's public school financing system denies children equal protection guaranteed under the Fourteenth Amendment, because it produces substantial disparities among school districts in the amount of revenue available for education. The problem to which the case was addressed can be simply stated by an example. The Baldwin Park school district expended only $577.49 to educate each of its pupils in 1968–69, while the Beverly Hills school district, in the same county, expended $1,231.72 per pupil. The principal source of this inequity was the difference in local assessed property valuation per child: In Baldwin Park the figure was $3,706 per child, while in Beverly Hills it was $50,885—a ratio of 1 to 13. Furthermore, Baldwin Park citizens paid a school tax of $5.48 per $100 of assessed valuation, while Beverly Hills residents paid only $2.38 per $100—a ratio of more than 2 to 1.

The idea that the unequal allocation of educational resources within a state might be unconstitutional was first suggested only during the mid-1960s. It was not that the allocation of educational resources among school districts within a state suddenly became unequal in the mid-1960s, nor were these inequities suddenly discovered. Rather, the inequities in school finance were, for the first time, viewed in the light of the then prevailing egalitarian thrust of the U.S. Supreme Court.

The Court, under Chief Justice Earl Warren, had been embarked on a campaign of guaranteeing fundamental rights to dispossessed minorities and had precipitated broad social change. In 1954, the Supreme Court declared that, at least as far as race is concerned, public education is a right that must be made available equally. Beginning in 1956, the Court began to attack discrimination based on wealth in a series of cases concerned with rights of defendants in criminal cases. In 1962, the Court moved to eliminate geographic discrimination by requiring legislative reapportionment. By 1966, the wealth discrimination argument had been extended to voting rights in a case that eliminated the poll tax.

In the context of this historic trend a Constitutional attack on inequities in educational finance seemed eminently feasible. Many parallels among the rights at stake were possible. More important, perhaps, was the fact that the Warren Court had demonstrated a willingness to guarantee individual rights when legislatures failed to act. State legislatures had been struggling with miserly state school finance equalization formulas for at least as long as they had failed to reapportion themselves.

The California equalization suit was not the first such suit to be prosecuted. Earlier there had been unsuccessful efforts in Illinois and Virginia to challenge the Constitutionality of school finance legislation. The California court took pains to distinguish between the case before it and the earlier ones. The earlier complaints had contended that "only a financing system which apportions public funds according to the educational needs of the students satisfied the Fourteenth Amendment." The lower courts had found the notion of "educational needs" too nebulous a concept with which to deal, and the U.S. Supreme Court had affirmed their decisions that held that the equal protection clause did not apply to school financing. However, the U.S. Supreme Court was obliged to render a judgment when these cases were appealed to it from the lower courts because of a technicality. According to the California court, the U.S. Supreme Court's affirmance of these decisions was substantially the equivalent of a decision not to become involved in the issue at that time. Furthermore, the California court thought that its case was different in that it involved the simpler principle of discrimination on the basis of wealth. It should be pointed out, however, that the earlier cases had perhaps erred because they contained a remedy in the complaint. The California complaint simply attempted to have the present system of finance declared unconstitutional.

There were three steps in the reasoning of the California court as it reached its decision. First, it noted that "the U.S. Supreme Court has demonstrated a marked antipathy toward legislative classifications which discriminate on the basis of certain 'suspect' personal characteristics. One factor which has repeatedly come under the close scrutiny of the High Court is wealth." The California court reviewed precedents in which the High Court had invalidated wealth classifications that infringed on the rights of defendants in criminal and voting rights cases. It appeared to the court that California's school financing system does discriminate on the basis of the wealth of a district and its residents.

While the court had substantial judicial precedent for finding wealth a suspect classification, it did not have judicial precedent for finding education a "fundamental interest." Such a finding was an important second step for the theory that the court was attempting to develop. The court relied upon a number of decisions that "while not *legally* controlling" are "persuasive in the factual description of the significance of learning." The classic expression of this position came in *Brown vs. Board of Education:*

> Today, education is perhaps the most important function of state and local governments. Compulsory school attendance laws and the great expenditures for education both demonstrate our recognition of the importance of education to our democratic society. It is required in the performance of our most basic public responsibilities, even service in the armed forces. It is the very foundation of good citizenship. Today it is a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment. In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms.

These cases, together with the court's own analysis of the importance of education, compelled it to treat education as a "fundamental interest." "Education," the court stated, "is the lifeline of both the individual and society."

The final step was a determination of whether the California school financing scheme, as presently structured, constituted a "compelling state interest." Finding that education is a "fundamental interest" and that the present method of school financing interferes with no "compelling state interest," the court declared:

> The California public school financing system, as presented to us by plaintiffs' complaint supplemented by matters judicially noticed, since it deals intimately with education, obviously touches upon a fundamental interest. For the reasons we have explained in detail, this system conditions the full entitlement to such interest on wealth, classifies its recipients on the basis of their collective affluence and makes the quality of a child's education depend upon the resources of his school district and ultimately upon the pocketbook of his parents. We find that such financing system as presently constituted is not necessary to the attainment of any compelling state interest. Since it does not withstand the requisite "strict scrutiny," it denies to the plaintiffs and others similarly situated the equal protection of the laws.

To this point the court was supporting the proposition that the quality of public education may not be a function of wealth other than the wealth of the state as a whole. [See *SR*, April 17, 1971, p. 76.] This proposition would permit educational quality to vary from school district to school district so long as each district had an equal capacity to raise funds for education. Thus, for example, a community that chose to tax itself at the rate of 1 per cent might have available $400 per student, irrespective of the wealth of that community. A community that chose to tax itself at the rate of 2 per cent might have available $800 per student, again irrespective of the wealth of that community. The state in this scheme commits itself to the specified level of expenditure per student regardless of what it raises by the local tax. The state gives aid in exactly the amount that local resources are insufficient to reach the specified expenditure. This scheme, known as "district power equalizing," is apparently, however, inconsistent with the principle of territorial uniformity.

The court took some pains to argue that territorial uniformity in school finance is constitutionally required. "Where fundamental rights or suspect classifications are at stake," said the court, "a state's general freedom to discriminate on a geographical basis will be significantly curtailed by the equal protection clause." In support of this interpretation, the court first relied upon the school closing cases in which the U.S. Supreme Court invalidated efforts to shut schools in one part of a state while schools in other areas continued to operate. Secondly, the court relied upon the reapportionment cases in which the U.S. Supreme Court held that accidents of geography and arbitrary boundary lines of local government can afford no ground for discrimination among a state's citizens. "If a voter's address may not determine the weight to which his ballot is entitled, surely it should not determine the quality of his child's education."

This analysis is consistent with the more egalitarian proposition that the quality of a child's education may not be a function of local wealth or of how highly his neighbors value education. In other words, it would prohibit variations in the number of dollars spent on any child by virtue of his place of residence. It would apparently permit variations based on educationally relevant characteristics of the child. One point that remains unclear in the opinion is whether the equal protection clause applies to children or to school districts. If it is children who are entitled to equal protection, then the quality of a child's education could not be subject to a vote of his neighbors.

It should be clear that the California court simply declared the present system of school finance unconstitutional. It (fortunately) did not prescribe solutions, but apparently left these to be developed by the California legislature. However, because the opinion is somewhat hazy, it is unclear what new plans will be acceptable to the courts. The next steps are in the hands of the defendants and the trial court to which the case was remanded.

(On October 21, the California Supreme Court issued a clarification of its earlier ruling, pointing out that it had not yet actually struck down the school finance system, but had merely ordered the case returned to the trial court. Apparently, however, the trial court, if it determines that the facts are as alleged, must find the system unconstitutional.)

In the weeks since the California equalization decision was announced, perhaps as many as twenty or thirty challenges to school finance legislation have been made throughout the nation. In the first of these to be decided, a federal district court in Minnesota has ruled, on grounds similar to those in the California case, that Minnesota's school financing system is unconstitutional. The court retained jurisdiction of the case but deferred further action until after the current Minnesota legislative session.

One of the most important outcomes of these lawsuits is their effect upon legislative bodies. To be sure, the California and Minnesota decisions explicitly call for responses from the state legislatures. However, the years since the legal theories were developed have seen an unprecedented level of school finance activity on the part of political bodies. While other factors have undoubtedly played a part, the threat of impending lawsuits may have served as an impetus to action in an area that has been characterized by legislative intrasigence.

The concept of "full state funding" has entered the vocabulary of education. President Nixon has appointed a Commission on School Finance and is reported to be "deeply conscious of the inequities and the inadequacies of the property tax as the principal source of support at the local level for the cost of education." The Advisory Commission on Intergovernmental Relations has recommended that the states assume "substantially all" of the responsibility for financing local schools in order to grant property tax relief and ensure equal educational opportunity. Governor William Milliken of Michigan has been endeavoring to achieve broad reform in educational finance in that state for the last two years. Reportedly, the Fleischmann Commission in New York State will recommend, before the end of the year, full state assumption of the costs of education, imposition of a statewide property tax, stabilization of spending in wealthy school districts, and ultimately greater spending in districts with poor, disadvantaged youth.

It is quite conceivable that *Serrano*, or a similar case, will be appealed to the U.S. Supreme Court in the near future. If it should refuse to review the decision, the effect would be to leave the judgment standing in California. The California legislature, under the supervision of the trial court, would have to develop a new school finance system, and the pace of filing suits in other states might be quickened. The California Supreme Court, a prestigious state court, would have established a precedent that, though certainly not binding on other courts, would carry some weight. One would expect decisions on both sides of the question. At that point, the U.S. Supreme Court would probably feel compelled to hear a case in order to establish a single interpretation of the equal protection clause in this area. By that time one or more states would have grappled with the implementation of a *Serrano*-type decision and have demonstrated whether or not school finance systems can be operated along lines consistent with *Serrano*.

On the other hand, it is possible that the U.S. Supreme Court would agree to hear an appeal on a *Serrano*-type decision immediately. The Court may be anxious to dispose of this potentially troublesome affair. Indeed, under certain circumstances, the Supreme Court is obliged to accept an appeal and render a judgment. Under present circumstances most observers would not predict that the decision would be upheld, and a negative judgment would spell the end of judicially induced school finance reform for some time. For this reason many legal experts believe that an appeal to the U.S. Supreme Court should be postponed for as long as possible.

The next months, indeed years, will be a time of substantial confusion in the history of American public school finance. A principal outcome of *Serrano* will be to free legislatures from the strictures of the past to experiment with new models of school finance. Efforts at reform will be aided by a growing discontent with the local property tax.

In sum, *Serrano*-type lawsuits are designed to attack our school finance systems that effectively deliver more educational resources to children in wealthy communities and less to children in poor communities. The suits have as their objective squaring the reality of school finance schemes with the rhetoric of equality of educational opportunity.

ANATOMY OF A REVOLUTION

(By Harold Howe II)

It is an article of faith in America that every citizen should have an equal chance. We pride ourselves on a system of government and an open society designed to turn this principle into a fact of life. Any informed American knows, however, that all people do not have an equal chance in the United States. Wealth still gives special privilege; race confers abiding handicaps; inappropriate distinctions are made on the basis of sex. Our society is not wide open to people who are different, who speak another language, who are somehow out of the mainstream of the middle-class culture.

And nowhere are our ideals of equality further from reality than in the way we finance our schools. But it is possible that revolutionary change may be just over the horizon. It may be that the early 1970s will turn out to be the time in which these inequalities become a major issue in every legislature in the land. On August 30, 1971, the Supreme Court of the State of California decided by a majority of 6 to 1 that the system of financing schools in California through local property taxes violates the equal protection clause of the Fourteenth Amendment to the U.S. Constitution.

The court declared:

"We have determined that this funding scheme invidiously discriminates against the poor because it makes the quality of a child's education a function of the wealth of his parents and neighbors. Recognizing as we must that the right to an education is a fundamental interest which cannot be conditioned on wealth, we can discern no compelling state purpose necessitating the present method of financing."

As an educator rather than a legal specialist, I read the decision as a powerful argument indeed. It casts a shadow over the legality of the entire system of financing public education and clearly documents the inequalities that characterize present practice. It finds that the efforts of the state at equalization are "inadequate to offset the inequalities inherent in a financing system based on widely varying local tax bases." It sets aside—as unrealistic for poor school districts—the argument that a district that wants to can have good education by taxing itself adequately: " . . . affluent districts can have their cake and eat it too; they can provide a high-quality education for their children while paying lower taxes. Poor districts, by contrast, have no cake at all." It argues that fortuitous location of highly assessed commercial properties in a school district creates imbalances that ought to be irrelevant in planning educational financing.

Up to World War II, we were trying to get every youngster into school. Since then, we have become more concerned with whether the school he enters gives the pupil a fair chance. Numerous studies have documented the failure of the schools to serve poor children adequately, particularly blacks, the Spanish-speaking, and American Indians.

The federal government has financed special add-on programs on behalf of those groups of young people who seem to be especially ill-served by the schools. The landmark Elementary and Secondary Education Act of 1965 recognizes the inequalities in American education and provides special funds to schools where there are concentrations of poor people. The Headstart, Upward Bound, and Follow Through programs have similar objectives. But federally financed programs, which have attracted so much attention in recent years, pay for only a very small part of U.S. education. At present, only about 7 per cent of all school funds come from the federal government. The bulk comes from state authority—about 40 per cent directly, and some 55 per cent from local property taxes levied by localities that are creatures of the state. While there are differences among the states, in general they leave it to local boards to raise through property taxes the money needed to run their schools.

This local system means that a youngster's chance for a quality education depends in a very large measure on the accident of where he lives and attends school. Disparities among states have attracted some notice in recent years as wealthier states have received migrations of poorly educated children from poorer states. (A child who happens to be born in Mississippi receives an elementary school education that costs annually about $521. If he lives in New York State, his citizenship brings him, on the average, the advantages of what $1,370 can buy in the way of good educational service.) Less well known is the equally glaring gap between have and have-not areas within states, even comparatively wealthy states.

A wealthy school district with a high assessed property valuation per child spends more for each child's education than a poor district with a low assessed valuation per child. Within New York State, for example, are school districts with an annual expenditure per child of $2,000 per year, and other districts that spend only $700 per year. Similar disparities can be documented in almost every state in the country. (A notable exception is Hawaii, whose schools are supported 100 per cent by the state.) If the quality of staff, size of class, and provision of special services have any meaning at all, this inequality of expenditure produces an inequality of educational opportunity.

Paradoxically, this system also results in the poor paying more heavily for inadequate education than the rich do for the higher-quality variety. Some states employ "equalization formulas" designed to ensure that money from state tax resources will flow to local school districts in a way that helps to equalize expenditure on education among the districts. But these efforts, compromised by political horse trading in state legislatures and departments of education, rarely come close to equalizing the actual resources devoted to each child's education.

We have become so deeply immersed in the sanctity of local control of the public schools that until recently there was very little criticism of the inequalities it perpetuates. The California decision has exposed these inequities to the full glare of national publicity and, in effect, has redefined the rules of the game in the annual legislative battles over educational appropriations.

But the California decision leaves unanswered the question of how schools are to be financed. It simply says that the present system is not legally acceptable. The California legislature has the job of designing a new system that will give children the equal protection of the laws. There are several ways California (or any other State where it may apply) can respond to this decision.

It might seem that the easiest thing would be to remove the taxing authority of local school districts. Under such a system the state could presumably abandon the property tax and seek other forms of taxation, or devise a system of property evaluation that is comprehensive and fair throughout the state. The state would provide funds to each district on the basis of a statewide formula involving numbers of students at different levels. Such an approach immediately confronts problems. Educational costs vary considerably within a state. The cost of living in upstate New York is about 10 per cent less than in New York City, so that teachers' salaries, a major component of any system's expenses, must be higher in the city in order to be fair. Janitorial services, repair services, construction, and the like vary from place to place. Vocational education, because of the high cost of equipment, and the teaching of handicapped children are exceptionally expensive. Spending exactly the same amount on each child in a state, therefore, does not provide equality of services.

The politics of enacting real equalization programs are bound to be tough.

Realistically it will be difficult to equalize expenditures at today's average level because such an approach would reduce teacher salaries, or educational services, or both, in high-expenditure districts. On the other hand, equalizing expenditures at or near the level in very high-expenditure districts would require substantial additional state revenues. A state might, however, set a basic per pupil expenditure at the level now being spent in, say, the eightieth percentile district—one with high expenditures but not the highest. Districts previously spending more or less than this one could gradually adjust to the new expenditure norm, phasing into different salary and expenditure arrangements over a period of a few years.

Other suggestions have been advanced. One involves defining the educational needs of students in different categories (handicapped, disadvantaged, vocational, etc.) and setting up a level of expenditure for each across the state. A school district would receive funds from the state in accordance with the number of pupils in each category.

Another suggestion, proposed by John Coons, *et al.*, in *Private Wealth and Public Education*, seeks a "power equalizing" relationship among districts. The amount of annual revenue per pupil any district received would be tied to the *rate* at which it chose to tax itself. A rich district would presumably want a high pupil expenditure, so it would tend to vote a high property tax rate. The excess it raised over the amount it was allowed to keep would go to the state for equalizing distribution to poor districts (which would be unable to raise through local property taxes all the schooling money they needed). For example, suppose the legislature provided that all districts might tax real property at rates from 1 to 3 per cent. If a district taxing itself at 2 per cent raised $800 and the level of support per student at that rate were $1,000, it would be subsidized $200. Alternately, if a district were wealthier and raised $1,200 per student at 2 per cent, $200 would be redistributed to poorer districts. The key feature here is not the wealth of the district, but how hard it chose to tax itself.

Income, sales, and other taxes could replace property taxation in part or in full. Thus the California decision opens up for re-examination the whole structure of state taxation and raises the possibility, admittedly remote, that some states may seek a fundamental reform.

A major effect of implementing the California decision should be to provide, finally, sufficient resources for improving schooling among the children of the have-nots of our society. Compared with the present volume of federal funds to assist the disadvantaged, the reallocation of state and local resources—as noted, more than 90 per cent of the funding of schools—would be a vastly more significant influence. In addition, more equal distribution of state and local funds would help the federal programs to accomplish their "compensatory" objectives. The theory of compensatory education is that it should provide school services for children with special needs over and above those normally provided. In fact, these programs are only able to help the poor catch up a little with the school services that the rich already have. Recently, the federal government has been telling the states that they must make their districts financially comparable before they can receive compensatory funds, but it is doubtful whether political leverage alone can make the states act. If the California doctrine can force districts to be more equally financed, the federal programs can assume their proper compensatory function.

Not only would the poor, the disadvantaged, and the victims of racial discrimination be helped by the doctrine of the California decision, however. Middle America has much to gain also. Many of the school districts in the deepest fiscal difficulties are those of the new middle-income and blue-collar suburbs that must raise almost all their school funds from taxes on housing. These districts often have more children per residence and little or no industrial and commercial tax base. The result is a lower assessed valuation per child than in wealthier suburbs and some urban areas. While incomes are well above the poverty level in blue-collar suburbs, property taxes are high, school costs are mounting, school expenditures are frequently inadequate, and taxpayer revolts against spending more on schools are increasing. Such communities would gain significantly from an effective equalization plan supported by state funds.

But even if means for equalizing expenditures are found, an even more difficult issue remains. Underlying the California Supreme Court decision is the assumption that increasing expenditures in low-cost schools will enhance educational opportunity—an assumption that is not universally held. Those trying to hold down school costs point out that some 75 per cent or more of all money for schools goes into salaries. They argue that if you pay teachers, administrators, and janitors more, you end up with the same people doing the same job at greater expense—"Maybe the teachers will drink Scotch instead of beer, but the schools won't change. Why not find out what's wrong with what the schools are doing and explore different practices?"

This general argument finds some support in *Equality of Educational Opportunity*, the massive study of U.S. education directed by James Coleman and Ernest Campbell in 1965 and 1966. Comparative data from a very large sample of schools and students suggested that the differences among American public schools in class size, buildings, equipment, teacher skills, library services, and other inputs that can be easily changed by spending more or less money seemed to have relatively less effect on success in school than social class, as indicated by family income. The Coleman Report conclusions were disturbing to American educators who had long assumed that the way to get more out of education was to put more into it. (Previous studies of higher education had indicated that high-cost colleges produce no measurable educational improvement over low-cost colleges, but none of these has attracted any serious attention. The Coleman study was large-scale, national in scope, and visible. Commissioned by the Congress in the Civil Rights Act of 1964, it could not be ignored.)

The Coleman conclusions are not universally accepted, however. In particular, the type of averaging of school data in the Coleman analysis is thought by certain scholars to minimize the effect of better school financing on the learning of students. Also a recent study by James Guthrie and his colleagues in Michigan indicates that poor children who received high-quality school services did significantly better on mathematics and reading tests than other poor children who received a lower quality of school services. The state of California also determined in 1969 that, while added funds do make a difference in performance of disadvantaged children, there is a certain "critical mass" of additional services necessary if the difference is to be meaningful. California found that adding about $300 per child per year in compensatory education funding can produce significant results. A Connecticut analysis arrives at about the same conclusion. The differential expenditure between have and have-not school districts in the same state is frequently more than $300 per child per year. In any case, we can expect that the last word on this subject won't be said for a long time.

It seems to me that, without significant changes in educational practice, simply providing modest amounts of additional money has a low payoff. I do believe, however, that the kinds of *gross differences* in funding, on which the California decision is based, do affect children's opportunities. Having worked in the public schools of Newton, Massachusetts, and Scarsdale, New York—both high-expenditure districts—and having worked also in North Carolina in a position that took me into many low-expenditure schools, I would assert that the well-run, high-expenditure district provides its pupils with many opportunities that would benefit the child from the lower-expenditure district.

Even before the California ruling, the system of school financing through local school districts had ceased to make sense in many respects. A common, statewide property tax or some other system for state financing should mean more rational administration and planning in many areas. The sad story of local bond issue defeats across the country, for example, raises questions about the common sense of a system that leaves a child at the mercy of the local voters for adequate school housing. Double sessions and ancient, unsafe buildings on the one hand and ill-conceived monuments to local pride and the local athletic boosters on the other demonstrate the extremes of abuse by local school boards. The simple lack of information, or loyalty to local contractors and architects, frequently prevents school buildings from being as inexpensive or serviceable as they might be. In a state that centralizes these activities, planning for new school buildings and financing their construction should be done more efficiently. Although state education departments have a long way to go in modernizing their building regulations to allow the advanced systems of construction, they are more likely than local boards to promote change.

Local school boards also have something to gain, despite the fact that they can be expected to face the implications of the California decision reluctantly. As an ex-superintendent of schools, I can recall the endless hours spent haggling over fiscal and tax issues by a board genuinely interested in educational values. Imagine a school board that could say to its constituents, "Here are the funds we have from the state to run our schools next year. Let's talk about the most advantageous way to use them for the children." Boards now give so much attention to the *means* of education that they frequently neglect the important subject of the *ends*. Taxpayers' groups, along with the self-appointed saviors who profess to have the interests of children at heart, but somehow always want to cut the budget, could still grind their axes, but they would have to do it at the state capitol. Back in the school district the conversation could turn on education. The problem of slicing the pie would still be there for the local school board, as well it should be, but the size of the pie would be fixed by the state, equitably.

A major question is who will decide on teachers' salaries, the state or the school district. Statewide collective bargaining has an obvious appeal to the organized teaching profession. Teachers' organizations have opposed decentralization of city schools because of the potential loss in leverage in dealing with multiple education authorities over a variety of issues, and they may welcome centralization of fiscal authority at the state level for corresponding reasons. In *The New York Times* of September 12, Albert Shanker, the president of New York City's United Federation of Teachers, supports the California decision, saying, "It opens the way for a new era of school financing—the kind of state and federal support for education that the labor movement and teacher unionists have been advocating for years."

Finally, the California decision, raises questions of diversity and control. It is an axiom of American politics that control and power follow money. As school finance is monopolized by the state, what would states be likely to do that they are not doing now in controlling the education options of school boards? They might move to complete standardization of education, decreeing what is to be studied, for how long, and in what manner, thereby adding to the already extensive requirements for teacher certification and similar matters. While there are abuses in any system, I believe strongly that we need less, rather than more, participation by the state in the day-to-day affairs of the schools.

Without becoming oppressive, however, the state can provide important services to the schools and stimulate them to consider improvements. States might consider two models. One consists of the relations between state universities and colleges and state educational authorities in the U.S. While these differ from state to state, most state authorities trust campus professionals to run their own affairs. State universities, for example, can hire their own teachers without an elaborate licensing or certification system, and they can plan their own curricular offerings and methods of teaching. State approval is required only when a totally new activity or department is involved. On the other hand, the state does the planning to avoid duplication, control costs, and guarantee services. This spirit could apply in a revised state system of schooling with fewer and larger school districts.

The second model is Britain's system of publicly supported schools. Local schools get most of their funds from the central Ministry of Education, yet they are fiercely independent and operate individual programs. The ministry maintains an "Inspectorate," but inspectors typically play a role that belies their title. They are not authority figures whose business is to check on the minutiae of administrative practice. They are stimulators of change and improvement, communication agents who disseminate good practice by persuasion, and experienced educators and teachers—rather than officious bureaucrats.

The question of diversity is, in some ways, a more troublesome one. Some diversity within the system may make for gains in the education of all. If we look at higher education, it is possible to argue that the development of a large number of strong universities in this country has been greatly assisted by the example of "lighthouse" institutions, the major private universities and a few state-supported institutions. Real quality and standards in higher education are to a degree preserved and maintained because there is a hierarchy of excellence. But the picture is less clear in elementary and secondary schools. Will leveling and homogenization of schools and schooling snuff out the lights? Not necessarily, by any means. School districts composed largely of the children of the poor never had the wherewithal to be lighthouses. In rethinking school finance, perhaps ways can be devised to put the lighthouses in Watts and Harlem instead of Beverly Hills and Scarsdale.

American public education has been given a significant chance for progress by the doctrine of the California Supreme Court. Governor William Milliken of Michigan had worked hard even before the California decision for legislation to move all school costs to the state budget. The governors of Minnesota and Ohio appear to have similar interests, and Governor Ronald Reagan of California has publicly urged statewide property tax reform. Perhaps the call from the California court will delay state legislative action until the U.S. Supreme Court *finally* resolves the Constitutional issues. Even then, there would be a long period of adjustment and difficulty. Seventeen years have passed since the Supreme Court handed down the *Brown* decision, and the schools are still in the process of desegregation.

Educators and laymen concerned about the schools should get to work now to ensure that no such anguished chasm develops between the promise of the California doctrine and its fulfillment.

New Brunswick Experience

(By Sheila Canning)

In January 1967, the Canadian province of New Brunswick instituted the kind of school financing program that many critics of the American system would like to see implemented here. Under the plan the province assumed the full cost of financing education with the goal of providing a single standard of education to all communities. As part of a total reorganization, it abolished the local county governments and reduced the number of districts from 422 to 33. Each district works out its budgetary details in consultation with the central department of education and regional advisers. The budget requests are then submitted to the treasury and ultimately to the legislature for approval. In addition, local boards may undertake supplementary programs following voter approval.

To finance the equal opportunity program, which more than doubled education costs, New Brunswick restructured its tax system by eliminating property and nuisance-type taxes and enacted a uniform real estate tax of 1.5 per cent of market value as determined by provincial, rather than local, assessors. Sales taxes increased from 6 to 8 per cent, and a 10 per cent surtax on income was levied.

New Brunswick pays it teachers a uniform salary scale for various levels of competence. Nevertheless, within the budget and a suggested teacher-pupil ratio of 1:23, each district is free to hire as many of the best-qualified people as it can attract. To ensure teacher support at the outset, the province wisely agreed to pay the salary schedule of the highest paying district. Today salaries are determined through collective bargaining between the province and the teachers' union.

Reaction to the New Brunswick program is generally favorable. State take-over of school costs has resulted in a more equal provision of services and has fixed political responsibility for school support. Particularly in the French-speaking areas, there has been a noticeable upgrading of the educational program. Critics still point to the high dropout rate and the sense of frustration with the limited degree of autonomy afforded local school boards. Nevertheless, present discussions focus more on refining the program than on abolishing it.

THE PROBLEM OF CHEESE IMPORTS

Mr. HUGHES. Mr. President, nearly 4 months have passed since the U.S. Tariff Commission recommended relief for American cheese producers. In spite of rising domestic production and increased exports, the President has not yet acted.

Since Iowa is the fourth ranking State in cheese production, my constituents have been troubled by these developments. But all American taxpayers are affected because these imports displace domestic dairy products, which then must be purchased under the Federal price support programs.

For nearly two decades there have been quotas on imports of dairy products. Despite several efforts to prevent evasions of these quotas, the amount of imports has increased. In January 1969, several cheeses were put under quotas, but those costing 47 cents or more per pound were exempted. The goal was to permit imports of the specialty cheeses which are not normally produced here.

By last year, however, such cheeses accounted for nearly one-fourth of all dairy imports. At the direction of the President, the Tariff Commission held hearings on this "over 47 cents cheese."

On July 28 the Commission recommended abolition of this price distinction and substitution of increased quotas for the three categories of cheese. During the months of delay, imports have continued to increase. Imports of Swiss-Emmenthaler cheeses are up 13 percent over last year, those of Gruyere process cheeses are up 10 percent, and other cheeses are up 15 percent—as of September 30.

Presidential action is now needed to put these quotas into effect. Otherwise, the squeeze on domestic producers will continue and U.S. taxpayers will have to foot the bill.

DEPARTMENT OF DEFENSE APPROPRIATION—ANNOUNCEMENT OF POSITION ON VOTE

Mr. STEVENSON. Mr. President, I was necessarily absent when the votes on final passage of the Department of Defense Appropriations bill, H.R. 11731, and the ocean dumping bill, H.R. 9727, were conducted. If I had been present and voting, I would have voted "yea" on both bills.

THE GENEVA PROTOCOL—II

Mr. HUMPHREY. Mr. President, on July 23 I introduced Senate Resolution 154 calling for Senate ratification of the Geneva Protocol without reservation or qualification. I urged that our Government reverse its present position in expressing an acceptance of a broad interpretation of the protocol to include not only the prohibition for use in war of biological weapons, but also of all toxic chemical weapons, whether directed against man, animals, or plants. Unlike the administration, I felt that how we ratified the protocol was the crucial question. My position has been that the United States should indeed ratify, but without reservation. The administration's position has been that ratification with the qualification that the protocol does not apply to the use in war of riot gases and herbicides. This position is directly linked to our military practices in Vietnam. For many years we have used far too freely herbicides and riot gases there for strategic purposes. Undoubtedly, it is this fact which has caused our Government to take its present position with respect to these weapons.

In my last statement, I talked about the diminishing use of riot gases (CS1, CS2) in U.S. military operations in Indochina. Today, I want to bring to the attention of my colleagues an article in the New York Times of October 10, which indicates that the United States is phasing out its own use of chemical herbicides. The catch here is that it seems that part of our Vietnamization program involves leaving stocks of white, blue, and orange gases, now in storage in Vietnam, for use by the Army of South Vietnam.

Mr. President, I ask unanimous consent that this article be printed in the Record along with a detailed description of the effect of chemical herbicides in Vietnam from a well-documented report by the Center for International Studies, Cornell University on the "Air War in Indochina."

There being no objection, the article and statement were ordered to be printed in the Record, as follows:

[From the New York Times, Oct. 10, 1971]

Defoliation: A Dying Land—Casualty of War

(By Herbert Mitgang)

In the next twelve-months of twilight war in Indochina, the United States will have to make hard decisions about some of the engines of destruction being placed in the hands of South Vietnam's military regime. Each new troop withdrawal will be announced with the usual fanfare, but nothing is likely to be said about the made-in-America equipment that deals out horror to the people and the land.

The unmentioned "land court" in South Vietnam is not as dramatic as the body count that once characterized the military meaning of victory over Communism. But the devastation of crops, foliage and vegetation in a country of agricultural villages also causes casualties: Uprooted trees, uprooted, peasants,herbicide assaults led to possible sterility, bulldozing plants harvests field of hunger.

This kind of warfare is not likely to wind down as the Americans depart; it is being Vietnamized. And in coming weeks, the American scientific community will be studying reports in this whole area by Arthur H. Westing, a botanist from Windham College in Vermont, and E. W. Pfeiffer, a zoologist at the University of Montana, who have just returned from a survey tour of South Vietnam. They are warning fellow members of a private group, the Scientists' Institute for Public Information, that stockpiles of anti-plant chemicals could cause great damage to the land and people of South Vietnam.

The defoliation program, conceived by the Pentagon's Advanced Research Projects Agency, is as old as the American involvement in the war. All these years it has been most difficult distinguishing between friendly and unfriendly crops.

Early this year, an American Association for the Advancement of Science study team headed by Matthew S. Meselson, a Harvard biologist, reported that 15 per cent of South Vietnam had been sprayed to a saturation level; one-fifth to one-half of the mangrove forests had been totally destroyed; perhaps half the trees in the mature hardwood forests north and west of Saigon were dead; the Army's crop destruction program, aimed at denying food to enemy soldiers, had actually destroyed food that would have been consumed by civilian populations.

The Pentagon said it would phase out its herbicide program and did indeed slow it down. But even this spring, rice was the target for destruction in the last official American operation just as it was the "enemy" in the first such known mission 10 years ago. And now the chemical sprays and other antiland equipment are in the hands of the South Vietnamese, who have evinced no hesitation about using them.

The aim of defoliation has been to expose the hideouts and possible ambush sites of the enemy, to create landing strips for helicopters and open up fields of fire, and to deprive the Vietcong of cultivated areas. These anticrop missions to cut off food supplies to guerrillas are carried out by the South Vietnamese.

The North Vietnamese and Vietcong, while causing ecological damage in conventional ways by artillery and mortar fire, do not have a herbicide capability to carry on chemical warfare. Professors Westing and Pfeiffer, whose reports will appear in Environment magazine this autumn, heard no accusations against the V.C. as rice-burners.

Although the Americans have stopped using chemical agents, the South Vietnamese are using agents "White" (2,4,-D+picloram) and "Blue" (dimethyl arsenic acid), destroying standing crops and rendering land useless until at least the next growth season. But the big unanswered question concerns agent "Orange" (2,4,-D+2,4,5-T) because of conflicting views over the legal jurisdiction of this deadly chemical.

There are 1.5 million gallons of "Orange" in storage in South Vietnam. An official spokesman for the United States Military Assistance Command (MACV) informed Professors Westing and Pfeiffer that the "Orange" was the property of the Vietnamese Government, that it was their country, and that they could use this American material whenever and however they wished.

Agent "Orange" was used in enormous quantities until its suspension last year. It contains a highly toxic and teratogenic (fetus-deforming) impurity known as dioxin. There has been a significant increased incidence of birth defects among Vietnamese infants in the wartime years but a paucity of medical records prevents absolute verification.

The introduction of dioxin into the environment—and thus the food chain—could have grave consequences. That is why Professors Westing and Pfeiffer, and other scientists, want the United States to regain possession of this material so that it can be destroyed or shipped home.

Although direct American participation in the military herbicide program has been concluded, the South Vietnamese landscape is still being subjected to environmental assaults by United States air and ground forces.

One machine of destruction is the Daisy Cutter, a 15,000-pound concussion bomb that is designed to create instant clearings in dense jungle. Also sometimes called the Cheeseburger by the 7th Air Force, which delivers this superbomb by cargo planes, it uproots and blasts away all trees and everything else (including "any luckless humans," says Professor Westing) in its path to create a landing or attack zone the size of a football field. One or two of these are dropped every week.

Another instrument of ecological devastation is the Rome Plow, a Herculean tractor that is systematically bulldozing forests in land-clearing operations designed to deprive the other side of hideouts. These 32-ton armored tractors, run by American engineers, leave a wake of bare and lifeless soil. Dikes, ricefields and houses that might or might not conceal bunkers are leveled. Clearing continues at a rate of more than 1,000 acres a day; and official military sources say that Rome Plowing has flattened out more than 750,000 acres. The ecological and sociological consequences are profound.

Experienced Army engineers are now outfitting and training two South Vietnamese land-clearing companies for Rome Plow operations. But it is difficult to conceive that Daisy Cutters will be turned over to the South Vietnamese. They require too complex an aerial delivery system. Moreover, conceivably they could be employed to destroy not only the jungles and wildlife but—possibly in political desperation—towns and people as well.

Chapter VIII: The Ecological Impact of the Air War

A. SPRAYING: THE DATA, DEFOLIANTS AND HERBICIDES

"Only We Can Prevent Forests"—Motto over the door to headquarters, operation Ranch Hand, Tan Son Nhut Airbase, Saigon.

Use of defoliants in South Vietnam began on an experimental basis in 1961 and became fully operational the following year.[1] This program had two major objectives. The first was *defoliation* (operation Ranch Hand), in which forests, roadsides, base perimeters, etc., were sprayed in order to remove the foliage cover which had afforded concealment to the enemy. At low concentrations these chemicals do indeed act merely as defoliants; at the concentrations used in Vietnam, however, they normally act also as herbicides, killing the plants in addition to defoliating them. The second major objective was the destruction of crops, mostly rice, carried out in the hope of denying food to the enemy.[2] Crop destruction was largely confined to the mountainous areas of northern and western South Vietnam, where the impact was felt most severely by the small population of about one million, mostly Montagnards. Crop destruction may also have had the objective of driving South Vietnamese civilians into the "strategic hamlets" set up for them by the South Vietnamese Government.[3]

Though some spraying in Vietnam has been done with helicopters or ground equipment, the principal means of application has been the twin-engine C–123 cargo plane. In the years 1962 through 1968 these aircraft made more than 19,000 individual spray flights. Each plane is fitted with a 950-gallon tank from which the herbicide is pumped to spray booms under each wing and at the tail. When the herbicide hits the airstream it is dispersed into fine droplets. One aircraft flying at about 150 feet above the tree tops produces a swath of affected vegetation about 300 feet wide and ten miles long.[1] Precautions must be taken that the sprayed chemical does not drift into adjacent, non-target areas. Occasional incidents occur in which an aircraft is forced to dump its herbicide quickly; it can pump out the entire 950 gallons in about 30 seconds.[4]

Three formulations account for almost all the herbicides used in Indochina: agents Orange, White, and Blue. The composition and mode of action of these agents are discussed in greater detail in Appendix 5, which also contains a listing of appropriate references; a summary of the main facts is given below.

Orange: Composition, 2,4–D and 2,4,5–T; an oily liquid insoluble in water. Mainly used against broad-leaved and woody vegetation. One application defoliates hardwoods but does not necessarily kill; two applications produce a heavy kill; the resulting invasion by bamboo and grasses may arrest forest regeneration indefinitely. On mangrove forests and rubber plantations, Orange kills almost all trees in a single application; mangrove area sprayed in 1961 have still shown no significant signs of regeneration. The chemical itself persists for only a few weeks, except in stagnant water or poorly aerated ground, where high concentrations could conceivably accumulate. 2,4,5–T is thought to be a teratogen (causing serious birth deformities, like thalidomide); its use in the U.S. has been restricted since late 1969. Orange accounts for about 60 per cent of the herbicide used in Vietnam; it was being sprayed at least until August 1970.

White: Composition, compounds of 2,4–D and picloram; a solution in water. Used much like Orange, but less volatile and therefore less subject to wind drift; it is preferred near populated areas. Picloram is one of the most potent herbicides known; it is remarkably persistent, like the insecticide DDT; its use on agricultural land in the U.S. is prohibited. Since White is water soluble, it can easily be washed by rainfall into adjacent areas.

Blue: Composition, organic arsenates including cacodylic acid; a solution in water. Its prime use is for crop destruction, especially rice. It is more effective against grasses than Orange or White, and acts more rapidly (within a few days). Refoliation may occur in about a month, but Blue is extremely persistent in the soil.

Herbicides are sprayed at a rate of about three gallons per acre, the stock solution of each agent being formulated to obtain the desired coverage. In the case of Orange, the rate of application is about 26 pounds per acre, almost ten times the rate recommended for use in the U.S.[5] It is estimated that more than 100 million pounds of herbicides have by now been sprayed on Vietnam, covering a total of almost six million acres;[6] details are illustrated in Figures 8–1 (not reproduced). The greatest impact has been on mature tropical hardwood forests. About 35 per cent of South Vietnam's 14 million acres of dense forest have been sprayed one or more times, resulting in the destruction of enough merchantable timber (six billion board feet) to supply the country's domestic needs for about 30 years; this also represents a loss of about $500 million in taxes that would otherwise have accrued to the South Vietnamese Government. Of the three-quarter million acres of mangrove forests, mostly in the Delta area, about one-half have been totally destroyed.

B. BOMBING AND SPRAYING: THE POTENTIAL CONSEQUENCES

Forests are first to go. Then the animals—some, like the elephant, are killed deliberately since they could be used to transport supplies; others just happen to be in the wrong place at the wrong time. Finally, the land itself is destroyed: farms, rice paddies, and village sites are bomb-pocked and barren.

In the brief discussion that follows, only the most obvious environmental effects of the air war will be mentioned, but even such a superficial enumeration conveys an idea of the pervasiveness of the damage. The very fact that data on the present extent of this damage is scant, combined with the virtual impossibility of predicting future consequences, is in itself one of the most ominous signs of danger.[7]

The air war has been a severe shock to all the natural ecosystems of Indochina. Such damage would be of concern wherever it occurred since it affects an intricate web of relationships; but Indochina is especially sensitive because tropical ecosystems are less resilient than those of temperature regions. Tropical systems are characterized by many more species per unit area; each is finely adapted and food webs are complex and intricate. In a northern forest a major calamity has relatively short-term consequences, since most of the species are already adapted to surviving frequent and unpredictable natural disasters such as severe winters, late frosts, and unseasonal floods. The rates of reproduction and recolonization are usually high. In tropical regions, where the climatic conditions are much more predictable and favorable, species tend to be less well adapted to rapid change.

Flora. The direct attack on the flora by

Footnotes at end of article.

defoliation and the use of herbicides has been described above in section VIII.A. In addition to the very extensive damage done by this chemical warfare, fires—many undoubtedly caused by bombing and napalm—have consumed or defoliated large areas of forest, including over 40 per cent of South Vietnam's pine plantations.

The mangrove forests, about half of which have been totally destroyed, play an important part in the natural process of delta formation, stabilizing the coastline and river banks. They also provide essential cover and food during the life cycles of many fish and animals.

Fauna. The weapons of air warfare affect animals directly by killing them, and indirectly by changing the environment, with the result that populations are changed and the diversity of species is reduced. Natural checks and balances to pests and disease vectors may be upset, particularly as predatory fauna are killed. The invasion of destroyed areas by other plant groups may result in larger populations of undesired animals favoring this new habitat—rats, for example, often thrive in bamboo, which is a predominant regrowth species in defoliated forest areas. The population of the tiger has apparently increased as its natural food supply has been augmented by battlefield casualties. Effects of this increase, particularly on the other prey animals of the tiger, are as yet unknown.

There are contradictory claims about the toxicity of herbicides to animals. Though some authorities claim there is little danger, evidence indicates that 2,4–D may be toxic to fish, that plants treated with 2,4–D may accumulate toxic quantities of nitrates (which could affect domestic stock as well as wild fauna), and that dioxin, a contaminant of some 2,4,5–T solutions used, is toxic and concentrates in the food chain since it does not break down with time.

Finally, domestic livestock are affected by herbicides, both directly and indirectly, as they eat plants that have been contaminated.

Agriculture. Indochina is primarily agricultural, and a single crop—rice—predominates. Rice is also the crop most affected by the war: formerly South Vietnam's main export, it is currently being imported in large quantities:

South Vietnam: Rice exports (1,000 metric tons)[8]

1958	112.7
1959	245.7
1960	340.0
1961	154.5
1962	83.9
1963	322.6
1964	48.7
1965	00.0
1966–68	-----

Spraying for crop destruction, and damage from accidental spraying, must certainly be included among the factors responsible for this decline.[9] Other crops, too, including fruits and vegetables, are susceptible to herbicides and have been affected to an unknown extent.

The production of rubber, presently South Vietnam's largest single export, has been particularly hard hit by herbicide use. Trees have been killed and the yield from those that survive has declined. The rubber tree (Hevea brasiliensis) is particularly susceptible to herbicides, especially 2,4,5–T. Defoliation can force suspension of tapping of latex for up to a year, and it may reduce yields by up to 30 per cent. Rubber yields per acre in South Vietnam dropped by about 20 per cent between 1960 and 1967; overall production had dropped by about 56 per cent by 1968. Herbicides have also affected rubber trees in Cambodia, the only other rubber-producing country in Indochina.

Agriculture, and land utilization in general, are affected not only by chemical warfare but also directly by the bombing. About 3,500,000 bomb craters were created in 1967 and 1968 in Vietnam alone, covering a total area of as much as 100,000 acres and excavating up to 2.5 billion cubic yards of soil: some areas of Indochina have been likened to moonscapes. The long-term effects of this cratering are hard to assess, but the fact that craters do not naturally fill in is evidenced by craters from World War II which are still found throughout the jungles of New Guinea. A bomb crater destroys the surface humus layer and throws up deeper, acid soil; it creates severe local relief and erosion in the soil and may disrupt drainage patterns; usually it fills with water and becomes very difficult to drain, making heavily bombed areas virtually unsuitabe for cultivation. The soil mixing due to bombing may also result in laterization, a process which converts certain soil types into a hard, cement-like crust.

Flooding. The control of water flow is a vital problem in many areas of Indochina. Defoliation and laterization lead to more rapid runoff of rain water; the destruction of many man-made control structures compounds the problem. The destructiveness of the floods in central South Vietnam in November 1970 was blamed in part on defoliation and bomb damage. People were driven by the floods out of refugee camps to which they had come, in the first place, because of crop destruction or bombing in their native highlands.

Malnutrition. It is generally recognized that crop destruction has had its chief impact on the civilian population rather than on enemy soldiers, who are in the best position to obtain food in times of scarcity. The Herbicide Assessment Commission[10] has concluded that the food destroyed would have been enough to feed 600,000 persons for a year, and that nearly all of it would have been consumed by civilians. Although the amount destroyed is less than two per cent of the national crop of South Vietnam in any one year, the most extensive crop destruction has been carried out in the central highlands, a food-scarce area with a population of about one million, mainly Montagnards. It is among these people that problems of malnutrition and starvation are most severe.

Birth Abnormalities. According to a report released by the National Institutes of Health in the fall of 1969, 2,4,5-T was shown to produce significant increases in the incidence of fetus malformation in animals as early as 1965. Moreover, the Herbicide Assessment Commission team in Vietnam has found a suggestive correlation between years of peak defoliation in Tay Ninh province and an increase in stillbirths and birth deformities.

Malaria. Of the endemic diseases in Indochina, malaria is probably the most widespread; in the past it has been far more common in the upland regions than in the lowlands. Now, large numbers of bomb craters have filled with water. This stagnant water, present throughout Vietnam and parts of Laos and Cambodia, is an ideal breeding habitat for various species of mosquito, including those which are malaria vectors. Thus it seems likely that the incidence and range of malaria will increase as a result of the air war.

Americans have begun to become aware of the vast complexity of their environment, and of the unpredictable consequences that go with disturbing it. In Indochina, the environment has not merely been disturbed—there has been a deliberate and unprecedented onslaught on it, with chemicals, with explosives, and with fire. The short listing just given, incomplete and inconclusive as it is, by its very open-endedness points up the ominous results which may have been, and which continue to be, provoked in Indochina.

FOOTNOTES

[1] Herbicide Assessment Commission for the American Association for the Advancement of Science, *Background Material Relevant to Presentations at the 1970 Annual Meeting of the AAAS*, Chicago, Ill., December 29, 1970, p. 14.

[2] Stanford Biology Study Group, 1971, "The Destruction of Indochina," *Bulletin of the Atomic Scientists, 27* (1971), pp. 36–40.

[3] Ngo Vinh Long, "Leaf Abscission?", *Bulletin of Concerned Asian Scholars, 2* (October, 1969), p. 54.

[4] Orians and Pfeiffer, "Ecological Effects of the War in Vietnam," *Science, 168* (1970), pp. 544–554.

[5] Statement of A. W. Galston before the Subcommittee on National Security Policy and Scientific Developments, U.S. House of Representatives, December 1969; reprinted in T. Whiteside, *Defoliation* (Ballantine, 1970), p. 107.

[6] "Impact of the Vietnam War," a report prepared for the Committee on Foreign Relations, U.S. Senate, by the Congressional Research Service of the Library of Congress, June 30, 1971 (USGPO, 1971). The figures which follow are abstracted from the excellent summary presented in this report, pp. 10ff.

[7] A more detailed discussion of many of the effects enumerated in this section appears in Appendix 5. Sources are also discussed there.

[8] *Statistical Yearbook for Asia and the Far East*, United Nations Economic Commission for Asia and the Far East, Bangkok, Thailand; 1969 edition, p. 366.

[9] Officially, no herbicides have been used on rice in the delta area, but herbicidal damage is nevertheless extensive there.

[10] See footnote 1, above.

Mr. HUMPHREY. The Environmental Protection Agency says there appears to be a link between the use of orange gas and birth defects and has supported the position of the Army that its use in Vietnam be terminated. In recent studies the Army, as I already noted in my previous remarks on this subject, has determined that the use of riot gases in Vietnam afford little strategic advantage. It is, therefore, my understanding that these programs are being phased out as far as the United States is concerned. Whether the same is true for the Vietnamese Army is another question, one which concerns us all and which underlines the necessity for the United States to reach agreements at the Geneva Conference on Disarmament, as well as to ratify the protocol without exception.

This position has been urged upon the United States by several countries. I find this fact strange and disturbing when in the past it has always been the United States who was in the forefront of arms control. History is filled with ironies and this one is more disturbing than others.

Just 10 days ago, the Canadian Ambassador to the Conference of the Committee on Disarmament at Geneva, Mr. Ignatieff, issued a statement expressing the position of his government with respect to the protocol as it applies to chemical and biological weapons. Until November 15, the Canadian Government had maintained a reservation with regard to tear gas and other riot and crowd control agents in its adherence to the Geneva Protocol. Ambassador Ignatieff has now announced Canada's decision to waive this reservation. Mr. President, I ask unanimous consent that the text of the Ambassador's remarks on this question be read into the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

In the meantime, negotiations continue on a treaty to ban the development, production and stockpiling of chemical weapons. Article IX of the draft treaty (biological weapons) binds each party "to conduct negotiations in good faith on effective measures for prohibiting the development, production and stockpiling of chemical weapons and for their destruction." Canada takes this commitment very seriously and we propose to co-operate fully with other members of the CCD in attempting to resolve the issues which have delayed completion of such a treaty.

In negotiating the draft treaty before us now, the Canadian delegation provided the CCD on March 24, 1970, with a declaration of Canadian policy and intentions with respect to chemical and biological warfare. This we did in the belief, not that it could in any effective way substitute for a binding international convention, but that it could assist in the development of a consensus upon which further negotiations might be based. In that statement on the Canadian position tear gas and other riot and crowd control agents were excluded from Canada's commitment not to develop, produce, acquire, stockpile or use any chemical weapons in warfare. This matter has in the meantime been given the most careful study by the Canadian authorities, and they have concluded that, as a contribution to further progress towards international agreement on the elimination of chemical warfare, Canada's reservation with regard to the use of these agents in war should be waived. Accordingly, Mr. Chairman, I would like to read the following statement of Canada's position.

"The Government of Canada intends to contribute fully to the efforts of the UN and of the Conference of the Committee on Disarmament to reduce and, if possible, eliminate the possibility of chemical and biological warfare. Canada intends to participate actively in negotiations towards agreements which would supplement and strengthen the Geneva Protocol of 1925 by prohibiting the development, production and stockpiling of chemical and biological weapons. Practical progress need not wait until the conclusion of these negotiations. The Protocol can be strengthened significantly through unilateral declarations of policy and intentions on the issues involved. For this purpose, the Government of Canada wishes to make known its attitude toward chemical and biological warfare.

1. Canada never has had and does not now possess any biological weapons (or toxins) and does not intend to develop, produce, acquire, stockpile or use such weapons at any time in the future.

2. Canada does not possess any chemical weapons other than devices of the type used for crowd and riot control purposes in many countries. Canada does not intend at any time in the future to use chemical weapons in war, or to develop, produce, acquire or stockpile such weapons for use in warfare unless these weapons should be used against the military forces or the civil population of Canada or its allies. The latter condition is in accordance with the reservations Canada entered at the time of our ratification of the Geneva Protocol of 1925. We would consider formally withdrawing our reservations if effective and verifiable agreements to destroy all stockpiles and prevent the development, production and acquisition of chemical weapons can be concluded."

I believe it is quite clear, Mr. Chairman, that this statement applies to all chemical and biological agents whether intended for use against persons, animals, or plants.

Mr. HUMPHREY. I am certain that our own Government has taken note of this important decision, although as yet there has not been to my knowledge an official response. I am not saying, Mr. President, that Canada should dictate American policy.

What I am saying is that there is strong support for the inclusion of riot gases and herbicides in our interpretation of the Geneva Protocol. I am urging that the administration support our ratification of the Geneva Protocol with this understanding.

AMERICAN RAILROADS AND BANKRUPTCY

Mr. TAFT. Mr. President, on November 23 the Reading Co., parent corporation of the Reading Railroad, filed a petition for reorganization in Federal court. This is the fifth major railroad to go into bankruptcy since 1967.

On March 3, I addressed the Senate and suggested that we must begin to deal with the fundamental problems that are crippling the railway industry. I spoke of the need to permit railroads to abandon unproductive branch lines, the need to develop simplified and more rational rate structures, and the need to eliminate unproductive work rules.

Regrettably, Congress has not acted in this area despite the growing public awareness of the need for prompt action.

My question today is, How many more of America's railroads must go into bankruptcy before the Congress will act?

How long must railroads be forced to operate unproductive branch lines that hold forth no possibility of ever generating a profit?

How long must shippers continue to subsidize inefficient work practices?

How long must America's consumers pay an estimated $7 billion in excess rates by virtue of overregulation and archaic rate structure in surface transportation?

The collapse of the Reading, like the collapse of the Central Railroad of New Jersey, the Boston and Maine, the Penn Central, and the Lehigh Valley, is only a prelude to other bankruptcies which are sure to follow if we do not come to grips with these fundamental problems.

Rather than nationalize America's railroads or put them on a permanent Federal subsidy, I believe that we should enact meaningful reforms so that the railway industry can turn itself around and offer better service to the American public.

We all know the names of several other railroads which are approaching bankruptcy, but railroad transportation is vital to American industry. For that reason we cannot permit essential railroad service to end. As a consequence there are only two answers—subsidy or reform. Already hundreds of communities are being hurt through the loss of property taxes by virtue of these bankruptcies. If this economic plight is not to sweep like a prairie fire across America and if the American taxpayer is to be spared from subsidizing the railroads, it is essential that we undertake meaningful reform and do it now.

I ask unanimous consent that an article entitled, "Reading Company Files Bankruptcy Petition" appearing in the New York Times of November 24, 1971, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

READING CO. FILES BANKRUPTCY PETITION—RAILROAD, IN REQUEST FOR REORGANIZATION, SAYS IT CAN'T PAY BILLS

(By Alexander R. Hammer)

The Reading Company, corporate parent of the Reading Railroad, yesterday filed a petition for reorganization under Section 77 of the Federal Bankruptcy Act with the United States District Court in Philadelphia.

Section 77 provides for appointment by the court of trustees to operate the railroad while attempts are made to reorganize the company.

Reading said in its petition that the move was caused by its inability to pay debts and taxes of about $11-million coming due soon.

The Reading, a successor to a railroad formed in 1833, operates about 1,200 miles of track in Pennsylvania, New Jersey and Delaware. There was no immediate indication yesterday of what effect the reorganization action might have on freight or passenger service.

The railroad carries about 25,000 passengers a day on eight lines that connect Philadelphia with Lansdale, Doylestown, Bethlehem, Hatboro and Norristown, Pa., and West Trenton, N.J.

The Reading's petition for reorganization is the fifth such move made in the last five years by Eastern railroads. Petitions were filed on March 22, 1967, by the Central Railroad of New Jersey; on March 12, 1970, by the Boston & Maine Railroad; on June 21, 1970, by the Penn Central Transportation Company, the nation's largest carrier, and on July 24, 1970, by the Lehigh Valley Railroad.

Federal Judge John P. Fullam, who has been presiding over the reorganization of the Penn Central, has agreed to handle the reorganization of the Reading Company "for the present."

Judge Fullam has set Dec. 6 as the date for appointing a trustee or trustees for the Reading. He also issued an injunction against anyone enforcing any judgments, liens or suits outstanding that would disturb the Reading's assets.

He ordered the Reading to file a complete list of its assets and liabilities with the court by Jan. 31 and to file similar monthly reports thereafter.

The New York Stock Exchange did not allow any trading in Reading stock yesterday. On Monday, Reading's common shares closed at 5⅜, off ⅛. The high this year was 9⅜, and the low was 5.

Earlier this month, the Reading Company reported that it had a loss of $1.8-million in October from its railroad operations, in contrast to earnings of $100,000 in the year-earlier month. The company blamed the recently ended coal miners' strike and sluggish industrial activity. About 30 per cent of the Reading's revenues are derived from coal traffic. The railroad employs about 6,300 persons.

In 1970 the company had a loss of $12.2-million, including a special charge of $8.3-million from writing off certain rail facilities and other expenses.

OBLIGATIONS CITED

The Reading said yesterday it has these substantial obligations:

Interline freight settlements (due other railroads) between Nov. 20 and Nov. 30 of $5.1-million.

A payroll of $1.68-million due Nov. 24.

State and local taxes of $2.55-million.

Service, material and supply debts of $1.5-million.

New Jersey property taxes of $200,000 due Dec. 1.

The Reading said this total of $11.03-

million of obligations compares with its cash on hand Nov. 19 of about $4-million and its anticipated cash receipts through Nov. 30 of about $5.5-million.

The Chesapeake & Ohio and Baltimore & Ohio railroads control about 45 per cent of the Reading Company's voting stock. The C.&O. and B.&O. trains reach New York over the tracks of the Reading Railroad and of the Jersey Central, which was a Reading affiliate until it filed under the bankruptcy laws.

PENN CENTRAL SUIT

In an unrelated development yesterday, two shareholders of the Penn Central Company, parent of the railroad-operating Penn Central Transportation Company, filed a class action in the Federal District Court in Philadelphia against the Penn Central Company and its directors in an effort to block the company's annual meeting scheduled for next Monday.

The plaintiffs are Richard S. Robinson and his wife, Florence, of Merton, Pa. They stated that they own more than 10,000 shares of the Penn Central Company.

The Robinsons objected, among other things, to a proposal in the company's proxy statement calling for a refinancing plan covering a $51-million Swiss note of a Netherlands West Indies subsidiary, guaranteed by the Penn Central Company.

THE NOMINATION OF DR. EARL BUTZ TO BE SECRETARY OF AGRICULTURE

Mr. HUMPHREY. Mr. President, the Senate Committee on Agriculture and Forestry filed its report concerning the nomination of Dr. Butz as Secretary of Agriculture yesterday with the Senate. That report, Executive Report No. 92–13, was printed and made available today. I urge every Member of the Senate to study its contents very carefully. Although the Committee on Agriculture and Forestry voted 8 to 6 in favor of confirming Dr. Butz' nomination, I voted against his confirmation and will do so again when the matter comes up for a vote on the Senate floor.

In addition to the majority's views in support of confirming Dr. Butz' nomination, the committee report also contains my individual views opposing his nomination.

Mr. President, I ask unanimous consent to have my individual views as contained in that report printed in the RECORD.

There being no objection, the individual views were ordered to be printed in the RECORD, as follows:

INDIVIDUAL VIEWS OF SENATOR HUBERT H. HUMPHREY IN OPPOSITION TO THE CONFIRMATION OF DR. EARL L. BUTZ AS SECRETARY OF AGRICULTURE

(As Reported in Senate Executive Report No. 92–13)

I have reviewed Dr. Butz' record of service to agriculture, both during and since the years he served as Assistant Secretary of Agriculture and I oppose his confirmation as Secretary of Agriculture,

Because of his past and recent statements and speeches regarding agricultural policy.

Because of his belief that government should play only a minimum and ineffective role in trying to help farmers to stabilize and strengthen their prices and income;

Because of testimony and statements made during his confirmation hearings regarding what he considered to be an adequate price for feed grains.

Because of his failure to commit himself (or the Administration) to changes in current farm policy needed to immediately strengthen prices for wheat and feed grains and to adjust programs for these commodities in 1972 to insure that production is brought in line with utilization demands;

Because of his life-long orientation and belief that economic efficiency alone should be the sole measurement or yardstick in determining how and by whom agricultural commodities are produced;

Because of his long association with the non-farm, agribusiness elements of American agriculture which more often than not support and promote an increase in the integration of the production, marketing and distribution functions of agricultural commodities. Such integration permits complete control over the product from seed to sale by usually only a very few people; and

Because his entire record shows weaknesses with respect to:

Sustaining adequate levels of farm income;

A lack of concern for the economic survival and viability of family-farm agriculture;

Vigorously combating hunger and malnutrition both in this country and in other parts of the world;

Protection for consumers against food product contamination; and

Revitalization and development of our rural countryside and smaller communities.

Further elaboration of my views concerning my opposition to Dr. Butz's confirmation as Secretary of Agriculture is stated below under four general headings: Farm Policy Views; Rural Development Views; Views on Child Feeding Programs; and Views on Consumer and Environmental Protection.

FARM POLICY VIEWS

The nomination of Dr. Earl Butz as Secretary of Agriculture comes at a time when American agriculture finds itself experiencing falling income and below-cost of production prices for many of our basic food and feed grain commodities. The huge carryovers of wheat and feed grains created this year as a result of favorable growing conditions and the failure of the Administration's set-aside programs demand immediate attention and call for major changes in policy. This year's wheat crop, planted last year with the encouragement of the "set-aside" program provided in the Agricultural Act of 1970, is now estimated to be 1,627,575,000 bushels. This brings total carryover of wheat to almost 1.9 bil. bushels. The U.S. Department of Agriculture, on November 11, 1971, estimated this year's feed grains harvest to be 206 million tons which will result in a total carryover of these grains of 50.6 million tons at the end of the current marketing year. The result is an on-farm price drop for corn in the heart of the producing areas from $1.42 in June of this year to below 90 cents a bushel today—or well below the estimated cost of production. The price of wheat has fallen from an average on-farm price of $1.33 per bushel in the heart of the wheat producing areas in October of 1970 to below $1.20 per bushel in October of 1971.

The surpluses of these basic grains were created as a result of a combination of circumstances; excellent weather conditions; a desire on the part of the Administration to avert a shortage following last year's corn blight; the Administration's request for too small a set-aside acreage; and the looseness of the regulations of the set-aside programs which permitted producers to increase their production of these grains on their non-set-aside acreage. The overproduction of wheat and feed grains which was created by this situation, combined with the Administration's announced intention to continue to rely upon these same set-aside programs in 1972, will surely spell further economic trouble for the farm producers of these commodities unless immediate and major changes in farm policy are forthcoming before Congress adjourns this year.

Throughout the Committee's hearings, Dr. Butz refused to commit either himself or the Administration to any changes in the policies or programs now being pursued by the Department of Agriculture. Although Dr. Butz did admit that corn prices were too low, his response to questioning regarding current prices being paid for corn offers farmers little hope for restoration of corn prices to levels affording them a fair return on their investments and labor.

The following excerpt from the hearing transcript reflects Dr. Butz's position regarding current corn price levels:

"Senator HUMPHREY. What do you consider a fair price for corn in light of the fact that it costs around $1.00 per bushel to produce on the average? let's say.

"Mr. BUTZ. I should think now a fair price—I would like to see another dime on the price of corn—let's put it that way. And that is still not as high as it should be for many farmers, but I would like to see a higher price for corn on the farm some way or other, if it can be done."

Dr. Butz also expressed basic confidence in the 1972 set-aside programs announced for wheat and feed grains. Although he did allow that his current confidence in these programs might be subject to change next year in the event that acreage sign-up should fall below USDA expectations, he failed to show any appreciation for the 55 to 60 million additional acres of cropland available to go into future increased set-aside programs.

When one considers the inherent looseness of the set-aside regulations and the lack of an upper limit on the planting of grains on cropland not set-aside, it is very difficult to share Dr. Butz's (and the Administration's) confidence in the adequacy of the announced 1972 set-aside programs for wheat and feed grains.

Legislation now pending before Congress to establish a national reserve inventory for these commodities and to adjust the 1972 programs to insure that supply will be brought in line with demand next year, is being opposed by the Administration.

I had hoped that Dr. Butz, if confirmed by the Senate as Secretary of Agriculture, would change the Administration position regarding these matters. Unfortunately, however, we were given no encouragement by Dr. Butz in this regard in the course of our hearings on his nomination. Dr. Butz refused to commit himself or the Administration regarding making any changes in current policies or programs.

Given this refusal, and Dr. Butz' traditional opposition to Federal supply-management farm programs, which is well documented in speeches and statements he made both during his tenure as Assistant Secretary of Agriculture under former Secretary Ezra Taft Benson in the 1950's and since that time while serving as the Dean of Continuing Education at Purdue University, I must oppose his nomination as Secretary of Agriculture and will vote against his confirmation.

It also should be noted that Dr. Butz can hardly be considered as a champion of America's small family farmers. Again, based upon his previous speeches, statements, and actions, Dr. Butz is clearly more aligned and sympathetic with the forces within agriculture which are pushing it toward big integrated agribusiness. The trend toward factory farming, and corporate agriculture by non-farm interests already has taken its toll. A prime example is the poultry industry, where poultry and egg production in this country has been transformed from a farmer-owned and operated industry into an industry which is totally dominated today by non-farm corporate interests such as Ralston Purina (of which Dr. Butz was a former Director), Gates Rubber Company and other similar corporate giants. Other agricultural industries such as the swine and cattle industries are now being threatened and endangered by these same trends. If such trends are allowed to continue, family farm agriculture in this country will soon be turned into a system of huge agribusiness corporations with law income wage-earners. Although Dr. Butz, in statements he made both before our Committee and in statements he made prior to that over the years, recognized the existence of the millions of small family farmers in this nation, he seldom, if ever, addressed himself specifically to what should be done to help these families achieve their income goals. His basic philosophy regarding the difficulties these families face in securing a decent income from agriculture is summarized most clearly in speeches and statements he made during the 1950s'. Excerpts taken from these speeches follow:

Speech made before the National Farm and Ranch Congress in Denver, Colorado, March 7, 1955—

"Adapt or die, resist and perish . . . too many people are trying to stay in agriculture that would be better off someplace else.

"It is gratifying that in this setting for potential progress in agriculture, the 83rd Congress gave us a new farm bill (Benson Farm Program) that will point American agriculture toward better balance, greater freedom for individual farmers, and a more stable and prosperous economy.

"The new law establishes the sound economic principle of flexible price supports which will help gear our farm production to the needs of the Nation and will, at the same time, minimize the need for such stringent controls over farm production and marketing as we experience today. The new bill becomes operative with the 1955 crops.

"When many of us were youngsters it was often said, 'if you can't do anything else, you can farm.' Today the situation is reversed. If you can't farm, you'd better do something else. Successful operation of the modern typical family commercial farm calls for a higher level of managerial capacity than does most of the family operated business concerns in your county seat town."

Speech made by Earl Butz before the Annual Meeting of the Texas Agricultural Workers Association—

"But for better or for worse, the trends toward fewer farms, larger farms, more heavily capitalized farms, more urban oriented farm living, more industrialization of rural areas, and a greater intrusion of non-farm residents into farming areas are going to be with us for many years to come."

Newspaper account by Charles Bailey (Minneapolis Sunday Tribune) of a speech made by Dr. Butz to a group in Washington 1958—

"Butz sees the possibility that ownership of some family farms will pass into the form of family shares of ownership, with professional farm-management outfits moving in between the owners and the operator of a farm.

"Commercial farms will come to look more and more like manufacturing establishments, with farm managers giving more attention to assembling custom-built packages of technology in the farming operation, with a bigger share of receipts going back to production costs, gross margins shrinking, and profits depending increasingly on growing sales volumes.

"Farmers," he said, "ultimately will lose their vocational identity as members of the community. At this point farming no longer will be a way of life, but will be a way of making a living, just the same as other business enterprises."

While I do not believe that Dr. Butz adheres to this position with any malice or deliberate disinterest in the problems of small farmers, it does reflect his dedication to the idea or concept that any development which leads to or offers so-called "improved efficiency" in agriculture, must be accommodated no matter what the cost in human adjustment. And I have to fault and oppose him on that basic assumption. American agriculture is twice as productive today as the non-farm sector of our nation's economy. And while this productivity has given this country an age of abundance, the price we have paid for much of that progress has been immense, especially in terms of human adjustment and displacement within American agriculture. Almost 30 million people have left or been forced to leave our nation's farms over the last 30 years alone, largely due to the changes that have taken place within agriculture—changes which mainly have been stimulated by what our economists call "the desired goal for improved efficiency". Of course, what our economists haven't been telling us all these years as we have been creating this "efficient" agriculture, is that the "hidden costs" for this progress has been accumulating for us in our nation's welfare and poverty rolls—both rural and urban; and in the destruction and disruption of the family living patterns for millions of people.

We must not continue to make or repeat these mistakes in the future. We must temper our desires for "economic efficiency" with compassion for human and social values which admittedly may be difficult to calculate on the economists slide-rule or fit into his latest economic model, but nonetheless, are far more important than whether the productivity index has gone up or down a point.

RURAL DEVELOPMENT VIEWS

The Chairman questioned Dr. Butz about rural development. He indicated that he favored rural development. So far; so good. But what concerned me is that Dr. Butz answered the questions about rural development by referring to that part of the Governmental reorganization plan that would dismantle and abolish the Department of Agriculture. We realize that it has been announced that if Dr. Butz becomes Secretary of Agriculture, the reorganization plan will be revised to continue a Department of Agriculture in existence, but on a "skeletonized basis". Dr. Butz agreed that rural development work ought to be unified and placed in a single Department—but which Department? Dr. Butz wants to unify rural development in the proposed new Department of Community Development—not in the Department of Agriculture where it belongs.

VIEWS ON CHILD FEEDING PROGRAMS

In nomination hearings, Dr. Butz indicated that he was supportive of the school lunch, school breakfast and food stamp programs. However, at a farm marketing seminar held April 26, 1971 in Minneapolis, Minnesota, Dr. Butz chided the efforts of Senators McGovern and Kennedy to dramatize hunger in America. He opposed the food stamp program openly. He opposed President Nixon's welfare reform proposal as "Far out".

These statements raise serious doubt as to the policies and programs Dr. Butz will pursue and advocate to eliminate want and hunger in America. We have reason to ask—will a man who only a few short months ago derided what he termed the nation's "hunger and malnutrition binge" pursue vigorously programs to feed the poor.

VIEWS ON CONSUMER AND ENVIRONMENTAL PROTECTION

Much of the work of the Department of Agriculture is involved with protecting consumers. Yet again, in the same speech, Dr. Butz referred to the new efforts on behalf of consumers this way:

"But I'm going to talk about something this morning that I think is a real threat to American agriculture. It involves our future. Something you can help with. And that's the threat that comes from the environmentalists, from the do-gooders or from consumerism, or from whatever you want to call it."

These remarks raise serious questions about the willingness of Dr. Butz to carry out effective consumer protection and environmental programs.

In his testimony before the Committee on Agriculture and Forestry, none of these questions were answered with any specifics.

TRAGEDY IN ULSTER—X—INTERNMENT AND THE OATH

Mr. KENNEDY. Mr. President, one of the arguments the Government of Northern Ireland cites in its attempts to justify the repressive internment policy it iniiated last August is the operation of the internment advisory committee to review internment orders. A recent article by Mr. Lewis Chester in the London Sunday Times for November 14, 1971, describes the arbitrary and ineffective procedures of the committee. He also notes the view that internees are boycotting the committee because they feel, it is simply an extension of the interrogation to which they are subjected under the internment policy.

One of the most objectionable aspects of the procedures is the oath that internees who came before the committee are requested to take. Part of the oath requires a pledge not to assist any "illegal organization." Yet, as Mr. Chester points out, in the current Ulster crisis, the Government can ban any organization, however peaceful. As a result, as the article suggests, many innocent internees are refusing to seek the assistance of the committee, because its procedures violate the basic traditions of British justice.

Mr. President, I ask unanimous consent that Mr. Chester's article may be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the London Sunday Times, Nov. 14, 1971]

OBSTACLE OF THE OATH

The vast majority of 400 people held under the Special Powers Act in Northern Ireland have still not been given any official reason for their detention without trial.

Although the Act provides for a quasi-judicial review of internment orders, it is now clear that this procedure is not judicial in any real sense.

So far less than 10 percent of those interned have voluntarily gone before Internment Advisory Committee, which makes recommendations to Stormont on possible release. There is little sign of this proportion getting any higher.

Mr. Christopher Napier, a Belfast solicitor who represents several internees at the Long Kesh camp, said: "There is now what amounts to a boycott of the Advisory Committee among most internees. They regard it not as a judicial body but as an extension of the interrogation procedure."

The Stormont regime, as part of its justification for internment, has laid great emphasis on the impartiality of this committee. And its personnel is distinguished enough. The chairman judge James Brown, is an experienced County Court judge, and his two assistants Philip Dalton, an English Roman Catholic with a long record of judicial work in the colonies, and R. N. Berkeley, a Belfast businessman, are both men of moderate persuasion.

It is not, however, the men that are complained of so much as the procedure.

1. The committee is not obliged to set out the allegations against the accused or to tell him of the evidence against him. The burden is on the internee not only to establish his innocence but also to imagine what he might be guilty of. According to those who have gone before him, Judge Brown's

conventional opening remark is: "Why do you think you are here?"

2. The hearing is private and the internee is not allowed any legal representation when he meets the committee.

3. The internee is given no clue as to the identity of his accusers though Judge Brown may refer from time to time to security dossiers on his desk.

4. The committee cannot implement release, it can make only recommendations to the Ministry of Home Affairs. It therefore lacks the independence of a judicial tribunal.

Interviews with internees usually last 15 to 30 minutes and the committee is empowered to call witnesses on the official side, though not in the presence of the internee.

There can be no complaint about the committee's willingness to hear cases. Its office is now situated just outside Long Kesh internment camp and specific appeals are heard "within a few days." But because of the paucity of appeals the committee has taken to reviewing cases without being asked. They have actually seen 80 internees who did not ask for an audience.

Quite apart from the process involved there is what many internees consider the insuperable obstacle of the Oath. Taking an Oath is not apparently a condition of release, but all those who come before the committee are asked if they are prepared to make it. The ten internees who have been released all took the Oath which reads:

"I swear by Almighty God that for the remainder of my life I will not join nor assist any illegal organisation nor engage in any violence nor counsel nor encourage others so to do."

The Oath is considerably more onerous than it looks. Under the Special Powers Act there are no less than 15 illegal organisations listed, only one of which, the Ulster Volunteer Force, is Protestant. It includes, for example, the Republican Clubs which have long been regarded as non-violent Catholic pressure groups. Before internment the Clubs published their officers regularly and entered into open and formal negotiations with the public authorities on local issues.

But the real sticking point is the undertaking "for life" not to assist an illegal organisation. The Special Powers Act gives the Minister of Home Affairs power to proscribe any organisation by regulation. In a rapidly polarising situation, politically active Catholics are naturally alarmed by the prospect that any body favouring a United Ireland policy, however non-violent, could be banned.

It is probably, of course, that among the 90 per cent of internees who have not sought the assistance of the Brown Committee that there are those with something to hide. But the evidence is accumulating that there may be many others who refuse its help on other grounds.

Mr. Paschal O'Hare, another Belfast solicitor with internee clients, said yesterday: "To get out of Long Kesh an innocent man has to accept a procedure that runs counter to all the traditions of British justice. Many, to their credit, are just not prepared to do that."

LEWIS CHESTER.

MINNESOTA GOVERNOR OPPOSES CONFIRMATION OF DR. EARL BUTZ AS SECRETARY OF AGRICULTURE

Mr. HUMPHREY. Mr. President, many of us who have been back to our home States over the Thanksgiving holiday have had an opportunity to see firsthand the tremendous opposition that has developed across this country against Dr. Earl Butz being named as Secretary of Agriculture. The mail that we have been receiving on this matter also has been voluminous. More and more organizations, farm and nonfarm alike, have been expressing themselves in opposition to Dr. Butz' confirmation. Republicans and Democrats, farmers and city people, young and old, conservatives and liberals are voicing opposition to this appointment.

In fact, I think the opposition has become so strong that the President would be well advised to withdraw Dr. Butz' name from consideration. Even if there should be enough votes in the Senate to confirm him, there is little likelihood that he will be able to command the confidence and respect that he will need as Secretary to perform the duties that will be required of him. The farmers and other people of rural America need a Secretary of Agriculture who will command the respect and admiration of the people of this country. At this point it cannot be said that Dr. Butz has any real chance for obtaining that regard in view of the many alienating and disparaging remarks he has made over the years about the fate of small farmers, people interested in alleviating hunger, and those who want to protect our natural environment or consumers against contamination of their food.

Mr. President, as I said before, an increasing number of people are speaking out against Dr. Butz' being confirmed Secretary; Governors, farm organizations, religious groups, consumer and environmental groups, and independent businessmen. One of the many communications I have received recently in opposition to Dr. Butz was from my own Governor, the Honorable Wendell R. Anderson of Minnesota.

Mr. President, I ask unanimous consent to have Governor Anderson's telegram to me printed in the RECORD.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

ST. PAUL, MINN.

Senator HUBERT HUMPHREY,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR HUMPHREY: As Governor of Minnesota, I commend you for the leadership you have exhibited in the fight against the confirmation of Dr. Earl Butz as Secretary of Agriculture.

With the action of the Senate Agriculture Committee Monday in recommending approval of the nomination, the struggle now shifts to the Senate floor. I am certain I speak for thousands of Minnesotans when I urge you to continue the fight against confirmation with renewed vigor.

The philosophy espoused by Dr. Butz leaves little room for the survival of rural America, as we now know it. He has said the family farmers must "adapt or die." Yet the President has made it perfectly clear his administration would never dream of applying that mechanistic, law-of-the-jungle approach to financially troubled corporate giants such as Lockheed Aircraft.

He has said this Nation will need no more than 1.9 million family farmers by 1980, as compared with 2.9 million today. If such a reduction is applied to Minnesota, this would deplete the number of farm families by more than 40,000—from the present 122,000 to fewer than 80,000. Their departure from the land would spell the end of many small rural communities. He has said $1 is a fair price for a bushel of corn, at a time when the cost of producing that bushel is $1 or more, and when low prices will bring Minnesota farmers approximately $100 million less for their crops than they received last year.

The food stamp program, a program that has benefitted millions of poor Americans and helped ease our commodities surplus problem, is "ridiculous" in Dr. Butz' eyes.

Dr. Butz is a poor choice to succeed Cliff Hardin. He does not and cannot properly represent the farmers of Minnesota. His record under Ezra Taft Benson, his known orientation toward agribusiness, and his declarations before the Senate Agriculture Committee provide adequate proof of that.

WENDELL R. ANDERSON,
Governor, State of Minnesota.

MARINE SANCTUARIES

Mr. NELSON. Mr. President, during the Senate debate Wednesday on H.R. 9727, the Marine Research and Protection Act, I withdrew my amendment for marine sanctuaries and a 2-year prohibition on Federal mineral leasing off the east coast after a colloquy during which there were agreements announced for joint hearings by the Senate Committees on Interior, Commerce, and Public Works on this proposal.

Inasmuch as there will be this further consideration of this measure, I ask unanimous consent that an explanation of the amendment as I submitted it in modified form and my statement on the proposal be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

MEMO OF EXPLANATION OF MARINE SANCTUARIES AMENDMENT BY SENATOR NELSON AND OTHERS TO MARINE RESEARCH AND PROTECTION ACT

On November 9, Senator Nelson introduced Amendment No. 630, which would add a marine sanctuaries title to the Marine Protection and Research Act, HR 9727. The bill is expected up for Senate Floor action shortly. At that time, Senator Nelson will call up his amendment, with minor modifications.

The amendment would create a program of marine sanctuaries in the ocean waters off our coasts, and would prohibit Federal leases for oil drilling in the Atlantic off the U.S. East Coast for two years until the initial designations of sanctuaries in that area.

The purpose of the sanctuaries would be to protect or restore vital ocean and coastal environment values such as ecology, esthetics, recreation and resources, and to provide special areas for scientific baseline studies.

While the sanctuaries would not necessarily exclude development and commercial activities, to the extent that such steps were permitted in these areas, they would be under tight regulations to assure protection consistent with the sanctuary's particular purposes.

The provision on East Coast oil drilling would assure that environmental values would be fully taken into account, including setting aside sea areas if necessary, before irrevocable steps are taken to exploit the huge oil deposits that are indicated in the Atlantic.

In recent public statements, the Secretary of the Interior has made it clear the Department does not intend to issue any oil leases off the East Coast for at least two years. Thus, the provision of this amendment for the two year prohibition on the East Coast oil leases would not conflict with U.S. energy development plans in any way, but would merely assure that we obtain adequate knowledge to anticipate and resolve potential conflicts between environmental and energy goals.

Because existing Federal authorities in the marine environment are divided among a number of departments, and are inadequate for comprehensive ocean environment protection even in U.S. waters, and because international matters are involved too, the President would establish the sanctuaries.

In so doing, the President would have public hearings held and assure coordination by obtaining the views of the Secretaries of Commerce, Defense, Interior, State, Transportation and the Administrator of the Environmental Protection Agency.

For any sanctuaries proposed in waters above state-controlled portions of the seabed (within the territorial sea) it would be necessary to have the approval of the Governor of the state involved.

Finally, language in the amendment specifically requires that the sanctuaries be regulated in accordance with the principles of international law, including treaties, conventions, and other agreements to which the United States is signatory.

In view of the fact that the Federal government has already permitted the drilling of more than 6,600 oil wells off our coasts in the Gulf of Mexico and the Pacific, and is considering the Atlantic Ocean leasing now, it would be ludicrous to argue on international or any other grounds that we should not at this time establish sanctuaries in the same areas.

This amendment's bipartisan cosponsorship thus far includes Senators Ribicoff, Case, Mondale, Williams, Brooke, Kennedy, McGovern, Harris, Beall, Tunney, Metcalf, and Hart.

The proposal is also strongly supported by the national environmental organizations including the Sierra Club, Izaak Walton League, Friends of the Earth, Environmental Action, National Wildlife Federation, Wildlife Management Institute and the National Audubon Society.

The House version of the Marine Protection and Research Act included a marine sanctuaries title and was passed by an overwhelming 304 to 3 votes. The title was deleted in Senate committee.

STATEMENT BY SENATOR GAYLORD NELSON ON CALLING UP MARINE SANCTUARIES AMENDMENT TO MARINE PROTECTION AND RESEARCH ACT

Mr. NELSON. Mr. President, I call up my amendment, No. 630, to the Marine Protection and Research Act. And I ask that this amendment be modified in the form that I now send to the desk.

The modified amendment which I propose would add provisions inadvertently omitted on the introduction of the first amendment and would clarify provisions of that first amendment, including responsibility for implementation.

Briefly, this amendment as modified would establish a program for marine sanctuaries in the ocean waters off our coasts.

If we are to avoid making the same mess of the sea as we have of the land, such a program must be instituted immediately, while we still have the opportunity to do so.

Famed underwater explorer and scientist Jacques Cousteau bluntly cites the compelling justification for action: "The sea is threatened. We are facing the destruction of the ocean by pollution and by other causes."

Distinguished marine biologists are already predicting that at the present accelerating damage rate, significant productive life in the sea will be eliminated in 50 years or less.

The purpose of the sanctuaries this amendment proposes would be to protect or restore vital ocean and coastal environment values such as ecology, esthetics, recreation and resources, and to provide special areas for scientific baseline studies.

While the sanctuaries would not necessarily exclude development and commercial activities, to the extent that such steps were permitted in these areas, they would be under tight regulations to assure protection consistent with the sanctuary's particular purposes.

In addition to the sanctuaries portion, this amendment would prohibit Federal leases for oil drilling and other mineral development in the Atlantic of the U.S. East Coast for two years until the initial designations of sanctuaries in that area.

This would assure that environmental values be fully taken into account, including setting aside sea areas if necessary, before irrevocable steps are taken to exploit the huge oil deposits that are indicated in the Atlantic, steps that without proper protection would risk a Santa Barbara-scale disaster on the beaches of our populous East Coast.

In recent public statements, the Secretary of the Interior has made it clear the Department does not intend to issue any oil leases off the East Coast for at least two years. This means my amendment's provision for the two year prohibition on the East Coast oil leases would not conflict with current U.S. energy development plans in any way.

This is not a question of environment versus energy, but merely one of assuring that we obtain the necessary knowledge to anticipate and resolve potential conflicts.

Because existing Federal authorities in the marine environment are divided among a number of departments, and are inadequate for comprehensive ocean environment protection even in U.S. waters, and because international matters are involved too, the President would establish the sanctuaries.

In so doing, the President would have public hearings held and assure coordination by obtaining the views of the Secretaries of Commerce, Defense, Interior, State, Transportation and the Administrator of the Environmental Protection Agency.

For any sanctuaries proposed in waters above state-controlled portions of the seabed (within the territorial sea), it would be necessary to have the approval of the Governor of the state involved.

Finally, language in the amendment specifically requires that the sanctuaries be regulated in accordance with the principles of international law, including treaties, conventions, and other agreements to which the United States is signatory.

In view of the fact that the Federal government has already permitted the drilling of more than 6,600 oil wells off our coasts in the Gulf of Mexico and the Pacific, and is considering the Atlantic Ocean leasing now, it would be ludicrous to argue on international or any other grounds that we should not at this time establish sanctuaries in the same areas.

This amendment bipartisan cosponsorship includes Senators Ribicoff, Case, Mondale, Williams, Brooke, Kennedy, McGovern, Harris, Beall, Tunney, and Metcalf.

The proposal is also strongly supported by the national environmental organizations, including the Sierra Club, Izaak Walton League, Friends of the Earth, Environmental Action, National Wildlife Federation, Wildlife Management Institute and the National Audubon Society. I ask unanimous consent that a letter of support signed by these groups in response to my inquiry be printed in the Congressional Record at the end of these remarks.

And in the House, the marine protection bill now before us, but including a marine sanctuaries title, was passed by an overwhelming 304 to 3 vote after proposals to delete the sanctuaries provision were rejected. The title was deleted in Senate committee.

Some questions have been raised about this amendment's effect on international marine issues. I think because of the complicated situation we have today regarding control of the sea.

I believe these concerns can be laid to rest, and would comment as follows:

One, this proposal does not conflict with international law or attempt in any way to extend this country's oceans authorities beyond present limits. In fact, it contains a specific provision to avoid such a conflict: In Section 301(f), the amendment says any regulations established for the marine sanctuaries "shall be applied in accordance with recognized principles of international law, including treaties, conventions, and other agreements to which the United States is signatory";

Further, in Subsection 301(c), the amendment provides that when any portion of a sanctuary involves ocean waters more than 3 miles from our coast, the Secretary of State must seek international agreements whereby other countries would voluntarily forego activities inconsistent with the purposes of the sanctuary.

Until such agreements were achieved, the only controls exercised in the sanctuary would be those based primarily on existing United States authority to regulate the activities of our own citizens anywhere at sea.

While this would be only partial control, it would be far better than none at all. And in part, it parallels the authority being used in Title I of this bill to control the dumping of wastes at sea transported from ports of the United States.

And as I noted earlier, in view of the fact that we are drilling oil wells all over the U. S. continental shelf in the Gulf of Mexico and the Pacific and considering them for the Atlantic, it would seem difficult to argue against establishing protected areas in these waters as well: In effect, we would be saying that while we can exploit, we cannot protect.

Two, the amendment is not in any way intended to disadvantage this country with regard to the development of its resources.

To the contrary, the leadership we would be showing by establishing sanctuaries within our existing controls would most likely encourage other countries to take similar steps within their jurisdictions and stimulate international agreements for more comprehensive sanctuaries, a conservation benefit for all mankind.

The International Convention on the Continental Shelf recognizes the sovereign right of each country to explore and develop the natural resources on its continental shelf.

As a result, as just one example, the protection established by this convention means that another country could not come in and drill the oil now being considered for leasing off our Atlantic coast, even if we decided not to drill all or part of it.

And Section 301(a) of my proposal limits the sanctuary designations to waters inside the edge of our Continental Shelf as defined in the International Convention on the Continental Shelf.

Furthermore, the sanctuaries would not necessarily ban any given activity. The degree of control exercised over U. S. activities or, if there were international agreements, over citizens of other countries in a particular sanctuary, would depend on the purposes of the sanctuary, on the values it was designed to protect.

As pointed out earlier in this statement, the provisions of my amendment prohibiting leasing for oil beyond the territorial sea off our East Coast for two years would not interfere with current energy development plans in any way.

In recent public statements, the Secretary of the Interior has made it clear the Department does not intend to issue any oil leases off the East Coast during this period.

In a November 4 department news release, the Secretary was quoted as saying "it is now quite obvious that we could not possibly take any action on exploratory drilling for a couple of years."

Thus, my amendment would merely require that off the East Coast, we would use this two year period to assure that environmental values will be reviewed and protected, including actually setting aside areas where necessary, before they are lost forever in a gigantic oil rush which would not only result in a plethora of platforms around the ocean, but with the development of associated industries inshore, would pose irreversible pressures on other critical shoreline uses.

The stakes are immense. The natural resources of the East Coast provide an outdoors experience ranging from surfing to sports fishing for tens of millions of people a year.

From Florida to Maine 18 national parks, seashore and monuments are actually on or close to the coast.

Among these priceless areas are Everglades National Park in Florida, Cape Lookout and Cape Hatteras National Seashore off North Carolina, Assateague National Seashore off Maryland and Virginia, Fire Island National Seashore in New York, Cape Cod National Seashore off Massachusetts, and Acadia National Park off Maine.

The 14 states of the East Coast harbor more than 63 million people, 31.9 percent of the population of the entire country.

In addition to the recreation values, the East Coast and its offshore waters are a key national resource for fishing and shipping, and the pressures are on from the crowded metropolitan complexes to use these waters for the whole range of urban activities, from nuclear power plants to offshore jetports.

It is dramatically clear that we can no longer take a step in the ocean off the East Coast in any one of these areas without the most careful consideration of the impact on these other values.

And because of potential conflicts in use and the danger of massive environment disasters such as we saw in Santa Barbara, we simply may have to say hands off in some of these areas to this use or that one, or tightly limit some or all uses in special areas—establishing the sanctuaries this amendment proposes.

The pressures to drill and fully exploit the East Coast oil wherever it is found regardless of whatever environmental dangers may be posed will be intense.

Just recently, a Canadian subsidiary of Mobil Oil Corp. announced the flow of oil and natural gas in a well near Sable Island in the Atlantic off Nova Scotia.

The Journal article said: "The announcement had a tremendous impact. For it marked the first time that oil and natural gas have been discovered off the East Coast of North America."

Already, oil companies have gotten licenses on more than 400 million acres off Canada's East Coast.

And earlier this month, news stories widely announced Interior Department consideration of oil drilling in vast areas off the U.S. East Coast.

According to the reports, preliminary oil explorations have indicated a potentially oil rich area off the coast from the southern part of New Jersey down through the Middle Atlantic states and Virginia perhaps as far south as Cape Hatteras, North Carolina.

Previously, the Interior Department confirmed another potentially major oil and natural gas area off New England on the Georges Bank between Cape Cod and Long Island.

Already, 34 wells have been drilled in the Atlantic off Canada as close as 40 miles offshore, and a Humble Oil Company spokesman was quoted in September as saying that "we're sure the deposits off the coast of Canada and those off the coast of the United States are comparable."

And while we have assurances from the Department of the Interior, as I have noted, that they do not expect to issue East Coast oil leases for at least two years, the department is moving at top speed to evaluate the East Coast oil deposits and their implications.

As reported in a recent issue of the Oil Daily, the daily newspaper of the petroleum industry, an Interior Department task force was established November 4 to evaluate the East Coast oil.

According to a Bureau of Land Management memo on the task force job, "Since the environmental, economic and regional conditions in these new areas may be significantly different from those related to oil and gas developments in the Gulf of Mexico, BLM must move aggressively to obtain the information necessary to plan effectively for possible OCS developments in these areas and to evaluate impacts which will result from such developments."

Indicating the high priority of the East Coast oil task force, the memo said the task force members would be expected to work 15 consecutive days in Washington, followed by 2 to 3 weeks in their home offices, with the sequence being repeated through December 31.

Mr. President, I ask unanimous consent that a copy of the memorandum from the Associate Director of Interior's Bureau of Land Management with the task force instructions be printed in the Congressional Record at the end of these remarks.

In the modification of my amendment, the President would establish the sanctuaries because of the numerous and overlapping Federal jurisdictions involved, as well as the international responsibilities.

To meet the key need of coordination in marine affairs, prior to designating the area, the President would have to obtain the views of the Secretaries of Commerce, Defense, Interior, State and Transportation and the Administrator of the Environmental Protection Agency.

Despite the numerous interests involved, no one department's activities are adequate to effectively establish and implement any comprehensive marine protection plan.

The fact is our coastal areas and the sea are faced with the same kind of chaotic development that has already scarred and polluted the face of the land, and we are not in a much better position to control it than we were to protect the forests and soil and waters of this nation in Frontier Days.

In place of the glut of the automobile, we find the giant oil tanker plying the seas, with the constant risk of accidents that could cause another marine ecodisaster; in place of the strip miner, we find the oil operation with the risk of massive spills that could lay siege to whole coastlines with coats of black goo; instead of junk heaps on the land and filth pouring into our air and lakes and rivers, we find sewage and waste chemical dumping grounds offshore already creating dead sea areas; instead of sprawling urbanization, we find poised an industrial seascape of floating airports, nuclear power generating plants, offshore shipping terminals, and possibly even ocean cities; in place of the destruction of our wildlife on land, we see birds of prey being wiped out all over the earth by the DDT that has moved through the food chain even at sea, the whales, one of the most remarkable creatures on earth, being pushed to extinction, once massive fishery stocks being depleted by overuse and pollution.

The conclusion is unavoidable: Without the comprehensive environmental management which this amendment represents as a beginning step, we will ultimately make as much a wreckage of the oceans as we have of the land. There will be constant conflicts between users and more reckless exploitation, and once more, the environment will take second place until it is too late to reverse the tragic devastation.

Existing authorities will not do the job. Each department has a small slice of the pie, and no one agency has the jurisdiction necessary to establish overall policy and coordinate its implementation.

The Department of the Interior has authority to regulate the mineral resources of the seabed and the subsoil on our continental shelf beyond the territorial sea, and as part of this, may withhold areas of the shelf from leasing.

But the future of the marine environment hinges on many other questions than just what happens to these resources. As pointed out, all the activities, from tanker traffic to offshore jetports to fishing, will make their mark.

Furthermore, while the Department has permitted the drilling of more than six thousand six hundred oil wells on the continental shelf portions under its jurisdiction in the Gulf of Mexico and the Pacific, and is considering oil well leasing in the Atlantic, to the best of our knowledge, only two protected areas have been established to date under Interior authority in these same waters.

Thus, the authority the Department of Interior does have has barely been utilized.

And in any case, Interior's authority falls short of that necessary to review the wide range of activities and values involved in the ocean environment and established protected areas—the marine sanctuaries—with comprehensive regulations to reconcile conflicts in use and preserve vital ocean values.

The situation of fragmented jurisdiction and limited authorities is reflected in every other department concerned with marine affairs.

The Department of Defense has authority to set aside areas of the continental shelf for security purposes.

The National Oceanographic and Atmospheric Administration in the Department of Commerce has authority over conservation of the living resources of the sea generally, within the first 12 miles of ocean waters, and the living resources on the continental shelf, and over the activities of U.S. citizens on the high seas.

The Corps of Engineers in the Department of Defense has responsibilities for the protection of navigation offshore similar to those it exercises for inland waters.

Meanwhile, the Department of Transportation and the Coast Guard are concerned with activities involved in establishing sea lanes for ship traffic to our ports.

For construction of an offshore platform—whether for oil drilling or in the future for floating airports, etc.—the Corps would issue permits that it did not interfere with navigation, but the Coast Guard would be involved too, to regulate platform safety.

The Environmental Protection Agency and the states now administer pollution controls within the territorial sea and if this and other pending legislation is passed, EPA's authority will be extended outside the territorial waters based on existing U.S. authorities.

Outside our territorial waters, activities involving foreign relations come within the interests of the Department of State, and the department has been involved in negotiating international agreements on marine matters.

Mr. President, in conclusion, I would just reiterate that we have the opportunity now to take sound steps to protect the marine environment. If we delay further, for instance until after the East Coast oil is drilled and another tragic offshore accident has occurred, the costs to all society will be far greater than preventive steps today.

ADM. EMORY S. LAND

Mr. HANSEN. Mr. President, the United States has lost a distinguished citizen in the death of Adm. Emory S. Land.

The admiral is perhaps best known nationally for his outstandingly competent performance as head of the Maritime Commission during World War II, and was one of the original "can-do" men of that era in that he saw to it that ships were built regardless of obstacles.

Admiral Land, I am proud to note, was a graduate of the University of Wyoming, and in later life endowed a chair at the university. The Admiral Land Award at the University of Wyoming is presented annually at the halftime ceremonies of homecoming to the nonsports figure in the student body who has done most for the athletic program at the university.

Mr. President, the Washington Post, in an obituary Sunday, briefly outlined some of the many accomplishments of this great man.

I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ADM. E. S. LAND, DIES, HEADED MARITIME UNIT

(By Martin Weil)

Retired Vice Adm. Emory S. (Jerry) Land, 92, an Annapolis football hero in 1900, hard-driving head of the Maritime Commission during World War II, and a peppery and pleasant Washington legend for years, died yesterday.

The admiral died at 11:40 a.m. at Bethesda Naval Hospital, where he had been admitted Tuesday. Only last Sunday, he had been well enough to attend the Redskins game here. The Army-Navy game yesterday was the first he had missed since 1900.

Upon his retirement in 1953 after eight years as head of the Air Transport Association, he joined General Dynamics Corp. as a consultant, a post he held until his death.

Until entering the hospital this week, friends recalled, he walked the four miles from his home at the Sheraton-Park Hotel to his downtown office and back each day, bristling with indignation when offered a ride.

As head of the Maritime Commission during World War II, he directed history's biggest shipbuilding program, which launched 6,000 merchant vessels between 1941 and 1945, President Truman called the accomplishment "colossal."

As a 140-pound Navy halfback in 1900, he snatched up a blocked kick in the closing minutes of that year's Army-Navy game, eluded a raft of tacklers and raced for a touchdown to win the game for Navy, 11–7.

During his subsequent 37 years of Navy service, he became a skilled naval architect, specializing in submarine construction—for which he won the Navy Cross—but still found time to officiate at many top-college football games.

He won a master's degree from the Massachusetts Institute of Technology, earned his pilot's license at the age of 49, and took part in the effort to track down the kidnaper of the son of Charles A. Lindbergh, a cousin by marriage.

The future admiral was born far from the sea, in Canon City, Colo., on Jan. 9, 1879. After working as a cowboy, he graduated at the age of 19 from the University of Wyoming and was appointed to Annapolis, he said years later, "because I had luck."

In addition to starring in football at the Naval Academy, he distinguished himself in baseball, track, crew and swimming, winning the academy's Athletic Sword upon graduation. He also finished sixth in his class academically.

After supervising submarine construction and design work here during the early part of World War I, he held a staff post in the war zone, served briefly with the Naval Armistice Commission and became naval attaché at the U.S. Embassy in London.

In 1926, he became assistant chief of the Navy's Bureau of Aeronautics and in 1932 was named to head its Bureau of Construction and Repair. In March, 1937, he retired as a rear admiral, but within a month was appointed to the newly created Maritime Commission, charged with rehabilitating the nation's rapidly declining merchant fleet.

In 1938, when the commission's first chairman, the late Joseph P. Kennedy, resigned to become Ambassador to Britain, Mr. Kennedy proposed Adm. Land as his successor, and President Roosevelt made the nomination.

As war threatened and the demand for shipping rose, Adm. Land, pugnacious and plain-spoken when necessary on the job, won a reputation for slashing through government red tape.

At one point, he began awarding construction contracts without funds on hand. Once when this practice was questioned, he told his intelocutor with a chuckle: "See you in jail."

Adm. Land did not go to jail, but he did build ships, despite occasional friction with unions and Congress. Over all, he supervised the construction of more than 50 million deadweight tons of shipping.

Occasionally the admiral sought brief diversion. In 1943, he desperately desired to see the Army-Navy game at West Point, despite a Presidential order forbidding servicemen to travel more than 10 miles to attend.

After somehow arranging to get a job assisting the head linesman with his measuring duties on the sidelines, Adm. Land sent the President a written request for permission.

"If he wants to go that bad," Mr. Roosevelt scrawled along the bottom of the request, "let the damn fool go."

In 1946, with achievements behind him that Mr. Roosevelt had called "unbelievable," and that President Truman called "without parallel in maritime history," Adm. Land resigned from the Maritime Commission.

His letter of resignation showed characteristic aversion to the involutions of bureaucratic prose. He gave five reasons for leaving, listing them alphabetically.

They began with "A) I have done my bit," continued with "B) New blood is desirable," and concluded with "E) I am war weary."

Later he explained that he had resigned because, "I couldn't stand to see what I had built up knocked down like building blocks. I got over my destructive impulses when I was a kid."

Admiral Land was named a vice admiral in 1944. In addition to his Maritime Commission post, he also served during the war as administrator of the War Shipping Administration.

He was president from 1940 to 1942 of the Society of Naval Architects and Marine Engineers, and held a variety of decorations, honorary degrees and memberships in professional societies.

His wife, the former Elizabeth C. Stiles, whom he married in 1909, died in 1956.

He is survived by a nephew. Rear Adm. G. C. DeKay, of Washington.

THE NOMINATION OF EARL L. BUTZ TO BE SECRETARY OF AGRICULTURE

Mr. BURDICK. Mr. President, very soon the nomination of Dr. Earl L. Butz to be Secretary of Agriculture will be before the U.S. Senate for confirmation or rejection. I represent a State where agriculture is the single most important income-producing enterprise. In addition, the storage, handling, transportation, processing, and marketing of the products of our farms and ranches is a major source of employment of nonfarm people. North Dakota is about 1,500 miles from Washington, D.C., but no one should make the mistake of thinking that the people are unaware or uncaring about events that occur here.

The nomination of Dr. Butz to the Cabinet post that should represent the voice of farmers in the concerns of government has brought to my desk a flood of telegrams and letters. All of these messages express opposition to the appointment of Dr. Butz, based primarily on his past close association with giant agribusiness corporations. No single person or organization in North Dakota has asked me to support Dr. Butz' appointment. I know of no other recent issue on which my constituents have been so unanimous.

An editorial published recently in the Record Herald of Cando, N. Dak., sums up in a concise manner the reactions that North Dakota farmers and nonfarmers have expressed to me.

I share the opinion that the background and philosophy of Dr. Butz do not qualify him for the post of Secretary of Agriculture. I shall vote against his confirmation.

Mr. President, I ask unanimous consent that the full text of the Record Herald editorial be printed in the CONGRESSIONAL RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FOX IN THE CHICKENHOUSE?

We have just returned from a five-day flying trip to the National Newspaper Association Convention at New Orleans. A vignette of sights and sounds and ideas spin before us and it will take many weeks before they fall into perspective so we can pass them on.

One of the most thrilling was the flight beginning in the Red River Valley through the heart of rural America on a lovely sunshiny day. The checkerboard of millions of acres of Minnesota, Iowa, Kansas, Missouri and Texas, all neatly plotted and dotted with farmyards in every square and towns of various sizes, all serving this great food producing area, was overwhelming. Truly the Food Basket of the world.

Its vastness, breathes power and stability, and anyone who downgrades the importance of Agriculture should be forced to fly this route. Especially would we recommend the trip to any President of the United States, especially Mr. Nixon, who toyed with the idea that he was going to dissolve the cabinet post. His nomination on Friday of Dr. Earl L. Butz, a Purdue University professor, as Secretary of Agriculture does not show understanding of the problem.

Dr. Butz was on the policy making team of the Benson era in the Eisenhower administration which triggered the emptying of the farms and towns. Even worse is his directorship in Ralston Purina, Stokely Food Company and a huge ferlitzer corporation, all of which have everything to gain from cheap farm prices at the wholesale level.

This has all the earmarks of locking the fox in the chickenhouse. He has been fostering the interest of huge corporations in their fight to control American Agriculture for 20 years and Senator Young has had many a confrontation with him. Along with Senator Young, Senator Burdick and Representatives Andrews and Link are more than a little alarmed.

Even more frightening to us is the fact that a President of this nation would have so little knowledge of the rural problem, which employs three out of every 10 Americans, that he would honestly feel this man's philosophy is the direction he wants to take. That he would want Dr. Butz, unless he has undergone a miraculous conversion to the cause of Agriculture, shows either a lack of knowledge or lack of respect for the industry.

Both Republican and Democratic presidents have studiously avoided consulting farm state congressmen about this post. The dismay may be universal, for on a New Orleans newscast we saw a southern Senator groan at the announcement "Heaven help us—another college professor."

It is getting tiresome for farm groups and farm state Congressman to have to begin again to educate and try and convert Secretaries of Agriculture to the cause of the people they are supposed to represent. Just as things begin to look up a little, like Secretary Hardin's 1972 farm program, some big wholesale Food Corporation lures them with so tempting an offer that the work is all in vain.

Seems odd that this opportunity should come to Secretary Hardin from Ralston Corporation at this time and that his replacement should be a director of the same corporation.

THE NOMINATION OF EARL L. BUTZ TO BE SECRETARY OF AGRICULTURE

Mr. METCALF. Mr. President, last Wednesday I announced my decision to oppose the confirmation of Earl L. Butz as Secretary of Agriculture, and discussed the nominee's record when he was an Assistant Secretary serving Ezra Taft Benson in the Eisenhower administration.

Mr. President, an editorial which appeared on November 26 in the St. Louis Post-Dispatch has come to my attention.

The editorial concludes that there are many questions "to be asked before the Senate acts on Mr. Butz's nomination." Some of the questions were answered in the same edition of the St. Louis Post-Dispatch in a newsstory by Lawrence E. Taylor covering the item I explored last week. I ask unanimous consent that Mr. Taylor's article be printed in the RECORD together with the editorial.

The regulatory responsibilities Mr. Butz would assume as Secretary are considerable. He would have jurisdiction over enforcement of the Packers and Stockyards Act, administration of our national forests, enforcement of meat and poultry inspection, agricultural uses of pesticides, administration of the school lunch program.

Mr. President, Mr. Butz admitted in 1957 that he had made the decision to stifle an investigation of price fixing by Safeway Stores. He said, moreover, that he would do the same thing again. If he is as casual about meat and poultry inspection or pesticides or school lunches as he was about the Packers and Stockyards Act, we know precisely what to expect. I think we can do better.

There being no objection, the article and editorial were ordered to be printed in the RECORD, as follows:

[From the St. Louis Post-Dispatch, Nov. 26, 1971]

A NEED FOR QUESTIONS

The 8-to-6 vote in the Senate Agriculture Committee to approve President Nixon's nomination of Earl L. Butz for Secretary of Agriculture can only be described as the most tepid sort of endorsement, especially since two of the dissenters were farm belt Republicians. Because of his past pronouncements in favor of big farming and of his stockholdings in agricultural corporations, doubts have been raised as to whether Mr. Butz would not function as an advocate or agent of agribusiness. His disparaging remarks about environmentalists have been unsettling, inasmuch as the Department controls the use of agricultural pesticides and administers the National Forests. And his scornful remarks about Mr. Nixon's welfare proposal lead us to wonder how sympathetic Mr. Butz would be to the plight of the rural poor, particularly migrant workers. There are, in short, plenty of questions to be asked before the Senate acts on Mr. Butz's nomination.

[From the St. Louis Post-Dispatch, Nov. 26, 1971]

BUTZ HALTED PRICE STUDY

(By Lawrence E. Taylor)

WASHINGTON, November 26.—Earl L. Butz, nominated as Secretary of Agriculture, squelched an investigation into alleged price-fixing by a major grocery chain in 1956 when he was an assistant Secretary of Agriculture, records showed today.

Butz acknowledged halting an inquiry into Safeway Stores, Inc., in testimony before a Senate subcommittee in 1957. A subordinate testifying before the same subcommittee said that there was evidence of federal law violations by Safeway in its meat-buying operations in California.

Butz, who left the department in 1958 to join the faculty at Purdue University, has been criticized for his close ties to big businesses with agricultural interest.

At the time of his nomination to the top agriculture job by President Richard M. Nixon, Butz was on the boards of several agriculture business firms, including Ralston Purina Co. of St. Louis. He said he had resigned from those positions.

Sources interviewed today recalled the Safeway inquiry and said that Butz stopped the investigation after it had uncovered specific information about methods allegedly used by Safeway to control beef prices.

The sources told the Post-Dispatch evidence indicated that each week Safeway buyers allegedly set a top price that the company would pay for beef.

This price allegedly was passed along to buyers for other California retailers and commercial outlets and allegedly resulted in a ceiling on beef throughout the state, the sources said.

Such tactics would have been in violation of the federal Packers and Stockyards Act of 1921. It requires that meat prices be * * * sources said.

One source, close to the investigation, recalled that the inquiry was begun after California cattlemen and beef producers had complained to the Department of Agriculture.

The source said that the inquiry, conducted by the department's packers and stockyards division, had been under way for two or three months when Butz, in a handwritten directive, ordered it halted.

"The next step, (in the investigation) would have been to question them (Safeway executives) and get documents, and to question some of those alleged to be in the conspiracy," the source said.

The source asked not to be identified but said that he would testify about the matter before a Senate committee if asked. He said that documents locked up in the Department of Agriculture would confirm his contention.

In addition to price-fixing, the investigation had sought to determine whether Safeway's ownership of livestock feed lots had enabled it to unfairly influence meat prices, the source said.

Butz, testifying before the Senate Judiciary subcommittee on antitrust and monopoly in May 1957, discussed only the feedlot aspects of the investigation.

His initial answers to questions by subcommittee members about the Safeway matter were vague. His memory improved, however, when Lee D. Sinclair, director of the section making the investigation, appeared before the subcommittee.

Sinclair testified that at the time Butz halted the inquiry, "we felt . . . there was sufficient evidence to warrant a full-scale investigation; that the facts indicated a violation (of the law)."

Butz had testified earlier that the investigation was stopped "because we had no conclusive evidence, as far as I know, and as of this date we have no conclusive evidence that this practice does in fact depress prices."

He said that the matter was "much broader than Safeway" and dealt with questions of whether retail chains could own feedlots and meat packing plants.

For that reason, the investigation was ended and the matter was turned over to an agricultural economist for study, Butz said.

Sources interviewed today, said, however, that the normal pattern in such cases would have been for the department to order an economic study while the price-fixing inquiry was continued.

If sufficient evidence of any violations had been uncovered, the matter would have been referred to an Agriculture Department hearing examiner, the source said. If the examiner had found Safeway guilty, a cease-and-desist order could have been issued.

Publicity resulting from the hearing would have been embarrassing to the company, which at the time was one of the largest retail grocery chains in California.

Safeway, in a letter filed with the antitrust and monopoly subcommittee in 1957, denied any wrongdoing. The company did not discuss its meat-buying practices, however, and the matter was not raised at the hearing.

The sources said, however, that word of the departmental investigation and the resulting economic study apparently leaked back to Safeway and the alleged price-fixing was stopped.

The investigation was begun and halted when Ezra Taft Benson was Secretary of Agriculture. Sources said that there was no indication that Benson had been involved directly in the decision to terminate the inquiry.

Butz has been challenged because of his close identification to Benson's policies. Opponents of his confirmation to the Agriculture post have said that 38 Senators probably would vote against him when the nomination reached the Senate floor. Butz was approved by the Senate Agriculture Committee, 8 to 6.

SPECIAL CIRCULATION MAGAZINES

Mr. METCALF. Mr. President, recent mail included a letter from the Magazine Publishers Association. Vice President Norman S. Halliday stated the case for magazines of general circulation, which on the one hand have a responsibility to inform the public and on the other are confronted with a substantial reduction in public subsidy. This comes at a time when rising costs are threatening the existence of magazines, as evidenced by the recently announced demise of Look.

Recent mail also included a variety of what, I would call for want of better words, a special type of magazine, a special interest pleader, a glossy house organ. It is apparent that these magazines are flourishing as those of general interest wither. Some of the best writing, the most striking photography, the most attractive layout, are in these special interest publications, which are doubly subsidized by the taxpayers. They not only go through the mail for less than the cost of handling, but their publication costs are charged to the taxpayer as public relations or public information.

Recent issues of these publications have included excellent articles, beautifully illustrated, on such a variety of subjects as Guatemalan fabrics, the Intracoastal Canal, dog-sled racing, oil and our environment, corporate social responsibility, the special people who serve the public, the jumbo jet, building esthetics, to name a few.

A thread of bias and understandable industry prejudice run through these special circulation magazines, for which the taxpayer is paying.

I hope that, as our public officials scrutinize the partial public subsidy of general magazines, they also take a look at the total public subsidy of special publications. We taxpayers subsidize both. We may be interested in a balance of subsidy and a reappraisal may be justified.

Mr. President, I ask unanimous consent to include in the Record the letter from Mr. Halliday and the enclosures.

There being no objection, the letter and enclosures were ordered to be printed in the Record, as follows:

Magazine Publishers
Association, Inc.,
New York, N.Y., September 15, 1971.

Hon. Lee Metcalf,
U.S. Senate,
Washington, D.C.

Dear Senator Metcalf: On August 20, 1971 Life magazine published the enclosed editorial entitled "A Serious Threat to Magazines". Postmaster General Blount replied to that editorial and his letter to the editors appeared in the September 10 issue of Life magazine, along with further comment by the editors. A copy of that material also is enclosed.

In addition, so that you can appreciate that this threat is not merely to Time Inc. but to the entire magazine industry, I have enclosed the summary statement from testimony submited to the Postal Rate Commission by Dr. Edward Shafer of Foster Associates, Inc. on behalf of MPA. It clearly conveys the adverse impact the proposed postal rate increase will have on our industry. A summary of MPA's entire case before the Postal Rate Commission is also included.

We make no apologies for informing the American public and its elected representatives of what we have substantial reason to believe is a very real threat to the magazine press. On the other hand, General Blount's characterization of our responsibility to inform the public as "unfortunate" is indeed unfortunate. The Postmaster General and other officials of the Postal Service have attempted through pronouncements, speeches, memos and press releases to nationally publicize their case in support of their proposed postal rate increases.

If, after reading the attached material, you wish any clarification or additional material, I shall be happy to come to your office at your convenience or supply you with any additional information we have available.

Sincerely yours,
Norman S. Halliday.

Enclosures (4).

August 27, 1971.

Memo to: Chief Executives
MPA Member-Organizations
From: Stephen E. Kelly

Attached is a condensation of the MPA Postal Rate Case testimony which was submitted in unabridged form on August 13th.

The complete MPA testimony consisted of some 360 pages of text and exhibits. Marvin Gropp, MPA's Research Director, has done a fine job in capturing the principal issues of our case in this 10-page condensation.

The Rate Case hearings are continuing as of this date, August 27th, and all testimony by all parties is available to the public. We want you to be familiar with the testimony filed by MPA and feel that this form is most practical and efficient. Extra copies are available to you for your staff, suppliers and any other interested parties.

We are circulating the condensation in the "right places," including plans to distribute it among members of the House and the Senate Postal Committees, upon their return to Washington.

For extra copies, please contact Marvin Gropp's office in New York.

Social Value of American Magazines

DR. THEODORE PETERSON, DEAN OF COLLEGE OF COMMUNICATIONS AT THE UNIVERSITY OF ILLINOIS

Although the various media of communications compete among themselves for the advertiser's dollar and the audience's time and attention, they are complementary in their attempts to meet society's needs. Not only do some media seem to be better than others in carrying out certain functions, but some media seem to be better than others for certain individuals in carrying out even the same function.

The differences between the electronic and print media extend to the composition of their audiences and the ways people use them. Broadcast media can be used with little effort and, unlike print media, they seem to appeal more to the emotions than to the intellect. Television seems to have displaced print as a source of entertainment and escape but not as a source of serious, useful information. TV tends to cater more to the lower income, poorer educated segments of the population whereas study after study links the print media with increased education and income.

Ben Bagdikian, in his study for the Rand Corporation, reports that for every minute spent at information activities, reading is almost double the "efficiency" of the nearest competitor, films, and 3½ times more efficient that its most famous competitor, television. It is also five times as "efficient" as radio, he says, and 7½ times as "efficient" as lecture and discussion.

Setting magazines apart from the other print media are several characteristics that equip them for important tasks in a democratic society. Unlike the typical newspaper, magazines are not restricted to a narrow geographical area. Therefore, they can give highly specialized treatment to highly specialized subjects to a widely scattered audience; or can provide a national perspective to even local issues and concerns. They are put together with less haste and less pressure than the newspaper, and their life span is much longer. Because of reader habits and expectations, and because of their available space, magazines can give carefully researched, thoughtful and extended treatment to the subjects they cover.

Magazines are more timely than books—timely enough to deal with the flow of events. They have a continuity that a book lacks. As a continuing channel they can sustain campaigns over long periods, with feedback from their readers, and work for cumulative effect rather than single impact.

The role of magazines in our society rests squarely on the assumptions that underlie the democratic form of government—faith in the essential rationality and perfectability of man and in his ability to discern truth if afforded an unfettered marketplace of information and ideas.

Magazines have at least six main functions. One is *public enlightenment*—they are inexpensive, pervasive educators that provide man with the information he needs to form his own ideas, that stimulate him with the ideas of others. Since new ideas rarely originate with the majority, print—and especially magazines—seem an ideal vehicle for disseminating the fresh ideas and viewpoints that ward off stagnation in a democratic society. They have been an agency for needed social reform. Over the years, historians have credited them with helping to bring about Congressional investigations, pure food laws, a tariff commission, child labor laws, wage and hour laws, workmen's compensation, old age pensions and social security, women's suffrage and many other reforms.

As public enlighteners, magazines have instructed readers in their cultural heritage. In addition, magazines have been the developers of literary talent.

A second function is *servicing the political system*. Democratic government needs an electorate well-informed about issues, problems and their possible solutions. Magazines help to provide the information and ideas that steer public opinion towards consensus.

A third function is *safeguarding personal liberties*—a watchdog that warns the public when personal liberties are in danger.

A fourth function is to be *profit-making*—to be free of obligations to government and special interests.

Closely allied is a fifth function, *servicing the economic system*—not only the supplying of economic news and views, but the rise of mass production and mass distribution has given increasing importance to informative advertising.

A sixth function is *providing entertainment*. Magazines can inform and educate even while they entertain.

Not the least accomplishment of magazines has been as an inexpensive *instructor in daily living*. They teach their readers how to prepare food nutritiously, inexpensively; how to plan, build, remodel, landscape, furnish and decorate their homes; how to rear their families; how to protect their health, mental and physical; how to plan for and enjoy retirement; and so many other important subjects too extensive to enumerate.

Magazine publishing has remained an open-ended, fluid, high-risk business. It is knowingly estimated that only about one new magazine in 200 or 300 ever achieved financial success. Neither age, advertising leadership nor reader acceptance is necessarily a guarantor of permanent success. Of the top twenty magazines leading in advertising revenues in 1927, half had died twenty years later. And, of the forty magazines with circulations of a million or more just twenty years ago in 1951, exactly one-fourth are dead today.

I fear the proposed postal increases imperil the present and future health of magazines—a medium that has been closely attuned to the needs and care of the American people and that provides the diversity in information and viewpoint they expect and need.

Economic Criteria for Costing and Rate-Making

Dr. Stephen F. Sherwin, Vice President of Foster Associates, Inc., and economist specializing in finance, cost and price analysis, with particular emphasis on methodology of costing and cost allocation in connection with the determination of revenue requirements for rate-making purposes, consultant to both industry and government.

Dr. Sherwin's testimony focuses on and thoroughly explores the following issues of Postal Service costing:

1. The extent to which the Postal Service's costing process reflects the identifiable factors and functions which influence the cost incurrence.

2. The correctness of the classification of costs as "variable" (directly attributable), "specific fixed" (fixed or restricted institutional costs that can be soundly attributed to certain specific classes of mail), and "institutional" (fixed costs not directly attributable to any particular class of mail).

3. The propriety of distributing *all* institutional costs to *all* classes of mail.

4. The reliability of the various costing systems for developing estimates of costs of different classes and subclasses of mail.

Dr. Sherwin states, "No matter how great my disagreement may be with respect to the measurement of cost, the Postal Service's case rests on the proper foundation that a rational rate structure *cannot* be based on a *fully* distributed cost system, and that those elements of cost which are judged to be fixed must be distributed on the basis of economic criteria, including elasticity of demand, value of service, and effect on the users." And he further agreed with the Postal Service's basic costing premise that postal operations are characterized by declining unit costs with increasing scale of operations.

It appears that the in-office random sampling system used by the Postal Service to ascertain attributable costs yields reasonably reliable measures of the variable costs attributable to *major* classes of mail, but wholly unreliable costs by subclasses. To test the accuracy of the observations made under the in-office sampling system, the Department conducted a single audit at the 15 largest post offices in the two-week period November 8–21, 1969. The audit revealed that the observations with respect to the identification of a number of subclasses of mail were inaccurate. The record does not indicate whether the audit confirmed the accuracy of the observations for the major classes of mail.

Among the areas of disagreement, one of the principal criticisms of the Postal Service's measurement of costs leveled by Dr. Sherwin is the failure to isolate and measure the capacity cost element. The Postal Service measures the variability of cost only by reference to a single yardstick—the volume of mail. And it does so over what constitutes essentially a short run. The incremental costing system is thus deficient on two counts insofar as it fails to measure the *capacity* cost element, particularly the impact of peak loads. The existence of peak loads and different load factors for different classes of mail is not denied by the Postal Service. Account must therefore be taken of the degree of coincidence of peak loads for the several classes with the peak for the entire system and the responsibility of those several classes for that peak load.

As a general rule, peak loads are created by those classes of mail which require priority dispatch; those classes which receive deferred service can be used to fill in the valleys. The failure to measure the peak capacity elements of costs thus tends to result in an understatement of the costs of preferential mail and an overstatement of the costs of deferred service mail.

The Report of the Cost System Task Force, dated May 21, 1970, recommended that the effect of peak loads on incremental costs be studied. Yet, to this date, the Postal Service has been unable to supply any data on peak loads of different classes of mail.

"Another area of disagreement with the Postal Service's costing system relates to the classification of some cost components as variable (directly attributable)," states Dr. Sherwin, "principally the costs of delivery carriers after they leave the confines of the Post Office. In my opinion, the carrier costs, apart from the costs incurred within the post office (primarily for casing the mail) should be classified as institutional costs. Some other costs classified as variable should also be reclassified as institutional with respect to stop time of city delivery and heavy duty rural route carriers and the related supervisory costs." Such a reclassification reduces the Postal Service's total Fiscal Year 1972 attributable costs by $141.4 million. The most significant impact of these reclassifications is on the cost of second class mail, for which the Postal Service overstates costs by 16 percent. *Directly attributable costs for second class mail would be thereby reduced by $54.6 million.*

A third area of disagreement relates to the distribution of institutional costs, specifically the failure to distinguish among different types of institutional costs and to recognize that not all institutional costs can be distributed among all classes of mail. Some institutional costs reflect costs incurred for performance of functions which do not benefit all classes of mail. These costs could more properly be called "restricted" institutional costs. To illustrate, second-class and third-class bulk mail is not handled by personnel concerned with window services. These mail classes should therefore not be charged with any part of costs associated with window services. Other "restricted" institutional costs include supervision and technical personnel, city delivery carriers (stopping and street time costs), vehicle service drivers and motor vehicle service, contract stations (miscellaneous operating costs (air taxi and mobile post offices (in transportation costs). Due to lack of adequate data on all these cost segments, it is not possible to quantify the impact of a proper identification of "restricted" institutional costs on a lowering of the costs assignable to second-class. But to spread institutional costs among all classes of mail violates not only the costing principle that costs should be identified with those classes of service that receive the benefit from cost incurrence, but also violates the rate-making principle that no class of users should subsidize another class.

Additional reclassifications of costs from variable to fixed or institutional were found appropriate for supervision of mail processing and local services, clerks in third class post offices and mobile units, in-office costs of city delivery carriers, and star route transportation costs. These, too, cannot be accurately quantified at this time but reclassification could ease the rate burden on some mail classes.

The Impact of Proposed Postal Rates on Magazine Publishers

Edward Shafer, Vice President of Foster Associates, Inc.; Senior Consultant specializing in market research studies, forecasting demand for services, economic feasibility studies and questions relating to economic impact in the communications industry.

The real-world climate for magazine advertising and for magazine subscriptions is of vital importance to any consideration of the ability of magazine publishers to pass on proposed postal rate increases to the advertiser and to the subscriber.

From 1950 to 1970 total national advertising expenditures increased from approximately $3.3 billion to $11.5 billion annually, an increase of more than 250 percent. However, the various media have not shared equally in the growth. During this period, magazine advertising revenues increased from approximately $500 million to $1.3 billion, an increase of *160 percent*. By contrast, television's national advertising revenues increased from $116 million to almost $3 billion, an increase of *more than 2,400 percent*.

Of the four major media totals—magazines, newspapers, radio and tv—television grew in share from 8 percent in 1950 to 52 percent in 1970; while the magazine share dropped from over 34 percent to about 23 percent.

The intensity of the competition for advertising faced by magazines is also indicated by the decline in the *rate of growth* in advertising revenues. Such revenues increased by approximately *29* percent from 1955 to 1960. During the next five-year period, 1960 to 1965, magazine advertising revenues increased by *27* percent. And, in the most recent five-year period, 1965 to 1970, the industry's revenues increased by only *10 percent*—the lowest *growth rate* among all major media. In contrast, television grew *41* percent during the past five years, radio is up *26* percent, and newspapers are up about *20* percent.

As for the climate for magazine subscriptions, since World War II the percentage of subscription copy sales to total circulation has increased from *52* percent in 1946 to *68* percent in 1960. During the last decade it has varied only slightly within a range of 68–70 percent. In 1970, *68.3* percent of the more than 5.5 billion magazine copies sold were sold through subscriptions.

Price increases can only be applied to new subscriptions, and subscription commitments usually cover a period of at least one year and sometimes extend as long as five years.

On the basis of an examination of several regression equations (statistically evaluates the relationship between the *dependent variable, magazine advertising page sales,* and the independent variables such as price of magazine advertising (C per M), price of television advertising, Gross National Product, and ratio of national advertising expenditures to Gross National Product) the demand for magazine advertising was estimated at −1.0.

The demand for magazine subscriptions was also found to have a co-efficient of elasticity equal to −1.0. At an elasticity of −1.0 a given change in price will produce a corresponding (*but opposite in direction*) change in demand. Under this condition of unit elasticity, higher prices for advertising and subscriptions would initially offset dollar volume losses. Since total revenues at this point would be the same as before the price increases, there would be a net loss of revenue to publishers reflecting the exact amount of the increased postage costs. However, there would also be a corresponding percentage loss in advertising pages and in subscription circulation.

In addition, the resulting loss in subscription circulation would increase the advertising cost per thousand. And, in due course, this increase in C per M would produce losses in both advertising pages *and revenue* which would *not be offset* by the higher advertising prices.

Financial data for a group of 42 magazines, gathered by Ernst & Ernst and furnished to Foster Associates, Inc. in summary form, indicates that the group's operating profit in 1970 was equal to $32 million on total revenues of $1,016 million.

On the basis of unit elasticity (—1.0) and considering only the *first step* postal increase, it is estimated that the operating profit would have been reduced from $32 million to less than $17 million if the magazines would have attempted to shift the higher costs to advertisers and subscribers. This would have represented a 48% decline in operating profits.

On the basis of the *full* postal increase, attempts to *pass on* the higher cost would have resulted in an *operating loss of more than $7 million.*

The impact would be substantially greater if magazines attempted to *absorb* the higher postal costs. Under this alternative, the *first step* increase would have *reduced operating profits from $32 million to $7.5 million—a 76% drop.*

If magazines would have attempted to *absorb* the *full* postal increase, they would have experienced an *operating loss of more than $59 million.*

Testimony of Stephen E. Kelly

Magazine Publishers Association consists of more than 130 member companies, publishing nearly 400 magazines, which includes almost all of the nation's major consumer publications. The advertising revenues of member publishers annually exceed $1.0 billion. These revenues, in 1970, accounted for approximately 85% of the total reported magazine advertising revenues for that year. Based on an average issue circulation for the second six months of 1970, MPA member magazines account for about 60% of total magazine circulation.

About 112 million adults, or 90% of all men and women 18 years of age and older, are magazine readers. Stated another way, nine out of ten adults read magazines and they each read an average of seven different issues of magazines a month.

Not only do magazines inform and educate the general reading public, but magazines are also used widely in the nation's schools in the formal educational process. A special research study conducted in 1969 for MPA by Scholastic Research Center found teachers use magazines as teaching aids or that about 70% of all secondary school supplements to update textbooks or to enrich the curricula. This compares with the following use of other media by the teachers: supplementary books 67%; record/tapes 57%; newspapers 56%; and about one-third of the teachers use filmstrips, professional graphics and movies. Radio and television are used by about a tenth or less of the teachers.

In April 1969, a study was conducted by Gilbert Youth Research for MPA, among young people 14 through 25 years of age. Emphasizing the different roles that the broadcast and magazine media play in the lives of young people, the survey found that they look to magazines to provide information that contributes to knowledge and self-improvement. Sixty-two percent voluntarily characterized magazines as "informative."

This then is a brief overview of MPA, the magazine publishing industry of which the Association is representative, and the composition of the American magazine reading public.

The readers of magazines have always enjoyed the benefits of preferential rates which have not returned all costs reasonably attributed to the service provided. This preferential consideration of magazine is a means of encouraging and expanding their dissemination, and has been consistent and informed Congressional policy in recognition of the social, cultural and educational value of this unique communications medium since the earliest beginnings of postal service in the United States. Enactment of the Postal Reorganization Act significantly changed the structure of the Post Office Department but it was not intended substantially to destroy the historic postal policy of service to the public which Congress has followed since the Department's inception.

In the light of the increased costs of rendering the postal services, we are willing and—we hope—financially able, as an industry to pay more than we have in the past. Such added burden, however, must be measured by the reasonably expected standards of efficiency in operating the Postal Service and in consonance with the intent of Congress.

Other expert testimony in the record (i.e. Dr. Sherwin) deals in detail with the defects in the Postal Service presentation of the fundamental components of its rates proposal case. But, we have certain concerns that bear mentioning here. We are distubed by the facile disposition by the Postal Service witnesses of the "non-cost" factors in their determination of the assignment of "institutional" costs to the different classes of service. The Postal Service makes not even the pretense of guiding its judgement in assigning these costs with any studies or hard information of any kind. And, in accordance with Sec. 3622(b)(6), which requires the Commission to consider "the degree of preparation of mail for delivery into the postal system performed by the mailer and its effect upon reducing costs", we believe that the degree of preparation of mail by mailers is an incentive factor which must be given consideration in the exercising of judgement on the portion of *"institutional"* costs that class of mail should bear.

Most significant of the factors to which the Postal Service has given inadequate attention is "the effect of rate increases upon the general public (and) business mail users."

I agree with a conclusion by Mr. Hargrove and Mr. Eden, elsewhere in the testimony, that prospectively second class mail "ranks highest among all major classes" in price sensitivity. At the same time, Mr. Eden, at Tr. 3A/426, acknowledges that the Postal Service cannot make a "precise judgment" of the impact of the proposed rate increases on the magazine publishers because they do not have privileged financial information. Unencumbered by any such knowledge, the witness goes right ahead and informs us that" . . . accommodation by publishers—though difficult—is feasible," and that subscribers and advertisers can share the additional cost equally. Mr. Shafer's testimony, based upon an exhaustive study of the industry effectively destroys this assumption.

Further, Mr. Eden testifies that publishers may be able to absorb the rate increases. However, Mr. Shafer's study of the industry financial picture develops an average operating ratio of only 3.1%. Obviously, the absorption of even 50% of the proposed increase for second class would essentially eliminate all net income on an average industry basis.

The testimony of Mr. Keylor, for Time Inc., dramatically demonstrates the impact of such an increase upon one major magazine publisher furnishing many millions of Americans with a wide spectrum of business, financial, cultural, sports and current events information.

Thus, it must be concluded that elasticity of demand for magazines and for magazine advertising is of such a magnitude that neither advertisers nor subscribers will accommodate the proposed increase and the industry is not financially capable of absorbing it.

The Magazine Publishers Association believes that the question of rate design cannot be decided properly on data now available or within the probable time limits of the current proceeding. Therefore, it urges that the historical second-class rate pattern be retained in any determination of this proceeding. A future rate case, built upon knowledge to be gained and with more time for deliberations will permit a better-informed structuring of rates.

I believe that the industry would be willing to attempt, over a period of five years, to absorb an increase of 10% per year above the rate that existed when subchapter II went into effect. I use the word "attempt" advisedly because, as Mr. Shafer's study shows, the industry's profits could be wiped out and turned into a loss before the rates proposed become fully effective. My hope is that by the time such a crunch occurs, the Postal Service will, as the Postal Reorganization Act contemplates, have increased its productivity and efficiency to the point where it could reduce rates and that we would share in such reductions.

At the end of five years, with the 10% increase per year I described, second-class users would be paying an amount equal to the costs which our experts believe should properly be attributed to second-class mail and would, in addition be making a contribution to institutional costs. In other words, we would be paying our way and the Postal Service, on an incremental basis, would be profiting from the business we give it.

REPORT OF THE U.S. COMMISSION ON CIVIL RIGHTS—"ONE YEAR LATER"

Mr. KENNEDY. Mr. President, a year ago the U.S. Commission on Civil Rights issued a massive study on the "Federal Civil Rights Enforcement Effort." That report detailed inadequacies in civil rights enforcement throughout the Federal bureacracy and concluded, "strong remedial measures are needed if all departments and agencies are to carry out their civil rights responsibilities with maximum effectiveness." This past May, following up its study, the Commission issued an interim report which summed up its finding of some improvement coupled with persisting gross inadequacies in the colorful expression, "The dinosaur has finally opened one eye."

The Commission has just issued "The Federal Civil Rights Enforcement Effort: One Year Later," continuing the work of the previous two studies. The conclusion is familiar and disappointing. "Progress clearly is being made. But judged by the more objective standard of civil rights performance, the Federal Government continues to get low marks."

More striking than the verbal conclusion is a chart of civil rights performance by agency and program. The dismal fact is that of the many agencies and programs rated on a scale of good, adequate, marginal, poor, not one ranked as even adequate. Some time ago, this administration told us, "Don't watch what we say—watch what we do." We have been watching what they have been doing for almost 3 years now, and our impression that they are doing pathetically little has been confirmed three times by thorough looks from the Civil Rights Commission.

Mr. President, I ask unanimous consent that the Commission's eloquent introduction to "One Year Later" and its performance chart be printed in the Record; along with an editorial on the report from today's New York Times.

There being no objection, the material

was ordered to be printed in the Record, as follows:

Statement of the U.S. Commission on Civil Rights on "The Federal Civil Rights Enforcement Effort—One Year Later"

The report the Commission is issuing today is a progress report on the status of civil rights enforcement by the Federal Government.

In October 1970 the Commission published a massive study of "The Federal Civil Rights Enforcement Effort." Based on an evaluation of more than 40 departments and agencies with significant civil rights responsibilities, the Commission found that enforcement was characterized largely by inaction, lack of coordination, and indifference. The deficiencies we found were so extensive as virtually to nullify the impact of the important civil rights laws enacted over the last decade and to make a mockery of the efforts of the many men and women who have fought for equal rights.

Last May, the Commission issued a follow-up report to determine what progress, if any, had been made in the seven months since its October 1970 study. Our basic conclusion was that some advances had been made, in the form of tentative first steps combined with promises to do better in the future. As we put it then: "The dinosaur has finally opened one eye."

More than a year has passed since the Commission first spelled out the numerous inadequacies that pervaded the Federal civil rights enforcement effort. Where do we stand today? There is no simple answer to that question. For one thing, the answer depends on the frame of reference used in evaluating the Federal civil rights effort. Thus, when compared to the situation that existed a year ago, the structure of the Government's effort has been improved in a number of important respects.

For example, the President's Council on Domestic Affairs, the key coordinator of executive policy in the domestic area, has established a Civil Rights Committee to focus specifically on civil rights issues of national importance. The Chairman of this Committee is George Shultz, Director of the Office of Management and Budget. A year ago, the Domestic Council had no plans for including the full spectrum of civil rights within the scope of its responsibility. By the same token, the Office of Management and Budget, which plays a central role in assuring effective implementation of national policy, has made a significant start in incorporating civil rights considerations into its entire operation. It was only a year ago that OMB even officially acknowledged that it had any civil rights function.

Nor is the advance limited only to these two agencies, important as they may be. Other agencies—those with more specific civil rights responsibilities—also have moved ahead. Agencies such as the Department of Housing and Urban Development and several of those which have responsibilities under Title VI of the Civil Rights Act of 1964, have improved their civil rights structure and mechanism substantially. Progress clearly is being made.

But judged by the more objective standard of civil rights performance, the Federal Government continues to get low marks. And in the Commission's view, actual performance in the resolution of problems, not progress in the development of mechanisms alone, is the realistic yardstick by which the Government's civil rights effort should be measured.

It is no consolation to the black farmer who continues to receive assistance from the Extension Service on a racially separate and unequal basis that the Department of Agriculture is making progress. It is no source of satisfaction to the Mexican American or Puerto Rican job seeker turned down by a Government contractor that the OFCC is gradually improving. The rights these people are being denied are rights to which they are entitled *now* and the fact that these denials continue cannot be justified on grounds that the Government is gradually gearing up to eliminate them.

Another reason for the difficulty in assessing the current status of Federal civil rights enforcement is the existence of wide disparities in the performance of the many departments and agencies with civil rights responsibilities. Some are taking actions necessary to perform effectively. Others still barely recognize that they have any responsibility at all. This is true even of agencies with the same civil rights responsibilities.

Thus the Federal Home Loan Bank Board, which regulates savings and loan associations, the Nation's major mortgage lending institutions, recently committed itself to an ambitious, and we believe potentially effective, program to assure against discrimination in mortgage lending, which is prohibited by Title VIII of the Civil Rights Act of 1968. But the Board's sister agencies, which regulate commercial and mutual savings banks, also major mortgage lending institutions, have so far declined to adopt similar measures. The Small Business Administration and the Economic Development Administration have been steadily improving their Title VI operation, but the Department of the Interior and the Law Enforcement Assistance Administration still have barely begun to implement compliance programs.

The bar charts we have prepared indicate the progress over the last six months. They also show the disparities in the level of performance of agencies, particularly those with similar or even identical civil rights responsibilities. Above all, the charts reflect the plain fact that the overall level of performance remains low. As you can see, no agency is performing adequately.

While these charts may be thought to carry the flavor of examination scores divorced from the world of reality, that is not the case. Civil rights law enforcement is not an academic exercise and the charts reflect a very harsh reality. The low grades we have assigned to so many agencies are indicators of lack of effective action on their part in dealing with continuing discrimination in areas where the law clearly prohibits it. And the fact that many agencies still are not organized to carry out the law has increasingly tragic and real implications for the future well-being of this country.

Over the past two years, since the Commission began this extensive study of Federal civil rights enforcement, we have learned a good deal about the impediments that underlie strong civil rights enforcement and about what is necessary to stimulate more vigorous action. Perhaps the principal impediment the Commission has found is inertia on the part of the Federal bureaucracy—in some cases, a blind, unthinking, fidelity to the status quo; in others, a calculated determination to do nothing to advance the cause of civil rights.

For example, last February, the Commission sent out questionnaires to a number of agencies in an effort to find out what changes they had made following the Commission's first report on civil rights enforcement. What we learned was that almost no changes had been made, that agencies, instead of responding affirmatively to the Commission's findings and recommendations, had been sitting tight in an effort to weather the storm. It is unfortunate that only when the Commission decided to announce its findings publicly, a few changes began to be made and a few promises extended. By comparison with the previous period, March was a busy month for civil rights throughout the Federal bureaucracy.

By the same token, when the Commission again questioned agencies in September to find out what additional progress had been made, and particularly, whether those agencies that had made promises were delivering on them, we found that only a handful had done anything of significance during the preceding months. Again, the actions that were taken followed our announcement that we would report publicly to the Nation on the status of their civil rights enforcement programs. In few cases could the actions taken be ascribed to the self-initiation of the agency. For the most part, they appeared to be taken out of a desire to avoid public embarrassment. In other cases, the possibility of public embarrassment has failed to bring about even the slightest change.

We also have learned that appearances can be deceiving—that the mere establishment of a potentially effective civil rights mechanism does not necessarily mean that stringent civil rights enforcement will follow. For example, last June the General Services Administration and the Department of Housing and Urban Development announced a new cooperative agreement to assure availability of housing for lower-income families, open without discrimination, in any community in which a Federal installation was to be located. It took nearly five months before any regulations were issued, and internal operating instructions still have not been developed. Federal installations still are being located on a business-as-usual basis.

This example is not unique. In response to Commission inquiries, agencies are quick to announce structural changes that they plan to make, or that they have just made. But rarely do they report full implementation of these changes, and more rarely still, can they point to measurable improvements in minority living conditions as a result of them.

In short, most agencies seem determined to avoid upsetting the status quo for the sake of assuring equal rights and, if change must be made, they often will be changes in form, but not in substance.

The lessons we have learned, however, have not all been negative. We have learned that difficult as it may be to stimulate needed change, it can be done. Not all agencies are resistant to the idea of strict civil rights enforcement. There are agencies, including some that occupy key positions in the Federal hierarchy, that have responded affirmatively.

We also have learned that the instruments of continual monitoring of Federal civil rights activities and public reporting of their inadequacies, which are the principal weapons at the Commission's command, can achieve significant results. What this experience suggests is that a greatly expanded monitoring effort, involving resources much greater than those available to the Commission alone, must be undertaken—an effort in which the civil rights activities of Federal agencies will be subjected to close and continuing scrutiny, and agency heads held publicly accountable.

Here, recent developments are encouraging. Of special importance is the fact that Congress, itself, through a Civil Rights Oversight Committee of the House of Representatives, is now engaged in a review of civil rights enforcement to determine how agency performance should be improved. Private groups as well are recognizing the fact that the area in which the struggle for equal rights is being fought has changed, from that of legislation to the more difficult one of administrative enforcement.

There are some, embittered by the frustrations of dealing with bureaucracy, who may think the Commission is tilting at windmills, that its effort to move the Federal Government to firm enforcement of civil rights laws is futile. The bureaucracy, they contend, responds only to the usual pressures from traditional sources. These pressures are exerted by special interest groups that successfully manipulate Federal programs and Federal officials. They also are exerted by long-time chairmen of key congressional committees and subcommittees—almost always selected by seniority from safe districts—whose power often is used to serve narrow interests, rather than the larger public good. Against these pressures, they are convinced that civil rights advocates can do little.

There are others who see the bureaucracy in a more optimistic light, but nonetheless despair of any progress. From their standpoint, it is all the fault of this Administration. The President's civil rights statements and actions, they contend, have demoralized the bureaucracy and rendered it incapable of positive civil rights action.

The Commission takes a different view. First, we reject the notion that inaction by the Federal bureaucracy is inevitable and we find totally unacceptable the explanation that political pressures in favor of the status quo are irresistable. The fact that salutary changes already have occurred demonstrates that efforts to stimulate them are not useless, that counsels of despair are not warranted.

Second, we cannot agree with those who claim that the problem lies solely with this Administration or with the President personally. As we have noted previously, problems of inadequate civil rights enforcement did not originate in this Administration, nor was there any substantial period in the past when civil rights laws were enforced effectively. In fact, measured by the structures and mechanisms that have been developed over recent months, we now are much better equipped for civil rights enforcement than we were in the past.

Further, those who keep pinning the blame entirely on the President tend to forget the wide discretion that Federal officials have in performing their duties. Always to point accusingly at the President permits many of these career and political appointed officials a fales excuse for inaction.

This is not to say that the President has no role to play in civil rights enforcement. He represents the ultimate source of policy direction to which the Federal establishment looks for guidance. An expression of firm and unswerving dedication to civil rights law enforcement on his part can do much to steel the Executive Branch to vigorous action. And he is, in the last analysis, responsible for the success or failure of his Administration's civil rights program. Above all, it is to the President that the Nation looks, not merely for efficient administration of the law, but, more important, for leadership in helping to resolve the difficult problems facing it.

The Administration has addressed itself to a number of important civil rights issues. The Commission has agreed with some of the policies the Administration has announced and disagreed with others. Thus the Commission has fully supported the Administration's call for increased staff for civil rights enforcement and the establishment of numerical goals and timetables to expand minority employment opportunities. But the Commission also has taken strong exception to some Administration policies, particularly those concerning techniques to facilitate school integration. Nor is the Commission entirely satisfied with the policy on open housing.

Many of these issues are complex and controversial, and have been the subject of deep concern to the Nation. The President has spoken out on them and this, we think, is important in itself. The President cannot lead the Nation by remaining silent on the important issues troubling its people. Further, such public expressions on the part of the Nation's leader can have the effect of sparking a public dialogue, which is a necessary element in the proper functioning of a democratic society.

Equally important, however, is that the policies adopted by the Administration be of the kind that will unify the country and serve the cause of equal justice. Thus it is imperative that the President's Statements on such subjects as school integration and open housing represent, not the last word, but only the beginning of a continuing public dialogue which will lead the American people to achieving a society in which all can share in the Nation's abundance. That goal is not yet in sight.

The Commission is aware of the strength of the forces that serve to impede progress in civil rights. We also are aware that the American people have grown somewhat weary, that the national sense of injustice, which was the foundation on which the legislative victories of the 1960's were built, has dimmed. We are convinced, however, that it can be rekindled and that through governmental leadership and vigorous action by public and private groups, the Nation's pledge of equality, reflected so brightly in the legislative enactments of the last decade, can be redeemed.

Let us be clear on the basic issue to which the Commission's reports have been addressed. The issue is simply law enforcement. Let us also be clear on what the Commission is asking government to do. We are asking nothing more than that Federal officials fulfill the obligation which our Constitution has imposed upon them—that of faithfully executing the law. This is the touchstone by which they can and must be held accountable. It is the standard by which the Commission will continue to evaluate the Government's performance.

Low Marks on Civil Rights

The United States Commission on Civil Rights has hit on the useful device of rating the performance of a wide variety of Government agencies in the battle against discrimination and social injustice. Unfortunately, the initial report card is far from encouraging. Few of the agencies have risen above a failing mark.

When governmental mechanisms are revised without noticeable improvement in the field, as this report indicates they have been, one must suspect that the organizational reforms are merely a facade to make conditions appear better instead of actually making them so.

The most useful aspect of the report is that it will enable the commission to pinpoint progress, if any, in the future and to hold those agencies accountable which are now on record as having created the enforcement machinery to do the job. It is not easy to be optimistic about the Government's dedication to the civil rights issue so long as such major agencies as the Veterans Administration and the Justice Department's Law Enforcement Assistance Administration continue to receive the dismal rating of "lowest" in progress. It is particularly disheartening that the Internal Revenue Service, in direct violation of the law, was found still to be allowing tax-exempt status to those all-white academies which have been set up in the South to circumvent school desegregation.

The President's most forceful statements on the subject have been not in support of civil rights but in opposition to school busing. There is room for legitimate doubts about busing as a primary desegregation device; but the fact is that Mr. Nixon has, as the commission emphasized, repeatedly put the prestige of his office behind the antibusing movement without suggesting any alternatives or providing persuasive leadership to the cause of integration. So long as the White House remains the symbol of foot-dragging, the governmental machinery will stay in low gear on the difficult road to equal rights.

THE NATIONAL FORESTS ARE IN TROUBLE

Mr. METCALF. Mr. President—

The national forests, the country's biggest single reservoir of material and recreational resources, are in trouble.

Mr. President, this is the lead sentence of an excellent report in the Sunday, November 14, New York Times on the situation facing us on the 187 million acres of national forest lands. Gladwin Hill, the writer, quotes my colleague from Wyoming, Senator McGee, to the effect that many of the management policies of the agency responsible for this vast reservoir of forest land are themselves "wreaking havoc with the environment."

My colleague and I would scarcely be in greater agreement. Both of us have been critical of many Forest Service practices, particularly of the Service's adoption of clearcutting as its primary method of harvesting timber from the Nation's forest preserves. This practice of stripping vegetation from tracts of productive harvest land is both unsightly and in many cases ecologically disruptive, as the Times article notes. It amounts to "mining" timber, not managing it as the Bolle Report on the Bitterroot National Forest in my own State concluded.

Mr. President, the conclusion is inescapable that action must be forthcoming to protect the national forests and insure their continued availability to the American people. Senator McGee has one bill pending to authorize an interdisciplinary study of clearcutting. I have pending the proposed Forest Lands Restoration and Protection Act, which envisions a rational approach to a long-term national policy aimed at restoring the grandeur of America's forests.

Time is wasting. The forests are indeed in trouble. So that Senators may familiarize themselves with the background of this statement, I ask unanimous consent that the New York Times article headlined "National Forests: Physical Abuse and Policy Conflicts," be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

National Forests: Physical Abuse and Policy Conflicts

(By Gladwin Hill)

The national forests, the country's biggest single reservoir of material and recreational resources, are in trouble.

Covering nearly one-tenth of the nation's area and worth untold billions of dollars, these preserves have long been considered limitless. But their integrity is now being threatened by both physical abuse and imponderables of national policy.

With increasingly bitter charges and countercharges being sounded over the management of the national forests, a six-month inquiry into the complexities of the controversy has shown that:

Bulldozers and tractors are boring into some of the nation's last remnants of pristine wilderness.

"Clear-cutting" of timber has left thousands of square miles of bald patches in the forests, some of which may never regrow.

Archaic laws and regulations are allowing choice expanses of the forests to be gouged and scarred by mining operations.

Nearly half the national forests' forage areas have been overgrazed or otherwise rendered substandard.

Preoccupation with the forests' commercial roles has severely retarded their development for public uses.

Pressures for increased timber production have led to extensive violations of the spirit, if not the letter, of laws intended to preserve the forests in perpetuity.

Propelled by the force of the "environmental revolution," the situation appears headed toward early showdowns within the Nixon Administration, in Congress and in litigation reaching all the way up to the Supreme Court.

The outcome as a whole could profoundly affect both the face of the nation and the quality of life of its citizens. At stake are 154 national forests, averaging 2,000 square miles each in area and spanning 40 states from Florida to Alaska.

They cover 187 million acres—nearly an acre for every man, woman and child in the country. The nation spends over $500-million a year to maintain and operate the forests—$1.5-million a day. They yield about $300-million in revenues, mostly from the sale of timber.

The public's recreational use of the national forests is officially reckoned at double the use of the national parks, and is fast approaching the numerical equivalent of every citizen's spending a day in the forests each year.

Unlike the smaller national parks system, which is run by the Department of the Interior, which comprises only 28 million acres and which is dedicated entirely to recreation the national forest system is run by the Department of Agriculture and is dedicated to "multiple use."

The forests by law are supposed to fulfill six functions: recreation, watershed maintenance, wildlife preservation, timber production, grazing and mining.

In one degree or another, the six-month investigation indicates these activities are being impaired or compromised under the national forests' present administration.

"The Forest Service's management policies are wreaking havoc with the environment, Senator Gale McGee, a Wyoming Democrat, said recently. "Soil is eroding, reforestation is neglected if not ignored, streams are silting, and clearcutting remains a basic practice."

MISMANAGEMENT CHARGED

He is in the forefront of a growing body of critics of the national forest administration. Their ranks include members of Congress, conservationists, citizen groups, scientists, economists and even, to an extent, the timber industry.

The gist of their complaints is that the national forests are being mismanaged—that over-emphasis on the forests' commercial functions has led to excessive logging and long-term impairment of their noncommercial functions.

The Forest Service has acknowledged that many of the charges are true in some measure but it contends that such lapses are the exception rather than the rule.

Although generalizations about 154 separate national forests can be tenuous, evidence supporting the critics' principal allegations can be found from coast to coast.

In Montana's Bitterroot National Forest, there are whole mountainsides so skinned of centuries' growth of pondersoa pine and Douglas fir that they look more like man-made pyramids for a weird science-fiction film.

In West Virginia's Monongahela National Forest, clear-cuts up to a mile wide have defaced the landscape, disrupted drainage and routed wild game from ancient haunts.

Wyoming's Bridger National Forest, like many others, is scarred by remains of badly built logging roads.

In the national forests of the Northwest are countless instances of erosion and siltation that even Federal water experts have been moved to deplore publicly.

Federal auditors over the last decade have found repeated instances of maladministration of the forests costing taxpayers millions in cash, recreational opportunities, watershed values and wildlife preservation.

Reconciling the national forests' "multiple uses" has always been inherently a problem. But during a half century of the nation's "economy of abundance" the 66-year-old United States Forest Service managed to juggle its conflicting responsibilities in relative obscurity and serenity.

Now, suddenly, the forests have been caught up in the "environmental crunch"—the post-World War II population explosion, the recreation explosion, soaring demands for all the forests' varied resources, and a sudden ascendance of esthetic values.

These converging currents have precipitated many collisions among the diverse functions of the forest, collisions that have been compounded into an unpublicized but palpable administrative crisis. Its major aspects include:

The Forest Service's traditional autonony has run headon into new laws making all Federal agencies publicly accountable for the environmental impact of everything they do.

Forest Service decisions, rulings and actions are being challenged in courts at all levels throughout the country.

Public criticism has engendered a crossfire of conflicting legislative proposals affecting the forests.

From Congress and other quarters is coming a swelling stream of demands for a large-scale investigation of the whole national forest administration.

The Nixon Administration, in the executive reorganization plan it has placed before Congress, has acknowledged that the management of the national forests is less than optimal and needs revamping.

IMBALANCE AGGRAVATED

A 10-year national forest development program outlined by President Kennedy to Congress in 1961 sought to right an admitted imbalance between commercial and noncommercial functions. Instead the imbalance has been aggravated.

Year after year, commercial functions of the forests have been receiving close to 100 per cent of projected financing, the noncommercial functions closer to 50 per cent or less.

The national forests are presumed to contain about 35 per cent of the nation's "inventory" of standing marketable timber, and have been providing about 18 per cent of the national timber supply.

Nominally, the Forest Service is cutting only 1.1 per cent of its timber annually, well within the rate calculated to maintain the forests indefinitely. But it admittedly achieves this ratio only by balancing excessive cutting in prime timber and prime locations against low levels elsewhere.

Under prolonged pressure to produce more timber, the Forest Service in 1964 adopted clear-cutting—the unsightly and ecologically disruptive practice of completely stripping forest tracts—as its primary "harvest" method in place of selective cutting.

SUBSIDIARY OF INDUSTRY

Sixty per cent of the national forest timber harvest recently has been performed by clear-cutting—more than double the proportion, according to the timber industry, on private and public lands generally.

"The Forest Service," Representative John Dingell, Democrat of Michigan, remarked recently, "is a wholly owned subsidiary of the timber industry."

A panel of specialists from the University of Montana investigated national forest management last year and reached a similar if less blunt conclusion.

"The de facto basis of Forest Service appropriations," the panel reported, "is the dollar income from national forests. . . . The director of the Forest Service thus becomes primarily one of supplying building materials. . . ."

Another witness on the point is Dr. Edward C. Crafts, formerly second in command of the Forest Service.

"The Forest Service," he told a Congressional hearing in 1969, "is close to the brink with respect to timber management. Right now it is cutting about twice as much softwood sawtimber [the principal type of construction lumber] as it is growing. This situation cannot last."

Such criticism circulates also within the Forest Service. In a confidential intraservice memorandum, a high-ranking official of the agency last year lamented: "Our attention has largely been centered on industry problems related to contracts and valuation . . . Our measuring stick for the quality of timber sales is whether or not a forest has met its sell-and-cut goals."

MINING AND GRAZING

Other complaints, of long standing, have concerned mining and grazing.

Under public-land mining laws going back for a century, 140 million of the national forests' 187 million acres are open to anyone who wants to stake out a mining claim for specified minerals. Eventually, by complying with some simple regulations, a claimant can get a permanent title to the land involved.

The Forest Service shares jurisdiction with the Department of the Interior over such operations, and there is a lot of buck-passing. But conservation lawyers have been accusing the Forest Service of not exercising regulatory powers it plainly has.

The Monongahela National Forest is riddled with coal mining operations. A choice expanse of the Challis Nation Forest in Idaho currently is threatened by a molybdenum mining project. A phosphate mining project is threatening a portion of the Los Padres National Forest that is one of the last refuges of the rare California condor. Many other national forests are subject to similar disruptions and actual alienation of their land.

Over half of the 187 million acres of national forest land nominally is open to grazing, but only half of that—50 million acres—is considered suitable for use. Of this, 18 million acres is officially classified as in "poor" condition—the result, experienced Forest Service officials have said, of systematic over-grazing.

Another alleged victim of the Forest Service's solicitude for commercial activities has been the movement to preserve a small portion of the nation's wilderness in its pristine status in pursuance of a law enacted by Congress in 1964.

On many tracts proposed by conservationists for preservation, the Forest Service has moved conversely for the early introduction of logging and road building. The agency's seeming partiality to preserving timber-barren uplands has led to jokes about a policy of "wilderness-on-the-rocks."

COMPLAINTS OF INDUSTRY

Amid all the allegations of excessive logging in the national forests, the timber industry itself—base of the $36-billion-a-year business that provides the nation with most of its wood and paper products—has also been bitterly unhappy.

Dependent in part on the national forests for its raw material, the industry contends the Federal preserves are not producing enough. It blames this on "inefficient" operation and on efforts of "preservationists" to restrict logging.

In 1969 the industry was instrumental in formulating the national timber supply bill. It called for national forest timber revenues, which now go into the United States Treasury, to be systematically plowed back into augmentation of national forest wood production.

A major argument advanced was that without more timber from the national forests, lumber prices would soar and crimp the Administration's housing program. The bill was energetically supported by both the White House and the Forest Service.

Conservationists called the measure a license to "raid" the national forests, and in February, 1970 persuaded the House of Representatives not to consider the bill.

Nevertheless, President Nixon thereupon passed on to the Forest Service a White House task force recommendation that the national forest timber harvest be increased 50 per cent by 1978—primarily to help meet projected needs for housing lumber.

Some experts question these purported needs and the national forest's responsibility for meeting them. In any case, conservationists say, they could largely be met simply by stopping timber exports, which now are running about 5 billion board-feet a year. But stopping the lucrative exports is a move that the timber industry, the White House and the State Department alike oppose.

Conservationists' resentment intensified when the Congressionally appointed Public Land Law Review Commission, after five years' study, recommended last year that up to half of the national forests' timber land be dedicated to the "dominant use" of timber production, with other uses subordinated.

SELF-CRITICISM BY OFFICIALS

For two years the Forest Service has been engaged in an extended exercise in self-reproach.

"Our programs are seriously out of balance," the agency's graying 62-year-old chief, Edward P. Cliff, has acknowledged repeatedly, both in anguished Congressional testimony and in intra service communications exhorting his 20,000 personnel to change the service's direction and emphasis.

The essence of his defense is that the national forests like other governmental and non-governmental entities, were caught short by the recent radical shift of public opinion about environmental values; that defects in the management of the national forests are the exception rather than the rule, and that there is nothing that cannot be rectified eventually either by the stream of administrative orders emanating from Forest Service headquarters in Washington or by bigger and better-balanced Congressional appropriations.

These explanations and reassurances Forest Service critics reject out of hand. They contend the agency's troubles stem from a long-standing bureaucratic detachment from public sentiment that needs to be rectified by law.

Unquestionably, there are recurrent instances of at least a pronounced gap in rapport between the Forest Service and the public.

This spring some irate residents of the Shasta-Trinity National Forest area in California shot a Forest Service ranger who was simply carrying out his duties inspecting a mine.

Residents of Balsam Grove, N.C., were outraged when a ranger, in a land title dispute, bulldozed a large crater and buried a trailer that was a mountaineer's home.

Before the United States Supreme Court is a conservationists' suit to block a projected ski development in the Mineral King Valley in California's Sequoia National Forest.

Among other things, the plaintiffs complained that the project was initiated and inflated from a $3-million plan over an eight-year period without a single public hearing on its acceptability.

The first confrontation on national forest management came this spring at hearings on clear-cutting conducted by the Senate Interior Subcommittee on Public Lands.

Over a period of weeks, more than 100 witnesses from conservation and citizen groups, the Forest Service and the timber industry, along with forestry scientists, debated clear-cutting, without arriving at any consensus on whether it was good or bad.

However, bills were introduced in Congress calling for a moratorium on clear-cutting as well as for other rigorous regulation of both public and private forest lands.

And the indications are that this was only the opening skirmish of a long battle over the national forests.

LEGISLATIVE PROGRAM OF THE PRESIDENT

Mr. SCOTT. Mr. President, from time to time throughout the year the Senate Republican Policy Committee staff has produced a tabulation of what the President has asked Congress to do in the way of legislation—and what Congress actually has done. Such a tabulation entitled "Legislative Program of the President—Part VI" was published November 18.

Because of the widespread interest in this matter of just how much Congress has or has not done that the President requested, I ask unanimous consent that this document be printed in the RECORD.

There being no objection, the document was ordered to be printed in the RECORD, as follows:

LEGISLATIVE PROGRAM OF THE PRESIDENT

PART VI

NOVEMBER 18, 1971.

"All government,—indeed, every human benefit and enjoyment, every virtue and every prudent act,—is founded on compromise and barter."—EDMUND BURKE.

STATUS OF BILLS TO IMPLEMENT MAJOR LEGISLATIVE MESSAGES OF THE PRESIDENT—92D CONG., 1ST SESS.

Message, title and date; bill No.	Senate		House		Conference report agreed to—		Date approved	Public Law No
	Reported	Passed	Reported	Passed	Senate	House		
State of the Union, Jan. 22, 1971 (Memo No. 71–5):								
Welfare Reform: H.R. 1	Hearings		May 26	June 22				
Cancer Conquest—new agency:								
S. 1828 (as amended)	June 29	July 7	Nov. 10	Nov. 15				
H.R. 8343								
Cancer Conquest—$100,000,000: H.R. 8190 (second supplemental).	May 13	May 19	May 6	May 12	May 24	May 20	May 25	92–18.
Unfinished Business, Jan. 26, 1971 (Memo No. 71–5):								
Small Business amendments:								
S. 544	No hearings							
H.R. 7692			No hearings					
Longshoremen's disability compensation:								
S. 525	No hearings							
H.R. 3505			No hearings					
Alaska Native Claims:								
S. 1571	Hearings							
H.R. 10347 (S. 35) passed in lieu	Sept. 15	Nov. 1	Sept. 28	Oct. 20	Senate asks			
Indian control over certain Federal programs:								
S. 1573	No hearings							
H.R. 2376			No hearings					
Indian amendments:								
S. 2033	No hearings							
H.R. 8064			No hearings					
Assistant Secretary of Interior for Indian and Territorial Affairs:								
S. 291	July 26	August 5						
H.R. 8062			No hearings					
Indian Trust Council Authority:								
S. 2035	Hearings scheduled							
H.R. 2380			No hearings					
Financing Indian Organization Development:								
S. 2036	No hearings							
H.R. 2378			No hearings					
Indian Business Development Act:								
S. 2237	No hearings							
H.R. 8340			No hearings					
Micronesia claims and compensation: H.J. Res. 671	July 10	July 17	June 25	July 9			July 1	92–39.
Wholesome Fish and Fishery Products Act:								
S. 700 (included in S. 2824)	Nov. 8							
H.R. 3666			No hearings					

Message, title and date; bill No.	Senate		House		Conference report agreed to—		Date approved	Public Law No.
	Reported	Passed	Reported	Passed	Senate	House		
Drug Identification Act:								
S. 788	No hearings							
H.R. 3667		No hearings						
Salacious Advertising:								
S. 428	No hearings							
H.R. 2331		No hearings						
Obscene materials to minors:								
S. 429	No hearings							
H.R. 2330		No hearings						
Nontestimonial identification:								
S. 430	No hearings							
H.R. 2329		No hearings						
Wagering Tax:								
S. 431	No hearings							
H.R. 1010		Oct. 12						
Protection of public buildings by GSA:								
S. (not yet introduced)								
H.R. (not yet introduced)								
National Institute of Education: S. 659 (part of H.R. 7248).	Aug. 3	Aug. 6		Nov. 5	House asks			
mergency School Aid Act (Desegregation):								
S. 1557 (clean bill)	Apr. 15	Apr. 26						
H.R. 2266			Oct. 19	Failed to pass Nov. 1.				
H.R. 2266 subsequently added to H.R. 7248 by amendment on Nov. 4.								
H.R. 7248 passed House on Nov. 5. (Proceedings vacated and S. 659, with language of H.R. 7248, passed in lieu).								
FederalCity Bicentennial Corporation:								
S. 715	No hearings							
H.R. (not yet introduced)								
D.C. Capital Program Financing Act:								
S. 1339	No hearings							
H.R. (not yet introduced)								
Ports and Waterways Safety Act:								
S. 698 and H.R. 867	Hearings							
H.R. 8140 (committee bill with administration support passed in lieu)			Oct. 12	Oct. 18				
Vessel-to-vessel radiotelephones: H. Res. 549	Apr. 26	May 4	July 12	July 21			Aug. 4	92–63.
Rural telephone bank:								
S. 70	Feb. 25	Mar. 1						
S. 70 (as amended)			Feb. 22	Mar. 24	Apr. 29	May 4	May 7	92–12.
Authorize Secretary of Agriculture to insure FHA operating loans:								
S. 1806	May 7	May 11						
H.R. 10538		Oct. 1	Sept. 13	Sept. 30			Oct. 5	92–133.
Grant Consolidation:								
S. (not yet introduced)								
H.R. 30			No hearings					
Joint Funding Simplification:								
S. (not yet introduced)								
H.R. 6532			No hearings					
AEC amendments:								
S. 957	Hearings—Joint Committee on Atomic Energy.							
H.R. 5523								
President's authority to designate FPC chairman:								
S. 982	No hearings							
H.R. 6312			No hearings					
Natural Gas Act amendments:								
S. 701	No hearings							
H.R. 3668			No hearings					
Transfer of cost accounting standards board:								
S. 1901	No hearings							
H.R. (not yet introduced)								
Defense Production Act Extension with amendments (act expires June 30, 1972): S. 669								
Stockpile Disposals: S. 751–778	June 17	June 21	July 28				August 11	92–83 through 92–116.
Silver certificates:								
S. 670	February 11	February 18						
H.R. (retains Senate number)								
VA Burial Allowance:								
S. (not yet introduced)								
H.R. 3348			No hearings					
Eliminate TB Disability:								
S. (not yet introduced)								
H.R. 3347			No hearings					
Reimbursement for VA care:								
S. 2807	No hearings							
H.R. 3350			Hearings					
Sale VA Direct Loans: H.R. 3344	July 22	July 23	June 24	July 6			Aug. 5	92–66.
Airline User Tax:								
S. (not yet introduced)								
H.R. (not yet introduced)								
Highway User Tax:								
S. (not yet introduced)								
H.R. (not yet introduced)								
Immigration and Nationality Act amendments of 1971:								
S. 1899	No hearings							
H.R. 2328			Hearings					
Asian Development Bank—$100 million:								
S. 749	Oct. 14	Oct. 20						
H.R. 5013			Hearings					
Inter-American Development—$900,000,000:								
S. 748	Oct. 14	Oct. 19						
H.R. 5014			Hearings					
Draft Reform, Jan. 28, 1971. (memo No. 71–5): Military Selective Service Act:								
S. 427								
H.R. 6531 (clean bill without enlistment bonus)	May 5	June 24	Mar. 25	Apr. 1	Sept. 21	Aug. 4	Sept. 28	92–129.
Federal Executive Service, Feb. 2, 1971 (memo No. 71–5):								
S. 1682	Hearings							
H.R. 3807			No hearings					

STATUS OF BILLS TO IMPLEMENT MAJOR LEGISLATIVE MESSAGES OF THE PRESIDENT—92D CONG., 1ST SESS—Continued

Message, title and date; bill No.	Senate		House		Conference report agreed to—		Date approved	Public Law No.
	Reported	Passed	Reported	Passed	Senate	House		
Transportation Labor Disputes, Feb. 3, 1971 (memo No. 71-5): Emergency Public Interest Protection Act:								
S. 560	Hearings							
H.R. 3596			Hearings					
General Revenue Sharing, Feb. 4, 1971 (Memo No. 71-5):								
S. 680	No hearings							
H.R. 4187			Hearings					
Environment, Feb. 8, 1971 (Memo No. 71-6):								
$6,000,000,000 to build municipal waste treatment facilities:								
S. 1013 and H.R. 5962	Hearings							
S. 2770 passed in lieu of S. 1013, S. 1014, and S. 1012	Oct. 28	Nov. 2	Executive session					
Environmental Financing Authority:								
S. 1015	Nov. 3							
H.R. 5970			Hearings					
Improve, enforce water quality standards:								
S. 1014	Hearings							
H.R. 5966			Hearings					
Increased Federal aid to State water pollution control programs:								
S. 1012	Hearings							
H.R. 5958			Hearings					
2 international conventions on oil spills: Executive G.	Aug. 8	Ratified Sept. 20.						
Federal Environmental Pesticide Control Act:								
S. 745 and H.R. 4512	Hearings		Hearings					
H.R. 10729 passed in lieu with administration support.			Sept. 25	Nov. 9				
Toxic substances:								
S. 1478	Hearings							
H.R. 5276		No hearings						
Regulation of ocean dumping:								
S. 1238 and H.R. 4247	Hearings							
H.R. 9727 passed in lieu	do		July 17	September 9				
Noise Control:								
S. 1016	do							
H.R. 5275			Hearings					
National land use policy:								
S. 992	Hearings							
H.R. 4332			Hearings					
Land and Water Conservation Fund Formula adjustments:								
S. 990	No hearings							
H.R. 4705			No hearings					
Power Plant Siting Act of 1971:								
S. 1684	No hearings							
H.R. 5277			Hearings					
Mined Area Protection Act of 1971:								
S. 993	Hearings							
H.R. 4704			Field inspection					
Tax measures for historic buildings:								
S. (not yet introduced)								
H.R. (not yet introduced)								
Federal Insurance for historic buildings:								
S. (not yet introduced)								
H.R. (not yet introduced)								
Environmental Institute:								
S. (not yet introduced)								
H.R. (not yet introduced)								
National Resource Land Management Act of 1971:								
S. 2401	Hearings							
H.R. 10049			Hearings					
Health, Feb. 18, 1971 (Memo No. 71-6): ,								
Health Maintenance Organizations: ,								
S. 1182	Hearings							
H.R. 5615			No hearings					
Health Manpower:								
S. 1183 and H.R. 5614								
H.R. 8629 and H.R. 8630 passed in lieu with administration support. ,		July 14	June 9	July 1	Oct. 19	Nov. 9		
National Health Insurance Partnership Act of 1971:								
S. 1623	Hearings							
H.R. 7741			Hearings					
Higher Education, Feb. 22, 1971 (Memo No. 71-6):								
National Student Loan Association scholarships:								
(S. 1123) in S. 659	Aug. 3	Aug. 6		Nov. 5	House asks			
H.R. 5191			Hearings					
National Foundation for Higher Education:								
S. 1062—Title III of S. 659	Aug. 3	Aug. 6		Nov. 5	House asks			
H.R. 5192			Hearings					
Consumer Affairs, Feb. 24, 1971 (Memo No. 71-8):								
Drug Identification:								
S. 788	No hearings							
H.R. 3667			No hearings					
Consumer Product Safety Act:								
S. 1797	No hearings							
H.R. 8110			Hearings					
Consumer Fraud Prevention:								
S. 1222	Hearings							
H.R. 6315			No hearings					
Federal Trade Commission Act amendments:								
S. 1219	Hearings							
H.R. 6313			Hearings					
Fair Warranty Disclosure Act of 1971:								
S. 1221	Hearings							
S. 986 passed in lieu	July 16	November 8						
Consumer Products Test Methods Act:								
S. 1692	Hearings							
H.R. 6891			No hearings					
Consumer Protection Act—to create agency in Executive Office of the President: H.R. 10835			September 30	October 14				

Message, title and date; bill No.	Senate		House		Conference report agreed to—		Date approved	Public Law No.
	Reported	Passed	Reported	Passed	Senate	House		
Law Enforcement Revenue Sharing, Mar. 2, 1971 (Memo No. 71-8):								
S. 1087	No hearings							
H.R. 5408			No hearings					
Manpower Revenue Sharing, Mar. 4, 1971 (Memo No. 71-8):								
S. 1243	No hearings							
H.R. 6181			Hearings					
Urban Community Development Revenue Sharing, Mar. 5, 1971 (Memo No. 71-8):								
S. 1618	Hearings							
H.R. 8853			Hearings					
Rural Community Development Revenue Sharing, Mar. 10, 1971 (Memo No. 71-8):								
S. 1612	Hearings							
H.R. 7993			No hearings					
Transportation Revenue Sharing, Mar. 18, 1971 (Memo No. 71-8):								
S. 1344	No hearings							
H.R. (not yet introduced)								
Action, Mar. 24, 1971 (Memo No. 71-12): Reorganization Plan No. 1 (became law after S. Res. 108 (of disapproval) failed to pass Senate on June 3 and H. Res. 411 (of disapproval failed to pass House on May 25).								
Government Reorganization, Mar. 25, 1971 (Memo No. 71-12):								
Department of Community Development:								
S. 1430	Specific hearings							
H. R. 6964			Specific hearings					
Department of Natural Resources:								
S. 1431	Specific hearings							
H.R. 6963			Overview hearings					
Department of Human Resources:								
S. 1432	Overview hearings							
H.R. 6966			Overview hearings					
Department of Economic Affairs:								
S. 1433	Overview hearings							
H.R. 6965			Overview hearings					
Education Revenue Sharing, Apr. 6, 1971 (Memo No. 71-12):								
S. 1669	Hearings							
H.R. 7796			No hearings					
District of Columbia, Apr. 7, 1971 (Memo No. 71-12):								
D.C. Representation: H.J. Res. 46			Hearings					
National Capital Transportation Act:								
S. 2297	No hearings							
H.R. (not yet introduced)								
D.C. Development Bank:								
S. 2196	No hearings							
H.R. 11313			Hearings					
Foreign Assistance Reform, Apr. 21, 1971 (Memo No. 71-12):								
Proposed to separate International Security Assistance Act; and								
S. 1657	Hearings							
S. 2819 passed in lieu	Nov. 8	Nov. 11						
Humanitarian Assistance Act:								
S. 1656	Hearings							
S. 2820 passed in lieu	Nov. 8	Nov. 10						
(H.R. 9910, Foreign Assistance Act amendments combining military and humanitarian aid reported first)	Oct. 21	Failed Oct. 29	July 26	Aug. 3				
Wilderness Preservation, Apr. 28, 1971 (Memo No. 71-23):								
S. 2453	No hearings							
H.R. 10752			Hearings					
Legal Services Corporation, May 5, 1971 (Memo No. 71-23):								
S. 1769 and H.R. 8163			Hearings					
S. 2007 passed in lieu	July 30	Sept. 9		Oct. 1	House asks			
Energy Program, June 4, 1971 (Memo No. 71-23):								
Power Plant Siting Act:								
S. 1684	No hearings							
H.R. 5277			Hearings					
Department of Natural Resources:								
S. 1431	Specific hearings							
H.R. 6963			Overview hearings					
Sulfur oxide emissions charge:								
S. (not yet introduced)								
H.R. (not yet introduced)								
Drug Control, June 17, 1971 (Memo No. 71-23): Special Action Office for Drug Abuse Prevention:								
S. 2097	Nov. 17							
H.R. 9264			Hearings					
New Economic Policy Address (Taxes), Aug. 15, 1971 (Memo No. 71-25): Revenue Act of 1971: H.R. 10947.	Nov. 9		Aug. 29	Oct. 6				
Minority Business Enterprise, Oct. 13, 1971 (Memo No. 71-26):								
Assistant Secretary of Commerce for Minority Enterprise:								
S. (not yet introduced)								
H.R. (not yet introduced)								
Small Business amendments:								
S. 544	No hearings							
H.R. 7692			No hearings					
Indian Business Development Act:								
S. 2237	No hearings							
H.R. 8340			No hearings					
Indian Financing Act:								
S. 2036	No hearings							
H.R. 2378			No hearings					
D.C. Development Bank:								
S. 2196	No hearings							
H.R. 11313			Hearings					

MESSAGE ON MINORITY BUSINESS ENTERPRISE

October 13, 1971.

Repeats request for additional $40 million for Office of Minority Business Enterprise.

Would help Minority Enterprise Small Business Investment Companies (MESBICs) by legislation to:

Cut qualifying figure for Federal "three for one" assistance in half;

Allow Small Business Administration (SBA) to purchase preferred stock of MESBICs; and

Lower interest rate on SBA loans to MESBICs. Renews recommendations for:

New Assistant Secretary of Commerce for Minority Enterprise;

Passage of S. 544 and S. 2237 proposed in *Unfinished Business Message* of January 26, 1971 (See *Memo* No. 71–5, pp. 3–4); and

Passage of D.C. Development Bank Act of 1971 (S. 2196) proposed in *District of Columbia Message* of April 7, 1971 (See *Memo* No. 71–12).

TRIBUTE TO THURMAN SENSING

Mr. THURMOND. Mr. President, the recent death of my good friend, Thurman Sensing, marks the end of a career which was dedicated to the education of young people and to the sound principles upon which our country was built.

Mr. Sensing, who lived in Nashville, Tenn., was president of Southern States Industrial Council Educational Foundation. A middle Tennessean by birth, he held degrees from Vanderbilt University and George Peabody College. He served for many years as business manager for George Peabody College and was one of the organizers of the Southern Association of College and University Business Officers. He was a former president of that organization and served for several years as its secretary-treasurer.

Mr. Sensing was noted as a keen analyst of the political and economic scene. He was a stanch advocate of individual freedom and a free competitive economy. His firsthand study of the situation in Great Britain, where he made an intensive 3 months' study in 1949 finding out what happens to a people's freedom and a people's economy under a Socialist government, received wide attention. He was also there in the fall of 1964, observing their general election, when the Socialists were returned to power.

He spent 2 months in Rhodesia, Southwest Africa, South Africa, and Liberia in the fall of 1966, observing the interesting and vital situation in that part of the world. He made a tour of the continent of South America in the winter of 1968, and then in the winter of 1969 toured New Zealand and Australia, thus completing his trips to the Southern Hemisphere.

Mr. Sensing was in great demand as a speaker, and several of his speeches were printed in the magazine, Vital Speeches of the Day.

For 25 years, Mr. Sensing was author of the weekly column, "Sensing the News," which appeared in many newspapers throughout the country, and was widely reprinted in other publications. At one time his column appeared in as many as 150 daily and 600 weekly newspapers in all 50 States of the Union.

During his quarter century with the council, Mr. Sensing made more than 1,000 addresses in most of the States of the Union, in the District of Columbia, Canada, and England. He received five awards from the Freedoms Foundation of Valley Forge for his writings and speeches.

Mr. Sensing's keen insight into what is good for America is reflected in three essays written by him entitled, "The Republic," "What is Free Enterprise?," and "The Beginnings of the American Free Enterprise System." I ask unanimous consent that these essays be printed in the Record.

There being no objection, the essays were ordered to be printed in the Record, as follows:

The Republic

(By Thurman Sensing)

Our Constitutional fathers, familiar with the strength and weakness of both autocracy and democracy, with fixed principles definitely in mind, established a representative republican form of government. They "made a very marked distinction between a republic and a democracy . . . and said repeatedly and emphatically that they had founded a republic." They knew full well the dangers of a democracy, and never intended that we should have a democracy. Our pledge of allegiance refers to the flag "and to the Republic for which it stands."

Professor Alexander Fraser Tytler, writing nearly two centuries ago, about the decline and fall of the Athenian Republic, while our thirteen original states were still colonies of Great Britain, said this:

"A Democracy cannot exist as a permanent form of Government. It can only exist until the voters discover they can vote themselves largess out of the public treasury. From that moment on the majority always votes for the candidate promising the most benefits from the public treasury with the result that Democracy always collapses over a loose fiscal policy, always to be followed by a Dictatorship."

Are we being misled by this age-old fallacy in government, and allowing ourselves to deteriorate into a democracy with the inevitable doom that that form of government envisages? Our record in recent years, and the writing and speaking of many people these days, indicate that we are.

When the New Deal came into power, it withdrew from Army posts and the Government Printing Office a "Citizenship" training manual which had been in use. This manual, which has never been restored, defined clearly and concisely the difference between a democracy and a republic. Here's what it said:

DEMOCRACY

A government of the masses.

Authority derived through mass meeting or any other form of "direct" expression.

Results in mobocracy.

Attitude toward property is communistic—negating property rights.

Attitude toward law is that the will of the majority shall regulate, whether it be based upon deliberation or governed by passion, prejudice, and impulse, without restraint or regard to consequences.

Results in demagogism, license, agitation, discontent, anarchy.

REPUBLIC

Authority is derived through the election by the people of public officials best fitted to represent them.

Attitude toward property is respect for laws and individual rights, and a sensible economic procedure.

Attitude toward law is the administration of justice in accord with fixed principles and established evidence, with a strict regard to consequences.

A great number of citizens and extent of territory may be brought within its compass.

Avoids the dangerous extreme of either tyranny or mobocracy.

Results in statesmanship, liberty, reason, justice, contentment, and progress.

Why was this citizenship training manual withdrawn from use? Why are our present day political leaders so often referring to our government as a democracy? Are they conditioning the minds of the people? Is it because that only under a democracy, and not under a republic, they can gain control of the affairs of the people?

When Benjamin Franklin came out of the Constitutional Convention on September 17, 1787, he was asked, "Well, Mr. Franklin, what have we got? "His answer was, "You have a Republic, if you can keep it." Have we now reached the point where we must make this decision? It would seem that we have.

As citizens of the Republic of the United States of America, we could set ourselves no better task these days than to take a refresher course in the founding of our nation and the establishment of its government.

What Is Free Enterprise?

(By Thurman Sensing)

It is generally understood by all thoughtful people that it is the free enterprise system here in America that has brought our nation from a few struggling colonies along the Atlantic seaboard to a position of preeminence among the nations of the world in the comparatively short period of one hundred ninety-four years.

The free enterprise system is the secret—if it can be called a secret—of our success. It has produced for the American people the greatest productive capacity and the highest standard of living the world has ever known.

Even so, there is considerable question as to whether the average person knows what the free enterprise system actually is or could clearly define it. We are great salesmen of our material goods, but we have trouble talking intelligently about, much less selling, our greatest product—free enterprise. We must preserve our free enterprise system if we are to remain a great nation—yet how can we preserve it if we do not understand what it is we are trying to preserve?

It would be well, therefore, for every citizen of this country to have a clear understanding of the meaning of free enterprise.

Basically, the free enterprise system means freedom of the individual. Under the free enterprise system, the individual is free to make something of himself if he has the enterprise to do it. Too many people put too much emphasis on "free" and too little emphasis on "enterprise".

There are undoubtedly many false notions concerning free enterprise. The free enterprise system is not manna from Heaven". It doesn't mean that the world owes you a living. It doesn't mean "something for nothing". It doesn't mean acceptance of the "government'll-take-care-of-you" philosophy. It doesn't mean license, either. It doesn't mean that a manufacturer can operate sweatshops or that a merchant can gouge his customers.

The free enterprise system does mean that the individual is responsible for his own welfare and his own salvation, that he has the right to carve out his own destiny and chart his own future. It means that his government guarantees him opportunity—and nothing more. That is the whole philosophy of freedom; that is the concept of liberty under which this nation was founded.

Under the free enterprise system, the individual has the incentive to work and save and invest and profit thereby so long as he harms no one else in the process. His future depends upon his own ambition.

The choice is always before us. It is a choice between free enterprise and state control. It is a choice between a constitutional republican form of government and a totalitarian form of government, whether it be socialism or communism or dictatorship.

The difference between a free nation and a slave nation can be very simply stated. In a free nation, the people accept the responsibility for their own welfare; while in a slave nation that responsibility is turned over to the government. Or, to put it another way, meaning the same thing, in a free nation the state gets its rights from the people; while in a slave nation, the people get their rights, if any, from the state.

As long as people live, there will undoubtedly be those who will shirk from accepting freedom as their own responsibility. They will want their government to provide their security, guarantee them minimum wages, guarantee them full employment, guarantee them good prices for their products, guarantee them good housing, guarantee the solvency of their loans, guarantee them medical care, and many other things.

Such people are thereby choosing slavery rather than freedom. For this is the security of the penitentiary. This is the freedom of totalitarianism. This is the rejection of individual responsibility. So far as the United States of America is concerned, such choice would be a betrayal of our whole heritage and an abandonment of the philosophy under which we have grown and prospered.

The Beginnings of the American Free Enterprise System

(By Thurman Sensing)

INTRODUCTION

The following is a reprint of a former pamphlet issued under the title, "A Thanksgiving Story." It could also be called "A Christmas Story," or just "A Plain Common Sense Story." Above and beyond all this, though, it could be called, and is called, "An American Free Enterprise Story." It contains, or at least implies, the two basic elements of free enterprise—incentive, and the profit system.

Socialism did not work in this instance at Plymouth, and it has not worked in the many instances it has been tried since in the United States of America and elsewhere in the world. The reason it has not worked is because socialism violates certain fundamental economic and moral laws that make it impossible to work.

After these glaring failures, one wonders why people continue to apply socialistic principles and to accept socialist forms of government. All of which probably illustrates the truth of Santayana's statement that "Those who refuse to learn from the lessons of history are doomed to repeat its mistakes."

The sad part about those who refuse to learn from the lessons of history is that they are thereby consigned to a life of hardship and deprivation, just as were the Pilgrims at Plymouth during their first three years.

These are facts which the people of this country should learn and heed in the days ahead.

A THANKSGIVING STORY

The coming of the Pilgrims to the New England coast in 1620 forms a glamorous chapter in American history. The fact that is generally ignored, overlooked and unknown about this landing at Massachusetts Bay 350 years ago is that it marked the first Socialist settlement in America. The main lesson about this settlement that is generally ignored, overlooked and unknown is that this experiment in socialism failed within three years' time, and—for their very survival—the Pilgrims had to turn to what we now know as the American free enterprise system.

Through the years, it would have been—and it still would be—a valuable lesson to the pupils in the classrooms studying American history if this lesson in the failure of socialism (the dictionary gives the same definition for communism) were emphasized.

Before landing, the Pilgrims entered into what is known as the Mayflower Compact. Under this Compact, Plymouth was set up as a share-the-wealth community. Nobody owned anything. Whatever was produced belonged to the community as a whole. They called this system "the commone course and condition." They lived under this system from the desperate, disease-ridden first winter of 1620–21 until the hungry spring of 1623. Then they changed to private enterprise. Why? We find the answer in a book written by William Bradford, one of the leading original Pilgrims and second governor of Plymouth Colony, entitled "Of Plimoth Plantation."

The Pilgrims weren't long under this "commone course and condition," writes Bradford, until it "was found to breed much confusion & discontent, & ritard imployment that would have been to their benefite and comforte. For the young men that were most able and fitte for labor and service did repine that they should spend their time & strength to worke for other mens wives and children, without any recompense. The strong . . . had no more in devision of victails & cloaths than he that was weake. . . .

"Upon the poynte all being to have alike, and all to doe alike, they thought themselves in the like condition, and one as good as another. And so, if it did not cut off those relations that God hath set amongst men, yet it did at least much diminish and take of the mutuall respects that should be preserved amongst them."

Instead of a Thanksgiving feast in the fall of 1622, there was literal starvation and hopelessly low morale. "So they begane to thinke how they might raise as much corne as they could . . . . that they might not still thus languish in misere. At last, after much debate of things, the governor" (Bradford himself) "gave way that they should set corne every man for his own particular. . . . And so assigned to every family a parcell of land. . . . This had very good success for it made all hands very industrious, so as much more corne was planted than other waise would have bene."

The Pilgrims offered thanks for deliverance from socialism with a great Thanksgiving feast in the fall of 1623.

Then Bradford philosophizes somewhat, "The experience that was had in this commone course and condition, tried sundrie years, and that amongst Godly and sober men, may well evince the Vanitie of that conceite of Plato's and other ancients, applauded by some of later times;—that the taking away of propertie, and bringing in communitie into a commone wealth would make them happy and flourishing; as if they were wiser than God!"

This is the story about the Pilgrims that should be taught in our schools—because "that conceite of Plato's and other ancients" is still "applauded by some of later times." Men still have the idea "that the taking away of propertie, and bringing in communitie into a commone wealth would make them happy and florishing." Socialism had been tried many times before Plymouth Colony; it has been tried many times since. It has always failed. It is always destined to fail, because it violates certain fundamental economic and moral laws that simply will not be violated.

"As if they were wiser than God!"

MRS. NELLIE TAYLOE ROSS

Mr. McGEE. Mr. President, I would like to take this opportunity to pay tribute to a distinguished Wyoming citizen who is celebrating her 95th birthday today. She is Mrs. Nellie Tayloe Ross, the first women ever elected Governor of a State in this Nation. Mrs. Ross achieved that distinction by winning the November 24, 1924, general election.

It is also very fitting that Wyoming—"The Equality State"—can boast of electing the first woman Governor. And Mrs. Ross soon proved to be an outstanding Governor utilizing her intelligence, tact, and graciousness to the maximum degree, enabling her to become a highly competent administrator and effective public speaker.

Although Mrs. Ross, after receiving her party's nomination for another term as Governor, failed to win the 1926 general election, she remained very active in a life of public service. Her service to the Democratic National Committee was extremely notable. And for 20 years, from 1933 until 1953, she served as Director of the U.S. Mint.

Mrs. Ross still resides in Washington, D.C., exhibiting the same vivacity and charm which has always been her trademark. She still exhibits the same high degree of intelligence which enabled her to be a very effective administrator during her years of public service to Wyoming and this Nation.

So, it is with a great degree of respect and admiration that I pay tribute to an outstanding woman and citizen of this great Nation. She has served us with great distinction. I wish Mrs. Nellie Tayloe Ross many happy returns.

PRESENT VETERANS' PENSION PROGRAMS

Mr. THURMOND. Mr. President, S. 2866 and S. 2867, now in the Veterans' Affairs Committee, will be reported to the Senate on or about November 30, 1971.

As of March 16, 1971, social security increases were granted to approximately 60 percent of veterans drawing VA pensions. Thus, S. 2866 was submitted to prevent a loss of payments to these individuals.

S. 2866 will provide an average cost-of-living increase of 6 to 6½ percent in non-service-connected pension rates. This will be payable to 1.6 million widows and veterans, and is necessary to prevent many of them from losing their entire pension.

Mr. President, this insurance against pension loss is only in connection with the increased social security payments received by the veteran or veteran's widow. This bill will increase the maximum annual income limitation for non-service-connected pension programs by $300. It will provide a limitation of $2,600 for a single veteran and $3,800 for pensioners with dependents. A new formula for payments of pensions will be established which will be more responsive to the needs of veterans' widows so long as their income does not exceed maximum limitations.

This bill will preclude the loss of aggregate income in the future whenever a pensioner might receive an increase in income from some other source. S. 2866 also provides a cost-of-living increase from $16 to $17 which will be payable to eligible children receiving death benefits.

If a veteran's dependent is lost during any calendar year by reason of marriage, divorce, or death, S. 2866 will permit the VA to continue paying benefits to the end of the calendar year, as if there had been no such loss. Finally, S. 2866 will increase the annual income limitation for veterans and widows who come under the old pension program prior to July 1, 1960, as well as the Mexican border veteran. This annual income limitation will be increased by $300.

Mr. President, the next bill, S. 2867, has also been introduced to respond to needed changes within the veterans' pension system. S. 2867 pertains to dependency and indemnity compensation. It provides a general cost-of-living increase for payments to survivors of veterans who died as a result of service-incurred disabilities. S. 2867 will amount to about a 10-percent increase in these veterans' monthly payments. Because of this bill 46,000 children will receive a 5-percent increase.

Mr. President, under S. 2867 the annual income limitation for dependent parents will be increased by $300. Such an increase will provide a 6½-percent increase for 68,000 parents. This increase will prevent these parents from incurring a loss of aggregate income because of social security increases. S. 2867 will also allow for the first time aiding dependents in the amount of $55 a month for the dependent parent.

These bills were unanimously passed by the House and provide needed cost-of-living increases for nearly 2 million veterans, widows, and dependent children. A new and more equitable formula must be established in regard to our veterans' pension program.

Mr. President, time is an essential factor and in order to prevent these veterans' widows and dependent children from having their pension payments reduced or entirely cut off as of January 1, 1972, prompt action must be taken by the Senate before adjournment. These needed bills deserve the consideration of Congress and I urge the Senate to act quickly after the Veterans' Affairs Committee has reported these bills.

THE MILLER-COLVIN APPRECIATION NIGHT

Mr. THURMOND. Mr. President, on November 18, the Merchants Association of Holly Hill, S.C., paid tribute to two families whose lifetime contributions have been chiefly responsible for much of the employment in that community. They are the W. J. Colvin, Sr., family, and the L. E. Miller, Sr. family.

The occasion was an appreciation dinner held in the Holly Hill High School gymnasium. I was invited to deliver the address at this dinner, and I looked forward to it with great anticipation since I have long been aware of the outstanding record of these two families.

Due to some important votes which came before the Senate on that date, I found it impossible to attend this dinner and honor my friends. My assistant, Mr. Wayne Robbins, went to the appreciation dinner as my representative and he delivered the address before approximately 500 citizens who came from far and near to show their gratitude for these two families.

While I regret deeply that I was unable to attend, I have been told that the night was a high success and that the Millers and Colvins received their well-deserved tribute for their long and untiring service.

Mr. President, I ask unanimous consent that Mr. Robbins' address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS BY WAYNE ROBBINS

Mr. Folk, members of the Miller and Covin families, ladies and gentlemen: The man who wanted so much to be standing here tonight is unable to do so because of some very important votes which are likely to come up this evening in the United States Senate. The highly significant tax bill which affects all of us is before the Senate, and I understand that 79 amendments have been offered. All of these amendments must be acted upon before the vote on the final bill can come up. Any one of them can have a dramatic effect on the final form of the legislation, and Senator Thurmond feels he should be right there to vote on as many of these amendments as possible.

Before I left Washington, Senator Thurmond called me into his office and said, "Wayne, I want you to go down to Holly Hill and help me honor two of the most outstanding families in our whole State of South Carolina." He said, "You don't know the Colvin and Miller families as well as I do, so sit down there and let me tell you some things that you ought to know about them."

Senator Thurmond began to talk, and before he had finished, I realized fully why this occasion is taking place tonight. I also realized that I had missed something by not being more personally acquainted with the Millers and the Colvins. It is no exaggeration or over-dramatization to say that America, the greatest country in the history of the world, was built and sustained by men and families such as these two we honor tonight.

The Senator's latest weekly newsletter which comes out next week deals with a subject that is closely related to what we are doing here tonight. It is so close that I am going to "scoop" him and tell you about parts of it. I hope he won't mind.

The newsletter is entitled, "The System Works." Senator Thurmond calls attention to the fact that we live in an era when the American establishment is undergoing unprecedented challenge from within. He says that it is refreshing to him to note that our system still produces champions and success stories while there are those that would destroy our basic values and traditions. America, despite the revolutionaries, continues to be a country where a man can start modestly and rise to the top of his profession. This is not true in many countries in our world, and those who profess to be political revolutionaries or militant critics ought to bear that in mind when they advocate the overthrow and revision of the American way of life.

Perhaps there is no better example of what makes our country great anywhere than the example we see here in the Miller and the Colvin families. Their roots run deep in this area and they have applied their energies to progress and well-being for their community and their state. Jobs have been created as a result of their enterprise and the quality of life has been raised. They have invested their time, their treasure, and their lives in the society and the system which nurtured them. Both they and their society are better off today because of it.

Two men began this success story back in 1927. That was a good year for success. Some of you may remember that was the year Charles Lindbergh made his famous flight across the Atlantic in "The Spirit of St. Louis," marking man's first non-stop oceanic flight. That was the year Babe Ruth hit sixty home runs for the New York Yankees, setting a record that still stands today. It is true that Roger Maris hit sixty-one homers a decade ago, but he had the benefit of a 162 game schedule and the Babe played when the season was only 154 games long. 1927 was also the year that W. J. Colvin and L. E. Miller bought the old R. L. Moore Lumber Company in Boyer. That was the beginning.

Each man put up ten thousand dollars to buy the company. It became known as the Holly Hill Lumber Company. Tragedy struck in 1935 when the mill burned. The character of Miller and Colvin was shown when the company was not only rebuilt, but almost immediately launched into a period of growth and expansion. In 1936, these two friends bought the Chapman-Storm Lumber Company at Four Holes. They changed the name to Holly Hills Cypress Company, and that name stuck until 1948 when it merged with Holly Hill Lumber Company. They kept growing. They bought mills and timber lands at Denmark, Kingville, Ridgeville, and Black Branch—all operating under the name of Holly Hill Lumber Company.

Today, the Holly Hill Lumber Company has grown to a prominent three-pronged operation. In 1964, the Santee Portland Cement Corporation was chartered, and, shortly afterward, began the production and sale of cement. It appeared logical that duties be divided between the two families, so the Millers operated the cement company and the Colvins directed the lumber company.

Just a few weeks ago, construction began on the third operation of this unusual and outstanding two-family enterprise. This one is the Southern Pine Plywood Plant. Senator Thurmond was pleased and happy to have been able to help get federal assistance for this construction. The Economic Development Administration provided a loan of something like three and a quarter million dollars, and they were happy to do it, because Senator Thurmond told them about the record of these two families and what they meant to this community in terms of employment and economic growth.

The growth of these operations has been steady over the past ten years. Their financial house has been in good order with no judgments or claims against them. Dun and Bradstreet has given them their highest ranking in both financial strength and credit reliability. Their reputation in the business and trade communities for fair dealings and quality products is far above average.

And this all started in that record setting year of 1927, by two men—L. E. Miller, Sr., and Jerome Colvin.

One of these two men cannot be with us tonight—except in spirit. Jerome Colvin passed away in 1965, after nearly eighty years of full and effective life. I think it only fitting on this occasion that we take a brief look at his life.

William Jerome Colvin was born in 1886, in Feasterville, in Fairfield County. He grew up there and entered Erskine College, graduating in 1909. After graduation, he taught mathematics and was principal of the high school in Mullins for two years. While there he met another teacher named Lillian Sipple. He was to know her better in later years. In 1911, Jerome Colvin moved to Badham where he began a long lifetime in the lumber business, working for the Dorchester Lumber Company. Two years later, he married Lillian Sipple, and they became the parents of two sons and two daughters. The daughters are Mrs. James L. Wells, of Orangeburg; and Mrs. Julius Eldridge of Sumter. We'll tell you about the sons in a moment.

The Colvin family moved to Holly Hill in 1927 when the first lumber company was bought. A few years later they built their beautiful brick, two story home across from the Holly Hill Elementary and High School. Friends still talk about their beautiful yard where rare varieties of camellias were added to the lovely azaleas and evergreens.

Jerome Colvin became the first president of the newly formed Lions Club of Holly Hill. He was a trustee of Holly Hill schools for twenty years, and served as chairman of the board of trustees for many years. He was a director of the First National Bank in Holly Hill and took an active interest in its affairs. When Erskine College created a board of counselors in 1962 composed of outstanding alumni, Jerome Colvin was one of the first men to merit this honor, and he served on this advisory group for the rest of his life.

Lillian Colvin died in 1954; eleven years later, Jerome died. Friends and family will always remember his stately carriage. He walked erect with great dignity and was viewed with affection and respect by all who knew him. He had served as a Colonel on the staff of Governor Strom Thurmond, and that public servant still cherishes the memory. He told me so.

Jerome Colvin's partner in those early years was Lawrence E. Miller, Senior. I feel that I know him well already, because he picked cotton in his early years as I did, and I can tell you that is an experience that breeds kindredship. L. E. Miller grew up in the said hill country of Lexington County, the son of a farmer and timber harvester. They tell me the cotton was sparse in that country, but he picked it anyway. As a young boy, he trapped rabbits to sell at the Farmer's Market on Assembly Street in Columbia. He fished in the creeks for catfish, and, generally, kept himself busy with the necessities of sustaining life in those bare hills.

His schooling in the Lexington County schools was basic, and at an early age he enrolled in Draughans Business School in Columbia. Driving a mule and wagon, he made the trip daily some sixteen miles to school where he completed the two-year curriculum in one year. Upon graduation, the president of the school called him into his office and gave him some advice. He said, "Lawrence, congratulations! Now, I would suggest that you go out and buy yourself some long pants before you look for a job." And that's how L. E. Miller got his first pair of long pants.

From that day to this one, he has devoted his total life to his family, community and business. His devotion and pride of accomplishment is second only to his genuine interest in the well-being of his fellow man. He is not a man who indulges in personal pleasures. His every effort is to make life better for those who follow. I am told that Santee Portland Cement would never have been, except for his dogged determination.

L. E. Miller served at General Pershing's headquarters in France during World War I. He is married to the former Elizabeth Copeland, and they have four children, two sons and two daughters. The daughters are Mrs. R. F. Boyd of Norfolk, Virginia; and Mrs. E. S. Gregg, Jr., of Ridgefield, Connecticut. And they tell me that Mr. and Mrs. Miller are looking forward to their golden wedding anniversary next month.

These two sketches probably give you a good idea why Holly Hill Lumber Company and Santee Portland Cement are such solid enterprises today. They were built by solid men.

But they would not stay solid long if they were not directed under the outstanding leadership of men like the current administrators—and I am talking about the Miller and Colvin sons.

The Vice President for Sales at Santee Portland Cement Company is Larry Miller, Jr. He was born in that magic year of 1927, when the records were set, and when Holly Hill Lumber Company was born. A business administration graduate from Presbyterian College, he spent most of his earlier years in preparation for the leadership he is bringing his company today. Larry Miller is married to the former Anna Breeden of Bennettsville, and they have four sons who, no doubt, will have much to say about what happens to Santee Portland Cement Company in the Twenty-first Century.

Larry served with the U.S. Air Force on Okinawa during the last part of World War II. He is a Mason, an Elk, a Rotarian, a member of VFW, and he was the first president of Porter Military Academy Alumni Association. He has been active as a Cub and Boy Scout Master during the past several years. He is president of the Orangeburg-Wilkerson High School Band Boosters Club. He is area chairman of Ducks Unlimited. I don't know what that is, but I have an idea I'd like him to take me duck hunting.

Larry's brother, Harold, serves Santee Portland as vice president and treasurer. He is a graduate of Presbyterian College and Duke University, holding a graduate degree in forestry. He served for thirteen years as head of the Forestry Department at Holly Hill Lumber Company, holding the position of vice president and secretary.

Harold is married to the former Jo Ann Tucker, and they have two sons and a daughter. He is a past president of the Holly Hill Lions Club. He was a Jaycee and is a Mason and a member of the Orangeburg Elks Club. Like Larry, he has demonstrated a keen interest in the activities of young people, serving in a leadership capacity with the Boy Scouts of America.

The family tradition has continued also in the Holly Hill Lumber Company. W. J. Colvin, Jr., known as Billy, spent most of his younger years participating in and directing the growth of the company his father was to head. He went into the business immediately upon graduation from Wofford College, serving apprenticeships in all office procedures, including payroll, accounting, invoicing, and government reports, He had 37 months of combat in the Pacific during World War II, emerging with the rank of Captain.

After the war he returned to the Holly Hill office as Vice President of Production. In this position he was responsible for the over-all operation of the plant.

Billy has continued the family tradition for service and leadership in civic affairs. He, too, is a past president of the Lions Club. He has been a trustee of the local school board for the past eight years, and is chairman of the board of trustees of Columbia College. He has served four terms on the town council, and six years on the board of directors for the Southern Pine Association. He is married to the former Elise Allen of Allendale, and they have four children.

The president and chief executive officer of Holly Hill Lumber Company is Cal Colvin, also born in that record year, 1927. He graduated with honors from The Citadel as a distinguished military student after having graduated as a first-honor student in high school. He is married to the former Mildred Jones of Thomaston, Georgia, and they, too, have four children.

Except for college and military service, Cal has spent his entire life in the Holly Hill community. Like his father and brother, he has devoted most of his life to the family business.

This young man has not limited himself to South Carolina in contributing to the advancement of his business and in his cooperation with related interests across our nation. He is a member of Lumbermen's Underwriting Alliance Advisory Board, Kansas City, Missouri; Southern Regional Export Expansion Council of Depatment of Commerce, Washington, D.C.; and Forestry Council of the Federal Land Bank, Columbia, South Carolina. He serves on the Orangeburg County Forestry Board of the South Carolina State Commission of Forestry.

His membership on policy-making bodies reads like a "Who's Who In America." It includes: past president and chairman of the board of the Southern Forest Products Association; 1969 chairman of the Economic Council of the Forest Products Industry; a member and past chairman of the Committee of Past Chairmen, Economic Council of the Forest Products Industry; trustee of the American Forest Institute; director and member of the Executive Committee, National Forest Products Association; South Carolina Representative to the Forest Products Political Education Committee; past governor (representing South Carolina) of the Southern Pine Inspection Bureau; a past member of the board of the Southern Cypress Manufacturers Association; a member of the "Wood and Wood Products" Editorial Advisory Board; "Man-of-the-Month" Award (February, 1969) from the "American Building Supplies" magazine; a recipient of the "Wood Salutes" award (March 1968) from the "Wood and Wood Products" magazine; and he appeared in Washington on behalf of the industry at Senate and House hearings during 1968–69 at the "Lumber Crisis" hearings. He was also a member of various Task Forces presenting industry problems to Cabinet Members and the White House.

Those long years of experience are paying off now as he and his brother lead the company today.

These are only a few of the reasons why it is fitting and proper for us to honor these two outstanding families here tonight. If it is true that you get out of life what you put into it, the Colvins and the Millers are rich indeed. No doubt, the richest treasure they have is the high esteem and respect in which they are held by their neighbors.

Now, what are we talking about tonight? We are talking about the American dream. These two families represent the American dream in two of its most dramatic examples. They have known the meaning of hardship, of hard labor and toil; but they possessed a trait that set them apart from lesser men. They had a burning desire to succeed. This intense desire was coupled with a willingness to pay the price, and the price was for them what it has always been for all of us—hard work, self-discipline, and a well-balanced sense of values.

They paid that price, and they stand as living evidence today that the American dream, nurtured in the American system of freedom and individual initiative, can come true for us too. For that we are forever grateful to the Millers and the Colvins.

QUORUM CALL

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDENT** pro tempore. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The **PRESIDENT** pro tempore. Is there further morning business? If not, morning business is concluded.

ECONOMIC STABILIZATION ACT OF 1971

The **PRESIDENT** pro tempore. Pursuant to the previous order, the Chair lays before the Senate the unfinished business, which the clerk will state.

The second assistant legislative clerk read as follows:

> S. 2891, to extend and amend the Economic Stabilization Act of 1970.

The Senate resumed the consideration of the bill.

Mr. **BYRD** of West Virginia. Mr. President, I suggest the absence of a quorum.

The **PRESIDENT** pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. **SPARKMAN**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDENT** pro tempore. Without objection, it is so ordered.

Mr. **SPARKMAN**. Mr. President, I believe the pending business has been laid before the Senate. Is that correct?

The **PRESIDENT** pro tempore. Yes; it has.

PRIVILEGE OF THE FLOOR

Mr. **SPARKMAN**. First, Mr. President, I ask unanimous consent that other members of the staff of the Committee on Banking, Housing and Urban Affairs be allowed the privilege of the floor. Our staff director, Dudley O'Neal, is here, and our minority counsel, Mike Burns, is already here. Under the rules, how many in addition would we be entitled to?

Mr. **BYRD** of West Virginia. Under the rules, there would be four committee staff people, including the two now on the floor. If the Senator wants additional ones, he can ask unanimous consent.

Mr. **TOWER**. Mr. President, will the Senator yield?

Mr. **BYRD** of West Virginia. I yield.

Mr. **TOWER**. That is to say, I am entitled to have two, is that correct?

Mr. **BYRD** of West Virginia. That is correct.

Mr. **TOWER**. That is, committee staff members?

Mr. **BYRD** of West Virginia. Yes.

Mr. **TOWER**. Am I entitled to additional personal staff members?

Mr. **BYRD** of West Virginia. One, as the manager of the bill on the Republican side.

Mr. **TOWER**. I thank the Senator.

Mr. **SPARKMAN**. Mr. President, there are many phases to this rather complex bill, and, as Senator Tower knows, different staff members worked on different parts of it, and I ask unanimous consent that, in addition to the number regularly allowed, we have the privilege of having as many as four additional staff members on both sides.

The **PRESIDENT** pro tempore. All together?

Mr. **SPARKMAN**. In addition to those that are automatically allowed.

Mr. **BYRD** of West Virginia. This would make a total of eight?

Mr. **SPARKMAN**. Yes.

The **PRESIDENT** pro tempore. Is there objection? Without objection, it is so ordered.

Mr. **SPARKMAN**. Mr. President, before we commence debate on S. 2891, I should like to take just one second of the Senate's time to compliment the members of the Banking, Housing and Urban Affairs Committee for their long and arduous work and their cooperation which was evident in the development of the legislation that is pending before us.

This has been a most difficult measure, and we were on it quite a long time. I do not know just how many days we did spend on it. We had excellent attendance throughout the whole time. The entire membership worked hard and conscientiously to develop this legislation, and when it finally came out, I believe that most, and I think perhaps all of us, thought that as a whole, it was a good bill.

Of course, there may be things in it that a Member may not agree with it. There are provisions in here that I do not particularly like. But it represents a consensus of the committee, and when the committee reported it out, I believe the vote was 14 to 0. I am not sure—maybe 14 to 1.

Mr. **TOWER**. I believe it was 14 to 1.

Mr. **SPARKMAN**. I believe that is correct. But it does represent very much the consensus of the committee.

Mr. President, I also want to commend the staff of the committee for the splendid job they did for us in connection with this legislation. We have had wonderful staff assistance throughout the consideration of this measure by the committee.

S. 2891 is a good bill. Like any piece of legislation that comes before the Senate, there are provisions in it that I may not particularly like, and I am sure that is true of every other committee member. I think that is usual. However, I do believe it is an improvement over some of the proposals which were sent to the committee, and I support the bill.

On the desk of every Senator is a copy of the committee report—Senate Report No. 92-507—which accompanies S. 2891. I believe that every Senator will find this an excellent report and it was one which our staff was required to put together in a minimum of time. They worked hard and did an excellent job, and I compliment them upon it.

Mr. President, on August 15, 1971, the President announced his new economic program. This program provided for a 90-day freeze on all wages, salaries, rents, and prices. The President acted under the authority of the Economic Stabilization Act of 1970, as amended. This act authorizes the President to:

> Issue such orders and regulations as he may deem appropriate to stabilize prices, rents, wages and salaries.

This 90-day period was called phase I in the President's economic stabilization program.

On October 7, 1971, the President announced his postfreeze economic stabilization program. This phase II program went into effect on November 14, 1971. Phase II entails flexible controls on certain exemptions and authority for adjustments to bring about equity rather than across-the-board freezes on wages, salaries, rents, and prices.

The authority granted to the President under the Economic Stabilization Act of 1970, as amended, expires on April 30, 1972. On October 19, 1971, the President sent to the Congress a message containing a proposed bill to extend and amend the Economic Stabilization Act of 1970. On the same day the senior Senator from Texas (Mr. TOWER) and I introduced S. 2712 in the form requested by the President. The President requested in this legislation a 1-year extension to this authority. In addition, the President requested authority to stabilize interest rates and dividends. He also requested amendments which would strengthen the enforcement of phase II by providing subpena powers, civil penalties, and court authority to order restitution. His request also included special arrangement for administrative and judicial review and provisions relating to personnel and funding.

The Committee on Banking, Housing and Urban Affairs held very thorough hearings on the President's proposals. The committee held a number of executive sessions to consider these matters in detail. As a matter of fact, we held six executive sessions to consider this legislation. We met on November 9, 10, 11, 16, 17 and 18, 1971. We voted to report a clean bill (S. 2891) to the Senate on November 18. I think that we have reported a much better bill to the Senate than the President sent to us.

The bill as reported by the committee contains:

First. Presidential authority to control prices, rents, wages, salaries, dividends and interest,

Second. Standards to be observed in applying controls,

Third. Enforcement procedures and provisions for administrative and judicial review,

Fourth. Necessary administrative authority for the effective operation of the program,

Fifth. Certain limitations on wage, salary and price controls, and

Sixth. An extension of authority to carry on the program for one additional year.

Section 2 of the committee bill—that is S. 2891—amends the Economic Stabilization Act of 1970 in its entirety. The various sections of the act as amended by this bill are as follows:

Section 201 provides that the short title of the act is the Economic Stabilization Act of 1970.

Section 202 states the findings of Congress that a stabilization program is necessary and the President is given the authority to establish and operate such a program.

Section 203 specifies the authority

given to the President to stabilize prices, rents, wages and salaries, interest and dividends. It also prescribes standards to guide the use of this authority. It exempts from the exercise of the authority substandard earnings and other wage increases prescribed by laws such as the Fair Labor Standards Act.

Section 204 permits the delegation by the President of the authority granted to him to agencies of the Government and to other boards and commissions that he may establish for the purpose.

Section 205 preserves the confidentiality of certain business information submitted to Government agencies performing functions under the act.

Section 206 gives a nationwide subpoena power to the agencies exercising authority for any purpose related to the act.

Section 207 specifies certain characteristics of the administrative review procedures to be used by these agencies. It exempts these agencies from the full operation of the Administrative Procedure Act.

Section 208 provides for a $5,000 criminal fine for each violation and a $2,500 penalty for each violation.

Section 209 authorizes the Attorney General to bring injunctive actions. He may also seek a court order for restitution of overcharges.

Section 210 authorizes treble damage suits to be brought by private persons against violators of regulations or orders.

Section 211 specifies the form of judicial review for cases and controversies arising under the act. It also creates a Temporary Emergency Court of Appeals for handling appeals and passing upon constitutional questions.

Section 212 gives authority for hiring and compensating personnel necessary to perform functions authorized by the act.

Section 213 authorizes the hiring of experts and consultants needed for the program.

Section 214 expresses the concern of Congress for the special needs of small business enterprises and directs that, to the extent possible, they be given full and expeditious assistance in their dealings with the agencies operating under the program.

Section 215 authorizes the appropriation of funds necessary to carry out the functions authorized.

Section 216 extends the authority given in the act for 1 year to April 30, 1973.

Section 217 ratifies the actions previously taken under the act with respect to personnel and expenditure of funds.

Section 218 provides that invalidation of one part of the program will not ratify the whole.

Mr. President, this is a section-by-section description, quite briefly, of what the bill seeks to do.

Mr. TOWER. Mr. President, I wish to associate myself with the remarks of the distinguished Senator from Alabama, who has presided so ably and so well over the formulation of a very complex and very important piece of legislation. I think we must consider this bill an extremely important element in the current war against inflation.

We are all aware of the consistent problem that inflation has posed for this country in the 1960's and 1970's, and of the problems it has posed for maintaining a stable price structure, for making informed business and personal decisions, and for the meeting of expenses of persons living on fixed incomes, principally our elderly population. The deleterious effects of inflation on Americans and the American economy are very pervasive and very difficult to measure in quantitative terms, but it is quite evident that we would be substantially economically better off without a high rate of inflation, and that we should take appropriate governmental actions to reduce the level of inflation.

The President's actions on August 15 marked a significant change in policy in this regard; until that time, since the dismantling of the Korean war economic controls, the only policy weapons that were used or thought to be needed were fiscal and monetary actions designed to keep the supply of credit tailored to production-demand conditions and to stimulate economic expansion when unemployment increased, However, inflationary expectations that have been built up over the last decade were not affected by mere financial policies of the Government; witness the increases in such prices as labor costs and interest rates over the 1960's in the face of more than an adequate supply of these respective factors, and in spite of monetary and fiscal policy to the contrary.

Consequently the President determined that wage and price controls had to be invoked temporarily in order to attack the problem of inflationary expectations directly. Although no one is particularly anxious to see this type of economic control imposed, the country has generally accepted the temporary necessity of this action and I believe will continue to support the President in this program to knock out inflationary expectations. Monetary and fiscal policy can again serve to keep inflation under control, when the extraordinary inflationary expectations our economy has experienced in recent years have been flattened out by the present controls program.

In the bill before the Senate, the wage and price control authority granted to the President in the Economic Stabilization Act is extended from its present expiration date of April 30, 1972, to April 30, 1973. This extension is called for now because the country needs to know whether Congress means to stand by this grant of authority over the period of time controls will be needed. Even though some decontrol has already occurred and will continue to occur before April 30, 1972, some controls will almost certainly need to be continued beyond that time.

If business firms and other organizations are to know how to plan and budget for the future, and, to a certain extent, if individuals are to know how to plan and budget their own finances, they need to have some firm idea now of whether controls will continue past April 30, rather than to face extremely uncertain economic ground rules after that date.

It is imperative that Congress give the Nation a firm basis for economic planning now by enacting this bill and putting to rest any doubts about the intent of Congress to see this program through to a successful conclusion.

Mr. President, again let me express my thanks to the distinguished Senator from Alabama, the chairman of the Committee on Banking, Housing and Urban Affairs, for the way in which he handled this measure; for the objective way in which he went about trying to accept and accommodate ideas designed to improve the bill; for his nonpolitical, bipartisan spirit. I think we have come out with a very good bill, one that we can all repair to, one that does not create any kind of partisan advantage or disadvantage for anybody, one that objectively addresses itself to the resolution of the very grave economic ills that confront our country.

I am hopeful that this bill will be enacted without any substantial or significant amendment that will alter the substance of it.

Mr. President, I ask unanimous consent to have printed in the RECORD a statement prepared for delivery by the distinguished Senator from Utah.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR BENNETT

Mr. President, I hope that the Senate will approve S. 2891, the Economic Stabilization Act of 1971 as reported by the Committee. The Committee has considered all of the important issues involved in the proposal and has made reasonable decisions. The final bill reported is a good bill. It is unfortunate that it has been found necessary to have governmental controls over wage and price decisions, but the impatience with the results of the classical monetary and fiscal measures which the Administration and the Federal Reserve have used, and the fact that wages and prices seemed to either be unaffected by these measures or reacted insufficiently to these general economic stabilization tools over a period of almost three years was an indication that the inflation psychology which has built up over the latter half of the sixties would not yield to such measures without unacceptable unemployment levels.

Because of its deep conviction that a free economy functions in a far superior manner to one that is controlled by the government, this Administration refrained from using wage and price controls as long as possible but wage and price increases combined with a major deficit in our balance of trade with other nations made drastic action necessary in August of this year.

Now, the primary criticism of the President is that he should have established controls over the economy at an earlier time. While I give my support to the president in this difficult task of slowing inflation, I do not believe that economic controls will serve us well for any extended period of time. It is therefore important that the measures that are taken be effective and that they bring about the desired slow down in wage and price increases quickly so that they can be removed and that the dislocations in economic activity that always occur under any system in which supply and demand are not the prime determinants of price will also soon be removed.

I believe that the President took the only course he could take at this time to make it clear that continual large increases in wages and prices will not be permitted as an accepted fact in our economy. I believe that the system which has been established is a reasonable one in which representatives of the patries at interest and the public will be making the major decisions within the general goal of wage and price stability, established by the President. The Program does not contemplate a massive bureaucracy but instead is heavily dependent on the voluntary compliance of business, labor, and all segments involved. It can be successful and accomplish its ends only if it receives the support of the American people, the business community, and the representatives of organized labor. Public confidence must be maintained that the program is equitable and that all are required to comply with similar requirements.

The bill which our Committee has reported and which is now being considered by the Senate provides authority for the President to continue the program of stabilization that is now in operation. The Committee bill is the result of extensive hearings and full consideration by both the Committee and the Administration of all of the recommendations made in those hearings. I frankly believe that the Committee bill is an improvement over the bill recommended by the Administration. I do not say this to be critical of the Administration, but in some respects, the Administration's proposal was not as explicit as it could have been. This is understandable, of course, when one realizes that the Administration proposal was patterned closely after the language presently contained in the Defense Production Act authorizing the President to impose wage and price controls as he deems appropriate with no specific guidelines other than that the controls be generally equitable and that wages and prices could not be less than those in existence on May 25, 1970. This authority was not requested by the Administration but was enacted by Congress over Administration opposition in 1970. It was extended earlier this year and to expect the Administration to propose major changes in the legislation would have been unreasonable. The changes that were included in the Administration proposal were primarily for the purpose of clarifying the authority and the procedures that would be followed in using that authority.

Beginning with the basic Administration proposal, our Committee worked with the Administration and other parties and expanded certain sections of the bill so that it now contains even more detail with respect to the procedures which will be followed and the rights of individuals under the legislation.

Let me say that there is no difference of opinion between the Committee and the Administration on the major provisions of the Committee bill. There were some differences, but in most cases, these differences were minor or were on provisions which are not of major importance. An example of such a difference is that the Administration bill recommended the exclusion of wage and price control functions from the operation of most of the Administrative Procedure Act. This provision was criticized by several of our witnesses and members of the Committee.

The Committee carefully considered the arguments involved and decided to include certain sections of the Administrative Procedures Act in the bill. Both Assistant Attorney General L. Patrick Gray and the Chairman of the Administrative Conference of the United States, Roger C. Crampton, stated that there would be little if any difference in the operation or administration of the Economic Stabilization Act or the rights of persons affected by the Act whether the Administrative Procedure Act was applicable or not. In other words, a major difference was not involved. I ask unanimous consent that the final paragraph of a letter from Mr. Crampton be included at this point in the record explaining his position on the matter.

Mr. President, I notice that there are many amendments which members of the Senate apparently intend to offer to the Committee bill. We considered similar proposals in the Committee and they were all rejected.

The Committee determined that while there may be sentiment for certain segments of our economy to be exempt from some controls or from the burden of complying with certain reporting or record keeping requirements either on the basis of their size, the number of employees, or the type of activity involved, it was agreed that outright exemptions from the authority contained in the Act could lead to abuses which could not then be controlled without additional Congressional action repealing the exemption. Such exemptions could also make it impossible to meet the criteria of the bill requiring generally comparable sacrifices by all segments of the economy. The Committee bill, on the other hand, grants broad exemptive authority to the President. This authority can be exercised by the Pay Board and the Price Commission consistent with the purposes of the Act. This approach to exemptions leaves sufficient authority to take care of any abuses that may develop as a result of an exemption.

Mr. President, let me conclude by saying that the Committee bill is a reasonable bill. I believe that it retains most of the authority needed by the President to carry out a program which is intended to slow inflation and which has received the support of an overwhelming majority of the people of this nation. The Committee was able to defeat attempts to destroy the authority needed for such a program and has essentially preserved the integrity and the autonomy of the Pay Board and the Price Commission.

Despite my general objection to government authority and control over decisions that can better be made by natural market forces, I realize that there are powerful factions in our economy that have thwarted the normal operation of market forces which would otherwise have resulted in more moderate wage demands and lower prices than we have experienced in the last few years. I support this short run attempt to control inflationary forces and make American goods and services more competitive in the world market with the assurance that it will be retained only so long as it is necessary and only to the extent that it is necessary to temper forces which have not responded in sufficient degree to fiscal and monetary policy efforts to restrain inflationary wages and prices.

I recommend that the Senate approve the Committee Bill without undue delay.

The PRESIDING OFFICER (Mr. BYRD of West Virginia). What is the pleasure of the Senate?

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BENTSEN). Without objection, it is so ordered.

Mr. TOWER. Mr. President, will the Senator from Wisconsin yield for a question?

Mr. PROXMIRE. I yield.

Mr. TOWER. I think it would be helpful if the distinguished Senator from Wisconsin could enlighten the Senate as to his intentions. The Washington Post this morning reports that the Senator intends to filibuster. The Senator assured me that he had no such intention, so that I believe, perhaps, the record should be set straight as to what is in store for us during the day, in terms of time frames, and when we are likely to have votes on amendments.

Mr. PROXMIRE. Mr. President, I thank the Senator from Texas. It is very difficult to define a filibuster. I certainly do not intend to delay the bill. I expect to be voting on the bill within the next few days on final passage—by the middle of the week or so, but I think it would be a real shame if we acted on the bill today.

The bill will have a profound effect on every American because all of us are consumers. It will have an even more significant effect on the 85 percent of our work force covered by the bill. It will also have an immense and complicating influence on literally millions of businessmen—some 10 million firms or individuals—who will have to function under the price controls which are enormously complicated. I think that under these circumstances the Senate certainly should discuss the pending bill at considerable length.

It is my understanding that there is at least a discussion in the House to the effect that this bill, after it passes the Senate, may be kept at the desk without going to committee and be debated under limited time on the floor, for perhaps a day or less than a day, and then passed.

When we have a bill that is this complex and ramified and that gives such a tremendous amount of power to the President of the United States, it seems to me that it should be discussed at great length. By great length I mean that I intend to speak at least 2 or 3 hours on it, and I would hope that other Members of the Senate would question the bill in some detail. I would hope that there would be some substantial amendments offered.

Mr. President, I am compelled to vote against S. 2891. I do so after long, hard deliberation. Senators will forgive me, I trust, for pointing out that I have probably spent more hours analyzing the issue of wage-price regulation than any other Member of this body.

For 5 weeks the Joint Economic Committee, which I have the honor to chair, held extensive hearings on the new economic policies of President Nixon. The committee went into great detail hearing from outstanding economists from various sections of the country, from Government officials, from business and labor leaders, and, above all, from several men who headed previous wartime efforts to control wages and prices.

Even before the President's speech of August 15, the Joint Economic Committee had held extensive hearings on the state of the economy. These ran during

June and July, and covered every major aspect of public economic policymaking. As many of us know, the committee, at the conclusion of those hearings, issued a report setting forth its own views on the wage-price issue, as well as on tax and expenditure policy, and other related questions. That report, ironically, was issued to the press for publication on the morning of August 16, within a very few hours after the President made his speech in which he proposed the freeze and started us on the path we have followed since. There are some members of the press who believe its publication date may have provided a stimulus for the President's pronouncements on Sunday night, August 15. In any case, I think that the Joint Economic Committee can justifiably take great pride in the thoroughness and soundness of its inquiry, and I believe that it provided an invaluable service to the public.

In addition to these Joint Economic Committee hearings, I participated fully in the hearings of the Committee on Banking, Housing, and Urban Affairs on the legislation now before us, and I attended each of the several executive sessions thereafter.

Mr. President, I believe firmly that there is need for a program of wage-price regulation, as I will explain in a few moments, but I am equally convinced that S. 2891 definitely will not do the job. I believe that it fails on several major counts.

It will do far more harm than good. As I have said on this floor previously, the Economic Stabilization Act of 1971 needs a major overhaul before it will serve the public good. In its present form it is unacceptable. I have reluctantly concluded that unless the bill is greatly modified and the phase II program vastly changed, that the damage to the American economy will far outweigh any short-term good that it can bring.

I intend to discuss in some detail the shortcomings of the administration's proposed extension of its unprecedented wage and price control powers. Let me summarize briefly at this point why I think that the program as presently constructed is badly conceived, unworkable in practice, and dangerous to our constitutional form of government.

First. The program endeavors to cover far too much of the economy. The jurisdiction which it has assumed extends from steel mills to babysitters, from automobiles to fountain pens and mom and pop grocery stores. It is not necessary to cover most of the economic activities. I think what is important is to see that we are not in the same kind of situation we were in World War II and Korea, because there are generally no shortages in the economy. Certainly we have an excess of supply. We have 5 million people who want to work. We have 25 percent of our production facilities idle. Under these circumstances, the opinion of the overwhelming number of economists who appeared before the Joint Economic Committee is that it is unnecessary to cover everyone as the regulations would and as the bill would permit. The program should concentrate on those sectors of the economy that are characterized by massive power—the huge corporations and the large unions. These are the pacesetters and by reason of their size, their vast power, and their relatively limited number, they are amenable to public regulation. But the hundreds of thousands, even millions, of individual economic decisions cannot, by their very nature, be subjected to Government regulation, and attempts to control them will prove chaotic. Indeed, this is already occurring.

It is unnecessary. The reason that the small firms are not raising their prices and the reason that they have not done so in the past is that they are competitive. It is properly a competitive environment. If they do not raise their prices, they should not be subject to controls. It seems to me that it would be logical therefore to subject the big firms and the firms in the construction industry to the controls—because they have a peculiar union-management situation—and the health services in which we do have a shortage of resources.

Second. The program as drawn is based on principles that are unworkable. The productivity standard as the President would apply it to prices is unworkable. Two days ago I received a book which was based on very learned and meticulous treatises by some of the top economists in the world on trying to evaluate productivity in the service industries. This is what Mr. Grayson is requiring the service industries to do, to come up with some estimates of our production activity. These economists had great difficulty in defining what productivity is and in having standards that can be applied at this stage of our economic development with respect to the service industries.

Productivity at best is an elusive notion which gives Ph. D. economists great difficulties and confounds them. To inject it into the day-to-day operations of the average business will result in confusion, disillusion, and even probably paralysis. Moreover, as I have said before, the proposal to limit profit margins throughout the whole range of American enterprise will prove unworkable and will have a stifling effect on business initiative. The profit formula gives an incentive to the fat, lazy firm, as I have said before. Cost increases can be passed on, but the efficient, cost conscious, enterprising firm is penalized. It has no profit incentive to be efficient. The formula strikes at the heart of the free enterprise system at a time when we desperately need increased productivity, efficiency, and jobs.

In one of its first decisions on prices, the commission turned down the request of the Bassett Furniture Co., in Virginia for an increase of 1.8 percent in prices. They did so because the Bassett Furniture Co. did not submit any productivity data. Bassett said that there is not any productivity data in their industry.

The commission said, "Go back and try to get it."

Consider the kind of reaction this would have on the minds of the corporate executives. They would say, "All right. We will try. We will estimate our productivity. And we will do our best to see that the estimate comes out all right. We want to maintain higher prices and not have them rolled back." So corporate executives can simply underestimate what their actual productivity will be to any extent necessary to justify the price increases they want. When industry does this, it will enable them to get the price they asked.

One can say, "Yes, but the price commission can then come back next year and say that since they were able to widen their profit margin, they are going to roll their prices back."

Here is why this discipline will not work:

One of the easiest things to do in business management is simply to let productivity deteriorate. It takes tremendous effort, attention, diligence, and ability on the part of a business manager to get increased productivity. It is easy to relax and let productivity go. One way is to hire people whose use is marginal: Another: modify the way the assembly line is operated if it is a manufacturing operation, or the way the sales force is handled—there are any number of ways productivity can be allowed to deteriorate. There would be a tremendous temptation on the part of Bassett or any other corporation to permit this. And this is exactly the wrong kind of incentive but this is what the requirement on the part of the Price Commission will develop and why it is so insidious, unfortunate, and unnecessary.

I can see why we should work hard to restrain the price increases proposed by a corporation which is in a position of monopoly power. To require the vast majority of companies in our country to come in with this kind of a showing, or a concept, which is this hard to determine, is simply asking for a violation.

Third. The program cannot possibly be enforced. It leaves to the Internal Revenue Service, an already overburdened, specialized agency, the massive task of policing a nationwide comprehensive wage and price control program.

This is not the kind of program we had in World War II, where we had a freeze, or during the Korean war. This is a program of variable prices, where one man's wages can be increased 5, 10, 15 percent, and the wages of another man held at zero or cut, with exceptions. I submit that is a complicated guideline to enforce. It is going to be extraordinary difficult to enforce and with the 3,000 Internal Revenue Service agents, when millions of firms are affected, it is ridiculous.

Fourth. The program will lead to widespread inequities. Moreover, its timing is most unfortunate. It comes at a time when inflationary pressures are abating, with plant and equipment operating at a mere three-fourths of capacity, and 5 million people out of work. I believe that the continuation of phase II in its present form will only confound the uncertainties that face American business and inject a paralysis into the economy.

Fifth. An entirely different point, but a point of great relevance in view of what has been happening to our waning legislative powers and the vastly increased power of the Presidency over the last few years, is that the bill would extend for another 12 months this vast power to the President and it gives unprecedented powers to the President without any effective congressional standards or safeguards. It is true that I proposed some mild, general standards in committee and those standards were accepted by the committee, but those standards are general and a small but slight improvement on the bill that came from the Treasury. In my view, the standards are virtually nonexistent. I believe this kind of legislation provides an easy road to dictatorship. There are already signs of the capriciousness that always characterizes excessive executive power. The two Boards, operating side by side, have adopted completely different modes of operating. Chairman Grayson, of the Price Board has stated publicly that it is he and he alone who will make the decisions.

He will not make all of them, but he will decide whether or not any price decision is important enough to call on other members of the Board. He also indicated to Lee Cohen of the Washington Star which of his Board members he will consult in determining whether or not to proceed with a particular price request. It is also a matter of record, according to the article by Mr. Cohen, that the first decision on American Motors—the first decision which affected one of the big automobile companies—was arrived at by Mr. Grayson with the advice only of one other member, Mr. Lanzilotti. The other five members were not consulted. So Mr. Grayson seems to be running the price operation as a one-man operation. On the other hand, Judge Boldt, Chairman of the Wage Board, declines to vote except in case of a tie. Congress has not even prescribed a pattern for regulating the exercise of the vast powers inherent in these Boards.

None of the Board members who wield this vast power are required to be confirmed. It is true if new members are appointed to the Boards, this legislation would require their being confirmed, but we all expect the Boards to be in existence a short time. We are extending legislation for a year. The administration indicated several times they are hopeful the whole control program can be ended in that period. It is likely the present members—none of whom would be confirmed—are going to be the principal people appointed to the Board. They will exercise the principal power.

Sixth. This bill lends itself to political manipulation. It would serve any President well in an election year. Consider that the bill gives the President the power to vary the elaborate control mechanism at will. He can selectively decontrol the economy with an eye on the 1972 elections. Does any Member of this body honestly think that these possibilities would not incur to any incumbent of the White House? By the same token, there are inevitable temptations to temper the severity of price adjudications to the contributors of large corporate entities. The program is obviously amenable to political manipulation and corruption.

Seventh. In addition to all these vast inherent defects, the program is already being so poorly administered as to become a charade. The Wall Street Journal of November 24 contains a lead article entitled "Phantom Phase II: Number of Exceptions to Wage-Price Guides Spurs Doubts of Plan." Citing the fact that the guideline on wage increases is 5.5 percent, the article cites the 15-percent to 17-percent increase given to coal miners. It cites also the 7-percent increase granted to tin plate products in the face of an alleged 2.5 percent limitation on price increases. Moreover, in speaking of violations, it asks the rhetorical question: "Who's ever going to know?"

I will elaborate on that later.

On Thanksgiving Day, the Washington Post contained a report of a speech by Henry Kaufman, a prominent New York economist who on many occasions in the past has impressed the Joint Economic Committee with his acumen. Mr. Kaufman severely criticized the compromises with inflation that characterize decisions under phase II of President Nixon's new economic policy. And he went on to say that current weakness in the stock market reflects an awareness that the Government is not actually being tough enough on inflation. I would like to elaborate on that later and place that article in the RECORD, but I will do that later on.

WHAT SHOULD WE DO

Mr. President, I believe there is a case for a properly conceived program to restrain wage and price inflation. The problem did not suddenly spring into being to confront the President on August 15th of this year. The Joint Economic Committee has spent many hours over the last 5 years in trying to cope with the issue of inflation. The Joint Economic Committee has repeatedly set forth the outlines of a voluntary, workable program which would be structured to deal with the wage-price problem in a realistic and workable fashion.

For several years the Joint Economic Committee has taken the position that the great bulk of inflationary pressures, particularly that part characterized as cost-push, comes from that sector of the economy dominated by large corporate units and large unions.

Certain industries are characterized by the domination of few units. Automobiles are a case in point. Steel is another. It is widely recognized that these powerful units are not affected by supply and demand and the laws of the marketplace in the same way that small firms are. They can administer their prices.

For many months now, many people, many businessmen, and many economists have been unable to understand how we can have continuing inflation at the current high level of unemployment. Unemployment has been about 6 percent every month for a year, and we still have prices rising. It does not seem possible. It violates all the laws we were told about in economics in college. How can this be? The answer certainly is not because small businessmen who are competing are pushing up prices. The answer is not because businessmen are bidding for a shortage of general labor because there are plenty of people who want to work who cannot find it. The answer is that large unions which have extraordinary power, are determined to have wage increases to permit their members to catch up with losses they think they lost in real income in the 1960's.

That process of big unions negotiating successfully with very large companies for wage increases which are then passed on in cost increases has been the very heart of the inflationary problem for the last year or 18 months. This is what we have to deal with. This is the essence of the problem. And in order to do that, to have a program that would cover literally tens of millions of people and millions and millions of firms is a very grave and serious mistake. It will slow down the economy; it will create inefficiency; it will engender hostility; and it is unnecessary; but the big firms are the ones that can raise their prices.

Time and time again the steel industry has been able to raise its prices in the face of falling demand and declining utilization. One firm will set its price and then, on the basing point system, within a matter of 24 hours, all the other firms will get their prices within a decimal point of the same price.

While a small competitive firm would go broke doing this, large units can exercise substantial control over their prices. There are probably no more than 500 of these major corporations in the country, yet it is they who are substantially accountable for the cost-push inflation that exists. By that I mean they are less amenable to the normal operation of supply and demand which can be affected by broad monetary and fiscal policies. The Joint Economic Committee and, I might add, most competent economists, have made the point time and time again that it is these large units which should be the subject of any wage-price program.

These same observations apply to the large unions. It is they, the very large unions, that dominate wage movements. Smaller unions and the unorganized worker merely follow in the path of the big boys. They are the pace setters. Unless wage-price policy is tailored to concentrate on the increases brought about through the activities of the large union, it cannot do the job.

Mr. President, I intend to discuss these grave weaknesses in more detail, but first, I would like to dispense with an argument that one sometimes hears. It is claimed by some that we are caught up in the administration's program now and have to make the best of it. My answer to that is that we can be forced to endure phase II for a much shorter time and on a far more limited basis than is apparently envisioned in the proposed legislation.

The original grant of power to the President contained an expiration date of April 30, 1972.

Why is not that enough time? It is interesting that yesterday, on "Issues and Answers," the Director of the Office of Management and Budget, Mr. George Shultz, when asked whether we should go to a voluntary program, said, "We can wait and see." So, Mr. President, I think that is not a bad answer. Maybe we ought to wait and see. Why should the Congress now pass legislation providing for a 1-year extension, when the law does not expire until April 30? Why not in George Schultz' terms wait and see whether or not the kind of limited program which I am suggesting, which zeroes on the problem in the economy—the inflationary problem in the economy—is the kind of thing we need? For that reason, I believe April 30, 1972, still provides the administration adequate time. It provides 5 months during which the administration can learn more of the shortcomings and hazards of phase II, and I hope undertake to phase out a substantial part of it. We will have plenty of time during the winter to reconsider our situation and decide what course to adopt.

The President and the Congress should set May 1, 1972, the date on which the present law expires, as a goal for ending the legally compulsory system of control and moving into a voluntary wage-price guideline system along the lines that the Government had in effect in the early 1960's.

Mr. President, I discussed in the committee an amendment to simply cancel the section of the bill that provides for an extension and to permit the rest of the bill to pass without the extension. I discussed that in committee and I received substantial support, but it was clear I was not in the majority, so I did not offer the amendment in committee.

I have since then discussed this matter with some of the Senate Democratic leaders, and I think I know the disposition of the Republican Senators. Under the circumstances, I think there is very little prospect that deleting the expiration date would get a majority vote in the Senate, so I do not intend to offer that amendment, but I would like to discuss with the Senate now why I think that amendment is significant, why I think that action would be useful, because I think a view of the bill and the unfortunate consequences of extending the law for a year at this time, 5 months in advance of its expiration date, is very important in deciding whether or not to vote to pass the bill.

After all, if the bill does not pass, the President still has all the authority he needs until April 30, 1972. In fact, he has more authority than is provided in the bill we propose. We would limit his authority insignificantly, but we would limit it a little. So one could make a case—and I will try to make the case now—that for this reason there is not much justification for the Congress' acting at this time to pass the bill that is now before us.

In my view, Congress would be making a disastrous and irreversible error if it extends the law for 17 months to April 30, 1973, as the administration is requesting. We would be giving the President a virtual blank check to control the economy with little effective control by the Congress.

I think I can document the fact that it gives the President a blank check authority. The witnesses who appeared before us are very impressive in their credentials and their judgments that this is what we would do, but I will document that a little later.

Those who are concerned about Congress losing its power have an opportunity to demonstrate that concern by voting against the bill in its present form.

There are three principal arguments for keeping the expiration date at April 30, 1972.

First, there are many serious problems with the President's phase II program, and more will undoubtedly arise over the next few months. We simply do not have the experience or knowledge to deal with these problems in an intelligent fashion, and until we do, we should not extend the Stabilization Act by its current expiration date.

Let me call to the Senate's attention just one incident which developed at the end of last week. On Friday, the day after Thanksgiving, when things were rather quiet in the Capitol, Donald Rumsfeld, who is the chief of staff on the Cost of Living Council, called a press conference in which he discussed the price increases which were pending before the Price Commission and the price increases that the commission has granted. He argued that the price increases were not really inflationary. He said the size of the price increases had been exaggerated, and he documented that to some extent. After he had made that statement Price Commission authorities strongly but anonymously controverted Rumsfeld's findings. They argued that his conclusions, which seemed to be based on the assumption that the Price Commission would grant the applied-for price increases, were wrong.

Now, Mr. President, we are acting on this legislation. We are expected to act today or tomorrow or Wednesday. We have two of the top agencies of the Government, the Cost of Living Council and the Price Commission, unable to agree on the impact of their decisions so far on prices, and of course they are just beginning. Would we not be far better off, and would we not be acting with far greater wisdom and understanding, if we waited until somewhat closer to the expiration date, until we have some kind of experience under this law, until we have more than just a few weeks of conflicting decisions, and until some kind of settled pattern emerges?

In fact, I think if Congress waited, we would get better action out of both the Pay Board and the Price Commission. But we would at least be in a far better position to know what we were doing.

The fact is that a basic decision will have to be made about the direction of the phase II program in the next few months. It could evolve into a much tougher phase III program, or the controls could be selectively withdrawn. Congress should participate in the decision to escalate or deescalate. By giving the President a 17-month extension, the decision is left entirely up to him.

In the third place, a 17-month extension will set a bad precedent affecting the ability of Congress to assert its constitutional prerogatives in other areas. Those concerned about the institutional inferiority assumed by Congress in our Federal system should have very serious reservations about voting for this measure.

Let me expand upon these arguments in a little more detail. But before I do, I believe it would be useful to examine the reasons for the unprecedented 17-month extension demanded by the administration. In my opinion, the administration's case for a 17-month extension is totally unconvincing.

About the only respectable argument the administration could muster in favor of an extension to the stabilization act is that it is needed to promote public confidence and reduce uncertainty about the duration of the program. There is no doubt that the public lacks confidence in phase II and is uncertain about the program. But this uncertainty is not over whether the Congress will renew the act next April. The uncertainty is over what the Pay Board and Price Commission will do and whether the program will work. No one doubts that Congress will extend the act next spring if inflation has not been halted. Indeed, it was Congress itself which took the initiative by passing the original Stabilization Act over the vehement objections of the President and his economic advisers. Congress has already demonstrated its readiness to act when necessary to control inflation. It is the administration and not the Congress which has a confidence problem.

There has been no great speculation on the part of the press as to whether Congress would extend the Stabilization Act next April. I have not read any, or heard any. I have yet to see my first column or article stating that maybe Congress will not extend it.

The administration could cite no polls or other studies showing the public was anxious to have the act extended for 17 months. There is not one shred of evidence to show the average businessman or consumer is worried that Congress will not extend the act next year. The uncertainty cited by the administration simply does not exist. It is a figment of someone's overly vivid imagination.

If anything, the public will have more confidence in the phase II program if it knows that Congress plans to play an active part. The public will know it will get a fair hearing in Congress if any inequities develop. Those who are concerned about the fairness or effectiveness of the program will be more concerned if Congress surrenders control to the President for 17 months. We will not enhance the public's confidence by giving the President a blank check. And yet, this is exactly what we will do if we extend the Stabilization Act for another 17 months.

Suppose the Pay Board or the Price Commission are completely ineffective in stopping inflation. Will the President reverse himself once more? Will he admit he made a mistake? Will he take decisive action? Or will he procrastinate and try to make do in an effort to cover up his original error? Congress would suffer none of these restraints if a complete overhaul of the phase II program were necessary. The business community will have more confidence if it knows the mistakes of the President are subject to correction by the Congress. Businessmen will have more confidence if they know we will be reviewing the program next spring prior to its expiration date. They will have less confidence if we give the President a 17-month blank check to perpetuate the errors of the Pay Board and Price Commission.

Or let us take another example. How much confidence will labor unions have in the program if it is tough on wages and weak on prices? The success of the program depends on voluntary labor cooperation. Labor will have much more confidence if it feels it can come to Congress with its grievances next year and have a fair hearing on those grievances. Labor strongly supports my position that we should not extend this act at this time.

On the other hand, if we give the President complete control for 17 months, labor will be less inclined to cooperate. Rightly or wrongly, many labor leaders feel the phase II program is antiunion and antiworker in its philosophy. The position taken by the Pay Board on retroactive pay gives some credence to this view. Fortunately, the Congress has had an opportunity to correct the Pay Board's decision, but we will not have that opportunity again if we give the President the 17-month extension he is seeking. Knowing that its right of appeal to the Congress has been cut off, labor might stiffen its back and become overly obstructionist. Such a result would be most unfortunate although understandable. However, we can prevent this from happening by providing for an expiration date next spring, when labor would have an opportunity to ask the Congress for a redress of its grievances.

Mr. President, another argument raised by the administration is that Congress really surrenders nothing by extending the Stabilization Act for another 17 months—that we can still maintain control over the program by holding hearings and amending the act if necessary.

That was brought up again and again in our hearings and in our executive sessions. In theory, we can even repeal the act and start all over if we do not like how it is working.

We know this argument does not have the ring of truth, and I suspect it is made with tongue in cheek. Unless we have the pressure of an expiration date, we are most unlikely to act to modify the program. Next year will be an election year, and the Congress will be faced with many pressures. It is doubtful we would take the time to review the phase II program unless required to by an early expiration date. This is why all administrations, Republican and Democratic alike, are always asking for a lengthy extension of their authority. They know that Congress is not likely to take the initiative unless forced to do so by the discipline of having to renew authority delegated to the executive.

As a matter of fact, any review by Congress of the act next year would take considerable initiative on the part of Congress. The bill could be opposed in committee by administration supporters. It could be delayed, perhaps, until it died on the floor. It could be vetoed by the President. Congress just plain must be in control when we extend this bill for 17 months, and of course to do so 5 months in advance of its expiration is really most difficult to understand.

Congress can always hold hearings on the phase II program, and as chairman and vice-chairman of the Joint Economic Committee I would hope to do so. But the Joint Economic Committee has held hearings for 2½ years on the President's disastrous economic game plan. We repeatedly recommended some kind of incomes policy to restrain inflation while administration spokesman steadfastly insisted the old game plan was working. The President did not really change signals until his political advisors pointed out he was slipping in the polls because of the economy. If phase II does not work, can we afford to wait another year or two before the program is changed?

Even if Congress were to try to modify the phase II program next spring, the administration could probably prevent any meaningful change. There are many procedural roadblocks in the legislative process which enable a minority to delay action. Moreover, the President could always veto any legislation which did get through if it were not to his liking. The only meaningful leverage Congress has to exercise control is the expiration date. If we give up this leverage, we are giving the whole ball game to the President.

There is a third argument which has been made in favor of a 17-month extension. This is that it would be politically unwise if Congress were to consider such a controversial subject in an election year.

It is a funny thing. When I talk with many of my colleagues on the Democratic side of the aisle on this, they say, "Well, you are right, Bill. You are right in terms of logic. The trouble with you is that you are reasonable about this in terms of the substance, but politically, you are wrong. The Democratic Congress simply cannot afford not to give the President everything he asks in this connection, give it to him promptly, give it to him at once."

I think my colleagues are unwise politically as well as wrong on the substance.

There are some Republicans who fear the Democrats in Congress would use the early renewal of the program as a pretext for criticizing the administration. Likewise, there are some Democrats in Congress who feel it would be smart politics to give the President everything he wants so that he can be blamed for whatever goes wrong. Clearly, both views cannot be correct. The disagreement over what is smart politics demonstrates once again that it is unwise to approach important questions from a narrow partisan political viewpoint. The American people want results, and they are not about to be fooled by the political maneuvers of either party.

I believe it is bad policy and bad politics for Congress to give the President a 17-month blank check. If the program fails, the wrath of the voters will not be directed at the President alone; it will fall on all incumbents, Republican and Democratic alike. When things go wrong, there is a natural tendency to vote against those in office and bring in new people. Congress cannot insulate itself from its constituents by turning itself into a rubber stamp. Congress has a constitutional responsibility to exercise its legislative power in the public interest. It cannot delegate that power unduly to the executive branch without losing its position in our constitutional system and the respect of the voters.

Mr. President, the Economic Stabilization Act gives the President sweeping control over our free economy. He is given the power to regulate everyone from the giant corporation to the corner drugstore. If a Democratic President had requested those powers, the business and financial community would be marching down Pennsylvania Avenue in protest. It is amazing that so little attention has been focused on the extraordinary grant of power being given the President.

We have no way of knowing whether the phase II program will work. The country is confused about the program. No one can really understand the complicated and confusing guidelines published by the Pay Board and Price Commission. There is widespread uneasiness that the Pay Board and Price Commission will be too lenient. The recent approval of a 16.8 percent increase for coal miners is a case in point. The stock market is jittery. In the face of all these uncertainties, we are being asked to give the President complete authority for 17 months before we really know what we are doing. There is considerable question as to whether we should give the President as much authority as we are giving him if we knew, if we had had substantial experience under the act, if we had some idea where the Price Commission and the Pay Board were going. But when we do not know and we give him that kind of authority, to extend the act 5 months in advance is just irresponsibility. We are being asked to buy a pig in a poke. For an administration addicted to football analogies, we are being asked to send in an untried and inexperienced quarterback against the Baltimore Colts without being able to send in plays from the bench.

What is the great rush for an extension? What is the hurry? Why must the act be extended before we have a chance to see how it operates? Why can we not give the President the additional tools he needs, such as subpena power, civil enforcement remedies, control over dividends and interest, and the like, without extending the legislation beyond next April 30? By that time, we will have a much better idea of how the program is operating. We will be in a much better position to enact appropriate modifications in the program if needed.

We have already received enough advance warnings that the phase II program might have to be substantially changed. Serious problems have already developed. Some of them may be corrected but we have no guarantee—we have no assurance that the program will right itself. Why not wait and see what develops before we give the President the 12-month extension he is seeking?

I would remind the Senate that one of the ablest Presidential economic advisers, George Shultz—he is also one of the closest to the President—when asked yesterday whether we should go to a voluntary program, said:

"What?" He did not say "No." He did not say it would not work. He did not say that we had to go ahead and extend this program now. He said, "Let's wait and see." That is precisely what I propose that the Senate should do with respect to this legislation.

There will be plenty of time next spring to extend the act after we have had several months of actual operating experience.

One of the problems about the program which troubles me the most is its scope. The price and wage controls cover most of the economy from General Motors to the mom-and-pop grocery store. However, inflation is caused primarily by big companies and big unions. Small companies and small unions do not initiate inflation. They react to the pressures created by the larger firms and unions. Why can we not concentrate on the real source of the inflationary pressure and let the forces of the market control prices and wages for the smaller firms and labor unions? Why must the entire economy be put in an economic straight jacket?

Unfortunately, bureaucratic controls have a life of their own. Once they are established, they are very difficult to remove. Not only is that the experience in this country; it is also the common experience abroad. Controls are being established now not in a wartime situation when there is usually an actual termination when the war is over; they are being established in a period when the war is already wound down and we expect to be out of Vietnam in a few months.

Few argue that the Vietnam war has any really big economic significance at the present time. It is not a factor now. It was a factor—certainly a big factor—in inflation before. It is not now. Under these circumstances, to establish a control system and expect that that system is just going to dry up and disappear is the height of optimism.

Enforcement becomes an end in itself rather than a means to an end. How do we know that the controls on small business will be lifted as soon as possible? The administration has no timetable for withdrawing the controls on the millions of small business enterprises which are subjected to them now. Why should not have Congress make its own judgment on lifting the controls from small business instead of leaving it entirely up to the President?

How do we know the President will not be tempted next year to start decontrolling the economy in a manner best suited to his political advantage? A series of exemptions from price and wage controls could prove highly popular during an election campaign. By giving the President a free hand for 17 months, we would also be giving him the opportunity to insure his own reelection. No President, regardless of party, should be given that kind of power. If there is to be a selective decontrolling of the economy, Congress should set the timetable.

Next spring we will be in a much better position to determine the proper scope of the wage and price control program. We will see how it operates. We will be in a much better position to judge whether or not it is necessary for smaller firms or whether it is necessary for State and local workers. We still have to have control over the salaries of teachers, policemen, and sanitation workers, and others, in the cities.

Another problem with the phase II program is that it appears to be uneven in its application. A much greater burden of price restraint is likely to fall on small business rather than big business. This is because of the complex data needed to justify a price increase. According to the regulations of the Price Commission, a firm must know its costs and its productivity before it can raise its prices. Even for a big firm, that is not easy. I asked Mr. Jackson Grayson, when he appeared before our Joint Economic Committee a few days ago, the extent to which the big firms, that is, those with sales of $100 million a year, knew their productivity and Mr. Grayson's response was that 50 to 75 percent had some knowledge of their productivity, but only some knowledge of it. This meant that 50 to 75 percent of the really gigantic firms in this country have made an effort to judge what their productivity is, but it does not mean that they could comply. They might be able to begin to comply. Now consider the full implications of that statement. It means that 25 to 50 percent of the big firms with all the advantages they have in having economists, statisticians, accountants, and cost accounting systems, and so forth, do not even have a basis for evaluating their productivity.

So what chance would the little operator, the small firm, have to develop its productivity when the big firm with its statisticians, its lawyers, accountants, and so forth cannot do so. A big firm can always hire a battery of accountants, statisticians, lawyers, and lobbyists needed to justify a price increase. But how is the average small businessman going to measure his productivity when Ph. D. economists cannot even agree on what the term means? As a practical matter, most small firms will be scared into freezing their prices, because they do not understand the regulations and do not have the information needed to justify an increase.

Perhaps the Price Commission can correct some of these inequities. But how do we know? If we surrender our prower now, we lose our ability to influence the situation. This is another reason for not extending the act beyond April 30 until we see how the program is working.

I am also concerned about the Price Commission regulations which seem to regulate profit margins. Unless carefully administered, these regulations can simply reward the fat and lazy firms and penalize the efficiently managed firms. It means that if we apply this profit margin, and a firm applies for a price increase, it has to justify that price increase on the basis that its profit margin—its margin for each dollar of sales—will not exceed the average of the best 2 years out of the last 3 years. That means there is a fixed profit margin which cannot be exceeded without the firm's violating the law, once it has made a proposal for a price increase and that increase has been granted.

What does that mean? It means that the firm will do its best to hold down the profit margin to its estimate. And that is easy. The motivation without controls is to increase profit margin. By becoming more efficient, by reducing costs, by finding more effective ways to do the job. This is the genius of the American free enterprise system, the reason why the American system has proved superior to a system that does not have the profit incentive.

Now what does the profit margin restraint do to this motivation? First it provides a penalty for widening the profit margin. You hold down cost, you lose your price increase. This is bound to undermine our business efficiency, our productivity, and that is the essence of getting inflation under control.

So that the requirement that the profit margin cannot be widened by more efficient operation by a firm without a violation of the law and suffering a penalty through the violation is bound to reduce national productivity. It will certainly have an adverse effect on the efficiency of operations of American firms.

A firm should be able to increase its profit margins through increased efficiency as long as it passes on all of the benefits of wage restraints to its customers. Arbitrary ceilings on profits tend to have the same effect of an excess profits tax. A firm in danger of exceeding its ceiling on profit margins can simply raise its costs to bring its profits below the ceiling. The end result is to promote waste, and inefficiency, and higher prices.

Perhaps these cumbersome and heavy-handed controls over profits can be modified by the Price Commission. They should be. They will be protested vigorously. But we have no way of knowing how or when.

Yesterday, the New York Times published an article in which former Secretary of Commerce, John Connor, was interviewed. He is now chairman of the board of Allied Chemical Corp., and he argued very strongly against the profit margin, restraints promulgated by the Price Commission, pointing out the adverse effect this will have on the operations of his corporation. He contended this ruling will slow down Allied Chemical's investment program, the company will be less aggressive in its business operations, and less expansive in providing employment. He gave some examples of how it would result in less employment.

This is something we should take to heart, at a time when the critical question facing the economy is not only that of inflation but also of unemployment. We have had nagging unemployment at a 6-percent rate for more than a year now.

Profit controls strike at the very heart of the free enterprise system and it is surprising that the financial press has not focused their attention on this little understood aspect of the phase II program. All the more reason to avoid a premature extension of the Stabilization Act. If profit controls do have an adverse affect, we should know about it before we give the President authority to continue their misapplication.

Still another serious problem is the apparent inability of the Pay Board to come to grips with inflation. On the one hand, it has no trouble in denying retroactive pay increases to workers even when the increase was well within the wage guidelines.

How can the public have confidence in the program when it is producing decisions such as these?

When Mr. Boldt appeared before the Joint Economic Committee, he argued, and argued convincingly, that there was no catch-up justification for the 16.8-percent increase the first year. According to Chairman Boldt, the economists analyzed that very carefully and said it could be argued that the coal miners should get more, because they were behind others in similar industries, and Mr. Boldt said that the 16.8 percent was justified on that basis.

We can imagine the attitude of other unions when they see the coal miners able to get a 16.8-percent increase, saying, "What is the matter with us not getting the same? Why should we not get that, too?"

That 16.8-percent increase was the first decision of the Board. That was the patternmaker. That is what is setting the pace. That is the most visible sign, the one that will be the most talked about.

If the Pay Board continues in the same vein, there is no doubt but that the program will have to be thoroughly overhauled. Perhaps a whole new structure is needed. Maybe new people are the answer. Possibly the procedures for coordinating the actions of the Pay Board, the Price Commission and the Cost of Living Council need to be tightened. But whatever, the answer, we should not give the President a 17-month blank check until we are reasonably sure the Pay Board and Price Commission are able to function properly. If a drastic overhaul is needed, Congress is more likely to make it, because it does not have a vested interest in perpetuating the existing structure. It does not have to save face by preserving an unviable system.

Another element of the program which may need to be substantially overhauled is the one dealing with consumer remedies. Since the program is relying on only 3,000 IRS personnel for enforcement, it is obvious that consumers must be given an enforcement role. Otherwise the controls on prices would be a farce.

The head of the Price Commission testified to the fact that they were counting on consumers to be helpful in monitoring and in disciplining the operations of prices and holding them down. It is beyond me how this can operate with the complex justifications made for price increases. A freeze is one thing. That is enforceable, with the help of consumers. but this is something else.

In theory, consumers can bring civil actions against price violators and recover three times the amount of any overcharge. In practice, the consumer remedy provisions are likely to be a cruel joke. In order to determine whether a price exceeds the legal ceiling, it is necessary to have information on a company's costs—try and get it—its productivity, and its profit margins. Even the biggest firms in this country have only a limited knowledge of their productivity and many do not know what their productivity is at all, so how can the consumers find out what the productivity of General Motors, Chrysler, or the mom-and-pop grocery store is? How in the world is the average consumer going to acquire this complex information?

Is the average car buyer going to examine the books of General Motors to see if it is complying with the price guidelines? I wonder how far he would get?

For years the UAW has been trying to find out what the costs of General Motors are. When auto prices were increased 2 years ago we requested the head of the Council of Economic Advisers to secure from General Motors the cost justification for the price increase, and the Council of Economic Advisers said they could not do it, they were not available. Under these circumstances, how is the consumer who is buying a car going to challenge any increase made in prices?

As a matter of fact, the bill, S. 2891, actually forbids the disclosure of price and cost information by the Price Commission or Pay Board if the company considers it to be confidential. My colleague, Senator **Nelson**, will have an amendment, which I enthusiastically support, to provide for more disclosure. However, under the provisions of the bill, anyone disclosing such information is subject to a criminal penalty. Thus the consumer cannot turn to the Government for assistance and it is unlikely that General Motors will be of much help.

We should not let the President run the phase II program for 17 months until we are sure these consumer remedy provisions are working. If they are not working and if they are not enforceable and are ineffective, they can be strengthened next spring, provided we are not stampeded into giving the President a 17-month trouble-free extension.

Mr. President, thus far, I have talked about the phase II program and some of its problems. I have suggested that phase II may have to be overhauled next spring and that we should provide for this possibility by not extending the stabilization act at this time. But there is another and important reason for withholding our extension of the act. No one knows what phase III will look like once phase II has run its course. If the phase II program does not work, it could be replaced by a much tougher and repressive phase III. If we give the President a 17-month extension, we also give him the authority to make all the decisions about phase III without coming back to Congress.

For example, the President has the legal authority to abolish the Pay Board and Price Commission and use the IRS or even the FBI to police the economy. He could abolish the 5.5-percent pay guidelines and freeze all wages at their present levels. He could require all 10 million firms to obtain advance approval before raising prices and not just the 1,300 firms with sales in excess of $100 million. He could create a new Pay Board with all public members and no labor members. Congress is not simply ratifying the existing phase II program if it extends the Stabilization Act for 17 months. It is giving the President a far broader range of powers to deal with inflation.

As long as we are giving the President such sweeping power to go way beyond phase II, we should maintain our control by providing for an early expiration date. Arthur Burns, the Chairman of the Federal Reserve Board, termed these powers "dictatorial" last spring and urged that they be given only for a short period of time, preferably 2 months, but certainly not longer than 6 months. Now that the President has committed his prestige to a 17-month extension, Chairman Burns has receeded from his early advice. We all know that Mr. Burns is a warm supporter of President Nixon. It seems to me that his earlier testimony last spring still stands as an eloquent warning to the Congress of an unlimited delegation of legislative power to the President.

If the President wants to impose a phase III on the economy, he should come back to Congress for the authority. The only way we can be sure this happens is to exercise close control over the expiration date or drastically rewrite the pending bill to confine its authorities only to the existing phase II program. Since the latter seems impracticable at this time, we would be well advised to adopt the former.

Mr. President, a third reason for going slow in the expiration date is to preserve the role of Congress in our constitutional system. Many of us have complained from time to time about the erosion of our powers. Now is the time to halt this erosion. If we hand everything to the President on a silver platter we will be creating a dangerous precedent. We will make it all the harder to assert our initiative in other areas of domestic and foreign policy.

I can understand how Congress can surrender a great amount of authority to the President with respect to the military and our foreign policy. Some of us have disagreed with this. Most of the Senate obviously disagrees when we have such measures as the Cooper-Church amendment or the Mansfield amendment up for consideration. The argument is always made that the President needs considerable discretion and a free hand with respect to foreign policy because he is the Commander in Chief. With respect to foreign policy, we can make a strong case that the President deserves a considerable amount of discretion. But how can we make that kind of argument with respect to our economic policy? If there was ever a problem concerning which Congress has every reason and obligation to have authority, it is with respect to price and wage control policy that is so far-reaching throughout our economy.

We are not dealing with a complicated or esoteric subject which only the executive branch can understand. As a matter of fact, Congress has a much better record in the economic policy area than does the executive branch. Time after time, Congress has been proved right and the executive branch wrong. Many people in Congress, from both parties, pointed out the old economic game plan was not working. It was Congress which took the initiative in passing the Economic Stabilization Act in the first place over the vehement objections of the administration. I would much rather trust the judgment of the Congress on the big issues of economic policy. We obviously do not have the capacity for involving ourselves in the detailed administration of economic affairs. But on the larger policy issues, we have a better track record than the executive branch. Why should we surrender our judgment simply because the President asks us to do so?

Mr. President, I have listed the arguments for keeping the expiration date at April 30, 1972. Let me summarize briefly again the reasons why we make a mistake in this bill in providing an extension of the expiration date to August 30, 1973.

First, we do not know enough about phase II and we should maintain the option of making changes next spring if changes are needed;

Second, we are giving the President authority to impose a much tougher phase III on the economy. An early expiration date requires congressional approval of any decision to escalate the controls;

Third, we will create an undesirable precedent which could lead to the erosion of our powers in other areas if we approve the 17-month extension.

Mr. President, I said earlier that the responsible and reasonable thing for Congress to do was to limit this legislation to the monopolistic areas of our economy.

One of the ablest economists that has served our Government is Gardner Ackley. He is a former Chairman of the President's Council of Economic Advisers. He also served as Ambassador to Italy. He is a man who is recognized by economists generally as one of the top economic experts in our country.

This morning I received the latest issue of Dunn's Review. I would like to quote a short statement by Mr. Ackley.

Mr. Ackley says:

> Many of the earlier questions about Phase Two have now been answered. But new ones have emerged. One of these is whether and how the Price Commission will be able to deal with the myriad inequities that were the inevitable by-product of the price freeze.

Certainly, Mr. Ackley had a considerable experience during World War II with respect to price controls. So he does not speak as a man who is simply a theorist, but he speaks from the standpoint of actual practice.

He goes on to say:

> Both the World War II and Korean war price controls also began with a general freeze. But an immediate effort was made to replace the freeze with hundreds of "tailored regulations," one for each major trade or industry.
>
> Their purposes were both to repair the inequities of the freeze and to make the controls more clear and effective.
>
> The Price Commission apparently plans no tailored regulations. This means, of course, that the price controls for many industries and trades will remain confusing and ineffective. A freeze is particularly inappropriate where sellers deal in a constantly changing assortment of goods or services, and it has essentially no meaning where each sale of product or service is almost unique—as of buildings, TV repairs or doctor's services.
>
> Instead, the Price Commission presumably plans to deal with most inequities by permitting individual adjustments of price ceilings. OPA and OPS regulations contained hundreds of separate provisions under which sellers could seek individual adjustment of ceilings. Under these provisions, tens of thousands of adjustment applications were processed and approved, disapproved or modified. However, had adjustment of inequities not been primarily accomplished through the issuance of tailored regulations, and by the amendment of these regulations to grant industry-wide or regional adjustments, the number and complexity of individual adjustments would have overwhelmed even the substantial staffs of these agencies.
>
> We have been told that this time the great majority of sellers and landlords—by number if not by volume of sales—will not require advance approval before putting individually adjusted ceilings into effect. Most of them will not even need to report their adjustments. OPA and OPS experience supports the conclusion that however carefully drawn are the adjustment standards and provisions, most sellers who do not need advance approval will be able to assemble enough selected data (or make enough mistakes of interpretation or calculation) to justify whatever ceilings they want to set. And because of the unavoidable ambiguities of even the best-drawn adjustment provisions, most of them will not even have to feel guilty about it.

What Gardner Ackley is saying is that under the present regulations it would be possible on the basis of the experience of OPA and OPS, because now regulations are different and they do not have to get advance approval, for most businessmen to set whatever ceilings they wish and because it is so hard to check on these matters, they will be able to get away with it and they will not even feel guilty about it.

Mr. Ackley goes on to say:

> But since no one expected the Phase Two controls to be very meaningful for smaller firms or on rents, what is the harm?
>
> The problem is that the minuscule staff of the Price Commission will be quickly overwhelmed by controversy, confusion and the constant amendment of regulations and procedures to deal with problems that no one anticipated or possibly could have. Thousands of sellers who really need adjustment of their ceilings will be unable to figure out what is required; others will refuse to use new ceilings until they (or their lawyers) are certain that they are legally correct; customers, tenants or "professional consumers" will challenge many of the price and rent increases; and a host of sellers will argue—often with justice—that their particular circumstances require a different method or standard of adjustment. The whole stabilization enterprise could become thoroughly discredited—and for no purpose.

Before I get into the statement about "for no purpose" there could be a situation in which the overwhelming majority of business people would be able to raise prices and where those who are doing their conscientious best to abide by the law, what they think to be the law, will be penalized and others will be able to operate outside the law because they will be able to get away with it. He goes on to say:

> Sooner or later—and better sooner—I believe that the Price Commission must decontrol all or the vast majority of rents and retail prices, and the prices of a good many of the smaller and less important manufacturing and processing industries, and substitute a voluntary program.

That is right on the button. That is what I think we should do with this bill and not depend on the board. He continues:

> Some will fear that this would wreck the entire system. Instead, it would greatly enhance its chances for success.
>
> The mistake is to believe that through the pretense of legal controls we thereby get appreciably lower prices in the retail-service-rent area than we would through a clear and well-publicized voluntary program. Effective price control is possible in these areas, and it was achieved by OPA. But it requires completely different techniques of control, and a vast bureaucracy to design, administer and police the controls.

He does not mention the fact that in our two previous experiences with price control we had the win-the-war psychology; that we wanted to win the war in World War II and in the Korean war and we do not have that now. He continues:

> These were vitally necessary in wartime periods of excess demand; but now the source of the inflation is quite different. If the Pay Board can effectively slow down the rate of wage increase for the powerful unions, and the Price Commission can reasonably stabilize the prices of basic products and powerful industries, prices in these consumer sectors will not be an *independent* source of trouble.
>
> To be sure, retail prices of consumer services, food and clothing, along with rents, are likely to account for most of the hoped-for 2% to 3% increase in the entire price level. But this will be true whether or not we pretend to control these prices.
>
> It is difficult to be optimistic about the survival of the Phase Two system. It could bog down in a morass of confusion, or it could break down through the walkout of the labor or the business members of the Pay Board. Yet I am reasonably confident that if the system can somehow hang together for even as long as nine months, it may well succeed in achieving a substantial slowing down in the rate of inflation.

But to do that we should provide an exemption for small business, small unions, the firms and the workers that have not played a part in inflation and we know are not going to.

Mr. President, I ask unanimous consent that I may yield briefly to the Senator from Oklahoma without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRIS. Mr. President, I rise to compliment the distinguished Senator from Wisconsin for his valiant, necessary, and highly informed opposition to the bill that is before us and to President Nixon's economic management plan in general.

Mr. President, there are two fundamental flaws in the legislation before us to extend the provisions of the Economic Stabilization Act.

First, the time of the extension is much too long. At the very most, the act should not be extended past July 1, 1972.

Second, there is no requirement that the President try to make the free enterprise system work through greater competition in American business and industry.

The President wants his power to control wages and prices extended into 1973. Otherwise, it is argued, the whole matter of economic management will get mixed up with the 1972 campaigns. Why should it not? President Nixon has launched us upon a radical change in our economic system. Yet, there is little discussion of the underlying long-range policy questions. Is this the kind of economic management system we want? What are the alternatives? Up to now, there seems to be a general feeling that the President is doing what has to be done, though there is disagreement about details.

I am in fundamental disagreement with the President, as I take it is the Senator from Wisconsin. While the Government must intervene in wage and price and related decisions when the market does not work, I believe we must make the market work better and hold intervention to a minimum.

I do not believe that we should abandon the free enterprise market system. It has not been given a proper trial. I do not want to go back to the free enterprise system; I want to go forward to the free enterprise system. I would like to see it tried. I do not believe that the President's economic management system is going to work to bring down inflation and unemployment low enough and rapidly enough.

The market is a better planning mechanism than what the President has decided to use. Even Communist countries are trying to change their systems to rely more upon the market. Hungary, in particular, a country I visited last spring, has launched upon what is called the new economic mechanism for greater reliance upon the market for what is produced, the prices that are charged, and where men work.

The best minds in Hungary are involved in discussing and deciding how that can be done without intolerable inflation or intolerable unemployment. These discussions are going on despite the restriction of Marxist dogma and Soviet dominance.

We, here in the United States, on the other hand, do not have to invent a market system. We have one. We are not restricted by Marxist dogma or foreign pressures. Yet, we are involving very few people in fundamental discussion about the direction we want to go in economic management in this country.

The President should not have the unprecedented power granted in this act for very long. That is the main reason why this act should be extended only to July 1, 1972.

Another good reason is to make sure that the kind of economic management system we want is a prime issue in the 1972 elections. Only by that method will we insure full discussion and full consideration of the alternatives—and make the best decisions.

The reason why the Nixon economic management program will not work is that it covers too much ground, is too all-inclusive. We ought to have a much neater, simpler mechanism—without all these various and overlapping boards and commissions. It ought primarily to rely upon voluntary guidelines, backed up by appeals to public opinion. It ought to provide for selective freezes for up to 6 months, appealable to the President and Congress, where the market pressures do not work.

Most important, market pressures ought to be made to work better. There are no real efforts to enforce antitrust laws. Mergers continued to go largely unchallenged. The 200 largest corporations now control 60 percent of manufacturing. Thirty-five percent of American industries are dominated by "shared monopolies," four or fewer firms which have 70 percent or more of sales. These industries include automobiles, steel, tires, containers, farm machinery, soup, cereals, and soap.

Prices would come down by more than 20 percent if these shared monopolies were broken up. Unless they are broken up and competition is made to work, there is no way to have permanent price stability and full employment without some system of permanent wage and price controls.

I intend to offer an amendment to this bill which will correct its two fundamental flaws. The amendment will extend the terms of the act only until July 1, 1972, and will require the President to launch antitrust actions against those firms which, because of lack of competition, have contributed significantly to the inflationary cycle.

I believe that this is a preferable approach to the radically different economic management system which President Nixon has begun and which he recommends to us for continuation into the future on what I think is probably an unlimited basis.

Mr. President, I ask unanimous consent that the amendment be printed in the RECORD and that it be printed as a proposed amendment to this bill and lie at the desk.

AMENDMENT NO. 763

The PRESIDING OFFICER. The amendment will be received and printed and will lie at the desk; and, without objection, will be printed in the RECORD, as requested.

The amendment is as follows:

On page 22, line 1, strike all of lines 1 through 7 inclusive and insert in lieu thereof the following:

"216. Expiration and anti-trust actions

"(a) The authority to issue and enforce orders and regulations under this title expires at midnight June 30, 1972, but such expiration shall not affect any action or pending proceeding, civil or criminal, not finally determined on such date, nor any action or proceeding based upon any act committed prior to July 1, 1972.

"(b) The President shall, pursuant to Section 6d of the Federal Trade Commission's Act 15 US Code 46d direct the Commission to undertake immediately for submission to the President and the Congress prior to June 1, 1972, an investigation of oligopoly industries, that is, those manufacturing industries in which the national or regional market share held by the 4 largest firms is 50% or more as determined by the Census Bureau in its study for the Senate Anti-trust Subcommittee; this investigation shall have as its purpose: (1) determining whether those industries are non-competitive in character and have, therefore, contributed significantly to the inflationary spiral since 1966, and (2) recommending specific measures to the Congress and to the President for decentralizing those industries in a manner involving minimum cost for the firms in question and for the nation's economy and leading to the restoration of effective price competition.

"The President, upon submission of the FTC report on oligopolistic industries, shall direct the Federal Trade Commission and the Anti-trust Division of the Justice Department immediately to undertake anti-trust suits against oligopolistic industries which are found to have contributed significantly to the inflationary spiral since 1966 in order to restore effective price competition in these industries.

Mr. HARRIS. Mr. President, I may offer that amendment in its two parts separately rather than as one amendment, depending upon what seems best at the time when the amendment is called up.

I want to say again what a great service I think the distinguished Senator from Wisconsin is performing here by calling these fundamental issues to the attention of the country and the Senate, as he is doing by this extended discussion.

I think there has been a whole generation of people in this country who have been miseducated on economic philosophy and economic management. There are too many people who think bigness is inevitable, too many people who do not think the free enterprise system or the market system can be made to work, and that therefore we are going to have to have more and more government intervention and more and more government control. I think that is wrong, and I think it would be terribly wrong in the Senate to let those issues go undiscussed and let those assumptions go unchallenged, which we will do if we vote for this bill unamended. I do not propose to do that.

The distinguished Senator from Wisconsin, I think, is reeducating the Senate and the public as to the false assumptions which underlie the President's program. I want to commend him again and thank him for yielding to me.

Mr. PROXMIRE. I thank the distinguished Senator from Oklahoma for his remarks, and wish to tell him how impressed I am with the way he has analyzed and grasped this very complicated subject. It is typical of the tremendous drive, intelligence, and concern which the Senator from Oklahoma has exhibited throughout his career in public life, and especially here in the Senate. I am most grateful to him for his remarks.

His amendment sounds very interesting indeed. Would the Senator clarify for the Senator from Wisconsin precisely what his amendment does?

Mr. HARRIS. It is actually in two

parts. I may call it up separately as two amendments, but it does two things. First of all, I think the time of extension of the act as proposed is much too long. I agree with the Senator from Wisconsin that it ought not to be extended beyond its present expiration date, which is April 30, 1972. I take it, from what he has said and from what I have learned generally in the Senate, that there does not seem to be a majority for that view.

I would extend it then only until the end of June 1972 by one part of my amendment. I believe that is long enough. I believe that the Senate ought not to go out of session in this Congress without having reexamined how this whole mess is working. I think it is an awful mess.

People already feel powerless. They know decisions are being made that affect their lives—whether they have jobs, what they are paid, what they have to pay for goods. Already they cannot get in touch with those who make the decisions. Now the President passes those questions on to boards on prices, a pay board, a price commission, a health advisory council, an interest and dividends council, and over all that a cost of living council and the Office of Emergency—whatever it is called—has something to do with it, or has had, and the Office of Management and Budget has something to do with it. By and large, the President has pitched these issues and questions to all those boards and said, "Well, you work them out the best you can."

At the very least, I do not think we ought to go out of this session of the Congress and leave all that power in the hands of the President and all of those semiautonomous boards and commissions. I think we ought to have another look at this question at the end of the fiscal year and decide what to do at that time. That is one part of the amendment.

In the meantime, I want to see us try to make the market system work. We are not doing it. I think most of our inflationary problems arise where there is economic power that is bigger than the market pressures. Steel is a good example. When steel sales went down during the last 2½ or 3 years, Adam Smith would have expected that prices would go down. Not at all. The steel companies were so powerful as to be able to pretty much ignore the market pressures and make up on unit prices what they lost in volume. The steel industry is just one of those industries which has not had to stay modern, which has not had to compete in prices, which has been far too inefficient, and which has spent too much money in operations and luxuries like corporate jets. Therefore, we have seen imports of Italian and Japanese steel, and we have seen Toyotas, Datsuns, and Volkswagens come in and the export of our jobs, and we have seen this resulting overwhelming wave of protectionism.

My amendment would extend these powers for a short period only to give us an opportunity to look at the question again at the end of the fiscal year, and require moves to make the market—rather than broad controls—govern.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. HARRIS. I yield.

Mr. PROXMIRE. The law which is on the books will expire, as the Senator knows, on April 30. So we have until the 1st of May—a little over 5 months—before the present law expires. That law gives the President all he needs, and then some. It gives him plenty.

The position that this Senator has taken is that we have not had sufficient experience under phase II. We have had some initial decisions, some of which have been very disturbing. The decisions of the Pay Board with respect to the coal miners, in my view, and the decision of the Price Commission with respect to increasing steel prices by 7 percent, may or may not be justified, and may or may not be the basis of a pattern. We do not know; we are operating completely in the dark. We do not know what is coming in the next few months with respect to decontrol. We may have decontrol in some of the areas the Senator from Oklahoma is calling for. We do not know.

Why act now, until we have a clear picture of what is actually happening? The Senate is so contradictory; we have still not acted on the Foreign Aid authorization, which expired July 1st. We have not acted on the $70 billion Defense appropriation measure. Yet, 5 months in advance of the expiration date, with a program that is brand new, that is unique in our experience, that has never been tried before, we are asked, "Keep your mouth shut and vote to extend it."

This is almost insulting to Members of the Senate. We are supposed to know what kind of policies our Government operates under, and have some effect on those policies. We are not supposed simply to give a blank check to the President, close our eyes, and say, "Do whatever you want to do." I think a very strong case could be made if this were the 25th of April instead of the 30th of November. It could then be said, "You had better get this passed, because it is going to expire in a few days."

But we have 5 months. We certainly ought to wait until after the recess, until January or February, at least, and I think probably a little later than that. Then we would have some idea. Then we would know what the Pay Board is likely to do. Are they going to have more of these 15 percent increases? If so, how many more? Is it going to set a pattern? What is going to happen with respect to prices? Are the 7- and 8-percent price increases in the steel industry going to set a pattern? What is going to be the reaction of small business? What is going to be the reaction of the millions of people whose wages are regulated? Why not wait to see what it is, and then act on a basis of knowledge and not on a basis of ignorance, which is what we would be doing by passing this measure now?

Mr. HARRIS. Mr. President, if the Senator will yield, I could not agree more. I think the best and first thing to do would be to try to stop the extension altogether, if there is any way to do it. I understand that the Senator from Wisconsin opposes extending the act altogether, and so do I. I intend to vote against it, unless we can do something to change it. I think it ought not to be extended past April, but if that cannot be done, I hope we will not extend it past June.

I do think it is important to try to write into this legislation the requirement that the President, the Federal Trade Commission, and the Justice Department try to make the free enterprise system work. The Senator from Wisconsin is exactly the person who ought to be standing here on this floor in opposition to this legislation, as he is, because he has opposed socialism from the right in so many other instances. Socialists today have a hard time trying to determine what is meant by socialism any more, because so many have come not to believe in government ownership of industries. Yet we now seem to be getting a kind of socialism from the right.

Mr. PROXMIRE. The Lockheed bailout, for instance?

Mr. HARRIS. Precisely. And with the Nixon economic policies also, socialism from the right is seen again, from conservatives coming in here and saying, "The Government knows enough and is smart enough that it ought to be able to set prices and wages and all these other things in a kind of across-the-board, permanent way."

I think that is wrong. And I think it was wrong when we would not let free enterprise work in respect to Lockheed. I think it was wrong to have a socialized SST—which fortunately the Senator from Wisconsin mustered enough votes to defeat. We are, indeed, getting in many respects a kind of socialism from the right, and the President's program for economic management is exactly that.

Mr. President, I want to make the free enterprise system work. I think the Senator from Wisconsin is doing exactly what ought to be done when he says, "Stop. Take a look at what is happening here; this is madness."

A lot of the old time Socialists have abandoned this kind of program as unworkable. Many of the Marxists, as I said a while ago, in countries like Hungary, are trying to figure out how to free some of their prices, and what is produced, and where people work, to more market pressures.

We have a market system. We ought to try to make it work.

Mr. PROXMIRE. I think it is very important, however, that our position not be misunderstood. I said at the beginning of my speech what the Senator from Oklahoma has said, but I want to be sure that it will not be misunderstood.

We both recognize that we should have some system or program for stopping inflation, but it ought to be a program that recognizes the economic facts of life, that we do not operate now in the kind of shortage, wartime rationing situation we had during World War II and the Korean war. We do not have that kind of situation now. And now we have a situation resulting from a combination of very large and powerful labor unions and very large and powerful corporations, and we should zero in on that situation, and not involve everyone and his brother in a complex maze of controls.

Mr. HARRIS. I certainly agree with that.

Mr. PROXMIRE. We both recognize that we must stop inflation.

Mr. HARRIS. The Government should intervene where the market does not work, but it ought to try to limit the instances where that intervention is necessary, by trying to make the market work wherever we can.

Mr. PROXMIRE. Let me give an example of how ridiculous the situation is becoming with respect to small business. We had Price Commission Chairman Grayson before the Joint Economic Committee, and he argued about how productivity is the key to control of prices. Many economists recognize that we can pay higher wages provided productivity increases. He also recognized that productivity must be the key in determining price levels for large as well as small business. He says it should even apply to babysitters. As a matter of fact, the administration recognizes that. They turned down one Virginia manufacturer the other day because it did not give productivity figures.

Determining productivity is very difficult, but let me point out that the Federal Government has begun to recognize the importance of productivity by creating a Productivity Commission.

I think we can gage the seriousness with which the administration uses productivity as a factor in the field of wage and price determination by reviewing the kind of resources they have given the Productivity Commission. Does the Senator have any idea how large the Productivity Commission is?

Mr. HARRIS. No, I do not.

Mr. PROXMIRE. Exactly two. There is the head of the Commission, and he has a secretary. That is the whole productivity effort by the administration; and with that, they are supposed to establish the ratio of productivity to costs of all of our small businesses, including gasoline stations, and of every manufacturer in the country, and provide evaluation standards. The administration knows it just cannot be done, and they are not even trying to do it.

It is a joke; and that fact is going to become visible to American businessmen and consumers very soon.

The businessman, in establishing his prices, has to consider productivity to determine how much of a price increase he is allowed. In most cases, he will not receive any direct surveillance. As Gardner Ackley pointed out in the article I just read into the RECORD, the expectation is that most businessmen will just do whatever they want to do with respect to productivity. But this is a very evil and unfortunate kind of situation. What the administration is saying is that businessmen may be violating the law, but they are not going to be prosecuted.

The overwhelming majority of our business people are honest and want to abide by the law, but they do not know what it is. There is no question but that this measure will engender tremendous hostility and a feeling on the part of business people that they are guilty when they are doing the best they can.

We have dozens of distinguished economists who cannot tell us about productivity in the service sector. I received 2 days ago a book recently published by, I think, some of the finest economists in the world, commenting upon developing a measurement for productivity in service industries. But they are just developing it. There is a big debate on whether the concept at present can be reduced to accurate measurement in the service industries.

Yet the administration is acting to seek to apply it to every little businessman, every little operator in the country. Of course it is just a fiction. What we have is a phony system that is not going to work, and I think the simplest amount of analysis shows it is a facade. Instead of that, we should proceed to a system of wage and price controls zeroing in in the area where you really have the problem.

I thank the Senator from Oklahoma very much.

Mr. President, one of the matters of the greatest concern in this program is the fact that when decisions are made with respect to pay and prices, the consumers should have an opportunity and the American people should have an opportunity and the businessmen generally should have an opportunity of knowing what is going on. The hearings conducted by the Pay Board, for example, on pay increases should be publicized, should be known. When Judge Boldt appeared before our committee, I asked him whether reporters were admitted to the hearings before the Pay Board. He said, "No."

I said, "Do you have a policy on it?" He said, "No."

I said, "If a reporter came in, if a television crew came in with a camera, would you permit them in?"

He said, "No, we would not permit a reporter or a television camera."

I said, "Did you take a transcript of the hearing?"

He said, "No."

I said, "Will you do that?"

He said they did not have any intention of doing that.

I said, "Did you take minutes?"

He said they did take them and that they will be made available at our request.

Mr. President, if this program is going to have any chance of success, there certainly ought to be complete and full public knowledge of what is going on. When decisions are made of the kind that was made the other day, providing a 16.8 percent increase in wages for the coal miners—an obvious inflationary decision that may blow up the stabilization program, and certainly endangered it—we would be far better served if there were a public record, if the justification for this increase had been made publicly, preferably before television crews, so that the greatest number of people could see it, and be in on it, and understand it; and we could have some credibility and belief in it. That was not provided.

It would seem to me most important that we provide in this bill—and I intend to offer an amendment if the amendment by my colleague from Wisconsin, Mr. NELSON, is not successful—that we make much of this material available to the public. It would provide that transcripts be kept; that they be made available; that these hearings are public; that, of course, where you have confidential information—and there is confidential information with respect to trade secrets, and so forth—that be safeguarded and received only in executive session. But procedures would be available that would make most of the material open to the public and permit a far greater degree of credibility.

Mr. PERCY. Mr. President, will the Senator yield for a question?

Mr. PROXMIRE. I yield.

Mr. PERCY. I think it would be very helpful to all of us and to the country if we could have a better understanding of what happened with respect to the coal miners' pay increase. I was surprised by the Board's early approval.

The Joint Economic Committee has had the Committee of the Pay Board before it. Unfortunately, I was not able to stay during the entire hearing. But to the best extent that the distinguished Senator from Wisconsin can give an explanation, What explanation did the Chairman of the Pay Board offer? I read the statement that was issued. It seemed to say that because circumstances within the coal industry were somewhat different and because of patterns that had been established, and many other things which were very generalized statements which could have been applied to the steel industry, the automobile industry, the electronics industry, and every other industry I could name—but they seemed to try to make it look as though there was some different reason and different pattern for this particular increase.

Is there any better explanation than has been offered publicly to date that can be given as to why an increase of this size was given as the first major decision of the pay board?

Mr. PROXMIRE. One difficulty is that Judge Boldt was against the pay increase and said he was and said he would have voted against it. He did not vote, because he only votes in the case of a tie.

It is interesting that the public members said that instead of a 15- to 17-percent increase, they wanted a 12.5-percent increase. That, by itself, is pretty shocking. Apparently, the ingredients were a 5.5-percent increase based on the guidelines, then about a 4- or 4.5-percent increase for a pension fund which had been rifled, or at least had been decimated by questionable practices on the part of those in charge of the pension fund. I suppose that is an exceptional circumstance. But it is very questionable as to whether a wage increase of this kind or a cost increase related to wages can be justified to replenish a pilfered pension fund.

Mr. PERCY. Would that open up the situation for industries that do not have pension funds?

Mr. PROXMIRE. Certainly.

Mr. PERCY. Could we then provide for them an exception if they do not have a pension fund as good as the coal industry? Would they automatically have an exception for anything that needs to be added to make up whatever deficiency there may be in pension funds?

Mr. **PROXMIRE**. A very strong argument could be made in that regard.

In addition, they said that coal mining is an unattractive, difficult, onerous kind of job—and it is a very unpleasant kind of work—and for that reason they provided an additional percentage. That added up to approximately 12½ percent.

The difference between their position and the position of industry and labor members who went whole hog—the 16.8 percent—was that the industry and labor members felt that there should be a catchup. But according to Judge Boldt, there is no justification for a catchup here. The coal miners were making about $35 a day, which is typical in that industry or that kind of extractive industry.

As a matter of fact, by giving this kind of increase, you can argue on the other side, that when these other industries come in, they will want to catch up with coal.

But it is typical of a procedure in which you do not have a transcript of what went on, in which you do not have reporters allowed to be present, in which what happens is that the witnesses come out and are interviewed. Some are interviewed and some are not, and they give a different view. The Senator knows how he replies to an interview. I know how I do. I have often been a witness before committees. It is very difficult for a reporter to get, under these circumstances, a balanced, fair account of reasons and justifications.

Furthermore, the justification by the Pay Board was never clearly enunciated, that I know of.

I think the Senator from Illinois raises a very helpful point, and I think it could be clarified by permitting the proceedings to be covered publicly.

Mr. **PERCY**. I am not a disinterested observer in the coal case. Illinois has the third largest coal reserves in the United States, and we have a very fine coal mining industry. I am always happy to see workers in my State benefited, but I also need to know what the price is going to be. I am thinking about the number of coal consumers we have and what the price increase is going to be per ton of coal, and then what that is going to do to the relationship between coal and oil and gas and atomic energy prices. Coal is not an uncompetitive product. As coal prices go up, the incentive to convert to oil or gas is very high; so coal may start pricing itself out of markets, which in the end can cost jobs to the coal industry.

Certainly, if it were to become any sort of a pattern, it was a very unfortunate first case. We have been assured that it was not a precedent to be established for other cases. Donald Rumsfeld has indicated, I believe, that another pattern has been developed. Taking cases that have been handled so far, an overall average price increase, I think, of 3.3 percent has been allowed which is within shooting range of the 2½-percent overall goal that has been established by the President.

Mr. **PROXMIRE**. There is great confusion about the Rumsfeld statement. For one thing, Rumsfeld's assertions were questioned by the Price Commission itself, and that is a matter of confusion. For another, the Price Commission, by and large, because of the area in which it deals, does not deal with the service industries so much. It will deal with the big industries, where wholesale prices and durables are involved. These are industries in which prices have been more stable. If you are going to get a 2.5 to 3 percent overall national price increase, you will have to do considerably better than that in the Price Commission's decisions.

Furthermore, we do not know as yet—and we will not know for at least a couple of months—what the pattern of price increases is going to be. That is why it is important for us to wait. What is the hurry? Wait before we pass this measure, until we have a record established by the administration of what kind of wage and price control program they have.

Mr. **PERCY**. When we have time, I will pick up that question.

Mr. **BYRD** of West Virginia. Mr. President, I ask unanimous consent that the distinguished Senator from Wisconsin may be recognized upon the Senate's return to legislative session.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 10947) to provide a job development investment credit, to reduce individual income taxes, to reduce certain excise taxes, and for other purposes; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. Mills of Arkansas, Mr. Ullman of Massachusetts, Mrs. Griffiths, Mr. Byrnes of Wisconsin, Mr. Betts, and Mr. Schneebeli were appointed managers on the part of the House at the conference.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 11731) making appropriations for the Department of Defense for the fiscal year ending June 30, 1972, and for other purposes; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. Mahon, Mr. Sikes, Mr. Whitten, Mr. Andrews of Alabama, Mr. Flood, Mr. Addabbo, Mr. McFall, Mr. Minshall, Mr. Rhodes, Mr. Davis of Wisconsin, Mr. Wyman, and Mr. Bow were appointed managers on the part of the House at the conference.

THE MEXICAN BOUNDARY TREATY

Mr. **TOWER**. Mr. President, we are considering today a most comprehensive treaty between the United States and Mexico which resolves longstanding border problems that have been a cause for concern between the two nations. I believe, however, that it is to the credit of both nations that most cordial relations have continued to exist between them in spite of the fact of this outstanding dispute. Through this cordiality, both nations have now concluded this treaty that resolves all of the boundary disputes and establishes a mechanism for solving any such disputes in the future, so that, when necessary, adjustments will come in a very short time and will not be for long a cause of concern between the two sister republics.

Mr. President, this treaty is in the tradition of other boundary and friendship treaties that have recently been concluded with the Republic of Mexico. Our good relations with our neighbors to the south have been bolstered, and I believe that they will be even further enhanced by this treaty that we are considering today. My State of Texas, where all the land affected by this treaty lies, shares a long, proud heritage with Mexico. The entire State has been influenced to one degree or another by the ideas, the architecture, and the native language of the Republic to the south. It is certainly my hope that with the overwhelming adoption of this treaty, our relations will be even better and will continue to grow through mutual expressions of good will.

Mr. President, in conclusion, this treaty will be for the long-range benefit of both nations. All parties on both sides of the border will be certain that the title to land that they will have after the effective date of this treaty will be good and that should for any reason the boundary change in the future, that they will be fully and quickly compensated for their loss. Both nations will share equally in the cost of implementing this treaty and another bond of "amistad" will be formed. I urge my colleagues to give United States-Mexican relations an overwhelming vote of confidence.

EXECUTIVE SESSION

The **PRESIDING OFFICER**. Without objection, the Senate will go into executive session.

TREATY WITH MEXICO RESOLVING BOUNDARY DIFFERENCES

The **PRESIDING OFFICER**. Pursuant to the order of November 24, 1971, and the hour of 1 o'clock having arrived, the Senate will now proceed in executive session to vote on Executive B (92d Cong., 1st session), the Treaty To Resolve Pending Boundary Differences and Maintain the Rio Grande and Colorado River as the International Boundary Between the United States of America and the United Mexican States, signed at Mexico City on November 23, 1970.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. **BYRD** of West Virginia. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Florida (Mr. Chiles), the Senator from Georgia

(Mr. GAMBRELL), the Senator from Washington (Mr. JACKSON), the Senator from Maine (Mr. MUSKIE), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), and the Senator from Louisiana (Mr. LONG) are necessarily absent.

I further announce that the Senator from Idaho (Mr. CHURCH), the Senator from Montana (Mr. MANSFIELD), the Senator from Minnesota (Mr. MONDALE), and the Senator from Utah (Mr. MOSS) are absent on official business.

I further announce that, if present and voting, the Senator from Florida (Mr. CHILES), the Senator from Washington (Mr. JACKSON), the Senator from Alaska (Mr. GRAVEL), the Senator from Georgia (Mr. GAMBRELL), and the Senator from West Virginia (Mr. RANDOLPH) would each vote "yea."

Mr. SCOTT. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Utah (Mr. BENNETT), the Senator from New Hampshire (Mr. COTTON), and the Senator from Michigan (Mr. GRIFFIN) are necessarily absent.

The Senator from Florida (Mr. GURNEY) is necessarily absent attending the funeral of a friend.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Ohio (Mr. SAXBE) is absent on official business.

If present and voting, the Senator from Florida (Mr. GURNEY) would vote "yea."

The yeas and nays resulted—yeas 79, nays 0, as follows:

[No. 400 Ex.]

YEAS—79

Aiken
Allen
Allott
Anderson
Beall
Bellmon
Bentsen
Bible
Boggs
Brock
Brooke
Buckley
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Case
Cook
Cooper
Cranston
Curtis
Dole
Dominick
Eagleton
Ellender
Ervin
Fannin

Fong
Fulbright
Goldwater
Hansen
Harris
Hart
Hatfield
Hollings
Hruska
Hughes
Humphrey
Inouye
Javits
Jordan, N.C.
Jordan, Idaho
Kennedy
Magnuson
Mathias
McClellan
McGee
McGovern
McIntyre
Metcalf
Miller
Montoya
Nelson
Packwood

Pastore
Pearson
Pell
Percy
Proxmire
Ribicoff
Roth
Schweiker
Scott
Smith
Sparkman
Spong
Stafford
Stennis
Stevens
Stevenson
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

NAYS—0

NOT VOTING—21

Baker
Bayh
Bennett
Chiles
Church
Cotton
Eastland

Gambrell
Gravel
Griffin
Gurney
Hartke
Jackson
Long

Mansfield
Mondale
Moss
Mundt
Muskie
Randolph
Saxbe

The PRESIDING OFFICER (Mr. STEVENSON). On this vote, the yeas are 79, the nays are 0. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

TAX CONVENTION WITH JAPAN

The PRESIDING OFFICER (Mr. STEVENSON). Under a further provision of the unanimous-consent agreement, the Senate will now proceed to vote on Executive E (92d Cong., 1st sess.), the Convention between the United States of America and Japan for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, signed at Tokyo on March 8, 1971. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Florida (Mr. CHILES), the Senator from Mississippi (Mr. EASTLAND), the Senator from Georgia (Mr. GAMBRELL), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from Washington (Mr. JACKSON), the Senator from Louisiana (Mr. LONG), the Senator from Maine (Mr. MUSKIE), and the Senator from West Virginia (Mr. RANDOLPH) are necessarily absent.

I further announce that the Senator from Idaho (Mr. CHURCH), the Senator from Montana (Mr. MANSFIELD), the Senator from Minnesota (Mr. MONDALE), and the Senator from Utah (Mr. MOSS) are absent on official business.

I further announce that, if present and voting, the Senator from Florida (Mr. CHILES), the Senator from Washington (Mr. JACKSON), the Senator from Georgia (Mr. GAMBRELL), and the Senator from West Virginia (Mr. RANDOLPH) would each vote "yea."

Mr. SCOTT. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Utah (Mr. BENNETT), the Senator from New Hampshire (Mr. COTTON), and the Senator from Michigan (Mr. GRIFFIN) are necessarily absent.

The Senator from Florida (Mr. GURNEY) is necessarily absent attending the funeral of a friend.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Ohio (Mr. SAXBE) is absent on official business.

If present and voting, the Senator from Florida (Mr. GURNEY) would vote "yea."

The yeas and nays resulted—yeas 79, nays 0, as follows:

[No. 401 Ex.]

YEAS—79

Aiken
Allen
Allott
Anderson
Beall
Bellmon
Bentsen
Bible
Boggs
Brock
Brooke
Buckley
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Case
Cook
Cooper
Cranston
Curtis

Dole
Dominick
Eagleton
Ellender
Ervin
Fannin
Fong
Fulbright
Goldwater
Hansen
Harris
Hart
Hatfield
Hollings
Hruska
Hughes
Humphrey
Inouye
Javits
Jordan, N.C.
Jordan, Idaho

Kennedy
Magnuson
Mathias
McClellan
McGee
McGovern
McIntyre
Metcalf
Miller
Montoya
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Ribicoff
Roth
Schweiker
Scott

Smith
Sparkman
Spong
Stafford
Stennis
Stevens

Stevenson
Symington
Taft
Talmadge
Thurmond
Tower

Tunney
Weicker
Williams
Young

NAYS—0

NOT VOTING—21

Baker
Bayh
Bennett
Chiles
Church
Cotton
Eastland

Gambrell
Gravel
Griffin
Gurney
Hartke
Jackson
Long

Mansfield
Mondale
Moss
Mundt
Muskie
Randolph
Saxbe

The PRESIDING OFFICER. On this vote, the yeas are 79, the nays are 0. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

TAX PROTOCOL WITH FRANCE

The PRESIDING OFFICER. Under a further provision of the unanimous-consent agreement, the Senate will now proceed to vote on Executive O (91st Cong., 2d sess.), the protocol, signed at Washington on October 12, 1970, to the convention between the United States of America and the French Republic with respect to taxes on income and property as of July 28, 1967. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Florida (Mr. CHILES), the Senator from Mississippi (Mr. EASTLAND), the Senator from Georgia (Mr. GAMBRELL), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from Washington (Mr. JACKSON), the Senator from Louisiana (Mr. LONG), the Senator from Maine (Mr. MUSKIE), and the Senator from West Virginia (Mr. RANDOLPH) are necessarily absent.

I further announce that the Senator from Idaho (Mr. CHURCH), the Senator from Montana (Mr. MANSFIELD), the Senator from Minnesota (Mr. MONDALE), and the Senator from Utah (Mr. MOSS) are absent on official business.

I further announce that, if present and voting, the Senator from Florida (Mr. CHILES), the Senator from Washington (Mr. JACKSON), the Senator from Georgia (Mr. GAMBRELL), and the Senator from West Virginia (Mr. RANDOLPH) would each vote "yea."

Mr. SCOTT. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Utah (Mr. BENNETT), the Senator from New Hampshire (Mr. COTTON), and the Senator from Michigan (Mr. GRIFFIN) are necessarily absent.

The Senator from Florida (Mr. GURNEY) is necessarily absent attending the funeral of a friend.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Ohio (Mr. SAXBE) is absent on official business.

If present and voting, the Senator from Florida (Mr. GURNEY) would vote "yea."

The yeas and nays resulted—yeas 79, nays 0, as follows:

[No. 402 Ex.]

YEAS—79

Aiken
Allen
Allott
Anderson
Beall
Bellmon
Bentsen
Bible
Boggs
Brock
Brooke
Buckley
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Case
Cook
Cooper
Cranston
Curtis
Dole
Dominick
Eagleton
Ellender
Ervin
Fannin
Fong
Fulbright
Goldwater
Hansen
Harris
Hart
Hatfield
Hollings
Hruska
Hughes
Humphrey
Inouye
Javits
Jordan, N.C.
Jordan, Idaho
Kennedy
Magnuson
Mathias
McClellan
McGee
McGovern
McIntyre
Metcalf
Miller
Montoya
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Ribicoff
Roth
Schweiker
Scott
Smith
Sparkman
Spong
Stafford
Stennis
Stevens
Stevenson
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

NAYS—0

NOT VOTING—21

Baker
Bayh
Bennett
Chiles
Church
Cotton
Eastland
Gambrell
Gravel
Griffin
Gurney
Hartke
Jackson
Long
Mansfield
Mondale
Moss
Mundt
Muskie
Randolph
Saxbe

The PRESIDING OFFICER. On this vote the yeas are 79, the nays are 0. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

LEGISLATIVE SESSION

The PRESIDING OFFICER (Mr. STEVENSON). Without objection, the Senate will now return to legislative session.

The Senate resumed the consideration of legislative business.

ECONOMIC STABILIZATION ACT OF 1971

The PRESIDING OFFICER. The clerk will state the unfinished business.

The legislative clerk read as follows:

The bill (S. 2891) to extend and amend the Economic Stabilization Act of 1970.

The PRESIDING OFFICER. Under the previous order, the Chair recognizes the Senator from Wisconsin.

Mr. McGEE. Mr. President, will the Senator from Wisconsin yield to me for an amendment?

Mr. PROXMIRE. Mr. President, I yield to the Senator from Wyoming, with the understanding that I do not lose my right to the floor.

Mr. TOWER. Mr. President, reserving the right to object, for what purpose does the Senator yield?

Mr. PROXMIRE. I yield to the Senator from Wyoming for the purpose of his obtaining unanimous consent to be recognized after I speak.

Mr. McGEE. I am seeking permission to offer an amendment to the bill as soon as the Senator from Wisconsin finishes speaking, and I ask unanimous consent for such permission.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, in the course of my earlier remarks, I discussed the great complexity of this program compared to former price control efforts, the great difficulty in enforcing a program and making it effective, and the obvious fact that it is going to be extraordinarily hard for businessmen to know what they are doing within their enterprises, and for consumers to be able to follow.

I think one of the most dramatic demonstrations of this fact was what happened to processed food prices in New York City. They were under controls. There is no question about that. They were under the freeze. In general, I think the freeze worked well. All indications are that it did. However, there were widespread violations even of the freeze, and they were documented in this case by an interesting article in the New York Times of November 22, and I ask unanimous consent that the article be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Nov. 22, 1971]

STUDY SHOWS 40 PERCENT OF FOODS HERE INCREASED IN PRICE IN SEPTEMBER DESPITE FREEZE

(By Will Lissner)

Federal Government price reports for the New York area show that 40 per cent of a representative sample of average retail food prices were increased in September, soon after President Nixon instituted the 90-day price freeze.

The average increases were generally less than 1 per cent, but 17 percent of the increases represented rises of from 1 to 4 per cent. All of the rises were for foods for which the prices were theoretically frozen. Analysis by The New York Times of the United States Bureau of Labor Statistics' "Estimated Retail Food Prices by Cities" report for September also indicates that the prices rises were offset by an equal proportion of foods with price declines. Twenty per cent of the foods studied were unchanged in price.

The greatest increase was in the average price for canned ham. It sold for $1.14 a pound through the base period, July 16 through Aug. 14. But in the first two weeks of September, the average price went up to $1.18 a pound an increase of 4 cents.

SURCHARGE ANTICIPATED

Much of the canned ham sold here is imported from Poland, Denmark, England, Eire and other countries, but the ham being sold in the study period had been imported before Aug. 15 and the 10 per cent import surcharge could not be added to the prices. The retailers involved knew that the prices could go up to pass along the surcharge and apparently they anticipated it, at the expense of the consumer.

The analysis covers 71 items affected by the freeze, ranging from cereals, meat and dairy products, canned goods, sweets and beverages to prepared foods.

It shows that for 12 items the average price increases were from 1 to 4 per cent. On 17, the average increases were fractions of 1 per cent.

On 13 items, the average price declined 1 to 3 percent and on 16, the average prices declined fractionally. On 13 items, the prices were unchanged.

Rib roast went up an average of 2 cents a pound, porterhouse steak 1.3 cents and chuck roast, 1.1 cents. Among pork items, sausage increased an average of 1.5 cents, pork loin roast 1 cent. Liver sausage rose an average of 1.3 cents a pound. Other rises average fractions of a cent.

The Bureau of Labor Statistics does most of its retail food pricing in the first two weeks of the month, according to the agency's regional director, Herbert Bienstock. So, in a few cases, it is possible that for a short period between pricings, higher prices were charged during the base period that did not enter into the base period average.

The data backed findings from analysis of State Department of Agriculture and Markets price reports that some over-ceiling prices had been charged by some retailers. This supports the claim of A.F.L.-C.I.O. officials, challenged by the administration, that with wages frozen, labor's purchasing power had been eroded by price-freeze violations.

The data also supplied New Yorkers with their first look at what happened in the retail food markets during the third, fourth and fifth weeks of the freeze, for the figures come from the only statistically valid sampling available.

New York State government price reports, considered invaluable by consumer groups, are limited by the funds available to leading retailers. And organized labor's price watch, still in its beginnings, has not yet produced statistical data for analysis.

The B.L.S. sampling cannot be used by consumers because the price reports are obtained in confidence. But its sample covers several hundred stores, visited monthly by trained price analysts.

The retail food prices, which include 19 fresh fruits and vegetables exempt from the freeze, are the only prices published as such. Other B.L.S. pricings, for clothing and other goods and services, are reported as indexes, which have limited usefulness as indicators of compliance with price stabilization.

With the Internal Revenue Service refusing to give the public a detailed account of its enforcement operations, the B.L.S. series gives the public the only available check on the effectiveness of the administration's efforts to stabilize the price level.

NEW YORK AREA RETAIL FOOD PRICES IN SEPTEMBER

[Prices in cents per pound except as specified]

	Average base prices		Average price in September	Increase or decrease in cents	Percent increase or decrease
CEREALS AND BAKERY PRODUCTS					
Flour, white, all purpose, 5 lbs	59.3	59.1	59.9	0.6	1.00
Cracker meal, 9½ oz	34.4	34.3	34.5	.1	.29
Corn flakes, 12 oz	34.5	33.4	33.1	—.4	—.12
Rice, long grain, 1 lb	23.9	23.8	23.8	0	0
Bread, white, 1 lb	30.2	30.1	30.4	.2	.66
Bread, whole wheat, 1 lb	42.3	41.6	42.4	0.1	0.24
Cookies, cream filled, 1 lb	55.5	55.6	55.1	—.5	—.89
MEATS, POULTRY, AND FISH					
Beef and veal:					
Steak, round, U.S. Choice, 1 lb	164.5	169.3	165.9	—3.4	—2.00
Steak, sirloin, U.S. Choice, 1 lb	148.5	150.2	149.7	—.5	—.33

NEW YORK AREA RETAIL FOOD PRICES IN SEPTEMBER—Continued

[Prices in cents per pound except as specified]

	Average base prices		Average price in September	Increase or decrease in cents	Percent increase or decrease
MEATS, POULTRY, AND FISH—Continued					
Beef and veal—Continued					
Steak, porterhouse, U.S. Choice, 1 lb	173.5	175.6	176.9	1.3	0.74
Rump roast, boneless, U.S. Choice, 1 lb	141.5	150.8	147.7	−3.1	−2.30
Rib roast, U.S. Choice, 1 lb	109.4	111.0	113.0	2.0	1.80
Chuck roast, U.S. Choice, 1 lb	80.0	79.8	81.1	1.1	1.38
Hamburger, ground chuck, 1 lb	92.9	91.6	92.6	−.3	−.32
Beef liver, 1 lb	69.5	69.3	68.6	−.9	−1.29
Veal cutlets, U.S. Choice, 1 lb	291.1	293.5	294.1	.6	.22
Pork:					
Chops, 1 lb	128.3	130.2	128.8	−1.4	−1.07
Loin roast, 1 lb	84.9	86.5	87.5	1.0	1.16
Pork sausage, fresh, bag or roll, 1 lb	88.9	88.8	90.4	1.5	1.67
Ham, whole, smoked, 1 lb	79.9	80.0	80.2	.2	.25
Ham, picnics, smoked, 1 lb	57.4	55.3	57.0	−.4	−.69
Bacon, 1 lb	91.6	92.0	92.5	.5	.54
Other meats:					
Lamb chops, loin, U.S. Choice, 1 lb	195.9	198.9	197.9	−1.0	−.50
Frankfurters, 1 lb	86.2	88.3	88.5	.2	.22
Ham, canned, 1 lb	114.0	114.0	118.3	4.3	3.77
Bologna sausage, 8 oz	58.9	59.6	60.0	.4	.67
Salami sausage, 8 oz	67.1	66.8	67.1	0	0
Liver sausage, 8 oz	96.2	94.9	97.5	1.3	1.35
Poultry:					
Frying chicken, whole or cut up, 1 lb	49.0	46.7	47.6	−1.4	−2.86
Chicken breasts, 1 lb	79.5	82.6	81.7	−.9	−1.08
Turkey, medium size, 1 lb	59.9	60.6	60.8	.2	.33
Fish:					
Shrimp, frozen, breaded, 10 oz	109.2	111.7	109.4	−2.3	−1.96
Ocean perch fillet, frozen, 1 lb	79.0	81.0	80.4	−.6	−.74
Haddock, fillet, frozen, 1 lb	99.8	99.3	99.8	0	0
Tuna fish, 6½ oz. can	46.1	45.7	45.6	−.5	−1.08
Sardines, 4 oz. can	17.5	17.3	17.5	0	0
DAIRY PRODUCTS					
Milk, fresh, vitamin D, grocery, ½ gal	62.0	61.9	61.9	−.1	−.16
Milk, fresh, vitamin D, delivered, ½ gal	73.5	73.5	73.5	0	0
Milk, evaporated, 14½ oz. can	20.6	20.8	20.8	0	0
Ice cream, prepacked, ½ gal	96.7	97.1	96.9	−.2	−.20
Cheese, American, process, 8 oz	51.8	51.8	51.4	−.4	−.77
Butter, 1 lb	89.9	89.9	90.3	.4	.45
PROCESSED FRUITS AND VEGETABLES					
Fruit cocktail, No. 303 can	32.1	31.9	31.9	−0.2	−0.62
Pears, No. 2½ can	52.8	54.2	54.3	.1	.18
Pineapple-grapefruit drink, 46 oz. can	34.2	34.7	34.8	.1	.29
Orange juice concentrate, 6 oz. can	23.7	24.4	24.9	.5	2.05
Lemonade concentrate, 6 oz. can	14.3	14.5	14.8	.3	2.08
Beets, No. 303 can	20.0	20.1	20.1	0	0
Peas, green, No. 303 can	26.5	26.9	26.4	−.5	−1.85
Tomatoes, No. 303 can	24.2	23.8	23.7	−.5	−2.06
Dried beans, 1 lb	22.4	23.1	23.4	.3	1.30
Broccoli, frozen, 10 oz	30.6	30.6	30.6	0	0
OTHER FOODS					
Fats and oils:					
Margarine, 1 lb	37.9	38.3	38.1	−.2	−.52
Salad dressing, Italian, 8 oz	41.3	42.0	41.8	−.2	−.48
Salad or cooking oil, 24 oz	65.8	67.7	67.7	0	0
SUGAR AND SWEETS					
Sugar, white, 5 lbs	68.9	70.1	70.3	.2	.28
Grape jelly, 10 oz	31.0	31.6	31.2	−.3	−.95
Chocolate bar, 1 oz	6.8	6.8	6.8	0	0
NONALCOHOLIC BEVERAGES					
Coffee, 1 lb. can	92.8	92.3	92.4	−.4	−.43
Coffee, instant, 6 oz	109.0	107.0	109.3	.3	.28
Tea bags, 48	63.5	63.1	63.1	−.4	−.63
Cola drink, carton, 72 oz	72.0	72.0	72.0	0	0
Carbonate fruit drink, carton, 72 oz	65.9	66.2	66.3	.1	.15
PREPARED FOODS					
Bean soup, 1½ oz. can	17.5	18.1	17.8	−.3	−1.66
Chicken soup, 10½ oz. can	18.2	18.2	18.4	.2	1.10
Spaghetti, 15¼ oz. can	19.9	20.0	20.2	.2	1.00
Potatoes, instant, mashed, 7 oz	38.9	38.4	38.0	−.9	−2.31
Potatoes, fried, frozen, 9 oz	17.2	17.2	16.7	−.5	−2.92
Baby foods, 4½ oz	11.8	11.8	11.8	0	0
Sweet pickle relish, 12 oz	36.4	36.8	36.6	0	0
Pretzels	45.3	45.1	45.1	−.2	−.44

Source: Compiled and computed from price reports of the U.S. Bureau of Labor Statistics.

Mr. PROXMIRE. This article shows that 40 percent of the food in New York City that was subject to the freeze increased in price during the month of September. During the entire month of September the freeze was in effect as we know. This was in clear, conspicuous violation of the Federal freeze order. The specific foods are listed, and they include increases which, while very small on a monthly rate, on an annual rate the increases in price were as much as 12 percent, and in one case 48 percent.

In spite of this, it is very likely that the freeze in general did work well. But the ability of merchants to increase prices when they were operating on such a clear and simple basis as the freeze makes it obvious that the freedom in phase II to increase prices without permission will certainly confuse the overwhelming majority of retailers. Providing for keeping records and staying within complicated cost and profit guidelines just will not do the job. It will make it unlikely that phase II is going to be able to get along without widespread confusion and without violations that are likely to grow. As I pointed out in quoting from Gardner Ackley, in most cases the merchants are not even going to feel guilty about it, because it is so easy to interpret the regulations of the Price Commission to warrant almost any kind of price increase.

Mr. HARRIS. Mr. President, will the Senator yield for a question?

Mr. PROXMIRE. I yield.

Mr. HARRIS. Is it not true that, basically, what is going to be on the mind of a businessman is what his competitors are going to do? Is he not going to be fearful that, with not anywhere near the number of enforcement personnel there were in other times of price controls, his competitors will not comply, and the tendency may be not to comply himself? How does the number of employees compare with other times when we had controls?

Mr. PROXMIRE. We had testimony from the top people who administered controls in both World War II and the Korean war; and they, without exception, testified that the proposed legislation was absolutely unworkable without far more people enforcing the law than are provided for. Three thousand people cannot come close to enforcing it. In World War II—I am not sure of the numbers—I think there was something like 12,000, perhaps more than that, not including those who were working in rationing. In the Korean war, they had even more people.

I do not have the precise figures. I will be happy to put them in the RECORD. They were far more than we have now, and now we have far more complicated provisions. We do not have the discipline and the motivation we had in the previous war periods. It is predictable that there will be violation of the law under these circumstances. That is why it is important that we follow the advice the Senator from Oklahoma gave us earlier and recognize that the great majority of business people would operate better under a free system and that they are not the inflationary problem. The inflationary problem we should crack down on is where you have big corporations and big unions. Where you do not have that, you do not need this.

I think that many of these merchants will reduce their prices because of the force of competition.

It is interesting that, although during the freeze in New York City you had the violation of the law with 40 percent of the food prices going up, you also had other food prices going down; and the result was that, overall, there was no change in the price of food in New York City.

That was not because of the regulation. That was because of the obvious effect of competition, because the freeze should have prevented prices from going up but it did not.

Mr. HARRIS. What about the need for some industries to pass along the benefits of increased productivity to the consumer in the form of price decreases? We tend to think only in terms of holding increases in prices within some limits. But is it not true that if we had greater competition, we might be able to get some actual price decreases, rather than just worrying about what the increases are going to be, and that that really does not figure in this present system of broad wage and price controls?

Mr. PROXMIRE. The Senator raises

an excellent point that has been badly overlooked by the Price Commission and the Wage Board—the fact that this kind of wage restraint, if it is a forceful restraint, if you are going to hold down wages to a 5.5-percent guideline, many industries have a far greater productivity increase in the course of a year than 5.5 percent. Some have 10 percent, some have 20 percent, in a high technology industry. Under those circumstances, they will be able to ride along with this kind of restraint on wages. If they do not reduce their prices, it means that wage controls will result in windfall profits, and there is nothing in the regulation or the proposed legislation to correct that.

Mr. President, one of the ablest commentators on the economy is Henry Kaufman, who is a partner and economist in one of the outstanding firms in Wall Street, Salomon Bros. He recently delivered a talk before the Municipal Finance Forum in Washington, on November 24, in which he analyzed the program and its effect on the market and on the economy. This was such an extraordinarily able and perceptive speech that I should like to read a small part of it and then place the entire speech in the RECORD. Mr. Kaufman said:

> The President's New Economic Program has introduced not only new but also baffling dimensions to our economy and credit markets. Instead of providing a sense of assurance, as it did initially, it is now contributing to uneasiness and uncertainty. Thus, both stocks and bonds rallied immediately following the inception of the N.E.P. but now stock prices are falling and bond prices are rising, albeit irregularly, an unusual event for the start of the second year of an economic expansion. What accounts for this atypical behavior? I feel that the answer lies largely with expectations now emerging concerning end results of the New Economic Program.
>
> Actually, there was only one basic strategy decision which our Government had to make, either implicitly or explicitly, concerning the N.E.P. and on this decision hinged all consequences of the program. The critical decision was whether the N.E.P. was to be temporary or permanent as a policy instrument. Each course required different tactics and was bound to elicit different responses from the marketplace and from the public generally. A strategy designed to be temporary had to stamp out inflation quickly and decisively. It would have required a program that was hard hitting, uncompromising, and unyielding regardless of the claims of the different economic participants. Any rate of inflation would have been unacceptable. No targets of a 2% to 3% inflation goal would have been established. Initiatives would have been undertaken to achieve competitive business and labor markets. Thus, in this way an aura would have been created of a New Economic Program that would be temporary, successful quickly, and would free the economy quickly from governmental intervention.
>
> As a tactical proposition, the chances for a successful withdrawal soon of Governmental economic intervention are far better in the early stages of an economic expansion than following several years of economic advance. By that time, there is usually at best a very sensitive balance between economic forces which requires close monitoring by Government.
>
> I feel that a few weeks ago there was substantial popular support for a hard-hitting uncompromising brief program. To a large measure, this was reflected in the popularity of the wage-price freeze when it was first announced.
>
> We were longing for decisive action in the destructive and impoverishing struggle against inflation. There was a yearning in America for a return to economic discipline. We responded favorably to the initial domestic actions in mid-August not as businessmen, workers, investors or borrowers but as individual citizens who wanted a return to stability soon and not compromises and a long Federal involvement in the private economy.
>
> The expectation that these comprehensive aspirations would be fulfilled were behind the dramatic rally in bonds and stocks immediately following the announcement of the New Economic Program in mid-August. At the first glimpse of Phase II in early September when the President announced the termination of the freeze at the end of ninety days, both markets retreated.

Mr. President, what Mr. Kaufman is saying is very important and I ask unanimous consent that his full statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

THE BOND AND STOCK MARKETS IN PHASE II

(By Henry Kaufman)

Powerful new economic and financial forces have been unleashed in recent months. They are reverberating within our own country and around the world, setting in motion novel political, economic and financial trends with both high risks and opportunities. The old international monetary system has been shattered, and we seem to be at a dangerous impasse in achieving a new arrangement. Now we are also embarked on a new approach to achieving economic stability at home through a series of direct interventions in the economy.

It is a time when we can no longer take refuge in conventional economic wisdoms which, in more normal times, provide us with judgmental comforts and handy crutches for simple decision making. Conventional wisdoms are being uprooted and defoliated at an accelerating pace. How unsettling to the economic theorist to find a persistence of a high rate of inflation with rising unemployment and to see consumers saving more and spending less just when the purchasing power of their savings is being rapidly eroded. How distracting and indeed costly it must have been to many to find that stocks are not really an inflation hedge, that lower bond prices are only rarely accompanied by higher stock prices, and that we can have rising bond prices and declining stock prices at a time of business recovery. Of course, the uprooting of conventional wisdom is not singular to economics and finance. It is occurring everywhere. Children state openly now that father does not always know best. Yesterday's health foods are today's carriers of poisons. Exercise instead of rest is now frequently prescribed for heart patients. Alas, where are the lasting truths? Perhaps only, "I doubt, therefore, I am."

It is time to clearly differentiate in forecasting between what "ought-to-be" and what actually will be. "Ought-to-be" economic forecasting is the mechanical technique of seeing the future by looking back. It leans heavily on cyclical equations and on the assumption that past relationships will be maintained in the future. "Ought-to-be" economic forecasts, therefore, really assume no fundamental structural changes but merely project the past. Think back for a moment and consider what "ought-to-have-been" in recent years as compared with what actually materialized and how many econometric models have been junked by the structural deviations.

It is a time for us to begin to understand the uniqueness of the current economic and financial situation while tradition may lead us to grave mistakes as a nation and as individual decision makers. Thus, in speaking to you today about the bond and stock markets, I unfortunately cannot give you answers in terms of sweeping generalities. The intricacy and complexity of the New Economic forces will not allow it.

THE NEW ECONOMIC PROGRAM

The President's New Economic Program has introduced not only new but also baffling dimensions to our economy and credit markets. Instead of providing a sense of assurance, as it did initially, it is now conrtibuting to uneasiness and uncertainty. Thus, both stocks and bonds rallied immediately following the inception of the N.E.P. but now stock prices are falling and bond prices are rising, albeit irregularly, an unusual event for the start of the second year of an economic expansion. What accounts for this atypical behavior? I feel that the answer lies largely with expectations now emerging concerning end results of the New Economic Program.

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As a tactical proposition, the chances for a successful withdrawal soon of Governmental economic intervention are far better in the early stages of an economic expansion than following several years of economic advance. By that time, there is usually at best a very sensitive balance between economic forces which requires close monitoring by Government.

I feel that a few weeks ago there was substantial popular support for a hard-hitting uncompromising brief program. To a large measure, this was reflected in the popularity of the wage-price freeze when it was first announced.

We were longing for decisive action in the destructive and impoverishing struggle against inflation. There was a yearning in America for a return to economic discipline. We responded favorably to the initial domestic actions in mid August not as businessmen, workers, investors or borrowers but as individual citizens who wanted a return to stability soon and not compromises and a long Federal involvement in the private economy.

The expectation that these comprehensive aspirations would be fulfilled were behind the dramatic rally in bonds and stocks immediately following the announcement of the New Economic Program in mid August. At the first glimpse of Phase II in early September when the President announced the termination of the freeze at the end of ninety days, both markets retreated. Bonds retreated until the close of September and improved in price again thereafter, while the selloff in stocks continued unabated.

Both the international and domestic aspects of the N.E.P. contributed to these divergent market movements. For the bond market, the international financial impasse meant the continuation of large purchases of U.S. Governments by foreign official institutions in order to check the appreciation of their currency and the depreciation of the dollar. Thus, during the first four months of the new fiscal year, from July through October, foreign accounts increased their holdings of U.S. Governments by an estimated $11.2 billion, accounting for 98% of the net increases in publicly held Treasury debt during this period. These foreign purchases more than offset for the bond market the unfavorable compromising aspects in the N.E.P. contained in the strategy of Phase II. I feel that both the stock and bond markets have started to sense that these compromising aspects are not really economic stimulants but rather deterrents.

For the stock market itself, Phase II as revealed does not offer the two ingredients essential for a favorable equity environment. These are a quick end to inflation and a quick end to Governmental intervention in the economy. The two are interlocked in their significance for equities and the elimination of one without the other will accomplish little. In contrast, these two aspects differ in their significance for bonds. This is because a long direct involvement by our Government may either slow down the pace of the economic recovery or bring along direct controls over our credit markets, or both, with either development tending to be a depressing influence on interest rates.

In a fundamental sense, the most ominous cloud overhanging the equity market is the continued stalemate in reaching a new international financial arrangement. Some claim that the international financial situation is unimportant to the equity market as long as the domestic economy continues to recover. This conclusion is based largely on the statistics which show that international trade is only about 4% of our gross national product as compared with much higher percentages for the other industrialized nations. Thus, time is supposed to be on our side. This is a look at the world through statistical economics and a failure to recognize other significant interconnections and aspects. For example, since we live in a world today of nearly instant communication, the international financial negotiations and economic prospects abroad receive wide attention and failure to reach an agreement is bound to continue to affect unfavorably investment sentiment here as well as abroad. Moreover, continued stalemate in the monetary negotiations is going to increase the risk of hardening the bargaining positions, retaliation, and economic, social and political shifts abroad which may not be in the best interests of the U.S.

There are also some very direct ties between the stock market here and developments abroad. For example, according to a Business Week survey, in 80 of the 200 largest U.S. corporations foreign operations account for at least 25% of their employees, sales, or profits. A recent report showed that 200 of the 1,000 largest U.S. corporations have more than half their assets outside the U.S. It has also been estimated that American companies directly produced about $160 billion abroad in 1970 in goods and services, which is about four times as large as our exports.

It is difficult to expect a lasting realignment of international currencies soon. If the risks of a European recession are increasing, this is bound to harden the unwillingness of several key European countries to revalue upward substantially. Indeed, a recession may intensify their drive to export at prices that recoup marginal costs or overhead and thereby intensify the international trade confrontation. It should also be recognized that the setting today is far different from that which prevailed immediately after World War II when the Bretton Woods agreement was reached. We played a dominant and powerful role at Bretton Woods because we were economically and financially strong and the rest of the free world was weak. While we are still a great power today, our international financial position has weakened, the role of the British has contracted, and the rest of the industrialized free world has strengthened itself. I am not trying to criticize this development but rather to indicate that these shifts complicate the current bargaining process.

There is also another striking difference between the time of Bretton Woods and now. By the time the Bretton Woods agreement was reached, the international financial turmoil of the 1930's had long passed, and a great war had been fought reuniting the free world in a spirit of fellowship and trust. In contrast, now an international financial agreement—a contract among nations—was broken several times by several powers only a short time ago and there is no rallying cry that is binding us together. A new environment will have to be forged and some time may have to elapse before participants in the international financial community will have sufficient confidence that agreements will be adhered to and that nations will defend their currencies instead of trying to depreciate them.

I should now like to turn to specific prospective developments in the bond and stock markets and relate them where possible to the broader aspects of the various events I have just mentioned.

BONDS

For 1972 we will probably not be able to generalize about the direction of interest rates as we have been able to do thus far in 1971 unless we conclude that the N.E.P. will fail to achieve its objectives and will be terminated. There have been several periods this year in which both short and long-term rates have moved in the same direction, i.e., either up together or down together. For example, between March and mid summer, both short and long-term rates rose and since then have declined.

Now let us look at the interest rate alternatives next year. There are four directional combinations for short and long-term rates. These are: (1) short rates down and long rates down; (2) short rates up and long rates up; (3) short rates down and long rates up; and (4) short rates up and long rates down. What would each of these combinations suggest and signify for next year?

Both short rates down and long rates down next year would mean the failure of the New Economic Program to stimulate the economy. It can only come about through a sharp falloff in credit demands from the private sector which often accompany a recession. This would be bullish for bonds and bearish for stocks.

Both short and long-term rates up next year would suggest renewed inflationary pressures and virile inflationary expectations. It would bring the re-emergence of disintermediation and domestic economic strains. If you conclude that this is the likely direction in interest rates, you also are concluding that the New Economic Program will fail to bring down inflation but that the Government will allow free movements in interest rates, a decision on which I will have more to say later on. In any event, this kind of a financial market would be bearish for both stocks and bonds.

The third alternative, short-term rates down and long rates up, would suggest an unsustainable course. It can come about through two different developments. One is a liquidity preference whereby investors do not want to commit long and borrowers seek to finance mostly long, whereby the preference for liquidity becomes a priority over the financing of business activity, resulting eventually in a slowdown in the economy. The other is a revival of economic activity which is also accompanied by a revival of inflation and attempts by the monetary authorities to hold down interest rates by large injections of new funds into the banking system. It would be somewhat similar to a replay of 1967. Therefore, the combination of short-term rates down and long-term rates up would be bearish for both stocks and bonds.

In the fourth and final combination, short-term rates up and long-term rates down, lies the favorable opportunity for 1972 if the N.E.P. succeeds. This would be a logical development for a non-inflationary second year of an economic expansion. It would be bullish for stocks and bonds. What are the ingredients that suggest such a favorable trend for 1972 is possible and what are the obstacles?

First, in the second year of economic expansion, short-term credit demands tend to accelerate. Business working capital requirements of both a permanent and temporary kind increase. Assuming that 1972 will be a second year of economic recovery, these requirements would be financed partly through enlarged internal cash flow and partly through more short-term borrowings and less bond financing.

Second, the short-term demand for credit will also increase from enlarged demands from consumers to finance installment and other credits.

Third, the emerging U.S. budgetary picture for calendar 1972 suggests that regardless of the size of the deficit, the amount to be financed domestically will be much larger than this year unless the unprecedented large buying of U.S. Government's by foreigners continues for another, which I consider unlikely.

Fourth, the total volume of long-term credit demands would probably fall from the record 1971 volume and short credit financing would increase from the small increases of 1970 and 1971.

Now what are the obstacles to this favorable prospect? The most important obstacle will probably be the uncertainty concerning the effectiveness of the New Economic Program. It may very well pervert the financing patterns next year. Compromises in the fight against inflation may, for example, slow down the economic recovery and therefore moderate credit demands. It may also change the composition of business financing from the typical pattern of more short-term financing and less long-term financing which prevails in the second year of an economic recovery. Increasing fears of a compromise with the fight against inflation will influence business to continue to finance mostly at long term. An inflationary resurgence itself would lead business to conclude that long-term interest rates would be higher later on. In addition, it would arouse expectations that business will not have ready access to long-term funds because our Government, if yields rise, may move to allocate credit in the next stage of the New Economic Program. This is why Phase II must demonstrate quickly its ability to be decisive and hard hitting if these expectations are to be prevented from crystallizing. Unfortunately, this is not coming through in the early rulings and regulations.

Let me illustrate this challenge of achieving stable or declining long-term rates in the second year of an economic expansion with some historical perspective. The only time that long-term rates were stable or lower during longer periods of rising short-term rates was in the period of 1961 to 1964. In all other periods since the early 1950's, cyclical upward movements in short-term rates were accompanied by increases in long-term rates. As shown in Chart 1, this occurred in 1954 to 1957, in 1958 to 1960, and earlier this year. The unique feature of the 1961–64 period was the absence of inflation.

Even if the New Economic Program is highly successful in bringing down inflation in the early days of Phase II, I feel that we still cannot generalize that all major long-term rates will either remain stable or decline next year. Corporate bonds should benefit most because of the shift in emphasis from long-term to short-term financing by business corporations. In addition, the support for the corporate bond market from institutional investors should continue to be good. Fixed income mutual funds are gaining in popularity. In addition, life insurance companies will most likely have an ample supply of new funds for investment in corporate bonds. This is because of the marked slowdown in the financing of commercial construction, in which the life insurance companies played a very important role, and because of the continued withdrawal by the insurance companies from private home financing. During the first nine months of this year net new investment in mortgages by life insurance companies totalled only $500 million as compared with $2.3 billion in calendar 1970.

In contrast, mortgages, intermediate and long Governments, and municipal bonds may not enjoy the same technical strength as corporate bonds next year. The inflow of savings to mortgage financing institutions will moderate from the record-breaking pace of 1971. With an appreciable pickup in short-term credit demands, the funds available at commercial banks for investment in Governments and tax-exempts will diminish. Furthermore, the volume of long-term financing by municipal borrowers should continue to be sizeable as a substantial volume of short-term municipal debt still has to be funded.

It is this mix of the prospective trend in long-term rates, together with the compromising aspects with inflation of Phase II plans to date, which leads me to conclude that the Federal Reserve or the Commission of Interest and Dividends may intervene and stabilize long-term rates at some time in 1972. Thus bond values will be protected next year either through the effectiveness of the New Economic Program in breaking the back of inflation or through the selective allocation of funds, which is a likely complement to an unsuccessful Phase II.

Stocks

Just as in the case of bonds, the challenges confronting the stock market are multidimensional, encompassing not only the aspects of the N.E.P. that apply directly to stocks but also structural developments within the stock market. These are: (1) what are stocks worth if the New Economic Program is prolonged and becomes increasingly restrictive? (2) what will be the new supply and demand dimensions in the stock market? and (3) how will the strategy dilemma of the institutional portfolio manager of stocks be resolved?

Besides what I have already said about the significance of the New Economic Program for stocks generally, the question of what are stocks worth in a prolonged intervention by Government in the economy is very specific and involves mainly the extent of Governmental control over corporate profits. That corporate profits are the basis underpinnings for stock prices is unquestionable. The evidence supporting this relationship is quite clear. I merely refer you to Table 1 which shows that stock prices have generally improved during periods of rising profits and have declined during periods of falling profits.

Now Phase II of the N.E.P. has ruled that manufacturing corporations may not increase their pre-tax profit margins as a per cent of sales above that established in the base period which is defined as the average of any two of the last three fiscal years ended before August 15, 1971. The Department of Commerce data show that the aggregate profit margins for manufacturing firms were as high as 8% in 1965 and as low as 4.6% in 1970. Taking 1968 and 1969 as a base year, the average profit margin for all corporations was 6.4%. Thus, even with the new ceiling, profit margins have some room to rise, but will have to remain well below their mid-1960's peak for corporations that seek to increase prices.

Concerning the supply and demand dimensions in the stock market, drastic changes have occurred in the last few years and they are of profound importance. As many of you here know, I analyzed them in detail in a presentation several years ago but some additional developments have transpired recently. Therefore, let me summarize for you the salient features of the new supply and demand dimensions of the stock market. These are as follows:

First, the stock market is no longer a scarcity market. The scarcity of new equity offerings was a powerful force propelling equities higher during most of the 1960's when the volume of new share emissions was small and the demand for stocks from institutional investors was accelerating. From 1960 through 1968, a period in which stock prices advanced net 80%, the net volume of new stocks averaged only $1.0 million annually, while net institutional purchases rose from $3.5 billion in 1960 to $12.6 billion in 1968. During this period net new corporate issues accounted on average for a declining per cent of the institutional purchases. As shown in Table 2, this ratio of net new issues to net institutional purchases rose to 33% in 1969, 61% in 1970, and an estimated 75% this year, consisting of net new issues of $11.5 billion and institutional purchases of $15.3 billion. Moreover, there has also been an enlarged volume of new convertible bond offerings which has provided an investment alternative to equity buyers. The combined net new issues of stocks and convertible bonds will total an estimated $14.6 billion this year, as compared with $8.7 billion in 1970, and an annual average of $1.9 billion from 1961 through 1965.

The volume of new equity financing should continue to be large in the year ahead. While in the aggregate corporate liquidity has been improved, only moderate progress has been made in improving the quality of credit. The pressure to improve and maintain credit ratings remains substantial. There are also still a considerable number of borrowers in the banking system who are unable to finance long in the open bond market because of their low quality rating.

Second, while the support of institutional investors for the stock market remains good, there are significant shifts in this sector worth noting. Broadly, the institutional support for the equity market comes from contractual savings-type institutions. Their inflow of funds from year to year does not drastically increase or decrease. In fact, private pension funds, the largest institutional group purchasing equities, are experiencing some topping out in their annual increase in financial assets. This annual total net inflow jumped from $2.3 billion in 1955, to $4 billion in 1960, to $5.6 billion in 1965, to $6.7 billion in 1967, and has remained annually at around $6.5 billion per year since then. Moreover, as you can see from Table 3, the sharp acceleration in stock purchases by pension funds may be over because they have already committed an increasing percentage of their total net annual inflow of funds to equities as the 1960's progressed.

As you can also see from Table 3, the stock purchases of state and local retirement funds have increased from a few hundred million dollars in the early 1960's to an estimated $2.7 billion this year. The public retirement funds' net new stock purchases this year are still only 35% of the net new funds available for investment by these institutions. It seems reasonable to conclude that the stock demands of public retirement funds will continue to increase but not in the galloping fashion which was so evident at the corporate pension funds in the 1960's. The liberalization of the investment policies of the public retirement funds is proceeding at a gradual pace. The actuarial income requirement of these funds is quite high.

A significant increase recently has occurred in the stock purchases by life insurance companies. Their net purchases were $400 million in 1960 and will be an estimated $3.5 billion this year. It should be noted that this pickup probably largely reflects purchases by insured pension plans administered by life companies and not those of the life insurance sector of these companies.

In contrast, in the past few years there has been a marked slowdown in the purchases of common stock by mutual funds. They are experiencing redemptions. Moreover, the new popularity of fixed income mutual funds is attracting new funds and is providing a vehicle for holders of shares in equity funds to switch into the fixed income funds. The problems of mutual fund distribution and performance are also significantly reducing the participation of this industry as an institutional buyer of stocks.

Third, there is also a current phenomenon which is at least temporarily adverse in terms of the supply and demand aspects in the equity market. This is the extraordinarily large volume of equity purchases by institutions during the twelve months ended September 30, 1971 which probably total an estimated $18.5 billion, thereby substantially reducing for the time being the liquidity positions of institutional buyers.

Finally, foreign investors have not been significant buyers of U.S. equities since 1969. It is unlikely that they will return as net buyers until there is good evidence of a reconciliation of the international financial situation.

Perhaps the thorniest aspect in today's stock market is the strategy dilemma of the institutional portfolio manager. Here, too, the problem is multidimensional. There is some evidence that suggests that professional equity portfolio decisions are importantly influenced by the economic and financial trends of the immediate past. For example, the good economic and stock advance in the first half of the 1960's was probably a powerful influence in fueling the stock speculation of 1967 and 1968. Now there is looking back again but on a different sort of scene. This is on the penalizing stock experience of the last few years which by itself is probably having a sobering impact on portfolio strategy.

There is also the fact that the yield on bonds has moved into close alignment with the long-term rate of return on equities. The contrast between the performance of bonds and stocks in the last few years must have been a shattering experience for stock portfolio managers. For example, since the start of 1968 through October 1971, the simple rate of return on newly offered high-grade corporate bonds measured by the annual price change plus interest payments, was 19% as compared with 12% for stocks, measured by the annual price change of the S&P 500 plus the dividend payments. Since the start of 1970 to October 1971, the rate of return on bonds has been 33% versus 9% for stocks.

Another related unfavorable development for the professional portfolio manager has been evidence based on broadly based data suggesting that individual investors may have outperformed institutional investors in stock. An analysis of the flow-of-funds data of the Federal Reserve shows that from 1961 to 1965 individual investors ranked first on average, achieving average annual gains of 12.5%, just slightly ahead of the mutual funds but well ahead of other institutional groups. From 1966 to 1970, a period including three years in which equity prices fell, individual investors showed annual average price appreciations of 4.4%, which was well ahead of institutional investors.

This kind of a backdrop is bound to have a defensive influence on institutional portfolio managers. The memory of the disastrous performance of the recent past is all too vivid. The warnings from trustees and other superiors of portfolio managers are all too clear in their implications for the job security of the manager. The pressure to include bonds in portfolios is strong, especially in those instances where actuarial requirements are high.

In summary, there is a common thread that links the economy and the credit markets. This common threat is the fact that both are in a period of transition. The economy is trying to break the shackles of inflation and to begin an era of sustainable economic growth. The financial markets are trying to redress the imbalances caused by inflation and the disorderly economic growth of the past. They are bound to be affected by the effectiveness of the policies which have been initiated to achieve this economic transition, either quickly or gradually.

The current transition has been underway for quite awhile, for nearly three years, reflecting the difficulties of our problems in terms of the dimensions of the problems within the economy and the financial markets and the policies which have been initiated to resolve them. Transitions can be speeded up or slowed down by the force and decisiveness of Governmental actions. This is because at the heart of the transitional problem is the need to overcome an important behavioral characteristic of human beings. This is because at the heart of the transitional problem is the need to overcome an important behavioral characteristic of human beings. This is the influence of our immediate past on our current thinking and actions. In a period of transition, this is critical because by definition we are moving from one period to another. This is why tough and uncompromising Governmental policies shorten transitions and compromising policies will prolong them.

Effective Governmental measures are also of prime importance in reducing the time frame for financial transitions as we move from boom to recession to economic recovery. This is because through vigorous stabilization policies the Government is demonstrating that there is no need for large permanent liquidity preferences and thus only current financial imbalances have to be rectified.

Typically, transitions from recession to recovery are periods in which investment opportunities tend to blossom. For the reasons I have already mentioned, I feel the bond market offers reasonably attractive opportunities today. In contrast, however, opportunities in the equity market are hinged very importantly to the strategy of the New Economic program. A strategy designed to achieve a quick transition to a new sustainable setting would suggest that opportunities abound today in the equity market. The equity market, however, is now voicing its suspicion that a prolonged economic intervention may be in the offing, suggesting that there is ample time to commit funds. Only meaningful and hard-hitting actions will quiet these suspicions.

Mr. PROXMIRE. Mr. President, Mr. Kaufman points out that this program should be a temporary program, that there is no justification for a program of comprehensive control over the entire economy when the overwhelming proportion of businesses and workers do not constitute an inflationary factor in the economy, that under circumstances where the controls are likely to be self-perpetuating we should act fast, we should act decisively, and we should end it. That is one reason why I propose a 6-month freeze and certainly one course which would offer more promise for the economy than the course we are proceeding under now, where we have complex and puzzling regulations affecting 85 percent of the economy, and the open-ended situation whereby Congress is extending the law for 17 months until after the election, until the situation develops which Mr. Kaufman points out we may have economic expansion and a far more difficult time getting rid of controls.

The Joint Economic Committee has followed this matter very closely for many years. In a report that was completed and finished and written a couple of weeks before the President made his statement on August 15, we made several observations on the program. The report, incidentally, came out the day after the President made his August 15 statement—that is, on August 16—so it had been written before August 15. Here is what the Joint Economic Committee had to say. I want to read briefly from it, as it indicates some of the weaknesses and disadvantages of the bill before us.

II. AN EFFECTIVE POLICY TO CONTROL INFLATION

PERSISTENT LACK OF PROGRESS AGAINST INFLATION

The inflationary problem that has persisted during the past 3 years has proved much more stubborn than had generally been anticipated. When the present Administration took office the unemployment rate was 3.4 percent, and the inflation rate measured by the GNP deflator was 4.5 percent. At the time it was believed that excess demand could be eliminated and inflation checked without causing unemployment to rise much above 4 percent.

We all tend to forget that this administration took office when we had a much lower rate of inflation and a far lesser rate of unemployment. Unemployment is now at almost 6 percent when then it was only 3.4 percent.

Continuing to read:

Experience has demonstrated that this estimate was far too optimistic. Unemployment has exceeded 4 percent for the past 18 months, and it has averaged about 6 percent for the past 8 months, yet the rate of inflation is not noticeably less today than it was in the first quarter of 1969. After 2½ years of a conscious effort to fight inflation by holding economic activity below the full employment level, the Chairman of the Council of Economic Advisers made the following progress report to this Committee at our midyear hearings:

First, at a minimum the rate of price increase, which had been rising, has stopped rising.

Second, some important measures indicate that there has been a significant decrease in the rate of inflation.

Third, although the evidence is less clear on this, the rate of wage increase has probably also stopped rising.

We agree that during the first half of this year the rate of inflation was somewhat less than the peak rate reached in early 1970. We hope this improvement will continue. Unfortunately, examination of the major price indexes does not offer any evidence of a continued slowing of the rate of inflation. Table 2 shows, for each of the latest 8 months available, the percent increase in three principal price indexes compared to the same month one year earlier. It can be seen that the Consumer Price Index improved through April, but the sharp increases in May and June have reversed this trend: The Wholesale Price Index worsened steadily through June, then improved in July due to a sharp drop in farm prices. The important industrial component of the Wholesale Price Index showed no change in its rate of increase through June but accelerated sharply in July. From February through July wholesale industrial prices showed the sharpest 6-month rise since 1957.

Mr. President, I ask unanimous consent to have printed in the RECORD the table showing the change in prices.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 2.—SELECTED PRICE INDEXES

Percent increase during 12 months ending—	Consumer Price Index	Wholesale price index	Wholesale industrials
December 1970	5.5	2.3	3.6
January 1971	5.2	2.3	3.6
February	4.8	2.8	3.5
March	4.6	2.8	3.6
April	4.3	3.1	3.7
May	4.4	3.4	3.6
June	4.5	3.6	3.7
July	(1)	3.3	4.1

[1] Not available.

Mr. PROXMIRE. Mr. President, to continue reading:

It is clear that the Council of Economic Advisers still regards inflation as a serious danger, for the Chairman also stated in his testimony:

The Administration's rejection of a policy of further economic stimulation reflects the belief that we cannot temporize with the inflation problem * * *.

The Chairman of the Federal Reserve Board was even more pessimistic about the price outlook. He summarized the situation this way:

I wish I could report that we are making substantial progress in dampening the inflationary spiral. I cannot do so. Neither the behavior of prices nor the pattern of wage increases as yet provides evidence of any significant moderation in the advance of costs and prices.

Many of the private witnesses who testified at our recent hearings expected that the rate of inflation will still be between 4 and 5 percent in mid-1972. Thus, despite the enormous costs we have paid in terms of output and employment, the rate of inflation is just about where it was 2½ years ago, and only modest improvement, at best, is anticipated during the next year.

This was written before the President made his dramatic speech on August 15.

Continuing reading:

THE NEED FOR A NEW APPROACH

Since a policy of reducing inflation by increasing unemployment has now been attempted for more than 2½ years—at such enormous cost and with such meager results—we are puzzled that the Administration continues to advocate more of the same. The Administration recommends no further action to increase employment because to take such action would, in the Administration's view, interfere with progress against inflation. The Joint Economic Committee emphatically rejects this "do nothing" approach. Other policies to control inflation are available. They should be tried.

So, Mr. President, when the President announced his dramatic turnabout, the change—we certainly applauded the idea behind it and warmly supported the freeze which again as I say there is plenty of room for criticism of the phase II policy.

Then we say this:

> The effort of the past 2½ years to control inflation by increasing unemployment has been a failure. Such an approach, by itself, offers no hope of success in a modern economy characterized by large areas of monopoly and imperfect competition. Monetary and fiscal policy should be conducted in a way that quickly restores and then consistently maintains a full employment level of economic activity. Simultaneously, inflationary psychology must be broken and price increases brought under control by the immediate adoption of a vigorous and comprehensive incomes policy.
>
> ### AN INCOMES POLICY IS ESSENTIAL
>
> The Administration has candidly admitted their concern over the danger of continued inflation. Both official and private witnesses have especially stressed the role of inflationary expectations in driving up interest rates, discouraging business investment, and weakening consumer confidence. Yet the Administration continues adamant in its refusal to adopt the one policy approach which, in our judgment, would dampen inflationary expectations and create an atmosphere in which full employment could be restored without creating new inflationary pressures.
>
> In a modern full employment economy reasonable price stability can be consistently maintained only if the Government assumes responsibility for specifying the rates of price and wage increase that are in the public interest and for insuring that these rates are not exceeded. We do not believe that compliance with such a policy will necessarily require legal compulsion. That is, price controls are necessary. If price and income guideposts are applied fairly and on a comprehensive basis, labor and management will cooperate. An informed public opinion will exert a powerful influence to help achieve compliance. In addition, the Government, through its important role in the economy as a regulator and as a purchaser of goods and services, has a great deal of existing power to encourage compliance.
>
> We do not mean to imply that there will be no difficulties in establishing a comprehensive incomes policy or that results will always be perfect. Of course there will be mistakes and setbacks. It may be many years before we fully succeed in combining price stability and full employment. But the Nation will be much better off with an incomes policy than without one. Such a policy can make an immediate, significant contribution.

My point is that the administration went from a position of opposing anything but monetary and fiscal policy attempts to break inflation by following policies that would increase unemployment and slow down the economy. It went from that to the most drastic and comprehensive kind of compulsory controls of everybody's wages and prices. We submit that there is a middle road, a road that makes sense, an incomes policy road that has been advocated by the overwhelming majority of economists who have appeared before our committee, a road that has been tried with some success and with some failure, but at least we have the benefit of some experience with it in other countries. Instead, the President has selected the most extreme kind of route.

The committee goes on to say:

> We are fully aware that one can easily find historical cases where incomes policy has not worked. The historical record in this country and abroad is valuable. We should study it carefully and attempt to learn from past mistakes. We stress that one can find successes as well as failures. Guideposts served this country well in the early 1960's.

From 1962 to 1966 we had the kind of income policy that I am talking about. We had a voluntary wage guideline of 3.2 percent. It succeeded in holding inflation between 1 and 2 percent for that 5-year period. We had, as a matter of fact, stable wage costs for manufacturing. Ours was the only major country in the industrial world that had 5 years of stable wage costs. I think that is a record of real success. It was not a comprehensive, across-the-board wage-and-price control on everything and everybody, but it hit where it was needed and enabled the President to focus his attention on the monopolistic areas of the economy, both with respect to labor and with respect to industry, and to do it in a way which worked, and worked effectively. I continue to read:

> They should not have been abandoned in 1967. The country has paid dearly for their abandonment and for the failure of two successive administrations to reinstate them.
>
> In short, we reject the Administration's contention that incomes policies "won't work." It is the policies presently being followed which are a failure. Monetary and fiscal policy, unaided by incomes policy, cannot come to grips with inflation. Effective incomes policies can and must be established. The alternative is to abandon our goal of combining full employment with reasonable price stability. Obviously that alternative is not acceptable.
>
> As we have repeatedly recommended, specific quantitative price and income guideposts should be established, and a board should be created to collect and publicize price and income data and to administer the guideposts. This should be done without further delay.
>
> If, in the President's judgment, a temporary price-wage freeze would facilitate the introduction of a comprehensive guidepost policy, Congress has given the President clear authority to impose such a freeze.

This is what we propose. As I said, this report was written two weeks before the President spoke on August 15. Actually the printing date was August 16. We proposed the freeze that the President adopted. We did not propose, however, the kind of comprehensive phase II which is going to be a source of great unhappiness and difficulty for businessmen and confusion among consumers. My view, it is likely to slow the economy very seriously. The report went on to say:

> Much valuable time has already been lost. As the Chairman of the Federal Reserve Board told this Committee:
>
> I think a wage and price review board, had it been instituted a year or two ago, would have been more effective than it is likely to be today * * * but I will still try it. I think the effort is worth making. Then, we know where we stand.
>
> As a result of this delay in establishing an effective incomes policy, an important lesson has been learned. There is now widespread recognition that incomes policy must be a regular part of overall economic policy. Business, labor and the public are ready to support such a policy because they recognize its necessity. There should be no further delay.

As I say, there are defects and shortcomings, undoubtedly, in this kind of incomes policy, and I am not proposing that an entirely voluntary program be put into effect in the economy, but to zero in on those areas of the economy where there is monopoly power, and where we have a record of prices being increased regardless of the competitive or the demand and supply situation. That would apply to both labor and management; it would also apply in the construction industry; it would apply in the health services area; it would apply in other areas where there is a shortage of resources.

The confusion and weaknesses of the present program, I think, were very well demonstrated in an article published late last month in the Wall Street Journal. The article, written by Albert Hunt, said this about phase II:

> The Phase II guideline on wage increases is 5.5%, but coal miners have been granted increases of 15%. The Phase 2 guideline on price increases is 2.5%, but two steelmakers yesterday were granted increases of over 7% on tinplate products.
>
> All of which raises a question: Is there a Phase 2?
>
> On paper, there certainly is a governmental effort to control wages and prices. And the men who have been designated to effect these controls insist they will hold down pay and prices. So far, however—and admittedly the evidence is still slim—there has been a conspicuous gap between promise and performance.
>
> The wage and price regulators concede that they have allowed some, and may allow more increases far in excess of the guidelines that President Nixon laid down when the 90-day freeze on pay and prices ended in mid-month. But they insist there are legitimate reasons for granting each of these "exceptions." And they acknowledge that to outsiders it may look as if there is no Phase 2 at the moment. But, they say, wait till next year.

Let me just interrupt the reading of the article to comment that the administrators themselves say, "Wait until next year." That is exactly what I am asking the Senate to do. The present law does not expire until April 30; yet we are being asked to pass the bill in the next couple of days, send it over to the House, where it will sit on the table, be called up without going to committee, and be passed by Congress this week.

I submit that when the regulators themselves say we have not seen anything yet; that we are going to have an entirely different pattern of enforcement; and that when they have not yet revealed what the program is, Congress ought to wait. What is the hurry? The President will have the power in December. He will have it in January, February, March, and April. The time to act upon this proposal is next year, when most of the people who are administering the program itself say we will have a far clearer picture of how it is operating.

I continue to read from Mr. Hunt's article:

> The regulators' reasoning: The current big pay increases are being allowed to unions whose wages had been lagging, for one reason or another. The current big price increases are being allowed to corporations that had been hit with big cost increases. These "exceptions" will help get everything back in line. And when everything is in line, then the

> government can enforce the wage and price guidelines across the board.
>
> But officials admit there could be problems next year, too. For instance, although the ceiling for new contracts is supposed to be 5.5%, the regulations include what one Pay Board member calls an escape clause. In it, the Pay Board promises to consider "ongoing collective bargaining and pay practices, and the equitable position of the employes involved." Interpretation of this could lead to wrangles far into the future. One insider predicts that many union negotiators will claim a historical relationship to other contracts signed by rival unions before the freeze and thus will continue to seek much more than 5.5% to retain parity.
>
> What's more, the Pay Board has allowed wage increases above 5.5% that were negotiated prior to the freeze but that were scheduled to take effect later. And one member of the Pay Board says he believes most of these so-called deferred raises will continue to be allowed next year, as long as they don't top 8%.
>
> In addition, many merit increases larger than 5.5% apparently will be allowed at firms that have given them in the past.
>
> The Price Commission might prove to be tougher than the Pay Board, insiders say, but so far the price regulators are tougher only in words. Besides allowing the tinplate price increases yesterday, the commission has authorized some rent increases of up to 7.5% and has indirectly condoned some sharp increases in utility rates. In New York, for instance, 1.3 million customers of the Consolidated Edison Co. yesterday were hit with increases of 12% to 12.5% in the price of gas.
>
> So far, in fact, neither the Price Commission nor the Pay Board has turned down or nullified any future increases in wages or prices. Administration officials emphasize, however, that so far they have acted on only a handful of cases, and they insist tougher stances are ahead.

Incidentally, since that was written there was a turndown. The Bassett Co. asked for a 1.8-percent price increase. They did not submit productivity data. They are going to come in with something.

The article goes on, but I wish to say that one of the most disturbing aspects of this operation is the tremendous authority that this bill gives the executive branch. I believe this is something all Senators should be sensitive to and aware of.

We have had a great deal of testimony before the Committee on Banking, Housing and Urban Affairs and the Joint Economic Committee with respect to this great power. One of the unfortunate erosions and shifts of power in our governmental system in the past few years has been to the executive and away from the legislative branch. Certainly, this is understandable when we have a military situation or a foreign policy situation, but where we have the economy as the issue it seems to me the legislative should be particularly careful about giving power to the President, power he does not have to have. One witness said that in this bill we do not just give him the ball game but we give him the whole ball park.

In this case a great deal of power is given to the 22 men on the Pay Board. There has been a great deal of testimony that these are private people. Only the Chairman of each board is a public employee. None of the others are public employees. They only work on a per diem basis. They receive $149 each day they work. However, Mr. Grayson said he expected them to be in session over 1 or 2 days a week. They can go about their business and work when they wish.

George Meany, in my opinion an able and competent man, is the head of the AFL–CIO. He is a private person. He is one of the 15 people with principal power on the Pay Board. This is true of all industry employees. They are full-time executives for some of the biggest corporations in the country. The public members, except for Judge Boldt, are private citizens, yet they are given a tremendous amount of public power.

EXCESSIVE POWER TO THE EXECUTIVE BRANCH

The bill should be modified or scrapped because it gives far too much power for far too long to a group of 22 men who were neither elected to any office or confirmed by the Congress.

I agree entirely with the earlier testimony of Chairman Arthur Burns of the Federal Reserve Board that the powers are "dictatorial" and should be reviewed at short intervals. We should wait to see how the program works before extending it 17 months.

The coverage of the program is excessive. The Government is regulating everything from General Motors to your babysitter. Coverage must be limited either to the big companies and big unions who are able to raise their prices and wages because of their economic power, or a vast army of enforcement officers must be hired. The latter is both impossible and undesirable in peacetime. Instead, we have universal coverage with little enforcement. This is the worst of all worlds.

Under our constitutional system of checks and balances, Congress has a historic responsibility to guard against an unlimited assumption of power by the executive branch. The original economic stabilization legislation submitted by the President demonstrates the ingrained tendency of the executive branch to centralize power unto itself with a minimum of restraints by the Congress or the judiciary. For example, the administration bill enabled the President to issue orders controlling prices and wages "as he deems appropriate" with virtually no statutory definition as to what was "appropriate." An exemption from most of the provisions of the Administrative Procedures Act was requested, and the power of a Federal district court to provide injunctive relief was abridged. Consumers were not given explicit authority to bring civil actions. The President was authorized to abrogate wage contracts. The administration bill was clearly overreaching in its request for unlimited Executive power and the committee quite properly modified those powers so that they are more in accord with our traditional constitutional and legal system.

But the bill still gives the President dictatorial powers to decide whom he will control, how much to control them, and what groups are to be exempt. There are neither standards nor constraints in the legislation.

Neither the executive branch nor the Congress are immune to error. However, under our system of checks and balances, the errors of one branch can be corrected by the other. During recent years, Congress has shown a better track record on economic policy compared to the executive branch. For example:

For nearly 2½ years, the administration clung to its increasingly unviable economic game plan despite repeated criticism in the Congress from both parties that some kind of incomes policy was needed. Congress was right.

The administration insisted that the price and wage control authority enacted last year at the initiative of the Congress would never be used despite congressional arguments that a temporary freeze might be necessary. Congress was right.

Once the administration reversed its position on a wage-price freeze, it submitted a revised Economic Stabilization Act which contained virtually no standards or meaningful safeguards despite congressional criticism that a more carefully drawn statute was needed. Congress was right.

If the executive branch has been so wrong before on economic matters, is there any reason to assume it will suddenly change and operate the phase II program without any mistakes which will need correction by the Congress? On the basis of the past record, it is highly unlikely that phase II will operate trouble free. It is, therefore, most unfortunate that the committee chose to extend the Economic Stabilization Act for an additional 12 months beyond the current expiration date of April 30, 1972. In so doing, the committee in effect, gave up the possibility of reviewing the program next spring at a time when congressional participation is likely to be an urgent necessity.

The phase II economic program is a profound departure from our free enterprise system. For the first time in our history we have authorized price and wage controls in peacetime. We have given sweeping powers to the President to control all segments of economy—from General Motors to babysitters. He has chosen to delegate much of those powers to men who have not even been confirmed by the Senate and many of whom represent private rather than public interests. The country is confused and uncertain about the phase II program. No one fully understands the initial guidelines published by the Pay Board and Price Commission. The financial community is skeptical about the program as evidenced by the drop in the stock market. In the face of all these uncertainties, it is wrong to give the President such broad powers for 17 months without the need for an earlier congressional renewal.

Last spring, when Congress was considering an extension of the Economic Stabilization Act, Arthur Burns, Chairman of the Federal Reserve Board, termed the wage and price control powers as "dictatorial." He recommended the act be renewed for only very short periods of time—preferably for 2 months, but certainly not longer than 6 months. Chairman Burns was right then and his advice of last spring is even more right today. It is unfortunate, but perhaps understandable, that Chairman Burns has backed away from his earlier position now that the President has committed his prestige to a 12-month extension of the Stabilization Act. But whatever his reasons today, Chairman Burns' testimony of last spring stands as an eloquent warning of the dangers involved in an unlimited delegation of power to the President.

In supporting a 12-month extension, administration spokesmen have argued that Congress can always conduct hearings and receive reports on the program and amend the act if necessary and thereby discharge its oversight responsibilities. Such an argument must surely have been made with tongue in cheek. It demonstrates the patronizing and somewhat arrogant attitude which administration officials seem to have with respect to Congress. The only meaningful power Congress has is its power to renew the Stabilization Act. Once we surrender this power, we have very little control left.

Repeated congressional hearings did not change the administration's disastrous economic game plan—the President appears to have reversed himself only when his political advisers discovered he was slipping in the polls. Congress could always amend the Stabilization Act but this is unlikely for a number of reasons—the press of other business including the pressures of an election year are likely to divert attention; any modifications strongly opposed by the administration can be delayed by a willful minority; any legislation which does survive can be vetoed by the President. Congress will retain the leverage to effect meaningful changes in the phase II program only if it is faced with the necessity for renewing the Stabilization Act next spring.

There are some who feel that Congress should give the President everything he wants so he can be saddled with the entire blame if the phase II program does not work. Rubberstamping the President's program is poor policy and bad politics. The Congress should not abdicate its constitutional responsibility on the most important piece of economic legislation in the last 10 years. Moreover, if the program fails, the public's wrath is likely to be directed not just against the President but against all incumbents and especially those who uncritically accepted the President's phase II program.

About the only argument which the administration could muster in favor of a 12-month extension is that it is needed to prevent public uncertainty about the duration of the program. The public is, indeed, uncertain. But the uncertainty is not about the expiration date but about what the Pay Board and Price Commission will do. The public knows the Congress will extend the Stabilization Act next April if inflation has not been checked. Congress itself took the initiative by passing the original Stabilization Act over the President's objections and it is inconceivable that Congress would refuse to extend the act if it were needed to fight inflation.

The real reason for requesting an extension of the Stabilization Act 6 months ahead of schedule is apparently to avoid criticism of the President's program during an election year. While one can sympathize with this desire, it hardly qualifies as a legitimate reason for excluding congressional participation on a subject as important as the phase II economic program.

The phase II economic program extends sweeping and unprecedented controls over a free economy without the pressures of a large-scale war. No one knows if the program will work. If it fails to stop inflation, it is entirely possible that far more repressive controls will be imposed by Presidential edict—a phase III much tougher than phase II. Given a 12-month extension, any decision about phase III is left entirely up to the President. He does not have to come back to the Congress if he decides more drastic measures are warranted.

There are a number of serious questions about the fairness and workability of the phase II program. It is too early to obtain definitive answers to them. However, by next spring we should have enough information to decide whether modifications to the program are needed. We should not give the President a blank check for 12 more months beyond the April 30, 1972, expiration date until we know what we are doing.

One of the major controversies is over the scope of the phase II program. There seems to be an imbalance between the numbers of enforcement personnel and the territory covered by the program. The phase II controls extend to over 10 million business firms from the giant corporation to the corner grocery store. How can 3,000 agents from the Internal Revenue Service police 10 million business firms? Either a much bigger bureaucracy will be required or vast sectors of the economy will have to be decontrolled. Whichever direction the program takes has important consequences for the economy and Congress should certainly participate in making the decision. However, by extending the Stabilization Act for another year, the power to decide is given to the President.

Mr. President, I wish to spend a minute or two on the testimony of Dr. Arthur Burns, because he is very highly respected by all Members of the Senate and throughout the country as an extraordinarily able economist and a very wise public servant. He testified both ways on this matter. He testified first that we should not extend legislation of this kind and later he testified that we should. I submit that when he testified the first time, the President's position was not known, and it was not known if the President would favor extension of this type power or not. The second time he testified the President's position was known. Dr. Burns at that time complied with what the President requested.

In testimony before the Joint Economic Committee in January of this year, Dr. Arthur Burns, Chairman of the Board of Governors of the Federal Reserve, told the Congress that it was granting the President dictatorial powers in the Economic Stabilization Act. He cautioned the Congress against extending this authority for a long period of time:

> Let's put it a little differently: You are giving too much power to the President under this legislation. You are giving the President virtually dictatorial power. Do you really want to give any man that much power? That worries me. I can see some advantages, and you have pointed them out. I have considered them, and I do not dismiss them lightly.
>
> But let me say this: If you do give this power to the President, if you do extend this authority beyond March 31, I hope you will do so only for a very brief period, because you will be giving dictatorial powers to the President, and you ought to do that with the greatest of caution.

As I say, it is hard to imagine powers with respect to our domestic economy that would be greater than the powers we are giving the President. It cannot be argued he needs them to combat a foreign foe or in connection with delicate international relations or diplomacy. This is an area where Congress should insist on granting power very carefully and the distinguished Chairman of the Federal Reserve Board testified it is best we give that power for a short period of time, certainly not for the 17 months we would provide here.

One of the most fascinating and controversial figures on the public scene today is the head of the AFL–CIO, George Meany. He testified before the Committee on Banking, Housing and Urban Affairs.

I should say his testimony which was read to the Committee on Banking, Housing, and Urban Affairs. The testimony was delivered by Mr. Andrew Biemiller, legislative representative of the AFL–CIO. I should like to read briefly from that testimony because it pertains to the very point I am making. Mr. Meany said:

> We do not agree with the Administration or some editorialists who contend Congress should "rubber stamp" this legislation. . . .
>
> Congress would abdicate its role if it agreed to Section 12 of the Administration's proposal which would amend the present law to provide that the Act shall expire on April 30, 1973, rather than May 1, 1972.
>
> This so-called "Phase II" should be tested by actual operation. Until that test, it would be a serious mistake for the Congress to extend the President's authority for one day much less one year.

This is exactly what I have been pleading for ever since I started speaking today—that we should find out how it is going to operate. There is no hurry for renewal of the act. The act does not expire until April 30, and we have no idea how the policies of the Pay Board or of the Price Commission are going to operate. To date they seem soft. They may be entirely different next year. If they proceed along the present lines, perhaps we should change the makeup of the two boards. If they become tougher, it may be that the Congress should take other considerations. At any rate, for us to abdicate our authority and walk out on it makes no sense.

Mr. Meany goes on to say:

> Congress must preserve the requirement that the Administration return to the Congress for further authority after the new program has been in effect for a reasonable length of time. This would emphasize Congress' determination to provide continuing legislative oversight.

He goes on to say:

> But in one fell swoop, Congress is asked to approve, ratify, and confirm these decisions as they relate to teachers, as well as the hundreds of other decisions the Cost of

> Living Council has made. To do this without studying and approving or rejecting each one individually would be improper.

This is another example of the unfortunate elements of the legislation. As it came from the Treasury, it provided that we would ratify, by passing this legislation, all of the acts of the administration during the freeze; that we would find them lawful and proper. Fortunately, the committee deleted that provision. Certainly it was wise in doing that. This is another reason why the proposals of the administration should be subject to careful scrutiny, and it takes time to provide that kind of scrutiny.

The chairman of the AFL-CIO proposed:

> 1. The Congress should establish the procedural framework for a program of price control.
>
> If there is to be a price control program, then Congress must provide an effective system for setting price standards, detecting price changes and for apprehending and punishing those who violate the law.

I say, if anything is obvious, it is the fact that the present policies being set by the Price Commission are absolutely unenforceable. Gardner Ackley's observations on this makes a great deal of sense.

Mr. Meany says further:

> Section 3 of the Administration's proposal provides that all members of the Pay Board and Price Commission shall be designated by the President acting alone. We feel this is unwise and potentially dangerous.
>
> In 1952, when Congress amended the Defense Production Act of 1950, it provided that all members of the tripartite Wage Stabilization Board be appointed by the President by and with the advice and consent of the Senate.
>
> It is commonly recognized now, as it was in 1952, that the provisions in the U.S. Code designed to protect against conflicts of interest are not, and could not apply to the non-full-time members of the Pay Board and Price Commission.
>
> Moreover, it should be pointed out, that there is a potential for Presidential action to stack these agencies against particular groups. It is manifest, therefore, that at least the public members be subject to the Senate's approval. Senate confirmation would permit disqualification of a nominee encumbered with potential conflicts and assure that these agencies are staffed by a representative cross-section of informed and truly neutral public servants.

The legislation that is now before the Senate does not provide for confirmation of the members now on the board. It provides for confirmation of new members, but, as I pointed out, it is hoped that there would not be such a long period in the life of the board that we would have to have many new members. Those on it at the present time should be the ones we are concerned with. They have not been subject to public debate and consideration, and they probably have greater power than Cabinet officers, far more than that of second lieutenants, for whom Senate confirmation is required.

Mr. Meany concludes:

> We do not believe the Congress should be stampeded into hurried, ill-considered action. The Pay Board and Price Commission have already begun their preliminary work and would not be delayed by careful congressional consideration of the many pitfalls and failings of this legislation.
>
> We do not believe the Act should be extended until the stabilization program has proven it is working.

Mr. President, one of the most impressive witnesses which the committee heard was former counsel for OPA, an extraordinarily able man, Mr. David Ginsburg, who is an attorney here in Washington. As I have said, he has had great experience in economic stabilization and is a very able lawyer. I think all of the committee members who were present when he testified both before the Joint Economic Committee and the Banking, Housing and Urban Affairs Committee, felt he was one of the most valuable and useful witnesses we had. Here is what he had to say about the bill:

> The Economic Stabilization Act of 1970 and the proposed amendments in S. 2712 call for more comprehensive restraints and offer fewer safeguards than any comparable legislation that I have seen come before the Congress.
>
> The CHAIRMAN. Without objection the opinion will be printed in the record (see p. 132).
>
> Mr. GINSBURG. The court concluded, and I am quoting, "that the rule of law has been beleaguered, but not breached."
>
> My point, and I hope this committee will agree, is that the rule of law should be observed and safeguarded.
>
> I have certain specific suggestions to make.
>
> The uncertainty that oppresses the country today is uncertainty as to what the Pay Board and what the Price Commission will do. This is central; this is critical—not the provisions of this legislation, or whether the act will be extended.
>
> In these circumstances, I should have thought that the wiser course for this committee would be to defer consideration of the bill until such time as the Price Commission and the Pay Board have acted. At that time you would have before you a concrete set of actions and standards which the committee and the Congress could consider, and determine then whether they should be incorporated into the law.

Does not that make sense? What is wrong with knowing what these agencies are going to do? The only reason I can imagine for passing this bill now is that we want to get out of here and next year we do not want to be bothered with it. We do not want to have to work on it in January, February, March, and April. I have not heard a single argument with respect to the public interest except the contention that it would cause uncertainty if we acted on it next year. It is perfectly apparent the uncertainty we are faced with is the uncertainty as to what the pay board is going to do and what the Price Commission is going to do. I have not obtained a single letter or received a single telephone call from a businessman or consumer arguing that we have to have the law now. The uncertainty arises from what is going to happen with respect to wages and prices. Mr. Ginsburg makes all the sense in the world when he says:

> I should have thought that the wiser course for this committee would be to defer consideration of the bill until such time as the Price Commission and the Pay Board have acted. At that time you would have before you a concrete set of actions and standards which the committee and the Congress could consider, and determine then whether they should be incorporated into the law.

Obviously, their actions, as they themselves said—and it was said over and again—should not be judged on what they did with respect to the coal wages. That was an exception, they said. They were going to adopt an entirely different policy for the future. Why not wait until next year to see what they do. As Mr. Ginsburg says:

> The question I'm raising is whether, 6 months before the law expires, and before this committee knows what standards and regulations these various boards and commissions will adopt—whether at this stage the committee should act.

The Senator from California (Mr. CRANSTON) asked Mr. Ginsburg this question:

> Is it your feeling that the President has all of the authority he needs to do what he desires to do now without any action by the Congress?

Mr. Ginsburg said:

> The operative word, Senator, in your question is "now", and the answer, unquestionably, is yes. He has full authority to proceed at the present time under existing law.

This is not just the opinion of the Senator from Wisconsin or the Senator from California; it is the opinion of the man who served as counsel for the OPA. I think he has the respect and the admiration of many Members of Congress, and many others. He is a real expert in this very difficult area.

Then he goes on to say:

> Legal authority is vested in one man, the board chairman.

This is the point that I have tried to make before the Senate. It is vested in Mr. Jackson Grayson in this case.

Mr. Ginsburg says:

> Yet prices, for example, are set by seven men. Do the other six not exercise legal power? Aren't their votes required to fix prices and price policies? On the Pay Board the Chairman is one member out of 15.
>
> The question I am raising is fundamental. You spoke, Senator Sparkman, a moment ago, of possible questions of legality. I see a major question of legality here, where legislative power is proposed to be delegated to a private group. This brings to mind visions of corporate statism and a syndicalist philosophy.

Mr. President, one of the arguments that have been made here is that we have to extend this legislation beyond April 30, or there will be great uncertainty as to whether we are going to have controls past that time, and it will be hard for businessmen, consumers, and others to make plans. The distinguished senior Senator from Texas, the ranking minority member of our committee (Mr. TOWER), made a statement to that effect earlier in the day, in speaking in behalf of the legislation.

Mr. President, it appears that the administration feels differently about this. Apparently they feel that they may well begin to phase out a part of the program.

It seems to me that such uncertainty could lead to considerable confusion. For example, the Wall Street Journal reports, in an editorial within the last couple of days:

> It is comforting to know that administration officials are at least beginning to think of phasing out Phase 2. According to Treasury Secretary John Connally, "we should be able within a year to cast off many, if not all, the stabilization controls."

That means less than a year, and it is proposed that we extend this program for 17 months.

The editorial continues:

> Controls at the most produce only a superficial sort of stability. Underneath the disruptive forces persist, and curbing them will require something other than governmental economic restrictions.

So it is clear that the administration at least feels that it will phase out these controls, as indeed I think it should. But if it is a matter of uncertainty, why are not the consumer and the businessman in exactly the same situation whether Congress acts this year or not, especially when the administration itself says it expects during the course of the year to schedule phase outs?

I can imagine in February the President will perhaps phase out the State and local workers, and all the teachers in the country will come out from under the control system. About May or June, maybe earlier, the administration will phase out small businessmen. In September or October, a few weeks before the election, practically all workers and maybe 90 percent of the economy will be out from under controls.

I think that may be a wise course of action. What I am saying is that under these circumstances, it seems to me Congress ought to seriously consider whether it is wise or necessary for us to include many of these groups in this program, when there has been no case at all made that they contribute to inflation, and when the case has been overwhelmingly documented that we can pinpoint the sources of inflation to the big unions, the big companies, a few areas of limited resources such as the health area, and, in the area of construction particularly, where we have such an imbalance between union power and management power.

Mr. President, the Wall Street Journal also reported on decisions that have recently been made by the Price Commission that seemed to be away out of keeping with any kind of effective stabilization program.

For instance, on November 26, it reported as follows:

> . . . . top executives of U.S. Steel will meet separately with one of the commissioners, presumably to discuss prospective price boosts for the industry's key sheet products.
>
> These sessions, insiders concede, are the most important in the commission's short life. "We're dealing with the price leaders and that's where we'll have to be tough," says one commission official.
>
> The commission on Wednesday approved a 4.5% increase for Chrysler Corp., which the company later trimmed to about 3% for 'competitive" reasons.

Indicating that the regulation, of course, was either too high or that it was unnecessary because in that case the competitive forces were what was by far more effective.

Mr. President, one of the most competent economists in this area is George Perry, of Brookings Institution. He recently wrote a very interesting monograph entitled "After the Freeze." It is one of the Brookings Papers on Economic Activity.

This is a very brief article by Mr. Perry, and I should like to read from it because it indicates some of the very great difficulties that are involved in the present course. Perry says:

> I don't think anyone in the administration is contemplating a permanent, comprehensive set of controls. And it is certainly not the program that I am prepared to defend or that most economists who favor an incomes policy of some sort have in mind. What is relevant is a middle-of-the-road program that can be adopted after the ninety-day freeze. Whether the middle road on incomes policy can work depends on the environment it has to work in. My view of the environment is different from Poole's. In the sand, the egg stands on its head very easily.
>
> Recently I wrote about structural changes that have led to a deterioration of the tradeoff between inflation and unemployment.[1] There I developed measures of labor market tightness that took account of these changes and showed that labor markets had been extremely tight during the 1966–69 period. An inflation model based on these measures explained the rapid increase of wages and prices over this interval and through the first half of 1970. But even the structural changes identified there do not account for the rate of inflation the United States has been suffering recently. Labor markets are not tighter now than they were in 1965, even by my measures. Operating rates are not higher now than in the early 1960s. There is no way today's inflation can be seen as a result of tight labor markets or excess demand in product markets; these conditions exist in only a few isolated sectors of the economy. Nor can today's inflation be explained by the weight in the wage index of long-term wage settlements that are still catching up for past inflation, although these headline makers may have important indirect, demonstration effects.
>
> Although the concept lacks theoretical elegance, I am persuaded that inflation is now perpetuated to an important degree because of high "habitual" rates of wage and price increase. Although we conceal a lot of our ignorance about the inflation process when we employ past changes in wages or prices to help explain the present, we have to attribute a large impact to recent experience in order to explain today's situation. But the present rapid wage increases need not imply that shifts have occurred in some well-defined labor supply curve that would lead to a model of accelerating inflation. I see no evidence for this interpretation and choose the description "habitual" to emphasize this. If this habitual situation in wages setting is interrupted, there need be no consequences for real output and employment. I am offering a treadmill explanation of the present situation. A middle-road incomes policy is designed to get us off the treadmill, down to a lower habitual average rate of wage and price increase.
>
> If the nation can emerge from the ninety-day freeze with a deescalation policy aimed at wages and prices broadly but, in practice, enforceable only in labor and product markets where market power is considerable, I would expect favorable results and only small costs.

This is precisely what I have been arguing. We ought to recognize where the inflation problem is and zero in on it.

> To opt for this kind of program is not to imply that oligopolistic industries and powerful unions are the main cause of the inflation. But they are a good place to concentrate an incomes policy for several reasons.
>
> If we are to slow down the treadmill, highly visible price and wage situations are the one place in which the government can call attention to the new rules and show it means business. This kind of demonstration should help reduce the present "habitual" rate of price and wage increases in other sectors as well. I would expect weak markets over a long enough period to do it too. But that seems to be a long and costly process.
>
> Furthermore, while these concentrated sectors did not give birth to the inflation, they have been an important factor in keeping it so healthy. Having been late to get started and having finally caught up, they are unlikely, of their own accord, to lead the way down toward price stability. That is not what union members pay their dues for. I find it somewhat contradictory that the same observers who doubt that such a limited incomes policy could work frequently stress structural changes to diminish market power among concentrated industries and unions as a longer-run inflation cure.
>
> Finally, I want limited and flexible controls because I do not want more. A price-wage board can hope to exercise control in these visible sectors and do so in a fairly flexible way. They can consider ten appeals a month with some care. They cannot sensibly monitor prices and wages everywhere. I am against comprehensive controls just as Poole is and for the same reasons. The initial ninety-day freeze is short enough—and voluntary enough—to pose no serious problems of efficiency. It may have been the best way to start off. But I want to emerge from it with a limited and flexible system.

Mr. President, I ask unanimous consent to have the article printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[Brookings Papers on Economic Activity, 2: 1971]

AFTER THE FREEZE

(By George L. Perry)

William Poole has offered a model of incomes policy that is like balancing an egg. The policy can be far too oppressive—the egg falls left; or it can be totally ineffectual—the egg falls right. Finding a middle approach for policy that works is like trying to stand the egg on its head: It's clearly unstable and can't be done.

I don't think anyone in the administration is contemplating a permanent, comprehensive set of controls. And it is certainly not the program that I am prepared to defend or that most economists who favor an incomes policy of some sort have in mind. What is relevant is a middle-of-the-road program that can be adopted after the ninety-day freeze. Whether the middle road on incomes policy can work depends on the environment it has to work in. My view of the environment is different from Poole's. In the sand, the egg stands on its head very easily.

Recently I wrote about structural changes that have led to a deterioration of the tradeoff between inflation and unemployment. There I developed measures of labor market tightness that took account of these changes and showed that labor markets had been extremely tight during the 1966–69 period. An inflation model based on these measures explained the rapid increase of wages and prices over this interval and through the first half of 1970. But even the structural changes identified there do not account for the rate of inflation the United States has been suffering recently. Labor markets are not tighter now than they were in 1965, even by my measures. Operating rates are not higher now than in the early 1960s. There is no way today's inflation can be seen as a result of tight labor markets or excess demand in product markets; those conditions exist in only a few isolated sectors of the economy. Nor can today's inflation be explained by the weight in the wage index of long-term wage settlements that are still catching up for past inflation, although these headline makers may have important indirect, demonstration effects.

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[1] George L. Perry, "Changing Labor Markets and Inflation," *Brookings Paper on Economic Activity* (3:1970), pp. 411–41.

Although the concept lacks theoretical elegance, I am persuaded that inflation is now perpetuated to an important degree because of high "habitual" rates of wage and price increase. Although we conceal a lot of our ignorance about the inflation process when we employ past changes in wages or prices to help explain the present, we have to attribute a large impact to recent experience in order to explain today's situation. But the present rapid wage increases need not imply that shifts have occurred in some well-defined labor supply curve that would lead to a model of accelerating inflation. I see no evidence for this interpretation and choose the description "habitual" to emphasize this. If this habitual situation in wage setting is interrupted, there need be no consequences for real output and employment. I am offering a treadmill explanation of the present situation. A middle-road incomes policy is designed to get us off the treadmill, down to a lower habitual average rate of wage and price increase.

In this environment, I cannot share Poole's misgiving about a middle-road incomes policy. He fears that a policy is enforceable only against large firms and unions would find controlled firms unable to meet the demand for some of its products. In this situation, he sees customers forced to switch their purchases to uncontrolled firms, and this development leading either to broader controls or their complete abandonment. In today's economy, would this really be a problem? Not only are markets not tight enough, but controls need not be so rigid.

I am not dissuaded by Poole's finding that, for nineteen out of ninety-eight product categories, wholesale prices rose more than 7 percent during the past year while average wholesale prices rose only 3.6 percent. Some of the nineteen were agriculture products, raw materials whose prices are set in world markets, or products fabricated from them. Some may have been industrial products whose price increases resulted from increased labor costs. We do know that the first-year cost of many wage increases was more than 3.4 percent above the average rate of wage increase. And we know that long-run productivity experience varies substantially among individual industries, so that any given change in hourly wage costs is translated into widely differing changes in standard unit labor costs. Thus Poole's reported dispersion in price behavior makes a good case for flexible controls and intelligent price guidelines. But it does not persuade me that suppressed excess demand would be a problem. We could, of course, create that problem for ourselves—say, by trying to hold the price of lumber in the midst of the current housing boom. But that straw man should not be the subject of discussion.

If the nation can emerge from the ninety-day freeze with a deescalation policy aimed at wages and prices broadly but, in practice, enforceable only in labor and product markets where market power is considerable, I would expect favorable results and only small costs. To opt for this kind of program is not to imply that oligopolistic industries and powerful unions are the main cause of the inflation. But they are a good place to concentrate an incomes policy for several reasons.

If we are to slow down the treadmill, highly visible price and wage situations are the one place in which the government can call attention to the new rules and show it means business. This kind of demonstration should help reduce the present "habitual" rate of price and wage increases in other sectors as well. I would expect weak markets over a long enough period to do it too. But that seems to be a long and costly process.

Furthermore, while these concentrated sectors did not give birth to the inflation, they have been an important factor in keeping it so healthy. Having been late to get started and having finally caught up, they are unlikely, of their own accord, to lead the way down toward price stability. That is not what union members pay their dues for. I find it somewhat contradictory that the same observers who doubt that such a limited incomes policy could work frequently stress structural changes to diminish market power among concentrated industries and unions as a longer-run inflation cure.

Finally, I want limited and flexible controls because I do not want more. A price-wage board can hope to exercise control in these visible sectors and do so in a fairly flexible way. They can consider ten appeals a month with some care. They cannot sensibly monitor prices and wages everywhere. I am against comprehensive controls just as Poole is and for the same reasons. The initial ninety-day freeze is short enough—and voluntary enough—to pose no serious problems of efficiency. It may have been the best way to start off. But I want to emerge from it with a limited and flexible system.

The circumstances behind the present inflation makes this a particularly favorable time for such a limited program. With excess demands virtually absent, it is hard to visualize significant misallocations arising from a wage standard that deescalated average wage increases to, say, a 5 percent annual rate. Why should we expect to see the steel companies, who are under scrutiny, lose workers to small, competitive firms who are not? Firms have been granting large wage increases because they have become the general pattern. If the treadmill slows, so does the wage increase that an individual firm must grant to meet its labor requirements. To raise wages faster than this, firms would have to behave irrationally just because they are not under the scrutiny of controls.

Of course, there will be some reallocations through changing relative wages, but they do not require today's average inflation rate. Resources were reallocated in the early 1960s with no loss of efficiency and with a stable price level. Nor need the resource transfer be a flow governed by wage movements in the uncontrolled sector alone. A flexible control system would permit promotions, competition for particular skills in short supply, and similar departures from any general rule.

Under a new incomes policy, I expect prices generally to be governed by costs and so to present no special problem. For the areas where market power is great, a price-wage board would monitor price movements. While excessive price increases in oligopolistic sectors are not the main cause of the recent inflation, there are reasons to guard against them: First, it is important to demonstrate an evenhanded treatment of wages and prices under the incomes policy; second, we want to ensure a prompt pass-through of cost moderation into prices; third, we want to avoid the occasional instance in which administered pricing might contribute independently to inflation. The biggest problems would come from a few sectors in which classical market power is not the issue but in which prices have been rising inordinately for special reasons. If allowed to continue, these increases would make cooperation under the incomes policy in other sectors more difficult. For example, medical costs have been rising rapidly. Here the government could slow price increases by using its control over the medicare and medicaid programs.

A more difficult problem for incomes policies arises when the economy expands more and markets begin to tighten. Even here, an incomes policy should be helpful, just as I believe the guideposts were helpful in their day despite their almost totally voluntary nature. What we see as a fairly gradual tradeoff curve between inflation and aggregate market tightness arises, I believe, as an increasing fraction of only loosely connected individual markets grows tighter. Adjustments among the markets takes place continuously through changing relative wages and prices. As the fraction of tight markets grows, the price changes average out to be more inflationary. On this highly simplified view, an incomes policy that modified the absolute price increases in the tighter sectors could still permit the needed adjustments, but with less net price increase than now occurs. An incomes policy need not break down until a substantial part of the economy experienced excess demand and certainly not before markets grew much tighter than they are today.

If over the next year the price deflator for the private sector could be slowed to a 2½ percent rate of increase while real output grew at a rate that noticeably reduced unemployment, the policy would have been a clear success. Before the new initiatives, there was virtually no sign of slowdown in the inflation rate, and policy makers seemed inhibited from stimulating the economy to speed up real growth by the fear of worsening the inflation. Over the last four quarters, real gross national product grew only 2.2 percent. Even a doubling of that rate of expansion would merely have held unemployment rates near recent levels, and there was little sign that the expansion would be faster than that.

Since there are other papers in this volume dealing with whether a continued high rate of inflation is tolerable, I will not address the question of living with what we have versus trying to correct it. An incomes policy imposes some costs, so if inflation is really costless, we should not have one. But I take it for granted that policy will fight against a rate of inflation like the current one. This means the choice we face is between an incomes policy and letting our concern over inflation take the unemployment rate where it will. Poole's optimism that a "do nothing" policy will achieve a good result is hard to accept, not only because the result is not assured, but because the price of waiting for something good to happen is so high. I am not a sailor, and Poole is an expert, so it might be wiser to forgo his sailing analogy. Nevertheless, I always thought that on a serious voyage, sailors carried a small motor on board precisely so that they would not be at the mercy of the winds. The economic winds have not been blowing favorably, and a firm incomes policy seems a good way to stop our drifting for now.

Mr. PROXMIRE. Mr. President, one of the ablest economists, a man who testified before the Banking Committee on this matter, is Mr. James Duesenberry, who is a professor at Princeton University and a former member of the Council of Economic Advisers. Mr. Duesenberry noted that the rise in nonunion wages did not reflect labor shortages. It occurs because, with prices rising rapidly and big increases in the visible settlements, employers believe that the wages they pay must keep pace if they are to maintain their positions as good employers. He called attention to the system of wage surveys used to establish nonunion wages. Banks, insurance companies, department stores, and even the Federal Government are granting wage increases on the basis of comparability, as determined by wage surveys. These wage increases would not have accelerated without tight labor markets. But after the market pressure evaporated, there was nothing to stop the process from continuing. In this situation, a standard for the visible, well-organized sector would result in a wage slowdown elsewhere in the economy as well.

That is another reason for holding down the program to those sectors where it is needed and where it can be effective.

Mr. President, I have not finished my remarks. I do have some additional remarks, but I will make them at a later time.

I understand that the Senator from Wyoming would like to call up an amendment and that he has unanimous consent to be recognized when I am through. With that in mind, I will yield the floor.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 9727) to regulate the dumping of material in the oceans, coastal, and other waters, and for other purposes; asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. GARMATZ, Mr. DINGELL, Mr. LENNON, Mr. PELLY, and Mr. MOSHER were appointed managers on the part of the House at the conference.

ECONOMIC STABILIZATION ACT OF 1971

The Senate continued with the consideration of the bill (S. 2891) to extend and amend the Economic Stabilization Act of 1970

The PRESIDING OFFICER. The Chair recognizes the Senator from Wyoming.

Mr. TOWER. Mr. President, will the Senator yield for the purpose of a quorum call?

Mr. McGEE. I yield, with the understanding that I do not lose my right to the floor.

Mr. TOWER. Yes.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BUCKLEY). Without objection, it is so ordered.

AMENDMENT NO. 757

Mr. McGEE. Mr. President, I call up my amendment No. 757.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. McGEE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered, and the amendment will be printed in the RECORD.

The text of the amendment is as follows:

> At the end of the bill, add the following new section:
>
> FEDERAL EMPLOYEE COMPENSATION
>
> SEC. 3. Notwithstanding any provision of section 3(c) of the Federal Pay Comparability Act of 1970 (Public Law 91–656), or of section 5305 of title 5, United States Code, as added by section 3(a) of Public Law 91–656, and the provisions of the alternative plan submitted by the President to the Congress pursuant thereto on August 31, 1971, such comparability adjustments in the rates of pay of each Federal statutory pay system as may be required under such sections 5305 and 3(c), based on the 1971 Bureau of Labor Statistics survey—
>
> (1) shall not be greater than the guidelines established for the wage and salary adjustments for the private sector that may be authorized under authority of any statute of the United States, including the Economic Stabilization Act of 1970 (Public Law 91–379; 84 Stat. 799), as amended, and as may be in effect on December 31, 1971; and
>
> (2) shall be placed into effect on the first day of the first pay period that begins on or after January 1, 1972.
>
> Nothing in this section shall be construed to provide any adjustments in rates of pay of any Federal statutory pay system which are greater than the adjustments based on the 1971 Bureau of Labor Statistics survey.

Mr. BYRD of West Virginia. Mr. President, would the Senator from Wyoming like to ask for the yeas and nays on his amendment?

Mr. McGEE. Yes. I thank the Senator.

Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

UNANIMOUS-CONSENT AGREEMENTS

Mr. BYRD of West Virginia. Mr. President, will the Senator from Wyoming yield to me temporarily, without losing his right to the floor?

Mr. McGEE. I yield.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that time on the pending amendment No. 757 by the Senator from Wyoming (Mr. McGEE) be limited to 1 hour, to be equally divided between the able mover of the amendment and the distinguished Senator from Texas (Mr. TOWER); that time on any amendment to the amendment, motion, or appeal, or point of order, with the exception of nondebatable motions, be limited to 30 minutes, to be equally divided between the mover of such and the manager of the bill, the Senator from Alabama (Mr. SPARKMAN).

The PRESIDING OFFICER (Mr. BUCKLEY). Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

Mr. BYRD of West Virginia. Mr. President, will the Senator from Wyoming again yield to me, with the same understanding?

Mr. McGEE. I yield.

Mr. BYRD of West Virginia. Mr. President, I have discussed the following various requests with the authors of the amendments involved, the distinguished manager of the bill, and the distinguished ranking Republican member of the Committee, the Senator from Texas (Mr. TOWER), and I therefore ask unanimous consent that at the close of business today, an amendment by the Senator from Oklahoma (Mr. HARRIS), No. 763, be laid before the Senate and made the pending business, without time running thereon today; that at the close of morning business tomorrow, the Senate proceed to consider amendment No. 763, with a time limitation thereon of 2 hours, to be equally divided between the able mover of the amendment (Mr. HARRIS) and the distinguished manager of the bill (Mr. SPARKMAN); that when that amendment is disposed of, the distinguished Senator from Montana (Mr. METCALF) be recognized to call up four amendments in succession, Nos. 752, 753, 754, and 755—I would presume he would first call amendment No. 752, but that will be left to him to determine, with the understanding that on the first amendment called up by him there be a time limitation of 1 hour, to be equally divided between the able mover of the amendment (Mr. METCALF) and the distinguished manager of the bill (Mr. SPARKMAN); that on each of the three succeeding amendments, there be a time limitation of 20 minutes on each amendment, to be equally divided between the able mover of the amendment (Mr. METCALF) and the distinguished manager of the bill (Mr. SPARKMAN); that upon disposition of the amendments by Mr. METCALF, the distinguished Senator from Wisconsin (Mr. NELSON) then be recognized to call up his amendment No. 758, with time thereon to be limited to 2 hours, to be equally divided between the able mover of the amendment (Mr. NELSON) and the distinguished manager of the bill (Mr. SPARKMAN); that upon disposition of that amendment, the distinguished Senator from Wisconsin (Mr. PROXMIRE) be recognized to call up his amendment No. 764 with a time limitation thereon of 1 hour, to be equally divided between the able mover of the amendment (Mr. PROXMIRE) and the distinguished manager of the bill (Mr. SPARKMAN).

Mr. PROXMIRE. Mr. President, will the Senator from West Virginia yield at that point?

Mr. BYRD of West Virginia. I yield.

Mr. PROXMIRE. I understood that the amendment I intend to call up has not yet been printed. I have it ready to offer.

Mr. BYRD of West Virginia. The Senator is correct. I beg his pardon. His amendment has to do with reporting to committees of the House and Senate. I further ask unanimous consent that upon disposition of that amendment, Mr. President, by Mr. PROXMIRE, the distinguished Senator from Texas (Mr. BENTSEN) be recognized, with 1 hour on his amendment, No. 764, to be equally divided between the able mover of the amendment (Mr. BENTSEN) and the distinguished manager of the bill (Mr. SPARKMAN); that time on any amendment in the second degree, motion, or appeal, or point of order to any of the foregoing amendments, with the exception of nondebatable motions, be limited to 20 minutes, to be equally divided between the mover of such and the distinguished manager of the bill (Mr. Sparkman).

The PRESIDING OFFICER (Mr. Buckley). Is there objection to the further request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

Mr. BYRD of West Virginia. I thank the distinguished Senator from Wyoming for his indulgence and his usual courtesy.

Mr. McGEE. Mr. President, I want to address myself for just a few moments to the pending amendment (No. 757) as it relates to the phase II legislation. This particular amendment would require, on January 1, 1972, that the President of the United States place into effect salary adjustments for classified Federal employees equal to the wage guideposts established by the Pay Council for the private sector of the economy.

The background here is short but to the point. Under the provisions of the Federal Employees Salary Comparability Act of 1971, enacted last January, the President is directed to make annual adjustments in all classified salary systems of the Federal Government equal to the comparability surveys conducted by the Bureau of Labor Statistics. Also under that act, the President is permitted, in cases of national emergency, to make an alternate proposal which, if not specifically disapproved by either House, it becomes effective.

The alternate proposal was advanced by President Nixon last August 31. That proposal was that Federal employees would get nothing at all next January. Neither House of Congress voted to override the Presidential proposal and, thus, the administration's plan, which would deny any pay adjustments for Federal employees until fiscal year 1973 went into effect. It is the opinion of members of the Senate Post Office and Civil Service Committee that action is required.

In light of events which have transpired these past few weeks, I might recount of my own views on the President's efforts to come to grips with the economic situation.

Beginning August 15, I strongly supported the President in his efforts to put clamps on inflation in this country.

I said then and I repeat now that my hope was that the President would freeze all wages, all profits, and all prices, and be tough with the American people in the difficult times that lie ahead. I specified at that time that there could not, in equity, be a special exception made for any group. That question is now moot.

At the insistence of the administration, we advanced increases for the military, with all that that connoted, even though many of us raised questions as to why that was not inflationary, since the President said that to increase civilian salaries would be inflationary.

Where we find ourselves here this afternoon is that the military have now been granted substantial pay increases in very large proportions in terms of the total cost, as it would have an impact on the Nation's economic levels. The President's Pay Board—the group assigned the responsibility for reviewing the situation and making recommendations — has ruled that the emergency in the land would still permit roughly a 5.5-percent pay increase for employees in the private sector.

So here is what we have at this moment as far as the Federal employees are concerned. On one side are the several millions of military personnel being granted very substantial pay increases, even in the emergency. And on the other side the private sector is being granted pay increases that follow a 5.5-percent guideline with exceptions up to 15 percent. And yet, the President's decree that Federal civilian employees will be denied comparability adjustment until fiscal year 1973 remains effective.

In the light of this fact, it seems to me equitable now for the Senate of the United States to say to the President and to the Pay Board that it is only fair that we level off the whole pay increase formula to include the Federal civilian employees. That is precisely what amendment 757 seeks to do. It will insure the same increase for Federal employees that the Wage Board has laid out as a guideline for the private areas.

The language of this amendment is essentially the language of a separate piece of legislation that the Senate Committee on Post Office and Civil Service reported to the Senate a few weeks ago. That is S. 2722, sponsored by Senator Fong. It was the Senator from Hawaii, the ranking Republican member of the Senate Post Office and Civil Service Committee, who initiated that piece of legislation.

The purpose of S. 2722 was to restore equity to the Federal employees. That measure was reported unanimously, and it was placed on the calendar. However, for reasons that remain unclear, it was not released from the Consent Calendar by the minority leadership of the Senate. Therefore, we have only one recourse left, and that is to proceed through this amending procedure to do right for the only substantial group in this country left unattended; in fact, deliberately excluded from equity by the President last August.

Mr. President, in the light of this, we urge the Members of the Senate to favorably respond to this amendment. Naturally, the 1.5 million classified employees and the several hundred thousand blue-collar employees whose wages have been involved follow with keen interest what this amendment proposes and what the President said when he froze their pay last August 31, and what the Wage Board laid out as its guidelines for the private sector. These same Federal employees are willing to bear their fair share of the burden of fighting inflation, of stabilizing the Nation's economy. However, they ask us again and again, "Why except us from all other groups? Why are we singled out to be discriminated against?"

I would like to think they say to each of us in turn, "We would like to be first-class citizens, along with the military and with the employees in the private sector."

So in behalf of those Federal employees, we have called up this amendment that was reported out of the Senate committee and sponsored jointly by the ranking minority member of that committee, the Senator from Hawaii (Mr. Fong) and by the chairman of the committee.

In the light of these elementary, substantive attributes of the legislation, Mr. President, I urge the Senate to agree to the amendment.

Mr. FONG. Mr. President, will the Senator yield to me?

Mr. McGEE. Mr. President, I yield to the Senator from Hawaii, the ranking minority member.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. FONG. Mr. President, as a cosponsor of the amendment, I rise to support it. Amendment 757 is S. 2722 in amendment form. S. 2722 was introduced by me on October 19, 1971, to give to Federal employees salary increases equal to those given non-Federal employees during phase II of the Economic Stabilization Act. S. 2722 was reported out of the Senate Post Office and Civil Service Committee unanimously on November 8 and is awaiting Senate floor action.

However, because of the pressure of time and the urgency of obtaining enactment of the provisions of S. 2722, the distinguished chairman of the Post Office and Civil Service Committee, the Senator from Wyoming (Mr. McGee), and I, as ranking minority member of that committee, have decided to move to incorporate the provisions of S. 2722 by this amendment to S. 2891.

A similar amendment was adopted on October 6, 1971, as an amendment to S. 8687, the military procurement authorization bill. I strongly supported that amendment and was a cosponsor of it. The Senate adopted that amendment by a vote of 60 to 27. However, it was stricken from the military procurement authorization bill in the House-Senate conference.

Amendment 757 would make it mandatory that Federal civilian employees, whose January 1, 1972, pay increases have been deferred by Presidential order to July 1, 1972, be given pay increases not exceeding the guidelines set by the President's Pay Board for non-Federal employees effective January 1, 1972.

Under Public Law 91–565, Federal pay increases were scheduled for January 1, 1971, January 1, 1972, October 1, 1972, and every October 1 following 1972. These increases were to be based on Bureau of Labor Statistics Surveys on the comparability of Federal to non-Federal pay throughout the country. A Federal pay increase of 6 percent was effected on January 1, 1971.

In that same law Public Law 91–565, the President was given authority to submit an alternative pay plan to the Congress, if in his judgment economic conditions affecting the general welfare required it. The Congress did uphold the President's alternative plan. I fought hard on the floor of the Senate to uphold the President's action.

By the alternative plan, President Nixon deferred the scheduled January 1, 1972, increase to July 1, 1972.

The Senate will recall that the deferral was done at the same time that President

Nixon established his general wage-price freeze.

The President's Federal pay delay order was in line with phase I freeze on non-Federal pay increases. At that time when the President deferred the January 1, 1972 pay increase to July 1, 1972, he had not yet decided as to how phase II would be implemented.

Now that phase II has been implemented providing non-Federal employees general pay increases of 5.5 percent, this amendment is needed to put Federal employees on the same basis as non-Federal employees. The President's Pay Board has not taken jurisdiction over Federal employees salary increases and the President has no authority under the law to rescind his Federal pay delay order.

Enactment of this amendment would mean that Federal employees would receive the pay increases justified by the Bureau of Labor Statistics survey figures but no higher than 5.5 percent effective January 1, 1972.

The amendment is justified on the basis of equity—treating Federal and non-Federal employees alike under phase II—and on the basis of comparability since the Bureau of Labor Statistics survey shows that there is a definite lag of Federal pay of at least 5.5 percent behind non-Federal pay.

The total national work force is approximately 88 million. The Federal employment rolls number approximately 1.3 million civilians and 2.7 million military personnel. It is highly unfair to grant approximately 85 million people in the non-Federal sector of our economy pay increases while denying the approximately 4 million Federal employees pay increases to which they are entitled under law.

It is essential that the Congress approve this amendment and it become law this year. To wait until next year would be imposing a grossly unfair and inequitable delay in Federal pay increases on all Federal employees and their families.

Under the comparability statute we enacted in 1962 we set forth the principle that all Federal employees would receive comparable salaries to employees in the private sector. We have been very, very derelict in not passing legislation reducing the lag time between the salaries paid to non-Federal employees and that paid to Federal employees.

The statistics on which we are basing this 5.5-percent increase were gathered in February 1970, so we are more than a year and a half behind in granting Federal employees comparable increases. This amendment will at least bring the Federal employees up to a comparability status so that they will not suffer as much, although they are still lagging behind their counterparts in private industry.

I urge the Senate to approve this amendment, as it is fair and equitable.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. TOWER. Mr. President, I yield to my distinguished colleague, the Senator from Alabama (Mr. SPARKMAN), in order that he may ask a question.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. McGEE. Mr. President, will the Senator yield to me to ask how much time we have consumed on this matter?

Mr. SPARKMAN. Mr. President, how much time does each side have remaining?

The PRESIDING OFFICER. The Senator from Wyoming has 10 minutes remaining and the Senator from Texas has 15 minutes remaining.

Mr. SPARKMAN. Mr. President, the Senator from Texas yielded to me. I am not speaking on the time of the Senator from Wyoming. I simply wish to ask a couple of questions.

As a matter of fact, does not the language of our bill do the same thing? Perhaps it is not in the best form since the Senator's is done by the legislative committee and I am sure it complies with all the technicalities, but we were trying to do that. Does not the Senator feel we did accomplish that?

Mr. McGEE. We explored that very carefully and we would have preferred to conclude on our part that that, indeed, had been the case; but we reached the conclusion that because of the action of the President last August under Public Law 91-656, it may not be covered in the language of the distinguished chairman's pending bill. For that reason we felt the circumstances required this specified legislative effort from the committee. We feel that this amendment is called for to leave no ambiguous area where there might be an escape.

Mr. SPARKMAN. I assure the Senator it was our intention to be covered and it was brought out in our explanation in the report. I am not saying that in opposition to the amendment. I think the committee has done a very fine job in getting up language that the Senate feels will be airtight on this matter. I wish to ask the Senator this question. This does not have any effect on any of the future so-called automatic rises.

Mr. McGEE. No.

Mr. SPARKMAN. Each one of them came up by reason of the expiration of the law already in effect.

Mr. McGEE. Then the law on the books would operate automatically in the future, unless the President declared an emergency again.

Mr. SPARKMAN. As I understand the law, if the trigger works then the President can provide against it and then it is up to Congress whether or not it will support——

Mr. McGEE. That is right. The President can submit an alternative.

Mr. SPARKMAN. Yes. But Congress has the power to make the determination.

Mr. McGEE. The ultimate determination.

Mr. SPARKMAN. And this language does not affect that in the least.

Mr. McGEE. Not in the least.

Mr. SPARKMAN. Would the Senator tell us now what happens to the so-called blue-collar workers under the amendment proposed here?

Mr. McGEE. What happens to the blue-collar workers is essentially that which is proclaimed in the 1971 law that we passed; namely, that once this action is taken in regard to the Federal employees, it automatically goes into effect with respect to the blue-collar workers. However, they operate under a different wage system, as the Senator knows, in contrast to classified Federal employees. They have local calculations which are arrived at through a different formula.

Mr. TOWER. So they would not be covered by the amendment?

Mr. McGEE. I do not mean that. They are covered because the language of the President's order freezing their wage surveys was tied to the white-collar freeze. They are covered. If this amendment is adopted by the Congress, it would assume the good faith of the President in following through. It is the intent of the committee that he would follow through.

Mr. SPARKMAN. But it is not an automatic operation; it would depend upon the President's taking further action. Is that correct?

Mr. McGEE. Yes. The blue-collars' pay was frozen when the President froze the white-collars' pay on August 15, 1971.

Mr. SPARKMAN. That is what I understood.

Mr. McGEE. Therefore, once we restore the white collar to schedule in January, it is our interpretation, based on advice from the Civil Service Commission, that the blue collar automatically follows, because it follows along with the same sequence when the President imposed a freeze in August. When the freeze thaws for white collar and military, it thaws for blue collar.

Mr. SPARKMAN. We come back to my first question regarding the blue-collar worker. It is not automatically automatic. He had those wages, in effect, frozen at the same time. If he released one, it would carry the other with it.

Mr. McGEE. Yes; that is the judgment of the committee. We think it does, too. The intent of the committee is that it follows automatically.

Mr. TOWER. I think it is important, as long as we get the intention down and make legislative history, to make sure we have the intent of the committee.

Mr. McGEE. That is the committee's intent.

Mr. SPARKMAN. And that was the intent of the committee when it reported the bill. We made it clear that what we had as an amendment was the same as a bill reported out of that committee and which is on the calendar at the present time.

Mr. McGEE. Yes. It is on the calendar.

Mr. SPARKMAN. And that intent was the intent not only of the Senator from Wyoming; it was the intent of the entire committee. I understand the bill was reported unanimously.

Mr. McGEE. Yes, and I will ask to have that fact confirmed by the Senator from Hawaii (Mr. FONG).

Mr. FONG. Mr. President, it was reported unanimously.

Mr. SPARKMAN. And the intent was that the blue-collar workers as well as other Federal workers are taken care of under this proposal.

Mr. TOWER. This applies only to one pay increment. Is that correct?

Mr. McGEE. That is correct.

Mr. MATHIAS. Mr. President, will the Senator yield?

Mr. McGEE. I shall be pleased to yield the floor. We are running a little short on time.

Mr. TOWER. I yield 3 minutes to the Senator from Maryland from my time.

Mr. MATHIAS. First of all, I should like to express my appreciation to the Senator from Wyoming and the Senator from Hawaii for the interest they are showing in this problem. As both the Senator from Wyoming and the Senator from Hawaii know, this has been a subject of great concern not only to me but to my colleague from Maryland (Mr. BEALL) and many others of us who have sought to bring the Federal employees in under the same rules that apply to every other American.

We do not believe, in a time of economic danger—and certainly we have been passing through such a time—that any one group in our society or economy should be privileged or advantaged over other people, but at the same time we do not feel anyone should be prejudiced or should suffer a particular disadvantage in his economic position.

I believe the Senator from Wyoming is really trying to correct an imbalance which would exist as to Federal employees as a group or as a class, if they were denied any flexibility at all in rates of compensation until the 1st of July next, which would be some 8 months after employees in the private sector were allowed some adjustment or flexibility in their rates of pay.

My colleague, Mr. BEALL, and I have submitted an amendment which would also accomplish this purpose.

I should like to ask the Senator from Wyoming whether he believes there is a substantial difference in the approaches we have used. Our amendment contemplated that the increase would not be automatic, but would be subject to the action of the Review Board, which has already set national guidelines at 5.5 percent.

Mr. McGEE. Yes, I would say the Senator has put his finger on the basic difference between the amendment I understand he is contemplating, and the amendment that the legislative committee has already reported and placed on the calendar, and that is the role of the Pay Board. Its decision was not to include Federal employees, presumably because of the President's Executive action last August, it abandoned the problem as not being in its jurisdiction. Therefore, it seemed to the committee that it was important that, legislatively, we restore that omission, that is, put it back on the books as a way of balancing the equity that we think belongs to them. That is for the difference.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. TOWER. I yield 3 minutes to the Senator from Maryland.

Mr. MATHIAS. Is it not true, conceding what the Senator has said, that the Pay Board has acted without reference to the Federal employees, that by directing it to act in behalf of Federal employees and then giving it discretion as to the area or percentage of increase or flexibility, we then bring them more truly in the same category as those in private employment or in the private sector?

Mr. BEALL. Mr. President, will the Senator from Wyoming yield?

Mr. McGEE. I yield.

Mr. BEALL. If we could call the Senator's attention specifically to page 2 of the amendment submitted by my colleague and myself, we say that it shall be subject to review by the Pay Board. Does not this, in effect, go a step further than the Senator's proposal and say that "you, the Pay Board, shall take authority over this particular situation and treat these people just the same as any other group of employees operating in America today"?

Mr. McGEE. The thought of the committee is there is a chance to ignore the responsibility if we proceed in that manner and give them the path they can take under the Executive order. There is nothing in any order this body may lay down that would guarantee the Pay Board to review it in the way we want to prevent such a slip-up. We believe we have specified a direct route, which is an order of the Congress of the United States to institute pay adjustments beginning January 1, and in the context already laid down.

Mr. BEALL. I do not want to be argumentative with the distinguished Senator from Wyoming, because we are both trying to accomplish the same purpose; but I might point out that the Pay Board as it now exists never took action on the question of pay for Federal employees, because the Pay Board was not in existence at the time the President made his decision. It was the old Cost of Living Council that made the decision to which the Senator alludes.

I am suggesting, though, that in the language of the amendment of the senior Senator from Maryland and myself, we are anxious that the Federal employees do get the advantage of being treated the same as any other group that works today in our society, and I am suggesting that it might be made more clearly definitive.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. TOWER. I yield 3 additional minutes.

Mr. McGEE. Mr. President, I shall be glad to respond to the Senator's point.

I think the thing that called it into question in terms of measuring it as against this alternative of going directly to the root of the problem is that the adjustment for Federal employees has been established by law as under the particular responsibility of Congress. That is the Comparability Act of 1971, which is the law of the land.

I would rather put the Federal civilian employees in the same category that we found the military employees during the early part of the emergency, and that was that this Congress decreed a military adjustment with the approval of the administration. We are simply saying that, by action of Congress, the adjustment shall be made.

Mr. FONG. Mr. President, will the Senator yield?

Mr. McGEE. I yield.

Mr. FONG. Is it true that the——

Mr. TOWER. Mr. President, will the Senator yield on his own time?

Mr. MATHIAS. We would like to reserve the remainder of the time on this side.

Mr. McGEE. I yield to the Senator from Hawaii on my time.

Mr. FONG. Is it not true that the President deferred the increases from January to July under the Federal Salary Act of 1970, and not under the wage stabilization freeze?

Mr. McGEE. Yes; under the Salary Act of January 1971.

Mr. FONG. So, therefore, the pay freeze order had nothing to do with it.

Mr. McGEE. That is true. So therefore this amendment addresses itself to that action under the Salary Act.

Mr. FONG. Therefore, from our standpoint, our amendment attacks it very directly, without referring it back to the Pay Board?

Mr. McGEE. The Senator is absolutely correct.

Mr. SPARKMAN. Mr. President, will the Senator yield very briefly?

Mr. McGEE. I am glad to yield to the Senator from Alabama.

Mr. SPARKMAN. I want to say that I have read both amendments quite carefully, and I see no material difference so far as the effect it will have on these employees is concerned. The amendment proposed by the Senator from Wyoming does not require a review by the Board, but it puts them within the guidelines that have already been laid down.

Mr. McGEE. That is right.

Mr. SPARKMAN. With reference to other employees, as does the amendment of the two Senators from Maryland; but they require that it be reviewed by the new Board. Is that not the only practical difference between the two?

Mr. McGEE. Well, except that the Senator is referring it back to a board that did not consider the matter, and we have addressed it to the place that led to this trouble in the first place.

Mr. SPARKMAN. Yes. You do not have the Review Board, and that is the only big difference.

Mr. McGEE. Yes. This is correct.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER (Mr. BUCKLEY). The Senator has 9 minutes remaining.

Mr. McGEE. I reserve the remainder of my time, unless Senators have some more questions.

Mr. MATHIAS. Mr. President, I would like to pursue the colloquy that the Senator from Wyoming has just concluded with the Senator from Alabama.

It seems to me that it is not fair to say that the procedure we have proposed in our amendment is merely going back through the same procedure that got us into this problem in the first place. What we are suggesting is more or less in the nature of an order from an appellate court, which sends a case back to the lower court with instructions as to how to handle it and instructions to make certain findings.

What we are saying to them is: "Your instructions are to treat Federal employees just the same way you are going to treat everybody else in our economy, and you should make the same judgments with reference to them that you are making as to other people in the economy. We want to see Federal employees treated fairly, neither more advantageously nor less advantageously."

If we bring in the Pay Board apparatus as a reviewing system, I think then we insure that that is exactly what will happen. I do not think there is any question that there will be any lack of faith on their part; they will act in good faith if Congress tells them they are to include Federal employees.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. McGEE. I am glad to yield the Senator 2 minutes on my time.

Mr. MATHIAS. I appreciate that. I think the colloquy is useful, because we are moving in exactly the same direction. We want to get to the same goal. It is just a discussion as to the means of getting there.

Of course, the pay bill is really in default of Congress. We passed exactly what we are talking about here several months ago, and the Senate passed it handsomely, in principle: the concept that Federal employee should get the same treatment as private sector employees.

That was at a time before the Pay Board had acted. Had we been able to prevail in conference, and had the provision which the Senate had approved by an overwhelming vote become law, the Pay Board would have had clear instructions.

As it is, they acted in default of congressional instructions. They acted only on a very broad brush outline painted in the executive branch, and they really had no option but to do what they did.

If we turn it around, and give them the option, I think it would have some desirable features.

Mr. McGEE. I say that the Senator from Maryland took advantage of the pending amendment, so that it has evolved in the context of comparability legislation that goes back nearly 10 years in this body. The action of the President in deferring it was under the legislation——

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. McGEE. I yield 2 minutes—comparability legislation. That is how the President froze Federal salaries and deferred them until next July. We believe that in that legislative context, it is important that we now reestablish the balance this way.

We held off on that in the committee, because of the economic crisis and out of respect for the President's judgment. But after he froze Federal salaries until next July, the military got a very substantial adjustment at some levels; and in the light of that and the decree for the private sector by the Board, we believe we must carry out the history of legislative comparability and, therefore, it carries a little sharper specification than that which the Senators from Maryland are recommending, plus one other advantage: It removes uncertainty about whether the Federal employees are going to get it.

This specifies it, gives the date and levels, with no other options, and is still within the context of the legislation on the books.

I am ready to yield back the remainder of my time, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. TOWER. I yield 1 minute to the Senator from Maryland.

Mr. BEALL. Mr. President, I say to the Senator from Wyoming it seems to me that if we really are anxious to be comparable, then the language suggested by the senior Senator from Maryland and myself in our amendment is more in line with comparability than the amendment under consideration now, because we are really, by agreeing that it be subject to review by the Pay Board and, if approved by the Pay Board, be placed in effect on the 1st day of January, saying that Federal employees shall in fact be comparable with all other employees in our economy today.

I think that is what we are striving to get to. As my senior colleague said, this is more or less in the nature of a court of appeals action, because we have had word from the President and word from Congress that conflict, and here is what I consider to be, in effect, a compromise.

Mr. MATHIAS. Mr. President, let me say a final word, if there is still any of that 1 minute remaining: I salute the Senator from Wyoming for his championship of the principle of comparability. That is a fight in which, over the whole of the last 10 years, I have been working with him, because I think comparability is one of the key features if we are to keep an efficient and effective Federal employment system. This is really the heart of a professional and an efficient Government service. So I am in no doubt as to my support of this principle of comparability in this context.

I am prepared, if that is the result of our discussion, to support the Senator's amendment, because I think, as I said earlier, it gets us to the place where we all want to be. The question of which road we travel is of less importance than that we arrive at a point where there is real economic justice for all Americans. That is what we are working for, and I am glad to work with the Senator toward that goal.

Mr. McGEE. I yield myself 2 minutes.

I want to say to both Senators from Maryland that they long have been stalwarts in seeking fair adjustments for all Federal employees. Their initiatives have been very helpful in this matter.

But I point out the difference in the language in the two amendments to suggest this one area of uncertainty I think should concern us, and that is what really happens if we go the route of the amendment of Senators McGEE and FONG or the route of the amendment of Senators MATHIAS and BEALL.

On page 2 of the amendment of the Senators from Maryland, they describe two steps—first, that it shall be the subject of review by the Pay Board and shall not be greater than the general guidelines, and so forth; second, that it shall, if approved by the Pay Board, "be placed into effect on the first day of the first pay period that begins on or after January 1, 1972." However, the amendment now pending does not leave that open to the uncertainty of "if approved by the Pay Board." For that reason, I would hope that the Senators from Maryland would take the direct route to this fixed date and this fixed percentage within the lines that have been laid out.

The PRESIDING OFFICER. The time of the Senator has expired.

Who yields time?

Mr. MATHIAS. I should like to respond briefly.

Mr. TOWER. I yield 2 minutes to the Senator from Maryland.

Mr. MATHIAS. I think the Senator has pointed out a difference, perhaps, without too great a distinction. We do call for review by the Pay Board. I think this would be desirable in putting the same kind of umbrella over the whole of the American economy.

There is not much doubt about what is going to happen. There is no uncertainty. If I thought there were, I would not be talking now. The Pay Board has already approved for private sector employees increases of 5.5 percent. If we sent them a legislative mandate that they were to consider Federal employees in the same category, I think that is where it would come out, which is, interestingly enough, just half a point off the comparability that Congress itself determined a long time ago—and with great credit to the Senator from Wyoming.

So even while I say that I think we are discussing a situation in which there is a difference without a distinction, again I say that I am happy to join the Senator in walking toward the high ground of justice for all our people in the area of their return for their labor.

Mr. McGEE. Mr. President, I am ready to yield back the remainder of my time.

Mr. TOWER. I yield myself 1 minute.

Mr. President, now that the legislative intent has been clarified and legislative history has been made here, and my question has been answered, I will not oppose the amendment of the Senator from Wyoming. Indeed, I will support it.

Mr. SPARKMAN. Mr. President, the same applies to me. As I brought out earlier, we were trying to do that thing in the bill and thought we had done it. But I am glad that the legislative committee having jurisdiction over it has taken action. Not only do I not oppose the amendment, but also, I am willing to accept it, and I hope it will be adopted.

Mr. KENNEDY. Mr. President, I am pleased to support the pending amendment to give fair treatment to Federal employees under phase II of the President's economic program. Last month, the Senate overwhelmingly approved a similar amendment as a rider to the military procurement bill. That amendment was dropped in conference, in large part because a more appropriate vehicle—the phase II legislation—was already on the horizon. I hope, therefore, that the present amendment will be approved by the wide margin it deserves, and that it will be enacted into law as part of the phase II legislation.

One of the most distressing aspects of the President's economic program is the unconscionable demand that Federal employees were to be singled out to bear a heavier burden than other American workers in the fight against inflation. The President's policy, announced last August, is an arbitrary and unfair attempt to freeze the pay of Federal employees until July 1972, whereas all other workers in the Nation already are eligible for pay increases, as determined by the Pay Board and the procedures now being developed under phase II. By its action, the administration is attempting to relegate Federal employees to the status of second-class citizens, and it is up to Congress to remedy the gross inequity that is about to be perpetrated against millions of dedicated public servants.

The present amendment seeks no special advantage for Federal employees, no special treatment, no special favors, no special dispensation. All that it does is to provide that Federal employees shall be treated on an equal basis with all other employees under phase II.

The terms of the amendment are clear. The comparability pay raise for Federal employees originally scheduled to go into effect in January 1972, will take effect on January 1, 1972, precisely as scheduled, subject only to the clear condition that the increase may not exceed the general pay guidelines established by the Board for employees in the private sector.

In this way, Federal employees will have their day in the sun under phase II, like all other employees in the American economy, and a grave injustice will be averted. The freeze is over, and there is no valid reason why Federal employees should not now share in the thaw.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. McGEE. I yield back the remainder of my time.

Mr. TOWER. I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back. The question is on agreeing to the amendment of the Senator from Wyoming. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Florida (Mr. CHILES), the Senator from Mississippi (Mr. EASTLAND), the Senator from Georgia (Mr. GAMBRELL), the Senator from Washington (Mr. JACKSON), the Senator from Maine (Mr. MUSKIE), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Alaska (Mr. GRAVEL), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from Rhode Island (Mr. PELL) are necessarily absent.

I further announce that the Senator from Idaho (Mr. CHURCH), the Senator from Montana (Mr. MANSFIELD), the Senator from Minnesota (Mr. MONDALE), and the Senator from Utah (Mr. MOSS) are absent on official business.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH), the Senator from Washington (Mr. JACKSON), and the Senator from New Hampshire (Mr. MCINTYRE) would each vote "yea."

Mr. COTTON. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Utah (Mr. BENNETT), and the Senator from Michigan (Mr. GRIFFIN) are necessarily absent.

The Senator from Florida (Mr. GURNEY) is necessarily absent attending the funeral of a friend.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Ohio (Mr. SAXBE) is absent on official business.

The Senator from Arizona (Mr. GOLDWATER) and the Senator from Pennsylvania (Mr. SCOTT) are detained on official business.

If present and voting, the Senator from Pennsylvania (Mr. SCOTT) would vote "yea."

The result was announced—yeas 75, nays 3, as follows:

[No. 403 Leg.]

YEAS—75

Aiken
Allen
Allott
Anderson
Beall
Bellmon
Bentsen
Bible
Boggs
Brock
Brooke
Buckley
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Case
Cook
Cotton
Cranston
Curtis
Dole
Dominick
Eagleton
Ervin
Fannin
Fong
Fulbright
Hansen
Harris
Hart
Hartke
Hatfield
Hollings
Hruska
Hughes
Humphrey
Inouye
Javits
Jordan, N.C.
Jordan, Idaho
Kennedy
Long
Magnuson
Mathias
McClellan
McGee
McGovern
Metcalf
Miller
Montoya
Nelson
Packwood
Pastore
Pearson
Percy
Proxmire
Ribicoff
Roth
Schweiker
Smith
Sparkman
Spong
Stafford
Stevens
Stevenson
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

NAYS—3

Cooper
Ellender
Stennis

NOT VOTING—22

Baker
Bayh
Bennett
Chiles
Church
Eastland
Gambrell
Goldwater
Gravel
Griffin
Gurney
Jackson
Mansfield
McIntyre
Mondale
Moss
Mundt
Muskie
Pell
Randolph
Saxbe
Scott

So Mr. MCGEE'S amendment (No. 757) was agreed to.

Mr. FONG. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McGEE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. COOPER. Mr. President, I say for the RECORD that I regret that I had to vote against the amendment which would have provided an increase in salary to our Federal employees.

I cast my vote because I believe all workers in the country should be treated the same way. That means that within the law and the guidelines established, increases by the Pay Board to industry employees, and increases regarding our Federal employees, should be such that all employees in the United States are treated in the same way.

Mr. COOPER subsequently said: Mr. President, as I said after the vote on the amendment offered by Senators MCGEE and FONG, I regret, for the reasons that I shall outline, that I felt compelled to vote against the amendment.

The Congress has by law relinquished its long-time practice of establishing Federal pay raises. By law enacted by the Congress, last year, it was provided that from time to time an independent authority should establish salaries upon a basis, among others, of comparability with nongovernmental employees.

It was also provided that the President, if he thought proper, could recommend to the Congress, for its rejection or acceptance, alternatives to the decisions of the independent authority.

A raise of 5 to 6 percent was established to take effect on January 1, 1972. The President, following the authority given him by law, by the Congress a year ago, recommended to the Congress that the pay raise of January 1, 1972, be postponed until July 1, 1972. Both Houses of Congress approved the President's recommendation just a short time ago.

Now, the Senate is reversing that decision, and at a critical time.

The Pay Board is engaged in serious decisions concerning the wages and salaries of nongovernmental employees in an effort to curb inflation and to achieve a secure and stable prosperity for everyone. I do not think it best to single out one group of employees for special treatment.

I have voted many times to support our able and valued Federal employees. I have no doubt that raises will be accorded them. But, as I have said, I believe it fair to treat all employees, governmental and nongovernmental, equally at this critical time.

Mr. SCOTT subsequently said: Mr. President, on the last vote I was not 20 feet away from the Senate floor. I was in the President's Room. I was not notified by anyone that a vote was in progress. Something seems to have gone wrong with the service around here. If it happens again, I am going to ask that those who are responsible be called to account. I regret very much having missed this vote. I was never at any point more than 20 feet away from the Chamber. Not having been notified, and that room not having any bell or signal system, I missed the vote. I should like to make it very clear that if that happens again, there will be a further inquiry into this matter.

Mr. ROTH. Mr. President, the bill we are considering today empowers the President to continue his economic stabilization program for another 17 months. I think this is a wise and equitable time period for two principal reasons.

First, our business leaders have indicated that many important investment decisions have been postponed during phase I due to the uncertain impacts of actions during phase II. Confirming Presidential authority for a workable time period will undoubtedly help resolve many of business' unanswered questions.

Second, if this important control is extended only through April 1972, we in Congress will certainly be faced with the problem of further modifications, extensions, or cancellations in the middle of a national election year. The Nation's economic well being should, I believe, take precedence over any partisan political issues.

Yet I think it safe to say that none of us here wants to see this program of wage and price controls continue 1 day longer than is absolutely necessary. America was built on the principle of freely competitive enterprise, and stringent controls should last only as long as the emergency for which they were created. I would hope conditions would permit the termination of controls long before April 1973.

If this country is going to regain a strong and healthy economy—we in Congress must emphasize with passage of this bill the need for voluntary cooperation among all Americans. The Banking Committee has attempted to win this voluntary support by stressing that:

> The control of inflation must be handled in a balanced and equitable manner. Any automatic granting of all these deferred (or retroactive) wage increases could not be undertaken without a severe strain being placed upon the price side of the program.

I must say I find it hard to understand some recent decisions by the Pay Board, particularly in light of the 5.5 percent guidelines established under phase II. Our committee, in permitting certain deferred pay increases be honored, has reported a bill which "establishes a test for pay increases consistent with the Board's standards." It was my understanding that a small variance would not ordinarily be "unreasonably inconsistent" but that a 15-percent increase would be, unless highly unusual circumstances prevailed. I believe it to be equitable that those portions of employment contracts which conform to the administration's guidelines should be honored, regardless of the date on which the new contract was destined to take effect.

Yet we in Congress must recognize that the millions of American workers not covered by employment contracts do not have recourse to this protection. This sacrifice makes it all the more imperative for us to lead in the vigorous effort to make the President's program work. The harness of economic controls will remain with us until wage earners and price setters develop the confidence that each others actions are not based on an acceptance of de facto inflation.

Our prompt passage of this bill, in its existing form, will help demonstrate our faith in Americans' willingness to accept a sometimes bitter pill as the only medicine which will revive our ailing economy.

PROGRAM

Mr. BYRD of West Virginia. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. There will be order in the Senate. The Senator from West Virginia is recognized.

Mr. BYRD of West Virginia. Mr. President, I take this time to inquire whether any Senator has an amendment which he would be willing to call up now or later this afternoon.

I see no indication of such. Therefore, I announce that there will be no more rollcall votes today. The Senate will come in at 9 o'clock in the morning. The first amendment to be called up on tomorrow will be the Harris amendment on which there will be a time limitation of 2 hours. Therefore, Senators can expect the first vote by 11 or 11:30 tomorrow morning.

Agreements have already been reached with respect to time limitations on several amendments. So, there will be several rollcall votes tomorrow.

Mr. TOWER. Mr. President, would the Senator from West Virginia be good enough to inquire whether other Senators have amendments other than those that have been assigned time?

Mr. BYRD of West Virginia. Very well. I think that is a good suggestion. I ask whether or not there are Senators who have amendments other than the following: The Senator from Oklahoma (Mr. HARRIS), the Senator from Montana (Mr. METCALF), the Senator from Wisconsin (Mr. NELSON), the Senator from Wisconsin (Mr. PROXMIRE), the Senator from Texas (Mr. BENTSEN), the Senator from Ohio (Mr. TAFT), the Senator from California (Mr. CRANSTON), and the Senator from New York (Mr. JAVITS).

Mr. SPARKMAN. Mr. President, would the Senator yield briefly for a question?

Mr. BYRD of West Virginia. I yield.

Mr. SPARKMAN. Is the Senator willing to state that he hopes we finish the bill on tomorrow?

Mr. BYRD of West Virginia. Mr. President, I would not want to assure the Senator of that. I am not sure that we even have a 50-50 chance.

May I now state for the benefit of the Senate the amendments already scheduled for action tomorrow?

Mr. SPARKMAN. Before doing that, may I ask if the Senator would be willing for the Senate to run into the night if there is a chance that we might finish the bill tomorrow?

Mr. BYRD of West Virginia. Mr. President, I think there is a very good prospect that the Senate will run into the night tomorrow in an effort to finish. In any event, there will be an ample number of amendments scheduled for action on tomorrow which will take us into the evening.

There is first the Harris amendment, with a 2-hour time limitation, the time to be equally divided.

There are four amendments by the Senator from Montana (Mr. METCALF), on the first of which is a 1-hour time limitation, the time to be equally divided, and on each of the remaining three, there is 20 minutes, the time to be equally divided.

These four amendments will be followed by an amendment offered by the Senator from Wisconsin (Mr. NELSON), on which there is a 2-hour limitation, the time to be equally divided.

Following the Nelson amendment, there is a Proxmire amendment on which there is a 1-hour limitation, the time to be equally divided.

There will next be a Bentsen amendment on which there is a 1-hour limitation, the time to be equally divided.

We hope then to get an agreement on a Taft amendment for a limitation of 2 hours.

After that, we will try to get a time limitation on a Cranston amendment of 1½ hours, the time to be equally divided.

That would take us well into the evening tomorrow, with at least one amendment to be offered by the Senator from New York (Mr. JAVITS).

Mr. PROXMIRE. Mr. President, I have three or four other amendments which I think will probably take us until Wednesday.

Mr. BYRD of West Virginia. Mr. President, I think the Senator has the answer to his question. There will be a number of rollcall votes tomorrow. There will be no more rollcall votes today.

There is every indication the Senate will complete its action on the pending bill on Wednesday.

ECONOMIC STABILIZATION ACT OF 1971

The Senate continued with the consideration of the bill (S. 2891) to extend and amend the Economic Stabilization Act of 1970.

Mr. TAFT. Mr. President, the United States has suffered a number of nationwide strikes recently with crippling economic consequences, thus presenting an overall national crisis that we are attempting to face in part of this legislation. Recently these strikes have affected the railway industry, the Nation's docks, and the coal industry.

Mr. BYRD of West Virginia. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. TAFT. Mr. President, because of their nationwide impact, they have particularly critical consequences for the American economy in these difficult times. Such strikes result not merely in economic pressure against the employer, but also lead to drastic economic consequences in other sections as well.

In particular, I invite attention to the situation on our Nation's docks. The 80-day injunction under the National Labor Relations Act dealing with the west coast strike will expire on Christmas Day. For all we can see at present, it seems extremely likely that the workers again will go off the docks on the west coast and the problems there will be aggravated. I, for one, do not look forward to coming back to a specially called session of the Congress to take on this problem. Additionally, negotiations have broken down on the Eastern and gulf coast ports and back-to-work orders varying from 10 to 80 days have been issued. Prospects for an early settlement also seems very unlikely.

Such strikes as these can no longer be considered entirely within the context of economic leverage between employers and the unions. On the contrary these strikes necessarily involve questions of the national interest which we in the Congress are obligated to consider, which affect the public very adversely.

In response to this situation a number

of bills have been introduced in the Senate this year and in preceding years.

This year, bills have been introduced by the Senator from Michigan (Mr. GRIFFIN), S. 560; the Senator from New York (Mr. JAVITS), S. 594; the Senator from New Jersey (Mr. WILLIAMS), S. 832; the Senator from Tennessee (Mr. BROCK), S. 1934; the Senator from Colorado (Mr. DOMINICK), S. 2060; and others, including one introduced by me. Earlier in the year I introduced a bill, S. 1093, which dealt with the problem of the railroad industry, principally in the area of work rules.

It is interesting to note that although extensive hearings have been held in the committee dealing with this subject, it seems very unlikely that there will be forthcoming a measure from that committee to deal with this very important problem.

It is for that reason, when I introduced my bill a few weeks ago, that I gave notice that when appropriate legislation came before the Senate to which an amendment of the type I propose to offer today relating to national emergency strikes would be germane, that I would offer the amendment.

The bills to which I have referred differ widely as to their coverage, as to their procedures, and as to their remedies. I have given considerable attention to the various alternatives which have been proposed, and today I intend to offer an amendment which is frankly an amalgamation of what I considered the best provisions in these measures.

The amendment I submit today adopts the approach of the Senator from New York (Mr. JAVITS), in that it covers all industries affecting interstate commerce. After giving this matter additional study, I concluded that my earlier approach in limiting the legislation to railroads would be in error.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. TAFT. I yield.

Mr. JAVITS. Mr. President, I am very flattered and very pleased that the Senator has done what he has done.

I shall look forward to studying his amendment with the greatest attention, whether or not it goes on this bill—and certainly, in my judgment, there are, very properly, compelling reasons for attaching it to this bill, as it has a very great impact upon price stabilization. The ultimate resort which enables the people to operate as a government is critical as an underlying basis for stabilization.

I might tell the Senator I thought of bringing it up myself, but I felt the subject was so great and that the interests in it were so divergent that perhaps there would be the objection that many people would desire to be heard, study the proposal, look into it, et cetera; but as to its pertinence or germaneness, I have not the remotest doubt that whatever may happen, I will tell the Senator that he is rendering a signal service to the country and to us all by raising this highly critical issue which is almost the embodiment of whether a democratic society can operate in the face of probably the gravest emergency which can affect it in peacetime.

I thank the Senator from Ohio.

Mr. TAFT. I thank the Senator from New York for his very fine remarks. I commend him for the tremendous leadership that he has shown as the ranking member of the Committee on Labor and Public Welfare in bringing this matter up for committee hearings, and the leadership that he has shown through the years in trying to bring about improvements in the way of handling national emergency strike situations.

There can be no doubt, I think, that the very strict requirements in the present law and the very narrow approach which the President and the Attorney General must follow under the present law need to be changed. They need to be broadened. We need to be far more realistic in looking at the situation. All too frequently we are dealing in an international competitive area where we are dealing with economists, whether they be democratic or totalitarian. We are dealing with an economy in which there is the integration of the action of government, of business, and of labor, all working together. Unless we are able to solve our national emergency strike situation in the international field, a field in which the Senator from New York is tremendously interested, we are going to remain at a tremendous disadvantage.

Mr. JAVITS. I thank the Senator from Ohio.

Mr. TAFT. Mr. President, the amendment which I have offered today, as I said, adopts the approach of the Senator from New York (Mr. JAVITS), in that it covers all of the industries affecting interstate commerce.

After giving the matter additional study, I concluded that railroads alone should not be covered by this proposal, but that railroads ought to be included in the overall legislation. I see no reason why emergency strike legislation should not be applicable to industries covered by the National Labor Relations Act, as well as to industries covered by the Railway Labor Act. In the context of national strikes, I see no valid reason for retaining this delineation in approach that we have had in the law in the past.

The Labor Management Relations Act is also amended by this proposed amendment to expand coverage to those situations where a labor dispute perils the health or safety of a substantial part of the Nation's territory or population. I believe this approach is crucial, as currently no mechanism is available for regional emergencies, and can frequently be just as damaging in its overall impact to our national economy as a national emergency situation.

Farmers expecting to export their farm commodities can certainly attest to the fact that they faced a regional emergency long before the Nation's dock strike caused a "national emergency." Further, the recent coal strike was considered a matter of "national" concern by high Labor Department officials, but did not adversely affect enough of the Nation to become a "national" emergency in the opinion of the administration and of the Attorney General. It certainly makes no sense to the farmers who cannot export their crops, or to the hospitals and schools in certain regions of the country that have no coal for heat, that no remedy is available because their situations do not constitute a national emergency in the sense of affecting the entire Nation directly as a result of the labor dispute.

With respect to the settlement of these strikes, the amendment which I propose to offer adopts the three alternative procedures contained in S. 560, introduced by the Senator from Michigan (Mr. GRIFFIN): First, a 30-day injunction; second, partial operation of the industry in question; and third, a final offer selection by a panel of independent arbitrators who would choose between the last offers made by the parties. To these I have added a fourth alternative, namely, an 80-day injunction provision similar to the current provision of Taft-Hartley.

In addition, I have included in this amendment what I consider to be a vitally important provision drawn from S. 1093, which I have introduced earlier. This provision relates to the question of unproductive work rules.

It may seem interesting to observe why we should submit an amendment relating to work rules at the same time we are talking about national emergency strikes. The fact is that the great preponderance of national emergency strikes have been related far more to work rules disputes than they have been related to economic disputes.

If we examine the recent national strikes to which our attention has been directed, we will discover that it was the question of work rules which was at the base of the railway strike. It was the question of work rules which also has been paramount in the crippling dock strike. In my opinion, we simply cannot expect to deal meaningfully with such national strikes unless we have some mechanism for coming to grips with the question of unproductive work rules.

American industry must be able to eliminate unproductive work rules, unless those work rules are solely related to the health and safety of employees. This is important because we must undertake a great national effort to increase the productivity of American industry. American workers are fighting for their jobs in competition with workers in Germany, Japan, and other nations. Just as American industry requires modern machinery and tools of production, American industry must also be able to free itself of unproductive work rules which put a damper on productivity and thereby threaten both profits and jobs.

At the same time American labor has a vital interest in the way in which these work rules are changed. American working men and women should not have to suffer uncertainty as to whether or not they will be replaced by a machine. When a man has worked in a job for a number of years he has a legitimate interest in retaining his employment and not being told at the age of 55 that he must suddenly go out and sweep streets for a living.

When American industry is modernized and made more efficient, America's working men and women should have a share in the increased productivity of our Nation's industries.

For that reason I believe it is imperative that we incorporate language into our emergency strike legislation using the approach that work rules remain primarily a matter for collective bargaining. However, if an employer does not wish to utilize collective bargaining to eliminate an unproductive work rule that is not directly related to the health or safety of employees, he could eliminate it from bargaining on the following conditions:

First, the employer could eliminate jobs only by attrition. This provision means that no employees could lose jobs as a result of the new work rules.

Second, this amendment provides that the nonsupervisory and nonprofessional employees would have their pay increased by an amount equal to 50 percent of the productivity gains attributable to the elimination of the work rule. This amendment also provides a mechanism for having a disinterested third party determine the cost savings through such elimination of work rules.

I believe that we are only kidding ourselves if we think that we can deal with these national strikes without coming to grips with the question of unproductive work rules. Let me emphasize that labor has as much of a stake in this as does management. Unproductive work rules require that work be spread out more widely and that the buying power generated from that work must be paid into more pockets. If a given quantum of work must support eight workers instead of six, those eight workers will not have as high a standard of living as the six otherwise would have enjoyed.

Labor does have a proper interest in seeing that employees are not eliminated and that the buying power of the remaining employees is increased. This measure would protect that interest.

Sooner or later American business and labor must recognize that they can no longer look upon each other as opponents, but that they are both sharing the fruits of our national productivity. In short, they are both drinking out of the same wellspring. This legislation attempts to establish a legal framework within which they may both fairly share the increased benefits of American productivity.

I believe that it is most pertinent that this amendment be considered as a part of the economic stabilization legislation. Section 202 of the Economic Stabilization Act relates to America's competitive position in world trade. In my judgment nothing is more important to the protection of our competitive position and the productivity of our industry than the resolution of major labor disputes. This is particularly true in light of the provisions of this amendment to curb unproductive work rules.

If we are to protect American jobs and enable American industry to recapture foreign and domestic markets we must not only revalue the dollar and curb inflation, it is equally important that we modernize our factories through the investment tax credit and modernize our work practices by striking down work rules which preclude more productive work practices. The efficiencies to be derived from more modern machinery will be lost if we tolerate unproductive work rules. Similarly, wage and price stabilization will not spur the export of American products if our avenues of commerce are choked off through crippling labor disputes.

We cannot treat our Nation's economic problems piecemeal. If we are to protect American jobs and increase the buying power of America's working men and women we must recognize that there is an interrelationship between the value of the dollar, prices, wages, and the productivity of our great industries. For that reason I believe that this amendment should be adopted and made a part of S. 2891.

Mr. President, I send this amendment to the desk, and I ask unanimous consent that it be printed in the RECORD.

AMENDMENT NO. 765

The **PRESIDING OFFICER**. The amendment will be received and printed and will lie on the desk; and, without objection, will be printed in the RECORD, as requested.

The amendment is as follows:

AMENDMENT NO. 765

At the beginning of the bill, insert a new title as follows:

TITLE I—ECONOMIC STABILIZATION

On page 22, add immediately after line 19, the following new title:

TITLE II—EMERGENCY LABOR DISPUTES

SEC. 201. That this title may be cited as the "Emergency Labor Disputes Act of 1971".

SEC. 202. (a) Congress hereby finds—

(1) that the present procedures established by sections 206–10 of the Labor-Management Relations Act, 1947, and section 10 of the Railway Labor Act for dealing with labor disputes which threaten the health and safety of the American people or tend to deprive any section of the country of essential transportation services need to be amended to provide greater flexibility in preventing national or regional emergencies created by labor disputes;

(2) present procedures for resolving such labor disputes need to be amended to prevent serious disruptions in operations and services essential to the health and safety of the Nation or a substantial part of its population or territory; and

(3) additional procedures need to be made available to permit prompt action to deal with national or regional emergencies created by labor disputes is necessary to prevent imperiling the health and safety of the Nation or a substantial part of its population or territory by such disputes and to encourage and maintain free collective bargaining.

(b) It is the purpose of this Act to make available a range of flexible procedures to be utilized in taking emergency action, to prevent the interruption of operations or services essential to the health and safety of the Nation or a substantial part of its population or territory because of actual or threatened strikes or lockouts.

SEC. 203. Sections 206–209 of the Labor-Management Relations Act, 1947, are amended to read as follows:

"SEC. 206. (a) Whenever in the opinion of the President of the United States a threatened or actual strike or lockout or other labor dispute in an industry affecting commerce may, if permitted to occur or to continue, imperil the health or safety of the Nation or a substantial part of its population or territory, he may appoint a board of inquiry to inquire into the issues involved in the dispute and to make a written report to him within such time as he shall prescribe. Such report shall include a statement of the facts with respect to the dispute, including each party's statement of its own position, and, if the President so directs at any time, there shall be included in such report or in a supplemental report the recommendations of the board of inquiry for the settlement of some or all of the issues in dispute. The President shall file a copy of such report with the Secretary of Labor and shall make its contents available to the public.

"(b) Upon receiving a report or a supplemental report from a board of inquiry, the Secretary may initiate one or more of the following actions:

(1) He may direct for a specified period not to exceed 30 days that work shall resume or continue, but otherwise no change in the conditions out of which the dispute arose shall be made except by agreement. During such period the parties to the dispute shall be under a duty to bargain collectively, but neither party shall be under a duty to accept in whole or in part any recommendations of the board of inquiry.

"(2) (A) He may issue an order for partial operation specifying the extent and condition of partial operation that must be maintained: *Provided*, That in no event, shall his order place a greater economic burden on any party than that which a total cessation of operations would impose.

"(B) The parties shall not interfere by resort to strike or lockout with the partial operation ordered by the Secretary. The Secretary's order shall be effective for a period determined by the Secretary, but not to exceed one hundred and eighty days.

"(C) The Secretary's order or any modification thereof shall be conclusive unless found arbitrary or capricious by the district court which granted the injunction pursuant to section 208 of this Act.

"(D) (i) The Secretary shall issue his order no later than thirty days from the receipt of the report from the President, unless the parties, including the Government, agree to an extension of time but such extension shall reduce pro tanto the maximum effective period of the board's order.

"(ii) On notice to the parties, the Secretary may at any time during the period of partial operation modify its order as it deems necessary to effectuate the purposes of this section.

"(E) Until the Secretary makes his determination and during any period of partial operation order by the Secretary, no change, except by agreement, shall be made in the terms and conditions of employment. If the Secretary determines that the implementation of any particular term of the existing terms and conditions of employment is inconsistent with the conditions of partial operation, he may order the suspension or modification of that term but only to the extent necessary to make it consistent with the conditions of partial operation.

"(3) (A) He may direct each party to submit to him a final offer within three days. Each party may at the same time submit one alternative final offer. The Secretary shall transmit the offers to the other parties simultaneously.

"(B) Any offer submitted by a party pursuant to this section must constitute a complete collective-bargaining agreement and resolve all the issues involved in the dispute. If a party or parties refuse to submit a final offer, the last complete contract proposal made by such party or parties shall be deemed that party's or parties' final offer.

"(C) The parties shall continue to bargain collectively for a period of five days after they receive the other parties' offers. The Secretary may act as mediator during the period of the final offer selection proceedings.

"(D) If no settlement has been reached before the end of the period prescribed in subparagraph (C) of this paragraph, the parties may within two days select a three-member panel to act as the final offer selector. If the parties are unable to agree on the composition of the panel, the President shall appoint the panel.

"(E) No person who has a pecuniary or other interest in any organization of employees or employers or employers' organizations which are involved in the dispute shall be appointed to such panel.

"(F) The provisions of sections 207(b) and 207(c) of this Act shall apply to the panel.

"(G) The panel shall conduct an informal hearing in accordance wtih section 207(c) of this Act insofar as practicable, except that—

"(i) the Government shall have no right to participate; and

"(ii) the thirty-day period in which the panel shall complete its hearings and reach its determination shall run from the time that the Secretary directed the parties to submit final offers.

"(H) The panel shall at no time engage in an effort to mediate or otherwise settle the dispute in any manner other than that prescribed by this section.

"(I) From the time of selection of the panel until such time as the panel makes its selection, there shall be no communication by the members of the panel with third parties concerning recommendations for settlement of the dispute.

"(J) Beginning with the direction of the Secretary to submit final offers and until the panel makes its selection, there shall be no change, except by agreement of the parties, in the terms and conditions of employment. In no instance shall such period exceed thirty days.

"(K) The panel shall not compromise or alter the final offer that it selects. Selection of a final offer shall be based on the content of the final offer and no consideration shall be given to, nor shall any evidence be received concerning, the collective bargaining in this dispute including offers of settlement not contained in the final offers.

"(L) The panel shall select the most reasonable, in its judgment, of the final offers submitted by the parties. The panel may take into account the public interest, and any other factors normally considered in the determination of wages, hours, and conditions of employment.

"(M) The final offer selected by the panel shall be deemed to represent the contract between the parties.

"(N) The determination of the panel shall be conclusive unless found arbitrary and capricious by a United States district court.

"(4) (A) He may direct the Attorney General to petition any district court of the United States having jurisdiction of the parties to enjoin such strike or lockout or the continuing thereof, for a period not to exceed 80 days, and if the court finds that such threatened or actual strike or lockout—

"(i) affects an entire industry or a substantial part thereof engaged in trade, commerce, transportation, transmission, or communication among the several States or with foreign nations, or engaged in the production of good for commerce; and

"(ii) if permitted to occur or to continue, will imperil the national health or safety, it shall have jurisdiction to enjoin any such strike or lockout, or the continuing thereof, and to make such other orders as may be appropriate.

"(B) In any case, the provisions of the Act of March 23, 1932, entitled 'An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes', shall not be applicable.

"(C) The order or orders of the court shall be subject to review by the appropriate circuit court of appeals and by the Supreme Court upon writ of certiorari or certification as provided in sections 239 and 240 of the Judicial Code, as amended (U.S.C., title 28, sec. 1254).

"Sec. 207. (a) The board of inquiry shall be composed of a chairman and such other members as the President shall determine, and shall have power to sit and act in any place within the United States and to conduct such hearings either in public or in private, as it may deem necessary or proper, to ascertain the facts with respect to the causes and circumstances of the dispute.

"(b) Members of the board of inquiry or panel appointed under section 206(b)(3) shall receive compensation, at the daily rate prescribed for GS-18 under section 5332 of title 5, United States Code, for each working day on the board or panel, together with necessary travel and subsistence expenses.

"(c) For the purpose of any hearing or inquiry conducted by any board or panel appointed under this title, the provisions of sections 9 and 10 (relating to the attendance of witnesses and the production of books, papers, and documents) of the Federal Trade Commission Act of September 16, 1914, as amended (U.S.C. 19, title 15, sections 49 and 50, as amended), are hereby made applicable to the powers and duties of the board and panel.

"(d) Any board or panel established under this Act shall act by majority vote.

"(e) A vacancy on any such board or panel shall not impair the right of the remaining members to exercise all of the powers of such board or panel. Such vacancy shall be filled by the same procedure as provided for initial appointment outlined in this Act.

"Sec. 208. (a) The provisions of this title and orders or determinations issued thereunder shall be enforceable upon suit by the Attorney General, through such orders as may be appropriate by any court having jurisdiction of any of the parties.

"(b) Any action brought under this section shall be heard and determined by a three-judge district court in accordance with section 2284 of title 28, United States Code. The order or orders of the court shall be subject to review by the Supreme Court in accordance with section 1253 of title 28, U.S.C.

"Sec. 209. (a) Notwithstanding any other provisions of this Act, whenever any employer proposes a change in work rules affecting employees as contained in any labor agreement, unless such work rules relate principally to the health or safety of employees, the employer may make such change effective as proposed, if (1) any cost savings realized as a result of such change affecting rules will be shared 50 per centum each by the employer implementing such a change and the nonprofessional and nonsupervisoral employees, as defined in title I of the Labor Management Relations Act of 1947, and (2) any reduction in the number of operating employees of such employer contemplated by the proposed change affecting rules will be accomplished by attrition.

"(b) Nothing in this subsection shall be construed to prevent carriers and representatives of the employees from entering into an agreement affecting work rules.

"(c) For the purposes of clause (1) of subsection (a) of this section, payments to employees shall be on a per capita basis and shall be made not later than four months following the end of each fiscal year. In the event that any employee was not employed by an employer for the entire fiscal year preceding the payment date, the payment to such employee hereunder shall be prorated to cover the period of employment.

"(d) In the even that any representative of affected employees contests the amount of cost savings as determined by the employer under clause (1), subsection (a) of this section, said representative and the employer shall mutually designate and compensate a certified public accountant, whether an individual, partnership, or corporation, which accountant shall make a determination of the cost savings, which determination shall thereupon be final and binding."

Sec. 204. Section 210 of the Labor-Management Relations Act, 1947, is repealed.

Sec. 205. Section 212 of the Labor-Management Relations Act, 1947, is amended to read as follows:

"REPEAL OF SECTION 10 OF THE RAILWAY LABOR ACT

"Sec. 212. Section 10 of the Railway Labor Act is hereby repealed: *Provided*, That such section shall continue in effect with respect to any emergency board in existence on the effective date of this Act. Disputes heretofore subject to section 10 of the Railway Labor Act shall be subject to provisions of this title."

Sec. 206. Title II of the Labor-Management Relations Act, 1947, is amended by adding at the end thereof the following new section:

"RIGHTS OF EMPLOYEES

"Sec. 213. Nothing in this title shall be construed to limit the right of any employee to resign from his position of employment."

Sec. 207. Inapplicability of the Norris-La Guardia Act.—The provisions of the Act of March 23, 1932, entitled "An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes, shall not be applicable to any judicial proceeding brought under or to enforce the provisions of this Act.

Mr. TAFT. Mr. President, I yield the floor.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. PROXMIRE. Mr. President, I have a few more remarks to make this evening, but I do think the Senate would be well served if it considered the experience that other countries have had. This kind of program is new for us, but not new for other countries, particularly in incomes policies which do not require mandatory legal restraints of prices and wages, but do provide guidelines for wages and prices. A great deal of excellent work has been done by experts in this area. I think it has been badly neglected in the press. As we are going to consider an incomes program, I think we certainly should have in the record the experience other countries have had.

Earlier this year Lloyd Ulman and Robert J. Flanagan published a study financed by the Council of Economic Advisers under Mr. McCracken on incomes policies in Western Europe. The single over-riding conclusion that emerges from this study is that incomes policies have been of limited effectiveness and require a great deal of constructive evolution if they are to function smoothly.

At the introduction of their concluding chapter, the authors of this study state:

> Incomes policy, to generalize from the experience of the countries studied in this account, has not been very successful. The gravity of the problem to which incomes policy is addressed and the lack of satisfactory alternative solutions have combined to give the policy a good run for its money—and may well ensure return engagements. Yet the accumulation of experience in the countries studied in this account suggest that in none of the variations so far turned up has incomes policy succeeded in its fundamental objective, as stated, of making full employment consistent with a reasonable degree of price stability.

I think the lesson we can learn from the conclusion of Ulman and Flanagan is that once started, once these programs have begun, it is very, very tempting to continue them. There are some benefits from such a program. It is hard to stop it. It is hard to get off controls.

That is another reason why we would

consider limiting this program as much as possible, and not having an open-ended 17-month extension, which is provided for in the bill.

In contrast to the Ulman-Flanagan study, the OECD studies on income policies provide some very, very interesting material, and I ask unanimous consent that, at the conclusion of these remarks, the study be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit I.)

Mr. PROXMIRE. Mr. President, I would like to call attention to some of the conclusions, for example, with respect to Austria, and I call attention to it because I think some of the programs have been remarkably successful in combating inflation or in reducing unemployment, rarely in both. In at least one case I am going to point out there was a very, very high price to pay although both virtually full employment and price stability were achieved.

Now with respect to Austria:

> In the autumn of 1951, the Federal Chamber of Trade and Industry and the Federation of Austrian Industry appealed to entrepreneurs not only to desist from price increase but, where possible, to reduce prices. At the same time, the Trades Union Federation declared itself ready to postpone wage demands for a period. The result was striking. Even without severely restrictive fiscal and monetary measures, many important prices were reduced by some 5 per cent, and there was a wage pause until the end of 1953.
>
> * * * * *
>
> For the last decade or so, during which time incomes policy has been operating in something close to its present form, the annual rate of real GNP growth per head in Austria has been roughly the same as in Germany; i.e. about 4 per cent. This has been achieved, moreover, in conditions of full employment and relative price stability.

Incidentally, that is a considerably better record of economic growth than we have had in this country in the last few years.

> As far as cyclical fluctuations are concerned, it is clear that, on various occasions, decisions of the Parity Commission have produced a significant smoothing of cyclical fluctuations.

With respect to Finland:

> Prices are frozen at the levels existing on some particular date, as are profit margins and retailers' margins. Any customer can complain to the price inspectorate that prices have been improperly increased.
>
> There is little doubt that Finland has been successful in restraining the increase in money wages in the last two years. The policy was introduced in a period of economic emergency that was recognized as such by the general public. This meant that there was a tremendous fund of goodwill towards the policies and a great willingness to co-operate and exercise restraint. The economy is now booming and there have been considerable improvements in real income, some 5–6 per cent per annum in 1969 and 1970 and it cannot be excluded that the fund of goodwill may now be diminishing.

Norway has also had a very interesting experience.

> The merits of the Norwegian incomes policy, besides being an instrument in income distribution, lies in the fact that it has enabled the Government to keep the use of productive resources on a very high level throughout postwar years. While the average increase in prices and production costs does not differ much from developments in most other countries, unemployment has been lower than the European average, and economic growth has been rapid and steady. With persistently strong pressures on resources, uncoordinated wage and incomes policies could easily have led to larger wage and price increases.

I believe the Australian experience is one of the most interesting of all of these to which I shall refer.

For many years, the Australians managed an extraordinarily successful incomes policy—maintaining virtually full employment while enjoying one of the lowest rates of inflation in the world. The cost in this case—here is what I think the Senate should pay particular attention to—appears to have been a low rate of economic growth, low rates of increase in worker productivity, a lack of flexibility within the economy, and high costs imposed explicitly or implicitly on some sectors within the economy.

In other words, Australia has succeeded in solving what to us are the two big problems of inflation and unemployment, but in doing that, they are stagnating their economy. There has not been the kind of growth and there has not been the kind of worker productivity increase which is essential if you are to have an improvement in the standard of living.

I think this has been a most useful example, and I ask unanimous consent that the article entitled "The Australian Economy Today," written by W. A. Eltis, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE AUSTRALIAN ECONOMY TODAY

(By W. A. Eltis)

(NOTE.—The author is a Fellow of Exeter College, Oxford. Mr. Eltis has just completed a sabbatical year in the University of Western Australia. He is grateful to Professor I. Bowen, Dr. W. M. Corden, Dr. R. Johnston and Dr. A. Kerr for very helpful comments on an earlier draft of this article.)

There is at present great interest in the Australian economy. In spite of this, Australia is rarely included in the economic "league tables" which abound, so that few in Britain know even the basic facts about recent developments in that country. For instance, it is not widely known that Australia's rate of growth of productivity has been among the world's slowest. The full implications of the current scale of foreign investment in Australia have received little attention. More surprisingly, in view of the current interest in incomes policies, few are aware that Australia has achieved lower unemployment and less price inflation than Britain (and most other countries) with the help of something very like an effective incomes policy.

Most Australians take this latter achievement so much for granted that they are unaware of its uniqueness, but they have evolved a combination of policies—not falling neatly into the categories of "left" and "right"—which has produced one of the world's slowest rates of inflation and full employment over a vast geographical area, in the face of declining markets for a number of basic products. These policies will form the starting point of this article. They may appear to be irrelevant to what must be foremost in most people's minds, namely, the prospects for Australian industrial expansion and for the balance of payments, and the part that minerals will play in these. It will turn out that the peculiarly Australian policies to control inflation and employment have a pervasive influence; they are bound to affect the rate of growth, and Australia's trading position in the world. And there is a further point. An account of incomes policies that work must obviously be of immediate interest elsewhere.

CONTROL OF INFLATION

The full extent of Australia's achievement is illustrated in the table overleaf.

UNEMPLOYMENT AND INFLATION, 1969-70

[In percent]

	Annual rise in consumer prices		Average rate of unemployment 1960–69
	1960–69	1969–70	
Australia	2.3	3.3	1.5
United States	2.4	6.0	4.8
West Germany	2.4	3.9	1.0
Canada	2.7	3.6	5.1
France	3.4	5.6	1.5
United Kingdom	3.7	5.9	2.0
Italy	3.7	4.8	3.0
Sweden	3.8	8.9	1.3
Japan	5.5	8.1	1.1

Source: ILO Year Book, National Institute Economic Review and the Commonwealth of Australia's annual Labour Report

Australia heads the table so far as controlling inflation is concerned, and its unemployment is only a little higher than that in West Germany, Sweden and Japan, which have far less difficult regional problems to deal with. The countries with comparable regional problems to Australia's, the USA and Canada, have each averaged about 5 per cent unemployment, with social consequences that are only too well known.

A number of institutions have evolved over the past sixty years to control Australian incomes. The most important of these is the Commonwealth Conciliation and Arbitration Commission, which has a judge as chairman and further judges and lay members who have, up to now, included only one part-time economist. There are similarly-constituted State Arbitration Commissions and a number of wage boards and tribunals which are responsible for setting wages in particular industries and occupations. About 45 per cent of the Australian labour force is covered by legally-binding Commonwealth awards and a further 45 per cent is covered by State awards, so only about 10 per cent of the labour force is independent of the system of State and Commonwealth arbitration.

The key award is the "national wage" award which the Commonwealth Arbitration Commission makes each year, and this is an automatic wage increase that goes to all workers who are directly subject to the commission's jurisdiction. The State arbitration commissions tend to follow the Commonwealth's awards. The Arbitration Commission also sets standard hours of work and it makes a minimum wage award each year.

This system of wage fixing is now more than sixty years old (though the proportion of the labour force that is covered by it has certainly grown in that period) and a number of examples can be given to illustrate its power to control incomes.

Perhaps the strongest is the award of 1931 when, at a time of industrial anarchy in the rest of the world, the *Commonwealth Arbitration Court* (a predecessor of the Commission) *reduced* the basic wage by 10 per cent on the grounds that Australian industry did not have the capacity to pay the old and higher wage. The States followed, and a wide range of Australian money incomes was reduced by 10 per cent, thus achieving approximately the effects of a 10 per cent devaluation.

More recently, after 1953, award wages were increased at the following percentage rates in successive years: 3.1, 2.2, 3.8, 4.9, 2.1, 2.0, 5.6, 3.6, 2.9 and 0.6, averaging only 3.1 per cent per annum from 1953 to 1963. The significance of 1953 as a starting point for this series is that until then the "basic wage" automatically rose with the cost of living index, with the result that it rose 60 percent in five years from 1948–53. Inflation was brought under control in 1953 when this link was broken.

One surely does not need to look further than this to discover why Australian prices since 1953 have increased so little compared with prices in other countries. Actual earnings have certainly increased faster than award wage rates, for there has been "wage drift" in Australia as in other countries as a result of over-award payments by particular employers, overtime and so on but, when this is allowed for, it still appears that actual earnings have increased at 4.5 to 5 percent per annum until the present world-wide acceleration of inflation. The 1970 award of 6 per cent has seemed surprisingly high to many Australians, but it is still very low in relation to what is happening in the rest of the world.

The question that this raises is why Australian workers apparently accept a system which gives them much smaller increases in money earnings than those that are received by workers in other countries. This is a large question, and there are a number of factors in the answer.

Strikes

In the first place, Australian workers do not entirely acquiesce in these small increases. Days lost per worker per year through strikes in mining, manufacturing, construction and transport in Australia, the UK and the USA have been as follows:

TIME LOST THROUGH STRIKES

[Days lost per worker per year]

	1930–39	1946–54	1955–60	1961–69
Australia	0.62	1.03	0.47	0.41
United Kingdom	.33	.15	.33	.27
United States	.94	1.38	1.32	1.00

Source: A table published by D. W. Oxnam, and the Employment and Productivity Gazette.

This suggests that time lost through strikes has been rather greater in Australia than in the United Kingdom (at least until 1969—it will be rather surprising if the United Kingdom did not overtake Australia in 1970), but not nearly as great as in the USA. Moreover, it turns out that over two-thirds of Australian strikes are settled by the workers returning to work at the former wage. In other words, where strikes are about wages, workers generally come out for a few days to express their general discontent and return to work after a token stoppage. Thus, it appears that they may demonstrate that they find awards inadequate, but they do not push their protests to the point where the economy is critically disrupted. By limiting such action, Australian trade unions (whose principal function appears to be the statement of their members' cases before the relevant arbitration commission or board) effectively acquiesce in the system of compulsory arbitration. That they should do so must be puzzling to people elsewhere, for it is not difficult to imagine what the reactions to an award of 0.6 per cent (let alone *minus* 10 per cent) would be in some countries.

MINIMUM WAGE

There are several explanations for this acquiescence of the workers. In the first place, they are perhaps as much concerned with relative wages between different groups as with the absolute level of wages as a whole. With a system of nationwide arbitration, relativities are automatically taken into account in every award to every group of workers. Inequality always has to be justified. There may be no justifiable inequality at all if one argues at a high philosophical level but, at a mundane level, less inequality can be justified to lawyers than the price mechanism will produce if it is left to itself. This has meant that Australia has achieved a more egalitarian distribution of *earned* incomes than many other countries.

The minimum wage (formerly the "basic wage") is supposed to provide for "the normal needs of an average employee regarded as a human being living in a civilized community", and this automatically eliminates the low wages for "sweated labour" in certain occupations that exist in other countries. The minimum wage provides a basic standard of living for those capable of working, but *The Institute of Applied Economic and Social Research* at Melbourne has recently estimated that about 7 per cent of "income units" in Melbourne might nevertheless live in poverty, principally because of the inadequacy of pensions and of state help for the sick and widows with families to support. The Institute estimated that over 30 per cent of fatherless families lived in poverty. However, those at work are all at or above the Commonwealth's minimum, and the arbitration system makes it harder than in other countries to obtain earned incomes which are much above the average. There is, naturally, no control over the incomes of managers, consultants, entertainers and so on; and there is no control over income from property (where there is no capital gains taxation, and a maximum marginal rate of income tax of 68.4 per cent). Nevertheless, the degree of control over incomes is still very great in comparison with other countries and this (together with the steep progression of the income tax schedule until the maximum rate is reached) has produced rather smaller income differences within the labour force than are generally to be found. Australians claim to be egalitarian, and their arbitration system is one means by which a more equal distribution of earned incomes is achieved.

A further explanation of the acquiescence of the workers in the arbitration system is that its success in moderating cost inflation has enabled the government to maintain a rather higher level of demand in relation to productive capacity than is possible, for example, in the United Kingdom. A consequence of this is that workers can work very long hours if they wish to. Individual incomes are thus much more within a worker's direct control. The majority work little more than the standard forty-hour week, but about 145,000 workers "moonlight" by taking a second job, and there are others who work sixty to seventy hours a week in a single job to obtain the income that they wish for. This is a safety valve, and it means that a frustrated desire for more consumer durables than a worker can afford on the income from an ordinary working week is more likely to result in individuals working a seventy-hour week than in militant union action. Obviously, if markets were as tight in Australia as they have been in Britain in recent years, these conditions would not prevail, for workers could not get second jobs, overtime would be rationed if it could be obtained at all, and a worker's principal method of obtaining more money would be through militant union action, as in Britain.

These are some of the reasons for the surprisingly quiet reactions of Australian workers to money wage awards which are so small by overseas standards. The workers' general acceptance of the system means that Australia has, what amounts to, an effective incomes policy. It is not an incomes policy as this is normally understood, for the government plays no part in it except for the appointment of suitable commissioners. The trade unions and the employers do not sit together to negotiate nation-wide increases, as in Sweden. Instead, movements in the general level of money wages are placed under the control of legally-trained commissioners who hear evidence and make recommendations without the direct employment of economists.

The failure to employ economists has naturally aroused controversy, but the head of the economics department at Adelaide, Professor E A Russell, has suggested one reason why this may be wise. A number of economists in Australia, as elsewhere, have pointed out that money wages *should* increase at the same rate as productivity. Professor E. A. Russell argued that this is appropriate only in an economy which has no trading relationships with the rest of the world, and if the Commission were unwise enough to act on the advice that wages should increase at the same rate as productivity "... the cumulative consequences for income distribution would become intolerable, and the effect on the balance of payments inappropriate."[1] Professor Russell suggests that the lawyer-dominated Commission's performance in the post-war period has been "quite impressive."

If the exclusion of professional economists from the Arbitration Commission is arguably right, the exclusion of the government from any control over the rate of increase of money wages (and its similar exclusion from the bodies which determine relative wages) looks extremely odd in the general political climate of the second half of the twentieth century but, here again, it may be that Australia has got this right. In a sense, Australia has implemented Ricardo's proposals of 1824 to control the value of the currency. Ricardo argued that the note issue should on no account be left in the hands of governments, who would inevitably be tempted to inflate under financial and political pressures, or in the hands of bank directors, who would inflate out of self-interest. Indeed, it should be placed in the hands of independent commissioners appointed for fixed terms, who alone could be relied upon to maintain the value of the currency. If Sir John Hicks's view that we have moved over to a "wages standard" is accepted, and it generally is, then Austrialia's *Commonwealth Conciliation and Arbitration Commission* is the precise equivalent of Ricardo's commissioners who are guardians of the value of the currency. They fix the wage, which is what determines prices in the twentieth century, and they are appointed in exactly the way that Ricardo contemplated. He, at any rate, would not be surprised that Austrialia's rate of inflation is one of the world's slowest.

PRICES AND MARKETING BOARDS

But Australia has not merely achieved one of the world's slowest rates of inflation. It has also maintained near to full employment in the face of fluctuating world prices for its basic export products and a degree of regional disparity which makes it unlikely that the whole Australian economy can be prosperous at the same time.

About 70 per cent of Australia's exports still consist of primary products, and something like one-half of primary production is exported, so rural producers face particular problems. When primary product prices fall on world markets, domestic producers can be expected to experience economic distress, as they will be squeezed between falling prices and rising domestic costs of labour, farm machinery, raw materials and so on. Conversely, primary producers will be exceptionally prosperous where world prices rise relatively to domestic prices.

This means that part of the Australian community will enjoy alternating periods of bonanza and distress if the incomes of primary producers are allowed to bear the full pressures of the price mechanism. This would run against any attempt to influence the distribution of incomes, and it would make it very difficult to maintain general full employment. High priority is attached to the maintenance of full employment, and Australia apparently considers it intolerable that market vicissitudes should create distressed areas of the kind that are to be found in certain parts of the USA, and now in Britain as a result of the decline of the coal industry. Hence, policies have had to be devised which will keep the adverse internal effects of world market forces within bounds.

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[1] "Wages Policy in Australia", *Australian Economic Papers*, June–December 1965.

The universal use of marketing boards is the principal device to reduce the degree of fluctuation of primary producer incomes. Farmers are obliged to sell most products through Commonwealth or State statutory marketing boards, and these sell the bulk of Australia's primary production. They aim to exploit such international market power as Australia has through the size of its output, and they sell at home at prices which are more stable than export prices. Hence, the incomes of primary producers fluctuate less than they would if overseas prices were allowed to dictate home prices. Naturally, considerable fluctuation is still inevitable, in spite of the marketing boards, for it is difficult to control price and quantity at the same time. From 1959 to 1969, farm incomes increased 27 per cent (or 2.4 per cent per annum), but the year to year fluctuations (plus or minus) averaged 21 per cent.

It should not be assumed that the marketing boards always sell at higher prices in the protected home market. From 1948 to 1953, when world prices were high, Australians bought wheat at less than the world price, though they have paid more than the world price since 1954, and the position with dairy products (where New Zealand produce is excluded from the Australian market) is similar. The various marketing boards are expected to break even over a period of years, or to limit their losses to specific sums, but the adverse terms of trade for primary producers in the past fifteen years have made this difficult. With persistently unsatisfactory export prices which show no signs of improving, the alternatives have been lower prices to producers, higher domestic prices of food, or increasing support for farming from the Australian taxpayer in the form of Commonwealth subsidies to the marketing boards. The cost of support has been divided between the taxpayer and the consumer. Direct Commonwealth support has now risen to an estimated $A290 millions in 1970–71, or about 1 per cent of the gross national product. The cost to the community is, however, much more than this, for Australian food prices are higher than world prices, so consumers pay what is, in effect, a further tax that is then passed on to primary producers. There is an additional cost to the consumer, because compulsory marketing through boards must obviously reduce the freshness and quality of certain foodstuffs by the time they reach the shops.

The price support policy will also have obvious adverse effects on the allocation of productive resources where it leads to domestic prices which average more than the world price over a period of years. Producers will then have incentives to supply food which costs more to grow than the world price at which it will be sold, which must lead to an over-supply of primary produce. The latter can be corrected only by quota and licensing systems for producers, and these proliferate but this may be a small price to pay for the simultaneous achievement of full employment and one of the world's slowest rates of inflation.

TARIFF LEVELS

The policy of protecting employment and stabilizing incomes is by no means confined to agriculture. Australian goldminers receive $A8 an ounce more than the world price from their government, and a further manifestation of the policy of *producer* protection is the extraordinary level of Australian tariffs. The *Commonwealth Tariff Board* has estimated that the average level of *effective* protection to Australian secondary industry is 46 per cent. Motor vehicles and parts are protected at 68 per cent, clothing at an average rate of 74 per cent, metal manufacturers at an average rate of 80 per cent, furniture at 55 per cent and machinery at 50 per cent.[2] The Tariff Board estimated that effective protection may amount to $A2 700 millions per annum, so it dwarfs the cost of support for primary industry. The board itself (which is, in certain respects, critical of the approach to tariff policy of the Ministry of Trade and Industry) has expressed its disquiet at the very high level of Australian tariffs in its report of 1969–70. For instance:

"Some of the duties imposed between 1929 and 1932 have been reduced. But sectors of the tariff have not been reviewed, and the industries concerned still have today essentially the same tariffs as those imposed for emergency reasons in the early 1930s. (para. 39.)

"When it is administered against a background of protective duties which are out of date, either in terms of tariff policy or because of developments in the complexity and international competitiveness of Australian industry, there are serious off-sets to the advantages which the system provides. (para. 61.)"

There are, of course, two lines of defence for the current level of Australian tariffs. First, they specifically protect the employment of workers in manufacturing industry, and this appears to have been why they were increased to present levels in the 1930s. Second, they have the function of protecting small-scale industry in a world where Australia's industrial competitors include Japan. If Australia is to remain an industrial producer as well as a supplier of food and raw materials to the world (with all the risks that this entails from fluctuating world prices), industry clearly needs heavy tariff protection, for the Australian labour force of about 4 millions is scarcely sufficient for the exploitation of much in the way of economies of large-scale production. Critics of the present tariff structure maintain that over-all industrial efficiency is reduced by the *indiscriminate* protection of secondary industry. If protection could be withdrawn from relatively inefficient industries, extra resources would become available to the efficient, which would allow Australia's scale handicap to be partially overcome, for it could have a few firms of international size by concentrating on a limited range of industrial products. The Tariff Board could decide which industries were relatively efficient. This line of policy would obviously produce unemployment and bankruptcies in any transitional period, and this means that the Ministry of Trade and Industry is likely to continue to resist it. Australia has fairly consistently adopted policies which give priority to the protection of employment over the achievement of increased efficiency.

OUTPUT AND PRODUCTIVITY

It will be clear that Australia's simultaneous achievement of low unemployment and inflation by international standards is no accident. However, as the various policies have been adopted to achieve these ends are, in narrow technological ways, inefficient, it should come as no surprise that Australia's rate of growth of labour productivity is one of the world's slowest. This is illustrated in the following table.

RATES OF GROWTH, 1953–68

[In percent]

	Output	Average per year employment	Productivity
Japan	10.6	1.8	8.6
Italy	5.6	–.2	5.8
West Germany	5.7	.9	4.8
France	5.2	1.2	4.0
United States	3.8	1.4	2.4
United Kingdom	2.7	.4	2.3
Canada	4.6	2.6	2.0
Australia	4.5	2.5	2.0
New Zealand	3.9	2.0	1.9

Source: U.N. Monthly Bulletin of Statistics for growth in output, and ILO Year Book for growth in employment.

It is surely significant that Australia ranks with the countries where productivity advances comparatively slowly, in spite of the very great advantages that it enjoys. None of the customary arguments that are put forward to explain Britain's comparatively slow rate of growth apply to Australia. It is often said that Britain's share of investment is too low. Australia's share of gross investment in the gross national product is 27 per cent. It is often said that Britain's slow rate of growth is partly due to periodic balance-of-payments difficulties which oblige British governments to pursue a stop-go policy, thus depriving industry of the opportunity to plan ahead. The Australian government has been able to maintain a high level of demand in relation to capacity, apart from 1960–62. It has been argued that Britain's comparatively slow rate of growth of productivity is due to the slow rate of growth of the labour force available to manufacturing industry. The Australian labour force has increased at 2.5 per cent per annum, and employment in manufacturing has increased almost as quickly as this. There must, therefore, be other explanations, and the earlier argument of this article suggests several.

Australia has suffered from severe shortages of several kinds of skilled labour, and this is what is to be expected from the method of wage fixing that has been described. It will be a coincidence if the "just" differentials for skill that are fixed by the Industrial Commission equal those that equate supply and demand. The general scarcity of skilled labour suggests that the commission may have fairly persistently set differentials for skill which are lower than the differentials the market would produce, with the result that skilled labour is scarce and misallocated. This must obviously have adverse effects on over-all efficiency.[3] Again, the protection of employment in regions where productivity advances comparatively slowly must reduce Australia's average rate of growth of productivity. This will also be reduced where inefficient rural producers receive quotas which allow them to sell at high prices, while efficient producers cannot expand because they cannot get larger quotas. Productivity will suffer similarly from high tariff protection which relieves manufacturing industry of the need to be efficient.

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[2] *Effective* protection is the rate of protection on the "value added" by an industry, which will come out higher than the rate on its gross sales revenue.

[3] The general shortage of those with skills may also be partly due to Australia's low rate of public expenditure on education: 3.9 per cent of GNP in 1968–9, against Britain's 5.9 per cent. A rather higher proportion of the Australian population is under 22 (41 per cent against Britain's 33 per cent) so the 3.9 per cent of GNP must educate a higher proportion of the population than Britain's 5.9 per cent. As a result of this, Australians start school later than in Britain, and staff-student ratios are less favourable throughout the educational system.

Australia has chosen security of employment, and the reverse side of that coin says "the inefficient shall not make losses".

There is, of course, much more to it than that. The Vernon committee[4] took the view that the high rate of immigration might be unfavourable to productivity because this means that a high proportion of capital investment is needed to provide housing and capital equipment for immigrants. The immense geographical size of Australia means that the cost of an adequate transport system and of other overheads (such as the cost of seven governments with seven separate bureaucracies) is a great burden for an economy with only four million workers. When this is taken into account, the 27 per cent share of gross investment in the gross national product may be less than is needed. Finally, Australia may still be in a period of transition from a basically agricultural to a basically industrial economy. Once this transition is completed, industry may be able to survive with much less protection, and then the inefficient firms will go. This is certainly a possibility. It must also be remembered that growth is an index of the rate of improvement. As the Vernon committee has pointed out, to give prizes to those with the fastest rates of growth is like giving school prizes to the children who are improving fastest, instead of to those at the top of the class. The USA, Canada and Australia do not take low places in the international league table which shows income per head.

THE MINERAL DISCOVERIES

What has emerged so far is an account of an economy with substantial achievements in the control of employment and inflation, and a rather mediocre growth performance, and everything that has been said would apply equally if there were no minerals in Australia. The immense mineral discoveries of the past three years will obviously produce results that have no parallel in the past. Their scale is not generally appreciated. In all likelihood, only a small fraction of the mineral wealth of the continent has been found—a geographer, M. J. Webb, has remarked that the mineral map of Australia looks like the road map of Australia. At first sight, it would appear that these discoveries must produce immense wealth which will gradually allow Australia to move into a position where minerals pay for a high proportion of imports. The *Australian Economic Review* lists the export contracts for Australian minerals as these are announced, quarter by quarter, and from 1 January 1969 to 30 June 1970 they totalled about $A14 000 millions, and this took no account of Poseidon, or the new prospects for uranium. Contracted delivery dates stretch forward to 1997, while options and extensions entitle customers to further purchases up to 2041. Minerals paid for 22 percent of Australia's imports in 1968–69 and they are expected to pay for 36 per cent in 1970–71. This may be only the beginning. As mineral exports rise further, the Australian dollar may well become a very strong currency, with the result that Australians will be able to buy cheaply from the rest of the world, provided that tariffs are reduced, provided, that is, that Australia is prepared to *gain* from trade. This prospect for the Australian dollar is reinforced by the success of policies to limit domestic inflation. If these are as successful in the future as they have been in the past, Australian prices can be expected to fall relatively to those of other countries, with favourable foreign trade effects.

CAPITAL INFLOW

It would be good if things were as simple as this, but they are not. The table opposite shows the effect of the vast capital inflows into Australia. These are partly associated with the mineral discoveries, but they have a much longer history than that.

It is evident that overseas investment in Australia is now taking place on a massive scale. The total net capital inflow shown for the five years 1965–1970 is $A4 664 millions, the annual rate averaging something like 4 percent of Australia's gross national product. This foreign-owned capital earns a return for those who own it, shown in the third row of the table. The cost to Australia of meeting the interest, dividends, undistributed profits, etc., that are earned by foreign-owned capital rose from $A432 millions in 1965 to $A861 millions in 1970, and this is to be expected. If an extra $A4 000 millions is invested in Australia by foreign-owned firms and others, and this then earns 8 per cent, net of Australian taxes, investors will receive a further $A320 millions a year, approximately the amount by which the cost of servicing foreign capital has risen when the effect of inflation is also allowed for. If foreign investment in Australia continues at a rate of about $A900 millions a year, the cost to the current account of servicing this investment (with 3 per cent inflation) is likely to rise by something like $A100 millions each year.

OVERSEAS INVESTMENT IN AUSTRALIA

[In millions of Australian dollars]

	1965-66	1966-67	1967-68	1968-69	1969-70
Net apparent capital inflow	941	527	1. 202	1. 154	840
Undistributed profits of foreign-owned companies in Australia	125	115	227	284	370
Net property income paid by Australia to owners of foreign capital	432	465	601	713	861
Current account of balance of payments	−884	−651	−1. 123	−1. 006	−803

Source: "Balance of Payments," Commonwealth Bureau of Census and Statistics, Canberra.

Australia's current balance-of-payments account was in substantial deficit in 1965–70, largely as a result of the interest and dividends that have had to be paid on earlier foreign investment. These deficits have not reduced Australia's reserves because they have been financed by further borrowing. It is as if foreign firms agreed to pay the interest and dividends on Australia's existing foreign-owned capital by buying a further $A900 millions of Australia each year. As this continues, the cost of interest and dividends on foreign-owned capital will inevitably continue to rise, with the result that the amount which will need to be borrowed to avoid immediate balance-of-payments difficulties will continually grow. The Vernon committee was fully aware of the problem in 1965:

"We can think of no better way of describing this situation than to say that, once an economy has a substantial body of overseas investment, it is in a sense 'on the tiger's back' unless the trade balance is improving sufficiently to meet the additional income payable overseas. The continuation of capital inflow becomes seemingly more and more desirable as a means of offsetting the increasing payments on the latter account. As the annual amounts become larger, the immediate consequences for the economy of an interruption of the capital inflow, either contrived, or occurring by reason of external circumstances, become more and more serious. (Vol. 1, pp. 283–4.)"

The Vernon committee estimated that about $A300 millions a year (in 1959–60 prices) over and above the reinvestment of undistributed profits by foreign-owned companies was about the maximum sustainable rate of capital inflow *in the absence of net favourable effects on exports*. The rate of capital inflow in 1967–9 much exceeded this, but the rate in 1969–70 is quite close to the Vernon committee's upper limit and, indeed, the situation will in any case be viable if the extra exports that result from this investment prove to be sufficient. The exports of minerals that will follow from this investment are likely to be vast. It is very likely that all will be well, but it is very much to be hoped that the Australian authorities have undertaken a thorough study of the situation, to ensure that the capital inflow that they are encouraging will produce sufficient extra exports to service it.

And there is a further problem. The Vernon committee estimated that if the net rate of capital inflow was $A300 millions per annum in excess of undistributed profits, overseas ownership of Australian companies would reach nearly one-half by 1975. As the net rate of capital inflow has exceeded $A300 millions, it is to be expected that foreign ownership of Australian companies will go beyond this level. Clearly, even if this large capital inflow increases exports sufficiently to finance the growing interest and dividend streams paid overseas, Australians face the further problem of who will own their country in 1997, let alone 2041.

Many Australians do not see the problem in these narrow terms. They see a continent with immense potential for development, and they are aware that 13 million people cannot exploit this on their own.

Mr. PROXMIRE. I think also the Canadian experience is of considerable interest and relevance. The fact is that Canada is probably more similiar to the United States than any of these other economies. It is different in many respects; it is a far smaller country in population and industry, and in production. But of course it is a neighboring country, which has many of the same wage and price problems that we have, and it is a sister country; and I think we can learn something from its incomes policy.

In Canada, some of the basic conditions are fairly similar to those in the United States—a large country with great regional diversities, governmental power divided between national and more local authority, and a decentralized labor market. With respect to the question of incomes policy, Canada is also akin to the United States in that it has had to struggle with the same paradox: inflation combined with recession—both at times more intensive than in the United States—and strong union pressure for substantial wage increases in the face of a relatively high rate of unemployment. A difference lies in the fact that Canada hesitated to try an incomes policy until this paradoxical situation had fully developed, whereas the United States first tried its policy at a time—1962—when there was little unemployment and the pressure for higher wages was nevertheless milder.

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[4] *Report of the Committee of Economic Enquiry* (Vernon Report) May 1965.

I ask unanimous consent to have printed in the RECORD a monograph written by Eric Schiff for the American Enterprises Institute entitled "Incomes Policies Abroad."

There being no objection, the monograph was ordered to be printed in the RECORD, as follows:

INCOMES POLICIES ABROAD

(By Eric Schiff)

INTRODUCTION

In the last few decades, many Western countries have attempted to affect the development of near-term money incomes or prices through *guidelines* designed to influence the behavior of those making the decisions on wages, non-wage incomes, or prices. Normally, these guidelines (or guideposts) are intended to be weapons in the fight against inflationary pressures. By announcing the guidelines, the government—or some government-appointed body of experts—tells the decision makers what, in its view, are the maximum rates of increase in money incomes or prices consistent with a noninflationary development of the economy.

This approach, commonly known as "incomes policy" in Europe, has given rise to lively controversies here and abroad, and these controversies are by no means settled. In fact, in the United States, "incomes policy" may well remain a live issue for quite some time. Since this is a field where one country can learn from the experience of others, it seems useful to report on how foreign countries have fared with this type of policy.

Four foreign countries have been selected for a brief review here: the United Kingdom, the Netherlands, Sweden, and Canada. Needless to say, there is one big fact that sets the United States off from all four and limits the comparability of their economies with that of the U.S.: none of the four is in the fifth year of a war that, at its peak, devoured $30 billion (3.5 percent of gross national product) per year. Even so, there is enough in the recent economic history of these countries, and specifically in their experiences with incomes policy, that is relevant to the search of the United States for means of combating inflation.

The history of incomes policy in the United Kingdom and in the Netherlands goes back to the years immediately after World War II. In the British case, the story is very largely one of ever-recurrent, and sometimes rather suddenly recurrent, balance-of-payments difficulties. Herein lies a certain similarity with this country. While the United States' balance-of-payments problem is not, of course, a life-and-death matter to the same degree as is the British, the two problems have one important thing in common: both the United States and Great Britain are administering key currencies.

In the case of the Netherlands, the story is strongly colored by the high esteem that long-term economic planning has enjoyed there since 1945. Of all the free economies in the West, the Dutch economy has probably been the object of more intensive and more comprehensive long-term "planning ahead" than any of the others. For the rest, the Netherlands is a small country with a fairly centralized government, a population more homogeneous than the population of North America and a labor market more centralized than North America's.

Sweden stands apart from the three others—and, in a sense, it may be asked whether it has a rightful place in this survey. Sweden has an incomes policy of sorts but, to include it here, one must stretch the meaning of the concept a little beyond what is usually meant. While for a brief time there have been some governmental guidelines in Sweden, the job of conducting wage negotiations in the spirit usually aimed at by a governmental incomes policy has been entrusted, as it were, to the negotiating parties themselves. The system is under mounting strain at present, but so far it has not been formally abandoned. The fact that it could be tried at all, is connected with the sociopsychological conditions in which the Swedish economy is operating: a population even more homogeneous and a labor market even more centralized than is the case in the Netherlands. So the Swedish experiment with incomes policy has an interest of its own.

In Canada, some of the basic conditions are fairly similar to those in the United States—a large country with great regional diversities, governmental power divided between national and more local authority, and a decentralized labor market. With respect to the question of incomes policy, Canada is also akin to the United States in that it has had to struggle with the same paradox: inflation combined with recession (both at times more intensive than in the United States), and strong union pressure for substantial wage increases in the face of a relatively high rate of unemployment. A difference lies in the fact that Canada hesitated to try an incomes policy until this paradoxical situation had fully developed, whereas the United States first tried its policy at a time (1962) when there was little unemployment and the pressure for higher wages was nevertheless milder.

No attempt at any penetrating analytical research has been made in this report. The presentation is, by and large, purely factual and descriptive. Essentially, it proceeds along historical and chronological lines, with a few generalizations and some figures rounding out the discussion.

UNITED KINGDOM

I

Attempts by British governments to influence the development of incomes and prices by "incomes policy" of some type or other started shortly after the Labor government took power in 1945. In various forms, and with minor interruptions, the attempts have continued until today. During all this time, the aim was to check the rise in the general price level. However, and in this respect the British story differs from that of some other countries that have tried incomes policy, the primary motive was not concern about the distortions, inequities, and wastes that inflation produces in the domestic economy. Rather, it was concern about Britain's international economic position—the balance-of-payments difficulties that for a long time were recurring at short intervals.[1] Nearly every time the government decided to try some new approach in its incomes policy, the decision was prompted by some new threat to the balance of payments.

Up to 1964, British incomes policy tried to curb price inflation predominantly by braking the rise in wages. This approach rested on the assumption that the inflationary tendencies that had plagued the British economy since World War II were caused, at least in part, by an upward pressure on wages not fully explained by the demand-supply situation. If a rise in prices (and wages) is entirely "demand-pull," incomes policy cannot help to stop it or to slow it down. The question of how to interpret the persistent inflationary trend was long debated in Britain, and it took some time before the conviction that a "cost-push" factor was involved became definitely accepted.

For quite some time, the British government was reluctant to announce its opinions and recommendations regarding permissible wage increases in the form of percentage figures. When (in 1962) it decided to take this step, it was necessary to decide also what magnitude was suitable as a criterion. Productivity of labor in the economy as a whole suggested itself as the basic yardstick—in accordance with the fundamental thesis that wage increases that were in step with the rise in labor productivity would not, or at least need not, be passed on in higher prices, whereas wage increases that outran productivity would be bound to have an inflationary effect. Directly or implicitly, this insight lies at the bottom of incomes policy whereever such a policy has been tried. As a matter of principle, it has been acknowledged repeatedly by leading spokesmen of the labor movement.[2] But everywhere, and in Britain perhaps more than elsewhere, it was found difficult to carry an incomes policy based on this insight to practical success.

In a mixed economy, cooperation of both employers and employees with the government's incomes policy is the prime prerequisite if this policy is to have *some* measure of success. With respect to wage guidelines, which usually set maxima or "maximum averages" for wage increases, it is naturally more difficult to obtain cooperation from the trade unions than from the employer associations. The willingess of unions to keep governmental guidelines in mind when bargaining about wage contracts appears to depend in some measure on the political complexion of the government in power. Nowhere has this been more evident than in the United Kingdom. For all the middle-class support the Labor party was able to gain in the course of the decades, the intimate connection of its early growth with the trade union movement is still having its effects. In fact, in matters of incomes policy, the difference in the attitude of union leadership under the two postwar Labor governments (1945–51 and 1964–70), as compared with its attitude when the Conservatives were in power (1951–64), is quite striking.

At the same time, the British story shows with particular clarity that even when the union leadership is willing to cooperate, much depends on whether the rank and file is willing, or can be induced, to go along. Here the organizational structure of a nation's trade union movement is a factor. In Britain, as in the United States, unionism is far less centralized than it is, say, in the Netherlands or in Sweden. The authority of the Trades Union Congress (TUC) over its affiliated unions rests on "moral suasion" rather than on any constitutional rule. This has repeatedly been an obstacle to the implementation of incomes policy.

In the opinion of some observers, certain special features of the British institutional setup tend to make it an even less suitable framework for national incomes policy than the American setup. Wage negotiations are usually conducted for branches of industry. But only on the employer side are the negotiating associations organized along branch-of-industry lines. On the employee side the organization is along occupation lines, with the result that in the conclusion of a wage contract that is to cover all employees in a given branch, several unions must usually participate. This often makes it more difficult to reach a settlement.[3]

II

Soon after the Labor government came into power in 1945, it declared that government interference in the traditional process of determining wage incomes by free negotiation was undesirable as a matter of principle. But the desire to do something about steadily rising prices prompted the government, in 1948, to issue a policy statement that contained some guidelines—in general, nonquantitative terms—as to the conditions un-

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der which, and the extent to which, wage increases would be in the national interest. The Trades Union Congress was basically in agreement with these principles, and for two years they were observed "with a remarkable fidelity."[4] The result was a voluntary wage freeze for two years—which was actually what the government had been attempting to bring about. The employer organizations cooperated by agreeing to freeze dividend disbursements temporarily at existing levels. In 1950, with living costs steadily rising, discontent began to build up among the rank and file union membership. Wage restraint broke down at various local levels and, under the impact of mounting pressure from below, in September 1950 the TUC formally decided not to support it any longer. So the first British experiment with guidelines was not without initial success, but the success was short-lived.

What happened in the first few years after the Conservatives returned to office in 1951 could almost be called a retreat from the whole idea of incomes policy. A Council on Prices, Productivity and Incomes was set up in 1957,[5] but its assigned task was confined to reviewing economic developments of the recent past (including changes in productivity, wages, salaries, profits, and prices) and to reporting its findings from time to time. The inflation theory of the council, as expressed in its first three reports, gave it little incentive to set any clear and fixed targets for prospective wage or price changes. These reports showed that the council was holding inflation to be essentially a demand-pull phenomenon. Only in its final report (1961) did the council emphasize that some "cost push" was also operating and that some positive incomes policy was therefore advisable.

The reports of the Council on Prices, Productivity and Incomes had very little effect on wage negotiations going on at the time. In part, this may have been caused by the fact that neither of the two sides of the labor market had any representative on the council. The government organized the council as a three-man body of impartial experts. Moreover, the trade unions bitterly resented a remark in the council's first report (1958) to the effect that "in our opinion it is impossible that a free and flexible economic system can work efficiently without a perceptible (though emphatically not catastrophic) margin of unemployment."[6]

Under the pressure of a new balance-of-payments crisis in 1961, efforts to achieve restraint in income increases were resumed. The government first tried an unusual experiment in moral suasion. It ordered a complete "pay pause" (no raise in wages or salaries) in the civil service for several months. The measure did not have the desired effect. It irritated employees in the public sector without producing the hoped-for morale impact on the private sector. The Trades Union Congress rejected the government's appeal to follow its example in restraining pay raises, but it cooperated in the establishment of a National Economic Development Council (NEDC). This council, which was to prepare the ground for some long-term planning and forecasting, included representatives from trade unions as well as employer organizations. The door seemed to be open for tripartite discussions and (possibly) agreements on policy decisions on the basis of the council's findings. This encouraged the government to make a new start in incomes policy.

III

In Britain, as in the United States, the year 1962 was a milestone in the government's efforts to influence the growth of money incomes. In Britain, it marked the beginning of an incomes policy with long-term aims—to be enunciated periodically in a statement setting a numerical ceiling for the desirable average growth rate of wage and salary incomes in the near future, and specifying the criteria that wage settlements exceeding the ceiling would have to meet to be acceptable. In a White Paper, "Incomes Policy: The Next Step" (1962), the government proposed a target of 2 to 2½ percent for annual increases in wages and salaries. This target was based on the long-term trend in labor productivity. Bigger increases were to be regarded as justifiable only in two cases: (1) when the employee agreed to make a special contribution to productivity by accepting more exacting work or more onerous conditions, or by renouncing restrictive practices, and (2) when it was "plainly necessary" to build up manpower in one industry relative to others.[7]

It is interesting that increases in the cost of living were explicitly rejected as justifications for pay raises above the 2½ percent ceiling. The exclusion was obviously designed to prevent the onset of an upward price-wage spiral. But in a country as dependent on imports as Britain, where many living costs often may rise independently of the internal wage level, strict rejection of cost-of-living increases as justification for pay rises exceeding the low long-term norm presupposed a good deal of willingness on the part of consumers to accept "austerity." Also rejected were arguments for special wage increases based on profit increases in a particular industry, or on shortages of labor (except for the above-mentioned case of "plainly necessary" shifts of manpower from one industry to another). The rejection of "labor shortages" as an argument for pay raises above a norm based on long-term productivity is interesting, too. It implied that the government felt strong enough to defy the verdict of the market even under extreme conditions. The history of British incomes policy during the mid-1960s, and even more of Dutch incomes policy, shows that in really extreme situations the forces of the market are stronger than government efforts to control them.

A special body, the five-man National Incomes Commission, was set up to watch over the observance of the guidelines proposed by the government. However, as in the case of the former Council on Prices, Productivity and Incomes, the commission included no representatives of either employers or employees, and its terms of reference were narrow. It was designed to analyze past experience and to publish reports, but had no right to invalidate past agreements or to enforce observance of the government's norms in concluding new contracts. Because of these facts, its influence on actual developments was no greater than that of the former council which it had replaced. The Trades Union Congress repudiated the commission's authority to pass judgment on wage contracts, and even refused to appear before it.

It soon turned out that the government's 2½ percent guideline ceiling was academic. In part, this reflected a special feature of British economic development since World War II, namely, the coexistence of a low degree and slow increase of labor productivity[8] and a relatively high rate of employment.[9] In combination, these two factors have made it particularly difficult in Britain to keep wage increases within a norm based on the (slow) long-term growth of productivity.[10] In fact in 1962 the average hourly wage rate rose by about 4½ percent—way above the ceiling set by the government.[11]

The next year (1963) the NEDC proposed a medium-term 4 percent target for the annual growth of the British economy. In a report published with the approval of all council members, including the trade union representatives—a first hopeful sign that a tripartite "dialogue" on these questions might be feasible—the necessity was recognized to adopt "policies to ensure that money incomes . . . as a whole rise less rapidly than in the past."[12] This recommendation was in line with the government's incomes policy. At the same time, the government now shifted its position slightly by assuming that it was safe to base the general guideline for income rises on *prospective* (long-range) productivity trends rather than on those observed in the past. So the rate of wage and salary increase believed to be consistent with the projected growth of the economy was set at 3 to 3½ percent annually.

IV

The rise in the official ceiling from 2½ to 3½ percent did not do much to bring wage and salary increases into line with the incomes policy of the government. From 1963 to 1964, average hourly earnings rose by 8.2 tained.[26] However, for quite some time, in fact the fact that the government had so far been unable to convince the leading employer and employee organizations, especially the Trades Union Congress, of the need for an incomes policy based on long-term considerations. In this respect the return of a Labor government to power in October 1964 seemed to pave the way for a new start.

In fact, the new government succeeded in a relatively short time in bringing about an agreement on incomes policy signed by representatives of the government, the Trades Union Congress, and several employer organizations. In a Joint Statement of Intent,[14] employer and employee representatives formally accepted the government's basic principle that the rise in money incomes should keep in line with that of productivity.[15] Moreover, they pledged themselves to cooperate with the government in setting up effective machinery to keep the movement of incomes and prices under review,[16] the aim being to make sure that income and price movements were in the national interest as defined by the government *"after consultation with management and unions."* (Emphasis added.) The national interest, to be defined by continuous "tripartite" consultations, was thus recognized by the representatives of sectoral interests as the supreme guide. For the moment, this looked like a hopeful sign.

As for the new machinery, the National Income Commission was replaced by a National Board for Prices and Incomes (PIB). Unlike the NIC, the new board had representatives from both management and labor on its staff. Moreover, it was equipped with a research team, and its task, when a case was referred to it, was not merely to review and to pass judgment but to enter into discussions with the parties involved and to try to pass judgment but to enter into discussions with the parties involved and to try to influence them in the direction of the established guidelines. As far as wage and salary increases were concerned, these guidelines were the same as before (general ceiling of 3½ percent annually), except that the two special criteria for higher pay raises (productivity agreements and the need to transfer manpower from one industry to the other) were augmented by two "social" criteria (existing wage levels either too low to maintain a "reasonable" standard of living or seriously out of line with remuneration for similar work elsewhere). It was emphasized, however, that deviations from the general guideline ceiling should be kept at a minimum.[17]

As for price guidelines (the new feature), enterprises were expected to raise prices only if this were the only means to make possible those wage and salary increases consistent with guideline norms; or if there were unavoidable increases in non-labor costs (current or capital) that could not be offset in any other way; or if it proved impossible,

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Footnotes at end of article.

despite all efforts to reduce costs, to secure the capital required to meet home or overseas demands.[18] At the same time, enterprises were expected to reduce prices if labor productivity had grown faster than had been assumed in the general ceiling for wage and salary increases and if there were no unavoidable offsetting increases in non-labor costs; or if current non-labor costs (materials, services, et cetera) had decreased without any offsetting and unavoidable increase in labor or capital costs; or if capital costs had declined without any offsetting and unavoidable increase in labor and (current) non-labor cost; or if existing prices were the result of excessive market power.

To give the National Board for Prices and Incomes Times and opportunity to perform its reviewing and advisory functions, an *advance warning system* for wage and price increases was introduced. The system authorized the government to require advance notice of 30 days before a wage settlement or a price change became effective. If within this period the government decided to refer the proposed settlement or change to the PIB for review, it could do so; and, in this event, the effective date of the settlement or change had to be further delayed until the board had reported. This might take two or three months. Observance of all procedures connected with this "early warning system" was compulsory. On the other hand, there was no obligation to follow the board's recommendations, once they were reported. Thus, for final decision making, the principle of voluntary compliance with the government's incomes policy was upheld. The arrangements provided, however, that in outright emergencies the government could order a temporary standstill on wages and prices.

The community of purpose expressed in the 1964 Joint Statement of Intent, and the much broadened public discussion that the new system envisaged, seemed to justify the hope that the government's incomes policy would henceforth be more successful than before in curbing excessive claims for income rises.[19] However, wages continued to rise substantially above the 3½ percent per annum ceiling. This cannot be explained by an increased number of those special productivity arrangements that would have justified higher pay increases. Very few such productivity arrangements came about. It has been estimated that in the first eight months under the Labor government, wages rose by about 8 percent, although productivity was virtually stagnant. The increase in hourly earnings from the Statement of Intent (December 1964) until the autumn of 1966 was estimated to have hit a record annual rate of nearly 10 percent.[20]

Let us document the disappointment about the results of the "new era" of British incomes policy with a statement from the London *Economist:*

"In the first five months of this year (1966), more people in Britain pushed up their earnings more steeply for less work than at any time since 1960. . . . This is what has happened to the incomes policy. . . . The plain fact is that since Labour took office in October 1964, hourly earnings have risen 2¼ times faster than that of output per manhour." [21]

Why the cooperative system of incomes policy introduced in 1964 did so little to reduce the gap between actual income increases and those the government thought defensible is a question that can be answered only by more intensive research than is possible within the scope of this study. At any rate, the continuing gaps show that the willingness of employer and employee *leadership* to cooperate in implementing an incomes policy is a necessary but not a sufficient condition for securing the successful implementation of such a policy.

Footnotes at end of article.

V

The necessity of invoking emergency powers came earlier than had been expected. In the face of another serious national crisis (in these decades, "national crisis" in Britain was almost synonymous with "balance-of-payments crisis"), the government soon found that the deflationary measures it had taken were not enough. And since recent experience had shown that long-range and more-or-less voluntary incomes policy could not accomplish much, there was for the moment only one alternative: either replace this type of incomes policy temporarily with a far sterner and more compulsory one, or embark upon a monetary and fiscal policy so rigorously restrictive that a sharp rise in unemployment was bound to result.

The government chose the first course. Toward the end of July 1966, it ordered six months of complete standstill in wages, salaries, dividends, and prices, to be followed by six more months of severe restraint (during which the norm of the general income rise would be zero, but some increase would be allowed under very stringent conditions). After July 1967, the former type of incomes policy, based on long-range projections of output and productivity gains, was to be reintroduced. Actually, it was later found advisable to extend the "zero increase" norm, with gradually increased relaxations and exceptions, until July 1968. In view of the seriousness of the crisis that was threatening the country in mid-1966, the Trades Union Congress and the Federation of British Industry approved the freeze as a temporary emergency measure, which in fact it was intended to be.

During the absolute incomes freeze decreed for the first six months after July 1966, the government achieved its short-run objective to the extent that the index of hourly earnings remained virtually stable at 169.8 (January 1956=100). But in the following six months of "severe restraint," the pent-up pressure could no longer be fully restrained. The index of hourly earnings rose to 173.1 in May, for an increase of about 1.9 percent.[22]

As mentioned above, the government extended the "zero guideline" for income increases from July 1967—where, according to the original plan, it should have ended—to July 1968. During the extension, the conditions for increases above the zero norm were somewhat wider than in the period originally contemplated for this norm. But the trade unions were opposed to prolonging the zero guidelines. Perhaps in part as a result of their unwillingness to cooperate, it took only three months before the index of hourly earnings had recorded another sharp rise. Over the full year ending April 1968, according to the Annual Report of the National Board for Prices and Incomes,[23] hourly earnings had risen over 8 percent—hardly what had been expected after a year during which the general official ceiling rate for wage increases was zero.

One main hope in introducing the 1966–67 freeze and the subsequent "severe restraint" might have been that these measures, in combination with moderately restrictive monetary and financial policies, would make it possible to maintain the exchange rate of the currency. This hope was not fulfilled. Despite all efforts, the pound sterling had to be devalued.

VI

After the experience with the freeze and the prolonged period of "severe restraint," there must have been some skepticism as to whether Britain should commit herself once more to an incomes policy based on long-range projections of output and productivity growth. The eventual decision was to try again. A White Paper on "Productivity, Prices, and Incomes for 1968 and 1969," prepared by the National Board for Prices and Incomes and submitted in April 1968, stated: "The economy can not yet afford any automatic increase in personal incomes." [24]

The program outlined for 1968 and 1969 in this paper was, in essentials, a return to the pre-1966 rules. The general ceiling for annual increases in wages, salaries, and dividends was again set at 3½ percent, with the same special criteria for acceptable pay increases beyond the norm. It is noteworthy that, even this time, increases in living costs were not officially recognized as such a criterion. As for prices, the criteria for both justified increases and expected decreases were the same as before the emergency. Again, "profit squeeze" was not in and of itself recognized as justifying price increases.[25]

The system of "advance warning," which gave the government power to delay the implementation of wage agreements and to refer them for review to the National Board for prices and Incomes, was likewise maintained.[26] However, for quite some time, in fact even for some time before the demise of the Labor government in June 1970, not much use was made of this power. Many wage agreements went into effect that involved wage increases substantially above the general guideline ceiling (although the latter was raised from 3½ percent per annum to 4½ percent per annum late in 1969). Starting from the third quarter of 1968, when the country resumed its long-view incomes policy based on a non-zero guideline ceiling, and using the average hourly wage rate as the measure, the annual percentage increases, as well as the excess of each increase over the guideline ceiling show a steady tendency to grow right up to the present. And there is no indication of an impending change in this trend:

From—	To—	Annual increase in hourly wage rate (percent)
3d quarter 1968	3d quarter 1969	5.4
4th quarter 1968	4th quarter 1969	5.5
1st quarter 1969	1st quarter 1970	7.3
2d quarter 1969	2d quarter 1970	9.3
3d quarter 1969	3d quarter 1970	10.7
4th quarter 1969	4th quarter 1970	[1] 15.0

[1] Estimated.

Source: OECD, Economic Survey: United Kingdom, 1970 (Paris: 1970), table 4, p. 43, where hourly wage rates are given in index form (January 1956=100) for quarters. The OECD figures are not seasonally adjusted. To eliminate seasonal influences, we have computed the annual percent changes between identical quarters of succeeding years. For the 4th quarter 1970, the index figure showing the hourly wage rate is not yet available; the 15-percent increase over the 4th quarter of 1969 is a preliminary estimate of the U.S. Department of Commerce.

One gets the impression that British incomes policy began to lose steam not very long after it was reinstated in 1968. The new Conservative government that took power in June 1970 has merely acknowledged the downdrift more explicitly. Statutory powers to interfere (temporarily) with wage contracts are still in effect, but the government has announced its intention to let them lapse. Since June 1970, not a single wage agreement has been referred to the National Board for Prices and Incomes.

The future is uncertain, however. If the uptrend in annual rates of wage increases shown in the above table continues, it may be that any British government, Tory or Labor, will feel compelled to look for methods—perhaps new and untried methods—to check the trend. It has been announced that the National Board for Prices and Incomes will be wound up soon, probably some time this coming spring. But plans for setting up new agencies to replace the board in some of its functions are under discussion. Judging from these discussions, the task of these agencies would be to review wage and price developments in certain key sectors of the economy, and to make recommendations.

However, as yet, the plans have not taken definite shape.

VII

To be able to judge how much or how little British incomes policy has achieved, we must first ask what criteria should be applied. On this question, only a few observations can be presented in this preliminary survey. They are presented here as concluding observations on Britain, but they apply to all of the countries to be reviewed, and it will not be necessary to repeat them later on.

The fact that British incomes policy—and, for that matter, the incomes policy of any country that has tried one—has been unable to stabilize prices is not a sufficient criterion for judging the effectiveness of such a policy. While the majority of economists now assume that "wage push" by powerful labor organizations has often been a factor in post-World War II inflations, the majority is equally agreed that it has been only one of many factors. To gauge the success or failure of an incomes policy in curbing price inflation, first one would have to try to calculate how much of the inflation is due to wage push and how much to other factors—probably a most unrewarding task in most cases. It might be more promising to try to measure the impact of the incomes policy on the magnitude on which it is supposed to act directly—that is, on wages themselves. The British story, which often tells of wide gaps between guideline ceilings and actual wage increases, seems to indicate that in Britain the impact of incomes policy on wage movements was, on the whole, insignificant. However, examination of such gaps still does not furnish an adequate criterion. For a final judgment as to whether the guidelines were effective, one would have to know how wages would have behaved in the absence of the guidelines.[27]

A number of attempts to answer that question and thus to isolate the impact of the incomes policy have, in fact, been made. With respect to Britain, Geoffrey Bell has reviewed seven such studies[28] and states that all of them conclude that British incomes policy has not, except for very short periods, reduced British money incomes by appreciably more than 1 percent per year from what they otherwise would have been. It is not possible here to discuss these studies critically (Bell merely lists the names of the authors without giving any details). But so close an agreement in the results of seven econometric studies is rare and establishes some presumption in favor of the common finding. Now a differential of 1 percent per annum sounds small enough, but its final significance depends on the period through which it is being sustained.

On the basis of comparisons of the growth rate of British money incomes with the corresponding growth rates in a number of competing countries, the National Board of Prices and Income stated that "a reduction of 1% in the rate of growth in money incomes,[29] translated into a reduction of 1% in the rate of growth of labour costs per unit of output and sustained over 10 to 15 years, would have rendered devaluation unnecessary."[30] Of course, 10 to 15 years is a very long time for any such incomes policy to be effective.

It has been argued that even if an incomes policy does not yield impressive quantitative results, it could have the beneficial effect of giving rise to more frequent and more intensive discussions and consultations about income and price developments. In this way, such a policy could help to arouse public opinion, to clarify the thinking of the interested parties, and to make them more inclined to consider the national interest even when it is (or seems to be) opposed to sectional interests. As far as Britain is concerned, about all one can say in this respect is that the degree to which such effects occurred has varied greatly. There have been short periods (1948–49, 1964–65) when the leading employer and employee associations seemed quite willing to give national interests precedence by keeping growth rates of money incomes within the limits the government thought to be acceptable from the general viewpoint. But it would seem that in the last few years these associations—or at any rate the Trades Union Congress—have drifted farther and farther away from this position. From the content of the TUC Report for 1968, the year in which the Labor government redefined a long-view incomes policy on the statutory basis of the Prices and Incomes Act, it is apparent that a sizable majority of TUC delegates had already rejected this policy.[31] At about the same time, other voices could be heard from these quarters which sharply stressed that the sectoral interests of the labor movement are, after all, its main concern: "All directors seek maximum profits for their shareholders, all manufacturers seek maximum prices for their goods. So long as this continues, all trade unionists are compelled to seek maximum wage increases for the members they represent."[32]

Without further study, it is difficult to say whether the strictly sectional viewpoint has predominated in British trade unionism during the last few years. If it has, one would have to say that in Britain, for the moment at least, the beneficial psychological side effects of incomes policy have largely evaporated.

FOOTNOTES

[1] Cf. E. H. Phelps Brown, "Guidelines for Growth and for Incomes in the United Kingdom: Some Possible Lessons for the United States," in G. P. Schultz and R. Z. Aliber, eds., *Guidelines, Informal Controls, and the Market Place* (Chicago: University of Chicago Press, 1966), p. 147.

[2] For Britain, cf. Trades Union Congress, *Trade Unionism* (London, 1966), p. 78: "Real income cannot for more than a short time rise faster than overall productivity."

[3] The view that this divergence in organizational arrangement on the two sides of the labor market contributes to the difficulties of British incomes policy has been expressed by the German *Sachverstaendigenrat zur Begutachtung der gesamtwirtschaftlichen Entwicklung* (Council of Economic Advisers) in its *Jahresgutachten* (Annual Survey), 1967/1968, p. 185.

[4] Phelps Brown, *op. cit.*, p. 154.

[5] The chairman of the council was Lord Cohen; Sir Dennis Robertson and Sir Harold Howitt were the other members.

[6] Council on Prices, Productivity and Incomes, *First Report* (London: H. M. Stationery Office, 1958), p. 41.

[7] Phelps Brown, *op. cit.*, p. 156.

[8] Except for the rapid and spectacular productivity increases of 1968–69, the explanation for which is still a matter of debate but which are prevailingly assumed to have been a "once and for all" phenomenon. See Organization for Economic Cooperation and Development (OECD), *Economic Survey: United Kingdom, 1969* (Paris 1969), pp. 12–13.

[9] During 1959–65, the annual rate of unemployment, adjusted to United States definitions, was substantially lower in Britain than in the United States and Canada, although somewhat higher than in Sweden, Germany, and—with a few exceptions—in France. David Smith, *Incomes Policies: Some Foreign Experiences and Their Relevance for Canada* (Ottawa: Queen's Printer for the Economic Council of Canada, 1966), Tables 2–4, p. 18.

[10] The contribution of the high degree of employment was visible on several occasions. Although the British labor market never exhibited the degree of acute labor shortage the Netherlands experienced between 1963 and 1965, the phenomenon of employers taking the initiative in raising wages was occasionally manifested in Britain, too. Cf. Phelps Brown, *op. cit.*, p. 149.

[11] Smith, *op. cit.*, p. 111.

[12] National Economic Development Council (NEDC), *Conditions Favorable for Faster Growth* (1963), quoted in OECD, *Economic Survey: United Kingdom, 1964* (Paris 1964), p. 23.

[13] Smith, *op. cit.*, Table 5–5, p. 123.

[14] Joint Statement of Intent on Productivity, Prices, and Incomes, December 1964.

[15] Phelps Brown, *op. cit.*, p. 157.

[16] For the first time, the government had introduced price movements directly in its guideline policy, alongside the movements of wages, salaries, and dividends. This may have helped to secure the cooperation of union leadership.

[17] Again, increased costs of living were not mentioned among the special criteria that would justify pay raises in excess of the general guideline ceiling. This exclusion would be perfectly logical if rises in living costs were caused *exclusively* by previous wage inflation. Then the trade unions would have only themselves to blame for the higher cost of living. However, as already mentioned, in a country where prices and living costs are affected by so many influences "from outside" (for instance, devaluations of the Pound, or revaluations of the Deutschmark and the Guilder), it proved virtually impossible to insist that in wage negotiations the level of the cost of living should simply be ignored.

On the whole, British developments during the period under review confirmed once more W. H. Beveridge's dictum of a quarter of a century ago that "there is no inherent mechanism in our present system which can with certainty prevent competitive sectoral bargaining for wages from setting up a vicious spiral of rising prices under full employment." See *Full Employment in a Free Society* (New York: W. W. Norton and Company, 1945), p. 199.

[18] Note that "profit squeeze" was not recognized *per se* as an argument justifying price increases. The circumstances that caused the profit squeeze had to meet at least one of the specific criteria listed above.

[19] After the government had announced its plan for a compulsory advance warning system, the Trades Union Congress of 1965 adopted a proposal under which it would operate its own early warning system with respect to wage agreements to be concluded by its affiliated unions, and would keep the government posted on all developments occurring under this arrangement. The passing of this motion represents perhaps the biggest step British union leadership ever took in the direction of cooperation with an official incomes policy. Later on, even while the Labor party was still in power, Trades Union Congresses became more and more lukewarm toward this policy.

[20] *The Economist*, November 6, 1965, p. 580, and November 5, 1966, p. 545.

[21] *The Economist*, July 2, 1966, p. 15.

[22] *The Economist*, "Incomes Now," July 1, 1967, p. 7.

[23] *The Economist*, July 27, 1968, p. 42.

[24] National Board for Prices and Incomes, *Productivity, Prices and Incomes for 1968 and 1969* (London: H. M. Stationery Office), p. 3.

[25] The main provisions for price and incomes policy as reintroduced in July 1968 can be found in OECD, *Economic Survey: United Kingdom, 1968* (Paris, 1968), pp. 39–41.

[26] The Prices and Incomes Act as passed in July 1968 set the total maximum period during which the effective date of a wage agreement could be deferred by government and PIB action at 12 months. Earlier it had been seven months.

[27] On this point, cf., e.g., Arthur F. Burns and Paul A. Samuelson, *Full Employment, Guideposts and Economic Stability* (Washington, American Enterprise Institute, 1967), pp. 57–58; R. M. Solow, "The Case Against the Case Against Guideposts" in G. P. Schultz and R. Z. Aliber, eds., *Guidelines,*

Informal Controls, and the Market Place (Chicago: University of Chicago Press, 1966), p. 46.

[28] Geoffrey Bell, *Incomes Policy: The British Experience,* an address to the Annual Convention of the National Association of Business Economists (Boston, Massachusetts, September 15, 1970), p. 12 (mimeographed).

[29] If the finding of the studies mentioned by Bell are accepted, a 1 percent per annum reduction in the growth that actually took place despite the incomes policy would mean a 2 percent reduction in the growth that would have taken place in the absence of the incomes policy.

[30] National Board for Prices and Incomes, *Fourth General Report, July 1968 to July 1969* (Cmnd 4130, July 1969), p. 3. The reference is to the devaluation of the pound in November 1967.

[31] TUC *1968 Report,* pp. 571–72.

[32] The view of one prominent union spokesman, as recorded in TUC *Economic Review 1968,* p. 117.

The Netherlands

I

The history of Dutch incomes policy begins with the end of the Second World War. In the years since then, a particularly rich variety of wage and price guidelines has been used, ranging from compulsory freezing of wage agreements or price levels to exhortations to keep increases within certain boundaries. The general historical trend has been from strict controls to more liberalized systems, but the trend has been interrupted several times by the reintroduction of sterner measures.

For a long time, the main emphasis in Dutch incomes policy was on guidelines for wage increases. With respect to prices, policy reflected the fact that in a small country heavily dependent on international transactions and therefore on international price levels, incomes policy, even under the most favorable conditions, can only achieve the limited objective of relative price stability.[1] But in terms of this limited objective, confidence in the effectiveness of governmental wage guideposts probably was stronger and lasted longer in the Netherlands than in any other Western country. Repeatedly, after disappointments with such guideposts, the hope that they could be made more effective by reforms (such as setting up new criteria, or trying different institutional arrangements) prevailed over the idea that they had better be dropped altogether. In addition, since 1966, several attempts have been made to supplement wage guidelines with direct price controls.

In part, this confidence was the outgrowth of an unusually widespread belief in economic forecasting and planning. During most of the time since 1945, Dutch economic policymakers have been applying, in the words of one observer, "more sophisticated methods of short-term forecasting and more refined ways of planning policy measures than the methods used in other Western countries."[2] For some time at least, the government's persistence in using incomes policy was supported by the fact that faith in the official forecasts on which the guideposts were based was widely held, even within trade unions. In the last few years, however, some of this faith has waned in these quarters as a result of too pessimistic official forecasts.

It is worth mentioning here that both sides of the labor market in the Netherlands are organized along religious lines. On the labor side, there are three central associations, the Protestant Federation of Labor (CNV), the Catholic Workers' Union (NKV), and the religiously neutral, moderately socialist-oriented Netherlands Federation of Labor (NVV). On the employer side, the division is similar, though less clear-cut. Despite this organizational structure, religious differences have not, in general, impaired the willingness of the associations on either side to cooperate with each other, or to compromise in negotiations between employers and employees, or to cooperate with the government in some years.

II

The Netherlands emerged from the years of war and German occupation with an economy crippled by far-reaching devastation and dislocation. The need to reconstruct the foundations of economic life overshadowed all other considerations and created, during the first postwar years, a feeling of community of purpose among the various economic groups. It was largely because of this feeling that most of the population, including the trade union memberships, backed the system of comprehensive controls and showed a willingness to keep within the limits prescribed by the official guidelines.

In the field of incomes policy, the controls were exercised, at first rather strictly, by the Board of Government Mediators. This board was instituted and endowed with vast powers by a decree of 1945. It had authority to fix general wage levels, to validate collective agreements, to declare them binding, and to define their scope.[3] However, in all matters of general wage policy, the board was required to consult with the Foundation of Labor, a tripartite organization in which representatives of labor, representatives of employers, and independent experts were exchanging their views. The Foundation of Labor, formally a private organization, became very important in implementing the government's wage policy, while the Social and Economic Council, which was added somewhat later, played only a secondary role in this area.

The general tendency in wage fixing during the first years of arduous reconstruction was to keep wages at the "socially tolerable minimum," with some allowance for regional differences in costs of living and for levels of skill (semi-skilled worker receiving 110 percent, and skilled workers 120 percent, of the wage fixed for unskilled workers at the assumed socially necessary minimum). Later, from 1948 to 1950, wages were linked more closely to changes in the cost of living. In 1951, however, a serious balance-of-payments situation led to a rare occurrence. The trade union leadership, which by then had certainly grown accustomed to thinking in terms of real rather than money wages, was prepared to accept what was expected to be a 5 percent cut in real wages for all workers (a 5 percent rise in money wages, in the face of an expected 10 percent rise in prices).[4]

The restoration of full employment in the late 1950s, which ushered in an acute labor shortage in the early 1960s, put an increasing strain on the system of guidelines for wage increases. The strain may have been reinforced by the creation of the European Economic Community (EEC), which facilitated migration of Dutch workers to other EEC countries where the wage levels were higher.[5] However, all during the full employment period of the 1950s, the unions were still sufficiently cooperative to enable the government to avoid an outright wage explosion or the onset of an unmanageable wage-price spiral. In fact, as late as 1957, the willingness of union leaders to cooperate went to the length of repeating the unusual performance of 1951. Motivated by another serious balance-of-payments situation, they acquiesced, consciously and as a matter of agreed policy, in a temporary cut in real wages.[6]

III

Up to 1959, the guidelines for allowable wage increases were based, by and large, on considerations and forecasts relating to the Dutch economy as a whole. Sometimes, limitations were added about how much of a wage increase could be passed on in prices. (General price control had been abolished in 1948.)

In 1959, the whole system was changed by introducing a new guideline criterion. Wage increases allowable in particular industries or branches of industry were made dependent on the rates of productivity increase in these individual industries or branches.[7] The idea of linking wage increases to productivity increases, *sector-wise,* had been discussed in the theoretical literature before and had been rejected. Dutch incomes policy between 1959 and 1963 seems to represent the only systematic attempt ever made to put this idea to a practical test. The Dutch experience with the attempt is therefore of considerable general interest and deserves close examination. In this preliminary survey, however, a few brief remarks must suffice.

The Dutch experience with linking wage increases to sectoral productivity increases confirmed most of the objections that had been raised on theoretical economic grounds. It turned out that physical productivity, by sector, is not a suitable indicator of the economic desirability of attracting new labor by higher wages. Industries having rapid productivity increases are not necessarily those with the highest potential for economically desirable expansion.[8] Besides, the problem of measuring productivity changes at the branch or enterprise level and, in particular, the job of checking the reliability of reported productivity changes at these levels proved to be far more intractable than seems to have been anticipated. There were endless discussions and disputes in this area; productivity estimates were manipulated; selected productivity data were cited by interested parties to justify wage changes that had been agreed upon on other grounds.[9] The task of settling all these questions and disputes placed a heavy additional workload on the Board of Mediators and other government agencies. While it had been hoped that a guideline system based on an "objective" criterion, such as productivity, would liberalize wage control (at least in the sense of making it work more automatically and with less frequent necessity for direct intervention by some government agency), the actual effect was exactly the opposite.

IV

In 1963, the system just described was scrapped and replaced by one that in some respects amounted to a return to the earlier system of predetermined guidelines for changes in the general wage level. Possibilities for overall wage increases were to be examined by the Central Planning Bureau and the Social and Economic Council, which were to prepare intensive analyses of the state, the problems, and the prospects of the Dutch economy. With respect to concluding and approving wage agreements reached by collective bargaining, the central employer and employee organizations were given somewhat more freedom than they had had in the initial phase. But the government retained the power to disallow particular agreements, to declare a short-term wage freeze, and, if necessary, to issue directives about permissible wage increases through the Board of Government Mediators.

The approved wage maxima were binding and violators were liable to prosecution. Normally these maxima were arrived at via a complex route of analyses, reports down the line, negotiations, consultations, reports up the line, and supervisions, the latter involving several government agencies. It is not necessary here to describe this elaborate setup in greater detail.[10] All in all, the system of 1963 amounted to only a moderate liberalization compared with that of the first few postwar years.

When the new system of incomes policy was introduced in 1963, there was every indication that it, too, would soon run into

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Footnotes at end of article.

great difficulties. The growing tightness of the labor market had already led to wage drifts and "black wages." In fact, by 1963 the labor shortage had reached the point—strikingly reflected in a ratio of about four job vacancies to one unemployed person—where "black wages" were estimated to be 6 or 7 percent of the total wage bill.[11] The psychological foundations on which the government's incomes policy depended began to sag on both sides of the labor market. Union leaders grew more restive and militant—partly out of a fear that they could no longer convince the rank and file of the need to comply with the government's wage maxima and, therefore, were in danger of losing their grip on the membership.

There was a change of attitude on the employer side, too. Under approximately normal labor market conditions, governmental guidelines for wage increases, which usually establish upper limits for such increases, are naturally much less distasteful to employers than to employees. However, this changes in a situation where the employers have to look desparately for ways to keep their work force and to attract new workers. "When the labor market gets very tight," said Samuelson, "the interest of the employer coincides with that of the worker and the union." [12] The Dutch experience of 1963 and the next few years bears this out, at least to the extent that in such a situation employers and workers are about equally annoyed by government-prescribed wage guidelines and about equally inclined to violate them.[13]

Open "wage explosion" was not slow in coming. In the autumn of 1963 the government set a guideline of 6 percent for the average wage increase in the following year. But a number of employers, in open defiance of the guideline, offered higher wages. Attempts by the Board of Government Mediators to use its legal power to intervene were of no avail. The final overall result of the protracted wage bargaining of 1964 was an average wage increase of about 15 percent—an enormous difference from the guideline target of 6 percent. The fact that the general performance of the Dutch economy in 1964 turned out to be much better than the government had forecast provided some *ex post* justification for the higher wage increases. But, at the same time, it did much to make union members suspect that the government had a tendency to be unduly pessimistic in its forecasts and, therefore, unduly conservative in its wage targets.[14]

This suspicion was reinforced by a similar experience in the following year. In mid-1965, it became apparent that, in the words of one observer, "the Planning Board's restrained forecasts had once again fallen considerably short of actual economic performance." [15] Gradual erosion of the earlier faith in the art of economic forecasting may well have been a factor in making the unions less willing than before to cooperate with the government's incomes policy. For the year 1965, the government wished that the wage increase should not exceed 7 percent on the average. The trade union members refused to cooperate in holding wage agreements within this target and, once again, the Board of Government Mediators was unable to stop the upward pressure on wages. So the actual wage increase turned out to be about 11 percent. The overall wage increase during the three years, 1963–65, has been estimated at about 38 percent, which is more than twice the permissible maximum set by the government.[16] Eventually, the government acquiesced to the higher rates of wage increases.

In these years, an incomes policy operating with guideline ceilings based on labor productivity was doomed to failure from the outset, because even the basic labor market situation in which such a policy might *conceivably* succeed was not present in the Netherlands at that time. To recall briefly the situation under which there is a slight chance for success: Labor supply is adequate to satisfy the demand for labor at existing wage levels—and, in fact, slightly more than adequate which means that there is some unemployment. In such a situation, no incomes policy should be necessary to prevent excessive wage demands.

Recent experience has shown, however, that trade unions, notwithstanding an existing (moderate) rate of unemployment, often do press for higher wages because they are confident that a government pledged to full employment (or at least to preventing any deterioration of an existing employment situation) will, by a sufficiently expansionist monetary policy, enable employers to maintain the volume and profitability of their business despite increased unit labor costs.

Hence, unions expect that success in their wage push will not raise unemployment above the existing level. Employers, who share the unions' expectation with respect to the government's policy in case of increased unit labor costs, do not resist wage demands as strongly as they presumably would if a different policy were expected. In such a situation, there is at least a *chance* for the government to restrain the wage push by convincing the union leadership that wage increases in excess of gains in labor productivity are bound to have inflationary effects that will largely or wholly nullify the income gains of the workers in real terms.

But this was not the situation in the Netherlands, 1963–65. There the upward pressure on the wage level was fully accounted for by the unique tightness of the labor market. When employers are "pulling" as vigorously as the Dutch employers did then, employees do not have to do much "pushing" to make the percentage increases in wages exceed—temporarily but also irresistibly—rates that are sustainable in the long run. In such a situation, an incomes policy designed to keep short-run wage increases within the boundaries suggested by long-run productivity considerations can have no chance of success.

V

For 1966, the government urged that wage increases provided for in contract renewals should not exceed 7 percent per annum on the average. Several contracts kept approximately within this limit and were approved. But a number of others provided for increases averaging about 10½ percent. This the government considered unacceptable.[17] However, the experience of the two preceding years was repeated. The offers of some employers considerably exceeded the levels negotiated between the central organizations and the government; the rank and file in the trade unions could not understand why these generous offers should not be accepted; and the union leaders, seeing their position vis-a-vis their members weakening, refused to cooperate in fixing wage increases at guideline levels.

This time, however, the government reacted by sharpening the weapons of its incomes policy. A wage freeze of several months' duration was decreed and, for subsequent wage negotiations, an increase of 7 percent was set as a maximum. Moreover, from May 1966 to the end of the year, wage control was strengthened by introducing price control. Under the new program, all price increases had to be reported to the Ministry of Economic Affairs. Wage increases could not be passed on in higher prices; increases in "external costs" (material, freight, repairs, publicity cost, taxes and duties) could be passed on in prices, with the proviso that declines in such costs must likewise be passed on; and price rises were subject to the further constraint that traders should not increase their money profit margins.

In 1967, the correlation between actual wage and price changes and those outlined by the government was closer than the three preceding years. On the wages side, where the stricter controls introduced in 1966 were continued, the government's guidelines were generally observed, despite the fact that they had called for more restraint than those of the previous years. The maximum permissible increase had been fixed at 4 percent as of January 1, 1967, with an additional rise of 1.5 percent as of July 1.

On the prices side, where compulsory controls had expired at the end of 1966, the leading employer organizations promised the government they would observe, throughout 1967, the fairly tight restraints that the control decree of May 1966 had imposed. This rather unusual degree of voluntary compliance reflects an ease in the market forces that had been pressing wages and prices upward. And it suggests that on the side of wages, too, the relatively close correlation between governmental guidelines and actual developments was due to an easier market situation rather than to tighter controls.

VI

In the last three years, the Netherlands has moved some distance, though by no means all the way, from controlled to free wage determination. The first and basic step was an agreement, concluded in December 1967, between the government and the two sides of industry. Provisional though the agreement was, it dominated the Dutch scene for more than two years. To give the new wage policy a legal basis, the government introduced a wage bill into Parliament in September 1968, but it was not until February 1970 that the bill, amended in several important respects, was passed.

Starting January 1, 1968, collective agreements were negotiated outside predetermined guidelines. The Board of Government Mediators and the Foundation of Labour were stripped of their control functions, and were relegated to the role of advisory bodies. The government reserved, however, the right to invalidate collective agreements that threatened to endanger the equilibrium of the economy. The Central Planning Board continued to work out projections about economic development, and these projections yielded assumptions as to what changes in wage levels would be compatible with economic equilibrium. The assumptions, or wage increase targets, were no longer regarded as binding guidelines. Nevertheless, there were times when wage developments seemed to deviate substantially from the assumed targets and when the existence of the targets brought the government to the edge of intervention.

Thus, in 1968, it took strong parliamentary opposition to make the government withdraw an announced plan for a six months' freeze on all wage contracts coming up for renewal in 1969.[18] A few months later, the introduction of a tax on value added, effective January 1, 1969, caused a sharp upturn in wholesale and consumer prices. From then on, all through 1969 and 1970, the government found it increasingly difficult to stave off a wage-price spiral without using its veto powers in wage matters. Contract negotiations in the heavy metal industry beginning early in 1969 provided for wage increases that were definitely out of line with what the government considered to be advisable.[19] While strongly opposing the agreement, the government refrained from intervening, partly because the parliamentary debate on the wage bill was in a delicate phase at that time. Subsequently, in view of the danger that another wage-price spiral would result from the impending wage negotiations for 1970, the Social and Economic Council—which had only advisory powers—recommended that wage increases should be limited to 5 percent in

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1970. In combination with the "target" assumed for price increases, this was designed to secure for the workers a 2.5 percent gain in real wages. Since employer organizations, trade unions, and the public were represented on the council, it is noteworthy that the recommendation was unanimous. But if this raised some hope for renewed all-around willingness to cooperate in the task of combating inflation, the hopes were dashed soon after the long-debated Wage Act was finally passed early in 1970.

While the new Wage Act upheld the principle that all wage contracts should first be freely negotiated between employers and employees, it authorized the government to intervene in contracts it considered contrary to the national interest. As mentioned before, this standby authority had existed by agreement since 1968, but now it had become law—over heavy union opposition.[20] The minister of social affairs gave assurances that he would use his right of intervention only in exceptional cases. Yet, the statutory confirmation of the government's veto power antagonized labor to such an extent that, ever since the passage of the act, two of the three union federations have been boycotting wage talks at the national level with both employers' associations and with the government.

In the field of price policy, at first the government continued its efforts to prevent "unjustified" price rises. As already mentioned, the original guideline, proclaimed in 1966 and accepted by business for voluntary observance in 1967, stipulated that wage increases (or, at any rate, wage increases within guideline limits) would not be passed on in the form of higher prices, and that only increases in "external costs" might be passed on. After the relaxation of wage controls in 1968, there were price increases which the government considered partly unjustified (because they exceeded the rise in taxes and other "external costs"). Attempts made early in 1969 to bring prices into line with the "external cost" criterion failed to prevent a sharp rise in prices and living costs.

Thereupon, in April 1969, the government decreed a general price freeze. All prices were to be fixed at the levels of March 14th. Prices remained fairly stable in the ensuing months. In September 1969, the government replaced the rigid price freeze with the rule that such increases in external costs as had occurred after the freeze date (March 14th) could be passed on in higher prices—and, conversely, decreases in such costs were likewise to be passed on. This relaxation amounted to a return to the principles of 1966–67. Enterprises must give the government a 30-day advance notice of planned price increases.

VII

The initial postwar willingness of unions to keep wage demands within noninflationary limits—and, accordingly, the initial success of the government's incomes policy—lasted a few years longer in the Netherlands than in Britain. But, following this initial period, there was hardly any time (with the possible exception of the one year, 1967) when the rates of actual annual increases in wages and salaries were held even to the upper limits the government had set as necessary to achieve (relative) price stability.

This is true both of the time when the boundaries were predetermined and legally binding guidelines, and of the time (1968–70) when wage bargaining was free not only in actual practice but legally as well. Developments in the calendar year 1970 show strikingly that the country is no closer to solving the problem of wage-push inflation now than it was under the earlier system. Last October, it was estimated that the total wage cost increase in 1970 would be about 10 percent.[21] Whenever the final figure, there is no doubt that it will be considerably above the 5 percent ceiling the Social and Economic Council had unanimously recommended.

On September 16, 1970, the government announced plans for several anti-inflationary measures. Among other things, it sought authority to decree a temporary wage freeze contingent upon approval by the Social and Economic Council. In principle, the government's deflationary program found support in Parliament. But it is not certain that the Social and Economic Council will give its consent to a measure so far-reaching as a wage freeze. The withdrawal of two of the three great union associations from all wage talks in the council and in the Foundation of Labour has obviously worsened the psychological conditions for a successful incomes policy.

Based on the forecasts of the Central Planning Board, the official "target" for wage developments up to 1973 is an annual increase of 7.5 to 8 percent. Unlike the British government, which has only a delaying veto power over wage contracts, the Dutch government can veto wage agreements absolutely if it considers them contrary to the national interest. But the history of Dutch incomes policy shows how difficult it is to make use of such statutory authority if certain economic, political, and psychological prerequisites are lacking.

FOOTNOTES

[1] Heavy dependence on international trade has a dual effect on the kind of inflation problem that arises in a country. From the cost side, it helps to dampen the tendency toward wage-push inflation, for it strengthens the consciousness, even in labor quarters, of the necessity of keeping the domestic economy internationally competitive. From the demand side, the effect depends on the trend of prices in the rest of the world. If this trend is markedly upward, then no national incomes policy in a country having a widely "open" economy can prevent the importation of some inflation. Cf. Gottfried Haberler, *Inflation, Its Causes and Cures*, revised edition (Washington, D.C.: American Enterprise Institute, 1966), p. 22.

[2] Erik Lundberg, *Instability and Economic Growth* (New Haven, Conn.: Yale University Press, 1968), p. 264.

[3] B. C. Roberts, *National Wage Policy in War and Peace* (London: Allen & Unwin, 1958), quoted in Smith, *op. cit.*, p. 137.

[4] The expected 10 percent rise in prices did not materialize. This may be due, at least partly, to the wage restraint accepted by labor at that time.

[5] It has been argued, however [OECD, *Economic Survey, Netherlands, July 1966* (Paris, 1966), pp. 8–9] that in the case of the Netherlands, not much use was made of these increased emigration possibilities.

[6] On the benefits which the Dutch economy probably reaped from the cooperative trade union policies of 1951 and 1957, see William Fellner, *et al.*, *The Problem of Rising Prices* (Washington: Organization for European Economic Co-operation, 1961), p. 384.

[7] A formula agreed upon in 1961 between the government and the Foundation of Labor attempted to take account of both sector productivity and overall productivity, but the former was given three times the weight of the latter. The margin available for wage increases (and some other improvements in working conditions) was defined as $(3a+b)/4$, where "a" represents the long-term (annual) productivity increase in the branch in question, and "b" is the anticipated productivity increase for the economy as a whole in the next year. [OECD, *Economic Survey: Netherlands, 1962* (Paris, 1962), p. 12.]

[8] Smith, *op. cit.*, p. 140.

[9] See the *Jahresbericht* (Annual Report) 1967/1968 of the German *Sachverstaéndigenrat zur Begutachtung der gesamwirtschaftlichen Entwicklung* (Council of Economic Advisers), p. 187; also Smith, *op. cit.*, p. 139.

[10] Cf. Smith, *op. cit.*, pp. 134–35.

[11] OECD, *Economic Survey: Netherlands, 1966* (Paris, 1966), pp. 6, 16.

[12] Burns and Samuelson, *op. cit.*, pp. 129–30.

[13] Cf. Oettinger, "Incomes Policy in the Netherlands after 1945," in *Industrial Relations Research Association Papers and Proceedings, 1966*, p. 154.

[14] The view that the Central Planning Board had "a systematic tendency towards underestimation" has also been expressed by Lundberg, *op. cit.*, p. 299.

[15] John P. Windmuller, *Labor Relations in the Netherlands* (Ithaca, N.Y.: Cornell University Press, 1969), p. 375.

[16] Smith, *op. cit.*, pp. 141–42. Cf. Economic Commission for Europe, *Economic Survey of Europe in 1965*, Part I, Chapter 2.

[17] OECD, *Economic Survey: Netherlands, 1967* (Paris, 1967), p. 39.

[18] OECD, *Economic Survey: Netherlands, 1969* (Paris, 1969), p. 37.

[19] The pace-setting contract as finally written in January 1970 included for the first time, semi-annual upward revisions of wages, should price increases exceed expected rates.

[20] The original bill proposed by the government had gone considerably farther. Under it, the government would have had the right to declare a general wage freeze, and—as a last resort—to reintroduce for a maximum period of one year the old system of prior government approval of wage agreements.

[21] U.S. Department of Commerce, *Foreign Economic Trends. The Netherlands*, October 1, 1970, p. 5. By and large, the information given in this survey on the Netherlands for 1968–70 is based on the Department of Commerce's last four semi-annual "Foreign Economic Trends," and on the OECD's *Economic Surveys* (Paris, 1969 and 1970).

SWEDEN

I

In modern industrialized countries with mixed economies, most wage and salary determinations are arrived at through negotiations between well-organized and powerful associations on either side of the labor market. This arrangement has complicated the problem of achieving, at any given time, the triple goals of (a) full employment, (b) free collective bargaining, and (c) relative price stability.[1] Again and again it has been found that, although it is not too difficult to realize any two of these objectives, it is immensely difficult to realize all three of them at once.

For a number of years, Sweden has been trying to solve the problem of this elusive triangle by what may be called a *private yet nationally oriented incomes policy*. The task of setting guidelines for wage and salary negotiations with a view to preventing inflationary increases in money incomes has been delegated, as it were, to the negotiating employer and employee associations, with the government watching and observing, but keeping on the sidelines. It was hoped that, because of certain special features of Swedish tradition and community life, such a system would be more likely to achieve (relative) price stability under full employment than would an official incomes policy.

II

It took the Swedish system some time to develop. In the first few years after the end of World War II, the government made a few attempts to influence wage and price developments by exhortations and even by more or less direct controls. In 1948 the government called for wage restraint but without much success. Earnings rose by about 8 percent during that year. Thereupon, the unions, at the request of the government, agreed to extend existing wage contracts through 1949 and 1950. Although this wage freeze could not be enforced completely, it produced a good deal of resentment among the union rank and file. It ended in 1951 with a wage explosion that sent earnings up at an annual rate of about 20 percent. While the

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Korean war may have contributed to this development, the experience is another indication that incomes policy often merely delays wage increases until a later time, when they occur with a vengeance. As we have seen, the Netherlands had a similar experience. And wage explosions disrupt the process of gradual growth.

In Sweden, dissatisfaction with the results of government incomes policy as it had been practiced in the postwar years did much to change the general approach to wage and price policy. It helped to spread the feeling that it might be advisable to leave the responsibility for exercising the necessary restraint in wage agreements to those who negotiated and concluded them.

III

Success of the experiment with voluntarism would largely depend on whether the Swedish labor movement possessed, or could be expected to develop, a sufficient feeling of responsibility toward the nation as a whole to avoid the militant demands that could result in inflationary wage increases. Certain general historical and sociological conditions seemed favorable for the existence, or the gradual development, of such a spirit. Here was a country that had not been at war since 1815. It had a racially, ethnically, and religiously homogeneous population that was small in size and spread over vast spaces. Moreover, there was an absence of mass poverty. Thanks in part to these general social conditions, Sweden had experienced less bitterness in labor-management relations—and more willingness on the labor side of the bargaining table to weigh national against sectional interests—than had some other industrialized countries.

A few publications from labor quarters, which in the postwar era tried to define (and, if somewhat cautiously, to redefine) the role trade unionism should play in the further development of the Swedish economy, helped to create an intellectual climate conducive to the success of the nongovernmental incomes policy Sweden was about to try. In a book published in 1951 by the Swedish Institute of Economic Research, Rudolf Meidner, long the chief economist of LO (Landsorganisation i Sverige, the leading organization of Swedish trade unions), discussed the topic on a broad front.[2] In the same year, LO itself presented to its annual congress a report which, among other things, outlined the theoretical foundation of the wage policy that Swedish trade unionism was purportedly intending to follow from then on.[3] It is pertinent here to present a few highlights from this report.

The report emphasized the need for a *nationally coordinated wage policy* in which both the government and the LO would be constantly aware that each of them had a part to play in the effort to make full employment compatible with the attainable degree of price stability. It recognized that in the absence of a sufficiently cautious fiscal and monetary policy on the part of the government, there would be inflation, no matter how much restraint trade unions might display in their wage demands. On the other hand, even the most circumspect fiscal and monetary policy was seen as unable to secure price stability under full employment if labor failed to pursue a sound wages policy. As to the ingredients of a sound wages policy, the report insisted that certain distinctions be made. It emphasized that in times of acute labor shortage and keen competition among employers for manpower, it would be senseless and futile for union representatives to come to the bargaining table with a preset philosophy of unconditional wage restraint. But the report also recognized, although not in overly explicit terms, that even when the supply of labor was sufficient (or maybe a little more than sufficient) to satisfy the existing demand for manpower at the current wage levels, there often would be a temptation for powerful unions to press hard for wage increases in excess of productivity gains; that, if the pressure were successful, the resulting rates of increase in money wages would lead to price rises in excess of what might be inevitable for other reasons; and finally, that an enlightened union leadership should avoid driving things that far. The report emphasized explicitly that in extreme, inflation-threatening situations, it might be wise for unions to go so far as to accept a complete wage freeze as a temporary emergency measure.

In a report submitted to the annual LO congress ten years later as "A Trade Union Manifesto," four objectives of Swedish union wage policy were listed, two of them classed as "primary" and two as "secondary":[4]

> The primary objectives . . . can briefly be said to be the following:
>
> (a) the creation of a "rational" wage structure, i.e. a structure in which the wage differentials between different groups and individuals are determined by the nature of the input of effort, and
>
> (b) ensuring a reasonable share of the national product to wage earners as a whole. .
>
> Two additional but secondary objectives can also be distinguished:
>
> (c) trade union policy ought to be conducted in such a way that it does not prejudice economic equilibrium;
>
> (d) moreover, at least it ought not to obstruct the structural shifts in the economy which are the prerequisites of expansion.

Only the objective listed under (c) comes within the purview of this survey. It is explicitly called a secondary objective, and its formulation is somewhat vague and noncommittal. Yet it may be interpreted as an acknowledgment of the necessity to exercise restraint in wage demands.[5]

Somewhat more straightforward was a statement in another LO publication in 1961, where it was said that the union movement, while it certainly should not be forced to remedy all imbalances in the economy by tempering its wage policy, "cannot avoid taking upon itself part of the responsibility for a policy aiming at maintaining a stable development of prices." [6]

IV

Given these psychological preconditions, the existing institutional framework for representing employer and employee interests could also contribute to the success of a system of "private yet nationally oriented incomes policy." The two central organizations representing those interests are the Swedish Confederation of Employers (SAF, Svenska Arbetgivarefoereningen), and the Swedish Trade Union Association (LO, Landsorganisationen i Sverige). The latter covers about 90 percent of all blue-collar workers. White-collar workers are represented by the Central Organization of Salaried Employees (TCO, Tjenstemaennens Central Organisation), and professional employees (mostly college graduates in the civil service) by the Central Organization of Swedish Professional Workers (SACO, Sveriges Akademikers Central Organisation). Of the three employee associations, LO is the biggest and by far the most powerful.

Ever since 1956, the two principal associations representing the two sides of the labor market, SAF and LO, have periodically conducted negotiations leading to *frame agreements* which outline norms and rules for wage policy (and policy with respect to other labor conditions) to be followed in the immediate future. The frame agreements were first concluded annually. Later the term was extended to two years and, in the agreement of 1966, a three-year term was set. The 1969 agreement, however, could only be worked out for two years, and the one of 1971, for which negotiations have been under way for some time, will probably likewise be for two years.

Of particular importance in the content of the SAF-LO frame agreements are the guidelines for the wage increases to be negotiated during the term of the frame agreement. The actual wage bargaining is the responsibility of the affiliated trade unions, employer suborganizations, and enterprises. The norms or guidelines set in the frame agreements are not binding in this bargaining, but it is expected that the affiliates of the two central associations will conduct the wage negotiations in the spirit and within the boundaries outlined by the frame agreements.

This seems to have been the case for a number of years, thanks to the prestige and the power (de facto, not statutory) that the central federations were able to exercise vis-à-vis their subordinate organizations. LO, in particular, has long been wielding great authority over its affiliated unions. Moreover, to a certain extent, the SAF–LO frame agreements have become pace-setting even for the salary agreements concluded by the two other central employee organizations. In fact, not only have the frame agreement guidelines been more or less incorporated into the collective wage contracts concluded by blue-collar unions affiliated with LO, thus establishing a uniform pattern of wage increases throughout the country, but also these guidelines have tended to set the pattern for the white-collar agreements concluded by the TCO and SACO affiliates. Thus LO has held a key position with respect to annual increases in wages as well as salaries all over the country.[7] Since Sweden is one of the most highly unionized industrial countries of the world,[8] this key position has meant a huge amount of power in the hands of a nationwide trade union leadership. In Sweden, for the socio-psychological reasons indicated, this centralization of union authority has facilitated rather than hampered the development of a pragmatic and responsible labor movement approach to questions of wage policy.

For a number of years after the system of frame agreements had become definitely established, the government confined its role to supplying (1) forecasts on the prospective development of the Swedish economy as a whole, and (2) views on the appropriate development of wages and price in the near future. These forecasts and views, which are not guidelines in any technical sense, seem to have only little influence on the course of wage negotiations.[9]

V

For quite some time the Swedish system, with its absence of government interference in wage negotiations, attracted attention from both inside and outside of Sweden. Within the country, the conviction seems to have been fairly general that no system of governmental guidelines for wage increases would yield better results. As late as 1965, a government spokesman was quite explicit about this:

> "The Swedish government has little confidence in the usefulness of a direct incomes policy as an instrument of price stabilization, irrespective of whether this policy be executed by exhortation or by a special machinery set up for the purpose." [10]

In the next year, 1966, the British Trades Union Congress recommended adoption of the Swedish system in the United Kingdom.[11]

Looking backward, however, the Swedish system cannot be called an unqualified success. To fulfill the hopes that had been set for it, two prerequisites had to be met. First, there had to be sufficient restraint in the wage and salary increases negotiated in the frame agreements and, following these agreements, at the collective-bargaining tables, and second, it had to be possible to satisfy the demand for manpower at these

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negotiated, moderately increased, wage and salary rates. The first prerequisite was met, at least during the years when the Swedish system was fully developed and was more or less unchallenged—which means roughly from 1956 to 1967. But the second prerequisite could not be met. The surprisingly high wage drift that occurred during all this period was a clear indication that the contractual wage and salary rates left ample room for substantial upward pull from the demand side. This demand pull seems to have largely spoiled the beneficial effects of whatever restraint the negotiating unions had been displaying at the frame-agreement or collective-bargaining levels. This is illustrated in Table I.

TABLE I.—FREQUENCY DISTRIBUTIONS OF ANNUAL PERCENTAGE INCREASES IN (a) CONTRACTUAL WAGE RATES AND (b) TOTAL ACTUAL EARNINGS IN SWEDEN, FOR MINING AND MANUFACTURING (1956–67) AND CONSTRUCTION (1957–67)

	Number of years in which increase occurred—			
	Mining and manufacturing		Construction	
Percent increase over previous year	Contractual wage rates	Earnings (contractual rates+wage drift)	Contractual wage rates	Earnings (contractual rates+wage drift)
0.1 to 1			1	
1.1 to 2			3	
2.1 to 3	4		5	
3.1 to 4	3		2	
4.1 to 5	5	2		1
5.1 to 6		1		2
6.1 to 7				2
7.1 to 8		6		4
8.1 to 9		2		2
9.1 to 10		1		
Total	12	12	11	11

[1] In the case of construction, the year 1956 had to be disregarded because the source used does not give any figure for the increase in wage drift or in total earnings for that year. Source: Calculated from data presented by Sten Borg, "Is There a Critical Level of Unemployment?—A Case Study of Sweden" in On Income Policy, Papers and Proceedings of a Conference in Honor of Erik Lundberg (Stockholm: The Industrial Council for Social and Economic Studies, 1969), p. 271.

It was of course to be expected that the frequency distributions in columns 1 and 3 would differ from those in columns 2 and 4. But the width of the differences tells an interesting story. So far as contractual wage rates are concerned, the annual percentage increases over the previous year range from 2.4 percent to 4.5 percent in the case of mining and manufacturing, and from 0.6 percent to 3.5 percent in the case of construction [12]—with the tabulated frequency distributions within these ranges. Now it is true that negotiated wage rates are only part of negotiated total labor compensation—which also includes fringe benefits, pension rights, et cetera. Yet, we can say that the ranges mentioned and the frequency distribution shown convey a definite impression of willingness to exercise restraint in negotiating pay increases.[13] To this extent, the Swedish system seems to have worked. There appears to have been no excessive wage push during the 12 years covered in the figures. However, the annual percentage increases in actual earnings (sums of contractual wage rates and wage drift) range between 4.5 percent and 9.9 percent in mining and manufacturing and between 4.8 percent and 8.9 percent in construction—with the frequency distributions between these ranges shown in columns 2 and 4. The demand pressure on the labor market, reflected in a persistent very high wage drift, was so strong that wage negotiators' willingness to practice incomes policy could not bear its full fruit.[14]

Table II provides a further illustration of the relative importance of wage drift as a disturbing factor in the Swedish experiment. In it, we have computed, for each of the years in the 1956–67 period, the contribution made by increases in contractual wage rates and in wage drift to the increase in total earnings.

TABLE II.—IMPACT OF INCREASE IN CONTRACTUAL EARNINGS AND IN WAGE DRIFT ON TOTAL EARNINGS IN SWEDEN, 1956–67

	Mining and manufacturing		Construction	
	Percent of annual increase in hourly earnings due to—		Percent of annual increase in hourly earnings due to—	
Year	Contractual increases	Wage drift	Contractual increases	Wage drift
1956	53.8	46.2		
1957	44.6	55.4	30.0	70.0
1958	57.8	42.2	57.7	42.3
1959	49.0	51.0	18.8	81.2
1960	48.8	51.2	37.1	62.9
1961	47.4	52.6	43.8	56.2
1962	53.7	46.3	20.3	79.7
1963	43.1	56.9	18.5	81.5
1964	33.8	66.2	7.9	92.1
1965	42.4	57.6	38.2	61.8
1966	51.1	49.9	58.3	41.7
1967	51.9	48.1	49.1	51.9

Source: Borg, op. cit. (See table I above).

In the last three years the Swedish system has been under mounting strain. The steady rise in prices led the government to announce a general price freeze in October 1970. As for incomes, the government has so far refrained from interfering with the negotiations for pay increases to be effected in 1971. These negotiations, which began in November, are reported to be even more arduous than were the difficult talks that led up to the frame agreement of 1969. The degree to which the upward pressure on labor costs has been aggravated since late in 1968 is reflected in Table III.

TABLE III.—ANNUAL PERCENTAGE INCREASES IN THE AVAILABLE QUARTERLY INDICES OF DIRECT WAGES AND TOTAL LABOR COSTS

		Percent increase	
From—	To—	In index of direct wages	In index of total labor costs
February 1967	February 1968	6.3	NA
May 1967	May 1968	5.8	NA
August 1967	August 1968	6.5	NA
November 1967	November 1968	6.7	NA
February 1968	February 1969	6.3	7.6
May 1968	May 1969	6.9	8.4
August 1968	August 1969	6.8	8.0
November 1968	November 1969	11.2	12.2
February 1969	February 1970	13.5	14.6
May 1969	May 1970	16.4	17.3
August 1969	August 1970	13.9	NA

Note: The index numbers underlying the increases shown can be found in the monthly issues of Allmaen Manadsstatistik (Monthly Digest of Swedish Statistics, edited by the Central Bureau of Swedish Statistics). The indices of direct wages are based on February 1947=100, those for total labor costs, on 1967=100. The index of total labor costs includes direct wages, remuneration for time not worked (e.g., public holiday pay, vacation pay), employer contributions fixed by law, and certain other collective fees. It excludes the tax on the labor force.

In the source publication, the index numbers are given for each February, May, August, and November. They are not seasonally adjusted and, as tabulated, they show a clear seasonal rhythm. To eliminate it, we have, as in an analogous case for the United Kingdom, computed annual percent changes between identical months of succeeding years.

Rivalries among the different labor organizations appear to be more in the foreground today than they used to be. According to available reports, TCO and SACO, the two federations representing salaried employees, have recently shown an increased tendency to assert the special interests of their constituents and less willingness to accept the patterns set by LO for collective bargaining and for the distribution of demanded or obtained pay increases among sectors. The question of the most equitable distribution of pay increases among blue-collar workers, white-collar workers, and professional employees seems to be more of an issue now than it was in the early 1960s. Recent attempts to challenge the setup under which LO's leadership extended considerably beyond blue-collar workers are said to be weakening the "integrated" structure of Swedish wage determination.[15] Two sub-associations representing salaried personnel have, in obvious defiance of LO, concluded unprecedented five-year agreements providing for increases of 7 percent per year (less wage drift).[16] In November, Sweden's Economic Research Institute predicted that the actual rise of wages in 1971 would be about 10 percent. According to some reports, employers as well as the minister of finance would regard 10 percent as the tolerable maximum.

So the outlook for the rest of 1971 is clouded. Sweden's minister of finance, while rejecting a wage freeze as unrealistic, has issued strong warnings against inflationary wage settlements. There is even some talk that if, in 1971, management and labor should settle for pay increases which would definitely contribute to accelerated inflation, the government might siphon off by taxation the excess gains it considered intolerable. Such a step would represent a serious dent in the Swedish system of nongovernmental or voluntary incomes policy.[17]

FOOTNOTES

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[1] That is, the absence of price rises that are caused by money wage and salary increases in excess of increases in labor productivity. "Reasonable price stability" is another phrase often used to characterize this objective. Here we will avoid the term "reasonable" (that top weasel word of the English language) and speak instead of "relative" or "attainable" price stability.

[2] R. Meidner, *Svensk arbetsmarknad vid full sysselsatettning (The Swedish Labor Market at Full Employment)* (Stockholm: The Swedish Institute of Economic Research, 1951.)

[3] Available in English under the title, *Trade Unions and Full Employment* (Stockholm, 1951); see particularly the section on wage policy, pp. 73–102.

[4] "A Trade Union Manifesto" in T. L. Johnston, ed. and trans., *Economic Expansion and Structural Change* (London; Humanities, 1963), p. 150.

[5] The objective listed under (a), while outside our main topic, deserves a word of comment here. It spells out the idea of "wage solidarity," which has long been a speciality of Swedish trade union thinking. In the existing wage structure there are often substantial wage differentials (caused by difference in efficiency and profitability of individual firms) for the same kind and amount of work. Such wage differentials will gradually attract workers away from the low-paying into the better-paying enterprises, and the former will either have to improve their efficiency (and thus their ability to pay wages), or, if this proves impossible, to go out of business. The proponents of "wage solidarity" want to produce the same ultimate effect in a quicker way, viz., by stipulating "equal pay for equal work" regardless of a firm's *current* "ability to pay." The questions raised by this idea are beyond the scope of this survey.

[6] R. Meidner, "A Coordinated Wage Policy," in *Trade Unions in Sweden* (Stockholm, 1961), p. 14.

[7] Since 1969, according to available reports, this hegemony of LO has been increasingly challenged, and this, in combination with other developments has set some question marks on the future of the system (see below).

[8] It has been estimated that in the mid-1960s about 71 percent of all non-agricultural wage earners and salaried employees belonged to unions. Cf. Smith, *op. cit.* p. 154.

[9] In Sweden, there have long been close ties between the trade unions and the Social Democratic party which, either alone or as partner in a coalition, has been in the government ever since 1932. But all during the era of the frame agreements, the dislike of government interference in wage negotiations seems to have been stronger, even on the employee side, than those ties. The government did, however, provide machinery for mediation and arbitration for use in cases where wage negotiations would come to an impasse.

[10] Swedish Ministry of Finance, Secretariat of Economic Planning, *Inflation and Economic Development* (mimeographed), July 1965, p. 6. (Quoted from Smith, *op. cit.*, p. 151.)

[11] The fact that in Sweden the number of man-hours lost through work stoppages in the 1960s was exceedingly small by comparison with other industrialized countries has been mentioned as indicating that the Swedish system was successful. Now, such a fact certainly indicates success in the effort to preserve labor peace. Whether it indicates success with respect to a rational development of wages and prices is not equally certain. It *may* reflect a tendency to reach agreement "at all costs," that is, even when the agreed wage or salary increases are inflationary. But in Sweden the conviction seems to have been widespread that the paucity of strikes and lockouts need not be so interpreted.

In the light of some recent events, it seems uncertain whether Sweden's record with respect to labor peace will remain quite as good as it was in the 1960s. While the frame agreement of 1969 forfeited the right to strike, there were some wildcat strikes in the winter 1969–70, and the more recent strikes of salaried employees have added another element of uncertainty about the future of Swedish labor relations.

[12] The maximum and minimum values, like the frequency distributions between them, have been taken from the same source indicated in Table I, p. 30.

[13] If we wish to rely on the above table and the source from which it has been adapted, it is noteworthy that the contractual pay raises for construction workers seem to reflect even more restraint than those for workers in mining and manufacturing.

[14] In discussing the developments in the Netherlands 1963–65, we likewise encountered a labor market situation that made all incomes policy illusory in the short run. One difference between Sweden 1956–67 and the Netherlands 1963–65 is that, in the latter, the unions did not even attempt to keep their wage demands within limits consistent with a long-range incomes policy—despite the fact that, in contradistinction to Sweden, the Dutch limits were stated in official and even mandatory guidelines.

[15] All the more so, since LO's own affiliated unions are reported to be no longer unanimous in supporting the system of central pace-setting frame negotiations between SAF and LO.

[16] In the year ending July 1970, hourly earnings of blue-collar workers in mining and manufacturing rose 15.3 percent, of which about 9.5 percent (more than three-fifths) comprised wage drift.

[17] Most of the material presented in this section is based on a 12-page report, dated November 13, 1970, and received by the U.S. Department of Commerce from the U.S. Embassy in Stockholm.

CANADA

I

The history of incomes policy in Canada is relatively short. It was not until 1965 that the government seriously considered the idea of supplementing monetary and fiscal policy by directly influencing decisions about wage and price increases. In that year the Economic Council of Canada, at the request of the federal government, commissioned a study on foreign experience with incomes policies. The study was prepared by Professor David C. Smith of Queen's University and was published in October 1966.[1] It formed the background for the position taken by the Economic Council in its annual review published in the same year.[2]

Smith's survey reached the conclusion that Canada did not have a promising environment for experiments with incomes policy.[3] Compliance by management and labor with governmental guidelines seemed to the author to be too much to expect, given Canada's decentralized system of labor market institutions. Moreover, Smith argued that the division of political power between the federal and provincial governments would constitute an even more serious obstacle to a national incomes policy than does the division between federal and state governments in the United States. Besides, it seemed to him that the "openness" of the Canadian economy toward the economy of her southern neighbor—as reflected, for instance, in the high mobility of labor across the long border and in the strong influence of the United States on Canadian wages and prices—would severely limit the scope for an independent Canadian incomes policy.

The Economic Council of Canada at that time agreed with Smith's evaluation of the chances for an incomes policy in Canada. In its 1966 annual review mentioned above, the council presented an extensive survey of the lessons to be drawn from the foreign experiences covered by Smith's study. In summarizing these lessons, the council concluded that the social and political conditions under which the Canadian economy was operating made success of a Canadian incomes policy too unlikely to justify an attempt in this direction.

II

Under the pressure of worsening economic conditions during the three-year period from mid-1966 to mid-1969, reluctance to try some form of incomes policy gradually weakened. For some time, opponents of incomes policy had been able to point to a rapid growth of the Canadian economy and a low rate of unemployment as indications that inflation had its brighter side. But from 1967 to 1969, economic growth slowed down, unemployment rose steadily while the rise in prices continued unabated and at an accelerating pace. In fact, from 1965 to 1967, inflation was more of a problem in Canada than in the United States, and the same is true of unemployment from 1967 to 1969. Table IV illustrates this point with a few figures.

TABLE IV.—CONSUMER PRICES AND UNEMPLOYMENT RATES IN CANADA AND THE UNITED STATES, 1965–69

	Consumer price index (1963=100)					
	Canada		United States		Unemployment as percent of civilian labor force	
Year	Index	Increase over previous year (per cent)	Index	Increase over previous year (per cent)	Canada	United States
1965	104.3		103.0		3.9	4.5
1966	108.2	+3.73	106.0	+2.91	3.6	3.8
1967	112.0	+3.51	109.0	+2.83	4.1	3.8
1968	116.6	+4.11	113.6	+4.22	4.8	3.6
1969	121.8	+4.46	119.7	+5.37	4.7	3.5

Source: United Nations, Monthly Bulletin of Statistics, February 1971, pp. 17, 20. The CPI index numbers and the unemployment percentages represent annual averages.

Footnotes at end of article.

A White Paper issued by the federal government in December 1968 reflected a definite shift in the official attitude with respect to incomes policy. The decisive step was taken in June 1969, when a four-man Prices and Incomes Commission was established. Its terms of reference were officially stated to be "to inquire into and report upon the causes, processes, and consequences of inflation and to inform those making price and income decisions, the general public and the government on how price stability may best be attained." In other words, it had powers of review and surveillance but not of enforcement.

From June 1969 on, the history of incomes policy in Canada is, by and large, the history of the efforts, successes, and failures of the Prices and Incomes Commission (PIC) in helping to keep the rise of Canadian money incomes and prices within noninflationary limits.[4]

After the commission was set up, the first question it faced was what type of incomes policy it should try. Some advocated the type of policy used on and off in the United States since 1962; publishing guidelines that had been adopted without much prior consultation with interested groups; and subjecting violators to governmental pressure, or exposing them to public criticism by intervening publicly in particular cases and by strongly denouncing behavior the commission disliked. However, in the commission's view, guidelines that were simply announced by an appointed commission in Ottawa would have little chance of being widely accepted in Canada. A better approach would be to conduct exploratory negotiations and consultations with the aim of securing the consensus of all groups about the criteria on which the guidelines should be based.

On August 6, 1969, the PIC announced its plan to enter into negotiations with all groups—business, labor, the professions—relevant to a program of incomes policy in order to seek their voluntary cooperation in attacking the inflation problem the "direct" way. The objective was "to negotiate an across-the-board set of commitments with representatives of all segments of the community."[5] The all-round agreement should define the criteria and limits each group would be prepared to accept in a common effort to scale down income and price increases. It would also set forth the procedures it would be prepared to apply in dealing with violators. From August to October 1969, the commission held almost 100 meetings to explore the possibilities for such an across-the-board agreement.

The first responses from some quarters were not unpromising, but Canadian labor soon raised grave objections to the commission's approach. Some labor leaders said the commission was overstepping its terms of reference, which permitted it to study causes and consequences of inflation but not to propose programs of restraint—even voluntary restraint—or to suggest wage guidelines. In the autumn of 1969 both of the leading labor organizations, the Canadian Labour Congress and the Confederation of National Trade Unions, rejected the idea of a commitment to specified income restraints. Voluntary income guidelines were said to be impracticable. The chairman of the Prices and Incomes Commission declared his willingness to seek other forms, but stressed the commission's conviction that restraint in the rise of money incomes was essential if the rise in prices was to be scaled down in sufficient degree.

On October 17, 1969, this first approach in Canada's incomes policy came to an end when the leaders of the labor organizations formally declared that they would not participate in the PIC's attempts to seek an across-the-board agreement on income and price restraints.[6]

III

The PIC then switched to what it called a more "piecemeal" approach. For a while, it concentrated on the price front, negotiating with representatives of business and the professions in order to enlist their cooperation in a program of price restraint, not necessarily in the form of quantified guidelines.[7] In mid-January 1970, the commission decided that the responses obtained in these new exploratory talks were sufficiently positive to justify calling a National Conference on Price Stability. The conference convened early in February 1970 and was attended by representatives of numerous business and professional groups. In a closing statement dated February 10, 1970, it was said that the attending groups were "prepared to take an initiative as a contribution to a broad program of restraint." The statement then went on to say:

"More specifically, where higher prices are needed to cover higher costs, and market conditions made them feasible, business firms, generally, if called upon to do so, would ensure that price increases were *clearly less* than the amount needed to cover the increase in costs at a normal volume of output and sales." (Emphasis added.)

This amounted to a declaration that the business groups represented at the conference were prepared to forego part of the net profit margins that could otherwise be obtained during 1970. The program was endorsed a few days later at a meeting of federal and provincial government officials. The governments promised to use whatever constitutional means were at their disposal to help PIC implement the program. The commission gradually gathered a staff of experts so that, by the end of 1970, it had several divisions. All during 1970, it conducted periodic studies on price and income developments in particular areas, published reports on these developments and, in the field of pricing, used "moral suasion" whenever it felt that the "clearly less" promise had not been fully kept.

The voluntary adoption of a guideline for price increases by practically all Canadian business could justly be regarded as a promising initial success for this second phase in the commission's efforts.[8] However, the commission was convinced that despite willingness on the part of business to accept profit squeezes (a willingness that had its inevitable limits anyhow), the Canadian price level would continue to rise so long as collective agreements provided (as they did) for pay increases of 8-10 percent per year in the face of an annual rise in labor productivity of only about 2-2½ percent.[9] So the commission continued its efforts to obtain the collaboration of organized labor for the restraint program.

In several addresses delivered at meetings of labor organizations, PIC Chairman Young was outspoken about the dangers threatening if labor continued to stay outside the program. He warned of the habit-forming character of annual pay raises of 8 percent or more. Thus, in February 1970, he said bluntly that "if wage and salary earners continued to regard pay increases of 7 or 8 percent or even higher as a reasonable average increase for everybody," there was no hope of reducing the rate of increase in the price level much below the rate of 4½ percent a year.[10]

The question was, he said, how difficult conditions would have to become in the labor market—and for how long—in order to reconcile wage and salary earners to accepting the substantially smaller pay increases that would be consistent with reasonable price stability. But on March 23, 1970, the two central labor organizations again rejected the principle of guideline-oriented restraint in wage and salary negotiations. And this position was restated forecfully in May at the Conference of the Canadian Labor Congress. In the following weeks and months, pay raises provided by newly-concluded contracts continued to be well above what the Prices and Incomes Commission believed to be consistent with "reasonable" price stability.

If the PIC chairman had hoped that the declared willingness of business to cooperate in a national restrain program would make labor more willing to join—and it seems that for a while he had such hopes—he met disappointment. In an early May address, Mr. Young recognized that many people in the country thought there were only two possibilities left, either compulsory controls or abandonment of all efforts to curb inflation. But he expressed his hope that enough good sense and cooperative spirit could be mobilized "in the minds of ordinary people" to find a third way.[11]

However, in July, he had to summarize the results so far obtained by saying that "the impact of official policy measures and the Commission's restraint program has been entirely on areas such as prices, profits, professional fees, and borrowing costs, and not at all on labor costs." [12] Late in 1970, this failure seemed to him to be all the more disturbing because persistent high unemployment was about to induce the government to switch to a more expansive monetary and fiscal policy. Inherent in such a policy was the danger of adding to inflationary pressures—which, in the recent few months, had shown some signs of abating.

IV

Perhaps the most remarkable feature about wage and salary negotiations in Canada in the second half of 1970 is the fact that they took place under the shadow of, and yet apparently quite uninfluenced by, a guidline announced by the Prices and Incomes Commission on June 9. At that time, the commission obviously decided that something had to be done about excessive pay increases. While it probably still believed that only "agreed" guidelines had any chance of influencing actual wage and salary increases, it seems to have decided that given the impossibility of reaching agreement, a guideline publicly proposed by a body of some authority might be better than nothing. At the least, such a guideline would tell the broad public in a concrete form what the PIC considered to be the maximum acceptable rate of increase. So the commission announced that, in general, it considered an annual rate of increase of 6 percent to be the maximum justifiable for wages and salaries under the existing circumstances.

The guideline was not binding—for the commission had neither an absolute nor a delaying veto over wage or salary contracts. The figure of 6 percent was derived by simply adding two components, 2½ percent for the current annual increase in labor productivity and 3½ percent for the current rate of annual increase in the Consumer Price Index.[13] Pay increases exceeding 6 percent per annum were considered justified in certain special situations (unusually low current earnings in individual cases, the need to attract manpower rapidly into some particular industry, special contributions to productivity by removing from collective agreements specific restrictions on work practices).

As in the case of the guideline for price increases accepted by business, the Prices and Incomes Commission sought to enlist federal and provincial government support for this 6 percent guideline for wage and salary increases. In this case, however, it had only partial success. The federal government welcomed the 6 percent proposal and encouraged efforts to get it accepted. Indeed, it used the figure as a guideline in its own negotiations with the postal workers. But the provincial governments were generally too wary of labor opposition to give the guideline any official endorsement. Labor had, in fact, attacked the guideline almost immediately after its announcement. Actual increases in basic rates of pay at that time were between 8 and 9 percent per year.

December 31, 1970, marked the end of all income and price restraints, insofar as they had been spelled out in guidelines. The Prices and Incomes Commission dropped the 6 percent guideline for wage and salary increases, obviously out of the conviction that the figure was bound to remain academic. Faced with labor's persistent unwillingness to participate in a national restraint program, business, too, decided to discontinue its participation in 1971. The Prices and Incomes Commission will continue to report publicly on the inflationary impact of specific wage and price rises but will not measure them against specific criteria set forth in guidelines, as it did in 1970. The commission will also continue its research into the causes, processes, and consequences of inflation. All this was announced in a year-end review, issued as a press release on January 15, 1971.

V

The fact that incomes policy in Canada was abandoned after a year and a half does not prejudge the question of how much or how little it achieved while in effect. It is important here to distinguish the short-run from the long-run view. Taking the short-run view, it must be said that the events of 1970 have not quite borne out the repeated statements of the Prices and Incomes Commission that, without labor's participation in a national restraint program, it would be impossible to achieve any substantial scale-down in the rate of price increases. As a matter of fact, Canada's price performance in 1970 was much better than it had been in 1969, and it was also better than the 1970 price performance of the United States and most other industrialized Western countries. The Canadian Consumer Price Index rose 4.6 percent during 1969, but only 1.5 percent during 1970. The U.S. Consumer Price Index rose 6.1 percent in 1969, and 5.5 percent in 1970. (The figures represent increases of the December index of the year indicated over the December index of the previous year.)

It is difficult to tell how much of Canada's improved price performance in 1970 was due to changed market conditions making it impossible to raise prices so as to cover the full increase of costs, and how much was due to the restraint program under which business had undertaken not to pass on in higher prices the full increase in costs even when the market would permit it to do so. The PIC chairman has expressed the belief that the program just referred to had some effect. On July 2 he reported that:

". . . in several instances price increases have been rolled back, and in many others firms have decided not to proceed with price increases which they had been considering. We have also had an encouraging degree of cooperation from a number of major professional associations in postponing or limiting increases in their fee schedules." [15]

In its statement of December 1, 1970, the PIC reported that "many firms with opportunities open to them to raise prices during 1970 have deferred, limited, or reduced the size of these increases in order to conform with the price restraint criteria." [15] In its year-end review, published January 15, 1971, the commission reported that during 1970 some 100 firms postponed or modified price increases because of the restraint program.

There was, however, a special factor which must have contributed to making Canadian imports cheaper (especially Canadian imports from the United States), and thus to easing the upward pressure on the Canadian price level. This factor was the appreciation of the Canadian dollar in the months following May 1970. The rate of Canadian dollar per

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Footnotes at end of article.

United States dollar developed as follows during the year 1970:[16]

January	1.0725
February	1.0725
March	1.0728
April	1.0728
May	1.0741
June	1.0341
July	1.0259
August	1.0188
September	1.0191
October	1.0206
November	1.0188
December	[1] 1.0174

[1] Preliminary

This amounts to an appreciation of 5.6 percent from May to December.

At any rate, not too much should be read into Canada's improved price performance for 1970. It may turn out to have been only a short-run achievement. The question remains whether, in the longer run, the failure to enlist the cooperation of labor in any restraint program will not aggravate the Canadian inflation problem once more.

FOOTNOTES

[1] Smith, *op. cit.* The study covers developments up to and including 1965.

[2] *Prices, Productivity and Employment*, Third Annual Review of the Economic Council of Canada, November 1966.

[3] Smith, *op. cit.*, pp. 199–207.

[4] From the establishment of the PIC all through 1969 and 1970, Dr. John H. Young, the chairman of the commission, has delivered numerous addresses to business associations, labor organizations, social clubs, and other groups, in an attempt to keep the Canadian public posted on the recent and current activities of the commission, on the problems the commission was facing at the given time, and on the events and circumstances that several times caused it to change its approach to incomes policy. These addresses, which are available in mimeographed form, are the main source of the material presented in the following pages.

[5] This is how Chairman Young characterized the first approach of the commission in an address delivered somewhat later, when the approach had already been abandoned. (Address to the Labor Relations and Workshop Conference, February 25, 1970, p. 5.)

[6] In several other countries where the government had embarked upon incomes policy, there were episodes, although mostly short ones, when labor cooperated in this policy. In Canada there has been no such episode so far.

[7] In reporting on these talks, and on several later occasions, Chairman Young emphasized that one of the benefits to be expected from a successful incomes policy would be that "fiscal and monetary restraint could be made correspondingly less severe and protracted." The observation that restrictive monetary and fiscal policies, because of their effect on business activity and employment, are socially costly ways of combating inflation, and that under an effective incomes policy these traditional weapons against inflation could be applied with less severity, or perhaps could even be replaced by cautiously expansionary measures, has been stressed by Canadian proponents of incomes policy with particular emphasis.

[8] In a retrospective "Concluding Statement" dated December 1, 1970, the commission, obviously referring to the outcome of the National Conference on Price Stability stated that "this was perhaps the first time that business firms representing practically every sector of the Canadian economy had been called upon and agreed to cooperate in a national program of this scope."

[9] That "wage push" was a factor in the Canadian inflation in 1969 was implicity admitted in the 6th Annual Review of the Economic Council of Canada, which had long been against income policy in that country: "It is difficult to maintain that the current inflation is a reflection of excessive demand pressure, for the Canadian economy has been operating with at least a moderate overall margin of slack since 1967." *Sixth Annual Review of the Economic Council of Canada*, 1969, p. 1963.

[10] Address delivered to the Labor Relations and Workshop Conference, *op. cit.*

[11] Address delivered to the Ontario Federation of Printing Trade Unions, May 2, 1970.

[12] Address delivered to the Macdonald Club of Prince George, July 2, 1970, p. 6.

[13] Some interesting theoretical questions attaching to this additive derivation can only be touched upon here. The second additive component should allow, as was explicitly stated, for "something like the *current* rate of increase in consumer prices." (Emphasis added.) Now if that current rate of price increase is assumed to be itself partly the result of excessive past increases in money pay (though only partly; it may also reflect influences over which Canada had no control), does not a future pay increase that fully allows for this price increase involve an element of circularity? Does it not build an upward wage-price spiral directly into the system? But in the case of Canada it may not be worthwhile to ponder much over such questions, for the 6 percent guideline did not survive 1970 anyway.

[14] Address delivered to the Macdonald Club of Prince George, *op. cit.*, p. 5.

[15] "Concluding Statement" of the Prices and Incomes Commission, *op. cit.*, p. 2.

[16] The data are from various issues of the United Nations' *Monthly Bulletin of Statistics* from August 1970 to February 1971. The December estimate was provided by the Canadian Embassy.

Mr. PROXMIRE. Mr. President, I should like, very briefly, to discuss the amendments which I intend to offer tomorrow.

My first amendment relates to requiring reports on this operation. I hope that the chairman can accept it. I would expect that he could.

The fact is that we are kept in the dark on much of the stabilization program. The country knows far less about it than it should know. It is a program in which we are delegating an enormous amount of authority and power to the President of the United States, although it is in the domestic area, where Congress should retain its authority.

As distinguished and conservative an economist as Arthur Burns has argued, at least in his initial testimony, that we should keep the President on a short leash, and not extend this authority for more than a few months.

Under these circumstances, I believe the least we should do is require reports, and that is what this amendment provides.

The amendment is brief. It reads as follows:

> In transmitting the Economic Report required under Section 3(a) of the Employment Act of 1946 (15 U.S.C. 1022), the President shall include a section describing the actions taken under this title during the preceeding year and giving his assessment of the progress attained in achieving the purposes of this title. The President shall also transmit quarterly reports to the Congress not later than 30 days after the close of each calandar quarter describing the actions taken under this title during the preceeding quarter and giving his assessment of the progress attained in achieving the purposes of this title.

This is, of course, far too little. It is my view that we should not extend this act at all now, because no justification has been given for extending the act before it expires, and long before it expires. But if we are not going to do that, we should certainly require reports from the President at regular intervals, so we can follow the program and see how it is operated.

One of the most disturbing aspects of the hearings before the Joint Economic Committee and the Banking Committee was the fact that proceedings before these boards are conducted privately. The public is shut out.

The public has a great stake in these programs. No matters of national security are involved. There is concern, certainly, that we should not disclose trade secrets, and I think all of us agree they ought to be protected. But aside from that, there is every reason to encourage coverage of these hearings, to help assure vital public acceptance and credibility. For that reason, I am offering the following amendment:

> Any hearing or other proceeding conducted by the President or his delegate for the purpose of hearing arguments or acquiring information bearing on a change or a proposed change in wages, salaries, prices, rents, interest rates, or corporate dividends or similar transfers shall be open to the public except that a private hearing or other proceeding may be conducted to receive information considered confidential under Section 205 of this title.

As I say, the Chairman of the Pay Board testified that reporters were not permitted, the hearing was closed, and no transcript was kept. At our request, they agreed to provide the Joint Economic Committee with minutes of their meetings, but the minutes are likely to be very limited, and obviously censored by the Chairman to disclose whatever information he chooses to disclose. That is no way to conduct this kind of operation.

My third amendment is a very substantial amendment, which I am sure will engender a great deal of controversy, but it is based on what I have been hammering away at over and over again.

It is a fact of life that the vast majority of firms in this country, and I think virtually all firms that are not in tier 1 or tier 2, have no business being under the manadtory restrictions provided in this act. So this amendment would take them out, by saying:

> The authority conferred on the President by this section shall not be exercised after June 30, 1972.

That would give another 8 months on covering those firms—

> To limit (i) the amount of any increase in prices charge by or wages or salaries paid by a firm with annual sales or revenues of less than $50 million during its most recent preceeding fiscal year; and (ii) the amount of any pay adjustment which applies to or affects less than 1,000 employees, unless the President determines, after notice and opportunity for hearing, that the amount of any such increase or adjustment is grossly disproportionate with the standards published under subesction (b) and would have

> a significantly adverse affect upon the general cost of living.
>
> "(2) The President may request the Congress to reauthorize, by joint resolution, the authorities to be terminated or terminated by this subsection, and the provisions of sections 910–913 of title 5, United States Code, shall be applicable with respect to the procedure to be followed in the Senate and House of Representatives in considering such resolution and references in such provisions to a "resolution with respect to a reorganization plan" shall be deemed for the purpose of this subsection to refer to the resolution provided for under this subsection."

The purpose, as I say, is to exempt small businesses, the small ones in this country which should be under it.

Let me explain the last paragraph, which is somewhat complicated the way I read it.

The reason the last paragraph is in it is to prevent a filibuster on the part of some Members of the Senate which could be used to make this provision ineffective.

The last amendment I have, which I will offer tonight, goes to the ridiculous situation that we find ourselves in, providing for two boards which have the greatest economic power of any economic agency we have—greater in many respects than Cabinet officials. Yet, we do not require confirmation of any of the members of this board. We have a price czar now. We have a fine man, a very able and affable man, Mr. Grayson, but a man who has indicated he is going to make many of these decisions by himself and other decisions in consultation with members of the Price Commission, with whom he wants to consult; and he is not confirmed by this body. He does not have to come in and testify before a committee which will consider his qualifications and his philosophy and his attitude and be subject to debate in the Senate.

We are going to have a considerable debate over Mr. Butz within a few days, presumably right after we finish this bill. Then we are going to go on with the nominations of two Supreme Court Justices. How shocking it would be if the Senate did not confirm these men. And yet we will not confirm Mr. Grayson unless my amendment is adopted and his power in a very important sense may be even greater than that of the men whose confirmation will be debated so vigorously within a few days.

I submit that it is ridiculous for us not to insist that at least the Chairman be subject to Senate confirmation.

This amendment provides the following:

> Members of such boards, commissions, and similar entities shall be appointed by the President by and with the advice and consent of the Senate; except that—

So that we can have a continuity of operation:

> (1) the foregoing requirement with respect to Senate confirmation does not apply to any member of any such board, commission, or similar entity (other than the Chairman of the Pay Board, established by section 7 of Executive Order Numbered 11627 of October 15, 1971, and the Chairman of the Price Commission, established by section 8 of such Executive order) who is serving, pursuant to appointment by the President, on such board, commission, or similar entity on the date of enactment of the Economic Stabilization Act Amendments of 1971, and who continues to serve, pursuant to such appointment, on such board, commission, or similar entity after such date; and
>
> (2) any person serving as Chairman of such Pay Board, and any person serving as Chairman of such Price Commission, on the date of enactment of the Economic Stabilization Act Amendments of 1971, may continue to serve in such capacity on an interim basis without regard to the foregoing requirement with respect to Senate confirmation until the expiration of 60 days after the date of enactment of the Economic Stabilization Act Amendments of 1971, and the provisions of sections 910–913 of title 5, United States Code, shall be applicable with respect to the procedure to be followed in the Senate in considering the nomination of such persons for such offices and references in such provisions to a "resolution with respect to a reorganization plan" shall be deemed for the purpose of this section to refer to such nominations.

The last part provides the antifilibuster language which will make it impossible for confirmation to be delayed and for the Chairman to be killed on that basis.

Frankly, Mr. President, I think this is a very limited and very modest amendment. Many Senators have said "Why not confirm all members?" I think a strong case could be made for that, and I would be inclined to offer such an amendment. In view of our lack of success in the committee, however, I think it is unrealistic to press that amendment on the floor. I think the case is overwhelming for at least confirming the members paid by the Government, full-time members, who can, as Mr. Grayson has shown, become virtual czars. I will be interested to see how the Senate votes in this respect, because it seems to me that if the Senate votes not to confirm a chairman with this great power, it is indicating its real lack of interest in maintaining some kind of congressional control and discipline over people who have been given this immense power.

EXHIBIT 1

INFLATION—THE PRESENT PROBLEM: OECD—EXCERPTS

* * * * *

83. Establishment of realistic non-inflationary price objectives will not, of course, be enough in itself. More important will be to convince public opinion that these objectives are going to be taken seriously. To this end, governments will have to make it clear that they are prepared to pursue restrictive demand management policies until there are signs that better price stability is being restored. A permanent and significant rise in unemployment would not be acceptable; nor would it necessarily be an effective barrier against inflation over the longer run. What is needed, however, is that all segments of the public—and especially employers and trade unions—should be more conscious of the inevitable link between the moderation they exercise in price and wage decisions and the demand management policies followed by the authorities. In the present conjuncture, a major reduction of inflationary expectations during the current cooling-off period is a pre-requisite for the resumption of normal growth rates and the return to higher levels of employment.

84. With regard to the technical aspects of demand management policies,[1] there has, in recent years, been considerable controversy about the relative efficacy of fiscal and monetary policies. The main lesson which seems to emerge from the OECD's own practical experience with stabilization problems is that *both* fiscal and monetary policy have an important role to play; that they need to be closely coordinated; and that excessive reliance on either weapon produces unsatisfactory results.

85. Some other lessons that can be drawn from experience in OECD countries can be summarized briefly. First, there is the need to act promptly when evidence points to a danger of excess demand. Second, more suitable administrative and institutional fiscal policy arrangements and a larger armoury of policy weapons could contribute to a better use of fiscal policy. In particular, there is a general need for better co-operation between central and local authorities in the implementation of fiscal policy. Experience has shown the value of incorporating a margin of flexibility in annual public expenditure programmes, and of having some discretionary power to vary tax rates and social security contributions according to conjunctural circumstances. In some countries tax collection procedures could be improved to increase the automatic forces for stabilization generated by the fiscal system. On the monetary side, there is the question of whether recent experience indicates the need to make use of new policy instruments, particularly with reference to the increasing impact of international capital movements.

86. In general, however, it would seem that in the context of the present Report the most important questions relate not so much to the technical aspects of fiscal and monetary policies, but rather to the more basic question of the appropriate objectives to be pursued.

B. PRICE-INCOMES POLICY

87. The 1960s have witnessed a wide variety of experience with price-incomes policy in many countries, and the growth of a very substantial literature on the subject. In the time available, it has only proved possible to attempt a brief summary of some of the problems that have been encountered. A description of experience with such policies in selected countries will be found in Annex B. (The countries covered are Austria, Canada, Finland, Germany, the Netherlands, the United Kingdom and the United States).

General characteristics and appraisal

88. The definition of a price-incomes policy, and the classification of those countries which have been following such policies, are in themselves a controversial question. It may, nevertheless, be useful to distinguish two broad approaches: the "the national price and income bargain" approach and the "price and incomes guidelines" approach.

89. The Netherlands in the 1950s provides the earliest example of the "national bargain" approach, and the Finnish Stabilization Agreements of 1968 and 1969 the most recent. This normally involves an agreement between the government and all the major

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[1] The Economic Policy Committee of the OECD has a continuing concern with the technical aspects of fiscal and monetary policies as used for demand management purposes. The report on *Fiscal Policy for a Balanced Economy* (OECD, Paris 1968) contained 24 recommendations on steps to increase the scope for the use of fiscal policy as a means of promoting steady growth and maintaining the balance of the economy. Committee has commissioned studies on the operation and impact of monetary policy in selected countries.

social partners. The agreement is, typically, quite detailed and is tailored to meet the prevailing circumstances. It often covers not only industrial wages and prices, but also wages and salaries in the pulic sector, agricultural incomes, rents, distributive margins, dividends, etc.; and the package may include government commitments with regard to taxes, monetary policy, and so on. Implementation usually relies heavily on the discipline of the social partners, but is often backed by statutory powers for referring wage and price increases to some review body, or for compulsory arbitration, or for price and wage controls.

90. The "guidelines" approach is typified by the policy followed between 1962 and 1968 in the United States. The government, with or without the agreement of the social partners, announces the general principles of non-inflationary price and wage behaviour, together with the qualifications necessary to render these principles applicable to specific cases. Implementation generally relies heavily on mobilizing public opinion; it may be supported by bringing informal pressure to bear on important wage and price decisions, and by setting up official or semi-official bodies to which these decisions can be referred.

91. There are, of course, many variants between these extremes, as is illustrated by the chequered history of price-incomes policy in the United Kingdom. It should also be noted that quite a number of countries in Europe, including several of those who have not gone far towards establishing a comprehensive price-incomes policy, have made considerable use of price control of one form or another; and that minimum wage legislation plays an important role in income determination in a number of countries.

92. The record seems to show fairly clearly that price-incomes policy of both the national bargain and guidelines variety has succeeded in restraining price rises for periods of up to one to two years. Recent examples are provided by the United Kingdom in 1966–67 and Finland in 1968–69. To what extent any long-term success has been achieved, is, however, more doubtful and controversial.

93. As far as the major countries are concerned, the question cannot really be asked, since none of them have as yet pursued a coherent price-incomes policy for long enough to permit proper judgement. It could, of course, be argued that the fact that these policies have been modified or abandoned in several of these countries is sufficient proof that they are unworkable. Many would regard this as debatable, since the initial efforts may have been over-ambitious, and the on-and-off record owes much to fluctuating political fortunes.

94. Some other countries—for example, Austria, the Netherlands and Norway—have been pursuing a form of price-incomes policy for a much longer period. Judgment of the results achieved is, however, rendered difficult by the very large extent to which their economies are influenced by external developments. In these circumstances, effectiveness of price-incomes policies must be judged mainly in terms of the contribution they have made to reconciling the maintenance of external equilibrium with high levels of employment, and the promotion of constructive and relatively peaceful industrial relations. Judged against these standards, rather than against the observed rate of price increase, the record of a number of the smaller countries would seem to compare quite favourably with that of the larger countries.

The problems encountered—incomes policy

95. The major problem encountered in trying to build up a price-incomes policy is obviously the heavy burden of responsibility it imposes on the social partners. They are called upon to exercise moderation in the pursuit of their legitimate interests. Viewed from the top, the proposition that if money incomes and profits rise faster than national productivity the consequence will not be higher real incomes and profits but rising prices is impeccable. But it is not true when applied to individual groups or enterprises. It is thus all too easy for leaders on both sides to be pursuaded into accepting over-ambitious commitments on behalf of their members.

96. On the side of labour, these strains have been apparent in black-market wages, wage-drift, break-away unions, unofficial strikes and militancy on the shop floor. They may also have been partly responsible for the tendency observed in some countries for the locus of wage negotiation to shift down from the national to the plant level. In several countries trade union leadership has become increasingly reluctant to participate in the formulation and implementation of price-incomes policy. The strains on the employers' side have been less obvious and have received less attention—partly, perhaps, because in general less emphasis seems to have been given to the employers' role in the inflationary process (on both the wage and the price side).

97. A second problem area concerns the appropriate guidelines where prices are already rising at a significant pace. Difficult judgment is involved in establishing realistic targets: on the one hand, it has to be recognized that a price-wage spiral cannot be halted overnight; on the other, that full compensation for price increases in wages, and cost increases in prices, will perpetuate the spiral. These conflicting considerations also lie at the heart of the controversy concerning wage (and price) indexation. Some form of real income guarantee may be a necessary and desirable part of an overall bargain, but not if it is too rigid or quick-acting. It is interesting in this respect that Finland, and more recently Denmark, have acted to modify or abolish their very widespread and automatic systems of indexation.

98. There is a wider problem of the realism of price-incomes policy objectives. Because of concern that targets may be taken as the minimum basis for price and wage decisions, there has been a natural tendency to play on the safe side. But persistence with unrealistically low targets can, over time, bring the whole policy into disrepute. A recent example is the difficulties that have arisen in Germany because of serious under-estimation of the scope for productivity gains and non-inflationary wage increases in 1968 and 1969 at the time the "concerted action programme" for those years was established.[2]

99. A third set of problems relates to income differentials and the position of lower-paid workers. Here again, it is easy to be over-ambitious, with leaders agreeing to action in favour of the lower paid which is not, it subsequently turns out, acceptable to those higher up in the hierarchy of wages and salaries. Similar difficulties arise when legislative action is taken, for example, to raise legal minimum wage rates or to provide equal pay for women. Experience has continuously illustrated the tenacity with which existing wage differentials are defended. This has been another factor behind the phenomenon of wage-drift in Scandinavia and elsewhere. It is also evident in the rather widespread increase in the organisation and militancy of white collar workers during the 1960s.

100. The evolution of price-incomes policy has also focussed more attention on non-wage incomes. As foreshadowed in an earlier OECD report, countries have adopted rather different approaches to this problem, some putting most emphasis on competition and price policy, others seeking to establish a more direct policy for non-wage incomes.[3] One question about the more direct approach is how far fiscal measures, which may be accepted as a satisfactory *quid pro quo* by union leaders, are recognized and accepted as such by the rank and file lower down.

101. More generally, it is probably true that the search for price-incomes policies has tended to bring into the open issues concerning the distribution of income (and wealth) which until then had been lying dormant because of lack of information, the fragmentation of opinion, and the absence of any national forum in which they could be effectively raised. Where this has happened, policies and guidelines which implicitly take the existing distribution of income and wealth for granted have come under increasing attack from many different directions.

The problems encountered—price policy

102. Experience has tended to confirm the judgment that a comprehensive system of *price control,* in the strict sense, raises almost insuperable administrative difficulties; and over a number of years it would have harmful effects on efficiency. At the same time, however, quite a number of countries have made use of *temporary price and/or wage freezes.* It seems that in particularly difficult inflationary situations action along these lines can help to bring about a break in the price-wage spiral. But there is also a danger that price and wage increases accelerate again sharply as soon as these controls are relaxed or removed. The use of such measures, therefore, requires skillful timing within the framework of a comprehensive overall programme of appropriate fiscal, monetary and other policies.[4] In the last two or three years this has been attempted—with varying degrees of success—in the United Kingdom, France and Finland, and, more recently, in the Netherlands, Sweden, Denmark, Norway and Ireland.

103. With regard to the longer run, a number of countries have been giving increasing emphasis to what is often called an *active price policy,* including the use of various techniques of price supervision. The problems encountered have been relatively familiar and will only be sumarized briefly. Simple rules—such as that only increases in external costs may be passed on in higher prices—have to be qualified and elaborated to take into account factors such as self-financing ratios, rates of return on capital, price trends in export markets, etc. Experience has also shown, however, that more complex and qualified guidelines can provide scope for collusion between employers and employees in seeking to gain approval for both unjustified price increases and above-average wage increases.

104. In the implementation of an active price policy, it has proved difficult to avoid giving undue emphasis to restraining price increases in low productivity growth sectors, rather than to the promotion of price reductions in high productivity sectors. Selective action on politically sensitive prices, or on

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[2] See note on German experience, Annex 1.

[3] "A direct policy for non-wage incomes might be considered to comprise, first, watching the development of the major categories of non-wage incomes; second, obtaining general agreement as to what should be regarded as the appropriate behaviour of these incomes; and, third, correcting any disproportionate movement by tax changes or other means. This type of approach may not be a substitute for an active price policy: in practice, the two approaches may need to be complementary". *Policies for Prices, Profits and Other Non-Wage Incomes,* OECD, Paris, 1964, para. 118.

[4] In this context the flexible techniques used in France, e.g., through "contrats de stabilité" and contrats de programme", may be of interest to other countries.

price decisions most easily susceptible to government influence, may also have led to some distortion in price structures.

105. Despite these difficulties, a number of countries have felt it worthwhile to devote considerable resources to building up the necessary expertise required for effective price supervision over the longer run. It would seem that these efforts should be pursued, and that in some countries there is considerable scope for action along these lines.

Wages and prices in the public sector

106. It is now widely accepted that wages in the public sector should not be allowed to lag seriously behind those paid for similar occupations in the private sector. Experience in the 1960s has tended to confirm an earlier judgment that ". . . time passes and a day of shocked surprise comes when it is found that school teachers, or civil servants, or bus-drivers have been woefully neglected. The result is a wage adjustment of a size that should never happen in the interests of stabilization policy, which is bad in itself and bad as an example".[5] On the other hand, however, there have been a number of cases where a wave of inflationary wage claims appears to have originated in the public sector, which includes a number of strongly unionized occupations. If the government is to ask employers and employees in the private sector to exercise moderation in the face of pressures coming from the market place, it must surely be prepared to resist political pressures in favour of over-generous wage settlements in the public sector.

107. In a number of the smaller Northern European countries arrangements have gradually evolved under which wage and salary negotiations for public employees take place shortly after the main settlements have been reached in the private sector. In France, the recent collective bargain reached for the nationalized gas and electricity supply industry contained interesting arrangements to provide some assurance that wages and salaries would move broadly in line with prices and incomes in the rest of the economy. Other countries should be urged to consider whether they would not benefit from the experience acquired in these countries.

108. It should be noted that the public sector includes many relatively low-paid occupations. Negotiations, therefore, raise in an acute form the problem of the desirability, and at the same time the great difficulty, of giving above-average increases to low-paid workers, already discussed above.

109. With regard to prices charged by public utilities and other nationalized industries, governments are often tempted to intervene in the light of conjunctural or other political or social considerations. But the arguments against policies which eventually lead to abrupt and large increases in the public sector apply just as much to prices as they do to wages. Thus, prices should normally be raised fairly smoothly in line with costs; the latter being calculated on the basis of proper economic criteria, allowing for a wage rise no faster than in the private sector. There may, however, be some scope for limited flexibility in the timing of price increases according to the point reached in the general price/wage spiral.

The future of price-incomes policies

110. It would be unrealistic not to recognize that the difficulties just discussed have proved more serious than was envisaged by advocates of incomes policy a decade ago (including the OECD). Some governments may have pinned too much faith on price-incomes policies and neglected to give sufficient weight to other essential aspects of stabilization policy. In particular, it has been demonstrated only too often that—even where conditions are favourable to the application of price-incomes policy—the emergence of excess demand quickly undermines the basis for such a policy, and may well do long-lasting damage to the institutional arrangements and mutual understanding upon which it has been based. After the experience of the 1960s, there is certainly no justification for any country to regard price-incomes policy in any way as a substitute for proper demand management policies.

111. Critics would, of course, go further and claim that price-incomes policies have been proved to be unworkable, if not positively harmful. They argue that the whole concept of these policies is fundamentally inconsistent with the open and decentralized system of political and economic organisation on which Western societies are founded.

112. An effective price-incomes policy, it is true, implies—almost by definition—that consideration of the common interest has to some degree been injected into individual wage and price decisions. Some find it natural that the social partners should seek to achieve this through their own efforts, and through consultation with each other and the government; others are opposed on ideological grounds. But these differences in value judgments, however strongly held, should not be allowed to obscure the fact that inflation has become an increasingly serious problem. The question that must, therefore, be asked of opponents of price-incomes policies, is whether continuing, and perhaps accelerating, inflation might not engender changes in present economic and political systems far more unacceptable to middle-of-the-road opinion than would be involved in a relatively small shift towards taking more account of the common interest in making price and wage decisions. Such a shift might, of course, only make a relatively small contribution to greater price stability. But this would, nevertheless, be very welcome, since the essential problem is to keep price increases below the threshold at which inflationary expectations acquire a momentum of their own.

CONCLUSIONS

113. To those who accept this proposition, the question remains of how, in practical terms, to make price-incomes policy more effective over the longer run. This, no doubt, depends a great deal on the attitudes, institutions, economic structure and political philosophy of the country concerned. In some countries institutional changes will, no doubt, be required to promote better synchronisation of wage negotiations, and provide a more rational framework of industrial relations with respect to such things as the definition of bargaining units, arbitration and procedures for settling disputes, the legal status of collective agreements, etc.

114. On a wider plane, there may be a question as to whether in the past too much emphasis has been put on the role of unions in moderating wage increases and too little on the role of employers in granting inflationary wage increases and passing them on into prices. The basic aim, after all, is to get better price stability, not just for a few politically sensitive prices, but over the whole range of prices throughout the economy. Employers have a particularly direct concern with the continuation of economic growth and rapidly expanding markets. Perhaps more could and should be done to encourage them to exercise moderation in their price decisions, and to organise themselves better to resist pressures coming from the over-aggressive use of market power on the part of certain unions.

115. Elements of price-incomes policy can make a valuable contribution to breaking a wage/price spiral as part of an overall stabilization programme, although a flexible approach and careful timing are required to avoid a recrudescence of inflationary pressures when the time comes to start relaxing restrictive policies.

116. The extent of the need for price and incomes policies over the longer run no doubt varies from country to country. But wherever they are needed—and whatever they are called—effective price-incomes policies are likely to require wide-spread support; it is unfortunate if they become a plaything to be picked up or dropped by opposing political parties. It is also a mistake to base price-incomes policies too heavily on balance of payments considerations; this has been particularly apparent during the last 18 months of generalized inflation. Further, while institutional arrangements are of considerable importance, the basic requirement is for a better understanding of the issues, and more willingness to give greater weight to common as opposed to sectarian interests. This means also that the social partners have to be closely associated with the formulation of the whole range of policies needed to maintain reasonable price stability.

117. Finally, there is a question of whether the name "price-incomes policy" (and its variants) has not outlived its usefulness. Many of the subjects discussed in the next section of this report can quite legitimately be thought of as forming part of a policy for prices and incomes. The problem is inflation, and what is needed is a positive policy against inflation right through the private and public sector.

C. POSITIVE PRICE POLICY THROUGH THE WHOLE RANGE OF GOVERNMENT ACTIVITIES

118. Firm fiscal and monetary policies, supplemented where possible by some form of price and incomes policy, must be the basic ingredients of successful action against inflation. In many countries, however, there is a growing body of opinion that the operation of demand management and price-incomes policies within politically acceptable limits may not be enough to achieve and maintain reasonable price stability. The remainder of this report therefore considers the scope for anti-inflationary action outside the broad framework of the policies so far considered. The underlying theme is that governments should strengthen their procedures for examining the price implications of each and every one of their activities. The immediate object should be to introduce procedures for taking account more consciously of the price implications of proposals for new governmental initiatives, and to embark on a review of the price implications of those existing policies which seem to provide the most obvious scope for a significant contribution to greater price stability.

119. The main areas for possible action discussed below concern: further trade liberalization, tougher and more extensive competition policies, less protection for uncompetitive sectors and industries, stronger manpower and regional policies to ease structural adaptation, and more efficient public expenditure and social policies.

120. Although it has not been possible to make more than a rapid review of the possibilities, it is hard to escape the conclusion that the scope for anti-inflitionary action over both the short and the longer run—for example, in the fields of trade, agricultural and industrial policies—is considerable.

121. The objective in exposing the private sector to more effective domestic and international competition should be not only to attain some once-and-for-all cuts in the price level. Protection, at least in its more harmful forms, makes a dynamic contribution to inflation through weakening resistance to a continuing process of cost and price increases. The larger the protected sectors in relation to the economy as a whole, the greater will be the momentum behind the inflationary process.

122. All instances of industrial or agricultural protection exist for understandable

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[5] *Report on the Problem of Rising Prices, op. cit.*, p. 60.

reasons, and to reduce or remove them would be politically painful. The key question, however, is what the alternative course of action is, in circumstances in which inflation is in some countries posing a threat to the continuation of full employment.

123. Taking any of the suggestions made below in isolation, it may be easy to argue that their contribution to the solution of the inflationary problem would hardly be worth the political and other difficulties involved. However, the fact is that all Member countries have to some extent carried over from the 1930s (and earlier) protectionist and interventionist attitudes and institutions which may have been justified under conditions of periodic and inescapable recessions, but are not under conditions of guaranteed high employment.

124. As regards social policies, inefficiencies in expenditure in achieving properly defined social objectives are inflationary to the extent that taxes are, as a result, higher than they need be. In such cases, inefficiencies in the public sector have just as much inflationary potential as when prices in the private sector are higher than they need be to provide a reasonable return to the capital and labour employed. The inflationary potential in public expenditure on social services must, *a priori*, be great.

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INFLATION—THE PRESENT PROBLEM

ANNEXES B: ADDITIONAL MATERIAL RELATING TO PART III B OF THE REPORTS PRICE-INCOMES POLICIES IN SELECTED COUNTRIES

B.1 Austria

Since the late 1920s, the determination of a wide range of prices and wage rates in Austria has been controlled or supervised either officially or by semi-official commissions of various kinds. Present mechanisms for dealing with wage and price questions are, then, a further development of well-established institutions.

After the war, the chambers of trade and industry, agriculture and labour and the trades unions assumed major responsibility in management of the economy and in prices and incomes policy, establishing in 1947 an Economic Commission "to observe the economic situation, and to put recommendations to the Government appropriate to the healthy development of the economy". Shortly after its establishment, an agreement was reached, fixing prices and wage rates for a three-month period. In the conditions of rapid inflation following the disappearance of wartime controls, the success of the agreement was rather limited. Nevertheless, close co-operation and discussion among the chambers continued and further agreements were reached in each of the four years to 1951.

In the autumn of 1951, the Federal Chamber of Trade and Industry and the Federation of Austrian Industry appealed to entrepreneurs not only to desist from price increase but, where possible, to reduce prices. At the same time, the Trades Union Federation declared itself ready to postpone wage demands for a period. The result was striking. Even without severely restrictive fiscal and monetary measures, many important prices were reduced by some 5 per cent, and there was a wage pause until the end of 1953.

Partly as a result of the great success of the 1951 agreements, the 1953–57 period was characterized by somewhat less active incomes policies than those in the preceding and following periods. At the same time, the annual rate of price increase (2.5 per cent for consumer goods) was relatively high. The final two years of the period produced an upswing in the economy which resulted in an acceleration in price and wage increases.

In March 1957 the then existing Economic Commission was replaced by a Parity Commission, composed of four representatives of the Government, two representatives of each of the Chambers (Federal Chambers of Trade and Industry, Labour and Agriculture) and two representatives of the Federation of Trade Unions. Membership was not compulsory and the Commission was given no formal legal basis. Its primary task was to implement voluntary control of price and wage movements in the interest of currency stability.

Problems arising in the first years of operation led to a number of changes in the structure of the Commission. A first major re-organisation took place in 1962 and included:

(*a*) Setting up of a Sub-Committee for Wage Questions alongside the Sub-Committee for Price Questions which had existed since the setting up of the Parity Commission.

(*b*) An extension and improvement of the system of price control.

(*c*) Assignment to the Parity Commission, in addition to its wage and price responsibilities, of the right to discuss and make recommendations on basic economic questions.

This reform was extended in 1963 by an agreement which provides for:

(*a*) Modification of price and wage controls with the aim of improving effectiveness.

(*b*) Formation of a "Council for Economic and Social Questions" within the framework of the Parity Commission.

Membership of the Incomes Sub-Committee is confined to representatives of the employers and employees (two each from the Trade Unions and the Federal Chamber of Trade and Industry, one each from the Chambers of Labour and Agriculture). The Committee meets fortnightly and can make decisions only on the basis of unanimous vote. In cases where no decision can be reached within six weeks, the case must be referred to the Parity Commission which must then reach a decision within five weeks.

The procedure under which wage questions are handled by the Sub-Committee is now well-established. An individual union requests revision of a contract, not directly to the Sub-Committee, but via the Trades Unions Federation. This allows the Federation an opportunity to sift, phase and standardize wage demands before they are presented to the Sub-Committee. The Federation presents the union demands to the Sub-Committee and requests that negotiations be allowed to proceed. The Sub-Committee may then approve immediate negotiations, ask for further information, recommend a postponement of negotiations, or refer the matter to the Commission. It *must* follow the latter course of action if the proposition is of basic significance to the economy, or if it is likely to result in price increases. The negotiated agreement must again be submitted to the Sub-Committee which may again request information, delay implementation or refer the agreement to the Commission, etc.

Smooth operation of the Incomes Sub-Committee presupposes, of course, well-disciplined, centralized trades unions willing to sacrifice part of their sovereignty in favour of the Trades Unions Federation and the Commission. In fact, such conditions do exist in Austria. There are only 16 unions and they are centralized with their membership defined by industry grouping. Wage negotiations may be carried out at regional and plant levels, but wage agreements are the prerogative of the national authorities of the union under powers delegated by the Trades Unions Federation.

On the employers side, too, negotiations are conducted on a well-disciplined, centralized basis. The degree of centralization is reflected in the fact that about one-third of all agreements are national and about two-thirds are regional. The number of plant agreements is small (about 2 per cent of the total).

For the most part, wage agreement involve alteration by a fixed percentage of the basic rate in an existing contract, although changes in working hours and other employment conditions are, of course, included from time to time. Agreements are usually reached without resort to strike action. Especially in recent years, the number of working days lost through strikes has been insignificant. Direct Government interference in wage bargaining has not been of significance since the early post-war years, official influence being confined to that exerted by Government representatives in the Parity Commission (i.e. the main body, *not* the Incomes Sub-Committee).

For the last decade or so, during which time incomes policy has been operating in something close to its present form, the annual rate of real GNP growth *per head* in Austria has been roughly the same as in Germany; i.e. about 4 percent. This has been achieved, moreover, in conditions of full employment and relative price stability. As far as cyclical fluctuations are concerned, it is clear that, on various occasions, decisions of the Parity Commission have produced a significant smoothing of cyclical fluctuations. The fact that at other times fluctuations may have been aggravated was a result of faulty diagnosis of the economic situation rather than of defects in incomes policy as such. In recent years, the contra-cyclical operation of incomes policy has been rather marked. Wage increases were agreed and granted in 1967 in spite of the recession; during the subsequent upswing great restraint was exercised and the balance of payments situation was not endangered. This year, however, with the inflationary tendencies of the late stage of the upswing aggravated by demand and cost pressures emanating from Germany, incomes policy has begun to come under pressure.

B.2 Canada

Aside from wartime controls, Canada has only very recently begun to experiment with a kind of incomes policy. As recently as 1966, the Economic Council of Canada, an independent but semi-official organisation, concluded that an incomes policy would fail to meet effectively the problem of maintaining reasonable price stability at high levels of employment in Canada in view of: [1]

(1) Division of jurisdiction between federal government and the provinces in key legislative areas relating to an incomes policy. The Federal government has no power to institute direct wage-price controls, and could use in large part only purely voluntary methods of inducing wage restraint, since the provinces have the major constitutional responsibility in the area of labour relations.

(2) Large regional differences, making it difficult to establish uniform guidelines all over Canada.

(3) Decentralization and local autonomy of both labour unions and employer organisations, making general agreement difficult. Moreover, only about a third of the labour force is organised.

(4) The strong influence in key production sectors of foreign trade and other external factors (e.g. wage parities with U.S. workers).

But the persistent and accelerating cost/price spiral in a situation of increasing slack which prevailed after 1966, and the resultant erosion of confidence in demand management, led to the establishment in May 1969, of an independent Prices and Incomes Commission "to enquire into and report upon the causes, processes and consequences of inflation and to inform those making current price and income decisions, the general public and the government, on how price stability might best be achieved".

In August 1969 the Commissions requested business, professional groups, labour and Government to co-operate in the creation of a comprehensive package of income restraint.

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[1] Economic Council of Canada, *Third Annual Review*, November, 1966.

A national conference was planned for December, in order to secure general support for voluntary price/wage curbs. But labour unions were not convinced that their interests would be safeguarded, especially where non-wage incomes and wages and salaries of non-organised workers were concerned, and in mid-October ruled out agreement on any formula including wage restraint. They had already rejected one specific formula holding wage increases to 5 per cent, if price increases did not exceed 2 per cent annually, and proposing a justification procedure for any price increases above this limit.

The Commission then shifted to a sequential approach in an attempt to enlist the cooperation of other groups before resuming discussions with labour unions. In order to forestall the threat of large price increases before agreement could be reached, the Government, early in January 1970, asked business in some sectors to delay price increases until March.

Early in February, the Prices and Incomes Commission convened a national conference on price stability, with 250 business and professional leaders. The resulting agreement tentatively commits business firms to reduce the number and size of price increases they would normally make in 1970. Specifically, price increases were to be somewhat smaller than needed to generate revenue equal to cost increases. As a supplementary measure, a system of price reviews was agreed upon, providing advance notice, in some cases, for planned price increases. One week later, in a federal provincial conference of government leaders, provinces gave their broad support for the programme of voluntary restraints, and stated their intention to apply to proposals of the Prices and Incomes Commission within their own jurisdiction, as far as their particular circumstances would permit.

Following the conferences the Commission reopened discussion with labour, but with little success. In June 1970 the Commission made a public proposal for a wage yardstick. An upper limit of 6 per cent for first-year wage contracts was proposed, consistent with a long-term-average productivity growth of two and of a half to three per cent a year, plus some three to three and a half per cent increase in the consumer price index during the following 12 months. There were, however, no recommendations for action in cases where this yardstick might be exceeded. The Federal Government supported these guidelines as an indicator for the general public, but most provinces have shown themselves reluctant to exert pressure for compliance.

Labour unions, in a subsequent meeting with the Commission, rejected the guidelines, advocating instead a national conference between government, labour and business, to consider a new approach to present economic problems in terms of a broader incomes policy concept. The Government has indicated some interest, but nothing has been made public so far, as to if, and when, and under what terms of reference, such a meeting might be convened.

With increasing economic slack, prices in Canada have shown a distinct slowing tendency recently, but wage settlements continue to be high, and cost pressures quite strong.

B.3 Finland

Centralized collective settlement, wage indexation, maintenance of farm incomes, and price controls have been characteristic of Finnish incomes determination throughout the post-war period. Following the 1967 devaluation, however, there was widespread acceptance of the view that some urgent and new approach to economic policy was necessary. The Stabilization Agreement of 1968 accordingly provided for abolition of indexation. The general increase in wages in 1969 was to be about the same as the increase in productivity i.e., 3–4 per cent. However, the wage increases were not to be granted in percentage form but by a flat-rate increase of 16 pennies an hour (equal to 3.5 per cent). As part of the general agreement there were to be controls on prices and rents, and the Government was to control agricultural prices and thus incomes. A Prices and Wages Council was established on a tripartite basis. The wages section has not met. The prices section adopted the general principle that wage increases were not to be permitted grounds for price increases although exceptions were made for labour intensive industries and the service sector.

In September 1969, a Second Stabilization Agreement provided for a general flat-rate increase of 18 pennies an hour, or by one per cent should the 18 pennies an hour increase be less than one per cent; a further increase of one per cent to be allocated as the social partners in each sector or branch decided.

Price control was fairly comprehensive under the First Agreement but modified a little under the Second. Seventy per cent of the cost-of-living index is covered by price control. Prices are frozen at the levels existing on some particular date, as are profit margins and retailers' margins. Any customer can complain to the price inspectorate that prices have been improperly increased. If the complaint is found justified, fines are levied in relation to the improper profit made.

A number of semi-finished products are excluded from control, since it was thought that control over the final price would exercise some restraining action as purchasers would refuse to pay higher prices for bought-in components.

In the present circumstances, it has been widely agreed by both social partners that the central wage settlements would not have been possible without the price controls. In principle, therefore, there is agreement on the inter-dependence of wage and price restraint and an acceptance that the controls on prices can, and need to, be more strict than those on wages. During 1968–69, for example, real earnings in industry rose 6.3 per cent while prices advanced only 2.3 per cent. Wage drift has occurred in certain sectors amounting to around 2–3 per cent in 1969.

There is little doubt that Finland has been successful in restraining the increase in money wages in the last two years. The policy was introduced in a period of economic emergency that was recognized as such by the general public. This meant that there was a tremendous fund of goodwill towards the policies and a great willingness to cooperate and exercise restraint. The economy is now booming and there have been considerable improvements in real income, some 5–6 per cent per annum in 1969 and 1970 and it cannot be excluded that the fund of goodwill may now be diminishing.

B.4 Germany

Attempts to formulate an incomes policy in Germany and to establish criteria for wage settlements compatible with full employment growth and monetary stability can be traced back to the mid-1960's. In their Annual Report for 1964, the Council of Economic Advisers argued that "if the cost level is not to rise, nominal wages under certain conditions—especially monetary and external equilibrium—may not rise by more than the (average) percentage increase in productivity per man-hour in the economy. If, however, the share of capital costs in total falls . . ., or if the terms-of-trade improve, additional room is created for wage increases over and above the increase in productivity in the economy, without a rise in the cost level. The converse is, of course, also true". The report goes on to suggest that "it may be appropriate to make optimistic estimates of the productivity increase in the economy, in the hope that a certain wage (cost) pressure will strengthen rationalization efforts by entrepreneurs" but that "care must be exercised in phasing increases in employers' contributions to Social Security since abrupt increases reduce the scope for 'cost-neutral' wage settlements". The Council did not, however, advocate a strict application of these rules. "When an individual sector of the economy has an insufficient supply of labour, wage increases must exceed the norm, if necessary substantially, in order to provide an incentive to mobility into this sector. Conversely, in sectors where a contraction in the labour force is necessary, wage increases must be below the norm".

The principle of a productivity oriented wage policy has been repeatedly reiterated in later reports of the Council where also the concept of "concerted action" has been developed.

The underlying premise that responsibility for overall economic performance rested equally with government, management, and labour was sanctioned by the Growth and Stability Law of 1967 which, among other things, provided for the co-ordination of private decisions and official economic policy as specified in an annual forecast (by means of periodic consultation). Since February 1967 participants (representatives of the employers' associations, the trade unions, the Council of Economic Advisers, the Bundesbank and the Ministries of Economics and Finance) have met several times a year at irregular intervals. It was in no way intended that such coordination should reduce the autonomy of employers or employees in wage bargaining but rather that, through the provision of quantified information, employers and employees should be made aware of the economic implications of their decisions.

The introduction of "Concerted Action", coincided with the introduction of official quantitative forecasts, and the institution enjoyed a certain success in its early stages. Following wage reductions in certain industries during the first half of 1967, the participants agreed "that a policy of reducing wages hinders the recovery required in economic activity and is, therefore, contrary to the interests of all parties". This avoidance of too great a weakening of wages led the participants to conclude in early 1968 that the programme had "in the past year made a significant contribution to an improvement in reciprocal information and resulted in more rational decision making". In 1968 the task of incomes policy was much more complicated. Confronted with indications of a strong recovery in 1968 the Council of Economic Advisers estimated as possible upper limit of real GNP growth of six and a half per cent, but the Government decided on a much more cautious policy envisaging a GNP growth rate of 4 per cent and postulating a norm for increases in wages and salaries of 4–5 per cent. As in the previous year, the participants agreed "to support the Government target for 1968 by their autonomous decisions".

Wage agreements in subsequent negotiations fell within the recommended 4–5 per-cent, and the trade unions also committed themselves to longer-term contracts with a norm of this order. For example, an important agreement with the 4 million strong Metal Workers' Union in May 1968 had the following provisions: duration 18 months; a wage increase of 4 per cent on the 1st April 1968 and 3 per cent on the 1st January 1969. The agreement also improved protection against redundancy.

Actual growth of real GNP, however, was well above the official target, and even, at 7 per cent, a little above the optimistic variant of the Council of Economic Advires' forecast. The wage-lag rather than being moderated, was even more pronounced than in previous cycles, resulting in a distinct cooling of union enthusiasm for the programme. When the Government presented its target forecast for 1969 of four and a half percent growth of real GNP (actual outturn 8 per cent), and a wage norm of five and a half-six and a half per cent, the participants were able to reach agreement only on "the necessity of cautious and well-balanced policies in order to protect the overall equilibrium of the economy." Wage rate agreements in the following months resulted in increases of about seven and a half per cent, and the agreement in the Metal Working Industry involved a wage increase of 8 per cent with a contract to run 13 months. This was generally considered to be moderate.

By the autumn, with a situation of excess demand in the labour market, a wave of wildcat strikes forced employers to re-negotiate unexpired contracts with the result that during the fourth quarter wages and salaries showed a twelve and a half per cent increase on one year earlier. This implied that the share of compensation of employees in national income was restored to the 1965 level which the Council of Economic Advisers had considered to be sustainable in the long run.

Following the failure to reach agreement on the general direction of economic policy and on incomes policy in particular, the official 1970 target projections did not explicitly put forward a wage norm, and wage settlements have continued at a level far above productivity growth. The recent government guidelines for 1971 have also been rejected by the unions because of the lack of more specific guidelines for profits and prices.

B.5 The Netherlands

The Dutch experience with incomes policy has been continuous over the post-war period. Until 1959, wage regulation took the form of what was called "Guided Wage Policy". The general principles of the Government's wage policy were worked out and laid down by the Social Economic Council, on the basis of a Royal Decree.[2] Negotiations for collective agreement took place on the basis of directives issued by the National Board of Mediators[3] and were generally collective agreements covering all industry, although the National Board of Mediators could approve extra wage increases for selected industry branches in special cases. Any agreements between employers and employees were subject to the approval of the National Board of Mediators, and labour conditions might be directly affected by regulations issued by the Board on the basis of general directives from the Minister for Social Affairs and Public Health. During this period, wage settlements took the form of general rounds of wage increases so regularly that this has come to be identified with "Guided Wage Policy" as such.

Partly in the hope of introducing more flexibility into the process of wage determination, and partly in the hope that a new system would reduce the extent of government interference in labour relations, important changes were instituted in 1959. Under the revised system, a differentiated wage policy was introduced which would permit wages in each sector to be determined primarily on the basis of productivity advances in that industry itself (although considerations obviously had to be given to the general rate of productivity advance). The new system, it was argued, would provide the foundation for the price policy as well, since wage increases were only permitted when increased labour productivity made them possible. This, in turn, implied price stability except in cases where productivity seriously lagged behind. In such cases, wage increases which exceeded productivity advances (and, hence, implied price rises) were to be counterbalanced by wage increases lagging behind productivity advances in exceptionally efficient industries (the difference to be reflected in compulsory price cuts).

After the first two years, however, the system began to break down. As the highest productivity rates are usually achieved in the same industries over an extended period of time, undue disparities between the income levels in the different industries appeared. Second, the constant need to verify productivity justifications for proposed wage increases led to continual interference by various government bodies, especially the National Board of Mediators. Finally, the system was introduced during an upward phase of the trade cycle so that employers were more and more willing to pay wages higher than those specified by the criterion (1–2 per cent more than productivity growth).

In November 1962, another revision was introduced which had two principal aims:

1. The role of government in labour relations was to be further reduced;

2. Wage increases were to be related to overall economic situations (state of the labour market, productivity, foreign wage cost trends, balance of payments considerations, etc.), rather than simply to productivity in individual industries.

The revision transferred powers to approve wage (and other labour) agreements from the National Board of Mediators to the Foundation of Labour,[4] but with numerous reservations. The Foundation's approval was to be given in the light of norms for the growth of overall wage rates compatible with the half-yearly reports of the overall economic situation prepared by the Social Economic Council and accepted by the Government. If the Foundation approved an agreement which the National Board of Mediators considered not in keeping with the norms, the Board could advise the Minister for Social Affairs and Public Health to declare the agreement non-binding. Should the Foundation be unable to reach a decision about an agreement, the Board was to decide whether to approve or not. If the Government considered that waged developments were threatening overall economic policy aims, it could impose a wage pause of 1–2 months' duration during which time no new agreements would be approved. During the pause, the Government would consider further advice from the Social Economic Council and consult with the industrial organisations. If suitable agreement could be reached, normal procedures would be resumed. If not, the Government could:

1. Impose a wage freeze;

2. Place the entire negotiating process back under the direct authority of the National Board of Mediators;

3. In the latter case, it could issue general directives (including the setting of maximum permissible wage increases) to the Board.

For a variety of reasons (entry into the EEC where real wages were generally higher than in the Netherlands, possible under-valuation of the florin, over-full employment, discontent with the lengthy discussions and intervention involved in wage administration), none apparently closely related to the institutional structure of the 1962 system, wages exploded in the autumn of 1963. Average pay increase per worker in 1964 was 15 per cent and in 1965 another 11 per cent. In late 1965, the Foundation of Labour was unable to agree on a 1966 wage policy and the Government urged that contract renewals should not exceed a basic average increase of 7 per cent. By May 1966, agreements covering almost 600,000 employees and anticipating increases averaging ten and a half per cent were still pending. The Government, therefore, decreed a wage pause (to last until mid-July) and decided to restore full authority to the National Board of Mediators to approve, delay, suspend and freeze wage agreements. The May 1966 measures were accompanied by compulsory price controls according to which:

1. Any proposed price increase would have to be approved by the Ministry of Economic Affairs;

2. Only rises in external costs could be passed on in prices;

3. Any fall in external costs had to be reflected in prices;

4. Traders were not to increase their money profit margins.

The Government fixed maximum wage increases to take effect from January 1st, 1967 at 4 per cent and agreed to further increases of 1.5 per cent as from July 1st, 1967. The price control powers of the Government expired on January 1st, 1967; but the associations of Dutch industrialists, wholesalers and retailers agreed to a programme of voluntary cooperation—in particular, they agreed not to pass money wage increases on in prices. Nevertheless, the Government retained its legal right to reinstate direct price controls should any "unjustified" increases take place.

Perhaps as much because of easing labour market conditions as of effective controls, the wage guidelines were largely observed. As a result of improved wage and price behaviour and of reduced labour market tensions, the requirement for prior Government approval of collective wage agreements was abolished as of January 1st, 1968. In addition to the improved market conditions, a feeling had grown up that, in practice, the guidelines served as a minimum, rather than an average—at least under conditions of "over-full" employment. Besides, it was hoped that restoring freedom to the wage negotiating process would reduce the frictions which had increasingly characterized negotiations within the Foundation of Labour. The Minister of Social Affairs retained the power to invalidate agreements if they threatened the equilibrium of the economy. Otherwise, agreements were to be negotiated on an industry or large company basis independent of Government guidelines.

In an attempt to legalize these provisional arrangements, a draft Wage Law was presented to Parliament in September 1968. The proposed bill recognized the principle of free wage agreements between employers and employees, but retained three lines of defence for the Government. If wage contracts were considered contrary to the national interest, the Ministry of Social Affairs was to have the power:

1. To invalidate wage agreements;

2. To decree a general wage freeze or given limitations to pay increases.

3. As a last resort, to reintroduce, for a maximum period of one year, the earlier system of prior approval of agreements.

The bill immediately met with heavy parliamentary and public opposition, especially from the unions. Even after it had been amended so that the power of the Government to intervene in individual labour agreements was essentially limited to the right to invalidate an agreement if, and only if, it threatened the equilibrium of the economy, the bill was passed only in conjunction with a vote of confidence. In protest against even this retention of power by the Government, several central union organisations withdrew, in early 1970, from further negotiations with the Government and the employers' associations at the national level.

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[2] A body, established under the provisions of a 1950 Act on Industrial Organisation, which consists of representatives of employers and employees, in addition to a number of member appointed by the Crown.

[3] A board established to administer far-reaching powers in the field of wages and other labour conditions granted to the Government under a 1945 "Special Conditions of Employment Order".

[4] A cooperative body of workers' and employers' organisations which grew up during the war years as a means of dealing with problems of labour relations (as well as other, more general, matters) outside the official framework imposed by the occupying Power. It continues to exist and has continued to occupy a crucial, and now officially-delineated, role in labour negotiations.

The long delay in securing parliamentary passage of this bill left the nation with a not very effective wage control procedure through 1969. Partly for this reason, and partly because prices were moving sharply upward for several reasons (introduction of the TVA, increased import prices, and wage cost pressure), the Government began to tighten price control early in 1969 and, in early April, imposed a general price freeze. The step was recognized as constituting, at best, a temporary solution to the inflation problem and the Government sought the advice of the Social Economic Council. The Council proposed a comprehensive anti-inflationary programme which was published in its June 1969 report. The programme spelled out a package of fiscal, monetary and other policy recommendations which, in terms of incomes policy, recommended that:

1. The increase in real disposable income of a standard worker's family (including wage drift) should be held within 2.5 to 3 per cent in 1970.

2. Accordingly, the normal wage increase in collective agreements due for renewal in 1970 should be limited to 5 per cent.

3. The extent to which contractual working hours were to be shortened should be moderated.

4. All collective labour agreements should include a provision that non-recurring compensatory extra wage increases should be granted if the cost-of-living index rose for "relevant reasons" by more than 3.5 per cent.

5. Agreements should also include a clause that, if overall productivity rose faster than anticipated (3 per cent) in 1970, representatives of the employers' and workers' associations should discuss in the autumn the possibility of granting a compensating wage increase.

6. There be no increase in the rates of TVA.

7. Increases in housing rent be delayed by 6 months until 1st July 1970.

Wage negotiations took place at the local and industry level. In late August of 1970, an unofficial dock strike broke out in Rotterdam which quickly spread to other industries.

Coupled with the earlier withdrawal of several central union organisations from national-level negotiations, the strikes and the ensuing events, this meant a serious situation for Dutch wages policy. The central labour market organisations appeared on the scene on 1st September. An agreement was reached providing for a maximum 1970 wage increase per worker in enterprises employing "Koppelbazen" labour of Fl. 400 and for the consideration of the possibility of similar increases in other enterprises. The metal industrial, building and transport workers' unions immediately claimed a full and generalized increase of Fl. 400. By mid-September, the strikers had returned to work on the basis of decentralized agreements. It is difficult to know all the terms with clarity.

The Government announced its 1971 budget proposals on 15th September which, in addition to tax increases and expenditure restraints, envisaged possible imposition of a temporary wage pause under the provisions of the existing Wage Law. The central trade unions opposed the pause as "undesirable, not feasible in practice and economically unnecessary," and the central employers' organisations were also not in favour of it. According to the rules and in order to bring the unions back to the conference table, the Government requested an opinion from the Social Economic Council regarding the pause, the Government programme, and the Government's authority to intervene in particular settlements. On the 19th October, the SEC unanimously recommended restriction of Government intervention in global wage/price policies, including global freezes, and favoured periodic tripartite consultations to assess wage and price trends in view of their cost and demand impact and the development of the main economic aggregates.

The Government accepted the SEC recommendations and, in return, the central labour unions are now prepared to resume consultations within the framework of the SEC. The advice of the SEC on the wage pause and the Government's anti-inflationary programme is still in preparation. On 13th November the Government introduced a scheme for the calculation of generally permitted price increases (taking into account in particular increases in external costs and, as an exceptional measure, the 400 guilder wage increases).

B.6 Norway

Since the war, Norway has pursued a comprehensive incomes and prices strategy comprising price controls and subsidies as well as dividend and wage restraints. While the principle of free negotiation of settlements is recognized, in practice all parties subscribe to the co-ordination of income determination for labour, business, agriculture and fishing.

1945–1962

Until 1952, all wage disputes were submitted to a tripartite wage board primarily oriented towards preservation of industrial peace. Thereafter major responsibility for wage settlements on a collective long-term basis was assumed by the National Labour Union and National Federation of Employers. When disputes were considered detrimental to the national interest, the government could propose legislation reconvening the National Arbitration Board. Contracts generally incorporated an escalator clause permitting renegotiation in the event of a cost-of-living increase beyond the specified ceiling. In order to avoid spiralling costs and prices, the government attempted to stabilize the price level by means of a flexible price control and subsidization scheme to the extent which revenues would allow. Until 1960, dividends were similarly subject to approval beyond a designated limit and for some industries profits were regulated as well. Maintenance of the relative income position of farmers and fishermen became, in view of price controls, increasingly a concern of government.

Consultation among the various interest groups and government as an alternative to competition for bigger income shares developed in the late 'fifties. Following the first informal meeting in 1956 at the invitation of the government, wage agreements and price increases tended to conform to the government's recommended guidelines and, given government willingness to subsidize price stability, held largely within the norms for the contract duration. Negotiations in 1958 resulted in a renewal of the prior agreement with some reduction of working hours, revision of ceilings and corresponding index adjustments and reduction of subsidies.

1962–1970

The 6.5 per cent jump in consumer prices subsequent to the 10 per cent increase in incomes provided for by the 1961 settlement favoured the establishment in 1962 of the unofficial Contact Committee, consisting of the Prime Minister, Finance Minister, Wages and Prices Minister with union, employer, farmer, and fisherman representatives, as an ongoing forum for mutual consideration of incomes questions and information exchange. While this innovation probably contributed substantially to the successfully settlement of 1963 (2.5 per cent incomes increase) it failed to avert the following year's breakdown despite mediation in both union/employer and government/farmer negotiations and the resultant reconvening of the Arbitration Board. (The board's decision allowed for a wage rate increase of 3.2 per cent in 1964 and 1.6 per cent in 1965 with a slightly higher improvement in farm incomes.)

In 1965, an independent Expert Committee was formed to furnish an impartial factual basis for Contact Committee discussions. The Committee's first report (1966) reviewed the economic situation and employed an econometric model to estimate the impact of various wage, farm price, productivity, and import price changes on consumer prices, real incomes, and income distribution. Despite the improved factual and analytical input, the parties were unable to conclude an agreement and the Arbitration Board was again convened, authorizing average wage increases of 4.8 per cent in 1966 and 0.3 per cent in 1967 and farm income advances of 10 percent in 1966 and 3 per cent in 1967. Price advances in 1967, however, activated escalator clauses permitting wage advances not significantly different from the preceding year. The 1967 Export Committee was broadened to include analysts from the negotiating parties as well as government and the Central Bureau of Statistics, and in March 1969 the Committee became a permanent agency reporting to the Price and Wage Minister and the Contact group. The 1968 agreement gave a 4.4 per cent increase in wage rates as compensation for the reduction in the contractual working week from July, a 1.8 per cent special adjustment from mid-May, and a general increase of 2 per cent from the 1st January 1969. The 1970 agreement, also covering two years, allowed for an overall average increase in hourly wage rates in the year of 9 per cent (four and a half per cent per annum over the contract period). In both years compromise settlements were arranged through the intercession of the State Mediator.

In recent years labour costs have increased by some 8 per cent annually, twice as much as the overall increase in productivity. While increases in negotiated wage rates in industry have been moderate, wage drift has been large and relatively stable (3–4 per cent annually). Prices have increased at about the same pace as the average for other industrialized European OECD countries as have unit labour costs.

The merits of the Norwegian incomes policy, besides being an instrument in income distribution, lies in the fact that it has enabled the Government to keep the use of productive resources on a very high level throughout post-war years. While the average increase in prices and production costs does not differ much from developments in most other countries, unemployment has been lower than the European average, and economic growth has been rapid and steady. With persistently strong pressures on resources, unco-ordinated wage and incomes policies could easily have led to larger wage and price increases. Thus, the Confederation of Employers has estimated the average annual increase in negotiated wage rates at 6 per cent in the few years of decentralized agreements, against only half that size in years with co-ordinated agreements. Moreover, in years with decentralized agreements 460,000 days' work were lost because of labour disputes, while the number was only about 70,000 in years with centralized agreements.

B.7 United Kingdom

Pre-1961

Attempts in the late 1940s to contain money incomes to a rise comparable with that of output achieved temporary consensus among trade unions, business and government. The withdrawal of union support in 1950 and subsequent union opposition thwarted further government attempts to maintain some sort of incomes policy and threw more weight on demand management. The only major innovation was the establishment, in 1957, of the Council on Prices, Productivity and Incomes to "keep under review changes in prices, productivity and the level of incomes and to report thereon." The Council's initial emphasis on excess demand was superseded in later reports by concern with cost-push and administered pricing and recommendations were put forward advocating wage and profit increases consonant with long-term productivity trends, lower import duties, and action against price maintenance.

1961–1963

In 1961, despite trade union opposition, a "pause" or temporary halt to increases in wages, salaries and dividends was called for by the Chancellor as one of a number of short-term measures to meet the balance of payments crisis. Public sector wages were restrained but the effects in the private sector were less apparent. In the following year the government moved towards a more permanent form of incomes policy. A White Paper, "Incomes Policy: the Next Step", set a "guiding light" for average wage increases of two and a half per cent, the target being based on recent productivity trends. The basic approach was that implementation would be voluntary, with agreements in which there was government participation or arbitration more directly affected by the policy, and the government assisting on a wider plane by publishing helpful factual information. In the hope of arousing and influencing public opinion the National Incomes Commission was formed in late 1962. Its task was to report on pay claims submitted to it by both parties, or by the government in a restricted range of public sector cases, or to report retrospectively on selected private sector settlements, but without powers of amendment. But the NIC's impact was limited by its terms of reference, trade union opposition to its work and the lack of a secretariat of sufficient size to allow either research on the speedy publication of reports. Wage rates continued to rise at rates well in excess of the "guiding light", despite an upward revision of the latter to three and a quarter per cent in 1963 following a National Economic Development Council report that this was a more appropriate goal for national productivity increases.

1964–1965

In 1964, against the background of a serious balance of payments position, the new Labour Government initiated a strengthening of incomes policy. In December, government, trade union and employer organisations signed the "Joint Statement of Intent on Productivity, Prices and Incomes", in which all agreed to co-operate on the introduction and implementation of new machinery to review prices and incomes and to examine particular cases to see if behaviour was in the national interest. In February 1965 the NIC was succeeded by the National Board for Prices and Incomes, to which the government could refer cases of wage or price increases it wished to have reviewed.[5] The NBPI included members with trade union and business experience, as well as independents. Its work was more informal and private than the public hearings of the NIC, and it had a sizeable staff. In April the government set out very specific criteria by which wage and price changes should be judged.[6] It reiterated the earlier three to three and a half per cent target for the increase in average earnings, but also listed the circumstances to which exceptional pay increases should be confined. The White Paper also set out guidelines for individual price increases and decreases.

By the end of 1965 it was clear that the new policy was having little effect on wages and prices. As only a small number of cases could be handled by the NBPI, the government proposed a system of advance notification of income (including dividends) and price increases. The implementation of the early warning system was delayed, but it was finally incorporated in the 1966 Prices and Incomes Act. The government could require 30 days' notice of wage or price changes, refer them to the NBPI if it so desired, with a further delay required until the Board reported up to three months later. There was no obligation to follow the Board's recommendations.

1966–1969

In July 1966, faced with another sterling crisis, the government introduced deflationary measures and called for a six-month standstill on prices and incomes (including dividends). There followed a further six-month period of severe restraint in which some increases could be justified by exceptional circumstances. The appeal was for voluntary observance of the standstill, but Part IV of the Prices and Incomes Act allowed the government to reverse for a year any price or pay increases since the 20th July 1966. Part IV was brought into force in early October when some cracks in the freeze began to emerge.

The 1967 Prices and Incomes Act introduced the next policy stage, to be operative from the end of the period of severe restraint in mid-year. The norm for price and income increases remained zero, but slightly different criteria which would allow increases were enumerated.

Part IV of the 1966 Act was allowed to lapse in August 1967 but certain reserve powers were retained by the government through the activation of Part II. Thus the provisions for advance notification and the government's delaying powers remained. In June the Part II period of delay was increased to a maximum of six months from the date of reference to the NBPI, and the government adopted powers to suspend price or pay increases implemented before they could be referred to the Board.

In 1968 a reformulation of policy set a three and a half per cent ceiling on pay settlements. The ceiling was to cover all types of earnings, excluding the effect of increased hours worked, and to be applied at an annual rate since the last adjustment in pay. But any increases in incomes or prices now had to satisfy at least one of a number of criteria similar to those in the 1967 Act. Legislation was introduced increasing the delaying powers on price and pay increases to twelve months, requiring price reduction when recommended by the PIB, to moderate and phase housing rent increases and requiring notification and restraint on dividend increases. The powers were adopted for eighteen months, though they were still to be used only when voluntary arrangements broke down.

Early 1969 saw the first moves towards a much more broadly based reform of industrial relations. The White Paper "In Place of Strife"[7] outlined proposals for an Industrial Relations Act. The bill was an essential part of the 1969 budget strategy and the government felt that its implementation could be accompanied by some loosening of incomes policy. But the consultations with the Trade Unions ran into trouble on the so-called "penal clauses." The TUC, and the threat of a revolt within the Parliamentary Labour Party, persuaded the government to drop both these provisions in exchange for a "solemn and binding" obligation from the TUC to act against unconstitutional strikes and inter-union disputes.

In December, an outline of future prices and incomes policy was presented.[8] A range of two and a half to four and a half per cent annually based on a projected productivity growth of 3 per cent per annum was given as the norm for pay increases. The guidelines for price and income increases did not change greatly, apart from the inclusion of equal pay for women as one of the income criteria and the abolution of the specific three and a half per cent limit on dividend increases. The government's delaying powers under the 1967 and 1968 Acts were not renewed but the powers under Part II of the 1966 Act were renewed for the calendar year 1970.

The effectiveness of prices and incomes policies during the sixties is not readily ascertained. Although wage and price increases were successfully curtailed during the six-month periods of freeze, given the subsequent rebound, it is doubtful whether they were anything more than an exercise in buying time. The medium-term impact seems to have been less marked, although by mid-1969 prices and profit margins were substantially below what would have been expected on the basis of past relationships. Prices and incomes policies may thus have had some mild restraining effect on prices in the medium term.

1970

The present government considers that the primary objective of economic policy at the present time must be to bring down the present high level of pay settlements, although it recognizes that this may have to be done rather gradually. It considers the major responsibility for achieving results rests on those who negotiate pay increases—employers and unions. Meetings have been held with the Confederation of British Industry, and with the Chairmen of Nationalized Industries, as well as with the Trades Union Congress, and the Government has stressed the urgent need progressively to reduce the current level of wage settlements to more realistic levels. It also regards it as essential that employers should ensure that settlements come at a frequency of no more than one in twelve months, since an acceleration in the frequently of pay settlement is one of the most undesirable features of the current situation. Fair and reasonable offers should be made but, once made, they should not be raised under the threat of strikes. The Government will not make any moves to encourage employers to raise offers to unreasonable levels in order to avert strikes. In its capacity as an employer in the public services the Government intends itself to act in accordance with these principles.

The Government does not intend, however, to re-impose a statutory incomes policy or a wage freeze, nor, indeed, to lay down norms or detailed wages criteria. Nor does the Government intend to make use of the powers available to it under Part II of the Prices and Incomes Act 1966 to impose statutory standstills on particular pay and price increases pending investigation by the National Board for Prices and Incomes, which is being wound up. The Government is setting up co-ordinated machinery for advising it on the remuneration of certain public sector groups for whom no negotiating machinery is, for one reason or another, appropriate. It is intended that three review bodies should be established with a degree or interlocking membership. One will advise on the remuneration of the Boards of nationalized industries, the judiciary, senior civil servants, senior officers of the armed forces and such other groups as might be appropriately considered with them. Another will advise on the pay of the armed forces generally. A third will advise on the remuneration of doctors and dentists in the National Health Service. These three review bodies will have at their disposal a secretariat provided by a new Office of Manpower Economics, which will also be used to service any *ad hoc* enquiries which are necessary from time to time to examine particular pay structures and related problems. The Office will also carry out analytical and educational work on more general matters affecting pay and its relation to productivity. A review is being made of the work of the institutions concerned with competition, and a statement on the government's proposals for strengthening and developing the work of the monopolies commission is expected soon.

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[5] Cmnd. 2577. Machinery of Prices and Incomes Policy.

[6] Cmnd. 2639. Prices and Incomes Policy.

[7] Cmnd. 38.88, January 1969.

[8] Cmnd. 4237, Productivity, Prices and Incomes Policy after 1969.

Although the Government is not retaining the detailed early warning system for pay and price increases and does not intend to seek to influence the size of increases by direct intervention in each particular case, it considers that it should be kept informed of changes in the prices of certain products, and of important pay settlements. Discussions are taking place with industry about voluntary arrangements for this purpose.

B.8 United States

Aside from direct controls over wages and prices during World War II and the Korean War, the only US experiment with incomes policy has been the "wage-price guideposts" of the 1960s.

The fundamental premise that wage increases, to be non-inflationary, should not exceed the trend of economy-wide productivity gains was officially recognized by the Council of Economic Advisers (CEA) under the Truman Administration as early as 1952. With increasing concern over "cost-push" inflation in the late 1950s, the Eisenhower CEA repeatedly reiterated the concept emphasizing that private as well as government decision-making would have to be responsive to the need for price stability. The thesis that cost-push or administered price inflation becomes a serious problem when the economy is in the vicinity of full employment received substantial support from the series of studies prepared for the Joint Economic Committee of the Congress in 1959.

The Kennedy Administration's first CEA Annual Report (January 1962) elaborated the more explicit formulation that "the general guide for non-inflationary wage behaviour is that the increase in wage rates (including fringe benefits) in each industry is equal to the trend rate of overall productivity increase. The general guide for non-inflationary price behaviour calls for price reductions if the industry's rate of productivity increase exceeds the overall rate . . . it calls for an appropriate increase in prices if the opposite relationship prevails; and it calls for stable prices if the two rates of productivity increase are equal".

The Report allowed for deviations for reasons of efficient resource allocation—i.e., to encourage shifts of labour and capital out of and to industries with a surplus or shortage of these resources—and to correct for inequities as those arising from varying amounts of market or bargaining power. No modification was made in the wage guidepost to take into account increases in the cost of living (presumably since these would not occur if the guide-posts were followed). In the 1964 Report the CEA tightened the guide-posts by noting that the exceptions were "intended to apply to only a relatively few cases".

The 1962 Report hesitated to specify a precise figure for the estimated trend rate of productivity increase, but later reports employed a five year moving average to establish the official long-term trend growth rate of 3.2 per cent, a figure reconfirmed in 1966 when the 3.6 per cent rate yielded by the average was rejected as merely reflecting a cyclical upswing.

The guide-posts were originally conceived to have a purely educative function, government interference in private wage-price decisions being deemed undesirable. However, later statements by officials suggested that the public might need altering to important guide-post violations and that, in certain key situations, the public interest might require government intervention. The CEA became increasingly involved in specific bargaining and pricing situations, applying pressure both through public statements and private consultations with union and industry representatives.

After mid-1965 the emergence of general excess demand began to raise prices more rapidly despite the guide-posts, and the fact of rising prices undermined the case for the productivity criteria for wage increases. Confrontations between the Government and unions or businesses multiplied and these both created resentment at *ad hoc* Government interventions and demonstrated the Government's lack of power. The guideline effort, at least in the form initiated in 1962, was recognized to have come to an end in the summer of 1966 when the airline mechanics refused to accept a wage settlement which substantially exceeded the guidelines but which nevertheless had been approved by the Government. Thereafter the Government did not espouse any definite guidelines, but only offered tentative suggestions from time to time about appropriate price-wage behavior in an inflationary situation. It made no general effort to enforce or apply these standards, although sporadic attempts to persuade individual businesses and unions to exercise restraint continued.

It is not clear whether the guide-posts and associated official intervention had any very significant effect on the rate of increase in prices and wages during the 1960s. While price performance was generally good during the first half of the decade, this was also a period of considerable economic slack. After 1965, wages and prices accelerated far beyond guide-post limits but, as just pointed out, this was a period of excess demand, and the guide-posts were not intended to be a substitute for adequate demand management.

Although in a number of specific instances it appears that official intervention did succeed in avoiding, postponing, or reducing excessive price or wage increases (e.g. the famous confrontation with the steel industry in 1962), the cumulative effect may not have been very substantial or significant, foregone increases merely being shifted to a later period. In many collective bargaining situations, moreover, the 3.2 percent standard probably served as a minimum acceptable gain, rather than as a target, and in these cases may have increased, rather than restrained, the ultimate settlement.

Wage-price determination models developed to test the significance of the guideposts have yielded contradictory conclusions. One study [9] developed a model which consistently under-predicted wage changed in the 1962–66 period until a dummy variable representing the guide-posts was introduced for the period, giving support to the hypothesis that the guide-posts had a significant effect. A related study [10] upheld this conclusion. But these results were disputed in a latter study [11] which found that an alternative specification of the model produced a better fit without the need for the guidepost dummy and a more recent model [12] concluded that guide-post dummies do not significantly contribute to the explanation of price or wage behaviour in the 1962–66 period.

A different approach has been taken by Arthur Okun, Chairman of the CEA during the last year of the Johnson Administration.[13] Taking components of the industrial wholesale price index said to have been responsive to public pressure, he finds that the end of government attempts to influence private decisions accounted for a substantial portion of the acceleration in prices between 1968 and 1969. Unfortunately, this analysis sheds little light on the longer-term effectiveness of direct price policies. It also highlights an important weakness—the uneven impact of such policies—which would tend to cast doubt on whether improvements in price performance from this source could be sustainable.

The question whether "incomes policy" is useful, necessary or desirable, in the American economic situation has been under continuous review by the current US administration since early 1969. The Administration's initial view was that the urgent necessity was for persistence in demand restraining measures, that the breakdown of guide-posts policy was too recent to permit the credible revival of similar measures, and that the appearance of reliance on such a policy would weaken the necessary support for fiscal and monetary restraint. Although the wisdom of this strategy was the subject of consideration throughout 1969 the most serious reappraisal came in the Spring of 1970 with the change in the economic situation. By that time unemployment had risen significantly, there was little sign of abatement in price increases, the inflation no longer seemed to be the result of current excess of demand, and there were questions about how rapidly the inflation would react to slack in the economy. In these circumstances the Administration made certain changes in the stance it had maintained during the excess demand period:

1. It directed the Council of Economic Advisers to publish period "Inflation Alerts" calling attention to significant price and wage developments.

2. It established a Cabinet Board to review government regulations and purchasing policies that may contribute to inflation.

3. It established a National Commission on Productivity, including representatives of business, labor, the general public and government, to study and recommend policies to speed up the growth of productivity and to "achieve a balance between costs and productivity which will lead to more stable prices."

In his speech of June 17, 1970 announcing these steps the President made a more direct appeal for the co-operation of business and labor in restraining inflation than he had previously made. He did not, however, set forth any specific guidelines, explaining that such action would probably be ineffective against inflation in general and divert attention from more fundamental measures.

There has as yet been only limited experience with the three new procedures established in June. They are obviously capable of being operated with greater or less intensity and it remains to be seen how far they will go. Meanwhile Administration officials continue to indicate their receptivity to further steps which may be found promising in the American situation as it actually emerges. Now that the economy is beginning to rise again special attention is being paid to the problem of preventing that revival from reaccelerating the inflation rate.

Mr. HARRIS. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield.

Mr. HARRIS. Will the Senator permit me to cosponsor his amendments? I think they are much needed.

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[9] George L. Perry, "Wages and Guideposts", *American Economic Review*, September, 1967.

[10] Gail Pierson, "The effect of Union Strength on the U.S. Phillip Curve", *American Economic Review*, June, 1968.

[11] N.J. Simler and Alfred Tella, "Labor Reserves and the Phillip Curve", *Review of Economics and Statistics*, February, 1968.

[12] Robert J. Gordon, "The Recent Acceleration of Inflation and its Lessons for the Future", *Brooking Paper on Economic Activity*, N. 1, 1970.

[13] Arthur K. Okun, "The Controlled Experiment of 1969", Appendix to *Inflation, the Problems and Prospects before us*, Charles C. Moskowitz Lecture, 1970.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the name of the distinguished Senator from Oklahoma (Mr. Harris) be added as a cosponsor of the amendments I have just sent to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I yield the floor.

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD of West Virginia. Mr. President, if I may have the attention of the distinguished Senator from Wisconsin (Mr. Proxmire) and the distinguished Senator from Texas (Mr. Tower), I ask unanimous consent that following the disposition of the amendment by Mr. Bentsen (No. 764), concerning which a time limitation has already been agreed to, the distinguished Senator from Ohio (Mr. Taft) be recognized to call up his amendment; that time on that amendment be limited to 2 hours, to be equally divided between the distinguished mover of the amendment and the distinguished manager of the bill; that upon the disposition of the amendment of Mr. Taft, the able Senator from California (Mr. Cranston) be recognized to call up his amendment—which would exempt the press, broadcast, and other media from wage and price controls—the time on that amendment to be limited to an hour and a half, to be equally divided between the able mover of the amendment (Mr. Cranston) and the able manager of the bill, the Senator from Alabama (Mr. Sparkman); that upon the disposition of that amendment, the distinguished Senator from New York (Mr. Javits) be recognized to call up his amendment, which would add a title as to productivity, the time on that amendment to be limited to 2 hours, to be equally divided between the able mover of the amendment (Mr. Javits) and the able manager of the bill (Mr. Sparkman); that upon the disposition of the amendment by Mr. Javits, the Senator from Illinois (Mr. Percy) be recognized to call up his amendment dealing with employee productivity, the time on that amendment to be limited to 30 minutes, to be equally divided——

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. BYRD of West Virginia. I yield.

Mr. PROXMIRE. I just discussed an amendment with the Senator from Illinois. Perhaps the Senator from New York can enlighten me on this. I understood that it was the Javits-Percy amendment.

Mr. BYRD of West Virginia. Those are two different amendments. It is my understanding that Mr. Percy is cosponsoring the amendment by Mr. Javits. But following that amendment, Mr. Percy will call up an amendment dealing with employee productivity, the time to be limited to 30 minutes, to be equally divided between the able mover of the amendment and the able manager of the bill.

Provided, further, Mr. President, that time on any amendment in the second degree, motion, appeal, or point of order, with the exception of nondebatable motions, to any of the foregoing enumerated amendments be limited to 20 minutes, to be equally divided between the distinguished mover of such and the distinguished manager of the bill.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. BYRD of West Virginia. I yield.

Mr. JAVITS. Mr. President, I ask unanimous consent to have printed in the Record the text of my amendment and various supporting documents.

There being no objection, the material was ordered to be printed in the Record, as follows:

AMENDMENT No. 769

At the end of the bill insert the following new section:

NATIONAL PRODUCTIVITY ACT OF 1971

Sec. 3. (a) (1) It is the policy of the United States to promote efficient production, marketing, distribution, and use of goods and services in the private sector; and improve the morale of the American worker, all of which are essential to a prosperous and secure free world, and to achieving the objectives of national economic policy.

(2) The Congress finds that the persistence of inflationary pressures, and of a high rate of unemployment, the underutilization and obsolescene of production facilities, and the inadequacy of productivity are damaging to the effort to stabilize the economy.

(3) The Congress, therefore, finds a national need to increase economic productivity which depends on the effectiveness of management, the investment of capital for research, development, and advanced technology and on the training and motivation of the American worker.

(4) The Congress further finds that at a time when economic stabilization programs require price-wage restraints, management and labor have a strong mutual interest in containing "cost-push" inflation and increasing output per man hour so that real wages may increase without causing increased prices, and that, without in any way infringing on the rights of management or labor, machinery should be provided for translating this mutuality of interest into voluntary action.

(b) (1) There is hereby established in the executive branch an independent agency to be known as the "National Commission on Productivity" (hereinafter referred to as the "Commission"), which shall be composed of twenty-three members as follows:

(A) the Secretary of the Treasury; the Secretary of Commerce; the Secretary of Labor; the Chairman of the Council of Economic Advisers, and the Director of the Office of Management and Budget;

(B) six members who shall be representative of the business community;

(C) six members who shall be representative of labor organizations;

(D) six members who shall be representative of the general public, and who shall be selected without regard to any interest or connection they may have with any of the foregoing areas.

(2) Members of the Commission referred to in paragraphs (A) through (D) of subsection (G) (1) shall be appointed by the President, by and with the advice and consent of the Senate, for terms of six years, except that of the members first appointed, six shall be appointed for terms of two years, six shall be appointed for terms of four years, and six shall be appointed for terms of six years. One of the Commission members shall be designated as Chairman by the President. The initial members of the Commission shall be those persons now appointed as members of the National Commission on Productivity.

A member appointed to fill a vacancy occurring prior to the expiration of the term of his predecessor shall be appointed only for the unexpired portion of such term.

(3) The Commission shall meet at least four times each year at such times as it shall determine or at the call of the President. A quorum shall consist of thirteen members.

(4) Members of the Commission referred to in paragraphs (B) through (D) of subsection (b) (1) shall receive compensation at a rate equal to the daily equivalent paid to a person occupying a position of a GS–18 under the General Schedule while performing services for the Commission and while away from their homes in connection with attendance at meetings of the Commission shall be entitled to transportation expenses and per diem in lieu of subsistence at the rate prescribed under section 5703 of title 5, United States Code.

(5) The President is authorized to appoint, by and with the advice and consent of the Senate, an Executive Director of the Commission. The Executive Director shall be the principle executive officer of the Commission in carrying out the objectives, functions, duties and powers of the Commission described in sections 4 through 6, below, and shall receive compensation at the rate prescribed for level V of the Executive Schedule by section 5315 of title 5 of the United States Code.

(6) The Executive Director of the Commission with the approval of the Chairman of the Commission is authorized to employ, and fix the compensation of, such specialists and other experts as may be necessary for carrying out its functions under this Act, with regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and with regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, and is authorized, subject to such provision, to employ such other officers and employees as may be necessary for carrying out its functions under this Act and fix their compensation in accordance with the provisions of such chapter 51 and subchapter III of chapter 53.

(c) It shall be the objective of the Commission—

(1) to enlist the cooperation of labor, management, and State and local governments, in a manner calculated to foster and promote increased productivity through free competitive enterprise toward the implementation of the national policy declared in the Employment Act of 1946 to create and maintain "conditions under which there will be afforded useful employment opportunities, including self-employment, for those able, willing, and seeking to work, and to promote maximum employment, production, and purchasing power";

(2) to promote the maintenance and improvement of worker motivation and to enlist community interest in increasing productivity and reducing waste;

(3) to promote the more effective use of labor and management personnel in the interest of increased productivity;

(4) to promote sound wage and price policies in the public interest, and to seek to accomplish that objective within a climate of cooperation and understanding between labor, management, and the public, and within a framework of peaceful labor-management relations and free and responsible collective bargaining;

(5) to promote policies designed to insure that United States products are competitive in domestic and world markets;

(6) to develop programs to deal with the social and economic problems of employees adversely affected by automation or other technological change or the relocation of industries.

(d) (1) It shall be the duty and function of the Commission, in order to achieve the objectives set forth in section 4, to encourage and assist in the organization and the work of labor-management-public committees and similar groups on a plant, community, regional, and industry basis. Such assistance shall include aid:

(A) in the development of apprenticeship, training, retraining, and other programs for employee and management education for development of greater upgraded, and more diversified skills;

(B) in the formulation of programs designed to reduce waste and absenteeism and to improve employee safety and health;

(C) in the revision of building codes and other local ordinances and laws, in order to keep them continuously responsive to current economic conditions;

(D) in planning for provision of adequate transportation for employees;

(E) in the exploration of means to expand exports of the products of United States industry;

(F) in the development, initiation, and expansion of employee incentive compensation, profit-sharing and stockownership systems and other production incentive programs;

(G) in the dissemination of technical information and other material to publicize its work and objectives;

(H) to encourage studies of techniques and programs similar to those in paragraphs (1) to (8) of this subsection, as they are applied to foreign countries; and

(I) in the dissemination of information and analyses concerning the economic opportunities and outlook in various regions and communities, and of information on industrial techniques designed for the increase of productivity.

(2) The Commission shall transmit to the President and to the Congress not later than March 1 of each year an annual report of its previous year's activities under this Act.

(3) The Commission shall perform such other functions, consistent with the foregoing, as it determines to be appropriate and necessary to achieve the objectives set forth in section 4.

SEC. (d) (1) In exercising its duties and functions under this Act—

(A) the Commission may consult with such representatives of industry, labor, agriculture, consumers, State and local governments, and other groups, organizations, and individuals as it deems advisable to insure the participation of such interested parties;

(B) the Commission shall, to the extent possible, use the services, facilities, and information (including statistical information) of other Government agencies as the President may direct as well as of private agencies and professional experts in order that duplication of effort and expense may be avoided;

(C) the Commission shall coordinate such services and facilities referred to in subsection (2) above in order to supply technical and administrative assistance to labor-management-public committees and similar groups referred to in subsection (d) (1);

(D) the Commission shall establish the regional offices and such local offices as it deems necessary;

(E) the Commission shall hold regional and industrywide conferences to formulate ideas and programs for the fulfillment of the objectives set forth in section 4;

(F) the Commission may formulate model programs to ameliorate the effects of unemployment caused by technological progress;

(G) the Commission may furnish assistance to parties in collective bargaining entering into collective bargaining agreements; and

(H) the Commission may review collective bargaining agreements already in effect or those being negotiated to ascertain their effects on productivity; and it may have the power to make recommendations with respect to the agreements made or about to be made in specific industries.

(2) The Commission may accept gifts or bequests, either for carrying out specific programs which it deems desirable or for its general activities.

(c) There are hereby authorized to be appropriated the sum of $10,000,000 to carry out the purposes of this title during the period ending April 30, 1973.

CHAIRMAN OF THE BOARD OF GOVERNORS, FEDERAL RESERVE SYSTEM,
Washington, D.C., February 18, 1971.
Hon. JACOB K. JAVITS,
U.S. Senate,
Washington, D.C.

DEAR JACK: I'm writing in response to your request for comments on your bill to establish a National Productivity Council. You mentioned that even though you introduced it in 1963 it seems up to date in many respects. I would say the proposal is even more timely now. The need for increasing productivity is more pressing, and the prospects of achieving it through local councils seem better.

Management and labor face a common problem today. Demand for goods is weak. Consumers, concerned over the continued increases in living costs, are cautious about spending. This is a typical reaction to inflation of the kind we have been experiencing. As a result, production has fallen and unemployment has increased. This is not a situation in which aggregate demand must be curbed to stop a demand-pull inflation. We have passed that stage. Now we have to find a way to bring a lingering cost-push inflation under control to clear the way for a resumption in consumer spending, which will bring with it more efficient use of our resources.

Continued wage increases in excess of productivity gains will only mean continued price rises and continued unemployment. Yet workers will not be satisfied for long with paychecks that shrink in buying power. A major part of the solution, of course, is to find ways to increase productivity so that profits and wages both can rise as inflation subsides.

During World War II labor-management committees were established in thousands of war plants as a means of getting maximum production out of resources that were fully utilized. The program worked, because management and labor shared a common interest in solving a problem of paramount importance to the country. In 1944, W. Ellison Chalmers, then Chief of Staff, War Production Drive Headquarters, described the results as follows:

"(1) They are improving production. The files of War Production Drive Headquarters contain thousands of instances of production increases which have resulted from committee recommendations and from workers' suggestions, brought forth in response to the joint labor-management program. This has come in part from the development of individual suggestion systems. Many of these had existed before but took on new life when they were sponsored and directed by the Labor-Management Committees. Several million ideas have come in through these systems and hundreds of thousands of them have been adopted. Nearly 6000 of them, indeed, received national recognition from the War Production Board.

"This industrial teamwork has meant greater production by the collective ideas of the main committee and especially its departmental subcommittees, at work on the bottlenecks in each plant.

"The committees have done more than 'expand' production. They have also improved quality, cut down waste, reduced the use of critical materials, and salvaged scrap. It is particularly important to note these production accomplishments, for they demonstrate that a production committee has a job to do even when schedule changes or material shortages force a downward revision of output."

Today, while the circumstances are different and the challenge is not so dramatic, the problem is real and pressing for the country as a whole and particularly for employers and workers.

I understand that you are exploring with Administration officials various alternative methods of organizing this effort and fitting it in with other Federal activities. Whatever housekeeping arrangements are ultimately decided upon, I enthusiastically support the objective of setting up local committees as a means by which management and labor can join together in increasing productivity, thereby fighting inflation and unemployment at the same time.

Sincerely yours,
ARTHUR F. BURNS.

NATIONAL ASSOCIATION OF MANUFACTURERS,
September 29, 1971.
Hon. JACOB K. JAVITS,
U.S. Senate, Washington, D.C.

DEAR SENATOR JAVITS: You will recall that during my appearance before the Joint Economic Committee on September 22 you asked for additional comments on your suggestion for establishment of productivity councils.

I have provided this information for inclusion in the printed record of the Committee hearings and am enclosing a copy for your personal use.

Sincerely
W. R. GULLANDER, *President.*

STATEMENT OF MR. GULLANDER ON PRODUCTIVITY COUNCILS

The NAM favors the general principle of establishing two-way channels of communication between employers and employees.

Plant-by-plant joint labor-management productivity councils can serve a useful purpose, under appropriate circumstances. Participation should be voluntary by all parties. The councils could help to keep the importance of productivity at the center of attention. They could provide a forum for useful discussion of ways of removing barriers to productivity growth.

[From the Washington Post, Sept. 12, 1971]

PRODUCTIVITY KEY TO ECONOMY

(By Senator JACOB K. JAVITS)

(NOTE.—Joseph R. Slevin is on vacation. His guest columnist today is Sen. Jacob K. Javits of New York, the ranking Republican member of the Congressional Joint Economic Committee.)

President Nixon has just recognized that the inflation and unemployment problems plaguing the nation have not been solved or even effectively curtailed by the use of government's traditional tools of monetary and fiscal policy to regulate the economy.

I applaud his new economic policy, its goal of prosperity without war and the measures he recommends to increase incentives for new technology, to produce more jobs, and to freeze prices, wages and rents.

But no federal government law or policy, no matter how desirable, is a substitute for the real thing. Such a law can only help if it produces the real thing—and the real thing is productivity.

Increasing our national productivity (the sum of the outputs of individual workers) is the key to restoring economic well-being to the United States. The inflation we are now experiencing—so-called cost-push inflation—is a direct result of wage and price increases which are in excess of gains in productivity.

Over the last three years, the prices of goods and services have spurted forward because output per manhour has not increased as much as compensation per manhour (wages). As a result, the rise in labor costs has pushed prices upward.

At 2.1 per cent, the United States has had the lowest average annual rate of increased productivity since 1965 of all the major industrialized countries. Average increases over the same period are 5.3 per cent in West Germany, 6.6 per cent in France, 7.9 per cent in Sweden and 14.2 per cent in Japan.

Even though hourly wages in Japan have increased 15.1 per cent a year during this same period, labor costs there have risen by only .8 per cent. Compare this with the United States, where labor costs have increased by 3.9 per cent over the same period. Is it any wonder that we cannot compete with Japan in selling our goods on the world markets?

Our primary economic challenge is how to deal with this problem of declining productivity. Fourteen Republican senators recently joined with me in introducing the National Productivity Act of 1971. Because increased productivity benefits the worker as well as the businessman, the thrust of this legislation is to promote mutual understanding and cooperation between labor and management to maximize technical and managerial progress. The vehicle is the establishment of a national productivity commission with local support from regional and industry-wide councils down to the plant level.

Some studies already under way to determine why American productivity is on the decline indicate that the attitude of a worker plays a major role in the amount of his output. But it is still not clear what the factors are that actually determine his moral. This is clearly a subject for intensive study by the commission.

The worker, alone, is not the cause of loss in productivity. We must look, too, at the practices of America's managers.

Have they done as much to promote increased productivity as they might? Managerial practices must be scrutinized by the commission to determine if they can and should be revised toward the goal of improving productivity.

It is, however, the industry-wide committees closest to the plant level which I believe hold the greatest promise for making gains in productivity.

Today our nation's total resources are underutilized, with a gap of 7 per cent between our present gross national product and our potential output. There is a clear need for both labor and management to coordinate in planning for efficient, expanded production as well as for addressing the traditional problems such as absenteeism, waste, technology, training and quality control that were the concerns of the World War II industrial councils.

I know the times are different and that one of our worst productivity problems now is the erosion of morale due to the quagmire of Vietnam—as contrasted to the patriotic feelings which inspired high morale during the world crusade against Hitlerism.

But the time is ripe for a productivity drive because we are just getting out of Vietnam, we are in serious economic trouble and the President has just shown the national determination to halt and reverse an economic course which many feared was leading to disaster.

I urge strongly that labor-management councils be set up with the aid of regional productivity councils as quickly as possible so that they may implement innovative solutions to the productivity problems which plague their particular industries and also share these solutions with other industries where they would be applicable.

I believe that the major aim of the national productivity commission should be to advance the U.S. economy beyond its prior productivity growth rate of 3.1 percent per year to even higher percentage increases. In this way we can meet the challenges of international competition as well as generate the revenues needed—through increased output rather than through increased taxes—for improving the physical, economic and social quality of life in the United States and for assuming our continued role in improving the quality of life throughout the world.

[From the New York Times, Oct. 8, 1971]

GAINS IN PRODUCTIVITY ESSENTIAL TO A STABLE ECONOMY

(By Albert L. Kraus)

Productivity gains are not a certain cure for all the problems afflicting the American economy. But if the United States is to regain reasonable price stability and become more competitive in world trade, rising productivity is essential.

Productivity gains are necessary, also, if the nation is to cover the costs of cleaning up the environment and restoring its cities and if it is to satisfy the income aspirations of its people, particularly blacks and others heretofore deprived.

The unfortunate fact is that productivity gains have been slowing down in recent years. At the same time, the countries of Western Europe and Japan have been making more rapid gains.

What is productivity? It is the amount of goods or services each worker produces in a year, a month, a day or an hour. The usual measure is output per man-hour.

An increase in hours worked or the participation of more people in the labor force may produce gains in productivity. But the greatest increases are thought to result from the investment of additional capital or from breakthroughs in technology.

Leon Greenberg, staff director of the National Commission on Productivity, has estimated that a one-tenth of 1 per cent increase in output per man-hour this year would mean $1-billion more in the gross national product, the total output of goods and services.

By 1980, a similar one-tenth of 1 per cent increase would produce about $15-billion of added G.N.P. in real terms, or after allowance for price increases. For the decade of the nineteen-seventies as a whole, such an increase would provide about $60-billion of G.N.P.

Actually, the growth in productivity has been slower than expected. Using a statistical comparison with the years 1950 to 1966, Mr. Greenberg calculated that output per man-hour in the last four years was at least five-tenths of a percentage point lower than what it should have been.

In every major industry division, there was a falling-off in the productivity growth rate in the last four years, with the worst deterioration occurring in mining, communications, utilities, transportation, finance, insurance and real estate. Trade and miscellaneous services also slowed down, but to a lesser degree.

One reason for this lag in productivity was the slump in total output associated with the recession last year. Productivity tends to fall off sharply in years of economic downturn as output declines more rapidly than man-hours worked. Similarly, it tends to rise rapidly in years of recovery until men and machines become fully employed.

Another reason for the slowing down was the continuing shift of the United States from a manufacturing to a service economy. As a smaller part of the population works at making goods and a larger part works to provide medical, educational, financial and other services, productivity gains become more difficult.

Services, until now at least, have been a low-productivity area. Mr. Greenberg estimates that the shift into low-productivity industries will lower the growth of output per man-hour by two-tenths of a percentage point in the seventies—in contrast to a gain of a like amount over the last 20 years.

It is often said that more productivity is an answer to inflation. This, however, is not necessarily so. G. M. Brannon, associate director of the Treasury's Office of Tax Analysis, noted recently that increases in money wages may still outdistance gains in output per man-hour.

He cited the experience of Japan, which over a fairly long period has been increasing productivity 10 per cent a year. But wages have risen 15 per cent a year, resulting in a 5 per cent rise in prices.

Productivity gains will not necessarily improve the competitive position of American concerns in world trade, either. To do so, they must be translated first into greater wage and price stability. And they must not be offset by an exchange rate structure that gives undue advantage to foreign concerns.

Without gains in productivity, however, the problems of inflation and international competition for American concerns would be much harder to solve.

EXCERPT OF STATEMENT OF SENATOR JAVITS, INTRODUCING S. 2414 (NATIONAL PRODUCTIVITY ACT OF 1971), AUGUST 4, 1971.

Mr. President, the purpose of this particular measure, the National Productivity Act of 1971, is to stimulate the productive effort of the United States through the establishment by law of a National Productivity Council, which the President has already appointed. Indeed, the bill appoints as the first council those members already serving, but it gives the council legislative standing rather than statutory standing, should this bill become law. The bill also provides for adequate funding of the Commission and its local organizations and more clearly specifies the functions this Council should undertake.

Mr. President, this bill goes to the local, regional, and plant level to deal with problems of absenteeism, waste, technology, training, and quality control, all of which are derived from a very rich and successful experience which we had in World War II, with a similar organizational structure.

We feel very strongly, Mr. President, that there has been such an erosion of the motivation of the American worker in recent years and that the productivity of the American worker has been so sharply reduced—a phenomena which is unnatural, uncommon, and unusual for the United States. As a result a patriotic effort of this character calling upon the best in the tradition of the American people is an essential element in restoring the confidence of our people in our national destiny.

Mr. President, the facts are that for the last 6 years, since 1965, the productivity of the United States, figured by the Bureau of Labor Statistics in a most authoritative way, has been the lowest of any industrial country of the world. Talking about bad news, this is just about as bad as news can be for the United States as a power in the world and for the American people individually, in terms of the achievements of our country, of which we are traditionally so proud.

Mr. President, aside from the United States, the countries compared are Belgium, Canada, France, West Germany, Italy, Japan, Netherlands, Sweden, Switzerland and the United Kingdom.

Our productivity increase has averaged in those years 2.1 percent. The next lowest is Canada with a 3.5 percent, and after that the United Kingdom with 3.6 percent. Mr. President, that is compared with Japan of 14.2 percent and with the Netherlands at 8.5 percent and Belgium at 6.8 percent.

Mr. President, I ask unanimous consent that a chart prepared by my office from figures of the Bureau of Labor Statistics may be made a part of my remarks.

There being no objection, the chart was ordered to be printed in the RECORD, as follows:

AVERAGE PERCENT INCREASES OF PRODUCTIVITY, COUNTRY BY COUNTRY

	1965-66	1966-67	1967-68	1968-69	1969-70	Average 1965-70
United States	1.2	0.1	4.6	2.1	1.5	2.1
Belgium	7.1	7.4	8.1	6.6	3.9	6.8
Canada	2.7	1.8	6.0	3.8	2.1	3.5
France	6.8	5.6	7.4	7.1	5.7	6.6
West Germany	3.6	6.4	6.9	5.5	2.2	5.3
Italy	4.7	4.2	8.0	3.9	4.1	5.1
Japan	10.5	14.5	14.8	15.0	15.0	14.2
Netherlands	5.9	6.6	11.1	8.8	9.1	8.5
Sweden	5.6	7.8	10.9	7.7	5.4	7.9
Switzerland	5.1	5.0	5.3	10.3	4.3	6.2
United Kingdom	3.0	3.0	6.1	2.2	3.1	3.6

Mr. JAVITS. Mr. President, this is a cause for the deepest alarm and concern, and reflects the terrible erosion of motivation and spirit, because that is what it comes down to in the final analysis. Production is not unlike war in that no matter what weapons people are given, it still depends on the morale of those to whom the weapons are given. It is the same in productivity and the morale of workers.

We 14 Senators hope this may be realized as the national crisis that it is and that by establishing self-help organizations with national sponsorship, as we did in World War II—and the crisis no less on the local, regional, and plant level—to evidence our concern.

There is no great amount of money involved. We hope the road back may be tried. This comes at a uniquely important time when we are getting out of the Vietnam war, when the President is going to open the door to new relationships with the Peoples Republic of China, when the SALT talks are going on, and when people are getting frustrated by the twin engines of inflation and unemployment.

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILLS AND JOINT RESOLUTION

Messages in writing from the President of the United States were communicated to the Senate by Mr. Leonard, one of his secretaries, and he announced that on November 24, 1971, the President had approved and signed the following acts and joint resolution:

S. 306, an act for the relief of Eddie Troy Jaynes, Jr., and Rosa Elena Jaynes;

S. 629, an act for the relief of Chen-Pai Miao;

S. 708, an act for the relief of the village of Orleans, Vt.;

S. 1026, an act to amend the Small Reclamation Projects Act of 1956, as amended;

S. 2559, an act to amend the Consolidated Farmers Home Administration Act of 1961 to authorize insured emergency loans; and

S.J. Res. 132. Joint resolution extending the duration of copyright protection in certain cases.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. TUNNEY) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of Senate proceedings.)

ORDER FOR RECESS TO 9 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 o'clock tomorrow morning.

Mr. TOWER. Mr. President, reserving the right to object, does that mean there will be no morning hour tomorrow?

Mr. BYRD of West Virginia. That means there will be no morning business, but it was my intention to ask that a bill be called up which would consume the first 30 minutes of tomorrow.

Mr. TOWER. Setting this matter aside to take up that bill has been cleared with the leadership on this side?

Mr. BYRD of West Virginia. It has been cleared, through Senator EAGLETON, with the appropriate Senators on the other side. What I would intend to do would be to call up, immediately after recognition of the two leaders on tomorrow, S. 1163, a bill which deals with nutrition for the elderly. The Senator from Vermont (Mr. STAFFORD) and the Senator from Missouri (Mr. EAGLETON) are interested in that bill. Senator STAFFORD would have an amendment to it. It would be my intention to ask unanimous consent that there be a time limitation of 30 minutes on the bill, and that there be a time limit on Mr. STAFFORD's amendment of 20 minutes, to come out of the time on the bill.

Mr. TOWER. I have no objection, but I would like to clear it with the leadership on this side of the aisle.

I am informed that it is all right. I do not object.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

ORDER VACATED FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the previous order that there be a period for the transaction of routine morning business tomorrow be vacated.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT ON S. 1163

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that following the recognition of the two leaders under the standing order tomorrow, the Chair lay before the Senate S. 1163, a bill dealing with nutrition for the elderly, the time on that bill to be limited to 30 minutes, to be equally divided between the distinguished Senator from Missouri (Mr. EAGLETON) and the distinguished minority leader or his designee; that time on an amendment by the Senator from Vermont (Mr. STAFFORD) be limited to 20 minutes, to be equally divided between the distinguished mover of such and the distinguished Senator from Missouri (Mr. EAGLETON), with the understanding that the time on the amendment will come out of the 30 minutes allotted to the bill; with the further understanding that any amendment in the second degree be limited to 5 minutes, to be equally divided between the distinguished mover of such and the distinguished Senator from Missouri (Mr. EAGLETON).

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BYRD of West Virginia. Mr. President, it is my understanding that no rollcall vote will be required on that bill or on the amendment thereto, but I ask unanimous consent that, should a rollcall vote develop in connection with either the amendment or the bill, such rollcall vote not occur until following the rollcall vote or votes disposing of the amendment No. 763 by the distinguished Senator from Oklahoma (Mr. HARRIS) on tomorrow.

The PRESIDING OFFICER (Mr. BUCKLEY). Without objection, it is so ordered.

ECONOMIC STABILIZATION ACT OF 1971

The Senate continued with the consideration of the bill (S. 2891) to extend and amend the Economic Stabilization Act of 1970.

AMENDMENT NO. 763

Mr. HARRIS. Mr. President, I call up my amendment No. 763 and ask that reading of the amendment be dispensed with and that it be printed in the RECORD at this point.

The PRESIDING OFFICER (Mr. TUNNEY). Without objection it is so ordered; and the amendment will be printed in the RECORD.

The text of the amendment is as follows:

On page 22, line 1, strike all of lines 1 through 7 inclusive and insert in lieu thereof the following:

"EXPIRATION AND ANTITRUST ACTIONS

"SEC. 216. (a) The authority to issue and enforce orders and regulations under this title expires at midnight June 30, 1972, but such expiration shall not affect any action or pending proceeding, civil or criminal, not finally determined on such date, nor any action or proceeding based upon any act committed prior to July 1, 1972.

"(b) The President shall, pursuant to Section 6d of the Federal Trade Commission's Act, 15 US Code 46d direct the Commission to undertake immediately for submission to the President and the Congress prior to June 1, 1972, an investigation of oligopoly industries, that is, those manufacturing industries in which the national or regional market share held by the 4 largest firms is 50% or more as determined by the Census Bureau in its study for the Senate Antitrust Subcommittee; this investigation shall have as its purpose: (1) determining whether those industries are non-competitive in character and have, therefore, contributed significantly to the inflationary spiral since 1966, and (2) recommending specific measures to the Congress and to the President for decentraliziing those industries in a manner involving minimum cost for the firms in question and for the nation's economy and leading to the restoration of effective price competition.

"The President, upon submission of the FTC report on oligopolistic industries, shall direct the Federal Trade Commission and the Anti-trust Division of the Justice Department immediately to undertake anti-trust suits against aligopolistic industries which are found to have contributed significantly to the inflationary spiral since 1966 in order to restore effective price competition in these industries.

Mr. HARRIS. Mr. President, this is the amendment I spoke of earlier today. It is divided into two parts. The first part would limit extension of the Economic Stabilization Act to June 30, 1972, rather than April 1973, as the legislation presently provides.

The second part of the amendment would require the President of the United States, acting by and through the Federal Trade Commission and the Department of Justice, to commence anti-trust actions against those industries found to be noncompetitive and, thereby, to have contributed significantly to the inflationary spiral.

Mr. President, it will be my intention to debate both parts of the amendment at the same time, the time being limited to 1 hour to a side; and then, upon my motion, asking for the parts to be divided at the conclusion of the debate and to have separate rollcall votes thereon, one immediately following the other without debate on each of the two parts of the amendment.

QUORUM CALL

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HARTKE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. TUNNEY). Without objection, it is so ordered.

AMENDMENT NO. 768

Mr. HARTKE. Mr. President, I call up amendment No. 768 and ask that it be stated.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the pending amendment, the Harris amendment, be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will state the amendment.

The legislative clerk proceeded to state the amendment.

Mr. HARTKE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

On page 6, after line 4, insert the following:

"'(f) Whenever the President exercises his authority under this section to stabilize wages or prices, he shall also exercise his authority to stabilize interest rates. The criteria for determining allowable price increases by business firms shall be generally applicable to financial institutions and for the purpose of applying such criteria, the term "interest rate" shall be considered to be a price.'"

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD of West Virginia. Mr. President, if I may have the attention of the distinguished Senator from Wisconsin (Mr. PROXMIRE), and the distinguished ranking minority member of the committee, the Senator from Texas (Mr. TOWER), I ask unanimous consent that on tomorrow the time on the amendment offered by the Senator from Indiana (Mr. HARTKE), be limited to 10 minutes, the time to be equally divided between the distinguished mover of the amendment, the Senator from Indiana (Mr. HARTKE), and the distinguished manager of the bill, the Senator from Alabama (Mr. SPARKMAN); that the time on any amendment to the amendment be limited to 10 minutes, to be equally divided between the mover of the amendment in the second degree and the distinguished manager of the bill; that the time on any motion, appeal, point of order—with the exception of nondebatable motions—be limited to 10 minutes and divided similarly.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, will the Senator yield at that point?

Mr. BYRD of West Virginia. I yield.

Mr. PROXMIRE. Mr. President, I think that in fairness to the Senator from Indiana, it should be pointed out that this is a very important amendment. It is quite complicated, and I think that this kind of amendment deserves considerable discussion.

As I understand it, the Senator from Indiana is going to discuss the amendment tonight and he will not be limited as to time tonight, so that his discussion of the amendment on tomorrow can be concise.

I understand that he is going to offer an amendment to limit interest payment so that we will have parity of treatment in the various categories.

Mr. HARTKE. The Senator from Wisconsin is exactly correct.

Mr. TOWER. Mr. President, would the Senator from West Virginia restate his unanimous-consent request?

Mr. BYRD of West Virginia. Mr. President, the Senator from Indiana would be limited to 5 minutes on his amendment tomorrow, and the distinguished manager of the bill would be limited to 5 minutes.

Mr. TOWER. Mr. President, let us make that 15 minutes.

Mr. BYRD of West Virginia. Fifteen minutes, to be equally divided?

Mr. TOWER. Yes. I mean 7½ minutes to the side.

Mr. BYRD of West Virginia. Very well. Mr. President, I revise my unanimous-consent request to provide that the time on the Hartke amendment on tomorrow be limited to 15 minutes, to be equally divided between the mover of the amendment and the distinguished manager of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, the amendments to be offered by the Senator from Montana (Mr. METCALF), under the previous order, were to be taken up in sequence following the disposition of amendment No. 763 by the Senator from Oklahoma (Mr. HARRIS) on tomorrow.

It is my understanding, however, in discussion with the Senator from Indiana (Mr. HARTKE), that he has cleared with the Senator from Montana the calling up of the Hartke amendment immediately prior to the Metcalf amendments.

Mr. HARTKE. Mr. President, I have discussed this matter with the Senator from Montana (Mr. METCALF). He agreed that that procedure was agreeable and satisfactory to him.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate resume its consideration of the Hartke amendment on tomorrow immediately following disposition of the Harris amendment, No. 763, or in the event a rollcall vote should occur on S. 1163, a bill to provide nutrition for the elderly, concerning which a rollcall vote is not expected—but in the event a rollcall vote does occur on S. 1163—immediately following such rollcall vote on tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARTKE. The purpose of my amendment is very simple: It requires that any time the President exercises his authority under the pending legislation to stabilize wages or prices, that he also act to control interest rates. That is the essence of the amendment. Additionally, it reads that the criteria used to determine the allowability of price increases shall be applicable to financial institutions, and for the purpose of applying these criteria interest rates shall be considered prices. In their simplest terms interest rates represent the price of money. I believe it appropriate, therefore, that those orders and regulations governing prices should be applied, as far as is practicable, to the stabilization of interest rates.

If accepted, this amendment would go far toward erasing the present, popular view that "the money lenders" have been unjustly exempted from the sacrifices that the general public and other industries have been forced to accept. Clearly, the new economic policy will not succeed unless the public at large is confident of its basic equality and evenhandedness. President Nixon recognized this hard fact when he stated during his October 7 phase II address that "holding the line against inflation means holding all of that line" and consequently appointed a Government committee on interests and dividends with standby authority to control interest rates.

The Chairman of this new Committee, Dr. Arthur Burns, believes that this standby authority will never have to be used. As proof he, and other administration spokesmen, point to what they call a consistent downward trend in interest rates since the announcement of the wage and price freeze on August 15. In fact, short-term market rates of interest have declined appreciably, but for two reasons totally unrelated to any impact of the freeze. First, the short-term credit requirements of business have been down through the first 9 months of this year. Borrowing by corporations declined at a rate of almost $1 billion from January to June of this year and, while the credit needs of business have increased somewhat since midyear, the performance through the first three-quarters of 1971 has shown no real growth. This lack of growth in bank loans during the first 9 months of this year follows hard upon a drop of almost $5 billion in the last half of 1970. This decrease in the demand for credit in 1970 and the first three-quarters of 1971 is almost solely attributable to the current recession and largely explains the present drop in some short-term interest rates.

The second circumstance which also has the effect of depressing certain interest rates is explained in the October 1971 economic report of the Manufacturers Hanover Trust Co., wherein Mr. Tilford Gaines, senior vice president and economist, states:

> It has been widely anticipated that the Treasury would have to borrow about $20 billion during the last half of 1971 to finance the record peace-time deficit projected for fiscal 1972. In actual fact, the bulk of the Treasury's new money needs has thus far been provided by foreign central banks' purchases of special U.S. Government securities. These funds, in turn, have arisen from the purchases of dollars by foreign central banks in the period prior to the decision to let the dollar float, and the further purchases in the past two months as the central banks have intervened to provide stability in the floating market. In the six months March through September, foreign official accounts added about $17 billion to their holdings of marketable U.S. Government securities and an additional $9 billion was funneled back to the U.S. Treasury for the purchase of special issues. As a consequence, the pressures upon the U.S. money market that most analysts had expected from Treasury borrowing this half year have not materialized.

Gaines believes, however, that the influence of foreign central banks on interest rates will only be temporary.

> The dollars purchased by foreign central banks and turned over to the U.S. Treasury have represented money flowing into other national currencies as a hedge against an expected devaluation of the dollar. It is predictable that most of this money will flow out of these other currencies and back into dollars, primarily into the eurodollar market, as soon as the principal countries decide upon a new set of currency parities that the market is willing to believe are reasonable. As this happens, the treasury will find it necessary to redeem the special securities it has recently issued and turn to the U.S. money market to raise the money needed for the redemptions (since there should, at that time, be an availability of funds in the eurodollar market, some part of the money probably will be raised overseas). In the final analysis the recent disturbances in the international monetary system might force the treasury to compress into only one or two months the borrowing that it would otherwise have done in a more orderly fashion over several months.

It is plain, that the present dip in interest rates is due more to the sluggishness of the economy and the related necessity that the country's biggest borrower—the Federal Government—go abroad for its money, than to any positive impact of the new economic policy.

In his testimony before the Committee on Banking, Housing and Urban Affairs, Dr. Burns stated that:

> We are moving into a period for which there is little historical precedent, and little basis for gauging exactly how credit markets will adapt to the new circumstances.

I quite agree with Dr. Burns. These are, indeed, new and uncharted areas with which we are trying to deal. But, if we are unsure of how to act in these new circumstances, would it not be better to press for mandatory control of interest rates rather than voluntary restraints?

The voluntary restraints used against price and wage increases in late 1970 and early 1971—the so-called "inflation alerts"—were admitted failures. Yet, Dr. Burns seems to have had something like the discredited "inflation alerts" device in mind when he suggested in his Banking Committee testimony that the Committee on Interest and Dividends:

> Would certainly frown upon any premature upward moves of rates that had previously been sluggish in moving down.

Burns went on to state that:

> There is every reason to believe that banks and other lenders will cooperate in our program on a voluntary basis.

I am afraid that I cannot share Dr. Burns confidence.

While quite true that some interest rates have declined recently, I believe this is attributable more to the terrible shape of the economy than any positive self-restraint by financial institutions.

And what of future months? Assuming for the purposes of discussion that the new economic policy does work, what will happen to interest rates as demand increases? The answer is obvious: As demand for credit increases, strong upward pressures on interest rates will also increase. And what will occur if Government permits these demand pressures to force interest rates higher? Would such increases be consistent with the efforts to control employees wages and employers prices? I think not. It would be far better in my opinion to put the lenders on notice now that any unreasonable increase in rates will be met promptly with mandatory controls and that the price of money would be determined by standards similar to those used to determine the appropriate price of manufactured products.

The Under Secretary of the Treasury Department, Charles E. Walker, in his statement before the Banking Committee, said that:

> In requesting standby authority over interest rates and dividends, we are asking for authority which we do not think we will have to use.

It is my feeling that Secretary Walker is incorrect. Assuming once again that the President's policies have the effect of moving the economy forward, with a predictable increase in the demand for credit, will not the need for curbs in interest rates be inevitable? Unless the Federal Reserve System is prepared to furnish inflationary increases in the supply of money and credit, some sort of controls would appear necessary once a recovery takes hold.

And what if a recovery does not take place in the near future, a possibility which I consider more likely? In that event, it is just as important, perhaps more so, that the public be assured that the sacrifices which they are asked to make are also being made by those who lend money currently, the view appears widespread—whether rightly or wrongly—freeze period. This belief can be met, it seems to me, only by instituting controls over the price of money, more stringent than the voluntary ones now in effect.

Here then is the dilemma: If the economy moves forward, interest rates will surely go up requiring some sort of control; if the economy continues, despite our best efforts, to stagnate, interest rates will no doubt level off but the popular demand to stabilize rates will continue.

My amendment is intended to further assure the public that the economic policies drafted by the Congress, and implemented by the President, do indeed require an equality of sacrifice on the part of all Americans, the affluent as well as the average.

This administration has made it very clear that it does not intend to use mandatory controls to stabilize interest rates. I think this is a mistake. I think it is a mistake because it erodes the confidence of the American public in the evenhandedness of these economic policies, and because it makes no provision for the effect that an economic recovery would have on interest rates.

It is for these reasons that I offer this amendment and urge its acceptance.

HARRIS AMENDMENT NO. 763 MADE THE PENDING QUESTION

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the amendment by Mr. HARRIS (No. 763), now again be laid before the Senate and that it be made the pending question.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT ON CERTAIN AMENDMENTS

Mr. BYRD of West Virginia. Mr. President, with respect to the following amendments which have been offered by Mr. PROXMIRE, I propose that there be a time limitation with respect to each as follows:

I ask unanimous consent that on the amendment by Mr. PROXMIRE which would require that board hearings be made public there be a time limitation of 1 hour, to be equally divided between the distinguished mover of the amendment (Mr. PROXMIRE) and the distinguished manager of the bill (Mr. SPARKMAN).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on the amendment by Mr. PROXMIRE which would require confirmation of a chairman of each of the boards there be a time limitation of 1 hour to be equally divided between the able mover of the amendment (Mr. PROXMIRE) and the able manager of the bill (Mr. SPARKMAN).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that with respect to the amendment by Mr. Proxmire which would exempt State and local employees there be a time limitation of 2 hours to be equally divided between the able mover of the amendment and the able manager of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that with respect to the amendment by Mr. Proxmire exempting small business there be a time limitation of 2 hours, to be equally divided between the able mover of the amendment and the able manager of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, with respect to each of these amendments by Mr. Proxmire, on amendments in the second degree, motions, appeals, and points of order, with the exception of nondebatable motions, there be a time limitation of 30 minutes to be equally divided between the mover of such amendments, motions, appeals and points of order, and the distinguished manager of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Will the Senator yield on that point?

Mr. BYRD of West Virginia. I yield.

Mr. PROXMIRE. I presume that that is the usual form in which a reservation is requested. I just wonder about an amendment to an amendment. If a Senator offering the original amendment objects to having his amendment amended, would he not be given any right at all with respect to time.

Mr. BYRD of West Virginia. I think the usual form leaves the opposition under the control of the manager of the bill.

Mr. PROXMIRE. That is all right.

The PRESIDING OFFICER. That is the usual procedure.

Mr. BYRD of West Virginia. I am sure that if a situation should develop as the able Senator has stated it, the manager of the bill would in all likelihood designate time in opposition thereto to the offerer of the amendment in the first degree.

Mr. President, with respect to the four amendments by Mr. Proxmire on which we have just gotten time agreements, I have not indicated or asked for their programing. In other words, I have not asked that they be programed at any particular time. Would the Senator have any objection if I asked that the amendment providing that board hearings being made public follow the amendment by Mr. Percy?

Mr. PROXMIRE. I should prefer to have that amendment come up as soon as possible. If that is the earliest possible time, I would be happy to have that done, unless it could be taken up earlier than that. Frankly, I think it probably should come up after my first amendment, which comes after Senator Nelson's, but I understand the Senator is already locked into the present agreement, so I would not ask for a modification.

Mr. BYRD of West Virginia. Very well. If it is agreeable to the Senator, I ask unanimous consent that his amendment dealing with board hearings be called up upon the disposition of the amendment by Mr. Percy dealing with employee productivity, and on which there is a limitation of 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BYRD of West Virginia. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 9 o'clock a.m., following a recess. After the two leaders have been recognized under the standing order, the Senate will proceed to consider S. 1163, a bill providing nutrition for the elderly. On that bill there is a limitation of 30 minutes, with the understanding that an amendment by Mr. Stafford will be offered. There will be a limitation of 20 minutes on that amendment, the time to come out of the 30 minutes on the bill.

There is a further understanding that there will be no rollcall votes on the amendment or the bill, but that if any such rollcall votes should be ordered, those rollcall votes would be laid over until later in the day.

Upon the disposition of S. 1163, the Senate will resume its consideration of the unfinished business, and the pending question before the Senate will be on amendment No. 763 by Mr. Harris, on which there is a 2-hour limitation.

Following the disposition of the amendment by Mr. Harris, if a rollcall vote should be ordered on S. 1163, the bill dealing with nutrition for the elderly, that rollcall vote will then occur. In any event, following the disposition of the amendment by Mr. Harris or a rollcall vote on S. 1163, the Senate will take up the amendment by Mr. Hartke dealing with interest rates, under a 15-minute limitation. After the Hartke amendment, the Senate will take up the amendments by Mr. Metcalf, amendments Nos. 752, 753, 754, and 755, but not necessarily in that order, with the understanding that on the first of such amendments to be called up by the distinguished Senator from Montana (Mr. Metcalf), there will be a 1-hour limitation, and that on each of the succeeding three amendments there will be a 20-minute limitation.

Upon the disposition of the amendments by Mr. Metcalf, Mr. Nelson will call up his amendment No. 758, on which there is a 2-hour limitation.

Following that amendment, Mr. Proxmire will call up his amendment on reporting, on which there is a 1-hour limitation.

Upon the disposition of that amendment, Mr. Bentsen will call up his amendment No. 764, on which there is a 1-hour limitation.

Mr. Taft will then call up his amendment, on which there is a 2-hour limitation.

Mr. Cranston will then call up his amendment to exempt press, broadcast, and other media from the wage-price controls, upon which there is a 1½-hour limitation.

Mr. Javits will then call up his amendment, adding a title on productivity, on which amendment there is a 2-hour limitation.

Then Mr. Percy will call up his amendment on employee productivity, on which there is a 30-minute limitation. After that, Mr. Proxmire will call up the first of his four amendments which have been submitted just in the last little while. That amendment provides that board hearings be made public, upon which time there is a 1-hour limitation.

Mr. PROXMIRE. Will the Senator yield briefly?

Mr. BYRD of West Virginia. I yield.

Mr. PROXMIRE. I have calculated—and I think the calculations of the Senator from West Virginia are roughly similar—that this arrangement would provide for about 14 or 14½ hours of debate, not counting rollcall votes.

Mr. BYRD of West Virginia. The Senator is correct.

Mr. PROXMIRE. This would go only to the amendment offered by Mr. Javits. It does not include amendments offered by Mr. Percy and Mr. Proxmire.

Mr. BYRD of West Virginia. It would include the Percy amendment but not the four amendments by Mr. Proxmire.

Mr. PROXMIRE. In view of the fact that the Senate will convene at 9 o'clock tomorrow morning, and in view of the fact that there will be rollcall votes on almost all of these amendments, I would presume, under these circumstances, that we would not expect to conclude action on all of the amendments the Senator has listed for tomorrow. Unless we worked until 8, 9, 10, or 11 o'clock, we could not finish with all of these amendments.

Mr. BYRD of West Virginia. In response to the Senator, may I say that the distinguished majority leader will have returned tomorrow, and that will be up to him and the leadership on the other side of the aisle. But I think that the joint leadership would certainly desire to remain in session late tomorrow. The Senator was eminently correct when he indicated that the amendments which have been enumerated, including his four amendments, will certainly carry us well into the next day—Wednesday.

Mr. PROXMIRE. I thank the Senator.

Mr. BYRD of West Virginia. I thank the able Senator from Wisconsin (Mr. Proxmire) and the able Senator from Texas (Mr. Tower).

RECESS TO 9 A.M.

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until 9 o'clock tomorrow morning.

The motion was agreed to; and (at 5 o'clock and 39 minutes p.m.) the Senate took a recess until tomorrow, Tuesday, November 30, 1971, at 9 o'clock a.m.

NOMINATIONS

Executive nominations received by the Senate November 29, 1971:

U.S. District Courts

Charles B. Renfrew, of California, to be a U.S. district judge for the northern district of California, vice Gerald S. Levin, deceased.

Anthony A. Alaimo, of Georgia, to be a U.S. district judge for the southern district of Georgia, vice a new position created by Public Law 91-272, approved June 2, 1970.

Philip W. Tone, of Illinois, to be a U.S. district judge for the northern district of Illinois, vice a new position created by Public Law 91-272, approved June 2, 1970.

U.S. MARINE CORPS

Maj. Gen. Louis Metzger, U.S. Marine Corps, having been designated, in accordance with the provisions of title 10, United States Code, section 5232, for commands and other duties determined by the President to be within the contemplation of said section, for appointment to the grade of lieutenant general while so serving.

EXTENSIONS OF REMARKS

THE JAPANESE ECONOMIC THREAT

HON. STROM THURMOND

OF SOUTH CAROLINA

IN THE SENATE OF THE UNITED STATES

Monday, November 29, 1971

Mr. THURMOND. Mr. President, a timely speech entitled "The Japanese Economic Threat" has recently come to my attention.

In this pamphlet the author, Mr. Anthony Harrigan, points out the encroachment of Japanese industry into the markets of U.S. industry. Imported Japanese textiles have been ruining the U.S. textile industry with such practices as market flooding. Our domestic steel industry can barely compete, and our shipping industry has floundered.

Mr. President, Japan has erected complicated trade barriers to keep U.S. imports from Japan's domestic markets. Further, Japan sells items abroad for much less than they are offered for sale in Japan. As long as U.S. industry is characterized by union control and excessive labor cost, we cannot compete with Japanese industries. Japanese tax laws are set up to favor big business, and cheap Japanese labor and monopolistic trade practices widen this edge.

Mr. Harrigan's speech was delivered prior to the recent Japanese textile agreement. However, this speech points out the definite need for such an agreement.

The United States can no longer afford to be indifferent to the protection of our domestic industries. These comments deserve the consideration of the Congress.

Mr. President, I ask unanimous consent that the speech entitled "The Japanese Economic Threat" by Mr. Anthony Harrigan be printed in the Extensions of Remarks.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

THE JAPANESE ECONOMIC THREAT

(By Anthony Harrigan)

It is time that the United States recognizes that it faces a formidable challenger on the world economic scene—Japan.

The Hudson Institute recently asserted that Japanese living standards will surpass American levels with 15 years.

We should understand that we are witnessing a fundamental rearrangement of the world's powers, economically and militarily. But the American people apparently don't grasp the extent of the Japanese economic challenge and the peril it poses to our national economy and standard of living.

Today, 26 years after the United States defeated Japan, the Japanese can boast of having the third-strongest industrial system in the world. Let me briefly review some of their achievements. They are the world's principal shipbuilders, while our shipyards are no longer able to compete and, in many cases, are kept alive by naval contracts. The Japanese have a tremendous hold on the electronics business and are rapidly eating into our domestic and foreign markets. The ambition of untold thousands of American teenagers is to own a Japanese-built Honda motorcycle. Half a dozen Japanese makes are sold in this country, whereas the U.S. has only one major motorcycle maker these days. In the last few years, American highways have become crowded with Japanese automobiles. Japan's automakers are squeezing Detroit, costing thousands of American jobs. The Japanese have begun to sell transport aircraft in the United States. Piedmont Airlines is the first U.S. line to use Japanese planes. Japanese copying machines are in widespread use in offices and factories. Japanese textile imports are pushing the U.S. textile industry to the wall, threatening the very existence of an industry that employs 2½ million people. In the last year, textiles from the Far East resulted in the loss of 100,000 jobs in the U.S. textile industry.

The overall impact of Japanese products on our peope's buying habits is colossal and, in my opinion, ruinous. There is no evidence whatever that Japanese imports are leveling off. Consider the textile situation. The Japanese have refused to negotiate meaningful voluntary quotas on textile imports. Instead, the Japanese textile industry unilaterally announced certain limited restraints. But the import statistics indicate that these voluntary restraints are meaningless. Imports from Japan and other Far Eastern countries are soaring. The Commerce Department reported August 5 that textile imports are up 10 per cent from May and 47 per cent from June last year. The value of these imports was $1.7 billion. That means $1.7 billion in lost business for American manufacturers.

The import situation is equally serious for the steel industry. U.S. steel imports totaled a record 9 million tons in the first half of 1971. Incidentally, Japanese steel sells for $40 a ton less than American-made steel.

Some Americans don't find danger in the Japanese trade campaign directed at the United States. They ignore the fact that Japan erects complicated trade barriers to keep U.S.-made products out of Japanese markets. Indeed some Americans apparently aren't even dismayed at the idea of the U.S. becoming a service-oriented importer economy. I don't understand where they think the money is going to come from for the U.S. to live well in the future.

The wealth of nations is created by producing goods and by transporting them to buyers. This is the way Great Britain became rich in the 19th century. Each year, we are losing our lead as a producer nation. Japan is the country that's really turning out the ships and other heavy equipment. Moreover, Japan's large, modern merchant marine carries Japanese goods to market. Our merchant marine languishes because of high construction costs and equally high operating costs, resulting from enormously expensive union labor. The majority of American-owned ships has to operate under flags of convenience, the flags of Honduras, Panama and Liberia, for example, so as to be able to hire crews at a cost-effective rate.

The economic challenge posed by Japan—and I suggest that you think of Japan as a single, giant company under centralized direction—is the gravest economic challenge this country has ever faced.

Here in Atlanta, I am reminded of Henry Grady's famous speech about the Georgia man who died and was buried in a Northern-made suit, in a grave dug by a Northern-made shovel and laid to rest under a piece of stone from the North. Georgia's only contribution was the corpse and the hole in the ground. Well, it is not an exaggeration to say that our entire country is likely to approach that situation by the end of the 1970's, with Japan in the role of the North, unless there is a change in national policy. I can envision a grave dug by a Japanese-made power shovel, a body clad in Japanese textiles, and a hearse made by a Japanese auto-maker.

Those of you who are in service industries may not feel the Japanese economic pressure. But talk to Southern manufacturers—textile, steel or whatever—and you will discover the profound alarm they feel. In South Carolina, which is absolutely dependent on the textile industry for state revenues, plants are shutting down or hours and days of operation are being curtailed because of the flood of Asian imports. In Birmingham, the steel mills are under similar pressure because of Japanese-made steel. In 20 years, Japanese steel production has jumped from five million to 100 million tons and is likely to exceed American production in two years.

Despite the threat to our country's economic well being, there is considerable indifference or open opposition to protection for threatened U.S. industries. Many of our national leaders and opinion-makers are the captives of "free trade" slogans. But as long as we have union monopolies and excessive labor costs which are non-competitive, we cannot live under a one-way free trade system.

To be sure, free trade has an ancient and honorable tradition. Here in the South, we were eager subscribers to the concept when our principal product was cotton. But truly free trade is possible only where free economic conditions exist on all sides. That is to say, the trading partners must subscribe to the same system and permit the same degree of access to their markets. But that's not the situation today. The United States has cut tariffs and otherwise made it easy for Japan and other countries to do business in the United States. The Japanese, however, make it difficult for American products to be sold in Japan. A Cadillac in Tokyo sells for $25,000 because of import barriers. In addition, Japanese industry operates as a huge cartel, with the government aiding business at every opportunity. As Jenkin Loyd Jones recently pointed out, "while American anti-trust laws would jail executives of any competing American firms who dared join together in fixing prices or otherwise trying to cartelize foreign trade, in Japan the government is in the thick of the conspiracy."

Finally, the Japanese and American wage structures are completely different. Japanese wages are extremely low, whereas U.S. companies must pay high scales.

The free trade enthusiasts say that the answer lies with automation. But that isn't an answer for America. The Japanese can automate their plants as rapidly or more rapidly than American manufacturers. For one thing, the cost of automation is lower in Japan—again because of low labor costs.

We often forget how central to competition are labor costs. In general, employee compensation represents almost 80 per cent of the cost of production. In 1968, corporate business in the United States received an income of $403 billion. Of this amount, $318 billion represented wages, or 79 per cent.

It is impossible to envision any wage reductions in the United States. So the U.S. hasn't any maneuvering room in that area in trying to compete. In addition, American industry is subjected to a multitude of controls, the latest being environmental pollution requirements. Japanese industry isn't faced with these controls or associated costs. Indeed Japanese heavy industry hasn't been faced with anything like the requirements for pollution abatement that have hit American heavy industry in the last three years. And now the productive sectors of American life—industry and the middle class—are being subjected to new demands for vastly expanded welfare as the mammoth food stamp handouts which cost more than $2 billion a year. The Nixon-Mills Family Assistance legislation, now before the Senate, would double the number of Americans on welfare—a development that will hardly help the productive elements in our country compete successfully with people in other countries.

The seriousness of the situation is reflected in the fact that, with the exception of a small range of specialized products, we now import more than we export. This special range is composed of computers, aircraft, etc. But even our surplus in advanced machinery is declining. You will have noted that the Japanese are interested in producing a special version of the Boeing 747 under license in Japan. It is only common sense to realize that a few years hence the Japanese will be in aircraft production in a big way and deprive us of a vastly profitable business.

Ironically, we made possible the economic growth in Japan and elsewhere. We reequipped Japanese plants after World War II. We still carry the defense burden for Japan—at immense cost—while Japan spends only a small amount on national defense. Our naval forces guarantee the safety of Japan's oil supplies which are obtained in the Middle East. In other words, the Japanese have shirked their defense obligation, leaving it to the overburdened American taxpayers.

As a result, the United States is profoundly disadvantaged in the fierce trade war being waged by Japan—and I use the words "trade war" advisedly.

In America, we need a keen realization of the new conditions we face. The good life we enjoyed in this country in the past was derived from our economic supremacy—from our success in producing and marketing goods. The wealth our system generated was spread to progressively lower levels of income. We created a huge domestic market for our goods. The Japanese haven't sought to expand their domestic market as we expanded ours. Instead, they aim to achieve enormous gains by monopolizing our domestic market. I see this as an act of economic warfare, for, to the degree that the Japanese are successful, they restrict employment and investment opportunities. They narrow our industrial base. Socially, the flood of Japanese imports compounds our human problems, for a smaller industrial base is less able to absorb the army of new workers entering the labor market annually.

We may well ask: "To what purpose are our states spending millions of dollars on technical and vocational training if such jobs are being lost as a result of Japanese competition?"

O. R. Strackbein, president of the Nationwide Committee on Import-Export Policy, has rightly said: "We are headed off at the pass by foreign products made under the same patent or process but saturated with low-cost labor." In any contest to reach new low or medium income markets, imports from Japan and other Asian countries can get there first and spoil the market for our own manufacturers who must reckon with minimum wage laws, not to speak of union pressures.

There are some people in our government and international banking institutions who apparently regard certain of our industries as expendable—the textile industry, for example. But I ask you, given the wage structure in Japan and the country's cartel approach, how can any American industry survive a massive Japanese trade assault? I don't believe that we can survive without mandatory trade quotas in a number of areas, without rigid limits on foreign penetration of domestic markets. The new surcharge on foreign goods is temporary and inadequate. If we continue an open market policy in our dealings with countries having protected industries, we will reverse the process that brought this country to industrial and commercial leadership and which gave America the highest standard of living in the world. Recognition of this is not our only need. We must struggle against the creation of a huge new drone class dependent on welfare or a guaranteed annual wage provided by productive Americans. And we must make every effort to dismantle the monopoly unionism which imposes unreasonable wage demands on industry and which fuels the fires of inflation. We must expose to critical analysis the notions of income redistribution that would deprive energetic Americans of incentives and reduce this nation to an economic backwater in less than a generation.

But as important as all of this is a new trade policy and attitude that will prevent monopolistic Japanese industry—backed by the Japanese government—from taking over our domestic markets and making our people captive consumers for the producers of Japan. This kind of economic subjection to Japan would consign Americans to a far lower level of affluence than we enjoy today and have enjoyed for generations. Here in Atlanta, where businessmen are so mindful of the economic requirements of the future, I hope for clear comprehension of the need for a new, tougher American policy in foreign imports.

IMMEDIATE AID FOR BELEAGURED SCHOOLS IN 410 CONGRESSIONAL DISTRICTS

HON. ROMAN C. PUCINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1971

Mr. PUCINSKI. Mr. Speaker, when the House of Representatives considers the supplemental appropriations bill this week, it is my hope that an amendment will be offered to fund category "c"—public housing children—of the impact aid law. If accepted, this amendment will provide $100 million in additional funds to beleagured schools in more than 410 congressional districts.

The basic principle of the impact aid law is that the Federal Government has an obligation to pay school districts for burdens placed upon them by activities of the Federal Government. We are all aware of the burdens placed upon school districts by the presence of military and other Federal facilities and by the resulting numbers of "a" and "b" children, but the same principle applies as forcefully regarding the presence of large numbers of federally financed low-income public housing units and the resulting concentrations of poor children. By Federal law these units must be exempt from all State and local taxation. And this tax exemption coupled with the concentrations of large numbers of disadvantaged students has caused enormous strains upon many school systems, and in several cases has contributed to the near breakdown of school systems.

The amendment which I hope will be offered next week will be a start in the direction of the Federal Government's assuming its rightful share of the cost of educating these children. This amendment will probably only appropriate one-third of the authorization for this category, far less than the percentage which is funded under the authorizations for "a" and "b" children, but it will at least be a start. I want to emphasize, however, that by funding category "c" we shall in no way be affecting categories "a" and "b". Funding for public housing children is entirely separate and will not detract at all from funding for "a" and "b" children.

I am inserting in the RECORD today a breakdown by congressional districts of the money which will be made available to school districts following the adoption of this amendment to fund category "c" at $100 million. As with all of impact aid, these are funds which will go directly into the operating budgets of school districts and will not be bogged down in any way in redtape or bureaucratic fumbling. Therefore, I would urge all Members to carefully consider this amendment and to look upon it as a way for the Federal Government to both assume its proper share of the cost of educating children from public housing and also as a way to provide direct, unencumbered aid to school districts which are desperately in need of such aid.

I am inserting in the RECORD at this point the breakdown of the $100 million by congressional districts.

The table follows:

ESTIMATED GRANTS TO SCHOOL DISTRICTS BASED ON $100,000,000 APPROPRIATION UNDER PUBLIC LAW 81-874 FOR CHILDREN IN PUBLIC HOUSING

State and Congressional district [1]	Number of [2] children	Estimated [3] grant
Alabama:		
1	5,789	$356,023
2	6,438	395,637
3	6,217	382,346
4	3,868	237,882
5	5,012	308,238
6	7,914	486,711
7	6,503	399,935
8	5,860	360,390
Alaska	1,229	543,611
Arizona:		
1	2,323	162,997
2	1,275	89,463
3	2,180	152,963
Arkansas:		
1	3,892	239,358
2	3,834	235,791
3	3,114	191,511
4	2,357	144,956
California:		
1	2,236	164,719
2	645	47,515
3	4,245	312,715
4	2,441	179,820
5	8,587	632,576
6	1,760	129,653
7	3,171	233,597
8	2,566	189,029
9	1,633	120,298
11	731	53,850
12	1,463	107,774
13	2,973	219,011
14	4,727	614,889
15	3,832	282,291
16	3,873	285,311
17	4,263	314,041

Footnote at end of table.

State and Congressional district [1]	Number of children [2]	Estimated grant [3]
California—Continued		
18	1,603	$118,088
21	4,194	308,958
22	582	42,887
26	781	57,534
29	1,557	114,699
30	2,939	216,506
32	926	68,115
33	1,470	108,290
35	10	737
38	2,103	154,921
999 [4]	5,884	433,455
Colorado:		
1	5,004	420,336
2	60	5,040
3	1,177	98,868
4	355	29,820
Connecticut:		
1	4,668	476,914
2	1,216	124,235
3	4,282	437,478
4	5,829	595,530
5	2,072	211,689
6	1,495	152,739
Delaware	2,852	197,358
District of Columbia	15,163	1,000,758
Florida:		
1	2,639	162,299
2	1,690	103,935
3	2,799	172,139
4	2,291	140,897
5	4,558	280,317
6	7,125	438,188
7	3,028	186,222
8	2,370	145,755
9	2,999	177,772
10	684	42,066
11	6,621	407,192
12	1,716	105,534
999	55	3,383
Georgia:		
1	5,504	338,496
2	4,619	284,068
3	4,598	282,224
4	4,675	287,513
5	13,922	856,203
6	5,251	322,937
7	4,295	264,143
8	4,503	276,935
9	3,115	191,573
10	6,282	386,343
Hawaii	6,026	381,647
Idaho:		
1	753	51,706
2	382	26,231
Illinois:		
1	15,929	1,515,910
2	3,223	306,722
3	3,531	336,034
4	883	84,032
5	1,752	166,732
6	722	68,710
7	13,059	1,242,782
8	1,351	128,570
9	6,482	616,870
10	165	15,703
12	793	75,467
13	121	11,819
14	1,429	135,993
15	1,915	182,244
16	2,882	274,270
17	2,128	202,515
18	3,340	317,857
19	3,182	302,820
20	3,258	310,053
21	5,222	496,960
22	1,637	155,788
23	2,417	230,018
24	5,703	542,736
999	5,321	506,382
Indiana:		
1	3,715	255,097
2	363	24,926
3	2,001	137,402
4	555	38,110
5	260	17,853
6	403	27,673
7	1,024	70,315
8	2,053	140,973
9	1,678	115,223
10	972	66,744
11	3,446	236,625
Iowa:		
1	536	45,024
2	270	22,680
3	182	15,288
4	403	33,852
5	641	53,844
6	239	20,077
7	471	39,564
Kansas:		
1	792	57,420
2	1,429	107,228
3	1,548	112,230
4	1,303	94,468
5	790	57,275
Kentucky:		
1	4,057	249,506
2	2,124	130,626
Kentucky—Continued		
3	7,107	$437,081
4	2,132	131,118
5	2,233	137,330
6	5,083	312,605
7	1,321	81,242
Louisiana:		
1	9,775	601,163
2	8,039	494,399
3	2,609	160,454
4	1,916	117,834
5	1,518	93,357
6	2,452	141,798
7	3,546	218,079
8	2,136	131,364
Maine:		
1	1,014	84,162
2	1,227	101,841
Maryland:		
1	2,213	175,934
3	6,852	544,734
4	2,889	229,676
5	1,153	91,664
6	1,880	149,453
7	4,133	328,574
8	1,021	81 170
999	608	48,336
Massachusetts:		
1	1,730	188,858
2	1,580	172,483
3	1,260	137,550
4	2,461	268,659
5	2,990	326,408
6	1,139	124,341
7	1,755	191,588
8	5,242	572,252
9	13,380	1,460,650
10	3,264	356,320
11	1,739	189,841
12	1,960	213,967
999	1,656	180,780
Michigan:		
1	595	45,418
2	985	75,188
3	715	54,578
4	1,448	110,531
5	504	38,472
6	1,305	99,615
7	1,161	88,623
8	1,843	140,682
9	935	71,372
10	944	72,058
11	2,012	153,583
12	554	59,769
13	5,914	45,435
14	2,366	138,927
15	1,443	87,249
16	1,148	87,631
17	3,011	229,836
19	1,231	93,966
Minnesota:		
1	664	45,340
2	1,053	71,955
3	3,462	236,591
4	5,472	373,920
5	5,028	343,580
6	1,638	111,930
7	1,833	125,255
8	2,462	168,233
999	78	5,330
Mississippi:		
1	1,851	113,833
2	1,544	94,956
3	1,297	79,766
4	1,645	101,168
5	4,519	277,919
Missouri:		
1	8,540	584,990
2	195	13,354
3	2,545	174,333
4	1,009	69,117
5	3,241	222,009
6	766	52,471
7	845	57,883
8	1,203	82,406
9	575	39,388
10	2,504	171,191
999	551	37,744
Montana:		
1	922	75,911
2	865	71,222
Nebraska:		
1	2,967	285,327
2	4,970	477,948
3	2,888	277,729
Nevada	3,059	199,848
New Hampshire:		
1	3,186	307,516
2	862	83,183
New Jersey:		
1	2,991	319,040
2	3,284	343,893
3	2,806	299,520
4	3,778	402,989
5	421	44,928
6	482	51,413
7	1,151	122,773
8	3,871	412,907
9	1,053	112,320
10	8,722	930,346
11	9,810	1,046,400
New Jersey—Continued		
12	322	$34,347
13	7,714	822,493
14	5,936	633,173
15	2,360	251,733
999	1,378	146,987
New Mexico:		
1	2,608	160,392
2	1,894	116,481
New York:		
2	52	5,997
3	203	23,413
4	369	42,558
5	800	92,267
7	1,864	214,981
8	567	65,394
9	4,094	472,141
10	3,938	454,149
11	9,565	1,103,163
12	9,161	1,056,569
13	1,373	158,507
14	7,357	845,141
16	6,240	719,687
17	347	40,021
18	18,086	2,085,919
19	10,344	1,193,008
20	6,631	764,775
21	7,405	854,043
22	8,499	980,218
24	6,404	735,261
25	3,028	349,229
26	963	111,066
27	257	29,641
28	630	72,660
29	3,671	423,389
30	1,067	123,061
31	1,534	176,921
32	932	107,491
33	865	99,763
34	2,873	351,353
35	599	69,085
36	902	104,031
37	329	37,945
38	342	39,444
39	268	20,909
40	1,737	200,334
41	5,581	643,675
999	1,212	139,784
North Carolina:		
1	3,238	199,134
2	1,911	117,527
3	1,993	122,570
4	4,386	269,772
5	4,025	244,204
6	4,254	261,621
7	2,837	174,476
8	2,235	137,453
9	4,141	254,672
10	1,511	92,927
11	2,062	126,813
North Dakota:		
1	1,327	109,478
2	835	68,888
Ohio :		
1	889	66,823
2	7,788	585,398
3	3,996	300,366
5	1,004	75,467
6	1,503	112,976
7	633	47,581
8	852	64,042
9	2,308	173,485
10	421	31,645
11	293	22,091
12	3,570	268,345
13	2,317	174,161
14	3,506	263,534
15	3,730	280,372
16	659	49,535
18	1,413	106,211
19	3,253	244,517
20	12,620	948,603
21	1,450	108,992
24	693	52,091
Oklahoma:		
1	2,904	194,568
2	788	52,796
3	2,919	195,573
4	1,210	81,070
5	3,279	219,693
6	681	45,627
Oregon:		
1	1,299	137,694
2	512	54,272
3	3,918	415,308
4	1,788	189,528
999	620	65,720
Pennsylvania:		
1	6,026	476,054
2	6,819	546,601
3	10,642	840,718
4	1,414	111,706
5	2,035	100,765
6	2,872	226,888
7	746	58,934
8	286	22,594
9	2,740	216,460
10	2,815	222,385
11	1,170	92,430
12	1,500	118,500
13	510	40,290
14	8,661	684,219

Footnote at end of table.

ESTIMATED GRANTS TO SCHOOL DISTRICTS BASED ON $100,000,000 APPROPRIATION UNDER PUBLIC LAW 81-874 FOR CHILDREN IN PUBLIC HOUSING—Continued

State and Congressional district [1]	Number of [2] children	Estimated [3] grant
Pennsylvania—Continued		
15	3, 427	$270, 733
16	876	69, 204
17	3, 138	247, 902
18	439	34, 681
19	520	41, 080
20	7, 420	586, 180
21	1, 115	88, 085
22	2, 175	171, 825
23	464	36, 656
24	2, 779	219, 541
25	3, 640	287, 560
26	2, 605	205, 795
27	1, 912	151, 048
999	1, 542	121, 818
Rhode Island:		
1	6, 495	623, 520
2	4, 863	466, 848
South Carolina:		
1	2, 695	165, 743
2	2, 196	101, 721
3	1, 262	77, 613
4	3, 306	203, 319
5	1, 785	109, 778
6	525	32, 288
South Dakota:		
1		37, 840
2		122, 960
Tennessee:		
1	2, 837	174, 476
2	4, 571	342, 617
3	4, 715	289, 973
4	3, 849	236, 714
5	7, 873	484, 190
6	4, 195	257, 993
7	2, 376	146, 124
8	2, 703	166, 235
9	6, 551	402, 887
Texas:		
1	2, 774	175, 224
2	7, 937	122, 354
3	5, 639	356, 194
4	2, 245	141, 809
5	3, 744	236, 496
6	1, 144	72, 263
7	2, 610	164, 865
8	273	17, 245
9	3, 401	214, 830
10	2, 397	157, 727
11	2, 778	175, 477
12	1, 656	104, 604
13	2, 131	134, 608
14	2, 321	146, 610
15	3, 588	226, 642
16	2, 766	174, 719
17	2, 781	179, 000
18	491	31, 015
19	995	62, 851
20	8, 068	509, 629
21	497	31, 361
22	1, 136	71, 757
23	2, 573	162, 528
Utah	194	11, 913
Vermont	407	33, 442
Virginia:		
1	3, 318	262, 122
2	7, 315	577, 885
3	5, 079	401, 241
4	753	59, 487
5	650	51, 350
6	1, 625	128, 375
7	300	23, 700
9	625	49, 375
10	1, 586	125, 294
Washington:		
1	1, 352	89, 232
2	1, 759	116, 094
3	913	60, 258
4	859	56, 694
6	3, 297	217, 602
7	10, 739	708, 774
999	650	42, 900
West Virginia:		
1	1, 901	116, 912
2	618	38, 007
3	1, 503	92, 435
4	1, 047	64, 391
5	492	30, 258
Wisconsin:		
1	122	10, 573
2	936	81, 120
3	867	74, 620
4	234	15, 600
5	4, 993	432, 727
6	406	38, 653
7	1, 143	99, 060
8	852	73, 840
10	1, 685	146, 033
999	342	29, 640
Wyoming	333	29, 859
Puerto Rico	53, 431	4, 648, 497
Virgin Islands	1, 898	165, 126
Guam	325	21, 558
United States total [5]		98, 269, 521

[1] Congressional districts having no completed units are omitted.

[2] Number of school age children based on Office of Education estimate of school age children per public housing unit; that is 1.3 per unit.

[3] Estimated grants calculated adding 20 percent to 1970 State "B" rate.

[4] 999 units undistributed by congressional districts.

[5] Difference in U.S. total and appropriation caused by the fact that rates for cities, such as New York and Chiacgo, are somewhat larger than rate of average school district.

DELAWARE FOOTBALL

HON. J. CALEB BOGGS

OF DELAWARE

IN THE SENATE OF THE UNITED STATES

Monday, November 29, 1971

Mr. BOGGS. Mr. President, if I may I would like to draw attention to a singular honor my colleague from the State of Delaware and myself share with the two distinguished Senators from Nebraska.

We all have the privilege of representing States with national championship football teams. The University of Nebraska is the No. 1 major college team and the University of Delaware is the No. 1 small college team. Nebraska's honor may be greater, but we are just as proud of our team.

The University of Delaware Blue Hens have completed their regular season with a 9 and 1 record, the only loss coming to major college Temple. The team led all college division teams in rushing, with an average of 371 yards a game and in total offense, with an average of 515 yards.

This all was done in a season which was expected to be a rebuilding year. Coach Tubby Raymond took a team from which 15 of 22 starters had graduated and built it into a winner.

It certainly was not Coach Raymond's first winner. In the last 3 years his teams have won 27 of 32 games. His record since taking over from Coach Dave Nelson in 1966 is 43 victories and only 18 losses.

Dave Nelson also deserves credit for the fine season for the guidance he offered as athletic director for the University.

It is impossible to name all the great football players who contributed to this fine season, but one should mention Gardy Kahoe and Billy Armstrong, who did most of the ball-carrying; Sam Neff, a fine quarterback, and Ralph Borgess, a defensive tackle, the captain and team leader.

On December 11, the University of Delaware will travel to Atlantic City for its fourth consecutive appearance in the Boardwalk Bowl. The Blue Hens will be favored to make C. W. Post their fourth consecutive victim in that bowl game.

As an alumnus of the University of Delaware and a former member of its football team, I am proud of this great record. So are all the citizens of Delaware who have enjoyed following the team this season.

Mr. President, I ask unanimous consent that there be printed in the RECORD at this point a column about the Delaware football team by Hal Bodley, sports editor of the Wilmington News-Journal, and a news story about the national champion University of Delaware football team.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Wilmington (Del.) Evening Journal, Nov. 22, 1971]

THE DREAM CAME TRUE

(By Hal Bodley)

"What did Ralph say?" Tubby Raymond asked, almost sheepishly.

"That the team's goal is to win the national championship."

"He said what?"

"They want to be national champions. It's in the paper with a big headline today."

"Oh no," exclaimed the Delaware football coach. "I can't believe he said that. We have to replace 15 of 22 starters and . . ."

That was a sunny afternoon on Sept. 17, only hours before the untried Blue Hens were going to open their season with a 39-7 conquest of Gettysburg and start their quest for a second national title.

The Ralph is Capt. Ralph Borgess, an emotional, talented defensive tackle, who kept giving Raymond nightmares with his antics before the season started.

Late in August Borgess shaved his head, all but a little tassle of blond hair that looked like a minor-league pony tail. Raymond took one look at Ralph the first day of practice and turned white. People had to comfort the coach when photographers began to snap pictures. Several days later the picture had been used in newspapers all over the country.

Then, the day before the first game, here was Borgess saying an inexperienced team was hoping to win the national championship.

The first thing Raymond could see when he heard that was 10 locker room bulletin boards with the clipping "Hens Want National Title" tacked up in a priority position.

Saturday, when it was 46–0 and the Blue Hens had polished off Bucknell so convincingly it's not necessary to rehash the victory here, a fellow walked up to the surprisingly calm Borgess and asked him about that interview on Sept. 17.

"I wasn't kidding or fooling or anything like that," said Ralph, whose hair has grown back in nicely, thank you. "Sure, we had some holes on the offensive line, but the defense was so good, so wild, in spring practice I felt we could go all the way. I felt then the defense would play an important part in the season.

"We wanted to have the reputation of being mean, not just good. We've been trying to improve our aggressiveness and our pass rush all season. When you look back to other teams, they have had their highs and lows. Look at what happened to us after we beat. Temple last year. We lost to Lehigh. This year we feel like we've continued to improve each week. There has been no big letdown."

Raymond was standing a few feet away from his captain in the moldy Lewisburg, Pa., dressing room and was trying to hear every word.

"It's been a great bunch of boys," said Raymond, whose 9–1 season this autumn pushes his record to a remarkable 43–18 since taking over for Dave Nelson after the 1965 campaign. "I still say when you have two or three kids who get together and decide to do something, and they bring four or five along with them, it's contagious. Ralph has been a tremendous captain, but what he has done has been contagious. He has made the whole group a group of leaders and I can't think of a better tribute."

The subject of the Sept. 17 story was brought up and Raymond grimaced again.

"You can set goals," said the coach, "but the national championship? Winning the

Lambert Cup and having a big part in deciding who goes to the Boardwalk Bowl seemed much more realistic."

So, the Blue Hens will win the Lambert Cup, will play C. W. Post in the Boardwalk Bowl and will get the national championship, and will probably be recognized as the No. 1 small-college team in America by the prestigious Washington Touchdown Club.

Take nothing away from the champs of 1963, but the thing people will remember this team for is that it won it all. In 1963, the Hens were unbeaten in eight games, but the finale with Bucknell was canceled because of President Kennedy's assassination. They won the United Press International crown, but not the one given by the Associated Press. This time, they will get both.

And then there were all those records.

"I've never seen a better Delaware team," said Bucknell Coach Fred Prender after the Hens had rolled up 364 yards rushing and another 206 passing on the cold afternoon at Memorial Stadium. "This is the best Delaware defense and the best offense. What else can I say?"

Raymond stood on his front lawn last night and tried to think of ways to describe the feeling inside.

"I had a special feeling when Jack Turner played for us. I thought we'd never have a runner like him. Then there was Mike Brown and Tom DiMuzio and others. Somehow kids come along and you wonder how you'll ever replace them. Right now, I feel that way about Gardy Kahoe and Bill Armstrong. Boy, have they given me a thrill watching them run."

Tubby Raymond refuses to rate his teams. He doesn't want to call this one or that one his best. "It wouldn't be fair to the others," he says.

What Raymond will remember about this team, though, is that it was a group of boys who made up their minds what they were going to do, then went out and did it.

The dream came true.

On second thought, maybe it wasn't a dream.

Blue Hens UPI National Champions!!!

Delaware, which rolled to a 9-1 season including victories over two major colleges, has been named national small-college football champion by the United Press International board of coaches.

The Blue Hens, whose victims included Villanova and Rutgers—both major colleges—collected 20 first place votes from the 32 coaches participating in the final week of balloting. The only Delaware loss came to Temple—another major college. It was the second time Delaware was named national champion, the other title coming in 1963.

McNeese State of Louisiana (9-0-1), which has been second in the ranking through much of the latter part of the season, finished second behind Delaware with five first place votes and 267 points. The top-ranked Blue Hens' final point total was 306.

Eastern Michigan, which finished its season at 7-0-2, received three first place votes and finished third ahead of Tennessee State and C. W. Post. The fifth-ranked Pioneers will play Delaware Dec. 11 in the Boardwalk Bowl in Atlantic City, N.J.

Competing the top 10 were Arkansas Tech, Samford, Northern Colorado, Louisiana Tech and Howard Payne. Seventh-ranked Samford (8-1) will be hosting the Amos Alonzo Stagg Bowl in Birmingham, Ala., Nov. 25 against unranked Ohio Wesleyan. Ninth-ranked Louisiana Tech's post-season action will be with No. 3 Eastern Michigan in the Pioneer Bowl at Wichita Falls, Texas, Dec. 11.

The second 10 was headed by Chico State, which is bound for the Camelia Bowl against Boise State Dec. 11 at Sacramento, Calif. Following were Western Kentucky, Boise State, Westminster of Pa., and Southwest Texas State. Twice-beaten Alcorn A & M was 16th, Livingston of Ala., 17th and St. John's of Minn., 18th. The top 20 was completed by Pacific Coast Athletic Association champion Long Beach State and Akron.

The Blue Hens also won the Lambert Cup as the top middle-sized college football team in the East for the fourth consecutive year Tuesday.

The Blue Hens, who posted a 9-1 record, were the unanimous choice of the eight-man selection committee. C. W. Post and West Chester tied for second place.

Rounding out the top 10 were Bridgeport, Lehigh, Coast Guard, Williams, Amherst, Middlebury and Central Connecticut.

FINAL UPI SMALL-COLLEGE POLL

1. Delaware (20) 9–1	306
2. McNeese State (5) 9–0–1	267
3. Eastern Michigan (3) 7–0–2	238
4. Tennessee State (1) 8–1	185
5. C. W. Post 8–1	130
6. Arkansas Tech 11–0	95
7. Samford 8–1	78
8. Northern Colorado (2) 8–1–1	75
9. Louisiana Tech 8–2	74
10. Howard Payne 9–1–1	48
11. Chico State 9–1	47
12. Western Kentucky 8–2	42
13. Boise State 9–2	29
14. Westminster, Pa. 8–0	25
15. Southwest Texas State 8–1–1	22
16. Alcorn A. & M. (1) 6–2	21
17. Livingston, Ala. 8–1	20
18. St. John's, Minn., 8–1	18
19. Long Beach State 8–3	15
20. Akron 8–2	11

PAT SULLIVAN WINS HEISMAN TROPHY

HON. GEORGE W. ANDREWS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. ANDREWS of Alabama. Mr. Speaker, voters for the Heisman trophy have chosen Pat Sullivan of Auburn University as the outstanding college football player for 1971. They made a wise choice, and no one deserved the award more.

Auburn University and the State of Alabama could not have had a finer representative than this truly outstanding young man from Birmingham.

Pat is simply a super football player and has been since high school. His record at Auburn was not made in 1 year. He is not a senior year wonder alone.

Pat Sullivan was a fantastic passing and running quarterback when he was a sophomore, and he led the Nation in total offense with 285.6 yards when he was a junior.

He was responsible for 26 touchdowns last year and finished sixth in the Heisman trophy balloting. This year, he added 26 more touchdowns and went all the way to place first in the balloting.

Pat compiled his supurb record in the heat of battle in one of the very toughest conferences in the Nation. Football is king in the South, and we play it good, and we play it tough. Pat Sullivan was a winner in a field of winners. It makes a difference.

His worth to the total team effort has been clearly evident throughout a fine career. He has guided Auburn to three highly successful football seasons.

Finally, Mr. Speaker, Pat Sullivan is considerably more than a great football player. He is a fine Christian young man, devoted husband and father, and unfailing friend and leader to his fellow students.

Though gifted as an athlete and praised many times for his athletic accomplishments, Pat Sullivan is humble and appreciative of the contributions of others to his success.

When he won the Heisman Trophy last week, he was certainly a gracious winner, and I am certain that had he not won the award, he would have been an equally gracious loser. He did not say, "Well, it's all so true, you see. I am in fact the greatest football player in the country."

Amazingly, the young man who placed second to Sullivan made just such an admission. At least 1,597 voters would disagree with him and did.

They chose Pat Sullivan, and I am delighted that they did. I am proud to represent Auburn University as Congressman for Alabama's Third Congressional District.

It is an outstanding academic institution, and its athletic program is outstanding as well. Proof of the fact? Why, Pat Sullivan, of course.

SAVING OUR WILD HORSES

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. HUNGATE. Mr. Speaker, in view of the wide interest among the young people of my district in the preservation of our wild horses, I thought others might find this article of interest.

[From the Washington Post, Nov. 25, 1971]

Cowboys in Copters Act To Save Last of Wild Horse Herds

Lovell, Wyo.—Cowboys on horses and in helicopters have stepped in to save one of the nation's last wild horse herds from possible extinction in the rocky, snow-covered Pryor Mountains along the Wyoming-Montana border.

The Bureau of Land Management cowboys last week trimmed the Pryor Mountain wild horse range herd from 157 to about 100, giving the remainder a chance to live off the 32,000-acre range.

The available range feed was not sufficient to support the growing number of horses, descendants of domestic herds belonging to the nearby Crow Indian Reservation and area ranchers. The first proposal to thin the herd was a "quiet, dignified elimination by gun or drugs."

That ignited such an uproar from animal protection groups and other environmentalists that the Bureau of Land Management was forced to come up with another plan. It was decided to try to thin the herd by culling out the colts and loner stallions.

That method eliminated the danger of destroying Spanish mustang bloodlines and also improved the sex ratio, according to Rex Cleary, district manager for the bureau, a branch of the Department of Interior.

Starting about a month ago, five cowboys on horses attempted to drive the animals into what is called Big Coulee, a natural corral, where the herd would be cut to a ratio of 60 per cent mares and 40 per cent stallions.

After only two of the spindly, man-shy colts were captured the snow became too deep to progress any further on horseback and the bureau was forced to switch tactics.

The New West then took over. Helicopters were used to take the cowboys to the back reaches of the wilderness, where the colts were roped, wrapped in styrofoam pads, and put into baskets attached to the helicopter for the long ride to the corrals here.

The culling of the herd became necessary when forage became inadequate to support both deer and the wild horses.

Cleary said the inadequate amount of food did not affect the deer, which simply moved on to greener pastures. But the wild horses like to stay in their home grounds—even if they starve to death.

Cleary said 10 colts were captured, probably all that were left. The rest, perhaps as many as eight, were probably already victims of the winter.

The bachelor stallions—wild mustangs that roamed virtually alone in the wilderness, either too young, too old or too weak to keep a harem of mares—were corraled near the edge of the wild horse range.

An organization known as Wild Horse Organized Assistance, Inc., or WHOA, volunteered to find new homes for the colts.

Velma B. Johnson, Reno, Nev., popularly known as "Wild Horse Annie," and the Crow Indians volunteered to act as an "adoption agency" for colts and stallions taken out of the area.

The colts will be given away, probably by a drawing, while the Crow Indians of southeastern Montana say they will break the stallions, if possible, and either find homes for them or let them live out their lives on the Crow Reservation.

FREEZE ON PROFESSORS' SALARIES

HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. ALEXANDER. Mr. Speaker, on October 28, 1971, the attached resolution was introduced in the Fayetteville section of the university faculty senate, University of Arkansas, by Prof. Ernie Deane. The faculty adopted the resolution and I would like to insert it in the Record for the benefit of my colleagues:

Professor Deane moved *Whereas,* certain inequities and injustices have been inflicted upon more than 300 faculty members of this University under certain interpretations of the intent of the presidential "freeze" on salaries ordered August 15, 1971, and

Whereas, these affected faculty members had contracted in good faith with the University prior to the presidential order to perform certain duties during the 1971–72 school year in return for specified salaries, and they are faithfully performing those duties, and

Whereas, the University is not presently permitted to honor its contracts with these faculty members in the matter of salaries, and

Whereas, meanwhile, the salaries of more than 300 other University faculty members have not been adversely affected by the presidential "freeze" and the University is fulfilling its contracts with them, now therefore be it

Resolved, that the Faculty Senate of the University of Arkansas at Fayetteville takes note that these conditions constitute unjust and inequitable treatment of certain members of this faculty, these members thus being denied equal rights under the law, and

Be It Further Resolved, that the Faculty Senate herewith protests these inequities and injustices and respectfully petitions agencies and officials concerned to remove same, and

Be It Further Resolved, that this protest and petition be directed to, but not limited to, the President of the United States, the Governor of the State of Arkansas, members of the Arkansas delegation to the United States Senate and House of Representatives, the President of the University of Arkansas, members of the Board of Trustees of the University of Arkansas, and the federal Office of Emergency Preparedness; and the secretary of the Faculty Senate is directed to send copies of the protest and petition to each of these officials and agencies without delay.

THE NEED FOR GREATER FUNDING OF SICKLE CELL ANEMIA RESEARCH

HON. GERALD R. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. GERALD R. FORD. Mr. Speaker, the House has passed legislation which gives us sound reasons to hope that cancer can be conquered in the forseeable future. We should now turn our attention to another dreaded disease, sickle cell anemia, known as SCA. The administration has increased its SCA research and treatment budget fivefold to a new total of $6 million. Meantime, a research team at Blodgett Memorial Hospital in Grand Rapids, Mich., my hometown, has discovered a treatment for the critical stage of SCA. The need for greater funding of SCA research and treatment has been examined in an editorial in the Grand Rapids Press. I commend a reading of this editorial to my colleagues:

Putting a Scourge in Focus

A Blodgett Memorial Hospital research team headed by Robert N. Nalbandian, M.D., associate pathologist, has received national acclaim for discovering a treatment for the critical stage of sickle cell anemia, along with a method to prevent crises and progression of the disease. Although no cure has yet been found for SCA, which strikes Negroes almost exclusively, the results of the work here and elsewhere have raised hopes that a cure can be developed, and the findings already have resulted in massive efforts locally to uncover the disease and educate the public as to its nature, dangers and ways of keeping the incidence of SCA to a minimum.

The St. Louis Post-Dispatch has called attention to some facts on SCA reported by the American Medical Association. According to the AMA, an estimated 50,000 Americans are dying of the disease. Another 2,000,000 are carrying the SCA gene. When two such persons mate, there is a 25 per cent chance that their offspring will have the fatal disease.

Even more to the point is the AMA's observation that in 1967 there were an estimated 1,155 new cases of SCA reported, as compared with 813 new cases of muscular dystrophy. But volunteers raised $7,900,000 that year for muscular dystrophy and less than $100,000 for SCA.

We don't accept the Post-Dispatch's implication that this disparity is to be accounted for by the fact that only blacks are stricken with SCA. The disease simply hasn't had the publicity that some others have, possibly because its outward effects have been less discernible.

But as the Post-Dispatch also notes, "in belated recognition of this health program, Congress is considering bills to increase funding for research and treatment of SCA." We in Grand Rapids have special reasons to urge Congress to act positively on the proposed legislation, for it is largely because of the efforts of the local research team that hopes of finding a cure have been so greatly strengthened.

THE UNITED NATIONS FACES THE NEXT 25 YEARS

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. DRINAN. Mr. Speaker, I attach herewith a very significant article on the United Nations written by Dr. Thomas Patrick Melady, the American Ambassador to Burundi.

Dr. Melady, an expert on Africa and the author of several books on the third world of underdeveloped nations, wrote this article for publication in the July 1971 issue of the Catholic World. It is worthy of the attention of all of us.

The article follows:

The United Nations Faces the Next 25 Years

(By Dr. Thomas Patrick Melady)

The twenty-fifth anniversary of the United Nations has come and gone. Forty-five heads of state or government and ninety-one foreign ministers attended the twenty-fifth United Nations General Assembly. It was an unprecedented moment of international diplomacy. All of these high international personalities engaged in multilateral and bilateral talks.

President Nixon gave a major policy address at the United Nations on October 23, 1970. Secretary of State Rogers had bilateral meetings with twenty-one heads of state or government.

President Nixon, after listening to the speech of the world's longest reigning head of state, His Imperial Majesty Haile Selassie I, stressed in his address United States support for the United Nations and its programs. The President gave great emphasis to the ability of the United Nations to work in the field of the family of man's struggle for a better life; in mankind's war on the triple curse of poverty, illiteracy, and disease. He especially suggested that the United Nations concentrate on reducing the gap between the rich and the poor in the family of man; curb the pollution of the world environment, protect the seabed resources for the benefit of all, limit the galloping birth rate, assure the humane treatment of prisoners of war, and take appropriate action against drug abuse and air piracy.

The Silver Anniversary recorded some distinct accomplishments. There were also some clear disappointments. Inspired by the President's address, the United Nations proclaimed that the seabed beyond the area of international jurisdiction was a "common heritage" of the family of man. Many observers believed that this declaration may be recorded as one of the greatest accomplishments of the twenty-fifth anniversary, as it will especially protect for the developing countries their future access to the revenues that will be produced from these international resources. In order to implement this concept, the Assembly called for a conference on seabeds and the Law of the Sea in 1973.

The Assembly also:

1. Established a United Nations Volunteer Corps.
2. Set targets and adopted a comprehensive strategy for the second development decade.
3. Spoke strongly on the humane treatment of prisoners of war, aerial hijacking, and illicit drug abuse.

The clear disappointments included the failure to make any progress on peacekeeping. The Assembly also failed to approve a United States-sponsored proposal to create a committee to examine ways to improve the role of the International Court of Justice. Failure to enact the proposal for a United Nations Commissioner to protect Human Rights caused disappointment in humanitarian circles.

The United Nations is an international forum, and some feel this aspect was exaggerated at the twenty-fifth session which adopted five major declarations. They were:

1. The declaration on friendly relations between states.
2. The strategy for the second development decade.
3. Strengthening international security.
4. The declaration on the twenty-fifth anniversary.
5. The declaration on the tenth anniversary of the colonialism resolution.

While the first three were regarded by most observers as appropriate forward-moving steps for the world body, the last two generated a great deal of controversy. The last one particularly was regarded as being unbalanced, as it gave the United Nations blessing to the use of violence by liberation movements and called for further mandatory sanctions in southern Africa.

There were fifty founding members at San Francisco in 1945. Part way through the twenty-fifth anniversary session in 1970, the Fiji Islands were admitted as the 127th member of the world body.

The admission of the 127th member generated some concern about the advisability of automatically admitting mini-states to the United Nations solely because they become independent.

The anniversary session was the occasion for many to re-evaluate the United Nations. Among these was the President's Commission for the Observance of the twenty-fifth anniversary. The Commission, headed by Ambassador Henry Cabot Lodge, was concerned about the decline in public support for the United Nations among Americans. While around 80% of Americans once believed that the United Nations was the best hope for peace, only around 50% so believed this in 1970. While very few felt that the United Nations was in danger of collapse, there was clear indication that many in the twenty-fifth anniversary year regarded the institution as somewhat irrelevant to the modern world situation.

However, the world at long last has in the United Nations an international institution with worldwide membership which is dedicated to saving succeeding generations from the scourge of war. And furthermore we have a going organization which has as its goals "to reaffirm faith in the fundamental human rights, in the dignity and worth of the human person, and in the equal rights of men and women and of nations large and small . . . To promote social progress and better standards of life . . ."

The United Nations has six principal organs to implement these noble goals. They are the General Assembly, the Security Council, the Economic and Social Council, the Trusteeship Council, the International Court of Justice, and the Secretariat.

They are all well established and functioning mechanisms. For the first time in history such an organization exists.

PRESENCE OF THIRD WORLD

The presence of the Third World at the United Nations is a significant new political development of the past decade. Every September each new General Assembly of the United Nations unfolds another chapter in the postwar rise of the Third World and the significant changes this has brought in international affairs. Today, any observer standing at the top of the escalator used by United Nations delegates at the General Assembly building in New York can read—in microcosm—the story of Afro-Asia emergence in the sight of a turban, a sari, or a boubou. It is like holding up a mirror to the emergence of the Third World.

In 1955, the tenth anniversary of the United Nations, the late Dag Hammarskjold cited in his annual report "the great upheaval in the relationship of nations and peoples that is underway" and pointed out that "the peoples of Asia today, and of Africa tomorrow, are moving toward a new relationship with what history calls the West." By 1957, as the pace of the change quickened, Mr. Hammarskjold reported:

"The United Nations reflects, but is in no sense a cause of, the renaissance of Asia, the awakening of Africa, and the other great changes that are under way in the balance of power and relationships of the peoples are likewise part of the dynamic of history itself. As always, they bring with them many grave problems of adustment."

The mirror threw back a much different image from that of 1945, when the United Nations was mainly a white man's club. The people of color who, in 1945, constituted the majority of the world's population were hardly represented. By the time the United Nations celebrated its twentieth anniversary in 1965, this situation had significantly changed—from eleven Afro-Asian states present in 1945 to sixty-five in 1967. And the four new nations of the Caribbean that are inhabited predominantly by the peoples of color also can be added to the Third World. In 1970, with the admission of Fiji, the majority of the 127 members were Third World states.

The presence of the Third World in the United Nations has turned it into a truly global institution. The point was made dramatically by Pope Paul VI on his visit to the United Nations on October 4, 1965, when he declared:

"Permit us to congratulate you on having had the wisdom to open this Assembly to the young peoples, to the States which have recently attained independence and national freedom. Their presence here is the proof of the universality and magnanimity which inspire the principle of this institution."

Once the impact of the new nations was felt at the United Nations, a significant change in the items under discussion on the annual General Assembly Agenda could be observed. The Third World brought into the halls of the United Nations the poor man and made him a topic of concern for the major powers.

For the Third World nations, the United Nations is a unique opportunity and a special instrument. Through their permanent missions to the United Nations they are able to maintain contact with fellow Third World countries without the heavy commitment of men and money to diplomatic missions in all these countries. Thus most Afro-Asian states assign their leading diplomats to the United Nations post.

More important, the United Nations is the only place in the world where the influence of these countries outweighs their economic and military strength. And it is through the Secretariat and the Secretary-General that their influence is particularly felt. This strength was clearly evident in the arrangements for the visit of Pope Paul VI to the United Nations in October 1965. The Third World nations enthusiastically supported the visit because they felt that the Pope would add the prestige and influence of the Holy See in support of their three central concerns: war, peace and disarmament; efforts to eliminate racism and colonialism; aid programs to reduce poverty, illiteracy and disease. As expected, Pope Paul's visit was significant on all three counts.

The support coming for the Third World nations at the United Nations by the Holy See and other international religious and humanitarian groups has influenced the whole complex of the United Nations—from the offices of the Secretary-General and specialized agencies to the periphery of nongovernmental bodies. All three central concerns of the Third World are now in the forefront of United Nations interest. This is a far cry from the grim prediction that the admission of these "small, poor states" would distract the United Nations from the major problems facing the world in favor of the narrow interests of these countries. The opposite has happened: the Third World has humanized the United Nations and sustained a larger view of a world struggling to achieve the vision of mankind ever evolving toward a better life for all.

The presence of the Third World has almost transformed the United Nations into a fully universal institution. The China question is the one main question to be resolved in this regard. One has the feeling that, as we enter the second twenty-five year period, we are at the eve of an equitable solution to this problem that has been a vexing one for all advocates of universality. Here again, there was no predestined guarantee that the United Nations would solve this problem the moment it appeared on the agenda of the United Nations. Nevertheless the United Nations machinery provided the forum for over ten years of discussion and this dialogue has in it the seeds of eventual solution.

THREE NEW SOURCES OF CRITICISM

Three new schools of criticism for the United Nations have developed in the past few years. First, the advocates of rapid evolution from the United Nations institution to a world government have been disappointed that the United Nations did not evolve to a new super-world sovereignty in its first twenty-five years. In the late 40's and the early 50's there was in Western circles a small but articulate group supporting the United States as a means to a goal that they wanted—world government. As a matter of fact, world government was never envisaged as the end-product of the new institution launched in 1945 at San Francisco. The United Nations is not a supra-state. It does not legislate, though it provides machinery for member states to cooperate in an organization of sovereign states.

The world government enthusiasts in the first few years of the United Nations seized upon it as a means to accomplish their end. Now, twenty-five years later, while the United Nations has facilitated greater conversation and in many ways has implemented Teilhard de Chardin's vision of universal pluralism, it has not resulted in world government. This group of early enthusiasts has, in a way, soured on the United Nations and has joined the original isolationists and others in criticizing it.

Second, Israel always has had an articulate group of supporters. Since the United Nations facilitated, if not sponsored, the birth of the state of Israel in 1947, the pro-Israel enthusiasts enlarged their affection for Israel to include the United Nations. It was a matter of course in the 50's to find that American organizations who were wholeheartedly supporting Israel were also in the pro-United Nations group.

In the past few years Israel had been witnessing some difficulties in the United Nations. The strengthened nationalism of the Arab states plus their *mariage de convenance* with select Afro-Asian countries has given them a vastly strengthened posture at the United Nations. In the 1970 General Assembly, Israel was defeated on several key matters affecting its interests. This new development has resulted in some of the pro-Israeli supporters cooling their affections towards the United Nations.

Another area of criticism of the United Nations has been the subsidiary role that it has played in any attempts at resolving the Vietnam conflict. These critics hold that "somehow" the United Nations should have been able to resolve this problem. As a matter of fact Vietnam never did emerge as a full-scale world conflict. Nor is the United Nations involved in the present negotiations.

This criticism is based on the assumption that the United Nations should contain properties of greatness—if not magic—that would allow it to resolve—and to everyone's satisfaction—the problems plaguing mankind. It has not been able to do this in the case of Vietnam. Should the United Nations be "written off" for this and other defects and non-accomplishments?

These three developments are unfortunate and, while it is only perhaps natural for groups with overriding primary interests to be disappointed when the United Nations no longer coincidentally supports their interest, one would hope that they would rise above the temptation to do harm to an institution that Pope Paul VI so clearly had hailed as the leading universal secular facility to serve the family of man.

DANGER OF EXTREME POLEMICS

There is another, more serious, danger now present in the United Nations. Some of the new members whose independence came in the wake of what they regarded as oppressive foreign domination and who still see parts—albeit small—of the Third World under foreign control, are highly emotional on some of these very sensitive issues. When the complicated questions of southern Africa—colonialism, human rights, and so forth—emerged on the agenda of either the General Assembly or the Security Council, there has been the tendency in the past few years for certain of the newer nations to seize this opportunity to engage in inflammatory polemics.

This is contrary to the tradition that inspired the founding fathers of the United Nations. Both physical and emotional violence was to be avoided within the walls of the serious global institution of the United Nations. The representatives of the sovereign states were to set forth their thesis arguments in a calm, cool, and collected fashion. Unfortunately, in the past several years this has not been the case. Although not the only one, the Committee of twenty-four—the General Assembly's Special Committee on Decolonization—has been among the offenders. In early 1971 both the United Kingdom and the United States withdrew from membership on this committee. Many committed believers of the United Nations are concerned that, if the tendency to engage in highly emotional polemics continues at the United Nations, its usefulness as an institution of dialogue, as an institution of universal pluralism, will be impaired.

CHALLENGE: TO RENEW

In looking back over the twenty-five years and glancing even further back over the attempts of mankind in the past to facilitate conversation and to reduce the tendency to confrontation, we can, as President Nixon remarked to the United States staff at the United Nations, be thankful that mankind's vision has evolved from a point where an international institution was established and has survived twenty-five years. All of us, regardless of our interests, should avoid the temptation to attack and criticize. We should avoid participating with those who would destroy the United Nations. Our challenge is to engage in reform; to work quietly and patiently to improve the institution.

Teilhard de Chardin, one of mankind's leading prophets of universal pluralism, has said "The task before us now, if we should not perish, is to shake off our ancient prejudices, and to build the earth."

The United Nations has emerged from man's arduous journey. It, like man, is not perfect. But, like man, the United Nations has, in its essence, the seeds of greater perfection.

The task for us now is to seek the greater perfection of an institution that evolved in mankind's nobler moments. Reform has always taken more courage to implement than destruction. But, as Teilhard said, "the future of the earth is in our hands. How shall we decide?"

COMMENCEMENT AND COMMISSIONING EXERCISES, TEXAS A. & M. UNIVERSITY, MAY 8, 1971

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. TEAGUE of Texas. Mr. Speaker, when the graduating class of 1971 of the Texas A. & M. University at College Station assembled for their commencement and commissioning exercises, they were addressed by three great and well known men: Dr. Abner McCall, president of Baylor University; Gen. John D. Ryan, Chief of Staff of the U.S. Air Force and their own president, the Honorable Jack Williams.

I include the words of these three gentlemen in the RECORD.

The addresses of the aforementioned follows:

COMMENCEMENT AND COMMISSIONING EXERCISES, TEXAS A. & M. UNIVERSITY, 1971

(Address by Dr. Abner V. McCall, president, Baylor University)

I regard it as a privilege to participate in the 1971 Commencement Exercises of Texas A&M University. For almost forty years I have been visiting this gymnasium with Baylor basketball teams and hearing the Aggies in the stands demanding that Baylor be stomped, and generally their demands have been satisfied. I am glad for once to be here on this neutral occasion and hope to come away with at least a tie.

Baylor awarded an honorary degree to my good friend, the late Earl Rudder, President of Texas A&M, for his contributions to higher education in Texas. Under President Rudder, Texas A&M made remarkable progress and within a decade became the finest public university in the Southwest. You who graduate today can be proud indeed that you have earned a degree from Texas A&M.

I also have the greatest respect and admiration for your new president, Dr. Jack K. Williams. In my opinion the Board of Directors of Texas A&M has hit another home run in selecting him to lead the university. I am sure that under him the remarkable progress of Texas A&M as an educational institution of excellence will continue without letup.

The student bodies of a few universities seem to believe that ranking first in athletic competition is of highest priority. In the last decade Texas A&M seems to have joined Baylor in emphasizing character building on the football field. Baylor has not won a football championship in forty-six years. From our experience I want to assure you football fans at A&M that the first twenty years are the hardest; and after that, you get somewhat used to not ever being No. 1 in football. Perhaps the Texas A&M students can in answer to the shouts of a neighboring Texas institution start shouting, "We're No. 1 in Education." For the educator utopia will be here when students get so concerned about who's number one in education.

The students of many American colleges and universities seem to believe today that a college or university should rank first and give first priority to being an instrument of social or political action to reform the nation and the world. It is about this current and popular belief of many students and faculty members that I want to speak briefly today. All universities have some of these students and teachers, and many universities have so many of them that they seem to be in control of these universities. These idealistic students and teachers are appalled that previous generations have not solved the ancient problems of war, crime, corruption, poverty, racial prejudice, and religious bigotry. They want to drop everything else, mobilize the campus, and convert it into an instrument of social and political reform, and proceed with the revolution. They want instant peace, honesty, love, contentment, plenty, and all the other characteristics of instant utopia.

Before I became a college president, I occasionally read a book. One field in which I had a peculiar interest was the various Utopian schemes which men have devised for society. Many plans for the perfect society have been written by the world's intellectuals. Some of the better known are:

Plato's *Republic*.
Sir Thomas More's *Utopia*.
Campanella's *City of the Sun*.
Fenelon's *Telemaque*.
Butler's *Erewhon*.
Rabelais' *Abbey of Theleme*.
Bacon's *New Atlantis*.
Andrea's *Christianopolis*.
Cabet's *Icaria*.
Hertzla's *Freeland*.

Most of these, including More's Utopia, were written during the sixteenth and seventeenth centuries. The discovery of America inspired these schemes for the perfect society. Land was the basis of the agricultural economy of Europe. The discovery of apparently unlimited land in the New World inspired the intellectuals of the Old World to dream of new societies in which the limitations of the Old World could be cast off and mankind given a second chance at Eden. The ancient, cumbersome and corrupt institutions of the Old World could be left behind and people could start free all over again without the old limitations. Unlimited fertile land, the means of production of agricultural wealth, could mean the end of hunger, nakedness and poverty, and food, clothing and plenty for all. Unlimited new land could mean the end of serfdom, domestic oppression and strife, and of wars over territory. A brave new world seemed to be a possibility.

About a hundred of these Utopian schemes were actually tried during our early history on this continent. A hundred thousand people were involved in these various schemes for the perfect society. Most of you know that Jamestown started as such a socialist society and that for the first two years the Puritans lived, or rather starved, under a communistic theocracy. Others which were tried during the eighteenth and nineteenth centuries include: Bohemia Manor, the Community of the Contented, Ephrata, the Shaker Community, Jerusalem, Harmony, Economy, Zoar, New Harmony, Hopedale, Skaneateles, Brook Farm, Fruitlands, Utopia, Modern Times, Bethel, Aurora, Bishop Hill, Amana, Oneida, Putney, Icarie, Orderville, and Topolobampo. None worked out as planned. In spite of unlimited freedom, unlimited land, and religious zeal all foundered on the rocks of human imperfection—laziness, greed, selfishness, dishonesty, bigotry, prejudice, hatred, etc.

The typical experience was that of Ephrata started by Johan Beissel in Pennsylvania in 1735—a German Seventh Day Baptist society organized as a communistic, celebate society. They flourished for a while under the economic guidance of three brothers named Eckerling and the spiritual guidance of Father Beissel. Then the three brothers Eckerling insisted on the right to marry so Father Beissel expelled them from the community, and the material prosperity went with them. Then Father Beissel began to fool around with the "spiritual maidens," as the women were called, and caused dissension and disorder; and the material and spiritual prosperity of Ephrata ended. In all the utopian communities someone always ran off with the money, or fooled around with the spiritual maidens and broke up utopia. The problem with utopia is that one can never find perfect people to live therein.

I mention these historical utopian communities because many university students and teachers today are once again intrigued by the discovery of the possibilities of the new technological world and promises they see of another chance at Eden. The historian Arnold Toynbee has observed that the distinctive achievement of the 20th Century is not the discovery of nuclear power or the conquest of space but that for the first time in the history of mankind it is possible with our modern means of production and distribution to adequately feed, clothe, and house everyone on earth. As Toynbee puts it—The poor need no longer be with us. For the first time man has acquired such mastery over the forces and resources of the earth that he can eliminate poverty on the earth. The modern agriculture and technological revolution has increased the productive power of man a thousand-fold. In agriculture, mining, manufacture, and transportation one man by applying brainpower to controlled energy can often do more than a hundred men could do a decade or two ago.

Many predict this technological revolution will produce more profound changes in society than the Industrial Revolution. All observe that to participate in this cognitive technology will require far more training and education than hitherto required.

We have already found out that there is little place in the new technology for the untrained and uneducated who have nothing to offer but muscle power. This is one reason why we have been expanding and improving our educational program in America. I believe this is the reason also why many have come to believe that more and better education is the answer to all our problems.

In 1876 in his inaugural address President Daniel Coit Gilman of Johns Hopkins University boasted:

"The opening of a university means a wish for less misery among the poor, less ignorance in the schools, less bigotry in the temple, less suffering in the hospital, less fraud in business, less folly in politics, and among other things it means more wisdom in legislation, more intelligence, more happiness, more religion."

I wonder whether President Gilman would make the same boast if he came back now 95 years later and looked at what is happening in Washington a few miles from Johns Hopkins University.

About 10 years ago when Elvis J. Stahr, Jr. was inaugurated as president of Indiana University he orated:

"Postulate what worthy goals you will for man in this modern world: justice, knowledge, human dignity, economic stability, international concord, the conquest of space, government by and for the people, the opportunity of every child, every man and woman to realize the best that God put in him—and ignorance is the bar, education is the gate, to each such goal."

In 1963 President Lyndon Johnson declared it to be national policy that everyone would be afforded all the education he could take regardless of race, color, national origin, or economic condition. Congress also declared this to be national policy. In Texas John Connally was three times elected Governor with the main plank of his platform being to bring excellence to education in Texas. Education was thought by many to be the solution of all our local, state, and national problems; and much was expected of our growing colleges and universities. We asked for and received billions of dollars in additional support and many more of us—students, faculty, and administrators—began to believe that the colleges and universities were leading the way to the brave new world.

Now a decade after Elvis Stahr spoke, we find that after his experience with a university he left the battle to become president of the Audubon Society. It is no doubt easier to watch birds than students today, and there are days when I envy him. And vast disappointment and disillusionment have set in as to the ability of our colleges and universities to solve our major problems or even to make an immediate significant contribution to their solution.

I for one believe that the colleges and universities of America do not have the means to make a substantial immediate contribution to the solutions of the pressing problems of our nation today, and I do not think they should be expected to do so. Their contribution is not immediate but can be seen only from the perspective of decades as better trained and educated graduates slowly have their effect on society.

Furthermore, most of our modern educational effort is not really relevant to the solution of some of our basic problems. Our educational efforts are primarly directed at communicating knowledge and mental skills and techniques. It is not designed to make people good—less selfish and more compassionate, less bigoted and more tolerant. Increased knowledge and mental skills alone will not make people compassionate, tolerant, charitable, or liberty-loving. Our most pressing national and world problems arise out of racial and religious prejudice, bigotry and hatred, out of man's indifference to the suffering of his fellow man, out of all forms of man's inhumanity to man. If the time ever comes when every American holds a Doctor of Philosophy degree, I seriously doubt if we will be any nearer Utopia than today, and I speak with some experience in working with those who hold Ph.D. degrees. I know a good number of mean, crabby holders of Ph.D. degrees.

Our educational institutions are more concerned with making people smart than good, and it is the failure of people to be good enough that caused the utopian scheme of our early history to fail and which causes most of our problems today.

I don't have the road maps to Utopia, but I know that you can't have Utopia with all problems solved unless you have angels for citizens; and converting ordinary citizens into angel-like citizens is a process that colleges and universities have certainly not mastered. If it is ever perfected, it will certainly not be a quick process with instant results as demanded by many of our present day students and teachers.

For the time being, progress toward the solution of our age-old pressing problems, personally and nationally, comes slow, painfully slow; and a Bachelor's degree even from Texas A&M University is at the most only a commencement of effort on these problems. However, I for one welcome you to join the Establishment and join in the slow, uncertain, difficult task of building a better Texas and America. We need your help.

ADDRESS BY GEN. JOHN D. RYAN, CHIEF OF STAFF, U.S. AIR FORCE

Dr. Williams, distinguished guests, members of the staff and faculty, cadets of the Corps, ladies and gentlemen—

It is a distinct pleasure for me to offer congratulations to you Air Force and Army ROTC graduates today. As you enter the military profession, you follow in the great tradition of this country, the state of Texas and this educational institution.

As graduates of Texas A&M, you are starting out to fill the boots of great men who have performed notably in all the services of this nation. In the time available today, I could not begin to tell you about all the outstanding Aggies who became leaders in our military services. But, if you're setting your sights of emulating these men, I ought to mention a couple who will serve as examples of the Aggie officer.

Many of you have probably seen "Patton", the recent World War II movie. The movie did not bring out the key part a Texas A&M graduate played in General Patton's remarkable drive through France. The Aggie was Otto P. Weyland, at that time a Brigadier General commanding Nineteenth Tactical Air Command. Patton was willing to leave an exposed flank as he swept towards Germany. When his drive began, he told General Weyland, "I am going to depend on you to protect my right flank with your airplanes." General Weyland did just that. Some 30,000 Germans, who might have driven into Patton's rear, were frustrated by Weyland's fighters and light bombers. For three weeks, the German commander tried to move his divisions to attack, but he could not. Finally, it became obvious to him that to save his organization, he would have to retreat. But the incessant air attacks broke up his forces and demoralized them. A short time later, the German forces surrendered.

O. P. Weyland went on to command tactical air forces in the Korean conflict and then became Commander, Tactical Air Command. He was the first Texas Aggie to achieve four star rank in the Air Force.

Another Aggie who achieved eminence was General Bernard A. Schriever who, in the late 'fifties and early 'sixties, headed up this country's largest and most important military research and development effort.

In 1957 the Russians launched "Sputnik", the first earth-orbiting satellite, indicating the advanced level of their missile development program. The United States needed a program to keep our technological efforts ahead of theirs, and it was needed fast. General Schriever was given the job of developing the nation's long range missile force. He introduced new development-management concepts that were revolutionary at that time. They were used to produce the Thor, Atlas, Titan and Minuteman missiles. General Schriever took a calculated risk in implementing these procedures, but his courage and foresight paid off. The United States was able to successfully field a timely deterrent capability. This ballistic missile capability is, of course, still a viable one. General Schriever also attained four star rank and capped his career by becoming Commander, Air Force Systems Command.

These are but two of the outstanding graduates of this great institution. I have selected them because they exemplify the military contributions made by Texas A&M graduates, whether on the field of battle or in the technical area. There have been many other Aggies who have carried on the tradition of service to country in all the Services. That isn't surprising to anyone who has visited this impressive campus and felt the "Spirit of Aggieland" that permeates the air. It's the kind of spirit and tradition that inspires a man to do his best. Sometimes, however, I think this spirit might drive some men too far. As a West Pointer, I still haven't gotten over the Army-Aggie football game of two years ago.

I think it is highly significant that, while nation-wide participation in ROTC has declined, it has not declined at Texas A&M. This is directly related to the elite reputation of the Corps of Cadets and the caliber of the young men of the Corps.

Just as there is not time to mention all the outstanding Aggie graduates of past years, there is not time to mention all the outstanding men in this Class. Two who are typical of these are your two leaders, Van Taylor and Tommy Bain. As long as Texas A&M continues to turn out men like them, the Corps will retain its elite status.

When you report to your first duty station and say you are an Aggie—say it proudly. I assure you, your qualifications are well known. We need more than ever before the kind of officer A&M produces. As you enter the Service, I hope you feel needed—because you are.

But there are some elements of our society that would have you believe otherwise. They would have you believe, in fact, that military people are not even wanted. The anti-military movement is felt all over the country. As President Nixon noted—"It is Open Season on the Armed Forces. Military programs are ridiculed as needless, if not deliberate waste. The military profession is derided in some of the so-called best circles of America. Patriotism is considered by some to be a backward fetish of the uneducated and unsophisticated. Nationalism is hailed and applauded as a panacea for the ills of every nation—except the United States."

The focal point of this criticism is the war in Vietnam. Its oponents cannot—or will not—understand its relationship to the interests of the United States. But this is not the first time Americans have protested war. History tells us that there has been citizen opposition to every war we have ever fought. In fact, barely half the population supported the Revolution. It is not surprising, therefore to find a measure of anti-war or anti-military sentiment in America today. It is the American tradition. And we must accept this as a test of our ability to give a forthright account of our military goals and achievements. This we have been trying to do. Sometimes though, it seems a most difficult task.

The irony in this situation is that we in the military constitute the most anti-war group of all. Our first job is to try to prevent war. The big difference between us and other anti-war groups is in the method of prevention. We believe that only by maintaining strong military forces can America prevent potential aggressor nations from making war on us and our allies.

You are entering military life at a time that is crucial for the military and for the nation. On the one hand, we are faced with pressures here at home to further reduce military spending and use the money for domestic needs. On the other hand, we have the growing Soviet threat and to a lesser degree, for the immediate future at least, the threat of Red China.

Let me address the money priority problem first. The best experts in government today indicate there would not be a significant drop in defense expenditures if the war in Vietnam ended tomorrow. We would still have the requirement for force modernization which would place demands on money now being spent in Vietnam. But, even with spending on Vietnam, the defense share of the nation's budget has not changed significantly as a result of the war. Since 1969, the Defense Department share of the federal budget has decreased.

For this coming fiscal year—1972—it represents just 32 percent of the federal budget, the lowest since 1950. In fact, in terms of buying power, the fiscal year 1972 defense budget has decreased 24 percent below the 1968 budget peak while other federal programs have increased 19 percent. So there has been a reordering of national priorities.

Now, I'm not saying that increased spending isn't needed in the domestic sector for programs like poverty, urban renewal and pollution control. I'm simply pointing out that we in the defense business are taking most of the cost of the war out of our own hides—that is, out of other military programs, not out of these domestic programs, and we're doing it while trying to maintain an adequate deterrent to world war.

This brings us to the other crucial factor, which is the need for a strong defense. This is directly related, of course, to the threat we face from potential aggressors. Chief among these is Russia. What are Russia's real intentions towards the United States and the Free World? Over thirty years ago, Winston Churchill said, "I cannot forecast to you the action of Russia. It is a riddle wrapped up in a mystery inside an enigma." Those words still ring true when we speak of Russia's internal operations.

But, in my judgment, there can be little doubt about her external operations—her foreign policy. It seems clear to me that Russia is actively expanding her sphere of interest and trying to reduce our own. Even before the end of World War II, Soviet intransigence at the Yalta and Potsdam conferences signaled that a peaceful world, based upon cooperation of the allies, might not be possible.

Since World War II, Russia has followed a policy of aggression against the Free World. The Soviets have modernized their conventional armed forces and developed a worldwide nuclear attack capability equal to our own.

Today, she has over 40 percent more ICBM launchers than we have, and she is still producing them; we have leveled off. Russian missiles can deliver twice as much megatonnage as ours. They have about 200 long range bombers and over 700 medium range bombers, and have been developing and flying a new swing-wing strategic bomber with greater potential than our own FB-111. Russia has a large submarine fleet and is building nuclear submarines rapidly. Her Navy is cruising the Mediterranean in force and recently began operating in the Indian Ocean, where she has never sent military ships before. She has conducted naval maneuvers in the Caribbean, cruising as close to our shores as Cuba.

Overall, the Warsaw Pact nations continue to modernize their ground and air forces without sacrificing numerical superiority. To say Russia is doing all these things to defend herself against the United States is illogical. For many years, the United States had a clear nuclear superiority over the Soviet Union and we could have overpowered her—but that was not our intention. Rather we were preserving the right of self-determination for those people who wished to remain free. No, the real purpose of the Russian build-up, in my judgement, is clear. It is apparent that we must maintain our Realistic Deterrent in order to discourage aggression.

Now, as you know, we are engaged in Strategic Arms Limitation Talks (SALT) with Russia. Our expectations for these can be summed up in the words of Secretary of State Rogers: "These talks could be abortive, they could be highly successful in terms of mankind." He added, "What counts is how successful they are." We in the military support SALT, of course, and we have high hopes for the outcome of the talks.

Don't forget that Russia is not our only potential adversary. The threat to our freedom is going to continue for a long time. As long as we face a threat, we are going to need men who are willing to spend their lives in defense of this country. So if you make the military a career, rest assured you are undertaking an important job.

With your help and the backing of the people of this nation, the Armed Forces of the United States will be able to successfully defend the country. To do this, we are constantly improving the quality of our Armed Forces. At the same time, the size of the military establishment is shrinking—so this improvement in quality is doubly important.

The key to quality is people—people like you new Second Lieutenants. We are doing all we can to make the Services attractive to intelligent, motivated, able young people. Let me describe some of the improvements being made in all the Services to improve the quality of military life. To begin with, we are increasing starting pay to compete with industry. We realize it doesn't do much good to say, "Just stick with us a few years and you'll catch up with your classmates in industry." You want to start out on a par with them.

We are improving housing for both married and single officers, and we hope to increase off-base housing allowances this year. We hope soon that we can permit bachelor officers who want to live off-base to do so. At present, bachelor officers generally are required to live on-base.

We are paying more attention to what the young officer has to say, what he thinks, and what he wants to do. Junior officers today play a larger part than ever in air base management. In addition, most Army and Air Force bases have Junior Officers' Councils which meet with commanders to discuss problems of military life and offer solutions and advice.

Just as everything in life is more challenging these days, the services are increasing the challenge faced by the young officer. We do this by moving him up in the middle management structure faster than we used to. For example, in the 'fifties an Air Force officer would labor five to six years to make Captain. Now it's only three years of active duty. And so on up the promotion ladder.

By speeding up promotions, we accomplish two things. First, of course, we increase the young man's pay at a faster rate. Second, by promoting him we increase his responsibilities and find out how well he can "cut the mustard". Those who can't cut it are offered the opportunity of pursuing another career while they are still young enough to make the transition easily. Those who can cut it continue to advance in grade. And those who can really cut it—the fast burners—move ahead at an accelerated pace. Under the latest Air Force promotion criteria, it is possible for a man in the last category to be promoted to full Colonel in only 13 to 15 years, compared to the 21 years it normally takes.

Turning to the future, what is ahead for each of you? Will man, as the essential element in war, be eliminated by the advance of technology, as some have predicted? Will there be a place for man in the military a few years hence?

I think so. The U.S. Army is forging ahead with some exciting new concepts of warfare that are light years removed from the old concepts of trench and foxhole warfare. One of these is the so-called "automated battlefield", described a few months ago by General Westmoreland. Utilizing technology proved in Vietnam—sensors, radar, communications, night vision devices and automatic data processing—commanders will be able to run a ground battle with precision never before possible. However, the complex gadgetry must be directed and operated by men.

In the Air Force, we are developing new fighters like this F-15 and A-X and bombers like the B-1. We will soon have a new Airborne Warning and Control System(AWACS), aircraft and new tactical transports to complement the strategic airlift capability of the C–5.

Beyond the seventies, we will enter the hypersonic flight age. Flights at more than 4,000 miles an hour, now attainable only by experimental aircraft, will not be uncommon. We are already looking at space shuttles—aerospace vehicles able to operate in space or in the earth's atmosphere. All of these things will require outstanding performance from outstanding young men, whether they are pilots, research or project engineers, supply officers, or personnel experts. The challenge is there.

Before I close, let me remind you that the reason the United States needs military hardware and employs military people is not to wage war, but to deter it. Your goal as military officers, like mine, is peace. Our country is constantly striving toward this goal. President Nixon expressed this thought in his Inaugural Address. He said, ". . . The greatest honor history can bestow is the title of peacemaker. This honor now beckons America—the chance to help lead the world at last out of the valley of turmoil and on to that high ground of peace that man has dreamed of since the dawn of civilization. If we succeed, generations to come will say of us now living that we mastered our moment, that we helped make the world safe for mankind. This is our summons to greatness."

Thank you and good luck.

ADDRESS BY DR. JACK K. WILLIAMS, PRESIDENT, TEXAS A. & M. UNIVERSITY

At this point in these proceedings, I have the privilege and deep satisfaction of welcoming this class of graduates into the larger body of Texas A&M former students—an ever-increasing group of distinguished ladies and gentlemen which now numbers approximately 50,000. This great group of former students extends you fraternal greetings and wishes you well.

From this day in your life, you are a part of the public embodiment of the aspirations of Texas A&M University. As such, you are charged herewith to do your full share toward the fulfillment of the dreams of those who founded this great university—dreams that would have you encourage the love of truth and stand in unwavering strength against its detractors—dreams that would commit you to use your education as a force directed against ignorance, poverty, and the inhumanity of the unreasoning conscience.

For its part, your alma mater pledges to you that it will protect in every academic and ethical way the full measure of respect and acceptability which your A&M diploma does now and must always carry.

Certainly, you take your diploma into a world faced with problems of depressing magnitude—a world wherein the enemies of human freedom and human dignity are numerous and have great strength. As greatly gifted men and women, you and your colleagues in this nation have in your hands the lamp of freedom. If that lamp is extinguished in our great nation, then humanity will grope in darkness.

I close these remarks with a reminder that knowledge and intellectual grasp are not perfect possessions and may not be expected to flourish unattended. Knowledge must be fed continuously with new knowledge; and intellectual grasp must be considered of the moment, not of the age.

For knowledge is, on the one hand, an awareness of things done and, on the other, an awareness of the things to be done. Intellectual grasp is, on the one hand, a source of pride in what one understands and, on the other, a source of humility in the realization of what one has yet to understand.

These priceless possessions—knowledge and intellectual grasp—are cutting tools with which each of you may shape a life of usefulness, a life worthy of being remembered, a life that will bring you the deep contentment which comes only to the courageous, the faithful, and those who labor in the selfishness of service.

Good fortune and Godspeed to each of you.

IRS OFFICIALS WELL EQUIPPED TO ANSWER QUESTIONS ON PRICES

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. HUNGATE. Mr. Speaker, many small businessmen in my district are concerned as to how to comply with the present regulations of the wage-price freeze regarding costs, wages, price increases, and posting prices without going out of business. The following article highlights some of the confusion:

[From the New York Times, Nov. 21, 1971]

IRS OFFICIALS WELL-EQUIPPED TO ANSWER QUESTIONS ON PRICES

(By David E. Rosenbaum)

WASHINGTON, November 20.—Say you own a hardware store. Can you raise prices and increase profits on hammers and take a loss on screw drivers?

"Yes," said the Internal Revenue Service office in Jamaica, Queens, "as long as you don't increase your usual mark-up for that line of goods and don't increase the profit margin of your whole store."

"No," said the office in Hackensack, N.J. "You can raise the price of any item 2.5 per cent if your costs go up, and that's it."

"We don't know," said a woman in a Chicago office after checking with her boss. "Why don't you call back in a few days when we have better directives."

Thus, at the end of the first week of the Government's economic stabilization program, many of the Federal officials who are charged with answering the public's inquiries about the program are still confused.

CONFUSING NOT SURPRISING

The confusion is not surprising. The Government agents in the field have been given nothing to go on except copies of the official regulations, which are written in legalese, and sketchy questions and answers prepared by the Cost of Living Council, the Pay Board and the Price Commission.

Considering this handicap, the officials, especially in the large cities, are remarkably well informed. At both offices checked in New York City—the one in Jamaica and the one on Church Street in Manhattan—the agents gave the correct answers to all the questions they were asked.

In addition to the one about hammers and screwdrivers, the following questions were posed:

"Can I raise the salary of some of my employes more than 5.5 per cent if, over all, my payroll doesn't go up any more than that percentage?"

"Can I pay Christmas bonuses this year, since we had such a profitable year, even though I didn't pay bonsues last year when we didn't have much profit?"

"One of the fellows who work here lives in a big apartment building. His landlord is claiming he can raise his rent because some of the other apartments in the building were going for the higher rent before the freeze. Is the landlord right?"

A DIFFICULT QUESTION

The hammers and screw drivers questions is a difficult one. The Price Commission's guidelines do not address the question specifically, although the answer can be derived from a careful reading of the regulations.

The rule, according to officials at the Price Commission, is that the over-all mark-up on a category of goods cannot be raised. Within the category, the mark-up may go up or down. Further, the entire profit margin of the store, as a percentage of the store's sales, cannot go up, although the profit margin on any single item could be increased.

Hammers and screw drivers are clearly within the same category of items, so their prices may go up or down as long as the over-all rules are not violated.

The 2.5 per cent figure that was cited by the agent in Hackensack and several other offices as the maximum allowable price increase is, in fact, a national goal set by the Price Commission, not a limitation on any company or individual.

Most officials knew the right answer to the question about raising one employe more than another, stating that this could be done as long as the over-all payroll for the store did not go up by more than 5.5 per cent.

MORE OF A PROBLEM

The rent question posed more of a problem. "New guidelines are coming out, but, as of now, no rents can be raised," said the woman in Chicago.

The correct answer was read by the agent in Duluth, Minn., directly from the Price Commission's questions and answers:

"If at least 10 per cent of similar apartments were being rented for a higher price during the period from July 16 to Aug. 13, the landlord may raise the rent to that level if the lease permits the increase."

The question about Christmas bonsuses also stopped a number of offices.

The correct answer, supplied by about half of the officials, was that the bonus may be paid if it was the past practice of the employer to pay bonuses. If the hardware store owner had paid a bonus in other good years, then he can pay the bonus again this year.

And several of the agents provided additional information with their answers:

"Listen, I'd go ahead and pay the Christmas bonuses," an I.R.S. official in a Rocky Mountain State suggested. "You're not going to complain, and your employees aren't going to. So even if you're paying a little more than what is absolutely allowed, nothing's ever going to happen."

A THANKSGIVING MESSAGE

HON. BARBER B. CONABLE, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. CONABLE. Mr. Speaker, we are constantly assaulted these days with reports of how much is wrong with our country. In the interest of maintaining some perspective on conditions, a radio commentator in my area chose the Thanksgiving season to editorialize on the many advantages and blessings we enjoy. For the consideration of all my colleagues, I submit the commentary of Michael Morgan for station WHAM in Rochester, N.Y.:

WHAM RADIO 1180 EDITORIAL

Thanksgiving is a time for gratitude . . . gratitude for the freedoms and blessings we enjoy.

To put those freedoms and blessings into perspective, we quote from an editorial originally aired on WKRC, Cincinnati:

Suppose you woke up one morning, and overnight, the following things had happened in the United States:

All paychecks slashed seventy-five percent . . . forty million TV sets destroyed . . . fourteen out of every fifteen miles of paved highway torn up . . . sixty million Americans transferred back to the farms . . . sixty percent of our steelmaking capacity abandoned, along with two-thirds of our petroleum industry . . . nineteen out of every twenty cars junked . . . two out of every three miles of railroad track torn up . . . nine out of every ten telephones ripped out, and seven out of ten houses torn down.

By doing all this, the United States would be on a level with Soviet Russia.

Without mentioning the basic freedom that goes into making this country what it is, we have plenty to be thankful for.

VFW RESOLUTION

HON. NICK BEGICH

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. BEGICH. Mr. Speaker, the Veterans of Foreign Wars, Golden Heart Post No. 3629 in Fairbanks, Alaska, recently held a special meeting where they unanimously passed a resolution urging President Nixon and the U.S. Congress to reassess the role of the United States in the United Nations and cease U.S. foreign aid to any U.N. member who opposed the United States on the crucial China question.

Because the issue of the admission of the Peoples Republic of China has caused such great controversy, it is important that concerned citizens be given the opportunity to express their opinions and offer constructive suggestions for the future course of American policy.

The resolution follows:

RESOLUTION

Whereas the United Nations General Assembly has expelled a loyal member of the U.N., the Nationalist Republic of China; and

Whereas Nationalist China has been a peace-loving nation, an ally of the United States, and has faithfully discharged all of its United Nations Charter obligations; and

Whereas this expulsion has been termed "dangerous" by the United States Ambassador to the U.N., and can only be injurious to the nations comprising the free world; and

Whereas the United Nations has admitted Communist China, an avowed foe of the United States and the rest of the free world, to its membership; and

Whereas rule in Communist China is maintained by terror and mass execution, and its Communist government does not legitimately represent the beliefs of most of the people of mainland China; and

Whereas Communist China now has a seat on the U.N. Security Council and can veto any positive action by the United Nations; and

Whereas the United States has been the financial mainstay of the U.N., paying far in excess of its proper share of the cost of U.N. housekeeping activities; and

Whereas U.S. foreign aid has assisted many of the countries which voted against the United States position on the two-China question; and

Whereas this vote, as well as other hostile actions by U.S.-aided countries, clearly demonstrates that our policy of foreign assistance has not worked as intended; and

Whereas the United States is now under unprecedented peacetime wage and price controls and the American people have been asked to make numerous sacrifices to bolster the economy; and

Whereas free nations all over the world will lose confidence in the United States if action is not taken to counter this devastating U.N. vote;

Therefore Be It Resolved by Golden Heart Post No. 3629, Veterans of Foreign Wars, Fairbanks, Alaska, that President Nixon and the United States Congress are urged to carefully reassess the value of United States membership in the United Nations with the possible goal in mind of the U.S. withdrawal from the questionable international organization, and in any event, to cease U.S. foreign aid to any U.N. member which opposed the United States on the crucial China question.

ESTUARINE RESOURCE TECHNOLOGY

HON. GILBERT GUDE

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. GUDE. Mr. Speaker, in order for our Nation to meet the environmental challenge, it is imperative that educational institutions begin to offer the basic practical programs which will train individuals to work on the complex, technological problem which threatens our ecosystem.

The biological complexity of the estuary, for example, can only be fully understood by a specialist who devotes his major efforts to this unique marine area.

The Charles County Community College in La Plata, Md., has developed a program on estuarine resource technology which is designed to meet the crying need for highly trained manpower in this field. This is a commendable program and I would like to insert for the information of my colleagues a brief description of the curriculum and its intended results.

The article follows:

ESTUARINE RESOURCE TECHNOLOGY

America's coastlines are fringed by a maze of wetlands, commonly identified as bays, sloughs, inlets, sounds, salt marshes and lagoons. These sprawling areas where salt and fresh water meet are estuarines.

These fertile and productive zones provide habitats, spawning grounds, and nursery areas for a wide variety of fish, shellfish, migratory birds and animals. It is estimated that three quarters of the commercial fish and shellfish are produced or nurtured in estuarine areas.

Today the estuaries are threatened by both man and nature. Man, with his pollution is probably the biggest threat. Estuaries too often receive untreated municipal and industrial waste and heavy silt loads from construction of homes, highways and factories. Biologically, chemically, and physically, estuaries are among the most complex of all environmental systems, and highly specialized training is required to produce personnel familiar with the problems and techniques of estuarine investigation.

The Estuarine Resource Technology program at Charles County Community College is designed to meet this challenge by training in two years, a well rounded research aide, capable to performing a wide variety of field and laboratory functions in the estuarine environment. A manpower requirement study conducted for the college by a consulting firm prior to initiation of the program, revealed a current and increasing need for this type of technician.

The curriculum will include conventional academic course work with an emphasis on math and the sciences, and is unique in its focus on practical field studies conducted in small groups. The student's performance will be constantly evaluated in a manner similar to that he would be subjected to by a future employer.

At the end of two years the student will be a well qualified research aide ready to join a working group. He will, of course, have an option to continue for a four year degree in a related field of biology or chemistry. Elements of the curriculum have therefore been selected to provide for transfer with minimum loss of academic credits.

Beginning with his first semester and continuing throughout the program, the student will work with modern "state-of-the-art" field and laboratory equipment. A 50 foot diesel-powered Navy utility boat and two 19 foot outboards have been equipped to perform all types of estuarine study, an a 25 foot mobile laboratory trailer will be positioned as needed to support field activities.

The curriculum is presented in the tables which follow:

THE SUGGESTED CURRICULUM

Course	Credit hours	
	1st semester	2d semester
Freshman year:		
Theory and Techniques of Field Sampling (Bio. 100)	2	
Principles of Estuarine Ecology (Bio. 107)		4
Concepts of Biology (Bio. 105)	3	
Technical Mathematics (Math. 150)	4	
Technical Mathematics II (Math. 151)		4
General Chemistry (Chem. 120)	4	
General Chemistry (Chem. 121)		4
Composition and Rhetoric (Eng. 101)	3	
Business and Professional Speaking (SPH 103)		3
Total	16	15
Sophomore year:		
Applied Estuarine Ecology (Ert. 201)	4	
Estuarine Problem Analysis (Ert. 202)		4
Microbiology (Bio. 201)	4	
Report Writing (Eng. 205)	3	
Instrumentation Laboratory (Chem. 105)		3
Industrial Waste Control (Pat. 205)		3
Introduction to Statistics (Math. 230)		3
Wastewater Operations (Pat. 103)		3
Sanitary Chemistry (Chem. 252)	3	
Fishery Biology (Bio. 210)—optional		[1]3
Water Safety and First Aid (Ped. 109)	1	
Total	15	16

[1] Summer only.

Note: Problems in Estuarine Research (Bio. 199) (2 credits)—by arrangement with faculty.

BIOLOGY COURSE OFFERINGS

Principles of Biology.
Concepts of Biology.
Aquatic Ecology and Water Pollution.
Microbiology.
Introduction to Marine Biology.
Human Physiology.
Descriptive Physical Oceanography.
Experimental Ecology.
Marine Instrumentation.
Estuarine Geology.
Human Genetics.
Marine Geology.
Fisheries Biology.
Fishery Management.
Teachers Workshop: 1. Ecology; 2. Environmental Science.
Principles of Estuarine Ecology.
Theory & Techniques of Field Sampling.

NO DIPLOMATIC RECOGNITION FOR RED CHINA—II

HON. JOHN G. SCHMITZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. SCHMITZ. Mr. Speaker, Jules Monnerot, in "Sociologoy and Psychology of Communism," said:

> If, in spite of everything, opponents (of the communists) continue to hope against hope, it is a good sign. It then becomes possible to exploit the human tendency to confuse desire—in this case the desire for peace at any price—with reality. The technique consists in keeping the desire supplied with illusions to attach itself to.

My last newsletter pointed out that of the 119 nations having diplomatic relations with either the Republic of China or Red China, not one had diplomatic relations with both. It is apparent that diplomatic relations with one of these two governments excludes diplomatic relations with the other. Even relations at the consular level are with one or the other, but not both. Of the three nations having only consular relations with either Nationalist or Red China, none has relations with both.

The reason for the mutually exclusive nature of relations with these governments is simple. Both governments claim to be the sole legitimate representatives of the Chinese people. The animosity existing between the Nationalists and Communists has, if anything, increased over the years as relatives and friends of those who were forced to flee the mainland have been ruthlessly eliminated by Mao Tse-tung in his continuous purging of the Chinese people—see newsletter 71–33. The Communists also understand that the island of Taiwan is an essential increment in the strategic Western defense perimeter of the United States, that it serves as an important logistical base for opposition to Communist aggression in the Indochina area; that it is the hub of our intelligence-gathering activities directed toward the mainland; that the existence of the Republic of China serves as a rallying point and symbol of hope for the vast influential overseas Chinese community, various anti-Communist groups on the mainland, and for the oppressed Chinese people in general; and that their conquest of the Republic of China would serve to establish absolute Communist dominance over all of Asia.

The Red Chinese have not shifted their position on the matter of the Republic of China 1 inch in 20 years. Two days after the U.N. vote which expelled the Republic of China, Radio Peking reiterated this position. While scornfully characterizing the actions of United States and Japanese representatives at the U.N. as "running hither and thither, just like ants on a hot pan," Radio Peking stated:

> Taiwan is an inalienable part of the territory of the People's Republic of China, and all arguments such as "two China," "one China, one Taiwan," "the status of Taiwan remains to be determined" and similar absurdities are illegal, absurd and entirely untenable.

The next day the Communist People's Daily in Peking added this demand:

> The United States must withdraw all its armed forces and military installations from Taiwan and the Taiwan Strait. The Chinese people are determined to liberate their sacred territory of Taiwan.

Translated out of the Marxist-Leninist jargon this means that the Chinese Communists plan to conquer the Republic of China and to make this possible we must leave the area. It should be pointed out that the Red China have a standing army five times as large as that of the Republic of China and have deployed 25 to 30 medium range ballistic missiles, some reportedly targeted on the Republic of China.

The conflict between the Republic of China and Red China is insoluble as long as the Communist Party of China continues to engage in its crushing regimentation of the Chinese people living on the mainland and to openly threaten aggression against the Republic of China. Any support for one side correspondingly weakens the other.

Diplomatic recognition of the Communists as the legitimate government of mainland China would not only result in severing relations with the Republic of China, but would immensely strengthen the Chinese Communists internally, increasing their economic and military strength. It is fascinating to observe the glaring inconsistency of those who argue on the one hand that we should sever diplomatic relations with nations such as Greece, with the obvious implication that our extension of diplomatic recognition benefits the government of the "Greek colonels" of which they disapprove, and on the other hand downplay or deny the equally obvious fact that diplomatic recognition of the Chinese Communists by the United States would be an invaluable benefit to Mao.

While the Republic of China can survive without membership in the U.N. as do South Korea, West Germany, and so forth, menaced as it is by Peking it could not long survive should the United States seal it into total isolation by establishing diplomatic relations with Red China. One would think that those who give long speeches denouncing "neo-isolationist" attitudes in the United States would understand this.

There can be no "two-China" policy, especially for the United States. While some might desire that it be otherwise, it is truly a fatal illusion.

FINANCING THE UNITED NATIONS

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. WALDIE. Mr. Speaker, this session of Congress has been wrapped up with the developments in the United Nations. The vote to unseat the Government of Nationalist China and admit the government of Peking brought cries of outrage in this body, along with shouts of praise.

Many observers feel our reaction was expressed in debate over the foreign aid bill, and our threats to realine our payments to the world body.

Mr. Speaker, there is increasing doubt as to the wisdom of the United States bearing a disproportionate share of the burdens of keeping the United Nations running in a time when this society is faced with a financial crisis of its own.

An excellent article, written by Dick Davis for the Contra Costa Times on November 11, 1971, deals with this very issue and an idea expressed by my good friend, Senator ALAN CRANSTON.

Mr. Speaker, I submit this article for inclusion in the CONGRESSIONAL RECORD in hopes it may provide food for thought to my colleagues:

> U.S. Senator Alan Cranston proposes weighting the voting system in the United Nations so that the present one-nation, one-vote system would be revised.
>
> At about the same time Cranston was making his proposal in Washington, The Times received a letter from Lillian Spicer of 70 Cora Court, Walnut Creek.
>
> "Ordinarily, a large number of people do not enjoy reading a list of statistics," she writes, "One list, though, which may prove of interest to many people today, very well could show just how, financially-wise, the UN stands.
>
> "Why not show the debts, paid and-or owed by each country involved, starting with when the UN first began and totalling the amounts as of today? Such an organization costs a tremendous amount of money to be in existence.
>
> "This could prove to be most enlightening about the countries which have the greatest number of votes and which ones actually pay for the privilege of having the right to vote.
>
> "How about it, Mr. Editor, would you be willing to use some extra space and research time in finding and listing this information for the average and very much concerned citizens of this country?"
>
> We would indeed. However, we understand that NBC's Nightly News Program, originating in New York, just the other night showed how far behind both Russia and the United States are in their payments, with Russia still owing about half its indebtedness.
>
> From the beginning of the UN in 1946 through 1970, total spending by the United Nations and related agencies totalled $9.2 billion. The United States has spent $3.8 billion in support, or carried 41 per cent of the financial load during this quarter-century period.
>
> But let's put Senator Cranston's and Mrs. Spicer's basic arguments together and see what happens.
>
> Suppose, for instance, nations are assessed payments to the United Nations based on their population. Wouldn't this overcome the current arguments against the United States contributing a disproportionately heavy share to keep the UN operating?
>
> Or is this too idealistic since the Soviet Union has always found some reason for being displeased with the UN when it comes time to pay its share of the assessments?
>
> And what of Red China? Does it value UN membership to the extent of agreeing to pay its fair share of an assessment based on population? Or would such a change cause mainland China to refuse to take its seat?
>
> Quite possibly there is some merit in Senator Cranston's proposal since countries currently representing only 4 per cent of the world's population, if his figures are accurate, constitute a majority of the UN voting power.
>
> "One suggestion," Cranston said, "is distributing the vote in accordance wth population, with ceiling and basement limits. There

might be one vote for each country with population up to 5 million and one vote for every 5 million people after that, up to a ceiling limit."

Cranston suggests a maximum of 30 votes, and under his formula this is the number China, India, the United States and Soviet Union each would have. Of course, the Soviet Union would add 10 more votes—nine from the Ukraine and one from Byelorussia.

There would be 462 votes in the 131-nation General Assembly, with 87 nations retaining one vote and 44 having additional votes.

Cranston believes his resolution would be backed by at least 60 Senators. There is no indication of how the Nixon administration would react.

All of this, at this particular time, however, becomes just a bit premature and academic since it couldn't be introduced to the UN General Assembly before September, 1972.

Meanwhile, it should be suggested to our elected representatives in Congress that they look into the possibility of having UN expenses shared—on the basis of population.

It might also be suggested that unless the Soviet Union ponies up with its overdue debt to the UN, the United States can hardly be blamed for trimming its contributions considerably.

Equalizing assessments within the United Nations, based on populations of the countries represented, would be not only reasonable. It would remove the stigma from the United States for having to carry a disproportionate amount of this financial load.

Then all nations could be truly equal in the UN, couldn't they? Provided, of course, they are prepared to pay their dues and past-due bills forthwith.

WILD HORSES OF THE WESTERN PLAINS

HON. FRANK E. DENHOLM

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. DENHOLM. Mr. Speaker, I support the proposed legislation to preserve and protect the wild horses of the Western Plains. It is essential legislation. The legislation will impose upon the Secretary of the Interior with the cooperation of the Secretary of Agriculture the duty of conservation and protection of free-roaming horses and burros on specific areas of the ranges in the Western States. The proposed legislation provides for a nine-member Joint Advisory Board which will be obligated to report to the Secretary of the Interior with recommendations of care, custody, and protection of wild horses and burros on the last of the frontiers of the West.

Similar legislation has been passed by the Senate—S. 1116. The matter is now in conference. It is legislation of merit. It provides for protection of a species of wildlife that is historically synonymous with the "Wild West." It provides for reasonable enforcement of penalties for wrongful and willful slaughter of wild horses. The bison and buffalo became the victims of uncontrolled conservation management of the plains and prairies as the West was settled. The native species of the Western Plains is now protected in the national parks of America. I am hopeful that the pending legislation will be promptly enacted to protect the wild horses of the Western Plains. The failure to do so will ultimately result in the inhumane extinction of wildlife that was once so characteristic of the plains of the West. There is no substitute for constructive conservation. I am a cosponsor of the legislation. I urge all of my colleagues to support the legislation. The useless destruction of free-roaming wild horses as a sport is repulsive to reasonable men everywhere. It is an insult to our ancestry. It is a disgrace to the living. It is a loss to our country.

Mr. Speaker, this is the time for action. Wild horses are born free under the big sky of the Western prairies. They have no protection from the natural elements of the habitat and the severity of the changing seasons. But they are entitled to protection from the highly mechanized hunt, abuse, and bullet of the few that are destined to destroy—for pleasure or whatever.

I joined in sponsoring essential legislation to conserve the wildlife of the Western Plains. I am pleased that hundreds of young people from my State have supported my effort for conservation and preservation of wildlife. I have received many, many letters from schoolchildren and recently I received a petition with the signatures of 262 young Americans that have the self-initiative to care about the future of the heritage of this great land. I include the petition at this point in the official RECORD—and I ask in the names of young Americans everywhere that the Members of this House of the people act today in the interest of conservation and preservation of all natural habitat and wildlife in the interest of those that constitute a new generation that will be truly the future custodians and guardians of the heritage of America.

The petition and names follow:

PETITION, JULY 10, 1971

We, the undersigned, do protest the killing of the mustangs:

Lori Hamilton, Doris Hamilton, Ranae Julin, Mrs. Walter Maryinke, Madeline M. Julin, Marcia Julin, Mildred Holland, Marcia Holland, Mr. and Mrs. K. E. Benson.

Vilma L. Hansen, Carol Austin, Jane M. Austin, Charles M. Austin, Lora Austin, Claryce Tschetter.

R. W. Tschetter, Jack D. Hamilton, Jolene Albers, Mrs. C. J. Vanvelzen, Mrs. R. E. Ageton, Leslie Forshe, Jeanne Richter, Janice Richter, Joe Alick.

Arlene Frazier, Linda Frazier, Pan Voels, Debbie VanWyhe, Randy S. Sunby, Marlene Albers, Kathy Briggle, Colleen Fickbohm.

Pam Briggle, Debbie Sunby, Sue Kelm, Nancy Leaders, Pam Parker, Sonja Thoreson.

Peggy Lueders, Dave Cauley, Linda Meyer, Gretchen Frick, Tom Burke, Don Decker, Steven Eujen.

Marlan B., Paul D., Kris U., Terry Keiser, Mark Amundson, Tony Nelson, Terry Gunderson.

John Egan, Bill Shields, Russel Gorrell, Crystal Whitely, Marlene Whitely, L. Smith, Scott Thompson, J. Nicolay, Cathy Hansen, Jean Mickelson.

Renita Mobler, Michel Gustafson, Steve Jarman, Ina Erickson, Jan Eisenhauer, Craig Sanford, Jim Helund.

Mrs. R. Ageton, Sam Britts, Roger Brown, Kevin McKenzie, Mary Jo Fisher, Julie Muncie, Jim Devore.

Bobby Leafstedt, Barb Harmon, Dristy Wiese, Dris Stapleton, Sue Egan, Renee Harp, Barb Kautz, Chari Tschetter, Paul Christensen.

Allen Gullickson, Tami Jibben, Steve Nelson, Joyce Smits, Jackie Gregersen, Shirley Motzen, Lois Slack.

Sharon Pike, Kenneth M. Imminger, Craig L. Lueders, Marshall Hoffman, Scott Christensen, John Matthius, Paul Bennet.

Tom Wolles, Jerome Ranek, M. Degen, R. E. DeRoad, Kathy Willis, Debbie Letcher, Kay Waag, Emily Harrington, Charls Kuper.

Katie Jameson, Sue Joyce, Barb Cole, Becky Gappa, Jody Peterson, G. Thompson, Greg Julson.

Tom Torgerson, Rick Stauffacher, Jeff De-Schepper, Mrs. Geo. Graham, Mrs. R. L. Lueders, Gene Rinck, Magnus Jensen, Orlin Berge.

Hollie Jackson, R. H. Craig, Mrs. Avis Loore, Cher Knock, Catie Tobin, Jim Verdoor, Steve Lueders.

Mrs. David Strom, Frank Visch, Mr. and Mrs. Bill Hubbard, C. J. Fishback, Mr. and Mrs. D. K. Jorgensen, Mr. and Mrs. Zach Aberle.

Mr. and Mrs. Dennis Larson, Mr. and Mrs. Lloyd Peterson, Mr. and Mrs. Max Pierce, Mrs. Harold Krueger, Rolland L. Lueders, Sheila Clausen, Michele Bucknell, Carol Collison.

Theresa Garry, Mrs. Roger Poling, Cindy Friessen, Mrs. Phil Miedema, Sharon Moore, Jane Thomas, Karen Smith, Pam Skinner, Ed Wiederstein.

Marilyn Nelson, Karen Arneson, Mike Duncan, I. Kondert, Sue Willinger, Stanly Porter, Beth Ouibe.

Jane Rud, Steve Nelson, Pat Thurmond, Jim Swanson, Marilyn Schumaker, S. Strumm, Vicki Thingelstad, Michal T.

Mary Gullant, Rebecca Richards, D. Olson, George Lee, Jane Meese, Glenda Cummings, Irene Mathews, Candy Bellmann.

Donna J. Rovang, Jackie Wells, Mary Holm, Reid Hanson, Steve Zellman, Lynne Craig, Eudora Stegner.

Lorris Dodge, Marlene Hardick, Karen Hatlestad, Renee' Peterson, Vicki Warner, David Granberg, Lynn Warner.

Mrs. Magnus Jensen, John O., Lucille M. Aukes, Mrs. B. Grontham, Mrs. Michael Batten, Ron Douthet, Lawrence Satterlee, Olive Gillespie, Wendy Covington.

Judi Holte, Joanne Thompson, Becky Sanders, Daniel Kruse, Barbara Pohl, Le Anne Sungreve.

Poppy Lear, Gale Hansen, Laurel Watson, Richard Richards, Michelle Koehn, Jim Rose, Elaine Schumacher, Gretchen Huchtharesen.

C. Skutstad, Judy Wengers, Randy Pittimann, Rick Scott, Jeff McIntyre, Jeff Wighstreet, Robert Denny, Greg Anderson, Sam Boone.

David Kuhlmeier, Michele Bucknell, Cindy Mutch, Carol Buhler, Cathy Begey, Bev Peterson, Mary Duffek, Lois Dejong.

Tammy Ford, R. Julin, John Harrington, Mrs. J. L. Miller, Angela Miller, Lloyd Stivers, C. Kapp.

Mrs. Ronald G. Holthe, Mrs. Bill Hayduk, Marsha Stene, Mrs. Don Sundby, Mrs. Eldo Stene, Mrs. Ole Stene, Patty Albers, Myrna Stene.

Wayne Bryan, Vicki Holthe, Mrs. Gary Westling, Jody Grimes, Brad Hues, Tammie Harmon, Connie Jensen, Alan Blyn.

Gloria Gunderson, Sara Thompson, Karen Gaffney, Don Levsen, Karen Majeske, Jan Dodge, Julie Aning, David Kuhlmeier, Royce R. Huber.

POST EXCHANGE, PX SCANDALS

HON. H. R. GROSS

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. GROSS. Mr. Speaker, the Senate Permanent Investigating Subcommittee has recently issued a report strongly critical of the Army in connection with the scandals connected with the operations of post exchanges and service clubs.

The Army has apparently missed the point of the hearings, because it has placed at the head of its investigations unit Col. Henry Tufts, the officer the Senate subcommittee believes presided over a whitewash of the scandals.

Clark Mollenhoff, of the Des Moines Register, has written two articles concerning this report and I insert them in the RECORD at this point:

SENATE REPORT CONDEMNS ARMY STANDARDS IN VIETNAM

(By Clark Mollenhoff)

WASHINGTON, D.C.—A 300-page congressional report on "Fraud on Corruption in the Management of Military Club Systems" stands as a strong condemnation of standards of conduct of the Army in Vietnam when it was commanded by Gen. William C. Westmoreland.

The report is also a condemnation of Army Chief of Staff Westmoreland's lack of cooperation with the Senate Permanent Investigating subcommittee during the more than two years of its investigation.

Associate counsel Lavern J. Duffy has documented his investigation in the face of Army denials and resistance to demands for information.

The report begins with efforts by Duffy and other investigators to obtain copies of Criminal Investigation Division (CID) investigative reports from Augsburg, Germany. The CID material linked Sgt. Maj. William Wooldridge and a little band of sergeants with alleged looting of slot machines in military clubs in Europe.

TRANSFER TO UNITED STATES

After a look at the European operation, the report follows the assignment of the "Khaki Mafia" from Europe to Fort Benning, Ga., where the operation was pretty much as it had been in Europe. The CID in the United States was ineffective primarily because access to reports of the earlier Augsburg probe was banned by the office of Provost Marshal General Carl Turner.

Initially, Turner told his subordinates that the order to hold the Augsburg file came from Gen. Harold K. Johnson, then the Army chief of staff. However, later, under oath before the committee, Turner testified the decision was made by him and not by Johnson.

There were men like Warrant Officer Reis Kash, of the CID, who wanted to push the inquiry but they were handicapped by orders for a "restrictive" interview with Wooldridge and his associates.

The Fort Benning case was closed on Jan. 16, 1968, with out the CID officer having been given access to the reports of the earlier Augsburg investigation. Wooldridge remained in the Army and he was transferred to Vietnam where he was to serve as the command sergeant major for the Military Assistance Command.

Wooldridge's actions in Vietnam finally resulted in a federal grand jury in the central district of California handing down a 21-count indictment against him and a half dozen other sergeants for alleged conspiracy to defraud the United States, false and fraudulent claims against the United States, bribery of public officials and concealment of material facts.

The case took nearly two years to unwind. Some of the delay was attributed to decisions by Army Secretary Stanley Resor and his Army counsel's office to resist the efforts of the Senate subcommittee to obtain access to CID reports. Acting Chairman Abraham Ribicoff (D-Conn) and Counsel Duffy argued that access to the reports was essential because only in the CID reports could they obtain a clear look at the facts as presented at the time some of the crucial decisions were being made regarding the coverup of the sergeant's activities.

MORAL ATMOSPHERE

"At issue in the matter of corruption of military personnel is another consideration one step removed from the simple giving and taking of bribes," the report said. "It is the moral atmosphere this kind of behavior creates within the American military community.

"If laws and ethics can be openly violated with impunity in one part of military life—in the operation of NCO clubs for example—the lawlessness and unethical practices may be initiated elsewhere," the report said.

The report noted that one sergeant extended his tour of duty in Germany to continue to enjoy illicit profits. The extended tours of duty were arranged by paying off assignments clerks in Washington.

"The corruption that began in the club system, therefore, extended to personnel assignments branch of the Department of the Army," the report stated.

The laxity of Westmoreland's office involved the complaints against Brig. Gen. Earl F. Cole, and his assignment to command the Army Exchange System in Europe. The assignment was approved by Westmoreland, who was a personal friend, despite evidence in the CID files that later resulted in Duffy closing in on Cole.

In July, 1970, Cole was demoted to colonel, stripped of his Distinguished Service Medal and retired from the Army. The committee report went through the chronology of events to demonstrate that the Army had notified the Senate committee that all charges against Cole had been dropped in February 1970.

VIETNAM IGNORED

However, as soon as the Army discovered that Duffy had new information dealing with Cole's activity in Vietnam and in Europe, there was renewed aggressivenes within the military service on the Cole case and he was ushered out.

The specific charge against Cole was that he "failed to maintain a high degree of personal and professional integrity" when he commanded the European post exchange system during 1969.

By focusing on Cole's European activities, the Army downplayed Cole's Vietnam tour when he was directly under the command of Westmoreland in Vietnam.

Although Cole was reduced in rank and stripped of his medal for his conduct in Europe, there was no Army judgment against him in connection with his activities during his tour in Vietnam.

Certainly, there were strong questions concerning Cole's handling of complaints by Maj. Clement St. Martin regarding allegations about the favoritism accorded to William Crum, multi-million dollar-a-year vendor of slot machines, beer and liquor in the Far East.

Also, there was strong evidence questioning actions by Cole to aid Crum on illegal importation of automobiles through use of the club purchase orders and club storage facilities.

The United States Army has made a point that corruption is a normal part of dealing with the Vietnamese government. Reading the 300-page congressional report raises the same questions concerning the U.S. Army activities in Vietnam.

CID HEAD CRITICIZED IN ALLEGED PX COVERUP

(By Clark Mollenhoff)

WASHINGTON.—In March, 1971, the Senate Permanent Investigating Subcommittee criticized Col. Henry H. Tufts for what members considered a whitewash of Brig. Earl F. Cole.

Yet six months later the Army chief of staff Gen. William C. Westmoreland approved Col. Tufts to head a revamped and expanded investigation unit with central authority for all Army investigations worldwide.

Tufts previously was the top professional soldier in the old Army Criminal Investigation Division, which was reorganized after congressional criticism of laxity in pursuing investigations of personnel.

However, a 300-page report issued Nov. 1, 1971, makes it clear that the reorganization did not placate the Senate subcommittee, primarily Senators Abraham Ribicoff (D-Conn.), the acting chairman, and Edward J. Gurney (R-Fla.).

TUFTS HELD RESPONSIBLE

The report pin points the responsibility of Tufts in the enforcement laxity, which led to a "pattern of corruption and criminality within the military system."

"Too often, dishonest practices were considered the normal and customary means of operation," the report said. "Testimony and documentary evidence showed the military services failed to properly administer and police the operations of the nonappropriated funds which are used to finance military clubs and the PX systems throughout the world."

Ribicoff and Gurney questioned Westmoreland's efforts to keep Tufts in a command position in the CID Agency in light of the report.

"A significant amount of the blame for the spread of corruption must be shared by the several investigative agencies of the military services which frequently failed to enforce existing regulations, and sometimes did not even make an attempt to do so," the report said. The document outlined many examples of laxity within the Army CID during the time Col. Tufts was the top military man.

BARRIERS WERE CREATED

The report was especially critical of "senior officers . . . (who) took actions that prevented the (lower echelon) CID agents from doing their work."

"For example, in Korea, Augsburg, (Germany), Fort Benning, (Georgia), and Vietnam, CID agents uncovered information that should have led to stepped up investigative effort and ultimately to prosecution." But "on several occasions, the barriers were created by the senior military police officer in the Army."

CRUM'S MONOPOLY TOLD

The report was critical particularly of Tufts' actions with regard to the alleged months long cover-up in the case against Gen. Cole. Cole was deeply involved in favoritism for William Crum and his Sarl Electronics firm, the Tom brothers and others in Vietnam and later in Europe when Cole headed the European PX system.

"Crum established and maintained a virtual monopoly over competing firms in the selling and leasing of nonappropriated fund activities of slot machines, amusement machines and other equipment," the report said. "Crum's success in monopolizing the business is attributable to the assistance and protection he received from Gen. Cole, deputy chief of staff for personnel and administration in Vietnam.

"Cole, who had administrative control over the service club system and the Army CID in Vietnam," the report continued, "was aware of the customs violations and other improper activities of William Crum. In spite of his knowledge of Crum's improprieties, Cole intimidated certain Army CID units and their personnel and deterred them from further investigations of the activities of Crum and Sarl Electronics."

The report blamed the "failure of his (Cole's) superiors in Vietnam" that "enabled Cole to continue his improper activities in Europe where he favored certain vendors, among them the Tom brothers (two brothers of Chinese background), who had been in Vietnam."

ARMY WHITEWASH IS CHARGED

While the subcommittee was investigating Cole, "the Department of the Army continued to cover up and 'whitewash' its investigations of Gen. Cole."

"The Army, in fact, prematurely closed its case on Gen. Cole on Feb. 9, 1970," the report said. This had the approval of Col. Tufts, the congressional investigators said.

However, when the Army learned the subcommittee was proceeding with its investigation and had uncovered evidence indicating improprieties in Cole's activities in Europe, the Army reopened its case on March 11, 1970.

"The evidence in question was in the hands of the Army long before the Cole case was closed in February, 1970, although the (Washington office of) CID had not pursued the matter," the report said.

LEADS REJECTED BY TUFTS, WESTMORELAND

Brig. Gen. Harley Moore, formerly the Army's top CID officer in Europe, had requested that Tuft's office run down more than 25 leads, but this was rejected by Tuft's office in Washington after some consultation with Westmoreland and the Army general counsel, Robert E. Jordan III.

At the hearings in March, Gen. Moore, a man with more than 25 years experience in Army police work, was asked his professional view of the premature closing of the Cole case.

"He (Moore) called the Army's action 'abysmally negligent,'" the report noted. "The attempt by the Army to cover up the Cole matter was a calculated plan to ease Cole out of the service with the least possible embarrassment to the Army," Moore told the congressmen.

GIFTS TO WESTMORELAND FROM CRUM

Two gifts to Westmoreland, one a silver cigaret case and the other a jade figurine for his wife, were among the items that could embarrass high military circles, the report said. It said the cigaret case was supposed to be a gift from officers under Westmoreland's command. It actually came from William Crum through Gen. Cole, the report said. The jade figurine came from the Tom brothers.

Westmoreland sent the cigaret box and the jade figurine back to Cole in April, 1970, two months after the premature closing of the Cole case by Tufts and three months before the much criticized decision to permit Cole to resign after being reduced in rank. That action against Cole on July 30, 1970, was taken on grounds that Cole used "executive influence" on behalf of the Tom brothers when he headed the European PX system.

RAN INTO CID ROADBLOCKS

Gen. Moore told that he "ran into roadblocks from the CID in Washington" that were "completely unusual."

"In December, 1970, I received a document from the CID agency stating they would not pursue certain investigative leads in the United States. This letter was signed by Col. Henry Tufts, the commander of the CID agency," Moore testified.

When the Army reopened the Cole investigation, "investigators in the field were not encouraged to pursue the inquiry." CID Investigator James R. Johnson traveled to Washington "to brief Army General Counsel Jordan and his deputy, Kenly R. Webster, and Col. Tufts and his assistant, Colonel (Thomas) Zane.

"According to Moore," the report continued, "Johnson returned to Germany with the impression 'in essence that the people he briefed weren't too anxious to have us continue the case."

UNION MONOPOLY POWER FUELS INFLATION

HON. SAM STEIGER

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. STEIGER of Arizona. Mr. Speaker, a most interesting nationwide poll was conducted recently by the Opinion Research Corp. of Princeton, N.J.

One of the questions read:

> Do you think union demands for higher wages and benefits will cause higher prices and more inflation, or can companies meet union demands without raising prices?

Mr. Speaker, 63 percent of the union families in the country say that these demands do indeed cause higher prices and more inflation.

These families instinctively know, as does the general public, that unrestrained union power is a key factor in bringing our Nation to the brink of economic disaster.

Most respected economists agree on this point. As Henry Hazlitt notes, the Government has been turned "into a union-organizing agency and virtually compels employers to make substantial concessions to union demands no matter how unreasonable."

This resulted in the wage-price freeze that is now melding into phase II of the new economic policy. Unfortunately, the new economic policy treats the symptoms of the problem rather than the disease, which is compulsory unionism. And that is one of the reasons why I am sponsoring this National Right to Work legislation.

Writer John Davenport recently noted:

> What ails the economy is not the free price and profit system as such, but the fact that it is afflicted in a single sector by a powerful and pervasive monopoly element.
>
> I refer, of course, to the power of labor unions to force up wages and costs year after year without regard to general productivity advance. The effective and courageous way to deal with union monopoly power is large-scale revision of our present permissive labor laws and their administration. This is the missing ingredient from the President's program and had it been undertaken in good time we might never have arrived at our present impasse.

Mr. Davenport, the former editor of Barron's and member of the board of Fortune, also noted:

> The wage-price freeze in itself does nothing to get at the tap roots of union power and, indeed, controls if perpetuated may in the longer run enhance that power. It should not be forgotten that during a regime of controls in World War II and during the Korean War that organized labor gained some of its most costly victories—notably the spread of the union shop contracts which force workers to pay union dues as the price of holding their jobs and which automatically swell union treasuries with funds that can then be used for political purposes.

Mr. Davenport's prescription for giving the American people what they want and deserve; namely, price stability and expanding job opportunities for all Americans, is essential labor reform. Here is how he describes it:

> The objective of sound labor reform is not to smash all unions, but to bring them back under the sweep of the law as it applies to other private associations and to individuals.
>
> Unions should be what they set out to be; namely purely *voluntary* organizations, purged of their present coercive and often violent practices. The scope of collective bargaining needs sharp limitation to the end of preventing unions from closing down whole industries, not to mention vital state and municipal services.
>
> The legal means for effecting these reforms are various, but in general we need to apply to unions the spirit, if not the letter, of our anti-monopoly laws to the end of freeing up the labor market, protecting the rights of working men themselves, and meeting the needs of the long-suffering public which is the chief loser under present arrangements.

Americans everywhere are keenly aware that the Nation's economy has entered a vital period. Action taken by us in the next few months will have a profound influence on the future of the country.

Clearly, excessive union power has steered the American ship of state to the brink of disaster. It thus makes sound economic sense to eliminate the root cause of this unhealthy concentration of power: compulsory union membership.

Anything else, to paraphrase a comment made by a nationally syndicated columnist during one of the recurring railroad crises a few years ago, would amount to putting a band-aid on a compound fracture. "At the bottom of this whole thing," he noted, "is the vice of compulsory unionism."

Nearly 1 year ago, Jenkin Lloyd Jones wrote a most perceptive column.

Part of what he said deserves reiteration.

> Where are we going? It's pretty plain. Unions, having priced more and more American goods out of the international trade and having made foreign imports even more alluring, are beginning to demand high protective tariffs which could trigger international retaliation and perhaps a world-wide depression. Outraged consumers are beginning to demand wage-price controls which would mean the end of the free market and free wage negotiations.
>
> The cure?
>
> It won't be simple. But the right of unions to cut off the water was not handed down among the Ten Commandments, and the compelling of a worker to join and obey a union in order to hold a job is probably going to have to go.

Indeed, compulsory unionism must go. Let us set in motion the machinery to reach this goal. Let us adopt this national right to work law.

The articles by Mr. Davenport and Mr. Jones follows:

[From Human Events, Sept. 11, 1971]

WAGE-PRICE CONTROLS UNNEEDED—CONGRESS MUST CURB LABOR UNION MONOPOLY

(By John A. Davenport)

Despite widespread acclaim in many quarters, and an initial favorable reaction from the stock market, President Nixon's so-called new economic program is neither entirely new nor internally consistent.

In its international aspects the program deserves praise and support, since it has been clear for some time that the dollar is overvalued in terms of other currencies and that a readjustment of exchange rates is a prime necessity. But in coupling dollar devaluation abroad with a general price and wage freeze at home the President has embarked on a dangerous expedient where possible short-term gains must be measured against long-term losses both for the economy and for the principles of the free market which the President says he is seeking to uphold.

With respect to short-term gains the wage-price freeze may temporarily dampen inflationary expectations which usually follow monetary devaluation and in this case cutting loose from the fiction of $35 gold, and one must charitably suppose that this was the determining factor in the President's decision.

Moreover, if the freeze momentarily slows the upward pressure on wages and costs, which is the chief cause of our difficulties, it may allow production, productivity and employment to expand and the economy may well work its way onto higher ground. But when these possibilities are conceded, the fact stands the President has not come to grips with the fundamental causes of inflation and unemployment, and with every day that passes the program will face new administrative difficulties.

As to that, Mr. Nixon now finds himself playing the role of King Canute bidding the tides of inflation to recede and even the little waves to be quiet. In their hearts both he and his advisers know that this cannot really be effected by government ukase and the frenetic activity of the pitifully unprepared Office of Emergency Preparedness and the new Cost of Living Council.

Already the price freeze has left the steel industry in the curious position of having raised prices on structural steel but now being denied contemplated raises in the price of tin-plate products and other items. Similar distortions are appearing in textiles and other industries and applications for exceptions are bound to multiply both as regards prices and wages.

If these exceptions are granted, then price stabilization becomes just another name for unbridled governmental discretion by officials who cannot possibly know what a fair price or fair wage for any particular class of workers really is. If exceptions are not granted, then we may confidently expect the emergence of grey and black markets.

Large producers in the public eye may officially adhere to ceiling prices, or as in the case of automobiles, patriotically announce a roll-back. But especially among smaller firms this semblance of stabilization will be accompanied by covert but perfectly legal readjustments in trade discounts and extras that nullify official orders and guidelines.

The truth is that an enterprise economy can no more function without continuous price and profit adjustments than a gasoline engine can perform without its vital timing and distributor mechanism.

But the difficulties of enforcing controls, and the harm done if they are enforced, is not the crucial point. The crucial point is that the freeze is at best an indirect and one might almost say surreptitious way of dealing with what ails the economy.

What ails the economy is not the free price and profit system as such but the fact that it is afflicted in a single sector by a powerful and pervasive monopoly element. I refer of course to the power of labor unions to force up wages and costs year after year without regard to general productivity advance.

For while organized labor constitutes something less than 25 percent of the U.S. working force, its grip on our basic industries is wholly critical. It is this monopoly power which forces producers to raise prices if they can, and if they can't to cut back production with resulting unemployment. And it is this monoply power (aided by unwise minimum wage laws) which has thus far defeated all attempts to achieve stabilization and high employment levels by traditional fiscal and monetary means.

The wage-price freeze in itself does nothing to get at the tap roots of union power and, indeed, controls if perpetuated may in the longer run enhance that power. It should not be forgotten that it was during a regime of controls in World War II and during the Korean War that organized labor gained some of its most costly victories—notably the spread of union shop contracts which force workers to pay union dues as the price of holding their jobs and which automatically swell union treasuries with funds that can then be used for political purposes. The explanation of this is not far to seek.

Faced by a government control board, unions will accompany exorbitant wage demands with "sweeteners" such as demand for the union shop, or the closed shop, or changes in work rules. In an effort to chip off a few cents from the wage package, the government agency will swiftly capitulate in other matters, the more so because such boards are always politically motivated. Union muscle will thus be increased rather than diminished for the years ahead by throwing wage settlements into the arena of politics.

The effective and courageous way to deal with union monopoly power is large-scale revision of our present permissive labor laws and their administration. This is the missing ingredient from the President's program and had it been undertaken in good time we might never have arrived at the present impasse.

The objective of sound labor reform is not to smash all unions, but to bring them back under the sweep of the law as it applies to other private associations and to individuals Unions should be what they set out to be; namely purely *voluntary* organizations, purged of their present coercive and often violent practices. The scope of collective bargaining needs sharp limitation to the end of preventing unions from closing down whole industries, not to mention vital state and municipal services.

The legal means for effecting these reforms are various, but in general we need to apply to unions the spirit, if not the letter of our anti-monopoly laws to the end of freeing up the labor market, protecting the rights of working men themselves, and meeting the needs of the long-suffering public which is the chief loser under present arrangements.

Combined with prudent fiscal and credit policies, such legislative reform would give the American people what they want and deserve: namely, price stability and expanding job opportunities for all able and willing to work. Good for the economy at home, such a program would also yield high dividends abroad.

In seeking a realignment of world exchange rates and in temporarily cutting the dollar loose from $35 gold, the President has made a first step in reconstructing a more rational international order. But it is only that. If the effort is to succeed, whether under a "floating" or fixed exchange rate system, it is essential that the U.S. permanently conquer both inflation and unemployment; and on the evidence the wage-price freeze and controls will not turn the trick.

Foreign nations like Canada that have tried controls and so-called "incomes policy" have had to abandon these palliatives as wholly ineffective. Indeed, "incomes policy" is really only another name for evading the tough realities that now confront us.

Beyond all this, controls pose a symbolic issue for the American people. The U.S. has grown great by combining a philosophy of limited government with a free market economy which allocates goods and services through free choice and tends to disperse power and decision. Such a system requires that government lay down the rules of the road and provide among other things an adequate monetary framework. It is directly threatened, however, by bureaucratic controls which in the end must lead to the socialization of the economy and the endangering of our higher liberties. Free men need free markets.

The President instinctively knows this. It is time he translated principles into practice by redeeming his pledge to lift the wage-price freeze promptly at the end of 90 days, by resisting pressure to set up permanent stabilization machinery and by setting in motion now the reform of labor legislation which would make conrtols wholly superfluous. The result could be the strengthening both of the U.S. economy and the world economy. It could be the beginning of a truly *new* economic policy—a policy worthy of our traditions and legitimate expectations.

[From a column syndicated nationally by General Features Corp., Dec. 5, 1970]

UNION DEMANDS COULD SIGNAL END TO FREE MARKET

(By Jenkin Lloyd Jones)

Is labor union power in America leading us all into an economic strait-jacket? Could be. And if it could be, the fault lies not with union labor or even the most ambitious labor leaders, but with an imbalance of the law that makes the abuse of union power inevitable, and the suppression of that abuse by government inevitable, as well.

The greatest unresolved problem in human economy is how to make the laborer worthy of his hire and the hire worthy of his labor.

When the 19th-century factory system destroyed cottage industry, it succeeded also in breaking rural serfdom by offering employment opportunities other than scratching and harvesting the land. But as the cities burgeoned and increasing thousands depended for their daily bread upon the opening of the factory gates, the power of the factory-owner grew enormously. As his machines improved and production increased, he was reluctant to pass on a fair share of the benefits to his hired hands.

Instead, the threat of the lockout became ever more devastating and the lightly taxed profits to the few plus the spread of wage-slavery to the many led Karl Marx to assume the coming collapse of the whole system.

Three things made Marx a bad prophet. First were the anti-trust laws, most stringently enforced in America, which made it unlawful for industrialists to band together in order to diminish competition, rig prices and depress wages. Second was the income tax, putting the largest burden of taxation upon those with the highest ability to pay. Third was the rise of union labor.

The union turned the feeble power of the individual worker into the collective clout of the work-force. The power of the boss met its match in collective bargaining.

The mistake was made, however, in not foreseeing that union power, if subjected to no regulation, could develop the same evils that had been demonstrated by unregulated industrial power.

Whereas, once combinations of employers could say to workers, "Take what we offer you or you will not eat," now union power can say to employers, "Give what we demand or you will not produce," and to the general public, "Unless we win, what you need you will not have!"

It is unfair to curse union leadership for unrealistic wage demands. Indeed, the most moderate wage demands are likely to come from Mafia-controlled unions where a corrupt leadership is willing to write "sweetheart" contracts for a price. Honest union leaders are under pressure from the rank-and-file to equal the highest percentage raise obtained by any other union. The result, quite naturally, is mad escalation.

And this feeds inflation. Unions understand this and in the recent General Motors settlement an unlimited "cost-of-living" wage increase was achieved. It will be impossible for the self-employed, the farmers, the retirees or most of the people in the service industries to obtain for themselves similar protection from rises in the cost of living.

Thus the UAW becomes the beneficiary of special privilege—exemption from a condition which its own action will help produce.

The auto worker whose wage increases outrun his productivity can be paid only by lower profits or increased prices. The UAW settlement will be a tax upon all auto users. It may kill the much-hoped-for American minicar in its cradle.

The $18,000-a-year plumber imposes a tax on all home buyers. The $17,000-a-year brick layer shows up in super-market prices. One railway union, having made wage demands that even it concedes the railroads cannot pay, is now suggesting federal subsidies, which means its intention to charge part of its wages to the taxpayers, who are everybody.

Where are we going? It's pretty plain. Unions, having priced more and more American goods out of the international trade and having made foreign imports even more alluring, are beginning to demand high protective tariffs which could trigger international retaliation and perhaps a worldwide depression. Outraged consumers are beginning to demand wage-price controls which would mean the end of the free market and free wage negotiations.

The cure?

It won't be simple. But the right of unions to cut off the water was not handed down among the Ten Commandments, and the compelling of a worker to join and obey a union in order to hold a job is probably going to have to go.

CHEESE IMPORT QUOTAS SHOULD BE EXTENDED AS TARIFF COMMISSION HAS RECOMMENDED

HON. MARK ANDREWS

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 1971

Mr. ANDREWS of North Dakota. Mr. Speaker, President Nixon should act promptly to implement the recommendation of the Tariff Commission and establish quotas for quota-type cheeses costing over 47 cents a pound.

In 1970 a milk use basis, about one-fourth of all dairy imports were these types of cheeses. As a result President Nixon asked the Tariff Commission to investigate these imports and report to him. The President is to be commended for his concern and action in this respect.

After the proper hearings the Tariff Commission, on July 28, recommended to the President that this tariff loophole be closed and that cheese costing over 47 cents a pound be placed under quota the same as cheese costing under 47 cents a pound. In other words the 47-cent price break should be eliminated. At that same time the Commission made recommendations as to what this quota level should be.

Four months have elapsed since then and the President has not acted.

Unfortunately, during this period the import total of these cheeses—costing over 47 cents—has increased by 10 to 15 percent over the same period last year, based on totals reported by the U.S. Department of Agriculture through September 30. It is unfortunate that these imports continue without limitation at a time when our own U.S. dairy production is increasing. The longer the President delays the longer the period in which the importers can take advantage of this nonquota status and continue to increase their imports.

All of the evidence is in as a result of the public hearings which the Tariff Commission held. The President should act on this basis and impose the necessary quotas.

ALBANIA'S SHORT-LIVED FREEDOM

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. DERWINSKI. Mr. Speaker, Sunday will be the 59th anniversary of the independence of Albania, a tiny Balkan country that has never enjoyed more than a brief taste of freedom. Before November 28, 1912, when the National Assembly declared Albania's independence from the Ottoman Empire, it had been ruled through the centuries by Romans, Bulgarians, Serbs, and Normans, as well as Turks.

Since obtaining its freedom as a result of the First Balkan War, Albania has experienced numerous kinds of government. These have included, in bewildering succession, monarchy with William of Wied as King; a period of anarchy; occupation by Austria-Hungary, Italy, Serbia, Greece, France, and Bulgaria during World War I; a republic with Ahmed Bey Zog as President; a return to monarchy with the President proclaiming himself King Zog I; conquest by the Fascists, with Italy's King Vittorio Emanuele III becoming also King of Albania; occupation by the German National Socialists; and finally, since World War II, a Communist dictatorship. Even the last has had its variations, Albania being dominated first by the Soviet Union and since 1961 by Red China.

Ordinarily the anniversary of independence would be a day of rejoicing, an occasion for celebrating the birthday of one's nation. It would be a day of observance, a time for recognizing the contributions of patriotic ancestors to the cause of freedom. It would be a day of dedication and inspiration, on which every loyal citizen resolved to preserve inviolate his country's independence and the liberties of its citizens. Last, but not least, the anniversary of independence would be a day of thanksgiving, a time for expressing gratitude to the Ruler of all nations for the precious gift of freedom.

Mr. Speaker, November 28, 1971, will not be a day of rejoicing, observance, dedication, or thanksgiving for the people of Albania. Instead it will be just another day of incarceration in a Communist concentration camp. May God speed the day when Albania will once again live in freedom and have good reason to celebrate the anniversary of its independence.

H.R. 351 FOR A POSITIVE SOLUTION TO THE U.S. FINANCIAL CRISIS

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. RARICK. Mr. Speaker, as the U.S. Government announces an $821 million deficit in foreign trade for the month of October following a $107 million deficit in September, New York, our second most populated State, announces that it faces "social bankruptcy" as a result of squandering its taxpayers' money to pay for political promises. And, as usual, the political leaders in dodging the cause of the financial plight ignore the fact that they helped create the crisis in large measure by their role in appeasing the proletarian masses. They seek to solve the problem by calling for higher taxes and devaluation of the dollar. Reportedly, the international banking interests and their financially elite fellow travelers in the United States have aided and abetted in the collapse of the U.S. dollar. French and Swiss banks are reportedly loaded with newly transferred American bank accounts with their owners awaiting the revaluation of their country's dollar so that by a mere bookkeeping transaction they can profit by the crisis they assisted in creating.

The American people will have to understand that share-the-wealth domestic programs are not free and world redistribution of U.S. gold and jobs to emerging nations only prove to be a gimmick whereby the international financial barons enrich themselves and become so powerful that by the mere transferring of their holdings they can bring a nation to its knees without a shot being fired.

What will be the proposed policy of our country in solving our money crisis? The same policy as in the past? The policies of the monarch are always those of his creditors. Those who own the gold and control the wealth will continue to dictate U.S. money policies.

The gold and other wealth of this Nation have been earned and paid for by the U.S. taxpayers who will shortly be told, in compliance with a so-called goal of world equalization of the wealth, that their money is not worth what it used to be. Yet no one will tell the American people who got the gold, and business will go on as usual.

That is why I introduced H.R. 351, a bill to buy back the Federal Reserve bank stock and reinstate control over the people's money with the Congress as is provided in the U.S. Constitution. The people may not approve of everything Congress does, but at least they know who Congressmen are, and if they disapprove of their actions, they can defeat them at the polls. International bankers and other world manipulators of wealth are for the most part unknown to the public and leave the people no recourse to protect their earnings and investments.

I include in the RECORD the related newsclippings and H.R. 351:

[From the Washington Post, Nov. 27, 1971]

TRADE DEFICIT $821 MILLION FOR OCTOBER

(By James L. Rowe, Jr.)

The United States suffered a severe trade deficit in October, the government announced yesterday, but the domestic economy showed an encouraging upsurge as the Commerce Department's composite index of leading indicators of business activity rose 1.2 per cent.

The trade imbalance—the excess of what the country imported over what it exported—reached $821.4 million last month, virtually assuring that the U.S. will run its first trade deficit since 1893.

Government officials said that the sharp "deterioration" in the nation's trade in October (after a surplus of $265 million in September) reflected to a strong degree the East and Gulf Coast dock strikes that began Oct. 1. The government moved in court yesterday to send 45,100 striking dock workers back to work.

In other news on the economy yesterday, the stock market showed a post-Thanksgiving rally with the Dow Jones Industrial Average rising 17.96 points. The Price Commission, meanwhile, received a request for a 23.9 increase in third class mail rates from the U.S. Postal Service. The commission turned down the request of a large Virginia furniture manufacturer, Basset Furniture Industries, Inc., for a 1.8 per cent increase [Details on Page D6].

Harold C. Passer, assistant secretary of commerce for economic affairs, said the East and Gulf Coast dock strikes hampered "analysis of the import surcharge and the upward float of other currencies relative to the dollar." On Aug. 15, President Nixon imposed a 10 per cent surcharge on all imports subject to tariffs, with certain exceptions.

Mr. Nixon said the surcharge was an attempt to offset the nation's declining position in world trade. Since Aug. 15, when the United States also stopped cashing in dollars for gold, a number of currencies have been appreciating in value in terms of the dollar—making U.S. exports cheaper and imports into the United States more expensive.

But October's decline in imports—about $714 million below September's import level—was not nearly as steep as the export dip. Exports in October were $1.8 billion below September, which was the first month since March that the nation sold more goods abroad than foreign countries sold here.

Passer said the steeper decline in exports resulted from several factors:

In anticipation of the dock strike, shipments were accelerated in September "and consequently shipments declined in October; this affected exports more than imports."

The end of the West Coast dock strike, in which the government got a back-to-work order early in October, "produced a greater surge of imports than of exports" because waiting ships had to be unloaded "before such vessels can be reloaded with exports."

More of the nation's waterborne imports than exports go through West Coast ports.

More U.S. imports are "bulk" items such as oil, natural gas and iron ore, which do not need the service of dockworkers.

A spokesman for the Council of Economic Advisers called the October trade showing "bizarre."

"The thing is that the dock strike really so distorts the figures that it just isn't possible to draw any firm conclusions," he said.

So far this year, the nation has run a deficit of nearly $1.5 billion in its trade account with the world. After three surplus months—January, February, and March—the nation has run deficits in every month but September, when it had a $265.4 million surplus.

Government officials, who had been talking in terms of a $1 billion trade deficit a few months ago, now privately expect the deficit will end up closer to $2 billion. In 1970, the nation had a trade surplus of about $2.1 billion.

Since the dock strikes on the East and Gulf coasts continued through November, "we can expect a very distorted showing in November, too," the CEA spokesman said.

The deficit might not be as great, however, one economist noted, since some of the distortions which affected October—such as unloading imports before exports could be shipped out—will be gone. Nevertheless, most observers expect a sizeable deficit for November.

For the first 10 months of 1971, Passer noted, "the merchandise trade balance has recorded an adverse swing of $4 billion from the same period a year ago—from a surplus of $2.6 billion in 1970 to a deficit of $1.5 billion in 1971. Exports have advanced by $937 million, or less than 3 per cent, while imports have increased by $5 billion, or more than 15 per cent."

Despite the surcharge, the volume of imports has increased each month since August. Passer said October collections of $112 million "indicate that perhaps two-thirds of that month's dutiable imports were covered by the surcharge."

Not only are the trade figures difficult to interpret because of the dock strike distortion, the President's "sweeping change in government economic policy on Aug. 15" make the advances in the leading indicator index difficult to assess, Passer said.

"The indicators are still on a decisive uptrend, however," Passer said, "and this is consistent with private forecasts of a vigorous expansion of the economy in 1972."

The preliminary "leading indicators" report includes eight of the 12 components of the index. The index often tends to foreshadow developments in the economy at large.

When the preliminary September figures came out, the index recorded a 0.3 per cent decline, but when the full index was compiled, it showed an increase of 0.2 per cent.

In October, the preliminary index advanced from 127.1 per cent of the 1967 base to 128.6 per cent. Four of the eight indicators increased, one remained constant, while three declined.

The components which showed an "improved" rate over September included building permits, which increased from an annual rate of 1.9 million in the previous month to 2.22 million in October, and new orders for durable goods, which rose to an annual rate of $31.06 billion in October compared with $31.03 in September.

New claims for unemployment insurance fell to 310,000 in October compared with 324,000 in September (a decrease in this figure is treated as "improved") while the average workweek expanded to 39.7 hours from 39.6 hours in September.

The price-labor cost ratio was unchanged at 96.6. Industrial materials prices declined, as did stock prices, and contracts and orders for plant and equipment.

Since the low point of the automobile strike in late 1970, the leading indicators index has advanced 13 per cent.

[From the New York Times, Nov. 24, 1971]

STATE ON BRINK OF BANKRUPTCY, SAYS GOVERNOR ROCKEFELLER

(By Owen Fitzgerald and Thomas Poster)

The state and local governments are on the brink of "bankruptcy" and face massive budget cuts, Gov. Rockefeller said yesterday in an extraordinary pre-Thanksgiving Day announcement. He also warned of higher taxes.

After conferring for two hours with top state, legislative and county executives, Rockefeller said the state is in a "state of emergency" and that new demands would be made on the Nixon administration and Congress for revenue sharing and a federal takeover of welfare and medicaid costs.

SEES "SOCIAL BANKRUPTCY"

The governor said his administration is facing "social bankruptcy" rather than legal bankruptcy and might not be able to deliver services or pay its bills.

Senate Majority Leader Earl W. Brydges (R-Niagara) went even further. Complaining that the state is being short-changed by getting only 11 cents on each dollar Washington collects in taxes, Brydges said: "Either we assert the rights of the states to participate in the federal income tax and insist that the feds take over medicare and welfare costs or the alternative would be bankruptcy and the inability of the state to pay enough to keep the localities alive."

LEGAL BANKRUPTCY, TOO

Asked if he believes the state's fiscal crisis is bad enough to "legally" drive the state and local governments into bankruptcy, Brydges shot back: "I do. Yes, for both the state and localities."

The 11 county executives who met with Rockefeller, all Republicans, represent the biggest governments in New York outside New York City. Later they met with Mayor Lindsay and the other Big Six mayors at City Hall.

All of the City Hall conferees said they would favor increased state taxes rather than see cuts in state aid to their localities.

Asked earlier what taxes are possible, Rockefeller said, "I don't rule out any increases on any taxes."

[From the Washington Post, Nov. 27, 1971]

SHIFT ON IMPORT TAX HINTED

(By Hobart Rowen)

The Nixon administration now appears more willing than it was just a few weeks ago to lift the controversial 10-per cent import surcharge it put into effect Aug. 15.

Concern at home and abroad that the surcharge—designed to help cure an American trade and balance of payments deficit—would trigger a worldwide recession has modified the administration's position.

Until now, Treasury Secretary John B. Connally and other spokesmen said that the surcharge would be maintained as a bargaining device to force America's trading partners to do three things:

Raise the value of their currencies so that the new relationship of the dollar to other monies would favor the United States. (A cheaper dollar makes American exports more attractive, tends to make imports more expensive.)

Abandon many discriminatory trading practices—quotas and other devices—that affect American exports.

Share in the "burden" of Free World defense by paying more of the direct costs.

Now, borrowing from the semantics of the wage-price program, the administration is ready to modify these demands by removing the surcharge in a "Phase I" that would see a shift in currency relationships averaging about a 10- to 12-per cent depreciation of the dollar.

It would leave most of the other demands on the trade and defense matters to a "Phase II." lasting perhaps one to two years. During Phase II, an effort also would get under way on a complete overhaul of the international monetary system, which in effect was discarded on August 15.

In statements by officials earlier this week—notably, one by Federal Reserve Chairman Arthur F. Burns—the administration tried to hoist a signal that it was anxious to get at least an interim settlement on these important monetary and trade questions.

After a meeting with the President and Connally on Wednesday, Burns pointedly said that "the President expects definite progress" to be made at a meeting of the Group of Ten Finance Ministers in Rome, Nov. 30 and Dec. 1.

But the key to any deal—and this so far is unresolved—is a European proposal for a 5-per cent increase in the price of gold, which would accomplish a direct devaluation of the dollar by that amount. This will be discussed not only in Rome, but at the summit meeting of President Nixon and President Pompidou of France in the Azores Dec. 13.

Authoritative sources said yesterday that President Nixon has not changed his earlier stance against an increase in the price of gold. But the fear of world-wide recession has triggered a new willingness to seek a compromise.

Some of the pressure within the administration to adjust Connally's hitherto hard-line stand has come from State Department officials and presidential aide Henry Kissinger, who are concerned about the impact of U.S. foreign economic policy on American political and military alliances.

Burns also has pressed Connally publicly for greater speed in reaching an agreement.

An additional source of pressure has been the recent weakness of the U.S. stock market, reflecting fears that the surcharge, if kept in place, would be followed by retaliation—then contracting world trade and depression.

As Connally and Burns prepare to leave for Rome Sunday for next week's meeting of the Group of Ten Finance Ministers, much attention will focus on the official price of gold, now $35 an ounce.

Since the initiation of President Nixon's New Economic Policy on August 15, the U.S. government no longer cashes in foreign-held dollars for gold. But European governments nonetheless have pressed for an increase in the price for both political and trade reasons.

The political rationale in Europe is that an increase in the dollar price of gold thus devaluing the dollar, would appear to be a U.S. "contribution" to a realignment of exchange rates, and help convince voters in Europe that their governments were not saddled with the whole responsibility for changing currency rates.

This is important because some European economies are in a recession, and rightly or wrongly, the recent upward revaluations of currency have taken some of the blame.

An equally important consideration is that trade is affected not only by the relationship of the dollar to other currencies—say to the Deutschemark and the French franc—but by the relationship of these currencies to each other.

Germany and France, for example, are important trading competitors and, while Germany is willing to revalue its currency substantially to meet U.S. demands, it does not want to move so far out of line with the franc that it gives France a big trading edge.

But the French so far have refused to revalue their currency upward by any amount, which means that the Germans will not, allow the D-mark to go up as much as they might otherwise.

The way out, it appears, is to increase the price of gold by about 5 per cent. The dollar would be devalued by 5 per cent, and a revaluation of the mark by 7 per cent would provide a "swing" of 12 per cent in favor of the dollar.

A debate on the gold issue has raged within the administration, which all along has argued that the issue is only political, and not economic. But a hard posture against a price increase appears to be weakening, and the clue to this may be the separation, in American officials' minds, of the gold price question and the gold convertibility question.

On convertibility, it is learned, there is no American "give" for Phase I. If a gold price increase is to be considered favorably, it is reported, dollars will remain non-convertible, even at the higher price. Any convertibility would be a separate issue, waiting on the Phase II negotiations for the basic reform of the international monetary system.

In recent weeks, the administration has been pressed hard at home as well as abroad on the gold price issue. Sen. ——— and Rep. ——— have introduced a bill which would permit an increase of as much as 10 per cent in the price of gold.

But Nixon's men have been reluctant to go along. First of all, they do not want to give away a big bargaining chip for the Rome and later meetings. Beyond that, they fear that Democratic candidates next year will make political capital of such a decision by accusing President Nixon of devaluating the dollar.

A 10- to 12-per cent average devaluation of the dollar would not be too far from what already has been achieved in world currency markets since the dollar was allowed to float on August 15. Private estimates are that appreciation of other currencies has provided an average devaluation of the dollar by 7 per cent.

According to officials here and abroad, each average "point" in dollar devaluation, make American exports cheaper and hence more attractive, is worth about $800 million in trade. The 10- to 12-per cent goal would create a favorable annual swing of some $8 billion to $10 billion. This is well under the $13 billion originally demanded by Connally, but later trade and defense burden-sharing arrangements conceivably could contribute more.

[From the Washington Evening Star, Nov. 29, 1971]

MONEY DEBATE PRELIMINARIES START IN ROME

ROME.—European Common Market treasury ministers today discussed ways of forming a united front against the dollar. American money men led by Treasury Secretary John B. Connally polished their own sales pitch.

Treasury and finance ministers and bankers from the world's 10 wealthiest non-Communist nations gathered in Rome for a two-day meeting argument over who should revalue their currencies.

Although the formal meeting does not open until tomorrow, the ministers met in a series of bilateral chats today to clear the air in the world monetary crisis.

FIVE ARE COMMART MEMBERS

Five Common Market members who also belong to the Group of 10—West Germany, France, Italy, The Netherlands and Belgium—scheduled a formal meeting tomorrow morning to forge some kind of united policy on the monetary crisis.

The other five members of the Group of 10 are Britain, Sweden, Canada, Japan and the United States. Switzerland will attend as an observer.

Britain will make its views known when Chancellor of the Exchequer Anthony Barber talks with Italy's Treasury Minister Mario Ferrari Aggradi today.

WANT HIGHER GOLD PRICE

America's nine colleagues have insisted that the United States devalue the dollar by increasing the official price of gold. Connally has refused to consider this, suggesting instead that all the other countries simply increase the value of their currencies.

European sources said they expect Connally to present some sort of compromise at the Rome meeting which would call for a slight devaluation of the dollar, perhaps 5 percent, in exchange for a revaluation upward of some other currencies, notably the West German mark and the Japanese yen.

American sources do not tell it that way. Although Connally recently told business leaders in New York the United States must be 'flexible' in the current world money crisis, he remained firm against devaluation.

SURCHARGE ALSO ISSUE

The Europeans also want abolition of the 10 percent surcharge that President Nixon imposed on most imports Aug. 15 when he launched his new economic policy.

Both sides agree that no final decision on a monetary deal is likely to come at the Rome meeting. Nixon is meeting with President Georges Pompidou of France and Prime Minister Edward Heath of Britain within weeks and any devaluation decision would come only after those meetings.

[From the Washington Post, Nov. 26, 1971]

THE PAYMENTS DEFICIT—AND WHAT TO DO ABOUT IT

Secretary Connally keeps talking as though trade were the same thing as the balance of payments. It is not. From July to September of this year, the net outflow of *merchandise* trade—the excess of imports over exports. In other words—was no more than one-tenth of the deficit in the balance of payments.

The other nine-tenths of the deficit is nothing but money—capital on its way to new investment, profits, interest, gifts and so forth. In his speech in New York this week, Mr. Connally was using the recent and very severe payments deficit as proof of the immediate need for trade reform. But that is hardly the whole message.

The largest single item in the United States' current international accounts is entitled "Errors and Omissions." Wisdom in these matters begins with the truth that the basic figures are not very accurate. There are huge gaps and discrepancies, resulting from a data collection system that has a great many holes in it. Unlike sugar and automobiles, money does not have to go through customs. One of the curiosities of our international accounts in recent years is the enormous increase in the Errors and Omissions accounts. Last year it was over a billion dollars. This year in the second quarter alone it was $2.3 billion. In the third quarter, it was in the range of $5 billion. Since the total deficit in the balance of payments that quarter was about $10 billion, half of it was the surge of unreported and untraceable money accounted under Errors and Omissions.

There is nothing very mysterious about this money. It is, in large and rising proportion, capital going abroad to speculate against the value of the dollar, which is falling steadily. If one had converted $100 into yen last Augest 15, when Mr. Nixon announced his intention of forcing down the dollar exchange rates, one could convert it back into something like $109.50 today. People who jumped into the German mark last spring would have made even more. As a way to make a living it is said to be hard on the ulcers, but there are those who love it.

Among the various perils confronting this republic, the tides of outbound speculative capital are not a very serious matter. It all has to come back, after all, to make a profit. A currency speculator may find Frankfurt a nice place to spend a few months, but he doesn't necessarily want to live there.

The relatively small trade deficit has a relationship, of course, to the dramatic outflow of gamblers' money that has swollen recent balance of payments totals. When a country with a long pattern of trade surpluses suddenly begins to sell less than it buys, the event attracts the attention of dealers who smell the possibility of devaluation. That is the point at which this country arrived last summer, and which is now being reported in the payments statistics.

There is a kernel of real danger in this situation, but it is not strictly a matter of the international accounts. An over-valued dollar means a very sharp rise in imports, which undersell domestic industry on a large scale with predictable political results. Foreign governments, particularly the western Europeans and the Japanese, would be wise to take very seriously those pages of Mr. Connally's New York speech in which he discusses this effect. Mr. Connally and Mr. Nixon have been accused of protectionism in their current economic policy. Mr. Connally is, unfortunately, correct when he says that the alternative to this policy would be a bitter wave of the crudest and most discriminatory protectionist legislation here. The immediate concern here is less the abstractions of the balance of payments than the hard figures of employment, the rate at which imports rise, and labor's stake in exports.

The question is still whether the present American tactics are going to take Mr. Connally where he wants to go. He is giving a very persuasive impression that he will settle no single item until he can get a huge comprehensive solution to the whole range of issues that are summed up in the balance of payments. But when half of that deficit is anonymously represented by the Errors and Omissions account, and when there are some grave doubts as to the precise accuracy of other accounts, a careful man would not choose to be dogmatic about the precise solution required.

Mr. Connally graphically described in New York some of the restraints that the Japanese have put on international competition in their own markets. And he quite correctly chided the Europeans for discriminating against Japan. But to reform these traditions will be the work of many months, if not years. In any event, no one can say with any degree of assurance what effect the new exchange rates will have on the great worldwide movements of goods and investments. New rates may make some of the trade disputes less difficult to solve.

The best rule now is to take one thing at a time, beginning with the new exchange rates for the dollar. As long as the ultimate exchange rates are in doubt, the heavy flows of speculative funds will continue. Our customers abroad will continue to have reason to postpone buying goods that might be cheaper in a few weeks. The current uncertainty over parities only aggravates the weaknesses in our position. The finance ministers of the major trading nations are now scheduled to meet at the end of this month in Rome. That is Mr. Connally's opportunity to set aside temporarily his other concerns—trade restrictions and defense-burden sharing—and pursue prompt agreement on the dollar exchange rates.

H.R. 351

A Bill To Vest in the Government of the United States the Full, Absolute, Complete, and Unconditional Ownership of the Twelve Federal Reserve Banks

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of the Treasury of the United States is hereby authorized and directed forthwith to purchase the capital stock of the twelve Federal Reserve banks and branches, and agencies thereof, and to pay to the owners thereof, the par value of such stock at the date of purchase.

(b) All member banks of the Federal Reserve System are hereby required and directed to deliver forthwith to the Treasurer of the United States, by the execution and delivery of such documents as may be prescribed by the Secretary of the Treasury, all the stock of said Federal Reserve banks owned or controlled by them, together with all claims of any kind or nature in and to the capital assets of the said Federal Reserve banks, it being the intention of this Act to vest in the Government of the United States the absolute, complete, and unconditional ownership of the said Federal Reserve banks.

(c) There is hereby authorized to be appropriated, out of any funds not otherwise appropriated, such sums as may be necessary to carry out the purposes of this Act.

UNEMPLOYMENT OF SCIENTISTS AND ENGINEERS

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. WALDIE. Mr. Speaker, we are faced with growing unemployment in this country—a situation that threatens the livelihood of every American today. But, one of the hardest hit by this economic decline is the area to which we gave top priority in the fifties and sixties.

Mr. Speaker, I remember well the days when then President John F. Kennedy set this Nation's sights toward a landing on the moon. We were a Nation struck with fear that the Soviet Union was exceeding us in the scientific and technological fields.

This Nation responded to the need as it always has, producing thousands of engineers and technicians to bring about the spectacular scientific exploits that reassured us as to our technological supremacy.

Now, Mr. Speaker, we are faced with thousands of these professionals drawing unemployment compensation, because our thirst for knowledge has been replaced by a greater concern for thrift.

The distinguished Senator from Massachusetts (Mr. KENNEDY) wrote about the problem in an excellent article for the September 1971 issue of Chem Tech. A response to that letter, from Alan C. Nixon, the employment chairman of the American Chemical Society, notes the gratitude of many scientists for the remarks made by Senator KENNEDY. This response also includes the text of a measure authored by Assemblyman Ken Meade of the California State Legislature that is designed to head off the problem of unemployment in the scientific community.

Mr. Speaker, I submit both that response and the drafted legislation to the RECORD in hopes that my colleagues will recognize the need for similar protection from the Congress:

CALIFORNIA LEGISLATURE—ASSEMBLY BILL No. 2967

An act to add Article 5 (commencing with Section 9900) to Chapter 2 of Part 1 of Division 3 of the Unemployment Insurance Code, relating to employment, and making an appropriation therefor

LEGISLATIVE COUNSEL'S DIGEST

AB 2967, as amended, Meade (Ed.). Scientific manpower.

Adds Art. 5 (commencing with Sec. 9900), Ch. 2, Pt. 1, Div. 3, U.I.C.

Creates Office of Scientific Manpower within Division of Job Training, Development and Placement of Department of Human Resources Development in charge of a director. Declares functions of office to provide grants to unemployed scientists, as defined, under which such persons may be assigned unused laboratory space and facilities to conduct investigation and research in the field of their specialties. Limits grants to 36 months, and provides stipends for grantees of up to $700 per month, and other benefits.

Creates advisory committee appointed by Governor and composed of scientists meeting certain qualifications. Specifies requirements applicants for grants shall meet, disposition of patents granted for research projects, and other related matters.

Appropriates unspecified amount from General Fund to the Office of Scientific Manpower for purposes of this act.

Vote—⅔; Appropriation—Yes; Fiscal Committee—Yes.

The people of the State of California do enact as follows:

SECTION 1. Article 5 (commencing with Section 9900) is added to Chapter 2 of Part 1 of Division 3 of the Unemployment Insurance Code, to read:

Article 5. Office of Scientific Manpower

9900. The Legislature hereby finds and declares that economic conditions in this state have had great impact upon the scientific and technological community in California, resulting in a large number of unemployed scientists; that these persons constitute a great resource of this state which should not be wasted; that economic changes have disrupted the pursuits of a great number of these scientists to an unprecedented degree; and that temporary assistance to these persons during this period of readjustment will help retain in this state for its future benefit these scientifically trained persons of unique and diversified skills and experiences.

9901. There is in the Division of Job Training, Development and Placement the Office of Scientific Manpower. The office shall be in the charge of a director, who shall be appointed by the Chief of the Division of Job Training, Development and Placement.

9902. The director shall appoint two assistants who shall be scientists trained in scientific administration.

9903. The director shall create an advisory committee of 20 scientists appointed by the Governor from nominations furnished by any professional society of scientists with a membership greater than 50. At least one member of the advisory committee shall be from one of the five professional societies with the largest membership in this state. Members of the advisory committee shall serve without pay, but shall receive their traveling and other expenses.

9904. The Office of Scientific Manpower shall maintain a file of all laboratory space under the control of every state university, college, department, and agency which may be made available for use by scientists under the provisions of this article. Within 30 days of the effective date of this article, every person in charge of laboratory facilities under the control of every state university, college, department, or agency shall survey the facilities under his direction and report the number of laboratory spaces unfilled and available for use pursuant to this article.

9905. The director shall develop a program for the assignment of qualified, unemployed scientists to laboratories having available space.

9906. Any scientist desiring assignment to such space shall submit his application in a form and with such information as the director shall prescribe. In addition, the applicant shall meet all of the following requirements:

(a) He shall have been a resident of this state for one year prior to his application.

(b) He shall be unemployed or under notice of termination of employment.

(c) His most recent employment shall have been in this state.

(d) He shall be a professional scientist meeting all the membership requirements for the professional society representing his scientific specialty.

9907. A person in involuntary early retirement with a pension reduced in amount from the pension payable in the event of normal retirement is eligible under this article if he otherwise meets all the requirements of Section 9906. For such person, however, the amount of any stipend payable under this article shall be reduced by the amount of such pension.

9908. An applicant may submit, in addition to such information as the director shall require, relevant biographical data and information on experience and education. The applicant may present a specific research proposal or indicate a preference for work at a specific laboratory.

9909. An applicant selected will be assigned space available in a participating laboratory in accordance with his field of study and the facilities available. The applicant's proposed program of research shall be subject to acceptance by the agency; in charge of the laboratory. The applicant shall have the full use of the entire facilities of the laboratory to which he is assigned to the extent that the regular program and mission of the particular laboratory permit. With respect to matters of laboratory procedure and safety, the applicant shall be subject to the agency in charge of the laboratory. It is the intent of the Legislature that research programs under this article shall be flexible and that individual applicants shall work on research projects of their own choosing to the maximum extent possible.

9910. An applicant who is accepted for participation under the provisions of this article shall receive a grant to conduct a program of research at a designated laboratory extending in duration no longer than 36 months. The grantee shall receive a stipend of not more than seven hundred dollars ($700) per month as determined by the director on the basis of the grantee's need, experience, and background, and subject to the availability of funds. The provisions of the grant shall in addition contain an allowance for laboratory expenses and supplies, and all such expenses and supplies used by a grantee, including any increase in insurance against loss incurred by the laboratory as a direct result of the activities of the grantee, shall be accounted for and compensated under the provisions of the grant, within such limitations as are imposed by the director in each case.

9911. A grantee may accept employment at any time, and in such case his grant shall terminate. A grantee shall be allowed up to five days per month to seek employment without reduction in stipend. Other absence because of illness or emergency will be allowed up to 15 days per year without reduction in stipend. The monthly stipend shall be reduced proportionately for additional absence.

9912. A grantee may publish the results of his research under a grant awarded pursuant to this article in any recognized scientific journal.

9913. A grantee may apply for a United States patent as a result of any research or investigation carried out under a grant pursuant to this article, through the agency in charge of the laboratory. The grantee shall assign any patent granted by the United States as a result of such research or investigation to the state, but he shall be entitled to one-half of any royalties as a result of such patent. Any foreign patents granted shall be the property of the grantee. If the agency in charge of the laboratory declines to process an application for a United States patent, the grantee may do so himself, and in such event any patent issued need not be assigned to the state.

9914. A grantee shall be encouraged to enroll in courses of instruction offered at any community college, state college, or the University of California in the field of his specialty or a related field. Tuition fees for such courses shall be payable from funds available for the purposes of this article.

SEC. 2. There is hereby appropriated the sum of ——— dollars ($———) from the General Fund to the Office of Scientific Manpower for the purpose of carrying out the provisions of Article 5 (commencing with Section 9900) of Chapter 2 of Part 1 of Division 3 of the Unemployment Insurance Code.

California Section,
American Chemical Society,
Berkeley, Calif., November 12, 1971.

Hon. Edward M. Kennedy,
Senate Office Building,
Washington, D.C.

Dear Senator Kennedy: This letter is inspired by your article in the Magazine, Chem Tech, for September, 1971. I want to commend you for your efforts on behalf of the country to save the scientific resources being squandered by the present unemployment of scientists and engineers.

While I commend your efforts, I am appalled with the misery that is occurring because the reaction of the Federal government is so slow. I am afraid that a great deal of the money which is being spent is being wasted by disbursing it to too many levels of government. In addition, I feel that in some of the conversion efforts that are being made people are being trained for non-existent jobs.

Speaking for scientists, which I am better equipped to do (I am Chairman of the Employment Committee of the California Section of the American Chemical Society) I feel the important thing is to keep scientists doing science. In this way they will have an opportunity to keep their skills sharp and to make useful contributions to scientific research and will probably develop information or products which would pay for the outlay in the long run. In most cases, scientists are perfectly capable of re-training themselves on a job if they can get it and the diversity in the practice of science is so wide that this actually is what usually happens when a person gets a new job.

Acting on the philosophy outlined above, we in the California Section, have worked with Senator Meade in the California Legislature to develop the attached AB 2967 which is designed to withdraw California scientists from the ranks of the unemployed and let them work with subsistence type support in labs owned by the people of California. This not only has the advantages outlined above, but it would also introduce into the predominantly academic community in which these labs are located, thousands of skilled, sophisticated, industrially oriented persons who would give a tremendous shot in the arm to the academic community in terms of their awareness of industrial and environmental needs and practices.

Again, let me say that I greatly appreciate your interest in the problems of scientists and engineers and your attempts to do something about them.

Very truly yours,
Alan C. Nixon,
Employment Chairman.

A YOUNG MAN'S PRAYER

HON. CHARLES S. GUBSER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. GUBSER. Mr. Speaker, recently at a political gathering in my congressional district a young student at San Jose State College, Mr. Paul W. Haddon, was invited to deliver the invocation.

Mr. Haddon's prayer was well delivered, but its true power lay in the words and thoughts which it contained. It was truly a young man's prayer, but it applied equally to every human being, regardless of age.

I believe Mr. Haddon's prayer should be made available to all readers of the Congressional Record:

A Young Man's Prayer

(By Paul W. Haddon)

Heavenly Father, we ask your blessing on our assembly here this evening.

Draw us together, in unity of purpose and vision, and help us to transcend all barriers of age, temperament, background, and all else that threatens to divide us.

Grant us, a spirit of unity and youth, in our enthusiasm, our courage, our Faith and our optimism.

Father, teach us, that youth means the predominance of courage over timidity, of adventure over love of ease.

This often exists in a man of sixty, more than in a boy of sixteen.

Nobody grows old, merely by a number of years, we grow old by deserting our ideals.

We know Father, that years may wrinkle the soul.

Worry, doubt, self distrust, fear and despair, these bow the heart and turn the spirit back to dust.

Father, whether sixty or sixteen, there is in every human being's heart, the love of wonder, the sweet amazement at the stars and star-like things, the undaunted challenge of events, the unfailing child-like appetite for what-next, and joy at the game of living.

Father, make us ever mindful, that we are as old as our doubt, as young as our faith; as old as our fear, as young as our self-confidence, as old as our despair and as young as our hope.

THE TRUE AMERICAN RECORD IN VIETNAM

HON. LOUIS C. WYMAN

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. WYMAN. Mr. Speaker, one of the most despicable and ill-deserved charges against our men in Vietnam has been that of indifference to human misery. They are real Americans, and like most Americans, they seek to help alleviate suffering by young and old, as well as to maintain the freedom of choice that is the essence of the American way.

Sp5c. Jay S. Marion of Manchester, N.H., and his work for Vietnamese orphans is a good case in point. We are proud of Jay Marion and in the same sense of accomplishment for America that Jay feels for his wards, I include in the Record at this point the recent account in the Manchester, N.H., Union-Leader, of Jay's splendid work:

Queen Cityan Seeks Help for Vietnamese Orphans

A Manchester Vietnam Army veteran, still stationed there, is calling upon his fellow Granite Staters to help him help ease the troubles of children in an orphanage in Phu Bai.

Specialist Five Jay S. Marion, son of Mr. and Mrs. O. M. Marion of RFD 1, Manchester, has taken a considerable amount of interest in an orphanage run by two Catholic nuns, and is seeking help to aid the children in the war-torn country.

The orphanage, An-Khail, cares for 70 children ages two to seven and is located near the 101st Airborne Division's base camp in Phu Bai.

According to SP5 Marion, clothing is the No. 1 problem, especially with the winter months fast approaching. "Toys aren't a necessity," he writes, "but any sent would be better than the bottle caps, sticks, stones and rubbish piles that they play in now."

Deeply touched with their problems, SP5 Marion confessed he would like to take all the youngsters home with him but realizes it would be an impossibility.

In an effort to help a little, SP5 Marion has taken it upon himself to act as a clearinghouse for any articles Granite Staters are able to send for the children.

Items may be sent to SP5 Marion at his address: C Troop, 2/17 Cav., 101st Airborne Div. (Ambl), APO San Francisco, 96383.

THE 197TH INFANTRY BRIGADE

HON. JACK BRINKLEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. BRINKLEY. Mr. Speaker, I share with my colleagues the following letter which the Honorable Howard H. "Bo" Callaway, a former Member of this body and now a civilian aide to the Secretary of the Army, has called to my attention concerning the 197th Infantry Brigade at Fort Benning, Ga. This brigade is, indeed, outstanding and is well on its way to becoming an all volunteer unit. It is commanded by Col. Willard Latham and his leadership is best shown by his recent selection to become chief of staff at Fort Benning in January of 1972.

The letter follows:

ARLINGTON, VA.,
November 16, 1971.

Col. WILLARD LATHAM,
Commander, 197th Infantry Brigade,
Fort Benning, Ga.

DEAR WILL: It has been an honor for me to revisit your Brigade just before you relinquish Command after 22 months of a very high order of commandership. Your Brigade was one of the seven initial units given permission to do "Unit of Choice" recruiting. You and your Brigade went into this program promptly, wholeheartedly and with great energy and imagination. Your Brigade has enlisted about 1550 men for your unit. The first group of these men has returned to your Brigade for Advanced Individual Training. They will be a credit to you and your Brigade. Your record adds great credibility to your statement that your Brigade can be an all-volunteer unit by the Summer of 1972.

Not only have you set the stage for a great accomplishment in the effective command and training of a very large Brigade during this transition period, but you have had a great and beneficial effect on raising the Public Image of the Army in the area in which you have recruited. Your efforts in the field of community relations have paid off handsomely.

I am sure the Army is proud of your accomplishments as Commanding Officer of the 197th Infantry Brigade. I am proud of you and your unit. I shall watch your progress to higher responsibilities with a great deal of interest. Best wishes to you and yours.

Sincerely,

BRUCE C. CLARKE,
General, U.S. Army, Retired.

THE DUFF'S OF QUICKSAND CREEK

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. MAZZOLI. Mr. Speaker, I would like to direct the attention of my colleagues of the achievements of a remarkable Kentucky couple, Lionel and Frankie Duff, who for 28 years kept bright the lamp of learning in a remote Appalachian hollow in Knott County.

In a three-room brown schoolhouse, hard by the banks of the Middle Fork of Quicksand Creek, these dedicated teachers, graduates of the University of Kentucky, have spent not only their time but money from their own pockets to keep the school at Decoy going.

Their efforts have not been without reward, and Lionel Duff's words best describe that reward:

> I wanted to show people it could be done, to show people that kids from the hills and hollows could go to school and learn and then go into the world and take their places in society . . . It's been proven.

Reporter Leah Larkin has written an interesting story about the Duffs, which appeared in the Louisville Courier-Journal on November 11, 1971. I include this story in the RECORD.

THE DUFF'S: THEY NURTURE LEARNING IN THE MOUNTAINS

(By Leah Larkin)

Back up in the mountains of Knott County, many miles of crumbling dirt and gravel road away from the cities, past a few blackened mining companies, a couple of burning slag heaps and acres and acres of hills and valleys covered with trees, is a three-room brown, wooden schoolhouse.

It's on the Middle Fork of Quicksand Creek in Eastern Kentucky in a place called Decoy. Along with a post office, a church, a community center and two country stores, the school serves 28 families, about 165 people, who live higher up in the mountains above Quicksand's Middle Fork.

The school, and those who run it, make Decoy a bit different from other Appalachian communities.

Twenty-eight years ago Lionel and Frankie Duff began teaching at the little school in Decoy. Together they have taught the eight grades in the old wooden structure. They have done more than just teach. Through the years, they have spent nearly $12,000 of their own money to improve the school. They have helped get a community center for Decoy and contributed about $15,000 to the cost of the building. The Duffs don't boast about their contributions. They have to be pressed to reveal actual figures. Their efforts have brought national, even international, recognition to this remote area in Kentucky's mountains. And their devotion and concern have probably changed the future for some of Decoy's children.

"I grew up here. I realized the problems of the kids. I wanted the kids to be able to go on to high school. I knew they needed us. We got involved and couldn't quit," said Mrs. Duff who was born in Decoy 57 years ago.

Her father worked for the logging company which built the school in 1927. She remembers going to school in the building just after it was built. And she feels a kinship with the people of Decoy.

"Almost all of these children are my relatives," she says as she looks around at some of the 45 children who attend the school. She talks about them, their parents, whom their parents married, and how that makes them distant cousins of hers.

Her husband, too, is intrigued with genealogy and he shows the chart he made, a genealogy tree of Decoy families. "Some of the children here are eighth generation," Duff said. "We've traced most of them back to the Revolution." The chart hangs in one of the classrooms surrounded by old school pictures. Children can look at it, trace their family branch, and see how they are related to one another.

Duff, a native of Hazard, retired last year after teaching in Decoy for 28 years. He is now executive director of the Hindman Settlement School, an hour's drive from Decoy, and he continues to share his wife's dedication to education and Appalachian children.

"I wanted to show people it could be done, to show people that kids from the hills and hollows could go to school and learn and then go into the world and take their places in society," Duff said. He's proud of their success. "It's been proven. We have kids from here who have been successful all over the country." He mentioned some of them: The boy working in Los Angeles as a geologist; the boy in Florida working with an electronics company; the two girls teaching in California; the boy with an aircraft company in Minnesota.

Now there are 14 children from Decoy attending high school—some at the Hindman Settlement School and some at Breathitt County High in Jackson. Five from Decoy are now in college. That's an impressive record for a community isolated in Appalachia with a total population of 165. What the Duffs have done with the school in Decoy is equally impressive.

Because the Decoy school is so small compared to most, "We usually just got the bare necessities from the board of education," Mrs. Duff said. "Erasers, chalk, water buckets, dippers, brooms and coal."

It takes more than that to run a school. So the Duffs, both of whom have teacher's certificates from the University of Kentucky, used their money to buy library books, encyclopedias, art supplies, etc. They spent both time and money improving the school building. In the early '60s they put in bathrooms and a kitchen. They bought a stove and refrigerator for the school. When they realized that many of the children were coming to school on empty stomachs, they started buying food and preparing breakfast for them. Now they receive government funds for both school lunches and breakfasts.

They helped buy a new furnace for the school, paint the building, put up wall boards and build a basement. Members of the community have helped out with the labor. And in recent years they have been blessed with outside assistance. Various church and college groups from all over the country now come to Decoy for summer work camps. Many of the groups have acted as sponsors and provided funds to help the Duffs with their projects.

The Duffs credit the outside interest and attention on Decoy to folk dancing. According to Doug, the Duffs' son who is recreation director at the Hindman Settlement School, it all started one summer back in the '50s. His parents went to summer school and took a course in folk dancing. They liked it so much they made it part of the curriculum at Decoy.

"They (Mr. and Mrs. Duff) used the dancing to get the students out of the community," Doug said. Financing the trips themselves, the Duffs would take a group of students to dance festivals at Berea College and other area schools. Through the years their dancing improved. They were asked to perform at other festivals, and even on television. Decoy folk dancers have been on television in Lexington, Toledo and Huntington, Duff said. They have traveled in every direction, as far as Boston, Florida and Denver.

"It's important to get the kids out. It gives them confidence in themselves, getting out of this small community and meeting others," Duff said.

Not long after Decoy became known for folk dancing, the Duffs, who also have a daughter, Carol (Mrs. James Maynard), of Lexington, started receiving requests from groups who wanted to visit their school. The first group to come was the American Friends Service Committee from Philadelphia in 1964. They staved eight weeks and helped put a new floor in the school, build the basement and construct the bridge across Middle Fork to the school.

That was just the beginning. Ever since, Decoy has been host to summer work camps. People from all over the country and 16 foreign countries have lent a hand—from putting a new roof on the building to teaching summer school. Next summer the Appalachian folklore class from the University of Buffalo will live and study at Decoy. In March a group from Williams College will come.

Perhaps the biggest contribution, both in money and labor, made by the work camps is Decoy's new community center. It's a large, modern, yet rustic building where the people of the community gather for dances and meetings. Work camp groups can live there. The Duffs are now living in a small apartment area in the building which was designed by an architecture student from the University of Kentucky.

While dancing brought recognition to Decoy and continues to do so, the children's art work will also receive wide attention. Drawings by Decoy students will be on exhibit in New York's Metropolitan Museum this January, in a contest and exhibit sponsored by Save the Children's Foundation, work by Decoy students was selected to represent children's art of Appalachia.

Neither Mr. nor Mrs. Duff has formal art training, yet the walls of the three schoolrooms are decorated with colorful, expressive drawings by the children.

And Mrs. Duff works with the girls, especially during the summers, teaching them to weave. They use the three looms in the community center and make beautiful skirts, some of which are used as dancing costumes, and rugs.

Since Mr. Duff is no longer teaching at the school, Mrs. Mary Combs, Mrs. Duff's first cousin, began teaching grades 5 through 8 at Decoy this year. Last year she taught eight children up on Laurel Fork at Elmrock. Now her husband drives her and the children from Elmrock down to Decoy every day.

And then he makes two more trips into the mountains, picking up other school children and driving them to Decoy. Until two years ago, all the children walked to school. For some the walk was several miles.

Mrs. Duff is a bit worried about the school during the winter months ahead. The road between Decoy and Elmrock isn't finished yet. She's afraid Mrs. Combs won't be able to make it to Decoy on bad days. They'll need another teacher.

Mrs. Duff herself intends to retire within the next year or two. She wants to move to Hindman where her husband and son are working.

Other teachers will come to the three-room, brown, wooden schoolhouse. But the people who live around Middle Fork of Quicksand Creek won't forget Lionel and Frankie Duff.

HAROLD WILSON'S PROPOSAL FOR PEACE IN ULSTER

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. BOLAND. Mr. Speaker, Harold Wilson, former Prime Minister of Great Britain, has suggested what appears to be the only solution to the civil tumult in Northern Ireland—unification of all Ireland under a single constitutional government.

It is hardly a unique proposal. Indeed, it has been made many times before by spokesmen of virtually every political stripe. But Mr. Wilson, after a trip throughout Ireland, is now convinced that this solution is the last dim hope for ending the bloodshed. He proposed that a convention of delegates from Eire, Ulster, and Westminster begin framing plans now for a United Ireland—plans that would take effect 15 years hence under a new constitution.

Mr. Wilson's speech was greeted soberly in Parliament. Even England's Tories, traditional foes of a united Ireland, did not protest.

Mr. Speaker, Alfred Friendly, distinguished correspondent for the Washington Post and now based in London, discuss Mr. Wilson's proposal and its implications in his column of November 27, 1971. Mr. Friendly has written perceptively and objectively on several occasions on the agonizing atmosphere of Northern Ireland. I include his article in the Record:

United Ireland a Solution

(By Alfred Friendly)

London.—Winston Churchill was more than usually grumpy. It was not so much that an ungrateful electorate had voted him out of office two years before, but that his doctors had forbidden him cigars. He was complaining to a luncheon guest:

"This island is beset by a tribe of neurotic philosophers"—he meant the Labor government whose ministers he termed, invariably and with bitter contempt, "those socialists"—"who wake up each day thinking what there is that is England's to give away and each day by regretting what they have done."

Churchill missed the point, a point more easily appreciated today, with almost 25 years of hindsight. Britain did not "give away" India, and later almost every other possession, as a charitable gesture, but because it could not hold them any longer. Whatever they might have been in the beginning, in the end not even the white colonies were "England's" to be given away.

It was just that once Britain could no longer support a massive, locally invincible world-wide military force, they could not be kept.

The point was clear enough to see this week with Rhodesia. Britain has concurred in its independence not because Ian Smith came to Britain's terms but because Britain came to terms with its own capabilities. Rhodesia could be held, as "England's" only by military force, if it ever came to the crunch. Britain has no clout for such a crunch, and the end was inevitable.

All of which is prelude to the speculation that probably also Ulster is not any more "England's" either to give away as a gift or to hold on to. The reason is not exactly a lack of bare military strength, but the futility of expending that military strength forever to keep a sort of peace in an area where one side is determined to fight on and on, sometimes passively, sometimes actively, until its goal is won.

However ridiculously anachronistic today, when transportation and communications render foolish the old ideas about where borders must be, there remains an overpowering nationalist mystique about islands. It holds that they must in their entirety have a single government. There is no good reason for this but it is so (Hispaniola being an exception). Try telling his Beatitude Archbishop Makarios to give a chunk of Cyprus to the Turks, or Generalissimo Chiang Kai Shek to split Formosa between the Chinese and Taiwanese.

There is no good reason why a million Protestants, largely of Scottish descent and British loyalty, should become part of the Republic of Ireland because 3 million Catholics there, plus the half-million in Ulster of different tribal ancestry, want the six counties of the North united with the 26 of the South.

Yet, as the Ulster crisis wears on, it is beginning to look as if that is the only possible final outcome. A measure of just how far that not very equitable conclusion has come to be recognized was former Prime Minister Harold Wilson's speech to Parliament Thursday, on his return from an intensive inquiry in both the North and South of Ireland.

His proposal, startling yet sober, ingenious yet careful, was for a commission of representatives from the Parliaments of Ulster, Eire and Westminster to draw up plans for a unification of the North with the South to take place 15 years hence, under a new constitution.

There was no outraged scream from the Conservative side of the house, no waving of the bloody shirt, when Wilson concluded. On the contrary, even the Tories, beginning with the minister of state for defense, seemed to take the proposition not only seriously but also approvingly.

The prime minister of Eire saw "problems" (meaning Wilson's proposal that the unified country should then return to the Commonwealth and pledge loyalty to the Queen), and the prime minister of Ulster declared, whether ritually or substantively, that there could be no unification "as far as the political eye can see."

Yet the consensus here is that Wilson may have made the most fruitful and statesmanlike proposal since he lost office 18 months ago. His speech may be the takeoff point of a policy that will end a decade or two from now with Britain "giving away" another province.

For it looks, more and more, that a united Ireland may be the only solution for permanent peace in bloody Ulster. It will be unfair, but so many peace settlements are and have been. It will be a victory of emotional, passionate, romantic nationalism over the principle of rational and equitable sharing of democratic power. It will be a validation of the unreasonable notion that even for those who don't like harp music, there can be no partitions in Tara's halls.

HEROIN: THE FRENCH CONNECTION

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. RANGEL. Mr. Speaker, revelation has followed revelation on the degree of

French governmental complicity in the heroin traffic that begins in Turkey, moves to France and ends up in the United States.

Roger Barberot, a former French ambassador, has admitted that French counterespionage agents have been smuggling narcotics into our country, narcotics that find their way into the bloodstream of our young people and our servicemen.

Herbert J. Stern, the U.S. attorney in Newark, has charged the French Government with an unwillingness to prosecute Paul Fournier, also known as Paul Ferrer, of the French secret service—SDECE. Fournier was named as a key man in the dope ring linked to the unsuccessful attempt to smuggle $12 million worth of pure heroin into this country in April. Confessed heroin smuggler Roger De Louette has stated that he was given the name of a French consular officer to contact in case he ran into any difficulties while trafficking in heroin.

Mr. Speaker, we have not heard the last of this matter. The people of the United States are tired of protocol taking precedence over the health and well-being of our citizens. They are sick of reading how Bureau of Narcotics and Dangerous Drugs agents are being silenced for speaking the truth.

We in Congress, with the support of the American people, must tell France that we have had enough flimflammery and deception. We demand action.

Mr. Speaker, I include the following material:

[From the New York Daily News, Nov. 17, 1971]

Admits Dope Plot and Tells of His French Connection

(By Alex Michelini)

Swearing repeatedly that he was confessing "without force, threats or promises," former French intelligence agent Roger DeLouette pleaded guilty in Newark yesterday to charges of conspiring with a high-ranking French Government counterspy to smuggle $12 million worth of pure heroin into the United States.

In the process, the tall, dark-haired defendant branded a member of the French Consulate in New York City as his alleged "contact" in the plot and implied that French police who questioned him here following his arrest scolded him for spilling the secrets of the alleged dope conspiracy.

And in a series of letters to French authorities revealed in court for the first time, U.S. Attorney Herbert J. Stern hinted that the French government was attempting to cover up the conspiracy by throwing legal roadblocks into the way of a French investigation of the case.

APPEARS IN COURT

Accompanied by an attractive, blonde French interpreter in Newark Federal Court, DeLouette 48, a college-educated former agent for the Service of Extended Documentation and Counter Espionage, the French equivalent of the Central Intelligence Agency, swore that he plotted with his former spy boss, Col. Paul Fournier, a supervisor of the counter-espionage agency, to smuggle the heroin into Port Elizabeth, N. J., last April 5.

"Do you understand that you have been charged in count one with conspiring with Paul Fournier and others to import and bring into the U.S. 96 pounds of heroin?" Judge Frederick B. Lacey asked.

"Oui," Delouette replied softly.

"And are you, in fact, guilty of this charge?"

Again, Delouette said, "Oui."

DENIES GUN THREATS

DeLouette, a father of six, and a former agriculture engineer, answered, "no" when asked if his plea resulted from any force, threats, or promises of freedom. And he replied "no," when Lacey asked, "Has there been an understanding with you or an understanding as to the sentence that I or some other judge might impose?"

He stood with his hands folded in front of him as Lacey told him he could receive a term of five to 20 years in prison and a $20,000 fine on the guilty plea to the one count of the three count indictment. The defendant said repeatedly he understood the consequences.

At one point, Lacey read off the questions put to de Louette during the first of two lie detector tests last Sept. 21 in which de Louette talked about his "New York contact."

"Did Fournier give you a contact in the French Consulate in New York?" one question asked.

"Yes," he replied, the report of a lie test said.

ASKED ABOUT BOGUS MONEY

Another question asked, "Were you directed by Fournier to receive $17,000 in counterfeit U.S. currency," and again, the report said de Louette replied, "yes."

De Louette's attorney said he would move at some future date for the dismissal of the two remaining counts of the indictment against de Louette. In the meantime, Lacey deferred sentencing of de Louette pending a mandatory probation report, and sent him back to the Somerset County Jail in Somerville. Bail of $500,000 was continued.

[From the New York Daily News, Nov. 17, 1971]

Dope Smuggling Role Denied by Paris Agent

(By Bernard Valery)

Paris, November 16.—Col. Paul Fournier, the French secret service agent indicted by a New Jersey grand jury on heroin-smuggling charges, was questioned for five hours by a judge here today. He denied later that he had anything to do with the affair.

Fournier, a stocky, crewcut man of about 50, was spotted at the door of investigating magistrate Gabriel Roussel.

"I don't know what you are talking about," he told reporters. No details of the long hearing were released.

But several hours later, he told a newsman: "I have nothing to do with this affair. ... This affair would be very serious if I were indicted by the French and not the American justice."

The grand jury charged yesterday that Fournier solicited Roger de Louette, a former subordinate, to smuggle $12 million worth of heroin into the United States. De Louette was arrested in April and implicated Fournier.

Most of the French press claims not to believe that Fournier is guilty. Most have accepted the official version that De Louette was employed for a short time by Fournier before being fired. When he was caught with heroin, the version goes, De Louette implicated Fournier out of spite.

[From the New York Daily News, Nov. 17, 1971]

State Department "Satisfied" With French Help

(By Frank Jackman)

Washington, November 16 (News Bureau).—The State Department said today that the United States was "satisfied" with the cooperation of French authorities in efforts to smash illegal drug traffic. Rep. Charles B. Rangel (D-N.Y.), however, blasted the French for doing little to crack down on heroin manufacturing and trafficking.

State Department spokesman Charles Bray was questioned about U.S. attitudes toward the French antinarcotics effort in light of the indictment by a federal grand jury in Newark, N.J., yesterday of a high-ranking French intelligence officer and one of his former agents. The two were accused of conspiring to smuggle $12 million worth of heroin into the U.S.

Bray said that the "close and continuing cooperation between . . . the two governments has been of great value to both." He said that U.S. Attorney Herbert Stern of Newark, went to Paris at one point during the investigation and received "invaluable assistance" from French officials.

But Rangel, in a letter sent to all members of the House, said that France "has a very long way to go before it can pat itself on the back for its fight against illicit trafficking in narcotics."

CALL IT PROPAGANDA

Rangel, a member of the House Crime Committee, claimed that the French Embassy here was conducting a propaganda campaign to try to convince the American people that France is successfully fighting the processing and smuggling of heroin.

"It is imperative that the American people not be lulled into a false sense of security," he said. "France is definitely not exerting itself to prevent the merchandising of heroin and its illicit transportation into the United States."

[From the New York Daily News, Nov. 19, 1971]

He Missed French Connection

(By Alex Michelini)

Confessed heroin smuggler Roger De Louette said yesterday through his attorney that the name of a contact in the New York French consulate was given to him by high-ranking French counterspy Paul Fournier, an alleged kingpin of the dope ring, to use "if I ran into any problems."

But De Louette who conferred with his lawyer, Donald Robinson, in his New Jersey jail cell, said he never met nor got in touch with the contact because he was arrested before he could make a move.

CLAIMS DIPLOMATIC IMMUNITY

According to Robinson, De Louette said he was not told what role, if any, the consulate official actually played in the alleged conspiracy, only that he was to contact him if he got into trouble.

The consulate official, who twice refused to appear before a federal grand jury in Newark investigating the case, agreed to answer written questions submitted by U.S. Attorney Herbert J. Stern. The official had refused to answer the grand jury subpenas on the grounds of diplomatic immunity.

The written answers were turned over to Stern's office late yesterday.

The first mention of a consulate figure in the case came last Tuesday when De Louette pleaded guilty to charges of plotting to smuggle $12 million worth of pure heroin into Port Elizabeth, N.J., along with Fournier, a supervisor for the French Service of Extended Documentation and Counter Espionage.

TOOK LIE DETECTOR TEST

At the time, a report on a lie detector test administered to De Louette, which he passed, showed that he answered "yes" to a question about whether Fournier had given him a contact in the New York French consulate.

De Louette, a former intelligence agent working under Fournier, is being held in $500,000 bail in the Somerset County jail in Somerville.

[From the Washington Post, Nov. 20, 1971]

Ex-French Aide Backs Dope Case

(By Morton Mintz)

A former French ambassador said yesterday that American charges that French counter-espionage agents smuggled narcotics into the United States were justified.

Roger Barberot, former French ambassador to Uruguay, made the charge in an interview on Radio Luxembourg that was reported by Reuter, the British-based news agency.

Barberot spoke four days after a federal grand jury in Newark, N.J., indicted Col. Paul Fournier, an official of the French counter-espionage agency known as SDECE, and Roger X. L. DeLouette, his former subordinate and accuser, for conspiring to smuggle heroin valued at $12 million into this country.

Without dealing specifically with Fournier, whose true name was given by Barberot as Paul Ferrer, the former diplomat said, "I am convinced—you will be told officially later—that the operation was organized by a number of SDECE agents in Paris."

Barberot is now director of an agricultural development office in Paris in which, he said, DeLouette worked from 1968 until he was dismissed in 1970.

"I think that he was recruited by the SDECE in 1970," Barberot said.

On Tuesday, pleading guilty in District Court in Newark, DeLouette said Fournier solicited him in the same year for the heroin smuggling conspiracy, which was frustrated last April by a customs inspector at Port Elizabeth, N.J. She found the heroin—96 pounds of the pure form—concealed in a Volkswagen camper.

DeLouette, arrested when he came to pick up the VW, told Judge Frederick B. Lacey—and had said earlier in polygraph tests which his own attorney and U.S. Attorney Herbert J. Stern said he passed—that Fournier masterminded the operation.

Fournier, on Thursday, challenged Stern to prove him guilty; Stern responded that, if innocent, he should be willing to come to the United States to stand trial.

Stern has protested that Paris authorities have shown much less interest in prosecuting Fournier, than in extraditing and prosecuting DeLouette, who now faces a mandatory prison sentence of five to 20 years here.

The prosecutor has said, however, that he may seek to have Fournier extradited if he will not stand trial here, or if the French do not prosecute him.

In the interview with Radio Luxembourg, Barberot suggested that DeLouette's arrest resulted from a "major purge" in the SDECE, which wanted "to do away with a murky past."

He also said that Fournier is a former sergeant in the French Air Force.

Reuter said the Investigating Magistrate Gabriel Roussel in Paris ordered seizure of the interview tape.

[From the Washington Post, Nov. 21, 1971]

HEROIN SMUGGLER'S STORY—PROBING THE ANATOMY OF A "FRENCH CONNECTION"

(By Morton Mintz)

Last Dec. 15, according to the U.S. government, Col. Paul Fournier, a supervisory agent in the French counterpart of the CIA, recruited Roger X. L. DeLouette, 48, who holds the Croix de Guerre for his service in World War II, for an unusual mission: to smuggle heroin into the United States.

DeLouette, who had been dismissed some months earlier by another French government agency believed to be an espionage front, the Bureau for Agricultural Development, and who is the father of four sons and two daughters, agreed.

Here is the sequence of events that followed, according to U.S. government sources and DeLouette:

Fournier, whose agency is known as SDECE (Service de Documentation Exterioure et de Contre-Espionage), and who has an office in Paris in Les Invalides, arranged for DeLouette to meet someone the government calls "John Doe."

Meeting, as instructed, the next day at the Paris Cafe in Paris, DeLouette made an agreement to smuggle 96 pounds of pure heroin, with an estimated "street corner" value of $12 million, into the United States. For his services, "John Doe" told him, he would get $1,200 per kilogram, or $50,000.

At the same meeting, the unidentified man instructed DeLouette to obtain a visa for entry into the United States, to buy a Volkswagen camper, in which the heroin would be hidden, and to arrange for shipping the camper to this country.

A secondary preliminary meeting, also set up by Fournier, was held at the King Cafe in Paris in mid-February. This time, "John Doe" gave DeLouette the equivalent of $5,500 in French currency for the purchase of the VW and other expenses associated with his mission.

DeLouette bought the camper from the Garage Michel-Ange, V.W., in Paris on Feb. 25. To avoid the French sales tax, he paid for it with a check for 14,079 Swiss francs drawn on the Credit Suisse in Geneva, where he has account No. 195–715.

The next day, DeLouette went to Geneva to deposit enough to cover it.

On March 15, Fournier got in touch once more with DeLouette. He told him to drive the VW to Pontchartrain, about 25 miles from Paris, and there, the next day, meet another unidentified man—"Robert Roe" to the U.S. government—who would be driving a green Simca and who would give him the 96 pounds of heroin.

DeLouette did this, and he and "Robert Roe" hid the narcotic in wall panels and under the floorboards of the VW.

The day after, DeLouette drove the VW to LeHavre, where he consigned the camper to Pacific Intermountain Express for shipment to Port Elizabeth, N.J. On March 18, he told Fournier the details of the shipment, including the date of arrival in this country and the name of the hotel in New York City in which he planned to stay, the Park-Sheraton.

On April 3, Fourier told DeLouette to fly to New York. He did so the following day, on TWA Flight 803, and went to the Sheraton.

At Port Elizabeth, meanwhile, a Bureau of Customs inspector, Lynn Pelletier, 21, who had been on the job only a couple of months, was spot-checking imported vehicles. She discovered the heroin in the VW.

When DeLouette went to Port Elizabeth on April 5 to claim the VW, he was arrested.

By then a major investigation was underway—by the Bureau of Narcotics and Dangerous Drugs of the Justice Department, the Bureau of Customs and the U.S. attorney in Newark, Herbert J. Stern.

Almost at once, DeLouette was questioned by American authorities together with a French policeman, Commissaire Daniel Hartwig.

DeLouette's final instruction from Fournier, which was aborted by the arrest, had been to drive the VW to the Park-Sheraton and await an unidentified contact, who would take the heroin and pay him the $50,000 delivery fee.

In Paris on April 6, the day after the arrest, the Central Office for the Suppression of Illicit Drug Trafficking entrusted an official inquiry to Investigating Magistrate Gabriel Roussel.

A week later, in a letter to prosecutor Stern, Roussel said that under French law he could not proceed against Fournier without a statement from DeLouette.

Later Stern obtained permission from District Judge Lawrence Whipple to appoint an official of the Bureau of Narcotics to ask the questions of DeLouette that Roussel wanted asked—and to ask them in the presence of a French narcotics policeman, Claude Shaminadas, who is assigned to the French consulate in New York.

DeLouette's court-appointed attorney, Donald A. Robinson of Newark, balked. He wanted assurances that DeLouette's answers (and testimony he gave in the meantime to the grand jury) would not be used against him in France.

Without such protection from self-incrimination, which in the United States is guaranteed by the Fifth Amendment to the Constitution, he would not let DeLouette answer Roussel's questions.

To resolve the dilemma, Stern said, Honare Gevaudan, assistant director of the Police Judiciare in Paris, suggested that Stern request Roussel to immunize DeLouette from prosecution in France.

Stern made the request in a letter in which he said that immunizing DeLouette would enable the French "to proceed against the 'high-ups' in a criminal organization which is operating between our two countries."

Roussel has never told Stern whether he will grant immunity. As late as Friday, however, French government spokesmen were insisting that Roussel lacked power to immunize DeLouette. The prosecutor's office disputes this, not only because the idea had a French source, Gevaudan, but also because of special provisions in a French-American agreement on fighting narcotics trafficking.

Another effort to mesh the legal systems of the two countries was made in Washington on Sept. 14, at a meeting attended by Stern and assistant; Donald W. Merkelbach; Bureau of Narcotics officials; Gevaudan and Michel Nocquet, also of the Police Judiciare, and Shaminadas, the consulate narcotics policeman.

Recounting the meeting in letters to Roussel and Max Fernet of the French Criminal Police in Paris, Stern said the French participants made it clear they believe DeLouette was lying about Fournier.

Accordingly, Stern said he proposed a lie detector test, with the understanding that if DeLouette should refuse to take it or should fail, he would prosecute him and recommend the maximum sentence for conspiring to import narcotics, 20 years.

On the other hand, Stern said in the letters, the French agreed that if DeLouette took the test and passed, they would "proceed with an appropriate prosecution" of Fournier.

Privately, Shaminadas bet Stern a meal in a French restaurant that DeLouette wouldn't take the test—but he did, on Sept. 21, with the Justice Department administering it. "The results of the test were positive indicating that DeLouette was telling the truth," Stern told Fernet.

One of the questions was, "Did Fournier give you a contact in the French consulate in New York?" DeLouette's answer was yes. The person he named—not Shaminadas—is a middle-level official. Stern has submitted written questions to this official that are supposed to be answered Monday.

Later, on Oct. 4, DeLouette took a second polygraph test to answer questions submitted by Shaminadas, who was present. The machine indicated that DeLouette was untruthful only when he denied he had told a certain friend of the heroin smuggling.

Nine days later, Stern sent Fernet, the police official in Paris, a copy of the polygraph examination, which, he said, "indicates to me beyond any doubt that Mr. DeLouette is telling the truth concerning the involvement of Col. Fournier." Stern has never had a reply from Fernet.

The same day, although French police had interviewed DeLouette as far back as April 5, Magistrate Roussel wrote Stern to ask for additional information in order to "identify" DeLouette.

Stern, who by then had turned over all of the evidence in his possession to the French, sent along photos and fingerprints.

But, obviously seeing stalling tactics in all of this, the prosecutor told Roussel—in a letter hand-delivered in Paris on Nov. 5—that his "primary emphasis" seems to be on arresting and extraditing and prosecuting Fournier. And, he said, if Roussel did not act, the grand jury would.

Last Monday, the grand jury indicted Fournier and DeLouette. The next morning DeLouette pleaded guilty.

For two hours, Judge Frederick B. Lacey reviewed with DeLouette every detail of the conspiracy charge, as given earlier in this article.

Judge Lacey ended by saying he was satisfied that the guilty plea was factually based, uncoerced and made in awareness that it carried a mandatory sentence of at least five years. DeLouette, unable to put up $500,000 bond, is in custody awaiting sentencing.

In France, official sources issued a series of denunciations of DeLouette and Stern and defenses—echoed by the American embassy—of the vigor with which the two countries fight the narcotics traffic.

There was no sign at all of a possible prosecution of Fournier, who, Stern told police official Max Fernet, had been cleared by a four-day "investigation."

Instead, in a statement authorized by Defense Minister Michel Debre, Fournier challenged Stern to prove him guilty. Stern replied that Fournier, if innocent, should be willing to come here to stand trial.

In the midst of all of this, it became known that the European chief for the Bureau of Narcotics, John Cusack, who had publicly hinted in August that official complicity underlies France's role as the source of the vast majority of heroin reaching the United States, was being transferred to the United States. The bureau said this was a normal rotation.

On Friday, Roger Barberot, head of the Bureau for Agricultural Development, where DeLouette once worked, said in an interview, on Radio Luxembourg in Paris, that agents of Fournier's SDECE had organized illegal traffic in narcotics, currencies and jewels. The true name of Fournier, a former master sergeant in the French Air Force, was Paul Ferrer, he said. Magistrate Roussel ordered the tape of the interview seized.

[From the New York Sunday News, Nov. 21, 1971]

Debre: Heroin Story Seems a Pipe Dream

Paris, November 20.—Defense Minister Michel Debre said today that Roger de Louette, who is facing sentencing in Newark, N.J., on drug-smuggling charges, made "grave accusations" against a French secret service agent in order to get his sentence reduced.

Debre, who oversees the secret service agency, said the charges that the agent. Col. Paul Fournier, conspired with deLouette in the smuggling operation came from a man with an imagination like a "serialized novel."

Without naming de Louette, Debre said in a statement to the government radio network, "The occasion of which people currently speak was provided by the arrest of a former and occasional employe of the service, who seems to have sunk in recent months into deplorable operations.

"To diminish the sentence which awaits him, the accused made grave accusations. His imagination quickly constructed a serialized novel. The guilty one will be judged and his accomplices brought to justice."

De Louette, who admitted trying to smuggle 96 pounds of heroin, worth $12 million street value, into the U.S. at Port Elizabeth, N.J., earlier this year, told New Jersey authorities that Fournier had masterminded the plan. Fournier was in New York at the time of de Louette's arrest last April.

De Louette pleaded guilty to the charges last Tuesday. He faces a prison term of five to 20 years. Fournier, who is now in Paris, has denied any part in the conspiracy.

[From the Washington Post, Nov. 22, 1971]

French Ask Drug Case Statement

Paris, November 21.—The judge investigating the French side of a French-American heroin smuggling scandal involving members of the French secret service reportedly wrote to U.S. attorney Herbert Stern today offering to exchange statements by the accused men.

Authoritative French sources said judge Gabriel Roussel told Stern that he would send him the declarations of Col. Paul Fournier, alias Paul Ferrer, of the French Secret Service (SDECE) in exchange for those made to American authorities by alleged former agent Roger DeLouette, arrested last April and indicted last Tuesday by a Newark, N.J. grand jury on heroin smuggling charges.

Both Stern and DeLouette's lawyer have refused to let French police question De Louette unless he were granted immunity from prosecution.

The grand jury also indicted Fournier, in his absence, on the smuggling charges after DeLouette had told U.S. police that Fournier had masterminded the operation, involving heroin worth $12 million.

Judge Roussel questioned Fournier for five hours last Tuesday, and the secret service official maintained afterward that DeLouette's charges were false.

Defense Minister Michel Debre, whose ministry has jurisdiction over the SDECE, said Saturday that the government supported the service.

[From the Washington Post, Nov. 23, 1971]

Ex-Agent Attacks French Spying Unit

(By James Goldsborough)

Paris, Nov. 22.—The French counter-espionage service (SDECE), already under fire for its possible involvement in a $12 million Franco-American drug scandal, was attacked today by one of its former ranking officials.

Col. Pierre Beaumont, who was recently dismissed as head of the service's investigations section, asserted that the intelligence organization was infested with clans conniving against one another.

"So long as this situation exists," Beaumont told a news conference, "the service will be worthless."

Today's charge coincided with the publication in the newspaper France-Soir of an interview with Herbert J. Stern, U.S. attorney in New Jersey, who urged French authorities to cooperate in the current drug investigation.

Stern reaffirmed his contention that certain SDECE officials were behind the attempt by a former French intelligence agent to smuggle 96 pounds of heroin into the United States last April. The former agent, Roger DeLouette, is currently held in a New Jersey jail.

Col. Roger Barberot, former French ambassador to Uruguay, last week charged the intelligence organization with complicity in the drug case. He also accused Beaumont of "high treason."

Beaumont, who was fired along with several other French intelligence officials on suspicion of being double agents, said today he plans to sue Barberot for 1 million francs.

Both Beaumont and Barberot, however, agreed that the service's troubles stem from a massive housecleaning of the agency carried out under its new chief, Alexander de Marenches, who was handpicked for the job by President Georges Pompidou.

Charges by former officials as well as the drug scandal are getting increased public attention here. The intelligence organization has denied any connection with the drug case.

But Stern said in his interview today he had proof that Col. Paul Fournier, who took over Beaumont's job, was connected with the drug smuggling case. Stern said Fournier's real name is Paul Ferrer and said he would ask for his extradition.

Stern suggested that other SDECE agents may be involved but that Delouette has refused to cooperate with the investigation in an effort to protect them.

Barberot speculated that the drug scandal was engineered by disgruntled French intelligence officers who "clumsily" planted heroin in a Volkswagen camper in the belief that Delouette would be caught.

Paris Pressed To Act on Alleged Drug Plot

A federal prosecutor yesterday pressed Paris authorities to proceed against Col. Paul Fournier, the French counter-espionage official accused by a former subordinate of masterminding a conspiracy to smuggle $12 million worth of heroin into the United States in a Volkswagen camper.

In a letter to Investigating Magistrate Gabriel Roussel in Paris, U.S. Attorney Herbert J. Stern in Newark, N.J., said that he was forwarding the transcript of the extraordinary arraignment proceedings in which a guilty plea was entered by Roger X. L. DeLouette, Fournier's accuser and former agent in the counter-espionage service known as SDECE.

At the two-hour proceedings, Judge Frederick B. Lacey questioned DeLouette for almost two hours to establish to his satisfaction that, among other things, DeLouette's charges against Fournier were valid.

The arraignment was last Tuesday, a day after a grand jury indicted DeLouette and Fournier.

As of the close of business Friday, when Stern mailed the letter to Roussel, no French official had come to the courthouse to get a copy of the transcript. The transcript included details of a polygraph (lie detector) test the Justice Department gave DeLouette Sept. 21 and documentary evidence supplied by Stern's top aide, Jonathan L. Goldstein.

DeLouette, who is held in $500,000 bond, is awaiting sentencing. He faces a mandatory prison term of 5 to 10 years.

Stern sent the magistrate, who has been in charge of the case in Paris since April, another key document: the statement DeLouette made to a French policeman, Commaissaire Daniel Hartwig, after a Customs inspector spotted the heroin in the VW, leading to DeLouette's arrest at Port Elizabeth, N.J., April 5.

The transcript and the arrest record together "surely set forth sufficient details to proceed forthwith with the prosecution of Col. Fournier," Stern told Roussel.

Jailed Agent's Wife Questioned by Judge

Paris, November 22.—Christian DeLouette, wife of a former French secret service agent indicted in the United States on charges of drug trafficking, was questioned for more than an hour today by a French judge.

But no details were disclosed of the 80-minute interrogation by Judge Gabriel Roussel who is handling the French end of investigations about American accusations that a French espionage services chief led a multi-million dollar conspiracy to smuggle heroin into the United States.

Roger DeLouette, 48, was arrested in Newark, N.J. in April after a woman customs officer found 96 pounds of heroin in a car on a ship at Port Elizabeth, N.J. Mrs. DeLouette made no comment today. She has been separated from her husband for five years but met him regularly when he visited France, court sources said.

The sources said Roussel was also expected to question DeLouette's former mistress, 22-year-old Marie-Jose Robert, arrested earlier this year after police found $17,400 in counterfeit currency in her Paris home.

BLUE RIDGE FLUSHPOT

HON. WILMER MIZELL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. MIZELL. Mr. Speaker, my colleagues know that I have spoken many times on the impending threat to the economic and environmental well-being of thousands of my constituents—the threat posed by the scheduled construction of the massive Blue Ridge power project.

I have cited articles from the Winston-Salem Journal, the New York Times and other newspapers dealing with this critical situation; I have played a part in insuring the independent participation of the Environmental Protection Agency in this case; I have filed a formal statement of my own views in this matter with the Federal Power Commission.

Today I am urging my colleagues to pay particular attention to an editorial on this subject which appeared in the November 15 issue of the Greensboro, N.C., Daily News. My colleagues would be well advised to heed the warning proposed in the last two paragraphs of that editorial, which state:

"The Department of Interior appears to be saying that for the time being at least pollution dilution shall be a substitute for adequate treatment at the source, whether it is industrial or municipal or whatever. Environmentalists, however, insist that much of the technology for at-the-scene treatment is now available and the technology to treat the most resistant pollutants will be available before the Blue Ridge project is completed.

We are unqualified to judge the dispute over the availability of the necessary treatment processes. But if the FPC gives Blue Ridge the go-ahead for the expanded project it will be setting a precedent with implications that polluters can easily grasp. The long-range effect will be a slowdown of pollution abatement in the United States."

This is a timely and reasonable warning, and one which I hope my colleagues will give serious and immediate consideration.

At this time, I include the full text of the editorial in the RECORD:

BLUE RIDGE FLUSHPOT

The Federal Power Commission concluded hearings on the Appalachian Power Company's proposed Blue Ridge power project November 11. The agency's decision, when it comes, should provide some clues as to how serious the federal government is about controlling water pollution.

More immediately, the decision could affect the lives of several thousand people in northwestern North Carolina, not to mention the ecology of the region. The project would dispossess 5,000 in Alleghany and Ashe counties and in Grayson County, Virginia.

It would also flood the best valley land in those counties—about 40,000 acres altogether. At periods of maximum draw-down, the shoreline would fluctuate widely. Opponents of the project claim that would expose such vast expanses of unsightly, foul-smelling mudflats as to make the lake unfit for boating and fishing and would drive tourists away. (The people supporting the project have emphasized its potential as a tourist attraction.)

At issue here is whether the government should control pollution at the source or allow industrial polluters to use relatively clean waterways to flush dirty water hundreds of miles downstream to be diluted in huge reservoirs. Appalachian Power is asking for licenses to build two reservoirs on the New River. But the reservoir on the North Carolina-Virginia border would be the main flushpot for the chemical industry complex at Charleston, W. Va., 250 miles upstream.

In the beginning, the power company's proposal was a modest one that might have benefitted the three counties economically. The original plan, submitted in 1965, involved flooding only 19,000 acres and no storage for flushing pollution. There was no demand or need for the power locally and it was to be fed into the company's distant grid system which ties American Electric Power Company of New York. But residents of the three counties concerned did not oppose the original plan.

Former Secretary of the Interior Stewart Udall, a Democrat, pressured the company into changing that plan. He argued it was necessary to double the size of the project and impound more water for flushing purposes. Mr. Udall has since recanted; he testified the other day that he was "misguided" and that "pollution dilution is crazy any way you look at it." But Interior under the Nixon administration still backs the flushpot idea on the ground that technology to clean up Charleston's industrial pollution at the source is not available and won't be "in the foreseeable future."

The power company, likewise, has changed its position and now favors the additional water storage. And the FPC's presiding examiner, William C. Levy, has approved a license for the enlarged project.

But there is opposition to the plan. Various state and national conservation groups, the North Carolina Farm Bureau, the Appalachian Regional Commission and the governments of the three counties concerned are against it. Mr. Udall himself is now opposed and so are the attorney generals of Virginia and West Virginia. Governor Robert Scott and Attorney General Robert Morgan are not opposing it for reasons best known to themselves.

Opponents of the project are basing their legal fight on a provision of the federal Water Pollution Control Act which says that while water quality storage may be considered in planning, any project requiring a federal license, "such storage and water releases shall not be provided as a substitute for adequate treatment or other methods of controlling waste and the source."

The Department of Interior appears to be saying that for the time being at least pollution dilution shall be a substitute for adequate treatment at the source, whether it is industrial or municipal or whatever. Environmentalists, however, insist, that much of the technology for at-the-source treatment is now available and the technology to treat the most resistant pollutants will be available before the Blue Ridge project is completed.

We are unqualified to judge the dispute over the availability of the necessary treatment processes. But if the FPC gives Blue Ridge the go-ahead for the expanded project it will be setting a precedent with implications that polluters can easily grasp. The long-range effect will be a slowdown of pollution abatement in the United States.

NOODLE PRIEST

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. CONTE. Mr. Speaker, it has been my privilege to have as my good friend for many years Msgr. John Romaniello. Until recently this remarkable man ministered to the needs of Chinese refugees in Hong Kong by feeding them high-protein noodles.

Now working for the Catholic Relief Service in New York, the famed and beloved "noodle priest" has recently become involved in the work of a black-run farm cooperative in the delta country of Mississippi. Having sent the project a noodle machine from Asia to help it provide high-quality nutrition for the area's children, he traveled to Mississippi this month to assist in setting up the machine for production.

A recent article in the Boston Sunday Globe focuses attention on this dedicated servant of God and on the OEO project in Mississippi. With much pride and respect for Father John, I commend the article to my colleagues:

TROUBLED FARM CO-OP PINS FUTURE ON NOODLE MACHINE

(By Herbert Black)

MOUND BAYOU, MISS.—A noodle machine that traveled from Hong Kong to Boston to here became a symbol of hope this weekend for a farm cooperative, run by black people, which is faced with losing Federal support.

The noodle machine was sent from Asia by Hong Kong's famed "noodle priest," Msgr. John Romaniello who fed high-protein noodles to thousands of refugees from China for 14 years.

Fr. Romaniello bustled into Mound Bayou last week to put the noodle machine back into operation and he stirred up more interest and activity than is usually experienced in a year.

The monsignor served as a catalyst to draw together people from the Far East, New York, Boston, Washington and elsewhere to locate a noodle machine in this tiny, dusty town in the Mississippi Delta.

The story begins with the Delta Health Center, established here by Tufts University School of Medicine five years ago. The doctors soon found they were prescribing food as medicine for black children of the area.

This led to establishment of a farm cooperative for blacks, run by blacks and supported by the U.S. Office of Economic Opportunity. The Ford Foundation helped provide land for growing vegetables. Tufts sponsored the cooperative and served as grant agent. The foundation holds title to 305 or 345 acres the farm uses.

Fr. Romaniello's work in Hong Kong was coming to an end when he learned of the farm cooperative from a friend, Davis Taylor, publisher of The Boston Globe. Taylor suggested protein-fortified noodles might help solve nutritional problems in the United States and recommended Mound Bayou as a place to start.

Fr. Romaniello, who works for the Catholic Relief Service in New York, sent a reconditioned noodle-making machine to Boston. It was shipped 18 months ago to Mound Bayou.

Even though the machine measures only six feet by two feet, considerable space is needed to store flour and other ingredients and to dry the noodles.

With the help of OEO a $20,000 noodle plant building was built of brick and metal. The machine was set up in the building last week and a test run was successful.

Now the OEO is phasing out the cooperative's Federal funds as of Dec. 31, after three years of helping to get it going.

Eric Taylor, director of the North Bolivar County Farm Cooperative, doesn't see how the program can continue without Federal support. He says capital is needed for another year or two until the co-op can become self-sustaining.

The noodle machine has become a symbol of hope for continuing the farm program. Fr. Romaniello's presence in the Delta has stirred up a lot of interest in the farm project.

There is hope the machine, while it won't make money for the project, might stimulate aid from outside.

Already, for example, F. Robert Melina, special projects director of the Lauhoff Grain Co. of Danville, Ill., has promised to donate the high-protein concentrate CSM for at least six months of noodle production. CSM is a mixture of cornmeal, soybeans, nonfat dry milk powder, vitamins and minerals to be added to the noodle flour.

Melina also is asking the Millers National Federation and other flour-producers sources for donations of flour.

Others are volunteering, too. Hubert A. Davis, business manager of Tufts Medical School, is trying to find funds for use after the OEO grant runs out. He has run the business side of the co-op under the grant.

G. Brenton Creelman, a Boston accountant who has been auditor for the program, came to Mound Bayou for the dedication of the noodle machine and to see what he could do to help.

Fr. Romaniello is asking his superiors at the Catholic Relief Services to let him make periodic visits to help keep the machine going. He already raised $2100 from Boston donors to buy flour.

Miss Patricia Bennett, a consultant for OEO, said she would report on the machine and the enthusiasm it has generated to Washington officials.

Despite all these offers, the 647 Mound Bayou families who belong to the co-op feel they are being abandoned.

They don't understand how the government can let them develop a farm helping to feed 3,235 people and then cut off the funds. The OEO explanation is that its Emergency Fund and Medical Program is ending nationally.

Fr. Ramaniello, who got free flour and CSM to feed refugees from China, has tried to get these supplies from the Federal government for Mound Bayou. He is concerned that the government doesn't appear to allot food for a project in this country.

Because the high-protein noodles would first be provided primarily to children, there is some hope that a project might be funded to study their effects on the health of children who ordinarily lack protein in their diet.

Protein deficiency is a serious problem in the Delta, despite the rich soil. Most of the land is devoted to cotton. The farm co-op's fresh vegetables are an effort to overcome this deficiency.

The noodle machine, it was emphasized by all connected with it, won't compete with local stores.

At least in the beginning, the noodles would be distributed to needy families with many children. Fr. Romaniello believes protein deficiency is related to slow mental development in small children.

CHOU EN-LAI HAS ADMITTED DELIBERATE SCHEME FOR OPIUM TRAFFIC AMONG U.S. TROOPS

HON. O. C. FISHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. FISHER. Mr. Speaker, in its issue of October 24 London's Sunday Telegraph reported that according to the biography of Egyptian President Nasser by Mohammed Heikel, Chou En-lai in his conversation with Nasser in 1965 told Egypt's late President that:

> The Chinese Communist regime planted high-grade opium in Vietnam to demoralize American soldiers with drugs.

And that:

> The effect which this demoralization is going to have on the U.S. will be far greater than anyone realizes.

From what actually transpired in Vietnam in subsequent years, it would appear this despicable scheme was employed as the Communists had planned, though not as successfully as they had hoped.

The article, "How Chou Fights America With Drugs," as it appeared in the Sunday Telegraph, will be included as a part of my remarks.

This serves to confirm the modus operandi of the infamous Peking regime which was recently admitted and embraced by the United Nations—an organization that is supposed to be fighting international drug traffic.

This serves to remind us of a warning issued by Gen. Ho Ying-chin, president of the UN Association of the Republic of China, in which he said that according to data collected by the Weekly Review of London, the peasants on the Chinese mainland have been ordered to plant poppies on a massive scale with the total acreage reaching 5,830,000 hectares.

It was found there are 30 "special products processing factories" in the mainland of China engaged in the processing of narcotics for dumping overseas, and that in 1970 alone the Peking regime exported $800 million worth of narcotics, including opium, morphine, and heroin.

It is thus made clear that the Peking regime is at the root of most of the troubles in Asia and the whole world by the deliberate massive production of and traffic in narcotics. It constitutes a weapon in their arsenal of diabolical schemes to demoralize any people who may become casualties in their disgraceful drug war. They thus establish themselves as a world leader in an enterprise to promote human debauchery and depravity.

Under leave to extend my remarks I include the revealing article which appeared in the Sunday Telegraph. It follows:

HOW CHOU FIGHTS AMERICA WITH DRUGS—A LEAK TO HARRIMAN

One of the remarkable things Chou said that night when talking about the demoralisation of the American soldiers was that "some of them are trying opium, and we are helping them. We are planting the best kinds of opium especially for the American soldiers in Vietnam."

President Nasser looked at him in some disquiet, but Chou went on: "Do you remember when the West imposed opium on us? They fought us with opium. And we are going to fight them with their own weapons. We are going to use their own methods against them. We want them to have a big army in Vietnam which will be hostage to us and we want to demoralise them. The effect which this demoralisation is going to have on the United States will be far greater than anyone realises."

Nasser felt that possibly Chou was exaggerating a little. But Chou had his plan absolutely clear in his mind. There was no doubt that he intended to do exactly as he said.

When Johnson called his bombers off North Vietnam at the end of 1965, he sent a number of emissaries round the world telling the leaders of other countries what he hoped to gain by the pause. Averell Harriman came to Egypt on this mission and saw Nasser on January 4, 1966.

The bombing pause had been accompanied by a great propaganda campaign from the Americans and so, when Harriman arrived, Nasser expected to hear something important. But the meeting lasted for two hours with nothing positive emerging from it. Harriman had come with nothing new. He had no suggestions. And there were silences during the talks which lasted for several minutes at a time.

Eventually Nasser said to Harriman: "Do you really think you are going to defeat them? If you increase your troops in Vietnam, you are only going to play into your enemy's hands. Strangely enough, I've heard something from Chou En-lai, and you are carrying out the Chinese plan precisely." And he went on to tell Harriman what Chou had told him about wanting more and more American soldiers to be sent to Vietnam. But he did not tell Harriman about Chou's plan to fight the American Army with opium.

TRADE CRISIS

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. FINDLEY. Mr. Speaker, the Atlantic Union resolution has now been favorably reported by the Foreign Affairs Subcommittee on International Organizations and Movements. Hopefully, in the near future it will be considered by the full committee and passed.

The bill is timely, indeed. The world monetary and trade crisis is still critical. The United States has just reported the worst balance-of-payments deficit in its history. Trade barriers with Common Market nations have suddenly sprung up. Nations with which we have a net balance of trade surplus complain that the 10-percent surcharge is unfair. Canada, a nation for which we profess the greatest friendship, suffers under worse economic conditions than our own—conditions which have been greatly aggravated by the surcharge.

The North Atlantic Alliance is being subjected to new divisive pressures. A Senate committee has again called for a cutback of U.S. troops in Europe, and the move was only narrowly beaten on the floor. Many think that a reduction in troop strength is inevitable.

It is time for the United States to assume the leadership role which its size, economic, and military power give it. It can do so if the Congress will pass the Atlantic Union resolution.

The following are recent editorial comments which outline the immense international problems we face and point the way to their solution:

[From the Wall Street Journal, Oct. 28, 1971]

A WORLD-WIDE DEPRESSION

That's a scare headline, of course, one that does not apply to the conditions of the moment. Unless nations begin pursuing wiser economic policies, however, before long the words may be only too appropriate.

Economic nationalism has become the order of the day. Underdeveloped countries, desperately in need of foreign capital and technology, frighten it away by seizing foreign assets with little or no compensation. "Chile for the Chileans" makes a ringing slogan, but it's a poor way to build up a poor country.

The problems of the poorer lands are aggravated by a similar chauvinism in the industrial nations, countries that ought to know better. In a revival of old mercantilist notions, exports are eagerly sought but imports are something to hold down as much as possible.

If the underdeveloped nations are ever to develop—and thus to provide expanding markets for the industrial countires—they have to begin somewhere, and a logical way to start is with labor-intensive industries such as textiles. But these industries need markets, too, and increasingly they find the markets of richer countries more or less closed to them.

Nearly all countries, rich and poor alike, appear to think they can purchase lasting prosperity with expansive monetary and fiscal policies. In the backward lands the result has often been nearly ruinous inflation. The sophisticated industrial nations think they can control the price pressures with "incomes" policies, but the results in the past have differed only in degree from those in underdeveloped nations.

Inflation helps to lead organized labor everywhere to press for ever-higher wages, even though in the process the unions are often pricing their members' products out of the market. The upshot of all of this is the present period of economic weakness and uncertainty, conditions that are by no means unique to the U.S.

As Neil Ulman reported in this newspaper recently, unemployment is creeping upward almost everywhere in Europe. On a seasonally adjusted basis, joblessness in Britain is the highest in 30 years. Swedish unemployment, on a similar basis, is the highest since the nation began keeping such statistics in 1955.

In few countries does anyone seem to see that a prime cause of present problems is excessive governmental meddling in the economy. Most countries, in fact, appear to think that the way out is for the government to meddle quite a lot more.

The U.S., for its part, is trying to check inflation by freezing prices and wages; next month the freeze will begin to thaw in a manner that is anything but settled. With a 10% import surcharge, America is also trying to coerce other countries into opening their markets wider to U.S. goods; so far, the more noteworthy results have been Japanese agreement to "voluntary" quotas on textile sales to the U.S.—and threats by other countries of retaliation against American goods.

U.S. officials firmly deny that they're trying to build a sort of "fortress America," but actually nearly every nation seems to be trying to build a little fortress of its own. Many countries evidently accept the idea that, in the future, there will be fewer economic gains to share and they want to make sure of theirs while they can.

"The world economy is entering a stage of lessened growth in which, within a few months, problems of activity and unemployment will raise universal concern," Valery Giscard d'Estaing, the French minister of economy and finance, said recently. In some areas the concern is already here.

There is no easy solution. It should be apparent, though, that the post-World War II world prospered through growing cooperation, not through growing chauvinism. It should be obvious too that inflationary finance buys only inflation, not perpetual prosperity. Sound growth must be based on relatively stable prices and the freest possible markets, in labor as well as in business.

If every nation insists on trying to enrich itself at the expense of its neighbors, the result will be that world-wide depression. In the interdependent world we inhabit now, that's even truer than it was in Adam Smith's day.

[From the St. Louis Globe Democrat, Sept. 10, 1971]

URGES NEW TRY FOR ATLANTIC UNION

(By Roscoe Drummond)

WASHINGTON.—One of the causes of today's problems is that while physical scientists are living in the future, political scientists are living in the past.

The physical scientists are readying vast changes but the political scientists—and the politicians—are doing little to prepare for the changes in government needed to cope with what is coming.

What we are experiencing is the lethargy of political thinking and the dynamism of breathtaking scientific inventiveness.

Herman Kahn and Anthony Winer in their book, "The Year 2000," cite a hundred staggering technical innovations, most of which will be with us in the next 30 years. The spinoff from these will lead to hundreds of other innovations.

Alvin Toffler in what may be recognized as the most important book in the 1970s, "Future Shock," notes that "in every conceivable field and some that are almost inconceivable, we face an inundation of innovation."

But in the field of governing ourselves to meet this onrushing future, we face a dearth of innovation.

The need is to fashion instruments of government equal to the size of the problems we must deal with.

We haven't done so.

Crucial problems sweep over national boundaries. They are global in magnitude and can only be handled on a global basis.

There is need to establish new and stable worldwide trading relations.

Mounting pollution is worldwide and can be handled successfully only on a worldwide basis.

There is need to create a better international monetary system as today's floating currencies reveal.

War is cruel and stupid but peace is in constant peril.

All of this is simply to say that no nation, neither the United States nor the Soviet Union nor any other great power, can keep the peace by itself, can right its monetary system and its trading relations with the rest of the world or rescue its own environment from suffocating degradation.

The physical scientists alone cannot lead the way into the future. Political inventiveness must soon catch up with technical inventiveness or we are in serious trouble.

What can be done? The prospect of getting some kind of world government is slim because the nations are so divided ideologically.

But why not start? A tangible, practical first step would be for the United States to convoke a NATO-wide convention to explore ways to transform the alliance into an eventual federal union. This action is supported by 116 members of the House from 30 states. When President Nixon was a senator he advocated it in these words:

"The Atlantic union resolution is a forward-looking proposal which acknowledges the depth and breadth of incredible change going on in the world around us. I urge its adoption."

Clarence Streit, its originator, and its other advocates like Sens. Hubert Humphrey and Barry Goldwater, Eugene McCarthy and Gov. Nelson Rockefeller, former President Eisenhower and Sen. Robert Kennedy were not ahead of their time; it is those who have too long resisted it who are behind the times.

President Nixon has already taken two bold initiatives in economics and diplomacy. Why not another?

A THIRD REVERSAL THAT WOULD SAVE LIBERTY, PEACE, AND NIXON FROM PERILS IN HIS FIRST TWO

(By Clarence K. Streit)

The July House hearing on the Atlantic Union resolution began with a strong reminder of the powerful plea for its approval that Richard Nixon made at the 1966 hearing. The hearing ended with no break in the silence President Nixon has maintained on this subject since his election. The only clue to its meaning indicated, however, that this was the kind of silence that proverbially expresses consent.

The Silencer Silenced. Ever since the resolution entered Congress in 1949 (with Senator Nixon among its earlly cosponsors), the State Department has expressed opposition to exploration of the federal way to unite Atlantica. Its influence silenced even such favorably inclined Presidents as Truman and Eisenhower. This year for the first time the Department declined the routine Congressional invitation to express its views before and at the hearing. Only President Nixon could have thus silenced the Department's bureaucracy, experienced State watchers believe. The bill's backers took the passive help to be part of the "cautious nature" the media attributed to the President.

"Mr. Cautious" Becomes "Mr. Audacious." Only a few hours after the hearing ended July 15, they, and the media, and all the world, got the shock of the year: The laconic Nixon announcement that he would visit Peking. Just one month later, on August 15, "Mr. Cautious" received a second image-shattering blow: The President announced that the U.S. had ceased to uphold the gold commitment which made the dollar the key currency for world trade and foreign Central Bank reserves, and was adding 10 per cent to all import duties and also freezing wages and prices for 90 days. Both moves were abrupt reversals of longstanding Nixon as well as U.S. policies.

A good press for any Nixon move is rare in the U.S., but he had one on both these moves. So remarkably good a press, indeed, that it should encourage him to think that his best way to overcome his many foes in the media and elsewhere is to be bold, and bold once more, and bold again.

The 3d Bold Move Nixon Needs to Make. Despite their good points, I fear the two astounders will end by bringing worse dangers than those he saw required drastic policy changes. I earnestly hope that while he still rides the wave's crest, he will make a third bold move—the one that can save us all, and him, from the reefs he is heading for. That move would be to throw his helm toward the Atlantic federal channel through those reefs. I find it hard to believe that so old an Atlantic hand has forgotten the federal way to safety.

The Hidden Reefs. What are these reefs, hidden to so many now? My August editorial gave the two dangers I saw in the Peking visit. Neither was in its aim (which I have long favored). Both lay in Russia's interpretation of it, and response: the likelihood that Moscow would see it as the classic "leapfrog" move in diplomacy's balance-of-power game, and respond (1) by renewing the Mideast nuclear confrontation threat that led the President to visit the Sixth Fleet only a year ago, and/or (2) by the riskless course of speeding its efforts to drive the dollar off gold, and so doom Atlantica to dissension, depression.

Events showed Russia needed do nothing to gain the latter aim; the dollar proved even nearer the brink than I warned, at the House hearing, U.S. policies had brought it. Moscow now needs only exploit the loss we have caused our allies and all the non-Red world, and the glum view—reflected on our cover by normally poker-faced diplomats—they take of this. Possibly the prospects this offers may lead Russia to defer the Mideast challenge; even if only a time-gainer, as I fear, this could be a godsend . . . if used for the third bold Nixon coup.

The greatest dangers in the second Nixon surprise are international. My testimony at the hearing tells why depression follows when the key world currency leaves gold; the Geneva report on page 2 tells of the one that came when the pound did this in 1931. But neither makes clear what proved to be the worst reef—the one that nearly wrecked Freedom then.

What Price Trade—Gained by Freedom's Loss? To me, the worst reef ahead, now that the U.S. has taken the 1931 way to "better" foreign trade, is not the economic disaster I fear will again follow, but its consequences. In 1931 the major loser was Germany; exports sank, unemployment soared. Result: It voted out the free republic it began in 1919. For 12 years it resisted Hitler nobly; when Wall Street crashed he had only 12 deputies; 10 months after Britain left gold, the voters gave him 230. Six months more of depression, and they reverted to autocracy—the worst in their long history. True Britain won in the resulting war, but the price was more than blood, sweat, tears: Loss of long preeminence in finance, trade, industry, empire, sea power—with Russia replacing it as superpower. It has paid cruelly for ephemeral gains in trade.

Young Democracy is Now Hit Hardest Again—and Doubly. London's tragic blunder in 1931 was to let hope of trade gains blind it to the longterm dangers when the main loser is a people of outstanding industrial and war potentials, little rooted in freedom, deeply habituated to autocracy.

The U.S. has now hurt most two such nations—Germany and Japan. This reversed a policy paying big dividends, which encouraged West Germany to try democratic federation again; it did even more to give Japan its first free government. The former has survived nearly twice longer than the Republic that died in 1933—but it is only 23; the latter is but 24. Yet both nations have thus risen, phoenix-like, from ruin. Both have passed Britain industrially—a feat indicating how fast each could be a nuclear power. Both show how much more people can do by free government and free enterprise than by Marxism and dictatorship—and each show-window strategically faces Communist Russia, Japan's also faces Red China. Is it not folly to run any risk of causing such loss in Germany and Japan that they revert to dictatorship, Red variety?

The Atlantic Union Liberty-and-Life Saver. If you doubt that it could save us from such danger, read "Why Atlantic Union would Prevent another Crash." George Washington feared that even the ties binding Americans west of the mountains to the seaboard states could not keep that area of vast potential from breaking away, or falling in hostile hands. It must be bound to the 13 by "hoops of iron," he said—and led in doing this by replacing alliance with federation. May Nixonian Washington turn soon from repeating 1931 to repeating 1787.

HON. JAMES A. FARLEY

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. MURPHY of New York. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following:

The American Heritage has printed a most interesting interview with the Honorable James A. Farley in its August issue, and I include it here for the benefit of my colleagues. Mr. Farley is a blue-ribbon Democrat, and a blue-ribbon American, and his thoughts and views are of interest to all of us.

BEFORE THE COLORS FADE—THE TRUE-BLUE DEMOCRAT

(By Virginia Van Der Veer Hamilton)

(Note.—Once upon a time—some eighty-three years ago—a likable lad named James Aloysius Farley was born in the village of Grassy Point, New York, on the west bank of the lower Hudson River, to "poor but honest" parents, Irish to the core. When he was nine, his father was killed in an accident. "Jimmy" promised his mother he would help her run the grocery store and saloon, go faithfully to Mass, and neither smoke nor drink. He has kept every one of those promises. When he grew to manhood—six feet two inches—he wed Elizabeth Finnegan, whom he had known all his life, and lived happily with her until her death in 1955. He also commenced another lifelong and still warm affair, common to young Irishmen of his generation—this one with politics, inside the hospitable embrace of the Democratic Party. And it was this that brought him to a place in life where he spoke as a friend to Presidents, prime ministers, and popes, and even heard his own name placed in nomination for the Presidency.

On the opposite bank of the Hudson, Franklin Delano Roosevelt, a scion of the Knickerbocker aristocracy, grew up in a mansion, in an aura of ease and privilege. He and Jim Farley made each other's acquaintance in Democratic politics. Twice Farley helped elect Roosevelt governor. When F.D.R. became President in 1932, he said that Louis McHenry Howe, his faithful adviser, and Jim Farley were the men most responsible for his victory.

During Roosevelt's first two terms, "Big Jim" was chairman of the Democratic National Committee and of the New York State Democratic Committee, Postmaster General, and number-one glad-hander for the New Deal. Raymond Moley, an adviser to the President, said Farley possessed "inexhaustible geniality." It was reputed that Farley could call by their first names fifty thousand faithful Democrats all over the country. When he and the President were alone, Farley called F.D.R. "Boss and Roosevelt called Farley "Shamus," which is Irish for James.

After his famous split with Roosevelt over the third term, Farley resigned as "three-job Jim." He became chairman of the board of the Coca-Cola Export Corporation. As a soft-drink supersalesman for three decades, he has averaged each year some 120 banquets, one hundred luncheons, and visits to thirty countries. He is still hale and vigorous. Since his wife's death he has lived alone. His three children telephone nearly every day, and his four grandchildren in college call every Sunday ("Collect!"). Usually Farley takes one or two of his ten grandchildren on his trips abroad. Unless it's raining, he walks to his Madison Avenue office every weekday and Saturday morning. Football and baseball are his big sports enthusiasms, but he also enjoys harness racing and occasionally a boxing match. During the baseball season, Farley, who used to play first base for the Grassy Point Alphas, can be found in his box at Yankee Stadium almost every Saturday and Sunday and many evenings.

Farley spends a couple of hours every Friday afternoon in the Biltmore turkish baths, perspiring and relaxing. This helps him keep tabs on his weight. If the scales go too high, he eases up on two of his favorite dishes, ice cream and rice pudding. Every Sunday morning, rain or shine, Jim Farley passes the collection plate at nine o'clock Mass at St. Patrick's Cathedral. He regrets that he seldom sees a familiar face there, because the congregation is mostly from out of town.

It is an active life. James A. Farley does not, like some old warriors, live entirely among his memories. He is still a worker, still an involved Democrat. But he relishes the recollected days of his political peak. In answer to an interviewer's questions, he recalls the thunder and the shouting of New Deal days, in fluent, soft-spoken sentences, stippled with a wealth of detail drawn from a memory that was once legendary, and is still remarkable.

How did you come to know Franklin D. Roosevelt?

I first met Franklin Roosevelt in 1920, when he ran for Vice President with Governor [James M.] Cox. There was a reception for them at the National Democratic Club of New York, which was on Fifth Avenue where Saks [a New York department store] is now. I had been married only a short while, and I brought Mrs. Farley. It was a long reception, and, in a facetious way, Bess said that if she'd known she had to go through things like that, she wondered if she would have married me. "Well," I said, "in the days ahead, you may run into many like this."

I went to Mr. Roosevelt's office—he was attorney for an insurance company—many times to seek his services as a speaker. I remember I asked him to speak at Flag Day services of the Benevolent and Protective Order of Elks when I was active in the Haverstraw, New York, Lodge No. 877.

I'll never forget once I met Mr. Roosevelt at the Biltmore Hotel. Every time I go to the Biltmore that scene flashes before my mind's eyes. The hotel has about sixteen steps, and I stood at the top and watched Mr. Roosevelt bound up those steps, two at a time. That's the last time I saw him before he was stricken [with polio].

Did you think that his becoming crippled would be a handicap to him politically?

No, I thought it would be a help to him. I thought it would evoke sympathy. I think it did. In fact I'm sure it did. Only on one or two occasions did I ever hear him refer to his infirmity. We were playing poker one Saturday night at the White House. As the game broke up, he looked at a fellow named Stephen Gibbons, who was an Assistant Secretary of the Treasury in charge of the U. S. Customs and who had been stricken with paralysis, and walked with a cane. Mr. Roosevelt said: "I'll tell you, Steve, there's one thing about you and me. We'll never have to worry about getting blood-pressure running up stairs!"

He hated to go into a building if there was danger of getting out in case of fire. He might say to me: "Will there be any difficulty getting in the building?" I remember one time he spoke in Yorkville, and they brought Roosevelt in a side entrance, through windows, rather than the front door because he'd have difficulty getting on the stage.

When did you think of him seriously as a Presidential possibility?

I didn't produce Mr. Roosevelt, although I was given a lot of credit for his nomination and election. He was the logical candidate. Governor [Alfred E.] Smith had persuaded him to run for governor of New York in 1928, although Mr. Roosevelt didn't want to run and his wife didn't want him to run. But he was persuaded on the theory that, if he won, it would help Governor Smith carry New York [in the Presidential campaign]. Well, Governor Smith lost the state by over one hundred thousand, and Mr. Roosevelt carried the state by approximately twenty-five thousand, if I remember the figures correctly.

Being elected governor in a year when there was a Republican landslide made Mr. Roosevelt appear a miraculous candidate. When he was re-elected in '30, he carried the state by approximately 725,000. Next day after that election, I prepared a statement in which I said, whether Mr. Roosevelt wanted to or not, in my judgment he would become the Democratic candidate for the Presidency in 1932. Of course I had consulted with his secretary, Louis Howe. I called Mr. Roosevelt up and read him the statement, and in substance he said: "Whatever you want to do, Jim, is all right with me."

After the first of the year I had a tabulation made showing how New York governors in past years had run. I listed the counties from 1912 on, and showed in heavy type the upstate counties Mr. Roosevelt had carried that no other Democratic candidate for governor in the history of New York had ever carried. That was sent out to all Democratic governors, senators, members of Congress, members of the Democratic National Committee, country chairmen, and members of state committees—about seven thousand people all over the United States—with my card attached: "James A. Farley, Chairman, New York State Democratic Committee." Well, that really started a flood of correspondence. It's amazing the number of people who said they were for him and were glad they had that information.

The last Democratic convention in which two-thirds vote was required for nomination was in 1932. Can you explain how and why that rule was abolished?

Well, Mr. Roosevelt was in favor of doing away with it. I did more to bring that about [in 1936] that anybody else. And [in 1932] Mr. Garner told Sam Rayburn when he went to Chicago that if, as, and when Mr. Roosevelt had the majority of the votes, he was entitled to be nominated. He didn't want to see a duplication of the Baltimore convention [of 1912] or the Madison Square Garden convention in '24 [when a deadlocked convention took 104 weary ballots to name John W. Davis].

It's been said that the change began a reduction of southern influence in American life that accounts for some regional bitterness. Do you agree?

Well, they have their influence in the Senate and in the House. They may not have had it with a nomination for President or Vice President, but there's no section of the country had more influence in the Congress and especially in the Senate than in the South, because those men get re-elected, and get on the committees, and they become chairmen. A lot of the complaint now is that the South holds too many chairmanships, and they're not, the southern states, are not supporting the Democratic nominees for President.

Let me say that I travelled all over the United States during the years I served as national chairman, and never once did I see the slightest sign of intolerance or discourtesy. So I have great affection for people in all sections of the country. No place was more generous in support of me than the South. I had a fine relationship with southern leaders and southern people. As a matter of fact, in the polls of those days, outside of Mr. Roosevelt and Cordell Hull I ran better in the South than any other man.

A big change in 1932 was the swing in the votes of Negroes to the Democrats, after a long era of Republicanism among them. Did you try to win over that vote?

No, no, no. I think they felt that Mr. Roosevelt would be more helpful in helping their position, in helping their way of life, than the Republicans would be.

It has been claimed that Hoover asked Roosevelt for help in the period when Hoover was a lame-duck President, but that Roosevelt refused, because he didn't want to take any steps until he had full responsibility. Is that true, and did you so advise him?

I've forgotten. I doubt very much whether I advised him one way or another. That was a policy matter of his own, which of course he discussed with friends in and out of the incoming administration. I don't think he wanted to participate and be helpful, as you indicate, until he had to assume responsibility, and I don't think he wanted any prior act of his that would embarrass him in any way when he finally took over. You see he was—this has appeared in print and it isn't private—he was very much annoyed with Mr. Hoover when he called on him to pay his respects, which is the usual thing, a day or two before the transition, and when Mr. Roosevelt got there Ogden Mills [Hoover's Secretary of the Treasury] was there, and I think [Undersecretary Arthur A.] Ballantine was, too. And I know Mr. Roosevelt resented it very much. Now he and Mr. Mills were close personal, social, society friends—they lived close to one another—but they were as far apart as the poles, politically speaking. Right or wrong, I think he resented that the President had Mr. Mills there and he was going to try to get him involved, get him interested, get him to participate in some of the programs that Mr. Hoover wanted to carry out. That caused the break. And frankly all it was supposed to be was a social call. They should have asked previously if he had any objection to the presence of Mr. Mills. Now, if they had done that it might have eradicated the problem that developed.

I think Herbert Hoover was one of the most dedicated Americans I ever knew. I worked with him on the Hoover Commission. There isn't any doubt of his regard and affection for his country. Now I might disagree about his policies, but you can't take away from Mr. Hoover his dedication to his country. He ran at a bad time and inherited a bad situation, and he wouldn't do anything to end Prohibition or use the RFC [Reconstruction Finance Corporation] the way Mr. Roosevelt later did.

I asked him one time after I got to know him fairly well, when he first thought that he would be defeated in '32. He said that he had read my prediction [of Roosevelt's victory] and thought I was crazy. He couldn't believe that he was going to be defeated.

I used to see Mr. Hoover often at the Waldorf. He'd send for me to talk politics. My wife, Lord have mercy on her, she's dead fifteen years now, but during her lifetime he'd invite the two of us to dinner. He said ten was too many for a dinner party; six or eight could all engage in one conversation.

I'll never forget one time when I was being talked for governor of New York. Mr. Hoover said: "If you'd run, I'd come out and support you. I don't know if it would do you any good, but I'd be glad to do it." I thought this was one of the finest tributes ever paid me.

After he took office, Roosevelt quickly brought in a number of academic and intellectual leaders to advise him—the so-called brain trust. Could you say how you, as a working politician, got along with them?

I've always said that Professor Moley's advice and wise counsel was most helpful to the President—the President-elect and after he was elected. And I was sorry when they broke because I felt that Mr. Roosevelt in losing Moley—he lost a very fine associate, who was very loyal of course, but above anything else, he was *frank*. He was not in any sense a yes man. I had a lot of respect for Professor Moley and for the services he rendered to the President. [Rexford G.] Tugwell and I never hit it off too well. Now I could talk to Moley and I was very friendly with [Adolf A.] Berle, *very* friendly with Berle. But with Tugwell I was more or less at cross purposes. It wasn't personal. We just couldn't reconcile our points of view, I guess that's the way to put it. I was a political animal, you know, and everything I was doing was what I felt was in the best interests of Mr. Roosevelt and his administration and, incidentally, the Democratic Party. The rest of them I had no difficulty with at all.

Do you think that creating the brain trust was a good idea?

I think any President has the right to have around him, in the first place, men who are intelligent and in whom he has confidence. But I think it's important that he have men on both sides of the question. I think he is entitled to have both sides rather than just one side. Mr. Roosevelt saw a lot of people, and he got their views whether they agreed with him or he agreed with them. He got the views on both sides.

How were you able to predict F.D.R.'s 1936 landslide so accurately?

I made that prediction based entirely on my conversations with state chairmen, national committeemen, newspapermen, from Maine, for instance, and different parts of the country. I was on pretty good terms with all of the newspapermen regardless of the papers they wrote for; I told them the truth as I saw it. And I got letters and all kinds of information. Mr. Roosevelt didn't want me to go that far. As I recall it, we had a pool, and I don't know whether he was in the pool, but I think he said 346 electoral votes, or something, I don't know whether I'm right on the figure. But I'll never forget, when I decided I was going to predict, that I called up the Democrats in the state of Maine and told them about it and also called up Frank Duffy, who was the Democratic leader in Vermont, about what I was going to predict. But Frank always called me James, talked like all Vermonters, very stiff. He said, "James, I wish you wouldn't *do* that. We have a chance to elect a Democratic governor and if you predict Vermont is going Republican it will hurt us." And I said "Frank, it's my job to make a prediction on what I think is going to happen nationally, and I don't think it's going to hurt your state at all insofar as the election of a governor is concerned if the same trend is going along in your state—I've just got to make the prediction that I'm going to." He was very much annoyed with me, but I made it nevertheless.

There's a story that you sent personal notes of thanks to thousands of party workers afterward, and signed them in green ink. Why green?

The editor of my home town newspaper used to use green ink, so I started to use it when I was a boy, and I still do except that I sign obituary and official letters in black ink. Once in a while a regular letter will get signed in black ink, and the person will write back to know if I've given up green ink. But I had a funny experience—it wasn't funny, it was tragic—when I was in the Post Office. I used to sign all the commissions in green ink. The President's signature was a facsimile, but the Postmaster General's was an actual signature. Well, that green ink faded in the sunlight, so I asked the inspectors, as they made the rounds of post offices, to pick up commissions where my signature had faded. They picked up over ten thousand, and I had to retrace every signature! From that time on, I signed all the commissions in black ink.

It's generally conceded that Roosevelt made two political mistakes in 1937 and 1938. One was the attempt to enlarge the membership of the Supreme Court; the other, intervention in the 1938 primaries to "purge" anti-New Deal Democrats. Did you advise him against these steps?

Well, frankly, I didn't know anything about the Court fight, the Court bill, until I read it in the New York *World Telegram*. He had a press conference that morning where he brought in the legislative leaders and the chairmen of the Judiciary committees of both the House and the Senate—[Senator] Joe T. Robinson [of Arkansas], the Republican leaders, the House and Senate Democratic and Republican leaders, and the chairmen, I think, of the committes to which that bill would go for consideration and for hearings before it went up to the House. And it wasn't until I picked up the *World Telegram* that

I saw about it. And the next day when I went down the street, I dropped in and I said, "Why the hell did you do that without telling me?" He just called them that morning you know, and anybody that wasn't there [didn't get asked]. You see, he made it very secretive. Now if I'd been in Washington, I'd have been there. But they knew I was in New York and they didn't call me.

Well, he had a mind of his own. Of course, I urged him not to participate in the purge at all. And I didn't participate, as the records show. I took a rather strong stand, you know. Here I was his Postmaster General and the state and national chairman and I refused to participate in the purge.

You broke with him when he went after a third term. In fact, you had your name put in nomination in the 1940 convention and received seventy-two votes. Did you try to discourage the third term beforehand? And how do you feel, looking back?

I still think I was right. I didn't think any man should have done that because it was against our tradition. I argued with Mr. Roosevelt about his health. I said: "You've been four years governor and eight years President, and it's bound to have weakened you physically. There's no way of knowing what's going to happen in the days ahead, and you ought not to do it."

Do you think he could have won the third term if the war in Europe had not been going on?

I don't know. I'm never quite sure on that. He took an awful chance on the third term, but, of course, [Wendell] Willkie just wasn't the fellow to beat him. I don't know who could have beaten him. Willkie wasn't accepted by the country, and he happened to be the nominee. They deluged the Republican convention in Philadelphia, you remember, with million of wires. That really was a deluge. The third term, of course, brought on the fourth term, and by the fourth term Mr. Roosevelt was a very sick man.

As a loyal party man, of course, you had moved to make his nomination unanimous at the convention. Did you actively support him at any time in the campaign itself?

I didn't see Mr. Roosevelt during the campaign, but it was customary for me to ride with him to Madison Square Garden for the big political meeting we always had a few nights before election. I had ridden with him and Mrs. Roosevelt in '32 and again in '36. I was up in Rockland County one Sunday in '40 when there was a telephone call from the White House. Steve Early, the President's press secretary, said that the President wanted to know if I'd meet him at Mott Haven railroad yards [in the Bronx] and ride to the Garden with him and Mrs. Roosevelt and appear on the platform. I said of course I would, and I went up there and we rode down in the car together. Mr. Roosevelt was a superstitious fellow.

I was in the Democratic state committee office [Farley had resigned as Democratic National Committee chairman but remained chairman of the New York State Democratic Committee] from early morning till late at night because I didn't want New York State to go Republican and they'd say Farley was to blame. On the Sunday before election I sent a wire to every member of the Democratic county committees in New York State, about eleven thousand more or less, urging them to get every voter to the polls, Democrat, independent, or Republican, who they felt would support President Roosevelt, because I wanted him to carry New York. And he did. So everybody in the United States knew where I stood.

How do you rate Roosevelt as a President now?

I think Mr. Roosevelt is bound to go down in the history of this country, when they get away from hatred and bitterness, among the first six American Presidents. Washington, Jefferson, Lincoln, and I would think Jackson and Truman. I'm a devotee of Jackson because he was such a Democrat.

Mr. Roosevelt's entitled to that because he saved the capitalistic system of this country. God knows we might have had a civil war if he hadn't moved as quickly as he did. People were threatening law and order. Out in Iowa they were burning corn and threatening judges who were honoring mortgage foreclosures. People just rebelled.

In the first hundred days the Congress put through many pieces of legislation, PWA [Public Works Administration], AAA [Agricultural Adjustment Administration], CCC [Civilian Conservation Corps]. The CCC took boys off the streets and put them in gainful employment in camps, and part of their pay had to go home to their families. It was great training for them. They were off welfare, well fed, disciplined, in proper housing.

The HOLC [Home Owners Loan Corporation] that President Roosevelt passed saved the banks, the insurance companies, and loan associations. They were proceeding to foreclose mortgages on thousands and thousands of homes in the United States. The HOLC stepped in and took over those mortgages and guaranteed them, you know, and when that organization went out of business after it had served its purpose, it turned a profit back to the government.

Mr. Roosevelt was never given credit for that. The Republican leaders and the bankers, whose businesses he saved, and the businessmen, whose businesses he saved, they were his biggest critics.

It's an outrage that Mr. Roosevelt's been dead twenty-five years now and he hasn't any monument in Washington. Of course George Washington was dead a long time before they did anything for him, and Lincoln, too. Jefferson didn't get his until Mr. Roosevelt was in office. I worked on that. It wasn't easy to get an appropriation even for Jefferson, with people needing money for more important things. But I'll never forget that Mr. Roosevelt said to me: "Jim, if we don't get this through now, we'll never get it for Jefferson." He was just insistent about it.

What was the secret of his political success?

Well, he was an extremely charming man, very easy to know. He was born and raised in the country, so Mr. Roosevelt was really a country fellow, if I may use the term. He was friendly with all the folks around Hyde Park where he grew up, and they called him Frank or Franklin. So it wasn't difficult for him to meet people around the country the same way. He was down to earth, a neighborly sort of fellow. When he was in Warm Springs, they all looked on him as a citizen of Georgia. When he'd greet them, he'd make them feel very much at home, that by God they were an old friend of his. He could do it without any difficulty. Now some people are born with that. It's like a smile. Mr. Roosevelt could smile readily.

I think he could win today. He was probably the greatest campaigner of his day and generation, you know. And on TV he would have been marvellous. On radio . . . his fireside chats, you know. He wasn't, I would say, a good extemporaneous speaker, but he *read* beautifully, and the intonation of his voice and everything else went over. Made him, I think, one of the outstanding campaigners of all time. He wasn't an orator in the way Stevenson was, and he didn't have the type of oratory that Smith had or any of the other men of his time, but he read a speech well and got it over, and he did it with a great deal of sincerity, and it got across.

You say "sincerity," but a great many people charged him with being insincere and deceitful. What about that?

I can truthfully say that Mr. Roosevelt—a lot of people accuse him of lying or being careless with the truth—that he never lied to me except about the third term. In my situation, and may I say this very modestly, there wasn't any reason why he should have lied to me. I was doing everything I could for him and the party and the country, and whatever strength I had I got from my association with him. I wouldn't be doing anything publicly that would be contrary to his wishes. So there was little reason why we wouldn't always agree. Whatever little differences we had would be resolved his way or the way I suggested.

How do you feel about him as a human being now?

All I can say is this: the entire time I spent with Mr. Roosevelt, from the time I first met him in '20 down through the years, it was always a delightful relationship and a fine experience. I have, of course, regretted the fact that my disagreement with him on the third term broke a friendship that had existed for all those years, and I saw him only three or four times after I retired, and I felt very badly about that.

Did he ever forgive you?

I don't think so. I don't think so.

Are you still a good Democrat?

I have a deep sense of loyalty to the Democratic Party. I started in politics in a small town with a population of about three thousand at the time. The town was 75 or 80 per cent Protestant, and at least 65 or 70 per cent Republican. I was an Irish Catholic, but I was elected to office eight times on the Democratic ticket. [Farley was elected town clerk of Stony Point, New York, four times, a supervisor twice. He won election to the state assembly once, and lost once, but carried the town both times.] So I have a sense of appreciation.

There is talk of the need for one or more new national parties. Do you think the two-party system will be with us for a while yet?

I hope it's always with us.

Do you have any plans for retirement?

No notion of it.

Looking back on it all—the people you've met, the offices you've held, the fights you've fought—do you have any comment?

It's been an interesting life.

AUTOMOBILE SAFETY

HON. MARVIN L. ESCH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. ESCH. Mr. Speaker, since 1966, Congress has taken an active role in investigating the prospects for improved automobile safety. The need for this type of investigation is well established. The automobile has become an important part of our everyday life. Last year our citizens drove 1,100 billion miles. We have come to depend on the automobile as one of our basic transportation units; however, with more automobiles in use the problem of passenger safety has become acute. American drivers were involved in 47,000 fatal accidents and 2 million disabling accidents. These statistics cost the Nation over $13 billion, without counting the lost man-hours and the untold amount of pain and suffering which always goes along with such occurrences.

It is for this reason that it is especially gratifying to see one of our leading auto manufacturers providing the real public service of offering meaningful auto safety experiments at no cost to the taxpayer. General Motors Corp. is building an experimental safety vehicle to U.S. Department of Transportation specifications for the contract cost of $1. The experimental safety vehicle will help to test some safety concepts which could eventually be included in our passenger sedans. Two of these vehicles will be delivered to the Department of Transportation next October.

Before the ESV models are delivered to the Federal Government they will be crash tested a dozen times. The goal of General Motors engineers is to meet or exceed all Department of Transportation safety standards. Ernest V. Starkman, vice president in charge of environmental activities, described the role of the ESV as a "test bed for new safety concepts."

To introduce the program to the public, William B. Larson, director of the project, presented a film of a high-speed barrier crash test with the ESV. The film revealed that the test vehicle withstood the impact of a 50-mile-per-hour barrier crash test to a remarkable degree.

The experimental safety vehicle will be a five passenger, four-door family sedan with a 125-inch wheelbase, 219-inch overall length. The powertrain consists of a 362-cubic-inch displacement V-8 engine, three-speed torque converter, a drive shaft with two universal joints, and a coil spring rear suspension.

The goal for the ESV in occupant protection is for a 30/50 standard. This would mean that an occupant could be expected to survive as a passenger riding without safety belts at 30 miles per hour. In a 50-mile-per-hour barrier crash, the air cushion approach is used, so that the unbelted passenger is protected.

I am hopeful that these test vehicles will provide the basic information concepts which can be used in designing a safer vehicle for the American motorist and I applaud the efforts of General Motors Corp. to provide this real public service.

VITAL CANCER CRUSADE MUST BECOME REALITY THIS YEAR

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. KEMP. Mr. Speaker, on Tuesday, November 30, a House-Senate conference committee is scheduled to begin deliberations on legislation which could well lead to an historic breakthrough in finding the causes and a cure for cancer.

Practically all of us have been touched in some way by the terror of this disease which ranks as the Nation's No. 2 killer.

Little is known of its origin and the sinister way it strikes casts a grim shadow on everyone. Thus no legislation in recent times has more support in both Houses than that to be considered by the House-Senate conference committee.

A major stumbling block however appears to be the role of the National Cancer Institute in this battle against cancer.

Under the Senate proposal adopted by a vote of 79 to 1, a separate cancer agency would be created. The House version approved 350 to 5, expands NCI but keeps it within the National Institutes of Health.

My distinguished and able colleague from western New York, Congressman JAMES F. HASTINGS, who, as a member of the House Commerce Subcommittee on Public Health, helped write the House bill, has rightly said:

> There is no argument about the need for a speeded-up, all-out offensive against cancer but rather it is a question of which route to take to guarantee the best chance of success.

An editorial in the Jamestown, N.Y., Post-Journal of November 20, strongly underscores this point and I would sincerely urge the conference committee to strive diligently to work out their differences permitting the bill to be presented to the President before the end of this year so, as the editorial so succinctly states:

> This vital crusade, the strongest effort yet by the Federal Government to combat a single disease, becomes a reality.

The editorial follows:

HOUSE CANCER DEBATE TO HAVE VITAL IMPACT

A debate has been raging in Washington over how best to organize a government program to conquer cancer. The Administration, Congress, doctors and cancer research specialists agree on the need to find a cure for the disease but disagree on how to organize and administer a national cancer research program. The money for the new cancer program, $100 million, cleared Congress last May and is ready and waiting for the debate to be resolved.

Rep. James F. Hastings, who with Rep. Paul Rogers (D-Florida) helped write the House Commerce Committee bill expected to go to the floor of the House for debate last month is confident it will pass without major amendments with the final provisions of a national cancer bill to be decided by a House and Senate conference committee.

Mr. Hastings was one of the six original co-sponsors and was instrumental in bringing a Congressional hearing to Roswell Park's Memorial Institute in Buffalo. This hearing resulted in the bill's considerable emphasis on training cancer researchers, creating 15 new cancer centers, similar to Roswell, throughout the United States, and increased funding for the operation of these and existing centers.

Mr. Hastings has announced that more than $1.6 billion would be unleashed during the next three years to speed up the search for a cure and the causes of cencer under terms of the bill approved by the House Commerce Committee.

A senate measure adopted earlier this year established a separate cancer attack agency. The difference has provoked a controversy within the medical and scientific community with the American Cancer Society and the White House favoring the Senate bill.

"However," Rep. Hastings said, "it should be pointed out that not a single scientific organization supports the concept of a separate cancer institute."

More than 11 such organizations, including the American Medical Association, the American Hospital Association and the American Society of Biological Chemists oppose an independent cancer agency, he said.

"In addition," he declared, "the American Medical Colleges Association, representing 103 medical schools and 401 teaching hospitals, has testified before both Houses against a separate cancer institute."

Rep. Hastings said the House bill gives cancer "top priority in funding and establishes the best machinery for carrying out an effective and accelerated attack on cancer."

Besides the $1.6 billion, the legislation also contains authorization for $90 million during the next three years for programs to provide for early detection of breast and cervical cancer.

It is to be hoped that differences are settled and that this vital crusade, the strongest effort yet by the federal government to combat a single disease, becomes an immediate reality.

THE FIRST TEAM FROM THE FIRST STATE

HON. PIERRE S. (PETE) du PONT

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. DU PONT. Mr. Speaker, the House schedule permitting, tomorrow evening it will be my pleasure to be present at the 1971 annual banquet of the Newark Touchdown Club. This banquet is an outstanding affair each and every year, but this year is something special for everyone in Delaware. The University of Delaware's football team has been voted the No. 1 small college football team in the United States by both the Associated Press and the United Press International. The first State has the first team.

There has not really been a drought in football honors for our great State university over the recent years. Indeed, to many they have become almost routine. In 1968 the Blue Hens won the Lambert Cup, symbol of small college football supremacy in the east. In 1969 they again won the Lambert Cup; and again in 1970. Needless to say, with the No. 1 small college football team in the country in 1971, they won the Lambert Cup unanimously.

In 1968, Delaware participated in the First Annual Boardwalk Bowl for the small college championship of the east. They won. In 1969 and 1970, Delaware was again in the Boardwalk Bowl and again they won. And Delaware is going to the Boardwalk Bowl again this year. What other football team in the country—small college or major college—has compiled a record of that stature? Few, if any. In one popular poll which ranks all football teams together, regardless of size or status as small college or major college, Delaware was the No. 2 team in the east—all colleges and universities included. They were ranked ahead of such perennial powers in the east as Syracuse, West Virginia, Boston College, Villanova, and Army.

But I think that the most important aspect of the success of the University of Delaware's football program is that it has been accomplished without surrendering to many of the evils associated with bigtime football. The University of Delaware does not give scholarships for football, only grants-in-aid based upon the need of the applicant. On the 1971 Blue Hen football team, there are nine starters not receiving any aid. Football is only a part of the University of Delaware—a small part, not its lifeblood.

The history of Delaware football is more than outstanding records. It is a story of outstanding people. Of recent memory are Bill Murray, who coached until 1950 when he left to become one of the outstanding coaches in the Nation at Duke University; Dave Nelson, who stepped in to take the reins in 1950, became chairman of the NCAA Rules Committee, and led Delaware to a national championship in 1963; and Harold "Tubby" Raymond, who has compiled an awesome record since 1966. And the players, too. Jimmy Flynn, Mickey Heineken, and Ted Kempski have returned to the university after outstanding careers as players to become assistant coaches. Mark Hurmm, the captain of an outstanding Blue Hen team in the late 1950's, is now a doctor in the Newark area. Dr. Robert Moneymaker, a vital backfield cog in the late 1950's, is now a Ph. D. research chemist in Delaware. Jim Garvin is an attorney. John Wallace is an attorney. John Boresson, from the early 1950's, is now vice president of Clairol. The list goes on and on. Community leaders, civil leaders, and leaders in government—all began on the gridiron playing for the University of Delaware.

Nineteen hundred and seventy-one is no exception to the record of success of the Blue Hen football team. With a record of 9–1, the Hens averaged 42.2 points a game. Their great defense allowed only 9.8 points a game. Records were shattered in numbers of categories: rushing, scoring, offense, and defense. Individual standouts were everywhere. Gardy Kahoe shattered the single season rushing record. Sam Neff broke some of the last remaining passing records of the legendary Don Miller, Delaware's Little All-America quarterback of the mid-1950's. And Capt. Ralph Borgess who not only anchored the center of the defensive line, but perhaps more than anyone else provided the team with the leadership and the courage it takes to be No. 1.

Captain Borgess knew that this team was No. 1 from spring practice to Bucknell, and he never let the players forget what it takes to stay on top. And if there were any doubts among the spectators at large that Delaware was destined to be No. 1, they vanished on the first series of plays against Delaware's old nemesis, major college power Villanova. Anyone who saw John Bush at 5 feet 10 inches, 180 pounds, line up against Villanova's All-American flanker, "a man who just can't be covered one on one" and knock him down time after time, knew that this team had what it takes to be No. 1.

So, Mr. Speaker, I wish to congratulate Tubby Raymond, Capt. Ralph Borgess, the Delaware coaching staff, the players, and the entire student body for a job well done in 1971. The "First State" now has the first team.

TRIBUTE TO MRS. GLADYS BRYSON

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. JONES of Tennessee. Mr. Speaker, on October 22, one of the outstanding missionaries of the Cumberland Presbyterian Church, Mrs. Gladys Bryson, passed away in San Francisco. Mrs. Bryson, who was a native of Gibson County, Tenn., was a personal friend of mine and had been for many years the object of my admiration. She and her husband, Dr. Davis Bryson, once spent a year in my home community of Yorkville, Tenn., while he was pastor of my home church.

Last week, the Milan Mirror ran Mrs. Bryson's obituary which I include at this point in the RECORD:

FORMER MILAN CITIZEN, MISSIONARY DIES IN SAN FRANCISCO

Funeral services were held Sunday, October 24 for Mrs. Gladys Bryson, a missionary in San Francisco and abroad for 40 years. She died October 22 at the age of 62. Mrs. Bryson was born in Milan and studied at Bethel College and Southern Methodist University in Dallas.

She then went to Colombia where she did much pioneering missionary work. She concentrated on helping international students.

Ill health forced her to leave her work in Colombia after 15 years and she moved to San Francisco. For the last 25 years she worked with the Cumberland Presbyterian Chinese Church and also taught in the adult education program since 1956, and again working extensively with international students.

Mrs. Bryson is survived by her husband, Dr. David O. Bryson of San Francisco; son James of Sunnyvale and two grandchildren.

Funeral services were held at Cumberland Presbyterian Church. Dr. Fred Bryson, her nephew, a dean at Southern Methodist University and Dr. Carl Ramsey officiated.

The family has requested that memorial contributions be sent to the Bryson Scholarship Fund, P.O. Box 4149, Memphis, Tenn. 38104.

The news of the death of Gladys Bryson brought into focus the realization of the broad dimension of a life splendid in every area of work, in the activities of Christian living dedicated to the service of her church and her Lord. The spirit of good will and service had been evident in the early years of her life. A native of Milan, the daughter of the late Lonnie M. Holt and Myrtle Hassell Holt, Gladys Holt had received her elementary and high school education in the Milan City Schools. She was an active honor student in the graduating class of 1927. She entered Bethel College the following year and graduated again with recognition in 1931. She was married to David Bryson, a ministerial student of Midlothian, Texas in 1929.

Following graduation, the Byrsons accepted work at Rose City Church, Little Rock, Ark. Having continued their education in graduate work at Southern Methodist University, they volunteered for a foreign missionary assignment from the Board of Foreign Missions of the Cumberland Presbyterian Church. They were then sent to Coli, Colombia, South America, where they worked in building and expanding the church in the entire area for fifteen years. For a year following their return to the states, Davis Byrson served as pastor of the Yorkville Cumberland Presbyterian Church and Gladys was a teacher in the Yorkville Elementary School.

The need for trained missionary personnel in the San Francisco area was apparent and the Byrsons were called by the Board of National (Home) Missions, for this challenge to work with international and especially oriental students. As pastor and education director the Byrsons had been the leaders in the entire area. For twenty-five years the Chinese Cumberland Presbyterian Church had been fortunate in the growth and spiritual inspiration given to all members and friends of the church because their dedication was founded on the lasting values of Christian living and sacrificial love. The twenty-five years of this service was emblazoned on the hearts of the people with who they labored. Because of a serious heart condition of Davis Byrson the resignation of the Brysons from the Cumberland Chinese Cumberland Presbyterian Church was given special attention at the 1971 General Assembly at Jackson, Tenn., when the Assembly, through the Board of Missions presented to Davis and Gladys Bryson, a memorial plaque engraved with a notation of very special honor for the forty years of dedicated service to the church and to their great missionary cause. The life and contribution for building better lives in places of sorrow and want, in places of the greatest need have been given with sacrifice and love by Gladys Holt Bryson. This evaluation can be made only by the omnipotent power of the Master of all men for the eternal ages.

The survivors of Gladys Holt Bryson in this vicinity are one brother, Ralph Holt, and two sisters Mrs. Mildred Alexander, Humboldt, and Miss Edith Holt, Milan.

THE POCKET VETO

HON. FRED B. ROONEY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. ROONEY of Pennsylvania. Mr. Speaker, during a brief congressional recess last Christmas, President Nixon elected to "pocket veto" two bills which had been passed by the 91st Congress. One of these was the family doctor bill—a measure I had introduced in the House—to focus Federal resources on the critical need for family physicians in the Nation's health care delivery system.

Although the bill had encountered the dissenting votes of only three Members of Congress en route to the White House, it died by the President's pocket veto and Congress was deprived of an opportunity to override the Chief Executive's decision.

The President's use of the pocket veto in this instance, during a period when Congress stood adjourned for a brief holiday period, has produced considerable debate in the interim about the Constitutional foundation for his action.

Writing in the October issue of the American Bar Association Journal, Attorney Benny L. Kass of the Washington law firm of Boasberg, Granat & Kass, has explored "The Pocket Veto: An Elusive Bone of Contention." Many of my colleagues will recall Mr. Kass as a former member of the legal staffs of two congressional committees.

I include his article in the RECORD and I invite the attention of my colleagues on the subject—an issue rooted in the separation of legislative and executive powers and still unresolved today:

THE POCKET VETO: AN ELUSIVE BONE OF CONTENTION

Every student of the Constitution knows that when a bill passes both houses of Congress, the President of the United States has but ten days to act upon it. He may sign the bill, in which case it becomes law. He may veto the bill and return it to the house in which it originated, giving Congress an opportunity to override the veto by a two-thirds vote of both houses. Or he may do nothing, in which case Paragraph 2, Section VII, Article I, of the Constitution provides:

> . . . If any Bill shall not be returned by the President within ten Days (Sunday excepted) after it shall have been presented to him, the Same shall be a Law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law.

When this last event happens, it is commonly called a "pocket veto", and in recent months a considerable controversy has been stirred up between Congress and President Nixon as to whether two bills suffered a pocket veto.

President Nixon received two bills from Congress on December 14, 1970. One was the Family Practice of Medicine Act, which had passed the Senate by a 64–1 vote and the House by 346 to 2, and which authorized the appropriation of $225 million over three years to help train family-practice physicians. The other was a private bill granting the Foreign Claims Settlement Commission jurisdiction to consider a dispute.

Both bills were sent to the President on December 14; thus the ten-day period expired on December 25. But the Senate, in which the bills had originated, recessed for the Christmas holiday from the close of business Tuesday, December 22, until the following Monday, December 28. Since the Senate was not in session on December 25, President Nixon announced that the bills had been pocket vetoed. No formal veto message was sent to Congress.

A legislative confrontation came quickly. When Congress reconvened, Senator Edward Kennedy, Democrat of Massachusetts, accused the President of introducing "an arbitrary element into the legislative process—an element never contemplated when the pocket veto provision was written into the Constitution by the Founding Fathers". According to Senator Kennedy: "The promiscuous use of the pocket veto in this situation was obviously designed to avoid an embarrassing vote in Congress on a veto that would surely have been overriden. The President's action raises the possibility of similar arbitrary vetoes every time Congress takes a brief recess."

But the Justice Department, in defense of the President's action, responded that the use of the pocket veto not only conformed to the two judicial precedents in the area but also "to the consistent practice of other Presidents during the last quarter century". Assistant Attorney General William H. Rehnquist wrote to Senator Kennedy that, "while I believe that the President was on very firm legal ground in taking the action he did, there is no doubt that the use of the pocket veto power has been a bone of contention between the President and the Congress throughout the years".

Indeed, it is a bone of contention, going back a long way in history. By 1928, for example, the first definitive survey into the use of the pocket veto cited more than 400 bills and resolutions that were neither signed nor returned by Presidents. And in recent years, almost every President has used the pocket veto as a means of stopping unwanted legislation.

IS AN "ADJOURNMENT" AS SIMPLE AS IT SOUNDS?

In the words of the Constitution, a bill held by the President for more than ten days becomes law "unless the Congress by their adjournment prevent its return, in which case it shall not be a law". Sounds simple, but what is an "adjournment"? Clearly when Congress adjourns *sine die*, at the end of a Congress, the President has the constitutional right to exercise the pocket veto. In effect, he has no choice, for there is no Congress in session to which he may return his veto message.

There are, however, many other periods when one or both houses are in adjournment. In *The Pocket Veto Case*, 279 U.S. 655 (1929), the Supreme Court held that the word "adjournment" was not limited to a final adjournment. The Court, through Justice Sanford, concluded:

> We think that under the constitutional provision the determinative question in reference to an "adjournment" is not whether it is final adjournment of Congress or an interim adjournment, such as an adjournment of the first session, but whether it is one that "prevents" the President from returning the bill to the House in which it originated within the time allowed. It is clear, and, as we understand, is not questioned, that since the President may return a bill at any time within the allotted period, he is prevented from returning it, within the meaning of the constitutional provision, if by reason of the adjournment it is impossible for him to return it to the House in which it originated on the last day of that period.

The Court ruled that an interim adjournment of Congress at the end of a session prevented the return of a bill by President Coolidge, and it upheld his pocket veto. It is significant to note that while the Court drew no distinction between the types of adjournments—whether at the end of a Congress *sine die*, at the end of a session or within a session—the issue at hand was, in fact, adjournment at the end of a session.

An interesting collateral issue was then raised as to whether the bill must be returned to the house itself while it is in session or whether it may be returned to the house, although not in session, by delivering it to an officer or agent of the house. The Court decided "that the 'House' to which the bill is to be returned, is the House in session". According to Justice Sanford:

> . . . Aside from the fact that Congress has never enacted any statute authorizing any officer or agent of either House to receive for it bills returned by the President during its adjournment, and that there is no rule to that effect in either House, the delivery of the bill to such officer or agent, even if authorized by Congress itself, would not comply with the constitutional mandate.

Nine years later the Court again had occasion to consider the pocket veto question. In *Wright* v. *United States*, 302 U.S. 583 (1938), a majority of the Court held that when only the Senate had adjourned, and the adjournment was for a period of three days, "Congress", as the term is used in the constitutional provision, had not adjourned. Therefore, a pocket veto was not available to the President.

In the *Wright* case, a bill that had originated in the Senate was vetoed by President Roosevelt and returned with his objections to the Senate during a three-day adjournment of that body. The House of Representatives was in session. The bill with the President's message was received by the Secretary of the Senate and submitted by him to the Senate when it reconvened two days later. The issue was whether the veto was effective since the President's objections had not been received within the ten-day period by the originating house while in session. In a majority opinion written by Chief Justice Hughes, the Court held that as the Senate alone had adjourned, the constitutional provision did not apply, and the veto was effective.

Wright considerably limited the opinion and dictum of the *Pocket Veto Case*. In the latter case the Court said (in a statement that does not appear to have been necessary to its holding) that even though one or both houses of Congress were to authorize an agent to receive messages from the President, "the delivery of the bill to such officer or agent . . . would not comply with the constitutional mandate". The Court in the *Pocket Veto Case* was concerned with the impropriety of delivering a bill during a period of adjournment to:

> Some individual officer or agent not authorized to make any legislative record of its delivery, who should hold it in his own hands for days, weeks or perhaps months. . . . In short, it was plainly the object of the constitutional provision that there should be a timely return of the bill, which should not only be a matter of official record definitely shown by the journal of the House itself . . . but should enable Congress to proceed immediately with its reconsideration. . . .

The Court in *Wright* responded to these concerns. Chief Justice Hughes wrote: "However real these dangers may be when Congress has adjourned and the members of its Houses have dispersed at the end of a session—the situation with which the Court was dealing [in *Pocket Veto*]—they appear to be illusory when there is a mere temporary recess."

While it is true that the recess time in the *Wright* case was for only three days, it is hard to imagine the Court ruling differently for temporary or interim adjournments when only a few more days are involved. Indeed, in his letter to Senator Kennedy, even Mr. Rehnquist recognized this when he wrote: "There is undoubtedly a legal 'gray area' with respect to the question reserved in the *Wright* case—whether a pocket veto is appropriate during an adjournment for more than three days by one house of Congress. Advice from this office in the past has been to the effect that in this situation, without controlling judicial decision to guide him, the President ought to disapprove a bill by the *normal veto message and return*, rather than by the pocket veto" (emphasis added).

WHY WAS THE POCKET VETO USED FOR THESE BILLS?

Returning, then, to the two bills which were the subject of President Nixon's pocket veto, there is a real question why the President apparently ignored advice to disapprove the bills by the normal veto message. Fred B. Rooney, Democrat of Pennsylvania, the principal House sponsor of the Family Practice of Medicine Act, believes that the President, faced with a 346-2 vote in the House and a 64-1 vote in the Senate, took advantage of the pocket veto "because he knew if he did send a veto message back to the Congress, the Congress would override his veto unanimously".

During a roundtable discussion at a meeting of the Subcommittee on Separation of Powers of the Senate Judiciary Committee, Senator Kennedy asked Mr. Rehnquist why the President took the "rather extraordinary procedure of the pocket veto" instead of returning the bill with a veto message. Mr. Rehnquist responded that by the time the President determined to veto the measures, Congress had adjourned: "I felt at this point he had no choice after Congress had adjourned. If it is an adjournment which under the constitutional language prevents the return of the bill, if he wishes to veto it, he must pocket-veto it."

No matter what the legal merits of the question are, the fact remains that Presiden's Nixon's pocket veto thus far has been effective. But Congressman Rooney, Senator Kennedy and Senator Sam Ervin, Democrat of North Carolina, have indicated their intention to test the constitutionality and legality of the vetoes, and recently there have been a number of developments.

HOW CAN THE POCKET VETO BE TESTED?

One method of bringing the issue to court is for Congress to treat the Family Practice of Medicine Act as a valid public law and appropriate funds for its implementation. If the Nixon Administration were unwilling to spend the appropriated monies, then a legal action could be brought to test the validity of the purported pocket veto.

Following this approach, on May 11 Congressman Rooney introduced an amendment to an appropriation bill that would have appropriated $25 million to implement the provisions of the act. Responding to a point of order that there can be no appropriation for something that is not authorized, Speaker of the House Carl Albert ruled the amendment invalid, stating:

The Chair is not oblivious to the fact that certain questions have been raised about the legal propriety of this veto. However, the Chair cannot rule on this constitutional question. The Chair may only refer to the statutes at large or the United States Code to find the authorization required to support this appropriation. Since no such statute can be cited, the Chair must sustain the point of order.

And the Senate similarly refused to make the appropriation.

Another method of testing the pocket vetoes might be to proceed on the private claim. One of the vetoed bills would have conferred jurisdiction on the Foreign Claims Settlement Commission to pass upon a $215,200 claim of the estate of Miloye Sokitch, a refugee from Yugoslavia. After the Germans had occupied Yugoslavia in World War II, they handed over a manganese mine owned by the Sokitch family to the Italians, and the family's loss of ore from the mine is the basis of their claim.

In April of this year the Sokitch family filed their claim with the commission, alleging jurisdiction on the basis that the private bill is now law. If the commission rejects that view and holds the pocket veto authority validly used, this may open the door for an ultimate Supreme Court ruling. Although commission rulings on claims usually are final and not subject to court review (22 U.S.C. § 1623(h)), because of the constitutional issue involved, a federal district court might be willing to accept the case for review.

CONGRESS MOVES TO DEFINE "ADJOURNMENT"

Only time and a possible judicial decision will determine the ultimate legality of the Family Practice of Medicine Act and the private claim statute. Many members of Congress believe, however, that Congress should act to prevent what they regard as the possibility of future abuse of the pocket veto power by defining what "adjournment" means. For example, Congress probably will have recessed at least seven times during 1971, and presumably the President would be able to exercise the pocket veto during at least some of these recesses.

Senator Ervin, along with Representatives Emanuel Celler, Democrat of New York, and William M. McCulloch, Republican of Ohio, have introduced bills that would define the scope of the pocket veto (S. 1642 and H.R. 6225). Specifically, the word "adjournment" in the Constitution would be defined as an adjournment *sine die* by either the Senate or the House of Representatives. The bills also would make it clear that if the respective house were not in session when a President wants to return a bill, then presentation to an officer designated and authorized by that house to receive bills under those circumstances would constitute a valid return of the bill. Both bills have been referred to the respective committees on the judiciary, where they are under active consideration.

In June of 1833, James Madison wrote Henry Clay on the President's duty to return bills to Congress, stating:

It is obvious that the Constitution meant to allow the President an adequate time to consider the bills . . . presented to him, and to make his objections to them; and on the other hand that Congress should have time to consider and overrule the objections. A disregard on either side of what it owes to the other, must be an abuse, for which it would be responsible under the forms of the Constitution.

The legislative bone of contention has been hauled out again. Perhaps this time, Congress—and the courts—will have an opportunity to bury it completely.

CONTRASTING COURT DECISIONS STRESS NEED FOR NEW LABOR POLICY

HON. SAM STEIGER

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. STEIGER of Arizona. Mr. Speaker, I would like to emphasize the pressing need for a Federal prohibition on involuntary unionism by relating the contrasting results of two recent court cases involving workers who incurred the wrath of dictatorial union officials.

The employee plaintiffs in these cases were an Idaho busdriver, Wilson Lockridge, and a veteran Western Electric Co. employee, Dale Richardson of Nebraska.

Each of these men was fired from his job as a consequence of conflicts with union officials. In September, a Federal district court jury in Omaha awarded Richardson damages totaling $342,000. Last month Lockridge irretrievably lost an appeal to the U.S. Supreme Court, whose members acknowledged that existing labor laws sanction the unfair treatment to which he was subjected.

In his work as a busdriver, Lockridge was exposed to the provisions of the National Labor Relations Act which sanction compulsory "union shop" clauses in collective bargaining agreements. His employer and the certified union negotiated such a contract, and he was obligated to pay union dues in order to retain his job.

At the outset Lockridge authorized his employer to deduct monthly dues from his wages and transmit them to the union treasurer. Subsequently, he revoked that authorization and elected to remit the dues himself. His revocation of the dues checkoff authorization displeased officials of this local union, and they made their displeasure known to him.

Ultimately, the union officials alleged that Lockridge was in arrears in his dues payments, and they demanded his removal from the company's payroll. His employer complied with that demand, thereby triggering court proceedings which were to extend over a period of 12 years.

This litigation reached a dead end when the Nation's highest court ruled against Lockridge. Last month it denied his petition for a rehearing. The Court held there is no remedy in the acts of Congress for workers who find themselves in Lockridge's circumstances.

Dale Richardson, the Western Electric Co. worker in Nebraska, was for 9 years a voluntary member of the AFL–CIO affiliate known as the Communications Workers of America. He held the highest grade for which an hourly-rated employee was eligible, and he was second in seniority among 164 shop and warehouse employees in the Western Electric facility in Omaha.

In early 1965, Richardson became concerned about the possible misuse of union funds. After being stymied in his efforts to see the pertinent financial records, he protested by resigning from the union in January 1966. He was aware that the Nebraska right to work law promised him the right to withdraw from the union without jeopardizing his employment.

His resignation triggered a vicious campaign of abuse, discrimination, and harassment by union hotheads—a campaign which company officials did not suppress. Several months after his withdrawal from the union, Western Electric acceded to the demands of union officials for Richardson's discharge. Company officials later acknowledged that his work record was without blemish previous to his resignation from the union.

Richardson filed suit for damages against both the union and his former employer, charging a flagrant violation of his freedom to join or not to join a union as protected by Nebraska's right to work law. A Federal district court jury heard the evidence and awarded the plaintiff $20,000. The presiding judge promptly reduced the award to $1,500, and his decision was then appealed to the U.S. Court of Appeals for the Eighth Circuit. The latter court upheld Richardson's appeal and said in its opinion:

> An employee wrongfully discharged under a collective bargaining agreement, as exists here, suffers more than just the loss of a job itself. His damage must be appraised in terms of not only his wages, but the loss of seniority and the benefits which flow from it; he has thus lost his reasonable expectancy to his continued employment . . . When an employee's expectancy of employment is challenged by invidious discrimination of the company or the union arising from his non-union membership, the law should not react niggardly as to realization of his whole damage . . .

The court of appeals also described in some detail the "malicious treatment" to which Richardson was subject. The following is an excerpt from the court's decision:

> The evidence is that plaintiff was subject to malicious treatment for over six months before his discharge . . . While at work Richardson was constantly pelted by a rain of nuts, bolts, and screws thrown at him by other employees. Other methods of harassment included constant pushing and shoving, challenges to fight and threats of violence, burning Richardson with a lighted cigarette down his back, calling his wife vulgar names and attributing to her unnatural sex acts, deflating his automobile tires, placing a beer bottle behind his tires, squeezing a tube of grease in his tool drawer, and padlocking his locker. Not long after he resigned from the union, the tires of his car were slashed while it was parked at his home . . . Union officials took part in many of the intended harassments . . . During the nearly seven months of his non-union employment, union men involved Richardson in three separate fights. In May an employee by the name of Reber . . . called Richardson's wife a whore, then asked him to sign a statement that he (Richardson) had challenged Reber to fight. Richardson struck Reber three times. Both were suspended by the company, Richardson for three weeks, Reber for two weeks . . . On September 1, a union member named Korytowski tried to provoke Richardson in the parking lot. He kicked Richardson, who returned the blow and called the offender a bastard. Later that day the company discharged Richardson . . .

In accordance with the higher court's ruling, the Richardson case was retried in September before a second Federal district court jury in Omaha. That jury awarded the plaintiff $250,000 from the union for mental anguish and $92,000 in compensatory damages. It assessed the defendant union for 70 percent of the smaller sum and the company the remaining 30 percent.

It is clear, of course, that Richardson was successful in his fight because the Nebraska Legislature exercised its authority to outlaw compulsory unionism. It might be said that Lockridge was unsuccessful, because of the Idaho Legislature's failure to exercise that same authority. However, we cannot obscure the fact that Lockridge was victimized by a weapon placed in the hands of his employer and his union by the Congress.

If it had not been for legislation enacted here, Lockridge could not have been placed under the obligation to pay union dues. Therefore, the Congress—and not the Idaho Legislature—is primarily responsible for the injustice he suffered.

Some of us in the Congress may prefer to absolve ourselves of guilt by saying we affirmed the authority of the States to legislate against compulsory unionism by incorporating section 14(b) in the National Labor Relations Act. But, in effect, we said to the States: We'll allow you to ameliorate any problems arising from our authorizing the forced unionization of workers. That is akin to blaming the homeowner for his failure to prevent the destruction of his property by a Government-licensed arsonist.

Mr. Speaker, it is imperative that we remove the weapon of compulsory unionism from the hands of employers and union officials. We can attain that objective by enacting into law the national right to work bill that I introduced November 17.

UKRAINE—THE LARGEST CAPTIVE NON-RUSSIAN NATION IN THE U.S.S.R. AND EASTERN EUROPE

HON. DANIEL J. FLOOD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. FLOOD. Mr. Speaker, it is not generally known and sufficiently appreciated that the largest captive non-Russian nation in the U.S.S.R. and Eastern Europe is Ukraine.

With a population of over 45 million, Ukraine is one of the most resourceful nations in Europe, and if it were not under the domination of Russian Moscow, it would surely again become "the granary of Europe" in an advanced economic framework of industry and agriculture. Also, the country's geographic location, extending from the Carpathian mountains toward the Caucasus and above the Black Sea, is a most strategic one as concern developments in Europe, Asia and the Middle East.

Because we shall hear more and more about this largest captive nation in Europe. I submit for our popular edification the illuminating section on "Ucrainica In American and Foreign Periodicals" in the world-respected journal of East European and Asian Affairs, The Ukrainian Quarterly. The section, prepared by Dr. Lev E. Dobriansky of Georgetown University, regularly shows the growing interest in this captive nation and, above all, the prominent myths and misconceptions that many in the West still cling to when analyzing or commenting upon the Soviet Union, Russia or Ukraine. It is high time these myths were dissipated, and a Select House Committee on the Captive Nations would be the most effective way of doing it. The Ukrainian Quarterly, Vol. XXVII No. 3, autumm 1971:

UCRAINICA IN AMERICAN AND FOREIGN PERIODICALS

"U.S. Facing the Inevitable on U.N. China Seat," an article by Crosby S. Noyes. *The Evening Star*, Washington, D.C., May 14, 1971.

Many arguments pro and con have been advanced on the so-called China issue in the United Nations. But about the most ridiculous one in favor of seating Red China is the analogy drawn with the presence of the puppet representatives of Ukraine and Byelorussia in the U.N. There has recently been a whole rash of articles and commentaries putting forward this false analogical argument.

This article cites the suggestion made by Harvard's China expert John Fairbank to recognize Taiwan as an "autonomous province" of mainland China. It then goes on to say "It even might eventually provide a basis for Nationalist representation in the UN on the same ground that Byelorussia and the Ukraine are represented along with the Soviet Union."

It is indeed startling how thinking processes seem to be detoured when the non-Russian nations in the USSR become involved in world issues. There is obviously no parallel between the two distinct non-Russian nations in relation to the Russian within the multinational state of the USSR and that between the Republic of China and mainland China. Plainly, on all counts the former are distinct and separate national entities. Both Taiwan and mainland China are integral and inseparable parts of the Chinese nation. To draw an analogy between the two different categories is like mixing pickles and ice cream. But the nonsense continues to be repeated ad nauseam.

"Soviet Union Accused of Genocide," a report. *Freedom's Facts*, The All-American Conference to Combat Communism, Washington, D.C., February 1971.

Two lectures in honor of the late Dr. Roman Smal-Stocki are commented on in this report. Both lectures were delivered at St. Josaphat's Ukrainian Catholic Seminary in Washington, D.C. The first lecture by Archbishop Ambrose Senyshyn, head of the Ukrainian Catholic Church in this country, dealt with Soviet Russia genocide of both the Ukrainian Catholic and Orthodox Churches in the USSR. The second, given by Dr. Lev E. Dobriansky of Georgetown University, dwelled on the strategic importance of Ukraine in the world struggle.

Sweeping in its coverage, the Senyshyn lecture registered twenty-one charges of genocide and crimes against imperialist Moscow. These included the destruction of churches, the dispatch of hoodlums into churches to disrupt services, the incarceration of clergy and a host of other barbarous activities. The Archbishop stressed the genocide of the Ukrainian Catholic Church.

The Dobriansky lecture at the Ukrainian Catholic Studies Foundation pointed out the strategic importance of Ukraine in any consideration of world affairs. He stated his prime point in these words: "From every viewpoint—political, economic, geographic—Ukraine is so high in strategic importance that one can formulate it into the equation, U.S.S.R. minus Ukraine equals zero." The equation was elaborated at length.

"The Vindication of Barry Goldwater," remarks by Hon. Philip M. Crane. *Congressional Record*, Washington, D.C., June 28, 1971.

The so-called disclosures made in the Pentagon Papers and the role of the *New York Times* are dealt with in the remarks of Congressman Crane regarding an introduced article by Allan C. Brownfeld. As both conclude, "Only Barry Goldwater emerges from these Pentagon papers as an honest man. It is indeed ironic to see the newspapers which once sought to destroy him now admit that in a cynical age he was a man who told the truth."

In the course of the columnist's analysis striking reference is made to the man-made famine in Ukraine. "For many years," Brownfeld writes, "Walter Duranty was the *Times* correspondent in Moscow. He was there during Stalin's purge trials, during the famine in the Ukraine. Yet, he reported none of these things accurately to *Times* readers. Instead, he became an apologist for Stalin."

With the memorable year 1964 at issue here, many can recall similar newspaper distortions of truth concerning the erection of the Shevchenko statue in the nation's capital. *The Washington Post* led in this and similarly played up to Moscow and the puppet Ukrainian representation in the U.S. In this case, it was mauled.

"No U.S. Trip for Ukraine Cardinal," a report, *New York Post*, New York, May 28, 1971.

Appearing also in other papers as an *AP* release, this report covers the cancellation of an intended visit by Josef Cardinal Slipyj to Canada and the United States. According to the account, "A Vatican press office spokesman said . . . that the visit was canceled in the wake of threatened agitation at the consecration of two auxiliary bishops in Philadelphia." The disturbances that actually did ensue, reached desecratory proportions.

The Ukrainian prelate's secretary, Msgr. Ivan Choma, is quoted as having said with reference to the canceled trip, "He was a prisoner in the Soviet Union and seems to end up being one in the Vatican, too." If this quote is correct, the analogy cannot but raise many an eyebrow.

"And a Wishful Reality," a commentary. *News From Ukraine*, Kiev, Ukrainian S.S.R., April 1971.

This is a curiously written commentary on the Ukrainian Congress Committee of America and also its president, Dr. Lev E. Dobriansky of Georgetown University. The disturbed commentary is studded with emotional adjectives and, as for empirical facts, its hallmark is dearth. Its views of UCCA bear no relation to reality. Primarily, the commentator doesn't seem to understand that UCCA is an American organization of Ukrainian background and not some sort of government-in-exile or a parliament in the diaspora.

What appears to sting the writer is Dr. Dobriansky's involvements in Asia. As he puts it, "But nevertheless in Saigon, Mr. Dobriansky defends all human ideals and virtues! And how he defends them!" Of course the writer knows the broad, integrated discussions that go on not only in Saigon but also Taipei, Tokyo and Seoul. Plainly, if Peking can take a keen interest in Ukraine and the other captive non-Russian nations in the USSR, why can't these? It has been known for years that Kiev, as well as Moscow, has been keenly interested in these Asian sojourns, and for good reason. Current developments, such as the President's trip to Peking, indicate it in part.

"Ukraine Leader Urges Soviet to Get Rid of Hippies," a report. *The New York Times*, New York, June 30, 1971.

"Khippism" seems to trouble Pyotr Y. Shelest, the Ukrainian Communist leader and a Politburo member. It was the same Shelest who three years ago was troubled by events in Czecho-Slovakia and strongly urged Moscow's invasion of the neighboring Red state. Now he would have action taken against the latest Western scourge—"khippies."

Apparently this is the first time a public official in the USSR used the term "hippies" in the open. According to Shelest, "Under the influence of bourgeois propaganda and morals, part of the youth for this or that reason has slipped from under our influence." His admonition?—"All Communists and all public opinion must join in the fight against them."

The trend in the USSR is for growing hippy looks in the major cities. Youth there seems to keep abreast of developments in the West. Ironically enough, television and movies in the USSR concentrate on anti-war movements in the West, showing thereby the current look of youthful participants. The youth there simply imitate, ostensibly as comrades-in-arms, practically as comrades-in-looks.

"Who Is the Imperialist?," a tabulation. *AFL–CIO Free Trade Union News*, Washington, D.C., June 1971.

In the book review section of this journal an incisive analysis is made of the booklet released by the AFL–CIO on *Who Is the Imperialist?* The basic deficiencies of the work are described in detail. The tabulation reproduced here shows the new independent nations since World War II, one that appeared in a number of sources several years ago but is up-dated here. The one on "the Soviet and Communist Chinese Record as of 1970" begins only as of 1939 and thus incurs a grave omission of the numerous non-Russian nations in the USSR.

The Captive Nations List that has official sanction in Public Law 88–90, based on the Captive Nations Week Resolution which Congress passed in July 1959, is a far more accurate account of Soviet Russian imperialism. Also the annual National Captive Nations Committee's list "Who's Next?" is complete and generally accepted. Though the AFL–CIO list and the comparative table on new nations are informative and of value as far as they go, the Soviet Russian record it presents is most misleading. Some of the problems involved in this were fought publicly in the 50's when some attempted to conceal Soviet Russian imperialism but talked glibly about Red Chinese imperialism. Half of the USSR itself is imperialized by Moscow.

"The Dilemma of Russification," an article by John P. Roche. Syndicated column, June 1971.

In treating of the Jewish problem in the USSR, Professor Roche contends the Muscovite bureaucracy is in a dilemma because, as he puts it, "in demographic terms, Russia is running short of Russians." According to him, projections show that in ten or twenty years the Russians, who now ostensibly constitute 53.4% of the total population, will be a minority. By the next century "the Slavs (Russians, Ukrainians, and smaller ethnic groups) will be outnumbered."

What then is the dilemma? Simply, Russify or not Russify. The writer concludes that "the regime obviously hopes to behead Soviet Jewry, to leave it an inchoate mass of leaderless individuals who will passively succumb to Russification. This applies to other non-Russian groups, for otherwise the Russians will be "a minority in 'their' country."

Parts of this interesting article indicate the writer's relative lack of familiarity with the USSR. Although he concentrates soundly on Russification, his conception of "Soviet national minorities," the Ukrainians as simply one of the "individual ethnic groups" and so forth leaves much to be desired. It may surprise the professor that by a re-defining process the trumped-up statistics furnished by Moscow support the minority status of the Russians now.

"John Theodorovich, Ukrainian Prelate," an obituary. *The Washington Post*, Washington, D.C., May 5, 1971.

Admired by his own Orthodox, Catholics and others, the Most Reverend Metropolitan John Theodorovich, head of the Ukrainian Orthodox Church of the U.S.A., passed away at the age of 83. His career was an eventful one, and its highlights are well portrayed in this account. His cathedral church was St. Volodymyr's in Philadelphia.

Ordained into the priesthood in 1912, Metropolitan John "served as chaplain with the army of the Ukrainian National Republic in the war against Russia in 1919–20." In 1921, he was elevated to the episcopal office of archbishop of Vinnitsa, Ukraine. As the account describes it, he was persecuted by Moscow for his anti-communist activities and "later was released through the intercession of Jews he had defended against pogroms." He came to the U.S. in 1924, and in 1950 became metropolitan.

"A New Detente Shaping Up in Asia?," an article by David Lawrence. *The Evening Star*, Washington, D.C., August 16, 1971.

This columnist believes that the Nixon gesture toward Peking is a response to the latter's deep fear of Japan's power. This power can be easily translated into militarism and the domination of South Korea and Taiwan. As pointed out by the columnist, the Japanese ambassador in Washington has denounced as nonsense any idea that Japan has "ambitions of aggression" toward Korea and Taiwan.

A deeper analysis of the situation in the Far East would show that the threat is not Japan but the Soviet Union. When dealing with the latter and the question of how to accommodate Taiwan in the U.N., the writer uncritically mentions the so-called Byelorussian/Ukrainian analogy. He writes, "One argument is that the Soviet Union, for example, has two of its 'provinces' in the international organization." As shown earlier, this argument is without foundation and any that employ it reveal their own misconception of the USSR.

"Brezhnev Lauds 'Brezhnev Doctrine' and Husak," an article by James Feron. *New York Times News Service*, Prague, Czecho-Slovakia, May 27, 1971.

The final nail was driven into the Czecho-Slovakian coffin of captivity with the appearance of Leonid I. Brezhnev at the fourteenth Czech Party Congress in May. In effect reaffirming what has come to be known as the Brezhnev Doctrine, he received a standing ovation by the puppet audience when he declared, "Nobody will ever be successful in breaking our friendship and fraternity."

Stated in true terms, Brezhnev simply reminded the Czechs and others that Russian imperialism won't tolerate any drift toward independent will by satellite communists or others. He brazenly justified the invasion of Czecho-Slovakia and in Aesopian language held it to be "the duty of Socialist states to intervene to protect their system against revisionism." It's singificant that the Red Chinese, themselves threatened by the Brezhnev Doctrine, accuse Moscow of revisionism. In this medley of intraempire conflict the seeds of freedom's opportunity are sown with great promise.

"Ukranian Find Yields Clues to Nomad Ways," a release. *United Press International*, Moscow, USSR, May 30, 1971.

A burial mound has been discovered by Ukrainian archeologists near the Ukrainian city of Dnipropetrovsk. The site contained two bodies that reveal new information about nomads who roamed Ukraine before the birth of Christ, spilling blood but encouraging culture. The bodies, a queen and a small boy, are believed to be members of a royal family.

The report states that an "alabaster-lined sarcophagus contained the gold bedecked remains of the queen and the body of a small boy, apparently an heir to the throne." This was a part of Scythian civilization in the fourth century B.C. Ritual silver vessels for wine and a gold bracelet were placed near the boy, and the child's attire was also richly embroidered with gold disks. It is known that the Scythians were barbarous, but apparently they also had a taste for fine art.

"National and Religious Dissent Worries Soviet Leadership," a commentary. *Religion In Communist Dominated Areas*, The National Council of Churches, New York, April 1971.

This semi-monthly publication of the National Council of Churches contains much worthwhile material on religious conditions in the Red Empire. The comments, too, on reproduced pieces are refreshing and incisive. For example, as RCDA comments, "Repeated attacks in the Soviet press against 'Ukrainian bourgeois nationalism and chauvinism,' 'excessive and unjustified glorification of the national peculiarities, traditions and customs of the native population,' and their 'religious masking' by the Uniate clergy indicate that Soviet leadership is worried about the growing and religious dissent in the Ukraine and throughout the USSR."

An extract from *Man and World*, published in Kiev, and with the title "In Single Harness—Clericalism and Ukrainian Bourgeois Nationalism" vilifies past and present clerics who have hitched religious beliefs to nationalist aspirations. For instance, it's stated, "this alliance manifested its anti-people nature especially glaringly in the struggle of the nationalists and the clergy against Soviet order, which they conducted under the false slogans of 'an independent, united Ukraine. . .' "

Religious beliefs and forces are indomitable and thus are a constant threat to totalitarian Soviet Russian imperialism. In time, properly channeled, they will overcome the latter. Their unity in the Free World as well as behind the Iron Curtain is therefore a necessary prerequisite for this inevitable outcome.

"A Look Inside Russia," a personal report from a White House aide. *U.S. News and World Report*, Washington, D.C., August 2, 1971.

This interview of Thomas Pauken, who is deputy director of the White House Fellows, is really based on a diary Pauken kept during his recent visit to Moscow and "the two biggest cities of the Ukraine—Kharkov and Kiev." Some fifteen fellows or one-year White House interns went on the trip.

Among the many interesting items recorded is this impression: "In Kharkov, I was struck by the contrast with Moscow. The majority of people in Kharkov are ethnic Ukrainian and very different in personality and style from the ethnic Russians who predominate in Moscow. In Moscow, the face of the average Russian was virtually expressionless, and the drabness of life hung like a cloud over everything. In Kharkov, the people are outgoing, more colorful in their dress, and appeared to have great zest for life."

It's evident that our fellow has no appreciation of the multinational nature of the USSR. The term ethnic Ukrainian makes sense for a Ukrainian residing in Moscow, and ethnic Russian for one living in Kiev. However, his general impressions are substantially correct. Before leaving the USSR, Pauken met with two young Ukrainians who were fluent in English. "They hoped some day to go to America themselves," he writes.

"What Has Been Done by the U.S. To Contain Russian Imperialism," an article by Austin J. App. *ABN Correspondence*, Munich, Federal Republic of Germany, March-April 1971.

Striking a positive note on America's successful containment of communism, the writer argues that the whole concept of national self-determination and freedom is American. "It was America that proposed to usher in the new era of self-determination of peoples." He cites in detail the costs sustained by the U.S. in upholding this since World War I.

THE LACK OF ADEQUATE LEGISLATIVE MACHINERY TO REPRESENT THE PUBLIC INTEREST IN THE CASE OF NATIONWIDE STRIKES

HON. SHERMAN P. LLOYD

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. LLOYD. Mr. Speaker, significant observations are being made concerning the lack of adequate legislative machinery to properly represent the public interest in labor-management disputes having national impact.

Responsibility of the Congress is to appropriately represent the public interest rather than the specific personal interests of either labor or management. The New York Times published the following editorial in its November 27 issue:

REOPENING THE DOCKS

President Nixon's move for national emergency injunctions to reopen the strikebound ports on the Atlantic and Gulf coasts represents the collapse of an Administration attempt to revive the atrophied processes of collective bargaining on the waterfront.

Ever since passage of the Taft-Hartley Act in 1947, a court order to end strikes has been an almost automatic accompaniment of the expiration of agreements between the International Longshoremen's Association and the dock employers. And, with only slightly less regularity, the strike resumed as soon as the eighty-day cooling-off period ran out.

In hope or abolishing this charade, the White House let the current strike run for nearly two months before deciding that its impact on the economy necessitated injunctive action. Even then the Administration stayed out of court until an all-out effort to conclude a negotiated settlement had failed—for reasons that remain a mystery. Earlier this week an agreement seemed near, under which some of the worst abuses of the guaranteed annual wage in the pattern-setting port of New York would have been moderated in exchange for basic wage increases far in excess of the Pay Board's anti-inflation guideposts. An overnight evaporation in union receptivity to the whole arrangement made it unnecessary for the country to judge how much, if any, real benefits such a pact would have brought.

Now fascinating reversal has taken place in the normal line-up of employers and union on the President's invocation of Taft-Hartley, once the most hated of all laws in labor's lexicon. The industry, which always in the past has welcomed such a move, is trying hard to block a permanent injunction by insisting on fragmented treatment of each port. It is also seeking to knock out the standard requirement in all prior injunctions that the workers return to their jobs under terms of the old contract. That requirement would mean reinstating the enormously expensive guaranteed wage without any of the safeguards the industry says it needs.

The union, in contrast, is putting up only the most nominal objections to an injunction that would cover all ports. Its real concern is that the wage guarantee go back into full effect in New York in line with invariable past practice, a practice Federal Judge Bonsal sustained in the ten-day temporary back-to-work mandate he issued here yesterday.

This weird miscarriage of the Administration's original design indicates anew the need for fundamental overhaul of the nation's statutory curbs on crisis strikes. On the West Coast, where a similar Taft-Hartley injunction is already in effect, two-thirds of the cooling-off period has gone by and no glimmering of a settlement is reported. Some form of binding arbitration is needed to bring final resolution of such disputes, in which the public eventually and inevitably becomes the prime victim.

"AMERICA, THE BEAUTIFUL, OF THEE WE SING"

HON. EDWARD J. PATTEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. PATTEN. Mr. Speaker, I have read and heard hundreds of Thanksgiving prayers in my life, but the most beautiful one I ever read is the one written by Rabbi Haim Kemelman, of East Brunswick, N.J., called, "America, the Beautiful, of Thee We Sing."

It is full of gratitude, faith, and inspiration because its gifted author has these rare qualities deep in his heart and soul. While many others disparage and condemn America, Rabbi Kemelman is proud to praise and honor our country because he loves it and because he believes in its promise.

Mr. Speaker, I am thankful for many blessings in this land of freedom, and one of them is that Rabbi Kemelman is one of my constituents and that he is my friend.

The text of his beautiful and moving Thanksgiving prayer, which was published in the Sunday Home News, of New Brunswick, N.J., on Sunday, November 21, 1971, follows:

AMERICA, THE BEAUTIFUL, OF THEE WE SING

When some say, "Why?" we sing, "Why not?"
When some cry havoc, we sing and work,
When some see stumbling stones, we see stepping stones;
When some curse the darkness, we blaze the path.
America the beautiful for Thee we pray.

We pray that God give us men: strong men, brave men,
honest men—men who yield not conscience to power
and wisdom to wealth; men who dare to do the right
even in face of adversity and evil.
America the beautiful for Thee we are grateful.

We are grateful that thy heritage has given us men—
men who are noble and true, men who are just, men who
inspire loyalty and truth to the end that the just
shall be strong and the strong shall be just.
America the beautiful of thee we sing, for thee we are
grateful and in behalf of thee we pray.
Amen.

—Thanksgiving Prayer, by Rabbi Haim Kemelman.

IMPENDING GIVEAWAY OF PANAMA CANAL MUST BE PREVENTED BY THE CONGRESS

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. RARICK. Mr. Speaker, as a Member of the Congress from Louisiana, I have watched with deep concern the current treaty negotiations between the United States and Panama. One of the admitted objectives of our negotiators is to cede U.S. sovereignty over the U.S. owned Canal Zone territory to Panama, a small, weak country, notorious for its political instability.

This may explain the administration's denial of recent statements or implications attributed to Assistant Secretary of State Charles A. Meyer that the U.S. Government would take no action to intervene in order to protect the Panama Canal should the Soviet Union decide to invade and conquer Panama.

One highly redeeming feature of the present situation is that the sovereign people of our country are far ahead of their Government in Washington in evaluating the true significance of the canal problem in spite of the failure of most of the mass news media to make objective reports on it. This development is explained by the able leadership over many years of my distinguished and most scholarly colleague from Pennsylvania (Mr. FLOOD) and resulting pamphleteering in various parts of the Nation.

A recent example of this effort is an ably prepared pamphlet on "The Impending Giveaway of the Panama Canal," by Dr. William S. McBirnie, Glendale, Calif. In this, he stresses that the main canal question is a power struggle between the United States of America and the U.S.S.R. and not one between the United States of America and Panama and that it is a contest that the United States dare not lose. Its loss would give Soviet power control of the round-the-world canal route, Suez and Panama, and bring closer the day of encirclement of the United States.

Mr. Speaker, one of the most glorious chapters in American history is the successful construction and subsequent operation in both peace and war of the Panama Canal, which has yielded great benefits to the Republic of Panama. Yet the position of its revolutionary government is that our Nation's entire course in dealing with the canal question has been one of oppression and infamy and that Panama has suffered greatly thereby.

As to such contentions there could be no greater falsehood. Unfortunately, these mendacious Panamanian pronouncements are never denied or answered by the highest officials of our Government with the resulting impairment of our country's image in world opinion.

Russian agents are already in the Panamanian Revolutionary Government and at the University of Panama. Certainly they are making their adverse influence manifest in the formulation of Panamanian policies, all without the slightest opposition by our responsible officials.

The weakest spot in recent national administrations over a period of years has been their policy in dealing with the Panama Canal. The people of our country are dead set against the surrender of any of our treaty-based sovereignty at Panama, either over the zone or the canal. Our citizens have contributed too much in the way of treasure and sacrifice to have all that they have done in this connection thrown down the drain in complete disregard of our Federal Constitution—article IV, section 3, clause 2.

Mr. Speaker, on November 29, 1971, there were started before the House Subcommittee on the Panama Canal of the Committee on Merchant Marine and Fisheries under the chairmanship of my distinguished and able colleague from New York (Mr. MURPHY) the first comprehensive congressional hearings on the interoceanic canal problem since 1906. This inquiry should go far in clearing away the fog of confusion that has for so long obscured the canal subject in the public mind and in laying the basis for an Isthmian policy based upon realities and not shabby sentimentalism of appeasers, demagogs, and weaklings.

There are two steps that should be taken: First, the reaffirmation by House resolutions now pending before the Committee on Foreign Affairs of our undiluted sovereignty over the Canal Zone; and second, the enactment of pending legislation for the major modernization of the existing Panama Canal.

Because of the timeliness of Dr. McBirnie's recent pamphlet, I quote it as part of my remarks along with the texts of a related letter and of House Resolution 540 and H.R. 1518 that I cosponsored and introduced, respectively:

THE IMPENDING GIVEAWAY OF THE PANAMA CANAL

(By W. S. McBirnie)

THE PANAMA CANAL

Treaty basis of the U.S. canal rights

There are three treaties, one with Great Britain, one with Panama and one with Colombia which constitute the legal basis for U.S. Sovereignty over the Panama Canal. The first of these with Great Britain, known as the Hay-Pauncefote Treaty of 1901, recognizes the exclusive right of the U.S. to construct and deepen the canal.

The second of these treaties, known as the Hay-Bunau-Varilla Treaty, and ratified in 1904, granted to the United States "in perpetuity":

"The use occupation and control of the canal zone for the construction of the Panama Canal, and its perpetual maintenance, operation, sanitation and protection, as if the United States were "the sovereign of the territory" and to the "entire exclusion of the exercise of the Republic of Panama of any such sovereign rights, power or authority". Quoted in *The Isthmian Canal Policy Questions*, Rep. Daniel Flood, D. Penn., House Document 474, 89th Congress, 2nd Session, P. 136."

The United States, in turn, guaranteed the independence of the Republic of Panama which had just seceeded from Colombia, and whose very existence depended upon the protection of the United States.

By the terms of the third treaty, the Thomson-Urrutia Treaty, proclaimed March 30, 1922, Colombia recognized the title to the Panama Canal as "now vested entirely and absolutely in the United States of America". Special rights and privileges were guaranteed to Colombia, and the United States paid Colombia 25 million dollars. (*Ibid*)

The negotiations of these three treaties were the work of some of the ablest men of their time. They knew, from their own observations, that Panama was a land of endemic revolution and political instability. These treaties were meant to solve permanently the problem of sovereignty over the Canal Zone. Bunau-Varilla, Panama's minister to the United States, and one of the authors of the treaty, stated, "After mature thought . . . I decided to grant concession of sovereignty en bloc." The Canal Zone was not sold, ceded nor leased but granted to the United States in *perpetuity* for the operation of the Panama Canal. The treaty also granted the control of the Canal Zone, an area five miles wide on each side of the canal itself.

The sanitation problems were enormous, but the treaty of 1903 gave the United States the right to enforce sanitary measures throughout the entire canal area. Army doctors and scientists conquered yellow fever and malaria which for years had caused great loss of life in Panama. The story of their heroism and achievement has been recounted in many books. The building of the Canal was one of the great engineering feats of the world. It was opened to traffic on August 15, 1914.

The importance of the canal

The Panama Canal is one of the greatest transportation facilities in the world, and has been characterized as the backbone of ocean commerce, especially in the Americas. Cargo tonnage on the Panama Canal in fiscal 1969 amounted to 108,793,069 tons which was an increase over 1968. Toll collections in 1969 were $95,914,608 which was almost 2 million dollars more than in 1968. Within the last several years improvements on the Canal have totaled some 68 million dollars. (*World Almanac*, 1971, p. 110)

All of the nations in this hemisphere have a vital interest in a well run canal, open to the commerce of all nations. The canal occupies a strategic place in the defense of the western hemisphere, and has been extremely useful in moving military cargo bound for Vietnam.

The canal has growing importance to our [defense] effort because of the diminishing supplies of raw materials in this country . . . Our aluminum industry is dependent on bauxite coming from Guiana and Venezuela. (*Between the Lines*, Edith Kermit Roosevelt, published in *The Wanderer*, August 24, 1967.)

The United States has fully discharged its obligation to maintain a free and open waterway between the Atlantic and Pacific Oceans. Tolls have remained at a reasonable level and ship transit is accomplished expeditiously.

The Canal occupies a highly strategic place in the defense of the western hemisphere. Representative Daniel Flood of Pennsylvania, and probably the best informed man in the Congress on all the ramifications of the Panama question, has stated:

"The Panama Canal is a military key of the first order in world strategy and the chief feature required for the protection of all Latin America. Yet an attempt is being made on our part, motivated by shabby sentimentalism and complete disregard of the consequences involved, to give away this great economic and military agency." (CONGRESSIONAL RECORD, vol. 113, part 10, p. 13111.)

The canal is a control point of indispensable use in barring deep Soviet penetration of Latin America. With Russia in control of Cuba, and able to use that island as a naval and military base, the United States' sovereignty over the canal becomes vitally important.

The canal: A key Communist target

Wresting ownership and control of the Panama Canal from the United States has been a communist goal that dates back to critical days of the Russian revolution in November, 1917. John Reed, a notorious American communist reporter who covered the Russian revolution in a highly sympathetic manner, discussed the internationalization of the canal with the leaders of the Russian revolution. Lenin realized the importance of the canal, and was determined to force the United States to give up unilateral control of the waterway. (John Reed, *Ten Days That Shook the World*, p. 235) The strategic nature of the canal will continue to make it a prime target for Soviet subversion.

The Soviet Union has been increasing its naval power at an unprecedented rate as a prelude to securing control of the world's waterways. Following the seizure of the Suez Canal by Egypt, Russia began to dominate the Mediterranean Sea, and her ships are prowling the Indian Ocean unchallenged. The communists desire to make the Caribbean Sea a Russian lake, and it is well on its way to becoming just that. Cuba, as has been pointed out, is already a Russian bastion and Panama and the canal are the next logical steps leading to communist domination of Central and South America.

Many experts in naval strategy, including men in Europe as well as the United States, believe that Russian naval planning has placed a high priority on the objective of depriving the United States of the ownership of the Panama Canal. Russian strategic planning related to the Panama Canal, according to the experts, should give the United States great cause for alarm. Russia has constantly supported the efforts of Panama to gain control of the canal. In the late summer of 1970, R. Doria Souza, General Secretary of the People's Party (communist) of Panama, visited Moscow. As a result of his visit, the Russian government strongly supported Panama's military dictator, General Omar Torrijos, in his demands upon the United States for control of the canal. Souza stated that the principal task of the communists in Panama is "to strengthen the unity of all anti-imperialists forces and together counter the machinations of Yankee imperialism". (CONGRESSIONAL RECORD, May 5, 1971, pp. 13641–13643.)

Piecemeal surrender

For twenty five years the United States has been surrendering the rights given to it by the treaty of 1903, but the Panamanians have not been satisfied. The surrender has merely served to increase their appetites for more concessions.

After prolonged, secret negotiations extending over a period of two years, the Eisenhower-Remon Treaty was proclaimed on August 26, 1955. This treaty increased the annual annuity to Panama and surrendered valuable Panama railroad property in the terminal cities of Panama and Colon. Another important provision was the abrogation of the right of the United States to enforce sanitary ordinances in Panama City and Colon. Since 1955, when sanitation enforcement was turned over to the officials of these two cities, the garbage collection has been totally inadequate. (Flood, op. cit., p. 203)

From 1959 on, there were increasing demands by the Panamanians that their flag be flown on the zone beside the American Flag. President Eisenhower, fearing violence from unruly mobs, agreed that this should be done, thus providing "visual evidence that Panama does have titular sovereignty over the region". (*Interoceanic Canal Problems in the Americas*, Dr. Donald Dozer, quoted in

CONGRESSIONAL RECORD, vol. 113, part 17, p. 22891.) The House of Representatives objected strongly to this policy by a vote of 381 to 12. The President completely disregarded this sentiment expressed by the House, and by executive order on September 17, 1960, ordered the Panamanian flag to be flown on the zone. Following this order the governor of the zone, Robert J. Fleming, in 1963 forbade the American flag to be flown over the U.S. court house or American schools on the zone. The bloody riots of January, 1964, followed an attempt of Balboa High School students to raise an American flag on campus. When peace was finally restored twenty one persons were dead, many injured and property damage was widespread.

Bowing to mob threats of further violence, President Johnson announced on September 25, 1965 that the United States and Panama would begin negotiations for the adoption of a new treaty. Three treaties were written, surrendering more control of the zone and the canal to Panama, but they failed of ratification by the U.S. Senate and also by Panama. The terms of these treaties were merely an appeasement of the radical elements in Panama. Robert B. Anderson, former Secretary of the Treasury, and chief negotiator for the American team had had no experience with the military matters that make the canal so vitally important to the United States. For the sake of appeasement, Mr. Anderson was willing to surrender the control of the canal to Panama.

The United States still seems determined to surrender the canal to Panama, which of course, means that Russia will rapidly gain control of this most vital waterway. At the time of the proposed treaties of 1967, public indignation at the huge give-away ran very high, but now, four years later, the Nixon administration is again negotiating a new treaty with Panama. One June 29, 1971 negotiations were begun, and the United States was represented by the same Robert B. Anderson, who helped negotiate the aborted proposed 1967 treaties. It becomes imperative that the Congress and the American people express their conviction that the United States must retain control of the Panama Canal. In this case time is of the essence, and the members of Congress, especially Rep. Daniel Flood, need the support from the people as they fight to retain control of the canal by the United States.

There is no need for U.S. negotiators to be in Panama for the Panama Canal should be regarded as non-negotiable. It is not a question of the United States vs. Panama in the present discussions, for Panama cannot maintain her independence without the protection of the United States. The whole canal question is a power struggle between Russia and the United States, a conflict which dare not be lost by the United States

The treaties of 1967 would have removed the canal entirely from the control of the Congress and would have placed it in the hands of a nine-man governing board. The five Americans on the board were to be appointed by the President with no confirmation of either House necessary. These treaties called for the construction of a new sea level canal in Panama to cost approximately three (3) billion dollars. Expert testimony in the House of Representatives has stated that the improvement program provided for will make the present canal adequate to handle all traffic problems to the end of the century. (CONGRESSIONAL RECORD, July 15, 1971, p. 25493.)

The United States has lived up to all its treaty obligations. It has managed the canal with "show case" efficiency, bringing untold benefits to world commerce and to the people of Panama. On several occasions, as has been pointed out, the United States has liberalized its side of the bargain. Panama is now enriched by some 160 million dollars annually from the canal over and above the annual annuity. In addition, Panama retains its independence "through United States protection."

Senator Thurmond put the whole Panama question in its proper perspective when he said:

"It is clear that the Panamanians are seeking to seize upon their geographic positions as a means of extorting enormous revenues, not only from the United States, but from every user of the canal." (CONGRESSIONAL RECORD, July 15, 1971, p. 25494.)

If the canal ever becomes totally owned and controlled by Panama, it will be a victim of Russian takeover, for Panama will be unable to resist the pressure of Russian advance. This is a fact, which the United States in its eagerness to placate Panama, must not overlook. If the United States does not retain its sovereignty over the canal, the world will be one step nearer Russian communist domination.

THE WHITE HOUSE,
Washington, D.C., November 15, 1971.

Hon. JOHN R. RARICK,
House of Representatives,
Washington, D.C.

DEAR MR. RARICK: This is a follow-up to Bill Timmons' reply to your letter of September 28 requesting clarification of a statement attributed to Assistant Secretary of State, Charles A. Meyer.

I have looked into the matter and have been informed that Mr. Meyer did have an interview with the press early last summer (apparently the basis of the Panamanian news article). Mr. Meyer did not state or imply that the United States Government would take no action to intervene in order to protect the Panama Canal should the Soviet Union decide to invade and conquer Panama. Apparently such a question was never asked. However, when asked about the possibility of US military intervention in Latin America, Mr. Meyer replied that he could foresee no situation that would require the unilateral use of US military force. I am assured that in no way or at no time did Assistant Secretary Meyer suggest that the United States had abandoned its sovereign right to take whatever measures it deems appropriate to protect its national security interests.

I hope this information is helpful to you.

Sincerely,

RICHARD K. COOK,
Deputy Assistant to the President.

H. RES. 540

Whereas it is the policy of the House of Representatives and the desire of the people of the United States that the United States maintain its indispensable sovereignty and jurisdiction over the Canal Zone and Panama Canal; and

Whereas under the Hay-Pauncefote Treaty of 1901 between the United States and Great Britain, the United States adopted the principles of the Convention of Constantinople of 1888 as the rules for the operation, regulation, and management of said canal; and

Whereas by the terms of the Hay-Bunau-Varilla Treaty of 1903 between the Republic of Panama and the United States, the Republic of Panama granted full sovereign rights, power, and authority in perpetuity to the United States over the Canal Zone for the construction, maintenance, operation, sanitation, and protection of the Panama Canal and to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power, or authority; and

Whereas under the Thomson-Urrutia Treaty of April 6, 1914, proclaimed March 30, 1922, between Republic of Colombia and the United States, Republic of Colombia recognized that the title to the Panama Canal and Panama Railroad is vested "entirely and absolutely" in the United States and the United States granted important rights in the use of the Panama Canal and Railroad to Colombia; and

Whereas from 1904 through June 30, 1968, the United States has made an aggregate net investment in said canal, including defense, of over $5,000,000,000; and

Whereas said investment or any part thereof could never be recovered in the event of Panamanian seizure, United States abandonment of the canal enterprise, or under any other circumstances; and

Whereas, under article IV, section 3, clause 2 of the United States Constitution, the power to dispose of territory or other property of the United States is specifically vested in the Congress; and

Whereas 70 per centum of Panama Canal traffic either originates or terminates in United States ports; and

Whereas said canal is of vital strategic importance and imperative to the hemispheric defense and to the security of the United States as well as of Panama itself; and

Whereas, during the preceding administration, the United States conducted negotiations with the Republic of Panama which resulted in proposed treaties under the terms of which the United States would relinquish its control over the Canal Zone and Panama Canal with the gift of both to Panama; and

Whereas the present revolutionary Government of Panama seeks to renew negotiations with the United States looking toward a similar treaty or treaties; and

Whereas the December 1, 1970, report by the Atlantic-Pacific Interocean Canal Study Commission revives the entire canal situation, including surrender of the Canal Zone to Panama and operation of the Panama Canal by an international organization not subject to laws of the United States.

Whereas the recommendations of said commission would place the United States in a position of heavy responsibility without requisite authority and invite a takeover by Soviet power of the isthmus as occurred in Cuba, other Latin American countries, and at the Suez Canal: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that the Government of the United States should maintain and protect its sovereign rights and jurisdiction over said Canal Zone and Panama Canal and that the United States Government should in no way forfeit, cede, negotiate, or transfer any of these sovereign rights, jurisdiction, territory, or property to any other sovereign nation or to any international organization, which rights, sovereignty, and jurisdiction are indispensably necessary for the protection and security of the entire Western Hemisphere including the canal and Panama.

H.R. 1518

A bill to provide for the increase of capacity and the improvement of operations of the Panama Canal, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Panama Canal Modernization Act."

SEC. 2. (a) The Governor of the Canal Zone, under the supervision of the Secretary of the Army, is authorized and directed to prosecute the work necessary to increase the capacity and improve the operations of the Panama Canal through the adaptation of the Third Locks project set forth in the report of the Governor of the Panama Canal, dated February 24, 1939 (House Document Numbered 210, Seventy-sixth Congress), and authorized to be undertaken by the Act of August 11, 1939 (53 Stat. 1409; Public Numbered 391, Seventy-sixth Congress), with usable lock dimensions of not less than one hundred and forty feet by not less than one thousand two hundred feet by not less than forty-five feet, and including the following: elimination of the Pedro Miguel Locks, and consolidation of all Pacific locks near Miraflores in new lock structures to correspond with the locks capacity at Gatun, raise the summit water level to its optimum height of approximately ninety-two feet, and provide a summit-level lake anchorage at the Pacific end of the canal, together with such appurtenant structures, works, and facilities, and enlargements or improvements of existing channels, structures, works, and facilities, as may be deemed necessary, at an estimated total cost not to exceed $850,000,000, which is hereby authorized to be appropriated for this purpose.

(b) The provisions of the second sentence and the second paragraph of the Act of August 11, 1939 (53 Stat. 1409; Public Numbered 391, Seventy-sixth Congress), shall apply with respect to the work authorized by subsection (a) of this section. As used in such Act, the terms "Governor of the Panama Canal", "Secretary of War", and "Panama Railroad Company" shall be held and considered to refer to the "Governor of the Canal Zone," "Secretary of the Army, and "Panama Canal Company," respectively, for the purposes of this Act.

(c) In carrying out the purposes of this Act, the Governor of the Canal Zone may act and exercise his authority as President of the Panama Canal Company and may utilize the services and facilities of that company.

SEC. 3. (a) There is hereby established a board, to be known as the "Panama Canal Advisory and Inspection Board" (hereinafter referred to as the "Board").

(b) The Board shall be composed of five members who are citizens of the United States of America. Members of the Board shall be appointed by the President, by and with the advice and consent of the Senate, as follows.

(1) one member from private life, experienced and skilled in private business (including engineering);

(2) two members from private life, experienced and skilled in the science of engineering;

(3) one member who is a commissioned officer of the Corps of Engineers, United States Army (retired); and

(4) one member who is a commissioned officer of the line, United States Navy (retired).

(c) The President shall designate as Chairman of the Board one of the members experienced and skilled in the science of engineering.

(d) The President shall fill each vacancy on the Board in the same manner as the original appointment.

(e) The Board shall cease to exist on that date designated by the President as the date on which its work under this Act is completed.

(f) The Chairman of the Board shall be paid basic pay at the rate provided for level II of the Executive Schedule in section 5313 of title 5, United States Code. The other members of the Board appointed from private life shall be paid basic pay at a per annum rate which is $500 less than the rate of basic pay of the Chairman. The members of the Board who are retired officers of the United States Army and the United States Navy each shall be paid at a rate of basic pay which, when added to his pay as a retired officer, will establish his total rate of pay from the United States at a per annum rate which is $500 less than the rate of basic pay of the Chairman.

(g) The Board shall appoint, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, a Secretary and such other personnel as may be necessary to carry out its functions and activities and shall fix their rates of basic pay in accordance with chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates. The Secretary and other personnel of the Board shall serve at the pleasure of the Board.

SEC. 4. (a) The Board is authorized and directed to study and review all plans and designs for the Third Locks project referred to in section 2(a) of this Act, to make on-the-site studies and inspections of the Third Locks project, and to obtain current information on all phases of planning and construction with respect to such project. The Governor of the Canal Zone shall furnish and make available to the Board at all times current information with respect to such plans, designs, and construction. No construction work shall be commenced at any stage of the Third Locks project unless the plans and designs for such work, and all changes and modifications of such plans and designs, have been submitted by the Governor of the Canal Zone to, and have had the prior approval of, the Board. The Board shall report promptly to the Governor of the Canal Zone the results of its studies and reviews of all plans and designs, including changes and modifications thereof, which have been submitted to the Board by the Governor of the Canal Zone, together with its approval or disapproval thereof, or its recommendations for changes or modifications thereof, and its reasons therefor.

(b) The Board shall submit to the President and to the Congress an annual report covering its activities and functions under this Act and the progress of the work on the Third Locks project and may submit, in its discretion, interim reports to the President and to the Congress with respect to these matters.

SEC. 5. For the purpose of conducting all studies, reviews, inquiries, and investigations deemed necessary by the Board in carrying out its functions and activities under this Act, the Board is authorized to utilize any official reports, documents, data, and papers in the possession of the United States Government and its officials; and the Board is given power to designate and authorize any member, or other personnel, of the Board, to administer oaths and affirmations, subpena witnesses, take evidence, procure information and data, and require the production of any books, papers, or other documents and records which the Board may deem relevant or material to the performance of the functions and activities of the Board. Such attendance of witnesses, and the production of documentary evidence, may be required from any place in the United States, or any territory, or any other area under the control or jurisdiction of the United States, including the Canal Zone.

SEC. 6. In carrying out its functions and activities under this Act, the Board is authorized to obtain the services of experts and consultants or organizations thereof in accordance with section 3109 of title 5, United States Code, at rates not in excess of $200 per diem.

SEC. 7. Upon request of the Board, the head of any department, agency, or establishment in the executive branch of the Federal Government is authorized to detail, on a reimbursable or nonreimbursable basis, for such period or periods as may be agreed upon by the Board and the head of the department, agency, or establishment concerned, any of the personnel of such department, agency, or establishment to assist the Board in carrying out its functions and activities under this Act.

SEC. 8. The Board may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

SEC. 9. The Administrator of General Services or the President of the Panama Canal Company, or both, shall provide, on a reimbursable basis, such administrative support services for the Board as the Board may request.

SEC. 10. The Board may make expenditures for travel and subsistence expenses of members and personnel of the Board in accordance with chapter 57 of title 5, United States Code, for rent of quarters at the seat of government and in the Canal Zone, and for such printing and binding as the Board deems necessary to carry out effectively its functions and activities uder this Act.

SEC. 11. All expenses of the Board shall be allowed and paid upon the presentation of itemized vouchers therefor approved by the Chairman of the Board or by such other member or employee of the Board as the Chairman may designate.

SEC. 12. There are hereby authorized to be appropriated to the Board each fiscal year such sums as may be necessary to carry out its functions and activities under this Act.

SEC. 13. Any provision of the Act of August 11, 1939 (54 Stat. 1409; Public Numbered 391, Seventy-sixth Congress), or of any other statute, inconsistent with any provision of this Act is superseded, for the purposes of this Act, to the extent of such inconsistency.

CAPTAIN COOK RECREATION AREA

HON. NICK BEGICH

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. BEGICH. Mr. Speaker, on November 2, 1971, Gov. William A. Egan of Alaska issued a proclamation designating a 2,000-acre land tract between Anchorage and Kenai as the Captain Cook Recreation Area.

As a result of the action taken by the Governor, the area may now receive aid from the Bureau of Outdoor Recreation. The value of the land being $851,000 automatically makes it eligible to receive an equal amount of Federal funds.

The proclamation reserves this land area for use as public recreation land and waters. The Governor's action is in keeping with Alaska's policy of providing the people of the State with ample recreation areas.

This new area includes the 400-acre Stormy Lake and will hopefully provide fishing, boating, beach activities, hiking, camping, cross-country skiing, and canoeing. It is Alaska's goal to continually develop its park and recreation sites.

The proclamation follows:

PROCLAMATION

Article VIII, Section 7 of the Constitution of Alaska and AS 41.20.140 empower the Governor of Alaska to designate the Captain Cook State Recreation Area by proclamation.

The proposal for the Captain Cook State Recreation Area has been reviewed by the appropriate government agencies.

Therefore, I, William A. Egan, as Governor of Alaska, hereby designate as the Captain Cook State Recreation Area all the State-owned lands and waters and all those acquired in the future by the State of Alaska lying within Section 3; Section 9; NW 1/4, NE 1/4, SW 1/4 and W 1/2 of SE 1/4 Section 10; W 1/2 of W 1/2 Section 15; Section 16; Section 17; all tidelands abutting the above and all of Stormy Lake, all in Township 8N Range 10W Seward Meridian.

The areas included in the Captain Cook

State Recreation Area are reserved from all uses incompatible with their primary function as public recreation land and waters.

The areas included in the Captain Cook State Recreation Area are assigned to the Department of Natural Resources for control, development, and maintenance.

Dated this 2nd day of November, 1971.

NIXON AT THE AFL–CIO

HON. WILLIAM L. SPRINGER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. SPRINGER. Mr. Speaker, the President did speak before the AFL–CIO in Miami last week. I attach herewith an editorial from the Washington Evening Star, Monday, November 22, and two articles, one by Richard Wilson and one by David Lawrence on the President's speech. President Meany has since said he intended no slight and all of us hope this is true. When the President of the United States appears before any public gathering, he should have the respect due that office which he represents.

The articles follow:

[From the Washington Star, Nov. 22, 1971]

Nixon at the AFL–CIO

In a way, it was a small matter, the deliberate coolness of AFL–CIO officials toward President Nixon when he addressed them the other day. The calculated discourtesies were picayune—the failure to have the resident musicians play "Hail to the Chief," the refusal to announce the President's entrance or to permit live television coverage.

The Republic can survive such slights to the President and the office he holds. The men who draw their paychecks and/or expenses from union dues decided to treat Mr. Nixon like a political and economic adversary, which in some respects he is. The fact that he represents America in a larger sense may have been a dim presence in some unionists' consciousnesses. At least they didn't boo.

A long and loud Bronx cheer, the sound of which George Meany might remember, still is in order for organized labor's performance so far in Phase 2 of the President's price-wage stabilization program. Even granting the need of union leaders to appear as ferocious defenders of their constituents' rights and aspirations, Meany's abusive outburst against the President, administration officials and non-labor members of the Pay Board was superfluous. Big labor is doing well—perhaps too well—in the flexing of Phase 2's elastic wage boundaries. The AFL–CIO's vow of partial non-cooperation in Pay Board decisions just bears out the hypocrisy of Meany's earlier offers of willing participation in the stabilization effort. The board, in union leaders' eyes, is a huge collective bargaining table at which their role is to use every threat, including the ultimate strike, to get their way.

The effort to put strong downward pressure on the wage-price spiral must go on with or without the cooperation of AFL–CIO officialdom, as President Nixon emphasized in his off-the-cuff speech in Miami after throwing aside his "laundry-list" of labor-serving accomplishments. This message should get through to the tens of millions of working people who weren't conventioneering in the warm South, or tittering or following instructions to act coolly when Mr. Nixon came by.

[From the Washington Star, Nov. 22, 1971]

Meany's Rudeness to Nixon Could Hurt Labor

(By Richard Wilson)

In every small and mean way that occurred to him, short of sticking out his tongue, George Meany treated the President of the United States with studied rudeness at the annual convention of the AFL–CIO.

The night before President Nixon spoke at the convention in Miami Meany sought to persuade the executive board not to sit on the platform while the President was there. He was overruled.

The 77-year-old labor leader made sure that the band usually in attendance vacated the hall so it would not have to play "Hail to the Chief" when the President entered.

Nixon was assigned in advance to sit in the second row of dignitaries on the platform. There was no announcement of his arrival. He was treated as an unwelcome interloper to be listened to in cold disrespect, as Meany had planned it.

Of course, the old man was afraid that the convention he dominates might slip from his grasp. He refused to approve live television coverage, which would have been OK with the White House.

When, after his speech, the President moved out to shake hands with some of the delegates, Meany bellowed: "Will the delegates and our guests please be seated!" When the President left, Meany topped off his insultingly rude attitude by announcing: "We'll now proceed with Act 2."

Meany is placing organized labor in an uncompromisingly bad position by his incredible pretense that Nixon is opening up relations with China and Russia as a "stunt," that his appeal for cooperation on economic controls was an "act" and that all Nixon does is a manuever for re-election.

Meany's behavior is reminiscent of John L. Lewis in his declining days of breathing fire in the face of presidents of the United States, and it seems endemic among aging labor czars who are losing their grasp. Lewis, as head of the United Mine Workers, began to slip when delusions of grandeur elevated him above the presidency and projected him beyond the public interest.

"The public be damned," was the attitude of industrial barons of an earlier time, and it is ironic that the labor leaders of the present should be saying the same thing.

For that is what Meany is in effect saying. "The public be damned and phooey on the President. Labor will have its way." Therefore labor will not cooperate with the economic control machinery and will try to paralyze it so that if the President desires action he will be forced to remove the Pay Board's labor membership, including Meany. If Meany can't force Nixon to do that, he reserves for himself a decision on when to walk out.

Meany is moving on the path of destroying Nixon's major domestic policy, deriding his initiatives in foreign affairs and defeating him for relection in 1972. John L. Lewis tried that in his time and it did not work, but it made Lewis look ludicrous and contributed to the general erosion of labor's public support, leading to the adoption of restrictive legislation.

The way is made harder today by a labor-oriented, Democrat-controlled Congress where the Senate Banking Committee has voted to make retroactive the payment of wage increases scheduled before the price freeze. This is Meany's immediate issue with Nixon but it is only the beginning. And if it is finally resolved in Meany's favor it can only result in further pressure tactics to prevent any significant hold-down on wages.

Meany's behavior is puzzling to White House staff members immediately concerned. They cannot understand what alternative he has to effective economic control which will halt inflation. They believe, however, that he desires Nixon's replacement by a more manageable President and will do everything he can to that end from now on.

The President has accepted this challenge with his declaration in Miami that he knows what he can do, regardless of labor's opposition, and he will do it with the public's support.

Under these circumstances, there would seem little prospect of reconciling Meany. Organized labor will have to decide if it will follow the Meany leadership and risk the loss of public support which Nixon is confident he holds on this issue.

Nixon's AFL–CIO Speech Forthright

(By David Lawrence)

President Nixon produced one of the most significant and interesting pieces of news in a long time when he made an impromptu speech before the AFL–CIO convention at Miami Beach.

But the full text of it was not transmitted by radio or television. In fact, the labor leaders prohibited any TV cameras from being brought to the convention hall, and Nixon was given a seat in the second row on the platform and treated as a routine visitor.

The television broadcasters could probably persuade the President to read it to the American people during an evening hour. For the speech not only covers labor-management relations and the problems in Phase 2 of wage-price controls but also discusses the Vietnam War.

Nixon was not given a very cordial welcome. An editorial in the Miami Herald said: "Never in our memory has a President of the United States received such loutish treatment from a domestic audience, even in the roughhouse of an election campaign. The AFL–CIO delegates jeered and snickered at his remarks. The customary respect due the office, whatever the man, was abandoned for a kind of badgering which bespoke the arrogance of a great wealth and great power, both of which organized labor musters in the aggregates. For shame!

"The rude fact, however, is that Mr. Nixon cannot 'go it alone' as he threatens in view of labor's intransigence. No voluntary program anywhere has succeeded without the cooperation of the interested parties. Labor turned its back on Canadian anti-inflation efforts, and they suffered."

Nixon showed no bitterness in his speech. He declared frankly he was going to talk about the differences between labor and the administration. But he remarked that, while some of the members of labor unions are against him, he knows from experience that, "when the chips are down, organized labor is for America, and that is why I am here before this convention today."

The President added that, whenever there has been an issue for the defense of America, organized labor has stood firmly behind the Commander-in-Chief for a strong defense. The President spoke approvingly of labor's support when the Cambodian incursion occurred and made a point of it as follows:

"I want all of you to know that in that critical decision you have been proved to be right. I said at the time that I ordered those strikes that it would reduce America's casualties. Before we went into Cambodia the number of Americans being killed each week in Vietnam sometimes reached 300, was averaging 200. This week the figures announced just yesterday: five. And over the past five to six weeks, less than 10. So we did what was right. You supported it, and I am most grateful for that support.

"Now, having spoken of the support that you have given in time of war, I am here today to ask for your support for another cause. It is the cause of building a lasting peace, and it is the cause of a new prosperity."

The President emphasized that in recent years there has been full employment only in wartime, but the cost was 300 American dead every week. He declared that his effort is to get prosperity without inflation and to win a lasting peace in Vietnam. He added:

"Oh, not the easy way: Just get out and let the Communists take over the country. That would only plant the seeds for another war and more aggression, because it would encourage it in the future; but the right way, the honorable way in which the people of South Vietnam have a chance to determine what shall be the future, at some time in the future, without having that imposed upon them by the Communists from the North. Now, as a result of the success of our programs in Vietnam, we have had some aggravation of the problem of unemployment."

The President, in discussing his forthcoming trip to Peking, pointed out that China within 15 years could with its nuclear power make a significant threat to the peace of the world. He said he did not want to wait to do something about it. He declared that the President has an obligation to future generations and "has no choice but to talk about those differences."

He added: "That is why I am going. We are going to try."

Despite the President's forthright speech to labor, it was obvious that George Meany, head of the AFL-CIO, was not too happy about the whole affair, and he pounded for order just as a number of delegates wanted to shake hands with Nixon as he walked out of the hall.

ILLEGAL IMMIGRATION GROWS

HON. JACK H. McDONALD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. McDONALD of Michigan. Mr. Speaker, the problem of illegal immigration grows more critical with each passing day.

No one knows exactly how many illegal aliens are in the United States. I have seen estimates ranging from 1 to 5 million.

But everyone in government directly concerned with the problem seems in agreement that our borders and ports of entry are veritable sieves through which tens of thousands of illegal aliens annually pour into our cities, where they either create new ghettos or go on welfare—when they are not taking jobs from needy citizens and driving them on welfare.

It is estimated that between 1 and 1.5 million illegal aliens are holding jobs that could be filled by unemployed Americans.

These people send back to their homelands between $1 billion and $1.5 billion each year, a huge chunk of earnings which only magnifies the balance-of-payments crisis.

They not only take jobs that Americans could hold, they also take advantage of our overcrowded housing, hospitals, and schools.

This is an extremely serious situation. It would be bad enough in relatively normal times; but these times are far from normal where our economy and the welfare of our citizens are concerned.

The pores in the sieve through which illegal aliens enter our country will only be closed when the risks outweigh the prospective monetary gains; when penalties against employers become a financial drain; when the men charged with protecting our borders have the manpower and laws to do the job; when the courts interpret the laws more strictly.

With millions of Americans unemployed and living in substandard housing, the flow of illegal aliens must be stopped—and stopped quickly.

DANGEROUS TOYS

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. HARRINGTON. Mr. Speaker, as a concerned parent I would like to bring to your attention the following facts concerning dangerous children's toys:

The Food and Drug Administration has banned 144 toys from the market. Many of these toys have been redesigned and are again on the dealers' shelves, but there is insufficient manpower to check every dealer to see whether the banned toys have been removed. Therefore, I particularly urge gift givers to check the list closely and examine each toy closely to make sure that it is not on the banned list or, if it is, that the version in the store is the redesigned product.

Before purchasing each toy, carefully check to see whether it has sharp edges or glass or plastic which might shatter. Look for gears and springs that can catch onto clothing or little fingers. Check the thermal properties of the toys—it should not use any flammable materials or have surfaces which attain high temperatures. Try to assess its breakability; small broken off pieces can be easily swallowed.

Building blocks should be well finished and smooth. Metal toys should have rolled edges to protect against cuts. Arrows and darts should have rubber cups securely fastened. Guns which shoot projectiles are meant only for older children and should be used under supervision.

With electric toys, check to see how the service cords attach to the appliance. Examine the potential heat hazards on the surfaces. Some of the toy ovens now on the market have locks which keep them from opening until the temperature has gone down. Still, be wary of all thermal toys—they may not open until the temperature goes down, but a child can still get a severe burn from the surface temperatures. Some experts have advised that play appliances using electrical current might best be set aside. For younger children nonoperational toys sufficiently stimulate the imagination. And for older children, the real household appliance operated under the supervision of an adult serves a more educational function.

All of us must act together to protect our children. Therefore I would like to present the following reports which I believe will be helpful to all of us in our Christmas shopping.

First is a list of helpful hints in choosing safe toys. Second, is a list of injuries associated with hazardous toys. Third is a list of banned toys dated September 16, 1971, and fourth is a list of banned toys dated November 15, 1971. All have been supplied to me by the Product Safety Division of the U.S. Food and Drug Administration.

Finally, Mr. Speaker, I have contacted the Food and Drug Administration and been informed that if anyone in the Boston area has questions about any toy, they should feel free to call or write Mr. Robert W. Kilpatrick, Product Safety Control, U.S. Food and Drug Administration, 585 Commercial Street, Boston, Mass. 02109. Area Code 617: 223–3171.

The material referred to follows:

HELPFUL HINTS IN CHOOSING SAFE TOYS FOR CHILDREN

1. Choose a toy appropriate for the child's age and development (Many toys have age group labels on the package.)

2. Remember that younger brothers and sisters may have access to toys bought for older children.

3. Check fabric labels for "non-flammable", "flame-retardant" or "flame resistant" notices.

4. Check instructions. They should be easy to read and understand. Instruct the child in the proper use of any toy that might cause injury through misuse.

5. Avoid toys that produce excessive noise. (Even toy cap pistols fired too close to a child's ear can cause damage).

6. Avoid shooting games, especially those involving darts and arrows, unless the games are played under parental supervision.

7. When choosing a toy for small children, make sure it:

Is too large to be swallowed;

Does not have detachable parts that can lodge in the windpipe, ears or nostrils;

Is not apt to break easily into small pieces or leave jagged edges;

Does not have sharp edges or points;

Has not been put together with easily exposed straight pins, sharp wires, nails, etc.;

Is not made of glass or brittle plastic;

Is not poisonous or toxic;

Does not have exposed flames or build up heat to dangerous levels;

Does not have flimsy electrical wiring; and

Does not have parts which can pinch fingers or catch hair, and for children under two (2) avoid long cords and thin plastic bag materials.

8. Choose carefully. Any toy if misused can be dangerous. There can be no substitute for parental interest and supervision.

INJURIES ASSOCIATED WITH TOYS, NATIONAL ELECTRONIC INJURY SURVEILLANCE SYSTEM, NEISS, JULY 1, 1971–SEPTEMBER 30, 1971

Products involved in injuries which were treated in hospital emergency room. (These toy injury figures have been extracted from N.E.I.S.S. data with 32 hospitals reporting. The figures do not represent or constitute a statistically valid sampling. Some of the 32 hospitals were not reporting for the entire 3-month period.)

Product Description:	*Frequency*
Skates, Roller	54
Toy Balls and Balloons	45
Toys Unspecified	44
Wagons	29
Tricycles	22
Skateboards	20
Toy Cars and Trucks and Non-Flying Airplanes, Boats	18
Fireworks and Caps	15
Toy Guns and other Toy Weapons without projectiles	10
Other Toys Unspecified, Carrying the Child, *not* Bicycles	10

Product Description—Con.	*Frequency*
Blocks, Pull Toys and Similar Items	9
Pogo Sticks and Stilts	7
Rocking Horses, Hobby Horses and similar Child Carrying Toys, not Wheeled	7
Toy Guns and Other Toy Weapons with projectiles	6
Games, Other than Electric	6
Toy Tools	6
Flying Devices, not Gasoline or Rocket Powered	5
Other Toys, Powered, Carrying the Child, *not* Bicycles	5
Non-Mechanical Dolls and Toy Animals	4
Other Windup and Battery Operated Toys	4
Other Toy Home Equipment, including Stoves, Sinks, Sewing Machines and non-heating Ovens and Irons	4
Scooters	4
Chemistry Sets	3
Toy Musical Instruments and Whistles	3
Juvenile Sports Equipment	2
Rocketry Sets	1
Other Science Kits and Toys	1
Children Play Tents, Play Tunnels and other Enclosures	1
Toy Medical Equipment	1
Doll Carriages, Strollers, Cribs etc	1
Costumes (Halloween, etc.)	1
Total	348

LIST OF BANNED TOYS, REASON FOR BANNING, AND DATE OF NOTIFICATION

SEPTEMBER 16, 1971

(NOTE.—Most of the toys on this list have been redesigned or their production ended since the date of notification.)

Champion Ring Darts—Lawn Darts: Haecker Industries, Philadelphia, Pa.; December 21, 1970; Inadequate Labeling.

King Model 1700—Lawn Dart: Change Athletic, 2615 Hunting Park, Philadelphia, Pa.; December 21, 1970; Inadequate Labeling.

Jarts—R. B. Jarts, Inc., Glen Falls, N.Y.; December 21, 1970; Inadequate Labeling.

Javelin Darts—Lawn Darts: Hasbro Industries, Pawtucket, R.I.; December 21, 1970; Inadequate Labeling.

Lawn Darts—Lawn Dart: Regent Sports Co., 2500 Ranick Road, Hauppauge, N.Y.; December 21, 1970; Inadequate Labeling.

Rocket Lawn Darts—Lawn Dart: Towne & Country Games, Ltd., Yonkers, N.Y.; December 21, 1970; Inadequate Labeling.

Squeeze "Zoo-Zee": Stahlwood Manufacturing Co., 601 West 50th Street, New York, N.Y.; December 21, 1970; Squeaker Removes.

"Dizzy Doodle" Doll—Squeeze toy: Park Smith Corp.; New York, N.Y.; December 21, 1970; Squeaker Removes.

Rubber Squeeze toy football player: Leisure Group, 100 Tubb Avenue, West Point, Miss.; December 21, 1970; Squeaker Removes.

Kooky Eyes—Squeaker toy: Azrak Hemway Corp., New York, N.Y.; December 21, 1970; Squeaker Removes.

Toy Rolling pin squeeze toy: Plaki Co., Youngstown, Ohio; December 21, 1970; Squeaker Removes.

Squeeze Toy Pig: J. L. Prescott Co., Arrow Molded Products Div., 493 Boulevard E., Paterson, N.J.; December 21, 1970; Squeaker Removes.

Little Angel play ball: Childhood Interest, Roselle Park, N.J.; December 21, 1970; Squeaker Removes.

"Toys for Fun" squeeze doll: J. L. Prescott Co., Paterson, N.J.; December 21, 1970; Squeaker Removes.

Toy poodle rubber squeeze toy: J. L. Prescott Co., Paterson, N.J.; December 21, 1970; Squeaker Removes.

Blue Fox Model Youngster Archery Set: Bear Archery Company, Grayling, Mich.; December 21, 1970; Inadequate Labeling.

Fleetwood Archery Cub Archery Set; Fleetwood Archery, Superior, Mich.; December 21, 1970; Inadequate Labeling.

Jerry Pets Stuffed Poodle: Jerry Elsner Co., New York, N.Y.; December 21, 1970; Sharp eyes.

Stuffed toy cat: Georg Jensen, Inc., 601 Madison Avenue, New York, N.Y.; December 21, 1970; Sharp eyes.

"Kooky-Eyes" Squeeze Doll: Uneeda Doll Co., Inc., Brooklyn, N.Y.; December 21, 1970; Removable eyes—possible ingestion.

Star Musical Rattle: Star Manufacturing Co., 100 Water Street, Leominster, Mass.; December 21, 1970; Sharp prongs.

Tumbler ball toy: Stahlwood Manufacturing Co., 601 West 50th Street, New York, N.Y.; December 21, 1970; Small pieces.

"Honey Baby" Doll: P & M Doll Co., Inc., New York, N.Y.; December 21, 1970; Pins holding hair ribbons.

"Baby Beth" Doll: Allied Doll & Toy Corp., Brooklyn, N.Y.; December 21, 1970; Straight pin holding hair ribbon.

Little Sophisticate Doll Model No. 79000: Uneeda Doll Corporation, Brooklyn, N.Y.; December 21, 1970; Sharp hairpins and straight pin holding ribbon. [Exemption granted; collector's item]

"I Cry Mama" Doll: Goldberger Doll Co., Inc., 538 Johnson Avenue, Brooklyn, N.Y.; December 21, 1970; Sharp wires.

"Candy at Play" Doll: Fun World, Inc., 200 Fifth Avenue, New York, N.Y.; December 21, 1970; Pin.

"Your Dream Bride" Doll No. 2080: Eugene Doll Co., Inc., 4012 2d Avenue, Brooklyn, N.Y.; December 21, 1970; Pin in head band.

"Mini-Bend-A-Family" Doll: Pensick & Gordon Co., 6501 Flotilla Avenue, Los Angeles, Calif.; December 21, 1970; Sharp Wires.

Toy Basket: Fun World, Inc., 200 Fifth Avenue, New York, N.Y.; December 21, 1970; Plastic spike.

"Jiggly" Rattle: Bomar Company, Division of Kitty Products, Inc., 542 East Squantim Street, Squantum, Mass.; December 21, 1970; Sharp metal and protrusions when handle breaks.

"Magic Action Hammer": Childhood Interests, Roselle Park, N.J.; December 21, 1970; Sharp edges when broken.

Jackie Twisting-Waist Doll: Fun World, Inc., 200 Fifth Avenue, New York, N.Y.; December 21, 1970; Sharp pin in hat and dress.

"Moody" Doll: Holiday Fair, Inc., 48 West 37th Street, New York, N.Y.; December 21, 1970; Pins and long wire spike in neck.

Stuffed Head: Georg Jensen, Inc., 601 Madison Avenue, New York, N.Y.; December 21, 1970; Sharp eyes.

Stuffed Toy Dog or Doll: LaMar Toy Company (2 Toys), 148 39th Street, Brooklyn, N.Y., December 21, 1970; Sharp eyes.

"New Born Baby" T. 80: Goldberger Doll Mfg. Co., 538 Johnson Avenue, Brooklyn, N.Y., December 21, 1970; Sharp wires in arms and legs.

Toy Telephone Rattle: Childhood Interests, Roselle Park, N.J., December 21, 1970; Small pieces.

Musical Merry-G-Round Canelon, F. W. Woolworth & Co., New York, N.Y.; December 21, 1970; Sharp spike.

"Squeaking" Toy Donkey: A. Ponnock, Inc., East State St. and River Road, Camden, N.J.; December 21, 1970; Squeaker removes.

Musical Hour Glass: Tico Toys, Pawtucket, R.I.; Before January 6, 1971; Squeaker removes.

Soft Baby Stuffed Dolls: Collette Toy Novelty Co., Inc., Long Island City N.Y.; May 26, 1971; Sharp wires.

Mascon Squeeze Toy Cheerleader: Leisure Group, Inc., West Point, Miss. Before January 22, 1971; Squeaker Removes.

Bend-A-Family: Miner Industries, New York. N.Y. Before April 19, 1971; Laceration/puncture hazard.

Plastic Squeeze Toy No. 20892, No. 1030/70 (2 Toys): Tidy Ties Corp. Importer, Monroe, La. About April 22, 1971; Squeaker Removes.

Talkie Tiger: Sanitoy, Inc., New York, N.Y. April 1, 1971; Speaker Removes.

Protecto Squeeze Me Toy No. 838: Reliance Products Corp., Woonsocket, R.I. Before May 20, 1971; Speaker Removes.

Stuffed Donkey No. 1422: Herman Pecker & Co. (dealer), New York, N.Y. March 29, 1971; Sharp wire in ear.

Leatherette Grandpa Dog No. 386: Herman Pecker & Co., Inc., New York, N.Y. March 29, 1971; Sharp Wires of Glasses.

Stuffed Easter Bunny No. 3502: Easter Unlimited, New York, N.Y. April 21, 1971; Sharp wires.

Toy Squeeze Doll No. 64034, No. 64039, No. 63542 (3 Toys): Tidy Ties Corp., Monroe, La., April 28, 1971; Speaker Removes.

Baby Gift Set No. Y7452: Childhood Interests, Roselle Park, N.J. April 22, 1971; Speaker removes, small objects, small parts.

Pata Cake Baby Rattler: W. W. Woolworth & Co., New York, N.Y., April 23, 1971; Sharp prongs.

Musical Rattle No. 37–T4037: New York Merchandise Co., Dallas, Tex., April 22, 1971; Sharp Prongs.

Squeeze Toy Giraffe No. 125: Sanitoy, Inc., New York, N.Y. May 4, 1971; Speaker Removes.

Musical Carousel No. 320: Plastic Toy & Novelty Corp., Brooklyn, N.Y., May 4, 1971; Sharp prongs.

Hedgehog Squeaker Teethers: F. A. O. Schwartz, New York, N.Y. June 18, 1971; Squeaker Removes.

Squeeze Me Toy No. 835; Reliance Products Corp., Woonsocket, R.I. May 6, 1971; Squeaker Removes.

Stuffed Dolls No. 127B: Collette Toy Novelty Co., Long Island City, N.Y., May 11, 1971; Sharp wires.

Squeaker Toys Nos. 6565, 6576, 6590 (3 Toys): Tidy Ties Corp., Monroe, La.; May 5, 1971; Squeaker Removes.

Stuffed Toy Bunny No. 3450 (Mr. or Mrs. Cuddly Bunny): Eastern Unlimited, Inc., New York, N.Y.; June 7, 1971; Sharp wire in ears.

Rattle No. 521: Electro Plastics, Inc., Newark, N.J.; June 19, 1971; Small pieces and sharp edges

Rattle No. 538: Toy Plastic Hammer, Electro Plastics, Inc., Newark, N.J.; May 19, 1971; Small pieces.

Rattle No. 522: Happy Mates Happy Toys, Electro Plastics, Inc., Newark, N.J.; May 20, 1971; Sharp pieces.

Rattle No. 540: Happy Mates Action Rattle, Electro Plastics, Inc., Newark, N.J.; May 19, 1971; Small pieces and sharp edges.

Rattle No. 530: Happy Mates Rattle Balls, Electro Plastics, Inc., Newark, N.J.; May 19, 1971; Small pieces and sharp edges.

Toy Green Cat, Squeeze Toy No. 679, Happy Toy No. 661 (2 Toys): Electro Plastics, Inc. (dist.), Newark, N.J.; June 7, 1971; Squeaker Removes.

Stuffed Dolls No. 131 c/1: Collette Toy & Novelty Co., Long Island City, N.Y.; May 26, 1971; Sharp wires.

Squeeze Toys No. 314: Stahlwood Toy Mfg. Co., New York, N.Y.; June 8, 1971; Squeaker removes.

Dolly Rattle No. 632: Stahlwood Toy Mfg. Co., New York, N.Y.; June 9, 1971; Small objects.

Whirle Suction Toy No. 660: Stahlwood Toy Mfg. Co., New York, N.Y.; June 8, 1971; Sharp edges and small objects.

Toddler Set Containing Suction Cup, Flipn' Roll No. 822: Stahlwood Toy Mfg. Co., New York, N.Y.; June 9, 1971; Small objects.

Horseshoe Rattle No. 200: Stahlwood Toy Mfg. Co., New York, N.Y.; June 8, 1971; Sharp edges and small objects.

Pretzel, Rocking Horse & Wishbone Toy No. 924: Stahlwood Toy Mfg. Co., New York, N.Y.; June 8, 1971; Squeaker Removes.

Squeaker Toy No. 63542 with Special Squeaker: Tidy Ties Corp., Monroe, La.; May 12, 1971; Squeaker removes.

Debbie Teen No. 1360 1/10: Thor Import, Inc., Dallas, Tex.; May 27, 1971; Sharp wires.

Musical Bells No. 105: Binky Baby Products Co., New York, N.Y.; June 22, 1971; Small objects.

Stuffed Myrtle Turtle: Len Art Mfg. Co., Petaluma, Calif.; June 14, 1971; Sharp wire and "I Love You" sharp pin.

Toddly Toy (cat) No. 3/186: Star Mfg. Co., Leominster, Mass.; June 14, 1971; Small objects.

Shake Me Rattle No. 818: Reliance Products Corp., Woonsocket, R.I.; June 14, 1971; Sharp edges & small objects.

Klatter Balls No. 2915052: Sears, Roebuck & Co., Chicago, Ill.; Binky Baby Products (importer), New York, N.Y.; June 22, 1971; Small objects.

Baby Toys No. 6257 and 6258 (2 Toys): Baby World Co., Inc., Great Neck, N.Y.; June 14, 1971; Sharp wire.

Reggie Rabbit (packaged with *Whitman's* Sampler): Imported by R. Dakin & Co., Inc., Brisbane, Calif.; May 14, 1971; Sharp wires.

"Poly-Fluff Animals: Consolidated Productions, Ft. Lauderdale, Fla.; June 21, 1971; Sharp nose.

Baby Rattler Nos. 831, 832, 833 and 834 (4 Toys): Childhood Interests, Inc., Roselle Park, N.J.; June 22, 1971; Small objects.

Hour Glass: Mego Corp., New York, N.Y.; July 7, 1971; Small objects and sharp edges.

Stuffed Yellow Teddy Bear: Fun World, Inc., New York, N.Y.; July 13, 1971; Sharp wires in ear.

Musical Chime Rattle No. 587: Binky Baby Products, Inc., New York, N.Y.; Around July 13, 1971; Small objects.

Toy Rattle No. 289; Binky Baby Products Co., Inc., New York, N.Y.; July 13, 1971; Small objects.

Rolling Fun Ball No. 377: Binky Baby Products Co., Inc., New York, N.Y., July 13, 1971; Small objects.

Teething Rattle No. 39/70: Binky Baby Products Co., Inc., New York, N.Y., July 13, 1971; Small objects.

Happy Hassock: Kasta Corporation, Bellevue, Iowa; July 13, 1971; Squeaker removes.

Toy Clown No. 265345: W. T. Grant Co., New York, N.Y.; July 13, 1971; Small objects.

Stuffed Bunny: Dollcraft Novelty Co., Inc., New York, N.Y.; July 14, 1971; Laceration/puncture hazard.

Squeeze Toys No. 690: J. L. Prescott Co., Arrow Molded Products Division, Passaic, N.J.; July 13, 1971; Squeaker removes.

Squeeze Toys, boys and girls likeness: Dreamland Creations, Bronx, N.Y.; July 12, 1971; Squeaker removes.

Rooster Pull Toy with Rattle Eggs No. 205: Mego Corporation, New York, N.Y.; July 12, 1971; Small objects.

Miss Fashion Doll: Blatt Distributing Co., La Mirada. Calif.; July 14, 1971; Sharp wire.

Musical Nursery Bells No. 640: Stahlwood Toy Mfg. Co., Inc., New York, N.Y.; July 13, 1971; Small objects.

Squeeze Toys No. 131: Binky Baby Products, Inc., New York, N.Y.; July 12, 1971; Squeaker removes.

Klatter Balls No. 793: Binky Baby Products, Inc., New York, N.Y.; July 12, 1971; Small objects.

Jingle Bells No. 764: Sanitoy, Inc., Palisades Park, N.J.: July 13, 1971; Small objects.

Happy-Mates Rattle No. 522 (improved design): Electro Plastics, Inc., Newark, N.J.; July 12, 1971; Small pieces.

"Squeeze N' Hammer Rattle" No. 538 (improved design): Electro Plastics, Inc., Newark, N.J.; July 12, 1971; Small pieces.

Dog Squeeze Toy No. 780/1: Louis A. Boettinger Co., Inc., Hewlitt, N.Y.; July 28 1971: Squeaker removes.

Bear with Dark Glasses Squeeze Toy BV–5: Louis A. Boettinger Co., Inc., Hewlitt, N.Y.; July 28, 1971; Squeaker removes.

Cat and Duck Shape Squeeze Toy BV–8: Louis A. Boettinger Co., Inc., Hewlitt, New York; July 28, 1971; Squeaker removes.

Colorscope Rattle No. 561: Louis A. Boettinger Co., Hewlitt, N.Y.; July 27, 1971; Small objects.

Assorted Rattles No. 5619P: Baby World Co., Inc., Grafton, W. Va. or Great Neck, N.Y.; July 23, 1971; Small objects.

Telephone Shaped Rattle No. 6623: Baby World Co., Inc., Grafton, W. Va. or Great Neck, N.Y.; July 23, 1971; Small objects and sharp edges.

Assorted Squeeze Toys No. 6500; Baby World Co., Inc., Grafton, W. Va. or Great Neck, N.Y.; July 22, 1971; Squeaker removes.

Klatter Balls No. 238; Baby World Company, Grafton, W. Va. or Great Neck, N.Y.; July 23, 1971; Small objects.

Klatter Ring No. 5868: Baby World Company, Inc.; Grafton, W. Va. or Great Neck, N.Y.; July 23, 1971; Small objects.

Plastic Doll Squeeze Toy No. 297: Binky Baby Products Co., Inc., New York, N.Y.; July 22, 1971; Squeaker removes.

Duck Squeaker Toy No. 3–680: Star Mfg. Company, Inc., Leominster, Mass.; July 23, 1971; Squeaker removes.

Monkey Squeaker Toy No. 3–160: Star Manufacturing Company, Leominster, Mass.; July 23, 1971; Squeaker removes.

Tutti-Fruitee Squeeze Toys No. 140; Stahlwood Toy Mfg. Company, Inc., New York, N.Y.; July 21, 1971; Squeaker removes.

Indian Drums No. 3715: Sally Distributors, 119 North Fourth Street, Minneapolis, Minn.; July 26, 1971; Sharp nail and small objects.

Toy Stuffed Porpoise: S. Dakin & Company, San Francisco, Calif.; July 28, 1971; Sharp wires in flippers.

Rattle Balls No. 907: Stahlwood Toy Mfg. Co., Inc., New York, N.Y.; July 26, 1971; Small objects.

Cuddle Rabbit No. 9406: Knickerbocker Toy Co., Middlesex, N.J.; August 18, 1971; Sharp wire in ear.

Animal Squeeze Toys No. 275: Stahlwood Toy Mfg. Co., New York, N.Y.; August 8, 1971; Squeaker removes.

Pata Cake Baby Rattler (new design): F. W. Woolworth & Co., New York, N.Y.; August 18, 1971; Sharp wire & small object.

Party Favors: Carousel Party Favors, Inc.: Los Angeles, Calif.; August 19, 1971; Noisemaker removes.

Klatter Balls No. 4530: Formulette Company, Inc., Long Island City, N.Y.; August 18, 1971; Small objects.

Jumbo Fun Ball No. 440: Formulette Company, Inc., Long Island City, N.Y.; August 18, 1971; Small objects.

Whiskers Toy Squeeze Lion: Ashland Rubber Products Corp., Ashland, Ohio; August 23, 1971; Squeaker removes.

Shake N' Rattle No. 921: Stahlwood Toy Mfg. Co., New York, N.Y.; August 23, 1971; Small objects.

Whistle Packaged in "Cracker Jacks": Cracker Jacks Co., Chicago, Ill.; August 23, 1971; Small object.

Squeeze Lion No. 3/187: Star Mfg. Co., Leominster, Mass.; July 23, 1971; Squeaker removes.

Xylophone Player No. 9151: Larami Corp., August 25, 1971; (Phila., Pa.); Sharp edges.

Suction Toy Rattle No. 674: Electro Plastics, Inc., Newark, N.J.; August 31, 1971; Small objects.

Toy Truck Kit No. 5044: Nadel & Sons Toy Corp., New York, N.Y.; September 2, 1971; Small objects.

Baby Toy Kit No. 5088: Nadel & Sons Toy Corp., New York, N.Y.; September 2, 1971; Small objects.

"I Squeak for a Squeeze" Stuffed Mouse: Rushton Co., Atlanta, Ga.; September 8, 1971; Sharp wires in ear & eyes.

Musical Ball: The Playhouse Co., Minneapolis, Minn.; September 8, 1971; Sharp prongs.

Patty Happy Landings Doll: Lovee Doll & Toy Company, Inc., New York, N.Y.; September 15, 1971; Straight pin in tam.

Squeeze Toys Nos. 2521 and 2548 (2 Toys): West Bros. of De Ridder, De Ridder, La.; September 15, 1971; Squeaker removes.

Toy Whistle No. 662: Ralph Pressner, Metairie, La.; September 15, 1971; Small object.

Vinyl Bendy Dogs: Paul E. Sernau, Inc., New York, N.Y.; August 18, 1971; Sharp wires. Exemption granted. [Item used only as a part of an adult novelty ash tray.]

NOVEMBER 15, 1971

Squeeze Toys Nos. 4000 and 4400: Aim Plastics, New Rochelle, N.Y.; September 29, 1971; Squeaker removes.

Suction Rattle Toys No. 660P (Birds and Train Styles); Stahlwood Toy Mfg. Co., Inc., New York, N.Y.; September 27, 1971; Small objects.

Musical Ball (Pink and White): Mego Corp., New York, N.Y.; September 22, 1971; Sharp prongs.

Party Balloons No. A24: Atlantic Stationery Corp., Jamaica, N.Y.; September 27, 1971; Noisemaker removes.

Chime Roly Toy No. 8200: F. W. Woolworth Co., New York, N.Y.; September 22, 1971; Sharp prongs.

Mouse No. I–508; Cut Rate Linoleum Store, New Orleans, La.; October 7, 1971; Sharp wires in hands or feet.

Stuffed Donkey No. 6303: Cut Rate Linoleum Store, New Orleans, La.; October 7, 1971; Sharp wires in ears.

Lady Bug No. T–215: Cut Rate Linoleum Store, New Orleans, La.; October 7, 1971; Sharp wires in ears.

Squeeze Telephones No. 2544; West Bros. of De Ridder, De Ridder, La.; October 5, 1971; Squeaker in base removes.

Clown No. S–209: Ralph Pressner Carnival Mart, Metairie, La.; October 7, 1971; Sharp wires in legs.

Musical Fashion Doll No. 5337: Ralph Pressner Carnival Mart, Metairie, La.; October 7, 1971; Straight pins.

Music Mate Pull Toy and Musical Playmate Pull Toy: Sankyo Seiki, Inc., New York, N.Y.; October 12, 1971; Small objects.

Soft Toys with music box and squeaker No. 00910 842, 00911 766, and 00916 785/938: Eden Toys, Inc., Jersey City, N.J.; October 12, 1971; Squeaker removes.

Spinning Top, red & blue color: Gamble's Import Corp., Burbank, Calif. About October 19, 1971. Sharp spike in base.

Melody Xylophone: Gamble's Import Corp., Burbank, Calif. About October 19, 1971. Keys have sharp edges.

Pop Pop Iron No. F–102: Plymouth Wholesale Corp., New York, N.Y. About October 19, 1971. Small objects.

Clothes Pin Squeeze Toy No. 183 and Squeeze Me Toy No. 2602. Childhood Interests. Roselle Park, N.J. About October 19, 1971. Squeaker removes.

Flocked Bull No. 39/412: Oriental Trading Co., Metairie, La. About October 19, 1971. Straight pin.

Candy Flutes No. 7335: Nodel & Sons, New York, N.Y. About October 19, 1971. Tone modulator shaft is sharp.

Toy Mouse No. 6/26 K: Oriental Trading Co., Metairie, La. About October 19, 1971. Sharp wires in ears & sharp eyes.

Merry-Go-Round Musical Ball: S & M Co., Minneapolis, Minn. About October 19, 1971. Sharp edges of plastic & sharp prongs.

Doll With Speaker in Mouth No. 1770: Distributors Imports Co., New Orleans, La. About October 19, 1971. Squeaker removes.

Squeaker Toy No. 435 (cow figure): Stahlwood Toy Mfg. Co., New York, N.Y. About October 19, 1971. Squeaker removes.

Elephant Squeeze Toys (old design): Eastern Molded Products, Clearfield, Pa. About October 19, 1971. Squeaker removes.

Stuffed White Dogs: R & R Toy Mfg. Co., Inc., Pen Argyl, Pa. About October 19, 1971. Sharp eyes.

Balloon-Squawkers Blowouts: Cardel Mfg.

Co., Brooklyn, N.Y. About October 19, 1971. Noisemaker removes.

Mechanical Merry-Go-Round: I. B. Wolfset & Co., New York, N.Y. About October 19, 1971. Sharp metal rod & small objects.

Toy Top (made in Germany): Frankonia Products, New York, N. Y.; About October 19, 1971; Small objects and sharp edges and rod.

Grandpa's Car No. 31519: Lord & Taylor, New York, N. Y.; September 12, 1971; Sharp and small objects.

Squeeky Lollipops: Altray Co., Inc., Bronx, N. Y.; October 18, 1971; Squeaker removes.

Stuffed Grey Mouse: Famiss Corporation, Brooklyn, N. Y.; About October 19, 1971; Sharp wire in tail.

Suarez Squeeze Toys: Suarez Toy House, Rio Peidras, Puerto Rico; About October 21, 1971; Squeaker removes.

Stuffed Swan with Flowers: Arrow Fur Co., Inc., New York, N. Y.; About October 19, 1971; Sharp wires in flowers.

Doll No. 8080 (old design): Jolly Toy, Inc., New York, N. Y.; October 18, 1971; Sharp wires in neck.

THE POLITICAL TAX: A WINDFALL FOR US

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. MICHEL. Mr. Speaker, now that the Democratic majority in the Senate has managed to attach the "Democratic Relief Act of 1972" to the tax bill, we must urge the House conferees to do everything possible to have it deleted from the tax package.

I am referring, of course, to the presidential checkoff fund amendment by which taxpayers will be able to check on their income tax returns as to which political party should receive $1 of the tax paid.

An editorial appearing in the November 26, 1971, edition of the Peoria Journal Star summarizes the thrust of this amendment about as effectively as anything I have read on the issue and I ask that it be placed in the Record at this point.

The Political Tax: A Windfall for Us

The Senate's neat little trick of tacking on a deal to the tax cut law that would filter out of the taxpayers some 50 million dollars for the politicians' campaigns might make some sense if it had been accompanied by meaningful restrictions on fund raising.

But it wasn't.

That means a multi-million dollar windfall—and where do you think the money would end up? Who do you think would get it?

We would!

That is not an editorial "we." By "we", I mean the media that disseminates advertising. Most of those "new" tens of millions would be handed over to TV, radio and newspapers.

Therefore, with such a windfall in sight, a good many "media" may look kindly at the proposal. In this instance, it represents a "conflict of interest"—especially for the large TV networks for whom such a bonanza would come at a time when they seem to be scratching for cash, anyway.

And what would this gigantic hunk of tax money be used for, in fact? Why for carefully-crafted, professional political "ads" of the kind that "create an image" for a candidate rather than inform of the public honestly.

The simple truth is that for presidential and senatorial candidates, alike, the Congress wouldn't need to provide vast sums of money for new gimmick campaigns if they would just let go of the nonsensical controls currently imposed on electronic media en masse.

When you set up tight rules by law, it really means that anybody who can finagle a way to technically qualify is entitled to the full benefits of such a law. In major elections, this means that there are always a number of people who are technically candidates, but who are not such in the practical or bona fide sense.

(The present proposal would vastly encourage people to manipulate themselves into the technical-legal position of candidate and thereby enjoy a publicly financed campaign of national publicity and advertising! For example, the promise of over six million bucks in public moneys to advertise would likely persuade George Wallace to run again—even if he had not intended to and had no real expectations in doing so! Thus a "political tilt" is created at taxpayers expense.)

If the so-called "fairness" controls were taken off the radio and television, the absolutely inevitable and natural result would be the presentation of all really bona fide candidates, extensively, in all media without cost. More importantly they would be presented in unrehearsed and impromptu settings far more true and realistic than the carefully tailored and artificial ad "spots."

That simply cannot be done under present rules because to do so opens up a no-ceiling set of obligations to burn time, money, and viewer-patience on the TV fulfilling technical requirements for every trick make-believe candidate in the land.

We would be a darn-sight better off with the kind of natural exposure candidates could get and would get with an unfettered TV-Radio industry than with all those candidates provided large sums of public moneys with which to hire specialists to concoct rigged "commercials."

That is especially true when we realize that in the meantime Congress has not even bothered to touch the real evils of political fund-raising.

The tens of millions extracted from taxes would be a plus—and little more than a windfall for all the media from taxes.

That is a dangerous road to travel, indeed.

We don't need the press and electronic media involved in that kind of temptation or corruptive influence.

We must recognize that it is the Congress of the United States that has made natural exposure of candidates unworkable, and that the Senate has now attempted further to perpetuate the "gimmick" style campaigning by doing it at taxpayer's expense.

What we really need, instead, is a "new birth of freedom" for the TV industry—not a windfall of income for political campaigns.

And if they prove willing to "sell out," we're in real trouble.

C. L. Dancey.

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,600 American prisoners of war and their families.

How long?

RECOLLECTIONS OF J. F. K.

HON. DONALD W. RIEGLE, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. RIEGLE. Mr. Speaker, last week on the editorial page of the Washington Post, David Broder had an excellent editorial marking the 8th anniversary of the death of President John F. Kennedy. I insert this editorial, "Recollections of J. F. K." into the Congressional Record at this point.

The editorial follows:

Recollections of J.F.K.

(By David S. Broder)

Washington went about its business yesterday with little to indicate that it was a notable anniversary. It was eight years ago yesterday that John F. Kennedy was murdered in Dallas, eight years since the gunshots at the underpass by the grassy knoll cut a brutal gash through the history of our era.

Eight years is the equivalent of two presidential terms. The eight years since John Kennedy's death have been dominated by two men who were his great rivals in life—Lyndon Johnson, who fought him for the nomination, and Richard Nixon, who opposed him in the election of 1960.

Johnson held the presidency for more than five of those years, and Richard Nixon yesterday afternoon had occupied the White House precisely as long as Kennedy was allowed.

The verdict of history is still some time distant for Kennedy's successors, and yet it seems fair to say that as of today, there is little reason to think that either the Democratic delegates or the nation's voters made any mistake in 1960 in judging that Kennedy was the best man of the three.

This is so, despite the fact that Johnson as President passed a massive liberal domestic program likely to be felt and remembered far longer than Kennedy's few bits of New Frontier law.

And it is the case, despite the fact that Nixon's accomplishments in foreign policy—given time and good luck in liquidating the Vietnam war and pursuing the negotiations with the Russians and Chinese—may dwarf Kennedy's handling of the Cuban missile crisis, the passage of the trade expansion act and the negotiation of the nuclear test ban treaty.

Kennedy's standing rests not on the specific accomplishments of his brief tenure, but on the qualities of national leadership he embodied. They are qualities which, if anything, are better understood today, after eight years of absence, than they were in his lifetime.

John Kennedy was a man of reason, a man with a love of public debate, a man who saw politics quite literally as the arena for public testing and public determination of national policy.

As a candidate, Kennedy turned instinctively to the public forum and to open debate—with Johnson, with Nixon, and with anyone else who cared to test his political worth. Confronting prejudice—the fear of his Catholic faith—he did not shrink or hide, but boldly faced the purveyors of that prejudice and disarmed them with cool reason.

As President, in times of crisis, whether economic, political or military, his instinct was to invoke the public wisdom. It may be foolish to ask what he would have done had he been confronted with Johnson's choices in Vietnam in 1965, but it is not foolish to ask how he would have done it.

He would not have led the country into massive war by stealth and indirection, as Johnson did, for he would have known, as he had always known, that a policy that cannot be enunciated openly and defended in public debate is almost certainly bad policy.

But if Kennedy was a man of reason, he was also a man of passion, who felt injustice and was not ashamed of making moral distinctions between the strong and the weak, the oppressors and the afflicted, in America and the world.

One remembers him quoting, on so many nights in that campaign against Richard Nixon, the words he loved from Franklin Roosevelt's 1936 acceptance speech: "Governments can err, Presidents can make mistakes, but the immortal Dante tells us that divine justice weighs the sins of the cold-blooded and the sins of the warmhearted in a different scale. Better the occasional faults of a government living in the spirit of charity than the consistent omissions of a government frozen in the ice of its own indifference."

Those words have more force now—in this city of frozen-faced men—than they had then. As Lyndon Johnson feared the free play of reasoned debate, so Richard Nixon seems to fear the consequences of concern, compassion and a generous spirit. His is government by the grim; Johnson's was government by the sly.

Because Kennedy was neither grim nor sly, neither dour nor devious; because reason and passion coexisted so comfortably in his person; and because he made us all believe, at least for a short time, that politics could be a rich adventure, an exercise of the best that we possessed in mind and spirit; because of this, and much more, he is mourned today, eight years and two Presidents after he was struck down.

UNION CITY YOUNGSTERS HELP SAVE ENVIRONMENT

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. EDWARDS of California. Mr. Speaker, I would like to draw the attention of all the Members of Congress to the activities of a group of young people in Union City, Calif. Children at Searles School, the students of Mrs. Marion Davies, planned and followed through on a program to help our environment that could be a model for youngsters all around the country. These students cleaned up their schoolyard and the territory they covered while walking to school. They convinced their mothers to save all glass—clear and green—all aluminum cans and all bimetal cans. The glass and aluminum are to be sold and the bimetal containers are taken to a recycling center. This project had two goals, the first to clean up the litter spoiling their world and the second to earn money to buy trees to help clean up the air. As a result of 6 weeks of work, the children had $20 for the purchase of trees for the Searles School playground. In addition, they helped in the effort to remove trash from the environment, to make this a more pleasant world to live in. I know that Mrs. Davies must be very proud of her students and I have no doubt that the parents and entire Union City community share that pride in these young and conscientious citizens. The world would perhaps be a better place if we grownups approached our pollution problems with the same vigor that these fine youngsters have shown.

HARRY CAUDILL'S TESTIMONY

HON. CARL D. PERKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. PERKINS. Mr. Speaker, Harry M. Caudill, a distinguished Kentucky lawyer and former legislator has achieved a global reputation as an authority on the effects of surface mining on the environment. His major work in this field, "Night Comes to the Cumberlands," is known throughout the country.

A few weeks ago, Mr. Caudill came to Washington to present his views on strip mining before the Subcommittee on Mines and Minerals, chaired by our colleague, Representative Ed Edmondson, of Oklahoma.

I think the Members of the entire House will find his remarks interesting, and I insert them in the Extension of Remarks of the Record.

The remarks follow:

A Plea for a National Policy on Surface Mining

(Testimony of Harry M. Caudill)

Gentlemen, my name is Harry M. Caudill. I reside at Whitesburg, Kentucky and am an attorney-at-law. I appear before you as a private citizen and not as a spokesman for any organization. I am grateful that at long last there is some small evidence that the Congress may begin to meet its responsibility to the American land and people and develop a comprehensive, tightly-enforced national policy regulating surface mining in the United States. Unless this is done soon I am convinced that as a nation and a people we are headed into unmitigable calamity.

I was born in 1922 in the very heart of the Appalachian mountains and have been surrounded all my life by coal mines, coal miners and coal companies. For as long as I can remember I have been profoundly distressed by the ruinous impact of the coal industry on the people who depend upon it and the land from which its product is wrested. As a member of the Kentucky Legislature in 1952 I voted for Kentucky's first strip mining law. That law was "improved and tightened" in 1956 and I supported the changes. In 1960 I sponsored the Reclamation Act that, as amended, went on the books that year. I have maintained a constant interest in my state's laws and regulations in the sincere hope that they would protect its western plains and its beautiful, timber-covered eastern hills. It is with sadness that I tell you Kentucky's seventeen year struggle has been a failure and that the ruin of its land continues unabated.

These experiences led me long ago to conclude that only federal legislation of the sternest character can be effective. A number of circumstances now coincide to make national action in the near future an absolute imperative.

In the first place, the American land is richly endowed with solid fuels and other minerals. The ancient Appalachian range is one of the richest natural resource regions in the world and the dozen states across which it runs contain vast deposits of bituminous coal, thick ledges of limestone and silica-rich sandstone, huge deposits of marble, talc and granite, some copper and lead, and important quantities of gibbsite, grahamite, gneiss and other important but little known substances.

Across our western plains in Kentucky, Illinois, Indiana, Ohio, Iowa and Kansas lie tremendous deposits of coal, and huge veins of it lie in Arkansas, Oklahoma, Texas, Arizona, Utah, Colorado, Oregon, Washington, Alaska and small areas in California. The Dakota wheat-fields grow above extensive tracts of lignite. Texas is underlain with great beds of iron ore, as are Minnesota and Alabama. In Florida there are valuable deposits of phosphate rock and in Georgia kaolin and other commercial clays. Arizona, Utah, Nevada and California contain copper, silver and gold. Sand and gravel are practically ubiquitous, and are always in demand. There are literally dozens of other minerals in our soil, all of which will some day be sought by miners.

The second factor is a vastly accelerated demand. The nation's population now is about 210,000,000 and its appetite for minerals is insatiable and fast growing. Its consumption of electricity increases at nearly 10% annually and most of it is generated in coal fired furnaces. Americans alone may be expected eventually to consume all the resources within their landscape as a colony of bacteria will consume the apple that harbors them. But Americans are not alone in exerting pressures against the American land. The Japanese industrial colossus is almost without mineral reserves in its homeland and must extend its tentacles throughout the world in search of raw materials. The Common Market and other industrially advanced states must reach out by ship and pipeline for the fuels and ores that keep them going. Our disastrous national economic policies have piled up billions of dollars in Japan and Europe and they are now coming home in exchange for our minerals and wood. If my sources of information are accurate foreign countries are now getting more timber out of our national forests than do Americans—and this at a time when nearly a third of the nation is still poorly housed.

The third factor in the new threat is modern earth-moving technology. From the Sumerians down to about 1950 the almost universally accepted way of recovering solid-state minerals from the earth was by tunnel and pillar mining. Entries were driven into a hillside or a deep shaft was sunk into a plain and men dug their way to the deposit of coal or lode of metal. Then they bored into it by alternating tunnels and pillars. Enough of the deposit was left in place to hold up the top until the miners could work their way to the outer limits of their territory. Sometimes as they mined back toward the portal they would remove the pillars and take out nearly all of the mineral. Obviously, this method of mining is very costly. It requires large numbers of workmen. It is dangerous and men are killed and others are injured in cave-ins and explosions. Dead men, crippled men, widows and orphans accumulate around every mine mouth and this has been true for thousands of years. Only surface mining can do more harm to men, women and children than traditional subterranean operations.

With roaring speed this has all changed. The diesel engine has given us the bulldozer and it has grown to gigantic size. We have developed the highlift, surely one of the most remarkable tools to come from the human mind. Our scientists and technicians have assembled immense shovels that tower above hills and plains like iron Titans. The biggest of these machines is as tall as a twenty-two story building. With these machines have come a host of complementary, though lesser ones, including drilling devices and numerous rubber-tired and very agile carriers of overburden. A huge auger with a crew of three or four can drill directly into the exposed face of a coal seam and drag out the fuel at a rate which could not have been equalled by a hundred miners working in a similar vein in 1940. Of equal importance is the development of a cheap new explosive. Petroleum and fertilizer are mixed and the soupy paste can blast a mountain apart with all the violence and a third of the cost of dynamite.

In a mere instant of historic time these technological developments have rendered the old tunnel and pillar mining obsolete. Industrialists naturally want to take advantage of new efficiencies and, consequently, half of all our coal is now recovered by stripping, and half of all our strip mining is done for coal. Company by company they discharge the miners on their pay-rolls, lock the doors of company towns and disassemble the industrial structures on which the nation has relied for a century. Then a few men with the new machines take mountains apart layer by layer for the coveted coal, copper or iron ore. Or they go to the prairies of the Dakotas, peel back the earth and lift out the lignite to power Los Angeles. The hills and plains of Ohio, the plains of Indiana and Illinois, the phosphate fields of Florida—every place where commercially valuable minerals lie in the earth—have been or will be assaulted in this manner. No such place is sacrosanct; none is likely to escape. A mining company can now tear a mountain apart for its minerals almost as easily as a child can rip up a pile of sand. The whole earth has become the plaything of industrial man. Unless governments decree otherwise the 1970s may see the end of old-style tunnel and pillar mining.

I lament the utter ruination of the hills of my own homeland and the assault surface mining has made on people of my blood and name. I have seen once clear streams choked with mud, and lawns and gardens layered with foul sediments from the spoil heaps. And I have seen wells that once brimmed with crystalline water filled to the top with yellow mud flecked with coal. I have visited the homes of widows and work-worn old men whose basements and cellars reeked of sulphurous slime from the spoil banks. I have seen the shattered roofs, the broken gravestones and the fences that tell of the blasting that "cast the over-burden" from coal seams. I saw the sad, disbelieving face of one-armed Herman Ritchie of Clear Creek in Knott County, Kentucky after he came home from a federally sponsored vocational school and found his house knocked from its foundations by a massive land slide. I was attorney for Roosevelt Bentley of Jenkins, Kentucky, a paraplegic ex-coal miner whose house was severely damaged by washouts from a mine operated by Bethlehem Steel Corporation.

And I sat by the desk of Governor Edward Breathitt when eighty year old Mrs. Bige Ritchie—a neighbor of Congressman Carl D. Perkins—told the Governor how she stood on the front porch of her home and saw the bulldozers come to her family cemetery after coal for the Tennessee Valley Authority. She shouted to them that the graves of her children lay in front of them, but they ignored the pleas of an old, impoverished and helpless woman. "I thought my heart would bust in my breast," she told the Governor, "when I saw the coffins of my children come out of the ground and go over the hill." Neither the TVA nor the mining company ever apologized for this enormity. All of these things happened in America and under the protection of the American flag. The Congress, swathed in the bland unconcern that has caused millions of U.S. citizens to despise their own government, took no note of these events. There were, instead, murmurs that the lights must not be allowed to go out.

Experience in the ancient societies of China and India indicates that in the long generations that lie before us all our land will have to be used by growing hordes of people. If we allow strip mining to continue as at present those who carry our genes in the after time will inhabit grim, gray spoil banks, and they will curse us for what we will have done to them.

Our heedless assaults upon the land have already made changes that will endure through a long geologic era. In Appalachia the wind and the rain long ago leached out the minerals and when rain falls upon undisturbed hillsides the runoff is fresh and sweet. The blade of the bulldozer brings up unleached soil and the mineral content of surface water rises at an awesome rate. The Kentucky River just above the town of Hazard is illustrative. In 1963 a study by the U.S. Public Health Service measured its iron content at 0.02 parts per million and manganese at 0.00 parts per million. Just three years later after extensive strip mining had occurred on the upper reaches of the watershed iron rose to 2.1 parts per million and manganese to 0.8 parts per million. The U.S. Public Health Service has set the maximum tolerance levels of these substances at 0.3 parts per million and 0.05 parts per million respectively. On other watersheds ravaged by stripping iron has been measured at 88.8 ppm and manganese at 74.7 ppm! And this water is consumed daily by hundreds of thousands of people. The new, costly and very dead Corps of Engineers reservoir at Pound, Virginia testifies to the impact of strip-mine poisons on living things.

Silt, too, is a deadly and inevitable by-product of stripping, as was determined by a joint federal and state research project conducted on two adjacent neighboring valleys between 1955 and the end of 1963. One of them, Cane Branch, was extensively strip-mined for coal while Helton's Branch was left in its undisturbed stand of second growth timber. Silt traps were installed to catch soil washing down from the hills. The stripped land was reclaimed by an agency of the industry, the Kentucky Reclamation Association, in conformity with state law. The undisturbed valley yielded 27 tons of silt per square mile, while the stripped territory across the ridge gave up mud at the rate of 30,000 tons per square mile "affected."

As global energy and raw material needs climb and more and bigger ore and coal ships are built to carry out minerals to other shores, mining surges westward. All states having deposits of coal and other minerals are certain to have strip mines in their future. The Interior Department report, *Surface Mining and Our Environment*, issued in 1967 showed that some form of stripping had already occurred in all states. Only Congress can fix the limits within which such mining can be tolerated and protect American citizens in their homes, lawns, gardens, fields and pastures—to assure their right to safe drinking water and to sleep at night without fear of floods boiling up from choked waterways.

I urge the Congress to adopt a three-pronged legislative solution to this problem.

(1) The legislation should forthrightly outlaw strip mining in such areas as southern and central Appalachia and the somewhat gentler hills of Ohio where the slopes are so steep and the rain fall so great that restoration of the land to its former and natural utility, contour, and best natural purpose, is impractical or impossible. Unless this is done, and done speedily, there will be no Appalachian heartland. It will have been reduced to a ruined jumble. The people will have to move to the already overgrown and mutinous cities and the desolate mountains will plague the nation with gigantic flows of mud for generations to come. The stake of the taxpayers in this proposal is tremendous. And since natural beauty is beyond price and stripping and beauty are incompatible, such mining ought to be banned in areas of significant scenic loveliness and in important wildlife habitats. Nor should it be authorized in towns and other heavily populated territories where important human values will be disrupted, nor where any highwall will be created. And, of first priority, no stripping should ever be authorized in those situations where legal title to the minerals has been severed from the title to the land generally, and the owner of the surface estate does not consent.

(2) It should authorize strip mining only where total restoration of the land can be carried out promptly and effectively. It should require that the top-soil be scraped off and saved with the subsoil and the rock strata being similarly lifted out of the pits and segregated. When the minerals have been removed the rock should be restored to the pits first with the subsoil following in its natural order. The subsoil should be compacted and coated with the original top-soil and, where there is enough rainfall to sustain vegetation, the surface should be treated with fertilizer and limestone, planted with trees and sowed to suitable grass or leguminous cover. These things are done now routinely in Germany, England and Czechoslovakia.

It must be noted, however, that even under the careful, systematic and costly procedures I have outlined a severe difficulty remains: subterranean water flows are permanently disrupted and charged with minerals. Sometimes stripping goes 800 feet into the earth and on such areas no wells can ever produce water for farms and villages. This factor may, in fact, justify the prohibition of such deep stripping, or even all stripping.

(3) The federal government should commence a massive program to purchase and restore lands already stripped. The inventory of ravaged earth is growing daily. It already greatly exceeds the whole land area of the state of Connecticut. In 1967 the New York Times editorialized that there was then enough to make a swath a mile wide extending from the Statue of Liberty to the Golden Gate. In ten years an area the size of West Virginia will have been ruined. In the name of all that is just and sensible let us use some of the money we are now devoting to the destruction of Vietnam to reconstruct stricken portions of our own country.

The task of repairing our mutilated lands will prove to be difficult and frustrating as well as expensive. The healing of dismembered mountains should be assigned to teams of engineers and conservationists. In many areas if acceptable results are to be achieved enormous quantities of dirt will have to be dragged back up the hillsides, perhaps by machines which have yet to be invented. Vast tonnages of stone may have to be crushed to release their nutrients for new crops of timber and grain. Other stone will have to be buried. Lavish quantities of fertilizer, and compost, as well as limestone will have to be applied, perhaps by giant helicopters designed and built for the purpose. Historic experience has indicated that the Bureau of Reclamation in the Department of the Interior is best suited to accomplish this gigantic undertaking. As an Appalachian mountaineer, I hope the task of reclaiming my shattered homeland will be assigned to the Bureau. I know that an objection will be raised that the Bureau does not operate in eastern America, that its mission has traditionally been restricted to the West. But this is no argument at all. Its experience and orientation have lain in bringing life to barren land. It has successfully handled giant projects over broad regions, as countless verdant acres now attest.

In the millions of acres in our orphan banks the Bureau of Reclamation can find a new challenge worthy of its best men and greatest traditions. It is the logical organization in the Federal Government to combine the expertise of the Fish and Wildlife Service, the Bureau of Outdoor Recreation, the National Park Service, Bureau of Mines, Southeastern Power Administration, and the Federal Water Pollution Control Administration, all within the Department of the Interior, as well as other Federal agencies whose skills and talents would be needed for this historic undertaking.

Some day the taxpayers of the Republic will have to assume the cost of restoring, insofar as possible, the lands we have already plundered. We cannot undo history, but we can undo some of the harm history has done. The British are now spending on land restoration about $1.15 per ton of coal mined, and we must face up to the inevitability of similar heavy outlays. It will cost billions of dollars. The $750,000,000 indicated by Secretary Udall's report is certain to fall woefully short of the mark. No true patriot could object to the financing of this essential undertaking and I hope Congress will not hesitate to appropriate the funds to get the work started.

But the general taxpayer should not be called upon to bear the whole burden of rehabilitating our industrially maimed land. The industries that rip up our soil and their customers who share directly in the benefits of such mining should carry most of the load. Otherwise we will have capitalized the profits while socializing the losses—an increasingly popular arrangement with Congress and a large part of the nation's industry.

Let me suggest that the Congress finance such reclamation out of a trust fund supported by a special levy on extractive industries. Senator Lee Metcalf has introduced a bill to impose a federal severance tax on all minerals taken from the American earth. It is sensible legislation and the states will benefit enormously from its enactment. Each state in which large-scale extraction occurs suffers from a lack of funds caused in part by the importation of people to work in the extractive industries which simultaneously lower the tax base by damaging the land. Senator Metcalf's bill would compel huge and thriving corporations to leave behind for schools, libraries and hospitals some of the money they now take out in such astonishing amounts.

In my opinion the levy proposed by Senator Metcalf is too small insofar as it pertains to surface miners as distinguished from subterranean miners. Five percent is not enough. It should be 10% and a half of the amount should go into a restoration trust fund. The trust fund should pay for the fitting together of shattered mountains, the smoothing and seeding of ravaged prairies and plains, the cleaning of polluted air and silted streams and for research on how best to accomplish these desirable ends.

My proposals aim at *restoration* rather than reclamation. As I have already noted this is, to a large degree, being achieved routinely in Czechoslovakia, Germany and England and it can be done here. I urge the sub-committee to go to those countries and see for yourselves how it is possible in some terrains and under some conditions to remove minerals without apparent lasting damage to the land and its living things.

Some of you may be thinking along that silly old line, "Well, your proposals will lessen coal production and turn off the lights." If so you are pathetically ignorant of the American scene. Deep mines are closing as strip mines take their market. Deep miners are out of work and at this hour hundreds of them are lined up to apply for unemployment insurance benefits. Before you go to Europe to see how land can be restored when a government wants it done, you might make a side trip to Whitesburg, Kentucky and talk to men who have lost their jobs to bulldozers and you might even ask them how they expect to feed their families in the bleak winter that lies ahead. From there you could fly to Iowa, the nation's breadbasket, 45% of which can be stripped for coal. There you might ponder that if your descendents are to enjoy the glories of corn-bread, bacon and beefsteak you must make certain that Iowa survives undisturbed.

If you worry about our lights going out consider slowing coal exports to Japan. It is ironic that during World War II we ravaged our land for fuel to put out the lights in the Japanese empire: now we tear up our land for coal to keep those same lights burning!

Finally and most important, I urge you to hold field hearings in eastern Kentucky and in other parts of our nation where strip-mining has taken place. Hear the opinions of local people who have seen mountains come tumbling down and whole counties subjected to the threat of dissolution. Then go look for yourselves and there amid the whirling dust and the roaring machines, by the dead streams, jumbled plains and murdered mountains, make up your minds as to the dimensions and urgency of the problem, and whether we can afford to waste another day in coming to grips with it.

NATIONAL BIBLE WEEK

HON. VERNON W. THOMSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 18, 1971

Mr. THOMSON of Wisconsin. Mr. Speaker, November 21–28 is the 31st annual interfaith observance of National Bible Week. We all sense that the Bible, its precepts and its cultural heritage form the basis of American society today. But even more. Historically, the Bible provided that firm rock of faith upon which the Founding Fathers built this country. The inspiration found in its pages helped strengthen the courage of pioneers as they stretched the frontiers of this Nation westward to the Pacific Ocean.

The Bible offers each of us a sure respite from the frustrations and pressures of modern living. Its principles offer continuing guidance for personal living. With all the forces that seek to divide our peoples in these trying times, the Bible offers the unifying hope that good men will live together in peace and with charity.

The Bible, though written centuries ago, continues to brighten our lives, whatever our religious affiliations or beliefs. The principles of faith contained therein are universal. The Bible tells us the simple formula for peace for every person and for every nation:

> And what doth the Lord require of thee but to do justly and to love mercy and to walk humbly with thy God. (Micah 6:8)

Let these words be with us during this observation of National Bible Week.

UNIVERSITY OF CALIFORNIA'S HILDERBRAND—AGELESS SCHOLAR

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. WALDIE. Mr. Speaker, I would like to include an article from the San Francisco Chronicle in today's RECORD, as a tribute to a fine mind at the University of California at Berkeley.

Now 90 years old, professor emeritus Joel Hilderbrand is still working hard in his career. He is considered one of the best by his colleagues, and stands today as a tribute to the generation of Americans who are legally too old to serve, but serve anyway.

It is with pleasure, Mr. Speaker, to include this excellent article by William Moore for inclusion in the RECORD:

[From the San Francisco Chronicle, Oct. 26, 1971]

UC's HILDERBRAND—AGELESS SCHOLAR

(By William Moore)

It was a slightly incongruous scene, there on the fourth floor of Latimer Hall, a concrete-and-glass high rise in the midst of many on the University of California's Berkeley campus.

Students and professors scurried through the labyrinthian hallways—in and out of laboratories, classrooms, offices and elevators.

"Dr. Hilderbrand," said a young lab technician, pronouncing the name with reverence, "he's right over there in room 437."

The door to the office was wide open, revealing chemistry professor emeritus Joel Hilderbrand—who'll be 90 years old on November 16—working alone, curiously aloof from the academic choreography outside.

FIGURES

Flanked by shelves, bulging with books and test tubes, he sat crouched over his desk, furiously scrawling down figures on a stack of graph sheets.

This was Hilderbrand. The man they call the dean of American chemistry, a member of the Berkeley faculty since 1913, teacher of more than 40,000 students, winner of practically every major chemistry award, college administrator, educational philosopher, prolific author, mountaineer, one-time Sierra Club president, manager of the 1936 U.S. Olympic Ski Team.

Now he was working on the research that has consumed much of his life—the nature of solubility and the structure of liquids. In a week his latest research will be published in the Journal of Science.

Hilderbrand sprang from his chair and strode briskly across his office to greet his visitors.

RULES

"Remember now, it's Professor Emeritus Hilderbrand," he said, his eye mischievous behind his wire-rimmed glasses. "The rules said I had to stop teaching in 1952 because theoretically I was supposed to be senile. I have been pseudo retired ever since."

He laughed uproariously, and it was a beguiling sight. Here was a man—a handsome, white-maned gentleman, with a sturdy, trim physique—who could have passed for some 25 years younger. Only when he laughed did the few wrinkles on his massive brow become noticeable.

SUPPORT

"Actually," he said, "the Atomic Energy Commission and the National Science Foundation have been supporting much of my research since 1952."

He pulled out a sheaf of papers to explain his current work.

"I'm concentrating on the viscosity of liquids and the diffusion of dissolved substances," he said. "No progress had been made in this for a long time, but I think I have reduced it to simple terms that enable us to calculate and predict viscosity and diffusion."

GRAPHS

He pointed to some graphs that, to the layman's eye offered impressive and convincing proof that there was indeed a predictable pattern to the logarithms (the exponents of those powers of fixed numbers which equal given numbers) of certain types of solubility.

"People used to assume there were two kinds of molecules: solid and liquid," Hilderbrand said. "Well, there aren't. There is just one kind."

The applications of this and Hilderbrand's earlier research are rife.

Hilderbrand, for instance, was the first to prove, in 1925, it would be safer for deep-sea divers to inhale a combination of helium and oxygen, rather than air, because helium is much less soluble than the nitrogen in the air.

EFFECT

If a diver surfaces rapidly, Hilderbrand showed, nitrogen bubbles from air can be formed within him, causing enormous pain and even death from the bends. The phenomena doesn't occur with the less soluble helium.

But as Hilderbrand himself made clear, he does not conduct his research with such immediate practical applications in mind.

Indeed, Hilderbrand shyly admitted "the fire of poets burns within any real scientist."

To bolster the point, he grabbed a book off his shelf and turned to a quotation from Henry Poincaire: "The scientist doesn't study nature because it is useful; he studies it because he delights in it and he delights in it because it is beautiful."

ORDER

Hilderbrand, speaking excitedly now, explained: "I am trying to discern order from chaos. That's what all scientists are trying to do. When you get on the right track, you know it. Things start falling into place. Scientists don't shatter into fragments any unity. On the contrary, they collect, sort and build into structures—some of which became great cathedrals."

The professor began to pace about his office. "The scientist, if he is any good, is born curious—like a child," he continued enthusiastically. "He remains a scientist as long as hasn't become old and uninterested."

Hilderbrand said he arrives at his office at 9 a.m. each weekday and spends at least six hours a day conducting his research, with the aid of one or two graduate assistants.

"It's too exciting around here not to come to work," he said. "I don't want to miss anything, especially when I see the possibilities of explaining the next area beyond where I have been."

SUBSTITUTE

On occasion he fills in as a substitute lecturer in under-graduate chemistry classes and invariably receives thunderous applause after his lectures.

Before he retired, he prided himself in teaching the introductory chemistry course for 39 years. A dramatic speaker—he describes himself as a "ham"—his courses were among the most popular on campus.

"In freshman chemistry," he said, "I had all the properties an actor needed."

His most famous act occurred during each Stanford-Cal. Big Game week when he would bring out a giant test tube and fill it with red fluid (Stanford's colors) to an inevitably booing audience.

"I would then explain to them that chemists can change things and that it is not what happens in the first half of an experiment that counts but the last quarter," Hilderbrand related.

Thanks to an alkaline miracle. Hilderbrand's test-tube fluid would suddenly turn blue and gold (Berkeley's colors), usually bringing an ovation.

DEAN

Hilderbrand spoke proudly, too, of the College of Chemistry, which he once served as dean, a college that for years has been considered the leader in the field. (One of its four buildings was named after him when it was built five years ago.)

Hilderbrand then turned to his great love: the mountains. In addition to his many chemistry books, including an introductory text book still widely used today, he has written several works on hiking and skiing.

Until a few years ago, he was still an active backpacker. "I used to ski a lot, but I had to give it up reluctantly at age 75 on the orders of my family," he said.

Hilderbrand has four children, 12 grandchildren and four great grandchildren.

HOME

His wife Emily—they were married in 1908—and he have lived at 500 Coventry road in Kensington since 1924.

"I still get a lot of exercise from tending a big garden there, and I walk everywhere—never take the elevator," Hilderbrand said. "My secret is to stay energetic.

"I also try to stay in contact with young people. You'd be amazed at how many freshman come up to talk with me. They want to see what Hilderbrand looks like."

The professor emeritus put on a sporty racing cap, grabbed a cane and strode briskly out of his office, passed the laboratories, the lecture halls and the swirl of younger humanity.

He was off—as he is off most days at noon—to the faculty club for lunch with his colleagues.

THE BIG BUDDY BATTLE

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. PICKLE. Mr. Speaker, in this age the word "gap"—generation gap, credibility gap, economic gap—is as common as toothpaste. It is a popular term these days.

But when the gap you are talking about is that between normal society and mental retardation, the popularity of the phrase dwindles considerably. We tend to want to turn away and forget that this gap exists at all.

Down in Austin, Tex., however, some folks are spanning the chasm of mental retardation. The tool they are using—ordinary people.

Nanette Wiese of the Austin Citizen describes a new program—sponsored by the Austin-Travis County Mental Retardation Counseling Services, funded by the generosity of local residents, and relying on people willing to give up at least 2 hours a week to be a "Big Buddy" to a mildly retarded child.

It helps to span a lot of other gaps on the sideline, too, for it is a government agency with citizen support—and a lot of university students for volunteers.

It shows a kind of spirit we could use a lot more of.

Miss Wiese's article follows:

THE BIG BUDDY BATTLE

A "soft revolution" is in the making.

The battleground: mental retardation.

The army: Big Buddies.

Volunteers in a special "Big Buddy" program sponsored by the Austin-Travis County Mental Retardation Counseling Service are conducting what project director Allen Danzinger calls a "soft revolution" because "they're trying to make the weak strong."

The mainly college-age Big Buddies are all inclusive and the ranks include males and females, anyone interested in extending an open hand to help pull a youngster across the chasm of mental retardation.

The program, which is now a year old, is a concerted effort to align on a one to one basis volunteers to work with mildly retarded youngsters or those known as the "six hour" retarded children to keep them in society and out of institutions.

"Many of the youngsters come from one parent homes," Danzinger said, "and are often classified as mentally retarded due to a low IQ score without regard to his adaptive behavior which may be exceptionally adaptive to the situation and community in which he lives."

Although the 110 children who now have Big Buddies span the race spectrum, Danzinger admits most are "black and chicano because these are the ones most often classified as mentally retarded when they don't do well in school."

Although most of the volunteers come from the university communities, Danzinger has plans to incorporate all citizens in some phase of the program.

The main participant is the Big Buddy who is assigned a Little Buddy for a minimum of two hours a week for six months. The Big Buddy volunteer has the choice of following planned activities ranging from recreation to crafts or can write his own script and take his Little Buddy on excursions into libraries, parks, stores or even his own home.

"We can't reach everybody and we can't reverse a lot of what's happened, but we can take a child with a frown and turn it into a smile," the program director explained.

One of the most successful methods of finding out how to get rid of the frowns has been outdoor camping, according to the center's recreation and physical education director Bill Griebel.

Griebel said it is a lot easier to get a child interested in outdoor recreation and then find out what the problem is than to approach his parents with offers of psychological testing.

"So many youngsters have been tagged retarded due to behavior, and if we can modify the kid's environment, the experience can prove very therapeutic," he said.

Griebel said the camping program has proved invaluable since "one day at camp can tell more about a youngster than records kept over 10 years.

"You've just got to have first-hand experience, or what we consider the meat, to understand these kids," he said.

Last weekend, the Big Buddies and Little Buddies participated in a Halloween campout at the state maintained Leander Rehabilitation Center 17 miles from Austin.

Griebel said the more capable youngsters pitched their own tents and "slept under the stars" while the more restricted ones bunked in the dormitories provided at the center.

"We hope this will be the first of four or five campouts, because we have seen the results, but we need new resources," Griebel said.

"New resources," of course, means new places to find money. Danzinger said the volunteers are already giving their time and burdening them with the entire expense is impossible.

"When you look at how much it is to keep a youngster in an institution and how little that goes into facilities for the mentally retarded, it's embarrassing," Danzinger added.

"People don't want to see these kids, they want to build a big, fancy institution and stick them away out of sight," Danzinger continued, "but we see this program as a prevocational step that helps provide them with what they will need to get and maintain jobs."

Griebel said the whole focus of the program is that "we hope this will be a powerful enough an influence to keep them in society."

The program director said individuals and organizations can help in other ways than by becoming Big Buddies—by sponsoring one child to the special summer camp for seven weeks that Griebel supervises.

"We also need people who can give time to administrative and telephone duties since there's so much involved in keeping this thing going."

The efforts of University of Texas students provided the center with "the green bus" because transportation was a particular problem in carrying out the program.

But it's going to take more efforts by many more people, both Danzinger and Griebel agreed.

A Big Buddy button is also available for $1 to anyone who would like to contribute monetarily to the project and Danzinger said anyone interested in becoming a Big Buddy or finding out what else can be done can contact him or Griebel at the Mental Retardation Counseling Service at 474–1581 . . . there are now 40 children waiting for Big Buddies.

THE CHILD WELFARE LEAGUE OF AMERICA COMMENTS ON THE COMPREHENSIVE CHILD DEVELOPMENT TITLE OF S. 2007

HON. JAMES C. CORMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. CORMAN. Mr. Speaker, the Child Welfare League of America, I am certain, needs no lengthy introduction to the Members of this House. As a privately supported organization, it has, since its establishment in 1920, devoted its efforts completely to the improvement of care and services for children. Some 374 child welfare agencies are affiliated with the league. Represented in this group are voluntary agencies of all religious groups as well as nonsectarian public and private nonprofit agencies.

The league's primary concern has always been the welfare of all children regardless of their race, creed or economic circumstances.

One of the league's primary functions is to set standards for child welfare services. Particularly pertinent to the Congress, as we consider the conference report to S. 2007, the 1971 Economic Opportunity Act amendments, and the very important title V of that bill, The comprehensive child development program, is the league's work over the past 10 years on standards for day care services.

The league supports the child development program based on its understanding of what is contained in the conference report. In a recent discussion with a member of the leagues staff, I was told that the child development program is in accord with most of the leagues' principles and standards for day care services.

Since we are shortly to consider the conference report, I asked to have the league's comments sent to me for I believe they are important in evaluating the need for this legislation. I am placing the text of the league's letter of November 24 to me at this point in the RECORD and hope that my colleagues will take a few minutes to read it.

The letter follows:

CHILD WELFARE LEAGUE OF AMERICA COMMENTS ON THE COMPREHENSIVE CHILD DEVELOPMENT TITLE OF S. 2007

The League supports the concept of federally financed, universally available comprehensive day care and other early childhood programs. More specifically we believe that there are certain basic principles which should be incorporated in any child care legislation and which can be used as criteria for judging the merits of various child care proposals. These principles include the following:

(1) The welfare of the child should be the prime consideration in child care programs.

(2) *a.* Child care should be available to all children in need of such care regardless of the socio-economic circumstance or employment status of the family. (Initially, there would be priorities in providing service for the economically disadvantaged.)

b. Cost for care to a family should range from free to full payment, depending upon the family's financial resources.

c. Programs should provide for continuity of care for children irrespective of changes in the economic or employment status of parents.

d. Programs should be available to children on a part-time or full time basis according to the needs of the child and his family.

e. The same programs should be available to all socio-economic groups. Children should not be separated into different programs on the basis of the socio-economic or employment status of the family. The establishment of a two-class child care system should be avoided.

(3) Child care programs should be of a comprehensive nature—that is, in addition to providing care and protection, they should make available a variety of services, such as nutritional, health, psychological, social work and educational services. Programs should not be limited solely to physical safekeeping or so called "custodial care."

(4) Standards to insure a sound quality of child care should be established with particular reference to the ratio of staff to children, and to the quality and training of staff. There should be provision and adequate funding for enforcement of standards. Government funds should not be permitted to finance child care which does not meet proper standards.

(5) There should be provisions for parental involvement in all child care programs.

(6) There should be flexibility of administration to permit adaptation of programs to meet local needs.

(7) Funding should be adequate to support the needed quality and quantity of child care.

Our comments on S. 2007 are based on the texts of the bills passed by the House and Senate, and on our current understanding about decisions made by the Conference Committee on certain key issues, although the Conference Report has not been available to us.

We believe this bill is worthy of your support because it sets a pattern for sound child care programs in the future. It is in accord with most of the League's principles. Among its merits are a primary concern for the welfare of children; sound federal standards for services which would protect and help children; child care programs of a comprehensive nature; services which would be provided free to families with incomes under $4320 and at low cost to those families with incomes between that amount and the BLS Lower Living Standard of $6900. (Fees for families above this income level would be set by the Secretary of Health, Education and Welfare.)

Although we would have preferred a higher income eligibility level for free service, we believe this compromise will achieve at least some of the desired socio-economic mix and will provide care at a low cost for nonwelfare low-income families struggling to make ends meet.

Claims that the state will take over child rearing under S. 2007 are clearly not based on the facts. Such opposition reveals a lack of knowledge about the legislative provisions since parents may voluntarily choose whether or not to make use of child development or child care services, and parents help determine how the services should be run.

Although we are aware that even if S. 2007 becomes law the Administration may not fund the child care programs up to the authorized level, we believe that this bill establishes a more satisfactory basis for quality child care programs in the future. We are hopeful that budget priorities will change over the next few years and that there will be increased recognition of the importance of services to help children.

There is a need for quality child care to help all children achieve their maximum potential so that they may emerge from childhood as healthy, secure and productive adults. We believe this legislation would be a step in that direction.

WEEKLY REPORT TO NINTH DISTRICT CONSTITUENTS, NOVEMBER 29, 1971

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. HAMILTON. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the text of my last Weekly Report, November 29, on the pay and price guidelines set out in phase II of President Nixon's economic policy:

WASHINGTON REPORT—CONGRESSMAN LEE HAMILTON

By and large, the pay and price guidelines set out in Phase II of the President's economic policy have been well received. Most Americans apparently feel that they can contribute substantially to bringing the rate of inflation down to 2 to 3 percent by the end of next year. My general impression is that the guidelines represent a major step toward price stability.

In the abstract, the price policies seem to be fair enough. In principle, the long range annual productivity increase of 3 percent, deducted from the 5½ percent average wage increase, will produce the average 2½ percent price increase. On paper, it looks fine. In practice, of course, it may not work out that way at all.

We should remember that controls do not end with abstractions. There are thousands of specific disputes and hardships which await these Boards in enormous numbers and variety, and everything will depend upon the good sense and equity of the critical early decisions.

On the whole, the guidelines are tougher than I had anticipated. These tough rules are bound to evoke complaints from businessmen, most of whom already think their profits are too low, and from labor, which already feels that the guidelines are uneven, applying to wages but not to profits.

The sternness of the guidelines is modified by their flexibility and by the number of items exempted from controls. All of the standards set by the Commission may be modified by consideration of equity. Although a basic ceiling of 5½ percent was established for wages, the guidelines leave the door open for adjustments to allow for inequities. The long list of goods and services exempted from price control represent about one-fifth of the average family budget.

The major question and the biggest weakness of Phase II is the lack of adequate enforcement machinery. Without strict and fair enforcement, equity is not possible, and without equity, the system will lose the support of the people, and the whole effort will collapse. Voluntary compliance is relied upon heavily, while surveillance is going to focus on the big firms.

There have been suggestions within the ranks of organized labor that it should pull out of the Pay Board and begin an open battle with the President over the New Economic Policy. I hope this course of action is not followed, and I don't believe it will be. Labor's two biggest gripes have been (1.) the disallowance of pay increases during the freeze, and (2.) the way in which the White House has manipulated the Pay Board.

The whole question of retroactive pay may be overblown. The differences are not all that great. Back pay increases cover 13 weeks of the freeze and amount to something like one-half of 1 percent of the Nation's total wage bill. In many cases, there is a willingness on the part of the Pay Board to make exceptions and to permit the deferred increases, except possibly for a few outsized increases.

I must confess a disturbing feeling that the Price and Pay Boards were hurriedly assembled in an atmosphere of crisis and without sufficient consideration of the long-term implications, especially philosophical underpinnings of the controls. Concern also arises from the confusion of the initial days of Phase II, and from a recognition that many difficult problems are ahead. There is concern about what will happen if Phase II doesn't work, and whether we will ever be able to get away from controls, and if we do, will we go back to them again each time we have an economic crisis. Others, I believe, share these doubts and questions and it may help explain why the business community has held back its approval of Phase II, as evidenced by the sluggish stock market.

Finally, the goal is just not controlling inflation, but also to stimulate the economy with increasing production, expanding trade and more jobs. My chief concern is that the employment side hasn't been pursued with the same vigor as the control side.

No one envies the Boards' tough task of writing the specifics of their standards. The Pay and Price Commissions are going to need the firm backing of the President and the Congress if they are going to find genuine price stability.

DISTINGUISHED HISTORY OF COMPANY A, 1ST BATTALION, 115TH INFANTRY, FREDERICK, MD.

HON. GOODLOE E. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. BYRON. Mr. Speaker, I visited recently with the officers and men of Company A, 1st Battalion, 115th Infantry of the Maryland National Guard at the State armory in Frederick, Md. I was impressed by the outstanding quality of this unit, its excellent training and readiness and want to congratulate Capt. James F. Walsh and his men for the job they are doing. I was also briefed on the unit's distinguished history which I feel indicates the continuity of pride in this National Guard unit. I would like to share that history with my colleagues:

DISTINGUISHED HISTORY OF COMPANY A, 1ST BATTALION, 115TH INFANTRY, FREDERICK, MD.

In the early history of Frederick County, the name of Cresap was a synonym for heroism. It was linked with so many deeds of military bravery and daring that people naturally turned to Cresap for leadership whenever an emergency arose. It was for this reason that the committee of Frederick County in June 1775 selected Michael Cresap to be Captain of the first company of riflemen that Frederick was sending to the Revolutionary War. The message of appointment found Michael Cresap in the midst of a pioneering project in the west and in failing health. True to the spirit of his ancestors, he accepted the appointment knowing that it was the same as a warrant for his death (Ironically, Colonel Thomas Cresap, the father of Michael Cresap, lived to be 106).

When word of the appointment of Michael Cresap, to command Company A was disseminated men who knew the Cresap family from afar hastily went to Old Toune, the Maryland home of Michael Cresap, to join his ranks. Twenty-two volunteers were at his home awaiting for him when he arrived home after accepting his appointment in Kentucky. Soon the Company numbered one-hundred thirty, and by the time the men had marched through Maryland the ranks had grown so fast that enlistments had to be halted.

The Company left Frederick on August 5th, 1775 to begin the 551 mile trek to Massachusetts. As they passed through communities, the men of Company A amazed the citizens with their marksmanship. They astonished spectators as later they astonished the British by picking off targets at seemingly impossible distances for the muskets of that day.

The manner in which Captain Cresap handled his men elicited much praise from those who saw the Company. They accepted his with absolute obedience and, from the accounts of spectators, seemed to be as devoted to him as he was to them. One observers says he had the ability to be "friendly without loss of self respect".

The long march was finished about midsummer. Captain Cresap's company was the first to reach Cambridge from the south. On August 13th, 1775, order was received to join General Washington's forces. By that time Michael Cresap was a very ill man. Soon he was forced to retire because of illness. He left for home, but to late to make the full journey. He died on October 18th in New York City where he was buried with full military honors in Trinity churchyard. His grave remains there today.

This was the spirit of company A; the spirit that lived in the men who later served with the unit whenever the nation issued a call.

During the Civil War, Company A served as part of the First Maryland Infantry (Federal) under Colonel John R. Kenly and at Front Royal, Virginia on May 23rd, 1862 when the famous motto "Rally Round The Flag" was born.

On September 29, 1881, Company A was one of the existing units incorporated into the newly organized First Battalion of Infantry, Maryland Army National Guard. This Battalion being a direct ancestor of the First Maryland Infantry (Federal) during the Civil War contained Companies A, B, C and D. It was expanded into the First Regiment of Infantry on May 7th, 1886 by the incorporation of Companies from Elkton (E), Catonsville (F) Annapolis (G), Waverly (H), Towson (I), and Company K from Baltimore.

Company A was murtered into Federal service along with the remainder of the Maryland First Infantry Regiment on May 11th, 1898 and was assigned to the Second Army Corps during the Spanish-American War. The unit was mustered out of Federal service on March 15th, 1899.

The Company was later called into Federal service again on June 28th, 1916 and saw duty with the Regiment at Eagle Pass, Texas during the Mexican Border incident. During this campaign the company was commanded by Captain Elmer F. Munshower. (Captain Munshower also commanded the company when it was called to duty during World War I and was Battalion Executive Officer when the 115th Infantry was again called to duty in World War II. He later served as Division I.G., and later was assigned as Post Commander at Camp A. P. Hill, Virginia. He retired a full Colonel in 1945). The unit was mustered out of Federal service from the Mexican Border on November 4th, 1916.

The Company was again mustered into Federal service on August 5th, 1917 and was combined with other units of Maryland's First and Fifth Regiments to form the 115th Infantry Regiment, 29th Infantry Division. The unit trained extensively at Camp McClellan, went overseas and served with typical distinction, mainly in the Meuse-Argonne offensive. The unit was demobilized at Camp Dix, New Jersey on May 30th, 1919.

Company A along with the other units of the old regiment was reorganized on July 31st, 1923. The 115th Infantry was redesignated the First Infantry Regiment, Maryland Army National Guard.

On January 1st, 1941 the regiment was again redesignated as the 115th Infantry Regiment and was inducted into Federal service February 3rd, 1941. Company A left Frederick under the command of Captain Guy Anders, a man who had served as a platoon sergeant during the World War I Meuse-Argonne Offensive. (Later Sheriff of Frederick County). A total compliment of more than 180 men left the city to once again answer the call to colors. Company A, along with the other units of the Regiment served with distinction at such places as Normandy (Omaha Beach), St Lo., Villeboudin, Viro, Brest, Bethendorf, Kirchbery, and other enemy held locations. Many of Fredericks' Sons and fathers left their blood in Europe during these campaigns. The unit was mustered out of Federal service on January 17th, 1946 at Camp Kilmer, New Jersey.

The unit was reorganized with Federal recognition in February 1947 under the command of Captain Alfred Cutsail, who commanded until November 1953. Between 1953 and March 1963 successions of command in Company A went to Captain Willard Horine, Captain Paul L. Crum Jr, Captain Robert L. Strine, and Captain Kenneth L. May. In March 1963, the unit was separated from the 115th Infantry and assigned to the 2nd Battalion 175th Infantry with Headquarters in Dundalk. Along with this change the command of the unit fell to the responsibility of Captain James F. Walsh. It was also in this period of time that Company A became involved in Civil Disturbances. On three occasion the unit was sent to Cambridge, Maryland to quell the riots there. It was also during this period that the strength of Company A diminished to less than 60 officers and men. In spite of this Company A came out as the "best" company during summer camp, over other units of the 2nd Battalion 175th Infantry. Captain James F. Walsh and 2nd Lieutenant Ernest M. Snyder were the only officers in the unit at the time and the enlisted strength was a mere 53 men. In spite of the fact that other Companies in the Battalion contained nearly twice the manpower. Company A excelled in almost all phases of training.

In November 1965, another reorganization saw Company A once again as part of the 115th Infantry. This was the inception of the "Selected Reserve Force", and for the first time in history, the unit was split between two cities, Hagerstown and Frederick. Captain Boyd M. Cook, a former Army Company Commander was selected to command the unit. This proved to be a worthy challenge since the following months saw training in all weather and drills were extended to 72 per year. (Some selected officers and enlisted men performed as many as 96 drills).

In January 1968, another reorganization combined the Hagerstown and Frederick elements together in the Frederick Armory. The troop authorized strength of 178 made it the largest post-war company ever in Frederick.

Company A saw civil disturbance action again in April 1968 following the assassination of Martin Luther King Jr. The unit spent eight days in Baltimore coming home on Easter Sunday. It can be said that the actions of Company A and other elements of the 115th Infantry Regiment during this duty helped once again to prove their worthiness for any occasion. Within 2 weeks after the riot duty, the unit was called out on a voluntary basis to help search for a three-year old boy lost in the Catoctin Mountains. After twenty hours, the men of Company A were successful in their search and brought the youth out of the mountains in good spirits. (Less than 1-year before the men of Company A located another lost 3-year old boy west of Frederick).

In October 1968, 1st Lieutenant Ernest M. Snyder, a sixteen year veteran of the Company gained command of the Company as Captain Cook moved on to the Battalion Staff as Motor Officer. Authorized troop strength for the unit had been reduced to 160 enlisted men and 6 officers early in 1968, and the unit no longer assigned the role of "Selected Reserve Force", was once again training on a 48 drill a year basis. Things seemed quiet now, but training has a new depth. Greater emphasis is placed in individual proficiency and a tone of seriousness is seen in all training sessions due to the far east conflict. True to form, changes are iminent.

The personality of Michael Cresap still lives in the men of Company A. This is the spirit which has, and always will typify those men of Company A, who stand ready to answer the call to colors. This is the spirit that has built the nation, protected it, and somehow becomes enlivened whenever the nation needs the citizen soldier.

The times change; the years change; the complexities of politics and modern warfare become overwhelming and the citizen soldier like the regular becomes a professional in his own right.

In four years, Company A will be two hundred years old. It is obvious to us who have served the unit that the spirit of Cresap's Rifles has remained undaunted through those many years.

POST WAR COMPANY COMMANDERS

Capt. Alfred Cutsall, Capt. Willard M. Horine, Capt. Paul L. Crum, Jr., Capt. Robert L. Strine, Capt. Kenneth L. May, Capt. James F. Walsh, Capt. Boyd M. Cook, Capt. Ernest M. Snyder, Capt. Robert B. Houser, Jr., Capt. Kenneth W. Lamont.

FOUR BILLS ASSIST THE AGED

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. FAUNTROY. Mr. Speaker, during the past several months, I have begun to intensely study the unique problems of our elderly citizens with a view toward developing a comprehensive legislative program designed to assist them in maintaining a meaningful and productive existence in a society whose orientation seems to be the search for a fountain of perpetual youth. As we are all aware, no one has found the magic fountain, and no one has solved the problems of our aged. Among these unsolved problems is that of mobility, socializing, nutrition, and rehabilitation after a chronic illness.

I am today introducing four bills that promise some hope in meeting these unsolved problems. The first bill is designed to assist the elderly in obtaining access and use of public transportation, the second would provide funds to construct senior citizen community centers, the third would provide funds for a nutrition and meals program, while the last would initiate research in the problems of chronic care.

NEW TRANSPORTATION SERVICES FOR THE ELDERLY

The first of these four problems is perhaps the least difficult to solve. For the elderly, public transportation is often the only means by which they can visit one another, shop, and obtain medical care. Public transportation, too, is the only means by which they are able to move their domiciliary, since the availability of and the cost of transportation may preclude their moving, if it should be beyond their physical or financial means. We may not now be able to do very much about the amount of physical access; we can definitely do something about the costs very quickly. Let me indicate what this means.

In the first place, lower costs would allow the elderly to simply be able to visit their friends and take much better advantage of the many activities that are free in any city. This means that they are better able to maximize their limited incomes; and, their mobility becomes a stabilizing influence in the community of which they are a part because they can now become more active in the cultural and social life of the city.

In the second place, since all forms of transportation would be affected by my bill, long-distance travel would now become much more possible for the elderly. Many of them would be able to visit the places, the shrines, and the parks which they are not now able to visit or visit only rarely. It seems to me that providing this ability is the very minimum that we can do for those who have given the best years of their life to making this the Nation with the greatest capacity for offering a dignity to life inherent in the democratic ideal.

Specifically, this bill, the Senior Citizens Transportation Services Act, provides that applications under the provisions of the Mass Transportation Act must contain provisions for a reduced fare program for those 66 and older. The bill also provides provisions for a reduced fare on common carriers in interstate commerce. Other provisions of the bill provide that motor vehicle insurance must be made available to the elderly and that all facilities for transportation must be equipped to insure access for both the elderly and the handicapped.

SENIOR CITIZENS COMMUNITY CENTERS

It is not enough, however, to just provide transportation. We must offer our senior citizens the opportunity to formulate their own programs, to obtain at an accessible site special services, and to meet with one another in the setting of a community service center. The second bill would provide that the States shall construct, from funds provided by HEW, multipurpose centers for the senior citizen under such standards as HEW shall find acceptable in consultation with the State(s). A very important aspect of this bill is that senior citizens must be consulted in the planning stages, as well as be hired in operating the program, to the extent most possible.

LOW COST MEALS AND NUTRITION TRAINING

One of the major problems of our elderly is the lack of proper nutritional planning. This results from the loneliness and despair that often accompanies one who lives alone as well as one who lacks the resources for purchasing the proper foods. My third bill goes to the heart of this problem in two ways. It offers to the elderly low cost nutritionally sound meals served in community centers or elsewhere which allows, thereby, that the individuals receive, first, adequate nutrition, and second, the benefits of social contacts.

REHABILITATION FOR CHRONIC CARE PATIENTS

My fourth bill authorizes appropriations of $5 million for the fiscal year ending June 30, 1972, and $10 million for each of the next 3 fiscal years to enable HEW to make grants to any public or nonprofit private agency, institution, or organization to cover all or any part of the costs of projects for the development of demonstration programs designed to rehabilitate aged inpatients or to assist such patients of long-term health care facilities to attain self-support or self-care. This bill does not offer as an immediate impact as do my other three; it does, however, provide the opportunity for the initiation and continuation of programs designed to enable the chronically ill to be able to become self-sustaining or at least become better able to live with their ailment. The implications of this bill are far greater than the others because it is the first step of a definitive recognition of the problems of aging qua aging.

We have yet to understand the aging process; but, we do know and understand that people of certain age groups are prone to suffer from a variety of ailments that confine them to institutional care. It is important that we strive to cure them; it is equally important that we provide these persons with a will and a means to physically and mentally cope with what, if not a terminal illness, is a debilitating illness. If we recognize and do this, we will have done more to make treatment effective than any other single thing.

I know, Mr. Speaker, that many of my colleagues are equally concerned about the aged population. I am pleased to know that so many people are becoming interested in this problem because as one who has served as a pastor and community leader in one of our largest urban communities, I know what it means to people—particularly poor people—who reach those years that really ought to be the golden years. Too often these years are only bleak with a grayness that signals only death. We have the capacity to end this plight and I do hope that we act rapidly to do so.

HOUSE OF REPRESENTATIVES—*Tuesday, November 30, 1971*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

The Lord will give grace and glory: No good thing will He withhold from them that walk uprightly.—Psalm 84: 11.

Most merciful and gracious God, cleanse our hearts, clarify our minds, and give courage to our souls as we face the duties and responsibilities of this day.

Reveal to us the means whereby our spirits may be strengthened, our freedoms fortified, and the integrity of our country increased. Give us to realize anew that Thy favor toward us is found in obeying Thy laws, in doing Thy will, and in living with love in our hearts.

Keep alve within us the dawning of the day when people and nations will be united in the bonds of brotherhood singing the song that shatters the spear and the sword and telling the story of truth and mercy which shall usher in a period of peace and prosperity for all.

In the spirit of the Master we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

PERMISSION FOR THE COMMITTEE ON APPROPRIATIONS TO FILE A PRIVILEGED REPORT ON A SUPPLEMENTAL APPROPRIATION BILL

Mr. MAHON. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on a bill making supplemental appropriations for the fiscal year ending June 30, 1972, and for other purposes.

Mr. BOW reserved all points of order on the bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

THREATENED VETO OF TAX BILL

(Mr. BOGGS asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. BOGGS. Mr. Speaker, I take this time to express concern at the statement on yesterday that was attributed to the congressional liaison director of the White House, Mr. Clark MacGregor, threatening a veto of the tax bill now in conference between the House and the Senate.

In the almost quarter of a century that I served on the Committee on Ways and Means, I can never remember any President threatening that committee or the Congress, either the House of Representatives or the Senate separately or jointly on a measure as important as the tax bill.

The President has said this tax bill is a vital part of his economic program and yet, while the conference is still meeting and is still attempting to work out the differences between the two bodies, the President of the United States threatens the Congress with a veto. I hope he is not serious about this, because I am sure that it has dawned on him that at this late hour in this session it is extremely remote that the Committee on Ways and Means will go back to the tax bill, report out a new bill and bring it here to the floor and send it over to the other body for consideration.

If this is simply a political ploy, which most people seem to think it is, then I say it is quite regrettable that the President would use this type of tactic.

Finally, if it is a political ploy, it is certainly not going to have any desirable effect in helping the economic conditions of this country. If the people get the idea that all the President is doing is playing politics, then there certainly will be no economic revival which is so desperately needed in this country.

PROPOSED TAX BILL

(Mr. GERALD R. FORD asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. GERALD R. FORD. Mr. Speaker, I have not had an opportunity to check the historical record, but I suspect that other Presidents have indicated on other measures in advance of the conclusion of the conference report that certain provisions in a bill, if included, would result in a veto.

Let me say on this tax bill specifically, I commend the House Committee on Ways and Means and I commend the House of Representatives for passing a constructive tax reduction bill not identical with the provisions recommended by President Nixon, but a good bill with some responsible variations.

The 120 some amendments added to that tax bill in the other body, making it a typical Senate "Christmas tree," does raise many, many valid objections to what might come out of that conference.

The President is not playing politics with the tax reduction proposal he initiated. The tax bill as reported by the Senate is so different from the House bill and President Nixon's tax cut proposal that I do not think the House could swallow that bill. Therefore, it is incumbent upon the conferees to get rid of all or most of those extraneous amendments so that we can have a good tax bill, so that the country will know we are going to eliminate the 7-percent excise tax, we are going to increase the standard deduction, we are going to increase the personal exemptions, and we are going to have a job investment tax credit proposal. Those are the things the President recommended. That is what the House approved. I believe that is what we ought to come out with so far as the conference is concerned. To load it up with a Senate "Christmas tree" operation, in my opinion, would be bad for the country.

APPOINTMENT OF CONFEREES ON H.R. 9961, FEDERAL CREDIT UNION ACT EXTENSION

Mr. PATMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 9961) to provide Federal credit unions with 2 additional years to meet the requirements for insurance, and for other purposes, with the Senate amendment thereto, disagree to the Senate amendment, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Texas? The Chair hears none, and appoints the following conferees: Messrs. PATMAN and BARRETT, Mrs. SULLIVAN, Messrs. REUSS, MOORHEAD, ST GERMAIN, and WIDNALL, Mrs. DWYER, and Messrs. JOHNSON of Pennsylvania and J. WILLIAM STANTON.

CONFERENCE REPORT ON S. 29, CAPITOL REEF NATIONAL PARK, UTAH

Mr. TAYLOR, on behalf of Mr. ASPINALL, filed the following conference report and statement on the bill (S. 29) to establish the Capitol Reef National Park in the State of Utah:

CONFERENCE REPORT (H. REPT. No. 92–685)

The Committee of Conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 29) to establish the Capitol Reef National Park in the State of Utah, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill, and agree to the same with an amendment as follows: In lieu of the matter inserted by the House amendment insert the following:

That (a) subject to valid existing rights, the lands, waters, and interests therein within the boundary generally depicted on the map entitled "Boundary Map, Proposed Capitol Reef National Park, Utah," numbered 158–91,002, and dated January 1971, are hereby established as the Capitol Reef National Park (hereinafter referred to as the "park"). Such map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

(b) The Capitol Reef National Monument is hereby abolished, and any funds available for purposes of the monument shall be available for purposes of the park. Federal lands, waters, and interests therein excluded from the monument by this Act shall be administered by the Secretary of the Interior (hereinafter referred to as the "Secretary") in accordance with the laws applicable to the public lands of the United States.

SEC. 2. The Secretary is authorized to acquire by donation, purchase with donated or appropriated funds, transfer from any Federal agency, exchange, or otherwise, the lands and interests in lands described in the first section of this Act, except that lands or interests therein owned by the State of Utah, or any political subdivision thereof, may be acquired only with the approval of such State or political subdivision.

SEC. 3. Where any Federal lands included within the park are legally occupied or utilized on the date of approval of this Act for grazing purposes, pursuant to a lease, permit, or license for a fixed term of years issued or authorized by any department, establishment, or agency of the United States, the Secretary of the Interior shall permit the persons holding such grazing privileges or their heirs to continue in the exercise thereof during the term of the lease, permit, or license, and one period of renewal thereafter.

SEC. 4. Nothing in this Act shall be construed as affecting in any way rights of owners and operators of cattle and sheep herds, existing on the date immediately prior to the enactment of this Act, to trail their herds on traditional courses used by them prior to such date of enactment, and to water their stock, notwithstanding the fact that the lands involving such trails and watering are situated within the park: *Provided*, That the Secretary may promulgate reasonable regulations providing for the use of such driveways.

SEC. 5. (a) The National Park Service, under the direction of the Secretary, shall administer, protect, and develop the park, subject to the provisions of the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535) as amended and supplemented (16 U.S.C. 1–4).

(b) The Secretary shall grant easements and rights-of-way on a nondiscriminatory basis upon, over, under, across, or along any component of the park area unless he finds that the route of such easements and rights-of-way would have significant adverse effects on the administration of the park.

(c) Within three years from the date of enactment of this Act, the Secretary of the Interior shall report to the President, in accordance with subsections 3(c) and 3(d) of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1132 (c) and (d)), his recommendations as to the suitability or nonsuitability of any area within the park for preservation as wilderness, and any designation of any such area as a wilderness shall be in accordance with said Wilderness Act.

SEC. 6. (a) The Secretary, in consultation with appropriate Federal departments and appropriate agencies of the State and its political subdivisions shall conduct a study of proposed road alinements within and adjacent to the park. Such study shall consider what roads are appropriate and necessary for full utilization of the area for the purposes of this Act as well as to connect with roads of ingress and egress to the area.

(b) A report of the findings and conclusions of the Secretary shall be submitted to the Congress within two years of the date of enactment of this Act, including recommendations for such further legislation as may be necessary to implement the findings and conclusions developed from the study.

SEC. 7. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act; not to exceed, however, $423,000 for the acquisition of lands and interests in lands and not to exceed $1,052,700 (April 1970 prices) for development, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the types of construction involved herein. The sums authorized in this section shall be available for acquisition and development undertaken subsequent to the approval of this Act.

And the House agree to the same.

WAYNE N. ASPINALL,
ROY A. TAYLOR,
MORRIS K. UDALL,
SHERMAN P. LLOYD,
Managers on the Part of the House.
ALAN BIBLE,
FRANK E. MOSS,
CLIFFORD P. HANSEN,
Managers on the Part of the Senate.

JOINT STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the Conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 29) to establish the Capitol Reef National Park in the State of Utah submit this joint statement in explanation of the effect of the language agreed upon by the managers and recommended in the accompanying Conference Report.

The language agreed upon by the managers is the language of the House amendment with two amendments. There were seven points of difference between the Senate version and the House Amendment which were the subject of discussion and action by the Committee of Conference. These differences and the disposition of them are as follows:

(1) Both the House and Senate versions of the bill provided for the gradual phase-out of grazing privileges within the park; however, the House amendment limited such privileges to the existing term and one period of renewal thereafter, while the Senate language permitted them to continue for a period of 25 years or longer subject to terms and conditions established by the Secretary of the Interior. The Committee of Conference agreed to accept the House language on the basis that it provides an adequate, reasonable, and equitable period of time to phase-out the grazing privileges within the park.

(2) The House amendment included a provision comparable to the Senate language providing for the trailing of cattle and sheep along traditional courses across the park area, but the House language, in addition, permitted the Secretary to designate the location of the trailways and to establish reasonable regulations for their use. The Committee of Conference agreed to accept the House language with an amendment to assure the recognition of traditional trailways across the park by the Secretary, but, at the same time, to allow him to establish reasonable regulations for their use.

(3) The Committee of Conference agreed to accept a House amendment deleting a provision in the Senate version of the bill which specifically authorized the Secretary to provide for the proper development of the park. While the Committee of Conference agreed that this provision was not essential to the legislation—since there is ample authority in this regard—its deletion from the bill should not be construed as limiting the customary authority to develop park areas. On the contrary, the reason for including the language initially was to emphasize the importance of pursuing a development program which would assure the availability of the facilities needed for the public use and enjoyment of this park.

(4) Both the Senate language and the House amendment required the Secretary to grant easements and rights-of-way through the park. As distinguished from the Senate language, which provided that the Secretary must grant such easements if he found that they would not have significant adverse effects on the administration of the park, the House amendment required him to grant them only if he found that they would be compatible with the purposes of the park, as well. The Committee of Conference recognized the necessity of allowing utility crossings through this elongated park, but it also recognized the importance of locating these easements and rights-of-way where they would have the least impact. The Committee of Conference agreed upon substitute language which requires the Secretary to grant such easements and rights-of-way unless he finds that "the route of such easements and rights-of-way would have significant adverse effects on the administration of the park."

(5) Although the House amendment modified the Senate language with respect to studies of the area for consideration for wilderness designation, the thrust of both provisions is the same. The Committee of Conference agreed to accept the language of the House amendment because it was standard language used in other comparable measures.

(6) It was agreed by the Committee of Conference that the transportation study of this area—which would be a comprehensive study co-ordinated with similar studies to be made at other national park units in the same region—should be made by the Secretary of the Interior in consultation with other Federal, State, and local agencies as provided in the House amendment. Because of its importance to the future of the communities involved, the report and recommendations are required to be completed and transmitted to the Congress within two years after the date of enactment of S. 29. While the objective of both the House and Senate language was the same, the Senate version made the transportation study a joint responsibility of the Secretary of the Interior and the Secretary of Transportation. The conferees agreed that, while consultation with the Department of Transportation would be desirable, the responsibility for making the study should rest exclusively with the Secretary of the Interior.

(7) The last difference between the House amendment and the Senate version of the bill involves the limitation on appropriations for acquisition in, and development of, the park. The House amendment limited the amounts authorized for future appropriations to not more than $423,000 for the acquisition of lands and not more than $1,052,700 for development. The Senate version contained no comparable limitation. The Committee of Conference agreed to accept the House language.

The conferees wish to point out that there was no difference of opinion between the two Houses of the Congress with respect to giving national park status to about 242,000 acres of land in the State of Utah. Only the several differences involving collateral issues had to be resolved. In resolving these differences, the Committee of Conference has agreed that the most uniform possible approach should be taken with respect to the various national park areas located in the southwestern region of the State of Utah.

National park designation is the highest recognition of natural beauty given to any area in the country. Only the most outstanding natural and scenic outdoor areas are granted this distinction.

WAYNE N. ASPINALL,
ROY A. TAYLOR,
MORRIS K. UDALL,
SHERMAN P. LLOYD,
Managers on the Part of the House.
ALAN BIBLE,
FRANK E. MOSS,
CLIFFORD P. HANSEN,
Managers on the Part of the Senate.

PERMISSION FOR THE COMMITTEE ON RULES TO FILE PRIVILEGED REPORTS

Mr. SISK. Mr. Speaker, I ask unanimous consent that the Committee on

Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

INTERGOVERNMENTAL FISCAL COORDINATION ACT OF 1971

(Mr. ROSTENKOWSKI asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. ROSTENKOWSKI. Mr. Speaker, today, the distinguished chairman, along with several other members of the Ways and Means Committee, including myself, has introduced the Intergovernmental Fiscal Coordination Act of 1971. This bill will provide up to $3½ billion for local governments and up to $1.8 billion for State governments annually for a period of up to 5 years.

I personally believe that this bill embodies many of the principles of previous revenue-sharing plans, but at the same time, has eliminated many of the problems which made the previous plans so unworkable.

This bill would provide grants of specific amounts for activities which are certainly of the highest priority: Public safety, environmental protection, public transportation, and youth recreation programs.

This legislation is the end result of months of deliberation and diligent research by the excellent staff of our committee. It is a measure which is aimed directly at the problems of our cities, problems which cannot afford to wait much longer. I am happy to be able to say that this legislation has broad support in our committee. In addition to our chairman, the bill is cosponsored by committee members representing almost all of our major cities.

Mr. Speaker, at no time in our history have our urban areas been in more of a need for Federal assistance than they are now. They are suffocating from the fumes of progress. Their schools are overcrowded and underfinanced. Their law-enforcement agencies are overburdened and their tax bases are certainly overworked. The bill that we have introduced today should not be looked upon as a panacea for all the diverse ills that presently beset our troubled cities—it does, however, represent a very necessary first step—it is a beginning.

Tom Wicker, writing in Sunday's New York Times, very eloquently describes the plight of the American city when he says:

> The real point is that there is, in fact, no place to hide from the kind of society we have created, or allowed to develop. The blacks and the poor didn't make that society; it put them in their present places. The city doesn't make modern life unpleasant; modern life is rendering the city intolerable. The suburb, the weekend house, the island in the sea or the woods can't be walled off against change and turmoil growing out of the kind of people we are and the kinds of lives we lead; they can only delude the hopeful.

Mr. Speaker, this legislation is not another attempt to "delude the hopeful," but rather, it is a concrete approach to attach some of the most basic problems which plague our cities.

AWARD OF HEISMAN TROPHY TO PAT SULLIVAN OF AUBURN

(Mr. NICHOLS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NICHOLS. Mr. Speaker, on Thanksgiving night, the New York Downtown Athletic Club selected Auburn University's great quarterback, Pat Sullivan, as this year's winner of the Heisman Trophy. This award is given annually to the Nation's most outstanding college player.

Pat Sullivan set a number of records during his 3 years of varsity play at Auburn. This year alone, he threw for 20 touchdowns and over 2,000 yards. In addition, he has the top scholastic standing among all seniors on the Auburn team; is a member of the Society of Christian Athletes; and is a devoted husband and father.

Champions are made of many things and when I listened to the telephone call placed to Pat Sullivan in Auburn last Thursday after the announcement was made and heard the humility of this great athlete in expressing appreciation to his fellow teammates and his coaches, then I knew that Auburn's Pat Sullivan was a real champion.

Mr. BUCHANAN. Will the gentleman yield?

Mr. NICHOLS. I will be pleased to yield to my colleague from Birmingham.

BIRMINGHAM'S PAT SULLIVAN, HEISMAN TROPHY WINNER

Mr. BUCHANAN. Mr. Speaker, the people of the city of Birmingham, which it is my privilege to represent in the Congress, have yet another reason to be proud this week. A Birmingham native, Pat Sullivan of Auburn University is this year's Heisman Trophy winner. I join my colleague in saluting him this day.

Upon notification of his receipt of this award, Sullivan said it was "the biggest surprise I've ever had," but for the thousands of Atlabamians who have watched Pat perform for the Auburn Tigers, his selection for this award is far from surprising.

He has led his team to 26 victories in 32 games over his 3-year period as a varsity player.

Pat is the son of Mr. and Mrs. Jerry Sullivan of Birmingham where he grew up playing not only football, but baseball and basketball as well. Even as a youngster, he was a star of the Toy Bowl games, annual benefit football games, leading the Birmingham team to victory every time he played.

At John Carroll High School in Birmingham, his record was the same.

From there it was on to Auburn University. During his junior year he ranked sixth in the Heisman Trophy balloting and led the Nation in total offense, gaining an average of 285.6 yards per game and racking up 26 touchdowns. While in college he married and he and his wife Jean have a 2-year-old daughter, Kim, who I understand broke the still, tense moments prior to the announcement of the Heisman Trophy winner yelling "touchdown."

This year Pat ranks third in passing and has chalked up 20 touchdown passes, ranking fourth on the NCAA total offense list with an average of 219.7 yards per game.

It is typical of Pat's character and a sign of his leadership ability that he gives much of the credit for his success to his teammates, the fine young men who defend him and who have received his many passes. It is most fitting that Pat Sullivan of Auburn University should win the trophy named after a former Auburn coach, John W. Heisman, and be the first Auburn player to be so honored.

All Birmingham shares the pride of his family in Pat Sullivan's outstanding achievement.

Mr. BOGGS. Mr. Speaker, will the gentleman yield?

Mr. NICHOLS. I am happy to yield to the majority leader.

Mr. BOGGS. Mr. Speaker, I want to join in the gentleman's statement. I suggest that the gentleman invite our colleagues down to my hometown of New Orleans to watch the Sugar Bowl game between Auburn and Oklahoma where they will have the opportunity to watch Pat Sullivan play on January 1.

Mr. NICHOLS. We expect to do that.

PHASE II FORMULA

(Mr. CONABLE asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. CONABLE. Mr. Speaker, the distinguished majority leader, responding to a statement by the minority leader about the economy yesterday, deplored the uncertainties of phase II and what he apparently felt was an unwarranted optimism about the course of the economy. No one is ever satisfied with the economy—and that is true regardless of the side of the aisle you sit on. There are always trade-offs, even in a completely controlled economy which I am sure the majority leader would not enjoy any more than the rest of us. The only way to get certainty in an effort to regulate wages and prices is to have complete control—the kind of straitjacket no American wants. The flexible controls of the Nixon phase II formula provide the kind of balanced restraint which permits movement within acceptable limits so that confidence can grow.

Mr. Speaker, confidence is what our economy needs. Lack of consumer and business confidence, rooted at least in part in inflationary expectations, have been working to frustrate the normal dynamics of the incentive system. There is nothing wrong with our system that positive leadership cannot overcome. The President is doing his part, and I hope the Congress will respond, not with roadblocks and negativism, but with the boost that will help a psychologically oriented economy to soar. Gloom and doom can be self-fulfilling prophesies at worst—even at best they are counterproductive, both economically and politically.

THE DISTRICT OF COLUMBIA APPROPRIATIONS BILL AND ITS IMPACT UPON ACTIVITIES IN THE DISTRICT

(Mr. GUDE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUDE. Mr. Speaker, on Thursday we shall decide whether the great Kennedy Center for the Performing Arts will be a select gathering place for the rich—or shall be available to all.

On Thursday, we shall decide whether this Capital City shall have a vital downtown or a vacant, darkened wasteland of crime and danger.

On Thursday, we shall decide whether Connecticut Avenue has been ripped apart for a purpose, or as an expensive exercise.

On Thursday, we shall decide whether the Federal Government shall be accessible to the people.

On Thursday, we shall decide whether we mean what we say about creating greater accessibility to jobs, rather than adding to our welfare rolls.

On Thursday, we shall be deciding all these things because we shall be deciding whether to fund the Washington-area Metro subway system.

Thursday will be the crucial time of decision. If we do not vote then to permit the District of Columbia to pay the debts it owes the public corporation that is building the subway, then that corporation's construction work will halt. I was advised this morning at a meeting with Montgomery County Executive James Gleason that the county cannot continue to pay for subway construction when there is no sign that Congress will release the District of Columbia funds due. If Congress does not release these funds the County will make no further payments after this coming month, the county executive said. In all likelihood, the other suburban jurisdictions will take similar action. Then, the great tunnels that have already been dug under Washington will become a bitter reminder to all that congressional authorizations and long-standing commitments are without substance.

STRATEGIC RESERVE BILL FOR THE PURCHASE OF WHEAT AND FEED GRAINS

(Mr. MAYNE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAYNE. Mr. Speaker, the House Rules Committee heard testimony this morning on H.R. 8290, a bill to establish a strategic reserve of wheat and feed grains. This is one of the vehicles being suggested to raise the price of corn, which is now below production cost and definitely requires drastic improvement. It will cost from $1¼ to $1½ billion to acquire the reserve provided for in the bill and an additional $210 million annually to store it.

Mr. Speaker, it is extremely important that if a rule is granted on this bill it be sufficiently liberal to waive points of order for the offering of an amendment by the gentleman from Illinois (Mr. Findley) to limit payments received under the program to $20,000 a year.

We certainly do not want this bill to be used as a vehicle for further enriching vertically integrated conglomerates, other large agricultural combines and individual large operators. The subterfuges through which they continue to draw huge combined payments in excess of the present $55,000 limit have been exposed and very properly denounced.

Members genuinely interested in the survival of the family farmer will want to make sure these agri-giants do not exploit the reserve as a further means of widening the unfair competitive advantage they already enjoy enabling them to gobble up more and more small and medium sized farms.

Mr. Speaker, I hope our colleagues will join me and Mr. Findley in urging the Rules Committee before final action is taken on this rule to open it up sufficiently to permit consideration of a $20,000 limitation amendment. If the committee does not waive points of order to such an amendment, it is our present intention to ask the House to vote down the previous question on the rule in order to make the amendment in order.

CALL OF THE HOUSE

Mr. SCHMITZ. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. BOGGS. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 415]

Andrews, Ala.
Ashley
Baring
Belcher
Bell
Blanton
Blatnik
Burton
Byrne, Pa.
Cabell
Celler
Chamberlain
Chisholm
Clark
Clay
Collins, Ill.
Colmer
Conyers
Davis, Ga.
Davis, S.C.
Derwinski
Diggs
Dowdy
Edwards, La.
Eilberg
Evins, Tenn.
Fraser
Gallagher
Gray
Gubser
Halpern
Hanna
Harsha
Hébert
Heckler, Mass.
Hogan
Landrum
McClory
McCulloch
McKevitt
McMillan
Miller, Calif.
Moorhead
Morgan
Morse
Murphy, N.Y.
Pepper
Pryor, Ark.
Pucinski
Railsback
Rangel
Rees
Rhodes
Riegle
Rodino
Roybal
Satterfield
Scheuer
Sikes
Teague, Tex.
Wilson, Bob
Wilson, Charles H.

The SPEAKER. On this rollcall 369 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

FEDERAL ELECTION REFORM

Mr. HAYS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 11060) to limit campaign expenditures by, or on behalf of, candidates for Federal elective office; to provide for more stringent reporting requirements; and for other purposes.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 11060, with Mr. Bolling in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on yesterday the Macdonald of Massachusetts amendment, as amended, had been agreed to.

House Resolution 694 provides that at this point it shall be in order for the Chair to recognize Members for the purpose of offering, without the intervention of any point of order, the text of the bill H.R. 11280 as an amendment in the nature of a substitute for the bill.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. HARVEY

Mr. HARVEY. Mr. Chairman, I offer an amendment in the nature of a substitute for the text of the bill H.R. 11060.

The CHAIRMAN. Does the Chair understand that the offering of the text of H.R. 11280 by the gentleman is not objected to by the authors of H.R. 11280?

Mr. HARVEY. That is my understanding, Mr. Chairman.

POINT OF ORDER RESERVED

Mr. HAYS. Mr. Chairman, I reserve a point of order against the amendment in order to ask the gentleman a question.

Is this the exact text of the bill which the rule makes in order, or has it been changed?

Mr. HARVEY. No; I would state to my chairman that this is the exact text of H.R. 11280, which contradicts what I said to my chairman yesterday. However, I wanted to get into this first because the rule does require that I introduce the exact text of H.R. 11280.

It is my understanding, however, that the gentleman from Massachusetts (Mr. Macdonald), chairman of the subcommittee, is going to offer an amendment to the substitute which will make it conform exactly to what the House expressed yesterday on the several votes that were taken. This amendment will go to title I.

Further, I want to say to my chairman and the rest of my colleagues that I intend to wholeheartedly support that amendment, which will mean we will not have to plow over that old ground again but, rather, if we accept the Macdonald amendment to the substitute, what we did on yesterday would be embodied in title I.

Mr. HAYS. The reason I made this reservation of a point of order was to inquire of the gentleman as to that particular point. I agree with the gentleman. I will also support the Macdonald amendment when it comes up. I withdraw my reservation of a point of order.

The CHAIRMAN. The Clerk will report the amendment which has been offered by the gentleman from Michigan.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. Harvey: Strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Federal Election Campaign Act of 1971".

TITLE I—AMENDMENTS TO COMMUNICATIONS ACT OF 1934; LIMITATIONS ON CAMPAIGN EXPENDITURES FOR NONBROADCAST COMMUNICATIONS MEDIA

EXCEPTION TO EQUAL TIME REQUIREMENTS AND CHARGE LIMITATIONS

SEC. 101. (a)(1) Section 315(a) of the Communications Act of 1934 (47 U.S.C. 315 (a)) is amended by inserting after "public office" in the first sentence thereof a comma and the following: "other than Federal elective office (as defined in subsection (c) of this section),".

(2) Section 315(a) of such Act is amended by inserting after the first sentence thereof the following: "When a licensee permits a legally qualified candidate for Federal elective office to use his broadcasting station in connection with such candidate's campaign for nomination for election, or election to such office, the licensee shall afford such candidate maximum flexibility in choosing his program format."

(b) Section 315(b) of such Act is amended to read as follows:

"(b) The charges made for the use of any broadcasting station by any person who is a legally qualified candidate for any public office in connection with his campaign for nomination for election, or election, to such office shall not exceed—

"(1) during the forty-five days preceding the date of a primary election and during the sixty days preceding the date of a general or special election in which such person is a candidate, the lowest unit charge of the station for the same class and amount of time for the same period; and

"(2) at any other time, the charges made for comparable use of such station by other users thereof."

(c) Section 312(a) of such Act is amended by striking "or" at the end of clause (5), striking the period at the end of clause (6) and inserting in lieu thereof a semicolon and "or", and adding at the end of such section 312(a) the following new clause—

"(7) for wilful or repeated failure to allow reasonable access to or to permit purchase of reasonable amounts of time for the use of a broadcasting station by a legally qualified candidate on behalf of his candidacy.".

EXPENDITURE LIMITATIONS FOR CANDIDATES FOR MAJOR ELECTIVE OFFICES

SEC. 102. Section 315 of the Communications Act of 1934 is further amended by redesignating subsection (c) as subsection (f) and by inserting immediately before such subsection the following new subsections:

"(c)(1) For purposes of this subsection and subjection (d), the term—

"(A) 'Federal elective office' means the office of President, Vice President, United States Senator or Representative, or Delegate or Resident Commissioner to the Congress;

"(B) 'use of broadcasting stations by or on behalf of any candidate' includes not only broadcasts advocating such candidate's election, but also broadcasts urging the defeat of his opponent or derogating his opponent's stand on campaign issues;

"(C) 'legally qualified candidate' means any person who (1) meets the qualifications prescribed by the applicable laws to hold the Federal elective office for which he is a candidate and (2) is eligible under applicable State law to be voted for by the electorate directly or by means of delegates or electors; and

"(D) 'broadcasting station' includes a community antenna television system, and the terms 'licensee' and 'station licensee' when used with respect to a community antenna television system, mean the operator of such system.

"(2) Except as provided in section 104 of the Federal Election Campaign Act of 1971, no legally qualified candidate in any primary, runoff, general, or special election for a Federal elective office may spend for the use of broadcasting stations on behalf of his candidacy in such election a total amount in excess of—

"(A) 5 cents multiplied by the estimate of resident population of voting age for such office, as determined by the Bureau of Census in June of the year preceding the year in which the election is to be held; or

"(B) $30,000, if greater than the amount determined under subparagraph (A).

For the purposes of computing the limitation provided by the first sentence of this paragraph in connection with a Presidential primary election, the resident population of voting age for the office of President shall be held and considered to be the entire population of voting age for such office within the State in which such primary election is conducted. Amounts spent by or on behalf of any candidate for nomination for election to such office in connection with his primary campaign in any State shall not exceed such limitation for that State.

"(3) Amounts spent for the use of broadcasting stations on behalf of any legally qualified candidate for Federal elective office (or for nomination to such office) shall, for the purposes of this subsection, be deemed to have been spent by such candidate. Amounts spent for the use of broadcasting stations by or on behalf of any legally qualified candidate for the office of Vice President of the United States shall, for the purposes of this subsection, be deemed to have been spent by the candidate for the office of President of the United States with whom he is running.

"(4) No station licensee may make any charge for the use of such station by or on behalf of any candidate for Federal elective office (or for nomination to such office) unless such candidate, or a person specifically authorized by such candidate in writing to do so, certifies to such licensee in writing that the payment of such charge will not violate paragraph (2).

"(5) Broadcasting stations and candidates shall file with the Commission such reports at such times and containing such information as the Commission shall prescribe for the purpose of this subsection and, in the case of broadcasting stations, subsection (d).

"(d) If a State by law and expressly—

"(1) has provided that a primary or other election for any office of such State or of a political subdivision thereof is subject to this subsection, and

"(2) has specified a limitation upon total expenditures for the use of broadcasting stations on behalf of the candidacy of each legally qualified candidate in such election, and

"(3) has provided in any such law an unequivocal expression of intent to be bound by the provisions of this section, and

"(4) has stipulated that the amount of such limitation shall not exceed the amount which would be determined for such election under subsection (c) had such election been an election for a Federal elective office or nomination thereto;

then no station licensee may make any charge for the use of such station by or on behalf of any legally qualified candidate in such election unless such candidate, or a person specifically authorized by such candidate in writing to do so, certifies to such licensee in writing that the payment of such charge will not violate such limitation.

"(e) One who willfully and knowingly violates the provisions of subsection (c) or (d) of this section shall be punished by a fine not to exceed $5,000 or imprisonment for a period not to exceed five years, or both. The provisions of sections 501 through 503 of this Act shall not apply to violations of such subsection."

LIMITATIONS ON CAMPAIGN EXPENDITURES FOR NONBROADCAST COMMUNICATIONS MEDIA

SEC. 103. (a) For purposes of this section, the term—

(1) "Federal elective office" means the office of President, Vice President, United States Senator or Representative, or Delegate of Resident Commissioner to the Congress;

(2) "nonbroadcast communications medium" means newspapers, magazines, and other periodical publications, and billboard facilities;

(3) "legally qualified candidate" means any person who (A) meets the qualifications prescribed by the applicable laws to hold the Federal elective office for which he is a candidate and (B) is eligible under applicable State law to be voted for by the electorate directly or by means of delegates or electors; and

(4) "use of any nonbroadcast communications media by or on behalf of any candidate" includes not only amounts spent for advocating a candidate's election, but also amounts spent for urging the defeat of his opponent or derogating his opponent's stand on campaign issues.

(b) During the forty-five days preceding the date of any primary election, and during the sixty days preceding the date of any general or special election, the charges made for the use of any nonbroadcast communications medium by an individual who is a legally qualified candidate for Federal elective office shall not exceed the lowest unit rate charged others by the person furnishing such medium for the same amount and class of space.

(c) Except as provided in section 104 of this Act, no legally qualified candidate in any primary, runoff, general, or special election for a Federal elective office may spend for the use of nonbroadcast communications media on behalf of his candidacy in such election a total amount in excess of—

(1) 5 cents multiplied by the estimate of resident population of voting age for such office, as determined by the Bureau of Census in June of the year preceding the year in which the election is to be held; or

(2) $30,000, if greater than the amount determined under clause (1).

For the purposes of computing the limitation provided by the first sentence of this paragraph in connection with a Presidential primary election, the resident population of voting age for the office of President shall be held and considered to be the entire resident population of voting age for such office within the State in which such primary election is conducted. Amounts spent by or on behalf of any candidate for nomination for election to such office in connection with his primary campaign in any State shall not exceed such limitation for that State.

(d) Amounts spent for the use of nonbroadcast communications media on behalf of any legally qualified candidate for Federal elective office (or for nomination to such office) shall, for the purposes of this section, be deemed to have been spent by such candidate. Amounts spent for the use of nonbroadcast communications media by or on behalf of any legally qualified candidate for the office of Vice President of the United States shall, for the purposes of this section, be deemed to have been spent by the candidate for the office of President of the United States with whom he is running.

(e) No person may make any charge for the use of any nonbroadcast communications medium by or on behalf of any candidate for Federal elective office (or for nomination to such office) unless such candidate, or an individual specifically authorized by such candidate in writing to do so, certifies, to such person that the payment of such charge will not violate subsection (c). Any person who furnishes the use of any nonbroadcast communications medium to or for the benefit of any such candidate without charge therefor shall be deemed to have made a contribution to such candidate in an amount equal to the amount normally charged for such person for such use. Any person who furnishes the use of any nonbroadcast communications medium to or for the benefit of any such candidate at a rate which is less than the rate normally charged by such person for such use shall be deemed to have made a contribution to such candidate in an amount equal to the excess of the rate normally charged over the rate charged such candidate.

(f) One who willfully and knowingly violates the provisions of this section shall be punished by a fine not to exceed $5,000 or imprisonment of not more than five years, or both.

LIMITED INTERCHANGEABILITY BETWEEN EXPENDITURES LIMITATIONS

SEC. 104. (a) A legally qualified candidate in any primary, runoff, general, or special election for Federal elective office may, at his option, transfer not to exceed 20 per centum of the expenditure limitation under section 315(c) of the Communications Act of 1934 as amended or section 103(c) of this Act between one or the other to be spent on either the broadcast or nonbroadcast media on behalf of his candidacy in such election. Any amount so transferred from the one expenditure limitation to the other shall be deducted from the expenditure limitation upon the media from which such transfer is made.

(b) Any such legally qualified candidate exercising this option shall promptly notify the Federal Elections Commission in writing of the amount so transferred and spent, and shall provide such Commission with such information as the Commission, in its judgment, deems necessary and proper in the exercise of this option.

(c) The Federal Elections Commission is authorized to develop and promulgate appropriate rules and regulations to carry out the purposes of this section.

(d) The definitions contained in section 315(c) of the Communications Act of 1934 and in section 103(a) of this Act are applicable to this section.

COST-OF-LIVING INCREASE IN LIMITATION FORMULA

SEC. 105. (a) For purposes of this section, the term—

(1) "price index" means the annual average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics; and

(2) "base period" means the calendar year 1970.

(b) Commencing immediately after the end of 1971, and after the end of each calendar year thereafter, as there becomes available necessary data from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall determine the difference between the price index for the immediately preceding calendar year and the price index for the base period. The amount computed under section 315(c)(2)(A) of the Communications Act of 1934 (as added by section 102 of this Act) and under section 103(c)(1) of this Act shall be increased by such per centum difference (excluding any fraction of a per centum) and rounded to the next highest cent. Each amount so increased shall be the amount in effect for the twelve months following the end of such calendar year.

TITLE II—CRIMINAL CODE AMENDMENTS

SEC. 201. Section 591 of title 18, United States Code, is amended to read as follows:

"§ 591. Definitions

"When used in sections 597, 599, 600, 602, 610, 611, and 614 of this title—

"(a) 'election' means (1) a general, special, primary, or runoff election, (2) a convention or caucus of a political party held to nominate a candidate, (3) a primary election held for the selection of delegates to a national nominating convention of a political party, (4) a primary election held for the expression of a preference for the nomination of persons for election to the office of President, and (5) the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States;

"(b) 'candidate' means an individual who seeks nomination for election, or election, to Federal office, whether or not such individual is elected, and, for purposes of this paragraph, an individual shall be deemed to seek nomination for election, or election, to Federal office, if he has (1) taken the action necessary under the law of a State to qualify himself for nomination for election, or election, or (2) received contributions or made expenditures, or has given his consent for any other person to receive contributions or make expenditures, with a view to bringing about his nomination for election, or election, to such office;

"(c) 'Federal office' means the office of President or Vice President of the United States, or Senator or Representative in, or Delegate or Resident Commissioner to, the Congress of the United States;

"(d) 'political committee' means any individual committee, association, or organization which accepts contributions or make expenditures during a calendar year in an aggregate amount exceeding $1,000;

"(e) 'contribution' means—

"(1) a gift, subscription, loan, advance, or deposit of money or anything of value (except a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business), made for the purpose of influencing the nomination for election, or election, of any person to Federal office, for the purpose of influencing the results of a primary held for the selection of delegates to a national nominating convention of a political party or for the expression of a preference for the nomination of persons for election to the office of President, or for the purpose of influencing the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States;

"(2) a contract, promise, or agreement, express or implied, whether or not legally enforceable, to make a contribution for such purposes;

"(3) a transfer of funds between political committees;

"(4) the payment, by any person other than a candidate or political committee, of compensation for the personal services of another person which are rendered to such candidate or political committee without charge for any such purpose; and

"(5) notwithstanding the foregoing meanings of 'contribution', the word shall not be construed to include services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate or political committee;

"(f) 'expenditure' means—

"(1) a purchase, payment, distribution, loan advance, deposit, or gift of money or anything of value (except a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business), made for the purpose of influencing the nomination for election, or election, of any person to Federal office, for the purpose of influencing the result of a primary held for the selection of delegates to a national nominating convention of a political party or for the expression of a preference for the nomination of persons for election to the office of President, or for the purpose of influencing the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States;

"(2) a contract, promise, or agreement, express or implied, whether or not legally enforceable, to make any expenditure; and

"(3) a transfer of funds between political committees;

"(g) 'person' and 'whoever' mean an individual, partnership, committee, association, corporation, or any other organization or group of persons; and

"(h) 'State' means each State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States."

SEC. 202. Section 600 of title 18, United States Code, is amended to read as follows:

"§ 600. Promise of employment or other benefit for political activity

"Whoever, directly or indirectly, promises any employment, position, compensation, contract, appointment, or other benefit, provided for or made possible in whole or in part by any Act of Congress, or any special consideration in obtaining any such benefit, to any person as consideration, favor, or reward for any political activity or for the support of or opposition to any candidate or any political party in connection with any general or special election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office, shall be fined not more than $1,000 or imprisoned not more than one year, or both."

SEC. 202. Section 608 of title 18, United States Code, is amended to read as follows:

"§ 608. Limitations on contributions and expenditures

"(a)(1) No candidate may make expenditures from his personal funds, or the personal funds of his immediate family, in connection with his campaign for nomination for election, or election, to Federal office in excess of—

"(A) $50,000, in the case of a candidate for the Office of President or Vice President;

"(B) $35,000, in the case of a candidate for the Office of Senator; or

"(C) $25,000, in the case of a candidate for the Office of Representative, or Delegate or Resident Commissioner to the Congress.

"(2) For purposes of this subsection, 'immediate family' means a candidate's spouse, and any child, parent, grandparent, brother, or sister of the candidate, and the spouses of such persons.

"(b) No candidate or political committee shall knowingly accept any contribution or authorize any expenditure in violation of the provisions of this section.

"(c) Violation of the provisions of this section is punishable by a fine not to exceed $1,000, imprisonment for not to exceed one year, or both.".

SEC. 204. Section 609 of title 18, United States Code, is repealed.

SEC. 205. Section 611 of title 18, United States Code, is amended to read as follows:

"§ 611. Contributions by Government contractors

"Whoever—

"(a) entering into any contract with the United States or any department or agency thereof either for the rendition of personal services or furnishing any material, supplies, or equipment to the United States or any department or agency thereof or for selling any land or building to the United States or any department or agency thereof, if payment for the performance of such contract or payment for such material, supplies, equipment, land, or building is to be made in whole or in part from funds appropriated by the Congress, at any time between the commencement of negotiations for and the later of (1) the completion of performance under, or (2) the termination for negotiations for, such contract or furnishing of material, supplies, equipment, land or buildings, directly or indirectly makes any contribution of money or other thing of value, or promises expressly or impliedly to make any such contribution, to any political party, committee, or candidate for public office or to any person for any political purpose or use; or

"(b) knowingly solicits any such contribution from any such person for any such purpose during any such period;

shall be fined not more than $5,000 or imprisoned not more than five years, or both."

SEC. 206. The table of sections for chapter 29 of title 18, United States Code, is amended by—

(1) striking out the item relating to section 608 and inserting in lieu thereof the following:

"608. Limitations on contributions and expenditures.";

(2) striking out the item relating to section 609 and inserting in lieu thereof the following:

"609. Repealed.";

(3) striking out the item relating to section 611 and inserting in lieu thereof the following:

"611. Contributions by Government contractors.".

TITLE III—DISCLOSURE OF FEDERAL CAMPAIGN FUNDS

DEFINITIONS

SEC. 301. When used in this title—

(a) "election" means (1) a general, special, primary, or runoff election, (2) a convention or caucus of a political party held to nominate a candidate, (3) a primary election held for the selection of delegates to a national nominating convention of a political party, (4) a primary election held for the expression of a preference for the nomination of persons for election to the office of President, and (5) the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States;

(b) "candidate" means an individual who seeks nomination for election, or election, to Federal office, whether or not such individual is elected, and, for purposes of this paragraph, an individual shall be deemed to seek nomination for election, or election, if he has (1) taken the action necessary under the law of a State to qualify himself for nomination for election, or election, to Federal office, or (2) received contributions or made expenditures, or has given his consent for any other person to receive contributions or make expenditures, with a view to bringing about his nomination for election, or election, to such office;

(c) "Federal office" means the office of President or Vice President of the United States; or of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress of the United States;

(d) "political committee" means any committee, association, or organization which accepts contributions or makes expenditures during a calendar year in an aggregate amount exceeding $1,000;

(e) "contribution" means—

(1) a gift, subscription, loan, advance, or deposit of money or anything of value, made for the purpose of influencing the nomination for election, or election, of any person to Federal office or as a presidential or vice-presidential elector, for the purpose of influencing the result of a primary held for the selection of delegates to a national nominating convention of a political party or for the expression of a preference for the nomination of persons for election to the office of President, or for the purpose of influencing the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States;

(2) a contract, promise, or agreement, whether or not legally enforceable, to make a contribution for any such purpose;

(3) a transfer of funds between political committees;

(4) the payment, by any person other than a candidate or political committee, of compensation for the personal services of another person which are rendered to such candidate or committee without charge for any such purpose; and

(5) notwithstanding the foregoing meanings of "contribution", the word shall not be construed to include services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate or political committee;

(f) "expenditure" means—

(1) a purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made for the purpose of influencing the nomination for election, or election, of any person to Federal office, or as a presidential and vice-presidential elector, or for the purpose of influencing the result of a primary held for the selection of delegates to a national nominating convention of a political party or for the expression of a preference for the nomination of persons for election to the office of President, or for the purpose of influencing the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States;

(2) a contract, promise, or agreement whether or not legally enforceable, to make an expenditure, and

(3) a transfer of funds between political committees;

(g) "Commission" means the Federal Elections Commission;

(h) "person" means an individual, partnership, committee, association, corporation, labor organization, and any other organization or group of persons; and

(i) "State" means each State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

ORGANIZATION OF POLITICAL COMMITTEES

SEC. 302. (a) Every political committee shall have a chairman and a treasurer. No contribution and no expenditure shall be accepted or made by or on behalf of a political committee at a time when there is a vacancy in the office of chairman or treasurer thereof. No expenditure shall be made for or on behalf of a political committee without the authorization of its chairman or treasurer, or their designated agents.

(b) Every person who receives a contribution in excess of $10 for a political committee shall, on demand of the treasurer, and in any event within five days after receipt of such contribution, render to the treasurer a detailed account thereof, including the amount, the name and address (occupation and the principal place of business, if any) of the person making such contribution, and the date on which received. All funds of a political committee shall be segregated from, and may not be commingled with, any personal funds of officers, members, or associates of such committee.

(c) It shall be the duty of the treasurer of a political committee to keep a detailed and exact account of—

(1) all contributions made to or for such committee;

(2) the full name and mailing address (occupation and the principal place of business, if any) of every person making a contribution in excess of $10, and the date and amount thereof;

(3) all expenditures made by or on behalf of such committee; and

(4) the full name and mailing address (occupation and the principal place of business, if any) of every person to whom any expenditure is made, the date and amount thereof and the name and address of, and office sought by, each candidate on whose behalf such expenditure was made.

(d) It shall be the duty of the treasurer to obtain and keep a receipted bill, stating the particulars, for every expenditure made by or on behalf of a political committee in excess of $100 in amount, and for any such expenditure in a lesser amount, if the aggregate amount of such expenditures to the same person during a calendar year exceeds $100. The treasurer shall preserve all receipted bills and accounts required to be kept by this section for periods of time to be determined by the Commission.

(e) Any political committee which solicits or receives contributions or makes expenditures on behalf of any candidate that is not authorized in writing by such candidate to do so shall include a notice on the face or front page of all literature and advertisements published in connection with such candidate's campaign by such committee or on its behalf stating that the committee is not authorized by such candidate and that such candidate is not responsible for the activities of such committee.

(f)(1) Any political committee shall include on the face or front page of all literature and advertisements soliciting funds the following notice:

"A copy of our report filed with the Federal Elections Commission is (or will be) available for purchase from the Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402."

(2)(A) The Commission shall compile and furnish to the Public Printer, not later than the last day of March of each year, an annual report for each political committee which has filed a report with him under this title during the period from March 10 of the preceding calendar year through January 31 of the year in which such annual report is made available to the Public Printer. Each such annual report shall contain—

(i) a copy of the statement of organization of the political committee required under section 303, together with any amendments thereto; and

(ii) a copy of each report filed by such committee under section 304 from March 10 of the preceding year through January 31 of the year in which the annual report is so furnished to the Public Printer.

(B) The Public Printer shall make copies of such annual reports available for sale to the public by the Superintendent of Documents as soon as practicable after they are received from the Commission.

REGISTRATION OF POLITICAL COMMITTEES; STATEMENTS

SEC. 303. (a) Each political committee which anticipates receiving contributions or making expenditures during the calendar year in an aggregate amount exceeding $1,000 shall file with the Commission a statement of organization, within ten days after its organization or, if later, ten days after the date on which it has information which causes the committee to anticipate it will receive contributions or make expenditures in excess of $1,000. Each such committee in existence at the date of enactment of this Act shall file a statement of organization with the Commission at such time as it prescribes.

(b) The statement of organization shall include—

(1) the name and address of the committee;

(2) the names, addresses, and relationships of affiliated or connected organizations;

(3) the area, scope, or jurisdiction of the committee;

(4) the name, address, and position of the custodian of books and accounts;

(5) the name, address, and position of other principal officers, including officers and members of the finance committee, if any;

(6) the name, address, office sought, and party affiliation of (A) each candidate whom the committee is supporting, and (B) any other individual, if any, whom the committee is supporting for nomination for election, or election, to any public office whatever; or, if the committee is supporting the entire ticket of any party, the name of the party;

(7) a statement whether the committee is a continuing one;

(8) the disposition of residual funds which will be made in the event of dissolution;

(9) a listing of all banks, safety deposit boxes, or other depositories used;

(10) a statement of the reports required to be filed by the committee with State or local officers, and, if so, the names, addresses, and positions of such persons; and

(11) such other information as shall be required by the Commission.

(c) Any change in information previously submitted in a statement of organization shall be reported to the Commission within a ten-day period following the change.

(d) Any committee which, after having filed one or more statements of organization, disbands or determines it will no longer receive contributions or make expenditures during the calendar year in an aggregate amount exceeding $1,000 shall so notify the Commission.

REPORTS BY POLITICAL COMMITTEES AND CANDIDATES

SEC. 304. (a) Each treasurer of a political committee supporting a candidate or candidates for election to Federal office and each candidate for election to such office, shall file with the Commission reports of receipts and expenditures on forms to be prescribed or approved by it. Such reports shall be filed on the tenth day of March, June, and September, in each year, and on the fifteenth and fifth days next preceding the date on which an election is held, and also by the thirty-first day of January. Such reports shall be complete as of such date as the Commission may prescribe, which shall not be less than five days before the date of filing except that any contribution of $5,000 or more received after the last report is filed prior to the election, shall be reported within forty-eight hours after its receipt.

(b) Each report under this section shall disclose—

(1) the amount of cash on hand at the beginning of the reporting period;

(2) the full name and mailing address (occupation and the principal place of business, if any) of each person who has made one or more contributions to or for such committee or candidate (including the purchase of tickets for events such as dinners, luncheons, rallies, and similar fundraising events) within the calendar year in an aggregate amount or value of $100 or more, together with the amount and date of such contributions;

(3) the total sum of individual contributions made to or for such committee or candidate during the reporting period and not reported under paragraph (2);

(4) the name and address of each political committee or candidate from which the reporting committee or the candidate received, or to which that committee or candidate made, any transfer of funds, together with the amounts and dates of all transfers;

(5) each loan to or from any person within the calendar year in an aggregate amount or value in excess of $100, together with the full names and mailing addresses (occupations and the principal places of business, if any) of the lender and endorsers, if any, and the date and amount of such loans;

(6) the total amount of proceeds from (A) the sale of tickets to each dinner, luncheon, rally, and other fundraising event; (B) mass collections made at such events; and (C) sales of items such as political campaign pins, buttons, badges, flags, emblems, hats, banners, literature, and similar materials;

(7) each contribution, rebate, refund, or other receipt in excess of $100 not otherwise listed under paragraphs (2) through (6);

(8) the total sum of all receipts by or for such committee or candidate during the reporting period;

(9) the full name and mailing address (occupation and the principal place of business, if any) of each person to whom an expenditure or expenditures have been made by such committee or on behalf of such committee or candidate within the calendar year in an aggregate amount or value in excess of $100, the amount, date, and purpose of each such expenditure and the name and address of, and office sought by, each candidate on whose behalf such expenditure was made;

(10) the full name and mailing address business, if any, of each person to whom an expenditure for personal services, salaries, and reimbursed expenses in excess of $100 has been made, and which is not otherwise reported, including the amount, date, and purpose of such expenditure;

(11) the total sum of expenditures made by such committee or candidate during the calendar year;

(12) the amount and nature of debts and obligations owed by or to the committee, in such form as the Commission may prescribe and a continuous reporting of their debts and obligations after the election at such periods as the Commission may require until such debts and obligations are extinguished; and

(13) such other information as shall be required by the Commission.

(c) The reports required to be filed by subsection (a) shall be cumulative during the calendar year to which they relate, but where there has been no change in an item reported in a previous report during such year, only the amount need be carried forward. If no contributions or expenditures have been accepted or expended during a calendar year, the treasurer of the political committee or candidate shall file a statement to that effect.

REPORTS BY OTHERS THAN POLITICAL COMMITTEES

SEC. 305. Every person (other than a political committee or candidate) who makes contributions or expenditures, other than by contribution to a political committee or candidate, in an aggregate amount in excess of $100 within a calendar year shall file with the Commission a statement containing the information required by section 304. Statements required by this section shall be filed on the dates on which reports by political committees are filed, but need not be cumulative.

FORMAL REQUIREMENTS RESPECTING REPORTS AND STATEMENTS

SEC. 306. (a) A report or statement required by this title to be filed by a treasurer of a political committee, a candidate, or by any other person, shall be verified by the oath or affirmation of the person filing such report or statement, taken before any officer authorized to administer oaths.

(b) A copy of a report or statement shall be preserved by the person filing it for a period of time to be designated by the Commission in a published regulation.

(c) The Commission may, by published regulation of general applicability, relieve any category of political committees of the obligation to comply with section 304 if such committee (1) primarily supports persons seeking State or local office, and does not substantially support candidates, and (2) does not operate in more than one State or on a statewide basis.

(d) The Commission shall, by published regulations of general applicability, prescribe the manner in which contributions and expenditures in the nature of debts and other contracts, agreements, and promises to make contributions or expenditures shall be reported. Such regulations shall provide that they be reported in separate schedules. In determining aggregate amounts of contributions and expenditures, amounts reported as provided in such regulations shall not be considered until actual payment is made.

REPORTS ON CONVENTION FINANCING

SEC. 307. Each committee or other organization which—

(1) represents a State, or a political subdivision thereof, or any group of persons, in dealing with officials of a national political party with respect to matters involving a convention held in such State or political subdivision to nominate a candidate for the office of President or Vice President, or

(2) represents a national political party in making arrangements for the convention of such party held to nominate a candidate for the office of President or Vice President,

shall, within sixty days following the end of the convention (but not later than twenty days prior to the date on which presidential and vice-presidential electors are chosen), file with the Commission a full and complete financial statement, in such form and detail as it may prescribe, of the sources from which it derived its funds, and the purposes for which such funds were expended.

DUTIES OF THE COMMISSION

SEC. 308. (a) It shall be the duty of the Commission—

(1) to develop and furnish to the person required by the provisions of this Act prescribed forms for the making of the reports and statements required to be filed with it under this title;

(2) to prepare, publish, and furnish to the person required to file such reports and statements a manual setting forth recommended uniform methods of bookkeeping and reporting;

(3) to develop a filing, coding, and cross-indexing system consonant with the purposes of this title;

(4) to make the reports and statements filed with it available for public inspection and copying, commencing as soon as practicable but not later than the end of the second day following the day during which it was received, and to permit copying of any such report or statement by hand or by duplicating machine, as requested by any person, at the expense of such person: *Provided,* That any information copied from such reports and statements shall not be sold or utilized by any person for the purpose of soliciting contributions or for any commercial purpose;

(5) to preserve such reports and statements for a period of ten years from date of receipt, except that reports and statements relating solely to candidates for the House of Representatives shall be preserved for only five years from the date of receipt;

(6) to compile and maintain a current list of all statements or parts of statements pertaining to each candidate;

(7) to prepare and publish an annual report including compilations of (A) total reported contributions and expenditures for all candidates, political committees, and other persons during the year; (B) total amounts expended according to such categories as it shall determine and broken down into candidate, party, and non-party expenditures on the National, State, and local levels; (C) total amounts expended for influencing nominations and elections stated separately; (D) total amounts contributed according to such categories of amounts as it shall determine and broken down into contributions on the National, State, and local levels for candidates and political committees; and (E) aggregate amounts contributed by any contributor shown to have contributed in excess of $100;

(8) to prepare and publish from time to time special reports comparing the various totals and categories of contributions and expenditures made with respect to preceding elections;

(9) to prepare and publish such other reports as it may deem appropriate;

(10) to assure wide dissemination of statistics, summaries, and reports prepared under this title;

(11) to make from time to time audits and field investigations with respect to reports and statements filed under the provisions of this title, and with respect to alleged failures

to file any report or statement required under the provisions of this title;

(12) to report apparent violations of law to the appropriate law enforcement authorities; and

(13) to prescribe suitable rules and regulations to carry out the provisions of this title.

(b) (1) Any person who believes a violation of this title has occurred may file a complaint with the Commission. If the Commission determines there is substantial reason to believe such a violation has occurred, it shall expeditiously make an investigation, which shall also include an investigation of reports and statements filed by the complainant if he is a candidate, of the matter complained of. Whenever in the judgment of the Commission, after affording due notice and an opportunity for a hearing, any person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of this title or any regulation or order issued thereunder, the Attorney General on behalf of the United States shall institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order in the district court of the United States for the district in which the person is found, resides, or transacts business. Upon a proper showing that such person has engaged or is about to engage in such acts or practices, a permanent or temporary injunction, restraining order, or other order shall be granted without bond by such court.

(2) In any action brought under paragraph (1) of this subsection, subpenas for witnesses who are required to attend a United States district court may run into any other district.

(3) Any party aggrieved by an order granted under paragraph (1) of this subsection may, at any time within sixty days after the date of entry thereof, file a petition with the United States court of appeals for the circuit in which such person is found, resides, or transacts business, for judicial review of such order.

(4) The judgment of the court of appeals affirming or setting aside, in whole or in part, any such order of the district court shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28 of the United States Code.

(5) Any action brought under this subsection shall be advanced on the docket of the court in which filed, and put ahead of all other actions (other than other actions brought under this subsection).

STATEMENTS FILED WITH CLERK OF UNITED STATES COURT

SEC. 309. (a) A copy of each statement required to be filed with the Commission by this title shall be filed with the clerk of the United States district court for the judicial district in which is located the principal office of the political committee or, in the case of a statement filed by a candidate or other person, in which is located such person's residence. The Commission may require the filing of reports and statements required by this title with the clerks of other United States district courts where it determines the public inerest will be served thereby.

(b) It shall be the duty of the clerk of a United States district court under subsection (a)—

(1) to receive and maintain in an orderly manner all reports and statements required by this title to be filed with such clerks;

(2) to preserve such reports and statements for a period of ten years from date of receipt, except that reports and statements relating solely to candidates for the House of Representatives shall be preserved for only five years from the date of receipt;

(3) to make the reports and statements filed with him available for public inspection and copying during regular office hours, commencing as soon as practicable but not later than the end of the day during which it was received, and to permit copying of any such report or statement by hand or by duplicating machine, requested by any person, at the expense of such person; and

(4) to compile and minimum a current list of all statements or parts of statements pertaining to each candidate.

FEDERAL ELECTIONS COMMISSION

SEC. 310. (a) There is hereby created a Commission to be known as the Federal Elections Commission, which shall be composed of six members, not more than three of whom shall be members of the same political party, who shall be chosen from among persons who, by reason of maturity, experience, and public service have attained a nationwide reputation for integrity, impartiality, and good judgment, are qualified to carry out the functions of the Commission and shall be appointed by the President, by and with the advice and consent of the Senate. One of the original members shall be appointed for a term of two years, one for a term of four years, one for a term of six years, one for a term of eight years, one for a term of ten years, and one for a term of twelve years, beginning from the date of enactment of this Act, but their successors shall be appointed for terms of twelve years each, except that any individual chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he shall succeed. The President shall designate one member to serve as Chairman of the Commission and one member to serve as Vice Chairman. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman or in the event of a vacancy in that office.

(b) A vacancy in the Commission shall not impair the right of the remaining members to exercise all the powers of the Commission and four members thereof shall constitute a quorum.

(c) The Commission shall have an official seal which shall be judicially noticed.

(d) The Commission shall at the close of each fiscal year report to the Congress and to the President concerning the action it has taken; the names, salaries, and duties of all individuals in its employ and the money it has disbursed; and shall make such further reports on the matters within its jurisdiction and such recommendations for further legislation as may appear desirable.

(e) Members of the Commission shall, while serving on the business of the Commission, be entitled to receive compensation at a rate fixed by the Director of the Office of Management and Budget but not in excess of $100 per day, including traveltime; and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.

(f) The principal office of the Commission shall be in or near the District of Columbia, but it may meet or exercise any or all its powers at any other place.

(g) All officers, agents, attorneys, and employees of the Commission shall be subject to the provisions of section 9 of the Act of August 2, 1939, as amended (the Hatch Act), notwithstanding any exemption contained in such section.

(h) The Commission shall appoint an Executive Director without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, to serve at the pleasure of the Commission. The Executive Director shall be responsible for the administrative operations of the Commission and shall perform such other duties as may be delegated or assigned to him from time to time by regulations or orders of the Commission. However, the Commission shall not delegate the making of regulations regarding elections to the Executive Director.

(i) The Chairman of the Commission shall appoint and fix the compensation of such personnel as it is deemed necessary to fufill the duties of the Commission in accordance with the provisions of title 5, United States Code.

(j) The Commission may obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code.

(k) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(131) Executive Director, Federal Elections Commission."

(l) In carrying out its responsibilities under this title, the Commission shall, to the fullest extent practicable, avail itself of the assistance, including personnel and facilities, of the General Accounting Office and the Department of Justice. The Comptroller General and the Attorney General are authorized to make available to the Commission such personnel, facilities, and other assistance, with or without reimbursement, as the Commission may request.

PROHIBITION OF CONTRIBUTIONS IN NAME OF ANOTHER

SEC. 311. No person shall make a contribution in the name of another person, and no person shall knowingly accept a contribution made by one person in the name of another person.

PENALTY FOR VIOLATIONS

SEC. 312. Any person who violates any of the provisions of this title shall be fined not more than $1,000 or imprisoned not more than one year, or both.

STATE LAWS NOT AFFECTED

SEC. 313. (a) Nothing in this title shall be deemed to invalidate or make inapplicable any provision of any State law, except where compliance with such provision of law would result in a violation of a provision of this title.

(b) The Commission shall encourage, and cooperate with, the election officials in the several States to develop procedures which will eliminate the necessity of multiple filings by permitting the filing of copies of Federal reports to satisfy the State requirements.

PARTIAL INVALIDITY

SEC. 314. If any provision of this title, or the application thereof, to any person or circumstance is held invalid, the validity of the remainder of the title and the application of such provision to other persons and circumstances shall not be affected thereby.

REPEALING CLAUSE

SEC. 315. (a) The Federal Corrupt Practices Act, 1925 (2 U.S.C. 241–256), is repealed.

(b) In case of any conviction under this title, where the punishment inflicted does not include imprisonment, such conviction shall be deemed a misdemeanor conviction only.

TITLE IV—MISCELLANEOUS

EXTENSION OF CREDIT BY REGULATED INDUSTRIES

SEC. 401. The Civil Aeronautics Board, the Federal Communications Commission, and the Interstate Commerce Commission shall each promulgate, within ninety days after the date of enactment of this Act, its own regulations with respect to the extension of credit, without security, by any person regulated by such Board or Commission to any candidate for Federal office (as such term is defined in section 301(c) of the Federal Election Campaign Act of 1971), or to any person on behalf of such a candidate, for goods furnished or services rendered in connection with the campaign of such candidate for nomination for election, or election, to such office.

EFFECTIVE DATE

SEC. 402. Except as provided for in section 401 of this Act, the provisions of this Act shall become effective on December 31, 1971, or sixty days after the date of enactment of this Act, whichever is later.

Mr. HARVEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. HARVEY. Mr. Chairman, As I mentioned earlier this is the full text of H.R. 11280, that I am introducing as a substitute. It is the Senate bill. It was first introduced in the House by the gentleman from Ohio (Mr. Brown) and the gentleman from Minnesota (Mr. Frenzel). If adopted with the amendment of Mr. Macdonald of Massachusetts, it will indeed serve as a good vehicle for campaign spending reform.

Mr. Chairman, the amendments which the House adopted yesterday actually bring the combination Hays-Macdonald bill that we are working on much closer to the Senate substitute that I am offering. Certainly, the Frey amendment, which broadened the nonbroadcast media to be limited as far as spending is concerned, and the 20 percent flexible feature that he added made the House bills spending limitations very close to those in the Senate substitute. The only major difference is that the substitute provides for an overall limit as high as $60,000, or $30,000 each for broadcasting and nonbroadcasting, whereas the limit of the House bill is a total of $50,000.

There are, however, several other major areas of difference between the Senate substitute that I am offering and the combination Hays-Macdonald bill now before us. The fact that these areas of difference do still exist in itself should be enough to persuade those Members who truly want reform that there is considerable merit in supporting the substitute, as it will be amended by Mr. Macdonald of Massachusetts. Let me take a minute to point out some of these areas of difference between the two bills:

First. Disclosure and reporting. The Senate substitute requires full reports from candidates, from committees and from individuals, and provides for filing these reports 15 and 5 days before an election, as well as for quartely reports throughout the year. These reports would be due on the 10th of March, June and September each year and the January 31st following an election. Further, a copy of the report would have to be filed with an Elections Commission to be appointed by the President, with the advice and consent of the Senate, and also with the U.S. District Court for the district in which the committee is located or the candidate resides, and where they would be available for inspection.

The Hays-Macdonald bill, on the contrary, simply requires two reports, one between 15 and 10 days before the election and one 45 days after the election. It simply requires that these reports be filed with the Secretary of the Senate, the Clerk of the House, or the Comptroller General—insofar as the President-Vice President is concerned.

Second. Limits on contributions. In this area of difference, I would point out that testimony before our committee from Deputy Attorney General Kleindienst clearly indicated his belief that such limits would be unconstitutional. In addition, I would point out the very clear and convincing testimony of Prof. Ralph Winter, of Yale University Law School, in this regard. This matter was considered in the Senate and because of this fact and because the White House was so strongly opposed to such limits, the Senate substitute contains no provisions in this regard.

The Hays-Macdonald bill, which we are now considering, however, does contain such limits and would prevent any individual and member of his immediate family from contributing more than $35,000 to any Presidential candidate, $5,000 to any Senate candidate, and $5,000 to any House candidate.

Three. Limits on the amount a candidate may spend in his own behalf. Again, if you read the testimony of Professor Winter, there is considerable question about the constitutionality of such a provision, but it is clear from the sentiment expressed in both the Senate and House that the Members feel there should be such limits.

The Senate substitute provides that no candidate from his funds or those of his personal family may spend more than $50,000 as a candidate for President or Vice President, nor more than $35,000 as a candidate for the Senate, nor more than $25,000 as a candidate for the House.

The Hays-Macdonald bill before us even further limits the amount that can be spent and would prohibit a presidential candidate from spending more than $35,000, a Senate candidate more than $20,000, and a House candidate more than $15,000.

Four. The agency regulations with regard to extending credit. The Senate substitute clearly requires the CAB, the FCC, and the ICC to issue regulations concerning the extension of credit to candidates.

The Hays-Macdonald bill has no such provision, and you will recall yesterday that this was ruled nongermane by the Parliamentarian.

Five. Penalties. The Senate substitute in each case provides for a fine of up to $5,000, or as much as 5 years in prison, for violations thereof.

The Hays-Macdonald bill provides for a fine of up to $25,000 in the case of a candidate for President or Vice President, but no fine in the case of Senators or Representatives. It does, however, have a very severe restriction which would disqualify any person from assuming such office; in the case of a candidate for Congress, 5 years, and in the case of a candidate for the Senate, 7 years, until he had complied with the act.

Although it is my understanding such a provision is in existence in the State of Ohio, I think again there is considerable doubt about the constitutionality of this provision insofar as Members of Congress are concerned.

For all of these reasons, I believe the Senate substitute, with the amendment to title I of the gentleman from Massachusetts (Mr. Macdonald), will make a stronger bill. I said at the outset that as far as I was concerned, the real key was a strong disclosure provision. In addition, the absence of a limit on contributions in the Senate substitute is more realistic, and the agency regulations for extension of credit to candidates is essential. I would, therefore, urge you to support this Senate substitute which I have introduced so that we may have true reform.

AMENDMENT OFFERED BY MR. MACDONALD OF MASSACHUSETTS TO THE SUBSTITUTE AMENDMENT OFFERED BY MR. HARVEY

Mr. MACDONALD of Massachusetts. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from Michigan (Mr. Harvey).

The Clerk read as follows:

Amendment offered by Mr. Macdonald of Massachusetts to the amendment in the nature of a substitute offered by Mr. Harvey: Page 2, strike out line 1 and all that follows down through line 2 on page 13 and insert in lieu thereof the following:

TITLE I—CAMPAIGN COMMUNICATIONS

SHORT TITLE

Section 101. This title may be cited as the "Campaign Communications Reform Act".

DEFINITIONS

Sec. 102. For purposes of this title:

(1) The term "communications media" means broadcasting stations, newspapers, and outdoor advertising facilities.

(2) The term "broadcasting station" has the same meaning as such term has under section 315(d) of the Communications Act of 1934.

(3) The term "Federal elective office" means the office of President of the United States, or of Senator or Representative in, or Resident Commissioner or Delegate to, the Congress of the United States (and for purposes of section 103(b) such term includes the office of Vice President).

(4) The term "legally qualified candidate" with respect to Federal elective office, or nomination for election to such office, has the same meaning as such term has when used in section 315 of the Communications Act of 1934.

(5) The term "voting age population" means resident civilian population, eighteen years of age and older.

(6) The term "State" includes the District of Columbia and the Commonwealth of Puerto Rico.

MEDIA RATE REQUIREMENTS

Sec. 103. (a) Section 315(b) of such Act is amended to read as follows:

"(b) The charges made for the use of any broadcasting station by any person who is a legally qualified candidate for any public office shall not exceed the actual charges made by such station for any comparable use of such station for other purposes."

(b)(1) To the extent that any person sells space in any newspaper or magazine to a legally qualified candidate for Federal elective office, or nomination thereto in connection with such candidate's campaign for nomination for, or election to, such office, the charges made for the use of such space in connection with his campaign shall not exceed the charges made for comparable use of such space for other purposes.

(2) If any person makes available space in any newspaper or magazine to any legally qualified candidate for Federal elective office, or nomination thereto, in connection with such candidate's campaign for nomination for, or election to, such office, such person shall make equivalent space available on the same basis to all legally qualified candidates

for the same office, or for nomination to such office, as the case may be.

LIMITATIONS OF EXPENDITURES FOR USE OF COMMUNICATIONS MEDIA

SEC. 104. (a) (1) No legally qualified candidate in an election (other than a primary or primary runoff election) for a Federal elective office may—

(A) spend for the use of communications media on behalf of his candidacy in such election a total amount in excess of the greater of—

(i) 10 cents (or such greater amount as may be certified under paragraph (4)(A)(i)) multiplied by the voting age population (as certified under paragraph (4)(B)) of the geographical area in which the election for such office is held, or

(ii) $50,000 (or such greater amount as may be certified under paragraph (4)(B)(ii)), or

(B) spend for the use of broadcast stations on behalf of his candidacy in such election a total amount in excess of 60 per centum of the amount determined under subparagraph (A) with respect to such election.

(2) No legally qualified candidate in a primary election for nomination to a Federal elective office, other than President, may spend—

(A) for the use of communications media, or

(B) for the use of broadcast stations, on behalf of his candidacy in such election a total amount in excess of the amounts determined under paragraph (1) (A) or (B), respectively, with respect to the general election for such office. For purposes of this subsection a primary runoff election shall be treated as a separate primary election.

(3) (A) No person who is a candidate for presidential nomination may spend—

(i) for the use in a State of communications media, or

(ii) for the use in a State of broadcast stations, on behalf of his candidacy for presidential nomination a total amount in excess of the amounts which would have been determined under paragraph (1) (A) or (B), respectively, had he been a candidate for an election for the office of Senator from such State (or for the office of Delegate or Resident Commissioner in the case of the District of Columbia or the Commonwealth of Puerto Rico).

(B) For purposes of this paragraph, a person is a candidate for presidential nomination if he makes (or any other person makes on his behalf) an expenditure for the use of any communications medium on behalf of his candidacy for any political party's nomination in an election to the office of President. He shall be considered to be such a candidate during the period—

(i) beginning on the date on which he (or such other person) first makes such an expenditure (or, if later, January 1 of the year in which the election for the office of President is held), and

(ii) ending on the date on which such political party nominates a candidate for the office of President.

For purposes of this title and of section 315 of the Communication Act of 1934, a candidate for presidential nomination shall be considered a legally qualified candidate for public office.

(C) The Attorney General shall prescribe regulations under which any expenditure by a candidate for presidential nomination for the use in two or more States of communications media shall be attributed to such candidate's expenditure limitation in each such State, based on the number of persons in such State who can reasonably be expected to be reached by such communications media.

(4) (A) During the first week of January 1974, and during such week in every second subsequent year, the Secretary of Commerce shall certify to the Attorney General and publish in the Federal Register—

(i) an amount which bears the same ratio to 10 cents, and

(ii) an amount which bears the same ratio to $50,000,

as the value of the communications price index for the last calendar year ending before the date of certification bears to the value of such index for 1972. The communications price index shall be a price index, using 1972 as a base year, measuring changes in the charges to candidates for the use of communications media. Such index shall be established and maintained by the Secretary of Commerce.

(B) During the first week of January 1972, and during such week in every second subsequent year, the Secretary of Commerce shall certify to the Attorney General and publish in the Federal Register an estimate of the voting age population of each State and congressional district for the last calendar year ending before the date of certification.

(5) Amounts spent for the use of communications media on behalf of any legally qualified candidate for Federal elective office (or for nomination to such office) shall, for the purposes of this subsection, be deemed to have been spent by such candidate. Amounts spent for the use of communications media by or on behalf of any legally qualified candidate for the office of Vice President of the United States shall, for the purposes of this section, be deemed to have been spent by the candidate for the office of President of the United States with whom he is running.

(6) For purposes of this section and section 315(c) of the Communications Act of 1934, spending and charges for the use of communications media include not only the direct charges of the media but also agents' commissions allowed the agent by the media.

(7) For purposes of this section and section 315(c) of the Communications Act of 1934, any expenditure for the use of any communications medium by or on behalf of the candidacy of a candidate for Federal elective office (or nomination thereto) shall be charged against the expenditure limitation under this subsection applicable to the election in which such medium is used.

(b) No person may make any charge for the use by or on behalf of any legally qualified candidate for Federal elective office (or for nomination to such office) of any newspaper, magazine, or outdoor advertising facility, unless such candidate (or a person specifically authorized by such candidate in writing to do so) certifies to such person in writing that the payment of such charge will not violate paragraph (1), (2), or (3) of subsection (a), whichever is applicable.

(c) Section 315 of the Communications Act of 1934 is amended by redesignating subsection (c) as subsection (e) and by inserting after subsection (b) the following new subsections:

"(c) No station license may make any charge for the use of such station by or on behalf of any legally qualified candidate for Federal elective office (or for nomination to such office) unless such candidate (or a person specifically authorized by such candidate in writing to do so) certifies to such licensee in writing that the payment of such charge will not violate any limitation specified in paragraph (1), (2), or (3) of section 104(a) of the Campaign Communications Reform Act, whichever paragraph is applicable.

"(d) For the purposes of this section:

"(1) The term 'broadcasting station' includes a community antenna television system.

"(2) The terms 'license' and 'station licensee' when used with respect to a community antenna television system, mean the operator of such system.

"(3) The term 'Federal elective office' means the office of President of the United States, or of Senator or Representative in, or Resident Commissioner or Delegate to, the Congress of the United States."

REGULATIONS

SEC. 105. The Attorney General shall prescribe such regulations as may be necessary or appropriate to carry out sections 102, 103 (b), 104(a), and 104(b) of this Act.

PENALTIES

SEC. 106. (a) Whoever violates any provision of section 103(b), 104(a), or 104(b) or any regulation under section 105 shall be assessed a civil penalty of not more than $1,000 for each violation.

(b) Any legally qualified candidate who willfully violates section 104(a) or any regulation under section 105 shall be punished by a fine of not more than $10,000 or by imprisonment of not more than one year, or both.

EFFECTIVE DATES

SEC. 107. Section 103 of this Act and the amendments made thereby shall take effect on January 1, 1972. Section 104 and the amendments made thereby shall apply only to expenditures for the use on or after such date of communications media.

Mr. MACDONALD of Massachusetts (during the reading). Mr. Chairman, I ask unanimous consent that the further reading of the amendment be dispensed with, and that it be printed in the RECORD.

The CHAIRMAN. Without objection, it is so ordered.

There was no objection.

The CHAIRMAN. The gentleman from Massachusetts (Mr. MACDONALD) is recognized for 5 minutes in support of his amendment.

Mr. MACDONALD of Massachusetts. Mr. Chairman, the amendment which I just now offered is the amendment which was adopted yesterday by the Committee of the Whole. Stated in another way, it is the amendment which I offered under the rule as an amendment yesterday. I think just for those who do not follow parliamentary procedure any better than I do, I ought to spell out what is included in the amendment which is now pending.

In the first place, it includes the Frey amendment which added billboards and established a floor on expenditure limitations of $50,000; and it provides not more than 60 percent of the candidates expenditure limitation could be spent on broadcasting.

Second, it includes the Pickle amendment.

Third, the Symington amendment, which provides that area expenditures count against the limitations in the elections in which they are used.

It includes the Harvey amendment, which would leave the provisions of section 315(a) of the Communications Act, known as the equal time provision, in the bill exactly as they are in existing law.

It includes also the Hathaway amendment, which relates to advertising space made available in magazines and newspapers.

In adopting this amendment, the House will be only reconfirming how and in what way it worked its will on my original so-called Macdonald amendment which is title I.

Mr. SPRINGER. Mr. Chairman, will the gentleman yield?

Mr. MACDONALD of Massachusetts. I yield to the gentleman from Illinois.

Mr. SPRINGER. I should like to ask my distinguished chairman of the subcommittee this question. What you are in effect doing, to reduce it to the irreducible, is to take the Harvey substitute, which is in effect the Senate bill; am I correct in that?

Mr. MACDONALD of Massachusetts. That is correct.

Mr. SPRINGER. Now, by what you are proposing, you are amending title I of the Harvey substitute in such a way as to put this bill in the exact form which we put it yesterday by the amendments that were offered yesterday to the Macdonald bill; am I correct?

Mr. MACDONALD of Massachusetts. Absolutely correct.

Mr. SPRINGER. And that includes all the amendments which were offered yesterday?

Mr. MACDONALD of Massachusetts. I point out to the gentleman from Illinois that I just enumerated for the record the amendments which were offered and accepted by the House on yesterday.

Mr. SPRINGER. And may I ask the distinguished gentleman whether those were all the amendments that were offered yesterday and there is nothing in addition?

Mr. MACDONALD of Massachusetts. Nothing more, no. This goes to title I. It includes the so-called Macdonald amendment as amended by the various Members: Mr. FREY, Mr. PICKLE, Mr. SYMINGTON, Mr. HARVEY, and Mr. HATHAWAY. They are all included and nothing else is included.

Mr. SPRINGER. I thank the gentleman.

Mr. HAYS. Mr. Chairman, will the gentleman yield?

Mr. MACDONALD of Massachusetts. I yield to the gentleman from Ohio.

Mr. HAYS. I think we ought to clear up one thing. The gentleman from Illinois, I am sure inadvertently, kept saying, "It includes all the amendments offered yesterday." It does not. It includes all the amendments that were adopted yesterday.

Mr. SPRINGER. I thank the gentleman. That clarifies it even better.

Mr. GERALD R. FORD. Mr. Chairman, will the gentleman yield?

Mr. MACDONALD of Massachusetts. I yield to the distinguished Minority Leader.

Mr. GERALD R. FORD. I think the gentleman has adequately clarified the situation, but let me put it in another way. The amendment that you have offered are amendments approved yesterday to the Macdonald bill that relate to comparable provisions in the Harvey substitute as far as substance is concerned?

Mr. MACDONALD of Massachusetts. Actually, I offered only one amendment. My amendment was then amended by five other amendments which this House in its wisdom saw fit yesterday to adopt.

Mr. GERALD R. FORD. Let me phrase it in another way. The amendment which you have offered today to the Harvey substitute does not strike out something in the Harvey amendment and add something, in effect eliminating parts of the Harvey substitute that we might like to keep in there?

Mr. MACDONALD of Massachusetts. I point out to the distinguished minority leader that I do not think Mr. HARVEY would support that, and he has already supported it in his speech in the well this afternoon.

Mr. EDMONDSON. Mr. Chairman, will the gentleman yield?

Mr. MACDONALD of Massachusetts. I yield to the gentleman from Oklahoma.

Mr. EDMONDSON. The gentleman has incorporated in the amendment he is now offering both Republican-sponsored and Democratic-sponsored amendments that were offered and adopted in the Committee of the Whole yesterday, and thus is giving to us a bipartisan product that is a House product and a substitute for the Senate language?

Mr. MACDONALD of Massachusetts. That is exactly correct.

Mr. EDMONDSON. I think it should have bipartisan support. I commend the gentleman for what he has done.

Mr. MACDONALD of Massachusetts. I thank the gentleman.

The CHAIRMAN. The time of the gentleman from Massachusetts has expired.

PARLIAMENTARY INQUIRY

Mr. ANDERSON of Illinois. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. ANDERSON of Illinois. The gentleman from Massachusetts has just offered an amendment to the amendment in the nature of a substitute offered a few minutes ago by the gentleman from Michigan (Mr. HARVEY). My parliamentary inquiry is, Would it be in order at this time to submit further amendments to the amendment just offered by the gentleman from Massachusetts, Mr. MACDONALD?

The CHAIRMAN. The answer is that it would not.

Mr. ANDERSON of Illinois. I thank the Chair.

(By unanimous consent, Mr. MACDONALD of Massachusetts was allowed to proceed for 1 additional minute.)

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. MACDONALD of Massachusetts. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. I am pleased to see that the gentleman has incorporated in his amendment the action of the House yesterday.

But am I to assume then that my subcommittee chairman, the gentleman from Massachusetts, intends to support the Brown-Frenzel substitute with the Macdonald bill if the Macdonald bill is adopted as amended by the Frenzel substitute?

Mr. MACDONALD of Massachusetts. I do not completely understand the gentleman's question.

Mr. BROWN of Ohio. If the Macdonald bill is adopted as an amendment to the Brown-Frenzel substitute, the Senate bill, then is the gentleman from Massachusetts planning to support the substitute?

Mr. MACDONALD of Massachusetts. I support the bill as amended. Although I do not, as I indicated yesterday, agree with many of the amendments, I will support the action of this House and will support it fully.

Mr. BROWN of Ohio. I thank the gentleman.

Mr. ANDERSON of Illinois. Mr. Chairman, I move to strike the last word.

Mr. Chairman, first I would certainly like to add my commendation to those that have already been received by the gentleman from Michigan (Mr. HARVEY) for offering the Senate substitute as I think it is the best chance that this House has today to adopt a really comprehensive limitation on media spending as well as to enact effective reporting and disclosure provisions.

I previously addressed a question to the Chair as to whether or not at this point in the debate further amendments to the Macdonald amendment would be in order, and the members of the committee will recall that the Chair answered that question in the negative. I still must confess, and I would ask members of the committee to indulge me for several minutes, while I discuss what I would like to have offered in the form of an additional amendment to the communications section of this bill.

As Members may know, there is a controversy raging in the country at the present time on the question of a campaign check off, and there are those in the other body who are insisting that in order to fund the expensive television campaigns that have become necessary in recent years, the taxpayers of this country should be asked to indicate on their tax returns a contribution to the party of their choice. I think a far superior proposal to that would be one which I offered in the form of legislation earlier this year and last year, cosponsored by the distinguished gentleman from Arizona (Mr. UDALL), and as I recall almost 85 Members of this House on both sides of the aisle, a proposal calling for voters' time, where the Federal Government would pay for it, would pay for blocks of time in half an hour each, six blocks of 30 minutes each for the major party candidates.

I would add in that original proposal we also provided for voters' time for the candidates for the Senate and for the House as well.

But I think in the interest of trying to meet the problem of financing the expensive television campaigns that have been encountered in recent presidential elections, it would make sense to realize that public financing of a portion of the presidential campaign is in order. My fundamental opposition to the campaign checkoff is that it represents just an indiscriminate use of Federal funds. I think if we were to rifleshot the problem, if we were to enact into law a provision for voter time that would say to the presidential candidates of the major parties, yes, you can go out and buy, you can go out and contract for six 30-minute time segments on network television during prime time, and the Treasury of the United States will pay for that television time, then I think we would accomplish the kind of intelligent reasoned discussion of the issues that the voters of this country are entitled to, and at the same time, I think we would avoid some of the vices of the campaign checkoff where funds would be indiscriminately applied through a national committee for any purpose whatsoever relating to a presidential campaign.

I regret very much that at this point in our consideration of this bill, it is not possible to offer that kind of amendment as it would pertain to a presidential race. I would express, however, in closing, the hope that in this Congress, perhaps not in this session of Congress, but early in the next session of Congress we could get on with the job of still further reform as far as this whole campaign process is concerned.

It is an evolutionary process. None of us is going to accomplish all of the things we would like to see accomplished today in the way of campaign financing reform, but given the importance of the office and given the importance of the issue, I would hope we would not think our job was done today with the enactment of this bill, even though it does represent a very significant advance.

I hope particularly in this area of making available to Presidential candidates the necessary television time, that will be paid for out of the U.S. Treasury for a discussion of national issues, this will be something that will be discussed and talked about, and I hope ultimately will receive approval of this body.

Mr. BINGHAM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, first I want to say that I will, of course, support the Macdonald of Massachusetts amendment, and I compliment the gentleman and the chairman and members of his committee for the work they did, which was realized on the floor yesterday.

I rise to explain an amendment I had hoped to offer to the Senate bill, which I now find, because of the procedure being followed, cannot be offered, at least at this time. I will seek to find a way to offer it at a later point in the bill.

What I had wished to do was to offer something that would be a compromise between the limited coverage of the limitations in the Senate bill—namely, TV and radio, newspapers and periodicals, and billboards—on the one hand, and on the other hand the total coverage of the Hays bill, a ceiling covering all expenditures in all campaigns.

The purpose of my compromise would be to introduce and add two additional categories to those contained in the Senate bill; namely, organized telephone campaigns and organized mail campaigns. I would have done that by inserting the following language after the words "outdoor advertising facilities":

> Telephones, including the cost of paid telephonists and automated equipment, when used in banks of five or more instruments to communicate with potential voters, and postage for computerized or identical mailings in quantities of 200 or more.

Let me point out what this would do. It would include two major categories of expenditures in many congressional districts.

In my campaigns I have never used TV and radio. I do not believe anyone in the New York metropolitan district does. It is too expensive. I rarely use any newspaper or periodical advertising. Thus the Senate bill in its present form substantially has no effect in my district or in other metropolitan New York districts, as pointed out very eloquently by my colleague from New York (Mr. Podell), the other day.

What I had proposed to do would cover the major items in such districts. It would not cover individual mailings. It would not cover you asking your friend to make some telephone calls for you. It would not cover some letters casually written. But it would cover what we customarily use in New York, banks of telephones operated either by automated equipment or by paid telephonists, sometimes voluntary telephonists, if one is fortunate enough to be able to procure them.

It would also cover postage—and I am not proposing to try to cover the printing problem, because that is complicated, or even the labeling problem but just the postage—which is an identifiable, clearly measured item of expense which comes to large sums in any general mailing. That would be both bulk rate and first class, for, as I put it, computerized or identical mailings in quantities of 200 or more. Why 200? Because that is the minimum number specified in the bulk mail regulations to the post office.

I hope at some stage in the consideration of this bill—either later on in the consideration of the substitute or perhaps at the stage when we are considering the Hays bill, if the substitute is voted down, or perhaps in conference—it will be possible to introduce this concept. It seems to me to offer a reasonable compromise between the very limited coverage of the Senate bill, which does not have any effect in many districts, and the total coverage of the Hays bill.

Mr. GERALD R. FORD. Will the gentleman yield?

Mr. BINGHAM. I will be glad to yield to the distinguished minority leader.

Mr. GERALD R. FORD. I can understand the gentleman's position, and I am sure others in other districts have a comparable problem, but is not an answer to your problem to accept the Senate version or the Harvey version which has no limitation on expenditures? Does that not take care of your problem?

Mr. BINGHAM. I would say to the distinguished minority leader that my purpose is to include limitations on these items. I think if we pass legislation that, in effect, sets no limitation for expenditures in many Congressional districts because it does not cover the type of expenditures that are made in those Congressional districts, then we have left a major gap.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. Bingham was allowed to proceed for 3 additional minutes.)

Mr. PODELL. Will the gentleman yield?

Mr. BINGHAM. I will be glad to yield to the gentleman from New York.

Mr. PODELL. In the event that the Hays bill is approved, is not your objection covered by that part of the bill?

Mr. BINGHAM. Well, in a general way, yes, because the Hays bill provides comprehensive coverage for all expenditures, but as has been pointed out, one of the objections to that bill is that it raises a number of questions about what is included and what is not included, which is met by limiting the coverage to major categories which are readily identifiable.

Mr. PODELL. Does not the Hays bill itself provide for expenditures and accounting for the expenditures on postage, on printing, on telemeters and all phases of campaign spending? Is it not presently included in the Hays bill?

Mr. BINGHAM. Yes, it is. But what I am saying is what I am offering will be in the nature of a compromise between the Senate limited coverage and the total coverage of the Hays bill.

Mr. HAYS. Well, since the Macdonald of Massachusetts bill was debated for a whole day yesterday and this is the pending thing, I was wondering if we can get an agreement on limitation of time on the Macdonald of Massachusetts amendment.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. HAYS. I yield to the gentleman.

Mr. BROWN of Ohio. I wonder if it would be possible for the two of us who put in the Frenzel-Brown bill, now introduced by Mr. Harvey, to speak on that amendment prior to limitation of time on the Macdonald of Massachusetts amendment.

Mr. HAYS. Are you against the Macdonald of Massachusetts amendment?

Mr. BROWN of Ohio. I am not against the Macdonald of Massachusetts amendment, but I would like to have the opportunity to speak.

Mr. HAYS. Mr. Chairman, I ask unanimous consent that all debate on the Macdonald of Massachusetts amendment—and there will be no amendments to it under the rule—cease in 10 minutes.

Mr. KEITH. Mr. Chairman, reserving the right to object, yesterday under similar circumstances there were only one or two people who apparently wanted to talk, and by the time the question was asked there were 25 who stood on their feet, so that each one got a minute or at the most a minute and a quarter and I hope, really, prior to adopting the 10-minute limitation a better estimate could be made as to the number of people who want to talk. I would hope that those of us who want to comment on, or contribute to, the debate would get at least 2 or 3 minutes in which to express their views.

Mr. HAYS. When I made the unanimous-consent request, if the gentleman will yield, I will say to the gentleman that there were three people standing and I meant the request to be for 15 minutes, 5 minutes to Mr. Frenzel, 5 minutes to Mr. Brown of Ohio and 5 minutes to Mr. Monagan, and then the gentleman from Iowa (Mr. Gross) got up, and I do not know whether he wants to speak on the Macdonald of Massachusetts amendment or what.

Mr. GROSS. Mr. Chairman, if the gentleman will yield, I have not made up my mind as yet. It will take a little time to find out.

Mr. HAYS. Mr. Chairman, I ask unanimous consent that all debate on the

Macdonald of Massachusetts amendment cease in 15 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. GROSS. Mr. Chairman, I have now made up my mind. I ask that my name be stricken from the list of those standing.

The CHAIRMAN. The name of the gentleman from Iowa will be stricken.

The Chair recognizes the gentleman from Connecticut (Mr. MONAGAN).

Mr. MONAGAN. Mr. Chairman, I support the Macdonald amendment.

I rise simply because I find myself in the position of gradually being prevented, as several of the other Members who have spoken have been, from presenting an amendment which I had hoped to present and which I had told the membership I would present. That is an amendment which would have limited the time for presidential campaigns to 60 days.

Mr. Chairman, it is my belief and has been for a long time that the time for these campaigns in this country of ours is ridiculously long. There are only two other nations in the world about which I know—the Philippines and Chile—which have campaigns that compare with ours in length. The average democratic country in the world, whether it be Israel or India, Canada or the United Kingdom, conducts a national campaign of about 30 days and they present the issues adequately. So, because of the phenomenal cost, because of area of diminishing returns from expenditures and physical exercise which comes in every campaign and the resulting lack of communication between the candidates and the electorate, the circus flapdoodle quality detracts from the importance and seriousness of the campaign.

Mr. Chairman, this is not a matter of restriction, it is not a matter of control; it is not a matter of censorship, but a matter of bringing some proportion into the campaign for the Presidency. I believe it could ultimately be extended, of course, it would seem to them that as an opening to Senatorial and House campaigns this would be an appropriate place at which to start.

I have filed a bill to accomplish this result and it is my hope that it will be reported favorably and that we may be able to do directly what we would be doing immediately by amendment here.

The CHAIRMAN. The Chair recognizes the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Chairman and members of the Committee, the Macdonald amendment in my opinion does drastic things to the bill which the gentlemen from Ohio (Mr. BROWN) and I introduced in the nature of a substitute. Nevertheless, because of the bipartisan spirit in which the House worked yesterday in attempting to develop a true compromise, an amendment that the Members on both sides of the aisle and all interested parties, including the people of this country, could all live with and support, was adopted.

I intend to vote for the Macdonald amendment. It is my hope that we can continue in this same spirit to develop a piece of legislation of which we can all be proud and that can, in fact, become law.

The gentleman from Ohio (Mr. BROWN) and I introduced our bill to which he refers as the Brown-Frenzel bill, but which is correctly identified as the Frenzel-Brown bill, and now, lamentably—perhaps fortuitously for the country, has become the Harvey substitute. We did not do this because we were against election reform, but, rather because we judged that this was the best we could do in order to get election reform.

We already have congratulated the two chairmen and the two subcommittee chairmen of the two committees which produced these bills. We have sought to clarify the situation and to produce the best vehicle, the best coordinated, the best integrated vehicle that would give us honest reform for our Nation's elections. Our substitute amendment, the Harvey substitute, is one which we think closes all the loopholes and produces the best law. We did not think that the amalgamation of the Macdonald-Hays bills produced a usable, coordinated reform instrument.

Again, Mr. Chairman, I am willing to surrender my first choices, as has the gentleman from Massachusetts (Mr. MACDONALD), in our joint effort to achieve reform. I urge that the Macdonald amendment be promptly adopted.

The CHAIRMAN. The Chair recognizes the gentleman from Florida (Mr. BENNETT).

Mr. BENNETT. Mr. Chairman, I support the efforts in the House of Representatives today to bring about reform and modernization of our campaign finance laws. I congratulate the committees for bringing this legislation to the floor and I am hopeful a strong bill will be passed by the House of Representatives.

This debate is highly important because what is involved in the costs of getting elected strikes at the base of democratic government. People who run for public office, especially for the highest offices in our land, should be required to disclose what and where they get funds and resources and how they expend them in running for office. The public has a right to know this if we are to maintain the integrity of our system.

I have long been an advocate of strict reporting of campaign finances, and introduced a bill, H.R. 1213, to establish the Federal Campaign Disclosure Act to limit and control spending by Federal candidates, on January 22, 1971. I testified before the House Administration Committee on this bill.

This legislation follows the model Florida elections law, known to Floridians as the "who gave it—who got it" law. The Federal Government should have such a law on the books for full disclosure, repealing the antique Federal Corrupt Practices Act of 1925.

Will Rogers said years ago:

> Politics has got so expensive it takes a lot of money even to get beat with.

In the 1968 presidential election the three contending parties spent a reported total of $100 million, up 67 percent over 1964. This does not include contests for 435 seats in the House of Representatives, 34 senatorial seats, 21 governorships, or local races. The total on all political spending in 1968, according to the Citizens Research Foundation, was $300 million, up 50 percent over 1964.

The problem of campaign financing is not a new one. At the beginning of this century, Theodore Roosevelt, seeking to find a solution to high campaign costs, recommended that Congress provide "an appropriation for the proper and legitimate expenses of each of the great national parties." During the 1920 presidential campaign, the Democratic candidate, William Gibbs McAdoo, said:

> If the national government paid the expenses of the national campaigns and specified the legitimate objects which expenditures might be made, politics would be purified enormously.

Today, the public is demanding that political spending and contributions be disclosed. A recent Gallup poll reported that 73 percent of the public favored a limit on campaign spending.

The legislation before the House today is an avenue to bring our Federal elections laws up to date so the public will have a better understanding of campaign financing, thus a better understanding of representative democracy. I am hopeful that strengthening amendments will make the bill even more responsive to the great needs for reform.

It is my feeling that there should be full disclosure in the bill we pass, and that there be limits on contributions and expenditures by candidates and by individuals who contribute.

Mr. Chairman, it is my belief that political broadcast advertising should ultimately be free to the qualified candidate; and that local broadcasting stations should be required to provide free time either as part of the license procedure or recompensed by Government funds. My bill, H.R. 4086, the Political Broadcasting Spending Reform Act, which I testified for in the House Interstate and Foreign Commerce Committee would make fairer the use of the all important radio and television media for all candidates. It is this media advertising cost that has put political spending out of the realm of commonsense. The airwaves are owned by the public. It is in the public interest that political advertising be free to candidates. Also, there should be minimum times placed on all political broadcasting advertising. Candidates should be allocated time in segments not less than 5 minutes in length.

Money is the moral issue we are talking about. Knowledge of the expenditure and use of dollars to influence legislation and decisions and to elect individuals to Federal office must be made open and available to the public and the news media. As President Eisenhower wrote in 1967:

> If better laws, vigorously enforced with pitiless publicity are needed—and they surely are—we must still remember the wise old axiom that government can be no better than the men who govern. As citizens with the priceless right of franchise, we must insist upon the highest code of honor in public life.

Mr. Chairman, the House can make a significant contribution to American democracy by passing a strong bill, with teeth, to modernize our Federal campaign finance law.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. Brown).

Mr. BROWN of Ohio. Mr. Chairman, I rise in somewhat reluctant support of the Macdonald amendment to the Harvey substitute, once known as the Frenzel-Brown and Brown-Frenzel bill. I say "reluctant" because I am not particularly happy with the action taken in regard to section 315(a) of the Communications Act nor with the Hathaway amendment to section 103(b)(2) of the Macdonald bill. But as has been indicated here, we are in the process of working out a compromise, and compromise is the only method by which we are going to get legislation in this relatively touchy but very significant area.

The gentleman from Minnesota (Mr. Frenzel) and I introduced our bill—the Senate bill—in the hope that we could have a better and more substantial vehicle than the two bills which sprang from the Committee on Interstate and Foreign Commerce and the Committee on House Administration.

The Senate bill—our bill—passed the Senate by a bipartisan vote of 88 to 2. It has the tacit support of the White House, and the vocal support of the minority leader of the House, Mr. Gerald R. Ford. We felt that it also encompassed most of the aspects of the bipartisan bill introduced earlier in the session by the gentleman from Illinois (Mr. Anderson) and the gentleman from Arizona (Mr. Udall). The Senate bill had come to the House but had not been referred because the Committee on Interstate and Foreign Commerce and the Committee on House Administration were in the process of developing bills of their own. So we introduced the Senate bill as our own, got it referred, and that made it possible for the Committee on Rules to make it in order as a substitute for the two bills that sprang from the two House committees. We think it is a better vehicle as we introduced it, however, in the interest of trying to get a bill we are happy to support the Macdonald amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Massachusetts (Mr. Keith).

Mr. KEITH. Mr. Chairman, I rise in support of the Macdonald bill, and of the Brown-Frenzel bill. But I would like to point out, as the gentleman from Ohio has recently mentioned, that really this bill has been debated at length on the Senate side. It is not the Brown-Frenzel bill, it is the Senate bill and it has great merit. It broadens the base of our reform. It has enlarged the scope of our approach and we are better able to reach the abuses that need reform.

The procedure the House has followed has been most responsive to the public and the political needs of the situation that confronts us. I particularly hope that the amendment which Senator Scott won on the Senate side will remain in the House version. It provides, as I mentioned in debate yesterday, that the regulatory agencies shall issue regulations that will catch up with those candidates who run up large bills and then fail to pay them. The regulatory agencies, the ICC, the FCC and the CAB, will stop the practice which has left some Members of Congress, in effect, in debt to the airline and telephone companies who oftentime have legislation before committees on which they serve.

The point of order that lay against my amendment yesterday will, I believe, no longer stand in the way of our effort to establish true reform in this respect.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. Hays).

Mr. HAYS. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts (Mr. Macdonald) to the amendment in the nature of a substitute offered by the gentleman from Michigan (Mr. Harvey).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. SPRINGER. Mr. Chairman, I demand tellers.

Tellers were refused.

So the amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. HAYS TO THE SUBSTITUTE AMENDMENT OFFERED BY MR. HARVEY

Mr. HAYS. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from Michigan (Mr. Harvey).

The Clerk read as folllows:

Amendment offered by Mr. Hays to the amendment in the nature of a substitute offered by Mr. Harvey. On page 23, strike out lines 19 and 20 and insert in lieu thereof the following:

"(g) 'supervisory officer' means the Secretary of the Senate with respect to candidates for Senator; and the Clerk of the House of Representatives with respect to candidates for Representative in, or Delegate or Resident Commissioner to, the Congress of the United States; and the Comptroller General of the United States in any other case;"

Page 25, line 21, strike out "Commission" and insert in lieu thereof "supervisory officer".

Page 26, beginning in line 9, strike out "Federal Elections Commission" and insert in lieu thereof "appropriate supervisory officer".

Page 26, line 13, strike out "Commission" and insert in lieu thereof "supervisory officer".

Page 27, line 6, strike out "Commission" and insert in lieu thereof "supervisory officer".

Page 27, line 11, strike out "Commission" and insert in lieu thereof "supervisory officer".

Page 27, line 17, strike out "Commission" and insert in lieu thereof "supervisory officer".

Page 27, line 18, strike out "it" and insert in lieu thereof "he".

Page 28, line 23, strike out "Commission" and insert in lieu thereof "supervisory officer".

Page 29, beginning in line 1, strike out "Commission" and insert in lieu thereof "supervisory officer".

Page 29, line 7, strike out "Commission" and insert in lieu thereof "supervisory officer".

Page 29, line 12, strike out "Commission" and insert in lieu thereof "appropriate supervisory officer".

Page 29, line 13, strike out "it" and insert in lieu thereof "him".

Page 29, line 18, strike out "Commission" and insert in lieu thereof "supervisory officer".

Page 32, line 7, strike out "Commission" and insert in lieu thereof "supervisory officer".

Page 32, line 9, strike out "Commission" and insert in lieu thereof "supervisory officer".

Page 32, line 12, strike out "Commission" and insert in lieu thereof "supervisory officer".

Page 33, line 1, strike out "Commission" and insert in lieu thereof "supervisory officer".

Page 33, line 15, strike out "Commission" and insert in lieu thereof "supervisory officer".

Page 33, line 16, strike out "Commission" and insert in lieu thereof "supervisory officer".

Page 33, line 23, strike out "Commission" and insert in lieu thereof "supervisory officer".

Page 34, line 23, strike out "Commission" and insert in lieu thereof "Comptroller General of the United States".

Page 34, line 24, strike out "it" and insert in lieu thereof "he".

Page 35, line 4, strike out "Commission" and insert in lieu thereof "supervisory officer".

Page 35, line 8, strike out "it" and insert in lieu thereof "him".

Page 35, line 16, strike out "it" and insert in lieu thereof "him".

Page 36, line 15, strike out "it" and insert in lieu thereof "he".

Page 36, line 21, strike out "it" and insert in lieu thereof "he".

Page 37, line 5, strike out "it" and insert in lieu thereof "he".

Page 37, line 19, strike out "Commission" and insert in lieu thereof "supervisory officer".

Page 37, line 20, strike out "Commission" and insert in lieu thereof "supervisory officer".

Page 37, line 21, strike out "it" and insert in lieu thereof "he".

Page 37, line 25, strike out "Commission" and insert in lieu thereof "supervisory officer".

Page 39, line 11, strike out "Commission" and insert in lieu thereof "supervisory officer".

Page 39, line 16, strike out "Commission" and insert in lieu thereof "supervisory officer".

Page 39, line 18, strike out "it" and insert in lieu thereof "he".

Page 40, strike out line 15 and all that follows down through page 43, line 20.

Page 44, line 10, strike out "Commission" and insert in lieu thereof "supervisory officer".

Mr. HAYS. Mr. Chairman, I ask unanimous consent that the further reading of the amendment be dispensed with and that it be printed in the Record at this point. I will explain the balance of the amendment—the main thrust of the amendment has already been read.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. The gentleman from Ohio (Mr. Hays) is recognized.

Mr. HAYS. Mr. Chairman, I am delighted to hear Mr. Frenzel say now he wants a bill and that he is willing to work to get a bill, and compromise—because my understanding is that in committee he did not want any bill.

However, I am willing to work to get a good bill. I think probably what we are going to come out with is less than I had hoped for in the way of overall coverage.

But I am a realist and this particular amendment goes to the commission set up in the Senate bill which it has been estimated to cost $10 million—and which you can bet will cost at least $20 million.

Now this thing is going to be enforced—if there is any reporting at all—it is going to be enforced by the press—and by dissemination by other media. It is going to be enforced by them. You make a report and have it accessible—and you can do that, the Clerk of the House tells me that he can handle all of these reports with two people additional and make it available to the press as they come in. They can broadcast any way they like exactly what was in your report—who contributed and who did not contribute; how much you spent, and for what—within the limits of the so-called Senate bill.

I have a fixation, you might call it, against unnecessary commissions, and I think this is another unnecessary commission at which you are doing two things. I think you ought to listen to this because it affects every one of you perhaps more than any other piece of legislation you will have. Under the Senate bill you are transferring to the executive branch a part of the control over your election and to the courts the rest of it. If there is any validity in the separation of powers, it is just as valid today as it was when the Constitution was written, and for the life of me I can see no reason why we have to have a commission appointed to be run by the executive branch, which certainly is going to be subservient to the executive branch, to handle the presidential campaign and the Congress, and then in addition you have to report to the Federal court in your district.

If that is not breaking down the separation of powers, then I do not know.

I would like to make another point. I do not know since when around this Chamber just what the other body does has become so sacred. I hear a lot of criticism of it. But I have heard over and over on this bill, "Well, the Senate passed it 88 to 2." Well, so what does that prove? They passed the Tonkin Gulf resolution 92 to 2 and now they are repudiating it all over the place. So that does not prove anything to me except that they can be wrong, and sometimes are. And I think we ought to write our own bill on the floor of this House and then we will go to conference with the Senate, and if there are good things in their bill, we will take them, and if they are not so good, we will reject them and come back here and let you approve or disapprove what we do. But I strongly suggest that this commission and Federal court approach is certainly the wrong way to go about it.

I hope this amendment will be adopted in case the substitute is approved.

Mr. THOMPSON of New Jersey. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. The gentleman from New Jersey is recognized.

Mr. THOMPSON of New Jersey. Mr. Chairman, my feelings with respect to this amendment are, I must confess, somewhat ambivalent. I agree entirely and thoroughly, however, with the fundamental purpose of the distinguished gentleman from Ohio, my chairman, in his assertion that the House should not accept the version set forth in the other body, which you will find beginning on page 23 of the Senate-passed legislation.

In the bill of the other body the commission is appointed by the President with the advice and consent of the Senate. I have proposed and have served notice in the RECORD that I would offer an amendment subsequently to put the reporting in the GAO in circumstances under which the President of the Senate would name two members, the Speaker of the House would name two members, and the President would name two members; the seventh member would be the Comptroller General. It occurs to me that the amendment offered by the gentleman from Ohio is at least—and I have no pride of authorship in mind—is at least a step in the right direction, and it is imperative that it either be accepted or, in the alternative, my amendment be adopted.

In other words, the amendment offered by the gentleman from Ohio (Mr. HAYS) is in the nature of a compromise, and although in all candor I do not think it is as good as the GAO amendment, it is indeed, and I am certain in fact, better than that which is embodied in the bill passed by the other body.

Mr. HAYS. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON of New Jersey. I yield to the gentleman from Ohio.

Mr. HAYS. I will say to the gentleman that I would favor the GAO approach, and the gentleman knows that we discussed it in the committee. But the head of the General Accounting Office has sent a letter to the Speaker and others saying that he does not want to be charged with supervising the election of Members of the Congress. So my amendment places the reporting of the House on the Clerk of the House, that of the Senate on the Secretary of the Senate, and for the President, on the Comptroller General, which is a compromise of sorts, I suppose.

But it seems to me the way to do it. And, of course, all of these reports would be public property. Certainly I just do not think we ought to have the Federal court and a Presidentially appointed commission handling the reports by Members of the House. If this amendment fails, I would certainly be in favor of something like the gentleman's amendment.

Mr. THOMPSON of New Jersey. I understand this. The chairman and I have discussed this matter. It is a fact that the Comptroller General who is, in fact, an employee of the House, has expressed an unwillingness to undertake this additional responsibility. That does not necessarily persuade me, however, since he is an employee of ours and would, in fact, if given his duty, carry it out.

My attitude at the moment is that although the amendment by the gentleman from Ohio is not adequate, certainly it should be accepted, and I intend to support it, and if it is not adopted, I intend to offer an alternative.

Mr. STAGGERS. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON of New Jersey. I yield to the gentleman from West Virginia.

Mr. STAGGERS. Mr. Chairman, I would like to read a portion of the Constitution, and the gentleman referred to it just a moment ago, which says:

> Each House shall be the Sole Judge of the Elections, Returns and Qualifications of its own Members,

It says, "elections, returns and qualifications" and that to me covers the election of and all the things pertaining to the election, so I do not see how we can give away authority to any other body or any other group to judge what our qualifications for office shall be and how me run our campaigns. We are the judges of that under the Constitution.

Mr. THOMPSON of New Jersey. The Senate-passed language is, in fact, of questionable constitutionality, because of the charge made in the Constitution which the gentleman just read.

Mr. FRENZEL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I oppose the amendment. Mr. Chairman, what the distinguished chairman of the House Committee on Administration is doing here is to reinstate his supervisory agent into the Harvey substitute, the late lamented Frenzel-Brown bill. What he does then is to put this law in charge of the supervision employees of the House and the Senate instead of an independent supervisory agency as provided in the Harvey substitute.

Mr. Chairman, this is tantamount to putting the fox in charge of the chicken coop. These people under the powers that remain as supervisory agents—and I refer the Members to page 38—can go in and seek injunctions and restraining orders and so on. The employees of the House and the Senate are good and honest and upright people.

Nevertheless, they are inappropriate people to be judging how this bill—I hope this law—is going to operate. I think they will not be credible in the eyes of the public as simply judging how the Members, you and I, each of us, is going to be campaigning under this law.

I think it is absolutely essential that we have an independent agency, and I would agree with those who said that the substitute, the GAO compromise, which I hope will be offered, would be offered in the spirit of compromise.

Mr. Chairman, as to the cost of this and as to the constitutionality, I think these questions can always be raised. In the area of elections and campaigns, everything we do has an element in it that may be violating some constitutional right. I think there are many things in both these bills that may be of doubtful constitutionality. All we can do is go ahead in the best way we know how. However, there is nothing in the Harvey substitute, in the Frenzel-Brown bill, that gives away the right or authority of the House to be the judge of its own Members. There is a provision in the Hays bill, through which a State elected official can withhold certification of an election if in his judgment the law has been violated. But, we do not give away this right in our substitute.

Mr. Chairman, I would urge this amendment be defeated. If necessary, a substitute could be supported in the form suggested by the gentleman from New Jersey (Mr. THOMPSON).

Mr. HAYS. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Ohio.

Mr. HAYS. Mr. Chairman, in the first place, the gentleman said this commission could go into court and seek injunctions, and so on. I would suspect if this became law, we would have practically every election in the country tied up in the courts before and during and after the elections. I believe that is very dangerous.

The point I wanted to make is that the gentleman and the gentleman from Ohio keep talking about the Frenzel-Brown bill. I have not attached any title to any bill. Some people call one of them the Hays bill.

I would say to the gentleman, if he has pride of authorship in this and wants to go down in history as author of the bill, if he will accept a few amendments to this bill and not try to get the Senate bill in toto, I might get around to the point where I would say, "All right, let us accept the substitute and get this thing over with."

Mr. FRENZEL. I thank the gentleman.

Mr. HAYS. I cannot agree to the Senate bill in toto, and I do not believe the House would agree to it.

Mr. FRENZEL. I agree with the gentleman, and have no interest in telling the House the Senate is the sole fount of wisdom. The chairman's interest in achieving a compromise is supported by me. I just do not support this one.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Arizona.

Mr. UDALL. I want to say the gentleman from Ohio has been very accommodating and very reasonable, and I am impressed by his desire to reach a compromise. I have the same misgivings the gentleman from New Jersey expressed about this amendment. I should like to clarify one part of it.

One thing I liked about the proposal of the gentleman from Minnesota was, instead of having 900 reports in the basement of the Longworth Building 10 days before the election, with the press and everybody else falling over each other, in addition one would be required to file a copy in the district court of the district involved.

I am not sure whether the gentleman's amendment deletes that provision.

Mr. HAYS. The gentleman's amendment does not delete that provision, but the gentleman is aware of another amendment which will be offered to delete it, and the gentleman from Ohio intends to support it.

Mr. UDALL. I appreciate the information. I personally am torn by this. It is a step in the right direction.

Mr. DANIELSON. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, gentlemen and ladies, I rise to support the amendment offered by the gentleman from Ohio. I believe that in our effort to cultivate the favor perhaps of the media or probably common cause—I do not know just who it is—in that effort to cultivate that favor we are on the verge here of doing something which would wreak irremedial damage to the status of the Congress of the United States.

Section 5 of article I of the Constitution provides that each House shall be the sole judge of the elections, returns and qualifications of its Members.

I submit, Mr. Chairman, in the light of that language, this House has neither the moral nor the legal right to delegate that responsibility to someone else. Most certainly it does not have the right, and I submit it does not have the constitutional power, to delegate even a portion of that responsibility to the executive or to the judiciary.

My colleagues, this is our problem. It is a problem of the House of Representatives. It is our duty and our privilege to rise to meet this problem, to provide an answer which is suitable under the circumstances; and we can do it.

The existing law may be faulty. It is faulty perhaps in the manner in which it requires reporting of contributions. Perhaps it does not require enough detail. But that can be remedied by the legislation we are drafting here today. We need a workable law.

We need a workable law; we need one that meets the requirements of the 1970's; but I have never heard any valid, serious criticism of the manner in which the Clerk of the House of Representatives has exercised his legal duties under the existing law. True, he has not been reporting alleged violations. Why should he? The law does not say that he must do so. But he is the custodian of all of these records under existing law and, so far as I know, no one has ever criticized the manner in which he has taken custody. He has made them available to anyone who might wish to see them, whether it be the press or the Attorney General, and I submit that we should not remove this responsibility from our own shoulders.

Mr. HAYS. Will the gentleman yield?

Mr. DANIELSON. Yes. I yield to the gentleman.

Mr. HAYS. I point out that prosecution for violation would not be initiated, presumably, by a commission or the Clerk or anybody else except the Justice Department.

Mr. DANIELSON. That is correct.

Mr. HAYS. You can bet your bottom dollar whoever is the recipient of the reports, if it is the press or the person's opponent, who thinks he has violated the law, will go to the Justice Department. I have said time and time again any election reporting law that is worth its salt is self-enforcing .We have a much tougher law than anything like this in Ohio, and I can testify that the people in Ohio scrupulously abide by the law. I do not know of a single one who does not file a complete and total report listing every expenditure with an amount of over $10 that he has received. I have lived with that, and I can tell you if I ever violated it, I would have heard about it a long-time ago.

Mr. DANIELSON. I thank the gentleman.

I submit to my colleagues that the President neither has any business in the affairs of this Congress, either directly or by appointment, nor should he even want to involve himself in our internal affairs. And that goes for both parties, because there is a way of changing the incumbent at 1600 Pennsylvania Avenue. I submit that this is our job, ladies and gentlemen. We should not avoid it. We ought to meet it ourselves.

I support the amendment offered by the gentleman from Ohio (Mr. HAYS).

Mr. STAGGERS. Will the gentleman yield to me?

Mr. DANIELSON. I yield to the gentleman from West Virginia.

Mr. STAGGERS. I would like to agree and associate myself with the remarks of the gentleman from California and say to this House that if we ever come to the position of saying that we are so dishonest that we cannot decide whether an election is fair or not then we have seen the end of democratic government. If we do not have a majority of the 435 Members who can and will stand up and say that this is right or wrong, then God help America, and we have gone too far down the road.

I agree with the gentleman in his statement.

Mr. DANIELSON. Amen.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, at the request of Mr. BROWN of Michigan, Mr. DANIELSON was allowed to proceed for 2 additional minutes.)

Mr. BROWN of Michigan. Will the gentleman yield?

Mr. DANIELSON. I yield to the gentleman.

Mr. BROWN of Michigan. I have listened to the gentleman's constitutional arguments with great interest, and I think he states the law very clearly and correctly. However, I do not see the relevance of his arguments to the bill in question. I do not believe he has tied the provisions in the substitute to his constitutional arguments, because under the provisions of the substitute there is no authority to preclude one from running for office nor does it provide for enjoining the candidacy or election of anyone under any circumstances; it only provides for the enjoining of violations or further violations of campaign expenditure limitations or other related acts covered by the bill. Would the gentleman try to make his constitutional arguments more relevant to the bill?

Mr. DANIELSON. Surely. I will answer the gentleman.

First of all, I do not accept the assumption that my argument is not relevant. However, I will answer the question of the gentleman.

I would submit that neither the Congress nor the executive nor the judiciary, none of the three separate branches of Government, has the right to do indirectly that which it may not do directly.

To the extent that you allow the President to appoint this commission you are having his representative exercising some form of supervision over the internal affairs of the Congress of the United States and that, sir, is most relevant in my opinion.

Mr. BROWN of Ohio. Will the gentleman yield?

Mr. DANIELSON. Yes. I yield to the gentleman.

Mr. BROWN of Ohio. The Comptroller General is an officer of this body. Is that not the reverse of the case of the President having the power to exercise some control over this body—when you give the Comptroller authority to monitor presidential elections?

Mr. DANIELSON. It is my understanding that the Comptroller General is an employee of this Congress, but he is appointed by the President of the United States.

Mr. BROWN of Ohio. Why would he not make a good person or location to assess propriety of elections of all Federal offices, then?

Mr. DANIELSON. The function of the Comptroller General is to run the General Accounting Office. If we are going to keep him apolitical, nonpolitical, and keep him on the job of running the audits himself, we are going to have to proceed scrupulously in our affairs in order to try to keep him out of the thickets of politics.

Mr. BROWN of Ohio. Are you referring to the Clerk of the House and the Secretary of the Senate as political offices?

The CHAIRMAN. The time of the gentleman has expired.

Mr. ANDERSON of Illinois. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman and members of the Committee, I certainly accept the injunction of the distinguished chairman of the House Administration Committee that there is no need to accept in every single detail in haec verba the language of the Senate bill. But out of due respect to the chairman I would hope that his amendment to that bill would be defeated so we would have an opportunity under the procedures that prevail here this afternoon to pass upon an amendment which in my opinion will answer his fears that the House is being shut out completely of the monitoring process through the establishment of a completely independent and presidentially appointed Commission. I refer to an amendment which has been drafted which would provide for the appointment of a seven-man Commission, two to be appointed by the Speaker of the House of Representatives—one from each party—giving the House the representation that it rightfully should have in this process; two members appointed by the President of the Senate to represent that body; two members appointed by the President because after all it is his election that is going to be watched over as well; and, finally, the Comptroller General as the seventh member of that Commission.

Mr. Chairman, some mention has been made of the fact that the Comptroller General has written some letters in which he has stated that he does not want this responsibility.

I want to make this absolutely clear. Those letters were written in response to an earlier proposal that would have lodged all the supervisory authority and responsibility in the Comptroller General.

Mr. Chairman, I spoke to Elmer Staats on the telephone at 11 o'clock this morning and described the kind of compromise proposal that I have just outlined which would retain unto this House and the other body their rightful decisions which they would have to make with respect to the naming of members.

Mr. Chairman, I want to assure the Members of the House that Mr. Staats told me and gave me authority to quote him on the floor this afternoon that he would have no objection to that kind of procedure and that he thinks to the extent it would become a wholly separate division of GAO, but an independent Commission which would give him the right and authority to delegate the necessary operational forces that would be required to take over the monitoring of the various reports of the 435 different congressional districts, that this would be an acceptable compromise.

Therefore, Mr. Chairman, I would urge the House to turn down the amendment which has been offered by the gentleman from Ohio so that we will have an opportunity to work our will on this proposal.

Mr. HAYS. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of Illinois. Yes; I yield to the gentleman from Ohio.

Mr. HAYS. When I talked about it to the Comptroller General, he certainly said he did not want the reports of Congress which would overburden him.

The second point is that the gentleman has all of these wonderful amendments in the name of reform but he has not done the courtesy to show them to the chairman of the committee. Had he done so, it is possible that we might have worked out something of a compromise, but since he did not, I am standing by my amendment.

Mr. ANDERSON of Illinois. In answer to the gentleman from Ohio, I would like to yield to the gentleman from New Jersey (Mr. THOMPSON).

Mr. THOMPSON of New Jersey. The amendment to which my distinguished colleague has referred is the amendment proposed by me and put in the Record of November 17, 1971; is that correct?

Mr. ANDERSON of Illinois. That is precisely the amendment I have in mind and the one on which I hope we will have an opportunity to vote this afternoon.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Arizona.

Mr. UDALL. I would like to say to the gentleman from Illinois that I was pleased to help him develop the compromise amendment to which the gentleman has referred and which was further refined by the gentleman from New Jersey (Mr. THOMPSON). In our opinion we thought it was a pretty good compromise. I still believe it is just that.

Mr. Chairman, I am impressed with the gentleman from Ohio in his efforts to get a bill this year and the spirit of compromise which he has demonstrated. I am personally in complete agreement with my friend from Illinois and shall vote against the amendment in the hope that we will be able to get to the counterproposal which will be offered by the gentleman from New Jersey (Mr. THOMPSON). However, the willingness of the gentleman from Ohio to yield a little on this point leads me to have some hope that in the conference, and undoubtedly the gentleman from Ohio will be one of the most important conferees, that, perhaps, with the Senate having a far tougher version, we can have something worked out on which the gentleman from Illinois and I can agree.

I do agree that our proposal is far superior. I am going to stand with my friend, the gentleman from Illinois, but all is not lost even if the amendment is adopted.

Mr. ANDERSON of Illinois. Let me say in conclusion, Mr. Chairman——

The CHAIRMAN. The time of the gentleman from Illinois has expired.

(On request of Mr. EVANS of Colorado, and by unanimous consent, Mr. ANDERSON of Illinois was allowed to proceed for 1 additional minute.)

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of Illinois. I will be happy to yield to the gentleman from Colorado.

PARLIAMENTARY INQUIRY

Mr. EVANS of Colorado. Mr. Chairman, I have asked the gentleman from Illinois to yield to me for the purpose of posing a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. EVANS of Colorado. In the event the amendment offered by the distinguished gentleman from Ohio (Mr. HAYS) is defeated, will we then be in a position to entertain an amendment as described by the gentleman from Illinois (Mr. ANDERSON)?

The CHAIRMAN (Mr. BOLLING). The Chair will reply to the gentleman from Colorado that the Chair cannot anticipate events precisely. If the amendment offered by the gentleman from Ohio (Mr. HAYS) to this particular section is voted down, then another germane amendment to the particular area could be offered.

Mr. EVANS of Colorado. I thank the Chairman.

Mr. ANDERSON of Illinois. Mr. Chairman, if I have any time remaining let me say to the gentleman from Ohio that I regret any feeling that the gentleman has that there was any discourtesy toward him. I had certainly no intention to keep this matter a secret from the gentleman. I had assumed that since the matter had been in the CONGRESSIONAL RECORD that the matter had been called to the gentleman's attention. I am truly sorry if it was not, because I think the gentleman from Ohio throughout this debate has exhibited a reasonable willingness to compromise on these issues, and I certainly salute the gentleman for it.

Mr. BINGHAM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this matter was discussed extensively in the Committee on House Administration, and several alternatives were discussed.

It is unfortunate that we are operating

here under a procedure which does not allow the consideration of an amendment to the amendment offered by the gentleman from Ohio (Mr. Hays) or substitutes to the Hays amendment, and that our only recourse, if we want to change what is in this amendment, is to vote it down and then consider something else.

The compromise proposal that the gentleman from New Jersey (Mr. Thompson) is prepared to offer I thought had been widely discussed. I thought it had been discussed with the Chairman. It has been in the Record, and it does seem to me that it offers——

Mr. HAYS. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I will yield to the gentleman from Ohio if I may proceed for just another minute.

It does offer a compromise which goes to a problem that the amendment offered by the chairman, the gentleman from Ohio (Mr. Hays) does not meet, and that is the problem of public confidence.

I believe that, if we adopt the idea of leaving the responsibility for oversight with the Clerk of the House and the Secretary of the Senate, the American public are going to say, "There they go again, no matter what is in the bill it is not going to do any good, they will take care of themselves, and this whole thing is a farce."

So I would hope, and I say this reluctantly, because I have the greatest admiration for the way the chairman, the gentleman from Ohio (Mr. Hays) has managed this bill in committee and here on the floor, I would hope that this amendment would be voted down, so that we can then proceed to consider the adoption of the compromise amendment to be offered by the gentleman from New Jersey (Mr. Thompson).

Now I will yield to the gentleman from Ohio.

Mr. HAYS. Mr. Chairman, there is one point that I would like to make, and that is the assumption that I read the Congressional Record in its entirety each day, please, nobody assume that any more, because I am sure that no one else in this body does. I would have to be thought the only one who spends his time this way.

The second thing is that I have discussed this with the gentleman, and between us there is nothing personal in what I am about to say. When the gentleman talks about the American public saying, "There they go again," I think that he may be confusing the Washington Post and the New York Times for the American public, because what they say we have to do and what the American public says we have to do, as far as my interpretation of it goes, are two entirely different things.

Mr. BINGHAM. My chairman is entitled to his view of the matter. I just do not agree with it.

May I just say in conclusion that I would like to address myself to the question whether the Congress is in some way passing on a responsibility which is its responsibility under the Constitution and that it has no right to do this, as was suggested by the gentleman from California (Mr. Danielson).

Surely the Congress can delegate its responsibilities in this regard to any officer. It can delegate them to a commission or to the Comptroller General.

One proposal that was made in the committee, and I believe I made it, was that these supervisory responsibilities should all be given to the Comptroller General.

A major difficulty with the tripartite approach contained in the Hays amendment is that we may have different interpretations of the same provisions coming from the Secretary of the Senate, the Clerk of the House, and the Comptroller General. Surely it would be better to have a uniform procedure that would give the whole job of supervision to one office, whether it be the Comptroller General himself—or as I understood was going to be proposed by the gentleman from New Jersey—a commission, including representatives of the Senate and of the House.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman from Texas.

Mr. ECKHARDT. Does the gentleman agree with me that in none of these proposals, neither in the Senate bill nor in the proposal of Mr. Thompson, nor in the proposal of Mr. Hays, is there any provision by which we give authority to any agency to determine who shall be seated? It seems to me all we do in all of those provisions is simply to give a certain authority to persons to keep records and to keep books and to receive information and report information.

Ultimately, that information may result in a law suit. But the agency itself has no right to seat or not to seat anyone, as I understand it.

Mr. BINGHAM. The gentleman is correct.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman.

Mr. BROWN of Ohio. I understand the Hays bill provides that a certificate of election can be withheld by State Secretaries of State in certain cases. Would not that be a denial of a seat by someone outside the House of Representatives?

Mr. BINGHAM. We are talking now about an amendment to the Harvey substitute and the Harvey substitute contains no such provision.

Mr. BROWN of Ohio. That is correct.

Mr. BINGHAM. So what the gentleman from Texas (Mr. Eckhardt) said is quite correct, that there is no power in any officer to bar the seating of a Member of the House or a Member of the Senate.

Mr. PODELL. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, perhaps I, for one, am confused because I find that we are discussing a proposal by the gentleman from Illinois that is not before us at this moment, relating to the supervisory capacity of the GAO and to the selection of members of a board between the Senate and the House of Representatives. That is not the issue before us at the moment.

The issue before us is either first, that which is outlined in the Senate bill; or, second, that which is outlined by the gentleman from Ohio (Mr. Hays) in his amendment.

If we defeat the amendment by the gentleman from Ohio, we are presented with a commission. Now I think there is one thing to be said about Commissions and that is this.

What this country does not need is one more Commission. A study by the gentleman from Connecticut (Mr. Monagan) indicates there are some 3,200 Commissions in the country today which cost the taxpayers some $75 million a year.

There is a Commission which was created in 1947 to create a Marine Memorial in Chicago. That Commission is still in existence and nothing was ever done.

One of the worst things we can possibly do is to relegate the activities of the Members of this House to an independent Commission appointed by a political individual—the President of the United States.

Had the amendment—or had the suggestion as recommended by the gentleman from Illinois (Mr. Anderson) been before us, I would take a different position—but it is not and we face the possibility, by defeating the amendment suggested by the gentleman from Ohio of relegating our activity into the hands of a Presidentially appointed Commission.

Let me tell you—it would be one big mistake.

I would only submit one additional thought to the Members of the House—for 2 days I have been hearing a lot about the Senate bill and it makes sense to me, that the Senate passed a bill that was good for the Senate. We have to pass a bill which is equally as good for the House of Representatives.

Mr. ALBERT. Mr. Chairman, will the gentleman yield for a question?

Mr. PODELL. I yield to the distinguished Speaker.

Mr. ALBERT. Which of the amendments, the amendment already offered by the gentleman from Ohio or the amendment that is proposed to be offered if his amendment is defeated, would give the conferees the greatest latitude in working this thing out?

Mr. PODELL. I think the amendment introduced by the gentleman from Ohio (Mr. Hays) would.

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman yield?

Mr. PODELL. I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. I merely wanted to point out that in the language of the bill H.R. 11280, which is the Frenzel-Brown bill, at page 35, there is in four or five paragraphs a specific list of the duties that would be required of this Commission. They are as follows:

> (1) to develop and furnish to the person required by the provisions of this Act prescribed forms for the making of the reports and statements required to be filed with it under this title;
>
> (2) to prepare, publish, and furnish to the person required to file such reports and statements a manual setting forth recommended uniform methods of bookkeeping and reporting;
>
> (3) to develop a filing, coding, and cross-indexing system consonant with the purposes of this title;

And so on.

It is unfair to suggest to this House that we would have another Marine Commission that would sometimes sit and vegetate somewhere without duties. The language of the bill makes it clear that this will be an active, hard-working commission during the period that the reports are coming in and are being monitored. An investigation may be called for. I disapprove of the type of commissions to which the gentleman has referred as much as does the gentleman from New York, commissions that sit around and do not do anything. But the proposed Commission simply is not that kind of commission we are talking about under the language of the bill.

Mr. PODELL. Will the gentleman from Illinois advise the House who, under the existing Senate bill, would appoint the members of the Commission?

Mr. ANDERSON of Illinois. I quite agree I do not like——

Mr. PODELL. Will the gentleman answer the question?

Mr. ANDERSON of Illinois. The President would appoint the Commission. I am proposing that we vote down the amendment so that we get a chance to work on another amendment which will give the House an opportunity to provide two members of the Commission.

Mr. PODELL. Suppose that amendment is not adopted? Then you are back to the Commission. That is the problem.

The CHAIRMAN. The time of the gentleman from New York has expired.

(On request of Mr. Latta, and by unanimous consent, Mr. Podell was allowed to proceed for 1 additional minute.)

Mr. LATTA. Mr. Chairman, will the gentleman yield?

Mr. PODELL. I yield to the gentleman from Ohio.

Mr. LATTA. I rise in support of the amendment offered by the gentleman from Ohio. I do not think Congress should shirk its constitutional responsibility to be the judge of its own elections. Under the Constitution, Congress is to be the judge of its own elections not some commission as proposed in this bill. The Hays amendment is necessary if we are to carry out this proper constitutional function. Had the drafters of the Constitution meant that we should not police and judge our own elections, they would have given this responsibility to some other branch of the Government. Since they specifically gave it to the Congress, we should not pass it on to a commission or to some other agency.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. Hays) to the amendment in the nature of a substitute offered by the gentleman from Michigan (Mr. Harvey).

The question was taken; and on a division (demanded by Mr. Anderson of Illinois) there were—ayes 79, noes 52.

So the amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. HANSEN OF IDAHO TO THE SUBSTITUTE AMENDMENT OFFERED BY MR. HARVEY

Mr. HANSEN of Idaho. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

> Amendment offered by Mr. Hansen of Idaho to the amendment in the nature of a Substitute offered by Mr. Harvey: Page 18, line 20, renumber section 205 as section 206 and insert in lieu thereof a new section 205, to read as follows:
>
> Section 610 of Title 18, United States Code, relating to contributions or expenditures by national banks, corporations, or labor organizations, is amended by adding at the end thereof the following paragraph:
>
> "As used in this section, the phrase 'contribution or expenditure' shall include any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value to any candidate, campaign committee, or political party or organization, in connection with any election to any of the offices referred to in this section; but shall not include communications by a corporation to its stockholders and their families or by a labor organization to its members and their families on any subject; non-partisan registration and get-out-the-vote campaigns by a corporation aimed at its stockholders and their families, or by a labor orgnization aimed at its members and their families; the establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation or labor organization; provided, that it shall be unlawful for such a fund to make a 'contribution or expenditure' by utilizing money or anything of value secured by physical force, job discrimination, financial reprisals, or the threat of force, job discrimination or financial reprisal; or by dues, fees or other monies required as a condition of membership 'in a labor organization or as a condition of employment, or by monies obtained in any commercial transaction.' "

Mr. HANSEN of Idaho. Mr. Chairman, the purpose of my amendment is to codify the court decisions interpreting section 610 of title 18 of the United States Code, and to spell out in more detail what a labor union or corporation can or cannot do in connection with a Federal election.

The text of the amendment may be found in the Congressional Record for Wednesday, November 17, 1971, at page 41869.

Section 610 of title 18, United States Code, prohibits the making of a contribution or expenditure in connection with certain elections by a corporation or a labor union. The first part of my amendment reinforces that prohibition and defines the phrase "contribution or expenditure" to include "any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value to any candidate, campaign committee, or political party or organization, in connection with any election to any of the offices referred to in this section."

The effect of this language is to carry out the basic intent of section 610, which is to prohibit the use of union or corporate funds for active electioneering directed at the general public on behalf of a candidate in a Federal election. This part of my amendment is identical to the first part of section 8 of H.R. 11060.

Next, the amendment, in further defining the phrase "contribution or expenditure," draws a distinction between activities directed at the general public, which are prohibited, and communications by a corporation to its stockholders and their families, and by a labor organization to its members and their families, on any subject, which the courts have held is permitted.

The amendment sets forth the limited circumstances where such communications are permitted in connection with an election. These include:

> (1) non-partisan registration and get-out-the-vote campaigns by a corporation aimed at its stockholders and their families, or by a labor organization aimed at its members and their families.
>
> (2) the establishment, administration and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation or labor organization.

This fund must be separate from any union or corporate funds, and contributions must be voluntary. To insure that contributions are voluntary, the amendment prohibits the use by the separate political fund of any money or anything of value obtained by the use or threat of force, job discrimination, or financial reprisal, or by dues or fees, or other moneys required as a condition of employment or membership in a labor organization, or by moneys obtained in any commercial transaction.

The net effect of the amendment, therefore, is to tighten and clarify the provisions of section 610 of title 18, United States Code, and to codify the case law. It spells out more clearly the rules governing election activities that apply equally to labor unions and corporations. While prohibiting abuses that involve activities directed at the general public, the amendment recognizes that the constitutional guarantee of free speech protects the right of labor organizations and corporations to communicate with their own members or stockholders.

Section 610 of title 18 of the United States Code makes it a criminal offense for a corporation or labor union to make a contribution or expenditure in connection with any Federal election. The legislative history of section 610 demonstrates that it was not Congress' intent in passing this provision to completely exclude these organizations from the political arena. That history, as the Justice Department, which has the responsibility for enforcing the statute, has stated, shows instead that the purpose of section 610 is simply to insure that—

> When a union [or corporation] undertakes active electioneering on behalf of particular federal candidates and designed to reach the public at large, [the organization's] general funds . . . may not be used (Brief for the United States in U.S. v. UAW, 352 U.S. 567).

Corporate and labor political communications directed at members and stockholders, nonpartisan registration and get out the vote activities, and partisan electioneering directed at the general public financed by voluntary contributions, are all lawful.

While these rules are well known to students of this area of the law the exact scope of section 610 is a matter of some mystery to the uninitated. This stems from the fact that the cryptic statutory language is of little help and a full understanding of the provision's meaning requires a diligent study of the court cases and the legislative history. The result has been an undesirable confusion as to what section 610 actually provides. And this has led to numerous charges that the law is defective, or that it is not being observed. Many of these charges stem from a lack of appreciation of what section 610 actually provides. Others indicate that there may well be instances in which corporations and unions seek to utilize the complex interrelationship between the statutory language and the gloss which had been put on that language as a cover to obscure the fact that they are acting unlawfully. In either event the public confidence in the regulation of Federal election financing suffers.

Despite this lingering confusion it has been 24 years since Congress last legislated in this field. Section 8 of H.R. 11060, the so-called Crane amendment to the Hays' bill, attempts to break this legislative logjam by adding a new final paragraph to section 610 defining the critical phrase "contribution and expenditure" as used therein.

Unfortunately, as often happens in dealing with a complex subject, the Crane amendment's definition tends to make the problem worse rather than solving it. For section 8 of H.R. 11060 can either be read as prohibiting all union or corporate activity financed by treasury money that touches Federal elections in any way, or as continuing the limited permissions the 1947 Congress extended to corporations and unions with one exception—"get out the vote activities" which are presently permissible but which would be prohibited. In the name of providing legislative clarification it creates new confusion. The result is certain to be fresh uncertainty and a new round of litigation.

While its execution is faulty the idea behind section 8 of H.R. 11060 is sound. Congress should set out in a clear statutory form precisely what corporations and unions can and cannot do in the election area. And it is plainly proper to do so during the consideration of this overall attempt to modernize campaign regulation. But since section 8 does not in fact accomplish that goal I hereby offer my amendment, the aim of which is to perfect section 8, and by so doing to clarify the exact scope of section 610.

Section 610 strikes a balance between organizational rights and the rights of those who wish to retain their shareholding interest or membership status but who disagree with the majority's political views. The balance presently obtaining provides, in my judgment, an optimum solution to the complex problem of accommodating these conflicting interests. This solution is sound in theory as I shall show, has proved workable in practice, and has generated a broad bipartisan consensus in favor of continuation of the present rules. For this reason my amendment, with one exception, follows the present law.

Analytically the proposal I offer has three component parts. Before turning to them, two preliminary points should be noted for the sake of completeness. At present section 610 does not, and under either this amendment or section 8 of H.R. 11060 it would not, cover corporate or union legislative activities. Lobbying is a separate field which has traditionally been, and should continue to be, regulated separately. Indeed, while section 610 discourages corporate political action, the Internal Revenue Code, through the deductions allowed, encourages lobbying. In addition, at present section 610 does not, and under either this amendment or section 8 of H.R. 11060 would not, regulate corporate or union political activity in connection with State elections even though such activity, by reason of such factors as the party system and the simultaneous running of Federal and State elections, may have some residual overlapping effect. For the power of the States to regulate their own elections is essential to a healthy Federal system.

With these preliminaries to the side the first section of my amendment spells out in detail the point that corporations and unions may not use their treasury money—that is, the money a corporation secures from commercial transactions or a union secures from dues, initiation fees and similar exactions—either directly or indirectly to make any type of "contribution or expenditure in connection with any federal election." This prohibitory language follows that of section 8 of H.R. 11060 word for word and it is plainly all-encompassing. That is as it should be. For as I noted at the outset the basic purpose of section 610 is to prohibit active electioneering by corporations and unions for Federal candidates directed at the public at large. There can be no doubt that this language accomplishes that end.

Before going further, and to insure that the accepted not be confused with the necessary, it should be noted that this prohibition is the most far-reaching in the entire election law. While the regulation of corporate and union political contributions is based on a fear of the effects of aggregated wealth on politics these organizations are not the sole repositories of funds adequate to finance big money contributions. Yet Congress has never regulated the activities of legal, medical, or farm organizations, for example, nor has it placed comparable stringent limitations on wealthy individuals. Indeed, if any of the proposals presently under consideration by this body become law, only corporations, unions and political candidates will be limited in the making of political contributions and expenditures.

Thus, section 610 as it stands, and under my proposal, represents a complete victory for those who believe that corporations and unions have no moral right to utilize their organizations' general funds for active public partisan politicking. It totally subordinates organizational interests to individual interests.

Recognizing that group interests must be given some play and that the interest of the minority is weakest when corporations and unions confine their activities to their own stockholders and members, the beneficial owners of these organizations, the second subdivision of the amendment sets out three precisely defined and limited permissions for corporate and union activity related to the political process.

The courts, as well as other independent students of section 610 and its legislative history, have concluded that the 1947 Congress did not intend to prohibit corporations or unions from communicating freely with their members and stockholders—see *U.S.* v. *CIO,* 335 U.S. 106—from conducting nonpartisan registration and get out the vote campaigns, or from securing voluntary contributions made directly to the support of a labor—or management — political organization—93 CONGRESSIONAL RECORD 6440, remarks of Senator Taft.

Today, as 24 years ago, there is a broad consensus that these limited permissions are proper. For example, Senator DOMINICK speaking on the floor of the other body on behalf of an amendment to section 610 he had proposed, stated:

> If a member wishes to pay money voluntarily to a candidate or to a labor organization fund for a candidate or even to a fund which the union will determine how it is to be spent, I have no objections . . . A labor organization should be able to expend its funds on behalf of . . . nonpartisan political activity such as voter registration or voter education on campaign issues . . . (and) endorsing a particular candidate in its normal union publications. This, I believe, is a legitimate exercise of free speech, 117 Cong. Rec. page 29329 (Aug. 4, 1971).

The compelling policy considerations supporting this consensus can be very succinctly stated.

First, every organization should be allowed to take the steps necessary for its growth and survival. There is, of course, no need to belabor the point that Government policies profoundly affect both business and labor. One need turn no further than the present economic stabilization program for a compelling illustration of the extent to which Federal policy is the critical detriment of corporate and union health. If an organization, whether it be the NAM, the AMA or the AFL–CIO, believes that certain candidates pose a threat to its well-being or the well-being of its members or stockholders, it should be able to get its views to those members or stockholders. As fiduciaries for their members and stockholders the officers of these institutions have a duty to share their informed insights on all issues affecting their institution with their constituents. Both union members and stockholders have the right to expect this expert guidance. In determining where their self-interest lies they have no other comparable source of information. Indeed, as the Supreme Court stated in the CIO case, if Congress were to prohibit communications between an organization and its members concerning "danger or advantage to their interests from the adoption of measures or the election to office of men, espousing such measures, the gravest doubt would arise in our minds as to its constitutionality."

Second, it has also been recognized that it is proper to allow corporations and unions to conduct nonpartisan registration and get out the vote campaigns. Indeed, any other conclusion would have been contrary to the basic precept that the exercise of the franchise is not merely a political right but a civic duty. The health of our representative form of government requires that every possible step be taken to maximize the number of eligible voters who go to the polls. Attempts to restrict the number who vote are inimical to the democratic precepts upon which the political process rests.

Of course, such campaigns must be nonpartisan. Within the constraints set by an organization's resources which may require it to concentrate on particular areas where its members are most numerous or where a race of particular importance is to be held, it must make an effort to reach all those in the area and not merely those who will vote in a certain way. A failure to respect this limitation would, of course, be a violation of section 610.

It is not entirely clear to me, even after substantial study, as to whether the present law requires such campaigns to be limited to members and stockholders. It is my judgment that they should be, and the amendment I propose insures that such a limitation would have to be observed. The dividing line established by section 610 is between political activity directed at the general public in connection with Federal elections which must be financed out of political donations and activities directed at members or stockholders which may be financed by general funds. As a matter of principle this line of demarcation supports the proposed limitation and there is no consideration of which I am aware that requires an exception to the basic guiding theory of this provision.

Finally, there can be no doubt that union members or stockholders should have the right to set up special political action funds supported by voluntary donations from which political "contributions and expenditures" can lawfully be made. As Senator Taft stated in his floor explanation of section 610:

> If [union members or stockholders] are asked to contribute directly . . . to the support of a labor [or management] political organization, they know what their money is to be used for and presumably approve it. From such contribution the organization can spend all the money it wants to with respect to such matters. But the prohibition is against labor unions using their members' dues for political purposes, which is exactly the same as the prohibition against a corporation using its stockholders' money for political purposes, and perhaps in violation of the wishes of many of its stockholders. 93 Cong. Rec. 6440

For the underlying theory of section 610 is that substantial general purpose treasuries should not be diverted to political purposes, both because of the effect on the political process of such aggregated wealth and out of concern for the dissenting member or stockholder. Obviously, neither of these considerations cuts against allowing voluntary political funds. For no one who objects to the organization's politics has to lend his support, and the money collected is that intended by those who contribute to be used for political purposes and not money diverted from another source.

The essential prerequisite for the validity of such political funds is that the contributions to them be voluntary. For that reason the final section of this amendment makes it a violation of section 610 to use physical force, job discrimination, financial reprisals or the threat thereof, in seeking contributions. This is intended to insure that a solicitor for COPE or BIPAC cannot abuse his organizational authority in seeking political contributions. Of course, nothing can completely erase some residual effects on this score, any more than the law can control the mental reaction of a businessman asked for a contribution by an individual who happens to be his banker, or of a farmer approached by the head of his local farm organization. The proper approach, and the one adopted here, is to provide the strong assurance that a refusal to contribute will not lead to reprisals and to leave the rest to the independence and good sense of each individual.

As a further safeguard the proviso also makes it a violation for such a fund to make a contribution or expenditure from money collected as dues or other fees required as a condition of membership or employment or obtained through commercial transactions. This insures that any money, service, or tangible item—such as a typewriter, Xerox machine, and so forth—provided to a candidate by such a fund must be financed by the voluntary political donations it has collected.

At the present time there is broad agreement as to the essence of the proper balance in regulating corporate and union political activity required by sound policy and the Constitution. It consists of a strong prohibition on the use of corporate and union treasury funds to reach the general public in support of, or opposition to, Federal candidates and a limited permission to corporations and unions, allowing them to communicate freely with members and stockholders on any subject, to attempt to convince members and stockholders to register and vote, and to make political contributions and expenditures financed by voluntary donations which have been kept in a separate segregated fund. This amendment writes that balance into clear and unequivocal statutory language.

The CHAIRMAN pro tempore (Mr. HOLIFIELD). The time of the gentleman from Idaho has expired.

(On request of Mr. HAYS, and by unanimous consent, Mr. HANSEN of Idaho was allowed to proceed for 5 additional minutes.)

Mr. HAYS. Mr. Chairman, will the gentleman yield?

Mr. HANSEN of Idaho. I am happy to yield to my chairman.

Mr. HAYS. I want to say to the gentleman I commend him for offering this amendment. I intend to support it.

The gentleman has made a very clear and concise statement on the amendment, but for the purpose of legislative history I should like to ask a couple of questions, if I may, to see if I understand it as he does.

The amendment would allow unions to conduct get-out-the-vote drives and registration drives from union funds?

Mr. HANSEN of Idaho. Directed at the union members and their families only.

Mr. HAYS. And the same for corporations and stockholders?

Mr. HANSEN of Idaho. That is correct.

Mr. HAYS. Corporations only directed at stockholders?

Mr. HANSEN of Idaho. Directed toward stockholders and their families.

Mr. HAYS. From voluntary funds unions could spend the money any way they saw fit, within the law?

Mr. HANSEN of Idaho. That is correct, so long as the funds came in a truly voluntary manner and without the employment of the kinds of threats or reprisals or other methods that are prohibited by this amendment.

Mr. HAYS. I have one other question. As to corporations, would the gentleman's amendment prohibit voluntary contributions by members of corporations if they were reimbursed sub rosa? Does the gentleman understand? In other words, we will say that John Doe is vice president of X corporation, and that he gave $500 to a fund, and the corporation then reimbursed him, say, with some kind of cover saying it was expenses or something. That would be prohibited if it were found out?

Mr. HANSEN of Idaho. That in my judgment would constitute a violation of law; in fact, a violation of law as it exists now, as an indirect payment.

Mr. HAYS. I appreciate the gentleman's answer. I thought that was the way it was. It is done sometimes, I am sure, as I have heard.

In other words, the money that is truly voluntarily contributed either by stockholders or officers of a corporation or by members of a union they can spend by contributing or any other way that is legal; is that correct?

Mr. HANSEN of Idaho. That is correct.

Mr. HAYS. I thank the gentleman. Again I say I appreciate the gentleman's offering this amendment. It is substantially what is in the law now. Everybody has lived with it for a long time. I intend to support the amendment.

Mr. GERALD R. FORD. Will the gentleman yield?

Mr. HANSEN of Idaho. I am happy to yield to the distinguished minority leader.

Mr. GERALD R. FORD. A moment ago the gentleman from Ohio (Mr. HAYS) asked this question, and I think this is the way he phrased it: If a corporate executive gave $500 to an individual candidate and then he was subsequently reimbursed by the corporation, was that illegal, and the gentleman from Idaho said it was.

Now, if a union official gives a donation to an individual candidate and then he was subsequently reimbursed by the union, is that illegal?

Mr. HANSEN of Idaho. I would interpret that as also being clearly illegal.

Mr. HAYS. Will the gentleman yield?

Mr. HANSEN of Idaho. Yes. I yield to the gentleman.

Mr. HAYS. I agree, except I would say to the distinguished minority leader I do not think I said if the union reimbursed him, and that is what we are talking about—either the union reimbursing him sub rosa or the corporation reimbursing him sub rosa. Both would be illegal in my opinion and I believe in the opinion of the gentleman. I understood the gentleman to mean that.

Mr. GERALD R. FORD. I did mean to imply that. I will correct it in the Record, because I meant to place them on an equal basis.

Mr. HAYS. I thought that was what the gentleman meant, and I asked the gentleman to yield to make it clear that that was what we all meant.

Mr. ANDERSON of Illinois. Will the gentleman yield?

Mr. HANSEN of Idaho. I will be glad to yield to the gentleman.

Mr. ANDERSON of Illinois. I want to join in commending the gentleman from Idaho (Mr. Hansen) for submitting his amendment. I think he is trying to reach a problem area where there have been some serious abuses, and I think his amendment helps to meet the problem.

Recently I read a statement from Mr. Lane Kirkland, the AFL–CIO treasurer, where he said:

> We have to carry our message to every American eligible to vote . . . and we have to make sure that every voter we can reach is registered and that they go to the polls.

Under the gentleman's amendment that would not be possible, would it? They could not use union funds to go out and indiscriminately try to register the general public or engage in vote-getting activities with the general public but they are restricted to pursuing their activities among their own union members and their families, which was stated in the case of the United States against UAW and United States against CIO, where the court gets into the first amendment considerations that have to be taken into account in considering the kind of limitations that can be placed on both unions and corporations.

Does the gentleman feel that that is substantially the matter at issue?

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, at the request of Mr. Dellenback, Mr. Hansen of Idaho was allowed to proceed for 3 additional minutes.)

Mr. DELLENBACK. Will the gentleman yield?

Mr. HANSEN of Idaho. I will be happy to yield to the gentleman, but may I first respond to the gentleman from Illinois (Mr. Anderson) and his question.

The gentleman interpreted my amendment exactly as it is intended. As a matter of fact, the indication of plans to direct get-out-the-vote drives and registration drives in the general public further prompted my bringing this amendment to the floor. To make it absolutely clear that the activities directed at the public are prohibited and activities directed at the membership are now protected.

Mr. ANDERSON of Illinois. In the case of *United States* v. *CIO*, 335 U.S. 106, the court did say that if Congress were to prohibit communications between an organization and its members concerning "dangers or advantages to their interests from the adoption of measures or the election to office of men espousing such measures, the gravest doubts would arise in our minds as to its constitutionality."

The gentleman's proposal does not seek to cross that constitutional line and prohibit communications from the union to their own membership. Is that correct?

Mr. HANSEN of Idaho, That is correct. I now yield to the gentleman from Oregon.

Mr. DELLENBACK. I join in the commendation of the gentleman in the well and also of the chairman of the committee, the gentleman from Ohio, for joining in the support of this amendment.

May I ask as a general question, Mr. Hansen, is it your intention by the way you have drafted the amendment to propose that corporations and unions be treated absolutely equally?

Mr. HANSEN of Idaho. That is correct.

Mr. DELLENBACK. And, further, if a situation is proper for a corporation, it is also proper for a union and if it is proper for a union, then it is also proper for a corporation.

I think it is extremely important that what you have here proposed is an amendment that seeks to bring about equity. I think it is important that a union be able to communicate with its members and do what the law already permits it to do, and likewise I feel it is important that a corporation be able to do that same thing with its stockholders.

Mr. Chairman, I join in support of this particular amendment. It seems to me that it does work equity in what has been a very troublesome situation in the past.

Mr. CRANE. Mr. Chairman, will the gentleman yield?

Mr. HANSEN of Idaho. I yield to the gentleman from Illinois.

Mr. CRANE. The concern I have with the gentleman's amendment deals with what I think is the nub of the issue under consideration, and that is the question of voluntarism versus compulsion.

The CHAIRMAN. The time of the gentleman from Idaho has again expired.

(By unanimous consent (at the request of Mr. Crane) Mr. Hansen of Idaho was allowed to proceed for 2 additional minutes.)

Mr. CRANE. Mr. Chairman, if the gentleman will yield further, as I understand the gentleman's amendment, when he talks about permitting the unions or corporations for that matter or national banks to be allowed to engage in not just "communications" but "nonpartisan" registration and get-out-the-vote campaigns, in effect, this is negating the efforts that I am sure the gentleman is trying to make; namely, to prohibit involuntarily raised moneys from being used to support a candidate opposed by the individuals whose moneys may be involuntarily raised.

I think tighter language is required to achieve that objective. Moreover, this position has been upheld by the courts in the past.

In the case of Seay against McDonnell Douglas which happened in California, the courts took the position that:

> . . . The diversion of the employees' money from use for the purposes for which it was exacted damages them doubly. Its utilization to support candidates and causes the plaintiffs oppose renders them captive to the ideas, associations and causes espoused by others. At the same time it depletes their own funds and resources to the extent of the expropriation and renders them unable by these amounts to express their own convictions, their own ideas, and support their own causes.

This amendment does nothing to prohibit that kind of abuse but, in fact, by its present language puts a specific stamp of approval on this continued abuse which has gone on for many years as we all well know.

Mr. HANSEN of Idaho. I would not agree that that is the effect and purpose of the language of the amendment.

Mr. CRANE. It might not be the purpose of the amendment, but in my judgment it is the effect of it.

Mr. HANSEN of Idaho. The gentleman is entitled to his own opinion.

The CHAIRMAN. The time of the gentleman from Idaho has again expired.

(By unanimous consent (at the request of Mr. Hays), Mr. Hansen of Idaho was allowed to proceed for 3 additional minutes.)

Mr. HANSEN of Idaho. I believe the effect and the purpose of the amendment is to circumscribe the kinds of activities that must of necessity be protected under the first amendment and which recognize the right of the union or the corporation to communicate with the members or its stockholders for get-out-the-vote drives or voter registration and also to establish, administer, and solicit funds for a separate voluntary, political fund.

Mr. CRANE. Mr. Chairman, would the gentleman yield for a question for a point of information?

Mr. HANSEN of Idaho. Very briefly.

Mr. CRANE. If I am a member of a union and I am forced to pay dues as a condition for employment, and these moneys go into treasury funds under the check-off system, would your amendment permit them to be spent for voter registration and get-out-the-vote activities? If, as in the case of 1968, I was one of the 44 percent of union members who the polls indicated were opposed to the Democrat candidate for the Presidency, would not my union dues nevertheless be spent contrary to my interest and in a system where I am denied any redress of that grievance in the courts under the phasing of this particular amendment?

Mr. HANSEN of Idaho. The amendment is designed to recognize the fact that a stockholder or a union member exists in two capacities: In his individual capacity with his own individual views and his capacity as a member of an organization that has interests as an organization.

The intent and the purpose of the amendment is to strike a balance between those interests.

The political activities that are designed to elect specific candidates must be financed out of a separate political fund.

The funds administered by COPE are an example of such a separate political fund that is recognized both in my amendment and the so-called Crane amendment which is part of H.R. 11060, the Hays bill.

The question of whether the expenses of an organization like COPE be paid for through voluntary money is often asked. Many of COPE's activities, such as the preparation of voting records and statements of the AFL–CIO's political position, are directed at union members. These activities may be paid for by treasury money. However, to the extent that

COPE incurs expenses by providing personnel to a candidate, or performing a service for a candidate, such as a mailing for him, or by giving a candidate tangible items for use in his campaign, such as typewriter, leaflets, and paper. Those items must be paid for by voluntary money.

Mr. DENT. Mr. Chairman, will the gentleman yield?

Mr. HANSEN of Idaho. I yield to the gentleman from Pennsylvania.

Mr. DENT. Mr. Chairman, as I understand it, this only covers whatever transpires between the corporation and its stockholders and families and the union leaders and the union members. However, the union member himself is not restricted in his solicitation of registrations or for voting, getting out the vote, is that right?

Mr. HANSEN of Idaho. No. The prohibition is against the use of union funds.

Mr. DENT. Right.

Mr. HANSEN of Idaho. For anything other than communications directly dealing with the members and their families for these specific purposes.

Mr. DENT. There will be a question asked later on by the chairman of the committee, so I will not ask the question, except I will ask this: What about other organizations such as Chambers of Commerce, who are very active in this situation, they solicit beyond their leadership—I mean, beyond their membership. They raise funds through dues and they are in many instances very active in their efforts, especially in my district.

Mr. HANSEN of Idaho. Of course, section 610 never did cover these kinds of organizations, farm organizations, medical organizations, and various other organizations that do become very active in political affairs.

The CHAIRMAN. The time of the gentleman from Idaho has again expired.

(On request of Mr. Crane, and by unanimous consent, Mr. Hansen of Idaho was allowed to proceed for 3 additional minutes.)

Mr. CRANE. Mr. Chairman, will the gentleman yield?

Mr. HANSEN of Idaho. I yield to the gentleman from Illinois.

Mr. CRANE. Mr. Chairman, may I also have the attention of the gentleman from Pennsylvania so that he might also be drawn into the colloquy?

He made the suggestion that there is a parallel between what is under discussion here and the activities of chambers of commerce. I submit that there is no parallel that can be drawn because we are talking about individuals who are in a situation where, as a condition of employment, they are compelled to join an organization. In addition to that they are compelled to pay dues to that organization. Their dues, in turn, have been used to support specific political candidates. As indicated earlier in the case of the 1968 election, at the national level; at least, these moneys were spent for a candidate who was not supported by 44 percent of the people who were locked into this kind of a situation.

Mr. DENT. You fail to recognize you do not have to become a stockholder by any pressure, and yet you have corporations and medical societies who have spent money on particular issues along a particular line.

Mr. CRANE. That is not an involuntary association. I am saying that in those cases where a man must join and pay these assessments as a condition of employment, and that is 85 percent of the members of organized labor today, who have to join a union as a condition of employment, and pay union dues, this seems to me to be an outrageous situation, a violation of the constitutional rights of these individuals, and a denial of their freedom of choice.

Mr. DENT. That is against the law now.

Mr. HANSEN of Idaho. May I say in response to the gentleman this does not reach organizations such as the chambers of commerce, and it does prohibit the use of funds of a union or a corporation to support a specific political candidate. That is now prohibited, and that prohibition is reinforced under the language of this amendment.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. HANSEN of Idaho. I yield to the gentleman from New York.

Mr. FISH. The gentleman has used the term, the general term "corporation" in this section, and is the gentleman referring to a business or stock corporation, and in no sense a foundation which may be incorporated under the laws of the State, and engaged in voter registration activities?

Mr. HANSEN of Idaho. The term "corporation," as used in the amendment, is the same corporation as used in the original law enacted back in 1947, so that there is no change with respect to the category of corporations that come within the scope of the provision.

Mr. FISH. This is a business corporation——

The CHAIRMAN. The time of the gentleman from Idaho has again expired.

Mr. THOMPSON of New Jersey. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, first of all I would like to commend the distinguished gentleman from Idaho for the development and for the offering of this amendment.

Some of the colloquies we have heard exhibit rather dramatically, I think, the lack of specific knowledge of the effect of section 610, title XVIII, United States Code which this would clarify, which makes it a criminal offense for a corporation or a labor union to make contributions and expenditures in connection with a Federal election.

Section 610 of title XVIII of the United States Code makes it a criminal offense for a corporation or labor union "to make a contribution or expenditure in connection with any—Federal—election." The legislative history of section 610 demonstrates that it was not Congress intent in passing this provision to completely exclude these organizations from the political arena. That history as the Justice Department, which has the responsibility for enforcing the statute, has stated, shows instead that the purpose of section 610 is simply to insure that "when a union—or corporation—undertakes active electioneering on behalf of particular Federal candidates and designed to reach the public as large—the organization's—general funds—may not be used"—brief for the *United States* v. *UAW*, 352 U.S. 567. Corporate and labor political communications directed at members and stockholders, nonpartisan registration and get out the vote activities, and partisan electioneering directed at the general public financed by voluntary contributions, are all lawful.

While these rules are well known to students of this area of the law the exact scope of section 610 is a matter of some mystery to the uninitiated. This stems from the fact that the cryptic statutory language is of little help and a full understanding of the provision's meaning requires a diligent study of the court cases and the legislative history. The result has been an undesirable confusion as to what section 610 actually provides. And this has led to numerous charges that the law is defective, or that it is not being observed. Many of these charges stem from a lack of appreciation of what section 610 actually provides. Others indicate that there may well be instances in which corporations and unions seek to utilize the complex interrelationship between the statutory language and the gloss which has been put on that language as a cover to obscure the fact that they are acting unlawfully. In either event the public confidence in the regulation of Federal election financing suffers.

Despite this lingering confusion it has been 24 years since Congress last legislated in this field. Section 8 of H.R. 11060, the so-called Crane amendment to the Hays bill, attempts to break this legislative logjam by adding a new final paragraph to section 610, defining the critical phrase "contribution and expenditure" as used therein.

Unfortunately, as often happens in dealing with a complex subject, the Crane amendment's definition tends to make the problem worse rather than solving it. For section 8 of H.R. 11060 can either be read as prohibiting all union or corporate activity financed by Treasury money that touches Federal elections in any way, or as continuing the limited permissions the 1947 Congress extended to corporations and unions with one exception—"get out the vote activities" which are presently permissible but which would be prohibited. In the name of providing legislative clarification it creates new confusion. The result is certain to be fresh uncertainty and a new round of litigation.

While its execution is faulty the idea behind section 8 of H.R. 11060 is sound. Congress should set out in a clear statutory form precisely what corporations and unions can and cannot do in the election area. And it is plainly proper to do so during the consideration of this overall attempt to modernize campaign regulation. But since section 8 does not in fact accomplish that goal Mr. Hansen offers his amendment, the aim of which is to perfect section 8, and by so doing to clarify the exact scope of section 610.

Section 610 strikes a balance between organizational rights and the rights of those who wish to retain their shareholding interest or membership status but who disagree with the majority's political views. The balance presently obtaining provides, in my judgment, an optimum solution to the complex problem of accommodating these conflicting interests. This solution is sound in theory as I shall show, has proved workable in practice, and has generated a broad bipartisan consensus in favor of continuation of the present rules. For this reason Mr. HANSEN's amendment, with one exception, follows the present law.

Analytically the proposal has three component parts. First, it spells out in detail the point that corporations and unions may not use their treasury money—that is, the money a corporation secures from commercial transactions or a union secures from dues, initiation fees, and similar exactions—either directly or indirectly, to make any type of "contribution or expenditure in connection with any Federal election." This prohibitory language follows that of section 8 of H.R. 11060 word for word and it is plainly all-encompassing. That is as it should be. For as I noted at the outset the basic purpose of section 610 to prohibit active electioneering by corporations and unions for Federal candidates directed at the public at large. There can be no doubt that this language accomplishes that end.

Before going further, and to insure that the accepted not be confused with the necessary, it should be noted that this prohibition is the most far reaching in the entire election law. While the regulation of corporate and union political contributions is based on a fear of the effects of aggregated wealth on politics these organizations are not the sole repositories of funds adequate to finance "big money" contributions. Yet Congress has never regulated the activities of legal, medical, or farm organizations, for example, nor has it placed comparable stringent limitations on wealthy individuals. Indeed, if any of the proposals presently under consideration by this body become law, only corporations, unions, and political candidates will be limited in the making of political contributions and expenditures. Thus section 610 as it stands, and under the Hausen proposal, represents a complete victory for those who believe that corporations and unions have no moral right to utilize their organizations' general funds for active public partisan politicking. It totally subordinates organizational interests to individual interests.

The second subdivision of the amendment sets out three precisely defined and limited permissions for corporate and union activity related to the political process.

The courts, as well as other independent students of section 610 and its legislative history, have concluded that the 1947 Congress did not intend to prohibit corporations or unions from communicating freely with their members and stockholders—see *United States* v. *CIO*, 335 U.S. 106—from conducting nonpartisan registration and get out the vote campaigns, or from securing voluntary contributions "made directly to the support of a labor—or management—political organization"—93 CONGRESSIONAL RECORD 6440, Remarks of Senator TAFT.

Today, as 24 years ago, there is a broad consensus that these limited permissions are proper. For example, Senator DOMINICK speaking on the floor of the other body on behalf of an amendment to section 610 he had proposed, stated:

> If a member wishes to pay money voluntarily to a candidate or to a labor organization fund for a candidate or even to a fund which the union will determine how it is to be spent, I have no objections . . . A labor organization should be able to expend its funds on behalf of . . . nonpartisan political activity such as voter registration or voter education on campaign issues . . . (and) endorsing a particular candidate in its normal union publications. This, I believe, is a legitimate exercise of free speech.

The compelling policy considerations supporting this consensus can be very succinctly stated.

First, every organization should be allowed to take the steps necessary for its growth and survival. There is, of course, no need to belabor the point that Government policies profoundly affect both business and labor. One need turn no further than the present economic stabilization program for a compelling illustration of the extent to which Federal policy is the critical detriment of corporate and union health. If an organization, whether it be the NAM, the AMA or the AFL–CIO, believes that certain candidates pose a threat to its well-being or the well-being of its members or stock holders it should be able to get its views to those members or stockholders. As fiduciaries for their members and stockholders the officers of these institutions have a duty to share their informed insights on all issues affecting their institution with their constituents. Both union members and stockholders have the right to expect this expert guidance. In determining where their self-interest lies they have no other comparable source of information. Indeed, as the Supreme Court stated in the CIO case, if Congress were to prohibit communications between an organization and its members concerning "danger or advantage to their interests from the adoption of measures or the election to office of men, espousing such measures, the gravest doubt would arise in our minds as to its constitutionality."

Second, it has also been recognized that it is proper to allow corporations and unions to conduct nonpartisan registration and get out the vote campaigns. Indeed, any other conclusion would have been contrary to the basic precept that the exercise of the franchise is not merely a political right but a civic duty. The health of our representative form of government requires that every possible step be taken to maximize the number of eligible voters who go to the polls. Attempts to restrict the number who vote are inimical to the democratic precepts upon which the political process rests.

Of course, such campaigns must be nonpartisan. Within the constraints set by an organization's resources which may require it to concentrate on particular areas where its members are most numerous or where a race of particular importance is to be held, it must make an effort to reach all those in the area and not merely those who will vote in a certain way. A failure to respect this limitation would, of course, be a violation of section 610.

It is not entirely clear to me, even after substantial study, as to whether the present law requires such campaigns to be limited to members and stockholders. It is my judgment that they should be, and the amendment Mr. HANSEN proposes insures that such a limitation would have to be observed. The dividing line established by section 610 is between political activity directed at the general public in connection with Federal elections which must be financed out of political donations and activities directed at members or stockholders which may be financed by general funds. As a matter of principle this line of demarcation supports the proposed limitation and there is no consideration of which I am aware that requires an exception to the basic guiding theory of this provision.

Finally, there can be no doubt that union members or stockholders should have the right to set up special political action funds supported by voluntary donations from which political "contributions and expenditures" can lawfully be made. As Senator TAFT stated in his floor explanation of section 610:

> If [union members or stockholders] are asked to contribute directly * * * to the support of a labor [or management] political organization, they know what their money is to be used for and presumably approve it. From such contribution the organization can spend all the money it wants to with respect to such matters. But the prohibition is against labor unions using their members' dues for political purposes, which is exactly the same as the prohibition against a corporation using its stockholders' money for political purposes, and perhaps in violation of the wishes of many of its stockholders. 93 Cong. Rec. 6440.

For the underlying theory of section 610 is that substantial general purpose treasuries should not be diverted to political purposes, both because of the effect on the political process of such aggregated wealth and out of concern for the dissenting member or stockholder. Obviously, neither of these considerations cuts against allowing voluntary political funds. For no one who objects to the organization's politics has to lend his support, and the money collected is that intended by those who contribute to be used for political purposes and not money diverted from another source.

The essential prerequisite for the validity of such political funds is that the contributions to them be voluntary. For that reason the final section of this amendment makes it a violation of section 610 to use physical force, job discrimination, or the threat thereof, in seeking contributions. This is intended to insure that a solicitor for COPE or BIPAC cannot abuse his organizational authority in seeking political contributions. Of course, nothing can completely erase some residual effects on this score, any more than the law can control the mental reaction of a businessman asked for a contribution by an individual who happens to be his banker, or of a farmer approached by the head of his local farm organization. The proper approach, and the one adopted here, is to provide the strong assurance that a refusal to contribute will not lead to reprisals and to leave the rest to the independence and good sense of each individual.

As a further safeguard the proviso also makes it a violation to transfer to such a fund money collected as dues or other fees required as a condition of membership or employment or obtained through commercial transactions. This insures that only moneys specifically intended by the donor to be utilized for political purposes will be available for union or corporate political "contributions and expenditures."

At the present time there is broad agreement as to the essence of the proper balance in regulating corporate and union political activity required by sound policy and the Constitution. It consists of a strong prohibition on the use of corporate and union treasury funds to reach the general public in support of, or opposition to, Federal candidates and a limited permission to corporations and unions, allowing them to communicate freely with members and stockholders on any subject, to attempt to convince members and stockholders to register and vote, and to make political "contributions and expenditures" financed by voluntary donations which have been kept in a separate segregated fund. This amednment writes that balance into clear and unequivocal statutory language.

What the gentleman's amendment will do is simple. It, in effect, incorporates the case law into existing statutory law and would allow within a very limited area already existing in the law the expenditure of certain treasury moneys or corporate moneys for the sole purpose of reaching either union members or stockholders in the corporations—and no one else outside of that very specific purpose of reaching the voters or drives for getting out the votes.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON of New Jersey. I yield to the gentleman.

Mr. UDALL. Mr. Chairman, I want to commend the gentleman from New Jersey for his statement and the gentleman from Idaho for his amendment.

I like the spirit that I see here this afternoon and I am beginning to believe that we can get a strong, workable, and sensible bill.

We have had a bipartisan spirit evidenced on this amendment and the gentleman from Ohio says that he will accept it. A number of distinguished Republicans in this House have said they can live with this and that they agree with the spirit and the purpose of this amendment.

I hope that we shall not here today try to load this bill down with all kinds of peripheral, emotional, and divisive elements that are not really essential to campaign finance reform. This is a bipartisan amendment. The amendment would merely clear up confusion in existing law. The trouble with existing law is not the way it is written but the way it has been observed. We would make clear in the history here that we will have a new day, that labor unions and corporations——

The CHAIRMAN. The time of the gentleman from New Jersey has expired.

(On request of Mr. UDALL, and by unanimous consent, Mr. THOMPSON of New Jersey was allowed to proceed for 1 additional minute.)

Mr. THOMPSON of New Jersey. I yield to the gentleman from Arizona.

Mr. UDALL. We have made it very clear that labor unions and corporations are no longer going to be able to play unfair games, but that there is a limited role for labor unions and corporations in the political process, and that such roles, however, are limited to their stockholders, limited to their members. We need the kinds of registration and get-out-the-vote activities that are authorized under the amendment. I hope that the gentleman's amendment will be supported in a bipartisan fashion.

Mr. THOMPSON of New Jersey. I might say to the gentleman from Arizona that the purport of the amendment is limited to corporations and to labor unions and not to other organizations, which obviously operate under their first amendment rights, which exist anyway.

Mr. HAYS. Mr. Chairman, I rise in support of the amendment.

The CHAIRMAN. The gentleman from Ohio is recognized.

Mr. CABELL. Mr. Chairman, will the gentleman yield?

Mr. HAYS. I yield to the gentleman from Texas for the purpose of asking a question.

Mr. CABELL. I thank the gentleman for yielding. I would like to direct this question to the gentleman from Idaho, the author of the amendment. In the case of corporations and with relation to registration drives, nonpartisan, get-out-the-vote drives, if a bank president should authorize, for the purpose of such registration, one of its clerks or deputies to set up a desk in the lobby of a bank to encourage such a drive on strictly a nonpartisan basis, would that be in violation of the law under the terms of your amendment? They have done that quite often, as I am sure the gentleman knows.

Mr. HANSEN of Idaho. If the gentleman will yield, I would not interpret that activity, which I understand the gentleman's question to be directed toward——

Mr. CABELL. This is for the benefit of the general public. It does not necessarily go to the stockholders or the employees of the bank.

Mr. HANSEN of Idaho. Then it would not be permitted under the language of the amendment.

Mr. CABELL. That was the observation that I made. I raise this question because those are very valuable adjuncts in all walks of business life in encouraging registration and where no other effort is made, merely to impress upon those contacted their obligation to register and exercise their vote.

Mr. HAYS. I am afraid I disagree with my friend from Idaho about this because it seems to me under the scope of his amendment if the bank, which is a corporation, is using its place of business and its employees to register voters, then I think under the gentleman's amendment it would be prohibited as much as a labor union would be prohibited from using its place of business and its employees to register the general public. Do you agree?

Mr. HANSEN of Idaho. The gentleman has not disagreed with me. That is the view I expressed.

Mr. HAYS. Then it would be prohibited.

Mr. HANSEN of Idaho. It would be prohibited.

Mr. CABELL. If the gentleman will yield further, does the gentleman in the well believe that is consistent with good citizenship, to make it impossible for labor unions or corporate entities, as far as that goes, to exercise their duties and responsibilities of citizenship in registering voters and encouraging them to vote?

Mr. HAYS. The gentleman from Ohio can only say in reply that if I were writing the amendment, I would make it broader than it is. But the gentleman from Ohio is also a realist and he believes that this is probably as broad an amendment as we can get through. Therefore he is supporting the amendment offered by the gentleman from Idaho.

Mr. CABELL. I thank the gentleman for yielding. I hope the amendment is defeated.

Mr. HAYS. Mr. Chairman, I had a question I wanted to ask the authors of the bill. I do not see either one of them present in the Chamber at the moment. Perhaps I can defer the question to a later point in the debate. But since we are talking about corporations, I would call your attention to the language on page 14 of the so-called Senate substitute, line 15, which says—

> "(e) 'contribution' means—
>
> "(1) a gift, subscription, loan, advance, or deposit of money or anything of value (except a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business),

I wish to speak to this section, because this was in the bill that was reported out of the House Administration Committee, and it was an amendment I offered in the committee because of a fracas we had in Ohio last year, in which an attempt was made to prosecute the Republican candidate for Governor because he obtained a loan for $10,000 from a national bank. It just so happens that if the gentleman in question, the Republican nominee, had come to the bank of which I am chairman and asked for a $10,000 loan on his financial statement, we would have granted it to him, because he certainly was a good risk.

I do not think that it was very smart of my party or anybody else to raise this as an issue. But at the time the law was completely unclear and seemed to and probably did prohibit such a loan. I do not think a candidate for office who has a net worth of $100,000 or $200,000, who might not want to sell some equity he has to pay, perhaps, for his hotel bills and gasoline for the campaign, should be prohibited from borrowing the money, and I am delighted to see this particular section is in the bill.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

(By unanimous consent, Mr. HAYS was allowed to proceed for 2 additional minutes.)

Mr. HAYS. Mr. Chairman, I thought I would call this to the attention of the membership and try to make a little legislative history here. The gentleman from Ohio (Mr. DEVINE), the ranking minority member, is aware of the controversy we had in Ohio. I would like to ask the gentleman if he thinks, in his opinion, this language would clarify that to the point where this would not happen under similar circumstances.

Mr. DEVINE. Mr. Chairman, if the gentleman will yield, I agree with the gentleman from Ohio it does clarify and it would avoid such a situation as did develop in our State during the last campaign.

Mr. HAYS. I thank the gentleman from Ohio.

Mr. CRANE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment that has been offered, because I think it has some egregious deficiencies. The proposed amendment would, in my judgment, allow labor unions and corporations to make expenditures for political activities which under a strict reading of the language of title 18 United States Code, section 610 are now prohibited.

Expenditures by corporations in connection with Federal elections have been flatly prohibited since the original Corrupt Practices Act was adopted in 1925. This prohibition was extended to labor unions in 1947 for the purpose: first, of reducing the undue and disproportionate influence of unions on Federal elections; second, preserving the integrity of such elections for the use of aggregated wealth by union as well as corporate entities; and third, to protect union members holding political views contrary to those supported by the union from use of their membership dues to promote acceptance of those opposing views.

The amendment proposed by the gentleman from Idaho (Mr. HANSEN) would create a large and very significant loophole which would legalize broad-scale union political action—which is now prohibited—and undermine whatever protection the law now seeks to give rank and file union members against political use of their dues money.

The Hansen amendment would redefine the phrase "contribution or expenditure" as used in section 610 as not including expenditures for voter registration and get-out-the-vote campaigns aimed at either a corporation's stockholders and their families or a union's members and their families. Its net effect would be to put the stamp of approval on partisan political action by unions with money obtained through compelled union membership dues and fees which rank and file union members are required to pay under compulsory union shop contracts.

Although the amendment purports to allow corporate expenditures on the same basis as union expenditures it would not work this way. Corporate expenditures for voter registration or get-out-the-vote activities would run head on into the existing laws of practically all States which prohibit corporate expenditures for any political purpose. In addition corporate expenditures for political purposes are considered ultra vires under prevailing case law, and could also be disallowed as not meeting the test of ordinary and necessary business expenses under section 162 of the Internal Revenue Code.

The Hansen amendment on the other hand would validate union voter registration functions which are conducted on a highly partisan basis. The director of AFL–CIO COPE, Alexander Barkan, has candidly described how organized labor has taken over the precinct voter registration activities for political candidates, and how these activities reach out to large segments of the population beyond the ranks of union members. In describing labor's activities in the 1968 elections Mr. Barkan says:

> In many States labor did the registration job for Humphrey singlehandedly, the Democratic party had abandoned the field . . . We were the major national organization working at registering black voters and getting out their vote . . . The labor movement mobilized Mexican-American farm workers; and the AFL–CIO funded an operation which included a million leaflets, radio spots, and hundreds of election day workers in California alone. . . . In many States, a house-to-house canvass was conducted as part of our get-out-the-vote effort, particularly in selected labor areas and in minority-group areas where there are relatively few telephones. The number of persons involved in this operation was 72,225.

The source for this is Barkan, Issues in Industrial Society, volume 1, No. 2, Cornell University School of Industrial Relations.

The AFL–CIO Executive Council meeting at Miami Beach, Fla., on November 16, 1971, announced a major union-financed effort to register newly enfranchised voters between 18 to 21 years old, and that political action will be "a primary activity of the entire labor movement from now to election day 1972."

The use of union money for these partisan political activities clearly violates the existing prohibition in title 18, section 610 against union expenditures in connection with Federal elections. The gentleman's amendment would legalize these illegal expenditures, in my judgment.

Mr. DENNIS. Mr. Chairman, will the gentleman yield?

Mr. CRANE. I am happy to yield to the gentleman from Indiana.

Mr. DENNIS. As the gentleman from Illinois has pointed out, the Hansen of Idaho amendment specifically and in so many words makes legal and authorizes the use of union funds, paid in as dues by voluntary and involuntary union members, for financing get-out-the-vote drives.

Is it not true that the gentleman in the well has an amendment which he will offer, if this Hansen of Idaho amendment is defeated, which specifically states that union funds of this kind cannot be used for financing a get-out-the-vote drive—nor can corporate funds—be so spent, but that either a corporation or a union can set up a separate voluntary fund to which voluntary contributions only are made and which can be used for financing get-out-the-vote drives?

Mr. CRANE. I thank the gentleman from Indiana for raising this question. I do indeed, in the event the amendment offered by the gentleman from Idaho fails, intend to offer an amendment to the amendment under consideration. As a matter of fact, this is already a part of the campaign spending bill that came out of the Committee on House Administration, and it received bipartisan support to come out of that committee.

I believe the essential difference between this amendment I intend to offer and that offered by the gentleman from Idaho is this language:

> Nothing in this section shall preclude an organization—

I am referring here to corporations, national banks or unions—

> from establishing and administering a separate contributory fund for any political purpose, including voter registration or get-out-the-vote drives, if all contributions, gifts, or payments to such fund are made freely and voluntarily, and are unrelated to dues, fees, or other moneys required as a condition of membership in such organization or as a condition of employment.

Mr. DENNIS. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. The gentleman from Indiana is recognized for 5 minutes.

Mr. HAYS. Mr. Chairman, will the gentleman yield to me for an observation?

Mr. DENNIS. I yield to the gentleman from Ohio.

Mr. HAYS. I should like to say to the gentleman I have had long experience in getting-out-the-vote drives and there is just one thing I can tell him. You can get them out, but once they get behind that curtain there is no way for you to know how they vote. I could give an experience we had in Ohio, where a sitting Governor was defeated in a primary.

Mr. DENNIS. I could give the gentleman some experiences, too, but I would rather get along with my remarks, if I may.

Mr. Chairman, I believe this is one place we ought to be very clear about what we are doing. We can do what we please, but let us not kid ourselves.

We have before us an amendment offered by the gentleman from Idaho (Mr. HANSEN) which specifically legalizes the use of union dues money, which is extracted from everybody who has to join the union to work in a union shop, for the purpose of voter registration and get-out-the-vote drives. Now, that is of very doubtful validity under the present law, but it is not going to be doubtful at all if you adopt the Hansen amendment, because the Hansen amendment just states that that is legal.

Mr. HANSEN of Idaho. Will the gentleman yield?

Mr. DENNIS. I yield briefly to the gentleman. Yes.

Mr. HANSEN of Idaho. Is it not true that the language in the present Hays bill adopted by the Committee on House

Administration would also permit union funds or corporate funds to be used to register voters? I believe the gentleman referred to registration of voters.

Mr. DENNIS. No. I talked about getting-out-the-vote drives. That is what I am talking about. I am perfectly well aware that the registration of voters clause was stricken out of the Crane amendment in your committee although the exact effect of that action may be debatable, but getting out the vote was not so stricken. Spending union treasury money for get-out-the-vote drives is not permitted under the Hays bill and it is permitted under your amendment, and that is exactly what you are trying to do.

Mr. HANSEN of Idaho. Except that the gentleman specifically referred to voter registration.

Mr. DENNIS. I am talking about getting-out-the-vote drives. That is what I am referring to now. If I referred to it erroneously before, I want to make that clear now.

However, what my friend from Idaho is doing is legalizing the use of union dues to finance get-out-the-vote drives. He cannot deny that. That is what he is doing.

Now, what Mr. Crane's amendment will do, if he gets a chance to introduce it, which he will not unless we defeat the Hansen amendment, is to specifically outlaw the use of union dues money for the purpose of financing get-out-the-vote drives or corporate money or stockholders' money, but Mr. Crane's proposed amendment specifically says that either a corporation or a union can establish and administer a separate contributory fund for any political purpose, including voter registration or get-out-the-vote drives, if all of the contributions are made freely and voluntarily.

So the issue is perfectly plain. If you are in favor of restricting the financing of get-out-the-vote drives to voluntary money contributed by a union member voluntarily, or by a stockholder voluntarily—if you want to limit it to that, then you ought to defeat Mr. Hansen's amendment and give Mr. Crane a chance to introduce his. If you think it is all right and fine to take involuntary money that is paid in as dues or for some other purpose and use it to finance get-out-the-vote drives, then you ought to support the Hansen amendment.

What we are doing if we put this Hansen amendment in the law is that we are making positively legal a practice which is now illegal, although it is evaded every day. I have had experience with these things, too. Let us not kid ourselves about what we are doing. I am not against unions or corporations but I am for holding down political activity to voluntary money on the part of anybody.

Mr. HANSEN of Idaho. Will the gentleman yield?

Mr. DENNIS. Yes. I yield to the gentleman.

Mr. HANSEN of Idaho. I think it is important to point out that the permitted activity, that is, the get-out-the-vote drive, which is now permitted under existing law, is limited to the members of the union. I think every time reference is made to it it should be made clear.

Mr. DENNIS. Well, all right.

Mr. HANSEN of Idaho. It would be members of the union to whom this is directed.

Mr. DENNIS. I do not quarrel with that. I am talking about the member of the union who maybe does not want to use his money in that way.

Mr. STEIGER of Wisconsin. Will the gentleman yield?

Mr. DENNIS. I yield to the gentleman.

Mr. STEIGER of Wisconsin. One of the advantages of the Hansen amendment is that the present law is somewhat unclear about whether it is limited to unions.

Mr. DENNIS. But I want to make it clear that you cannot use any of this involuntary money in that way.

Mr. STEIGER of Wisconsin. May I say to my friend I think such a construction would pose serious constitutional problems.

Mr. ASHBROOK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the unique and privileged role of labor organizations in our election processes was recently underscored by delegates to the 1971 convention of the Nation's largest and wealthiest union.

Delegates to the Teamsters Union convention adopted what is generally regarded as an ominous amendment to their constitution. It authorizes the union's general president to "make expenditures from the general fund in amounts to be determined by him in his sole discretion for lobbying and other political purposes, including contributions to candidates for State, provincial or local office."

Without question, this amendment to the Teamsters' constitution will encourage the continued wholesale flouting of restraints imposed by the Congress on union political activities in 1947 when it amended section 610, title 18, of the United States Code.

It is common knowledge that dues payments collected from involuntary members, as well as from voluntary members, are deposited in a union's general fund. Obviously, President Fitzsimmons will not be under any internal restraints when he contemplates contributions to certain political candidates from the union's general fund.

Admittedly, the union's amended constitution does not authorize the use of money from the general fund in connection with Federal elections. Let us not be deceived, however.

The widely respected and authoritative Congressional Quarterly has stated flatly that union officials conceal contributions to Federal candidates by "simply reporting transfers of gross sums to State committees . . . The State committees, in turn, transfer the money to individual candidates, but the names of the recipients never appear on the nationally filed reports."

This in only one example of methods now being used to circumvent the existing law.

Mr. Chairman, I submit that the convention delegates who handed Mr. Fitzsimmons this blank check are not typical of the Nation's union members. All available evidence indicates that dues-paying unionists take a dim view of the use of union resources in political campaigns. Partisan politicking is strongly resented by those wage earners who are compelled by collective bargaining agreements to pay for unwanted union representation.

Inclusion of the Crane amendment in the pending legislation would close a gaping loophole in our present law. It will put unions on the same footing in the political arena with corporations, banks, and all other associations.

The amendment of the gentleman from Idaho (Mr. Hansen) would not. In fact, it would open the door to a use of union general fund moneys not now available for political purposes. The Crane amendment would prohibit such use while the Hansen amendment would allow this use. Both amendments would properly distinguish between voluntary contributions and these which are extracted by union dues which are involuntary since in almost all instances there is a closed shop arrangement and union membership is a condition of employment.

Mr. Chairman, I particularly want to ask a question in relation to the preceding colloquy, and I direct this question to the sponsor of the amendment (Mr. Hansen).

I think it is patently clear what we would get into. In the Hansen amendment, we are talking about getting out the union vote. Are we to assume that if your amendment were to pass and the Teamsters Union, for example, were to spend money to get out the vote that they could come to the door of the union member and his family and say "We will take you to the polls," but they could not take anyone else in the household to the polls? How can you possibly limit it, I would say to the gentleman from Idaho, just to members of the union and their families? Are you talking about families and friends? Or just family? How do you intend to limit it just to members of the union and their families?

Mr. HANSEN of Idaho. I would say in response to my friend that the language of the amendment includes the members of their families and the stockholders of a corporation and their families.

Mr. ASHBROOK. The gentleman said a few minutes ago that he wanted to make his amendment perfectly clear. It is not being directed just to unions and members of unions but also their families? How far does this go? Do you go to cousins—first, second, and third? What would be the interpretation of "families?"

Mr. HANSEN of Idaho. I would interpret it as immediate family.

Mr. ASHBROOK. In other words, the mother, father, sons, and daughters? That would be as far as you would go and not cousins and nephews?

Mr. HANSEN of Idaho. No, I would not include anything other than immediate family.

Mr. HAYS. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to my colleague from Ohio.

Mr. HAYS. I think in applying this you would have to use the rule of commonsense. I suppose if they went up to the door that anyone who lived in that house would be included.

Mr. ASHBROOK. That is the point I

was going to make. Consider this example. I am a union get-out-the-vote organizer. I come to the door of your home. There are people in the home such as the union member and his family but also people who are not members of the family.

Are you saying it would be legal to get out the vote for families of the union member but under the rule of reasonableness I would be allowed as a part of get-out-the-vote campaign to get out other people in the same household who would not be members of the family? Would it be legal, illegal or would the rule of reason cover it all?

Mr. HANSEN of Idaho. I can only give you my own opinion which is perhaps of no greater value than yours, or the opinion of the gentleman from Ohio. However, I would still limit it to immediate families, those who are in the home and are a part of what may be determined to be a family unit. As has been previously stated there may be some cases on the borderline that may be difficult to determine. But I would say to the gentleman that also under the existing law there is no limitation on how far you can extend the get-out-the-vote activities. There are indications of plans in the making for rather broad get-out-the-vote drives directed toward the public at large, but if some kind of language such as this strikes a reasonable compromise is not adopted, I think we will begin to see this activity undertaken.

Mr. HAYS. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Ohio.

Mr. HAYS. I would like to call the gentleman's attention to the language in the House Administration bill which, of course, we are not considering now. We are considering the substitute bill. However, we spelled it out as follows:

> For the purposes of this section, the term "immediate family" means a spouse, and any child, parent, grandparent, brother, or sister and the spouse of any of them.

I think, if the gentleman will yield further, that probably there will be some borderline cases. I think if you pulled up to a union member's house and asked the wife to go to the polls and her next door neighbor was sitting there and asked may she go too, I do not think they would turn her down. I do not think they should be prosecuted under those circumstances.

The gentleman will recall what I said earlier—it goes back to the old story that you can take a horse to water, but you cannot make him drink. You can haul people to the polls, but you cannot control how they vote once they get in there.

I do not know whether the gentleman remembers the case of Governor Davey when he was defeated in the primary.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

What we did, the late Governor Davey had all the money that you could imagine available to get people to the polls, and in my home county they advertised that they would have 300 cars, which was three cars to a precinct, available for this purpose.

I was managing the other campaign, we had no money for cars, we did have a little money for handbills, so we had 100,000 handbills printed that said at the top, "You paid funds to get people to get a ride." We said, "These are funds from State money that is hiring these cars, so just get in a car and take a ride with them and go to the polls and vote." And Sawyer carried the county by 10,000 votes.

So I am saying, I do not get too excited about who hauls the people to the polls, but I am excited about who they vote for when they get to the polls.

Mr. ASHBROOK. I would generally agree with the gentleman from Ohio in what he has said, but I do get excited about one particular aspect, and that is this. If you look at the Teamsters Union convention this very year, and the authority that they gave to their international president you can get excited. I will quote you that authority that they gave him. It was the absolute authority "to make expenditures from the general fund in amounts to be determined by him, in his sole discretion, for lobbying and other political purposes including contributions to candidates for State, provincial, or local offices."

So if we go on down the line on the Hansen amendment I do get excited. I will say to the gentleman from Ohio, my good friend and colleague, I do get excited about the absolute potential for abuse that you could have if we legalize this type of activity. When the Teamsters Union gives blanket authority to their international president to use his sole discretion to distribute any amount of money, for any legitimate purpose, I happen to think when we are talking about reform that we ought to be narrowing the area where unions can expend money rather than opening it up, which seems to be the thrust of this amendment.

Mr. CRANE. Mr. Chairman, if the gentleman will yield on the question of who is influenced by the unions. In their own literature they acknowledge operating on the assumption that for every member of the union you are reaching with labor publications, that you are simultaneously reaching their spouse at home, and two friends, neighbors, or relatives. So if we start with 15 million union members, you will be reaching, in addition to the 15 million members, the spouse of the member, and two relatives or friends, and we are then talking about somewhere in the neighborhood of 60 million voters.

I would also like to comment in response to the gentleman from Ohio on knowing where your voters are with a quotation by Mr. Meany himself:

> When you spend your money to get people registered, and then spend a lesser proportion to get them out to vote, you know you got a vote in the ballot box. Of course, we are a little bit choosy when we choose the districts in which we want to better these votes in the ballot box, so that when they go in we have a pretty good idea how they are going to vote.

I can assure the gentleman from Ohio that in my home State of Illinois I could on this "choosy" basis make some estimate as to how people would vote, and I think I would be good enough to know how the outcome would be by being selective in the areas, where if I wanted to conduct a massive voter registration drive I could either turn out a large number of Democrats or a large number of Republicans. To be sure, there will always be gray areas in these things, and as Mr. Meany himself said, the unions exercise selectivity in spending union moneys to get out the vote.

Mr. ASHBROOK. My concern comes more from a national scope than from a local scope, and in my district, if they want to get out the vote for the purpose of voting against me, it probably will end up helping me more than hurting me, but at the national level it is a different situation. I would respectfully oppose the amendment offered by the gentleman from Idaho.

Mr. ZION. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Indiana.

Mr. ZION. Mr. Chairman, under the terms of the Hansen amendment, regarding the involuntary dues, would the union be permitted to pay people to use the dues to haul friends and associates to the polls?

Mr. ASHBROOK. I would assume that would be a legitimate purpose. The gentleman from Idaho said a while ago, that my opinion was as good as his, but I think you will find that, as the author of the amendment, his opinion would be followed more closely than mine. So if the gentleman wishes to respond, I will be glad to yield to the gentleman.

Mr. HANSEN of Idaho. Mr. Chairman, I believe any communications ordered by a labor union to its members which is designed to get out the vote, to get people to the polls to exercise their obligations as citizens, would be permitted. It would also be true of support for the same purpose directed at its stockholders by a corporation.

Mr. STEIGER of Wisconsin. Mr. Chairman, I move to strike out the last word and rise in support of the Hansen amendment.

Mr. Chairman, I support the amendment offered by the gentleman from Idaho. I have listened to the comments of my colleagues on both the Republican and Democratic side and I must say, in all honesty, it is apparent that there are some who believe that if you are for the Hansen amendment that somehow you are granting power to organized labor which now they do not have.

I am one of those who has been rather vigorously opposed on a number of occasions by the AFL–CIO, the United Automobile Workers, and others in this field. Thus, I do not believe it ought to be construed as being pro or antilabor on corporations when one talks about what is available or legitimate for corporations and labor unions reporting under title 18, section 610. What the Hansen amendment does is to codify in the statutes what section 610 of title 18 has been interpreted to mean.

Mr. GUDE. Mr. Chairman, will the gentleman yield?

Mr. STEIGER of Wisconsin. I yield to the gentleman.

Mr. GUDE. Mr. Chairman, I rise in support of the Hansen amendment which is intended to clarify section 610 of title 18 of the United States Code making it a criminal offense for a corporation or labor union "to make a contribution in connection with any Federal election."

I think it is appropriate that we address ourselves to this problem while we are considering Federal election reform and I believe that the Hansen amendment is the best guarantee that the intent of section 610 will be understood and followed.

The original language of section 610 was so ambiguous that its full meaning only becomes clear when it is read along with the numerous court cases which interpreted the legislation. The Hansen amendment would codify these interpretations so that the original purpose of the section—to insure that the general funds of a corporation or union cannot be used for election activities geared to the general public on behalf of specific Federal candidates—will prevail.

Corporate and labor union political communications directed at their stockholders and members should be allowed. Likewise, nonpartisan registration and get-out-the-vote activities were not the target of the original section 610. And, of course, partisan electioneering directed at the general public financed by voluntary contributions are acceptable.

I believe that the Hansen amendment will be very helpful in clarifying the provisions of section 610 without imposing limitations on corporations and labor unions which either violate the Constitution or fly in the face of our American traditions.

I strongly favor the passage of a strict campaign reform measure, and I think that by accepting the Hansen amendment we will significantly improve our final product.

Mr. STEIGER of Wisconsin. I thank the gentleman for his contribution.

Mr. Chairman, I think it ought to be clear at the outset that what the Supreme Court said effects the rights of both labor and management to engage in a narrow range of educational and nonpartisan activities which are allowed and protected at the present time under the so-called CIO case.

The Supreme Court in that said, and I quote:

> If [18 USC § 610] were construed to prohibit the publication, by corporations and unions in the regular course of conducting their affairs, of periodically advising their members, stockholders or customers of danger or advantage to their interests from the adoption of measures or the election to office of men, espousing such measures, the gravest doubt would arise in our minds as to its constitutionality.

The Court then went on to say that "the evil" which Congress may constitutionally regulate is "the use of union funds to influence the public at large to vote for a particular candidate or a particular party."

One of the reasons the Hansen amendment makes sense is it does provide a limitation which presently is not found in the language of 18 U.S.C. 610. That limitation is that the funds that are to be used by the union or by a corporation—and I must admit to being somewhat amazed at my friends like the gentleman from Illinois and others who keep talking about unions and forgetting the dual nature of this problem and the fact that the amendment goes to both unions and corporations and that the Hansen amendment would make it possible for the first time to insure that the funds that are constitutionally protected—union and corporate funds under section 610 of title 18, United States Code can only be used in terms of carrying on campaigns for voter registration and drives to get out the vote and campaigns aimed at members on the family or stockholders of both labor organizations and corporations.

It is for that reason I think this amendment makes a lot of sense.

Mr. CRANE. Mr. Chairman, will the gentleman yield?

Mr. STEIGER of Wisconsin. I yield to the gentleman from Illinois.

Mr. CRANE. Mr. Chairman, let me simply remind the gentleman from Wisconsin that I quoted from my amendment which is contained in the House administration bill and refers equally to corporations, national banks, and labor organizations.

To me the issue still comes back to that of voluntarism versus compulsion. I do not care whether it is a corporation or a national bank or a labor organization—we are talking about compulsion. It seems to me in the interest of fairness and justice to all—whether you are talking of stockholders of a bank or a corporation or whether you are talking of members of a union—I think it is unjust, unfair, and inequitable to take money involuntarily from them and to use that money to promote ideals that are contrary to their own.

Mr. STEIGER of Wisconsin. I refuse to yield further. I might say this is on my time, though I am delighted to have the gentleman's contribution. I simply disagree with him. I think you are imposing what I would judge to be a very questionable concept on organizations, be it a labor union or a corporation, that somehow that organization does not have the right and should not be allowed to carry on a campaign of education among its stockholders or its members, and to try to deny that right on the basis of the ancillary issue of compulsorism versus voluntarism is beside the point.

It seems to me that what the Hansen amendment does is to assure that we restrict these funds to being used solely for the purpose of carrying on campaigns among their members and their families.

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

(By unanimous consent, Mr. STEIGER of Wisconsin was allowed to proceed for 2 additional minutes.)

Mr. HARVEY. Mr. Chairman, will the gentleman yield?

Mr. STEIGER of Wisconsin. I yield to the gentleman from Michigan.

Mr. HARVEY. I thank the gentleman for yielding. My question is really one of clarification. I am not satisfied in my own mind that we are correct in lumping corporations and unions together in the manner in which we are doing it. I know they are lumped that way in the corrupt practices bill and the present bill. But as I see this, we are talking about corporations which, at least in the State of Michigan from which I come, do not have registration and get-out-the-vote drives, for that matter. However, there has been tremendous union activity.

As I look at what could be contemplated, I am bothered by this. My criticism is sincere, so I ask this question. Corporations are diverse, their stockholders scattered all over the country, and their efforts are perhaps limited to a letter campaign of some kind. But that is not what the unions are doing. The unions are actually registering people, sending out cars, deliverying them to the polls. They have computers and other sophisticated equipment to aid them in the process.

I wonder if it is fair to say that corporations are in the same category with unions in this respect?

Mr. STEIGER of Wisconsin. I am sorry I do not have time to yield further. No, corporations are not in the same category. But within my remaining time let me discuss a further reason I support the Hansen amendment. The other body is now considering a national voter registration program through use of the mails. We ought not to turn around and somehow make it impossible or more difficult for voluntary drives of the kind we have discussed to register voters and get out the vote. The United States stands proud in its reliance on volunteer efforts by private organizations—and the fact that we are not like France, Britain, or Canada where they have municipal systems or federal drives—in encouraging voluntary drives. I want the voluntary drive to be maintained and I do not want to move in the direction of our neighbors. Thus, I support the Hansen amendment and urge its adoption.

Mr. Chairman, I rise in opposition to the Hansen amendment primarily because, if adopted, it will preclude consideration of the Crane amendment. Those of you who have a copy of the House Administration bill, the Hays bill, before you, H.R. 11060, look at page 18, section 8. That is the Crane amendment. That is the one that was adopted in the House Administration Committee, because we think it addresses itself properly to the problem. It was inserted in the bill because the members of the committee recognize that section 610, title 18, has failed in the purpose for which Congress originally intended it—to inhibit the activities of labor unions in the political arena. Thus, the Crane amendment does nothing beyond that which Congress set out to do in 1947 when the law was amended to cover political contributions by labor organizations.

Although the Crane amendment, which we hope to reach if the Hansen amendment is defeated, is aimed at corporations and banks in addition to labor organizations, it is now being denounced as antilabor by union spokesmen. So I think it is reasonable to presume that the amendment offered by the gentleman from Idaho would be considered an AFL–CIO amendment.

Whereas these spokesmen formerly insisted that union political activities are funded exclusively by voluntary contributions from members, union officials now complain that Mr. CRANE's proposal "would prohibit all union activity financed by Treasury money, connected in any way with Federal elections." Their complaint represents an admission of noncompliance with section 610.

Another complaint by union spokesmen, namely, that "union funds could not be used for nonpartisan, 'get-out-the-vote' activities aimed at union members and their families," is altogether misleading.

In the first place, the Crane amendment includes this notable safeguard:

> Nothing in this section shall preclude an organization from establishing and administering a separate contributory fund for any political purpose, including voter registration or get-out-the-vote drives, if all contributions, gifts or payments to such fund are made freely and voluntarily, and are unrelated to dues, fees or other moneys required as a condition of membership in such organization or as a condition of employment.

Second, there is an abundance of evidence proving that union sponsored "get-out-the-vote" campaigns are not nonpartisan. George Meany himself has acknowledged, when he said:

> When you spend your money to get people registered, and then spend a lesser proportion to get them out to vote, you know you got a vote in the ballot box. Of course, we are a little bit choosy when we choose districts in which we want to better these votes in the ballot box, so that when they go in we have a pretty good idea how they are going to vote.

Furthermore, AFL–CIO Secretary-Treasurer Lane Kirkland, while addressing the Amalgamated Transit Union convention in Las Vegas, Nev., last September, exploded the myth that union political activities are merely "aimed at union members and their families." While vigorously attacking President Nixon, he said:

> Over the next 13 months labor and its political arm—COPE—has a great deal of work to do. We have to carry our message to every American eligible to vote, and we have to make sure that they understand what America's choices really are. And we have to make sure that every voter we can reach is registered, and that they go to the polls.

Clearly, the leaders of organized labor are attempting to influence union members and all other voters in the Nation. And they are using union dues money provided mostly on a compulsory basis from members.

We must protect America's working men and women from this abuse.

I suggest we vote down the Hansen amendment, in order to give us an opportunity to consider the Crane amendment.

Mr. CRANE. Mr. Chairman, will the gentleman yield?

Mr. DEVINE. I yield to the gentleman from Illinois.

Mr. CRANE. Mr. Chairman, I thank the gentleman for yielding and for his support for my amendment which I hope I will have a chance to introduce.

I want to comment on some of the remarks made earlier. Frankly, I find it somewhat surprising that the gentleman from Wisconsin should describe the issue of freedom of choice and freedom to dispose of one's property according to the dictates of one's own conscience as an "ancilliary red herring." Clearly in my judgment that is the problem involved.

I would also like to pass on a quotation of Justice Black on the subject.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

(On request of Mr. CRANE, and by unanimous consent, Mr. DEVINE was allowed to proceed for 2 additional minutes.)

Mr. CRANE. Mr. Chairman, if the gentleman will yield, I would like to give the quotation by Justice Hugo Black:

> There can be no doubt that the federally sanctioned union shop contract here, as it actually works, takes a part of the earnings of some men and turns it over to others, who spend a substantial part of the funds so received in efforts to thwart the political economic and ideological hopes of those whose money has been forced from them under authority of law.

There was a classic battle by Thomas Jefferson on behalf of freedom of religion in the State of Virginia. At that time he stated that to force a man to contribute his money to support the propagation of views that are contrary to his own is sinful and tyrannical. The principle involved today is exactly the same as that involved in Jefferson's day.

Mr. DEVINE. Mr. Chairman, I would ask the gentleman from Illinois if the proposed Hansen amendment does violence to the proposed Crane amendment?

Mr. CRANE. It does, because it ignores this question of involuntarily raised moneys and, in fact, puts the stamp of approval on the use of involuntarily raised moneys for registration drives and get-out-the-vote drives.

Mr. DEVINE. Is it the opinion of the gentleman from Illinois that if the Hansen amendment is adopted, the union activity would be broadened or confined?

Mr. CRANE. It would be significantly broadened and in my judgment it would be to the detriment of most Americans.

Mr. HARVEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am rather confused about this amendment. I should like to ask the author of it, the gentleman from Idaho, a couple of questions.

I would say to the gentleman, to preface my questions, that, believe it or not, I have great admiration for the efficiency of the unions in their activity in getting out the vote and in registration drives as well. These have both been conducted in Michigan, although in a highly partisan manner, nevertheless in an extremely efficient manner. I believe that can be truly said also around the country.

But in Michigan, I would point out, both the registration drives and the get-out-the-vote drives have been, at least in my best judgment, directed not only at union members but also conducted, No. 1, on a door-to-door basis and, No. 2, conducted among minority groups.

I say to my friend from Idaho, am I correct that his amendment would preclude any such activity in the future? In other words, am I correct that any union activity or corporation activity would be precluded on either a door-to-door basis or among minority groups?

Mr. HANSEN of Idaho. Mr. Chairman, will the gentleman yield?

Mr. HARVEY. I yield to the gentleman from Idaho.

Mr. HANSEN of Idaho. That activity would be precluded to the extent that it was aimed at persons other than members of the union and their families, or for corporations stockholders and their families.

I believe the gentleman raises an excellent point. There is now no effective or practical limitation in the law as to the extent to which these get-out-the-vote activities can go. They may very well be directed, to the general public or to certain segments of the general public, who are obviously more likely to vote in the same way as the sponsors of the campaign.

This amendment would have the effect of restricting the persons who would be the object of a get-out-the-vote campaign.

Mr. HARVEY. Mr. Chairman, in the September 1970, National Journal there was featured a 10-page article on the Committee on Political Education. It stressed, among other things, COPE's involvement in voter registration and campaign work. According to the Journal, and I quote:

> In 1968 its nuts and bolts registration and get-out-the-vote effort helped elect 185 House Members and 15 of the 34 Senators chosen by America's voters.

What bothers me, Mr. Chairman, is, as I say, in Michigan, at least, this is not a bipartisan effort, but this is strictly a partisan effort. It points up to me that certainly this whole area is undoubtedly the biggest loophole in either the substitute we are considering or in the Hays-Macdonald bill that we are considering. While we are talking about placing limits on what a candidate can spend in his own behalf, and making that candidate account for all expenditures on his own behalf, we are saying either the union or the corporation, can go out and do it in behalf of a particular candidate and yet that is not accounted for at all.

Mr. HANSEN of Idaho. Mr. Chairman, will the gentleman yield further?

Mr. HARVEY. I yield further.

Mr. HANSEN of Idaho. The gentleman makes an excellent point, and I should like to underscore it.

The gentleman refers to the activities of COPE. I would point out COPE is not touched by this amendment or by the present law or by the language of the Hays bill. As a matter of fact, the Hays bill with the so-called Crane amendment specifically recognizes the right to establish a voluntary political fund, and that is what COPE is.

This amendment does not reach COPE. COPE is excluded from its coverage and from the terms of the Crane amendment as it was adopted in the Hays bill.

Mr. HARVEY. I thank the gentleman for his contribution.

Mr. HAYS. Mr. Chairman, I ask unanimous consent that all debate on this amendment close in 5 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Chairman, I think it is important that we understand neither the Crane amendment nor the Hansen amendment is directed toward voluntary or COPE moneys. What we are talking about is Treasury money. The principal distinction is that the Hansen amendment would allow its use to get-out-the-vote drives for union members while the Crane amendment would not.

I cheerfully supported the Crane amendment in committee in its unexpurgated version, which is stronger than the version now in the Hays bill. There is a time, I think, when it is appropriate to retreat just a little bit. If we vote down the Hansen amendment in our efforts to get to the Crane amendment, we may well lose both of them and go into conference with nothing on the subject.

On the other hand, the Hansen amendment is a step forward in clarifying what has been judicial precedents in the field. Therefore I urge an affirmative vote on the Hansen amendment.

I yield to the gentleman from Illinois (Mr. CRANE).

Mr. CRANE. I would like to comment on the point the gentleman from Minnesota made.

I disagree. The Hansen amendment in effect guts the amendment I introduced before in the Committee on House Administration. I still argue it is a vital issue. I am fully cognizant of the nature of labor's influence in our legislative councils, and very frankly I do not anticipate, if my amendment were to stay in any bill that came out of this House, it would survive the conference committee.

I think we are engaged in an exercise in semantics, but let us not be hypocritical as to what is contained in the bill. That is the importance, in my judgment, of defeating the Hansen amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. HAYS) to close debate.

Mr. HAYS. I would like to say to the Members who are here that there is a lot of sound and fury here about how much money labor spent. In 1968 the Ohio Medical Association contributed more money to my opponent than COPE did to the whole slate of congressional candidates in the State of Ohio.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Idaho (Mr. HANSEN) to the amendment in the nature of a substitute offered by the gentleman from Michigan (Mr. HARVEY).

The question was taken; and the chairman announced that the ayes appeared to have it.

TELLER VOTE WITH CLERKS

Mr. CRANE. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. CRANE. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman appointed as tellers Messrs. HANSEN of Idaho, CRANE, HAYS, and DENNIS.

The Committee divided, and the tellers reported that there were—ayes 233, noes 147, not voting 51, as follows:

[Roll No. 416]

[Recorded Teller Vote]

AYES—233

Abourezk
Abzug
Adams
Addabbo
Albert
Anderson, Calif.
Anderson, Ill.
Anderson, Tenn.
Andrews, N. Dak.
Annunzio
Ashley
Aspin
Badillo
Begich
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Boggs
Boland
Brademas
Brasco
Brooks
Burke, Mass.
Burlison, Mo.
Byron
Carey, N.Y.
Carney
Celler
Chappell
Chisholm
Clark
Clay
Collins, Ill.
Conable
Conte
Conyers
Corman
Cotter
Coughlin
Culver
Daniels, N.J.
Danielson
Davis, Ga.
de la Garza
Delaney
Dellenback
Dellums
Denholm
Dent
Dingell
Donohue
Dow
Drinan
Dulski
Dwyer
Eckhardt
Edmondson
Edwards, Calif.
Esch
Eshleman
Evans, Colo.
Fascell
Findley
Fish
Flood
Flowers
Foley
Ford, William D.
Forsythe
Fraser
Frenzel
Fulton, Tenn.
Fuqua
Galifianakis
Garmatz
Gaydos
Giaimo
Gibbons
Gonzalez
Grasso
Gray
Green, Oreg.
Green, Pa.
Griffiths
Gude
Hamilton
Hanley
Hansen, Idaho
Hansen, Wash.
Harrington
Hathaway
Hawkins
Hays
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Hicks, Mass.
Hicks, Wash.
Hillis
Holifield
Howard
Hull
Hungate
Ichord
Jacobs
Johnson, Calif.
Jones, Tenn.
Karth
Kastenmeier
Kazen
Keating
Kluczynski
Koch
Kyros
Leggett
Link
Lloyd
Long, Md.
Lujan
McCloskey
McCormack
McCulloch
McDade
McDonald, Mich.
McEwen
McFall
McKay
McKinney
Macdonald, Mass.
Madden
Mailliard
Martin
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Metcalfe
Mikva
Miller, Calif.
Mills, Ark.
Minish
Mink
Mitchell
Mollohan
Monagan
Moorhead
Morgan
Morse
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Natcher
Nedzi
Nix
Obey
O'Hara
O'Konski
O'Neill
Patman
Patten
Pepper
Perkins
Peyser
Pickle
Pike
Podell
Preyer, N.C.
Pryor, Ark.
Purcell
Quie
Randall
Rangel
Rees
Reid, N.Y.
Reuss
Robison, N.Y.
Roe
Rogers
Roncalio
Rooney, N.Y.
Rooney, Pa.
Rosenthal
Roush
Roy
Runnels
Ryan
St Germain
Sarbanes
Scheuer
Schwengel
Seiberling
Shipley
Shriver
Slack
Smith, Iowa
Smith, N.Y.
Staggers
Stanton, J. William
Stanton, James V.
Steele
Steiger, Wis.
Stokes
Stratton
Stubblefield
Sullivan
Symington
Teague, Tex.
Terry
Thompson, N.J.
Thomson, Wis.
Tiernan
Udall
Ullman
Van Deerlin
Vanik
Vigorito
Waldie
Whalen
Widnall
Williams
Wolff
Wydler
Yates
Yatron
Young, Tex.
Zablocki
Zwach

NOES—147

Abbitt
Abernethy
Archer
Ashbrook
Aspinall
Baker
Betts
Blackburn
Bow
Bray
Brinkley
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Buchanan
Burke, Fla.
Burleson, Tex.
Byrnes, Wis.
Cabell
Caffery
Camp
Carter
Casey, Tex.
Cederberg
Chamberlain
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Collier
Collins, Tex.
Colmer
Crane
Daniel, Va.
Davis, Wis.
Dennis
Devine
Dickinson
Dorn
Downing
Duncan
du Pont
Edwards, Ala.
Erlenborn
Fisher
Flynt
Ford, Gerald R.
Fountain
Frelinghuysen
Frey
Gettys
Goldwater
Goodling
Griffin
Gross
Grover
Hagan
Haley
Hall
Hammerschmidt
Harvey
Hastings
Henderson
Hosmer
Hunt
Hutchinson
Jarman
Johnson, Pa.
Jonas
Keith
Kemp
King
Kuykendall
Kyl
Landgrebe
Latta
Lennon
Lent
Long, La.
McClory
McCollister
Mahon
Mann
Mathias, Calif.
Mathis, Ga.
Miller, Ohio
Mills, Md.
Minshall
Mizell
Montgomery
Myers
Nelsen
Nichols
Passman
Pelly
Pettis
Pirnie
Poage
Poff
Powell
Price, Tex.
Quillen
Rarick
Roberts
Robinson, Va.
Rousselot
Ruppe
Ruth
Sandman
Satterfield
Saylor
Scherle
Schmitz
Schneebeli
Scott
Sebelius
Shoup
Skubitz
Smith, Calif.
Snyder
Spence
Springer
Steiger, Ariz.
Stephens
Talcott
Taylor
Teague, Calif.
Thompson, Ga.
Thone
Vander Jagt
Veysey
Waggonner
Wampler
Ware
Whalley
White
Whitehurst
Whitten
Wiggins
Winn
Wyatt
Wylie
Wyman
Young, Fla.
Zion

NOT VOTING—51

Alexander
Andrews, Ala.
Arends
Baring
Barrett
Belcher
Bell
Blanton
Blatnik
Bolling
Broyhill, Va.
Burton
Byrne, Pa.
Davis, S.C.
Derwinski
Diggs
Dowdy
Edwards, La.
Eilberg
Evins, Tenn.
Gallagher
Gubser
Halpern
Hanna
Harsha
Hébert
Hogan
Horton
Jones, Ala.
Jones, N.C.
Kee
Landrum
McClure
McKevitt
McMillan
Michel
Price, Ill.
Pucinski
Railsback
Rhodes
Riegle
Rodino
Rostenkowski
Roybal
Sikes
Sisk
Steed
Stuckey
Wilson, Bob
Wilson, Charles H.
Wright

So the amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. DEVINE TO THE SUBSTITUTE AMENDMENT OFFERED BY MR. HARVEY

Mr. DEVINE. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. DEVINE to the amendment in the nature of a substitute offered by Mr. HARVEY: Page 21, line 21, after the word "value" and add "(except a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business)".

The CHAIRMAN. The gentleman from Ohio (Mr. DEVINE) is recognized for 5 minutes in support of his amendment.

Mr. DEVINE. Mr. Chairman, this is a corrective and clarifying amendment.

The committee will recall that when the chairman of the committee, Mr. HAYS, was discussing the situation that occurred during the Ohio elections last year having to do with candidates borrowing funds for campaign purposes, that we adopted an amendment in committee and we approved an amendment here but it confined itself only to the

Criminal Code Amendments when it related to a definition of "contribution." That appeared on page 14, line 16, of the bill.

If we move to the subject matter and address ourselves to the amendment in question, it has to do with page 21 of the bill under the disclosure features. It merely makes the definition of "contribution" at that point conform with the same definition under the criminal section. I believe the gentleman from Ohio is aware of the amendment.

Mr. HAYS. Mr. Chairman, will the gentleman yield?

Mr. DEVINE. I yield to the gentleman from Ohio.

Mr. HAYS. I agree with everything the gentleman has said. This is in the nature of a corrective amendment to make the bill the same in both areas, and I think that everybody in the House would probably be in favor of it. I certainly support it.

Mr. DEVINE. Mr. Chairman, I yield back the remainder of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. DEVINE), to the amendment in the nature of a substitute offered by the gentleman from Michigan (Mr. HARVEY).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. KEATING TO THE SUBSTITUTE AMENDMENT OFFERED BY MR. HARVEY

Mr. KEATING. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

> Amendment offered by Mr. KEATING to the amendment in the nature of a Substitute offered by Mr. HARVEY: Page 37, immediately after line 17, insert the following:
>
> (b) It shall be the further duty of the Comptroller General to serve as a national clearing house for information in respect to the administration of elections. In carrying out its duties under this subsection, the Comptroller General shall enter into contracts for the purpose of conducting independent studies of the administration of elections. Such studies shall include, but shall not be limited to, studies of—
>
> (1) the method of selection of, and the type of duties assigned to, officials and personnel working on boards of elections;
>
> (2) practices relating to the registration of voters; and
>
> (3) voting and counting methods.
>
> Studies made under this subsection shall be published by the Comptroller General and copies thereof shall be made available to the general public upon the payment of the cost thereof. Nothing in this subsection shall be construed to authorize the Commission to require the inclusion of any comment or recommendation of the Comptroller General in any such study.
>
> And redesignate the following subsection accordingly.

Mr. KEATING. Mr. Chairman, my amendment is designed to broaden the jurisdiction of the Comptroller General which is established in the hopes amendment to the substitute bill.

My amendment will give the Comptroller General the responsibiilty to contract independent studies on the problems of election administration and shall serve as a clearinghouse for this information. The Comptroller General is restricted from making any recommendations and is to provide information only when requested. He will not interfere with local and State governments.

Election day is the most important day in any democratic nation. When the Government fails to function efficiently on this day, a tremendous credibility gap occurs between the Government and the people. All of the sections of the bill are meaningless if we are unable to properly execute the election itself.

In Cincinnati this past election the citizens woke up the morning after the election to read in the paper:

> There are no election returns to report. There won't be for three days.

A day later the papers reported:

> The Hamilton County Board of Elections has tentatively agreed to start the count of all ballots of last Tuesday's election Sunday evening.

Research into this problem shows there have been numerous difficulties in election administration across the Nation.

In Detroit during the primary election the newspaper headline was: "Computers Foul Vote Count." Later when the general election occurred the paper in Detroit reported:

> For the second time in a row the counting of Detroit's new punch card ballots turned into a colossal foul-up Tuesday night. Some computers broke down.

Similar stories have appeared in San Francisco, Atlanta, Los Angeles, and indeed in other cities across the Nation.

The magazine Computerworld reported a case in Philadelphia where:

> James Martin, a candidate for judge in the recent primary election was almost "elected" by errors in keypunching.

This amendment will allow for State and local officials to turn to a national center or clearinghouse for information on good and bad ideas on voting systems. The center also will collect information on the responsibilities and duties of board of elections officials and personnel, plus the maintaining of registration list and any other problems that plague the effective administration of elections. Hopefully with information officials will be able to carry out their responsibilities on election day in the most efficient manner possible.

It is my understanding that the gentleman from Minnesota (Mr. FRENZEL) and the gentleman from Ohio (Mr. BROWN) and the gentleman from Ohio (Mr. HAYS), the Chairman, are in agreement with this amendment.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. KEATING. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Chairman, this amendment was proposed to us a long time ago. It seems to us it is a reasonable inclusion for the duties of the supervisory authority without giving them authority in local elections, but it does provide for them a central marketplace for ideas.

Mr. KEATING. Mr. Chairman, I thank the gentleman for his comments.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. KEATING) to the amendment in the nature of a substitute offered by the gentleman from Michigan (Mr. HARVEY).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. BINGHAM TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. HARVEY

Mr. BINGHAM. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

> Amendment offered by Mr. BINGHAM to the amendment in the nature of a substitute offered by Mr. HARVEY:
>
> Page 13, after line 2, insert a new title as follows:
>
> "TITLE II
>
> "SEC. 201. No candidate for federal elective office may expend, in a primary, primary runoff, or general election, an amount in excess of the limitations imposed by Section 104 of Title I (for the use of communications media) for the following purposes: (a) telephone campaigns, including the cost of telephones, paid telephonists and automated equipment, when telephones are used in banks of five or more instruments to communicate with potential voters, (b) postage for computerized or identical mailings in quantities of 200 or more. Amounts expended for the use of communications media as provided in Section 104 of Title I will be charged against the limitations imposed by this section."
>
> And renumber the following Titles and sections accordingly.

Mr. BINGHAM. Mr. Chairman, earlier I spoke of the amendment that I had intended to offer to the substance of the Macdonald bill, which we have already adopted. This amendment, which I have worked out with the assistance of some of the experts in this House—and I am indebted to them—provides for the same kind of compromise I was talking about before.

What the amendment does is to add two categories to those categories which are the subject of the limitations of title I, and the two categories are organized telephone campaigns and organized mailings using computerized or identical mailings in the quantities of 200 or more. As far as the mailings are concerned, only the postage is covered, and as far as the telephones are concerned, the cost of the telephones or paid telephonists or of automated equipment would be covered. These items are readily identifiable, they constitute a major share of the cost of congressional campaigns in many districts, and if we do not include something of this kind, and if we then adopt the Senate substitute, we will have left a major gap in the coverage intended by this bill.

This does not go as far as the Hays bill, which I personally supported. It does not call for a ceiling across the board covering all expenditures. I myself felt that that effort should be made, but an argument has been raised against that, that all kinds of expenditures would be subject to argument. Do we include this and do we not include that under the ceiling?

If this amendment is adopted we will have five clearly defined, identifiable categories of expenses which cover the major expenditures in the various campaigns we are trying to provide for. I would submit to the committee that this offers a compromise position between the limited coverage in the Senate bill, the Harvey substitute, and the complete coverage in the Hays bill as it emerged from the Committee on House Administration.

I would hope very much that this amendment would be acceptable to the chairman of the committee and to others who heretofore have supported the complete provisions in the Hays bill, and that it would also be acceptable or at least not objectionable to those who have favored the Senate bill as it emerged from the Senate.

Mr. HAYS. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman from Ohio.

Mr. HAYS. I had hoped, of course, we could get a bill that would set a top ceiling on expenditures for Congress, for the Senate and for the President. The original bill which came out of the Committee on House Administration set a limit of $50,000 for congressional races, 6 cents times the population of a State or $50,000 whichever was larger for senatorial races, and 6 cents times the population of the United States for the presidential races. That would be the ideal I should like to shoot for, but, as I said earlier, I am a practical man. I sense that the House does not want to go along with that type of complete limitation, so as a compromise I certainly support the position of the gentleman from New York, because with this amendment and the categories already covered in the Macdonald of Massachusetts amendment we would have the five principal categories of expenditures placed under limitation; namely, telephone, direct mail, radio and television, and newspapers and outdoor advertising.

I could say to the Members, while this does not meet my ideal, some of the press which has been howling for reform and wanting much less than this, apparently, saying that the Senate bill was a great bill—I did not think the Senate bill went far enough—should be informed that I think, with a couple of other minor amendments, I might be in a position to say, "Yes, I will buy the substitute and we can finish up this evening and have a bill perhaps not as complete as some of us might like but one certainly better than what we have now."

Mr. BINGHAM. I thank the chairman very much.

Mr. MACDONALD of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman from Massachusetts.

Mr. MACDONALD of Massachusetts. I sympathize very much with the gentleman's position. As I said earlier today, candidates from large cities and congressional districts cannot use TV and radio very effectively. But I would ask the gentleman, is this not sort of a backdoor way of amending title I, which has already been adopted?

Mr. BINGHAM. I would say to the gentleman, no. This adds a new title. It is not in any way a violation of the rules under which we are proceeding. I have discussed it with the parliamentarian.

The CHAIRMAN. The time of the gentleman from New York has expired.

(By unanimous consent, Mr. BINGHAM was allowed to proceed for 1 additional minute.)

Mr. BINGHAM. I should like to say I am sure that this is perhaps not the most artful way to accomplish the purpose, but I would also assume in conference the conferees would be able to work it out so that the gist of these provisions could be added in an orderly way.

I yield to the gentleman from Michigan (Mr. HARVEY).

Mr. HARVEY. I thank the gentleman for yielding.

I very reluctantly have to oppose the gentleman's amendment. I know that he is sincere in seeking a compromise here, but I would say to the gentleman that what the Senate is trying to do and what the Macdonald bill is trying to do is to establish certain categories that could be very easily enforced.

The CHAIRMAN. The time of the gentleman from New York has again expired.

Mr. HARVEY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, what the Senate in their deliberations in the other body finally agreed upon is very similiar to what the deliberations of the Interstate and Foreign Commerce Committee were and what they finally agreed upon. What both were trying to do was, somehow to find some criteria that could be enforced. This is awfully important. It is one thing to set an absolute limit on what any person can spend in his campaign. It is another thing for anyone to have to prove that person has spent more than that particular limit. It is very difficult to prove that more than that limit has been spent. But if you do limit it to certain readily identifiable and readily provable categories, this can be done. That was the whole intent, I might say, of limiting it to broadcasting, to newspapers, to magazines and then yesterday, by the Frey amendment, enlarging it, as we did, to include outdoor advertising as well.

Certainly the cost of telephones and the cost of the people to man the telephones are a bona fide election expense for any particular candidate. I would guess that the cost of the telephones themselves could probably be proved very easily, but when we get into the telephonists themselves and how much the candidate is paying that particulár person, we are getting into a category which is very, very difficult to prove.

Mr. Chairman, as I say, I know the amendment is offered in good faith and the gentleman wants us to enlarge these categories, but for these reasons I must oppose it.

Mr. HAYS. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, in my opinion, this amendment plugs up the most serious loophole in the Senate bill.

I do not know whether some Members are aware of it or not, but it is possible to go to certain computer firms and for a tremendous amount of money buy an address, an inside address, a "Dear Mr. Jones" letter to everybody in your district in different categories if you want to compose different letters. Now, that would run in the normal district about $100,000 or more. This is not covered in any way, shape, or form in the so-called substitute, and all Mr. BINGHAM is trying to do is to bring this kind of expenditure under the limitation.

For those of you who depend on radio and television, that is fine, but there are a number of districts where the Members do not use it much, and this subjects them to the same kind of a blitz that everybody here has been deploring with regard to television and radio. This is easily proved, because if you buy computerized mail, you have to report it, and if you do not report the correct amount, they can go to the firm and, if necessary, subpena the records and find out how much you did spend.

The same thing with computerized telephones. That is what this is directed to. Nobody is going to say very much or do very much if you have volunteers.

As a matter of fact, they are specifically exempted. This is banks of computerized telephones which again run into tremendous sums of money, and if this amendment is adopted, then the substitute becomes a real campaign limitation bill and I think it is one that all of us should support and one with which we can live.

Mr. STAGGERS. Mr. Chairman, will the gentleman yield?

Mr. HAYS. I yield to the gentleman from West Virginia.

Mr. STAGGERS. I would like to associates myself with the gentleman's remarks.

In our committee in talking over these things we were trying to figure every possible loophole we could within the jurisdiction of our committee. However, some of these are outside the jurisdiction of our committee. I think in order to have an effective bill this would very much improve it.

Mr. HAYS. I thank the gentleman.

Mr. Chairman, I would say that there has been a lot of talk about compromise. I have attempted and endeavored to compromise. As I said earlier, if we can get a real limitation here in the form of this amendment—perhaps, the language will have to be changed a little in conference and be made more specific with reference to telephones; I do not know—but this will be a bill with which we can live.

Further, if two other minor amendments are accepted to the substitute and if the House adopts the substitute, then we can call it a day.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. HAYS. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Would the gentleman give me some kind of description of "postage for computerized or identical mailings in quantities of 200 or more"?

The gentleman is chairman of the House Administration Committee and as such that committee makes available to Members of Congress reproduction machinery which can reproduce letters from a tape system as well as other kinds of equipment which can produce what I would call "computerized mailings" and "computerized letters."

Is it my understanding that postage for computerized identical mailings in quantities of 200 or more would cover any mailing made by a Member of Congress that would exceed 200?

Mr. HAYS. No, it would not. The gentleman lives under an identical provision as this in the Ohio law. The gentleman mails out campaign literature asking "Vote for Mr. Brown" and if he does so he must put a stamp on it and he must include the cost of the printing, the cost of the stuffing, and the cost of the postage.

This requires that if you send out something that you cannot send out under a frank in quantities of 200, you have to report how much it costs.

Mr. BROWN of Ohio. Mr. Chairman, if the gentleman will yield further, suppose I send out a letter telling what a wonderful job I did in voting on a particular bill of interest to farmers or businessmen in my district and it is a computerized letter?

Mr. HAYS. Are you going to send it out under your frank or not?

Mr. BROWN of Ohio. Suppose it is sent either way?

Mr. HAYS. If you send it under your frank it does not count; otherwise, it does. Your conscience has to be the guide as to whether or not it is campaign literature.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

(By unanimous consent (at the request of Mr. BROWN of Ohio) Mr. HAYS was allowed to proceed for 1 additional minute.)

Mr. BROWN of Ohio. Suppose I send it out with a stamp.

Mr. HAYS. Then, you have to report it.

Mr. BROWN of Ohio. Because it has a stamp it becomes a campaign expense?

Mr. HAYS. If in your judgment it has become a campaign document. If you send it out this year under a stamp this year or under a frank and say, "I voted for the election reform bill" as a matter of information, I would assume you would send it out under your frank and it would not be covered. However, to send it out 2 weeks before the election in my opinion it would be a campaign document and would be covered.

Mr. BROWN of Ohio. What would be the limit in terms of time under this provision with reference to mailings? Would the gentleman tell me when it becomes all right? If it is not all right 2 weeks before the election, is it all right 2 months before the election?

Mr. HAYS. I cannot set a specific limit of time. As the gentleman knows, some Members send out what purports to be a newsletter 2 weeks before the election, and it has been ruled to be a newsletter, if it is not blatantly political. So it would have to be a bona fide newsletter or a campaign document.

Mr. BROWN of Ohio. So, this becomes a kind of a guessing game?

Mr. MACDONALD of Massachusetts. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to clarify in my own mind, and I suppose other Members have the same question in their mind—I would like to ask the gentleman from New York (Mr. BINGHAM) if there is some definition of the word "banks" as far as telephones are concerned?

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. MACDONALD of Massachusetts. I yield to the gentleman.

Mr. BINGHAM. Bank is described as five or more telephones in the same place. I think the word is commonly understood. I do not believe it is a technical term.

Mr. MACDONALD of Massachusetts. I would just like to point out to the gentleman what troubles me, and the gentleman from Ohio (Mr. HAYS) indicated that perhaps this will be cleared up in conference, but I would like to have the gentleman clear up what he has in mind because in my area, in my particular district, we have people who volunteer to come in and use a telephone, and they call their friends, or they call throughout a ward, or call an area, would that be included in this bill within this amendment?

Mr. BINGHAM. Where you have——

Mr. MACDONALD of Massachusetts. If I had, for example seven telephones that were used for calling at once, would they be precluded from the jurisdiction of your amendment?

Mr. BINGHAM. If you had seven telephones being used for calls for the purpose of contacting the potential voters, I would say they would be included, yes. People you know who may work on their own time, on their own phones, they would not be included.

Mr. MACDONALD of Massachusetts. Would you think that there would be some sort of difficulty with the first amendment about this, people who want to call their friends, who are we to say they cannot call their friends?

Mr. BINGHAM. No. I do not say that. That is precisely why it is worded this way. It would not prevent or interfere with someone who wants to call his own friend from his own telephone. What we are talking about are telephones installed in banks, and I have done this in campaigns myself, 20 or 30 telephones, and you attempt to get volunteers to do it. And we have gotten volunteers to do it, but the expense is certainly quite substantial, particularly in the city of New York where you pay for each individual telephone call. But this was particularly drawn to exclude the individual who on his own time and on his own phone calls up his friend.

Mr. HAYS. Mr. Chairman, would the gentleman yield?

Mr. MACDONALD of Massachusetts. I yield to the gentleman from Ohio.

Mr. HAYS. Even if you have banks of telephones manned by volunteers, the only expense you have to report is the telephone expense, you do not report any costs for the volunteers.

Mr. MACDONALD of Massachusetts. That is right, obviously not. But, say you have very generous friends, and they are willing to put in different phones that you do not pay for, and they are doing it on their own, they are paying for the phone, and they are giving you volunteered service, would they be covered by this?

Mr. BINGHAM. If the gentleman will yield, I think the answer there would be the same as the case under the gentleman's bill for a friend who takes a newspaper advertisement on his own and whether this would be covered. I do not believe there is any substantial difference in that, and the organized phone campaign. If it is conducted for the benefit of the candidate, then I think it would come within the limitation provided there are five or more in one place.

Mr. HAYS. Mr. Chairman, would the gentleman yield further?

Mr. MACDONALD of Massachusetts. I yield further to the gentleman from Ohio.

Mr. HAYS. If you have 100 friends who said, "I am going to put on a telephone campaign," and they divide the phone book up into 100 different sections, and they do it on their own time and on their own phone, that would be all right. It is only if you pay for it.

Mr. MACDONALD of Massachusetts. I thank the gentleman.

Mr. PICKLE. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, it seems to me that we are going far afield for the purpose of this bill that we have before us. We have already established limitations on the five main categories that we have a reason primarily to put limitations on, the radio, television, newspapers, billboards, and printed material. If we carry this into all other categories you are going to put yourselves—or your opponent—out of business. How far do you go in this?

You add the telephone business, you add the other category—the computerized mail—that he has listed in this particular amendment, I say to you you could put 50 more items in. Are you going to charge for just any kind of telephone in the headquarters? Or are you going to charge for putting furniture in the headquarters?

Are you going to charge for transportation of all kinds? Are you going to have to account for bringing any speaker into your district? Are you going to have to account for all kinds of recreation, food, drinks, including, perhaps, some beer or Coke parties or other entertainment?

Where do we stop? I say that we have already adopted the five categories. We have jurisdictional rights to make limitations in these categories. Our State laws will govern other costs. You keep on and you could put yourself out of business. Some of you pure in heart want to write a bill that the Post and the Star would like. I want to write a bill that I think would be fair to the people in office and the people who would be running against them.

I think you have stretched this so far that you take it clear out of the realm of practicality. I hope you use some judgment here and do not get carried away with the emotion of the moment by saying we are going to account for every conceivable cost in addition to the five categories. I just do not think that is feasible and I think it is going too far.

We have already have these five categories in the bill. I say that that is enough unless there is a bigger and overpowering reason, but I do not think that there is any such overpowering reason that we should try to detail 50 other categories. I just think we ought to close this thing off and vote down this amendment and I say this without any sense of derogation at all at the gentleman from New York.

I just think we ought to stay with this and stop there and quit trying to find trouble areas for individuals who want to try to run for office.

Mr. ABBITT. Mr. Chairman, I move to strike out the last word.

Mr. HAYS. Mr. Chairman, will the gentleman yield?

Mr. ABBITT. I yield to the gentleman.

Mr. HAYS. Mr. Chairman, I want to thank the gentleman for yielding and to say to the gentleman from Texas that we are not trying to kill anybody.

If $50,000 is not enough to get elected in Texas—we are only limiting radio and television and billboards and newspapers and if this amendment is adopted, banks of telephones and computerized mail.

We are not putting in anything about your beer parties—I do not know how many votes you can get with them, but as many as you can—go ahead. We are not putting in anything about spending money for banquets or about buying balloons to pass out at fairs or nail files or matches and all of those categories. There is nothing like that.

There are plenty of States where you have to report everything. Of course, there are not very many States where you can raise as much money as you can in Texas, but there are plenty of States where you have to report every dime that you spend. We are not trying to do anything to you Texans. We are just saying that in these five categories, you cannot spend over $50,000 and on all the rest the sky is the limit—let the money come from where it may, presumably.

Mr. PICKLE. Mr. Chairman, will the gentleman from Virginia yield?

Mr. ABBITT. I yield to the gentleman.

Mr. PICKLE. We have five categories now under title I, and you have added two more categories. Why don't you put in fingernail filers and pencils and all of those things?

Mr. ABBITT. And beer parties.

Mr. PICKLE. All of those things go for many who have been elected.

I am just saying as a practical matter—try to be reasonable about it. I just say we have gone far enough.

Mr. ABBITT. In Virginia we have to report all expenditures and we do not have any trouble. I think this is a very mild and a very reasonable amendment. I hope very much it will be accepted.

Mr. HAYS. Mr. Chairman, will the gentleman yield?

Mr. ABBITT. I yield to the gentleman.

Mr. HAYS. This amendment only plugs up the biggest loophole of all—computerized mail can be the most expensive thing and can put a candidate of modest means out of business.

Mr. McKINNEY. Mr. Chairman, I would just like to rise and support your remarks on this amendment.

For those of us who live in large urban areas and cannot afford the TV market and cannot afford newspaper ads, the boilerroom and computerized mail operations have become one of the most vicious unreported campaign tactics going. I will support this amendment to bring that under control.

Mr. ABBITT. As a matter of fact it is a very modest amendment and only applies to mailings and telephone banks and would not apply to any volunteer workers.

Mr. Chairman, I hope the amendment will be adopted.

Mr. FRENZEL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman and Members of the Committee, this was one of the very important features which was not in the Senate bill and is in the House bill. Of course, the House bill is much stronger. Nevertheless, in working this out on the floor of the Senate, a very delicate compromise was reached between the majority and the minority and, we are told, concurred in by the White House.

To go beyond that delicate balance may imperil this bill and will certainly make it less of a reform measure.

In the second place, Mr. Chairman, these expenditures are really not auditable. You can disperse your mailing of letters in such a way that nobody in the world can possibly audit you.

You can break down your campaign telephones into fours or fives any way you want to to subvert the definition of the gentleman from New York as to what a bank of telephones is.

Mr. Chairman, these expenses are not verifiable.

In the third place, this particular provision extends the advantage of the incumbent over the challenger, which is delightful for all of us who are incumbents, but there are very few people who speak in the name of the challenger. If a challenger is to do a boilerroom or computer mailing under the limitations imposed here, he could do but three such mailings. In the meantime, there is nothing to prevent any of us from rolling out the same kind of mailing on a weekly basis under our frank, using any kind of mailing or newsletter we would choose to employ.

Mr. Chairman, we have staff. We have telephone privileges. We have access to the media. We have a vast arsenal of weapons with which we can campaign in a legitimate way, and we are not subject to the limitations that a challenger would have. This provision unfairly loads this bill toward the incumbent and against the challenger.

Finally, Mr. Chairman, it broaches the limits of the Macdonald amendment and threatens the expenditure limits that the House has voted upon in the last 2 days. By putting these two items in our expense limitations, we would limit that which we thought would be desirable under the Macdonald amendment.

The gentleman from Texas has correctly stated the problem. This amendment is not meritorious. We have made two decisions in the last 2 days in this House in favor of a 10-cent limitation for media expense. To go beyond that would imperil the passage of this bill. It would be very unwise to give ourselves such additional advantages as to make our vote hardly credible to the public today.

I yield back the balance of my time.

Mr. HAYS. Mr. Chairman, I ask unanimous consent that all debate on the pending amendment cease in 5 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. PODELL).

Mr. PODELL. Mr. Chairman, I support the amendment offered by the gentleman from New York. But I would like to point out to the House that it does not do the trick, nor does it answer the problem that many of us have.

I was involved in a campaign in which my opponent opened up 11 offices, 11 store fronts, each with large billboards, distributing millions of pieces of literature. And there is nothing that prevents an opponent of yours from doing the very same thing, even with the Bingham amendment. I think what we have got to do is to provide an overall limitation on campaign expenditures. If you do not do that, then the bill you are passing today is not worth the paper it is printed on. If any man can go into a district and spend a million dollars to beat you in your seat, let me tell you that for a million dollars he is going to beat you. If that is the kind of thing you want, that is what you are going to get, unless you limit the total amount that a candidate can spend.

One gets to wonder at times whether or not the office held by a public official has that much value, where people spend millions of dollars to try to win it. I ran against a multimillionaire the last time I ran in 1968. Believe me, I know what it means to fight that kind of money. The man organized his own party. He had no major endorsement at all. He had no party affiliation. He organized a brand new party. And I barely beat him by a few thousand votes. That is what could happen in a campaign where money is the major commodity.

I think the people of this country need public officials who are dedicated, who are interested and committed to public life, not people who are millionaires and have nothing else to do but run for public office.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. HAYS).

Mr. HAYS. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. BINGHAM) to the amendment in the nature of a substitute offered by the gentleman from Michigan (Mr. HARVEY).

The question was taken; and on a division (demanded by Mr. HARVEY) there were—ayes 80, noes 48.

So the amendment to the amendment in the nature of a substitute was agreed to.

Mr. DEVINE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, last night the Evening Star contained a story about the financing of the GOP National Convention in San Diego. The story raises a matter which I feel we must clarify as we address ourselves to the issues of reforming the Federal election campaign laws.

Every 4 years major cities throughout our Nation bid for political conventions. These conventions bring business to the cities that far exceed the moneys proffered by them to attract the convention. Not only do they bring business, but they focus national attention on that city as a convention city and this in turn brings more conventions and more business. The convention business is, indeed, a vital part of the financial life blood of our cities.

It has been noted, however, that the Federal law is "gray" or "fuzzy" regarding the necessary activities of the cities in raising bidding money, goods, and services to attract political conventions. I agree that the law is gray and fuzzy in that it is silent, but I think that the legislative history of the Corrupt Practices Act of 1925 and the years of practice under that law are very clear. For example, I note that the Internal Revenue Service has ruled that a corporation may take a deductible business expense for contributions to a committee organized to bring a national political convention to the locality in which the taxpayer is engaged in a trade or business, provided such contributions are made with a reasonable expectation of a commensurate financial return, Revised Ruling 55–265, 1955–1, CB22. Also it is a deductible business expense for any amount paid or incurred for advertising in a convention program of a political party distributed in connection with a convention held for the purpose of nominating candidates for the offices of President and Vice President, provided, first, the proceeds from the program are actually used solely to defray the costs of conducting the convention, or a subsequent convention held for the same purpose; and, second, the amount paid is reasonable in light of the business the taxpayer may expect to receive directly as a result of such advertising, or as a result of the convention being held in an area in which the taxpayer has a place of business. See IRC 276(c).

Since most of these goods, services, and funds must come from local merchants, hotels, and the like, and most of these businesses are corporations, I do not believe that it was ever the intent of the Congress nor has it been the intent of this reform legislation, to place restrictions on corporations contributing to cities to enable them to bid for political conventions. Of course, I am referring to corporations that do business in that city and corporations that would properly anticipate a return on their expenditure in the form of more business.

Mr. Chairman, I had considered offering an amendment addressing itself to this problem, but after reviewing the legislative history of the 1925 act, the many years of practice under that act, the extensive hearings that have been held regarding the needed reforms under the old law and discovering that this problem has never been deemed to be an improper practice, and discussing this matter with a number of my colleagues, I do not feel that it is necessary. The old law is very clear that it does not prohibit such corporate contributions and the amended language of the new law referring to "contributions" and "expenditures" makes it even clearer that such corporate contributions are not within the proscriptions of the Federal law.

I am raising this matter to make it very clear in the legislative history of this reform legislation that such contributions by corporations are not improper expenditures or contributions. To the contrary they are very healthy expenditures in that they benefit not only the city, but also the corporation, and help defray the increasing cost of the convention phase of our campaign process. I hope that by raising this matter at this time there will no longer be a "gray" or "fuzzy" problem in interpreting the Federal law.

AMENDMENT OFFERED BY MR. UDALL TO THE SUBSTITUTE AMENDMENT OFFERED BY MR. HARVEY

Mr. UDALL. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment Offered by Mr. Udall to the Amendment in the Nature of a Substitute Offered by Mr. Harvey: Page 44, line 16, strike out "title" and insert in lieu thereof "Act".

Page 44, line 18, strike out "title" and insert in lieu thereof "Act".

Mr. UDALL. Mr. Chairman, before we finish marking up the Senate bill I have two clarifying amendments, and I do not believe there is much opposition to them, and I hope they will be accepted.

The first one deals with the severability clause in the Harvey amendment, which is the Senate bill. On at least half of the amendments which have been before us in this debate someone has raised a question whether a particular provision or a particular amendment is constitutional or unconstitutional.

The Senate language has a very limited severability clause, limited just to title III of that bill. All this amendment will do is to strike out "title" and insert in lieu thereof "Act" so that we will have a workable severability clause applying to the entire bill, and if any one of these clauses should be held to be unconstitutional we will make sure it does not affect the balance of the act.

I hope the amendment will be accepted, and then I can offer the next amendment, which I hope will not be any more controversial.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Arizona (Mr. Udall) to the amendment in the nature of a substitute offered by the gentleman from Michigan (Mr. Harvey).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. UDALL TO THE SUBSTITUTE AMENDMENT OFFERED BY MR. HARVEY

Mr. UDALL. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. Udall to the amendment in the nature of a substitute offered by Mr. Harvey: Page 44, strike out lines 5 through 9 and insert in lieu thereof the following:

"EFFECT ON STATE LAW

"Sec. 313. (a) (1) Nothing in this Act shall be deemed to invalidate or make inapplicable any provision of any State law, except where compliance with such provision of law would result in a violation of a provision of this Act.

"(2) Notwithstanding paragraph (1), no provision of State law shall be construed to prohibit any person from taking any action authorized by this Act or from making any expenditure which he could lawfully make under this Act."

Mr. UDALL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. UDALL. Mr. Chairman, I have offered this amendment at the request of several of my colleagues. It deals with the conflict between the new Federal law we are going to have and the 50 State laws. Some of the State laws are very ancient and have unrealistic and unworkable spending limitations and all the rest.

This amendment comes in two parts. The first deals with the dilemma one might have, where, by complying with the reporting provision in the Federal law one would violate the State law, or, by complying with the State law, would violate the Federal law. So the first half of the amendment says:

> Nothing in this Act shall be deemd to invalidate or make inapplicable any provision of any State law, except where compliance was such provision of law would result in a violation of a provision of this Act.

That simply says that one does not violate a State law when one complies with this Federal law.

The second half of the amendment deals in a more affirmative fashion with this conflict of State and Federal law problem, and it says that:

> No provision of State law shall be construed to prohibit any person from taking any action authorized by this Act or from making any expenditure which he could lawfully make under this Act.

Let me give you an example. One Member here tells me in his State there is a very rigid provision which limits him to about $5,000. The new Act will have a $50,000 limitation in it. All this amendment says is you can spend up to the amount authorized by the Federal Act without regard to a lot of old, obsolete State Acts. I do not know of any controversy. I hope it will be adopted.

Mr. STRATTON. Will the gentleman yield?

Mr. UDALL. I yield to the gentleman from New York.

Mr. STRATTON. I wonder if you can explain that last point again. Which provision of your amendment deals specifically with it? It is my understanding you are using the same language as appears in the Frenzel substitute, which refers to cases where "compliance with such provision of State law would result in a violation of the provisions of this title." If you have a State law that limits you to an unrealistic total of $5,000 and the only way you can conduct a campaign is to set up separate committees, then if you are going to report properly under this new Federal bill, you would have to report amounts greater than the state limit of $5,000.

Mr. UDALL. This says you can do that without violating State law.

Mr. STRATTON. I want to make sure that the gentleman's wording actually does take care of that situation.

Mr. UDALL. Let me assure the gentleman from New York that it does. I checked this with staff counsel and with the Legislative Reference Service and double-checked it and submitted it to two or three Members who are very concerned about being prosecuted under State law, and everyone agrees that it does the job.

Mr. STRATTON. I thank the gentleman. I think it is a very necessary amendment.

Mr. GROSS. Will the gentleman yield?

Mr. UDALL. I am glad to yield to the gentleman from Iowa.

Mr. GROSS. In both instances the gentleman changes "title" to "Act," does he not? In both amendments.

Mr. UDALL. Well, I did change the word to "Act" so it applies clear across the board. That is right.

Mr. GROSS. In both instances and in both amendments—

Mr. UDALL. Yes.

Mr. GROSS. The gentleman referred to title.

Mr. UDALL. I thank the gentleman for his clarification.

Mr. McKAY. Will the gentleman yield?

Mr. UDALL. I yield to the gentleman.

Mr. McKAY. With your amendment, for example, in my State there is a total limitation on all campaigns, primary and general, of $50,000. Would this then have the effect of doubling the opportunity for spending, in my State considering the two, both primary and general?

Mr. UDALL. No, it would not. The Federal law would apply in that case, and you have to comply with the Federal law. Under the Symington amendment of yesterday you cannot use money from your primary $50,000, in effect, for the general election.

Mr. McKAY. But is not the present law we are working on granting $50,000 as a maximum for each election, primary and general, totaling $100,000?

Mr. UDALL. $50,000 for the primary and $50,000 for the general.

Mr. McKAY. Which is $100,000.

Mr. UDALL. Yes.

Mr. McKAY. But in my State there is a total for those two elections of $50,000 for both.

Mr. UDALL. And a candidate would be able to spend up to $100,000, $50,000 in each election, by my amendment.

Mr. McKAY. My State is one of those that have been a little more progressive in working on this issue. Therefore, I feel bound to oppose the amendment, because it doubles the potential expenditure in my State.

Mr. PODELL. Will the gentleman yield?

Mr. UDALL. I yield to the gentleman from New York.

Mr. PODELL. I thought you mentioned a moment ago that there was a limitation of $50,000 on expenditures. That is not the case here. There is no limitation here.

Mr. UDALL. On some expenditures. Under the Bingham amendment, which we just adopted, it is $50,000 on these five categories.

Mr. PODELL. Yes. But it is possible to spend at least $100,000 in other categories and still be under the provisions of this bill.

Mr. UDALL. In that event, if you had a State law which prescribed a limitation on the other expenditures, the State law would apply.

Mr. PODELL. But if there is no State law, there is no limitation in the bill.

Mr. UDALL. That is correct.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Arizona (Mr. Udall) to the amendment in the nature of a substitute offered by the gentleman from Michigan (Mr. Harvey).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. PODELL TO THE SUBSTITUTE AMENDMENT OFFERED BY MR. HARVEY

Mr. PODELL. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

Mr. Chairman, I ask unanimous consent that the reading thereof be waived and the amendment be printed in the Record, and I will explain the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. GERALD R. FORD. Mr. Chairman, reserving the right to object, is the gentleman from New York asking that we waive the reading of the amendment?

Mr. PODELL. Mr. Chairman, if the gentleman will yield, only for the purposes of clarification.

Mr. GERALD R. FORD. How long is the amendment?

Mr. PODELL. It is a very brief amendment, but a number of pages had to be reordered in order to get to the meat of the amendment. If I could have the opportunity to explain it—if the gentleman will reserve his objection——

Mr. GERALD R. FORD. Has the gentleman from New York provided us with copies of the amendment?

Mr. PODELL. No, I have not.

Mr. GERALD R. FORD. Then, Mr. Chairman, I object.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. Podell to the amendment in the nature of a substitute offered by Mr. Harvey: Page 45, insert after line 14 the following:

OVERALL EXPENDITURE LIMITATIONS

Sec. 402. (a) For purposes of this section:

(1) The term "election" means (A) any general, special, primary, or runoff election or (B) a convention or caucus of a political party held to nominate a candidate.

(2) The term "candidate" means an individual who seeks nomination for election, or election, to the office of Representative, whether or not such individual is elected, and, for purposes of this paragraph, an individual shall be deemed to seek nomination for election, or election, if he has (A) taken the action necessary under the law of a State to qualify himself for nomination for election, or election, to such office, or (B) received contributions or made expenditures, or has given his consent for any other person to receive contributions or make expenditures, with a view to bringing about his nomination for election, or election, to such office.

(3) The term "Representative" means the office of Representative, or Delegate or Resident Commissioner to the Congress.

(4) The term "political committee" includes any committee, association, or organization which accepts contributions or makes expenditures for the purpose of influencing or attempting to influence the election of one or more candidates for Federal elective office.

(5) The term "expenditure" includes a payment, distribution, loan, advance, deposit, or gift, of money, or property or services of significant value, and includes a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure.

(6) (A) For purposes of paragraph (5), the term "money, or property or services of significant value" includes money in any amount and services or property (other than money) the value of which exceeds $25.

(2) Notwithstanding paragraph (5) and subparagraph (A) of this paragraph, the term "expenditure" when used in this section shall not include (i) the rendition of personal services for which no compensation is paid to the individual rendering the services, or (ii) an individual permitting a candidate or political committee to use the individual's nonbusiness property or his nonbusiness telephone (but not including toll calls) or similar service.

(b) Notwithstanding any other provision of this Act, the aggregate amount of expenditures made by any candidate for Representative or on behalf of his candidacy—

(1) may not exceed the limitation determined under subsection (c) in any general election,

(2) (i) may not exceed the limitation determined under subsection (c) in each primary, or primary runoff, in which he is a candidate and which is held to select candidates for Representative for any general election.

(b) The limitation applicable to any election for Federal elective office is $50,000.

(d) For purposes of this section, an expenditure shall be regarded as having been made on behalf of a candidate if it is made at the direction, request, or with the consent of the candidate or of any political committee supporting his election or agent thereof.

(e) Any person who violates this section shall be fined not more than $1,000 or imprisoned not more than one year, or both.

(f) This section shall apply with respect to elections occurring after December 31, 1971.

Mr. GERALD R. FORD (during the reading). Mr. Chairman, I will withdraw my objection, but reserve the right to object until the explanation by the gentleman from New York.

The CHAIRMAN. Does the gentleman from New York (Mr. Podell) desire to make a unanimous-consent request?

Mr. PODELL. Yes; I do, Mr. Chairman, so as to explain the amendment.

I ask unanimous consent that further reading of the amendment be dispensed with, and that it be printed in the Record.

The CHAIRMAN. And the gentleman from Michigan (Mr. Gerald R. Ford) reserves the right to object to that request?

Mr. TIERNAN. Mr. Chairman, I also object.

The CHAIRMAN. Does the gentleman from Rhode Island object?

Mr. TIERNAN. Yes, Mr. Chairman, I object, because we are halfway through the amendment, or more, at this stage, and it should be read, since we do not have a copy of it.

The CHAIRMAN. Objection is heard. The Clerk will read.

The Clerk concluded the reading of the amendment.

Mr. PODELL. Mr. Chairman, that long amendment that was just read by the Clerk does but only one thing: It provides that notwithstanding the provisions of title I, and notwithstanding any other provisions of the bill before us, the total amount that can be expended by any candidate in a primary election or in a general election is $50,000 for each election.

In other words, if you have a primary you can spend up to $50,000. If you have a general election you can spend an additional $50,000, subject, of course, to the provisions passed by the gentleman from Missouri (Mr. SYMINGTON) in that the moneys cannot be carried over from one election to the other.

I bring this amendment to the attention of the House because I believe that there comes a point in time when more than enough money is spent on elections for public office—particularly to elections in the House. This does not include elections in the Senate, obviously, nor does it include elections for the President.

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. PODELL. I yield to the gentleman from Texas.

Mr. KAZEN. What about runoff elections after the primary?

Mr. PODELL. You would have the right to spend $50,000 in each election that you are compelled to be in.

Mr. KAZEN. Mr. Chairman, if the gentleman will yield further, if I understand the gentleman correctly, a runoff election, is a separate election, and $50,000 would be the limit for the runoff election itself?

Mr. PODELL. For each election. A runoff election is obviously a separate election.

Mr. KAZEN. But it is in the primary system.

Mr. PODELL. But it is a separate election.

Mr. KAZEN. Therefore, the gentleman is talking about $150,000 if a candidate has a primary, a runoff, and a general election; am I correct?

Mr. PODELL. That is right, if you have three campaigns, yes.

Mr. KAZEN. I thank the gentleman.

Mr. PODELL. There is one additional thought that I would like to commend to the attention of this body, and I have mentioned this before. While we are sitting here there are people who are running against us, campaigning against us and taking advantage of the fact that they are at home, talking to our constituents, while we are here trying to pass legislation for the benefit of the country.

Mr. MACDONALD of Massachusetts. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I understand what the gentleman from New York is trying to do, and I sympathize with the gentleman, but I would point out to the gentleman that in title I we have already covered that subject, and have put in a cost-of-communications escalator in which, as the cost of communications grow, then the amount of money that can be spent in that area can also grow. It seems to me that if the amendment offered by the gentleman from New York (Mr. PODELL) is adopted that this would put an artificial ceiling on what the House has already adopted. Therefore I urge the defeat of the amendment.

Mr. HARVEY. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I am not at all sure that I understand this amendment. In the first place, none of us over here have seen the amendment at all. We have heard it read and it is impossible to understand from the way it was read.

Mr. PODELL. Mr. Chairman, will the gentleman yield to me to explain the amendment to him?

Mr. HARVEY. I do not yield to the gentleman at this time, but I will ask the gentleman some questions in just a minute.

I do want to protest what you are going to do here. Yesterday we adopted what I thought were some amendments in title I and today we adopted the Macdonald amendment where we affirmed what we said today and we agreed we were not going to plow up old ground. Now it seems we are doing just exactly that. You seem to be putting in another limitation now on what a candidate can spend here.

This, as I understand it, is a complete overall limitation disregarding completely the number of people of voting age in a district over 17 years of age as spelled out in the Senate bill and as spelled out in the Macdonald bill.

There is no difference at all. It is a flat amount—any candidate for Congress can spend, as I understand it, $50,000; is that correct?

Mr. PODELL. That is correct.

Mr. HARVEY. Well, I will say to my friend that I seriously object to that. I think it discriminates very sharply against any district that happens to be a large district and that happens to have over 500,000 people—and it is bound to happen in the next period of the census. I do not think that was intended at all.

Mr. PODELL. Mr. Chairman, will the gentleman yield?

Mr. HARVEY. I yield to the gentleman.

Mr. PODELL. Under the one-man one-vote—I think we can agree that most of the districts in the country will eventually at that time be uniform. So, therefore, we will all be operating at the same advantage or disadvantage from the population point of view.

Second, as to the question of the amount of limitation in the Macdonald amendment, it simply means if it is limited to one who spends $50,000 on television, he can do it. But if he is going to spend $50,000 on television, he just cannot go out and buy bumper stickers and placards—that is it—it is the limit. You might call it a poor man's limitation.

But there are certain Members—perhaps millionaires who want to enter into campaigns and spend hundreds of thousands of dollars—and they campaign for Congress. I think it is wrong.

Mr. HARVEY. May I ask my friend another question.

Does this do away completely with categories of expenditures that were set up—the broadcasting media, newspapers, magazines, and outdoor advertising and just recently postage and telephones?

Mr. PODELL. It does not. It says, "Notwithstanding any of the categories aforementioned, no candidate can in any event expend more than $50,000."

That is all the amendment does.

Mr. HARVEY. I still say to my friend, I am beginning to understand this better now, but I still do not see any reason why you should discriminate here against the person who has a really large district and this seems to me exactly what you are going to do.

Mr. PODELL. I discriminate only against a person who has a real large amount of money.

Mr. HARVEY. Under the Macdonald amendment that we agreed to here, we are talking about 10 cents a vote. Now that 10 cents a vote can conceivably before 1980 when the next census is taken mean a very great deal to some candidate or to some challenger in a district that suddenly mushrooms into the suburbs, of 800,000, and it takes place over and over again.

Mr. Chairman, I do not see any reason at all why you should set up a limitation on this. It seems to me we have acted with a great deal of wisdom so far and I fail to see why you should try to set an upper limit on what is spent at all and change what the Macdonald substitute contains.

Mr. KEITH. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I spent about $30,000 in each of last year's campaigns—the primary and the election. One of my opponents spent $184,000 in the primary and lost, and the other reported spending a total of $171,000 in his primary and the runoff.

And so, I do not believe that $50,000 is at all realistic. If one runs against an incumbent, even though it would have assured my election the last time, $50,000 or any figure approximating that is unrealistic. Accordingly I cannot support this amendment.

Mr. O'HARA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I represent one of those mushrooming suburban districts that my good friend, Mr. HARVEY, of Michigan, has suggested would be discriminated against under this amendment. My district has a population of 630,000 as of the 1970 census. However, that is not 630,000 of voting age, and the Macdonald amendment speaks in terms of voting age. I cannot imagine a district growing so rapidly that it would, by the end of a decennial census period, have a voting-age population in excess of 500,000 people.

And as a Representative of a large district, let me say that I support Mr. Podell's amendment. We do need a good, tight, overall limit.

I do not think that any of us really think that a congressional candidate ought to have to raise that kind of money. None of us really feels comfortable with backers who have contributed very large sums. Certainly the public is not served by having its representatives beholden to large contributors. I ask that the Podell amendment be agreed to.

Mr. UDALL. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. The gentleman from Arizona is recognized.

Mr. UDALL. Mr. Chairman, I rise in opposition to the amendment. We are getting a pretty good bill here. I now am encouraged to think that we will have a workable, defensible bill. I hope we do not go too far. I am sympathetic with my friend from Michigan. I am sympathetic with the problem of my friend from New York (Mr. Podell). A millionaire could not beat him and I do not believe I could have withstood that kind of campaign. I suspect that he will either die in office or retire voluntarily because he cannot be defeated.

I associate myself with the remarks that the gentleman from Ohio (Mr. Hays) made on this subject awhile ago in talking about the Bingham amendment. I associate myself also with what Mr. Macdonald said earlier on this subject.

The philosophy of the bill we have developed so far is twofold. There are certain expenditures in a campaign which can be checked, monitored and controlled. There are certain kinds of expenditures that cannot be effectively monitored or controlled, and you breed hypocrisy or evasion when you try to do so.

The things we can control are such things as billboards, television rates, newspapers, magazines, postage and telephones. But as to the cost of matchbox and fingernail-files and beer busts, and workers, and so forth, we have a different situation. Who can tell whether a person is being paid by an employer to work for a candidate? Who can say what the values are? To try to control that kind of thing merely breeds hypocrisy and evasion. You cannot control that kind of thing.

As to the things we can control, we will handle them by tight limits. We can monitor them. You and your opponent can be checked out on those things.

But as to the things you cannot control, the remedy—and it is not a perfect remedy in an imperfect world—is disclosure. We will have a new, tight disclosure system.

So while I am sympathetic with and originally favored the kind of approach proposed, I think we have a good middle ground that we should not depart from.

Mr. HAYS. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Ohio.

Mr. HAYS. One thing bothers me. You say there are certain things you cannot control and we never know what is spent. In the next breath you say we will have complete disclosure where the candidate is required to disclose. If we cannot control it on the one hand, how can we control it on the other? If the gentleman will yield further, I would like to point out that in Ohio we have to disclose everything we spend over $10, and to be frank with you, I am afraid not to disclose everything. Therefore, I report everything. If we have a $50,000 limitation, when I get to $49,500, I quit spending.

Mr. UDALL. You have a good law in Ohio. It works. We want a workable system. We do not want to breed hypocrisy and evasion by trying to limit some things that we cannot effectively limit.

Mr. EDMONDSON. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Oklahoma.

Mr. EDMONDSON. Mr. Chairman, I thank the gentleman from Arizona for yielding.

I think the gentleman is talking practical commonsense when he takes the position that he takes in opposition to the amendment of my good friend, the gentleman from New York (Mr. Podell). We have had experiments in my own State with overall limitations that did not specify categories and give provable limitations, provable standards for those various categories. To my way of thinking, this bill as it stands right now is a practical, workable, and sensible method of controlling the areas in which the abuses have been most severe. I hope it will not be complicated by the additional amendment that has been offered.

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. Mr. Chairman, I echo what the gentleman from Arizona has said in the very cogent arguments he has made against this particular amendment. We do not want to make this a completely proincumbent bill, and that charge has already been made, but when we take into consideration the staff allowances and the mail allowances and the travel allowances we have as Members of Congress, to impose that kind of ceiling on the challenger is to truly, I think, make this a proincumbent bill, where it will not be really a reform bill at all.

I earnestly hope the Members of this House heed the advice of the gentleman from Arizona, the advice that he has given us that we proceed with what we have worked out today and yesterday, which I think is a very workable bill, wherein we limit the spending ceiling to those items clearly identifiable as listed in the bill.

Mr. HAYS. Mr. Chairman, I ask unanimous consent that all debate on this amendment cease in 5 minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. DENT. Mr. Chairman, is that limitation to apply after my 5 minutes are up?

The CHAIRMAN. The Chair observed standing when the unanimous-consent request was agreed to the gentleman from Ohio (Mr. Hays), the gentleman from Pennsylvania (Mr. Dent), the gentleman from Ohio (Mr. Brown), and the gentleman from Minnesota (Mr. Frenzel).

Mr. DENT. Mr. Chairman, I was on my feet and asking recognition before the time limit was asked. Normally the person on his feet is given his time before the limitation of time is begun.

The CHAIRMAN. The Chair asked if there was objection, and heard none.

Mr. DENT. Mr. Chairman, I asked for my 5 minutes before the gentleman did, and when he made his request, I asked whether my time would come out first. I think, in fairness, I have not taken the floor yet, and this came out of our committee and I do have a few words to say.

Mr. HAYS. Mr. Chairman, I wish to amend the unanimous-consent request. I do not want any time myself. I do know the gentleman from Pennsylvania was on his feet.

Mr. Chairman, I ask unanimous consent that all debate end in 10 minutes on this amendment and that 5 minutes be given to the gentleman from Pennsylvania and the other 5 be given to the named gentlemen.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania (Mr. Dent) for 5 minutes.

Mr. DENT. Mr. Chairman, I know all of us are interested in elections and in being elected, or we would not be here. I suppose there are great differences in many of the districts, but I find if one goes out to spend money in an election, he triggers spending on the part of his opponent.

It has been said this is all in favor of the incumbent. I do not know how some Members run their elections, but I was amazed when I heard the reports of a million dollars or $300,000 being spent. I wonder how any normal person can really have faith in the membership of the Congress of the United States when we are quibbling about a limitation on only a restricted type of spending of almost two and a half times our total gross salary in this body.

Now it is well known that the person who pays the fiddler usually calls the tune. We do not have to spend that kind of money. I do not know whether I am something special. I do not believe I am. But I ran for the U.S. Senate against an incumbent who was entrenched with 12 years of service and a reputation of invincibility at the polls.

I ran for the Congress at the same time. My total expenditure, for both offices, was $67,000, and I came within 2½ percent of winning the Senate and would have won that if I had not gotten a little "double deal" in Philadelphia.

I say to you, if you want to bring some faith and trust back to the elected offices in the Congress of the United States, let us not tell the people that we cannot win unless we spend the enormous sums some of us are talking about.

Look over the last list of the last immediate elections to this Congress, and look at the amounts that were spent. They may be good Members, certainly.

I do not think it is wrong for a man to be a millionaire, but he should not have to spend a million to be elected.

I should like to know what chance a person like myself has, who is celebrating his 40th year as a member of a legislative body, never having spent at any election during my lifetime more than $17,000 for a primary and general election, and most of that spent to help carry my colleagues running for the legislature.

Perhaps the time has come when we should do a little peddling of ourselves among our people. What truth is there in an election when one spends the money to hire a John Wayne or somebody to represent him on the air? I am sure if I had to go on TV I would have to hire somebody, because I would never be elected on my looks.

I say to you, it is wrong and completely wrong, and the amendment offered by the gentleman from New York at least tries to make it a little reasonable. Every item should count toward the total limitation of spending per election.

In my case, if I were a big spender, it would be good for me to defeat his amendment, because all my campaigning is done with little items. There is a matchbook now and then, and maybe a little pen or a pencil, little insignificant thing; and I keep it up 24 months every 2 years. I try to go to every wedding, every christening and every funeral. I see people in my office from dawn till dusk when I am not here in the District of Columbia.

I cannot walk down the street without someone saying "Hello," and everybody saying "Hello," and even little kids calling me "Johnny."

I remember when the Governor came to town, they let me ride in the car with him, and everybody was hollering "Johnny," and he said, "Don't they know my name is 'George'?"

If you are going to represent your people, do not represent them through a shadow man or an inbetween runner. Represent them yourself, and you will not need these enormous sums of money, and I do not care what they spend against you. You are talking about things of value.

The most valuable political asset is yourself, see your people, know your district. Stand up to be counted for your people.

This is the formula, not the canned heat campaign of money, money, money.

This is everybody's democracy. Do not put up barriers of gold against the honest but not rich candidate.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

The Chair recognizes the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Chairman, I am sure my 2½ minutes are not going to be worth the gentleman's time, but I believe the gentleman from Arizona (Mr. UDALL), as is so frequently the case, spoke common sense on this subject in opposing the overall limitation on spending.

As we consider this bill we walk a narrow line between trying to determine what controllable expenditures can really be controlled versus unduly limiting the spending by non-incumbents who are trying to unhorse an incumbent Member of Congress.

I suppose if we set a limit of $50,000 on what our opponent can spend to try to get our job this year, a couple of years from now we could reduce that to $25,000, and then perhaps to $10,000, and then to $5,000, and then to $2,000, and in a few years hence just make it illegal for anybody to run against us while at the same time we increase our staff allowances and our travel allowances and the various privileges we have as incumbent Members of Congress. At that rate, I think we will probably be able to increase the percentage of incumbents who are reelected from about 93 percent to about 99 percent or even 102 percent.

Mr. LONG of Maryland. Will the gentleman yield?

Mr. BROWN of Ohio. I do not have too much time, so I will yield in a moment when I have completed my thought.

We must have some confidence in the ability of the people to make a judgment on when their vote and their support is being purchased with the challenger's money and when incumbents are trying to purchase voter support with the voting taxpayers' own money. By limiting what we can spend and what we let the challenger spend on the one hand and by increasing what we make available to ourselves in taxpayer financial congressional allowances to spend in holding and trying to maintain ourselves in office.

All of us in this body do run continually for 2 years. We all make those trips home, as the gentleman from Pennsylvania (Mr. DENT), indicated, to go to public functions and baptisms and funerals and all that, but Members of Congress do some of that on the taxpayers' money. If we put an overall limit of the nature of the gentleman from New York's amendment, we will have done a disservice to the voters.

The CHAIRMAN. The Chair recognizes the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Chairman and members of the committee, I think we should go back to the first point that the gentleman from New York made, which is that this imposes no limitation on the Senate and the President. We are only talking about ourselves. The only people that need special kinds of protection from all challenges are those of us in this body.

Why do we have to have special protection? I submit every man here is good enough to stand on his own two feet against a reasonable challenge from a challenger.

Mr. Chairman, this imposes an additional unreasonable limitation on those already imposed by the Macdonald amendment, and renders the Macdonald amendment limitation redundant. You will be simply restricted to total spending in such a way that it does not make any difference what limitations are applied by the Macdonald amendment.

This does not do anything to protect you or any challenger, from the celebrity candidate. You have protected yourself from a challenger, because he cannot spend enough to gain recognition, but how are you going to spend enough to defend yourself from John Wayne or Henry Fonda or Lenny Dawson or some other movie star or sports celebrity?

Mr. Chairman, this is an unreasonable restriction which falls more heavily on the minority than on the majority. This amendment ought to be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. PODELL) to the amendment in the nature of a substitute offered by the gentleman from Michigan (Mr. HARVEY).

The amendment was rejected.

AMENDMENT OFFERED BY MR. DANIELSON TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. HARVEY

Mr. DANIELSON. Mr Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. DANIELSON to the amendment in the nature of a substitute offered by Mr. HARVEY: Page 30, lines 9 and 10, after the word "value" in line 9, strike out "of $100 or more," and insert "in excess of $100,".

Mr. DANIELSON. Mr. Chairman and members of the committee, this is simply a perfecting or conforming or clarifying amendment.

In the major portion of the amendment offered by the gentleman from Michigan (Mr. HARVEY), the frame of reference is to receipts in excess of $100. I do not wish to delineate them all, but they appear on page 31, line 8, page 31, line 17, page 31, line 24, and so on.

Mr. Chairman, my amendment would conform the language on page 30, line 9, so that we are talking about contributions having a value in excess of $100. It would conform to the rest of the bill, and I urge that the amendment be adopted.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. I am hard pressed to understand the purpose of the amendment.

Mr. DANIELSON. It is very simple to understand, if I may say so.

Mr. BROWN of Ohio. You are changing it from $100.01 down to $99.99?

Mr. DANIELSON. No; just the opposite. It is just the opposite. It is so that throughout the bill we have a uniform standard; we must report contributions which exceed $100 but we need not report contributions which do not exceed $100.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. DANIELSON) to the amendment in the nature of a substitute offered by the gentleman from Michigan (Mr. HARVEY).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. DANIELSON TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. HARVEY

Mr. DANIELSON. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. DANIELSON to the amendment in the nature of a substitute offered by Mr. HARVEY: Page 39, line 9, after line 8, strike out lines 9 through 25 of page 39 and lines 1 through 14 of page 40.

Mr. DANIELSON. Mr. Chairman and Members, the effect of this amendment is to strike out all of that portion of the amendment which requires the filing of campaign statements and the like with the clerk of the U.S. district court.

My purpose in submitting this amendment is, first of all, in line with my belief that we must and should continue to maintain a complete separation of powers between the executive, the judicial, and the legislative branches.

Second, I do not know how the law reads in the other 49 States, but I assume that there are some which are similar to my own State of California in which all candidates, including congressional candidates, are required to file a sworn campaign statement with the secretary of state and with the registrar of voters of the county in which the race is being run.

This provides ample local access to your campaign statement, and I would say to do more is redundant.

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. I fail completely to understand the constitutional argument that the gentleman has raised against the filing of such statements with the clerk of the U.S. district court. You have said that this somehow violates the doctrine of the separation of powers when you file in the district court when the clerk merely accepts the filing of the statement by candidates. This is merely a ministerial function.

It seems to me it is important to the public's right to know that your statements be on file in the Federal district court in the constituency where a man is running

I fail to understand either the constitutional argument or why the gentleman should be adverse to having this additional resource made available to the public.

Mr. DANIELSON. Mr. Chairman, I decline to yield further. I desire to answer the gentleman's implied question. I do not say that the proposed procedure is unconstitutional. I said that we should maintain an absolute, complete, separation of powers. I do not want the Judiciary participating even to this extent in our elections. It is much like Caesar's wife, she must avoid even the suspicion of evil.

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman yield further?

Mr. DANIELSON. Yes; I yield further to the gentleman from Illinois.

Mr. ANDERSON of Illinois. Would the gentleman in his concern for the doctrine of separation of powers go so far as he would not want a Federal judge to administer the oath of office to a member of the executive branch?

Mr. DANIELSON. I think we can carry that a little too far. In other words, in our search for virtue, we should not render ourselves sterile.

I would like to point out one other thing. We have here the fourth estate. We have the press. Is there any need to go further than to make a public record here in Washington of these campaign statements?

I wager that the press will report your declaration and mine. They will report every peccadillo, every infraction of law, that any of us make by any chance. That is their mission. They have a public service to perform and I am sure they will do it.

Take the Pentagon papers, there they published something that might not even have been legal. I am certain they would publish anything illegal that appears in our campaign statements.

To further relieve the mind of the gentleman from Illinois, I would like to point out that if this provision of the bill is to do what it claims to do it is ineffective. I would wager that within this body about one-half of the Member do not have a U.S. District Court within their district, therefore it would not pertain, quite obviously.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I am hard pressed to know how you are going to get information back to your newspapers, and television and radio stations in some of the smaller districts, say, as far away as California. Are they to send for this information, or are they to send a reporter to Washington to the Clerk of the House, or the Secretary of the Senate, or the Comptroller General, to get the information?

Mr. DANIELSON. Under the existing law we must file them with the Clerk of the House and the Secretary of the Senate. Frankly, I do not believe we should change that present system, and by passing this amendment we are going to reinstate the present system.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. I yield to the gentleman from Iowa.

Mr. GROSS. They do have newspaper services, and press services.

Mr. DANIELSON. I certainly agree.

Mr. BROWN of Ohio. Mr. Chairman, if the gentleman will yield further, I think that the press services would be kept filled for several days, nay, for week, getting reports on a line-by-line basis as to what may have been contributed and spent in each campaign.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. HAYS. Mr. Chairman, I rise in support of the amendment offered by the gentleman from California (Mr. DANIELSON).

Mr. Chairman, I would not want to use the word "phony" about some of these arguments about the Federal court, but I will use the word "specious." The gentleman from Illinois says that they want it in the local district court so your local people can have access to it. Do you know where my local district court is? It is in Dayton, Ohio, which is 50 miles farther than Columbus, where I have to report to the secretary of state, and nobody in my district would ever know what is filed there. And that applies to many of the other Members.

This is a ridiculous requirement. Under this bill now if it becomes law you have to report six times a year, six times a year, to the Clerk of the House, presumably once or twice to the local official in your State, and then they want you to report six more times a year to the Federal court. I say it is ridiculous. I say it is unnecessary. I say let us keep the courts out of the Congress.

I hope the amendment passes, and quickly.

Mr. UDALL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I will not take the full 5 minutes, but I believe that this amendment is very unwise. For 47 years we have had a system that has been unworkable, and that has caused a great erosion in the public confidence in our whole electoral system. We hope today, and I believe we are going to do it, to start a new system that will start a whole new era, and make politics the honorable profession it ought to be, and which it has been. But the engine that will make that new system work is disclosure. Now either you believe that the public and your local newspapers and your opponents have the right to know what you are spending in your preelection reports, or you do not. If we believe in disclosure then let us make it effective.

The bill now has a provision in it which says—and the opponents of the Senate bill have already won the point—that the Clerk of the House, is going to be the instrument for the filing of all this. They have won that main point. It is not going to be the Comptroller General. All it says, you send the Clerk your report, you make a carbon copy of it to send to your local U.S. district court.

Now, I have heard great fears here about incumbents. We are all worried about what is going to happen to us as incumbents. Well, let us take a look at that. Say you have a millionaire opponent that the gentleman from New York (Mr. PODELL), was talking about, and he is trying to buy the election. We already have him controlled on television and on billboards, and the only way he can buy the election is through paid workers, store fronts, match boxes, beer busts entertainment, and all the rest. What is needed is disclosure, so that you can charge him—and prove it—with buying the election. And what the simple provision now in the bill does, and this amendment would take it out, is to permit the local press, if we ever find ourselves in that kind of situation, not to have to come to Washington. My local press does not have anyone here in Washington. Can you imagine the scene in the basement of the Longworth Building 9 days before the election, in the heat of all that is going on, with reporters and staffers, of people that you have phoned desperately in Washington, to get over there and find your opponent's report? This would put the information locally where it ought to be. And if disclosure is going to work, then disclosure ought to be effective, and ought to be practicable, and ought to be complete.

It is not going to help much if the Washington Post knows how much your opponent is going to spend for the election, if they have enough interest to send reporters to find out.

I want the local papers to know where and how my opponent is spending $200,000, and where he got it.

Mr. DANIELSON. Does the gentleman realize that there are some 98 or 99 U.S. district courts and there are 435 Members of Congress? Each district court is located in somebody's district. What are you going to do with the other 336 Members of Congress who do not have a district court?

Mr. UDALL. This is an imperfect situation. The solution is not perfect. What the bill provides is that every congressional district is in some judicial district. There is not a town in America or a congressional district in America that is not in a U.S. court judicial district. You file and your report is sent to the clerk of the court who is closest to the hometown of that candidate. The place from which he files his report.

In three districts out of four there will be no serious problems of administration. I would venture in 80 percent of the cases and in my own case at least, in the district court where it is filed, it is very obvious one can send a law student or volunteer or a college kid over there every morning to find out what your opponent is up to and what he filed.

Mr. STEIGER of Wisconsin. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman.

Mr. STEIGER of Wisconsin. You are right. The whole basis for making this system work is discrimination. I think it is intolerable if this amendment is adopted and it would seriously impair the public and the press' right to know what is being spent by whom and for what.

I commend the gentleman for his statement and I want to join with him and urge the defeat of the amendment.

Mr. ABBITT. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, this is a very simple amendment. It takes out the requirement that we file with the clerk's office in the district court in our district.

This is a useless matter. We already file in our State and file in the clerk's office.

I hope very much the amendment will be approved. It seems to me we have ample filing requirements now. This is just another requirement to file with the Federal judiciary. I do not want to express my opinion of some members of the Federal judicial courts at this time.

Mr. HAYS. Mr. Chairman, will the gentleman yield?

Mr. ABBITT. I yield to the gentleman.

Mr. HAYS. I have listened to the most ridiculous arguments that I have ever heard—that the local papers will not know what you file.

In the first place, the UPI and the AP have a whole bunch of reporters here and they send it out on the wire the minute your return is filed back here to your local paper exactly what you filed, from the office of the Clerk of the House.

In addition, nearly every State requires you to file with the secretary of the State in the State capital and they also send it out.

So this is a red herring about the public's right to know.

You know I have tried to cooperate with the gentleman from Arizona and with the gentleman from Illinois. Sometimes I wonder who on the committee is handling the bill and who is writing it. I hesitate to bring this up, but the last time we had a big bipartisan move like this, we got the postal reform bill. God forbid that we get another one like that.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. ABBITT. I yield to the gentleman.

Mr. GROSS. I am surprised that the gentleman from Arizona (Mr. UDALL) did not suggest making two copies in order to send one each to the Associated Press and the United Press. That would take care of the situation by providing full and immediate disclosure and I am for that. There is no good reason for filing with the Federal district courts which only means these courts will demand more employees to handle the filings.

The press services supply the television and radio stations with their news and it would simplify the dissemination of information to send each a copy of the statement.

Mr. HAYS. Mr. Chairman, will the gentleman yield?

Mr. ABBITT. I yield to the gentleman from Ohio.

Mr. HAYS. I would say that that would make a lot of them happy because they would not then have to go to the bother of doing any work to get it out to their newspapers. They would merely put it on the wire.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. ABBITT. I yield to the gentleman from Arizona.

Mr. UDALL. I thank the gentleman. The gentleman said that the UPI and the AP would pick up the information and they will, but they'll only give the totals. But if I want to get a handle on my opponent, I want to know who his contributors are and exactly what and where he has spent, the UPI or AP will not carry a detailed story on my opponent's spending.

Mr. HAYS. Let me say to my good friend from Arizona that if you want to get a handle on what your opponent has reported, you have 15 employees in Washington. Have one of them walk over to the clerk's office and copy down the details for you.

Mr. ABBITT. Mr. Chairman, this is a simple amendment and I hope it will be adopted.

Mr. STAGGERS. Mr. Chairman, will the gentleman yield?

Mr. ABBITT. I yield to the gentleman from West Virginia.

Mr. STAGGERS. I wish to associate myself with the remarks of the gentleman from Virginia and the originator of the amendment. Every Member of this body has to report to the proper authorities in his own State as well as to the Clerk of the House of Representatives and those reports are open to the press and to everybody else in the country—I believe this part of the bill is just whittling away some of the strength of the House of Representatives. The first thing you know it would be perhaps to the Department of Justice or to the Supreme Court or to the President of the United States to whom we would have to report? How do we know?

I say that we should stick by the Constitution in the way it was written. If you want to whittle away the powers given to us, this is the way to do it. I say we should report here, and anybody can get any facts they want to get and report them. Why require them to go to a district court? I would have to go 100 miles to a district court if I wanted to be sure that things were right there or if I had some question about the report. Someone might live in a place where a district court is located. But on many others this is an extra burden.

As I have said, the next step will be a requirement to report to the Attorney General, the President, or somebody else.

Mr. Chairman, we have belittled this Congress enough now. Instead of providing that some other officer of the Government is going to supervise what we have to do, we ought to be our own masters.

Mr. FRENZEL. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Minnesota is recognized.

Mr. FRENZEL. When our committee held hearings on the subject of election reform, the only idea that every witness agreed to with full and vigorous enthusiasm was the concept of disclosure of election expenses—complete and timely disclosure. The amendment that you have before you is an anti-disclosure amendment.

It is a limited-disclosure amendment. In fact, we might call it "what the people do not know would not hurt them" amendment. Sure, it is fine if you are a big newspaper, a big radio station, or a large television station. You can send a representative to Washington. It is also possible, if you are so minded, for you to subscribe to the AP or the UPI. But in my district I have a lot of weeklies and small radio stations that do not subscribe to those services. Nevertheless, the people they serve should be fully informed, and as fully informed as the readers of the Washington Post and the subscribers of the Associated Press.

Mr. Chairman, the proposal is not perfect, because there are not enough of these district locations. Nevertheless, it is a hundred times better than jamming the reports into one office in Washington and letting people pick out the evidence. If we really support the people's right to know, we will defeat this amendment.

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from New York.

Mr. CONABLE. I am at a loss to understand the vehemence of the opposition to disclosure. I subscribe completely to the statements the gentleman has made. I urge opposition to the amendment. It may be a simple thing, but it is very basic to any idea of reform of election laws. I think we must leave the disclosure provision in the bill.

Mr. STAGGERS. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from West Virginia.

Mr. STAGGERS. I would like to say that I am certainly not one who does not wish to disclose what he spends, and I do not think there is a Member on this side of the aisle or on the other side of the aisle who does not want to do that either. I do not believe the gentleman meant to say what he did about antidisclosure. Why was the district court picked out? Why did not you pick somebody else out? Why did you not pick out the Secretary of State or someone else? We have to disclose in our States to our State officials.

Mr. FRENZEL. Mr. Chairman, the answer is that this is the best we could determine in attempting to assemble evidence in a place where it would be readily obtainable by the public. State capitals would have given us half as many locations. That would be a better solution than merely striking this provision.

I thank the gentleman for his comments.

Mr. STAGGERS. If the gentleman will yield further, there are 364 districts that do not have district courts. Yet there is a desire to submit it to the district courts. I would say why do we not find somebody in our own districts, if we are going to do that, or why not give it to the press right there? I think we should have it here, because we have access to it when it is mailed in. It should be in our State capital and here, but the gentleman wants to give it to a district court, and there are nearly 364 districts that do not have district courts. That does not mean to me good commonsense.

Mr. FRENZEL. Mr. Chairman, I did not mean that any Member was antidisclosure. I mean that the amendment is antidisclosure.

Mr. WAGGONNER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment. We would believe, from listening to the discussions here on this particular amendment, that no disclosure would be required if the amendment offered by the gentleman from California (Mr. DANIELSON) prevails. We are required by his amendment to report to the Clerk of the House. His records are open for any who are curious enough to inquire. I have just talked with the Clerk of the House, and he tells me that the media does inquire.

For those Members who do not believe that reporting to the Clerk is sufficient, I would say there is no prohibition that prohibits a Member from doing more. I would suggest to the Members that any who believe they should do more have Xerox machines in their offices, paid for by the Government, by the taxpayers of this country, and they can duplicate and mail to everyone they choose to, perhaps to every citizen, to every newspaper, radio station, television station, or to every Federal judge and to the U.S. Supreme Court, if the Member feels there is something somebody ought to know without being curious enough to inquire.

I would suggest we support this amendment, because there is no basis for believing that a Member of this House is dishonest because he simply wants to limit required reports to the Clerk of the House. The U.S. attorney can inquire if he believes any Member has done something fraudulent in reporting what he has received and how he has expended it.

I say this is a matter for the Congress and not a matter for the courts until someone charges formally there has been fraud. One of our problems today and maybe our most serious is too much intervention by the Federal courts.

Mr. HAYS. Mr. Chairman, will the gentleman yield?

Mr. WAGGONNER. I yield to the gentleman from Ohio.

Mr. HAYS. Mr. Chairman, another thing under the present law is that we do not have to report contributions of certain sizes, and we do not have to report on the committees. This bill expands it from what we have had, yet the morning paper attacked me and said it was full of loopholes and came out for the Senate bill.

The radio station owned by this same newspaper has some slimy little character who in an editorial said I did not file any report for the last time. The truth is they had a copy of the report which was filed with the Secretary of State and it listed every single contribution over 10 cents, if there was one that low, and every single expenditure of over $10, with a receipt. But they ignored those facts and in their editorial said exactly what it suited them to say. I do not really care, because WTOP does not reach my district. They even went so far, with this slimy little jerk, as to mail a copy of his editorial to papers in my district, and none of them used it. So far as I am concerned, this bill gives WTOP the chance to come to the Clerk's office and see. If they want it mailed down to them, that I am not going to do.

Mr. WAGGONNER. The gentleman is exactly right. This is a matter for the Congress and not the courts until someone has done something fraudulent which would then involve the courts.

Mr. Chairman, I urge support of the amendment.

Mr. DENNIS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, it seems to me there are two things really, basically, that we can talk about in this bill. One of them is some kind of expenditure limitation, which is what we have done most of the talking about up until now, and the other is the matter of disclosure.

Now, an expenditure limitation sounds good, but as a matter of fact we have a lot of problems with limitation if we want to look at it, some of them constitutional. If we are not careful we will get ourselves into a position where we have an unrealistic limitation, as we do in the law now, which leads to evasion, as the gentleman from Arizona said awhile ago. We have to watch that, so far as limitations are concerned.

When it comes to disclosure, I really cannot see why we should not have the very fullest disclosure. So far as I am concerned, file them in any number of places. I do not understand the excitement about this particular amendment. File it with the Clerk of the House. File it with the U.S. district court.

In my State we file with the circuit court already. Nobody has ever considered that was a violation of the separation of powers or anything else. We have been doing it for years.

I will file it with the district court. Why not? File it anywhere. Let us disclose it.

Mr. FRASER. Mr. Chairman, will the gentleman yield?

Mr. DENNIS. I yield to the gentleman from Minnesota.

Mr. FRASER. As I understand the provision now in the bill, that would be stricken, and what we are asked to do is to file with the court as a repository. It does not really involve the court in any respect; it is just simply a place to have the report within the State so that it is available for the press and others who are interested.

Mr. DENNIS. I think the gentleman is right. I suppose for a Federal office one would, under this bill, file it with the clerk of a Federal court, just as I file mine now with the clerk of the State court.

Mr. FRASER. I agree with the gentleman. I do not think it is a wise amendment. I think the disclosure part of this bill is very important.

Originally I was going to support the amendment, but I have listened to the debate, and I think the amendment would be a sad mistake.

Mr. HAYS. Mr. Chairman, will the gentleman yield?

Mr. DENNIS. I yield to the distinguished chairman.

Mr. HAYS. I have no objection to disclosure. I had hoped we could write in something where we would do it in our own districts, with the election board of the largest county in the State, or something of that kind. But if this amendment is defeated, and then we go to conference, there will be no leeway.

There are 300 or 216, or whatever number it is, that have no district court.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. DENNIS. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. The gentleman from Ohio makes a good statement. On the basis of what he said we ought to defeat this amendment and, if the gentleman would like, put in an amendment to provide that we file with the Board of Elections of the largest county, which is the Ohio law, or at the State capital, which is the Ohio law.

I would be happy to accept that, but I do think the public has a right to know what is spent, and this is the reason for this provision in the law.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. DENNIS. I yield to the gentleman from Arizona.

Mr. UDALL. I have been bothered by this point all day. I have been carrying around an amendment which says to file it with the postmaster. There seems to be objection to the district court. The gentleman from Ohio mentioned that.

We could file it with a U.S. postmaster in the congressional district, and that may be the answer.

Mr. STAGGERS. Mr. Chairman, will the gentleman yield?

Mr. DENNIS. I yield to the gentleman from West Virginia.

Mr. STAGGERS. I just want to make a suggestion, and I thank the gentleman for yielding.

If we really want to be fair, why do we not defeat the amendment? I will say at the moment I am for the amendment, because this part of the bill is just a lot of folderol, where we would be demeaning Members of Congress, taking away a little all the time, saying we are not capable, that we are just a bunch of crooks and thieves.

I would say to defeat it, and there ought to be an amendment that would compel every Member to file in every county court, in every county, and in the district, and then everybody would know. I would not mind filing it that way.

Mr. PATTEN. Mr. Chairman, I rise in support of the amendment.

I was the secretary of state in New Jersey for 8 years, and some of you are talking as if you do not know what you are talking about.

In the first place, I have heard no testimony as to how many millions the Federal courts will want if they are willing to take this responsibility.

Let me give you a little of the physical setup in my office the Friday before election where the candidates must file their reports. I have 72 daily papers in the State. I will tell you how it shapes up. Every candidate who is interested in it will have his friends in the area. When you have the 12 or 15 Congressmen and you have a couple of Senators that have to file, it is not uncommon to have 400 people waiting around. You have all of these important friends of the opposing candidates and you have one sheet of paper in connection with the report that is filed the Friday before election. You have a problem there. You will be behind a desk trying to satisfy everybody. Will you read it aloud, or how are you going to do it?

I can tell you that we stayed in our office until 12 o'clock on Friday night to serve the press and everybody else. Most of the reports come in by mail on Saturday. We would be open on Saturday to satisfy the press and other interested people, but you do not think the Federal court clerk will make himself available after 4 p.m., do you?

He will not do it alone, either. You will have five clerks doing it. This takes a little doing. And if he is going to work on Saturday morning, that is another deal.

That is only on the preelection report. Now, on the postelection report where you are supposed to get the whole story, if you think it does not take a little clerical work and activity with four or five people setting up things and security I want to tell you you are wrong. It is a big job.

And I will predict that the clerks of the Federal courts will not even pay any attention if you pass the law. They do not want this task. Otherwise they will be back here next year seeking about $1 million in order to make it operate.

Mr. HAYS. Will the gentleman yield?

Mr. PATTEN. I yield to the gentleman from Ohio.

Mr. HAYS. I hope we can vote on this amendment shortly.

I would say to the House that if this amendment passes and we go to conference and have the whole subject up in conference, the conferees can write out a better system.

Mr. PATTEN. And on telephoning, most of your friends around the State call you on the telephone. It is just a beehive of activity. And it is not just a mere filing.

The **CHAIRMAN.** The question is on the amendment offered by the gentleman from California (Mr. DANIELSON) to the amendment in the nature of a substitute offered by the gentleman from Michigan (Mr. HARVEY).

The question was taken; and on a division (demanded by Mr. HAYS) there were—ayes 69, noes 56.

TELLER VOTE WITH CLERKS

Mr. BROWN of Ohio. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. BROWN of Ohio. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman appointed as tellers Mr. DANIELSON, Mr. BROWN of Ohio, Mr. ABBITT, and Mr. DEVINE.

The Committee divided, and the tellers reported that there were—ayes 230, noes 154, not voting 46, as follows:

[Roll No. 417]

[Recorded Teller Vote]

AYES—230

Abbitt
Abernethy
Addabbo
Alexander
Annunzio
Ashbrook
Aspinall
Baker
Barrett
Betts
Bevill
Biaggi
Blackburn
Boggs
Bow
Brasco
Bray
Brinkley
Brooks
Broomfield
Buchanan
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Cabell
Caffery
Carey, N.Y.
Carney
Casey, Tex.
Cederberg
Celler
Chappell
Clark
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Collins, Ill.
Collins, Tex.
Colmer
Conyers
Corman
Crane
Daniel, Va.
Daniels, N.J.
Danielson
Davis, Ga.
de la Garza
Delaney
Denholm
Dent
Devine
Dickinson
Dingell
Donohue
Dorn
Dow
Downing
Drinan
Dulski
Edmondson
Edwards, Ala.
Edwards, Calif.
Fisher
Flood
Flynt
Frelinghuysen
Fulton, Tenn.
Fuqua
Gallagher
Gaydos
Gettys
Giaimo
Goldwater
Gonzalez
Goodling
Gray
Green, Pa.
Griffin
Griffiths
Gross
Grover
Hagan
Haley
Hall
Hammerschmidt
Hanley
Hansen, Wash.
Harrington
Harsha
Hathaway
Hawkins
Hays
Helstoski
Henderson
Hicks, Wash.
Howard
Hull
Hungate
Hunt
Hutchinson
Ichord
Johnson, Calif.
Johnson, Pa.
Jonas
Jones, N.C.
Jones, Tenn.
Karth
Kazen
Kee
King
Kluczynski
Kyros
Landgrebe
Latta
Leggett
Lennon
Long, La.
Long, Md.
McCulloch
McKay
McMillan
Madden
Mahon
Martin
Mathias, Calif.
Mathis, Ga.
Matsunaga
Melcher
Metcalfe
Mills, Md.
Minish
Mizell
Mollohan
Monagan
Montgomery
Moorhead
Morgan
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nedzi
Nelsen
Nichols
Nix
O'Konski
O'Neill
Passman
Patman
Patten
Pelly
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Poff
Powell
Price, Tex.
Purcell
Quillen
Randall
Rarick
Roberts
Robinson, Va.
Roe
Rogers
Roncalio
Rooney, N.Y.
Rooney, Pa.
Rostenkowski
Rousselot
Runnels
Ruth
Ryan
St Germain
Sandman
Satterfield
Saylor
Scherle
Schmitz
Scott
Sebelius
Seiberling
Shipley
Shoup
Shriver
Skubitz
Slack
Smith, Calif.
Smith, Iowa
Snyder
Spence
Springer
Staggers
Stanton, J. William
Stanton, James V.
Stephens
Stokes
Stratton
Stubblefield
Stuckey
Sullivan
Symington
Teague, Calif.
Thompson, Ga.
Thompson, N.J.
Thomson, Wis.
Tiernan
Ullman
Vanik
Vigorito
Waggonner
Wampler
Whalley
White
Whitehurst
Whitten
Williams
Wolff
Wydler
Yates
Yatron
Young, Tex.
Zablocki
Zion

NOES—154

Abourezk
Abzug
Anderson, Calif.
Anderson, Ill.
Anderson, Tenn.
Andrews, N. Dak.
Archer
Aspin
Badillo
Begich
Bennett
Bergland
Biester
Bingham
Boland
Brademas
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Byrnes, Wis.
Byron
Camp
Carter
Chamberlain
Chisholm
Clancy
Collier
Conable
Conte
Cotter
Coughlin
Culver
Davis, Wis.
Dellenback
Dellums
Dennis
Duncan
du Pont
Dwyer
Eckhardt
Erlenborn
Esch
Eshleman
Evans, Colo.
Fascell
Findley
Fish
Flowers
Foley
Ford, Gerald R.
Forsythe
Fountain
Fraser
Frenzel
Frey
Galifianakis
Gibbons
Grasso
Green, Oreg.
Gude
Hamilton
Hansen, Idaho
Harvey
Hastings
Hechler, W. Va.
Heckler, Mass.
Heinz
Hicks, Mass.
Hillis
Hosmer
Jacobs
Jarman
Kastenmeier
Keating
Keith
Kemp
Koch
Kuykendall
Kyl
Lent
Link
Lloyd
Lujan
McCloskey
McClure
McCollister
McCormack
McDade
McDonald, Mich.
McEwen
McKevitt
McKinney
Macdonald, Mass.
Mailliard
Mann
Mayne
Mazzoli
Meeds
Mikva
Miller, Ohio
Mills, Ark.
Mink
Minshall
Mitchell
Morse
Mosher
Moss
Obey
O'Hara
Pirnie
Podell
Preyer, N.C.
Pryor, Ark.
Quie
Rangel
Rees
Reid, N.Y.
Reuss
Riegle
Robison, N.Y.
Rosenthal
Roush
Roy
Ruppe
Sarbanes
Scheuer
Schneebeli
Schwengel
Smith, N.Y.
Steed
Steele
Steiger, Ariz.
Steiger, Wis.
Talcott
Taylor
Terry
Thone
Udall
Van Deerlin
Vander Jagt
Veysey
Waldie
Ware
Whalen
Widnall
Wiggins
Wilson, Bob
Winn
Wyatt
Wylie
Wyman
Young, Fla.
Zwach

NOT VOTING—46

Adams
Andrews, Ala.
Arends
Ashley
Baring
Belcher
Bell
Blanton
Blatnik
Bolling
Broyhill, Va.
Burton
Byrne, Pa.
Davis, S.C.
Derwinski
Diggs
Dowdy
Edwards, La.
Eilberg
Evins, Tenn.
Ford, William D.
Garmatz
Gubser
Halpern
Hanna
Hébert
Hogan
Holifield
Horton
Jones, Ala.
Landrum
McClory
McFall
Michel
Miller, Calif.
Price, Ill.
Pucinski
Railsback
Rhodes
Rodino
Roybal
Sikes
Sisk
Teague, Tex.
Wilson, Charles H.
Wright

Mr. VIGORITO changed his vote from "no" to "aye."

So the amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. HAYS TO THE SUBSTITUTE AMENDMENT OFFERED BY MR. HARVEY

Mr. HAYS. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. HAYS to the amendment in the nature of a substitute offered by Mr. HARVEY: Page 23, line 2, immediately after "value" insert the following: "(except a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business)".

The CHAIRMAN. The gentleman from Ohio is recognized.

Mr. HAYS. Mr. Chairman, this provision has already been written into the bill in two places. The amendment would put it in a third place to make the language conform. The amendment was agreed to on the other occasions it was offered unanimously. I ask for a vote on the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. HAYS) to the amendment in the nature of a substitute offered by the gentleman from Michigan (Mr. HARVEY).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. HAYS TO THE SUBSTITUTE AMENDMENT OFFERED BY MR. HARVEY

Mr. HAYS. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. HAYS to the amendment in the nature of a substitute offered by Mr. HARVEY: Page 45, immediately after line 14, insert the following:

"PROHIBITION AGAINST USE OF CERTAIN FEDERAL FUNDS FOR ELECTION ACTIVITIES

SEC. 402. No part of any funds appropriated to carry out the Economic Opportunity Act of 1964 shall be used to finance, directly or indirectly, any activity designed to influence the outcome of any election to Federal office, or any voter registration activity, or to pay the salary of any officer or employee of the Office of Economic Opportunity who, in his official capacity as such an officer or employee, engages in any such activity. As used in this section, the term 'election' has the same meaning given such term by section 301(a) of this Act, and the term 'Federal office' has the same meaning given such term by section 301(c) of this Act."

And renumber the following section accordingly.

The CHAIRMAN. The gentleman from Ohio is recognized.

Mr. HAYS. Mr. Chairman, the amendment would merely prohibit the OEO and any of its adjuncts in setting up political organizations in any community to influence the vote in any primary or general election. I think it is fair that we do not allow them to use the taxpayers' money for as against any candidate in a Federal election. There have been many instances in which this has been alleged. In a couple of cases I know they were an adjunct of a local election. I do not think that should be, but because I wanted to keep the thing germane, I did not take in local elections but only Federal elections.

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. HAYS. I yield to the gentleman from Washington.

Mr. McCORMACK. I do not have a copy of the amendment before me, so I am not certain of the language of the amendment. Would the amendment prevent a person who is employed in an administrative capacity in the OEO from becoming involved in a voter registration program on his own time?

Mr. HAYS. Not on his own time, but it sure does on the Government time if any of them work.

Mr. McCORMACK. I thank the gentleman.

Mr. JACOBS. Mr. Chairman, if the gentleman will yield, would this cover the so-called Model Cities program?

Mr. HAYS. It does. In my district in one instance there were some tenants in a low-cost housing project that were literally tearing the place down. The manager of the project sought to evict them. Somehow or other it got to the Federal court, and, talking about the Federal court judges, the Federal judge appointed an attorney at $40 an hour to defend these people from eviction.

Mr. HARVEY. Mr. Chairman, will the gentleman yield?

Mr. HAYS. I yield to the gentleman from Michigan.

Mr. HARVEY. Mr. Chairman, I have no objection to the amendment. In fact, I intend to support it, but this question does come to my mind, which is: How is it that the officers and employees of the Office of Economic Opportunity are presently able to do this under the Hatch Act—at the present time?

Mr. HAYS. They set up these community activities programs, and they take in some people who are so-called volunteers, and pay their way into the meetings, and get them under the thumb, and tell them what they ought to do, and they do it. I cannot tell the gentleman how it happens, but it happens.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. HAYS) to the amendment in the nature of a substitute offered by the gentleman from Michigan (Mr. HARVEY).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. BINGHAM TO THE SUBSTITUTE AMENDMENT OFFERED BY MR. HARVEY

Mr. BINGHAM. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from Michigan (Mr. HARVEY).

Amendment offered by Mr. BINGHAM to the amendment in the nature of a substitute offered by Mr. HARVEY: Page 17, line 22, after the word "family" insert "under his control". Page 18, strike out lines 8 through 11 and insert in lieu thereof the following:

"(b) No individual may, in any calendar year, make contributions from his personal funds (including contributions from the personal funds of his immediate family under his control) on behalf of the candidacy of any one candidate for nomination for election, or election, to Federal elective office in excess of—

"(1) $35,000 in the case of a candidate for the office of President;

"(2) $5,000 in the case of a candidate for the office of Senator; or

"(3) $5,000 in the case of a candidate for the office of Representative, or Delegate or Resident Commissioner to the Congress.

"For the purposes of this subsection, a candidate for Vice President in a general election shall not be treated as a candidate for Federal elective office, but contributions made on behalf of his candidacy shall, for the purposes of such subsection, be deemed to be contributions on behalf of the candidacy of the candidate for the office of President with whom he is running.

"(c) For the purposes of this section, 'immediate family' means a spouse, and any child, parent, grandparent, brother or sister and the spouses of such persons.

and redesignate the following subsections accordingly.

Mr. BINGHAM. Mr. Chairman, what this amendment does is to incorporate into the Harvey substitute the provisions of the Hays bill as it was reported out of the House Administration Committee with regard to limitations on individual contributions to campaigns.

The Senate bill, the Harvey substitute, provides limitations on candidates of $50,000 for a candidate for President or Vice President $35,000 on the candidate for Senator, and $25,000 on the candidate for the House. Those limitations include the members of his family, which are defined quite broadly to include not only the spouse but also the child and parent, grandparent, brother, or sister.

What my amendment does is to set some limitations, I believe they are quite generous limitations, on contributions to candidacies.

Those limitations would be $35,000 per calendar year in the case of a presidential campaign and $5,000 in the case of a campaign for the Senate or for the House.

In one way this is a restrictive amendment, and in another way it is a liberalizing amendment.

It is restrictive in the sense that it would extend a limit to individual contributions to campaigns, which is not now in the Senate bill. But it would also liberalize to some extent the limitations on the candidates which are now in the Senate bill, by putting in the term that a contribution from a member of the family is included only if that is a member of the family under the control of the candidate.

As it now stands, a contribution from a candidate's brother is in a different category from a contribution from a candidate's friend or a candidate's nephew.

It seems to me that there is no logic in saying that we are going to limit what the candidate can spend and what the candidate's sister can spend, or his brother in his behalf, but we are not going to limit what the candidate's friend can contribute to the campaign.

A candidate for the House is limited to $25,000, and that includes everything from any member of his immediate family, but if he has a friend willing to put up $100,000 or $50,000, that is perfectly OK as it now stands.

That is what this amendment does. It would provide relatively generous limitations on individual campaign contributions, and this is what was recommended by the Committee on House Administration by an 18 to 4 vote.

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman from Colorado.

Mr. EVANS of Colorado. There is one part of the amendment which troubles me, which is the portion of it which uses the words "under his control." I believe those were the words.

This intrigues me, because I do not know what those words mean. I know that a sister might be under control and a wife not. A 16-year-old boy might be under control, yet a grandmother might not.

What does the gentleman mean by the words "under his control?"

Mr. BINGHAM. That is a fair question. This was discussed in the committee.

What is intended to be covered is the case, let us say, of a minor child who has money of his own, or the case of a spouse, where the funds are actually under the control of the candidate.

Mind you, what we are setting up is a limitation on any contribution, so if the contribution is made by the candidate's brother and it is not under his control, that brother is free to contribute up to $5,000 to the congressional campaign.

In the present bill, as it now stands, the limit is $25,000 for the candidate and includes brothers, sisters, parents, grandparents, and so on.

Mr. PIKE. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman from New York.

Mr. PIKE. Specifically, is the candidate's wife deemed to be under his control?

Mr. BINGHAM. I think there could be no certain answer to that.

Mr. PIKE. So that although there might be a limit on the candidate the wife could go ahead and spend anything she wanted in his behalf?

Mr. BINGHAM. No. If she had funds of her own under her control she would be limited to the proper contribution.

The CHAIRMAN. The time of the gentleman from New York has expired.

(By unanimous consent, Mr. Bingham was allowed to proceed for 2 additional minutes.)

Mr. BINGHAM. She would be limited to the contribution limit of $5,000 in a congressional campaign.

Mr. HAYS. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I yield to the chairman of the committee.

Mr. HAYS. I think it is perfectly clear that when they say "under his control" that means, for example, if he gave his wife $5,000 to turn around and give, in addition to what she had already given of her own, that would be under his control.

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman from Colorado.

Mr. EVANS of Colorado. Do these words apply to the control by the candidate of the money because of legal reasons or do they apply to the relation because of the relationship?

Mr. BINGHAM. No. It is in the funds. If it is held in trust or if it is held, as I said, by minors under control of the parent. In one case there was a matter publicized where a 15-year-old child made a large contribution to a parent's campaign. Now, that would be considered to be under the control of the parent. But if you have brothers and sisters living 5,000 miles away, it does not seem to be logical to put them under greater restraint as far as contributions are concerned than you put your friend.

Mr. EVANS of Colorado. How about loans of money?

Mr. BINGHAM. Loans are considered as contributions, but that is under a different section of the bill.

Mr. VANIK. Will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Chairman, I would like to ask what the gentleman's amendment will do with respect to family foundations. They have been a factor in several elections.

Mr. BINGHAM. I do not know.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BINGHAM. Mr. Chairman, I ask unanimous consent to proceed for 1 additional minute in order to respond to the gentleman from Ohio's question.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

Mr. ROUSSELOT. Mr. Chairman, I object.

Mr. HAYS. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments to the substitute end at 7 o'clock.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

Mr. HARVEY. Mr. Chairman, reserving the right to object, I was on my feet trying to get recognition before the chairman made that request. Is my time included in that figure, also?

Mr. HAYS. I would think your time and my time and everybody's time would have to be included.

Mr. HARVEY. Then, I object, Mr. Chairman, because I think the minority ought to have an opportunity to answer this very serious amendment.

MOTION OFFERED BY MR. HAYS

Mr. HAYS. Mr. Chairman, I move that all debate on this amendment and all amendments to the substitute end at 7 o'clock.

May I propound a parliamentary inquiry?

The CHAIRMAN. The gentleman will state it.

Mr. HAYS. Is it in order to reserve, let us say, 3 minutes to each side?

The CHAIRMAN. Not on a motion.

The question is on the motion offered by the gentleman from Ohio.

The motion was agreed to.

PARLIAMENTARY INQUIRY

Mr. BROWN of Ohio. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BROWN of Ohio. If there is a teller vote on the Bingham amendment or any subsequent amendment, would those teller votes come out of the time limitation at 7 o'clock?

The CHAIRMAN. The Chair will state in response to the parliamentary inquiry of the gentleman from Ohio that the time limitation has been fixed at 7 o'clock and all time used comes out of that time limitation.

(By unanimous consent, Mr. Gerald R. Ford, Mr. Collier, and Mr. Abbitt yielded their time to Mr. Harvey.)

The CHAIRMAN. The gentleman from Michigan is recognized for 5 minutes.

Mr. HARVEY. Mr. Chairman, the hour is late and we are all impatient to go about our business. However, let me say, Mr. Chairman, that this amendment was discussed in our committee. But more importantly it was discussed over in the other body when that body passed their particular bill. They very carefully considered whether there should be a limitation on contributions.

Mr. Chairman, two things stand out from their consideration of this matter. No. 1, the evidence that it was unconstitutional to place a limitation upon what a person could contribute to a candidate or to a committee was overwhelming, but more important, was the fact that the White House was violently opposed to such an amendment. I say that because thus far this body has pretty well worked its will. I believe we have come up with a bill, although not perfect, nevertheless, is a bill with which we can live. It will go a long way toward campaign spending reform in this country.

But, I say to any of you who truly want to scuttle the bill and end it, adopt this amendment and write in some unconstitutional provisions to the amount which can be contributed.

Let me read a couple of lines by Prof. Ralph Winter of Yale University Law School wherein he says as follows:

> No matter what else the rights of free speech and association do, they protect explicit peaceful political activity from regulation by the Government. But the legislation under consideration openly sets a maximum on the political activity in which persons may engage.
>
> Such a law is indistinguishable from laws forbidding people from engaging in other kinds of activity. A law forbidding someone from spending more than a certain amount cannot be distinguished from a law forbidding speeches of over 10 minutes in public parks.

I would point out also that the Attorney General, Mr. Kleindienst, testified it was unconstitutional, but more than that such a requirement, such a limit on contributions, also discriminates. It discriminates against a person who chooses to exercise his political activity by making a contribution. It discriminates against him and in favor of, for example, a labor union which makes its contribution by registrations and by getting-out-the-vote drives such as we have had. It discriminates in favor of universities. As I stated earlier, universities or colleges will declare a recess during which to provide that 2 weeks before an election their students can disband and go to work for whomever they please. Apparently, that is the way they choose to exercise their political activity. They are in favor, rather, of the students who say they are not able to contribute so many thousands of dollars, we will contribute so many hours in time.

Mr. Chairman, it is clearly discriminatory and for all of these reasons I urge you to oppose the amendment.

But most of all, Mr. Chairman, I urge you to oppose it because it can make the difference as to whether we have an election reform bill or whether we do not have one.

This is really the guts of the reform bill that you have in front of you right now. So I say to you that under all of the circumstances it should be opposed.

The CHAIRMAN. The Chair recognizes the gentleman from Georgia (Mr. THOMPSON).

Mr. THOMPSON of Georgia. Mr. Chairman, I wonder if the gentleman from New York (Mr. BINGHAM) would respond to a question?

In the amendment I understand that the limits apply to a calendar year. What if a candidate announces 2 or 3 years in advance for an office? Would he be entitled to $35,000 per year for each year he has announced?

Mr. BINGHAM. He would be, that is correct.

Mr. THOMPSON of Georgia. That would discriminate, would it not, against the major parties whose candidates probably would not be determined or may not be announced candidates until the election year, and they would have a $35,000 limitation. But if a person wanted to announce 4 years in advance then he would have $140,000.

Mr. BINGHAM. Mr. Chairman, if the gentleman will yield further, presumably the limitation would apply——

The CHAIRMAN. The time of the gentleman has expired.

The Chair recognizes the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Chairman, there has been so much talk about constitutionality on every issue that has come here that I find myself constantly saying, "I see no constitutional questions about this."

Now, there must be some very sharp constitutional lawyers here to find a constitutional issue on almost every amendment.

There is a constitutional right for a person to express himself by buying his own time on a specific issue, but I know of no constitutional right that anyone can exercise to expend an unlimited amount of money on a campaign of another.

We regulate the right of various organizations to contribute at all, and therefore we cut off the right of expression in some areas with respect to a campaign, but we cut off no one's right to express his own views on his own time, and on issues which he desires to express himself. Certainly there can be no constitutional issue in this particular case.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Chairman, I think this is a senseless amendment in that it discriminates against somebody from a large family which has four generations covered, as this amendment does, because that means each generation can contribute $1,330. If you are married, that makes it $670.

It seems to me that if you are a single person with no siblings, no parents living, or children, then you can contribute the whole $5,000. Now, if that is not some kind of a constitutional impingement on a person's right to express himself on a campaign, I never heard of it.

Further than that I would like to ask if it is not a constitutional question, because we set $5,000, then obviously we could set $1 as a limit on an individual. And, frankly speaking, I think as free citizens we ought to be able to express our opinions with respect to campaigns as long as we are doing it out of our own resources.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. PIKE).

Mr. PIKE. Mr. Chairman, now that I think I understand this amendment, I would like to say a couple of words in its behalf:

I cannot accept the concept that it is not unconstitutional to limit the speech of a candidate by limiting his expenditures, but it is unconstitutional to limit the speech of somebody else by limiting their contribution.

I agree with the gentleman from Texas (Mr. ECKHARDT) that there is no constitutional question here. This amendment is directed toward individuals. We are talking about discriminating against individuals. Well, who are the individuals we are talking about? Those who contribute more than $35,000 to a presidential campaign, more than $5,000 to a senatorial or a congressional campaign.

I am perfectly willing to put a few limitations on the power brokers of our land, because that is what we are talking about in this situation.

Mr. Chairman, I would like to see the amendment adopted.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. GRAY).

(By unanimous consent, Mr. GRAY yielded his time to Mr. HAYS.)

The CHAIRMAN. The Chair recognizes the gentleman from Indiana (Mr. WAGGONNER).

Mr. WAGGONNER. Mr. Chairman and members of the committee, there is no reason whatever to adopt under these circumstances a figure which places a limitation on contributions which can be made by anyone including especially a member of a candidate's family. There is nothing sacrosanct about $35,000 for the Office of the Presidency or about $5,000 for a U.S. Representative. The figures are just magically drawn out of a hat—they are arbitrary, they are meaningless and are unneeded. This amendment should be rejected.

The CHAIRMAN. The Chair recognizes the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Chairman, this amendment is constitutional. I have made speeches for limitations and written articles for limitations. I am going to vote against it. I want to tell you very quickly why.

We have Democrats on this side who had better decide right now whether you want a bill or an issue. We have a cracker jack bill here today. It will stop millionaires from buying Senate seats. No one will be able to buy the presidency under this bill. The Macdonald bill got this television monster under control.

I think the President was wrong to indicate that he did not want a contribution limitation. He said he would veto the bill and is also looking for an excuse to veto the bill and this is going to give him that excuse if this is adopted.

I am going to introduce legislation to put contributions in once we get out of the woods here.

I want to make two or three other points.

I have a letter from organized labor that says they want the Senate bill.

The Senate bill—Senator MANSFIELD and other people put it in over there.

This is a bill which the Democratic National Committee wanted. You have a letter from Larry O'Brien on this. The Democrats got more large contributions, oddly enough, over $5,000, than the Republicans. So on the very practical ground tonight of determining whether or not you want a bill, I urge you very reluctantly, and forcefully appeal to you to please vote down this amendment and we will have a bill and have something meaningful, and something we can be proud of.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. BINGHAM).

Mr. BINGHAM. Mr. Chairman, I just want to make two points very quickly.

The constitutional point has been well made. I previously put in the RECORD comments by Professor Bickel of the Yale Law School and Professor Freund of Harvard Law School and Professor Rosenthal of Columbia Law School sustaining the constitutionality.

The second point I want to make is that this is not antifamily. It is the Senate provision that is antifamily because if the gentleman from Ohio will look at his own bill, he will find he is limiting contributions that a candidate can get from members of his family to $25,000 for a contest of the House—brothers, sisters, parents, and so forth.

My provision would increase that amount by $25,000 for a candidate and those under his control plus $5,000 from each of his relatives. I would say this is less antifamily than the existing bill.

The CHAIRMAN. The Chair recognizes the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Chairman, the provision to establish limitations on personal contributions is probably unconstitutional; it is certainly unfair; and it is obviously discriminatory since it is many times more restrictive on presidential candidates than on other candidates.

First. Constitutionality: Personal campaign limitations may violate not only the first amendment but also the fifth. The Supreme Court has not reviewed specifically, but dissenting Justices in United States against CIO—1948—and United States against UAW—1957—raised first amendment questions.

In CIO, Justice Rutledge referred to the "presumptive" weight against intrusions or encroachments upon the—first amendment—reserves against legislative annexation.

Justice Douglas in United States against Auto Workers—1956—said:

> When the exercise of First Amendment rights is tangled with conduct government may regulate, we refuse to allow First Amendment rights to be sacrificed merely because some evil may result.

The equal protection guaranteed by the Constitution may be especially significant to protect the rights of minor party or independent candidates to participate in election processes.

In William against Rhodes—1968—the Supreme Court struck down as unconstitutional a part of the Ohio law. The law imposed more burdensome restrictions on minor candidates to get on the Ohio ballot than for regular party candidates.

Second. Unfairness: Money is the only way that some people can participate in political campaigns. It is one valuable commodity. Other valuable commodities are a celebrity status, name recognition, personal services, use of nonbusiness cars and telephones and nonmoney gifts. Of these, obviously personal services are the most usual campaign contribution. We have already given anonymity to those who contribute personal or noncash services. We have already given them unlimited ability to contribute those services. We have already stripped anonymity from the cash participant. Now we seek to place a limit on that which we can contribute. This is obviously an unreasonable and unfair provision. It strikes most violently at the aged and infirm who have no other way to participate in politics.

Third. The provision has been written in such a way that it obviously discriminates against presidential candidates. Whether it intends to discriminate against one obvious presidential candidate or not is a moot question, but the suspicion will arise, and I raise it specifically here, that it may have been aimed at President Nixon. Based on the number of people in the constituency which all of the bills have accepted as a basis for other limitations, the limitation on contributions for a presidential campaign should be 435 times that allowed for a congressional campaign. That ratio would allow contributions in excess of $2 million. Instead, the proponent of this provision seems to be pretending that it only costs seven times as much to run a presidential campaign as it does to run a House campaign. The Senate limits are equally inappropriate, particularly in the large States. This kind of bias has no place in any election law reform and makes use of the term "reform" ridiculous on its face.

There was no showing of evil in the subcommittee or committee hearings.

Second, this is unfair as well as unconstitutional. Money is the only way some people can participate. It is one valuable commodity. Some other commodities are celebrity standing—voter recognition—your own personal contacts—personal telephones of whatever.

This provision strikes most violently at the aged and the infirm who have no other way of participating.

Third, it is discriminatory against the President. If we have a $5,000 limitation for Congress, it should be 435 times $5,000, but you have made it seven times. Therefore, it looks like somebody is trying to put a little "stuff" in the game. I do not know which President it happens to be aimed at. It looks like it is aimed at the incumbent.

Mr. Chairman, obviously it is unfair. The amendment should be defeated.

The CHAIRMAN. The Chair recognizes the gentleman from Massachusetts (Mr. MACDONALD).

(By unanimous consent, Mr. MACDONALD of Massachusetts yielded his time to Mr. HAYS).

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. Mr. Chairman, at this late hour we have accomplished, it seems to me, the almost miraculous task of melding together two House committee bills and a Senate bill, and in the process I think we have come up with a pretty acceptable piece of legislation. It seems to me absolutely incredible that my friends on the other side of the aisle, many of whom I know are sincerely dedicated to the cause of campaign finance reform, would put that entire tortuous effort in jeopardy at this late hour by the adoption of this amendment. I tried myself on one occasion to draft a contributions-limitation amendment. I know from my study of the problem that the Bingham amendment is full of loopholes. It does not apply to the Special Interest Committee. It does not apply to groups like COPE.

Why is it wrong for an individual to make a $25,000 contribution, or for one of these huge national committees to go ahead and make a contribution of that kind? There are loopholes in this law, and I would submit we already have had enough of that under the Corrupt Practices Act of 1925.

The CHAIRMAN. The Chair recognizes the gentleman from West Virginia (Mr. STAGGERS).

Mr. STAGGERS. Mr. Chairman, a moment ago I said that what we do here with the district courts should also cover the circuit courts. I meant the county courts and all the courts of the United States.

First, I would like to say this: After all the debate—and a lot of it has been emotional—I think we are coming up with a very good bill. I am for this amendment, and I would not let the threat of a veto deter me from voting the way I think I should vote. I do not believe the gentleman really meant it when he said that we should let that stop us from voting for what we think is in the best interests of the Nation. I think when we come out with a bill, it will be a bill that has been melted down and has come together. It has not been partisan. There has been a great deal of bipartisanship here, and I want to congratulate every Member of the House for the part he or she has taken in it. I think we have come up with a good bill, and the amendment should be adopted.

Mr. BADILLO. Mr. Chairman, for the first time in nearly half a century, the Congress is about to enact a comprehensive election reform bill and it is my most sincere hope that the final product will represent a major step toward restoring public confidence in the electoral process and in elected officials.

There is no more serious problem in the American political process today than the financing of campaigns. The skyrocketing cost of campaigning has produced a situation in which practically all but the wealthy—or their friends—are prohibited from running for office.

In recent years it has become apparent that the potential candidate of modest means is being driven from the field. Without a source of outside wealth, he is faced with the choice either of running a shoestring campaign or relying on a few major contributors. If he chooses the former course, he faces staggering odds. If he seeks out large contributors, he creates a serious potential conflict-of-interest situation.

It seems clear that at a time when the demand for reform grows strong on many fronts, the area of election law must not be ignored. Current Federal election laws are more loophole than law. Their limits do not limit and their penalties are empty threats.

The Federal Corrupt Practices Act purports to require disclosure of campaign contributions and expenditures, but because the law does not apply to primaries nor to campaign committees operating solely within one State, it is gravely defective.

Another unfortunate omission is our failure to enact legislation either to broaden the base of campaign finance by encouraging contributions from small donors through tax incentives or to achieve perhaps the ultimate campaign reform which eliminates private contributions altogether.

Proposals to replace private campaign contributions with public funds are not new. Such proposals were suggested by President Theodore Roosevelt many years ago and they were recommended to Congress by President Johnson in 1967. As we debate this bill today, the Senate already has passed an amendment to the revenue bill which would create public funding of presidential campaigns through a $1 tax checkoff fund administered by the Comptroller General.

While such an amendment would not be germane to the legislation before the House today, I am hopeful that the House conferees on the revenue bill will accept it.

With regard to the legislation now before us, it is my hope that we will combine the bill H.R. 11231 reported by the Committee on Interstate and Foreign Commerce with H.R. 11280, which is identical to the bill passed by the Senate, and strengthen both with amendments. I think we must keep in mind the overwhelming likelihood that whatever form the election reform bill ultimately takes, it will represent at best a first step and that further reforms clearly will be called for on the basis of our experience under the new law.

The House Commerce Committee bill has several key features which deserve our support. Among these are repeal of section 315, the equal-time provision, of the Federal Communications Act, for presidential and vice presidential candidates. This is essential for the broadcasters to provide free air time for debates between the major party presidential candidates but I supported the amendment of the gentleman from California (Mr. VAN DEERLIN) extending this provision to U.S. Senate candidates while authorizing a study of the desirability of including House candidates, as well.

Another key feature of H.R. 8628 is the 10-cent-per-voter ceiling on broadcast media spending. This feature, coupled with the requirement that broadcasters charge candidates the lowest unit rate for media time represents a major step toward curbing the excessive costs of campaigns.

It will be argued that a media spending limitation is only a partial cure for the high cost of campaigns, and that an overall spending limit should be enacted. In this regard, it must be pointed out that whatever law we write here is only as good as the means by which it can be enforced. I am convinced that a media limitation is far more enforceable than an overall limitation and that it really gets at the root of excessive campaign costs.

The key features of the Senate bill I feel should be incorporated are:

First, effective requirements for public reports of campaign contributions and expenditures. The Senate bill requires five reports at regular intervals before an election and on the following January first. The preelection reports will provide the public with the kind of campaign financing information to which it is entitled.

Second, the Senate bill establishes a bipartisan Federal Elections Commission to enforce the legislation, to receive all required reports and to make public the information it receives. This mechanism is clearly preferable to H.R. 11060, which gives this authority to the Clerk of the House and the Secretary of the Senate. If we are to increase public confidence in the electoral process and in elected officials, the task of policing the election reform law must be assigned to an independent agency with no conflicts of interest.

S. 382 has one glaring defect, however, and it must be corrected here. As the bill now stands, limits are set on what a candidate and his immediate family can spend on a campaign, but no limits are set for other contributors. In this regard, the bill actually is regressive for present law contains limits for all contributors. At the very least, the existing limits should be incorporated in this measure, or as an alternative, the limits contained in the House Administration Committee bill, H.R. 11060, should be adopted. These latter limits are $5,000 from individuals for House and Senate candidates, and $35,000 per year for presidential and vice-presidential candidates, while use of a candidate's personal funds would be limited to $15,000 for House races, $20,000 for Senate races, and $35,000 for presidential and vice-presidential races.

Adoption of these provisions will represent a major effort by Congress to make the electoral process more responsive and more responsible. It will represent a true response to a public demand which has been growing for years and which, if not met, would result in an even greater credibility gap between the American people and their Government. A strong election reform bill will stand as one of the major achievements of this Congress. We dare not ignore the challenge.

Mr. DONOHUE. Mr. Chairman, our overriding and lasting objective, with respect to these Federal election reform bills before us, must be, in my opinion, to restore and strengthen public faith and confidence in the National Government.

Our more immediate purpose is to try to insure that our Federal elective offices are, in fact, equally open to any qualified candidate and are not the exclusive preserve of individuals who possess great personal wealth or those who have access to extraordinarily large amounts of campaign spending subsidies.

To accomplish both of these urgently needed objectives, the majority of this House must, and I hope they will, approve the strongest possible compromise bill that will effectively limit campaign spending to a reasonable level and will require a contributor revelation procedure that will serve to remove any public doubt about unwholesome influences in our National Government election campaigns.

In my opinion, the acceptance of the substance of the Senate and Macdonald bills, with other improving amendments, would be a substantial forward step toward the accomplishment of the objectives we desire to reach in this legislative area. I would also hope that the provision in the tax bill, very recently adopted in the Senate, as a beginning toward ultimate public financing of all election campaigns, by permitting individual tax deductions on small political contributions and by allowing each taxpayer to earmark $1 of his tax for the presidential candidate of the party of his choice or for a fund from which presidential candidates could draw, will be accepted by the House when that measure comes before us in the near future. It seems to me that, in the finality, the establishment of a public financing system that will include all Federal offices might well be the best method of insuring the elimination of the plague of special interest influence by donors of private money in election campaigns and also reassure the public of the integrity of our election processes.

Mr. Chairman, I want to emphasize my belief that neither the executive nor legislative branch of our Federal Government can effectively operate in the national interest without the confidence and the backing of the majority of the American people. The retention and expansion of that public confidence is truly at stake in our action on this campaign spending reform legislation. The particular challenge to the Congress, in this question, is to demonstrate to the American people that, irrespective of personal or party concerns or loyalties, we can patriotically legislate in the lasting national interest by restoring public confidence in our national election campaign procedures and insuring that every qualified citizen has an equal opportunity to run for any Federal office in this country. I, therefore, urge and hope that the House will overwhelmingly accept the challenge and fully discharge the legislative responsibility that is facing us today.

Mr. CONTE. Mr. Chairman, I support the amendment offered by the distinguished gentleman from Idaho.

The purpose of the amendment is quite simple: To codify recent Supreme Court decisions regarding the use of union treasury funds during political campaigns by amending title 18 of the United States Code.

Let us be perfectly clear. This amendment would not prohibit the use of union treasury funds to explain union positions to union members. Nor would this amendment prohibit nonpartisan "get-out-the-vote" activities aimed at union members and their families.

But this amendment would quite properly safeguard the interests of shareholders in their corporations and workingmen in their unions by insuring that their funds are not diverted to broadscale political activities. Without the explicit permission of the donors, the use of such funds would have to be confined to the shareholders and workingmen themselves. This is as it should be.

It is imperative that our deliberations on campaign spending reform produce results which will encourage the free and untrammeled functioning of our electoral process. Shareholders and union members have the right to determine whether or not to contribute to particular candidates. And they have the right to make this decision without fear of reprisal. Passage of this amendment would affirm their right to give full vent to their political beliefs without the threat of losing their livelihood.

As a clarification of Supreme Court rulings in this area and as a ringing affirmation of the right to unfettered participation in American political life, this amendment deserves our unqualified support.

Thank you, Mr. Chairman.

Mr. BRASCO. Mr. Chairman, the evergrowing cost of political campaigning is lowering the quality of American political life. As television increasingly dominates most candidates' considerations, he or she must come to grips with the realities of what it costs to run significant numbers of television advertisements. In no way can this be avoided.

Television is the surest way to reach a mass audience up to the moment of the actual poll. The growth of cable television is bringing this harsh reality to the farthest corners of the Nation. A wired society is in the immediate offing, and political candidates are being whipsawed by the political costs. The few special interests who can deliver massive amount of campaign money are too often in a commanding position as far as eventual influence upon an elected candidate's voting positions. This is as true of the Federal as it is of the State legislative area. In sum, the quality of political life is lowered and the people are less well served in the process.

Campaign spending reform is the only answer and sole hope for a reversal of this ominous trend. We have before us exactly such an opportunity, the first of its kind in 45 years.

It is also a fact that the Republican Party has a virtual lock on major campaign contributions from large vested interests. Most major corporations have persistently poured significant contributions into the coffers of this party, with more than usual success in terms of a quid pro quo.

We must strike some sort of balance which will hold down rising campaign costs and reveal more of the sources of political money. Only in this way can we make public servants less vulnerable to a big, single checkbook. Only in this manner can we insure that the public will know far more of what its public servants are doing in their name. Sunshine is the best disinfectant, and especially in the national legislature its exposure is required.

We have already made significant progress. But more must be made if the measure is to emerge as a full scale reform.

It is my fervent hope that we will understand how unlimited special interest money and the rising cost of campaigning are corrupting the national political process. Understanding these factors, the next step is the obvious one of acting to wrap up the reform package.

Mr. FISHER. Mr. Chairman, the pending bill has my support. I would hope the controls and limitations on campaign spending are made enforceable.

The vast amounts of money expended by and on behalf of candidates for office in recent years has become a national scandal. By sheer influence of unlimited spending, making maximum use of radio and television, and in other ways, wealthy candidates and those who have access to wealth, strive to literally buy public offices. Is the Congress to become eventually a rich man's club?

This spending craze has created a crisis which affects the American system of government. Efforts to control the evil has been feeble and nonproductive. An intolerable situation has been created. It begets corruption, unethical tactics, deceit, and deliberate distortion of facts and issues. That is inherent in "win-at-any-price" campaigns. The public is fed up with it and demands relief. A recent Gallup poll showed 78 percent of the public favors a meaningful limitation on campaign spending.

I am sorry the bill does not contain a restriction on campaign contributions by labor unions. The Corrupt Practices Act now prohibits contributions by corporations and banks. Why should it not apply to union funding, much of which is derived from union dues—and contributed without, in many instances, the consent of those who pay the dues. Whether done indirectly, by evasion or otherwise, the public interest would be better served if such contributions were prohibited. Then let individual union members and their officers provide financial assistance to their favored candidates, within the limitations applied to all others.

It is interesting to note that labor unions spent $1,097,000 on 24 successful Senate candidates last year—up to as much as $151,000 for one candidate.

In addition, unions contributed $669,000 to 17 unsuccessful Senate candidates.

On the House side, 32 successful union-backed candidates got more than $10,000 each; with $140,000 going to unsuccessful candidates.

But that is not all. There were 58 additional successful candidates for House seats who received $5,000 or more each from unions.

These contributions were legal. But it would seem that in the public interest such financial help should come from individuals and not from organizations which obviously and admittedly have selfish interests to be served. Although I am not aware of any individual Member being influenced unduly by such contributions, I think the system which permits it is bad.

Mr. Chairman, on February 4 of this year I introduced H.R. 3620, which contains the chief objectives of the legislation now being considered. I am pleased that progress is being made in advancing legislation on this subject. If the final version, as worked out by the House-Senate conference committee, is in accord with what is being attempted here, and if meaningful enforcement provisions are included, the result will be widely acclaimed by the American public.

Mrs. ABZUG. Mr. Chairman, as we debate H.R. 11060, the Hays bill and the two substitute bills—H.R. 11231 and 11280—we face one of the most serious questions in American politics. We must find a way to reduce the influence of money in the electoral politics of this country if one man, one vote is ever again to have meaning.

The need for reform in the laws governing the financing of Federal elections is urgent. The present laws are inadequate, ignored, and unenforced. As the costs of campaigns increased over the past several years, parties and candidates alike have continued to rely extensively on a few big givers to meet their expanded needs. At the present time, the best estimates have it that 90 percent of the money raised for political campaigns comes from 1 percent of the contributors. There is no way to accurately assess the influence that this secondary constituency of big givers has on public policy.

While the present law provides a ceiling on individual gifts, it is easily and routinely circumvented. First, the limit is excessive—$5,000 per donor, per committee. Since there is no limit on the number of committees that each candidate may establish, big contributors—and their sons, daughters, and wives—merely contribute whatever total amount they choose to a myriad of special committees. I do not propose to go through the litany of these particular abuses at this time. The Members of this body know them well. None of the bills before us alleviate this problem.

Perhaps the best single example of the unreality of the present law is its failure to cover primary elections. All of us know that as much and perhaps more money is actually raised and spent in primaries. What possible lapse in legislative intent can explain our failure to provide for reasonable limits and effective disclosure in the nominating process? In this respect, the legislation before the House is a step toward realistic reform.

Even where ceilings on cash contributions are reasonably protected by State reporting laws, Federal statutes have not prohibited corporations and the wealthy from evading those laws by lending airplanes, executives, and other company resources to favored candidates.

Moreover, and most importantly, there has simply been no enforcement of our present laws. Attorneys General in every administration of both political parties have shrugged off their obligations—and candidates for Federal office have routinely engaged in the most transparent hypocracies without fear of prosecution.

I intend to vote for the modified Senate bill (H.R. 11280) legislation we have before us today. But I want to say that I will do so most reluctantly. I will vote for it because it represents a step away from the past, but, at best, it is only a tentative step into the future. By no means does this bill represent a serious effort to reform campaign spending in this country. Moreover, my vote for this bill is cast reluctantly because I am concerned that our present requirements have remained on the books as the law of the land for the past 46 years. If by passing this bill, we are lulling ourselves into the belief that the necessary reforms have been accomplished, then this legislation is more dangerous than no legislation at all.

But, as I have said, I will vote for this bill as a needed, but temporary, measure. In so doing, I believe I assume an obligation to continue to examine this problem and to establish a dialog in the country about the problem and some proper solutions. And I think that we undertake an obligation also to formulate legislation in the next session, and each session thereafter, until we achieve a system of political finance in this country that will restore to voters and dollars the relative influence that they properly deserve.

I do not know all the attributes of such a system, but there are certain characteristics that are fundamental.

There must be effective limits on the size and number of political contributions. The present $5,000 limit is perhaps 10 times too large; $50 would be more appropriate if we genuinely seek to limit the influence of money in politics.

At the same time, we should provide tax incentives to encourage small giving. Parties and candidates have been equally lax in developing programs to stimulate average citizens to participate in politics with their dollars as well as with their votes. It is a small enough investment in democracy to permit a citizen a reasonable deduction from his income taxes in return for his support for the candidate of his choice.

There must be effective disclosure provisions to insure that the public is aware of whose money is supporting the political campaigns of its elected representatives. Reporting provisions must be timely so that abuses are not turned up 45 days after the election, but in time for them to be made public before election day. The penalties for violations must be severe enough to make candidates resist the temptation to evade the law and realistic enough that our law enforcement authorities take them seriously.

Primary elections must be subject to the same regulations as general elections. This is fundamental and cannot be compromised. to purify the influence of money at the final stage of the process and ignore it at earlier stages is either self-deluding or contemptuous of the public intelligence.

Finally, we must begin to reassess the entire premise of our present system of total reliance on private gifts. In this era of rising campaign costs, we have attempted only to regulate the size of private gifts and the total amount of dollars spent. We have been transfixed by ceilings, when the more fundamental problem has to do with floors. We must seriously address the question of how many Americans can no longer afford to participate in politics as active candidates for public office. How many people today find the price tag of public office prohibitive? When a citizen must risk personal bankruptcy or go into political hock to special interests in order to be able to make the initial decision to run for public office, we have created a situation that corrodes the foundation stones of our democracy. We must begin to seriously examine the need for public subsidies for political campaigns. We must equalize access to our political system for all citizens. The costs are not high, especially when measured against the eroding confidence and growing cynicism bred by the present law.

Mr. BLACKBURN. Mr. Chairman, during the debate today, many Members have discussed the need for full disclosure of all campaign finances. I believe there are arguments in opposition to this proposition which have not adequately been presented to this body.

The arguments have been developed that: First, the cost of political campaigns has become so high that America can no longer afford unregulated democracy in action; second, "fat cat" contributors demand commitments from candidates before making contributions and, thus, candidates are controlled by big contributors; and third, a candidate's purity of motive would be insured by complete disclosure by the candidate of every contributor and the amount of his contribution.

These arguments have received such wide publicity that, by reason of repetition, they are rapidly approaching the status of divine revelation, not to be challenged. Let me take this opportunity to challenge these arguments, recognizing the political risk involved in standing alone when political security could best be served by following the herd instinct.

I am firmly convinced that no small motivation of those proposing such legislation is the preservation of office for those who enjoy the status of being an incumbent. Anyone proposing to defeat an incumbent must carry the fight to the incumbent. This entails the use of a lot of money, the amount varying from one congressional district to another. Thus, arbitrary limitation will restrict the ability of nonincumbents to carry the fight, and, thus, help to insure the safety of incumbent officeholders.

But, let me address myself to the three arguments that I have heard most frequently given in favor of rigid campaign limitation laws and rigid reporting laws.

First, I challenge the statement that America cannot afford a free exercise of the democratic process. The right to participate in political campaigns, not only as voters, but as contributors or campaign workers, is too valuable a right to be limited by law. Suppose you, as a citizen, desire to contribute to my opponent in next year's campaign but your contribution is returned because my opponent was limited in his spending and had already accepted the total amount allowable under law. It would be your right as a citizen that would be curtailed, and not merely the candidate who is being inconvenienced.

When I see the material comforts of life which we enjoy, I am somewhat skeptical when someone argues that we cannot afford the most precious right a citizen in a democracy can ever enjoy: that is, in giving direction to his government through full participation in political campaigns.

The second argument, that big contributors exercise an inordinate influence over officeholders probably has some merit. But the campaign limitation laws would only improve their control because a few big contributors could soon fill the financial limitations and thus exclude the smaller contributors from having any impact on a candidate's campaign.

In the final analysis, a politician's personal character will determine the degree to which he can be a "bought" man. If a man is for sale for one price, he is probably equally for sale at a lesser price, depending on his needs of the moment. It is a politician's conduct in office which answers the question of his personal character and integrity. It is these qualities which are reexamined periodically when he offers for reelection. If his conduct in office shows a pattern of undue responsiveness to a particular segment of his constituency to the disadvantage of the great majority of his constituency, then this is a matter to be considered by the voters in choosing between one candidate and the other.

The demands for a disclosure of contributors and the amount of contributions is probably the most questionable argument being advanced. In the first place, a dishonest candidate and a dishonest contributor are not going to report their financial transactions. It would be an impossibility to adequately enforce such a provision of law. The honest candidate and the honest contributor would be the most disadvantaged.

The implementation of full reporting laws would do more to discourage contributions to nonincumbents than any other one law. My campaign treasurers can attest to the differences and difficulties in raising funds for an incumbent and a nonincumbent. People have a right to remain anonymous in casting their ballot.

I think to some degree, there is a parallel between the sanctity of secrecy of the ballot and the right to remain anonymous in making political campaign contributions.

Many people, by reason of their business connection, or professional connections, may wish to support a candidate who espouses a political ideology for which they hold a sympathy. At the same time, they might fear retaliation against their business interests of their professional association by persons holding positions of authority who do not agree with their thinking.

Ironically, it is the small businessman, seeking to hold government-related business, the union member, seeking to support a candidate his union leadership opposes, or the college professor seeking to establish tenure with a college having a leadership of strong political philosophy contrary to his, who would be the least able to afford public disclosure of their financial support for political candidates. The result would be a greater polarization of our country into contests involving big business, big money, and big union bosses to an ever greater exclusion of participation by the "little man" that these laws ostensibly are seeking to serve.

Mr. GUDE. Mr. Chairman, it is a credit to the House that the issue of Federal election reform is up for consideration, and that there is a bipartisan effort to forge a meaningful reform measure. Many of the critics of Congress predicted that a reform bill would never reach the floor. Instead we stand on the verge of passing a strong reform bill which would meet the requirements of those of us who wish to see the undue influence of money in politics reduced and the integrity of the democratic electoral process shored up.

Any campaign reform legislation must, in my view, have as its base a strong reporting and disclosure provision. Private wealth has become a corrupting force in American politics today, not because of the nature of the democratic system or the character of the men in politics, but because of the soaring costs of campaigning. Federal offices must not be allowed to become the exclusive property of millionaires or those whose politics attracts the support of the wealthy. This is not an ideological or party matter. Individuals of both leftwing and rightwing persuasions have been substantial contributors to political campaigns.

I also feel that it is important to keep the system open to challengers. A bill favoring incumbents would be a mockery and would in all likelihood be vetoed. People are well aware of the many advantages enjoyed by incumbent office holders. Well qualified individuals will hesitate to spend their time and money on a campaign if the odds are further stacked against them. As Representatives we should recognize that our personal self-interest and the national interest separate at this point.

Campaign financing reform must, of course, eventually set some limits on spending. This limit must be high enough to allow a challenger to make himself known and yet low enough to be a meaningful limit and not an enticement to media saturation.

In my view, the Senate passed campaign reform bill, H.R. 11280, is a noteworthy and acceptable measure. The Senate bill would limit broadcast spending to 5 cents per eligible voter and spending for newspapers, magazines and billboards to 5 cents as well. Twenty percent of unspent funds in one category may be transferred to another thus allowing 6 cents per voter for broadcasting and 4 cents per voter for nonbroadcasting media.

H.R. 11280 also puts a limit on spending from the personal funds of candidates in campaigns for nomination or election. These limits would be $50,000 in a Presidential race, $35,000 in a Senate race and $25,000 in a House race. No limit was placed, however, on contributions.

Finally, the Senate bill has quite adequate disclosure provisions. Candidates, individuals and committees would have to file periodic, detailed reports and the bill would extend the report requirements to all primary elections, the presidential nominating process, and State and District of Columbia committees not now covered.

I believe that the time is at hand to control the power of private wealth in Federal elections and we have before us, in H.R. 11280, the means with which to do this.

Mr. CRANE. Mr. Chairman, on the floor of the House of Representatives, we again witness a display of the awesome muscle that organized labor wields in this body.

After an intensive campaign, the labor union bosses have finally succeeded in getting their language into a campaign reform bill, rather than the language that would have provided the only true campaign reform.

My amendment, which was included in H.R. 11060, would have prohibited the use of involuntarily raised funds for political purposes by the unions. It would have restored to millions of union members the right to determine whether they wanted their hard-earned money to be used to support political causes of their own choosing, or to support the causes dictated by the union bosses.

The bill which has now been passed by the House of Representatives is a mockery of campaign reform. It opens wide the floodgates to union, bank and corporate activity in an area where it has never been legal before.

Therefore, I had no alternative but to oppose the bill.

HISTORY

My first contact with this problem came during my academic career in 1963 and 1964 when I was writing a book entitled "The Democrat's Dilemma." The central theme of this book deals with the power and control which organized labor has over the U.S. Congress.

When I was writing that book I did not realize that I would one day feel the effects of that power first hand. Following my election in 1969, after a bipartisan agreement, I was to be appointed to the House Committee on Education and Labor along with my colleague from New York (Mrs. CHISHOLM). But the unanimous-consent request, mutually agreed upon by the Democrat and Republican leadership, was denied, and I was subsequently assigned to the Banking and Currency Committee. The events of that day have been detailed in an article by the noted columnist, Willard Edwards, which appeared in the Chicago Tribune. At this time I insert the Edwards column:

CRANE FINDS WHO IS BOSS IN HOUSE

(By Willard Edwards)

WASHINGTON, December 26.—On his 22d day in office, Rep. Philip M. Crane, Illinois' newest Republican congressman, was given a dismaying lesson in the harsh political realities of life on Capitol hill.

Crane learned who really controls the Democratic majority in the House and, thus, Congress itself, even in such a minor matter as a freshman's committee assignment.

It is not, he discovered, Speaker John W. McCormack [D., Mass.] or Rep. Carl Albert [D., Okla.], the majority leader, or the Democratic chairmen of House committees.

These Democratic leaders can be overruled, he found, when organized labor, in the person of Andy Biemiller, chief lobbyist for the AFL–CIO, chooses to exercise his influence.

As a result, Crane was deprived of a position on the House education and labor committee, for which he is eminently qualified as a former history professor at Bradley university and as an author and expert on the problems with which the committee deals.

Instead, he was shunted to a spot on the banking and currency committee. Its legislative jurisdiction, while important, is remote from the field in which his talents would be most useful.

After Crane was sworn into office Dec. 1 he sought out Rep. Gerald Ford [Mich.], the Republican minority leader, and asked to be assigned to the education and labor committee.

Ford consulted Speaker McCormack and Albert, majority leader, as well as the committee chairman, Carl Perkins [D., Ky], and Rep. William H. Ayres [R., O.], the ranking minority member.

All agreed that Crane was a "natural" for the committee. The Democrat leaders were also seeking a place for Rep. Shirley Chisholm [D., N. Y.], the first Negro woman to serve in Congress. They decided to enlarge the committee to 37 members from 35, putting Crane and Mrs. Chisholm in the two places created.

But when labor lobbyist Biemiller learned of this plan, according to bipartisan sources, he put his foot down. He regards the committee, with considerable reason, as his domain. He made it clear that his opposition was based on an aversion for Crane, a conservative who in his book, "The Democrats' Dilemma," denounced control of Congress by a labor hierarchy, mentioning Biemiller by name.

Protests against the Democratic leadership proposal were led by Representatives Roman C. Pucinski [D., Ill.] and Augustus F. Hawkins [D., Cal.].

In vain, McCormack, much disturbed, pleaded with these objecters that he had reached a firm agreement with Ford. Such bipartisan arrangements are always respected.

But he was rebuffed. The fact that Mrs. Chisholm would also go down the drain was disregarded by Biemiller, who was incensed by his loss of a fight against President Nixon's Philadelphia plan, a formula for encouraging Negro employment in the construction trades. Mrs. Chisholm voted against him. Ford engineered the defeat.

A last-minute attempt was made on the House floor to secure unanimous consent for the committee enlargement. Both Pucinski and Rep. Joe D. Waggoner [D., La.] jumped up to object. Waggoner, whose objection was presumably aimed at Mrs. Chisholm, won.

"It was disappointing and disillusioning," Crane said of the experience. "It certainly proves my contention that Congress is dominated by labor chiefs who pay little attention to the wishes of the rank and file."

Mr. CRANE. We witness another example of the blatant power of the labor unions. While decrying the Crane amendment, they manage to foist on this House a substitute which would legalize their past illegal actions, while simultaneously stating that this was merely "codifying section 610" of title 18 of the United States Code, the Corrupt Practices Act.

CORRUPT PRACTICES ACT

The intent of title 18, United States Code, section 610, is to prohibit contributions or expenditures by banks, corporations and labor unions in connection with Federal election campaigns. Although section 610 appears on its face to be clear and unambiguous, it has not effectively prevented large scale political expenditures by labor unions as Congress intended. When section 610 was amended in 1947 to cover labor union political expenditures, its stated purpose was:

First, to reduce the undue and disproportionate influence of labor unions upon Federal elections;

Second, to preserve the purity of such elections against the use of aggregated wealth by union as well as corporate entities; and

Third, to protect union members holding political views contrary to those supported by the union from the use of funds contributed by them to promote acceptance of those opposing views. See *U.S. v. CIO, 335 U.S. 106.*

Unfortunately, these objectives of the law have not been met. Today the influence of organized labor on Federal elections is greater than ever before, and a very large part of the time, energy and wealth of major labor unions is devoted to political action in Federal election campaigns.

By becoming deeply involved in political campaign activities, American labor unions have departed from their primary functions as collective bargaining agents and have become, in practical effect, political organizations. In the process they are rapidly transforming one of the two major political parties into a labor party, a result which will most certainly have an adverse effect upon the traditional two-party system in this country.

If membership in labor organizations were entirely voluntary, objections to partisan political activities by unions would perhaps have not so strong a base. But Bureau of Labor Statistics figures show that approximately 85 percent of all union contracts now contain clauses which compel continued union membership or payment of union dues and fees as a condition of employment. The rank-

and-file worker is thus compelled to provide financial support for the union even though the union uses a substantial portion of his compulsory dues dollar to support candidates and political causes which he either opposes or would not willingly support if he were given a free choice. Public opinion surveys immediately following the 1968 election showed that 44 percent of union members and their families opposed the presidential candidate endorsed and financially supported by their unions. It was precisely this sort of situation that title 18, section 610 was intended to reach.

THE CRANE AMENDMENT

My amendment, which is identical to section 8 of H.R. 11060 except for a technical change, would have clarified and broadened the definition of the terms "contribution" and "expenditure" as used in title 18, section 610. Under this new definition it would be perfectly clear that labor organizations, as well as banks and corporations, could not have made any direct or indirect payments or provide any services or any other thing of value to any candidate, campaign committee or political party or organization, or to make any expenditure related to get-out-the-vote activities in connection with Federal election campaigns, if involuntarily raised.

At the same time, it also made clear that this section would not prohibit a union from organizing and administering a separate contributary fund for political purposes if all contributions, gifts or payments to such fund are made freely and voluntarily, and not related to dues or fees required as a condition of employment. Enactment of this provision would have clarified the intent of Congress to distinguish between voluntary contributions and the use of compulsory union dues for political purposes.

UNION POLITICAL ACTIVITIES

It is no secret that labor organizations provide cash contributions to political candidates. But more important is the furnishing of a large volume of union-paid manpower to perform partisan precinct level functions of getting-out-the-vote and moving voters to the polls. During election campaign periods, and even between elections, thousands of union salaried staff personnel are assigned full time to the job of registering voters, keeping voter lists up to date and all of the other functions related to traditional partisan political activity. The massive scale of this type of union political activity is described by Alexander Barkan, director of AFL–CIO COPE, in an article appearing in Issues in Industrial Society, vol. 1, no. 2, published by the New York School of Industrial Relations at Cornell University.

> Evidence of the intensity of labor's political activity in 1968 was the 55 million pieces of printed matter distributed by National COPE to union members and an additional 60 million plus distributed by state AFL–CIO bodies and international unions. It is unlikely that any organization—including the two major parties—ever produced so much political literature in any one campaign.
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> Labor's nationwide registration drive put 4.6 million voters on the registration rolls. Most were Humphrey supporters. The figure not only represents trade union members and members of their families but reflects the results of labor's registration drives in the Negro, Puerto Rican, and Mexican-American communities. *In many states, labor did the registration job for Humphrey singlehandedly; the Democratic party had abandoned the field.*
>
> Negro trade unionists were mobilized at a series of conferences in the spring of 1968 which led to the formation of units in 31 big cities to increase the vote in the black community. Three and a half million pieces of literature, especially prepared for the Negro community, were distributed. We were the major national organization working at registering black voters and getting their vote. The Negro vote for Humphrey exceeded 80%.
>
> The labor movement mobilized Mexican-American farm workers; and the AFL-CIO funded an operation which included a million leaflets, radio spots, and hundreds of election day workers in California alone. Farm workers' ballot boxes in the state also exceeded 80% for Humphrey.
>
> In many states, a house-to-house canvass was conducted as part of our get-out-the-vote effort, particularly in selected labor areas and in minority-group areas where there are relatively few telephones. The number of persons involved in this operation was 72,225.

There have been other cases. Twice during the past decade the U.S. Supreme Court acknowledged that union officials are spending compulsory dues money for partisan political purposes. Associate Justice Hugo Black wrote 10 years ago.

> There can be no doubt that the federally sanctioned union shop contract here, as it actually works, takes a part of the earnings of some men and turns it over to others, who spend a substantial part of the funds so received in efforts to thwart the political, economic and ideological hopes of those whose money has been forced from them under authority of law.

RECENT CASES

Mr. Speaker, the interests of union members who oppose the political views of union officials are not being protected under existing law. Because the members are obligated to pay union dues in order to retain their employment, they are powerless to forestall the diversion of their dues into partisan political channels. Only the avenue of costly litigation is open to them, but because of their limited means, it is beyond their reach in most instances.

Just a few months ago a group of McDonnell-Douglas Corp. employees in California achieved a notable legal victory. In 1967 they filed a lawsuit challenging the use of their compulsory "agency shop" fees for political purposes. Their complaint was dismissed by the trial court, but last year their appeal was upheld by the U.S. Court of Appeals for the Ninth Circuit. In a commonsense opinion reversing the trial court, the court of appeals held as follows:

> The diversion of the employees' money from use for the purposes for which it was exacted damages then doubly. Its utilization to support candidates and causes the plaintiffs oppose renders them captive to the ideas, associations and causes espoused by others. At the same time it depletes their own funds and resources to the extent of the expropriation and renders them unable by these amounts to express their own convictions, their own ideas, and support their own causes. (*Seay* v. *McDonnell Douglas* 427 F.2. 996, CA 9 [1970])

If additional proof is needed to confirm labor unions' involvement in partisan politics, listen to this. In January 1968 the national AFL–CIO's official organ, in an article dealing with the federation's annual convention during the preceding month, reported, and I quote:

> The Convention called for top priority for political action . . . All unions are urged to assign as many full-time staff members as possible for full-time political education work as early as possible in 1968.

Here is another example. This past June, national director Al Barkan of the AFL–CIO's Committee on Political Education was a principal speaker during the annual convention of the Hotel and Restaurant Employees and Bartenders Union in Chicago. Both he and a Member of the House of Representatives talked principally about the 1972 presidential election, according to reporter Thomas Power of the Chicago Tribune.

Mr. Barkman cautioned his audience not to become confused about its priorities of 1972. According to the Tribune's account, he shouted to the delegates:

> Don't tell me about your contract negotiations next year. The important thing you have to do next year is to organize your members and win the election.

Mr. Speaker, thousands and thousands of hours of union staff time are required to carry out the various activities I have just described—staff time that is paid for with the dues collected from union members. By defeating the Crane amendment, we have said to the victims of compulsory unionism:

We will not lift a finger to restore either your freedom of association or your political freedom. You will be required to continue paying union dues against your will in order to earn your livelihood, and we do not object to the use of your tribute to elect candidates you will not voluntarily support.

Mr. Speaker, I, for one, am appalled that we would transmit such a message to our country's union members.

PARLIAMENTARY BACKGROUND

In the House Administration Committee, of which I am privileged to be a member, my bill—H.R. 1259—was accepted in a modified form as section 8 of the bill under consideration, H.R. 11060. My bill thus became title 8 of the bill which we are presently discussing.

When the Frenzel-Brown measure was considered as a substitute for the original House administration text, I realized that my section 8, the so-called "Crane amendment" would have to be added as a new section to this measure.

As you know, Mr. Speaker, I attempted to obtain recognition to introduce my amendment, but the Chairman of the Committee of the Whole House instead recognized the gentleman from Idaho (Mr. HANSEN).

There followed a succession of speakers on the new Hansen amendment which included Republicans and Democrats, Liberals, and Conservatives. Regrettably, the Hansen amendment passed by a vote of 233 to 147, which precluded consideration of the Crane amendment.

I say "regrettably" Mr. Speaker, because the Hansen amendment in no way gets to the problem which we face in this area. In fact, it puts the imprimatur of this body on a situation which has existed for a number of years and which is clearly outside the law. Here I am referring specifically to the use of mandatory union dues for political purposes.

THE HANSEN AMENDMENT

Let me explain what the Hansen amendment does.

The Hansen amendment will, in my judgment, allow labor unions and corporations to make expenditures for political activities which under a strict reading of the language of title 18 United States Code, section 610 are now prohibited.

Expenditures by corporations in connection with Federal elections have been flatly prohibited since the original Corrupt Practices Act was adopted in 1925. This prohibition was extended to labor unions in 1947 for the purpose: first, of reducing the undue and disproportionate influence of unions on Federal elections; second, preserving the integrity of such elections for the use of aggregated wealth by union as well as corporate entities; and third, to protect union members holding political views contrary to those supported by the union from use of their membership dues to promote acceptance of those opposing views.

The amendment by the gentleman from Idaho (Mr. HANSEN) will create a large and very significant loophole which will legalize broad scale union political action—which is now prohibited—and undermine whatever protection the law now seeks to give rank and file union members against political use of their dues money.

The Hansen amendment will redefine the phrase "contribution or expenditure" as used in section 610 as not including expenditures for voter registration and get-out-the-vote campaigns aimed at either a corporation's stockholders and their families or a union's members and their families. Its net effect will be to put the stamp of approval on partisan political action by unions with money obtained through compelled union membership dues and fees which rank and file union members are required to pay under compulsory union shop contracts.

Although the amendment purports to allow corporate expenditures on the same basis as union expenditures it will not work this way. Corporate expenditures for voter registration or get-out-the-vote activities will run head on into the existing laws of practically all States which prohibit corporate expenditures for any political purpose. In addition corporate expenditures for political purposes are considered ultra vires under prevailing case law, and could also be disallowed as not meeting the test of ordinary and necessary business expenses under section 162 of the Internal Revenue Code.

The Hansen amendment on the other hand will validate union voter registration functions which are conducted on a highly partisan basis.

NONPARTISAN?

There is an abundance of evidence proving that union-sponsored get-out-the-vote campaigns are not nonpartisan. George Meany himself has acknowledged:

> When you spend your money to get people registered, and then spend a lesser proportion to get them out to vote, you know you got a vote in the ballot box. Of course, we are a little bit choosy when we choose districts in which we want to better these votes in the ballot box, so that when they go in we have a pretty good idea how they are going to vote.

Furthermore, AFL–CIO Secretary-Treasurer Lane Kirkland, while addressing the Amalgamated Transit Union convention in Las Vegas, Nev., on September 28, 1971, exploded the myth that union political activities are merely "aimed at union members and their families." While vigorously attacking President Nixon, he said:

> Over the next 13 months labor and its political arm—COPE—has a great deal of work to do. We have to carry our message to every American eligible to vote, and we have to make sure that they understand what America's choices really are. And we have to make sure that every voter we can reach is registered, and that they go to the polls.

Clearly, the leaders of organized labor are attempting to influence union members and all other voters in the Nation. And they are using union dues money provided mostly on a compulsory basis from members.

In this regard, I have received a copy of a letter to the editor of the Washington Post—which has not yet been published—and which clearly sets out organized labor's role in the 1968 elections. I include the letter at this point:

LETTER TO THE EDITOR

DEAR SIR: Mr. Califano's plea for public subsidy of campaigns (November 16, 1971) on the basis that some elected officials are too indebted to an elite group of wealthy individuals obfuscates the real problem of campaign reform. The less than $3 million which he cites as having been spent by these individuals on the Republican candidate in the 1968 Presidential election is a pittance when compared with the more than $50 million spent by the various unions on the Democrat candidates in the same elections. Beyond the quantitative differences, however, the real difference is that the money given by wealthy individuals to either party is given on a free will basis, while contributions extracted from union members are seldom obtained in that manner.

An example is the recent disclosure of the nefarious activities of the Marine Engineers Beneficial Association, AFL–CIO, pension fund. Here union officials virtually extort $10 a month from retired members and widows of former members of the union which are put into a political kitty for distribution to a few favored individuals. It is clear to me, and I think to the vast majority of Americans, that while neither they nor I are completely pleased with large donations from wealthy individuals, nonetheless this does much less violence to the conscience and free will of the individual citizen than does an automatic $10 rake-off from a $300 a month pensioner.

A second area of campaign reform which Mr. Califano conveniently ignored is the manner in which the Democratic party particularly is in the process of obtaining taxpayer funding for a good portion of its 1968 campaign debts. The maneuver is quite simple: Charge as much as possible during the campaign period for such items as air fares, telephone, printing, etc., thus overextending yourself far beyond your anticipated income and, then, when the campaign is over, you are unable to pay the bills. This happened to the Democrats in 1968 to the tune of a reported $9 million. Indications are that the Democrats have no intention of paying this money. Therefore it will be written off as a bad debt by those corporations to whom it is owed, their net profit will decrease accordingly, and the government's tax (usually 48% of the net profit for these corporations) will also decrease proportionately. Thus, the $9 million debt of the Democrat National Committee and its allied groups will end up costing the taxpayer more than $4 million lost in revenue to the Treasury.

In summary, Mr. Califano and his friends in the Congress seem unwilling or unable to distinguish between voluntary contributions (of any magnitude) and those which are compulsorally obtained. Beyond this, they also have a very strong proclivity toward spending beyond their means and then saddling the taxpayer with their debts. The latter trait, I might parenthetically add, is certainly not limited to their campaign activities but is very much in evidence daily in the Congress.

Cordially,

EDWIN J. FEULNER, Jr.

The Wall Street Journal, in an article by Jerry Landauer on November 15, 1971, describes in more detail the corruption and coercion involved in the Marine Engineers Benefit Association's pension fund. The MEBA is a constituent unit of the AFL–CIO. They finance their political activities by compulsory assessments of $10 a month from retired members and widows of members and, according to Mr. Landauer's article, virtually extort this money from these members before providing them with the remainder of their pensions.

I inserted the full text of Mr. Landauer's article in the CONGRESSIONAL RECORD on November 17, 1971. It appears on page 41903.

UNION ACTIONS

Mr. Speaker, The unique and privileged role of labor organizations in our election processes was recently underscored by delegates to the 1971 convention of the Nation's largest and wealthiest union.

Delegates to the Teamsters Union convention adopted what is generally regarded as an ominous amendment to their constitution. It authorizes the union's general president to "make expenditures from the general fund in amounts to be determined by him in his sole discretion for lobbying and other political purposes, including contributions to candidates for State, provincial or local office."

Without question, this amendment to the Teamsters constitution will encourage the continued wholesale flouting of restraints imposed by the Congress on union political activities in 1947 when it amended section 610, title 18, U.S.C.

It is common knowledge that dues payments collected from involuntary members, as well as from voluntary members, are deposited in a union's general fund. Obviously, President Fitzsimmons will not be under any internal restraints when he contemplates contributions to certain political candidates from the union's general fund.

Admittedly, the union's amended constitution does not authorize the use of money from the general fund in connection with Federal elections. Let us not be deceived, however.

The widely respected and authoritative Congressional Quarterly has stated flatly that union officials conceal contributions to Federal candidates by "simply reporting transfer of gross sums to State committees. The State committees, in turn, transfer the money to individual candidates, but the names of the recipients never appear on the nationally filed reports."

This is only one example of methods now being used to circumvent the existing law.

Mr. Speaker, I submit that the convention delegates who handed Mr. Fitzsimmons this blank check are not typical of the Nation's union members. All available evidence indicates that dues-paying unionists take a dim view of the use of union resources in political campaigns. Partisan politicking is strongly resented by those wage earners who are compelled by collective bargaining agreements to pay for unwanted union representation.

Inclusion of my amendment in the legislation adopted Tuesday would have closed a gaping loophole in our present law. It would have put unions on the same footing in the political arena with corporations, banks and all other associations.

THIRTEENTH DISTRICT OPINION

Within the past few months, I conducted my annual constituent survey and one of the questions asked was "Do you favor the use of mandatory union dues for political purposes?"

Almost 40,000 questionnaires have been returned to my office and better than 93 percent of them, representing more than 36,000 of my constituents, indicated they oppose such use of involuntarily raised funds.

I submit that this not only represents the overwhelming majority in my district but that one would find similar views throughout the Nation. Further, I insist that it is hypocrisy to speak of meaningful campaign reform so long as any involuntarily raised funds are used for any political purposes. Mr. Speaker, we have failed in this most elemental regard, and therefore, the bill which is before us is a mockery of campaign reform. Worse still will be the disillusionment suffered by those who are gulled into believing significant reforms have been introduced when belatedly they discover the truth.

I, for one, will not be a party to this deceit. It was for this reason that I voted against the bill when it came before the House.

UNION OPPOSITION TO THE CRANE AMENDMENT

My amendment was inserted in H.R. 11060—the Hays bill—by the House Administration Committee because its members recognized that section 610, title 18, has failed in the purpose for which Congress had intended it—to inhibit the activities of labor unions in the political arena. Thus, my amendment would have done nothing beyond that which Congress set out to do in 1947 when the law was amended to cover political contributions by labor organizations.

Although my amendment was aimed at corporations and banks, in addition to labor organizations, it was denounced as antilabor by union spokesmen. I include excerpts from letters I have received from Mr. Biemiller, the legislative director of the AFL–CIO and from Mr. Fitzsimmons, president of the Teamsters Union:

One provision, the Crane amendment, is patently anti-labor. If broadly interpreted, this amendment would prohibit *all* union activity financed by treasury money, connected in *any* way with federal elections. This interpretation would include prohibitions against using union treasury funds to explain union positions to union members. In addition to prohibiting this educational activity, union funds could not be used for non-partisan "get out the vote" activities aimed at union members and their families.

If narrowly interpreted, the Crane amendment would continue present permission for educational and registration activities, but would prohibit any "get out the vote" activities.

The Crane amendment clearly is aimed at depriving union members of the informed views of their leaders on political matters—views that the members have every right to consider. Further, the amendment's attempt to deny unions the right to get their members to the polls is contrary to the basic precept that exercise of the franchise is a civic duty.

If the Crane amendment is offered to the substitute (H.R. 11280), the AFL–CIO urges you to vote against its adoption. If the substitute bill fails and the House is amending the Hays bill (H.R. 11060), the AFL–CIO urges you to support the effort to strike this unfair provision.

Sincerely,

ANDREW J. BIEMILLER, *Director*.

We call your special attention to the "Crane" Amendment introduced by Congressman Philip Crane (R.-Ill.) which is directed toward labor unions. This amendment, if made the law would seriously impair efforts to extend the exercise of the right to vote to thousands, if not millions of Americans who would otherwise fail, through ignorance, fear or apathy, to express their political opinion. We, you and our institution, cannot allow those few who fear the will of the American people to narrow the possibility of the exercise of the right to vote.

We cannot express too strongly that the "Crane" Amendment must be defeated in order that the American political base will not be narrowed.

Sincerely,

FRANK E. FITZSIMMONS,
General President.

CRANE REPLY

Mr. Speaker, in reply to the Biemiller letter, I sent my own detailed letter to all of my colleagues, and I include the full text of it in the RECORD at this point:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C. November 29, 1971.

DEAR COLLEAGUE: Section 8 of H.R. 11060, the Election Reform Bill, contains a provision which would strengthen that portion of existing law (Section 610, Title 18, USC) which prohibits contributions and expenditures by banks, corporations and labor unions in connection with Federal elections.

In 1947 the Congress amended Section 610 to cover political contributions and expenditures by labor unions. Its purposes were summarized as follows in 1948 by the U.S. Supreme Court in *U.S. v. CIO*, 335 US 106:

". . . (1) to reduce what has become regarded in the light of recent experience as the undue and disproportionate influence of labor unions upon federal elections; (2) to preserve the purity of such elections . . . against the use of aggregated wealth by union as well as corporate entities; and (3) to protect union members holding political views contrary to those supported by the union from use of funds contributed by them to promote acceptance of those opposing views. . ."

Section 8, which does nothing beyond that which Congress set out to do in 1947, was inserted in H.R. 11060 at my request by the House Administration Committee because its members recognize that the 1947 amendment to Section 610 has failed in the purpose for which Congress had intended it—to inhibit the activities of labor unions in the political arena.

Although Section 8 is aimed at corporations and banks, in addition to labor organizations, it is now being denounced as "anti-labor" by union spokesmen.

Whereas these spokesmen formerly insisted that union political activities are funded exclusively by voluntary contributions from members, union officials now complain that Section 8 of H.R. 11060 "would prohibit *all* union activity financed by treasury money, connected in any way with federal elections." *Their complaint represents an admission of non-compliance with Section 610.*

Another complaint by union spokesmen, namely, that "union funds could not be used for non-partisan, 'get-out-the-vote' activities aimed at union members and their families," is altogether misleading.

In the first place, Section 8 includes this notable safeguard:

"Nothing in this section shall preclude an organization from establishing and administering a separate contributory fund for any political purpose, including voter registration or get-out-the-vote drives, if all contributions, gifts or payments to such fund are made freely and voluntarily, and are unrelated to dues, fees or other moneys required as a condition of membership in such organization or as a condition of employment."

Secondly, there is an abundance of evidence proving that union sponsored "get-out-the-vote" campaigns are not non-partisan. George Meany himself has acknowledged:

". . . when you spend your money to get people registered, and then spend a lesser proportion to get them out to vote, you know you got a vote in the ballot box. Of course, we are a little bit choosy when we choose districts in which we want to better these votes in the ballot box, so that when they go in we have a pretty good idea how they are going to vote."

Further, AFL–CIO Secretary-Treasurer Lane Kirkland, while addressing the Amalgamated Transit Union convention in Las Vegas, Nevada, on September 28, 1971, exploded the myth that union political activities are merely "aimed at union members and their families." While vigorously attacking President Nixon, he said:

"Over the next 13 months *labor and its political arm*—COPE—has a great deal of work to do. We have to carry our message to *every American eligible to vote*, and we have to make sure that they understand what America's choices really are. And we have to make sure that *every voter we can reach* is registered, and that they go to the polls." (Emphasis added)

Clearly, the leaders of organized labor are attempting to influence union members *and* all other voters in the nation. And they are using union dues money provided mostly on a *compulsory* basis from members.

The interests of union members who oppose the political views of union officials are *not* being protected under existing law. Because the members are obligated to pay union dues in order to retain their employment, they are powerless to forestall the diversion of their dues into partisan political channels.

Only the avenue of costly litigation is open to them (the only such cases on record required more than ten years in court), and because of their limited means it is beyond their reach.

I solicit your support for the Crane Amendment.

PHILIP M. CRANE.

SMALL BUSINESS SUPPORT FOR CRANE AMENDMENT

It is clear that the bill which passed the House will work to the advantage of the big unions and the big corporations, but what of the backbone of America, the small, independent businessman?

These individuals wield no big stick in Washington, but they do know what has happened in the past under the Corrupt Practices Act and, therefore, they overwhelmingly support my position.

I include a letter which I have received from the legislative director of the National Federation of Independent Business at this point:

NATIONAL FEDERATION OF
INDEPENDENT BUSINESS,
Washington, D.C., November 26, 1971.

HON. PHILIP M. CRANE,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. CRANE: On Monday, November 29th, the House will begin consideration of the Election Reform Bill (H.R. 11060). Attached to this legislation is the Crane Amendment—a proviso to strengthen the existing law prohibiting contributions and expenditures by corporations, business organizations and labor unions during Federal elections.

On a recent Mandate Ballot, the 294,000 member firms of the National Federation of Independent Business voted 91% in favor of this position.

The reason for this overwhelming endorsement is clear. Small independent businessmen view recent trends in political financing as alarming and dangerous. The spectacle of big business and labor using their almost unlimited economic power and resources to vie for poltical favor has had a sobering effect. And our member firms strongly believe that the time has come for Congress to take action to eliminate these sources of potential political abuse.

The Federation, therefore, respectfully urges that you give every serious consideration to the merits of the proposed Crane Amendment.

Sincerely,

JAMES A. GAVIN,
Legislative Director.

CONCLUSION

In conclusion, Mr. Speaker, I would only say that the Nation is again going to receive legislation which will be hailed as a true reform, but which will not be such.

The small man will be the one to suffer, because the large union and the large corporation can participate in their own political activities.

I will not be a party to this charge, and commend my colleagues who endeavored to help me achieve meaningful campaign reform.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. HAYS) to close the debate.

Mr. HAYS. Mr. Chairman, I am in favor of this amendment. I do not want to belabor it. I will support the bill whether the amendment is in it or whether it is not. But I think it would be a good addition.

Perhaps the funniest statement I have heard today is that if this amendment passes Mr. FRENZEL said it would take away from the aged and infirm their right to participate. If you know any aged or infirm person who wants to contribute $5,000 to a crackerjack candidate for Congress, I will be glad to send him my card.

Mr. Chairman, there has been a great deal written in the local press about this issue. There has not been much in the press back home about election reform. I have not been able to impress them with its importance. I believe that if I had sponsored the Senate bill, the editorial writers for the Post—I am not talking about the reporters—would have said it was a bad bill. They start out with the premise that I would not be for anything good, and anything I might propose, in their eyes, is bad. Now that we have the Senate bill with some amendments, I would very much like to confound them, but I know I will not. I know they will find some way to weasel out of it. I would like to confound them by being for the Senate bill with the amendments that have been adopted. We could make a partisan effort to defeat the substitute and go back through all this process with the committee bill. I feel this is not a perfect bill. It does not do everything we desire or would like to see done. But I think it is a start in the right direction and I am going to support the substitute whether you call the substitute the Frenzel-Brown substitute, the Harvey-Brown substitute, the Harvey-Hays substitute, or whatever you call it. I have no pride in authorship. I am not trying particularly to get my name on the bill. I suspect the bill ultimately will be called the elections reporting bill of 1971.

So I intend to support the bill. I do support this amendment. I hope it passes. If it does not, then the vote will come on the substitute and I will vote yes, and if the substitute prevails, the committee can then rise, and the House can vote on the substitute.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. BINGHAM) to the amendment in the nature of a substitute offered by the gentleman from Michigan (Mr. HARVEY).

The question was taken; and on a division (demanded by Mr. BINGHAM) there were—ayes 38, noes 122.

So the amendment to the amendment in the nature of a substitute was rejected.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Michigan (Mr. HARVEY) as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. BOLLING, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 11060) to limit campaign expenditures by or on behalf of candidates for Federal elective office; to provide for more stringent reporting requirements; and for other purposes, pursuant to House Resolution 694, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the amendment in the nature of a substitute adopted by the Committee of the Whole?

Mr. SPRINGER. Mr. Speaker, I demand a separate vote on the so-called Macdonald of Massachusetts amendment to the Harvey amendment in the nature of a substitute.

The SPEAKER. The question is on the amendment on which a separate vote has been demanded.

Mr. SPRINGER. Mr. Speaker, on that I demand tellers.

Tellers were refused.

PARLIAMENTARY INQUIRY

Mr. SPRINGER. Mr. Speaker, a parliamentary inquiry. May I ask at this time for a division?

The SPEAKER. The gentleman from Illinois requests that this vote be taken by division.

The question was taken; and on a division (demanded by Mr. SPRINGER) there were—ayes 257, noes 1.

So the amendment was agreed to.

The SPEAKER. The question is on the amendment adopted by the Committee of the Whole.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

Mr. GERALD R. FORD. Mr. Speaker on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 373, nays 23, not voting 35, as follows:

[Roll No. 418]

YEAS—373

Abbitt
Abourezk
Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Anderson, Tenn.
Andrews, N. Dak.
Annunzio
Archer
Aspin
Aspinall
Badillo
Baker
Barrett
Begich
Bennett
Bergland
Betts
Bevill
Biaggi
Biester
Bingham
Blanton
Boggs
Boland
Bolling
Bow
Brademas
Brasco
Bray
Brinkley
Brooks
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Buchanan
Burke, Fla.
Burke, Mass.

Burleson, Tex.
Burlison, Mo.
Byrnes, Wis.
Byron
Cabell
Caffery
Camp
Carey, N.Y.
Carney
Carter
Casey, Tex.
Cederberg
Celler
Chamberlain
Chappell
Chisholm
Clancy
Clark
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Collier
Collins, Ill.
Colmer
Conable
Conte
Conyers
Corman
Cotter
Coughlin
Culver
Daniel, Va.
Daniels, N.J.
Danielson
Davis, Ga.
Davis, Wis.
de la Garza
Delaney
Dellenback
Dellums
Denholm
Dennis
Dent
Devine

Dingell
Donohue
Dorn
Dow
Downing
Drinan
Dulski
Duncan
du Pont
Dwyer
Eckhardt
Edmondson
Edwards, Ala.
Edwards, Calif.
Erlenborn
Esch
Eshleman
Evans, Colo.
Fascell
Findley
Fish
Fisher
Flood
Flowers
Foley
Ford, Gerald R
Ford, William D.
Forsythe
Fountain
Fraser
Frelinghuysen
Frenzel
Frey
Fulton, Tenn.
Fuqua
Galifianakis
Gallagher
Gaydos
Gettys
Giaimo
Gibbons
Gonzalez
Goodling
Grasso
Gray

Green, Oreg.
Green, Pa.
Griffin
Griffiths
Grover
Gude
Hagan
Hamilton
Hammerschmidt
Hanley
Hansen, Idaho
Hansen, Wash.
Harrington
Harsha
Harvey
Hastings
Hathaway
Hawkins
Hays
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks, Mass.
Hicks, Wash.
Hillis
Holifield
Hosmer
Howard
Hull
Hungate
Hunt
Hutchinson
Ichord
Jacobs
Jarman
Johnson, Calif.
Johnson, Pa.
Jonas
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Karth
Kastenmeier
Kazen
Keating
Kee
Keith
Kemp
King
Kluczynski
Koch
Kuykendall
Kyros
Latta
Leggett
Lennon
Lent
Link
Lloyd
Long, La.
Long, Md.
Lujan
McCloskey
McClure
McCollister
McCormack
McCulloch
McDade
McDonald, Mich.
McEwen
McFall
McKay
McKevitt
McKinney
Macdonald, Mass.
Madden
Mahon
Mailliard
Mann
Martin
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Metcalfe
Michel
Mikva
Miller, Calif.
Miller, Ohio
Mills, Ark.
Mills, Md.
Minish
Mink
Minshall
Mitchell
Mizell
Mollohan
Monagan
Moorhead
Morgan
Morse
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nedzi
Nelsen
Nichols
Nix
Obey
O'Hara
O'Konski
O'Neill
Patman
Patten
Pelly
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Pirnie
Poage
Podell
Poff
Powell
Preyer, N.C.
Price, Tex.
Pryor, Ark.
Purcell
Quie
Quillen
Randall
Rangel
Rees
Reid, N.Y.
Reuss
Riegle
Roberts
Robinson, Va.
Robison, N.Y.
Roe
Rogers
Roncalio
Rooney, N.Y.
Rooney, Pa.
Rosenthal
Rostenkowski
Roush
Rousselot
Roy
Runnels
Ruppe
Ruth
Ryan
St Germain
Sandman
Sarbanes
Satterfield
Saylor
Scheuer
Schneebeli
Schwengel
Scott
Sebelius
Seiberling
Shipley
Shoup
Shriver
Skubitz
Slack
Smith, Calif.
Smith, Iowa
Smith, N.Y.
Snyder
Springer
Staggers
Stanton, J. William
Stanton, James V.
Steed
Steele
Steiger, Ariz.
Steiger, Wis.
Stephens
Stokes
Stratton
Stubblefield
Stuckey
Sullivan
Symington
Talcott
Taylor
Teague, Calif.
Teague, Tex.
Terry
Thompson, Ga.
Thompson, N.J.
Thomson, Wis.
Thone
Tiernan
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Veysey
Vigorito
Waldie
Wampler
Ware
Whalen
Whalley
White
Whitehurst
Widnall
Wiggins
Williams
Wilson, Bob
Winn
Wolff
Wyatt
Wydler
Wylie
Wyman
Yates
Yatron
Young, Fla.
Young, Tex.
Zablocki
Zion
Zwach

NAYS—23

Abernethy
Ashbrook
Baring
Blackburn
Collins, Tex.
Crane
Dickinson
Flynt
Goldwater
Gross
Haley
Hall
Kyl
Landgrebe
McMillan
Montgomery
Passman
Rarick
Scherle
Schmitz
Spence
Waggonner
Whitten

NOT VOTING—35

Andrews, Ala.
Arends
Ashley
Belcher
Bell
Blatnik
Broyhill, Va.
Burton
Byrne, Pa.
Davis, S.C.
Derwinski
Diggs
Dowdy
Edwards, La.
Eilberg
Evins, Tenn.
Garmatz
Gubser
Halpern
Hanna
Hébert
Hogan
Horton
Landrum
McClory
Price, Ill.
Pucinski
Railsback
Rhodes
Rodino
Roybal
Sikes
Sisk
Wilson, Charles H.
Wright

So the bill was passed.

The Clerk announced the following pairs:

On this vote:

Mr. Burton for, with Mr. Hébert against.

Until further notice:

Mr. Garmatz with Mr. Broyhill of Virginia.
Mr. Price of Illinois with Mr. Arends.
Mr. Evins of Tennessee with Mr. Belcher.
Mr. Blatnik with Mr. Halpern.
Mr. Ashley with Mr. Derwinski.
Mr. Sikes with Mr. Bell.
Mr. Sisk with Mr. Hogan.
Mr. Charles H. Wilson with Mr. Gubser.
Mr. Davis of South Carolina with Mr. McClory.
Mr. Byrne of Pennsylvania with Mr. Railsback.
Mr. Rodino with Mr. Horton.
Mr. Eilberg with Mr. Diggs.
Mr. Wright with Mr. Dowdy.
Mr. Andrews of Alabama with Mr. Rhodes.
Mr. Hanna with Mr. Landrum.
Mr. Pucinski with Mr. Roybal.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to promote fair practices in the conduct of election campaigns for Federal political offices, and for other purposes."

Mr. HAYS. Mr. Speaker, pursuant to House Resolution 694, I call up from the Speaker's table for immediate consideration the bill (S. 382) to promote fair practices in the conduct of election campaigns for Federal political offices, and for other purposes.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. HAYS

Mr. HAYS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. HAYS moves to strike out all after the enacting clause of S. 382 and insert in lieu thereof the provisions of H.R. 11060, as passed, as follows:

That this Act may be cited as the "Federal Election Campaign Act of 1971".

TITLE I—CAMPAIGN COMMUNICATIONS

SHORT TITLE

SECTION 101. This title may be cited as the "Campaign Communications Reform Act".

DEFINITIONS

SEC. 102. For purposes of this title:

(1) The term "communications media" means broadcasting stations, newspapers, magazines, and outdoor advertising facilities.

(2) The term "broadcasting station" has the same meaning as such term has under section 315(d) of the Communications Act of 1934.

(3) The term "Federal elective office" means the office of President of the United States, or of Senator or Representative in, or Resident Commissioner or Delegate to, the Congress of the United States (and for purposes of section 103(b) such term includes the office of Vice President).

(4) The term "legally qualified candidate" with respect to Federal elective office, or nomination for election to such office, has the same meaning as such term has when used in section 315 of the Communications Act of 1934.

(5) The term "voting age population" means resident civilian population, eighteen years of age and older.

(6) The term "State" includes the District of Columbia and the Commonwealth of Puerto Rico.

MEDIA RATE REQUIREMENTS

SEC. 103. (a) Section 315(b) of such Act is amended to read as follows:

"(b) The charges made for the use of any broadcasting station by any person who is a legally qualified candidate for any public office shall not exceed the actual charges made by such station for any comparable use of such station for other purposes."

(b) (1) To the extent that any person sells space in any newspaper or magazine to a legally qualified candidate for Federal elective office, or nomination thereto, in connection with such candidate's campaign for nomination for, or election to, such office, the charges made for the use of such space in connection with his campaign shall not exceed the charges made for comparable use of space for other purposes.

(2) If any person makes available space in any newspaper or magazine to any legally qualified candidate for Federal elective office, or nomination thereto, in connection with such candidate's campaign for nomination for, or election to, such office, such person shall make equivalent space available on the same basis to all legally qualified candidates for the same office, or for nomination to such office, as the case may be.

LIMITATIONS OF EXPENDITURES FOR USE OF COMMUNICATIONS MEDIA

SEC. 104. (a) (1) No legally qualified candidate in an election (other than a primary or primary runoff election) for a Federal elective office may—

(A) spend for the use of communications media on behalf of his candidacy in such election a total amount in excess of the greater of—

(i) 10 cents (or such greater amount as may be certified under paragraph (4) (A) (i)) multiplied by the voting age population (as certified under paragraph (4) (B)) of the geographical area in which the election for such office is held, or

(ii) $50,000 (or such greater amount as may be certified under paragraph (4) (B) (ii)), or

(B) spend for the use of broadcast stations on behalf of his candidacy in such election a total amount in excess of 60 per centum of the amount determined under subparagraph (A) with respect to such election.

(2) No legally qualified candidate in a primary election for nomination to a Federal elective office, other than President, may spend—

(A) for the use of communications media, or

(B) for the use of broadcast stations,

on behalf of his candidacy in such election a total amount in excess of the amounts determined under paragraph (1) (A) or (B), respectively, with respect to the general election for such office. For purposes of this subsection a primary runoff election shall be treated as a separate primary election.

(3) (A) No person who is a candidate for presidential nomination may spend—

(i) for the use in a State of communications media, or

(ii) for the use in a State of broadcast stations,

on behalf of his candidacy for presidential nomination a total amount in excess of the amounts which would have been determined under paragraph (1) (A) or (B), respectively, had he been a candidate for an election for the office of Senator from such State (or for the office of Delegate or Resident Commissioner in the case of the District of Columbia or the Commonwealth of Puerto Rico).

(B) For purposes of this paragraph, a person is a candidate for presidential nomination if he makes (or any other person makes on his behalf) an expenditure for the use of any communications medium on behalf of his candidacy for any political party's nomination in an election to the office of President. He shall be considered to be such a candidate during the period—

(i) beginning on the date on which he (or such other person) first makes such an expenditure (or, if later, January 1 of the year in which the election for the office of President is held), and

(ii) ending on the date on which such political party nominates a candidate for the office of President.

For purposes of this title and of section 315 of the Communication Act of 1934, a candidate for presidential nomination shall be considered a legally qualified candidate for public office.

(C) The Attorney General shall prescribe regulations under which any expenditure by a candidate for presidential nomination for the use in two or more States of communications media shall be attributed to such candidate's expenditure limitation in each such State, based on the number of persons in such State who can reasonably be expected to be reached by such communications media.

(4) (A) During the first week of January 1974, and during such week in every second subsequent year, the Secretary of Commerce shall certify to the Attorney General and publish in the Federal Register—

(i) an amount which bears the same ratio to 10 cents, and

(ii) an amount which bears the same ratio to $50,000,

as the value of the communications price index for the last calendar year ending before the date of certification bears to the value of such index for 1972. The communications price index shall be a price index, using 1972 as a base year, measuring changes in the charges to candidates for the use of communications media. Such index shall be established and maintained by the Secretary of Commerce.

(B) During the first week of January 1972 and during such week in every second subsequent year, the Secretary of Commerce shall certify to the Attorney General and publish in the Federal Register an estimate of the voting age population of each State and congressional district for the last calendar year ending before the date of certification.

(5) Amounts spent for the use of communications media on behalf of any legally qualified candidate for Federal elective office (or for nomination to such office) shall, for the purposes of this subsection, be deemed to have been spent by such candidate. Amounts spent for the use of communications media by or on behalf of any legally qualified candidate for the office of Vice President of the United States shall, for the purposes of this section, be deemed to have been spent by the candidate for the office of President of the United States with whom he is running.

(6) For purposes of this section and section 315(c) of the Communications Act of 1934, spending and charges for the use of communications media include not only the direct charges of the media but also agents' commissions allowed the agent by the media.

(7) For purposes of this section and section 315(c) of the Communications Act of 1934, any expenditure for the use of any communications medium by or on behalf of the candidacy of a candidate for Federal elective office (or nomination thereto) shall be charged against the expenditure limitation under this subsection applicable to the election in which such medium is used.

(b) No person may make any charge for the use by or on behalf of any legally qualified candidate for Federal elective office (or for nomination to such office) of any newspaper, magazine, or outdoor advertising facility unless such candidate (or a person specifically authorized by such candidate in writing to do so) certifies to such person in writing that the payment of such charge will not violate paragraph (1), (2), or (3) of subsection (a), whichever is applicable.

(c) Section 315 of the Communications Act of 1934 is amended by redesignating subsection (c) as subsection (e) and by inserting after subsection (b) the following new subsections:

"(c) No station licensee may make any charge for the use of such station by or on behalf of any legally qualified candidate for Federal elective office (or for nomination to such office) unless such candidate (or a person specifically authorized by such candidate in writing to do so) certifies to such licensee in writing that the payment of such charge will not violate any limitation specified in paragraph (1), (2), or (3) of section 104(a) of the Campaign Communications Reform Act, whichever paragraph is applicable.

"(d) For the purposes of this section:

"(1) The term 'broadcasting station' includes a community antenna television system.

"(2) The terms 'license' and 'station licensee' when used with respect to a community antenna television system, mean the operator of such system.

"(3) The term 'Federal elective office' means the office of President of the United States, or of Senator or Representative in, or Resident Commissioner or Delegate to, the Congress of the United States."

REGULATIONS

SEC. 105. The Attorney General shall prescribe such regulations as may be necessary or appropriate to carry out sections 102, 103 (b), 104(a), and 104(b) of this Act.

PENALTIES

SEC. 106. (a) Whoever violates any provision of section 103(b), 104(a), or 104(b) or any regulation under section 105 shall be assessed a civil penalty of not more than $1,000 for each violation.

(b) Any legally qualified candidate who willfully violates section 104(a) or any regulation under section 105 shall be punished by a fine of not more than $10,000 or by imprisonment of not more than one year, or both.

EFFECTIVE DATE

SEC. 107. Section 103 of this Act and the amendments made thereby shall take effect on January 1, 1972. Section 104 and the amendments made thereby shall apply only to expenditures for the use on or after such date of communications media.

TITLE II

SEC. 201. No candidate for Federal elective office may expend, in a primary, primary runoff, or general election, an amount in excess of the limitations imposed by section 104 of title I (for the use of communications media) for the following purposes: (a) telephone campaigns, including the cost of telephones, paid telephonists and automated equipment, when telephones are used in banks of five or more instruments to communicate with potential voters, (b) postage for computerized or identical mailings in quantities of 200 or more. Amounts expended for the use of communications media as provided in section 104 of title I will be charged against the limitations imposed by this section.

TITLE III—CRIMINAL CODE AMENDMENTS

SEC. 301. Section 591 of title 18, United States Code, is amended to read as follows:

"§ 591. Definitions

"When used in sections 597, 599, 600, 602, 610, 611, and 614 of this title—

"(a) 'election' means (1) a general, special, primary, or runoff election, (2) a convention or caucus of a political party held to nominate a candidate, (3) a primary election held for the selection of delegates to a national nominating convention of a political party, (4) a primary election held for the expression of a preference for the nomination of persons for election to the office of President, and (5) the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States;

"(b) 'candidate' means an individual who seeks nomination for election, or election, to Federal office, whether or not such individual is elected, and, for purposes of this paragraph, an individual shall be deemed to seek nomination for election, or election, to Federal office, if he has (1) taken the action necessary under the law of a State to qualify himself for nomination for election, or election, or (2) received contributions or made expenditures, or has given his consent for any other person to receive contributions or make expenditures, with a view to bringing about his nomination for election, or election, to such office;

"(c) 'Federal office' means the office of President or Vice President of the United States, or Senator or Representative in, or Delegate or Resident Commissioner to, the Congress of the United States;

"(d) 'political committee' means any individual committee, association, or organization which accepts contributions or make expenditures during a calendar year in an aggregate amount exceeding $1,000;

"(e) 'contribution' means—

"(1) a gift, subscription, loan, advance, or deposit of money or anything of value (except a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business), made for the purpose of influencing the nomination for election, or election, of any person to Federal office, for the purpose of influencing the results of a primary held for the selection of delegates to a national nominating convention of a political party or for the expression of a preference for the nomination of persons for election to the office of President, or for the purpose of influencing the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States;

"(2) a contract, promise, or agreement, express or implied, whether or not legally enforceable, to make a contribution for such purposes;

"(3) a transfer of funds between political committees;

"(4) the payment, by any person other than a candidate or political committee, of compensation for the personal services of another person which are rendered to such candidate or political committee without charge for any such purpose; and

"(5) notwithstanding the foregoing meanings of 'contribution', the word shall not be construed to include services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate or political committee;

"(f) 'expenditure' means—

"(1) a purchase, payment, distribution, loan advance, deposit, or gift of money or anything of value (except a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business), made for the purpose of influencing the nomination for election, or election, of any person to Federal office, for the purpose of influencing the result of a primary held for the selection of delegates to a national nominating convention of a political party or for the expression of a preference for the nomination of persons for election to the office of President, or for the purpose of influencing the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States;

"(2) a contract, promise, or agreement, express or implied, whether or not legally enforceable, to make any expenditure; and

"(3) a transfer of funds between political committees;

"(g) 'person' and 'whoever' mean an individual, partnership, committee, association, corporation, or any other organization or groups of persons; and

"(h) 'State' means each State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States."

Sec. 302. Section 600 of title 18, United States Code, is amended to read as follows:

"§ 600. Promise of employment or other benefit for political activity

"Whoever, directly or indirectly, promises any employment, position, compensation, contract, appointment, or other benefit, provided for or made possible in whole or in part by any Act of Congress, or any special consideration in obtaining any such benefit, to any person as consideration, favor, or reward for any political activity or for the support of or opposition to any candidate or any political party in connection with any general or special election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office, shall be fined not more than $1,000 or imprisoned not more than one year, or both."

Sec. 103. Section 608 of title 18, United States Code, is amended to read as follows:

"§ 608. Limitations on contributions and expenditures

"(a) (1) No candidate may make expenditures from his personal funds, or the personal funds of his immediate family, in connection with his campaign for nomination for election, or election, to Federal office in excess of—

"(A) $50,000, in the case of a candidate for the office of President or Vice President;

"(B) $35,000, in the case of a candidate for the office of Senator; or

"(C) $25,000, in the case of a candidate for the office of Representative, or Delegate or Resident Commissioner to the Congress.

"(2) For purposes of this subsection, 'immediate family' means a candidate's spouse, and any child, parent, grandparent, brother, or sister of the candidate, and the spouses of such persons.

"(b) No candidate or political committee shall knowingly accept any contribution or authorize any expenditure in violation of the provisions of this section.

"(c) Violation of the provisions of this section is punishable by a fine not to exceed $1,000, imprisonment for not to exceed one year, or both.".

Sec. 304. Section 609 of title 18, United States Code, is repealed.

Sec. 305. Section 610 of title 18, United States Code, relating to contributions or expenditures by national banks, corporations, or labor organizations, is amended by adding at the end thereof the following paragraph:

"As used in this section, the phrase 'contribution or expenditure' shall include any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value to any candidate, campaign committee, or political party or organization, in connection with an election to any of the offices referred to in this section; but shall not include communications by a corporation to its stockholders and their families or by a labor organization to its members and their families on any subject; nonpartisan registration and get-out-the-vote campaigns by a corporation aimed at its stockholders and their families, or by a labor organization aimed at its members and their families; the establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation or labor organization: *Provided*, That it shall be unlawful for such a fund to make a contribution or expenditure by utilizing money or anything of value secured by physical force, job discrimination, financial reprisals, or the threat of force, job discrimination or financial reprisal; or by dues, fees or other moneys required as a condition of membership in a labor organization or as a condition of employment, or by moneys obtained in any commercial transaction."

Sec. 306. Section 611 of title 18, United States Code, is amended to read as follows:

"§ 611. Contributions by Government contractors

"Whoever—

"(a) entering into any contract with the United States or any department or agency thereof either for the rendition of personal services or furnishing any material, supplies, or equipment to the United States or any department or agency thereof or for selling any land or building to the United States or any department or agency thereof, if payment for the performance of such contract or payment for such material, supplies, equipment, land, or building is to be made in whole or in part from funds appropriated by the Congress, at any time between the commencement of negotiations for and the later of (1) the completion of performance under, or (2) the termination of negotiations for, such contract or furnishing of material, supplies, equipment, land or buildings, directly or indirectly makes any contribution of money or other thing of value, or promises expressly or impliedly to make any such contribution, to any political party, committee, or candidate for public office or to any person for any political purpose or use; or

"(b) knowingly solicits any such contribution from any such person for any such purpose during any such period;

shall be fined not more than $5,000 or imprisoned not more than five years, or both."

Sec. 307. The table of sections for chapter 29 of title 18, United States Code, is amended by—

(1) striking out the item relating to section 608 and inserting in lieu thereof the following:

"608. Limitations on contributions and expenditures.";

(2) striking out the item relating to section 609 and inserting in lieu thereof the following:

"609. Repealed.";

(3) striking out the item relating to section 611 and inserting in lieu thereof the following:

"611. Contributions by Government contractors.".

TITLE IV—DISCLOSURE OF FEDERAL CAMPAIGN FUNDS

DEFINITIONS

Sec. 401. When used in this title—

(a) "election" means (1) a general, special, primary, or runoff election, (2) a convention or caucus of a political party held to nominate a candidate, (3) a primary election held for the selection of delegates to a national nominating convention of a political party, (4) a primary election held for the expression of a preference for the nomination of persons for election to the office of President, and (5) the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States;

(b) "candidate" means an individual who seeks nomination for election, or election, to Federal office, whether or not such individual is elected, and, for purposes of this paragraph, an individual shall be deemed to seek nomination for election, or election, if he has (1) taken the action necessary under law of a State to qualify himself for nomination for election, or election, to Federal office, or (2) received contributions or made expenditures, or has given his consent for any other person to receive contributions or make expenditures, with a view to bringing about his nomination for election, or election, to such office;

(c) "Federal office" means the office of President or Vice President of the United States; or of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress of the United States;

(d) "political committee" means any committee, association, or organization which accepts contributions or makes expenditures during a calendar year in an aggregate amount exceeding $1,000;

(e) "contribution" means—

(1) a gift, subscription, loan, advance, or deposit of money or anything of value (except a loan of money by a National or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business), made for the purpose of influencing the nomination for election, or election, of any person to Federal office or as a presidential or vice-presidential elector, for the purpose of influencing the result of a primary held for the selection of delegates to a national nominating convention of a political party or for the expression of a preference for the nomination of persons for election to the office of President, or for the purpose of influencing the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States;

(2) a contract, promise, or agreement whether or not legally enforceable, to make a contribution for any such purpose;

(3) a transfer of funds between political committees;

(4) the payment, by any person other than a candidate or political committee, of compensation for the personal services of another person which are rendered to such candidate or committee without charge for any such purpose; and

(5) notwithstanding the foregoing meanings of "contribution", the word shall not be construed to include services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate or political committee;

(f) "expenditure" means—

(1) a purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value (except a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business), made for the purpose of influencing the nomination for election, or election, of any person to Federal office, or as a presidential and vice-presidential elector, or for the purpose of influencing the result of a primary held for the selection of delegates to a national nominating convention of a political party or for the expression of a preference for the nomination of persons for election to the office of President, or for the purpose of influencing the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States;

(2) a contract, promise, or agreement whether or not legally enforceable, to make an expenditure, and

(3) a transfer of funds between political committees;

(g) "supervisory officer" means the Secretary of the Senate with respect to candidates for Senator; and the Clerk of the House of Representatives with respect to candidates for Representative in, or Delegate or Resident Commissioner to, the Congress of the United States; and the Comptroller General of the United States in any other case;

(h) "person" means an individual, partnership, committee, association, corporation, labor organization, and any other organization or group of persons; and

(i) "State" means each State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

ORGANIZATION OF POLITICAL COMMITTEES

Sec. 402. (a) Every political committee shall have a chairman and a treasurer. No contribution and no expenditure shall be accepted or made by or on behalf of political committee at a time when there is a vacancy in the office of chairman or treasurer thereof. No expenditure shall be made for or on behalf of a political committee without the authorization of its chairman or treasurer, or their designated agents.

(b) Every person who receives a contribution in excess of $10 for a political committee shall, on demand of the treasurer, and in any event within five days after receipt of such contribution, render to the treasurer a detailed account thereof, including the amount, the name and address (occupation and the principal place of business, if any) of the person making such contribution, and the date on which received. All funds of a political committee shall be segregated from, and may not be commingled with, any personal funds of officers, members, or associates of such committee.

(c) It shall be the duty of the treasurer of a political committee to keep a detailed and exact account of—

(1) all contributions made to or for such committee:

(2) the full name and mailing address (occupation and the principal place of business, if any) of every person making a contribution in excess of $10, and the date and amount thereof;

(3) all expenditures made by or on behalf of such committee; and

(4) the full name and mailing address (occupation and the principal place of business, if any) of every person to whom any expenditure is made, the date and amount thereof and the name and address of, and office sought by, each candidate on whose behalf such expenditure was made.

(d) It shall be the duty of the treasurer to obtain and keep a receipted bill, stating the particulars, for every expenditure made by or on behalf of a political committee in excess of $100 in amount, and for any such expenditure in a lesser amount, if the aggregate amount of such expenditures to the same person during a calendar year exceeds $100. The treasurer shall preserve all receipted bills and accounts required to be kept by this section for periods of time to be determined by the supervisory officer.

(e) Any political committee which solicits or receives contributions or makes expenditures on behalf of any candidate that is not authorized in writing by such candidate to do so shall include a notice on the face or front page of all literature and advertisements published in connection with such candidate's campaign by such committee or on its behalf stating that the committee is not authorized by such candidate is not responsible for the activities of such committee.

(f) (1) Any political committee shall include on the face or front page of all literature and advertisements soliciting funds the following notice:

"A copy of our report filed with the appropriate supervisory officer is (or will be) available for purchase from the Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402."

(2) (A) The supervisory officer shall compile and furnish to the Public Printer, not later than the last day of March of each year, an annual report for each political committee which has filed a report with him under this title during the period from March 10 of the preceding calendar year through January 31 of the year in which such annual report is made available to the Public Printer. Each such annual report shall contain—

(i) a copy of the statement of organization of the political committee required under section 403, together with any amendments thereto; and

(ii) a copy of each report filed by such committee under section 404 from March 10 of the preceding year through January 31 of the year in which the annual report is so furnished to the Public Printer.

(B) The Public Printer shall make copies of such annual reports available for sale to the public by the Superintendent of Documents as soon as practicable after they are received from the supervisory officer.

REGISTRATION OF POLITICAL COMMITTEES; STATEMENTS

SEC. 403. (a) Each political committee which anticipates receiving contributions or making expenditures during the calendar year in an aggregate amount exceeding $1,000 shall file with the supervisory officer a statement of organization, within ten days after its organization or, if later, ten days after the date on which it has information which causes the committee to anticipate it will receive contributions or make expenditures in excess of $1,000. Each such committee in existence at the date of enactment of this Act shall file a statement of organization with the supervisory officer at such time as be prescribes.

(b) The statement of organization shall include—

(1) the name and address of the committee;

(2) the names, addresses, and relationships of affiliated or connected organizations;

(3) the area, scope, or jurisdiction of the committee;

(4) the name, address, and position of the custodian of books and accounts;

(5) the name, address, and position of other principal officers, including officers and members of the finance committee, if any;

(6) the name, address, office sought, and party affiliation of (A) each candidate whom the committee is supporting, and (B) any other individual, if any, whom the committee is supporting for nomination for election, or election, to any public office whatever; or, if the committee is supporting the entire ticket of any party, the name of the party;

(7) a statement whether the committee is a continuing one;

(8) the disposition of residual funds which will be made in the event of dissolution;

(9) a listing of all banks, safety deposit boxes, or other repositories used;

(10) a statement of the reports required to be filed by the committee with State or local officers, and, if so, the names, addresses, and positions of such persons; and

(11) Such other information as shall be required by the supvisory officer.

(c) Any change in information previously submitted in a statement of organization shall be reported to the supervisory officer within a ten-day period following the change.

(d) Any committee which, after having filed one or more statements of organization, disbands or determines it will no longer receive contributions or make expenditures during the calendar year in an aggregate amount exceeding $1,000 shall so notify the supervisory officer.

REPORTS BY POLITICAL COMMITTEES AND CANDIDATES

SEC. 404. (a) Each treasurer of a political committee supporting a candidate or candidates for election to Federal office and each candidate for election to such office, shall file with the supervisory officer reports of receipts and expenditures on forms to be prescribed or approved by him. Such reports shall be filed on the tenth day of March, June, and September, in each year, and on the fifteenth and fifth days next preceding the date on which an election is held, and also by the thirty-first day of January. Such reports shall be complete as of such date as the supervisory officer may prescribe, which shall not be less than five days before the date of filing except that any contribution of $5,000 or more received after the last report is filed prior to the election, shall be reported within forty-eight hours after its receipt.

(b) Each report under this section shall disclose—

(1) the amount of cash on hand at the beginning of the reporting period;

(2) the full name and mailing address (occupation and the principal place of business, if any) of each person who has made one or more contributions to or for such committee or candidate (including the purchase of tickets for events such as dinners, luncheons, rallies, and similar fundraising events) within the calendar year in an aggregate amount or value in excess of $100, together with the amount and date of such contributions;

(3) the total sum of individual contributions made to or for such committee or candidate during the reporting period and not reported under paragraph (2);

(4) the name and address of each political committee or candidate from which the reporting committee or the candidate received, or to which that committee or candidate made, any transfer of funds together with the amounts and dates of all transfers;

(5) each loan to or from any person within the calendar year in an aggregate amount or value in excess of $100, together with the full names and mailing addresses (occupations and the principal places of business, if any) of the lender and endorsers, if any, and the date and amount of such loans;

(6) the total amount of proceeds from (A) the sale of tickets to each dinner, luncheon, rally, and other fundraising event; (B) mass collections made at such events; and (C) sales of items such as political campaign pins, buttons, badges, flags, emblems, hats, banners, literature, and similar materials;

(7) each contribution, rebate, refund, or other receipt in excess of $100 not otherwise listed under paragraphs (2) through (6);

(8) the total sum of all receipts by or for such committee or candidate during the reporting period;

(9) the full name and mailing address (occupation and the principal place of business, if any) of each person to whom an expenditure or expenditures have been made by such committee or on behalf of such committee or candidate within the calendar year in an aggregate amount or value in excess of $100, the amount, date, and purpose of each such expenditure and the name and address of, and office sought by, each candidate on whose behalf such expenditure was made;

(10) the full name and mailing address (occupation and the principal place of business, if any) of each person to whom an expenditure for personal services, salaries, and reimbursed expenses in excess of $100 has been made, and which is not otherwise reported, including the amount, date, and purpose of such expenditure;

(11) the total sum of expenditures made by such committee or candidate during the calendar year;

(12) the amount and nature of debts and obligations owed by or to the committee, in such form as the supervisory officer may prescribe and a continuous reporting of their debts and obligations after the election at such periods as the supervisory officer may require until such debts and obligations are extinguished; and

(13) such other information as shall be required by the supervisory officer.

(c) The reports required to be filed by subsection (a) shall be cumulative during the calendar year to which they relate, but where there has been no change in an item reported in a previous report during such year, only the amount need be carried forward. If no contributions or expenditures have been accepted or expended during a calendar year, the treasurer of the political committee or candidate shall file a statement to that effect.

REPORTS BY OTHERS THAN POLITICAL COMMITTEES

SEC. 405. Every person (other than a political committee or candidate) who makes contributions or expenditures, other than by contribution to a political committee or candidate, in an aggregate amount in excess of $100 within a calendar year shall file with the supervisory officer a statement containing the information required by section 404. Statements required by this section shall be filed on the dates on which reports by political committees are filed, but need not be cumulative.

FORMAL REQUIREMENTS RESPECTING REPORTS AND STATEMENTS

SEC. 406. (a) A report or statement required by this title to be filed by a treasurer of a political committee, a candidate, or by any other person, shall be verified by the oath or affirmation of the person filing such report a statement, taken before any officer authorized to administer oaths.

(b) A copy of a report or statement shall be preserved by the person filing it for a period of time to be designated by the supervisory officer in a published regulation.

(c) The supervisory officer may, by published regulation of general applicability, relieve any category of political committees of the obligation to comply with section 404 if such committee (1) primarily supports persons seeking State or local office, and does not substantially support candidates, and (2) does not operate in more than one State or on a statewide basis.

(d) The supervisory officer shall, by published regulations of general applicability, prescribe the manner in which contributions and expenditures in the nature of debts and other contracts, agreements, and promises to make contributions or expenditures shall be reported. Such regulations shall provide that they be reported in separate schedules. In determining aggregate amounts of contributions and expenditures, amounts reported as provided in such regulations shall not be considered until actual payment is made.

REPORTS ON CONVENTION FINANCING

SEC. 407. Each committee or other organization which—

(1) represents a State, or a political subdivision thereof, or any group of persons, in dealing with officials of a national political party with respect to matters involving a convention held in such State or political subdivision to nominate a candidate for the office of President or Vice President, or

(2) represents a national political party in making arrangements for the convention of such party held to nominate a candidate for the office of President or Vice President,

shall, within sixty days following the end of the convention (but not later than twenty days prior to the date on which presidential and vice-presidential electors are chosen), file with the Comptroller General of the United States a full and complete financial statement, in such form and detail as he may prescribe, of the sources from which it derived its funds, and the purposes for which such funds were expended.

DUTIES OF THE COMMISSION

SEC. 408. (a) It shall be the duty of the supervisory officer—

(1) to develop and furnish to the person required by the provisions of this Act prescribed forms for the making of the reports and statements required to be filed with him under this title;

(2) to prepare, publish, and furnish to the person required to file such reports and statements a manual setting forth recommended uniform methods of bookkeeping and reporting;

(3) to develop a filing, coding, and cross-indexing system consonant with the purposes of this title;

(4) to make the reports and statements filed with him available for public inspection and copying, commencing as soon as practical but not later than the end of the second day following the day during which it was received, and to permit copying of any such report or statement by hand or by duplicating machine, as requested by any person, at the expense of such person: *Provided,* That any information copied from such reports and statements shall not be sold or utilized by any person for the purpose of soliciting contributions or for any commercial purpose;

(5) to preserve such reports and statements for a period of ten years from date of receipt, except that reports and statements relating solely to candidates for the House of Representatives shall be preserved for only five years from the date of receipt;

(6) to compile and maintain a current list of all statements or parts of statements pertaining to each candidate;

(7) to prepare and publish an annual report including compilations of (A) total reported contributions and expenditures for all candidates, political committees, and other persons during the year; (B) total amounts expended according to such categories as he shall determine and broken down into candidate, party, and nonparty expenditures on the National, State, and local levels; (C) total amounts expended for influencing nominations and elections stated separately; (D) total amounts contributed according to such categories of amounts as he shall determine and broken down into contributions on the National, State, and local levels for candidates and political committees; and (E) aggregate amounts contributed by any contributor shown to have contributed in excess of $100;

(8) to prepare and publish from time to time special reports comparing the various totals and categories of contributions and expenditures made with respect to preceding elections;

(9) to prepare and publish such other reports as he may deem appropriate;

(10) to assure wide dissemination of statistics, summaries, and reports prepared under this title;

(11) to make from time to time audits and field investigations with respect to reports and statements filed under the provisions of this title, and with respect to alleged failures to file any report or statement required under the provisions of this title;

(12) to report apparent violations of law to the appropriate law enforcement authorities; and

(13) to prescribe suitable rules and regulations to carry out the provisions of this title.

(b) It shall be the further duty of the Comptroller General to serve as a national clearing house for information in respect to the administration of elections. In carrying out his duties under this subsection, the Comptroller General shall enter into contracts for the purpose of conducting independent studies of the administration of elections. Such studies shall include, but shall not be limited to, studies of—

(1) the method of selection of, and the type of duties assigned to, officials and personnel working on boards of elections;

(2) practices relating to the registration of voters; and

(3) voting and counting methods.

Studies made under this subsection shall be published by the Comptroller General and copies thereof shall be made available to the general public upon the payment of the cost thereof. Nothing in this subsection shall be construed to authorize the Comptroller General to require the inclusion of any comment or recommendation of the Comptroller General in any such study.

(c) (1) Any person who believes a violation of this title has occurred may file a complaint with the supervisory officer. If the supervisory officer determines there is substantial reason to believe such a violation has occurred, he shall expeditiously make an investigation, which shall also include an investigation of reports and statements filed by the complainant if he is a candidate, of the matter complained of. Whenever in the judgment of the supervisory officer, after affording due notice and an opportunity for a hearing, any person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of this title or any regulation or order issued thereunder, the Attorney General on behalf of the United States shall institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order in the district court of the United States for the district in which the person is found, resides, or transacts business. Upon a proper showing that such person has engaged or is about to engage in such acts or practices, a permanent or temporary injunction, restraining order, or other order shall be granted without bond by such court.

(2) In an action brought under paragraph (1) of this subsection, subpenas for witnesses who are required to attend a United States district court may run into any other district.

(3) Any party aggrieved by an order granted under paragraph (1) of this subsection may, at any time within sixty days after the date of entry thereof, file a petition with the United States court of appeals for the circuit in which such person is found, resides, or transacts business, for judicial review of such order.

(4) The judgment of the court of appeals affirming or setting aside, in whole or in part, any such order of the district court shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28 of the United States Code.

(5) Any action brought under this subsection shall be advanced on the docket of the court in which filed, and put ahead of all other actions (other than other actions brought under this subsection).

PROHIBITION OF CONTRIBUTIONS IN NAME OF ANOTHER

SEC. 409. No person shall make a contribution in the name of another person, and no person shall knowingly accept a contribution made by one person in the name of another person.

PENALTY FOR VIOLATIONS

SEC. 410. Any person who violates any of the provisions of this title shall be fined not more than $1,000 or imprisoned not more than one year, or both.

EFFECT ON STATE LAW

SEC. 411. (a) (1) Nothing in this Act shall be deemed to invalidate or make inapplicable any provision of any State law, except where compliance with such provision of law would result in a violation of a provision of this Act.

(2) Notwithstanding paragraph (1), no provision of State law shall be construed to prohibit any person from taking any action authorized by this Act or from making any expenditure which he could lawfully make under this Act.

(b) The supervisory officer shall encourage, and cooperate with, the election officials in the several States to develop procedures which will eliminate the necessity of multiple filings by permitting the filing of copies of Federal reports to satisfy the State requirements.

PARTIAL INVALIDITY

SEC. 412. If any provision of this Act, or the application thereof, to any person or circumstance is held invalid, the validity of the remainder of the Act and the application of such provision to other persons and circumstances shall not be affected thereby.

REPEALING CLAUSE

SEC. 413. (a) The Federal Corrupt Practices Act, 1925 (2 U.S.C. 241–256), is repealed.

(b) In case of any conviction under this title, where the punishment inflicted does not include imprisonment, such conviction shall be deemed a misdemeanor conviction only.

TITLE V—MISCELLANEOUS

EXTENSION OF CREDIT BY REGULATED INDUSTRIES

SEC. 501. The Civil Aeronautics Board, the Federal Communications Commission, and the Interstate Commerce Commission shall each promulgate, within ninety days after the date of enactment of this Act, its own regulations with respect to the extension of credit, without security, by any person regulated by such Board or Commission to any candidate for Federal office (as such term is defined in section 401(c) of the Federal Election Campaign Act of 1971), or to any person on behalf of such a candidate, for goods furnished or services rendered in connection with the campaign of such candidate for nomination for election, or election, to such office.

PROHIBITION AGAINST USE OF CERTAIN FEDERAL FUNDS FOR ELECTION ACTIVITIES

SEC. 502. No part of any funds appropriated to carry out the Economic Opportunity Act of 1964 shall be used to finance, directly or indirectly, any activity designed to influence the outcome of any election to Federal office, or any voter registration activity, or to pay the salary of any officer or employee of the Office of Economic Opportunity who, in his official capacity as such an officer or employee, engages in any such activity. As used in this section, the term "election" has the same meaning given such term by section 301(a) of this Act, and the term "Federal office" has the same meaning given such term by section 301(c) of this Act.

EFFECTIVE DATE

SEC. 503. Except as provided for in section 501 of this Act, the provisions of this Act shall become effective on December 31, 1971, or sixty days after the date of enactment of this Act, whichever is later.

The SPEAKER. The question is on the motion offered by the gentleman from Ohio.

The motion was agreed to.

The SPEAKER. The question is on the third reading of the Senate bill.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

A motion to reconsider was laid on the table.

A similar House bill (H.R. 11060) was laid on the table.

APPOINTMENT OF CONFEREES

Mr. HAYS. Mr. Speaker, I ask unanimous consent that the House insist on its amendment to the Senate bill (S. 382) to promote fair practices in the conduct of election campaigns for Federal political offices, and for other purposes, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Ohio? **The Chair hears none and appoints the** following conferees on all titles of the foregoing amendment except for titles I and II:

Messrs. HAYS, ABBITT, GRAY, HARVEY and DICKINSON.

And appointed the following Members as managers on the part of the House on titles I and II:

Messrs. STAGGERS, MACDONALD of Massachusetts, VAN DEERLIN, SPRINGER and DEVINE.

AUTHORIZATION FOR CLERK TO MAKE TECHNICAL AND CONFORMING CHANGES IN ENGROSSMENT OF H.R. 11060

Mr. HAYS. Mr. Speaker, I ask unanimous consent that the Clerk, in the engrossment of the bill H.R. 11060, be authorized and directed to make such changes in section numbers, cross references, and other technical and conforming corrections as may be required to reflect the actions of the House.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

GENERAL LEAVE

Mr. HAYS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

THE SCHOOL PRAYER AMENDMENT CONTROVERSY

(Mr. BURLISON of Missouri asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. BURLISON of Missouri. Mr. Speaker, we all know of the great emotion that has been stirred by the school prayer amendment controversy. Many have threatened revenge and retribution to those who have taken the unpopular side on this issue involving the very personal matter of prayer.

A leading newspaper in my district, "The Southeast Missourian" of Cape Girardeau, Mo., has put the entire affair in proper perspective and I am pleased to bring its editorial of Friday, November 26, 1971, to the attention of my colleagues. It is reprinted below.

THE HONEST "NO"

> It is ironic that those congressmen who voted against the school prayer amendment are now to be the objects of a campaign to defeat them for reelection in 1972.
>
> That, at any rate, is the strategy announced by Mrs. Ben Ruhlin, the lady from Cuyahoga Falls, Ohio, who has been the moving force behind the amendment.
>
> Funds will be raised to buy billboard space in the districts of all 162 members who, she says, "(a) voted against the civil right of free school prayer and (b) ignored the proven will of the vast majority of the nation."
>
> It is ironic because there can be little doubt that, in this instance at least, 162 politicians acted with honesty and integrity, which is the way religious people are supposed to act. There is no way of telling how many of the 240 others who voted for the amendment did so from conscience and how many because it was the safe and popular thing to do.
>
> There has been so much misunderstanding about this issue that some of it can only be laid to willful ignorance.
>
> The Supreme Court did not kick God out of the public schools; it kicked the state out of religion.
>
> The Supreme Court never banned voluntary prayer and meditation in the public schools; it forbade state-written prayer and held that even though children could be excused from participation this still amounted to an "establishment of religion."
>
> Perhaps most important, the Supreme Court did not outlaw the teaching of religion in the public schools; it opened the door to it. But this oportunity has been almost wholly ignored.
>
> The prayer amendment may yet be passed by a future Congress and be ratified by the states. Yet what would be accomplished?
>
> Students would be subjected to one more rote exercise so watered down that even many church leaders say it would be meaningless. The piety of a few people would be satisfied, but schoolchildren would still be learning nothing about religion.
>
> In the meantime, we are asked to punish 162 congressmen for demonstrating the very kind of character prayer is supposed to build.

CIVIL RIGHTS STILL DENIED LARGE GROUP OF AMERICANS

(Mr. BIAGGI asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BIAGGI. Mr. Speaker, this body has always shown great concern for civil and humanitarian rights. However, there is still one group of citizens that is consistently denied their civil rights. That group is the law enforcement officers of this Nation, the men we call on to assure the rights of others.

Two recent Federal court cases clearly show that a police officer today does not enjoy the rights of due process afforded all other citizens. I inserted fuller commentary on the cases under extensions of remarks yesterday.

However, briefly, in the first case, the judge ruled that a police officer was not entitled to legal counsel at a departmental hearing—a hearing, mind you, that could result in a loss of one's job or in being charged with a crime. The judge stated that—and I quote—

> If every officer who appeared before the panel were to invoke the full panoply of judicial process, serious impairment of the disciplinary processes of the Chicago police department could occur."

Is this equal justice?

When a mob threatens to tear up the city of Washington, the courts require full due process for those arrested—regardless of the consequences to the city and its citizens.

In the second case, the court ruled that a lieutenant was not entitled to reinstatement on the force because he sued the police chief. This was a challenge to the authority of the chief and could result in—quote—"internal dissention."

What policeman will resort to the courts for settlement of grievances if he knows the courts will automatically rule against him on the grounds he is challenging the authority of his chief?

The policeman today is truly a second-class citizen. He is frustrated by the contradiction of his position—enforce the law, but the law is not for you. To correct this shameful situation, I have introduced legislation to guarantee civil rights to all law enforcement officers. Over 100 of my colleagues have cosponsored this measure.

I will again reintroduce the measure and I hope that more of those who serve in this Chamber will see the urgent necessity of extending civil rights to law enforcement officers.

CONSTITUTIONAL RIGHTS OF WOMEN

(Mr. WIGGINS asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. WIGGINS. Mr. Speaker, on November 22, 1971, the U.S. Supreme Court in *Reed* v. *Reed* (404 U.S. ——, docket No. 70–4), rendered a unanimous decision protecting the constitutional rights of women. This decision is of particular importance to this House since it recently passed a resolution, House Joint Resolution 208, proposing an amendment to the U.S. Constitution, which its sponsors claim is necessary to guarantee equality of rights for women. During that floor debate there were many Members who indicated their belief that women are entitled to equal rights under our present Constitution. *Reed* v. *Reed* is substantial support for that assertion. The facts of the case are as follows:

A child died intestate—without a will—in Ada County, Idaho, in March of 1967. His adoptive parents had separated prior to his death and are the parties involved in the action. The mother of the decedent was the first to file in probate court seeking appointment as administratrix of her son's estate. Prior to the date set for the mother's hearing, the father of the decedent filed to have himself appointed administrator of his son's estate.

The probate court decided in favor of the father based on an Idaho statute that stated when persons are equally entitled to administer an estate, males must be preferred to females. The mother appealed to the district court of the Fourth Judicial District of Idaho. The district court held that the challenged section violated the equal protection clause of the 14th amendment. The father took a further appeal to the Idaho Supreme Court, which reversed the district court. The judgment of the Idaho Supreme Court was reversed by the U.S. Supreme Court and the case remanded for further proceedings. The issue was whether an arbitrary preference established in favor of males violates the equal protection clause of the 14th amendment. The court held that:

> The arbitrary preference established in favor of males . . . cannot stand in the face of the Fourteenth Amendment's command that no State deny the equal protection of the laws to any person within its jurisdiction.

The Idaho statute listed the order of intestate succession—section 15–312, Idaho Code—which stated that the administration of the estate of a child dying without a will must be granted to the father or mother, and of several persons claiming and equally entitled to administer, males must be preferred to females. The reason given by the State for the latter part of this statute is:

> To eliminate one area of controversy when two or more persons, equally entitled under the statute seek letters of administration and thereby present the probate court with the issue of which one should be named.

To this the U.S. Supreme Court responded that:

> Clearly the objective of reducing the workload on probate courts by eliminating one class of contests is not without some legitimacy. The crucial question, however, is whether the probate statute advances that objective in a manner consistent with the command of the Equal Protection Clause. We hold that it does not. To give a mandatory preference to members of either sex over members of the other, merely to accomplish the elimination of hearings on the merits, is to make the very kind of arbitrary legislative choice forbidden by the Equal Protection Clause of the Fourteenth Amendment; and whatever may be said as to the positive values of avoiding intrafamily controversy, the choice in this context may not lawfully be mandated solely on the basis of sex.

The court pointed out that the intestate statute in question sets up a class—parents—and provides that different treatment be accorded to persons within that class solely on the basis of their sex.

Mr. Speaker, the court has long held that persons similarly situated may be classified for different treatment under the law so long as the classification has a reasonable basis in fact and the classification is necessary to achieve a proper legislative objective. Otherwise, the equal protection clause requires that laws be of like application to all persons similarly situated. Obviously, a father and a mother as parents are similarly situated with regard to their child. To favor one over the other without a legitimate factual basis therefor is arbitrary and unreasonable and thus is a violation of equal protection of the laws. This proposition is the very least that this decision can be cited for.

In my opinion, Mr. Speaker, this decision can properly withstand a broader application. Traditionally, when the U.S. Supreme Court is interpreting our Federal Constitution, it does so very narrowly and this is done for good reason. So to give broader application to a particular decision is a risky exercise. However, since the Congress is seriously considering amending the Constitution with regard to equality of rights for women, it is relevant, in this instance, to try and derive a direction toward which the Supreme Court is headed.

Mr. Speaker, you will recall that when the House Judiciary Committee reported House Joint Resolution 208, amended, it stated that the:

> Discriminatory features of our legal system could be eliminated without amending our Constitution if the Supreme Court were eventually to accord women the full benefit of the equal protection clause of the 14th Amendment. However, to date the case law in this area has not been thoroughly developed.

The Reed decision is, of course, a narrow one, but its rationale is broad enough to be cited as authority for the proposition that women are entitled to the full benefit of the equal protection clause. This decision holds that when there is a classification which is inclusive of both sexes, different treatment of persons based solely on sex may not lawfully be mandated by a State.

Mr. Speaker, the Reed against Reed decision is a significant development in favor of equality of rights for women. In applying traditional equal protection principles, it does not go as far as the proposed constitutional amendment, which demands an identity of treatment between persons without regard to the rationality of different treatment. For me, this decision signifies two very important victories in the battle to secure equality of rights of all people: First, the equal protection clause of the 14th amendment does embrace women on a legal parity with men; and, second, our judiciary is the proper forum by which to secure these 14th amendment guarantees.

WAR IN INDIA MAY BE A REALITY

(Mr. FRELINGHUYSEN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. FRELINGHUYSEN. Mr. Speaker, it is becoming increasingly apparent that full-scale war on the Indian subcontinent is more than a possibility. It already may be a reality.

The latest in a series of alarming press reports indicates that there has been another major intrusion into East Pakistan by Indian troops. As many as 40,000 men are said to be involved in heavy fighting, supported by tanks and heavy artillery—reported to be Soviet made.

While it is impossible to gain an accurate picture of what is occurring from press accounts, several things are clear. In the first place, the Indians themselves have admitted they have made at least three crossings into Pakistan territory. Unquestionably a serious escalation has taken place. What has up until quite recently been a serious, but manageable problem threatens to explode into all-out war. Under such circumstances, the world community must make every effort to avert catastrophe.

It is clear also that India's role is changing from one of relative passivity to activities which appear increasingly aggressive. Until recently India has been engaging in exerting heavy psychological pressure on Pakistan, presumably to precipitate movement toward a political accommodation in that country. During the past week, however, India appears to have decided to press for a military solution to her own difficulties. By exploiting her military superiority over Pakistan and sending large numbers of Indian troops into East Pakistan to engage Pakistan forces there, India seems to be inviting a military showdown.

India's apparent decision to disregard international counsels of restraint in a cause for serious concern. It is a problem which should be faced squarely, and promptly, by the United Nations. Furthermore, in my opinion, it calls also for a reevaluation by the United States of continuing any further aid to India, whether military or economic. The United States shares with the international community the responsibility of seeking to preserve the peace. An all-out war would be a totally unacceptable "solution" to the present crisis. Even at this stage every effort must be made to encourage a pullback from the brink of war.

THE COMPREHENSIVE CHILD DEVELOPMENT PROGRAM

(Mr. BRADEMAS asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, this week the House of Representatives is scheduled to vote on S. 2007, the conference report which extends the Office of Economic Opportunity for 2 more years and establishes a comprehensive child development program.

As chairman of the Select Subcommittee on Education of the House Committee on Education and Labor, the subcommittee which considered the comprehensive child development legislation, I take this opportunity to call to the attention of my colleagues a number of letters, articles, and statements in support of the child development program.

Mr. Speaker, I believe that the child development program represents the results of much hard work and effort, on the part of both Democrats and Republicans in both the House and the Senate, to shape a measure that will make good the commitment which President Nixon voiced on August 11, 1969, when he said:

> This Administration is committed to a new emphasis on child development in the first five years of life. The day care that would be part of this plan would be of a quality that will help in the development of the child and provide for his health and safety, and would break the poverty cycle for this new generation.

AFL–CIO ENDORSES COMPREHENSIVE CHILD DEVELOPMENT BILL

For example, Mr. Speaker, here is a copy of the November 29, 1971, letter from Andrew J. Biemiller, director, Department of Legislation, AFL–CIO, endorsing the comprehensive child development bill:

AMERICAN FEDERATION OF LABOR
AND CONGRESS OF INDUSTRIAL
ORGANIZATIONS,
Washington, D.C., November 29, 1971.

The AFL–CIO strongly supports the House-Senate conference report on S. 2007, legislation extending the Office of Economic Opportunity for two more years.

Included within S. 2007 is creation of an historic comprehensive child development program and establishment of an independent National Legal Services Corporation.

The AFL–CIO has, since its inception, supported OEO. We continue to do so. We also are convinced that the new legal services corporation, as resolved in conference, is beneficial legislation.

The new comprehensive child development program meets a long-recognized national need. The Conference report calls for education, health, and nutrition services to children. Once implemented, working parents—as well as welfare recipients—will have decent day care available for their children.

President Nixon declared, August 11, 1969, that: "This Administration is committed to a new emphasis on child development in the first five years of life. The day care that would be part of this plan would be of a quality that will help in the development of the child and provide for his health and safety, and would break the poverty cycle for this new generation."

The President's 1969 plan only covered the children of welfare recipients. The S. 2007 conference report provides free services for these children and similar services for the children of working parents willing to pay fees established on a graduated scale according to family income.

Despite a rash of recent "scare" propaganda, the conference report's day care program is not mandatory. Instead, for the first time, comprehensive day care will be available for the children of parents who want something better than all custodial care—or no care at all—for their children.

Such a comprehensive child development program has long been a goal of the AFL–CIO and the millions of America's working parents with young children.

The AFL–CIO urges you to approve the conference report on S. 2007, including this important new program.

Sincerely yours,

ANDREW J. BIEMILLER,
Director, Department of Legislation.

NEW YORK CITY HUMAN RESOURCES ADMINISTRATOR ENDORSES PROGRAM

Mr. Speaker, the former Director of Headstart, Jule M. Sugarman, now administrator of Human Resources Administration, city of New York, has written the following letter to the Secretary of Health, Education, and Welfare, Elliot Richardson, in support of the comprehensive child development bill and has appended an excellent analysis of the bill:

NOVEMBER 29, 1971.

Hon. ELLIOT L. RICHARDSON,
Secretary of Health, Education, and Welfare, Washington, D.C.

DEAR MR. SECRETARY: This week the Congress will act upon the Conference Committee's report on the child development bill. I must urge you to fully support that bill in the Congress and to recommend to the President in the strongest possible terms that he approve it.

This bill follows nearly three years of bipartisan effort involving extensive hearings and committee work. The vital need for child development services has been thoroughly documented. Studies financed by your Department, and soon to be released, make it clear that child development programs can have substantial long-term impact. The programs authorized in this bill are wholly consistent with the specific research findings and recommendations of those studies. There is great public understanding and support for the legislation involving a wide spectrum of American society. Now, as soon as the Congress completes its action, the President must act favorably.

Recent newspaper reports have speculated that the bill might be vetoed by the President. However, no White House or Department spokesman has confirmed or denied those reports and the public record is one of a firm President commitment to "providing all American children an opportunity for a healthy and stimulating development during the first five years of life."

Now is the time for the President to make clear that his Administration intends to honor that promise. Unfortunately, reports of lobbying by White House staff indicate that the President may not intend to honor his commitment.

Among the reasons suggested for White House opposition is the cost of the bill. I think that the record needs to be much clearer on that point. The requirement that a child development council be created and a comprehensive child development plan prepared for each community means that it will certainly be 12 to 18 months before any significant number of communities can qualify for operating funds. Thus, neither the current nor the fiscal year 1973 budget is likely to be heavily affected. The first substantial effect will not take place until fiscal year 1974. Even then, I doubt that communities will be prepared to spend more than $2 to $3 hundred million above present levels. Surely that level of funding, or even twice that level, is not a great problem when compared to the amounts spent on other public programs.

Another reason advanced for possible opposition is a political response by the White House to mail from conservative and right wing leaders arguing that this is part of a Communist plot. That is not only poppycock, but a slander upon the Members of Congress who have worked so hard to bring the bill to fruition. It is an attack on the very thing that the President and you have urged in connection with H.R. 1; namely, the provision of quality child care. This kind of attack should be promptly answered by the White House and HEW.

Finally, there are those who say that the bill is being opposed because it does not provide a significant role for the states. No one who has read the bill thoroughly can make that charge. The language is specific requiring state involvement at every stage; creation of prime sponsors, formation of comprehensive child development plans and project operation. Up to 5% of operating funds will be available to states to carry out their functions. HEW may use states to provide technical assistance and program coordination. In other words, there is every opportunity for the states to identify problems, to help in solving them, and to point out to HEW that programs are not meeting the requirements of the Act or HEW standards. The state which fails to influence programs positively in this situation will do so because of its own ineptitude rather than any deficiency in the law.

Mr. Secretary, there is nothing in this bill which should stand in the way of approval. The choice for the President and yourself is whether to yield to reactionary and unsupportable arguments against the bill, or to make a monumental contribution to the real needs of children which were so eloquently recognized by the President in the past.

Sincerely,

JULE M. SUGARMAN,
Administrator, Human Resources Administration, City of New York.

FACTS ON THE COMPREHENSIVE CHILD DEVELOPMENT BILL*

A. RIGHTS OF PARENTS

Parental authority in relation to the child as well as the child development program in which he or she participates is assured in the compromise bill.

The Statement of Findings and Purpose states that comprehensive child development programs should be available to children whose parents or legal guardians shall request them regardless of economic, social and family backgrounds (Sec. 501(a)(2) page 5). To ensure that services are voluntary, each Comprehensive Child Development Plan submitted must include a proviso that services shall be provided only for children whose parents or legal guardians have requested them (Sec. 515(a)(24) page 16).

Section 581(a) (page 33) requires that no part of the bill shall be applied or construed to infringe upon or usurp the moral or legal rights and responsibilities of parents or guardians with respect to the moral, mental, emotional or physical development of their children. Nor can invasion of privacy or abridgment of legal remedies for such legally protected invasion be accomplished.

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* Analysis prepared by the Human Resources Administration, City of New York.

Specific protection provided against testing without informing the parent and giving him an opportunity to except his child. (Sec. 580 page 2) And if a parent objects in writing on religious grounds to medical or psychological exams or immunization (except to protect public from epidemics) or treatment, his child is excepted from such treatment. (Sec. 574(f) page 31)

A child development plan must provide for regular and frequent dissemination of relevant information to parents and the community in their functional language. (Sec. 515(a) (15) page 16). The plan must also coordinate, insofar as possible, its programs with other social programs so as to keep family units intact or in close proximity during the day. (Sec. 515(a) (10) page 15).

The bill's Statement of Findings and Purpose concludes that decisions on the nature and funding of child development programs are to be made at the community level with the full involvement of parents and others in the community interested in child development (Sec. 501(b) page 6).

Parent involvement in their children's programs is required at various decision making levels such as:

1. In the project: At least one half of the project policy committee must be parents and the other members, except for the specialist, must be representative of the community and approved by the parent members, (Sec. 516(a) (2) pages 17–18). The committee must directly participate in the development and preparation of the project application. Training, administrative expenses and necessary out-of-pocket for low-income members are required. Members of committees are appointed by the project applicant but existing Head Start agencies can continue their method of election, presumably.

Functions of the project committee include approving goals, policies, actions and procedures for the project applicant.

The project application must also provide for the regular and frequent dissemination of information about the project to parents and interested persons in the functional language. Projects must also employ paraprofessional aides and volunteers, especially parents and others (Sec. 516(a) (10) page 19). Staff must be adequate to meet specialized needs of each child. (Sec. 516(a) (12) page 19).

2. In the Prime Sponsor through its Child Development Council: The Prime Sponsor's Plan must provide for direct parent participation in the conduct, overall direction and evaluation of programs (Sec. 515(a) (11) page 15). The membership of the Child Development Council must be at least ½ parents of children in programs selected by Head Start and project policy committees. At least one-third of the total membership must be parents who are economically disadvantaged. (Sec. 514 (a and b) pages 13–14). The Council's functions are similar to policy committees but it may also conduct public hearings. (Sec. 514(b) (3) page 14).

3. At the national level:

Not less than one-half of the membership of the Special Committee on Federal Standards for Child Development Services to develop program standards and of the Special Committee to develop Uniform Minimum Code For Facilities must be parents of children in child development programs, Head Start, and day care under Title IV programs. Both committee memberships are to be appointed by the Secretary and report to him. (Sec. 534, 535, pages 23–24).

B. RIGHTS AND ROLE OF THE STATES

The Statement of Findings and Purpose states that it is essential that the planning and operation of child development programs be a partnership of parents, community and state and local governments with appropriate assistance from the Federal Government (Section 501(a) (6), page 6).

The participation of the states is encouraged by Section 517 that provides for special grants to states to carry out activities such as identifying the state's goals and needs, assisting child development councils, encouraging the participation of related state agencies, etc. (see pages 19 and 20). Up to 5% of the funds allocated for use in a state are reserved for the state upon its application (Sec. 503 (c), page 8).

The Governor must have 30 to 60 days to review applications for designation, to offer recommendations to applicants and to submit comments to the Secretary (Sec. 513(g), page 12). In addition, no plan or modification of a prime sponsor shall be approved unless the Secretary determines that the Governor of the State has had an opportunity to submit comments to the prime sponsor and the Secretary (Sec. 515(b) (3), page 17).

No locality or state may reduce its expenditure for day care or child development because of assistance under the bill (Sec. 520 (e), page 22).

Here, Mr. Speaker, is a memorandum from Mrs. Audrey O. Blackwell, coordinator for early childhood training programs in Metro Denver:

OCTOBER 29, 1971.

To: Mr. Burton, Member of Conference Committee on Comprehensive Child Development Act of 1971.

From: Mrs. Audrey O. Blackwell, Coordinator for Early Childhood Training Programs in Metro Denver.

Subject: Provisions for training, title III Training of Child Development Personnel in H.R. 6748 (Brademas) and S. 1512 (Mondale) bills.

I have discussed this legislation with regional and state training specialists, and with members of the coordinative advisory committee with whom I work. (See attached list) The following opinions have been expressed:

1. The national contracting system used for Head Start training has been wasteful and ineffectual in this region because local needs are slighted, and travel and layered administration is expensive. Therefore it is hoped that the legislation will specify that *planning* for training and *training* be done on a *decentralized basis*, that persons presently working in child development programs help with the planning, and that training be tied to a *career development plan*.

2. Training funds *should not be earmarked*, as they are in the Brademas bill, without strong justification. However, the legislation should include the following kinds of training: basic, pre-service, inservice based on individual need, and technical assistance. All persons in child development centers should receive training, including administrators.

3. If earmarking is justified, "professional," "non-professional," "inservice," and "technical assistance" should be defined. Also, the committee should take into consideration, if earmarking, that many more non-degreed persons will be working in child development centers than will those with degrees, and that the former will have greater need for assistance with stipends, baby-sitting, and transportation. Earmarking inservice training monies may hamper efforts now being made to incorporate on-the-job training into credit programs.

We hope that these opinions will be of value in finalizing this very important piece of legislation.

Here is a letter to Secretary Richardson from the National Organization for Women:

NOVEMBER 1, 1971.

OPEN LETTER TO MR. ELLIOT RICHARDSON, SECRETARY OF HEALTH, EDUCATION, AND WELFARE

The National Organization for Women (N.O.W.) is very concerned with recent developments involving child care legislation currently in House/Senate Conference. We understand that there is a move to reduce the income ceiling for free child care from $6,900 to $4,300 or, in the least to a compromise at $5,200. We also understand that even the pitifully small proposed funding of $2 billion in Senator Mondale's bill is possibly in jeopardy.

We strongly urge that the $6,900 income level be adhered to as more realistic than any below that. To a family with a combined income of $6,900, the normal cost of day care (around $2,000 per year) is still an overwhelming financial burden. We see any lowering of this level as seriously jeopardizing the needs of the working and single parent who is above the currently defined poverty level.

NOW has supported an original funding level of $5, $8 and $10 billion as proposed by Congresswomen Abzug and Chisholm. Although still not approaching the goal of providing child care for all those who need it, this level was seen by NOW as a more humane and realistic, albeit interim, step. More humane, because it would not force middle income and poor to grovel over an amount of money inadequate for either of their needs. Realistic, because somewhere between $8 to $10 billion is needed to supply child care to preschoolers of parents already working. In addition, $7 billion alone is needed to provide services to all disadvantaged children.

NOW and other groups have had great hopes that the Mondale/Brademas bills were the beginning of a new era for child care—that they were not merely expansions of the existing Head Start program, as stated by you in recent testimony before the Senate Finance Committee.

In the future, we hope that child development services will be separated from public welfare programs, that they will not be developed in order to lessen public assistance roles, but rather as a basic right. The child welfare concept of day care—as a service only to poor and problem families—has contributed to the resistance to enlarging services to cover broader segments of the population and, concurrently, has prevented ethnic and socioeconomic integration of preschools. We cannot support programs that further separate the poor from the rest of the population.

In closing, we would like to reiterate that we have not completely supported any of the current child care legislation, even in its originally introduced form, because none approaches our goal of universally available child care. The rationale for our position is contained in the attached NOW statement, "Why Feminists Want Child Care."

Please make this communication and attached statement a part of your deliberations and respond to us with some statement of your decision and intent. If you have any questions, may I refer you to our Washington, D.C., Legislative Liaison for Child Care, Vicki Lathom, 18–X Ridge Rd., Greenbelt, Md. 20770, telephone (301) 345–1039 or 345–5443.

Your very truly,

WILMA SCOTT HEIDE,
President.

MARY ANN STUART,
Child Care Task Force,
National Organization for Women.

I insert at this point a letter from Jay M. Arena, M.D., president, American Academy of Pediatrics, Evanston, Ill.:

NOVEMBER 24, 1971.

DEAR MR. BRADEMAS: The American Academy of Pediatrics, the national organization of board certified physicians providing care to children, heartily supports the adoption of the conference report on the Economic Opportunity Amendments, S. 2007. We are particularly enthusiastic about the comprehensive child development title of this legislation which provides for the establishment of a national, federally assisted child development program. The Academy supports the concept of child care as a composite of comprehensive and coordinated services designed to offer a sound basis for growth and development of the child while supporting and encouraging the parents in their effort to care for their children. We are of the opinion S. 2007 would provide a sound legislative basis for the establishment of such a program.

The Academy endorses the section of the child development title which provides for local administration of child care programs. We recommended in testimony before Senate and House committees that the major responsibility for planning and delivery of child development programs is most appropriately placed at the community level. We believe the conference report is equitable, and will allow for possible funding of most jurisdictions which apply for prime sponsorship responsibility. Jurisdictions which are able to plan and operate a quality child care program should be given this opportunity.

We are in complete agreement with the concept of funding priority to ongoing Headstart programs. The provision further assuring local review of Headstart programs is an additional strength of the conference report. The extension of the excellent programs like Headstart to all low income families desirous of child development services will be facilitated by the enactment of this legislation.

The level for eligibility for free child care services decided upon by the conferees is reasonable, and will not place an undue financial hardship on poor and near poor families who wish to utilize the child care programs.

In summary, we believe the child development title of the Economic Opportunity Amendments provides a realistic framework in which child development programs can operate that are responsive to the needs of individual children and communities. We sincerely urge your support for the adoption of the conference report on the Economic Opportunity Amendments of 1971.

Sincerely yours,

JAY M. ARENA, M.D.,
President, American Academy of Pediatrics, Evanston, Ill.

I here insert a resolution of the California Council of Parent Participation Nursery Schools, Inc.:

CALIFORNIA COUNCIL OF PARENT PARTICIPATION NURSERY SCHOOLS, INC.

October 28, 1971.

Whereas, we of the California Council of Parent Participation Nursery Schools are a statewide group of parents who recognize the necessity for parent involvement in the education of young children; and

Whereas, for the greatest benefit to all children, the following must become a reality: (1) a sound eclogical balance (2) good mental health care and (3) good physical health care; therefore, be it

Resolved, That CCPPNS support passage of legislation providing for a sound ecological balance and good mental and physical health care.

Whereas, we agree with many authorities that most of a child's learning patterns are set in the first five years; and

Whereas, recognizing this, we feel that all preschool children need enriching experiences outside as well as inside the home; and

Whereas, these experiences should include a group of peers, a variety of media and play equipment, and an opportunity to relate comfortably to adults; and

Whereas, all parents must have adequate, safe care for their children, whether it be part-day, all-day or night-time care; therefore, be it

Resolved, That a variety of preschool programs and facilities providing enriching experiences and adequate safe care, which meet the highest standards, be made available to all families throughout the state of California.

Resolved, That CCPPNS support the passage of legislation providing these services until all the children who need them are served.

Whereas, recognizing that the parent is the primary influence during the first five years of life; and

Whereas, parent involvement provides continuity between the enrichment program and the home; therefore, be it

Resolved, That parent involvement in the organization and educational aspects must be built into all pre-school programs.

Resolved, That teachers must be trained to work with both parents and children.

NEWSPAPER EDITORIALS

Mr. Speaker, a number of newspaper editors in a number of papers have endorsed the comprehensive child development bill and I insert a number of these editorials at this point in the RECORD:

[From the New York Times, July 18, 1971]

A NEW DEAL FOR CHILDREN

A bipartisan group of Congressmen, led by John Brademas, Indiana Democrat, and Ogden Reid, New York Republican, has sponsored an important bill which would offer pre-school care and education to all children at least from the age of two.

The Comprehensive Child Development Act, which has been approved unanimously by a subcommittee of the House Committee on Education and Labor, could usher in a new era in American child care. By helping to close the gap between the children of the rich and the poor, it may hold the key to prevention of the massive retardation for which the existing school systems have found no remedy.

The advantage of this measure over an Administration proposal to extend similar day care privileges to children of welfare families is that it does not limit the benefits of early pre-school physical, educational and psychological development only to the deprived. Although disadvantaged children would be given absolute priority, middle-class youngsters could, in return for modest fees adjusted to their parents' income, share in the natural extension of American education. The children of the more affluent already enjoy many of these advantages, either in expensive nursery schools or in the home.

The proposal includes Federal funding for public and private nonprofit agencies other than the schools, thereby promising greater diversity of ideas and action in a field that has already given rise to much promising experimentation outside the traditional education system.

With its concern for all children, the act reduces the danger of creating another educational ghetto for the underprivileged. This is important because pre-school programs can so easily be turned into cheap, unimaginative and stultifying babysitting arrangements merely to get children temporarily out of their parents' way. Giving all mothers, including those with educational sophistication and political influence, a stake in truly imaginative child development centers is a way of creating an instant support force to fight for high quality and expert staffing. The act properly extends the American education commitment to those early years of growth in which the seeds of success or failure, and of frustration or happiness, are so often sown.

[From the Washington Post, Aug. 4, 1971]

A NEW CHANCE FOR CHILDREN

There is no way of figuring the United States Congress. Sometimes they take their own sweet time over major social legislation. The passage of Medicare took a whole generation of pressure, debate and publicity. At other times the wheels of change turn quickly and almost silently. We may witness this second phenomenon in the current session if—as now seems at least possible—Congress passes a Comprehensive Child Development Act. This piece of legislation could be as important a breakthrough for the young as Medicare was for the old.

The Senate Committee on Labor and Public Welfare has reported, as a new title of the Economic Opportunity Act, a Comprehensive Child Development Bill, sponsored by Senator Mondale and 29 of his colleagues from both sides of the aisle. A somewhat similar bill is being shepherded along on the House side by Congressmen Brademas and Reid.

The Mondale Bill would provide federal funds for locally administered child development programs of an extremely comprehensive sort. The emphasis would be on child development centers for pre-school children, which would be much more than day care centers. They would aim to provide a stimulating educational experience, as well as health services and attention to nutrition. Funds could also be used for infant care, after-school activities for older children, parent education programs and a variety of other activities. Parents would have a strong voice in the decision-making process through a series of local child development councils. Priority would be given to low income groups, but this is not just a program for welfare families. Services would be extended to all children, with special emphasis on children of working mothers and single parents. Families with incomes above a certain level would pay part of the cost.

Although some details might be improved, it is our view that the Mondale Bill embodies a highly constructive new approach to the well-being of children. It gets away from the dismal question of whether mothers should be *forced* to work—of course not, participation would be voluntary—and recognizes the fact that millions of mothers *do* work and more would like to if they could only make satisfactory arrangements for their children.

As every working mother knows, unless she is lucky enough to have a trusted relative down the street, it is almost impossible to find a good child care setup in most communities at any price. All-day programs for preschool children, even where available, are usually dreary, under-staffed, custodial arrangements that promise little more than to keep the child from physical harm, if that. Good nursery schools provide intellectual stimulation and creative play programs, but the private ones are expensive, the public ones are usually restricted to the very poor, and hardly any are geared to the needs of working mothers. Most nursery schools operate three to six hours a day, send the child home if he has a sniffle and close down for the whole summer. Even when the child reaches school age the average working mother is constantly worrying over makeshift arrangements for coping with after-school hours, illness and the long vacations. Those nice pictures of children learning and playing happily and safely while their mothers work always seem to be taken in Scandinavia or Israel or Eastern Europe.

The Comprehensive Child Development Bill is a recognition that good child-care arrangements are not just a concern of the poor, but of vast numbers of middle-income families. Indeed, the main reason why "day care" has such a dismal image and such inadequate support may be that it has mistakenly been regarded as just "something for the poor." A law giving the non-poor a stake in good public programs may be needed to break out of the current mold. It could also provide an opportunity for mixing children from different economic and racial groups and for genuine cooperation among diverse groups of parents. Bringing in the non-poor does not have to mean that services are free to everybody. One can have a sliding scale of fees for those who can afford them.

But the most important thing about this bill is that it is not a day-care bill; it is a child-development bill. It is not primarily intended to free mothers to work, but to provide comprehensive development services for children, whether their mothers work or not. This shift of emphasis to the child and his well-being may be the bill's most important feature. Day care of the custodial variety is probably not a good national investment even in the strict economic sense. But there is accumulating evidence that the early years of life are crucial—that stimulating the natural curiosity of children and developing their creativity and self-confidence can make a vital difference. This bill just might provide a vehicle for a new national effort to make childhood livable.

[From the Courier-Journal, Sept. 13, 1971]

Making Day Care Far More Than Just Freedom for Mom

Not the least intriguing aspect of the Senate's approval four days ago of a national child development plan is that so few Americans have been aware of just how monumental a piece of legislation this is. The day-care movement, which had been picking up steam as a way to emancipate women and help families earn their way off welfare, would now become a program aimed largely at increasing the ability of this nation's children to get more out of life.

As one of the bill's sponsors, Senator Mondale of Minnesota, said three months ago: "This is social legislation in a class with Medicare. Yet it is happening without any initiatives from the executive branch and without much public notice. It's like spontaneous combustion."

Head Start set the pattern of federal financing for something more than day nurseries where working mothers could leave their offspring. But fewer than 100,000 children—all of poverty-level families—were enrolled last year in this comprehensive program of health, educational and social services. And fewer than 700,000 children attend licensed day care centers, while 800,000 more are dropped off daily at nursery "schools" that seldom offer more than an adult supervisor or two, toys, playground equipment and a spartan lunch.

OPEN TO ALL FAMILIES

Yet 3.7 million mothers with children under 5 now work, and by 1980 the number is expected to reach 5.3 million. So within this decade we'll need to at least triple the nation's day-care capacity.

This need would be met in part by the Senate bill, with its anticipated spending of $13 billion over the first three years of the program. But almost more important is its emphasis both on comprehensive care like Head Start's, going far beyond the custodial role of most pre-school nurseries, and on its extension to all families, not just the poor.

As part of his welfare reform program, President Nixon has urged an expansion of day-care services to welfare families, as an essential part of enabling these people to take job-training and then go to work. But this still would be basically manpower-oriented, a device to free working mothers.

The importance of the Senate bill is that it goes beyond this concept to become child-oriented as well, and to extend these services to families above the poverty line. Poor people would pay nothing; families that could afford to pay something would do so on a sliding scale.

The point of this, as *The New York Times* observed editorially in July, is that "by helping to close the gap between the children of the rich and the poor, it may hold the key to prevention of the massive retardation for which the existing school systems have found no remedy . . . Although disadvantaged children would be given absolute priority, middle-class youngsters could, in return for modest fees . . . share in the natural extension of American education."

That's an important start on removing the stigma of social pathology from federal support of day care, and on extending to more American children the kind of superior nursery-school advantages that hitherto have been available only to the affluent.

The men and women in Congress who have led the bipartisan struggle for this epic legislation can't rest yet. Indiana's Representative John Brademas and others still must persuade the House to follow the Senate's lead. But 117 years after opening of the first day nursery in this country, we now seem ready at last to think of this care not simply as organized baby-sitting (except for the affluent few) but as something *all* parents will want for their children.

[From the New York Times, Sept. 14, 1971]

For Mother and Child

The child development bill, passed by the Senate 49 to 12, offers to all American mothers the kind of daily care for their children that used to be available only to the very rich, and more recently some of the very poor. The measure would underwrite the establishment of professionally staffed day-care centers for preschool children, free of charge for the poor and on a pay-as-you-can basis for middle-class families.

Day care, with its combined physical, psychological and educational emphasis on child development, has long been routine in many other countries. Its belated acceptance in the United States comes as a special ray of hope for the children of urban and rural slums; but it also is clearly an essential ingredient in any effort to bring greater equality of opportunities to women who want to work while raising their families. This is particularly true when trained and reliable domestic help is in short supply and not considered a tax-deductible business expense, even to the extent that such help is available.

The only danger in a massive day-care program is that its rapid expansion, plus shortages of suitable personnel, may turn it into a vast baby-sitting venture designed simply to get children out of the way. As a safeguard against such a perversion of the program, the bill's provision for training high-quality staff and planning effective programs will require top priority.

A bipartisan companion bill in the House has been sponsored by John Brademas, Democrat of Indiana, and Ogden Reid, Republican of New York. It deserves speedy enactment.

[From the Christian Science Monitor, Sept. 29, 1970]

"Latch-Key" or Day Care?

We shall undoubtedly be hearing more and more of day-care centers for working mothers, whether the mothers be on welfare or financially independent. The Nixon administration sees the day-care idea as popular with blue-collar workers, whom it wishes to woo. Women's Lib people see the centers as one more step in "liberating" women.

And there's the fact that a number of day-care franchise operators are setting up centers in Florida, Rhode Island, Missouri and elsewhere.

A mother's presence in the home is an invaluable factor in the wise and moral upbringing of her children. But what of situations where the mother is obliged to work to make ends meet? Or where she is determined to work to broaden her life? It is estimated that four million American children under six years of age have working mothers. In 1965 a report to Congress said that nearly one million "latch-key" children looked after themselves while their mothers worked. This was hardly good child care.

Many better-off families have had day-care centers functioning for years—but they are called nursery schools. Their existence spotlights the point that a good day-care center is more than a baby-sitting service. It must also be a place where the early educational, social, and cultural development of the child begins, under qualified personnel.

At present high costs and sparse facilities have meant that American day-care centers cater to only 640,000 children, according to Editorial Research Reports. During the 1969 fiscal year, $35 million was appropriated for day care for preschool children of welfare mothers who took jobs or training. An extension of the antipoverty program would provide $50 million in fiscal 1971. The Nixon administration's welfare reform plan, when finally enacted, would provide $386 milllion, to reach 150,000 more preschool and 300,000 school-age children.

This program would be limited to welfare mothers being trained for jobs. However a task force under Assistant Labor Secretary Rosow recommends child-care services for the working wives of any and all blue-collar workers.

The heart of the problem is that the number of working mothers with young children doubled from 1960 to 1969. Faced with this situation, officials have to decide whether to have enough day-care centers or to have children roaming the streets, a prey to every wrong influence.

[From the La Porte Herald-Argus, Oct. 13, 1971]

Day Care Centers

Congress has adopted an Economic Opportunity Act which includes a far-reaching day care center funding program.

The Federal government, by this act of Congress, is getting into the business of raising children almost as deeply as some mothers.

That's not to say day care center financial assistance is not needed. It is needed. Today's working mother faces the necessity of leaving small children in competent hands during the working day.

The day care center business is expanding in the private sector. But a critical shortage of adequately staffed and reliable centers exists in the metropolitan areas. And in many rural regions of the country, a day care center is unheard-of.

Will the Congress really finance the program it has adopted? House members appeared to raise that question. The Senate earlier had approved a day care center measure which provided free services to families with incomes under $6,690 a year.

The House cut that figure. The House-passed bill sets the family income at $4,320 a year, and several experts still insist Congress will be wise to appropriate $2 billion the first year to meet the day care center obligation.

Apparently that substantial figure is evidence of how badly daytime care centers—good ones, reliable agencies—are needed.

A Chicago survey taken recently revealed that about 12,500 children are enrolled daily in day care centers there. Surveyors said an estimated 300,000 children are eligible for a day care program, mostly from welfare families. That would explain why the Congress needs to appropriate nearly $2 billion for the first year of the program.

Last year's White House Conference on Children provided sad accounts of the inadequacies of day care centers in the nation's big cities.

From the sound of the reports, some centers were more like warehouses for storing children than well-staffed agencies trained and skilled in the art of caring for the youngsters.

Perhaps not much news will be made by Congress as it goes about funding its new day care center creation, but many of the nation's women will be vitally interested.

Chances are that women from several liberation groups will keep their eyes peeled on Congress' action in this area.

These "liberated women," incidentally, have been known to make congressmen step lively. Figure them as the day care center "watchdogs."

[From the New York Times, Nov. 29, 1971]

Child Development in Danger

Two major education bills that enjoy bipartisan support in Congress are threatened by the Administration's fiscal meatgrinder. The Child Development Act is on the brink of obliteration; higher education aid faces either postponement or fiscal anemia.

The child-care measure is in danger of a Presidential veto unless its supporters surrender to the White House demand that its benefits be limited to children of welfare families. Even so, the bill may be stalled to help push welfare reform legislation through the Congress later.

Backers of the measure who had originally envisioned a dramatic new approach to child development—free of charge for the children both of welfare families and of the working poor, and available at a fee to middle-class youngsters—have already reluctantly scaled down the scope of their plan. In a compromise which seemed to have the approval of Health, Education, and Welfare Secretary Elliot Richardson, they agreed to limit free services to families below the $4,320-income level, with a graduated fee structure for all others.

It now appears that Mr. Richardson underestimated the power of the Administration's budget-cutters and political manipulators. It is questionable whether anything better than a baby-sitting service for the poorest children—or indeed anything at all—will emerge.

OTHER ARTICLES

Mr. Speaker, at this point I insert other articles and statements concerning the comprehensive child development bill:

[From the Washington Post, Dec. 20, 1970]

Child Care Program Urged

(By George Lardner Jr.)

The White House Conference on Children called yesterday for federal funding of comprehensive child care programs, a guaranteed family income and immediate steps to root out racism in America.

Delegates to the six-day meeting put these measures at the top of their "overriding concerns" for children in the current decade, the Conference's national chairman, Stephen Hess, reported at a news conference.

Most delegates gave No. 1 importance to a "reordering of national priorities beginning with a guaranteed basic family income adequate for the needs of children."

As further steps, they recommended a doubling of federal spending devoted to children in the decade ahead and an increase of at least 50 per cent in the proportion of the gross national product now allocated to public expenditures for children and youth.

Some of the conferees who had submitted the proposition for a vote had wanted it to include calls for an end to the war in Vietnam and abandonment of such programs as the supersonic transport, but these were left out. The explanation given yesterday was that the sponsors wanted to avoid any suggestion that heavier spending on social welfare programs could wait until the war was over or the SST scuttled.

The balloting was held Friday, the final day of the conference, but officials said the results were held up by the complex method used to tally the votes.

Hess voiced enthusiasm about the results, although only 1,912 delegates took part in the voting. Many others left early to go home, Hess said, and others refrained from voting because they wanted equal importance attached to all the Conference proposals.

Conference officials had estimated that 4,000 delegates were at the sessions, held each decade since 1909, but yesterday Hess put the attendance at less than 3,700.

The recommendation for federal funding of comprehensive child care programs is expected to give impetus to legislation along these lines already proposed in Congress. The delegates emphasized that the programs should include health care, early childhood education and social services, and not be limited to custodial day care.

They also said that enough federal funds should be supplied immediately to provide for 500,000 children and then increased to encompass another 250,000 children each year until all families in need are reached.

The child care proposal won No. 1 ranking among the 16 "overriding concerns" under the weighted method of counting ballots recommended to Conference officials by the American Arbitration Association. It came out No. 3 when only first-place votes were counted.

The call for a reordering of priorities beginning with a guaranteed family income ranked No. 3 under the weighted method, although it was No. 1 in first-place votes.

Ranking second, no matter how the votes were counted, was the Conference call for "the development of programs to eliminate the racism which cripples all children."

Hess said he considered the Conference "an unqualified success."

The chairman of the black caucus at the Conference, Dr. Charles G. Hurst, president of Malcolm X College in Chicago, said he, too, was "very pleased" with the sessions.

The delegates also voted on a list of 25 recommendations for remedial action, with each voter listing the six he considered most important.

The most popular was a call to "provide opportunities for every child to learn, grow, and live creatively by reordering national priorities."

The next five, in order, were recommendations to:

"Redesign education to achieve individualized, humanized, child-centered learning," including establishment of a National Institute of Education.

Establish "citizen community action groups" to implement the conference's recommendations.

Reform the system of justice for children, including steps to "emphasize prevention and protection" and to "replace large institutions with small, homelike facilities."

Underscore the "rights of children, including basic needs and education, and require legal and other accountability of individuals and agencies responsible for providing them."

Establish "a Child Advocacy Agency financed by the federal government and other sources, with full ethnic, cultural, racial and sexual representation."

Conference officials indicated it will take at least several months to put together a final Conference report, including all the explanatory materials and voluminous background papers, for submission to President Nixon. Much of it has yet to be written.

[From the South Bend (Ind.) Tribune, Mar. 7, 1971]

Child Care Centers Win Support

(By Susan K. Singer, Ph. D.)

As a citizen, a mother, and a clinical psychologist I feel that I must respond to your article Feb. 24, "Psychiatrist Raps Day Care Centers." Dr. Eades' assertions that day care centers would destroy the family and serve as tools for the political indoctrination of children are blatant appeals to fear and unreason.

Research on the effects of pre-school attendance has shown that it is generally beneficial to social and intellectual development in children. Dr. Eades' statement that British orphans in WW II suffered in institutions has no relevance to the question of day care here and now. That was a situation involving complete separation from the family during a period of extreme stress.

We are talking about places where children can stay while their parents are working. Many mothers must work in order to sustain their families. And there are families in which mothers have died or are absent, and fathers need a place to leave children while they work.

Well-staffed, well-equipped day care centers provide an excellent service to such families, much better than haphazard baby-sitting arrangements or leaving children with older brothers and sisters.

I agree with Dr. Eades that children need love and emotional security within their families. But there is no reason to fear that a child will be harmed by spending part of his day in a well-run day care center. Instead of condemning day care centers and those who would use them our efforts should be directed to seeing that they are well-staffed, well-equipped, and set up so as to best meet the needs of children.

The Day-Care Trap

(By Kevin P. Phillips)

Washington.—As more and more U.S. mothers take jobs outside the home, they are creating a tremendous demand for day-care facilities where they can leave their pre-school-age children from, say, 8 A.M. to 6 P.M.

Now that Congress is finally about to act on proposals for Federal assistance to beef up inadequate day care, Republicans are concerned that a little-known functionary in the Federal Office of Management and Budget is blocking the Nixon Administration's indorsement of enlarged day care, and in the process perhaps maneuvering the President into a dangerous political trap.

Next Friday, May 21, Health, Education and Welfare Secretary Elliot Richardson will present the Administration's day-care views to the House Select Subcommittee on Education. Then on May 27 he will repeat them to a joint meeting of two Senate subcommittees. As the first date approaches, what Richardson will say remains conjectural, although his personal sentiments are clear.

Like most House Republicans, Richardson favors legislation to expand day-care facilities under the guidance of state governments, and with an eye towards insuring the effective participation of middle-income families. Indeed, the HEW Secretary has actively helped Congressional Republicans to develop this approach. Many Democrats, on the other hand, favor a new, multi-billion dollar day-care program under the control of neighborhood action-type groups that would orient services towards low-income and welfare mothers even though others would be technically eligible. The GOP will support this approach, but would prefer the former.

So far, however, the Federal Office of Management and Budget has successfully thwarted HEW support of any additional day care, and Congressional Republicans are concerned that OMB may succeed in blocking (or watering down) Secretary Richardson's pro-day-care testimony.

The chief mover and shaker of OMB's hostility to expanded day care is Richard P. Nathan, one of the office's twelve assistant directors. Nathan's logic is simple: He has been trying to safeguard the Administration's Family Assistance Plan, which includes a small day-care provision, from the detrimental competition of a separate, larger day-care bill. (Nathan's personal concern reflects the fact that he headed the 1968–69 Presidential task force that blue-printed FAP.) But this worry no longer seems valid inasmuch as the House Ways and Means Committee just last week cleared FAP as part of a much larger Christmas tree package with enough goodies to probably assure its passage.

Republicans on the House Education and Labor Committee believe that if the Administration will support a reasonable day-care program oriented towards effective middle-income participation, then such a popular program might win Congressional enactment. They are also worried about the result if the Administration follows OMB advice. In this case, they say, Congress is likely to go its own way and pass a multi-billion dollar, "neighborhood action" type of day care aimed at low-income groups. Some Democrats, they add, are trying to trap the President with a budget-busting day-care bill he cannot veto without "being against the little children."

The statistical case for day care is overwhelming. At present, there are roughly 14 million working women, mostly housewives, with children under 6. Day-care facilities are few and far between.

The toughest circumstances confront women who are heads of households and who must also work. Female-headed households have a median income of $4,000 per year as opposed to the $11,000 median income of families headed by men. Many divorcees and widows able to earn only a marginal living find their circumstances particularly pressing because of the difficulty of first finding day-care facilities and then paying their high rates.

Politically, President Nixon should be leaping for this issue. Welfare mothers are hardly likely to vote for him, but working mothers, a huge slice of the electorate, are extremely reachable on the subject of day care—especially young women, aged 18–35, among whom the President is weak, according to the polls.

Under these circumstances, if HEW Secretary Richardson fails to testify on behalf of a major expansion of day-care facilities, it will be vivid testimony to the extraordinary behind-the-scenes influence of the capital's budget bureaucrats.

[From the Washington Star, May 24, 1971]

Child Care Plan Considered for Higher Income Families

(By James Welsh)

The Nixon administration, caught in a political squeeze, is considering a plan that would provide free child-care services not only for welfare mothers but for a higher-income group of the working class.

Secretary of Health, Education and Welfare Elliot L. Richardson, who was to have testified Friday before a House subcommittee on the controversial issue of day care, abruptly cancelled his appearance the evening before. He is now scheduled to testify this week.

"We haven't quite got it together yet," said one of his top aides in explaining the postponement.

At issue, in part, is whether the White House is willing to extend its day-care commitment to millions of families in the lower-middle income range, families in which many wives work.

LIMIT ON COMMITMENT

So far it has not done so, preferring to limit the commitment to its efforts, contained in the Family Assistance Plan, to get welfare recipients to work.

But it is faced with Democratic alternatives in both the House and Senate that would go far beyond that, offering free day care to a family of four with an income of $6,900 and partial subsidies to families above that income mark.

In the meantime, the White House has embraced a principle in day care financing that will surprise many liberals.

It has decided, where possible, that mothers should be able to use a "voucher payment method" in spending federal day care assistance to purchase day care services.

This would extend a maximum of consumer control, giving mothers hundreds or thousands of dollars each of purchasing power in the day care field. With vouchers, they could shop in the open market for the day care program they believe would best suit their children.

The day care issue has political significance that is readily recognized by administration officials.

$1,600 PER CHILD

Government programs in recent years generally have failed to reach the working class in the $4,000-to-$10,000 income range. Most observers believe a massive day-care program would be highly attractive to this group.

But such a program would be enormously expensive. HEW now is using the figure of $1,600 as the cost of all-day, year-round care of one child, and the cost of a large, national program would run into the billions of dollars.

Administration insiders say Richardson may well get the go-ahead to offer a new, expanded proposal. Said one:

"It's up in the air at this point. Do we go further, and how much further? And that's not the only question. Another is one of nuts-and-bolts administration. What's the 'best way to run a program that could involve thousands of day-care centers and agencies running programs for millions of pre-school and school-age children?'

"The Democrats have come up with what looks like a sexy system. But we're not sure. A program like this, if it's not established right, could turn into an administrative nightmare."

The administration's position on vouchers for day care was stated in a largely ignored part of President Nixon's response last week to a series of demands by the Black Caucus in the House. It said:

"The administration presently favors the voucher system because it will give the consumer control of the funds and thus of the programs."

At another point, the document said:

"Too many federal programs targeted on the disadvantaged have resulted in excessive administrative costs and reduced benefits for the intended recipients. By using vouchers, the full amount of the individual's grant will be available for the purchase of services."

An HEW official today confirmed the administration's decision to go with the voucher system.

This is not, however, at the heart of the dilemma facing the White House in taking a position on legislation House and Senate Democrats have introduced.

DEMANDS FOR REFORM

Both Republicans and Democrats have hurried into the issue because of the demands of welfare reform that the White House and Congress are pressing. Everyone concerned agrees that one of the great barriers to putting welfare mothers to work is the difficulty of their finding day-care services they can afford.

The Family Assistance Plan, now going to the House floor after its approval by the Ways and Means Committee, provides $386 million in federal funds to help establish a day-care system.

Measures introduced by both Sen. Walter Mondale, D-Minn., and Rep. John Brademas, D. Ind., would offer free day care for children where the income for a family of four is less than $6,900, far above the cutoff point for subsidies under the Family Assistance Plan.

The Mondale bill would provide $13 billion over four years for day care, while the Brademas bill contains no fixed spending authorization. The Mondale bill also contains strong provisions for parent control of what kinds of day care programs are established, along with greater opportunities for cities to complete with states as prime sponsors of day-care facilities.

Of the two bills, the White House favors the Brademas legislation. But it would rather have its own proposals, and that is what is at stake in the debate taking place within the administration.

LETTERS AND TELEGRAMS FROM INDIVIDUALS

Mr. Speaker, I have had many letter and telegrams from individuals across the country and I have inserted several of them:

NOVEMBER 6, 1971.

DEAR HONORABLE SIR: I must admire your courage to put such a benefit before our children—perhaps you are aware that too many of our children suffer in steel cages on a worse than animal level of existence—I for one do not consider this red but rather a moment of truth which will lead to other truths. I would hope that the present Republican administration would stop branding social progress and due progress of social events on a communist level but that is the old speak of principle and meaning of self satisfaction of 99 out of every 100 Republicans I ever met—an old iron fist in the velvet glove at any price—you have justified democracy as an instrument that our children must share in be it by law, due progress of social events or a course of greater social events leading to a higher state of equality among our children.

As an advocate of the founding of a national institute of philosophy NIP—I would ask your opinion and possible support as I believe that such a course of action would bind the people together in unity of purpose that being a more equal state of being for all our people. Unity of purpose and a sharing in of other men's ideals with mutual respect borne out of one's own something beyond the self should bring a greater time of social progress of social events. I do believe we must bring this into being before the sick sick philosophy of punish the poor and minority—punish the innocent child becomes more of a policy than a philosophy.

Men must come together to reason together to see that all that is pink in the Republican opinion is more social justice than the red they would make of it to avoid a time of truth, peace and equality among all people—we must give our children new hope—as one that was raised in a steel cage much in an animal level of existence I say give greater hope that lesser children will to endure such things from the past in their future which is the only hope that our American children know.

How I would like to work against the present administration to set the record straight that we can forgive when we see children on an animal level of existence but we can never forget until this type of plight is ended for all children for all time—it is a rather bitter experience to be raised in such matters and see society the tools of it lead children into times of crime and the time of prison and death because of what society would make of children innocent yet guilty by nature of birth such as color or being in real poverty—we serve to alter the course of such past events refusing to forget even though we serve to preserve the good things of so great a nation and people.

Sincerely,

FRANK J. SCHEMMEL.

SALEM, OREG.

NOVEMBER 8, 1971.

THE PRESIDENT,
The White House,
Washington, D.C.

MR. PRESIDENT: During a Family Day Care Orientation meeting at M.I.T., the people who signed their names on the attached list indicated support for the OEO extension bill, particularly the child care provisions which Senator Mondale and Congressman Brademas introduced.

These people hope you will sign the OEO extension bill and support it so that the necessary monies will be appropriated.

Respectfully yours,

DANIEL JAFFE.

CAMBRIDGE, MASS.

NOVEMBER 17, 1971.

DEAR CONGRESSMAN BRADEMAS: I want to thank you for championing the Comprehensive Child Care Development Bill H.R. 6748.

I realize it is being held up over the allocation of money.

Please hang in there & don't compromise. I'd like to write Senator Walter Mondale & ask the same of him on S. 2007, but I don't have another air mail stamp!

Thank you again for your concern.

Very truly yours,

JOYCE SULLIVAN.

LODI, CALIF.

NOVEMBER 22, 1971.

DEAR MR. BRADEMAS: As a concerned specialist in early childhood education, I would like to commend you for your efforts in development and support of the comprehensive child care bill (H.R. 6748).

I realize that the new bill emerging from the House-Senate Conference Committee has a new face but hope that you will continue support—some "face-lifted" bill is better than nothing at all.

The parts that greatly concern me is 1.) the fact that a family of four whose income is approximately $7,000 will, in all probability, not enroll a preschool child in day care services that cost approximately $300 a year. That family will probably have other priority for that amount of money. These people should be beneficiaries of free child care services. 2.) Also it troubles me that parents really have sole control of the governing board of the child care facility. I do not deemphasize their importance, but by all means a professional child care specialist should be a *Must* on each board.

Can you suggest to whom I might write a letter or letters to voice concern and support of the child care bill? I have already sent one to President Nixon.

Sincerely,

VICKI ARNOLT,
Doctoral Fellow,
Indiana State University.

NOVEMBER 23, 1971.

DEAR REPRESENTATIVE BRADEMAS: The provisions for child care reported out by the Senate-House conference committee on the OEO bill, although not as good as they might have been, do represent progress. The services, funds, and administration that would be made available would be a worthwhile advance toward beginning to meet a substantial part of the need for comprehensive child care in this country.

Therefore, I respectfully urge your support for this legislation when it is considered by the House.

Sincerely yours,

LOUIS P. DOLBEARE,
Manager,
Subcontracted Day Care Services.

PHILADELPHIA, PA.

NOVEMBER 23, 1971.

DEAR SIR: Since the Bills: H.R. 6748 and S. 2007 have been passed for "Child Care Development", we, members of Beverly Womens' Club (the local chapter of the National Emma Lazarus Federation of Jewish Women), ask you to use your official power to obtain the allocated sum of 2 billion dollars for this most necessary project.

We also hope you will prevail upon your colleagues to help appropriate this necessary fund.

Thank you,

Respectfully yours,

MRS. DORA H. SHAPIRO.

LOS ANGELES, CALIF.

NOVEMBER 29, 1971.

HON. JOHN BRADEMAS: Please see that the Bill 2-W-007 goes through so we get Child Care Centers which is so urgent in the now society.

Thanking you we remain,

The EMMA LAZARUS.

LOS ANGELES, CALIF.

BENTON HARBOR, MICH.,
November 20, 1971.

Representative JOHN BRADEMAS:

Commend you for your efforts on the comprehensive child development bill (S. 23007). We are urging its support by writing and wiring numerous Members of the House and Senate.

DON RANUM,
President, Twin Cities Area
Child Care Centers, Inc.

ENCINO, CALIF.,
November 15, 1971.

Representative JOHN BRADEMAS:

Urge you successfully conclude fight for signing uncompromised version S. 2007 and H.R. 6748 into law.

FLORENCE TEMKIN.

LOS ANGELES, CALIF.,
November 11, 1971.

Representative JOHN BRADEMAS:

Urge you maintain funding level in comprehensive child development bills. Challenge Nixon veto.

RUTH EHRLICK.

TAKE PRIDE IN AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. MILLER) is recognized for 5 minutes.

Mr. MILLER of Ohio. Mr. Speaker, today we should take note of America's great accomplishments and in so doing renew our faith and confidence in ourselves as individuals and as a nation.

The rate of production output-per-man-hour is determined by dividing the total hours of employment into the annual gross national product. The output-per-man-hour increases with better and more productive facilities. The output-per-man-hour, according to the Handbook of Labor Statistics, has increased since 1959 at rates indicated on the scale:

HOW OUTPUT PER MAN-HOUR INCREASES YEAR BY YEAR

Percentage of increase over previous year:

1959	5.71
1960	1.74
1961	2.27
1962	5.93
1963	4.02
1964	4.88
1965	4.09
1966	1.39
1967	.68
1968	5.28

A DISGRACEFUL DISPLAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. BLACKBURN) is recognized for 5 minutes.

Mr. BLACKBURN. Mr. Speaker, Richard Nixon, not George Meany or any other AFL–CIO official, is the President of the United States. Elected by the people, he is creating a sound economy for the people. Yet, the President cannot restore the economy without the cooperaiton of the people. I call to the attention of my colleagues an editorial from the Columbus, Ga., Ledger which condemns those officials at the AFL–CIO convention whose inexcusable treatment of President Nixon disgraced the offices they hold. Commending President Nixon for his efforts, the editorial continues:

> We admire the President for his firmness. We admire him for seeing his responsibility and making it known in no uncertain terms.

The entire editorial follows:

> TOWARD THE NATION'S PRESIDENT—A DISGRACEFUL DISPLAY
>
> The hierarchy of the AFL–CIO is blatantly attempting to place itself above the government of the United States and a majority of the people of this country.
>
> This has manifested itself in many ways in recent days.
>
> Every American should feel the sting of the back-handed slap applied to President Nixon by AFL–CIO officials when he went to Miami last Friday to address the convention on his wage-price control program.
>
> First, these officials did not accord the office of President of the United States those courtesies usually reserved for the Chief Executive of this country.
>
> These labor leaders, particularly AFL–CIO President George Meany, showed disrespect not only for President Nixon, but for the office.
>
> For instance, when President Nixon left the speaker's platform, Meany said to the delegates: "We will now proceed with Act 2." How impolite. How crude and coarse.
>
> Further, the labor leaders would not approve the playing of the traditional "Hail to the Chief" as the President of the United States entered the hall. Additionally, AFL–CIO officials overruled White House aides who had wanted Nixon's appearance announced over the loud-speaker as he entered.

These people acted in a manner wholely unacceptable to most Americans.

They have come to the point of such power that they believe they are more powerful than the country, the government and the President of the United States all put together.

They have come to the point they won't hesitate to put their selfish interest above the welfare and good of the country as a whole.

They have come to the point they won't hesitate to attempt to black-jack the President of the United States into doing their bidding, into giving in to their attempts, at the risk of doing great harm to the entire nation.

But even in the face of the humiliating experience accorded the Chief Executive, President Nixon stood firm, stood his ground.

"We want the participation of labor," President Nixon told the delegates who voted to refuse cooperation with his Pay Board's wage controls.

"But whether we get that participation or not, it is my obligation as President of the United States to make this program of stopping the rise in the cost of living succeed, and to the extent that my powers allow it, I shall do exactly that," the President added.

We admire the President for his firmness.

We admire him for seeing his responsibility and making it known in no uncertain terms.

Labor is more to blame than anyone else for the economic mess in which we find ourselves. Yet it is labor which would send this country down a road of more chaos, more inflation. It is a selfish, unthinking action, bordering on anti-Americanism.

At any rate, the whole shabby display at Miami Beach last Friday not only was an affront to President Nixon personally, but to the office of Chief Executive of the United States.

The American people will see this lack of common courtesy for what it is—an attempt to embarrass the President into giving in to labor at a time when he is trying to bring the economy under control.

COMMISSION FOR THE PRESERVATION OF FOREIGN LANGUAGE RESOURCES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 10 minutes.

Mr. GONZALEZ. Mr. Speaker, I am reintroducing today a bill to establish a National Commission for the Preservation of Foreign Language Resources, and urge your consideration and support.

Because of the need we have for more effective communication among various peoples with diverse linguistic, and cultural heritages, I feel it is immensely important that we preserve and study foreign languages. Consequently, I have proposed in the past, and propose again a Presidential commission which would provide a systematic approach to identifying and compiling our foreign language resources—thus, fortifying the link between our peoples now, and in the future.

Our knowledge of such languages as Czechoslovak, Bulgarian, Rumanian, Russian, Arabic, Swedish, Norwegian, Finnish, Japanese, Mandarin, Cantonese, and Hindi is in woefully short supply, and yet we do not utilize our citizens who might know these critical languages. The knowledge which our non-English-speaking or bilingual citizens possess of their languages and cultures should be considered as a priceless national resource. In effect, this commission would help cultivate this resource by:

First. Developing national policy for the identification, preservation and improvement of national foreign language resources.

Second. Evolving an active program for the conservation of the foreign language resources of the United States.

Third. Serving as consultant and coordinator to National and State professional educational associations for the development and implementation of programs and activities designed to preserve and identify national foreign language resources.

Fourth. Identifying information needed to inventory foreign language resources, and coordinate the development of this data with the various executive departments.

Fifth. Providing data on national foreign language resources to Federal, State, and local government agencies; educational systems, colleges, universities, and private businesses, in accordance with demonstrated needs and the national interest.

The commission would provide a report to the Congress and the President annually, on the results of its program.

I first became interested in this proposal a few years ago when I conferred with Dr. Jacques M. P. Wilson, then chairman of the foreign languages department of Our Lady of the Lake College in San Antonio. Dr. Wilson is now with the modern languages department at the University of Miami. Dr. Wilson's statement of support was most enlightening and informative, and relates the paradox which exists in our "nonutilization" of non-English language skills which our citizens have.

I appreciated Dr. Wilson's assistance in shaping the legislation I have introduced, and suggest that you take time to read his statement:

Statement in Support of a Bill To Establish the National Commission for the Preservation of Foreign Language Resources

(By Dr. Jacques M. P. Wilson)

Never before in this nation's history has there been such a pressing demand for individuals qualified to communicate with the world community in their native tongues. Man's destiny—indeed his absolute survival—is to an unprecedented degree dependent upon his ability to develop effective intercommunication in the family of nations. The vital questions of our time cannot be safely resolved by military force. Survival in this thermonuclear age depends as it never has before upon the ability to communicate effectively with other peoples in their languages and on discussing the issues and problems which beset us without filtering them through the admittedly imperfect tools of translation and interpretation.

Our national interest forced us to develop and utilize our non-English resources to meet World War II military commitments. Thousands of speakers of non-English languages were pressed into service to accomplish tasks such as teaching languages, preparing radio and press releases, intercepting radio transmissions, censoring mail, and hundreds of other duties too numerous to mention. The nation suddenly realized the value of this hidden resource possessed by our non-English speakers.

Concomitant with the utilization of the non-English language skills of these citizens, our nation's educators began to question the effectiveness of foreign language instruction at all levels of the educational structure. It became immediately apparent that the reading and translating objectives of foreign language instruction in high schools and colleges did not produce the skills and aptitudes needed by our nation. A rarity indeed was the foreign language student who developed the proficiency approximating that of a native speaker. Few were the college or high school students able to understand the foreign language they studied when spoken by a native speaker. Fewer yet were those able to converse intelligently in a foreign language. The number was pitifully small who could write acceptably in a foreign language.

While we needed non-English resources in such languages as: Czechoslovakian, Bulgarian, Rumanian, Russian, Arabic, Portuguese, Swedish, Norwegian, Finnish, Italian, Tagalog, Japanese, Mandarin, Cantonese and Hindi to name but a few, we discovered that most secondary school and college curricula offered: French, German and Spanish. Very few school systems or institutions of higher education helped those who spoke non-English languages to preserve the linguistic and cultural heritage of the ethnic group to which they belonged. Our twentieth century educational philosophy was a reflection of an 18th and 19th century ideal that the United States is a melting pot; that we embrace all who come to our shores as equals—but that they must forget their past: their culture, their traditions, their heritage and become homogenized copies of Mr. Babbit on Main Street, U.S.A. Our 19th century culture developed what amounted to an ethic that the individual who spoke with a "foreign" accent hadn't become quite completely Americanized. Those who spoke a non-English language at home were looked upon with suspicion and as somehow slightly un-American.

Teachers and educators reflected the prevailing opinion by systematically discouraging pupils and students from using or preserving the language and culture of the ethnic group to which they belonged. The schools' rejection of the home language, of those who spoke languages other than English, subconsciously denigrated their culture. Our local and state educational policies were monolingual and monocultural. We were a safe, secure continental island, separated from the rest of the world by broad oceans. In our dealings with those from other shores, we used English, and in many cases still do. Yet, as Joshua A. Fishman, in his study *Language Loyalty in the United States,* points out, at the national level, America has rarely implemented policies to "hasten the linguistic and cultural enfeeblement of its immigrant groups. . . . Immigrant minorities were never forbidden to organize and maintain their own communities, organizations, schools or publications."

After the end of World War II, the momentary recognition given those who possessed non-English language resources subsided. Some forward-looking educators and linguists, capitalizing on the advances in foreign language teaching technology pioneered by the Army Language School and other such projects, began conducting research in the development of foreign language teaching materials, the training of foreign language teachers, and the updating of our school and college curricula. In general, foreign language teaching returned to the pre-World War II rut from which it had given promise to emerge. With the exception of a few cosmopolitan urban centers in the nation, our value systems still reflected a degree of mistrust of those who spoke another language than English. If not quite un-American, they certainly were not as "fully" American as those of white, Anglo-Saxon, English-speaking, Protestant, ethnic origin.

The advent of the first Russian Sputnik jarred the nation's leaders from their complacency. Since then, this country has made significant strides in expanding its reservoir of foreign language skills. Under the authorization contained in the National Defense Education Act, basic research in the field of foreign language teaching was subsidized. Thousands of teachers received crash training in hundreds of NDEA Institutes designed to improve their own qualifications in the languages they taught, as well as to receive training in the most up-to-date and scientific methodology of teaching foreign languages. Thousands of scholars were given opportunities to pursue advanced study in hundreds of languages classified as "critical" or "exotic" in terms of our national need.

As a result of the leadership of Congress, and the U.S. Office of Education, an aroused foreign language teaching profession has striven to expand our non-English language resources. Millions have been spent supporting programs which have been generally well-designed and carefully implemented. The entire national academic structure reflects the new value placed on acquisition of foreign language skills. Yet, at this time we have only attempted to do half the job.

In this nation, there are millions of individuals who speak other languages. Some are completely bi-lingual; others have yet to learn English. Each year many migrate to our shores and bring with them additional non-English language skills, language resources which are desperately needed. The nation's attitudes to these resources have changed but little since the 19th Century. Non-English speaking, non-Anglo-Saxon ethnic groups are still pressured to forget the past, to forget their cultural heritage, to forget their language. No systematic program exists to identify and inventory these resources. No agency or branch of government is charged with the responsibility of encouraging social, educational and political associations, educational institutions and educational systems at the state and local level to develop programs to preserve these priceless resources in our national interest.

In a democratic society such as ours, educational policy, whether at the national, state, or local level, should be based on the needs and well-being of the individual as well as the needs of the state. The failure to dignify the home language and home culture of the pupils has damaged the self-concept of speakers of other languages. Eventually, this attitude forced children to reject their home language. It has been repeatedly demonstrated that those who went through such an experience reach adulthood without acquiring literacy in their mother tongue. In such cases, their home language is practically useless for any professional or technical utilization where language proficiency is important. A valuable resource is thus wasted; but more importantly, an individual has been psychologically damaged in the process. Instead of bi-cultural, bi-lingual children, it has produced generations of citizens who are linguistic cripples, who are neither functional in their home culture, nor the dominant culture of this nation.

It is my strong conviction that Congress should take the initiative and establish a Presidential Commission for the preservation of the non-English language resources of this nation. This Commission should be a panel of leading educators, scholars who have made notable contributions in the field of bi-cultural and bi-lingual education. Through the Commission's statement, policies, and programs it can insure not only the preservation of an important strategic national resource, but a valuable counterpart to existing programs for the development of foreign language skills in this country. Truly, it can be said—It makes little sense to spend countless millions to teach people language skills in one segment of the population, while the same system unwittingly works systematically to stamp out these same, as well as other non-English language skills, in other ethnic groups. I respectfully urge the 90th Congress to support this greatly needed and long over-due legislation.

RAIL PASSENGER SERVICE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Connecticut (Mrs. GRASSO) is recognized for 10 minutes.

Mrs. GRASSO. Mr. Speaker, the National Railroad Passenger Corporation—Amtrak—was created, we are told to upgrade America's deteriorating rail passenger service. By making the Nation's train service more efficient, effective, and convenient, Amtrak's goal is to again make popular a mode of transportation which has been long neglected.

This program of improving rail passenger service is certainly a sound and needed one. To be sure, some train runs around the country were superfluous and wasteful. Good management—with a national perspective—is essential in order to determine the demand for rail passenger service, to trim waste, and to provide service dependability. However, from its inception Amtrak has employed a seeming arbitrary, capricious, and piecemeal procedure of reaching decisions on when and where to provide passenger service—most often at the expense of its customers.

During July, I called for a full congressional investigation into Amtrak's arbitrary manner of adding routes to the basic national railroad passenger service system. When the Amtrak system was created, some States were left totally without rail passenger service. However, passenger service was reinstated in Montana, as well as between Washington, D.C., and West Virginia.

Efforts to reinstate other vital passenger service routes proved unsuccessful—such as the discontinued rail passenger service by two pairs of Penn Central trains which run through portions of my Sixth Congressional District between Pittsfield, Mass., and New York City. Unless Amtrak deals fairly with all parts of the Nation in the selection of routes, it cannot become a success.

More recently, I have been appalled and distressed by the needless lack of consideration shown to many of my constituents—in the towns of Enfield, Windsor Locks, and elsewhere—who commute to Hartford on Amtrak-operated Springfield to Hartford passenger trains. New train timetables which went into effect on November 14 place great hardships on these commuters.

Under previous timetables, residents of Enfield and Windsor Locks could take a commuter train to Hartford at 7:04 a.m. and 7:13 a.m. respectively, arriving in Hartford at 7:36 a.m. Coming home from work, Enfield and Windsor Locks commuters could leave Hartford at 4:55 p.m. and arrive in their home towns at 5:24 p.m. and 5:36 p.m. respectively.

However, new train schedules penalize many commuters in this area by forcing them to arrive in Hartford a full hour earlier than previously, often before their offices open. On the return trip, many commuters must wait in Hartford until 7 p.m.—after most people have eaten dinner—before a train is available to take them home. Efforts of the State department of transportation have helped to restore reasonable commuter service to one town, similar to that provided under the old timetables. But residents of Windsor Locks and other communities must subject themselves to a grueling and idiotic commuter schedule. By scheduling its commuter trains earlier in the morning and later in the evening, and by adding a new train both morning and evening which stops at only one point, Amtrak has succeeded in making its commuter service both inadequate and inefficient.

Distorted and inadequate Amtrak commuter service is not restricted to the communities of northern Connecticut. Many complaints are heard on train runs south of Hartford and throughout Connecticut, as well as across the country. One detailed letter to the editor in Sunday's edition of the Washington Post complains that schedules for overnight runs betwen Chicago and each of the following cities—New York, Washington, New Orleans, and Denver—are "inconvenient" to most who utilize the service. In addition to formulating attractive service schedules to lure the business trade, the writer suggests that Amtrak institute competitive prices to appeal to potential customers. Presently, the one-way coach fare by rail between Chicago and New York is $51, while the air coach fare is $59. A one-way roomette costs $98, while a first-class air ticket costs $76.

Amtrak, which is in severe financial disarray, is presently seeking $170 million from Congress to continue operations. Amtrak has already received a $40 million Federal grant—and one wonders how this money has been used to benefit rail passengers. In recent House Transportation Subcommittee hearings, Amtrak officials were asked for a detailed accounting of such items as a $3.8 million payment for consultant fees and a $500 a month expense for limousine service.

Amtrak's reason for existence is to make rail travel "a good thing again," as the saying goes. Thus far, Amtrak is a long way from fulfilling its purpose—and in some cases is providing poorer service than was the case in the pre-Amtrak era. I have called on the vice president for operations of the National Railroad Passenger Corp. to reinstate the train service which has proven itself to be most satisfactory to Connecticut commuters. In addition, it is my hope that Amtrak will draw together an enlightened management team willing and eager to institute innovation ideas to attract rail passenger transportation business.

If Amtrak is unwilling or unable to

perform this service for the American people as we seek to upgrade our Nation's transportation systems generally, then the future of rail passenger service and the future of Amtrak is precarious indeed.

MISS JEAN MANNING OF NASHVILLE'S NEIGHBORHOOD YOUTH CORPS

The SPEAKER. Under a previous order of the House, the gentleman from Tennessee (Mr. FULTON) is recognized for 10 minutes.

Mr. FULTON of Tennessee. Mr. Speaker, of the many federally supported programs which operate in my district the Neighborhood Youth Corps of Nashville's Metropolitan Action Commission is one of the most successful and outstanding.

For the current fiscal year the metropolitan NYC program has 331 in-school slots wherein students are assigned to work, usually in school libraries and cafeterias, while being paid for 9 hours work a week at a rate of $1.60 an hour.

The out-of-school program for 16- and 17-year-old dropouts offers a combination of remedial education, skill training, and work experience plus a weekly stipend while training. In the past month five enrollees have completed their training and are, today, gainfully employed.

The Neighborhood Youth Corps does not dwell entirely on the development of skills for the training and encouragement of enrollees. Many facets of an individual's ability and talents are touched and encouraged.

An outstanding example of this recently was demonstrated by enrollee Miss Jean Manning who produced two very meaningful pieces of poetry, "I Am Black" and "This House" which I ask unanimous consent to include in the RECORD at this point and commend to the attention of my colleagues:

I AM BLACK

(By Jean Manning)

Just because one's hair is straight, and his skin a little lighter than others,
Then we call him white
Just because one's hair is of a different nature and his skin a little darker than others,
Then we call him black
No man is actually black or white because his skin is dark or light.
My skin is dark, so I am classified as black,
But I believe that if every man would come together;
Open their eyes, and take a good look at each other,
They would soon realize we are all sisters and brothers.
No matter the color of our skin or the nature of our hair;
And if every man would join in brotherhood, blacks and whites would be sisters and brothers—everywhere.

THIS HOUSE

(By Jean Manning)

They always say there's no place like home;
No matter how far we travel and roam,
But the condition it's in is really a sin;
When my father comes home, I can't give him a hug,
Because I can't get through for all of the bugs;
When it rains, through the walls water seeps,
And the whole darn ceilings, are nothing but leaks.
When you go to rub your feet on the mat, you just can't rub for stepping on rats;
There are holes in the floor and cracks in the door,
The walls need painting where the curtains are hanging;
Still I love this house with the holes in the floor,
But the day it falls down, it won't be a home anymore.

WORSENING TRADE PICTURE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. BURKE) is recognized for 15 minutes.

Mr. BURKE of Massachusetts. Mr. Speaker, this weekend the newspapers reported what I feel to be probably the most ominous news on the economic scene since the 1930's. Figures released this weekend indicate that in October our Nation's foreign trade deficit reached the staggering figure for 1 month of $821,400,000. This trading deficit, the imbalance between out imports and our exports, is the worst without any question since the end of World War II and probably has not been rivaled since the depression of the 1930's.

When in September the trade surplus registered a $265,400,000 surplus, I felt that the press and the administration were being very hasty in their optimistic reactions. I felt at the time that the figure was a fluke and probably had more to do with the dock strike than the administration's wage-price freeze or anything else. After all, the annual rate of deficit for the first 8 months of the year was already considerably in the red.

Imports in 1971 have increased at the unbelievable rate of 14 percent, while exports have only managed to increase 3 percent from the 1970 total. This increased reliance on imports has become a trend which almost approaches an inbuilt import bias in recent months. Many of us have been warning on the floor of this House that this was the trend for years now, but our warnings have gone unheard.

Maybe now that this country has a 10-month trading deficit of $1,492,100,000 so far this year, this will do more to jog the national consciousness into action than any speeches by a Congressman could ever do. When compared to the trading surplus of $2,553,800,000 that was chalked up in 1970 I think the magnitude of this Nation's dismal trade performance is understandable.

We can no longer afford to stand idly by and allow the flooding of our domestic markets with cheap foreign imports month after month. We no longer can take comfort in the income earned in overseas investments by American firms. We must, in fact, substitute orderly growth for wholesale flooding of our domestic market. The unemployment figures require it, the balance-of-trade figures require it, and the balance-of-payment figures for the third quarter require it.

Those who take false comfort and proclaim that the cause of last month's exceedingly bad performance is solely the dock strike and its effects are grabbing at straws and expecting to be redeemed in the process. The underlying problems of this Nation's balance-of-trade performance are much more deep rooted than a temporary dock strike.

This deficit is much more than a temporary aberration in the figures. I do not know who has searched the ships waiting in our harbors filled with foreign goods waiting to come into this country, and determined that they possess less dollar value than the goods sitting on our docks waiting to leave the country.

Such figures are not available and any estimates are based more on guesswork than hard facts. What I am saying, though, is based on past experience. I am willing to wager that there are many more imports waiting to come into this country once the striking dockworkers go back to work than exports waiting to leave. This is clearly the message I see in this Nation's trade performance prior to the dock strike.

My feeling is that an anticipation of the dock strike shipments were accelerated in September producing the first favorable trade balance since March and the furthest I will go is to admit that this probably explains some of the marked decline in exports evidenced in October.

Government spokesmen who were going so far as to admit the possibility of a $1 billion trade deficit a few months ago are now admitting that it might well end up closer to $2 billion. Information on the effect of the imports surcharge in all of this is understandably sketchy at this point, but the fact that collections under the surcharge seem to be mounting, while imports continue to grow apace seems to me to give a preliminary confirmation of the opinion expressed by many of us that the 10 percent surcharge was not going to do the trick. I think the time has come for Congress to put first things first and get down to a complete review of this Nation's foreign trade policies before we experience another year like this.

I think it is time everyone in Congress started reading the financial pages very carefully because buried here and there in the corners of those pages are news releases which I feel go a good distance to explaining some of the causes of our trading problems. A few days before the release of the October trade figures was an announcement that Genesco, formerly the General Shoe Co., and one of this Nation's largest producers of shoes, has entered into a joint venture with a Tokyo firm to obtain Japanese textiles even more inexpensively than at the moment. The article I am including in the RECORD makes two interesting points: First, that Genesco is a substantial user of Japanese textiles and, second, that Genesco owns 2,500 retail stores in the United States.

Let me add to this that it is clear from other sources that Genesco is a major importer of foreign shoes, with manufacturing subsidiaries of its own overseas. With this kind of increasing dependence upon foreign textiles and shoes, as is documented here in the case of but one major American company, is it any wonder that we have rising unemployment in America's shoe and textile industry? The 10-percent import surcharge is clearly not helping either these unemployed workers or preventing increases in imports. At the price they are importing shoes into this country, a 10-percent import surcharge is not going to have any noticeable effect.

I feel that to some extent the free trade lobby is not going to take my word on this about the need for a serious review for foreign trade and something approaching the Foreign Trade and Investment Act of 1972 which I introduced a few weeks ago and will shortly refile with additional cosponsors. Perhaps they will pay more attention to a recent speech by the chairman of the board of General Electric Co., one of their own multinational corporations, a speech which was reprinted in Forbes magazine November 15, 1971.

While the chairman of the board of General Electric doubtless is not in agreement with me on my solution to the problem, I feel that his analysis of the problem of poor export performance and the relative ease with which foreign imports find their way into our markets, is one of the best I have seen in any publication. These are not the musings of an academic but rather the conclusions of an experienced businessman of the world. His documentation of the extent to which other countries have been very careful to protect their domestic industries from disruptive imports and the difficulty American exporters have in bidding and quoting competitively in foreign markets should be required reading for anyone who has doubts about just how much of a one way street our present trade policies are. The referred to articles follow:

[From Forbes magazine, Nov. 15, 1971]

General Electric Chairman Fred Borch Lays It on the Line

One must approach a subject of such seriousness as the United States' foreign economic posture with a certain amount of disclaimer. I should say at the outset that I do not claim expertise on extractive materials or agriculture; rather, I speak to you from the viewpoint of a manufacturer with operations in most of the major countries of the world, and with several hundred millions of exports to those countries. Events in international trade have been particularly disappointing to one who represents a company that has consistently favored commerce between countries with a minimum of restrictive barriers and protectionist measures. We probably coined the expression, "free, fair trade," many years ago, though I am not sure of that. But we still believe in that objective for the U.S. and its trading partners, and are disturbed to note how far the trading nations of the world have drifted from trade that is both free and fair.

I must apologize for the fact that I am going to use a lot of numbers in this talk, but I see no alternative when I find that intelligent men on both sides of both oceans have been discussing the United States' trade situation with more emotion than facts.

One of the numbers that has been flashing a red alert for some time now is the U.S. trade balance with other countries. Obviously, if the United States is going to have any kind of equilibrium in our balance of payments we've got to have a trade and investment balance sufficient to cover all the other imbalances that spring from military expenditures abroad, U.S. tourists abroad, foreign economic aid, and so on. An obviously unacceptable alternative would be to resign ourselves to the fact that our favorable trade balance can never be restored, and then restrict foreign travel, foreign investment, imports and foreign aid accordingly.

So, let us look at our trade balance. As you know, the U.S. trade surplus declined from some $7 billion in 1964 to approximately $2 billion last year. As of August 1971 our cumulative current trade balance was in *deficit* for the fifth consecutive month, and totalled almost $1 billion in the red. If we wind up with a negative balance for the year, it will be the first time since 1893.

Now, let's cover the subject of our private investments balance offshore. We have all heard that American investments offshore are having a dire effect on the U.S. balance of payments—let's take a look. In 1964 the direct private investment by U.S. companies offshore reached a cumulative total of $47 billion; investment during the year was $2.3 billion, while income returned from this investment was $4.7 billion—or about twice the annual capital outflow. In 1970 the cumulative total reached $69 billion; the outflow for the year of our direct investments abroad was $4.4 billion while the return on this investment to the U.S. was $7.9 billion!

Now, if we take the overall commercial picture—the combination of trade and return on investment—we find that, in 1964, the return on investment comfortably supplemented a substantial trade balance in holding down claims against the dollar; today return from investments is our *last remaining positive item of significance*.

Labor officials, and others, who wax rhetorical about the dire effects of U.S. foreign investments on the U.S. balance of payments and U.S. jobs should look at these figures, which show that as our trade balance deteriorated rapidly, the return from our foreign investments accelerated—and a good thing it did, otherwise the dollar would be in a lot worse shape than it is today. And then they should go behind the numbers to find out why it was necessary to make these investments in the first place.

So in spite of the rhetoric on both sides of both oceans having to do with the dire effects of U.S. private investments offshore on our balance of payments, the figures show that much of this is "hogwash"—or in more polite terms, let us tag it as "False Rhetoric No. 1." We are thus drawn to the conclusion that the real problem with the dollar and the U.S. balance of payments is the drastic slippage in our trade, and that's what we should be discussing.

Which brings us to our second point: Why the drastic change in our trade balance? Again, we are told on both sides of both oceans that it's because of U.S. inflation, that we should get our own house in order. Let's take a look.

This is what happened to domestic consumer price levels in major industrial countries between 1964 and 1970. In the U.S. the domestic consumer price index rose 25% from 1964 to 1970. Let's admit that's bad. But let's take a look at what happened to each of our major trading partners: Japan, 40%; France, 27%; Germany, 17%; Italy, 21%; U.K., 31%—a range of from 17% to 40%, with only Germany appreciably below our 25%. And none of these countries had their Vietnams, and its inflationary impact.

From which the conclusion can reasonably be drawn that inflation is not the main cause in the reversal of the U.S. trade balance. Everyone had inflation, but not everyone had *trade balance* problems to the same degree. Let's tag this one as "False Rhetoric No. 2."

So then what is the cause of the massive change in our trade balance? Well, of course, then it must be, according to our concerned friends on both sides of the oceans, U.S. productivity, or the lack thereof, that is the culprit. And, we must admit, at first glance they could be right. In the U.S., productivity—in terms of output per man-hour—increased 14% between 1964 and 1970. Among our major trading countries the increase ranged from 22% in the U.K. to 99% in Japan.

So, it is certainly true that output per man-hour in other countries has grown much more rapidly than in the U.S. in recent years. It should! All other industrial countries have much greater incentives to modernize their manufacturing facilities to increase productivity—via their tax structures, such as our pre-1969 investment tax credit of 7%, much more rapid depreciation for tax purposes, and so forth. The disadvantage under which our manufacturing industries have operated since 1968 in this respect is clearly illustrated by the fact that the U.S. rules, until very recently, allowed an average tax cost recovery of under 8% in the first year, as compared with an average of 32% for the five countries mentioned; 34% for us *vs.* 63% for them at the end of three years; and 66% for us compared to 93% for them at the end of seven years.

These tax cost recovery allowances are typical of the incentives offered in other countries for the purpose of increasing productive investment. So, in view of our national interest, it is pertinent to ask why other industrial countries have done these things: Certainly not to give a "bonanza to business," as critics of President Nixon's proposals have contended, but to improve productivity, strengthen and grow their economies, and thereby maintain a fuller level of employment.

And it is appropriate to note that the pending investment tax credit of 7%, if passed by Congress together with a cutback in ADR, as seems most likely at the moment, will still leave us well short of equality with other countries in this regard.

So on this subject, we can now say, well we probably have the answer then; productivity has gone much faster for them than it has for us. But before we accept that, let's take a further look at what really counts, namely, *unit labor costs* in manufacturing, which are a combined measure of output and total employment costs.

It will come as no surprise that our wage and salary costs have been going up at a rate that exceeds productivity—between 1964 and 1970 unit labor costs in the U.S. rose by nearly 20%, much of the rise occurring during 1969–70.

Surely the other industrialized countries haven't experienced this sort of situation—or have they? Well, it comes down to this: Italy is very close to our 20% increase in these costs; France is marginally lower at about 16% and Japan—a circumstance I'll get to in a moment—is recognizably lower at a 12% unit labor cost increase. But [look at] two of our biggest trading partners: Germany, 26%; and Britain, almost 33%—all markedly higher than the U.S.

I should emphasize that these costs are stated in terms of national currencies rather than U.S. dollars, thus eliminating the distortions of revaluations both up and down that have occurred in these countries.

Now, a word on Japan. The big divergence really occurs in 1969 and 1970, when our own unit labor costs shot up. Before that, Japanese unit labor cost rises paralleled ours. Despite this generally comparable unit labor cost picture for the Japanese, they nevertheless turned around our two-way trade to their advantage by 1965.

Thus, the differences in unit labor cost trends do not seem to account for the massive change in our U.S. trade balance, and to tag U.S. productivity, or the lack thereof, as the chief culprit would seem to qualify as "False Rhetoric No. 3." At this point, we can then suggest that as bad as inflation is, as bad as our productivity fall-off is—both for our domestic economy and for all of our citizens—neither is the main cause for our trade imbalance.

So then we come down to the core of the problem: What is the real reason for the serious U.S. trade situation? It is my thesis, as a manufacturer, that it boils down to the fact that other countries have placed international trade as a top national priority and have adopted structural policies to promote their trade balances and their balance of payments. The success of these policies is reflected in the degree to which they have been able to shield their export prices from the inflation in their domestic economies.

Thus, in the U.S., the export price index has almost kept pace with the domestic price index from 1964 to 1970—namely a 25% rise domestic and 20% rise export—for a spread of 5 points. But the rise in export indices of all but one of the other countries doesn't begin to approach the rise in their domestic indices during this period. In Italy, for example, the domestic price index rose 21% while the export price index rose only 9%—a spread of 12 points. In Japan the spread is 32 points. In France and England (both devalued their currencies—thus lowering the price of their exports) we see spreads of 19 and 21. And only Germany (as a result of upvaluation) kept her spread to 3 points. So, we have the U.S. at 5 points, and the five others ranging from 3 to 32.

How could they thus insulate their export pricing from their domestic economies? Let me suggest at least three reasons.

First, they had the freedom to devalue their currencies when their trade and their balance of payments got in trouble. Both England and France took advantage of this ability to devalue over the last several years with the result that their export prices were reduced and their import prices increased. Meanwhile, for good technical reasons under the International Monetary Fund, the U.S. was unable to institute similar compensatory competitive steps. So here we have one major reason some of the other countries have been able to offset their inflation and increased unit labor costs whereas we have not been able to.

By the same token, a number of other countries with consistently favorable balances have not done the reverse to the degree they should have; namely, revalued upwards, notably Japan. With this picture, I would give high marks to the Administration for its current emphasis on upvaluing other currencies and cutting loose from gold.

The second structural reason they could maintain the differential between their export prices and their domestic prices—in favor of their exports—is that they have been very careful to protect those domestic industries that they consider important to their economy, or to their employment, from what they consider might be disruptive imports. Let me give two examples, among many, of how this is done.

The first example is the allocation of the available business by their government procuring agencies to their domestic manufacturers at prices that guarantee an acceptable return on investment. The result is high prices for such equipment in the home country. This enables the manufacturer to adopt pricing practices which result in quotes in third markets and the U.S. significantly lower (10% to 50%) than the prices paid by their own government customers.

In my opinion, the attempt to keep other countries' government procurement practices more in line with those of the United States, if the U.S. market is to remain open to them, is long overdue, since the modest 6% Buy American penalty is an inadequate remedy. If, for example, we were free to bid, to go in there and seriously quote our own domestic prices, which we are not, we would be very competitive. And, at the least, it would bring out into the open, for the attention of their own taxpayer-consumers, the differentials they pay for this two-price system.

If our trading partners would follow the same kind of open bidding that our TVA [Tennessee Valley Authority] does, as required by law, resulting in purchasing tens of millions of dollars worth of electrical equipment offshore each year. I, for one, would gladly give up the Buy American 6% for the open bidding and the salutary effect it would have on this form of dual pricing. Until agreement is reached on open procurement, country by country, our government should no longer entertain bids from those who insist on closed procurement in their own country.

The second example of how foreign governments protect their own domestic industries is by moving in, in one form or another, when their own private enterprises can't cut it. We have seen this happen in steel, airlines, nuclear reactors, computers, commercial aircraft, jet engines. When the government steps in, the competitive rules change.

Of course, under this government umbrella, there is little need to be responsible for earnings, and there is no requirement that dividends be paid to nonexistent stockholders. Financing can be obtained from the country's treasury or nationalized financial institutions at concessionary rates or even without costs. Pricing, especially for export, can be jiggered for political purposes rather than economic realities, but such management nevertheless escapes the shadow of bankruptcy.

Privately owned companies find it extremely hard—not to say impossible—to stand up against such competition. It is sobering to note that some of those state-owned industries are now selling half of their production into export. And in the years immediately ahead, such competition is going to grow, and with it so will the size of the problem. These state-owned industries don't meet the economic criteria as we understand them, can insulate themselves from the disciplines of the marketplace, and by virtue of their semi-sovereign nature possess advantages not enjoyed by private concerns.

How we, in this country, are going to be able to handle such competition—domestically and internationally—poses some difficult and sticky choices for ourselves and our own government. Probably we shall have to depend on the almost continuous efforts of our commercial diplomats to persuade the governments behind such state-owned businesses that their industries must behave according to the usual rules of economics. But, as we know, the art of diplomacy doesn't always work. So I suspect we will have to revitalize the use of our countervailing duty laws and, perhaps through new legislation, see to it that the President possesses fast-acting retaliatory powers.

So much for some of the ways that countries protect those domestic industries that they consider important to their economies. Let us turn now to the third, and to me the most significant of all the reasons why the U.S. will remain at a growing and permanent disadvantage as these structural differences exist and proliferate—the different tax policies of our major trading partners.

If we look at the tax structures of many of these countries, we find a wide variety of incentives designed to promote exports. The extent to which such foreign countries have lowered their net income taxes on export income has recently been documented in hearings before the Congress. American businessmen should read these documents to get some idea of how serious this matter has become. While our tax officials undertook a massive effort beginning in 1962 to make sure that export income of U.S. corporations was taxed here in full, foreign countries have continued to permit the shifting of export income to a tax haven subsidiary, for example, or given extra deductions for costs tied to exports, such as extraordinary depreciation deductions for export related assets. In our country, the Administration has proposed to counter this practice by favoring export income on a tightly controlled basis under the DISC [Domestic International Sales Corps] proposal, but the proposal is not well understood in Congress and the direction has been to try to water it down, far below the effective level of an export incentive, and then to kill it.

Now let's turn to border taxes and export rebates.

Let me say that I smile ruefully at much of the hue and cry on both sides of both oceans at the imposition of what some call the "trade wall" of the 10% surcharge. Today's sound and fury absolutely fascinates me as a manufacturer who has spent many years trying to scale the import tax walls of other countries, where the rates of their border taxes range from 11% in Germany to 23% in France, and where the peaks for electrical appliance and TV imports reach 20% in Japan clear up to 36⅔% in England. You, here in Detroit, have the same problem with automobiles where the border tax rate rises to 33⅓% in France, 36⅔% in the U.K., 40% in Japan. And now we are in the process of repealing our relatively modest 7% automotive excise tax.

If I seem to have strong opinions on the equity of these situations, it is because I believe that the most important of the trade-affecting measures built into the structure by our trading partners is the heavy reliance on indirect taxes that are not reflected in the price of their exports and are imposed at the border on imports.

When the GATT [General Agreement on Tariffs & Trade] rules were written some 25 years ago, they provided that the member countries could exempt their exports from indirect taxes—which, then, were understood to be mainly sales and excise taxes—and charge an appropriate compensating border tax on imports. Simultaneously, the GATT rules forbade both export rebates and border levies for direct taxes—that is, those imposed on personal and corporate income, and for social security contributions.

What we did not foresee was the full impact of the difference in tax structures in Europe and Japan relying heavily on high rate indirect taxes, with a simultaneous shift in this country away from indirect taxes toward almost total reliance on the income tax as a source of national revenue. Excluding social security contributions, some 85% of Federal revenues come from the income tax, which cannot be rebated at the border under the GATT rules.

As a result of these opposing tax structures, we face the following situation. On products sold in his own country, the European manufacturer charges his domestic customer on a basis which reflects his tax burden, whether this burden is made up of income taxes, social security taxes, value added taxes, and whatever else. The mix, as these taxes are paid and collected, happens to be what each country determines for itself. In the U.S., the manufacturer's domestic price also reflects the mix of all taxes imposed by all our levels of government.

But there the similarity ends. For when the European manufacturer exports to the U.S. or elsewhere, his government rebates or waives the actual total amount of his indirect taxes that are included in his domestic price. His product then reaches the United States where it crosses the border free of U.S. taxes—or did, before Aug. 15. Thus, his export product price reflects domestic price, less the big domestic rebate, and no U.S. tax.

Now, let's turn the coin over. When the United States manufacturer exports to Europe, his price reflects the burden of all U.S.

taxes that can be ascribed to production and sale and there is no rebate from the U.S. Treasury for any of these. But at the European border the goods become subject to a tax equal to the local indirect tax rates—which I just mentioned as ranging from 11% to 36⅔%. And, as if that were not enough, the border tax is usually imposed on the landed cost, including the European customs duty. There is no corresponding burden on domestic sales. This is just a bit of additional salt rubbed into the wound.

This combination of the U.S. and foreign tax burdens clearly imposes a trade disadvantage on our exports. I am fully aware from the testimony before the Williams Commission and studies made elsewhere that economists are not agreed on the measure of this disadvantage; nor can they agree on just how to measure the extent to which European export tax rebates inflate imports to this country. But they do agree that the system has this table-tilting effect, and the higher the rate of the foreign TVA [added value tax], the more decisive the effect will be. I am convinced that it is high time to recognize this tax structure tilting as a major cause of our trade balance troubles.

Let us then go forward in time to 1972–73, and let us assume the major European industrial countries will all have harmonized their value-added tax at a rate of 15% or more. A European manufacturer exporting to the U.S. will therefore reflect in his export price only a small portion of his national tax burden and social costs—and none of the U.S. federal tax burden. The American exporter to Europe, however, will—just as before—find that his landed price covers his full share of U.S. taxes and, at the border, a contribution to Europe's tax take of something around 15%.

For these reasons—and in spite of the hue and cry on both sides of the waters about "economic overkill"—I believe that all three measures as proposed by the President were necessary. Revaluation without the investment tax credit; the investment tax credit without the 10% surcharge; the surcharge without the tax investment credit or revaluation—would have failed to face up to at least one or the other of the structural differences that currently disadvantage us.

Much of the controversy about "economic overkill" is centered on the 10% surcharge. How long should it remain? I propose that major industrial nations of the world should agree on a basic principle of overriding importance; namely, that there will no longer be any import surtaxes or export subsidies on goods crossing their borders. If a country feels the need for protection, let's call it protection and approach it by the tariff route which is open for all to see and where the legitimate threat of retaliation is enough to cause any country to pause. Until this principle is agreed upon, I would not want to see us as completely disadvantaged as we have been in the past, by having the 10% surcharge removed.

It is particularly unfortunate that Canada, which has a tax structure similar to ours, was caught in a line of fire that was essentially aimed at the trade-distorting practices of others. They, our Latin American neighbors and perhaps other developing countries should be exempt.

But without an agreement from our major trading partners to work toward the equitable removal of structural disadvantages of whatever name, I regretfully come to the conclusion that even with the currency revaluations now being discussed, the United States may still find itself in a position where its trade balance will be inadequate to cope with the overall balance-of-payments problems.

I have come to this conclusion with great concern, as one who has long maintained that international trade, on the broadest possible basis, and with the fewest possible restrictions, was the real economic hope for the world. I still believe this with a deep personal conviction and I will continue to fight for the removal of trade distorting and restricting practices wherever we find them, including right here at home.

But, as we have seen, the old economic rules of the game no longer seem to apply. It was never envisioned that "the invisible hand" of classic economic theory would contain a wide variety of table-tilting practices. Until relative equilibrium and stability can be restored, until the unhappy results of border tax walls are swept away by the two-way flow of goods over as small and low an obstacle course as nations can agree on, it may be necessary to adopt a whole new approach to negotiating—substituting "deeds" for "theories and words."

Thank you for hearing me out. I have spoken today as one who has his own serious responsibilities to General Electric employees and shareowners, and who feels very strongly about the very formidable barriers to free, fair trade being raised in the world today, and who believes that trade cannot long remain "free" unless it is also fair.

[From the Washington Star, Nov. 23, 1971]

GENESCO, TOKYO FIRM STUDY JOINT VENTURE

NEW YORK.—Genesco, Inc., one of the biggest apparel producers and retailers, and C. Itoh & Co., a Japanese trading firm which is also among the world's biggest textile companies, are considering joint business activities.

The project, which could lead to creation of a jointly owned textile company in the United States, was disclosed in a New York Times interview with Franklin M. Jarman, chairman and chief executive officer of Genesco.

The project would enable Genesco, formerly the General Shoe Co., to obtain Itoh fabrics without higher costs already brought about by the floating of the Japanese yen. The project is subject to a definitive plan to be worked out by next July.

Genesco owns 2,500 retail stores in the United States, including Bonwit Teller, Henri Bendel, S. H. Kress, I. Miller and the Hardy, Flagg and Jarman shoe stores.

Itoh produces and markets a variety of consumer goods with curernt annual sales of about $8 billion, including about $4 billion in textiles.

"We've established joint task forces to study our planned arrangement to work on a project in the United States market," Jarman said. He said Genesco and Itoh had started talks on mutual projects last March.

Genesco is a substantial user of Itoh's textiles and is now paying 9 percent more in costs for such goods because of the floating yen. It expects another proposed revaluation could add as much as 20 percent more to such expenses, Jarman said.

Jarman said the two task forces are studying the feasibility of Genesco's entry, with Itoh, into the Asian and European markets, the latter venture aimed at selling textiles and apparel to East European countries.

APPROPRIATIONS DENIAL, ONLY ROUTE TO END WAR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. ASPIN) is recognized for 5 minutes.

Mr. ASPIN. Mr. Speaker, I would like to explain my vote against the 1971 military appropriations bill.

While I have at times voted for amendments to defense spending, I have not voted against the whole defense budget. But the courts have declared the war in Vietnam as constitutional because the Congress has appropriated the necessary funds. The Court has shifted full responsibility for the war upon the Congress and the Executive.

If it takes the defeat of an entire military appropriation bill to end the war, then I vote "no." I cannot in good conscience vote for legislation that continues this immoral and unnecessary conflict in Vietnam.

In Orlando against Laird, the U.S. court of appeals declared on April 20, 1971, that:

> Congress has ratified the executive's initiatives by appropriating billions of dollars to carry out military operations in Southeast Asia.—Both branches collaborated in the endeavor and neither could long maintain such a war without the concurrence and cooperation of the other.

I, for one, will no longer ratify or collaborate in what I believe is a senseless war that should never have started. I refuse to concur or to cooperate in our continued interference in Southeast Asia.

In Orlando against Laird, which was denied a writ of certiorari by the Supreme Court on October 12, 1971, the mandate of the Court is clear. It is only by cutting off the funds that we can have this war declared illegal and ended.

This House had an opportunity while considering this defense budget to cut off funds for the war in Southeast Asia. The Boland amendment, which I supported, would have cut off funds for "military combat or military support operations in or over South Vietnam, North Vietnam, Laos, or Cambodia after June 1, 1972" provided that prisoners of war were returned and an accounting made of all Americans missing in action. Unfortunately, that amendment was defeated by a vote of 238 to 163. The defeat of the Boland amendment and the court's decision in Orlando against Laird, leave me no other choice as a responsible public official but to vote against this military appropriations bill.

The American people have spoken out against the war in Southeast Asia. The Harris survey that was published in the Washington Post on November 8, revealed that "by nearly 3 to 1 the American people favor 'getting completely out' of Vietnam by next May." Of those surveyed, 62 percent supported complete withdrawal of all American forces—combat and support troops—by next May. Only 21 percent of those questioned were opposed to total withdrawal. Even if a Communist takeover would result from our withdrawal, 55 percent of the American people were opposed to leaving a residual force of 50,000 noncombat troops. Continued use of U.S. bombers and helicopters to support the South Vietnamese army was opposed by 57 percent. The giving of $1 billion military assistance to South Vietnam annually was opposed by 70 percent of the respondents.

It is a sad day when the Members of this House are so obviously out of step with the sentiments of the overwhelming majority of the American people who oppose the war.

The courts and the American people have spoken. If the only way to end the war is to cut off the appropriation for the entire defense budget, then I join with the majority of the American people who oppose this war and vote "no" on the 1971 military appropriations.

EULOGIES TO THE LATE J. HOWARD EDMONDSON, FORMER GOVERNOR OF OKLAHOMA

(Mr. ALBERT asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ALBERT. Mr. Speaker, as I am sure all the Members know, the youngest man ever to be elected Governor of Oklahoma at the age of 33, J. Howard Edmondson, the brother of our colleague ED EDMONDSON, died recently of a heart attack at the age of 46. His funeral eulogies were delivered by his son, James Howard Edmondson, Jr., and his brother ED. They have described their father and brother more accurately than any of the many great men and women who praised him or journalists who wrote of his brilliant, sometimes stormy, career. I have no power to add to the portrait they have drawn; I include their remarks for the information of those who did not know the late Governor and Senator, and the concurrence, I am sure, of those who did.

The eulogies follow:

EULOGY

(By Ed Edmondson)

My brother and I, and many others in this house of God today, have been inspired by the moving words of Theodore Roosevelt who said many years ago, "It is not the critic who counts, not the man who points out how the strong man stumbled, or where the doer of deeds could have done them better. The credit belongs to the man who is actively in the arena, whose face is marred by dust and sweat and blood, who strives valiantly, who errs and comes short again and again, who knows the great enthusiasm, the great devotions, and spends himself in a worthy cause—who, at the best, knows in the end the triumph of high achievement, and who, at the worst, if he fails, at least fails while daring greatly, so that his place shall never be with those cold and timid souls who know neither defeat nor victory."

I believe my brother and Teddy Roosevelt, had they lived at the same time and place, would have been great friends. There was nothing cold nor timid about James Howard Edmondson. He was a man who knew the joy of daring greatly, and who spent himself in more than one worthy cause. He was a man who knew both defeat and victory, and in my belief, stood even taller in defeat than he did in victory.

Someone has said that a man who is loved is usually a man with a nickname. Our dad had a nickname for my brother when he was only a toddler. He called him "Man," and I believe he was a man in the best sense of the word, throughout his life. Others called him "Nugget," not only because he was known to be hardheaded on occasion, but more because he was pure gold as a human being who cared for other human beings and did what he could as a man and as a public servant to make this world of ours a better place for man. To some, who worked closely with him, of course, Howard was always known as "Gov."

Howard Edmondson loved his home, his family, his friends, his state and his country. He gave generously of himself to all of these loves. He loved the political arena, and all the storm and strife and struggle of that arena, and he stood tall and spoke his mind and defended his loyalties in the strongest winds of that arena.

But he did not see politics as a game or a hobby. For him it was *the* place where the action is, in the center of the struggle where the destinies of men and of nations are decided, and he cheerfully and tirelessly and inspiringly met the responsibilities of leadership and of citizenship in that struggle.

He loved young people, and he loved to join them and be with them, to encourage them to enter the political arena. One election which he relished above many was the one in which his own young daughter was elected precinct chairman in an affectionate family contest with her daddy.

The example which he set as our Governor in fighting hard and well to carry out his public campaign commitments in their entirety was, and is, an inspiration to all in public service.

The monuments to his public service are many—as County Attorney, Governor and Senator, but I will leave their enumeration to others.

As his brother, I am convinced he was the finest brother a man ever had. I know that his loving wife, and children, mother, sisters, and all members of our entire family share the sense of irreparable loss that is in my heart today. His two-year-old grandson is just as lost and just as sad at heart as we.

As for his friends, I can only say this—I have never seen more friends grieve, and share with the family their sorrow and their love than I have seen the last three days in November. In love of friends our cup runneth over.

The Father of us all who often moves in mysterious and awesome ways has taken from us at 46 one of the finest and most loved of men. The memory and the joy of his brave spirit and his love for family and his fellow man remain to warm and inspire all of us for all time to come.

EULOGY

(By James Howard Edmondson, Jr., Nov. 19, 1971)

In behalf of my mother, my wife, my sisters, my father's mother, his brother and sisters, and family, I want to express what we feel as we honor my dad today.

We loved him as a husband, father, son, and a brother. He was my closest friend. We have been deeply shocked, and it seems unbearably saddened, yet we are privileged to have been a great part of his life, to have touched him, and to have been touched by him.

His capacity to love and to give was without equal. Dad and I had the same birthdate. On our last birthday, we shared this thought—that to enlarge or illustrate this power and effect of love is to set a candle in the sun.

Not so long ago, in the Congress of the United States, my father said these words about his President and his friend, and they express our feelings about Dad:

"I marveled at his grace, his dignity, his wit.

"I trusted his words.

"His deeds projected the devotion of a man endowed with rare understanding—of himself, of his family, of his nation, of his world, which is a better place because of him.

"The silence his passing leaves is more deafening than all the applause his presence brought."

As he lived, we adored him. He will always be with us.

PRESIDENT NIXON'S THREAT TO VETO TAX BILL

(Mr. ALBERT, at the request of Mr. MCFALL, was granted permission to extend his remarks at this point in the RECORD.)

Mr. ALBERT. Mr. Speaker, the President's veto threat of the tax bill comes with ill grace. When measured against the dismal record of economic performance which has been inflicted upon this Nation since January 1969, the President's pronouncement borders on intellectual arrogance. That the President and his economic advisers would still at this late hour endeavor to place upon this administration the mantle of economic infallibility is incredible.

President Nixon's administration for 2½ years in the face of a deepening recession, growing unemployment, and galloping inflation, did little other than issue Madison Avenue versions of Mr. Hoover's "Prosperity is just around the corner." Only on August 15 did a combination of ghastly economic news and political reality force the President to move. He has submitted legislative recommendations to the Congress aimed at reviving the economy. Congress has moved with dispatch and cooperation on those recommendations. Yet we have been subject to a continuous barrage of carping and nagging criticism by administration spokesmen because of our refusal in the case of either the tax bill or phase II to accept administration-drafted legislation without so much as dotting an "I" or crossing a "T." The President's veto threat of yesterday was but the culmination of these "the President knows best" pronouncements. I would respectfully remind the Chief Executive that the Congress is a coequal branch of government. And it certainly does not need any more lectures from the executive branch as to what this Nation needs in the way of economic stimulation legislation. The record of the Democratic 92d Congress in the economic field as against that of this administration stands as Gulliver to the Lilliputians.

GUN CONTROL—REVERSED PRIORITIES

(Mr. CLEVELAND asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. CLEVELAND. Mr. Speaker, despite the wave of violent crime that is now sweeping America's cities, proponents of strict gun control—or gun confiscation—continue to ignore the fact that what is really needed is tough treatment of criminals who use guns in crime.

I have long supported strict, mandatory prison sentences for all who use guns in committing crimes. An essential part of this policy is the need for judges who are willing to strictly enforce these strict laws. Law-abiding Americans are simply fed up with judges who are lenient to the point that they are undermining respect for our laws.

In fact, as we recently pointed out in excellent editorials in two newspapers in my district, the Nashua Telegraph and the Claremont Daily Eagle, law-abiding American sportsmen deeply resent efforts to place controls on the ownership and use of guns at the same time that they see criminals being treated with velvet gloves and excessive leniency.

These two editorials make the very valid point that the priorities of gun control advocates are backward. The first thing that should be done is to crack down hard on abusers of guns. Unless and until that is done, gun owners feel it is ridiculous to pass laws and regulations which serve only to hamper the activities of respectable citizens who own and use guns with responsibility.

It is because I believe so strongly in mandatory, nonsuspendable sentences for persons committing crimes involving the use of a gun that I voted for the Gun Control Act of 1968 when it first passed the House. It came to the House floor containing these mandatory, nonsuspendable sentences, so I voted for the Gun Control Act in order to get the stricter treatment of abusers of guns. However, the Senate deleted the nonsuspendable, mandatory sentence provisions. So, when the Gun Control Act of 1968 returned to the House I voted against it.

The two fine editorials, from the Nashua Telegraph and the Claremont Daily Eagle follow:

[From the Nashua (N.H.) Telegraph, Oct. 19, 1971]

Futile Gun Control Laws

Judging by recent figures concerning the killing of policemen, sweeping gun control laws, aimed at depriving the law abiding of the right of gun ownership, would be about as effective as outlawing the rising of the sun. These figures show that of the arrested killers of policemen, 71 per cent had been arrested previously and 57 per cent had been convicted, mostly of crimes of violence. This means that it was already illegal for most of them to have guns under federal law and many state or local laws.

Between 15 and 20 per cent of the policemen murdered with handguns were killed with their own handguns, which their assailants snatched away from them. This could be the consequence of "Don't Shoot" orders given police in some cities. In the past three years, Black Panthers have murdered nine law officers and wounded 56 more with gunshots. Most of the guns traced to them were found to have been acquired by theft.

The simple fact, as pointed out in "The American Rifleman", is that, "Most police killings are committed by criminals with illegal guns. Rather than passing another law for them to ignore and break, the solution is to put them in jail. There are enough laws now under which that can be done without bedeviling the millions of honest citizens who own guns."

The right of gun ownership is one of the most fundamental and traditional of American freedoms. A gun is a companion of ranchers, farmers, trappers, woodsmen and sportsmen. Those who would strike down the right of gun ownership for these millions of responsible citizens in the name of curbing crime are committing the greatest disservice to the basic principles of our American philosophy of individual freedom.

[From the Claremont (N.H.) Daily Eagle, Nov. 2, 1971]

Justified Resentment

Advocates of measures to deprive law-abiding private citizens of the right of gun ownership have a problem.

They find themselves confronted with a growing body of irate Americans who are sick and tired of seeing criminals riding roughshod over the sanctity of person and property while those who uphold the law are castigated by the politicians as if they were criminals simply because they oppose abridgement of firearm ownership.

Typical of the reaction of gun-owning sportsmen and concerned citizens to sweeping antigun measures was apparent in the state of Connecticut when several gun control bills were being considered by the state's General Assembly.

Some 4,000 hunters, target shooters, gun collectors and ordinary freedom-loving individuals packed the state capitol to make known their views.

Typical of these views was the comment of one opponent of the anti-gun proposals, who happened to be a woman.

She said:

"Sportsmen resent being told they must have an ID card, permits and licenses to enjoy their sport.

"They are tired of seeing persons who use firearms in crime go free, while law-abiding citizens are harassed."

The gun control legislation already on the books has not been effective in curbing crime, and there is little reason to believe further legislation would help the situation.

That is why gun control advocates that tar the law-abiding and the criminal with the same brush are finding growing public resentment toward:

(a) Lenient treatment of criminals.

(b) Proposals to disarm the law-abiding citizen.

MR. GORDON K. BROWN POINTS OUT JAPANESE GOVERNMENT AID TO TEXTILE INDUSTRY AS UNFAIR TRADE

(Mr. CLEVELAND asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. CLEVELAND. Mr. Speaker, recently, a constituent and good friend, Mr. Gordon K. Brown of West Swanzey, N.H., sent me an extract from the Daily News Record, dated October 18, 1971, which is printed in New York City.

This article again points out the unfair trade advantage gained when foreign competitors are subsidized and otherwise assisted by their respective governments. In marked contrast, when proposals are put forth to assist domestic industries against unfair competition from imports, bureaucratic proponents of "free trade" rally in opposition.

The article strongly reinforces my position as recorded on August 5, 1971, Congressional Record, 29829 and 29830.

The item demonstrates the degree of assistance, in one instance, extended by a government to help its textile industry. I would like to see "fair trade" become our objective, since "free trade" as presently practiced is not fair.

The article follows:

Japan To Aid Industry

Tokyo.—The Japanese Government said it would take positive measures to aid the textile industry following the settlement of the longstanding United States-Japan textile dispute.

The Government plans:

Purchase surplus textile machinery;

Extend low-interest loans to industry to finance inventories;

Defer or rebate corporate taxes;

Extend loans for change of business; and

Buy up surplus stocks from the market.

Despite these measures, the textile agreement is certain to draw fire from the textile industry, which is determined to fight back. It is viewed as almost certain that the Textile Federation would file administrative suits against the Government.

The industry also has threatened not to cooperate with the Government in implementing the agreement. This raises the problem of how the quota allocations and other administrative steps will be handled for 3,150 trading companies and 130,000 manufacturers involved.

SECRETARY LAIRD REFUTES SENATOR HARTKE

(Mr. MINSHALL asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. MINSHALL. Mr. Speaker, such wide publicity has been given to reckless and politically motivated charges by a Member of the other body regarding President Nixon's promise to end our participation in the Vietnam war, that I feel it essential and in the best interests of our Nation to include in the Record the following exchange of correspondence:

The Secretary of Defense,
Washington, D.C., September 30, 1971.

Hon. Vance Hartke,
U.S. Senate,
Washington, D.C.

Dear Vance: I have been concerned by news reports which quote you as making the following statement: "But never has an American President lied so blatantly for so long as has Richard Nixon on the war in Vietnam." I realize, of course, that the quotation may not have been correctly reported; the news reports indicate the remark was made in California on Saturday, September 25, 1971.

I feel certain that as a member of the Senate you are fully aware that a charge that the President has lied to the American people about his steps to terminate U. S. participation in Vietnam fighting simply is not supportable by the facts. The record shows clearly and conclusively that President Nixon has kept every single promise he has made to our people regarding Vietnam and that in the process has successfully reversed the escalation policies he inherited and drastically reduced the level of U. S. forces in Southeast Asia.

When the President took office there was an authorized troop level of 549,500 American servicemen and women in Vietnam; casualty rates were averaging around 300 Americans killed per week; and there was no comprehensive plan to end the United States involvement in the war.

At the present time, more than 300,000 troops have been withdrawn from Vietnam, and U. S. casualties have been averaging less than 20 per week in recent months. In addition, at the President's direction we are continuing to withdraw Americans at an average rate of more than 14,000 per month. Most importantly, the United States has helped train and equip the South Vietnamese, through Vietnamization, so they can carry almost the entire burden of the defense of their country against Communist aggression. In a word, this country has done everything President Nixon has said we would do.

In June of 1969, the President announced a reduction in the troop ceiling of 25,000 men from Vietnam. These withdrawals were completed as scheduled by the end of August, 1969.

In September of 1969, the President announced an additional redeployment of 40,000 troops. These withdrawals were completed by December 15 of that year.

In December of 1969, the President announced an additional 50,000 troop reduction. These withdrawals were completed as scheduled by April 15, 1970.

In April of 1970, the President announced a 150,000 troop reduction. These withdrawals were completed by April of this year.

On April 7 of this year, the President announced an increase in the rate of American withdrawals which will result in at least 100,000 more American troops being brought home from Vietnam by December 1. That schedule is presently being met and by all indications will exceed the President's expectations.

The President has promised another announcement of further withdrawals in November and as with all of his other announcements, we in the Department of Defense will meet or beat the commitment our Commander-in-Chief makes.

On the negotiating front, President Nixon has gone to exhaustive lengths to reach a settlement of the war at the Paris Peace Talks and in other channels. He has stated publicly on many occasions that the United States never will give up hope or stop trying to achieve a solution to the war through peaceful negotiations. In pursuance of that goal the President has offered the most comprehensive proposals for the settlement of differences in Indochina. His position has been restated on countless occasions—at Presidential news conferences, in newspaper interviews and in public speeches.

It is very clear from the record that this Administration has never raised false hopes about Vietnam nor made promises it couldn't deliver.

As Secretary of Defense, I am proud of the record and proud of promises kept. I would hope all federal officials could share that satisfaction and stand by our President as we continue his plan to end U.S. involvement in this war.

But, as I said, perhaps you were misquoted.

Sincerely,

MELVIN LAIRD.

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, D.C., October 2, 1971.

Hon. MELVIN LAIRD,
Secretary of Defense,
Washington, D.C.

DEAR MEL: I have your letter concerning the news report that I said President Nixon has lied blatantly about the war in Vietnam. You indicate your disagreement. Let me give you some instances of deliberate deception by the President about the war.

Your letter speaks of his reversal of "the escalation policies he inherited"; President Nixon himself has repeatedly spoken of the war as something started by somebody else and merely "inherited" by him. Yet the facts are the opposite. You know he worked with Secretary Dulles in 1954 to get us to help the French in Vietnam, even if this meant sending U.S. troops. I remind you of his April 16, 1954, speech to the Society of Newspaper Editors in which he said we could not afford further retreat in Asia and "if this government cannot avoid it, the Administration must face up to the situation and *dispatch forces*." And you know of the Dulles-Nixon rejection of the July 1954 Geneva agreements and their injection of U.S. forces into South Vietnam in violation of those agreements. Mr. Nixon was one of the leaders who started the war—not an inheritor.

Furthermore, President Nixon was not the one who reversed our unfortunate escalation of the war. It was Lyndon Johnson who reversed it when he stopped our bombing of North Vietnam and developed an understanding that led to the Paris peace talks.

President Nixon merely followed President Johnson's de-escalation. Of course, Mr. Nixon is now apparently reversing the reversal by resuming the bombings on a large scale and thus escalating our military attacks, to the tune of 200 sorties in one day.

Let me remind you of Mr. Nixon's statements during his 1968 campaign that he had "a plan to end the war". As intended, this was interpreted by the public as a promise to end the war rather soon.

Suppose, instead, that Candidate Nixon had said throughout the 1968 campaign that he had a plan to end American ground forces combat in the war *after four more years and 20,000 American lives*. Do you think for a moment that he would have been elected President?

Could he have kept his promise to end the war? As early as May 14, 1969, President Nixon told the American people that he *could* have ended the war immediately after his inauguration. "This," he said, "would have been the easy thing to do . . ."

But he chose not to do so. He chose to continue the killing for what is now almost three more years. And although American combat infantrymen may all be out by this time next year, to the war itself, as you well know, there is no end in sight. American air and naval forces will continue to devastate the lands of Indochina, killing and making homeless tens of thousands of innocent civilians in the process. And a conscript army of South Vietnamese, supplied and paid for one hundred percent by American tax dollars, will continue to kill and be killed in a merciless civil war between rival dictatorships in Saigon and Hanoi.

The futile raids to release U.S. POWs, in North Vietnam and Cambodia, reflected terrible misinformation—unless the purpose was to deceive the American public. Since there is evidence that you and Mr. Nixon knew the POWs had already been moved, I am inclined to accept "calculated deception" as the purpose. Likewise with the Cambodian invasion. The President ballyhooed that as a great expedition to capture the enemy headquarters, the planning centers, and troops about to invade Vietnam. He found no headquarters, no planning centers, and no troops of significance. Was that an operation of stupidity or an attempt to mislead the American people into believing that progress was being made?

The Laos invasion illustrates a central theme of Nixon on the war. You remember that an Act of Congress prohibited American troops being on the ground in Laos. And so our newspapers carried stories of American forces stopping at the boundary line and thereafter doing their shooting and bombing from the air, keeping their feet above the ground except for occasional forays. Perhaps you obeyed the law, but if you did, it was pretty tricky, was it not? We were there, egging on the South Vietnamese and shooting from planes, but still we were not there. Incidentally, 46% of our citizens said at that time in a public opinion poll that they did not believe you. Trickiness is eventually self-defeating.

The President's repeated remarks about his solicitude for American POWs is another attempt to deceive. He raised this issue a year ago to justify continuing the war. But I know from my visits to Paris last spring that the North Vietnamese and Vietcong were willing to release our POWs if we agreed to get out of Vietnam. The Senate called for this type of arrangement in the Mansfield amendment last June and again on September 30. If the President had been willing to accept this policy, the war would be over, and the POWs enroute home in a matter of weeks. Despite his remarks, he is the one who is keeping them in prison.

This past week the President appeared before the relatives of our POWs in a cruel act of deception. In an emotional voice, he told of his alleged concern and efforts and hinted that he was doing more to obtain their release than he could reveal publicly. I frankly do not believe this. I think that the junior Senator from Kansas and Chairman of the Republican National Committee, Bob Dole, honestly reflected the Administration's policy when he told the meeting that he would not advocate the release of U.S. POWs at the expense of the Saigon government.

This is the crux of the matter. President Nixon's main purpose is to keep in power the dictatorship now propped up by our arms in South Vietnam. To put it another way, his main purpose is to carry out the Nixon-Dulles objectives in 1954 to impose a French or American colonial government on the people of Vietnam. That is why he turned down the policy offered by the Senate. That is why he rejected the Paris proposals—and, incidentally, timed that rejection so that it would be swallowed up in larger news stories, and the public would not realize that he had rejected an offer for peace and release of POWs. That is manipulating public information.

Mel, I am sorry to be so blunt about this, but I want you to know that there is ample evidence concerning the deception practiced by the President on Vietnam.

Sincerely yours,

VANCE HARTKE,
U.S. Senator.

THE SECRETARY OF DEFENSE,
Washington, D.C., November 29, 1971.

Hon. VANCE HARTKE,
U.S. Senate,
Washington, D.C.

DEAR VANCE: Thank you for your letter of October 2, 1971. I had hoped that my previous letter would have clarified for you the basic plan of this Administration in winding down and terminating U.S. involvement in the war in Vietnam.

Apparently, you remain confused. More important to me as Secretary of Defense, you are confusing some sincere Americans around the country by giving wide criculation to the totally unfounded and unwarranted allegation that President Nixon has blatantly lied to the American people concerning Vietnam.

I am therefore responding at this time to your letter so that, in any further dissemination, you will be able to include my specific comments on the additional erroneous allegations contained in your letter of October 2nd.

My first impulse was to reply immediately to your letter. However, I felt it would serve no useful purpose to perpetuate a "dialogue" when it is clear you will continue to insist that policies with which you may honestly disagree must have arisen from devious and base motives on the part of those who undertake those policies. On an issue as grave and serious as war and peace, I hoped—apparently mistakenly—that responsible men could restrain their impulses to engage in "ad hominem" attacks in favor of a search and constructive debate not on the past but on what policies can most likely lead to peace in the future.

We will not resolve in an exchange of correspondence which men or what specific policies or policy utterances were historically responsible for leading America into a land war on the Asian Continent. Since becoming Secretary of Defense, I have sought to sift the debate in America from "Why Vietnam" to the more pertinent question of "Why Vietnamization." I think we have largely been successful in doing that. As the end of all American involvement in the fighting draws near, we are able more and more to focus our attention on the difficult questions of national security beyond Vietnam. In my view, that is what the debate in America should be about today.

I was frankly surprised to see you refer to the President's statement in 1968 in New Hampshire that he had a "plan" to end the war as further documentation of your charge.

He did indeed have a plan and we have been proceeding according to that plan not only in Vietnam but in all aspects of our foreign policy.

I frankly find it incomprehensible that you as a public servant would malign another public official for conceiving a plan for peace and then proceeding to carry it out.

Basically, there are two concepts involved which are not difficult to understand unless one deliberately chooses to misunderstand them. One involves the Nixon Administration's plan to terminate American combat involvement—ground, air and sea—in the war in Vietnam. The other involves our Commander-in-Chief's plan to bring about lasting peace.

With regard to terminating U.S. involvement in the war in Vietnam, I spelled out in part how far we have come along that road in my letter of September 30th. Since that letter additional thousands of American troops have come home and the President set a new troop ceiling of 139,000 for next February 1, a total reduction of more than 400,000 from the troop ceiling of 549,500 that existed when we assumed office.

The de-escalation, or winding down of the war, has most emphatically included the level of air attack sorties. They are now down to about a third of what they averaged in 1968, and have been trending downward rather steadily since our start of Vietnamization in 1969. And it has included other actions which I did not mention, such as turning over naval responsibilities—actions which also are being accomplished on or ahead of schedule.

With regard to who is responsible for the de-escalation policies we have been pursuing since 1969, I would remind you that we were moving in the opposite direction from bringing troops home when President Nixon assumed office. In crediting the previous Administration with starting an inexorable de-escalation process with its announcement of a bombing halt on November 1, 1968, you seem to have forgotten that the then Secretary of Defense, Clark Clifford, 36 days before and 40 days after the bombing halt—to cite two examples—emphatically asserted that there were no plans to withdraw any American troops, that in fact, we were still building toward the authorized ceiling of 549,500 American troops in Vietnam, and that there was no prospect in the foreseeable future of bringing any American troops home. To quote from his December 10, 1968 press conference, Secretary Clifford said, "Let me reiterate that at the present time there is no plan for any net reduction in our troop level in Vietnam."

You may recall that I disagreed with the inflexible policy of ever-increasing troop levels at the time. I publicly predicted in September, 1968, that thousands of American troops could be withdrawn in 1969. The prediction was made on President Nixon's aircraft to representatives of the news media between Boise, Idaho, and Bismarck, North Dakota. It was made after lengthy discussions with Mr. Nixon, in the preceding days and weeks, on the details of the plan—which he referred to in New Hampshire and which later, after he became President, came to be known as Vietnamization and the Nixon Doctrine.

You may feel it is wrong to put first priority on terminating U.S. involvement in the war while simultaneously trying to achieve peace in Vietnam through negotiations. Apparently you do and you are certainly entitled to that view.

I happen to disagree and I believe the American people do too.

The other concept which I mentioned is the Nixon Administration's plan to end the war, as contrasted to simply ending American involvement in the war—or to state it positively and fully, to bring about lasting peace. In fact, the New York Times account of Mr. Nixon's pledge to end the war of March 5, 1968, quotes Mr. Nixon as follows:

"I pledge . . . new leadership will end the war and win the peace. . . ."

The New York Times further quoted Mr. Nixon as saying he had "no push button techniques," but that the war can be ended if "we mobilize our economic and political and diplomatic leadership."

The complementary twin tracks of Vietnamization and negotiations comprise and have comprised major elements of President Nixon's plan to end the war and win the peace. But that plan goes far beyond considerations of Vietnam alone. Both the President and other major spokesmen of his Administration have been pointing this out rather frequently and emphatically since 1969. I will offer just two quotes to illustrate. The first was taken from my first Defense Report to Congress early in 1970:

"Vietnamization is both a means to an end and a beginning: a means to end the American involvement in Vietnam and to make a credible beginning on our new policy for peace and increased self-reliance in Asia. This first step in implementing the Nixon Doctrine is of critical importance in ending the war. Moreover, success of the Nixon Doctrine can help remove the need for similar American ground combat involvement in future Asian wars, an important objective of our new strategy."

After restating that in my second Defense Report to Congress this past March, I went on to say:

"Our single objective in South Vietnam has been and remains to help that country insure self-determination and become capable of maintaining security and insuring its own future. At the same time, we seek methodically to terminate American combat involvement in Indochina *in such a way* that the prospects for effective self-defense—and, more hopefuly, the prospects for lasting peace in the area—will be enhanced by the orderly way in which we leave."

To put this in as straightforward a manner as I can, the Nixon plan to end the war is bound up in the entire fabric of the President's Foreign Policy and the complementary National Security Strategy of Realistic Deterrence. These new approaches have been conceived and implemented with the purpose of moving from an era of confrontation to negotiations and in order to foster conditions for what our Commander-in-Chief so often has referred to as a "full generation of peace."

Of course, no one can guarantee the future course of world events or ensure absolute success. But the probability of success would be grealty reduced if we lack understanding and support from Congress and the American people. Enhancing the prospects for success can also entail such controversial decisions as the Cambodia and Laotian operations and a willingness sometimes to take extra risks for peace. It can also involve other risks such as the bold attempt to free our prisoners of war in the Son Tay raid, even if the chance is only 50–50 that prisoners will be there.

One final point, Vance. You seem preoccupied with holding the President to absolute consistency in every word he has uttered over a period that spans more than 17 years. This prompts me to raise a question of consistency between two paragraphs in your letter of October 2nd.

On the one hand, you say (paragraph 4, page 2) that "there is no end in sight" to the war even if all American combat infantrymen are out by next year. You predict the fighting will continue between North and South into the indefinite future.

But, on the other hand, you say *"the war would* (already) *be over"* (paragraph 2, page 3) if the President had accepted the Mansfield troop withdrawal amendment.

And although those two contradictory statements appear in the same short letter, I find it hard to assign devious motives to you or to believe that you were seeking deliberately to deceive me or the American people.

I do feel compelled, however, because you are spreading erroneous information by distributing my personal letter to you and your misleading reply, to make this correspondence available to the public.

Vance, I am sorry to be so blunt about this, but I believe deeply that the best interests of the American people and of lasting peace would better be served if all of us tried to confine our dialogue to the substantive issues and to the facts, instead of resorting to what we used to call in our college debating classes "ad heminem" attacks.

Sincerely,

MELVIN LAIRD.

REPRESENTATIVE CAREY OF NEW YORK JOINS WITH CHAIRMAN OF WAYS AND MEANS COMMITTEE IN INTRODUCING INTERGOVERNMENTAL FISCAL COORDINATION ACT OF 1971

(Mr. CAREY of New York asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. CAREY of New York. Mr. Speaker, I am pleased to join today with the distinguished chairman of the Ways and Means Committee in introducing the Intergovernmental Fiscal Coordination Act of 1971.

This is a timely and responsive bill. It addresses itself to the needs of the cities. It recognizes the realities of the severe fiscal crisis existing in all too many of our local governments, which are carrying excessive burdens in meeting problems which are truly national in scope.

The Mills bill also involves the States as copartners with the Federal Government in undergirding the interests of the localities. Payments are made to States to provide an incentive for States making use of the individual income tax. To fail to take into consideration this key factor of State revenue-raising effort would mean that States which now are not utilizing their tax resources would share equally well with States that are taxing themselves up to the hilt and, indeed, beyond their means.

This legislation is of a size which is manageable in terms of Federal obligations, and, although I wish it were more generous, it obviously bears in mind the prospect of a record deficit in the national budget. In other words, this bill provides as much assistance as the Federal Government can afford, yet it brings into local hands far more than State and local governments can afford to raise themselves. It is at least a stop gap in response to the defeats that have been suffered by State and local bond issues.

I am particularly pleased that the form of the bill setting forth grants directed to specified programs is much in accord with the legislation I introduced with 13 Members of the New York delegation in May of this year, the General Grant Revenue Return Act. Our bill also provided for grants within specific areas which both local governments and the National Government consider to be "high priority activities: public safety, environmental protection, public transportation, youth recreation programs, health financial administration, and related capital programs."

Some will argue that the Mills bill imitates the Nixon revenue-sharing program. On the contrary I maintain that this bill reflects the sound judgment of the Ways and Means Committee and its distinguished chairman, arrived after weeks of testimony and careful consideration of the various plans generally referred to as revenue sharing, revenue shifting, tax credits, and so forth.

The Intergovernmental Fiscal Coordination Act avoids the unworkable and badly contrived mechanisms of the Nixon revenue-sharing bill. For example, the Nixon plan would discharge money in so many different directions that its impact would not be measurable. Miniscule provisions for scores of small and unrelated programs would have little impact on solving the pressing problems of the cities; taxpayers would have the right to feel that their dollars were being utilized in a frivolous way.

Most importantly, the Mills bill aims and direct funds to specific areas according to need—as did my own bill. In addition to the distribution of money on a per capita basis, the bill provides for a need formula which takes into account the number of low-income families. This stress formula follows the important principle of "distributive justice," that is, to gather from all according to their means and distribute to each in accordance with his needs.

The final title of the Mills bill provides for a system of Federal collection of State individual income taxes. There are many redundancies in tax collections now since almost all jurisdictions throughout the country are imposing identical or similar taxes—income, sales, estates, and so forth. There is no reason why we could not cut down the paper work and excessive bureaucracy brought upon the Government and the individual taxpayer. This multiplication of tax collection systems may be about to destroy our principal tax resource—the taxpayer himself—since he must financially support the inefficiencies of our present tax collection system. I am pleased that this sorely needed coordination of the collection of Federal, State, and local income taxes was also included in the General Revenue Return Act. Section 6 of that bill provided for the creation of a Federal-State-Local Income Tax Commission.

Mr. Speaker, I would like to commend Chairman Mills for his sound judgment in drafting such an ingenious and workable piece of legislation. I strongly urge my colleagues to give this bill the careful consideration and support which it deserves.

MAURICE J. O'ROURKE

(Mr. RYAN asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. RYAN. Mr. Speaker, yesterday I brought to the attention of the House the fact that Maurice J. O'Rourke, a devoted public official and longtime friend, died of a heart attack on November 27.

As president of the New York City Board of Elections, Marcy O'Rourke opened the political process to many who had previously been denied a full share in American life. His dedication to making our electoral system work was unwavering. And as a result of his leadership, we have moved closer to the dream of America that we all share.

The mark Marcy O'Rourke has had on the political process was the subject of an editorial published in this morning's New York Times. I commend it to the attention of my colleagues:

[From the New York Times, Nov. 30, 1971]

A Memorial for Mr. O'Rourke

Affable, ebullient, energetic, Maurice J. O'Rourke was more than merely president of the New York City Board of Elections; for many years he *was* the board, working full-time at what some considered a part-time job. He could be found from early dawn to late at night during every election period, trying personally to make certain that the local machinery of democracy functioned fairly and smoothly.

Yet no one knew better than he—or expressed the view more forcefully—that the Board of Elections itself stands as a political anachronism desperately in need of overhaul. Since the turn of the century, when Manhattan and Brooklyn dominated the new five-borough city, the Board of Elections has been composed of four members, one from each of the major political parties and one from each of these two boroughs. A recent court decision has held that the board as now composed unconstitutionally discriminates against the voters in the city's three other boroughs.

It remains our view, as it was Mr. O'Rourke's, that simply to expand the board's membership without making other fundamental changes would only make bad matters worse. It would increase the opportunity for political patronage which already undermines the board's effectiveness.

Only Mr. O'Rourke's fierce dedication to the integrity of the electoral process enabled the board to function as well as it has in recent years when, by Federal law and Constitutional Amendment, the number of eligible voters has been vastly expanded. Both a capital "D" Democrat and a small "d" democrat, Mr. O'Rourke could have no more fitting memorial than legislative approval of the electoral reforms he so stoutly advocated during many years of service to his fellow citizens.

WILLARD EDWARDS' 50TH ANNIVERSARY

(Mr. CRANE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. CRANE. Mr. Speaker, Members of Congress have been fortunate through the years to have the wisdom and guidance of many fine newspaper reporters at their fingertips through the various newspapers delivered daily on Capitol Hill and through the many reprints of newspaper articles included in the Congressional Record.

One such reporter, whose byline is almost as familiar in the Record as it is in the Chicago Tribune, is Willard Edwards, the very distinguished columnist whose comments appear regularly on the editorial pages of the Chicago Tribune.

Today is Mr. Edwards' 50th anniversary as a reporter and I am sure my colleagues join me in extending congratulations to him on this occasion, as well as best wishes for many years to come.

We should be grateful for his many wise comments in the past and I hope we will continue to reap the benefits of his experience and talents.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Davis of South Carolina, for today (at the request of Mr. Boggs), on account of official business.

Mr. Roybal (at the request of Mr. O'Neill), for today, on account of official business.

Mr. Gubser (at the request of Mr. Gerald R. Ford), on account of death in family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. Gibbons, for 1 hour, on December 8, 1971, and to revise and extend his remarks and include extraneous matter.

(The following Members (at the request of Mr. McKinney) to revise and extend their remarks and include extraneous material:)

Mr. Miller of Ohio, for 5 minutes, today.

Mr. Blackburn, for 5 minutes, today.

Mr. Crane, for 30 minutes, December 1, 1971.

(The following Members (at the request of Mr. Montgomery) to revise and extend their remarks and include extraneous material:)

Mr. Gonzalez, for 10 minutes, today.

Mrs. Grasso, for 10 minutes, today.

Mr. Fulton of Tennessee, for 10 minutes, today.

Mr. Burke of Massachusetts, for 15 minutes, today.

Mr. Aspin, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Madden and to include a speech.

Mr. Fuqua and to include extraneous matter.

Mr. Mitchell and to include extraneous matter.

Mr. Gross.

(The following Members (at the request of Mr. McKinney) and to include extraneous matter:)

Mr. Minshall in two instances.

Mr. Schwengel in three instances.

Mr. Steiger of Wisconsin.

Mr. Springer in three instances.

Mr. Anderson of Illinois in four instances.

Mr. Wyman in two instances.

Mr. McDonald of Michigan.

Mr. Hosmer in two instances.

Mr. Derwinski.

Mr. Scherle.

Mr. Kemp in two instances.

Mr. Zwach.

Mr. Steele in 10 instances.

Mr. Steiger of Arizona.

Mr. Vander Jagt in two instances.

Mr. McKinney.

Mr. Bray in two instances.

Mr. Terry.

Mr. Reid of New York.

Mr. Veysey.

Mr. Ashbrook in two instances.

Mr. Archer.

Mr. Lujan.

Mr. Bob Wilson.

(The following Members (at the request of Mr. Montgomery) and to include extraneous matter:)

Mr. Rarick in three instances.

Mr. Kyros in four instances.
Mr. Mitchell.
Mr. Dingell in two instances.
Mr. Gonzalez in three instances.
Mr. Rogers in three instances.
Mr. Kluczynski in three instances.
Mr. Fountain in three instances.
Mr. Hagan in three instances.
Mr. Scheuer in four instances.
Mr. Begich in five instances.
Mr. Bingham in two instances.
Mrs. Sullivan in two instances.
Mr. Flood in two instances.
Mr. Casey of Texas in two instances.
Mr. Biaggi in five instances.
Mr. Harrington.
Mr. Daniel of Virginia in two instances.
Mr. Pryor of Arkansas.
Mr. James V. Stanton in two instances.
Mr. Koch in three instances.
Mr. Roybal in four instances.
Mr. Patten.
Mr. William D. Ford.
Mr. Waldie in six instances.
Mr. Yates in two instances.
Mr. Nichols in two instances.
Mr. Murphy of New York.
Mr. Moorhead in five instances.
Mr. Ryan in three instances.
Mr. Reuss in six instances.
Mr. Young of Texas.

ADJOURNMENT

Mr. MONTGOMERY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 41 minutes p.m.) the House adjourned until tomorrow, Wednesday, December 1, 1971, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1323. A letter from the Secretary of Commerce, transmiting the 97th quarterly report on export control, covering the third quarter of 1971, pursuant to the Export Administration Act of 1969; to the Committee on Banking and Currency.

1324. A letter from the Acting Secretary of the Interior, transmitting a copy of a proposed grant agreemnt with Montana College of Mineral Science and Technology Foundation, Butte, Mont., for a survey of underground mine heat sources and control methods, pursuant to Public Law 89-672; to the Committee on Interior and Insular Affairs.

1325. A letter from the Director, Administrative Office of the U.S. Courts, transmitting a draft of proposed legislation to amend title 18 of the United States Code to provide for an appeal from certain orders by a defendant who has pleaded guilty, and for other purposes; to the Committee on the Judiciary.

1326. A letter from the Director, Administrative Office of the U.S. Courts, transmitting a draft of proposed legislation to amend chapter 313 of title 18 of the United States Code; to the Committee on the Judiciary.

1327. A letter from the Secretary of Health, Education, and Welfare, transmitting a report of grants approved by his office during the quarter ended September 30, 1971, which are financed wholly with Federal funds and subject to the reporting requirements of section 1120(b) of the Social Security Act; to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ASPINALL: Committee of Conference. Conference report on S. 29. (Rept. No. 92–685). Ordered to be printed.

Mr. SISK: Committee on Rules. House Resolution 717. Resolution waiving points of order against consideration of H.R. 11932. A bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending June 30, 1972, and for other purposes (Rept. No. 92–686). Referred to the House Calendar.

Mr. BLATNIK: Committee on Public Works. H.R. 9886. A bill to amend the act of July 24, 1956, to authorize the Secretary of the Army to contract with the city of Arlington, Tex., for the use of water supply storage in the Benbrook Reservoir (Rept. No. 92–687). Referred to the Committee of the Whole House on the State of the Union.

Mr. GARMATZ: Committee on Merchant Marine and Fisheries. H.R. 9756. A bill to amend the Merchant Marine Act, 1936, as amended; with amendments (Rept. No. 92–688). Referred to the Committee of the Whole House on the State of the Union.

Mr. MAHON: Committee on Appropriations: H.R. 11955. A bill making supplemental appropriations for the fiscal year ending June 30, 1972, and for other purposes. (Rept. No. 92–689). Referred to the Committee of the Whole House on the State of the Union.

Mr. BLATNIK: Committee on Public Works S. 1237. An act to provide financial assistance for the reconstruction or repair of private nonprofit medical care facilities which are damaged or destroyed by a major disaster; with an amendment (Rept. No. 92–690). Referred to the Committee of the Whole House on the State of the Union.

Mr. BLATNIK: Committee on Public Works. S. 2887. A bill authorizing additional appropriations for prosecution of projects in certain comprehensive river basin plans for flood control, navigation, and for other purposes; with an amendment (Rept. No. 92–691). Referred to the Committee of the Whole House on the State of the Union.

Mr. BLATNIK: Committee on Public Works. House Joint Resolution 893. Joint resolution to amend the Disaster Relief Act of 1970 to authorize disaster loans with respect to certain losses, arising as the result of recent natural disasters, and for other purposes; with an amendment (Rept. 92–692). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ASPINALL (for himself, Mr. Saylor, Mr. Taylor, Mr. Skubitz, Mr. Ryan, Mr. Ruppe, Mr. Melcher, Mr. Roncalio, Mr. Begich, Mr. Abourezk, and Mr. Mills of Maryland):

H.R. 11946. A bill to provide for increases in appropriation ceilings and boundary changes in certain units of the national park system, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. CLARK:

H.R. 11947. A bill to amend the tariff and trade laws of the United States to promote full employment and restore a diversified production base; to amend the Internal Revenue Code of 1954 to stem the outflow of U.S. capital, jobs, technology, and production, and for other purposes; to the Committee on Ways and Means.

By Mr. FRASER:

H.R. 11948. A bill to amend the joint resolution authorizing appropriations for participation by the United States in the Hague Conference on Private International Law and the International (Rome) Institute for the Unification of Private Law; to the Committee on Foreign Affairs.

By Mr. GONZALEZ:

H.R. 11949. A bill to establish the National Commission for the Preservation of Foreign Language Resources; to the Committee on Education and Labor.

By Mr. MILLS of Arkansas (for himself, Mr. Ullman, Mr. Burke of Massachusetts, Mr. Rostenkowski, Mr. Vanik, Mr. Fulton of Tennessee, Mr. Corman, Mr. Green of Pennsylvania, Mr. Carey of New York, and Mr. Karth):

H.R. 11950. A bill to provide for Federal collection of State individual income taxes, to provide funds to localities for Federal high-priority purposes, and to provide funds to States to encourage more efficient use of revenue sources; to the Committee on Ways and Means.

By Mr. LATTA:

H.R. 11951. A bill to provide incentives for the establishment of new or expanded job-producing industrial and commercial establishments in rural areas; to the Committee on Ways and Means.

By Mr. RUPPE:

H.R. 11952. A bill to amend chapter 55 of title 10, United States Code, to provide maternity benefits for certain former members of the Armed Forces and certain dependents; to the Committee on Armed Services.

By Mrs. SULLIVAN:

H.R. 11953. A bill to protect the public health by providing authority to regulate or prohibit the transportation, sale, or other distribution in interstate commerce of live creatures intended to be offered as household pets, if determined to be infected with serious disease injurious to human beings; to the Committee on Interstate and Foreign Commerce.

By Mr. TEAGUE of Texas (by request) (for himself, Mr. Teague of California, Mr. Helstoski, and Mr. Scott):

H.R. 11954. A bill to amend chapters 31, 34, and 35 of title 38, United States Code, to increase the rates of vocational rehabilitation, educational assistance, and special training allowances paid to eligible veterans and persons; to provide for advance educational assistance payments to certain veterans; to make improvements in the educational assistance programs; and for other purposes; to the Committee on Veterans' Affairs.

By Mr. MAHON:

H.R. 11955. A bill making supplemental appropriations for the fiscal year ending June 30, 1972, and for other purposes.

By Mr. BENNETT (for himself, Mr. Wright, and Mr. Williams):

H.R. 11956. A bill to provide Federal grants to assist elementary and secondary schools to carry on programs to teach moral and ethical principles; to the Committee on Education and Labor.

By Mr. BLACKBURN (for himself, Mr. Stephens, Mr. Thompson of Georgia, Mr. Donohue, Mr. Thone, Mr. Ware, Mr. Garmatz, Mr. Fountain, Mr. Veysey, Mr. Hawkins, Mr. Biaggi, Mr. Whitehurst, Mr. Denholm, Mr. Mayne, Mr. Podell, Mr. Frey, Mr. Buchanan, Mr. Hogan, Mr. Robinson of Virginia, Mr. Burke of

Florida, Mr. Gude, Mr. Rooney of Pennsylvania, Mr. McDonald of Michigan, Mr. Pickle, and Mr. Lent):

H.R. 11957. A bill to amend the Internal Revenue Code of 1954 to allow a credit against income tax to individuals for certain expenses incurred in providing higher education; to the Committee on Ways and Means.

By Mr. FAUNTROY:

H.R. 11958. A bill to amend title 10 of the United States Code to establish procedures providing members of the Armed Forces redress of grievances arising from acts of brutality or other cruelties, and acts which abridge or deny rights guaranteed to them by the Constitution of the United States, suffered by them while serving in the Armed Forces, and for other purposes; to the Committee on Armed Services.

H.R. 11959. A bill to provide certain new transportation services to elderly persons, to authorize studies and demonstration projects for the improvement of transportation services to the elderly, and for other purposes; to the Committee on Banking and Currency.

H.R. 11960. A bill to provide financial assistance for the construction and operation of senior citizens' community centers, and for other purposes; to the Committee on Education and Labor.

H.R. 11961. A bill to amend the Older Americans Act of 1965 to provide grants to States for the establishment, maintenance, operation, and expansion of low-cost meal programs, nutrition training and education programs, opportunity for social contacts, and for other purposes; to the Committee on Education and Labor.

H.R. 11962. A bill to amend title III of the Public Health Service Act to authorize grants for projects to develop or demonstrate programs designed to rehabilitate elderly patients of long-term-health-care facilities or to assist such patients in attaining self-care; to the Committee on Interstate and Foreign Commerce.

By Mr. HALPERN:

H.R. 11963. A bill to amend the Controlled Substances Act to move amphetamines and certain other stimulant substances from schedule III of such act to schedule II; to the Committee on Interstate and Foreign Commerce.

H.R. 11964. A bill to require community mental health centers and hospitals and other medical facilities of the Public Health Service to provide needed treatment and rehabilitation programs for drug addicts and other persons with drug abuse and other drug dependence problems, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 11965. A bill to establish a Special Action Office for Drug Abuse Prevention to concentrate the resources of the Nation in a crusade against drug abuse; to the Committee on Interstate and Foreign Commerce.

By Mrs. HICKS of Massachusetts:

H.R. 11966. A bill to amend the Social Security Act to provide full Federal reimbursement to the States for any costs incurred in providing public assistance (including both assistance under the categorical Federal-State programs and assistance under State general assistance programs) to individuals and families with less than 1 year's State residence; to the Committee on Ways and Means.

By Mr. KOCH (for himself, Mr. Conyers, Mr. Córdova, Mr. Fauntroy, Mrs. Grasso, Mr. Hicks of Washington, Mrs. Hicks of Massachusetts, Mr. Link, Mr. Moorhead, Mr. Rangel, Mr. Rees, Mr. Sarbanes, Mr. Scheuer, Mr. Stokes, and Mr. Waldie):

H.R. 11967. A bill to establish a transportation trust fund, to encourage urban mass transportation, and for other purposes; to the Committee on Ways and Means.

By Mr. KUYKENDALL (for himself, Mr. Blanton, and Mr. Jones of Tennessee):

H.R. 11968. A bill to name the bridge being constructed across the Mississippi River linking the States of Tennessee and Arkansas in honor of Hernando DeSoto; to the Committee on Public Works.

By Mr. PRYOR of Arkansas:

H.R. 11969. A bill to provide for a highway bridge across the Norfork Reservoir in Arkansas; to the Committee on Public Works.

By Mr. ROE:

H.R. 11970. A bill to amend the Flood Insurance of 1968 to expand flood insurance coverage; provide broader flood disaster relief; authorize the acquisition of certain properties; reduce interest rates on SBA disaster loans; provide public information program on flood insurance; and extend Federal-State cooperation on flood control, forecasting, and damage prevention; to the Committee on Banking and Currency.

By Mr. SATTERFIELD (for himself and Mr. Teague of Texas):

H.R. 11971. A bill to amend title 38, United States Code, relating to veterans' benefits, to provide for the screening, counseling, and medical treatment of sickle cell anemia; to the Committee on Veterans' Affairs.

By Mr. STAGGERS:

H.R. 11972. A bill to amend the tariff and trade laws of the United States to promote full employment and restore a diversified production base; to amend the Internal Revenue Code of 1954 to stem the outflow of U.S. capital, jobs, technology, and production, and for other purposes; to the Committee on Ways and Means.

By Mr. WALDIE:

H.R. 11973. A bill to provide for orderly trade in iron and steel products; to the Committee on Ways and Means.

By Mr. CHAMBERLAIN:

H.J. Res. 983. Joint resolution proposing an amendment to the Constitution of the United States relating to the assignment and transportation of pupils to public schools; to the Committee on the Judiciary.

By Mr. FRASER:

H.J. Res. 984. Joint resolution to amend the joint resolution providing for U.S. participation in the International Bureau for the Protection of Industrial Property; to the Committee on Foreign Affairs.

By Mr. FRELINGHUYSEN:

H.J. Res. 985. Joint resolution authorizing the President to proclaim the third week of June as "National Drum and Bugle Corps Week"; to the Committee on the Judiciary.

By Mrs. HICKS of Massachusetts:

H.J. Res. 986. Joint resolution to amend title 5 of the United States Code to provide for the designation of the 11th day of November of each year as "Veterans Day"; to the Committee on the Judiciary.

By Mr. HOWARD:

H.J. Res. 987. Joint resolution to authorize the President to proclaim the last Friday of April of each year "National Arbor Day"; to the Committee on the Judiciary.

By Mr. STRATTON:

H.J. Res. 988. Joint resolution authorizing the President to designate the 29th day of May of each year as "John Fitzgerald Kennedy Memorial Day"; to the Committee on the Judiciary.

By Mr. MITCHELL (for himself, Mrs. Abzug, Mr. Burton, Mrs. Chisholm, Mr. Clay, Mr. Diggs, Mr. Edwards of California, Mr. Hawkins, Mr. Helstoski, Mr. St Germain, Mr. Ryan, and Mr. Rangel):

H. Res. 718. Resolution: Health Bill of Rights; to the Committee on Interstate and Foreign Commerce.

SENATE—*Tuesday, November 30, 1971*

(Legislative day of Monday, November 29, 1971)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. Ellender).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty and eternal Father, with quiet heart and waiting spirit we pause and lift our minds to Thy holiness and perfection. Move us to a deeper commitment to Thee. Empty us of all that is ugly, or mean, or false. May we yield ourselves more fully to Thee—our thoughts, our words, our wills. Teach us the daily lesson that we may serve Thee as truly here as at the altar or in the pulpit of Thy house. Keep ever before us the vision of a better Nation and a better world and what we may do to bring it to pass. Anoint us and all the people of this Nation with a new awareness of Thy grace and love and power—

To serve the present age,
Our calling to fulfill
O may it all our powers engage
To do the Master's will.

Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Monday, November 29, 1971, be approved.

The PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees be authorized to meet during the session of the Senate today.

The PRESIDENT pro tempore. Without objection, it is so ordered.

DEATH OF HON. MANUEL TELLO, FORMER MEXICAN AMBASSADOR TO THE UNITED STATES

Mr. MANSFIELD. Mr. President, it is with sadness that I call the attention of the Senate to the death of Manuel Tello, who served with distinction and integrity as the Ambassador from the United Mexican States to this country and who also served his country well as its Foreign Minister after leaving the ambassadorship in Washington.

In late years, Manuel Tello was a Senator from the State of Zacatecas and as such he was a prominent member of Mexican-United States interparliamentary gatherings held over the past several years. His advice was both valued and noteworthy. His integrity was outstanding. He was a man who believed in Mexico first, last, and all the time, but he also had a deep understanding of his country's relations with others—especially with our own country. We will all miss Don Manuel.

I ask unanimous consent that an article published in yesterday's Washington Post, detailing the life and public service of Manuel Tello be printed in the RECORD. Before the Chair rules, I wish to take this means to extend to his wife, Guadalupe, and her children the deepest regret and sorrow of Mrs. Mansfield and myself and, I am sure, of the whole Senate who join me in this feeling of condolence.

May his soul rest in peace.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MANUEL TELLO DIES, EX-MEXICAN ENVOY

(By Paul Hodge)

Manuel Tello, former Mexican ambassador to the United States and Mexico's foreign minister from 1958 until he won a seat in his country's senate in 1964, died Saturday at his home in central Mexico. He was 73.

Considered one of Mexico's most distinguished diplomats, Mr. Tello is perhaps best remembered for his lone defense of Cuba before the Organization of American States in 1960, following Fidel Castro's coming to power. Mexico was the only country in the OAS to refuse to break relations with Cuba at the time.

Then foreign minister, Mr. Tello argued that "a revolution necessarily implies transistory disturbances and a profound transformation" and said it was up to the "Cuban people to design their own destiny."

Also during his term as foreign minister he was credited with formulating the initial agreement between the United States and Mexico for the return of the Chamizal strip along the Texas-Mexican border.

Considered one of the most complex peaceful boundary settlements in history, the 1967 agreement called for the return to Mexico of 630 acres of El Paso in return for 193 acres of Ciudad Juarez—a net loss of 437 acres to the United States—in order to compensate for the meandering course of the Rio Grande River over the past 100 years.

A native of the central Mexican mining state of Zacatecas, which he represented in the Mexican senate until retiring from public life last fall, Mr. Tello graduated from the Free School of Law in Mexico City and began his diplomatic career in 1924 as Mexican vice consul in Brownsville, Tex.

During his 40 years in the foreign service he served in consulates in Holland, Germany and Japan and was first secretary of the Mexican delegation to the League of Nations between 1934 and 1940. He represented his country in the International Trade Organization for many years and was acting secretary of state for two years before becoming ambassador here in 1952.

He left Washington in 1958 when newly inaugurated Mexican President Adolfo Lopez Mateos appointed him foreign minister.

During his six years here as ambassador, his five children attended American schools, with one son, Carlos, now an officer in the Mexican treasury department, receiving both his bachelor's and master's degrees from Georgetown University.

Besides his children, Mr. Tello is survived by his wife, Guadalupe.

ORDER OF BUSINESS

Mr. SCOTT. Mr. President, I yield back my time.

NUTRITION PROGRAM FOR THE ELDERLY UNDER THE OLDER AMERICANS ACT OF 1965, AS AMENDED

The PRESIDENT pro tempore. Under the previous order, the Chair now lays before the Senate S. 1163, which the clerk will report.

The legislative clerk read as follows:

A bill, S. 1163, to amend the Older Americans Act of 1965 to provide grants to States for the establishment, maintenance, operation, and expansion of low-cost meal programs, nutrition training and education programs, opportunity for social contacts, and for other purposes.

The PRESIDENT pro tempore. Is there objection to the consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Labor and Public Welfare with an amendment, to strike out all after the enacting clause and insert:

SECTION 1. Title VII of the Older Americans Act of 1965 is redesignated as title VIII and sections 701 through 705 of that Act are respectively redesignated as sections 801 through 805.

SEC. 2. The Older Americans Act of 1965 is amended by inserting the following new title immediately after title VI thereof:

"TITLE VII—NUTRITION PROGRAM FOR THE ELDERLY

"FINDINGS AND PURPOSE

"SEC. 701. (a) The Congress finds that the research and development nutrition projects for the elderly conducted under title IV of the Older Americans Act have demonstrated the effectiveness of, and the need for, permanent nationwide projects to assist in meeting the nutritional and social needs of millions of persons aged sixty or older. Many elderly persons do not eat adequately because (1) they cannot afford to do so; (2) they lack the skills to select and prepare nourishing and well-balanced meals; (3) they have limited mobility which may impair their capacity to shop and cook for themselves; and (4) they have feelings of rejection and loneliness which obliterate the incentive necessary to prepare and eat a meal alone. These and other physiological, psychological, social, and economic changes that occur with aging result in a pattern of living, which causes malnutrition and further physical and mental deterioration.

"(b) In addition to the food stamp program, commodity distribution systems and old-age income benefits, there is an acute need for a national policy which provides older Americans, particularly those with low incomes and members of minority, Indian, and limited English-speaking groups, with low cost, nutritionally sound meals served in strategically located centers such as community centers, senior citizen centers, schools, and other public or private nonprofit institutions where they can obtain other social and rehabilitative services. Besides promoting better health among the older segment of our population through improved nutrition, such a program would reduce the isolation of old age, offering older Americans an opportunity to live their remaining years in dignity.

"ADMINISTRATION

"SEC. 702. (a) In order to effectively carry out the purposes of this title, the Secretary shall—

"(1) administer the program through the Administration on Aging; and

"(2) consult with the Secretary of Agriculture and make full utilization of the Food and Nutrition Service, and other existing services of the Department of Agriculture.

"(b) In carrying out the provisions of this title, the Secretary is authorized to request the technical assistance and cooperation of the Department of Labor, the Office of Economic Opportunity, the Department of Housing and Urban Development, the Department of Transportation, and such other departments and agencies of the Federal Government as may be appropriate.

"(c) The Secretary is authorized to use, with their consent, the services, equipment, personnel, and facilities of Federal and other agencies with or without reimbursement, and on a similar basis to cooperate with other public and private agencies and instrumentalities in the use of services, equipment, personnel, and facilities.

"(d) In carrying out the purposes of this title, the Secretary is authorized to provide consultative services and technical assistance to any public or private nonprofit institution or organization, agency, or political subdivision of a State; to provide short-term training and technical instruction; and to collect, prepare, publish, and disseminate special educational or informational materials, including reports of the projects for which funds are provided under this title.

"ALLOTMENT OF FUNDS

"SEC. 703. (a)(1) From the sums appropriated for any fiscal year under section 708, each State shall be allotted an amount which bears the same ratio to such sum as the population aged 60 or over in such State bears to the population aged 60 or over in all States, except that (A) no State shall be allotted less than one-half of 1 per centum of the sum appropriated for the fiscal year for which the determination is made; and (B) Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands shall each be allotted an amount equal to one-fourth of 1 per centum of the sum appropriated for the fiscal year for which the determination is made. For the purpose of the exception contained in this paragraph, the term 'State' does not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

"(2) The number of persons aged 60 or over in any State and for all States shall be determined by the Secretary on the basis of the most satisfactory data available to him.

"(b) The amount of any State's allotment under subsection (a) for any fiscal year which the Secretary determines will not be required for that year shall be reallotted, from time to time and on such dates during such year as the Secretary may fix, to other States in proportion to the original allotments to such States under subsection (a) for that year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Secretary estimates such State needs and will be able to use for such year; and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Such reallotments shall be made on the basis of the State plan so approved, after taking into consideration the population aged sixty or over. Any amount reallotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (a) for that year.

"(c) The allotment of any State under subsection (a) for any fiscal year shall be available for grants to pay up to 90 per centum of the costs of projects in such State described in section 705 and approved by such State in accordance with its State plan approved under section 705, but only to the extent that such costs are both reasonable and necessary for the conduct of such projects, as determined by the Secretary in accordance with criteria prescribed by him in regulations. Such allotment to any State in any fiscal year shall be made upon the condition that the Federal allotment will be matched during each fiscal year by 10 per centum, or more, as the case may be, from funds or in kind resources from non-Federal sources.

"(d) If the Secretary finds that any State has failed to qualify under the State plan requirements of section 705, the Secretary shall withhold the allotment of funds to such State referred to in subsection (a). The Secretary shall disburse the funds so withheld directly to any public or private nonprofit institution or organization, agency, or political subdivision of such State submitting an approved plan in accordance with the provisions of section 705, including the requirement that any such payment or payments shall be matched in the proportion specified in subsection (c) for such State, by funds or in kind resources from non-Federal sources.

"(e) The State agency may, upon the request of one or more recipients of a grant or contract, purchase agricultural commodities and other foods to be provided to such nutrition projects assisted under this part. The Secretary may require reports from State agencies, in such form and detail as he may prescribe, concerning requests by recipients of grants or contracts for the purchase of such agricultural commodities and other foods, and action taken thereon.

"PAYMENT OF GRANTS

"SEC. 704. Payments pursuant to grants or contracts under this title may be made in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

"STATE PLANS

"SEC. 705. (a) Any State which desires to receive allotments under this title shall submit to the Secretary for approval a State plan for purposes of this title which, in the case of a State agency designated pursuant to section 303 of this Act, shall be in the form of an amendment to the State plan provided in section 303. Such plan shall—

"(1) establish or designate a single State agency as the sole agency for administering or supervising the administration of the plan and coordinating operations under the plan with other agencies providing services to the elderly, which agency shall be the agency designated pursuant to section 303(a)(1) of this Act, unless the Governor of such State shall, with the approval of the Secretary, designate another agency;

"(2) sets forth such policies and procedures as will provide satisfactory assurance that allotments paid to the State under the provisions of this title will be expended—

"(A) to make grants in cash or in kind to any public or private nonprofit institution or organization, agency, or political subdivision of a State (referred to herein as 'recipient of a grant or contract')—

"(i) to carry out the program as described in section 706.

"(ii) to provide up to 90 per centum of the costs of the purchase and preparation of the food; delivery of the meals; and such other reasonable expenses as may be incurred in providing nutrition services to persons aged sixty or over. Recipients of grants or contracts may charge participating individuals for meals furnished but such charge shall not exceed a per meal limit to be established by each State agency, taking into consideration the income ranges of eligible individuals in local communities and other sources of income of the recipients of a grant or a contract.

"(iii) to provide up to 90 per centum of the costs of such supporting services as may be necessary in each instance, such as the costs of related social services and, where appropriate, the costs of transportation between the project site and the residences of eligible individuals who could not participate in the project in the absence of such transportation, to the extent such costs are not met through other Federal, State, or local programs.

"(B) to provide for the proper and efficient administration of the State plan at the least possible administrative cost, not to exceed an amount equal to 10 per centum of the amount allotted to the State unless a greater amount in any fiscal year is approved by the Secretary. In administering the State plan, the State agency shall—

"(i) make reports, in such form and containing such information, as the Secretary may require to carry out his functions under this title, including reports of participation by the groups specified in subsection (4) of this section; and keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports and proper disbursement of Federal funds under this title, and

"(ii) provide satisfactory assurance that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this title to the State, including any such funds paid by the State to the recipient of a grant or contract.

"(3) provide such methods of administration (including methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are necessary for the proper and efficient operation of the plan.

"(4) provide that preference shall be given in awarding grants to carry out the purposes of this title to projects serving primarily low-income individuals and provide assurances that, to the extent feasible, grants will be awarded to projects operated by and serving the needs of minority, Indian, and limited English-speaking eligible individuals in proportion to their numbers in the State.

"(b) The Secretary shall approve any State plan which he determines meets the requirements and purposes of this section.

"(c) Whenever the Secretary, subject to reasonable notice and opportunity for hearing to such State agency, finds (1) that the State plan has been so changed that it no longer complies with the provisions of this title, or (2) that in the administration of the plan there is a failure to comply substantially with any such provisions or with any requirements set forth in the application of a recipient of a grant or contract approved pursuant to such plan, the Secretary shall notify such State agency that further payments will not be made to the State under the provisions of this title (or in his discretion, that further payments to the State will be limited to programs or projects under the State plan, or portions thereof, not affected by the failure, or that the State agency shall not make further payments under this part to specified local agencies affected by the failure) until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied, the Secretary shall make no further payments to the State under this title, or shall limit payments to recipients of grants or contracts under, or parts of, the State plan not affected by the failure or payments to the State agency under this part shall be limited to recipients of grants or contracts not affected by the failure, as the case may be.

"(d)(1) If any State is dissatisfied with the Secretary's final action with respect to the approval of its State plan submitted under subsection (a), or with respect to termination of payments in whole or in part under subsection (c), such State may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceeding on which he based his action, as provided in section 2112 of title 28, United States Code.

"(2) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the Court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(3) The court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"NUTRITION AND OTHER PROGRAM REQUIREMENTS

"SEC. 706. (a) Funds allotted to any State during any fiscal year pursuant to section 703 shall be disbursed by the State agency to recipients of grants or contracts who agree—

"(1) to establish a project (referred to herein as a 'nutrition project') which, five or more days per week, provides at least one hot meal per day and any additional meals, hot or cold, which the recipient of a grant or contract may elect to provide, each of which assures a minimum of one-third of the daily recommended dietary allowances as established by the Food and Nutrition Board of the National Academy of Sciences-National Research Council;

"(2) to provide such nutrition project for individuals aged sixty or over and their spouses (referred to herein as 'eligible individuals');

"(3) to furnish a site for such nutrition project in as close proximity to the majority of eligible individuals' residences as feasible, and, preferably within walking distance where possible and, where appropriate, to furnish home-delivered meals to eligible individuals who are home-bound;

"(4) to utilize methods of administration, including outreach, which will assure that the maximum number of eligible individuals may have an opportunity to participate in such nutrition project;

"(5) to provide special menus, where feasible and appropriate, to meet the particular dietary needs arising from the health requirements, religious requirements or ethnic backgrounds of eligible individuals;

"(6) to provide a setting conducive to expanding the nutrition project to include recreational activities, informational, health and welfare counseling and referral services, where such services are not otherwise available;

"(7) to include such training as may be necessary to enable the personnel to carry out the provisions of this title;

"(8) to establish and administer the nutrition project with the advice of persons competent in the field of service in which the nutrition program is being provided, and of persons who are knowledgeable with regard to the needs of elderly persons;

"(9) to provide an opportunity to evaluate the effectiveness, feasibility, and cost of each particular type of such project;

(10) to give preference to persons aged sixty or over for any staff positions, full- or part-time, for which such persons qualify; and

"(11) to comply with such other standards as the Secretary may by regulation prescribe in order to assure the high quality of the nutrition project and its general effectiveness in attaining the objectives of this title.

"(b) The Secretary and the Comptroller General of the United States or any of their duly authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to a grant or contract received under this title.

"SURPLUS COMMODITIES

"SEC. 707. (a) Each recipient of a grant or contract shall, insofar as practicable, utilize in its nutrition project commodities designated from time to time by the Secretary of Agriculture as being in abundance, either nationally or in the local area, or commodities donated by the Secretary of Agriculture. Commodities purchased under the authority of section 32 of the Act of August 24, 1935 (49 Stat. 774), as amended, may be donated by the Secretary of Agriculture to the recipient of a grant or contract, in accordance with the needs as determined by the recipient of a grant or contract, for utilization in the nutritional program under this title. The Secretary of Agriculture is authorized to prescribe terms and conditions respecting the use of commodities donated under section 32, as will maximize the nutritional and financial contributions of such donated commodities in such public or private nonprofit institutions or organizations, agencies, or political subdivisions of a State.

"(b) The Secretary of Agriculture may utilize the projects authorized under this title in carrying out the provisions of clause (2) of section 32 of the Act approved August 24, 1935, as amended (49 Stat. 774, 7 U.S.C. 612c).

"APPROPRIATIONS AUTHORIZED

"SEC. 708. For the purpose of carrying out the provisions of this title there are hereby authorized to be appropriated $100,000,000 for the fiscal year ending June 30, 1973, and $150,000,000 for the fiscal year ending June 30, 1974. In addition, there are hereby authorized to be appropriated for such fiscal years, as part of the appropriations for salaries and expenses for the Administration on Aging, such sums as Congress may determine to be necessary to carry out the provisions of this title. Sums appropriated pursuant to this section which are not obligated and expended prior to the beginning of the fiscal year succeeding the fiscal year for which such funds were appropriated shall remain available for obligation and expenditure during such succeeding fiscal year.

"RELATIONSHIP TO OTHER LAWS

"SEC. 709. No part of the cost of any project under this title may be treated as income or benefits to any eligible individual for the purpose of any other program or provision of State or Federal law.

"MISCELLANEOUS

"SEC. 710. None of the provisions of this title shall be construed to prevent a recipient of a grant or a contract from entering into an agreement, subject to the approval of the State agency, with a profitmaking organization to carry out the provisions of this title and of the appropriate State plan."

Mr. EAGLETON. Mr. President, I move that the committee substitute amendment be agreed to and that the bill as thus amended be considered as original text for purposes of further amendment.

Mr. GRIFFIN. Mr. President, has this request been cleared with the ranking minority member of the committee?

Mr. EAGLETON. It has, yes, and also with the minority leader.

Mr. GRIFFIN. I thank the Senator.

The PRESIDENT pro tempore. Is the Chair informed that an amendment will be proposed?

Mr. EAGLETON. No, Mr. President, it is my understanding that no amendment will be offered.

The PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Missouri.

The motion was agreed to.

Mr. EAGLETON. Mr. President, I ask unanimous consent that a summary of the bill be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF THE BILL

This legislation amends the Older Americans Act of 1965 by creating a new title to authorize grants to the states for the purpose of paying up to ninety percent of the cost of establishing and operating nutrition projects to provide low cost, nutritionally sound meals to individuals sixty years of age or older and their spouses ("eligible individuals").

The bill authorizes $100 million in fiscal year 1973 and $150 million in fiscal year 1974 for grants to states submitting an acceptable State plan and provides for administration of the program by the Secretary of Health, Education, and Welfare through the Administration on Aging. Funds so appropriated are allotted to the States on the basis of each State's proportionate share of the Nation's population aged sixty and older, except that each State (defined to include Puerto Rico and the District of Columbia) shall receive at least one-half of one percent of the sums appropriated and Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific shall receive at least one-fourth of one percent of the sums appropriated.

Participating States must designate a single State agency having responsibility for administering the nutrition program within the State and for coordinating the program with other agencies providing services to the elderly. The State agency shall be the agency primarily responsible for administering other provisions of the Older Americans Act unless the Governor, with the approval of the Secretary, designates some other agency. States may utilize up to ten percent of their allotment for administrative costs, which amount is subject to the matching requirements of the bill.

Funds allotted to States are to be dispersed, by grant or contract, to public or private nonprofit institutions, organizations, agencies, or political subdivisions of the State which agree to establish a nutrition project. In making grants or awarding contracts, States must give preference to projects serving primarily low income individuals and the State plan must assure that, to the extent feasible, grants will be awarded to projects operated by and serving the needs of minority, Indian, and limited English-speaking eligible individuals in proportion to their numbers in the State. Recipients of a grant or contract must agree to—

Establish a nutrition project with the advice of persons competent in the fields of nutrition and services to the elderly. Each such project must provide at least one hot meal per day, five or more days per week, and each meal must assure a minimum of one-third of the daily recommended dietary allowances as established by the Food and Nutrition Board of the National Academy of Sciences, National Research Council.

Furnish a site for the nutrition project to be located, where feasible, in areas having a concentration of eligible individuals and preferably within walking distance.

Where appropriate, provide home-delivered meals to eligible individuals who are homebound and supply transportation between the project site and the residences of eligible individuals who would otherwise be unable to participate.

Provide participants with supportive services such as recreational activities, health and welfare counselling, and informational and referral services, where they are not otherwise available.

Utilize methods of outreach that will insure the maximum number of eligible individuals will have an opportunity to participate.

Provide special menus, where feasible and appropriate, to meet particular dietary needs arising from the health requirements, religious requirements, or ethnic backgrounds of eligible individuals.

Comply with such other standards as the Secretary may prescribe and make available to the Secretary and the Comptroller General or their representatives all books, records, etc., for audit and examination.

Nutrition projects operated under this title are eligible to receive surplus commodities donated by the Secretary of Agriculture and shall use such commodities in the nutrition program insofar as practicable. At the request of one or more nutrition projects, the State agency may purchase and distribute agricultural commodities and other foods, in lieu of money, to such projects in order to achieve economies through large volume purchases. Projects are also authorized to contract with profit making organizations, subject to the approval of the state agency, to purchase meals or other services.

Mr. EAGLETON. Mr. President, it is ironic in a day when obesity is a major health problem, when the newest food diet is a prime topic of conversation, that we should be here talking about hunger and malnutrition. Yet even in America—envied by the world for its wealth, productive agricultural resources, and sophisticated food distribution system—the 1969 White House Conference on Food, Nutrition, and Health found that:

> Hunger and poverty exist on a disgraceful scale in the United States. The Nation's conscience will no longer stand for the toleration of these conditions. Funds must be provided to get food to needy people on an emergency basis. The President and the Congress must supply the leadership in closing the hunger gap.

The bill before the Senate today represents an effort to meet our responsibility with respect to a particular group—the aged. Hunger and malnutrition know no age limits. But the very young and the very old are especially susceptible.

We have programs designed to meet the nutritional needs of children—they are not enough—we must do more. But largely because of congressional pressures, a reluctant administration has been persuaded to withdraw proposed cutbacks in the school lunch program.

Now it is time to turn to the needs of our elderly citizens—again in the face of administration opposition.

The bill before us, S. 1163, would authorize grants to the States to pay up to 90 percent of the costs of establishing nutrition projects for those aged 60 and over and their spouses. Funds granted to the States would be awarded by them to political subdivisions or private nonprofit organizations, through grant or contract, for the establishment and operation of such projects within the State.

Nutrition projects may provide meals in a group setting at a site located near a concentration of elderly persons' residences—preferably within walking distance—and in addition, may deliver meals to those who are homebound. The bill is based upon the experience of the Administration on Aging, which has conducted some 32 research and demonstration nutrition projects for the aged over the last 3 years. The overwhelming success of these pilot projects has demonstrated the potential value of, and need for, a national program of this kind.

For the most part, the pilot projects concentrated on group meals at a single site. This emphasis reflects a recognition of the particular needs of the elderly. Low income is an important cause of inadequate diet among this group—from 25 to 30 percent have incomes below the poverty level—but added to this are problems of lack of physical mobility or transportation, making shopping difficult, and isolation from friends and family, resulting in loneliness and lack of incentive to prepare nourishing meals for themselves. By providing meals in a group setting, the pilot projects drew many participants out of their social isolation and, while furnishing them with nourishing meals, put them into contact with a host of other needed services such as health, counseling, welfare, social security advisers, and so forth.

For those who are unable to leave their homes, meals delivered to the home are often the key to remaining at home as a much preferable alternative to the cost and trauma of confinement to the institution.

In this connection, a recent national survey disclosed the existence of only 349 "Meals on Wheels" projects, operated mainly by private groups, serving only 10,000 to 12,000 older persons.

Mr. President, the appropriations authorized under this bill are not large in terms of the need—$100,000,000 in fiscal year 1973 and $150,000,000 in fiscal year 1974. But it is instructive to note that the Federal Government spent approximately $500 million on nursing home care under medicare in 1970 and about $1.3 billion on such care under medicaid. Total medicare outlays are approaching $8 billion a year. Geriatric authorities emphasize the important role of nutrition in maintaining good health for elderly persons, and in enabling them to retain a substantial degree of self-sufficiency. To the extent that the nutrition program authorized by S. 1163 will achieve those ends, it will represent substantial savings in one of the fastest growing elements of the Federal budget.

No funds were provided for the current fiscal year since the bill has yet to pass the House and it seems unlikely that a program could be begun in fiscal year 1972.

It is fitting, Mr. President, that this bill which is based upon the recommendations of the 1969 White House Conference on Food, Nutrition, and Health and the 1970 report of President Nixon's Task Force on Aging should come to the floor in the midst of the White House Conference on Aging. I would hope that in the next session of Congress, we will be able to respond affirmatively to the policies and recommendations developed by the current conference. As chairman of the Senate Subcommittee on Aging, I intend to do everything in my power to see that proposals emanating from the White House Conference on Aging are translated into legislation for consideration by the Congress.

Mr. President, I can think of no better endorsement of this bill than the words of one of the directors of the pilot project in Roxbury, Mass., Mrs. Ella Reason, who said:

> This country is too rich to let its elderly starve to death. Yet this is what we are doing when we don't provide means for adequate nutrition for them. We have spent moneys for medical research to find ways of combating illnesses and prolonging life; yet we will not provide money for a nationwide nutrition project.
>
> The seniors ask is it worth having a longer life in order to slowly starve to death. They ask why prolong our life, why keep us alive to slowly die of starvation?

Mr. President, before yielding at this time, I want to pay singular tribute to the principal sponsor of the pending bill, the senior Senator from Massachusetts (Mr. KENNEDY), as well as to Representative PEPPER in the House who introduced a similar measure in that body. Last year's hearings on the measure produced valuable information for our subcommittee.

In the Senate, the principal sponsor, the distinguished senior Senator from Massachusetts (Mr. KENNEDY) has long been known for his devotion to the needs of older Americans. The intelligence and commitment he brings to this bill are characteristic of his concerns in this area.

Without the support of the Senator from Massachusetts the bill would not now be near a reality, as it now is, but would still be a topic for discussion and not a reality.

At this time, Mr. President, I am pleased to yield to the Senator from Massachusetts the principal author of the pending measure.

The PRESIDENT pro tempore. Who yields time?

Mr. EAGLETON. I yield such time as the Senator may need from my remaining time.

Mr. KENNEDY. Mr. President, first of all, I express my warm sense of appreciation to the chairman of the Subcommittee on Aging, the Senator from Missouri (Mr. EAGLETON), who assumed the chairmanship of this committee this year. Since that time, that committee has been extremely active not only in the development of S. 1163, the nutrition program for the elderly bill, which I introduced with some 21 cosponsors, but also in a wide variety of legislation affecting the elderly of this Nation.

I personally thank him for the work he has done in the development of the hearings before the Aging Subcommittee. He has demonstrated in this legislation his typical concern for human welfare and human dignity.

Mr. President, the thrust of this legislation has been outlined here this morning in the splendid presentation of the chairman of the Subcommittee on the Aging. Particularly at this time of the year, I think all of us in the Senate are conscious that we are appropriating and authorizing hundreds of millions of dollars and even billions of dollars in many instances when we are unsure as to exactly how that money will benefit the people of this great Nation. However, here we have one program that we can be absolutely assured will benefit a very significant group in our Nation, the senior citizens.

There is an extraordinary need for the development of this program. That need has been documented time and time again by every kind of study made on the problems facing our senior citizens and on the nutritional needs of those citizens.

As the chairman of the subcommittee pointed out, the White House Conference on Nutrition in 1969, the President's own Task Force on the Aged in 1970, the National Council of Senior Citizens, the American Association of Retired Persons, and the National Retired Teachers Association have all documented the need for this legislation.

I think we are also fortunate in being able to recommend this legislation to the Senate this morning, because it is the kind of program that has been tried. There have been numerous pilot programs, and they have been accepted with uniform success. Every evaluation on the nutrition pilot programs has come back with an overwhelming endorsement.

Again as the chairman of the subcommittee pointed out, some 32 programs started in 1968, 10 expired a year and a half ago. It was only through the efforts of the distinguished senior Senator from Illinois (Mr. PERCY) and his good offices at the White House and within the administration that we were able to get $1,700,000 to continue the remaining 18 programs until June of next year.

What we do have is an eminently successful program that has been living from hand to mouth and one which will expire next June if no further action is taken.

What we are attempting to do here is

to institutionalize this program to provide for hundreds of thousands, and hopefully even millions, of senior citizens the kind of quality nutrition necessary to sustain life itself.

The figures that we recommend here, $100 million the first year and $150 million the second year, although they are large figures, will only permit us to scratch the surface when compared to the worker or elderly who need and would benefit from a group-based nutrition program.

The hearings emphasized the need for a permanent nationwide nutrition program for the elderly, a program that provides not only nutritious meals, but meals in a group setting where the elderly can come together in social activities and in locations where they have access to other social services.

Older Americans in the United States are truly among the nation's most oppressed minorities. One of every four older American lives in poverty. Ten years ago, the elderly comprised 15 percent of the Nation's poor. Today, they comprise 20 percent of our citizens who exist on incomes below the poverty line. For the elderly Americans, this decade has been one where the gap between their living standards and the living standards of the rest of the Nation has grown wider.

Of the 20 million elderly Americans, 5.2 million live alone or with nonrelatives and their median income is a meager $1,850. For these elderly citizens, the final chapter of their lives is a bitter struggle for survival, a struggle that is virtually ignored by the vast majority of their fellow citizens.

When the economic straitjacket of the elderly is understood, then it is also apparent why many elderly Americans suffer from hunger and malnutrition. But more than inadequate incomes plagues the Nation's aged. For they are victimized by other pressures as well, pressures which combine to produce malnutrition and failing health.

The elderly, particularly the single elderly, lack physical mobility to shop for food. Many of those who live in rented rooms have inadequate kitchen facilities and most have little nutritional education to enable them to prepare an adequate diet. They are unaware of the foods they ought to purchase, and they are unable to prepare those foods, even if they could obtain them.

In addition, the loneliness and sense of alienation of single elderly persons removes the incentive to plan and prepare nutritious meals. These factors combine to produce a way of life which perpetuates malnutrition and subsequent physical and mental deterioration.

For all of these reasons, it is necessary now for the Federal Government to assume its obligations to provide decent nutrition for every elderly person.

Thus, the President's Task Force on Aging recommended last year that the Administration on Aging "Develop a program of technical assistance, and when necessary, financial assistance, to local groups so that such groups can provide daily meals to ambulatory older persons in group settings and to shutins at home." The 1969 White House Conference on Food, Nutrition, and Health underscored that obligation in its final report last year.

The first recommendation of the panel on aging was:

> The U.S. Government, having acknowledged the right of every resident to adequate health and nutrition, must now accept its obligation to provide the opportunity for adequate nutrition to every aged resident.

To implement this goal, the panel urged that the Government:

> Undertake permanent funding programs of daily meal delivery service, initially consisting of at least one meal for all the aged needing this service and desiring it, in both urban and rural locations, emphasizing the importance of the values of eating in group settings where possible.

The bill now before the Senate, S. 1163, seeks to do exactly that. Hopefully, the administration will end its opposition to this bill.

As reported by the Senate Labor and Public Welfare Committee, the bill establishes a new title VII in the Older American Act of 1965 and authorizes $250 million over a 2-year period for allocations to State offices of aging which then will make grants to local public or private nonprofit organizations. The Administration on Aging will administer the program. Allocations to the States will be on a 90-to-10 Federal-State-matching basis.

States will submit a plan to assure that the purposes of the program are met and there will be a preference in seeking to reach those most in need—the poor, the minority, the Indian, and the elderly who have limited English-speaking abilities.

The bill also provides that:

First. Each program must provide at least one hot meal a day, 5 days a week. Each meal also must contain a minimum of one-third the recommended daily dietary needs for elderly persons.

Second. The meals will be served in sites accessible to the majority of elderly within the community. Schools, senior citizen centers, churches, and other public and nonprofit locations can be used.

Third. Outreach services to locate the isolated elderly will be part of each program so that those who most need the program will be aware of it.

Fourth. The sponsor will provide a setting conducive to the inclusion of other social services as a corollary to the meal itself.

Fifth. Preference for staffing will go to the elderly. The talents of elderly are often wasted as a youth-oriented society forces able men and women into early retirement and the frustration of feeling useless.

Let me repeat that it is important to recognize that this measure is based on the experience, the successful experience, we have had in carrying out the research and demonstration nutrition program under title IV of the Older Americans Act.

The pilot projects compiled an immensely favorable record, affirming an urgent need for group-based meals for the elderly. More than that, these projects have provided the basic model that we have incorporated in the bill now before the Senate.

In testimony before the Senate Aging Subcommittee by the Administration on Aging's own evaluator, the following myths were dispelled:

> Fallacy: The aged aren't interested in nutrition programs.
>
> Fact: Not only are the aged interested, they come to programs in rain, snow and summer heat. They wait patiently for hours to ensure themselves a place at mealtime.
>
> Fallacy: The aged will not or cannot learn about nutrition.
>
> The fact: The food and nutrition information and education aspects of the projects are regarded as successful in terms of providing the aged with a better understanding of nutrition, food preparation, budgeting and efficient shopping, and providing a better orientation toward beneficial eating patterns.
>
> Fallacy: Nutrition education programs need deal only with nutrition education, per se.
>
> The fact. The most successful nutrition education programs deal with a variety of problems, not only those relating to food, but also to health care, social security benefits, medicare, medicaid, housing, transportation, etc.
>
> Fallacy: Feeding the aged will not make any difference in their lives.
>
> The fact: Many of the aged in the programs are receiving adequate food for the first time in many years. But in addition to the nutritional aspects of the program virtually all program directors report a startling change in the elderly participants. After a time they begin to dress better, develop friendships, become more conscious of health care, and take a livelier interest in social activities.

These were the findings of the Administration on Aging's evaluation of some 23 projects and its conclusion was:

> Experience to date demonstrates that the most effective program to combat the food and nutrition problems of the aged needs to be a comprehensive program designed to meet all these related needs. The provision of meals in a group setting is a highly desirable approach because it fosters social interaction, facilitates the delivery of other services, and meet emotional needs of the aged while improving their nutrition.

Mr. President, I just want to make one additional comment on the evaluation of the program, because during the course of the markup there were those who argued that the Senate will be considering the income maintenance program next year, and will make other social services unnecessary. I want to emphasize full, complete social service will continue to be needed in addition to an adequate income maintenance program.

The PRESIDENT pro tempore. The time of the Senator has expired.

Mr. JAVITS. Mr. President, I yield 2 minutes to the Senator out of our time.

The PRESIDENT pro tempore. The Senator is recognized for 2 additional minutes.

Mr. KENNEDY. I thank the Senator.

Mr. President, as the conclusion of the evaluation states:

> Certainly many of the aged cannot afford to buy those foods which are essential to meeting nutritional needs. At the same time, it has become apparent that the mere provision of an income subsidy would not pro-

duce solutions for all the social, psychological and health-related factors that contribute to malnutrition and undernutrition of the aged. Raising the income level would not motivate the aged person to cook for himself alone; it would not help the invalid to shop; it would not alleviate the feelings of loneliness, rejection and apathy; it would not help the aged person to understand the need for a nutritionally adequate diet, or how to achieve it. Nor would it produce solutions to such everyday problems as housing and transportation which are inseparable from the problem of nutrition.

Experience to date demonstrates that the most effective program to combat the food and nutrition problems of the aged needs to be a comprehensive program designed to meet all these related needs. The provision of meals in a group setting is a highly desirabye approach because it fosters social interaction, facilitates the delivery of other services, and meets emotional needs of the aged while improving their nutrition.

It was this impressive conclusion following a detailed evaluation of the pilot programs that confirmed the desirability of making this nutrition program available to as many elderly Americans as possible.

It is a first step in breaking the circle of isolation, malnutrition, deteriorating health, institutionalization and death.

And it also is a first step toward restoring to old age the dignity envisioned by the Roman philosopher Cicero, who wrote:

> For herein is old age honest and honorable, in defending and maintaining itself, in saving itself free from bondage and servitude . . . even until the last hours of death.

Mr. President, I think we have a great responsibility to our senior citizens in insuring in this great land of plenty that they are going to receive an adqeuate nutritional program.

I thank the Senator and urge approval of this legislation.

Mr. JAVITS. Mr. President, I yield 5 minutes to the Senator from Illinois.

The PRESIDENT pro tempore. The Senator from Illinois is recognized.

Mr. PERCY. Mr. President, I deeply appreciate the opportunity to speak on behalf of this bill, of which I am very proud to be a cosponsor.

I became interested in the feeding programs for the elderly when it was brought to my attention many months ago that a nutrition demonstration program that was being carried on by HEW was about to lapse and that there was no indication it would be continued.

After visiting with a dozen or more of the regional directors of this program and after visiting some of the feeding centers myself, I became convinced that the only problem with this program was that it was so successful no one felt a demonstration was any longer needed. It had absolutely proven its great value. Yet there was no program to follow the demonstration program.

We had demonstrated that there was a need for the programs, that it fulfilled a service, and that it was worth the investment of Federal funds. We conclusively showed those things, but there was no program to follow that was ready for enactment. So it seemed necessary to take emergency steps at that time. I am grateful, indeed, for the assistance and help of a number of my fellow members of the Committee on Appropriations, including the chairman, the Senator from Louisiana (Mr. ELLENDER), and the distinguished Senators from Washington (Mr. MAGNUSON) and New Hampshire (Mr. COTTON).

In a short period of time we were able to work out a procedure whereby this emergency feeding program could continue. The cost was very modest, indeed, only $1.7 million a year. Yet the entire program would have been lost if we had not acted with great dispatch in a few days.

I had the pleasure of taking Dr. Arthur Flemming through some of these feeding centers in the Nation's Capital one day. Only a few blocks from the Capitol, in the basement of a church, 20 or 25 elderly people arrive every day, pay a quarter—because everyone pays something—and they sit down and have a hot meal delivered at a cost of $1.68, if I recall correctly. It is not just the hot food they get, although for many of the people there it was the only hot meal they would have during the day. It was the fact that they had someplace to go, an occasion for which to dress up, and they had other people to meet and visit with.

One lady, Mrs. Green, said:

> You know, when Nellie wasn't here one day we wondered why, and we contacted her. She was back up in her room, and was not feeling well. We said, "Nellie, come downstairs now. We are going to have our meal together. You need to get dressed up and come down and you will feel better." If we did not have that program we would not know that she was not feeling well. She did come down and by two or three o'clock that afternoon she was feeling as good as ever.

It is this spirit that sometimes gets crushed as well as the physical problem someone may have in later life. This program, which HEW carried out, and I am deeply appreciative that Secretary Richardson favored continuing the program for another year, has given us the necessary pilot run to demonstrate and prove that this present bill and the provisions of S. 1163 are not theoretical; they are not anything we need to wonder whether it is going to work because we know the provisions of this bill are going to work and that it is going to be one of the finest investments we can make.

The PRESIDENT pro tempore. The time of the Senator has expired.

Mr. JAVITS. I yield the Senator 1 additional minute.

The PRESIDENT pro tempore. The Senator from Illinois is recognized for 1 additional minute.

Mr. PERCY. We will have a program that will fill a tremendous need. I ask that my comments before the Subcommittee on the Aging be inserted in the RECORD at this point.

There being no objection, the comments were ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR CHARLES H. PERCY

(S. 1163. A bill to establish a nutrition program for the elderly.)

"To our Nation's shame, they are often hidden in the slums of urban centers, barely surviving. Eventually they face placement in a substandard nursing home, or a state mental hospital. Or they die alone, unnoticed."—Louis M. Henry, in an article entitled, "Caring for Our Aged Poor". The New Republic, May 22, 1971.

Mr. Chairman: In 1970, the Federal Government spent approximately $500 million on nursing home care for the elderly under the Medicare program. It spent about $1.3 billion for such care under Medicaid. And total Medicare outlays are fast approaching $8 billion a year.

We are asking a great deal of the American taxpayer, and he is unhappy about it. He is unhappy not so much because he minds paying taxes to help the sick, the poor, and the aged, but because he sees little or no return on his tax dollar. With the figures cited above in mind, the taxpayer becomes upset—and understandably so—when he picks up a newspaper and reads that Medicare covers less than one-half of the health-related expenses of the elderly, or that large numbers of federally funded nursing homes are so squalid and depressing that they are known as "pre-funeral homes".

To those who have delved into the problem of expensive but inadequate health care, it is clear that the taxpayer is paying not only for widespread abuse and waste in the Medicare and Medicaid programs, but also for our inefficient and inadequate use of appropriate, but less expensive alternatives to these programs.

In my opinion, S. 1163, which I am pleased to cosponsor, offers us a less expensive, but appropriate alternative to some of the more expensive federal programs.

S. 1163 builds upon and expands a highly successful research and demonstration program funded since 1968 under Title IV of the Older Americans Act. Under this program, hot, nutritious meals are served to elderly citizens in communal dining facilities—generally located in a school, church, or other public and nonprofit setting. The elderly participants pay for their meals, and even though the amount paid may only be nominal, it allows the participants to maintain a sense of dignity and independence. Nutrition education is offered, as many elderly people have only a limited knowledge of what foods are best for their health and how to prepare them. Several of the ongoing demonstration projects deliver hot meals to homebound, isolated senior citizens, and most of the projects also offer help or advice with such matters as transportation, employment, Social Security and Medicare.

The basic premise underlying this program is that nutritious meals provided in a social setting lead not only to improved health, but also to better spirits and a more positive outlook on life.

Arthritis and other chronic ailments combine with inadequate public transportation to force many elderly people to subsist on foods most easily procured and prepared, rather than on those foods that are best for them. As a result, their health suffers.

Immobility, vulnerability to crime and unscrupulous entrepreneurs, poor health and a deteriorating physical appearance, loss of family and friends who have either moved or passed away, loss of one's role in society and the accompanying sense of uselessness—all of these factors can add up to an overwhelmingly depressing existence for the isolated elderly individual. These factors aggravate one's sense of loneliness and isolation, and lead to poorer appetites, which in turn lead to poorer health.

The need for a program like that envisioned in S. 1163 is best illustrated by quoting directly from some of the elderly people now participating in the demonstration projects: One participant says:

"It is hard for us as Seniors to put into words just how we feel about our Senior Citizens program. It has enriched our lives to the extent that we now have a real zest for living. The meals program has been a tremendous tool to get us together around a table twice a week. Besides the good we get from the nutritious meals, we also have such a grand time socially."

Another participant comments:

"I have become a different person altogether. This program is my best medicine. If it were not for this program, I'd be in the hospital. Now I save on doctor bills".

A project director writes me:

"The true measure of the program is extremely difficult to define. We can only tell you that we have observed attitude changes in our Seniors toward themselves and toward others. Feelings of dignity and self-worth and a friendly rapport with other members of the group are now evident. Their interest in community affairs is renewed. They eagerly seek information on shopping trips, menu planning and consumer news".

There is an immediate and crying need for a broad scale, nationwide nutrition program for the elderly. A full one quarter of the 20 million older Americans live at or near the poverty level, and these people comprise the most uniformly malnourished segment of our population.

S. 1163 is the natural culmination of the current nutrition demonstration project which has proved so successful. It is, in a sense, a "known quantity", as opposed to an intriguing, but untested government program which we sometimes pursue.

As a cosponsor of S. 1163, I urge its enactment on the grounds that it offers us an alternative to expensive, institutionalized care for many senior citizens. It is a good bill. In addition to the fact that it is moral and right that we act to alleviate the problem of malnutrition among the elderly, this measure may very well save the taxpayers money.

Mr. JAVITS. Mr. President, I yield myself 4 minutes.

The PRESIDENT pro tempore. The Senator from New York is recognized for 4 minutes.

Mr. JAVITS. Mr. President, it should be noted that four members of the minority—I as ranking minority member and Senators PACKWOOD, TAFT, and BEALL—filed supplemental views in respect of this bill. The reason for our filing supplemental views was our agreement with the bill, but within the limitation of the 2-year period which we desired for it. The reason for that limitation is the statement of the administration that it intends to submit more comprehensive legislation, which will include this and other measures of critical importance to the well-being of our older citizens.

It is a fact that this has been discussed before in comprehensive legislation and, therefore, we are very much for this bill which is sponsored by the Senator from Massachusetts (Mr. KENNEDY) and his associates. But still we felt the administration should have the chance to make good on its representation, and we also felt the pilot program, which has been discussed, now coming into maturity under this bill, should have 2 years to operate to demonstrate its practicality and effectiveness on a broader basis.

We agree with the Senator from Missouri (Mr. EAGLETON), who did such a fine job on the committee dealing with the aging, and the Senator from Massachusetts (Mr. KENNEDY), on the need to go ahead with this.

There are two other points I wish to call to the attention of the Senate which commend this bill highly to the Senate. First, aside from the social and mutual support which the aged give each other in these highly desirable programs, there is the self-respect engendered by the fact there is authorized the charging of a fee under each State plan, which takes into consideration the income ranges of individuals eligible to participate.

It is a fact that the charge would generally run about 50 cents to 65 cents per meal. That seems to be in the general competence of most of the aging and it gives them a sense of paying their way and it adds to the effect of the program and its effect on them.

The other aspect of the program deserving of comment is the very grave problem which affects many of these programs. We have it now in connection with the poverty bill in the Child Development title. I refer to how a State shall be permitted to run these programs. I think this bill has a very admirable formula. It is a formula I have worked out with my colleagues to establish in committee.

The bill states a fine criteria for a State plan and gives the State the first opportunity to develop a plan and operate it satisfactorily. But if the State does not develop a plan or does not operate it satisfactorily then the administrator is left free to use other means, other levels of government, even private agencies, for the purpose of seeing that a meaningful plan is developed and administered.

It seems to me that that is really the right way in which to realize the best of federalism and not to incur the worst. I call that particularly to the attention of the Senate because I hope it will be a model for other bills—there are many of them—in which we can solve this particularly serious question.

For all these reasons, I commend the bill strongly to the Senate and hope that it will now pass.

I yield 3 minutes to the Senator from Ohio (Mr. TAFT).

INTRODUCTION OF S. 2910, A BILL TO PROVIDE GRANTS TO STATES FOR THE ESTABLISHMENT, MAINTENANCE, AND OPERATION OF LOW-COST MEAL PROGRAMS FOR DISABLED AMERICANS, AND FOR OTHER PURPOSES. REFERRED TO THE COMMITTEE ON LABOR AND PUBLIC WELFARE

Mr. TAFT. Mr. President, I think that it is particularly tragic that there is a lessened sense of community spirit in many of our cities and neighborhoods. I think that this is particularly true with respect to older Americans who are often shut in their homes and unable to visit with their friends. S. 1163 not only gives these older Americans the essential nutrition they require, but, equally important, it will bring them together at least once a day when they can eat together and associate with their friends and neighbors. This measure opens their world and enriches their lives both nutritionally and socially.

As vital as this program is, I think that it is equally important to provide the same type of nutritional program and social contact for our disabled.

In committee when this matter came up, I suggested adding the disabled to this particular program. Some technical questions arose, and it was felt that perhaps some further consideration should be given to the matter before putting it into this particular bill. As a result, I have drafted, and am introducing today, my bill largely paralleling S. 1163, providing this program for all Americans irrespective of their age.

I ask unanimous consent that the text of the bill be printed at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. TAFT. Mr. President, under my bill the food program for the disabled will also be administered through the Administration on the Aging. I have written the bill in this way for two reasons.

First, it saves administrative overhead to have the same agency undertake both programs, and second, because I believe that we should bring a wider spectrum of people together in a neighborhood as a means of revitalizing social contacts in our various communities.

We often build community centers that are in effect nothing more than large empty rooms with juke boxes in the corner. If a community center is to really serve its purpose, it must bring together people of various ages and walks of life and have a vibrant and on-going program. For that reason I hope that we can greatly expand the community center concept within the context of existing and proposed programs.

For example, I think it would be very desirable to have the Health Maintenance Organizations proposed by the President located at the same place as our nutritional programs for the aged and the disabled. These HMO's can provide preventive care for a broad cross-section of the community. Such community centers consequently would be the focus of health care, special nutritional programs, and social life for people who otherwise might have very limited social contacts.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. JAVITS. Mr. President, do I have any time left?

The ACTING PRESIDENT pro tempore. The Senator has 1 minute remaining.

Mr. JAVITS. I yield that 1 minute to the Senator from Ohio.

Mr. TAFT. Mr. President, I believe that older Americans and disabled Americans want to have an opportunity to associate with a broad cross section of their community. By expanding the community center concept in this way, we not only will provide critically important health care and nutritional programs but open the windows to a much brighter life for hundreds of thousands of Americans who now feel isolated and neglected.

EXHIBIT 1

S. 2910

A bill to provide grants to States for the establishment, maintenance, and operation of low-cost meal programs for disabled Americans, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Disabled Americans Nutritional Support Act of 1971."

SEC. 2. The Congress finds that there is the need for permanent nationwide programs to assist in meeting the nutritional needs of disabled Americans. Many of these disabled Americans do not eat adequately because (1) they cannot afford to do so; (2) they lack the skills to select and prepare nourishing and well-balanced meals; and (3) they have limited mobility which may impair their capacity to shop and cook for themselves. These and other physiological factors result in a pattern of living which causes malnutrition and other physical deterioration.

SEC. 3. (a) In order to effectively carry out the purposes of this title, the Secretary shall—

(1) administer the program through the Administration on Aging; and

(2) consult with the Secretary of Agriculture and make full utilization of the Food and Nutrition Service, and other existing services of the Department of Agriculture.

(b) In carrying out the provisions of this title, the Secretary is authorized to request the technical assistance and cooperation of the Department of Labor, the Office of Economic Opportunity, the Department of Housing and Urban Development, the Department of Transportation, the Social Security Administration, and such other departments and agencies of the Federal Government as may be appropriate.

(c) The Secretary is authorized to use, with their consent, the services, equipment, personnel, and facilities of Federal and other agencies with or without reimbursement, and on a similar basis to cooperate with other public and private agencies and instrumentalities in the use of services, equipment, personnel, and facilities.

(d) In carrying out the purposes of this title, the Secretary is authorized to provide consultative services and technical assistance to any public or private nonprofit institution or organization, agency, or political subdivision of a State; to provide short-term training and technical instruction; and to collect, prepare, publish, and disseminate special educational or informational materials, including reports of the projects for which funds are provided under this title.

SEC. 4. (a) From the sums appropriated for any fiscal year under section 9, each State shall be allotted an amount which bears the same ratio to such sum as the number of disabled in such State bears to the number of disabled in all States, except that (A) no State or the Commonwealth of Puerto Rico shall be allotted less than one-half of one per centum of the sum appropriated for the fiscal year for which the determination is made; and (B) Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands shall each be allotted an amount equal to one-fourth of one per centum of the sum appropriated for the fiscal year for which the determination is made.

SEC. 4. (b) The amount of any State's allotment under subsection (a) for any fiscal year which the Secretary determines will not be required for that year shall be reallotted, from time to time and on such dates during such year as the Secretary may fix, to other States in proportion to the original allotments to such States under subsection (a) for that year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Secretary estimates such State needs and will be able to use for such year; and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Such reallotments shall be made on the basis of the State plan so approved, after taking into consideration the number of disabled. Any amount reallotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (a) for that year.

"(c) The allotment of any State under subsection (a) for any fiscal year shall be available for grants to pay up to 70 per centum of the costs of projects in such State described in section 6 and approved by such State in accordance with its State plan approved under section 6, but only to the extent that such costs are both reasonable and necessary for the conduct of such projects, as determined by the Secretary in accordance with criteria prescribed by him in regulations. Such allotment to any State in any fiscal year shall be made upon the condition that the Federal allotment will be matched during each fiscal year by 30 per centum, or more, as the case may be, from funds or in kind resources from non-Federal sources.

"(d) If the Secretary finds that any State has failed to qualify under the State plan requirements of section 6, the Secretary shall withhold the allotment of funds to such State referred to in subsection (a). The Secretary shall disburse the funds so withheld directly to any public or private nonprofit institution or organization, agency, or political subdivision of such State submitting an approved plan in accordance with the provisions of section 6, including the requirement that any such payment or payments shall be matched in the proportion specified in subsection (c) for such State, by funds or in kind resources from non-Federal sources.

"(e) The State agency may, upon the request of one or more recipients of a grant or contract, purchase agricultural commodities and other foods to be provided to such nutrition projects assisted under this part.

"PAYMENT OF GRANTS

"SEC. 5. Payments pursuant to grants or contracts under this title may be made in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

"SEC. 6. (a) Any State which desires to receive allotments under this title shall submit to the Secretary for approval a State plan.

"(1) establish or designate a single State agency as the sole agency for administering or supervising the administration of the plan, and coordinating operations under the plan with other agencies providing services to the disabled;

"(2) set forth such policies and procedures as will provide satisfactory assurance that allotments paid to the State under the provisions of this title will be expended—

"(A) to make grants in cash or in kind to any public or private nonprofit institution or organization, agency, or political subdivision of a State (referred to herein as 'recipient of a grant or contract')—

"(i) to carry out the program as described in section 7.

"(ii) to provide up to 70 per centum of the costs of the purchase and preparation of the food; and such other reasonable expenses as may be incurred in providing nutrition services to disabled persons. Recipients of grants or contracts may charge participating individuals for meals furnished but such charge shall not exceed a per meal limit to be established by each State agency, taking into consideration the income ranges of eligible individuals in local communities and other sources of income of the recipients of a grant or a contract.

"(iii) to provide up to 70 per centum of the costs of such supporting services as may be necessary in each instance, such as the costs of related social services and the costs of transportation between the project site and the residences of eligible individuals who could not participate in the project in the absence of such transportation to the extent such costs are not met through other Federal, State, or local programs.

"(B) to provide for the proper and efficient administration of the State plan at the least possible administrative cost, not to exceed an amount equal to 30 per centum of the amount allotted to the State unless a greater amount in any fiscal year is approved by the Secretary. In administering the State plan, the State agency shall—

"(i) make reports, in such form and containing such information, as the Secretary may require to carry out his functions under this title, and keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports and proper disbursement of Federal funds under this title, and

"(ii) provide satisfactory assurance that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this title to the State, including any such funds paid by the State to the recipient of a grant or contract.

"(3) provide such methods of administration (including methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are necessary for the proper and efficient operation of the plan.

"(b) The Secretary shall approve any State plan which he determines meets the requirements and purposes of this section.

"(c) Whenever the Secretary, subject to reasonable notice and opportunity for hearing to such State agency, finds (1) that the State plan has been so changed that it no longer complies with the provisions of this title, or (2) that in the administraiton of the plan there is a failure to comply substantially with any such provision or with any requirements set forth in the application of a recipient of a grant or contract approved pursuant to such plan, the Secretary shall notify such State agency that further payments will not be made to the State under the provisions of this title (or in his discretion, that further payments to the State will be limited to programs or projects under the State plan, or portions thereof, not affected by the failure, or that the State agency shall not make further payments under this part to specified local agencies affected by the failure) until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied, the Secretary shall make no further payments to the State under this title, or shall limit payments to recipients of grants or contracts under, or parts of, the State plan not affected by the failure or payments to the State agency under this part shall be limited to recipients of grants or contracts not affected by the failure, as the case may be.

"(d)(1) If any State is dissatisfied with the Secretary's final action with respect to the approval of its State plan submitted under subsection (c), such State may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceeding on which he based his action, as provided in section 2112 of title 28, United States Code.

"(2) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(3) The court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"Sec. 7. (a) Funds allotted to any State during any fiscal year pursuant to section 4 shall be disbursed by the State agency to recipients of grants or contracts who agree—

"(1) to establish a project (hereinafter referred to herein as a 'nutrition project') which, five or more days per week, provides one hot meal per day which assures a minimum of one-third of the daily recommended dietary allowances as established by the Food and Nutrition Board of the National Academy of Sciences-National Research Council.

"(2) to provide such nutrition project for disabled individuals;

"(3) to furnish a site for such nutrition project in as close proximity to the majority of disabled individuals' residences as feasible, and, preferably within walking distance where possible and, where necesary, to furnish home-delivered meals to eligible individuals who are home-bound.

"(4) to utilize methods of administration, which will assure that the maximum number of eligible individuals may have an opportunity to participate in such nutrition project;

"(5) to provide special menus, where feasible and appropriate to meet the particular dietary needs arising from the health requirements, religious requirements or ethnic backgrounds of eligible individuals;

"(6) to provide a setting conducive to expanding the nutrition project to include recreational activities, informational, health and welfare counseling and referral services, where such services are not otherwise available.

"(7) to include such training as may be necessary to enable the personnel to carry out the provisions of this title;

"(8) to give preference to disabled persons for any staff positions, full- or part-time, for which such persons qualify; and

"(9) to comply with such other standards as the Secretary may by regulation prescribe in order to assure the high quality of the nutrition project and its general effectiveness in attaining the objectives of this title.

"(b) The Secretary and the Comptroller General of the United States or any of their duly authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to a grant or contract received under this title.

"Sec. 8. Each recipient of a grant or contract shall, insofar as practicable, utilize in its nutrition project commodities designated from time to time by the Secretary of Agriculture as being in abundance, either nationally or in the local area, or commodities donated by the Secretary of Agriculture. Commodities purchased under the authority of section 32 of the Act of August 24, 1935 (49 Stat. 774), as amended, may be donated by the Secretary of Agriculture to the recipient of a grant or contract, in accordance with the needs as determined by the recipient of a grant or contract, for utilization in the nutritional program under this title. The Secretary of Agriculture is authorized to prescribe terms and conditions respecting the use of commodities donated under section 32, as will maximize the nutritional and financial contributions of such donated commodities in such public or private nonprofit institutions or organizations, agencies, or political subdivisions of a State.

"Sec. 9. For the purpose of carrying out the provisions of this title there are hereby authorized to be appropriated $6,000,000 for the fiscal year ending June 30, 1973, and $9,000,000 for the fiscal year ending June 30, 1974. In addition, there are hereby authorized to be appropriated for such fiscal years, as part of the appropriations for salaries and expenses for the Administration on Aging, such sums as Congress may determine to be necessary to carry out the provisions of this title. Sums appropriated pursuant to this section which are not obligated and expended prior to the beginning of the fiscal year succeeding the fiscal year for which such funds were appropriated shall remain available for obligation and expendtiure during such succeeding fiscal year.

Sec. 10. For the purpose of this Act "disabled person" and "disabled individual" mean any person who suffers from blindness as defined in 42 U.S.C. 416(i) (1) in both eyes, has lost the use of both arms, lost the use of one leg, or who by reason of any medically determinable physical or mental impairment, is unable to prepare meals or leave his or her place of residence. The Secretary shall be authorized to establish rules and regulations for the determination of those persons who shall be deemed disabled within the meaning of this section.

Sec. 11. No part of the benefits of any project or program under this title shall be treated as income or benefits to any disabled individual for the purpose of any other program or provision of State or Federal law.

Mr. BEALL. Mr. President, as the ranking Republican on the Senate Labor and Public Welfare Subcommittee on Aging, I strongly support S. 1163, a bill which authorizes a 2-year program of grants to the States for needed nutritional programs for senior Americans.

Mr. President, the overriding problem of senior Americans is inadequate income with the result that the income of nearly 5 million persons 65 and older is below the poverty level. Inadequate income is undoubtedly the reason why the nutritional food intake of senior Americans is often below the level deemed adequate. Food is a major expenditure for senior citizens, ranking second only to housing expenses and comprising about 27 percent of their limited budget.

S. 1163 builds on the successful experience under title IV which is the research and demonstration section of the "Older Americans Act." The nutritional projects funded under title IV have been most successful in responding to the nutritional needs of senior citizens. I am pleased that Maryland, in nearby Prince Georges County, had a demonstration project under title IV known as "Project Compas" which is being funded for its third year at the $62,918 level.

In addition, these nutritional projects have been successful in responding to other needs of senior citizens. For example, studies have indicated that the serving of meals in a group setting can overcome isolation, which is often a serious problem of senior citizens. The group meals also serve as a focal point for the delivery of other services to the aged.

Under this program $100 million is authorized in fiscal 1973 and $150 million in fiscal 1974 for grants to the States. Maryland, with 443,561 senior citizens over 60, would receive approximately $1.5 million in fiscal 1973 and $2.2 million in fiscal 1974. These funds would be used to underwrite the costs incurred by local projects for equipment, labor, management, supporting services, and food. To be eligible for Federal funds, a State would submit a plan to HEW which would guarantee that any nutritional project funded would provide at least one hot meal per day providing a minimum of one-third the recommended daily dietary allowance for an elderly citizen. The hot meal would be provided at least 5 days a week.

Mr. President, it is most appropriate that the Senate take action at this time, for at this very moment the White House Conference on the Aging is underway. This Conference will explore the full spectrum of senior citizens problems—income, housing, nutrition, transportation, education, and health, and property taxes—it is hoped that the Conference will provide the Nation, administration, and the Congress with the guidance and requirements necessary to meet the problems of aging. The ultimate test of the White House Conference will be the action taken to improve the living conditions of senior citizens. Senior citizens make up approximately 10 percent of the Nation's population and they are perhaps the most forgotten minority in the country. This is particularly tragic, for these senior Americans have worked hard to earn their retirement and are responsible in no small part for the high standard of living that the Nation enjoys today. The bill being considered by the Senate today, I hope, is indicative of the action that will follow the White House Conference. I, for one, intend to study carefully the recommendations and do all I can to make certain that senior Americans will be able to live their retirement years with the independence and dignity they deserve.

Mr. BENTSEN. Mr. President, I am pleased to join as a cosponsor of S. 1163, an amendment to the Older Americans Act to provide low-cost nutrition programs for the elderly. It is fitting that this bill is being voted on while the White House Conference on the Aging is in progress.

In 1969, the White House Conference on Nutrition pointed to the need for more adequate nutrition programs for older Americans.

The problem of providing an adequate diet for the elderly has a number of root causes. Some of the problems are caused by inadequate income; others may be caused by the older citizen's absence of skills to choose and prepare well-balanced meals; still others by his limited mobility or his absence of incentive to eat properly because of feelings of loneliness and rejection.

But whatever the cause, the effects are frequently an accelerating feebleness, a sense of despair, and an old age devoid of joy and dignity. I can think of no more worthy cause than the one to which this bill is addressed. I urge its passage by the Senate.

Mr. DOMINICK. Mr. President, I will reluctantly vote for this bill in spite of what I feel is an almost fatal provision, in hope that the House will remedy it.

Section 705(a) provides that the recipients of grants to establish nutrition programs can, in setting a minimum charge for meals, take into account the income range of the aging population to be served. But, it has to be a flat charge paid by everyone who qualifies. To qualify, a person merely needs to be age 60 or over.

This means that a person over age 60 can receive meals at the minimum rate regardless of their economic means. Millionaires can go to the "nutrition center" for their meals along with welfare and old age pension recipients. I do not think this makes sense. I think the taxpayers' funds could be more wisely spent. Limited funds—and contrary to what seems to be the popular belief these days, tax funds are limited—go a lot further if they are targeted to the people who need them. I see no reason why people of substantial means—for example, Lester Maddox, who owns a restaurant business, Nelson Rockefeller and many members of this body—should qualify to receive meals at the same charge as welfare recipients merely because they happen to be over age 60.

Mr. WILLIAMS. Mr. President, with the White House Conference on Aging now underway, I believe it most appropriate that the Senate give consideration at this time to S. 1163, the Nutrition Program for the Elderly Act. As a sponsor of this measure, I am pleased to state my strong support for its passage.

For the elderly in this Nation, 25 to 30 percent of whom live in poverty, adequate nutrition is clearly a major concern. In many cases, a poor diet intensifies the severity of other problems besetting the aged. For example, improper nutrition can be identified as a main cause of both chronic disease and mental illness.

For many of the elderly, inadequate nutrition finds its source in their poverty or in lack of information about a proper diet. But other aspects of their lives play an important role as well. For instance, lack of transportation facilities or physical inability to move about may restrict the opportunities of the elderly to shop for food. Elderly people who live alone, or who live in rented rooms without cooking or refrigeration facilities, may lack the motivation or ability to prepare adequate meals for themselves.

It is considerations such as these which led the Panel on Aging of the White House Conference on Food, Nutrition and Health, in 1969, to declare the Federal Government's responsibility to assure adequate nutrition for all our elderly citizens. As the Panel concluded:

> The U.S. Government, having acknowledged the right of every resident to adequate health and nutrition, must now accept its obligation to provide the opportunity for adequate nutrition for every aged resident. Immediate attention must be given to developing a new system of food delivery based on modern technical capability by which meals supplying a substantial proportion of nutrient requirements can be distributed to the aged through restaurants, institutions and private homes when this is necessary. Regional, urban and cultural differences in the United States will require that a variety of systems may be necessary to accomplish this goal.

Similarly, the President's Task Force on Aging, in April 1970, recommended a Federal program of financial and technical assistance, to enable local groups to provide daily meals to ambulatory older persons in group settings, and to shut-ins at home.

The bill now before us represents a major step toward fulfilling these recommendations. This measure would authorize Federal funding, in the amount of $100 million for fiscal year 1973 and $150 million for fiscal year 1974, to be expended—primarily through State plans—to provide persons 60 years of age and older with at least one hot meal per day. Such meals, which must meet certain minimum nutrition requirements, would be provided at convenient locations, such as senior citizen centers, schools, or other suitably located sites. Appropriate provision would be made for home-delivery of meals to those who are homebound, and for transportation to the serving center for those who would otherwise be unable to participate.

In addition, this bill would help to provide a comprehensive approach to the related problems of the elderly. Outreach services would be available to assure maximum participation by eligible individuals, and such supportive services as health and welfare counseling, recreational activities, and informational and referral assistance would also be furnished.

Equally important, eating in a group setting would provide a new opportunity to meet others. For lonely persons, this could be an effective means for counteracting isolation. Several pilot projects under the Older Americans Act have demonstrated that a meal in a group setting is oftentimes an effective means for bringing lonesome and frustrated individuals into a whole range of community activities.

Today, the White House Conference on Aging is serving to underscore the urgent and far-reaching needs of the elderly, and the problems of adequate nutrition are surely among the most compelling of these. Immediate and special attention is clearly required, and I strongly believe that the measure now before us provides a sound and realistic approach for meeting this challenge.

Mr. SPONG. Mr. President, I am pleased to support S. 1163, which would establish a nationwide nutrition program, operated through the States, for citizens 60 years of age and older.

We know from studies and I know from personal conversations that many of our elderly do not eat properly for a variety of reasons. The person living alone may simply find it too much trouble to prepare a nutritional meal. He or she may be unable to get to a store. There may be an income problem. Or there may be a lack of knowledge about proper nutrition needs.

This legislation seeks to meet such problems. It authorizes funds for a variety of projects, including ones which provide group meals, ones which prepare meals for homebound persons, and ones which seek to provide nutrition education. Furthermore, the legislation encourages the provision of supportive services such as recreational activities, health and welfare counseling and informational and referral services. It also specifies that outreach programs be included as part of the projects which serve meals so that as many people as possible may be brought into the projects and it requires that programs be established in areas where there are concentrations of elderly.

In my State of Virginia, as many as 500,000 elderly citizens might benefit from projects which could be initiated under this legislation. The extent to which services will be available will, of course, depend on State and local effort, but the pending legislation should provide a strong impetus to the extension of nutritional services to additional needs of our elderly citizens.

There are more than 28 million Americans 60 years of age and over. We know that these citizens are facing increasing difficulties in their later years. There are some basic needs of life. Food is certainly one of these. In a land as wealthy as ours, there is no reason why these persons should not be provided for; why these citizens who have worked long and hard years should not have the sustenance which they need.

Again, I am pleased to support this legislation. I hope it will result in numerous effective and beneficial programs to assist our elderly citizens.

Mr. HUMPHREY. Mr. President, there are 1.5 million individuals in this country today over 65 years of age who live on less than $600 a year. Millions of others live in poverty as couples. In 1900, there were fewer than 4 million Americans over 65 whereas today there are more than 20 million. In 1920 more than 30 percent of the aged were working whereas today only 20 percent are employed. While science is helping to extend longevity it also is helping to reduce the number of jobs, thus making it near impossible for many of the elderly to find gainful employment.

Arnold Toynbee once remarked that the quality and vigor of a society can best be judged "by the respect and care given its elderly citizens." Today, the United States would have to be judged very harshly based upon that particular criterion. Although the largest minority group in this country, they rank among the most neglected. One out of every four people over 65 lives in poverty today. The war on poverty conducted over the past decade had little impact on our Nation's elderly. In 1959, the proportion of Americans 65 and older living below the poverty line was 15.1 percent. In 1969 that figure moved up to 20 percent. And when one understands the severity of their economic condition, it becomes easier to understand why so many of the elderly suffer from malnutrition or are forced to live on grossly inadequate diets.

S. 1163, which I have cosponsored with Senator KENNEDY and other Senators is a major step in the direction of helping our elderly meet their food and nutritional needs. It provides a national nutrition program for our elderly, a program which is essential to maintaining decent health standards. Their dietary needs are special. And given the meager financial resources of most of them and the lack of incentive and many of them having to plan and prepare nutritious meals for themselves, the need for this program speaks for itself.

Funds provided to States under this bill will be utilized to provide the elderly with low-cost nutritionally sound meals served in strategically located centers such as community centers, schools, senior citizen centers, and other public and private nonprofit institutions suited to such use. Individuals 60 years of age or over and their spouses are eligible to benefit under the program and for those elderly who are confined to their homes, home-delivered meals are authorized. In addition special dietary needs may be accommodated whether for medical, religious, or ethnic reasons.

It is very timely that this historic piece of legislation should be before the Senate at the very time that the President's White House Conference on Aging is being held here in Washington. I know that the question of the elderly's nutritional needs will be getting a great deal of attention at the Conference. A group of elderly citizens from Minnesota, who are here to attend the Conference, met with the Minnesota congressional delegation this morning—and their principal concern centered around the food and nutritional requirements of the elderly and recent changes initiated by the U.S. Department of Agriculture pertaining to the food stamp program which will adversely affect many of the elderly of this country.

The Department, as part of its new food stamp program regulations this year, established national uniform income and resource eligibility standards for the program. While these new standards increased the allowable maximum income that individuals or couples can earn each month in most States, the new standard lowered the maximum income allowed in 12 States, including the State of Minnesota. Unless prompt action is taken, 50 percent of the elderly now participating in this program in Hennepin County alone will be declared ineligible and will be forced out of the program. In addition, many thousands of younger individuals and families living on low incomes also will be adversely affected by this action.

The Department also took action under these new regulations to increase the minimum purchase requirements for individuals and couples and to reduce the amount or value of the bonus stamps individuals and couples can receive under the program. Under last year's food stamp program an elderly couple earning between $150 and $245 was required to spend $36 of their money in order to receive an additional $20 worth of food stamps as a bonus. Under the new regulations issued by USDA couples earning between $210 and $222 will be required to spend $54 and will get only $6 in bonus stamps. And it should be noted again here that the maximum monthly income allowed for participation in this case has dropped from $245 down to $220.

These changes initiated by USDA and the administration are appalling and constitute an insult to the elderly of this Nation who have spent their entire lives working and contributing to the welfare of this Nation as law-abiding, taxpaying citizens. And now that many of them are required to live on low, fixed incomes—and during a time when inflationary pressures are driving the cost of almost everything upward—the Federal Government is reducing what meager benefits they have been receiving under this program.

In view of this development I have prepared legislation to correct these changes which will require the restoration of last year's maximum income standards in Minnesota—and in the other 12 States similarly affected—and which will require a return to last year's requirements for minimum stamp purchases and bonuses.

I tried to offer this legislation as an amendment to S. 1163, the elderly nutrition bill, which the Senate is about to vote on but due to a parliamentary technicality I was unable to do so.

Therefore, I shall introduce separate legislation to correct this situation. I also will be urging the members of the Minnesota delegation in the House to offer my amendments to S. 1163 or other appropriate legislation when such legislation is considered by that body.

Mr. CHURCH. Mr. President, I wish to express my strong support for the Nutrition Program for the Elderly Act, a bill which I have cosponsored with the Senator from Massachusetts (Mr. KENNEDY), now reported out by Senator EAGLETON's subcommittee.

Today the price of food is the second most costly item for the aged, ranking only behind expenses for housing. Older Americans now spend approximately 27 percent of their income for nutrition, compared with 16 percent for the total population.

Because of their limited budgets, hunger and malnutrition affect the elderly to a much greater degree than any other age group in our society. In fact, it is estimated that perhaps 8 million older Americans have diets insufficient for optimum health.

Quite frequently, inadequate nutrition may intensify other problems confronting the aged. In far too many cases, a poor diet may lead to chronic physical conditions, or even mental illness. In a recent study of elderly patients admitted at two psychiatric hospitals in Philadelphia, for example, it was revealed that about 60 to 70 percent were reported to have serious nutritional problems.

During the past 3 years, approximately 30 nutrition demonstration programs have been initiated under title IV of the Older Americans Act. Now there are about 21 title IV projects in existence. These programs were continued in this fiscal year because of joint hearings conducted last spring by the Subcommittee on Aging of the Senate Labor and Public Welfare Committee and the Committee on Aging, of which I am chairman.

These projects, it seems to me, have clearly shown the wisdom of providing meals in a group setting—particularly for aged single persons who otherwise would have very little incentive to cook for themselves. And they have also amply demonstrated the urgent need for establishing a permanent nutrition program on a nationwide basis to meet the special needs of the elderly. And the Nutrition Program for the Elderly Act, S. 1163, would be a major step forward in making this goal a reality.

First, this measure would provide nutritious meals and at prices that the aged can afford. Moreover, these meals would be located at conveniently located centers, such as senior citizens centers, schools, and other nonprofit settings. Equally important, this bill would offer a wide range of other supportive services to assure maximum participation by eligible individuals. And it would also provide new employment opportunities for older workers.

A few days ago this proposal was unanimously approved by the Labor and Public Welfare Committee. Moreover, the need for this type of legislation has been strongly endorsed by the White House Conference on Food, Nutrition, and Health; every major senior citizen organization; and the elderly themselves.

Enactment of this measure could help provide nutritious meals for nearly 600,000 elderly persons throughout this Nation. And in my own State of Idaho, about 3,000 aged individuals would be benefited by this legislation.

But there are also many other advantages to be derived from the adoption of this proposal. Meals in a group setting, for example, can provide a new opportunity to meet others. This, in itself, can be of important therapeutic value for lonely persons living alone. For these individuals, this can also provide a new and effective means to counteract isolation. And, a meal in a group setting can provide a drawing card for making lonely older Americans aware of a whole range of community services and activities.

For these reasons, I urge the adoption of the Nutrition Program for the Elderly Act.

FIGHTING HUNGER AND MALNUTRITION AMONG THE NATION'S ELDERLY

Mr. CRANSTON. Mr. President, it is most fitting that we have the opportunity to move S. 1163, a bill providing nutrition programs for the elderly, before this week's adjournment. During this special week of the White House Conference on Aging, we in the Senate could offer no greater assurance of our commitment to initiate programs in the interest of America's 20 million older citizens than to unanimously support this vitally important measure.

The April 1970 report of the President's Task Force on Aging, "Toward a Brighter Future for the Elderly," in discussing nutrition and older persons, stated:

> Only recently has the Nation perceived inadequate nutrition throughout society as a major problem. Because its cause is not exclusively economic, the extent of poor nutrition among the elderly has not been clearly recognized. Evidence is accumulating that the incidence of some type of nutritional deficiency among the elderly is substantial.
>
> The malnutrition of older persons causes concern because it not only impairs physical health but also damages mental health—if the full potential of older persons to contribute to society is to be realized, then the threat which inadequate nutrition poses to their health must be eliminated.
>
> The task force believes that programs can be designed which not only provide adequate nutrition to older persons, but equally important, combat their loneliness, channel them into the community, educate them about proper nutrition, and afford some of them an opportunity for paid community service.

Mr. President, it is to these ends that S. 1163 is directed.

S. 1163 authorizes appropriation of $100 million in fiscal year 1973 and $150 million in fiscal year 1974 for grants to States to pay up to 90 percent of the cost of establishing nutrition programs which would provide at least one hot meal a day, 5 days a week, for persons aged 60 and over and their spouses. Participants themselves would also contribute toward the cost of each meal. The programs may also provide home delivered meals, where appropriate, to those eligible individuals who are homebound. The programs would be carried out in sites easily accessible to the majority of elderly residents within the community, such as senior citizens centers, community centers, churches, or other public and nonprofit private settings. Such settings would be conducive to the expansion of the nutrition programs to include opportunity for educational and training programs, and additional social activities and contacts.

The bill provides for administration of the program by the Secretary of Health, Education, and Welfare through the Administration on Aging. Responsibility for administration of the programs in each State will be placed in a single State agency as designated by the participating State, and no more than 10 percent of the State allotment may be used for administrative costs. Preference for filling staff positions in the programs, both full and part time, will be given to persons aged 60 and above.

I was pleased to be one of the original cosponsors of this legislation when it was introduced last March by the distinguished Senator from Massachusetts (Mr. KENNEDY), and the distinguished chairman of the Subcommittee on Aging of the Labor and Public Welfare Committee (Mr. EAGLETON). As ranking majority member of that subcommittee, I was privileged to contribute to the further development and refinement of the bill in committee, and am gratified that my colleagues agreed to amendments which I offered in full committee.

In this regard, I wish to congratulate my colleague, Chairman EAGLETON, for his thorough and expeditious handling of this bill. Were it not for his efforts, and the cooperation of the chairman of the full Labor and Public Welfare Committee, the Senator from New Jersey (Mr. WILLIAMS), in scheduling prompt subcommittee and full committee consideration of S. 1163, we would have been unable to consider this important legislation before the conclusion of the first session of the 92d Congress.

I also wish to extend my thanks to Jim Murphy, counsel to the Subcommittee on Aging, and Mark Schneider of Senator KENNEDY's staff, for their cooperation to me and my staff in developing my amendments.

One of my amendments provided for a more equitable State allocation formula than was provided in the bill as originally introduced. Under the original State allocation formula in the bill, each State and the District of Columbia and Puerto Rico was entitled to one-half of 1 percent of the sums appropriated—$500,000 at full finding—$100 million first year—plus an add-on of a proportional portion of the additional moneys appropriated, based on the State's share of the national elderly population. Thus, with a $100 million appropriation, a small State such as Delaware, for instance, would have received about $660,000—sixty-one one-hundredths of 1 percent of the total funds at full appropriation, even though it has only twenty-two one-hundredths of 1 percent of the elderly 60 and over. On the other hand, a large State such as California, with 8.51 percent of the 60 and over population, would have received only $6,990,000—just 7 percent of the total appropriation. Thus, though California has 40 times more elderly people 60 and over, it would have received only slightly less than 11 times more of the total dollars. Compared to Delaware, California's share would have been almost 400 percent too low, or, in more compelling terms, the older persons in Delaware would receive almost $4 for every $1 received by the older persons in California. This would work a startling inequity in availability of services to fully 8.5 percent of all elderly persons in the Nation.

Similar comparisons apply to New York and to a somewhat lesser extent to 11 other States with high proportions of older persons among their populations—Florida, Illinois, Indiana, Massachusetts, Michigan, Missouri, New Jersey, Ohio, Pennsylvania, Texas, and Wisconsin. These 13 States, with 63 percent of the persons 60 and older, would thus have received only 52 percent of the total appropriation.

I strongly felt and I am pleased that my colleagues in committee agreed, that the original allocation language of S. 1163, while appropriately providing for a smaller State minimum guaranteed allocation, did so at the expense of almost two-thirds of the total U.S. elderly population.

The amendment which I proposed provided for a more equitable allocation formula for the older population, while at the same time insuring a fair minimum for small States.

Under my amendment, basic distribution of funds would be made on a proportion of the elderly population, but each State and the District of Columbia and Puerto Rico would receive at least one-half of 1 percent of the total appropriation—$500,000 at full funding—and each territory, at least one-fourth of 1 percent of the total; that is, at least $250,000 at full funding. However, the 13 States as well as Guam, Puerto Rico, the trust territory, and the Virgin Islands whose populations fell below the appropriate proportion of the national population—144,684 or one-half of 1 percent of 28,936,791—77,342, or one-fourth percent for the territories—would not receive a population allocation in addition to their guaranteed minimum. This would mean that only about $8 million—for 14 States, the District of Columbia, and the four territories—rather than $27 million, as in the original language, would be allocated without regard to population, and the rest would be allocated among the remaining 36 States and Puerto Rico according to elderly population. In sum, this means a more proportionate and equitable allocation of $19 million—almost one-fifth of the total authorization—more than would have been so allocated under the original formula.

Another amendment which I introduced in committee and which was included in the bill as reported, authorizes the State agency administering the nutrition program, where feasible and appropriate, to provide for the preparation of meals meeting the "health requirements" of eligible individuals, such as heart patients or diabetics on salt-free, low-cholesterol, or carbohydrate diets, as well as meals meeting the religious needs of these older persons, as was authorized in the bill reported to the full committee from subcommittee.

According to the Administration on Aging in HEW, this addition to the bill will not entail any significant additional overall cost to the program. Indeed, the authority of the Secretary to administer the program is sufficiently broad to keep any extra costs of this provision to a minimum. Pre-prepared, frozen meals could be kept on hand for such purposes, or the center could meet the special diet requests from the physician of the participant by purchasing meals at a local hospital which has a trained dietitian to supervise food service, as has been the recommendation of the meals on wheels program.

Illness strikes the elderly far more frequently than it does younger age groups. Approximately 80 percent of the elderly—as compared with 40 percent of the nonelderly—suffer from one or more chronic diseases or conditions, many of which require special diets. Heart disease and other cardiovascular disease, for instance, ailments which require salt free and low cholesterol diets, afflict one in four elderly persons. I was pleased that my colleagues agreed to providing this mechanism in the nutrition bill for addressing this critical problem.

Mr. President, in 1969 the Panel on Aging of the White House Conference on Food, Nutrition, and Health, spelled out the Federal responsibility to assure adequate nutrition to every older person in America, a responsibility that this Nation has the resources to meet. The panel recommended that—

> The U.S. Government . . . now accept its obligation to provide the opportunity for adequate nutrition to every aged resident.

And that—

> The Administration on Aging . . . and the Department of Agriculture undertake permanent funding programs of daily meal service, initially consisting of at least one meal for all the aged needing this service and desiring it, in both urban and rural locations emphasizing the importance of the values of eating in group settings where possible.

On May 28, 1970, Congressman CLAUDE PEPPER introduced H.R. 17763, a nutrition program for the elderly. Because the Congress failed to act upon this measure during the 91st Congress, Mr. PEPPER reintroduced his bill as H.R. 5017 on February 25 of this year. Senator KENNEDY introduced his similar legislation, S. 1163, on March 10. We in the Senate now have the opportunity to take the first initiative in moving this important legislation. I urge my colleagues to support S. 1163 and send it to the House with an overwhelming approval.

SOLVING THE ELDERLY'S SPECIAL PROBLEMS

Mr. BYRD of West Virginia. Mr. President, through the miracles of modern medicine, the life expectancy of the average American has been increased greatly—to the point where, today, one out of every 10 Americans is 65 years of age or older, and another 20 million of our citizens are between the ages of 60 and 64.

In fact, the fastest growing segment of our population is not the young, but rather, the over-60 generation; and the time has come for us to pay greater attention to solving the special problems that come with aging. S. 1163 is a step toward solving some of those problems.

Under provisions of the bill, $100 million—designed to pay 90 percent of the cost—would be authorized in fiscal year 1973 for grants to States to provide low cost, nutritionally sound meals to persons 60 years of age or older and their spouses. That 90-percent Federal contribution would be increased to $150 million in fiscal year 1974. The States would disperse the funds through public or private nonprofit organizations which agree to establish nutritional projects.

The funds would be appropriated on the basis of each State's proportionate share of the over-60 population. My home State of West Virginia, for instance, has 278,969 persons in that age bracket and would receive $919,406 in fiscal year 1973 and $1.379 million in fiscal year 1974.

This bill recognizes many of the special needs of the aged. Primarily, of course, it recognizes that between 25 and 30 percent of elderly Americans are living below the poverty level—and, for these persons, hunger, and malnutrition are very real problems. Thus, the bill calls for each nutritional project to provide at least one hot meal a day, 5 or more days a week, and states that—

> Each such meal must assure a minimum of one-third of the daily recommended dietary allowances as established by the Food and Nutrition Board of the National Academy of Sciences, National Research Council.

S. 1163 also recognizes that immobility is all too often a companion of old age, and, therefore, requires that the nutrition project site be located, wherever feasible, in an area with a heavy concentration of eligible persons, preferably within walking distance. Further, it calls for transportation to be provided for those persons who would otherwise be unable to participate, and provides for home-delivered meals to persons who are unable to leave their residences.

There would be a number of additional services provided under the bill, Mr. President. Wherever feasible, special menus to meet particular health requirements or religious tenets would be offered, as would supportive services such as recreational activities, counseling, and referral services.

All these services combine to make S. 1163 a worthwhile measure, one that is deserving of Senate approval. It is legislation designed to provide necessary services to our Nation's elderly, who all too often have seen inflation make their retirement benefits inadequate and strip them of whatever savings they have been able to accumulate after a lifetime of work. I urge its passage.

The ACTING PRESIDENT pro tempore. All time on the bill has expired.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. JAVITS. Mr. President, with the consent of the Senator from Missouri (Mr. EAGLETON), I ask unanimous consent to be made a cosponsor of the bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. EAGLETON. Mr. President, I ask unanimous consent that, notwithstanding rule XII, the vote on this bill occur immediately after the vote on the Harris amendment to S. 2891.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Mr. EAGLETON. At that time I will ask for the yeas and nays.

ECONOMIC STABILIZATION ACT OF 1971

The ACTING PRESIDENT pro tempore. The Chair now lays before the Senate the unfinished business, which the clerk will read by title.

The second assistant legislative clerk read the bill, as follows:

> A bill (S. 2891) to extend and amend the Economic Stabilization Act of 1970.

Mr. TOWER. Mr. President, I suggest the absence of a quorum——

The ACTING PRESIDENT pro tempore. If the Senator will withhold his request for a moment, the Chair will lay before the Senate the pending question, which is the amendment of the Senator from Oklahoma (Mr. HARRIS). The clerk will report that amendment.

The ASSISTANT LEGISLATIVE CLERK. The Senator from Oklahoma (Mr. HARRIS) proposes amendment No. 763.

Mr. TOWER. Mr. President, I suggest the absence of a quorum, and ask unanimous consent that the time be equally charged to both sides.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HARRIS. Mr. President, I yield myself 20 minutes.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma is recognized for 20 minutes.

AMENDMENT NO. 763

Mr. HARRIS. Mr. President, I rise in support of my amendment to: First, shorten the expiration date of this act to June 30, 1972; and second, require antitrust actions to be brought against the noncompetitive industrial giants responsible for most of the inflationary spiral.

If I may have the attention of the distinguished managers of the bill, it is my intention to ask, and I do now ask, for a division of my amendment into its two parts; and if there is no objection to that, I ask unanimous consent that following the expiration of the total time allotted on the entire amendment there be separate votes without intervening debate, one immediately following the other, on the two parts of the amendment.

Mr. SPARKMAN. Mr. President, reserving the right to object, and of course I shall not object, let me be sure I understand. The Senator intends to retain the limitation of debate on both amendments?

Mr. HARRIS. That is right.

Mr. SPARKMAN. And then have the rollcalls consecutively, without further debate?

Mr. HARRIS. That is right, after the expiration of time on the amendment and any amendments to it.

Mr. SPARKMAN. Yes.

Mr. HARRIS. To have immediate

votes, two separate votes on the two parts of the amendment, without any intervening debate.

Mr. SPARKMAN. I have no objection.

The ACTING PRESIDENT pro tempore. Unanimous consent is not required for that request. If the Senator desires that the amendment be divided it will be divided, and the vote will occur just as the Senator has indicated.

Mr. BYRD of West Virginia. Mr. President——

The ACTING PRESIDENT pro tempore. Does the Senator from Oklahoma yield?

Mr. HARRIS. Yes.

Mr. BYRD of West Virginia. Of course, I do not rise to object. But I want to be sure as to what the Chair just stated.

Is it the Chair's statement that unanimous consent is not required to assure that the vote on the second part of the division occur immediately following the vote on the first part of the division, without intervening votes on amendments in the second degree which may be offered to the second part?

The ACTING PRESIDENT pro tempore. If all time has expired. The Senator has asked that there be no intervening debate. Other amendments would be in order, and, under the unanimous consent agreement or other agreements, would be taken up. But the Senator has the right to have his amendment divided.

Mr. BYRD of West Virginia. Yes; I understand that.

The ACTING PRESIDENT pro tempore. And second, he has a right to have a vote on each amendment without intervening debate on the second part of the amendment.

Mr. BYRD of West Virginia. Yes, I understand. But what about votes on intervening amendments to the second part?

The ACTING PRESIDENT pro temport. They would have the same time as any other amendments in the second degree.

Mr. HARRIS. Mr. President, I ask unanimous consent that after the time has expired on this amendment and any amendments to this amendment——

Mr. BYRD of West Virginia. To either part of it.

Mr. HARRIS. To either part of the amendment, that thereafter there be two votes, one immediately succeeding the other, on the two parts of the amendment, without intervening debate.

Mr. BYRD of West Virginia. And without any intervening votes on amendments to the second part?

Mr. HARRIS. I so request, Mr. President.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD of West Virginia. So is it the understanding, may I ask the Chair, that any amendments to the second part must be offered and votes be conducted thereon before the vote on the first part of the amendment?

The ACTING PRESIDENT pro tempore. That is the Chair's understanding of the unanimous-consent agreement.

Mr. BYRD of West Virginia. I thank the Chair, and I thank the Senator from Oklahoma.

Mr. HARRIS. Mr. President, we are entering a new economic era. Various experts predict it and I believe it. Price and wage controls in peacetime, or at the tail end of a war, are unprecedented in American history. In imposing them, President Nixon acknowledged that something was drastically wrong with the American economy, that our economy had changed in ways which most Americans did not understand, and that the time for urgent reform had arrived.

As Prof. James Tobin, former member of the Council of Economic Advisers, has written:

> In imposing wage and price controls, the Nixon administration is taking an enormous and reckless gamble with the American economy. Never before in peacetime has an American Government subjected virtually every price and wage in the country to legally enforceable ceilings. How will a private enterprise economy perform under such sweeping regulations? Economists do not know, and neither does the administration.

At such a moment I believe Congress must give the most searching examination possible of alternatives open to us. It is my strong conviction that the President is offering us only one alternative, controls now in the vain hope that they will prove unnecessary later, but that he has done nothing to deal with the true root of the problem, the ability of giant firms in highly concentrated industries to "administer" prices upward in the face of lagging demand. I believe this failure to grapple with the root cause of great economic concentrations in our country carries a danger not only for the success of the President's own program but for the longer run future of the American economy.

I invite the attention of Senators to the charts in the rear of the Chamber. First, there is a chart which has to do with mergers. Senators will note that this chart has three major peaks on it representing the number of mergers which have occurred in the recent business and economic history of the United States. One peak is like Pikes Peak—mergers which occurred just before President Theodore Roosevelt came into office—and then the number of mergers goes down. Then there is another peak in the number of mergers—like Mount Everest—just before Franklin Roosevelt came into office, and then the number goes down. Then, in the late 1960's and into 1970, there is a peak in mergers which almost goes off the top of the chart. The number of mergers, obviously, indicates the number of firms that have gone out of business, that have combined with other firms, lessening the competition in our system.

Mr. President, despite the fact that many of the President's own advisers have said, both publicly and privately, that we cannot deal effectively with the twin problems of inflation and unemployment unless we have some lessening of the rising concentration of private economic power in this country, the Nixon administration has moved directly in the opposite direction.

For example, while the original phase I of the wage-price freeze was in effect, there was an attempted merger in the steel industry of National Steel, the fourth largest steel company, and Granite City Steel Co., the 11th largest steel company. They wanted to combine in an industry where there is already administering of prices because of lack of competition, an industry in which they were able, because they were powerful enough to avoid market pressures, to raise unit prices to make up for lost sales volume. Those two companies wanted to merge to provide less competition and to become the third largest steel company. The President's own antitrust division in the Justice Department came out against that merger, but they were overruled by the President and by the Attorney General. That merger did occur, and there is today less competition in an already uncompetitive industry, the steel industry, than there otherwise would have been.

The problem of bringing down inflation and unemployment in the steel industry, of competing with Italian and Japanese steel, staying up to date on modern technology so that that competition can occur, is much greater.

The other two charts have to do with the major American industrial markets with substantial market power in a very few firms. Shared monopolies are defined by industrial organization economists as industries where four or fewer firms have 70 percent or more of sales. That definition includes 35 percent of all the industries in America—automobiles, steel, tires, cereals, soup. All these are those kinds of industries.

For example, I invite attention to one chart which shows that in the tire and tube industry in America, three companies—Goodyear, Firestone, and Uniroyal—have between 70 and 80 percent of the market in the United States.

In cereals, for example, two firms—General Mills and Kellogg—have between 60 and 70 percent of all sales in the United States.

Mr. President, we know that many things happen when you get above the 50 percent level, where four or fewer firms have 50 percent or more of sales—what the industrial organization economists call the collusion index. There begins to be a tendency, through either explicit or implicit agreement, to set prices artificially high. Prices in America would come down by 20 percent if we could break up these shared monopolies and restore real competition in the American supposedly free enterprise system.

Another thing happens when there is this kind of concentrated economic power. Companies, such as cereal companies, are able to pour untold millions into advertising and get us to buy cereals, despite the fact that they have little nutritional value, as has been revealed recently about many of the products of these two big companies that dominate the cereal industry—General Mills and Kellogg.

Take the soup industry. The Campbell Soup Co. has 90 percent of the soup sales in the United States. That is some kind of system, but it is not the free enterprise system.

Look at motor vehicles: General Motors, Ford, and Chrysler—three firms—have between 90 percent and 100 percent of automobile sales in America. The result has been that they have set the prices much too high. They have not been able to compete with Toyota and Datsun and Volkswagen. They hardly tried for a long time. They resisted for a long, long time the obvious desire on the part of the American buying public for smaller, more compact cars. So we have all these imports coming in. We have prices much too high, and we have jobs being performed by other than American workmen, and an almost overwhelming pressure for protectionism in this country.

Look at soaps: Three companies—Procter & Gamble, Colgate, and Lever—have between 60 and 70 percent of all the soap sales in the United States.

A couple of other things happen in addition to the result I described earlier of much too high prices and not staying up with technology—one, often not real bargaining. If you can pass along, as many of these firms can, any wage increase that is agreed to, there often is not real resistance to inflationary wage demands, not commensurate with rises in productivity.

Another thing that happens is that this economic power often translates into inordinate political power, so that Standard Oil of New Jersey, for example, is able to continue to pollute the waters of the oceans and of our streams and to rise above any political action against them; and too often that is true in other fields and with other firms as well.

Mr. President, in an historic message to Congress in 1938, President Roosevelt warned that big business collectivism in industry compels an ultimate collectivism in government. He predicted that the power of a few to manage the economic life of the Nation must either be diffused or ultimately it would be controlled.

Today we see the truth of his warning. In recent weeks our economy has passed from the stage which the late Senator Estes Kefauver used to label "private socialism" into a form of public socialism. The latter became necessary because the giant corporations running our economy failed in their task.

Who would ever have thought that a conservative Republican President, President Nixon, would be the man to come before Congress and recommend more outright socialistic programs than we have seen advocated by public officials in this country in possibly its entire history—socialized SST's, a bailout of the Lockheed firm, and now seemingly permanent wage and price controls on a broad scale, as the distinguished Senator from Wisconsin said yesterday, reaching from automobiles to babysitters, trying to control prices and wages in that kind of broad fashion.

Senator Kefauver called the role of giant corporations in our economy "private socialism" because these firms did exercise a degree of control and planning in our economic life which we normally associate with "socialism." They divided up markets, drove up prices, gobbled up small business offering price competition, and forced the Government to impose quotas so as to choke off foreign competition.

The most striking proof that the market did not control these giant firms but these firms control the market came in the last 3 years. The Federal Government, alarmed by inflationary pressures in the economy, through fiscal and monetary policy attempted to reduce overall demand and to slow the inflationary spiral. But the industrial giants in our economy did not respond as expected. Theory told us they would hold employment levels steady while holding prices firm or actually lowering them. Instead they proceeded to reduce output, fire workers, and raise prices even in the face of slack demand.

Then in August 1971 President Nixon decided to substitute public socialism for the private variety. No longer would private individuals control and administer the economy, disregarding the dictates of the marketplace. By the President's action the pricing power was moved from the corporate executive suites into one of the White House wings. Further price hikes were blocked and wage contracts legally in force canceled.

And today the President and a handful of officials are attempting to rule the American economy. They are deciding that one industry can raise prices and another cannot. They are determining that one group of workers deserves wage increases and the rest do not. They are ruling that teachers should not get raises but that insurance companies should be allowed to raise their premiums.

Perhaps no single peacetime act in American history has moved as much potential power into the White House as the President's August 1971 decision. For with time, no power over a nation's life is as total as the power over its economy. The lesson all totalitarian states have learned is that economic power soon translates into political power.

Many will contend that with our democratic tradition such dangers cannot exist in the United States. But we all know that we do court serious risks by concentrating such enormous power in the Federal Government. Let us only answer the following questions honestly to see this. If an industry's fate depends on the decision of poorly informed government officials, will it hesitate to attempt to influence that decision through campaign contributions or otherwise? If an administration is anxious for money to wage the next electoral campaign, may it be tempted to show less consideration for an industry or union which has not contributed its share?

These are basic questions striking at the root of our political process. They suggest why the Government must always be discouraged from entering the marketplace unless alternatives have been exhausted. And it is precisely on this score that I am alarmed by the President's failure to include in phase II, measures which over time will make Government controls unnecessary or much less necessary.

With this failure in mind, my amendment to the Emergency Stabilization Act of 1971 would enable the country to impose price and wage controls in the short run but at the same time would provide it with a longrun alternative to further recourse to such controls.

Under this amendment the Federal Trade Commission would be directed to report to the President and to the Congress by June 30, 1972, on the relationship between oligopolistic industries and our inflationary difficulties. The Commission would also recommend specific measures for decentralizing such industries at a minimum cost to the companies in question and to the country with a view to reestablishing effective price competition throughout our economy.

At the same time, my amendment would grant the Congress an early opportunity to review the economy's progress under phase II. And by setting a June 30, 1972, expiration date for the Economic Stablization Act which would coincide with the date for submission of the FTC report, my amendment would put the Congress in a position to discuss rationally the advantages and disadvantages of controls against reform. The Congress would then have some basis, which it now does not, for deciding that it was preferable to press ahead with controls and that it would be better to attempt fundamental reforms designed to reduce the unlimited pricing power of all larger corporations.

The PRESIDING OFFICER (Mr. GAMBRELL). The time of the Senator from Oklahoma has expired.

Mr. HARRIS. Mr. President, I yield myself 15 additional minutes.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 15 minutes.

Mr. HARRIS. Mr. President, the distinguished Senator from Wisconsin and I discussed on the floor of the Senate yesterday the lack of wisdom involved in extending unprecedented powers over the economy to the President for 17 months. There is no need to do so. It is said that unless we extend those powers past 1972, the whole question of economic management will become involved in the 1972 campaigns. I think those questions should become involved in the 1972 campaigns. President Nixon has launched us on a radically changed economic system. There is little discussion of the underlying questions involved. There are better alternatives and I am trying to discuss some of them now.

The amendment of the distinguished Senator from Wisconsin, of which I am a cosponsor, if it is adopted by the Senate, would exempt small unions and exempt smaller businesses from the provisions of this act altogether after June 30, 1972.

It is the inordinate concentration of economic power, whether it be in unions or in business and industry, which has been responsible for inflation in the economy. The great bulk of working people and the great bulk of industry in this country should not have to suffer from these unworkable and unenforceable controls because of that.

Mr. President, at the heart of my amendment lies one principal premise. The root of our economic difficulties is structural, not temporary. For that reason we must take steps not only to control our economy but also to reform it.

The President's own economic advisers best explained the distinction I am trying to make. In their February 1971 report to the Congress, they pointed out that there are two explanations usually given for the stubborn nature of inflation in the United States:

> One relates the persistence of the inflation, after corrective measures have been taken, to the duration and magnitude of the preceding inflationary boom. The other traces the cause to structural changes in the economic system, especially but not exclusively connected with the concentration of economic power.

In drawing this distinction, the Council did not attempt to rule on which explanation was more relevant to the condition of the American economy. But it is clear that until recently the White House operated on the premise that the first was more valid. It was this mistake which cost the country so dearly in the past two and a half years.

For so long as the White House adhered to the first explanation, it was obliged to press ahead with its policy of demand restraint. It was compelled to tighten the fiscal and monetary grip on the economy, deliberately drive up unemployment rates and then wait for some slowdown in the spin of the inflationary spiral. It never came as expected; and as Walter Heller pointed out, White House experts were primarily successful in this sense: They succeeded in engineering the "first synthetic and purposely created recession in our history."

It was only with extreme reluctance that the administration decided that the second explanation was correct after all. Arthur Burns, Chairman of the Federal Reserve Board, conceded:

> The rules of economics are not working quite the way they used to . . . the traditional monetary and fiscal remedies cannot solve the problems of inflation and unemployment as quickly as national interest demands.

The reason was clear. Not demand restraint, but measures to deal with the structural problem were required.

And so on August 14, 1971, the President made his dramatic reversal and imposed controls over our economy.

What lies ahead? On this the President remains alarmingly silent. The administration is pushing the economy in a new direction amidst a fog of speeches, good wishes, and appeals to patriotism. But the President has no way of knowing whether controls today will lead to controls tomorrow. He fervently hopes the answer is no. But because it is so clear now that the true cause of inflation is the structural nature of the American economy, a growing number of the most eminent economists in America believe his hopes are totally misplaced. They are predicting that the controls will remain permanent because they can see nothing in the administration's program that will prevent this.

And they have good reason for their views. The most effective way to cope with the top-heavy structure of the American economy would be vigorous antitrust actions against those firms which are able to administer prices upward even in the face of lagging demand and thus to cause most of our inflationary difficulties.

Yet just as a man is known by the company he keeps, so an administration is known by the pressure it responds to. And this pro-business administration is not about to undertake any vigorous reform measures against the corporate giants. Secretary Connally in his October 8 press conference was quite emphatic on this. Asked whether vigorous antitrust activity would play a role in phase II or whether the new controls made that less necessary, he replied:

> I think it would make it less necessary and, very frankly, the matter has not been discussed at all.

This admission I regard as nothing short of astounding. Virtually every commentator in the country, at both ends of the political spectrum, has contended that the American economy is now at a major watershed. We should expect at such a moment the Government would give careful thought to every possible course of action. Certainly, we should expect, we should demand, from our Government that it not totally ignore, as it so clearly has, one major anti-inflationary tool. Yet this is precisely what has happened.

The seriousness of the administration's admission will, I believe, be even clearer if we consider the conclusions reached by the January 1969 study of the Cabinet Committee on Price Stability. This report, available to the administration, summarized the problem which has troubled President Nixon since he entered the White House, namely: Why is inflation in the United States so stubborn? The Committee, after surveying the existing literature on the causes of inflation, finally identified a "critical link" between concentrated market power and the inflation problem.

In drawing this conclusion, the Committee cited the past performance of the highly concentrated steel industry as a case in point:

> Between 1953 and 1959 steel was *primarily responsible* for the increase in the wholesale price index. Finished steel prices rose by 36% during the period, whereas all wholesale prices rose an average of 8.5%. Wholesale prices, exclusive of all metals and metals manufacturers, rose only 1.5% in the period.

Today many economists believe that as much as 90 percent of the Nation's inflation over the past 10 years has been caused by our shared monopoly industries.

Also relevant to our discussion are the committee's conclusions about the close relationship between the high profits in highly concentrated industries and pressure there for wage hikes. The committee found:

> Recent research studies . . . show that wage rate increases are related to the level of profits and to increases in profits. Moreover, incomes of non-union employees, particularly the salaries and bonuses of management personnel, are likely to be higher in such firms than in those earning lower profits.

Though profits converted into high wages for management of necessity do not show up in accounting statements of profit, the committee also discovered that the profit rates, even so, tend to be 50 percent higher—or more—in highly concentrated industries than in moderately concentrated ones.

These are facts that the Senate cannot ignore in passing on the President's proposals for phase II. These are facts that demonstrated that we need fundamental reform in our economy.

Concerning the role of giant corporations in our inflation problem, I should like to make one additional and final point often lost in discussions of our inflationary difficulties. It is that giant firms cause inflation not only because they systematically raise prices but also because they fail to lower them.

This is a point which the distinguished Senator from Wisconsin (Mr. PROXMIRE) and I discussed on the Senate floor yesterday.

In a properly functioning economy those industries with increasing productivity would not eat up all productivity gains in higher profits and salary levels. Some of the increase, perhaps most of it, they would pass on to the consumer in the form of lower prices.

This, however, does not happen in the modern American economy. Today the giant firms hold all productivity gains, or most of them, to themselves. And other groups in the economy inevitably, and in fairness, begin to clamor for their own wage increase so that they may share in the growth of the Nation's wealth. If they did not, they would become the underpaid servants of those fortunate enough to control or work in a concentrated industry.

In short, one general conclusion emerges from the facts I have related. It is that the fight against inflation must be waged at the commanding heights of our economy. It would be totally unfair and unnecessarily burdensome to harness the entire economy in unpopular controls when a small handful of companies are responsible for most of the problems we face.

Yet despite these realities too many in the country are accepting the prospect of widespread government controls without real protest. They remain calm because they do not understand what the future may bring.

Consider what happened in World War II. Our GNP then was only slightly more than $200 billion, whereas today it is five times as large. Then our labor force, though swollen by the war effort, was less than 60 million, whereas today it is 85 million. Yet in World War II it took 60,000 paid employees, 250,000 full-time volunteers, nine regional offices, 105 district offices, and 5,400 local price and rationing boards to control prices and wages in the United States.

Mr. PROXMIRE. Mr. President, will the Senator repeat those figures? I think they are very impressive.

Mr. HARRIS. At a time when the gross national product was only about one-fifth of what it is now and our labor force was less than 60 million, there were 60,000 paid employees, 250,000 full-time volunteers, nine regional offices, 105 district offices, and 5,400 local price and rationing board to control prices and wages in the United States during World War II.

Mr. PROXMIRE. It is true that some of this personnel was necessary for rationing, which is not necessary now. On the other hand, it is also very true that a substantial portion of them were required to enforce wage and price controls. It is also true, as I understand it, that the number of personnel now available for enforcement is 3,000.

Mr. HARRIS. The Senator is correct.

Mr. PROXMIRE. There is no question that with a much simpler purpose and a much simpler act from 1942 to 1946, far more people were enforcing the act then.

The motivation for compliance was very strong. We were in an allout war, and the enforcement machinery was many, many times greater on any basis than it is at present.

Mr. HARRIS. The Senator is quite correct. I think the series of amendments which he intends to offer go hand-in-glove with the amendments which I am now offering.

First, I quite agree with the Senator that we ought not to extend these unprecedented powers, these unworkable mechanisms, for 17 months, as this bill would do. Instead, at the very most we ought not to go past the end of this fiscal year, June 30, 1972; then Congress can take another look at this question, as I certainly think we ought to do. I think many people are going to be angry with us one of these days, when this whole mess begins to get worse and becomes more and more cumbersome and burdensome, and obviously more unworkable, if we extend the program for 17 months, not knowing what might be done, whether or not we are going to have another coal wage settlement or another tinplate price increase, both of which look inflationary to me.

We are asked to say, "Go ahead and do whatever you please and we will take another look 17 months from now." I think we will have a hard time justifying that.

Mr. PROXMIRE. When it is wholly unnecessary. All we would do would be to give this authority without Congress knowing what the situation is. We have not had an opportunity to see what the wage board and the price commission are going to do, except on a limited, scattered basis. Only this morning there was an article in the newspapers concerning the Ford Motor Co. price increase and there will be more significant changes in the next 2 or 3 weeks.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HARRIS. I yield myself 5 additional minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. HARRIS. That is why I think it is so important that, first of all, we keep some rein on this matter, with a shorter expiration date. I think the Senate and the country will be sick and tired of this measure before June 30, 1972.

Second, as the Senator suggested, I think we should make sure these decisions are openly arrived at. I think this will have considerable restraint on the boards and commissions if the public knows what they are doing. The Senator's amendment would do that.

Third, we should intervene in wage and price related decisions only where the market is not working and primarily it is not working where there is much power in large labor unions and large companies. The Senator from Wisconsin has an amendment, of which I am a cosponsor, that would limit this board's power, if it is to be extended beyond June 1972, to those concentrations of economic power.

By the second part of my amendment, I would try to limit those instances where the Government would have to intervene.

I do not think it has been recognized generally how much, more and more, industry in America is becoming bigger and bigger and more concentrated. General Motors is not a human-size institution. It has more revenue than all but nine countries in the world. It is not the free enterprise system as we know it. We are either going to move toward the Zaibatsu system that they had in Japan during World War II, or decide to try to make free enterprise work, enforcing antitrust laws, bringing about competition and reducing instances in which the Government would have to intervene. That is what the second part of my amendment would do.

If controls, as many now predict, become a permanent feature of the American economy, we shall require an even larger bureaucracy to run our economy. The Government will acquire enormous powers to interfere in our daily lives.

Those who believe it will be possible to avoid a large bureaucracy simply do not understand the nature of controls. When they are imposed, the fear is always that they fail to hit one's competitor who may be able to take advantage. The demand therefore is always for more stringent controls.

This has now started. A survey in the New York Times on October 24 found that small businessmen, afraid that some sectors of the economy will not be covered, are already calling for more stringent controls so that everyone will be treated fairly.

Besides the bureaucratic snarl, we must also recognize the severe social disadvantages in running an economy with permanent controls. It is an unwelcome obligation in wartime to report on others in violation of wage-price regulations. Nevertheless, the decline in the tone of public life may not be too great so long as the sense of common sacrifice remains firm, as it does in wartime. But this is too much to expect in peacetime. One only has to visit any Socialist country, as I have, and as many Senators have, to understand how such controls may coarsen the whole tone of public life.

These, then, are the reasons for my amendment today, which attempts to provide the Congress with the data it should have before it rules with finality on decisions that may alter the nature of the U.S. economy forever.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HARRIS. Mr. President, I yield myself 2 additional minutes.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. HARRIS. Mr. President, during the Civil War Abraham Lincoln proclaimed that our Nation could not endure half-slave and half-free. Today the question is whether our economy can continue half-controlled and half-competitive. I contend that it cannot.

Either we take steps now to establish competition as the distinguishing feature of our economic system or we shall continue to move toward final, irreversible government controls with all that will mean for our democratic system of government. For if a handful of officials are to have the power to control our economy, which this bill provides, then I agree with Franklin Delano Roosevelt that ultimately the public will demand that those officials be government employees not corporate executives.

Increasingly prominent economists are predicting that we will accept such controls. They believe the Congress will not have the courage or the will to reform the economy and that the process of growing economic concentration will soon pass the point of no return.

Experts like Willard Mueller, former chief economist of the Federal Trade Commission and currently professor of economics at the University of Wisconsin, now warn that because of the fantastic merger movement which has swept over the U.S. economy in recent years, we are in danger of creating an American Zaibatsu system—that is, a closed economic system as in prewar Japan, where price and other business decisions were made by giant conglomerate firms operating largely outside the disciplining influence of the competitive market system.

Let us therefore understand that we are at a turning point of our national life. We should not agree to broad temporary controls likely to become permanent as this bill represents. We should examine the real nature of our problems and take steps toward true real reform.

Our goal should be an end to undue concentration of economic power in any form. Concentration of such power in the hands of government bureaucrats is no more desirable than its concentration in various corporate executive suites.

In both cases the effect over time will be to reduce the control each of us has over his or her own life. Democratic institutions over time cannot flourish, and indeed, will be undermined if enormous power is held in the hands of an unresponsive few.

So I today urge the adoption of my amendment. Otherwise I fear that future historians will say: The turning point was there but the Congress either did not have the firmness of purpose or the clearness of vision to understand its importance.

Mr. PROXMIRE. Mr. President, will the Senator yield briefly?

Mr. HARRIS. I yield to the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I commend the Senator warmly on his excellent speech and for a most imaginative and constructive amendment.

I am particularly impressed by the second part of the amendment because I think it goes to something that neither the Joint Economic Committee, with all the hearings we had, nor the Committee on Banking, Housing, and Urban Affairs, had a chance to go into in detail.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HARRIS. Mr. President, I yield myself 1 additional minute.

Mr. PROXMIRE. The Senator has a lot of interesting information here, showing a great concentration of industrial power in the hands of a very few companies.

I understand the Senator is asking for two things: one, a report, so we know what the effect of this concentration is; and second, antitrust action to provide the kind of decentralization action which will give us competition.

I cannot understand what is wrong with that. It makes sense to me as the kind of thing we should have. All economists say we should have something like this but that it is unrealistic. What is unrealistic about it? First, the Senator is asking for information. I do not know how the Senate can say no to that. I understand how there may be some hesitancy on providing antitrust action on whatever the basis might be. But I think the Senator's information is helpful and goes to something that every economist says is a problem in creating inflation from which so many Americans suffer.

Mr. HARRIS. I thank the Senator very much. He is quite correct in understanding that what I am trying to do is make the free enterprise system work. It may be a little old fashioned, but I think it is far better to plan with the market as the planning mechanism than to entrust it to untrammeled, inordinate power in the hands of corporate executives or inordinate power in the hands of Government bureaucrats.

Mr. TOWER. Mr. President, I yield myself 5 minutes.

Relating to the first part of the amendment proposed by the Senator from Oklahoma, I think the same argument could be raised as was raised against the proposition that the authority should be terminated on the 30th of April 1972. The Senator from Oklahoma would propose to extend that for only 2 months, or 60 days. I think this would still raise the problems of uncertainty that would be extant in business with its necessity for planning for business and budget.

I might point out that phase II is designed to achieve decontrol. Actually, the ultimate goal is to again have the marketplace function as a more true regulation of the economy. There are some problems attendant on the economy being regulated by the marketplace, and one of those has not been mentioned, and that is the great power of organized labor, a power that can ask for and get wage raises that are not tied to increased demand and productivity. There is no adherence to the law of supply and demand. In other words, the employer today buys labor in a highly protected market. Whatever those who preside over the labor movement say, the employer must pay for that labor. No attempt is made to deal with that problem in the legislation proposed by the Senator from Oklahoma.

I am not one of those who believe bigness is bad because it is big. I think the fact that we have giant corporations is a logical outgrowth of the industrial revolution. We do not want monopoly in this country, and should not have monopoly, because that would, of course, result in abuse of economic power almost inevitably. We recognized that fact when we enacted laws many years ago to proscribe antitrust arrangements and monopolies through pooling arrangements, et cetera. These laws have been good and have served to make the market regulated economy function. Unfortunately, the same stricture and proscriptions do not apply to big labor, so we do not have a truly market regulated economy.

Big business is not in itself bad. The fact that we have big companies may result in Americans buying goods more cheaply rather than more dearly. Some of these large corporations with great resources can function more efficiently to bring goods and services to the market place at lower prices than would be possible if these businesses were fragmented and made into smaller corporations operating less efficiently and more of their money going into overhead and perhaps going into the costs of distribution, et cetera, to the extent that goods and services would be more expensive than if we fragmented the great corporations.

Too, we might find ourselves less able to compete in world markets. We are facing tremendous competition at the present time from Germany, Japan, and other countries of the world, and to fragment our great corporations and to establish smaller ones would be to put us into a less competitive position in the world markets.

It is my understanding that the matter dealt with by the Senator from Oklahoma in his amendment is presently under study by the Antitrust Subcommittee of the Senate Judiciary Committee. To my knowledge, that subcommittee has not made recommendations, and it seems to me appropriate that that committee should go into that matter before we take it up on the floor. It is my belief that the whole amendment or both parts of the amendment should be defeated.

The PRESIDING OFFICER. Who yields time?

Mr. SPARKMAN. Mr. President, I yield myself 3 minutes. I do not know that I could particularly add to what the distinguished Senator from Texas has said. I do want to emphasize what the Senator has said with reference to this being a matter that is not within the jurisdiction of this committee. It clearly belongs to the Judiciary Committee, and that committee has a longstanding Subcommittee on Antitrust, headed by one of the most able Senators in this body, Senator HART of Michigan.

Mr. TOWER. Mr. President, will the Senator yield at that point?

Mr. SPARKMAN. I yield.

Mr. TOWER. And the Senator from Michigan (Mr. HART) would hardly be considered as a guardian of the big corporate interests.

Mr. SPARKMAN. I will put it the other way: He is a very conscientious Senator and he really goes into problems relating to antitrust, monopoly, and questions of that kind. I surely agree with the Senator.

I wish very much that the Senator from Michigan might have had notice of this and been able to be on the floor at this time. I would be pleased to hear what he had to say. But I know, and we all know, that that subcommittee has been working along the line—somewhat the same line, at least—that the Senator from Oklahoma has suggested in his amendment, trying to find the facts. In fact, in the amendment itself, reference is made to a study made by the Census Bureau and sent to the Antitrust Subcommittee. It clearly belongs there, and I believe we ought not to be in the position of trying to take it away from that committee, which is doing an able and conscientious job, and writing it into this bill, which relates to controlling prices, wages, interest, dividends, rents—things of that kind—and not dealing with subjects of combinations, trusts, and matters of that kind.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. SPARKMAN. I yield.

Mr. PROXMIRE. Would the manager of the bill support the part of the amendment to be voted on second in the event the Senator from Michigan (Mr. HART) supported that amendment?

Mr. SPARKMAN. I did not say that.

Mr. PROXMIRE. I know the Senator did not. I asked him if he would.

Mr. SPARKMAN. I do not think I have to commit myself. No, I would not, because I think it clearly belongs to that committee, the Judiciary Committee, and I am not in favor of invading its jurisdiction. I believe in respecting the jurisdiction of committees as laid down in the rules of the Senate, and this subject clearly belongs to the Judiciary Committee, and that is where it should go.

I reserve the remainder of my time.

Mr. PACKWOOD. Mr. President, will the Senator yield me 5 minutes?

Mr. TOWER. I yield 5 minutes to the Senator from Oregon.

Mr. PACKWOOD. I wonder if the Senator from Oklahoma will yield to me for a question?

Mr. HARRIS. Yes.

Mr. PACKWOOD. I am curious about the charge I believe the Senator has made. If we go to the industrial-chemical part and the drug part, I think that is portrayed on the chart. The Senator has listed, under "Industrial-Chemical" the assets of the four largest companies; namely, Du Pont, Union Carbide, Dow, and Monsanto, as coming to $10.5 billion, and the Senator indicates that those four companies have 60 to 70 percent of the market. Do I follow that correctly so far?

Mr. HARRIS. Yes.

Mr. PACKWOOD. Is it fair to assume further, whether the figures prove that or not, that the percentage of the market controlled by each of the four companies bears some rough proportion to their total assets?

Mr. HARRIS. That is not necessary to know in order to support the amendment I am offering, and I do not have before me the information as to what proportion of the drug or chemical market each of those firms have.

Mr. PACKWOOD. I am going to go on the assumption—and it may be invalid—that, roughly, their proportion of the market might bear some resemblance to their size, although I think there are probably situations where, in the drug and chemical industry, one chemical company has a patent and may have a dominating role in one small segment of the industry, but not be dominating in other parts. Assuming that those are proportionate, Du Pont being the leader in the chemical field, with roughly 20 percent, the other companies controlling less, and then with a fewer proportion of the companies beyond the 70 percent, some of which again may have a dominating effect in some small area, what I am curious about is whether the Senator from Oklahoma believes Du Pont, with 20 percent, give 1 or 2 percent, of the market is the price leader and the rest simply follow, or whether he is suggesting that the four companies that have 60 to 70 percent of the total market get together to determine collectively what the prices might be.

Mr. HARRIS. Mr. President, if I may respond, the present Economic Assistant in the Antitrust Division in President Nixon's present Justice Department believes—and I concur—that when we get to the place where four or fewer firms have more than 50 percent of the market, there results what is called the collusion index, and this is something concurred in by the overwhelming majority of the industrial and organizational economists today. There is either implicit or explicit price fixing. Ralph Nader believes that prices would come down by 20 percent, and Senator HART's subcommittee has found they would come down by 25 percent, if we could break up these oligopolistic industries.

Mr. PACKWOOD. How does the price fixing by the oligopolistic industries work?

Mr. HARRIS. To use an example, General Motors has what is called target pricing. It decides what profit it intends to make, and sets its output and unit price on that basis, and other automobile companies follow suit. I do not think anyone seriously questions that.

Mr. PACKWOOD. And the Senator is suggesting, therefore, in this situation, that Du Pont, the leader in industrial chemicals with 20 percent of the market, does the same thing, and the other companies follow suit?

Mr. HARRIS. If the Senator will read my amendment, he will find that if that is not the case, then they will suffer no action against them under this amendment. It has to be found by the Federal Trade Commission that an industry is not competitive by reason of violation of the antitrust laws, and that that noncompetitiveness has contributed significantly to the inflationary spiral since 1966. If that is not true of a particular industry or company or a particular line of products of a particular company, then it will suffer not at all. This amendment does not add to the antitrust laws; it just says "enforce them."

Mr. PACKWOOD. Let me ask the Senator about a company like Xerox. I am sure that the Senator, as I did, practiced law for a number of years, and can recall running our copies through a wet copier and hanging them up with clothespins to dry. I do not think 15 years ago Xerox was on the market, but yet, as the Senator indicates, today Xerox dominates the market, because of a superior product. Is it the Senator's intention that even if a company comes along with a better product, it shall not be allowed to dominate the market or have any superior competitive position, but that size alone will be enough to insure that they no longer shall have that superior portion of the market?

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. PACKWOOD. May I have 5 minutes more?

Mr. SPARKMAN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 42 minutes.

Mr. SPARKMAN. I yield the Senator from Oregon 5 minutes.

Mr. HARRIS. Mr. President, I call the Senator's attention to the amendment again, to say that if there is a finding, as the amendment indicates, that there would not be greater economies and efficiencies as a result of the breaking up of these monopolies, or their divestiture of some of their plants, then, of course, antitrust action would not be involved.

Mr. PACKWOOD. I note that there is nothing at all in the Senator's amendment relating to collective bargaining contracts, and the effect they might have on inflation.

Mr. HARRIS. It has this impact, which I think is very important, with regard to collective bargaining: If an industry is able to set prices and, therefore, pass along pretty much whatever wage increases it may agree to, there will be a tendency toward less resistance to inflationary wage demands. Industrial competition will tend, therefore, against inflationary wage increases.

Second, as the President's Cabinet Committee on Price Stability has found, in industries which have high profits, there are tendencies toward inflationary wage and salary increases as well, and I think that that is only reasonable.

The other aspect of what I would do with the powers of labor is covered by amendment of the Senator from Wisconsin, which I hope the Senator from Oregon will support, as do I, which would exempt the smaller unions and the smaller firms from any impact of this act at all after June 30, 1972, but continue the power to intervene in wage and price decisions in the larger concentrations of industrial or labor power.

Mr. PACKWOOD. Well, now, Mr. President, let us take, for example, the over-the-road trucking industry, certainly not an industry dominated by giants. If there is any still locally owned, small business industry, it is the trucking industry, with the exception of one thing: The National Teamsters Union bargains for every trucking company in this country; and to stand here on this floor and say that that cannot have any inflationary effect, I think, begs the question.

Mr. HARRIS. Mr. President——

Mr. PACKWOOD. Mr. President, I am not yielding for questions at this point.

Mr. HARRIS. But the Senator is misstating my position. I have said that if he will support the amendment of the Senator from Wisconsin, we will be able to intervene in that kind of inflationary wage increase. But what the Senator from Oregon is doing is supporting the philosophy of a President whose own committees have just allowed what appears to be an inflationary wage increase in the coal industry. What about that?

Mr. PACKWOOD. Mr. President, I am simply looking at the amendment we are going to be voting upon, and not on some future amendment that we may vote on later today if it is offered.

I see nothing in this amendment that has anything to do with the President's philosophy; and it has nothing to do with the President's philosophy; and it has nothing to do with collective bargaining contracts, whether or not they are colluded in by business and labor.

I cannot support this kind of amendment, which is obviously aimed, not at any objective study, but at the President's personal philosophy.

The PRESIDING OFFICER. Who yields time?

Mr. SPARKMAN. Mr. President, I yield 10 minutes to the Senator from Nebraska.

Mr. HRUSKA. Mr. President, I thank the Senator from Alabama. It was with interest, Mr. President, that I received information a short time ago of the substance and the tenor of this amendment. As I understand it, under the bill—

> The President shall, pursuant to section 6d of the Federal Trade Commission's Act (15 U.S.C. 46d) direct the Commission to undertake immediately for submission to the President and the Congress prior to June 1, 1972, an investigation of oligopoly industries, that is, those manufacturing industries in which the national or regional market share held by the four largest firms is 50 per centum or more as determined by the Census Bureau in its study for the Senate Antitrust Subcommittee; this investigation shall have as its purpose: (1) determining whether those industries are noncompetitive in char-

acter and have, therefore, contributed significantly to the inflationary spiral since 1966, and (2) recommending specific measures to the Congress and to the President for decentralizing those industries in a manner involving minimum cost for the firms in question and for the Nation's economy and leading to the restoration of effective price competition.

Then we get to the final part of the amendment, which says:

> The President, upon submission of the Federal Trade Commission report on oligopolistic industries, shall direct the Federal Trade Commission and the Antitrust Division of the Justice Department immediately to undertake antitrust suits against oligopolistic industries which are found to have contributed significantly to the inflationary spiral since 1966 in order to restore effective price competition in these industries.

Mr. President, I rise in opposition to the amendment, not because it does not have laudatory and very fine objectives. I think all of us should be concerned with oligopoly and monopoly, and fixed prices and restraints of trade. That is what we have antitrust laws for.

Mr. President, I am against the amendment because it smacks of an instant remedy for something that is deep-rooted and fundamental, and which has a history of some 75 years by way of national policy and of legislation, starting away back in 1890 with the Sherman Antitrust Act.

This Congress has been blessed by many things, and it has been plagued by many things, but one thing it has been blessed with has been the continuing effort of an overview and a study of the antitrust laws, with efforts from time to time to bring them up to date and to adjust the country's economy and its strength to the new technology which we have witnessed, the wonders of everything from the computers on up and down, the assembly lines, and all that goes to make up the very, very intricate system of economics and industry in this country.

In 1964, there was started a series of hearings in the Antitrust and Monopoly Subcommittee of the Committee on the Judiciary in a study in the field of economic concentration.

We went into the matter of conglomerates since that time, of mergers, and of invention and innovation—the impact those subjects had upon the control of prices and the concentration of economic power; divisional reporting by subsidiaries of big companies; the new technology concentration outside the United States; and a staff report of the Federal Trade Commission on Corporate Mergers. We have had all those hearings, and from time to time they have had spinoffs in the legislation that Congress—the other body as well as this body—has created by way of new laws and new legislation and regulations as well.

Part 8(a) of these hearings consists of a 1969 staff report of the Federal Trade Commission—the economic report on corporate mergers—and of course that is the heart of the amendment we have here.

Mr. President, there has been no scarcity of studies in this field.

Mr. HARRIS. Mr. President, will the Senator yield so that I may ask for the yeas and nays?

Mr. HRUSKA. I yield.

Mr. HARRIS. Mr. President, I ask for the yeas and nays on part 1 of the amendment.

The yeas and nays were ordered.

Mr. HARRIS. Mr. President, I ask for the yeas and nays on part 2 of the amendment.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that it may be in order to ask for the yeas and nays on part 2 of the Senator's amendment at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. HRUSKA. Mr. President, in 1968, President Johnson's Commission on the Study of the Antitrust Commission was published. It had a very indepth study of the situation, and it came out with some recommendations.

In 1969, President Nixon's Commission, submitted its study. The President also urged the American Bar Association study, headed by the present Chairman of the Federal Trade Commission, which came out with a very splendid analysis and recommendations on the Federal Trade Commission.

Then there is the book by Joseph W. Burns, which was published in 1969, entitled "Antitrust Dilemma: Why Congress Should Modernize the Antitrust Laws."

We also have a resolution here, introduced by the senior Senator from New York, for the creation of a Commission to review the Federal antitrust laws. The Senator from Nebraska has been one of the sponsors of that resolution, I think, for three Congresses.

I mention these things because we cannot expect to make any intelligent, any substantial, and any effective impact upon the whole picture of antitrust laws and the resulting actions of antitrust laws on inflation and prices unless we get it on a solid basis. That has to be done. We cannot approach it from the standpoint of a flash in the pan and say that we direct the President and we direct the Antitrust Division of the Department of Justice to bring suits. It takes more than that, because in the meantime the corporate structure and the functioning of business—marketing and imports and all these things—have arisen and make of it a very complicated picture.

So I would bespeak the idea in the mind of the Senator from Oklahoma, but I would also speak for the idea of putting it into its proper context. And the proper context is in the hands of the Judiciary Committee and in the hands of its Antitrust Subcommittee that has acquired some expertise, that has acquired a good library of literature and statistics, that has acquired some competence in the litigation that has been experienced already, and have that committee work out something that will be on a solid and on a constructive basis.

Mr. President, on this short a notice, I do not have a collection of statistics on Department of Justice litigation in the area of antitrust. However, they are very substantial both in number and in rate of increase.

For example, I do recall that the number of antitrust cases rose 17 percent in 1970 over 1969.

I also recall that the percentage of Federal court loads accounted for by antitrust cases is vastly greater than any other type or class of litigation. The weight assigned to Government antitrust cases is 8 compared to 1.2 for tax cases and 1.7 for condemnation cases.

This gives some indication of the action now in progress.

Mr. President, the progress made in the Antitrust Division of the Department of Justice and the Federal Trade Commission has been good, and they have gone at things which are vital. There is a need for some modernizing of the legislation, and we hope that it will make progress as we go along.

But this, as I say, is a flash in the pan. It seeks an instant remedy for something that is deep rooted and fundamental. This amendment should be rejected, and the matter should be pursued in the proper channels—in those areas where we can give it the proper attention, not by way of the relatively superficial attention it can possibly get here, notwithstanding the good faith and conscientious effort of Members of this body to try to do the right thing.

This amendment is not the way in which to achieve it. I hope the amendment is rejected.

The PRESIDING OFFICER. Who yields time?

Mr. SPARKMAN. Mr. President, I am ready to yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator from Oklahoma yield back the remainder of his time?

Mr. HARRIS. I yield myself 5 minutes.

Mr. SPARKMAN. Mr. President, may I inquire as to the time that now remains?

The PRESIDING OFFICER. The Senator from Oklahoma has 10 minutes, and the Senator from Alabama has 29 minutes.

Mr. HARRIS. Mr. President, I ask unanimous consent, for technical purposes—as I am informed by the Parliamentarian we need to do in order to vote on these two parts separately—to insert between lines 9 and 10, on page 1 of the amendment, the words "on page 22, after line 7, insert the following:". That is simply a technical amendment to make each part stand separately on its own for the vote.

The PRESIDING OFFICER. Is there objection to the modification offered by the Senator from Oklahoma? The Chair hears none, and it is so ordered.

The division will come on the amendment as indicated by the Senator.

Mr. HARRIS. Mr. President, I invite the attention of Senators again to the fact that there are two separate parts to this amendment and that those two parts are going to be voted on separately.

Very little has been said about the first vote, which is a vote on whether or not we want to give the President these unprecedented powers for 17 months or whether Congress is going to retain some control or overview of this matter, with the right to review it at its expiration date under my amendment, which would be at the end of this fiscal year, June 30, 1972. Very little has been said about that, Mr. President. I think that is a highly important point. I invite attention to the fact that it will be the first vote, and it will be on that subject alone, untrammeled or unmixed with the question of antitrust enforcement, which I think is even more important. But the first vote will simply be on that date.

I invite attention to the question and answer in the hearings before the Committee on Banking, Housing and Urban Affairs, page 131, the question being put by Senator PROXMIRE, and the answer being given by Mr. David Ginsburg, who is probably as well informed on the whole matter of wage and price controls as any other man in America, having been involved with their enforcement in World War II:

> Senator PROXMIRE. The one objection we have gotten to that, from both Mr. Walker and Chairman Burns, is this would engender increase uncertainty on the part of the business community and the public and it would inhibit the operation of phase 2, if we don't give the President all of this authority promptly, in the next month or so.
>
> Mr. GINSBURG. Yes, I have heard the testimony, and I have great respect for Chairman Burns and his views. My own feeling is that the uncertainty which exists now is not uncertainty about Presidential power, but uncertainty as to what the Pay Board and what the Price Commission are going to do. And the fundamental uncertainty is whether prices will be more effectively controlled than wages. This, I think, is the critical issue.
>
> I don't think that issue is affected by the requested extension of authority under this law. The stock market uncertainty derives, I think, not from any action of the Congress, but from the anticipated actions of these boards and commissions.

Mr. President, 7 months is what is involved here—7 or 17 months. Seven months is too long. We actually should not extend this act past its present expiration date which is April 1972 if we could hold it to that. My amendment would give a little more time. There is plenty of time in 7 months, to the end of June 30, 1972. Congress can then take another look at this matter. It can take another look at what President Nixon is doing, which is radically to alter the economic management system of the country. I do not intend for that to be done without protest. I think, as I said a while ago, people will be sick of this whole bureaucratic mess before too long and, I think, long before June 30, 1972. I think that many people will be asking us where we were when this extension was granted.

So, Mr. President, first, I urge that we change the expiration date from April 1973 to June 30, 1972.

Now, to address myself to the other matter——

The PRESIDING OFFICER (Mr. BENTSEN). The 5 minutes of the Senator from Oklahoma have expired.

Mr. HARRIS. Mr. President, I yield myself 5 additional minutes.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 5 minutes.

Mr. HARRIS. Mr. President, I want to address myself to the second part of the amendment.

The distinguished Senator from Nebraska called attention to the fact that the Senate and Congress have overview and study responsibilities in regard to antitrust matters. He called attention to the fact that there has been a detailed study and report made by a group appointed by President Johnson. He called attention to the fact that there has been a detailed study and report made by a group appointed by President Nixon. Then he called attention to the fact that there is an excellent book, which he cited, with recommendations as to what should be done about antitrust matters.

The fact is, this matter has been studied to death. The distinguished Senator from Alabama mentioned that the Antitrust Subcommittee was getting ready to go into this matter again. It should. It is well led, and intelligently led by the Senator from Michigan (Mr. HART). But there is also a study going on in a subcommittee of a committee on which I serve, the Select Committee on Small Business, headed by the distinguished Senator from Wisconsin (Mr. NELSON).

The late Senator Estes Kefauver studied all we need to study about this matter in the Select Committee on Small Business in the House of Representatives. He pointed out in great detail how this country was moving down the road to something far different from the free enterprise system through concentrated private economic power.

Mr. President, do you know what has happened since the Kefauver study, or since the Johnson study, or since the Nixon study? I will tell you what has happened. Things have gotten worse. The problem that they decried is worse today that it was when they reported on it. It will be worse tomorrow. It will be worse next year. It will be worse 3 years from now. But, now, we are at a pivotal point. I am afraid we may already have moved so far toward concentrated economic power in this country that there may be no turning back.

This is the time for action.

My amendment does not change the antitrust laws. It merely requires corporations to obey the present law. That is all the amendment does.

The distinguished Senator from Texas said that he thought bigness was inevitable after the industrial revolution. I do not know whether he would be surprised to know this or not, but the distinguished Senator from Texas is exactly on the same side as Prof. John Kenneth Galbraith. I do not know whether the Senator knows that. I debated this matter with Mr. Galbraith before the Nader conference on corporate responsibility recently and Mr. Galbraith has taken the same position the distinguished Senator from Texas has taken; namely, that bigness is inevitable and bigness is probably good, he says. And then he goes one step further, which I think is the inevitable step, that is if we are going to give this much economic power to people, there will be strong pressures for them to elect officials. So, Mr. Galbraith favors public ownership, with bigness. But he is quite right in saying that today's corporate giants are not free enterprise, because they do not respond to the markets the way free enterprise institutions are supposed to respond.

What has happened since all the studies is that things have gotten worse. The top 200 firms now have 60 percent of manufacturing in America. At the end of World War II they had only 46 percent. Thirty-five percent of the industries in America are dominated by shared monopolies.

The truth is that the distinguished Senator from Texas is wrong and the distinguished Prof. John Kenneth Galbraith is wrong.

New developments in regard to steel, for example, show that the industry can be fully efficient with smaller plants, that big steel has not kept up to date with modern technology precisely because there is no competition, because they have not felt they had to. Thirteen of the last major inventions in the steel industry did not come, as Professor Galbraith would have thought they would have come, from bigness. They resulted from the work of independent inventors and European firms.

The PRESIDING OFFICER (Mr. BENTSEN). The time of the Senator from Oklahoma has expired.

Mr. HARRIS. Mr. President, I yield myself 5 additional minutes.

The PRESIDING OFFICER. The Senator has no more time available. Who yields time?

Mr. SPARKMAN. Mr. President, I yield 5 minutes to the Senator from Georgia (Mr. GAMBRELL).

The PRESIDING OFFICER. The Senator from Georgia is recognized for 5 minutes.

Mr. GAMBRELL. Mr. President, I have had the opportunity here this morning to listen to the debate on the amendment of the Senator from Oklahoma (Mr. HARRIS). I have listened to it with much interest. I should like to associate myself with the remarks made by the Senator from Oregon with reference to this matter. It concerns me that we should be asked here, at this juncture, in dealing with the economic crisis with which we are faced today, to leap into the problem of antitrust enforcement. I do not believe that the people of this country actually believe the reason we have inflation today, and the reason we have the pending bill before us, is due to the problem the Senator from Oklahoma refers to. I do not mean to minimize the effect and the impact of the problem he points out, or the need for this Congress to deal with that problem, but I think he is diverting our attention from the primary problem we have, and that is inflation that results from many, many causes and not just from the one the Senator from Oklahoma has put his finger on.

Mr. President, one of the causes is lack of responsibility on the part of the Federal Government. Congress and administrations past and present have insisted on spending more than we take in. That is the major reason we have inflation in this country today. Something should be done about it. I believe that all Senators should stand on the floor of this Senate and be just as emphatic and just as insistent as the Senator from Oklahoma has been about the point he makes, that Congress get the Federal budget back under control.

The problem we have today is the Senator's approach, that if he had a solution for gangrene, and he had a patient with gangrene, he would say, "Well, this time, instead of amputating, we will let the gangrene take its course and we will see if we cannot cure it by a new system."

Here we have got to the point in the gangrene of this particular case where we have to amputate, although it may not be what we really would like to do——

Mr. HARRIS. If the Senator will yield right there, is he equating gangrene with the free enterprise system?

Mr. GAMBRELL. I am saying that the free enterprise system has gangrene, but right now, in today's circumstances, we cannot cure it by some solution that the Senator has dreamed up here in a matter of 2 or 3 days. We have to apply the remedy we know of and that is by giving, unfortunately and unhappily, the executive department the power to regulate the economy and bring it under control.

The fact that the law is extended for 18 months does not mean it is necessarily going to be put into effect for 18 months. But I think Congress is far beyond demonstrating its ability, on its own, to decide when we need or do not need controls. I think they should be applied—again unhappily—in the situation we face, by giving the power to the executive department, and if the President cannot do it, then we are in the worst trouble we have ever been in. We will be in worse trouble than we were in during World War II when we had to put these controls on.

Mr. President, I suggest to the Senator from Oklahoma that if he and if the Senator from Wisconsin want to change this situation, they should propose such a change in a bill to which such an amendment would be germane. The subject of Lockheed was mentioned. It is no different than this subject. It is a disaster to have to pass the bill. It was a disaster that things should get in the shape that they were in, so that we had to pass the Lockheed bill.

However, the Senator cannot say that because things are in the shape that they are in we should pass a Lockheed bill.

I suggest to the Senator from Oklahoma and the Senator from Wisconsin, who fought the Lockheed bill and are so concerned about this bill, that if they can get a bill, which they can call the national populist reform bill if they want to, they can offer such an amendment. However, they should not offer such an amendment to the pending bill. They should offer it to broad-based legislation that deals with the problem the Senator from Oklahoma is talking about and deals with the concentration of power in the labor unions.

The PRESIDING OFFICER (Mr. BENTSEN). The time of the Senator has expired.

Mr. SPARKMAN. Mr. President, I yield 2 minutes to the Senator from Georgia.

The PRESIDING OFFICER. The Senator from Georgia is recognized for 2 additional minutes.

Mr. GAMBRELL. Mr. President, we have had a merger of two of the principal labor unions in the country, and I have not heard the Senator denounce that. We have had a concentration of power in the national news media in the face of freedom of the press and information. I have not heard the Senator denounce that.

I think that there are a great many concentrations of power that ought to be attacked. And the way that I think we ought to attack that problem is not by an amendment to the pending bill, but by an amendment to a bill that deals with the matter on a broad basis.

The credibility of those who raise these questions is undermined, I think, by bringing them up in this way.

I am very much concerned about the things the Senator mentions. However, I cannot support an amendment that, as I see it, cripples and holds back the progress sought to be accomplished in the pending bill.

Mr. SPARKMAN. Mr. President, I yield back the remainder of my time.

Mr. TOWER. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time having expired, the question is on agreeing to the first part of amendment No. 763 of the Senator from Oklahoma, as modified. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana, (Mr. BAYH), the Senator from Alaska (Mr. GRAVEL), the Senator from Washington (Mr. JACKSON), the Senator from South Dakota (Mr. McGOVERN), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Maine (Mr. MUSKIE) are necessarily absent.

I further announce that the Senator from Florida (Mr. CHILES) and the Senator from Idaho (Mr. CHURCH) are absent on official business.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) and the Senator from West Virginia (Mr. RANDOLPH) would vote "nay."

I further announce that, if present and voting, the Senator from South Dakota (Mr. McGOVERN) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Ohio (Mr. SAXBE) is absent on official business.

The Senator from Arizona (Mr. GOLDWATER) is necessarily absent to attend the funeral of a friend.

The Senator from Utah (Mr. BENNETT) and the Senator from South Dakota (Mr. MUNDT) are absent because of illness.

If present and voting, the Senator from Arizona (Mr. GOLDWATER) would vote "nay."

The result was announced—yeas 14, nays 74, as follows:

[No. 404 Leg.]

YEAS—14

Cranston
Eagleton
Fulbright
Harris
Hartke
Hughes
Kennedy
Mansfield
Metcalf
Mondale
Moss
Nelson
Proxmire
Symington

NAYS—74

Aiken
Allen
Allott
Anderson
Baker
Beall
Bellmon
Bentsen
Bible
Boggs
Brock
Brooke
Buckley
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Case
Cook
Cooper
Cotton
Curtis
Dole
Dominick
Eastland
Ellender
Ervin
Fannin
Fong
Gambrell
Griffin
Gurney
Hansen
Hart
Hatfield
Hollings
Hruska
Humphrey
Inouye
Javits
Jordan, N.C.
Jordan, Idaho
Long
Magnuson
Mathias
McClellan
McGee
McIntyre
Miller
Montoya
Packwood
Pastore
Pearson
Pell
Percy
Ribicoff
Roth
Schweiker
Scott
Smith
Sparkman
Spong
Stafford
Stennis
Stevens
Stevenson
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

NOT VOTING—12

Bayh
Bennett
Chiles
Church
Goldwater
Gravel
Jackson
McGovern
Mundt
Muskie
Randolph
Saxbe

So the first part of Mr. HARRIS' amendment (No. 763), as modified, was rejected.

Mr. SPARKMAN. Mr. President, I move to reconsider the vote by which the first part of the amendment was rejected.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent to proceed for 30 seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, it is hoped that Senators will not go very far from the Chamber, because two more rollcall votes are about to occur consecutively—back to back.

The PRESIDING OFFICER. The question now comes on agreeing to the second part of the Harris amendment (No. 763). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Washington (Mr. JACKSON), the Senator from South Dakota (Mr. McGOVERN), the Senator from Maine (Mr. MUSKIE), and the Senator from West Virginia (Mr. RANDOLPH) are necessarily absent.

I further announce that the Senator from Florida (Mr. CHILES) and the Senator from Idaho (Mr. CHURCH) are absent on official business.

I further announce that, if present and voting, the Senator from South Dakota (Mr. McGOVERN) would vote "yea."

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) and the Senator from

West Virginia (Mr. RANDOLPH) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Ohio (Mr. SAXBE) is absent on official business.

The Senator from Arizona (Mr. GOLDWATER) is necessarily absent to attend the funeral of a friend.

The Senator from Utah (Mr. BENNETT) and the Senator from South Dakota (Mr. MUNDT) are absent because of illness.

If present and voting, the Senator from Arizona (Mr. GOLDWATER) would vote "nay."

The result was announced—yeas 15, nays 74, as follows:

[No. 405 Leg.]

YEAS—15

Burdick
Fulbright
Gravel
Harris
Hartke
Hughes
McGee
McIntyre
Metcalf
Mondale
Moss
Nelson
Pell
Proxmire
Stafford

NAYS—74

Aiken
Allen
Allott
Anderson
Baker
Beall
Bellmon
Bentsen
Bible
Boggs
Brock
Brooke
Buckley
Byrd, Va.
Byrd, W. Va.
Cannon
Case
Cook
Cooper
Cotton
Cranston
Curtis
Dole
Dominick
Eagleton
Eastland
Ellender
Ervin
Fannin
Fong
Gambrell
Griffin
Gurney
Hansen
Hart
Hatfield
Hollings
Hruska
Humphrey
Inouye
Javits
Jordan, N.C.
Jordan, Idaho
Kennedy
Long
Magnuson
Mansfield
Mathias
McClellan
Miller
Montoya
Packwood
Pastore
Pearson
Percy
Ribicoff
Roth
Schweiker
Scott
Smith
Sparkman
Spong
Stennis
Stevens
Stevenson
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

NOT VOTING—11

Bayh
Bennett
Chiles
Church
Goldwater
Jackson
McGovern
Mundt
Muskie
Randolph
Saxbe

So the second part of Mr. HARRIS' amendment was rejected.

Mr. SPARKMAN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SCOTT. Mr. President, I ask unanimous consent that the distinguished Senator from Arizona (Mr. GOLDWATER) be granted leave to be absent to attend the funeral of Mr. J. Howard Pew in Pennsylvania this afternoon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, notwithstanding the previous order, I ask unanimous consent to proceed for 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, Senators should be on notice that following the announcement of the result on the rollcall which is to occur immediately on S. 1163—the bill to provide nutrition for the elderly—within 15 minutes after the announcement of that vote there will be another rollcall vote.

Mr. SCOTT. Mr. President, will the Senator yield for an inquiry as to what the rollcall vote will be, following the vote on the Eagleton bill?

Mr. BYRD of West Virginia. On the amendment of the Senator from Indiana (Mr. HARTKE).

Mr. HARTKE. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. The amendment of the Senator from Indiana is not before the Senate.

Mr. BYRD of West Virginia. I ask unanimous consent that it may be in order to order the yeas and nays on the amendment of the able Senator from Indiana.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. I ask for the yeas and nays.

The yeas and nays were ordered.

NUTRITION PROGRAM FOR THE ELDERLY UNDER THE OLDER AMERICANS ACT OF 1965, AS AMENDED

Mr. EAGLETON. Mr. President, I have two unanimous-consent requests on the nutrition bill which is before the Senate.

First, I ask for the yeas and nays.

The yeas and nays were ordered.

I ask unanimous consent that the name of the senior Senator from Iowa (Mr. MILLER) be added as a cosponsor of the nutrition bill, on which we are now about to vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

In accordance with the previous order, the question is, Shall the bill (S. 1163) pass?

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Washington (Mr. JACKSON), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Maine (Mr. MUSKIE), and the Senator from West Virginia (Mr. RANDOLPH) are necessarily absent.

I further announce that the Senator from Florida (Mr. CHILES) and the Senator from Idaho (Mr. CHURCH) are absent on official business.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from West Virginia (Mr. RANDOLPH) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Ohio (Mr. SAXBE) is absent on official business.

The Senator from Arizona (Mr. GOLDWATER) is necessarily absent to attend the funeral of a friend.

The Senator from Utah (Mr. BENNETT) and the Senator from South Dakota (Mr. MUNDT) are absent because of illness.

If present and voting, the Senator from Arizona (Mr. GOLDWATER) would vote "yea."

The result was announced—yeas 89, nays 0, as follows:

[No. 406 Leg.]

YEAS—89

Aiken
Allen
Allott
Anderson
Baker
Beall
Bellmon
Bentsen
Bible
Boggs
Brock
Brooke
Buckley
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Case
Cook
Cooper
Cotton
Cranston
Curtis
Dole
Dominick
Eagleton
Eastland
Ellender
Ervin
Fannin
Fong
Fulbright
Gambrell
Gravel
Griffin
Gurney
Hansen
Harris
Hart
Hartke
Hatfield
Hollings
Hruska
Hughes
Humphrey
Inouye
Javits
Jordan, N.C.
Jordan, Idaho
Kennedy
Long
Magnuson
Mansfield
Mathias
McClellan
McGee
McIntyre
Metcalf
Miller
Mondale
Montoya
Moss
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Ribicoff
Roth
Schweiker
Scott
Smith
Sparkman
Spong
Stafford
Stennis
Stevens
Stevenson
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

NAYS—0

NOT VOTING—11

Bayh
Bennett
Chiles
Church
Goldwater
Jackson
McGovern
Mundt
Muskie
Randolph
Saxbe

So the bill (S. 1163) was passed, as follows:

S. 1163

An act to amend the Older Americans Act of 1965 to provide grants to States for the establishment, maintenance, operation, and expansion of low-cost meal projects, nutrition training and education projects, opportunity for social contacts, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Title VII of the Older Americans Act of 1965 is redesignated as title VIII, and sections 701 through 705 of that Act are respectively redesignated as sections 801 through 805.

SEC. 2. The Older Americans Act of 1965 is amended by inserting the following new title immediately after title VI thereof:

"TITLE VII—NUTRITION PROGRAM FOR THE ELDERLY

"FINDINGS AND PURPOSE

"SEC. 701. (a) The Congress finds that the research and development nutrition projects for the elderly conducted under title IV of the Older Americans Act have demonstrated the effectiveness of, and the need for, permanent nationwide projects to assist in meeting the nutritional and social needs of millions of persons aged sixty or older. Many elderly persons do not eat adequately because (1) they cannot afford to do so; (2) they lack the skills to select and prepare nourishing and well-balanced meals; (3) they have limited mobility which may impair their capacity to shop and cook for themselves; and (4) they have feelings of rejection and loneliness which obliterate the incentive necessary to prepare and eat a meal alone. These and other physiological, psychological, social, and economic changes that occur with aging result in a pattern of living, which causes malnutrition and further physical and mental deterioration.

"(b) In addition to the food stamp program, commodity distribution systems and old-age income benefits, there is an acute need for a national policy which provides older Americans, particularly those with low incomes and members of minority, Indian, and limited English-speaking groups, with low cost, nutritionally sound meals served in strategically located centers such as community centers, senior citizen centers, schools, and other public or private nonprofit institutions where they can obtain other social and rehabilitative services. Besides promoting better health among the older segment of our population through improved nutrition, such a program would reduce the isolation of old age, offering older Americans an opportunity to live their remaining years in dignity.

"ADMINISTRATION

"SEC. 702. (a) In order to effectively carry out the purposes of this title, the Secretary shall—

"(1) administer the program through the Administration on Aging; and

"(2) consult with the Secretary of Agriculture and make full utilization of the Food and Nutrition Service, and other existing services of the Department of Agriculture.

"(b) In carrying out the provisions of this title, the Secretary is authorized to request the technical assistance and cooperation of the Department of Labor, the Office of Economic Opportunity, the Department of Housing and Urban Development, the Department of Transportation, and such other departments and agencies of the Federal Government as may be appropriate.

"(c) The Secretary is authorized to use, with their consent, the services, equipment, personnel, and facilities of Federal and other agencies with or without reimbursement, and on a similar basis to cooperate with other public and private agencies and instrumentalities in the use of services, equipment, personnel, and facilities.

"(d) In carrying out the purposes of this title, the Secretary is authorized to provide consultative services and technical assistance to any public or private nonprofit institution or organization, agency, or political subdivision of a State; to provide short-term training and technical instruction; and to collect, prepare, publish, and disseminate special educational or informational materials, including reports of the projects for which funds are provided under this title.

"ALLOTMENT OF FUNDS

"SEC. 703. (a) (1) From the sums appropriated for any fiscal year under section 708, each State shall be allotted an amount which bears the same ratio to such sum as the population aged 60 or over in such State bears to the population aged 60 or over in all States, except that (A) no State shall be allotted less than one-half of 1 per centum of the sum appropriated for the fiscal year for which the determination is made; and (B) Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands shall each be allotted an amount equal to one-fourth of 1 per centum of the sum appropriated for the fiscal year for which the determination is made. For the purpose of the exception contained in this paragraph, the term 'State' does not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

"(2) The number of persons aged 60 or over in any State and for all States shall be determined by the Secretary on the basis of the most satisfactory data available to him.

"(b) The amount of any State's allotment under subsection (a) for any fiscal year which the Secretary determines will not be required for that year shall be reallotted, from time to time and on such dates during such year as the Secretary may fix, to other States in proportion to the original allotments to such States under subsection (a) for that year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Secretary estimates such State needs and will be able to use for such year; and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Such reallotments shall be made on the basis of the State plan so approved, after taking into consideration the population aged sixty or over. Any amount reallotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (a) for that year.

"(c) The allotment of any State under subsection (a) for any fiscal year shall be available for grants to pay up to 90 per centum of the costs of projects in such State described in section 705 and approved by such State in accordance with its State plan approved under section 705, but only to the extent that such costs are both reasonable and necessary for the conduct of such projects, as determined by the Secretary in accordance with criteria prescribed by him in regulations. Such allotment to any State in any fiscal year shall be made upon the condition that the Federal allotment will be matched during each fiscal year by 10 per centum, or more, as the case may be, from funds or in kind resources from non-Federal sources.

"(d) If the Secretary finds that any State has failed to qualify under the State plan requirements of section 705, the Secretary shall withhold the allotment of funds to such State referred to in subsection (a). The Secretary shall disburse the funds so withheld directly to any public or private nonprofit institution or organization, agency, or political subdivision of such State submitting an approved plan in accordance with the provisions of section 705, including the requirement that any such payment or payments shall be matched in the proportion specified in subsection (c) for such State, by funds or in kind resources from non-Federal sources.

"(e) The State agency may, upon the request of one or more recipients of a grant or contract, purchase agricultural commodities and other foods to be provided to such nutrition projects assisted under this part. The Secretary may require reports from State agencies, in such form and detail as he may prescribe, concerning requests by recipients of grants or contracts for the purchase of such agricultural commodities and other foods, and action taken thereon.

"PAYMENT OF GRANTS

"SEC. 704. Payments pursuant to grants or contracts under this title may be made in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

"STATE PLANS

"SEC. 705. (a) Any State which desires to receive allotments under this title shall submit to the Secretary for approval a State plan for purposes of this title which, in the case of a State agency designated pursuant to section 303 of this Act, shall be in the form of an amendment to the State plan provided in section 303. Such plan shall—

"(1) establish or designate a single State agency as the sole agency for administering or supervising the administration of the plan and coordinating operations under the plan with other agencies providing services to the elderly, which agency shall be the agency designated pursuant to section 303(a) (1) of this Act, unless the Governor of such State shall, with the approval of the Secretary, designate another agency;

"(2) sets forth such policies and procedures as will provide satisfactory assurance that allotments paid to the State under the provisions of this title will be expended—

"(A) to make grants in cash or in kind to any public or private nonprofit institution or organization, agency, or political subdivision of a State (referral to herein as 'recipient of a grant or contract')—

"(i) to carry out the program as de-
the costs of the purchase and preparation of

"(ii) to provide up to 90 per centum of
scribed in section 706.
the food; delivery of the meals; and such other reasonable expenses as may be incurred in providing nutrition services to persons aged sixty or over. Recipients of grants or contracts may charge participating individuals for meals furnished but such charge shall not exceed a per meal limit to be established by each State agency, taking into consideration the income ranges of eligible individuals in local communities and other sources of income of the recipients of a grant or a contract.

"(iii) to provide up to 90 per centum of the costs of such supporting services as may be necessary in each instance, such as the costs of related social services and, where appropriate, the costs of transportation between the project site and the residences of eligible individuals who could not participate in the project in the absence of such transportation, to the extent such costs are not met through other Federal, State, or local programs.

"(B) to provide for the proper and efficient administration of the State plan at the least possible administrative cost, not to exceed an amount equal to 10 per centum of the amount allotted to the State unless a greater amount in any fiscal year is approved by the Secretary. In administering the State plan, the State agency shall—

"(i) make reports, in such form and containing such information, as the Secretary may require to carry out his functions under this title, including reports of participation by the groups specified in subsection (4) of this section; and keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports and proper disbursement of Federal funds under this title, and

"(ii) provide satisfactory assurance that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this title to the State, including any such funds paid by the State to the recipient of a grant or contract.

"(3) provide such methods of administration (including methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) are necessary for the proper and efficient operation of the plan.

"(4) provide that preference shall be given in awarding grants to carry out the purposes of this title to projects serving primarily low-income individuals and provide assurances that, to the extent feasible, grants will be awarded to projects operated by and serving the needs of minority, Indian, and limited English-speaking eligible individuals in proportion to their numbers in the State.

"(b) The Secretary shall approve any State plan which he determines meets the requirements and purposes of this section.

"(c) Whenever the Secretary, subject to reasonable notice and opportunity for hearing to such State agency, finds (1) that the State plan has been so changed that it no longer complies with the provisions of this title, or (2) that in the administration of the plan there is a failure to comply substantially with any such provision or with any requirements set forth in the application of a recipient of a grant or contract approved pursuant to such plan, the Secretary shall notify such State agency that further payments will not be made to the State under the provisions of this title (or in his discretion, that further payments to the State will be limited to programs or projects under the State plan, or portions thereof, not affected by the failure, or that the State agency shall not make further payments under this part to specified local agencies affected by the failure) until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied, the Secretary shall make no further payments to the State under this title, or shall limit payments to recipients of grants or contracts under, or parts of, the State plan not affected by the failure or payments to the State agency under this part shall be limited to recipients of grants or contracts not affected by the failure, as the case may be.

"(d) (1) If any State is dissatisfied with the Secretary's final action with respect to the approval of its State plan submitted under subsection (a), or with respect to termination of payments in whole or in part under subsection (c), such State may, within sixty days after notice of such action file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceeding on which he based his action, as provided in section 2112 of title 28, United States Code.

"(2) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the Court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(3) The court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"NUTRITION AND OTHER PROGRAM REQUIREMENTS

"SEC. 706. (a) Funds allotted to any State during any fiscal year pursuant to section 703 shall be disbursed by the State agency to recipients of grants or contracts who agree—

"(1) to establish a project (referred to herein as a 'nutrition project') which, five or more days per week, provides at least one hot meal per day and any additional meals, hot or cold, which the recipient of a grant or contract may elect to provide, each of which assures a minimum of one-third of the daily recommended dietary allowances as established by the Food and Nutrition Board of the National Academy of Sciences-National Research Council;

"(2) to provide such nutrition project for individuals aged sixty or over and their spouses (referred to herein as 'eligible individuals');

"(3) to furnish a site for such nutrition project in as close proximity to the majority of eligible individuals' residences as feasible, and, preferably within walking distance where possible and, where appropriate, to furnish home-delivered meals to eligible individuals who are home-bound;

"(4) to utilize methods of administration, including outreach, which will assure that the maximum number of eligible individuals may have an opportunity to participate in such nutrition project;

"(5) to provide special menus, where feasible and appropriate, to meet the particular dietary needs arising from the health requirements, religious requirements or ethnic backgrounds of eligible individuals;

"(6) to provide a setting conducive to expanding the nutrition project to include recreational activities, informational, health and welfare counseling and referral services, where such services are not otherwise available;

"(7) to include such training as may be necessary to enable the personnel to carry out the provisions of this title;

"(8) to establish and administer the nutrition project with the advice of persons competent in the field of service in which the nutrition program is being provided, and of persons who are knowledgeable with regard to the needs of elderly persons;

"(9) to provide an opportunity to evaluate the effectiveness, feasibility, and cost of each particular type of such project;

"(10) to give preference to persons aged sixty or over for any staff positions full or part time, for which such persons qualify; and

"(11) to comply with such other standards as the Secretary may by regulation prescribe in order to assure the high quality of the nutrition project and its general effectiveness in attaining the objectives of this title.

"(b) The Secretary and the Comptroller General of the United States or any of their duly authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to a grant or contract received under this title.

"SURPLUS COMMODITIES

"SEC. 707. (a) Each recipient of a grant or contract shall, insofar as practicable, utilize in its nutrition project commodities designated from time to time by the Secretary of Agriculture as being in abundance, either nationally or in the local area, or commodities donated by the Secretary of Agriculture. Commodities purchased under the authority of section 32 of the Act of August 24, 1935 (49 Stat. 774), as amended, may be donated by the Secretary of Agriculture to the recipient of a grant or contract, in accordance with the needs as determined by the recipient of a grant or contract, for utilization in the nutritional program under this title. The Secretary of Agriculture is authorized to prescribe terms and conditions respecting the use of commodities donated under section 32, as will maximize the nutritional and financial contributions of such donated commodities in such public or private nonprofit institutions or organizations, agencies, or political subdivision of a State.

"(b) The Secretary of Agriculture may utilize the projects authorized under this title in carrying out the provisions of clause (2) of section 32 of the Act approved August 24, 1935, as amended (49 Stat. 774, 7 U.S.C. 612c).

"APPROPRIATIONS AUTHORIZED

"SEC. 708. For the purpose of carrying out the provisions of this title, there are hereby authorized to be appropriated $100,000,000 for the fiscal year ending June 30, 1973, and $150,000,000 for the fiscal year ending June 30, 1974. In addition, there are hereby authorized to be appropriated for such fiscal years, as part of the appropriations for salaries and expenses for the Administration on Aging, such sums as Congress may determine to be necessary to carry out the provisions of this title. Sums appropriated pursuant to this section which are not obligated and expended prior to the beginning of the fiscal year succeeding the fiscal year for which such funds were appropriated shall remain available for obligation and expenditure during such succeeding fiscal year.

"RELATIONSHIP TO OTHER LAWS

"SEC. 709. No part of the cost of any project under this title may be treated as income or benefits to any eligible individual for the purpose of any other program or provision of State or Federal law.

"MISCELLANEOUS

"SEC. 710. None of the provisions of this title shall be construed to prevent a recipient of a grant or a contract from entering into an agreement, subject to the approval of the State agency, with a profitmaking organization to carry out the provisions of this title and of the appropriate State plan."

The title was amended so as to read:

A bill to amend the Older Americans Act of 1965 to provide grants to States for the establishment, maintenance, operation, and expansion of low-cost meal projects, nutrition training and education projects, opportunity for social contacts, and for other purposes.

MARINE PROTECTION AND RESEARCH ACT OF 1971

Mr. HOLLINGS. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 9727.

The PRESIDING OFFICER (Mr. MCGEE) laid before the Senate a message from the House of Representatives announcing its disagreement to the amendments of the Senate to the bill (H.R. 9727) to regulate the dumping of material in the oceans, coastal, and other waters, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. HOLLINGS. I move that the Senate insist upon its amendments and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. MAGNUSON, Mr. HOLLINGS, Mr. HART, Mr. BAKER, and Mr. STEVENS conferees on the part of the Senate.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States, submitting a nomination, was communicated to the Senate by Mr. Leonard, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session, the Presiding Officer (Mr. GAMBRELL) laid before the Senate a message from the President of the United States submitting the nomination of Shiro Kashiwa, of Hawaii, to be an Associate Judge of the U.S. Court of Claims, which was referred to the Committee on the Judiciary.

ECONOMIC STABILIZATION ACT OF 1971

The Senate resumed the consideration of the bill (S. 2891) to extend and amend the Economic Stabilization Act of 1970.

The PRESIDING OFFICER (Mr. MCGEE). The question now before the Senate is on agreeing to amendment No. 768 of the Senator from Indiana (Mr. HARTKE), which the clerk will state.

The assistant legislative clerk read as follows:

On page 6, after line 4, insert the following:

"(f) Whenever the President exercises his authority under this section to stabilize wages or prices, he shall also exercise his authority to stabilize interest rates. The criteria for determining allowable price increases by business firms shall be generally applicable to financial institutions and for the purpose of applying such criteria, the term "interest rate" shall be considered to be a price."

Mr. HARTKE. Mr. President, I yield myself 4 minutes.

The PRESIDING OFFICER. The Senator from Indiana is recognized for 4 minutes.

Mr. HARTKE. Mr. President, the amendment I offer requires that any time the President exercises his authority under the pending legislation to stabilize wages or prices, that he should also move to control interest rates.

Interest rates represent nothing more than the price of money. For this reason my amendment further provides that the criteria used to determine the appropriateness of price increases should also be applied to financial institutions, and for the purposes of this act, interest rates shall be considered prices.

There is general agreement that the ultimate success or failure of the new economic policies is in large part dependent on the confidence which the American public has in the basic equity and evenhandedness of these remedies.

It is for this reason that a recent public opinion survey conducted by Louis Harris is disturbing. Released on October 11, it sampled a cross section of 1,638 households around the country and asked if they would favor or oppose the Federal Government placing a freeze on interest rates. The results showed that fully 70 percent of these households would favor such a move with only 16 percent opposed and 14 percent undecided. Thus, more than two-thirds of those sampled believed that additional action should be taken to control interest rates as well as wages and prices. This overwhelming support for increased stabilization of interest rates, is a striking vote of no confidence for the present policy of voluntary controls.

It is indeed, an indication of public sentiment which the Congress and the President can ignore only at their own risk.

Under Secretary of the Treasury, Charls Walker, and other administration spokesmen, have argued recently the controls are not needed because "interest rates are coming down." But the question then is, what rates are coming down? It is quite true that the prime rate, which banks give to their best and most well-to-do customers have decreased. It is likewise the case that there have been improvements in the bond market and in short-term Treasury notes. But that does not help the average consumer who has to pay 18 and sometimes 24 percent interest on revolving retail credit accounts. Nor does a decline in the prime rate help the middle-class home-owner who must still pay almost 8 percent for a mortgage.

The amendment I am offering is designed to give relief where relief is needed, to the average lower- and middle-class consumer who finds his wage controlled and his interest rates climbing.

I am sure that during the coming weeks we will see further fluctuations in the money market rates. There very well may be a reduction in the Federal Reserve discount rate—the rate which banks pay when they borrow from the Federal Reserve. There no doubt will be further changes in the short-term rates. But I stress that we cannot—and should not—base long-term inflation fighting policies on what certainly are temporary changes in market rates. The important thing it seems to me in any inflation fighting scheme is how the consumer fares and with regard to interest rates the consumer is getting the short end of the stick.

With respect to mortgage interest rates it should be noted that the effective rates for new homes, as reported by the Federal Home Loan Bank Board indicates that there was a steady increase in the cost of home mortgages from May to September of this year from 7.47 to 7.82 percent with no change in the rates for October.

Mr. President, as long as interest rates continue to stay at this unacceptably high level it is the average consumer and not the big borrower who will feel the full weight of the wage and price control system.

Couple these facts with evidence that bank profits are continuing to rise and the full inequity of the present situation becomes clear. A Standard and Poor's industry surveys report for the banking industry published on November 11, 1971, indicates that both the estimated earnings per share and the price-earnings ratio for 1971 for bank shares will rise over 1969 and 1971 levels. Specifically the earnings per share of banks outside New York City area rose from 6.96 in 1969 to 7.62 in 1970 and an estimated 7.91 in 1971. Obviously the banks have not been hurt by the current recession nearly as much as other segments of the economy, yet the administration remains unwilling to impose the same type of controls on their operation as have been imposed on other types of businesses.

In his testimony before the Senate Banking Committee on this legislation, Dr. Arthur Burns, stated that there was "every reason to believe that banks and other lenders would cooperate in a voluntary program of interest rate restraint." I have the greatest respect for Dr. Burn's ability but I cannot share his view on this subject. The plain facts are that the interest rates which affect the average person the most, are not coming down and will not come down until controls are imposed.

Under Secretary Walker and Dr. Burns have made it clear that the administration has no intention of using the standby authority found in S. 2891. They believe that "gentle persuasion" will work in bringing consumer rates down. Well, "gentle persuasion" and talk did nothing to control wages and prices in the late 1970 and early 1971 and it will not bring interest rates down in 1972. What is needed is firm notice to financial institutions that hereafter they will have to play by the same rules that every other segment of the economy has been forced to accept.

None of us like the present controls. But if they are to have any validity whatsoever they have to be fair; they have to be equitable; they have to be evenhanded.

This amendment is designed to assure the public that the economic policies drafted by the Congress, and implemented by the President, do indeed require an equality of sacrifice on the part of all Americans, the affluent as well as the average.

Fully 70 percent of the American people believe that interest rates should not enjoy a privileged position. They believe that the price of money should be subject to the same type of controls that control the price of commodities. And I agree. It is for these reasons that I offer this amendment and urge its acceptance.

Mr. President, I ask unanimous consent that the Louis Harris poll to which I referred, the Standard and Poor's survey report on banking, and the Federal Home Loan Bank Board figures for June through October be included in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE HARRIS SURVEY—PHASE II CONTROLS SUIT PUBLIC

(By Louis Harris)

President Nixon's Phase II assurances that the administration wants to hold the line on price and wage increase were squarely in accord with the underlying attitudes of American public opinion. The people believe that a policy of controls is needed and that the battle against inflation and to get the economy rolling is on the way to being won, but has not yet been achieved. The only exception to Mr. Nixon's announced program is that a substantial majority of 70% would have liked to have direct controls imposed on interest rates.

A reading of public opinion well over a month after President Nixon announced his dramatic new economic program indicates that the initial positive reactions of the people have held up remarkably well.

Between Sept. 20 and 25, a cross-section of 1,638 households across the country was asked to rate the President on the same key aspects of his economic program tested a month before. People were asked:

"How would you rate President Nixon on the following—excellent, pretty good, only fair, or poor?"

RATINGS OF NIXON ECONOMIC PROGRAM

[In percent]

	Positive	Negative	Not sure
Repeal $200 auto excise tax:			
September	72	20	8
August	78	16	6
90-day price-wage freeze:			
September	66	27	7
August	64	29	7
$50 tax exemption a year early:			
September	65	21	14
August	71	21	8

	Positive	Negative	Not sure
10 percent tax on imports:			
September	64	24	12
August	72	19	9
Cutting spending by $4,700,000,000:			
September	60	25	15
August	61	28	11
10 percent corporate investment credit:			
September	48	34	18
August	45	37	18
Letting value of dollar drop abroad:[1] September	38	30	32

[1] Not asked in August.

Solid majorities or pluralities back the principal components of the program the President spelled out on Aug. 14. To check out the most sweeping part of the new economic policy, the wage-price freeze, the cross-section was asked:

Do you favor or oppose the President's action in freezing all wages, prices, and rents?

WAGE-PRICE-RENT FREEZE

[In percent]

	September	August
Favor	75	73
Oppose	16	15
Not sure	9	12

Clearly an overwhelming majority backs the freeze.

The prevailing public view is that the new program will keep inflation under control and will stabilize the value of the dollar abroad. The public was asked:

"Do you feel President Nixon's new economic policies will do these things, or not?"

IMPACT OF NIXON ECONOMIC POLICIES

[In percent]

	Will	Will not	Not sure
Keep inflation in check	46	29	25
Stabilize dollar abroad	41	22	37

The attacks which have been made on the President's new economic policy have been along the lines that it is weighted in favor of big business and does not help working people enough. The cross-section was asked about these criticisms:

"Do you feel President Nixon's new economic policies will do these things, or not?"

IMPACT OF NIXON POLICIES ON BUSINESS AND LABOR

[In percent]

	Will	Will not	Not sure
Help big business	63	13	24
Help working people	44	35	21

Finally, the cross-section of households was asked about some proposals which have been discussed for inclusion in Phase II of the President's economic program, after the first 90 days have expired:

"Would you favor or oppose the federal government doing these things, or not?"

NEW ECONOMIC MEASURES

[In percent]

	Favor	Oppose	Not Sure
Continuing wage-price beyond 90 days	49	30	21
Putting a freeze on interest rates	70	16	14
Putting a freeze on corporate profits	59	20	21

[From Standard & Poor's Industry Surveys, Nov. 11, 1971

COMPOSITE PER SHARE DATA BASED ON S & P GROUP STOCK PRICE INDEXES

[1941–43=10]

Earnings per share[1]	1969	1970	1971[2]
425 industrials	6.13	5.39	6.16
Banks—NYC	3.29	3.86	3.97
Outside NYC	6.96	7.62	7.91
Savings and loan	1.42	.93	1.78
Electric companies	3.38	3.40	3.57

Price-earnings ratios[1]	1970[3] High	1970[3] Low	1971[2] recent
425 industrials	19.09	14.02	16.98
Banks—NYC	12.68	9.63	11.61
Outside NYC	11.18	8.52	10.54
Savings and loan	25.32	15.76	16.62
Electric companies	13.36	10.45	11.77

[1] Net operating earnings for banks.

[2] Estimated.

[3] Based on 1970 or estimated 1971 earnings of the companies included in these indexes.

FEDERAL HOME LOAN BANK BOARD—INTEREST RATES AND OTHER CHARACTERISTICS OF CONVENTIONAL FIRST MORTGAGE LOANS ORIGINATED BY MAJOR TYPES OF LENDER ON SINGLE-FAMILY HOMES, SEPTEMBER 1971

[Combined averages for United States and by lender]

	Loa made for purchase of—											
	New homes						Existing homes					
Type of lender and characteristic	Contract interest rate	Initial fees and charges (percent)	Effective rate (percent)	Term to maturity (years)	Loan to price ratio (percent)	Purchase price (000 omitted)	Contract interest rate	Initial fees and charges (percent)	Effective rate (percent)	Term to maturity (years)	Loan to price ratio (percent)	Purchase price (000 omitted)
Combined lenders:												
1970:												
September	8.31	1.03	8.48	25.2	72.7	35.3	8.27	0.88	8.42	22.8	71.7	29.7
October	8.33	1.05	8.51	25.1	72.4	34.6	8.20	.88	8.35	22.8	71.5	29.0
November	8.26	.99	8.43	25.3	72.1	35.8	8.18	.85	8.32	22.8	71.5	29.9
December	8.20	1.07	8.38	25.8	73.8	35.3	8.12	.85	8.26	23.3	71.9	30.7
1971:												
January	8.03	.92	8.18	25.8	73.3	36.2	7.94	.82	8.08	23.5	72.5	30.7
February	7.74	1.00	7.91	26.2	73.9	37.0	7.67	.79	7.80	24.0	73.1	31.1
March	7.52	.83	7.66	25.9	73.7	35.9	7.47	.77	7.60	24.1	73.5	31.7
April	7.37	.73	7.49	26.3	73.6	36.0	7.34	.75	7.47	24.2	73.6	31.8
May	7.36	.71	7.47	26.1	74.0	36.7	7.33	.71	7.45	24.0	73.2	32.3
June	7.38	.74	7.50	26.3	73.7	37.5	7.38	.74	7.50	24.3	73.9	32.9
July	7.51	.90	7.66	26.3	74.5	36.8	7.50	.75	7.63	24.2	74.5	31.6
August	7.60	.84	7.74	26.2	73.9	36.5	7.58	.76	7.71	24.5	74.2	31.9
September	7.66	.97	7.82	25.9	75.1	35.3	7.63	.78	7.76	24.2	74.5	30.8
Life insurance companies:												
1970:												
September	8.66	.68	8.78	27.2	69.2	51.6	8.54	.47	8.62	25.0	74.2	54.3
October	8.63	.90	8.78	29.4	70.8	44.8	8.55	.59	8.65	26.7	69.5	57.7
November	8.59	1.41	8.83	27.4	67.5	56.1	8.38	.56	8.47	27.2	73.0	65.2
December	8.32	1.55	8.57	28.6	74.7	43.2	8.45	.62	8.56	27.1	72.9	51.7
1971:												
January	8.44	.95	8.60	28.4	74.0	51.1	8.18	.64	8.28	26.4	68.7	57.3
February	7.96	.64	8.07	26.4	65.4	61.6	7.85	.74	7.97	26.0	73.5	45.5
March	7.67	1.00	7.83	27.9	75.0	50.6	7.61	.76	7.73	27.4	72.0	56.8
April	7.50	.65	7.60	28.9	72.6	47.2	7.58	.45	7.66	26.8	71.8	52.0
May	7.52	.36	7.58	27.3	80.6	44.2	7.39	.68	7.50	25.9	72.1	55.2
June	7.35	.50	7.43	27.5	73.1	51.2	7.23	.18	7.26	26.3	71.2	46.7
July	7.59	.86	7.74	26.5	74.8	49.5	7.54	.62	7.64	25.8	76.9	50.4
August	7.80	.10	7.82	28.0	70.0	61.4	7.65	.21	7.69	26.0	80.7	45.1
September	8.13	2.10	8.47	26.5	77.1	45.7	7.72	.56	7.81	27.2	85.7	35.7
Mortgage companies:												
1970:												
September	8.58	1.12	8.77	26.3	74.4	34.6	(1)	(1)	(1)	(1)	(1)	(1)
October	8.93	1.33	9.16	24.4	75.8	37.8	(1)	(1)	(1)	(1)	(1)	(1)
November	8.71	.62	8.82	24.4	71.8	27.6	(1)	(1)	(1)	(1)	(1)	(1)
December	8.77	1.07	8.95	25.6	72.4	36.3	(1)	(1)	(1)	(1)	(1)	(1)
1971:												
January	8.30	.77	8.43	23.9	66.4	35.2	(1)	(1)	(1)	(1)	(1)	(1)
February	8.23	2.37	8.62	28.9	84.2	36.1	(1)	(1)	(1)	(1)	(1)	(1)
March	7.83	.77	7.96	25.8	77.4	26.7	(1)	(1)	(1)	(1)	(1)	(1)
April	7.58	.52	7.66	27.0	76.9	38.0	(1)	(1)	(1)	(1)	(1)	(1)
May	7.49	.55	7.58	26.9	73.4	36.7	(1)	(1)	(1)	(1)	(1)	(1)
June	7.47	.49	7.55	26.4	72.7	35.4	(1)	(1)	(1)	(1)	(1)	(1)
July	7.82	.97	7.98	27.6	79.2	37.0	(1)	(1)	(1)	(1)	(1)	(1)
August	7.75	.93	7.90	26.2	73.0	38.0	(1)	(1)	(1)	(1)	(1)	(1)
September	7.85	.51	7.94	25.9	71.7	34.7	(1)	(1)	(1)	(1)	(1)	(1)

[1] Lending volume inadequate to provide representative averages.

Mr. PROXMIRE. Mr. President, will the Senator yield for a question?

The PRESIDING OFFICER. How much time does the Senator from Indiana yield?

Mr. PROXMIRE. Mr. President, I ask the Senator to yield for a question.

The PRESIDING OFFICER. We are operating on controlled time.

Mr. PROXMIRE. Mr. President, I am not asking him to yield time. I am asking him to yield for a question.

The PRESIDING OFFICER. The Senator cannot yield for a question except on his time, and the Chair rules that the Senator from Indiana has 2½ minutes remaining.

Mr. HARTKE. Mr. President, I yield to the Senator from Wisconsin.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. PROXMIRE. Mr. President, is it not true that the principal argument made against an amendment of this kind, and the practical argument, is that interest rates in fact have been going down?

Mr. HARTKE. The Senator is correct.

Mr. PROXMIRE. Mr. President, is it not also true that we have just decided on the basis of the action upon the Harris amendment that this authority will be extended for an additional 17 months?

Mr. HARTKE. The Senator is correct.

Mr. PROXMIRE. And is it not correct that during any 17-month period, the interest rates will fluctuate in a period of crisis and they are likely to fluctuate rather sharply over a 17-month period?

Mr. HARTKE. The Senator is correct.

Mr. PROXMIRE. Therefore, does it not follow that if we do not agree to the amendment of the Senator from Indiana we will very likely be in a position over the next 17 months of finding interest rates rising sharply with no effective control of this serious cost increase?

The PRESIDING OFFICER. All time of the Senator from Indiana has expired.

Mr. SPARKMAN. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator from Alabama has 7½ minutes.

Mr. SPARKMAN. Mr. President, I yield 2 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized for 2 minutes.

Mr. TOWER. Mr. President, the amendment should be rejected. Prior to the freeze there was an inflationary premium figure on interest rates. It was predicted that during the wage-price freeze the rates would go down. And they have. In every major money category the interest rates in that period of time have been declining from one-half of 1 percent to 1 percent.

Since last summer it has come down from 6.5 percent to 5.25 percent.

The strongest argument to be made in this matter is that ceilings have a way of establishing a floor, and we could find ourselves fixing the rates at an artificially high level. We have found that where interest rates have been fixed in other countries, the money lenders and bankers have become money brokers.

As Dr. Burns testified, we can very easily fix ceilings on interest rates that will be artificial, and we cannot force financial corporations to lend the money. If we fix them at a certain level, they will not lend the money. That is the reason that they have expressed very strong opposition to the amendment of the Senator from Indiana.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. SPARKMAN. Mr. President, I yield the Senator an additional minute.

The PRESIDING OFFICER. The Senator from Texas is recognized for an additional minute.

Mr. TOWER. The answer of course is that standby authority is provided in the bill on interest rates.

I am confident in what Dr. Burns has said. He is the Chairman of that Commission that will see that interest rates are regulated if it does become necessary. The standby authority is available in the bill.

The amendment of the Senator from Indiana is very unwise. It should be rejected.

Mr. SPARKMAN. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Alabama is recognized for 2 minutes.

Mr. SPARKMAN. Mr. President, I want to back up the things said by the distinguished Senator from Texas. Furthermore, I want to call attention to the fact that one of the first things the President did in connection with the control program was to set up a committee, board, or commission on interest rates, dividends, and such things as windfall profits. He made Dr. Burns the Chairman of that Commission. In my opinion, there is no man in the Government that is more able and more to be depended upon than Dr. Arthur Burns. He has on that board the Secretary of Housing and Urban Development, the Chairman of the Home Loan Bank Board, the Secretary of the Treasury and, if I remember correctly, the Comptroller of the Currency.

I am not sure that I have mentioned all of them. However, these are the people concerned with interest rates. Furthermore, we know that interest rates in this country can be controlled through the operation of the Federal Reserve Board. Dr. Burns has stated that he is going to watch the interest rate situation very carefully.

He pointed out to us that they were going to come down, and they have done what he said they were going to do. They have come down.

The thing proposed by the Hartke amendment is simply not a practical thing to do. I hope the amendment will be rejected.

The PRESIDING OFFICER. The Senator from Alabama has 2 minutes remaining.

Mr. SPARKMAN. Mr. President, I yield back the remainder of my time.

Mr. HARTKE. Mr. President, would the Senator from Alabama yield to me for a question?

The PRESIDING OFFICER. All time has been expired or yielded back.

Mr. HARTKE. Mr. President, I ask unanimous consent that I be given the additional 2 minutes of the time of the Senator from Alabama.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. HARTKE. Mr. President, is it not true that standby authority for interest rate control is in the bill?

Mr. SPARKMAN. The Senator is correct.

Mr. HARTKE. There is no question that it is not impracticable or impossible to put interest rate control into effect. Otherwise, there would be no sense in asking for it in the pending legislation. It can be done and it will be done. We simply say that if we can control the wages of the wage earners, we should also be able to control interest rates, not on a standby basis, but whenever controls are exercised over wages and prices.

Mr. SPARKMAN. There is standby authority in the bill. I approved that as being the kind of authority that should be exercised when the President appointed the board headed by Dr. Burns.

Of course we do not want the interest rates to run wild. I was at the White House, and so was the Senator from Texas (Mr. TOWER), when they told us about this body that they were going to set up. I specifically told him that there ought to be some setup to watch the interest rates, including any discounts or points that we often run into in connection with mortgages.

We already have this board headed by Dr. Burns. I say that is really the only way in which we can get supervision of the interest rates to see that they do not rise. I think we can say that they will continue to go down even below the rate they are now.

Mr. TOWER. Mr. President, will the Senator yield for a question?

Mr. SPARKMAN. I yield.

The PRESIDING OFFICER. All time having expired, the question is on agreeing to the amendment of the Senator from Indiana. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Washington (Mr. JACKSON), the Senator from South Dakota (Mr. McGOVERN), the Senator from Maine (Mr. MUSKIE), and the Senator from West Virginia (Mr. RANDOLPH) are necessarily absent.

I further announce that the Senator from Florida (Mr. CHILES), and the Senator from Idaho (Mr. CHURCH) are absent on official business.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON), and the Senator from West Virginia (Mr. RANDOLPH) would each vote "nay."

I further announce that, if present and voting, the Senator from South Dakota (Mr. McGOVERN) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Ohio (Mr. SAXBE) is absent on official business.

The Senator from Arizona (Mr. GOLD-

Water) is necessarily absent to attend the funeral of a friend.

The Senator from Utah (Mr. Bennett) and the Senator from South Dakota (Mr. Mundt) are absent because of illness.

If present and voting, the Senator from Arizona (Mr. Goldwater) would vote "nay."

The result was announced—yeas 19, nays 70, as follows:

[No. 407 Leg.]

YEAS—19

Burdick
Byrd, W. Va.
Fulbright
Gravel
Harris
Hartke
Hughes
Humphrey
Long
McGee
Metcalf
Mondale
Moss
Nelson
Pastore
Proxmire
Stafford
Stevens
Talmadge

NAYS—70

Aiken
Allen
Allott
Anderson
Baker
Beall
Bellmon
Bentsen
Bible
Boggs
Brock
Brooke
Buckley
Byrd, Va.
Cannon
Case
Cook
Cooper
Cotton
Cranston
Curtis
Dole
Dominick
Eagleton
Eastland
Ellender
Ervin
Fannin
Fong
Gambrell
Griffin
Gurney
Hansen
Hart
Hatfield
Hollings
Hruska
Inouye
Javits
Jordan, N.C.
Jordan, Idaho
Kennedy
Magnuson
Mansfield
Mathias
McClellan
McIntyre
Miller
Montoya
Packwood
Pearson
Pell
Percy
Ribicoff
Roth
Schweiker
Scott
Smith
Sparkman
Spong
Stennis
Stevenson
Symington
Taft
Thurmond
Tower
Tunney
Weicker
Williams
Young

NOT VOTING—11

Bayh
Bennett
Chiles
Church
Goldwater
Jackson
McGovern
Mundt
Muskie
Randolph
Saxbe

So Mr. Hartke's amendment (No. 768) was rejected.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. SPARKMAN. Mr. President, I move to lay that motion on the table.

The PRESIDING OFFICER (Mr. Humphrey). The question is on agreeing to the motion to lay on the table the motion to reconsider.

The motion to lay on the table was agreed to.

Mr. TOWER. Mr. President, I ask unanimous consent that I may proceed for 1 minute for the purpose of offering a technical amendment, which I send to the desk.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. TOWER. Mr. President, I send the amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment of the Senator from Texas will be read.

The assistant legislative clerk proceeded to read the amendment.

Mr. TOWER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with, and that it be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 4, strike out lines 6 through 16 and insert the following:

"'(c) (1) The authority conferred on the President by this section shall not be exercised to limit the level of any wage or salary (including any insurance or other fringe benefit offered in connection with an employment contract) scheduled to take effect after November 13, 1971, to a level below that which has been agreed to in a contract which (A) related to such wage or salary, and (B) was executed prior to August 15, 1971, unless the President determines that the increase provided in such contract is unreasonably inconsistent with the standards for wage and salary increases published under subsection (b)."

Mr. TOWER. Mr. President, this amendment actually does not change the substance of the bill. It is precisely the same thing, but couched in slightly different language, to conform with legislative requirements.

The chairman of the committee is prepared to accept it.

Mr. SPARKMAN. Yes, Mr. President. It is a purely technical amendment. We need it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Texas.

The amendment was agreed to.

Mr. CRANSTON. Mr. President, this bill contains grants of additional powers which the President has requested to carry out his wage and price control program. If the Senate grants him these powers by passing this bill, our action should not necessarily be construed as wholehearted endorsement of the President's phase II program. For me, as for many other Senators, such a vote would simply represent our willingness to afford the President an opportunity to pursue a program which he hopes—and we hope—will reduce the recession his earlier economic policies did so much to produce.

The Economic Stabilization Act of 1970 had been law for more than a year prior to the President's August 15 announcement yet the administration had formulated no plans to use the law prior to that announcement. The President apparently announced this major program, and then set out afterwards to determine how it was really going to be put together in both its broad and specific characteristics.

The Banking Committee did not attempt to restructure the President's program. During the committee's hearings, the administration described the program in vague, general terms.

Though the President's program has taken clearer shape since the hearings, major components are still undefined.

The Congress has given the President broad authority to structure the wage-price program. Executive action is needed to integrate all the components. Once the program is structured and operating, we should exercise congressional oversight to amend and perfect it. So for the present I will limit my discussion to procedures I think the President should consider adopting to make wage and price controls fair and equitable.

Trust and cooperation are essential for a successful wage-price control program. The administration's program does not seem structured to engender either trust or cooperation.

In order to stop an inflationary spiral, certain businesses and laborers must accept smaller wage and price increases than their counterparts received in the period before controls were instituted. These businesses and workers must sacrifice short-run income for long-run stability. They will be unwilling to make such a sacrifice unless they believe that in the long run the stabilization program will be fair and equitable.

This Nation has never before embarked on a wage and price control program in a period like the present. During World War II and the Korean war we were a Nation united, and the spirit of cooperation and sacrifice helped make the stabilization programs a success. Achieving such cooperation during peacetime during the current stage of the disastrous, divisive Vietnam war will be more difficult. This program cannot, as some have suggested, be imposed from above. Control cannot replace cooperation.

Wage earners justifiably oppose increases in profits which outstrip increases in wages during stabilization periods.

Profit margins are an important basis for wage demands during union negotiations. A control program should not redistribute income between business and labor.

Price Board and administration officials have stated that they will require businesses to roll back their prices to compensate for any "windfall" profits resulting from wage controls. Labor officials have expressed doubt that the President will in fact force much more than a token number of businesses to roll back prices. I share their skepticism.

More important, I reject the price control program's premise that even legitimate profit margins should not be permitted to increase. I believe that under appropriate circumstances, they should be.

The prospect for increased profits margins is a major incentive for greater efficiency and productivity. If that incentive is impaired, this control program could sacrifice much-needed increases in productivity.

I suggest that the administration should permit increases in profits where justified by increased demand or productivity. But the administration should require business to pass on a portion of these profits in the form of higher wages for their workers. Such a system would maintain the profit incentive without redistributing the receipt of income. It would foster cooperation by creating incentives for labor and business to work together for higher profits. President Nixon has stated that higher profits benefit all sectors of the economy. His program does not reflect that fact.

Both consumer advocates and labor leaders have alleged that the President's program will not provide adequate protection to consumers against unwarranted price and rent increases. I share their concern. The President's program in its present form does not contain sufficient safeguards and checks to protect the consumer.

This bill contains a provision which allows consumers to sue for triple damages to prevent violations of rent and price controls. The AFL–CIO has announced that they intend to establish watchdog committees composed of thousands of workers to guard against illegal price and rent increases. Both these steps are commendable. They could provide valuable protection for consumers, but they will be ineffective if consumers are unable to determine when violations have taken place. The price-rent guidelines system established by the Price Board makes it difficult, if not impossible, for consumers to determine when violations have occurred.

The general price guideline provides that a merchant, corporation, landlord, and so forth, may raise his prices to cover any increase in costs plus a markup on those costs no greater than the markup taken during a base period. The base period for all concerned would be the average return during any 2 of the last 3 fiscal years. At the retail level, the system would basically operate this way: a merchant purchased widgets at $1 apiece during the base period and sold them for $1.50—a 50-percent increase over his costs. Suppose the costs to the merchant rose to $1.10 after the freeze: he could then charge $1.65—still a 50-percent increase over cost.

The problem with the proposed system is that while a merchant, producer or landlord knows his increased per unit costs, the consumer does not and has no easy way of finding out the program requires that price increases be based only on increased costs. But consumers, having no way of knowing what those increased costs are, have no way of knowing if the price increase is justified, and hence legal.

The Price Board has required merchants to post the retail prices of the top 40 selling items in each merchandising department. But for the most part, the posting requirement is a sham which will provide buyers with very little assistance. Consumers still won't know the merchant's markup. They also don't know the quantities which the merchant buys at wholesale, nor the prices he pays.

The administration has acknowledged that it will be difficult for consumers to know if violations have occurred. They argue however that sufficient remedies exist if the consumer "feels" a violation has occurred. The administration points to three possible remedies: First and preferably, he can appeal to the Internal Revenue Service to resolve the dispute; second, he can sue in Federal court for declaratory relief; third, if he is a purchaser or tenant he can refuse to pay his bills and defend a court action on the ground that the price charged is illegal.

Both court alternatives are unsatisfactory. Filing a declaratory relief action in Federal court is a complex and expensive process. If a tenant refuses to pay his rent, and defends a State court action on the ground that the rent increase is illegal, he risks the loss of his apartment. A buyer who refused to pay a bill risks liability for breach of contract and court costs. These risks must be taken just to determine whether a violation has taken place.

The administration argues, however, that the most important vehicle for resolving consumer complaints will be the Price Board and the Internal Revenue Service. But Internal Revenue decisions will not be open to public review. The consumer will remain uninformed about actual cost figures. Even if the consumer somehow obtains cost figures, he will have no way to appeal administratively an adverse ruling of the IRS. The Revenue Service could, in fact, simply refuse to investigate a complaint.

The consumer is being told that he must remain in the dark and trust the Price Board. John Kenneth Galbraith, testifying before the Subcommittee on Monopolies of the Senate Select Committee on Small Business described the likely result:

> The inequities of the situation will be evident to everyone. The wage claims, the fringe adjustments, anything of that sort, is all in the public domain. That is all disciplined. If then, the counterpart price increases that a corporation asks for on the basis of wage increases, if it is based on a secret calculation of profits, it is going to look like a sweetheart deal between the administration and the corporation. The administration is sooner or later going to find it embarrassing and the unions are not going to stand for it.

The inequities of the situation are already evident. They are a source of union claims that this system is unfair and onesided. Unless some new methods are developed to provide better consumer remedies, the trust necessary to make this system work will not be forthcoming.

Even if the problems described by Professor Galbraith are eliminated, it would take a very large staff to process complaints. The administration, however, argues that few personnel will be needed to process such applications because there will be very few illegal price and rent increases.

I hope they are right, but I doubt that they are.

It seems to me unrealistic to assume that the type of safeguards needed to assure Federal tax collection will not be needed to enforce phase II.

I sympathize with the administration's desire to avoid the creation of a large bureaucracy to administer the wage and price program. Those put to work by the wage and price authorities during World War I and the Korean war were both costly and cumbersome. In all ways possible, we should avoid the creation of an ever larger Federal structure.

Early reports indicated that the administration did not intend to enforce wage and price restraints at the local retail or rental level. The administration had reportedly concluded that price competition at that level will be sufficient to avoid cost push inflation. If that is the administration's answer to this problem then they should say so. They should subject their theory to the criticism of economists and public officials. If they fail to provide such an explanation they will do both themselves and this Nation a disservice. They will create expectations that they do not intend to honor. The result will be disillusionment with this program. Public confidence necessary to reduce inflation will be undermined.

The problems I have outlined above could be remedied by a restructuring of the President's program. Now procedures could be developed to provide both consumers and the general public a check over unlawful price increases. Where rent increases are made, for instance, tenants could be allowed to demand information about property tax or maintenance cost increases attributable to their unit. Since landlords would have to make these calculations prior to demanding a rent increase, such a regulation would not impose an unreasonable burden on them. To assure that cost data supplied by businesses is accurate, the General Accounting Office could conduct intensive spot checks of price applications. This procedure has been used successfully to assure needed oversight of defense contracts, without, of course, solving all problems related to defense contracts. To help uncover the veil of secrecy and distrust, unions seeking wage increases might be allowed to review price request applications. Sanctions would have to be developed to protect cost data; that is, trade secrets, in these applications from disclosure by reviewing agents.

These suggestions are merely examples of the kinds of innovative procedures which could be adopted to improve this program. Some of those suggestions would require congressional action. If it does indeed prove necessary, I trust that this Congress will enact needed legislation to assure that this program is fair and equitable. This administration should carefully review the system it has established with an eye toward establishing mechanisms for cooperation and public trust. Modification of the current program is needed to achieve those ends.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States, submitting nominations, were communicated to the Senate by Mr. Leonard, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. HUMPHREY) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of Senate proceedings.)

ECONOMIC STABILIZATION ACT OF 1971

The Senate continued with the consideration of the bill (S. 2891) to extend and amend the Economic Stabilization Act of 1970.

AMENDMENT NO. 752

The PRESIDING OFFICER. Under the previous order, the Senator from Montana (Mr. METCALF) is recognized.

Mr. METCALF. Mr. President, I call up my amendment No. 752.

The PRESIDING OFFICER. The clerk will read the amendment.

The second assistant legislative clerk read the amendment (No. 752) as follows:

On page 4, immediately below line 5, insert the following new subsection:

(f) (1) No public utility which had gross operating revenues of $10,000,000 or more during its most recent fiscal year may charge a price, rate, or tariff greater than that charged by it on August 15, 1971, without first obtaining approval from the President or his delegate, and such approval must be consistent with the standards for price increases published under subsection (b) and not in excess of the level of price increases permitted for business organizations generally under standards and guidelines promulgated by the President under this title.

(2) For purposes of this subsection, the term "public utility" means a person which is a regulated public utility as defined in section 7701(a)(33) of the Internal Revenue Code of 1954 (26 U.S.C. 7701(a)(33)).

The PRESIDING OFFICER. Under the order, there is 1 hour on the amendment, to be equally divided between the mover of the amendment and the manager of the bill.

Mr. METCALF. Mr. President, I yield myself 5 minutes.

PRIVILEGE OF THE FLOOR

Mr. METCALF. Mr. President, I ask unanimous consent that Mr. Winslow Turner, of the staff of the Subcommittee on Intergovernmental Relations of the Government Operations Committee, and Mr. Vic Reinemer, of my own staff, be permitted the privilege of the floor during the consideration of this amendment and also the next three amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METCALF. Mr. President, the purpose of this amendment is to make clear as a matter of law that all rates and charges of major public utilities shall remain frozen during the stabilization period, subject only to special exceptions approved by the President, consistent with the standards under the act and not in excess of the level of price increases permitted for business generally. The objectives here are threefold.

First, rate hikes for public utilities and services—particularly those with respect to electricity, gas, telephone, and transportation—not only impose a multibillion-dollar inflationary burden on the Nation, but they hit the consumer especially hard because he has virtually no way to avoid these charges. This morning a Price Commission source stated that utility costs make up 5 percent of the cost of living index. Thus, it is reasonable for Congress to attach a priority to this area of the economy and create at least the rebuttable presumption that such rate increases shall remain stabilized.

Second, the President, or his delegate at the Federal level, should be the Office to grant exceptions to the general rule against rate increases. He is in the best position to measure the particular inflationary impact on a regional and national basis, and to assess the relationship of public utilities in the entire economic process. At the conclusion of phase I regulations were promulgated by the Federal Price Commission generally permitting regulated public utilities to charge increases if they have been approved by a regulatory agency. Utilities with annual gross receipts of $50 million or more were required to notify the Price Commission of any regulatory agency order granting an increase. Utilities with annual receipts of $100 million or more were required to notify the Commission of any requests for rate increases. I addressed a letter to the Chairman of the Council of Economic Advisors—in his role as ranking member to the Cost of Living Council—asking him what role the Price Commission would play in investigating and making final decisions with respect to these utility rate increases. He answered by saying that the Price Commission is retaining the right to review individual increases, and "may take steps to implement more stringent standards than are applied by regulatory authorities," but that "in the absence of such action no approval by the Price Commission is required."

These letters were placed in the CONGRESSIONAL RECORD, page 42328, on the 19th of November. The Price Commission, of course, today has announced regulations that are somewhat different from the letters that were sent to me by the members of the Price Commission.

The Price Commission regulations and the answers to my letter provided a confusing picture, but I believe that there is little doubt that the Price Commission under the original regulation intended to let the regulatory agencies at Federal State and local levels make individual judgments as to the propriety of granting rate increases under the broad guidelines of the Economic Stabilization Act. This, in my opinion would be chaotic. As I said recently on the Senate floor, there are a great many of these agencies. In my experience, they have neither the resources, the staffing, nor the inclination to generate an aggressive testing of the evidence produced by the utility companies. In addition, they tend to be biased in favor of the business they regulate. To rest with them, the additional role of enforcing a coordinated national anti-inflationary policy may make the inevitable results all the more inflationary.

Third, any rate increases approved by the President or his delegate, should be in accord with the standards set forth under the legislation, but in addition, and most importantly, be not in excess of the price increase levels permitted for other industries and businesses. Utilities should be held at least to the general line with other industries. This does not mean that they should be restricted with respect to individual company increases, or should be inconsistent with the standards established under (b) of S. 2891. It does mean, however, that the Price Commission shall establish guidelines for public utilities that will hold these companies to a definitive anti-inflationary norm. Some increases may be permitted, others may not be, but the net effect will be to provide a sense of goals which must be met, and which if achieved will not result in excesses beyond that permitted for businesses generally.

Thus, what we have here is really a very simple charge to the executive branch. Because of the special impact of regulated public utilities on our economy, and because of the inability of Federal and State regulation agencies to coordinate a national anti-inflationary policy, we say put the responsibility for permitting utility rate increases where it belongs—where it can best be administered—at the Presidential level. And in order to assist the Chief Executive in managing the increases in a rational way, put back the freeze, so that he may start with a clear slate, with the reins in his hands. Only in this way can we avert a tidal wave of public utility rate increases, those already approved and waiting to be put into effect, and those to be launched by the regulatory agencies. The cost of such a tidal wave I estimate to be close to $4 billion in the coming months. That will be a sledgehammer blow to our economy.

Mr. President, the news this morning carries the report that the Price Commission has come forth with a new set of guidelines with respect to public utilities. I have not had a chance to study these new regulations, but the news stories would indicate that the Commission has come around in substantial part to my point of view; that is, that all major utilities must obtain approval of rate increases from the Commission as well as from the regulatory agencies, and that increases should be reduced if inconsistent with phase II guidelines. However, it is still a very large question as to how much the Price Commission intends to rely on the certification by regulatory agencies that such agencies have met the Federal guidelines in granting increases, rather than taking a fresh look at the inflationary impact.

I am sure it is no coincidence that these new regulations came out yesterday afternoon, on the eve of my calling up my amendment. For over a month, I have warned of the danger of lifting the price freeze on public utilities, and made my views known to the Price Commission as well as to the Senate. I commend the Commission for apparently seeing the light. I hope they are on the way to developing a sensible and effective procedure for holding the line on utility rates.

But these new regulations should in no way deter action on my amendment. In fact, the Presidential action would seem to give the amendment all the more support. Regulations are not legislation. They can be changed, rescinded, interpreted, and permitted to lapse into administrative obscurity. It is a challenge for Congress to apply the force of law to the President in dealing with utility rates.

It is because of this that I urge the approval of my amendment.

Mr. President, it is my intention, as expressed in amendment No. 752, to provide more effective control of rates of only the large utilities, those with annual gross operating revenue exceeding

$10 million, and to exclude the small companies. It is the intent of this amendment to exclude small- and moderate-size businesses, so that the limited resources of Government can focus on about a thousand huge utility corporations, including electric power, gas pipeline, gas distribution, telephone, airline, rail, motor, and water carrier companies. Many of these corporations hold awesome political and economic power. The $10 million limitation would also lessen the burden of small utility businesses. I want to emphasize that point, Mr. President.

I am advised by the Federal Communications Commission that there are 62 telephone utilities which exceeded $10 million in operating revenue last year. Twenty-four of those companies are part of the Bell system and 38 are independent.

There are 55 gas pipeline companies and 163 electric utilities in the $10 million and above annual revenue category.

Additionally, there are some combination gas-electric utilities whose revenue from both gas and electric operations would raise their total operating revenue to more than $10 million a year. I was unable to obtain the number of combination companies that would be thus affected but would guess that they would number no more than a dozen or so. It is especially difficult to obtain information on gas distribution companies, because, I might add, of the failure of Congress to pass the Gas Information Act, which has been sought by the four most recent chairmen of the Federal Power Commission. There is no agency of Government, including the Price Commission, which can provide you, Mr. President, or me, or anyone else, with basic information on profits of the various gas distribution companies. Nor can that information be obtained from the American Gas Association. I have elicited from AGA the fact that last year 57 gas distribution companies collected in excess of $50 million in revenue from their gas operations, and that 300 gas distribution companies took in $1 million or more. AGA has advised my office that it has energized some central computer in a distant city and possibly before we conclude action on this bill we shall know how many gas distribution utilities would be affected by this amendment.

There are 30 air carriers with revenue exceeding $10 million annually and 393 rail, motor, and water carriers, according to statistics provided my office by the congressional liaison offices of the Civil Aeronautics Board and the Interstate Commerce Commission.

Mr. President, these approximately 1,000 corporations constitute a major segment of our economy. The electric utilities comprise our Nation's largest industry. The 163 power companies which grossed more than $10 million last year took in, altogether, almost $20 billion. The 55 gas pipeline companies took in almost $8 billion, according to the FPC.

The telephone companies had revenues of more than $18 billion, rail carriers approximately $12 billion, class 1 motor carriers more than $6 billion. The most recent figures which the Library of Congress was able to obtain on gas distribution companies, on short notice, were for 1968, when they totaled $8,781,000,000.

Thus, in total, these approximately 1,000 corporations take in more than $73 billion a year. Many of them are doing far better financially than are risk corporations which do not have the State-like privileges of utilities. Yet, they seek huge and in many cases, completely unjustified rate increases.

In summary, Mr. President, this amendment would require the President or his delegate to require these huge public service corporations to hold the line.

Mr. President, I ask unanimous consent to have printed in the Record an article published in the Washington Post this morning, telling the story of the Price Board's new regulation to oversee utility rates.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Post, Nov. 30, 1971]

Price Board To Oversee Utility Rates

(By James L. Rowe Jr.)

The Price Commission said last night that large regulated utilities will need its permission as well as that of state or federal regulatory agencies to raise rates.

The commission said all utilities with revenues over $50 million—which includes nearly all major utilities—must file rate increase requests with the commission as well as the agency. The commission said it would reduce the increases if they were inconsistent with Phase II guidelines.

The commission also set down four guidelines that regulatory agencies must follow in granting rate increases, to insure that the increases are "consistent" with Price Commission regulations.

Price Commission sources said the new rules, which will probably have an effective date of Nov. 29 when they are published in the Federal Register, would toughen the standards under which regulated utilities such as telephone, gas, and electric companies can obtain rate increases.

One source, however, said he expected increases granted over the past two weeks would probably be looked at by regulatory agencies to insure that they conformed to the new guidelines.

Under the new Price Commission policy, any utility with more than $50 million in annual sales must report to the commission when it requests a rate increase, when the increase is allowed to go into effect pending further hearings, and when the agency gives final approval for the rate increase.

Under the original rules put forth by the Price Commission, utilities had to have their rate increases certified by state or federal regulatory agencies as consistent with Phase II guidelines.

"We've now given the regulatory agencies firm guidelines on what being 'consistent' with the stabilization criteria means," one Price Commission source said late last night.

Those criteria, which the agency must certify with documentation as having been met, include:

The increase does not contribute to inflationary expectations.

The increase is reduced to reflect productivity gains.

The increase is the minimum rate which is necessary to assure continued and adequate service.

Any increase in the rate of return on investment that is allowed must be required either by an increase in the cost of money or is necessary to assure continued adequate service.

After a regulatory agency approves the request, Price Commission sources said, and sends the approval and the certification that the rate increase is consistent with the four guidelines, the company must file the approval and certification documents with the Price Commission.

The commission will then have 10 days to decide whether the rate increases are justified. In "some cases, we might decide there is insufficient justification for the increase and we might hold them up," one commission source said.

He said companies with under $50 million in total annual revenues will still follow the certification procedures, but will not have to file simultaneously with the Price Commission when a rate increase is filed.

In previous stabilization efforts such as World War II and the Korean War, utilities were exempted from price controls.

"Today, however, utility costs make up 5 per cent of the cost of living index," a Price Commission source said, and "we do not feel that we could leave them uncontrolled."

He said all major utilities have revenues over $50 million—including all major local utilities.

Virginia's State Corporation Commission approved a $33.3 million rate increase for the Chesapeake and Potomac Telephone Co. effective Dec. 1.

Other pending requests by Washington-area utilities include:

An Aug. 31 request by C&P for a $20.9 million increase on basic service in the District of Columbia.

A request by the Potomac Electric Power Co. for District increases that would cost customers $24.7 million the first year.

A Pepco request for about an $18 million increase in Maryland.

Mr. TOWER. I yield myself 4 minutes.

Mr. President, the Metcalf amendment would impose an unnecessary burden upon the operation of the Price Commission and require that public utilities be subjected to regulation which goes far beyond that imposed on general business under phase II of the economic stabilization program.

As I understand the new regulations adopted yesterday by the Price Commission, public utilities must now follow the same basic procedures for a price increase as general business. That is, those over $100 million in sales must prenotify the commission of an intended increase; those between $50 and $100 million must report to the commission; and those below $50 million, while not required to report, must certify that their increases are consistent with the phase II guidelines. In all cases, the Price Commission will have the power to rollback, modify or rescind increases which are determined to be in excess of the guidelines.

Also, under the new guidelines, public utilities will be subjected to three levels of review: State and Federal regulatory agencies; the Price Commission; and the courts.

It seems that this action is eminently fair and reasonable and produces a quality of regulation for public utilities that is in accord with that of general business.

By contrast, the Metcalf amendment would have some severe effects. By requiring utilities below $50 million in sales to obtain prior approval from the commission, this would impose a huge additional workload on the Price Commission requiring more staff and more paper work. The President has stated that he does not want phase II to turn into a huge bureaucracy, and that is a sentiment with which we can all agree. And yet the Metcalf amendment moves in exactly the opposite direction by requiring more regulation of utilities than that imposed upon general business.

Second, the Metcalf amendment poses a further severe problem in that it specifies that no increase for a utility will be higher than the guidelines for general business. It may well be possible that a utility may request a price increase much higher than the increases granted to general business and that this increase would be perfectly justified to continue adequate service. Yet it appears that the Metcalf amendment would prohibit either the State regulatory body or the Price Commission from granting this justified increase. In other words, the Price Commission would be denied the flexibility which is absolutely essential to the fair and effective operation of phase II.

The American consumer may deplore an increase in utilities prices, but when that increase is justified, I am sure that he would prefer the extra rate to a brown out, blackout, or complete stoppage of service.

Mr. President, I urge the rejection of the amendment of the Senator from Montana.

Mr. METCALF. I yield myself such time as I may require.

Mr. President, this amendment has to be read in the context of the bill. On page 3 of the bill, subsection (b), the standards that are established for orderly economic growth are provided in part 1 on line 13, in part 2 on line 14, in part 3 on line 20, in part 4 on line 23, and in part 5 on page 4, line 3. It would be under these standards that the decision of the President or his delegate would be made.

So we would provide for general exceptions and variations as necessary to foster orderly economic growth, to prevent inequities, to prevent hardship, to prevent serious market disruptions, to prevent domestic shortages of raw materials or local shortages of labor, or windfall profits—to read one of the standards provided. That gives a great deal of flexibility under this proposal, so that the regulatory agency—and subsequently the committee—could make a decision.

If a utility company were losing money or were not earning at the proper rate in accordance with the rates of other businesses, certainly there is enough flexibility in the standards set up by the bill itself—which must be read in the context of the amendment—to provide that the commission could give the necessary increase in utility rates.

As to the complexity of what is being done, in today's morning paper, the Price Commission, of its own motion, said they are going to take a look at the utilities; and all utilities with a revenue of more than $50 million will have to do exactly what my amendment provides. They will have to go to the Price Commission, and they will be subject to review. There will have to be a certification. They are doing exactly what we want.

I have provided that the gross revenue cutoff would be $10 million. Many utilities in the country that have an impact especially on the consumers in small areas earn less than $50 million.

For example, in Maryland, the Potomac Edison—that is not PEPCO—earns less than $50 million. Public Service Co. of New Mexico had a return on its common stock of 12.7 percent in 1970. It earns less than $50 million. El Paso Electric, in the State of the Senator from Texas—a State without any State regulatory commissions—earned 17 percent on its common stock last year, and it had an income of less than $50 million.

So I felt, when we drew the amendment, that the small business cutoff should be around $10 million. Except for that, the regulation that was announced this morning is substantially the regulation that is provided by my amendment. The only difference is that it is only a regulation, as we have pointed out, that is subject to recision at any time. It is subject to administration failures to carry it out.

The way to nail this down, here and now, is for the Senate to pass a law that does substantially the same thing that the Price Commission announced this morning that it was going to do. That is the only purpose here—that we should treat the utilities exactly the same as we are treating the other businesses and allow ourselves to be aware of the fact that in many areas of the United States there are State regulatory commissions that are understaffed, that do not have the capacity or the ability or even the incentive to carry out the provisions of this act.

When we are dealing with the most essential products that people buy—electricity, heat, and communications—we are dealing with something that is different from buying tires or automobiles or some other things. You do not have to buy some of those things sometimes, but you have to have electricity to make your home operate.

As was pointed out this morning by the man who announced the Price Commission's change, the electric utilities comprise 5 percent of our cost-of-living index, and I see no reason why we should exempt them from the operation of this act.

The PRESIDING OFFICER. Who yields time?

Mr. TOWER. I yield myself 3 minutes.

Mr. President, I do not think anybody would make an argument that utilities should not get the same treatment as general business, that they should be singled out for preferential treatment. Indeed, they should not be singled out for preferential treatment.

But, by the same token, they should not be singled out to be discriminated against. The guidelines set forth by the Price Commission provide that utilities will be treated the same as general business. The cutoff point is $50 million and so it is for the utilities. The fact is, if we discriminate against utilities by going down to the $10 million volume, what in effect we will do will be to impose a tremendous additional burden on the Price Commission, requiring far more bureaucratic redtape. The provisions in here set forth that pricing in utilities not go above that for general business, otherwise we deny a flexibility which is really essential to fair operation of the wage and price system. We also run the risk of perhaps bringing some kind of utilities into short supply if we refuse to allow appropriate price increases to take care of the situation.

As an example, take a shortage of gas. We could get gas in Alaska for 85 cents, perhaps. That is far more than anyone pays for it now, but the problem is if we run out of gas, to get more gas which is a low pollutant fuel, and which of course is cheap by virtue of the fact that the price has been highly regulated, the fact is we are out of gas and we will have to pay more for the high-demand low-pollutant fuel, which might result in an increase in prices on the part of the utility concerned. If the price cannot go above what is set for general business, what we will be doing is to shut off the gas and the result could be brownouts and blackouts, or stoppages of service.

I see no reason why the utilities should be singled out for this discriminatory treatment.

I note that Texas does not have a public utilities commission. Texas is the only State that does not have such a commission, so the utility companies of the other 49 States come under the regulatory powers of the State utility commissions. So I do not think that argument is fair.

Mr. METCALF. Mr. President, will the Senator from Texas yield?

Mr. TOWER. I yield to the Senator on his time.

Mr. METCALF. I am delighted to yield on my time.

Mr. President, Texas is not the only State that does not have a State regulatory commission. Texas has a local commission that Sam Rayburn once said was worse than no commission at all.

South Dakota regulates only the telephone utility. The State of Minnesota regulates only the telephone utility. The Great Northern State Power is not regulated but the Northern State Power does business at the $50 million level.

Under my amendment, which provides for local regulation, Texas would be included. The discriminatory point is the one that interests me. The bill as presently written is discriminatory. It says that the utility shall have privileges that all other businesses do not have. We are just doing by this amendment what the Price Commission today has announced it will do, except we will do it to eight utilities with a business of $10 million or over instead of gross revenue of $50 million or over. The Price Commission has not seen any overwhelming burden there, in saying to us today that they will do substantially what this amendment will do. The only thing the amendment does now, after the general announcement this morning by the Price Commission, is to nail down in the statute the administration's decision that has been handed down by the Price Commission.

The Price Commission in its news release this morning said it would release the policy for regulating public utility increases in the future and that the policy will be printed in a few days in the Federal Register; but, unfortunately, I have no way of guessing, or any crystal ball, as to what the policy will be. But the particular proposition that we have stated here is exactly the proposal that the Price Commission has made in its declaration this morning, except that we have included $10 million instead of $50 million.

I would certainly be amenable, if the Senator would vote for my amendment, to go to $50 million.

It would release a few utilities that are not covered that have had a substantial rate of return. It would provide that in South Dakota and in Minnesota, and perhaps in some utilities that would not be regulated—for instance, the West Texas Utilities which earned 16.4 percent on its common stock last year. But I see no magic in the words and figures of $10 million, $20 million, $30 million, or $50 million.

Ten million dollars seemed to be a cutoff point for small business. If that is the only thing that is stopping us, I would be amenable to ask unanimous consent to modify my amendment, if the Senator and the manager of the bill would find that acceptable, and I will yield to the Senator from Texas on my time.

Mr. TOWER. Mr. President, I am afraid that I would still have to oppose the amendment even though the Senator has offered to modify his amendment to $50 million. There are other provisions in it that would deny the flexibility required in dealing with utilities and general business. Therefore, I am constrained still to oppose the amendment.

Mr. President, I am prepared to yield back the remainder of my time, if the Senator from Montana is prepared to yield back his.

Mr. METCALF. Mr. President, I ask for the yeas and nays.

There was not a sufficient second.

Mr. TOWER. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time consumed by the quorum be charged equally to both sides.

The PRESIDING OFFICER (Mr. HUMPHREY). Without objection, it is so ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. METCALF. Mr. President, I ask unanimous consent to modify my amendment, on line 2 to insert $50 million instead of $10 million, and also ask unanimous consent to make a technical correction in the amendment where it says "on page 4, immediately below line 5," insert instead "on page 6, immediately below line 4."

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment as modified reads as follows:

On page 4, immediately below line 4, insert the following new subsection:

(f) (1) No public utility which had gross operating revenues of $50,000,000 or more during its most recent fiscal year may charge a price, rate, or tariff greater than that charged by it on August 15, 1971, without first obtaining approval from the President or his delegate, and such approval must be consistent with the standards for price increases published under subsection (b) and not in excess of the level of price increases permitted for business organizations generally under standards and guidelines promulgated by the President under this title.

(2) For purposes of this subsection, the term "public utility" means a person which is a regulated public utility as defined in section 7701(a)(33) of the Internal Revenue Code of 1954 (26 U.S.C. 7701(a)(33)).

Mr. METCALF. Mr. President, I yield back the remainder of my time.

Mr. TOWER. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has now been yielded back.

The question is on agreeing to the amendment, as modified, of the Senator from Montana (Mr. METCALF) No. 752.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Oklahoma (Mr. HARRIS), the Senator from Washington (Mr. JACKSON), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Maine (Mr. MUSKIE), and the Senator from West Virginia (Mr. RANDOLPH) are necessarily absent.

I further announce that the Senator from Florida (Mr. CHILES) and the Senator from Idaho (Mr. CHURCH) are absent on official business.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) would vote "nay."

I further announce that, if present and voting, the Senator from South Dakota (Mr. MCGOVERN) and the Senator from West Virginia (Mr. RANDOLPH) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Ohio (Mr. SAXBE) is absent on official business.

The Senator from Arizona (Mr. GOLDWATER) is necessarily absent to attend the funeral of a friend.

The Senator from Utah (Mr. BENNETT) and the Senator from South Dakota (Mr. MUNDT) are absent because of illness.

If present and voting, the Senator from Arizona (Mr. GOLDWATER) would vote "nay."

The result was announced—yeas 18, nays 70, as follows:

[No. 408 Leg.]

YEAS—18

Burdick
Byrd, W. Va.
Fulbright
Hart
Hartke
Hughes
Humphrey
Inouye
Kennedy
Mansfield
McGee
Metcalf
Mondale
Moss
Nelson
Pell
Proxmire
Ribicoff

NAYS—70

Aiken
Allen
Allott
Anderson
Baker
Beall
Bellmon
Bentsen
Bible
Boggs
Brock
Brooke
Buckley
Byrd, Va.
Cannon
Case
Cook
Cooper
Cotton
Cranston
Curtis
Dole
Dominick
Eagleton
Eastland
Ellender
Ervin
Fannin
Fong
Gambrell
Gravel
Griffin
Gurney
Hansen
Hatfield
Hollings
Hruska
Javits
Jordan, N.C.
Jordan, Idaho
Long
Magnuson
Mathias
McClellan
McIntyre
Miller
Montoya
Packwood
Pastore
Pearson
Percy
Roth
Schweiker
Scott
Smith
Sparkman
Spong
Stafford
Stennis
Stevens
Stevenson
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

NOT VOTING—12

Bayh
Bennett
Chiles
Church
Goldwater
Harris
Jackson
McGovern
Mundt
Muskie
Randolph
Saxbe

So Mr. METCALF's amendment (No. 752) was rejected.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. SPARKMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. STEVENSON). Under the previous order, the Senator from Montana is recognized.

AMENDMENT NO. 754

Mr. METCALF. Mr. President, I call up my amendment No. 754.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. METCALF. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

On page 9, line 4, beginning with "interpretation", strike out all through "interpretation" in line 7, and insert the following: "interpretation, modification, or rescission of, or seeking an exception or exemption from, such rules, regulations, and orders".

On page 9, line 8, beginning with "exception", strike out all through "exemption," in line 9, and insert the following: "action under the preceding sentence,".

On page 9, line 12, beginning with "exceptions", strike out all through "exemptions" in line 13, and insert the following: "action under this section".

The PRESIDING OFFICER. On this amendment there is a time limitation of 20 minutes to be divided equally.

Mr. METCALF. Mr. President, this amendment seeks to clarify and to augment the administrative remedies and procedures contained in section 207 of S. 2891, by requiring the President to invoke procedures available to any person for seeking an interpretation, modification or rescission of, or an exception or exemption from, any rules, regulations or orders issued under the title.

This may be what the committee had in mind, but it is far from clear. The wording in the report carries the implication that administrative review is to be of a restricted nature. In particular, the suspension of the Administrative Procedure Act—except for sections relating to public information, rulemaking, and agency adjudications concerning an individual—expresses an intent that at best the opportunity to challenge administrative rulings—particularly orders—is quite limited. Indeed, there is the very real question as to who is entitled to administrative review: the parties directly affected by the administrative action, or any interested person, such as a consumer for himself, or on behalf of a class of consumers. My amendment would make certain that such a third party would have all the rights to participate in the administrative process, albeit a watered-down version of the Administrative Procedure Act.

Mr. President, this is only fair. As I say with respect to my amendment on judicial remedies the next amendment I shall offer the administration and enforcement of the stabilization program is not a two-party contract. The public is very much involved. Where there is a legitimate interest, it should be allowed into the decisionmaking process. The administration has created in the Price Commission an advisory committee with extraordinary power. Its members are people from private life not accountable to the electorate. Its decisions appear to be secretly arrived at, and in some cases secretly negotiated with industry. The public has a right to know what is going on at the administrative level, how regulations and orders are justified, what facts and parties were consulted, and last but not least, the opportunity to seek a halt to those administrative actions which are inconsistent with the stabilization program before they get out into the enforcement process.

Mr. President, the legislation before us is as wide as a barn door when it comes to granting substantive authority to the President. As I said recently on the Senate floor, I share the fear of many Members of this body that we may be creating an economic czar in the presidency with life and death control over our economic lives. But I fear more the inequities that may develop when the big companies apply their political, legal and economic pressures to get out from under the umbrella of control. Already the country's largest utilities have been in to see the Price Commission and have wangled out of them a set of regulations, initially at least, which were a virtual green light to rate increases and an abject abdication of Federal administrative control.

However wide the substantive authority, the procedural standards are clearly lacking to provide a challenge to that authority. The bill, as written, limits procedures to the seeking of an "interpretation" of rules, regulations and orders, and the only remedy for an aggrieved person is to be granted an exception or an exemption from the agency's interpretations. Consumer and other public interests should be entitled to more than the interpretation of a rule, and exceptions and exemptions have no relevance to the relief they seek. This is why section 207, in subsection (c) should be broadened to allow full public intervention and full administrative relief. My amendment would do this, and I urge that it be approved.

Mr. President, as I understand it, this amendment would do what the report and the committee attempted to do, and this is merely a clarifying amendment.

Mr. SPARKMAN. Mr. President, we have checked the amendment and we are willing to accept it.

Mr. TOWER. Mr. President, I am willing to accept the amendment.

Mr. METCALF. I yield back the remainder of my time.

Mr. SPARKMAN. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Montana.

The amendment (No. 754) was agreed to.

AMENDMENT NO. 753

Mr. METCALF. Mr. President, I call up my amendment No. 753.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. METCALF. Mr. President, I ask unanimous consent that further reading of the amendment may be dispensed with. I will explain it.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

On page 10, lines 19 and 20, strike out "(subject to the limitations in section 211)".

On page 12, line 23, beginning with "Except" strike out all through "the court" in line 3, on page 13, and insert the following: "The court".

On page 14, strike out lines 5 through 25, and redesignate succeeding subsections and cross references thereto accordingly.

On page 15, strike out lines 1 through 6 and insert the following:

"(d)(1) A district court of the United States shall have jurisdiction to declare".

On page 15, line 14, after the period insert the following: "The court may, in its discretion, issue an interlocutory or permament injunction restraining the enforcement, operation, or execution of any such regulation or order."

On page 15, line 20, beginning with "In", strike out all through the period in line 5, on page 16, and insert the following: "An appeal from an order granting an interlocutory or permanent injunction restraining the enforcement, operation, or execution of any regulation or order issued under this title shall be advanced on the docket of the Temporary Emergency Court of Appeals for the earliest possible disposition. Following consideration of any appeal taken under this paragraph, the Temporary Emergency Court of Appeals shall enter a final judgment affirming, reversing, or modifying the decision of the district court and may grant such further relief as it deems appropriate.".

On page 16, line 9, strike out "shall" and insert "may in the discretion of the court".

On page 16, line 13, strike out "shall" and insert "may in the discretion of the court".

On page 16, line 24, beginning with "The", strike out all through line 11, on page 17.

The PRESIDING OFFICER. On this amendment there is a limitation of 20 minutes, to be divided equally.

Mr. METCALF. Mr. President, the purpose of this amendment is to provide all persons suffering a legal wrong because of any act, practice, order, or regulation arising under the act the right to obtain an injunction holding up such action by the Government or by a company, or both, in the district court from the outset of the litigation. In short, it would provide what exists today—those legal rights that are presently operating under the Economic Stabilization Act of 1970.

The purpose of the previous amendment which was agreed to was to clarify the administrative procedures under the act. This amendment is directed to judicial review under the act.

At first glance, one might think that such rights have been preserved, but this was apparently not the intention of the administration, or of the committee when it reported the bill.

Sections 210—Suits for Relief—and 211—Judicial Relief—according to the committee, were written with three principles in mind: speed and consistency; avoidance of any breaks or stops in the operation of the stabilization program; and relief only for particular persons aggrieved by the program, the person against whom the wage or price action is directed. It was written with the interests of the Government and the recipients of governmental action in mind. With respect to price regulations, which is my special concern, the committee bill creates the implication, if not the congressional presumption, that the regulatory process is a bilaterial relationship between the regulator and the regulated. They have ignored the fact that there is a very important third party to this contract—the consumer, the taxpayer, the public, and he should be entitled to equitable relief.

My amendment would, among other changes, strike the restrictive language in section 211 (d) and (e) on pages 14 and 15 of the bill. That language in effect states that no district court or a temporary court of appeals can issue any interlocutory decree staying or restraining any provision of the act before us, or any regulation or order thereunder, until a final judgment is rendered, except that these courts may enjoin the application of a particular regulation or order to a person to a party to the litigation.

That means, as I understand it, that no interlocutory decree could be issued until the matter went all the way to the Supreme Court. It might be years before the consumer would have the right to test these provisions or regulations that are established.

My amendment also strikes out that part of section 211(g) which says that the Supreme Court and the Temporary Court of Appeals shall have exclusive jurisdiction to determine the constitutional validity of any provision of the legislation or any regulation or order issued under it, and that no court shall have the power to stay such action on constitutional grounds except as permitted above.

Of course, my amendment retains the power in the district court to do just exactly what a district court can do now under present law.

In addition, it makes specific that a district court may, in its discretion, issue either an interlocutory or permanent injunction restraining the enforcement, operation, or execution of any regulation or order. Furthermore, the amendment provides for an expediting procedure with respect to appeals from such equitable relief. This is in keeping with the committee's intention to speed up the judicial review.

These changes—which have been prepared with the assistance of the Senate's legislative counsel office—will have the direct effect of providing any person legally wronged with the right to challenge any action under this title, and seek a stay, until a judicial determination is made.

There is a basic philosophical issue at stake here. The committee bill grants an incredible degree of power to the President of the United States to do what he wishes with our wages and our prices. If we are indeed in a state of economic emergency, that may be necessary. But when at the same time we are asked to forego our basic rights to challenge and enjoin that extraordinary power of the Presidency—when the consumer and the taxpayer and the small businessman and the general public are told to wait while big government, big business, and big labor work out their compromises—then we have lost a very large chunk of democracy in this Nation.

I reserve the remainder of my time.

Mr. SPARKMAN. Mr. President, I yield 5 minutes to the Senator from Texas (Mr. TOWER).

Mr. TOWER. Mr. President, the prime objectives of the carefully composed judicial review section are these:

Only a final judgment by the Temporary Emergency Court of Appeals or the Supreme Court shall enjoin or set aside all or part of any regulation or order of any of the agencies exercising functions under the act.

Second, a district court may issue a temporary injunction with respect to the applicability of a particular regulation or order to a particular plaintiff pending further judicial proceedings.

Third, a district court shall not have authority to enjoin or set aside all or part of any regulation or order of any of the agencies except as permitted as I have already noted.

In a temporary program of this kind, one that hopefully will be of short duration, in which prices and wages must be kept in alinement and under control, there can be no breaks or gaps unless following a final judicial action. The amendment offered by the distinguished Senator from Montana would pose a serious threat to the program and should be rejected. The parties in court proceedings are given injunctive protection in the bill, and this procedure seems to present a far more prudent approach.

If we adopt the amendment of the Senator from Montana, we can completely hobble the program, and it could result in aspects of it perhaps going beyond the point in time in which they otherwise conceivably could have been terminated. There is adequate protection here for an aggrieved person, and I do not think we should adopt the amendment of the Senator from Montana, which I think would have the effect of hamstringing the whole implementation of the program.

Mr. SPARKMAN. Mr. President, I yield myself 5 minutes.

I certainly agree with all the distinguished Senator from Texas has said. I call attention to this fact, which is something that the present occupant of the chair is well aware of, because he was there and participated in it: It may well be remembered that we worked about 2 days on this particular part of the bill. We were not satisfied with the form in which it was sent up here. We felt additional safeguards ought to be made, and we worked them out, and I think we arrived at a very good arrangement, recognizing the fact that the person going into court will want early action and the Government will want early action. That is what we have tried to find a way of achieving, without having long, drawn-out cases or having cases that just drag through the months, and even through the years, waiting for a final settlement. We have provisions that will make it possible to get expeditious action, and we believe that the individual is amply protected.

I hope the amendment will not be agreed to, because I think it would break up entirely something that we worked long and hard to achieve. I believe we have worked out a very good solution, which I hope will be allowed to remain a part of the bill.

I am willing to yield back the remainder of my time, if the Senator from Montana is.

Mr. METCALF. Mr. President, may I respond to the Senator from Alabama and to the Senator from Texas? If I were convinced that all the parties were protected, if I were as convinced as both the distinguished Senator from Alabama and the distinguished Senator from Texas are, I would not offer this amendment. But as I read the bill—and I know a great deal of work has been done on it—the third party, the person with real interest, is not protected at all. The consumer is not protected. The old people who will be affected by increases in rates and prices are not protected. Consumer organizations have no right to come in and appear as parties in interest. It is that third party that we are representing. It is that consumer, that taxpayer, that man in the street who should have his opportunity to have his right protected.

I do not want to throw a lot of procedural obstacles in the way of carrying out this legislation. I agree we are in an economic crisis and something has to be done, and I applaud the fact that attempts are being made in this bill and by other regulatory agencies and appointive commissions to try to take care of the economic crisis that faces America today; but I still think we should observe basic American judicial rights and, in my opinion, as I read the bill, we are not protecting those rights, especially the rights of the consumer, the rights of the taxpayer, the rights of the ordinary citizen.

Hence the need, as I see it, to go into district court. That is the court we have established. That is the court we are used to. That is the court which is able to handle all the other economic, political, and criminal situations that arise in the various districts. We go into that court and before that district judge. Give priority to the handling of these cases and try them in the regular judicial procedure.

I say again, if I were convinced that the assurances that are being given by the managers of the bill are carried out in the protections that are contained in the bill, I would not have offered the amendment.

The PRESIDING OFFICER. Who yields back?

Mr. SPARKMAN. Mr. President, I am willing to yield back my time, if the Senator from Montana is.

Mr. METCALF. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from Montana (putting the question).

The PRESIDING OFFICER. The noes appear to have it. The noes have it, and the amendment is rejected.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. SPARKMAN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 755

The PRESIDING OFFICER. Under the previous order, the Senator from Montana is recognized.

Mr. METCALF. Mr. President, I call up my amendment No. 755.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read the amendment (No. 755) as follows:

On page 10, line 24, strike "may in its discretion," and insert "shall".

Mr. METCALF. Mr. President, I ask for the yeas and nays on this amendment.

The yeas and nays were ordered.

The PRESIDING OFFICER. On this amendment there are 20 minutes, to be equally divided between the opposing sides.

Mr. METCALF. Mr. President, I yield myself such time as I may require.

Mr. President, this is a very simple amendment, and yet it can be so important to the individual who wins his lawsuit against a company who overcharges him by exceeding the ceiling established under the price regulations and orders.

The committee bill permits the court to grant this person attorney fees and costs at its discretion. My amendment would guarantee these costs to him automatically, if he wins his suit. I am pleased to say that the senior Senator from Minnesota (Mr. MONDALE) has a special interest in this amendment, and I ask unanimous consent that his name be recorded as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METCALF. Mr. President, for the average citizen or the small businessman going to court can be a very costly experience—particularly when your opponent is a corporate giant. The other day, a man testifying on behalf of Common Cause told us that he went into court in Colorado and, even before he can appeal or have a motion for a rehearing before a public service commission, he has to raise $1,500 for a printed transcript. That is only one example; all of us know how costly it is to go into court. The fact that section 210 of S. 2891 provides for treble damages for an intentional overcharge may not be enough to encourage a person to seek the full rights he is entitled to under the law. The fact that he may not be encouraged to seek those rights is a serious impediment to the total enforcement process of the price control system.

The Government cannot be everywhere, like the local policeman, keeping the companies honest. It is critical that we must rely on private suits to do a good share of this job. If a party knows from the outset that he will receive both attorney fees and court costs if he succeeds in proving an overcharge, he will likely be much more persuaded to take on the burden of litigation. And the fact that this possibility for court action exists may be a very effective "sword of Damocles" over the potential price gouger.

I do not agree with some, that giving court costs and attorneys fees may encourage spurious suits. The actions to be brought under this section are in the Federal district court. Such a court is quite capable of disposing of litigation which has no merit. A person without a meritorious claim is generally reluctant to risk time and money at the Federal court level.

Rather, I see my amendment as an extra incentive toward private enforcement of the law and a reasonable and fair addition to the relief available for any violations of that law. "Overcharge" has been an unpunished business crime for years in the public utility sector, and in other areas of commerce. Certainly in this instance, where we are all trying to cooperate toward rebuilding a healthy economy and reducing inflation, those who do not cooperate—who try to sneak out from under the controls in order to make a fast buck—are business criminals in every sense of the word. They should be brought to justice. Indeed, there are criminal sanctions, but the possibilities of these being enforced, except in the most extreme cases, are not great. This section, with guaranteed attorneys fees, and court costs, adds a special dimension to the enforcement process. It could be one of the most effective sections of the bill. I hope the amendment will be adopted.

Mr. SPARKMAN. Mr. President, I yield 5 minutes to the Senator from Texas.

Mr. TOWER. Mr. President, I am not a lawyer, and I am a little bit hesitant to get into these matters, but the Department of Justice takes the view that an award of attorneys' fees to the prevailing plaintiff is not the practice in American litigation. There are only a few statutes authorizing such awards and they are invariably discretionary in the court. Situations that will arise in this type litigation are not so predictable that we should make mandatory what may be a heavy burden, especially may this be so in a borderline case involving the intention to violate or some such problem of proof.

The award of court costs is also discretionary in Federal statutes, and for similar reasons the Justice Department opposes making this award to the prevailing plaintiff a mandatory matter. I am informed that such mandatory awards are not a precedent. There is no precedent for such mandatory awards in our legal system. I would, therefore, urge the Senate to reject the amendment.

Mr. DOMINICK. Would the Senator yield for 1 minute on this?

Mr. SPARKMAN. Yes, I yield.

Mr. DOMINICK. It just strikes me, looking at this, that not only is this an award of attorneys' fees but it also requires the court to put in whichever is the greater of the two extra amounts referred to on page 11. No matter how you slice it, this is an incentive for everybody to go ahead and bring suit. On an individual basis around this country you could flood the courts in nothing flat, because here is a payment they are going to receive if they should be successful. I do not think this is proper legal practice, and it does not seem to me it is proper judicial practice.

Mr. SPARKMAN. Mr. President, I will yield back the remainder of my time.

Mr. METCALF. I am prepared to yield back all of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Montana. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Oklahoma (Mr. HARRIS), the Senator from Washington (Mr. JACKSON), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Maine (Mr. MUSKIE), and the Senator from West Virginia (Mr. RANDOLPH) are necessarily absent.

I further announce that the Senator from Florida (Mr. CHILES) and the Senator from Idaho (Mr. CHURCH) are absent on official business.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Indiana (Mr. BAYH) would each vote "yea."

I further announce that, if present and voting the Senator from West Virginia (Mr. RANDOLPH) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Ohio (Mr. SAXBE) is absent on official business.

The Senator from Arizona (Mr. GOLDWATER) is necessarily absent to attend the funeral of a friend.

The Senator from Utah (Mr. BENNETT) and the Senator from South Dakota (Mr. MUNDT) are absent because of illness.

If present and voting, the Senator from Arizona (Mr. GOLDWATER) would vote "nay."

The result was announced—yeas 23, nays 65, as follows:

[No. 409 Leg.]

YEAS—23

Bellmon
Burdick
Byrd, W. Va.
Cooper
Fulbright
Gravel
Hart
Hartke
Hughes
Humphrey
Inouye
Kennedy
Magnuson
Mansfield
McGee
Metcalf
Mondale
Moss
Pastore
Pell
Proxmire
Ribicoff
Stevenson

NAYS—65

Aiken
Allen
Allott
Anderson
Baker
Beall
Bentsen
Bible
Boggs
Brock
Brooke
Buckley
Byrd, Va.
Cannon
Case
Cook
Cotton
Cranston
Curtis
Dole
Dominick
Eagleton
Eastland
Ellender
Ervin
Fannin
Fong
Gambrell
Griffin
Gurney
Hansen
Hatfield
Hollings
Hruska
Javits
Jordan, N.C.
Jordan, Idaho
Long
Mathias
McClellan
McIntyre
Miller
Montoya
Nelson
Packwood
Pearson
Percy
Roth
Schweiker
Scott
Smith
Sparkman
Spong
Stafford
Stennis
Stevens
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

NOT VOTING—12

Bayh
Bennett
Chiles
Church
Goldwater
Harris
Jackson
McGovern
Mundt
Muskie
Randolph
Saxbe

So Mr. METCALF's amendment (No. 755) was rejected.

Mr. GAMBRELL. Mr. President, I move that the vote by which the amendment was rejected be reconsidered.

Mr. TOWER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 758

The PRESIDING OFFICER (Mr. STEVENSON). Under the previous order, the Chair now lays before the Senate amendment No. 758 of the Senator from Wisconsin (Mr. NELSON) which the clerk will state.

The assistant legislative clerk read as follows:

On page 7, strike out all of lines 7 through 15, inclusive, and insert in lieu thereof the following:

All information reported to or otherwise obtained by any person exercising authority under this title which contains a trade secret or process shall be considered confidential, except that such information may be disclosed to other officers, agencies, boards, commissions, or similar entities empowered to carry out this title solely for the purpose of carrying out this title or when relevant in any proceeding under this title. All other information received in justification of wage or price increases shall be made available to the public.

The PRESIDING OFFICER. On this amendment there is a time limitation of 2 hours to be equally divided between the opposing sides.

Who yields time?

Mr. NELSON. Mr. President, how much time is allocated to the amendment?

The PRESIDING OFFICER. Two hours.

Mr. NELSON. I thank the Chair. I do not anticipate that it will be necessary to use up the total time allocated.

Mr. President, this amendment is sponsored by myself and Senators HARRIS, HART, METCALF, and PROXMIRE.

The main purpose of this amendment, in a nutshell, is to require the country's most important corporations—those with annual sales of $50 million or more—to justify their price increases and to make that justification public. The amendment will do no more, in effect, than require the very large corporations in the Price Commission's price categories I and II to submit to the same kind of public scrutiny of the profits involved in their price increases that virtually all of the publicly held, category III corporations have always experienced.

The amendment will assure that the public will have as much information about the product profits of diversified, multiple-product corporations as it has or routinely can get about the product profits of all small corporations that file public reports with the Securities and Exchange Commission. Another purpose of the amendment is to give the public access to approximately the same kind of information concerning price increases—whether of single-product or multiple-product corporations—as it already has about wage increases. In short, the purpose of this amendment is to assure fairness and equality of treatment for the consuming public, the giant diversified companies, the single-line and smaller companies, and the labor unions.

There is nothing complicated about the amendment and in fact nothing new about the concept. Everyone that has talked about the phase II program of economic controls, from the President on down, has made the point that the program will not work unless it wins general acceptance, support and cooperation from businessmen, labor, farmers, consumers, and the public at large.

And everyone, from the President on down, has made the point that phase II will get that kind of acceptance and support only if it is basically fair and equitable in the way it allocates benefits and hardships among different groups in the economy.

This amendment is intended to help the program win that wide acceptance and support by assuring fairness and equity in one vital area: The allocation of information and knowledge.

At the present time, when labor wins a wage increase, all the essential information is in the public domain. Anyone interested can find out exactly what the workers got before the wage increase and what they will get after the wage increase. The public has what it needs to form an intelligent, independent judgment on whether the Pay Board acted wisely or unwisely.

It is terribly important that the public be able to perform this function of Monday-morning-quarterbacking the decisions of the Pay Board. The sense of fairness and equity depends on it.

It is just as important for the public to be able to evaluate the decisions of the Price Commission. But here the situation is very different. The public cannot carry out its vital function of Monday-morning-quarterbacking the Commission's decisions. That is because the TV screen goes blank during the winning plays, and there is no live audience admitted to the "game."

Mr. President, these "games"—the proceedings and reasoning of the Price Commission—result in immense taxation of the American consumer, in the form of approved price increases. Yet they are played with no spectators. There is no one there but the players: The corporation that wants the price increase, and the Price Commission that approves it.

This can truly be described as a kind of taxation without representation. It is unfair and unreasonable, and it will, if it persists, cost the whole phase II program the public confidence that it needs to succeed. This amendment will admit the public, as spectators, to the "game."

DISCRIMINATORY TREATMENT

Under the bill that is before the Senate, there would be added to the Economic Stabilization Act of 1970 a new section called "Section 205. Confidentiality of Information." It is that section that we propose to amend.

I shall explain how the Pay Board and the Price Commission will function, given the present regulations and the bill as reported. Then, in contrast, I shall explain how they will function if our amendment is adopted.

If section 205 becomes law in the form reported, as a practical matter, the public will have extremely different rights of access to information about the benefits that different groups in the economy obtain under Pay Board and Price Commission decisions. These differences in public access will be seen as gross discrimination by the groups whose benefits are involved.

Consider first the benefits obtained by labor in the form of wage increases approved by the Pay Board. As I have already noted, those will be fully in the public domain. The hourly rates and fringe benefits obtained before and after the approved increase will be known to everyone interested.

Consider next the benefits obtained by a single-line corporation in the form of a price increase approved by the Price Commission. In the case of corporations, it is of course not enough simply to know the before-and-after prices. For the public to be able to appraise benefits, in meaningful terms, it must know before-and-after profits. In the case of the single-line corporation which is a public company—that is, one whose securities are registered with the Securities and Exchange Commission, so it is subject to SEC rules—product profits can be estimated with considerable accuracy. Publicly held corporations send quarterly and annual reports to their stockholders, and those reports are in the public domain. They also file somewhat more detailed quarterly and annual reports with the SEC, and those, too, are available to the public. The financial statements that are included in the reports to stockholders, in the reports to the SEC, or both, normally show net sales, major items of investment and cost, depreciation and amortization of plant and equipment, net income or loss before and after taxes, and earnings or loss per share. When the corporation makes only a single product or only a single, narrow line of products, an astute competitor or consumer watchdog can make fairly close estimates of the effect on profits of a particular price increase. That is so even though the Price Commission withholds the exact information the corporation submitted to it.

We have a quite different situation when the corporation obtaining the Price Commission's approval for a price increase on a single product is a giant, multiple-line company. Such a corporation, if publicly held, also sends annual and quarterly reports to stockholders and files annual and quarterly reports with the SEC. But it is required by the SEC to present full profit and loss data only on a consolidated basis. Insofar as particular lines of business are concerned, the corporation needs report only the respective contributions to sales and income—or loss—without any of the other ordinary financial-statement data. Worse, the term "line of business" is left undefined by the SEC, with the result that the information a conglomerate files on any "line of business" can hardly ever be compared with a product line, usually much narrower, on which a price increase has been approved.

Finally, and worst of all from a public information standpoint, consider the case of the large, multiple-line corporation that is closely held. If a company has never registered an issue of securities with the SEC for sale to the public, there is probably no information at all available to the public with which to evaluate the effect on its profits of a particular price increase approved by the Price Commission.

We see here four different levels of real, meaningful disclosure to the public of the benefits obtained through decisions of the Pay Board and Price Commission. In such a system as this, it may be said that everyone is equal—but some are more equal than others.

Approval of this amendment would, for the purposes and duration of the wage and price control program only, bring this discrimination to an end. It would bring into the public domain all information offered in justification of wage and price increases by the category I, prenotification firms and the category II, reporting firms, as defined in the phase II regulations.

Closely held corporations and multiple-line corporations would be disclosing more to the public than they do now, but not any more than their publicly held and single-line competitors have been disclosing all along. That alone would bring a long needed measure of competitive equity to the information disclosure requirements of the different types of corporations. However, the amendment would also result in equalizing the treatment of information about price increases with the information about wage increases. In both cases, the public would be able to evaluate real economic benefits and real economic impact.

The great winner under this amendment will, in fact, be the inflation-weary public. The information that will come into the public domain, if the amendment is adopted, will combat inflation in two ways. First, it will subject the Price Commission to a more meaningful type of public surveillance of its decisions. Perhaps even more important, in the long run, such information will make competition function more effectively as a check on inflation.

CRISIS LEGISLATION

Mr. President, the bill before the Senate is crisis legislation. The country is in an inflation crisis. Nothing short of crisis could induce us to put our market system on ice, for a major part of the economy, and substitute a system of wage and price controls.

The bill before us is also temporary legislation. The authorization it would give the President to continue his phase II economic stabilization program will expire April 30, 1973, under the bill as reported—and even sooner under some of the amendments that have been offered, if they are adopted.

Surely, in a crisis, and for a temporary program, our large corporations should not object to sharing with the public the same types of information about product-line profits and losses that that their single-line competitors are routinely disclosing and have disclosed for years.

From the viewpoint of either the single-line publicly held corporation or the regulated-industry corporations, there will be difficulty in accepting an assertion made by Chairman Grayson of the Price Commission when he appeared before the Joint Economic Committee on November 18. Dr. Grayson said that disclosing the major corporations' financial data to the general public would amount to—

> Opening up the corporate records of most of the major concerns of the nation, and I think this opening up completely would be a change in our total systems thus far of the free enterprise system.

I wonder if Chairman Grayson has discussed that view with such single-line giants as American Motors or Maytag, or with such regulated giants as Pan American Airways or Consolidated Edison. I wonder if he has discussed it with any of the small businesses in this country. All that this amendment would do is make the conglomerates tell as much, or perhaps only almost as much, product by product and industry by industry, as the single-line and regulated companies have been telling everyone for decades.

TRADE SECRETS

Incidentally, adoption of this amendment will in no way force disclosure of legitimate trade secrets. Actually, the amendment even strengthens the reported bill in that regard. It does so by adding after the words "trade secret" the words "or process," to indicate that proprietary technical data, including manufacturing and other secret business processes, that come into the hands of the Price Commission or any of the other phase II agencies will be held strictly confidential. But our amendment deletes the reference to section 1905 of the Criminal Code, to avoid incorporating by reference into the Economic Stabilization Act a sweeping prohibition against the disclosure or publication of corporate economic data offered in justification for a price increase or, for that matter, a wage increase. That kind of information belongs in the public domain.

ONLY A VERY FEW FIRMS ARE AFFECTED

Another point to remember is the extremely limited percentage of all American companies that will be affected by the phase II program's full sweep—and by this amendment.

For all practical purposes, the Price Commission is going to be concerned only with price increases of some 2,500 corporations. There are few if any sole proprietorships or partnerships in the country doing $50 million or more a year in sales.

In the corporate sector, companies with over $100 million a year in business receipts—the category I, prenotification firms—in the last year for which full statistics have been compiled, 1968, numbered exactly 1,314, or less than one-tenth of 1 percent of the corporate population. However, they accounted for 44.7 percent of all business receipts of corporations and 59 percent of all corporate net income—less deficit—that year.

Corporations with annual business receipts of $50 to $100 million—those that Price Commission regulations would designate as category II, reporting firms—numbered 1,065, or 0.07 percent of the corporate population in 1968; but they accounted for 4.8 percent of the corporate business receipts total and 5.8 percent of the total corporate net income—less deficit.

All other corporations—those that would now be put in category III, or firms with annual business receipts under $50 million, which are not subject either to prenotification or reporting of price increases but are subject to monitoring and spot checks—represented 99.8 percent of the corporate population in 1968, but accounted for only 50.4 percent of total corporate business receipts and only 35.2 percent of corporate net income—less deficit.

Mr. President, I ask unanimous consent to have a table showing the relative positions of price category I, II, and III firms in the corporate population of 1968, and showing the dollar and percentage shares of each in business receipts and net income—less deficit—printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

1968 CORPORATION INCOME TAX RETURNS[1]

Size class (in business receipts)	Number of returns		Business receipts		Net income (less deficit)	
	Number	Percent	Millions	Percent	Millions	Percent
All active corporations	1, 541, 670	100	$1, 403, 499. 6	100	$85, 962. 0	100
Category I, prenotification firms: Corporations with business receipts of $100,000,000 to $1,000,000,000	1, 191	0. 08−	314, 358. 6	22. 4−	23, 538. 6	27. 4−
Corporations with business receipts of $1,000,000,000 or more	123	(2)	313, 050. 7	22. 3	27, 159. 9	31. 6−
Category II, reporting firms: Corporations with business receipts of $50,000,000 to $100,000,000	1, 065	. 07−	67, 660. 7	4. 8+	4, 985. 8	5. 8
Category III, all other firms: Corporations with business receipts under $10,000,000	1, 529, 425	99. 2	536, 591. 7	38. 2+	19, 732. 3	22. 9+
Corporations with business receipts of $10,000,000 to under $50,000,000	9, 833	. 6+	171, 837. 8	12. 2+	10, 545. 3	12. 3−

[1] Detail may not add to totals due to rounding.
[2] Less than 0.01 percent.

Source: U.S. Internal Revenue Service, Statistics of Income—1968, Corporation Income Tax Returns.

Mr. NELSON. No amount of familiarity with these figures can overcome my feeling of concern over the immense share of business receipts and business income accounted for by the firms in price categories I and II. Furthermore, if the trends since 1968 have been the same as the trends from 1958–68, the giant corporations will show even greater percentage shares of receipts and income in 1969, 1970, and 1971 than in 1968, when all the statistics are compiled.

THE LARGEST CORPORATIONS ARE THE MOST SECRET

No one can quarrel—and I have not heard that anyone is quarreling—with the administration's decision that phase II must concentrate on the firms with over $50 million a year in sales; the program will rightly focus on that less than 0.2 percent of the corporate business population that enjoys 65 percent of the corporate net income. But there is a good bit of dissension developing about what increasingly seems to be the rule that, if you are a corporation, the bigger you are the more secret you can be, even in phase II. There is a good bit of resistance growing to the proposition the giants have so long been making, and have been permitted to make into national policy, that they would be irreparably damaged, competitively, by disclosing their product-line profits and losses, investment and costs.

We are asked to believe, for example,

that General Motors, with total 1970 sales of $18.7 billion, dares not, for competitive reasons, tell the public how it is doing, in profit terms, in even so broadly defined a line of business as passenger automobiles, light trucks and equipment. Yet anyone can read the 1970 annual report of GM's comparatively tiny—though still very large—competitor, American Motors, with annual sales that year of under $1.1 billion, and tell how it is doing in the passenger cars, light trucks, and equipment line, because that was its only line.

We are asked to believe, similarly, that General Electric, General Motors, or Westinghouse dare not, for competitive reasons, tell the public how they are doing in even so broadly defined a line of business as "laundry equipment, dishwashers, food disposers, and repair parts and services." To do so, it is suggested, would competitively imperil GE, which was No. 4 on the Fortune 500 list for 1970; GM, which was No. 1 and Westinghouse, which was No. 13. Yet Maytag Co.'s 1970 annual reports to stockholders and the SEC tell us exactly how it was doing in that line of business, for that was its only line. And somehow Maytag, which was No. 486 on the 1970 Fortune 500 list, with sales of only $173.7 million, manages to stay alive in the hard, competitive world of that business line. Can it really be that GM, with its $18.7 billion total sales, cannot tell the world as much as Maytag, with its sales of under $0.2 billion, tells the world about the line of business in which GM and Maytag are competitors? Can it really be that GM could not make such disclosures even for purposes of a temporary, crisis, inflation-fighting program?

Mr. President, I do not believe it, and I earnestly hope the Senate will not accept that argument. If it does, it will have gravely endangered the credibility and thereby the success of phase II.

All that this amendment would ask the giant—category I and category II—corporations to do is to justify their price increases, product by product, in cost and profit terms comparable to the disclosures routinely made by their publicly owned category III competitors in their annual reports, and to make that justification public. The bill (S. 2891) as reported would keep the justification a corporate-Government secret, and that is simply not good policy.

VIEWS OF FOUR EMINENT ECONOMISTS

The Senate Small Business Subcommittee on Monopoly, which it is my privilege to chair, began hearings on corporate secrecy on November 9. The fourth session of those hearings will be tomorrow—December 1—and it is anticipated that they will continue for some time.

At the second session of the hearings, on November 12, I asked a distinguished panel of economists to evaluate the impact of corporate secrecy on phase II. These men—Profs. Walter Adams, John Kenneth Galbraith, Willard F. Mueller, and Donald F. Turner—have some very important differences on many points of economic theory and policy; but on the subject of corporate secrecy in phase II they were unanimous in their opinion. Here are some highlights from their testimony:

First, Prof. Walter Adams, distinguished university professor, professor of economics, and recently the interim president of Michigan State University:

> Prof. Adams. How can you regulate something you don't understand? How can a doctor make a rational diagnosis of the ills of his patient without subjecting the patient to a complete and thorough physical examination and taking his medical history? That is the position we are in.

Next, here is the observation of Prof. Donald F. Turner of the Harvard Law School, a lawyer who is also the holder of a doctorate in economics, and the former head of the Antitrust Division of the U.S. Department of Justice:

> Prof. Turner. That brings us back to Senator Nelson's question. Given the wage and price controls, particularly price controls, is it possible to carry these out in a rational fashion without the kind of disclosure we have all been talking about? It seems to me the answer is perfectly obvious. You can't.

Prof. John Kenneth Galbraith, of all the panelists, most supports wage and price controls in principle, and has had the most direct experience with them. This is what he said:

> Prof. Galbraith. I was in charge of this operation [wage and price control] in World War II. At that time, although talent was scarce and money was scarce, we had to invest an enormous sum of money. We subcontracted it out to the Bureau of Labor Statistics.
>
> That was to get a full-scale system of financial reporting. When we were faced with the question of pleas for increase in price, we had an independent check of the corporation from our own sources on the legitimacy of their claim. I don't think a price administration can be worked on any other basis. At that time those figures were all kept confidential and not released. I can't imagine that this could ever be possible again. It is astonishing in retrospect that we got away with it at that time. The inequities of the situation, I think, will be evident to anyone. The wage claims, the fringe adjustments, anything of that sort, is all in the public domain. This is all disciplined. If, then, the counterpart price increases that a corporation asks for on the basis of the wage increase, if it is based on a secret calculation of profits, it is going to look like a sweetheart deal between the Administration and the corporation. The Administration is sooner or later going to find it embarrassing and the unions are not going to stand for it. I would conclude that the only possible way, at least for this large group of corporations, where the Administration is more or less for real, that you would have to give the same publicity to the cost and profit calculations as is implicit in the trade union situation.

* * * * *

> Senator Nelson. You spoke about the great difficulty of the wage and price control situation in the Second World War and the vast machinery that it took. What would be so difficult in this current situation, for whatever the temporary period is, to at least take the top 1000 or 1500 corporations and require a total disclosure of all the information that you gentlemen think ought to be disclosed, and publicly, too, so that there is confidence in the public and among the working people who, whatever they get, have it right out there in the open?
>
> Prof. Galbraith. I think that it would be essential and that the Administration will find this is a very desirable procedure.

Prof. Williad F. Mueller of the University of Wisconsin, like Dr. Galbraith, has had some personal experience in highly relevant Government posts. He is the former chief economist of the Federal Trade Commission and, during the Johnson administration, was executive director of the Cabinet Committee on Price Stability. This was his comment on the situation as it appeared on November 12—the day after the phase II regulations were announced:

> Prof. Mueller. * * * *
>
> As the program was reported this morning, the companies of over $100 million are to report price increases, and unless the commission advises otherwise within 30 days after notification is received the price change will take effect. I predict that the bulk of the prices will simply go into effect because something has to be done and the people involved just don't have the facts.
>
> The whole thing is going to be extremely inequitable. As pointed out by Professor Galbraith, we know all the facts when it comes to wage increases so it is very easy to come up with a 5.5 percent guideline there. But this program, as it was announced, which is going to set a profit margin on sales as the standard, is so grossly inequitable.
>
> Senator Nelson. * * * * My question was, if you are going to have integrity and believability in what we are doing, don't you have to have disclosure? My question is, is it mechanically that difficult?

* * * * *

> Prof. Mueller. It is not at all impossible and extremely desirable.

PHASE II REQUIRES EQUITY, AND EQUITY REQUIRES DISCLOSURE

If S. 2891 passes the Senate with section 205 in the form reported, I predict hard times and failure for phase II. There will be at least two important reasons that would not augur well for the success of the program.

The first is that the program will seem, as Professor Mueller put it, "so grossly inequitable" to a segment of the population that may represent a good bit less than half the wealth but a good deal more than half the electorate.

The second is that, by embracing and protecting corporate secrecy, the program will hinder the operation of competition, a once honored force in America and one that still has a much better chance than all kind and manner of regulation to really bring prices down and promote prosperity and employment. But information about where the profits and losses are is both the fuel and the lubricant of competition, and it is information that is being monopolized and which this bill would keep monopolized, unless it is amended. Cutting off the flow of information gravely damages competition. Disclosure of corporate profits, by industrial and product lines, will crank into the economy the kind of business knowledge on which competition breeds and thrives.

Mr. President, it was Louis Brandeis who said that sunlight is the best disinfectant and electric light the most efficient policeman. By adopting the proposed amendment, the Senate will opt for sunlight and openness, for open profits openly arrived at, for an open society. By rejecting this amendment, the Senate will opt for a continuation of the competition-stifling, mistrust-breeding policy of corporate secrecy aided and abetted by Government secrecy.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. NELSON. I yield.

Mr. PROXMIRE. Mr. President, I congratulate my colleague on his amendment. I think that the Senator put it very well when he pointed out that this program cannot fully work unless it has public confidence. And that public confidence should be based on the broadest and the deepest possible knowledge and justification.

I call to the attention of my colleague that when the Wage Board made the decision the other day on increasing the wages of the coal miners by 16.8 percent, I think it was a shock to many, many people throughout the country.

In my view it would have been far better if those hearings had been covered publicly by the press. Short of that, I think it would have been better if a transcript of the hearings had been made and made public so that we would have known the justification for this apparent, prima facie violation.

This was not made available. What my colleague is doing is proposing that the information used by a firm to justify an increase in wages or an increase in prices be made available to the public. But as I understand it, he is safeguarding the trade secrets or processes which obviously should be safeguarded.

Mr. NELSON. The Senator is correct.

Mr. PROXMIRE. I would like to point out to the Senator the provisions in the law to which this provision in the bill refers. It is stated on page 7 at line 7:

> "All information reported to or otherwise obtained by any person exercising authority under this title which contains or relates to a trade secret or other matter referred to . . . shall be considered confidential for the purposes of that section,".

The law referred to provides for:

> Trade secrets, processes, operations, style of work, or apparatus, or to the identity, confidential statistical data, amount or source of any income, profits, losses, or expenditures of any person, firm, partnership, corporation, or association; or permits any income return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person except as provided by law.

This means, in effect, because of this provision the public is going to be kept in the dark. They are not going to have any real basis for understanding whether the decision of the Price Commission and the Wage Board is justified or is not justified.

Mr. NELSON. The distinguished senior Senator from Wisconsin is absolutely correct.

We have a situation here in which wage guidelines are established and, in effect, are wage controls. That information is the basis for a wage increase, for a fringe benefit, which is public information from the beginning. It is printed on the front page of the newspapers. Whatever discussion there is, is open to debate and opinion. Whatever their last raise was is open to discussion. The cost of living is well known to everyone. And everything that happens to wage earners under guidelines established earlier by the President under the provisions of this bill are public information.

Now, suddenly we have the question of price controls applicable to all corporations in the prenotification class, those corporations with sales of over $100 million. Under the law their prices are under control of the Price Commission and they cannot increase their prices without prenotification to the Commission. If the Commission denies it, based on whatever information these huge corporations furnish, that is the end, and it is denied.

However, if they are granted a price increase which, in effect, is a tax on all the people in this country, the Price Commission, under this bill, cannot give the justification for the price increase. So the huge corporation, whether it be General Motors or any one of the top 1,000 corporations, can come in and offer a justification that is held secret. This is corporate secrecy at its worst.

As for those in the second tier, corporations in the $50 million to $100 million class, they are not in the prenotification class. They are in the reporting class. That group of corporations would have to file a quarterly report. They can increase prices with the consent of the Price Commission, but they have to file a quarterly report. Presumably in the report, they will demonstrate the justification for the price increase. Again, it is a matter of secrecy. No one in the public knows what goes on.

The question of the integrity of the system and the confidence of the public are at stake here, and the real question is, Why should not these huge corporations, the big conglomerates which have 25, 50, 100, 200 or more different businesses and different companies, be required to make public the same kind of information that all of the single-line producing companies in America make public today, reporting what is their profit?

If they say they need a price increase, what is the justification for the price increase? There is no rationale for the information distinction between Maytag, which is one of the top 500 industrials in this country, but a limited or single-line producing company, on the one hand, and the conglomerates, on the other. The factors which go into Maytag's pricing structure and profit are public. There is no reason why the same factors should not be available for General Motors or Tenneco. They should all report on the same basis, and under this bill they will not do this.

Mr. PROXMIRE. Is it not true, with respect to the recent approval by the Price Commission of certain steel prices that were permitted to be increased more than 7 percent, that this could be a very critical decision? It could have very severe inflationary consequences.

As I understand it, there are other pending increases for steel that might be 6 or 8 percent. But, as the Senator pointed out, the big corporations—United States Steel, Bethlehem, and so on—are diversified in the steel industry.

It is impossible for any Member of Congress or for any consumer, to be in a position to determine whether or not any price increase was justified. It just cannot be done. There is a specific prohibition in the bill for making the data public on which an evaluation can be made.

Mr. NELSON. The Senator is correct.

Mr. PROXMIRE. I understand the purpose of the amendment of my colleague is to remove that prohibition and to protect trade secrets and processes which should be protected, but to remove the inhibition against concealing the other data which is essential to a fair evaluation.

Mr. NELSON. That is correct. We have before us a proposed statute which is going to regulate wages and prices. It is a matter of grave public concern. That is why the President initiated the controls in the first place, based on a statute passed by Congress some time back. That is why this legislation is here. The matter of inflation in our economy is a critical, crucial, important matter of public concern. Therefore, the bill is before us which authorizes the President, until the middle of 1973, under the provisions of the bill, to establish guidelines for wage increases and for price increases because the interest of the Nation is at stake here.

Why should not the great corporations of this country, if they come in and say to the Price Commission, "We are entitled under the law passed by Congress to a price increase and here are the reasons justifying the claim for a price increase," make that information available to Congress and everyone else, the justification for the claim for the price increase? How can there be any integrity, any confidence at all in the system if they come in in secret and indicate the reasons for price increases and the increases are granted in secret? How can the public, or anybody else, have confidence in the integrity of the system?

Mr. PROXMIRE. Let me ask the Senator, in anticipating objection to this amendment, if he recalls the fact that when he and I served in the Wisconsin State Legislature we had in effect a State statute that provided that all State income tax returns of every individual, of every corporation, in the State would be open to public inspection. That was in effect for 30 years, and, to the best of my knowledge—and I ask my colleague, because he served in the State Senate and I served in the State Assembly—there was no abuse, discrimination, or damage to corporations or others. It worked very well. The amendment my colleague proposes is not that far reaching at all. All he is saying is that when a firm comes in and asks for a price increase and justifies the price increase, then the justification should be made public except, of course, that trade secrets or processes should be protected.

Mr. NELSON. The Senator is absolutely right.

Mr. PROXMIRE. I cannot understand why in the world they should not be made available. I cannot think of any justifiable reason in light of the experience in the State of Wisconsin, where we had a far more far-reaching law on the books. If any damage was done, I do not know of any.

Mr. NELSON. I do not, either. It started under Governor Blaine in 1923, and was closed almost totally in 1955. So that was, in fact, 32 years. All we are saying here is that in this crisis situation, under this crisis legislation, which is temporary, when a motor company or a manufacturer of machine tools or any other equipment says, "We need a price increase, and here is our justification," the public is entitled to know what the justification is. I cannot see any reason whatsoever why it should not have to prove its case.

Mr. PROXMIRE. One other point: What is difficult about this whole process is that without the Nelson amendment it is going to be extraordinarily hard for consumers to police this program. It is going to be a sad joke if one tries to go out and find out why there was an increase of 5 or 10 percent, which legally was permitted. But try to get the justification for it. One has to find out what the costs are, what the productivity is, what the profit margins are. If that information could be made public by the large corporations, so we could have competent economists get on top of these big decisions and have the data evaluate them, then there would be more confidence on the part of the consumer. Under the present system as proposed, they will feel bewildered, overwhelmed, and there will be no real basis for understanding whether the decision was wise or not. As the Senator knows, the reaction of the consumer will be that the system is rigged against him and that it is deeply unfair when wages are kept down and prices are going up and nobody can find out why because the law prohibits him from getting that information.

Mr. NELSON. That is right. I think of the big conglomerates, some of which may own 50 or 100 companies and may make 50 or 100 different products. When one of those conglomerates comes before the Price Commission and says, "We need to raise the price that we are charging for our lawnmowers," the Price Commission itself may not even have the information as to whether it is a justifiable increase for the lawnmower. The public definitely will not, because that conglomerate does not even report to its stockholders that way, and it does not report to the Securities and Exchange Commission that way. It reports on a consolidated basis.

So we are here saying to all the workers of the country. "You are under the guidelines. Any claims you make for an increase is open to the public and open to discussion on the floor of the Congress the House and the Senate, in newspapers across the country, but when big corporations come in and ask for a price increase, that is all secret."

That is corporate secrecy at its worst, and, in my judgment, it will collapse the whole system, because it will ruin the confidence of the consumers of this country.

Mr. HART. Mr. President, will the Senator yield?

Mr. NELSON. I yield.

Mr. HART. Mr President, the amendment of the Senator from Wisconsin (Mr NELSON) should, I think, have the strongest support not only of this body but of the President himself.

President Nixon has made it perfectly clear that if the control program has any hope of abating inflation it must have public support. I could not agree more. Government controls of wages and prices—at their best—are not the greatest. But if the public treats them with suspicion—if corporations and investors think they will fail or are merely window dressing—the economy will roll on under controls much as it did without them. This means more inflation and more unemployment.

If we reject this amendment—and thereby ask the public to accept with a childlike faith that "big daddy" government in the person of the Chairman of the Price Commission knows best—we are seriously denying any chance of success the control program could have.

Indeed, the early decisions of the Price Commisison do little to instill that public confidence. Maybe they were good decisions. Maybe the price hikes were justified—despite the fact they seem to violate the Price Commission's own 2½-percent average increase goal.

But the public does not know. They do not have the information upon which the decisions were made. They have only the facts reported in the papers. And what kind of facts are these?

Let us look at the price increase approved for the steel industry. Thus far, price increases of 7 percent have been granted to two steelmakers for tin mill products. Bethlehem is reported to have asked for increases of 7.6 percent for its output; Republic Steel is reported to have asked for an 8-percent across-the-board increase. These requests look suspiciously like the 8-percent price increases announced last August but withdrawn by various producers because of the freeze.

How then have we benefited from the unprecedented implementation of peacetime price controls? In this industry not even any significant moderation in price escalation has occurred. The new economic policy cannot even claim to have delayed price increases, since the announcements in August, for Bethlehem in particular, were not supposed to take effect until next February.

Is it any wonder if the public looks at price increases such as that granted the steel industry and wonders if the question of price increases depends not on what is being asked—but who is asking.

No doubt many other cases with similar facts will develop as the control program continues. Why paint ourselves into a corner where we are begging the public to be suspicious? Why not make these decisions as public as possible in order to reassure consumers that their interests are being protected?

One of the great advantages of a truly free enterprise system is that the people can rely on the "invisible hand" of competition to protect the public interest in economic affairs. Concentration of economic power in few hands takes away that protection. From time immemorial, societies with the English common law system have turned to public control of prices charged by "businesses affected with a public interest."

Traditionally, American policy has been to foster competition where competition is technically feasible and to regulate prices of natural monopolies. Price regulation by Government is generally viewed as less desirable than competition; but, absent competition, Government control rather than private price control is thought more likely to protect the public interest. But the efficiency of public price control in peacetime must surely depend on something more than blind faith in the Government regulators. This is especially so when price decisions are made by one man in Government—regardless of whether the other members of the Commission agree.

The public must be given the facts used to justify price increases if the economic stabilization program is to work.

That secrecy existed during the OPA and OPS days of wartime is no justification for secrecy in this program for two reasons. For one thing, the wartime controls were part of a general mobilization effort in which the public participated with enthusiasm for a limited period of time. Second, the wartime controls did not really work very well—particularly toward the end of each period of controls.

The question presented by section 205 of the bill and by Senator NELSON's amendment is whether public oversight of private pricing power requires disclosure of the data on which price decisions are made and justified. From time immemorial public utility regulation has been carried on under the full light of public disclosure of all information used by the regulators to make judgments about the public interest. Indeed, not only do commissions require and disclose detailed financial data, they even specify accounting procedures to assure against obfuscation. Furthermore, it is quite common for intervenors representing the public interest to request commissions to obtain and disclose additional information. Precedent is clearly on the side of disclosure.

The bill to extend and amend the Economic Stabilization Act of 1970 would allow virtually all information filed by corporations in justification of price increases or requests for increases to be examined in total secrecy. Public scrutiny of the evidence used by the Price Commission to authorize price increases could never occur. In other words, a built-in credibility gap is guaranteed just because the public will be asked to accept 2- 3- 4- and in some cases 10-percent price increases on blind faith. Yet the President himself has stated that the program cannot work without public support.

The amendment before us would protect legitimate interest of business in trade secrets and process while protecting the legitimate interests of the public, including other businesses, in knowing the factual basis of decisions of the Price Commission. For without public confidence in Price Board decisions, there shall soon be no effective program.

I urge we adopt the amendment.

Mr. NELSON. Mr. President, I reserve the remainder of my time.

Mr. TOWER. Mr. President, I yield myself 5 minutes.

The Freedom of Information Act, now codified in title 5, United States Code, section 552, basically states what information must be made available as a matter of public information. Exceptions to that requirement of availability are set forth in subsection (b), paragraph (4) of which lists:

> Trade secrets and commercial or financial information obtained from a person and privileged or confidential.

Essentially, that section does not preclude the release of information not required thereby to be released—for example, interagency memorandums containing recommendations—unless otherwise prohibited from disclosure as by statute.

Title 18—crimes and criminal procedure—section 1905, specifically forbids the disclosure of among other things, "confidential statistical data." S. 2891 would specifically amend section 205 of the Economic Stabilization Act of 1970 to prohibit the disclosure by the Price Commission of a trade secret "or other matter referred to in section 1905 of title 18, United States Code."

The amendment dated November 29, 1971, proposed by Senator NELSON—for himself and others—would amend that provision by limiting the confidentiality requirement to "a trade secret or process," which is a type of information that would ordinarily not be pertinent to a submission to the Price Commission. It would specifically provide that:

> All other information received in justification of wage or price increases shall be made available to the public.

The effect of that amendment would be to supersede the mandatory provisions of 18 U.S.C. 1905 insofar as confidential statistical data, for example, are concerned and also 5 U.S.C. 552 (b)(4), the Freedom of Information Act, and affirmatively require that, except for trade secrets and processes, all commercial or financial information which is customarily regarded as privileged or confidential and is so treated at the present time, be made a matter of public information.

This amendment would represent a radical reversal of previous law and national policy, and would severely inhibit the effective operation of the economic stabilization program.

The amendment, dated November 29, which has been proposed by the distinguished Senator from Wisconsin, would compel disclosure of virtually all information submitted to the Price Commission by firms seeking a price increase. This would include much information traditionally held confidential by business firms, such as first, their precise costs, both labor and material, by product line and for the firm as a whole; second, their calculations of productivity; third, for retailers and wholesalers, their customary initial markup, and fourth, past and estimated revenues for products covered by the request.

The thrust of the Freedom of Information Act and laws dealing with confidentiality is that persons and firms should be encouraged to deal with their disclosure to any person of information which a firm protects in the course of normal competition should be allowed only under the most compelling circumstances.

The ready disclosure of confidential cost and productivity data would inhibit frank disclosure of such data to the Price Commission, and could encourage the withholding or even falsification of relevant data. Its availability could facilitate collusion among competing firms. It may threaten confidences between suppliers and their customers. It is not the purpose of the economic stabilization program to inhibit the normal competitive process in our economy.

In addition, the amendment would unnecessarily interfere with the already burdensome administrative load of the Price Commission. Disruption would undoubtedly ensue if even the most casually interested party, not to mention representatives of competitors and the entire financial community, were given access to business data previously held in confidence. Under existing Price Commission practice, interested parties who have relevant data are already given the opportunity to make submissions with respect to pending requests for price increases, and notice of filings for price increases are regularly made public—without disclosure of confidential data. Thus the advantage of public disclosure—opportunity for increased citizen participation—is already being gained without the interference with traditional competitive practices represented by the Nelson amendment, in that the workability of this economic stabilization program, in the President's own view and the view, I think, of anyone else associated with it, is dependent largely on public cooperation.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. TOWER. I think that we should do as little as possible to inhibit that public cooperation. Certainly, anything which would result in the disclosure of traditionally regarded confidential information on the part of business firms would hardly be an inspiration to them to cooperate.

I therefore suggest that we should inhibit them as little as possible, and follow the existing statutes on the matter, and that the amendment of the Senator from Wisconsin be defeated.

Mr. NELSON. Mr. President, I do not have any additional comments to make on the amendment.

Mr. HARRIS. Mr. President, will the Senator yield me about 2 minutes?

Mr. NELSON. I yield 3 minutes to the Senator from Oklahoma.

Mr. HARRIS. Mr. President, I rise, as a cosponsor of this amendment, to compliment the distinguished Senator from Wisconsin (Mr. NELSON), his colleague (Mr. PROXMIRE), and others for this amendment, and on their other efforts to try to make this whole bureaucratic mess of across-the-board wage and price controls that we are faced with here somewhat more workable, if that is possible.

I particularly think this is a very important amendment. I believe that people have a right to govern themselves, and I think they are smart enough to govern themselves. They are, if they have the information. Our system of government based upon the consent of the governed depends upon the governed knowing what it is they are consenting to, and that is exactly what is missing in regard to these basic wage, price, and other decisions under this program as it is presently being administered.

The late Walter Reuther some years ago had the idea that there ought to be a wage-price board of some kind which could hold hearings in regard to price, wage, and related decisions that had impact on the national economy, and it was his view that public opinion could be brought to bear upon those decisions so that, if there was a wage increase demand which was not matched by a rise in productivity, or was not otherwise justified, the board, with public hearings, could announce what was justified. The same would be true with regard to suggested price increases, under the procedure that the late Walter Reuther suggested. Public opinion would be brought to bear upon those decisions, which are not decisions that are or ought to be purely private, when the lives of a great percentage of the public are involved.

I believe it is in furtherance of that principle that this amendment is presented and ought to be approved.

In 1964, Mr. Reuther suggested that if the automobile companies were willing to roll back price increases, to give to the consumer the benefit of rising productivity in the automobile industry, the United Auto Workers would be willing to hold down wages.

After considerable consideration of that proposal, the automobile companies rejected it and decided instead to take unto themselves and their stockholders the benefits of rising productivity, instead of cutting back on prices.

As I have said here earlier today and yesterday, if we are going to have a workable wage-price policy of any kind—and I think we must; where the market does not work, I think the Government must intervene in these decisions, though I think we ought to lessen the instances where we should intervene—if we are going to have a workable policy, it not only means that we ought to hold increases in wages and prices within certain limits, but I think it means that in many instances rising productivity ought to be translated into decreased prices.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. NELSON. I yield the Senator whatever additional time he may require.

Mr. HARRIS. We are never going to get around to anything like that unless public opinion is brought to bear on the decisions that are made by these various boards and commissions. They are a bureaucratic maze and a labyrinth, all of these boards and commissions that have been set up. I think they are terribly confusing. They are going to get worse and worse in that regard, and the very least we can do is open up their proceedings to public view, to give the information that is necessary for public decision about these matters to the public.

Therefore, I am pleased to be a cosponsor and supporter of this amendment.

Mr. NELSON. Mr. President, I thank the Senator from Oklahoma. I agree that under the circumstances, when the so-called classical market economy is in fact not working, and we have an inflationary situation such as we have been witnessing here for particularly the last 4 years, it does require Government intervention. I think the real tragedy is that the intervention is so late. Three and a half years ago, in a speech on the floor of the Senate, I suggested that at that time we had better go to wage and price controls, but we waited so long that prices have risen unnecessarily and dramatically during that period of time, and it is necessary now to have some kind of intervention. The tragedy of it all is that we are intervening in such a milquetoast fashion as is proposed here, with all the major corporations being able to maintain total secrecy from the public, along with the Price Commission, over the issue of justification for the price increase. I do not think that is sound public policy. I do not think there is any political justification for it, and I do not see how the public and Congress can support a measure that does not require the kind of public disclosure that is necessary under the circumstances with which we are involved, particularly since this kind of public disclosure has been made by all the single product line public corporations filing with the Securities and Exchange Commission for years and years, and by all the single line public corporations reporting to their stockholders for many, many years. If they can do it, so can the major corporations of this country.

Mr. HARRIS. Mr. President, will the Senator yield further?

Mr. NELSON. I yield.

Mr. HARRIS. I would just like to comment on that. Take Ford Motor Co., for example. The headline of a news item yesterday and today reads, "Ford Motor Co.'s Request for 4.4 Percent Price Increase Rejected."

That sounds great. It sounds as if they are really protecting us. But then you read further, and the article says that, instead, they have been granted a 2.9 percent price increase.

How do we know that is justified? We do not have the slightest idea. My feeling is that prices ought to come down, and they should have no increase at all. Automobiles are overpriced with respect to foreign competition. But all we know is, they did not get the 4.4 percent they wanted, but they did get 2.9 percent, and we do not have the slightest idea, not having the facts, as to whether any of that was justified, and I do not think it was justified.

Mr. NELSON. I might say that is a marvelous ploy, so often used in my State. I remember for years the insurance companies would come in and say, "We need an 8 percent increase in the premiums," and then the commissioner would look real hard at it and say, "Make it 4." They were entitled to 2 percent, but both the commissioner and the insurance companies thought they looked very good.

Mr. PROXMIRE. Will the Senator yield in support of the position he has taken.

Mr. NELSON. I yield to the Senator whatever time he may desire.

Mr. PROXMIRE. I have found that the economists and other experts of the UAW are extraordinarily able and intelligent people. They have argued that the productivity in the automobile industry is very, very high, and that it is very difficult to justify at the present time any kind of price increase. In this particular industry the productivity is very great.

The Senator stated the figure, I recall, as a 2.5 percent increase for Ford Motor Co. It was 2.9 percent. As the Senator from Oklahoma points out, that could be much too high. It could be unjustified, but there is no way he can know, that I can know, or that the economists who would like to analyze and criticize and give us some help on this could know either, because the data is all kept secret.

Mr. HARRIS. Mr. President, will the Senator yield for just a second?

Mr. NELSON. I yield.

Mr. HARRIS. The automobile industry is faring rather well under the economic and tax proposals of President Nixon. They have the benefit of the excise tax cut; they have the 10-percent surcharge against competitive imports; they have the move toward devaluation which will help them with exports; and now we come along with a 2.9-percent increase for Ford Motor Co., and similar percentage increases for the other companies. They may be justified. I do not think they are, but the main point is the point the Senator has just made again, and that his colleague has made: no one knows whether that is so or not.

Here they are going to get what looks to me like too much of an increase on top of rather favored treatment anyway.

Mr. PROXMIRE. May I ask the Senator from Texas, my good friend, the ranking Republican member of the committee, if I heard him correctly when he said that he felt that because the workability of this legislation depends upon public confidence, the amendment by the Senator from Wisconsin (Mr. NELSON) should be rejected in that the amendment, which would require disclosure, would somehow undermine public confidence? Was that the position taken by the Senator from Texas?

Mr. TOWER. I think that if business is required to disclose to the public, or if there is required to be a public disclosure of information that business has too readily held to be confidential, to be necessary to maintain a competitive posture in business, it would certainly, I would say, have a tendency to undermine business confidence in the program. I do not think that is an unfair statement. I do not think it reflects on business.

Mr. PROXMIRE. Well, what kind of information? After all, the Senator would safeguard trade secrets and processes. What kind of information would in any way be damaging to business that was made public in justification of the price increase?

Mr. TOWER. Well, not being in business myself, I am not a businessman by profession, just as I am not a lawyer by profession. I am a political science teacher, and everybody knows that a political science teacher does not know anything about anything.

I can, however, conceive of various kinds of information relative to costs, production, and other matters that business holds in confidence that for various reasons perhaps they do not care to have their competitors know, that they could be required to disclose. I am not prepared to say specifically what it would be, but certainly I think that business has a right to keep this information to itself. Certainly this information is going to be available to the board, and I cannot conceive of the board, on the basis of this information, acting in any way contrary to the public interests, when the idea is to hold prices down. Therefore, I do not think it is necessary that there be this disclosure.

Mr. PROXMIRE. In this bill we give to the board extraordinary power. We give them the power to permit price increases, to permit wage increases—literally a life or death power over business. If we cannot know the basis, if we are prohibited from knowing the facts on which they made their decision, there is no way we can evaluate it. Talk about arbitrary power, talk about Congress giving up to a board which we do not even confirm extraordinary power—this seems to me to be something that is very hard to justify when the one kind of discipline we are asking for—certainly a very limited discipline—is that we have a disclosure.

I think my colleague from Wisconsin would agree to any modification of his amendment which the Senator from Texas would propose to safeguard legitimate secrets which business would like to retain.

Mr. TOWER. I do not know of any particular modification that has been offered by the Senator from Wisconsin.

Mr. PROXMIRE. Well, I do not mean to speak for my colleague, but what I am saying is that I think my colleague has taken the position that he certainly does not desire to offer an amendment to do any damage to either business confidence or to business operations or business competitors. I think the Senator probably would be willing to modify his amendment if that were necessary to provide whatever assurance the opponents of the amendment might feel would be desirable, provided there can be added additional disclosures which we do not now permit under the bill.

Mr. NELSON. I think the amendment is very carefully drawn so as to be sure that the Price Commission is prohibited from disclosing any trade secrets whatsoever, or processes developed by the company that affect its competitive position. All we are saying is that they should make public the information that they claim justifies the price increase, which is the kind of information made available to the public now by all of the single product line corporations in the United States.

We are not asking that the conglomerates or the large corporations with more than one product line disclose any more than the small and large corporations that produce only one product disclose now. That is all the amendment would guarantee.

Mr. President, is the distinguished Senator from Texas prepared to yield back the remainder of his time?

Mr. TOWER. I am prepared to yield back the remainder of my time if the Senator from Wisconsin is prepared to yield back his time.

Mr. NELSON. Mr. President, I yield back the remainder of my time.

Mr. TOWER. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

Mr. NELSON. Mr. President, I call attention to the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. On my amendment, Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wisconsin (Mr. NELSON). The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Washington (Mr. JACKSON), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Maine (Mr. MUSKIE), and the Senator from West Virginia (Mr. RANDOLPH) are necessarily absent.

I further announce that the Senator from Florida (Mr. CHILES), and the Senator from Idaho (Mr. CHURCH) are absent on official business.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON), the Senator from South Dakota (Mr. MCGOVERN), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Indiana (Mr. BAYH) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Ohio (Mr. SAXBE) is absent on official business.

The Senator from Arizona (Mr. GOLDWATER) is necessarily absent to attend the funeral of a friend.

The Senator from Utah (Mr. BENNETT) and the Senator from South Dakota (Mr. MUNDT) are absent because of illness.

If present and voting, the Senator from Arizona (Mr. GOLDWATER) would vote "nay."

The result was announced—yeas 35, nays 53, as follows:

[No. 410 Leg.]

YEAS—35

Bentsen
Burdick
Byrd, W. Va.
Cannon
Case
Cook
Cooper
Cranston
Eagleton
Fulbright
Gravel
Harris
Hart
Hartke
Hughes
Humphrey
Inouye
Kennedy
Long
Magnuson
Mansfield
McIntyre
Metcalf
Mondale
Montoya
Moss
Nelson
Proxmire
Ribicoff
Spong
Stafford
Stevenson
Symington
Tunney
Weicker

NAYS—53

Aiken
Allen
Allott
Anderson
Baker
Beall
Bellmon
Bible
Boggs
Brock
Brooke
Buckley
Byrd, Va.
Cotton
Curtis
Dole
Dominick
Eastland
Ellender
Ervin
Fannin
Fong
Gambrell
Griffin
Gurney
Hansen
Hatfield
Hollings
Hruska
Javits
Jordan, N.C.
Jordan, Idaho
Mathias
McClellan
Miller
Packwood
Pastore
Pearson
Pell
Percy
Roth
Schweiker
Scott
Smith
Sparkman
Stennis
Stevens
Taft
Talmadge
Thurmond
Tower
Williams
Young

NOT VOTING—12

Bayh
Bennett
Chiles
Church
Goldwater
Jackson
McGee
McGovern
Mundt
Muskie
Randolph
Saxbe

So Mr. NELSON's amendment (No. 758) was rejected.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. SPARKMAN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 770

The PRESIDING OFFICER. Pursuant to the previous agreement, amendment No. 770 is now laid before the Senate. The time limitation is 1 hour. The clerk will report the amendment.

The legislative clerk read as follows:

> § 219. Reports
>
> In transmitting the Economic Report required under section 3(a) of the Employment Act of 1946 (15 U.S.C. 1022), the President shall include a section describing the actions taken under this title during the preceding year and giving his assessment of the progress attained in achieving the purposes of this title. The President shall also transmit quarterly reports to the Congress not later than thirty days after the close of each calendar quarter describing the actions taken under this title during the preceding quarter and giving his assessment of the progress attained in achieving the purposes of this title.

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. PROXMIRE. Mr. President, this amendment is simple, and, if anything, it is much too modest.

First of all, it requires that the President include a section on the stabilization program in his annual Economic Report to Congress. He would be required to report on the action taken during the preceding year and whether substantial progress has been achieved in curbing inflation. Second, he would be required to submit quarterly reports to Congress on the action taken during the preceding quarter under the Stabilization Act and the progress achieved.

It is expected that he would delegate much of the responsibility for preparing the reports on the Pay Board and the Price Commission.

Mr. President, I say this is a modest amendment because it in no way restricts the President's authority under the act. As I made it clear on yesterday and today, I think this legislation gives the President far too much power for far too long a period of time. Nonetheless, if we are to give the President this authority we should at least require periodic reports. Otherwise Congress has no systematic way to exercise its oversight responsibility over the program.

The Pay Board and the Price Commission have just begun. Within the next few weeks they will make some extremely important decisions. It is possible that the Pay Board may go the way they went on the coal decision. There is some speculation they might very well do that. It is possible that with regard to prices they may follow up on the very generous decision they made with respect to steel prices with respect to the prices established in other industries.

I think that Congress ought to follow this very closely. Unless we get quarterly reports, we will not be able to do that. The Joint Economic Committee depends very heavily on basic information in the documents and the President's report.

I am not criticizing President Nixon in this respect, because in many ways his record has been good. But all Presidents have tended to neglect some phases of our economy when it had seemed to their interest to do so. For example, under previous Presidents we have not had information in the economic report on the agricultural economy. We all recognize that this is a serious oversight because it is so important to us. We worked very hard for years to try to get some Presidential observations on the progress toward securing a better income for farmers and a more orderly situation in agriculture. But it was very hard to get. It was like pulling teeth. I think that over the past years we have been able at best to get just two pages on agriculture in the 150-page economic report of the President.

In the amendment we require that the President shall in the economic report, report to us on the progress on this important program—the most important program Congress has passed, in my view, in the last 10 years. If we are able to get this information, we will be able to act responsibly.

Mr. PERCY. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield.

Mr. PERCY. Mr. President, I have read the amendment. There is no requirement as to how lengthy and detailed the report should be. It does not seem to be an onerous requirement on the President.

When the President's annual Economic Report is made, it is examined by the Joint Economic Committee. Under the provisions of the pending amendment, could the distinguished Senator tell me to what committees the quarterly report required by the amendment would be referred?

Mr. PROXMIRE. That would be up to the Parliamentarian. We do not specify where it should be referred. My off-the-cuff view is that they would probably go to the Banking Committees of the House and Senate which have jurisdiction. We would hope that the Joint Economic Committee would also have access to them. However, they would properly go to the House and Senate Banking Committees.

Mr. PERCY. I would hope certainly it would be appropriate for the Committee on Banking, Housing, and Urban Affairs to examine these reports. It is very germane and pertinent to their work. I hope also it might be logical to send the report to the Joint Economic Committee and its members so that they might have an opportunity to review such matters as important as wages, prices, and the cost of living for the country, and to do so on a regular quarterly basis. I have no doubt that the President would include this as a major section of his economic report anyway.

I trust that economic controls will be a very temporary part of our economic life. I detest economic controls of this type, and I think we will find them more and more unworkable and we will find that they are subject to increasing abuse.

I hope we can get rid of them at the earliest possible time. I hope the President would include a target date as to when he hopes we can get rid of the controls and get back to a free economy and free market which we know to be the best and fairest and most effective and efficient regulator of our economic life.

I think the Senator's amendment is worthwhile and I intend to vote for it.

Mr. PROXMIRE. I appreciate the Senator's statement very much. Again and again we had objections in the committee and on the floor of the Senate. We had the overwhelming vote on the Harris amendment which would have provided a limitation on the extension. People argue we do not need that because Congress can enact legislation to change the law any time, but I cannot accept that because I think we need the discipline of termination. This amendment would provide some regularized information that the Executive must give the Joint Economic Committee annually and the Committee on Banking, Housing and Urban Affairs on a quarterly basis. The Senator from Alabama (Mr. SPARKMAN) is a member of the Joint Economic Committee. As the Senator from Illinois knows, WRIGHT PATMAN is the chairman of both committees in the House, so I think there will be no difficulty in getting this information, if this is agreed to, to the Joint Economic Committee. Then, Congress would be in a better position to consider taking the action that the Senator from Illinois infers in his comments that Congress is likely to be requested to take.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield.

Mr. HUMPHREY. Mr. President, first of all, I wish to state to the Senator from Wisconsin that I assure him of my support, but I would like to indicate to the Senate why I think this amendment is important.

The great unresolved problem of the economic stabilization program is the role of Members of Congress to participate in what is one of the most far-reaching governmental endeavors undertaken in the history of this country. We have experienced wartime controls, but never controls of this type in peacetime.

I think the Senator's amendment permits us to be a Congress which has a share in monitoring the program, to be informed on a periodic basis as to the decisions made, the consequences of those decisions and why they are made.

And, I want to be clear. I want the legislative history to emphasize not merely a pro forma report, but an in-depth, detailed reporting—why decisions were made, the factors involved, the immediate impact of those decisions on the country, the economy, and the future of this Nation.

Mr. PROXMIRE. I must say that I am glad the Senator is making this statement because, as the Senator from Illinois pointed out, the amendment, as drafted, is very free and easy. The President can do pretty much what he wants to do. It does not tie him in to any specific kind of report that he has to make.

I expect the Wage Board and the Price Commission would summarize their activities for the previous reporting period, they would identify the parties involved, they would indicate the decisions made and the basis for their decisions. This should give us a fairly accurate picture of the pattern which is beginning to emerge, whether the program is working or whether modifications need to be considered.

Mr. HUMPHREY. I think it is important that Congress not abdicate its responsibility. The Senator from Wisconsin's amendment ties in congressional responsibility. I think it is critical that Congress not give complete delegation of power. Third, Congress must retain a key role in passing not only this legislation but also future legislation and any other action which may be required to reduce unemployment and stem inflation. What we do here now is a blank check to the Executive. I am against a blank check. I am not against stemming inflation. I am not against giving the President the authority he needs. But I am against doing so without any role for Congress. I believe we must retain in Congress an explicit oversight function. Otherwise we have given to the executive branch more power than any other executive in the world, and that includes countries we do not commonly classify as free countries.

Let me illustrate what I mean.

I could not help but note an article in the Washington Evening Star of Thursday, November 18, concerning the authority of C. Jackson Grayson, Jr., Chairman of the Price Commission, wherein he is reported to have stated:

> I will make most of the decisions on whether to allow or prohibit price increases. I am the only official authorized to sign for the Commission as the Commission is advisory to me.

I read this article with the statement by the Chairman of the Price Commission and if ever there was a czar over the economy it is the Chairman of the Price Commission. He said frankly that he will determine what the price of goods will be. This is not only wrong, it runs counter to all our national democratic principles.

Mr. PROXMIRE. We do not even confirm this man.

Mr. HUMPHREY. Here is a man with more control over this economy than all the monopolies put together, than the Federal Reserve Board, more power over the economy than the Secretary of the Treasury, and we do not know anything about him. I venture to say that there is no one in this body who knows where this man was born, how old he is, where he was educated, or his background.

Yet that man—according to his words—said he will make all the decisions. We have not had him here to talk to him. The Congress has not had the opportunity to be acquainted with the details of his appointment.

We are going to have a big battle about the Secretary of Agriculture. The powers of the Secretary of Agriculture compared with the Chairman of the Price Commission are like a child compared to a superstar on a professional football team. We give this Chairman absolute authority; he said he has it and that he will use it. He said his associates advise him, but he will make decisions.

Now, I am going to cast my vote to let the President see what he will do about the economy because otherwise he will say we stood in his way.

So, Mr. President of the United States, I for one will give you the authority you are asking, but I want to make it clear we want to monitor that authority. I think the Senator's request for a yearly report from the Council of Economic Advisers is not adequate. I think we should have one every 6 months, or every 3 months.

Mr. PROXMIRE. Mr. President, I have provided two things: No. 1, the President must make a report to the Joint Economic Committee when he makes his regular economic report, and he shall include in that a report of the conduct of the stabilization program. In addition, I provide for quarterly reports to be made available to the Banking Committees of the Senate and the House on the conduct of the Pay Board and Price Commission, and I specify the particular explanation which will be required on the decisions they have made so we can make an evaluation of their progress or lack of it.

Mr. HUMPHREY. Does the Senator have any additional time?

Mr. PROXMIRE. Yes. I yield to the Senator.

Mr. HUMPHREY. I want to engage in a colloquy. I have been privileged to serve on the Joint Economic Committee under the chairmanship of the Senator from Wisconsin. I think the country owes the Senator from Wisconsin a debt of gratitude for his alertness and awareness of the great economic problems that beset us, as well as his understanding of what we are trying to do to overcome those problems. I do not know of any Member of this body who has done a better job, and I want to compliment him, but when I read the report of the Price Commission, listen to this language:

> If a business man disagrees with a ruling by the chairman, he said—

Meaning Mr. Grayson—

> a hearing before the full Commission can be "requested" but not "demanded."

He went on to say:

With advice from the staff, Grayson will determine which cases he will decide and which he will refer to the full commission or a panel of three or four members.

I pause and gasp when I think of an administration that has been condemning my party for years for interference with free enterprise. We on this side of the aisle have been called Socialists. We have been called do-gooders. We have been told time after time that we have sought throughout the years under Democratic Presidents to impose all kinds of rules and regulations upon the free enterprise economy.

I want us to know what we are doing. The President asks for carte blanche authority. I submit that never in the history of this country, in wartime or peacetime, has more authority been granted to fewer men, who have not been brought before this body for confirmation, than today—in 1971. I really think the Senate is abdicating its responsibility. I see no reason why the Chairman of the Wage Board and the Chairman of the Price Commission should not be required to have confirmation. The fact that they are on those bodies now does not influence me a bit. As far as I am concerned, they are acting and temporary.

Mr. PROXMIRE. May I say I have submitted an amendment requiring confirmation, as the Senator knows. That amendment will be up either later today or tomorrow morning. It would require that the Chairman of the Pay Board and of the Wage Commission be confirmed. It provides that he may serve for 60 days while the confirmation is pending. It also provides that there can be no delay. We have drafted the legislation in such a way that it is insulated from any kind of filibuster, and a vote for or against confirmation must come within 60 days. But I think the Senator raises a fundamental point. To permit men to exercise this enormous power without confirmation, without knowing what their philosophy is, without justification of what they are doing and letting us know how they are operating, is difficult to justify.

I must say that the chairman of the committee (Mr. SPARKMAN) has, by what he has put in the majority report, greatly helped us in requiring the Chairman of the Price Commission to act in the way I think all of us think he should when he said:

It is expected that the decisions of the Wage Board and the Price Commission will be reached by majority vote.

That is a departure from the Grayson procedure which was outlined in a column in the Star which was carried some weeks ago.

Mr. HUMPHREY. I submit a report is very helpful. That is why I think the House and the Senate—the Congress—should be endeavoring to monitor these proceedings, because the Chairman of the Price Commission does not feel that way. He does not feel the way the majority report says. He says in effect, "I will make the decisions and I will refer the cases."

Mr. PROXMIRE. As a matter of fact, he expected the other members of the Price Commission who are private members would operate on a per diem basis. They are to be paid when they are in Washington. He said they will be here in town only 1 or 2 days a week.

When one thinks of the tremendous size of our economy and the number of cases likely to be before the Board, to think they would be handling this amount of work in 1 or 2 days a week is ridiculous. We cannot have information on the price program when we have a six or seven man Commission paying this little attention to it and coming in town once or twice a week.

Mr. HUMPHREY. I understand the bill does require that there will be confirmation of the new members of the Commission.

Mr. PROXMIRE. The Senator is correct.

Mr. HUMPHREY. The Senator from Wisconsin likewise knows I have submitted an amendment, amendment No. 550, to require confirmation of all public members, but I think most important is a requirement for confirmation of the chairmanship, because of the unique role which the Price Commission and Wage Board occupy.

I have strong feelings about this, because we are, in a sense, setting a precedent here that will come back to haunt us in days ahead. I predict that unless we pin down these economic and legal responsibilities, we are going to face a great public outcry in the near future.

The Senate has been spending a lot of time on the question of what is called powers of the Executive in matters of peace and war. We have spent a great deal of time in hearings on the powers of the President in national security matters. If there is one area of the Constitution that gives the President a unique position as Commander in Chief, it is in his role as Commander in Chief, even though I must say we have gone too far in recent years in placing almost unlimited authority and power in the Presidency when it comes to matters of foreign policy and national security and defense.

However, when we refer to the economy, when we get down to the enterprise system of this country, I submit the Constitution outlined pretty carefully the role of the Congress with reference to commerce. It is Congress which has the authority over interstate commerce. It is Congress which has authority over fiscal matters. It is Congress which ultimately imposes taxes and appropriates money. The Congress has the same kind of unique authority in the field of the domestic economy which the President has under the Constitution in terms of international affairs and foreign policy.

What we are doing here—and we ought to know what we are doing—is that we are giving to the President powers outlined for Congress in the Constitution. We are saying to the President, "You, Mr. President, will regulate interstate commerce. You, through your authority, will regulate prices and wages."

This may be required for our economy. All I am saying is I am gratified that there are Members of this body who are concerned about this aggrandizement of Executive authority, because I really believe we are going to look back on this period and say, "How did we do that?" We have looked back on the Gulf of Tonkin resolution with hindsight, and there has been great emotion and great argument in the Senate over what we did or did not want to do. I do not want any argument about what we are doing now. We ought to know what we are doing—with our eyes wide open.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. PROXMIRE. Just this morning I read in the newspapers that two or three prominent Senators have gotten together about limiting the President's power with respect to his military role. It was a very constructive proposal, one which I think I would be interested in supporting. But I do have some feeling about the matter of the President of the United States, as the Senator from Minnesota has pointed out, as the Commander in Chief, and about limiting his power in this area. However, with respect to the economy, there just is not anything like it. Witness after witness said we are not just giving the President the ball game; we are giving him the whole ball park in this legislation. We are. He can do anything he wants. The restraints are very limited. In fact—and I have great respect for my friends on the other side of the aisle—I honestly think that if this were a Democratic President who was asking for this power, there would not be one Republican vote for this legislation.

I really think that, although I think they want information just as much as I do, or more. But this is most important. We have a situation here where Republican Members are supporting their President and showing their loyalty, and deserve admiration for it. Democrats are saying, as the Senator from Minnesota said in his earlier remarks, "We do not want to be in a position of not giving the President everything he needs to fight inflation."

The result is that we are giving away far too much power to the executive, in an area where we have no right or reason, under the Constitution, to do it. So at the very least, we should require the President to report. At the very least, we should require confirmation of the people the President appoints.

Mr. HUMPHREY. And at the very least, we should require as much public information as possible without invading privacy, trade secrets, or special trade research that would violate what we call the principles of contract and free enterprise.

But I do believe that the Senator from Wisconsin has alerted us. I have told the Senator that I could not vote for just a 2-month extension. I remember that the Chairman of the Federal Reserve Board, the distinguished Arthur Burns, in testifying before the Joint Committee on the Economic Report, said we should not extend the authority more than 6 months.

Mr. PROXMIRE. At one time he said not more than 2 weeks. Then he went to 2 months. Then he received the Presidential appointment; but his judgment before he was inhibited by his relationship with the President was that the President should be kept on a very, very short leash.

Mr. HUMPHREY. I feel that if we do not extend it, we are going to hear from the propaganda mills of the administration that some of us stood in the way of making this program effective. I am not going to stand in the way of making the program effective, but I am going to insist that those who have this dictatorial power at least get confirmation.

I think we need confirmation. I thank the Senator for pressing this point, and I hope the Senate will back him in seeking that responsibility of confirmation by the Senate of these appointees.

I also want monitoring. I hope the Joint Economic Committee will properly staff itself so that we can monitor these proceedings. I think we owe that to the business community and the laboring people of this country. I think we owe it to the economy. We are giving authority here to two or three people in this Government that no man in the Soviet Union has, that nobody in any country has, and that it is all being done in the name of stabilizing the economy.

One of the things that bothers me is that there is not to much stability, that there is a great deal of confusion, and I hope that after we pass this legislation, or work our will upon it, we will at least try to bring some order out of what appears to be a good deal of economic confusion. I hope that business leaders will understand the guidelines. Today they do not. Look at the way the market has been jumping up and down. One week ago it was bearish; today it is bullish. It goes up 10 points or 17 points, and then it drops. What kind of an economy is this?

I happen to believe that until we get to the point where there is some understanding internationally as to the value of the dollar, until there is some international monetary agreement, and until understanding what the guidelines are in this country, we are not going to get any new prosperity and we are not going to get out of our troubles. I happen to believe that our troubles are not just domestic. I believe that until there is some adjustment of the currencies of the world, and until there is some new international monetary understanding, there is not going to be much progress here in terms of healthful economic growth and stability.

I ask unanimous consent to have printed in the RECORD at this point the article entitled "Grayson To Use His Power," written by Lee M. Cohn and published in the Washington Evening Star of November 18, 1971, unless it has already been placed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

GRAYSON TO USE HIS POWER

(By Lee M. Cohn)

C. Jackson Grayson Jr., the self-styled "country boy" who heads the Price Commission, knows he possesses tremendous power and he intends to use it.

"I will make most of the decisions" on whether to allow or prohibit price increases, Grayson said in an interview.

Despite his personal modesty and mild manner, "Jack" Grayson believes it is his job to hold the reins of power in controlling prices, with the six other members of his commission playing a supportive role.

"I want to use the commission to the maximum," he said, pledging to keep his colleagues informed and consult them in pattern-setting cases.

But as chairman of the panel, he said, "I am the only official authorized to sign for the commission, so the commission is advisory to me."

Carrying out this take-charge theory, Grayson acted for the commission yesterday in issuing the first decision on a proposal to raise prices. American Motors Corp. was granted its request for permission to raise prices on 1972 model autos by an average 2.5 percent.

Grayson made the ruling in the name of the commission but decided it on his own, after consulting one other member, Robert F. Lanzillotti.

With advice from the staff, Grayson will determine which cases he will decide and which he will refer to the full commission or a panel of three or four members.

Only a relatively few cases involving substantial departures from basic price guidelines or industries with particularly great effects on the economy will be referred to the commission, he said.

The great majority of cases must be decided by the chairman, he said, because the full commission probably will meet only once or twice weekly after the control program is well launched. With that sort of schedule, the full panel could not keep up with the hundreds of requests for rulings expected weekly, he said.

Grayson said he will keep the commission informed of important cases, to give his colleagues an opportunity to express their views, and will log minor rulings for their inspection.

"I doubt that I would ever go against a majority," he said, expressing willingness to listen to arguments that might change his mind about a ruling.

"It would be unwise for me to ignore them," se said.

But at least theoretically, he said, the chairman has the right to make a final decision even if the other commission members want to participate.

If a businessman disagrees with a ruling by the chairman, he said, a hearing before the full commission can be "requested" but not "demanded."

As the $40,000-a-year chairman, Grayson is the commission's only full-time member and the only federal employee on the panel. The other members, paid only for the days they work, serve part-time and continue on their regular jobs outside the government.

The commission's main task is to establish basic policies, standards and guidelines on prices, Grayson said. It is the chairman's job to apply those principles to specific cases, with the advice of the commission, he said.

PAY BOARD DIFFERS

By contrast, the Pay Board appears to be operating with the full participation of all 15 members. Some of the members seem to have more clout than Chairman George H. Boldt.

Grayson, 48, was dean of the Business School at Southern Methodist University, Dallas, when President Nixon chose him to head the Price Commission.

An affable, soft-spoken man, Grayson is not ashamed of confiding that he is impressed at being thrust into high echelons of government.

After meeting with Nixon at the White House on Monday, he told an aide that he still is "enough of a country boy" to be thrilled by the experience of talking to a President.

CHOW IS GOOD

Grayson received an invitation to dinner at Blair House, and had to ask an aide what and where it is. He was assured that "the chow is pretty good" at the President's guest house.

Grayson said the toughest decisions probably will involve productivity, rents and the service industries.

Productivity—usually defined as output per man-hour—is a factor because a company seeking a price increase must allow for productivity gains in calculating its net cost increases. It is difficult to measure productivity in many instances.

More broadly, Grayson said the commission must take care to minimize any adverse impact on the economy from price controls.

A policy development section will gather and analyze "feedback" data on the economy, he said, to help determine whether commission policies are hurting the economy or failing to achieve the goal of cutting the inflation rate in half.

On the basis of this continuing economic analysis, he said, the commission will decide whether to tighten or loosen controls.

One problem the commission will have to watch is the risk that price controls may deter shifts of economic resources to meet changing needs. Pricing is considered the main signal or device for allocating resources, and controls could dull the sensitivity of this process.

COMPETITION LIVES

Another potential worry is that the limit on profit margins for companies requesting price increases could blunt incentives for cutting costs. A firm using efficient methods to lower costs could widen profit margins and thus lose the right to raise prices, while an inefficient firm with rising costs could be allowed price increases.

Grayson admitted this could be a problem, but said he doubts it will be.

"Competition is not dead," he said.

If a company lets its costs rise faster than those of its rivals, he said, it will fall behind its competitors—after price controls end, if not sooner.

The commission is operating from the seventh floor of an unfinished new office building at 2000 M st. NW, sandwiched between the Pay Board on the eighth floor and the Cost of Living Council on the sixth.

SPIRIT IS UNUSUAL

All three offices of the sister agencies are engulfed in mild—and sometimes not so mild—chaos, with telephones ringing constantly, staff members scurrying and everyone trying frantically to clear and disseminate announcements.

But there is a zestful spirit of pioneering—in sharp contrast to the routine of old-line agencies—as top officials and lower-level employes struggle to launch the control program.

"We're getting organized," Grayson said, maintaining that his operation is "shaping up very well."

The commission's staff had grown rapidly from zero to 177 by Tuesday, he said, and 40 or 50 more were expected to join yesterday. The tentative plan is to operate with a staff of about 400, he said, but this is subject to change on the basis of experience.

Enforcement of controls will be mainly in the hands of the Internal Revenue Service.

The commission's staff, drawn mainly from federal agencies, will work on analysis to back up policy decisions and rulings in specific cases.

"Prompt and thorough" are the key words, Grayson said.

At the start, he said, the staff has been supplemented with voluntary help from outsiders, including those with special expertise. As the program evolves, he said, the commission will contract with outside consultants.

WARY OF INFLUENCES

Grayson said he is conscious of the problem presented by seeking expert advice from outside consultants, without falling prey to undue influence by industry interest groups.

While consulting such industry groups as the American Iron and Steel Institute, he said, the commission also will check with such neutral sources as the Commerce Department and the Bureau of Labor Statistics.

The commission will use computers to analyze data, he said, but also will rely on subjective judgment in reaching decisions.

Grayson said the biggest staff section, with about 120 or 130 members will deal with analysis of data submitted to justify price increases. This staff will consist of accountants, economists and specialists in various industries.

Views of business, labor and consumer groups will be considered, he said, but the commission will not get bogged down in long hearings like those often typical of regulatory agencies.

SEEKS EXECUTIVE

Grayson said he still is searching for an executive director, and is handling much of that function himself temporarily.

The chairman and the executive director will decide whether the case is important enough or represents a sufficient departure from guidelines to warrant its submission to the full commission or a panel of three or four members.

At whatever level a decision is reached, a company that is dissatisfied can appeal to a staff appeals section. Grayson will review the staff decision on the appeal.

Further appeals can be taken to federal district courts and then to a new special court and to the Supreme Court.

The process of ruling on a proposed price increase by big companies—those with $100 million or more of annual sales—generally will take up to 30 days. A special rule requiring a decision within three days will apply to certain types of requests during the balance of 1971.

Grayson said the commission basically will rely on data submitted by companies requesting price increases. The company's chief executive officer must sign the submission.

In case of doubt about the data, the commission can request or subpoena a company's records.

Mr. HUMPHREY. I also ask unanimous consent that a statement I have prepared on retroactivity as it has been covered in the bill be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

Retroactive Pay

(Statement by Senator Humphrey)

On November 12, 1971, I introduced Senate Resolution 191, calling upon the Cost of Living Council and the Pay Board to permit any teachers salary increases contained in contracts for the school year which began in the fall of 1971 to become effective. I am pleased that the principle embodied in this resolution has been accepted by the Senate Committee on Banking, Housing and Urban Affairs in the legislation presently before the Senate—the Economic Stabilization Act of 1971. I urge the Senate to vote for this section of the legislation.

When I originally introduced my resolution, I pointed out that many teachers have suffered unjustly under the Nixon Administration freeze. The Senate Committee has clearly recognized this unfairness not only for teachers but for those workers who lost salary and wage increases as a result of rulings made by the Cost of Living Council.

The wording of section 203(c) makes clear that wage and salary increases deferred on account of the freeze are to be paid unless "the President determines that the increase provided in such a contract is unreasonably inconsistent with the standards for wage and salary increases published under subsection (b)"—the standards and guidelines promulgated for determining wage and salary and price levels.

The intent of this legislation is unmistakably evident: retroactive increases to teachers and other employees are to be paid; the sanctity of negotiated, legally binding contracts is to remain intact; and the wage inequities created by the Administration's initial rulings are to be rectified.

I support this move. Retroactive pay is not inflationary. This is income that is due the workers and should be paid—or else once again the working man will be singled out to bear the burden of inflation control.

Mr. HUMPHREY. I thank the Senator from Wisconsin for his kindness and consideration.

The PRESIDING OFFICER. All time of the Senator from Wisconsin has expired. Who yields time?

Mr. SPARKMAN. Mr. President, I have greatly enjoyed this discussion by the Senator from Minnesota and the Senator from Wisconsin. However, as we advised the Senator from Wisconsin earlier, we are willing to accept this amendment. Therefore, I am willing to yield back all of our time.

Mr. TOWER. Mr. President, speaking for the minority, I think it is a very good amendment, and one I can gladly support.

Mr. SPARKMAN. I yield back all of our time.

The PRESIDING OFFICER. Does the Senator from Wisconsin still wish the yeas and nays?

Mr. PROXMIRE. Yes, indeed.

The PRESIDING OFFICER (Mr. Roth). All time having been yielded back, the question is on agreeing to the amendment of the Senator from Wisconsin (Mr. Proxmire). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Washington (Mr. Jackson), the Senator from South Dakota (Mr. McGovern), the Senator from Maine (Mr. Muskie), and the Senator from West Virginia (Mr. Randolph) are necessarily absent.

I further announce that the Senator from Florida (Mr. Chiles), and the Senator from Idaho (Mr. Church) are absent on official business.

I further announce that, if present and voting, the Senator from South Dakota (Mr. McGovern), the Senator from Washington (Mr. Jackson), the Senator from West Virginia (Mr. Randolph), and the Senator from Indiana (Mr. Bayh) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Ohio (Mr. Saxbe) is absent on official business.

The Senator from Arizona (Mr. Goldwater) is necessarily absent to attend the funeral of a friend.

The Senator from Utah (Mr. Bennett) and the Senator from South Dakota (Mr. Mundt) are absent because of illness.

If present and voting, the Senator from Arizona (Mr. Goldwater) would vote "yea."

The result was announced—yeas 88, nays 1, as follows:

[No. 411 Leg.]

YEAS—88

Allen
Allott
Anderson
Baker
Beall
Bellmon
Bentsen
Bible
Boggs
Brock
Brooke
Buckley
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Case
Cook
Cooper
Cotton
Cranston
Curtis
Dole
Dominick
Eagleton
Eastland
Ellender
Ervin
Fannin
Fong
Fulbright
Gambrell
Gravel
Griffin
Gurney
Hansen
Harris
Hart
Hartke
Hatfield
Hollings
Hruska
Hughes
Humphrey
Inouye
Javits
Jordan, N.C.
Jordan, Idaho
Kennedy
Long
Magnuson
Mansfield
Mathias
McClellan
McGee
McIntyre
Metcalf
Miller
Mondale
Montoya
Moss
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Ribicoff
Roth
Schweiker
Scott
Smith
Sparkman
Spong
Stafford
Stennis
Stevens
Stevenson
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

NAYS—1

Aiken

NOT VOTING—11

Bayh
Bennett
Chiles
Church
Goldwater
Jackson
McGovern
Mundt
Muskie
Randolph
Saxbe

So Mr. Proxmire's amendment was agreed to.

Mr. SPARKMAN. Mr. President, I move that the vote by which the amendment was agreed to be reconsidered.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 764

Mr. BENTSEN. Mr. President, I call up my amendment No. 764 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. BENTSEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered, and the amendment will be printed in the Record.

The text of the amendment is as follows:

On page 6, after line 4, insert a new subsection as follows:

(f) For the purposes of this section, the term "wages" and "salaries" do not include contributions by any employer having less than one thousand employees for—

(1) any pension, profit sharing, or annuity and savings plan;

(2) any insurance plan; or

(3) any disability and health plan;

unless the President determines that the contributions made by any such employer are unreasonably inconsistent with the

> standards for wage and salary increases published under subsection (b).

The PRESIDING OFFICER. How much time does the Senator from Texas yield himself?

Mr. BENTSEN. Fifteen minutes, Mr. President.

The PRESIDING OFFICER. The Senator from Texas is recognized for 15 minutes.

PRIVILEGE OF THE FLOOR

Mr. BENTSEN. Mr. President, I ask unanimous consent that two of my aides, Mr. Ron Katz and Mike Crutcher, be permitted the privilege of the floor during discussion of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the following Senators be added as cosponsors of the amendment: Messrs. BAKER, CURTIS, EASTLAND, HOLLINGS, HUMPHREY, NELSON, HATFIELD, SPONG, HANSEN, INOUYE, PASTORE, and MONDALE.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, this amendment would exempt from the definition of "wages and salaries" and therefore from the guidelines pertaining to wage and salary increases certain vitally important fringe benefit plans provided by employers who have less than 1,000 employees. These plans include pension, profit sharing, annuity, savings, insurance, disability, and health plans, which would have to be considered on their own and not as a part of any wage and salary package in determining the total compensation a small business employee can receive.

Mr. President, my amendment is directed specifically at the small employer as defined by the Pay Board, those having less than 1,000 employees, those who do not have to notify the Pay Board in advance of salary increases and do not have to report at regular intervals.

I have structured my amendment this way, Mr. President, because this is where the real deficiency in insurance and pension plans can be found. By the Pay Board's own determination, this includes some 10 million firms with 50 percent of the U.S. total sales and 83 percent of the total number of U.S. employees.

And we know that the employees in this category generally do not receive adequate insurance and pension plans. A recent report on the pension aspects of the economics of aging prepared by the Senate Special Committee on Aging makes this abundantly clear. The report says:

> The lack of pension coverage is obviously concentrated among small employee groups.

In addition to inadequate pension plans, small businesses have been found to be seriously deficient in providing adequate insurance or profit-sharing plans for their employees. Often the employees are not vocal in requesting retirement coverage. They prefer to take the cash and let the insurance or pension benefits go.

In my view, Mr. President, the economic security represented by the kinds of fringe benefits covered in my amendment is a desirable social goal, and it is unwise to place these benefits in direct competition with cash wages. Yet that is precisely the situation we are facing if the guidelines of November 13 are followed, for they lump insurance plans, pension, profit sharing, and annuity funds in the same category with cash wages.

Mr. President, the larger companies offer a wide range of fringe benefits that lure the most talented people into their organizations. My amendment is an attempt to redress the balance, to offer small business a break in its efforts to compete for talent by allowing them to increase their generally inadaquate retirement and insurance benefit plans without being subject to the rigid guidelines for cash wages set out by the Pay Board.

This amendment specifically provides that the exemption will not apply in those cases where the President determines that the employer contributions for these plans would be "unreasonably inconsistent" with the standards for wages and salary increases required to be published under section 203(b). This approach is the same as the Senate Banking Committee has taken with respect to the problems of deferred wage increases and retroactive pay increases.

The approach of this amendment is consistent with the approach adopted by my distinguished colleagues on the Senate Banking, Housing and Urban Affairs Committee. Section 214 of the Senate bill provides that the executive branch, in administering the stabilization laws, should grant the maximum feasible exemptions from this program for small business. The intent of the committee, with which I wholeheartedly concur, is clearly stated on page 5 of its report as follows:

> The Committee expects the administrative authorities responsible for the operation of the program to provide appropriate exemptions, particularly for smaller firms, to simplify the operation of the program and minimize the burden of compliance to the maximum extent possible and as expeditiously as possible, consistent with the purposes of the Act.

I wish to make it clear that I am in support of the efforts of this administration and the Congress to control the inflation which confronts our country today. This is one of our most pressing problems, and it deserves the high priority we have given it.

On the other hand, I am also deeply concerned that our efforts to stabilize our economy do not seriously harm another of our great national goals. This goal is to do all we can to encourage employers to provide adequate insurance and retirement benefit programs for their employees. It is essential that our citizens have adequate pension coverage, adequate health insurance protection, and adequate life insurance protection. Today, this protection is provided by individual personal savings, various Government programs—social security, medicare and medicaid, welfare programs—and private employer plans. I do not want to see our efforts under the stabilization program have any adverse effects on employers establishing and improving these fringe benefit plans.

There is considerable precedent under prior stabilization acts for my amendment. Under the Stabilization Act of 1942, wages and salaries were defined, in part to include:

> Additional compensation, on an annual or other basis, paid to employees by their employers for personal services (excluding insurance and pension benefits in a reasonable amount to be determined by the President).

This statute was implemented by the executive branch during World War II in such a manner as to, for all practical purposes, exempt these fringe benefits.

Thus, during World War II, we were able to accommodate or balance the dual objectives of containing inflation and promoting the growth of pensions and other fringe benefit programs.

Our second effort at a wage stabilization program was during the Korean conflict. In brief, pension, health, and welfare plans were, in general, subject to a minimum of restrictions during this period. The basic test soon became one of whether such plans were unstabilizing. I should point out that this test is essentially the one I have incorporated into my amendment.

Again, I would like to quote from the report of the Special Committee on Aging. Pages 7 and 8 of the report include the following statement:

> The surge in introduction of plans coverering large numbers of workers after 1949 resulted from a number of interrelated influences. A major one was wage stabilization policies during the Korean conflict, as well as continued favorable tax treatment, provided incentives to establish qualified plans.

I would also like to point out the current regulations of the Pay Board, section 201.3 in defining wages and salaries, specifically exclude employer contributions for public insurance plans but not private plans. Thus, employer contributions involving "public plans—old-age survivors, health, and disability insurance under the Social Security System, Railroad Retirement Acts, Federal Insurance Contributions Acts, Federal Unemployment Tax Acts, and Civil Service Retirement Acts"—are exempt from wage and salary stabilization controls. I find it strange that the Federal Government would exclude its own employer contributions under the Civil Service Retirement Act from wage and salary controls, but it would not permit equal treatment for private employees. In my opinion, equity requires all employees to be treated the same, regardless of whether a person is working for the Federal Government or a private employer. My amendment achieves this end.

I should like to point out that that in effect is what we are doing here. We have put a caveat on it to say that it is not unreasonable in its application to the guidelines. One of the other things that is interesting to note is that the Pay Board in section 201.3 has excluded—remember this—employer contributions for public insurance plans, but not private plans. Thus, employer contributions involving public plans are exempt from the wage and salary stabilization controls.

I submit that if it is fair for the public employees, it is certainly just as fair for the private employees to have it excluded on their pension benefits from being considered along with wages under the guidelines.

Some persons have told me that this amendment might be what is weakening our efforts to control inflation. I do not believe that is the case, and I believe that the Policy Board has already shown that they do not think that is the case when they exclude a public employer from having his contribution to these kinds of fringe benefits considered in the wage guidelines. As I understand it, this argument is to the effect that our current inflation is of the "cost-push" type. Therefore, the removal of controls on fringe benefits would tend to stimulate these plans, with an attendant increase in employer costs. This increase in costs would then push prices up and contribute to the inflationary spiral.

Yet, exemptions for these fringe benefits during prior stabilization periods were not viewed as creating any serious problems. In 1951, Mr. Eric Johnson, then Economic Stabilization Administrator said:

> Health, welfare and pension benefits in general do not constitute payments which in fact compensate for increases in the cost of living. Nor do they add to the purchasing power of workers and thus to inflationary pressures.
>
> These benefits are a form of saving and to that degree are noninflationary. Furthermore, it is difficult to evaluate the cost of these plans accurately in terms of dollars and cents. Such an attempt would only result in confusion.

My amendment should not be viewed as contributing in any material way to inflation. This is supported by the current exclusion the Pay Board has granted for employer contributions to public plans.

Moreover, the costs for these benefit plans—health and welfare benefits, retirement income, income for the dependents of deceased persons—will be paid for by this Nation. These costs can come from only two sources, the private sector and the public sector. If we clamp down too severely on the private sector under our stabilization program, we will only force these costs into the public sector. This would mean increased Federal, State, and local government expenditures, and increased taxes for all. Viewed in this manner, I cannot see how my amendment would be inflationary.

I would like to emphasize that pension, health, and life insurance benefits have high social and economic value to employees. The Congress, for many years, has encouraged continued growth of these benefit plans through the provisions of the Internal Revenue Code. We must take care not to inhibit the installation and improvement of these plans.

Mr. BAKER. Mr. President, will the Senator from Texas yield 1 minute so that I may speak in support of his amendment?

Mr. BENTSEN. I would be delighted to yield to the Senator from Tennessee.

Mr. BAKER. Mr. President——

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. I thank our colleague from Texas for yielding so that I may speak in support of this amendment. I also thank him for asking unanimous consent that I might be made a cosponsor of the amendment.

It seems to me that one of the hallmarks of a successful program to stabilize the economy is that we preserve the basic inherent right of small business to compete with big business. It also seems to me that in that particular concern one of the most patently apparent difficulties is the possibility that small business may have the opportunity to offer fringe benefits: Insurance, retirement annuities, and the like, only through commercial operations rather than through commitments and dedication of their own resources. Large companies have a far greater range of flexibility and opportunity to provide this sort of inducement or additional compensation to their employees than do small companies.

It seems to me, Mr. President, that the amendment by the Senator from Texas is particularly useful in seeing that we do continue to have healthy competition in all sectors of the economy and thus aid in stabilization.

Mr. BENTSEN. I thank the distinguished Senator from Tennessee.

Mr. President, the plans I have been discussing protect the American worker against the uncertainties of the economy and the vicissitudes of illness, old age, or death. In addition, they enable him to plan a more even distribution of his income over his lifetime. These are critically important national goals. I do not believe that pensions and insurance should be forced to compete in a closed system with direct cash wages, for there is little doubt that direct cash wages would receive the maximum funding.

And in that instance, Mr. President, our efforts over the years to encourage private employers to provide adequate retirement and insurance plans for their employees would be seriously undermined.

Why, Mr. President, should the employer or employee be compelled to choose between cash and other benefits, particularly when the other benefits are largely noninflationary and particularly when the public employee does not have to? In my view, it is unsound public policy to lump the two categories together. We must continue our efforts to encourage economic security for the workingman, while we protect the dollar from the ravages of inflation.

And we can do both.

Now let me very briefly summarize my amendment: It would exempt certain essential fringe benefit plans for small employers from the current stabilization program. These benefit plans have been proved to be in the interests of sound public policy. The Congress has for many years encouraged their formation and growth under our tax laws. Prior stabilization programs have, for all practical purposes, exempted these benefit plans from controls. I propose to do the same under our current stabilization program. My amendment also incorporates a safety device which the Senate Banking Committee has adopted in several provisions contained in S. 2891. This device is that the President can restrict the exemption if he finds it to be unreasonably inconsistent with the standards for wage and salary increases under the program.

I urge support for this amendment.

Mr. COOK. Mr. President, will the Senator yield?

Mr. BENTSEN. I am glad to yield to the distinguished Senator from Kentucky.

Mr. COOK. I wonder, unless there are some other amendments to the amendment, whether this suggestion would clear up the problem that I have. If the yeas and nays have not been ordered, would the Senator consider modifying his amendment at the top of page 2, "Standards for Wage and Salary Increases published under subsection B"—so that it would read, "Standards for wage, salary, and price increases published under subsection B," so that under no circumstances could a major amount of funds, if they were authorized—or at least would find their way into a pension program—could not be used as a means by which one could make an application, let us say, for a price increase as a result of contending that there was a wage increase because a substantial sum of money would go into a pension fund that would not constitute an increase in wages.

Mr. BENTSEN. The distinguished Senator from Kentucky and I are both striving for the same objective. We are trying to curb inflation, at the same time serving this long-term national goal of security for employees. I would like to see it funded on the part of the private sector, if that can be done. Before answering, I would like to ask the distinguished Senator from Michigan how he feels about that as a clarifying amendment.

Mr. GRIFFIN. I believe the modification suggested by the Senator from Kentucky would be useful and helpful in clarifying what is intended by the amendment.

Mr. BENTSEN. I would be pleased to accept the modification of my amendment.

The PRESIDING OFFICER. Is there objection to the modification? The Chair hears none; the modification is accepted.

Mr. GRIFFIN. Will the Senator from Texas yield to me?

Mr. BENTSEN. I am speaking on limited time.

Mr. SPARKMAN. I yield 3 minutes to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. GRIFFIN. I desire to indicate to the Senator from Texas that I support his effort to amend the bill so as to encourage small companies, to the extent that it would not be inflationary, to put pension programs and deferred compensation programs into effect.

There is one further modification that I should like to suggest which, in my opinion would not change the purpose of the Senator's amendment. Would the Senator be willing to consider this: On page 1, line 3, strike the word "having" and insert in lieu thereof the words "pursuant to a compensation adjustment affecting." This modification would make clear that no exemption is intended in those situations where employers, each with fewer than a thousand employees, band together for the purpose of collective bargaining and reach an agreement with a union representing thousands of employees.

Mr. BENTSEN. Mr. President, will the Senator restate the original language?

Mr. GRIFFIN. On line 3, strike the word "having" and insert in lieu thereof "pursuant to a compensation adjustment affecting".

Mr. BENTSEN. I would be willing to accept that modification to the amendment.

Mr. President, may we have a unanimous consent with respect to the modification?

The PRESIDING OFFICER. Is there objection to the modification? The Chair hears no objection, and the amendment is so modified.

Mr. GRIFFIN. Mr. President, I thank the Senator from Texas and I commend him for his leadership in this effort.

Mr. EAGLETON. Mr. President, I rise in support of the amendment offered by the junior Senator from Texas. In effect, this amendment would grant a conditional exemption for certain fringe benefits to employers who employ less than 100,000 persons. By giving the President the power to exempt from the wage and price guidelines pension, profit sharing, annuity, savings, insurance, disability and health plans for these small employers, I believe that the Congress will be taking a giant step toward insuring the continued viability of private methods of financing such programs instead of placing sole reliance on Federal financing.

This amendment would also give an incentive to many small employers who have not regularly included such fringe benefits in their wage plans for emulating the benefits which large employers have given to their workers. It would also not put employees or their representatives in the difficult quandary of choosing between cash in hand and benefits which they may receive sometime in the future. It is in my view poor public policy to allow these types of fringe benefits to compete in a closed system with direct cash wages, and historically we have never done so, since under both World War II and the Korean war system of controls such fringe benefits were exempt.

Mr. SPARKMAN. Mr. President, I yield to the Senator from Texas such time as he may require.

Mr. TOWER. Mr. President, I think with the clarifying language added that this is a very constructive amendment and, speaking for the minority on the committee, I am certainly prepared to support it.

Mr. President, I yield back the remainder of my time.

Mr. SPARKMAN. I am glad to accept the amendment. I yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator from Texas yield back his time?

Mr. BENTSEN. I yield back the remainder of my time. I thank the distinguished chairman of the committee and the ranking minority member, the distinguished Senator from Texas, and the assistant minority leader.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Texas, as modified.

The amendment was agreed to.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SPARKMAN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had disagreed to the amendment of the Senate to the bill (H.R. 9961) to provide Federal credit unions with 2 additional years to meet the requirements for insurance, and for other purposes; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. PATMAN, Mr. BARRETT, Mrs. SULLIVAN, Mr. REUSS, Mr. MOORHEAD, Mr. ST GERMAIN, Mr. WIDNALL, Mrs. DWYER, Mr. JOHNSON of Pennsylvania, and Mr. J. WILLIAM STANTON were appointed managers on the part of the House at the conference.

ECONOMIC STABILIZATION ACT OF 1971

The Senate continued with the consideration of the bill (S. 2891) to extend and amend the Economic Stabilization Act of 1970.

AMENDMENT NO. 765

Mr. TAFT. Mr. President, I call up my amendment No. 765 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. TAFT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TAFT. Mr. President, I send to the desk a modification of the amendment and I ask unanimous consent that the amendment may be considered as so modified.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and the amendment is so modified.

The amendment as modified is as follows:

At the beginning of the bill, insert a new title as follows:

"TITLE I—ECONOMIC STABILIZATION"

On page 22, add immediately after line 19, the following new title:

"TITLE II—EMERGENCY LABOR DISPUTES

"SEC. 201. That this title may be cited as the 'Emergency Labor Disputes Act of 1971'.

"SEC. 202. (a) Congress hereby finds—

"(1) that the present procedures established by sections 206–210 of the Labor-Management Relations Act, 1947, and section 10 of the Railway Labor Act for dealing with labor disputes which threaten the health and safety of the American people or tend to deprive any section of the country of essential transportation services need to be amended to provide greater flexibility in preventing national or regional emergencies created by labor disputes;

"(2) present procedures for resolving such labor disputes need to be amended to prevent serious disruptions in operations and services essential to the health and safety of the Nation or a substantial part of its population or territory; and

"(3) additional procedures need to be made available to permit prompt action to deal with national or regional emergencies created by labor disputes is necessary to prevent imperiling the health and safety of the Nation or a substantial part of its population or territory by such disputes and to encourage and maintain free collective bargaining.

"(b) It is the purpose of this Act to make available a range of flexible procedures to be utilized in taking emergency action, to prevent the interruption of operations or services essential to the health and safety of the Nation or a substantial part of its population or territory because of actual or threatened strikes or lockouts.

"SEC. 203. Sections 206–209 of the Labor-Management Relations Act, 1947, are amended to read as follows:

"'SEC. 206. (a) Whenever in the opinion of the President of the United States a threatened or actual strike or lockout or other labor dispute in an industry affecting commerce may, if permitted to occur or to continue, imperil the health or safety of the Nation or a substantial part of its population or territory, he may appoint a board of inquiry to inquire into the issues involved in the dispute and to make a written report to him within such time as he shall prescribe. Such report shall include a statement of the facts with respect to the dispute, including each party's statement of its own position, and, if the President so directs at any time, there shall be included in such report or in a supplemental report the recommendations of the board of inquiry for the settlement of some or all of the issues in dispute. The President shall file a copy of such report with the Secretary of Labor and shall make its contents available to the public.

"'(b) Upon receiving a report or a supplemental report from a board of inquiry, the Secretary may initiate one or more of the following actions:

"'(1) He may direct for a specified period not to exceed thirty days that work shall resume or continue, but otherwise no change in the conditions out of which the dispute arose shall be made except by agreement. During such period the parties to the dispute shall be under a duty to bargain collectively, but neither party shall be under a duty to accept in whole or in part any recommendations of the board of inquiry.

"'(2) (A) He may issue an order for partial operation specifying the extent and condition of partial operation that must be maintained: *Provided*, That in no event shall his order place a greater economic burden on any party than that which a total cessation of operations would impose.

"'(B) The parties shall not interfere by resort to strike or lockout with the partial operation ordered by the Secretary. The Secretary's order shall be effective for a period determined by the Secretary, but not to exceed one hundred and eighty days.

"'(C) The Secretary's order or any modification thereof shall be conclusive unless found arbitrary or capricious by the district court which granted the injunction pursuant to section 208 of this Act.

" '(D) (i) The Secretary shall issue his order no later than thirty days from the receipt of the report from the President, unless the parties, including the Government, agree to an extension of time but such extension shall reduce pro tanto the maximum effective period of the board's order.

" '(ii) On notice to the parties, the Secretary may at any time during the period of partial operation modify its order as it deems necessary to effectuate the purposes of this section.

" '(E) Until the Secretary makes his determination and during any period of partial operation ordered by the Secretary, no change, except by agreement, shall be made in the terms and conditions of employment. If the Secretary determines that the implementation of any particular term of the existing terms and conditions of employment is inconsistent with the conditions of partial operation, he may order the suspension or modification of that term but only to the extent necessary to make it consistent with the conditions of partial operation.

" '(3) (A) He may direct each party to submit to him a final offer within three days. Each party may at the same time submit one alternative final offer. The Secretary shall transmit the offers to the other parties simultaneously.

" '(B) Any offer submitted by a party pursuant to this section must constitute a complete collective-bargaining agreement and resolve all the issues involved in the dispute. If a party or parties refuse to submit a final offer, the last complete contract proposal made by such party or parties shall be deemed that party's or parties' final offer.

" '(C) The parties shall continue to bargain collectively for a period of five days after they receive the other parties' offers. The Secretary may act as mediator during the period of the final offer selection proceedings.

" '(D) If no settlement has been reached before the end of the period prescribed in subparagraph (C) of this paragraph, the parties may within two days select a three-member panel to act as the final offer selector. If the parties are unable to agree on the composition of the panel, the President shall appoint the panel.

" '(E) No person who has a pecuniary or other interest in any organization of employees or employers or employers' organizations which are involved in the dispute shall be appointed to such panel.

" '(F) The provisions of sections 207(b) and 207(c) of this Act shall apply to the panel.

" '(G) The panel shall conduct an informal hearing in accordance with section 207 (c) of this Act insofar as practicable, except that—

" '(i) the Government shall have no right to participate; and

" '(ii) the thirty-day period in which the panel shall complete its hearings and reach its determination shall run from the time that the Secretary directed the parties to submit final offers.

" '(H) The panel shall at no time engage in an effort to mediate or otherwise settle the dispute in any manner other than that prescribed by this section.

" '(I) From the time of selection of the panel until such time as the panel makes its selection, there shall be no communication by the members of the panel with third parties concerning recommendations for settlement of the dispute.

" '(J) Beginning with the direction of the Secretary to submit final offers and until the panel makes its selection, there shall be no change, except by agreement of the parties, in the terms and conditions of employment. In no instance shall such period exceed thirty days.

" '(K) The panel shall not compromise or alter the final offer that it selects. Selection of a final offer shall be based on the content of the final offer and no consideration shall be given to, nor shall any evidence be received concerning, the collective bargaining in this dispute including offers of settlement not contained in the final offers.

" '(L) The panel shall select the most reasonable, in its judgment, of the final offers submitted by the parties. The panel may take into account the public interest, and any other factors normally considered in the determination of wages, hours, and conditions of employment.

" '(M) The final offer selected by the panel shall be deemed to represent the contract between the parties.

" '(N) The determination of the panel shall be conclusive unless found arbitrary and capricious by a United States district court.

" '(4) (A) He may direct the Attorney General to petition any district court of the United States having jurisdiction of the parties to enjoin such strike or lockout or the continuing thereof, for a period not to exceed eighty days, and if the court finds that such threatened or actual strike or lockout—

" '(i) affects an entire industry or a substantial part thereof engaged in trade, commerce, transportation, transmission, or communication among the several States or with foreign nations, or engaged in the production of goods for commerce; and

" '(ii) if permitted to occur or to continue, will imperil the national health or safety, or a substantial part of its population or territory it shall have jurisdiction to enjoin any such strike or lockout, or the continuing thereof, and to make such other orders as may be appropriate.

" '(B) In any case, the provisions of the Act of March 23, 1932, entitled "An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes", shall not be applicable.

" '(C) The order or orders of the court shall be subject to review by the appropriate circuit court of appeals and by the Supreme Court upon writ of certiorari or certification as provided in sections 239 and 240 of the Judicial Code, as amended (U.S.C., title 28, sec. 1254).

" 'Sec. 207. (a) The board of inquiry shall be composed of a chairman and such other members as the President shall determine, and shall have power to sit and act in any place within the United States and to conduct such hearings either in public or in private, as it may deem necessary or proper, to ascertain the facts with respect to the causes and circumstances of the dispute.

" '(b) Members of the board of inquiry or panel appointed under section 206(b) (3) shall receive compensation, at the daily rate prescribed for GS–18 under section 5332 of title 5, United States Code, for each working day on the board or panel, together with necessary travel and subsistence expenses.

" '(c) For the purpose of any hearing or inquiry conducted by any board or panel appointed under this title, the provisions of sections 9 and 10 (relating to the attendance of witnesses and the production of books, papers, and documents) of the Federal Trade Commission Act of September 16, 1914, as amended (U.S.C. 19, title 15, secs. 49 and 50, as amended), are hereby made applicable to the powers and duties of the board and panel.

" '(d) Any board or panel established under this Act shall act by majority vote.

" '(e) A vacancy on any such board or panel shall not impair the right of the remaining members to exercise all of the powers of such board or panel. Such vacancy shall be filled by the same procedure as provided for initial appointment outlined in this Act.

" 'Sec. 208. (a) The provisions of this title and orders or determinations issued thereunder shall be enforceable upon suit by the Attorney General, through such orders as may be appropriate by any court having jurisdiction of any of the parties.

" '(b) Any action brought under this section shall be heard and determined by a three-judge district court in accordance with section 2284 of title 28, United States Code. The order or orders of the court shall be subject to review by the Supreme Court in accordance with section 1253 of title 28, United States Code.

" 'Sec. 209. (a) Notwithstanding any other provisions of this Act, whenever any employer proposes a change in work rules affecting employees as contained in any labor agreement, unless such work rules relate principally to the health or safety of employees, the employer may make such change effective as proposed, if (1) any cost savings realized as a result of such change affecting rules will be shared 50 per centum each by the employer implementing such a change and the nonprofessional and nonsupervisorial employees, as defined in title I of the Labor Management Relations Act of 1947, and (2) any reduction in the number of operating employees of such employer contemplated by the proposed change affecting rules will be accomplished by attrition.

" '(b) Nothing in this subsection shall be construed to prevent carriers and representatives of the employees from entering into an agreement affecting work rules.

" '(c) For the purposes of clause (1) of subsection (a) of this section, payments to employees shall be on a per capita basis and shall be made not later than four months following the end of each fiscal year. In the event that any employee was not employed by an employer for the entire fiscal year preceding the payment date, the payment to such employee hereunder shall be prorated to cover the period of employment.

" '(d) In the event that any representative of affected employees contests the amount of cost savings as determined by the employer under clause (1), subsection (a) of this section, said representative and the employer shall mutually designate and compensate a certified public accountant, whether an individual, partnership, or corporation, which accountant shall make a determination of the cost savings, which determination shall thereupon be final and binding.' ".

"Sec. 204. Section 210 of the Labor-Management Relations Act, 1947, is repealed.

"Sec. 205. Section 212 of the Labor-Management Relations Act, 1947, is amended to read as follows:

" 'REPEAL OF SECTION 10 OF THE RAILWAY LABOR ACT

" 'Sec. 212. Section 10 of the Railway Labor Act is hereby repealed: *Provided*, That such section shall continue in effect with respect to any emergency board in existence on the effective date of this Act. Disputes heretofore subject to section 10 of the Railway Labor Act shall be subject to provisions of this title.'

"Sec. 206. Title II of the Labor-Management Relations Act, 1947, is amended by adding at the end thereof the following new section:

" 'RIGHTS OF EMPLOYEES

" 'Sec. 213. Nothing in this title shall be construed to limit the right of any employee to resign from his position of employment.'

"Sec. 207. Inapplicability of the Norris-La Guardia Act.—The provisions of the Act of March 23, 1932, entitled 'An Act to amend the Judicial Code and to define and limit the jurisdictions of courts sitting in equity, and for other purposes', shall not be applicable to any judicial proceeding brought under or to enforce the provisions of this Act."

The PRESIDING OFFICER. How much time does the Senator yield to himself?

Mr. TAFT. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. TAFT. Mr. President, for the information of the Senate, the modification just sent to the desk changed in only a very minor degree the provisions of the amendment as reported in the RECORD this morning, as I introduced it yesterday. The modification relates only to a couple of items. The only item of significance is the 60-day injunction provision presently in the National Labor Relations Act, which was not expanded by the version I placed in the RECORD yesterday.

It was included as one of the four alternatives the President has, but it was not expanded to cover substantial territories in the United States. I felt, as with the three other alternatives remedies provided the Secretary of Labor in case of a national regional emergency strike, this should be included also. That change has been made.

Mr. President, I might call to the attention of the Senate that yesterday I made extensive remarks with regard to the measure presently before us as a proposed amendment to the bill. The RECORD sets out those remarks and sets out the amendment of the bill as presently before us. Yesterday I discussed the need for this particular measure in some degree.

I want to bring home to the Senate again today why I believe this is an entirely appropriate amendment to the bill before us today. It relates to the economic circumstances in which we find ourselves. I do not think anything could be more pertinent than the effect the national emergency strike threat has had on our economy during this crucial period. I bring this matter up at this time for that reason and also because as a member of the Committee on Labor and Public Welfare I have become reasonably satisfied that we are extremely unlikely to act on this measure or any other measure similar to it in this first session of Congress. Extensive hearings have been held and there does not seem to be a particular proclivity to bring the measure to the floor of the Senate, despite the fact that during the period when we hope to adjourn this session and start the next session there will be an expiration of the 80-day injunction order insofar as the west coast dock strike is concerned, and I do not relish coming back here on December 26, the day after the expiration of that order on the west coast to act on legislation of this sort.

I think Congress should face up to the situation at this time, and the only appropriate vehicle that offered itself for consideration was this bill. So the amendment has been offered with all of these considerations in mind.

Let me recite the economic impact on a few of the industries and businesses in the United States of emergency strikes.

During the coal and dock strike, losses averaged between $280 million and $300 million a week. The source of that information is the Office of Emergency Planning. Second, during the coal strike our balance of payments was adversely affected by $20 million a week. Again, the source of that information is the Office of Emergency Planning.

With regard to farms, the Department of Agriculture informs us that the loss in connection with tobacco will be $1 million just to recondition the tobacco for export if the dock strike resumes.

There will be a similar loss in fruits and vegetables and perishables. It is difficult to estimate the loss, but for July and August approximately $215 million in export was lost through west coast ports. About $40 million in fresh fruit and vegetables was totally spoiled.

In wheat, in the Pacific Northwest more than $55 million in export sales were lost. As to Nebraska, Kansas, Oklahoma, and Texas, wheat shipments were off because of uncertainty as to whether the strike would affect Texas ports. Shipments decreased 664,000 tons worth or almost $40 million. In corn and soybeans the loss is placed at $75 million this year.

In Ohio 1.5 million bushels of corn had to be dumped on the ground without proper storage because of the dock strike. In Illinois this figure was three and a half to 4 million bushels of corn dumped on the ground. In Oregon wood products industry lost shipments of $5 million a week from the Northwest dock strike.

These are just a few of the ways in which the national emergency strike situation has affected the economy of this country and I think contributed very materially to the unfavorable economic circumstances in which we find ourselves, to some extent, in the world today.

I am going to review just briefly for the Members of the Senate what the proposals in this bill would do if they were passed.

First of all, I think we should all recognize that under the present law, basically, where an 80-day injunction provision is contained, it has done a remarkably good job, and if one looks over the record, many national emergency situations have been resolved; but, nevertheless, some need for additional legislation is apparent today. It is extremely apparent with regard to the territorial problem, which is not handled by the present legislation today.

In that regard, by way of example, an injunction request recently was rejected by the court largely on grounds that its effects were serious on a regional rather than a national level, in the case of the Chicago grain elevator strike—injunction rejected November 3, 1971. Estimates of the strike's regional effects varied. The most comprehensive affidavit was filed by Assistant Secretary of Agriculture Clarence Palmby, but was not accepted by the court. He estimated that in October and November 1971, 35 million bushels of corn and soybeans which would have been exported will not be, and 34 million bushels which would have been stored will not be, because of the strike. The price of both corn and soybeans fell about 8 cents per bushel in the region because of the strike. The percentage price decrease was 6.5 percent for corn and 2.5 percent for soybeans. This especially affected the 10 percent of the area's annual corn crop and 15 percent of the soybean crop which was harvested in late September—Palmby did not estimate how much more of the corn and soybean crops were affected at least somewhat.

The strike, which began September 1, still continues and may do so until the Great Lakes freeze.

I think there can be no doubt, on the basis of this information, that there is a need here and that the Congress ought to act to provide a range of flexible procedures, and those flexible procedures would be incorporated in the National Labor Relations Act and leave various alternatives, with substantially the same procedures the President has under the current National Labor Relations Act to require that a board of inquiry make a determination as to the circumstances and that they then report back to the President. The President then turns over that report to the Secretary of Labor, who may initiate proceedings in any one of four different ways. Today the only alternative is to go ahead under the present provisions of the law for an 80-day injunction.

The first of the alternatives we have provided is what we call a 30-day delay. The Secretary may direct for a specified period not to exceed 30 days that work shall resume or continue, but otherwise no change in the conditions out of which the dispute rules shall be made except by agreement. During such period, the parties to the dispute shall be under a duty to bargain collectively, trying to work out the differences between them voluntarily.

The second option is that the Secretary under this provision may issue an order for partial operation of the particular industry involved. Under those circumstances the Secretary may issue an order calling for partial operation, specifying the extent and condition of the partial operation that must be maintained. However, it is provided specifically in the legislation that the order must place no greater economic burden on any party than that which a total cessation of operations would impose. There is a provision for a 180-day period for such a partial operation at the most. There is a provision that the Secretary's order or any modification thereof shall be conclusive unless found arbitrary or capricous by the district court which granted the injunction.

The Secretary, under this provision, is required to issue an order within 30 days of the original reference of the matter to him, and he may modify it with regard to partial operation if it becomes necessary.

The third alternative the Secretary has under these circumstances is what might be called the final offer proposal. Under this provision, the Secretary may direct each party to submit to him a final offer within 3 days. That final offer may include one alternative final offer. Any offer submitted by a party pursuant to this section must constitute a complete collective bargaining agreement between them. After it is submitted, the parties can bargain with each other collectively for a period of 5 days to see if any resolution of the matter may be made on the basis of the final offer. After that period, if no agreement has been reached, the parties may select a three-member panel. If they are unable to agree on the selection of the panel, the President shall appoint the panel.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. TAFT. I yield myself 5 additional minutes.

There is a provision that no member of the panel shall have any pecuniary interest in the organization of either side.

The panel is required to have an informal hearing in accordance with section 207(c) of the act, in which the Government has no right to participate, and after this hearing the panel is given 30 days in which to reach a determination as to whether it is going to recommend or direct the course that the parties take.

The panel specifically is enjoined from at any time engaging in an effort to mediate or otherwise settle the dispute. In other words, its job is to select one over the other and say, "This is it."

No third parties are permitted to communicate with the panel during this period.

During the period that the panel is considering the matter, there is to be no change in the offers, except by agreement of the parties, in the terms and conditions of employment. In no instance, however, is there to be a standstill during these hearings or is the period to exceed 30 days.

The panel is specifically enjoined from compromising or altering in any way the final offer of the parties that it selects, and is required to select the most reasonable of the final offers submitted by the parties. This offer becomes the final contract between the parties.

The determination of the panel is to be conclusive unless it is found to be arbitrary and capricious by a U.S. district court.

This is the final alternative, the fourth one, which is very familiar to us. The fourth is merely that the Secretary may direct the Attorney General to petition any district court of the United States having jurisdiction of the parties to enjoin such strike or lockout or the continuing thereof for a period not to exceed 80 days, as is presently provided in the law.

As I have indicated, we have modified our amendment submitted yesterday to make it apply to territorial areas as well as to national health or safety. In other words, if a portion of the United States were threatened, it would apply the same as if the United States were to be threatened under the present provisions of the law. Under those circumstances, the court has authority to go ahead with the 80-day injunction.

These are the four alternatives the Secretary has: A 30-day delay provision; a partial operation provision; the final offer provision; and the 80-day injunction provided. This sheaf of arrows in the hands of the Secretary will do much to try to resolve fairly and in the national interest, national emergency disputes.

One other approach that the bill takes, which I think is equally important, with this alternative method of procedure that is offered to the Secretary, relates also to national emergency strikes. That is the whole area of work rules.

Unfortunately, work rule disputes have tended, in most instances, to be the major factor in connection with national emergency strikes, and what is provided in this measure with regard to work rules is that changes in work rules which do not affect principally the health or safety of the employees may be made by the employer on two conditions.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. TAFT. I yield myself 5 additional minutes.

In other words, if the rules relate principally to the health or safety of the employees, they would not come under this amendment. If they are otherwise related, the employer may make a change in the work rules on two conditions: First, that any cost savings realized as a result of such change affecting rules will be shared 50 percent each by the employer implementing such a change and the nonprofessional and nonsupervisory employees as defined in the act; and, second, that any reduction in the number of operating employees of such employer contemplated by the proposed change affecting rules will be accomplished by attrition.

Obviously, the fact that the employment security provision is included in the amendment will limit to some extent the extent to which savings may be made by the abandonment of unproductive work rules. With regard to this point, I would particularly like to point out that while it may be said by some that this is an attack upon employment in this country, and that it is going to result in cutting down the number of jobs, I believe just the opposite, with this provision against reducing the number of employees except by attrition, is true.

Today, there is nothing to prevent nonproductive work rules from being bargained out by the employers; and, indeed, this has often been the cause of national emergency strikes, trying to keep the employer in business by taking out expensive work rules that are not necessary and consistent with efficient operation. So, by putting in this provision against reduction except by attrition, and by providing for a reasonable and orderly way of phasing out nonproductive work rules, we will actually, I think, be saving thousands of jobs now threatened by automation and by efficiency, in economies required by today's rather rigid business climate.

This, I think, gives labor and management a rather common financial incentive to get rid of the problem of featherbedding that has put this country at a competitive disadvantage in competing with foreign industry and foreign production in certain areas, and even where that has not been true has resulted in a far higher service and production cost which has ultimately been paid by the American consumer.

These, then, are the provisions of this particular amendment. As I indicated at the outset, I feel it is entirely appropriate to this measure, and I submit it to the Senate for its consideration.

The PRESIDING OFFICER. Who yields time?

Mr. TOWER. Mr. President, I suggest the absence of a quorum, the time for the quorum call to be charged against my time.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. NELSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. TOWER. Reserving the right to object, for what purpose?

Mr. BYRD of West Virginia. Mr. President, there can be no reservation of the right to object.

Mr. NELSON. For the purpose of submitting a conference report.

The PRESIDING OFFICER. Who yields time?

Mr. WILLIAMS. I yield time for that purpose.

Mr. TOWER. I yield time.

ECONOMIC OPPORTUNITY AMENDMENTS OF 1971

Mr. NELSON. Mr. President, I submit a conference report on the bill, S. 2007—the Economic Opportunity Amendments of 1971—to provide for the continuation of programs authorized under the Economic Opportunity Act of 1964, and for other purposes.

Mr. President, I ask unanimous consent that the joint explanatory statement of the managers on the bill (S. 2007) be printed in the RECORD.

There being no objection, the joint explanatory statement was ordered to be printed in the RECORD, as follows:

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two houses on the amendment of the House to the Senate bill (S. 2007) to provide for the continuation of programs authorized under the Economic Opportunity Act of 1964, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The points in disagreement and the conference resolution of them are as follows:

The Senate bill authorized the appropriation of $3,031,000,000 for fiscal year 1972 for all programs under the Act. For fiscal year 1973 $3,121,000,000 was authorized for all programs other than those operated under the authority of title I, parts A, B, and E (manpower). For these latter programs the bill authorized such sums as Congress may determine to be necessary.

The Senate bill in fiscal year 1972 authorized the appropriation of $900,000,000 for programs relating to work and training under title I and an additional $500,000,000 for Neighborhood Youth Corps programs to be distributed among the States so that no State would receive less than $3,000,000 or .6 of 1 centum of the sums appropriated.

There was authorized to be appropriated for fiscal year 1972 the sum of $500,000,000 for Head Start and Follow Through plus an additional $100 million for technical assistance and training in preparation for the expansion of the Child Development program.

The Senate bill further authorized the appropriation of $950,000,000 for titles II, III, VI, VII, VIII, and IX for fiscal year 1972 and for fiscal 1973 the sum of $950,000,000. Of these sums the following reservations were made:

$328,900,000 for local initiative programs under section 221 and sections 226 and 227; and

$61,000,000 for programs under section 222(a)(3) and title IX (Legal Services).

The House amendment authorized the appropriation of $2,194,066,000 for fiscal year 1972 and $2,750,000,000 for fiscal year 1973 and reserved from the appropriation $350,000,000 to be spent on local initiative programs each fiscal year.

The House amendment contained no earmarking but the House report suggested recommended levels of funding corresponding to Senate earmarks.

The House receded with an amendment earmarking $5 million for Environmental Action and $10 million for Rural Housing Development and Rehabilitation, and authorizing $70 million for Follow Through in fiscal 1973.

Both the Senate bill and the House amendment extended all existing authorities under the Economic Opportunity Act for two years. The Senate bill in light of the adoption of the Child Development provisions did not extend the authority under Sec. 523, the day care provisions of Title V–B. In view of House adoption of similar day care amendments striking Title V–B, the extension of Sec. 523 in the House amendment was unnecessary and the House receded.

The House amendment, but not the Senate bill, established a general eligibility requirement of $4,500 for a family of four below which payment may not be required for Head Start services. Eligibility requirements could be varied to reflect family, geographic, and special program variations. The House receded.

The House amendment, but not the Senate bill, permitted the Director of the Office of Economic Opportunity to require payment for medical services provided the near or non-poor under the Comprehensive Health Services program. The Senate receded. By permitting the extension of medical services to the near or non-poor the Conferees most emphatically do not mean that the poor are to be supplanted. The authority to require part or whole payment for such medical services might tempt some administrators to favor participants who can make a contribution to their medical expenses. This is not to be condoned. The poor are intended by the Conferees to continue to have preference and there is to be no reduction in service to the poor in any Comprehensive Health facility in order to accommodate those who can make payment.

The House amendment deleted two sentences in the Economic Opportunity Act which required dollar reservations for fiscal years 1970 and 1971 for the Alcoholic Counseling and Recovery program and the Drug Rehabilitation program—these reservations having, by their terms, become inoperative. The House amendment, but not the Senate bill, further amended Sec. 222(a)(9) of the Act relating to the Drug Rehabilitation program and encouraged the Director to undertake special programs promoting employment opportunities for drug dependent individuals. Priority was required for programs serving veterans and employers of significant numbers of veterans. The House amendment, in addition, permitted completion of the course of rehabilitation even though the drug dependent individual has ceased to be "low-income" by virtue of his participation in an employment program. The Senate receded.

The conference substitute adopts the provisions of the House bill with the modification that "employment opportunities for rehabilitated addicts" was modified to include addicts enrolled and actively participating in methadone maintenance treatment programs. The conferees were concerned that the term "rehabilitated addicts" could be defined to mean only those former addicts who have become "drug free" whereas a rehabilitated addict can be one who is participating in methadone maintenance treatment and other therapeutic programs.

The Office of Health Affairs of OEO has reported that approximately 1,000 drug addicts were enrolled in methadone maintenance treatment programs, and an additional 2,615 were enrolled in a variety of other drug treatment programs as of September 1, 1971.

The conference substitute further includes, along with rehabilitated addicts, other drug abusers who are enrolled and participating in other drug treatment and rehabilitation programs. The conferees believe that it is important that employment opportunities be provided for the addict/patient as soon as possible, rather than await completion of a treatment program.

The conference substitute further provides that, in undertaking employment opportunity special programs with special priority to veterans and employers of significant numbers of veterans, there be an additional priority to those areas in the States having the highest percentage of addicts.

The House amendment added a new national emphasis program known as Environmental Action to provide payment for low-income persons working on projects combating pollution and improving the environment. There was no comparable provision in the Senate bill. The Senate receded.

The House amendemnt authorized an additional new national emphasis program known as Rural Housing Development and Rehabilitation to assist in the alleviation of housing problems of low-income families in rural areas. There was no comparable provision in the Senate bill. For this program there was authorized to be appropriated $10 million for fiscal year 1972 and $15 million for fiscal year 1973. The Senate receded.

The Senate bill required the Director to reserve not more than 4% of the sums appropriated or allocated for sections 221 and 222(a) of the Act in fiscal year 1972 for Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands. After June 30, 1972, Puerto Rico was to be treated as a State for purposes of the allocation formula. The House amendment treated Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands each as States for purposes of the entire Economic Opportunity Act. The House receded.

The House amendment, but not the Senate bill, forbade the Director of OEO to require non-federal contributions of more than 20% of the program cost. The Senate receded.

The House amendment established a procedure under which a Community Action board member might require the Director to investigate allegations that a State Economic Opportunity office was not observing the requirements of the Act or regulations promulgated under it. Where reasonable cause is found the Director was required to hold hearings and was authorized to cut off SEOO funds until satisfactory assurances were provided that such violations would be prevented. There was no comparable Senate provision. The Senate receded.

The House amendment required the Director to assure that Community Action funds are distributed on an equitable basis in any community so that all segments of the low-income population are being served. There was no comparable Senate provision. The Senate receded.

By recognizing in Sec. 312(b)(3) the existence of "employment" as well as "training" programs in the Federal manpower arsenal, the House amendment encouraged the Director to conduct programs to enable farm workers to take advantage of the opportunities available to them in "work" as well as "training" programs. There was no comparable Senate provision. The Senate receded.

The Senate bill amended Sec. 616 to increase the portion of an allocation that may be transferred from one program or activity to another from the current 15% to 25% in fiscal years 1972 and 1973. The Senate bill also deleted the limitation which places a ceiling on the amount that may be transferred into a program. Existing law provides that such transfers may not result in increasing by more than 100% any program for which there is available $10 million or less or by increasing by more than 35% any program for which amounts available are in excess of $10 million. The House amendment reduced the authority of the Director to transfer earmarked funds to 10% of the amount appropriated or allocated. The House amendment further limited the degree to which the program or activity might be increased to 10%. The House receded.

The House amendment provided that the 5-year national poverty plan, required to be presented on an annual basis to the Congress by Sec. 622, must be presented by December 31 of each calendar year beginning in 1971. There was no comparable Senate provision. The Senate receded with an amendment requiring the presentation of a report on March 1 in 1972 and on Jaunary 31 in 1973 and in each succeeding year.

The House amendment required all rules, regulations, guidelines, etc., promulgated under the Economic Opportunity Act, to be provided to the House and Senate Committees no less than 30 days prior to their effective date. There was no comparable Senate provision.

The Senate receded with an amendment requiring that all rules, regulations, guidelines, instructions, application forms, etc., promulgated pursuant to this Act be published in the Federal Register thirty days prior to their effective date. The conferees intend that all such documents promulgated pursuant to the Act by OEO, the Department of Labor or HEW be published and that any new category of document not specifically listed but fulfilling the same purpose be included.

The House amendment consolidated into a new title all existing authorities for conducting evaluation activities. The Director was required to develop and publish standards for evaluation of program effectiveness and to measure programs against those standards when considering extension or supplementation of a grant or contract. Independent evaluations might be required of CAAs. Federal agencies administering related programs were required to cooperate wth the Director and to provide statistical data and reports consistent with their collection process. The poor were to be consulted in the evaluation process, as were the State agencies. Evaluation results had to be published within 60 days of completion. All such studies and evaluations were to be the property of the United States. The Senate bill had no comparable provision. The Senate receded with a number of amendments. The Director continues to be required to provide for evaluations that describe and measure the impact of programs and their effectiveness and their impact on related programs, but he is only required to do so "with appropriate means and to the extent possible". Similarly, the requirement that the Director shall develop and publish standards for evaluation of program effectiveness in achieving the objectives of this Act is similarly modified by the prepositional phrase "to the extent feasible". The mandatory requirement that the Director consider the extent to which published standards have been met in deciding on grant renewals and supplements was stricken. This, and other amendments to the House provision, were in recognition by the conferees of the inexact nature of the evaluation process and the desire not to cause damage to programs. Similarly, the requirement that the Director consult with State agencies to provide for jointly sponsored evaluation studies was modified to permit such consultation, but not to require it. The publication requirement for results of evaluative research and evaluations of programs and of other activities carried out under this title are modified so that the Director is only required to publish summaries of such materials.

The House amendment corrected an oversight that occurred when the Foster Grandparents Program was transferred out of the Economic Opportunity Act. It gave the Director of ACTION authority to approve assistance in excess of 90% of costs where he determines such action is required. There was no comparable Senate provision. The Senate receded.

The Senate bill extended the length of time a person might serve on a community action board from three to six consecutive years and increased the total number of years a person might serve to twelve years. There was no comparable House provision. The House receded.

The Senate bill combined the existing title I–D Special Impact Program and title III–A Rural Loan Program into a new unified Community Economic Development Program (title VII). This new title provided expanded authorization for grants as well as loans to rural cooperatives and authorized the appropriation of $60 million in fiscal year 1972 and $120 million in fiscal year 1973. The House receded.

The Senate bill established a new program in title II—Design and Planning Assistance Grants—that would authorize the Director to make grants to community-based design and planning organizations to provide technical assistance and professional services to community organizations. There was no comparable House provision. The House receded.

The Senate bill established a Youth Recreation and Sports Program to provide disadvantaged youth with recreation and physical fitness instruction. The House had no comparable provision. The House receded. The conferees intend that maximum use of volunteers to be encouraged in the Youth Recreation and Sports Program. It is hoped that the college administrators, instructors and athletes engaged will give freely of their time to provide disadvantaged youth with recreation, physical fitness instruction, and other services authorized. To insure that payment to such persons shall be reasonable, where payment must be made, the Director is expected to establish and promulgate standards as to what constitutes a reasonable rate of compensation. Those standards should not, of course, be inconsistent with sec. 610–1(a) of the Economic Opportunity Act of 1964, as amended.

The Senate bill prohibited further transfers or delegations of programs administered by the Director under titles II, III, VI and VII of the Economic Opportunity Act of 1964, as amended. There was no comparable House provision. The House receded.

The Senate bill permitted the Director to waive the allotment and Federal share provisions of title II to relieve any hardship resulting from the failure to continue Head Start under section 222(a)(1) when the new title V takes effect. There was no comparable House provision. The House receded.

Both the Senate bill and the House Amendment amend title V of the Economic Opportunity Act to establish a new comprehensive child development program.

The House amendment provided that comprehensive child development programs should be available to "children regardless of economic, social, and family backgrounds" whereas the Senate bill provided they should be available "as a matter of right to all children whose parents or legal guardian shall request them regardless of economic, social, and family backgrounds".

The conference agreement provides that programs "should be available to children whose parents or legal guardians shall request them regardless of economic, social, and family backgrounds."

The Senate bill included in the Statement of Findings and Purpose the goal of furnishing meaningful employment opportunities in carrying out child development programs for older persons, parents, young persons, and volunteers. The House amendment did not contain this language.

The House recedes.

The House amendment included the purpose of making services available to all children "who need them" whereas the Senate bill in this respect referred to furnishing service to "those children who need them most."

The House recedes.

With respect to parents, the Senate bill called for their "direct participation . . . in the development, conduct, and overall direction of programs at the community level" whereas the House called for their "full involvement."

The Senate recedes.

For the purpose of carrying out this child development title, the Senate bill authorized appropriations of $2,000,000,000 for fiscal year 1973, while the House amendment authorized the appropriation of such sums as may be necessary for fiscal year 1973 and each succeeding fiscal year.

The House recedes.

The Senate bill authorized the appropriation of $100,000,000 for fiscal year 1972 for planning and technical assistance to prepare for implementing this title. The House amendment authorized the Secretary to provide financial assistance to prime sponsors for planning and development expenses in the current and succeeding fiscal years.

The conference agreement contains the Senate authorization with respect to planning and technical assistance.

The Senate bill provided that $500,000,000 of the amount appropriated shall be used first to provide services for children from low-income families, giving priority to Headstart projects. The House amendment did not contain this reservation.

The House recedes.

The Senate bill provided that up to 10% of the remainder (after allocation of $500,000,000 to Headstart-type programs) could be set aside by the Secretary for the parts of this title authorizing training and technical assistance, for programs for children of Federal employees, for research and evaluation, and for child advocacy projects.

The House amendment contained annual authorizations of $45,000,000 for training, $5,000,000 for programs for children of Federal employees, and such sums as may be necessary for evaluation, and for research and demonstration.

The conference agreement contains the Senate authorization in this respect, except that the authorization for child advocacy projects is dropped since the conference agreement does not contain that part of the Senate bill.

In conformity with the Senate bill, the conference agreement provides that the remainder of the appropriation (after the Headstart reservation and the 10% available to the Secretary as described in the preceding paragraphs) is to be used for carrying out comprehensive child development programs under part A.

With respect to funds for comprehensive child development programs, the conference agreement contains provisions, which were similar in both the Senate bill and the House amendment, requiring the Secretary to reserve funds for progams for children of migrant agricultural workers and Indian children in the ratio which the number of such children bears to the total number of economically disadvantaged children in the United States.

The Senate bill also provided for reserving not less than 10 percent of the funds available for the title for special activities for handicapped children. The House amendment reserved not less than 7 percent of such funds for such purpose.

The House recedes.

The Senate bill provided for making available not to exceed 5 percent of the funds available for comprehensive child development programs to be used for model programs. The House amendment provided that not to exceed 5 percent of funds could be used in the Secretary's discretion.

The conference report contains the Senate provision in this respect.

Both the House amendment and the Senate bill allocated funds among and within States on the same basis, but the House amendment provided for reallotment or reapportionment of unused funds according to the basic formula, whereas the Senate bill made no specific provision for reallotment or reapportionment.

The Senate recedes.

The Senate bill provided that up to 5 percent of funds allocated for use in a State could be made available by the Secretary for grants to the State for technical assistance (section 517 in both the Senate bill and the conference agreement).

The House recedes.

The Senate bill unlike the House amendment required apportionments to be published in the Federal Register.

The House recedes.

Both bills set forth a number of eligible uses of funds for child development programs. The Senate bill specifically included among the permitted uses of funds programs to meet the needs of all children to understand the history and cultural backgrounds of minority groups; the House amendment did not include this language.

The House recedes.

The Senate bill specifically authorized prenatal and other medical services to expectant mothers who cannot afford such services in order to reduce malnutrition, maternal aid, infant mortality, mental retardation and other handicaps. The House amendment did not contain such a provision.

The House recedes.

With respect to the dissemination of program information in the language spoken by the parents, the Senate bill referred to the purpose of enabling them to "participate in such programs," whereas the House amendment referred to the purpose of enabling them to "become directly involved in such programs."

The Senate recedes.

The Senate bill specifically authorized programs designed to extend prekindergarten early childhood education techniques and gains (particularly parent participation) into kindergarten through third grade. The House amendment contained no such provision.

The House recedes. It is the expectation of the conferees that no significant amount of funds under this title will be used for such programs, and that local educational agencies should be urged to use funds under titles I and III of the Elementary and Secondary Education Act for teachers' salaries in order to extend Headstart gains into the primary school grades.

Both the Senate bill and the House amendment provided for States, units of general local government (counties and cities), combinations thereof, Indian tribes, and other public and private non-profit agencies to be eligible to be prime sponsors.

The House amendment, unlike the Senate bill, did not allow a unit of general local government with a population of less than 10,000 to be a prime sponsor.

The conference agreement provides that units of general local government are eligible to be prime sponsors and that localities having a population of 5,000 or more persons shall be designated prime sponsors if they meet the requirements of the statute and submit plans which include adequate provisions for carrying out comprehensive child development programs in the area to be covered.

Unlike the Senate bill, the House amendment required as a condition for prime sponsorship designation that a State, city, county, or combination thereof, provide for operating programs by contract with public or private nonprofit agencies.

The Senate recedes.

Unlike the House amendment, the Senate bill in defining what agency may be designated by the Secretary as a prime sponsor stressed the capacity of the applicant for prime sponsorship to provide for, or arrange for the provision of, the comprehensive social, health, educational, rehabilitative and other services as well as carry out the coordinative and administrative functions.

The conference agreement requires the applicant for prime sponsorship to provide assurances that the Child Development Council will provide such services, where available, either directly, or by contract or other arrangement with State, local, or other public or private nonprofit agencies or organizations.

The Senate bill, unlike, the House amendment, made it a condition for prime sponsorship designation that an applicant provide adequate assurances that administrative costs for Child Development Councils not exceed 5% of the total cost of the comprehensive child development program except in the first operational year or in response to special needs defined by regulation.

Instead of making such provision a condition to be pre-judged prior to designation of a prime sponsor, the conference agreement sets forth in the payments provision (section 520) that the Secretary shall include in the costs on which the Federal share is based, in making payments to prime sponsors in any fiscal year, an amount for staff and other administrative expenses for the Child Development Council not to exceed an amount which is reasonable when compared with such costs for other comparable child development programs.

The Senate bill provided for the Secretary to encourage the combination of a number of units of local government for prime sponsorship where one unit's application for such sponsorship was not approvable for the reason that it failed to meet the administrative expenses limitation or that it lacked the capacity to provide or enter into arrangements for child-related services.

The conference agreement provides that, if the Secretary determines that a locality fails to meet any requirement set forth in the section, he shall encourage the submission of a prime sponsorship plan by a combination of localities.

The House amendment made any "Indian tribal organization" eligible to be a prime sponsor, whereas under the Senate bill any "Indian tribe on a Federal or State reservation" was eligible.

The Senate recedes.

Both the Senate bill and the House amendment provided for the designation of public or private nonprofit agencies as prime sponsors in the absence of a governmental prime sponsor or where a designated prime sponsor was not satisfactorily implementing a child development program or where such sponsorship was for the purpose of providing programs for migrants. The House amendment, unlike the Senate bill, provided waiting periods before the Secretary could make such a designation of a public or private nonprofit agency. First, a unit of general local government or a State would have 120 days after the implementation of the section by the promulgation of regulations to submit an application. In the initial year under the House amendment a local governmental unit would have 240 days from such implementation to file a plan before the Secretary could designate another agency and such unit of government would have 90 days prior to the start of each succeeding fiscal year to file its annual plan. Both bills permitted the Secretary to designate a public or private nonprofit agency as a prime sponsor designed to meet the needs of economically disadvantaged children, preschool aged children, or children of working mothers or single parents even though residing in an area served by another prime sponsor designated by the Secretary and the Senate bill also authorized such action by the Secretary to carry out model programs "especially designated to be responsive to the needs of economically disadvantaged and minority groups or bilingual preschool children."

The conference agreement contains the Senate provisions in these respects.

Both in the Senate bill and the House amendments the application of an Indian tribal organization or an eligible city for prime sponsorship designation had priority over the application of a State. However, the House amendment, unlike the Senate bill, gave the Secretary the discretion to designate the State in preference to an otherwise approvable application of a county or a combination of units of local government.

The House recedes.

The House amendment provided that the Governor may have sixty days within which to review and comment on applications for prime sponsorship. The Senate bill provided a reasonable opportunity for such review, in accordance with regulations.

The conference agreement gives not less than thirty nor more than sixty days for such review and comment.

The House amendment provided an applicant for prime sponsorship designation 60 days to submit corrective amendments where Secretary disapproves application or proposes to withdraw designation. The Senate bill required a "reasonable time" for such amendments or other corrective action.

The House recedes.

The House amendment made clear that, in judicial review of Secretary's action with regard to prime sponsorship designation, the findings of fact by the Secretary shall be conclusive if supported by substantial evidence. The Senate bill contained no such provision.

The Senate recedes.

The House amendment, unlike the Senate bill, required the Secretary to give preference to an alternate unit of Government or to a public or nonprofit agency or organization in the area representing the interests of minority and economically disadvantaged persons where a unit of general local government has a practice of excluding minorities.

The conference agreement makes such requirement applicable where any unit of government is maintaining a pattern and practice of exclusion of minorities.

The House amendment, but not the Senate bill, contained a provision that the Secretary may directly fund programs, including those in rural areas without regard to population, where he deems it necessary, in the event that a State, or unit or combination of units of general local government, or Indian tribal organization has not submitted a comprehensive child development plan or in the Secretary has not approved a plan so submitted, or where a prime sponsorship designation is not in effect, or where the needs of migrants, preschoolage children, or the children of working mothers or single parents, minority groups, or the economically disadvantaged are not being served.

The Senate recedes.

The Senate bill and the House amendment both required all prime sponsors to establish Child Development Councils except that, under the House amendment, a public or private nonprofit organization was not so required.

The conference agreement follows the Senate provisions in this respect.

The Senate bill, unlike the House amendment, provided for a minimum Child Development Council membership of ten. The House amendment set forth no minimum.

The House recedes.

The Senate bill required that at least one-half of the members of Child Development Councils be parents of the children served with parental representation on Child Development Councils initially chosen by existing Headstart policy committees and subsequently by project policy committees. The House amendment required that one-half of the members of the Child Development Council be elected representatives from Local Policy Councils (comparable to project policy committees in the Senate bill). The House amendment required that at least one person from each Local Policy Council be a member of the Child Development Council.

The conference agreement contains the Senate provisions in these respects.

The Senate bill required that half of the non-parental representatives on the Council be child development specialists except where they are not available. The House amendment required at least one child development specialist.

The House recedes.

The Senate bill required that, with the exception of the child development specialists, all non-parental members of the Child Development Council must be approved by the parent members.

The Senate recedes.

The House amendment provided that at least one-third of the membership of Child Development Councils be parents who are economically disadvantaged; the Senate bill in this respect required that one-fourth of Child Development Council members be "persons broadly representative of the economically disadvantaged."

The Senate recedes.

With respect to child development plans submitted by prime sponsors, the House amendment required priority for preschool children of working mothers and single parents, whereas the Senate bill simply required priority for preschool-age children.

The House recedes.

The House amendment required that funds be reserved for economically disadvantaged children from Federal funds allocated in any fiscal year in an amount at least equal to the aggregate funds in the prime sponsorship areas for Headstart programs in fiscal year 1972. The House amendment further provided that 65 percent of the remainder of such funds be for children of families having an annual income below the lower budget for an urban family of four persons: the Senate bill provided that not less than 65 percent of the total cost of programs receiving financial assistance shall be for child development programs and services' for such children.

The conference agreement contains provisions in this respect which are substantially the same as the House amendment.

The Senate bill, but not the House amendment, required comprehensive services to meet the need of all children to understand the history and cultural background of minority groups.

The House recedes.

The House amendment required equitable services for each minority group in the community to be served; the Senate bill contained the same requirement but also referred to significant segments of the economically disadvantaged.

The House recedes.

The House amendment required coordination of child development programs with other social programs, including employment and manpower programs, to keep members of the family as close together as possible. The Senate bill contained a similar provision which made no reference to other social programs or to manpower programs.

The Senate recedes.

The House amendment required that the comprehensive plan provide for direct parent participation in the conduct, overall direction, and evaluation of programs; the Senate bill did not set forth this specific provision.

The Senate recedes.

The House provision contained provisions, not contained in the Senate bill, for employment as professionals and paraprofessionals of neighborhood residents and for career development for such persons.

The Senate recedes.

The Senate bill provided that preference for program jobs be given insofar as possible to unemployed or low-income persons residing in the project area; the House amendment provided that preference be given to any person residing in the project area.

The conference agreement provides that, insofar as possible, persons residing in the community served will receive jobs, with special consideration for career opportunities for low-income persons.

The House amendment provided that the comprehensive plan assure that local educational agencies and private educational agencies have developed "linkage and coordination mechanisms" to provide continuity between preschool and school programs and between child development programs and EOA programs and ESEA programs. The Senate bill had comparable language but required the prime sponsor to develop these procedures in cooperation with public and private schools.

The conference agreement contains the Senate language.

Both the Senate bill and the House amendment required the comprehensive plan to include requirements for arrangements in the project area with business, industry, labor, and other community groups. However, the Senate bill also include a reference to "financial institutions".

The conference agreement includes the Senate language.

Both the Senate bill and the House amendment authorized delegation of arrangements for delivery of services to public or private agencies, under the supervision of the Child Development Council; but the Senate bill, unlike the House amendment, did not authorize delegation of administrative responsibility for development of the comprehensive child development plan.

The conference agreement contains the Senate provision in this respect.

The House amendment, but not the Senate bill, required comprehensive plan to provide for cooperative arrangements to be entered into under which public agencies, at both the State and local levels, responsible for handicapped children programs will make such services available to programs when appropriate.

The conference agreement requires the comprehensive plan to provide that services for handicapped children, at both the State and local levels, will be used wherever available in programs approved under the plan.

The House amendment, unlike the Senate bill, required the comprehensive plan to assure coordination of child development programs for which financial assistance is provided under the authority of other laws.

The House recedes.

The House amendment, but not the Senate bill, required that comprehensive plans provide that consideration be given to applications by public and private profitmaking and nonprofit organizations "with emphasis to on-going programs" and that comparative costs of providing services will be a factor in deciding among applications.

The conference agreement contains this provision with the modification that the comparative cost be considered in relation to the quality of services.

The House amendment contained provision in comprehensive plan requirements that services be provided only for children whose parents or legal guardians have requested them. The Senate bill did not set forth this provision, which was set forth in the Statement of Purpose, in the comprehensive plan requirements.

The Senate recedes.

The House amendment, but not the Senate bill, contained a provision requiring consideration for "excellence of architecture and design" and "inclusion of works of art" in plans for construction.

The Senate recedes.

Both the Senate bill and the House amendment contained the requirement that each community action agency, single purpose Headstart agency, and local educational agency operating Headstart programs be afforded an opportunity to submit comments on a proposed comprehensive plan. They differ only in that the House amendment provided for local educational agency comments only if that agency had operated a Follow Through or Headstart program.

The conference agreement contains the Senate provisions in this respect.

The Senate bill, unlike the House amendment, contained a provision requiring the Secretary to establish procedures to permit prime sponsors to submit jointly a comprehensive child development plan for the areas they serve.

The House recedes.

The House amendment provided for local policy councils selected by parents in each neighborhood or sub-area possessing a commonality of interest, or for a nongeographic grouping of appropriate size. The Senate bill provided for project policy committees to be established by each project applicant, composed of the following: (i) not less than one-half parents of children served; (ii) persons representative of the community approved by the parent members and (iii) persons between one-third and one-half of members appointed as community members who have skills in child development.

The conference agreement contains the Senate provisions in these respects except that only one child development specialist (where available) is required on the project policy committee.

The Senate bill provided that project policy committees develop and prepare project applications, whereas local policy councils under the House amendment determine needs and priorities, make recommendations with respect thereto and encourage project applications to meet those needs.

The House recedes.

The Senate bill provided for the project policy committees to approve project policy committees' basic goals, policies, actions, and procedures for the project applicant including policies, planning, personnel, budget, facilities and evaluation. The House amendment did not contain such specific provisions.

The House recedes.

The House amendment required that charges be made for participation of children according to ability of family to pay; the Senate bill provided that no fee be charged to economically disadvantaged children but that children from families not so disadvantaged pay a fee according to schedule established by the Secretary based on the ability of the family to pay.

The conference agreement provides that no charges be made to families with an annual income equal to or less than $4,320, with adjustments in the case of families with more than two children. Charges for other families may be made in accordance with a fee schedule established by the Secretary based on ability to pay. However, such fees may not exceed 10 percent of the difference between the free services level and 85 percent of the lower living standard budget, and then 15 percent of any income between that level of 85 percent of the lower living standard budget and 100 percent of the lower living standard budget.

The House amendment provided that no person shall be denied employment solely on the ground that he fails to meet State teacher certification standards; the Senate bill contained same provision but added "or local" teacher certification standards.

The House recedes.

The House amendment provided that project application provide for the utilization of personnel, including paraprofessional and volunteer personnel, adequate to meet the specialized needs of each participating child; the Senate bill did not contain this specific language.

The Senate recedes.

The House amendment set forth provision that project application otherwise further the objectives and satisfy the requirements of the comprehensive child development plan. The Senate bill did not specifically so provide.

The conference agreement contains this requirement.

The House amendment, but not the Senate bill, contained a provision for a public or private nonprofit agency which is a prime sponsor to submit a project application directly to the Secretary.

The conference agreement includes such a provision.

The Senate bill provided that a project application submitted to the Secretary by a public or private agency may be approved upon the Secretary's determination that it meets the statutory requirements.

The conference agreement contains this provision.

The Senate bill contained authority, not included in the House amendment, for the Secretary to provide funds to States to enable them to provide special technical assistance to Child Development Councils and for encouraging State agencies to cooperate in the development and implementation of the comprehensive child development plans of prime sponsors which request such help. (The allocation formula provides that 5 percent of funds under the title may be used for these special grants to States.)

The House recedes.

Both bills provided that applications for financial assistance may be approved if rental, renovation, remodeling, or leasing of adequate facilities is not practicable. The Senate bill, unlike the House amendment, provided for the Secretary to make this determination.

The House recedes in this respect.

It is the understanding of the conferees that lease-purchase arrangements where payment schedules are comparable to rental or leasing arrangements shall be considered within the meaning of the term "leasing".

The House amendment did not authorize the Secretary to recover the value of a facility from grantee after 20 years from its completion if the facility ceases to be used for the purpose for which it was constructed;

the Senate bill permitted such recovery at any time the facilities cease to be so used.

The House recedes.

The House amendment authorized loans and grants for construction; the Senate bill permitted grants only.

The Senate recedes.

The House amendment provided that no more than 15 percent of total financial assistance to a prime sponsor could be for construction and only 7½ percent could be for grants for construction. The Senate bill limited grants for construction to 15 percent of total assistance.

The conference agreement contains the House provisions in this respect.

The House amendment, unlike the Senate bill, amended the Education Professions Development Act to authorize the Office of Education to provide assistance for training or retraining professional and nonprofessional personnel for child development programs. In addition, the Senate bill and the House amendment contained similar provisions authorizing the Secretary of Health, Education, and Welfare to support the training of personnel employed, preparing for employment, or volunteering for work in a child development program.

The conference agreement contains the Senate provisions in these respects.

Both the Senate bill and the House amendment required the Secretary to make an evaluation of Federal involvement in child development activities. The bills differed in the following respects:

(a) The House amendment, but not the Senate bill, specified that the evaluation shall be made through the Office of Child Development. The conference agreement provides for such evaluation through the Office of Child Development unless the Secretary determines otherwise.

(b) The Senate bill, but not the House amendment, required the evaluation to include the extent to which preschool, minority groups, and economically disadvantaged children and their parents have participated in programs. The House recedes.

(c) The Senate bill required the evaluation results to be reported to Congress not later than two years after enactment, the House amendment no later than 18 months after enactment. The Senate recedes.

(d) Both the Senate bill and the House amendment required Federal agencies to provide such information as the Secretary determines necessary for the evaluation. The Senate bill, unlike the House amendment, also imposed this requirement upon prime sponsors and project applicants. The House recedes.

(e) The Senate bill, but not the House amendment, provided that the Secretary shall reserve between 1 and 2 percent of funds for this evaluation section. The House recedes.

The House amendment provided that the Secretary establish Federal standards for child development services after approval of a Special Committee. The Senate bill provided that the Secretary consult with such Committee and other Federal agencies and that he give his reasons if he disapproved the Committee's recommendations.

The House recedes.

The Senate bill, but not the House amendment provided that Child Development Standards shall be no less comprehensive than the Federal Interagency Day Care Requirements as approved by HEW, OEO and the Department of Labor on Sept. 23, 1968.

The House recedes.

The House amendment provided that parents of Title IV Social Security Act programs must be represented along with Headstart parents on the Special Committee to develop standards. The Senate bill did not so provide.

The Senate recedes.

The House amendment provided that on the committee to develop uniform minimum code for facilities standards one-half shall be parents, including Title IV Social Security Act parents; the Senate bill provided one-third shall be parents and did not refer to Title IV.

The Senate recedes.

The House amendment gave the uniform facilities code committee 6 months to report; the Senate bill gave it a year.

The House recedes.

The House amendment provided that promulgation of facilities code required concurrence of the committee. The Senate bill required the Secretary to consider recommendations of the committee.

The House recedes.

The House amendment, unlike the Senate bill, contained provisions authorizing mortgage insurance for child development facilities.

The Senate recedes.

The Senate bill and the House amendment each authorized support for child development programs for the children of Federal employees, except as follows:

(a) The Senate bill limited such assistance to children of civilian employees (not military personnel), whereas the House amendment was not so limited. The Senate recedes.

(b) The Senate bill, but not the House amendment, characterized the programs as "model" programs. The Senate recedes.

(c) The Senate bill and the House amendment provided that no more than 80 percent share shall be paid from funds under this part. The House amendment, unlike the Senate bill, provided that after the first two years of a program's operation, no more than 40 percent of program costs shall be paid from Federal funds. The House recedes.

(d) The House amendment, but not the Senate bill, provided that funds for Federal employee programs shall be distributed among the States, insofar as feasible, in proportion to the number of Federal employees. The Senate recedes.

The Senate bill authorized the Secretary to carry out a research and development program. The House amendment was similar but established a National Center for Child Development within the Office of Child Development for research purposes.

The conference agreement generally follows the Senate title except that it does not establish a National Center for Child Development.

The Senate bill, but not the House amendment, provided for research to test alternative child development methods.

The House recedes.

The House amendment, but not the Senate bill, included among research activities the following purposes:

(a) production of information systems to support Center activities;

(b) integration of national child development research efforts into a focused national research program.

The Senate recedes.

The Senate bill, but not the House amendment, provided that the Secretary shall give priority in assisting research and demonstration projects to programs carried out by multicounty local development districts under the Appalachian Regional Development Act and the Public Works and Economic Development Act.

The Senate recedes.

Although specific mention of research and demonstration funding for child development programs of multicounty local development districts established under the Appalachian Regional Development Act of 1965 and the Public Works and Economic Development Act of 1965 has been deleted in the conference agreement, this action is in no way to be construed as a rejection of such agencies as being eligible or to preclude the funding of any research and demonstration programs presently conducted by the Appalachian Regional Commission. Such agencies are eligible for research and demonstration grants as are individuals, public or private nonprofit organizations, universities, colleges, and community service type organizations.

The House amendment required an annual report on research activities to Congress, a provision not contained in the Senate bill.

The Senate recedes.

The Senate bill, but not the House amendment, authorized a program of national child advocacy projects in various regions of the United States.

The Senate recedes.

Both the Senate bill and the House amendment provided for an Office of Child Development in the Department of Health, Education, and Welfare, to be the principal agency for administering and coordinating child development programs. The Senate bill, unlike the House amendment, contained a statutory provision for Director of the Office of Child Development.

The House recedes.

The House amendment, unlike the Senate bill, required the President to take appropriate steps to establish mechanisms for coordination at the State and local level of child development programs.

The House recedes.

The Senate bill, but not the House amendment, required the Secretary of Health, Education, and Welfare to establish procedures to assure adequate nutrition services in child development programs, making use of the Special Food Service Programs for Children and the Child Nutrition Act.

The House recedes.

The Senate bill, unlike the House amendment, authorized the Secretary to withhold funds in order to recover amounts expended in the current or immediately prior fiscal year in violation of any term or condition under this legislation.

The House recedes.

The Senate bill, but not the House amendment, required the Secretary to prescribe regulations to assure that programs have adequate internal administrative controls and policies to promote the effective use of funds.

The House recedes.

Both the Senate bill and the House amendment had provision for payments of minimum and prevailing wages which were comparable. They differed in two respects: (1) The Senate bill imposed the duty of compliance directly on the Secretary whereas the House amendment made it a part of the project application and (2) the House amendment would have exempted volunteers from the requirements.

The conference agreement follows the Senate provision, except that persons who serve without compensation would be exempt from such provisions.

The Senate bill prohibited the Secretary from providing financial assistance for any program involving political activities or where funds or personnel are in any way engaged in the conduct of political activities in contravention of section 603 of the Economic Opportunity Act. The House bill did not contain this provision.

The House recedes.

The Senate bill contained language, not in the House amendment, prohibiting use of funds for construction, operation, or maintenance of so much of any facility as is for use for sectarian instruction or as a place for religious worship.

The House recedes.

The Senate bill, but not the House amendment, contained the standard provisions for withholding funds after reasonable notice and opportunity for a hearing.

The House recedes.

The House amendment contained advance funding authority, not set forth in the Senate bill.

The Senate recedes.

The House amendment contained the usual provision that Federal control of education is not authorized. The Senate bill did not contain the provision in this title.

The Senate recedes.

The Senate bill, unlike the House amendment, contained a specific provision prohibiting the Secretary from providing financial assistance unless the recipient provides nondiscrimination assurances.

The House recedes.

The House amendment, unlike the Senate bill, provided that no person should be discriminated against on the ground of sex in any program under this legislation, to be enforced under title VI of the Civil Rights Act.

The Senate recedes.

The House amendment, unlike the Senate bill, called for the Secretary to promulgate regulations "to guarantee" that other Federal funded child development programs including Title I of the Elementary and Secondary Education Act and Follow Through be coordinated with this act. The House provision also called for joint technical assistance efforts which result in coordinated efforts between the Office of Child Development and the Office of Education.

The conference agreement follows the House provisions, but states that regulations shall "assure" such coordination.

The House amendment, unlike the Senate bill, amended the Federal Property and Administrative Services Act to allow child development programs the benefits of surplus property disposals.

The Senate recedes.

The House amendment, but not the Senate bill, provided NDEA student loan forgiveness of 15 percent a year for service as a teacher in a child development program.

The Senate recedes.

The Senate bill defined "economically disadvantaged children" to mean any children of a family having an annual income below the lower living standard budget determined by the Bureau of Labor Statistics. The House amendment defined "economically disadvantaged child" to mean a child of a family whose annual income is at a rate inadequate to permit the purchase of child development services for him, as determined by the Secretary in accordance with criteria in regulations, considering factors taken into account in determining fee charges in other federally assisted child development programs.

The House recedes.

Both the Senate bill and the House amendment repealed provisions in other titles of the Economic Opportunity Act authorizing day care and provided that day care services shall be purchased under the new title V.

The conferees, in providing separate new authority for child development programs direct that there be no reduction in the child development services available for work and training programs conducted under Title I of the Economic Opportunity Act. Rather, it is anticipated that in developing programs for services under the new Title V authority, the Secretary of Health, Education and Welfare shall ensure that full consideration is given to those which serve work and training program enrollees. However, if no such services are available under Title V authority, it is expected that work and training program sponsors shall purchase into suitable existing child development programs provided by other public or private non-profit agencies.

Both the Senate bill and the House amendment added a new title to the Economic Opportunity Act creating a National Legal Services Corporation. The following differences in the provisions were resolved as follows:

In the declaration of policy relating to the Legal Services Corporation the Senate bill stated it is in the public interest "to provide greater access to attorneys and appropriate institutions" while the House amendment said it is in the public interest "to promote and encourage resort to attorneys and appropriate institutions." The House receded.

The Senate bill contained a more detailed and precise definition of the Corporation as a tax exempt organization than did the House amendment. The House receded.

The Senate bill and the House amendment were identical in substance, providing for the establishment of an incorporating trusteeship. The House amendment, in addition, required the trusteeship to establish procedures for lists of nominees by the national professional associations of attorneys in the nominations to the permanent board. The House receded.

The Senate bill provided for two separate initial Advisory Councils—one for clients and one for project attorneys—composed of eleven members each. The House amendment provided for a single Advisory Council to be composed of sixteen members selected from among legal services attorneys and the client community of whom no more than eight were to be individuals eligible for legal assistance. The Senate bill provided for separate meetings of the Clients Advisory Council and the Project Attorneys Advisory Council for submission of lists of nominees to the permanent board. The House amendment provided that the client members of the Council and the project attorney members should each submit recommendations—in substance, the same effect. The House receded.

The Senate bill provided for a board of directors of fifteen members selected in the following manner:

1 appointed by the Chief Justice of the United States after consultation with the Judicial Conference of the U.S.;

9 appointed by the President with the advice and consent of the Senate as follows: four from the general public; three eligible for legal services assistance chosen from a list submitted by the Clients Advisory Council; two chosen from a list submitted by the Project Attorneys Advisory Council;

5 shall be members by virtue of holding the following offices: President of American Bar Association or his designee; president of National Legal Aid and Defender Association or his designee; president of American Trial Lawyers Association or his designee; president of National Bar Association or his designee.

The House amendment provided for a board of directors consisting of 17 members appointed by the President and with the advice and consent of the Senate in the following manner:

1 member from lists of nominees submitted by the Judicial Conference of the United States;

7 members from individuals in the general public, three of whom must be attorneys admitted to practice before the highest court in their jurisdiction;

2 members from persons eligible for assistance under this Title, after having given due consideration to the recommendation of client members of the Advisory Council;

2 members from among former legal services project attorneys after giving due consideration to the recommendations of the attorney members of the Advisory Council;

1 member from lists of nominees submitted by the Association of American Law Schools;

4 members from lists of nominees submitted by the American Bar Association, National Bar Association, National Legal Aid and Defender Association, and the American Trial Lawyers Association, in accordance with procedures established by the incorporating trusteeship.

The conference agreement provides for a seventeen member board, all appointed by the President with the advice and consent of the Senate selected in the following manner:

6 members from the general public, three of whom must be admitted to practice before the highest court in their jurisdiction;

2 members from lists submitted by the Judicial Conference of the United States;

2 members who are former legal services project attorneys from lists submitted by the Project Attorneys Advisory Council;

2 members from among persons eligible for legal services assistance from lists submitted by the Clients Advisory Council;

5 members one each from lists submitted individually by the American Bar Association, National Bar Association, National Legal Aid and Defender Association, American Trial Lawyers Association and the Association of American Law Schools.

Regarding the constitution of the initial board of directors of the corporation, it is the intention of the conferees that all groups submitting lists to the President of prospective nominees should do so at the earliest possible time in order that the President may submit to the Senate all of his nominees to constitute the board of directors as quickly as possible, thereby permitting all directors to be duly appointed and the board authorized to begin to function no later than 90 days after enactment of the bill and well in advance of the date—six months from the date of the bill's enactment—when the corporation is fully empowered as a successor to the OEO legal services program.

Both the House amendment and the Senate bill provided for three year terms for board members with staggered terms to insure continuity. The differences between the House amendment and the Senate bill generally reflected the different make-up and means of selection of the board of directors in the respective bills.

The conference agreement provides that the terms of six of the initial board members shall expire after one year: one of the members appointed from lists submitted by the Judicial Conference; two of the members from the general public appointed by the President; one of the members from lists submitted by the Clients' Advisory Council; and the member appointed from lists provided by the National Legal Aid and Defended Association; and the member appointed from lists submitted by the American Trial Lawyers Association.

The following six board members are appointed for an initial three-year term: two of the members from the general public appointed by the President; one of the members appointed from lists submitted by the Clients' Advisory Council; one of the members appointed from lists submitted by the Project Attorneys Advisory Council; and the member appointed from lists submitted by the National Bar Association.

The following six members are appointed for an initial three-year term: two of the members from the general public appointed by the President; one of the members appointed from lists submitted by the Clients' Advisory Council; one of the members appointed from lists submitted by the Project Attorneys' Advisory Council; the member appointed from lists submitted by the American Bar Association; and the member appointed from lists submitted by the American Association of Law Schools.

The Senate bill authorized the establishment of an executive committee of not less than 5 nor more than 7 members which was to consist of the chairman of the board, the executive director of the Corporation, and one member each representing the general public, the eligible clients or the project attorneys, and the various professional legal associations. There was no comparable House provision. The House receded with an amendment authorizing the establishment of a similar executive committee which was to include the chairman of the board, at least one member representing the public, at least one member representing either the eligible clients or the project attorneys, and at least one member representing the various legal professional associations. The mandatory inclusion of the executive director on the executive committee was deleted. In so doing the conferees do not intend that the executive director necessarily must be excluded from membership on the executive committee. Membership of the executive director on the executive committee is thus left to the members of the board of the Corporation to decide.

The House amendment assured that attorneys are to be bound by the same canons and codes of behavior as other attorneys in their jurisdiction. There was no similar Senate provision. The Senate receded with an amendment providing that the Corporation shall assure that the project attorneys adhere to the American Bar Association's Code of Professional Responsibility and Canons of Professional Ethics.

Both the Senate bill and the House amendment authorized the Corporation to establish standards of client eligibility. The House amendment, however, required the standards to be "consistent with those established by the Office of Economic Opportunity for the provision of legal services". The Senate bill contained no such limitation. The House receded.

On a related matter, the Senate receded from a provision in the Senate bill which directed the board of the Corporation to establish graduated fee schedules to allow the near-poor to pay all or part of the cost of legal services provided them. There was no similar House provision. It is the intention of the conferees that the Corporation should not provide funds to afford free legal assistance to individuals or corporations who can afford to employ private counsel. The decision not to include a specific requirement that the standards of eligibility be consistent with those established for legal services programs by the Office of Economic Opportunity should not be understood to imply any dissatisfaction on the part of the conferees with those standards. Rather, the conferees intend that the Corporation should give serious consideration to the guidelines heretofore established by the Office of Economic Opportunity for the Legal Services program. However, the conferees thought it wise to provide authority to the Corporation to make such adjustments as time and experience may require.

The House amendment required that approval of grants be based on economical comprehensive delivery of services in both urban and rural areas. There was no Senate reference to urban and rural concentration. The Senate receded.

The Senate bill authorized the Corporation to be reimbursed for the cost of services rendered to other Federal agencies. There was no comparable House provision.

The House receded with an amendment to make clear that reimbursement would take place only where arrangements for such services were "otherwise authorized".

The House amendment prohibited attorneys or other persons employed by the Corporation, or engaged in programs funded by the Corporation, from solicitation of clients except that the Corporation was to be allowed a "mere announcement or advertisement" of its existence in the community. The Senate receded with an amendment which made clear that the prohibition against solicitation was not intended to include any conduct or activity permissible under the provisions of the Code of Professional Responsibility of the American Bar Association governing solicitation and advertising.

The Senate bill directed the board to establish graduated fee schedules to allow near-poor to pay all or part of the cost of services. There was no comparable House provision. The Senate receded.

The House amendment required the Corporation to notify the Bar Association of the State of grant approvals within that State thirty days prior to their actual approval. There was no comparable Senate provision. The Senate receded with an amendment requiring notification "within a reasonable time prior" to approval of a grant instead of "thirty days prior" to the approval of a grant.

The Senate bill prohibited the use of funds for criminal proceedings or extraordinary writs, such as habeas corpus or coram nobis, except pursuant to guidelines established by the Corporation. The House amendment contained a flat prohibition against the use of funds or personnel provided by the Corporation to provide legal services in any criminal proceedings. The Senate receded. The conferees want to make clear that this prohibition does not in any way relieve any attorney from specific or general responsibilities imposed on him as an officer of the court by the courts before which he practices.

The House amendment made the Corporation liable to any prevailing defendant for the payment of legal fees or court costs awarded in connection with any proceeding brought by attorneys employed by the Corporation. There was no comparable Senate provision. The House receded.

The Senate bill required all employees of legal services programs, while engaged in activities connected with those programs, to refrain from any partisan political activity associated with a candidate for public or party office and from any voter registration activity or from providing transportation to the polls. The House amendment applied the provisions of the Hatch Act to all full-time employees of the Corporation and of programs funded by the Corporation and, in addition, prohibited non-partisan political activity.

The conference agreement provides that such full time employees while engaged in activities carried on by the Corporation refrain from partisan or nonpartisan political activity including voter registration or transportation. Full time employees must also refrain from identifying the Corporation with any candidate for political or party office. The Corporation is directed to establish appropriate guidelines dealing with free time political activities of the full-time employees of the Corporation or its grantees.

The Senate bill provided that the financial transactions of the Corporation, its grantees and contractors, were to be subject to annual audit by the General Accounting Office. The House amendment expanded the authority of the General Accounting Office and, in addition to financial audits, authorized the General Accounting Office to examine the accounts, operations, reports of evaluations, and inspections of the Corporation, its grantees and contractors. The Senate receded.

The Senate bill included in the definition of "legal services" the provision of bilingual legal services to residents of communities when the predominant language is other than English. There was no comparable House provision. The House receded.

The Senate bill provided that rights to capital equipment of legal services programs were to be transferred to the Corporation on the date of enactment. The House amendment prescribed that all such rights should transfer at a time prescribed by the Director of the Office of Management and Budget or six months after enactment, whichever is earlier. The House provision insured the existence of responsible persons and organizational structure to take responsibility for such capital equipment. The Senate receded.

Both the Senate bill and the House amendment provided for the transfer to the Corporation of all personnel, assets, liabilities, property, and records used in connection with the Office of Economic Opportunity Legal Services program. Non-lawyer personnel transferred were protected by the Senate bill in that transfers were to be effected in accordance with applicable laws and regulations (including the continuation of benefits provided under civil service laws relating to seniority, classification of positions, retirement benefits, compensation for work injuries, health insurance, group life insurance, and similar matters) and "without reduction" in classification or compensation for one year following the transfer. The Director of the Office of Economic Opportunity was further required to take the necessary and reasonable actions to "find" suitable employment for such persons who did not wish to transfer. The House receded with clarifying language to the effect that non-lawyer personnel shall be transferred in accordance with applicable laws and regulations and "shall not be reduced" in classification or compensation for one year. Further amendment required that the Director take such action as was necessary and reasonable to "seek" suitable employment for all those persons who did not wish to be transferred.

The Senate bill protected existing collective bargaining agreements covering personnel transferred to the Corporation. There was no comparable House provision. The House receded.

Carl D. Perkins,
Augustus F. Hawkins,
William D. Ford,
Phillip Burton,
Joseph M. Gaydos,
William L. Clay,
Shirley Chisholm,
Mario Biaggi,
Ella Grasso,
Ogden Reid,
Managers on the Part of the House.

Gaylord Nelson,
Edward Kennedy,
Walter Mondale,
Alan Cranston,
Harold E. Hughes,
Adlai Stevenson III,
Jennings Randolph,
Jacob Javits,
Richard Schweiker,
Managers on the Part of the Senate.

Mr. NELSON. Mr. President, I ask unanimous consent that the requirement for printing the conference report on S. 2007 and the accompanying joint explanatory statement as a separate Senate report be waived, in view of the fact that there will be a House report for that purpose.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON subsequently said: Mr. President, earlier today I filed a conference report on S. 2007. At that time I asked that the rule governing printing of the report be waived.

I have since learned that the report has not been printed in the House and therefore I ask unanimous consent that my earlier request be vacated.

The PRESIDING OFFICER. Without objection, it is so ordered.

ECONOMIC STABILIZATION ACT OF 1971

The Senate continued with the consideration of the bill (S. 2891) to extend and amend the Economic Stabilization Act of 1970.

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAMS. Mr. President, it impresses me that the amendment of the Senator from Ohio can perhaps be described as legislative lightning of a very destructive type.

This amendment deals with emergency disputes in the labor-management relationship. It is a subject matter that, of course, is processed in an orderly way by the Committee on Labor and Public Welfare in the Senate. This proposal, however, now comes to us as an amendment to the economic stabilization program presented to the Senate by the Committee on Banking, Housing and Urban Affairs.

I do not intend to talk very long on this matter, and I advise the Senate that after some discussion—which I hope will be brief—it is my intention to move to table this amendment, for what I think are compelling reasons.

The distinguished Senator from Ohio has shown a deep concern about the disruptions of life in this country that arise through labor disputes that are not settled and result in strikes. He has previously introduced proposed legislation to deal with disputes in the railway industry. On March 3, a bill was introduced by the Senator from Ohio to amend the Railway Labor Act, and this bill, S. 1093, was referred to the Committee on Labor and Public Welfare. That bill is now before our committee.

On November 12, 1971, the Senator introduced S. 2850, a bill to amend the Labor-Management Relations Act of 1947 and the Railway Labor Act to provide for the settlement of certain emergency labor disputes. That bill was referred to the Committee on Labor and Public Welfare. That was slightly more than 2 weeks ago. That bill, under orderly Senate procedures, will come on for hearings by those who want to be heard and those who would be affected by such legislation.

This present amendment, as I read it, is the same as the bill that the Senator from Ohio introduced 2 weeks ago and which is now before the Committee on Labor and Public Welfare. Obviously, it has not been heard, and it is a sweeping proposal. We have other bills before the Labor Committee dealing with emergency situations in labor disputes. One is the administration proposed legislation, which was introduced by the junior Senator from Michigan, the assistant minority leader. This deals with those labor disputes in the transportation industry which present national emergencies.

Senator JAVITS has introduced a bill which is also before the Committee on Labor and Public Welfare. This Senator has a bill dealing with this subject. The Senator from Tennessee (Mr. BROCK), the Senator from Colorado (Mr. DOMINICK), the Senator from Arizona (Mr. FANNIN), the Senator from Iowa (Mr. MALLER), and the Senator from Vermont (Mr. STAFFORD) have all introduced bills, and the committee is in the process of hearing them.

We started our hearings in June, when we appropriately heard from the Secretary of Labor. We then moved on to hear from the Secretary of Transportation, because most of the poposed legislation dealt with disputes of an emergency nature in the transportation industry. We have hearl from Senator BROCK, the National Association of Manufacturers, the Assistant Secretary of Agriculture, the Association of American Railroads, the National Railway Labor Conference, Senator MILLER, Representative HARVEY, the Air Transport Association, and the Brotherhood of Railway Clerks.

It can be seen that the orientation of the hearings has been around disputes in transportation, and that is the area to which the administraiton's bill is limited.

The Taft bill before the Committee on Labor and Public Welfare, introduced on November 12, and now offered as an amendment, sweeps across all segments of our economy. It deals not only with transportation but with all other industries as well. It seems to me that my first phrase, that this is legislative lightning of a destructive type, is appropriate, when we consider that this broad and sweeping legislative proposal, offered as an amendment to an unrelated bill, has not been heard at all and would repeal, in one fell swoop, substantial parts of established law in the Taft-Hartley Act and the Railway Labor Act.

For these reasons, I am convinced that the Senate would want us to deal with the Taft bill that is before the Committee on Labor and Public Welfare as we deal with all major legislation, through hearings that bring on the people whose economic life will be so basically affected.

The PRESIDING OFFICER. Who yields time?

Mr. TOWER. I yield myself 3 minutes.

Mr. President, I will support the motion to table, but I will do so reluctantly.

While perhaps not agreeing in every detail with what the Senator from Ohio has proposed here, I certainly do agree in substance. I applaud him for bringing this matter to our attention. I have long felt that our business of reacting to crises as they occur wih some kind of jerry-built, makeshift arrangement has come to an end and that we have to devise legislation which is designed to build on a permanent basis and have permanent applicability to emergency labor disputes that have the effect of tying up the economy or adversely influencing the economy and inconveniencing a number of our national citizenry, if ot all of them.

In substance, I support what the Senator from Ohio is doing. I do not believe that it is consonant with the orderly legislative process to bring it up as an amendment to this bill at this time.

I might make the further point that if we did accept this amendment and took it to conference, on the basis of the probability of the raising of a point of order, the House conerees would refuse t consider it, and it would be lost in conference; or, even if they did consider it, it would be taken back to the House and a point of order would be raised on it in the House. But it would not become legislation, so that this would be a fruitless exercise just to include it in this bill at this time, which is not an appropriate vehicle for the proposition of the Senator from Ohio. At such time as he thought, however, if he chose a vehicle, even though this bill has not been reported out of the committee, if he chose such an appropriate vehicle, I feel it would then be in the order of the legislative process, and I would support it.

Mr. PACKWOOD. Mr. President, will the Senator from Texas yield me 4 minutes?

Mr. TOWER. I yield 4 minutes to the Senator from Oregon.

The PRESIDING OFFICER. The Senator from Oregon is recognized for 4 minutes.

Mr. PACKWOOD. Mr. President, I, too, am going to support the motion to table, although I do so with some reluctance, but a different reluctance from that of the Senator from Texas. I do so, first, because I do not like lumping the transportation industry generally with all the industries in this Nation. There is a substantial difference between a nationwide auto strike and a nationwide railroad strike. I think this country could stand a nationwide auto strike, and by that I do not mean to say that such a strike would be desirable, of course, but we could stand it for 3 or 4 months and there would be perhaps a slight economic downturn, but the country would go on. But if we were faced with a nationwide railroad strike for 3 or 4 weeks, this country comes to a screeching halt.

In my State of Oregon, I saw the tremendous ill effects of a selective railway strike last summer, where two or three of the principal railroads were shutdown for a substantial period of time. I would like to see that situation remedied so that Oregon consumers, businessmen, and labor, could count on a continuity of transportation. I saw for almost 3½ months the effects of the west coast dock strike on the State of Oregon. I am afraid that we are likely to see those effects start all over again on Christmas Day, when the 80-day Taft-Hartley injunction period runs out and the west coast longshoremen are free to go back on strike for as long as they want, and with no legal remedies to put them back to work.

I would implore the chairman of the Committee on Labor and Public Welfare, the distinguished Senator from New Jersey (Mr. WILLIAMS), to move expeditiously with hearings. As he will recall, I asked last week that we continue with the hearings and get some kind of bill out——

Mr. WILLIAMS. Let me tell the Senator from Oregon right now that the next scheduled hearing date is December 7, 1971.

Mr. PACKWOOD. December 7. I thank the Senator. I think it is imperative that we get some kind of bill out. We have differences in committee. We will have differences on the floor of the Senate, but we must get——

Mr. WILLIAMS. I would suggest, even though we might be in recess then, that we still maintain that hearing date of December 7.

Mr. PACKWOOD. I can assure the Senator that I shall——

Mr. WILLIAMS. I know that the Senator will be in attendance.

Mr. PACKWOOD. I will be at the hearing, yes, because it is imperative.

Mr. President, I do differentiate the transportation industry, where a relatively small number of people can economically strangle this Nation, as being apart from general industrial strikes in the steel or auto industries as to their economic effect on the Nation. Such general industrial strikes do not have so severe an economic effect on the Nation as one in the transportation industry.

Mr. President, I yield back the remainder of my time.

Mr. TAFT. Mr. President, I yield myself such time as I may need.

Mr. President, the handwriting on the wall is relatively clear at this point. It is not surprising, because there has been a notable reluctance to bring out a bill or even an amendment of this kind to the floor of the Senate, or indeed on the floor of the House, for many years.

I served on the Labor and Education Committee in the House in 1963 and 1964. We had proposals at that time which we were studying and talking about. I also served on the Republican Platform Committee in 1960. I have worked with and on Republican platforms at every convention since that time. Every one of those platforms has had a plank calling for a revision of the emergency strike laws.

I believe that I could be subject to correction, but I believe quite a few of the Democratic planks in their platforms may have had similar provisions. This is something on which we have not made good. If that were not true, I would be inclined to pull back from that decision, possibly. However, I feel that the background and the circumstances call for bringing this matter to issue in this way, even though we may be defeated and we may get only a few votes—perhaps only my own, as I have not gone about seeking votes for this particular proposition. But it is important that we bring this matter to the floor of the Senate.

There is only one circumstance on which I would be inclined to pull back from that decision, and that is if we could get a firm commitment from the Senator from New Jersey, the chairman of the Labor Committee, as to when he feels the committee might be wanting to report a national emergency strike bill which would bring out the issue presented by this amendment.

If the Senator from New Jersey has any comments to make in that regard, I would be glad to hear them at this time.

Mr. WILLIAMS. As chairman of the Committee on Labor and Public Welfare, I know that the Senator from Ohio is a very helpful member of that committee. But for me to stand here and give that particular assurance to the Senator, of a date certain to report this kind of legislation, would be the height of folly.

All I can promise is what I have stated before and do state now, that we will continue in the accepted and effective way of holding hearings to consider legislation, including the Senator from Ohio's bill which I mentioned earlier, I do not know whether the Senator heard me when I acknowledged the fact that we have before the committee the amendment that the Senator has here offered, but in bill form. It was introduced on November 12 just 2 weeks plus a few days ago. I mentioned that, with the schedule of the committee, with so many major bills before us now for consideration, there has not been time to have hearings since November 12.

We are hearing this subject matter on December 7, as I indicated to the Senator from Oregon (Mr. PACKWOOD) a few moments ago, whether we are in recess, or whether we are not, and I will ask my committee to cooperate and continue with that hearing on that date, or other dates, if need be, until we reconvene in January.

Mr. TAFT. I might say that I commend the chairman for having the hearings at all, as they have not occurred over a period of time. I am assured that the chairman expects to continue with the hearings but that, in itself, offers little or no promise that there will be any action on the matter.

The chairman has complained that my bill was introduced only in November. Indeed, that is true, but the bill was introduced, because I felt the situation of the national economy posed a threat of a national emergency strike which had become so serious that we should have bills before the Senate as some kind of vehicle for handling this problem if it should arise.

It is the emergency nature of the situation as it affects the national economy that I am referring to. That is what the bill before us pertains to.

I find it a little ironic that the Senator from Texas raises the question of a point of order with regard to this amendment for I thought I had explained that I felt it deeply involved the whole question of the economy.

It is also ironic to bring it up after we have been here these late hours on the floor of the Senate debating the Pastore amendment which came up on a bill to which it was completely unrelated.

Mr. TOWER. I opposed the Pastore amendment.

Mr. TAFT. So did I.

Mr. TOWER. I am saying that this Senator is not raising the point of order but the House conferees will certainly raise it.

Mr. TAFT. The Senator may be correct that it would be raised, but I think it would be straining parliamentary procedures to say that a point of order would be well taken with regard to it.

But getting back to what the committee has had before it, and what is in the bill, there is nothing new in the bill which has not been before the Committee on Labor. Let me recite some of the bills which the chairman has already referred to—the Griffin bill, S. 560, introduced on February 3, 1971, the bill by the Senator from New York (Mr. JAVITS) to incorporate some of the provisions incorporated, as I indicated openly yesterday, very openly, in my bill introduced on February 4, 1971.

A bill by the chairman of the committee himself dealing with this subject was introduced on February 17, 1971. That is S. 352. A bill dealing with the work rules provisions insofar as the transportation industries are concerned was introduced by me on March 3, 1971, S. 1093. A bill was introduced by the Senator from Tennessee (Mr. BROCK), on March 24, 1971, dealing with this area. That was bill S. 1934.

In June 1971, the Senator from Colorado (Mr. DOMINICK) introduced a bill dealing with the transportation aspects of this very problem. That was S. 2060.

The Senator from Iowa (Mr. MILLER) introduced a bill in September dealing with the subject.

The chairman indicated that another Senator has introduced a bill dealing with the same subject. So, these are no new propositions. There is nothing new in this.

I am reminded of the story of a man who was lost and stumbling through the forest, as we seem to be when dealing with national strike legislation. Suddenly he found himself on his knees and decided that he would implore his maker. He looked toward heaven and said, "Lord, let us have a little less thunder and a little more light."

I think that is what we need today, and I am endeavoring to have a little more light by offering this amendment.

The Senator from Oregon indicated that he felt transportation strikes were in a special category and were more serious than other strikes. He may be right. They certainly have a damaging effect on the national economy. However, there are many other industries with respect to which this is also true.

It is not true with respect to consumers as far as automobiles are concerned. We may have too many automobiles in the country already. Although from the standpoint of the national economy, I hope that we continue to produce more.

The coal industry recently offered a real challenge concerning the shutting down of electric power in this country until we saw a recent settlement of the strike.

I had experience while in the State legislature with a telephone strike. No one can imagine until he has experienced a telephone strike the effect that a telephone strike can have on the health of the population and on the other public utilities in the same area.

The purpose of the bill is not really to fit everyone into the same category. It offers alternatives that they do not have under general legal procedures.

I think we ought to have a means of bringing about a peaceful settlement of the strike that will satisfy not only the interests of labor and management—which are important—but also the interests of the public and the entire country in this respect.

These are areas that I think we ought to be considering in talking about the legislation today.

Mr. President, I yield 5 minutes to the Senator from Hawaii.

The PRESIDING OFFICER (Mr. HUGHES). The Senator from Hawaii is recognized for 5 minutes.

Mr. FONG. Mr. President, I rise in support of the pending amendment to the Economic Stabilization Act of 1970 offered by my distinguished colleague Senator TAFT, which I have cosponsored.

It addresses itself to the problem of emergency labor disputes.

Mr. President, my State of Hawaii was grievously affected by the west coast dock strike for 100 days before the provisions of the Taft-Hartley Act were applied. The injunction that was issued has now been in effect for 53 days. The 80-day cooling-off period under the act will run out on December 26. We are not hopeful that any agreement will be reached before then. We expect we will again be faced with a disastrous dock strike.

I have received hundreds of letters from my constituents in Hawaii who have already suffered greatly, because of the west coast dock strike.

The pending amendment would offer relief for Hawaii and all other States affected by such labor disputes.

This amendment would significantly broaden the alternatives available to the executive branch for dealing with labor disputes which threaten the health or safety of this Nation or a substantial part of its population or territory, or which deprive any section of this country of essential transportation services.

It is therefore most appropriately denominated the Emergency Labor Disputes Act of 1971, and as such has enormous relevance and importance to the problem of our economic stabilization and recovery.

It has been evident for some time that the existing procedures available under Taft-Hartley are inadequate to the task of promoting and facilitating the resolution of labor-management disputes of the order now facing us and with which we will be confronted in the future.

The success of employment contract negotiations has been rendered increasingly difficult by the sweep of technological change, the rising challenge of foreign competition, the decrease of defense spending and many other factors.

Taft-Hartley has proved particularly unable to facilitate settlement in disputes affecting the longshore and maritime industries. Of the 29 national emergency disputes now concluded which have occurred since the enactment of Taft-Hartley in 1947, seven were in the stevedoring industry and three were maritime. Only one of the seven stevedoring strikes and two of the three maritime strikes were settled during the 80-day cooling-off period provided by a Taft-Hartley injunction. Taking the two categories together, a 3 out of 10, or 30-percent success record is not, in my judgment, good enough.

Now we are witnessing the use of Taft-Hartley injunctions in two more longshore disputes, one on the west coast and one on the east and gulf coasts. Predictions are already being heard on every hand that at the expiration of the injunction periods, the stevedores will go back out and the strikes will resume. The economic dislocation and distress which this will ultimately bring to my State of Hawaii and the Nation will be very grave.

The ILWU west coast strike originally began on July 1, and in the hundred days which followed, before Taft-Hartley brought relief, unemployment in Hawaii rose to 6 percent of the labor force, the highest level since June 1955. Shortages developed in everything from medical supplies to school textbooks, and the momentum of development in my State suffered a setback whose effects will be felt for years to come.

The shortage of supplies was so acute that the Governor of the State of Hawaii chartered a ship to go to Vancouver to get supplies for the State of Hawaii. These supplies were rerouted from many cities to Vancouver, which entailed added expenses. When the Governor of the State of Hawaii asked the Cost of Living Council to allow merchants to pass on the added costs of rerouted ocean freight and air cargo so that the flow of essential goods could be maintained, his application was denied. Small business in Hawaii, lacking unlimited financial resources have failed, putting hundreds of people off payrolls. Other businesses have gone on sharply reduced workweeks.

The people of my State became innocent victims of this strike, and they rightfully demand legislation which will give them better protection in the future.

I cannot see any protection for the State of Hawaii and the States along the west coast under the existing provisions of the Taft-Hartley Act after the injunction runs out on December 26. We do not believe that any settlement will be achieved by then.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. TAFT. Mr. President, I yield 3 additional minutes to the Senator from Hawaii.

Mr. FONG. Mr. President, I believe that the Taft amendment would protect our people. It sets forth four alternatives for use by the Secretary of Labor in labor disputes, any one or more of which may be utilized. These may come into play after the President finds there is an imperilment of the health or safety of the Nation, or that of a substantial part of its population or territory, or if a labor dispute deprives any section of the country of essential transportation services.

The first alternative would be a simple 30-day back-to-work directive by the Secretary to give the parties additional time to pursue collective bargaining.

The second alternative would permit the Secretary to issue an order for partial operation of the affected industry. Such an order, for instance, might provide a lifeline to my island State in the event of a west coast dock or maritime strike.

The third alternative would be the final offer selection process originally embodied in S. 560, whereby a neutral panel would, after hearings, select the most reasonable, in its judgment, of the final offers submitted by the parties to the dispute. The final offer selected shall be deemed to represent the contract between the parties, unless found arbitrary and capricious by a Federal court. I believe that this procedure may well be a great impetus to settlement of labor disputes by negotiation, reducing the bitterness and economic injury which follow in the wake of so many prolonged strikes.

I would venture that labor would welcome this, because the workingman need not go on strike and lose his wages while this procedure is followed.

The fourth alternative offered by the Taft amendment would be the familiar Taft-Hartley 80-day injunction, expressly modified to allow its use in disputes in any section of the country where strikes deprive the public of essential transportation services. Taft-Hartley is presently applicable only to imperilment of the national health or safety.

I believe this amendment is particularly urgent at this time for my State of Hawaii and States along the Pacific Coast. Under the Taft-Hartley law, we have no alternative except to accept the strike after the injunction expires on December 26, and face the future without any remedy at all. This amendment would safeguard Hawaii.

We are an insular State. We depend heavily on surface transportation to provide the necessities of life in Hawaii.

I think this amendment would serve well to protect my State and other insular territories from the disastrous results of a transportation industry strike. Therefore, I strongly urge my colleagues to vote for the amendment.

Mr. TAFT. Mr. President, I yield myself such time as I may need.

The PRESIDING OFFICER (Mr. HUGHES). The Senator from Ohio is recognized.

Mr. TAFT. Mr. President, I wish to thank the Senator from Hawaii for his very carefully thought out and well-presented statement on the effect of the bill and for referring to a specific instance, a particular problem with regard to the State of Hawaii that needs attention and not further consideration, study, and delay in the handling of this problem. There has been plenty of that over the last 10 years, if not longer. There have been proposals from the very outset. From 1946 on many proposals have been made.

This amendment today is merely an attempt to bring this issue before the Senate—something that has not happened in recent years and which inevitably is going to have to happen and it is going to have to be faced up to by the Senate in the near future.

There is nothing in this bill that was not before the committee on March 3 of this year, and nothing has transpired or come out of the committee since that time. There have been hearings and there have been good hearings, and I commend the chairman of the committee for having the hearings. But it is time to decide now. We know the alternatives. I have studied this area for years and I know that many other Senators have done so also. We know the alternatives and we know what the provisions in this bill would provide. Let us face up to the situation now and vote up or down as to whether we will face up to the problem. If we do not face up to it now the ultimate verdict will force us to do so in the near future.

Mr. President, I am ready to yield back my time, unless there is another request for time.

Mr. WILLIAMS. Mr. President, I am

ready to yield back my time, but I want to make one observation and suggest that the Secretary of Labor testified before our committee on June 15. Many of the bills introduced in this area were before the committee at that time. Other bills were not. Certainly, the last bill by the Senator from Ohio was not.

I would make this suggestion to the distinguished Senator from Ohio, my friend, that on December 7, when we are scheduled to hear from representatives of the American Association of Port Authorities, the Airline Pilots Association, and the American Retail Federation, that the Senator from Ohio join me in inviting the Secretary of Labor to appear on that day and specifically invite his comments on the Senator's proposal.

Mr. TAFT. I thank the Senator and we would be glad to join with him in inviting the Secretary of Labor or anyone else who might want to come and comment on the bill.

Mr. WILLIAMS. We cannot do it on the basis of anybody else. This legislation is very new and sweeping authority to the Secretary of Labor, authority that now, to the extent it exists at all, runs from the President to the Attorney General. Under this legislation it would run from the President to the Secretary of Labor.

Mr. TAFT. I think that would have been true under the bill of the Senator from Michigan. So we have had it since last February, the Attorney General still does under the 80-day injunction period.

Mr. WILLIAMS. Without going into detail, the Senator's bill sweeps well beyond transportation, and into all other industries as well.

Would the Senator join me in inviting the Secretary of Labor to testify?

Mr. TAFT. I would be delighted to join in issuing such an invitation.

Mr. WILLIAMS. Mr. President, I yield back the remainder of my time.

If the Senator from Ohio will permit me, I move to table this amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment.

Mr. TAFT. Mr. President——

The PRESIDING OFFICER. Debate is not in order.

Mr. TAFT. Mr. President, I have not yielded back my time.

Mr. WILLIAMS. I thought the Senator had yielded back his time.

The PRESIDING OFFICER. The Chair understood the time had been yielded back.

Mr. WILLIAMS. I thought so, too.

Mr. TAFT. I believe I indicated to the Senator from New Jersey I was ready to yield back my time, but I have not yet done so.

Mr. WILLIAMS. I misunderstood. I thought the Senator had.

Mr. TAFT. Mr. President, I have asked for a deferral on this out of courtesy to the Senator from Hawaii so I might ask unanimous consent that his name be added as a cosponsor of the measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TAFT. Mr. President, I now yield back the remainder of my time.

Mr. WILLIAMS. I now move to table.

The PRESIDING OFFICER. The question is on the motion to table.

Mr. TAFT. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from New Jersey (Mr. WILLIAMS) to table the amendment of the Senator from Ohio (Mr. TAFT) as modified. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Washington (Mr. JACKSON), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Maine (Mr. MUSKIE), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Indiana (Mr. HARTKE), and the Senator from Minnesota (Mr. MONDALE) are necessarily absent.

I further announce that the Senator from Florida (Mr. CHILES) is absent on official business.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON), the Senator from South Dakota (Mr. MCGOVERN), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Indiana (Mr. BAYH) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Ohio (Mr. SAXBE) is absent on official business.

The Senator from Arizona (Mr. GOLDWATER) is necessarily absent to attend the funeral of a friend.

The Senator from Utah (Mr. BENNETT) and the Senator from South Dakota (Mr. MUNDT) are absent because of illness.

The Senator from New York (Mr. JAVITS) is necessarily absent.

If present and voting, the Senator from Arizona (Mr. GOLDWATER) would vote "nay."

The result was announced—yeas 58, nays 29, as follows:

[No. 412 Leg.]

YEAS—58

Allen
Anderson
Baker
Beall
Bentsen
Bible
Boggs
Brooke
Burdick
Byrd, W. Va.
Cannon
Case
Church
Cranston
Eagleton
Eastland
Ellender
Ervin
Fulbright
Gambrell
Gravel
Harris
Hart
Hollings
Hughes
Humphrey
Inouye
Jordan, N.C.
Kennedy
Long
Magnuson
Mansfield
Mathias
McClellan
McGee
McIntyre
Montoya
Moss
Nelson
Packwood
Pastore
Pell
Proxmire
Ribicoff
Schweiker
Scott
Smith
Sparkman
Spong
Stafford
Stennis
Stevens
Stevenson
Symington
Talmadge
Tower
Tunney
Williams

NAYS—29

Aiken
Allott
Bellmon
Brock
Buckley
Byrd, Va.
Cook
Cooper
Cotton
Curtis
Dole
Dominick
Fannin
Fong
Griffin
Gurney
Hansen
Hatfield
Hruska
Jordan, Idaho
Metcalf
Miller
Pearson
Percy
Roth
Taft
Thurmond
Weicker
Young

NOT VOTING—13

Bayh
Bennett
Chiles
Goldwater
Hartke
Jackson
Javits
McGovern
Mondale
Mundt
Muskie
Randolph
Saxbe

So Mr. WILLIAMS' motion to lay on the table Mr. TAFT'S amendment was agreed to.

Mr. MANSFIELD. Mr. President, after discussing the proposal I am about to make with the manager of the bill, the Senator from Alabama (Mr. SPARKMAN), and the ranking Republican member of the committee, the Senator from Texas (Mr. TOWER), and also with the Senator from California (Mr. CRANSTON), I ask unanimous consent that before the Cranston amendment, which is ordered to be the next item of business, is taken up, the Senate proceed to the consideration of an amendment to be offered by the Senator from New Mexico (Mr. MONTOYA), with a time limitation of 6 minutes, the time to be equally divided between the sponsor of the amendment and the manager of the bill.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana? Without objection, it is so ordered.

The amendment will be stated.

The second assistant legislative clerk proceeded to read the amendment.

Mr. MONTOYA. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MONTOYA'S amendment is as follows:

On page 21, delete lines 17–21, and on line 22, delete "(c)" and insert "(b)".

The PRESIDING OFFICER. The Senator from New Mexico is recognized. The Senate will be in order so that the Senator may be heard.

Mr. MONTOYA. Mr. President, the amendment which I am offering is being offered because section 215(a), which authorizes appropriations in such sums as may be necessary to carry out the provisions of title II, accomplishes what is intended to be accomplished by subsection (b), which is proposed to be stricken and is superfluous.

Furthermore, pending supplementals before the Appropriations Committee, which will be considered by the subcommittee tomorrow, provide the same language as proposed by subsection (b), which we hope is deleted from the bill.

After having called this matter to the attention of the floor managers of the bill, it was agreed that this amendment would be proposed, and that the committee would enter its approval of the amendment.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. SPARKMAN. Mr. President, the Senator from New Mexico has correctly stated the situation. I am ready to accept the amendment. I think it is a good one.

Mr. SCOTT. Mr. President, has the Senator from California been recognized?

Mr. MANSFIELD. No.

The PRESIDING OFFICER. Is time yielded back?

Mr. SCOTT. Will the Senator yield, with the understanding that no time will be taken from the amendment?

Mr. SPARKMAN. We have finished with the amendment—this is the Montoya amendment—if the Senator from Texas will join in accepting the amendment.

Mr. TOWER. I am willing to accept the amendment.

The PRESIDING OFFICER. Is all time yielded back?

Mr. MONTOYA. I yield back the remainder of my time.

Mr. SPARKMAN. Wait; does the Senator from Pennsylvania wish to be heard?

Mr. SCOTT. Not on this.

Mr. SPARKMAN. I yield back my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from New Mexico.

The amendment was agreed to.

AMENDMENT NO. 767

The PRESIDING OFFICER. Under the previous order, the Senator from California (Mr. CRANSTON) is recognized to offer Amendment No. 767.

The amendment will be stated.

The legislative clerk read as follows:

On page 6, after line 2, insert a new subsection "(f)" as follows:

"The authority conferred on the President by this section shall not be exercised with respect to—

"(i) prices or rentals for materials furnished for publication by any press association or feature service,

"(ii) prices or rentals for books, magazines, motion pictures, periodicals, or newspapers, other than waste or scrap, or rates charged by any person in the business of operating or publishing a newspaper, periodical, or magazine, or operating a radio-broadcasting or television station or network, a motion picture or other threater enterprise, or

"(iii) wages, salaries, or commissions of an employee of any person in the business of operating or publishing a newspaper, periodical, or magazine, or operating a radio-broadcasting or television station or network, a motion picture or other theater enterprise, or of any press association or feature service or of any person engaged in the production or publication of books or motion picture."

The PRESIDING OFFICER. The time on the amendment is 1 hour and a half, to be equally divided. Who yields time?

PROGRAM

Mr. SCOTT. Mr. President, with the understanding that the time is not to be taken out of the time allotted for the amendment, I ask unanimous consent that 3 minutes be yielded to me.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. SCOTT. I rise to ask the distinguished majority leader, what is the program for tonight and what is the likelihood of finally passing this measure either tonight or tomorrow?

Mr. MANSFIELD. Mr. President, in response to the questions raised by the distinguished minority leader, following the disposition of the Cranston amendment, an amendment will be offered by the Senator from Illinois (Mr. PERCY), and then I understand there will be an amendment by the Senator from Wisconsin (Mr. PROXMIRE). That will conclude the business for tonight, which ought to take us up to somewhere between 8 and 9 o'clock, probably close to 9.

The Senate will recess tonight and start immediately on the remaining three Proxmire amendments and the one Javits amendment tomorrow, which are all I know of at the present time. We should be able, with a little luck, to finish this bill hopefully as early as 2 o'clock on tomorrow afternoon, and when this bill is disposed of, it is anticipated that the Senate will take up the nomination of Mr. Butz.

In the meantime and following the Butz nomination, conference reports will be called up, appropriation bills which become eligible will be brought up, along with other items of major concern which when disposed of would bring us finally to consideration of the nominations to the Supreme Court and the adjournment sine die.

Included are a number of bills on the calendar—fish inspection and others—on which time limitations have been agreed upon, and they, among others, will be taken up in the interim.

So, the Senate will complete its business about 9 o'clock tonight. There will be no morning business tomorrow. Following three 15-minute speeches by Members which the Senate has already granted, we will return to the pending business.

Mr. SCOTT. And the Senate will convene at 9 o'clock tomorrow morning?

Mr. MANSFIELD. 8:30, I understand. It has been changed.

Mr. SCOTT. I will not ask any more. It is getting worse all the time. [Laughter.]

Mr. HANSEN. Mr. President, will the Senator yield?

Mr. CRANSTON. I yield.

Mr. HANSEN. I should like to ask the distinguished majority leader if it might be possible sometime this evening, after the other business has been taken care of, for me to have a short colloquy with the distinguished Senator from Indiana (Mr. HARTKE).

Mr. MANSFIELD. Yes, indeed—for as long as the Senator desires.

Mr. HANSEN. I thank the Senator.

ECONOMIC STABILIZATION ACT AMENDMENTS OF 1971

The Senate continued with the consideration of the bill (S. 2891) to extend and amend the Economic Stabilization Act of 1970.

The PRESIDING OFFICER. How much time does the Senator from California yield?

Mr. CRANSTON. I yield myself such time as I may require.

PRIVILEGE OF THE FLOOR

Mr. President, I ask unanimous consent that a member of my staff, Peter Rogers, may have the privilege of the floor, in addition to other staff members.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, will the distinguished Senator yield?

Mr. CRANSTON. I yield.

Mr. BYRD of West Virginia. Mr. President, I favor the pending amendment. I have a question, however, concerning cable TV. Some of my people have five-channel systems, and they find it is necessary that they go to a broad-band system. If the wage and price controls apply to them, they will find it economically unfeasible to expand. Those CATV stations—I am talking about them—which originate local programs and influence public opinion, as do other media, should, in my judgment, be included in this exemption.

My question to the distinguished Senator is as to whether or not the language of his amendment would also exempt the CATV companies; and if his interpretation is in the negative, I wish to ask him whether or not he would be willing to modify his amendment so as to exempt the CATV companies.

Mr. CRANSTON. The pending amendment was patterned after previous amendments adopted by Congress both during the World War II wage and price controls and during the Korean conflict in order to assure exemption of all media. Congress went through the same process twice before. The original wage and price control legislation did not cover the media. Amendments were offered and adopted to insure that they were protected.

This amendment was patterned after those amendments; and because cable television did not exist in those days, through inadvertence it was not included in this amendment. It was intended to cover them, but I think it would be wise to be explicit and insert cable television, so that there will be no doubt about that fact.

I, therefore, thank the Senator for raising this important question, and I ask unanimous consent that I may modify my amendment in a way in which it will cover cable television. I have that language here. The modified amendment would read as follows:

On page 6, after line 2, insert a new subsection "(f)" as follows:

"The authority conferred on the President by this section shall not be exercised with respect to—

"(i) prices or rentals for materials furnished for publication by any press association or feature service,

"(ii) prices or rentals for books, magazines, motion pictures, periodicals, or newspapers, other than waste or scrap, or rates charged by any person in the business of operating or publishing a newspaper, periodical, or magazine, or operating a radio-broadcasting or television station, network, or cable television system, a motion picture or other theater enterprise, or

"(iii) wages, salaries, or commissions of an employee of any person in the business of operating or publishing a newspaper, periodical, or magazine, or operating a radio-broadcasting or television station, network, or cable television system, a motion picture or other theater enterprise, or of any press association or feature service or of any person engaged in the production or publication of books or motion picture."

The PRESIDING OFFICER. Without objection, it is modified accordingly.

Mr. CRANSTON. I thank the Senator.

Mr. BYRD of West Virginia. I thank the Senator.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the names of the following Senators be added to the list of 20 Senators who have already joined as cosponsors of this amendment: Senators BENTSEN, HANSEN, MAGNUSON, MATHIAS, MONTOYA, and MOSS.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, Senators generally are quite familiar with this amendment. Therefore, I will not take very much time to explain it and make the case for it. Other Senators wish to speak, also.

I do want to say, first, that the bill now before the Senate ignores both constitutional precedent laid down by the Supreme Court and a long congressional history of protecting our press and the media generally from Government regulation. The bill, instead, delegates to the President's Pay Board and Price Commission the enormous power of granting or denying rate or wage increases in the press and other media. It thus opens the door to what could amount, either intentionally or quite possibly unintentionally, to economic censorship. Such discretionary power exercised by even the most evenhanded and benevolent administration endangers one of our most fundamental freedoms and the basis of so many of our freedoms, the free press. A characteristic that sets our Nation apart from many other nations is the fact that we do have a free press, unfettered by Government control. Four-fifths of the human race now live in nations where all the information available to them is controlled by their government. It comes to them spoon fed.

Rather plainly, under the circumstances, they cannot know what is going on. They do not have access to the facts. They cannot make judgments which—of course, are denied to them through the loss of other freedoms in those lands—about the conduct of affairs that affect their lives.

For us to risk this priceless foundation of freedom in our land carelessly, for the dubious purpose of conforming to an uncertain, unproven plan to curb inflation and combat the recession, would, I think, be utter folly.

I repeat: Earlier bills submitted to Congress in World War II and during the Korean conflict contained the same omission, but Congress chose otherwise and amended those measures to assure that these freedoms were protected by exempting the press and other media from wage and price controls.

In an unprecedented action that threatens the free expression of ideas in our democratic society, S. 2891, as reported by the Senate Banking, Housing and Urban Affairs Committee, denies the press, broadcast, and other media traditional exemption from wage and price controls.

The bill ignores both constitutional precedent laid down by the Supreme Court, and a long congressional history of protecting our press from governmental regulation.

Instead, the bill delegates to the President's Pay Board and Price Commission the enormous power of granting or denying price, rate, or wage increases in the press and other media. It thus opens the door to what could amount to economic censorship. Such discretionary power, exercised by even the most evenhanded and benevolent administration, endangers one of our most fundamental liberties, a free press.

A characteristic that sets our Nation apart from many others is that we have a free press, protected from Government interference by the first amendment. Four-fifths of the people of this earth have access only to information controlled by their governments. For us to risk this priceless foundation of our freedom for the dubious purpose of conforming to an uncertain, unproven plan to curb inflation and combat the recession would be an act of utter folly.

My amendment restores the exemption that was granted to press and other media during all previous periods of wage and price controls. It frees from phase II wage and price controls the book, newspaper, and magazine publishers; radio and television operators, cable television systems, motion picture producers and theater operators, along with their employees.

I call upon the Senate to join with me and the many cosponsors of this amendment in refusing to sacrifice the principles of the first amendment for the sake of well-intended but as yet unproven inflationary control.

The potential power of economic censorship which the bill delegates to the Pay Board and Price Commission is a threat to our free press which Congress should not tolerate. The Pay Board and the Price Commission will act on an individual, case-by-case basis. They will thus be in position to favor administration's supporters with competitive price and wage advantages and to punish an administration's critics with adverse decisions. I do not suggest that they intend to do this. But Congress will be derelict if it grants them the power. Why tempt them? Why set this dangerous precedent? It could harm us—it could endanger our most fundamental freedoms in some future time of stress.

No administrative board should be given such enormous power over the press. Even an implied threat of economic censorship may have a chilling effect on the thorough and objective pursuit of information and the dynamic criticism that are so vital to the democratic process.

The ill effects of this type of power have already been demonstrated in cases bearing no direct relationship to any willful desire to exercise censorship. In a proceeding before the Cost of Living Council last month, for example, the Delaware State News in Dover was denied a price increase which it felt was economically necessary to publish a Sunday edition profitably. The Council took this action despite the almost invariable rule in the newspaper industry that Sunday editions cost more to produce than weekday editions. As a result, Delaware may have no Sunday newspaper published in the State.

Congress has been unwilling, in the past, to abdicate its own responsibilities and simply rely upon the Executive to preserve fundamental first amendment rights. During both World War II and the Korean conflict, Congress wrote into the legislation authorizing control of the economy explicit, unequivocal price control exemption of the media.

This exemption caused no increase in inflationary pressure during either of those periods. Because of the competitive structure of these industries, there is no reason to believe the result would be any different today.

This is not the first time that an administration has asked for economic controls over the media. President Roosevelt requested this power during World War II. But even during the Nation's most critical moments the House and the Senate refused to impose price controls upon the media. Congress properly recognized that constitutional principle and sound policy require that the press be free of regulation, no matter how indirect.

During the Korean conflict, Congress corrected an omission in the original price control legislation and amended it to explicit exemption for the press and other media. The Defense Production Act of that era contained substantially the same language that I propose today. It was described by one of its sponsors during House debate as vitally needed to "protect sources of information of the American people so that under no stretch of circumstances can any one interfere with the furnishing of information to the American people."

The Congress has recognized the importance of economic freedom for the press in other ways. The Senate has repeatedly ratified international treaties banning tariffs on books and other published materials. The most notable of these is the agreement on importation of educational, scientific, and cultural materials signed by some 60 countries in 1966. Just this session, the House resoundingly defeated a move to tax newspaper advertising in the District of Columbia.

I am not asking for the only exemption to phase 2 controls. The Nixon administration has already granted a substantial number of across-the-board wage and price control exemptions: Raw agricultural and seafood products; custom products such as wigs, furs and jewelry, and services such as tailoring, framing and taxidermy; exports, imports, shipping rates; damaged and used products; government property; real estate up for sale or rent; securities and financial instruments; royalties; dues to nonprofit organizations; life insurance premiums on new policies; antiques; art objects, and others.

But not the press. Why wigs but not newspapers? Why furs but not books? Why taxidermy but not magazines? Why antiques but not radio and television? Why art objects but not motion pictures?

I must admit I am at a loss to understand the yardstick the administration used in granting exemption to nearly a dozen industries but deliberately withholding it from the only industry deemed so essential to the Republic that our Founding Fathers gave it special constitutional protection.

In protecting the press from Government regulation, the Congress has recognized that, as the Supreme Court stated in Bridges against California:

> The First Amendment does not speak equivocally. It prohibits any law abridging freedom of speech, or of the press. It must be taken as a command of the broadest scope that explicit language, read in the context of liberty-loving society will allow.

The Court, in long-standing precedent, has pointed out time and again that the press is to be protected from any kind of regulation that will tend to inhibit the expression of ideas or the free flow of information. The protection of the first amendment is not limited to direct regulation or censorship. The Court warned in Craig against Harney:

> Freedoms such as these are protected [by the Constitution] not only against heavy-handed frontal attack, but also from being stifled by more subtle governmental influence.

Already our experience with the 90-day freeze shows that price control can have the effect of cutting free expression and unfettered publication. Price control prevented the republication of a number of older editions and selective reprints in the book publishing industry. Thomas Curtis, of the American Book Publishers, told the Banking Committee that other volumes also will be abandoned if the publishers are forced to adhere to a 2½-percent guideline.

In the magazine industry, many smaller periodicals will be forced to cut back on their operations and some may even be forced out of business if they cannot pass on increased costs by raising their advertising rates. Contracts for magazine advertising normally call for a 6-month notice period before rates can be raised. Thus a publisher could not raise his rates even to take into account last year's 20-percent increase in postal rates.

The Nation's newspapers also will feel the bite of across-the-board price control. The freeze fell during a period when newspaper advertising rates normally are adjusted. Unless newspapers can now be released from this freeze they will be compelled to retain a price schedule that already may be economically unsound.

In broadcasting, a price freeze or across-the-board guideline could seriously effect programing. The broadcast industry pays its way mainly by selling advertising, usually in 1-minute or 30-second segments, with the price of a segment varying widely according to the time of day and the type of program it accompanies. Spot rates are determined by bargaining and a single set of guidelines will eliminate this bargaining. Thus, as costs rise, programing will be cut back because extra profit margins will not be available. The National Broadcasters report that time devoted to news and public affairs programing shows advertising losses. Serious coverage and public affairs programs will be the first to be cut back if the broadcast media is subjected to wage and price control.

In the motion picture industry and in the live theater, cost increases that cannot be reflected in rental rates and admission prices may restrict outlets for creative expression. Creative films with social commentary usually play to limited audiences. They may be limited in production or not be produced at all if the producer and theater operator cannot charge more for a quality product. During World War II and the Korean war, we were careful to encourage full expression by motion pictures and the legitimate theater. There is no compelling reason to break precedent and regulate them for the first time.

Price regulation of the press and other media makes little or no economic sense. These are highly competitive industries which follow rather than lead the inflationary trend.

There are more than 1,000 firms engaged in book publishing, and the industry accounts for only a small part of the GNP. Competition is vigorous and profit margins are low. Book prices have increased far less than the consumer price index over the past 3 years. In fact, the prices of elementary and high school textbooks actually fell last year while the CPI soared almost 6 percent.

There are over 9,000 daily and weekly newspapers with a readership of 180 million people. There are also 6,500 commercial radio stations nationwide and 700 television stations.

The press and broadcast industries compete intensely with one another for advertising. Thus, in any given location the market demand, not an inflationary push, will determine advertising rates. In Los Angeles, for example, there are 13 television stations, 92 radio stations, 48 daily newspapers and 208 weekly newspapers. An inflationary price increase that does not reflect market demand could never survive such competitive pressure.

Mr. PASTORE. Mr. President, will the Senator yield for a question?

Mr. CRANSTON. I yield.

Mr. PASTORE. I quite agree with the Senator that we must not do anything to shackle freedom of speech, and I do not think we ought in any way to interfere with the freedom of the press. We ought to be careful about that, because that is a very sensitive area that needs to be protected. As the Senator has brought out, we are unique of all the nations of the world in that protection.

The question I ask is this: Does this now mean that a newspaper could raise its advertising rates for commercial purposes without any restrictions at all?

Mr. CRANSTON. Yes, it does.

Mr. PASTORE. How does the freedom of the press come into that?

Mr. CRANSTON. It comes into that because a newspaper or a radio station or a television station is dependent not solely upon sales. Radio and TV, rather obviously, are not at all dependent upon sales of the product to consumers. They are dependent upon advertising for their ability to produce the newspaper, the television show, the radio show, and much else.

Mr. PASTORE. I do not question the Senator at all, and I do not criticize him in the least. As a matter of fact, I do not look askance upon his amendment. I must say that I am quite amendable to the protection of the press. But does this mean, too, that the people who work for the newspapers—for example, the distributors, the truck drivers, the printers, and the people who take the commercial ads—are all exempt, also?

Mr. CRANSTON. Those who are employed by the newspaper publisher.

Mr. PASTORE. That goes for magazines?

Mr. CRANSTON. That is right. Books.

Mr. PASTORE. Books, radio stations, television stations?

Mr. CRANSTON. That is right.

Mr. PASTORE. And the Senator says there is a precedent for this?

Mr. CRANSTON. There most certainly is. In World War II and in the Korean war.

Mr. PASTORE. Do we have any history at all as to how it worked out? Was it abused in any way?

Mr. CRANSTON. We have had no evidence of abuse called to our attention as we have explored the background and prepared this amendment.

Mr. PASTORE. Does the Senator feel that this might be resented by other people—for example, the school teachers? They serve the public interest. The policemen and the firemen—they also serve the public interest. Does the Senator think they are going to be resentful if we do this?

Mr. CRANSTON. I think that those who understand the importance of a free press to all our other freedoms will not resent this. I would like to point out that this is by no means the only exemption in the bill. In past times of wage and price controls, exemptions were granted several segments of the economic society. This bill already grants a number of across-the-board wage and price control exemptions. The administration has proceeded to grant exemptions to raw agricultural and seafood products, to wigs, furs, jewelry, to services such as tailoring, framing, taxidermy, exports and imports, and shipping rates, to damaged and used products, to government property, to real estate, to securities, to royalties, to nonprofit agencies, to life insurance premiums on new policies, and to antique art objects—quite a few other commodities or groupings where there does seem to be some reason, although I think, in a few cases as valid a reason affecting as many people—in fact all the people who would be exempt by the proposed amendment in the media.

Mr. PASTORE. Take the CATV—could they raise their rates? In other words, this is quite all inclusive?

Mr. CRANSTON. It is quite all inclusive for the very reason if they are not free to do so, they could be ground out of existence under controls, either purposefully or willy-nilly. They will be put out of business in curtailing their ability to express their points of view.

Mr. PASTORE. Do I correctly understand, then, that the Senator predicates his amendment more or less on philosophical grounds?

Mr. CRANSTON. Yes; on philosophical grounds, on constitutional grounds, and on precedent.

Mr. PASTORE. On constitutional grounds as well?

Mr. CRANSTON. Absolutely. The distinguished Senator from North Carolina (Mr. ERVIN) will explain the constitutional grounds——

Mr. PASTORE. I am waiting anxiously for that dissertation by the Senator from North Carolina, our great jurist.

Mr. CRANSTON. The Senator from North Carolina was seeking the floor to express himself on the constitutional grounds——

Mr. CANNON. Mr. President, will the Senator from California yield?

Mr. CRANSTON. I am delighted to yield to the Senator from Nevada.

Mr. CANNON. To carry this one step further, as to what the distinguished Senator from Rhode Island has said, does this mean that the price of television sets could be raised or the price of radio sets raised because this is a means of using information that is being disseminated?

Mr. CRANSTON. No; it does not affect television sets. It affects actions under the control of persons or companies or corporations expressing their views, or providing information, or entertainment.

Mr. ERVIN. Mr. President, will the Senator from California yield for a question?

Mr. CRANSTON. I am delighted to yield to the Senator from North Carolina.

Mr. ERVIN. Is not the purpose of this amendment to exempt from the freeze the media of communications insofar as the printed, or the spoken, or the broadcast word is concerned, and that is the limit of the exemption?

Mr. CRANSTON. That is the exact intention.

Mr. STENNIS. Mr. President, will the Senator from California yield?

Mr. CRANSTON. I yield.

Mr. STENNIS. Would the Senator repeat that, please?

Mr. ERVIN. My question was, Is not the purpose of the amendment, the scope and the limit of the amendment, that it would exempt from the freeze, from phase II, the use of the printed word, the use of the spoken word, and the use of the broadcast word to communicate information or ideas?

Mr. CRANSTON. That is the exact and restricted purpose of the amendment.

Mr. PASTORE. Does not a teacher speak? She speaks to her class in order to cultivate their minds. I believe that we will be getting ourselves in deep trouble. A teacher stands up and she teaches a class. She speaks. She communicates freedom of speech in order to educate a child. Why should she be treated with less consideration?

Mr. CRANSTON. The teacher speaks, but she has not, until this moment, been looked upon as a member of the free press.

Mr. COTTON. Mr. President, would the Senator kindly be willing to use the microphone because we over here cannot hear one word of this colloquy and we would like to hear it?

Mr. CRANSTON. The Senator's suggestion is well taken.

Mr. CANNON. If the Senator will yield further, would this, then, include people in the entertainment business? Would they be included because they convey their message by the spoken word, by singing, by making records, or by performing visually? Would they all be included under this provision, or would they——

Mr. CRANSTON. Yes; they would be included because many of them engage in political satire, on the stage, or elsewhere, or at public meetings or gatherings.

This relates expressly to political views, whether left, right, or middle, or whatever. This goes with the processes of democracy, the sorting out of ideas, either new or old, good or bad, ideas.

Mr. CANNON. It would certainly seem to me that if a performer would be exempt, then what about the record companies who would record those things? Would the records be exempt from the freeze?

Mr. CRANSTON. We do not cover everything in the amendment that anyone can think of. It does not exclude those.

Mr. CANNON. The Senator is saying that every entertainer, who entertains either visually or verbally, would be exempt?

Mr. CRANSTON. That is right; otherwise we start writing definitions of an expression or a thought. This is simply entertainment. We cannot do that and we do not want to delegate that authority to the Board.

Mr. CANNON. Perhaps we would be better off to list the groups that would be covered by the freeze rather than the——

Mr. PASTORE. Do I understand correctly that this includes motion pictures?

Mr. CRANSTON. That is correct.

Mr. PASTORE. In other words, an actor already making a quarter of a million dollars can ask for half a million dollars more and there is nothing here that could stop it; is that correct?

Mr. CRANSTON. That is correct. Let me say that the reason for that is that movies, too, are used to express social thoughts, economic thoughts, political thoughts, philosophical thoughts——

Mr. PASTORE. Then why not the classroom?

Mr. CRANSTON. Because they are used to inform the general public. It is difficult to imagine an administration moving in on a schoolteacher. I think that the principles we have worked out in this country, on education being handled locally, so far as that goes is one that will not be transgressed, but it is easy to imagine an administration—and I do not suggest that this one would—not granting the opportunity for an increase to a newspaper, a magazine, or a book publishing firm, which otherwise would go out of business without the increase, to continue expressing ideas that may be annoying to someone in high places.

Mr. PASTORE. May I express this thought, could we express the spirit of the Senator's intention by saying that "nothing herein shall in any way interfere with the freedom of the press," and let it go at that? The minute we begin to talk about motion pictures, CATV, radio stations, entertainment on television, I am afraid we are really getting ourselves into a position where it could become a can of worms.

Mr. CRANSTON. Let me yield to the Senator from North Carolina (Mr. ERVIN), whom I have been relying upon to speak to the constitutional question involved in my amendment.

Mr. ERVIN. Does not the first amendment to the Constitution say that Congress shall make no law abridging freedom of speech and freedom of the press?

Mr. CRANSTON. It certainly does.

Mr. ERVIN. When we deny them the resources which enable them to keep operating, we are abridging those freedoms, are we not?

Mr. CRANSTON. We most certainly are.

Mr. ERVIN. In other words, this amendment is designed to make effective the first amendment which says that freedom of the press and freedom of speech shall not be abridged by the Government and it is designed to cover those and only those who are engaged in the dissemination of information and ideas, is that not correct?

Mr. CRANSTON. The Senator, as usual, is correct.

Mr. President, the Senator from Rhode Island suggested a moment ago that we restate the first amendment. However, we have found that those simple declarations are not always enough, that we need further language to spell out exactly what they mean, and that is the purpose of this amendment.

Mr. CANNON. If the Senator will yield further, are we not going here far beyond constitutional provisions when we talk about the limits that are being imposed? In other words, there is no attempt here in the bill, as I see it, to impose restrictions or limits that would prohibit——

Mr. ERVIN. Oh, yes, this is——

Mr. CANNON. We are saying that we are not going to change prices for it. We are saying, "You cannot raise your prices or your wages." That seems to be a limitless restriction on what the press can or cannot do.

Getting back to the entertainers, we are talking about some of the highest paid people in the industry. My State happens to be the entertainment capital of the world, so they say, and for entertainers to be exempt from this, when they talk in terms of $100,000 or $200,000 a week have a performance, and the Senator is going to exempt them under the guise of the first amendment. I do not see how we can do it.

Mr. ERVIN. Mr. President, the difference is that the first amendment protects people against the Government interferring with them in the dissemination of information or ideas. It does not protect people against the abridgement of rights such as manufacturing automobiles or cooking bread. It is just a circumstance that one principle is enforced with respect to some that is not enforced with respect to other people.

Mr. CANNON. But by saying that they

cannot raise the price, is that not an abridgement of their freedom?

Mr. ERVIN. Yes. When we go to regulating prices, we abridge their freedom to disseminate information. I do not know of any better way to abridge a man's freedom than to put a limit on what he can charge for his services.

Mr. CANNON. The Senator is saying that he cannot charge more than he did before. We are not saying that he has to roll the price back to 10 years ago.

Mr. ERVIN. But the Senator from Nevada does not take the position that we are going to regulate the amount we can pay an editor for writing an editorial or to a newspaper for carrying advertisements.

Mr. CANNON. I am inclined to agree with the Senator from Rhode Island that if we can tell a schoolteacher who is disseminating information every day of the week that she cannot get a raise in pay, I find it hard to follow the rationale that if an employee of a newspaper can get a raise, a schoolteacher cannot get a raise.

Mr. ERVIN. I think the distinction may appear not to be very wide. However, the distinction between a schoolteacher instructing youths and those employed in the broadcast media or the publication of newspapers for the enlightenment of the public does exist. The reason that freedom of the press exists is that those who drew the first amendment recognized that it is necessary to have an informed public for the institutions of the Government to operate. Schoolchildren do not operate the Government. The information is given to them for the development of their minds, and not to enable them immediately to perform functions as citizens.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. ERVIN. I yield.

Mr. PASTORE. Mr. President, will the Senator admit that at the time the first amendment was written we did not have any moving pictures or CATV or radio or television. I do not want to put them in the same category.

Mr. ERVIN. When the interstate commerce clause was put into the Constitution, we did not have any railroads, airplanes, telephones, wireless, radio, or television. However, the genius of the Constitution is that when any new discoveries fall within the scope of the words of the Constitution, they are governed by the Constitution, even those new discoveries were never envisioned by the men who wrote those words. The powers granted and the rights protected by the Constitution extend into the unlimited future and all new discoveries which fall within the scope of their words are covered by them.

Mr. PASTORE. Does the Senator put moving pictures in the same category?

Mr. ERVIN. Yes. They would be covered by the first amendment.

Mr. PASTORE. We have these X pictures and the topless girl pictures. We are going to exempt them. However, a schoolteacher who is teaching the children is under control. In other words, if an actress is going to act, they say that they will double her salary if she goes topless. They can do that. But, we cannot increase the salary of a schoolteacher. That does not make sense to me.

Mr. ERVIN. But the first amendment makes sense to me and it always has made sense to this country. It protects the dissemination of ideas and information. And when we regulate the price a man can charge for writing an editorial, we are abridging the freedom of speech and freedom of the press.

I might state that we have been conducting an investigation in the Subcommittee on Constitutional Rights since September on the freedom of speech and of the press. We have had a very fine statement from Eugene S. Duffield, the president of the Popular Science Publishing Co.

In the statement he says:

> Does the First Amendment protect a free press from being starved into impotence by direct or indirect government interference with its sources of revenue?

That is exactly what putting the free press under a freeze does.

Mr. HART. Mr. President, will the Senator yield?

Mr. ERVIN. Mr. President, I believe the Senator from California still has the floor.

Mr. CRANSTON. I am delighted to yield to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. HART. Mr. President, I have made no committment on the amendment. I do not know how I will vote on it. I would like to suggest to the author of the amendment that he is asking us to strain considerably to think that this has so serious a first amendment problem. Historically we have restrained the press, and now do the same with the newer media: television, CATV, and radio. As examples, we control their revenue through the tax system. We tell them by way of zoning where they may or may not locate a publishing plant or a television studio. We do not permit them to work children 12 hours a day. The Fair Labor Standards Act has application. Their delivery trucks are required to observe speed laws, although this delays the distribution of ideas.

Indeed, in the electronic media we have moved to a degree into the nature of their programing.

Mr. CRANSTON. Mr. President, the Senator from North Carolina has picked up a book which I think contains some information.

Mr. HART. Mr. President, I would like to hear something on the policy wisdom of including or excluding, to the degree this amendment would reach, the several categories of activities. How are we to conclude that a wage limitation on a coloratura soprano would raise first amendment problems? The guide-lecturer in a TV studio should be exempted, because of the first amendment, but not the schoolteacher? Let us hear why on policy this temporary wage-price control is something that should not apply to the delivery driver of the newspaper company, but should to the delivery driver of the hospital or drug firm; the first amendment does not give much help on this.

Mr. ERVIN. Mr. President, the first amendment involves communications. The Supreme Court held in the case of Grosjean against American Press Company back in 1935 that the tax which interferes with the right of newspapers to publish is unconstitutional. I think this is different from the schoolteacher.

In this case, the Court opinion reads:

> The newspapers, magazines and other journals of the country, it is safe to say, have shed and continue to shed, more light on the public and business affairs of the nation than any other instrumentality of publicity; and since informed public opinion is the most potent of all restraints upon misgovernment, the suppression or abridgement of the publicity afforded by a free press cannot be regarded otherwise than with grave concern. The tax here involved is bad not because it takes money from the pockets of the appellees. If that were all, a wholly different question would be presented. It is bad because, in the light of its history and of its present setting, it is seen to be a deliberate and calculated device in the guise of a tax to limit the circulation of information to which the public is entitled in virtue of the constitutional guaranties. A free press stands as one of the great interpreters between the governments and the people. To allow it to be fettered is to fetter ourselves.

As the distinguished Senator from California has so well pointed out, when this question came up on the price and wage controls of the Second World War, Congress exempted the press and the communications media from control. It did the same thing in the Korean conflict. The first amendment forbids Government to "abridge the freedom of the press." I do not know of any way in which the freedom of the press can be abridged by regulation more readily by saying that the press cannot pay editors more than a certain amount of money, that the press cannot charge for an advertisement more than a certain amount of money. Some magazines have recently gone out of business by virtue of the financial limitations the market imposed on them. Look magazine, a magazine of great national circulation, has gone out of business entirely, for economic reasons. The Government can put magazines and newspapers out of business by restricting their revenues.

We have had testimony before the Senate Subcommittee on Constitutional Rights that by reason of the Federal control of advertisements, and by reason of the increase in the postage rates by the Postal Corporation, many magazines are now threatened with extinction. If they are frozen at the present rate by this price freeze, we can look for some of the communications media to go out of existence; therefore, the purpose of the first amendment will be thwarted.

Mr. CRANSTON. Mr. President, the Supreme Court, as the Senator from North Carolina knows so very well, has pointed out time and again that we must be most careful in providing protections against any kind of regulation that will tend to inhibit the expression of ideas or the free flow of information. Here we are talking about seven unconfirmed men on a board and placing in their hands total discretion in this matter relating to the freedom of expression of ideas. The Supreme Court warns in the case of Craig against Harney:

> Freedoms such as these are protected by the Constitution not only against heavy handed frontal attack, but also from being stifled by more subtle governmental influence.

In the case of movies that have been brought up by those who question the purpose of this amendment or its validity, the Supreme Court has decided in over 40 cases that there is a freedom of expression, a free press issue involved, in the production and distribution of motion pictures. The TV and radio industry in America is the regulated industry in the field of information and news. They are the ones that have been most exercised by the failure of the bill to exempt the media from control, because they have experienced control and understand what it means. They have felt the inhibition, and they have made compromises because of their fear of the regulators.

If we once expand this power of regulation elsewhere, we will see it hitting other industries.

We have seen this administration make a few little efforts in a rather mild way to suggest that some of the media had better be careful about what they are saying—for example, in the instance of "The Selling of the Pentagon," that was produced over one of the networks. There was quite an uproar over that, but there was no power to do very much about it. The power would exist in a subtle way if we did not get this exemption into the law.

Suppose one were a newspaper editor and had in his hands the Pentagon Papers, and were considering publishing it. Suppose also that he had a case before the Board that might go to the very survival of his publication if the right to raise prices on that publication were not granted. Probably he would not publish the Pentagon Papers under those circumstances. It is into that kind of situation that we do not wish to place those who are in the media field in our land. We do not desire to tempt Government with this regulatory power because there could be abuse—abuse in a way that could be disastrous for all of us.

Mr. ERVIN. The Senator from California has made a much more careful investigation of the economics of this situation than I have, but I have received information from schoolbook publishing companies to the effect that if they are put under this regulation they will not be able to manufacture, print, and put on the market at the present price schoolbooks for the education of schoolchildren.

I do not know whether the Senator from California has information to that effect or not.

Mr. CRANSTON. I understand that that is the case. I understand that at present, older editions and selected prints that the book publishing industry desires to publish, some of which would be used in education, cannot be published if the book publishers are forced to adhere to the 2½ percent guideline. There are specific problems relating to the publising business; also the time when the television and broadcast media determine their rates; and the time when they make changes that are affected by the current indecision and doubt. Thus we are without question impinging upon the freedom of expression if we do not grant this exemption.

Mr. CANNON. Mr. President, will the Senator yield?

Mr. CRANSTON. I would be delighted to yield, but I would rather yield on the other side's time.

Mr. FULBRIGHT. Mr. President, will the Senator yield to me, then? I would like to support his view.

Mr. CANNON. Mr. President, if there is an opposition, I am wondering if the opposition will yield to me on that point. I should like to ask just a few more questions.

Mr. TOWER. I yield 2 minutes to the Senator from Nevada.

Mr. CANNON. The Senator says that the publishers of books may have to go out of the business of publishing books for use in schools. Does the Senator find that to be any more logical than saying that schoolteachers may have a problem because they cannot get enough to live on so as to teach out of the books in the schools? What is the rational difference between a schoolteacher teaching in the schools from the same textbooks that are exempted from the act and the teacher not getting his raise in pay?

Mr. CRANSTON. Teachers will never have to come before this Board to seek an exemption or to seek an adjustment.

Rather plainly, we cannot write a provision that governs all segments of society. One can pick a way and find other examples which he feels perhaps should be covered.

We do cover what are deemed and believed to be the media—and there are Supreme Court decisions on which this is based—the media which express ideas, the people who express them through the press, the broadcast industry, through the films, on public platforms, entertainment, and in such ways.

Mr. CANNON. The Senator has already stated that this amendment covers the entertainment media. It has been suggested to me that entertainers are really a form of communication by which we are wondering how, if they were not restricted, they might express displeasure. For example, suppose he were a trumpet player and played a sour note. Would the communication be impinged upon should this amendment take effect?

Mr. CRANSTON. Well, if the President were there, and if the trombone player felt the President were responsible, perhaps a sour note would be played.

I am happy to yield to the distinguished Senator from Arkansas.

Mr. FULBRIGHT. I should like to associate myself with the views of the Senator from North Carolina about the restriction of the press.

Of course, in all these cases one gets extreme examples, such as the example of the entertainers, that may appear to fall within the concept of the first amendment. That is possible. However, what I think the Senator from North Carolina makes very clear is that to allow the Government to infringe upon the first amendment by this rather indirect—or it could be a direct—way would be a very serious undermining of rights. I would not be in favor of that.

As he has already pointed out—I do not know whether I can add anything more—we have recognized this exemption in World War I, in World War II, and the Korean war. But I certainly would support the Senator.

One could say, of course, that a newspaper may not be publishing the truth. We all have our different views as to how accurate the reports are, but there is the argument that publishers still must be allowed that freedom. We proceed on the theory that the more freedom there is, the more discussion there is, and that the people can discern from the various views what they believe is the truth. One could make the argument that only those news papers that print the truth should be allowed to benefit by the first amendment, but that obviously would reduce the first amendment to an absurdity.

Mr. CRANSTON. Let the Board decide who tells the truth.

Mr. FULBRIGHT. Yes, let the Board decide. But if we exempt only those who tell the truth, the Board could say, Well, what is the truth? Then we could get into all kinds of complications. The basis for exempting the freedom of the press is quite clear to me.

It is true it is difficult to reconcile some aspects of the entertainment world, but since it uses the media, then I think it is touched within the exemption, as the Senator from North Carolina says. In the same way, I suppose one could say that if a newspaper ad promoted some of the unworthy habits of our people, the moral would be that it could not publish in any of those cases if it was against the public interest.

Nevertheless, you cannot interfere with it because you destroy a basic freedom.

I agree completely with the Senator from California's view, and I shall support the amendment.

Mr. CRANSTON. I thank the Senator for his support, and I yield the floor.

Mr. HART. Mr. President, will the Senator yield me 1 minute so I can get a clearer understanding of what is being described as an activity which is entitled to first amendment protection? The projectionist in the moviehouse, the cashier, the truckdriver, the fellow who saws down the trees which are used to make the pulp—how many people are included in this amendment?

Mr. TOWER. Mr. President, I yield 10 minutes to the Senator from Oregon.

The PRESIDING OFFICER. The Senator from Oregon is recognized for 10 minutes.

Mr. PACKWOOD. Mr. President, before getting into the main text of what I want to say, let me make it clear that a major problem bothering broadcasters was to make sure that it was not the intent of the Banking Committee to say that if one owned a radio station, and if in 6 months or a year, through efficient management, listenership was increased 50 percent or 60 percent, he could not come to the Price Commission and ask for an increase in advertising rates. I want the record to indicate that the committee intended to allow an increase in such a situation.

There were many people who appeared before the committee, representing all kinds of industry, that wanted exemptions from this act. They all had reasons why they wanted exemptions, most of them strictly economic reasons. People from the shoe industry wanted to exempt cowhides, because if they were not exempt, the hides would be sold overseas for prices higher than domestic prices and American industry could not therefore make shoes. Witnesses representing the publishing industry, came in and wanted an exemption, although, I am frank to say, their principal argument for an exemption was economic, and not constitutional. They used the constitutional argument, but their principal desire was economic, as was everybody else's. They did not want to be under this act.

When the precedent is cited that the media were not included in World War II and the Korean war, that is correct, but in addition we exempted rates for common carriers and public utilities and fees of doctors, lawyers, dentists, and insurer premiums. We might as well follow that same precedent and exempt similar categories now. I do not think the fact that we exempted the news media in World War II or the Korean war is good reason for exempting the media now, because the argument of constitutionality was not even faced at that time.

Let me take the very same case that the Senator from North Carolina referred to, the Grosjean case. This was a case in which the Supreme Court decided that a State tax was unconstitutional. Here are the words that the Senator from North Carolina used:

> The tax here involved is not bad because it takes money from the pockets of the appellees. If that were all, a wholly different question would be presented. It is bad because, in the light of its history and of its present setting, it is seen to be a deliberate and calculated device in the guise of a tax to limit the circulation of information to which the public is entitled in virtue of the constitutional guarantees.

What were the facts in that case? The facts in that case were that this was a tax, not on the news media, not on all newspapers, not on radio stations, not on weekly newspapers; it was a tax only on certain dailies above a certain circulation, and it just happened to be a tax on certain papers which just happened to be attacking the policies of the State and some of the policies of the legislature. So the legislature passed a law saying,

> If you have a circulation above a certain number, you will be taxed.

The court held that to be unconstitutional because it was a blatant effort to single out certain newspapers, not all news media, not even all newspapers, and tax them. Fortunately, the court found that to be unconstitutional.

But the court later on, in another case—and that was the case of Maybee against White Plains Publishing Co.—distinguished the Grosjean case as gross discrimination, violating the first amendment.

The key is not that we regulate the media. We regulate them. We tax them. They are subject to the National Labor Relations Act. We tell them where they can put their TV and radio antennas. The point is that we treat them uniformly and equally. There is nothing in this act that discriminates against the news media.

I am reasonably certain that if the Price Commission or the Pay Board were in any way to try to single out any newspaper, or single out newspapers generally, or single out particular media and try to discriminate against them, the Supreme Court would correctly reach the same decision that it reached in the Grosjean case.

I quote from what the Supreme Court said in Associated Press against Labor Board when the Associated Press was contending that the National Labor Relation Act did not apply to it. The Supreme Court said in that case:

> The business of the Associated Press is not immune from regulation because it is an agency of the press. The publisher of a newspaper has no special immunity from the application of general laws. . . . He is subject to the anti-trust laws. Like others he must pay equitable and nondiscriminatory taxes on his business.

Again the key is equality versus discrimination. If we discriminate against the media it is unconstitutional. If they are treated equally with every other business, then it is not unconstitutional. I think it would be grossly unfair, that because a number of newspapers have their own trees and make their own newsprint to exempt lumberjacks working in forests owned by a newspaper. That is, I think, carrying to a ridiculous extreme the first amendment guarantee to the press.

The Senator from North Carolina, and I think every other Member of this body, would jump to the defense of the news media if they were discriminated against, but I do not think they are discriminated against when all we are asking is that they be treated like every other business in this country.

Mr. CRANSTON. Mr. President, I yield 2 minutes to the Senator from North Carolina.

Mr. ERVIN. Mr. President, the Senator from Oregon misses the whole point which is involved here. He says that newspapers are being treated like any other business. The Constitution says Congress cannot treat newspapers like other industries. The Constitution says the Federal Government cannot abridge the freedom of the press, and when a public board acting for the Government undertakes to say what a newspaper can pay an editor, the freedom of the press is being abridged. It is not a matter of discrimination indeed, the Constitution discriminates in favor of the press. It gives the press a special right that no other business has. Congress cannot abridge that right. Congress can abridge the rights of all other businesses because they have no first amendment protecting them. So it is not a question of discrimination. The press is given a special constitutional protection for the benefit of the country, and that is what the Grosjean case rests on. It says the tax is bad because it limits "the circulation of information to which the public is entitled in virtue of the constitutional guarantees."

Mr. PACKWOOD. Will the distinguished Senator from North Carolina yield?

Mr. ERVIN. I will yield on the Senator's time. I do not believe I have any time left.

Mr. PACKWOOD. Does the Senator maintain that any tax, including the 47-percent corporation tax, is unconstitutional if it affects some publishers to such an extent that they are sufficiently unprofitable and therefore must cease publishing?

Mr. ERVIN. The court held that this tax was bad because it was based on circulation, and would place a limit on circulation——

Mr. PACKWOOD. That is right.

Mr. ERVIN. Of information that the public was entitled to have.

Mr. PACKWOOD. There they tried to levy a tax on newspapers above a certain size, and say it would not apply to any other business, any other newspaper, radio station, or motion picture theater—just newspapers above a certain size.

Mr. ERVIN. And they said it was unconstitutional because it limited information to which the public was entitled by virtue of the first amendment.

Mr. PACKWOOD. Then let me come back to my question again: If, by levying a general 47 percent corporation tax, that inhibits the circulation of some newspapers because they are not profitable, is that tax unconstitutional?

Mr. ERVIN. No, not necessarily. The court here intimated that Louisiana could put a tax on the volume of advertisements, but not on the circulation. The dissemination of information is the point.

Mr. PACKWOOD. But are we not saying this kind of tax can inhibit the circulation if they cannot pay it? The difference is, is the tax equally applied? In the Grosjean case, it was not equally applied. Certain segments of the newspaper business were singled out and discriminated against because of certain views they held, which were contrary to the views of the State legislators.

Mr. ERVIN. But the court said it was not necessary for them to consider the equal protection clause.

The PRESIDING OFFICER. Who yields time?

Mr. TOWER. Mr. President, I yield 6 minutes to the Senator from Connecticut.

Mr. WEICKER. Mr. President, this is not an easy amendment for a public official to oppose. The temptation to curry favor with the conduit of what we do and those who elect us to do it is very real.

But because I do believe in the integrity and fairness of the American news media I do not hesitate to label this amendment "ill conceived" by its proposers and "ill befitting" its intended beneficiaries.

Let me say at the outset that, to the credit of the news media, there have been no attempts to pressure this Senator into voting for the Cranston amendment. In fact many have advocated its defeat.

Second, as a matter of historical belief and public expression I have never been on the side of those who attempt to portray the press as something other than fair, competent, patriotic, and human. So this vote is not the manifestation of a long nurtured grudge.

I am against this amendment because it plays favorites and is therefore not fair. Nobody likes freezes or controls. Everybody is making sacrifices while they operate. It seems to me that the time of the Senate is more excellently spent on making sure that everybody means everybody rather than issuing "freebies" in the name of constitutional or historical precedent.

Yes; I feel sorry for the working press, the owners, publishers, compositors, pressmen, engravers, and flyboys. But I also feel sorry for the laborers, craftsmen, white-collar workers, and executives of the other industries in my State. Every part of the free enterprise system is in this unfortunately necessary exercise together, and they are coming out together.

The news media are not a collection of charitable entities. They are competitive, for-profit corporations owned by shareholders with their stock listed on stock exchanges—such as, Du Pont, Gannett, Cowles Communications, RCA, NBC, American Broadcasting, Metromedia, CBS, Knight Newspapers, New York Times, Washington Post, Time, Inc., Times-Mirror, Dun & Bradstreet, Gross Telecasting, Reeves Telecom, Sonderling Broadcasting, Lee Enterprises, and Travelers Corp., in my State.

Now that cable television has been added, we can add a whole list of additional corporations. Now that movies have been added to the list, MGM, 20th Century Fox, and Trans-America can be added. They are all part of American industry, not American Government or philanthropy.

Their survival depends on excellence and creativity. Freedom from Government control applies to acquisition and dissemination of the news. It was not meant to excuse them from antitrust laws, or criminal laws, or tax laws, health statutes, social security, or labor laws, et cetera. The matter before the Senate is such as those.

Why, for example, should the workers of Scovill Manufacturing in Waterbury, Conn., sacrifice while the employees in the news media and of Gannett and Travelers Corp. in Hartford are exempted? I want to make clear that the employees of the latter two corporations have not asked to be excepted, but I use this local hypothetical should the amendment of the Senator from California pass.

I do not know about the rest of my colleagues, but there are enough inequities to explain to the people of my State now, without creating more.

I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. TOWER. I yield myself 3 minutes.

Mr. President, one thing that occurs to me is that the exemption of the information media industries would allow them to pay higher prices that would, in turn, make it possible for them to hire personnel from such related type industries as advertising, public relations, and so forth. It would give them a distinct advantage in hiring, and I think that kind of discrimination could result in serious damage to related industries that do come under the scope of the provisions. That is a factor that has not been mentioned. I shall not get into the constitutional aspects, which I think have been ably dealt with by my colleague from Oregon, but I think this is one thing that should be considered.

I, too, was tremendously impressed with what the able Senator from Nevada said, noting that cootch dancers would get an exemption here, but schoolteachers would not.

I think if we are going to start this, we will have to start exempting any number of classes of people and industries in production of goods and services that are very meritorious, that are a very constructive part of our society, and yet are not exempted. Once we open the floodgates of exemption, we might as well say, "Let us have no program," because we undermine the program completely.

Mr. WEICKER. Mr. President, will the Senator from Texas yield for several questions?

Mr. TOWER. I yield to the Senator from Connecticut.

Mr. WEICKER. Does not the Senator from Texas believe, that the sooner we are in and out of this whole operation, the better. That it is not natural to our whole free enterprise system, and that the only way we are going to get out of it early is if everybody puts his shoulder to the wheel.

Mr. TOWER. Of course, the whole objective is to go from a period of wage freezes into a period of decontrols gradually, relaxing the controls on our economy in such a way that wage inflation is not arrested slowly and the economy is stimulated; and it occurs to me that that day will come earlier if we bring everyone within the scope of the operation of the program, rather than exempting certain industries, certain people, and certain classes of endeavor, to the extent that it takes us longer to do it if the controls are hanging around longer.

I think if everyone is involved, it means controls will come to an end at an earlier time.

Mr. WEICKER. I know that in my own State, as has already been mentioned, there is no question but that our teachers have suffered inequities under this program, and we are trying to get them ironed out.

But coming before this body to get exceptions in the entertainment field, while there are personnel such as our teachers and many other industries that are making a sacrifice, is not fair.

If we do not set the example here, certainly the program is not going to work.

Mr. TOWER. I agree with the Senator from Connecticut.

Mr. President, I yield 3 minutes to the Senator from Illinois.

Mr. PERCY. Mr. President, I shall oppose the Cranston amendment, and it is always with regret that I oppose the Senator from California. In fairness to him, I ask unanimous consent to have printed in the Record a series of telegrams I have received in support of the Cranston amendment, some of them from outstanding people in Illinois.

There being no objection, the telegrams were ordered to be printed in the Record, as follows:

Hon. Charles H. Percy,
U.S. Senator, New Senate Office Building, Washington, D.C.:

We urge your support of Cranston amendment to exempt publishing and broadcast industries from wage and price controls as was done during World War II and Korean war to avoid conflict with first amendment's guarantee of fullest possible public access to news and opinions. The industries are unusual in that even if revenues go down, publishers and broadcasters can cut costs almost at will by reducing the public-service portion of their product. They can cut back the proportion of total newspaper space devoted to news instead of advertising, for example, or the amount of expense devoted to documentaries or news shows. Thus the recent freeze has already had direct effect of causing one Washington newspaper to run only excerpts of President Nixon's recent news conference and AFL–CIO speech, instead of full texts, which would have required adding pages to the press run and thus costs to production.

Our union represents some two thousand workers in newspapers and related fields in Maryland, the District of Columbia, and Virginia. But our contracts at the major newspapers do not expire until 1973 so we are not urging you to support the Cranston amendment out of selfish motives.

Our sister locals represent an additional 30,000 members on major daily newspapers in key population centers in the United States and in Canada. It would be a disaster if the peoples' right to know was affected, by accident or intention by the price and wage program.

Brian L. Flores,
Administrative Officer, Washington-Baltimore Newspaper Guild.

Champaign, Ill.

Senator Charles Percy,
Senate Office Building,
Washington, D.C.:

Will appreciate your support of Cranston media exemption amendment to S. 2712.

Arthur Strang,
Illinois Press Association.

Senator Charles H. Percy,
Senate Office Building,
Washington, D.C.:

We understand Senator Cranston of California may offer amendment to extension of Economic Stabilization Act S. 2712, exempting magazines and other media from price control. Such exemptions existed in World War II and Korean price programs based on First Amendment. Magazine publishing is under severe economic pressure and current controls offer further obstacles to our efforts to continued profitable publishing of Ladies' Home Journal and American Home. Certain segments of our operation are particularly important in your State. Would hope you would express to Senator Cranston your interest in his amendment.

John Mack Carter,
President, H. Downe Publishing, Inc.

Senator Charles Percy,
Senate Office Building,
Washington, D.C.:

Would appreciate your support of Senator Cranston's amendment to bill S. 2712 for exemption of print media on price freeze.

T. Greney,
Vice President.

Mr. PERCY. Mr. President, as I see it, the Constitution—particularly the first amendment—is directed toward preserving the substantive freedom of the press, not the economic life and viability of the press. Newspapers are not exempt from labor laws, from taxation, from antitrust laws generally—though the Newspaper Preservation Act eroded this position to some extent—or from the Securities and Exchange Act.

If the Government were responsible under the first amendment for the economic life of the press, it would have an obligation to save failing newspapers and perhaps to lift to some minimum standard those newspapers whose operations are extremely marginal.

The first amendment requires that "Congress shall make no law, abridging the freedom of the press." It does not require exceptional or favored treatment under otherwise nationally applied economic sanctions.

No one could convince me that once the benevolent hand of Government got in and started saving and taking care of newspapers in one fashion or another, newspapers—in some fashion or other—would not be beholden to the same Government, and the freedom of the press might start to be eroded.

Mr. President, I ask unanimous consent to have printed in the RECORD two editorials, one published in the Chicago Sun-Times of November 12, entitled, "Price Controls for the Media," and the other published in the Chicago Daily News of November 12, entitled, "No Special Favors, Please."

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Chicago Sun-Times, Nov. 12, 1971]

PRICE CONTROLS FOR THE MEDIA

Exemption of news media—newspapers, magazines and broadcasters—from Phase II price controls is under study by the government. It is the position of the Field Newspapers—publishers of The Chicago Sun-Times and The Chicago Daily News—that there should be no such exemption; circulation and advertising rates should be subject to whatever government controls and regulations are adopted for all businesses.

Our position is contrary to that taken by some media spokesmen. They believe that the exemptions of the World War II and the Korean War for the communications media should be allowed.

We do not believe the present conditions or the state of the communications industry warrant such exemptions. The wartime exemptions were granted by Congress which listened to arguments that any power to regulate the news media would collide with the First Amendment of the Constitution which forbids passage of any law that would abridge freedom of the press. Congress wished to avoid any challenge that controls might be used to affect editorial judgment.

We yield to no one in our zeal to protect freedom of the press which is a fundamental right of the people to an uninhibited and untrammeled flow of news and opinion. We have, for example, stood firm against proposals for licensing or other state or federal special legislation intended to put government in a position to interfere with a newspaper's right to be the sole judge of its editorial content or its right to access of information. We most recently argued against the right of the government to prohibit publication of the Pentagon Papers, a position upheld by the U.S. Supreme Court.

We do not, however, believe that a general price regulation, applied with uniformity to business and industry generally, falls in the category of the restrictions described here. During the present freeze, we have been prevented from putting into effect an increase in advertising rates that was announced before Aug. 15 presidential proclamation and which was to take effect Sept. 1. The increase was deemed necessary because of increases in our own expenses, particularly new and more costly labor contracts already in effect. If the Price Commission should authorize an increase under such particular circumstances, as the Pay Board has authorized non-inflationary wage boosts, we surely will accept it. But this would be under rules adopted for all businesses and not because of an exemption for the media. During the freeze and the economic burden it has put on us, we have no complaint that our rights under the First Amendment have been imperiled.

Price controls will not inhibit our freedom of expression or our responsibility to criticize the government itself or the operations of the controls themselves. Publishers should not feel that they must be exempt from the law so as to preserve their duty to act as a check on government. To the contrary we believe the press and other communications media would be more credible in the eyes of the public if they operate under the same laws written for other businesses.

[From the Chicago Daily News, Nov. 12, 1971]

NO SPECIAL FAVORS, PLEASE

In the discussion of Phase II wage and price controls, the possibility of exempting newspapers and other news media has been advanced by various media representatives. Some publisher spokesmen favor such an exemption on grounds that applying controls to the media would collide with the First Amendment's guarantee of freedom of the press. We do not agree.

We believe that in matters pertaining to their commercial operations, newspapers and other media should be treated like other private businesses. We consider ourself subject to the same rules, regulations and laws that apply generally to our readers and advertisers. As we see it, the special protection of the First Amendment was intended to protect our right to print what we consider fit in our news and editorial columns.

We would of course oppose any efforts by government officials to use their regulatory or lawmaking powers to gag the media so as to cover up corruption or suppress embarrassing news, or attempt to stifle the free expression of editorial opinions. But Phase II economic controls are not intended to intimidate the media or compromise the integrity of news reporting or editorial views.

In World War II and the Korean War the media were exempted from price controls. This was done by Congress to avoid any possible contention that such controls were invoked unconstitutionally to influence the editorial content of newspapers and other media. Such exemptions were unnecessary then, and are now.

It so happens that as a business the Field Newspapers—The Daily News and The Sun-Times—did suffer financially from President Nixon's wage-price freeze in August. Increases in advertising rates that we had scheduled for Sept. 1 were postponed by the freeze, resulting in a substantial loss of revenue. Because a newspaper cannot recoup losses in the way a manufacturer of less perishable products sometimes can, this is a permanent loss. Our losses (other media were more fortunate in their timing) were our bad luck; we accept them as such.

We are prepared to continue to cooperate down the line with the President's Phase II. We expect to be subjected to the same regulations as any other business operating under the free enterprise system. We expect and will insist that the controls be fair and uniform, but we want no special privileges on questionable constitutional grounds. We will stand on our constitutional rights only when doing so coincides with the public interest—specifically, the people's right to know. The main thrust of the wage-price controls is to try to contain the inflation that long threatened to make beggars of us all. The public interest will be best served if the controls work. So far as we are concerned, making them apply to the media is one way of helping to ensure success.

Mr. PERCY. I am very proud, indeed, that two newspapers in Chicago have seen fit to take a position in opposition to this particular amendment, feeling that it would not be good for the press of the United States to have this special exemption. How could they then not find reason to provide exemption for others who can make a special case out of their own particular situation? They do not want to be a special case. They ask for no favors. I commend the Field Enterprises newspapers for the position they have taken, a position that I wholeheartedly support.

Mr. TOWER. Mr. President, it is my understanding that the distinguished Senator from California is prepared to yield back the remainder of his time. If he is, I am prepared to yield back mine.

Mr. CRANSTON. I want to take about 30 seconds.

Mr. TOWER. I reserve the remainder of my time until the Senator concludes.

Mr. CRANSTON. Mr. President, I should like to say that on the matter of schoolteachers and their right to express an opinion, if one schoolteacher expresses an unpopular opinion, plainly, all the teachers are not going to be denied a pay raise. It is going to be determined by other factors. If one publication expresses an unpopular idea, there is the power to deal unilaterally with that one publishing force, whatever it may be. The situations are not compatible.

The Senator from Connecticut said, "Why should we make this particular exception for this particular part of American life?" It happens that there are many other exemptions in this bill.

The point I should like to make is that the only part of American society, the only segment of our economic society, that is given a special protection in the Constitution is the free press, for the purpose of keeping them free. It is for that reason that an exemption is in order for the press and for other media in this bill.

I yield back the remainder of my time.

UNANIMOUS-CONSENT AGREEMENTS

Mr. TOWER. Mr. President, I yield 1 minute to the Senator from West Virginia.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order, providing that the amendment by the Senator from New York (Mr. JAVITS) be taken up following the disposition of the amendment by Senator CRANSTON, be vacated, without affecting the time limitation thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that upon disposition of amendment No. 766 by Mr. PERCY, the Senate then proceed to consideration of the amendment by Mr. PROXMIRE, No. 772, instead of No. 771.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business today, amendment No. 771, by Mr. PROXMIRE, be laid before the Senate and made the pending question.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I ask for the yeas and the nays on the amendment.

The yeas and nays were ordered.

Mr. TOWER. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from California. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Indiana (Mr. HARTKE), the Senator from Washington (Mr. JACKSON), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Maine (Mr. MUSKIE), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Georgia (Mr. GAMBRELL), and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

I further announce that the Senator from Florida (Mr. CHILES) is absent on official business.

I further announce that, if present and voting, the Senator from South Dakota (Mr. MCGOVERN), the Senator from Washington (Mr. JACKSON), and the Senator from West Virginia (Mr. RANDOLPH) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Ohio (Mr. SAXBE) is absent on official business.

The Senator from Arizona (Mr. GOLDWATER) is necessarily absent to attend the funeral of a friend.

The Senator from Utah (Mr. BENNETT) and the Senator from South Dakota (Mr. MUNDT) are absent because of illness.

The Senator from New York (Mr. JAVITS) and the Senator from Ohio (Mr. TAFT) are necessarily absent.

If present and voting, the Senator from Arizona (Mr. GOLDWATER) would vote "yea."

The result was announced—yeas 45, nays 40, as follows:

[No. 413 Leg.]

YEAS—45

Allen
Allott
Anderson
Baker
Bentsen
Burdick
Byrd, W. Va.
Church
Cook
Cranston
Dole
Eagleton
Ellender
Ervin
Fulbright
Gravel
Hansen
Harris
Hughes
Humphrey
Inouye
Jordan, N.C.
Long
Magnuson
Mansfield
Mathias
McGee
McIntyre
Miller
Mondale
Montoya
Moss
Nelson
Pearson
Proxmire
Ribicoff
Sparkman
Spong
Stevens
Symington
Talmadge
Tower
Tunney
Williams
Young

NAYS—40

Aiken
Beall
Bellmon
Bible
Boggs
Brock
Brooke
Buckley
Byrd, Va.
Cannon
Case
Cooper
Cotton
Curtis
Dominick
Eastland
Fannin
Fong
Griffin
Gurney
Hart
Hatfield
Hollings
Hruska
Jordan, Idaho
McClellan
Metcalf
Packwood
Pastore
Pell
Percy
Roth
Schweiker
Scott
Smith
Stafford
Stennis
Stevenson
Thurmond
Weicker

NOT VOTING—15

Bayh
Bennett
Chiles
Gambrell
Goldwater
Hartke
Jackson
Javits
Kennedy
McGovern
Mundt
Muskie
Randolph
Saxbe
Taft

So Mr. CRANSTON's amendment (No. 767) was agreed to.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ERVIN. Mr. President, I move to lay that motion on the table.

Mr. TOWER. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. SPONG). The question is on agreeing to the motion to lay on the table the motion to reconsider the vote by which the Cranston amendment was agreed to. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Georgia (Mr. GAMBRELL), the Senator from Indiana (Mr. HARTKE), the Senator from Washington (Mr. JACKSON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Louisiana (Mr. LONG), the Senator from Maine (Mr. MUSKIE) and the Senator from West Virginia (Mr. RANDOLPH) are necessarily absent.

I further announce that the Senator from Florida (Mr. CHILES) is absent on official business.

I further announce that, if present and voting, the Senator from South Dakota (Mr. MCGOVERN), the Senator from Washington (Mr. JACKSON) and the Senator from West Virginia (Mr. RANDOLPH) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Ohio (Mr. SAXBE) is absent on official business.

The Senator from Arizona (Mr. GOLDWATER) is necessarily absent to attend the funeral of a friend.

The Senator from Utah (Mr. BENNETT) and the Senator from South Dakota (Mr. MUNDT) are absent because of illness.

The Senator from New York (Mr. JAVITS) and the Senator from Ohio (Mr. TAFT) are necessarily absent.

If present and voting, the Senator from Arizona (Mr. GOLDWATER) would vote "yea."

The result was announced—yeas 40, nays 44, as follows:

[No. 414 Leg.]

YEAS—40

Allen
Allott
Anderson
Baker
Bentsen
Burdick
Byrd, W. Va.
Church
Cranston
Eagleton
Ellender
Ervin
Fulbright
Gravel
Hansen
Harris
Hughes
Humphrey
Inouye
Jordan, N.C.
Magnuson
Mansfield
Mathias
McGee
McIntyre
Mondale
Montoya
Moss
Nelson
Pearson
Proxmire
Ribicoff
Sparkman
Spong
Stevens
Symington
Talmadge
Tunney
Williams
Young

NAYS—44

Aiken
Beall
Bellmon
Bible
Boggs
Brock
Brooke
Buckley
Byrd, Va.
Cannon
Case
Cook
Cooper
Cotton
Curtis
Dole
Dominick
Eastland
Fannin
Fong
Griffin
Gurney
Hart
Hatfield
Hollings
Hruska
Jordan, Idaho
McClellan
Metcalf
Miller
Packwood
Pastore
Pell
Percy
Roth
Schweiker
Scott
Smith
Stafford
Stennis
Stevenson
Thurmond
Tower
Weicker

NOT VOTING—16

Bayh
Bennett
Chiles
Gambrell
Goldwater
Hartke
Jackson
Javits
Kennedy
Long
McGovern
Mundt
Muskie
Randolph
Saxbe
Taft

So Mr. TOWER's motion to lay on the table the motion to reconsider the vote by which Mr. CRANSTON's amendment was agreed to, was rejected.

The PRESIDING OFFICER. The question now recurs on the motion to reconsider the vote by which the amendment was agreed to.

Mr. TOWER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to reconsider the vote by which Mr. CRANSTON's amendment was agreed to. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Indiana (Mr. HARTKE), the Senator from Washington (Mr. JACKSON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Maine (Mr. MUSKIE) and the Senator from West Virginia (Mr. RANDOLPH) are necessarily absent.

I further announce that the Senator from Florida (Mr. CHILES) is absent on official business.

I further announce that, if present and voting, the Senator from South Dakota (Mr. MCGOVERN), the Senator from Washington (Mr. JACKSON) and the Senator from West Virginia (Mr. RANDOLPH) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Ohio (Mr. SAXBE) is absent on official business.

The Senator from Arizona (Mr. GOLD-

WATER) is necessarily absent to attend the funeral of a friend.

The Senator from Utah (Mr. BENNETT) and the Senator from South Dakota (Mr. MUNDT) are absent because of illness.

The Senator from New York (Mr. JAVITS) and the Senator from Ohio (Mr. TAFT) are necessarily absent.

If present and voting, the Senator from Arizona (Mr. GOLDWATER) would vote "nay."

The result was announced—yeas 48, nays 38, as follows:

[No. 415 Leg.]

YEAS—48

Aiken
Allott
Anderson
Baker
Beall
Bellmon
Bible
Boggs
Brock
Brooke
Buckley
Byrd, Va.
Cannon
Case
Cook
Cooper
Cotton
Curtis
Dole
Dominick
Eastland
Fannin
Fong
Gambrell
Griffin
Gurney
Hart
Hatfield
Hollings
Hruska
Jordan, Idaho
McClellan
Miller
Packwood
Pastore
Pearson
Pell
Percy
Roth
Schweiker
Scott
Smith
Stafford
Stennis
Stevenson
Thurmond
Tower
Weicker

NAYS—38

Allen
Bentsen
Burdick
Byrd, W. Va.
Church
Cranston
Eagleton
Ellender
Ervin
Fulbright
Gravel
Hansen
Harris
Hughes
Humphrey
Inouye
Jordan, N.C.
Long
Magnuson
Mansfield
Mathias
McGee
McIntyre
Metcalf
Mondale
Montoya
Moss
Nelson
Proxmire
Ribicoff
Sparkman
Spong
Stevens
Symington
Talmadge
Tunney
Williams
Young

NOT VOTING—14

Bayh
Bennett
Chiles
Goldwater
Hartke
Jackson
Javits
Kennedy
McGovern
Mundt
Muskie
Randolph
Saxbe
Taft

So the motion to reconsider was agreed to.

The PRESIDING OFFICER. The question now——

Mr. TOWER. Mr. President, I move to lay the Cranston amendment on the table.

Mr. BAKER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. I did not understand the proposal of the Senator from Texas.

The PRESIDING OFFICER. He moved to table the Cranston amendment.

Mr. ERVIN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ERVIN. Is a motion to lay on the table an amendment that has been agreed to in order?

The PRESIDING OFFICER. When the amendment is back before the Senate, it is up for disposition as the Senate sees fit. The amendment would also be open to further amendment if the motion to table should fail.

Mr. ERVIN. Is the amendment open to further amendment?

The PRESIDING OFFICER. Not now that the motion to table has been made.

Mr. ERVIN. If the motion to table fails, would it then be in order to offer an amendment to the amendment?

The PRESIDING OFFICER. The Senator from North Carolina is correct.

Mr. CRANSTON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CRANSTON. Has the motion to lay on the table been submitted in writing?

The PRESIDING OFFICER. The motion has not been submitted in writing. If the Senator from California wishes to insist upon that, I am sure that the Senator from Texas will oblige.

Mr. TOWER. I shall be glad to write it, but it is still the pending motion before the Senate.

The PRESIDING OFFICER. It is a privileged matter, and not debatable.

Mr. ERVIN. Is a motion to amend now in order?

The PRESIDING OFFICER. Just a moment. If the Senator from North Carolina has a further parliamentary inquiry, he will state it.

Mr. ERVIN. Is an amendment to the amendment now in order?

The PRESIDING OFFICER. No, because a motion to table——

Mr. CRANSTON. Mr. President, it is not before the body. There is not a tabling motion in writing before the body. The Senator from North Carolina has the floor.

Mr. TOWER. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will state the motion which is at the desk in writing.

The legislative clerk read as follows:

> The Senator from Texas (Mr. TOWER) moves to lay the Cranston amendment on the table.

The PRESIDING OFFICER (Mr. SPONG). The question is on agreeing to the motion to lay on the table the amendment of the Senator from California (Mr. CRANSTON). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Indiana (Mr. HARTKE), the Senator from Washington (Mr. JACKSON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Maine (Mr. MUSKIE), and the Senator from West Virginia (Mr. RANDOLPH) are necessarily absent.

I further announce that the Senator from Florida (Mr. CHILES) is absent on official business.

I further announce that, if present and voting, the Senator from South Dakota (Mr. MCGOVERN), the Senator from Washington (Mr. JACKSON), and the Senator from West Virginia (Mr. RANDOLPH) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Ohio (Mr. SAXBE) is absent on official business.

The Senator from Arizona (Mr. GOLDWATER) is necessarily absent to attend the funeral of a friend.

The Senator from Utah (Mr. BENNETT) and the Senator from South Dakota (Mr. MUNDT) are absent because of illness.

The Senator from New York (Mr. JAVITS) and the Senator from Ohio (Mr. TAFT) are necessarily absent.

If present and voting, the Senator from Arizona (Mr. GOLDWATER) would vote "nay."

The result was announced—yeas 44, nays 42, as follows:

[No. 416 Leg.]

YEAS—44

Aiken
Allott
Anderson
Beall
Bellmon
Bible
Boggs
Brock
Brooke
Buckley
Byrd, Va.
Cannon
Case
Cook
Cooper
Cotton
Curtis
Dominick
Eastland
Fannin
Fong
Gambrell
Griffin
Gurney
Hart
Hatfield
Hollings
Hruska
Jordan, Idaho
McClellan
Miller
Packwood
Pastore
Percy
Roth
Schweiker
Scott
Smith
Stafford
Stennis
Stevenson
Thurmond
Tower
Weicker

NAYS—42

Allen
Baker
Bentsen
Burdick
Byrd, W. Va.
Church
Cranston
Dole
Eagleton
Ellender
Ervin
Fulbright
Gravel
Hansen
Harris
Hughes
Humphrey
Inouye
Jordan, N.C.
Long
Magnuson
Mansfield
Mathias
McGee
McIntyre
Metcalf
Mondale
Montoya
Moss
Nelson
Pearson
Pell
Proxmire
Ribicoff
Sparkman
Spong
Stevens
Symington
Talmadge
Tunney
Williams
Young

NOT VOTING—14

Bayh
Bennett
Chiles
Goldwater
Hartke
Jackson
Javits
Kennedy
McGovern
Mundt
Muskie
Randolph
Saxbe
Taft

So the motion to table the Cranston amendment was agreed to.

The PRESIDING OFFICER (Mr. MONDALE). The Chair recognizes the Senator from Illinois (Mr. PERCY).

AMENDMENT NO. 766

Mr. PERCY. Mr. President, I call up my amendment No. 766 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> On page 6, line 5, insert the following:
>
> "(3) which are paid in conjunction with existing or newly established employee incentive programs which are designed to reflect directly increases in employee productivity."
>
> On page 9, line 13, after "exemptions.", insert the following: "Rules, regulations, and orders promulgated under this title shall insofar as practicable also be designed to encourage labor-management cooperation for the purpose of achieving increased productivity, and the Executive Director of the National Commission on Productivity shall when appropriate be consulted in the formulation of policies, rules, regulations, orders, and amendments."

ORDER FOR RECESS UNTIL 8:30 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business this evening, it stand in recess until 8:30 a.m. tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATORS BYRD OF WEST VIRGINIA, BUCKLEY, AND PERCY TOMORROW MORNING

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that tomorrow morning, immediately following the recognition of the two leaders under the standing order, the following Senators be recognized, each for not to exceed 15 minutes, and in the order stated: Mr. Byrd of West Virginia, Mr. Buckley, and Mr. Percy.

The PRESIDING OFFICER. Without objection, it is so ordered.

ECONOMIC STABILIZATION ACT AMENDMENTS OF 1971

The Senate continued with the consideration of the bill (S. 2891) to extend and amend the Economic Stabilization Act of 1970.

Mr. PERCY. Mr. President, I call up my amendment No. 766 on behalf of myself and cosponsors Senators Javits, Proxmire, and Ribicoff. I ask unanimous consent that the Senator from Delaware (Mr. Roth) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Mr. President, I ask unanimous consent that an explanation of the amendment which has been given to each Senator be printed in the Record.

There being no objection, the explanation was ordered to be printed in the Record, as follows:

Amendment No. 766 to S. 2891, on behalf of myself as sponsor and Senators Javits, Proxmire, Ribicoff, and Roth, the Economic Stabilization Act Amendments of 1971. It will:

1. Amend Section 203(e) of the bill by adding a new paragraph (3) to exempt from Wage Board controls pay increases that are tied directly to productivity increases.
2. Amend Section 207(c) to require that the Pay and Price Boards where possible draft their rules and regulations so as to encourage labor-management efforts to increase productivity, and that the Wage and Price Boards when appropriate consult with the National Commission on Productivity.

These changes are needed to build the vitally important objective of increasing national productivity growth into the economic stabilization effort. Senator Javits, Senator Proxmire and Senator Ribicoff are cosponsors of this amendment.

The changes we propose are the result of extensive consultation with experts in the field of productivity. These experts have been deeply concerned that Phase I and II programs have not taken productivity incentive programs adequately into account. They argue correctly that a major objective of Phase II is to increase productivity, yet the pay guideline of 5.5 percent could actually operate to prevent existing employee productivity incentive programs from operating, or new ones from being created.

This amendment will not create a loophole for wage payments in excess of the pay guideline.

It is drafted so that increased pay under employee incentive programs *must directly reflect increased productivity*. This wording will allow the Pay Board to reject pay schemes that are not truly linked with productivity growth.

The need to increase American productivity has been nationally recognized. In his Labor Day address the President called increased productivity the key "to a better life for the American workingman and his family."

The National Commission on Productivity, of which OMB Director George Schultz is Chairman, said in its interim report on September 7 that a major objective must be to devise new ways of rewarding productivity through incentive pay plans.

Noted economists and leading businessmen have stressed the need to increase productivity as the U.S. rate of productivity growth has in the last several years dropped to one of the lowest among industrialized countries.

Labor has a new understanding of the importance of increasing productivity as the best way to obtain real wage increases that are not immediately eaten up by price increases.

Increased productivity will increase real income and real GNP, and will improve U.S. competitiveness in world markets. By helping to bring inflation under control it will cut short the need for price and wage controls, Senator Javits, Senator Proxmire, Senator Ribicoff and I urge your consideration and support of this amendment, which will directly promote these objectives.

Mr. PERCY. Mr. President, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. PERCY. Mr. President, this amendment has been cleared by the Pay Board and has also just received the approval of the Treasury Department on behalf of the administration.

I wish to draw particular attention of my colleagues to an interpretation of the amendment, for purposes of legislative history:

The intent of this amendment is that the increased pay that is exempt from pay limitations under this title must be paid pursuant to existing or new employee incentive programs that directly reflect increased productivity. It is understood that the Pay Board may issue policy guidelines to limit the applicability of this amendment to bona fide employee compensation programs that are directly related to productivity increases, and that in formulating such policy guidelines the Pay Board will consult with recognized experts in the employee incentive compensation field, and with the National Commission on Productivity or its designees.

Mr. President, I ask unanimous consent to have printed in the Record an excerpt explaining the types of employee compensation plans that would be covered by the amendment.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

Types of Employee Compensation Plans Covered by the Amendment

The types of employee incentive plans covered by Amendment No. 766 are mainly what is known as "productivity sharing" plans.

Under productivity sharing plans companies can, for example, institute a program of "productivity bonuses" on a plant-wide basis to reward workers for achieving established productivity goals.

Such plans are not an incentive to piecework pay systems. Productivity sharing plans are plant-wide plans, they do not reward an individual worker for individual output increases.

The productivity bonuses are not like wages. They do not become a fixed part of the compensation of the worker. They are not paid out when plant productivity falls.

Such plans are not designed to "exploit" workers by driving them harder. Productivity in a plant can often increase because of the introduction of new systems and new machines that actually make work easier.

Amendment No. 766 could also apply to added employee compensation resulting from "suggestion systems", when such employee suggestions actually result in increased productivity.

Though I am a great believer in profit-sharing plans, the amendment would not apply automatically to profit-sharing plans. Profits can increase for many other reasons besides increased productivity. When a profit-sharing plan can be shown to increase productivity directly, however, the Pay Board should consider applying this amendment to such profit-sharing plans.

Mr. PERCY. Mr. President, I ask unanimous consent that a telegram received from Howell and Sisler of Chicago, a management consultant firm specializing in employee compensation programs that is well-known throughout the country, be printed in the Record.

There being no objection, the telegram was ordered to be printed in the Record, as follows:

Chicago, Ill.

Senator Charles H. Percy of Illinois,
New Senate Office Building,
Washington, D.C.

Very strongly urge provisions in economic stabilization bill S–2891 to encourage increased productivity in order to strengthen our economy and help hasten the end of the need for phase 2.

Congressional authorization against precluding any payments under incentive plans designed to directly increase productivity, together with exemption of such payments, from the Pay Boards Wage and Benefit percent ceiling will assure that we get at the root causes of inflation insofar as they lie in our places of work. Plans designed to directly increase productivity should call for setting up production councils, task forces and suggestion systems in each business unit involving as many employees as practical. I urge approval of both cash and deferred payouts, especially the deferred type plan which meets the IRS requirements against discrimination in favor of higher paid employees. Management should join labor in encouraging noninflationary incentive pay such as profit-sharing and production sharing in partial substitution at least of demands for noninflationary wage increases. Senator, allowing for incentive pay in S–2891 will also help us compete better abroad by increasing both the efficiency and quality of our national production.

Howell and Sisler of Chicago,
William J. Howell, Partner.

Mr. PERCY. Mr. President, I should like to point out to my colleagues that the Senator from New York (Mr. Javits), with myself as cosponsor, will bring up tomorrow amendment No. 769. These two amendments are clearly related. Both are intended to increase productivity; both deal with one of the most important subjects Congress can deal with at this particular, crucial time in our history.

GENERAL ECONOMIC GROWTH THROUGH PRODUCTIVITY INCREASE: THE NEED FOR A NATIONAL PRODUCTIVITY IMPROVEMENT DRIVE

Mr. President, during World War II, the Nation organized a productivity effort whose purpose was to help America win the war for freedom. And, though thorough empirical studies of that effort have not been made, we remember it as a time when the entire Nation mobilized behind an effort and gave it remarkable success.

Today we face another crisis, not of the same magnitude as the one that faced us then, but one whose outcome is nonetheless exceptionally important for the future of our economy.

This is not a war in the traditional sense. It is an economic battle that has the dollar losing value, American productivity lagging, and our payments deficit growing. Our ability to carry out the kinds of programs we need to build America is being threatened.

How much longer can we continue to vote for social and humanitarian programs, worthwhile as they are, if we have a $34-billion deficit, which is likely at the close of this fiscal year? Our products simply will not hold up in world markets because of the inflationary effect on the cost structure of American industry.

For these reasons, I hope that, together with the cosponsors of this particular amendment, and together with the Senator from New York (Mr. JAVITS), we will tomorrow direct the attention of the Senate to what we can do now about stimulating worker productivity. We certainly should not try to freeze wages if, by so doing, we remove the incentive for increasing productivity.

The administration's response to our economic problems has been strong and to a very significant extent has been successful in achieving short-term stabilization goals. It will, I believe, be successful in achieving its longer term objectives. The Economic Stabilization Act of 1971 which we are now debating gives the President the authority to continue the economic control program. And, though the tax legislation we passed last week now contains provisions that are both unnecessary and undesirable, it also contains provisions that will help generate sound economic growth and increased employment, based on stimulation of business investment and encouragement of consumer spending. I can only hope that most of the undesirable provisions of that bill will be eliminated in conference, and that the President is able to sign the legislation.

Missing from Senate debate and discussion both about the provisions of the Economic Stabilization Act of 1971 and the tax bill, H.R. 10947, however, has been the subject of productivity.

Increased productivity is the key to many of our present problems. Increased rates of productivity growth can permit labor to achieve wage increases without increasing costs and thus without price increases. Wage increases based on productivity gains are by definition noninflationary. They do permit workers to take home more pay while insuring that that added pay is not immediately eroded by increased prices.

Obtaining increased productivity growth during the phase II economic stabilization effort is particularly important both to business and labor. Profits will improve without price increases to the extent that productivity improves. Wage increases can be granted that are not inflationary. Thus increased productivity can materially diminish the inflationary forces that created the need for the economic stabilization program, and can hasten the end of these programs which, while necessary now, must be ended as soon as possible.

In the regulations issued by the Pay Board on November 13—Federal Register, chapter II, subpart B—the importance of productivity improvement is made very clear. On and after November 14, 1971:

> *Permissible annual aggregate increases will be those normally considered supportable by productivity improvement and cost of living trends.* Initially, the general wage and salary standard is established as 5.5 percent. The appropriateness of this figure will be reviewed periodically by the Pay Board, *taking into account such factors as the long-term productivity of 3 percent,* cost of living trends, and the objective of reducing inflation. (Emphasis added.)

Thus the interrelationship of wage increases, productivity, and inflation is clearly indicated in the Pay Board's phase II regulations.

Increasing national productivity growth rates is important too in order to approve America's ability to compete equally and fairly in international trade without special measures of economic isolation from world markets. American productivity has traditionally been the highest in the world. Experts in productivity analysis claim the American worker is still the most productive. But annual rates of productivity growth in this country have recently slowed markedly while growth rates in other countries have speeded up. We may well have lost our productivity lead. The measures in the administration's tax bill, mainly the investment tax credit and the improved depreciation rules will do much to increase productivity by combining our skilled labor with the most up-to-date equipment.

Mr. President, I am including a table prepared by the Office of Tax Analysis of the Treasury which compares capital costs of manufacturing machinery and equipment, as influenced by income tax policies, in 10 major industrial countries. This table shows that, in 1970, the United States, without accelerated depreciation and the investment tax credit, gave far less favorable treatment to recovery costs of manufacturing equipment than these major competitors. With the accelerated depreciation allowance as implemented by the Treasury in June this year and the 10-percent credit, U.S. practice becomes much more comparable. With accelerated depreciation as modified by the Ways and Means Committee, and a 7-percent investment tax credit, U.S. practice becomes somewhat more comparable with other countries, but not as favorable as, for example, Japan. I am pleased that these two provisions remain intact in the bill as passed by the Senate.

COMPARATIVE CAPITAL COSTS OF MANUFACTURING MACHINERY AND EQUIPMENT AS INFLUENCED BY INCOME TAX POLICIES: CORPORATION INCOME TAX RATES, DEPRECIATION ALLOWANCES, AND INVESTMENT ALLOWANCES AND CREDITS; MAJOR INDUSTRIAL COUNTRIES, 1971

[Country, comparative cost of capital, and United States, 1970=100]

United Kingdom	79.1
Japan	81.1
Italy	81.9
West Germany	82.8
Sweden	83.0
Belgium	84.7
France	89.7
The Netherlands	94.1
Canada	97.2
United States (1970)	100.0
United States with ADR	95.6
Plus 5 percent investment credit [1]	88.9
Plus 7 percent investment credit [1]	86.2
Plus 10 percent investment credit [1]	82.1
United States with ADR, less modified first-year convention	96.6
Plus 5 percent investment credit	89.8
Plus 7 percent investment credit	87.1
Plus 10 percent investment credit	83.0

[1] Effective credit assumed to be unaffected by income limitation for purposes of international comparisons.

Office of the Secretary of the Treasury, Office of Tax Analysis, September 21, 1971.

LAGGING U.S. PRODUCTIVITY RATES

The U.S. productivity rates have been very poor compared to those of our major world competitors, and one reason is no doubt the relatively high cost of capital in the United States in relation to other countries, and relatively low rates of U.S. GNP spent during the 1960's for new plant and equipment. Output per man-hour in the United States grew by an average of only 2.1 percent in the period from 1965 to 1970, while hourly compensation increased by 6 percent and unit labor costs increased by 3.9 percent. By contrast, output per man-hour increased 14.2 percent in Japan, and though hourly compensation rose 15.1 percent, unit labor cost increased only 0.8 percent.

On the other hand, during the period 1960 to 1965, U.S. output per man-hour grew on the average of 4.3 percent a year, hourly compensation grew 3.7 percent and unit labor costs actually decreased 0.7 percent—one reason for our export success in those years.

Mr. President, I ask unanimous consent to insert in the RECORD at the conclusion of my remarks an article by Arthur Neef from the August 1971 Monthly Labor Review, a publication of the Bureau of Labor Statistics of the Department of Labor, titled "Unit Labor Costs in Eleven Countries." This excellent article has served as the basis for much recent discussion about productivity, and I think it would be useful were it available in its entirety. These are sobering statistics and they demonstrate to us more clearly than ever, I believe, one major reason for the competitive problems of the American economy today. There is no question in my mind that the two most important causes of the seeming uncompetitiveness of U.S. producers has been, first, an unrealistic structure of world exchange rates, and second, at least 6 years of very high rates of inflation. Next in importance, however, has been lagging U.S. productivity. The need to launch a major national effort to increase productivity is clearly demonstrated.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PERCY. Mr. President, a particularly interesting account of the kind of effort that has made Japan the world's leader in productivity growth is provided in the October 4, 1971, issue of U.S. News & World Report. The essence of this article is that Japanese management and labor constantly work together to achieve the common goal of increased efficiency and production.

At one Japanese company, in-plant productivity councils are extensively employed. There is a production consultative council of labor and management representatives that meets monthly. Seven or eight times a year management and labor representatives attend management consultative council meetings to explore ways of improving productivity. Management reports to workers each year on profits and performance. All of these efforts represent a distinctive approach to labor-management relations in which labor is conceived of as a partner to be consulted with constantly on how to do the job better. I ask unanimous consent that the article referred to be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

PRODUCTIVITY AND NATIONAL GOALS

Mr. PERCY. Mr. President, still another reason for planning now for higher productivity growth rates is that the increased gross national product that would result from higher productivity and higher output will help us meet national social and economic objectives that we increasingly need and yet find ourselves hard-pressed to afford.

As Dr. Leon Greenburg, staff director of the National Commission on Productivity said in a speech to the National Association of Business Economists on September 27:

> It is likely that the costs of these activities will have to be borne by the community at large. These costs could be paid for out of increased taxes, but the tax burden can be avoided by higher productivity . . .
>
> You're probably familiar with how that might work . . . A 0.1 percent increase in the rate of growth of output per man-hour translates to about $1 billion of GNP in 1971. . . . For the decade as a whole, a 0.1 percent difference in the annual growth rate could provide about $60.0 billion of GNP.

A NATIONAL PRODUCTIVITY DRIVE

These then are the stakes. By making a concentrated, determined, well-planned drive to bring about a consciousness of the need to improve productivity both in labor and management, by offering Government encouragement and assistance to what is necessarily a private effort, we can strengthen our national economic base, guarantee increased wages with stable prices, generate ample profits, greater innovation, and strong international competitiveness.

I have asked a group of businessmen in Illinois to begin a productivity effort voluntarily. In a letter on November 8 to certain business leaders I suggested that working men and women are increasingly aware that inflation erodes the buying power of their paychecks. Now is the time, in my view, for business to take advantage of labor's new concern for the need to improve productivity. It is my hope that Illinois business can immediately launch a productivity effort based on individual initiative and creativity.

I said that in my view the best way to implement a national productivity drive is on a plant-by-plant basis. Establishing in-plant productivity councils, representing top management, and workers, to take a fresh look at the way things are done, and the ways they can be changed and improved, could be an effective device for instilling an awareness of the constant need to increase efficiency and output.

Mr. President, I ask unanimous consent that the full text of my letter, two editorials, and one newspaper article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., November 8, 1971.

DEAR ILLINOIS BUSINESSMAN: Because is seems likely that controls on prices will be in effect for the foreseeable future, the moment seems right to take major steps to improve productivity on our own initiative. My recent experience indicates that labor now seems willing to take a new look at the problem of productivity.

Our state's major labor organization has responded to my call for department-by-department, plant-by-plant productivity councils—much like those that proved their usefulness during World War II. When I expressed this need at the State Convention of the Illinois Federation of Labor, AFL–CIO, last month, I had a surprisingly positive reaction, which is reflected in the enclosed news story and editorials.

Moreover, the Business Council, which met on October 15–16, emphasized the need for productivity improvement and new ways to achieve it. Bob Ingersoll of Borg-Warner stressed at this meeting the need for a productivity drive on a national scale. If you would like to have a copy of his talk as well as others given on the same subject, I would be pleased to send you copies.

We have no reason to be proud of recent national productivity performance. From 1965 to 1970 average annual productivity growth fell to 2.1%, compared with an average growth of 3% from 1950 to 1965.

Working men and women are increasingly aware that inflation erodes the buying power of their paychecks. Now is the time, in my view, for business to take advantage of labor's new concern for the need to improve productivity. It is my hope that Illinois business can immediately launch a productivity effort based on individual initiative and creativity.

You know better than I what specific steps you can take. But here are some areas for consideration.

First, of course, is to make the most efficient use of capital. Federal policy must allow industry to generate and keep enough profit to install the most modern capital equipment and to afford substantial research and development. For this reason, I have supported the reinstatement of the investment tax credit and liberalized depreciation and amortization rules. I feel sure business will respond to these measures with increased investment.

Second, I hope that in Illinois we can make special efforts in another area—the work place itself. Together with labor we should take a fresh look at work rules and at in-plant programs for upgrading workers' skills. What kinds of incentives, other than wages, are being offered? Can new programs or special bonuses for groups or teams of workers who are especially productive or inventive be introduced? Have we asked the men and women who run our processes how they can be improved—for their own ideas on speeding the system and eliminating waste? Would the introduction or strengthening of profit-sharing schemes help?

Third, can we take a new look at the human side of enterprise? We may be so absorbed in increasing productivity through technical innovation that we forget that human initiative is the key to substantial future productivity growth in an increasingly service-oriented economy. A concentrated effort to make people feel that their energies are being well used and that they are important as individuals may be a major productivity spur in a work force increasingly oriented toward "knowledge workers."

The best way to implement a national productivity drive is on a plant-by-plant basis. Establishing in-plant productivity councils, representing top management and workers, to take a fresh look at the way things are done, and the ways they can be changed and improved, could be an effective device for instilling an awareness of the constant need to increase efficiency and output.

A supplementary way to organize a productivity effort, concurrent with a plant-level productivity drive, would be through productivity councils established on an industry-by-industry basis. Associations of manufacturers in Illinois could establish productivity councils. that would identify productivity bottlenecks that are common to each industry, and seek to remove them through individual action and consultation with labor.

We are entering a period characterized by some as one of lasting Federal controls on economic activity. I do not agree. I think we can—and must—return to a revitalized free enterprise economy as soon as inflation has been brought under control.

I have suggested ideas for you to consider. As a former businessman, I know that Federal Government policy can impede effective business operations. I would like to have your suggestions for actions that my colleagues and I might take in Washington, and I would like to know of your experiences with productivity efforts. Your ideas, together with those of your fellow Illinois business leaders, will help us establish a common ground of understanding to improve productivity now, during Phase II, when it is most important. I would appreciate hearing from you.

Sincerely yours,
CHARLES H. PERCY,
U.S. Senator.

[From the Chicago Tribune, Oct. 5, 1971]

PERCY ASKS STATE LABOR CHIEFS TO BOOST OUTPUT

(By James Strong)

SPRINGFIELD, Ill., Oct. 4—Sen. Percy [R., Ill.] today appealed to Illinois labor leaders to join with business and government to break down barriers to increase productivity as the key to restoring the nation's economy.

Percy urged a voluntary plan in Illinois as the forerunner to a national productivity drive administered under the Cost of Living Council aimed at eliminating absenteeism, poor work quality, and poor work practices which have stifled American competitiveness in the world market.

In a speech before more than 2,000 delegates to the Illinois AFL–CIO Convention here, Percy proposed voluntary restraints under productivity councils to oversee to wages and prices in relation to productivity. The purposes would be to determine possible wage-price guidelines and to recommend changes in eliminating obstacles to increased productivity.

SHARE IN PROFITS

Percy called for vast profit-sharing plans from "the executive suite to the assembly line.

"My experience in business suggests that employes will become very strongly motivated if they have a financial stake in the efficiency and profitability in their company," Percy said.

Before speaking to the state convention in the state armory, Percy, who last year was the first Republican senator invited to a state AFL–CIO convention in nearly three decades, held private sessions with Stanley L. Johnson, state AFL–CIO president, and the 19-member executive board.

PLANS OTHER PARLEYS

During the meeting with the labor leaders, Percy explained that he will also confer with top state businessmen and government officials.

It was learned that Percy plans to outline in detail his views on the productivity drive, labor's opposition to current wage-price freeze policies, the import surcharge, dollar devaluation, and trade issues in a Senate speech tomorrow.

Percy, who received an ovation at last year's convention from the representatives of 1.1-million AFL–CIO members in Illinois, again was warmly received. He boasted of his pro-labor record, saying, "I will match my record of five years in the Senate and 25 years in private industry with anyone."

REMINDERS FOR DELEGATES

He reminded the delegates of his stand in favor of national health insurance and welfare reform, consumer protection legislation, and other labor backed issues.

Shortly before Percy arrived at the armory, Gov. Ogilvie, who at first accepted, then declined, an invitation to speak at the Monday session, came under attack by several delegates for vetoing an antistrikebreaking bill and his failure to sign workmen's and unemployment compensation bills.

Neal A. Bratcher, a delegate from Chicago Local 93, American Federation of State, County and Municipal Employes, demanded that all the convention programs bearing a full-page advertisement with Ogilvie's picture welcoming delegates to the convention be collected by the sergeant of arms and "thrown in the trash can."

Johnson appealed to the delegates not to take the action saying, "total record is not in on any official, including the governor, and we don't want to condemn anyone until the whole program is in."

The convention then voted to tear out the page bearing Ogilvie's picture. Among other Republicans in the program booklet prepared by the Springfield Building and Trades Council were Atty. Gen. William J. Scott, and Rep. Paul Findley [R., Ill.].

Earlier, Johnson in his opening convention speech, urged the federal government to assume the burden of mounting welfare costs and leveled criticism at Ogilvie and state legislators for failing to provide at least 10 per cent pay increases for state employes after they voted themselves 45 per cent pay hikes.

[From the Illinois State Journal, Oct. 8, 1971]

AT LABOR CONVENTION: GOOD ADVICE FROM PERCY

It is encouraging to note that U.S. Sen. Charles H. Percy received a standing ovation when he proposed a system of plant-by-plant "productivity councils" during his address before the state convention of the Illinois Federation of Labor, AFL–CIO.

Percy is a co-sponsor of the National Productivity Act now pending in the Senate which would attempt to "eliminate excessive absenteeism, scrap and reworked, poor quality work and work practices that contribute to cost and make American products less competitive in domestic and foreign markets."

It is an alarming decline in American productivity that has contributed as much as anything to the nation's economic troubles including high unemployment. Economists have consistently pointed out that in too many instances American goods are no longer competitive in world markets.

A first step in correcting the current imbalance in foreign trade, they say, is a return to the traditional American quality of workmanship of the past.

If this is to be accomplished the support of organized labor must be forthcoming. The response which Percy received from the more than 2000 Illinois convention delegates that the rank and file leadership of labor not only recognizes the problem but is eager to help do something about it.

The Illinois AFL–CIO could take the lead in this effort by following a Percy suggestion that the delegates not wait for passage of the pending bill, but to act now on their own to set up going councils with management to work out plant by plant programs to improve productivity.

[From the Chicago Daily News, Oct. 6, 1971]

STRAIGHT TALK TO LABOR

Sen. Charles H. Percy went to the heart of the whole economic problem with his proposal to the Illinois AFL–CIO convention for a system of plant-by-plant "productivity councils." The fact that the 2,300 delegates gave him a standing ovation is immensely encouraging. Perhaps the vital lesson about productivity and its relation to everybody's prosperity is getting through.

Percy urged labor-management councils to work toward eliminating "excessive absenteeism, scrap and rework, poor quality work and work practices that contribute to cost and make American products less competitive in domestic and foreign markets."

He also proposed that workers share in the results through profit-sharing plans. That would not only be an equitable way of rewarding more effective efforts—it would also serve to remind the workers of the connection between efficiency and their own wellbeing.

Percy's proposal coincides with the National Productivity Act now before the Senate, and with the administration's nationwide effort to use greater productivity as a weapon against inflation and the economic threats from abroad.

The efforts are timely; lagging productivity has been steadily draining the worth of the dollar at home while putting the United States at a growing disadvantage in competition with more productive nations.

U.S. News & World Report pointed out in a recent article that the United States trails all other major free world nations in productivity gains. It reported that average annual increases in manufacturers' output per man-hour in the United States, 1965–70, was 1.9 per cent per year. West Germany's was 5.3 per cent, France's 6.6 per cent, Sweden's 7.9 per cent, and Japan's a whopping 14.2 per cent.

How did Japan, so roundly trounced in World War II, manage to come roaring to the top of the postwar list in productivity and therefore prosperity? In part by labor and management coming together in much the same way Percy is suggesting.

"We are not hostile toward management," U.S. News quotes a Japanese worker. "Managers are employes, too. We're all on the same team and must co-operate for the good of our company." If that strikes the U.S. union member as a bit starry-eyed, we suggest another look at that 14.2 per cent productivity increase rate, and at the real gains in prosperity of the Japanese workers, measured alongside the meager gains of U.S. workers as inflation eats away at their dollars.

The warm response of Illinois labor to Percy's proposal was not the first manifestation of an awakening awareness among U.S. labor to its stake in raising productivity.

We noted here last Aug. 4 that the Steelworkers' president, I. W. Abel, urged his people to increase their man-hour output both to boost falling profits and to compete with farm producers. The three-year 31-per cent wage increase won by the steelworkers substantially widened the gap that must be closed, but at least Abel noted the need, and that is more than labor leadership has done in the past.

We hope that labor leaders generally will have the courage and good sense to take up the theme voiced by Abel, Percy, and others and preach the gospel to their constituents. For what is needed first of all is a change in worker attitude adjusted to the change in the nation's economic situation. Somehow, in the otherwise commendable growth in labor's dignity and economic muscle, there has developed a widespread attitude that doing a job as well and efficiently as possible no longer counts for anything. What it means, the nation is now learning, is the margin of profit not only to maintain its strength and its leadership but to improve the environment and the quality of life itself.

Mr. PERCY. Mr. President, the theory behind the productivity council system I have proposed, is that joint management-labor efforts to isolate the problems and expedite solutions is badly needed. In a speech in the Senate on October 5 I said that action on several fronts is needed to promote productivity. First and most important is the need to recognize it as a national problem of top significance. The phase II economic stabilization period should be used to give special emphasis to the problem by administratively creating productivity advisory councils that would study productivity in each industry. These councils would do three things; they would help phase II wage and price control groups such as the Pay Board and the Price Commission determine guidelines for industry wage and price performance. They would identify the obstacles to increased goals to productivity in each major industry, and they would recommend changes to remove productivity bottlenecks.

The temporary councils could be established now by Executive order under the direction of the Secretary of Commerce, using the resources of the Bureau of Domestic Commerce, which has direct competence in specific industrial sectors, and the Office of Business Economics.

I am pleased to say that the Secretary of Commerce, Maurice Stans, responded enthusiastically to my proposal in a letter of October 23. He said:

> I particularly endorse your emphasis on productivity and on the possibility of creating Productivity Advisory Councils on an industry basis . . . The Department of Commerce stands ready to use its resources and to cooperate fully in any productivity effort mounted by the Productivity Commission or the Cost of Living Council.

I ask unanimous consent that the text of this letter be printed in the RECORD.

There being no objection, the letter

was ordered to be printed in the Record, as follows:

The Secretary of Commerce,
Washington, D.C., October 23, 1971.
Hon. Charles H. Percy,
U.S. Senate,
Washington, D.C.

Dear Chuck: Many thanks for sending me a copy of your October 5 Senate speech on "Revitalizing the American Economy."

Your comprehensive and clear analysis of the economic problems that we face is very useful as we move forward with the New Economic Policy.

I particularly endorse your emphasis on productivity and on the possibility of creating Productivity Advisory Councils on an industry basis. As you know, President Nixon has asked the Productivity Commission to advise the Cost of Living Council during Phase II. The Department of Commerce stands ready to use its resources and to cooperate fully in any productivity effort mounted by the Productivity Commission or the Cost of Living Council.

Sincerely,
Maury,
Secretary of Commerce.

Mr. PERCY. Mr. President, response from labor groups I have talked with has been positive and encouraging. When I spoke of the need to set up plant-by-plant, department-by-department productivity councils at the State Convention of the Illinois Federation of Labor, AFL–CIO, in October, my remarks received a strong, positive reaction. This was reflected in a news story in the Chicago Tribune and editorials in the Chicago Daily News and the Illinois State Journal which are included in the Record as attachments to my letter to Illinois businessmen to which I have referred. At Joint Economic Committee hearings on September 20, United Auto Workers President Leonard Woodcock agreed that his union would cooperate in such in-plant productivity councils if they were fairly representative of labor. And an editorial in the Decatur Review of November 1 strongly endorsed the idea of productivity councils. I ask unanimous consent that this editorial be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

[From the Decatur Review, Nov. 1, 1971]

Percy Asks Innovative Solutions

U.S. Sen. Charles H. Percy is to be applauded for his proposal that temporary productivity advisory councils be created.

In a recent address, Sen. Percy emphasized the seriousness of the productivity problem.

Output in each man-hour grew an average of only 2.1 per cent from 1965 to 1970, he said, while hourly compensation rose 6 per cent. This contributed to an increase of 3.9 per cent in unit labor costs.

Sen. Percy hopes the councils, which could be brought into existence by executive order of the President, would help create a national awareness of the productivity problem.

More specifically they would:

Help the Pay Board and the Price Commission determine guidelines for wages and prices in various industries.

Identify obstacles to increased productivity in each major industry.

Recommend changes to remove productivity bottlenecks.

A major goal would be to spark a national productivity effort.

The slowing down of productivity growth in the United States is a complex problem. This newspaper has pointed out that it must be given more attention.

A presidential commission recently identified three basic reasons for the slowing of productivity growth: Obsolete work rules, worker dissatisfaction with assembly-line or nonrewarding jobs, and manufacturers' failure to adopt new techniques.

Innovative solutions are needed. Sen. Percy's proposal could help develop them and to tie wages and prices to productivity.

POSITIVE BUSINESS RESPONSES

Mr. PERCY. Mr. President, that the idea of increasing productivity through a systematic effort by management to set goals and work with labor in in-plant productivity programs is workable is represented by some positive responses to my letter to Illinois businessmen.

Mr. Walter B. Scott, vice president and assistant to the president of Motorola, Inc., has written an excellent description of his corporation's productivity program and the really excellent results it has had. Motorola is an example of a corporation that has reaped substantial tangible rewards from adopting productivity programs of the kinds I have suggested. I will excerpt pertinent portions of Mr. Scott's letter here:

> One of the keystones to the success of the program was a movie entitled "Competition." Mr. Galvin, Chairman of the Board of our company, went on camera and explained our . . . program, . . . what we had to do to remain competitive world wide.
>
> Every employee, before the program was instituted in a facility, was shown this film. The General Manager also spoke to reveal the program within a particular division or facility. This is how we communicated to our employees. Our program has been very successful.
>
> Senator Percy, committees are very fine but when you get people together on committees to talk about productivity, you have to have a way to set the target or the benchmark. I am convinced that that individual in production and the individual in an office will respond to improve his efforts, if the manager, and I mean top managers and the middle managers do their job.
>
> Too often managers complain about employees not wanting to produce. This is not true. If you provide good leadership and communicate what is expected and is reasonable, they will respond.

I will quote briefly other responses to demonstrate the point that businesses will be responsive to new ideas for concentrated efforts to increase productivity in conjunction with labor. At a later time I will enter these responses in the Record more fully.

Joseph B. Lanterman, chairman of Amsted Industries, said:

> . . . in a time when business is plagued by the doubly crushing effects of inflation and growing foreign competition, a major national program to improve productivity, supported by all segments of our society, seems imperative.

George B. Howell, executive vice president and chief executive officer of Golconda Corp., wrote:

> I wholeheartedly agree that a massive effort should be made to increase the productivity of America and to make all citizens aware that this is the only route not only to improve our own standards of living, but to regain the respect for America around the world.
>
> . . . we are constantly examining ways of improving productivity by capital expenditures. . . . As a corollary to this program, we have appealed to the people on a plant-wide basis to help eliminate non-productive time, . . . Additionally, we are considering a monetary award system for productivity improvement suggestions that result in tangible cost reductions.

William B. Johnson, chairman and president of IC Industries, said:

> Your suggestions and questions concerning plant-by-plant and industry-by-industry councils, with particular attention to work rules and incentives, will be promptly considered by our various operating companies in the manufacturing, transportation and consumer product areas. This will require a little time and we will then provide you a detailed report.

Support for concentrated efforts to improve productivity comes from many thoughtful sources. At its meeting on October 15–16 the business council sponsored a special panel to discuss productivity. Among the discussants were some of the most knowledgeable and distinguished businessmen in the United States. Mr. H. I. Romnes, chairman of A.T. & T., spoke with particular authority about approaches to productivity in the labor-intensive services element of his industry, and about the special problems associated with increasing productivity among knowledge workers. Particularly exceptional and demonstrative of the kinds of productivity advances that can be made simply by rethinking a standard practice that has become a tradition is the idea of the "snip and take" telephone. Mr. Romnes said:

> "If this concept works—it is being tried in a number of our companies—no longer will an installer have to climb into his truck to go out and remove the telephones of a customer who is moving. (How frequently we must do this you may judge from the fact that in the course of a year—to gain 4 million telephones—we may have to install 25 million, remove 21 million.) Instead, when the customer moves, he snips the cords himself with a pair of scissors and takes his instruments to his new location and the company gives a credit on his bill."

But perhaps the most important message Mr. Romnes conveyed was his company's new emphasis on the importance of the individual. A.T. & T. has discovered that the process of job fragmentation and specialization has gone too far and that in many instances splintered jobs should be reassembled to create tasks meaningful enough for people to do with a sense of pride and accomplishment. At A.T. & T. the post of executive vice president for human affairs has been created. His job is to see that human considerations receive as much weight in the highest councils of management as financial and technical questions have been given—to stress the "human side of enterprise."

Mr. President, I ask unanimous consent that the full text of Mr. Romnes' remarkable and enlightening speech be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 3.)

Mr. PERCY. Mr. President, another remarkable address at the business council was that of the chairman of the Chase Manhattan Bank, David Rockefeller, widely regarded as one of the world's most intelligent and progressive business leaders. In a definitive speech that challenges the assumption that "not much can be done" about poor productivity in the services sector, Mr. Rockefeller said that:

> Such increases are vitally important now because we have reached a point where the service industries, including government, employ about 90 billion manhours a year which is roughly 50 percent more than the manhours employed in goods production. Yet, surprisingly, the service share of the Gross National Product has remained pretty much the same over the past twenty years.

Mr. Rockefeller points out how service industries, including Government agencies and the banking industry, are becoming "productivity conscious" and are now taking major steps to increase productivity. He points out that:

> Many segments of the service sector are turning their attention to the development of proper budgeting, to the establishment of priorities, and to the improvement of financial techniques and procedures.

Describing the results of the Chase Manhattan bank's productivity improvement programs, Mr. Rockefeller noted that the bank's combination of productivity improving efforts:

> . . . has succeeded in raising productivity quite markedly in our bank operations area. Comparing the first six months of this year with a similar period in 1970, we estimate that productivity is up as much as 10½ percent. Despite an increased volume of in check-processing, money transfers and other such activities, we have been able to reduce our staff through normal attrition by about 1,000 persons in the past eighteen months. As our people become increasingly familiar with the techniques, we anticipate that from now on both our staff and our costs will grow at a much slower pace. We are projecting an increase in our controllable expenses through 1975 at a rate of 9 percent annually as compared with 19 percent in the past five years.

This experience demonstrates the importance of the need to make the effort to increase productivity in the service area and the proven fact that such productivity increases can be made regardless of the common assumption that productivity increases in services cannot occur. This is the area in which an aggressive productivity campaign spearheaded by a well-staffed and adequately funded productivity commission could help bring remarkable changes.

Mr. President, I ask unanimous consent that Mr. Rockefeller's speech be printed in the Record.

There being no objection, the speech was ordered to be printed in the Record, as follows:

Productivity in the Services Sector of the Economy

(Remarks by David Rockefeller)

My assignment is to discuss productivity in the fastest growing sector of the U.S. economy—the service industries. This is an area where, unhappily, there are still more questions than answers.

In reflecting upon the services sector, the average businessman usually proceeds on two assumptions. The first is that productivity in the services has lagged behind growth in output per worker in the real goods area—and this is basically true. The second assumption is that not much can be done about the situation—and this, in my judgment at least, is highly questionable.

The argument is made that it is pretty hard to increase the productivity of a good barber, a good baseball player, or—as I am informed on reliable authority—a good bartender!

Be that as it may, there is certainly room for improvement in the rate of productivity in many other services. And it is vitally important that we turn our attention as a nation in these directions, particularly in view of recent trends in the competitiveness of the U.S. economy.

One of the most significant economic developments of the past two decades has been the dramatic transition of our economy from one dominated by the production of goods to one dominated largely by services. We have reached a point where the service industries, including government, employ about 90 billion manhours a year which is roughly 50% more than the manhours employed in goods production.

Yet, surprisingly, the service share of the Gross National Product has remained pretty much the same over the past twenty years. The chief reason services keep absorbing an ever larger share of total manhours is precisely that productivity has increased less rapidly in the services than in the rest of the economy. For example, during the decade of the Sixties, productivity in services advanced 2.3% annually as against a 3% rise in the productivity of goods—a rate 30% slower.

This is a trend that should properly concern us, as businessmen and as citizens, because it raises a disturbing question. If national output is increasingly dominated by services with small productivity gains, won't this eventually drag down the productivity growth of the economy as a whole?

The obvious answer is: Yes, it will do so unless we take steps to reverse the productivity trend in the service area.

In examining this point more thoroughly, I'd like to talk first about the *problems* involved in measuring productivity in the service sector, then assess the *progress* that has been made in certain areas, and finally touch briefly on the *prospects* for the future.

Although the United States is now largely a service economy, our statistical reporting system is still geared to the conditions and needs of a predominantly agricultural and industrial nation. In his pioneering book on "The Service Economy," Dr. Victor Fuchs of the National Bureau of Economic Research points out that there are notable gaps in our information about service output, employment, prices, wages, investment and profits.

Of course, we can get a fairly good picture of what is included in the service area. We know, for instance, that about 47 million persons work in this area—two out of every three men and women employed in nonfarm jobs. Of this total, about one-third work in the retail and wholesale trades. The next largest group—perhaps one-quarter—are employed by federal, state and local governments. Transportation and public utilities employ 9%, and finance, insurance and real estate combined about the same. The rest—roughly one-quarter of the total—are scattered across the whole range of private service activities such as recreation, repair and maintenance, and personal care.

But identifying the composition of the service work force is far simpler than charting its productivity. As you know, productivity is a measure of real output per unit of input. It is relatively easy to measure tons of steel turned out per manhour, or per unit of labor and capital. But in many of the service industries, there is no satisfactory measure of output.

Lacking such a gauge, the national income accounts measure the contribution of most services by the wages and salaries paid—a procedure which makes no allowance whatever for increases in productivity.

Some cynics may argue that, in the case of Government, this zero-productivity-increase is a wholly valid assumption!

On the other hand, I get the impression in talking with some of my colleagues on the Business Council that they feel we are getting almost all the Government we are paying for!

At any rate, the point is that we need a substantial improvement in our measurements if we are going to get a proper fix on the relative gains in productivity in goods-producing and service-producing areas of the economy.

On this score, I believe there has been encouraging progress in recent years in a number of areas. Certainly there is a growing public awareness that rising costs of medical care, education, transportation and other services provide a major obstacle to higher real standards of living. And with this recognition has come political pressure for greater efficiency which after all is the essence of improved productivity.

In many segments of the service sector, more and more managements are being forced to realize that cost-cutting and efficient operations are an integral part of their jobs. Increasingly, they are turning their attention to the development of proper budgeting, to the establishment of priorities, and to the improvement of financial techniques and procedures.

We see this process at work in our hospitals, in municipal government, and in our colleges and universities. Some of you recall Pat Haggerty's incisive presentation here last year in which he stressed the critical need to relate costs-per-student-hour and costs-per-teaching-hour to improvements in the quality of education. A start is being made in this direction, although there is still a long way to go.

While it is true that many services do not have the whiplash of competition or the measuring rod of profit to spur them on, they do operate under fiscal constraints and these constraints are becoming ever more pressing.

In New York City, for example, severe fiscal pressures have forced the municipal government to introduce radical new budgetary procedures, and retain management consultants to study additional ways in which efficiency can be enhanced. The Rand Corporation has set up a subsidiary in New York to conduct continuing research for the city on a contractural basis.

Not only are government units reaching out for new management techniques but they are also applying new technology and new equipment to their problem-solving efforts. One illustration is the Technology Application Program—TAP, for short—under which municipal officials have enlisted the help of NASA's space scientists and engineers. The NASA specialists have come up with a half-dozen projects—four to improve the productivity of Fire Departments, and two others to enhance the effectiveness of street maintenance crews.

A few years ago, you may recall, great hopes were held out for sharply increasing governmental productivity through the Planning-Programming-Budgeting approach. These hopes have yet to be realized. The enormous difficulties of applying such techniques to an area where objectives, costs and benefits are frequently far more complex than in business were vastly underestimated. More importantly, there were simply not enough trained technicians to do the job. Nevertheless, I believe we must revive this P-P-B approach, develop the necessary technicians and devise new ways of applying these techniques to government. I see this as an integral part of any effort to increase efficiency in government, and I am convinced that business should provide all possible support for it.

Professor John Kendrick of George Washington University, one of the country's foremost authorities on the subject, argues plausibly that improving government productivity offers the U.S. its greatest single opportunity for expanding its growth and wealth.

My own industry—commercial banking—has been pushed, in the past few years, into an intensive search for ways to improve its productivity. The experience of our bank demonstrates some of the steps that can be taken, and I believe what we have learned applies at least in part to government and non-profit organizations as well

Our first step was a recognition of the fact that we faced a problem—in our case, costs that were excessive and steadily rising. We found that to bring our costs under more effective control, it was necessary to revamp our whole system of budgeting, and even to change our system of accounting in significant respects. Budgeting has now been pushed down to the lowest operating level, and in the process a new philosophy of management has emerged. Our officers up and down the line have become cost-conscious as well as revenue-conscious, and it is fascinating the amount of savings that have been realized just through the familiar "belt-tightening" process.

The largest number of our employees are engaged in back-office work—in the processing of checks, money transfers, the handling of securities and the like. Supervisors in these areas had never really thought of cost-cutting as a significant part of their jobs. Now they have a keen awareness of its significance, and as an incentive to improve because they know that this is a primary factor in judging their performance as managers.

Moreover, we have found that it is possible to apply some of the principles of industrial engineering to this back-office work—to schedule work flows and shift employees between functions so as to maximize productivity. Indeed, we have used industrial engineers and operations research analysts to help in planning and implementing this program.

Nor have we neglected the increased use of modern office equipment. The computer, of course, is in the vanguard here, although the major opportunities for savings from computers were realized by most banks in the first half of the Sixties. But there are many other kinds of recently developed special-purpose equipment that are applicable to sorting, cataloging and handling paperwork. Altogether, we have found that they can help bring about savings which are very meaningful.

Finally, we have spent a lot of time with our employees themselves, providing them with additional training that can make them more quickly productive. In New York City, there has been a swift evolution of the work force over the past decade, with an ever increasing proportion of blacks and Spanish Americans. These minority groups now make up about 30% of our total employment at Chase Manhattan.

Unfortunately, many of these individuals have lacked job skills and have suffered from inadequate education. Our response has been to develop new programs of training in which we identify the precise skills that are needed in specific operations and impart these to a new employee. We also give our employees opportunities to continue their general education at night if they so desire, with the bank paying the full cost of tuition.

The combination of these techniques has succeeded in raising productivity quite markedly in our bank operations area. Comparing the first six months of this year with a similar period in 1970, we estimate that productivity is up as much as 10½%. Despite an increased volume in check-processing, money transfers and other such activities, we have been able to reduce our staff through normal attrition by about 1,000 persons in the past eighteen months. As our people become increasingly familiar with the techniques, we anticipate that from now on both our staff and our costs will grow at a much slower pace. We are projecting an increase in our controllable expenses through 1975 at a rate of 9% annually as compared with 19% in the past five years.

I have taken some time to describe the changes in our own bank because I believe they underscore principles that are also applicable to many other service industries.

They demonstrate conclusively, I think, that we *can* do something about increasing productivity. Surely, it will be more difficult in services than in, say, the heavy goods industries. Surely, there will be many problems as we move ahead. One of these is the lack of incentive to come to grips with the real issues, especially in non-profit areas. Another is the lack of an adequate yardstick to apply to productivity in certain service areas.

I don't pretend to have an answer to the question of what the right yardstick is. I suspect there is not one but that there are many, each to be applied to a different function. But I am confident that it is possible to develop yardsticks which are satisfactory, and we should convince the specialists in academic life and in the research institutes that they should give this matter high priority. Professor Kendrick notes that research-and-development funds in the service sector are minuscule, and proposes that the Federal Government might well consider channeling more money in this direction to support worthwhile endeavors.

At the same time, we as businessmen need to exert our influence to persuade the leaders in government of the pressing need for greaer efficiency, and to do what we can to help them achieve it. The history of reform in the Post Office Department is a heartening example. The business community pressed for this for many years and was instrumental in helping to bring about the new Postal Corporation. We are all indebted to fellow Council member Fred Kappel for his work in this regard. There may be other activities in government which can be split off and put into responsible quasi-private corporations. But much of government is concerned with more limited functions at the municipal level—police and fire protection, trash collection, and the operation of parks and other recreational facilities. Even here we can help with improved management practices and innovation, and I would urge that we make every effort to do so.

As I have suggested, all the service industries have cogent *economic* reasons for stepping up their productivity in the years ahead.

Beyond these purely economic considerations, though, it seems to me they have equally compelling social reasons for doing the most efficient job they can.

Our national policies call for bringing the disadvantaged minorities into the main current of our economic life. A decent job has become an indispensable prerequisite for individual fulfillment, and jobs depend decisively on the continued productivity growth of the economy.

While union wage pressures and minimum wage laws have encouraged heavy industry to reduce its dependence on unskilled labor, the services have moved in the opposite direction. They have tried to substitute unskilled workers for the skilled people who are often so hard to find. This tendency has helped pull the underprivileged into work as para-professional assistants in hospitals, schools and offices.

To keep its promises of a better life for the disadvantaged, and to meet its other commitments at home and abroad, the United States must produce goods and services a great deal faster than it increases its population. In the final analysis, the only way it can accomplish this is to increase its productivity, the prime determinant of any nation's economic vitality.

So to the question: "Can we as a nation get the service sector growing in step with the rest of the economy?" my own response would be that we *can* do it—and we *must!*

Mr. PERCY. Mr. President, I hope I have marshaled adequate evidence to demonstrate the need for a national productivity effort, the strength and depth of the support among economists, businessmen, and Government officials for improving it, labor's new willingness to accept productivity improvement. I hope that this evidence further demonstrates the need to move now to create a strong unit of Government to work to improve national productivity rates over a sustained period of time, and moreover, the need to amend the bill before us, S. 2891, to allow for productivity-related pay increases during phase II.

With regard to this amendment, I am pleased to say that support for relating pay increases to productivity improvement comes from the Chairman of the Pay Board, Judge Boldt. In hearings of the Joint Economic Committee on November 20, Judge Boldt and I had the following colloquy, which I quote from the verbatim transcript:

PERCY. Would it be an important factor in considering pay increases . . . if we could really get productivity up over the three percent level we achieved in 1950 through the early 60's? . . . Would it help companies and industries justify better pay and keep markets for themselves and make it unnecessary to raise prices if they can demonstrate to you that they have really made an all-out effort to increase productivity?

Judge BOLDT. I would say without hesitation, of course they would. I point out, however, that there is a Productivity Commission which is studying this precise problem. And beyond affirming my agreement, I can only say that and no more.

Mr. President, I suggest Judge Boldt's response demonstrates the need both for special Government assistance in encouraging industry productivity, and it demonstrates the particular need for the Pay Board to take special consideration of employee compensation programs that are specifically designed to reward increased employee productivity. This is the purpose of my amendment, No. 766, to the Economic Stabilization Act amendments (S. 2891) now before this body. My amendment, which I am pleased to say is cosponsored by three Senators known in the Senate for their excellent grasp of economics—Senator JAVITS, Senator PROXMIRE, and Senator RIBICOFF—would simply provide that increased pay that is the result of carefully engineered incentive programs would be exempt from the Pay Board's regulations.

The National Commission on Productivity as it is now structured and staffed is not in my opinion able to do the job that must be done. The Commission consists of 33 men of exceptionally high caliber representing labor, business, the public, and Government. The possibility that a group of this importance can ever meet together often enough to make an impact on national productivity growth rates without exceptionally thorough staff preparation is very slight. And in fact the Commission has not been adequately staffed. Until October this year the staff director, Dr. Greenburg, a very able public servant has served on a part-time basis. Only now does he serve full time and have a projected professional staff of three.

The present structure is simply not adequate to do all the things—plan and manage conferences, conduct special industry studies, direct special investigations into difficult theoretical problem areas, prepare legislation recommendations, establish specific statistical measures to help us understand productivity—that need to be done.

With all respect to my esteemed friend, Dr. George Shultz, the very able Director of the Office of Management and Budget and the Chairman of the National Commission on Productivity, the Commission as now constituted cannot begin to do the job that so badly needs to be done. Mr. President, I ask unanimous consent to have printed in the Record at this point a list of the members of the National Commission on Productivity. I think we owe it to these men to provide them with the structure and backup necessary to carry out the mandate they were selected to implement. By amending S. 2891 to provide for a statutory National Commission on Productivity, I think we can achieve these objectives. As the President said in his 1971 Labor Day address, increased productivity is "the key to a better life for the American working man and his family."

There being no objection, the list was ordered to be printed in the Record, as follows:

National Commission on Productivity

BUSINESS

Stephen D. Bechtel, Jr., President, Bechtel Corporation, 50 Beale Street, San Francisco, California 94119.

Harllee Branch, Jr., Chairman of the Board, The Southern Company, Post Office Box 720071, Atlanta, Georgia 30346.

Berkeley Burrell, President National Business League, 4324 Georgia Avenue, N.W., Washington, D.C.

Edward William Carter, President, Broadway-Hale Stores, Inc., 600 South Spring Street, Los Angeles, California 90014.

Archie K. Davis, President, Chamber of Commerce of U.S., Wachovia Bank and Trust Company, 3rd and Main Streets, Winston Salem, North Carolina 27101.

Edward J. Dwyer, Chairman of the Board, National Association of Manufacturers, ESB Incorporated, 5 Penn Center Plaza, Philadelphia, Pennsylvania 19103.

R. Heath Larry, Vice Chairman of the Board, United States Steel Corporation, 525 William Penn Place, Pittsburgh, Pennsylvania 15230.

James M. Roche, Chairman of the Board, General Motors Corporation, 14-130 General Motors Building, Detroit, Michigan 48202.

Walter B. Wriston, Chairman, First National City Bank, 399 Park Avenue, New York, New York 10022.

LABOR

I. W. Abel, President, United Steelworkers of America, 1500 Commonwealth Building, Pittsburgh, Pennsylvania 15222.

Joseph A. Beirne, President, Communications Workers of America, 1925 K Street, NW., Washington, D.C. 20006.

Frank Fitzsimmons, President, International Brotherhood of Teamsters, 25 Louisiana Avenue, N.W., Washington, D.C. 20001.

Lane Kirkland, Secretary-Treasurer, American Federation of Labor and Congress of Industrial Organizations, 815 16th Street, N.W., Washington, D.C. 20006.

John H. Lyons, President, International Association of Bridge, Structural and Ornamental Iron Workers, 3615 Olive Street, St. Louis, Missouri 63108.

George Meany, President, American Federation of Labor and Congress of Industrial Organizations, 815 16th Street, N.W., Washington, D.C. 20006.

Floyd E. Smith, President, International Association of Machinists and Aerospace Workers, 1300 Connecticut Avenue, N.W., Washington, D.C. 20026.

Leonard Woodcock, President, International Union, United Automobile, Aerospace and Agricultural Implement Workers of America, 8000 East Jefferson Avenue, Detroit, Michigan 48214.

PUBLIC

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Exhibit 1

Unit Labor Costs in 11 Countries

(By Arthur Neff)

Unit labor costs in manufacturing—virtually stable in the United States during the first half of the 1960's—increased rapidly between 1965 and 1970. This trend contrasts sharply with the experience of most industrial nations.

In the United States, unit labor costs in manufacturing declined between 1960 and 1965, but rose 21 percent between 1965 and 1970. In Canada, Japan, and eight European countries—taken as a group—unit labor costs in manufacturing rose 20 percent in the first half of the decade, but increased only 15 percent between 1965 and 1970. For the decade as a whole, unit labor costs rose roughly 20 percent for U.S. manufacturers, compared with nearly 40 percent, on the average, for manufacturers in the other countries.

Between 1969 and 1970, unit labor costs for U.S. manufacturers continued to rise rapidly. The increase, 5.3 percent, was greater than for any other year of the decade. However, with Japan as a major exception, costs accelerated in most of the other countries to annual rates that exceeded even the high U.S. rate.

The analysis presented here deals only with percent changes in unit labor costs, not with differences in cost levels between countries. The analysis also deals with trends in labor compensation and productivity, each of which have a direct influence on unit labor costs.

The calculations on which the article is based update and, in many cases, revise previous estimates published by the Bureau of Labor Statistics.[1] All 1970 figures and in some instances those for earlier years are preliminary estimates derived from preliminary or partial year data or from current statistical series other than those used for the longer term trends. The underlying data, concepts, and data limitations are briefly described in the appendix.

BACKGROUND

The cost of producing goods in the United States relative to other countries is an important element in determining the flow of trade. Labor costs, in turn, account for a major portion of total costs. In the United States, for example, employee compensation amounted to 68 percent of "gross product originating in manufacturing in 1969. In other industrial countries, the proportion ranges from about 50 to 70 percent.

The 10 foreign countries whose cost experience is compared with the U.S. account for about three-fifths of U.S. imports of manufactured goods. and about four-fifths of U.S. imports of manufactured goods. They are also our major competitors in world markets. It should be kept in mind, however, that cost is not the only factor affecting international trade flows and that unit labor cost trends for all manufacturing industries combined do not necessarily reflect the trends for specific industries or products. Cost trends for products that are heavily exported may differ substantially from the average for all manufacturing industries combined. The relative importance of individual industries within the manufacturing sector also differs from country to country and this has bearing on the trends.

Unit labor cost indexes are presented on both a national currency basis and a U.S. dollar basis for those countries which revalued their currencies within the 1960-70 period. A currency devaluation normally has the effect of lowering a country's costs relative to costs in other countries, since the devalued currency becomes obtainable to foreign purchasers at more attractive exchange rates, and goods priced in the devalued currency are thereby lowered in price for the foreign purchaser. On the other hand, it takes more of the devaluing country's currency to purchase the goods of other countries.[2] Conversely, an upward currency revaluation has the effect of raising a country's relative costs.

Upward revaluations in Germany and the Netherlands in 1961 and in Germany in 1969 increased their unit labor costs relative to those of other countries, while devaluations in the United Kingdom in 1967 and in France in 1969 lowered theirs. The value of the Canadian dollar was allowed to fluctuate freely from late 1950 to May 1962 so that exchange transactions with Canada were not based on a par value. In May 1962, Canada established a par value for the Canadian dollar below the fluctuating rate. The effect of this de facto devaluation was to lower Canadian unit labor costs relative to those in other countries. On June 1, 1970, Canada returned to a freely fluctuating exchange system and the value of the Canadian dollar rose.

COMPARATIVE TRENDS

Data for the past decade have been divided into two periods, 1960-65 and 1965-70. From the American standpoint, the early period was marked by rising costs abroad and stable costs at home. The later period was marked by rising costs at home and moderate increases abroad, but with sharply accelerated increases occurring abroad in the last year. For annual indexes of unit labor cost, output per man-hour, and compensation per

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Footnotes at end of article.

man-hour, see table 5 preceding the appendix, and chart 1. Average annual rates of change over the full 1960 to 1970 period are shown in table 1.[3]

TABLE 1.—RATES OF CHANGE IN OUTPUT PER MAN-HOUR, HOURLY COMPENSATION, AND UNIT LABOR COSTS, 1960–70

[Average annual percent change]

Country	Output per man-hour	Hourly compensation	Unit labor costs: National currency	Unit labor costs: U.S. dollar basis
United States	3.1	4.6	1.5	1.5
Belgium	6.2	9.0	2.7	2.7
Canada	3.9	6.1	2.2	1.5
France	5.8	8.8	2.8	2.1
Germany	5.9	8.9	2.7	3.5
Italy	6.4	10.3	3.7	3.7
Japan	10.8	13.4	2.3	2.3
Netherlands	6.7	11.4	4.4	4.7
Sweden	7.6	9.9	2.2	2.2
Switzerland	4.5	7.0	2.5	2.5
United Kingdom	3.7	7.0	3.2	1.4

Note: Percent changes computed from the least squares trend of the logarithms of the index numbers. Data relate to all employees in manufacturing (wage earners only in Switzerland).

1960 to 1965. During the first half of the 1930's, the position of U.S. manufacturers improved relative to all of their major industrial competitors except Canada. U.S. unit labor costs remained virtually stable while costs in Japan and Europe rose at rates of 2 to 6 percent last year. (See table 2.) The contrasting experience in Japan and Europe was primarily the result of sharp increases in hourly compensation in these countries, since, except for Switzerland and the United Kingdom, their productivity gains relative to the United States were also higher.

Unit labor costs increased slightly from 1960 to 1961 in the United States, but declined in each of the following 4 years. Increases in hourly compensation were moderate—ranging from about 3 to 4 percent each year—while productivity (as measured by output per man-hour) increased at an average annual rate of over 4 percent.

The Canadian experience was similar to that of the United States during the first 4 years of the period. Hourly compensation increased moderately less than productivity, and unit labor costs fell. In 1965, the trend was reversed. Hourly compensation increased over 5 percent, the rate of productivity growth slowed, and unit labor costs increased. For the period as a whole, Canadian unit labor costs declined at about the same rate as U.S. costs, when measured in Canadian dollars. As noted earlier, however, Canada established a par value for the Canadian dollar in May 1962 that was below the previous freely fluctuating rate. The effect on unit labor costs over the 1960–65 period was to convert an 0.9 percent annual rate of decline calculated on the basis of Canadian currency to a 3.0 percent annual rate of decline calculated on the basis of the U.S. dollar.

TABLE 2.—RATES OF CHANGE IN OUTPUT PER MAN-HOUR, HOURLY COMPENSATION, AND UNIT LABOR COSTS, 1960–65

[Average annual percent change]

Country	Output per man-hour	Hourly compensation	Unit labor costs: National currency	Unit labor costs: U.S. dollar basis
United States	4.3	3.7	−0.7	−0.7
Belgium	5.4	9.0	3.4	3.4
Canada	4.7	3.8	−.9	−3.0
France	5.0	9.0	3.8	3.8
Germany	6.5	9.7	3.0	3.9
Italy	6.8	13.6	6.3	6.3
Japan	8.5	13.1	4.3	4.3
Netherlands	5.1	11.0	5.6	6.4
Sweden	7.3	9.5	2.0	2.0
Switzerland	2.3	7.6	5.2	5.2
United Kingdom	3.7	6.2	2.4	2.4

Note: Percent changes computed from the least squares trend of the logarithms of the index numbers. Data relate to all employees in manufacturing (wage earners only in Switzer'and).

Footnotes at end of article.

With few exceptions, Japan and the European countries experienced rising unit labor costs in each year of this period. Switzerland and the United Kingdom had slower rates of productivity growth than the United States and Canada, but all of the other countries had higher rates of productivity growth, led by Japan's 8.5 percent annual rate of increase. However, increases in hourly compensation outpaced the growth in productivity in each country. As a result, unit labor costs measured in national currencies increased at average annual rates of from 2 to 6 percent. Adjusted to a U.S. dollar basis, the rates of increase for Germany and the Netherlands are raised by one percentage point as a result of upward revaluations of their currencies in 1961.

1965 to 1970. The favorable U.S. trend of the first half of the decade was reversed in the second half, when U.S. unit labor costs increased at an annual average rate of 3.9 percent. In contrast, the annual rates of increase in all of the other countries except Canada were lowered during the first 4 years of the period to well below the U.S. rate. This general reversal of trends is shown in chart 2. In 1970, however, unit labor costs in most of the European countries accelerated sharply, with the rates of increase in Belgium, Germany, Italy, Sweden, and the United Kingdom surpassing the U.S. rate of increase.

The U.S. rate of increase in hourly compensation from 1965 to 1970 was high compared with the first 5 years of the decade, but it was below the rates of increase in any of the other 10 countries. However, productivity increases in the other countries ranged from almost double the U.S. rate of increase in Canada and the United Kingdom to nearly 7 times the U.S. rate in Japan. (See table 3.)

The rise in Canadian unit labor costs, which began in 1965, closely paralleled the U.S. rise, but the underlying factors were somewhat different. Canada experienced less slowdown in the rate of productivity growth and sharper increases in hourly compensation.

Productivity in the United Kingdom advanced at the same rate from 1965 to 1970 as in the first half of the decade. Hourly compensation also continued to advance at about the same rate through 1969. Consequently, the 1965–69 average annual rate of increase in unit labor costs, as measured in pounds, was about the same as in the first half of the decade. In November 1967, however, the United Kingdom devalued the pound by 14.3 percent. The effect of the devaluation was to convert the United Kingdom's 1965 to 1969 rate of change in unit labor costs from an increase of 2.5 percent per year when measured in pounds to a decline of 0.2 percent per year measured in U.S. dollars. In 1970, hourly compensation and unit labor costs accelerated sharply.

Japan and the continental European countries all had large 1965–70 average annual rates of increase in hourly compensation that, for most of the countries, accelerated in 1970. Despite these large gains, however, and in contrast to the first half of the decade, unit labor costs remained stable in Switzerland and increased only moderately in Japan, Belgium, France, and the Netherlands. In these five countries, improved productivity growth rates were primarily responsible for keeping unit labor costs down. Germany, Italy, and Sweden also had moderate rates of increase through 1969, but in 1970, both hourly compensation and unit labor costs rose sharply. In Germany and Italy, unit labor costs rose less than 2 percent a year through 1969 as productivity growth remained strong and the very high rates of gain in hourly compensation of the early 1960's were lowered. In Sweden, hourly compensation rose more sharply in the second than in the first half of the decade, but unit labor costs increased by less than 2 percent a year through 1969 because of large gains in productivity.

TABLE 3.—RATES OF CHANGE IN OUTPUT PER MAN-HOUR, HOURLY COMPENSATION, AND UNIT LABOR COSTS, 1965–70

[Average annual percent change]

Country	Output per man-hour	Hourly compensation	Unit labor costs: National currency	Unit labor costs: U.S. dollar basis
United States	2.1	6.0	3.9	3.9
Belgium	6.9	8.4	1.4	1.4
Canada	3.5	8.3	4.6	5.1
France	6.6	9.5	2.7	.6
Germany	5.3	8.7	3.2	4.7
Italy	5.1	9.1	3.8	3.8
Japan	14.2	15.1	.8	.8
Netherlands	8.5	11.1	2.5	2.5
Sweden	7.9	10.6	2.5	2.5
Switzerland	6.2	6.2	0	0
United Kingdom	3.6	7.6	3.8	−.2

Note: Percent changes computed from the least squares trend of the logarithms of the index numbers. Data relate to all employees in manufacturing (wage earners only in Switzerland).

In August 1969, the French franc was devalued by 11.1 percent and in October the German mark was revalued upward by 9.3 percent. The effects of these changes were to lower the 1965–70 average rate of change in French unit labor costs from 2.7 percent per year on a national currency basis to 0.6 percent on a U.S. dollar basis and to raise the average rate of change in German unit labor costs from 3.2 to 4.7 percent per year.

French unit labor costs in 1968–69 were also affected by a reduction of the 5 percent payroll tax on November 1, 1968 and full abolition of the tax on December 1, 1968. The full tax reduction is estimated at about 3.8 percent of unit labor costs, but the effect on average 1968 costs is less than one-half of 1 percent. For the 1965–70 period as a whole, the tax reduction resulted in lowering the annual rate of increase in unit labor costs from 3.6 percent a year to 2.7 percent a year. Swedish labor costs were increased by the imposition of a 1 percent payroll tax at the beginning of 1969.

1969–70. U.S. unit labor costs increased by 5.3 percent from 1969 to 1970—the highest yearly increase in over 10 years. Based on preliminary 1970 estimates, this was a substantially larger increase than occurred in France, after taking into account the devaluation of the franc, or in Japan, the Netherlands or Switzerland; somewhat less than the increases in Belgium and Sweden; but considerably below the very large increases in Canada, Germany, Italy, and the United Kingdom. (See table 4.)

TABLE 4.—RATES OF CHANGE IN OUTPUT PER MAN-HOUR, HOURLY COMPENSATION AND UNIT LABOR COSTS, 1969–70

[Average annual percent change]

Country	Output per man-hour	Hourly compensation	Unit labor costs: National currency	Unit labor costs: U.S. dollar basis
United States	1.5	6.8	5.3	5.3
Belgium	3.9	11.7	7.6	7.6
Canada	2.1	8.4	6.2	9.8
France	5.7	10.5	4.5	−2.5
Germany	2.2	17.0	14.5	23.2
Italy	4.1	18.8	14.0	14.0
Japan	15.0	17.0	1.7	1.7
Netherlands	9.1	10.4	1.3	1.3
Sweden	5.4	12.7	6.9	6.9
Switzerland	4.3	6.6	2.2	2.2
United Kingdom	3.1	14.2	10.7	10.8

Note: Data relate to all employees in manufacturing (wage earners only in Switzerland)

TABLE 5.—INDEXES OF OUTPUT PER MAN-HOUR, HOURLY COMPENSATION, AND UNIT LABOR COSTS FOR ALL EMPLOYEES IN MANUFACTURING, SELECTED COUNTRIES, 1960-70

[1967=100]

Item and country	1960	1961	1962	1963	1964	1965	1966	1967	1968	1969	1970
Output per man-hour:											
United States	80.5	82.4	87.0	90.6	94.9	98.7	99.9	100.0	104.6	106.8	108.4
Belgium	67.8	69.3	74.5	78.0	83.5	86.9	93.1	100.0	108.1	[1] 115.2	119.7
Canada	76.1	79.5	85.3	88.5	92.2	95.6	98.2	[1] 100.0	[1] 106.0	[1] 110.0	112.3
France	69.4	72.7	76.1	79.8	83.9	88.7	94.7	100.0	107.4	115.0	121.6
Germany	66.2	70.0	74.5	78.5	84.5	90.7	94.0	100.0	106.9	112.8	115.3
Italy	65.1	67.5	74.1	76.5	81.6	91.7	96.0	100.0	108.0	112.2	116.8
Japan	52.6	59.6	62.1	67.2	76.1	79.0	87.3	100.0	114.8	[1] 132.0	151.8
Netherlands	69.0	72.4	74.5	77.5	84.6	88.6	93.8	100.0	111.1	120.9	131.9
Sweden [2]	62.5	65.0	69.4	74.0	82.0	87.9	92.8	100.0	110.9	[1] 119.4	125.8
United Kingdom	79.8	80.7	82.2	86.1	91.5	94.3	97.1	100.0	106.1	108.4	111.8
Switzerland (wage earners only)	80.5	80.5	80.0	82.1	85.8	90.6	95.2	100.0	105.3	116.1	121.1
Hourly compensation in national currency:											
United States	76.6	79.0	82.2	85.0	88.9	91.3	95.3	100.0	107.1	113.9	121.7
Belgium	54.7	57.6	61.6	67.7	75.5	83.2	90.9	100.0	105.5	[1] 113.4	126.7
Canada	71.1	72.3	75.2	78.1	81.2	85.5	92.2	[1] 100.0	[1] 107.9	[1] 117.2	127.1
France	56.3	62.0	68.2	74.7	80.3	86.5	[1] 92.0	[1] 100.0	[1] 113.0	[1] 121.6	134.4
Germany	54.1	60.6	68.6	73.3	78.9	87.0	94.6	100.0	106.0	[1] 116.3	136.1
Italy	49.6	52.6	61.5	73.2	82.4	89.1	91.4	100.0	106.9	117.4	139.5
Japan	43.3	50.4	57.6	64.3	72.3	81.0	88.9	100.0	116.5	[1] 137.8	161.2
Netherlands	47.1	53.6	56.7	62.1	71.9	80.7	90.1	100.0	[1] 110.7	[1] 123.8	136.7
Sweden [2]	52.7	57.0	63.3	68.9	74.9	82.8	90.5	100.0	109.1	122.1	137.6
United Kingdom	65.7	71.0	74.2	77.1	82.7	90.5	99.6	100.0	109.3	117.6	134.3
Switzerland (wage earners only)	60.9	64.8	69.6	75.2	81.3	87.4	94.3	100.0	105.2	111.7	119.1
Unit labor cost in national currency:											
United States	95.2	95.9	94.4	93.8	93.6	92.4	95.4	100.0	102.3	106.6	112.2
Belgium	80.7	83.2	82.7	86.7	90.4	95.8	97.6	100.0	97.6	[1] 98.4	105.9
Canada	93.4	90.9	88.1	88.2	88.1	89.5	93.9	100.0	101.8	106.6	113.2
France	81.1	85.3	89.7	93.6	95.8	97.5	[1] 97.1	[1] 100.0	[1] 105.2	[1] 105.8	110.6
Germany	81.7	86.4	92.1	93.4	93.3	95.9	100.6	100.0	99.2	[1] 103.1	118.0
Italy	76.1	78.0	82.9	95.7	101.0	97.2	95.2	100.0	99.0	104.7	119.4
Japan	82.3	84.7	92.7	95.8	94.9	102.5	101.9	100.0	101.5	[1] 104.4	106.2
Netherlands	68.3	73.9	76.2	80.3	85.1	90.9	96.0	100.0	[1] 99.7	[1] 102.4	103.7
Sweden [2]	84.3	87.6	91.2	93.1	91.4	94.1	97.5	100.0	98.4	[1] 102.2	109.3
United Kingdom	82.3	88.0	90.3	89.6	90.4	96.0	102.6	100.0	103.0	108.5	120.1
Switzerland (wage earners only)	75.6	80.5	86.9	91.6	94.8	96.5	99.1	100.0	99.9	96.3	98.4
Unit labor cost in U.S. dollars: [3]											
Canada	104.1	97.0	89.1	88.2	88.1	89.5	93.9	100.0	101.8	106.6	117.0
France	81.1	85.3	89.7	93.6	95.8	97.5	[1] 97.1	[1] 100.0	[1] 105.2	[1] 100.8	98.3
Germany	77.8	85.3	92.1	93.4	93.3	95.9	100.6	100.0	99.2	[1] 104.7	129.0
Netherlands	65 0	73.3	76.2	80.3	85.1	90.9	96.0	100.0	[1] 99.7	[1] 102.4	103.7
United Kingdom	84.0	89.8	92.1	91.4	92.2	98.0	104.7	100.0	90.0	94.8	105.0

[1] Preliminary estimates derived from preliminary or partial year data or current data from other series.

[2] Mining and manufacturing.

[3] Indexes in national currency adjusted for changes in par value or prevailing exchange rates.

The rate of increase in hourly compensation in the United States in 1970 was only fractionally higher than in 1969. Unit labor costs rose more, however, because of slower productivity growth. The rate of increase in hourly compensation slowed in the fourth quarter of 1970, but this was counterbalanced by a reduction in productivity that was largely attributable to the auto strike.

Unit labor cost increases in the other 10 countries were the result of very large gains in hourly compensation combined with generally lower rates of increase in productivity growth. The 1969–70 rates of change in unit labor costs for Canada, France, and Germany were also affected by changes in their currency exchange rates.

Increases in hourly compensation in Japan, Belgium, Germany, Italy, Sweden, and the United Kingdom appear to have been as large or larger than in any year of the 1960's. Most of the Japanese hourly cost increase was offset by an estimated 15 percent increase in productivity. By contrast, productivity increases of only 2 to 3 percent in Germany and the United Kingdom and about 4 to 5 percent in Belgium, Italy, and Sweden were far below the rates of increase in hourly compensation. Consequently, unit labor costs in these countries rose more, and in most cases much more, than in any year of the 1960's. Measured in U.S. dollars, Germany had the largest yearly increase in unit labor costs of any of the 11 countries during the past 10 years. Nearly 9 of the estimated 23 percentage-point rise in German unit labor cost is attributable to the upward reevaluation of the mark.

Calculated in U.S. dollars, Canada had a 9 percent increase in unit labor costs from 1969 to 1970. About two-thirds of the increase resulted from an 8 percent rise in hourly compensation coupled with low productivity growth and about one-third from the rise in the value of the Canadian dollar as of mid-1970.

France also had a large 1970 increase in hourly compensation, but it was offset to a considerable extent by a nearly 6 percent increase in productivity. More important, however, the late 1969 devaluation of the French franc converted a 4.5 percent increase in unit labor costs measured in francs to a 2.5 percent decline measured in U.S. dollars. Hourly compensation increases in the Netherlands and Switzerland, while large, were somewhat less than their average 1960 to 1970 rates of increase and nearly matched by large productivity increases.

FOOTNOTES

[1] *Unit Labor Cost in Manufacturing: Trends in Nine Countries, 1950–65* (BLS Bulletin 1518, 1966); and *Handbook of Labor Statistics*, published annually by BLS beginning in 1967. Indexes of hourly compensation and output per man-hour have not been published since Bulletin 1518 was issued.

[2] When a country devalues, the cost of its exports to foreign purchasers falls by the amount of the devaluation, if the exports are priced in the devalued currency and domestic prices remain unchanged. However, since it now costs more for the devaluing country to import goods, the domestic prices of its manufacturers using imported materials must rise. In addition, the higher domestic prices for goods that are wholly or partially imported may stimulate counteracting wage demands. Therefore, part of the immediate cost advantage gained in international trade through a currency devaluation tends to be lost in the longer term.

[3] All rates of changes were computed from the least squares trend of the logarithms of the index numbers. Use of the least squares method reduces the influence—on the average annual rate of change—of year-to-year changes that deviate from the more "normal" trend. As a result, some of the rates of change presented in the article may appear inconsistent with the indexes in table 5. For example, unit labor costs in the United Kingdom increased by 7 percent (measured in U.S. dollars) from 1965 to 1970, but the rate of change computed by the least squares method is a minus 0.2 percent per year. This apparent inconsistency is most likely to occur with the unit labor cost data, as year-to-year changes in unit labor costs often vary in both magnitude and sign. This is particularly true when computed on a U.S. dollar basis during periods that include changes in currency valuations. Calculations for Italy and Japan in the charts are based on data prior to certain revisions obtained shortly before publication.

APPENDIX: DEFINITIONS OF MEASUREMENTS

The reliability of unit labor cost, productivity (as measured by output per man-hour), and hourly compensation estimates depends on the comparability and reliability of the basic output, man-hours, and compensation data.[1] The indexes presented in this article are believed to be sufficiently reliable for intercountry comparisons of trends, but little importance should be attributed to small differences between countries. The unit labor cost estimates are probably more reliable in most cases than the estimates of output per man-hour and hourly compensation.

Unit labor cost is defined as the ratio of total labor cost to total output or, alternatively, as the ratio of hourly labor cost to output per man-hour. Under the first formulation, unit labor cost indexes can be developed from data on aggregate output and aggregate labor expenditures, whereas the second formulation requires data on aggregate hours worked to develop the output per man-hour indexes and comprehensive data on hourly labor costs. Most of the unit labor cost estimates presented here have been derived, at least in part, from aggregate estimates of output and labor expenditures compiled by governments for their national economic accounts. These calculations probably offer a more uniform and accurate approach to the measurement of unit labor cost than can be achieved through the use of output per man-hour and hourly labor costs indexes, since most countries have moved toward standard methods of preparing their national accounts. The available data on employment and average hours worked used to develop the output per man-hour estimates are believed to be less comparable among countries than the aggregate labor expenditure data derived from the national economic accounts. In addition, while all of the countries have statistical series on average hourly wage rates or average hourly earnings, they usually cover wage earners only and are far less inclusive in their coverage of total labor costs than the aggregates in the national accounts.

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[1] For a fuller discussion of unit labor cost indexes, see William C. Shelton and John H. Chandler, "The Role of Labor Cost in Foreign Trade" and "International Comparisons of Unit Labor Cost: Concepts and Methods," *Monthly Labor Review*, May 1963, pp. 485–490 and 538–547.

Labor cost is defined as all payments made by employers directly to their employees, before deductions of any type, plus employer contributions to legally required insurance programs and private welfare plans for the benefit of employees; employer expenditures for such items as training and recruitment; the cost of canteens, medical services, and various other plant welfare facilities and services; and payroll and employment taxes. Labor cost thus comprises all employer production costs which can be allocated to labor. Unfortunately, annual data are not available on total labor costs. Labor cost as used in this article, therefore, approximates more closely the concept of compensation, which consists of all payments made directly to employees plus employer contributions to legally required and voluntary welfare plans for the benefit of employees.

Employer contributions to social security programs are covered by the labor cost data for all countries except Japan and Switzerland. Employer social security contributions amount to about 5 percent of total labor costs in Japan, and do not appear to have changed significantly as a percentage of direct wage and salary expenditures over the period covered. Employer social security contributions probably represent a larger proportion of total labor costs in Switzerland, but also do not appear to have changed significantly as a percentage of direct payments to workers. Employer contributions to voluntary insurance plans are excluded from the labor cost data for Japan, Belgium, Sweden, and Switzerland, and may be partially excluded from the data for some of the other countries. Such expenditures account for a substantial part of total labor costs in only the United States and Canada, however, and the labor cost data for these countries include such expenditures. In Japan and Belgium, they account for only about 1 percent of total labor costs. The nonwage and salary costs of recruitment, training, and various welfare services and facilities are excluded from the data for all countries, but they represent at most only about 4 percent of total labor costs in any country.

Data on taxes, other than social security taxes, that are regarded as labor costs are significant only for France, Sweden, and the United Kingdom, and the labor cost data have been adjusted for the effects of these taxes.[2] France had a 5-percent payroll tax that was reduced in November and abolished in December of 1968. Sweden introduced a 1-percent payroll tax at the beginning of 1969. France also has an apprenticeship tax of 0.4 percent of payroll and Italy a tax of 1.15 percent of payroll to finance a public housing fund, but no adjustments have been made for these taxes because the rates have remained constant over the period.

The labor cost data for the United Kingdom have been adjusted for two employment-related taxes that were introduced during the 1960's: in 1965, a surcharge to finance a central Redundancy Fund (to provide severance payments to workers), and in late 1966, a Selective Employment tax aimed at directing manpower into export industries by assessing a tax on employers and subsequently partially refunding the tax or refunding the tax with a premium to certain industries. In 1967 and the first quarter of 1968, employers in manufacturing received a refund plus a premium, thereby actually lowering their labor costs. Beginning April 1, 1968, only manufacturing establishments in development areas have been eligible for the premium.

Output per man-hour is defined as total output divided by the number of man-hours worked by all employees. For the United States, Canada, and Switzerland, it has been necessary to use data on average paid hours rather than average hours worked. This has little effect on the output per man-hour estimates for the United States, as there was little increase in the proportion of hours paid for but not worked to total paid hours. This is probably also true of Canada and Switzerland. While there are definitional differences in the measurement of hours in the other countries, the data relate basically to hours worked. Statistical series on hours worked by salaried workers are not available for most countries. Estimates have been developed for some of the countries, but for many countries it has been necessary to assume that average working hours for salaried workers are the same as for wage workers. The latter assumption is believed to be more valid than an assumption of constant hours average hours for salaried workers over time, such as 40 hours, as average working hours declined significantly during the 1960's in many of the countries covered. The employment estimates that underlie the aggregate hours data are believed to be the best estimates available, but there are substantial country-to-country differences in methods of measuring or estimating average employment.

Hourly labor cost is total labor cost divided by total hours worked. The data on labor cost closely approximate compensation and the more common term, hourly compensation, is used in this article rather than hourly labor cost.

EXHIBIT 2

MANAGEMENT AND LABOR: "SAME TEAM"—BEHIND JAPAN'S HUGE BOOSTS IN OUTPUT

TOKYO.—The Japanese see nothing miraculous about everyone pitching in and doing a good job. To them, this is merely simple common sense.

"We are not hostile toward management," explains one worker. "Managers are employes, too. We're not selling our labor to them. We're all on the same team and must cooperate for the good of our company."

At the Yokohama shipyard of Ishikawajima-Harima Heavy Industries (IHI), the biggest Japanese shipbuilder, co-operation takes several typical forms.

Labor representatives are briefed by management at monthly meetings of the Production Consultative Council on production plans and goals. Opinions are solicited, complaints aired and problems discussed.

HELPING EACH OTHER

Seven or eight times a year management and labor representatives attend Management Consultative Council meetings to explore ways of improving operations and increasing productivity.

Every 12 months, managers fill in the workers on the year's profits, performance and problems.

The problems normally do not include strike threats. In Japan, strikes are considered costly and counterproductive. And they are rare. To stress labor demands, token work stoppages of a few hours usually are the worst that happens.

A welder says, "Strikes jeopardize my company's business and hurt workers."

Go-slow tactics, make-work and absenteeism seem to bear the same stigma.

The work force in a typical factory is organized into small, interdependent groups of 10 to 15 persons.

A group leader was asked how he handled a lazy worker. He replied:

"I would consult with him, try to determine why he is lazy, urge him to work harder and maybe even have to threaten a pay cut. But this has never happened in my 13 years here. Such a man quits."

A steelworker explained what happened to idlers in his group:

"At discussion meetings, their shortcomings were pointed out to them by coworkers. It was emphasized that they were causing trouble to others and that they were obliged to play their part. They did."

CRIME OF "GOOFING OFF"

Absenteeism is rarely a problem, an assistant foreman said, because "there is a traditional Japanese feeling that it is a crime to absent yourself from your work place."

One result of the team system: no overspecialization.

A visitor at the IHI shipyard watched several welders at work on a ship part. When necessary, one or another took the controls of a small crane to bring in new materials.

At IHI shipyards, workers generate some 300 suggestions each month for doing their work better and roughly 80 percent are adopted.

At the Tokai mill of Nippon Steel, the biggest steelmaker, worker groups are urged to zero in on a problem area. Each group meets two or three times a week to discuss possible solutions. Sessions run up to two hours, sometimes on the workers' own time.

PRIDE IN IMPROVEMENT

A young operator in a cold-rolling mill at Nippon explains: "What's most important is that we workers have initiated the improvement and are proud of it, whereas there might be resistance if management tried to impose new methods on us."

The small groups often voluntarily set goals for themselves in such things as production or cost cutting.

The Tokai mill offers an example of how effective the teamwork can be.

This year Japanese steelmakers cut production more than 15 per cent when exports softened. It became essential to cut costs. Management at Tokai, accepting that wages and raw-material costs could not be lowered, concentrated on such things as raising ingot yields and decreasing the coking ratio. Goal for the first half of 1971: a $4.17 reduction in the cost of making a ton of steel.

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[2] According to *Statistics of Labor Cost, Report* prepared for the Eleventh International Conference of Labor Statisticians (Geneva, International Labor Office, October 1966), "the question of the inclusion or exclusion of taxes is one of the most complicated problems of labor cost definition." The solution recommended in the ILO Report and followed here is that labor cost includes payroll, employment, and any other taxes which are clearly a cost of employing labor from the management viewpoint and excludes taxes which are not allocated to a single factor of production, regardless of the use of the tax receipts. In most countries, social security programs are financed primarily from payroll taxes. Most countries also have social programs that benefit workers as well as others that are financed through profit, personal income, and other types of taxes which cannot be regarded as labor costs. The level of labor cost to an establishment or industry, therefore, is partly dependent on the methods of financing welfare and other government programs. Of the countries covered here, the United Kingdom is probably the outstanding example of a country that relies heavily on general taxation to finance large social welfare programs benefiting workers.

The target was met by joint labor-management efforts.

Now a second campaign is under way to reduce costs another $4.17 a ton by March 31, 1972.

A visitor to Fairchild Corporation's small Okinawa plant at lunch time found a lone girl still at work, assembling semi-conductors.

The resident American manager had this explanation:

"She's a new girl and has not yet built her speed up to the production standard. Performance below the level of her group bugs her, so she is practicing on her own time to catch up . . . and to develop the skill to keep up."

Exhibit 1

Labor Productivity

When Don Burnham first outlined what was expected of me this morning he was kind enough to say that I could be most useful to this occasion simply by sharing what he called the "fine things" the telephone business has done to advance labor productivity. This I am glad to do, observing only that if we have lessons to impart, they derive not so much from our accomplishments as from our hopes, not so much from what we've done but what we're trying to do.

I shall be talking about "labor" in the broad sense—including professional and management people and "knowledge workers" as well as union-represented and other nonmanagement people. Also, I shall be concentrating on ways to improve labor productivity in ways other than the application of capital since Bob Ingersoll has covered that subject very well.

The classic index of productivity in the telephone business is the number of employees per 10,000 telephones. It is not a very sophisticated index but it provides a sufficient measurement of gross trends. In 1950, it took 148 employees to serve 10,000 telephones; in 1960, 96. Today it takes 80. Over the past five years, however, the downward sweep of this curve has begun to flatten out—partly because of a slowdown in our growth rate. In short, our experience has not been unlike that of the economy at large.

Looking back over the years, there is no doubt that the telephone industry owes the dramatic increases in productivity it has accomplished to the very large capital investments it has made to embody advanced technology in its plant. But there is no doubt either that new increments of productivity improvement by this route are harder and harder to come by. The mechanization of switching is to all intents and purposes complete. Direct distance dialing is available virtually everywhere. Microwave radio and coaxial cable carry great bundles of communications channels back and forth across the nation at a cost per circuit mile that is one-third of what it was 20 years ago.

What remains stubbornly resistant to dramatic improvements of this kind are the labor-intensive segments of our business—connecting and disconnecting telephones, installing outside plant and a variety of clerical functions. We by no means despair of accomplishing further advances in productivity—including some dramatic ones—through technology. Electronic switching and the wave guide cable are just two examples of current opportunities. But in the stubborn areas I have been talking about we are seeking productivity improvement, not alone through technology, but through the patient and concerted application of our energies to achieving small increments of improvement that cumulatively over time may match the accomplishments of capital-supported science and technology. Our aim in these efforts is not to supplant people but to enlarge their capabilities, not to diminish man but enhance him.

In this connection I cannot help but wonder whether we in business may not become so bemused by the demonstrated power of technology in advancing productivity that we have come to neglect opportunities for improvement on "the human side of enterprise."

How serious we in the Bell System are about these opportunities you may judge from the fact that early last year AT&T undertook a restructuring of its top management that explicitly recognized the crucial importance of the human element to the success of our business. In the course of this restructuring, we appointed an executive vice president-human affairs. It is his responsibility, complementing the responsibility of the executive vice president-operations and engineering, to see that human considerations are given as much weight in the highest counsels of management as we have conventionally given to technical and economic considerations.

Without for a moment minimizing the magnitude of its task or the time it will take to accomplish it, let me say that among the hopes we have for this new organization is that it will help find ways to structure jobs in ways that recognize the need of employees to feel that how well they as individuals perform does in fact make a difference.

What progress we can make along these lines and how soon remains to be seen. There are some, I know, who will argue that these hopes are not very realistic. There are some who will remind me that amid the diversions and distractions of today's society, jobs aren't as important to people as they were when most of us went to work. And there will be some who will say that work for its own sake, for the personal satisfactions it provides, simply doesn't "send" people anymore.

Regrettably, there is more than a little validity in these observations. What we have been asking ourselves, however, is—assuming these things to be true, do they *need* to be true? Perhaps there are limits to the progress in productivity that can be accomplished by the traditional methods of work simplification and work fragmentation. Perhaps in this day and age, instead of routinizing jobs, we should be making them more complicated. Perhaps—by making it our explicit aim to structure jobs that are big enough so that employees feel them worth doing and worth doing well—we will discover that the pride in workmanship whose loss we lament has not been lost at all but has merely been submerged.

The concept of *job enrichment* has been around for some time and it has had its failures as well as its successes, inside our business as well as outside. Admittedly there are jobs—and perhaps a great many—that are not susceptible to enrichment, that are necessarily routine. But I think we are a long way from having fully exploited the improvements in productivity that the so-called "work itself" concept can accomplish.

For example, two Bell companies recently introduced new procedures for the compilation and editing of telephone directories. Previously, the job of putting together directories for smaller-sized communities involved nearly two dozen separate tasks performed by about 16 girls working on a number of different directories. One girl would handle the typing; another would check her work; a third would deal only with routing copies to people for further review; still another would verify the accuracy of advertisements in the Yellow Pages; and so on. Turnover among the girls was high and consequently the error level—as well as overtime—was going up instead of down.

Both locations were considered good places to test the "work itself" concept. New methods were instituted that provided each of the girls with increased responsibility and more opportunity to exercise initiative and creativity. Instead of 16 girls working on each directory, each girl became responsible for an entire small city directory of her own. In just over a year, they had shared ideas, revised steps needed in the preparation of phone books, and vastly reduced their backlog. In both companies, attendance improved noticeably, turnover dropped, excessive overtime became a thing of the past, and errors were reduced to one-eighth of what they had been.

What is notable about this case history—and dozens of others I could mention—is that no large inputs of capital were required to get at the roots of problems that were retarding productivity. All that was required was a healthy respect for the human use of human beings—and for their ability to calculate their own needs and chart their own course.

The rest of what I have to contribute on the topic of labor productivity falls under the heading of just plain good management. I hesitate to offer it to an audience comprised—virtually by definition—of good managers. It goes without saying that the clarity with which management defines its goals, the incentives it provides for meeting them and the indices it uses to measure progress—all have a direct, if not readily quantifiable, influence on productivity. These are fundamentals and I shall not expand on them.

Everybody recognizes the relationship between training and labor productivity. I wonder, however, whether we have sufficiently recognized the impact on productivity of corporate organization structure and the degree to which it facilitates—or, conversely hampers—the coordination that effective output requires.

In 1976 our business will be 100 years old. Not many of you in this room represent businesses quite so advanced in years. But in these times of change a business doesn't have to be 100 years old or 50 or even 10 to discover that an organization structure that once made sense no longer does so and may upon examination prove to be a barrier to productivity rather than a means of enhancing it. Here is an example:

Traditionally, the Operations Department of the Bell telephone companies have been divided into three parts—Traffic, Plant and Commercial—with the three parts conjoined under common supervision only at the sixth level of management. This tripartite structure had—still has—enormous strengths—in building expertise, men and women who really knew their jobs. What has led some of the Bell companies to contemplate changing this classic structure is that interdepartmental coordination, once safely assumed on the basis of long experience with standardized routines consistently pursued and in their time a major contributor to productivity, can no longer be taken for granted in the face of the volume and variety of customer service needs we confront today. It is this consideration that led the companies to establish—experimentally at least—what they call customer service units encompassing all three of our traditional operating disciplines and erasing the departmental boundaries among them. The aim: to establish total responsibility for all aspects of customer service as close to the community as possible. What effect this development will have on the number of employees it takes to serve 10,000 telephones remains to be seen. But I for one believe that we shall be neglecting one of the major factors affecting labor productivity if we fail to take account, not only of job structure, but organization structure as well.

Brought up in the Bell System, I was brought up in the "systems concept." In all our arsenal, I suppose, there is no more powerful agent or productivity improvement than this.

Lately, however, as I have contemplated those aspects of our business that at the outset of this talk I described as stubbornly resistant to productivity improvements, I have begun to wonder whether our application of the system concept has been sufficiently comprehensive. In short, I have begun to look for ways to structure our organization so that we may apply systems analysis not only to the technological aspects of our business but to the entire process—costs, prices, products, people—by which our service is created and delivered.

This is the approach we are taking to the development of our Business Information System—BIS for short—a project aimed at equipping the telephone companies to collect, store and recover on demand the massive amounts of information their operations will require in the future. When it is complete, this system—or system of systems—will represent the largest single application of computer technology outside of government.

Viewed narrowly, BIS—except for the scale on which it is being undertaken—is just another example of how capital-supported technology contributes to improved productivity. But BIS is not an end in itself. It is being developed, not so much for what it will accomplish, but what it is going to permit our people to accomplish. By assigning to computers the jobs they can do best, we hope to free our people for the job they can do best—the jobs that require judgment and initiative and personal consideration.

Implementing BIS is going to require more capital than I care to contemplate. At the other end of the scale is a development that requires none at all. It's so simple that I hesitate to mention it before so sophisticated an audience. It is called "Snip-and-Take." If this concept works—it's being tried in a number of our companies—no longer will an installer have to climb into his truck to go out and remove the telephones of a customer who is moving. (How frequently we must do this you may judge from the fact that in the course of a year—to gain 4 million telephones—we may have to install 25 million, remove 21 million.) Instead, when the customer moves, he snips the cords himself with a pair of scissors and takes his instruments to his new location and the company gives him a credit on his bill. I can't help but wonder how many more ideas like this might emerge—and what their combined effect on our employees-per-10,000-telephones index might be—were we to apply the same disciplined and systematic approach to operations analysis that we have traditionally applied to technology.

Surely a step in this direction would be an explicit recognition that enhancing labor productivity is a responsibility of *all* of management, not of line management alone. I am sure all of us recognize that marketing people for example have a special responsibility not simply for selling more things but for optimizing the utilization of people and plant. In our own business, rate plans that encourage our customers to call at off-peak hours and dial their own calls, represent quite as direct a contribution to productivity improvement as any piece of labor-saving technology or employee-incentive system.

What is wanted, then, is ideas—and ideas are the stock in trade of the so-called "knowledge worker" who is coming to exercise a more and more important role in modern management. We do not have adequate tools to measure the productivity of knowledge workers and probably we never shall. But I submit that the knowledge worker's great and growing influence on the operations of business—on the productivity of others—makes a consideration of *his* productivity a necessary ingredient of any realistic discussion of the topic assigned to me today. It is no coincidence, for example, that as the number of employees for each 10,000 telephones has been going down, the number of engineers we employ for each 10,000 telephones has been going up.

I have no prescription to offer that will assure the productivity of the knowledge worker. I offer only my own observation—and that is that the knowledge worker's creativity and the relevance of his initiatives depends on the degree to which we can engage him in the realistic problems of the business, short-term and long-term. Too often our organization charts cast the knowledge worker—indeed the knowledge worker is all too prone to cast himself—as an isolated specialist to be consulted only within a narrow if highly rarified area of expertise. In my observation a candid sharing of business prospects and problems with this new breed of management people affords an opportunity we cannot afford to neglect—the opportunity to advance not only the knowledge workers' productivity but—through their insights—the productivity of others as well.

I have reserved the topic of labor relations till last. The effects of strikes on the productivity of the U.S. economy—and on our individual businesses—are immediate and calculable. During the first eight months of this year U.S. industry has lost some 29 million man days because of strikes—with strikes in the Bell System representing a not insignificant part of that total. Less readily calculable is the impairment of our productivity potential imposed by outmoded or artificial work rules and by barriers to free entry to the job market. In this area Roger Blough's Construction Users' Roundtable has performed yeoman service in pointing up the need to redress the balance of bargaining power in an industry where the wage settlements of recent years have far exceeded advances in productivity, thereby fueling a cost-push inflation we now recognize only the most stringent measures can stem. The Roundtable has performed yeoman service, too, in pointing up the degree to which the urgency of our own demands on the construction industry increases not only the bills we pay for building but our own labor costs as well. Not the least of the insights that the Roundtable has developed is the effect on productivity of extended scheduled overtime. The Roundtable's studies show that after the first two or three weeks of scheduled overtime, output per man hour steadily declines and that after seven to nine weeks work output for the extended week is actually less than it would be on a 40-hour week.

With respect to labor relations and its effect on the economy, I can only echo what I hear said with increasing fervor on both sides of the bargaining table: There must be a better way. There is a growing recognition it seems to me, of the barrenness of the biennial or triennial struggle for advantage—in most cases illusory advantage—that collective bargaining in all too many instances has become. Let me conclude with the hope that somehow out of the government-industry-labor cooperation that the New Economic Policy requires if it is to succeed will come a recognition that, whatever differences divide us, the goals we hold in common—the remedying of our social ills, a better life for all Americans—depend in the final analysis on our ability to sustain a steady improvement in the productivity of our economy.

Mr. BEALL. Mr. President, I would like to congratulate the Senator from Illinois for bringing this amendment up at this time. The matter I wish now to discuss bears directly on his amendment which I would like to bring to the attention of the Members of this body.

This afternoon, I had occasion to meet with some executives of the Black & Decker Co. I am sure that anyone who has done any work around his house is familiar with this company which is based in Maryland and makes power tools for the homeworker.

We were meeting on another matter, but Mr. Decker in the course of our conversation, brought to my attention some correspondence he had with Mr. Grayson, the Chairman of the Price Commission, and in response to a request from Mr. Grayson, indicating what his firm could do about prices, wrote this letter which I am not going to read in full but states in part:

> During the first 6 months of fiscal 1972 which began September 27, 1971, we do not plan to increase prices on any product sold in the United States. During this same period, we will decrease prices by a total of almost 2%.

He then goes on and gives some examples. He concludes by saying.

> Obviously, we could not hold or reduce prices in these inflationary times if we were not able to offset inflation with cost reductions. Our employees are aware of this basic economic fact and have worked hard at controlling and reducing our costs each year. Because they have succeeded in meeting our rigorous annual cost reduction goals, Black & Decker products fall within the reach of more budgets and more people become power tool users for the first time.

I think that proves the point of the Senator from Illinois, that with proper incentives to increase productivity, we can both increase wages and reduce the prices and hopefully make American products more competitive in this country and in the world market.

Mr. President, I ask unanimous consent to have the letter printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE BLACK & DECKER MFG. CO.,
Towson, Md., November 30, 1971.

Mr. C. JACKSON GRAYSON,
Chairman Price Commission,
Washington, D.C.

DEAR MR. GRAYSON: A reply to your wire of November 27 has been teletyped to you today, but I would like to give you more detailed information on our company's pricing plans.

We have consistently held or reduced prices on power tools for a good many years. Our original ½" drill was priced $100 in 1916. This would be equivalent to $369.73 in today's dollars. The current version of this drill is safer and more efficient, yet sells for less than $20.00. The same is true of the first do-it-yourself ¼" drill introduced by Black & Decker in 1946. At that time, this drill was priced at $16.95 or $35.00 in today's dollars. The more powerful, safer counterpart of the ¼" drill sells now for $8.88 and will be reduced to $7.99 in January.

It is our firm intention to continue to hold or reduce prices whenever possible.

During the first six months of fiscal 1972 which began September 27, 1971, we do not plan to increase prices on any product sold in the United States. During this same period, we will decrease prices by a total of almost 2%. Following are some specific examples of these planned decreases.

(1) ¼" home drill—From $8.88 to $7.99 a 10% reduction.

(2) home jig saw—From $12.99 to $9.99 at 23% reduction.

(3) professional air impact wrench—From $109 to $99 a 10% reduction.

(4) professional vacuum cleaner — From $149 to $125 a 16% reduction.

In addition, we are holding prices on home sanders imported from our Canadian company despite a 10% import surcharge we must absorb and are holding the same price on our most popular circular saw which recently was reduced by 20%.

Because of unusual cost increases on professional products which have been more vulnerable to the economic slowdown, we had planned to increase prices on these products on October 1, 1971. The price freeze prevented us from taking this action and, in compliance with President Nixon's request, we have delayed these increases indefinitely.

Obviously, we could not hold or reduce prices in these inflationary times if we were not able to offset inflation with cost reductions. Our employees are aware of this basic economic fact and have worked hard at controlling and reducing our costs each year. Because they have succeeded in meeting our rigorous annual cost reduction goals, Black & Decker products fall within the reach of more budgets and more people become power tool users for the first time.

We are convinced that our policy of holding and reducing prices whenever possible is an effective one. The best proof we can offer that it works is our record of having increased sales and earnings for the thirteenth consecutive year.

Sincerely,

Alonzo G. Decker, Jr.

Mr. STENNIS. Mr. President, will the Senator yield?

Mr. PERCY. I yield.

Mr. STENNIS. Mr. President, as I understand the amendment of the Senator from Illinois, it certainly is a worthy amendment and has merit. There will be a more extended amendment along the same lines on tomorrow. I certainly like the philosophy of the Senator's amendment.

Mr. PERCY. It is for that reason, Mr. President, that I am incorporating all of this material in the Record this evening. I very much value the statement of the Senator from Mississippi.

Mr. President, I yield back the remainder of my time.

Mr. SPARKMAN. Mr. President, we had said to the Senator from Illinois that we would accept his amendment. I think it is a good amendment, and I am glad to accept it.

Mr. TOWER. Mr. President, I join with the distinguished chairman of the committee in expressing my support for the amendment. We have been talking about increased per man activity for a long time around here. I think that we should do something about it. I have never thought that wages tied to a man's activity are the least bit inflationary.

I am happy to support the amendment.

Mr. PERCY. Mr. President, I addressed a convention of the Illinois State AFL–CIO early in October. I said to them that the time has come when some groups in our society must stop demanding more and giving less—whether management or labor—if we are going to keep this country on the right track.

Rather than being jeered, I was cheered. I was astounded. They recognized that we have to buckle down and start turning out better products at lower costs and high quality and provide more service because the only way we can get revenue in a free economy is to tax the profits. And we have to keep our markets.

I think that what we are doing is fundamental. I deeply appreciate the comments made by the Senator from Texas and the Senator from Alabama.

Mr. SPARKMAN. Mr. President, if the Senator from Illinois yields back his time, I yield back my time.

The PRESIDING OFFICER. All time having expired, the question is on agreeing to the amendment of the Senator from Illinois. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Indiana (Mr. Hartke), the Senator from Washington (Mr. Jackson), the Senator from Massachusetts (Mr. Kennedy), the Senator from Louisiana (Mr. Long), the Senator from Montana (Mr. Mansfield), the Senator from South Dakota (Mr. McGovern), the Senator from New Mexico (Mr. Montoya), the Senator from Maine (Mr. Muskie), and the Senator from West Virginia (Mr. Randolph) are necessarily absent.

I further announce that the Senator from Florida (Mr. Chiles) is absent on official business.

I further announce that, if present and voting, the Senator from West Virginia (Mr. Randolph) and the Senator from Washington (Mr. Jackson) would each vote "yea."

I further announce that, if present and voting, the Senator from South Dakota (Mr. McGovern) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Ohio (Mr. Saxbe) is absent on official business.

The Senator from Arizona (Mr. Goldwater) is necessarily absent to attend the funeral of a friend.

The Senator from Utah (Mr. Bennett) and the Senator from South Dakota (Mr. Mundt) are absent because of illness.

The Senator from New York (Mr. Javits) and the Senator from Ohio (Mr. Taft) are necessarily absent.

The Senator from Arizona (Mr. Fannin) is detained on official business.

If present and voting, the Senator from Arizona (Mr. Goldwater) would vote "yea."

The result was announced—yeas 82, nays 0, as follows:

[No. 417 Leg.]

YEAS—82

Aiken
Allen
Allott
Anderson
Baker
Beall
Bellmon
Bentsen
Bible
Boggs
Brock
Brooke
Buckley
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Case
Church
Cook
Cooper
Cotton
Cranston
Curtis
Dole
Dominick
Eagleton
Eastland
Ellender
Ervin
Fong
Fulbright
Gambrell
Gravel
Griffin
Gurney
Hansen
Harris
Hart
Hatfield
Hollings
Hruska
Hughes
Humphrey
Inouye
Jordan, N.C.
Jordan, Idaho
Magnuson
Mathias
McClellan
McGee
McIntyre
Metcalf
Miller
Mondale
Moss
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Ribicoff
Roth
Schweiker
Scott
Smith
Sparkman
Spong
Stafford
Stennis
Stevens
Stevenson
Symington
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

NAYS—0

NOT VOTING—18

Bayh
Bennett
Chiles
Fannin
Goldwater
Hartke
Jackson
Javits
Kennedy
Long
Mansfield
McGovern
Montoya
Mundt
Muskie
Randolph
Saxbe
Taft

So Mr. Percy's amendment was agreed to.

AMENDMENT NO. 772

The PRESIDING OFFICER. The Senator from Wisconsin is recognized to call up his amendment No. 772, which the clerk will state.

The assistant legislative clerk read the amendment offered by Mr. Proxmire (for himself and Mr. Harris) as follows:

On page 6, line 11, beginning with "Members" strike out all through the period in line 21 and insert the following: "Members of such boards, commissions, and similar entities shall be appointed by the President by and with the advice and consent of the Senate; except that—

"(1) the foregoing requirement with respect to Senate confirmation does not apply to any member of any such board, commission, or similar entity (other than the Chairman of the Pay Board, established by section 7 of Executive Order Numbered 11627 of October 15, 1971, and the Chairman of the Price Commission, established by section 8 of such Executive order) who is serving pursuant to appointment by the President, on such board, commission, or similar entity on the date of enactment of the Economic Stabilization Act Amendments of 1971, and who continues to serve, pursuant to such appointment, on such board, commission, or similar entity after such date; and

"(2) any person serving as Chairman of such Pay Board, and any person serving as Chairman of such Price Commission, on the date of enactment of the Economic Stabilization Act Amendments of 1971, may continue to serve in such capacity on an interim basis without regard to the foregoing requirement with respect to Senate confirmation until the expiration of sixty days after the date of enactment of the Economic Stabilization Act Amendments of 1971, and the provisions of sections 910–913 of title 5, United States Code, shall be applicable with respect to the procedure to be followed in the Senate in considering the nomination of such persons for such offices and references in such provisions to a 'resolution with respect to a reorganization plan' shall be deemed for the purpose of this section to refer to such nominations."

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. PROXMIRE. Mr. President, I think I can be very brief on this amendment. I realize it is late. I hope we can have an informative but brief debate.

This amendment provides for Senate confirmation of the Chairman of the Price Commission and the Pay Board. We all recognize the enormous power that we have given to the executive branch in this bill, and that we have extended it now for 17 more months. The standards in the bill limiting the President are very general and very slight. Power can be exercised in an arbitrary way.

I am not asking for this, but a strong case could be made for confirming all the members of the Price Commission and the Pay Board. They do exercise enormous power over our economy—a power much greater than that of many Cabinet officers. But my amendment does not go that far. It requires only for the confirmation of the incumbent Chairman of the Pay Board, Mr. Grayson, and the Price Commission, Mr. Boldt. Surely, these men should be subject to Senate confirmation, considering the vast amount of power they exercise. President Nixon has made it clear that there will be no appeals from the individual decisions of the Pay Board or Price Commission. Thus these men have life or death control over a company or labor union.

Mr. President, in order to avoid disrupting the continuity of the stabilization program, my amendment contains two safeguards. First, the incumbent chairmen are permitted to serve on an interim basis for 60 days until a permanent chairman has been confirmed by the Senate. Second, the expediting provisions of the Executive Branch Reorganization Act apply to any nomination, thus insuring a prompt vote, up or down, on the two nominations.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield.

Mr. PASTORE. I am very much in support of this amendment, and I compliment my colleague from Wisconsin for proposing it. After all, the power that the President is exercising was given by the Congress, and it is extraordinary power. Now all we are saying is that we want to assume this great responsibility for the revival and stabilization of our economy on the basis of a partnership. That is all this amounts to. We want to be a part of the action. That is the phrase of the President. We want to be a part of the action. We want a part of the responsibility because we are accountable to the people. I think that men who have this vast power ought to be confirmed by the Senate as a compliment to the executive branch.

Mr. PROXMIRE. I thank the Senator from Rhode Island. As I have pointed out, these provisions provide that the committee considering the nomination can be discharged of the nomination in 10 days if it has taken no action; a nondebatable action can be made to proceed to the consideration of the nomination by the full Senate; and debate on the nomination itself is limited to 10 hours under the Executive Branch Reorganization Act.

Mr. SYMINGTON. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield.

Mr. SYMINGTON. Does the Senator know why Senators in charge of this bill will not accept the amendment? I ask that question because it seems extremely logical.

Mr. PROXMIRE. I think there is some sentiment on the part of the committee to accept the amendment. As I understand it, the committee had taken a position against the original proposal to confirm all 22 members. I am not asking for that, but only for the confirmation of the two chairmen of the two boards.

Mr. SYMINGTON. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield.

Mr. SYMINGTON. I doubt if this amendment will be adopted, because it has become a practice in the Senate to be pretty careful not to interfere in any way with the prerogatives of the executive branch, so I think this amendment will be able to be defeated just like so many amendments in recent weeks have been defeated where the Congress would be exercising its constitutional prerogative; but I wanted the Senator to know that the amendment is logical and right, and I look forward to seeing it adopted.

Mr. SPARKMAN. Mr. President, will the Senator yield?

Mr. SYMINGTON. I yield.

Mr. SPARKMAN. I want to say to the Senator from Missouri that what he said certainly does not apply while this bill has been under discussion. The Senator may not know it, but a number of amendments that were adopted and were accepted were not endorsed by the administration. They were not wholly acceptable to the administration.

Here is the distinguished Senator from Texas (Mr. TOWER) who is the ranking minority member of the committee. He knows that as amendments have been presented and studied here on the floor, we have accepted several that were not endorsed by the administration. I just want to make it clear that this has not been an administration-run matter either in the committee or here. I do not believe I ever saw the committee—and I think every member of the committee would bear me out on this—work more earnestly trying to, shall I say, reach a consensus, or at least a decision in the writing of the bill. I think the Senator from Wisconsin will bear me out.

Mr. PROXMIRE. I certainly agree. I would like to point out that since the committee made its decision on not confirming, there have been some developments that do relate to the wisdom of our deciding to go along with confirmation. On the same day completed its deliberations, Mr. Grayson was quoted in the Washington Star as saying "I will make most of the decisions" on whether to allow or prohibit price increases. The news article went on as follows:

> Despite his personal modesty and mild manner "Jack" Grayson believes it is his job to hold the reins of power in controlling prices with the six other members of his commission playing a supportive role.
>
> "I want to use the commission to the maximum" he haid, pledging to keep his colleagues informed and consult them in pattern-setting cases.
>
> But as chairman of the panel he said, "I am the only official authorized to sign for the commission, so the commission is advisory to me."

This information was not available to me at the time that we acted. We did not realize the Commission Chairman was going to act this way. A statement has been placed in the committee report, put in at the suggestion of the Senator from Alabama, that it is expected that the decisions of the board will be reached by majority vote. Nevertheless, Mr. Grayson has made that interpretation, and I think it is important that Mr. Grayson and Mr. Boldt be subject to confirmation.

Furthermore, Mr. Grayson's interpretation is at considerable variance with the understanding of the Committee on Banking, Housing and Urban Affairs.

Let me also point out to the Senate that since the action of the committee with respect to this bill, the position of Judge Boldt on his responsibility has been made clear. Judge Boldt appears to be heading in an opposite direction from Mr. Grayson. Judge Boldt does not believe it is proper for him to take part in the arguments presented to the Board except for occasional comments or to exercise his vote unless necessary to break a tie.

While this approach may be appropriate for a Federal judge, I think we certainly should have both Judge Boldt and Mr. Grayson appear before committees of the Senate before they are confirmed and I think we certainly ought to have an opportunity to debate their confirmation before we give them this enormous power.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield.

Mr. HUMPHREY. May I say to the Senator from Wisconsin that earlier in the day we engaged in a colloquy in which I expressed my point of view with reference to the Senator's amendment, as well as certain aspects of the legislation before us. I am not one who believes that the bill before us is the handiwork of the administration. I think it is the handiwork of the committee. I do believe, however, that the suggestion which has been made by the Senator from Wisconsin not only has merit but is absolutely essential. I cannot imagine the Senate of the United States not asking for confirmation responsibility over nominees of the President of the United States—nominees whose decisions can affect this economy more than can any Cabinet officer, more than can any appointee of the President. There is no one who can so basically affect the economy by word or deed as the Chairman of the Price Commission or the Chairman of the Wage Board. I think it is important that there be at least a confirmation hearing and confirmation proceedings.

We do not know whether there is any conflict of interest. I do not believe there is, but we have an opportunity to grill a man like Mr. Butz and have a hearing on his nomination to be Secretary of Agriculture, a man whose decisions may affect prices of agricultural commodities and the market for those commodities, but it is in a limited segment of our economy.

Here are the Chairmen of the Pay Board and the Price Commission who can, by order or edict, determine what the price of an automobile is going to be, what the price of clothing will be, or what the price of many commodities that we use will be. Their word and their decision will determine what wages are going to be paid, and likewise whether the economic package is going to be considered proper or inflationary between management and labor.

For the life of me I cannot understand why we would not want to at least have some responsibilities here in terms of either agreeing to or dissenting from a particular nomination. I have no views on these men. I do not know them. I venture to say that very few members of the Senate do know Judge Boldt or Mr. Grayson. They were names that came to our attention and gained fame and notoriety after the President appointed them.

Ordinarily, an appointment of this quality and this importance would have days and days of hearings before the appropriate Senate committee. I remind the distinguished Senator from Mississippi, the chairman of the Armed Services Committee, who is here, that an assistant secretary of the Department of the Navy or the Air Force or the Department of Defense or the Department of the Army has to have Senate confirmation. What do they do in terms of the economy, as compared to these appointees?

Mr. PROXMIRE. If the Senator will yield, we confirm second lieutenants.

Mr. HUMPHREY. Yes, indeed we do. We have a list of them here. We confirm U.S. Public Health Service officers. But here we have a list of major appointees, greatly affecting our economy, and they go by without as much as a Senate notice.

Mr. PROXMIRE. I appreciate the Senator's remarks. My time is short, and I have promised to yield further. I wish to make one further comment before I yield to the Senator from Illinois, and that is that in this particular case, we are not dealing with foreign policy or with military policy, where the President's prerogatives must be particularly preserved. We are dealing with the domestic economy, where, if there is any area where the Senate should insist on safeguarding its authority and power, it should be here. So asking for confirmation is a very mild and modest request for at least some reservation of authority on the part of Congress.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield to the Senator from Washington, and then to the Senator from Illinois.

Mr. MAGNUSON. I would not like to see confirmation in the sense that the nominations could be held up for weeks and months, so that we would not be giving the President a chance to see whether this was going to work or not work. He ought to have that. But I understand there is a time limitation by which the Senate must vote the nomination of Judge Boldt, whom I happen to know, up or down.

Mr. PROXMIRE. The Senator is correct. It is provided that the confirmation would take place within 60 days, and further, that the confirmation will be brought out of the committee within 10 days, and the debate in the Senate will be limited to 10 hours. It is the same provision we have in the Reorganization Act, so that we cannot filibuster to prevent confirmation.

Mr. MAGNUSON. Plus the fact that if the Board does not work, we get the onus upon us that we delayed these nominations.

The PRESIDING OFFICER. Who yields time?

Mr. PROXMIRE. I yield to the Senator from Illinois very briefly, and then I shall yield the floor.

Mr. STEVENSON. Is it not true that Senate confirmation is required in the case of all members of the Pay Board and the Price Commission, except for members serving prior to the enactment of this legislation?

Mr. PROXMIRE. The Senator is correct.

Mr. STEVENSON. For some reason, we did in committee choose to exempt the present members of the Board and of the Commission from this traditional requirement of Senate confirmation.

I would ask the Senator from Wisconsin whether failure to require Senate confirmation in the cases of the Chairman of the Pay Board and the Price Commission might not very well give those gentlemen the opportunity to invoke the so-called doctrine of Presidential immunity and exercise their tremendous powers under this legislation behind the cloak of that doctrine, beyond the reach of the people and of their elected representatives in Congress?

Mr. PROXMIRE. An excellent point. It had not occurred to me. I think it reinforces the necessity for this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. SPARKMAN. Mr. President, I yield 3 minutes to the Senator from Texas.

Mr. TOWER. Mr. President, I should like to make a parliamentary inquiry, if this can be answered by the Chair.

The PRESIDING OFFICER. The Senator will state it.

Mr. TOWER. Reference is made on page 2, line 17 of the amendment proposed by the Senator from Wisconsin to sections 910 and 913 of title 5 of the United States Code. I ask the Chair if he can inform me what the status of that particular reorganization provision is. Is it currently the law?

The PRESIDING OFFICER. The Chair advises the Senator that that would be an interpretation of the law, and is beyond the reach of the Chair.

Mr. TOWER. The point I am trying to make is, Is this currently the law?

Mr. PROXMIRE. May I say to the Senator, this amendment was drafted by legislative counsel. I understand there is some question as to whether this is currently the law. It was drafted by legislative counsel and I understand it is.

I will be very happy to modify the amendment to make sure that this provision is covered by specific language in the amendment, so that it will not require reference, as the Senator points out, to a section of the statute that may not currently be the law.

Mr. TOWER. That would satisfy me. I just wanted to make sure we were proceeding in a manner consonant with good legislative procedure here.

I might note that the Senator from Wisconsin suggested in the committee that we follow the procedure of confirming the head of the Pay Board and the Price Commission. There was some insistence on the part of others that everyone should stand for confirmation, and that seemed to be impractical. I offered this provision originally as a compromise. It was discussed, and I do not know how it got lost in the shuffle. But inasmuch as I originally suggested this proposal, I could not oppose it now and be consistent. Therefore, I support the amendment of the Senator from Wisconsin.

Mr. PROXMIRE. I thank the Senator for his support.

The PRESIDING OFFICER. Who yields time?

Mr. SPARKMAN. Mr. President, I yield myself 2 minutes.

I simply want to say that we discussed this provision in the committee, and there it was decided that the two Chairmen would be confirmed, but those appointed on a part-time basis would not require confirmation.

However, it was suggested, perhaps by the Senator from Wisconsin, I am not sure, but I am sure he agreed to it, that those who had already been named and had been appointed would not be—at least it was agreed to by the committee as a whole—would not be required to come up.

I agree with what the Senator from Wisconsin said with reference to one man exercising full authority and full jurisdiction. In fact, I had a colloquy with the Senator on the floor of the Senate not many days ago, when we discussed that very thing, and the Senator will remember—in fact he mentioned it a few minutes ago—that there is a requirement in this bill that it should be by majority vote, and that is the way it ought to be.

I do not mind; I think we could have both of these gentlemen before the committee on the same morning and finish it in one day. I have no hesitancy about it coming up there. I would not want it to be, and I certainly would not expect it to be, a kind of raking over the coals. After all, Dr. Grayson, to whom the Senator from Wisconsin referred as having made that statement, is a very distinguished and learned gentleman, former dean of the School of Business Administration of Southern Methodist University, in Texas.

Mr. TOWER. To my knowledge, Mr. President, he still is the dean on leave of absence, of the School of Business of Southern Methodist University, of which I have the privilege of serving as a trustee.

Mr. SPARKMAN. Well, that reinforces his position, then, and I believe we found out that actually it was the Executive order issued by the President, or the directive, that gave him that power, directing him to act for the whole Board. As I understand, that is not true in the case of Judge Boldt.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. SPARKMAN. I yield myself 1 additional minute.

He was designated to serve and to have the vote only in the case of a tie. If I recall correctly, that was his testimony before the Joint Economic Committee—that he was to have the vote only in the case of a tie, and that he had carried it out that way. He did tell us that on one decision that was made, while he did not vote, he made his position known, that he was opposed to the majority.

I told the Senator from Wisconsin before we started this that if he would just wait a little while, it might be possible for us to work out an agreement, and that we have done. The Senator from Texas was not in the Chamber at the time. I am very glad to accept the amendment.

Mr. TOWER. Mr. President, following action on this amendment, I ask unanimous consent that the amendment still be open to technical amendment, addressed specifically to the reference in sections 9, 10, and 13 of title 5 of the United States Code.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. Mr. President, will the Senator yield me a half minute?

Mr. SPARKMAN. I yield.

Mr. MAGNUSON. Inasmuch as all the sterling qualities of Dr. Grayson have been mentioned tonight——

Mr. SPARKMAN. Oh, yes; Judge Boldt is from the State of Washington.

Mr. MAGNUSON. I want the record to show that I have known Judge Boldt for many years. He and I are of opposite political faiths. We have had some political differences. But I want the record to show that he is a very able, conscientious judge, and one of the fine members of the judiciary in the United States.

Mr. SPARKMAN. I understand that he has an excellent record and that he made a fine impression in his appearance before the Joint Economic Committee.

Mr. METCALF. Mr. President, will the Senator from Alabama yield to me for 1 minute?

Mr. SPARKMAN. I yield.

Mr. METCALF. Judge Boldt and I grew up across the street from each other, in Stevensville, Mont. Judge Boldt and I have known each other all our lives. Judges Boldt was a member of the track team in Stevensville—population 650—and won in a State track meet.

I am not saying to Senators that because he was a pole-vaulter or a relay runner, he is a fine member of the Price Commission. What I am saying is that I recall when I went over to have his nomination confirmed in the Eisenhower administration. He has been a fine district judge, one of the outstanding district judges in America. He was selected to try cases for the electronic commissions, and so forth.

Nevertheless, I think there should be some confirmation of the nomination of even as outstanding a person as Judge Boldt. If his confirmation came before the Senate, I would vehemently say that this man is an outstanding and superior public servant.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. SPARKMAN. Mr. President, I yield back the remainder of my time.

Mr. TOWER. I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back.

The question is on agreeing to the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Georgia (Mr. GAMBRELL), the Senator from Michigan (Mr. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Washington (Mr. JACKSON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Montana (Mr. MANSFIELD), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Maine (Mr. MUSKIE), and the Senator from West Virginia (Mr. RANDOLPH) are necessarily absent.

I further announce that the Senator from Florida (Mr. CHILES) is absent on official business.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH), the Senator from Washington (Mr. JACKSON), and the Senator from South Dakota (Mr. MCGOVERN) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Ohio (Mr. SAXBE) is absent on official business.

The Senator from Arizona (Mr. GOLDWATER) is necessarily absent to attend the funeral of a friend.

The Senator from Utah (Mr. BENNETT) and the Senator from South Dakota (Mr. MUNDT) are absent because of illness.

The Senator from New York (Mr. JAVITS) and the Senator from Ohio (Mr. TAFT) are necessarily absent.

Also, the Senator from Kentucky (Mr. COOPER), the Senator from Colorado (Mr. DOMINICK), the Senator from Illinois (Mr. PERCY), and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

If present and voting, the Senator from Arizona (Mr. GOLDWATER) and the Senator from Alaska (Mr. STEVENS) would each vote "yea."

The result was announced—yeas 72, nays 6, as follows:

[No. 418 Leg.]

YEAS—72

Aiken
Allen
Anderson
Baker
Beall
Bellmon
Bentsen
Bible
Boggs
Brock
Brooke
Buckley
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Case
Church
Cranston
Curtis
Dole
Eagleton
Eastland
Ellender
Ervin
Fannin
Fong
Fulbright
Gravel
Griffin
Hansen
Harris
Hatfield
Hollings
Hruska
Hughes
Humphrey
Inouye
Jordan, N.C.
Jordan, Idaho
Magnuson
Mathias
McClellan
McGee
McIntyre
Metcalf
Miller
Mondale
Montoya
Moss
Nelson
Pastore
Pearson
Pell
Proxmire
Ribicoff
Roth
Schweiker
Smith
Sparkman
Spong
Stafford
Stennis
Stevenson
Symington
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

NAYS—6

Allott
Cook
Cotton
Gurney
Packwood
Scott

NOT VOTING—22

Bayh
Bennett
Chiles
Cooper
Dominick
Gambrell
Goldwater
Hart
Hartke
Jackson
Javits
Kennedy
Long
Mansfield
McGovern
Mundt
Muskie
Percy
Randolph
Saxbe
Stevens
Taft

So the Proxmire-Harris amendment (No. 772) was agreed to.

ROUTINE MORNING BUSINESS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, prior to the laying before the Senate of amendment No. 771 by the Senator from Wisconsin (Mr. PROXMIRE), there now be a period for the transaction of routine morning business with statements therein limited to 3 minutes.

The PRESIDING OFFICER (Mr. GRAVEL). Without objection, it is so ordered.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

PURCHASE OR LEASE OF PRODUCTS AND SERVICES TO THE SOCIALIST REPUBLIC OF ROMANIA

A communication from the President of the United States, reporting, pursuant to law, his determination that it is in the national interest for the Export-Import Bank to guarantee, insure, extend credit, and participate in the extension of credit in connection with the purchase or lease of any product or service by, for use in, or for sale or lease to the Socialist Republic of Romania; to the Committee on Banking, Housing and Urban Affairs.

REPORT ON OVEROBLIGATION OF AN APPROPRIATION

A letter from the Deputy Director, Office of Management and Budget, Executive Office of the President, reporting, pursuant to law, that the appropriation to the Occupational Safety and Health Review Commission for the fiscal year 1972 had been reapportioned on a basis which indicates the necessity for a supplemental estimate of appropriation; to the Committee on Appropriations.

REPORT ON OVEROBLIGATION OF AN APPROPRIATION

A letter from the Director, Office of Management and Budget, Executive Office of the President, reporting, pursuant to law, that the appropriation to the Department of Health, Education, and Welfare for "Special benefits for disabled coal miners," for the fiscal year 1972, had been apportioned on a basis which indicates the necessity for a supplemental estimate of appropriation; to the Committee on Appropriations.

REPORT ON FLYING PAY

A letter from the Secretary of the Air Force, transmitting, pursuant to law, a report on flying pay, for the period November 1, 1970, through October 31, 1971 (with an accompanying report); to the Committee on Armed Services.

REPORT ON EXPORT CONTROL

A letter from the Secretary of Commerce, transmitting, pursuant to law, a report on Export Control, for the third quarter of 1971 (with an accompanying report); to the Committee on Banking, Housing and Urban Affairs.

REPORT OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Fees Allowed Nonsponsored Not-For-Profit Organizations By Various Government Agencies", dated November 26, 1971 (with an accompanying report); to the Committee on Government Operations.

PROPOSED ESTABLISHMENT OF FUND FOR ACTIVATING AUTHORIZED AGENCIES

A letter from the Assistant Administrator, General Services Administration, transmitting a draft of proposed legislation to establish a fund for activating authorized agencies, and for other purposes (with an accompanying paper); to the Committee on Government Operations.

PROPOSED GRANT AGREEMENT WITH MONTANA COLLEGE OF MINERAL SCIENCE AND TECHNOLOGY FOUNDATION

A letter from the Acting Secretary of the Interior, transmitting, pursuant to law, a proposed grant agreement with Montana College of Mineral Science and Technology Foundation, Butte, Montana (with accompanying papers); to the Committee on Interior and Insular Affairs.

PROPOSED AMENDMENT OF TITLE 18, UNITED STATES CODE

A letter from the Director, Administrative Office of the United States Courts, transmitting a draft of proposed legislation to amend Title 18 of the United States Code to provide for an appeal from certain orders by a defendant who has pleaded guilty, and for other purposes (with an accompanying paper); to the Committee on the Judiciary.

PROPOSED AMENDMENT OF CHAPTER 313 OF TITLE 18, UNITED STATES CODE

A letter from the Director, Administrative Office of the United States Courts, transmitting a draft of proposed legislation to amend Chapter 313 of Title 18 of the United States Code (with an accompanying paper); to the Committee on the Judiciary.

REPORT ON PROGRESS MADE IN ACHIEVING THE PURPOSES OF FEDERAL COAL MINE HEALTH AND SAFETY ACT

A letter from the Secretary of the Interior, transmitting, pursuant to law, a report, for the calendar year 1970, dealing with the progress made in achieving the purposes of the Federal Coal Mine Health and Safety Act of 1969 (with an accompanying report); to the Committee on Labor and Public Welfare.

PROPOSED VETERANS' EDUCATION AND TRAINING AMENDMENTS OF 1971

A letter from the Administrator of Veterans' Affairs, transmitting a draft of proposed legislation entitled "Veterans' Education and Training Amendments of 1971" (with acompanying papers); to the Committee on Veterans' Affairs.

PETITIONS

A petition was laid before the Senate and referred as indicated:

By the PRESIDENT pro tempore:

A letter from James Rosendahl, of San Diego, Calif., requesting a review of certain litigation; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BAKER, from the Committee on Public Works, with amendments:

S. 1113. A bill to establish a structure that will provide integrated knowledge and understanding of the ecological, social, and technological problems associated with air pollution, water pollution, solid waste disposal, general pollution, and degradation of the environment, and other related problems (Rept. No. 92–518).

By Mr. HARTKE, from the Committee on Veterans' Affairs, without amendment:

S. 2866. A bill to amend title 38, of the United States Code, to liberalize the provisions relating to payment of disability and death pension, and for other purposes (Rept. No. 92–519);

S. 2867. A bill to amend title 38 of the United States Code to liberalize the provisions relating to payment of dependency and indemnity compensation (Rept. No. 92–520);

H.R. 11651. An act to amend title 38 of the United States Code to liberalize the provisions relating to payment of disability and death pension, and for other purposes (Rept. No. 92–521); and

H.R. 11652. An act to amend title 38 of the United States Code to liberalize the provisions relating to payment of dependency and indemnity compensation (Rept. No. 92–522).

ORDER FOR STAR PRINT OF A REPORT

Mr. HUGHES. Mr. President, on November 24, 1971, I filed a report on S. 2097, the Drug Abuse Office and Treatment Act. There were some inadvertent errors in the report, and I ask unanimous consent that a star print of that report, report No. 92–509, be made in order to correct those errors.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports were submitted:

By Mr. FULBRIGHT, from the Committee on Foreign Relations, without reservation:

Executive M, Ninety-first Congress, second session, and Executive I, Ninety-second Congress, first session, the Nice Agreement Concerning the International Classification of Goods and Services to Which Trademarks Are Applied and the Locarno Agreement Establishing an International Classification for Industrial Designs (Executive Rept. No. 92–14); and

Executive K, Ninety-second Congress, first session, a Protocol dated at New York, March 12, 1971, relating to an amendment to the Convention on International Civil Aviation (Executive Rept. No. 92–15).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time, and, by unanimous consent, the second time, and referred as indicated:

By Mr. TAFT:

S. 2910. A bill to provide grants to States for the establishment, maintenance, and operation of low-cost meal programs for disabled Americans, and for other purposes. Referred to the Comimttee on Labor and Public Welfare.

By Mr. EAGLETON:

S. 2911. A bill to amend the Controlled Substances Act. Referred to the Committee on the Judiciary.

By Mr. INOUYE:

S. 2912. A bill for the relief of Roy P. Pilien; and

S. 2913. A bill for the relief of Chung Pyo Suh. Referred to the Committee on the Judiciary.

By Mr. STEVENSON:

S. 2914. A bill for the relief of Agostino Longo. Referred to the Committee on the Judiciary.

By Mr. ERVIN:

S.J. Res. 178. Joint resolution to authorize and request the President to issue a proclamation designating the period from April 23, 1972, through April 29, 1972, as "National Textile Week". Referred to the Committee on the Judiciary.

By Mr. HUMPHREY:

S.J. Res. 179. A joint resolution to assure continued eligibility of recipients of Food Stamp benefits and to maintain present levels of bonuses for these recipients. Referred to the Committee on Agriculture and Forestry.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. EAGLETON:

S. 2911. A bill to amend the Controlled Substances Act. Referred to the Committee on the Judiciary.

A LOOPHOLE IN OUR DRUG CONTROL LAWS

Mr. EAGLETON. Mr. President, today I introduce a bill which would close a serious loophole in the Controlled Substances Act enacted last year.

Several weeks ago I learned of an incident that demonstrates the need for this legislation. A surgical supply company, registered under the Controlled Substance Act to distribute drugs, sold its warehouse to the city of Rochester, N.Y., for an urban renewal project. When it removed its inventory from the warehouse, the company left behind large quantities of amphetamines, barbiturates, and assorted paraphernalia. Within a short time these drugs and supplies were on the streets of Rochester in the hands of drug abusers.

The U.S. attorney for the western district of New York, after conversations with Justice Department officials, determined that no violation of Federal law had occurred. In fact, there was apparently no ground even for the revocation of the company's Federal registration, under which it was authorized to distribute controlled substances.

The bill I am introducing today would correct this deficiency in the law in two ways. First, it would allow the Attorney General to revoke or suspend a Federal registration where a registrant "has abandoned or otherwise failed to maintain effective controls against the diversion of any controlled substance," or where he "failed to provide a standard of control consistent with the public health and safety." These provisions reiterate the standards which the Attorney General is directed to apply in determining whether to register an applicant to manufacture or distribute these substances. Surely these applicants should be held to the same standards after they have received their registrations and are in fact dealing with these dangerous drugs.

The primary purpose of the registration system is to insure that dangerous drugs move only in authorized channels. Yet, under the current law, registrations may be revoked only in the most limited circumstances—where a registrant has falsified his application, where he has been convicted of a drug-related felony, or where he is no longer authorized under State law to deal with controlled drugs.

Second, my bill provides for criminal penalties where, as in the case cited above, registrants simply abandon controlled substances rather than taking responsibility for the destriuction or sealing of these drugs. It is my belief that they should be subject to the same penalties as those who manufacture, distribute, or dispense controlled substances in a manner inconsistent with the law.

I ask unanimous consent that the letter from Mr. George Finnegan of the Middle Earth Youth Project in Rochester, and the letter from the U.S. attorney to Mr. Finnegan be printed in the Record at the conclusion of my remarks.

There being no objection, the letters were ordered to be printed in the Record, as follows:

Middle Earth Youth Project,
Rochester, N.Y., November 5, 1971.

Hon. Thomas F. Eagleton,
Senate Office Building,
Washington, D.C.

Dear Sir: Your bill to prevent abandonment of dangerous drugs can save lives.

It is, I feel, a small step in a long march toward drug abuse control but if this bill can prevent another situation like the one which happened in Rochester, this summer, the bill is justified.

In July of this year, a local distributor of "ethical drugs" sold to the city a warehouse which was scheduled for demolition under urban renewal. They left in the building an estimated 500,000 doses of dextro-amphetamine in capsule form. They left hypodermic syringes, needles, barbituates and several cases of lethal procaine which if injected into the bloodstreams would have caused instant death.

Two fourteen-year-old runaways who were looking for a place to sleep found the drugs. Both of them were drug-oriented and they immediately began to transfer the drugs to safe hiding places. They readily shared their supply with their friends and by August we were seeing in a predominantly white middle class area of the city, increasing signs of amphetamine abuse.

By this time, older people interested in the commercial possibility of the drugs had taken control of a large amount. Thru personal contact with local street dealers and users, I was able to circulate the fact that these drugs were chemically unstable and dangerous. As a result, 30,000 hits of amphetamine, a case of procaine, a small quantity of barbituates some hypodermic syringes and needles were turned over to me by various people, with the understanding that I would destroy them.

My possession of these drugs was illegal and I made an appointment with the Assistant U.S. Attorney, Mr. John Sullivan. I turned over samples of the drugs. Enclosed please find photographs taken by the local office of the F.B.I. of some the syringes.

Mr. Sullivan is a joy to work with. He is concerned, perceptive and outside of working hours even took the time to become informed of the youth project, where I serve as a volunteer. He offered to store the evidence we had obtained and to consider bringing a criminal action.

The enclosed letter from him states the problem more clearly than I can.

Respectfully,
George W. Finegan.

U.S. Department of Justice,
U.S. Attorney,
Rochester, N.Y., October 20, 1971.

Mr. George Finnegan,
Middle Earth Youth Project,
Rochester, N.Y.

Re: Complaint Against Local Drug Wholesale Supply Company

Dear Mr. Finnegan: This letter is in regard to your complaint against the Monroe Surgical Supply Company. I have, in the vault at the United States Attorney's Office, Rochester, New York, the material that you caused to be turned over. That material being various needles, syringes, vials of narcotic drugs and sundry pills.

Under the facts alleged in this complaint, there appears to be no violation of a federal criminal statute. Aside from the evidentary problems that would be inherent in the direct proof of this case in relationship to Monroe Surgical Supply Company's original ownership and abandonment of these articles, there is no statute under which this office can proceed. The mere fact of abandonment of control substance narcotics does not give rise to a criminal violation. This opinion is based on my research and consideration of the statutes and on the advice of the regional office of the Bureau of Narcotics and Dangerous Drugs in Buffalo and New York City. An investigation of this matter has been conducted by the Bureau of Narcotics and Dangerous Drugs.

In this type of situation, there is a possibility that a wholesale drug supplier in abandoning this type of material may violate State registration and record keeping requirements and in that manner, their application for a renewal of license might be denied for failure to comply with State requirements.

In this instance case, Monroe Surgical Supply Company has now voluntarily withdrawn from the narcotic drug wholesale supply business.

I wish to thank you for your continued cooperation and concern in drug related matters with this office.

Very truly yours,
H. Kenneth Schroeder, Jr.,
U.S. Attorney.
By John T. Sullivan, Jr.,
Assistant U.S. Attorney.

By Mr. ERVIN:

S.J. Res. 178. Joint resolution to authorize and request the President to issue a proclamation designating the period from April 23, 1972, through April 29, 1972, as "National Textile Week". Referred to the Committee on the Judiciary.

Mr. ERVIN. Mr. President, from the earliest days of recorded history, man has twisted plant and animal fibers into yarns for baskets, nets, and fabrics which have given him the clothing and shelter necessary for survival.

The making of yarn, fabric, and clothing has been an integral part of all cultures as far back as anyone can determine. We know, for example, that in ancient India, people spun yarn from cotton they called "vegetable lamb" and wove cloth from it even before the time of the ancient Egyptians. For thousands of years, flax was cultivated in Mesopotamia, Assyria, and Egypt and its fibers were spun into yarn. In China, silk manufacture began sometime around 2640 B.C. when the people experimented with the culture of silkworms and tested the practicability of using the thread from the cocoon for yarn which could be woven into fabric.

Here in the United States, an infant textile industry was spawned during the Industrial Revolution, and ever since then, it has served us well both as a provider of jobs and the clothing and shelter which has contributed to our high standard of living.

Today, textile manufacturing is one of our most basic and essential industries, providing employment for nearly 1 million people, directly, and another 2.4 million in apparel and related industries. Textile and apparel manufacturing today account for one of every eight manufacturing jobs in this country and provide an annual payroll of $10 billion.

The textile industry is the major customer for our 675,000 cotton farms and the sole customer for 200,000 wool growers. In addition, 112,000 jobs in the manmade fiber industry depend on textiles.

The textile industry has helped make our Armed Forces the best clothed, housed, and protected in the world. The industry has been called second only to steel in military importance.

While many of our textile mills are concentrated in the Southeast and New England States, textiles is, in a very real sense, a national industry. There are some 7,000 textile manufacturing plants in 42 States turning out annually some 17 billion square yards of fabric for use by industry and consumers.

While the textile manufacture is steeped in tradition, it is one of the most modern of our American industries, contributing significantly to our exploration of outer space and a higher standard of living throughout the world.

It is, therefore, most appropriate that our Nation should recognize this industry and the contribution to a better way of life it is making day in and day out.

I am, therefore, introducing a joint resolution authorizing and requesting the President to issue a proclamation designating the period from April 23, 1972 through April 29, 1972 as "National Textile Week."

All Americans should join in paying tribute to an industry which has throughout our history contributed so much to the betterment of mankind and his comfort, convenience, and prosperity.

Mr. President, I ask unanimous consent that the text of the joint resolution which I am introducing today on National Textile Week be printed at this point in the Record together with a copy of an article entitled "A World Without Textiles," which appeared in the fall 1971 issue of the Phi Psi Quarterly.

There being no objection, the material

was ordered to be printed in the RECORD, as follows:

S.J. RES. 178

Joint resolution to authorize and request the President to issue a proclamation designating the period from April 23, 1972, through April 29, 1972, as "National Textile Week"

Whereas several million workers in the United States are employed directly or indirectly in the textile industry; and

Whereas textile manufacturing historically has been one of the basic industries of the United States and has for decades contributed substantially to the economic strength of the Nation; and

Whereas the continued strength and growth of the textile industry in the United States is vital to the economic stability of this country: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating the period from April 23, 1972, through April 29, 1972, as "National Textile Week", and calling upon the people of the United States and interested groups and organizations to observe that week with appropriate ceremonies and activities.

A WORLD WITHOUT TEXTILES

(By Donald F. Flathman)

We live in a world of textiles. You don't believe it? Then think for a minute what life would be like in a world *without* textiles.

We'd all be naked! No clothes. No underwear. No stockings or socks. Not even shoes!

Animal skins would be no substitute. We'd soon kill off all the animals for their fur and hides and even then only a few people would be clothed . . . probably no one you know.

Of course, there's always the trees and bushes. We could strip all the foliage bare to make grass skirts, and fig leaf shorts . . . but what would we do when winter comes?

No, skins and leaves are no substitutes. We'd all have to move South just to survive. Think what tremendous over-crowding that would produce! I think a world without textiles would be a world without so many people on it . . . maybe without *you!*

In a world without textiles or homes would be bare too. No rugs on the floor, or drapes on the windows. No window shades! Or even venetian blinds! Our chairs would all be hard wood. Our beds would be boards, cushioned only by straw or leaves. We'd have no blankets. No sheets. No pillows! We'd have to wash with our bare hands and shake ourselves dry.

In a world without textiles we'd ride to work on a horse, or in a wooden-wheeled wagon pulled by a horse. There'd be no automobiles because there'd be no air-filled tires; no water hoses to cool the engine; no wires to carry the spark to the piston! No upholstered bucket seats. No rugs on the floor boards. No convertible tops. No padded dash or even, in some cars, air scoops, bumpers, or fenders!

In a world without textiles baseball wouldn't be played . . . not even on real grass! There'd be no football, no soccer, no basketball. No tennis, no volleyball, no badminton. Croquet would be the game . . . a wooden ball struck by a wooden mallet!

In a world without textiles there'd be no space program. No astronaut could survive without his space suit. Nor could he return without the heat shield on his rocket, or even the parachute to slow his descent! Once in the water, how would he stay afloat without the flotation collar or, in an emergency, the life raft or even his own life jacket! The fact is, he'd never leave on a space flight without hoses for fueling; wires and cables for control; seat belts to hold himself in; even the seats themselves!

In a world without textiles many people would die without bandages; sutures; sterilized gowns and masks. Damaged or diseased arteries and wind pipes would stay damaged or diseased and the patient might die because there'd be no Dacron replacement. The "iron lung" wouldn't have saved so many polio victims. The kidney machine wouldn't be keeping so many others alive today. And the artificial heart would probably be impossible!

In a world without textiles there'd be few libraries, because there'd be few books . . . because there'd be only hand-made paper. Without hundreds of thousands of tons of cheap, ready paper there'd be no newspapers, no computers, no banks, no stocks, *no business!* . . . except that which could be done directly, like trading a bushel of potatoes for a sack of wheat . . . except there'd be no *sack* in a world without textiles.

In a world without textiles we wouldn't have progressed very far beyond the caveman, even after hundreds of thousands of years. Man's discovery of iron may have been important, but without the even earlier more important discovery of textiles and the simple textile process of weaving reeds or twisted grasses into mats and cloth, we'd all be wearing iron underwear, and that doesn't sound like much fun.

Just what is a textile? Anything woven or knitted or made with a fiber. Not just from cotton or wool or silk or man-mades, like nylon or rayon or polyester. But fireproof suits made with asbestos fiber! Supersonic airplane parts made with carbon fiber. Space suits made with glass fiber. Artificial tendons made with stainless steel fibers. And even more fantastic things yet to come!

Yes, we live in a world of textiles . . . and the world we live in, we live in *because of* textiles!

By Mr. HUMPHREY:

S.J. Res. 179. A joint resolution to assure continued eligibility of recipients of Food Stamp benefits and to maintain present levels of bonuses for these recipients. Referred to the Committee on Agriculture and Forestry.

Mr. HUMPHREY. Mr. President, earlier today, during the debate on the national nutritional program for the elderly, I stated my intention to introduce a joint resolution to accomplish certain objectives.

Mr. President, I introduce that joint resolution now, and I ask unanimous consent that the text of the joint resolution be printed at this point in the RECORD.

There being no objection, the text of the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 179

Whereas, rapidly escalating costs of living have made it increasingly difficult for low income families to pay for the basic necessities of life; and

Whereas, it appears that higher charges established by the Department of Agriculture for certain coupon allotments will create added strain on the limited financial resources of many thousands of needy families now receiving benefits under the Food Stamp Act of 1964; and

Whereas, it appears that many thousands of citizens will no longer be eligible for benefits under the Food Stamp Act of 1964 because of new eligibility standards established by the Department of Agriculture: Therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5(b) of the Food Stamp Act of 1964 is amended by inserting after the first sentence thereof, the following: "Notwithstanding the foregoing, the standards of eligibility under any State plan of operation shall not make ineligible any household which would have been eligible under the standards of eligibility provided for by the State plan of operation in effect just prior to enactment of Public Law 91-671 which was approved January 11, 1971."

SEC. 2. The first sentence of section 7(b) of the Food Stamp Act of 1964 (which deals with the charge to be made for food stamps) is amended by inserting before the colon preceding the first proviso the following: "or more than would have been charged for a coupon allotment of similar face value prior to the enactment of Public Law 91-671 which was enacted on January 11, 1971."

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 582

At the request of Mr. HOLLINGS, the Senator from Texas (Mr. TOWER) was added as a cosponsor of S. 582, a bill to establish a national policy and develop a national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's coastal and estuarine zones.

S. 869

At the request of Mr. RIBICOFF, the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 869, to equalize the treatment of individual taxpayers.

S. 1163

At the request of Mr. BENTSEN, his name was added as a cosponsor of S. 1163, to amend the Older Americans Act of 1965 to provide grants to States for the establishment, maintenance, operation, and expansion of low-cost meal programs, nutrition training and education programs, opportunity for social contacts, and for other purposes.

S. 1615

At the request of Mr. BIBLE, the Senator from Georgia (Mr. GAMBRELL) was added as a cosponsor of S. 1615, to amend the Internal Revenue Code of 1954 to provide income tax simplification, reform, and relief for small business.

S. 1975

At his own request, Mr. GRIFFIN was added as a cosponsor of S. 1975, a bill to change the minimum age qualifications for serving as a juror in Federal courts from 21 years of age to 18 years of age.

S. 2764

At the request of Mr. MOSS, the Senator from Oregon (Mr. HATFIELD) was added as a cosponsor of S. 2764, the Fish Disease Control Act.

S. 2813

At the request of Mr. TOWER, the Senator from Maryland (Mr. BEALL), the Senator from Utah (Mr. BENNETT), the

Senator from Arizona (Mr. FANNIN), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Utah (Mr. MOSS), the Senator from Rhode Island (Mr. PASTORE), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Alaska (Mr. STEVENS), and the Senator from Ohio (Mr. TAFT) were added as cosponsors of S. 2813, amendments to the Vocational Rehabilitation Act.

S. 2897

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, at the request of the Senator from South Dakota (Mr. MCGOVERN) that the names of the Senator from Montana (Mr. METCALF) and the Senator from West Virginia (Mr. RANDOLPH) be added as cosponsors of S. 2897, a bill to provide housing for persons in rural areas of the United States on an emergency basis.

The PRESIDING OFFICER (Mr. GAMBRELL). Without objection, it is so ordered.

S. 2898

At the request of Mr. HARTKE, the Senator from Montana (Mr. METCALF) and the Senator from Missouri (Mr. EAGLETON), were added as cosponsors of S. 2898, a bill to provide college tutors for the homebound handicapped.

S. 2899

At the request of Mr. EAGLETON, the Senator from California (Mr. CRANSTON) and the Senator from New Mexico (Mr. MONTOYA) were added as cosponsors of S. 2899, the District of Columbia Medical Facilities Construction Act of 1972.

S. 2900

At the request of Mr. PERCY, the Senator from Montana (Mr. MANSFIELD), the Senator from North Dakota (Mr. YOUNG), and the Senator from Kentucky (Mr. COOPER) were added as cosponsors of S. 2900, to amend the John F. Kennedy Center Act to authorize funds for operation and maintenance of the nonperforming arts function of that center.

S. 2909

At the request of Mr. HARTKE, the Senator from Oregon (Mr. HATFIELD) was added as a cosponsor of S. 2909, a bill to provide for the regulation of blood banks.

EDUCATION AMENDMENTS OF 1971—AMENDMENTS

AMENDMENTS NOS. 774, 775, AND 776

(Ordered to be printed and referred to the Committee on Labor and Public Welfare.)

Mr. GAMBRELL. Mr. President, I am offering herewith several amendments to S. 659, the higher education and related amendments which are now pending before the Senate Labor and Public Welfare Committee. The legislation which is now in committee is the education package as passed by the House of Representatives several weeks ago, and includes the House version of the Emergency School Aid Act of 1971, and the House amendments suspending forced schoolbusing, and Federal agency practices connected therewith.

In many respects, the House-passed antibusing amendments are similar to legislation on the same subject which I introduced in the Senate on October 28 of this year. Since the various education bills had already passed the Senate at that time, my previous amendments were offered to the Equal Employment Opportunities Enforcement Act of 1971.

A full statement of my views on the subject of forced schoolbusing, along with an explanation of my October 28 amendments will be found in the CONGRESSIONAL RECORD for Wednesday, November 3, 1971.

It was only a short time after my amendments were introduced that the House took favorable action on the antibusing provisions which are now found in the education bills which are pending before the Senate Labor and Public Welfare Committee.

As I now understand it, the committee will review this package of education bills, and may undertake to revise or eliminate some of the House-passed antibusing provisions.

Therefore, in order that the committee have before it the proposals which I have previously offered, I am introducing today, my own proposals, as amendments to the education package.

Companion amendments have been introduced by Senator ERVIN, with myself and others as cosponsors, and by Senator CHILES, with myself and others as cosponsors, which seek as a group to bring some commonsense and uniformity into the Federal Government's desegregation program. The hit or miss application of forced schoolbusing, and the arbitrary and discriminatory practices of the Department of Health, Education, and Welfare in the handling of Federal education funds, have come close to destroying the educational process in many school systems North and South.

The amendments which I have offered would suspend the power of Federal courts to require schoolbusing for racial balance, would restrict the authority of the Department of Health, Education, and Welfare to force busing plans by withholding Federal funds, and at the same time would require HEW to finance court approved desegregation plans without the imposition of conditions not provided for in the court orders. In addition, one of my amendments would require the Departments of Justice and HEW to report to the Congress within 120 days on the status of school desegregation throughout the country, and to announce their plans for uniform desegregation enforcement practices throughout the country.

ECONOMIC STABILIZATION ACT OF 1971—AMENDMENTS

AMENDMENT NO. 777

(Ordered to be printed and to lie on the table.)

Mr. CRANSTON (for himself, Mr. ERVIN, Mr. HANSEN, Mr. MAGNUSON, and Mr. MILLER) submitted an amendment intended to be proposed by them jointly to the bill (S. 2891) to extend and amend the Economic Stabilization Act of 1970, as amended, and for other purposes.

AMENDMENTS NOS. 778, 779

(Ordered to be printed and to lie on the table.)

Mr. PROXMIRE (for himself, Mr. HARRIS, and Mr. STEVENSON) submitted two amendments intended to be proposed by them jointly to the bill (S. 2891), supra.

ADDITIONAL COSPONSORS OF AN AMENDMENT

AMENDMENT NO. 611

At the request of Mr. DOMINICK, the Senator from Kansas (Mr. DOLE) and the Senator from Wyoming (Mr. HANSEN) were added as cosponsors of amendment No. 611, intended to be proposed to the bill S. 2515, the Equal Employment Opportunity Enforcement Act of 1971.

ADDITIONAL STATEMENTS

WATER POLLUTION CONTROL

Mr. MONDALE. Mr. President, early in November the Senate took a historic step in passing a major new water pollution control bill.

A tough water pollution law is, of course, badly needed along with more Federal help for municipalities to construct waste treatment works. But, I believe the Senate made an equally important decision in approving for the first time, a provision in the water pollution bill to save America's fresh water community lakes.

The statistics regarding the condition of fresh water lakes in the United States show that thousands are now dying and many thousands more are rapidly deteriorating. Many of these lakes are located in the State of Minnesota and that is why I became aware of this problem and introduced legislation to help restore our lakes 6 years ago.

I am very pleased by the Senate's action to include a clean lakes provision in the 1971 Federal Water Pollution Control Amendments.

The reaction of communities throughout the Nation toward a new clean lakes program has been tremendously favorable. Particularly in Minnesota, they are encouraged by the Senate's action and hopeful that this important new program will soon be approved by the House.

As evidence of the continuing concern of these communities, I submit for the consideration of my colleagues, an article which recently appeared in the Walker Independent, of Walker, Minn.

Mr. President, I ask unanimous consent that the article be printed in full in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

Clean Lakes Bill

Minnesota Senator Walter Mondale's Clean Lakes Bill has recently taken a major step toward final approval by the U.S. Senate.

The full Senate Public Works Committee voted October 18 to include the bill as part of the 1971 Federal Water Pollution Control Amendments. With the Committee's endorsement and with 32 Senators on record in favor of it, the outlook for Senate passage is very encouraging.

The bill would offer Federal assistance to states and communities to preserve and restore thousands of fresh water lakes that are now in grave danger. Studies show we can save many of our lakes with currently available technology, but communities and states such as ours simply cannot afford to do the job alone.

Many of the more than 100,000 fresh water community lakes in the nation are being destroyed by municipal and industrial pollutants, agricultural run-off and accelerated sedimentation. Importantly, one out of every eight of these lakes is located in Minnesota.

Minnesota is more fortunate than most states. It has an abundance of fresh water lakes. But we cannot afford to neglect or squander these priceless natural gifts.

Specifically, Mondale's bill would provide Federal grants for up to 70 percent of the cost of restoring the quality of publicly owned fresh water lakes. The money under this provision would be used to clean up lakes that are already polluted.

The bill also would increase (up to 70 percent) the Federal share of constructing sewage treatment plants to prevent pollution before it starts.

So far our lake resources have been terribly neglected in the national effort to fight pollution.

The recent approval by the Senate Public Works Committee marks a very significant step toward helping communities in Minnesota (and throughout the nation) to safeguard our treasured lakes, and it seems there will be approval by the full Senate before too long.

THE HEISMAN TROPHY AWARDED TO PAT SULLIVAN

Mr. ALLEN. Mr. President, the 1971 Heisman Trophy has been awarded to Pat Sullivan, quarterback of the Auburn University Tigers. A more deserving player could not have been chosen. All of the people of the State of Alabama are proud to have this outstanding student-athlete representing them.

Pat Sullivan has made a fantastic record at Auburn University, both on and off the field. His performance in the classroom is typical of the stature of this young man. He is a business major, with a 2.8 average out of a possible 3 in the past quarter.

Mr. President, I am indeed proud of Pat Sullivan, and want to extend my congratulations to him, his family, his teammates, his coaches, and to Auburn University.

In August 1971, the monthly publication of the Birmingham Area Chamber of Commerce published an article by David Housel entitled "Pat Sullivan: King of Quarterbacks." I ask unanimous consent that this article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Pat Sullivan: King of Quarterbacks

(By David Housel)

Pat Sullivan, at home, is very unheroic. He lounges around in shorts, faded tee shirt, barefooted. His apartment has a noticeable absence of football momentos, only one small statuette on the edge of a table. Notebooks and textbooks lay at strategic points.

He sweeps the floor, sets the table, washes dishes, occasionally changes the baby, and helps his beautiful wife Jean with all the household chores except one, taking out the garbage. He hates to do that.

Thus, the life of Pat Sullivan, husband, father, student, is not a great deal unlike any other married student husband—unless you consider those golden autumn Saturday afternoons collectively known as "football season." This softspoken resident of Willow Street in Auburn, then becomes Pat Sullivan, quarterback par excellence, and leading contender for 1971's coveted Heisman trophy. Thousands of football fans jam stadia across the Southland for a first hand view of Sullivan and football history in the making. Hundreds of thousands more search the airways for radio or television word of Pat Sullivan, billed by all as the greatest quarterback in Auburn history, and by many as perhaps the greatest in the annals of Southern football.

No Auburn player has captured the confidence of Auburn men and women, the imagination and fancy of Southern football followers as has this young man from Birmingham who led Auburn to 17 victories in the last two years, and rewrote the Tigers' record book in the process.

By the time Pat finishes his regular season Auburn career against Alabama November 27, the Tiger record book could easily be by-lined "By Pat Sullivan." Already he has gained 4747 yards, almost 1000 yards more than Travis Tidwell's record, and Sullivan's yardage has come in two years, just half the time it took Tidwell to make his mark.

In 1970 alone, Sullivan led not only the SEC, but the nation in touchdown responsibility (26), passing percentage of completions (.590), yards gained per play (8.57, a new NCAA record) and total offense (285.6 yards per game).

In addition to making every All-SEC team, Sullivan made numerous All-America teams. He was named the Outstanding Player of the Gator Bowl's 35–28 Auburn victory over Archie Manning and Ole Miss. Perhaps Pat's highest honor came from the Southeastern Conference coaches who picked him as the SEC's Outstanding Player for 1970.

His own coach, Ralph "Shug" Jordan says "Pat is the most complete quarterback I've ever seen. When he's in the game there's not one thing your offense is not capable of doing."

Alabama's Paul Bryant echoes Jordan's praise of Sullivan: "He does more things to beat you than any quarterback I've ever seen."

The most important records and accolades for any quarterback, however, are team records, and Auburn's offense, rolling over and through opponents like Patton's Third Army rolling through France, has averaged 35 points and almost 500 yards total offense a game under Sullivan's field generalship. Needless to say, Auburn is no longer considered primarily "a defensive football team." The Tigers are offensive juggernauts, and last year's team was the most explosive in the history of the SEC.

Impressive credentials are but an outward sign of greatness. What quality or qualities distinguish Sullivan from all other quarterbacks? What makes Pat Sullivan great? Was he ordained by some mystical spirit, or did his magnificence come from human attributes?

Those who know Sullivan, the quarterback, best, those who play with him and coach him, believe Sullivan's greatness comes from his unyielding confidence in himself and his teammates. This confidence, they say, is contagious, and more than once it has been Sullivan who has sparked Auburn on the comeback road.

Dick Schmalz, a receiver who played with Sullivan at Birmingham's John Carroll High School and now at Auburn gives one example:

"We were behind 10–0 early against Tennessee last year. It was my first game to start and I was all nervous and jerky. Pat came into the huddle. He looked at each of us and said, 'Men, it looks like we're going to have to score some points today, so let's block, run our routes, and get to it.' His calm confidence erased all of my anxieties, and after that, we all felt like it was just a matter of time until we went ahead if we all did our jobs."

Go ahead, Auburn did. The Tigers beat the Vols 36–23, handing them their only loss of the 1970 campaign. And it was Sullivan, who, late in the game with Auburn leading by only six points, 29–23, ran a quarterback draw more than 40 yards to get field position and insure the win for the Tigers. He has confidence and he has ability.

Wallace Clark, Auburn's fullback for the past two seasons, adds to Schmalz's observations:

"I've never seen Pat worried, not even when we're behind. Concerned, yes; Worried no. He knows how to win; how to come back when he gets behind, and he always keeps the pressure on the other team when we get the upperhand. Being behind only makes Pat watch himself more."

Pat's contagious confidence was manifesting itself even before he played his first game for Auburn. This boy was supposed to be pretty good. Would he be the redeemer of Auburn's offensive fortunes? Would he be able to make the crucial play, to pick up a crucial yard here, the crucial foot there that would win the big games and turn 6–4 seasons into 8–2, 9–1, maybe 10–0 seasons?

A rumble stirred. Auburn people thought so.

The early part of Sullivan's freshman career indicated he was good, but to see just how good, Auburn fans had to wait until the final game against the Alabama freshman in Tuscaloosa.

Down 27–0 in the second quarter, Auburn fans were already looking for excuses. They could find none. After five years of Alabama victories, their bag of excuses was about empty. But Sullivan wasn't thinking about excuses. He lofted a long bomb to speed demon Terry Beasley, even then his favorite target, and the Tiger Cub offense was off to the races, races they finally won by a 36–27 score. It was Auburn's first football victory over their cross-state rival in five years, and if Auburn fans were happy that day, perhaps it's a good thing they didn't know what was to happen on a cold November day two years later in 1970. They couldn't have stood it.

A record crowd attended the Auburn A-Day game the next spring. Sullivan's team won 26-0, but it wasn't impressive and questions began to mount again. What about Sullivan? Sullivan didn't wait long to answer the question.

His first outing as Auburn's varsity quarterback brought a 57-0 win over Wake Forest. The score was important, but the most indicative part of the "new look Auburn," the "Sullivan-look," came on the first play of the game.

Sullivan dropped straight back, looked long, and lofted a pass far downfield to Terry Beasley, the other part of Auburn's dynamic duo, who was running free behind the Deacon secondary. The pass was incomplete, but the fans stood up and cheered, cheered loud and long. It was that instant that the "bomb" became more of a weapon than a threat in the Auburn offensive arsenal.

The next week against Tennessee, Auburn lost late 45–19. In the fourth quarter it was 24–19, but the key pass interceptions led to the Vol's embarrassingly wide margin of victory. Sullivan, in his first big game, had five passes intercepted on the Vol's Tar-tan turf which has a reputation for causing passes to go awry. It would have been enough to shake the confidence of most youngsters, but Sullivan was not typical of "most youngsters."

Coach Jordan had decided to have a man-to-man talk with his young quarterback before practice Monday, just in case Sullivan needed to have someone restore his confidence. Before Jordan could speak to him, Pat walked up and said, "Don't worry about me, Coach. I'm okay," and trotted on to practice.

Auburn defeated Kentucky 44–3 and Clemson 54–0 the next two outings, and finished with an 8–2 season. In a nose-to-nose confrontation with John Reaves, Florida's sensational sophomore quarterback, Sullivan came out on top 38–12. A Bluebonnet bowl trip followed the 49–26 win over Alabama.

1970 brought another 8–2 record and another bowl bid, but Auburn fans will best remember this particular year for what happened in the waning shadows of November 28 at Legion Field. Auburn, with an injury-mauled defense, was playing Alabama and Bear Bryant's Crimson Tide jumped to an embarrassing 17–0 lead in the first quarter. Beasley was hurt and out of action. Surely a comeback was too much to expect from anyone, even Sullivan. Auburn fans reached for their bag of excuses, but Sullivan wouldn't let them have it. He had reserved it for Alabama again. Sullivan's confidence was a key factor and it was evident on the sidelines. As Beasley sat on the bench, trying to regain his bearings, Sullivan walked up to him, flicked his red hair, and said, "Hurry up and get ready Beas, we're going to beat them just like we did when we were freshmen."

It was 17–7 when Beasley returned, and when the scoreboard beeped the game's conclusion, Auburn had beaten Alabama 33–28, in what must surely be one of the greatest, if not the greatest game in Auburn football lore.

Pat called most of the plays in the victory over Alabama as he does in most Auburn games. "We just decide on the game plan and present it to him," says chief offensive coach Gene Lorendo. "Pat is always prepared for any eventuality. He spends a lot of extra time watching films, studying the defense and asking questions."

While Beasley is his favorite receiver—he caught 52 for 1051 yards and 11 touchdowns in 1970—Pat has confidence in his other receivers and does not hesitate to call on them. "I knew he'd throw to me if I was open," says Alvin Bresler, a 1970 receiver, "and so does everyone else. This helps morale."

The running backs know too that Sullivan will give each man ample opportunity to run the ball and taste a share of the glory during the season.

As Schmalz puts it: "Whatever Pat does, you know it's for the good of the team. He's the most selfless person I've ever known."

Schmalz has touched another aspect of Sullivan's greatness: a hat size that refuses to increase no matter how profuse or great the accolades. No matter what honor he accepts, Sullivan accepts it "not for myself, but for the Auburn football team."

When he went to Nashville to accept the 1970 SEC Player of the Year Award, Sullivan had to miss a day of Gator Bowl preparations. On returning, with Coach Jordan's permission, he called the team together, and said, "I want to apologize for missing practice yesterday. You all read the papers and you know where I was. I'm sorry I had to go during practice, but I want you to know that I didn't accept that award for me. I accepted it for you. Any praise or credit I get, doesn't belong to me. It belongs to you, and I thank you for letting me be your representative."

The Auburn Tigers responded with a rousing cheer, and in the spring elected him captain for the coming year, an honor which Sullivan treasures more than all the others that have come his way. This, he says, "shows that the team has put their utmost confidence in me. I have to maintain their confidence and trust."

Their trust in him and his confidence in them is one reason Sullivan was dropped behind the line of scrimmage only three times last year.

The Sullivan mystique is not reserved only for the football field. He has been tapped for many campus leadership honoraries, and scholastically, Pat, a business major who hopes to run his own firm someday, made a 2.8 out of a possible 3.0 spring quarter.

Rod Carlson, who had Pat in his economics class, has his own idea on what makes Sullivan great not only in the classroom, but also on the field.

"He has a tremendous belief in himself and a respect for other people. Not too many people of his ability maintain this sense of respect for others, but I've never heard Pat say a derogatory word about anyone. He's almost 'boyish' about it," says Carlson.

Confidence, ability, humility, respect. Those according to those who know him best, are what makes Pat Sullivan a great quarterback. But how did he develop those qualities? How did he happen to choose the Blue of Auburn rather than Alabama's Red or Notre Dame's Gold? And what about the coming season? And the Heisman? Does Pat think he will win it?

The Pat Sullivan football story began many years ago, when Pat was in the sixth grade, and it began very inauspiciously—he quit.

His first coach, Brother Christopher ST., had put him at center, and Pat just didn't like playing center. Also, he happened to be younger than all the other boys out for the team.

A year later, and a year older, Pat came back. This time, Bro. Christopher, having noticed Pat's speed and ability to throw a ball during baseball season, decided to try Mr. and Mrs. Jerry Sullivan's son at quarterback. He's been there ever since.

"It was obvious from the start," recalls Bro. Christopher, director of the Magic City's Toy Bowl Program, "that Pat was an athlete of college calibre. He had the right mental attitude and success never went to his head. It was somewhat embarrassing at times. I'd be on the sidelines trying to figure out what should be done, but Pat had already figured it out himself. He was real smart."

Mr. and Mrs. Sullivan never forced their son to participate in sports. They only "encouraged him when he wanted to go out for the teams," and, in Pat's case, that meant a lot of encouragement. He loved almost every sport, football and baseball taking the upper hand, and he wanted to excel in whatever he did.

"We always congratulated him on his success," recalls his father, "but we always cautioned him that he, like everyone, was subject to a bad game. We just took him as he was and were thankful for all of the good things that came his way.

"It's still that way."

At age 12, Pat Sullivan, who "always liked Auburn," saw his first Tiger football game. The young athlete sold Cokes to get in the 1962 Auburn-Georgia Tech game, which Auburn won 17–14.

"That was a great game," Sullivan smiles. "I'll never forget Jimmy Burson (Auburn fullback) scoring on the first play from scrimmage. I almost stopped selling Cokes right then."

It was early in his senior year that Auburn and Sullivan had their first important contact. "Coach Lorendo had come to see John Carroll play," says Pat, smiling, "and I was walking off the field when this big man came up and said he was Coach Lorendo from Auburn and congratulated me on what he said was a fine game. I was flattered. That was the first time I knew Auburn knew who I was and was really interested in me."

Pat met his wife Jean shortly after graduation when John Carroll and Auburn teammate David Shelby got the two together on a blind date.

"I didn't really know who Pat was," laughs Jean. "I'd read a little about him in the paper. I knew he played football, but I didn't know how good he was. It wouldn't have made any difference anyway."

Pat and Jean were married in the summer of 1969 and Jean soon found that being married to a hero has its drawbacks as well as benefits. There's a tremendous demand for a hero's time, and Jean readily admits, "I don't always look forward to it, but when I go with him, I have a great time. I enjoy meeting different people like Pat does."

The shapely brunette especially enjoys one part of being a hero's wife. "Every boy should have a someone to look up to, and when that someone is your husband, you get a great thrill down deep inside just seeing those big admiring eyes gazing up at your husband."

"Those admiring eyes," as Jean calls them, place an added responsibility on Pat. "You have to think about those people looking up to you," observes Pat. "What's right for most people my age, may not be right for an athlete, especially when there are youngsters looking to you to set an example."

And so it is with Pat Sullivan, Auburn's quarterback par excellence. Because he doesn't wear a white hat, you wouldn't know he's a hero. To his classmates, Sullivan is just another student. To his neighbors, he is the fellow down the street who loves to grille hamburgers. To his brothers, Joe, 11, and Bill, 6, he's a big brother, not a hero, even though they both wear No. 7 Auburn jerseys. To baby daughter Kim, he's a father.

Sullivan is very much the unheroic type at home and in classroom, but on the football field it's a different story.

And it's not a bad story for a lad who once quit football, but came back out and may carry a Heisman Trophy home.

And what about the Heisman. Will you win it, Pat?

"I'm very honored to be considered for such an award, but winning the Southeastern Conference Championship is more important to me. That's our team's ultimate goal. If our team wins, everything else will take care of itself."

THE SUPREME COURT NOMINATIONS

Mr. TOWER. Mr. President, very soon, perhaps later this week, the Senate will proceed to consider the nominations of Mr. William Rehnquist and Mr. Lewis Powell to be Associate Justices of the Supreme Court. The Senate Judiciary Committee overwhelmingly approved Mr. Rehnquist by a vote of 12 to 4 at the same time as they approved the nomination of Mr. Powell. When the debate of these two nominations begins, I will make a detailed statement on the qualifications of both men, who I believe deserve the unqualified support of this body.

There have been raised, however, some questions about Mr. Rehnquist's capabilities and sensitivities, I might add almost entirely by innuendo, that I believe should not be allowed to go unrefuted. The Senator from Indiana (Mr. BAYH) has charged that William Rehnquist "approaches the great questions of human liberty in a way which reveals a dangerous hostility to the great principles of equal justice for all people and individual freedom under the Bill of Rights." In order to support this allegation, he cites three instances in which "Mr. Rehnquist plainly demonstrated a persistent unwillingness to allow law to be used to promote racial equality in America."

It has in no way been substantiated that Mr. Rehnquist shows hostility to the principles of equal justice. In order to demonstrate this, let me point out some of the facts connected with the three instances cited by Senator Bayh which the Senator failed to point out.

First, there was Mr. Rehnquist's opposition to the Phoenix, Ariz., public accommodations ordinance. There were many people in the Congress in 1964, and a presidential candidate who felt that such legislation was unworkable and unwise, that it would create more problems than it would solve. Mr. Rehnquist's position was shared by many throughout the Nation. The fact that he can support such a law after the legislative battle is over shows his devotion to the principle of the rule of law. He has stated that he now believes in this law and has no reservations about it.

The second incident Mr. Bayh cites is Mr. Rehnquist's opposition to two sections of the Model State Antidiscrimination Act in 1966 at the meeting of the Commissioners on Uniform State Laws. Mr. Bayh fails to mention, however, that the Arizona delegation voted to support the adoption of the final Model Act in spite of the fact that it still contained the provisions he had opposed. He also fails to mention that one of the provisions in the Model Act which Mr. Rehnquist did not oppose was a public accommodations provision, which demonstrates that Mr. Rehnquist had changed his mind about such legislation long before the recent confirmation hearings.

The third incident cited by Mr. Bayh is the letter to the editor concerning the Phoenix school system from which Mr. Bayh quotes a sentence stating that "we are no more dedicated to an 'integrated' society than to a 'segregated' society."

I wish Mr. Bayh had seen fit to quote the rest of the sentence which I believe is far more indicative of Bill Rehnquist's philosophy than is the first part of the sentence pulled out of context. The rest of the sentence reads:

> That we are instead dedicated to a free society, in which each man is equal before the law, but in which each man is accorded a maximum amount of freedom of choice in his individual activities.

I must say that does not sound to me like the words of a man with a "dangerous hostility to the great principles of equal justice." I note that the letter was written in 1967 in opposition to a plan which Mr. Rehnquist felt would endanger the neighborhood school concept, an issue which is being hotly debated today, 4 years after Mr. Rehnquist's letter was written.

I believe that this examination of the incidents cited by Mr. Bayh calls for a conclusion exactly opposite of Mr. Bayh's. Here is a man who has learned the value of law in protecting our rights. He is concerned that we continue to make orderly progress in these areas. Nothing has been introduced into the record, or could it be, to show that Mr. Rehnquist is not deeply concerned about the problems today.

I heartily endorse the nomination of Bill Rehnquist and urge my colleagues to vote to confirm him.

SUMNER, MO., WINS TOP COMMUNITY BETTERMENT HONOR

Mr. FULBRIGHT. Mr. President, the St. Louis Post Dispatch on November 12, 1971, carried an article entitled "Town Once Called Sleepy Was Aroused To Win Top Community Betterment Honor."

It is an interesting and encouraging account of what public-spirited citizens can accomplish by working together for their own improvement.

Sumner, Mo., the town in question, I am proud to say is my birthplace. Under the leadership of a dynamic and imaginative woman, Mrs. Roland Epperson, the people of Sumner have demonstrated once again that the strength of our Nation lies primarily in the spirit and energy of self-reliant people motivated by a desire to improve themselves and their community.

In spite of the many troubles which now afflict our Nation, with people like those in Sumner I am confident we will find solutions to our problems.

I ask unanimous consent to insert the article in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Town Once Called Sleepy Was Aroused To Win Top Community Betterment Honor

Sumner, Mo., November 11.—Several years ago, a newspaper in Jefferson City referred to "the sleepy little town of Sumner."

"That got us a little mad," said Mrs. Roland Epperson in giving her explanation on how the community of 178 persons got into total involvement to capture five Missouri Community Betterment (MCB) awards since 1964.

This year, Sumner hit the top. Of nearly 300 communities in the state active in the program administered by the Missouri Division of Commerce and Industrial Development, Sumner was the grand-prize winner.

Three times Sumner was cited in the National Cleanup Contest among cities of fewer than 25,000 residents. Mrs. Epperson, Sumner MCB chairman for four years, has received the governor's leadership award three times.

When Sumner first became involved in the state program in 1964, the town "had no place to go but up," said Walter DeWeese, a pensioner who was the first MCB chairman.

A year earlier the school was closed down and the children were bused to a consolidated district at Menden, about 10 miles to the southeast.

Sumner has no industry. Most of the men work in Brookfield, 18 miles northward, if they don't farm. The nearest major artery, U.S. Highway 36, bypasses the town about 15 miles to the north.

The only real attractions that have drawn travelers are the Swan Lake National Wildlife Refuge and the state-administered Fountain Grove Wildlife Area.

The waterfowl hunting season, preceded by Sumner's Wild Goose Fall Festival, is the busiest time of the year.

DeWeese said the town was faced with extinction when the school was closed and the old Methodist church was in advanced disrepair.

"Any community centers around its church and school," he said. "A good many country people come into town for church. Lose the country people, and we'd begin to fall apart."

Sumner's first MCB project was to build the $40,000 Methodist Church, which was paid off in less than two years.

Mrs. Epperson recalled that "we were surprised at the number of people who wanted a new church." The effort was a catalyst, and once the church was completed, she said, "we had to have a town clean enough to go with it."

The next phase of MCB involved trash and brush cleanup and the demolition of old buildings.

The demolition project continued each Sunday, "young and old alike pitched in and we used to make it a day with picnic lunches and everything" while the old buildings burned, she said.

"There wasn't much left to Sumner when we got finished," she said, " but we got most of the old buildings down."

An MCB project is always under way in Sumner. The board meets on the last Monday of every month, when new ideas are introduced.

One year the wintertime project was building elaborate bird houses for martins. Seventy were constructed, enough for virtually every residence in the area.

This year wooden silhouettes of the Canadian Goose are being cut. More than 175 have been ordered from throughout the county and the entranceway to almost every home in the town displays the residents' name on the black silhouette—a token of gratitude, in a way, to the bird that brings hundreds of hunters to the area each autumn.

Sumner is, by its own labeling, "The Wild Goose Capital of the World." This year, for example, 125,000 Canadian geese settled on the federal reserve, along with thousands of other geese and ducks.

"In Missouri Betterment we've been working on the tourist angle," said Mrs. Epperson. "Each year it was a case of looking only to the next fall. So in 1968, to try to change that, our MCB project was the Fulbright Museum."

Sumner's most illustrious native son, Senator J. W. Fulbright (Dem.), Arkansas, attended the dedication of the museum in 1968. Memorabilia from Sumner's past includes a dress his grandmother wore.

Tourists who happen onto Sumner on Sundays during the fall are treated to the delicious homemade products of The Pioneer Kitchen, another MCB project.

While women volunteers cook and serve a smorgasbord, including homemade breads and jellies, the men distribute tickets for seating, serve as ushers and even wash the dishes.

Both the museum and The Pioneer Kitchen were among the factors considered when state judges made their on-site inspection of Sumner. The museum figured prominently in the town's Missouri Sesquicentennial festivities last April.

The state citation applauded the town for "presenting the picture of total civic involvement, long-range plans and successful observance of Missouri's Sesquicentennial."

Proceeds from such MCB projects as the museum and kitchen go into community betterment—like the Sumner Community Park, on the western edge of town. Until two years ago, it was a corn field.

The grassy stretch now is broken by a concrete basketball court and a community center, which from the outside could be mistaken for a modern ranch-style house.

Inside the center, which includes tables and a huge brick fireplace for anyone's use, retired farmer Frank Kanamaker was repairing a broken window. "When something's gotta be done, everyone's gotta pitch in," he said.

Russell Smart, a retired grocer, rides around town in late afternoon hauling a wagon with his tractor and picking up trash and brush.

Mayor Ernest Bloss, 76, does not want to run for the office again in April "because my duties as street commissioner are getting to be too much."

When DeWeese was selected as chairman of MCB six years ago, he had retired as manager of a grain company that was sold to a co-operative.

"After that," he recalled, "there was very little to do. But before I knew it, they had me as chairman of MCB."

Although almost everyone in the community helps in the program, it is not always easy to get things done.

"The trouble in a small town is you know everyone and you're afraid of hurting people," Mrs. Epperson said.

"You got to make sure everybody gets credit. And if MCB is working on one end of town, we better not forget the other end."

WELCOME OREGON DELEGATION TO WHITE HOUSE CONFERENCE ON AGING

Mr. PACKWOOD. Mr. President, as the 1971 White House Conference on Aging begins, my mind turns to Oregon's 227,000 senior citizens, and millions of other senior citizens around the country, who have given so much of themselves to this great Nation, and who now ask so little of us today in return. Our senior citizens wish only what each of us wishes—good health, economic security, and the ability to contribute their talents, pursue their interests, and participate meaningfully in community life.

Today's senior citizens readily remember events of the past six or seven decades which have led to our highly mechanized, very urbanized and extremely productive society. A wave of immigrants settling down in various locales during the early 1900's led to a numerous variety of small enterprises and joint business ventures. Some of the newcomers joined other Americans already settled here in taking advantage of the remaining open frontier and our predominately agricultural society. Some of these newcomers also participated in new industries just beginning to utilize our plentiful natural resources. Through the initiative of all these Americans, we are credited with advances and inventions that have altered scientific and industrial development and the ways of the entire world. The automobile, the airplane, and mass production techniques can each be attributed to the accomplishments and hard work of today's older Americans. In a very real sense, the dedication and energies of our senior citizens brought our modern industrial society into being.

Today's citizens lived through some of the most difficult economic times this Nation has ever known—the depression years. As they grew older, however, they witnessed changes which, I think it would be fair to say, were at least tantamount to the economic disruptions experienced during the depression. For example, families found they could depend less on one another for financial means and also for compassion and love. The interdependence of relatives valued so greatly in rural communities and small towns began to disintegrate and disappear in the urban setting.

The impact of today's youth culture is certainly felt more acutely by our senior citizens than by other segments of society. Entering their golden years in a culture that cherishes the young and labels the aged as old fashioned, they often lack—or, equally important, feel that they lack—the status once enjoyed by their predecessors.

Senior citizens notice still another difficult change. They are now living in an era of technological revolution which renders skills learned over a lifetime obsolete. As a result, millions of active and able persons find themselves out of work long before they desire to retire. The burden here is first felt when financial resources begin to dwindle. But the lack of means to use ones skills leads to many new problems, and compounds others.

Elderly people have usually identified their greatest problem as the absence of an adequate income to live independently and with dignity. Before the depression, a large number of elderly were dependent on others fully, or in part, for their livelihood, an accurate reflection of this Nation's views of family responsibility. When the depression hit during the early 1930's, elderly people were hit doubly. Widespread unemployment gave older persons little hope of finding jobs, and fewer opportunities to initiate ways to overcome their impoverishment. At the same time, however, the hard-put younger families could not render the help they had been giving in the past. The elderly could not turn to the relatively weak assistance programs developed in earlier years by State governments, private industry, or private charities, for these, too, could no longer meet the growing demands for emergency financial assistance.

The burden on the elderly had to be eased. Beginning in 1932, the Federal Government first made loans, followed by grants to States so direct financial relief could be made available to needy persons. Later special Federal emergency relief and public works programs were started. By 1935, Congress had under consideration long-range economic security legislation which eventually led to the enactment of the Social Security Act. This legislation had two social insurance programs on a national scale. One was a system for providing social security cash benefits to retired workers who had been employed in industry and commerce. This program, now known as the old-age, survivors, disability, and insurance program—OASDI—has since been expanded to cover nine of every 10 workers in this country.

After its initiation the financial stress felt by many older people was at least partially alleviated, but the program still needs to be continually reexamined and strengthened.

We have come a long way from the dark days of the 1930's but we must now meet the needs of the 1970's. For example, economic security for our senior citizens has continually been threatened by periods of inflation which virtually eat up their scarce resources and savings. As a result, the income level of many elderly people, even with social security, has been too low to sustain a standard of living free from the threat of poverty. Inflation affects all of us, but those who are on fixed incomes based on past wages instead of economic fluctuations are particularly vulnerable. I have long supported automatic increases in benefits as the annual cost of living rises. This would give elderly people greater assurance in their struggle to cope with inflation. Periodic increases in monthly social security benefits to keep pace with rising prices should be high on our priority list.

Liberalizing the retirement earnings test to increase the ceiling on the amount a recipient may earn before losing benefits would also provide better financial latitude for the elderly who wish to work. At this time, the law allows persons between the ages of 65 and 72 to earn $1,680 a year in gainful employment. Those who earn more than this amount, receive reduced social security benefits.

Older women are sometimes considered the poorest of the poor, yet the widow does not receive as much in benefits as her husband alone did when he was alive. A widow's independence would be significantly enhanced if she were allowed to receive all of her husband's benefits instead of the 82½ percent now in the law.

These and other changes are included in H.R. 1, the Social Security Amendments of 1971, which has passed the House and is pending before the Senate. Sadly, this legislation has been stalled here in the Senate, much to the dismay of many concerned citizens. These social security amendments have been held hostage for the welfare reform also contained in H.R. 1. In an effort to circumvent that roadblock, I have cosponsored S. 2512 with my colleague, Senator GURNEY, of Florida. S. 2512 contains the social security provisions of H.R. 1, and I am sincerely hopeful that it can be considered by the Senate at the earliest possible time.

When we study the economic facts and social forces in our society, it follows that we in Congress have the responsibility to maintain and update our income maintenance systems. We must not allow individuals who have worked hard through their years to live at an unacceptable standard of living. In the area of economic security, let me also cite another vitally important area which Congress must examine at the earliest possible date. I refer here to the need for an upgraded and strengthened system of retirement pensions. Too often we have seen pension rights lost as retirement draws near. Too often we have seen the rug pulled out from under senior workers just as their need for retirement security approaches. We in Congress have an important role to play in making sure that pension plans in business, labor, and industry are carefully protected from mishandling and abuse. We also owe it to our retirees to insure that funds which have been deposited for their retirement years are available to them at retirement. I am gratified that the Senate Labor Committee, on which I serve has already begun hearings on comprehensive pension legislation, and it is my sincere hope that we move forcefully in this area.

Along with income maintenance concerns, today's elderly find health care problems most severe. They are in more need of medical care than any other age group, yet are least able to pay burgeoning health care costs. Expensive illnesses can exhaust the savings of those whose income is minimal and fixed. Even senior citizens of considerable financial means can witness the depletion of their economic resources due to a prolonged illness. Most older Americans only hope they will not be left poor when stricken with chronic ailments. It seems as though ill health and poverty pursue one another in a never-ending cycle.

Although medicare goes a long way in providing financial assistance to older persons, it does not meet their total needs. Last year it covered less than half of the total personal medical expenditures of the aged. Furthermore, with the cost of medical care continuing to skyrocket, the proportional expense to the elderly is ever increasing. Again we find this group of Americans most vulnerable to a problem we are all facing, but also least able to deal effectively with it. A variety of factors, not the least of which is the rapid but expensive advance of bioscience and technology, has led us into this quandary, and somehow we must find a way out. All Americans are entitled to quality health care, but quality care at prices all can afford. I am optimistic that we are now working toward a more efficient use of our medical resources, with the dual objectives of availability of care and lower cost. Our senior citizens have a keen interest in seeing us succeed, and deserve our maximum efforts in this direction.

One of the potentially most effective means of cost control is too frequently overlooked. It is preventive health. It speaks not only to the utilization of physicians, hospitals, equipment and drugs, but also to the overall physical and mental well-being of the individual. For example, sound nutrition has long been known to be a key element in maintaining good health. Yet many senior citizens lack the resources, know-how, transportation or possibly motivation to prepare sound meals, and consequently are malnourished or undernourished, paving the way for illness and disease. As of now, however, most communities lack the means to provide nutritional foods to those who, for one reason or another, are unable to prepare their own. Again, I am optimistic that Congress has recognized this need and has moved to remedy it. I am gratified that the Senate has, for example, just approved legislation to finance nutrition programs for the elderly. This will give new initiative to States and localities to assist in assuring good nutrition for our senior citizens.

Another important element in keeping overall costs down is through ancillary services which may mean the difference between a senior citizen being hospitalized—at a huge cost—and being assisted at home—at minimal cost. The latter alternative also offers immense psychological benefits, by permitting senior citizens to stay in friendly and familiar surroundings, with the emphasis on what they can do for themselves. The need for various types of home services and home health care is self-evident here.

Related to this is the need for more nursing homes offering quality care. The severe shortage of competent licensed nursing homes has resulted in dual problems. Some needing nursing home care are forced, as a result of the shortage, into expensive and unneeded hospitalization. Others, equally needy, get no care at all.

We in Congress have an obligation to all Americans to examine our total health care delivery system, see where it might be strengthened, see how financing mechanisms can be improved. We also have the responsibility for assuring that quality services will be delivered in an efficient and economical manner. As a member of the Health Subcommittee, I have been very interested to learn more about the potential of health-maintenance organizations, organizations which provide comprehensive medical services to subscribers on a fixed fee paid in advance. This type of delivery system has a potential for holding down costs and at the same time providing incentives for subscribers and doctors alike to practice preventive medicine and catch illness in its early stages. It is essential that we continue studying various approaches that best offer comprehensive but efficient coverage.

Congress has already passed and sent to the President comprehensive health manpower legislation. As we have seen since the passage of medicare, an increase in demand for medical services without a simultaneous increase in supply leads directly to spiraling costs, not to mention the psychological damage inflicted by promises not kept.

Problems with medicare aside, I think we are just beginning to concentrate on the psychological and social needs of our senior citizens. Like people of all ages, the older person desires satisfying relationships with members of his family, the option to retain and make friends, and the opportunity to develop a productive and worthwhile role in his community. These simple factors often make the difference between a life of satisfaction and one of despair. Too often, however, one or all of these elements are lacking for the senior citizen.

Oregon's statewide aging program under the 1965 Older American Act has provided a sound and flexible framework for the establishment of a series of local projects designed to meet these needs. It is funded partially by Federal dollars. Oregon's projects show, I believe, the range of services which are needed by our senior citizens, and the way these services can be provided at the local level. Because our aging program has been such a successful one, I ask unanimous consent to include in the RECORD at the end of my remarks a listing of Oregon's projects. This is just a start, but it shows what can be done if we just apply the effort and dedicate the necessary resources.

During the past decade with the help of service projects like these, more alternatives for senior citizens have been developing. Places where people can participate in activities of their choice and at the same time be part of social interaction are slowly being established. They are often known as senior citizens community centers, golden age clubs, or retirement clubs. They are often limited, however, in that the activities available in most appeal to only certain groups. Those interested in handicrafts, book clubs, discussion groups, and dances are well served. But a large percentage of elderly people require additional activities. Centers offering comprehensive services such as meal programs, employment, recreation, education classes, and information referral services would help to meet the needs of more senior citizens.

Part-time work or volunteer activities should also be encouraged. Most communities in this country are in great need of social services and the many and varied talents of our senior citizens should not be bypassed or ignored. I am proud to say that in Oregon alone during 1970 we had 3,040 senior volunteers, whose contributions in terms of time, effort, and dedication are simply immeasurable.

The elderly have already demonstrated their capacity to work with children in day-care centers, hospitals, and schools. Senior citizens are the perfect answer to the need for "night care" for children, or child care at unusual hours for working parents. They could also excel in other jobs such as managing special projects in retirement housing, or administering and supervising senior center programs, assisting in social welfare agencies, or in numerous other places crying for qualified help. We are not making best use of our valuable human resources when we do not enable older persons to contribute their skills and energies.

As we examine the needs of our elderly we cannot overlook the basics which make other activities possible, such as convenient transportation. Since a large number of people over 65 either do not drive automobiles or prefer not using them, they are forced to rely on friends or relatives for mobility. Public transportation is generally inadequate, but even when available it is often expensive or not in walking distance for aged individuals. And taxicabs are too costly for most of our senior citizens.

As a result, too many of our aged are forced to stay in their own homes, bringing isolation from friends, social activities and social services. In order to meet the unique needs of the elderly, many cities are offering reduced bus fares. Others have established volunteer services to drive senior citizens. These instances, however, are atypical, and point up why much more remains to be done in meeting the transportation needs of our elderly.

It has also become clear that older people should have informational and, where necessary, legal services accessible at all times. Keeping pace with the complicated and changing regulations of Government programs such as social security, civil service retirement, medicare, the old-age assistance program or the food stamp program can be an extremely difficult task. Frequently, many persons eligible for these benefits go without merely because they do not have the proper information or counsel. With the aid of social workers or those trained in legal matters, elderly people could cut through the redtape that often keeps them from benefits which are rightfully theirs. Legal information and counsel would also help in protecting elderly people from theft and fraud, again a particular problem because of their vulnerability. Some jurisdictions have established information centers, retirement planning courses, health-care classes, and home-help programs. This is a trend we should definitely encourage.

The few problems and services which I have mentioned are just highlights of our needs and efforts. Some are unique to this age group but it should be remembered that the elderly share in common the simple desires of all people. They wish to enjoy good health and economic security and play meaningful roles in their community. We as a nation have the responsibility of helping our senior citizens achieve these ends.

May I take this opportunity to welcome Oregon's delegation and delegates from all over the United States to Washington and the White House Conference on Aging. I am eager to discuss the questions raised today, and a host of others, and am looking forward to the breakfast meeting I have scheduled with Oregon's distinguished delegation tomorrow morning. If Congress is to be fully responsive to the needs and desires of our senior citizens, we must maintain a continuing dialog. It is with great interest and anticipation that I await the articulation of problems, and recommendations for solutions which I have confidence will emanate from this historic Conference.

I ask unanimous consent that a table entitled "Title III Project Profiles" be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TITLE III PROJECT PROFILES

ALBANY SENIOR CENTER

Grantee—City of Albany.

Project Period—7-1-69 to 6-30-72.

Goals: Establish senior center for leisure time activities; information and referral services; provide community service opportunities.

Goal attainment: Center established; leisure time activities available and well organized; other services minimal but program expansion anticipated under new coordinator.

Federal share (2nd year)	$4,800
Local support (in-kind)	1,150
Local support (cash) ($750 donations, $1,300 city)	2,050
Total budget	8,000

HELP ELDERLY LOCATE POSITIONS, EUGENE

Grantee—Emerald Empire Council on Aging.

Project Period—7-1-68 to 6-30-71.

Goals: Locate full- or part-time, temporary or permanent employment for those over 55 in Lane County by developing job opportunities and matching them with applicants. Volunteer opportunities to serve project. Service is free.

Goal attainment: Publicity excellent; approximately 450 placements to date; recently gained support of Chamber of Commerce to assist in finding job opportunities and to work toward total community funding.

Federal share (3rd year)	$4,000
Local support (in-kind)	4,000
Total budget	8,000

VOLUNTEER PLACEMENT SERVICE AND INFORMATION PROJECT, EUGENE

Grantee—Lane County Volunteers Service Council, Inc.

Project Period—10-1-67 to 9-30-71.

Goals: Resource for agencies needing volunteers; screen, train volunteers over 55; hold seminars to train users of volunteers; develop services for older Americans through existing agencies (Friendly Visitors, Transportation, etc).

Goal attainment: In the first three years the project has become extremely effective and performed its proposed function well; over 4,000 persons have served as volunteers or have been served directly by the project.

Federal share (3rd year*)	$7,150
Local support (in-kind)	7,150
Total budget	14,300

* Presently operating on 4th year with $900 federal funds unearned in 3rd year and equal local matching money.

EAST MULTNOMAH COUNTY MULTI-PURPOSE CENTER, GRESHAM

Grantee—East Multnomah County Council on Aging.

Project Period—7-1-68 to 6-30-71.

Goals: To develop a drop-in center for seniors with space for leisure time activities, information and referral.

Goal attainment: Much larger quarters were needed and acquired in the second year. Over 1,400 seniors are members and many others use the center for leisure time activities, preventive clinics (flu shots, glaucoma, hearing, etc.); space is furnished for food stamp distribution which acquaints many poor with the services of the center. Use of referral and counseling services are increasing.

Federal share (3rd year)	$8,000
Local support (in-kind)	8,000
Total budget	16,000

KLAMATH BASIN SENIOR CITIZENS COUNCIL, KLAMATH FALLS

Grantee—(same).

Project Period—7-1-69 to 6-30-72.

Goals: To establish a central office staffed with a coordinator to direct the activities of the area's senior organizations and with the aid of a strong board and committee to work to assist the elderly in the areas of legal aid, housing health, employment and recreation.

Goal attainment: The council was instrumental in establishing a county housing authority which is planning low income housing for the seniors; influenced the local Bar Association to institute a Legal Aid society. Travel recreation is much enjoyed by many.

Federal share (2nd year)	$6,720
Local support (in-kind)	2,600
Local support (cash donations)	1,880
Total budget	11,200

SENIOR CITIZENS COUNCIL—BAKER UNION AND WALLOWA COUNTIES—LA GRANDE

Grantee—(same).

Project Period—10-1-70 to 9-30-71.

Goals: To strengthen the three county Senior Council by making it possible for the Council members to attend meetings to study the needs of the elderly and to make plans to meet the needs.

Goal attainment: A new project. This funding follows a three-year grant to Eastern Oregon Community Development Council out of which came the above Council. It is a large, sparsely populated area with a large percentage of poor and near poor. Without the transportation assistance the Council's continuing would have experienced great difficulty.

Federal share	$2,130
Local support (cash donations)	710
Total budget	2,840

LEBANON SENIOR CITIZENS HELPING HANDS CENTER, LEBANON

Grantee—Senior Citizens Center.

Project Period—10-1-70 to 9-30-73.

Goals: To increase the activity of an established center, employ a coordinator and to increase recreational activities, develop referral service, car pools, transportation, visitation and telephone reassurance.

Goal attainment: new poject.

Federal share	$6,492
Local support (in-kind)	2,164
Total budget	8,656

MOSIER ELDERS SELF-HELP PROGRAM, MOSIER

Grantee—Elders of Mosier Valley.

Project Period—7-1-67 to 6-30-71.

Goals: To provide a bus and its maintenance to make necessary transportation available to a rural area. Regular and emergency trips are made.

Goal attainment: The project has performed an excellent service, been economically operated. The fourth year is operating on savings made in the third year.

Federal share (no new funds)	$2,776.84
Local support (in-kind)	1,776.84
Local support (cash) (donations and fund fraising)	1,000.00
Total budget	5,553.68

MOUNT ANGEL SENIOR CENTER, MOUNT ANGEL

Grantee—Mt. Angel Parks and Recreation Department.

Project Period—7-1-69 to 6-30-72.

Goals: To supply the need for an activity center for seniors. Leisure time activities, health and nutrition assistance, information and referral, visitation and emergency services are major objectives.

Goal atainment: Most of objectives are carried out in some measure, emphasis is on leisure time activities. Project Director, a City Commissioner, is well known and fills many needs on an emergency basis.

Federal share	$3,600
Local support (in-kind)	1,500
Local support (cash) (Oktoberfest, Inc.)	900
Total budget	6,000

COMMUNITY SELF-HELP PROGRAM WITH OLDER CITIZENS, NEWPORT

Grantee—Lincoln County Council on Aging.

Project Period—10-1-69 to 9-30-72.

Goals: After an area needs study a transportation project was deemed the greatest need.

Goal attainment: A passenger bus is operating carrying an average of 9 elderly passengers a day. A need is being well filled. Good support from the county from the beginning assures continuation. A second bus is now planned.

Federal share (2nd year)	$3,200
Local support (in-kind) (county)	533
Local support (cash) (county)	1,600
Total budget	5,333

ONTARIO MULTI-PURPOSE CENTER, ONTARIO

Grantee—(same).

Project Period—7-1-68 to 6-30-71.

Goals: To provide a rest spot and social center for the area seniors and to involve seniors in community activities.

Goal attainment: The project has accomplished its major goal. Seniors are also participating in other community activities such as Gray Ladies, assisting Red Cross blood bank and others. A part-time director is working towards additional involvement.

Federal share (3rd year)	$4,500
Local support (in-kind)	4,500
Total budget	9,000

INFORMATION, REFERRAL AND SHORT-TERM COUNSELING SERVICE, PORTLAND

Grantee—City-County Council on Aging.

Project Period—1-1-68 to 12-31-70.

Goals: To establish a centrally located facility, readily accessible to the elderly to make available information, referral and counseling service.

Goal attainment: The center is well established and well used. Community awareness has been achieved.

Federal share (3rd year)	$25,000
Local support (in-kind)	5,261
Local support (cash) (half-city, half-county)	19,739
Total budget	50,000

PROTECTIVE SERVICES PROJECT, PORTLAND

Grantee—Tri-County Community Council.

Project Period—10-1-70 to 9-30-73.

Goals: To collaborate the efforts of existing agencies to increase those services comprising protective services.

Goal attainment: New project.

Federal share	$19,400
Local support (in-kind)	6,470
Total budget	25,870

TOTAL CARE OF THE AGING, PORTLAND

Grantee—City of Portland (Delegate agency City County Council on Aging).

Project Period—7-1-69 to 9-30-72.

Goals: A planning project to bring together the elderly in the Portland Model Cities area for assessing their needs and developing services to fulfill those needs.

Goal attainment: After an unavoidable late start the project made good progress in the planning phase in the past eight months.

Federal share (2nd year)	$16,509
Local share (cash) (model cities)	11,349
Total budget	27,858

DENTAL HEALTH OF OREGON'S AGING PEOPLE, PORTLAND

Grantee—University of Oregon Dental School.

Project Period—7-1-67 to 6-30-71.

Goals: Project is based on the need for specific information on the dental health status, the dental needs and the dental health desires of the aging people in Oregon.

Goal attainment: Using supervised dental students and institutionalized patients; much of value has been learned about dental health problems of the elderly, i.e., the need for dental care to the mouths of patients approaches 90%. The need for further information and service was sufficiently apparent to fund a fourth year.

Federal share (4th year)	$3,300
Local support (cash and in-kind)	3,300
Total budget	6,600

NORTHWEST PILOT PROGRAM, PORTLAND

Grantee—Friendly House, Inc.

Project Period—10-1-69 to 9-30-72.

Goals: To provide in an area of Portland having a high concentration of those 65 or older:

1. Trained volunteers as home aides.
2. Trained volunteers for nursing homes.
3. Employable elderly as aides.
4. Trained volunteers for other agencies.
5. Establish a pattern of volunteer services as a model for other communities.
6. Make the elderly aware of services to which they are entitled.
7. Help the elderly find purpose and usefulness.
8. Make visible the needs of the elderly.

Goals attainment: Through excellent publicity, agency support and support from several churches the goals have been reached and actually surpassed as far as numbers of volunteers trained and used is concerned. A model project that will produce very useful material for others in the volunteer field.

Federal share (2nd year)	$10,000
Local share (in-kind)	2,100
Local share (cash) (UGN, Foundations and churches)	11,575
Total budget	23,675

A STUDY OF THE WILLINGNESS OF ELDERLY PEOPLE TO LIVE WITH EACH OTHER

Grantee—Portland State University, School of Social Work.

Project Period—7-1-70 to 6-30-71.

Goals: To learn the feasibility of the project title and its impact on future housing developments. To examine loneliness and independence indepth.

Goals attainment: new project.

Federal share	$7,810
Local support (in-kind)	7,604
Total budget	10,414

ORGANIZATION AND DEVELOPMENT OF SENIOR CITIZENS AND PLANNED PROJECTS, ROSEBURG

Grantee—Senior Citizens, Inc.

Project Period—7-1-69 to 6-30-72.

Goals: To study needs and ultimately establish a senior center.

Goals attainment: A center is established and city government has recognized the need to assist financially. Activities other than recreation have not yet been well developed; the second year should increase other activities and services.

Federal share	$5,400
Local support (in-kind) (city pays rent)	1,200
Local support (cash) (donations)	2,400
Total budget	9,000

FAIRVIEW HOSPITAL AND TRAINING CENTER, SALEM

Grantee—(same)—Foster Grandparent Program.

Project Period—7-1-70 to 6-30-71.

Goal: To complete the filming and production of a 30-minute documentary of the Foster Grandparent Program at Fairview Hospital and Training Center.

Goal attainment: Not yet finished but a five-minute pilot film won a National Award for Newsweek Magazine.

Federal Share	$5,000
Local support (in-kind)	1,667
Total budget	6,667

OREGON STATE COUNCIL FOR SENIOR CITIZENS, SALEM

Grantee—(same).

Project Period—7-1-70 to 6-30-72.

Goal: To furnish part-time staffing assistance for the Oregon State Council for Senior Citizens along with travel and supply funds to assist the State Council to better serve the elderly and to develop their visibility and ability to speak for the state's older citizens.

Goal attainment: A part-time secretary is employed and better communications with the statewide membership is resulting.

Federal share	$4,635
Local support (in-kind)	1,545
Total budget	6,180

SALEM AREA SENIOR CENTER

Grantee—Salem Public Schools.

Project Period—7-1-69 to 6-30-72.

Goal: To develop a center for leisure time activities and to provide counseling and referral, emergency transportation, newsletter, friendly visiting, etc.

Goal attainment: An adequate center has been established. Attempts to provide services other than recreation are growing. A full-time Director has now been employed and she is expanding other services and developing new service projects.

Federal share (2nd year)	$8,000
Local support (in-kind)	5,334
Total budget	13,334

YAMHILL COUNTY COUNCIL ON AGING, SHERIDAN

Grantee—(same).

Project Period—7-1-68 to 6-30-71.

Goals: To survey the needs of the elderly of the county, develop programs, increase the public knowledge of the needs and usefulness of the older citizens.

Goal attainment: Activities have been developed in four communities including drop-in centers in two and arts and crafts activities in one. The Council was instrumental in developing county and city housing authorities. Several low income housing projects are completed or in progress. The best telephone reassurance effort in the state is in Sheridan. Newspaper coverage of aging needs and programs in these small towns is excellent.

Federal share (3rd year)	$7,500
Local support (in-kind)	7,500
Total budget	15,000

SENIOR CITIZENS TRANSPORTATION, INC., THE DALLES

Grantee—(same).

Project Period—7-1-68 to 6-30-71.

Goals: To establish a small bus transportation facility for The Dalles and Wasco County.

Goal attainment: Political conservatism has hampered the program within the city of The Dalles but service has been extended to Sherman County. A needed and valuable service is being performed in spite of the local difficulties.

Federal share (3rd year)	$6,000
Local support (in-kind)	6,000
Total budget	12,000

FAA: SECRECY VERSUS SAFETY

Mr. **HARTKE**. Mr. President, a democratic society depends upon a free discussion of ideas and opinions for its existence. It is, therefore, cause for profound concern when we learn of an example of the suppression of free dialog.

In a statement several weeks ago, I cited one such instance in which the Federal Aviation Agency has refused to release to the public a report which was prepared by a top level group of its own employees at the direction of the FAA. This report covered a significant number of areas pertaining to aviation safety and the role of the FAA in promoting safety. It was highly critical of the Agency and, for that reason, it has been suppressed.

History has taught us that those who hinder the free expression of ideas are those who stand to lose the most from the objective judgment of the public. Apparently, the FAA is afraid to subject itself to the judgment of the people. It has circulated other "internal" documents which were not as critical as this one. Quite apart from the merits of the report, the FAA deserves to be condemned for its policy of secrecy on an issue as important as aviation safety.

Recently, I had the opportunity to question Secretary Volpe on this matter. My concern was based on the belief that the Department of Transportation has not been performing its duties properly. The failure of the FAA to respond with decisiveness and alacrity in meeting contemporary aviation problems is one example of DOT's deficiencies.

Mr. President, a portion of the exchange between Secretary Volpe and myself reads as follows:

Senator HARTKE. . . . the Ryther Report recommendations were made to you in your own Department, were they not, prior to the Wichita crash?

Secretary VOLPE. The Ryther recommendations were a report of one individual, sir. That was not concurred in by the Administrator of the FAA.

Senator HARTKE. And he subsequently was for whatever reason pushed out of government, isn't that true?

Secretary VOLPE. I don't know what you would call it, Mr. Chairman. All I know he is no longer working for us.

Senator HARTKE. Although if his recommendations had been followed, you couldn't have had the situation on the Wichita charter airline crash.

Secretary VOLPE. I couldn't agree that that is entirely correct, Mr. Chairman. It might be partially correct.

The Secretary's final words during that exchange are profoundly important. "It might be partially correct," he said. How are we to know? How is the public to know whether the 32 lives lost in the Wichita State crash could have been saved had the recommendations of the Ryther report been followed? How is the public to know whether any of the more than 2,000 lives which have been lost in the 20 months since the Ryther report was completed might have been saved if the recommendations of that report had been implemented? The public cannot know because the public does not have access to the Ryther report.

Mr. President, a recent article appearing in the Daily Star in Niles, Mich., gives an excellent survey of the background surrounding the Ryther report. It is a story of a bureaucracy's fight to preserve its own public image of the expense of a man's job, the agency's integrity, and the public safety. I ask unanimous consent that the text of that article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Daily Star (Niles, Mich.)
Nov. 5, 1971]

FAA MAN'S WARNING COST HIM HIS JOB

(By Ed Zuckerman)

WASHINGTON.—When Phillip Ryther wrote a report last year for the Federal Aviation Agency (FAA), he knew his conclusions would serve as a prophetic warning. What he didn't know was that it would eventually cost his job.

If a few of his recommendations had been implemented, he claimed, last year's airplane crashes which snuffed out 106 lives and two college football teams—Wichita State University and Marshall University—wouldn't have happened.

Months before those crashes, Ryther was already breaking the rules of bureaucratic gamesmanship in a fruitless effort to unlock the shackles of secrecy which bound his report. Losing his $32,000 a year job as an FAA evaluations expert in the process, he has since learned that the task of reform can best be guided from a position outside the establishment.

Ryther's complaints against the FAA, where he spent a dozen of his 26 years in the civil service, first emerged last July in a letter to President Nixon. He revealed the existence of his report and he urged the replacement of "seven men in the FAA and the Department of Transportation where the key aviation safety responsibility is vested."

When Ryther enlisted the aid last month of Sen. Vance Hartke, D-Ind., his campaign broadened. Hartke, the chairman of the Senate Subcommittee on Surface Transportation succeeded in obtaining a copy of the secret report under federal Freedom of Information statutes.

In what promises to become the biggest embarrassment yet to President Nixon and the FAA, Ryther has co-authored a book entitled "The Politics of Airline Disasters" which will soon be published.

Ryther's internal probe of the FAA discloses several generally unknown aspects of the aviation industry and its regulatory agency.

Of major importance, it reveals that charter flight operators, the kind hired to transport the ill-fated football teams, are not subject to the same stringent rules which govern commercial airlines.

It further discloses that some regulations are so loosely defined that interpretations may vary from one regional FAA administrator to another.

"Suppose a plane operator wanted to modify his airplane to carry more passengers and his plans were turned down by one regional administrator. He could relocate his plane in another part of the country and possibly get his plans approved in that region," Ryther told The Daily Star's Washington bureau during an interview at his home in McLean, Va.

His recommendations followed a basic formula of equalization: charter operators should obey the same requirements as commercial airlines, regulations should be tightly drawn to escape interpretation.

The FAA, commenting on Ryther's recommendations after the report was finally released, said it was proposing tighter rules for charter operators despite its contention that "if existing regulations had been complied with, none of the illegal charters such as the one involving the Wichita State football team would have occurred."

The agency said it has been plagued with illegal operators "who seek to evade or avoid the more stringent requirements . . . these people use devious schemes and subterfuges such as dummy corporations and phony leases which makes it extremely difficult to prove who was the legal operator and if the flight was operated for hire."

The proposed rule-making, which the agency described in its comments as an "affirmative action," was withdrawn Oct. 27.

Reconstructing the conditions that shadowed the two football excursions, Ryther emphasized that not a single FAA rule was violated by the charter operators.

With 31 passengers including many members of the Wichita team, a charter plane crashed in a Colorado canyon in October, 1970. Six weeks later, 75 passengers including most of the Marshall team perished when their plane slammed into a mountainside while approaching the municipal airport at Huntington, W. Va.

A mechanic was piloting the Wichita team plane and the charter company's vice president was the co-pilot. Ryther said the mechanic was told by his boss to fly into the canyon for sightseeing.

"If a genuinely capable pilot were in charge, he would've risked his job rather than going into the canyon. He would've known the plane was incapable of climbing 11,000 feet with a heavy load. They were beyond the point of no return when they realized they couldn't get out and they were banking into a sharp turn when they swiped the side of the mountain," Ryther said.

The Marshall flight pilot was qualified, he continued, but he had never before landed at Huntington. If it was a regularly scheduled flight, he wouldn't have been permitted to land in the first place because he hadn't landed at that particular field during the previous year—a rule which does not pertain to charters.

"It was an airport located on the top of a mountain, a rainy night, a full load of equipment, an unfamiliar pilot and only part of the FAA ground control equipment was operating. He undershot the field by a half mile and hit the side of the mountain . . . and he didn't commit a damn violation," Ryther said.

The Ryther report lists 30 recommendations on its 29 pages which has "For Official Use Only" boldly stamped on the top and bottom of every page. It is the result of 210 interviews with groups representing every segment of the air industry—pilots, mechanics, traffic controllers, federal inspectors, manufacturers, charter operators and airline executives.

The examination was conducted in accordance with a "carte blanche" assignment by former FAA deputy administrator David Thomas to determine how the agency was fulfilling its role as the airway's guardian of safety.

When the report was delivered on March 30, 1970, Thomas, a Johnson administration holdover, had been replaced by Kenneth Smith, a vice president and general manager of Aero Commander, Inc., an Oklahoma firm that manufactures small airplanes.

When FAA assistant administrator Archie League refused for six weeks to relay the report to Smith, Ryther sought an interview with the new deputy administrator.

"That was very bad form," Ryther explained "But 35 to 40 people were being killed each week because of the very things we were talking about. I figured 200 dead people were more important than good form."

When Smith declined to meet with him, Ryther then sought, without success, to discuss the report with FAA administrator John Shaffer. A few days later Smith summoned his subordinate to his office.

"All the FAA safety men were there and we spent 14 hours in what I would call a court martial proceeding," Ryther recounted. "They didn't deal with the report . . . but they did tear me all to hell."

In subsequent weeks, the evaluation expert came under increasing pressure from his superiors. He was assigned to make an eight-week inspection tour of remote FAA outposts and then was transferred to a new job which he said "was created for me." Later, when he shrugged off a suggestion that he consider retirement, his superior produced a letter from his briefcase outlining 11 charges against him as reasons for his dismissal. When he agreed to retire last December, the charges were withdrawn, he said.

The events leading to his retirement fit a well-known pattern. He was well versed in bureaucratic tradition and said his actions were done "very deliberately."

In retirement, he was now preparing to undertake a new role—that of a full-time gadfly looking for a good place to sting the vulnerable agency.

He thought he had his prey in his sights last March when he was invited to be the lead-off witness at hearings before the Senate Subcommittee on Aviation. He said he was requested by the panel's professional staff members to suggest other witnesses and to write down questions for its chairman, Sen. Howard Cannon, D-Nev., to pose.

"But I was never called," he said. "I later learned that the FAA met in executive session with the subcommittee and it was decided not to let me bring my charges into the open. The subcommittee will not print a report on those meetings."

In July, he decided to bring the matter to Nixon's attention. He delivered his letter to the White House and sent copies to several newspapers and 10 carefully selected senators. Of the senators, only Hartke took an interest. The Indiana Democrat is keenly aware of safety problems and refuses to fly on the same plane with his wife, Martha.

In mid-October, Hartke sent a letter to Cannon urging a full-scale investigation of the FAA.

"For almost two years, the FAA has known that its procedures for determining pilot competency and for regulating aircraft safety are totally inadequate," Hartke charged. "The tombstones of those (Wichita and Marshall) students stand as mute testimony to government irresponsibility."

Ryther claimed the FAA administrator could invoke new safety standards "in five minutes with the stroke of a pen by exercising his emergency powers" and he wonders why he has resisted doing so.

"Putting aside safety and the fatalities and addressing this to a political standpoint, what kind of a man would permit this to fester and smoulder . . . it is beyond me how this can enhance the confidence of the American people at how their affairs are run.

"I'm bewildered by it. I can't understand why the palace guard around Nixon doesn't flush this subject to the top of the table in the interests of the public and the administration . . . why they've concluded a proper purpose is to keep this covered up when its ventilation would better serve their interests in the long run," he said.

TRIBUTE TO JOHN FIFE SYMINGTON, JR.

Mr. BEALL. Mr. President, a most distinguished Marylander is returning to our shores after having spent 2 years as Ambassador to Trinidad and Tobago.

Mr. John Fife Symington has been a friend and counselor to many of us in our State for a number of years and we have learned to respect and admire his energy, judgment, and ability.

I feel that the most meaningful tributes that can come to a person are those received from the people among whom he serves. I ask unanimous consent to have printed in the RECORD editorials from the Trinidad Guardian and the Express complimenting the Ambassador on his fine work as the representative of our country.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Trinidad Guardian, Nov. 11, 1971]

OUR BEST WISHES

After serving for two years as United States Ambassador, Mr. John Symington leaves Trinidad and Tobago next week to return to his country.

Mr. Symington has our best wishes in whatever his plans may be because we are certain he can look back on his stay here with pleasure and some measure of satisfaction.

Mr. Symington has won many friends in our country and is regarded by many as being the ideal diplomat, having involved himself and his country closely in several directions, while, at the same time, succeeding in not getting involved in embarrassing situations.

We appreciate it is a very difficult task to achieve this, so we admire Mr. Symington for avoiding the various pitfalls sometimes awaiting those engaged in the delicate task of diplomacy.

On the other hand, Mr. Symington must have come to regard his two years in Trinidad as an education in itself, which should stand him in good stead in the years ahead.

We say "Farewell."

[From the Express (Trinidad), Nov. 10, 1971]

HALLMARK OF A GOOD DIPLOMAT

Mr. Donald Granado, the former Trinidad and Tobago High Commissioner in the United Kingdom, once had the idea of taking the name and image of the country he represented out to the British people.

He would have mounted exhibitions all over the United Kingdom, sent his staff to talk to schools, clubs, organizations, shown Trinidad and Tobago films widely. This grand plan for projection never came to pass because of a lack of money. The Ministry of External Affairs in Port-of-Spain could not see its way to subsidise the High Commissioner's ambitious ideas about communication.

This is a perennial problem facing small countries accredited to large ones. It is not a problem peculiar to Trinidad: it bedevils all small and/or poor countries in the world, all of whom have come to independence within the last 20 years and who now seek to catch up on a backlog of ignorance about themselves in the outside world.

Mr. Granado was rightly appalled by the lack of knowledge about Trinidad and Tobago he found throughout Britain and, being proud of his native land, was anxious to rectify a situation he regarded as unacceptable.

CASE IN POINT

In reverse, the position is rather different. Developed countries accredited to developing ones have no problems about money, or manpower or backing from the sponsoring department of state at home. They can go all out to explain themselves and their policies and philosophies to a public that is already captive to their message by virtue of the power of propaganda the developed countries held over the developing ones for so many decades.

Mr. Granado would have envied the facility, for example, with which the foreign embassies in Trinidad are able to promote the countries they represent here.

The German Embassy is a case in point. There must hardly be a journalist left in Trinidad these days who has not been the beneficiary of a visit to Germany, arranged and underwritten by the German Government. The objective is to educate those whose business is information-transmittal about the German nation and its economic and ideological ways, so these can be presented effectively to the Trinidad and Tobago public.

DEGREE OF SYMPATHY

Mr. Granado, or any Trinidad ambassador abroad, could not invite a foreign journalist to make a similar journey to this country, for the simple reason that his budget and that of his ministry, would not allow it.

The Americans in Trinidad have been as active as the Germans. Mr. John Fife Symington, who returns to Washington on Sunday after two years as American Ambassador here, has been very active in the business of winning friends and influencing communicators in Trinidad.

He has been able to operate in a way that Trinidad representatives abroad would give their eye teeth to emulate. It so happens that for Mr. Symington it has been more than a case of being able to spend money freely: he has done it with some conviction and with a degree of sympathy for Trinidad and Tobago's own problems.

If genuine involvement in a host country's aspirations and hopes is the hallmark of a good diplomat, then Mr. Symington can consider himself to have been a success in his two years in Trinidad and Tobago.

GREECE

Mr. ALLEN. Mr. President, during recent debates on foreign assistance programs, this Chamber heard accusations of the existence of frightful police state conditions in Greece.

Mr. James Burnham, respected editor of the National Review, recently visited Greece and the Tuesday, November 30, 1971, issue of the New York Times has published Mr. Burnham's reflections of conditions as he found them in that nation. I commend the reading of this article to all Members of the Senate and ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Nov. 30, 1971]

THE GREEK COLONELS AS BOGEYMEN

(By James Burnham)

I spent a month in Greece this autumn—at least I think it was Greece, though it bore little resemblance to the fear-ridden fascist police-state I have been reading about under that name for the past couple of years. The country I went to seemed cheerful, inefficient, impulsive, casual, talkative, and rather anarchic.

I saw a good deal of it, with sixteen days wandering among the Aegean islands, many of them off the tourist routes, and the rest divided between Athens and the small towns, villages and wonders of the mainland. I talked to a good many people, ranging from members of the Government and our own Ambassador through businessmen and professors to village elders.

And as for the Greeks working abroad, they must be something of a puzzle to the portraitists of the police-state. With more than a quarter of a million Greek citizens working in Western Europe, plus tens of thousands in the United States and Canada, a fascist police-state (with a total population of nine million) must have a remarkable security apparatus to keep all those chaps from picking up dangerous thoughts in foreign parts.

Or take those islands, for that matter. There are 20,000 of them in Greek waters. On the hundreds that are inhabited, there are tens of thousands of boats, mostly solid fishing-boats of all sizes, easily capable of reaching foreign shores—which are often only a few miles distant in any case. You can't envy those fascist colonels for the chore it must be to maintain an adequate control system over those descendants of wily Odysseus. Especially when the colonels do not have at their disposal any mass party or movement such as has always heretofore been an essential element of every fascist and near-fascist regime.

Certainly I do not mean to hint that the present Greek Government is a political democracy. Political parties are not free to operate, and there have been no free elections. Though critical opinion is not altogether ruled out—it was vigorous enough last summer to force the Government to withdraw its proposed press law—the press in Greece is considerably more restricted than our conception of freedom of speech admits. (It is perhaps worth noting that the Greek press has never been free in our sense.)

There have been political arrests and detentions, some without trial, though not as many as you might expect in what was after all a political revolution. There are at present only a few dozen detainees remaining, a small fraction of the number under any preceding Greek Government, or in Northern Ireland at the moment. There has undoubtedly been police brutality, some of it probably going far enough to deserve the term torture, but it is surely extraordinary, almost without parallel, that the overthrow of a regime should have been carried out, as the colonels have in fact done, without any killings or even any shots.

There are three reasons, I think, for the fascist police-state version of Greece that so often appears in our press. First is the fact that the principal source of information and opinion is the old crowd that the colonels deprived of the offices, power and privilege to which it was accustomed. The old crowd and the journalists and intellectuals associated with it were precisely the Greeks whom foreigners were and still are most likely to know. Unlike the colonels and their colleagues, many of whom are provincial or village in background, they are cosmopolitan in outlook, have traveled abroad, and speak Western languages. They have lost a lot under the present regime; some have gone into jail or exile. Naturally enough their account is negative and often bitter.

And, second, I believe many of us have so lofty an image of Greece that a performance that is flawed but not really so terrible, all things considered, upsets us like a child seeing a parent do something vulgar. In the image Greece is the cradle of Western civilization, fountain of Beauty and Truth, mother of Democracy. The image is a Platonic Form we do well to cherish in our souls, but we should also recognize the humbler truth of our world of shadows. Non-Platonic Greece is a small, poor, underdeveloped, Balkan, Near Eastern nation. Look at your map and mark Greece's neighbors: Albania, Yugoslavia, Bulgaria, Rumania, Turkey. Get out your U.N. handbook and check off the other small, poor, underdeveloped nations among the members—about three-fourths of the total. Judged in these appropriate contexts, the present Greek Government doesn't come off badly even if the worst said about it is true.

As a bonus, third, the fascist police-state image provides, in "the colonels," a set of safe bad guys on whom we can take out our frustration with our inability to deal more effectively with the really grave and baffling troubles that plague us.

But it does seem rather silly to strain at the colonels while swallowing a Mao.

NEWSWEEK PROFILES OLD FARMER'S ALMANAC

Mr. McINTYRE. Mr. President, I would like to call my colleagues' attention to the media section of the December 6 issue of Newsweek magazine.

The editors of Newsweek have chosen to profile a publication in which we of the Granite State take particular pride—the venerable and beloved Old Farmer's Almanac, published by Yankee, Inc., of Dublin, N.H.

This is the oldest continuing publication in the United States, next year celebrating its 180th anniversary, and the fact that this uniquely Yankee product is now enjoyed by 1.8 million readers—scattered across the Nation and around the world—attests to the universal appeal of its homespun charm and wisdom.

Those of us who grew up in the State where this unique publication is prepared are forever grateful to the late Robb Sagendorf for restoring the original format to the magazine when he bought it in 1939 and to current publisher C. Robertson Trowbridge and editor Judson Hale for preserving it. The popularity of this format is evidenced by the soaring circulation gains made since the restoration.

In citing the Newsweek profile of the Old Farmer's Almanac, and asking unanimous consent to insert it in the RECORD, I would like to call my colleagues' attention to two other outstanding products of Yankee, Inc., Yankee magazine, which now boasts a million and a half readers, and the Cape Cod Compass.

I ask unanimous consent that the Newsweek article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WEATHER-WISE

The current issue of the Old Farmer's Almanac predicted two-tenths of an inch of rain for nothern New England on Thanksgiving Day 1971. Then weren't the folks in Dublin, N.H., where the Almanac is published, a little surprised by that 2 feet of snow? "Well," one native allowed laconically as he dug out his driveway, "it *was* an understatement."

The Old Farmer's Almanac may have blown that call, but, even so, the folksy little annual has compiled a remarkable record for accuracy. During the past ten years, the Almanac's weather predictions for the entire U.S. prepared eighteen months in advance, have been right 80 per cent of the time. Last year, the Almanac hit the date of New England's first major snowstorm right on the nose. And it projected a total winter snowfall for the area of 58 inches and an average temperature of 32 degrees; the actual figures came to 58.4 inches and 32.6 degrees.

So reliable is the Almanac's day-to-day forecasting that many snow-removal agencies around the country keep the small, yellow-covered book close at hand. Even New York City, whose snow crews have been caught flat-footed before with politically painful results, now consults the Almanac, and thus it was well prepared for a sneak storm that jolted the city last March. The Almanac's weather watch has become so popular, in fact, that the sunspot analyses on which it is largely based are now being marketed separately from the Almanac itself. And one of the first clients of the new service was said to be the Central Intelligence Agency.

HEART

The nation actually has several Farmer's Almanacs (a generic term that cannot be copyrighted), but none has appeared without interruption for as long as the *Old* Farmer's Almanac. Celebrating its 180th anniversary with the 1972 edition, the ancient magazine claims to be the country's oldest continuing publication. And, judging by recent trends, it may be one of the most successful; last year, it sold 1.8 million copies, up 500,000 since 1965.

The Almanac's weather, astronomical and tide charts are the heart of the operation; the rest of the 160 pages, jam-packed with down-home aphorisms and ads for burial insurance, appear to have been written and designed during a time out at a quilting bee. In fact, they are the product of artful New England ingenuity. When a shrewd Dubliner named Robb Sagendorph bought the floundering Almanac from Litle, Brown, Inc., in 1939, it had been modernized out of all recognition. Sagendorph promptly restored all of the Almanac's familiar hayseed features and applied the same nostalgia-laden formula to the other publications (Yankee Magazine, Cape Cod Compass, calendars and books) in his rapidly growing empire.

Sagendorph died last year, and the bucolic operation is now run by two relatives: publisher C. Robertson Trowbridge, 39, a Princeton-educated state legislator, and editor Judson Hale, 39, a Dartmouth alumnus. In addition to their other chores, Trowbridge and Hale produce the weather forecasts under the collective pen name. "Abe Weatherwise." They refuse to reveal the tricks of their trade, except to explain that the forecasts are based on a cyclical theory using old Weather Bureau observations and the sunspot studies. "Part of it is witchcraft," Trowbridge acknowledges, "and that part will remain our secret. But the wonderful thing is that when we're correct, everyone tells us how accurate we were. When we're wrong, they say no one can forecast the weather, anyway."

A CLOSED DOOR POLICY IN THE AIR

Mr. HARTKE. Mr. President, in recent years, airplane hijackings have become a subject of grave concern for the American people. An increasing number of these crimes have resulted in serious injuries to passengers and airline employees.

One of the measures which the FAA undertook to combat hijackings was to require the locking of cockpit doors. This rule prevents the would-be hijacker from making a direct cockpit entry. In practice, however, the effectiveness of the requirement is open to question. The hijacker need only threaten bodily injury to a passenger or a stewardess to gain entry.

Hijackers have also discovered that they may be at an advantage because of the FAA's closed door policy. By threatening bodily injury to one or more persons in the plane's cabin, they can coerce the pilot to divert the plane from its scheduled path. It is not necessary for them to threaten the pilot directly. This latter method of hijacking also prevents the flight crew from undertaking any plan to overcome the hijacker.

An article published recently in the Naples, Fla., Daily News gives one pilot's view of the locked-door requirement. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Naples Daily News, Oct. 31, 1971]

NAPLES PILOT CRITICAL OF FAA RULES: SAYS LOCKED-DOOR POLICY MAY CONTRIBUTE TO HIJACKING

(By Nancy Wilstach)

John DeBaun's "open door policy" has become the focal point of a seven-year running feud between him and the Federal Aviation Agency (FAA).

DeBaun, a commercial airlines pilot for 20 years with one of the nation's four major airlines, claims an FAA ruling requiring pilots to lock their cockpit doors closed not only doesn't prevent hijackings, it may even contribute to their success.

Because of his strong stand against the ruling, DeBaun refuses to obey it, and, in fact, he locks his cockpit door open on his jet airliner flights. Furthermore, he is in the process of writing a book which takes the FAA to task for its rules and regulations which he claims, through "poor knowledge and poor diplomacy in aviation safety and welfare" have caused "slaughter in the skies."

The hijacking this week of a jumbo jet (Boeing 747) to Cuba inspired DeBaun to bring his data on the FAA to the Daily News. He pointed out the 747 was flying according to FAA rules—the cockpit door was locked closed. Two sky marshals and an FBI agent were aboard the plane and yet the hijacker accomplished his goal with no more potent weapon than a ballpoint pen.

DeBaun cited an example of lives lost because of the FAA ruling: "On Nov. 11, 1965 at Salt Lake City, a 727 crashed on landing. The pilot and co-pilot were locked in the cockpit, and, on impact, the fuselage twisted so the door was jammed and could not be opened. The pilot and co-pilot were able to go out through the cockpit windows, but they couldn't help the passengers. Forty-three persons died of smoke inhalation and burns who might have been saved if the cockpit door had not been locked shut."

DeBaun said the pilot in the accident was forced to resign and was not permitted to call any witnesses in his own behalf at a FAA hearing.

"Why, if the ICC (Interstate Commerce Commission) decided to lock all truck and bus drivers in, their unions would have them all off the road in no time. The captain is the boss of the whole flight. He has the responsibility for the lives of the whole planeload of passengers right at his fingertips. He needs to be able to know what is going on in his plane," DeBaun said.

He said he believes the very fact of a locked door may be a contributing factor to hijackings: "Most hijackers are mentally deranged persons. Most psychiatrists agree a locked door makes such a person react more violently. Anyway, all he has to do is put a gun in a flight attendant's back, and she has to open the door with her key. If the door is open, there's a good chance the pilot may see something is wrong and be able to head it off."

DeBaun approves of sky marshals on the flights, but he thinks pilots should be their own sky marshals, too. He also believes that pilots ought to be armed.

"If it is generally known that pilots are armed, I think it would cut down on the danger of hijack attempts. Also, we know where we can put a hole in the airplane without causing any damage."

DeBaun has withdrawn from membership in the Airline Pilots Association, and he is using the money which would have gone to pay his dues for financing his battle against the FAA—a battle he wages with administrative hearings when he can get them, letters to the President, the attorney general (and "I even wrote to Martha Mitchell because she talks more than he does.") and work on his book.

He recounted how two FAA inspectors backed off when he got into a dispute with them over locking the cockpit doors. The FAA men were giving him one of seven "line checks" in 14 months of flying out of Miami. When he was told he could be cited for violation for having the cockpit door open, DeBaun said he told the FAA man "I'll see you in court." No violation was filed for the open door.

In his book, DeBaun lists examples of why the cockpit door should be left open:

"I had 55 male passengers with three young female flight attendants serving liquor. It seems the co-pilot and I were the only sober men in the airplane. The atmosphere was becoming gay and risque. Once I opened the door and left it open, the passengers settled down and behaved."

Comfort in the cockpit is another factor, he said, because pressurization and air conditioning sometimes doesn't function as well with the cockpit door locked closed.

On two occasions at Kennedy Airport, DeBaun said, what might have been fatal crashes were avoided by a flight attendant's spotting flight spoilers stuck in an "up" position. "He was able to get to the captain in time so the captain could abort the takeoff."

He concludes: "commercial aviation hauls approximately 72 million passengers annually. This (locked door) rule has been in effect since 1964, so that, as of August 1968—288 million lives had been jeopardized because of this misguided ruling."

His criticism of the FAA goes even farther than the locked-door rule. DeBaun pointed out that the head of FAA during the Johnson administration "didn't even have a pilot's license."

He is extremely critical of the communications systems and the stringent regulations placed on air traffic controllers. His book points to examples of airports being forced by the FAA to use weather reports for an airport several miles away.

DeBaun tells in his book of standing in the tower at Glen Falls, N.Y., and timing the take-off of another airplane. Using the rate-time-distance formula, he could calculate visibility at three miles. The controller was giving out information that visibility was a mile-and-a-half because his weather information comes from Albany—60 miles away.

Red tape inhibits progress in airplane manufacture, according to DeBaun, and most of that red tape is emitted via FAA rules and regulations, he contends. In his book, he used this example:

"To replace a simple door latch on an older model airplane would involve $1,500 in FAA paperwork."

Another example, he cites is installation of a new type brake, which, when installed according to FAA regulations causes blowouts when the landing is particularly rough. DeBaun said he studied the installation and showed the aircraft mechanic the brakes should be installed on the other side of the axle.

"He agreed 100 per cent with me, but he had to put it back the same way because the FAA would have pulled his license if they found him installing the brakes contrary to FAA procedures."

U.S. INVOLVEMENT IN VIETNAM

Mr. McGEE. Mr. President, we have critics in many quarters claiming that this administration has deluded the American people into believing that the war in Vietnam is winding down, particularly as to U.S. involvement in that conflict.

Many of my own colleagues accuse the President of performing some sort of charade in this respect. However, many of these accusations are not based on a factual analysis of the situation in Indochina as was pointed out this morning in an article for the Washington Post written by R. W. Komer. Mr. Komer, who was chief pacification adviser in Vietnam from 1967 through 1968, has separated the emotion and irrationality which still surrounds our involvement in Vietnam.

Relying on facts to support his contentions, Mr. Komer has presented a different picture than the war critics would have us believe to be a true assessment of the situation in Vietnam. It would behoove us all to rationally assess what Mr. Komer has more than adequately presented in this article.

Therefore, I ask unanimous consent that Mr. Komer's article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

The Winding Down of the War in South Vietnam

(By R. W. Komer)

It is depressing but unsurprising that our Vietnam trauma should still cause controversy even over such largely factual issues as to whether that tragic war is declining in intensity, with Saigon at least temporarily out ahead. On the one hand Secretary Laird affirms after his latest visit to Saigon that with the war winding down the Nixon administration has achieved its goal of giving South Vietnam a reasonable chance to survive. On the other hand Sanford Gottlieb of SANE tells a war protest rally that contrary to common belief the war "is not winding down." Is the tempo of conflict actually declining, or, as Herbert Mitgang told us in The New York Times a few months ago, is it merely the "biggest public relations triumph of the administration thus far?"

Who is right? What are the facts, insofar as they are discernible? Whatever the rights or wrongs of our Vietnam intervention, or whether the Thieu regime even deserves to survive, the question of whether its prospects have improved seems of more than passing moment.

As a one-time participant I may be a biased witness. And what has passed for fact on Vietnam has often proved irrelevant if not illusory. But surely it should be possible to shed more light on whether the shooting war is as intense as ever, and whether the Saigon government's position is stronger than it was three years ago. Much open evidence is available to anyone who asks for it, though few seem interested enough to inquire any more. Such is the still enormous credibility gap.

The fact is that by almost every conceivable measure the intensity of conflict has dropped sharply from 1968–69 levels, and even 1970. Of course, it has dropped off more in some respects than in others, leading some to say that all that's really happened is that the Americans are turning the war over to the Vietnamese.

But let's take the most obvious measure of conflict intensity—the grim casualty toll. The Pentagon says U.S. casualties are down about 90 per cent from early 1969. If this was attributable only to U.S. troop withdrawal, then presumably South Vietnamese casualties would rise.

Instead of rising, however, these are down modestly over the same period too, despite the fact that the Vietnamese have taken over much of the burden and have been fighting in Cambodia since mid-1970. Their casualties were quite high in the first quarter of this year because of the major raid into Laos and heavy fighting in Cambodia. But during the most recent five-month period for which figures are available, April-August 1971, Vietnamese casualties are down 11 percent from the same period in 1970.

Indeed regular ARVN troops, who are most comparable to the departing U.S. forces, took 26 per cent fewer casualties during April-August 1971. As has been the case since mid-1969, the bulk of Vietnamese losses has been taken by the neglected South Vietnamese militiamen.

What's happened to the war? The news media naturally focus all the more on what fighting remains, which distorts the picture Actually, the level of enemy attacks, shellings, harassments, and terror incidents has been declining since 1968. In the last few months they seem to be running less than half of what they were in the peak war months during 1968.

Almost all the remaining large-scale combat is taking place in remote northern frontier areas or in Laos and Cambodia, not in most populated areas of South Vietnam. So by the only available count Vietnamese civilian casualties have fallen greatly too.

One obvious retort is that the war has simply been exported to Cambodia and Laos, with undiminished intensity. This too falls down in face of the facts. Even Southeast Asia-wide the shooting, the killing, and the destruction are sharply down during 1971. To date the 1971 level of casualties and bombing sorties in Cambodia seem to be lower than in 1970 (Laos may be an exception but only because of the ill-fated ARVN incursion of last April which seems unlikely to be repeated on any such scale).

What about the argument that though ground combat has declined, the slack has been taken up by intensified air war? This too hardly squares with available facts. By whatever measure—sorties flown, bombs dropped, number of aircraft involved—the allied air effort in Southeast Asia as a whole has dropped substantially since 1968–69.

While recent press stories cite a new Cornell University study as saying that more bombs have been dropped in the three Nixon years 1969–71 than in the last three Johnson years 1966–68, this obscures the fact that bomb tonnage actually peaked in 1968 and has been going down every year since.

And to those who equate bombs dropped with genocidal tendencies, it's only fair to note that the great bulk of the current air effort is in practically unpopulated areas like the Ho Chi Minh Trail, another notable change from earlier years.

It stands to reason that U.S. war costs, which go mostly for U.S. forces with their immense firepower, have been dropping rapidly too. They are already less than half the 1968 spending peak, and are now dropping more rapidly than before. We may even be shipping a larger volume of military material out of Vietnam these days than we are shipping in.

As for the current picture in the Vietnamese countryside, let me eschew any comparison based on "computerized" statistics, since even using a computer as an adding machine seems to bother the press. We have plenty of eyewitness accounts from those who have visited Vietnam both before and after Tet 1968, two recent examples being Secretary Laird and columnist Joseph Kraft—the latter hardly a raging hawk on Vietnam. While neither seemed willing to stick his neck out as to their permanence, both seemed struck by the at least short-term gains made by the Saigon regime. And these are not exclusively military by any means.

For a program declared "dead" in an article in The Washington Post right after Tet 1968, the U.S.-backed South Vietnamese pacification effort has proved a lively corpse. One result of improved security is that, while the ghastly refugee burden is still far too high, far more refugees have returned to their villages over the last few years than new ones have emerged.

While some critics still talk of "ecocide," South Vietnam also recently brought in the largest rice crop in its history.

Or take land reform, lack of which was a favorite U.S. complaint before the GVN finally passed a radical law in 1970 but which has hardly been mentioned in our media since. From the figures available, some 750,000 acres have already been distributed to small farmers in little over one year—no mean accomplishment even for a country at peace, and surely impossible if Vietnam's countryside were still engulfed in war.

One does not have to accept Thieu's suspiciously overwhelming mandate in what passed for an election last October to speculate that improved security, control of inflation, land redistribution, higher crop output, and the like might have contributed to Thieu's capture of a still predominantly rural vote.

Of course the war's winding down to date reflects more than the impact of U.S. firepower, ARVN prowess, or pacification gains. Indeed it's interesting that the war has wound down despite U.S. withdrawal of over 350,000 troops since mid-1969. This almost suggests that all those Americans might not have been so necessary in the first place as many of us used to think.

It also reflects the way Hanoi has been husbanding its resources by reverting to protracted war. But it is too simple to ascribe this wholly to a Machiavellian strategy of waiting out U.S. withdrawal and then crushing the Saigon regime.

To a great extent this strategy has been forced on Hanoi by its own great losses—especially of irreplaceable Vietcong cadre in its three abortive Tet and post-Tet offensives of 1968—plus ARVN incursions into the formerly privileged enemy sanctuaries in Cambodia and Laos. Unfortunately, our tactical intelligence is still so feeble that we don't have enough detailed feel for how strong (or weak) the enemy now is. Yet even the worst calamity howlers in Saigon seem to have ceased talking up another countryside Tet-type offensive as a live possibility for the next year at least.

Indeed, as Mr. Kraft recently pointed out, critics of the war may need to update their thinking. This is not to say that the war was justified whatever its current state, or to deny that the horrendous costs involved were out of all proportion to any gains. Nor is it to excuse all the errors and excesses. It is simply to say that in the short term at least. Saigon's position seems to be far stronger than at any time since 1962 or so.

But what of the future? The tempo of conflict may rise temporarily again during the annual winter-spring campaign season. After all, Hanoi can still infiltrate thousands of troops and keep the pot boiling indefinitely—even if the U.S. keeps bombing and strafing the Ho Chi Minh Trail. Moreover, Saigon's record in dealing with the underlying causes of the Vietcong revolution is still spotty at best. But those who look for new Hanoi offenses to cause early Saigon collapse ignore the tremendous changes in the nature of the conflict within South Vietnam itself.

Up through 1967 most of the forces arrayed against Saigon were southern Vietcong, not regular troops from the North. Today the VC recruiting base is attenuated, VC guerrillas have been decimated, the VC main forces were crippled at Tet 1968, and the bulk of the troops now arrayed against the GVN are Hanoi's regular troops. Thus the VC revolution may have shot its bolt.

Granted that so long as its key politico-administrative cadre remains intact it could make a comeback—especially if Saigon fails to consolidate its short-run gains. Unless this happens, however, why should Hanoi keep sending troops year after year down the Trail? Better perhaps to count on waiting till the Saigon regime's own "internal contradictions" again create a ripe revolutionary situation in South Vietnam.

So those like Cabot Lodge who predicted that this ghastly war would eventually fade away may prove right after all. One may take little comfort in this prospect, given the war's traumatic impact on both Vietnam and the United States. Yet whether the war fades away or periodically heats up again, there's no blinking the overwhelming evidence that it has wound down a long way from what it was in 1968 or even 1969.

It is hard to divine this from TV or the daily prints, but even Mr. Nixon's war is a far cry from what it used to be.

BUTZ AND BENSON—AGRIBUSINESS IN POWER

Mr. MONTOYA. Mr. President, rural America, the small farmer in particular, is suffering through a quiet crisis that is inexorably eroding the way of life dear to millions of America's finest men and women. The Department of Agriculture has traditionally been a vehicle of the U.S. Government in attempting to erase inequities that exist in rural America.

The Senate will soon decide whether the Department shall continue that role, or shall begin a new one, accelerating elimination of the small farmer and deterioration and exploitation of our environment and natural resources.

We have faced this threat before. The disastrous history of the Benson years could be repeated, particularly if Earl Butz becomes Secretary of Agriculture. Having served under Ezra Taft Benson, whose name is anathema to every small farmer in the Nation, he espouses the same rural philosophy Mr. Benson used to annihilate small American growers during the 1950's. Farm prices plummeted in those dreary Eisenhower years. We have had a grim reminder of the bankruptcy of such policies in these present Nixon years.

In addition to finding remedies for declining farm incomes, the Department of Agriculture must assume a new attitude of openness, flexibility, and innovation in a new era of environmental concerns. The Forest Service exercises responsibility over many valuable resources that must be protected. Runoff of agricultural pesticides and other pollutants has come to be a dominant problem in water pollution control. Yet testimony of Dr. Butz during his nomination hearing indicates only defensiveness about past practices of the agribusiness world, with little or no innovative potential for development of new solutions and policies. Mr. Butz is already in a rut—an old rut that will not serve farmers or America well.

Nomination of Earl Butz is equivalent to a phase II program for American agriculture. President Nixon, by his nomination of Mr. Butz, has announced his intention to press forward with disastrous programs of Secretary Hardin's "phase I" for agriculture. Actual conditions of farm income call for elimination of misdirected policies of Secretary Hardin, not their continuation.

Virtually every phase of farm activity has been hurt under present policies. One key indicator, market price of farm products as a percent of parity, has dropped for almost all commodities. Sorghum grain, a key product in my State of New Mexico, was selling at 64 percent of parity in 1968. It now has declined to 56 percent of parity. Sixty-four percent was not enough, but 56 percent is disastrous. I warned of this consequence when the Agricultural Act of 1970 was debated and when I attempted to amend that act to guard against such a decline by enacting policies that would achieve 77 percent of parity.

Other commodities are also in trouble. Corn has declined from 65 percent of parity in 1968 to 53 percent at present. Wheat has dropped from 47 percent to 44 percent in the same period. Cotton's increase from 51 percent to 53 percent over the last 3 years is more apparent than real, for the cotton market is surely not healthy at present.

The set-aside program, designed to control production so farmers would sell fewer bushels of products and thereby gain increased prices, has failed. Sorghum grain production is up 30 percent this year, a record high corn production is up 30 percent, and wheat is up 16 percent. Prices will undoubtedly decline as a result. These are policies that must be eliminated, not continued.

Policies of Benson, in which Mr. Butz played an active role, drove millions of Americans off the land and into our already overcrowded cities. Each of us in this Chamber knows the consequences of this migration, which dumped people into metropolitan areas who were ill-prepared for an urban experience. America cannot afford another migration from farm to city as transpired in the Eisenhower 1950's as a result of Benson-Butz farm policies. Why bankrupt another generation of American farmers and their families?

Dr. Butz is a creature of agribusiness; vast, land-gobbling, crop-raising monopolies which slam the small producer up against the economic wall, milk him of products, pay him a minimum, and hit consumers with maximum prices.

Dr. Butz favored a phaseout of positive supply management long before the term "set-aside" was coined by the Nixon administration. During the Benson years, he was an ardent exponent of massive soil bank land retirement. His service to several agribusiness giants, while on the payroll of Purdue University, raises serious questions of conflict of interest. In the Cabinet room, he will remain a philosophical advocate of corporate farming and policies that work against the financial well-being of the small farmer and his family.

His hostility to domestic programs aimed at utilizing farm surpluses to ease social problems is apparent. Both food stamp and school lunch programs have been proven to be effective utilizations of such foodstuffs, with resultant benefits to producers and consumers. Yet in Dr. Butz' eyes, such programs lack substantial merit. Shall we commit them to his tender mercies and take a chance of weakening their already proven effectiveness? I hope not. There are too many people in my home State who, knowing first hand the great benefits of such programs, would have good reason to mourn Dr. Butz' confirmation, should such an event take place.

Consumers do not benefit from agribusiness domination of the entire growing process. Smalltown America, ever dependent on rural America for its economic well-being, faces disaster as well if this trend accelerates. A smalltown businessman depends upon the small farmer for his livelihood. Dr. Butz typifies the kind of reactionary, backward-looking corporate farm expert spawned by the Benson era. Today, American agriculture staggers under the burden of the worst farm situation since Ezra Taft Benson, as a direct result of farm policies President Nixon has been following. We owe an obligation to the rural people of this country. We must prevent Dr. Butz from coming to a position where he can give new life to mistakes of the past. I shall oppose confirmation of Dr. Butz as Secretary of Agriculture.

EBENEZER NIXON'S CHRISTMAS CLUB

Mr. EAGLETON. Mr. President, the White House now says President Nixon will veto the revenue/tax cut package passed last week by the Senate.

He does not like our campaign financing amendment which would take Presidential politics out of the hands of wealthy special interests.

He does not like some of our amendments which would reduce the average family's tax bite, and I presume this includes my amendment to give the elderly a tax credit to reduce the burden of property taxes.

I shall not review the arguments pro and con on our particular amendments.

But I would like to point out that if the President vetoes this bill, there will be over 2 million American families who will not get the excise tax rebate on the cars they have bought since his promise of August 15. That money—about $150 per car buyer—can be in peoples' pockets by Christmas time. It would mean a lot of dolls and bicycles under Christmas trees—and some jobs. But the vaults of Ebenezer Nixon's Christmas Club may be as empty as his promises.

Those businessmen who are waiting to undertake capital spending programs on the basis of the investment tax credit we passed last week would wait some more if the bill is vetoed.

A veto will prolong the general uncertainty which now plagues business, labor and investors—and the jobless.

Mr. President, the White House made some promises to business and the taxpayers, and to the jobless of this country. The Senate bill is consistent with those promises, whether it suits the President's political and campaign financing interests or not. It is safe to predict that the bill will be even closer to the President's original proposal when it leaves the Senate-House conference than it was when it left the Senate.

If the President vetoes this tax bill, it will be a blatant act of politically motivated sabotage against his own economic program, not to mention against millions and millions of American families who took his August 15 promises at face value.

ISOLATIONISM

Mr. FULBRIGHT. Mr. President, in the November 26 issue of the New York Times, there appeared an article written by Hon. Burton K. Wheeler, entitled "The Majority of Americans Are Isolationists." This article, written by a former Member of this body, is most interesting, and in order that it might be brought to the attention of my colleagues, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE MAJORITY OF AMERICANS ARE ISOLATIONISTS

(By Burton K. Wheeler)

WASHINGTON.—Few, if any, I believe, of our people are isolationists as some of the so-called interventionists or internationalists would like to portray them. Practically all of our people recognize that we cannot ignore the rest of the world, that we cannot stop trading with other nations, that we cannot stop negotiations looking toward the reduction of our military forces and the diminution of the threat of a world conflict. Basically, I would say that the majority of the people of America are isolationists in that they believe it is time to judge every proposal and every program in terms of whether, in the broadest sense, it is in the best interest of our country and not whether it is in the best interest of Egypt or Israel or the political rulers of South Vietnam or Cambodia or Laos or, for that matter, in the best interest of England or France or Germany.

"Isolationism" has not changed. Several commentators and columnists have suggested that the vote in the Senate against the foreign-aid bill evidenced the recurrence of isolationism in the United States. Whether this is so depends upon your definition of isolationism. President Franklin D. Roosevelt said in a speech that he was an isolationist in that he wanted to keep out of war. The polls then showed that 86 per cent of the American people agreed with Roosevelt. The fact that he and they wanted to keep out of the war didn't mean that they did not want to have trade and diplomatic relations with the entire world.

The Republican party, almost from its inception, advocated a high tariff on all manufactured articles because they felt it necessary to build up industry in this country. As a native of Massachusetts, it was instilled into me from babyhood that you had to have a tariff to protect that state's shoe and textile industries. But this one article of faith didn't make the people of Massachusetts "isolationists" from the 1930's. The actors and events on the international scene have changed but not the fundamental position of a majority.

"Isolationism" was a derogatory term used in the 1930's and now again in the 1970's by those who disagreed with our criteria for judging all programs: Is it in the best interest of the United States? The term is designed to intimidate and to avoid debate. I deplored its use then and I do so now. What is needed is full and tolerant discussion of the facts and issues—not name-calling. The latter obscures while the former enlightens. The farmers of the West generally opposed high tariffs on manufactured articles. They wanted free world trade so they could more readily sell their grain abroad. These same farmers were predominantly opposed to our getting into World Wars I and II. Does an "isolationist" label fit them?

I was for the League of Nations until I went to Europe in 1923 and saw for myself the results of the Versailles Treaty that had been imposed upon Europe and which the League of Nations would have to uphold. I returned from Europe and advocated a United States of Europe as the only way of avoiding another world war. I supported the World Court and opposed sending or maintaining Marines into Nicaragua and other Latin-American countries to protect American investments. As early as 1923 I advocated recognition of the U.S.S.R. A Montana newspaper said this made me a "bolshevik" and that I should be deported. I asked, "To where—Massachusetts?"

I believe there is and has been a growing and majority public opinion against unwarranted interference in the affairs of other nations. It is my belief that the majority of our people were and are opposed to our involvement in Vietnam, in Cambodia, in Laos or, for that matter, in any other country. They believe that such involvement, with its great cost in terms of our men and our substance, achieves nothing more than contempt and ridicule for us.

There is also a general recognition that the tens of billions of dollars spent to "economically rehabilitate" all countries who said they were against Russia or China have earned us enmity rather than friendship, and the recent vote in the United Nations supports this belief. They believe that much of the money we have spent in fostering the independence of every African tribe has been wasted and that the African natives are no better and perhaps worse off today than they were before we began our spendthrift policies.

There is a general belief that many millions of dollars that have been doled out under the name of foreign aid have gone into the Swiss bank accounts of corrupt government officials of the nations we have purported to help and that a vast amount has also been spent on military hardware and training which has increased the threat to world peace, has increased national belligerency, has served to perpetuate a ruling governmental clique in power and has made the so-called democratic governments subject to the whims of the military.

Another increasingly important factor which has contributed to the growing feeling against further expenditures for foreign aid are recurring and increasing balance of payments deficits and the recent necessity for permitting the dollar to float. The steady erosion of our prestige and the dollar throughout the world have caused our people to realize that we cannot continue forever to maintain huge armies abroad, whether they be in Germany or Vietnam. We cannot continue to spend billions for foreign aid when some of the very countries we have aided are underselling and outtrading us in our own and world markets.

Our people are increasingly opposed to any more commitments to foreign nations, whether they be military or economic. They are increasingly opposed to spending for other than strictly humanitarian purposes. On the other hand, they favor all legitimate efforts to maintain peace and, I believe, endorse the President's trips to Peking and to Moscow as a sincere effort to ease world tension and to eliminate the cold war.

So let's stop calling names. It is unfair, fruitless and an insult to the intelligence of the majority of Americans. Let them and their representatives in Congress decide these vital issues on the basis of a full and fair analysis of the facts and debate of the issues rather than by villification.

THE GENOCIDE CONVENTION AND AMERICAN TREATIES

Mr. PROXMIRE. Mr. President, some people who oppose the Genocide Convention treat it as if it was unique in the history of American treaties, as if it was a radical departure from any international agreement that the United States has ever been a party to.

To fully appreciate the Genocide Convention it is necessary to examine it in the context of the other treaties that the United States has ratified. When this is done we find that there are treaties such as the Interim Convention on Conservation of North Pacific Fur Seals and the Supplementary Slavery Convention which establish and define crimes, just as the Genocide Convention. We find that there are treaties which provide for extradition for a variety of crimes such as murder and robbery. Genocide would become one among many crimes for which extradition would be possible, under conditions determined by the Executive and the Senate in ratifying an extradition treaty for genocide.

The Genocide Convention does not stand alone. It stands within a substantial body of American laws and treaties, and it stands under the Constitution. When looked at in the total context of American jurisprudence, we can see that the Genocide Convention is not unique, but that there is precedent for it.

Mr. President, I urge the Senate to ratify the Genocide Convention as soon as possible.

CONGRESSIONAL DISTRICTING

Mr. HARTKE. Mr. President, on August 4 I introduced S. 2406, a bill which provides a rational method of congressional redistricting.

The Supreme Court early in the 1960's made a series of landmark decisions which have come to be known as the one-man, one-vote decisions. The concept that legislative districts must be equal in size affected a long-overdue reform of representative government in the United States. For decades, the unrepresentative nature of our State and Federal Governments constituted a major imperfection in American democracy. The Court held that the existence of numerical inequities in legislative districts constituted a gross violation of the basic rights guaranteed to all Americans by the Federal Constitution. In the short period of only 9 years since the Court first acted, those numerical inequities have almost been eliminated from American political life. Unfortunately, however, this starting progress seems to have given many persons the erroneous impression that all is well, and that the problem of unfair representation has been solved.

On the contrary, the problem of unfair representation is only half solved by the one-man, one-vote decisions of the Supreme Court.

It is now up to the Congress to attack and solve the second half of the problem. While the Court made it clear that numerical inequities would not be tolerated, it did not address itself to the problem of gerrymandering within numerically equal districts.

The present practice of district boundary manipulation accomplishes the same nefarious political ends that existed prior to the one-man, one-vote. In many States, the majority party controls the reapportionment machinery, and it develops a districting plan which favors its own self-interest. In such situations, while numerical equality may exist, the voting strength of racial, economic, social, or political elements may be diluted.

Mr. President, the subject of redistricting has confounded democratic societies throughout history. Men have sought to find means of preventing the total exclusion of community interests and local political subdivisions in redistricting, but success in such efforts has been minimal. If we are to perpetuate our representative form of government, it is imperative that we turn our attention to the urgency of redistricting. The Congressional Districting Act of 1971 will alleviate the abuses presently inflicted in redistricting by State legislatures.

Mr. President, I urge this body to take action on congressional redistricting before we enter into the 1972 elections. It is essential that we reinforce the faith and confidence of the people we represent by acting on this vital issue.

WHAT IS NEW AT THE AEC?

Mr. GRAVEL. Mr. President, there is a clear connection, in my opinion, between the lack of funding for adversary science in this country, and the AEC's recent decisions which allow construction and operation to continue on nuclear power plants in spite of the Calvert Cliffs court decision.

The lack of financial support and professional encouragement for scientific critics years ago left the scientific advocates of nuclear electricity unchallenged in the rosy advice they gave to industry and government. Consequently, a huge investment has been made in a seriously, perhaps fatally flawed technology.

> It is especially unwise to fund only one point of view when the health and safety of the people of the United States are involved.

That statement is from the section called "Findings" in the bill S. 2430, which would create an adversary inquiry within the AEC. The bill, which I introduced on August 4, 1971, is presently before the Joint Committee on Atomic Energy.

The scientific adversaries of nuclear electricity are belatedly being heard throughout the land. From them we are learning that nuclear radiation is 10 to 30 times more dangerous per unit than previously revealed, that there is no reliable emergency cooling system to cope effectively with accidents at the nuclear plants already in operation and under construction, and that there seems to be no basis at all for believing that the lethal radioactive garbage from these plants can be handled and confined with the necessary superhuman success for the next several thousand years.

Under such circumstances, nuclear power plants represent a giant gamble with the life and health and economic welfare of the American people.

Nevertheless, even a strong decision by a Federal Court seems unable to deflect the nuclear juggernaut. Why?

The reason is clarified in a profound and constructive article entitled "Nuclear Power and Ecocide: An Adversary View of New Technology", by Dr. John W. Gofman in the September 1971 issue of the Bulletin of Atomic Scientists. Its meaning extends far beyond nuclear technology alone.

Readers of that article will not be surprised by the story "A-Plant Work To Continue, AEC Decides," which appeared Thanksgiving on the front page of the Washington Post.

However, many people who had high hopes that net AEC permissiveness would be less under its new Chairman, James Schlesinger, may be sorely disappointed. His maiden speech as AEC Chairman enchanted many environmentalists and editors in October. But his actions in November may speak louder than those words.

An interesting and somewhat sympathetic analysis of Dr. Schlesinger's dilemma appeared in an article entitled "Dr. Schlesinger, the AEC, and the Public Interest" in the November 6, 1971, issue of Environment Action Bulletin.

Mr. President, I ask unanimous consent that the three articles I have referred to be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Bulletin of Atomic Scientists, September 1971]

NUCLEAR POWER AND ECOCIDE: AN ADVERSARY VIEW OF NEW TECHNOLOGY

(By John W. Gofman)

(NOTE.—With his Lawrence Radiation Laboratory colleague, Arthur R. Tamplin, John W. Gofman, M.D., is a leading critic of the Atomic Energy Commission's radiation safety standards. In this article, he relates the radiation controversy to the broader issue of technological motivations in American society. He proposes an adversary method of controlling ecologically unsound or dangerous technical innovations. He suggests that the development of a sustaining body of technological criticism and challenge is incumbent on the scientific community. Dr. Gofman is professor of medical physics at the University of California, Berkeley, and former head of the Biomedical Division at the Lawrence Radiation Laboratory, Livermore, where he now conducts research.)

Our society is based upon the premise that initiative, innovation and promotion, all leading to economic profit, will by their very nature insure the delivery of goods and services that will steadily upgrade the quality of life for the greatest number. It does seem reasonable to suggest that with the extremely viable enterprise system we have, with the obvious talents and accomplishments of our scientists and engineers of a variety of specialty disciplines and with abundant resources and a beautiful land, we should easily be able to create this high quality life for any reasonable-sized population in the United States.

The present environmental crisis clearly indicates that such a desirable result is anything but automatic. The threats posed by food adulteration, poisonous chemicals of agriculture and commerce, and radioactivity may individually, or by synergistic activity, guarantee ecocide.

Science and technology *are* prominently applied in the service of the established system whatever be the privileged currency. And this means that large scale change comes very quickly and can affect the entire population of the country. We have learned, to our dismay, that there may exist serious secondary implications of technological innovations, or of by-products of such innovations. These can take the form of severe environmental degradation or of an uncertain debt, in the form of a future health burden to society. It would seem to accrue to the advantage of a nation, even ultimately to survival itself, to *anticipate* the secondary, or adverse, effects of technological innovation upon society. We do not have appropriate institutions which will guarantee an early alert to potential, possibly subtle, secondary effects of technology. If no *early* feedback information becomes available concerning potentially detrimental consequences, the technologically-based industry grows apace, and the unanticipated detrimental effects will necessarily afflict the entire population. This is dangerous, and it would seem to compel rational humans to place a premium value upon comprehensive foresight.

Once an enterprise is launched, we are faced with a new set of imperatives. And these imperatives grow, probably as a power function, with the investment in the venture. What are these "investments"?

The entrepreneur invests capital. Big capital. Today, endeavors of any consequence even worth considering here are very big business, encompassing in a short period of time the efforts to distribute goods and services to 200 million people nationally, and to even larger numbers when foreign outlets are considered. If the particular technological entrepreneurial project has gone along for a reasonable period, the capital funds committed can be huge. It is then indeed a matter of considerable importance concerning which the entrepreneur must be extremely protective. Losing money is *not* the way privilege is preserved and extended.

The scientists and technologists invest career and economic opportunity. Indeed, they often prepare themselves at great cost for a particular enterprise. And if the technology has persisted for any length of time, such men have achieved position, prestige and a very high personal economic stake in the future of the enterprise. A case in point is the nuclear energy technology. Whole university departments have devoted themselves to the training of nuclear engineers and related technologists. Beyond the educational level, there are thousands of nuclear engineers, health physicists and biomedical scientists with well-established careers predicated upon the continuation and growth of nuclear energy technology, in particular nuclear electricity generation. And this doesn't begin to take into account the lower echelons, some 140,000 atomic industrial workers, with a large stake in the continuation and growth of this industry. Indeed, the governmental regulators themselves have a *not* inconsiderable stake in the nuclear energy enterprise.

OPTIMISM COMMON

These are not precisely the ingredients for a continuous process of self-examination, searching criticism or the discovery of undesirable secondary effects of a particular technology. It is common to find an amazingly unbroken wall of optimism about the future promise of the technology for "mankind."

The elite among the scientists and technologists who promoted the enterprise to the entrepreneurs have a major investment of ego, prestige and position. These men have generally committed themselves to the glowing promises of the technology in full public view. Again, the longer the enterprise has persisted before possibly adverse features become evident, the greater is the ego-prestige commitment of such elite, and the more difficult it becomes for this elite group to reverse its position.

In nuclear energy, one might consider the difficult position of AEC Chairman Glenn T. Seaborg, who has proudly admitted his position as a prime salesman for nuclear electricity generation, and his intention to create a plutonium future for us all. From a myriad of platforms, and in countless printed statements, he has stated, "The atom came to us in the nick of time." Is it, therefore, truly difficult to understand why Dr. Seaborg is having difficulty facing the realization that the hazard of ionizing radiation is far greater—20 to 30 times greater—than was thought a decade ago? Is it difficult to understand why Dr. Seaborg dodges the question of the likelihood of a catastrophic accident at a nuclear power plant?

Is it difficult to understand why Congressman Chet Holifield, having pushed appropriations of billions for nuclear energy development through Congress, clings to a thoroughly discredited concept of a "safe" amount of radiation exposure? The evidence he cites for the concept of "safe" doses of ionizing radiation has been rejected by a whole series of distinguished scientists, as well as all the scientific bodies involved in the study of radiation hazards.

UNREALISTIC HOPES

It should be unrealistic for any of us to hope that dangerously misguided technological-industrial endeavors are going to come to an end through: (a) Economic suicide of the capital-investing entrepreneur, (b) Career and job suicide of the technologists and workers, or (c) Ego and prestige suicide by leaders, promoters and apologists for the enterprise. To argue that a higher morality should guide any of these groups, with their varied vested interests, is simply to produce a totally unreal and unrewarding image of men. It is obvious that long-range *ecocide* will necessarily win out over short-range, parochial economic suicide, career suicide or ego, prestige suicide. And morality won't even visibly enter into the consideration, for the mechanism of rationalization will surface in abundance to protect against even the most obviously indefensible position.

There are those who believe that government will take the necessary steps to seek out adverse side effects of technology, especially in this new age of environmental awareness. This idle dream neglects the fact that once an enterprise is well along, government and enterprise are snuggly bedded down together. To be sure, there will be an occasional, restrained rebuke from a regulatory agency, a mild ritual of wrist-slapping, and even a token fine. Nothing more is to be anticipated.

Still others hope that a deep sense of public responsibility will motivate some scientists, technologists or elite within the enterprise to speak out in the public interest. There are several reasons why this fond hope will accomplish but little. Few within the enterprise will speak out for reasons previously cited. If they do speak out, they will, in general, be demolished by the public relations steamroller of the enterprise, aided and abetted silently or loudly by their colleagues within the enterprise itself.

Lastly, citizen groups may try to stop an eco-destructive enterprise. Noble as many of these have been, they are pitifully underfinanced and no match for the professionals of the entrepreneurial juggernaut. We have yet to see a major victory in this arena.

There really does exist a constituency for preserving a livable world, one that is not strictly limited to the "little man," fortunately. As F. Lundberg pointed out in "The Rich and the Super-Rich," even the pursuers of privilege view with dismay some of the depredations of their confreres. Among scientists and technologists there are many who are enthusiastic environmentalists and ecologists for all technologies but their own. And there is the constituency of women who are possessed of a strange, but vehement, desire to have their children grow up with a reasonable chance to survive. Altogether these groups possess considerable clout, provided it can be effectively mobilized. That is, there are several essential institutions that must be developed. And all of them are essential if the desired goal of transition of anti-societal to pro-societal enterprise is to be achieved.

The broad constituency just described must insist that we develop—at the earliest possible moment—centers of technology assessment, outside the reach of the enterprises or government bureaucracies. The explicit responsibility of such centers should be the development and presentation of an effective *adversary* position on the implications of on-going and new technologies. The successful execution of this mission would require high scientific competence. The reports of such "adversary" centers should be made widely available directly to the public. And a mechanism must be set up for an open-forum dialogue between the promoters of the technology and the adversaries. If an adversary position is developed before massive investment is committed, even entrepreneurs will be quite interested. They are not unaware that much of the advice rendered them by their own advisers has been poor in the past. But for those technologies that are far advanced, the numerous types of investment previously described represent a powerful combination. Even the most rational, convincing adversary position will not turn things around without additional features.

Technological unemployment, or the fear of unemployment, must be abolished. So long as this is not accomplished, the technologists-scientists in a particular technology cannot possibly be objective in an assessment of their own technology. Objectivity is readily buried in a morass of pseudoscience and rationalizations if the disappearance of positions and careers threatens. The labor force in a particular technology can also provide a powerful, unfortunate lobby to obscure a public objective evaluation of the technology and its hazards.

If both of these groups (technologists and labor) are to participate in a constructive re-direction of technological enterprise, where required, it is essential that they be protected against the prospect of unemployment. It must become mandatory that conversion jobs be provided, without loss of position level or salary level when a particular technology is discontinued. And I would urge that scientists-technologists form a powerful, determined organization, cutting across specialty boundaries, to demand an end to the pernicious institution of unemployment. For those who might argue that this is unprofessional, I would suggest they are contributing to the prospect of ecocide. And labor should, of course, insist upon the abolition of unemployment and fear of unemployment, too. If fear of unemployment is eliminated, conversion from anti-societal to pro-societal enterprise becomes possible. If the threat of job loss persists, the prospects for a rational approach to conversion are dim indeed.

There is no doubt that the privilege system has found the fear of unemployment to be an extremely useful tool in the past to keep all levels of employees in line, obedient and servile. Possibly this luxury accorded themselves by the entrepreneurs in the past can only be criticized as diabolical and inhumane. In a technological era, where misdirected enterprise can provoke potential eco-disaster, such a luxury simply cannot be afforded.

Economic details undoubtedly will require some imaginative efforts. One of the ways to stimulate imaginative effort is to develop a very powerful constituency insisting upon an early solution. This particular economic problem does not appear to be one of the most profound ones that man has faced.

At the economic-entrepreneurial level, the necessary ingredient is indemnification against loss of capital investment, when technology assessment dictates a change in direction. A punitive approach to investors in technology-based enterprises which turn out to be ecologically unsound seems to appeal to some. However, such an approach can only be expected to meet with fierce resistance; subterfuge, distortions, half-truths and lies in the effort to preserve short-term, parochial economic interest, whatever the societal cost. Certainly the effective implementation of an adversary technology assessment *very* early in the course of new technologies would minimize the need for indemnification, simply because obviously misdirected ones would not get off the ground so easily as they do now. But even with the best of alert systems, the secondary, adverse effects of some technological innovations will not become evident early. The fear of capital loss is, without doubt, a fantastically powerful motivating force to continue even the most blatantly eco-mad endeavors. It is difficult to believe it is more economic to continue on the road to oblivion than to indemnify investors so they will at least not fight with desperation against a rational change of direction.

EVALUATING REACTORS

Nuclear electric power technology certainly is one which comes up for consideration. Obviously there exists a wide range of opinions concerning whether the current program of heading toward a plutonium-based energy economy makes sense. A considerable segment of thought holds that the current burner reactor-electricity program makes no sense whether or not there is a future breeder energy economy. It is extremely difficult to believe that a rational evaluation of this problem can take place under circumstances where some of our giant corporations would stand exposed with the capital stake they hold in this enterprise.

But it is even more difficult to believe that the cost of conversion, including indemnification, can possibly approach the cost of continuation with potentially disastrous enterprises. In an economy which sustains some $70 billion of annual dumping into obsolescing and useless armaments, it seems that the indemnification costs of redirecting enterprise cannot be forbidding. Talent, training and many of the facilities can readily be salvaged to embark upon societally useful ventures. In the case of electric power generation, scrapping the nuclear electricity program will still require talents, facilities and organization to proceed with approaches to environmentally sound generation of electric power. The industrial giants are not going to disappear in any event. It is sensible to have them doing something that meets societal needs rather than something which thwarts human survival. If this be ransom, I would consider it well worth paying. Maybe, one day, a more rational approach will become available, but we don't have time for the appearance of utopia.

We are a culture that worships "success." And we all repeat the maxim, "nothing succeeds like success." But we don't really understand the full implications of this maxim. Economics of conversion of mis-directed technology has been discussed above. But economics is really not the whole story in leading to persistence in technological blunders. While thinking about the wonders of "success," we must give some real consideration to "failure." We place such a high ego-premium on being right about what we say, what we do, especially for all endeavors that are in the public or semi-public domain. It is no secret that in scientific academe some men appear to devote a lifetime of research and publication to proving they were right in their Ph. D. thesis. Who in industry or technology in general is unaware of the ego-hazard (over and above hazard of job loss) inherent in having to tell his superior that all is not so rosy in the picture painted last month or last year concerning a specific project? Defensiveness is the obvious result of the high value-premium we place upon success. And defensiveness breeds tunnel-vision, self-deception and rationalization—anything *but* objectivity.

MOTIVATIONS AND MEN

This cult of success pervades our education system, produces the wrong kind of competition and virtually insures that human values will be given low priority. We must give men the opportunity to be commended for being self-critical, for being able to conclude that their prior opinions were in error. There is no doubt that the change in attitude with respect to this issue, much more subtle than the economic ones, will require very careful nurturing. It won't be easy to have people appreciate how important it is to honor those who can forthrightly admit error or failure. While this may prove difficult to achieve, it seems we must work toward it if we are to avoid compounding our mis-moves in technological application.

Science and technology, applied in large-scale enterprise, can contribute heavily to the improvement in quality of life. And, alternatively, such application can and does lead to environmental degradation, as well as the imposition of potentially unbearable burdens upon future health and well-being. Unfortunately, the mechanisms required to determine which of these end results is more likely to be the outcome are largely absent. It is all too easy in such a state of affairs to place blame upon bumbling bureaucracies or upon insensitive corporations. But decisions to go forward in enterprises, based upon technological innovation, are not made either by corporations or by bureaucracies. Such decisions are made by men. It is perhaps more pleasant to shy away from this reality because it brings us face to face with defects all of us share. Men, at all echelons of society, are motivated by ego-security, fear and economic considerations. The economic considerations range from privilege and its extnesion through to simple job security for avoidance of poverty.

In the longer range, perhaps the counter-productive aspects of these motivations may be recognized and men may change. But technology presents us with hazards operating in a much shorter time frame. So we must try to solve our problems as we are. This means recognizing defects which exist and endeavoring operationally to counter them. One defect is the absence of a viable institution for critical assessment of ongoing or proposed technologies. We can rest assured that the favorable prospects for such technologies will be amply developed—and widely advertised. We have, at present, no sound method of insuring that potentially adverse effects will receive independent, unbiased consideration. Lip service to this effort we have had, and will have, in production.

THE NEXT STEP

This particular defect can be rectified through the development of a reprisal-free adversary system of scientific inquiry. While such a system is vitally needed, it will provide only a first step. The next step is the creation of rational, open-forum dialogue, the goal of which is a reasonable constructive *evaluation* of the pro and con information and *implementation* based upon such evaluation. Neither the evaluation nor the implementation will conceivably accomplish anything worthwhile unless we face squarely the real, powerful, underlying motives of men. And these relate almost wholly to economic motives; secondarily to ego-preservation. The economic motives are primary here. If we indemnify the entrepreneurial elite and *abolish* the prospect of economic insecurity all along the chain from top management and top technologists through to the labor force, we may yet see a very reasonable approach to evaluation and implementation. The ego-defensiveness problem is, in part, related to economics and, in part, related to some required changes in our cultural attitudes.

I would expect two answers to these proposals. First, the problem lies in other directions. How dare you make such a brazen analysis of reality? To this I would reply that the time for tranquilizers is over. Second, insuperable economic hurdles would prevent implementation of these proposals. This is why I would suggest the development of a powerful activist constituency to *demand* that the economic hurdles be overcome. I suspect there is a chance for some imaginative progress even in economics once it is realized that the heat is on and will stay on. Ecocide is too high a price to pay for non-imaginative lethargy.

[From the Washington Post, Nov. 25, 1971]

A-Plant Work To Continue, AEC Decides

(By Richard M. Cohen)

The Atomic Energy Commission decided yesterday not to order a halt to construction at Maryland's Calvert Cliffs nuclear power plant.

Issuing a report required by a court ruling, the AEC said it found the possible dangers to the environment at the plant were "minimal" compared to the expense to the public that would result from halting the work.

A construction halt, the AEC said, would cost the public $162 million, reduce power reserves in the Washington-Baltimore corridor, deal a blow to the economy of Calvert County and result in the layoff of 2,500 construction workers in an area already hard hit by unemployment.

"After balancing the various factors above, we concluded that the adverse impact on the environment resulting from continued construction . . . is sufficiently minimal that it does not balance the significant cost to the public," the AEC said.

The AEC ruling, based largely on data supplied by the builder of the Calvert Cliffs plant, the Baltimore Gas & Electric Co., was issued in response to a decison last July by the U.S. Court of Appeals here. In a suit brought by opponents of the Calvert Cliffs project, the court found that the AEC had failed to implement environmental safeguards in the projects it oversees and licenses and ordered the agency to incorporate the guidelines contained in the National Environmental Protection Act when issuing permits for nuclear facilities.

At the same time, the three-judge panel ordered the AEC to conduct a "full and fruitful" environmental review of Calvert Cliffs and other plants and suggested that the AEC "consider very seriously the requirement of a temporary halt in construction pending its review."

The AEC, after deciding not to appeal the ruling, ordered all 36 nuclear power plants under construction to show cause why construction should not be halted pending completion of the environmental review.

Thus far, the AEC has ruled on seven projects. It ordered a partial construction halt in one case, a plant under construction about 40 miles southeast of Wilmington, N.C. The agency has not yet ruled on the plant being built by the Virginia Electric and Power Co. at Surry, Va., about 25 miles northwest of Norfolk.

In addition to Calvert Cliffs, the AEC yesterday also approved work on a plant under construction in Oconee County, S.C.

AEC spokesmen stressed yesterday that the decision to allow the Baltimore Gas & Electric Co. to proceed with construction applies only to the six months or so that the environmental review will take and will not bring the plant to the point at which nuclear reactors are installed. Once the review is completed, the spokesman said, the AEC might then order a construction halt.

The Calvert Cliffs plant, being built about 45 miles from Washington in Calvert County on the Western Shore of the Chesapeake Bay is substantially complete. It has been attacked by conservationists and Calvert County residents who say the plant is a major threat to the ecology of the bay.

WILL DUMP WATER

The plant, which is scheduled to begin operation in 1973, will use more than a billion gallons of water a day to cool its equipment and will return the water to the bay as much as 10 degrees warmer than when it was taken out.

The heated water, some conservationists say, will alter the bay's ecological balance and endanger marine life. Other critics have opposed the plant's construction because overhead power lines will scar the Calvert Cliffs area and because the plant will occupy 300 acres of what was woods or abandoned farm land.

In its decision, the AEC said most of the land has already been cleared and that construction of towers and transmission lines is about 85 per cent completed. Dredging and other work, the AEC said, has already begun, too, and a construction delay might "add to the damage already inficted upon the site environment."

ALREADY ALTERED

"In effect," said AEC commissioner William O. Doub, a Maryland resident, "what we are saying is that the natural environment has already been significantly altered and a curtailment in construction would not change much."

The AEC ruling says the added construction is "expected to make the site more esthetically pleasing as viewed from the bay."

Moreover, the AEC said, should the environmental review produce evidence of environmental danger or some other deficiency, steps could be taken then to remedy the situation by modifying the existing plant.

Using figures verified by the AEC and submitted by the Baltimore Gas & Electric Co. under oath, the AEC said a nine-month suspension of construction would increase plant and construction costs by $22 million. The figure, the decision said, reflects BG & E's contention that it would require three additional months to resume construction once the approval were given.

The AEC said the increased costs would raise BG & E's interest cost on money borrowed to finance the project by an estimated $20.9 million. The total cost to the utility would be about $78 million and, when financed and passed along to the public, "will result in a total cost to the consumer of approximately $162 million. Part of this cost would result from BG & E's need to buy power from other utilities in the Pennsylvania-New Jersey-Maryland interconnection power pool.

The company also said that a one year delay would lower the power reserves of the pool to less than 16 per cent, or 4 per cent less than the "minimum necessary to promote reliable service. . . ."

The AEC said that Calvert County, anticipating $6.5 million a year in tax revenues from the plant once it is operating, had floated bond issues expecting to pay the interest with taxes paid by the Baltimore utility.

In addition, the AEC said a construction halt would require the dismissal of 2,500 construction workers in Calvert County, which had a 1970 unemployment rate of 7.4 per cent.

REVIEWS CITED

Finally, the AEC pointed out that the Calvert Cliffs plant had been reviewed and approved by a succession of state agencies and given a clean environmental bill of health.

The AEC's decision can be appealed within 30 days. The attorney for the foes of the plant who brought the suit could not be reached for comment on whether an appeal would be made.

POWER FIRM LAWYERS WARN OF SHORTAGE

A serious power shortage for the entire state of Iowa and much of northern Illinois this summer would result from a court injunction against partial opening of a nuclear power plant in Cordova, Ill., attorneys for two power companies argued yesterday.

U.S. District Judge Barrington D. Parker took the request for a temporary injunction against Atomic Energy Commission approval of the plant under advisement here yesterday and indicated that he would rule soon.

Attorneys for the companies Commonwealth Edison and Iowa-Illinois Gas and Electric, joint owners of the Quad Cities nuclear power generation station at Cordova, said that unless Parker rules in their favor soon the summer power shortages will result.

The shortage would occur because the power that it be approved by the AEC, would allow maintenance work to be done on conventional power plants that would then operate through the summer after the test period came to an end in March, they said.

The argument before Parker was the first major development in a lawsuit filed Nov. 4 by the state of Illinois to force the AEC to issue an environmental impact statement before opening the plant even temporarily.

The state, along with the Izaak Walton League of America, a conservation group, argued that the Cordova plant's condensers are expected to require 1 million gallons a day of Mississippi River water for cooling. The result will be that the temperature at large areas of the river will be increased in excess of 5 degrees Fahrenheit, the maximum permissible increase for warm water aquatic organisms, according to the plaintiffs.

[From Environment Action Bulletin, Nov. 6, 1971]

DR. SCHLESINGER, THE AEC AND THE PUBLIC INTEREST

(By John W. Gofman)

Dr. James R. Schlesinger, the newly appointed Chairman of the U.S. Atomic Energy Commission has made several extremely important and welcome statements in his recent address (October 20, 1971, Bal Harbour, Florida, to the joint meeting of the American Nuclear Society and the Atomic Industrial Forum). The address is titled "Expectations and Responsibilities of the Nuclear Industry" (A.E.C. Document No. S–21–71). Two key statements are:

"One result [of the move toward greater self-reliance for industry] will be that you should not expect the A.E.C. to fight the industry's political, social, and commercial battles. . . .

"Let me reiterate: the Atomic Energy Commission, like any government agency, exists to serve the public interest."

Other important points made by Dr. Schlesinger are:

"In the weeks since I came into this job I have been impressed on a number of occasions by the failure in the industry and (the A.E.C.) to distinguish properly between the role and responsibilities of industry and the separate role and responsibilities of the A.E.C. . . .

"In the future I trust the distinctive responsibilities of a government agency will become more sharply etched in the minds of all of us."

I heartily commend Dr. Schlesinger for his forthright, courageous statements. Moreover I urge all those, disheartened for so long by the spectacle of the A.E.C. acting in a manner hardly indicating intent to serve the public interest, to commend Dr. Schlesinger. Dr. Schlesinger's statements indicate that he intends to try to reestablish credibility for the Atomic Energy Commission, a credibility which currently lies in ruins as a result of A.E.C.'s unabashed promotional activities in nuclear electricity and flagrant disregard for public concern. But the A.E.C. is only one of many governmental bodies with a long history of placing the promotional interests of private industry well ahead of the public interest, particularly the public's interest in health, a healthful environment, and the right to be heard *effectively* in matters involving the supposedly cherished rights to life, liberty, and the pursuit of happiness.

The vast majority of environmentally-concerned citizens retain their hope that government might one day work in the public interest. Such citizens have demonstrated uncommon patience, particularly in the case of A.E.C., in their efforts to request some evidence of responsiveness to their concerns. Dr. Schlesinger has indicated that he plans to change all this at A.E.C. His statement that "Environmentalists have raised many legitimate questions," is very important and is most welcome.

Dr. Schlesinger has set for himself a formidable task and he will need the support and help of concerned citizens. Not only should concerned citizens applaud his courage and determination, they must be prepared to be more vigorous than ever and more watchful than ever, for Dr. Schlesinger will face dettermined opposition both within A.E.C. and from the commercial nuclear power interests. Let us consider some of the important thwarts Dr. Schlesinger will face in his effort to provide credibility that the A.E.C. plans to work now in the public interest. We can restrict our considerations to nuclear electric power, both the current light water reaction progam and the forthcoming breeder reactor progam.

The light water reactor program is in serious trouble and under serious challenge on two major grounds, a total inability to provide assurance of safety of nuclear power plants against catastrophic accidents and a total inability to solve the problem of guardianship of the astronomical quantities of long-lived radioactive wastes already being generated by nuclear power plants in operation. Dr. Schlesinger must now face the difficulty that A.E.C. has virtually denied the importance of both of these problems. At the same time the evidence is clear that neither of these problems has been solved. The Union of Concerned Scientists of Cambridge, Massachusetts has published two technical reports indicating that there is no reason at all to believe that the reactors now operating or planned can withstand the most feared accident, the loss-of-coolant accident, without the potential for a catastrophe in lives and property previously unheard of and unimagined for peacetime activities. They have appropriately recommended cessation of licensing of new nuclear plants; and an independent review of existing plants to ascertain whether operating licenses should be withdrawn until the safety issues are adequately researched.

The recent revelations by A.E.C. that all their prior reassurances concerning radioactive waste disposal at Lyons, Kansas, were without foundation clearly points up the fact that *no* solution is in sight for the handling of radioactive wastes.

The seriousness of both the reactor safety issue and the radioactive waste issue points to the requirement, in the public interest, for a serious consideration of a moratorium both on operation and construction of nuclear power plants of the current light water type. Dr. Schlesinger will, of course, realize that his devotion to the public interest will be sorely tested by the essential *consideration* of a moratorium. He will not be helped by internal A.E.C. staff or industrial interests, both of which groups will necessarily fear investment loss, both of positions and capital. So Dr. Schlesinger may have to come to grips with the problem of conversion of technological endeavor, with job replacement and indemnification, if the public interest is to be served. Dr. Schlesinger can be helped in these matters by the alertness and backing of an informed public, who can provide a strong bulwark of support for the concept that the public health and safety are primary.

Dr. Schlesinger will face problems of comparable magnitude with respect to the fast breeder program with its prospects for a plutonium-based energy economy. Since this program may pose threats to the public interest of even greater magnitude than the current light water power plants, Dr. Schlesinger will necessarily face, for the first time in A.E.C. history, the requirements for a serious consideration of whether the public interest might best be served by abandoning the breeder program altogether in favor of one of several attractive, non-hazardous alternatives for power production. The Distict Court of Appeals has already helped materially in ordering A.E.C. to comply with the National Environmental Policy Act in the evaluation of alternatives. A.E.C. has Congressional approval to fund studies of alternatives. Dr. Schlesinger will, of course, find himself surrounded by those who will show very little vision concerning alternatives to the breeder program. Therefore, he will require much help from the public in insuring a careful, independent assessment of whether a commitment of the country to a plutonium economy, and the dismal future this implies, is really in the public interest.

Most of the problems that have arisen for A.E.C. in the nuclear power field, both with respect to biological and engineering hazard areas, are the result of typical bureaucratic bias toward finding only the glories of the enterprise. Long overdue is the support of independent assessment of the adverse side of the picture. We might suggest that Dr. Schlesinger help provide strong advocacy for the funding of independent scientific efforts to develop the possible adverse features of the nuclear electricity program. Such work will be a major assist in his efforts to understand where the public interest truly lies.

There may be some who will assert that it is ridiculous to expect the Chairman of the Atomic Energy Commission to advocate the full development of the *adverse* potential of the nuclear power industry. They are wrong. What is really absurd is the spectacle of the A.E.C. unable to provide its Chairman with the adverse side of the picture on issues where great debate rages in the public and scientific community. Surely Dr. Schlesinger will wonder how the ostensibly objective scientists of the A.E.C. staff perform the miracle of all thinking alike on subjects of great debate outside the walls of Germantown headquarters.

Dr. Schlesinger observed that environmentalists might come to realize that nuclear power could benefit the ecology by reducing the hazardous wastes from fossil fuel power plants, such as sulfur and nitrogen oxides and particulates. Here Dr. Schlesinger is simply demonstrating the effectiveness even upon himself of brainwash techniques practiced by his predecessors at A.E.C., by the electric utility companies, and the nuclear promoters in industry. All responsible environmentalists have realized that sulfur and nitrogen oxide pollution and fly ash pollution can and must be eliminated, whether we ever have nuclear power or not. It is not rational to argue that we can absolve ourselves of one health requirement, cleaning up fossil fuel power plants, by jumping headlong into a potentially worse approach to power generation. Indeed, in the public interest, Dr. Schlesinger and A.E.C. must begin to add their voices to the *urgent* requirement for clean fossil fuel power generation, for under any circumstances of nuclear power production through the year 2000, society will be using fossil fuels and cannot possibly tolerate continued fossil fuel pollution.

Lastly Dr. Schlesinger expressed concern as follows:

"Moreover, the responsible environmentalists are keenly aware that the present situation can boomerang. If there are power interruptions, brownouts and blackouts, the environmental movement may pay a severe price along with the rest of us."

What Dr. Schlesinger is telling us is the basic strategy of the electric power industry and the nuclear promoters. That strategy is to blame the environmentalists for all the short-sightedness, the mismanagement, the poor planning, the self-fulfilling crisis generation through advertising, and the virtual absence of research and development of the electric utility industry. No one should be surprised that those culpable will indeed attempt to place the blame for *their* ineptness upon the environmentalists. But "the environmental movement along with the rest of us paying a severe price" for such ineptness is simply going too far. For the *public* to accept punishment, such as the prescription of a radioactive future, for the errors of the utility industry is a bit much. even with the well-developed gullibility the industrial promoters ascribe to the public. The constructive approach, in line with Dr. Schlesinger's suggestion concerning working in the public interest, is to develop now a rational *energy* policy for the country, instead of an *atomic* energy policy.

Dr. Schlesinger has stated that he intends for A.E.C. to work in the public interest in the future. We should compliment him for this courageous decision and give him support at every opportunity to do precisely this. Since we realize the enormously powerful forces which exist to make his task difficult, if not impossible, we must realize that he will *need* a public, more alert with environmental awareness concerning the electric power problem than ever. The environmentalists will need to learn and to teach others the many myths sponsored by promotional interests concerning electric power. They will need to become more active than ever in the electric power debates to prevent further public brainwash. It should be refreshing to feel that Dr. Schlesinger will be working with them in the public interest.

For the environmentalists who for so long have clung to the hope that one day even government might begin to work in the public interest, Dr. Schlesinger's approach comes as a vindication of their faith. Doubtless few of them would have been so brash as to expect that such renewed faith might come from the Atomic Energy Commission. Yet, America is a wondrous place and faith, buttressed by a watchful public ready to exert *clout,* may yet pay dividends in the form of a livable environment.

AN EXCERPT FROM N.Y. TIMES MAGAZINE SECTION STORY

'Schlesinger's concept of the A.E.C. does promise to reverse its course, for the better. Nothing less can assure the nation that its atomic managers will responsibly handle the deadly nuclear trash of the future.

'Our civilization in this nuclear age has a staggering responsibility to the future. The costs to coming generations of our mistakes are almost beyond the power to imagine. Our technologists must be nothing less than infallible. Accordingly, everything must be done to increase our chances of being right when we finally decide what to do. As a start, we can derive some humility from the fact that only five years ago our technologists could not conceive of how safety could turn into danger in Grand Junction, Colo.'

CLEANING UP THE ENVIRONMENT

Mr. BEALL. Mr. President, I would like to call to the attention of my colleagues the outstanding work that is being done at the Charles County Community College in La Plata, Md.

As a former member of the Public Works Subcommittee on Air and Water Pollution, and as a supporter of the recently passed Federal Water Pollution Control Act Amendments of 1971, I am aware that it is essential for the success of our environmental efforts that we have trained technical personnel to run and maintain our waste disposal plants after they are constructed. Charles County Community College is attempting to do this for the State of Maryland. Their training is not all theoretical either, for they receive firsthand experience on a secondary waste treatment facility that handles 60,000 gallons of sewage from the college and part of La Plata. In addition, the college has an important estuarine research program which got started this fall.

I ask unanimous consent that the November 18 article from the Washington Post written by Mr. Thomas Grubisich entitled "Charles College's Clean Up" be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Charles College's Clean Up

(By Thomas Grubisich)

In 1966, before anyone had thought to give Earth its own day, Charles County Community College in La Plata, Md., decided to train people who could help clean up the environment.

As a start, the college wanted to do what no other technical school was doing—produce graduates who, after two years, could take strong and up-to-date backgrounds in pollution abatement to jobs at sewage-disposal plants.

These facilities seemed a good place to begin cleaning up the environment. Their personnel, low in status and poorly paid, usually had little training in pollution technology. As one environmental scientist put it, "Either the town drunk or the town idiot usually was the guy who worked in these plants."

At the time, all of Maryland had only three certified sewage-plant operators.

So, in 1966 Charles Community College applied to the U.S. Office of Education for a start-up grant. Officials at the college were optimistic about their chances. The proposed curriculum had been hammered out by knowledgeable people: Dr. Belva L. Jensen, chairman of the biology department and the originator of the idea; James B. Coulter, then assistant commissioner of environmental health services in Maryland and now secretary of the Maryland Department of Natural Resources; and the college president, Jay N. Carsey, a former chemical engineer.

But the application was rejected. The Office of Education said it didn't anticipate any great need for the technicians the college wanted to train.

Since then, a lot of water, most of it polluted, has gone under the bridge. And the environment (including sewage-disposal plants) has been discovered and endorsed by just about everyone.

In the past four years, Charles Community College has received a number of federal grants for environmental projects. With one (and local and state money), it built a $500,000 secondary waste treatment plant, one of the most advanced in the Washington area. It is not just a laboratory model that's turned on during school hours. It daily handles 60,000 gallons of sewage from the college and part of La Plata. Students use it as part of their "hands on" training.

Today there is a rapidly increasing need for technicians who are knowledgeable about pollution abatement. In fact, at Charles Community College, some students are being hired even before they graduate.

According to Carl Schwing, head of the college's pollution abatement technology program, 32,000 technical-level jobs will have to be filled in sewage disposal plants across the nation over the next 10 years. Most of the jobs will be at new or upgraded plants outfitted with much more elaborate and sophisticated filtering equipment than found at present. (Also being upgraded is the name for the plants. The old name, "sewage-disposal plant" is being discarded for the more scientific-sounding "waste-water-treatment facility.")

In estuarine research, another field in which the college offers a two-year study program, an estimated 800 to 1,000 technical jobs are—or soon will be—available in the Washington area alone. Frozen budgets, though, will delay some hiring in government.

The demand underscores the shift that has been taking place in the job market in science and technology, especially the environmental area. Professionals—holders of bachelor's and advanced degrees—are and have been in a job recession. But the people who serve as their assistants—called variously paraprofessionals, semi-professionals, subprofessionals, junior professionals, or just plain technicians—are enjoying boom years. Starting salaries for holders of associate degrees (given by two-year community colleges) in the environmental field are $7,000 to $8,000.

Dr. Richard E. Tiller, who heads Charles County's estuarine research program, gave a striking example of the job shift: "A few years ago there used to be 10 oceanographers for one technician. Now there are 10 technicians for one oceanographer."

Tiller's observation was reinforced by William Paulus, who heads the training program at the Naval Oceanographic Office in Suitland, which is redirecting a great deal of its efforts into estuarine and other environmental research. Paulus said that before the recent presidential freeze on hiring, the oceanographic office needed 300 technicians and hardly any professional oceanographers.

There are also new jobs for environmental technicians in industry, which is scrambling to meet tougher state and federal regulations, and in state pollution control agencies, which were created or enlarged in the flurry of recent environmental legislation.

Thousands of technical jobs would be created by three bills pending in Congress—$23.7 billion over five years to clean up the nation's rivers; $1 billion for New Deal-type public works projects in pollution abatement, and $129 million for pollution abatement at defense installations.

Though 400 of Charles County's 1,200 full- and part-time students are studying one or another aspect of the environment (there is, for example, a "Sewer Rats" program under which presently employed sewage-plant operators can update their skills), right now the college is capable of producing only a few graduates holding an associate degree in its pollution abatement technology and estuarine resources training programs. Tough standards, the college says, are one reason. The pollution abatement technology program had a starting enrollment of 30 in September, 1970. But only five graduated last June.

Oddly enough, Charles Community College is not attracting as many students interested in the environment as it thought it would. Sometimes romantic notions about environmental research have to be toned down. The Naval Oceanographic Office's Paulus said of his unit's 300 openings: "There won't be any of this dramatic, Jacques Cousteau diving stuff. There won't be any bikini-clad research assistants."

Across the country, there are about 100 community colleges offering some type of technical training, and 70 offering associate degrees in one or more areas. But Charles County is the only community college offering a program dealing strictly with the technology of waste-water-treatment facilities. It was also the first college to offer a program built around estuarine research. That program got started this fall.

Estuaries—the bays, sloughs, inlets, sounds, salt marshes and lagoons where salt water meets fresh water—are probably the most important part of the world's water system.

Rich in nutrients, estuaries are a favorite spawning ground for marine and animal life. About three-quarters of commercial fish are estimated to be produced or nurtured in these bodies of water.

Estuaries have also become dumping grounds for man-produced pollution. Most of the sewage, silt and other pollutants that enter rivers eventually wind up in estauries. And there many of them settle.

Both because of their value and the threat of pollution, estuaries are getting increased attention from environmentalists.

The biggest estuary in North America is the Chesapeake Bay area, and that is where students in Charles County's estuarine program do their studying.

Their classroom is a floating dock that has been beached under a shade tree. It is right next to Harry Messick's oyster house, on the bank of the Patuxent River in the fishing village of Benedict, Md. Their laboratory is a converted office trailer. Their research field is the Patuxent, a river that is relatively clean but beginning to feel the impact of urban development within its watershed further upstream, in Prince Georges and Anne Arundel counties.

For their "hands-on" research on the river, the students use a 50-foot Navy surplus depth-sounding boat built in 1944. The boat has been repainted, fitted with a chemical toilet and dubbed Sea Cow.

The rest of the research fleet includes two 19-foot runabouts that can be used for water sampling (Sea Mink and Sea Squirt). The classrooms and labs at La Plata, the mobile lab at Benedict and Sea Cow (wherever she is) are linked with a communication network donated by the General Electric Co.

In their first year, students are introduced to the precision scientific equipment they will use as environmental technicians—turbidimeters (which measure sediment in water), anemometers (which measure the force or speed of wind), depth recorders and other instruments. But first they must learn more basic things—remembering to skip over a hawser, polishing quickly tarnishing brass water sampling cores, among other things.

The staff, too, use their hands to hold more than briefcases, books and pens. The second-hand mobile trailer was converted to a sophisticated field laboratory by Tiller and his two colleagues, Thomas R. Poe and William E. Montgomery, who, between them, hold five advanced degrees. With hammers, nails and glue, they laid the formica countertops and installed the extensive cabinetry.

ADDRESS BY HON. CHARLES H. SILVER AT ALFRED E. SMITH DINNER

Mr. BUCKLEY. Mr. President, I ask unanimous consent to have printed in the RECORD the brief remarks made at the 26th annual dinner of the Alfred E. Smith Memorial Foundation in New York City by the Honorable Charles H. Silver. As usual, Mr. Silver was able to capture some important truths in a very few words.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS BY HON. CHARLES H. SILVER

OCTOBER 20, 1971.

His Eminence Terence Cardinal Cooke summons us to honor the memory of democracy's Happy Warrior and for the high purpose of appraising the events and forces of today in the hope of building a better tomorrow.

The unsavory moral, social and political climate in much of the world community spurs us to consider momentous issues as we break bread together. Let us not approach them with closed minds nor with less than intensely passionate resolve to eliminate the differences that divide our people and the bitterness that breeds violence and bloodshed.

How tragic it is that we—who plant our footsteps on the moon—cannot set our feet squarely on the earth we inhabit and make it again as good as the Creator once called it. Perhaps it is the breathless pace of scientific achievement that clouds our vision of the wonders worked by the Almighty that serve the needs of humanity.

We have put the rockets into orbit. But who put the orbit there? We have mastered the most complex problems of interstellar geography. But whose divine impulse first charted the measureless heavens?

We humans have leaped into new dimensions. And we have left behind our sacred duty to treat each other like human beings.

In the frenzy of progress, we are losing a precious calmness of mind and deliberation of thought and effort. People are being pitted against people, nation against nation, race against race.

We fill the sky with flying objects. It is time we filled our hearts, our homes, our schools, our neighborhoods and our nation with the spirit of trust, hope and charity.

They inspired a crusading Al Smith in an even more blighted yesterday.

In welcoming you to this 26th Annual Dinner, I call you to join this crusade. And I think you will agree that—tonight—we find ourselves in very good company.

Our dais is graced by many distinguished citizens who cope with increasingly serious problems challenging our city, state and nation.

I wish them well . . .

It is leadership like theirs that gives us strength—and noble ideals such as were eloquently expressed, at the recent Supreme Convocation of the Knights of Columbus, by our cherished host, that Prince among the guardians of faith, His Eminence Terence Cardinal Cooke.

He said:

"This day is precisely the moment in history that calls for the faith and courage of our dedicated forebears. We see—gravely threatened—a unique heritage which, for more than a century, has contributed immeasurably to the strength of this nation, to the quality of life and to the development of a democracy that has been a great blessing for millions of our fellow citizens, the total miracle of American Catholic education."

Those are the words of our honored host, His Eminence. Let us hope they will be heeded in the highest places—including the Supreme Court of the United States.

And in meeting this most vital obligation to our youth, I am confident that these sentiments would be echoed by our voice of freedom in the councils of the world's great powers, foremost among the inspired defenders of the rights of man . . . our honored guest tonight: Ambassador Henry Cabot Lodge.

Each in his own sphere must determine to dream the impossible dream . . . For it is later than we think. The task is greater than before.

It is high time to begin . . . to try . . . to do—all of us—the most and the best we can.

I am sure we are equal to it.

I recall another great American, at the same recent Convocation of the Knights of Columbus, who said:

"When we talk about the character of our nation, we must never forget that it depends upon the individual character of two hundred million Americans. Where does that come from? It comes from the home. It comes from the churches. It comes from the schools of this nation. There is where the next generation, the coming generation, is being forged."

Those are the words of Richard M. Nixon, President of the United States.

They underline the immense task that remains to be accomplished by education . . . by a system of education—private religious as well as public—that cannot be neglected and must not be starved.

It is not enough to exist for tomorrow—we must live for tomorrow. We must work for tomorrow in the classrooms of today. We must support the institutions which are building that tomorrow, and foremost among these is religious education which can with greater freedom inculcate the moral values so direly needed right now.

We must care.

We must show how much we care.

We must show in the halls of Congress . . . in correspondence to our elected representatives . . . and at the ballot box next month.

The wisdom, and devotion, of such men and women as come together here will lead us in the war we wage in our very streets to banish unemployment, inadequate housing, illness, narcotics, poverty and ignorance.

Through their example, we can embrace within ourselves a growing conviction that commitment to the Golden Rule has not gone out of style. With vigor and confidence, we can strike a mortal blow at the evils of our age.

Things do go wrong. Bad news and world-shaking tragedy infest the daily headlines and take their toll of national self-respect.

There are—and will be again—disappointments, frustration and defeat.

Sometimes we feel that our faith cannot flourish any longer in a fool's paradise threatened by the nightmare around us.

But we are not fools—and though we may never achieve paradise on earth—by our faith we will continue to seek perfection and salvation. If we fail now, we condemn the future to slavery and fear.

Be not deceived . . .

The days ahead will damn the world to destruction—or deliver it to peace. This is the hour that will decide. It is up to us. The power—and the glory—are not ours alone. But the decision is.

GROWING OPPOSITION TO DR. BUTZ BECOMING SECRETARY OF AGRICULTURE

Mr. HUMPHREY. Mr. President, as I indicated yesterday, the opposition to Dr. Earl Butz becoming Secretary of Agriculture continues to mount. People from all walks of life and professions are increasingly voicing their opposition to the Senate confirming Dr. Butz as Secretary. Letters, telegrams, and other communications which I have received opposing this appointment clearly indicate that even if the Senate should confirm Dr. Butz' appointment as Secretary this week, he will enjoy little support and confidence among the people of this country in that capacity. Further evidence of this growing opposition is demonstrated in telegrams and letters received in my office today from Minnesota Farmers Union members, Gov. Patrick Lucey of Wisconsin and Andrew Biemiller, AFL–CIO.

I ask unanimous consent to have these communications placed in the Record.

There being no objection, the communications were ordered to be printed in the Record, as follows:

November 25, 1971.

Senator Hubert Humphrey,
Old Senate Office Building,
Washington, D.C.

In a unanimous vote, delegates to the 30th annual Minnesota Farmers Union Convention approved on Tuesday, November 23, a resolution to strongly and actively oppose the nomination of Dr. Earl Butz as Secretary of Agriculture.

The resolution read:

"The Minnesota State Farmers Union protests in the strongest possible terms the nomination of Earl Butz as Secretary of Agriculture.

"Dr. Butz, who is now dean of education and chief fund raiser for Purdue University, is also a board member of three huge agribusiness corporations, as well as an Indiana insurance director, plus owning stock in several manufacturing and chemical companies, could not represent the farmers' interests in better agriculture.

"Earl Butz, the man President Richard Nixon wants as Secretary of Agriculture, is against the family farmer. This was proven when he was Assistant Secretary of Agriculture under the Eisenhower-Ezra Taft Benson administration.

"Agriculture is now in a depression equal to the 1930's and needs a strong, open minded Secretary of Agriculture who will fight for and represent the farmer."

AFL–CIO,
November 24, 1971.

Hon. Hubert H. Humphrey,
U.S. Senate,
Washington, D.C.

Dear Senator Humphrey: The AFL–CIO urges that you vote against confirmation of the nomination of Dr. Earl Butz to be Secretary of Agriculture. We do not believe that confirmation of Dr. Butz for this position would be in the interest of the farmers of America, the farm workers of America or the American people as a whole.

Dr. Butz already views farming as big business and considers the corporate farm superior to the family farm—a concept we do not share. The farm workers of this nation have suffered much at the hands of the corporate farms and certainly their lot would not be improved if Dr. Butz were confirmed.

As Assistant Secretary of Agriculture in charge of consumer and marketing services, under Secretary of Agriculture Ezra Taft Benson, Dr. Butz played a significant role in frustrating implementation of the food stamp program. This was no isolated indication of his lack of concern for people in need, for his opposition to the food stamp program has continued to this day.

Dr. Butz, as a director of large corporations, such as Ralston Purina and Stokely Van Camp, has been an articulate spokesman for the point of view that agriculture is a business and should be developed along the lines of large corporate enterprise. As a lecturer for General Motors Corporation, he has belittled the environmental effects of DDT and expressed disdain for what he calls "consumerism."

The AFL–CIO believes the Secretary of Agriculture should be representative of farmers not big business. America already has too much domination of the Executive Branch by big business and certainly ought to draw the line at the nation's farms.

So, on behalf of the AFL–CIO, I strongly urge you to vote against confirmation of the nomination of Earl Butz to be the Secretary of Agriculture.

Sincerely yours,
Andrew J. Biemiller,
Director, Department of Legislation.

State of Wisconsin,
Madison, Wis., November 23, 1971.

Hon. Hubert H. Humphrey,
U.S. Senate,
Old Senate Office Building,
Washington, D.C.

Dear Senator Humphrey: I write to you today on behalf of the farmers of Wisconsin whose livelihood and life style have been disregarded by the nomination of Earl Butz as Secretary of Agriculture.

Those appointed to high public office ought to be concerned with representing all individuals affected by the policies of that office. However, in the case of Mr. Butz, you are considering a man so clearly on the side of huge corporate farming that individual small farmers throughout our nation are bound to suffer.

Earl Butz is a proponent of the policies followed by Ezra Taft Benson, U.S. Secretary of Agriculture during the 1950's. As you know, these policies were an economic disaster, causing severe over-production of crops, huge surpluses, low prices and financial ruin for small farmers. It took practically the entire decade of the 1960's to get rid of the surpluses brought about by the Benson policies of the previous decade.

Earl Butz was Assistant Secretary of Agriculture from 1954 to 1957 under Ezra Taft Benson. From recent remarks, it is clear that he is interested in resurrecting an era of government mistake and mismanagement in the area of agriculture. He has called on small farmers to "adapt or die." He is philosophically opposed to price supports and acreage diversion. There is no indication that he has changed his view, espoused in 1955, that "too many people are trying to stay in agriculture that would do better someplace else."

In fact, that view seems to have hardened. His position on the Board of Directors of Ralston Purina, Stokley-Van Camp and International Mineral and Chemical Company as well as his ties with the J. I. Case Company indicates that he is more interested in the profit of huge corporations than the well-being of individual farmers.

His economic ties have made him completely insensitive to the problems and needs of the small farmer. On one recent occasion he said, "I make no apologies to anyone for the participation I have taken in agri-business companies." On another occasion he said, "Nostalgically we still look at agriculture as a way of life but agriculture is now big business." Both his recent remarks and his economic ties reflect his belief that the future shape of rural America should be domination of our agriculture and control of our land by the largest corporations.

As Governor of Wisconsin, I am extremely concerned about the effect the agricultural policies of Earl Butz would have on the farmers of our state. It is obvious that he plans to reign over the demise of the small family farm both in our state and throughout the nation. It is equally obvious that under his regime huge corporate farming will grow to such proportions as to threaten the very existence of rural America as we know it today Therefore, I urge you to reject the nomination of Earl Butz as Secretary of Agriculture and approve in his place a man more suited to represent all sectors of agriculture in our society.

Sincerely,

PATRICK J. LUCEY,
Governor.

CHILD DEVELOPMENT

Mr. MONDALE. Mr. President, the St. Paul Dispatch recently carried an excellent two part series on day care-child development by Ann Baker.

This very thoughtful series points out both the need for day care in society today, and the dangers of purely custodial settings. It elaborates on the many differing views surrounding the idea of "child development" and early childhood education, and reviews the changes being made in licensing requirements.

Mr. President, at a time when the Congress is considering the day care-child development provisions contained in S. 2007, this informative review of the entire preschool proposal is very timely.

In order to give my colleagues an opportunity to read them, I ask unanimous consent that these two articles by Ann Baker appear at this point in my remarks.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

PRESCHOOL MOVEMENT "BROAD, DEEP, CONFUSED"

(By Ann Baker)

In the next 10 to 15 years nearly every child will be going to preschool. That is one thing most people who give the subject any thought agree on. And just about the only thing.

The day care and nursery school movement, which has blown up like a storm across America in the last couple of years, followed educators' discovery that little children are not simply raw material of the future, cretures to be fed and clothed and cuddled.

Today infants and toddlers are known to possess tremendous capabilities to see, to hear, to learn and to want to learn, almost immediately after birth. The first six years of life are widely conceded to be the most crucial, not only in bodily growth and emotional adjustment but also in mental development. Those are the root years. Nourish the roots properly, and the rest follows . . .

But from there the ideas and talk spread out in hundreds of different directions, varied according to one's view of children, family life and the whole society.

Basic urges for freedom compete and overlap with desires for order, women's liberation with family stability, professionalism with democracy, private enterprise with public aid.

The whole preschool movement is broad, deep and confused.

Some say that is its beauty—that early childhood "specialists" cannot afford to be single minded, and for that reason nursery schools have influenced elementary schools to try "open" classrooms and hire paraprofessional staff.

Some even accuse the preschool establishment of becoming already too static, in spite of its diverse, multi-disciplined approach, its habitual dissatisfaction with old methods and constant experimentation with new ones.

How broad and deep the movement runs can be judged from the list of research projects the federal Office of Child Development (OCD) has drawn up for as priorities for grants in 1972.

First item is day care, developing model all-day programs that stress learning.

Second—child advocacy, protecting the rights of children and guiding those in need of help to the proper services.

Ways to combat and prevent racism in young children comes next, followed by research on: parent education, substitute fathers, mixing children of different social and economic backgrounds, effects and uses of TV, reforms in institutional care, finding homes for hard-to-adopt children and ways to provide emergency help for children in traumatic home situations.

Just as day care is the Number One study priority of OCD, so too has it become a big concern of the National Association for the Education of Young Children, a 20,000-member organization that was originally interested only in the educational aspects of nursery schools and kindergartens.

At the association's annual conference next week in Minneapolis more than a dozen sessions will concentrate on day care alone; dozens of others on related issues.

Reasons for the national fascination with day care are clear, and they do not necessarily reflect the interests of children themselves.

Day care has come to be seen as the enabling quotient for women's liberation and the employment of welfare mothers . . .

As a potentially large job market for people ranging from junior high dropouts to PhDs in search of research projects . . .

As a big business on the verge of a boom. Two months ago Barron's financial paper advised Wall Street: Daycare "promises to be where the rewards are."

Rewards for the kids, however, are pretty doubtful, unless care goes beyond the juice and crackers, TV and nap kind of thing which up to now has been the chief offering for most of the country's children whose mothers work.

Some teachers and psychologists who have been leading the crusade for an "educational component" contend that without it day care can be disastrous.

They were heartened last month when both houses of Congress passed a comprehensive child development bill (sponsored in the Senate by Minn. Sen. Walter Mondale) which, if implemented, will provide substantial federal sums for day care that includes learning.

But exactly which classroom techniques best produce learning is an open question, even to the educators.

"What's stimulating to one (child) may be noise to another or it may be simply background that isn't heard," as University of Florida child psychologist Ira Gordon puts it.

Preschool teachers usually approach the curriculum question by using an eclectic method called "planned variation," meaning they take a particular technique and vary it with certain elements of another.

Today there are few purist Freudian, Montessori, cognitive or reward-and-punishment approaches being used: in most cases each "school" has been eager to explore what the others have to offer.

And that is the main reason why University of Minnesota's Institute of Child Development director, Willard Hartup, maintains "The best schooling available in the U.S. for the last 50 years has been in nursery schools."

PRESCHOOL MEETING SET FOR 5,000 PEOPLE

Some 5,000 members of the National Association for the Education of Young Children are expected to attend the group's annual conference next week in Minneapolis.

Speakers will include California experimental school director Herbert Kohl, Wisconsin early childhood professor David C. Davis, New York human resources administrator Jule Sugarman, Philadelphia attorney Lois Forer, federal Office of Child Development director Edward Zigler and Minnesota Sen. Walter Mondale.

More than 250 talks and workshops are scheduled for the Nov. 3–6 conference in three hotels, the Radisson, the Leamington and the Pick-Nicollet. The object, say organizers, is to encourage extensive group participation.

Reservations are being taken by the conference chairman, Mrs. Erna Fishhout, 430 Oak Grove, Minneapolis.

YOUNG CHILDREN CAN LEARN

(By Ann Baker)

It's not easy to pin down the techniques used by nursery school teachers. As they grow more and more aware of the unique traits of each child, so do they jealously defend the uniqueness of each classroom method.

They're skittish about being categorized. A word like "structure" is a no-no. It can mean rigidity to one person, flexible guidelines to another. Even "teach" is a dangerous word, sometimes interpreted as stuffing information at random into kids' heads, sometimes meaning guiding their development step by step through a series of increasingly complex activities.

But for all the various approaches and their combinations and permutations there are trends.

Currently most teachers have been moving away from the stress of a decade ago on emotional and social growth to an emphasis on intellectual growth—language stimulation, classification, numbers, how one looks at the world.

Probably the most popular man in preschool circles is Jean Piaget, the Swiss psychologist famous for his theories of how children come to reason, think and learn language in certain sequences, beginning in the cradle.

"We're going to broaden our notions of what education at this age means," says Willard Hartup, director of the University of Minnesota's Institute of Child Development. "It's possible we never provided kids with all they can use to become productive later on. Today we're much more convinced that young children can learn and do more than they've ever done."

Dramatic learning experiments with babies have opened up another area for speculation. Programs to help parents find the best ways to draw out their youngsters' curiosity and ability are also promised support by the Mondale bill for comprehensive child development.

Some educators, though, have reacted against what they feel is a danger of "pushing" children too hard, too fast. They cite the case of a little girl who was taught to read when two and a half years old. When she was 4 she was interested in little else than reading, had poor hand coordination and was baffled by questions like "What is wet?"

Where the balance may be struck will no doubt again be open to continuous reevaluation.

Minnesota state regulations contingent on granting daycare licenses are presently being revised by committees of nearly 100 persons, most of them child care professionals.

The proposal they are working from is far more explicit than current regulations, particularly in its stress on ideal goals." Namely that day care should be educational.

Licensing in the past, says the proposal, has often led to minimal programs. From now on, the training and temperament of supervisors must be looked at as closely as the safety and hygiene of the building. Licensing staff must make efforts to help the applicant make his program be what it should, and the program must be reexamined yearly.

The proposal would require day-care operators to plan activities with the children, "encouraging them to share their experiences, by stimulatng conversation, for example, during snacks and meals, and by expecting each child to take certain responsibilities . . .

"An opportunity should be given to participate in small and large groups as well as individual activities . . . The content of the program must be rich and varied," and include opportunities for parents to watch and participate and for staff to continue their own training.

Licensing itself is under debate. Some charge it takes too long (usually at least six months) to get a daycare license. Some challenge the need for regulations at all. Many feel regulations are necessary but should not be under the jurisdiction of the welfare department, which they say makes day care seem "a welfare thing."

The education department, which many would like to see take over the responsibility, is in turn viewed by others as representative of the same rigid approach to learning they have struggled to oppose.

Regulations governing programs that get federal aid are also under revision, and there is talk of states, whose licensing requirements vary considerably, meeting to arrive at some kind of uniformity.

Who should run preschools? Private entrepreneurs claim they can do the best job, saying competition will pressure them to provide quality. Others argue that it's impossible to create a quality program for profit at fees the average family can afford.

Some groups believe programs should be run by parents, with the idea that only they have the right to choose and direct teachers who will meet their children's needs.

Again, many nursery schools and day care centers operate under a variety of sponsors, public, private and consumer. Continuing variation and coordination is encouraged under the Mondale bill.

Final conclusions will not emerge from next week's conference of preschool educators in Minneapolis. For every answer suggested at the 250 sessions there will no doubt be dozens of new questions. Preschools, like their pupils, are in the crucial exploratory stage of growth.

THE NOMINATIONS OF LEWIS F. POWELL AND WILLIAM REHNQUIST TO THE SUPREME COURT OF THE UNITED STATES

Mr. McCLELLAN. Mr. President, it is my judgment that the Senate should consent to the nominations of Mr. Lewis F. Powell, of Virginia, and Mr. William H. Rehnquist, of Arizona, to be Associate Justices of the Supreme Court of the United States, and I take this opportunity to share with my colleagues the reasons behind this judgment.

A special genius of the American people has been a commitment to the rule of law, not of men, and a special focus of that commitment has always been on the Supreme Court of the United States. The Senate, therefore, fulfills a sacred duty in advising and consenting to the nominations submitted by the President for the Nation's highest court.

In considering these pending nominations, three issues face us:

Do these nominees have personal integrity?

Do they possess professional competency?

Do they have an abiding fidelity to the Constitution?

In my opinion, no Senator has a duty to vote to confirm any nomination forwarded by the President that cannot pass muster under this threefold test.

I settled upon these criteria only after reaching certain basic conclusions on the proper role of the Senate in the process of selecting Supreme Court Justices.

Article II, section 2, clause 2 of the Constitution states that the President "shall nominate, and by and with the advice and consent of the Senate, shall appoint—Judges of the Supreme Court." The question thus arises as to what extent the framers intended the Senate to play a part in the appointment process in cooperation with the Executive?

Turning to Madison's notes on the proceedings of the Constitutional Convention, it seems abundantly clear that the Senate was intended to serve an active role in the process. Indeed, during the entire period of controversy over the method of appointment for the Supreme Court Justices, the dominant view seemed to support an alternative proposal that would have placed authority exclusively in the Senate. The final language agreed upon was the result of a compromise, which was clearly not intended to reduce the legislative part in the process to a minimum. See generally, Farrand, the Records of the Federal Convention of 1787 (1937). The Federalist papers confirm that an active and independent role for the Senate was envisioned. The Federalist, Nos. 76 and 77—Encyclopaedia Britannica, edition 1952, at 225, 226.

In Hamilton's words, the Senate was to have the duty to reject nominations, where there were "special and strong reasons for the refusal," and this power of rejection was meant "to restrain" the President from making nominations founded in "favoritism," "family connection" or "popularity," or of "unfit characters" generally. Id. at 226.

Hamilton's views were shared, too, by our earliest and most respected commentators on the Constitution. See, for example, Stony's "Commentaries on the Constitution," sections 1527–31—fifth edition 1891.

In light of the foregoing, I believe that the tripartite inquiry which I suggest is in keeping with the Senate's mandate under the Constitution.

After deep consideration, I have resolved each of the three questions in the affirmative with regard to both nominees and will now consider each in turn.

With respect to the personal integrity and professional competency of Mr. Powell, the record before us speaks eloquently of him. First in his law class, one of the leading lawyers of the State of Virginia, former president of the American Bar Association, the American Bar Foundation, and the American College of Trial Lawyers, Mr. Powell is truly one of the finest lawyers of our contemporary legal community.

The hundreds of attorneys contacted by the Standing Committee on the Federal Judiciary of the American Bar Association had the highest possible praise for Mr. Powell's integrity and abilities. A significant number of lawyers and judges stated that Mr. Powell would be their first choice for appointment. I quote the conclusion of the Standing Committee:

> It is the unanimous view of our Committee that Mr. Powell meets, in an exceptional degree, high standards of professional competence, judicial temperament and integrity and that he is one of the best qualified lawyers available for appointment to the Supreme Court.

As to the personal integrity and professional competency of Mr. Rehnquist, it seems equally clear that this man, although relatively young in years, is also above suspicion and of exceptional intellectual and legal ability. Throughout his career, excellence, and nothing short of it, has been the mark of his achievements.

Elected to Phi Beta Kappa, graduated first in his law school class, selected as a clerk to former Supreme Court Justice Robert Jackson, Mr. Rehnquist early approached the law in a decidedly grand manner.

As a private practitioner, he was a person of recognized honesty and professional quality, highly regarded by members of the bench and bar.

Since 1969, the nominee has served as Assistant Attorney General for the Office of Legal Counsel. The basic assignment of the Office of Legal Counsel is to assist the Attorney General in discharging his function as the legal advisor to the President and his Cabinet. Thus, it can be said of the nominee that in point of fact he is, in the President's words, "a lawyer's lawyer."

In his capacity as an Assistant Attorney General, the nominee has appeared before Congressional committees on numerous occasions to present the Administration's position on various topics of legislative concern. A review of the records of these proceedings reveals that at all times he has conducted himself forthrightly and in an informed manner, in the loftiest traditions of advocacy.[1]

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[1] Hearings before Subcommittee No. 3, Committee on the Judiciary. House of Representatives, on H.R. 11031 and H.R. 11032, Sept. 25, 1969, 91st Cong., 1st Sess.; Hearings before Subcommittee No. 5, Committee on the Judiciary, House of Representatives, on S. 1508, Mar. 3, 1970, 91st Cong., 2d Sess.; Hearings before Subcommittee on Constitutional Amendments, Committee on the Judiciary, U.S. Senate, on Proposed Statute to Lower Voting Age, Mar. 10, 1970, 91st Cong., 2d Sess.; Hearings before Subcommittee on Improvements in Judicial Machinery, Committee on the Judiciary, U.S. Senate, on S. 1506, Apr. 9, 1970, 91st Cong., 2d Sess.; Hearings before Committee on House Administration, House of Representatives, on

Footnote continues on next page.

I quote the conclusion of the standing committee of the bar association:

> The . . . conclusion of the Committee . . . is that Mr. Rehnquist meets high standards of professional competence, judicial temperament, and integrity. To the Committee, . . . Mr. Rehnquist is one of the best persons available for appointment to the Supreme Court.

In sum, reasonable men cannot disagree that both nominees are of unquestionable integrity and supremely competent men.

The final area of my concern relative to the suitability of a nominee—his fidelity to the Constitution—is the most crucial of the required qualities.

Mr. President, I think it can be said that there is room on the U.S. Supreme Court for liberals and conservatives, Democrats and Republicans, Northerners, and Southerners, Westerners and Easterners, blacks and whites, men and women—these and other similar factors neither qualify nor disqualify a nominee.

In my judgment, after personal integrity and professional competency, what is then crucial is the nominee's fidelity to the Constitution—its text, its intention and understanding by its framers, and its development through precedent over the history of our Nation.

There have been a few unfortunate periods in our history when justices on the Supreme Court have taken too literally Chief Justice Hughes' aphorism that the Constitution is what the judges say it is and have attempted to rewrite our Nation's basic charter according to their own personal philosophies, either conservative or liberal. This has always been a mistake.

The Constitution, too, has integrity. One part of it must not be emphasized to the exclusion of another. The Constitution mandates both federalism and separation of powers as well as due process of law.

I recognize, of course, that there are those who no longer feel that the doctrines of federalism or separation of powers should be accorded equal respect with other aspects of the Constitution.

Mr. Justice Black in his Carpentier lectures at Columbia in March of 1968 aptly observed:

> [T]here is a tendency now among some to look to the judiciary to make all the major policy decisions of our society under the guise of determining constitutionality. The belief is that the Supreme Court will reach a faster and more desirable resolution of our problems than the Legislative or Executive branches of the government.

Mr. Justice Black then set over against this contemporary tendency what he understood to be required by fidelity to the Constitution. He said:

> Our written constitution means to me that where a power is not in terms granted or not necessary and proper to exercise a power that is granted, no such power exists in any branch of the government—executive, legislative or judicial. Thus, it is language and history that are the crucial factors which influence me in interpreting the Constitution—not reasonableness or desirability as determined by Justices of the Supreme Court.

* * * * *

> The courts are given power to interpret the Constitution and laws, which means to explain and expound, not to alter, amend or remake. Judges take an oath to support the Constitution as it is, not as they think it should be. I cannot subscribe to the doctrine that consistent with that oath a judge can arrogate to himself a power to "adapt the Constitution to new times."

I, for one, suggest that we establish no test oath to contemporary liberalism or traditional conservation. Test the nominee by the Constitution, nothing else.

One of the nominees—Mr. Rehnquist—put the issue well when he observed:

> It is so difficult to pin down the terms "liberal" and "conservative," and I suspect that they may mean something different when one is talking about a political alinement as opposed to a judicial philosophy on the Supreme Court.
>
> I think it would be presumptuous of me to suggest to the Senators of this committee, or to the Senate as a whole, what standards they ought to look for, but I cannot think of a better one than fidelity to the Constitution and let the chips fall where they may, so to speak, whether the particular decision pleases one group or pleases another.
>
> I think to an extent in discussion about the Court there has been a tendency to equate conservatism of judicial philosophy not with a conservative political bias, but with a tendency to want to assure one's self that the Constitution does indeed require a particular result before saying so, and to equate liberalism with a feeling that at least on the part of the person making the observation that the person tends to read his own views into the Constitution.
>
> I think the difference is well illustrated by Justice Frankfurter's career, who came on the Court at a time when I think it was clear to most observers that the old Court of the nine old men of the twenties and thirties was indeed, on any objective analysis, reading its own views into the constitution, and Justice Frankfurter, of course, prior to his ascent to the bench, had been critical of this, and as a Justice he helped demolish the notion that there was some sort of freedom of contract written into the Constitution which protected businessmen from economic regulation.
>
> And yet, when other doctrines were tested later in the Court, it proved that he was not simply an exponent of the current politically liberal ideology and reading that into the Constitution.
>
> He was careful to try to read neither the doctrine of the preceding Court nor perhaps his own personal views at a later time to the Constitution, but to simply read as he saw it.

Mr. President, I closely questioned each of the nominees in the hearings to determine their judicial philosophy. From their answers, I am satisfied that they will honor their oath to uphold the Constitution as written. I find them faithful to the Constitution as written and not as some would like to see it written.

At one point in the hearings Mr. Powell and I had this exchange:

> Senator McCLELLAN. I feel where the Congress enacts a statute that is constitutional, is binding on the Supreme Court. I don't think it has the right to, by edict or some process, to legislate or attempt to legislate that act away or to hold it to be invalid because of personal views on what policy should be. That is what strict constructionism is to me. I don't know what it means to others, but I believe if the act is constitutional, it is the Congress' prerogative to set national policy in those areas within the framework of the Constitution and that that policy should stand and not be overruled by a court because the court's philosophy is that it was bad policy.
>
> Mr. POWELL. I certainly subscribe to those views, Senators.

At another point, we had this exchange in reference to the wiretap statute:

> Senator McCLELLAN. In my judgment, when the Congress has spoken, that is the law of the land; it is the national policy; and it seems to me that those who disagree with that policy should find their remedy in the halls of Congress.
>
> It is no question of whether you favor the act, as I see it, or whether you like all of its provisions or don't. The only thing that would be before you would be did the accused receive a fair trial under due process; and is the statute constitutional?
>
> Let me ask the question another way. If you found it constitutional, would you, and I am sure you would, but I ask this for the record, would you enforce it as a member of of the highest court of the land?
>
> Mr. POWELL. The answer to that is clearly an affirmative.

Finally, Mr. Powell summed up his judicial philosophy, simply and beautifully, in these words:

> My thoughts about the role of the Court, expressed as simply as I can, may be summarized as follows:
>
> (1) I believe in the doctrine of separation of powers. The courts must ever be mindful not to encroach upon the areas of the responsibilities of the legislative and executive branches.
>
> (2) I believe in the federal system, and that both State and Federal courts must respect and preserve it according to the Constitution.

H.R. 12773, May 6, 1970, 91st Cong., 2d Sess.; Hearings before Subcommittee on Separation of Powers, Committee on the Judiciary, Senate, May 7, 1970, 91st Cong., 2d Sess.; Hearings before Subcommittee on Constitutional Amendments, Committee on the Judiciary, U.S. Senate, on Congressional Representation for the District of Columbia, June 1, 1970, 91st Cong., 2d Sess.; Hearings before Subcommittee on National Security Policy and Scientific Development, Committee on Foreign Affairs, House of Representatives, on The President, The Congress and The War Power, July 1, 1970, 91st Cong., 2d Sess.; Hearings before Subcommitttee on Constitutional Rights, Committee on the Judiciary, U.S. Senate, Mar. 9, 1971, 92d Cong., 1st Sess.; Hearings before Subcommittee on Constitutional Rights, Committee on the Judiciary, U.S. Senate, on Constitutional and Statutory Sources of Investigative Authority in the Executive Branch of Government, Mar. 9, 1971, 92d Cong., 1st Sess.; Hearings before Subcommittee No. 4, Committee on the Judiciary, House of Representatives, Apr. 1, 1971, 92d Cong., 1st Sess.; Hearings before Subcommittee No. 5, Committee on the Judiciary, House of Representatives, on H.R. 6225, Apr. 7, 1971, 92d Cong., 1st Sess.; Hearings before Foreign Operations and Government Information Subcommittee, Committee on Government Operations, House of Representatives, on Executive Privilege, June 29, 1971, 92d Cong., 1st Sess.; Hearings before Subcommittee on Separation of Powers, Committee on the Judiciary, U.S. Senate, on Executive Privilege and S. 1125, Aug. 4, 1971, 92d Cong., 1st Sess.; Hearings before Subcommittee on Separation of Powers, Committee on the Judiciary, Senate, on Executive Order 11605 and S. 2466 and S. Res. 163, Oct. 5, 1971, 92d Cong., 1st Sess.; Hearings before Subcommittee on Constitutional Rights, Committee on the Judiciary, U.S. Senate, on Speedy Trial Act of 1971, S. 895, Sept. 14, 1971, 92d Cong., 2d Sess.

(3) Having studies under then Professor Frankfurter, I believe in the importance of judicial restraint, especially at the Supreme Court level. This means as a general rule, but certainly not in all cases, avoiding a decision on constitutional grounds where other grounds are available.

(4) As a lawyer I have a deep respect for precedent. I know the importance of continuity and reasonable predictability of the law. This is not to say that every decision is immutable but there is normally a strong presumption in favor of established precedent.

(5) Cases should be decided on the basis of the law and facts before the Court. In deciding each case, the judge must make a conscious and determined effort to put aside his own political and economic views and his own predilections and to the extent possible to put aside whatever subtle influences may exist from his own background and experience.

And finally, although all the three branches of Government are duty bound to protect our liberties, the Court, as the final authority, has the greatest responsibility to uphold the rule of law and to protect and safeguard the liberties guaranteed all of our people by the Bill of Rights and the 14th amendment.

In questioning Mr. Rehnquist during the hearings, at one point we had this exchange:

Mr. McClellan. Would you feel free, as a justice, to take the text of the Constitution particularly in its broad phrases—"due process" . . . "unreasonable search and seizure"—and to read into it your personal philosophy, be it liberal or conservative?

Mr. Rehnquist. I would not, Senator McClellan.

Senator McClellan. If you felt honestly and deeply, in light of your own personal philosophy, that the intention of the framers of the Constitution was no longer being achieved through the specific legal devices they deliberately chose in drafting specific clauses, would you feel free, as a justice, to ignore these specific legal devises and give old clauses new readings to achieve a new, and in your judgment, beneficial, result?

Mr. Rehnquist. I do not believe I would, Senator.

Senator McClellan. Well, this goes to the heart of the matter. Would you be willing, as a judge, with the power you would have on the Court, to discard the intent of the framers of the Constitution to change it to achieve a result that you thought might be desirable for society?

Mr. Rehnquist. No; I would not.

At another point, we had this exchange:

Senator McClellan. What I am trying to ascertain, simply, is this: There is one school of thought today that believes that the Supreme Court—whenever it feels that the Constitution as written and as it has been interpreted is not adequate to deal with the conditions that prevail in society today—ought to give it a different interpretation to get it in to the mainstream, as some call it, of modern society. Do you believe that the Court or a Justice, under the Constitution, has the power to do that or the duty to do it, under his oath?

Mr. Rehnquist. Under my oath I believe it would have neither the power nor the duty.

Mr. President, these are the words of the nominees themselves. In my judgment, they establish the requisite fidelity of both to the Constitution.

They indicate a deeply held reverence for the law of the land and a willingness to abide by its dictates.

Of course, adverse testimony does appear in the record relative to each nominee. Opposition both to Mr. Powell and to Mr. Rehnquist centered on their alleged lack of sensitivity to civil liberties or civil rights. Mr. Rehnquist, in particular, was the subject of highly emotional testimony, which attempted to characterize him as a so-called radical, right-wing reactionary. Once the smoke cleared, however, it was apparent that there was no substantial fire.

Mr. Rehnquist was also accused, irresponsibly and falsely, of interference with voters and of membership in the John Birch Society. The less said about these two allegations the better. They reflect on the people who made them, not the nominee.

It is unfortunate, too, that our friends in the press saw fit to print most of what was adverse and little of what was favorable.

I quote, therefore, from the record typical items to give my colleagues and the readers of the Record an opportunity to reach a balanced judgment.

Of Mr. Powell—Robert Huntley, the president of Washington and Lee University, observed:

For the past ten years, Mr. Powell has been a member of the University's Board of Trustees, a group of 18 men which works actively to provide intelligent and responsive governance for the institution. In large part because of Mr. Powell's influence, our Board is in my opinion a model exemplifying the ways in which such organizations of lay trustees can function usefully.

In routine matters and in matters of critical dimension for Washington and Lee no one could have performed more effectively. His characteristic posture of firm fairness facilitated the University's decision to seek enrollment of qualified black students. In the Board's deliberations about planning for this institution's next decade, he has repeatedly made the kinds of suggestions and raised the kinds of questions which serve to focus attention on the significant matters of policy, thus helping to guide the Board to a sharpened appreciation of its proper role. He was one of several trustees who provided leadership in a decision to reorganize the Board to provide for term membership in place of the more traditional life appointment.

Armistead L. Boothe, a leader of the Virginia Bar, observed:

From the date of the *Brown* decision in 1954 . . . [Mr. Powell] was a stalwart member of an elite group of Virginians who saw that the Commonwealth's schools must not be closed. From July 1954 onward, the issue in the State was just as sharp as a new knife blade between an assignment (or freedom of choice) plan, to keep the schools open, or massive resistance, to cripple them. During the next five crucial years Lewis Powell, then Chairman of the Richmond School Board, placed himself effectively with the minority who felt obligated to uphold the law and the Virginia public school system.

* * * * *

Perhaps today there are some younger people who do not remember the 1950's or the humanity, the regard for law, and the farsightedness of a few people like Lewis Powell who helped Virginia, in a Virginia way, to survive the Commonwealth's severest test in this century. Many accolades could be given to Powell's judgment, fairness, intelligence, and other judicial attributes. Men and women who can vouch for his virtues are legion. This statement is simply intended to be a brief word picture of a courageous American legal soldier under fire.

I note from the news that the congressional black caucus is opposing Powell. If the distinguished members of that group could remember the 1950's and could get all the available facts, they would not oppose him. They would approve of his selection and thank the good Lord they would have him on the Supreme Court.

Jean Camper Cahn, of the Urban Law Institute, observed:

By way of a final observation I would note that while I support Lewis Powell's nomination—and have limited the scope of my remarks to those facts which I know at first hand—I do not base that support on the fact that Mr. Powell is a supporter of the Legal Services Program. My support is more fundamental because I would expect that while we agree on some things, we would disagree on others. I would not want to rest my support solely on agreement or disagreement on some particular subject.

My support is based upon the fact that I am drawn inescapably to the sense that Lewis Powell is, above all, humane; that he has a capacity to empathize, to respond to the plight of a single human being to a degree that transcends ideologies of fixed positions. And it is that ultimate capacity to respond with humanity to individualized instances of injustice and hurt that is the best and only guarantee I would take that his conscience and his very soul will wrestle with every case until he can live in peace with a decision that embodies a sense of decency and fair play and common sense.

Of Mr. Rehnquist—Congressman Pete McCloskey had this moving personal endorsement:

Mr. Chairman, I have known Bill Rehnquist for over 20 years, since we attended Stanford Law School together in 1950.

I believe him to be a man of the highest character, integrity and professional ability. Both his personal and professional reputation in the Stanford legal community, among fellow students, professors, and lawyers, reflects my own belief and the personal respect I have expressed.

Mr. Rehnquist's stated political philosophy is probably diametrically opposed to my own. We disagree on the most basic and deeply held views in the field of civil rights, on the powers of the President, the relationship between the executive and the Congress with respect to the war in Indochina, and on the balance between the Government police powers and individual rights.

In the single instance in which Mr. Rehnquist has appeared before my own Subcommittee on Governmental Information in the House of Representatives, we have sharply disagreed and debated the executive's historic claim of executive privilege with respect to information necessary to congressional deliberations.

Nevertheless, it is my opinion that the greatest base for our national strength and security remains the absolute separation between political beliefs and law. We are a government of law, not of men. Perhaps the highest judicial obligation of a Supreme Court Justice is to insure that their judicial opinions respect this separation between politics and law. I consider it the most basic element in maintaining public respect for the law that it be absolutely divorced from political influence and opinion.

In my judgment, Mr. Rehnquist has a respect, a reverence, for the law in our constitutional history which will cause him to bend over backward to prevent an intrusion of his political beliefs into his judicial decisions.

He meets the three exacting tests that I would impose on a nominee to the High Court. His legal intellect and integrity are of the highest excellence. He has demonstrated the kind of judgment and tempered

> advocacy which indicates a good judicial temperament. Finally, I believe him open-minded in his search for solutions to the constitutional and legal interpretations which this Nation will face in the years ahead.
>
> It seems imperative to me that, as a Nation, we once again achieve a common respect for the law and respect for the Supreme Court as the ultimate decision-maker in our system of justice, and that respect requires the recognition of politically liberal and politically conservative justices that they properly contribute to the national welfare so long as they respect the Constitution and interpretations as being more important than their individual political viewpoints. I am confident Mr. Rehnquist will honor that separation.

Congressman Sam Steiger has this to say:

> This is more than the normal, ritual endorsement of an executive appointment by a Member of Congress who resides in the appointee's State.
>
> Bill Rehnquist, by temperament, training and character, will be a magnificent member of the Supreme Court. His intellectual ability, his honor and integrity, and his legal achievements have been attested to by his shrillest critics.
>
> It is incredible to me that this man, whose intellectual stature absolutely precludes bigotry, would be called racist, even by the most partisan practitioner. That Bill Rehnquist would be indifferent, or worse, to civil liberties would be laughable if these charges were not being mouthed by people who should know better. . . .
>
> I have known Bill Rehnquist for a decade—both professionally and socially. In most of my dealings with public figures I have found my respect mitigated by tolerance after similar exposure. Not so in the case of Bill Rehnquist. I can say without hesitation that the more I know of him, the greater is my undiluted respect for him.

Mr. Jarrel F. Kaplan, a civil rights leader in Phoenix, had this to say:

> I have known Mr. Rehnquist well as a professional colleague for many years. He is an outstanding lawyer, completely thorough, scholarly, perceptive, articulate and possessed of the utmost integrity as well as a keen wit. He enjoys the highest respect of his fellow lawyers for his legal talent. There is, in my mind, no question about Mr. Rehnquist's legal qualifications to serve upon the Supreme Court.
>
> * * * * *
>
> For many years I have worked to build bridges of communication and understanding among our many groups of people in Phoenix. I have been, and am, most concerned with prejudice and discrimination against minority groups. In 1963, I was appointed by the Mayor to the City of Phoenix Human Relations Commission, which is dedicated to the elimination of this monstrous social disease. For several years I served as Chairman of the Commission. I have also served as President or Chairman of other organizations whose functions are to promote better human relations among all people. In all my years of intergroup relations in this community, I have never once heard reference to Mr. Rehnquist as bearing hostility toward minority persons.
>
> He did, as I recall, disagree with the content of certain proposed civil rights legislation at both the City and State levels. But unlike others, whose opposition was clearly suspect, Mr. Rehnquist's objections were based on legal grounds which he presented in a sincere fashion.

Phil C. Neal, the dean of the University of Chicago Law School, had this to say in a letter:

> I should like to express my warm support for the confirmation of William H. Rehnquist as Associate Justice of the Supreme Court.
>
> Rehnquist was a student of mine at Stanford Law School. He was not only the top student in his class but one of the best students in the School over a number of years. He has remained in my mind as one of the most impressive students I have had in some twenty-two years of teaching.
>
> I am confident that he is a fair-minded and objective man. Any suggestions of racism or prejudice are completely inconsistent with my recollections of him. Although I have had little contact with him in the intervening years, I have confirmed my impressions about both his intellectual quality and his objectivity with members of the Arizona bar whose judgment I respect.
>
> I believe he would be an independent judge and that he would bring to the Court an unusual capacity for understanding and responding to all dimensions of the difficult problems the Supreme Court must confront. In my judgment his appointment would add great strength to the Court.

Prof. Thomas Kauper, of the University of Michigan Law School, wrote in his letter:

> It was my privilege to serve as Deputy Assistant Attorney General for the Office of Legal Counsel, United States Department of Justice, during the period from May, 1969 through July, 1970. In that capacity, I worked very closely with William H. Rehnquist. . . . I urge you to support his nomination.
>
> William H. Rehnquist is as fine a lawyer as I have encountered. He has a scholarly, intellectual approach to legal problems which is not found in many practicing lawyers. While he and I did not always agree on the resolution of legal issues, I always received a fair hearing and found him eager to learn all that he could before making a decision. In addition to a powerful legal mind, and perhaps equally as important, Mr. Rehnquist has abiding interest in and concern for the development of the law and legal institutions. He has all the qualities to become a truly great judge, and to assume a substantial degree of intellectual leadership on the Court for a number of years to come.
>
> Based upon my close working relationship with Mr. Rehnquist, I believe he is exceptionally well qualified for the position to which he has been nominated. I might also add that I have been somewhat dismayed by charges made during the past that he is a "racist." That is a term used rather loosely these days, but I surely hope that we have not reached the point where all political conservatives must bear the racist label. Mr. Rehnquist is of course on the conservative side of the political spectrum. But I neither saw nor heard anything during my two years with the Department which would in any way suggest that Mr. Rehnquist had any tendency toward racism. Charges to the contrary seem wholly unwarranted.

Finally, I quote from a letter of Mr. Edward L. Wright of Little Rock, Ark., a former president of the American Bar Association and a man whom I have known and trusted for a long, long time:

> I have known Lewis F. Powell, Jr., intimately for many years and have worked extremely closely with him in many American Bar Association matters. He is a truly great man, whether measured by his impeccable character, his outstanding intellect, or his unselfish activities in the genuine public interest. In my opinion he will become one of the outstanding and recognized jurists of all times to sit on the Supreme Court of the United States.
>
> I am not well acquainted personally with Mr. William H. Rehnquist, but I feel that he has all of the proper credentials to make an excellent member of the Supreme Court. For these reasons I trust that the Senate will promptly confirm both of them.

Mr. President, I have now quoted extensively from the record the views of the nominees and I have alluded in detail to the testimony of men who have known each nominee over a period of time. I have not attempted to twist anyone's words or to take an isolated statement out of time or context. The result ought to be plain for anyone with a sense of basic fairness. On this record, if the Senate rejects these nominations, or either one of them, history will not record that there were any legitimate "special and strong reasons for the refusal." History will not kindly remember those who would deny these two men an opportunity to sit on the Supreme Court.

Mr. President, I began these remarks with the observation that there have been periods in our Nation's history when Justices of the Supreme Court have attempted to write their personal philosophy into the Constitution. I concluded that such an effort was always a mistake. In my opinion, our Nation has just passed and is still passing through one such period in one area of the law and it has been a mistake.

In recent years a majority of the Supreme Court—no doubt in good faith, but nonetheless with erroneous judgment—began to impose new standards on the administration of criminal justice in the United States on both the Federal and State levels. These decisions have not enforced, as some have suggested, the simple rule that law enforcement agents must "live up to the Constitution" in the administration of justice, a Constitution that establishes known and basic standards. If this was all that was involved, no one could legitimately complain. My voice, for one, would not have been raised. Instead, these cases have, to a significant degree, created and imposed on a helpless society new rights for the criminal defendant. The pursuit by some jurists of abstract individual rights defined by ideology, not law, has threatened to alter the nature of the criminal trial from a test of the defendant's guilt or innocence into an inquiry into the propriety of the policeman's conduct. And many of these new rights have been carved out of society's due measure of personal safety and protection from crime. Indeed, since 1960, in the criminal justice area alone, the Supreme Court has specifically overruled or explicitly rejected the reasoning of no less than 29 of its own precedents, often by the narrowest of 5-to-4 margins. The high watermark of this tendency to set aside precedent was in 1967, when the Court overturned no less than 11 period decisions. Twenty-one of the 29 decisions the Court overruled involved a change in constitutional doctrine—accomplished without invoking the prescribed processes for the adoption of a constitutional amendment. It is significant that 26 of these 29 decisions were handed down in favor of a criminal defendant, usually one conceded to be guilty on the facts.

In my judgment, these decisions, however well intentioned, have come at a most critical juncture of our Nation's history and have had an adverse impact on the administration of justice. Our system of criminal justice, State and Federal, is increasingly being rendered more impotent in the face of an ever rising tide of crime and disorder.

President Johnson's prestigious Crime Commission in 1967 began its monumental study of crime in the United States with these tragic words:

> There is much crime in America, more than ever is reported, far more than ever is solved, far too much for the health of the Nation. Every American knows that. Every American is, in a sense, a victim of crime. Violence and theft have not only injured, often irreparably, hundreds of thousands of citizens, but have directly affected everyone. Some people have been impelled to uproot themselves to find new homes. Some have been made afraid to use public streets and parks. Some have come to doubt the worth of a society in which so many people behave so badly. Some have become distrustful of the Government's ability, or even desire, to protect them. Some have lapsed into the attitude that criminal behavior is normal human behavior and consequently have become indifferent to it, or have adopted it as a good way to get ahead in life. Some have become suspicious of those they conceive to be responsible for crime: adolescents or Negroes or drug addicts or college students or demonstrators; policemen who fail to solve crimes; judges who pass lenient sentences or write decisions restricting the activities of the police; parole boards that release prisoners who resume their criminal activities.

It is in this context that I, for one, especially welcome these two distinguished nominations. I see and support them not as an attempt to put a "liberal" or a "conservative" on the Court, but rather to appoint to the Court men of the highest integrity and outstanding competency, men characterized by a deeply held fidelity not to an abstract ideology of the left or the right, but to the Constitution itself, and I believe that if we can return to fidelity to the Constitution our society will be both free and safe.

Mr. President, I, therefore, support the nominations of Lewis F. Powell, of Virginia, and William H. Rehnquist, of Arizona, to the Supreme Court.

INDIAN EDUCATION

Mr. MONDALE. Mr. President. In his message on Indian policy issued in July 1970, President Nixon said:

> One of the saddest aspects of Indian life in the United States is the low quality of Indian Education.

The President's statement echoed the findings of the Senate Special Subcommittee on Indian Education. The subcommittee report, "Indian Education: A National Tragedy—A National Challenge," issued in November 1969, documents the truly disastrous condition of Indian education:

The average educational level of Indians under Federal supervision is 5 school years;

Only 18 percent of all students in Federal Indian schools go on to college, while the national average is 50 percent;

In 1969, the BIA spent only $18 per year per child on textbooks and supplies compared to a national average of $40.

The President also supported the subcommittee's key recommendation—that Indian citizens, like other Americans, should govern their childrens' schools. The President said:

> We believe each Indian community wishing to do so should be able to control their own Indian schools.

And yet now more than a year after the President's statement, the BIA has contracted with only one additional Indian community.

S. 1401, the Comprehensive Indian Education Act of 1971, of which I am a cosponsor, would reform the BIA school system by placing control at the Federal level in the hands of a new National Board of Regents of Indian Education, which in turn would support establishment of local school boards to operate BIA schools.

But the administration already has power to extend control of Indian schools to Indian parents. If the President's policy were followed, that would happen.

Mr. President, an article entitled "Indian Run-Around," from the Washington Post of November 7, describes the frustrating experiences of local Indian communities which have tried to take advantage of the President's policy. Strangled in redtape, these local groups are only the latest victims of the BIA's stubborn refusal to permit Indian citizens to lead their own lives. I ask unanimous consent that this article may appear in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

INDIAN RUNAROUND—HOW THE BUREAUCRACY VETOES A NIXON VOW ON SCHOOLS

(By William Greider)

On the Wind River reservation in Wyoming, which the Shoshone share with the Arapahoe, about 40 or 50 Indian children did not go back to boarding school this fall.

Most of them were under the impression that a new high school would be operating on their reservation, controlled by an Indian school board, supported by the federal government. They were misled by what they heard from Washington. Some of them are still waiting.

The children at Wind River, when they reach high school age, are scattered across the map. About 300 or so go to two public high schools off the reservation in the towns of Lander and Riverton. An additional 150 or so are sent to government boarding schools in six states. Still others, perhaps a couple of hundred, don't go to school any more.

"What we're trying to do," says Allison Sage, an Arapahoe who is president of the Wind River Education Association, "is bring our kids back home and attack the drop-out problem or, rather, the push-out problem."

He and the other parents at Wind River have been trying to get their own community high school, which, after all, is not exactly a radical proposal. They are encouraged by words from the President himself and by a letter from the commissioner of Indian affairs. But so far they have encountered mostly frustration and postponement.

The educational problems at Wind River are a small matter compared to the tens of thousands of Indian young people already lost, but the situation is noteworthy because the parents there have tried—and so far failed—to do something dramatic to "bring back" their kids.

In the process, they have discovered what any seasoned Washington lobbyist could have told them—that the President makes the grand declarations of government policy, but that he is not there when bureaucrats draft the regulations or negotiate the contracts or keep the project proposals shuffling back and forth from one office to another. The people from Wind River have become convinced that this process, in the end, can twist the President's words or perhaps even veto his ideas.

COALITION FORMED

Among Indian leaders, there was general applause and even some cheering when President Nixon first announced his new goals for Indians: The Indians themselves would begin to run things. The paternalism of non-Indian bureaucrats would be replaced with self-determination contracts through which tribal leaders could take over the operation of government programs.

As the President envisioned it, these contracts might cover any of the variety of federal programs on the more than 300 Indian reservations, from real-estate management to police protection. The heart of it, however, was to be education—where people shape their own image of themselves and determine whether their culture will survive in their children.

Mr. Nixon declared: "Consistent with our policy that the Indian community should have the right to take over the control and operation of federally funded programs, we believe every Indian community wishing to do so should be able to control its own Indian schools."

That was July 8, 1970. Since then, only one tribe—the small band of Miccosukee in South Florida—has managed to wrestle out of the Bureau of Indian Affairs the kind of contract which gives the Indians control over their school. They accomplished that in part because their tribal chairman, Buffalo Tiger, waded through repeated tangles of red tape and in part because the tribe had a Washington lawyer lending his time and expertise to the struggle.

Three other tribal groups—the one at Wind River, an Oglala Sioux community at Pine Ridge, S.D., and the Crow reservation at Busby, Mont.—have also waded into the thicket with firm proposals, but so far they have not come out with contracts. Instead, the process has created a lot of legal back-and-forth between them and the bureau. They have felt the need to form a "coalition" of some 10 fledgling Indian-controlled school boards, united to prod the BIA into doing what the President said to do.

32 YEARS LATER

The coalition was in Washington last week, lobbying at the bureau, the Interior Department and Congress. Its "position paper" expressed considerable skepticism about the future of self-determination contracts:

"Each day's procrastination endangers at least four Indian community school projects and retards the education of our children. Our belief in the good faith of this administration as regards self-determination for Indians in education is fast dwindling and only immediate fulfillment of prior commitments can restore our support."

The commissioner of Indian affairs, Louis R. Bruce, an Indian himself, and Secretary of Interior Rogers C. B. Morton periodically reaffirm their devotion to the idea. But the Indian skepticism is based solidly on the history of reform—initial enthusiasm buried by bureaucratic delays and diversions. The official policy of the BIA, for instance, is to phase out government boarding schools. That has been the official policy for more than 35 years, yet the percentage of Indian children who must leave home for their schooling has dropped only modestly since 1930.

The current few who are trying to get self-determination contracts fear that their experience will be a negative object lesson for other tribes who will see the frustration and won't bother to try.

"It's trying desperately to get off the ground," says Mrs. Barbara Sinclair, a Shoshone from Wind River, "but the bureau is saying, Oh, we don't know if that's right. They're so expert in everything. They won't give up anything."

QUITE IRRESPONSIBLE

For their part, the BIA officials insist that their caution is merely prudent, that contracts must be carefully drawn to insure accountability, that hastily launched projects might fail and injure the children, that the government must be satisfied that the school-control proposals are what the reservation parents really want.

Elizabeth H. Skelly, an education officer who has done much of the negotiating, says the accusations of foot-dragging are "quite irresponsible." The Wind River sponsors, she says, "just rant and rave on. It's really a political maneuver on their part to build up the pressure and barrel through a loose contract."

She expects that as many as six Indian-controlled schools may be operating with BIA contracts by next fall, though how many follow beyond that is less certain. Even six would represent dramatic progress compared with the past.

"However, in the last six months," Mrs. Skelly says, "we've met with tribal groups that are interested but a great deal of doubt and concern has been expressed. They like the idea, but they see all the problems they are getting into. They have a feeling they might get out on a limb by cutting off the bureau. There's much more reluctance than one might think. After all, this is a big step for these people to take."

Mrs. Skelly contends that each step of delay has involved a legitimate problem, often a requirement which the sponsoring group had failed to meet. The way the sponsors tell it, each time they meet one objection they are given a new one to contend with.

THE BRUCE LETTER

At Wind River, for instance, Sage, Mrs. Sinclair, and the others spread the word in April that a new high school could be opened in September, using the facilities of an Episcopal mission. Their confidence was based on a letter from Commissioner Bruce expressing "our firm intent" to contract for a high school in the fall with at least $250,000.

"This is the kind of local initiative by Indian tribes which I wish to encourage, and I intend to give this matter personal attention until a contract has developed," Commissioner Bruce said.

The Wind River group set out to demonstrate the community support required by the bureau with petitions signed by more than 900 parents and students, in contrast to an opposition petition signed by fewer than 100, mainly Shoshones. A series of referendums held at local elementary schools produced better than 2-to-1 support. The Arapahoe Tribal Council passed a resolution endorsing the proposal—though the Shoshone council did not, a fact which BIA officials consider an obstacle to a contract.

The sponsors did not hear any more encouragement from Bruce, but they heard lots of questions from his subordinates in the Indian agency. A negotiation meeting was set for May, but according to Michael Gross, lawyer for the Wind River association, "We were sitting around the table waiting for the BIA and nobody showed up."

The problem, it seems, was that influential congressmen and departmental contract officers were upset by the new Indian contracts which tribes were seeking and which some BIA officials (mainly Indians brought into office by Bruce) were promoting. They questioned the format, the legal authority, the procedures for audit control. The flap inside the BIA made cautious officials even more timid. All negotiating was suspended while a contract team worked on a "model" contract that would apply to the Ramah, N.M., Navajo school started in 1970 as the first of its kind.

The new "model" contract wasn't completed until mid-September and, when they saw it, the Indian school boards objected strenuously, but unsuccessfully. It was 39 pages long and loaded with fine-print prescriptions on how the Navajo parents at Ramah should operate their school, down to the lunch rations of fruit and corn muffins. It was essentially a procurement contract, like those for buying paper clips or pencils.

By contrast, the bureau signs contracts every year with state governments for the distribution of federal aid to educate Indian children—and these agreements are brief and generalized. The state schools get their money in two advance payments, with no requirement for advance proof of expenditures; the Indian schools will have to submit monthly invoices detailing their expenditures before they can get the federal money.

Lawyer Gross contends that the BIA could draw similar contracts with the Indians, giving them more leeway to make their own decisions. "Educational services are not commodities," the school-boards coalition protested. The BIA insists, however, that it must follow the long contract form or run into new objections from Congress or the auditors.

OUT OF FAITH

While the "model" contract was still being drafted, the Wind River group met with bureau officials in July and were told that the proposal which the BIA commissioner endorsed in April was impractical. The proposed contract of $250,000 was not enough to finance a decent high school and, besides, there was not enough time.

"These people," Mrs. Sinclair complains, "are all Eastern and they think in terms of two or three thousand kids for a high school. I pointed out to them that Chugwater, Wyoming, graduated seven kids."

Nevertheless, the Wind River group reluctantly accepted the idea that it would not get a high school this fall, but would try instead for an "education resources center," a euphemism for a special school to deal with 9th and 10th grade children who have left school.

No progress has been made so far on this plan. But, according to Mrs. Skelly of the BIA, any delay can be blamed on the Wind River group because it did not promptly submit the new proposal. In any case, she suggested last week that the Indians may have to produce evidence of community support all over again—since their original petitions and resolutions were in support of a high school, not a special center.

"What's so sad," says Mrs. Sinclair, "is that people were really steamed up about this last spring. We simply can't go back to the community any more and say there's something going to happen in two weeks, then it's three months and nothing. People are out of faith."

The sponsors like Sage and Mrs. Sinclair feel that the opposition has been inspired by whites who do not want to see an independent school district established on the reservation for fear of losing tax revenues which the off-reservation schools draw from oil fields on the Indian lands. In any case, both of Wyoming's senators agree that the Wind River proposal does have strong support among the Indians and they are pressuring the bureau to reach an agreement when they meet again this week.

THE BUREAU'S RECORD

Meantime, the school coalition members take a glum view of the bureau's insistence on "good management." Frank LaPointe, representative from the Rosebud Sioux reservation in South Dakota, complains: "They have a mentality that goes something like this—that we can do it better than Indian people can. It goes like this, too—Indian people can't do it."

There is no question that some of the BIA's caution stems from fears that turning over money and school children to Indian parents will risk wasting both. The irony is that the BIA has managed in the past to waste quite a lot itself without involving Indian control.

A harshly critical internal audit of BIA contracts by the Interior Department recently concluded:

"Most of the things we found wrong represent a continuation of long-standing practices. While the new thrusts of bureau programs toward tribal involvement have added to the problems, a conclusion identifying policy changes as the principal cause is, in our opinion incorrect."

Among other things, the auditors found an area director who bought six cars but neglected to get title to the vehicles. In another instance, a bureau employee took over a contract when the contractor died. In another, a training school was advanced $113,000 but only spent $67,000—and had use of the extra money interest-free before the bureau got it back. A relocation and training project proposed a contract to handle 77 Indian families for $216,000, then revised it a month later—reducing the number of families 48 per cent and the price 9 per cent.

The Indians think they can match that record for fiscal responsibility—and maybe even do a little better.

ENVIRONMENTAL PROTECTION: IT IS A JOB FOR EVERYBODY

Mr. **HANSEN**. Mr. President, Russell E. Train, Chairman of the Council on Environmental Quality, recently addressed the National Soft Drink Association at its Houston convention.

His speech, to my mind, strikes an excellent balance between those who are rightfully concerned about the overzealousness on the part of some and the foot-dragging tactics of others as we come to grips with the national problem of environmental protection.

What Judge Train says makes very good sense. He strikes the important balance I referred to between our economic growth and our ability to pay for cleaning up our environment, but he is positive and persuasive on the side of protection.

He is dedicated—as I think most of us are—to getting on with the job of providing a higher quality of human life.

Pollution in the United States, he says, adds up to inefficiency and waste. Pollution, Chairman Train notes—

> Is basically inefficient, a wasteful misuse of resources. And most importantly, it is an area where we can make specific and positive progress, where we can innovate, to develop new technologies and new processes, and most important of all to dedicate ourselves to the goal of a higher quality of human life.

Mr. President, I know of no one more qualified to do a better job, more factually and forcefully, than Russell E. Train. I was privileged, as a member of the Senate Interior and Insular Affairs Committee, to question him at his confirmation hearing before he became the Under Secretary of the Department of the Interior, several years ago. Since then, he has taken over as Chairman of the President's Council on Environmental Quality and has done a truly outstanding job.

As he put it in the mid-November speech:

> Among the challenges of peace, none is more important than the need to direct our

> technology and our economic activities to improving the quality of life.
>
> To help meet this challenge, President Nixon has made environmental protection one of the great goals of this Administration.

I agree wholeheartedly, Mr. President, with what Chairman Train says. Environmental protection is a great goal. And it is a goal a great people will surely accomplish.

It will not be accomplished by name-calling or brickbats; rather it will be accomplished by a dedicated commingling of effort, both by industry and by environmentalists who are rightfully concerned about where our country is heading in this important area and what all of us have to do to make sure that we recognize that environmental protection is a job and a goal for everybody.

It is a crucial area of concern. As Russell Train points out:

> The growth in the volume of pollutants has been far greater than the growth of population. . . . The rapid growth in technology has had a direct relation to the growth of environmental pollution—not because technology per se is pollution—but because, until recently, we developed technology without consideration of adverse environmental side effects and because the manufacturing and production processes through which we have applied our technology failed to give adequate account to environmental costs.

Mr. President, what Judge Train said is important because it recognizes the balance of which I am speaking: the need, as he points out—

> To demonstrate our commitment, in government and in industry, to the goal of environmental improvement and to develop strong, effective, and balanced programs to meet that goal.

As Chairman Train notes:

The comprehensive environmental legislative program which President Nixon sent to the Congress last February, including some 10 bills, "represents just such a strong effective and balanced program."

Neither side of the issue of environmental protection, Mr. President, has a corner on truth and justice, and in all too many instances the facts have not slowed misdirected attacks or distorted charges. This is, hopefully, becoming more a thing of the past as all of us face up to our responsibilities in this field.

This is an area that is being set right, at long last. Both sides have grown much more willing to see the other's point of view. Both sides, by working together, have become more effective and are doing a far better job.

The result, of course, will be a cleaner, more beautiful—and more healthful—America.

Because of this commitment to really get the job done, our environmental programs, Judge Train points out, have taken on a decided upswing in their developmental progress. And as these programs have become increasingly effective, he says:

> It is right and, indeed, essential, that we pay increasingly careful attention to the economic costs involved.

As Chairman Train observes:

> The totals will be large. Our Council's last annual report estimated the cost of air and water pollution control and the management of solid wastes to both government and industry together to be about $105 billion over the six-year period 1970–1975. While this total is high in the aggregate, the cumulative expenditures over the six-year period are expected to be less than one percent of the gross national product.
>
> Industrial expenditures for air and water pollution control have been rising sharply. We estimate their level this year to be about $3.6 billion, up about 50 percent from 1970, which in turn was up about 50 percent from 1969. Industry air and water pollution controls costs will generally be less than one percent of the value of shipments. And we must remember that the environmental control costs of one firm tend to represent income and revenues to other firms and workers, and there should be no significant impact on total employment because of the effort to control pollution.
>
> There is no question of the continuing need to do a careful and thorough job of economic analysis of environmental problems and programs. This is particularly true as environmental standards rise.

Mr. President, what is to be gained—or what is to be lost—if we do or do not continue this commitment to excellence?

On the deficit—or cost—side, Chairman Train reports:

> To be able to deal comprehensively with the question we really need a better environmental balance sheet than we now have. But we already know that air pollution, for example, is costing us money. There is a growing body of evidence which indicates that the long-term effects of exposure to low concentrations of pollutants can adversely affect health and result in chronic diseases and premature death.
>
> Major illnesses linked to air pollution include emphysema, bronchitis, asthma, lung cancer and even the common cold. One evaluation of epidemiological studies suggests that a 50 percent reduction in air pollution would eliminate damages to health by more than $2 billion in a single year. The Environmental Protection Agency has estimated that the total economic costs of mortality and morbidity due to air pollution is around $6 billion annually.
>
> Air pollution also affects property values. Studies of the willingness of people to pay more for residences in areas having cleaner air are persuasive. Data showing that income levels correlate inversely with air pollution levels in large cities—the poorer you are the more you are affected by air pollution—suggest that heavy air pollution may result in lowered property values, and lower housing costs. One study of property values, based on data from the three cities, shows that increases of 10 percent in air pollution levels can result in decreases of $500 per residential property tract.
>
> The effect of air pollution on vegetation and materials was estimated at just under $5 billion in 1968. The total estimate in 1963 of the direct costs of air pollution in the United States alone—not taking into account discomfort, anxiety, or esthetic degradation—was put at $16 billion annually. This total is far in excess of abatement costs.

This leads, then, to the plus side of the ledger. And it is impressive, Mr. President.

Chairman Train reports:

> If we balance the overall costs and benefits of our pollution control programs, I am personally confident that we would find a net economic gain; indeed, that we would also find that many more have gained than have lost. There is a net profit to our society in cleaning up the environment.

Thus, Mr. President, reasonable people should be able to agree that environmental protection, the adding to the quality of life, just plain makes good sense, both esthetically, and in dollars and cents.

So I agree with Judge Train when he says that "it is time we stopped looking at environmental programs simply as a problem and start seeing them as an opportunity."

He continues:

> The development and application of pollution control technology should create significant new business opportunities by opening up new domestic and international markets. If we are somewhat ahead of most other countries in the setting and enforcement of environment standards, we should also be ahead in the development and application of control technology.

Finally, Mr. President, just where do we find ourselves as we come to grips with this national problem?

As Judge Train stresses: "The American people have the talent and the energy—and I believe the will—to provide leadership in the world," and this, to my mind, is manifestly true.

Because it is true and because it reflects a reasonable approach and one which brings the two sides together to accomplish a great goal, I believe it will succeed and suceed in an important and meaningful way, and sooner than a number of people think.

Chairman Train emphasizes:

> If we are to succeed, it will be because we are willing to innovate, to develop new technologies and new processes, and most important of all to dedicate ourselves to the goal of a higher quality of human life.

This, then, Mr. President is the challenge.

It is a challenge that I am convinced we as a people can meet if we continue to stress that environmental protection is a job for everybody.

When we succeed, we will indeed have a higher quality of human life.

And that, Mr. President, is well worth the battle.

GOVERNOR OF MINNESOTA OPPOSES BUTZ NOMINATION

Mr. MONDALE. Mr. President, I recently received a telegram from Wendell R. Anderson, the Governor of my home State of Minnesota, stating his objections to the nomination of Dr. Earl Butz for Secretary of Agriculture.

I believe that Governor Anderson's message summarizes quite well the opinions and viewpoints of thousands of typical Minnesota farmers. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

ST. PAUL, MINN.

Senator WALTER MONDALE,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR MONDALE: As governor of Minnesota, I commend you for the leadership you have exhibited in the fight against the confirmation of Dr. Earl Butz as Secretary of Agriculture.

With the action of the Senate Agriculture Committee Monday in recommending approval of the nomination, the struggle now shifts to the Senate floor. I am certain I speak for thousands of Minnesotans when I urge you to continue the fight against confirmation with renewed vigor.

The philosophy espoused by Dr. Butz leaves little room for the survival of rural Minnesota and rural America, as we now know it. He has said the family farmers must "adapt or die." Yet the President has made it perfectly clear his administration would never dream of applying that mechanistic, law-of-the-jungle approach to financially troubled corporate giants such as Lockheed Aircraft.

He has said this Nation will need no more than 1.9 million family farmers by 1980, as compared with 2.9 million today. If such a reduction is applied to Minnesota, this would deplete the number of farm families by more than 40,000—from the present 122,000 to fewer than 80,000. Their departure from the land would spell the end of many small rural communities. He has said $1 is a fair price for a bushel of corn, at a time when the cost of producing that bushel is $1 or more, and when low prices will bring Minnesota farmers approximately $100 million less for their crops than they received last year.

The food stamp program, a program that has benefitted millions of poor Americans and helped ease our commodities surplus problem, is "ridiculous" in Dr. Butz' eyes.

Dr. Butz is a poor choice to succeed Cliff Hardin. He does not and cannot properly represent the farmers of Minnesota, his record under Ezra Taft Benson, his known orientation toward agribusiness, and his declaration before the Senate Agriculture Committee provide adequate proof of that.

WENDELL R. ANDERSON,
Governor, State of Minnesota.

STATEMENT OF POSITION ON VOTES

Mr. MILLER. Mr. President, I ask that the permanent RECORD reflect my position on the rollcall votes I missed on November 16 and November 22, as follows:

No. 341 Leg.—Roth amendment No. 642 establishing a ceiling of $229.2 billion on Federal expenditures for fiscal year 1972—"nay";

No. 342 Leg.—Cranston amendment No. 640, to strike from the bill title VI, to provide for protection of balance of payments through presidential authority, to limit imports and impose surcharges on imports—"nay";

No. 343 Leg.—Modified Fulbright amendment No. 672, providing for the termination on December 31, 1974, instead of December 31, 1976, Presidential authority under title VI relating to protection of balance of payments—"nays";

No. 344 Leg.—Modified Humphrey amendment No. 563, increasing the low income allowance from $1,050 to $1,300 for the tax year 1971—"nay";

No. 345 Leg.—Ribicoff amendment to Pearson amendment, extending 10 percent investment tax credit to purchasers in cities with 6 percent or higher unemployment rate—"nay";

No. 346 Leg.—Pearson amendment, as amended, to extend the 10-percent investment tax credit to rural areas—"yea";

No. 347 Leg.—Motion to table Javits amendment No. 533, requiring President's budget to include an estimate of revenue lost because of deductions, credits, and income exclusions—"nay";

No. 348 Leg.—Javits amendment No. 533—"yea";

No. 378 Leg.—Dominick amendment No. 717—to Pastore amendment No. 692—requiring annual report of Senate Committee on Finance on costs for administering Presidential Election Campaign Fund—"yea."

A BOOK BY DR. JAMES F. MILES ENTITLED "ECONOMICS, FREE ENTERPRISE, LESS FEDERAL GOVERNMENT"

Mr. THURMOND. Mr. President, Dr. James F. Miles, an associate professor of Agricultural Economics at Clemson University, has written a book entitled, "Economics, Free Enterprise, Less Federal Government," which I recommend to my colleagues.

It is heartening that we have a book like this which focuses on the unwise path our Government is taking with many of our Federal programs. In this book Dr. Miles alerts the reader to the rapidly growing Federal Government by citing the tremendous costs of various Government programs, many of which the author thinks we would be better off without.

Mr. President, Congress continually enacts legislation establishing new Federal programs and agencies in an attempt to cure the ills of our society. The costs of these programs and their economic feasibility are given little or no study once they have been implemented.

We are fortunate to have this book by Dr. Miles which analyzes this problem and informs the American taxpayer how his tax dollar is being spent.

ANNOUNCEMENT OF POSITION ON VOTES

Mr. GAMBRELL. Mr. President, I was necessarily absent when several record votes were taken on amendments to H.R. 10947, the proposed Revenue Act of 1971, because of longstanding prior commitments in Georgia, and because of my participation as a delegate at the American-German Conference.

Had I been present on November 13 and 15 when votes on these amendments were taken, I would have voted as follows:

First. I would have voted "yea" on the motion to table the Mondale amendment No. 649 to postpone for 1 year from January 1, 1972, to January 1, 1973, the scheduled increase—from $7,800 to $9,000 per year—in the social security tax base;

Second. I would have voted "yea" on the modified Williams amendment No. 670 to repeal the 10-percent manufacturers' excise tax on local transit system buses;

Third. I would have voted "yea" on the Kennedy amendment requiring the Secretary of Treasury to prescribe regulations having the effect of assuring that benefits from the repeal or suspension of automotive excise tax accrue to the ultimate purchaser;

Fourth. I would have voted "yea" on the Humphrey amendment requiring the President to report to the Congress and Comptroller General concerning funds appropriated by the Congress which are partially or completely impounded;

Fifth. I would have voted "nay" on the Buckley amendment No. 669, urging the President to exempt from the import surcharge articles which are a product of Canada and Mexico;

Sixth. I would have voted "nay" on the Nelson amendment No. 543 to make the investment tax credit inapplicable with respect to purchases in excess of $1 million per year.

Seventh. I would have voted "yea" on the Baker amendment to exclude from the automotive excise tax domestically produced boxes and containers.

Eighth. I would have voted "yea" on the modified Stevens amendment to require the Internal Revenue Service to give prior notice to taxpayers on whose salary a levy is to be attached to recover delinquent taxes.

Ninth. I would have voted "nay" on the Stevens amendment authorizing a tax deduction of up to $1,000 for expenses to maintain or improve a residence.

Tenth. I would have voted "yea" on the Humphrey amendment No. 645, requiring the Internal Revenue Service to furnish individual taxpayers an annual statement showing how his income tax was spent.

Eleventh. I would have voted "yea" on the Tunney amendment No. 671 to increase from $12,000 to $18,000 the combined family income level above which child care deduction allowances would phase out.

THE U.S. FISHING INDUSTRY

Mr. HATFIELD. Mr. President, I wish to address a few remarks to the plight of our Nation's fishermen. I do not mean the thousands of recreational fishermen, both fresh water and deep sea, but rather the current plight of the commercial fishermen of the country.

Senators have heard me speak before about the decay and decline of our domestic fishing fleet, and the problems brought about by increased foreign fishing off our coasts. I will not go into those again today, but I want to comment on why I feel that representatives of the fishing industry of the United States should be included as members of the U.S. delegation to the 1973 United Nations Law of the Sea Conference.

My good friend the Senator from Washington (Mr. MAGNUSON) and the Senator from Alaska (Mr. STEVENS) joined me on November 22 in introducing Senate Resolution 203, which is a sense-of-the-Senate resolution urging the inclusion of fishermen as U.S. representatives in the U.S. delegation. We three Senators are all members of the Commerce Committee, where we review various legislative proposals affecting our fishing industry. I applaud the leadership given over the years by the distinguished chairman (Mr. MAGNUSON), for I recall from my 8 years as Governor that he was involved in Congress in efforts to preserve and protect our fishing industry.

At this point in the RECORD, I ask unanimous consent that the text of Senate Resolution 203 be printed.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

S. Res. 203

Resolution to express the sense of the Senate that United States fishing industry representatives be included in the United States delegation to the 1973 United Nations Law of the Sea Conference

Whereas the United States fishing industry has experienced a prolonged period of economic and international difficulties;

Whereas the future of the United States fishing industry currently evidences little hope of improved economic conditions;

Whereas the future of the United States fishing industry is tied to the worldwide preservation of the basic fish resource;

Whereas one country's efforts to preserve the resource would be ineffective;

Whereas the preservation of the fish resource must be based on multination agreement and cooperation;

Whereas the 1973 United Nations Law of the Sea Conference will consider the future management of the resources of the sea;

Whereas the 1973 Conference will take action affecting the future of the United States fishing industry; and

Whereas current membership of the United States delegation does not contain representatives of the United States fishing industry: Now, therefore, be it

Resolved, That it is the sense of the Senate that representatives of the United States fishing industry be included in the United States delegation to the 1973 United Nations Law of the Sea Conference.

Mr. HATFIELD. Mr. President, I wish to stress again that fish is a renewable resource, much like timber. It is not like a mineral, which is mined and then is gone forever.

What we need to talk about, in fish and in timber, is proper conservation of the resource. My years as Governor in the area of proper timber management practices has shown me that the country needs accelerated efforts in reforestation, if we are to meet the Nation's increasing demands for forest products. Senators are aware that this is one of the central thrusts of my American Forestry Act, S. 350.

I digress from my main point, which is the conservation of the fish resources in the world's oceans. The central theme here is that one nation cannot do it alone. The fishermen of the United States could be committed to a man to preserve our salmon, or perch, or hake, or lobster resource, and yet we could see it disappear before our eyes.

What must occur is a multinational effort by all the fishing nations of the world, if our world fish resource is to survive.

As long as there are greedy nations, the future is not secure. As long as one nation looks only to the short-range harvest, all countries suffer. As long as nations with rapacious appetites vacuum up fish off our coasts, then the United States cannot do anything meaningful to protect the resource.

The 1973 United Nations Law of the Sea Conference is a step toward better resource management. Certainly, the preservation of the fish resource must be one of the prime focuses of this Conference.

For some reason, there currently are no representatives of the fishing industry included as members of the U.S. delegation.

I, for one, want to do everything possible to see that our fishermen are a part of our delegation.

Mr. President, last week, the Commerce Committee held hearings on a number of bills in the general fishing area. None dealt with the problem facing us with the U.N. Conference, yet all are tied to it in the long range. I would like certain parts of the transcripts from those hearings to be reprinted in the Record.

On Monday, November 22, the Senator from Virginia (Mr. Spong) presided over the hearings, and one witness was the Honorable Thomas Pelly, the very able Representative from Washington. All people in the Northwest associated with the fishing industry know what a fine record Mr. Pelly has compiled in this area. He testified on certain bills pertaining to the preservation of our fish resource. I ask unanimous consent that portions of that transcript be printed at this point in the Record.

There being no objection, the excerpts were ordered to be printed in the Record, as follows:

Excerpts From Hearing

Senator Hatfield. Thank you very much, Mr. Chairman.

I would like to commend my neighbor and colleague from the State of Washington, Congressman Pelly, for this very outstanding testimony this morning and to recognize again his long record of support and very material effort made on behalf of the national resources of our area and particularly the fishery resources.

Mr. Congressman, as you well know, we have some very great problems as it relates to the fisheries along our own respective coasts of Washington and Oregon and California and Alaska. This type of legislation which you are proposing would, of course, have an important effect on the Danish fishing practices.

But where we do not have import from countries, such as Russia, which is so voracious in its fishing appetite on the Western Coast, it would have no impact at all, would it?

Mr. Pelly. At the moment, no, although the way apparently the relationship between the Soviet Union and ourselves is developing it may well be that we will be having imports.

And I might add that recently I know that the hake fishery off of Oregon has been greatly depressed due to the Soviet fishing.

Senator Hatfield. And perch.

Mr. Pelly. And they have agreed in this case I think to respect the treaty that we have with them, and they are going to reduce their fishing effort of this product in which we have now a great interest in producing fish protein flour.

Senator Hatfield. I would amend your statement to include the perch species as well as the hake. Both are being very rapidly depleted by the type and method of fishing engaged in by the Soviet fishing fleets.

And, of course, we have had the problems with Koreans and the Japanese as well in the Pacific.

I think, Mr. Chairman, it is a very important contribution the Congressman has made this morning to remind us again that these are somewhat stopgap measures that we are talking about because eventually we are going to have to consider this whole problem from the approach of the resource.

It is not a question of territoriality or territorial sovereignty as we attempted to do by moving from a 3-mile to a 12-mile limit on the Pacific Coast, because this does not solve the problem with the basic commitment which we have to preserve the resource.

Mr. Pelly. Of course, the fish don't know where the 3-mile or the 12-mile line is, and they seem to migrate back and forth.

Senator Hatfield. That's right. It is the resource again more than the exact territorial boundaries or limits.

I think we as a Nation have to move with greater acceleration in trying to develop international treaties and commitments by all countries to the preservation of the resources and less concern about the territorial limits which really are rather artificial, especially when 90 percent of our marine life in the ocean is found on the continental shelf of those nations bordering the ocean.

It is all the more imperative that we move, and move soon. I think that what the Congressman is proposing is a very logical preliminary action perhaps. I hope it is preliminary to trigger not retaliation, so much as action on the part of the State Department and other bodies within our own government to undertake serious negotiations with these various countries to get such agreements as the sockeye salmon treaty, and others which preserve the resource. They addressed themselves to the resource rather than territory or sovereignty and these other legalisms which oftentimes neglect the resource.

Would you agree, Congressman, this is our ultimate objective?

Mr. Pelly. Senator, I couldn't agree with you more. Actually, there isn't a nation in Latin America, for example, with whom we have differences that doesn't have a community of interest with us in conservation. And why we have had to wait to settle the sovereignty over the 200 miles and instead didn't get in there and talk about conservation of the resource I am not able to say.

Senator Hatfield. Thank you very much, Mr. Chairman.

Senator Spong. Thank you.

For the record, I would like to amend your statement to show the voraciousness of the Russians is not confined to the Pacific Coast. I have worked with it firsthand from the air out here right off the Virginia capes.

Senator Hatfield. Mr. Chairman, I would say that this points up all the greater responsibility we have to move ahead with some of the legislation to aid our fishing industry. When you look at the Russian technology and the Russian fleets that are ploughing both the Atlantic and the Pacific—even based upon an equal start on this thing—we would still be far behind because we need to update both our fishing fleet and the technology surrounding it.

I have seen these foreign mother ships in which the small ships around move out to do the fishing, come back, process it on the mother ship, and they send it back to Russia without ever having touched land except to send their ill people or their emergency cases to our hospitals. And then we spend the next year trying to collect the payment for the services rendered.

But that is another story.

Mr. Pelly. We allow them, of course, to come into our ports to get water and supplies, and that simply enables them to stay out there longer and deplete the fishing resources more than they would otherwise.

Senator Hatfield. Mr. Chairman, would it be appropriate at this time just to illustrate the point here of how these particular species are being depleted by including some statistical data showing the various species along the Pacific Coast? It merely illustrates I think the problem that we are facing along the Atlantic Coast as well.

Senator Spong. They will be admitted to the record.

Mr. HATFIELD. Mr. President, another witness at the Monday hearings was Nathanial Reed, Assistant Secretary of the Interior for Fish and Wildlife and Parks. I think that my colloquy with Mr. Reed was a productive one. I ask unanimous consent that a portion of the transcript appear at this point in the Record.

There being no objection, the excerpts were ordered to be printed in the Record, as follows:

Excerpts From Hearing

Senator Hatfield. Thank you, Mr. Chairman.

I appreciate the recitation of the Secretary on this background material. It is very important in what they are doing in terms of creating the smolts, increased population. But I am a little puzzled as to exactly what the recommendation is of the agency to deal with this problem that we are talking about this morning.

As I read your testimony or listen to it, you identify the issue and the problem. You say the Department of the Interior will fully support any effort that will result in a total ban on high seas fishing for the Atlantic salmon. But then you say you do not recommend the unilateral embargo such as would be authorized in H.R. 3304.

What would the agency recommend to deal with this problem?

Mr. Reed. The final paragraph, of course, has been added to the testimony as representing the views of the United States State Department. We feel that the legislation before you without the embargo, nevertheless, would give us a very effective tool to demonstrate to the ICNAF countries, principally Denmark, the necessity of reviewing with great care the quotas that were established last spring at the ICNAF meeting in Halifax, which to our way of thinking do not address themselves to the very serious problem which affects both the Canadian rivers and the rivers of the United States.

We have eight rivers that now contain salmon runs. The Congress has seen fit to give us authorization for a great deal of money to build one of the most modern hatcheries in the world. To my way of thinking, Senator, unless we can effectively reach some agreement on high seas fishing I can't really recommend to the Congress that it would be a very good idea to go ahead with this vast expenditure of money if we are not going to get any fish back.

So we do have a problem. But our hope is that this bill will pass in some form to give us additional leverage at the next meetings of ICNAF.

Senator Hatfield. You are still putting your confidence and trust in ICNAF then rather than any proposal like Congressman Pelly has?

Mr. Reed. No, my trust and faith in ICNAF are certainly strained. I would think that any leverage that we can get and direction we can get from the Congress will be of use to the Secretary of the Interior as he faces this problem.

Senator Hatfield. You are not implying, are you, that we turn this matter over to the State Department to resolve by the statement here on pages 4 and 5 of your testimony?

Mr. Reed. A final decision on an embargo is beyond the purview of the Department of the Interior.

Senator Hatfield. Right.

Mr. Reed. That is substantially what that statement says.

Senator Hatfield. But, you see, the thing that I have a fear of is that as anyone who carefully studies the situation, as I have, has seen the mineral industry of this country bartered away by the State Department for political treaties with little concern for the economic or other matters or other problems in the metal and mining industry.

I would be very reticent to see the State Department take over the major responsibility of resolving the fishery problems without the full and complete involvement of the Interior Department, because I would be fearful that there would be those who would see this in political objectives rather than in natural resource objectives.

The State Department has a notorious record, in my opinion, of making decisions and policies based upon only politics. This is part of their commitment. After all, the State Department is the State Department. It is not the Interior Department. But I don't want to see them involved in trying to resolve a fishery problem without the input and the complete support of the Interior Department looking at it from purely a natural resource and not from a political basis.

Mr. Reed. Understood, sir.

I am sure the Department of State could much better testify to that than I could.

I would like also, sir, to comment on your very excellent questions to Congressman Pelly concerning the problems of high seas fisheries off the Pacific Northwest which in fact are really identical to the problems we are facing off the Georgian Bank in the Northeast controlled again by the ICNAF treaty.

I would be delighted to send you and the chairman for the record a very fascinating paper developed by Frank Grice, the Director of the Department of Natural Resources of the State of Massachusetts called "Pulse Fishing and its Effect on the High Seas Fishing in the Northeast." It is one of the most interesting papers on this subject I have ever read.

Senator Spong. Secretary Reed, we appreciate your testimony.

Mr. HATFIELD. Mr. President, on Wednesday, the 24th, I had the privilege of presiding at the hearings for a part of the day on the same series of bills. One witness was Ambassador Donald McKernan, Special Assistant for Fisheries and Wildlife in the Department of State. While Mr. McKernan was not aware that I intended to question him about the 1973 United Nations Conference, he gave very fruitful answers to my questions in a productive colloquy. I ask unanimous consent that portions of the transcript on this day appear at this point in the Record.

There being no objection, the excerpts were ordered to be printed in the Record, as follows:

Excerpts From Hearing

Senator Hatfield (presiding). The hearing will be resumed.

Ambassador McKernan, I am sorry that I was not able to join this hearing sooner. We have two other subcommittee hearings going on simultaneously and I have been involved in Amtrak before another Commerce Subcommitttee and Duck Stamps on an Interior Subcommittee, so now I am going to be involved in fish.

I understand that Senator Stevens, who was presiding earlier at this hearing, who has now had to go to another matter—we are sort of covering a number of bases this morning—referred to a resolution which Senator Magnuson, Chairman of the Commerce Committee, and Senator Stevens and I introduced the day before yesterday, calling for a sense of the Senate resolution on this matter of representation by the fishery industry on the upooming U.N. world sea conference. And the bills that we are considering today, of course, relate to some of the problems that are inherent in a situation where there is an absence of agreement or where there is a multiplicity of policies that are being practiced by various nations as it relates to resources.

My thinking has been that we must address ourselves sooner or later on the resource and the conservation practices revolving around that resource if we are going to solve these problems and get global agreements on them, and get uniformity of practice.

With that objective in mind, a number of us have not only written to various agencies of the Federal Government that are planning for the sea conference, but because of the type of answers which we received from some of these agencies, it then triggered our action yesterday in introducing this resolution.

Mr. Ambassador, I would like to give you, as an example, the letter response from the Department of State, a response signed by David M. Abshire, under the date of November 18, responding to my inquiry along this line.

He said, in part, "Dear Senator Hatfield, The Secretary has asked me to reply to your letter in the law of the Sea Conference. The Executive Branch is considering the question of fisheries industry representation of the U.S. Delegation."

Now, you contrast that to a statement of Robert White, the Administrator of NOAA: He said, in part, "We intend to continue to make every effort to insure that our fishery industries have an opportunity to participate fully and directly in U.S. law of the sea activities."

My question to you, Mr. Ambassador, is simply what is your position on this matter of representation in this U.N. sea conference. If it's one in agreement with the context of our resolution, what are you doing to further that action by the Department of State?

Mr. McKernan. Thank you, Senator Hatfield. It's a pleasure to appear before you this morning.

I have been active in the development of the Government's position on law of the sea and attended both preparatory conferences that have been held this year with respect to that law of the sea conference scheduled in 1973.

The Department itself is anxious that the views of not only the fish industry but other industries who are going to be affected by such a conference, for example, the oil industry and the mink industry, and in fact some others, perhaps some people generally from the public who, of course, use the edge of the sea, such places as your great state. And so we have for one thing set up an advisory, an ad hoc advisory group that is in the process of being formed at the present time and to be partially responsive to the views of the fishing industry leaders and others.

Now, we realize that this doesn't satisfy completely the needs with respect to getting an input from these people. And the various departments of government right at this moment—I don't mean figuratively this instant, but I mean at this time—are consulting with one another trying to see exactly how we can get full participation by the interested public, an input into the formation of U.S. policy and U.S. positions at the law of the sea conference.

Now, there are some problems. There are some highly classified questions with respect to our defense measures, for example. And there are some other aspects of the law of the sea problem which make simple resolution of the problem difficult. But I would simply like to say that the Department of State is very anxious to resolve the issue in such a way as to provide for full and adequate participation of all interested groups of the American public, interested in this extremely important subject, one that obviously will affect our fishing industry and in fact affect the lives and the future of our nation for perhaps generations to come.

Senator HATFIELD. Do I understand your response to me to say that you are considering an advisory group to the official delegation made up of the various interested areas? Would that be the structural arrangement? An advisory group to the official delegation?

Mr. MCKERNAN. That has been one of the suggestions. Let me be more explicit. We have been considering an advisory group to the interagency body which has been working on the United States position and position papers. That would be essentially a national group that would meet before our positions were set in concrete and before we had completed the U.S. position.

And, of course, then we have been considering how to deal with perhaps a portion of that advisory body at the conference itself, so that we can have continuous input from this group. The fishing industry, for example, strongly believes that they have got to be part of the delegation, an integral part of the delegation, full partner in the delegation. Some pepole in government believe that that might not be necessary, that if the delegation were to meet regularly with them, take into account their views at the conference itself, or at the preparatory conference, that perhaps that would be adequate. That question has not been resolved, Senator, and we are very anxious to take into account the views of our colleagues here in the Congress to this subject.

Senator HATFIELD. In the comments you made, you referred to the highly sensitive character of some of the material data with which you will be working as relates, particularly, I believe you mentioned, to the area of the defense, the military. But there would not be any problem, or this would not present any problem, would it, as far as members of the delegation representing the fishery industries having clearance and therefore being able to work with this material? Would this be just material that would be something that could be handled by some of the governmental agency people, and would not have to bring into a general conference with fishery representatives, if you had such representatives in your body?

Mr. MCKERNAN. What you are really suggesting is one of the alternative solutions that we are looking at at the present time. There is some feeling, for example, that if public members were on the delegation, that they might require very high level clearances, which would be difficult, very expensive, and very time consuming indeed.

On the other hand, there is a view that is being expressed by some people, some departments that perhaps some of this very highly classified material might not need be considered. And this debate and consideration is being given at the present time, and I am not really saying it's a suggestion, but it amounts to that, that perhaps some of the more highly classified information need not be dealt with by public members who might not have a clearance but a lower clearance in terms of material to be considered by them.

Senator HATFIELD. Could we count you as an advocate in the activities and discussions going on now for representation of the fishery industry for this conference without committing yourself to the particular format or structure it may take, but at least to have an input, some opportunity for input by the fishery industry?

Mr. MCKERNAN. Yes. You can count my department as a strong advocate of that.

Senator HATFIELD. I am sure you realize that we are dealing here with a renewable resource, one which transcends the questions of sovereignty and jurisdiction. In my opinion, we have been hung up too long in trying to consider these problems and solve them purely from a legalistic point of view of sovereignty and jurisdiction. I am sure the fish have no concept of this variation of political institution that they find themselves either administered by or governed by. It seems to me that we should begin to get the various political entities and various political powers involved, to see this as a global resource, and that we all have a mutual interest in preserving and developing this resource.

With that, I had better run to vote. We will take a 10-minute recess.

Mr. MCKERNAN. I simply say that I fully support the statement you just made.

(Recess.)

Mr. HATFIELD. In conclusion, Mr. President, I know that I am not the only Member of this body who is troubled by the current situation confronting our Nation's fishing industry. Many other Senators with whom I have discussed this problem evidence a similar feeling that we must not let the condition of this industry erode further.

We are close to the last mile. To continue what has happened in the past is to say goodbye to our fishing industry in this country, and to witness the worldwide extinction of the fish resource. I do not want this to happen. I know that Senators do not want that to happen. Efforts must be undertaken to see that a global effort is made to protect the fish resource from rapid depletion.

URBAN CORRIDOR RAIL IMPROVEMENTS

Mr. PELL. Mr. President, I commend the National Railroad Passenger Corp. for the improvements it is making in the New York-Providence-Boston urban corridor.

Amtrak has increased the number of daily trains between Boston and New York from eight round trips to 11 round trips; and it announced last week that rail coach fares will be reduced by as much as 22 percent and that 29 new improved passenger coaches will be put in service before the end of December.

Amtrak's improvements in passenger service could not be more propitious. The airways and highways of New England are becoming more congested each day; and there are few communities that are not troubled by the environmental consequences of a new road in their communities. Improved rail passenger service can only help to relieve the pressure for new highways and jetports.

I am delighted that Amtrak is putting its resources where the people are for a second reason. I believe Amtrak can become economically viable through a concentration of its resources on our Nation's urban corridors where increased investment in passenger service means increased patronage and increased revenues. Rail passenger service can be time competitive with airlines, buses, and automobiles in urban corridors if the necessary investment is made in upgraded roadbed and high-speed equipment. I have offered an amendment to the pending Amtrak grant legislation to provide direct loan authority and loan guarantee authority from the Department of Transportation to Amtrak for those investments. It is my hope that this amendment will be favorably considered.

Mr. President, I ask unanimous consent that the recent Amtrak announcement of improved service in New England be printed in the RECORD.

There being no objection, the announcement was ordered to be printed in the RECORD, as follows:

AMTRAK NEWS

WASHINGTON, D.C.—Reduced rail coach fares—slashed as much as 22 per cent—will go into effect December 1, between New York and Boston, Amtrak President Roger Lewis announced today.

At the same time, Lewis announced that nine of 29 improved coaches slated for the Boston/New York route were in service, with the remaining 20 scheduled to come on line in December. The equipment—formerly used on Florida Streamliners and featuring more spacious seating—will replace the Penn Central coaches now being used.

The present fare of $12.75 will be cut to $9.90 on all AMTRAK trains between the two points on both the inland and shore routes where the coach fare is now higher than $9.90. Fares for children 5–12 will be $4.95 and children under 5 ride free with an accompanying adult.

The new fares, which will be in effect for an experimental six month period, "are clearly designed to develop new rail ridership on AMTRAK's Boston/New York routes," Lewis said. The traffic is there, he said, noting there are an estimated 200,000 trips by auto alone being made between New York and Boston each month.

Lewis said that the fare reductions—the first made by AMTRAK since it took over intercity rail service last May 1—are also designed to complement the increased train service introduced on November 14. At that time, the number of daily trains between Boston and New York was increased from eight roundtrips to eleven.

More convenient arrival and departure times and additional through service via Penn Station, N.Y. to points south of New York were also put into effect. Full dining car service is provided on six trains daily.

A new fare/old fare comparison follows:

	New fare	Old fare	Saving 1 way
Shore line:			
New York-Boston	$9.90	$12.75	$2.85
New York-Mansfield, Mass.	9.90	11.50	1.60
New York-Providence	9.90	10.25	.35
Rye-Boston	9.90	11.50	1.60
Rye-Mansfield, Mass	9.90	10.00	.10
Stamford-Boston	9.90	11.00	1.10
Springfield line:			
New York-Boston	9.90	12.75	2.85
New York-Newtonville	9.90	12.75	2.85
New York-Wellesley	9.90	12.75	2.85
New York-Framingham	9.90	12.00	2.10
New York-Westboro, Mass.	9.90	11.25	1.35
New York-Worcester	9.90	10.50	.60
Rye-Boston	9.90	11.50	1.60
Rye-Newtonville	9.90	11.50	1.60
Rye-Wellesley	9.90	11.25	1.35
Rye-Framingham	9.90	10.75	.85
Rye-Westboro, Mass	9.90	10.00	.10
Stamford-Boston	9.90	11.00	1.10
Stamford-Newtonville	9.90	11.00	1.10
Stamford-Wellesley	9.90	11.00	1.10
Stamford-Framingham	9.90	10.25	.35

Note: There will be no restriction on the $9.90 fare as to days of the week or time of day. Tickets purchased will be valid for 15 days.

UNFAIR CRITICISM CONCERNS CITIZENS

Mr. HANSEN. Mr. President, I called the office of the Senator from Indiana to be present today at this time. Regretfully, he had left the city and, according, to his receptionist will not be back today.

The matter I wish to discuss briefly is the growing concern among citizens of the United States over unfair criticism of elected Government officials. The specific situation was brought to my attention by a Wyoming constitutent who obtained a copy of an October 8 editorial by a Casper radio station, which I ask to have printed at this point in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

RADIO EDITORIAL

This station does not editorialize on a regular basis. Only at such times as we are particularly concerned do we editorialize. When a United States Senator accuses the President of the United States of blatantly lying, we become concerned.

On September 27, Senator Vance Hartke, speaking in California, is reported to have said, "Never has an American President lied so blatantly for so long as Richard Nixon on the war in Vietnam." Such a charge should prompt responsible communications media to check the record. We did, and here is what we found.

When the President took office, there was an authorized troop level of almost 549,000 American servicemen and women in Vietnam, with an average of 300 Americans killed per week. At the present time more than half of those troops, over 300,000 have been withdrawn, and U.S. casualty lists indicate that an average of 20 Americans are killed per week. But let's "scrutinize" the President's statements and actions.

In June of 1969, the President announced a reduction in troop ceiling of 25,000 men from Vietnam. These withdrawals were completed by the end of August, 1969. In September of 1969, the President announced an additional redeployment of 40,000 troops. These withdrawals were completed by December 15 of that year. That very same month, the President announced an additional troop reduction of 50,000 which was completed in April.

In April, 1970, the President announced a 150,000 troop reduction. These withdrawals were completed by April of this year. And on April 7, 1971, the President announced an increase in the rate of withdrawals which will result in at least 100,000 more American troops being brought home from Vietnam by the year's end. This schedule is presently being met, and by all indications may exceed the President's expectations.

It is the view of this station that such unwarranted political attacks on our President are the expression of narrow self-interest, and are as harmful to our nation as anything presently confronting us here at home. We just wanted to help set the record straight.

Mr. HANSEN. Mr. President, the editorial apparently was a response to remarks reported on the United Press International A-wire on September 27, which I ask to have printed at this point in the Record.

There being no objection, the item was ordered to be printed in the RECORD as follows:

ONTARIO, CALIF.—Sen. Vance Hartke, D-Ind., urging an all-out effort to unseat President Nixon in 1972, has accused the Chief Executive of blatantly lying for his statements on the Vietnam war.

"Politicians have broken promises before and gotten away with it," Hartke told the California Democratic State Central Committee Saturday.

"But never has an American President lied so blatantly for so long as has Richard Nixon on the war in Vietnam."

Hartke said Democrats must put forward a positive formula for change. He said the election would not be won on "the basis of charisma—whatever that is—or slogan, of which Nixon is so fond."

Mr. HANSEN. Mr. President, my constituent also sent to me copies of correspondence he obtained from the office of the Senator from Indiana. The Secretary of Defense has provided me a copy of his letter of November 29, which I ask be printed in the RECORD here:

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF DEFENSE,
Washington, D.C., November 29, 1971.

Hon. VANCE HARTKE
United States Senate,
Washington, D.C.

DEAR VANCE: Thank you for your letter of October 2, 1971. I had hoped that my previous letter would have clarified for you the basic plan of this Administration in winding down and terminating U.S. involvement in the war in Vietnam.

Apparently, you remain confused. More important to me as Secretary of Defense, you are confusing some sincere Americans around the country by giving wide circulation to the totally unfounded and unwarranted allegation that President Nixon has blatantly lied to the American people concerning Vietnam.

I am therefore responding at this time to your letter so that, in any further dissemination, you will be able to include my specific comments on the additional erroneous allegations contained in your letter of October 2nd.

My first impulse was to reply immediately to your letter. However, I felt it would serve no useful purpose to perpetuate a "dialogue" when it is clear you will continue to insist that policies with which you may honestly disagree must have arisen from devious and base motives on the part of those who undertake those policies. On an issue as grave and serious as war and peace, I hoped—apparently mistakenly—that responsible men could restrain their impulses to engage in "ad hominem" attacks in favor of a searching and constructive debate not on the past but on what policies can most likely lead to peace in the future.

We will not resolve in an exchange of correspondence which men or what specific policies or policy utterances were historically responsible for leading America into a land war on the Asian continent. Since becoming Secretary of Defense, I have sought to shift the debate in America from "Why Vietnam" to the more pertinent question of "Why Vietnamization." I think we have largely been successful in doing that. As the end of all American involvement in the fighting draws near, we are able more and more to focus our attention on the difficult questions of national security beyond Vietnam. In my view, that is what the debate in America should be about today.

I was frankly surprised to see you refer to the President's statement in 1968 in New Hampshire that he had a "plan" to end the war as further documentation of your charge.

He did indeed have a plan and we have been proceeding according to that plan not only in Vietnam but in all aspects of our foreign policy.

I frankly find it incomprehensible that you as a public servant would malign another public official for conceiving a plan for peace and then proceeding to carry it out.

Basically, there are two concepts involved which are not difficult to understand unless one deliberately chooses to misunderstand them. One involves the Nixon Administration's plan to terminate American combat involvement—ground, air and sea—in the war in Vietnam. The other involves our Commander-in-Chief's plan to bring about lasting peace.

With regard to terminating U.S. involvement in the war in Vietnam, I spelled out in part how far we have come along that road in my letter of September 30th. Since that letter additional thousands of American troops have come home and the President set a new troop ceiling of 139,000 for next February 1, a total reduction of more than 400,000 from the troop ceiling of 549,500 that existed when we assumed office.

The de-escalation, or winding down of the war, has most emphatically included the level of air attack sorties. They are now down to about a third of what they averaged in 1968, and have been trending downward rather steadily since our start of Vietnamization in 1969. And it has included other actions which I did not mention, such as turning over naval responsibilities—actions which also are being accomplished on or ahead of schedule.

With regard to who is responsible for the de-escalation policies we have been pursuing since 1969, I would remind you that we were moving in the opposite direction from bringing troops home when President Nixon assumed office. In crediting the previous Administration with starting an inexorable de-escalation process with its announcement of a bombing halt on November 1, 1968, you seem to have forgotten that the then Secretary of Defense, Clark Clifford, 36 days before and 40 days after the bombing halt—to cite two examples—emphatically asserted that there were no plans to withdraw any American troops, that in fact, we were still building toward the authorized ceiling of 549,500 American troops in Vietnam, and that there was no prospect in the foreseeable future of bringing any American troops home. To quote from his December 10, 1968 press conference, Secretary Clifford said, "Let me reiterate that at the present time there is no plan for any net reduction in our troop level in Vietnam."

You may recall that I disagreed with the inflexible policy of ever-increasing troop levels at the time. I publicly predicted in September, 1968, that thousands of American troops could be withdrawn in 1969. The prediction was made on President Nixon's aircraft to representatives of the news media between Boise, Idaho, and Bismarck, North Dakota. It was made after lengthy discussions with Mr. Nixon, in the preceding days and weeks, on the details of the plan—which he referred to in New Hampshire and which later, after he became President, came to be known as Vietnamization and the Nixon Doctrine.

You may feel it is wrong to put first priority on terminating U.S. involvement in the war while simultaneously trying to achieve peace in Vietnam through negotiations. Apparently you do and you are certainly entitled to that view.

I happen to disagree and I believe the American people do too.

The other concept which I mentioned is the Nixon Administration's plan to end the war, as contrasted to simply ending American involvement in the war—or to state it positively and fully, to bring about lasting peace. In fact, the New York Times account of Mr. Nixon's pledge to end the war of March 5, 1968, quotes Mr. Nixon as follows:

"I pledge . . . new leadership will end the war and win the peace. . . ."

The New York Times further quoted Mr. Nixon as saying he had "no push button techniques," but that the war can be ended if "we mobilize our economic and political and diplomatic leadership."

The complementary twin tracks of Vietnamization and negotiations comprise and have comprised major elements of President Nixon's plan to end the war and win the peace. But that plan goes far beyond considerations of Vietnam alone. Both the President and other major spokesmen of his administration have been pointing this out rather frequently and emphatically since 1969. I will offer just two quotes to illustrate. The first was taken from my first Defense Report to Congress early in 1970:

"Vietnamization is both a means to an end and a beginning: a means to end the America involvement in Vietnam and to make a credible beginning on our new policy for peace and increased self-reliance in Asia. This first step in implementing the Nixon Doctrine is of critical importance in ending the war. Moreover, success of the Nixon Doctrine can help remove the need for similar American ground combat involvement in future Asian wars, an important objective in our new strategy."

After restating that in my second Defense Report to Congress this past March, I went on to say:

"Our single objective in South Vietnam has been and remains to help that country insure self-determination and become capable of maintaining security and insuring its own future. At the same time, we seek methodically to terminate American combat involvement in Indochina in such a way that the prospects for effective self-defense—and, more hopefully, the prospects for lasting peace in the area—will be enhanced by the orderly way in which we leave."

To put this in as straightforward a manner as I can, the Nixon plan to end the war is bound up in the entire fabric of the President's Foreign Policy and the complementary National Security Strategy of Realistic Deterrence. These new approaches have been conceived and implemented with the purpose of moving from an era of confrontation to negotiations and in order to foster conditions for what our Comamnder-in-Chief so often has referred to as a "full generation of peace."

Of course, no one can guarantee the future course of world events or ensure absolute success. But the probability of success would be greatly reduced if we lack understanding and support from Congress and the American people. Enhancing the prospects for success can also entail such controversial decisions as the Cambodian and Laotian operations and a willingness sometimes to take extra risks for peace. It can also involve other risks such as the bold attempt to free our prisoners of war in the Son Tay raid, even if the chance is only 50–50 that prisoners will be there.

One final point, Vance. You seem preoccupied with holding the President to absolute consistency in every word he has uttered over a period that spans more than 17 years. This prompts me to raise a question of consistency between two paragraphs in your letter of October 2nd.

On the one hand, you say (paragraph 4, page 2) that "there is no end in sight" to the war even if all American combat infantrymen are out by next year. You predict the fighting will continue between North and South into the indefinite future.

But, on the other hand, you say "*the war would* (already) *be over*" (paragraph 2, page 3) if the President had accepted the Mansfield troop withdrawal amendment.

And although those two contradictory statements appear in the same short letter, I find it hard to assign devious motives to you or to believe that you were seeking deliberately to deceive me or the American people.

I do feel compelled, however, because you are spreading erroneous information by distributing my personal letter to you and your misleading reply, to make this correspondence available to the public.

Vance, I am sorry to be so blunt about this, but I believe deeply that the best interests of the American people and of lasting peace would better be served if all of us tried to confine our dialogue to the substantive issues and to the facts, instead of resorting to what we used to call in our college debating classes "ad hominem" attacks.

Sincerely,

MELVIN R. LAIRD.

Mr. HANSEN. Mr. President, I also ask unanimous consent that the letter of October 2 from the Senator from Indiana to which the Secretary made response be printed in the RECORD, as well as the letter of September 30, from the Secretary to the Senator from Indiana.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON VETERAN' AFFAIRS,
Washington, D.C., October 2, 1971.

HON. MELVIN LAIRD,
Secretary of Defense,
Washington, D.C.

DEAR MEL: I have your letter concerning the news report that I said President Nixon has lied blatantly about the war in Vietnam. You indicate your disagreement. Let me give you some instances of deliberate deception by the President about the war.

Your letter speaks of his reversal of "the escalation policies he inherited"; President Nixon himself has repeatedly spoken of the war as something started by somebody else and merely "inherited" by him. Yet the facts are the opposite. You know how he worked with Secretary Dulles in 1954 to get us to help the French in Vietnam, even if this meant sending U.S. troops. I remind you of his April 16, 1954, speech to the Society of Newspaper Editors in which he said we could not afford further retreat in Asia and "if this government cannot avoid it, the Administration must face up to the situation and *dispatch forces.*" And you know of the Dulles-Nixon rejection of the July 1954 Geneva agreements and their injection of U.S. forces into South Vietnam in violation of those agreements. Mr. Nixon was one of the leaders who started the war—not an inheritor.

Furthermore, President Nixon was not the one who reversed our unfortunate escalation of the war. It was Lyndon Johnson who reversed it when he stopped our bombing of North Vietnam and developed an understanding that led to the Paris peace talks.

President Nixon merely followed President Johnson's de-escalation. Of course, Mr. Nixon is now apparently reversing the reversal by resuming the bombings on a large scale and thus escalating our military attacks, to the tune of 200 sorties in one day.

Let me remind you of Mr. Nixon's statements during his 1968 campaign that he had "a plan to end the war". As intended, this was interpreted by the public as a promise to end the war rather soon.

Suppose, instead, that Candidate Nixon had said throughout the 1968 campaign that he had a plan to end American ground forces combat in the war *after four more years and 20,000 American lives.* Do you think for a moment that he would have been elected President?

Could he have kept his promise to end the war? As early as May 14, 1969, President Nixon told the American people that he *could* have ended the war immediately after his inauguration. "This," he said, "would have been the easy thing to do . . ."

But he chose not to do so. He chose to continue the killing for what is now almost three more years. And although American combat infantrymen may all be out by this time next year, to the war itself, as you well know, there is no end in sight. American air and naval forces will continue to devastate the lands of Indochina, killing and making homeless tens of thousands of innocent civilians in the process. And a conscript army of South Vietnamese, supplied and paid for one hundred percent by American tax dollars, will continue to kill and be killed in a merciless civil war between rival dictatorships in Saigon and Hanoi.

The futile raids to release U.S. POWs, in North Vietnam and Cambodia, reflected terrible misinformation—unless the purpose was to deceive the American public. Since there is evidence that you and Mr. Nixon knew the POWs had already been moved, I am inclined to accept "calculated deception" as the purpose. Likewise with the Cambodian invasion. The President ballyhooed that as a great expedition to capture the enemy headquarters, the planning centers, and troops about to invade Vietnam. He found no headquarters, no planning centers, and no troops of significance. Was that an operation of stupidity or an attempt to mislead the American people into believing that progress was being made?

The Laos invasion illustrates a central theme of Nixon on the war. You remember that an Act of Congress prohibited American troops being on the ground in Laos. And so our newspapers carried stories of American forces stopping at the boundary line and thereafter doing their shooting and bombing from the air, keeping their feet above the ground except for occasional forays. Perhaps you obeyed the law, but if you did, it was pretty tricky, was it not? We were there, egging on the South Vietnamese and shooting from planes, but still we were not there. Incidentally, 46% of our citizens said at that time in a public opinion poll that they did not believe you. Trickiness is eventually self-defeating.

The President's repeated remarks about his solicitude for American POWs is another attempt to deceive. He raised this issue a year ago to justify continuing the war. But I know from my visits to Paris last spring that the North Vietnamese and Vietcong were willing to release our POWs if we agreed to get out of Vietnam. The Senate called for this type of arrangement in the Mansfield amendment last June and again on September 30. If the President had been willing to accept this policy, the war would be over, and the POWs enroute home in a matter of weeks. Despite his remarks, he is the one who is keeping them in prison.

This past week the President appeared before the relatives of our POWs in a cruel act of deception. In an emotional voice, he told of his alleged concern and efforts and hinted that he was doing more to obtain their release than he could reveal publicly. I frankly do not believe this. I think that the junior Senator from Kansas and Chairman of the Republican National Committee, Bob Dole, honestly reflected the Administration's policy when he told the meeting that he would not advocate the release of U.S. POWs at the *expense of the Saigon government*.

This is the crux of the matter. President Nixon's main purpose is to keep in power the dictatorship now propped up by our arms in South Vietnam. To put it another way, his main purpose is to carry out the Nixon-Dulles objectives in 1954 to impose a French or American colonial government on the people of Vietnam. That is why he turned down the policy offered by the Senate. That is why he rejected the Paris proposals—and, incidentally, timed that rejection so that it would be swallowed up in larger news stories, and the public would not realize that he had rejected an offer for peace and release of POWs. That is manipulating public information.

Mel, I am sorry to be so blunt about this, but I want you to know that there is ample evidence concerning the deception practiced by the President on Vietnam.

Sincerely yours,

VANCE HARTKE,
U.S. Senator.

THE SECRETARY OF DEFENSE,
Washington, D.C., September 30, 1971.

Hon. VANCE HARTKE,
U.S. Senate,
Washington, D.C.

DEAR VANCE: I have been concerned by news reports which quote you as making the following statement: "But never has an American President lied so blatantly for so long as has Richard Nixon on the war in Vietnam." I realize, of course, that the quotation may not have been correctly reported; the news reports indicate the remark was made in California on Saturday, September 25, 1971.

I feel certain that as a member of the Senate you are fully aware that a charge that the President has lied to the American people about his steps to terminate U.S. participation in Vietnam fighting simply is not supportable by the facts. The record shows clearly and conclusively that President Nixon has kept every single promise he has made to our people regarding Vietnam and that in the process has successfully reversed the escalation policies he inherited and drastically reduced the level of U.S. forces in Southeast Asia.

When the President took office there was an authorized troop level of 549,500 American servicemen and women in Vietnam; casualty rates were averaging around 300 Americans killed per week; and there was no comprehensive plan to end the United States involvement in the war.

At the present time, more than 300,000 troops have been withdrawn from Vietnam, and U.S. casualties have been averaging less than 20 per week in recent months. In addition, at the President's direction we are continuing to withdraw Americans at an average rate of more than 14,000 per month. Most importantly, the United States has helped train and equip the South Vietnamese, through Vietnamization, so they can carry almost the entire burden of the defense of their country against Communist aggression. In a word, this country has done everything President Nixon has said we would do.

In June of 1969, the President announced a reduction in the troop ceiling of 25,000 men from Vietnam. These withdrawals were completed as scheduled by the end of August, 1969.

In September of 1969, the President announced an additional redeployment of 40,000 troops. These withdrawals were completed by December 15 of that year.

In December of 1969, the President announced an additional 50,000 troop reduction. These withdrawals were completed as scheduled by April 15, 1970.

In April of 1970, the President announced a 150,000 troop reduction. These withdrawals were completed by April of this year.

On April 7 of this year, the President announced an increase in the rate of American withdrawals which will result in at least 100,000 more American troops being brought home from Vietnam by December 1. That schedule is presently being met and by all indications will exceed the President's expectations.

The President has promised another announcement of further withdrawals in November and as with all of his other announcements, we in the Department of Defense will meet or beat the commitment our Commander-in-Chief makes.

On the negotiating front, President Nixon has gone to exhaustive lengths to reach a settlement of the war at the Paris Peace Talks and in other channels. He has stated publicly on many occasions that the United States never will give up hope or stop trying to achieve a solution to the war through peaceful negotiations. In pursuance of that goal the President has offered the most comprehensive proposals for the settlement of differences in Indochina. His position has been restated on countless occasions—at Presidential news conferences, in newspaper interviews and in public speeches.

It is very clear from the record that this Administration has never raised false hopes about Vietnam nor made promises it couldn't deliver.

As Secretary of Defense, I am proud of the record and proud of promises kept. I would hope all federal officials could share that satisfaction and stand by our President as we continue his plan to end U.S. involvement in this war.

But, as I said, perhaps you were misquoted.

Sincerely,

MELVIN R. LAIRD.

Mr. HANSEN. Mr. President, I am writing the distinguished Senator from Indiana, calling attention to the insertions I am making in the RECORD.

ORDER FOR THE UNFINISHED BUSINESS TO BE LAID BEFORE THE SENATE TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on the conclusion of the remarks by the distinguished Senator from Illinois (Mr. PERCY) on tomorrow, the Chair lay before the Senate the unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR AMENDMENTS NOS. 762 AND 769 TO BE LAID BEFORE THE SENATE TOMORROW MORNING

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, upon the disposition of amendment No. 771 by the Senator from Wisconsin (Mr. PROXMIRE) on tomorrow, the Senate then proceed to the consideration of amendment No. 762 by the Senator from Wisconsin (Mr. PROXMIRE); and that upon the disposition of amendment No. 762 by the Senator from Wisconsin (Mr. PROXMIRE), the amendment of the Senator from New York (Mr. JAVITS), amendment No. 769, then be called up, if it is the wish of the sponsor thereof at that time.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR AMENDMENT NO. 773 TO BE LAID BEFORE THE SENATE TOMORROW MORNING

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, upon the disposition of amendment No. 769 by the Senator from New York (Mr. JAVITS), in the event that amendment be called up, or in the event it is not called up, then upon the disposition of amendment No. 762 by the Senator from Wisconsin (Mr. PROXMIRE), the Chair then lay before the Senate amendment No. 773 by the Senator from Wisconsin (Mr. PROXMIRE).

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

Mr. BYRD of West Virginia. Mr. President, is there further morning business?

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

RECESS TO 8:30 A.M.

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until 8:30 tomorrow morning.

The motion was agreed to; and (at 9 o'clock and 14 minutes p.m.) the Senate recessed until tomorrow, Wednesday, December 1, 1971, at 8:30 a.m.

NOMINATIONS

Executive nominations received by the Senate November 30 (legislative day of November 29), 1971:

U.S. COURT OF CLAIMS

Shiro Kashiwa, of Hawaii, to be an associate judge of the U.S. Court of Claims, vice James R. Durfee, retiring.

FEDERAL COMMUNICATIONS COMMISSION

Richard E. Wiley, of Illinois, to be a member of the Federal Communications Commission for the unexpired term of 7 years from July 1, 1970, vice Robert Wells, resigned.

U.S. MARINE CORPS

Lt. Gen. Robert E. Cushman, Jr., U.S. Marine Corps, to be Commandant of the Marine Corps with the rank of general for a period of 4 years from the first day of January 1972 in accordance with the provisions of title 10, United States Code, section 5201.

EXTENSIONS OF REMARKS

THE SCHOOL PRAYER AMENDMENT

HON. JOHN G. SCHMITZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. SCHMITZ. Mr. Speaker, on November 8 the House of Representatives at long last had an opportunity to vote on a constitutional amendment to legalize prayer in public schools—an issue which had been kept from them for 7 long years primarily by the opposition of the chairman of the Judiciary Committee. Brought to the House floor by the very unusual method of a "discharge petition" removing it from the Judiciary Committee, the amendment received a majority of votes, but fell 28 short of obtaining the required two-thirds.

The executioners of school prayer were men who claim to speak for the churches of America—a fact that may seem incredible to most Americans, but which is indisputably true. They put on what was, in the words of one of my colleagues, "one of the best orchestrated lobby jobs I've ever seen"—against prayer in schools.

I am describing what happened at some length in an article to be published in a nationally circulated publication; within the confines of this newsletter, there is space only briefly to summarize the points needed to cut through the swirling fog of specious arguments put up by opponents of this measure: First, voluntary prayer in schools is outlawed under present court decisions—for example, *State Board of Education* v. *the Board of Education of Netcong*, 270 A 2d. 412, by the Supreme Court of the State of New Jersey, which the U.S. Supreme Court refused to hear on appeal, thereby in effect affirming it—also a parallel case in Massachusetts. Second, the word "nondenominational" in the amendment, describing the kind of prayer that it would allow, to which many had objected as undefinable, was eliminated on the House floor and "voluntary" substituted—yet two fewer Congressmen voted for the amendment after the change than before; obviously this was not their real objection to the measure. Third, if to say a prayer in school violates the separation of church and state, as many have charged, then did we have a union of church and state with all its heralded abuses, through all those years up to 1962 when schoolchildren said a prayer every morning—usually the Lord's Prayer—with almost no one objecting, until the Supreme Court stopped them?

The case against the prayer amendment collapses so completely under any reasonable scrutiny that it is hard to escape the conclusion that many of those in national church offices who claim to speak in the name of the faithful have simply decided that they do not want to take up the cause of allowing children in public schools to pray together. Their recent record, statements, and actions indicate that by and large they have become so concerned with secular and political goals as to forget, or even to be embarrassed by, the purpose for which they are supposed to exist: to acknowledge and serve God.

Even an agnostic or atheist, who is also an honest man, might well be disturbed by this spectacle of churches lining up against prayer.

But the fact is that few if any churches have a system whereby the members are polled or consulted in any way before church bureaucrats speaking in their name take stands on public issues such as this amendment. More surprising to many, the usual practice is not to consult the whole body of priests or ministers either, or all the bishops in those churches which have them. There are almost 300 bishops of the Catholic Church in the United States, for example, but the statement issued against the prayer amendment in their name, prepared and circulated by their Washington office, was approved in advance by only five of them, the members of their national executive committee.

Many people lull their consciences on this issue by saying that a class prayer in school means little one way or the other. They are wrong. There is a fundamental difference between a school system which acknowledges God and one which forbids all mention of Him. Schools where prayer is prohibited have, in effect, established secular humanism or agnosticism, if not atheism, as their religion.

DR. LARRY McGEHEE AN EXCELLENT CHOICE FOR CHANCELLOR OF UNIVERSITY OF TENNESSEE AT MARTIN CAMPUS

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. JONES of Tennessee. Mr. Speaker, on November 13, Dr. Larry Thomas McGehee was named chancellor of the University of Tennessee at Martin. Dr. McGehee is a truly outstanding educator, and I feel that the university is fortunate in finding such a worthy successor to Dr. Archie R. Dykes, who recently assumed the chancellorship at the Knoxville campus of the University of Tennessee.

On November 15, the Paris Post-Intelligencer published an editorial commenting on Dr. McGehee's appointment, and I include it at this point in the RECORD:

DR. LARRY McGEHEE AN EXCELLENT CHOICE FOR CHANCELLOR OF UNIVERSITY OF TENNESSEE MARTIN CAMPUS

The board of trustees of the University of Tennessee met on the UT Martin campus Saturday and unanimously elected Dr. Larry Thomas McGehee as chancellor at Martin to succeed Dr. Archie Dykes.

The choice was an excellent one, Dr. McGehee is a native West Tennessean, born and reared in Paris, and one who has already made great achievements in the field of higher education. At the age of 35 he leaves a responsible post as academic vice president of the University of Alabama to take over the top position on the U–T Martin campus. At Alabama he was responsible for all academic programs, involving 3,000 courses taught by more than 600 faculty members.

Dr. McGehee comes to the Martin campus well equipped with an educational background and professional teaching and administrative experience. And he joins the ranks of other distinguished Henry County educators who hold high positions in universities across the land. To mention just a few: Dr. C. C. Humphreys, president of Memphis State University; Dr. Joe Morgan, president of Austin Peay in Clarksville; and Dr. T. D. Jarrett, president of Atlanta University in Atlanta, Ga. Until a few years ago when he retired, Dr. Mordacai Johnson, a Paris native, served many years as president of Howard University in Washington.

Dr. McGehee is not only a highly qualified person through training and professional experience, but is a dedicated Christian and a man of high integrity. He will bring to the Martin campus the dignity and prestige to which the school has become accustomed under previous administrators.

The Paris and Henry County community is pleased that Larry McGehee is coming "back home" to West Tennessee. We congratulate him on the high honor that has been accorded him and wish him every success in his new assignment.

NATIONAL BIBLE WEEK

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. KEMP. Mr. Speaker, National Bible Week was celebrated November 21–28.

America's only universally observed nonsectarian religous holiday, National Bible Week was founded in 1940 to encourage the reading and study of Holy Scripture. The Laymen's National Bible Committee, which sponsors the event, is an organization of Eastern Orthodox, Jewish, Protestant, and Roman Catholic members of the laity.

Hundreds of churches, synagogues, youth clubs, civic and patriotic organizations, libraries, bookstores, colleges and universities, and business and government leaders participate each year.

As our Nation struggled for existence, George Washington stated:

> It is impossible to govern . . . without God and the Bible.

Today, as we face crises undreamed of by our Founding Fathers, I believe it is more important than ever that we seek the guidance of Holy Scripture.

Mr. Speaker, to commemorate National Bible Week I include at this time a statement, "I am the Bible," by Norman E. Richardson:

I AM THE BIBLE

(By Norman E. Richardson)

I am the Bible.

I am a library of sixty-six books.

I am the world's best seller.

I am more than a mere book: I am a force that overpowers opposing systems of thought.

I am the rock upon which civil liberties and social freedom rest.

I answer the question: Who and where is God?

I was written by minds saturated with consciousness of God.

I am published in more languages and dialects than any other book that has ever been written.

I am cherished by millions of people as being the only concretely available and infallible rule of faith and practice.

I am the Word of God as set forth by inspired prophet, law-giver, genealogist, priest, historian, poet, essayist, story-writer, moralist, seer, and theologian.

I set forth the way of life that leads to abundance and satisfaction of experience.

I tell the story of the great drama of redemption.

I am the meeting point of man's effort to discover God and God's revelation of Himself to man.

I inspire devotion to truth and purity of life purpose.

ADDRESS OF GEN. W. C. WESTMORELAND, CHIEF OF STAFF, U.S. ARMY, TO THE ASSOCIATION OF THE U.S. ARMY

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. TEAGUE of Texas. Mr. Speaker, as all of us in this House know, the Department of the Army is undergoing some drastic changes in the field following the commitment which the Chief of Staff, Gen. William Westmoreland made to a modern volunteer army; which if effective, will bring about a "zero draft," the hope of the present administration.

Under leave to extend my remarks in the RECORD, I wish to include the address of the Chief of Staff of the U.S. Army, Gen. William Westmoreland to the luncheon meeting of the Association of the U.S. Army held here in Washington on October 12, 1971.

The address follows:

ARMY PROFESSIONALISM—AN ADDRESS BY GEN. W. C. WESTMORELAND, CHIEF OF STAFF, U.S. ARMY

At the Annual Luncheon of the Association of the United States Army, Sheraton-Park Hotel, Washington, D.C., October 12, 1971

I welcome this opportunity to address again those who support the Association of the United States Army and congratulate the Association for what appears to be another successful annual meeting. Let me say at the outset that the Army needs the Association and appreciates that its efforts and support have never been more important to the Army and the national interest.

Our Army today is a dynamic organization undergoing change in order to stay abreast of rapid changes in technology, warfare and our society. Two years ago in this forum, I announced the Army's Project MASSTER—projecting the battlefield of the future. Last year, I told you about my commitment to a Modern Volunteer Army. Today I want to talk about the quality of the United States Army, or as I call it, professionalism, which is the bedrock—the foundation—upon which the security of our Nation has been based throughout our history.

First, let me say that the Army's mission in Vietnam, although a complex one, has been virtually accomplished. We were directed to prevent the communist military domination of South Vietnam. We have clearly achieved this objective. We were also directed to train the armed forces of the South Vietnamese to enable them to defend themselves. We have substantially achieved this second objective. While our efforts in Vietnam have not ended and the costs and sacrifices are still high, the overall performance of our Army has been splendid. We can be justly proud of our record.

But the Vietnam War has placed great stress upon the Army and, in many respects, has had an adverse effect on its professionalism. A basic problem has been that of personnel turbulence during six years of war.

We fought the war without a significant call-up of Reserves.

Excessive personnel turnover rates within units caused severe instability.

Requirements for rapid expansion compelled us to place more responsibility on inexperienced leaders.

The quality of our enlisted ranks also suffered. We were forced to accept personnel who did not meet our usual standards.

Further, during the last six long years, we have devoted the bulk of our efforts and resources to Vietnam while important projects were delayed due to a lack of resources to support all requirements. We were literally forced into a "Vietnam straitjacket" which restricted our actions in other areas. We must break out of this "Vietnam straitjacket" if we are to meet the challenges of the future. We must appreciate, however, that there is difficulty in breaking out of patterns that have prevailed for several years. There is inertia in overcoming certain practices . . . and certain malpractices that have crept into our system. For example, in training—the heart of the Army's business—we have been overly influenced by the Vietnam experience. We have, in fact, become a huge individual training organization oriented toward Vietnam. Understandably, we have developed some practices not conducive to training an Army for world-wide commitments. These practices are being rapidly corrected.

Our doctrine has also been influenced by these prolonged Vienam experiences. In some respects, we have developed a defensive stereotype, tactical psychology. I call this "firebase psychosis." Our company and junior field grade officers and many of our noncommissioned officers . . . whose sum total of combat experience has been restricted to Vietnam . . . will require reorientation to overcome such doctrinal narrowness.

On the other hand, we have learned much from Vietnam, and we should take full advantage of this knowledge. As the Vietnam era draws to a close, we have to look to the future, to our role in a changing society, and to the anticipated world-wide missions of the Seventies and how to best prepare for them. Further, we must emphasize that there are exciting challenges and great satisfaction in serving and accomplishing our missions in a peacetime environment. Let us not forget—we did well what we were asked to do in Vietnam . . . and at the same time performed well elsewhere around the world in recent years, despite adversity. We are proud of our accomplishments.

Now, as after every expansion period, the Army must adjust to new realities . . . engage in introspection . . . and undergo a revitalizing and rebuilding process. Problems must be identified . . . causes isolated . . . and solutions aggressively sought. This involves an across-the-board effort in every area in which the Army functions. This effort is well underway. I doubt if many institutions have engaged in more intensive, searching introspection. We have anticipated certain problems as an inevitable outgrowth of Vietnam, and have seized upon the opportunity to revitalize and rebuild the Army.

We are moving aggressively to solve our problems. And, in fact, we *are* solving them. All indicators point to the fact that we are moving upward. Many positive programs are in being . . . others are planned. We are generating the imaginative, innovative ideas and dynamic approaches that are needed at this critical time.

The basic thrust of our efforts is to build the finest Army in the history of this country, one based on improved professional competence, willing self-discipline, individual pride and dedication. This effort involves three objectives;

Enhanced professionalism,

Improved Service life and attractiveness,

And increased public understanding and support.

All of these objectives are interrelated. One is dependent on the others for success. However, achievement of the highest standards of professionalism is our overriding concern. All else is secondary.

We must, and will, retain the highest standards of discipline. Our Army cannot, and will not, be a permissive organization.

Nevertheless, we are a flexible organization—unafraid of a new idea, and with the courage to experiment with new methods. Those methods that serve our purpose will be adopted, those that do not will be abandoned. Our standards will be high; let there be no doubt about that.

The first objective of enhancing professionalism is directed toward improving professional competence and building among Army men and women of all ranks a strong sense of accomplishment and achievement in performing well an important job.

The second objective of improving Service life and attractiveness is directed toward removal from Army life of sources of aggravation which detract from the environment in which the military man and his family live . . . yet contribute nothing to the accomplishment of the Army's mission. Actions designed to improve Service life and attractiveness have received sufficient publicity . . . so it is unnecessary for me to discuss these today.

In our movement toward enhanced professionalism, we are making excellent progress. I will mention some of the more significant steps we have taken.

One of the first actions was taken in November of 1969. At that time, I dispatched a letter to all officers in the Army concerning personal integrity and professional ethics. I said, in part:

"Each one of us stands in the light of his brother officer, and each shares in the honor and burden of leadership. Dedicated and selfless service to our country is our primary motivation. This makes our profession a way of life rather than just a job."

This letter set the tone for subsequent actions.

Several studies identified a need to improve the overall professionalism within the Army. Our programs in this respect include efforts to—

Return soldiers to soldiering by releasing them from nonmilitary type duties,

Uphold the dignity of the individual soldier by being more sensitive to his needs,

Improve leadership through the establishment of a leadership board, improving leadership training in our school systems, and use of leadership training teams to travel to various Army installations,

And establish courses in service schools on professional ethics and on individual and group communications and counseling.

Our program also includes measures to—

Stabilize command tours,

And improve the understanding and administration of the military justice system in recognition that many young officers have lost confidence in the system as a timely means to punish offenders and deter misconduct.

Also, we are improving—

The Inspector General system,

And the Command Maintenance Management Inspection and other type inspections, by using them as a means of assisting units and not testing them with unrealistic statistical standards.

And finally, we are improving training through a dynamic training effort involving decentralized training and other activities where possible to reduce oversupervision and to improve the interest, meaningfulness, and adventure of training.

Our decentralized training program enforces the emphasis I am giving toward placing greater responsibility and authority . . . greater trust and confidence . . . in the leaders of the Army, particularly our young leaders . . . and most of all . . . our officers.

I am relying on the officer corps to lead the way in the revitalization of the Army. Although the noncommissioned officer corps is the backbone of the Army, the officer corps is the very heart of the Army.

Because of my feelings on this subject, I signed today . . . a letter to each officer in the United States Army on the subject of "Special Trust and Confidence." I would like to read that letter to you now:

"An officer's commission reposes 'special trust and confidence in the patriotism, valor, fidelity, and abilities' of each of us. Several months ago, I gave new emphasis to policies that reflect greater trust and confidence in the officer corps. My most recent decision to decentralize Army training is a prime example.

"We must further rejuvenate the meaning of 'special trust and confidence' as we develop a professional force of the highest quality. Accordingly, I want the policies and practices of the Army to reflect:

"More careful selection of commanders who can provide honest, forthright, and productive leadership and who will establish and maintain high standards.

"More reliance on the integrity and judgment of commanders.

"More responsibility and authority for our qualified leaders.

"More emphasis on mission-type orders.

"More personal effort on the part of seniors to guide, develop, and support subordinates.

"More emphasis on demonstrated performance and less reliance on sterile statistics in evaluating efficiency.

More personal involvement of officers in the dialogue of command information and less reliance on written communications in passing instructions and policies through the chain of command.

"The policies above must be implemented by officers at all levels. We all share a responsibility to achieve and maintain the highest standards of military professionalism throughout our ranks. The accomplishment of this goal requires that each officer renew his determination to prove worthy of 'special trust and confidence.' "

This, then, is my charge to each and every officer—the charge that he must epitomize in words and deeds, the ideals of the true professional soldier. He must be the hallmark of professionalism. But, let there be no misunderstanding . . . the noncommissioned officer remains a vital part of the Army. His direct relationship with the men in the ranks makes his leadership role a highly influential one.

Honest, alert, sensitive leaders—officers and noncommissioned officers—who demand high standards must characterize the chain of command. These leaders—professionals—must raise the self-discipline, skill level, and pride of the individual soldier . . . and the effectiveness and esprit of our units . . . to an all-time high. This is a demanding objective under current circumstances, but it is an exciting challenge.

We also have programs underway to specifically improve the quality of both the officers and noncommissioned officers, such as—

Development of a new officer personnel management system which provides for increased specialization (to include command), and corrects problems associated with the "jack-of-all-trades" approach,

Centralized assignments and elimination of the "ticket punching" requirement for certain types of assignments,

A proposed new officer efficiency report system,

An improved in-service educational system,

And of significant importance . . . the avoidance of extension for officers and reenlistment for noncommissioned officers who are marginal performers.

Finally, we are establishing higher standards for promotion and schooling.

There are other studies and actions underway which time does not permit me to mention.

The programs and actions to revitalize the Army should not be limited to the Active Army. As Secretary of Defense Laird pointed out yesterday at this meeting, "Our military planning takes the Reserve forces into account as an integral part of our defenses. In this regard, substantial reduction in the size of our Active Army means a greater reliance on the National Guard and Army Reserve. Therefore, achievement of a high state of Reserve Forces readiness is one of our top priorities. We know that many in our Reserve Components are motivated to enlist as an alternative to being inducted. In view of this, a significant part of our Modern Volunteer Army Program must be directed toward supporting our Reserve Forces. The combat readiness of the Army Reserve and National Guard is being increased through the issue of more modern arms and equipment, improved facilities and training areas, new approaches to recruiting and retaining, and closer association of Reserve and Active Army units in training and operational readiness.

Our task in strengthening the Reserves is an important one . . . and one to which the Active Army is giving a great deal of attention.

Gentlemen, much has been accomplished in terms of enhancing professionalism and improving Service life and attractiveness. In future months, we will do more.

In the vanguard of our efforts to attract more volunteers and to reduce reliance on the draft is the United States Army Recruiting Command (USAREC). We are more than doubling the number of recruiters in this important command. We have increased our recruiting stations by 37 percent. We are providing emoluments to our recruiters in terms of cost-of-living allowances and government-rented houses.

We are improving the quality of the officers and men assigned to this command. In my opinion, our three-month TV and radio advertising program was a success. The number of volunteers in the nonprior service category and in the prior service category during the past several months is an encouraging 72.2 thousand. In June, we had 18.7 thousand; in July, we had 17.0 thousand; in August, we had 17.6 thousand; and in September, we had 18.9 thousand.

Everywhere I travel, I make it a point to see the local recruiters. They are an enthusiastic lot. Major General Henion and his officers and men are in high gear, and I expect all elements of the Army to give them maximum support. They also deserve and need the support of all members of the AUSA.

Now, in closing, gentlemen . . . members of the AUSA . . . let me address you directly on a matter of great concern to all of us. I mentioned before the importance of increased public understanding and support for the Army. Building this understanding and support is a role for which AUSA is nobly suited, and one which your leadership has accepted.

Despite our best efforts to enhance the professionalism of the Army, we cannot "go it alone." We exist as an institution to serve the legitimate and continuing defense needs of this great Nation. That story of what we are and why we exist can be told to the public by you gentlemen of the Association of the United States Army. I welcome your efforts.

In looking to the future, the Army must preserve the values and traditions which have made our Army great, while accepting the challenge to build an even better Army. The truth of the matter is that the Army is more skilled and capable of dealing with social change . . . while still preserving worthwhile traditional values . . . than most institutions. We can do much for our country by leading the way for the rest of society in this respect by setting a good example.

Most certainly, President Nixon appreciates the Army's important role in this regard. Last May, he said in an address to the cadets at West Point:

I believe . . . that the military ethic remains strong in the hearts of America's fighting men. . . . Your special task will be to reaffirm it, to give it new life and meaning for the difficult times ahead. . . . As you succeed in this task, your success can set an example of a moral rebirth for all the people and institutions in this land, civilian as well as military.

Those are strong words. They evince a great faith in the Army as an institution. We in the Army intend to merit that faith; faith in an institution that has fought 13 wars and 157 campaigns without defeat.

I am certain that we are moving in the right direction at the institutional level to improve the quality of professionalism in the Army.

We are preserving the values and traditions that have made our Army great.

We are recognizing the imperatives of social change and moving wisely to help our Nation.

We are building an Army finer and more professional than ever before in history.

But how well we progress in these efforts depends on the support of the American people.

Our charge, gentlemen . . . is to rally that support.

This requires the personal effort of all of us. I know I can count on you.

TO SEEK PAYMENT LIMIT

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. FINDLEY. Mr. Speaker, if, as expected, the House Rules Committee takes up H.R. 1163 Tuesday morning, I will ask it to make in order an amendment limiting annual farm program payments to $20,000 per commodity. This would apply to cotton, feed grains, and wheat.

The limitation I have drafted should result in savings of about $200 million a year, and will therefore go a long way toward meeting the extra cost of the bill. Government estimates show the strategic reserve will cost about $210 million a year for storage alone, not to mention acquisition costs which could go as high as $1.4 billion.

Farm program costs are steadily rising, and this additional cost will simply add to urban disenchantment with farm programs generally. Frankly, I oppose the basic strategic reserve concept as impracticable, unworkable, and harmful to agriculture. But if it is to become law, a payment limit would make it more digestible for city and rural people alike.

The present law has a $55,000 annual payment limit, but a provision in the cotton section makes evasion easy. My amendment will close the loophole besides reducing the ceiling.

DDT, THE FIRST DOMINO

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. HUNGATE. Mr. Speaker, the following article entitled "DDT, the First Domino," should be of interest in the ecology debate. The author is a Nobel Peace Prize winner and so far as I know is neither engaged in the selling of pesticides nor memberships in environmental clubs.

The article follows:

DDT, THE FIRST DOMINO

(By Norman E. Borlaug)

ROME.—The current vicious, hysterical propaganda campaign against the use of agricultural chemicals, being promoted today by fear-provoking, irresponsible environmentalists, had its genesis in the best-selling, half-science-half-fiction novel "Silent Spring," published in 1962. This poignant, powerful book—written by the talented scientist Rachel Carson—sowed the seeds for the propaganda whirlwind and the press, radio and television circuses that are being sponsored in the name of conservation today (which are to the detriment of world society) by the various organizations making up the environmentalist movement.

The moving forces behind the environmental movement today include The Sierra Club, National Audubon Society, Izaak Walton League, The Boone and Crockett Club, and the new legal arm of the movement: The Environmental Defense Fund, with its scores of lawyers baptized into the movement with the motto, "Sue the Bastards." The principal individual supporters of the movement are wilderness explorers, bird-watchers, wildlife lovers, ill-informed press and television personalities and confused youth and older members of society who have been frightened so badly by the doom sayers that they have joined.

Although the collective membership in these organizations is perhaps less than 150,000, their superb organization and tactics make them an extremely effective force in lobbying for legislation to ban pesticides, and for brainwashing the general public.

Previously both the Environmental Defense Fund and the National Audubon Society had stated that DDT causes cancer, even though the Surgeon General of the U.S. Public Health Service has stated: "We have no information on which to indict DDT as a tumorigen or carcinogen for man and, on the basis of the information now available, I cannot therefore conclude that DDT represents an imminent health hazard."

The environmentalists would now like to have a legislative ban placed on DDT so as to prohibit it for any use in the U.S.A. Almost certainly as soon as this is achieved, these organizations will begin a worldwide propaganda barrage to have it banned everywhere. This must not be permitted to happen, until an even more effective and safer insecticide is available, for no chemical has ever done as much as DDT to improve the health, economic and social benefits of the people of the developing nations.

The World Health Organization in 1955 launched a worldwide campaign against malaria. In summarizing the progress of the campaign on Feb. 2, 1971, organization officials made the following statement:

"More than 1,000 million people have been freed from the risk of malaria in the past 25 years, mostly thanks to DDT. This is an achievement unparalleled in the annals of public health. But even today 329 million people are being protected from malaria through DDT spraying operations for malaria control or total eradication.

"The improvement in health resulting from malaria campaigns has broken the vicious circle of poverty and disease resulting in ample economic benefits: increased production of rice (and wheat) because the labor force is able to work; opening of vast areas for agricultural production: India, Nepal, Taiwan, and augmented land value where only subsistence agriculture was possible before.

"The safety record of DDT to man is truly remarkable. At the height of its production 400,000 tons a year were used for agriculture, forestry, public health, etc. Yet in spite of prolonged exposure by hundreds of millions of people, and the heavy occupational exposure of considerable numbers, the only confirmed cases of injury have been the result of massive accidental or suicidal swallowing of DDT. There is no evidence in man that DDT is causing cancer or genetic change."

Although more than 1,400 chemicals have been tested by W.H.O. for use in malarial campaigns, only two have shown promise and both of these are far inferior to DDT.

It is now obvious that the current aim of the Environmental Defensive Fund and its affiliated environmentalist lobby groups is to ban DDT first in the U.S.A. and then in the world if possible. DDT is only the first of the dominoes. But it is the toughest of all to knock out because of its excellent known contributions and safety record. As soon as DDT is successfully banned, there will be a push for the banning of all chlorinated hydrocarbons, then in order, the organic phosphates and carbamate insecticides. Once the task is finished on insecticides, they will attack the wood killers, and eventually the fungicides.

If the use of pesticides in the U.S.A. were to be completely banned, crop losses would probably soar 50 per cent, and food prices would increase fourfold to fivefold. Who then would provide for the food needs of the low-income groups? Certainly not the privileged environmentalists.

THE GREAT WHITE HUNTERS

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. WALDIE. Mr. Speaker, there is probably nothing more exhilarating to a true sportsman than that moment when his hours of work and tracking result in the taking of a fine trophy animal. I am not talking about those alleged sportsmen who take to the woods with their artillery pieces and telescopic sights to bring down an animal at 300 yards. I am thinking about the true sportsmen in this world who realizes the chase is sometimes more important than the catch.

Recently, this body was shaken by the accounts of a helicopter pilot from Wyoming who worked for a big ranch by flying "hunters" aloft to bring down this Nation's official symbol, the golden eagle. Now, with increasing frequency, reports are coming to our attention concerning "hunters" like this using planes in the wilds of Alaska to hunt the majestic polar bear.

Mr. Speaker, there are not sufficient words to express my indignation and contempt over such practices. We hunted the buffalo to extinction, the mountain sheep is almost gone from our wilderness areas and now the polar bear is faced with only a few years left on this earth.

We speak in this Congress of peace, and the search for lasting friendship with other countries in this world. Yet, at the same time, we are slowly destroying the last vestiges of the natural world around us. How long will it take, Mr. Speaker, before the animal "man" learns that the final destruction will come not with guns or bombs, but with the death of this earth?

Mr. Speaker, an excellent article on the possible extinction of the polar bear appeared in the San Francisco Chronicle on October 31, 1971. I submit that article for inclusion in the CONGRESSIONAL RECORD:

IS THE POLAR BEAR NOW HEADED FOR EXTINCTION?

(By Lewis Regenstein)

WASHINGTON.—The world's largest carnivorous animal, the polar bear, seems to be headed for extinction, an unfortunate victim of U.S. "sportshunters," the State of Alaska, and the U.S. Departments of State and Interior.

The polar bear (*Ursus Maritimus*) inhabits the lands and floating ice of the Arctic region of five nations: The U.S. (Alaska), Canada, Norway, Denmark (Greenland), and the U.S.S.R. It is a truly remarkable animal and has been pictured by Soviet scientists, who are attempting to protect it, as an invaluable "living model" for biological study and research.

The polar bear has adapted itself to both a land and water environment; to the extreme cold and blizzards; to the long polar night, and to prolonged periods without food. Very little is known about its migratory habits, but scientists look with amazement on the polar bear's ability to orient itself on water by boarding ice floes which are "going its way."

10,000 OR LESS

Yet, the polar bear is disappearing at an alarming rate. Current estimates place the present polar bear population worldwide at about 10,000, although higher and lower figures are frequently cited. One estimate in the authoritative Red Data Book of rare and endangered species, published by the International Union For the Conservation of Nature (IUCN), placed the figure as low as 5000. Despite its low numbers, the annual polar bear kill is about 1300.

A 1970 meeting in Morges, Switzerland, of the world's leading polar bear experts issued an urgent appeal to the five nations under whose jurisdiction the polar bear falls to "drastically curtail harvests" beginning immediately.

Studies by the State of Alaska bear out these fears for the polar bear's future survival. A recent study by the state's Fish and

Game Department clearly indicated that the ages of the bears shot and examined in Alaska were getting younger and younger, which is a reliable danger signal that a species is in serious trouble.

The report also stated that quota limitations on hunters have "not been adhered to by some guides and appears to be unenforceable."

A main reason for the polar bear's decline is hunting and harassment by U.S. citizens, including government employees. About 300 bears are killed legally in Alaska each year (about 25 per cent of which are females), with the illegal "take" estimated to approach this number.

The large majority of these kills, sometimes as much as 90 per cent, are made by outside trophy hunters; the kill by native Eskimos for fur and food is relatively small. Furthermore, the method used in trophy hunting—utilizing two airplanes—is particularly unsportsmanlike.

According to Jack Lentfer of Alaska's Fish and Game Department, "airplane hunting amounts to one plane driving the bear to another plane and the hunter. Even many hunters are dissatisfied after the kill."

When the terrified bear has been driven by the first plane until it collapses from exhaustion, the "hunter" alights from the other craft and shoots it. A recent television documentary, "Say Good-Bye," showed a film of an airplane hunt in which a mother bear was shot, with its two cubs looking on in terror and distress.

Although the International Association of Fish and Game Commissioners—which endorses polar bear hunting—has claimed that this sequence was "staged," no one will deny that the type of incident portrayed—the killing of female bears—goes on frequently in Alaska.

Even when mother bears with cubs are shot with tranquilizing darts for research purposes (as is alleged to have occurred in this case), the bear sometimes dies from shock or from the dart striking a vital organ. Other bears have heavy radio-tracking devices, weighing as much as 26 pounds, permanently attached around their necks by agents of the U.S. Department of Interior. The mortality rate in these "scientific experiments" is believed to be significantly high.

EXTINCT IN THE UNITED STATES?

This indiscriminate killing of polar bears may have already rendered the animal virtually "extinct" in the United States. There is much evidence that the polar bear no longer breeds or dens in Alaska; that the United States has in effect, killed off all of its bears; and that the bears shot in Alaska are migrating through the state from Canada or the Soviet Union.

The United States thus leaves itself open to the charge that it is killing off Russia's polar bear population—where it has been protected since 1957—along with bears from Canada, Denmark, and Norway.

According to congressional testimony given on Sept. 13 by the State Department's Donald McKernan, the Russians have complained for some time about the United States killing of polar bears but the State Department has yet to take any action. McKernan's remarks were made while voicing opposition to Senator Fred Harris (D-Okla.) and Representative David Pryor's (D-Ark.) Ocean Mammal Protection Act, which would ban the killing of polar bears.

The State Department instead endorsed a "rival" bill which would allow the continued killing of polar bears under a system of permits issued by the Secretary of Interior.

CHANCES NOT GOOD

The polar bear's chances for surviving the 20th Century are not good. As oil exploration expands in Alaska, the destruction of the bear's habitat will accelerate; construction workers will be able to find some entertaining diversion in the Arctic wastes by hunting polar bears.

After its numbers reach a certain point of depletion, it will be impossible for the few polar bears that remain to find mates in the vast expanse of the Arctic in sufficient numbers to perpetuate the species.

The easiest and most immediate solution to the problem would be for the Department of Interior to place the polar bear on its endangered species list, which would ban the import of a bear or any product thereof into the United States from foreign countries and international waters.

This would effectively limit the killing by trophy hunters from Alaska, since most of the bears are shot beyond the territorial limit and transported back into the state.

Such an action should have been taken long ago, since the Endangered Species Conservation Act of 1969 requires the Secretary of Interior to "take measures to prevent any wildlife from becoming threatened with extinction." As of September however, the department was still resisting efforts to have the polar bear listed as endangered, even though the sperm whale, which numbers some 250,000 and is about 20 to 30 times as numerous as the polar bear, is so listed.

THE OPPOSITION

Legislation, on the other hand, seems to be the long term answer. Prompt passage of the Harris-Pryor Ocean Mammal Protection Act would provide the polar bear with adequate protection. The bill is now before the Senate Commerce Committee, which has so far refused to schedule hearings, and the House Merchant Marine and Fisheries Committee, which has held hearings and is now drawing up a final draft of the legislation.

A CASE AGAINST DISTRICT OF COLUMBIA HOME RULE

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. RARICK. Mr. Speaker, if we base our conclusions upon the interest shown by citizens of the District of Columbia rather than the attitude which the opinionmaking machinery would like to have us believe exists, local interest in home rule is contestable.

In the so-called hotly contested November 2 election for District School Board, only 18 percent of the registered voters even took time to go to the polls and vote. In the November 24 runoff elections, the voter participation was even less—slightly more than 9 percent of the 162,736 registered voters cast their ballots.

These are hard facts which denigrate any case for home rule for the District.

I include the following article from the Washington Evening Star of November 24, 1971:

District of Columbia School Won by Barry's Team

(By Harvey Kabaker and Lynn Dunson)

Marion Barry scored his second District school board election triumph in three weeks last night as the four candidates he had supported won ward runoff races.

Winners were Hilda Mason in Ward 4; incumbent Mattie G. Taylor in Ward 5; incumbent Martha Swaim in Ward 6; and Delores Pryde in Ward 7, according to final, but unofficial results in the light voting.

Elected in the fifth runoff in Ward 1, where Barry remained neutral, was the Rev. Raymond B. Kemp.

The only incumbent to lose was Edward L. Hancock in Ward 7. All of yesterday's winners, except Mrs. Mason, had led in the Nov. 2 counts in their wards. Yesterday's runoff was required after none of the candidates acquired a 50 percent majority in the Nov. 2 voting which saw Barry win election as an at-large member.

Altogether 14,998 valid ballots were counted yesterday, while 170 absentee ballots were expected to be received and another few hundred challenged or special ballots remainded to be examined by election officials. The turned rate was slightly more than 9 percent of the 162,736 registered voters in the five wards, according to official records.

In the Nov. 2 election, there were 28,571 ballots cast in the five wards, for a turnout rate of nearly 18 percent.

Each of the winners yesterday registered sweep victories, losing only nine of the 89 precincts in the five wards and garnering up to 91 percent of the votes in a given precinct.

Barry last night called the sweep a "mandate for new direction, new change and new leadership."

He made the round of victory parties for the four winners he had supported and telephoned to congratulate Kemp.

He praised the Roman Catholic priest as a man "who relates to young people" and said he was "looking forward to working with him."

There is little doubt about from where Barry feels "new leadership" should come. He wants to be president of the board.

COMMUNITY HEALTH CENTERS FOR AMERICAN INDIANS AND ALASKA NATIVES

HON. NICK BEGICH

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. BEGICH. Mr. Speaker, recently I received a copy of a letter and a resolution that were sent to President Nixon from the Norton Sound Health Corp. concerning Mr. Nixon's new Indian self-determination policy which could institute an Indian Health Service for Nome, Alaska.

In his message to Congress on American Indians, President Nixon stated that the new policy concerning Indian problems was to be one of self-determination, and acknowledged that American Indians must be placed in a position where they can help themselves.

At that time, President Nixon went on to describe the generally poor health conditions of the American Indians. He pointed out some startling facts that bear repeating: Infant mortality is approximately 50 percent higher for Indian and Alaska Natives than for the general population. The rate at which Indians contract tuberculosis is eight times greater than the general population rate and the suicide rate is twice that of the national average.

The President has chosen six major areas to deal with immediately to solve some of these problems. He has chosen middle ear disease, mental health, alcohol control, maternal and child health, development of community health projects and manpower development.

The board of directors of the Norton Sound Health Corp. has passed a resolution that would develop needed community health centers. The resolution is based on the principles and goals expressed by the President. It is their hope that the President will follow through on this new concept and adhere to the request presented in the following resolution.

Norton Sound Health Corp.,
Delegate of Alaska Federation of Natives,
Nome, Alaska, October 29, 1971.

President Richard M. Nixon,
President of the United States,
The White House,
Washington, D.C.

Dear President Nixon: We, in Alaska, were sincerely delighted when you announced in your speech the concept of Indian self-determination. We congratulate you on your bold decisive move. We are now asking you to assist us in implementing this concept.

We hope that you will help us communicate this idea to the U.S. Public Health Service.

We are enclosing a resolution passed by the Board of Directors of the Norton Sound Health Corporation on October 28, 1971.

Most Sincerely,
Charles O. Degnan,
President.

Board of Directors' Resolution No. 3

Passed: October 28, 1971, Board of Directors' Meeting

Referred: Norton Sound Service Unit

By the Board of Directors of the Norton Sound Health Corporation

(Relating to the creation of a separate Service Unit in the Norton Sound region)

Be it resolved by the Board of Directors, Norton Sound Health Corporation:

Whereas, the Norton Sound area constitutes a separate and distinct health service area by virtue of transportation routes, communications network and consumer preference; and,

Whereas, outpatient and inpatient facilities are present at the Maynard-McDougall Memorial Hospital in Nome, Alaska, to provide for this health service area; and,

Whereas, administration of health services in the Norton Sound area is fragmented by virtue of numerous providers and also geographic isolation of administration from health services delivery; and,

Whereas, a major objective of the Norton Sound Health Corporation is the establishment of planning and administration of regional health delivery by residents of that region; and,

Whereas, President Nixon has called for implementation of Indian and Alaskan Native self-determination in public programs to meet their needs, and,[1]

Whereas, the Norton Sound Health Corporation, a consumer-controlled regional Corporation, has demonstrated the ability to plan and administer health services delivery efforts: Therefore be it

Resolved, That the Alaska Area Native Health Service create a separate Nome Service Unit; and be it

Resolved, That the Norton Sound Health Corporation be established as the Service Unit Advisory Board for the Nome Service Unit; and be it

Resolved further, That the Alaska Area Native Health Service contract with the Norton Sound Health Corporation to plan for and administer the Nome Service Unit.

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[1] ". . . The time has come to break decisively with the past and create the conditions for a new era in which the Indian future is determined by Indian acts and Indian decisions . . . Self-determination among the Indian people can and must be encouraged . . . programs which are managed and operated by Indians are likely to be more effective in meeting Indian needs . . . Indians will get better programs and that public monies will be more effectively expanded if the people who are most affected by these programs are responsible for them . . . ."

(From President Nixon's message to the 91st Congress, July 8, 1970.)

THE EXCLUSIVE REPRESENTATION PRIVILEGE

HON. SAM STEIGER

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. STEIGER of Arizona. Mr. Speaker, much of the excessive power wielded today by union officials can be traced to the original National Labor Relations Act. Adopted during the depression year of 1935 and commonly identified as the Wagner Act, it granted the unprecedented privilege of exclusive representation to labor organizations.

Under the exclusive representation provisions of the National Labor Relations Act, which remains in effect today, a union is the sole bargaining agent for all employees in a bargaining unit—whether members of the union or not. In other words, the workers who vote against union representation are forced by our national labor relations law to accept this unwanted representation.

To see how this came about, we must look at the legislative history of the 1935 act. The year before it was enacted, the Roosevelt administration had issued an Executive order dealing with the subject of union representation. In an accompanying press release, the then administration made it clear that it believed the right of the minority and of individuals to bargain for themselves was protected. The press release said in part—

> This section on majority representation—in an election conducted by the National Labor Board—does not restrict or qualify in any way the right of minority groups of employees or of individuals to deal with their employers.

In the congressional hearings which preceded enactment of the Wagner Act, President William Green, of the American Federation of Labor, challenged the administration's interpretation. He adamantly opposed the granting of individual or minority freedom and insisted on reserving to the union majority all bargaining prerogatives. The AFL threw its full power behind exclusive representation and Congress yielded to the unions' demands.

Having conferred on the unions the "exclusive representation" which a three-judge district court termed an "extraordinary privilege" (*National Maritime Union of America* v. *Herzog*, 334 U.S. 854, 1948), Congress went even further. It added another unprecedented and extraordinary privilege sought by union professionals—permission to make contracts with employers compelling all employees to join and pay dues to unions. Taken together, the privileges of "exclusive representation" and compulsory union membership, have given labor union officials such excessive power over the economy and even over the Congress itself that corrective action is imperative. And the terrible thing about all this is that it has been done at the expense of basic individual liberties of American workers.

Union professionals argue that since they are required by law to represent all the workers in a bargaining unit, it follows that the workers should be required to join the union and pay their share of the bargaining costs. Thus the "exclusive representation" they sought so avidly they would now have us believe is a burdensome duty. The nonunion workers they term "free riders" are, of course, captive passengers of the union.

The prestigious Committee for Economic Development summed it up as follows in a 1964 report on "Union Powers and Union Functions":

> Unions have actively sought exclusive bargaining rights, including the responsibility for representing nonmembers. The rights of some workers to effective representation by a union are not abridged by the failure of other workers to join. The rights of the employee who does not want to belong to a union already have been substantially abridged in the interests of labor relations stability; to go farther and compel him to belong to the labor organization is an unwarranted denial of his freedom.

Among the fallacies of the exclusive bargaining and "free rider" arguments is the assumption that all workers benefit from union representation. Who is to determine if the worker benefits? Is it the union, or rather is it not the worker who has the right to say whether he is better off from having a union represent him? There are many workers who feel they could advance faster and increase their earnings more if not compelled to follow union-dictated work rules and if permitted to bargain directly with their employers.

Another fallacy is that the only reason workers do not join unions is to avoid paying dues. The worker may object to frequent and what he considers unnecessary strikes. He may not like the way the union handles grievances. Or he may consider officials of a particular union tyrannical or corrupt.

And still another fallacy is that all the union dues the worker pays go to cover the costs of collective bargaining. Unions use their dues income for a number of purposes unrelated to collective bargaining. A substantial part of union dues income goes for legislative and political activities in support of causes and candidates with which many workers are not in sympathy.

Today we hear a great deal about the rights of minorities, the right of the individual to do as he wishes, the right to dissent. There is no individual right, no minority right, more important than the right to work at one's chosen occupation without being compelled to join and pay tribute to a private organization—a labor union. I hope the Congress will speedily pass the bill to stop the violation of basic rights represented by compulsory unionism.

WIRETAPS BY UNITED STATES TRIPLE TO 382,061 SINCE 1968

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. DRINAN. Mr. Speaker, in view of the forthcoming decision in the U.S. Supreme Court with regard to the claimed inherent power of the Attorney General of the United States to wiretap in national security cases, I reproduce here an article published by me in the recent past on this subject in the Boston Globe.

This article shows that Mr. John Mitchell, the present Attorney General of the United States, is the first Attorney General in the whole history of this country who has claimed that the President is above the fourth amendment to the Bill of Rights.

The article follows:

WIRETAPS BY UNITED STATES TRIPLE TO 382,061 SINCE 1968

(By Representative ROBERT F. DRINAN)

In the calendar year 1970 a total of 382,061 telephone conversations were intercepted by Federal officials and authorities in 11 states.

This total is double the number of those obtained in 1969 and almost three times the number secured in 1968.

The 382,000 conversations overheard by law enforcement officials were made pursuant to authorization by Federal and state officials of 583 taps and bugs during the year 1970. There is absolutely no indication that any state or Federal judge in 1970 refused any request by any law enforcement official for permission to eavesdrop.

The new phenomenon of court-approved electronic eavesdropping has come about as a result of the Omnibus Crime Control and Safe Street Act of 1968. The extent of the practice was recently revealed in a report of the administrative office of the United States Courts, an annual report required by the 1968 Act.

In 1970 there were 147,687 telephonic intercepts carried out by the Department of Justice. Federal officials report that 102,819 of all conversations interdicted were "incriminating." There resulted, according to Federal officials, 613 arrests and 47 convictions from the intercepted conversations.

During 1970 there were a total of seven court-authorized eavesdroppings in Massachusetts. These taps resulted in 1487 intercepts of which 1337 were stated by Massachusetts officials to be "incriminating." There resulted 41 arrests and three convictions.

Six of the eavesdrop installations were carried out in Suffolk County, resulting in 1446 intercepts. One installation, approved in Norfolk County, resulted in 41 tapped conversations but with no resulting arrests or convictions.

Of the 18 states whose laws permit the authorization of court-approved wiretapping only 10, besides Massachusetts, utilized this privilege in 1970; they were Arizona, Colorado, Florida, Georgia, Maryland, Minnesota, New Hampshire, New Jersey, New York and Wisconsin.

The statistics cited above do not include the undisclosed number of warrantless intercepts carried out by the Justice Department on the basis of its claimed privilege to eavesdrop in the interest of national security on Americans it suspects of engaging in subversive activities.

The Omnibus Crime Control and Safe Streets Act of 1968 specifically exempted from prior court approval Federal taps installed in cases involving national security. It can be assumed that the Department of Justice has sharply increased these undisclosed wiretappings in view of the fact that the number of court approved Federal installations went from 30 in 1969 to 180 in 1970! In 1968, the year before the Nixon Administration, the Department of Justice did not conduct a single wiretap.

Of the 180 wiretap installations carried out by the Nixon Administration in 1970, 121 were for gambling or bookmaking, 41 for drugs or narcotics and 16 for extortionate credit transactions. The total cost of the wiretap installations to the Federal government in 1970 was $2,163,781. This means that the average cost of Federal convictions based on eavesdropping was $45,078.

Although the escalation of wiretaps under the Nixon Administration is alarming in itself the more dangerous recent development is the claim by Atty. Gen. John Mitchell that, as he put it in an address on June 11, 1971 to the Virginia Bar Association, "It is our position that compelling considerations exist when the President, acting through the Attorney General, has determined that a particular surveillance is necessary to protect the national security and that under these circumstances the warrant requirement (of the Fourth Amendment) does not apply."

Speaking of this claim, Cong. Emanuel Celler, chairman of the House Judiciary Committee, said that the nation was headed toward a "police state" under such a policy. Ramsey Clark, former Attorney General, called the claim of inherent power to wiretap "an utterly lawless philosophy." Sen. John L. McClellan has promised public hearings in the fall of 1971 to review the practice.

Atty. Gen. Mitchell's major premise is that "The threat to our society from so-called 'domestic' subversion is as serious as any threat from abroad." The Attorney General went on to state, once again in the address before the Virginia Bar Association, that "Never in our history has this country been confronted with so many revolutionary elements determined to destroy by force the government and the society it stands for."

Acting on this premise the Attorney General asserts that "In the litigation currently evolving in the courts, the government has taken the position that the reasonableness standard of the Fourth Amendment is a flexible one and does not require in all cases that a warrant be obtained."

Mitchell argues that "there are sound reasons for conferring the authority to order electronic surveillance in national security cases to the President rather than to a multitude of lower court judges."

No Attorney General in the whole history of the country has claimed that the President is above the Fourth Amendment to the Bill of Rights which states categorically that all of us are protected from "unreasonable searches and seizures" by the government. The Constitution requires the President to "Preserve, protect and defend the Constitution of the United States." The President is not carrying out this duty unless he states that the Fourth Amendment applies to the President of the United States just as it does to the rest of us.

U.S. Rep. Robert F. Drinan of the 3d Massachusetts District is a member of the House Judiciary and Internal Security Committees.

EDUCATIONAL INNOVATION FLOURISHES AT NEW YORK CITY'S HAAREN HIGH SCHOOL

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. RANGEL. Mr. Speaker, until recently, when someone talked about educational innovation and restructuring our schools, the words were abstract. Now, however, the minischool experiment is in full swing in Haaren High School.

The rigidity of the curriculum has been loosened, and students at Haaren study urban affairs, photography, creative arts, and other subjects in addition to English, math, and social studies. The minischool concept allows the teachers and students to know each other better, to eliminate the alienation that arises in many of the monolithic, impersonal schools that abound in this country. For the first time young men and women who were previously viewed as the educational system's discards are being given the opportunity to discover that learning involves much more than repetitious homework assignments and drills.

Speaking as a former high school dropout, I know that the need for programs such as this one is great. I hope that school committees will follow the lead of the New York City Board of Education and that community groups will follow the lead of the New York Urban Coalition in working to establish experiments of this type. I know how hard Urban League President Eugene Callender has been working to acquire Federal funding for the Haaren High School minischools, and I believe that this dedication will be matched elsewhere as the Haaren program attracts national attention.

The New York Times recently carried an article describing the progressive changes made at Haaren and the obstacles still to be faced. I commend it to my colleagues:

[From the New York Times, Nov. 17, 1971]

TROUBLED HAAREN HIGH TRIES THE "MINISCHOOL"

(By William K. Stevens)

Five years ago, Hollywood moviemakers used Haaren High School as the setting for "Up the Down Staircase," a tragicomic work that created a grim image of the typical big-city high school: huge, chaotic, a bureaucratic maze, an educational wasteland inhabited by bored, demoralized students and defeated teachers.

That movie image has seemed in many ways to fit the school at 59th Street and 10th Avenue. In the view of Mrs. Marguerite Glotzer, chairman of the school's United Federation of Teachers chapter, Haaren has been, "quintessentially," the troubled urban high school.

But now, in one of the nation's boldest and most sweeping ventures in educational reform, Haaren is trying to become a different kind of model.

In an attempt to build closer relationships among teachers and students, and to remove the worst aspects of bureaucracy, the school has been taken apart and put back together this term in the form of 14 semiautonomous "minischools." Each has 150 students, perhaps half a dozen teachers, a course adviser and a "street worker."

"CORE" CURRICULUM PURSUED

Each is organized around a common theme, such as "urban affairs," "creative arts" or "aviation," although students in each minischool pursue, in addition to their specialty, a "core" curriculum of English, social studies and mathematics.

Each minischool comprises a cluster of classrooms with an informal student-teacher lounge at its center, occupying its own corner of the six-story, 68-year-old building overlooking the Hudson River. For the most part, students and teachers spend the entire school day in their own corner of the building.

"You might liken the minischool to a block, a community," explains Charles Dobkin, a 28-year-old social studies teacher at Haaren. "It eliminates all kinds of frustrations that eventually add up to an obstacle course, not a school."

"The teachers I have now, they know me by name," says 19-year-old Louie Lopez, one of Mr. Dobkin's students. "Before, they'd have to look at the roll, and then they'd say: 'Oh, you're Lopez.' "

LIKE ALTERNATIVE SCHOOLS

The primary aim of Haaren's internal decentralization is to convert each minischool into something like the 16 small, informal "alternative" high schools that have been established as offshoots of 18 "regular" high schools around the city.

Hostility and distrust between students and teachers reportedly are disappearing in the atmosphere of casual face-to-face contact that has developed in some of the "alternative" schools—such as Manhattan's Harambee Prep, a satellite of Haaren and Hughes High Schools, and Brooklyn's Wingate Prep.

But the small alternative schools, though they are providing models, involve only a tiny proportion of the students from their parent schools. The Haaren venture, on the other hand, represents the Board of Education's only attempt at wholesale, top-to-bottom reorganization of an entire high school.

It is not a hothouse experiment with volunteer teachers and students, and it is being carried out for the most part within Haaren's existing budget. For these reasons, the project is widely regarded as being of front-rank importance.

If it succeeds in such a troubled institution, its backers contend, it will show that any high school can be changed drastically for the better.

NOT PROUD OF IT YET

So far, the reorganization is still in its shakedown stage. "We're not proud of it yet," says Bernard V. Deutchman, the school's principal, "but we're very optimistic."

The venture was born in Mr. Deutchman's mind last spring, when, as happens every year, he and his department heads took stock of Haaren's staggering problems.

On an average day, 40 per cent of Haaren's students were absent. Class-cutting, in Mr. Deutchman's words, was "so overwhelming that we couldn't keep up with it." Academic failure was widespread.

Many of the school's 2,500 students—all of them boys and most of them black or Puerto Rican—are castoffs from other high schools, and Haaren consequently has been viewed by many of them as what one teacher calls "a school of last resort."

Vandalism has been an everyday fact of life, and so has overt hostility between teachers and students. "We had riots before they became chic," says Mrs. Glotzer.

DRASTIC MEASURES NEEDED

Gradually, Mr. Deutchman says, it became clear to him that only drastic measures would have a chance of breaking the pattern. Having been associated with Harambee Prep and its predecessor, the privately sponsored McGraw-Hill Street Academy, he looked to them as a model for Haaren.

"Size was their strongest feature," Mr. Deutchman believes. "That allowed a relationship to develop between students and teachers that doesn't develop in a school, normally."

"Large schools have very large problems," adds Louis McCagg, director of the New York Urban Coalition's High School Project, which is assisting the Haaren venture. "Small schools have smaller ones, and these can generally be solved. You can get your hands on them. With 150 kids, you can get to know everybody by the week's end."

So Mr. Deutchman drafted the minischool proposal. More than 60 percent of the Haaren faculty voted to accept it. So did about 60 percent of the school's students. The U.F.T. chapter supported the plan. So did the Board of Education's High School office, and, ultimately, School Chancellor Harvey B. Schibner. Such widespread support in itself makes the Haaren project somewhat unusual.

CRITICS SCORE HASTE

Some critics have said that Haaren rushed into the project too quickly, without adequate planning. But Mr. Deutchman believed that it was more important to move while the Haaren faculty was enthusiastic.

The student-teacher lounge is seen as the center of minischool life. It is not only a place to relax, it is also the place where teacher and student meet to talk over problems, where a student can go for help, without delay, where street workers and course advisers can talk to students without having to schedule appointments.

"To get anything done in a regular school was like writing to Albany or Washington," said Mr. Dobkin, the social studies teacher. "Now you just go to the lounge."

Young Mr. Lopez said it was almost impossible, under the old system, to see his guidance counselor, among other officials and teachers. "Before, if a student has a problem and doesn't correct it himself, nobody else will," he said. "Now, they come looking for you. Also, everyone you need is in the same place. I really like that."

Other teachers and students confirm the views of Mr. Dobkin and Mr. Lopez. But although the minischool venture appears to be having some positive effects, there appears to be a long way to go.

For example, the familiar of the big, monolithic high school has not entirely disappeared. The entire building is still chained to a precise schedule of "bells." The autonomy of mini-schools, says Mr. Deutchman, has been compromised by the practical need of many students to take courses elsewhere in the school.

Some students have been alienated by the difficulties encountered in getting the organization under way. For instance, students in a special program designed to prepare them to take high-school equivalency examinations are outraged by a succession of substitute teachers they have had to endure until recently.

But Mr. Dobkin points to an even more fundamental difficulty: "A lot of teachers feel uptight about communicating with kinds on an informal level, and that's what it takes. You can change structure all you want. But the approach of teacher to student is crucial. Without changing that, it's like the same old peas in a new pod."

"You got an 80-year-old teacher, say," explained one student, only half joking. "You think she's gonna teach a bunch of teen-age savages like us?"

An official close to the program concedes that there "are still some cynical mean people" on the faculty, but maintains that there are "more who care, who have constructive attitudes."

The Haaren venture is so new that there is as yet no hard, objective evidence of success or failure.

"The concept is on paper and in the minds of the administrators and teachers, but it's not in the minds of most students," says Charles Dickinson, formerly the director of Harambee Prep, who now works for the Urban Coalition at Haaren. "To the truant kids who have been hanging around on the streets, it's the same old Haaren."

"It took this school 50 or 60 years to get in this shape," said a member of the Haaren administration. "You can't expect it to change overnight."

EVA VERA YOUNG

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. BOLAND. Mr. Speaker, Eva Vera Young—an all but legendary figure in Washington's restaurant circles—is dead at the age of 90.

Mrs. Young, known to her countless friends as "Mama," ran the Roumanian Inn at 815 13th Street here with an evocative Old World flair that made it one of the city's most celebrated restaurants. Mrs. Young's special dishes—made with the same painstaking and loving care with which she did everything—vied with her own personality in earning fame for the Roumanian Inn.

She closed the restaurant in 1960, 25 years after its founding, to join her son in opening Paul Young's Restaurant on Connecticut Avenue. A corner of the kitchen was set aside for her—her inviolable domain—and there she prepared her famed special dishes for old friends who stopped by.

Almost every night she would walk among the tables at Paul Young's, greetings such friends and chatting with them.

I had the honor of knowing this remarkable lady, Mr. Speaker, and I extend my deepest sympathy to her sons, Paul and David, and to her grandchildren and great-grandchildren.

I insert in the RECORD a Washington Post story outlining her career:

[From the Washington Post, Nov. 22, 1971]

EVA VERA YOUNG, RESTAURANT FIGURE

(By Bill Bancroft)

Eva Vera Young, known as "Mama" to thousands who ate at her Roumanian Inn and later at her son's Paul Young's Restaurant, died yesterday at Doctors Hospital of pneumonia. She was 90.

A friend of many prominent Washingtonians—members of Congress, Cabinet officers, judges, sports figures and others—she was appreciated for the loving touch that went into everything she cooked, according to friends.

She was the key to the success of the Roumanian Inn, at 815 13th St. NW, which opened in 1935, working in the kitchen on dishes that made the restaurant famous beyond its size.

When her son, Paul, opened his new restaurant at 1120 Connecticut Ave. NW. in 1960, she closed hers and came along to help, only to find that the electric stoves did not respond to her touch the way gas ones had.

But she mastered the changes and one corner of the new kitchen was set aside for her use.

She was no longer the head cook, however, being well in her 80s, but she had hundreds of friends, and whenever she spotted one of them in the restaurant, she prepared and sent out some special dish she knew them to be fond of.

Born in a small Russian town near the city of Kiev, she left there and came to the United States in 1904. Her first job in this country was as a seamstress.

She married Hyman Young in 1910 and in 1921 the two opened their first food establisment, a coffee shop at 37th Street and 8th Avenue in New York.

Mrs. Young came to Washington in 1935, shortly after her husband died.

She is survived by two sons, Paul and David, of Washington, nine grandchildren and three great-grandchildren.

THE NEED TO REMEMBER THE UKRAINE

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. RODINO. Mr. Speaker, Ivan Dzyuba stands as a symbol for the new Ukrainian intellectual. In early September 1965, he was detained in Kiev under the pretext that he had sent to the West a diary of the deceased young poet, Vasyl Symonenka, where it had been published together with several poems banned in the Soviet Union. Over 100 individuals were said to have been arrested in Kiev and L'vov at this time; secret trials, not reported in the Soviet press, were stated to have taken place. Many of those tried with Dzyuba were sentenced to 7 years hard labor and sent to Siberia as punishment for their "struggle against the Soviet state system." They were proven to be "morally unstable persons" who had fallen under the influence of hostile nationalities' propaganda and who had read books not passed by Soviet censorship. Suffering from acute tuberculosis, Dzyuba was later released. The words of Dzyuba call for a thorough revision of the principles of socialist realism—"We should judge each society by the position and meaning it gives to man, by the value it puts on human dignity and human conscience." For these ideas and for these feelings he was brought to trial.

According to Soviet law, all trials must be held in public. The basic denial of justice experienced in these secret trials was criticized by a young Ukrainian journalist and critic, V. M. Chornovil. When summoned during procedures to appear as a witness for the prosecution, he refused to testify on the grounds that the trial was not open and was therefore, illegal. Chornovil himself was soon brought to trial for his subversive actions:

> My innocence seemed much too obvious to me. But as the trial proceeded, my rosy optimism gradually began to change into black pessimism. I saw clear prejudice and understood that I would not succeed in stopping the operation. My request that witnesses be called and documents be included was rejected without any reasoned explanation; the evidence I gave at the beginning of the trial was not discussed.

Thus, Ukrainian individuals are strongly speaking out against Soviet attempts to break up the Ukrainian nation, the largest, most concentrated national minority in the Soviet Union, both physically and morally. Traditional resentment of rule from Moscow has been strengthened by the repressive actions of present and past times. In his campaign against "bourgeois nationalism," Stalin virtually wiped out the Ukrainian intelligentsia during the 1930's. Millions of Ukrainian peasants starved to death and were deported to Siberia during collectivization. In the postwar years, the country was hard hit by famine and mass reprisals against whole villages accused of aiding anti-Soviet guerrillas. It will take generations before these things are forgotten.

What exactly are the Chornovils and the Dzyubas demanding for their people? They ask that the Ukrainians have the opportunity to know their history, culture, and language and to feel proud of their heritage. They ask for a return to the principles of self-determination of nations and the fostering of every nation's free and unimpeded development. They note the existence in Eastern Europe of Communist countries independent in varying degrees, but incomparably more independent than a Soviet Union Republic in the position of the Ukraine. They desire to see the Soviet Ukraine as truly existing and genuinely equal among the Socialist family of nations, to see it as a national reality and not simply as an administrative geographic term. The Ukrainian demands aim at the practical implementation of rights guaranteed in article 17 of the Soviet Constitution, converting a Union Republic's right to secede without impediment from empty fiction into reality.

It is noteworthy that most of the spokesmen of this movement are young people who have been educated and nurtured in the teachings of Soviet patriotism. This new generation lacks the direct experience of the paralyzing fear which blanketed their country during Stalin's great terror. It is better equipped as a whole, to think for itself and less prepared to take things for granted. This form of opposition is striking both for its moderation and for its high intellectual level. Yet, the situation and its people are typical of the present ferment as a whole which seems to be enveloping a great many of the captive nations; it is for this reason that this form of opposition commands such evident respect.

The test of the validity of any social structure is the extent to which it is able to come to terms with internal opposition. Moscow has continued to respond to this challenge by extending police repression and by strengthening its utilization of prison camps. According to Michael Browne in his "Ferment in the Ukraine:"

> The extent of the ferment and discontent in the Ukraine and the degree to which the central regime in Moscow regards ferment as a danger to the integrity of its empire, is seen from the scale of repressive acts against the dissidents. It is estimated that Ukrainians comprise 60–70 percent of all political prisoners in Mordovia.

The 25th Anniversary Convention of the Organization for the Defense of Four Freedoms for the Ukraine, Inc., was held at the Commodore Hotel in New York City this past weekend, November 27 and 28, 1971. The four freedoms they seek, freedom of speech, freedom of conscience, freedom from fear and freedom from want, are vital to the preservation of peace, justice and security throughout the world. According to John Wynnyk, president of the ODEFFU, his movement and similar Ukrainian organizations of this nature constitute a powerful Ukrainian Liberation Front dedicated to the restoration of freedom and national statehood to the Ukraine and to all captive nations. Perhaps, the attainment of this dream seems nearly impossible in our eyes. How will it be possible for the captive Ukranian people to regain their rightful freedom and their national independence? Can our words of support and encouragement have any real effect on this situation? On September 29, 1966, Ivan Dzyuba publicly addressed his people with the following words:

> There are events, tragedies, the enormity of which make all words futile and of which silence tells incomparably more—the awesome silence of thousands of people. Perhaps we, too, should keep silent and only meditate. But silence says a lot when everything that could have been said has already been said. If there is still much to say, or if nothing has yet been said, then silence becomes a partner to falsehood and enslavement. We must, therefore, speak and continue to speak whenever we can, taking advantage of all opportunities, for they come so infrequently.

ROBERT D. LACKEY RECEIVES RED CROSS CERTIFICATE OF MERIT

HON. WILMER MIZELL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. MIZELL. Mr. Speaker, as we return from the Thanksgiving holiday recess, it is my pleasure to report to my colleagues an act of mercy by one of my constituents that has generated the praise of the President of the United States and the American Red Cross.

Mr. Robert D. Lackey, of Winston-Salem, N.C., will soon receive the Red Cross Certificate of Merit for the compassion and competence he displayed last summer in saving the life of a little girl who had been struck by a motorcycle.

The details of Mr. Lackey's lifesaving act were outlined in a letter sent to me by Mr. George M. Elsey, president of the American National Red Cross, and I would like to include the full text of that letter in the RECORD at this time.

As we have recently paused to give thanks for all the good things of life, and as we prepare to celebrate a holiday of so much religious and moral significance, it is good for us to reflect on the deeds of kindness and selflessness that make up so much greater a part of our lives than the villainy and brutality that is so often heralded in our news media.

I urge my colleagues to join me in saluting Mr. Lackey, and I am sure that his example is one that all Americans should seek to follow.

The letter follows:

THE AMERICAN NATIONAL RED CROSS,
NATIONAL HEADQUARTERS,
Washington, D.C., November 8, 1971.

Hon. WILMER D. MIZELL,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. MIZELL: I wish to bring to your attention a noteworthy act of mercy undertaken by one of your constituents, Mr. Robert D. Lackey, 1414 Brewer Road, Winston-Salem, North Carolina 27107, who has been named to receive the Red Cross Certificate of Merit. This is the highest award given by the American Red Cross to a person who saves a life by using skills learned in a Red Cross first aid, small craft, or water safety course. The Certificate bears the signatures of the President of the United States, Honorary Chairman, and E. Roland Harriman, Chairman of the American National Red Cross. Presentation will be made by the Forsyth County Chapter, Winston-Salem.

On June 6, 1971, Mr. Lackey who has been trained in Red Cross first aid, was a volunteer on a rescue vehicle which was called after a small girl had been struck by a motorcycle. She suffered many fractures and lacerations. Mr. Lackey applied direct pressure to stop severe bleeding, helped to splint fractures, and revived the child twice when she stopped breathing, while the ambulance was en route to the hospital. His first aid knowledge and skill undoubtedly kept the child alive until medical attention was reached.

This action by Mr. Lackey exemplifies the highest ideal of the concern of one human being for another who is in distress.

Sincerely,

GEORGE M. ELSEY.

NEW YORK CITY: A MESSAGE OF HOPE

HON. EDWARD I. KOCH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. KOCH. Mr. Speaker, so often the country is saturated with news relating to adverse conditions in New York City. I recently read the speech of Alan V. Tishman, executive vice president of Tishman Realty & Construction Co., which gives his prognosis for New York City and it is a message of hope. It does so excellently state the case for New York City that I am setting it forth in the CONGRESSIONAL RECORD for the interest of our colleagues.

The speech follows:

REMARKS BY ALAN V. TISHMAN, EXECUTIVE VICE PRESIDENT OF TISHMAN REALTY & CONSTRUCTION CO., INC.

Mr. Stiefel, members, guests and visitors from far away lands of the Rotary Club of New York.

I come to you today with a message of hope as a member of ABNY. It is a prognosis for New York City.

I believe that, during the next decade, New York will emerge to be the first city that turned the tide of urban sickness, and it will be regarded as a pathfinder for its sister metropolises throughout the nation.

I am not a Pollyanna, nor am I an overenthusiastic optimist. My forecast is based on observable facts that have too often been overlooked.

The conventional wisdom today is that the cities are dying and that there is no cure for them. This reminds me of other times and other convictions:

The world is flat.

You'll never get it off the ground.

No one will ever run a 4-minute mile.

The United States will never recover from the Stock Market crash.

We will always have negativists. Gloom is an easy attitude to cultivate. I refuse to get caught up in today's downbeat mood about our cities, particularly New York, which has so much going for it.

I believe in New York, because it has been established as the nation's marketplace. An institution of that magnitude has inertia behind it. This status is a strong foundation to build on.

I believe in New York, too, because there are strong-willed men and women who are building on that foundation.

And, I believe in New York, because many of her problems are imaginary and emotional and those that are real are soluble.

One of her very real problems today is the loss of some business. I say *some* business, because there is no "exodus" to the suburbs.

A few prodigal sons have left the city to decimate the green pastures of the suburbs. "Exodus" was a word obviously chosen by a headline writer who thought the word "trickle" wasn't dramatic enough.

Last year, there was a net loss of only six large corporations in New York. Of the nation's top 500 companies, 125 still maintain their headquarters in the city. Chicago is second nationally with 37 corporate headquarters.

Contrary to the forecasts of the mass media, we're still in business in this town.

Advocates of suburban office buildings have been telling the business world that moving to the suburbs will bring all kinds of benefits: lower taxes, fresh labor supply, lower building and maintenance costs, escape from traffic jams, dirt, noise, crime, etc. But, let's look at the facts: These are "handles," in many instances, available to corporate heads who have decided to move for "other reasons." But the fact that these "handles" are there is reason enough for ABNY to be formed.

TAXES

In almost every low-density area, the need for public services far surpasses the ability of local authorities to pay. An analysis of suburban communities indicates that where communities shoulder their full responsibilities, local taxes equal or exceed those of the big city.

Admittedly, taxes may now be lower in some suburban areas, but the day will come when expenditures must be made to cover the deferred work that needs to be done now. In some communities, industries and offices are viewed as the golden calf whose arrival promises long-term reduction in taxes. Politicians know industry is the fatted calf that can afford to pay more taxes in the future.

For example, a developer in New Castle, N.Y. (adjoining Greenwich, Conn.), requested a change of zoning of 311 acres to six, fifty-acre office sites. The local town board, after a detailed study, showed that the added expense of building new roads to service such a complex would more than offset the added tax revenues that such a development would bring to the town.

Town fathers in the suburbs are learning that corporations away from mass transit, are gluttons for land. As a result, Greenwich, Conn., has already declared a six-month moratorium on high-rise construction pending a complete study of its problems.

In Manhattan, one million square feet of office space could be built on a little more than an acre and be supported by a single rail link. The same space in the suburbs would take 70 acres and require eight lane-miles of highway to support it.

TRANSPORTATION

In New Jersey, the Highway Commissioner reports that the north arterial network designed to handle 2,000,000 cars per day now carries 12,000,000 cars per day. A study has indicated that the capacity of highway development is 1/20th of that of a public transit system, but the tax structures in the suburbs cannot support mass transit systems. As a result, busing in the suburbs has become a corporate-financed necessity to attract people to the office satellites.

New York's mass transit system, however, is experiencing a major rejuvenation. Here are just a few improvements and projected improvements:

More than 900 new air-conditioned subway cars are now in service.

More than $3 billion has been appropriated for additional equipment, subway extensions and new subway lines. In the MTA's 52-mile subway construction program, there is a new 2nd Avenue Subway and a 63rd Street Tunnel, which will carry subway and LIR trains.

1,380 subway cars have been completely repainted inside and out, and 420 stations have been repainted.

New high-speed Metropolitan cars are now the backbone of the LIR fleet, with some 600 already in service.

(Let me interrupt this discourse with a thought. Did you know that despite the criticism of the LIR, a recent poll showed that 70 percent of its passengers have seen a noticeable improvement in service during the past year? I'm not surprised).

The New Haven should see improvement, too. It was taken over by the CTA and MTA just 10 months ago. It will receive the benefits of the injection of $125,000,000 for modernization, electrification, signals, etc. There will be 200 new cars in service within the year to come.

And, lastly, but of extreme importance, it looks as if there is going to be a direct rail connection from Manhattan out to Kennedy Airport, and a new Midtown Transportation Center.

To contrast these developments, we need only look to the overcrowded highway conditions in the suburbs. We in New York already have the capital plant—it is being modernized, added to and upgraded. No other city can touch what we already have in place—no suburb can afford it.

LABOR

A location in Manhattan represents a commitment to share in a vast pool of labor where a fire has access to a population of more than 17,000,000 people with diverse talents and skills—within reasonable wage limits and individual willingness to travel.

A location in the suburbs, in many cases, represents a commitment to the past. By this, I mean it involves the development of a captive labor market in the immediate vicinity of the market. This happened in the early phase of the suburban office development, which met with considerable success. But now, as individual offices grow and new ones arrive, a company finds it necessary to increase wages to draw persons from greater distances or to steal away adequate help from its neighbor corporations.

Manifestly, the individual labor markets begin to inter-penetrate, and wage competition develops. Clusters of competing companies are attempting to share in a regional sub-market where population is lower, public transportation is absent and high proportions of young people going away to college have sapped the local clerical work force.

Many of the suburban problems for corporations would be solved if more housing was built for employees, but there are no indications that this will occur.

The suburbs invite businesses to move in, but they don't tell them they have a restriction against employees. Office buildings bring in painless ratables for a suburban community, but employees generate a need for schools and other expensive services.

In the Tri-State New York Metropolitan Region, for example, 48 percent of the vacant land zoned for residential use—excluding the city itself—requires single-family homes on one acre or more. In Westchester, only 14 of 44 cities, villages and towns have built or planned for middle-income housing. New homes there generally start at $45,000.

Half of the 70 municipalities in New Jersey's Bergen County ban any apartment construction.

Because employees are forced to commute to the suburbs, corporations there are experiencing increased rates of absenteeism and turnover.

But, there are many more personnel problems that businesses are suffering in suburbia. One of the severest disadvantages of a corporate move-out from the city is the serious loss of talented personnel.

New York has always been a magnet for the skilled, the creative, the innovative, who have sought the diverse career opportunities in the city. Many of these people simply refuse to isolate themselves in the country. This leaves the company in the suburbs with major recruitment problems.

When a corporation abandons New York, it also dulls its employees by denying them cultural opportunities unmatched in the Western Hemisphere. A corporation in the suburbs may have a campus-like setting, but it doesn't have the intellectual stimulation of the campus. Employees who have been forced to leave New York's excitement are too often bored by the sterility of the suburbs. Without the city's stimulation, they often become robots who contribute little at work.

CRIME

A company's decision to move to the suburbs because of crime is based on emotion, not reason. Crime is a national problem and it won't be solved by hiding your head in suburban peat moss.

The drug epidemic is growing so rapidly that it has a greater effect on the small community, because the suburb neither has the experience, nor the facilities to deal with it.

According to complete FBI statistics for the first half of 1970, our New York Police Department shows a reduction in crime of 1/10th of 1% as compared to Stamford, Conn., which shows an increase of 36%, Bridgeport, 28%, and Darien, 29%.

HIDDEN COSTS

There are many additional expenses a company must cope with in the suburbs: additional land for parking lots; possible construction and maintenance of a garage; landscaping; cafeterias; special buses for employees; limousines for executives, and telephone tie-lines to the city. Add to these the cost of maintaining space in the downtown city area for advertising, public relations, marketing, board meetings, etc.

Some companies in fact find that they are subsidizing high cost mortgages for housing for their management employees and that they are financing the purchase of "second cars."

But, there's even more that escapes the eye at first glance. There is lost executive time traveling to New York to attend meetings, delays in transmittal of information, losses due to missed opportunities, and losses due to omitted visits. There is no substitute for the eye-ball to eye-ball discussion or negotiation—and New York is where it is and what it's all about.

Some of these costs I've mentioned before can be itemized approximately as follows:

	Per square ft.
Cafeteria and meal subsidy	$0.30
Privately financed bus service	.40
Limousine and chauffers for executives to visit New York	.30
Telephone tie-lines	.10
Landscaping and snow removal	.20
Parking lot maintenance	.10
These items alone total (for "extras")	$1.40

Building costs in the suburbs are no cheaper than the cost of construction in the city. The only difference might be in the cost of land. But, this cheaper cost in the suburbs is oftentimes offset by the need for substantial additional land for future expansion of the office and for parking. It's rumored that if a rental figure were to be attached to the Taj Mahal that American Can built in Greenwich, it would rent at $15 to $18 per square foot. Quite an expense to be near one's golf club! I wonder if the stockholders of some of these corporate "cop-outs" really know the true cost of moving to and living in a suburb!

Incidentally, a tenant's future expansion can be easily handled in the city by a knowledgeable and cooperative landlord. In the suburbs, there are no smaller tenants available to occupy the expansion space until needed by the prime tenant.

It would seem apparent that the peripheral areas offer little promise to a company with an eye on the future. A suburb, in fact, is an area that has not grown into a city—it is a sub-city with all of the growing pains before it. Most of our large cities, and, particularly New York, have in the past few years recognized these pains and are doing something about them.

New York City has structured its capital investments in anticipation of growth. Revenue sharing, open enrollment, mass transit, technologies to counter environmental pollution, housing and development of downtown sub-centers are major items on New York's budgetary agenda. All of these allocations focus on the future. In many areas of improvement the future is at hand. No suburb is capable of making these provisions.

Everywhere I look in New York I see change, which is a sign of vitality. Here are just a few of the changes:

The Flatlands Industrial Park, a 96-acre development with seven new manufacturing plants in Brooklyn. This is 75% completed.

The Northeast Container Terminal in Brooklyn, a 70-acre container port, which will maintain the city's competitive status in the import-export industry.

The Hunt's Point Food Market in the Bronx, the world's largest wholesale food distribution terminal. In the fiscal year 1969–70, $35 million of new construction was completed at Hunt's.

An announcement is forthcoming soon of the development of Welfare Island into a huge in-city complex of apartments, shopping and office space.

A $100 million Convention-Exhibition Center will be constructed on the Hudson River waterfront between 44th and 47th Streets. It will be the largest facility of its kind in the nation.

Beside the Convention Center will be the Consolidated Passenger Ship Terminal that will restore the cruiseship business in the city. This is a $30 million project.

The City of New York is developing an industrial park on the site of the New York Naval Shipyard (Brooklyn Navy Yard), five minutes from Downtown Manhattan. More than 165 acres of prime industrial space is available, providing waterfront location in the nation's busiest port for maritime-oriented companies.

And of course, one of the most evident signs of change in the city is the World Trade Center, which is nearing completion on the Lower West Side.

New York is still the financial, communication and commercial capital of the world and this is where the action is. New York is a magnet which will continue to pull creative people to its core.

I spoke earlier of the strong-willed men and women of New York who are working to better New York.

Typical of these get-up-and-do-something people are the members of the Association For a Better New York, which was formed last February by 100 businessmen. It is operating on a $2.5-million, three-year budget.

Better New York is involved in nothing short of a crusade. It has mounted a massive national campaign for federal revenue sharing for our cities. It's pushing for voter approval of the $2.5 billion Transportation Bond Issue in November, which is a *must* to pump another $1½ billion of funds into the New York City transportation system. It's helping the sanitationmen clean up midtown streets . . . and much more.

Better New York is putting statuary in office building plazas, supporting the revitalization of Yankee Stadium, assisting Consolidated Edison in conserving power, conducting a federal drive to permit communities to enact year-round daylight savings time, and attempting to attract another football franchise to the city.

It is also working with the City Council in seeking changes designed to eliminate smut peddlers in Times Square and restore the area's attractiveness to visitors.

It is meeting with corporate heads on a regular basis to enlist their support in Better New York's campaign to improve the city.

And Better New York has established a liaison with New York's Congressional delegation to generate more power for the city at the federal level.

The primary goal of all of these programs is to attract new business and keep the business the city has.

But the significance of Better New York is beyond its individual programs.

Better New York is the spirit of hope. It is made up of people who refuse to wring their hands.

And hope is infectious . . . just as is despair. We're full of enthusiasm for the future of New York—because it's not all "future"—many of the improvements and changes are now at hand.

Hopefully, some of our enthusiasm has spread around this room.

Thank you.

REPUBLICAN GOVERNORS CONFERENCE

HON. PETER A. PEYSER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. PEYSER. Mr. Speaker, the 19 Republican Governors who attended the Republican Governors Conference in Indiana last week unanimously endorsed a statement regarding their common problems. Unfortunately this statement received little attention in the press. It is an excellent statement and I want to bring it to the attention of my colleagues in the Congress.

The statement follows:

STATEMENT BY MEMBERS OF THE REPUBLICAN GOVERNORS ASSOCIATION NOVEMBER 19, 1971, FRENCH LICK, IND.

We, the members of the Republican Governors Association, charge the Democrat leaders of the United States Congress with abdicating their clear and urgent responsibilities to the people of America.

Washington skims off 65 percent of all the public revenues, while villages, towns, cities, counties and states teeter on the verge of bankruptcy. As a result, State and local governments must increase sales and property taxes, levy new tax after new tax and cut back on their services to the people.

For years, the Governors of both major parties have directed their bi-partisan pleas to the Democrat-controlled Congress for a fair return of federal tax revenues to State and local governments—but their cries have fallen on deaf ears.

They have supported President Nixon's concept of Federal revenue sharing—and 77 per cent of the nation upholds their petitions—but the Democrat leadership of the Congress refuses to act.

The overwhelming majority of public officials across the land, reflecting the public will, has supported the President's call for welfare reform in the name of suffering taxpayers and the suffering poor alike.

Likewise, public officials have pleaded with Congress in behalf of school children whose education is threatened by insufficient funds. But again, there is only talk and no action in the halls of the Democrat-controlled Congress.

The people have a right to ask how men who have failed to lead in exercising their responsibilities in Congress can hope to lead the Nation.

The reactionary, stubborn refusal of the Democrat Congressional hierarchy to respond to the people's demands for help in State and local government delivery of services to the people is all the more glaring in contrast with the record of President Nixon.

The President has offered bold and revolutionary proposals to revitalize and preserve the Federal system. He should have the help and support of Congress in this critical undertaking instead of foot-dragging and obstructionism.

The President also should have the help and support of the Congress and of every American for his New Economic Policy to end nearly a decade of fiscal neglect and inflationary policies.

The Republican Governors reaffirm their belief in the traditional responsibility of State and local government to provide such services as education, welfare, health and sanitation and we are eager to fulfill that responsibility.

Our growing inability to do so is caused by the Federal government's preemption of revenue sources. We therefore ask Congress to implement the revenue sharing program effective in fiscal 1972 and other domestic programs the President has called for—and thereby put us to the test.

TECHNOLOGY ASSESSMENT SPREADING RAPIDLY

HON. JOHN W. DAVIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. DAVIS of Georgia. Mr. Speaker, it is highly interesting and significant that the technology assessment concept is spreading rapidly into parts of the world other than the United States. Although many of the basic background studies and developments leading to the concept were done here—and particularly, so far as the Congress is concerned, by the Subcommittee on Science, Research and Development and its parent Committee on Science and Astronautics—recognition of the need for developing adequate methods of technology assessment seems to have spread worldwide.

As I have mentioned earlier on a number of occasions, a bill to create an Office of Technology Assessment, which emanated from the Science, Research and Development Subcommittee, which I chair, has been unanimously approved by the full committee and is now awaiting a rule.

Meanwhile, I think it worth while to call attention to just two of the many examples of foreign activity in this field.

One of these was notably evident in the October meeting of the Science Ministers of the Organization for Economic Cooperation and Development—OECD—held in Paris. The distinguished chairman of our committee, Mr. MILLER of California, served as congressional adviser to that meeting and will be making a complete report on it to the Congress in the near future.

The OECD proceedings are laced throughout with obvious references to technology assessment and its potential development within and between the 25 industrialized member nations. For example, in their final communique issued at the close of the meeting, the OECD conference made the following comment:

> Ministers recognised that a major task for science policy will be to assess the adverse and beneficial consequences of technological development, and to foresee scientific and technological trends. They agreed to share the effort of making such studies and to exchange the results through the Organisation, in order to develop more effective methods and evaluate national case-studies.

I might point out further that the substance of the conference, which to a great extent was based on a special ad hoc report to the OECD, contained even stronger references along the foregoing lines. A cogent comment from that report is this one:

> The key requirement is a wider range of options in the early stage of the innovation process combined with a more sensitive, comprehensive, and rigorous process of choice as the various options progress towards application. This involves deeper consideration and exploration of alternatives at the beginning, with a larger number of checkpoints in the process of selecting options so that vested interests, sunk costs, and professional commitments do not build up a momentum that becomes difficult to reverse. There must be earlier identification of possible difficulties and side effects and a willingness to assign highest priority to research aimed at understanding and quantifying these effects at the expense of the more traditional type of development effort. There must also be a more careful technological exploration of other but possibly more costly or more distant alternatives that promise to have significantly less costly side effects.

I would also like to call the attention of the Members of the House to a special Advanced Study Institute—ASI—being sponsored by the NATO countries next October, probably in Milan, Italy.

This entire conference, which will last for approximately 2 weeks and be attended by those in government, industry, and academia from all over Europe, will be devoted exclusively to technology assessment.

International decisions, such as these, to study any given area are seldom made lightly, nor do they deal with superficial topics. This, I think, is a useful point for us to keep in mind.

PROTECTING OUR HARBORS

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. WALDIE. Mr. Speaker, a recent editorial comment by television station KPIX in San Francisco came to my attention and I think it worthy of the attention of every Member of this body.

The efforts to protect the environment around the proposed Alaska oil pipeline must meet with success if we are to preserve the natural wonders that abound in our 49th State.

Yet, as we see these measures taking effect, why should they be confined only to a wilderness area that every Member of Congress is vitally concerned about preserving? Why, Mr. Speaker, should not these measures be used in the same fashion that developments achieved through our space flights are put to good practice?

I believe this editorial, by KPIX General Manager William E. Osterhaus, hits the proverbial nail right on the head. San Francisco Bay, and every harbor in this Nation should use the technology being developed in Alaska to protect our harbors.

I submit this excellent editorial for inclusion in the RECORD.

WHY NOT?

People talk and talk about the need for protection of our environment—after an ecological disaster. Likely as not, that's the end of it. For example, after the disastrous tanker collision oil spill here last January, there was public outcry—for a few weeks—and an official investigation. But talk and investigations alone are no protection. There are, however, occasions when we should profit by the advice of those with expertise who have acted to prevent similar disasters elsewhere.

A case in point was the report made here recently by E. W. Wellbaum, a spokesman for developers of the proposed Trans-Alaska Pipeline. He said far stiffer anti-pollution controls will be enforced in a remote Alaska port than are in effect in San Francisco Bay. He contended that Valdez Harbor, the southern terminal of the pipeline, will have almost fool-proof protection against oil spillage and tanker collision.

He explained: tankers loading with crude oil will have booms floating around them to keep any spilled oil from polluting the harbor. No tankers will be permitted to pass within one mile of another while under way. And the standard hoses that are used to connect tankers with refineries will be replaced at Valdez Harbor with metal-to-metal connections.

He suggested it would be extremely worthwhile for San Francisco Bay ports to consider similar methods for dealing with tankers.

There were 1,160 tanker arrivals in San Francisco Bay last year. Why won't the shippers in the Bay initiate similar safeguards? Why won't the federal government create one port authority with control over all traffic of ships on San Francisco Bay?

Necessary environmental protection measures for an Alaskan wilderness port certainly should not be too good or expensive for San Francisco Bay and its heavy marine traffic What do you think?

ENVIRONMENTAL RESEARCH WINS TOP HONORS FOR SHELL OIL

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. COLLINS of Texas. Mr. Speaker: With more and bigger tankers plying the seas and drilling rigs moving into deeper water, the oil industry has intensified efforts to prevent pollution from oil spills. A prime example of this response is Shell Oil Company's extensive spills program.

This opening statement of Shell Oil's award for environmental control development, presented by Petroleum Engineer, recognizes Shell's innovations in environmental research.

Answers to the environmental problems in America are being found through the efforts of Shell Oil and the rest of the petroleum industry. We in Texas are especially proud that Shell's award was for research primarily conducted at Shell Pipe Line's Houston laboratory. The statement of award to Shell Oil continues as follows:

Shell's program was strengthened in 1967 with a newly organized Oil Spills Committee made up of representatives from all Shell operating units. Members review emergency plans, coordinate all oil spills activities, and sponsor oil spill research for all Shell operations.

Most research is conducted at Shell Pipe Line Corp.'s laboratory in Houston. Since 1969, the lab has invested more than 22 man-years of research in this oil spills program. To effectively evaluate containment and clean-up systems, the lab has developed special testing equipment, including a large wave tank and a current tank, designed to simulate various environment conditions.

Through use of the simulation models and special equipment, surprising data has been turned up that dispel some earlier ideas about the action of oil on water.

One innovation tested is a containment device called the Air Barrier, which releases air from an underwater manifold to create a curtain of rising bubbles that block oil movement on the water surface. Effective in calm or quiescent water, the Air Barrier is installed at Shell's Argo, Ill., terminal.

One of the most effective containment techniques it has developed to date, Shell says, is a surface active chemical that's nontoxic and biodegradable called Oil Herder. Sprayed around the perimeter of a spill it sometimes shrinks the size of the slick.

Oil recovery devices such as skimmers and suction devices also are evaluated, and the Environmental Protection Agency recently awarded the lab a $133,000 contract to study the use of sorbent materials.

One of the most promising control techniques developed thus far is a quickly deployable system using Oil Herder and polyurethane foam sorbents. A major advantage of this dual system is portability. Shell has a new formula for making polyurethane foam so that liquid ingredients can be easily transported to the spill site where they can be combined to generate a low-density, highly absorbent foam. Curing in 2–5 minutes, it's shredded and blown onto the spill. Up to 10 times more oil can be picked up by the shredded foam than by straw, Shell says. Picked up by nets and squeezed, the foam is ready for reuse.

Shell, along with other oil companies, also is actively working on the oil fingerprinting technique for detecting the source of spilled oil.

JUDGE DONOVAN

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1971

Mr. WALDIE. Mr. Speaker, I knew Judge Richard J. Donovan as a close, personal friend—as a brilliant and able State legislator, as a competent and compassionate judge. I knew only a little of the suffering Dick lived with since his brain surgery of some years ago—but even that "little"showed me the strength and courage Dick possessed and with which he met the challenges of his life. His life was all too short. His presence will be missed. I extend my sympathies to his lovely wife, Peggy, who has been such a stalwart in her support and dedication to Dick.

I include an editorial from the Chula Vista, Calif., Star News, which expresses eloquently the nature of the void Dick's passing has caused.

The editorial follows:

JUDGE DONOVAN

It is pointless for those of us who do not know personally what it's like to be living on borrowed time . . . to have a brilliant career suddenly terminated by an illness that forces us into a less demanding and perhaps unsatisfying life . . . to realize that every day we get up in the morning may be our last . . . to speculate on the psychological process that impelled Judge Richard J. Donovan, 45, to end his life.

We can merely state what everybody who knew Richard Donovan already knows—that his demise is a tragedy, not only for his family, but for all the people of our community. There are too few Dick Donovans in public life, and we can ill afford to lose them.

We have known Dick Donovan many years. We remember him most vividly as an assemblyman, the first South Bay resident ever elected to the Legislature, a man of compassion, of understanding, of keen intelligence, of unflagging determination to right wrongs, a man with a fantastic zest for life and a genuine love for people, a determined man in a terrific hurry to get things done.

He was a Golden Boy of politics then, handsome, charming, witty, dedicated, concerned.

He was voted the most effective freshman assemblyman in Sacramento by newsmen. As a Republican in an overwhelming Democratic district, he won reelection by the largest margin of any legislator in California.

They said he was really going places then. Some said the place he was going was to the governor's office. But he suffered a brain ailment, and the place he went was to the relative obscurity of the municipal bench.

Privately, he was appalled by the injustices of the court system. He did what he could—and many a youth, caught up in the toils of the law through foolishness—or immaturity, can owe a fresh start in life to Judge Donovan.

Judge Donovan in recent years was happiest when he talked about sweeping reforms—about sweeping reforms he proposed in his Elks Club (he was blasted in a national Elks publication for calling for an end to the Elks' racist membership rules) . . . about sweeping reforms he tried to foster in the courts to unclog the wheels of justice and to ease the burdens of unfortunates involved in lesser infractions . . . about sweeping reforms in the entire System to take away special privilege and to assure all Americans an even break.

In his short and handicapped life, he didn't succeed as well as he would have liked. But he gave it all he could, and then some. Thanks to Dick Donovan, our community and our state are a little better than they might otherwise have been. And a finer tribute than that cannot be paid to any man.

KUNSTLER HELPED LIGHT THE TORCH

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1971

Mr. SCHERLE. Mr. Speaker, I call to the attention of my colleagues the following editorial from the Detroit News. This editorial, entitled "Kunstler Helped Light the Torch," transcends partisan politics for it puts in proper perspective the tragedy at Attica State Prison. Equally important, the editorial points out the willingness of a member of the radical left to intensify a crisis situation in order to merely appear concerned. Kunstler's actions at Attica jeopardized the honest efforts of the truly concerned officials. The editorial concludes—

Notice who remained alive to wear the black armband.

The entire editorial follows:

KUNSTLER HELPED LIGHT THE TORCH

William M. Kunstler, the radical New Left attorney, has called New York's Gov. Rockefeller a "murderer" because of the deaths at Attica State Prison and recently wore a black armband as a symbol of mourning for the deceased.

In actuality, Gov. Rockefeller did everything he reasonably could to prevent bloodshed and at the same time defend the law of New York while Kunstler was doing his best, as usual, to intensify the bitterness between the antagonists.

Other members of the negotiating team of which Kunstler was a member testify that he sought to undermine efforts to achieve a peaceful settlement.

David Anderson, a black leader from Rochester, N.Y., charges that Kunstler "heightened the expectations" of inmates about obtaining amnesty and as a result made it difficult to talk with riot leaders on a realistic level.

Other members say they believe Kunstler was a disruptive rather than a helpful influence. They are especially critical of his statement to the rebels that representatives of "Third World" governments were waiting across the street from the prison, ready to grant the rioters asylum abroad.

Both during and following the episode at Attica State Prison, the role of Kunstler has been that of firebrand—the sort of firebrand who urges others forward to the fray while he sulks in the background watching the results.

Notice who remained alive to wear the black armband.

AMERICA AND RUSSIA IN INDIA

HON. ROBERT H. STEELE

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1971

Mr. STEELE. Mr. Speaker, few Americans have the depth of knowledge and understanding of India that our former ambassador to that nation, the Honorable Chester Bowles, possesses.

In a recent article in Foreign Affairs, Ambassador Bowles pointed out that India can play a major role in the stabilization of post-Vietnam Asia and urged important changes in U.S. foreign policy designed to foster such a role.

Ambassador Bowles is a former Member of the House and one of my most distinguished constituents, and I wish to recommend his recent article to my colleagues. The article, "America and Russia in India," follows:

AMERICA AND RUSSIA IN INDIA

(By Chester Bowles)

As in many other parts of the world, the interests of the Soviet Union and the United States in India are widely assumed to be in "conflict." To what extent is this conflict genuine, and what are the implications for Asia in general and South Asia in particular?

America and Russia have each made major contributions to India's economic development. The United States has helped rebuild and modernize India's railroads, contributed 60 percent of the capital for India's power development, helped build and staff eight agricultural universities, provided nearly 40 million tons of foodgrains, printed millions of books for Indian schools, published four excellent magazines to help Indians better understand America, provided thousands of American technicians and made it possible for thousands of Indians to go to America for training and advance education. The size of the U.S. Peace Corps in India has been double that in any other nation.

Although the Soviet economic investment in India is considerably less, it has been substantial. The U.S.S.R. has helped expand the production of steel and heavy electrical equipment and has provided close to one billion dollars to modernize India's army, navy and air force. Both the United States and the U.S.S.R. have, in addition, sent to India a steady stream of singers musicians, and cultural exhibits, the number of Soviet programs being at least double our own. Both have large embassies in New Delhi.

Although Soviet and American activities and programs in India are somewhat similar, the political objectives and tactics have differed sharply. Let us first consider the U.S.S.R.

When Nazi Germany invaded the U.S.S.R. in June 1941, the promotion of Lenin's doctrine of worldwide revolution was muted and communist parties abroad were directed to focus all their energies on winning the war. This forced the Communist Party of India to cooperate with the British colonial government and largely to dissociate itself at a crucial moment from the struggle for independence. The reaction of the non-communist Indian leaders and the tens of millions who supported them was bitter. When official Soviet organs attacked Gandhi as a "reactionary Hindu" and depicted Nehru as the "Chiang Kai-shek of India," the gap seemed unbridgeable.

After Stalin's death in March 1953, however, the Soviets began to ease their harsh line. In August of that year Malenkov spoke warmly of India's contribution to ending the Korean War and expressed the view that Indo-Soviet relations would "continue to develop and grow in strength." Contrary to the general impression, Nehru himself during this period had few illusions about the objectives of the Soviet Union and its leadership in India. A few days after Stalin's death, the Prime Minister described Stalin to me as "the coldest human being" he had ever met.

This shift in the Soviet mood coincided with John Foster Dulles' decision in 1954 to provide military equipment to Pakistan and convinced a reluctant Nehru that India should accept some assistance from Russia to "keep its options open." In 1955 the first Soviet loan agreement for Indian economic development was signed. On February 21, 1956, the Soviet Union agreed to finance and build India one of the most modern steel mills in Asia at a cost of $140,000,000.

Although the outside world had no clear indication of the growing differences between China and Russia until a few years later, the possibility of a split must have been apparent to Soviet leaders by the mid-1950s.[1]

When the break actually occurred in the late 1950s, Soviet assistance to India was sharply increased. Yet even when the Chinese-Indian conflict occurred in October-November 1962, Soviet leaders, still clinging no doubt to the hope that a tolerable relationship with China might be reestablished, at first held back. Only when Khrushchev and his colleagues became persuaded that a rapprochement was no longer possible did India begin to receive its present high priority from Soviet policymakers.

While the U.S.S.R. certainly hoped for some additional dividends—India's support for Soviet foreign policy generally, the expansion of the "Socialist camp," etc.—the motivation of the U.S.S.R. in assisting India has since the mid-1950s been primarily based on the Soviet estimation of India's geopolitical importance as a partial balance to the political influence and potential military weight of China.

II

The United States Government, however, has never considered India to be of major political significance to the future of Asia. Our policies in India, like our policies elsewhere in Asia, have been the product of strangely diverse considerations, a fact which has not only confused most Americans but also many Asians. On the one hand, those who have been setting our policies have consistently failed to understand the political forces which are shaping Asia and to appreciate the limits of traditional military power in dealing with these forces. On the other hand, many of our actions have taken place within a framework of genuine idealism. Thus India has been seen as an impoverished nation struggling bravely but probably futilely to govern itself through democratic institutions, which for humanitarian reasons we have felt obligated to assist.

Our generally warm feelings for the Indian people and our concern for their welfare became evident in the 1930s and 1940s as the American people watched India's nonviolent struggle for independence under the leadership of Gandhi. During World War II, Roosevelt repeatedly pressed Churchill to agree to India's independence as soon as the war was over; indeed, two of Roosevelt's personal representatives in India supported Indian independence so openly that the British asked that they be removed.

When India became independent in 1947, the energies of the United States were largely focused on the economic and security problems of Western Europe. But in mid-1951, we provided India with two million tons of wheat, and in December of that year, during my first tour as Ambassador to India, I signed with Nehru the first developmental assistance agreement—an outright grant of $54,000,000 to assist Indian development. Since that time the United States has contributed $8 billion in loans and grants to bolster India's economy and to help feed its people.

Paradoxically, we have provided this massive assistance to a nation which most of our harassed top policy-makers in the State Department, White House, Pentagon and Congress have visited only briefly or in many cases have never seen, and of which consequently they have had only a limited knowledge and a hazy understanding. The Bureau of Near East-South Asia Affairs, which has jurisdiction over our relations with India, stretches all the way from the India-Burma border to Libya. Understandably, the time of its key officials has largely been absorbed by the explosive Middle East. The average number of Representatives and Senators visiting India each year during my eight years there as Ambassador was nine—most of them for relatively short visits in and around the large cities.

Lacking firsthand knowledge of the complexities of Indian society and the hopes and fears of its people, it is not surprising that the Kiplingesque impression of India as an ancient land of cobras, maharajahs, monkeys, famines, polo players, overcrowded with cows and babies, still persists in the minds of many top officials in our government.

A relatively small number of able South Asia specialists in our universities have worked diligently to fill this information gap. But most of our "Asia specialists" are in fact Chinese, Japanese or Southeast Asia specialists; very few of them have had an opportunity really to know and understand India and to consider its relations to the rest of Asia.

The assumption that by giving India economic assistance we are at least assured of its friendship and hopefully of its support has generated reactions in New Delhi that have further confused our relations. The nationalistic leaders of India, as in most developing nations, are determined to demonstrate that they are now masters in their own house. When they assert their independence by refusing to see the world as our government sees it, leaders within the Administration and Congress have become by stages puzzled, frustrated, hurt, and angered.

As a consequence, many overburdened officials in the State Department and White House have gradually lapsed into the comfortable rationalization that no matter how much assistance is given to India, its poverty is probably too deep and its population too vast to enable it to become a stable, viable nation. Only the fact that India is by far the largest underdeveloped nation, with the exception of China, and has somehow maintained in the world a democratic government for a quarter of a century, has enabled it to retain even its present precarious position on the back burners in the State Department and White House.

III

In 1963 the decisive factor in my decision to return to India as Ambassador was the conviction that in this role I might be able to contribute to the long overdue reorientation of our policies not only in India but in Asia. While skillfully marshalled arguments may establish doubts about the wisdom of an existing policy, it has been my experience that a policy itself is unlikely to be changed unless a major event shatters old relationships and forces a reexamination of existing assumptions. The coincidence of four major events involving the Soviet Union, China, India and Japan, was, I thought, creating precisely such an opportunity.

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[1] In February 1957, shortly before the Soviet-Chinese break became evident, I had a lengthy discussion with Nikita Khrushchev in Moscow, most of which centered on India and China. When I remarked that both the Soviet Union and the United States might ultimately face a common problem in regard to China, he did not disagree.

These were the continuing split between the Soviet Union and China; the China-India conflict in 1962 which brought Nehru's efforts to create a live-and-let-live relationship with China to an abrupt end; the rise of Japan to become the world's third industrial power; and the beginnings of our blundering military involvement in Southeast Asia. The combination of these four "happenings," I felt, might force our government to reconsider its Asia policies as a whole and to give a higher priority to the one-seventh of mankind who live in India.

The promptness with which we responded to India's appeal for help following the Chinese attack in October 1962 seemed to reflect the new sense of priorities for which I had hoped. The emergency shipments of $70,000,000 worth of military equipment which we airlifted to India within a few days after Nehru's appeal reached Washington, was at the time assumed to be only the first step in the modernization of India's military forces. The Indian request for $500,000,000 of military assistance to be spent over a period of five years was less than half of what we had already given Pakistan. However, the old Dullesian arguments soon began to be raised again in the State Department and Pentagon, i.e. if we helped India even moderately to build up its defense capacity, we would upset our "loyal ally," Pakistan.[2]

At first I was hesitant about India's request but for quite a different reason. Since World War II, most of our military assistance outside Europe, I felt, had been given not for legitimate purposes of defense but in effect as a bribe to persuade the recipient governments to support U.S. foreign policy. Once started, such assistance was hard to stop; sometimes we became political captives of the nations we were striving to defend.

I was convinced, however, that the situation in regard to India was radically different. Nehru clearly was not for sale and India's defense needs were very real. Its 2,500-mile long border with China had recently been breached by Chinese troops, and in addition there were 600 miles of border with Burma, which was in a state of general unrest. Although Pakistan's army, air force and navy had largely been equipped and trained by the United States, Pakistan had verbally supported the Chinese attack on India in 1962 and could not be depended upon to remain neutral if the Chinese should attack again. Under these circumstances our refusal to assist India while we continued heavily to support Pakistan seemed indefensible.

Moreover, in view of its recent clash with China, India was determined to modernize its defenses by one means or another. If we were not prepared to meet its legitimate security needs, I believed that India would turn, however reluctantly, to the Soviet Union. With Soviet concern over China growing, the response to Soviet advances would almost certainly be affirmative.

The possibility of this chain of events was rejected by almost everyone in the State Department, Pentagon and White House. India, it was assumed, had no place to go but to the United States. President Kennedy, however, seemed to agree with my view and asked me to explore the situation with Prime Minister Nehru and his associates immediately after my arrival in India in July. I should then return to Washington for further discussions with him.

In the summer and fall I had a series of long talks with Nehru, Defense Minister Yeshwantrao Chavan and other Indian officials not only about their own military security problems vis-a-vis China, but also about their willingness to take a greater measure of responsibility for the stability of Asia as a whole. In mid-November I left for the United States with a tentative understanding with the Indian Government in my briefcase. Quite unexpectedly, Nehru, who had been emotionally shattered by the recent Chinese attack, had volunteered to support a genuine effort by our government to negotiate a political settlement that could end the fighting in Southeast Asia. (This was before U.S. ground forces became directly involved in Vietnam.) He was also prepared to negotiate a ceiling on military expenditures with Pakistan. With this evidence of a new cooperative mood in New Delhi and with the President's backing, the way appeared to be open not only for a constructive relationship with India but even, with a bit of luck, a negotiated settlement in Southeast Asia.

However, these hopes were soon dashed. Kennedy's assassination six days after my arrival in Washington and Nehru's death six months later, in May 1964, when our government and an Indian negotiating team were on the verge of an agreement, resulted first in delay and finally in a decision by the Johnson Administration to postpone further consideration until the "situation had been clarified."

Three months later, the same Indian negotiating team visited Moscow and returned to New Delhi with all they had asked for, and more. Today India's 28 divisions, its 700-plane air force and its small but competent navy are largely supplied with Soviet equipment. It would be a mistake to exaggerate the political implications of the Soviet role as principal military supplier to the Indian defense force. But I believe that a major opportunity to use our own military assistance to promote greater political stability in Asia was missed.

IV

Because of the Soviet Union's greater awareness of India's potential role in Asia, Soviet operations in India are much more closely directed by the Foreign Office in Moscow than U.S. operations are directed by the State Department in Washington. As a result there has been a profound difference in tactics and in style between the Soviet and U.S. operations in India, which in spite of the continued indifference of Washington officialdom has helped keep our relationship with India on a reasonably even keel.

Most American embassies throughout the world are tied tightly to Washington by a combination of fixed policies, highly developed communications systems and frequent two-way visits. The embassy in New Delhi has been in a quite different category. There have been no clear national policies to guide its day-to-day operations. It is 10,000 miles from Washington and thus far, blessedly free of a modern telephone communication link. Most important of all, for the better part of 20 years it has been run by a series of independent-minded, politically expendable, non-career Ambassadors who generally have had the support of the lower-level India specialists in the State Department.[3]

Each of these Ambassadors travelled widely throughout India, and came to know on a personal basis most Indian leaders, and each spoke regularly to groups of college students, businessmen, educators and economists. Moreover, while not always in agreement with the policies of the Indian Government, each of them genuinely liked the Indian people. Their effectiveness was increased by the fact that they were supported by able staffs, most of whom shared their views.

Lacking clear policy direction from Washington, our remote and comparatively isolated embassy in New Delhi has within certain limits been able, independently and unofficially, to establish a less rigid set of goals. For instance, there has been a continuing effort to increase India's confidence in itself, to encourage India to broaden its perspectives on Asia and to understand U.S. difficulties in dealing with unfamiliar world problems. The New Delhi embassy has also consistently and with considerable success resisted pressures from Washington to use U.S. economic assistance as a lever to force India to see the world as we see it. In my eight years as Ambassador to India, I can remember no occasion when the State Department told me what to say or questioned any public statement I made.

The understanding and often close relations established with many Indian citizens and leaders by members of the American mission have been strengthened by nonofficial groups such as the American women's clubs in major cities which have taken an active role in social welfare projects and developed a genuine appreciation of Indian culture, religion and language. The several thousand impressive young Peace Corps Volunteers, who have served in India for an average stay of two years, and the 8,000 Indian students who attend American universities every year further strengthen these ties.

As a result, a great deal of common ground has been created in the last 20 years among influential Indians and Americans. Most Indians both in and outside the government remain critical of U.S. Government policies on such questions as Vietnam or East Pakistan, but with a few notable exceptions they have liked and respected Americans as individuals.

Since the Soviets devote a major share of their budget and manpower in India to an attempt to create distrust of America and Americans, the rapport to which I refer has been an important and perhaps decisive factor in keeping Indo-American relations relatively smooth. The Soviet effort to break these bonds and to turn the Indian people and government against the United States involves every device from forged letters to blistering attacks and accusations by Soviet-financed newspapers such as *Blitz, Patriot, Link*, and Radio Peace and Progress, which is specially beamed into India from Moscow. No doubt this effort has made an impression on some Indians. But because it is hard for most Indians to believe that the Americans they see and know are "imperialists" and "war mongers scheming to undermine India's independence," it has fallen far short of its objective.

The reasons for the persistence and intensity of the Soviet effort are unclear. Many believe that it reflects widely differing views of world affairs within the Soviet bureaucracy. In New Delhi, for instance, there are almost certainly deep differences between the younger and more modern-minded Soviet diplomats and those members of the KGB who still believe that Lenin's "revolution of the working classes" is in fact just around the corner. Similarly, some U.S. officials in the Pentagon and State Department still feel more at home with the rhetoric and tactics of the cold war.

Soviet activities in India have been further complicated by the fact that the original Communist Party of India has split into at least three sections. First, there is the Communist Party of India (CPI), which makes a determined effort to appear responsible and to cooperate with other "Socialist" parties. This group is largely financed by and directed from Moscow. It is small and compact, and therefore a less obvious target for criticism. But for that very reason it may have a greater potential influence than most people suspect.

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[2] For several years Pakistan had been manipulating American policies in Asia with a skill matched only by that of the Nationalist Chinese.

[3] I refer to Ambassadors John Sherman Cooper, Ellsworth Bunker, John Kenneth Galbraith and myself.

The tactics of the CPI following Mrs. Gandhi's election in March 1971 have been shrewd. The first step was the announcement and later the introduction into Parliament of an appealing program to promote greater economic and social justice which generally reflects the liberal philosophy on which Mrs. Gandhi based her sweeping victory. If the new Congress Party adopts or supports all or part of such a program, the CPI can claim credit; if it fails to adopt the proposals, the CPI can charge that Mrs. Gandhi is still in the grip of the "recationaries."

In addition, there is the Communist Party-Marxist (CPM) which came close to winning a majority in the recent West Bengal State Assembly elections. The CPM might be considered a Maoist party if it were not for the fact that it is momentarily in the Peking doghouse because of its persistent attempt to work within India's parliamentary process. Finally, there are the Naxalites, an extremist left-wing group which does not fit into any clear ideological pattern but which believes in ruthless violence and destruction as the necessary basis of revolutionary change.

Many observers in India are convinced that the differences among these three communist-marxist parties are more a matter of the timing of the "inevitable" revolutionary uprising than of actual ideology. However, I suspect that at least some of the differences run much deeper. This raises the question of whether Moscow really wants a communist India which, whatever its immediate advantages, would lead to further fragmentation of the communist "camp" and place an added burden on the juggling abilities of Soviet officials and ideologists.

V

What is the reaction of India to the lavish attentions it has been receiving from the world's two most powerful nations? Most Indians have become ever more disenchanted with the price that the Soviets have asked them to pay in terms of national dignity and sovereignty for their continued support and assistance. But because of their greatly increased fear of China, they now find themselves closer to Moscow than they really want to be.

India's decision in 1968 to abstain on the United Nations resolution vote in the Security Council condemning the Soviet Union for its invasion of Czechoslovakia illustrates its dilemma. If India had voted for the resolution, Mrs. Gandhi and her colleagues were convinced that there would be a dangerous slowdown in the flow of ammunition and spare parts from the Soviet Union for the Indian army, navy and air force. Consequently, India felt forced to abstain on an issue which had aroused strong feelings among most Indians.

The position of the U.S.S.R. in India has also been damaged by the high-handed manner in which Soviet representatives often negotiate economic and commercial agreements. Three or four years ago large headlines in Indian newspapers announced that the Soviets had agreed to buy 50,000 Indian-built railroad cars. However, when the bargaining began it became apparent that the euphoria was not justified. The Soviet price was far below the Indian cost price and as a result the deal fell through.

Nor is America wholly free of the charge of taking advantage of India's difficulties. During India's food crisis of 1965-66, President Johnson rather obviously attempted to use our wheat shipments to persuade India to take a more tolerant view of our military activities in Vietnam. Determined to demonstrate their sovereignty, the Indians predictably stepped up their criticisms of our bombing of North Vietnam. Angered, President Johnson responded by slowing down our wheat shipments at the very moment when they were most needed. This left scars.

Another factor in the relations among the three countries is India's increasing disenchantment with the heavy influx of "experts" from both nations. Not all of them—Russian or American—have been as capable as their Indian counterparts, and in some cases they have been insensitive to their surroundings and to Indian attitudes. Often India has accepted technical assistance from both the United States and the Soviet Union more to satisfy the donors than because of actual need.

VI

The remaining years of the twentieth century will be years of continuing unrest. In Africa, Latin America and Asia, corrupt governments, the pressure of college graduates without jobs, and the demands of the millions who work the land and operate the new industrial machinery to obtain a larger share of the wealth which they produce, will open wide the door for revolutionary change. Under these circumstances it is unrealistic to expect either the Soviet Union or China to forgo their professed revolutionary objectives. Nevertheless, the strength of Soviet and Chinese nationalism, with the two nations facing each other along a 5,000-mile border, coupled with the fact that the Russian Revolution is now more than 50 years old and is gradually losing its original fervor, suggests that they will follow quite different strategies.

The Soviet interest in India is only one facet, though a major one, in the Soviet effort to expand its influence throughout Asia. The increased Soviet naval force in the Mediterranean, the intense desire of the Soviets to reopen the Suez Canal and the presence of Soviet naval units in the Indian Ocean are reflections of this effort.

In June 1969, the General Secretary of the Soviet Communist Party, Leonid Brezhnev, noted in a speech at the World Communist Party Conference in Moscow, "We are of the opinion that the course of events is putting on the agenda the task of creating a system of collective security in Asia." This assertion has not officially been amplified, and consequently every government in Asia has been interpreting it in a different way. India's reaction to Brezhnev's statement was cautious: Mrs. Gandhi discreetly let it be known that India would prefer a nonalliance security agreement composed of Asian states, guaranteed by both Russia and America.

However, a key to Brehnev's meaning appeared in advance of his speech in an article in *Izvestia* in May 1961, in which it was asserted that the same countries which have won their freedom from colonialism "will strengthen the peace by their own joint opposition to expansion and imperialism." The forces of "expansion" to which Brezhnev referred were clearly the Chinese, who were charged with harboring designs against a number of Asia countries. Peking promptly responded by accusing Brezhnev of "fishing in the dung heap of imperialism."

The U.S.S.R. is seeking to "contain" what it believes to be an expansionist-minded China—much as we have been trying to do—by associating whatever Asian nations can be persuaded to cooperate in a loose political organization under its leadership. When asked, "What is the basis of Soviet foreign policy in Asia?" a Soviet official recently replied with an eye to America's pullback from Asia, "We simply occupy the empty seats." But the U.S.S.R.—like China—is no more likely to succeed in forging such an association than we have been. The increasingly nationalistic Asians have no design to become the tail of the kite of any nation no matter how great its military power or how generous its offers of economic assistance.

Right now both the Soviet Union and India are concerned about the political thaw between the United States and China and the implications of China's support of the right-wing government in West Pakistan. The apparent easing of the Chinese attitude toward the United States is seen by many observers as the first step in a long-range Chinese program calculated to strengthen China's position in South Asia and eventually in Africa at the expense of the U.S.S.R., India and the United States.

A Soviet official with a touch of geopolitical paranoia might visualize the following sequence of events:

1. The Chinese, convinced that the United States is in fact prepared to withdraw from Southeast Asia and concerned about their own confrontation with the U.S.S.R., may seize upon the opportunity to establish a degree of rapport with the United States which might be useful to both nations in a number of ways.

2. If President Nixon will agree not only to pull all U.S. troops out of Southeast Asia but our air force and naval units as well (a move that would be warmly welcomed by most Americans, including leaders of Congress), China might seek to persuade the Hanoi government to release American prisoners and to take a more flexible position in the peace negotiations with the United States. This would serve the interests of both China and the United States and perhaps enable China to expand its trade with the United States and to ensure entrance into the United Nations, with the possibility that ultimately some degree of cooperation with the United States is regard to Pakistan and even the Soviet-Chinese conflict might become possible.

3. But a possible settlement of the conflict in Southeast Asia is only one aspect of a complex situation. China (ping-pong diplomacy to the contrary) believes that "the four seas are raging, the five continents are rocking," and its government may be expected to maintain its militarily cautious but politically aggressive revolutionary course.

A primary Chinese objective is the establishment of a solid Chinese presence in the Arabian Sea and the Bay of Bengal. This would enable China to outflank the U.S.S.R. (as well as the United States) and move thousands of miles closer to East Africa, a potentially rich and underpopulated area, in which for several years Peking has been taking an increasing interest. No one believes that the Chinese at the present time are prepared to run a serious risk of war in pursuit of this objective, but it is widely believed to be a major part of Chinese global strategy. According to Indian sources, 13,500 Chinese are now working in East Africa. There is also some fear that China may provide support to small guerrilla groups in Iran as they already have done in Oman. As a measure of its concern, India's leading China expert has recently been assigned to East Africa.

4. The present conflict in East Pakistan affords the Chinese an opportunity to move cautiously toward this goal. The fighting has placed an impossible burden on Pakistan's economy. With or without the Eastern wing, it will soon be in a state of near bankruptcy and in need of massive assistance. By supporting West Pakistan and by working with pro-Chinese Pakistani politicians, China will strive to establish a strong and eventually dominant presence there. With Sheik Mujibur Rahman removed from the scene, East Pakistan would also offer an opportunity for a new Maoist-oriented leadership. (India looks upon this latter possibility with particular alarm since it would almost certainly bring the Maoists in both East Pakistan and the CPM in West Bengal into a close association. This would create heavy pressures for an independent united Bengal, which

would not only present another tempting target to the Chinese but would threaten the unity of India itself.)

This scenario may turn out to be no more than a bad dream, but there is no question that at the present moment many Soviet as well as Indian leaders are dreaming it—including some who are not normally subject to paranoia. The skeptics who dismiss it as farfetched are likely to be reminded that in the last 20 years several equally "impossible" developments have occurred in Asia: for instance, the sudden collapse of colonial rule, the dramatic emergence of Japan as the world's third-ranking industrial power, the disruption of the Sino-Soviet bloc and America's involvement in a major undeclared war in Southeast Asia in which nearly as many Americans have been killed as in World War I.

Far from being inevitably locked in a relentless confrontation, Russia and America have many problems, worries and objectives in common. By now each should have discovered that its own capacity to influence India and Asia is strictly limited. We have learned this lesson the hard way, and the generally cautious leaders of the U.S.S.R. are unlikely to repeat our folly.

With the passage of time (perhaps with an unexpected assist from some new "happening"), we may hope that the Soviets will abandon their present ineffective cold warring in India and put aside their nostalgic Leninist dream of a Soviet-dominated world, and that ultimately even the Chinese ideologists will come to see that their efforts to fish in troubled waters of South Asia and Africa are unproductive and dangerous.

As for the United States it is still not too late for us to bring our policies in Asia and particularly in India into line with the realities. Some steps we might take are as follows:

1. As an essential first step, the policymaking officials in the State Department and in the White House must broaden their perspective on India and its potential role in Asia. The following reorganization within the State Department would do much to accomplish this: (a) A new Mediterranean Bureau would include North Africa, the Middle East areas and Afghanistan and Pakistan; (b) A new South and Southeast Asia Bureau would include, in addition to the Southeast Asian States, India, Ceylon and (if it manages to become an independent nation) Bangla Desh (East Pakistan); (c) A new East Asia and Pacific Bureau would include Japan, the Philippines, Taiwan, China and Korea.

2. The State Department should schedule regular in-depth visits to India and South Asia not only by its own key policymakers but but by other government officials who are called upon directly or indirectly to deal with questions involving India.

3. All U.S. military aid to Pakistan should be stopped immediately. It can only lead to a comparable build-up in the Indian military, a reduced rate of development and the recurring possibility of war. Our lavish arming of Pakistan since 1954 will surely be considered by historians as one of our major follies. Until the political situation clarifies, economic assistance to Pakistan should be concentrated on the rehabilitation and relief of East Pakistan.

4. America, Russia and India should not only attempt to arrive at better understandings of one another, but also of China. Such understanding and the more responsible and constructive policies that may grow out of it are the long-term prerequisites for peace and more rapid economic development throughout Asia. A military conflict between the U.S.S.R. and China could be the ultimate disaster for mankind. We should therefore refrain from any temptation to play China and the Soviet Union against each other.

5. We should assure Mrs. Gandhi and her new government of whatever assistance, with no political strings, is necessary to support her effort to better the lot of the Indian people and to ensure the economic growth and stability of India. Unquestionably the newly elected government under Mrs. Gandhi's direction means business, but India's resources are strained to the breaking point.

Part of this assistance could be provided by a ten-year moratorium on the payments of principal and interest which India is now making on debts to the Western consortium nations including the United States and the World Bank. Next year these payments will total more than $600 million in hard currency.

By helping Mrs. Gandhi's new government to deal successfully with India's current internal problems we can help ensure the viability and political effectiveness of this cohesive democratic nation. With a population equal to that of Latin America and Africa combined, with a remarkable degree of political resiliency and depth of culture and with an effective administrative structure run by a generally competent civil service, an independent, confident India can play a major role in the stabilization of post-Vietnam Asia.

BILL COSBY TALKS TO KIDS ABOUT DRUGS

HON. PETER N. KYROS

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1971

Mr. KYROS. Mr. Speaker, all of us are worried about the drug problem, particularly among our young people. And one of our greatest concerns, it seems to me, should be finding a way to communicate to our Nation's youth—honestly and credibly—the very real dangers of drug abuse.

In this context, a lot has been said about song lyrics. While some would have us believe that young people are driven to try drugs simply because words having a "drug connotation" are used, the National Institute of Mental Health says that is not so. Nevertheless, it seems apparent that the communications media do have great impact on our youth, and can therefore play a vital role in putting across antidrug messages, when used properly.

For this reason, I am especially impressed by a new commercial recording, just released by UNI Records, which makes a very credible artistic statement against hard drug use. It is called Bill Cosby Talks to Kids About Drugs.

While the record industry has already taken important steps in this area, by making individual artists available without charge to make antidrug messages and by producing and distributing an excellent record for NIMH, Bill Cosby is the first top-name entertainer to make such an artistic statement against drugs. And he considers it the most important record he has ever made.

The technique is simple and honest: Through the use of comedy and music, he holds the listener's attention; and the way he gets his point across is bound to have a lasting effect on any youngster—or adult—who hears it. Mr. Speaker, I commend this excellent recording to the attention of my colleagues.

A GREAT HONOR BESTOWED BY THE BARONIAL ORDER OF MAGNA CHARTA ON MAURICE H. THATCHER, OLDEST SURVIVING CONGRESSMAN

HON. DANIEL J. FLOOD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1971

Mr. FLOOD. Mr. Speaker, the oldest survivor of those who served in the Congress is Maurice H. Thatcher, who reached his 101st milestone on August 15, 1971.

As is well known, through our congressional circles, Gov. Maurice H. Thatcher in recent years, including 1971, has been the recipient of many distinguished honors. I am sure that the Members of both Houses are gratified at these bestowals.

Governor Thatcher has long been a member of the Baronial Order of Magna Charta, possessing lines of ancestry running back to William Marshall and many other sureties, who, in 1215, curbed the power of King John of England by means of this celebrated document which functioned so greatly to the slow ascent from despotism to freedom. Two of his ancestors were the second Earl of Pembroke and his wife, Eva McDonough, a lineal descendant of Brian Baru, one of the outstanding Kings of Ireland.

The Baronial Order of Magna Charta has its headquarters in Philadelphia, and its principal membership is in that city, though several members are in Washington, D.C. The chief event of the order each year, on or about June 12, is the program in Christ Church in Philadelphia, celebrating the anniversary. On this occasion, the order formally awards its chief honor to some person of distinction. Among those so honored have been outstanding military leaders, jurists, and statesmen. For the June 1972 award, under action by the order of the 19th inst., it has unanimously voted to bestow the award on Governor Thatcher.

While yet we live, let us honor those yet living.

Under leave accorded, there are made as a part of these remarks, the letter of notification and Governor Thatcher's response thereto. The Baronial Order of Magna Charta is one of the most patriotic organizations in the Nation and its members are men of effective achievement. I am sure the membership of the Congress joins me in congratulating the recipient of this most recent honor, which will have its formal consumation in Philadelphia next June.

The material follows:

BRIDGETON, N.J.,
November 19, 1971.

Hon. MAURICE H. THATCHER, LL.D.,
Washington, D.C.

SIR KNIGHT THATCHER: At a meeting of the Committee on The Magna Charta Day Annual Award held at the Union League in Philadelphia, Pennsylvania, it was unanimously agreed that the 1972 Award should be given to our great American living in Washington, D.C.

The Annual Grand Chapter will be held this year at the Merion Tribute House on 10 June 1972.

The Commemorative Church Service will

be held at Christ Church in Philadelphia, Pennsylvania, at Second Street above Market Street, at 11:00 A.M. on Sunday, June 11, 1972. You would at this time, make your address and receive the Magna Charta Day Award.

We know some of your Washington, D.C. friends would see that you would be driven to Philadelphia, Pennsylvania on 10 June or 11 June for both the Grand Chapter and Church Service. These details can be worked out at a later date with your approval.

We eagerly await your reply.

Sincerely,

LAWRENCE STRATTON,
Chairman, Committee on Program.

NOVEMBER 22, 1971.

Mr. LAWRENCE STRATTON,
Chairman, Committee on Program,
The Baronial Order of Magna Charta,
Bridgeton, N.J.

MY DEAR BROTHER STRATTON: Today, I am in receipt of your very kind and informative letter of the 19th inst.

I am, indeed, most deeply appreciative to the Order for its unanimous bestowal of the 1972 award. I certainly shall expect to attend the commemorative service in Christ Church on Sunday, June 11, 1972 and will attend to make the required address and receive the award. Therefore, expect me to be present on June 11—even tho I may have to come on Mother Goose' broomstick. However, I believe that someone from our Order in Washington will be glad to drive me to Philadelphia.

I am yet quite active in many matters, and am sound in mind and memory, tho I have lost something in the way of flesh and vitality. Enclosed find a story of the annual meeting of the Panama Canal Society of Washington, D.C. on October 16th, which is self explanatory. Also, find herewith a poem of mine written for that occasion, and which was placed in the Congressional Record by one of the ablest of Congressmen, Hon. Daniel J. Flood of Penna.

I am now the oldest surviving member of ex-Congressmen. My last birthday was on August 15, 1971 and I have thus entered my 102nd year. You and the other members of the Order in Philadelphia may be interested in the fact that there has been placed in a special room of the Scottish Rite Temple—just across the street from where I live my official papers, photographs and the like—all constituting the Thatcher Collection. One of the spacious rooms of the Temple has been set apart to house the Collection. I hope that you and other members of the ORDER in Philadelphia may, in due time, see the Collection.

I had never expected the award to be thus made, and I am indeed most grateful therefor and feel a sense of humility at the bestowal.

Looking forward to the very great pleasure of seeing you and other members of the Order next June 11, I remain,

Sincerely and fraternally,

MAURICE H. THATCHER.

IMPORT QUOTAS ON STEEL

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1971

Mr. WALDIE. Mr. Speaker, I would like to submit legislation designed to incorporate import quotas on steel. Given the lower cost of production in Japan—I feel such limitations on imports would enable American steel producers a better opportunity to compete in the world market. This bill would provide for the orderly trade in iron and steel products. I am hopeful the Ways and Means Committee will give consideration to what I deem is a very vital issue.

THE AMCHITKA TEST

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1971

Mr. ANDERSON of Illinois. Mr. Speaker, as a member of the Joint Committee on Atomic Energy, I want to take this opportunity to commend the able scientists and engineers who planned and successfully executed the Amchitka nuclear test just 3 weeks ago. Those of us on the committee who were intimately familiar with the careful preparations that went into this test had every confidence in the abilities and capabilities of these individuals and were thoroughly convinced that every precaution had been taken to prevent the type of mishaps which some alarmists warned were inevitable. The fact that the test did go off as planned, without a single hitch, is the greatest tribute to those who worked so hard on this.

At this point in the RECORD, I include a column written by Edward W. O'Brien as it appeared in the November 13–14 St. Louis Globe-Democrat. I think Mr. O'Brien speaks for all of us on the committee in his praise for the Amchitka team, and in his assessment of the importance of the test. I commend his column to the reading of my colleagues:

AMCHITKA TEST REVIVES FAITH

(By Edward W. O'Brien)

WASHINGTON.—It's not stylish to do so these times, but this corner would like to lead some cheers for the government people responsible for the spectacularly successful Amchitka nuclear test a week ago. The officials, from President Nixon down, who had the courage to proceed despite the prophecies of disaster should be saluted for their cool courage.

The legions of scientists and others who planned the shot on paper and then made their plans come true proved to be men and women of great competence and dedication.

No one likes to be accused of threatening the world with an earthquake, a tidal wave, or deadly radioactive fallout. Almost to the moment of detonation of the test, the critics were predicting that these catastrophies would probably happen and that the test must somehow be prevented.

The critics turned out to be completely wrong. There was no earthquake, no tidal wave, no fallout. The test went exactly as planned.

Scarcely a sound has been heard since then from those who were so vocal. Senator Alan Cranston, one of them, went on the radio to exclaim, "They were lucky."

It was a narrow, demeaning comment.

The truth was that this nation is blessed with able scientists whose first consideration in preparing the test was for safety.

They predicted from their calculations that the Richter Scale reading of the blast tremor would be 7.00. It turned out to be 6.99—or practically identical with the prediction.

The Pacific tidal wave warning net was closed 25 minutes after the blast because the ocean waters were normal. No radioactive material escaped from underground, and except for death of one sea otter from a falling stone and a few other inconsequentialities, the environment was not disturbed.

Did the test accomplish any good?

It did indeed, though the intended and achieved benefits have never been mentioned by the critics.

What was achieved was that we proved the theory and construction of the nuclear warhead for the Spartan Missile in our proposed Safeguard Antiballistic Missile System.

The test meant the difference between theorizing that the warhead would work and knowing it for certain.

Possession of an effective ABM warhead is important to much more than our defense capacity. It may well be a key element in reaching an arms-control agreement with the Soviet.

The Russians have a proven ABM warhead. Theirs was tested years ago, in the last blast series conducted before the international ban on testing in the atmosphere.

So they were ahead of us in proven ABM technology. We knew it and they knew it. In the arms-control negotiations, we could hardly expect them to give up or renounce their advantage. They would be trading something for nothing.

Now the two nations are equal in ABM warhead technology, and the prospect of fair arms-control limitation has been enhanced. Some officials believe the Russians are even happy about the Amchitka test for that reason.

Faith in government, we are often told, is no longer justified. Rep. Craig Hosmer, a member of the Senate-House Atomic Energy Committee, who took the trouble to fly to Amchitka and watch the test in 90-mile-an-hour wind and rain, called the event "a technical triumph" which reaffirmed this country's values, traditions, and sense of duty.

The test was supported in advance by President Nixon, the Atomic Energy Commission, a majority of the Congress, and a majority of the Supreme Court. Faith in them was not misplaced.

INAUGURAL ADDRESS OF DR. JAMES ALVIN RUSSELL, JR.

HON. W. C. (DAN) DANIEL

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1971

Mr. DANIEL of Virginia. Mr. Speaker, while the House of Representatives was in recess last week, it was my good fortune to attend the inauguration of Dr. James Alvin Russell, Jr., as fourth president of Saint Paul's College in Lawrenceville, Va.

In seeking similes for the educational community, public speakers often draw a comparison to passing along a torch of learning to those who follow. In a very fitting sense, this comparison holds true for Dr. Russell. His grandfather, James Solomon Russell, served the school as founder and first president. In turn, he was followed in the presidency by James Alvin Russell, father of Saint Paul's new president. And now, following the distinguished service of Earl H. McClenney, Dr. James Alvin Russell, Jr., has been chosen as the college's fourth president.

Saint Paul's College serves a predominately black student body, as it was founded in 1888 to serve this group then excluded from most institutions of higher education. In his inaugural address, Dr. Russell takes note of this fact, but looks beyond the limits of this sole commitment:

> Standards of taste, standards of morality, must be kept alive as one becomes educated, and Saint Paul's uniqueness has been in graduating people steeped in these valuable assets. I am aware that change must come, and I believe in change, but I also believe that there are some absolutes that do not change.

In the belief that my colleagues will find Dr. Russell's inaugural address as inspirational and enlightening as I did, I insert it in the RECORD:

INAUGURAL ADDRESS BY JAMES A. RUSSELL, JR.

I accept the great task of the presidency of Saint Paul's College, and I pledge to you for its fulfillment, my best efforts and total dedication.

I am aware that these are days of crises in education, that these are times when men of great academic stature reject offers to become heads of colleges and universities. I say days of crises in higher education because of the changes taking place in society which infer changes in our colleges to correspond with or complement them. I mention the rejection of the post of president by capable and able men, because the task has been such a formidable one that it is spurned by many, and is often viewed as being more punishing than rewarding. It is said that the nature of the presidency has changed dramatically during the past two decades. For example, during the fifties the college president had to be an educator; during the 1960's he had to be a builder; in the 1970's he must be a crises manager.

Realizing these gruesome aspects, and being fully cognizant of the very dark days which may come into the life of every administrator, I approach serving St. Paul's College with a certain degree of optimism. I feel that here lies an unparalleled challenge, and an opportunity for service to youth, to our church, and to the general cause of education.

Never has education been under closer scrutiny than it is now. Never has so much been demanded of the colleges and universities. And never has there been greater concerted clamor for improvement in education. Yet these are also days of excitement in education, and anyone involved in educational administration is sharing in something which has the potential of taking him through uncharted seas. The journey may be rough in spots, but the frigate must move with the tide of educational change.

In undertaking my duties as Saint Paul's fourth President, I reflect upon the three distinguished men, James Solomon Russell, James Alvin Russell, and Earl H. McClenney, who have preceded me in this high office. I shall continue to benefit from their experiences, and to be influenced by their successes. I shall derive inspiration from them, and especially from the far sighted and lofty minded "adventurer in faith," James Solomon Russell, who was the founder of Saint Paul's College. His faith, foresight, humility, and indomitable spirit shall continually stimulate me to serve St. Paul's with all my heart and mind.

In thinking about the remarks I would make here today, I took the opportunity to examine some of the addresses made on occasions like this. It was fascinating to note the appropriateness of many things said by presidents as many as sixty or more years ago.

As an alumnus of Oberlin College I was particularly impressed by the remarks made by Henry Churchill King about 68 years ago. He referred to the problems arising from the complexities of civilization, aggravated then by recent scientific discoveries. He discussed the objectives and functions of a college, and said that, "colleges had to teach in the broadest way the art of living, to give the best preparation, that organized education can give, for entering wisely and unselfishly into the complex personal relations of life, and for furthering unselfishly and efficiently social progress."

It occurs to me that we are still concerned with the function of the college in a world of complexities. A redefinition of its function and objectives was certainly never more important than it is today. This is indeed the time of change, and educational institutions find it hard to change, frustrating to veer from the old established ways. Time was when the college was thought of as the place for the exploration of ideas, for the search for truth, and for delving into things related to the world of thought. It is not exactly this way now. Today, there are increasing demands upon the college to react to everything occuring in the world, and to also take a leading role in helping to bring about social change. This is indeed a big order. Colleges, nonetheless, are moving into the community significantly; many of their programs extend into community institutions and services. At Saint Paul's College, students will be encouraged to explore and learn from many communities—from local to county, county to state, state to nation, and nation to the world.

In spite of the fact that there is this involvement, and understandably, more will come, let us not lose sight of the fact that the primary mission of the college and university is to educate people, to lead them in the search for truth, so that they will want to improve the world.

I further believe that education at the college should be viewed as a total experience, including not only subject matter and examinations, but also opportunities for students to develop various life styles; to exchange ideas, to have their beliefs challenged, and above all, to have associations with men and women who show in their lives the values of a liberal education.

From the standpoint of the administrator, I believe that we must understand ourselves, our culture, our society, and the realities of on-going life far better than we do. If administration is to be creative, there must be a greater knowledge of and preparation for working with students. At all levels of operation there must be a deliberate attempt to close the generation gap.

When Saint Paul's College was founded, it immediately sought to provide an education for young people who otherwise would not have the opportunity of a higher educational experience. The acceptance of high risk students is therefore, not a new program to St. Paul's. It has always shown great concern for youth with educational obstacles spawned by poverty and discrimination. I take the position that we should continue to help these students, that we must motivate them, provide them with the opportunity to develop intellectually, to improve upon skills which many of them already possess, and give them a chance to develop self-confidence. Failure to do these things would mean that Saint Paul's would be remiss in her duty.

St. Paul's, like other predominantly black colleges, has the unrelenting and complex task of preparing students for participation in a society which is predominantly white, while at the same time the college also has the responsibility of helping young people achieve self identity and cultural pride. But I am constantly aware of the fact that this necessary approach cannot be carried to the extreme, for Saint Paul's College cannot become an advocate of separatism. If it is to become an integral part of the mainstream of higher education, it can do so only by joining forces with all other elements of the population, and move with the tide.

The Federal Government has made it unmistakably clear that its support can only be given to those institutions whose doors are open to all races and creeds. A small private institution can hardly exist without some federal support. Large corporations and foundations adhere to the same philosphy.

At this point, I find it necessary to call attention to the means of securing support for the church related colleges. In the past, they were supported predominantly through individual donors, the churches, small gifts from organizations, small bequests, and student fees. Although financial records show that a sizable amount of a college's income comes from student fees, we must never lose sight of the fact that most of this is funded by the Federal Government through financial aid to students such as loans, work study programs, and other governmental projects. Thus, I say that neither our thinking nor our financial structure can support a narrow racial operation. Saint Paul's must move out into the mainstream, and render a service not only to its present clientele, but to the larger community as well.

It is clear that federal involvement in higher education must intensify. Few private colleges and universities can survive in their present form if federal support is not made increasingly available. In fact, it is generally accepted that without state or federal aid for private institutions, the days of many are numbered, and the viability of others is threatened. Granted that federal assistance may be obtained, that some foundations, and individuals will come to the aid of the private college, all sources of aid will still be interested in those who devise new programs that will meet the needs of the students who for so long have been neglected. These programs must be supported by new teaching techniques and approaches, modern facilities, and multi media devices. All of this must be carried on in a framework of creativity and innovation.

The implications here for faculty members are evident. No longer can a campus be a collection of ivory towers. When teachers remain apart from students and leave them to their own devices, they forget that, as Irwin Edmen has said, it requires a very strong character, tenacity of purpose, and rightness of aim to work in isolation, especially when one is young. Liveliness of mind and acuteness of feeling often disintegrate into nothingness without the discipline of a period of orientation in principles, in intellectual handling of facts; the discovery of the manner in which facts themselves are distinguished from fancies, and the way in which facts are discovered. The thirst for experience is slaked, but not satisfied, if one has not the equipment through which experience becomes enriched with meaning. And the teacher can not provide real meaningful activities from an ivory tower.

I am aware of what it may mean when faculty members pursue the kind of involvement with the students which is implied here. Once they leave their ivory towers they face not only new faculty-student relationships, but require new faculty-administrator relationships for which the president must be prepared. Faculties now want a stronger voice in the governance of the college, and the chief administrator must work in equitable terms with his faculty, rather than attempt to be the sole decision maker, if he is to achieve any kind of success.

The history of the predominantly black college indicates a one man beginning, and one-man control for many years. That day has now passed, and it is absolutely impossible for one person to produce the answers to all problems and situations. He needs, and must be prepared to accept the thinking and help of all of his colleagues. I seek such assistance and support, as we work to produce a more effective Saint Paul's College.

The future of Saint Paul's College is dependent to a large extent on the support of its alumni. It needs their financial support and moral support, wrapped in staunch loyalty. When graduates become concerned about new programs, improved faculty, new buildings, greater and more modern facilities, and increased enrollment—financial drives and recruitment in all areas become simpler processes. In education, as in business, there is no real substitute for the words of a satisfied customer.

I think that alumni sometimes are inclined to forget that they will always be a part of Saint Paul's College, and that whatever the college is or becomes, will flavor their credentials forever.

I have touched on student, faculty, and alumni problems in such a way, I hope, as to indicate an awareness of the depths of our needs. I have not meant to ignore the Board of Trustees and its important role in the operation of the college. A president, without the support of trustees, cannot remain a president very long. Of course, some of the major responsibilities of a Board of Trustees are to help the college establish a proper identity, to help in creating a proper image, to assist in making proper contacts, and to contribute generously of their time and financial resources to the institution. The efforts of the Board and the president must complement each other in a cooperative educational venture.

Much more could be said about the responsibilities of the various segments of the college to the college. Much needs to be said about the responsibilities of the college to the community that surrounds it. In fact, a whole address could be delivered on this important aspect of the institution.

Saint Paul's College was founded to help provide for the community many of the things it needed for growth. It educated the illiterate, it trained the farmers, it offered religious services, it provided social activities, it lifted the sights of the community in every direction. There was no separation then of town and gown. There should be none now, and it will be the aim of this administration to serve wherever needed, and to be available to render assistance whenever possible.

For its eighty-three years of existence, Saint Paul's College has been a church-related institution, and I would like to see this relationship continued. The tendency of the educational institutions today is a drifting further and further away from their historical attachment to the church. It is my opinion, however, that a religious atmosphere can provide a framework in which education can be produced. I believe that it is possible for religious and moral growth to be nourished concurrently with intellectual and physical growth. This is what our very sick world needs now. Many aspects of an education are obsolete before a student completes his four year term in college, and he must learn something new in order to make a living. The significant feature of Saint Paul's over the years has been that the student learned not only to make a living, but to make a life. The college developed standards and established values for which the institution and its members were willing to take a stand. No one was afraid to call anything wrong, or vulgar, or in poor taste, if such was the case. There was developed the kind of courage that seems to be lacking in our current life.

Standards of taste, standards of morality, must be kept alive as one becomes educated, and Saint Paul's uniqueness has been in graduating people steeped in these valuable assets. I am aware that change must come, and I believe in change, but I also believe that there are some absolutes that do not change. I think that one of the requirements of leadership is that the leader gives positive direction to the one he leads. I believe that youth at heart really want this kind of leadership, and I believe that I have courage enough to pursue it.

If the educated man is not willing to express standards, if he cannot show that he applies them, what then is education for? Its purpose, I take it, is to form the civilized man whom I will define as the person capable of the informed exercises of judgment, taste, and values. If at maturity, he is not willing to exercise judgment on matters of policy, or taste, or morals, he is merely saying that his education has been a failure. I hope to make education at Saint Paul's a meaningful experience.

It is a humbling, yet very challenging opportunity to take the reins once held by my forebears, and my immediate predecessor. They captured the spirit of their times and developed a viable institution of their day. In reference to my forebears, I desire to see tasks once begun by them completed, and believe this to be a major aspect of my heritage.

Even in these dark and difficult days, I can see emerging a new Saint Paul's, committed to meeting the needs of the day, and enlarging the scope of its services through the acceptance and development of new ideas and new approaches. As I accept this challenge, I need your good wishes, your assistance, and your prayers.

BIG BUS BILL—"SEEING OVER THE BLIND SPOTS"

HON. FRED SCHWENGEL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1971

Mr. SCHWENGEL. Mr. Speaker, I have repeatedly called to the attention of my colleagues the problem of the blind spots which exist behind our motor vehicles, especially trucks and buses. I am happy to report that it now appears as if some progress has been made, at least with respect to automobiles. A story written by Charles Yarbrough in the Evening Star of November 26th describes the advances which have been made. His article, "Up Periscope" follows my remarks.

With even larger blind spots behind trucks and buses we certainly should delay action on legislation such as the big bus bill until the automobile advances in this area can be applied to buses and trucks.

UP PERISCOPE

(By Charles Yarbrough)

History isn't very precise about how long it took ancient man to decide that something like the wheel might be a handy gadget or how long it took him to fashion a prototype.

But the achievement might parallel modern efforts to come up with an efficient and feasible periscope-type rear view mirror system to "see over" the blind spots in today's automobiles.

Researchers are gaining on it since the government paid X-thousands of dollars for a 1969 study which concluded what every motorist has known for 50 years: Current rear view mirrors are inadequate.

RESEARCH FOR STANDARD

What is admittedly a crude system (when compared with the ultimate) has been installed on 50 government-owned, 1970 Ford Falcons for a year's testing by the National Highway Traffic Safety Administration.

Five are in Washington, ultra-conscious with the mirror housing protruding from the car roof like an oversize taxi sign.

The national testing is research for a proposed safety standard that would require indirect visibility systems to broaden the driver's rear vision.

There are two proposed effective dates, one for 1974 cars, the other, hopefully for a more sophisticated product, due in 1976. It likely will be expensive. Even more likely it will be mandatory.

Cars in the current test period, which runs until next November, are candidates for the 1974 standard and the three-mirror system gives about 60 degrees more rear horizontal vision than conventional mirrors.

The 1976 goal is at least 82 degrees.

First reaction in driving with the periscope is a bit startling. It is a view the driver might get if he could look into the overhead and side mirrors at the same time. Long-accepted blind spots are still there, but getting smaller.

SCOPE WITH FAIRING

In some phases, the thinking is way ahead. The exterior mirror on the roof is equipped with defroster and de-icer. The interior has a day-night filter; the fittings are breakaway type in event of an accident and the glass is tempered to minimize shatter.

The test system in use here and in seven other areas of the country was developed for the Safety Administration by Donnely Mirrors, Inc., of Holland, Mich., under a $25,000 contract.

Elsewhere, research is reaching reality in experimental safety cars from AMF and Fairchild-Hiller, both of which have a more sophisticated rear view concept, including a design which fairs the exterior scope into the roof line.

Next step in the overall project will be contract award for the 1976 requirements and at least 82 degrees of rear vision. Field testing of both the '74 and '76 concepts, plus those on the experimental safety vehicles will, hopefully, give the government the fore-and-aft vision needed.

FOR THREE-EYED DRIVER

Over the years, from the early days of the Indianapolis Speedway where the rear view mirror was first used, there have been many attempts to solve the "blind spot" problem.

Curved mirrors had built-in distortion. Side mirrors supplementing the one over the windshield, required a three-eyed driver.

There have been some logical versions of the periscope-type from private citizens who, apparently couldn't get enough important ears to listen.

Recent news dispatches told of a Wichita, Kan., mother who fashioned a convex mirror arrangement on the rear of the car to supplement the standard rear-view reflector to avoid striking her children when she backs out of the garage.

She's applying for a patent.

There are few motorists among us who haven't on more than several occasions, been tempted to leave nasty little notes under the windshield wiper of the car which uses more than its share of precious parking space—or perhaps deserved one ourselves?

Anonymously now, comes an authentic-like "ticket"—a "Citizen Parking Violation."

It says in part: "This is not a ticket, but if it were within my power, you would receive two.

"Because of your bull-headed, inconsiderate, feeble attempt at parking, you have taken enough room for a 20-mule team, two elephants, one goat and a safari of pygmies from Africa.

"I sign off wishing you an early transmission failure (on the expressway at about 4:30 p.m.)."

THE PROBLEM OF NOISE POLLUTION

HON. EDWARD J. PATTEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1971

Mr. PATTEN. Mr. Speaker, although air, water, and land pollution seem to get almost all of the attention and publicity in the fight for pollution control, it was gratifying to read an excellent article by Marilyn Ballas, staff writer of the Home News, of New Brunswick, N.J., in an outstanding and thought-provoking article called, "Noise Pollution—It May Be Too Late Already If You Can't Hear It."

It is one of the best articles I have read on this important and complex problem and I am pleased to include it in the CONGRESSIONAL RECORD with the hope that we increase our knowledge and understanding of noise pollution. Because I am one of the cosponsors of a noise pollution control bill, I have an unusual interest in Miss Ballas' newspaper article, but I would also like my colleagues to read it.

The article follows:

NOISE POLLUTION—IT MAY BE TOO LATE ALREADY IF YOU CAN'T HEAR IT

(By Marilyn Ballas)

The world is growing louder at the rate of one decibel a year. If you can't hear it, you already may have suffered some hearing loss.

And because it's the nerve cells in the inner ear that are affected, the damage is permanent—no hearing aid will help, no surgery will set things right.

But the worst part of noise-induced hearing loss is that it can go for so long undetected. The sounds you can't hear are at a high pitch of 4,000 cycles. Conversational speech ranges from 250 to 2,000 cycles—so you can hear your friends well enough, at least at first. There is some trouble in distinguishing the sounds, but it is easy to blame that on faulty diction. Your ears are all right, or so you think.

Noise pollution is a modern phenomenon, created by the products of our technological age which surround us in our home, in our office, on our streets, throughout our community and our world. Grinding, whirling or rattling away are power lawn mowers, riveting machines, electric music devices, combustible engines, jet engines, vacuum cleaners, dishwashers.

Look around you. Or rather, listen around you. The pollutants are there.

Some noises are so constant, you never hear them anymore. Others are simply annoying. But many are downright dangerous to our physical and emotional health.

Dr. Raymond M. Manganelli, professor of environmental sciences at Rutgers University, considers noise "another insult" upon man from today's environment.

"We are constantly disturbed by noise, the constant intruder, Manganelli says, and he stresses that hearing loss is not our only concern.

The assault noise makes upon man's nervous system may affect blood pressure and psychological well-being, Manganelli says. Studies are now being made in these areas.

Dr. Antoine Attalla, Board of Health director for Woodbridge, where a noise control code is being proposed for adoption, concurs.

"Noise pollution is something relatively new to man," Attalla says. "With the introduction of a modern technological advancement—the machine—noise has become a real threat to man's health and safety."

Noise, generally defined as "unwanted sound," causes the blood vessels to constrict according to Attalla; it may increase the secretion of gastric juices, which in turn may cause or aggravate an existing ulcer; and may cause, as well as aggavate, existing neuroses.

Dr. Alvin I. Glasgold, a New Brunswick physician specializing in the ears, nose and throat, reports he sees an average of two new patients a week suffering from noise-induced hearing loss. This number includes students, many of whom are members of marching bands, and persons from industry.

"That the most susceptible hearing loss is at 4,000 cycles is good in that you do not miss much at such a high pitch," Glasgold says. "But it is bad because you are not aware your hearing is being damaged through noise."

An early sign of hearing loss caused by noise, the physician continues, is "tinnitus," or ringing in the ears.

The inability to distinguish between sounds, and a temporary "deafness," or shift in threshold, immediately after exposure to loud noise, are other early symptoms.

While the percentage of his patients suffering from noise-induced hearing loss is low, Glasgold still considers the problem a "catastrophic occurrence," largely because the biggest sufferers are among the teen-age population.

"Psychiatrists are aware that lots of noise pollution is disturbing," reports Dr. Sydnor B. Penik, director of research and associate medical director at Carrier Clinic in Belle Mead, and associate professor of psychiatry at Rutgers University.

"We are going to have to regard noise as just as much an invasion of privacy as trespassing," he continues, but adds no one has yet shown the exact relationship, "the one-to-one factor," of noise and emotional disorders.

"One of the early complaints of psychiatric patients is that noises sound louder, are more bothersome, Penik explains. But the available data according to the internist-psychiatrist, shows only that noise may aggravate existing conditions rather than create emotional problems.

This is an area, he says, in which a great deal of study remains to be done.

According to Joseph J. Soporowski Jr., associate extension specialist in environmental sciences at Rutgers University, noise pollution is primarily a problem for industry and government agencies.

Soporowski, who breaks noise down into two categories, industrial noise and community noise, says considerable advances have been made in the area of industrial noise control, but community noise has been seriously neglected.

"A lot of people don't realize what noise pollution is all about," Soporowski continues, warning:

"We'll find ourselves in the same situation—in about eight years—as the community now finds itself in the areas of air and water pollution, if something isn't done.

"If we take action on noise now, we can minimize undesirable effects in the community," he says.

"Young people with their music . . . This is what got me started," Soporowski explains.

Soporowski, who with Manganelli has been working in the area of noise pollution at Rutgers for about four years, feels the most important step now "is to get something on the books. The idea is to start with some thing that is reasonable and then improve it."

Manganelli agrees that the key to turning off noise in the community is legislation—at local, state and federal levels.

And the only legislation these men feel will have the teeth to be effective is that which cites specific decibel readings, rather than the vague "nuisance" specifications which characterize so many existing noise codes.

Manganelli, says noise can be controlled at three points: At the source, along the path, and at the point of reception.

The last, which includes ear plugs and ear muffs, is the least desirable, Manganelli says, because such methods may block out very necessary sound of warning and interfere with communication.

Many new products, Manganelli explains, can be made quiet. A dishwashing machine was developed, he illustrated, that did not make any noise at all. But it was rejected. The housewife wants some noise, if just a quiet purr. It indicates to her that the machine is working.

But for the most part, he says, products make a great deal of unnecessary noise which manufacturers must be forced to eliminate, and he argues that this will be done through legislation.

DEMON DECIBEL OBJECT OF PROPOSED LAWS

What is a decibel?

It is a unit for measuring the relative loudness of sounds. Ordinary speech is 40 to 60 decibels, based on a zero decibel reading, at which audibility begins.

There are several scales for measuring sound, but the most commonly used is the A scale, which gives greater weight to high tones more likely to be annoying or harmful to the human ear.

A rock group might produce music which could run as high as 120 decibels A (120 dBA), which is described as "painfully loud."

This compares with the 90 dBA maximum sound level for an 8-hour duration allowable under the Walsh-Healey Act of 1969, which first set the national safety standards. The act itself, originally applied only to workers on government contracts, since has been extended to every worker in interstate commerce.

But the community at large, as well as many industries, do not fall under its jurisdiction.

Permissible noise exposures under that standard, based on the maximum noise levels man can tolerate before suffering physical damage, range from 90 dBA for an 8-hour duration to 115 dBA for no more than 15 minutes. The act also provides that no sound, no matter how fleeting the duration, should exceed 140 dBA.

What other legislation exists to control noise?

In New Jersey there is the Occupational Noise Exposure regulation adopted in May as part of the N.J. Worker Health Safety Act.

Identical in its standards to the Walsh-Healy Act, it applies to all manufacturing industries in the state, as well as to some wholesale businesses, warehouses and large retail stores.

It does not affect offices, schools, retail stores with less than 10 employees, nor the agriculture industry.

Two bills are pending before the state legislature. An Assembly bill, passed by that house and on its way to the Senate, would give the state commissioner of environmental protection the power to adopt and enforce new standards for noise control.

Assemblyman Kenneth Wilson, R-Essex, is sponsor of this bill, which directs the state environmental agency to hold public hearings from which it would set its standards. A Noise Control Council of experts would be created to advise the commissioner. Violators would be fined up to $3,000.

Sen. Raymond H. Bateman, R-Somerset, and Sen. Harry L. Sears, R-Morris, are sponsors of an administration bill which would give the commissioner the sole regulatory power.

The latter bill is broader in its provisions, but both are aimed at "community noise"—that heard outdoors on public or private property—and deal with such things as noise from industrial plants, construction equipment, and trains, aircraft and other vehicles.

Local communities also are beginning to write tougher, more specific and more enforceable noise control codes.

Woodbridge is the first community in the Middlesex-Somerset county area to upgrade its noise regulations. Joseph Wukovets, the township's chief sanitary engineer, said he went about working on a code in response to specific complaints from residents. He realized, he said, there was not already something on the books to eliminate bothersome sounds effectively.

The proposed code would set maximum decibel readings on various noise sources, with lower levels in effect at night.

Dr. Antoine Attalla, township Board of Health director who worked with Wukovets in preparing the proposed code, said it would set the limits, empower investigations and set penalties.

The proposal has yet to go before the Township Council.

In Chicago, new noise regulations went into effect July 1, setting maximum limits allowable under law immediately, and in most instances lowering permissible sounds for the future.

Motorcycles, for instance, now have a noise limit of 92 dBA, but must be down to 75 dBA by Jan. 1, 1980.

Primarily, the regulations are aimed at vehicles and agricultural and construction equipment. There are also limitations on noises from buildings, with measurements to be taken at the boundaries of the lot.

Chicago's code further makes a violation "any vibration that can be felt beyond the property line in any zoning district, whether manufacturing, business, commercial or residential."

Similar legislation is pending in New York City, where the proposed code is now in the process of public hearings.

Proposed by Mayor John V. Lindsay, the 49-page code would set specific noise level standards and empower the administrator to place various noise-making devices on an operating certificate list, which could be revoked or suspended.

Under the proposal, refuse trucks built after Dec. 31, 1972, could operate no louder than a vacuum cleaner, and sirens could make no more noise than midtown traffic.

Sound level readings

[In decibels]

10 feet away from rock drill	130
Discotheque	120
2,000 feet from jet taking off	105
Subway station with train coming in	95
50 feet from a moving heavy truck	90
Noisy kitchen in city	85
50 feet from a highway	70
Quiet conversation	60
Quiet rural night	30
Threshold of hearing	0

Prolonged exposure to sound between 85 and 115 decibels will begin to cause hearing loss; limited exposure to sound over 115 decibels will cause hearing loss.

VOTING PATTERN IN THE UNITED NATIONS

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1971

Mr. DERWINSKI. Mr. Speaker, there is a great deal of discussion as to the voting pattern which occurred in the United Nations on the question of Chinese representation. Since a number of votes were taken, interpretations vary depending on the vote used in any given analysis. As a delegate to the United Nations for the 26th General Assembly session, I am convinced that the key vote was on the important question. Therefore, in preparing the following analysis, I have used that vote.

Mr. Speaker, when the United Nations organization voted on the resolution to make the expulsion of Free China and the seating of Communist China in its place an important question, almost half of the members eligible to vote were nations that secured their independence since World War II.

The vote on the crucial issue was 59 to 55 against making the substitution of Red China for Free China an important question, with 15 abstentions and two absences. Of the new nations, 25 supported the position of the United States and 27 opposed it; nine abstained and one was absent.

Mr. Speaker, in order that my colleagues will be fully informed regarding the tremendous power that these new countries have in the international body, power that can be used for good or for evil, I am submitting three tables for inclusion in the RECORD. The first lists the nations that lined up with the United States on the key vote, the second those who opposed us, and the third those that did not participate in the vote.

The table follows:

THE FOLLOWING NATIONS SUPPORTED THE UNITED STATES ON THE VOTE

Nation	Date of independence	Area in square miles	Population in thousands
Bahrain	1971	250	207
Barbados	1966	166	260
Cambodia	1953	69, 898	6, 701
Central African Republic	1960	236, 293	1, 518
Chad	1960	495, 753	4, 000
Congo (ex-Belgian)	1960	905, 563	17, 100
Dahomey	1960	43, 483	2, 640
Fiji	1970	7, 055	519
Gabon	1960	102, 089	485
Gambia	1965	4, 005	357
Ghana	1957	91, 843	8, 600
Indonesia	1949	735, 865	116, 000
Israel	1948	7, 993	2, 822
Ivory Coast	1960	127, 520	4, 195
Jamaica	1962	4, 411	1, 959
Jordan	1946	37, 500	2, 160
Lesotho	1966	11, 716	930
Madagascar	1960	228, 000	6, 643
Malawi	1964	36, 100	4, 398
Mauritius	1968	720	800
Niger	1960	489, 189	3, 750
Philippines	1946	115, 707	37, 158
Rwanda	1962	10, 166	3, 500
Swaziland	1968	6, 704	410
Upper Volta	1960	105, 869	5, 278
Total		3, 873, 858	232, 390

THE FOLLOWING NATIONS OPPOSED THE UNITED STATES ON THE VOTE

Nation	Date of independence	Area in square miles	Population in thousands
Algeria	1962	919, 591	13, 349
Burma	1948	261, 789	26, 980
Burundi	1962	10, 747	3, 475
Cameroon	1960	183, 581	5, 680
Ceylon	1948	25, 332	12, 240
Congo (ex-French)	1960	132, 046	880
Equatorial Guinea	1968	10, 852	286
Guinea	1958	94, 925	3, 890
Guyana	1966	83, 000	742
Kenya	1963	224, 960	10, 506
Kuwait	1961	6, 178	570
Libya	1951	679, 358	1, 869
Malaysia	1963	128, 430	19, 583
Mali	1960	464, 000	4, 881
Mauritania	1960	419, 231	1, 140
Mongolia	1945	592, 664	1, 240
Nigeria	1960	356, 669	63, 870
Pakistan	1947	365, 529	132, 000
Sierra Leone	1961	27, 699	2, 512
Singapore	1965	225	2, 034
Somalia	1960	246, 201	2, 730
Southern Yemen	1967	112, 000	1, 220
Sudan	1956	967, 500	15, 186
Tanzania	1961	363, 708	12, 926
Trinidad and Tobago	1962	1, 979	1, 040
Uganda	1962	93, 981	9, 500
Zambia	1964	290, 586	4, 208
Total		7, 062, 761	354, 537

THE FOLLOWING NATIONS (EXCEPT MALDIVES, WHICH WAS ABSENT) ABSTAINED ON THE VOTE

Nation	Date of independence	Area in square miles	Population in thousands
Botswana	1966	275, 000	629
Cyprus	1960	3, 572	630
Laos	1949	91, 429	2, 893
Malta	1964	122	318
Morocco	1956	172, 834	15, 050
Qatar	1971	8, 000	100
Senegal	1960	75, 750	3, 780
Togo	1960	21, 850	1, 815
Tunisia	1956	63, 378	5, 027
Maldives	1965	112	108
Total		712, 047	30, 350

WEEKLY REPORT TO NINTH DISTRICT CONSTITUENTS, NOVEMBER 15

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1971

Mr. HAMILTON. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the text of my Weekly Report of November 15, in which an account is given of the State dinner for India's Prime Minister, Indira Gandhi, at the White House. Mrs. Hamilton and I were among seven Senators and Congressmen and their wives to be invited to the November 4 formal affair.

The report follows:

WASHINGTON REPORT

EDITOR'S NOTE: This week's Washington Report is Mrs. Nancy Hamilton's account of the State Dinner for India's Prime Minister, Indira Gandhi, at the White House. The Hamiltons were among seven Senators and Congressmen and their wives to be invited to the formal affair.

Attending a White House formal dinner is quite literally like stepping out of one world into another—I from the bustle and exuberance of a young household and Lee from the debate and deliberation of the House of Representatives into the pomp and pageantry of a State Dinner.

Since the House was in session, I drove from our home to Capitol Hill with Lee's tuxedo for a quick change and a dash to the White House. We were admitted to the White House grounds after being identified as guests by White House guards and were greeted by music from the Navy band, playing on the balcony of the South Portico. Passing two Marines at attention at the ground entrance, we again showed our admittance cards before going into the Oval Room to check our wraps.

Moving upstairs to the main level of the White House, we were first given a diagram of the seating arrangements at a large, E-shaped banquet table, each with the guest's place indicated. The red-coated Marine band was playing in the Grand Foyer, where we waited to be announced to the growing number of dinner guests assembled in the East Room.

While the President and Mrs. Nixon met privately with Mrs. Gandhi in the First Family's upstairs living room, we talked with several members of Mrs. Gandhi's party. A receiving line was formed, with husband preceding wife, and trumpets then announced the entrance of the Presidential Party. The President, in formal attire and looking straight ahead, entered with Mrs. Nixon, in a camelia pink evening gown and Mrs. Gandhi in a pomegranite red sari. They followed a color guard into the room as the band played "Hail to the Chief."

Each guest was introduced, first to the President, who in turn introduced Mrs. Gandhi. Mrs. Nixon greeted each warmly, recalling that we were from Indiana, the native State of the President's mother.

Guests included the President's daughter, Mrs. David (Julie) Eisenhower, Henry Kissinger, Secretary of State William Rogers, Supreme Court Justice Potter Stewart, Senator John Cooper of Kentucky and Mrs. Cooper, Arthur Burns, Chairman of the Board of the Federal Reserve System, U.S. Ambassador to India Kenneth Keating and several high ranking military officials and their wives.

The State Dining Room was a dazzling display of white tablecloth, gold candelabra, golden bowls filled with flowers of white, salmon and yellow. The table was set with the Johnson china of the wildflower design. I was seated with Secretary Elliot Richardson of the Department of Health, Education and Welfare, and Congressman John W. Davis of Georgia. Lee was seated with Mrs. Frank Church, wife of the Senator from Idaho, and Mrs. Gerard C. Smith, wife of the director of the U.S. Arms Control and Disarmament Agency.

The menu included a first course of Quenelles de Brochet en Vol-en-Vent (fish and white sauce in a pastry shell), Supreme of Pheasant Veronique (pheasant with white grapes), wild rice, asparagus au Beurre, bibb lettuce and Port de Salut cheese, and for dessert Mousse Glace au Praline (ice cream with a pecan sauce) and petits fours.

After dinner, the President rose to toast Mrs. Gandhi, speaking warmly of her father, the late Prime Minister Nehru and praised her for continuing his leadership. Mrs. Gandhi responded with an urgent plea for support for her country's struggle for stability.

The guests then moved to the Green and Blue Rooms for coffee and we spoke with Mrs. Gandhi, relaying a message from our son, who earlier in the day had taken part, with his sixth grade classmates in White House greeting ceremonies for the Prime Minister.

The guests were then seated in the East Room for an impressive program of ballet and folk singing. At the conclusion of the program, the guests waited while the President and Mrs. Nixon bid goodbye to Mrs. Gandhi. I returned Lee to Capitol Hill, where he returned to his legislative duties until the House adjourned at 3 a.m.

RHODESIAN CHROME ORE

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1971

Mr. EDWARDS of California. Mr. Speaker, I would like to commend to the attention of my colleagues the following editorial which appeared in the New York Times on the 12th of this month. The editorial wisely points out that the recent amendment to the military procurement bill that requires the United States to unilaterally breach the United Nations sanctions invoked against Rhodesian chrome ore may have grave international effects.

The editorial follows:

[From the New York Times, Nov. 12, 1971]

UNITED STATES AGAINST THE CHARTER

In cavalier fashion the House of Representatives has now joined the Senate in approving an amendment to the military procurement bill that would deal a savage blow at the United Nations and place the United States in flagrant violation of its pledges. The provision would require Washington to breach unilaterally the sanctions twice invoked by the United Nations Security Council against the white racist regime in Rhodesia.

Specifically, the amendment would eliminate as of Jan. 1 the President's authority under the United Nations Participation Act of 1945 to ban importation of Rhodesian chrome so long as imports of that metal from the Soviet Union were allowed. It would have the effect of invalidating the executive orders issued by President Johnson to enforce the Security Council decisions.

Despite the valiant effort by Representative Donald M. Fraser of Minnesota to alert the House to the consequences of its action, there is no evidence that the majority had the faintest idea it was voting in effect to send the U.N. down the ruinous road traveled by the League of Nations when member states unilaterally breached the sanctions it tried to impose on Fascist Italy in 1935.

This result owes much to a well-financed Rhodesian lobby which has exploited shrewdly the racism of Southern Senators and Congressmen, the anti-Communist sentiment on Capitol Hill, the current hostility to the U.N. arising from the expulsion of Taiwan, and the wrath of importers forced to pay inflated prices for Soviet chrome. It was no accident that the Senate champion of white minority rule in Rhodesia was Harry F. Byrd Jr., a relic of the diehard fight for preservation of white domination in Virginia.

Much of the blame rests with the White House, which talked privately with conflicting voices on the issue but made not a single public gesture to sidetrack the amendment. Both Mr. Fraser and Senator Fulbright insisted that the Administration opposed the amendment; but the only evidence was a letter signed by an Assistant Secretary of State. The Republican leaders in the House voted for the amendment.

It is not yet clear whether the bill in final form will leave the President any loophole—if he wants one—for avoiding outright defiance of Security Council resolutions which this country supported. But if Mr. Nixon's inaction on this issue is an example of his Southern strategy it is clear that the price—further erosion of the U.N. and the stigma for the United States of violating the U.N. Charter—is much too high.

TEXAS MARITIME ACADEMY

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1971

Mr. TEAGUE of Texas. Mr. Speaker, under leave to extend my remarks in the RECORD, I wish to include an article which appeared in the January 1971 magazine Sealift, a publication of the Military Sealift Command relating to the Texas Maritime Academy. The maritime academy was established as an integral part of Texas A. & M. University in February of 1962, and since that time has contributed greatly to the furtherance of the State of Texas in maritime activities.

The article follows:

TEXAS SERVES THE GULF COAST

(By Alfred R. Philbrick)

Texas Maritime Academy was established in February 1962 as an integral part of Texas A. & M. University. Establishment of Texas Maritime Academy was by authority of Texas Legislature acts in 1931, 1959, and 1961, and also, by the Federal Maritime Academy Act of 1958. Under the above authorities, an agreement was executed between the governor of the State of Texas and the Maritime Administration, Department of Commerce, wherein the Federal Government provides a suitable training ship, $75,000 each year toward the academy operation, funds for the yearly seaworthy repairs of the training ship, and a subsistence grant of $50 per month to each student in the program.

The state provides adequate facilities, faculty, and staff necessary to conduct a course of training for future officers of the U.S. merchant marine.

Maritime academies have been in existence for over 75 years and are well known in other parts of the country. The Texas Maritime Academy is one of six in the United States. Maine, Massachusetts, New York, and the U.S. Merchant Marine Academy are all located on the Atlantic seaboard. The California Maritime Academy serves the maritime industry on the Pacific coast. The Texas Maritime Academy is the only maritime school dedicated to serve industry on the Gulf coast.

Texas, with its large number of salt water ports, is second only to the ports of New York State in total tonnage handled by water. The maritime activities of Texas are growing. When we consider not only the deep water shipping, but the towboat and barge activities on the network of existing waterways with additional waterways planned, the movement by water to and from the offshore petroleum activity, the upward trend of the petrochemical maritime activities, and the fishing activity, it is apparent that Texas is a major maritime state with more of its future related to the steady growth of maritime activities.

Wheat, cotton, other agricultural products, forestry products, and other related commodities of the inland areas of Texas find their way to the ports for further transportation.

In 1963, the Texas Maritime Academy shifted to Galveston, where a portion of Building 311 of old Fort Crockett, now belonging to the marine laboratory of Texas A. & M., have been temporarily converted for its use. In 1965 and 1966 with increased enrollment the freshman classes returned to Texas A. & M. In 1967 and 1968, the sophomore class also returned to Texas A. & M., while the junior and senior classes were quartered on the training ship Texas Clipper.

Mission of the Texas Maritime Academy is to provide a course of training that will qualify the graduates as officers in the U.S. Merchant Marine with an educational background to meet the increasingly technological demands of such service. A supplementary objective is to qualify its students for a commission in the U.S. Naval Reserve.

Two courses of study are offered—marine engineering and marine transportation. Each course consists of four years of college and professional education. Upon successful completion of the prescribed course of study and three sea training cruises, the graduates will receive a bachelor of science degree from Texas A. & M. University in marine engineering or marine transportation.

Upon graduation the student is qualified to take the Coast Guard examination for third mate or third assistant engineer in the merchant service. The courses referred to above are supplemented with a course of study in naval science. This course serves as a supplement to qualify the graduate for a commission in the U.S. Naval Reserve.

Of the types of colleges and universities of this country, a State maritime academy is distinctly unique in that its graduates are qualified to be third mates or third assistant engineers on vessels in our U.S. Merchant Marine and have proved this qualification by not only the studies and practical training pursued, but by passing a Federal licensing examination.

Present enrollment of the Texas Maritime Academy is about 135. With a waterfront campus on Pelican Island, where the academic buildings are adjacent to the ship, it will be relatively easy to make extensive use of the ship as a laboratory and to also use it as a dormitory and dining hall. The ship can house approximately 200 students. By 1980, after facilities are expanded, the academy will be able to handle a total of 600 students on the Mitchell Campus.

TEXANS MOURN THE DEATH OF PORTER RANDALL

HON. O. C. FISHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1971

Mr. FISHER. Mr. Speaker, the late Porter Randall was one of the most remarkable men I have ever known. He recently expired at the age of 56. By radio and personal appearances, he was known in practically every Texas home. He was blessed with a magnetic voice, and his delivery commanded attention and respect. Few if any men in his time have equalled his achievements as a radio personality, and he was universally admired for his unique news coverage and comments.

Porter Randall will be missed by millions. His deep concern for people and their enlightenment made of him a legendary figure in his lifetime. He loved life and with his remarkable talents made the most of it. There is simply no way to fill the void he has left.

Under leave to extend my remarks, I include an Associated Press report of the passing of Porter Randall. The article follows:

"This Is Porter Randall" Will Be Heard No More

Fort Worth, Tex. (AP)—Porter Randall, a newsman widely known to Texas radio listeners, died early today of a recurring illness. He was 56.

He had been heard since 1941 on Fort Worth's KFJZ and the other 130 stations of the Texas State Network.

Many Texans could recall hearing his voice at the end of World War II as he read the names of Texas soldiers returning home. Randall had spent hours learning where and when the troopships would land so he could give relatives of servicemen from Texas some idea when their boys would be back.

He was an accredited war correspondent for the Army, Navy, Marine Corps and Coast Guard.

In 1949 at the invitation of the secretary of the Air Force, he toured Europe and visited every air base in the British Isles, elsewhere in Europe and in Africa interviewing Texas servicemen and broadcasting messages home to their families.

Randall was known for a slow and deliberate style of news delivery, and his low, booming voice was heard on radios in restaurants and other business places, in homes and in cars. For many, he was the day's alarm clock.

He was a graduate of the University of Missouri school of journalism.

Before coming to Fort Worth, he worked for the Kansas City Star and for radio stations in Missouri, Kansas and Oklahoma. He was heard for a time on the Forth Worth station formerly known as KGKO.

On several occasions the globetrotting Randall circled the world, and he made annual trips to Tahiti, the Orient or Africa. The resulting travelogue shows were seen by thousands.

It was not unusual for Randall to fill more than 300 speaking engagements within a single year.

He also found time to be a bandsman, Little Theater actor, professional magician, public speaker, tour director, world traveler and newsman for millions, Porter Randall is dead at the age of 56.

President and general manager Stan Wilson of the Texas State Network said, "Porter Randall will be sorely missed by the Texas State Network organization and the millions of Texans who heard his daily broadcasts."

Funeral services will be held at 2 p.m. Monday at Fort Worth's First Presbyterian Church.

Survivors are his widow; his mother, Mrs. Charles Randall of Kansas City; a son, Michael, Fort Worth; and a sister, Mrs. Preston Russell of Kansas City.

ALCOHOLISM COMMITTEE

HON. FRED B. ROONEY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1971

Mr. ROONEY of Pennsylvania. Mr. Speaker, I recently testified before the Appropriations Committee for funds to assist the 9 million of our citizens whose destiny is directly related to the tragic problems of alcoholism, and the additional 36 million of their family members who are also affected. The problems stemming from alcoholism exact massive and inexcusable human loss, create a $15 billion annual loss to our economy, and are related to at least 87,000 deaths annually. Our present inadequate treatment facilities are overwhelmed by almost 1,000 new cases of the disease daily.

On November 16, 1971, a labor-management seminar on employee alcoholism programs was held in Pittsburgh by United Mental Health, Inc.'s Alcoholism Committee. Pittsburgh ranks as third highest home base for corporate headquarters in the United States. Representatives of both labor and management, including United States Steel, Alcoa, Gulf, Westinghouse, Jones & Loughlin, as well as the Steelworkers, Electrical, and Teamsters Unions were in the audience.

At the request of the National Council on Alcoholism, I extended an invitation to Assistant Secretary of Labor Richard J. Grunewald to be the keynote speaker at the luncheon that day. His analysis of the problem and the steps that must be taken to solve it by labor and management was outstanding, and I invite my colleagues' attention to his far-reaching remarks:

Assistant Secretary R. J. Grunewald's Remarks

It is obvious indeed that all the many efforts of many ecology minded people here in Pittsburgh—to clean up the air, for example, have really paid off. I have been so impressed that my opening, slightly off color story, will go untold. I want no one to be able to accuse me of dirtying up Pittsburgh's air.

We are all aware of certain problems in the economy but I had no idea how serious they are. On the way in from the airport, I observed an unusual sight. I saw someone throw a bone out of an upstairs window to a pack of dogs below. That may not be so unusual. What was unusual, however, was that the dog nearest the descending bone signaled for a fair catch. And what's more unusual, the other dogs observed it.

I was then convinced that although we may have problems, others are concerned about them and are doing something about them.

To our subject—Alcoholism. I must first congratulate both the labor and management people here in Pittsburgh for the leadership they are showing in attacking this very human health problem. The erection of a care center to help the alcoholic is a major step in leadership that I am sure others will follow.

I've come here today as a member of a management team at the U.S. Department of Labor which, among its tasks, has the job of trying to deal in its programs with unemployment and underemployment problems of some one million people every year.

That is a lot of people. Yet even among the already employed, there are several times that number who are ill with alcoholism. The estimate by the National Council on Alcoholism, that five percent of the labor force are alcoholics, means that there are some four million people in this category. If just 10 percent of those are recovered—a generous estimate—that leaves 3.6 million who are unrecovered. Assuming a conservative 25 percent of average annual pay as the loss or cost to the employer, we get a total cost of $6.7 billion to the Nation's employers. So employers have a real stake in solving this problem.

And these are conservative estimates: A recent government report establishes a prevalency range for Federal employees for four to eight percent: The higher end of that range, if applied to all private as well as public sectors, would almost double the figures I've just cited.

The real loss to me, however, must be expressed in human terms. We have a national loss in personal health, productivity and in the suffering of alcoholics, their families and co-workers.

Yes, this is a national health problem and a national productivity problem. Labor and management have a unique mutual interest in increasing productivity by means of improving workers' health. The desire of an employee to hold his job has been found to be a key to convincing him to begin rehabilitation. Rehabilitation leads to increased productivity. It's as simple—and profoundly important—as that—and yet very complex.

An all-out attack on alcoholism by labor and management could make a major contribution towards improving the personal health, well being and economic productivity of this Nation. However, positive action has been slow in coming over many years. Perhaps it is because the problem has unique facets—here are just a few of them:

It is like the iceberg. We see only the surface, yet its depth and breadth are immense—perhaps we think it is the other fellow's problem—or that it belongs beneath the surface—hidden away.

The alcoholic is probably working, his productivity is down, his buddies cover for him—yet he is sort of on the job—yet ill—unlike other disadvantaged people.

The alcoholic may know he has some kind of a problem, is an expert at maneuvering to his advantage, and usually does not call for help.

Whether we appreciate it or not, we are in the middle of the problem—working with many partially productive, ill and untreated people—who need our help and don't ask for it. A unique and perplexing situation.

Some of you may have read Yale Professor Charles Reich's (pronounced Rike) book, *Greening of America*, in which he sees our young people leading the rest of the Nation into a new, more direct and open lifestyle which he labels *Consciousness Three*, in contrast to the rather repressed Consciousness Two of their fathers, and the Puritanical and self-righteous Consciousness One of their grandfathers.

If you'll permit me to apply Professor Reich's labels to attitudes toward alcoholism, I would say that a few people are still stuck in the stage of Consciousness One—Puritans who see the devil whispering tempting descriptions of the depraved life into the Alcoholic's ear. Most of labor and management, I suspect, are still in the rather uptight stage of *Consciousness Two*—not pointing self-righteous fingers, but rather pushing the whole business aside and hoping it will go away. *Consciousness Three is where you are*, I hope—confidence enough of your ability to deal with alcoholism as an illness, that you can afford to open your eyes to the problem; and—though you may not be wearing bell-bottom trousers—making every effort to bring the rest of industry and labor along with you.

There have been management attempts in the past to break through these barriers but even when employers decided to do something about alcoholism, they were sometimes naive. Many "firm, frank talks" took place, often ending with the employee either denying he drank, or else with the supervisor feeling, "my God, if I had your problems I think I'd drink too." Since there were no policies using the threat of job loss to force employees to begin rehabilitation, the matter often ended there.

The missionary approach of some employers in the past was often resisted by unions who didn't particularly want to be saved. Alcoholism programs were sometimes seen, mistakenly or not, as an all-out-war against social drinking, not just against alcoholism. And this suspicion was sometimes confirmed by some punitive, puritanical employers who used the program as a way of getting rid of employees.

These attitudes have shifted sharply in a number of corporations and unions in the past few years. These changing attitudes mirror, first of all, the progress of American medical and other institutions in seeing alcoholism as an illness. Moreover, through education, the mass media, and through the experiences of family and friends, many laymen have come to acquire, if not a sophisticated understanding of alcoholism, at least a recognition of who needs help. Increasing numbers of our industrial corporations are managed by such people, and they are critical to success in this area.

The second major reason behind these changing attitudes is the development of effective human resources policies. Many employers *already* have in place an effective mechanism for training supervisors to supervise. These firms can successfully add on a training program in alcoholism.

Dramatic change in the attitudes of many unions has also taken place in the last few years. The AFL–CIO Community Services department is committed to helping alcoholic employees recover, as are the Steelworkers and other unions. In programs such as that sponsored by Allis Chalmers, and the UAW, absentee rates went down, from 8 to 3 percent, with substantial savings to the company.

Pittsburgh itself clearly is on its way to becoming a leader for the Nation, in its joint-labor-management efforts. As mentioned at the outset, I have been informed of the Gateway Farm extended-care facility which is opening in January based on joint support by corporations, foundations, and labor. This is a remarkable example of leadership and cooperation—hopefully to be emulated in other parts of the country.

An NICB study provides clear evidence that joint labor-management programs are more effective than the unilateral company programs which were found to predominate among the firms surveyed. For such a bilateral approach to work, the study noted three key factors: (1) the union should be involved at the earliest possible state; (2) there should be constant communication with the union as the program develops; (3) the cases of members brought to the unions' attention should be well documented.

Of course, even if these steps are taken, there may be problems. The union may be just as convinced as management that threatening the employee's job is the only way to break through his resistance to rehabilitation. Yet a union leader may stop right there and say, "Yes, but. That's fine on paper, but we can't stand by and watch you fire Johnny even though he has refused to enroll in, or dropped out of, the alcoholic treatment center." The management could throw up it's hands and say "The heck with it." All this presents a difficult dilemma and I do not believe there is any magic solution to the dilemma. Yet many of you in this room are witness to the fact that the problem can be solved. Such successful resolution, however difficult, I would suggest, often flows from five basic factors:

The first is a must commitment to solve the problem and a flexible attitude on the part of management. This management commitment will be taken with the firm belief that only with a healthy, working employee will his productivity and costs be at their best. Initial resistance by employees and the union at cooperation should not be met by a "Let's leave-it-alone" attitude on the part of management, but rather with a recognition that with a positive management program, the union will soon realize that successful employee rehabilitation can be hampered by the union's not being involved. The realization will surely come as more and more problem employees are identified, and more and more documented evidence is filed. And some successes are achieved.

The second factor is a recognition by management that the union will on occasion revert to its traditional role of job protector when it feels it must resort to that role. I refer here to a case where, in the unions judgment, a valid grievance may be mixed in with any given case on alcoholism.

The third factor involves both a recognition and a commitment on the part of the union. The union must first recognize the seriousness of the problem to the worker, his family, his co-workers and his job security. With such recognition, the union will, I am sure, make the serious commitment to play an active role in the employer's program which addresses itself to the very same set of concerns. Here for sure, joint management and labor unity will bring not only strength, but great success and rewards to everyone.

The fourth factor is the recognition by both union and management that the criteria for the employee's dismissal should be poor job performance, and nothing else. There is, I believe, justification for resisting a policy which bases dismissal on an employee's refusal to accept treatment. Only if he both continues to reject treatment and continues to perform poorly should sanctions be taken. What I am saying is that there are employees who, upon finding out that their job is at stake, will seek help and recover—on their own.

The fifth factor, a contract clause on alcoholism policy, may not result until the first four are dealt with. Such a clause can be the seed which bears fruit in the form of specific joint actions taken afterwards.

The following clause, which I think is a good one, appears in a growing number of contracts between the United Steelworkers of America and various companies:

And I quote: "Without detracting from the existing rights and obligations of the parties recognized in other provisions of this agreement, the company and the union agree to cooperate at the plant level in encouraging employees afflicted with alcoholism to undergo a coordinated program directed to the objective of their rehabilitation."

NOW FOR SOME RECOMMENDATIONS FOR JOINT ACTION

I have dwelled at such length on resolving underlying differences in the attitudes of labor and management, because changing such attitudes is so critical to getting any meaningful program off the ground. Now, however, I would like to mention some specific actions that might be taken once labor and management decide to launch a joint effort.

First on the list is written company and union policies

I would suggest that each party establish policy, hopefully a joint policy, which recognizes the following: that alcoholism is an illness which is treatable; that the purpose of the policy is to assure employees with alcoholism the same medical resources that any ill employee gets; that concern with alcoholism is strictly limited to its effects on job performance; that administrative procedure will give the employee a reasonable chance for recovery; that continued poor job performance will lead to dismissal, as with any other poorly performing employee.

Second, education and training of supervisors and shop stewards

Both parties can gain much here. One point I would stress here is that supervisors and stewards should not be so "finely trained and tuned" that they feel they can diagnose the illness. It should make no difference to them, for example, whether poor job performance is due to drugs or alcoholism—what is called for is training which will help the supervisor make a medical referral of employees whose unsatisfactory work seems to result from a medical or behavioral problem. Similar training will help the steward understand the problem when such a referral must have his consideration.

Third, assuring that employees with alcoholism are covered by company insurance policies

Joint efforts have already resulted in many plans which consider alcoholism as a disease and pay the same benefits as for other major illness.

There is also growing acceptance of alcoholism as a disease by such nonprofit hospital and medical services as Blue Cross and Blue Shield, as there is by commercial carriers and by states having disability insurance programs.

These facts are important for both sides to know. If alcoholism is *not* treated as an illness under existing insurance plans, there would seem to be little difficulty in fixing this or finding carriers with more progressive policies. More important, all parties, including not at least of all the alcoholic, will certainly be able to think more clearly about needed rehabilitation once aware of such eligibility.

Fourth, joint attention to working conditions

Disagreeable working conditions, monotonous jobs and oppressive heat, noise and air pollution, can be associated with industrial alcoholism. Under the recently enacted Occupational Health and Safety Act, the U.S. Department of Labor has the responsibility for minimizing unsafe and unhealthy conditions. A new, united thrust in this area by labor and management would not only improve overall productivity but could have beneficial side-effects on the alcoholism problem.

Fifth, joint efforts to influence public policy in developing new community resources

As many others have observed, management, and labor too, have the most effective motivational tool known to date in dealing with alcoholism—the desire of the employee to hold his job. The recovery rates of 65 to 70 percent which offices and factories are citing puts labor and management in a critical position not only in terms of dealing with this disease, but also in terms of influencing public policy toward its treatment.

A first priority, I would suggest, is to review the availability of community resources with an eye to increasing them. Alcoholics Anonymous clearly stands out among the very positive resources used in the past, and AA has done and is doing a valiant and effective job. But we clearly need an added dimension of community commitment and treatment if we are serious regarding a major push in this area.

How can new facilities and resources be developed, especially those geared to the working employee, rather than to the image of the unemployed skid-row bum who needs the drying-out tank?

Two steps seem critical. One involves the creation of a major new thrust by labor and management to influence positively public and private policies. Such a thrust will result in the expanded treatment of problem drinkers—in medical facilities, psychiatric agencies, social work and rehabilitation agencies, and physicians offices, and in the creation of other needed facilities and services.

Clearly this is the kind of task which cannot be restricted to organizations in the alcoholism field. Labor and management jointly can bring a lot of muscle to bear on this issue and bring about the necessary change.

Another step involves the recently enacted Federal legislation establishing a National Institute on Alcohol Abuse and Alcoholism. The Institute is extremely interested in proposals from industry and labor for alcoholism prevention and control programs.

One approach the Institute is considering is matching grants to labor and management. This would include the establishment of multi-employer programs—especially useful for smaller employers, which pool training and other resources. An opportunity is there to pursue.

Congress's decision to sharply increase the Institute's budget to more than $80 million this year matches the increased momentum of labor and management in attacking the problem.

In conclusion, there is certainly every reason to believe that we are on the threshold of a serious attack on a very human, medical, economic, and social problem, by combined public and private forces, which is unique in the history of our country. And I thank you for the opportunity to give my thoughts today, to you who are leading that attack.

FOREIGN IMPORTS

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1971

Mr. WILLIAM D. FORD. Mr. Speaker, it was with shock and dismay that I read a UPI release recently quoting a U.S. Senator, a former Republican nominee for the Presidency, that foreign cars are selling so well in this country because they are "far superior" to American-made cars.

The Senator reportedly said:

> American cars are made shoddily. The doors don't work. The tires don't go beyond 10,000 miles. The brakes don't work. Cars made overseas are far superior.

At a time when unemployment is widespread, and our balance-of-payments deficit is dangerously high due in large part to foreign imports, it smacks of gross irresponsibility for a public official to make such a blatantly unfair and inaccurate statement.

The Senator went on to blame high wages and poor craftsmanship for the situation, and predicted a "national calamity unless labor's power were balanced."

As a Representative from a State which is the recognized automobile center of the world, I must take public issue with the Senator's statements, which are unfair to the working men and women who produce American automobiles.

If American-made cars are losing ground to foreign imports, who is to blame?

Let us examine, in order, the Senator's charges of high wages, poor craftsmanship, and excessive labor power.

The wage picture must be examined in comparison with productivity and with the sales price of the finished automobile. Edward N. Cole, president of General Motors Corp., in a speech before the Society of Manufacturing Engineers on April 25, 1971, commented that—

> Increased productivity of manufacturing operations matched or exceeded increases in the cost of labor from 1945 through 1965.

During this 20-year period, hourly labor costs rose from an average of $1.13 to $4.31—an average annual increase of 6.1 percent. Productivity increased at an equal or higher rate during this time, according to Cole.

Since productivity increase matched or exceeded the wage increase, there was no justification for any increase in automobile prices as the result of higher wages. Automobile prices, however, more than doubled from 1945 to 1965. The blame obviously does not lay with wage costs.

So far as poor craftsmanship is concerned, the Senator must realize that automobile assembly lines have long since passed the point of requiring craftsmanship. We are not living in an era of handmade goods; that period has given way to technology and automation. Does the Senator really expect assembly line workers to develop a high degree of craftsmanship in tightening a bolt, welding a fender or fastening a headlight lens?

The idea of blaming "excessive union power" for shoddy cars is even more ludicrous.

United Auto Workers' contracts with the auto manufacturers give the company exclusive rights and responsibilities in design, engineering, equipment, processes of manufacturing and assembling, control of raw materials and finished parts, and complete jurisdiction over product and quality standards.

If there is any shoddiness in American automobiles, the Senator must look to management, not labor, for the blame. I am not prepared to concede, however, that American cars are shoddily built, or that foreign-made cars are superior.

Foreign-made autos are selling well in this country because they are smaller and less costly. American car manufacturers have not really considered the desires of the American car buyer. A General Motors spokesman, E. M. Estes, stated recently that 94 percent of all cars produced outside the United States are smaller than the GM Vega, one of the "compact" autos offered by U.S. manufacturers as an alternative to foreign imports.

The American manufacturers have good reason to fight the trend toward smaller cars. There is more profit in larger cars. For this reason, the automobile companies have continued to make bigger and more powerful cars, and American streets, highways, and garages have been adopted for the bigger models.

As a result, however, the American-made cars have been priced out of their one-time foreign markets, and are meeting strong competition at home from the smaller import models.

There is one further point that should be made. Complaints about American cars are not primarily about poor workmanship; they center on poor service after the car is sold.

James Roche, General Motors board chairman, told a meeting of New York State dealers recently that automobile makers are going to have to improve service to car owners if the industry is to survive on a private, competitive basis.

Mrs. Virginia Knauer, the President's special assistant on consumer affairs, has reported that most of the complaints received by her office are based on dealer service failure rather than on manufacturers' failures, Roche said.

He suggested that dealers should compel their service departments to pay as much attention to communicating with customers as their sales departments do.

It should not be necessary to add the final point that American car manufacturers are competing with foreign companies which pay far lower wage scales than those enjoyed by Americans. This wage differential is a major factor in the lower prices, and hence higher sales volume, of foreign cars in the United States.

I hope, Mr. Speaker, that the points I have raised may help set the record straight as to why foreign cars are selling so well in the United States. It is not because of poor craftsmanship, excessive wage increases, or the power of labor unions.

And I might add that this problem will not be solved by public officials who capitalize on the situation by using it to vent their pet peeves against labor unions and the American working man and woman.

NATURAL GAS SUPPLY CRISIS

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1971

Mr. MURPHY of New York. Mr. Speaker, the New York Public Service Commission has issued an order placing a number of restrictions on sales by gas utilities within the State.

The order was not unexpected. It is the result of an investigation launched in mid-1970 to determine whether such restrictions would become necessary because of the natural gas supply shortage.

They have become necessary.

The Commission's order, which is already in effect, prohibits gas service to any new customers—other than one-family and two-family homes, and separately metered apartments—unless such customers have alternate facilities which can be used when necessary, or intend to use the gas for commercial or industrial purposes for which there is no economically practical alternative, or are served by a distributor with sufficient firm supply commitments to meet the needs of all of its customers for at least 2 years into the future.

In determining the adequacy of a gas utility's supplies for the future, the Public Service Commission warned that it will not rely merely on contractual commitments by pipeline suppliers. Instead, it will examine these contracts and require evidence that the pipelines have sufficient gas to meet their commitments.

The order also limits incremental service to existing customers. If delivery cutbacks become necessary, the following order of curtailment has been established: First, customers served on an interruptible basis; second, customers with dual fuel capacity attached after October 26, 1971; third, other customers with dual fuel capacity; fourth, other industrial customers; fifth, commercial customers; and sixth, residential customers.

Utilities in the State have been instructed by the Public Service Commission to stop all promotional activities designed to acquire new gas customers or increase sales to present customers. This ban extends to advertising which employs mass media, all bill inserts or other direct mailings, and all calls by salesmen.

Mr. Speaker, the necessity of the step taken by the New York Public Service Commission cannot be questioned. Not one of the three major gas pipelines which supply the New York metropolitan area has been able to obtain any additional new supply for this year, and none expects to have any new supply available next year. Two of these suppliers, including one which provides more than 75 percent of the total supply, already have informed the Federal Power Commission that they will have to impose 3 or 4 percent curtailments on deliveries during the coming winter.

The situation existing in my city and State is duplicated in many other areas. The Nation is up against a severe natural gas supply shortage.

This shortage has come about not because of any lack of potential gas reserves in the United States, but because the incentive of investors and producers to search for and develop these reserves has been gravely weakened by the uncertainties attending such undertakings. Some uncertainties are, of course, inherent in the nature of the business of gas production, but others are the result of regulatory policies followed by the Federal Government.

These policies make it impossible for a gas producer selling to an interstate pipeline to know for sure what price he will receive for his gas. That is the case even though the price has been approved by the Federal Power Commission. He does not know how long he will receive an agreed-upon price. Nor does he know how much gas he will be required to deliver under his contract or how long he must continue to make deliveries.

H.R. 2513, which I introduced last January and which has been the subject of hearings before the Interstate and Foreign Commerce Subcommittee on Communications and Power, gives Congress an opportunity to clear up some of these uncertainties. It would do so by making producer-interstate pipeline contracts valid and binding once they are approved by the Federal Power Commission.

H.R. 2513 has been called a sanctity of contract measure, and that is an accurate description. It does not propose decontrol of the gas producing industry. All major new contracts for interstate sales of gas will still have to be approved by the Federal Power Commission before they become valid. And, of course, the Commission will continue to have the authority to disapprove any contract submitted if it sees fit to do so, or can make its approval subject to stated conditions.

The bill does not—and cannot—of itself increase gas prices. It simply makes firm those prices once set or approved by the Commission. By doing so, the legislation will encourage producers to step up their efforts to find and develop new sources of gas supply.

Experts estimate that 60 percent of the gas reserves of the United States, onshore and offshore, remain to be discovered. It is of vital importance to the consumers of our Nation that an intensive search be made for the abundant potential reserves. Enactment by Congress of H.R. 2513 would encourage such a search and lead to the development of new gas supplies large enough to meet our national needs for many years to come.

For the sake of my district and State and of other areas depending upon this essential fuel, I urge that H.R. 2513 be passed by the Congress as expeditiously as possible.

NATURAL GAS SHORTAGE HITS WASHINGTON

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1971

Mr. PICKLE. Mr. Speaker, the natural gas supply shortage has hit the Nation's Capital.

The Washington Gas Light Co. announced that no new gas customers except single-family residential consumers, can be accepted now and for an indefinite time into the future. However, the District of Columbia government has challenged the gas company's decision to restrict apartment buildings and other commercial and industrial users to their present gas usage. Regardless of how the gas company is allowed to distribute its gas the point is still there that there is not enough natural gas available in the District of Columbia to meet the demand.

It is somehow appropriate that the gas supply shortage should be felt in the city in which the policies responsible for the shortage originated.

For the last 15 years, the regulatory policies and procedures of the Federal Power Commission have been steadily wearing away the incentive for gas producers to find and develop the potential reserves which geologists declare exist in abundance.

Gas producers not only have suffered the economic injury caused by unrealistically low prices at the wellhead as set by the FPC but also have had to operate in a sea of uncertainty regarding the validity of their sales contracts with interstate pipelines.

Even after the Commission approves such a contract, the producer does not know how long he will receive the price for his gas stated in the contract. It can be reduced by subsequent order of the Commission. The FPC also has the authority to alter contract delivery terms. The producer simply does not know where he stands even after approval by the Commission of a contractual agreement between him and an interstate pipeline company.

In such an atmosphere, it is not surprising that producers and the financial community have come to feel it is hardly worthwhile to engage in the costly business of searching for new supplies of gas. That is why exploratory activity has declined so drastically in recent years. And that is why the natural gas supply shortage has developed.

Washington, D.C. joins a long list of cities and States in which the shortage is now being felt. Similar gas limitations have been imposed by utilities in Pennsylvania, Ohio, New Jersey, Michigan, and Illinois. Some firms have waiting lists for all would-be new customers. The New York Public Service Commission has ordered utilities to give residential customers first claim on gas service.

The situation cannot be expected to improve unless and until the producer is given sound economic reason for looking for and developing new gas fields.

That reason can be provided through changes in Federal regulatory policies. This city, which is now included among those in which restrictions on the use of gas have been placed in effect, is the place where such changes can be made.

One essential change can be made through enactment of H.R. 7144 by Congress, a proposal not to decontrol the gas producer, but to give validity to his contracts with interstate pipelines. Committee hearings have been held on H.R. 7144 with testimony showing beyond any doubt that the gas supply shortage exists now and is extremely serious. The bill should be passed into law during the present session of Congress.

I include as part of my remarks a story from the Washington Star of November 9, 1971, which gives details about restrictions placed on gas sales in this area:

GAS COMPANY PLANS TO LIMIT NEW SALES

(By Harriett Griffiths)

The Washington Gas Light Co. announced today it plans to limit new gas sales to single-family residential consumers because of the shortage of natural gas.

For an indefinite period, the company said, apartment buildings and other commercial and industrial users will be confined to present gas usage. No new customers in these categories will be accepted.

Paul E. Reichardt, company president, said the shortage is not simply a local situation. He said most pipeline suppliers are having trouble meeting growth requirements and contractual commitments to gas companies.

Reichardt said the supply situation "can change at any time, for better or worse, depending on many factors."

The action announced today is to assure an adequate supply for present customers, a company spokesman said.

Washington Gas Light's major supplier, Columbia Gas Transmission Corp., announced last month it will be able to supply only enough gas for present customers and a portion of normal growth, the announcement said.

In addition, Transcontinental Gas Pipe Line Corp., the other supplier for Washington Gas Light, recently has been unable to deliver as much gas as contracted by the company, Reichardt said.

These circumstances forced the limitation policy here, Reichardt said. Formal approval is being requested from area regulatory commissions.

NOT ENOUGH GAS

Reichardt explained that there is "plenty of natural gas in the ground," but not enough at this time for all who want it. He said there probably would not be sufficient availability for the next few years.

"Faced with this situation, we're doing what we consider the fairest thing—making it available to present customers and to people who want it for use in their home," he explained.

"Commercial and industrial buildings can more readily use substitute fuels, and large users can better arrange for the pollution-control devices which other fuels often require."

Reichardt went on to say that from the ecology standpoint, natural gas is "by far the least polluting of all fossil fuels and much sought after."

USE UP, SUPPLY DOWN

"Ironically," he said, "The big jump in demand for natural gas has come at just the time when new supplies are trending downward."

He attributed the reduced supply largely to the contention that "prices of natural gas in the producing fields in the past have been kept unreasonably low by regulation."

The gas company here has limited new business since April, 1970, to a maximum of 300,000 cubic feet per customer per day, which has eliminated the largest potential new users of gas.

In addition, since August, the company has taken on no additional business on its "interruptible" rate schedule—a special rate designed for commercial and industrial customers who agree to stop using gas when demand from other customers is at a peak.

Donald Crotsley, executive secretary of the District Public Service Commission, said WGL's petition for curtailing its new sales had not been received yet. He said normal procedure would be for the commission to hold hearings on the company's request to decide if the move is justified.

Washington Gas Light said that limitations are also operating in parts of Pennsylvania, Ohio, New Jersey, Michigan and Illinois. It said many utilities now have waiting lists for new customers, and the New York State Public Service Commission recently established its own priorities, with residential customers given first claim.

BEFORE IT IS TOO LATE

HON. LOUIS C. WYMAN

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1971

Mr. WYMAN. Mr. Speaker, I regret the show of hostility to President Nixon by President Meany of the AFL–CIO in Miami. I deplore a national union policy that deliberately seeks to take its union membership along a partisan political road—for one political party and against another, be it Democratic or Republican.

This Nation must check inflation. President Nixon is fighting to do this, trying to help protect the purchasing power of workers' dollars by holding the line against runaway prices and wages. These are only self-defeating in the long run.

For this effort an American President should be commended by the workingmen and workingwomen of America, not stubbornly opposed by a few classically hostile union bosses, jealous of restraints upon their autocratic powers.

The membership of the AFL–CIO would be well advised to insist that its leadership abandon any union policy that alines it with the Democratic Party or the Republican Party. Instead it ought to look for merit in the policies and programs of both major political parties and work to improve those aspects on which there may be disagreement. It should avoid single-party alinement as it would the plague.

Why?

Because for the sake of America we should be partners before it is too late. There is plenty of room for all, plenty of land, plenty of open space, plenty of opportunity for management and labor alike in this land. But if we do not get with it in terms of productivity and lower unit costs, we are going to find our products outpriced all around the world.

In this connection I commend a careful reading of the excellent message from the Warner & Swasey Co. appearing in the current issue of U.S. News & World Report, pointing out that in a prosperous Japan, the government, the unions, and business are partners, not antagonists.

IN PROSPEROUS JAPAN, GOVERNMENT, UNIONS AND BUSINESS ARE PARTNERS—NOT ANTAGONISTS

And that's why they are all three so prosperous.

The Unions hold rallies to spur their members on to better work, greater productivity. Workers jog from entrance to machine, job to job. They do calesthenics on their lunch period, to keep fit for better work. They literally consider themselves a team, with team spirit.

Government sets taxes to encourage company profit and growth.

Business is alert to the needs of the market and quick to invest in modern equipment to improve products, increase productivity, cut costs and prices.

All this results in a spirit of what we used to have here and called teamwork. And we had better get it back if we ever hope to get our jobs back.

Japanese wouldn't understand our antagonism between government, unions, business which some people call our Adversary Democracy. But whatever you call it, the antagonism between the groups here who should be partners is so increasing American costs and prices that it is shifting hundreds of thousands of American jobs to hard-working, low-cost Japan.

REVOLUTIONARY CHANGES IN THE NATION'S LARGEST BUSINESS

HON. JOHN M. ZWACH

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1971

Mr. ZWACH. Mr. Speaker, I come from a predominantly agricultural district so it is natural that my people are vitally concerned over the debate in the Senate in regard to the confirmation of Earl Butz as Secretary of Agriculture.

Mr. Speaker, we have grave troubles in countryside America. The people are leaving the farms because they cannot make a living on them and as a result we see our rural communities dying because it takes farm business to keep them alive.

This is a vicious circle because these people leave the farms for the already overcrowded cities where they are pyramiding the problems of our urban centers.

Nick Kotz, writing in the Washington Post on Monday, November 29, dealt at length and with considerable knowledge on this whole problem and especially as it relates to the nomination of Earl Butz as Secretary of Agriculture.

As Mr. Kotz says, this is not just a Republican problem, it has been a continuing problem through the past three Presidencies.

For the benefit of those who might have missed this article, I would like to insert it in the Record and recommend its reading to all of my colleagues:

The Butz Nomination Focuses Attention on Revolutionary Changes in the Nation's Largest Business

(By Nick Kotz)

The sudden controversy over Dr. Earl Butz's nomination as Secretary of Agriculture has its obvious political aspects. It also focuses rare national attention on revolutionary changes in the nation's largest business, its food supply system. These changes are having profound effects on the fate of rural America, as well as on congestion in our cities.

The obvious opposition to Butz is explainable in terms of partisan Democratic politics, of farmers' unhappiness with low corn prices, and of the nominee's role in the 1950's as an assistant to Agriculture Secretary Ezra Taft Benson, whose name still raises farmers' blood pressure. Butz is such a convenient political target that some Democratic strategists are actually worried that his nomination will be defeated by the Senate. They'd rather have him around for the 1972 election.

But another explanation is needed for the spontaneous and intense grass roots farmer hostility against Butz, a man most farmers never even heard of until this nomination two weeks ago. The issue goes far deeper than the genial, 62-year-old appointee and the exigencies of partisan politics, Butz simply symbolizes a force in the changing food supply system that many farmers have come to regard as their oppressive economic enemy.

A thumbnail sketch of Butz's career marks him to the farmer as a representative of "agribusiness"—a descriptive word that wasn't around a few years ago. For the farmer, agribusiness means all the other elements in the food supply chain that are highly organized and represent big business: the national retail food chains, the giant national food processors, and the conglomerate companies that perform an interrelated series of functions in the food system.

The farmer has seen these other segments of the food supply system consolidate their economic power while he—even as his numbers have dwindled by millions—remains unorganized and relatively powerless in the marketplace. The agricultural marketplace has changed radically and farmers wonder whether traditional laws of supply and demand function anymore. In bygone years, many buyers competed for the farmer's produce. But the middle-man and the open competitive market now have virtually disappeared. For example, Safeway and A&P buy lettuce directly from the fields of California, and farmers say such companies' huge purchases set the market price.

Most disturbing to the farmer, the giant firms in agribusiness now are vertically integrating their business, combining and performing many steps in the land-to-market production of food. Ralston Purina Co. and other feed manufacturers now own, feed and process poultry for sale to supermarkets. The once independent farmer has been left with only a sharecropper's role of caring for and feeding Ralston Purina's feed to Ralston Purina's chickens. Similar integration is now planned for hogs and cattle.

In short, American agriculture has become more and more like other big business—increasingly dominated by conglomerate companies and administered prices. Even, efficient, large-size family farmers find themselves isolated at the bottom of the food chain—forced to supply cheap raw materials to the economic giants above them.

Against this background, Earl Butz steps in and Clifford Hardin steps out as Agriculture Secretary in a do-si-do that totally confirms the farmer's perceptions about how things really are.

Hardin started out as an agricultural economist, became an "ag school" dean, served as a land grant university president, became Agriculture Secretary and now departs to become vice chairman of Ralston Purina, taking a seat on its board of directors being vacated by Butz after 13 years.

Butz also started out as an agricultural economist, served as a Purdue University department head, became an assistant agriculture secretary under Benson, then returned to Purdue where he ran the agriculture school, while serving on the board of four agribusiness corporations—Ralston Purina, Stokely-Van Camp, International Minerals and Chemicals, and J. I. Case. The energetic Butz also found time to make 100 speeches a year, mostly in the employ of the General Motors Speakers Bureau, to serve on various agribusiness-financed foundation boards, and to take an unsuccessful 1968 fling at winning the GOP candidacy for governor of Indiana.

Knowledgeable farm observers in Washington are convinced that an actual Hardin-for-Butz swap was engineered by a few executives and lobbyists from agribusiness.

In political terms, the Butz-for-Hardin trade indicates that the White House has little understanding of the rising populist resentments of farmers and small town businessmen. The merchants watch their towns dying, as more and more farm houses are boarded shut, and as the new conglomerate farmers buy their supplies wholesale from the factory rather than from local stores.

President Nixon and the Republicans are not unique in their failure to respond to these growing rural concerns. The Democrats have not performed all that differently. With either political party, the economic power of agribusiness has far more political clout than farmers have, except where they have joined in giant, corporate-like co-ops. When Butz was questioned by the Senate Agriculture Committee, Senator Hubert Humphrey (D-Minn.) made much ado about farm prices and the farm programs of Ezra Taft Benson. But he did not touch on the agribusiness ties of Dr. Butz. Agribusiness companies and their executives have been among Humphrey's major political supporters.

When Dr. Butz said there would be a million fewer farms in 1980 than there are today, he was merely agreeing with estimates of USDA's economists. The nation lost a million farmers under Benson and another million under Orville Freeman and neither official was to blame, or could do anything about it, said Butz. It is not politic to say such things and silence about hard truths has obscured what is really happening.

Much of the decline in the nation's farm numbers has probably been unavoidable. Industrialization, scientific developments, and new economic arrangements made it inevitable that millions would fall by the wayside.

The central issue for national policy today, however, should be whether this trend will be permitted to continue to the point where rural America becomes a wasteland, devoid of people, except for those farmers who serve agribusiness factory farms as feudal serfs. The continuing depopulation of rural America adds greatly to urban problems.

Dr. Butz, along with most persons making farm policy today, regards present farm trends as inevitable and representing "progress."

If the nation decides, however, that it cannot afford too much more of this kind of agricultural progress, then it will have to pursue far more radical policies than those which both Democrats and Republicans have addressed to the "farm problem."

The price support and acreage retirement programs historically have served the interests of the wealthiest farmers, rather than millions of small family farms.

If the efficient family farmer-businessman is to survive, he will need far more help than just another farm program. Farmers need legal authorization for collective bargaining power similar to that now held by labor unions. Small farmers and farm workers need financial and technical assistance to organize co-ops. Farm workers need unionization to win a living wage. Antitrust laws will have to be applied vigorously against agribusiness firms that try to monopolize a farm commodity or food system. The government will have to direct its vast food purchasing power toward the family farmer, rather than as a subsidy to agribusiness.

Government and university officials will have to break up the cozy triangular arrangement in which government and land grant colleges serve agribusiness and neglect other rural interests. The career of Dr. Butz at Purdue typifies this arrangement, but it is not unusual, except perhaps for the number of his corporate directorships. Agribusiness firms put money into the land grants for research that will directly benefit themselves, and the universities and federal government eagerly cooperate. Too often forgotten are the needs of family farmers, farm workers, and rural communities.

The nation also will have to bring more than political rhetoric to the concept of "rural development," which is now being served up as a magical alternative for those displaced from agriculture.

The President's proposal to replace present rural aid programs with several billion dollars in revenue sharing would represent scarcely a drop in the bucket to meet needs of the vast rural expanses that lack services and jobs. As an alternative, the Senate Agriculture Committee is pushing a rural development bill, but the question is seldom asked: development for whom? A Johnson administration idea for rural development in Mississippi included creation of a vegetable industry in which wealthy cotton planters would be the growers and processors. Farm workers and small farmers who share in this plan would have $1.30 an hour picking jobs vegetables and $1.60 an hour jobs in the processing plant. But even such rural development schemes as these have been few.

The last three Presidents have talked in generalities about the need for rural development and population balance. It will take a lot more to bring prosperity back to rural America than merely to defeat the nomination of Earl Butz.

MORE ON THE CONFIRMATION OF HOWARD P. MACE AS AMBASSADOR TO SIERRA LEONE

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1971

Mr. ASHBROOK. Mr. Speaker, for several months I have followed the case of the nomination of Howard P. Mace, the former Director of Personnel at the State Department, as Ambassador to Sierra Leone and have inserted in the Record on various occasions pertinent material relating to this issue. In hearings before the Senate Foreign Relations Committee recently several witnesses questioned the selection of Mr. Mace or recommended further inquiry into his stewardship as Director of Personnel. To date, Senator Fulbright's committee has not voted on the Mace nomination, a situation which has caused some State Department employees or retirees to petition Congress in Mr. Mace's behalf. One such letter states:

> I speak, sir, not only in my own behalf as a career officer having served our government for 28 years, but also in behalf of literally hundreds of my colleagues in the State Department with whom I have spoken about this sad tale of injustice placed upon Howard Mace—an honorable man, a kind man, an able man and one beloved by superiors and subordinates all through this Department of ours.

In contrast to the above, a letter also addressed to Senator FULBRIGHT from a former Foreign Service officer reads in part:

> This man is widely and infamously known throughout the Foreign Service as "The Executioner." He is being rewarded for having faithfully carried out within the Department of State a personnel policy of duplicity and cynical expediency almost without parallel in our era.

The above two statements emphasize the element of controversy which has delayed the Mace confirmation. The charge is made that those opposing his confirmation are dissidents who are endeavoring to make Mr. Mace the scapegoat of their displeasure with "the system." On the other hand, two recent items in the press added fuel to the controversy with Time magazine in its November 15 article, "The State Department—Undiplomatic Reforms," stating in part:

> As director of personnel for four years, Mace was the source of much of the department's interior turbulence. He was known behind his back as the "executioner," the man primarily responsible for the selecting-out process. Officers also noted that under his aegis men with high diplomatic potential were often bypassed for plush jobs in favor of men little experienced in diplomacy from his department.

The second item appeared in the Des Moines Register of November 8 and gives in capsule form some of the cases of employees whose experiences accentuate the necessity for an overhaul of the State Department machinery on a comprehensive basis. The Register article will be inserted at the end of my remarks.

One of the cases mentioned in the Register article is that of John Hemenway, a former FSO who was given the axe by State officials and who appeared before the Foreign Relations Committee on the Mace nomination. Mr. Hemenway's own grievance hearing is now in progress before a hearing panel at State wherein he seeks to prove that his retirement from the Department was unjust and arbitrary. Mr. Hemenway tried for over 2 years to appeal his case to State officials, Mr. Mace included. In his November 28 letter to Senator FULBRIGHT, with a copy to my office, Mr. Hemenway reiterates his objections to the Mace confirmation and outlines in brief the latest activities of State in petitioning Congress.

I insert at this point the Hemenway letter followed by the Register article of November 8:

WASHINGTON, D.C.,
November 28, 1971.

DEAR SENATOR FULBRIGHT: On 22 November, Mr. Howard Mace stated over a Washington TV station (Channel 9, interview with Caroline Lewis, 6:40 pm) that, if people would take the trouble to examine the facts, he would look a lot better than "some of his detractors" depict him as looking. In that interview he said:

MACE. "I think that it is very unfair that the controversy over me is largely based on statements, allegations, innuendos of people who have not succeeded in the system, who place the blame for that lack of success on me." (Taken from official tape provided by Channel 9.)

Accusations I made against Mr. Mace in public before your Committee are easily capable of proof. The accusations I have made and others have made are quite specific. Independent witnesses have given parallel testimony. That testimony has not been refuted in public. The charges are supported by documents on public record. Details were made available in the Congressional Record of October 1, 14, 15, 20, 21, and 28, inserted by Congressman Ashbrook of Ohio. Surely members of your Committee will not want to vote Mr. Mace's confirmation matter out of Committee until they can assure individual Senators that the charges made have been fully investigated and a judgement is made public on the evidence. I personally testified that Mr. Mace was not fit for any ambassadorial post in the diplomatic service, because I knew, in addition to his general lack of qualifications for such high office, that:

Mace has not told the truth under oath at official hearings; my own grievance hearing, which he tried to suppress, is a case in point;

Mace deliberately withheld documents for two years from the Hearing Committee in my case—the first in the history of the US Diplomatic Service—and conspired with others to obstruct due process (see my letter to Senator Fulbright of 21 November, copies to Committee members with unclassified internal State Department documents enclosed implicating Mr. Mace);

Mace has faked official explanations and back-dated records;

Mace has broken regulations at will which he promulgated;

Mace has dispensed false and unearned honors;

Mace has arbitrarily and unevenly administered the Foreign Service and practiced nepotism and special payoffs for friends and has administered the Service with rigid personal handling;

Mace illegally attempted to manipulate (he fired the chairman) the only procedures offering "in house" relief of injustice; failing that, he acquiesced in abolishing the regulations providing that relief.

Mr. Mace said to Caroline Lewis over Channel 9 that he wanted the facts examined. Let the Committee have the record speak, because Mr. Mace did not take up a single fact during that interview. He did not even mention how he obtained that interview. It is a fact that Mace contacted Caroline Lewis' brother, who is junior to Mace at the Department of State, to ask for it—a most unusual way for a senior official to seek out an interview unless that official intended to influence the media. The Department of State, after all, has a large staff for public relations. Such an approach, under the circumstances, is calculated to put the junior employee in an embarrasing position, were his sister not to oblige.

Further, Mr. Chairman, you and your Committee have known that plans were under foot to stimulate a letter-writing and petition campaign ever since publication of an unclassified internal State Department memorandum to Mr. Macomber revealing details of a staff meeting in which the Mace confirmation was discussed (Congressional Record of 21 October, p. 37400). You will not be surprised, therefore to learn that considerable untoward pressure has been applied to some employees in the "O" area in an effort to put the "spontaneous" message before you that Mr. Mace ". . . is a man of integrity, decent, honorable, and kind . . ." to use the words of the petition.

However, even you and your Committee may not know the extent to which these petitions have been rigged. The common origin of the petitions you have received is revealed by identical phrasing. I cite from the letter addressed to you signed by Mr. H. E. Howland on 22 November, which contains a phrase identical to one in a "spontaneous" petition. Both documents object to:

"Dissidents who are endeavoring (petition says 'seeking') to make Mr. Mace the scapegoat of their displeasure over 'the system'." [The words 'the system' were in quotes in all versions.]

Since Ambassador Outerbridge Horsey was listed among a distinguished roster of retired officers said to support Mr. Howland's efforts in behalf of Mr. Mace, I contacted Amb. Horsey today. He had not been informed that his name was to be used in this way and was concerned over the context in which it was used. I intend to give Amb. Horsey a copy of the Howland letter on 29 November; I expect you may hear from him—as you would from the others, if they were fully informed of the facts in this matter.

I am taking the liberty of appraising you of the above facts because if I do not, you might not learn of these things which, I believe, are germane to the confirmation of Howard Mace. You and your Committee know that I am neither a "dissident" nor a "detractor" of Mr. Mace or anyone else. I am an American raised with a sense of duty and a foreign service officer proud of his record and determined to do his duty. I reject totally the plea contained in some of the petitions that Mace should be excused from the inexcusable because he was only following orders. He was not a technician or clerk—he was at the policy level.

Most of all, I am appalled by the actions of certain officials in the Department of State to use every possible intellectually dishonest technique to defeat constitutional processes and ram this man's confirmation through the Senate Foreign Relations Committee, in pursuit of its duty.

Sincerely yours,
JOHN D. HEMENWAY.

[From the Des Moines Register, Nov. 8, 1971]

DELAYS ACTION ON ENVOY POST

WASHINGTON, D.C.—The Senate Foreign Relations Committee last week passed over President Nixon's nomination of Howard Mace as ambassador to Sierra Leone pending completion of an investigation of charges that he gave false and inaccurate testimony before the Senate Committee.

Indications are that Chairman J. William Fulbright (Dem., Ark.) considers the charges to be of considerable importance.

Mace, former director of personnel for the State Department, was nominated by President Nixon as ambassador to Sierra Leone in July on the recommendation of deputy undersecretary of state William P. Macomber. They had worked together at the State Department for more than 12 years.

The State Department and White House have been told that the Mace nomination probably will die in the Foreign Relations Committee unless it is withdrawn by President Nixon.

There are charges that under Mace's direction the State Department personnel division has engaged in manipulation of rating boards, engaged in forgery and other falsification of personnel records, and permitted perjury in State Department and Civil Service Commission grievance hearings to go unchallenged.

In the Mace hearings, Macomber, who is in charge of State Department administration, has been forced to admit that a large number of cases resulted in injustices, but he has argued that Mace should not be held accountable for the faults in the system.

But critics say a review of four of the most publicized cases indicate some allegations of direct responsibility for Mace as well as Macomber:

Allison Palmer, a 30-year-old foreign service officer reportedly was discriminated against because of her sex. Now, Mace admits sex discrimination exists on assignments, but denies that he had any role in the illegal discrimination found by an Equal Employment Opportunity (EEO) board. The recommendations of that EEO board was held out of the file by Mace despite a specific recommendation that it be made a part of the file.

Miss Palmer says the story Mace told the Senate Foreign Relations Committee is untrue on a number of points. She said Mace had an active role in discrimination against her, and that she had personal conversations with him in connection with his decision to refuse to sign the findings of the EEO recommendations, and the refusal to make those recommendations part of her file.

John Hemenway, a 46-year-old honor graduate of Annapolis and a Rhodes scholar, currently is involved in the only State Department grievance hearing permitted by Mace to challenge the decision to fire Hemenway. Hemenway contends that Mace gave untruthful and inaccurate testimony in connection with the handling of his case.

He charges Mace acted illegally to remove two members of the three-man panel that had indicated a willingness to permit Hemenway to call State Department witnesses over the objection of Mace's office.

Stephen Koczak, a 54-year-old former foreign service officer now employed by the American Federation of Government Employees, was denied a grievance hearing, but was subject to a special panel made secret to former Secretary of State Dean Rusk. Koczak was barred from having an open hearing, cross examining witnesses, or even communicating with other State Department employes during the hearing.

A letter he wrote to the panel pointing out some of the discrepancies in his file was not entered into the official record. Mace reportedly has continued to refuse Koczak access to his hearing record and reportedly has permitted forged and postdated documents to be made a part of his record.

Charles W. Thomas, 47-year-old foreign service officer, killed himself last April as a result of his frustration in seeking a hearing. He had no promotion in eight years and was refused a hearing by Mace despite admissions that a highly laudatory report by an inspector general was misfiled under another Charles Thomas.

This report recommended immediate promotion for Thomas and assignment to the National War College, in line with the opinions of two ambassadors under whom Thomas had served.

The Thomas case has raised the greatest number of problems for Mace and raises some of the most serious questions about the inconsistency of the rulings that have been revealed in the personnel division while Mace and Macomber have been in charge.

Action on Mace's nomination to the ambassadorial post will await an investigation by the Senate Foreign Relations Committee.

"THE GODFATHER" TOY SHOULD BE TAKEN OFF THE MARKET

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. BIAGGI. Mr. Speaker, there is a toy on sale this Christmas season that teaches children the life of a gangster and an insidious prejudice against Italo-Americans. This toy is the newly issued "Godfather Game" put out by the Family Games, Inc., of Cambridge, Mass. The toy should be taken off the market.

According to Time magazine:

> The game comes in a box shaped like a small violin case. On the playing board, the island of Manhattan is divided into neighborhoods—Harlem, Little Italy, the Lower East Side. "The object of the game," the instructions explain, "is to take control of a racket—bookmaking, extortion, loan sharking or hijacking—in as many of the neighborhoods on the board as possible." Players draw bad-break cards ("St. Valentine's Day card addressed to you, lose one strongarm and $250") or good-break cards ("Friendly persuasion. You get two strongarms and $150"). The player with the highest score of rapine and venality becomes the Godfather. Unlike Monopoly, with its blind acquisitive luck still tied to stern if inexplicable morality ("Go directly to jail"), the players of the Godfather never get locked up.

How ironic that a company purporting to produce family games would market this particular piece of prejudicial propaganda. It is harmful on two counts.

First it continues that stereotyped impression that the rackets are the sole province of Americans of Italian decent.

Yet this game will instill in young children the idea that the local gangster is Italian. The continued use of the terms "Mafia" and "Cosa Nostra" and of games such as "The Godfather" is crime not only against Americans of Italian origin, but against all Americans.

It is an insult to the Declaration of Independence which states that all men are created equal. It is a violation of the Constitution which guarantees equal rights to all citizens of this country.

But the "Godfather Game" is also objectionable in that it permits a child to fantasize about illegal operations without any moral or legal check. This should be of great concern to all parents. In this game, a child can make book, engage in extortion, be a loan shark or hijack goods without any fear of punishment for these illegal acts. While it is only a game, the fantasies of a child have a way of moving across the fine line of life into reality. Unless we provide checks against criminal acts in these encouraged fantasies, we will have difficulty impressing upon the adult that there are checks on his illegal behavior.

I hope that more of my colleagues will see this game for what it is—a spiteful attack on the Americans of Italian descent and a corruption of our youth. More should speak out against this type of toy before a manufacturer gets the bright idea to introduce a game called "Anarchy" where points will be scored for assassinating the President or killing a Congressman.

PRO SPEAKOUT

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1971

Mr. KEMP. Mr. Speaker, most of us watching television these days have seen professional football players appear in brief clips telling why they know there are much better ways to get "turned on" than through drugs. As a member of the Republican Task Force on Drug Abuse, I am constantly on the lookout for new ways to help our young people overcome temptation and/or addiction.

Therefore I am pleased to call to the attention of my colleagues, the activities of Pro Speakout, a nonprofit organization devoted to combating drug abuse and fostering drug education.

Pro Speakout's program is designed to expose the problems related to drug addiction, through a series of assemblies, television programs, radio shows, and discussion groups featuring professional athletes as speakers, supported by ex-addicts, in order to aid communities in establishing local drug education and self-help programs.

Athletes from Boston's Bruins, Red Sox, Celtics, and the New England Patriots, as well as other professional athletes who make their home in the Boston area, donate their time to speak to youngsters and their parents in Greater Boston's communities. They are accompanied by at least one ex-addict who is paid a nominal fee which is turned over to the drug self-help organization he or she represents.

Mrs. Janice Barrett, a 26-year-old teacher at Wellesley Senior High School founded Pro Speakout and is now president of the organization. She hopes to make the Boston project a model for the Nation and has submitted a proposal to HEW for a grant under the Drug Abuse Education Act of 1970 which envisions 25 other offices around the country.

Mr. Speaker, an article on Pro Speakout appeared in the New England Patriots' edition of Pro magazine on November 7 and tells the story very well. At this point, I include the article:

Pro Speakout—Turn Talk About Drugs Into Action

"Pro Speakout" is not a news sport quiz show, nor is it an athletic group. It is a year-old anti-drug organization composed of professional athletes, students, guidance counselors, businessmen, lawyers, doctors, and teachers. "Pro Speakout" began last November when a 26 year old teacher at Wellesley Senior High School, Mrs. Janice Barrett, planned an assembly on the drug problem.

"I wasn't sure what would be the best approach to get kids and parents together to discuss drugs, so I asked my students. They suggested that professional athletes might have some appeal, because young people admire and respect them."

Three pros from Boston teams and Billy McCue, an ex-addict who is director of Project Turnabout, spoke to a capacity audience of 800 parents and students. The assembly was so favorably received that 14 students, drug users in varying degrees, asked for help the following day. So Billy McCue came back to the high school to help these young people. Two of them, heroin users, kicked their habits at Project Turnabout.

After learning what had happened at Wellesley, several athletes contacted Mrs. Barrett with one question, "How can I help?"

The answer to this question came when 48 professional athletes from Greater Boston met a few weeks later at Gino Cappelletti's "Point After" to form a non-profit organization entitled Pro Speakout. Two major goals were outlined:

(1) educate young people to the dangers of drug abuse.

(2) establish a community follow-up program to support and encourage existing drug programs to help found new ones.

Houston Antwine, a member of Pro Speakout's Board of Directors, summed up the athletes' concern, "We don't want to be window dressing for any program. We want total community action in connection with our programs."

Jim Nance, another member of Pro Speakout's Board of Directors, took time to explain how the program is organized.

"If a town requests a Pro Speakout program, we meet with their drug coordinator (or his equivalent) and examine the needs of that particular community such as, detoxification unit in the local hospitals, a drug education curriculum in the schools, drop-in centers, hot-line, rehabilitation centers, etc. The admission charges to the program, coupled with other funds raised by the town are matched by money Pro Speakout has raised. Then we work with the town committees to inaugurate or support the drug program that best suits that community."

Jon Morris, who has been an active participant in Pro Speakout appeared at Weymouth High School to aid the Weymouth Home and Youth Association. Jim Hunt drove out to Concord with Jim Nance one night last winter in a blinding snow storm to help the Concord Hot-Line. Another active participant, Gino Cappelletti, is also a member of the Board of Directors. At a program in Newton-Wellesley-Weston Multi-Service Drug Center, Gino was asked a direct question, "Why are you here anyway?" "I'm here because I'm a father and a human being who cares what happens to young people like you and my own children." Gino replied. "Most of us are married with families, so we are concerned about drug usage."

"To tell you the truth," continued Gino, "I wish there weren't any problem so I wouldn't have to be here."

The questioner interrupted to ask, "How do you think you can help us?"

Unhesitatingly, Gino answered, "as athletes, we can't try to tell you what's good or bad. What we can say is that we get our highs in other areas—on the field. By accomplishing something there, we feel we are doing something meaningful. Every young person should discover for himself an activity, a purpose or a career that gives him a sense of direction in life. Then, he won't need to pursue artificial highs."

Rather than discuss specifics of drug abuse, the athletes speak to the youngsters about meaningful life experiences—the opportunity to excel in any given field. They relate how they've learned to deal with life as a challenge.

When asked by a group of parents in Brockton about his opinion of Pro Speakout, Ron Berger replied, "I sincerely want to help the younger generation. Life is a series of problems to be solved and crises to be overcome. We must encourage and try to instill a positive attitude in young people. I believe they want assistance and guidance in coping with life's challenges. I feel a deep sense of accomplishment through working with youngsters, especially teenagers. We all have a responsibility to fulfill in giving young people a sense of direction in life."

Shortly after Pro Speakout was formed and the athletes had become active, Sandy Cappelletti invited all the wives of the players to her home one evening to discuss how they could work with the program.

"Initially," Sandy said, "I think the wives came because we all recognized the enormity of the drug problem. We wanted to hear Bill McCue, an ex-addict, speak about it. What happened to us that night in my living room was a revelation. When Bill told us about how drug usage had filtered down into elementary schools, we became aware that our children were in no way insulated from the problem. Most of us have very young children—and we realized that the time to teach them and guide them is *now*, when they are six and seven. To avoid their becoming involved with drugs a few years from now, we must concentrate on developing in our children the ability to *cope* with life's problems. Children at seven very often have difficult experiences. They need to learn how to deal with these problems as realities of life—not to ignore them. In Bill McCue's words, 'they need to develop their coping muscles at an early age.' Then later, when our children are offered an easy cop-out through drugs, they won't need to escape from their problems by depending on the unreal, dreamland of drugs."

The discussion among the wives in Sandy Cappelletti's living room centered on *how* the wives could bring this message to other parents in their own communities. As a result, two successful programs were undertaken by the wives.

Sandy arranged for Bill McCue to speak to all the parents and teachers who belonged to the PTA at the school her daughters, Gina and Cara, attend. As a result, the teachers took the time in their classes to discuss drug abuse with all the youngsters, grades 1 through 6. This stimulated a need in the youngsters to help Project Turnabout. Each child brought something from his home, such as a can of beans or a box of cereal, to be donated to aid Project Turnabout. The children understood how dangerous drugs are, but they also felt the need to help those people who are hooked on drugs. Gino Cappelletti then spoke to the children praising their efforts in helping Project Turnabout.

Rosa Hunt, past president of the Patriot's Wives Club, decided she wanted to help by arranging for a Pro Speakout program with the Patriot's official charity, the Boys' Club of Boston.

She contacted Roscoe Baker, the director, and arranged for a day when the athletes could talk to the boys at the Roxbury branch. Jim Hunt, Daryl Johnson, and Reggie Smith spent a day with nearly 100 boys rapping about drugs and encouraged them to become actively involved in sports, rather than drugs.

After Pro Speakout conducted assemblies in Natick, Weymouth, Brockton, Weston, Newton, Milford, Concord, Arlington, The Roxbury Boy's Club, and received requests from as far away as Connecticut, New Hampshire, and New York, it became apparent that Pro Speakout needed to raise funds to support the programs that had been promised financial assistance. Bill Flynn, General Manager, of Channel 38 WSBK-TV, became the first businessman in Greater Boston to donate a substantial sum for operating expenses. Meeting at Bobby Orr's "Branding Iron" one evening last spring, the athletes discussed various methods and approaches to fund raising. Jon Morris, Bill Flynn, Len St. Jean, and Eddie Whalley (golf pro at the Colonial Country Club in Lynnfield) became highly enthusiastic about the idea of organizing and sponsoring a Pro Speakout Celebrity Golf Tournament.

"We all enjoy playing golf," Len St. Jean said, "therefore, we would feel comfortable about participating in an activity such as a golf tournament."

Jon Morris commented, "Businessmen we will invite to join us and contribute to the drug program have youngsters who are of the age when they are most readily exposed to drugs. I'm convinced that they will join us in our fight to combat drug abuse."

Time became a key problem in organizing the tourney. On only one date, June 21, 1971, would all four teams—Red Sox, Bruins, Celtics, and Patriots, be in Boston. This was only six weeks away! Everyone worked frantically to meet the deadline. The first major problem was finding a country club that would open its facilities for the day.

Within 24 hours, Dr. Jim Riley chairman of the golf committee at Woodland Golf Club had a firm "yes" from Woodland Golf Club.

George Wemyss, director of the New England Professional Golfers' Association offered his services as tournament director. Ed Philpott hopped a plane to Atlanta, Georgia one morning to speak to all the professional golfers on the tour.

"Doug Sanders called a meeting of all the golfers that night to speak with me," Ed explained. "They were highly enthusiastic about the Pro Speakout program. Being so close to the date, a number of them were committed for other engagements. John Schroeder, Larry Zeigler and DeWitt Weaver would fly into Boston to join us. Those who can't make it this year would come next year."

Mrs. Jon Morris called a meeting of all the wives at her home. "We want to help," she said. Pat Berger, Sandy Cappelletti, Linda Johnson, Rosa Hunt, Judy Bond, Diane Kuberski, Terry McKenzie, Linda Esposito, Rosemary Lonberg, Pat Green, Judy Lyle, Sharon Nelson, Diane Johnston, Joan Ann Westfall, Elaine Philpott, and Mary Rae Whalley all pitched in to help. They addressed invitations, comprised banquet lists, registered guests at the tournament, solicited prizes and donations from the four Boston teams, stamped the golf tag bags, made phone calls, and attended to all the details of the tournament.

Champagne Press in Wellesley donated all printing costs; Westwood Studios in Needham offered to take all photos for the tournament; Ara's in Wellesley donated a suit as a prize; Turf Hugger donated a golf bag and club covers; Anderson's Jewelers in Wellesley gave a sterling silver mug to the tournament winner; Bate's Photo Shop in Wellesley donated cameras; WRKO Radio gave pen and pencil sets; Chin's Villa, the Point After, and Igo's Restaurant all gave complimentary dinners; Eastern Airlines offered a trip for the raffle; Fred Mosedale gave curtains to be auctioned off; John MacKenzie offered four Bruin's tickets in the raffle.

Perhaps the most extensive contributor was Billy Sullivan, Patriots President. For the raffle, he offered solid gold NFL cufflinks, a trip to the Super Bowl (with all accommodations paid for) and a trip out to Minnesota with the Patriots team.

Bob Hope promised to come, but when he was stricken with an unfortunate recurrence of his eye infection, he had to cancel at the last minute. But, he placed a call to Mrs. Barrett at Woodland that day, during which he said "I am very much interested in your project. I am with you all the way and will do everything in my power to lend my voice in this cause."

Wally Gaviluk, Ed Whalley, and Billy Max flew down from the Vermont Open in a private plane to play. Babe Parrilli and Larry Eisenhauer, ex-Patriots, participated. Frankie Laine came over from the Monticello to lend his support. Burton Paige at the Colonial in Lynnfield provided room accommodations for the golfers who came in off the tour. Joe Laszaro, the National Blind Champion Golfer, shot a 77.

Don Weiss, Public Relations Director for the NFL, and Buddy Young, director of Player Personnel for the NFL, flew up from New York to join everyone at the banquet that evening.

Upton Bell, General Manager for the Patriots, reflected on the drug problem in a discussion with several members of Pro Speakout before the banquet began.

"Drugs are only a symptom of much deeper problems which are often rooted in the home environment. We must reach the parents. A main concern of each parent should be—my child might be a drug addict someday. I have a four-year-old boy and I know something could happen to him. Kids see their parents gobbling down pills constantly. There seems to be a pill for everything today—but drug abuse is the most bitter pill of all to swallow."

"You know," he mused, "it's very important for young people to know the lessons adults have learned about drugs, especially the anguish of ex-addicts. In the football fraternity, it's better to turn on through mental and physical stimulation rather than the needle and pill. The sports player or fan can get high on the competition between teams and players, rather than escaping through drugs."

Herman Bruce, General Manager for the Patriots, echoed Upton's point, then commented on another aspect of the Pro Speakout program. "I am impressed by the calibre of the people in our organization who have offered their extensive help. They're quick to give generously of their time for this program and not to ask for remuneration for their services. Such a fact ought to impress young people. These players are not in football solely to make money. They love the game. If there's anything they can do to help youngsters caught up in a drug problem or help those who might be caught up, they will."

Ex-Patriot Jim Colclough agreed with Upton Bell's point. "The education of adults is really important. Kids know more about drugs and where they come from than their parents. Not only that, but the law enforcement agencies must begin a crackdown on the source of supply—the pushers. But, that won't solve the whole problem, because we have to offer kids alternatives to drug usage. The outlets for kids have to be greater and more varied—educational, social, recreational, and cultural. Potentially, America has its greatest strength in its youth. We must encourage them to be a great force in counteracting the negative attitudes some adults have about youngsters. Any organization like Pro Speakout, that encourages this change for the better is a good thing."

At this point, Jon Morris interrupted Jim to say, "Everybody assumes this problem with drugs won't happen to them. But it might. More persons must become involved in the program Pro Speakout has to offer. We need the support of more businessmen—more politicians—more community leaders, like members of school committees, principals, and mayors. Rather than talking about it, they should *do* something about it. They should lend active support to the program."

The amateur golfers who played in the tournament responded enthusiastically, each one donating $150 to Pro Speakout. The $10,000 raised proved the huge success of the first Annual Pro Speakout Celebrity Invitational Tournament. The funds were distributed over the summer to all the local community drug programs Pro Speakout sponsored.

What does the future hold for Pro Speakout? At this time, plans are underway for the establishment of a national headquarters in Boston, with chapter offices in every major league city in the United States. Of course, Pro Speakout will have a second annual tournament next summer.

The athletes will concentrate their efforts more in the area of elementary school education programs, in order to reach youngsters at the impressionable age—before they get turned on to drugs. At the same time, they will still aid those youngsters who are caught up in the problem, for reasons given by Ed Philpott, "I think it's time we face the fact that many young people are trapped by the drug epidemic. Many more will become addicts if we don't act now. They're asking for our help. We can't turn our backs on them."

Linda and Daryl Johnson have discovered a poem by Devine Lord which reflects their feelings and the efforts of the Pro Speakout organization.

"Are the Kids Really to Blame?"

We read in the paper
We hear on the air
Of killing and stealing
And crime everywhere
We sigh and we say
As we notice the trend
This young generation
Where will it end?
But can we be sure
It's their fault alone . . .

Too much money to spend
Too much idle time
Too many movies
Of passion and crime
Too many books
Not fit to be read
Too much evil
In what they hear said
Too many times
Encouraged to roam
Too many parents
Who don't stay at home.

Youth doesn't make the movies
They don't write the books
That paint the gay pictures
Of gangsters and crooks
They don't make the liquor
They don't run the bars
They don't make the laws
They don't make the cars
They don't make the drugs
That idle the brain
It's all done by the older folks
Greedy for gain.
How many cases we find
That it's true
The label delinquency
Fits older folks too.

Want to help?

Write: Janice Barrett, President, Pro Speakout, 5 Weld Street, Framingham, Mass. 01701*.

THE BIG MOVE TO NONCAMPUS COLLEGES

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1971

Mr. SCHEUER. Mr. Speaker, higher education in this country is in the midst of a crisis which, in the words of the President's Commission on Campus Unrest, "has no parallel in the history of the Nation." The unsettling changes the wider society has experienced since World War II have also affected our campuses and have compelled a thorough reexamination of how we are to educate our youth. Two of the central considerations in this reexamination are how to provide access to all who desire higher education, and in what ways that education can best be pursued. In a thought-provoking article in the July 17, 1971, "Saturday Review," Ernest L. Boyer, chancellor of the State University of New York, and his assistant, George C. Keller, have examined many of the significant responses to these questions here and abroad. I commend it to the attention of my colleagues:

The Big Move to Noncampus Colleges

(By Ernest L. Boyer and George C. Keller)

In this financially alarming but comparatively strife-free year for American colleges and universities, perhaps the single most dramatic development has been the announcement of several plans to enable students to earn academic credits and even college degrees without having to live on a campus, or even attend classes there.

The new plans have propellants within them that could trigger one of the most significant shifts in the structure of American higher education since the introduction of large-scale, federally financed research during World War II. Phrased in the muffling jargon of educational prose the new proposals may not appear radical, but they do share certain broad assumptions about what higher education really is all about.

For years, the word "college" has to most Americans meant four uninterrupted years in one institution, in a place removed from the diversions of ordinary life. It conjures up nostalgic memories of classroom lectures, fraternity and sorority parties, glee clubs, football weekends, hectic final exams, term papers, trips home for the holidays, beery bull sessions, and romance beside the Virginia creeper. More recently it has also meant protest marches, extracurricular volunteer work, and rock concerts with Joe Cocker or Sly and the Family Stone. In short, it has been the physical and social aspects of campus life that have traditionally defined "going to college."

Central to most of the new non-campus programs, however, is the assumption that the fundamental process of acquiring a college education need not be dependent upon the familiar campus setting. Not where or for how long a student goes to college, but what actually happens to him intellectually during his collegiate years is what counts. Many innovators believe that the preoccupation with the physical and social context of higher education has obscured the more crucial questions, which concern what is happening inside the student's head.

A second, and closely related, assumption is that the parietal element in higher education has been far too heavily emphasized. Too many colleges still implicitly operate on the premise that they are dealing with reluctant, lazy children who must be continually prodded and threatened if they are to learn anything. The process of higher education too often has borne disturbing similarities to the force feeding of geese destined to contribute to the world's supply of *pâté de foie gras*. While explicit parietal rules and social regulations have been liberalized or abolished, the fundamental structure of college education has remained implicitly coercive.

The new assumption is that the individual's own motivation, his desire to learn and to grow, should play a more central role in the formulation of educational policy. Ideally, the acquisition of a college education should represent a positive act of individual volition rather than passive acquiescence in an institution's routines and requirements. A closer approximation of this ideal is what the innovators are striving for.

In the conversation and writings of those responsible for the new proposals, one finds the conviction that genuine intellectual competence, and not some magic number of "years in residence" or "credit hours," should be the single most important criterion for the baccalaureate degree. What a person knows, not how many courses he has taken, should be the fundamental concern toward which all academic planning is directed.

The various off-campus and non-campus schemes that spring from these shared assumptions and concerns generally fall into four broad categories.

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* After Nov. 1st, Pro Speakout will move to a new address: 23 Pine Plain Road, Wellesley, Mass. 02181.

The first, and least radical, represents the continued development and extension of efforts that have long been made by many American colleges and universities to increase the opportunity for off-campus learning experiences within the broad framework of the traditional pattern of campus residency. For decades, undergraduates have enjoyed a "junior year abroad" or participated in various types of work-study interludes. The newer programs add such possibilities as a hitch in VISTA or a semester in a ghetto, a museum, or a specialized school, such as a dance studio. The programs may be quite highly structured, such as Chapman College's "World Campus Afloat," which offers undergraduates courses on a ship that travels around the globe with field trips ashore; or fairly loose, as at those institutions where gifted students are allowed as much as a year off to write a novel, study French literature, or pursue other special interests—all for academic credit.

These off-campus extensions of the curriculum are not without problems. For example, how many academic credits should a student receive for forty hours of tutoring migrant workers? And how does one maintain "quality control" and prevent a genuine, if unconventional, learning experience from degenerating into a merely frivolous and self-indulgent frittering away of time?

But far outweighing such practical difficulties is the fact that all such efforts represent a movement toward a concept of higher learning that is far more in tune with the conditions and opportunities of contemporary life—a concept which recognizes that we have erected too high a barrier between the campus and the real world "out there." For the proponents of such off-campus programs, the individual college campus remains an essential intellectual base, but it is also seen as only one element in a far broader educational environment—an environment that includes the ghetto, the threatened wilderness, the polluted lake, the industrial laboratory, the social service agency, the city halfway around the world.

A second category of off-campus plan, the largest and most familiar, is to permit conventional academic work to be done off-campus, often over a time period longer than the usual four years and often through programs designed chiefly for adults.

The prototype is the famous external-degree program of London University, which has for decades enabled students from Nigeria, Australia, the Bahamas, or India to work toward their degree in any manner they wish, and in any part of the world, so long as they passed the required examination set by the university.

Since 1961 working adults from all over America, unable to take the time to live or attend classes on a campus, have been studying in the University of Oklahoma's pioneering B.A. program in liberal studies, which combines independent home study, correspondence work, and annual three-week residential seminars at the university. Recently Syracuse University, the University of South Florida, and the State University of New York at Brockport have established similar programs, sometimes supplemented by television and on-campus laboratory work in the sciences.

Two interesting new versions of these adult programs are Britain's "Open University" and the U.S. Navy's smaller program for "Afloat College Education." The Open University is Britain's attempt to democratize its traditionally elitist university programs quickly, with limited resources. The hope is to allow vast numbers of housewives and other adults with jobs to earn academic degrees in three to six years at a total cost to the student of less than $1,000. Last January, coal miners and clerks, salesmen and schoolteachers began enrolling in the Open University. There are six degree programs: humanities, science, social studies, technology, education, and mathematics. Thousands are listening to radio lectures, going through correspondence course packets, watching television courses, and reading in local libraries in preparation for examinations they will take at one of the 250 local study centers, where they also meet with some of the 2,500 tutors and counselors who are acting as study assistants and advisers. They will also attend a week of summer school at one of the twelve regional centers or at one of England's established colleges.

In the U.S. Navy's program, ship crewmen can earn up to two years of college credit at one of five colleges (Harvard is among them) by passing examinations based on heavy onboard reading, mastery of filmed courses, and attendance at lectures and seminars conducted by professors who visit their ship while it is in port. Under this program, the Navy has even flown professors to remote bases in the antarctic.

The most unusual program in this category is the recently initiated "University Without Walls," whose founding father is Samuel Baskin, an imaginative professor of psychology at Antioch College in Ohio. Professor Baskin had been seeking support for his plan for several years before recently obtaining a U.S. Office of Education planning grant of $415,000 and a Ford Foundation grant of $400,000. What he envisions is an innovative educational program confined mainly to the campuses of nineteen cooperating institutions, including such diverse schools as the large University of Minnesota, the small Stalen Island Community College, the University of South Carolina, the predominantly black Howard University, the Quaker Friends World College, and the Catholic Loretto Heights College.

Within each of these institutions, forty to one hundred interested students will pursue a distinct academic program with guidelines established by the University Without Walls, a kind of academic holding company with little in the way of formal staff or administrative bureaucracy. Part of the time these students may take conventional courses at their own colleges, but they may also move about to one or more of the cooperating colleges or universities; serve supervised internships in businesses, hospitals, or museums; or study independently with the aid of reading lists, televised lectures, records, and tapes. Professor Baskin's program clearly rejects the traditional concept of college education with its exclusive stress on single-campus residency, classroom lectures, and narrow departmental majors. It also widens our conventional notion of "the faculty" to include experts and talented individuals from the "outside world"—artists, businessmen, musicians, or government officials.

The third off-campus "category" is in reality a single program: the New York State Education Department's unique new external-degree program, through which the associate in arts and bachelor of business administration degrees will be awarded to anyone who passes a set of comprehensive examinations. (Unlike the "Open University" program, this will involve no actual instruction, simply the administering of examinations and the awarding of degrees.) This program, with the aid of a joint planning grant from the Carnegie Corporation and the Ford Foundation, will permit persons who have studied on their own, in whatever fashion, to receive a sheepskin without ever enrolling at a college, setting foot on a campus, or paying a penny in tuition.

This category may expand, though. At a recent meeting of the American Association for Higher Education in Chicago, Jack N. Arbolino, executive director of the Council on College-Level Examinations of the College Entrance Examination Board, proposed a "national university" that would, like the New York State Education Department, grant degrees to anyone in the nation who passed its degree examinations. The programs that Mr. Arbolino heads already has made a small start in this direction by administering tests in two dozen different subjects, from American government to data processing, for which the student, upon passing one or more of them, may request academic credit from his college.

The fourth and last of these varied approaches to off-campus education is the State University of New York's new Empire State College, which is in the active planning stage. This experimental "college without a campus" (supported by a $1-million joint grant from the Carnegie Corporation and the Ford Foundation) will be similar in some respects to other programs we have described. It certainly owes much of its inspiration to innovations at other colleges, in other countries, and within the State University itself. But it also will have certain distinctive characteristics of its own. Unlike most external degree programs, for example, it will retain the opportunity for occasional on-campus study. It will encourage a close student-teacher relataionship and will offer a wide variety of educational options to the student.

Because New York has placed all its public institutions of higher education under a central leadership, the State University is particularly well suited to undertake such an experimental venture. SUNY is actually a single entity made up of seventy separate institutions, including liberal arts colleges, specialized schools (in agriculture, forestry, engineering, etc.), community colleges, and four major universities. This means that New York already has in its State University a kind of multifaceted consortium of institutions with widely varied characteristics and resources.

The central idea of Empire State College is to create an academic program that will free the student of the restraints of residence on a single campus and make available to him the resources of the entire university system. A combination of home study, off-campus work-study experiences, educational films, cassettes, correspondence courses, and periods of study elsewhere in America or abroad will enlarge enormously the options open to each student. While some may elect to do half or two-thirds of their work in residence at one or more of the State University's institutions, others will spend most of their time studying off-campus. Time limits, too, will be freer. A college degree may be attained in two, three, four, or eight years, depending on the individual student's specific circumstances and individual capacity for academic work.

But Empire State College is not conceived as a "do-your-own-thing" institution. A small core faculty at a central headquarters, with resident tutors at twenty regional study centers to be set up around the state, will design and direct the programs, prepare the correspondence courses, approve each student's plan of study, and counsel with students by telephone, mail, and in periodic personal meetings. In short, the educational experience of the student will be guided and evaluated at every stage by trained and committed scholars. While the student will complete assigned papers, reports, and examinations, he will be largely freed of grade pressures (grading probably will be on a pass/fail basis) and of specific credit-hour requirements. He will be able to concentrate more on his own education and less on the requirements of a specific institution.

Implicit in the design of Empire State College are several notions—rooted in the more general educational assumptions mentioned earlier—that seem alarmingly simple to some and simply alarming to others:

1) Formal classroom instruction, while still important, is no longer the sole or even the principal means of acquiring information and ideas at the college level.

2) Given the present wide variety of students, the continuing explosion of knowledge, and the emergence of new fields of academic concern, the curriculum no longer should be the exclusive concern of the faculty. Responsibility for its design and content should be shared by faculty members and students.

3) Residency on a single college campus is no longer a requisite for quality education. (One-fifth of America's college students already study at more than one institution during their undergraduate careers.)

4) Four years, and certainly four consecutive years, are not an inviolate block of time essential to an undergraduate degree. Longer or shorter periods of study, possibly interrupted by other activities, do not damage—and may actually improve—the net effectiveness of collegiate study.

5) While frequent and intimate contact with mature scholars is vital to a good college education, no faculty member can any longer be regarded as simply a purveyor of factual knowledge, even in his field of specialization. Increasingly, professors must act not only as sources of information but as sensitive intellectual guides, as concerned questioners of personal and social actions and values, and as provocative stimulants urging students to discover their own capacity for critical and creative thought.

None of these assumptions, taken singly, is entirely new. But taken together, and taken seriously, they add up to a new vision of what the college experience can, and should, entail.

To some skeptics, all these new schemes for off-campus learning are chiefly the brainchildren of presidents, faculty committees, and foundation officials who, desperate about the present financial crisis in higher education, are blindly stabbing at ways to process more students for less money.

Undeniably, a search for economy is a factor in the development of the new programs. A resident college education next fall will cost parents about $4,500 a year at most of the nation's leading private colleges and universities, and close to $3,000 at many public colleges and universities. By 1980, the charges could be $8,000 and $5,000 respectively. To anyone seriously concerned about providing some form of higher education to every American who desires it and can benefit by it, the economic situation is patently serious. It is neither shameful nor contemptible to be searching for new modes of providing high-quality education at a lower cost.

But there are, we think, more fundamental and long-range reasons for the current interest in the radical restructuring of American higher education. These derive from quantitative and qualitative changes in American youth, in the character of American society, and in the present trends within higher education itself.

Disgruntled souls who shake their heads and mutter that young people aren't what they used to be are, as a matter of fact absolutely correct. Young people *have* changed appreciably, and not just in the more publicized and superficial ways.

Physically, young people are larger and healthier than they were fifty years ago. Girls and boys are about three inches taller and ten pounds heavier than they were in 1920, principally because of advances in nutrition and medicine. Childhood diseases that used to stunt and maim, and even fill the cemeteries, have almost been wiped out. (The chief cause of death for persons under 21 is now accidents, primarily automobile accidents.) These same advances in nutrition and medicine have also caused adolescents to mature physiologically much earlier than in the past. In the United States the onset of puberty for girls has dropped from an average age of 14 in 1920 to 12.4 today, and, for boys, from 15 to 13.5.

Today's young people differ intellectually as well as physically. Kenneth Keniston of Yale, among others, has noted that the average American sixteen-year-old today has had five years more schooling than his counterpart in 1920. A recent U.S. Census Bureau study revealed that the number of young adults with high school diplomas has doubled since 1940, while the number with college degrees has tripled.

The average student today scores approximately one standard deviation above the student of a generation ago on standardized tests of intellectual achievement. A level of performance that places a student in the middle of his graduating class today would probably have placed him in the top 15 per cent thirty years ago. Or, to put it another way, in achievement, a teenager today is approximately one grade ahead of his parents when they were his age.

In the more amorphous psychological realm, numerous observers have noted the new mood among contemporary youth, the sense of generational uniqueness, the imagination and audacity, the impatience, the social concern, the disdain for history and authority. One can only speculate as to causes. Television, which began commercially in 1948, entered most homes fifteen to twenty years ago. Thus, as has been widely noted, this is the first college generation raised on television practically from infancy. According to surveys, many young people in college today watched television about twenty hours a week when they were children, for an annual total greater than the number of hours they spent in school.

In addition to the ubiquitous tube, such factors as greater mobility, affluence, and longevity have also contributed to a different psychological state. For instance, because of the low life expectancy of former times—47.3 years in 1900—it was not unusual for a young person to lose one or both of his parents before reaching college age. Today, with the average life expectancy almost seventy years, orphanage has virtually been wiped out. Now, ironically, it is the continuing lively presence and pressure of both parents that many young persons perceive as a serious problem.

Yet, while young persons now are significantly different from those of fifty or even twenty years ago, American higher education is structurally much the same. Our colleges and universities (not to mention our grade and high schools) urgently need to recognize these important facts, and to redesign their programs accordingly. To keep nearly one-third of our young people occupied in an institutional setting that effectively segregates them from the world of "grown-ups" for seven to ten years beyond the onset of puberty appears a more untenable arrangement with each passing year.

Another major force affecting the colleges has been the knowledge explosion itself. New technologies and sciences have burgeoned—from cybernetics to marine botany; new social problems—the urban crisis, the population explosion, pollution—have generated new study areas. Campus faculties have multiplied, splintered, and regrouped under the impact. Advances in photography, sound engineering, optics, communications, and transportation have revolutionized the movement of information, ideas, and people themselves. They make possible such things as a telephone seminar in astro-physics among scientists from several countries, a short intersession of anthropological study in West Africa or Peru, or the study of Eskimo culture through films.

In the face of all these changes, the old yardsticks of higher education—faculty-student ratios, years in residence, credit-hours for courses, and grading—become increasingly difficult to apply. The notions that there is a fixed "body of knowledge" to be delivered to the young, that college faculties necessarily know what is best for students, and that the departmental major is the only desirable method of organizing intellectual inquiry, are seriously challenged.

Moreover, we are at the beginning of a second admissions boom—that of older persons re-entering college. Until the end of World War II, colleges catered chiefly to the privileged and the gifted. College admissions was the art of keeping people out. Since 1945, however, admissions policies have expanded until currently half of all high school graduates—two out of five of all young Americans—go on to college. Now, with technological change, increased leisure, new conceptions of womanhood, and greater affluence encouraging and requiring changes in career and life-style, continuing education is emerging as a new frontier of higher education. Most colleges and universities, especially public ones, are trying to help people *in* rather than screen them *out*. And as colleges admit greater numbers of students from more varied socio-economic backgrounds, their curriculums have altered in order to serve effectively the expanded new clientele with its broader range of preparation and aspirations.

To shift one variable, such as the kind of students served, while attempting to hold constant all the rest of the components of the university structure is to court disaster, as too many institutions have learned. Likewise, to try to accommodate the knowledge explosion on the campus, with the increased research, field work, and specialization that it demands, without re-examining the traditional "liberal education" requirements is irresponsible.

As the recent Carnegie Commission report *Less Time, More Options* suggested, today's college and university clearly must offer many tracks, many options, and many different programs to serve the new variety of students and to assist in the exploration of new areas of intellectual inquiry. Large universities may have to break up into several colleges. Smaller colleges may have to establish links with other colleges and other kinds of learning institutions in society. And all will have to allow increased opportunities for independent and off-campus study.

It is these profound transformations—in our young people, in our society, and in higher education, as well as the grave financial condition of the colleges—that compel radical changes in the venerable but outmoded patterns of American collegiate study. The many proposals for off-campus or non-campus study contain many details to be worked out and objections to be overcome. But they represent serious efforts to experiment with fresh patterns of undergraduate education. The alternative is a continuing and ever louder dirge about the poverty, disruption, and "irrelevance" of our campuses.

It would be tragic if the social institution that has contributed so much to our civilization should fail to respond vigorously to the challenges that confront it at this crucial moment. The present crisis is assuredly one of dollars. But even more, it is one of will, of creative energy, of new ideas. Higher education is in a period of painful transition. The greatest need is to act boldly, with fresh vision, in the face of new conditions. The training of the mind and sharpening of the sensibilities are still the best hope of mankind.

BRAINWASHING BY THE NETWORKS

HON. WILLIAM L. SPRINGER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1971

Mr. SPRINGER. Mr. Speaker, under the leave to extend my remarks in the

Record, I include the following: Many of my colleagues in the Congress have discussed with me the book titled "The News Twisters" by Edith Efron who is a staff writer for TV Guide. I am inserting herewith an article by S. I. Hayakawa, president, San Francisco State College from the Washington Daily News, Thursday, November 18. This is the briefest condensation that I have seen from Edith Efron's work. I believe it would be well for every Member of the House to read "The News Twisters."

It is difficult to know whether or not news is being twisted or given in bias. Miss Efron's attempt through tape recordings has been to denote the number of words spoken on the 1968 campaign by the various networks. These words were spoken either for or against Hubert Humphrey, the Democratic candidate, and Richard Nixon, the Republican candidate. Word measurement is not the only criteria but an important one on all prominent news covered by the networks. Whether or not you agree with Miss Efron is not as important as the factual information which her study has produced.

The article follows:

Brainwashing by the Networks

(By S. I. Hayakawa)

Here is a book that should be read by every voter of whatever political conviction, by every high school and college student, by every viewer of TV network news. It should be distributed by book clubs and condensed in Reader's Digest. Most of all it should be read carefully by the Federal Communications Commission.

The book I refer to is "The News Twisters," by Edith Efron (Nash Publishing, 9225 Sunset Blvd., Los Angeles, Calif. 90069; $7.95). The author is a staff writer for "TV Guide."

Do television networks present the news fairly? Are they free of bias? Do the accusations of slanting, distortion and calculated omission of important stories coming from almost all segments of the public from student radicals to Vice President Spiro Agnew have any foundation in fact?

For her study Miss Efron tape-recorded network news shows on American and National Broadcasting companies and the Columbia Broadcasting System every evening from 7 to 7:30 p.m. from Sept. 16 to Nov. 4, 1968—that is the last seven weeks of the presidential campaign of that year. From transcriptions of the broadcasts, she analyzed the coverage given to the three presidential candidacies of 1968 and to a set of 10 related issues such as U.S. policy on the Vietnam war, black militants, radical violence and the white middle class.

"From the resultant body of about 100,000 words per network," Miss Efron writes, "I isolated all stories dealing with the chosen issues—and excerpted all 'for' and 'against' opinion on these issues. The task is simpler than it may sound. Network news is an extremely nonintellectual commodity, and the opinion which it relays tends to be simple, short, highly partisan, and crudely 'for' and 'against.' It is readily isolated . . . The opinion appears in four clearly identifiable forms: direct quotes . . . paraphrase . . . narrative reports . . . and editorial opinion, which appears either in separate commentaries and analyses, or within the body of a news story. When all such opinion was isolated and filed, I then counted the number of words of opinion 'for' and 'against' on each issue."

The statistics are indeed startling. Here is Miss Efron's summary of the number of words spoken about Richard Nixon during the campaign: on ABC, for, 869, against, 1,793; on CBS, for, 320, against 5,300; on NBC, for, 431, against, 4,234. Total for Nixon, 1,620, total against, 17,027. Humphrey got more even treatment: on ABC, for, 4,218, against, 3,569; on CBS, for 2,368, against, 2,083; on NBC, for, 1,852, against, 2,655.

Words spoken about Black Militants: on ABC, for, 2,052, against, 1,146; on CBS, for, 1,578, against, 742; on NBC, for, 3,666, against, 1,383. As for the white middle class: on ABC, for, 142, against, 731; on CBS, for, 287, against, 651; on NBC, for, 0, against, 1,017.

The totals leave no doubt that the networks—all three of them—were doing their best to elect Hubert Humphrey. For Mr. Humphrey there were 8,458 words, for Mr. Nixon, 1,620. Against Mr. Humphrey there were 8,307 words, against Mr. Nixon, 17,027.

When accused of partisanship or bias, the networks defend themselves by declaring that objectivity is impossible. David Brinkley: "Objectivity is impossible to a normal human being." Bill Moyers, "Of all the myths of journalism, objectivity is the greatest."

Miss Efron makes mincemeat of this argument. Objectivity, she says, is not the issue. The problem is that networks unanimously give "preferential status to certain political positions and opinions"—to the Democrats as opposed to Republicans, to the opinions of anti-war people as opposed to those who see some justification for the war, to black militants as opposed to the white middle class ("Not one reporter on CBS or NBC is critical of black power violence during the coverage period").

The networks themselves, in their acceptance of the Federal Communication Commission's "fairness doctrine" and in their concept of "equal time," give assent to the view that it is against broadcasting ethics to give such preferential status to one side of a controversy or political campaign. Nevertheless they clearly do not even bother to try to give a balanced presentation of the wide range of opinions.

"Richard Nixon is President of the United States today in spite of ABC–TV, CBS–TV and NBC–TV," writes Miss Efron.

I find this sentence comforting. It is horrifying to read a statistical analysis of the extent to which the great national television networks try to mold and manipulate public opinion. Nevertheless, despite the fact that I voted for Mr. Humphrey, I find it reassuring to know how much sales resistance the public has.

SMITHSONIAN INSTITUTION CENTER FOR SHORT-LIVED PHENOMENA—THE ANNUAL REPORT REVIEWED

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1971

Mr. BRADEMAS. Mr. Speaker, the Smithsonian Institution has over the years gained wide admiration for the role it plays in American science and learning.

More than any other institution it shows what a museum can be: a center of research, an information system for scientists and citizens in general, and an active institution of education for both specialists and laymen alike.

An interesting and little-known facet of the Smithsonian's work is the center for short-lived phenomena, a clearinghouse which informs observers around the world of events which need to be examined while they are still happening: earthquakes, meteors, and many aspects of ecological study.

Mr. Speaker, I take this opportunity to insert in the Record a review and commentary upon the center's latest annual report, written by Philip Morrison in the current issue of the magazine Scientific American.

The article follows:

A Compendium of Curious Events Reported by the Center for Short-Lived Phenomena

(By Philip Morrison)

Annual Report 1970, by the Center for Short-Lived Phenomena. Smithsonian Institution, Cambridge, Mass. ($5). On April 8 an early-rising resident of West Hartford, Conn., saw "a bright streak like a bomb bursting." Later, at 6:00 a.m., Paul J. Cassarino of suburban Wethersfield awoke to find plaster on the floor of his living room. A meteorite weighing three-quarters of a pound had fallen through the plywood roof to lodge halfway through the ceiling!

Something of Cassarino's sense of celestial intimacy was transferred by postcard within a day or two to the many thousands of friends and subscribers of the service of the Center for Short-Lived Phenomena. The card told the facts, as telephoned to Cambridge by the very men who identified the rock as a *bona fide* meteorite. (It was a common kind of chondrite, and it was in the hands of expert analysts before the week was out.)

The Center for Short-Lived Phenomena has been at work since January, 1968. It grew out of efforts to "catch a falling star"—more prosaically to bring a freshly fallen meteorite into the laboratory quickly enough so that information about the cosmic ray intensity in space near the earth, perishably locked in short-lived radioactivity, would not have fully decayed. It was clear from the start, however, that many kinds of "fast and accurate information on the occurrence of short-lived natural phenomena" would be of interest to scientists in several disciplines. Today the center has 3,000 registered correspondents in some 150 countries; these scientists or organizations report nearby short-lived events and follow up on their first alerts, and in turn they receive the reports of similar events around the world. The chief resource of the center is the global communications network of the Smithsonian Astrophysical Observatory, which uses commercial, NASA and other Government circuits. The center stays in touch with event areas as the events are in progress; it immediately alerts those persons and agencies that might quickly respond, and within 24 hours dispatches postcards that broadcast the alert; then it forwards authentic data and conclusions as study of the event proceeds.

This 300-page book, with maps and photographs, its text in unjustified typescript, indexes the work of the center from its very start. The bulk of the book is a summary of the 113 events in 51 countries that the center reported during 1970. These events fall into four classes. Earth-science events are just under 50 in number; they include 19 major earthquakes, 22 volcanic eruptions, tsunamis, landslides, floods, storm surges and more. Biological events are even more varied; they include oil spills and other major pollution events as imminent threats to the web of life, and they extend to events remote from the hand of man, such as the migrations of animals, blights, and epizootics. The astrophysical events are mostly fireballs and meteorite falls (plus recurrent moonquakes!). Archaeology and anthropology claim such occurrences as the discovery of a ruin soon to be flooded or the first contact with a new group of people. The unifying theme is the need for on-the-spot scientific study of the event before its course is run;

naturally this interest overlaps with, but is not the same as, the interests of the government agencies all over the world that are generally responsible for resource control, rescue and relief.

Tragedy is present, since everywhere the lives of men remain at the mercy of the largest force of nature. The terrible November storm surges of the Bay of Bengal were Event No. 100 of 1970; the event was of course intensively reported in the regular news media, but the summary here (by Dr. M. Q. Khuda of Dacca) is eloquent in its simplicity. Although many hundreds of thousands died, "no permanent change in the land mark is visible." Mankind is perhaps most vulnerable along the many mouths of the Ganges. The avalanche that entirely buried Yungay in Peru under some 10 feet of mud in the earthquake of May, 1970, is described with equal care.

Late this summer the inhabitants of the Mississippi Valley from its Canadian head to the Gulf can expect a cyclical peak in the number of migrating monarch butterflies; 1970 was the first of the two peak years that recur on a six- or eight-year cycle. Thousands of the bright-yellow-and-black creatures can be seen on a single tree. The cycle is the result of an interaction of the insect and a virus.

Why do whales beach themselves? Here is the account of the stranding of about 150 false killer whales, animals weighing less than a ton each, on a shelving Florida beach. Towed to sea by boats, they immediately swam back to beach themselves all over again. After a second towing effort perhaps a third of the animals found their way out to sea. On autopsy there was no sign of bacterial disease, but it was noted that the water was abnormally cold.

The crown-of-thorns starfish, that hungry predator on the living polyp of the hard madrepore coral, continues to spread alarmingly over the Pacific, again for uncertain reasons. The notorious Malaysian frog war of last November is reinterpreted; afterward there were tadpoles aplenty. Those 10,000 frogs were making love, not war. Deception Island, a drowned volcanic crater 500 miles south of Cape Horn, blew up in the wintry August of 1970. Its dust and ashes were "probably the most important [for] the last three years or so. It seems that the Dust Veil Index will be somewhere in the range between 150 and 500 (Krakatau 1833 eruption equals 1,000 . . .)." No one was there; the first news came from Antarctic bases some 50 miles away, where a rain of black ash covered the entire area to a depth of millimeters.

By December, 1970, people had visited Deception; a photograph was published recently. The center's main purpose was thus fulfilled. Indeed, more than 84 of the events it reported in 1970 were investigated. But he who stays at home—amateur, student, teacher—can share a little of the investigator's excitement and awe at the changing fabric of our world by reading the center's alerts. These are services matched to all budgets and all levels of specialization. You can arrange for notice by wire, by air-mail card or by weekly or even monthly batches, in each class of events. Schools and museums should be particularly interested. The cards supply just those details of place and time, with cogent appraisals, that the news services often omit.

The performance of this pioneer office is not faultless: the *Annual Report*—with much too bland a title—could be improved by greater editorial resources. It is nonetheless splendid reading as it stands; the "real time" services are even better and the future holds more. Surely the center is the first form of what someday will be a knowing and prescient worldwide public monitoring service both for action and for thought.

Long live the Center for Short-Lived Phenomena!

INSTITUTIONALIZATION IS NOT THE ANSWER

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1971

Mr. HARRINGTON. Mr. Speaker, an article appearing in the Boston Globe on November 22 clearly indicates the need for sheltered homes for the mentally and physically handicapped.

We are presently greatly concerned about health costs and yet we condemn handicapped persons to institutions because we are not creative or farsighted enough to know that there are more humane and less costly alternatives. It has been estimated that two-thirds of the residents of one institution for the mentally retarded could be released if they had group homes and sheltered workshops to which to go for long-term employment.

The article quotes Dr. Doris Fraser, director of the Massachusetts Bureau of Developmental Disabilities, who states:

> I have never known anyone with a disability who did not want to be independent.

Those are words that we should remember when we think about health care for everyone. Let us open our eyes to the innovations around us and release people from institutions.

WORKSHOPS URGED FOR HANDICAPPED

(By Jean Caldwell)

EAST LONGMEADOW.—There is a nationwide need to develop more sheltered workshops for extended employment and non-institutional small residences so handicapped people can become productive members of society.

This was the message given to those attending the annual meeting of Goodwill Industries in Springfield this week by Dr. Doris Fraser, director of the Massachusetts Bureau of Developmental Disabilities. Dr. Fraser has just been named to the 20-member National Developmental Disability Council by Health, Education and Welfare Secretary Elliot Richardson.

Dr. Fraser said the new term "developmental disability" represents a growing awareness that disabilities such as mental retardation, epilepsy and cerebral palsy are "vitally connected."

Dr. Fraser said there is a growing effort by persons interested in specific disabilities to form coalitions with those interested in other disabilities. She said this gives them a base of strength in seeking to fill needs shared by all handicapped persons such as public housing, better transportation and sheltered workshops.

In Massachusetts, Dr. Fraser said, "a major pioneering effort" has been made by the governor's office and by the legislative commission which investigated Belchertown State School for the Mentally Retarded. One result of the commission's study and the governor's interest, she said, is the recently passed legislation (now on the governor's desk) which concerns group homes. Dr. Fraser described this as "one of the major pieces of legislation in the state in many years."

The new law sets public safety standards for "community group residences." This allows up to 12 handicapped persons who are "capable of self-preservation" to live together in a home-like dwelling. Such residences had no legal identity before and had to meet the stringent safety standards required of nursing homes where residents are assumed to be unable to leave the building on their own in case of fire.

Dr. Fraser said the new law opens the way for philanthropic groups to rent or buy large houses and provide a supervised but home-like setting for persons who would otherwise be placed in a large institution such as Belchertown State School.

Dr. Fraser said there is growing discontent with large institutions which make residents overly dependent. She said college students working as volunteers at state institutions for the retarded are discovering what a lot of professionals have also discovered: that many persons confined to these institutions would not have to be there if someone had intervened earlier and had offered an alternative to institutionalization.

She said the focus of current efforts is to "unload the legal methodology of 150 years which has locked us in a system of bricks and mortar and job classification." She said change will come by offering alternatives, such as group homes and sheltered workshops for long-term employment, which could reduce the population of institutions such as Belchertown by two-thirds. The remaining third are multiple-handicapped persons in need of 24-hour-a-day skilled nursing care, she said.

Dr. Fraser said that as a nation "we cannot afford to spend so much money in the undignifying process of institutionalization which gives us no return." It would be better to subsidize sheltered workshops where handicapped persons can work, get paid and "put back into the economy."

"I have never known anyone with a disability who did not want to be independent," she said.

DEATH BY THE PINT: TRADING BLOOD FOR DOLLARS

HON. VICTOR V. VEYSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1971

Mr. VEYSEY. Mr. Speaker, in the CONGRESSIONAL RECORD for November 22, 1971, I inserted the first half of an outstanding series of articles from the Chicago Tribune on the dangers of unsupervised blood banks. The first of these articles described the high incidence of hepatitis in cities like Chicago, and the type of donors who fill the gap between what is needed and what is donated voluntarily.

The second half of the series describes in graphic detail the shoddy and dangerous procedures used in some blood banks. It also discusses some of the steps that might be taken to end these practices.

After months of research, I recently introduced a bill, H.R. 11828, to provide a legislative solution to the dangers of blood banking. I expect to reintroduce the bill with cosponsors in the near future, and will be pleased to provide any further information my colleagues may require.

I include the following articles:

[From the Chicago Tribune, Sept. 14, 1971]

BLOOD BANKS: PAY STATIONS OF WINOS, ADDICTS

The young man was unshaven and dirty, his breath reeked of cheap liquor and there was a needle mark on his left arm.

In the opinion of many medical authorities and blood experts, he was a classic example of a walking health hazard. Living from drink to drink, he pays for his binges by peddling his blood as often as he can.

On the surface it appears to be a harmless transaction. But if his blood is crawling with hepatitis—and there is no sure way of telling for certain—another bottle of poison will be on its way to a hospital operating room where it may ruin or destroy another life.

SECOND DAY OF GIVING BLOOD

On this morning the scruffy blood peddler is preparing to do business in the Interstate Blood Center, 2543 W. North Av. Less than 24 hours earlier he had sold a pint of blood at a North Side commercial blood bank and under the rules of giving blood should have waited at least another eight weeks before selling another pint.

He is the kind of donor that is giving the nation's medical community nightmares. The blood of these donors is 11 times more likely to be infected with hepatitis, a disease that attacks the liver, than the blood of the unpaid donor. The transaction at Interstate was not unusual. What was unusual is that the donor was Philip Caputo, a Task Force reporter and his report of the incident underscores the laxity in some of Chicagos commercial blood banks:

STOPS ASKING QUESTIONS

"The technician took down my phony name and address, then he started going down the list of illnesses. After I had replied 'no' to the first half dozen diseases, he stopped asking questions and just marked 'no' down the rest of the list. That done, he sent me into the back of the building, where a female technician tested my blood pressure, pulse, blood type, etc."

This exchange followed:

"Is that a needle mark?" the employee asked.

"Yeah, I had a blood test yesterday when I was looking for a job," Caputo replied.

CAUTIONS THE RESPONSE

"You know you're not supposed to give blood more than every eight weeks," she cautioned, apparently suspicious of the response. "A lot of people try to do that."

Caputo protested that he had not given blood recently, and the employe then told him to lie down on a coach so the blood could be drawn. As they prepared to take the blood, he was forced to make an excuse to leave in order to avoid giving blood twice in 48 hours.

A blood bank technician who worked closely with Task Force reporters said he learned on his first day at work how easily some unqualified derelicts can sell their blood.

CLIENTELE OF WINOS, ADDICTS

The Scientific Blood Donor station is located at 1573 W. Ogden Av., and almost all of its clientele are the drifters, winos, and drug addicts who live in the flophouses along West Madison Street.

"The very first day I worked there some guy came in whose iron count tested at 38. My supervisor told me to write in phony numbers. He told me to go ahead and pass him and put down a 41 [acceptable iron count for donors] on the card," the technician recalled.

He said he quickly learned falsifying records and passing unfit donors was a regular practice at Scientific. He said the practice extended from prospective blood sellers with low iron counts to those with high blood pressure.

"One guy came in. Everything else was all right with him, but his blood pressure was 196 over 152 [normal is 120 over 80], but my supervisor passed him," he said.

The technician said he suspected that the pressures of filling a daily quota forced employes to ease up on screening donors.

"But I wouldn't accept any of them," he said. "I would reject everybody, with all their drinking and wrecking themselves with malnutrition."

But even basic standards of cleanliness are sometimes laid aside, according to the technician. He said he became aware of this one day when he accidentally dropped a needle on the floor as he was attempting to correct its position in the arm of a paid donor.

TAKES NEEDLE FROM FLOOR

As blood spurted from the arm of the donor, his supervisor picked the needle up and prepared to reinsert it because the blood bag was only three-quarters full.

"That's a dirty needle," the technician said he warned the supervisor. But he said the supervisor reinserted the needle.

"What he should have done was paid the donor and scratched the blood sample since it wasn't a full pint," the technician said.

Brig. Roland W. Quinn, officer in charge of the Salvation Army's Harbor Light Center, 654 W. Madison St., accused commercial blood banks of "exploiting" men in search of liquor.

LIE TO GET MONEY

"The drive for the next drink is just so great that they will lie to get the money," said Quinn.

The Scientific Blood Bank makes it easy for donors to spend their fee on alcohol. Instead of cash or a check, donors are paid with a voucher that can be redeemed only at a nearby liquor store. The liquor store requires them to make a purchase. And if the donor makes a small purchase, he is charged a dime as a voucher cashing fee.

Robert Gallagher, president and owner of Scientific, explains the voucher system this way:

"There is a currency exchange three blocks away, but some of these guys (paid donors) would have a hard time finding it."

Scientific is one of 11 commercial blood drawing stations in Chicago. Five are located in Skid Row or low income neighborhoods. The 11 stations dominate the blood market in Chicago, supplying the city with 60 per cent of its blood needs every year.

HAVE NETWORK OF STATIONS

And two of the commercial operations—Scientific and Interstate—have a network of donor stations in slum and Skid Row neighborhoods in Washington, Cincinnati, Detroit and Milwaukee. Blood from these cities is frequently used in Chicago.

An officer of the Beverly Blood Center, Inc., 9944 S. Western Ave., admitted that his company operates a donor station in Uptown because it puts them closer to their customers.

"At present? there simply aren't enough people volunteering blood, so you have to pick an area where low income people live," said Roger Sullivan, who manages Beverly's four drawing stations. "They use the money to buy a dress or augment their salaries. We hope it's not used to buy alcohol, but you can't control that."

Dr. J. Garrott Allen, an expert in blood research and professor of surgery at Stanford University, Palo Alto, Cal., takes a different view of the commercial donor. He contends that the fees paid for blood guarantee that more bad blood will enter the medical community.

"The pay scale (generally between $5 and $15 a pint) is all that is necessary to attract addicts and Skid Row people," said Allen. "It will not attract others."

The owners of some commercial blood banks dispute the statistics of people like Dr. Allen.

Dr. Coye C. Mason, owner of the Chicago Blood Donor Service, 2050 N. Clark St. labeled Allen's figures as "a lot of hogwash."

"Anyone who lies down to give his blood is a volunteer," said Dr. Mason. "We pay the donor for the time he takes to come and give his blood."

RESULT OF BAD BLOOD

Richard Frame, a 68-year-old civil engineer, doesn't care who wins the verbal battle. He received two units of blood during neck surgery in Wesley Memorial Hospital in April, 1969, and four months later he was back in the hospital with hepatitis.

Frame said his doctor told him the disease was a result of bad blood received during surgery. Frame has suffered 15 per cent permanent liver damage.

Frame, is suing the hospital for $100,000 and the hospital in turn has sued Chicago Blood Donor Service, alleging that it was the source of the blood.

Frame describes his experience this way:

"It's agony. Agony and a lot of turmoil. It was like the bottom had dropped out of everything."

Below is voucher used at a blood bank:

Scientific Blood Bank, Inc., 1873 West Ogden Ave., Chicago, Ill.

This is not a check. Non negotiable, No. 1311.

Pay to the order of John Doe five dollars ($5.00).

Redeem at locations stamped on the reverse side.

Cash only at Ogden Liquors, Inc., 1535 W. Madison. No charge for Cashing Checks.

Voucher issued to donors by Scientific Blood Bank, which can only be redeemed at nearby liquor store.

[From the Chicago Tribune, Sept. 15, 1971]

Volunteers Can End Our Blood Dilemma

It was to be a routine medical operation, and Dr. Richard Sassetti was determined to keep the patient out of danger.

Sassetti is director of the blood bank at Rush Presbyterian St. Luke's Medical Center Hospital, 1753 W. Congress St. While he had nothing to do with the surgery scheduled for that morning, his decision could mean life or death for the patient.

Only hours before the operation was scheduled, Sassetti was confronted by an enraged surgeon who wanted to get started early and needed blood. But Sassetti was reluctant because his volunteer donor blood supply was low and an early operation meant he would have to rely on the blood from paid donors.

BLOOD IS "HIGH RISK"

Sassetti and his colleagues in the hospital blood bank business describe the blood from paid donors as "high risk" and for years they have been desperately trying to avoid using it. All too often, they claim, the paid donor is a wino or drug addict whose way of life means that his blood may well be teeming with hepatitis virus, a debilitating disease that attacks the liver and can become a killer in the operating room.

"Where's the blood," demanded the surgeon. "What's the problem. Why can't you find a donor?"

Sassetti responded to the dilemma in the only way he knew. First, he made the rounds of the hospital searching for suitable donors. When that failed, he and an intern each gave a pint. But they still needed two more pints. Sassetti still was reluctant to call a commercial blood outlet and run the risk of getting "high risk" blood.

"How about you doctor?" Sassetti finally said to the surgeon. "You're carrying it in your veins."

SURGEON WALKS AWAY

Sassetti recalls that the surgeon reacted with a shocked look, then turned on his heel and walked away. Several hours later Sassetti succeeded in getting two more volunteer pints, but he points to the incident as a classic case of what is happening more and more as the medical community shrinks from using the blood of paid donors.

"I guess he [the surgeon] didn't realize what kind of a problem we've got," Sassetti said. "Too many doctors think that blood can be obtained as easily as aspirin. They just scribble out 'transfusion' on the patient's card and think all you have to do is go to the corner drugstore and pick it off the shelf."

But concern has been growing among physicians in the last 18 months since the discovery of the first test to detect some hepatitis tainted blood. The test known as the Australian Antigen Test, is effective in showing the virus in only one out of four cases. It can show positive in one test and negative in the next when the same person is being tested.

TESTS PROVE DANGER

Many medical experts say the test proves that there is a very real danger from the quality of blood being used in transfusions. It is of such proportions that some experts consider it a matter of life and death for one out of every four patients over the age of 40 who receive transfusions.

"As the [hepatitis] situation now stands it is reminiscent of Upton Sinclair's "The Jungle," a book in which he exposed the lack of sanitary conditions in the meat industry in 1906," said Dr. J. Garrott Allen, professor of surgery at the Stanford University School of Medicine and an authority on blood. "The question is will the federal government act and when? Or must this be action brought about by a consumer revolt?"

Allen, Sassetti and a growing number of others in the medical community are convinced that the only answer is a sweeping, well organized volunteer blood donor program that would eliminate the use of paid donors. Even some of the commercial blook bank operators concede this is the only solution and quickly point out that they could play a part in the program. Somebody has to draw the blood, they say, and they are set up to do the job.

Allen explains the problem and a possible solution this way in an unpublished paper entitled "Hucksters in Blood":

"Most agree that we could reduce our incidence of transfusion hepatitis by nearly 90 per cent if we used only a volunteer system. This should eliminate the use of prisoner, Skid Row and addict populations as donors, because money is the urgent need of these people for more drugs, more alcohol and sometimes food. It [the United States] is the only country in the western hemisphere and in Western Europe in which a national volunteer blood program does not exist."

"It follows that, if 7 million units of blood will meet the nation's annual needs of our population of 200 million, only 3.5 per cent of the people need to contribute blood," Allen said. "However, there are 65 million people ineligible to donate blood because they are either too old or too young. Possibly another 35 million, for major or minor reasons, may not be eligible. With these crude and rather generous estimates, the nation's needs could still be met if 7 per cent of the eligible population contributed blood annually . . . If each of the 100 million eligible blood donors contributed three units [pints] of blood during his lifetime, the problem would be solved."

In Chicago at this time, 60 per cent of the 250,000 pints of blood used each year are supplied by paid donors who received from $5 to $15 a pint. Michael Reese and Mt. Sinai have acted in recent months to cut off paid blood, however. They believe they have reduced the hepatitis risk to their patients.

Dr. Richard Aster, executive director of the Milwaukee Blood Center, said Wisconsin embarked on a successful volunteer blood program several years ago. He attributes the success to the use of a centrally located blood center with satellite mobile units. This has eliminated the competition for blood among several agencies.

PUBLIC RELATIONS PROGRAM

This means that only one public relations program is needed and it can be more effective, Aster said. A problem faced by any donor recruiting program, is that blood spoils after 21 days, so all programs must be constantly publicized and cannot be successful with only one or two well-publicized campaigns a year, Aster said.

Several other large metropolitan areas, including New York City, have established similar central donor services. New York operates an entirely volunteer program which supplies 300,000 pints of blood a year to 17 counties.

Dr. Morris Schaefer, assistant commissioner of the city's Public Health Department characterizes the center as "the best system we have at the present time, but it is not good enough. We still have a large demand for commercial blood and it must be lessened."

Except for a 20-hospital computer system set up at Michael Reese Hospital with help from the American Red Cross, there is no such central service in Chicago.

SET UP OFFICES

Last month the Metropolitan Chicago Blood Council organized a staff and set up offices on Michigan Avenue to begin a program to help meet the need for volunteer blood.

According to Dan Helsdingen, executive director of the council, the council's objectives are to assist in recruiting donors, provide a computer inventory of all available blood and volunteer donors in the metropolitan area, and to carry on a public education program.

Experts in the blood field, including the most severe critics of paid donors, acknowledge that an immediate prohibition of paid donors would leave most hospitals without blood. But gradual change-over to all-volunteer blood can be accomplished, they say, pointing to successes in individual hospitals and several large communities. Even then, paid donors may be used, if their blood is used for research purposes, not transfusions.

Meanwhile, Dr. Aaron Josephson, director of the Michael Reese Research Foundation Blood Bank, said that a central registry is needed in the Chicago area to catalog the names of all donors who at one time tested positive for the hepatitis associated antigen. Josephson said that the Red Cross operates such a computerized reference nationally which is available to any blood bank but is rarely used in Chicago.

MAKE CITY RESPONSIBLE

Robert Gallagher, president of the Scientific Blood Bank, 1434 W. 79th St., suggested that the state or the city be responsible for registering and testing all donor applicants and that they issue identification cards certifying that they meet all qualifications to sell their blood.

In another development, an attorney for Dr. Coye C. Mason, president of Chicago Blood Donor Service, Inc., 2050 N. Clark St., a commercial blood bank, objected to a reference in yesterday's Task Force article about paid blood donors which described Mason as an owner of the operation. The attorney said Mason was an owner at one time, but the blood bank has since become a not-for-profit corporation and is controlled by a board of directors.

PROTECTING AMERICAN JOBS

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1971

Mr. SEIBERLING. Mr. Speaker, the year 1971 will go down in history as the year in which America became acutely aware of its changed position in the world economy. For the first time in many decades, American workers in many industries found themselves face to face with significant competition, or the threat of significant competition, from products imported into the United States from abroad.

Everyone is now aware of the problem, but the solutions are not at all clear. It is my hope that the Ways and Means Committee will hold hearings on this subject at an early date, and I have written its chairman, the Honorable Wilbur Mills, urging such hearings.

In the meantime, I believe it will contribute to a better understanding of the problem and the implications of some of the proposed remedies if appropriate material can be made available for study by the many Members of Congress who are concerned about it. Because the tire industry typifies the problems facing many industries, I am taking the liberty of inserting into the Congressional Record important statements relating to the problems of international trade as they relate to the tire industry.

Today I am offering the remarks of Mr. Raymond C. Firestone, chairman of the board of the Firestone Tire & Rubber Co., contained in a speech he delivered to the National Foreign Trade Council meeting in New York City on November 15, 1971. The company which Mr. Firestone heads is not only one of the two largest corporations in the tire industry but is also one of the largest and most successful "multi-national corporations" in the United States. Mr. Firestone points out that the key to the survival of American industry is productivity. His recommendations concerning the renewal of productivity in American industry and its relationship to full employment deserve most serious consideration.

Mr. Firestone's statement follows:

A Road to Economic Survival

(Remarks of Raymond C. Firestone)

To be invited to appear before the National Foreign Trade Council is a deep honor. It also is quite a challenge because of the many changes which have taken place since President Nixon stood before the television cameras on August 15.

Today's international marketplace has become so complex that a multitude of theories abound. Ask any five people in this room how to solve the trade imbalance, for example, and you'll likely get three to five different answers. Bring in your counterparts from other nations and you'll end up with even more diverse answers.

It seems as though almost anyone you meet these days is ready to expound on free trade, on protectionism, quotas, retaliation, multi-nationals. export credits, GATT injustices and on and on.

Basically I am an advocate of free trade and would be delighted if the day would come when all kinds of goods could flow freely from nation to nation, with each country exporting the products it can make best. However, I don't hold out too much chance to see that happen in my lifetime.

While advocating free trade, I found myself applauding the President's action of imposing a 10 per cent surcharge on imports for two reasons:

1. It is to be a temporary move.
2. It became time for us to let the other trading nations know we had reached the point where we had to take action to under-

score our realization that we could no longer economically live with existing inequities.

It's my opinion that we've been too easy with too many for too long. If our easing of restrictions had been matched by others then we would be far better off and I would have opposed even this temporary surcharge.

I believe that over the long haul this action will be viewed with favor even by those it has affected. It will show them that this country, like the others, *needs* proper two-way trade.

I hope, though, that the results of this action will not cause a groundswell of feeling that we should resort to a position of advocating continuing tariffs or import quotas or other artificial barriers to block imports. That would be like applying band-aids when the patient needs complete medical treatment.

To impose barriers would result in an increase in domestic complacency, and we already have seen what complacency can do. Barriers do not make for better products, nor do they keep prices down. Actually they can result in the opposite. Barriers tend to create a vacuum which takes away the incentive to become more competitive.

This brings us to what, in my opinion, is the root of the problem we have been facing with the flood of imports—the need for greater productivity.

Productivity is the key to any nation's growth and continuing vitality, and it's a factor which, in the United States, has not been keeping pace with the rest of the world.

A Labor Department study shows that the United States had the smallest gain in output per manhour of any large industrialized nation in the decade of the 1960's.

Our growth rate in that span of time amounted to less than 35 per cent, compared with the gain by Japan of more than 188 per cent. It is true that Japan, like some others, had a lower base, but other highly industrialized economies also rose well ahead of our rate. Germany, for example, went up 87 per cent, Sweden 100 per cent and France nearly 75 per cent.

I realize that figures are difficult to remember so I don't intend to inundate you with them, but I would like to cite just a few more to point out the seriousness of the trend. The Bureau of Labor Statistics, using 1961 as the base year, shows that the rates of compensation and of productivity in the United States rose on a parallel track until 1964. Then the two rates began to separate to the point where last year the productivity increase reached 25 on the scale, while the compensation rate reached 50. In other words, in 1970 the compensation rate was double the productivity rate.

This disparity cannot be allowed to continue or we will price ourselves right out of the market—both the international market *and* the domestic market. In fact, company closings are becoming all too common already. The number of jobs lost has become a boxcar figure.

Also significantly, in 1970 the profit margins of manufacturing corporations declined to 4 per cent of sales, the lowest level in 20 years and a percentage which should be considered alarming to all concerned with the total economic future.

Unless we start, and start right now, to uncover ways to improve our productivity, this nation is faced with a continual increase in the number of business fatalities with a startling rise in job losses.

Should the solutions not be found, I fear that this nation faces a period of economic chaos. I hope and trust we can recognize the problems and move toward solving them before we reach that point.

The Road to Survival will take a lot of soul-searching on the part of labor, management, the government and the consumer. Self-serving splits between these groups must be replaced by an attitude of mutually beneficial cooperation.

The days of having the luxury of people knocking down our doors to buy our goods are at an end and we now must act with that understanding, while at the same time making United States products as attractive in price and quality as those flooding us as imports. If we cannot do this we will not be able to compete in our own country, let alone in other countries.

So we must ask ourselves:

What good would it be to have a contract for the highest wages in the world if there is no job to earn them?

What good would it be to have modern and massive factories if they are forced to cease operations?

To continue to enjoy the standard of living we have come to expect as our natural and national heritage, we must look realistically at where we are and where we might be going and I think that we then will come to the conclusion that we must undergo a period of belt-tightening, or at least of not letting the belt move out another notch.

Productivity is a combination of men, machines and methods. Until the past few years it seems we were able to offset continually rising wage and salary costs through the installation of more productive equipment and methods.

Industry will continue to make breakthroughs, but so will our foreign competitors. We must remember that our overseas counterparts no longer are operating with foot-power lathes and hand-crank blowers. Those who have visited facilities in other countries know that their production equipment in many cases is as good as ours. In other cases it is even better because, in addition to other reasons, entire industries were built from the ground up after World War II and they have kept abreast of the latest machine tool developments.

So it becomes a difficult arithmetical problem to ponder how the same product can be turned out on the same type of machine for the same price when one worker is receiving the equivalent of $6.00 or more an hour and the other the equivalent of $1.50 an hour, and also, when the latter worker is producing more per day than the former.

Yet those are the conditions under which we are expected to compete with the products of other nations, not only for the export markets but in our own domestic markets.

Our work force today, even in this period of recession, enjoys the best life of any worker in the history of the world . . . and well he should. Take any criterion—home ownership, savings, car ownerships, vacations, hobbies, education for his children—and it is easy to see why the United States employee is envied by his counterparts around the world.

For these are the same things they want, and are working hard to achieve. They have the desire, the goal, which seems to be waning in this country.

We have set ourselves up as the envy of the world and now we have started to see that those who want to attain what we have can compete on even ground—in fact, on more than equal terms because of our high costs.

I am not necessarily advocating forced pay cuts, though it may be necessary to look at some adjustments.

I am however, strongly advocating that pay increases be linked to productivity and should not be allowed to exceed gains in output, as they have been doing. I also am advocating that all of us—and I mean all of us, not just those in the labor force—earn what we are receiving because if we don't earn it we're going to lose it at an ever-increasing clip.

Somehow we must make this realization carry some real meaning. To do this we must change the type of thinking that says it just can't happen to me; it always will happen to someone else.

At my own company this came up not too long ago. Over a period of several years we kept pointing out at one of our non-tire plants that our costs were going out of line mostly because of labor costs far higher than at comparable plants elsewhere, as well as those of other industrial concerns in the same city. We said time and time again that we would have to face the closing of the plant unless we could achieve greater output per man or lower contract demands. We achieved neither.

Now sadly, the plant is closed, and other jobs in that labor-surplus market are virtually non-existent.

I know that many of you in this room have had similar experiences, and I'm sure that it also took you through quite an emotional trauma.

It is not pleasant to know that people will not face the economic facts of life. Yet if they do not face these facts I shudder to contemplate the consequences.

Ralph Waldo Emerson once wrote, and I quote: "This time, like all other times, is a very good one, if we but know what to do with it." Unquote.

How I hope and pray that we learn what to do with it before it is too late.

It is human nature to want as much as can possibly be obtained, and yet there must come a realization on the part of all of us that there is a point beyond which economic disaster is the only landing point.

We could resort to pointing fingers of blame, but instead we should take a positive approach. There is far too little understanding of how the free enterprise system works, and it's time we did something about it. And this will take the concentrated efforts of all segments of our society—business, labor, government, the news media and our educational institutions—all of whom have a great stake in the future of our country as a world economic power.

All of us must make a concerted effort to inform and convince all employees and all others how jobs are created and how they are maintained.

We must convince them that profits are a must in order to make available new capital needed to retain existing jobs and create additional jobs.

For example, in the tire industry to build and equip a new plant takes an investment of between $45,000 and $50,000 per employee.

We must make employees realize that their paychecks bear the imprint of the company and no other source. We must convince them that no company has a never-ending pot of gold, and we must convince them that there is no way to negotiate competitiveness.

As part of this clarification process we should not let the term "multi-national company" become a whipping boy. Multinationals are being subjected to criticism today because some feel that by building plants in other countries we are taking away United States jobs. The critics would make us believe that this is a new movement, but that's hardly the case. Firestone, for example, started its first foreign plant more than 50 years ago, with 20 others being added before 1960, which was long before the criticism of multinational companies was started.

We also must point out that historically a foreign operation has generally been considered only when there has been a market in that country for the products. And if the market is there some company from some country is going to become involved, and it's my opinion that it's in the best interest of our nation to have that company be one from the United States.

In the case of the tire industry there is no evidence that building plants abroad has taken away United States jobs. Facts show that tire companies actually export far more than they import.

This is especially true at Firestone. In the first seven months of this year we exported

262,000 passenger tires and brought in only 16,000, a ratio of 16 to one!

I believe that the majority of employees, if given these types of facts in straight-forward fashion, will have a better understanding of these things, and I think they'll adjust their thinking.

As a partial basis for this view, I refer to the Gallup Poll taken after President Nixon instituted the wage-price freeze. It showed that 65 per cent of those in union-member families held a favorable opinion of the program, not far behind the proportion of adults in non-union households, where 75 per cent expressed support.

As one assembly-line worker told the pollster: "It sounds like a good thing for the country. I may lose a raise because of the freeze, but if Nixon can keep prices down I won't mind so much."

Similar views were expressed across the land.

Employees can appreciate the facts, if the facts are made available to them, and that's a condition that all members of management should be made to realize.

I still believe that the average man will take pride in his work, if given the chance and the inspiration through information and leadership.

While calling on management to do a better job of leading and communicating with the workers, I also call on the labor leaders to face the facts of economic life and to encourage the rank and file to do a better, more prideful job.

It's no longer a matter of wishes; it's a matter of meeting the challenge of economic survival in this highly competitive world.

We're already beginning to see a sign or two that we are meeting this challenge. For example, after the United Steel Workers settlement was reached the union said it would try to help industry's low productivity rate and said it would not block technological change. One top steel worker official said: quote "We are going to try to convince the workers that their futures depend on steel becoming more competitive." Unquote. An isolated statement, but a very important and revealing one.

In his Labor Day address President Nixon said he believes "the work ethic of this people is alive and well." It is my opinion that at this time he was a bit optimistic in making that statement, but I think we can again reach that point.

A renewal of the competitive attitude can accomplish this, and I believe it's far from being an impossible task.

I believe that given the facts, and the alternatives, that people will respond in the proper way.

If they understand their role in the quest for competitive productivity—that our future depends on it—I believe we will see a reawakening of the enterprising spirit which has served this nation so well in the past.

I believe there's precious little time to waste.

LEGISLATION TO REGULATE THE TRANSPORTATION OR SALE OF SALMONELLA - INFECTED BABY TURTLES AND OTHER DISEASE-CARRYING CREATURES SOLD AS HOUSEHOLD PETS

HON. LEONOR K. SULLIVAN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1971

Mrs. SULLIVAN. Mr. Speaker, the unrestricted sale in interstate commerce of domestically raised live creatures intended as household pets poses a serious public health problem which existing Federal law does not meet. Salmonella is so widespread among baby turtles that the Department of Health, Education, and Welfare informs me it is apparently impossible so far to breed disease-free specimens. An alarming percentage of salmonella infections among children has been traced to these baby turtles.

Other species of animals, birds, amphibians, reptiles, and so on, also carry diseases injurious to human beings, and although there is legal authority to ban the importation of infected wild creatures, those which are produced in the United States can apparently be sold in interstate commerce without hindrance.

As we approach the Christmas season, we can look for stepped up promotion of live creatures as gifts to children, with the likelihood of further spread of serious diseases. At Eastertime, too, this is always a source of public concern.

I have therefore today introduced a bill, H.R. 11953, to provide authority to the Secretary of Health, Education, and Welfare to issue regulations restricting or prohibiting the transportation or sale or other distribution in interstate commerce of live creatures intended as household pets if they are infected in significant degree with diseases injurious to human beings.

The legislation would not apply to animals or other creatures sold or transported in interstate commerce for medical, industrial, educational, or research purposes, or for zoos, and so forth. And of course, it would not apply to those intended for food, which are already covered by other laws.

PROMPTED BY RESEARCH BY MRS. DEWEY ANDERSON

The legislation I am introducing today is an outgrowth of facts called to my attention by Mary L. (Mrs. Dewey) Anderson, now of St. Louis, who for 9 years had done humane education work in Roanoke, Va., concerning the care of baby turtles, both independently and through the humane society in Roanoke. She reported to me that the Public Health Service had spent many years in an attempt to breed salmonella-free turtles and apparently was unsuccessful. The Department of Health, Education, and Welfare subsequently confirmed this information to me.

Mr. Speaker, as background for this legislation, I include at this point the first letter to me from Mrs. Anderson on this subject early this year, my reply, inquiries I directed to the Secretary of Agriculture, the chief of the Public Health Service, and to the Commissioner of Food and Drugs, the subsequent answers, and then further correspondence with Mrs. Anderson, as follows:

ST. LOUIS, MO., *January 1, 1971.*

Hon. LEONOR SULLIVAN,
Rayburn Building,
Washington, D.C.

DEAR MRS. SULLIVAN: In November an agent of the St. Louis office of the Federal Food and Drug Administration suggested that I see you. I planned to do this during the holidays but was informed by your office here that you would have to return to Washington too quickly to permit appointments. Therefore I shall try to set forth the whole matter in this letter.

I am greatly concerned over the fact that baby water turtles sold as pets are still carrying salmonella bacteria despite the fact that nearly five years have been spent by breeders and U.S. Public Health scientists in an attempt to breed salmonella-free turtles.

In 1965 medical doctors made it known to the public that pet turtles could carry disease to children and adults. When more than a year passed and pet turtles were still being sold, I went to Washington to find out what was being done about the situation, and to try to get a ban put on their sale. I talked with officials in USDA and HEW and also contacted Communicable Disease Control in Atlanta, Georgia by letter. I found that U.S. Public Health Department scientists were working with the turtle breeders to find a way to clean up their contaminated pools, tanks, etc. and to breed turtles free from the bacteria. That they have been unsuccessful in this attempt, can be seen from the enclosed copy of a recent newspaper clipping from Milwaukee, Wisconsin. Little children are still being made ill by the bacteria carried by turtles.

New Zealand does not allow the importation of turtles into that country since they received a diseased shipment from the United States in 1965. I am enclosing a copy of a letter stating this fact.

For nine years I have done humane education work concerning the care of baby water turtles, working both independently and through the humane society in Roanoke, Virginia where I lived until moving to St. Louis a year ago. Experience has taught me that the infant mortality rate of these hatchling turtles is nearly 100%, due to improper care in stores and homes, and to various diseases (besides this salmonellosis—turtles themselves are not affected by this disease). They often have pseudomonas bacteria infection and fungus infection, also malignant and non-malignant tumors. Children put their hands into the turtle's water which is usually kept filthy, and then put their hands into their own mouths, thereby really "eating" the turtle's excrement together with any germs it might contain.

On November 17, 1970 I turned over to the St. Louis office of the Federal Food and Drug Administration this same information which I am giving you. I asked that they do something to stop the sale of these turtles. I mentioned to them that if they could be classified as something "eaten," they could fall under FDA jurisdiction and be removed from the market; also I suggested that something might be done through the 1969 child protective legislation, the Safe Toy Act, since in many cases they are bought more as toys for little children than as real, living creatures. The gentleman with whom I talked said that he would pass the information to Washington and suggested that I talk with you. Two weeks after this, I wrote to the Consumers Union, giving them the same information I am giving you. They acknowledged receipt of my letter and said it had been forwarded to the appropriate members of the staff.

I believe that all turtle sales, for pets, should be stopped nationally. Except for profit for the breeders and merchants, the turtle trade produces nothing but misery and loss. To the turtles themselves it brings suffering, starvation, disease and death; and to the consumer and his family it brings illness, loss and disappointment—in almost every case he loses the turtle through death before it has grown at all. In fact, so rare it is that one lives and grows to maturity that most persons think that these are miniature turtles, incapable of growth. Humane education just does not work well in the case of cold-blooded creatures unless a person spends an infinite amount of time and patience caring for them as I have for nine years. By means of a nourishing diet and meticulous care, I have successfully raised some from hatchlings to adults. Some turtle care booklets state that turtle care is easy

Nothing could be more misleading. Easy care means death.

It is my hope that you can do something to put an end to this danger to the health of children. Entirely too much time has passed while the turtle breeders have tried to get rid of the bacteria, which despite all their efforts, still shows up in turtles being sold in stores at the present time.

Yours sincerely,

MARY L. ANDERSON.

[From the Milwaukee Journal, Oct. 13, 1970]

TURTLE SALE BAN URGED

The city health commissioner Tuesday asked the Common Council to ban the sale of baby turtles within the city because of the possibility of spreading disease among children.

The recommendation by Dr. E. R. Krumbiegel was included in a proposal to revise the ordinance governing the sale and keeping of animals. The proposal was presented to the Council's Health-Traffic Committee.

The proposal also specifically prohibits the keeping of goats as pets within the city.

Last spring when the Health Department tried to banish Stoney, a pet goat owned by the John P. Fulton family, 3845 N. 44th St., Ald. Mark W. Ryan and several other aldermen objected.

Krumbiegel told the committee Tuesday that his department has found that many turtle aquariums in stores contained germs that could infect children.

He said the diseases ranged from some as serious as typhoid fever down to milder strains.

"We're constantly getting children who pick up infections from these turtles," he said. "This is a national problem and Milwaukee will not be the first community to prohibit the selling of turtles."

The committee delayed action for three weeks after Ald. Harold Jankowski said that citizens should be given the opportunity to speak before the revised ordinance, which contains many sections affecting them, was passed.

In addition to the ban on the sale of turtles and the keeping of goats, the ordinance proposal provides $10 to $200 fines for:

Keeping as pets bees, sheep, swine, chickens, ducks, turkeys, geese or cows.

Selling skunks, raccoons, foxes or bats, because of the possibility of spreading rabies.

Selling dyed baby chicks as pets.

Keeping a kennel of two or more dogs as a business for boarding, breeding, sale or sporting purposes without purchasing a $10 license.

Operating a pet shop or animal grooming establishment without a $10 license.

Keeping rabbits or guinea pigs within multiple unit dwellings.

Keeping a vicious animal or one which creates a habitual nuisance.

NEW ZEALAND
DEPARTMENT OF AGRICULTURE,
March 19, 1968.

MRS. MARY L. ANDERSON,
Roanoke, Va.
U.S.A.

DEAR MRS. ANDERSON: In reply to your letter of 18 March it is quite true that a ban has been placed on the importation of turtles and tortoises into New Zealand.

This prohibition was imposed following the discovery in 1965 of a number of sero types of Salmonella Bacteria in tortoises imported from the U.S.A., not previously isolated in New Zealand.

The ban was imposed in the interests of both human and animal health.

Yours faithfully,

——— ———,
Director, Animal Health Division.

CONGRESS OF THE
UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., January 12, 1971.

MRS DEWEY ANDERSON,
St. Louis, Mo.

DEAR MRS. ANDERSON: My hunch is that the Food and Drug Administration would not have jurisdiction over the sale of baby turtles as pets but would only be interested in this item when the turtles are intended to be sold for human or animal food. But I do believe the Department of Agriculture would have jurisdiction and would be interested in this problem. I will contact that agency and also the Public Health Service to see what can be done to protect children from salmonella or other diseases carried by these pets. FDA has responsibilities for administering the hazardous toys provisions of the Child Safety Act, but I suspect pets would not be considered toys. Agriculture, on the other hand, has extensive responsibility in connection with the sale of pets.

I am delighted that you brought this matter to my attention and I will look into it. Throughout my career in Congress, informed suggestions and specific details from constituents have provided me with the leads on most of the consumer issues I have been successful in pursuing—both legislatively and through administrative action. I will keep you informed of any developments.

Sincerely yours,

LEONOR K. SULLIVAN,
Member of Congress, 3d District, Missouri.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., January 12, 1971.

HON. CLIFFORD M. HARDIN,
Secretary, Department of Agriculture,
Washington, D.C.

DEAR MR. SECRETARY: Some years ago, when she lived in Roanoke, Virginia, Mrs. Dewey Anderson, now a resident of St. Louis took up with your department and also with the communicable disease officials of the U.S. Public Health Service the danger to children from salmonella-carrying baby water turtles sold as pets. She was advised by the U.S. Public Health Service that their scientists were working with the turtle breeders to find a way to clean up their contaminated pools, tanks, etc. and to breed turtles free from the bacteria. Apparently they have not succeeded. The Department of Agriculture of New Zealand informed Mrs. Anderson in 1968 that it has prohibited the importation of turtles and tortoises into New Zealand following the discovery of the bacteria in tortoises imported from the United States. Mrs. Anderson further advises me that the City Health Commissioner of Milwaukee has proposed banning the sale of baby turtles in that city.

I suppose there is a tangle of jurisdictions here between the Department of Agriculture, the Public Health Service, and perhaps Food and Drug. Therefore, I am asking that your department contact any other agencies which may have companion jurisdiction over this problem and report back to me on the scope of the problem and what can be done about it. I am sending copies of this correspondence including Mrs. Anderson's letter to me and my reply, to the Commissioner of Food and Drugs, and also to the Surgeon General. Conceivably the Fish and Wildlife Service of the Department of Interior might also have responsibilities here.

I am impressed by the amount of research Mrs. Anderson has done on this subject. She makes an extremely persuasive case for Federal action by *someone*, and I believe the agency most directly concerned would be in your department, particularly under the new legislation dealing with the sale of pets.

Sincerely yours,

LEONOR K. SULLIVAN,
Member of Congress,
Third District, Missouri.

WASHINGTON, D.C., *January 12, 1971.*

DR. CHARLES C. EDWARDS,
Commissioner, Food and Drug Administration, Arlington, Va.

DEAR DR. EDWARDS: I am enclosing copies of a set of material on the problem of disease-carrying baby water turtles sold as pets which I have just sent to the Secretary of Agriculture. It is my belief that his department would have primary jurisdiction, but your agency may also have responsibilities in this field and I have asked the Secretary of Agriculture to contact your agency in any inquiry he makes into this issue. Thus I want you to have the background documentation.

Sincerely yours,

LEONOR K. SULLIVAN,
Member of Congress, 3rd District, Missouri.

WASHINGTON, D.C., *January 12, 1971.*

JESSE L. STEINFELD,
Surgeon General, U.S. Public Health Service, Department of Health, Education, and Welfare, Washington, D.C.

DEAR DR. STEINFELD: I am enclosing copies of a set of material on the problem of disease-carrying baby water turtles sold as pets which I have just sent to the Secretary of Agriculture. It is my belief that his department would have primary jurisdiction, but your agency may also have responsibilities in this field and I have asked the Secretary of Agriculture to contact your agency in any inquiry he makes into this issue. Thus I want you to have the background documentation.

Sincerely yours,

LEONOR K. SULLIVAN,
Member of Congress, 3d District, Missouri.

U.S. DEPARTMENT OF AGRICULTURE,
AGRICULTURAL RESEARCH SERVICE,
Washington, D.C., January 25, 1971.

HON. LEONOR K. SULLIVAN,
House of Representatives,
Washington, D.C.

DEAR MRS. SULLIVAN: This is in reply to your letter of January 12 in behalf of Mrs. Dewey Anderson, St. Louis, Missouri, concerning the danger to children of Salmonella-carrying baby turtles sold as pets.

This Department has no jurisdiction over pet turtles. The Animal Welfare Act of 1970, PL 91-579, gives this Department, effective December 24, 1970, responsibility for humane handling and care of warmblooded animals. Pet turtles are coldblooded and, as such, do not come within the scope of this Act. Therefore the Department has no control over this species.

As you requested, we are forwarding a copy of this letter and your correspondence to the Center for Disease Control, U.S. Public Health Service; Bureau of Veterinary Medicine, Food and Drug Administration; Bureau of Commercial Fisheries, U.S. Department of the Interior; and the National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

We are requesting these agencies to reply to you direct.

Sincerely,

E. E. SAULMON,
Deputy Administrator.

WASHINGTON, D.C., *January 26, 1971.*

MRS. DEWEY ANDERSON,
St. Louis, Mo.

DEAR MRS. ANDERSON: I have just received the enclosed reply from the Department of

Agriculture regarding the sale of disease-carrying baby water turtles. Apparently the Department of Agriculture does not have jurisdiction over this matter as I had previously thought.

At this time we will have to wait until I hear from the other Government agencies. I will keep you informed of any replies that I receive.

Sincerely yours,

LEONOR K. SULLIVAN,
Member of Congress, 3d District, Missouri.

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
Atlanta Ga., January 28, 1971.

Hon. LEONOR K. SULLIVAN,
House of Representatives,
Washington, D.C.

DEAR MRS. SULLIVAN: We have received your letter of January 12, 1971, regarding the problem of salmonellosis associated with turtles. This matter has been referred to members of my staff who are working on the problem and a more detailed response will be sent to you within the next week.

Sincerely yours,

DAVID J. SENCER, M.D.,
Assistant Surgeon General, Director.

ST. LOUIS, MO., *February 2, 1971.*

Hon. LEONOR K. SULLIVAN,
Rayburn Building,
Washington, D.C.

DEAR MRS. SULLIVAN: I just wish to thank you for all you are doing in the matter concerning the sale of disease-carrying water turtles. The thorough and efficient manner in which you are handling this problem, as evidenced by the copies of your letters to various Government agencies, is indeed gratifying and has given me hope after many discouraging years spent in trying to do something about the entire pet turtle situation. I am confident that if there is any possible way to stop the sale of these turtles, you will find it.

I plan to be in Roanoke, Virginia from Februray 6 thru February 15. If for any reason you need to contact me during this time, I can be reached at 2236 Denniston Ave., Roanoke, Va., telephone (703) 343-0858. At this address, please ask for me as Mary Anderson to avoid confusion with my son's wife.

Sincerely yours,

MARY L. ANDERSON.

ATLANTA, GA., *February 3, 1971.*

Hon. LEONOR K. SULLIVAN,
House of Representatives,
Washington, D.C.

DEAR MRS. SULLIVAN: The following information is submitted to clarify questions raised by your letter of January 12, 1971, to Surgeon General Steinfeld, and Mr. E. E. Saulmon's letter of January 25 to you relative to the question of disease-carrying baby turtles.

Pet turtles have been recognized as a cause of salmonellosis since 1963. We have just concluded a survey in the State of Connecticut which indicates the possible seriousness and magnitude of the problem. The survey indicated that about a quarter of all salmonella infections in Connecticut may be due to infection acquired from infected pet turtles.

Data is now being collected from other States which will define the magnitude of the problem nationally. It is expected that these studies will be completed in the very near future. If these studies bear out the seriousness, appropriate measures of control will be sought.

Sincerely yours,

DAVID J. SENCER, M.D.,
Assistant Surgeon General, Director.

WASHINGTON, D.C., *February 8, 1971.*

Mrs. MARY L. ANDERSON,
Roanoke, Va.

DEAR MRS. ANDERSON: Thank you very much for your gracious comments on my efforts to pursue the water turtle issue you called to my attention. I am enclosing a copy of a letter I just received from the Center for Disease Control of the Public Health Service at Atlanta which confirms the seriousness of this problem.

The ultimate solution may rest in an amendment to the Animal Welfare Act of 1970, which, as the Department of Agriculture pointed out, applies only to warm-blooded pets. From your knowledge of this issue, do you know of any other coldblooded species in which any similar situation might exist and which are sold widely as pets?

Sincerely yours,

LEONOR K. SULLIVAN,
Member of Congress, 3d District, Missouri.

ROCKVILLE, MD., *February 11, 1971.*

Hon. LEONOR K. SULLIVAN,
House of Representatives,
Washington, D.C.

DEAR MRS. SULLIVAN: Dr. Edwards appreciated your letter of January 12, 1971, and enclosures, giving background on the problem of pet turtles carrying Salmonella. We have also received a copy of Dr. E. E. Saulmon's letter of January 25 to you concerning the limitations in the Animal Welfare Act of 1970.

The Food and Drug Administration has concern over the public health hazards posed by live turtles and other reptiles, and by baby chicks and ducklings which are intended as pets for children. The numerous outbreaks of salmonellosis caused by pet turtles reported by the Public Health Service, Center for Disease Control, as well as other public health journals, amply document the existing health hazards.

The problem of Salmonella infection in live turtles is further complicated by the likelihood of transovarian passage of salmonellae to the egg, and consequently to the embryo and the hatched turtle. There are no known procedures for decontamination of the infected reptile, hence, it would appear that banning the sale or distribution of turtles, and other pet reptiles, may be the only adequate solution. We understand that some states, particularly Washington, have regulations governing the sale and distribution of pet turtles.

As you have recognized, there are jurisdictional and legal complexities involved in establishing effective control over the interstate traffic in these live pets. This matter has been and is now under active consideration by FDA. The legal problems are under study and review by the General Counsel of the Department.

Thank you for your interest in making this information available to us.

Sincerely yours,

M. J. RYAN,
Director, Office of Legislative Services.

ST. LOUIS, MO., *February 16, 1971.*

Hon. LEONOR K. SULLIVAN,
Rayburn Building,
Washington, D.C.

DEAR MRS. SULLIVAN: I was very pleased with the reply which yor received from the Center for Disease Control at Atlanta. I did not know that they were in the process of collecting data pertaining to the carrying of salmonella bacteria by pet turtles. If the survey leads to action, other than quarantine, on the part of the Public Health Service, it may prove to be the best solution to our problem, provided that the action is adequate, permanent and taken without delay. Several years ago, I was told by the Center for Disease Control, that they would consider putting a quarantine in effect if the situation worsened. This would necessitate holding of turtles a month or more, and unless enlightened care was provided during this time, the turtles would be so weakened that they would be more susceptible to other infections, such as pseudomonas and fungus, after quarantine; also quarantine would not serve to save the millions of baby turtles which die each year because of the difficulties of raising them in the average home.

More than two years ago, when I first heard that legislation concerning the welfare of pets for sale was being considered, I tried through the national humane associations, to have cold-blooded animals included. However, their opinion was that it would be impossible to do that at this time; and, they, being thankful for the prospect of having some measure of relief for warm-blooded animals, were afraid to jeopardize it by insisting on the inclusion of the cold-blooded creatures.

I am not familiar with the exact provisions of the Animal Welfare Act of 1970, however, from what I have been told, I understand that it has to do principally with the conditions under which pets for sale are transported and held. Even if the cold-blooded were included, is there anything in the law which could be used to actualy prohibit the sale of certain species even for the protection of the public or the welfare of the animals concerned? I should like very much to have a copy of this act as I feel completely in the dark concerning its provisions.

In answer to your question concerning cold-blooded species, other than turtles, I have not had first hand experience with them; however, I have it on good authority that the same high mortality rate and suffering experienced by pet turtles is applicable to all cold-blooded creatures. The care and proper environment is rarely provided in the average home. Sales of reptiles and amphibians are definitely on the increase, but of course, the millions of turtle sales far surpass all the others.

Since receiving your letter, I have consulted a herpetologist concerning the possibility of other cold-blooded species carrying disease to humans as is the case with turtles. He did not know of anything which has been definitely proven at this time. However, he said that there is a suspicion that cold-blooded animals can carry encephalitis. I have been trying to contact a certain veterinarian in whom I have confidence. If, upon contacting him, I find any additional information on the subject of disease carrying, I will let you know.

Our departure from Roanoke has been delayed due to the fact that my husband became ill after arriving in Roanoke. We plan to start back to St. Louis tomorrow.

Sincerely yours,

MARY L. ANDERSON,

WASHINGTON, D.C., *February 22, 1971.*

Mrs. DEWEY ANDERSON,
St. Louis, Mo.

DEAR MRS. ANDERSON: The enclosed copy of a letter from the Food and Drug Administration isn't too clear on just where that agency's jurisdiction actually lies in dealing with the problem of infected water turtles sold as pets, but it does express the FDA's "concern" over the danger and states that the jurisdictional and legal complexities of solving the problem are now under study within the Department of Health, Education and Welfare. Some of the information in the FDA letter may be of particular interest to you for it indicates that it is not only a question of infection spreading from one turtle to another within the tanks but from female to egg. Were you aware of that?

I am also enclosing a copy of Public Law 91–579, the Animal Welfare Act of 1970. As I read that again, I see that the whole thrust of the leigslation is to assure humane treatment of the animals involved rather than to protect against public health hazards. So I am inclined now to believe a separate piece of legislation, unrelated to the act, and directed entirely to the prevention of the spread of disease among children and adults in the purchase of pets which carry contagious diseases might be the proper approach. After you have a chance to read Public Law 91–579, will you give me your views on the approach of a public health bill rather than a bill dealing with humane treatment of pets. Whichever approach you prefer, I will be glad to have such a measure prepared and introduced.

In that case, I would like your permission to incorporate, in any material I place in the Congressional Record explaining the need for the legislation, the various letters you have sent me and the clippings you enclosed, as well as my replies and my exchanges of correspondence with the agencies which included references to you. In view of your extensive research and hard work on this issue, I imagine you would have no objection to your identity being revealed as the person who stimulated such a piece of legislation, but I would certainly not use your name without your express permission.

Sincerely yours,

LEONOR K. SULLIVAN,
Member of Congress, 3d District, Missouri.

ST. LOUIS, MO., *February 27, 1971.*
Hon. LEONOR K. SULLIVAN,
Rayburn Building,
Washington, D.C.

DEAR MRS. SULLIVAN: Thank you for the copy of the Animal Welfare Act of 1970. I agree with you that a separate piece of legislation, unrelated to this act, is necessary in dealing with the problem of salmonellae-carrying pet turtles.

Since receiving your letter asking for my views on the approach of a public health bill, I have tried to consider the matter from every angle and to arrive at the most adequate, fair and least complicated approach in view of the many factors involved. My thoughts concerning the subject run as follows:

Many animals sold as pets (including cats, dogs, parakeets) can, and sometimes do, carry salmonella bacteria and other disease germs to humans. It would be impossible, as well as undesirable, to pass legislation outlawing the sale of all possible carriers of disease, or demanding certification or testing of all such animals sold as pets. Even if such legislation could be passed, there would be no hope of efficient administration in such a tremendous field. Therefore, legislation should be limited to the prohibiting of the sale of only those carriers responsible for a high incidence of disease, as determined by the U.S. Public Health Service. Those to be covered at present would be specified in the bill and would probably cover all reptiles (all cold-blooded if possible), chicks and ducklings (and perhaps rabbits). If need arose in the future to ban the sale of others, a short amendment would suffice.

Arguments supporting the banning of these particular animals:

1. They are responsible for a high percentage of the total cases of salmonellosis.

2. The majority of them are bought as pets for small children who put everything into their mouths. Often the excrement of these creatures soils the hands of children and is carried from hands to mouth. In addition to salmonella bacteria, often there is present pseudomonas bacteria and fungus, and the carrying of other disease is suspected in the case of some of the animals.

3. The infant mortality rate among cold blooded pets is almost 100% due to disease, malnutrition and cruely suffered at the hands of the children. They rarely survive in the average home.

4. The suffering resulting from the sale of chicks and ducklings as pets is well known. Their sale is illegal in 17 states (as of April 1970) and many major cities.

Stipulations which should be made:

1. Both the sale of and *the giving away of* should be prohibited. (Sometimes these animals are given away free for sales promotion, advertising, etc.)

2. Sale of the *imported* as well as the domestic should be banned. (Turtles are being imported from South America and Indonesia, and probably from other countries as well. Other reptiles are also being imported.)

3. Nothing should be construed as preventing the sale of or the giving of these animals to zoos.

4. Bill should go into effect as soon as it is signed. (This would prevent flooding of market with these animals during interim.)

I believe that such a bill could rest upon the research which has been and is being done by the Public Health Department, which seems, from the letters which you have received, to be very thorough and to be bringing to light little known facts, such as infection spreading from female to egg—I did not know this. The survey of various states now being made by the Communicable Disease Control Center will probably provide substantial support also.

I think it necessary that the sale of the designated animals be completely banned rather than controlled by testing, certification, etc. because such testing would not completely solve the problem—it would, in fact, give rise to other problems. For one thing, it would lead to the practice of taking quantities of turtles from their natural habitats in hopes that they could pass the tests better than those commercially bred, although I understand all turtles can carry salmonellae. The taking of these turtles, many species of which are not overly abundant, would lead to the eventual extinction of many kinds. This practice is already being carried on to some extent but would be brought to an end by a complete ban.

A statute calling for certification of absence of salmonellae rather than complete banning would be inadequate should the specified animals be found to carry other disease of which there is suspicion at this time. Also a certification law would be difficult to administer; and, of course, it would not save from suffering and death those animals which passed the test.

I realize that this letter is rather long and rambling, and, no doubt, lacking in clarity on some points, however, it is my hope that it may be of some help in preparing legislation.

You have my permission to incorporate in any material which you may place in the Congressional Record, my letters to you, together with any enclosures, your replies to me and your exchanges of correspondence with various agencies which include reference to me.

Thanks so much for everything you are doing in this matter.

Sincerely yours,

MARY L. ANDERSON.

U.S. DEPARTMENT OF THE INTERIOR,
FISH AND WILDLIFE SERVICE,
Washington, D.C., March 8, 1971.
Hon. LEONOR K. SULLIVAN,
House of Representatives,
Washington, D.C.

DEAR MRS. SULLIVAN: Your letter to the Department of Agriculture regarding the sale of salmonella-carrying baby turtles has been referred to this office for reply.

Although the Fish and Wildlife Service of this Department does conduct research on diseases, that research concerns almost exclusively the diseases of commercial and sport fishes. We have learned, however, that this problem is now under study by the Food and Drug Administration, since that Agency is concerned about the public health problems associated with this disease. We have also learned that there are jurisdictional and legal problems involved which are now being reviewed by the General Counsel's office of the Department of Health, Education, and Welfare.

We regret that our Bureau cannot offer any advice regarding this disease, since we have had no experience with it; however we hope the above information will be helpful.

Sincerely yours,

SPENCER H. SMITH,
Acting Director.

TEXT OF H.R. 11953

In the absence of any proposed draft of legislation from the Department of Health, Education and Welfare, which is apparently still struggling with some of the jurisdictional problems possibly inherent in a legislative solution, I have prepared a bill which may or may not be technically adequate in meeting the pet disease problem but which does reduce the issue to legislative form. It is my hope that the appropriate Committee of the House will promptly ask the Government agencies which have expertise in this field to comment on the bill and propose whatever changes are necessary to make it effective.

As Mrs. Anderson pointed out to me in one of her letters, it is not necessary to ban the shipment of any pet which conceivably could carry a disease injurious to humans, but it is important that it apply to those species which, as carriers, are responsible for a high incidence of disease. The legislation is intended to be broad enough to provide the Secretary of HEW with sufficient flexibility in making those determinations.

The text of H.R. 11953, is as follows:

[Ninety-second Congress, first session]

H.R. 11953

(In the House of Representatives, Mrs. Sullivan introduced the following bill:)

A bill to protect the public health by providing authority to regulate or prohibit the transportation, sale, or other distribution in interstate commerce of live creatures intended to be offered as household pets, if determined to be infected with serious disease injurious to human beings

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the Diseased Pet Act.

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that serious diseases injurious to humans can be carried by animals and other live creatures sold or offered for sale or otherwise distributed in interstate commerce and intended as household pets.

(b) The purpose of this Act is to authorize to the Secretary of Health, Education, and Welfare (hereinafter referred to as the "Secretary") to promulgate regulations necessary to protect the public, and particularly children, from unreasonable exposure to serious diseases carried by infected animals, whether warmblooded or coldblooded, birds, fish, amphibians, reptiles, or other creatures intended to be accepted into households as pets and sold or distributed in interstate commerce.

REGULATIONS

SEC. 3. (a) To the extent necessary to carry out the purposes of Section 2, the Secretary is authorized to issue appropriate regulations to prohibit or restrict the sale or transportation, or other distribution in interstate commerce of live creatures in order to prevent or reduce the transmission of diseases to human beings.

(b) In carrying out this Act, the Secretary shall consult with the Secretary of Agriculture, the Secretary of the Interior, the Secretary of Commerce, and the Secretary of the Treasury in locating and identifying diseased or infected creatures subject to this Act, and in making regulations thereunder.

EXEMPTIONS AND LIMITATIONS

SEC. 4. (a) Nothing in this Act shall be construed to repeal or modify any provision of the Public Health Service Act, the Federal Food, Drug, and Cosmetic Act, the Wholesome Meat Act, the Poultry Products Inspection Act, or any Act dealing with the importation or shipment of injurious mammals, birds, fish (including mollusks and crustacea), amphibia, and reptiles.

(b) This Act shall not apply to animals or other creatures sold or transported or otherwise distributed in interstate commerce for zoological, medical, educational, scientific, industrial, or research purposes, or for human or animal food.

SANCTIONS

SEC. 5. Anyone who violates any regulations promulgated by the Secretary under section 3 of this Act shall be fined not more than $500 or imprisoned not more than six (6) months, or both. The Secretary is hereby authorized to obtain injunctions against prospective violations of the Act or of regulations issued thereunder prior to a violation actually occurring, if he has reasonable grounds on which to believe a violation is about to occur.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 6. There are hereby authorized to be appropriated such sums as may be necessary to carry out this Act.

SPANISH CENTER OF CLEVELAND, OHIO

HON. JAMES V. STANTON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1971

Mr. JAMES V. STANTON. Mr. Speaker, Americans of Spanish-speaking nationality descent have greatly enriched the culture of this Nation through their unique customs and traditions, and their proud achievements. But as this country became urbanized over the past several decades, the Federal Government exhibited a shameful neglect for their special needs. Thus many Spanish-speaking Americans are now crowded into our major cities, subjected to dilapidated housing, substandard education, and severe unemployment.

Such a situation now exists with regard to the 25,000 Spanish-speaking people of Cleveland. However, in an effort to solve these problems through their own initiative, these citizens have formed the Spanish Center of Cleveland. The center recently proposed an ambitious program to meet their needs in such areas as adult education, housing, youth counseling, and drug treatment. This program is very much deserving of the support, both financial and otherwise, of the Federal Government. I have pledged to do all that I can to see that their program becomes a reality, and I would now like to commend the text of their proposal to my colleagues:

SPANISH MULTISERVICE CENTER OF CLEVELAND PROPOSAL

I. INTRODUCTION AND BACKGROUND

In the city of Cleveland it is estimated that there are approximately 25,000 Spanish-speaking persons. There has been a rapid growth in our population from about 600 in 1950 to the present 25,000 people. These persons have come from 14 countries, an American Zone (Panama), a Communist-leaning island (Cuba), a commonwealth of the U.S.A. (Puerto Rico), and a European nation (Spain). A significant number of our Spanish-speaking people are Mexican-American, who have come to make Cleveland their home. In 1960, Puerto Ricans accounted for 82% of the Spanish-speaking population in Cleveland. About one-half live in census tracts on the West Side, and several more population pockets exist on the East Side (Table I). These 27 tracts account for 75% of all of Cleveland's Spanish-speaking residents. These facts mentioned above are reported by Mr. Jack Aqueros, as a National Urban Fellow, in his report "The Spanish-Speaking Community of Greater Cleveland" in 1970.

In a recent series of articles appearing in the *Plain Dealer* in late April of 1971, Mr. Joseph Eszterhas reported on the Puerto Ricans in Cleveland. He accurately described their present plight, thusly:

"For nearly two decades, debilitated by their condition, by estrangement, prejudice and poverty, they have resisted community organization, concern and involvement.

Now, out of bitterness, frustration, alienation and a feeling that they are trapped on the bottom rung of the American totem pole, they show signs of an increasing awareness of their problems, an increasing resolve to deal with them."

He has captured the mood and tempo of the Spanish-speaking in Cleveland at this time. We are playing an increasingly important role in seeking social change, and this proposal represents an example of this new thrust.

II. THE SPANISH CENTER OF CLEVELAND

The Spanish Center of Cleveland, which sponsors this proposal, is a non-profit organization and based at 1910 West 54th Street on the Near West Side of Cleveland. The organization, which has representatives from 26 social, religious, civic, ethnic and youth Spanish groups (Addendum No. 1), was formed in December 1970. It represents the first successful, conscious effort to unite the Spanish-speaking people in Cleveland. The Board of Commons consists of 57 active members and 52 alternates, and meets monthly at the Spanish Center. Average attendance at meetings vary from 40 to 50 people. The Executive Committee has thirteen members, including six officers, and meets semi-monthly (Addendum No. 2). During their first 10 months of operation the Board of Commons and the Executive Committee of the Spanish Center of Cleveland have developed our basic organization, elected officers, approved our regulations, convened and incorporated the Spanish groups into this organization, obtained full use of Spanish Center facilities, and developed, reviewed, and approved this proposal. Some services (day care, adult English and Spanish classes, drama classes, adult mathematic classes, library, clothing and food distribution for the poor, social services and referrals, and special community events) have begun, and others are being negotiated with the Urban League and the Apprenticeship Program.

To fully appreciate the progress to date of the Spanish Center of Cleveland and emerging leadership in the community, one must first go back and look at some recent history of the Spanish-speaking people and our relationship to the Catholic Diocese of Cleveland. In 1953 the Diocese established its Spanish Mission as an organized effort through an assigned priest to meet the spiritual needs of the Spanish-speaking people. In addition, the Spanish Mission has served as a liaison to welcome newcomers and assisted them to obtain housing, employment, food, clothing, and etc. The first office of the Spanish Mission was located at St. Paul's Shrine on the East Side of Cleveland, where the Spanish-speaking people first settled. By 1960, the population of our group had grown steadily, so that the largest portion of our population was on the Near West Side of Cleveland, which is still the case today. In order to maintain its relationship with the people, the Spanish Mission office moved too and existed at five separate locations at different points in time during the past ten years. Although there has been only one priest-director of the Spanish Mission at any given time, he has frequently received some assistance from other priests serving a Spanish Apostolate or from the Jesuit Retreat House.

Over the past several years community leaders of the Spanish-speaking people have sought to obtain our own parish church and hall as a focal point for social, civic, and religious activities of our people. On December 20, 1968, a formal request for this was sent to Bishop Clarence G. Issenmann as head of the Diocese of Cleveland. In September of 1970 at a meeting of the Commission on Catholic Community Action of the Diocese of Cleveland, the Spanish-speaking Task Force of the Commission strongly repeated its earlier request as well as some additional demands: (1) that nothing should be decided or planned without community involvement in the decision-making process, (2) that Catholic schools should not exclude Puerto Rican children for financial reason, and (3) that Catholic schools should gear their programs and curriculum to the needs of the Spanish-speaking children. The Priests Senate of the Cleveland Diocese voted support for the request for a Spanish parish in 1970. In December of 1970 the Diocese of Cleveland responded by announcing that the parishioners of St. Stephen Church share facilities with the Spanish-speaking community. The former St. Stephen High School building, which consists of three floors, made its first floor available for community activities for the Spanish-speaking people. It has served as the headquarters for the Spanish Center of Cleveland. Recently a group of our Executive Board met with Bishop Issenmann and he has given us assurance that the total building is available to our community, and it will serve as the principal location for our proposed Spanish Multi-Service Center. It is with this facility resource and the needs of our people in mind, that we present this proposal seeking funds for our multi-service center. In addition, the Diocese of Cleveland contributes $26,400 per year towards our center (Table IV), our facility and its estimated value (Table V), and some of our present equipment (Table III).

III. PROBLEMS AND NEEDS

As one would imagine the problems of the Spanish-speaking people in Cleveland are immense and complex, since many of them are interrelated and interdependent. Also one seeking to identify the problems of Spanish-speaking people in our city encounters some difficulty in obtaining reliable statistics and isolating these figures from our non-Spanish-speaking neighbors, as many figures are supplied by census tracts and make no effort to separate various subgroups within the community. Nevertheless, the figures supplied below are as accurate as are currently available to us and reflect the great needs of our people.

Poverty.—In the area of greatest concentration of our people (West 25th Street to West 65th Street from Detroit Avenue to Lorain Avenue) there are at least 10,000 Spanish-speaking people in a neighborhood of 30,000. It is near the heart of the West Side's high poverty neighborhood. Fifty percent of the population is under 21 years of age About 20% of those under 18 years of age do not live with both parents. Approximately one-third of the families have less than $4,000 in family income annually. About 4,000 persons of the 25,000 Spanish-speaking people in Cleveland are welfare recipients.

Education.—More than two-thirds of Puerto Rican teenagers attended West and Lincoln High Schools, which have now merged into Lincoln-West High School, during the academic year of 1968 to 1969. These two schools had the highest dropout rates, including the East Side (predominantly Negro) poverty area schools. The rates that year were 24.4% at Lincoln High School and 24.3% at West High School. During 1970–71, the new Lincoln-West High School's rate dropped to 17+% and ranked fourth city wide. Spanish-speaking youth had a high casualty rate. In 1969–1970 it was estimated that there were only 24 Spanish-speaking college students attending our Cleveland colleges. One estimate is that between 80% and 90% of our youth fail to graduate from high school. Many causes contribute to this problem: language barrier, financial pressures, irrelevant school curriculum, and inadequate counseling services. A report of one of our West Side high schools noted that the holding power for youth of Spanish surnames is 37%, whereas the city-wide holding power for the same classes is 60%.

Unemployment and Underemployment.—The Director of the Commonwealth of Puerto Rico labor office, recently supplied the estimate of about 16% as the current rate of unemployment among our people. He further estimates that about one-third of his clients are unable to fill out a job application form in English. An employment interviewer at the West Side Opportunity Center, noted that he receives on the average of about 20 applications per week. At least 60% of these lack proficiency in English and about 40% are looking for new and better jobs. He estimated that about 15% of our population are in manufacturing or low-skilled jobs. The Ohio State Employment Service has indicated that about 70% of the labor force in Cuyahoga County's greenhouses is made up of Puerto Ricans.

Drugs.—Unfortunately the Cleveland Police Department statistics for drug arrests do not specify individual drug use or national heritage of the user. However, Lt. Burt Miller, head of the Narcotics Unit says, "We have a real problem out there and we're trying to work on it." An ex-Director of the Puerto Rican Youth Center, claims that a substantial percentage of the area's youngsters are on drugs. He noted that drug use was higher among the 19–25 age group, and that many are using heroin, marijuana, and glue. Police sources report unofficially that the area ranks second in drug use, especially heroin, to some of the East Side heavy drug areas.

Community Participation.—As stated earlier in this proposal, the Spanish-speaking have been frequently criticized for apathy, indifference, and reluctance to become involved in civic affairs. Fortunately there seems to be indications that these patterns are changing, but still more work is needed in this area. There are only about 3,000 registered Spanish surnamed voters in Cleveland. There are no Spanish-speaking City Councilmen of the 33 wards, and in 1970 for the first time two Spanish surname precinct committeemen were elected. Also many of our people realize that our plight is tied to that of other minority groups—Blacks, Appalachians, Indians, etc.—and that coalitions must be formed to achieve common goals.

Housing.—Much of the housing in which our people reside is old, rundown, and even ugly in appearance. Almost 90% of the housing on the Near West Side is over 50 years old, and some homes were built as early as 1840. Many homes are overcrowded, as occupancy limits are not observed or enforced. Sometimes homes built to accommodate two families are split up to handle four or five families. A recent survey by the city's Department of Community Development found that more than 50% of housing in our area of greatest concentration to be substandard. These conditions are not conducive to good family and community life which all of us seek.

Inadequate Youth Services.—Many of our youth are not receiving or participating regularly in constructive recreation programs. This is a matter of grave concern especially when considered in relation to our previously described problems of school dropouts and drugs. Many of our youth float the streets, skip school, and get into trouble, There seems to be little available to interest, stimulate, and challenge them. The very limited existing programs do not attract them in significant numbers. New programs and approaches are needed to reach our youth and to guide them successfully.

Cultural Pride and Heritage.—Since the Spanish language is our native tongue and our language of most comfortable expression, it sometimes separates us from our non-Spanish-speaking neighbors. Also there is a tendency in the schools and community to make us become Americans, and thus to deny our cultural ties and beliefs. We feel that there is a need to preserve, perpetuate, and share our culture with others. We do not believe that our history, background, and cultural heritage should be ignored or dropped. We want it to remind us of our origin and to use it to enrich our American society.

IV. SPANISH MULTISERVICE CENTER

In order to meet and effectively deal with this wide range of problems faced daily by our people, it is quite obvious that a comprehensive set of coordinated services is most essential. That is why this proposal seeks to establish a Spanish Multi-Service Center to serve our people. In the past and present we have frequently been uninformed about available services or programs; sometimes they have been inaccessible or inconveniently available, or our people have felt uncomfortable due to communications or cultural barriers. Our proposed Spanish Multi-Service Center will seek to actively serve our Spanish-speaking people as its target group, but all of our services will be available to all interested people in need in our community.

The following items comprise a list of the unique features of our proposed Spanish Multi-Service Center:

(A) An integrated and coordinated delivery of services with emphasis on accessibility and availability to the needs of our people. We see the vital importance for follow-up on all services rendered directly or indirectly to people.

(B) A personalized approach to our people that will maximize the interpersonal, human relationships between the individual or family assisted and the service provider.

(C) A Spanish-speaking Director and significant proportion of Spanish-speaking staff who will be able to relate easily and comfortably to our people and the community. This will make services more acceptable to the average Spanish-speaking resident. Our own operations will be developing employment and leadership as well as direct services to people. See the attached job descriptions (Addendum #3) for more details. Also note the organizational chart (Table II) attached.

(D) A corps of neighborhood and suburban volunteers to augment our core staff and extend services and concerns of the Spanish-speaking throughout Greater Cleveland. We are confident that others will gladly join our efforts in this important project.

(E) Our Board of Commons and Executive Committee, which is composed of area residents, will be the policy-making body for this project. They will approve of programs and services offered by the center and will develop policies to improve the delivery of services. All programs and services rendered will be accountable to the Director and the Community Board.

(F) Our facilities for the Spanish Multi-Service Center, as mentioned earlier, are owned by the Diocese of Cleveland and are an "in kind" contribution to our multi-service center. We deeply appreciate this contribution and welcome their role in our partnership for this endeavor.

(G) A branch operations of our multi-service center would be established on the East Side to increase accessibility to services for our population located on our city's East Side. Several parishes (Our Lady of Fatima and St. Francis) have expressed an interest and willingness to free up space for our program if we are funded.

V. PROGRAMS AND SERVICES

So that an effective and meaningful attack can be mounted on the massive problems described above, it becomes apparent that a responsively operating multi-service center is desperately needed. The band-aid approach will not work if surgery is indicated, and we seriously believe the latter is necessary to bring about major social and community change for our people. In developing a multi-service center, we see the need for developing some new programs and services geared to meet our special problems. In addition, some current programs available in Greater Cleveland need to become decentralized and more accessible to our people and our needs. In this latter instance, we would aggressively seek to encourage such desirable programs to be based at our center and require that they become accountable to our organization and community. Thus, we would not only receive the benefit of their services, but would be helping them to more effectively relate them to our community and people's needs.

In developing our own programs, we would attempt to work through five major departments: Education, Youth, Citizens in Action, Employment, and Emergency Assistance, and have several programs and services for each of our departments. It is our firm belief that education represents our greatest problem and need, as well as our most important hope for improvement in the future. Thus, we would propose that it be our largest department and greatest thrust.

In the Education Department, we would plan to initiate and operate the following programs:

Adult English and Spanish Classes.—These would range in scope from adult basic education classes aimed at combating illiteracy to creative writing and poetry classes. We plan to help adults get GED diplomas. We would seek to offer a class for all interest and ability levels. We would seek to help our people become fluent in both languages.

Bilingual Pre-School Programs.—These would be geared to helping our youngsters develop language skills and self-expression, as well as providing a meaningful and pleasant introduction to the world of education. They would learn early in life to be proud of their language and heritage. Field trips would play a large part in this program.

Adult Drivers Course.—Although the State of Ohio recently approved legislation to permit our people to take tests for acquiring their driver's license in Spanish, no effective tool has been developed to assist people at the community level. We would develop such a program to fill this unmet need in Cleveland.

Scholarships.—As stated earlier, many of our youngsters are dropping out of schools—especially the junior and senior high school levels—and few are pursuing a college education. We see the development of a vast scholarship program, to assist junior and senior high school and college students, as being most vital at this time. We would also put heavy emphasis through publicity and awards on educational attainment achieved by our people. We believe this would stimulate and encourage others to strive for higher goals and greater proficiency.

Spanish Center Library.—To further promote our educational programs and goals, we would develop within our center and its branch a library with books and materials in Spanish and English. It would be a spot for reading, study, and gaining more knowledge.

Tutoring.—To assist our school age youngsters with their studies and language development, an active tutorial program will be developed. It will be almost entirely a voluntary effort and utilize neighborhood and suburban people who are Spanish-speaking. This service is greatly needed by our children.

Educational Counselling.—One of our most critical needs, and this affects the school dropout problem and frustration among our youth, is to have good and sound educational counselling. Many of our youth graduating from high school find themselves inadequately prepared academically for college, even if they desire and are able to attend. The ratio of school counselors to students, which then becomes even more disproportionate when coupled with language and cultural barriers that often exist, makes it imperative that we have our own educational counselor. He would assist students in assessing skills and interests and counsel them regarding career choices. Also he would help them with problems encountered and seek to aid them to cope with them.

Cultural Heritage and History.—To develop greater pride and appreciation for our heritage, we would seek to promote this through the Adult English and Spanish Classes, Bilingual Pre-School Programs, and Community Library which were described above. In addition, numerous special events, holidays, and meetings would be sponsored to promote greater understanding of our background. These special events would be open to the public at large and be a way of our assisting them to better understand us.

Senior Citizens Forum.—An information and educational series to acquaint and notify them of various programs set up to benefit them. Also we would encourage their identification of problems and needs and seek to help them through our community organization services in follow-up. We would expect them to be actively involved in the cultural activities and programs of our center.

In the Youth Department, we envision the following recreation and group service programs:

Clubs, Athletic Teams, Trips, and Field Days.—An active and vigorous recreational program would provide a wholesome outlet and some positive alternatives to possible involvement in the drug problems in our community. We see these programs leading to our youth's possible involvement in the program described next in this proposal. Volunteers will help in these programs.

Youth Leadership Development.—The challenges and opportunities we hope to develop with our youth who are leaders should have long-range effect in future community development. Our youth leaders will be given opportunities to accept and assume responsibility, to plan and develop programs for the youth and community, and to further learn and develop tools for leadership. They will actively engage in community service projects to help our people.

Street Work Program.—To reach some of our alienated youth, we see the need to have workers relate to them and redirect them at the community level. Many of our youth are frustrated, disillusioned, and feel apart from the mainstream in our American society. We see this program providing intensive individual work and counselling, building bridges to schools and other service organizations, and being an advocate for the needs of our problem youth.

The Citizens in Action Department will be one of the most lively aspects of our multiservice center and will contain the following programs to help our people:

Voter Registration.—This will be a year-around concern and be an active effort to inform and stimulate voter registration and participation. We will sponsor public meetings to inform our people about issues and candidates which will be on the ballot. Follow-efforts will be made to see that registered voters do cast their vote at the time of election.

Community Organization.—Direct service and assistance will be given to our residents in helping them to organize to achieve social change. Issues will be identified, discussed, and planned action will occur to resolve them in the interest of our people and the community. We will attempt to form coalitions with other groups (Blacks, Appalachians, Indians, Ethnics, etc.) on common concerns. We will seek to develop greater opportunities for our people to take an active role in our society and in shaping our community.

Economic Development.—We will develop consumer cooperatives, buying clubs, and credit unions to help our people in a direct economic way. We are concerned with price markups and cheating that takes advantage of our people. There is a need for community education on these matters and citizen involvement to correct these injustices. In addition, we will be concerned with helping new minority owned or operated businesses to start. We will seek resources to assist them.

Adult Leadership Training.—As mentioned earlier, we are interested in opportunities to develop presently active and potential leaders in our community. There are an increasing number of opportunities for our people to serve on civic, social, and religious boards, but we are unable to supply the necessary manpower. Thus, it means opportunities lost for our people and the community. Greater impact and influence of the Spanish-speaking will be felt throughout Greater Cleveland, as we are better able to meet this need. Our community needs our leadership and we need to be heard.

Another of the major departments in our proposed center will be that of Employment, which we see providing some of the following services:

Job Counseling.—Direct assistance will be given to our people to help them find, obtain, and retain employment. We plan to help them prepare themselves in the best way possible for the prospective job and its demands. A counselor may accompany an applicant for the interview, assist in completing the application form, and continue to follow up with the applicant and employer after he is hired. It will be a personalized approach to helping the currently unemployed.

Job Development.—It is obvious that we need to have good working relationships with present employers as well as aggressively seek new employment opportunities for our people. We do not want our people to be limited in opportunities to certain restricted job fields, and so developing new fields for employment will be most important.

Employment Upgrading.—This will be another of our concerns, as we want our people to have advancement opportunities. We will try to provide some support services—counselling, information on various training programs, language classes, etc.—and work also with employers to promote and develop upgrading opportunities for our people.

Our final department for our Spanish Multi-Service Center will be that of Emergency Assistance and offer these services:

Housing.—To assist newcomers in locating housing in our community. We also plan to have some involvement with housing rehabilitation, using volunteers, to improve our current housing. We will educate our people on proper home care and maintenance and promote community pride. Also, we recognize the need to develop plans and programs for new housing in our community.

Food.—To help those without financial resources obtain food on an emergency or other special-need basis. We will provide follow-up in these situations, as other services may be indicated and desirable. Volunteers will help with this program.

Clothing.—To help our people obtain clothing in time of need. Many youngsters are missing school due to inadequate clothing, and this could be remedied through this service and follow-up. Volunteers would help procure and distribute clothing to those in need.

Health Care.—Due to the recent establishment of a fine city health clinic in our community, we see our role here mainly in terms of information, referral, and advocacy. We would promote public meetings to keep our residents informed of new health services being made available to them. In addition, we would help individuals and families with emergency health problems—by assisting with transportation, accompanying them to hospitals or doctors' offices, and helping to speed health service delivery. We would keep alert to health problems of our people and work to develop appropriate health services as indicated.

VI. PROPOSED BUDGET

In order to undertake the range and scope of services and programs, which we believe are most essential and are described in this proposal, a large financial commitment becomes crucial. We believe that this is totally in keeping with our plans for a massive attack on our problems, that is so vital to us at this point in time and history. We are willing to assume responsibility for the programs we have outlined above, and to seek meaningful involvement of our people in bettering our community; but we cannot succeed without proper funding. We wish to apply for three years' funding in order to measure the true effectiveness of our approach and to develop meaningful programs with the community. We firmly believe that a three-year period is essential for any adequate demonstration of our plan.

With this in mind, we wish to submit for your funding consideration the following budget request: (See Following Pages)

Spanish multiservice center annual budget

I. Personnel

Multiservice Center director	$14,000
Education coordinator	10,000
Youth coordinator	10,000
Citizens in Action coordinator	10,000
Employment coordinator	10,000
Emergency Help coordinator (Diocese $5,000) total $8,500	3,200
Two adult education teachers at $8,000	16,000
Two bilingual preschool at $8,000	16,000
Automobile driving instructor	8,000
Librarian & cultural specialist	8,000
Educational counselor	8,500
Group services specialist	7,000
Three Youth Outreach workers at $7,000	22,500
Three employment counselors at $8,000	24,000
Two community organizers at $8,000	16,000
Housing specialist	7,500
Health specialist	7,500

Spanish multiservice center annual budget—Continued

I. Personnel—*Continued*

Food specialist	$7,500
Clothing specialist	7,500
Bookkeeper-secretary	8,000
Six secretaries at $4,800 (Dioc. $4,800) total $28,800	24,000
Three maintenance men at $6,000 (Dioc. $6,000) total $18,000	12,000
Subtotal	257,200
Social security	1,900
Workmen's compensation	300
Total personnel	259,400

II. Nonpersonnel

Travel	$3,000
Conferences	800
Local Meetings	400
Staff Reimbursement	1,000
Client Transportation	800
Space costs: Estimate rent value $6,120 per year (Table V). "In kind" contribution from Diocese of Cleveland.	
Consumable Supplies	4,920
Office	1,000
Cleaning	500
Educational	3,000
Xerox Copies at $35 month (Dioc. $3,800)	420
Equipment Purchases	26,030
Rent Xerox machine at $25 mo	300
Mimeograph Machine	650
Four typewriters at $250 each	1,000
Thirty Office and Reception Chairs at $150	4,500
School bus	7,500
Two automobiles at $2,500 each	5,000
Two minibuses at $3,500 each	7,000
Adding machine	80
(Dioc. equipment on hand $34,220—See Table III).	
Other costs	9,668
Postage	3,600
Telephone	2,000
Insurance (automobiles and building)	4,068
Utilities (Dioc.)	6,600
Total Non Personnel	43.618
Total budget request per year	303,018

Diocese of Cleveland contribution per year

I. Personnel

Social services worker	$5,200
Maintenance man	6,000
Secretary	4,800
Subtotal	16,000

II. Nonpersonnel

Building Rental Value (table V)	6,120
Supplies	3,800
Utilities	6,600
Equipment	34,220
Human development grant	3,000
Subtotal	53,740
Total Diocesan contribution	69,740

VII. SUMMARY

This request to develop a Spanish Multi-Service Center in Cleveland represents an honest effort on our part to develop a proposal and programs to deal with the problems and needs of our people. It has resulted from numerous hours of study, discussion, and planning, which we willingly undertook to assist our people and community. Since this is an ambitious project, and one that would require greater demands on us in the future to make it successful, we request three (3) years funding. We feel deeply committed to see it become a reality. We wish to thank you in advance for your time and interest in this request.

FRENCH GOVERNMENT AND NARCOTICS

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1971

Mr. SCHEUER. Mr. Speaker, on November 19, 43 of my colleagues joined me in sending a letter to Ambassador Charles Lucet, of France, urging France to make a greater effort to stem the flow of narcotic drugs through that country to the United States. We pointed out the glaring weaknesses of the French law-enforcement effort and called for an allout commitment by the French Government to halt the transhipment and processing of narcotic drugs in Marseilles.

On November 26 Ambassador Lucet responded in thoughtful detail to our letter. He disputed some of our allegations about the lack of commitment and resources the French Government has applied to solving this problem. For example, he stated that France on November 9 redeemed its pledge to the United Nations Fund for Drug Abuse Control, while our letter asserted that she had not. I have checked with the Department of State and they have informed me that to the best of their knowledge, France has not yet redeemed that pledge. The latest information the Department possesses is contained in a press release from the French Embassy released in New York, which quotes from a letter dated November 1, 1971, from the French Permanent Representative to the United Nations addressed to Secretary U Thant. That letter stated:

> I have the honor to inform you that the French government has decided to contribute $100,000 in 1972 to the United Nations Fund for Drug Abuse Control.

It should be pointed out that laudable as this as yet unredeemed pledge is, it is far smaller than the contributions made by the United States—$2 million—or by the Federal Republic of Germany—$300,000. The U.N.'s effort to halt the international flow of drugs is withering on the vine because of both the lack of contributions and the pitifully small size of those contributions or pledges that have been made.

The Ambassador admitted the truth of our charge that his Government has not closed a single heroin processing laboratory since 1969, but pointed out the difficulty of detecting and destroying these laboratories. Yet, if such operations are so difficult, why have Chile, Ecuador, and Peru, all of which are far less developed countries than France, been able to close down processing laboratories in the past few years? The United Nations Commission on Narcotic Drugs has reported that each of these countries has closed down cocaine or opium processing laboratories in 1968 and 1969, the latest years for which figures are available.

At the close of his letter, Ambassador Lucet comments thoughtfully on our own country's uncoordinated efforts to combat the international flow of narcotic drugs. His comments are highly relevant to the Congress' ongoing deliberations about creating a centrally coordinated, comprehensive Federal program to attack all aspects of drug abuse, and I quote them in full at this point in my remarks:

> The fight against drug abuse is made somewhat simpler in France through central directions. All phases of the operation are under one command. Not quite so in the United States, where the crusade is led by various agencies—BNDD and the Customs especially—a situation which raises problems of coordination among different services. There are times when this diversity of command and authority creates real difficulties for those of us trying our best to cooperate with speed and effectiveness.

I enclose the text of our letter to Ambassador Lucet and his response for the attention of my colleagues:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., November 19, 1971.

His Excellency CHARLES LUCET,
Ambassador of France,
Washington, D.C.

DEAR MR. AMBASSADOR: As American citizens and Members of Congress, we are prevented by law from negotiating with foreign countries. However, there is no legal barrier which prevents us, as representatives of both political parties, from expressing our concern to you about the French effort to control the traffic in narcotic drugs.

You are no doubt well acquainted with the magnitude and severity of the narcotic drug abuse problem in the United States. Drug abuse is literally killing our cities and our youth and has reached the point, in our President's words, "of a national emergency."

We know that we are responsible for solving our country's problems and we have, in fact, supported a many-fold increase in our country's efforts.

However, it is also true, as our President has stated, that heroin is a "foreign import." The success of our efforts is, therefore, very much dependent upon international cooperation.

France has long been a major trans-shipment and processing point for opium produced in other countries. In fact, France is responsible for the transformation of a substantial amount of relatively cheap opium into much of the heroin, worth hundreds of millions of dollars, which ultimately reaches the United States.

Your country has made an attempt in recent months to rectify this situation. However, we believe that the commitment and resources that your country has focused upon the problem have been far less than the situation demands.

Not one heroin processing laboratory has been closed since 1969.

The number of narcotics agents, now totalling 50, currently stationed in Marseilles, a major processing and trans-shipment center, is grossly insufficient. Paris, with a population of 2.5 million, has a police force numbering at least 40,000.

The agents who are stationed in Marseilles are not adequately equipped with automobiles, two-way radios, secretaries or translators.

Although France took the constructive step of supporting the creation of the United Nations Special Fund for Drug Abuse Control and of pledging a contribution, that pledge has not been redeemed.

France has not fully cooperated with American officials in the Mr. Delouette case in which a French intelligence official has been indicted, and a French consular officer implicated.

In short, France has not lived up to her protestations of commitment. We hope that in the very near future France will take immediate steps to rectify this situation.

As long time friends of France and supporters of continued Franco-American friendship, we regret the need for this letter. We are convinced, however, that France does not wish to incur the bitter enmity of the American people and of the people in those countries which are increasingly becoming victims of narcotic drug abuse.

France, by virtue of her key position in the processing of and traffic in narcotic drugs can either continue half-hearted apathetic efforts or rise to the challenge and make an all-out commitment to stamp out the narcotic drug abuse which is paralyzing cities around the world. We sincerely hope that, true to her ancient tradition, France rises to the challenge.

Sincerely,

Seymour Halpern, Herman Badillo, Jack Brinkley, Ella T. Grasso, Ken Hechler, Peter W. Rodino, Jr., Thomas M. Rees, Peter N. Kyros, Robert N. Giaimo, K. Gunn McKay, John G. Dow, James H. Scheuer, John J. Rhodes, Henry Helstoski, Edward J. Patten, William J. Green, Joshua Eilberg, Robert N. C. Nix, John H. Dent, Dominick V. Daniels, Parren J. Mitchell, Michael Harrington, Robert A. Roe, Roman C. Pucinski, James M. Hanley, Robert F. Drinan, Hamilton Fish, Jr., Otis G. Pike, Frank Thompson, Jr. Brock Adams, Ben B. Blackburn, Jonathan B. Bingham, Shirley Chisholm, Louise Day Hicks, Morris K. Udall, Andrew Jacobs, Jr., Tom S. Gettys, Charles A. Vanik, Abner J. Mikva, Chet Holifield, William F. Ryan, Spark M. Matsunaga, Bella S. Abzug, Frank Horton, Robert H. Steele,
Members of Congress.

AMBASSADE DE FRANCE
AUX ETATS-UNIS,
Washington, D.C., November 26, 1971.

Hon. JAMES H. SCHEUER,
U.S. House of Representatives,
Washington, D.C.

MY DEAR MR. SCHEUER: I am taking up your letter of November 19.

French authorities share the anxiety of American Congressmen as they face the dangers drug abuse brings to the youth of the whole civilized world. Indeed, this scourge spares France no more than it does the United States, and my Government feels the same way about it as yours—the fight against drug traffic represents one of its foremost responsibilities.

French authorities are rapidly and purposefully improving their methods and extending their forces. My press services here at the Embassy have already forwarded to you, on several occasions and at my request, precise information on the measures in this field undertaken in France.

But let me take up the specific statements in your letter.

It is true that no laboratory has been shut down recently. Unfortunately, in France as well as in the United States, the responsible authorities still have to reach some of the goals they have set in their struggle against traffickers.

In this respect, one should point out that the important means put forward by the police of Marseilles have compelled the traffickers to change their methods of operating and to scatter their laboratories, in ways that make their detection even more difficult than it was. One might add that other countries than France, both European and Asiatic, have faced the same problem and encountered the same frustrations. Indeed, evidence submitted in recent hearings before your own colleagues in Congress indicated the vast traffic in narcotic drugs coming into your country from the Far East via the Pacific. I do not cite this fact to excuse any shortcomings in this dreary field, but simply to point out that the difficulties encountered are to be found everywhere the problem comes up.

Besides, there are indeed some accomplishments to record. Some very considerable narcotic stocks have been located and seized. From January 1, 1971 to November 11, 1971, over 1100 lbs of morphine base and 400 lbs of heroin were confiscated, and during the same period, 104 international traffickers, of various nationalities, were arrested. In addition, late in 1970 the penalty for infraction of the law concerning narcotic traffic was increased. My country does mean business in its prosecution of all those it can reach in this criminal activity.

You cite statistics concerning the number of officers assigned to the Marseilles region in the fight against narcotics. They are not correct—or perhaps I should say they are obsolete. Two years ago there were seven. Now there are sixty-three—an increase of 900%. (I am referring, of course, to specialized agents, who should be compared in number with the general police force in Paris). The sixty-three agents in question are part of the one hundred ninety-two members of the regional service of Judiciary Police, to which should be added the 3016 officers of Public Safety. The Central Office of the Judiciary Police, in Paris, includes thousands officers, of whom 92 have direct responsibilities in the control of drug traffic. The central bureau of Drugs has 44 officers highly specialized who have been given nation-wide assignments on this field. And, finally, some 3000 regular police officers, throughout the country have had a special training in drug problems and have been assigned to drug traffic control.

French authorities believe that the Marseilles police is far from being poorly equipped. It is true that the equipment they have is not always of the same type furnished the police of, say, Detroit or New York. The narrow streets of some quarters in Marseilles are used by traffickers on foot only, and only on foot can the police deal with them effectively. But even with this restriction, the mechanized equipment available is considerable. I shall not load you down with the pertinent statistics, but they are available here in the Embassy if you want them.

I do not understand your statement that France has not paid its contribution to the U.N. Special Fund for Drug Abuse Control. France did indeed make a commitment in this regard, and has redeemed it, despite the very considerable financial efforts required already in developing effective ways for controlling drug traffic on French territory. You were informed of our contribution to the Special Fund through a release by our Embassy press services on November 9, 1971. I added for the record that thus far, only four nations have made their payments to this U.N. Fund.

You bring up the case of Mr. Delouette. Let me simply say that in my country, we are sorry that the rogatory commission sent by French Justice to American Justice has not yet been implemented. French Justice is ready and willing to examine any and all complaints that American Justice brings to its attention. It is indeed actively working on this case.

These indications, motivated by the points you raise in your letter, are intended merely to set the record straight.

I would like to go a step further, after this statement of what France is doing on the national plane, and indicate the effort my country is making on the international plane. The President of the French Republic, Mr. Pompidou, took the initiative, in August of this year, with the goal of establishing a coordinated effort against drug traffic among the countries of the European Community and the United Kingdom. This initiative will serve as evidence, if need be, of the seriousness with which the question is treated in France. The French Foreign Minister, M. Maurice Schumann, presented to his colleagues in the European communities, in September, the French plan of cooperation. France's partners in the European Communities along with the British Government, have just forwarded their replies. A preliminary meeting took place recently in Paris at the Ministry of Interior. We like to think that this represents an important and fruitful trend.

Franco-American cooperation is likewise developing rapidly. Like all effective action of this type, it is carried out discreetly, and sensational revelations could only make its task more difficult. But I would all the same like to bring to your attention a few precise facts. Thanks to this cooperation, eleven arrests have been made in the United States since the first of September 1971, among them four important American drug buyers. The same sort of collaboration has led to further arrests in France. And since September 1, some 600 lbs of drugs have been seized in the United States in three operations carried out in direct connections with the New York branch of our Central Bureau for the control of drugs.

There is, however, one important fact to which I would like to draw your attention. The fight against drug abuse is made somewhat simpler in France through central directions. All phases of the operation are under one command. Not quite so in the United States, where the crusade is led by various agencies—BNDD and the Customs especially—a situation which raises problems of coordination among different services. There are times when this diversity of command and authority creates real difficulties for those of us trying our best to cooperate with speed and effectiveness.

Let me sum up. Our two countries face the same tragic problem, and because of it, we are as concerned for our children as you are for yours. Our two countries have the same reasons—ranging all the way from old traditional friendship to common interests in today's world—for working together. I ask your assistance in watching over this collaboration. It is not helped by unsubstantiated accusations. It must be strengthened by mutual trust if we are to meet the defiant challenge of the criminal operations we face in common.

Sincerely yours,

CHARLES LUCET.

AWARD-WINNING POEMS OF MRS. ETHEREE ARMSTRONG

HON. DAVID PRYOR

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1971

Mr. PRYOR of Arkansas. Mr. Speaker, recently a constituent of mine, Mrs. Etheree Armstrong, of Magnet Cove, Ark., was the winner of My Gratitude Award at the State Poetry Day Fair held in Little Rock. Her poetry represents the depth of soul which is in so many Arkansas citizens. It expresses clearly not only their love of the land but also their love of life itself. I would like to insert in the RECORD several poems which Mrs. Armstrong has written and ask the Members to pause a few moments from their daily routine to read them:

AMERICA, MY LOVE

My greatest heritage,
Bound securily in the "Bill of Rights,"
Created for freedom at great sacrifice;
I owe a debit to countless thousands
Which I can never pay!
But render my puny best
Toward world Christian brotherhood.

RECKONING

I think of my heritage and what it has cost
In the battles won—and the lives that were lost.

And I think of the mothers and their "window stars";
I think of my heritage and what has cost bars.

Oh God, what a heritage they have handed to me—
The Torch of Freedom for the whole world to see!

And I shall guard this Freedom with life, if I must,
I can do no less than to honor this Trust!

SOLDIERS OF FORTUNE

Nomadic winds of yearning caress the minds of men,
The lure of high adventure compelling deep within!
For balm to soothe our restless souls we seek without relent,
Nomadic winds forever flow in the valley of discontent.

PROGRESSIVE EDUCATION

When I grow up. I'm going to teach
May be "Superintendent of Schools"
Then get right down to business
Of changing all the rules!

We will have a standing menu
Of cookies and Kool-ade,
Chocolate cake, cherry pie,
Ice cream and Lemonade!

With all the bases loaded—
The score is two to two,
I couldn't ring the bell
Honestly mother, could you?

When the snow starts falling
They can't study anyway,
I'll walk up to the intercom
And declare a holiday!

All the children will like me
For changing up the rules,
Things will sure be different, when
I'm Superintendent of Schools.

DID NIXON DESERVE NOBEL PRIZE?

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1971

Mr. ANDERSON of Illinois. Mr. Speaker, President Nixon's successful efforts in creating and maintaining peace are seldom recognized. The President has, in fact, made a remarkable contribution to peace in his first term in office. I have here a column by Walter Trohan from the Chicago Tribune which considers some of President Nixon's accomplishments concerning world peace.

The full column follows:

[From the Chicago Tribune, Nov. 17, 1971]

DID NIXON DESERVE NOBEL PRIZE?

(By Walter Trohan)

WASHINGTON, November 16.—This is a tale of two men—one, West German Chancellor Willy Brandt, who got the Nobel Peace Prize; the other, President Nixon, who didn't. Both were considered, so it is fitting that we should consider the choice.

No doubt Nixon can sympathize with Marcus Cato, who exclaimed: "I would much rather have men ask why I have no statue than ask why I have one." Yet, the President can wonder what Brandt had that he didn't, because Brandt's qualifications for the prize are fewer than his own, altho no less well-intentioned.

Brandt's overtures to Russia probably got him the award. He negotiated a treaty between West Germany and the Soviet Union and another between West Germany and Poland. Neither has been ratified. If they are, no one can say how long they will be honored if it does not please the Kremlin to do so.

The West German pact with Russia is aimed at ending Communist harassment of West Germany and its allies over access to West Berlin. In the agreement with Poland, the Brandt government gave up what it does not own—territory once held by prewar Germany but given to Poland after the Nazi defeat by way of compensation for that part of Poland taken by Russia.

Poland is a Red satellite, and the Kremlin is not about to let Poland forget it. Moscow undoubtedly would consider it bad form for Poland, its servant, to sign the West German treaty before Russia, the master. When the Kremlin gives permission, the treaty probably will be signed.

The Nobel prizes were created by the will of Alfred Nobel, the Swedish inventor of dynamite. All but the peace prize are awarded by Swedish committees. The peace prize is awarded by a committee named by the Norwegian parliament, frequently from its own membership.

All the prizes are awarded in countries lying under the shadow of Russia. Norway undoubtedly was aware that Brandt, an anti-Nazi who might be forgiven Russian sympathies, fled to Norway and remained there until Adolf Hitler fell. Prizes frequently have gone to Leftists—including this year's prize for literature, which went to a radical Chilean poet.

This commentator is not downgrading Brandt. In fact, I voted to have him speak in Springfield, Ill., during the Lincoln centennial, because he was the mayor of a divided city and Abraham Lincoln came into national prominence as a result of his antislavery speech against a divided house.

Brandt has worked to lessen East-West tensions. But then so has Nixon, who has emphasized time after time that a lasting world peace is his major concern. The President is carrying out his promise to get out of Viet Nam, having withdrawn two-thirds of the American forces and cut casualties to a tenth of what they were under the previous administration.

Thru the Strategic Arms Limitation Talks the President is pressing for overall arms limitation with Russia. He has joined Russia in signing a treaty against using ocean beds as sites for testing of nuclear weapons. He has negotiated a treaty banning use of biological weapons in warfare.

Further, the President is going to Red China to work for better relations with 800 million people. He also is going to Russia to work for better relations with 240 million people. Many Americans feel he is too sanguine and too trustful. They would be happier if he demanded concrete evidence of good intentions from Red China and Russia.

Yet, the President's record for peace is impressive for a man who is blasted almost daily by doves as a warmonger, doves who would be moved to outbursts of hysteria if he should be granted the Nobel Peace Prize.

THE WAR IS WINDING DOWN

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1971

Mr. KEMP. Mr. Speaker, I call to the attention of my colleagues the following editorial from the Boston Herald Traveler. Relying on facts rather than subjective opinion, the editorial concludes that through the decisive action and effort of President Nixon "the war is very demonstrably winding down."

The complete editorial follows:

[From the Boston Herald Traveler, Nov. 6, 1971]

THE WAR IS WINDING DOWN

How goes the war in Vietnam? Slowly, more slowly every day, and anyone who bothers to look at the facts ought to be impressed by the success President Nixon has had in winding down the war. The administration's case is put cogently by Dennis Doolin, Deputy Assistant Secretary for East Asia and Pacific Areas of the Department of Defense, who wrote briefly about it in the New York Times recently. He makes these telling points:

Expenditures for ammunition in the whole of Southeast Asia have been reduced by 47 per cent since 1968 and 37 per cent this year;

Raids by B–52 bombers have declined by 40 per cent and all air sorties in the entire theater are less than half what they were in 1969. In South Vietnam air strikes are one quarter of what they were;

Total cost of the war has dropped more than 50 per cent since 1968 and a 40-per cent decline is expected this year;

Enemy attacks during the first six months of 1971 were less than half those of early 1968; harrassments have fallen to 38 per cent of the earlier total and Vietcong terrorism this year is 30 per cent below last year's total.

This is some of the factual information by which the success of the winding-down process can be measured. The reduction in air attacks is especially significant in view of the increased reliance on air power to cover continued withdrawal of U.S. troops and in view of their much wider area—Cambodia and Laos—now covered by our aircraft. And even including the fighting in those two countries, where our attacks were called extensions of the war, the total expenditure and effort involved in the fighting has been reduced by half or more.

In addition to these indices, Mr. Doolin points out that fighting in the populated areas of South Vietnam is almost non-existent and that the lives of the inhabitants have been much improved. More than 500,000 acres have been distributed to the people, the largest rice crop in the history of the country was harvested last year, the active caseload of refugees is 40 per cent below that of the end of 1968, and more than 2000 of the country's 2300 villages are being governed by locally elected officials.

Meanwhile the President's troop-withdrawal program is ahead of schedule and administration spokesmen foresee only 50,000 servicemen left in the theater next May, a number somewhat below that of Americans who are killed by automobiles in their own country in a single year.

The insistent clamor that the war is not fading out goes on, but it does not stand up in the face of the few key facts that show exactly how successful Mr. Nixon has been in reducing American participation in the war and providing better living conditions for countless Vietnamese.

The war is very demonstrably winding down.

A FREEDOM THE WORKINGMAN LOST

HON. SAM STEIGER

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1971

Mr. STEIGER of Arizona. Mr. Speaker, last week 18 colleagues joined me in introducing H.R. 11827, a bill repealing those provisions in existing law that authorize compulsory unionism.

The distinguished columnist, Mr. David Lawrence, discusses this bill and its importance in his column which appeared in the November 19 issue of the Washington Evening Star. So that all Members of Congress can have the benefit of Mr. Lawrence's views, I insert his column at this point in the RECORD:

A FREEDOM THE WORKINGMAN LOST

(By David Lawrence)

With all the talk and agitation about individual liberty, one freedom has been taken away from the American workingman and, strangely enough, the loss of the precious right has been ignored for a long time.

This is why Rep. Sam Steiger, Republican of Arizona, along with 17 other members of the House, has introduced a bill to abolish compulsory membership in unions. Continued pressure in the courts and overwhelming evidence that the public opposes this form of concern is behind the movement. It is argued that excessive union power is in the hands of a small body of officials and that this has been a contributing factor to our present economic problems.

For many years, labor unions have had the privilege of requiring workers to join a union if it has a majority status in a plant or company.

The "closed shop"—in which a person could be employed only if he was a union member—then sanctioned by law, enabled unions to increase membership from 2 million in 1935 to 17 million in 1945. Under the "union shop," which now is widely in effect, dues must be paid by a new employe after a certain period in order to retain a job, and the net result is compulsory membership.

Nineteen states have enacted "right-to-work" legislation outlawing compulsory unionism. Eleven of these state laws were in force at the time Congress adopted the Taft-Hartley Act in 1947, which permits a union shop but specifically says agreements requiring membership in a labor organization as a condition of employment may be prohibited by state law.

During a Senate debate in 1965, when the power of the states to pass right-to-work legislation was threatened, many arguments were made supporting the right-to-work principle. The late Sen. Everett Dirksen declared that no person should be forced to belong to or pay money to any private organization in order to earn a living. In 1970, Congress enacted a right-to-work law for postal employees.

Unquestionably, there is increasing sentiment among members of Congress that a similar federal law should cover every form of business and that no worker should be compelled to join a union or lose his job. Steiger said in his speech introducing the bill, the purpose is to amend the National Labor Relations Act and the Railway Labor Act by deleting those provisions authorizing compulsory unionism. He declared:

"This bill is not anti-labor but pro-worker.

"This bill will not interfere with a union's right to organize, nor its right to collective bargaining.

"This bill merely makes union membership voluntary in all 50 states.

"It seems to me to be amazing that we here in the United States who are so preoccupied and concerned with individual liberties have so long tolerated such a flagrant abuse of individual liberties as compulsory unionism. It is time to stand up for freedom."

The drive to pass the bill introduced by Rep. Steiger has been in process of organization for some time. It is motivated by belief that each person has a right to decide for himself whether or not he wishes to join any organization and that he should be free to make his own choice when he enters into a contract with his employer.

His obligation is to the management of the company to do the job required. If he wants to become a member of a union or prefers not to be, this would remain his privilege. But the element of compulsion would be removed.

In many of the labor disputes today, however, workers who are not members of a union stay at home for fear of encountering some form of physical restraint from those on strike. Even members of unions which are in no way involved in the dispute refuse to cross picket lines during a strike rather than become subject to discipline by their own union or intimidation by the striking workers.

All these conditions would seem to be subject to protection by law-enforcement authorities. No organization should have the privilege of keeping from their jobs any workers who wish to perform their services. The big question is whether individual liberty really prevails in America and whether every citizen is to be permitted to enjoy the freedom that is so often extolled.

THE TRUTH ABOUT FREE ENTERPRISE

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1971

Mr. RARICK. Mr. Speaker, that truth is a stranger in today's free society is best evidenced by a recent letter from the National Education Program prepared by Dr. George S. Benson and entitled "The Truth About Free Enterprise."

In today's haste to bring about change and to discuss reforms, too often our free discussion and educational orientation omit or negate the American system of economics—the free enterprise system—which alone is greatly responsible for the progress and level of civilization attained in the United States.

The free enterprise system, as the Constitution of the United States, is unsurpassed in excellence by any other form of economics or government. But are the creation of man in his noblest hour; but what man has created, man can destroy. It is up to each of us who appreciates our system of government and economics to understand the opportunity we have by stewardship to pass these pillars of libertarian strength on to our posterity. This we can only do by understanding and defending free enterprise.

I insert Dr. Benson's letter at this point:

THE TRUTH ABOUT FREE ENTERPRISE

(By Dr. George S. Benson)

Herbert Aptheker, recent visiting professor at Bryn Mawr College in Pennsylvania, has repeatedly predicted the death of America's private enterprise system. He himself is working to kill it. The surprise in this is that Professor Aptheker has been teaching the American young at Bryn Mawr, a college built with the wealth produced by our free enterprise system and operated with money from the same sources. Herbert Aptheker is a Communist. He's more: he is the widely advertised theoretician of the Communist Party USA, and recognized in security and intelligence quarters as perhaps the "brains" of U.S. Communism.

How foolish can Americans get—paying Communists to indoctrinate the minds of American youth with Communist falsehoods against our system! No wonder a substantial percentage of our 8,000,000 college students attack the basic principles of private enterprise and an alarming number are dedicated to the overthrow, or are aiding in the gradual death, of the system. Herbert Aptheker and his comrades within the Communist Party, and the nationwide revolutionary youth movement they have spawned, constitute the clearly visible enemies of free enterprise.

FACTS NOT GIVEN

Millions of other people, who lack knowledge about the American system and about Socialism-Communism are aiding the Commies by default: they do not support the system when it is attacked. Millions of adults, as well as youth, cannot define free enterprise; and only a comparatively few know how it works and why it out-produces all other economic systems.

I've been an educator for 45 years. In the last 30 years I have been disturbed because our schools and colleges do not adequately prepare our young people for the citizenship responsibilities that go with freedom. In most cases our educational institutions have simply failed to teach the essential facts in American history and the facts about our economic and political systems. As a college professor for 29 years, I was shocked to see so many youngsters coming out of high schools all across America who did not understand the private enterprise system, who simply hadn't been taught. Uninformed as they were, they were prime subjects, in many colleges, for the propaganda against the system.

THE SYSTEM DEFINED

What is free enterprise? It is the economic system through which we in America make our living. There are three economic systems.

1. A system like the Communists have installed in Russia, where the Government owns the tools of production and distribution.

2. A system like we have in America, with private individuals owning the tools of production and distribution.

3. A combination of these two, such as the Socialists installed in England, with most of the basic industries and institutions owned by the Government, but with much of the retail business operated by private citizens under strict Government control.

America offers the world's best example of a private enterprise economy. We started as an agricultural country, with 90% of our people on the land and earning a living by farming. Farming rapidly improved in America for these reasons: Farmers owned their land and wanted to improve it; the livestock and grain they produced was their own; they wanted to improve the varieties and the total production; they had to do the work or pay for having it done, so they wanted to improve their tools as much as possible, thus making the individual's labor more productive.

PROGRESS UNLIMITED

Farmers have succeeded until today only 5% of our people live on farms, and yet the nation is the best fed in its history and we sell and give away great quantities of our farm produce. As people left the farms they went into various kinds of businesses. These businesses grew for the following reasons.

They were privately owned and naturally the owners wanted their businesses to prosper, and they worked hard; they were competitive, consequently the businessman was under constant pressure to try to out-produce his competition; this forced the development by the businessmen of tools, machine tools, automatic tools, automated tools; the entire nation, and in fact the world, was the market place; so the businessman's opportunities were virtually unlimited.

PROGRESS WITH FREE ENTERPRISE

When the American free enterprise system evolved out of the principles of private ownership of property and the competitive market there was nothing like it in all the world. The principle of private ownership meant two basic things to Americans: independence that comes from freedom and self-reliance, and the opportunity to advance economically to the extent of one's ability and devotion to duty. If the grain miller, instead of grinding his corn and wheat with a hand-tool stone, could build a water-wheel that would turn out ten times as much (and with less manual labor) he was making a contribution to society and helping himself too.

Inventions increased rapidly in early America, both on the farms and in the industrial plants. Horsepower on the farm gave way to tractors. One-row cultivators gave way to four or even eight-row cultivators. Transportation expanded—with the building of hard-surfaced highways, railroads, automobiles, and airplanes.

SCREENING OUT INCOMPETENCE

The automobile is a good example of how competition works. The auto industry has grown until today it is an $89 billion business. But it started as a $1000 business and a dream. There was much competition along the way. In my files are the names of 1400 companies organized to make automobiles in the last 80 years. Only four are now making automobiles. This doesn't mean that the other 1396 went broke. On the contrary several would combine their inventions and their capital into a single company to make a better automobile. Others quit trying to make automobiles and started making one or more parts for automobiles. Others started making washing machines or refrigerators, or a hundred other items that America needed or wanted. General Motors alone now has more than 1500 subcontractors, or suppliers, making parts for its automobiles. And the number of employees involved in the whole industry is 2.5 million.

The keen competition, as companies sought a share in the almost unlimited market, required high investment in tools. Consequently, the investment in plant, tools, and inventory today averages out to about $35,000 per job in the auto industry.

THE MIRACLE OF TOOLS

The increased productivity brought on through the employment of miraculous machine tools in industry, made a man's hourly work more valuable to the producer. With machine tools he produced a great deal more. So industrial wages increases—from about a dollar a day at the turn of the century to $25 to $50 a day—and even more in some highly skilled machine work. The average income for every man, woman and child in America today is $3600. Which means that the family breadwinner on the average makes three times that much.

In Western Europe—Norway, Sweden, England, Germany, France, Italy, Belgium, the Netherlands—the average per capita income is about $1800, just half as much in purchasing power as American's enjoy. In Russia, where they have total Socialism, the average is about $800 a year, less than a fourth. This is a powerful commentary on the value of our private enterprise system to the people of America. It gives us a living standard four times higher than the Russians have, and more than twice as high as in Western Europe.

SUCCESS CANNOT BE CHALLENGED

The two nations coming closest to us in productivity are West Germany and Japan—two nations that we taught to follow private enterprise principles after World War II. In fact, it was American free enterprise productivity that won World War I and World War II. Since that time we have aided other nations more than any other people ever aided foreign nations—to the tune of perhaps a hundred billion dollars since World War I.

The facts we've given here cannot be challenged. Wouldn't we be fools to give up such a productive system! Yet, faith in our American system of private enterprise is being shaken by the propagandists and by some of our own people who have unconsiously swallowed some of the propaganda and believe that Big Government can provide a better living for everybody. Faith in our system wouldn't be shaken if our people, young and old, knew and understood the full story of free enterprise, how it works and its incomparable record of serving the needs of our society.

ENEMIES IDENTIFIED

The critics of our private enterprise system—those who are not linked to the Communist-Socialist conspiracy to overthrow the system—can't tell us where Big Government, which is invariably their formula for society's progress, has provided for its people a better living standard and a climate for the growth of freedom such as Americans have enjoyed for nearly two centuries. The reason they cannot is that nowhere on earth at any time in history has a Government provided for its people as much as one-half the good things of life—including food, shelter, clothing, recreations, freedom, happiness—that private enterprise has provided for the American people.

These people who are willing to stand by while the American system is wrecked don't know the facts, or they would challenge the detractors, the wreckers. Of course, our system hasn't worked perfectly; but the basic reason is that we do not have perfect people operating the system. The 100 million Americans who are involved, through stock ownership or actual participation in running the economic system, are not perfect people. There are some bad apples, there is some incompetency, some greed, and many mistakes made. But this doesn't mean that the principles of the system are not sound. They are. History has proved that over and over again. In fact there is far less exploitation under private enterprise than under a dictatorship.

A CHALLENGE

Yet there are millions of people in America who are, through their actions or their failure to act, aiding the cause of America's enemies—which is to ruin and overthrow the private enterprise system. So it becomes the responsibility of all the other citizens, an overwhelming number if they can be once moved to action, to protect private enterprise under constitutional government, which is the source of our unmatched national wealth, our freedom and our future prosperity. They must become missionaries to the uninformed. They must help reach all the people of America with the facts about the American economic system. This crusade requires the cooperation of the family, the church, the schools, and the government.

Of course, the Communists and Socialists are the major enemies. Both are world wide conspiracies. Both plan to bring everything under Government ownership—for this gives a small group of the "elite" absolute power over the lives of all the people. And they are working together, the Socialists and the Communists.

FALSE TEACHINGS

Many young people in America who do not know the difference between Socialism and Capitalism have been alienated from our system by Socialists or Communists in our educational system, Socialists or Communists in the press, Socialists or Communists in the motion picture industry, in publishing, and in many other areas of communications. In some cases, textbooks have not painted a true picture of our history and economic system, and thus many young people have turned against the American system on the basis of false or incomplete information.

The No. 1 Enemy is World Communism. Its agents have been busy in all facets of our society. The Communists began trying to tear down America back in the early 1920's. They infiltrated their people into every phase of our way of life, particularly into all the agencies and institutions of information. Until the end of Wolrd War II, the success of the infiltrators was limited. But in the latter part of the 1940's they began to make astounding progress influencing the opinions and actions of millions of people.

ATTACK BUSINESS SYSTEM

The Communist propagandists among us continue to hammer away at our economic system, our industrial system, and what they call "Big Business." Actually they mean to destroy the entire business system; but they cunningly use "Big Business" as their propaganda "whipping boy."

They hammer away at traditional morality. On many campuses they get their young converts or dupes elected to stop student offices, such as presidents of the student body, chairman of the student councils. They begin to form revolutionary cadres among the students. They may introduce their young recruits to Marijuana and then the "hard" drugs. They forment "demonstrations" and whenever possible "violence" against "The Establishment," "The System," "Private Enterprise." They send their ruffians to destroy banks because they have made banks symbols of private enterprise capitalism. Over and over again in America the Communists have shown an ability to mobilize hundreds of thousands of "dissenters." And the basic reason they are successful in this is because the dissenters do not know the facts about our American system.

WRECKERS OF MORALITY

In the last 20 years I have met and worked with some of the most prominent former Communists who have severed ties with the world-wide conspiracy and are working now to make amends for their transgressions against mankind. Also among my intimate acquaintances have been (and continue to be) a number of loyal Americans who have made terriffic sacrifices and served as underground agents of the FBI within the Communist apparatus in America. And among the people I continue to work with today are some former high-up officials or agents of the FBI, Army Intelligence, and other Security agencies who have resigned or retired so they could more freely fight the Communist forces within our nation.

These facts are mentioned to affirm our rather unusual authority to write about the Communist drive to break down the moral foundations of our society. All of the men and women who have had close contact with the conspirators in our midst speak of the emphasis placed on undermining and tearing down the moral foundations in America. This is in line with the long-range strategy of the Communist masters in Moscow and Peking. They are smart and they read the history of the human race and they see that throughout history moral deterioration has utterly destroyed nations.

CAUSE OF DOWNFALL

The history of the world shows that there have been many civilizations, and as each civilization marched across the stage of time, one nation or group of nations stood out in leadership, representing the best at that period of history. Historian Arnold Toynbee notes that 19 of these 21 major civilizations fell prey to moral decay from within. They disappeared from the world scene—Egypt, Assyria, Babylonia, Persia, Greece, and Rome, were among them. Each had its day on the stage of history. Each was first among nations of the world for a time. But each moved down the Western slope to oblivion. Having started the downfall, no one of them ever stages an effective comeback.

The fall of Rome did not come at a time when another superior nation was ready to take the place of the Romans. On the contrary, the fall of Rome ushered in a period known as the Dark Ages, which lasted 1000 years. During that period civilization moved backward, not forward, which demonstrates the fact there was no leadership to replace the leadership of Rome.

WESTERN CIVILIZATION EVOLVED

Out of the Dark Ages, finally, came Western European society, and England became the foremost nation, not because she had more land or more resources but because she granted more freedom. I can personally remember when England was the foremost nation of the world and "Mistress of the Seas." But today England is a third-rate power and she demonstrates no signs of a comeback. She is neck-deep in Socialism; and her decadent society has to some degree infected our own.

For nearly half a century America has stood at the peak of Western civilization. She began to represent mankind's loftiest ideal when, 200 years ago, she won individual freedom from the Monarchy of England. For nearly two centuries America climbed toward the pinnacle of leadership, serving as an inspiration to the whole world; and her military strength in the last 50 years has kept despots (such as Hitler and Stalin) from overrunning the world. But in the last 25 years, the people of the world have watched a mighty nation seem to lose its bearings and falter.

MAN'S BEST HOPE

Is the decay of civilization inevitable? Of course it isn't. The Communists tell us it is. They say that the American system, which has at its heart the principles of individual freedom and individual responsibility, contains the seeds of its own destruction. That is true only in one sense: mankind is weak. But in Western civilization man has found a tower of strength in Almighty God. Faith in God has been the foundation stone in our birth and our rising strength as a nation. Tuned to God, mankind can exercise great power for good. Alienated from God, man, indeed, is weak and destined to failure.

And this is the great weapon free man has against the Godless peril and the tyranny of World Communism. This is not meant to be a sermon. But when we carefully look at the enemies of free enterprise, we cannot escape the fact that the Communists as well as their recruits among our young people are atheists. And that says something. We cannot be overcome by World Communism if we marshal our strength on the foundations on which Western civilization in America was built—Faith in God, Constitutional Government, an Economic System operating on the principles of private ownership and the competitive market. This is the challenge laid upon us. Will we accept it?

WHERE THE ACTION IS

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1971

Mr. ANDERSON of Illinois. Mr. Speaker, on July 1 of this year, the Federal Government gave birth to a new agency under Executive Reorganization Plan No. 1 of 1971. The agency was called Action, a merger of seven Federal volunteer service programs including VISTA and the Peace Corps. It was placed under the able leadership of Mr. Joe Blatchford, formerly the Director of the Peace Corps. Its mission was to give new impetus to volunteer efforts to meet the pressing social needs of the decade, both on the domestic and international fronts.

Tomororw, this fledgling agency will be 4 months old and already it is exhibiting the new life and energy which its name would indicate. Despite the fact that the Congress has not yet appropriated the extra $20 million which the President has requested for new program initiatives, Action has nevertheless been able to build on existing domestic antipoverty programing to create new opportunities for service. Three new cooperative concepts which have emerged are relationships with the American Red Cross, the Opportunities Industrialization Center of Philadelphia, and the University Year for Action. The latter program is a cooperative effort with some 10 universities on a pilot basis to field several hundred student volunteers in the poverty community for a year. The students would receive academic credit for this service.

At this point in the RECORD I am including an editorial from last night's Evening Star on the University Year for Action—UYA—plus a November 1 report on "The First 120 Days of Action." I commend these to the reading of my colleagues:

[From the Evening Star, Nov. 29, 1971]

STUDENTS AGAINST POVERTY

The new federal Action agency formed through a merger of Vista and other volunteer service groups in July, seems to be living up to its name. At least it has been quick to get some innovative ideas into operation, and one of those involves the challenging and activating of college students.

Called University Year for Action (UYA), this program was launched in September with 11 colleges and universities participating. Now 20 more plan to join at the next semester break, which means that more than 1,000 youths soon may be enlisted in the enterprise. They will go into poor communities near their colleges and work full-time for a full year, fighting poverty. What's unusual is that they receive generous academic credit for these labors, along with assistance from faculty members. Their assignments are to give special assistance to all sorts of disadvantaged people in all environments—from ghettos to the great open spaces.

The response has been overwhelming; about 170 colleges and universities all across the country have tried to get into the program. But Action is moving cautiously, and with good reason. This is, as Director Joseph Blatchford makes clear, a demonstration project, a test of "the concept of combining academic credit with involvement in realistic projects to alleviate poverty." There are still vivid memories of disappointments that came from wholesale plunges into some other anti-poverty concepts, in which implementation far outran the planning and testing.

But this program has a powerful appeal, for two reasons: It affords an outlet for the idealism of the young, and it might provide a cadre of professional antipoverty workers, not only educated but seasoned and sobered by experience, that will be a valuable asset in the years ahead. The UYA will be where talk about commitment ends and testing of commitment begins, and some students will find obstacles to human redemption they never dreamed of. Some will drop out, but many no doubt will grow in dedication as they comprehend the awesome dimensions of the task.

It's good to note that Howard University and Federal City College here in Washington were among the first to put students to work in this laudable experiment.

THE FIRST 120 DAYS OF ACTION

Since July 1, 1971, Action has been devoting itself to the task of bringing together volunteer service programs designed to aid all who need and want help at home and abroad. The new agency is taking what President Nixon calls "the first step toward a system of voluntary service which uses to the fullest advantage the power of all of the American people to serve . . . the nation."

Action brought together from throughout the federal government seven volunteer service programs whose purposes and spirit remain intact, but whose goals and effectiveness are being sharpened and expanded to better deal with the pressing social requirements of the 1970s. On both the international and the domestic fronts. Action programs are tailoring the experience of the past decade of volunteer service to the realities and needs of today. Action includes:

VISTA (Volunteers in Service to America)—sends volunteers to work in locally sponsored projects to alleviate poverty in the United States and its territories. VISTA was previously a program of the Office of Economic Opportunity (OEO).

Peace Corps—sends volunteers abroad to help the people of 55 countries of the developing world to attain a higher level of social and economic progress.

SCORE (Service Corps of Retired Executives)—utilizes the skills and experience of America's retired businessmen and women as volunteer consultants to small businessmen with management and operating problems. Both SCORE and its complement ACE (below) came to Action from the Small Business Administration.

ACE (Active Corps of Executives)—provides the voluntary counsel of active executives on an "as needed" basis to small businessmen.

Foster Grandparent Program—enables men and women over the age of sixty to provide companionship and guidance to children in institutional settings. This well-received and mutually rewarding program was originally under the Office of Economic Opportunity and subsequently was administered by the Department of Health, Education and Welfare (HEW).

RSVP (Retired Senior Volunteer Program)—offers opportunities for older citizens to use their talents in community service projects. This program came to Action from HEW.

Office of Volunteers Action Liaison—encourages interest and participation from the private sector in Action programs; maintains liaison between Action and non-federal government officers and organizations; and finds and coordinates career opportunities for former volunteers. The program which has evolved from an earlier Office of Voluntary Action, was formerly carried out by HUD.

In the shaping of Action, change for the sake of change has been avoided. Both the Peace Corps and VISTA, whose missions have been amply established over the years, remain unchanged in terms of program and identity. What Action has been doing in the past 120 days has been to encourage each of these units to build on its unique features and draw upon the experience of the others. The new agency is now exploring the best ways to bring the talents of volunteers from all programs to the continued service of both our own citizens and the citizens of the rest of the world. The present arrangement enables Action to draw on greater recruitment resources and talents, and opens new channels for volunteer talents and skills.

This inter-program sharing has great advantages both for the program individually and for the people they are designed to help.

THE CONSULTATION PROCESS

Action's component programs continue to maintain the close consultations they have always kept up with their field staff and members of the communities they serve. This interchange assures that programs are responsive to community needs and interests, and identifies areas in which more work is needed. During the past 120 days, Action has continued and expanded these contacts in order to assure the continuity and maximum effectiveness of the merged programs. Action's staff has consulted with a great range of people, from field workers to anthropologists and educators. The results of these discussions have been most productive to Action's senior staff and to the future course of the programs they direct.

From the moment the re-organization was proposed, Acting Director Blatchford began an intensive schedule of dialogues to determine the directions Action should take and to assign priority to necessary moves and needed innovations. Minority leaders, educators, volunteers, the staffs of the various programs to become components of Action, people in poor communities, and officials of national and community organizations were consulted for their views and suggestions. Anthropologist Margaret Mead, Acting Director Harold Simms of the National Urban League, and Edwin Shelley, President of the National Council on Aging were among those people with whom Acting Director Blatchford spoke personally.

Also prior to the merger, task forces composed of member program personnel were at work. The VISTA task force, composed of the ten regional administrators, held two meetings leading to the submission on July 23 of its comprehensive report on regional reorganization. In addition, an Action steering committee, composed of component agency representatives, met several times to prepare for the merger on July 1st.

CONSULTATIONS SINCE THE MERGER

Action has been continuing its contacts during the first 120 days, and they are designed to remain an ongoing part of operations. By means of letters and telegrams, personal visits and meetings, and through the media, the executive staff of Action has contacted persons and groups whose experience and interests are relevant to the work of a citizen service agency.

The educational community

One such group is the educational community, one of Action's primary volunteer and advisory sources. An educational conference, held on October 12–13, 1971, brought together 17 of the major professional educational associations and 15 universities in which Action/Peace Corps has had intern programs, to explore and discuss the relationships between Action and the universities.

Within Action an Educational Advisory Council has been established as a way of keeping the agency apprised of developments within the academic community. Its membership is composed of senior level representatives from all Action divisions dealing with universities and other institutions of learning.

Action maintains a liaison with the Office of Education (HEW) with which future joint programs are being developed. The proposed shift of the Teachers Corps from the Office of Education to Action is also being discussed through these channels.

In addition, Acting Director Joe Blatchford and senior Action staff members have been in the field visiting professors and students on their campuses, where they have held discussions on mutual goals and the joint projects which might help realize them.

A result of these contacts with the educational community has been the development of guidelines for the creation of the University Year for Action (UYA) program, the largest project initiated since Action's inception in July.

Elected officials

Legislators and state officials comprise another group that Action has regularly consulted. Acting Director Blatchford and Action's senior level domestic operations staff have met with the governors of Minnesota, Washington, and Indiana; lieutenant governors of New Mexico and California; and mayors of such diverse cities as San Jose, California, New Orleans, and Troy, Alabama. The purpose was to discuss Action programs in their areas and the increasing need for citizen service on a larger scale.

Program component personnel

Before the creation of Action, discussions were held with personnel of the programs designated to form the agency by the Acting Director. In these discussions, the organization and plans for the new citizen service headquarters were worked out. Since the information of Action, headquarters personnel have continued to exchange news and ideas with program staffs. Regional meetings of SCORE/ACE, Foster Grandparents, and VISTA that have taken place since the merger have been attended by Action senior staff members.

In mid-July, the ten regional directors of VISTA met in Washington to talk over such issues as personnel authority, the makeup of regional offices, volunteer and contract relations, and communications between the field and headquarters. To study these issues, a task force on volunteer support issues has been formed, and is described below. Meanwhile, top agency executives also visited each of the regions, where they consulted with the field staff and volunteers to identify problem areas.

Volunteers

On July 1, 1971, Acting Director Blatchford sent letters and telegrams to all volunteers in the field describing the new agency and explaining the implications of the reorganization. These messages also expressly asked the volunteers to communicate their ideas for ways of making Action more responsive to their needs and those of the communities in which they serve. Their responses highlighted the need for a stronger voice in policy and operations by both volunteers and local communities, and the need for stronger definition of programs.

Volunteer task force

The responses of VISTA volunteers were major considerations in determining the issues of a task force on volunteer support put to work in July. The 13-member force, whose preliminary recommendations are due within days of this report, includes volunteers, project sponsor representatives, and an officer of the National VISTA Alliance. Subjects under study are health, transportation, pay systems and legal support for VISTA volunteers.

To further solicit volunteer views Acting Director Blatchford made a nine-state trip through the South and Southwest visiting projects and talking to both volunteers and community residents in locations from Asheville, North Carolina, to Chinle, Arizona. The Blatchford trip was complemented by others on the part of domestic operations senior staff, and before the end of 120 days, all high-level Action officers had been in the field for first-hand conversations with volunteers and local residents.

Along with visits to project sites and consultations with community groups, the Acting Director has visited five of the ten regional Action offices since July 1—in Atlanta, Dallas, Philadelphia, San Francisco and Seattle—and met with the Federal Regional Council (which includes the Action Regional Administrator) in Boston. The other five regional offices have been visited by senior staff members in order to strengthen Action's mission through cooperation among its own programs as well as finding new ways of responding to the needs of those it exists to serve.

Acting Director Blatchford toured five African nations on a three-week mission to explain Action to those concerned with Peace Corps activities there. Among others, Kevin O'Donnell, Acting Associate Director for International Operations, visited Peace Corpsmen in Latin America and also held talks with ministers in Peru, Chile, Paraguay, Brazil, and Venezuela in order to gain a better understanding of their attitudes, and to explain Action's functions to them.

The Peace Corps National Advisory Council met in March to discuss the merger and consider its impact on the Peace Corps. Since that meeting, its members have made trips abroad, where they visited Peace Corpsmen and projects, explaining the plan to Volunteers and host country officials. Chairman Neil Armstrong visited Volunteers in several East Asian nations. Gustav Nordin of the Pasadena *Star-News* went to Iran, and Mrs. Edmund C. Lynch, Jr., toured projects in Ghana, Kenya, and Ethiopia. Athlete Bill Toomey has traveled to South American projects, and in the United States has actively supported Peace Corps recruitment during his public appearances.

Older Americans

In June and August, the Acting Director met with groups of SCORE volunteers in Portland, Oregon, and Dallas, Texas, and in October he attended the National SCORE Convention and addressed the delegates on several outstanding issues in the administration of the SCORE program. The Acting Director of Domestic and Anti-Poverty Operations, Christopher Mould, also attended and addressed this convention; both assured the delegates of Action's commitment to preserving the function of SCORE as a source of expert guidance to small business. The concerns of the SCORE volunteers were reflected in the Director's commitment to explore ways of increasing funds available for reimbursement of out-of-pocket expenses of SCORE volunteers, and in increasing recognition of SCORE's work. The creation of Action was described to the volunteers as providing an opportunity for involvement in a broader range of management problems, for those SCORE volunteers who wish to engage in the counselling of non-profit and community-based organizations.

In August the Acting Director visited a Foster Grandparent project site in Dallas as well. Subsequently, he referred to this program as "a true 'love story' which deserves all the support and encouragement we can give it." Through SCORE, Foster Grandparents, and the Retired Senior Volunteer Program, Action seeks to greatly expand both the opportunity for service by older Americans and the impact of such service on communities throughout the nation. The 28 million persons in the United States over age 60 represent an enormous national resource, if ways can be found to facilitate and mobilize their service. Action is actively seeking ways to build on the strengths of its older Americans programs in the direction of a comprehensive program for all who wish to join in service. In recognition of the importance of volunteer programs for older Amreicans, Action's Acting Director has been appointed to the Executive Committee on the Aging, and he and members of his staff have attended the meetings of this group held since his appointment.

The poor community

Following Peace Corps models for making programs directly responsive to local community needs, Action policy has placed great emphasis on the views and suggestions of members of the communities being served, as well as local community volunteers who are helping carry out Action projects. To this end, high-level Action staff concerned with domestic operations have been in the field to talk with migrant workers, blacks, Indians, and other low-income Americans—both those currently working with Action projects and those who might be so involved.

During his field visits in the South, Acting Director Blatchford went into poor communities in Georgia, Alabama, and North Carolina visiting VISTA projects and drawing out the views of local people as to highest priority needs.

He visited nine Community Action Program offices as well as having numerous meetings with volunteers, the poor, and concerned groups of individuals. In the West and Southwest, a special emphasis was placed on opportunities for drawing Indian and Mexican-American populations into closer contact with Action, both as volunteers and as organizers of Action projects.

In New Mexico and Arizona, Acting Director Blatchford successively conferred with the Chairmen of eight Northern Indian Tribal councils near Santa Fe; visited a VISTA rabbit co-op project in Espanola, New Mexico, and then went on to a Navajo reservation in Chinle, Arizona, where VISTA volunteers are manning an extended care center to supplement an overburdened hospital.

Meanwhile on a separate trip, Action's Acting Domestic Operations Chief Christopher Mould met with several Indian representatives at the Oglala Sioux Reservation in Pine Ridge, South Dakota. With the tribal council chairman he discussed such issues as possible Indian participation in the Peace Corps and Action's proposed University Year for Action program. The effectiveness of VISTA volunteers on the reservation, reservation needs, and difficulties in cross-cultural communications were also examined. The Domestic Operations Chief, in addition, visited five of the Action regions, conferring with staff, inspecting projects, and talking with project sponsors and volunteers.

In a similar fashion, the Acting Director and other staff members have visited sites of potential Action projects or places where work might be expanded. The Acting Director talked with student and inmate volunteers at the Washington State Reformatory in Monroe, and with inmates and prison officials at San Quentin in California. He has also met with groups of student volunteers from Cincinnati, Ohio, and in Lafayette, Louisiana.

Maximum input is being sought at the community level not only on the part of senior Action officers but in the form of continuous outreach by the ten regional offices. Sponsor agencies, VISTAs, community volunteers, and local people have provided feedback on problem areas and needed projects in which they might all participate with greatest effectiveness. New policies and programs now being developed by Action, in its deliberate attempt to decentralize its policy-making functions, will rely heavily on this information.

Additional contacts

Apart from interchanges with educators, legislators, Action personnel, volunteers and the community, continuous contact has been maintained with other government agencies, community service groups, and volunteer organizations. A number of joint projects are in the works or under study with, for example, HEW, the Public Health Service, the American National Red Cross and the U.S. Department of Labor.

Objectives growing out of the consultation process

Consultation and investigation will continue. Action exists to serve wherever there is need, by mobilizing those who want to help. To fill this role, Action must be continuously aware of opportunities for volunteer service and of the talent and dedication which may be called into service. Even in the brief period since Action was formed, certain priorities have become clear. Future planning for citizen service will also reflect these objectives:

In each Action program area needs exist which can be met by citizen service. Each Action program plays a critical part in improving the quality of life for people in need, and each must be strengthened.

There are other areas in which the need for real service is not met because of a lack of resources and programs. Action must expand citizen service into every area of need.

Those who are chosen to fill leadership posts in volunteer programs must be specifically qualified for the job and capable of mobilizing support and enthusiasm outside the government as well as among volunteers.

Citizen service programs must respond to those needs which people recognize and want to help solve; so Action must cooperate closely with local groups in developing extensive opportunities for citizen service.

An effective volunteer is the one who serves as a channel between full community resources and the people who need and want help. By mobilizing part-time volunteers and by calling on others for a variety of tasks, Action's volunteers perform this function.

The skilled manpower necessary for effective projects can only be found through recruiting campaigns tailored to the requirements of volunteer programs. Recruiting must build on the ideas of local community contact, if it is to be fully effective in the support of Action programs.

Skill training is critical to the success of volunteer work, and if volunteers are to realize their full potential, training programs must be designed to meet the exact needs of the job to be done.

Volunteer support must be realistically tuned to job requirements and conditions of service. It is recognized as wasteful and damaging to morale to economize on out-of-pocket expenses and living allowances of volunteers.

Action, through its ability to provide a mix of volunteer resources, can provide a response tailored to specific needs set forth by local communities.

THE TASK OF REORGANIZATION

Staffing

For Action to achieve its complex goals, it has been recognized that its staff must be composed of carefully chosen, committed people. Consequently, much effort is going into the recruitment and selection of men and women for key Action positions. The response to the initial search has been both exciting and gratifying. Some 6,000 applications have been received for agency staff posts since July. For top posts in the ten domestic regional offices alone, 750 referrals were received as a result of inquiries in the field.

The sifting of the applications is a complicated and sensitive task. Persons to be seriously considered must be well known and acceptable to volunteers and community groups. They also must have shown a strong interest in volunteer programs. A case in point is that of the new Director of Action's Voluntary Action Liaison Office; as many as 60 suitable people were considered for this position, and following field interviews and careful reference checking, this number was reduced to a dozen or so candidates. From this final group, Action made its selections.

Even after selection, however, there is still a considerable amount of negotiation to be done; for the kind of person Action needs is likely to be already deeply involved in a career—which frequently pays far more than Action can offer. Therefore, Action can only recruit those people who are as motivated by its work as by the promise of personal reward.

As an example, one new officer has left behind a substantial law practice and interests in several community business and service projects to come to Washington because of her belief that volunteer service can help solve problems in local communities.

Similar selection processes were carried out for the new head of VISTA. Her name was submitted by a number of human rights organizations, including the NAACP, for the post to which she was named. Her credentials were checked professionally, with VISTA volunteers in the field, and with former VISTAs now serving on the staff. Community service organizations and low-income groups with whom she has worked and will work, were also consulted. The reports were so favorable that she was promptly offered—and has accepted—the position.

To refine and perpetuate this selection process, Action's Office of Staff Placement is at work developing an intricate and thorough reference-checking system. By extending this process, the OSP will soon be able to reach out through many sources at once, to get the people Action wants, and in turn interest and involve these people in the agency's mission for the 1970s.

Much time has also been spent on developing new staffing patterns which will enable both the domestic and international aspects of Action functions to respond to their new integrated roles. A careful investigation is being conducted to streamline overhead positions at headquarters and to insure that Foreign Service Reserve and Government Service systems are equitably integrated. Considerable savings and an advantageous blending of systems have already been brought about in the Office of Citizen Placement, and comprehensive studies of other offices are underway. Plans are also being developed for an efficiently decentralized Domestic Regional staffing pattern that will insure program and operations linkages among VISTA, Foster Grandparents, SCORE and ACE.

Labor relations

In line with the assurances made to Congress and in order to further assure the orderliness of the transition to a unified volunteer agency, Action top staff has established a continuing dialogue with the representatives of the American Federation of Government Employees local which represented VISTA employees in OEO. Action officers have met with officials of the Department of Labor to facilitate the completion of the pending election of representatives required to qualify the AFGE for recognition under Executive Order 11491. Dues deductions for AFGE local have been continued during the interim.

Action has also taken steps to include its Foreign Service employees within the coverage of the proposed Executive Order on union activity in the Foreign Service, so that a constructive and orderly system for labor relations with representatives of these employees can be established. A grievance procedure has been established within Action to hear and review complaints of the competitive service employees, and the agency has adopted a merit promotion system and an Equal Employment Opportunity action plan.

THE OFFICE OF CITIZENS PLACEMENT

The creation of the Office of Citizens Placement, handling recruitment of all Action volunteers, was a major new effort to streamline agency functions. A number of volunteer recruitment efficiencies have been made possible through the establishment of the OCP. The government no longer, for instance, sends a Peace Corps recruiter to a campus a week after a VISTA recruiter has been there. Duplication of federal effort has also been eliminated in:

Recruitment drives.

Recruitment materials such as posters, brochures, advertising.

Recruitment sources and training of recruiters.

Exhibit space and convention coverage.

The agency has developed a combined Action application serving both Peace Corps and VISTA volunteers. This both reduces the amount of processing formerly required of the two programs and facilitates the exchange between the two programs of applicants in needed skill areas.

Combined facilities have also made it easier for volunteers completing their periods of service in one program to move into another. Peace Corps volunteers have frequently indicated interest in joining VISTA, and vice versa; now their experience—something a new recruit cannot offer—is made more readily available to programs in which it is vitally needed.

In addition to the talents of these returned volunteers. Action has another enormous source available to it in the form of federal employees. Through cooperation between Action and the Civil Service Commission, the ruling under which federal personnel may serve for two years in the Peace Corps while maintaining both salary and seniority levels has now been extended to both VISTA and other full-time volunteer service efforts. This agreement enables government employees to make a contribution without interrupting their long-term career plans, and Action to tap their vast talents.

The Citizens Placement Office, during its first 120 days, has instituted a WATS line by which any Action applicant or prospective applicant can receive answers to inquiries from the Action Washington headquarters. An inexpensive recruiting tool, the WATS line eliminates the cost of calls to the agency, and retains contact with qualified applicants who might otherwise be lost because of changes in address, availability dates, etc.

A first unified recruitment campaign was launched for Action volunteers in Minneapolis in August, and made use of new combined materials and facilities. With Minnesota Governor Anderson's active participation, the campaign featured media saturation, meetings and briefings with community leaders, two mall displays, and airport exhibits reaching over two million people.

While savings have been realized in the efficiency moves already mentioned, more substantial economies have been achieved in the conversion of recruitment contracts and in representation on college campuses.

Since the formation of the Office of Citizens Placement, four contracts for VISTA recruitment and selection, established by the Office of Economic Opportunity, have been terminated. The work formerly performed under the contracts is now performed by Action staff. By terminating these arrangements, the OCP has been able to save over $750,000.

In FY 1971, VISTA had a recruitment contract which retained 95 campus representatives for seven months per year, for a total cost of $33,000. The Peace Corps, at the same time, maintained 35 campus representatives for seven months, for $13,000. Beginning in FY 1972, Action will need to retain only 40 campus representatives for both programs, at an economy of $32,000.

Action is also seeking greater black and other minority participation in its programs. Because of this, it has recently engaged a black professional research firm to prepare a study of attitudes—originally concerned only with the Peace Corps, but extending to include reference to VISTA as well—at five universities, and will help define new approaches to minority volunteer recruitment. An effort also has been made to encourage volunteers from the Chicano, or Mexican-American, community through a series of regional contacts and a national recruitment program centered at Los Angeles.

THE TRAINING OF ACTION VOLUNTEERS

Action believes that all volunteers must be trained for specific jobs they are to do for the sponsor agency, host country ministry, or client. Training is viewed as consisting of a set of controlled learning experiences which will enable the trainee to master the necessary skills before he or she begins volunteer service.

Peace Corps training

Peace Corps Volunteers continue to undergo approximately 12 weeks of intensive training prior to beginning their volunteer service. This consists of host country language study and cross-cultural preparation; learning the jobs to be done (for generalists) or adapting given skills to in-country application (for skilled trainees); and learning how to train host country nationals in these skills.

During the past year, and especially the last four months, there has been a shift toward training in the actual country where the Volunteers will serve. At this time, approximately 80% of Peace Corps training is done wholly or partially in-country. By 1973, virtually all training is expected to be done in-country. In-country training is far more effective: it cuts down on later attrition during volunteer service; encourages better understanding and support of host country ministries and agencies through their involvement in training; and costs far less than training done in the States.

Peace Corps is continuing to develop innovative training models. In Ghana, host country nationals are being trained along with Action trainees in skilled trades through a process wherein they must demonstrate mastery of each skill unit and teach it to another trainee before proceeding to the next unit. In India, the Peace Corps has initiated a "satellite village" concept of training involving a group of villages and villagers in agricultural training. Volunteers first serve in these villages for a year after which they may qualify to move into supervisory agricultural extension jobs at district headquarters. They may then be invited to extend and serve at the state or ministry level.

In Western Samoa this fall, the Ministry of Education will turn over the use of one of its schools during the long Christmas break and will invite pupils and junior teachers to participate in a model school sponsored jointly by the Peace Corps and the government. Peace Corps trainees will practice teach both as teachers of students and as teacher trainers. They will also administer the school. In Ethiopia, a local Ethiopian agency will soon conduct all Peace Corps training. In Brazil, a recently opened binational training center supplements the Puerto Rican center which has been training most Volunteers going to Latin America. This summer the Peace Corps instituted new guidelines for training family Volunteers.

VISTA training

On July 6th, Action undertook a comprehensive study of VISTA training including: 1) reports from each of the ten regional offices on the goals of the agencies where VISTAs serve, the goals of the projects in which they serve, and the Volunteers' job description; 2) a factfinding study in which thirty summer training programs were visited and observed, reported and summarized; 3) conferences with all contractors currently doing VISTA training; 4) conferences with former contractors; 5) approximately 4,000 questionnaires sent out to former VISTA volunteers asking their views on the strengths and weaknesses of their training; 6) extensive conferences with acting directors and staff of the ten regions.

All findings have confirmed the need to improve training. There must be specific and realistic performance goals established. Doing so depends upon analysis of skills and attitudes a volunteer must have before beginning service—skills and attitudes which may be gained and demonstrated through an ordered process of growing experiences and supervised tasks.

New four-week training models are being gradually developed with each of the ten VISTA regions, consisting of: 1) orientation to Action/VISTA and the role of the volunteer; 2) communication in the culture in which he/she will serve, with specific cross-cultural performance experiences; 3) skills training for both generalist and skilled volunteers; 4) extension training for all trainees in teaching their jobs to future co-workers and associates; 5) special training for different kinds of trainees (i.e., nationally recruited and locally recruited community volunteers, as well as their future agency supervisors); 6) an ordered qualification process for trainees based on well-defined job performance descriptions; and 7) possible training innovations, such as communication study to adapt trainees' speech and understanding to local idioms, word usage and speech levels, or language training as needed, in Spanish or Indian languages.

Training done at the local level has been shown to be most suited to volunteer work. Action has therefore initiated efforts toward designing new training models for each region, to meet the expected volunteer input for the next fiscal year.

OTHER HEADQUARTER OFFICES

Several internal functions of the agency, besides those dealing with recruitment and training of personnel, have been heavily burdened by the merger. Offices of General Counsel, Administration and Finance, Congressional Liaison, Minority Affairs and Public Affairs have had to develop new systems and approaches to cover the newly linked Action programs.

Since the merger, Public Affairs has concerned itself with an identification campaign for Action, underlining the policy of maintaining the identity of each member program while coordinating those organizational functions which apply equally to all. Public Affairs has also developed informational brochures and advertising materials on the programs—some of which are now receiving their first wide-scale attention through the press—and a field support system relaying information from the domestic regional offices to headquarters.

In Administration and Finance, an Action manual detailing procedural order is now being prepared. This office has also instituted a combined computer operation, so that accounting and payroll procedures formerly contracted out by member programs can be handled by Action headquarters.

During Action's first 120 days, a new office of Policy and Program Development has been created to assure Action's continued flexibility and responsiveness to the needs of the poor community in the coming years. Established along the lines of the recommendations received from all levels of consultation over recent months, this division is responsible both for working out new cooperative programs with outside groups, and for continuously evaluating the direction Action is taking. University Year for Action, the first program initiated since the merger, is one of this office's responsibilities. It and future projects are discussed in later sections of this report.

PROGRAM ADMINISTRATION

Since the Action merger, the program components have been re-evaluating their operations. Their roles in relation both to Action and to their particular target groups are under study. All programs have held regional meetings. The Foster Grandparent program, for example, held two-day regional conferences in September and October to discuss application procedures and other current issues. At the same time, that program has engaged a management consultant firm to conduct a cost/benefit study on its operations. The Peace Corps, the single international program within Action, has been affected by the merger primarily in the coordination of common functions with other Action programs.

PROJECTS INITIATED SINCE THE MERGER

Action's mandate is not only to improve and strengthen existing opportunities for voluntary service, but also to seek out ways in which a small federal contribution can magnify the effects of individuals in service to communities and people who need and want help. Action's ability to respond to this challenge is a result of the accumulated experience of ten years of Peace Corps, seven years of VISTA and SCORE, and four years of Foster Grandparent programming. The challenge is a real one, since millions of Americans need only a little encouragement to become involved in volunteer programs to improve their communities: Action's role should be to strengthen and develop these opportunities for service as well as those of existing federal programs.

Evidence of the breadth of support for volunteer programs can be seen in the new program concepts which Action is developing. So far, these efforts have been limited by available funds—$20 million earmarked for Action by the President at the time of the reorganization plan has not yet passed through the Congressional appropriations process, and cannot be put to use in designing new program initiatives.

Nonetheless, it has proved possible to build on existing domestic anti-poverty programming in the creation of new opportunities for service. Three cooperative concepts have emerged which have sparked widespread interest and hold promise of indicating the extent of public response to federal initiatives in the area of voluntary service. These are: University Year for Action, which involves cooperation with universities to field volunteers in anti-poverty programs, and the establishment of relationships with the American Red Cross and with Opportunities Industrialization Center of Philadelphia.

UNIVERSITY YEAR FOR ACTION

Reflecting the need for a link between people in need and the powerful resources of America's educational institutions, University Year for Action has begun, on a pilot basis, on campuses this fall; 130 proposals have been received already for later program cycles. Drawing on VISTA's success in attracting the concern of established architects and lawyers to the problems of poor communities, Action sees University Year for Action as a further extension of professional involvement in anti-poverty efforts.

University Year for Action responds to three current trends: academic and student interest in experimental learning; the need for highly motivated and skilled volunteers in America; and the importance of managing assistance to the poverty community on a decentralized basis, and on terms established by local communities themselves.

Ten universities, working with Action, have selected several hundred volunteer students to spend one of their academic years in service to the poverty community. Universities are selected by Action for participation on the basis of geographic distribution, and on the strength of their proposals, including local involvement and the universities' own commitment to the program. Students entering the University Year for Action program receive an academic year's credit from their universities for their work in the field, regardless of area of study. The emphasis is upon the needs of the poverty community in health service, environmental problems, economic development, education, the administration of justice, consumer education, and housing. Selection of students is made by the universities on the basis of the applicants' skills and experience. Project tasks are defined by the universities together with community sponsors (non-profit, non-political organizations such as the Urban League, Model Cities, and Job Corps), and members of the communities to be served.

Evaluations of University Year for Action volunteers will follow the lines of present VISTA evaluations. Preliminary steps have begun: baseline data are now being compiled on Phase I for a full evaluation of its field effectiveness.

A second phase of University Year for Action beginning January 1972, will introduce ten more universities to the program, with a possible volunteer force of 1000 for both phases. The response to Action's Phase II call to other universities has been an overwhelming one—130 institutions have submitted proposals for University Year for Action projects.

In Phase II, graduate students in medicine, law, business, urban planning, public health, and dentistry are being particularly sought.

ACTION/RED CROSS

A partnership agreement has been reached between Action and the American National Red Cross, through which volunteers will be brought into communities in disaster-prone areas of the United States to help them prepare for the hurricanes, tornadoes, fires and floods that frequently strike them. The Red Cross, in an effort to develop participation and leadership particularly within the black communities, has contracted to train experienced volunteers with community development and health backgrounds for assignment in its projects. Areas identified as target zones are the Mississippi delta, the southern tornado belt, and the Florida hurricane regions.

The volunteers will work in teams, usually consisting of a health specialist and a community development specialist. In cooperation with local leaders, community groups and Red Cross workers, they will instruct in disaster preparation measures, identify relevant community needs, and help organize disaster action teams among citizens, to care for the injured, man shelters, and work as the nucleus of relief operations.

The project is to begin on a pilot basis. A limited number of volunteers are soon to be assigned to existing Red Cross program. From Action they will receive living and personal allowances, plus travel to their assignments. The Red Cross will be responsible for training and travel expenses during assignment.

As the Action/Red Cross project expands, volunteers may also be provided to a joint effort between the Red Cross and the National Medical Association. Volunteers in this effort would be required to train disaster health aides who would then be part of the disaster action teams. While Action/Red Cross is currently focusing on domestic problem regions, future projects may extend beyond U.S. boundaries to earthquake and flood zones in other nations.

ACTION/OIC

Another of the organizations with which Action is developing a project is the Opportunities Industrialization Center (OIC), a Philadelphia-based project aimed at bringing adult education to low-income city dwellers. Under its Adult Armchair Education program, trained volunteers use private inner city homes as classrooms to bring basic instruction and counselling to adults who otherwise might never receive it. Because the meetings are held in the relaxed atmosphere of the students' own neighborhoods, and because studies are carried out with members of the adults' own peer groups, the OIC program helps to build confidence, to offer new directions to adult students and to show them other educational and vocational training opportunities.

Acting Director Blatchford, visiting the project, held a series of discussions with its founder and board chairman, the Rev. Leon Sullivan. As a result of these talks, Action has recently made a $300,000 grant to help expand the AAE project in Philadelphia and to spread it to Washington, Boston and Dallas on a pilot basis. Action's grant is supplemented by nearly $50,000 in funds and in-kind contributions from OIC.

Within a month, OIC-trained volunteers will begin an Armchair education project in Washington. The other two operations will also begin shortly. The recruitment and training of the fifty volunteers included in the three programs will account for approximately one-third of the grant, and the remaining funds will support them in a one-year field experiment. These volunteers are receiving several weeks of training in Philadelphia over a three-month period prior to returning to their communities, where they will recruit, train, and counsel the members of their programs.

PROJECTS UNDER STUDY

Under the Office of Policy and Program Development, a number of new projects are being worked out in conjunction with outside organizations. Several of these involve the cooperation of other federal agencies. Action has maintained continuing dialogues with the Office of Education (HEW) on issues of common interest. The major concern of these dialogues has been future planning for the Teacher Corps.

TEACHER CORPS

Although the Teacher Corps is still a program of the Office of Education, there is close cooperation between it and Action. This began in 1968, when the Peace Corps, VISTA and the Teacher Corps inaugurated some joint recruiting efforts.

VISTA and Teacher Corps have also collaborated in the development of programs for correctional institutions. Beginning in 1970, the Peace Corps and the Teacher Corps joined in the development of a program in which volunteers first serve for a year in the United States while preparing for Peace Corps assignments abroad; then, while serving in schools in developing nations, they continue in a two-year program of training developed by a United States university which prepares them for jobs in American schools and communities upon their return home.

Action sees the Teacher Corps as a vehicle for educational innovation and, in particular, for the introduction of service-learning programs, which may become one of the most significant changes in American education during this decade.

OTHER AGENCIES

With other federal agencies, programs centering on health, child development, and career training are being investigated. Action's function in these programs would be to provide volunteers, and sometimes volunteer support, and to systematize the use of volunteer manpower in programs devised by these agencies. Following are sample programs currently under review.

For the provision of manpower:

An anti-lead-poisoning program, with HEW and the Public Health Service, HEW has received funding for this project which is expected to be used to mitigate the dangers of lead poisoning to children in about fifteen cities. Action might supply needed manpower with a variety of skills in each city.

A child development program, with the Office of Child Development (HEW) and other agencies. Head Start listed some 85,000 volunteers in 1970, but many times that number are needed in the area of child development. Action might enlist its own programs to this end. Their probable role: a wide range of volunteer activities, such as tutoring, parent organization, health education, medical and dental follow-up, career development for mothers, transportation, and environmental education.

An Indian health project, with the Indian Health Service (PHS) and other agencies. Action could possibly link up with OEO-directed Indian urban assistance centers in seven large cities near reservations. A broad range of services, including health, education, employment, language, and cultural interpretation are required.

A Public Service Careers program, with PSC, a division of the U.S. Department of Labor. Complementing the efforts of Public Service Careers to train low-income people for community development work, Action proposes to help recruit and place these trainees in paid positions at the conclusion of one year's service with a non-profit community development firm in Louisiana.

For volunteer support:

A medical school volunteers program, with university medical schools. Medical students, supported by Action, would be placed for three months to one year in community health programs, operating in teams under a physician supervisor. Year-round continuity of health service is a key goal in Action's participation.

For coordinative functions:

A health project with the National Health Service Corps. The NHSC was established by Congress late last year and expects to place its first Corps members as health aides in the poverty community later this year. Action would coordinate local allied health people to work with NHSC members in the provision of health services, follow-through health care, etc.

A FUTURE FOR ACTION

Throughout the world, there are many other volunteer programs. Foreign countries, often with the cooperation and guidance of the Peace Corps, have set up domestic civilian service corps and have followed the Peace Corps lead in sending volunteers to help in other nations; recently the United Nations has joined this movement, with the creation of the United Nations Corps of Volunteers by a unanimous vote in the last session of the General Assembly. In the United States there are state- and locally-sponsored volunteer programs operating across the country, in addition to the thousands of private organizations and local committees which call upon their fellow citizens to volunteer.

Action seeks the widest and fullest cooperation with all such groups. The Office of Multilateral and Special Programs, a subdivision of International Operations, works with overseas volunteer programs, while the Office of Voluntary Action Liaison performs similar tasks within the United States.

Several options are under review as possible avenues for the expansion of Action's participation in citizen service efforts launched by others:

Technical assistance. The National Student Volunteer Program, operating within the VISTA organization, is experienced in providing information on program areas and administrative techniques to volunteer projects on college campuses. This experience, and this model, could be expanded into other areas.

Recruiting. Many citizens offer their assistance to Action programs but cannot be successfully placed. Action is seeking ways to make these volunteers aware of other opportunities for citizen service in the country and in their own communities.

Public awareness. The achievements and quiet successes of citizens in service go largely unheralded, which contributes to a feeling of hopelessness and inaction on the part of many. Action seeks opportunities to dramatize the role played by volunteers in improving life for people in need everywhere in the world.

Spokesman. As the federal focus for volunteer programs, Action has a concern for not only the 25,000 volunteers enrolled in its programs, but also for the uncounted thousands of volunteers who work in local communities throughout the nation and who go overseas in other programs using volunteer services. In this connection, Action is seeking to foster the "sabbatical" concept for mid-career businessmen—allowing them to give a year or two of service without sacrificing seniority or retirement benefits—and to anticipate other changes (like the four-day week) which would make volunteer service a more readily available option for people who wish to serve.

Mobilizer. Action seeks to encourage the formation of locally sponsored volunteer corps. Programs which will provide support for such local initiatives are being reviewed at the present time, and might involve cooperation between Action and state or city governments as well as private sponsors.

CONCLUSION

Action is a catalyst, drawing together and coordinating resources and common development interests for the greater good of the disadvantaged community.

What unifies Action is creative experimentation coupled with operational stability and a decade of experience in the volunteer area. Action, through its associations with outside groups, is experimenting with new ways of mobilizing volunteers and coordinating citizen service, not from the top, but from the local level. This is where such efforts must begin, and where they must be defined and carried out. The experience of VISTA and the Peace Corps has been instructive in this regard, showing that local definition, local participation, and clear-cut responsibilities are essential for any volunteer program to achieve success.

But Action's work is of course limited by the funds presently available. Money for new programming has not yet become available, and this has placed a degree of uncertainty over the initiatives of the agency. The problem is one shared by many federal agencies. But it is of particular concern in the formative period of Action, when relationships with potentially important members of the public, and with other agencies, are just being established.

On every front, however, the indications are that Action can become a dynamic force to mobilize the citizen service that America and the world need. In recruiting, in programming, in support of volunteers in the field, in technical assistance, evaluation and modification, the difficulties that came with reorganization are being overcome, the problems solved. Opportunities for cooperation are being found, programs strengthened and ideas encouraged. Every component of Action has benefitted from its new close association with other programs which bring dedicated Americans to serve those in need at home and overseas.

Action's is an exhilarating mission. Real necessity underlies it. Volunteer service is a two-sided tool—the volunteers themselves often benefit as much from their service as the communities they work with and in. This mutual benefit is the essence of volunteer work—and it is what could make Action such a significant force in the life of our nation.

PRICE CONTROLS FOR THE MEDIA

HON. SIDNEY R. YATES

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1971

Mr. YATES. Mr. Speaker, in their editorials of November 12, 1971, the Chicago Sun-Times and the Chicago Daily News set forth the policy position of Publisher Marshall Field in support of holding the line on prices of newspapers and advertising. They point out that in their opinion adherence to existing price structures is not a threat to the rights of a free press under the first amendment. It is stated:

> The main threat of the wage-price controls, is to try to contain the inflation that long threatened to make beggars of us all. The public interest is best served if the controls work.

I want to commend Mr. Field for his realistic and constructive position, and to attach the editorials for my colleagues to read:

[From the Chicago Sun-Times, Nov. 12, 1971]

PRICE CONTROLS FOR THE MEDIA

Exemption of news media—newspapers, magazines and broadcasters—from Phase II price controls is under study by the government. It is the position of the Field Newspapers—publishers of The Chicago Sun-Times and The Chicago Daily News—that there should be no such exemption; circulation and advertising rates should be subject to whatever government controls and regulations are adopted for all businesses.

Our position is contrary to that taken by some media spokesmen. They believe that the exemptions of World War II and the Korean War for the communications media should be allowed.

We do not believe the present conditions or the state of the communications industry warrant such exemptions. The wartime exemptions were granted by Congress which listened to arguments that any power to regulate the news media would collide with the First Amendment of the Constitution which forbids passage of any law that would abridge freedom of the press. Congress wished to avoid any challenge that controls might be used to affect editorial judgment.

We yield to no one in our zeal to protect freedom of the press which is a fundamental right of the people to an uninhibited and untrammeled flow of news and opinion. We have for example, stood firm against proposals for licensing or other state or federal special legislation intended to put government in a position to interfere with a newspaper's right to be the sole judge of its editorial content or its right to access of information. We most recently argued against the right of the government to prohibit publication of the Pentagon Papers, a position upheld by the U.S. Supreme Court.

We do not, however, believe that a general price regulation, applied with uniformity to business and industry generally, falls in the category of the restrictions described here. During the present freeze, we have been prevented from putting into effect an increase in advertising rates that was announced before the Aug. 15 presidential proclamation and which was to take effect Sept. 1. The increase was deemed necessary because of increases in our own expenses, particularly new and more costly labor contracts already in effect. If the Price Commission should authorize an increase under such particular circumstances, as the Pay Board has authorized noninflationary wage boosts, we surely will accept it. But this would be under rules adopted for all businesses and not because of an exemption for the media. During the freeze and the economic burden it has put on us, we have no complaint that our rights under the First Amendment have been imperiled.

Price controls will not inhibit our freedom of expression or our responsibility to criticize the government itself or the operations of the controls themselves. Publishers should not feel that they must be exempt from the law so as to preserve their duty to act as a check on government. To the contrary we believe the press and other communications media would be more credible in the eyes of the public if they operate under the same laws written for other businesses.

[From the Chicago Daily News, Nov. 12 1971]

NO SPECIAL FAVORS, PLEASE

In the discussion of Phase II wage and price controls, the possibility of exempting newspapers and other news media has been advanced by various media representatives. Some publisher spokesmen favor such an exemption on grounds that applying controls to the media would collide with the First Amendment's guarantee of freedom of the press. We do not agree.

We believe that in matters pertaining to their commercial operations, newspapers and other media should be treated like other private businesses. We consider ourself subject to the same rules, regulations and laws that apply generally to our readers and advertisers. As we see it, the special protection of the First Amendment was intended to protect our right to print what we consider fit in our news and editorial columns.

We would of course oppose any efforts by government officials to use their regulatory or lawmaking powers to gag the media so as to cover up corruption or suppress embarrassing news, or attempt to stifle the free expression of editorial opinions. But Phase II economic controls are not intended to intimidate the media or compromise the integrity of news reporting or editorial views.

In World War II and the Korean War the media were exempted from price controls. This was done by Congress to avoid any possible contention that such controls were invoked unconstitutionally to influence the editorial content of newspapers and other media. Such exemptions were unnecessary then, and are now.

It so happens that as a business the Field Newspapers—The Daily News and The Sun-Times—did suffer financially from President Nixon's wage-price freeze in August. Increases in advertising rates that we had scheduled for Sept. 1 were postponed by the freeze, resulting in a substantial loss of revenue. Because a newspaper cannot recoup losses in the way a manufacturer of less perishable products sometimes can, this is a permanent loss. Our losses (other media were more fortunate in their timing) were our bad luck; we accept them as such.

We are prepared to continue to cooperate down the line with the President's Phase II. We expect to be subjected to the same regulations as any other business operating under the free enterprise system. We expect and will insist that the controls be fair and uniform, but we want no special privileges on questionable constitutional grounds. We will stand on our constitutional rights only when doing so coincides with the public interest—specifically, the people's right to know. The main thrust of the wage-price controls is to try to contain the inflation that long threatened to make beggars of us all. The public interest will be best served if the controls work. So far as we are concerned, making them apply to the media is one way of helping to ensure success.

ANNUAL ASSEMBLY OF CAPTIVE EUROPEAN NATIONS HELD IN NEW YORK CITY

HON. RAY J. MADDEN

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1971

Mr. MADDEN. Mr. Speaker, at the recent annual meeting of the assembly of Captive European Nations held in New York City simultaneously with the opening of the United Nations meeting, Stefan Korbonski, former member of the Polish Parliament, noted journalist and author, delivered one of the outstanding speeches of the session. The title of his message was "Katyn: Lest We Forget."

This organization has been most diligent during the last 30 years since the greatest international crime in world history was committed by the Soviets in massacring approximately 14,000 Polish leaders who made up a large part of the Polish intelligentsia, in constantly alerting the world of this atrocity.

Mr. Korbonski also served as the last President of the Underground Government in Poland.

I submit the remarks of Mr. Korbonski, chairman of the assembly, and some of the proceedings of the session:

KATYN: LEST WE FORGET

(By Stefan Korbonski)

Man's inhumanity to man has become the order of the day in our desensitized society. Some brutalities, however, still remain abhorrent enough to prod mankind's conscience. A case in point is the Katyn Massacre of 1940, which, even after thirty years of worldwide violence, cannot be consigned to oblivion.

The anatomy of the Katyn Massacre brings into sharp focus two poignant reminders: the vanquished can expect little mercy from the victors—especially if the latter represent a totalitarian form of government; and when two totalitarian systems are confronted with the responsibility of answering for mass murder, each tries to pin the blame on the other.

Here is the anatomy of the Katyn Massacre.

The Soviet Union attacked Poland on September 7, 1939, without a declaration of war and in defiance of existing treaties and agreements. The stab in the back came at a time when Poland was trying to defend herself against Nazi onslaughts.

About 1.5 million Poles, including 230,000 soldiers, were subsequently deported to the USSR. An estimated 15,000 officers and intellectuals—selected carefully as the elite of the Polish nation and its potential leaders—were imprisoned in three special camps: at Kozielsk, Starobielsk, and Ostashkov. These camps were shut tight by the Russians in April-May 1940; nothing was heard of these men thereafter.

Germany attacked the Soviet Union on June 22, 1941. A Polish-Soviet agreement, signed on July 30 by the representatives of the London-based Polish government in exile and the USSR, provided for the release of all Polish citizens in the Soviet Union and the formation of a Polish army on Russian soil that was to join in the struggle against Nazi Germany.

Countless inquiries were made as to the fate of the missing Polish officers, but for a year and eight months the Soviet government gave only evasive, vague and misleading answers.

In March-April 1943, the Germans discovered mass graves at Katyn, near Smolensk, USSR. The graves contained the bodies of 4,253 Polish officers from the Kozielsk camp.

The Polish government in exile requested that the International Red Cross investigate this horrible discovery, but the Soviet refused to allow an on-the-spot investigation by the Red Cross and broke off diplomatic relations with the Polish government. Even without the help of the International Red Cross, the Germans set up an "International Medical Commission," which included an eminent Swiss professor, Francois Naville. The unanimous findings of this commission asserted that the Katyn crime had been committed by the Russians in the spring of 1940.

At the Nuremberg trials, in 1946, the Soviet prosecutor attempted to pin the Katyn massacre on the Germans. He failed, however, to come up with the necessary evidence and had to withdraw the charges.

On September 18, 1951, the U.S. House of Representatives adopted House Resolution 390, which provided for the establishment of a select committee—authorized to conduct a full and complete investigation into the Katyn case.

The Select Committee, headed by Representative Ray J. Madden (D.-Ind.), completed its investigation on December 22, 1952. It examined 81 witnesses, took more than 100 depositions from persons unable to attend the hearings, and considered 183 additional exhibits. The final report of the Select Committee, placed before the House of Representatives, included as its component part the interim report of July 2, 1952. The latter report stated categorically that the 4,253 Polish officers whose bodies were found in the mass graves at Katyn had been murdered by the Soviet NKVD, and expressed belief that over 10,000 other Polish officers from the Ostashkov and Starobielsk camps who had disappeared inside Russia, must have met the same fate.

In its final report the Select Committee recommended that the House of Representatives approve the committee's findings and adopt a resolution:

1. Requesting the President of the United States to forward the testimony, evidence, and findings of this committee to the United States delegates at the United Nations;

2. Requesting further that the President of the United States issue instructions to the United States delegates to present the Katyn case to the General Assembly of the United Nations.

These recommendations were submitted in 1952, but no action was taken. An international conspiracy of silence descended on the subject—presumably for fear of offending Russia. Despite several further attempts in the British House of Commons and in the Congress of the United States, no judgment or international pronouncement has ever been made on the Katyn murders.

After 19 years of silence, the Katyn issue has suddenly been raised in the British House of Commons. On April 22, 1971, Mr. Airey Neave, M.P., tabled the following motion—signed and sponsored by 165 members of the House:

"*The Motion:* That this House urges Her Majesty's Government to call upon the General Assembly of the United Nations to appoint a committee of investigation into the massacre of over 4,000 Polish officers in the Katyn Forest and if the evidence is conclusive to condemn those responsible."

On May 26, 1971, Lord Barnby tabled a similar motion in the House of Lords:

"The Lord Barnby—To ask Her Majesty's Government whether they will now support an effort to secure pronouncement establishing beyond contention the authorship of the mass murder of over 4,000 Polish officer prisoners of war in the Katyn Forest near

Smolensk, Russia, in the spring of 1940; and bring to light the disappearance without trace of a further 10,000 Polish officers interned in 1939 in the Soviet camps of Ostashkov and Starobielsk."

The motion was debated in the House of Lords on June 17, 1971. Twelve Lords called for a fresh look at the Katyn Massacre, and for a proclamation of truth at the international level.

Encouraged by the action of the British parliamentarians, Congressman Roman C. Pucinski (D.-Ill.) inserted in the Congressional Record of July 1, 1971, the content of the debate in the House of Lords, as well as the motion of Mr. Airey Neave—including the names of the 165 Members of Parliament who had signed it. In his opening remarks Congressman Pucinski said:

". . . I should shortly circulate a petition among our colleagues to join our British counterparts in demanding a United Nations investigation."

The recent revival of the case creates a new hope that the concerted action of the British and American parliamentarians may still result in a belated, but nevertheless much needed, condemnation by the United Nations of the real perpetrators of the Katyn mass murder.

The Polish people have waited for over 30 years for a forthright condemnation of this horrible crime, which has few counterparts in the annals of our civilization.

ASSEMBLY OF CAPTIVE EUROPEAN NATIONS OPENS ITS XVIII SESSION

The urgent need to keep the public and world opinion leaders informed of the dangers of communism and Communist objectives was repeatedly raised at the September 21 meeting that marked the opening of the XVIII Session of ACEN. Held at the Carnegie Endowment International Center in New York City, the meeting attracted a capacity audience of East and Central Europeans and their American friends.

In his introductory remarks, outgoing ACEN Chairman *Vasil Germenji* of Albania reviewed the activities of the Seventeenth Session and pointed out that "our Assembly has channeled all its efforts in support of the aspirations of the peoples of our homelands for freedom and independence."

Prof. Germenji spoke of the arduous tasks ahead, but he also stressed the unity of purpose of ACEN in addressing itself to the challenge.

"Firm in our determination to continue our work," he said, "we join with the peoples of our homelands and with all freedom-loving persons everywhere in the belief that our efforts will hasten the day when all men will once again be able to enjoy their inalienable right to freedom and self-determination."

REP. MADDEN QUESTIONS SOVIET INTENTIONS

Representative Ray J. Madden (D.-Ind.), the featured speaker, warned of the pitfalls of "peaceful coexistence" on Soviet terms, pointing to the USSR's long record of broken agreements.

"When the Soviet leaders talk about peace through disarmament," *Representative Madden* said, "we must remember that this is merely a shallow Communist slogan. . . . International agreements are useless unless both parties are honest and sincere."

Congressman Madden also brought into sharp focus the meaning of the 31st anniversary of the Katyn Massacre. The Indiana legislator had served as Chairman of the House Select Committee investigating the 1940 brutal slaughter of at least 4,253 Polish officers in the Katyn Forest.

The Indiana legislator said:

"We must continue to strive toward the day when men are not senselessly executed for their courage, spirit and loyalty to a free nation. Although the Katyn Massacre no longer occupies the international forum, the conspiracy of silence continues to hover across the mass graves and, to quote from an article which appeared in *International Affairs*, 'the unquiet dead of Katyn and the victims of all captive nations still walk the earth.'"

In addition to *Congressman Madden* the September 21 session—divided into one meeting in the afternoon and another in the evening—heard addresses from distinguished Americans and exile leaders from the captive nations of East and Central Europe.

The other guest speaker, *Christopher Emmet*, offered a somber analysis of the current developments in international affairs.

Mr. Emmet, who is Chairman of the American Friends of the Captive Nations, pointed to the dangers in granting concessions to the Soviets without receiving corresponding concessions in return.

The noted writer and commentator said, however, that he was encouraged by the limited success of the Polish workers last December—especially in terms of the concessions they were able to extract from the Communist regime.

Mr. Emmet also spoke of the urgent need to inform the younger generation, both in the United States and abroad, of the real nature of communism and its true objectives.

FIGHT ON WATER POLLUTION

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1971

Mr. VANDER JAGT. Mr. Speaker, in the past few days, since Senate passage of water pollution control legislation, the press has reported what it believes to be growing partisanship on this issue of water pollution.

The Senate bill, S. 2770, calls for the complete elimination of all industrial and municipal pollutant discharges to lakes and streams by 1985. The legislation strongly encourages the recycling of wastes in sewage to make possible this no-discharge objective.

The results for most bodies of water would be a drastic reduction in the nutrients pouring into them today and contributing to their rapid deterioration. Except where nonpoint sources of pollutants such as agriculture runoff are the major cause of degradation, our lakes and streams would then recover from man's misuse and return to conditions allowing swimming and other water contact recreation as well as the existence of desirable fish and shellfish populations. At the same time those surface waters would then become much better sources of drinking water, with reduced costs for water supply treatment. I would like to commend the Senate for its clean water goal in this legislation.

The administration, which also wants to claim clean water as its objective, is reluctant to do so out of fear that the costs to achieve it are prohibitive or that it is not possible given present-day technology. In short, the administration does not wish to promise the American people what it considers impossible of achievement.

I would not want in any way to impugn the motives of either side in this most serious problem. There are courageous, brilliant, dedicated, totally honest people on both sides of this issue. But having played a personal role in the evolution of the issue, I would like to make several observations which might help bring additional understanding to the subject.

Primarily, as a legislator, I understand very well the desire of the American people to improve the environment of this Nation and that means to clean up our waters among other things. I recognize, too, that if the costs of doing so are too high, if we cannot have clean water and jobs, then clean water may well be sacrificed in the short term. In the long run, we human beings will in all probability have to clean up our waters in order to survive as a species.

The United States and the rest of the world, of course, have had water "pollution" problems in some degree throughout geological history. Lakes have filled up with vegetation; rivers have carried silt long before man appeared on the scene. And a degree of water "pollution" is necessary if animal life is to exist on this earth. If some nutrients were not present in water there would be no life. So the problem is to control nutrients and "pollution" to optimize animal and plant life in our surface water for man's long-term well-being. This must be our goal.

We must also recognize that man's intelligence leads him to sophisticated agriculture and industrial techniques to achieve a high standard of living. Those methods often require the concentration of substances such as minerals taken from the land or water. The leftovers of those activities, along with human wastes, are all too often pollutants because they end up out of place in the environment. Botanists have always perceived that weeds are merely plants out of place. Similarly, the environmentalist recognizes that pollutants are resources out of place.

Over the centuries, as populations have grown and industry has evolved, man has been forced to seek ways to get rid of his wastes. And I should define "get rid of" because the earth is a closed system for all practical purposes. While wastes may be transported to sites where they are not visually evident, they do not cease to exist although forms may change.

Surface waters have seemed a cheap and convenient way to "get rid of" wastes until today when we understand better the consequences of such waste disposal.

Our lakes and streams have what is called an assimilative capacity for certain wastes. That is to say, we will not notice the effects of discharge of wastes into water up to a certain point. There will be an effect no matter what the circumstances, however, and some day we will have the capability to measure such effects. I do not believe we have that capability today.

The Detroit River, for example, can dilute and transport a waste load that subsequently damages the Lake Erie ecosystem. And we now recognize that such discharges ultimately may have a deleterious offset on Lake Ontario, the St. Lawrence River, the coastal waters of Newfoundland, and beyond.

We have passed even the "assimilative capacity" on a great majority of our surface waters. Accelerated aging of lakes, vegetation choked streams, contaminated estuary shellfish beds, and many other indexes give evidence of the human propensity to destroy natural systems.

The question then becomes, Why have we made these mistakes? And how can we correct them?

To answer those questions it is absolutely necessary to consider sound environmental principles. First, we must agree that no physical substance is ever really thrown away. There is no such thing as "away." What is "away" for me is your backyard, fishing grounds or ocean beach.

Then we must accept the full significance of the determination that pollutants are simply misplaced resources. Phosphorus in sewage effluent disposed of in a river or lake is a pollutant. Phosphorus spread on the land is a nutrient for agriculture purposes. Sewage sludge burned in an incinerator contributes to air pollution, creates an ash disposal problem and wastes resources. But sludge spread on the land is a soil conditioner and fertilizer.

We must begin to think much more seriously about scarce resources. Our supplies of raw materials are extremely limited on this earth today in their natural geologic formations, relative to our growing needs. We cannot afford to "dispose" of them where they will be difficult to recover for reuse by our children and our children's children. We need to tie them down where they cannot migrate to become pollutants or become "lost" in lake bottoms or oceans. Central waste "disposal" sites on land are the only answer on this point at this time. Today's scattering of "wastes" for economic reasons is extreme profligacy in terms of tomorrow.

Taking all of these environmental principles into consideration, it becomes increasingly apparent that drastic change in thinking must take place within our society if future generation of human beings are to enjoy anything like the standards of living we have rather thoughtlessly produced for ourselves. We must begin to work with nature, using our God-given intellect to help us understand how to do so. We have made environmental errors through ignorance. We can solve our pollution problems by adhering to these principles. Our determination to do so might well become the "moral equivalent of war" discussed by William James. As Pogo so aptly describes it, "we have met the enemy and he is us." In 1969, mindful of these considerations, I joined other Members of Congress in calling for an environmental decade in the 1970's, a decade of war on pollution.

All of this brings us to Senate bill S. 2770. The legislation in quite substantial ways calls for an adherence to environmental principles. It demands zero discharge to surface waters of pollutants by 1985. It strongly encourages the development of sewage treatment systems that recycle "pollutants." It provides funds in sufficient quantities to meet current needs. It provides for tough enforcement measures.

I do not agree with several sections of the bill and hope that the House Public Works Committee might effect certain changes.

First. The 1974 goal of secondary treatment seems highly inappropriate in that such systems provide for discharge of pollutants to surface waters. That provision is not particularly compatible with no-discharge deadlines. It might better call for the establishment of long-term planning objectives through comprehensive review of water quality objectives and alternative treatment measures by that date. The adequacy of the Lake Michigan Water Pollution Abatement Conference 80 percent phosphate removal objective by December 31, 1972, is subject to serious question today, for example.

Second. The section requiring industry to repay to the Federal Government an amount equal to its share of construction costs paid by Federal funds seems inappropriate. A requirement that industry pay its share of operating costs and local debt retirement through user charges ought to be sufficient incentive for industry to minimize its wastes. Industry participation with municipalities in utilization of treatment facilities can effect economies of scale. At the same time, industry pays taxes, a part of which support the construction grant program. It seems incongruous to require industry to pay twice to participate in the treatment plant construction program.

Third. Additional emphasis might be given to programs involving septic tank design, installation and maintainance. With 30 percent of the population of the Nation unsewered, and with septic tanks in all probability the lowest per capita cost treatment system, it would seem desirable to see that environmental variations are reflected in the design and location of such facilities along with development of maintainance techniques to assure effective performance.

Fourth. Additional R. & D. attention should be given to systems which recycle sewage wastes. Because such approaches have been seriously neglected in the past they deserve much more attention today. Without such special attention those who control sewage treatment R. & D. may well continue to emphasize projects incompatible with no-discharge objectives.

Fifth. In the area of long-range regional water management planning, I would like to encourage a continued role for the Army Corps of Engineers as stated in section 209 of the Senate legislation. At the same time, because of a recent letter by EPA Administrator Ruckleshaus requesting termination of the present five corps regional studies, I would like to see a specific congressional mandate for the continuation of these studies under corps direction. They appear to be the only effective regional studies being undertaken today. Through contract procedures, full use can be made of State and local capabilities in the planning effort.

While I would like to see the above changes in a House water pollution bill, the Senate version, in my estimation, provides a sound foundation for these proposed changes. I am extremely disappointed in the administration's opposition to the Senate legislation. While some of the CEQ and EPA objections may be legitimate, the major objections seem unfounded.

A review of the past 2 years relative to a specific waste water management project may be helpful to an understanding of my position.

In the fall of 1969 a proposal for a radical sewage treatment system in Muskegon County in my district came to my attention. It involved the fundamental environmental principles I have discussed earlier.

The system will receive almost all of the industrial and municipal sewage wastes in the county and treat them in a system of lagoon treatment cells where natural forces including sunlight, wind, time, and biological activity, with the help of mechanical aerators, will break down organic matter and settle out solids. The treatment cells will provide effluent equivalent or superior to that of a well designed and operated traditional secondary treatment plant.

There are advantages in the use of this type of secondary treatment process. Important is the fact that it is a very simple system to operate and maintain. A distinct additional advantage relates to circumstances when an accidental spill of toxic wastes would normally be expected to destroy the bacteria colony in a conventional activated sludge system, putting the system out of commission for 10 days, while the bacteria colony became reestablished. There is evidence that such events shut down traditional systems approximately 20 percent of the time. The size of the treatment cells and the potential for isolating toxic substances will allow the Muskegon system to continue to function while bacteria killed in one section are being reestablished.

The system will also have the capacity to handle unusual peak loads without bypassing the treatment process, an attribute not available to traditional systems.

Up to this point, there is not anything particularly unusual about the Muskegon system except that its treatment cells are exceptionally large. The system will handle 43 million gallons a day of waste water and 90 million gallons at peak loads. About half of the current waste flow comes from a papermill on Muskegon Lake. Other industrial discharges include wastes from chemical companies, a tannery, founderies and general manufacturing. An unusual functional consolidation of 13 local governments has resulted in the participation of all major county sources of sewage in the system.

What does make the system extremely unusual is the next step in the sewage treatment process. It involves the spreading on land of the effluent from the treatment cells. In the major segment of the system 6,000 acres of land are to be used for that purpose. Through a system of rotating irrigation spray rigs this nutrient-rich water will be sprayed onto the soil. Agriculture crops will be grown on the land to utilize the nutrients. What we end up with is a substantial farming operation utilizing irrigation water and sewage nutrients to optimize crop growth. We are converting "pollutants" into valuable resources in the process.

Water filtering through the soil gives up essentially all environmentally harmful substances. BOD is reduced to zero. Phosphorus removal is total. Nitrogenous substances are reduced 80 percent. Chlorination in the treatment cells destroys all bacteria, and viruses are totally converted to harmless protein in the soil. Water filtering through to the underdrainage network of the agriculture land will meet U.S. Public Health Service drinking water quality standards. The system will have substantial treated effluent storage capacity in the form of two 850-acre lagoons so that winter irrigation will not be necessary.

President Nixon, Governor Milliken of Michigan, the President's Council on Environmental Quality under Russell Train, the Federal Environmental Protection Agency's Water Quality Office then under David Dominick, and John Erlichman and John Whitaker in the White House have all substantially helped Muskegon in the establishment of this system which is now under construction and will begin operation in 1972.

The system represents a solid environmental breakthrough although its total potential has by no means been exploited. While it conserves natural resources it halts water pollution. It provides a logic to greenbelt considerations and a halt to urban sprawl.

Further synergisms will no doubt be developed. At the present time serious consideration is being given to the siting of a nuclear powerplant in the treatment area which would utilize the storage lagoons for cooling water purposes. This would eliminate the need for expensive cooling towers for the powerplant. It would provide warm water to the treatment cells to improve biological activity. The warm water would help plant growth on the agriculture land. Increased evaporation would reduce water storage and land requirements, thus reducing capital costs of the sewage treatment system.

Because the use of rotating circular spray rigs results in some acreage not receiving irrigation water, land is available in the system for a solid waste disposal project where all of those wastes from western Michigan could be accommodated for 100 years. A solid waste disposal center could be established with large scale separation equipment for paper, glass, metals, and so forth, along with sanitary landfill possibilities. Wastes could be accumulated and managed under economies of scale and with environmental principles adhered to.

Costs of the Muskegon system are most encouraging. Construction contracts and land acquisition figures are resulting in total costs of about 80 cents per thousand gallons of treatment capacity. A comparison of costs for a traditional system with phosphate removal, on which contracts have just been awarded in Chicago, is about $1.40 per thousand gallons. The project is the Salt Creek plant, where 30 million gallons per day will be treated and contracts add up to $43 million. That figure does not include land and sludge disposal costs, which are included in the Muskegon figures.

There is substantial evidence that operating costs in Muskegon will be half the costs of traditional systems. Muskegon will also have the benefits of agriculture income not included in these calculations. Nuclear powerplant cost benefits are not included at this point in time, of course.

What Muskegon is doing is radical only in the size of the system. As Ralph Purdy, executive director of the Michigan Water Resources Commission, stated in the March-April issue of the Michigan Department of Natural Resources magazine:

> We've seen some spray-irrigation projects under way both here and in other States for a long time. But this is the first time a full-sized metropolitan area has ventured to use the idea.

In other words, we know that the concept will work, from experience.

In addition, the Environmental Protection Agency, in its 1971 report on "The Cost of Clean Water," emphasized the effectiveness of the concept, stating:

> Water reaching watercourses after passage through the filtering and decomposition processes afforded by soil is far purer—provided that soil loading rates are not exceeded—than any waste treatment process short of distillation could make them.

To help encourage the county to build the system, the Environmental Protection Agency is providing the largest research and development grant in its history, more than 32 million over a 7-year period, including $40,000 per year for farm management.

The major reservation concerning the concept is the amount of land that is needed. In Muskegon we have access to substantial amounts of marginal land at relatively low cost. There is evidence that such land is available within acceptable distance of most metropolitan areas of the country. Buffer-area requirements of nuclear powerplants, about 2,000 acres each by some calculations, offer interesting synergisms nationwide. We are planning to build 300 such powerplants by 1990. Intensive studies are needed to verify this contention and the Corps of Engineers is making such studies today in five major urban areas: the Merrimac River Basin in New England, Cleveland-Akron, Detroit-southeast Michigan, Chicago and the south end of Lake Michigan, and San Francisco. Other areas of the country are interested in such studies.

As I indicated earlier, I have been informed that EPA has called for the termination of those studies. Competition between EPA and the corps in wastewater management planning is intense. While EPA has the major responsibility for water quality under current legislative authority, its role as described in its own testimony in reorganization hearings does not include planning and management functions, both long-term areas of the corps' responsibility.

At the same time, an understanding had been reached between the two agencies earlier in the year under which the corps would proceed, with assistance from EPA and the States involved. The corps' broad experience in floodplain management, the development of regional systems and its available trained manpower were additional factors in the decision.

Preliminary corps figures suggest Muskegon-type systems would be more expensive than conventional systems in all five studies. But I can recall all too vividly the arguments that the Muskegon lagoon-spray irrigation system would be too expensive. Traditionalists were not interested in optimizing costs of this radical approach to sewage treatment. Muskegon's consultants proved them wrong. Muskegon's contracts are half what opponents of the concept said they would be.

The information gathered by the corps in these five areas must be subjected to the same kind of objective, intensive review which resulted in approval by Michigan and EPA of the Muskegon project. As Under Secretary of the Army Thaddeus Beal stated:

> The studies have not been refined in sufficient detail to provide the most cost effective solutions . . .

It will be an environmental tragedy of the highest order if those studies are terminated.

I have mentioned Muskegon's consultants and I want to explain who they are. Dr. John R. Sheaffer, on leave from the center for urban studies at the University of Chicago, leads the team. Dr. William Bauer of Bauer Engineering of Chicago provides the engineering application of Sheaffer's environmental principles. Both have solid environmental and scientific credentials. Dr. Sheaffer today is the scientific adviser to the Secretary of the Army. Dr. Bauer and his firm have designed the deep tunnel storm sewer system for Chicago and have established the Semco system which spreads Chicago's sewage sludge on farmland in central Illinois. You will be totally correct in assuming a major role on Dr. Sheaffer's part in establishing the five Corps of Engineers regional wastewater management studies.

With this background we now reach the point of my objections to the administration's arguments against the Senate water pollution legislation.

Again, one major argument is that the goal of clean water by 1985 is not achievable. The other major argument is that the cost of attempting to reach such a goal is too high. A November 1, 1971 paper, "Environmental and Economic Benefits and Costs Related to Various Water Pollution Abatement Strategies," spells out administration contentions. It is an economic study essentially based on the fact that costs of removing pollutants from sewage by traditional activated sludge plants with tertiary treatment added on for phosphate removal, or so-called physical-chemical systems, go up in geometric ratios as total pollutant removal is approached. Eighty to ninety percent BOD and phosphate removal is possible at relatively reasonable cost. Ninety-five percent removal becomes quite expensive and higher percentages raise costs astronomically.

Based on the logic of the paper the conclusion that the 1985 no-discharge goal is unattainable and too expensive to attempt makes sense. Based on sound environmental principles it is strictly an academic exercise. The Muskegon concept on which the Senate bill is based does not directly concern itself with such calculations because the pollutants are shifted to the land to be utilized as resources in treated effluent rather than to be looked upon as something which must be removed and "disposed of."

That paper raises the question of costs to industry and effects on jobs and exports, and so forth. Muskegon County industry is delighted with the spray irrigation system. It is relatively low cost, it can handle a great variety of wastes, and it will provide total removal of pollutants from surface waters, thus improving the environment of people who live and work in the area. Industry is hand in hand with local government and citizens in support of the system.

The paper estimates total construction costs of $95 billion to achieve zero discharge for both industry and municipalities. Based on Muskegon costs, we can talk about 40 billion gallons a day of sewage or $32 billion for total removal of municipal and industrial pollutants from surface waters. And about 20 percent of this cost would be for collection systems, not treatment.

Also to be given careful consideration is the fact that Muskegon's costs may be higher than ultimately necessary elsewhere because the county is forced under present Michigan requirements to acquire land outright. Legislative review ought to be able to evolve a program of Government easements on land allowing the spraying of irrigation water and nutrients, or outright sale of those resources to farmers since there is positive economic value in both. One-acre inch of effluent would have the value of 25 pounds of 10–10–12 fertilizer worth 87 cents or a value of about $60 per year per acre at Muskegon application rates. We have just begun to scratch the surface in the potential of benefits in land utilization systems of sewage treatment.

The administration expresses concern that the construction industry will not expand its labor force to meet the needs of a temporary program such as sewage treatment plant construction. Others have also been greatly concerned about the scarcity of skilled technicians to operate advanced waste treatment plants.

The Muskegon concept does not require the use of very complicated construction processes. Most of the costs relate to earth moving—for sewer lines, lagoon impoundment dikes and berms, drain tiling, and so forth.

The work compares in many ways to highway construction. With our interstate highway system approaching completion, is it not logical to consider the use of part of the labor force employed there for a new national goal, clean water? And the simplicity of the operations of the system suggests a reduced need for highly skilled operators required by physical-chemical and tertiary waste treatment systems.

I have been asked about the land requirements for the construction of Muskegon-type systems throughout the country. While different soil types and evaporation rates would determine rates of water application, 40 billion gallons a day based on Muskegon standards would mean 7,200,000 acres of land. That is roughly equivalent to 6 percent of the land area of the State of Texas. It is also about 1 percent of the land presently used to grow the 59 major agriculture crops produced in this country. Crop yields, of course, are much higher than average where such effluent has been sprayed on land.

It must be recognized that population concentrations are not uniformly distributed in agriculture areas so that it would be more difficult to find areas for spreading treated sewage effluent in the northeastern part of the country than in the great plains. However, marginal lands are available in sufficient acreages in almost all sections of the Nation. High land costs may be circumvented by easements or other techniques I have discussed earlier. At the same time, beyond urban commuter range, land costs tend to reflect agriculture use.

Forest lands must also be considered. At the Penn State spray-irrigation project considerable work has been done indicating greatly accelerated growth rates for certain species of trees on land receiving treated effluent. The potential for increasing our woodland resources for raw materials for housing and other construction is fascinating.

Mr. Speaker, it is time that the Nation was offered the environmental vision inherent in the land utilization concept of sewage treatment. The concept allows man to admit the wisdom of God and nature and to move in harmony with natural processes. To ignore this wisdom is to court environmental disaster.

Clean water ought not to be a partisan issue. I hope I have made clear the role, as I see it, that both political parties have played in the development of the Senate water pollution legislation. The administration has made possible the Muskegon system without which there could be no foundation for hope that clean water was an achievable goal, at least in this environmental decade. The Senate has grasped the vision which I am certain the House will perceive.

Muskegon County citizens, organizations, government officials, Michigan and Federal officials all have played major roles in the evolution of this concept. Dr. John Sheaffer deserves our deepest gratitude. I hope that the Congress can make the most of the opportunity we have been given.

CATHERINE BASIE, A GREAT AMERICAN

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1971

Mr. BIAGGI. Mr. Speaker, there is probably not a person alive in America today who has not heard of Count Basie. His music continues to thrill the hearts of young and old alike. But not many Americans are fully aware of the activities of his wife, Catherine Basie, a woman whose love of children and devotion to the mentally retarded is matched only by her husband's expertise in the jazz world.

Catherine Basie grew up in Ohio, spending her schooldays in Cleveland. While in high school she was the backstroke swimming champ and a contender for the 1936 Olympics title. However, a lack of funds prevented her from training for the special event—a circumstance that later prompted her to finance the training of two youngsters for the 1962 Olympics.

Her life was nevertheless a full one, meeting Count Basie—then a rising musician—whom she married in 1942. Two years later the Basies had a little daughter born to them. Diane, now 27 years old, was born mentally retarded. Rather than considering this a tragedy, the Basies treated it as a blessing drawing closer to their daughter. Rather than sending her to an institution, the Count and Catherine cared for her in their own home along with the help of Diane's nurse, Deedee.

From that day on, Catherine Basie dedicated herself to helping mentally retarded children. She wanted to show others that these children needed help and love. But most importantly she wanted to give of herself to help uplift the spirits of mentally retarded children. At first it was only her small neighborhood community, but that community's boundaries continued to grow so that today she will go anywhere to aid a mentally retarded child.

For her efforts she has been recognized by numerous groups. In the fifties she received awards from the Citizens Committee of Jamaica, WWRL, the Boy Scouts of America, the Salvation Army, the Brooks Brooklyn Citizens Committee—juvenile, the State of New York Auxiliary Police, the Queens Junior Guild, the Kiwanis Club of Jamaica, the Ladies Guild of Queens County, Inc., Lighthouse for the Blind, the United Cerebral Palsy and the House of Friendship Community Center.

In the sixties, she was honored by the Zeta Beta Sorority, Inc., Industrial Home for the Blind, the Long Island Choral Group, the Urban League of Greater New York, the Queens County Ladies Auxiliary, the Jewish War Veterans of the U.S.A., Allen African Methodist Episcopal Church, South Jamaica Community Council, the Greater Long Island Cosmotologists, Inc., Queens County Chapter of the National Multiple Sclerosis Society, Lambda Kappa Mu Sorority, the Hebrew Home for Chronic Ill, National Association of Negro Business and Professional Women's Clubs, Inc., Ambassadors Civil Association, the ladies auxiliary of the Queens County Veterans of Foreign Wars and Calvary Methodist Church.

She has received the Brotherhood Award of the National Conference of Christians and Jews, the Brotherhood Award of the Jamaica B'nai B'rith, the Ebony Community Service Award, the

National Tay-Sachs Woman of the Year Award, the Apostolic Blessing of Pope Paul VI from Fu Jen Catholic University, the Red Bags Youth Award, the Long Island Choral Society Woman of the Year Award and the Amita Sister Achievement Award.

Now the countess, who was known as Princess Aloha from Tahiti when she danced in several short subjects during her Hollywood career, is retiring. She and the count are moving to the Bahamas where they will set up permanent residence.

The State of New York and this country will lose a great couple. The Count and Catherine will be greatly missed. The many retarded children whom she has helped over the years will remember her for the kindness and help she has offered throughout her life.

The Bahamas will surely gain a great woman and know that she is not retiring from her work with mentally retarded children. Her great heart of kindness will be spread over the children of the Bahamas, where she will continue with her good works. May God give this great lady the strength to help others, for in this she is doing God's work.

DEDICATED WOMEN TO JOIN IN PLEADING FOR HUMAN RIGHTS FOR SOVIET JEWS

HON. BOB CASEY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1971

Mr. CASEY of Texas. It is indeed heartwarming to know that thousands of dedicated women, both Jewish and non-Jewish, throughout 27 cities in the United States will join together on December 6th to plead for "Human Rights for Soviet Jewry."

For too long, the world has ignored the plight of the Soviet Jews. These 3 million people—the second largest Jewish community in the world—have been the victims of many types of anti-semitic persecution, and suffer increasingly vigorous efforts by the Soviets to repress basic human rights and stifle religious and cultural identity.

It is a point of pride to me that in Houston under the sponsorship of the Sisterhood of Temple Beth Israel and the Sisterhood of Temple Emanu El, these concerned citizens—representing a broad spectrum of civic and community groups—will meet at the University of St. Thomas to express their united concern for the plight of Soviet Jewry.

In my judgment, this national effort to arouse world opinion, will do much to ease the suffering now endured by Soviet Jews. For too long, the world governments have stood idly by—our own included—while the Soviets have abridged the basic human rights and dignity of these hapless people. And the effort to be made in Houston and throughout our land on December 6th will prove to the world, and to our own Government, that the time has come for us to take a strong stand in their behalf.

Mr. Speaker, because I think it vitally important that the world know some of the grim facts of life facing Soviet Jews, I ask unanimous consent that the fact sheet entitled "Status of Soviet Jewry—1971" sent to me by Mrs. J. H. Wilkenfeld of Houston, representing the National Federation of Temple Sisterhoods and its local affiliates in Houston, be printed at this point in the RECORD:

STATUS OF SOVIET JEWRY—1971

There are approximately 3 million Jews in the Soviet Union, making it the second largest Jewish community in the world. Russian Jews have historically been the victims of various types of anti-semitic persecution. Now, this last large remnant of East European Jewry that survived the Nazi Holocaust is facing increased repression of its basic human rights and growing efforts to strangle its religious and cultural identity.

Even in a state which claims opposition to religion in general, anti-Jewish religious campaigns go well beyond atheistic attacks on religions as a whole. All other religious groups, except Jews, are permitted to teach religion, conduct church conferences, organize religious committees, instruct clergymen, print prayer books, hymnals, and religious articles. No national Jewish religious organization is permitted, and there are no facilities for the training of rabbis. Although Soviet law allows ten parents to band together to provide instruction for their children, Jews who do so are in jeopardy of arrest.

The synagogue is the only official meeting place allowed Jews, and those who attend do so in fear and are viewed with suspicion. Frightening figures indicate that while there were 3000 synagogues in the USSR in 1914, this number declined to 450 in 1956, and has further declined to a mere 40 synagogues throughout the entire USSR in 1971.

In addition to being a religious grouping, Judaism is also considered a nationality by the Soviet Government, one of 108 nationalities in the USSR. However, the Jewish remain without the cultural ingredients given to other nationalities: Jewish schools, theaters, publishing houses and broadcasting facilities, all of which once flourished in the Soviet Union. Yet, such cultural activities are maintained for the other USSR nationalities, most of whom number much less than the Jewish community. While a total of 59 languages are taught in the nations schools, there is not a single school that teaches Hebrew or Yiddush. And again, when individual parents attempt to transmit to their children such traditional teachings, they do so in fear of reprisal.

Even as they are deprived of their right to preserve their religious and cultural identity, Soviet Jews are discriminated against because of that identity. The printing of the nationality "Jewish" on individual passports, which are required for securing jobs, housing, public benefits, etc., makes blatant discrimination common in all aspects of economic and public life. That the Soviet Government condones anti-semitism is evident in the publishing of vicious anti-semitic literature, articles, caricatures and books, all of which must pass official censorship.

Because of these conditions, it is not surprising that numbers of Jews are seeking to leave the Soviet Union. Their hopes are supported by Article XIII of the Universal Declaration of Human Rights, which says that everyone has the right to leave any country, including his own. The Soviet Union has shown that it is not opposed in principle to the idea of repartriation as exemplified by the treatment of Soviet Armenians. Yet, the Soviet Government is allowing few Jews to emigrate, even on a basis of reuniting with families in Israel and other parts of the world. Applications to emigrate are often followed by demotion, loss of job, harassment, and even imprisonment. The heart-rending stories of such denials of emigration requests, as well as the treatment of those who would attempt to emigrate, have reached the outside world through the petitions and pleas from Soviet Jews.

Of growing concern in recent months are the reports of the plight of Jewish "Prisoners of Conscience" now being held in Soviet prisons. This growing number of men and women are being arrested and tried for the crime of simply being Jewish, of expressing their pride in belonging to the Jewish people, or of desiring to leave the country and emigrate to Israel where they can live freely as Jews. The treatment of these "Prisoners of Conscience" is the antithesis of basic human rights: being held incommunicado for months, without knowledge of specific charges; harsh prison sentences, up to 15 years in some cases; a brutal prison regime, meager food rations, which has constituted, especially for women prisoners, a sentence to slow death by starvation and exhaustion.

In sum, Soviet policy places the Jew in an extricable vise. They are allowed neither to assimilate, nor to live a full Jewish life nor to emigrate to Israel or any other place where they might live freely as Jews. Soviet policy as a whole then amounts to spirtitual strangulation.

Indications from both within and outside the Soviet Union are that this policy toward Soviet Jewry will only be changed when public and official opinion throughout the world make it undesirable for the government of the USSR to pursue its repression of basic human rights to its Jewish community.

CALIFORNIANS ARE VIEWING WATER PROJECTS DIFFERENTLY

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1971

Mr. WALDIE. Mr. Speaker, in this era of economic "phases" it is interesting to note the evolvement of "phase" in another area of discourse. I refer to the second phase in the effort to preserve our environment.

Mr. Speaker, the initial phase in this effort was the massive public reaction to the threats posed by pollution and unrestrained growth to the environment. Led by the Sierra Club and other conservation organizations, the American people have recognized that the very air and water they breathe and drink is imperiled by emissions into the skies and lakes, rivers and estuaries of our Nation and the oceans of the world.

While there has been a marked increase in legislative and administrative action in the wake of this public outcry for ecological protection, it has been woefully short of the steps needed to provide adequate protection.

In recognition of this failure by the Congress and by local and State legislative bodies, a second phase in the environmental battle has begun—the political phase.

Mr. Speaker, I am sure that many of us in the Congress have been aware since the congressional elections of 1970 that conservationists have potentially powerful influence on the electorate.

Mr. Speaker, two elections in California recently served as indicators of the type of action to be expected with regard to water projects and policymakers who act on projects to spur growth at the expense of the environment.

In Marin County, the voters decided against joining in a project to meet expected population growth. The vote was an awesome 10 to 1 against the project.

In Santa Barbara County, voters, including a large number of students, defeated three incumbent water district board members who had advocated bringing northern California water to the area to meet expected growth.

Mr. Speaker, these are significant votes, but they are only a tip of the iceberg.

Mr. Speaker, I would like at this time to insert in the RECORD an article by Ed Salzman of the Oakland Tribune which elaborates on this issue.

The article follows:

[From the Oakland Tribune, Nov. 14, 1971]

PUBLIC'S VIEWS ON WATER CHANGING

(By Ed Salzman)

SACRAMENTO.—Mayor Joseph Alioto of San Francisco won most of this year's post-election headlines, but perhaps a far more significant victory in Southern California was almost totally overlooked.

The winners were the newly franchised students at the University of California in Santa Barbara. The youthful voters in the once-pillaged community of Isla Vista made an unexpected grab for political power.

The students were not out to gain control of the local police force or city or county government. They concentrated on the Goleta Valley Water District and succeeded in replacing three growth-oriented directors with three ecology-minded directors.

Just two days after this vote, William R. Gianelli, the state director of water resources, presented a speech in Texas to the National Water Resources Assn.

He labeled the ecology movement as "a political ploy" which has surpassed motherhood, apple pie and the American flag. Then he offered a couple of definitions, supposedly handed to him by a conservationist:

"An ecologist is a man who finished building his mountain cabin last year. If he were to start building this year, he would be called a developer."

The man responsible for carrying out the State Water Project declared that "the environmental movement in America today has become so extreme, in some cases, that it has made a Typhoid Mary out of the water developer."

PUBLIC IMAGE

The keynote to his address was an assessment that the public image of the water developer is bad and getting worse. Water men, he emphasized, must approach the public with the same enthusiasm as is used by their environmentalist opponents.

Gianelli bases his drive for California water development on the 1960 vote which authorized the sale of bonds for construction of massive State Water Project.

Some day, he ought to take another look at the election returns. The proposition carried by an extremely narrow margin—3,008,000 yes to 2,834,000 no.

Does anyone doubt what the result would be if the same vote were taken today? The measure would lose overwhelmingly, and even Southern Californians would oppose it.

The Santa Barbara vote is merely the latest in a long string of indicators that the California public has turned against growth and against water bonanzas for the agricultural industry in the San Joaquin Valley.

OPPOSITE VIEWS

Gianelli's views run exactly opposite to those of most Californians. The state official who speaks for the people is Kerry Mulligan of St. Helena, chairman of the State Water Resources Control Board.

Mulligan has led his board in a fight against pollution of San Francisco Bay by San Francisco and others. He has shown no reluctance to use the state's tough new laws against anyone befouling California's waterways.

Above all, Mulligan and his board have told Gianelli and the Federal Government that they cannot rape the San Francisco Bay-Delta System to send a maximum amount of water to Southern California. In the historic Bay-Delta decision, the board even established a requirement that water must be released from northern dams if necessary to maintain a proper flow in the Sacramento River.

Mulligan now is leading a campaign to promote rapid development of waste water reclamation systems in California. There is no reason why a big portion of the state's future water needs cannot be met through purification of effluents.

Gianelli has been screaming that the Bay-Delta decision will force the damming of more northern rivers so that commitments to Southern California can be met.

Californians will not tolerate this obsolete and narrow-minded view. They are much more likely to go along with even more expensive programs calling for the recycling of waste water.

SCHWENGEL CALLS FOR HOUSE OBSERVANCE OF THE 30TH ANNIVERSARY OF PEARL HARBOR

HON. FRED SCHWENGEL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1971

Mr. SCHWENGEL. Mr. Speaker, next week we will observe the 30th anniversary of the infamous attack on Pearl Harbor. I addressed myself to this event earlier—page 42537 of the RECORD for November 20. I have now received resolutions from the Disabled American Veterans, Department of Iowa, and their auxiliary in support of such an observance. The resolutions follows:

DISABLED AMERICAN VETERANS, DEPARTMENT OF IOWA

RESOLUTION—PEARL HARBOR ANNIVERSARY

Whereas, 1971 is the Thirtieth Anniversary of that day which President Franklin Roosevelt said "Would Live in Infamy", and

Whereas, many of the people today have forgotten or were not born when that day of infamy happened and we should bring this to the attention of the public and to remind the public that sneak attacks are possible and we should always be alert to that possibility, and

Now therefore be it resolved that the Disabled American Veterans in meeting assembled on 23 October 1971, in Davenport, Iowa, go on record urging Congress to pay special recognition of the Thirtieth Anniversary of Pearl Harbor Day.

DISABLED AMERICAN VETERANS AUXILIARY, DEPARTMENT OF IOWA

Whereas, 1971 is the 30th anniversary of that day which President Franklin Delano Roosevelt said would live in infamy.

Whereas, many of the people today have forgotten or were not yet born when that day of infamy happened and we should bring to the public attention to remind the public that sneak attacks are possible and we should always be alert to that possibility.

Now therefore be it resolved, that the Iowa Department of the Disabled American Veterans Auxiliary goes on record this 23d day of October supporting special recognition of the 30th anniversary of Pearl Harbor.

PARAPROFESSIONALS AND THEIR PERFORMANCE

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1971

Mr. SCHEUER. Mr. Speaker, the increasing utilization of paraprofessionals in almost every area of the human services has been one of the most significant developments in the manpower field in the last decade. Alan Gartner's new book, "Paraprofessionals and Their Performance," examines the impact of paraprofessional programs on health, education, and social and community services, as well as on paraprofessionals themselves. It also gives background on the new careers movement, which provides employment mainly for the poor and undereducated through simplification of jobs, on-the-job training, and a structure of job ladders enabling workers to advance.

To quote from Frank Riessman's foreword:

> This book provides a remarkable integration of a vast array of data on the way in which paraprofessionals contribute to the improvement of human service practice—by reaching hitherto unreached people, by providing new kinds of services, by improving the professional's performance and sometimes munity ethos into agencies that have limited his attitudes, and by introducing a new comties to the community.
>
> This study analyzes the research on the paraprofessional in a variety of fields: health education, social service, corrections, and mental health. It presents a highly balanced picture of the accomplishments of paraprofessional workers and anyone interested in the role of the paraprofessional in current U.S. society should consider it carefully. The author not only covers all the existing literature (which is remarkable extensive), but he also develops important insights regarding a variety of issues, including the relationship of indigeneity and training, the relationship of the paraprofessional and the professional, and the relationship of the paraprofessional and the community.

Early next year the Congress will be deeply involved once again in an effort to restructure our manpower programs. This book is highly relevant to that ef- This book is highly relevant to that ef fort, as it sheds a great deal of light on both the promise and performance of one the most innovative, and highly successful manpower and career development programs.

SENATE—*Wednesday, December 1, 1971*

(Legislative day of Monday, November 29, 1971)

The Senate met at 8:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. Ellender).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Eternal Father, through this moment of prayer may our lives be brought into true perspective. May each of us be useful in furthering Thy kingdom on earth. Keep the divine light glowing in our hearts that we may never be overtaken by discouragement, doubt, or despair. Amid the welter of worldwide tensions and the stress of daily toil may we be given that sense of power, unity of spirit, and moral earnestness which enables us to accomplish the highest and best for the greatest number. And to Thee shall be given all praise and glory. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Tuesday, November 30, 1971, be approved.

The PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE REPORTS OF A COMMITTEE FILED DURING RECESS

Under authority of the order of the Senate of November 23, 1971, the following favorable reports were filed on November 30, 1971, during the recess of the Senate:

By Mr. EASTLAND, from the Committee on the Judiciary:

William H. Rehnquist, of Arizona, to be Associate Justice of the Supreme Court of the United States (Executive Rept. No. 92-16), together with individual views; and

Lewis F. Powell, Jr., of Virginia, to be Associate Justice of the Supreme Court of the United States (Executive Rept. No. 92-17), together with individual views.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees be authorized to meet during the session of the Senate today.

The PRESIDENT pro tempore. Without objection, it is so ordered.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of the calendar, beginning with Calendar No. 496 and ending with Calendar No. 502.

The PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

AUTHORIZING THE COMMISSIONER OF THE DISTRICT OF COLUMBIA TO ENTER INTO CONTRACTS

The bill (S. 1362) to authorize the Commissioner of the District of Columbia to enter into contracts for the payment of the District's equitable portions of the cost of reservoirs on the Potomac River and its tributaries, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 1362

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Commissioner of the District of Columbia is hereby authorized to contract, within an amount specified in a District of Columbia Appropriation Act, with the United States, any State in the Potomac River Basin, any agency or political subdivision thereof, and any other competent State or local authority, with respect to the payment by the District of Columbia to the United States, either directly or indirectly, of the District's equitable share of any part or parts of the non-Federal portion of the costs of any reservoirs authorized by the Congress for construction on the Potomac River or any of its tributaries. Every such contract may contain such provisions as the Commissioner may deem necessary or appropriate.

Sec. 2. Unless hereafter otherwise provided by law, all payments made by the District of Columbia and all moneys received by the District of Columbia pursuant to any contract made under the authority of this Act shall be paid from, or be deposited in, the District of Columbia Water Fund. Charges for water delivered from the District of Columbia water system for use outside the District of Columbia may be adjusted to reflect the portions of any payments made by the District of Columbia under contracts authorized by this Act which are equitably attributable to such use outside the District.

Sec. 3. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 92–510), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE OF THE BILL

The purpose of the proposed legislation is to give broad authorization to the Commissioner of the District of Columbia to enter into such contracts as he deems appropriate for the purpose of providing for payment to the United States of the District of Columbia's equitable share of the non-Federal costs of any reservoir which may be authorized by Congress for construction on the Potomac River or any of its tributaries which would benefit the District of Columbia water supply.

NEED FOR LEGISLATION

Section 203 of the Flood Control Act of 1962 (title II, Public Law 87–874), under the caption "Potomac River Basin" (76 Stat. 1182), authorizes the construction on the north branch of the Potomac River of a project which has come to be known as the Bloomington Dam and Reservoir. Since the project is to include water supply benefits, subsection (b) of section 301 of the Water Supply Act of 1958 (title III, Public Law 85–500; 72 Stat. 319), as amended by section 10 of the Federal Water Pollution Control Act Amendments of 1961 (Public Law 87–88; 75 Stat. 210), becomes applicable. This subsection provides—

That before construction or modification of any project including water supply provisions for present demand is initiated, State or local interests shall agree to pay for the cost of such provisions in accordance with the provisions of this section: *And Provided further,* That not to exceed 30 per centum of the total estimated cost of any project may be allocated to anticipated future demands where State or local interests give reasonable assurances, and there is reasonable evidence, that such demands for the use of such storage will be made within a period of time which will permit paying out the costs allocated to water supply within the life of the project.

When the construction of the Bloomington Dam and Reservoir was authorized it was believed that the District of Columbia would have no present demand for water stored at this reservoir, so the District of Columbia was called upon by the Secretary of the Army to give assurances that it would, at a future date, contract to pay for its share of the non-Federal portion of the costs. Assurances given by the former Board of Commissioners of the District of Columbia were determined by the Secretary of the Army to be insufficient in the absence of a present authority in the District of Columbia to enter into a contract for the payment of its share of the costs. For this reason, two bills were introduced in the 90th Congress (H.R. 11158 and H.R. 11183) to authorize the Commissioner of the District of Columbia to so contract with the Secretary of the Army. Neither bill was enacted.

The Secretary of the Army, by law, determines only the non-Federal portion of a project's costs, and not the proportionate shares to be assumed by local interests responsible therefor: nor does he identify the local interests. In the case of the Bloomington Dam and Reservoir water users in Maryland, Virginia, West Virginia, and the District of Columbia will benefit, either initially or in the future, from the provisions of storage for water supply, and it is their obligation to determine among themselves the proportionate share of the non-Federal costs to be paid by each.

In 1969, the State of Maryland, whose water users were anticipated to have the major present demand for stored water, enacted legislation authorizing a new agency, the Maryland Potomac Water Authority, to contract with the United States to pay the share of non-Federal costs attributable to present demand of Maryland water users for Bloomington storage and, in turn, collect proportionate parts from such users. It became apparent, however, prior to final enactment of the Maryland legislation, that the District of Columbia water system, which also supplies water to certain Virginia users, required a present guarantee of water during times of low flow such as occurred in 1966, so that it would properly be included with Maryland as having a present demand. Therefore, as enacted the Maryland legislation authorized the Maryland Potomac Water Authority to contract with the District of Columbia with respect to the District equitable share in the non-Federal cost of the Bloomington project, based upon present demand. Discussions with Maryland authorities indicated that it would be in the interest of both jurisdictions to determine, jointly, their respective equitable shares in the non-Federal portion of the cost of water storage for present demand and possibly, for the District to pay its share to the

United States indirectly through payment to the Maryland Potomac Water Authority.

The importance of authorizing the District to enter into contracts for the payment of its equitable share of non-Federal costs for water supply reservoirs is underscored by the possibility of additional expansion of the Potomac River's water storage facilities. In the 91st Congress, for example, the Senate approved legislation which would have authorized, among other items, the construction of two additional reservoirs within the Potomac Basin, one at Verona, Va., and the other at Sixes Bridge, Md. Both projects would provide water supply storage beneficial to the District of Columbia. While neither project was included in the public works bill ultimately enacted as the Omnibus Rivers and Harbors and Flood Control Act of 1970, it is possible that the authorizations for these two projects will be approved in the near future. At that time it will be essential for the District to be able to contract to pay its share of the non-Federal costs.

The committee believes it advisable that the Commissioner of the District of Columbia have the authority to contract to pay to the United States the District's equitable share of the non-Federal costs of not only the Bloomington Dam and Reservoir and other such projects already planned, but also of any other reservoir which may hereafter be authorized for construction by the Congress and from which the District of Columbia water system would derive direct and essential benefits. Likewise, the District of Columbia should have latitude to work out with the States, their agencies, and other competent authorities the respective equitable shares that will equal the total non-Federal costs, and the precise manner in which the respective shares will be paid by the several water users and to the United States. Moreover, as additional users take water from the river the equitable shares of the previous users could be reduced to reflect the changed situation, and as additional reservoirs come into operation some adjustments in equitable shares may be appropriate.

Although the bill authorizes the District of Columbia to pay its fair share of the non-Federal costs of any such dam, nevertheless it must be recognized that the District's demand for water includes the demands of other jurisdictions in the Washington metropolitan area which are supplied water through District of Columbia facilities. If the demands of all Washington metropolitan area jurisdictions increase equally in the future, that part of the increase in demand attributable to the District of Columbia would be in proportion to the increase in demand of the other jurisdictions. Estimates indicate, however, that the District's demand will not increase in the same proportion as the demands of the other jurisdictions of the area. For example, for the period between 1965 and 2000, it has been estimated that the increase in the District of Columbia water demand will be 8 percent; that for the Maryland portion of the Washington metropolitan area, 56 percent; and that for the Virginia portion of the Washington metropolitan area, 36 percent. If the increase in any of the Maryland and Virginia jurisdictions in the Washington metropolitan area is greater proportionately than the increase attributable to the District of Columbia proper, the government of the District of Columbia will find it necessary to charge that jurisdiction receiving water through District facilities an amount which will take into consideration the disproportionate increase in demand in that jurisdiction as compared with the demand in the District.

Because the amounts that would be paid by the District of Columbia under the contracts that would be authorized by section 1 of the bill are properly a part of the cost of supplying water to consumers, section 2 of the bill specifically provides that such payments shall be made from, as well as any reimbursements being deposited in, the water fund because existing law restricts use of that fund to "maintenance, management, and repair of the system of water distribution" (District of Columbia Code, sec. 43–1522). And for the reasons set forth in the preceding paragraph, section 2 also specifically authorizes adjustment of charges for water delivered from the District of Columbia system for use outside the District of Columbia to reflect the portions of the payments made under contracts that would be authorized by section 1 which are equitably attributable to such use outside the District.

The authority which would be granted by the proposed legislation is not, however, without important limitations. The authority to contract may be exercised only with respect to reservoirs whose construction has been authorized by Congress, so that, in effect, the scope of the draft bill is limited to the same subject matter as the bills which before the 90th Congress, until such time as the Congress may act affirmatively by authorizing construction of an additional reservoir that would benefit the District of Columbia. While the draft bill would authorize the District to contract with, for example, the Maryland Potomac Water Authority "with respect to" the District's payment of its equitable share of the cost of Bloomington Dam and Reservoir, this authority, by the terms of the Maryland statute, is limited to the costs of storage for present demand, and could relate only to mutually acceptable methods of determining respective equitable shares.

HISTORY OF LEGISLATION

S. 1362 is identical to draft legislation submitted to the Senate by the District of Columbia government. At a hearing before the Subcommittee on Business, Commerce, and the Judiciary on October 28, 1971, a representative of the District government testified on the need for the legislation, and a statement in support of the bill was received from the Secretary of the Maryland Department of Natural Resources.

Legislation identical to S. 1362 was favorably reported by this committee and approved by the Senate during the 91st Congress. At hearings on the earlier bill (S. 3009) on December 2, 1969, favorable testimony was received from the District of Columbia government, the State of Maryland, and representatives of the U.S. Army Corps of Engineers. The committee was informed at that time that the Bureau of the Budget (now the Office of Management and Budget) had no objection to the legislation from the standpoint of the administration's program.

DISTRICT OF COLUMBIA FREEWAY AIRSPACE UTILIZATION ACT

The bill (S. 1367) to authorize the Commissioner of the District of Columbia to lease airspace above and below freeway rights-of-way within the District of Columbia, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 1367

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "District of Columbia Freeway Airspace Utilization Act".

Sec. 2. When used in this Act—

"Airspace" means so much of the space above, on, and below freeway rights-of-way as is not needed for freeway purposes.

"Commissioner" means the Commissioner of the District of Columbia.

"District" means the District of Columbia.

"Freeway" means any limited access divided highway within the District.

"Right-of-way" means land, property, or interest therein acquired for or devoted to a freeway, including connecting ramps.

"United States" means the Government of the United States or any department or agency thereof, including, without limitation, any agency established or authorized to be established by Act of Congress or by interstate compact to which consent of Congress is given.

"Council" means the District of Columbia Council.

Sec. 3. The Commissioner is hereby authorized—

(a) to make or permit such use of airspace in the District for any municipal purpose, including, without limitation, housing for low-income families, public welfare, public works, parks, recreational, and vehicle parking, as will not be detrimental to or impair the efficient use, operation, and maintenance of any freeway;

(b) to enter into contracts or agreements with the United States for the use of airspace and for the purpose of receiving, or qualifying any permittee or lessee to receive, grants or other financial assistance under available Federal programs in connection with the construction, use, or operation of buildings, structures, and other things therein;

(c) to enter into agreements with the United States for the granting to the United States of easements to use airspace for the purpose of constructing therein Federal public buildings and for such other purposes as may be agreed upon. Such easements shall, for the purpose of section 355 of the Revised Statutes of the United States, as amended (40 U.S.C. 255), be deemed sufficient and valid title in the United States in the areas in which are to be constructed public buildings or other facilities; and

(d) to enter into leases of, or grant revocable permits for, the use of airspace in the District, including rights of or for support, access, utilities, light, and air to an extent not inconsistent with the use of a freeway by the general public for the purpose of travel, and, in connection with any such lease or permit, to impose such terms and conditions including, but not limited to, the deposit of bond or other security, and to provide for the payment of such rents or fees as the Commissioner may, in his discretion, determine to be necessary or desirable, but the Commissioner may, in connection with the entry into a lease, or the granting of a permit, for the use of such airspace, provide as conditions of any such lease or permit (1) that such airspace shall not be used by the lessee or permittee in such manner as to deprive of its easements of light, air, and access any real property not owned or controlled by such lessee or permittee, and (2) that upon the expiration of the lease or permit and of any renewal thereof, any building or other structure which may have been constructed in such airspace shall, at the direction of the Commissioner, be removed therefrom by and at the expense of the lessee or permittee or his successor in interest, and the airspace shall be restored to the condition which obtained prior to the construction of such building or other structure, all to the satisfaction of the Commissioner.

Sec. 4. (a) The authority contained in section 3 shall be exercised by the Commissioner in furtherance of the Comprehensive Plan for the National Capital prepared pursuant to the National Capital Planning Act of 1952 (40 U.S.C. 71) and the following order of priority:

(1) The Commissioner shall determine whether such space is required for a municipal purpose, as authorized by subsection (a) of section 3, and if he determines the space is so required, he is authorized to make such use of it, or to grant easements therefor to the United States.

(2) The Commissioner shall ascertain, through the Executive Director of the Na-

tional Capital Housing Authority established by the Act approved June 12, 1934 (48 Stat. 930), whether such space is required for the construction therein of dwellings for low-income families at rents in accordance with their incomes, and if the Commissioner finds that such space is so required he is authorized, with or without charge, to make it available for such construction by granting an easement to use such space, and such easement shall constitute sufficient and valid title in the Authority or in the United States, or in any private developer under contract to convey the completed property to the Authority, as the case may be, to construct therein buildings or other facilities. The use of such space by the Authority shall be subject to such agreement as the Authority has entered into with the District respecting the making of payments in lieu of taxes.

(3) The Commissioner shall ascertain through the Administrator of General Services, whether the United States (other than the National Capital Housing Authority) requires such space for the construction therein of a building, other structure, or facility, and if such space is so required, the Commissioner is authorized to make it available without charge to the United States, or on the basis of such charge as may be agreed upon between the Commissioner and the United States.

(4) The Commissioner shall determine whether such space should be leased to a public or private developer or easements granted to the United States to provide housing for low- and moderate-income individuals and families, and accessory uses if the Commissioner so determines, he may include in such lease, or make such permit subject to, an agreement whereby a preference in admission to the housing will be given to low- and moderate-income individuals and families displaced by urban renewal activities or as a result of other governmental action.

(5) The Commissioner shall determine whether the space should be leased to a nonprofit organization, such as a hospital, welfare agency, or the like, for the construction therein of a building, other structure, or facility to be used in connection with the activities of such organization.

(6) The Commissioner shall determine whether such space should be made available for business purposes, including, without limitation, housing for individuals and families.

(b) In connection with the lease of such space either for housing for low- and moderate-income families and families displaced from urban renewal areas or as a result of governmental action, or for use by nonprofit organizations or for business purposes, the Commissioner is authorized to lease the space either on the basis of competitive bids or on a negotiated basis, as the Commissioner determines is in the best interest of the District and of the general public.

SEC. 5. For the purposes of this Act, airspace, and buildings, structures, and improvements constructed or erected within such airspace, pursuant to a lease or permit, shall be deemed to be real property and be liable to assessment and taxation as such from the beginning of the term or period of such lease or permit. For the purposes of real property assessment and taxation, the value of such airspace, other than any building, structure, or improvement constructed or erected therein, shall be deemed to be the value of the underlying land as if the same were not occupied and used for public purposes. No such tax shall be assessed with respect to any airspace and buildings, structures, and improvements therein (1) for which the United States has been granted an easement (but nothing herein contained shall be construed to abrogate such agreement as the United States may have entered into, or may enter into, with the District with respect to making payments in lieu of real property taxes) or used for the purposes specified in subsections (a), (b), and (c) of section 3 of this Act; or (2) occupied and used by one or more organizations exclusively for a purpose or for purposes which, under section 1 of the Act of December 24, 1942 (56 Stat. 1089), as amended (D.C. Code, sec. 47–801a), would entitle real property so occupied and used to be exempt from taxation. Except as otherwise provided in this section, for the purposes of this Act the provisions of law applicable to special assessments for public improvements, and the provisions of law applicable to sanitary sewer service charges and to water service charges, shall be applicable with respect to airspace and buildings, structures and improvements therein used pursuant to a lease entered into with, or permit granted to, a lessee or permittee under the authority of subsection (d) of section 3 of this Act. The leasehold or permit interest in any airspace so leased or granted, including any building, structure or improvement constructed or erected therein, shall, in cases of nonpayment of real property taxes, nonpayment of special sanitary sewer service or water service charges, be subject to private, outright sale by the District, without any right in the lessee or permittee to redeem the leasehold or permit interest so sold: *Provided*, That the the proceeds from such sale in excess of such delinquent taxes, assessments, or charges, or a combination thereof, including any interest, penalties and costs relating thereto, shall be paid by the District to the lessee or permittee, or to such person as he may, in writing, designate.

SEC. 6. (a) Prior to the entry by the Commissioner into any agreement or lease, or his granting of any permit for the use of airspace, the following actions, except with respect to the construction of public buildings by the Federal or District of Columbia government, shall be taken:

(1) The Zoning Commission of the District of Columbia, after public hearing and after securing the advice and recommendations of the National Capital Planning Commission, shall have determined the use to be permitted in such airspace and shall have promulgated regulations pertaining thereto, including but not limited to, limitations and requirements respecting the height of any structure to be erected in such space, offstreet parking and floor area ratio, which limitations and requirements need not be the same as those provided for properties not within airspace. The provisions of section 10 of the Act entitled "An Act providing for the zoning of the District of Columbia and the regulation of the location, height, bulk and uses of buildings and other structures and of the uses of land in the District of Columbia, and for other purposes", approved June 20, 1938 (52 Stat. 800; D.C. Code, sec. 5–422), shall be applicable to regulations made pursuant to this section and to violations of such regulations.

(2) The lessee or permittee shall have submitted to the Commissioner and the Zoning Commission for their review and approval, plans, elevations, sections, and a scale model for any structure to be erected in such airspace, and a description of the texture, material, and method of construction of exterior walls.

(3) The Commissioner shall have determined that all necessary precautions will be taken to insure adequate protection from air pollution, dirt, noise, light, and glare emitted by vehicles using the freeway. In making such a determination, the Commissioner shall assume a volume of freeway traffic equal to the capacity.

(b)(1) The provisions of section 16 of the Act approved June 20, 1938 (52 Stat. 802), as amended (D.C. Code, sec. 5–428), shall be applicable to the construction of Federal public buildings in like manner as if the buildings were constructed entirely on property owned by the United States, and to the extent that such section is, by subsection 5(c) of the National Capital Planning Act of 1952, as amended (40 U.S.C. 71d(c)), made applicable thereto, such section 16 shall also be applicable to the construction by the District of Columbia of any building.

(2) Plans for construction in airspace by the Federal or District governments shall be subject to consultation, advice, and recommendation of the National Capital Planning Commission in accordance with the National Capital Planning Act of 1952, as amended (40 U.S.C. 71 et seq.).

(3) Plan for construction in airspace shall be subject to review and recommendation of the Commission of Fine Arts to the extent required by, and in accordance with, the Act approved May 16, 1930 (46 Stat. 366), as amended (D.C. Code, secs. 5–410 and 5–411), the Act approved September 22, 1950 (64 Stat. 903; D.C. Code, title 5, chapter 8), and Executive orders dated October 25, 1910, and November 28, 1913.

(c) Whenever the Commissioner shall find that there is any significant change in, or substantial modification of, the plans for the proposed structure after such plans have been approved in accordance with the requirements of the preceding subsections of this section and of section 3, or if, after the construction of the structure, he finds there is any significant change in, or substantial modification of, the structure or the use made of it, each such change or modification shall be subject to approval by the agencies specified in this section, as their interests may appear, in like manner as is set forth in subsections (a) and (b) of this section.

SEC. 7. The cost of removing or relocating publicly owned and privately owned facilities in a street, highway, or alley, including, without limitation, water lines and sewers, to the extent that any such removal or relocation is required in connection with the construction of a building in airspace under the authority of this Act, other than a building constructed by or on behalf of the District, shall not be borne by the District, but the cost of any such removal or relocation shall be defrayed by another or by others than the District in accordance with such arrangements as may be acceptable to the Commissioner and be approved by him in writing. The removal or relocation by the District of sewers and water main, and the removal or relocation of any other facilities in such space, shall be in accordance with plans and schedules approved by the Commissioner.

SEC. 8. Except as provided in section 6, laws and regulations now or hereafter in effect in the District and applicable to the construction, use, and occupancy of buildings and premises, including, but not limited to, building, electrical, plumbing, housing, health and fire regulations, shall be applicable to buildings, structures and improvements erected in airspace under lease or agreement entered into or permit issued pursuant to this Act.

SEC. 9. (a) The Council is authorized, after public hearing, to promulgate regulations to carry out the purposes of this Act.

(b) Any regulations adopted under the authority of this section may provide for the imposition of a fine of not more than $300 or imprisonment for not more than ninety days, or both such fine and imprisonment, for any violation of such regulations. Prosecutions for violations of regulations made pursuant to this section shall be conducted in the name of the District by the

Corporation Counsel or any of his assistants.

(c) Whenever there exists any violation or failure to comply with regulations adopted under the authority of this Act, or regulations specified in section 8 of this Act, after notice of such violation or failure has been given by the Commissioner, each and every day such violation exists, or each and every day beyond a time limit set for compliance during which there is failure to comply fully with any of the said regulations or with orders issued pursuant to the authority contained therein, shall constitute a separate offense, and the penalty specified for the violation of such regulation shall be applicable to each such separate offense.

Sec. 10. All collections, including rents and fees, received by the District pursuant to this Act shall be deposited in the Treasury of the United States in a trust fund which is hereby authorized and from which may be paid, in the same manner as is provided by law for other expenditures of the District, such expenditures as are necessary to carry out the purposes of this Act, including, without limitation, necessary expenses connected with the operation, maintenance, and disposition of property coming into the possession of the District by reason of default under leases entered into or permits issued pursuant to this Act: *Provided,* That taxes (including payments in lieu of taxes), special assessments, and sanitary sewer and water service charges shall be deposited directly to the respective funds to which such revenues are normally deposited. The unobligated balance in such trust fund as of June 30 of any year which exceeds $100,000 shall be deposited in the Treasury to the credit of such special funds or the general fund of the District in such proportions as the Commissioner shall, in his discretion determine.

Sec. 11. Nothing in this Act shall be construed so as to affect the authority vested in the Commissioner by Reorganization Plan Numbered 3 of 1967 (81 Stat. 948). The performance of any function vested by this Act in the Commissioner or in any office or agency under the jurisdiction and control of said Commissioner may be delegated by the Commissioner in accordance with section 305 of such plan.

Sec. 12. Nothing in this Act shall be construed as modifying or superseding title 23, United States Code: *Provided,* That the use of public space under the authority of this Act shall not be deemed to deprive the District of its eligibility for financial assistance under any federally assisted program, regardless of the fact that the District may, in the case of a privately owned building, receive rental for the use of such public space.

Sec. 13. If any provision of this Act or of the regulations promulgated under the authority of this Act is held invalid, such invalidity shall not affect other provisions either of this Act or of the said regulations which can be effected without the invalid provision, and to this end the provision of this Act and the said regulations are separable.

Sec. 14. Appropriations to carry out the purpose of this Act are hereby authorized.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 92-511), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE OF THE BILL

The purpose of the bill (S. 3647) is to allow fuller utilization of space over and under freeways by making available for private and public purposes such airspace as will not impair the full and safe use of freeways. Passage of the bill will enable the District government to fully realize the potential of multiple airspace usage within the urban environment characterized by loss of tax-producing real estate to meet the demands of increasingly large numbers of commuters and visitors in the National Capital region.

NEED FOR LEGISLATION

Currently the District of Columbia government has the authority to enter into joint use concept projects with the District of Columbia Redevelopment Land Agency and with other agencies of the Federal Government, but it cannot lease or rent such airspace for non-governmental purposes. Therefore, full development of the potential air-rights usage is dependent on the enactment of legislation to permit the District of Columbia to lease or rent airspace over and under freeways for commercial and other usage.

The complexities associated with accomplishing public works in dense urban areas are well recognized and generally accepted in our modern-day world.

In large cities, space for both private and public downtown developments and for rights-of-way for needed expanded transportation systems is in extremely short supply. This is one reason why transportation systems requiring substantial additional rights-of-way such as highways have become subjects of controversy. Therefore, the multiple use concept, air rights, appears to be a valuable tool for engineer planners and administrators in their effort to stay abreast of the increasing demands for the movement of people and goods, and yet at the same time assist in preserving the viability of the central city. Certainly it would assist the National Capital with respect to providing solutions for and being responsive to some of the principal objectives to urban freeway projects within the confines of the city that have been raised by our citizenry, namely:

1. The displacement of families.
2. The displacement of businesses with the attendant tax loss for those that cannot be relocated.
3. Aesthetics.
4. Separation of neighborhoods.

In recent years, the potentialities involved in a fuller utilization of space over and under freeways not required for freeway use have become increasingly important to the orderly planning and development of urban areas. The acquisition of sites for freeway construction displaces persons from their residences, removes commercial properties, and initially takes land and improvements off of the tax rolls.

The problem is especially acute in the District because of a lack of land on which residential and commercial enterprises displaced by freeway and urban renewal projects may be conveniently resettled. The availability of airspace above and below the rights-of-way of freeways, however, should minimize the adverse economic and social effects caused by the displacement of persons and businesses by facilitating their relocation in structures which may be erected in airspace.

The multiple use concept of freeway airspace has already proven itself a valuable tool in the development of urban centers throughout the Nation. Today, nearly 750 joint development and multiple use projects have been planned, begun, or completed in metropolitan areas such as Los Angeles, Chicago, Baltimore, and Minneapolis-St. Paul.

The comprehensive plan for the National Capital proposed by the National Capital Planning Commission in February 1967, envisioned the use of airspace in several areas throughout the District. A number of these projects are now on the drawing boards and ready to proceed once legislation is enacted to authorize the Commissioner to enter into agreements with the U.S. Government relating to the use of airspace as this bill (S. 1367) proposes.

It should be noted that this bill is not intended to be used to justify the construction of freeways nor to cause a disruption in community homogeneity and community life, but rather considers those factors to be preserved as much as possible in the application of the priorities set forth in this act.

Your committee strongly urges enactment of this legislation to provide the District government with a very necessary tool for implementing its urban renewal program and meeting the obstacles that are associated with that objective in a proper and expeditious manner.

HISTORY OF LEGISLATION

A bill similar to S. 1367 was introduced in the 90th Congress at the request of the District government. Subsequently hearings were held by the Subcommittee on Business and Commerce of the Senate District Committee and the bill (S. 1245) was passed by the Senate December 14, 1967.

The House District Committee staff took the position that existing law at the time provided sufficient authority for the purposes of the bill and thus the bill was not reported by the House Committee. The District of Columbia Corporation Counsel has since ruled to the contrary, sustaining the Senate's view on the need for the legislation.

Again in the 91st Congress, the Senate passed a bill (S. 3647) which was almost identical to this legislation, following public hearings. No action was taken in the House.

On October 28, 1971, the Subcommittee on Business, Commerce, and Judiciary held hearings on S. 1367, where no opposition was heard on the bill.

This bill is one of the priority legislative items submitted to the committee by the District of Columbia government and the committee urges its enactment.

DISTRICT OF COLUMBIA ADMINISTRATIVE IMPROVEMENTS ACT

The Senate proceeded to consider the bill (S. 2204) to provide for improvements in the administration of the government of the District of Columbia, and for other purposes, which had been reported from the Committee on the District of Columbia with amendments on page 4, after line 11, strike out:

TITLE IV JOINT CONTRACTS

Sec. 401. The Commissioner of the District of Columbia is authorized and empowered to include in contracts for the procurement of supplies and services for the government of the District of Columbia the requirements for like supplies and services of any political division or subdivision in the National Capital region, possessing legal authority to have its supplies and services procured in such manner, upon a request therefor from an official who is authorized to and does thereby obligate such political division or subdivision to perform all liabilities or obligations which may result from the granting of such request or from action taken pursuant thereto, and after such political division or subdivision shall have paid or agreed to pay its fair share of any increase in District of Columbia procurement costs which, in the judgment of the Commissioner, is attributable to the operation of the joint procurement program.

Sec. 402. As used in this title, "National Capital region" means the District of Columbia; Montgomery and Prince Georges Counties in Maryland; Arlington, Fairfax, Loudoun, and Prince William Counties in Virginia; and all cities, municipalities, and other political divisions and subdivisions now or hereafter existing within the geographic area bounded by the outer boundaries of the combined area of said counties.

And, in lieu thereof, insert:

TITLE IV—JOINT BID REQUESTS AND CONTRACTS

Sec. 401. The Commissioner of the District of Columbia is authorized and empowered either to include in bid requests or contracts for the procurement of supplies and services for the government of the District of Columbia the requirements for like supplies and services of any political subdivision in the National Capital region, or to have included, from time to time, all or any part of the procurement needs of the government of the District of Columbia for supplies and services in the bid requests or contracts of any political subdivision within the National Capital region. In either case, the Commissioner shall determine that the political subdivision requesting or agreeing to participation in the bid request or procurement contract has agreed to obligate itself to perform all liabilities or obligations relating to its portion of the procurement and possesses the legal authority to procure or have procured such supplies and services in such manner; and further, that any such political subdivision in whose contract the District of Columbia joins has obligated itself in such contract to comply with all applicable elements of law pertaining to fair employment practices and other similar provisions of Federal or District of Columbia law. The District of Columbia shall be authorized to participate in such joint procurement bid requests or contracts only upon the agreement by all the parties involved in the bid request or procurement contract that they will pay or agree to pay their fair share of the procurement costs which are attributable to the operation of the joint procurement program.

On page 32, after line 21, insert a new section, as follows:

FEDERAL-AID HIGHWAY PROJECTS

Sec. 826. The Commissioner of the District of Columbia is authorized to enter into contracts in connection with projects undertaken as Federal-aid highway projects under the provisions of the Federal Aid Highway Act of December 20, 1944, as amended, in such amounts as shall be approved by the Federal Highway Administration, Department of Transportation.

On page 33, after line 4, insert a new section, as follows:

GRADE-CROSSING ELIMINATION PROJECTS

Sec. 827. The Commissioner of the District of Columbia is authorized to construct grade-crossing elimination and other wholly District construction projects or those authorized under section 8 of the Act of June 16, 1936 (49 Stat. 1521), and section 1(b) of the Federal Aid Highway Act of 1938, as amended, in accordance with the provisions of such Acts. Pursuant to this authority, the Commissioner may make payment to contractors and payment for other expenses in connection with the costs of surveys, design, construction, and inspection pending reimbursement to the District of Columbia by the Federal Highway Administration, Department of Transportation, or other parties participating in such projects.

And, at the beginning of line 20, change the section number from "826" to "828"; so as to make the bill read:

S. 2204

A bill to provide for improvements in the administration of the government of the District of Columbia, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "District of Columbia Administrative Improvements Act".

TITLE I—GENERAL WORKING CAPITAL FUND

Sec. 101. In order to control and account more effectively for the cost of programs, activities, and work performed in the District of Columbia government, there is established in the Treasury a general working capital fund for the government of the District of Columbia, to be available without fiscal year limitation, for the financing of inventories, services, and common-use equipment, and for other purposes. Such subaccounts as are deemed necessary may be established in the fund. The fund shall be reimbursed for merchandise or services furnished by the fund to a department or agency of the District of Columbia or Federal Government, or to a non-Government entity: *Provided,* That any Government department or agency furnished such merchandise or services is authorized to make payment therefor in advance, if required.

Sec. 102. The Commissioner of the District of Columbia (hereinafter, "Commissioner") is authorized to establish within the fund such reserves as may be necessary, including a reserve for depreciation, and to fix charges which will fund such reserves and cover overhead and administrative costs.

Sec. 103. Notwithstanding the provisions of any other law, the Commissioner is authorized to transfer to the fund established by this title the assets (including cash and inventories) and liabilities of such existing working or revolving funds as he deems feasible: *Provided,* That when such action is taken, the laws in reference to any such fund shall be superseded by the provisions of this title and any regulations, policies, or procedures issued pursuant thereto.

Sec. 104. The Commissioner is authorized to apply the provisions of this title to such other activities as he shall designate and to establish policies and procedures to govern the operation of the fund.

Sec. 105. There is authorized to be appropriated such sums as may be necessary to carry out the purposes of this title.

TITLE II—WASTE DISPOSAL CONTRACTS

Sec. 201. The second paragraph under the subheading "DISPOSAL OF CITY REFUSE" of section 1 of the Act entitled "An Act making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and eleven, and for other purposes", approved May 18, 1910 (36 Stat. 389; D.C. Code, sec. 6–502), is amended to read as follows:

"The Commissioner of the District of Columbia is authorized to enter into contracts for the collection and disposal of garbage, miscellaneous refuse, ashes, sewage sludge, night soil, and dead animals, for periods not exceeding twenty years, subject to annual appropriations by Congress, under such conditions and specifications as he may prescribe."

Sec. 202. The proviso appearing under the subheading "DISPOSAL OF CITY REFUSE" of section 1 of the Act entitled "An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and sixteen, and for other purposes", approved March 3, 1915 (38 Stat. 904; D.C. Code, sec. 6–502), is repealed.

TITLE III—CONTRACTS FOR SUPPLIES AND SERVICES

Sec. 301. The Commissioner of the District of Columbia is authorized to enter into contracts for periods not exceeding three years for the furnishing of supplies and services to the District of Columbia. Contracts entered into under the authority of this section shall be subject to annual appropriations by the Congress.

TITLE IV—JOINT BID REQUESTS AND CONTRACTS

Sec. 401. The Commissioner of the District of Columbia is authorized and empowered either to include in bid requests or contracts for the procurement of supplies and services for the government of the District of Columbia the requirements for like supplies and services of any political subdivision in the National Capital region, or to have included, from time to time, all or any part of the procurement needs of the government of the District of Columbia for supplies and services in the bid requests or contracts of any political subdivision within the National Capital region. In either case, the Commissioner shall determine that the political subdivision requesting or agreeing to participation in the bid request or procurement contract has agreed to obligate itself to perform all liabilities or obligations relating to its portion of the procurement and possesses the legal authority to procure or have procured such supplies and services in such manner; and further, that any such political subdivision in whose contract the District of Columbia joins has obligated itself in such contract to comply with all applicable elements of law pertaining to fair employment practices and other similar provisions of Federal or District of Columbia law. The District of Columbia shall be authorized to participate in such joint procurement bid requests or contracts only upon the agreement by all the parties involved in the bid request or procurement contract that they will pay or agree to pay their fair share of the procurement costs which are attributable to the operation of the joint procurement program.

TITLE V—AUDITS OF CERTAIN ACTIVITIES AND FUNCTIONS

Sec. 501. The eighth and ninth sentences of section 7 of "An Act to define the term 'registered nurse' and to provide for the registration of nurses in the District of Columbia" (34 Stat. 889; D.C. Code, sec. 2–408) are amended to read as follows:

"The accounts of the Board shall be audited in the same manner as other accounts of the District of Columbia, and for such purposes, the Commissioner of the District of Columbia, or his authorized agent, shall have free access to all books, papers, and records of the Board."

Sec. 502. Section 11 of "An Act to regulate boxing contests and exhibitions in the District of Columbia, and for other purposes" (58 Stat. 826; D.C. Code, sec. 2–1220) is amended to read as follows:

"The accounts of the Commission shall be audited in the same manner as other accounts of the District of Columbia, and for such purposes, the Commissioner of the District of Columbia, or his authorized agent, shall have free access to all books of accounts, records, and papers of the said Commission."

Sec. 503. The penultimate and last sentence of section 13 of the Professional Engineers' Registration Act (64 Stat. 864; D.C. Code, sec. 2–1813) are amended to read as follows:

"The accounts of the Board shall be audited in the same manner as other accounts of the District of Columbia, and for such purposes, the Commissioner of the District of Columbia, or his authorized agent, shall have free access to the books of accounts, records, and papers of the Board."

SEC. 504. Section 4 of article II of "An Act to create a Recreation Board for the District of Columbia, to define its duties, and for other purposes" (56 Stat. 263; D.C. Code, sec. 8–211) is amended—

(1) by striking out "Board" each place it appears and inserting in lieu thereof "Commissioner"; and

(2) by striking out "its" and inserting in lieu thereof "recreational"; and

(3) by striking out "quarterly by the auditor" and inserting in lieu thereof "in the same manner as other accounts".

SEC. 505. Section 9 of title I of the District of Columbia Public School Food Service Act (65 Stat. 370; D.C. Code, sec. 31–1408) is amended to read as follows:

"The accounts of the Department of Food Services shall be audited in the same manner as other accounts of the District of Columbia."

SEC. 506. The tenth paragraph of section 3 of "An Act to define, regulate, and license real-estate brokers, business chance brokers, and real-estate salesmen; to create a Real Estate Commission in the District of Columbia; to protect the public against fraud in real-estate transactions; and for other purposes" (50 Stat. 788; D.C. Code, sec. 45–1403) is amended to read as follows:

"The accounts of the Commission shall be audited in the same manner as other accounts of the District of Columbia, and for such purposes, the Commissioner of the District of Columbia, or his authorized agent, shall have free access to all books of accounts, papers, and records of the said Commission."

SEC. 507. The third sentence of section 2 of title I of "An Act to provide additional revenue for the District of Columbia, and for other purposes" (50 Stat. 673; D.C. Code, sec. 47–1402) is amended (1) by striking out "Commissioners" and inserting in lieu thereof "Commissioner"; and (2) by striking out "the auditor of the District of Columbia and shall be audited by him", and inserting in lieu thereof "and audited by the Commissioner or his authorized agent".

TITLE VI—VOLUNTEER SERVICES

SEC. 601. The Commissioner of the District of Columbia is authorized, notwithstanding any other provision of law, to accept or permit the acceptance of the service of persons volunteering (1) to perform services as members of various boards or commissions established as part of the municipal government of the District of Columbia, such services to be performed on the basis of no compensation, or on the basis of the payment of honoraria in such amounts as the Commissioner in his discretion may from time to time determine, and (2) to furnish information, receive and refer complaints and inquiries, provide transportation services, and perform other functions in furtherance of related community-oriented programs. The services of such volunteers shall not be employed in replacement of the duties of persons in authorized positions in the competitive service. The Commissioner is further authorized to provide for the payment of all necessary expenses incurred by such persons in connection with carrying out the duties assigned to them, including traveling expenses. Persons performing services for and on behalf of the municipal government of the District of Columbia under the authority of this title shall not be considered employees of the Government of the United States or of the District of Columbia for purposes of laws relating to retirement, insurance, health benefits, veterans' preference, or any Act relating to employees of such governments, except as otherwise provided in this title.

SEC. 602. Persons performing volunteer services for the District of Columbia under the authority of this title shall not be personally liable in damages for any action in which said persons participate, nor shall any such person be liable for any costs that may be taxed against him on account of any action by him in connection with the performance of any function delegated to him; nor shall any such person be required to give any bond or security for costs or damages or any appeal whatever.

SEC. 603. (a) Subject to the other subsections of this section, volunteers serving under the authority of this title shall be deemed to be employees of the District of Columbia for the purposes of eligibility under subchapter I of chapter 81 of title 5 of the United States Code, relating to compensation for employment-connected injury or death, and any subsequent amendment thereof, and liability under such subchapter I shall be exclusive and in place of all other liability of the District of Columbia or of the United States or of the agents, officers, and employees of either, to the employee, his legal representatives, spouse, dependents, next-of-kin, and anyone otherwise entitled to recover damages from the District of Columbia or the United States or from the agents, officers, and employees of either, on account of such injury or death, in any judicial proceedings, or by proceedings whether administrative or judicial, under any other workmen's compensation law: *Provided*, That for benefit computation, regardless of pay or status, such volunteer shall be deemed to have had a monthly pay in an amount fixed by the Commissioner but not exceeding one-twelfth of the maximum rate for grade 15 of the General Schedule contained in section 5332(a) of title 5, United States Code.

(b) Where, because of his status elsewhere as an employee or as a retired annuitant or pensioner, such volunteer accrues benefits for disability or death under the District of Columbia workmen's compensation law, or the workmen's compensation law of any State or territory, or subchapter I of chapter 81 of title 5, United States Code, or under a pension or disability system applicable to members of a police force or fire department, the volunteer entitled to such other benefits shall not be entitled to benefits for the same injury under this section.

(c) The District of Columbia shall have a lien and a right of recovery, to the extent of any payment made under this section on account of injury or death, against any compensation paid or payable under any of the laws enumerated in subsection (b) on account of the same injury or death; and any amounts recovered under this subsection shall be deposited in the Treasury to the credit of the revenues of the District of Columbia.

(d) Whenever a claim is filed with the Secretary of Labor for benefits because of an alleged injury or death within the purview of this title, he shall notify the Commissioner of the District of Columbia who shall investigate or cause to be investigated the facts surrounding such alleged injury and make certification with respect thereto, including certification as to such injured or deceased person's status as a volunteer under this title, and whether the injury or death arose out of and in the course of performing service as a volunteer for and on behalf of the municipal government of the District of Columbia. Such certification shall not excuse the making of such reports as are required by subchapter I of chapter 81 of title 5 of the United States Code, nor shall it be conclusive as to any facts therein.

(e) Any compensation award made pursuant to the authority contained in this section shall be paid in the manner provided by law for the payment of general expenses of the government of the District of Columbia.

SEC. 604. Volunteers serving under the authority of this title shall, for the purposes of the District of Columbia Employee Non-Liability Act approved July 14, 1960 (74 Stat. 519; D.C. Code, sec. 1–921 et seq.), be deemed to be employees of the District of Columbia.

SEC. 605. Appropriations to carry out the purposes of this title are hereby authorized.

SEC. 606. Nothing in section 601 of this title shall be construed as making inapplicable to persons performing volunteer services as authorized by this title the provisions of the Act entitled "An Act to strengthen the criminal laws relating to bribery, graft, and conflicts of interest, and for other purposes", approved October 23, 1962 (76 Stat. 119).

TITLE VII—RECOVERY OF EXPENSES FROM NEGLIGENT THIRD PERSONS

SEC. 701. Whenever the District of Columbia is authorized or required by law to (a) furnish or pay the expenses of hospital, medical, surgical, or dental care and treatment (including prostheses and medical appliances), or the funeral expenses, of an officer or member of the Metropolitan Police force or of the Fire Department of the District of Columbia (hereinafter, "policeman or fireman"); or (b) extend leave of absence with pay to a policeman or fireman who is injured or suffers a disease under circumstances creating a tort liability upon a third person to pay damages therefor (whether or not received or contracted in the performance of duty), the District of Columbia shall have a right to recover from said third person the reasonable value of the care and treatment so furnished or to be furnished, or for which payment has been or will be made, and the amount of wages paid or to be paid during the leave of absence resulting therefrom, and shall, as to such right, be subrogated to any right or claim which the injured or diseased policeman or fireman, his guardian, personal representative, estate, dependents, or survivors has or have against such third person to the extent of the reasonable value of the care and treatment so furnished or to be furnished, or for which payment has been or will be made, and the amount of wages based upon an authorized leave of absence paid or to be paid to such policeman or fireman. The Commissioner may also require the injured or diseased policeman, his guardian, personal representative, estate, dependents, or survivors, as appropriate, to assign his claim or cause of action against the third person to the District of Columbia to the extent of the District's right or claim.

SEC. 702. To enforce such right, the District of Columbia may (a) intervene or join in any action or proceeding brought by the injured or diseased policeman or fireman, his guardian, personal representative, estate, dependents, or survivors, against the third person who is or may be liable in damages for the injury or disease; or (b) if such action or proceeding is not commenced within six months after the first day in which care and treatment is furnished by the District of Columbia in connection with the injury or disease involved, institute and prosecute legal proceedings in a District of Columbia, State or Federal court, either alone (in its name or in the name of the injured policeman or fireman, his guardian, personal representative, estate, dependents, or survivors) or in conjunction with the injured policeman or fireman, his guardian, personal representative, estate, dependents, or survivors, against the third person who is liable for the injury or disease. Any employee of the District of Columbia or of the United States who is required to appear as a party or witness in the prosecution of said action or proceeding is, when directed to participate in the preparation for trial or the trial thereof, and while so engaged, in an active duty status.

SEC. 703. (a) The District of Columbia shall have a lien, to the amount of the reasonable value of the care and treatment, funeral expenses, and wage payments described in section 701, upon any recovery or sum received or collected or to be collected by an injured or diseased policeman or fireman, his guardian, personal representative, estate dependents, or survivors, in a claim or action asserted or maintained by such policeman or fireman or his personal representative against a liable third person for damages.

(b) No such lien described above shall be effective, however, unless, prior to the payment of any moneys to such injured or diseased policeman or fireman, his attorney, or personal representative as compensation for such injury or disease, the District of Columbia shall have filed in the office of the Recorder of Deeds of the District of Columbia in a docket provided for such liens, a written notice containing the name and address of the injured or diseased policeman or fireman, the date and approximate place of the accident or incident giving rise thereto, and the name of the person alleged to be liable to the policeman or fireman for the injuries or disease received; nor unless the District of Columbia shall also mail, postage prepaid, a copy of such notice with a statement of the date of filing thereof to the person alleged to be liable to the policeman or fireman for the injuries or disease received, prior to the payment of any moneys to such injured or diseased policeman or fireman, his attorney, or personal representative as compensation for such injury or disease. Where the name of an insurance carrier for the third party tortfeasor is ascertained, the District of Columbia shall also mail a copy of such notice to such insurance carrier.

(c) Any person, including an insurance carrier, which, after the mailing of such notice, shall make any payment to such policeman or fireman or to his attorney or personal representative as compensation for the injury sustained or disease contracted, without paying to the District of Columbia the amount of its lien or so much thereof as can be satisfied out of the moneys due under any final judgment or compromise or settlement agreement after paying the amount of any prior liens, shall for a period of one year from the date of payment to such policeman or fireman, his attorney, or personal representative, as aforesaid, be and remain liable to said District of Columbia for the amount which the District was entitled to receive as aforesaid; and the District of Columbia, may, within such period, enforce said lien by an action against the person making any such payment.

(d) Whenever a policeman or fireman or his attorney or personal representative receives, as a result of an action or proceeding brought by the policeman or fireman or on his behalf, or as a result of a settlement made by him or on his behalf, any moneys or other property in satisfaction of the liability of a third person for the injury sustained or disease contracted, such policeman or fireman or his attorney or personal representative, as the case may be, shall ascertain and pay to the District of Columbia the amount of its lien or so much thereof as can be realized out of any such recovery or settlement. Notwithstanding any other provision of law, whenever a policeman or fireman or his attorney or personal representative receives any payment as described in the preceding sentence and fails to pay to the District of Columbia the amount of its lien, the District of Columbia is authorized to take appropriate action to recover from such policeman or fireman or his attorney or personal representative the amount of its lien as aforesaid, including, but not limited to, the right to counterclaim, setoff, or attach moneys or other property otherwise due and payable from the District of Columbia to said policeman or fireman, his guardian, personal representative, estate, dependents, or survivors.

SEC. 704. The District of Columbia Council is authorized to promulgate rules and regulations to carry out the purposes of this title, including, but not limited to, regulations (a) with respect to the determination and establishment of the reasonable value of the hospital, medical, surgical, or dental care and treatment (including prostheses and medical appliances) furnished or to be furnished, or paid or to be paid; and (b) to provide procedures for distributing the proceeds from recoveries and settlements obtained by either the injured or diseased policeman or fireman or the District of Columbia: *Provided*, That in any event said policeman or fireman, or his guardian, personal representative, estate, dependents, or survivors shall be paid, or shall have the right to retain, not less than one-fifth of the net amount of any recovery or settlement remaining after the legal expenses thereof have been deducted.

SEC. 705. To the extent prescribed by regulations under section 704, the Commissioner may (a) compromise, or settle and execute a release of, any claim which the District of Columbia has by virtue of the rights established by sections 701, 702, or 703; or (b) for the convenience of the District of Columbia, or if the Commissioner determines that collection would result in undue hardship upon the policeman or fireman who suffered the injury or disease resulting in care and treatment described in section 701, or upon his dependents or survivors, waive any such claim in whole or in part.

SEC. 706. No action taken by the District of Columbia in connection with the rights afforded under this title shall operate to deny to the injured or diseased policeman or fireman recovery for any damages or portion thereof not covered by this title.

SEC. 707. Nothing in this title shall be deemed to apply to any hospital, medical, surgical, or dental care or treatment, or wage payments based upon an authorized leave of absence which a policeman or fireman is receiving, or is entitled to receive, from the District of Columbia for an injury received or disease contracted prior to enactment of this title.

SEC. 708. As used in this title the term "Commissioner" means the Commissioner of the District of Columbia or his designated agent, and the term "person" means an individual, firm, partnership, joint stock company, corporation, association, incorporated society, statutory or common law trust, estate, executor, administrator, receiver, trustee, conservator, liquidator, committee, assignee, officer, employee, principal, or agent.

SEC. 709. Appropriations to carry out the purposes of this title, including funds for the advancement of costs and expenses for the enforcement of recoveries, are hereby authorized.

TITLE VIII—AUTHORIZATION OF APPROPRIATIONS

CONFIDENTIAL FUNDS

SEC. 801. The Commissioner of the District of Columbia, the Chairman of the District of Columbia Council, the Superintendent of Schools, the President of the Federal City College, the President of the Washington Technical Institute, and the President of the District of Columbia Teachers College are hereby authorized to provide for the expenditure, within the limits of specified annual appropriations, of funds for such purposes as they may respectively deem necessary. Their determination thereof shall be final and conclusive, and their certificate shall be sufficient voucher for the expenditure of appropriations made pursuant to this section.

EMERGENCY EXPENSES

SEC. 802. The Commissioner of the District of Columbia is authorized, when required by the public exigencies, to expend such amounts as may be necessary to meet conditions caused by emergencies such as riot, pestilence, public insanitary conditions, flood, fire, storm, and similar disasters.

FUNERAL AND BURIAL EXPENSES

SEC. 803. (a) The Commissioner of the District of Columbia is hereby authorized, pursuant to regulations prescribed by the District of Columbia Council, to provide for the payment of reasonable funeral and burial expenses of indigent residents of the District of Columbia and of children and adults under the care and custody of District of Columbia government institutions.

(b) Nothing in this section shall be construed as repealing or in any way modifying any provision of the Acts approved April 29, 1902 (D.C. Code, secs. 2-201 through 2-209) and April 20, 1906 (D.C. Code, secs. 27-129 through 27-131), or of the District of Columbia Public Assistance Act of 1962 (D.C. Code, sec. 3-201 et seq.).

FUNDS FOR THE PREVENTION AND DETECTION OF CRIME

SEC. 804. The Chief of Police of the Metropolitan Police Department is authorized, with the approval of the Commissioner of the District of Columbia and within the limits of appropriations therefor, to make expenditures for the prevention and detection of crime under his certificate. The certificate of the Chief of Police for such expenditures shall be deemed a sufficient voucher for the sum therein expressed to have been expended.

EXPENSES OF PISTOL MATCHES

SEC. 805. The Commissioner of the District of Columbia is authorized to pay the expenses of officers and members of the Metropolitan Police Department for attending pistol matches, including entrance fees, and is further authorized to permit officers and members to attend such matches without loss of pay or time.

FIRE PROTECTION SERVICES

SEC. 806. The Commissioner of the District of Columbia is authorized to make provisions and payment for the furnishing of fire prevention and fire protection services to District of Columbia government institutions located outside the District of Columbia.

GRATUITIES TO PATIENTS

SEC. 807. The Commissioner of the District of Columbia is authorized to furnish cash gratuities to needy patients of the Glenn Dale Hospital in such amounts and at such times as he may determine.

CARE OF PATIENTS IN SECTARIAN INSTITUTIONS

SEC. 808. Notwithstanding any other provision of law, the Commissioner of the District of Columbia is authorized from time to time to enter into contracts with institutions under sectarian control, and to make payments to such institutions, for the care of indigent and medically indigent patients in hospitals and for the care and maintenance of women and children who are a responsibility of the District of Columbia.

STIPENDS FOR PATIENTS

SEC. 809. The Commissioner of the District of Columbia is authorized, pursuant to regulations prescribed by the District of Columbia Council, to provide for the payment of stipends to patients and residents employed in institutions of or under programs sponsored by the government of the District of Columbia as an aid to their rehabilitation or for training purposes. Nothing contained herein shall be construed as conferring employee status on any person covered by this section.

BENEFITS FURNISHED WORKERS IN DISTRICT FACILITIES

SEC. 810. Notwithstanding any other provision of law, the Commissioner of the District of Columbia is authorized to furnish, pursuant to regulations prescribed by the District of Columbia Council, subsistence, living quarters, and laundry in lieu of salary to persons authorized by the Commissioner to work in facilities of the government of the District of Columbia for the purpose of securing training and experience in their future vocations. Nothing contained herein shall be construed as conferring employee status on any person covered by this section, nor as superseding the requirements of sections 5352 and 5353 of title 5 United States Code, relating to student employees specified therein who are assigned or attached to a hospital, clinic, or medical or dental laboratory.

CIVIL DEFENSE MATCHING FUNDS

SEC. 811. Section 3(h) of the Act entitled "An Act to authorize the District of Columbia government to establish an Office of Civil Defense, and for other purposes", approved August 11, 1950 (64 Stat. 439; D.C. Code, sec. 6–1203 (h)), is amended by striking the semicolon and inserting in lieu thereof a comma and the following: "and, when authorized by the Commissioner, appropriations available to the District of Columbia may be used to match financial contributions made by any department or agency of the United States to the government of the District of Columbia for the purchase of civil defense equipment and supplies;".

SNOW AND ICE REMOVAL

SEC. 812. Notwithstanding any other provision of law, appropriations for the Department of Highways and Traffic and the Department of Sanitary Engineering of the government of the District of Columbia shall be available for purposes of snow and ice control when so ordered by the Commissioner of the District of Columbia.

CONSTRUCTION SERVICES WORKING FUND

SEC. 813. There is established in the Treasury of the United States a permanent working fund, without fiscal year limitation, to be known as the "Construction Services Fund, Department of General Services, District of Columbia." The Commissioner is authorized to transfer to such fund from capital outlay appropriations for public building construction such amounts as he may deem necessary to carry out the purposes of this section, and, subject to subsequent adjustment, advances and reimbursements may be made to such fund from appropriations for services to other departments and agencies of the District government, without reference to fiscal year limitations on such appropriations. The fund shall be available for expenses incurred in the initial planning for construction projects, for work performed under contract or otherwise, including, but limited to, preliminary planning and related expenses, surveys, preparation of plans and specifications, soil investigation, administration, overhead, planning design, enginering, inspection, and contract management.

ACQUISITION OF LAND FOR WASHINGTON AQUEDUCT

SEC. 814. Appropriations are hereby authorized for the acquisition, by gift, dedication, exchange, purchase, or condemnation, of land or rights in or on land or easements therein for the Washington Aqueduct by the Chief of Engineers, Corps of Engineers, United States Army, or his designated agents.

PAYMENT OF REWARDS

SEC. 815. The Commissioner of the District of Columbia is authorized to provide for the payment of rewards for the capture, or for information leading to the apprehension, of fugitives from District of Columbia penal, correctional, and welfare institutions and of conditional release and parole violators. Funds appropriated pursuant to this section shall be apportioned and expended in the discretion of, and upon such conditions as may be imposed by, the Commissioner of the District of Columbia: *Provided,* That no reward money shall be paid to any officer or employee of the Metropolitan Police Department or of any penal, correctional, or welfare institution.

DISCHARGE AND RELEASE PAYMENTS

SEC. 816. The Commissioner of the District of Columbia is authorized to furnish each prisoner upon his release from a penal or correctional institution under the jurisdiction of the government of the District of Columbia with suitable clothing and, in the discretion of the Commissioner, a sum of money, which shall not exceed $100.

SUMMER SCHOOL COMPENSATION

SEC. 817. Compensation payable to personnel employed in the summer school program of the public school system of the District of Columbia is hereby authorized to be charged to the appropriation for the fiscal year in which the pay periods end.

DRIVER EDUCATION PROGRAM

SEC. 818. The Board of Education is authorized, within the limits of appropriations therefor, to accept, on a loan basis, and to maintain and provide for insurance of passenger motor vehicles, for use in the driver education program of the public schools.

ADMINISTRATIVE EXPENSES OF WORKMEN'S COMPENSATION LAW

SEC. 819. The Act entitled "An Act to provide compensation for disability or death resulting from injury to employees in certain employments in the District of Columbia, and for other purposes", approved May 17, 1928, as amended (D.C. Code, secs. 36–501, 502), is further amended by renumbering section 3 as section 4 and by inserting the following new section immediately after section 2:

"SEC. 3. Appropriations are hereby authorized for payment of all necessary expenses incurred by the United States Department of Labor in the administration of this Act."

AMENDMENT OF LAWS RELATING TO ADVERTISING

SEC. 820. (a) The second sentence of section 1 of the Act approved February 28, 1898 (30 Stat. 250; D.C. Code, sec. 47–1001), is amended to read as follows: "The notice of sale and the delinquent tax list shall be advertised once a week for two successive weeks in the regular issue of a daily newspaper of general circulation published in the District of Columbia; and notice shall be given, by advertising twice a week for two successive weeks in the regular issues of two daily newspapers published in the District of Columbia, that such delinquent tax list has been published in a daily newspaper, giving the name of such newspaper and the dates and the issues containing said list, and such notice shall be published in the two weeks immediately following the week in which the delinquent tax list shall have been published: *Provided,* That competitive proposals shall be invited by the Commissioner of the District of Columbia from the various daily newspapers published in the District for publishing the said delinquent tax list."

(b) Section 7 of the Act approved February 28, 1898 (30 Stat. 252; D.C. Code, sec. 47–1008), is amended to read as follows:

"The expenses of advertising the notice of sale and delinquent tax list for real property taxes, water charges, sanitary sewer service charges, and special assessments in arrears together with penalties and costs, shall be reimbursed to the District by a charge to be fixed annually by the Commissioner and assessed against each lot or piece of property advertised. The amounts so received shall be deposited to such fund of the District as the Commissioner shall from time to time determine."

(c) The first sentence of section 5 of the Act approved June 11, 1878 (20 Stat. 105; D.C. Code, sec. 7–601), is amended by striking "and if the total cost shall exceed five thousand dollars, then in one newspaper in each of the cities of New York, Philadelphia, and Baltimore also for one week," and inserting in lieu thereof: "but not elsewhere, unless the need for advertising outside the District shall have been specifically approved by the Commissioner".

(d) Appropriations authorized by this title or any Act of Congress shall be available to the Commissioner for general advertising authorized and required by law, and for the publication of notices of public hearings, orders, regulations, amendments of orders and regulations, tax and school notices, and similar matters of public interest, in the District of Columbia Register, and, except as otherwise provided by law, in such newspapers, legal periodicals, trade journals, and other printed media at such times and in such places as may be approved by the said Commissioner.

PURCHASE OF MALPRACTICE INSURANCE

SEC. 821. The Commissioner of the District of Columbia is hereby authorized to provide for the purchase of malpractice insurance, including the payment of premiums and other costs, to indemnify medical personnel, including physicians, dentists, osteopaths, and nurses, employed in hospitals, clinics, and other medical facilities under the control of the Government of the District of Columbia, for any judgment of damages that may be awarded against such personnel.

STUDENT LOAN PROGRAM

SEC. 822. (a) There is established in the Treasury of the United States a revolving fund to be known as the "Federal City College Student Emergency Loan Fund, District of Columbia". The fund shall be available without fiscal year limitation and shall be used for the purpose of providing emergency loans to students of the Federal City College under standards prescribed by the Board of Higher Education, with the approval of the Commissioner of the District of Columbia. The fund shall be available for the payment of all necessary expenses related to the issuance and collection of such loans. Revenues from the repayment of loans shall be deposited to the credit of the fund. The Board of Higher Education is authorized to use amounts appropriated to the District of Columbia for the purposes of this section to establish the fund.

(b) Notwithstanding the provision of any other law, if the student borrower on any loan issued pursuant to this section is a minor, any otherwise valid note or other written agreement executed by him for the purposes of such loan shall create a binding obligation.

COLLEGE BOOKSTORE FUND

SEC. 823. There is established in the Treasury of the United States a revolving fund to be known as the "Federal City College Bookstore Fund, District of Columbia". The fund shall be available without fiscal year limitation and shall be used for the purpose of establishing and maintaining a bookstore to purchase and sell textbooks and other books at such prices as the Board of Higher Education may from time to time determine necessary to approximate the cost thereof to the District of Columbia, including such administrative and overhead costs as are directly related to the fund. Receipts from the sales of books and services shall be deposited to the credit of the fund. The Board of Higher Education is authorized to use amounts appropriated to the District of Columbia for the purposes of this section to establish the fund.

SCHOOL CEREMONIAL EXPENSES

Sec. 824. The President of the Federal City College, the President of the Washington Technical Institute, the President of the District of Columbia Teachers College, and the Superintendent of Schools are hereby authorized to utilize moneys appropriated for the purposes of this section for such expenses as they may respectively deem necessary to conduct official ceremonial, representational, and graduation activities normally associated with the programs of educational institutions.

SUBSISTENCE AND TRANSPORTATION FOR HANDICAPPED CHILDREN

Sec. 825. The Board of Education is authorized to provide for the furnishing of subsistence supplies and transportation for severely handicapped children attending special education schools or classes established for their benefit in the public school system of the District of Columbia.

FEDERAL AID HIGHWAY PROJECTS

Sec. 826. The Commissioner of the District of Columbia is authorized to enter into contracts in connection with projects undertaken as Federal-aid highway projects under the provisions of the Federal Aid Highway Act of December 20, 1944, as amended, in such amounts as shall be approved by the Federal Highway Administration, Department of Transportation.

GRADE-CROSSING ELIMINATION PROJECTS

Sec. 827. The Commissioner of the District of Columbia is authorized to construct grade-crossing elimination and other wholly District construction projects or those authorized under section 8 of the Act of June 16, 1936 (49 Stat. 1521), and section 1(b) of the Federal Aid Highway Act of 1938, as amended, in accordance with the provisions of such Acts. Pursuant to this authority, the Commissioner may make payment to contractors and payment for other expenses in connection with the costs of surveys, design, construction, and inspection pending reimbursement to the District of Columbia by the Federal Highway Administration, Department of Transportation, or other parties participating in such projects.

APPROPRIATIONS

Sec. 828. Appropriations to carry out the purposes of this title and the amendments made by this title are hereby authorized.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 92–514), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE OF THE BILL

The purpose of this bill (S. 2204) is to provide authority for several needed improvements relating to the administration of government in the District of Columbia.

Title I of the bill authorizes the establishment in the Treasury of a general working capital fund, without fiscal year limitation, to be used by the government of the District of Columbia for the financing of inventories, services, common-use equipment, centralization of services, and related purposes.

Title II amends existing law to authorize the Commissioner to negotiate contracts for the disposal of solid wastes for periods not exceeding 20 years.

Title III of the bill provides authority for the Commissioner to enter into contracts for the furnishing of supplies and services to the District for periods not exceeding 3 years. Title IV authorizes the Commissioner to enter into joint contracts for supplies and services on behalf of the District of Columbia and other political divisions and subdivisions.

Title V amends a number of statutes covering activities and functions which are specifically required by law to be audited on a quarterly, annual, or individual basis, so as to require only that the accounts of such activities and functions be audited in the same manner as other accounts of the District.

Title VI authorizes the Commissioner to accept the services of persons volunteering to serve as members of various boards and commissions and to serve in positions not otherwise authorized by law.

Title VII provides the District of Columbia a right of recovery from tortiously liable third persons of the cost of medical and hospital expenses and salary payments furnished or paid by the District government to injured policemen and firemen, in like manner as the District recovers such costs with respect to all other District employees.

Title VIII of the bill provides substantive legislation for certain limitations and legislative provisions which heretofore have been authorized only by language contained in various District of Columbia appropriation acts.

AMENDMENTS

The revision of section 401 regarding joint bid requests and contracts was a modification proposed by the Metropolitan Washington Council of Governments to strengthen the position of all local governments through their purchasing power. At the present time the District government can join in such arrangements with other local governments provided that the District government is the contracting agency. The proposed modification permits the District government to use other jurisdictions as such a contracting agency for supplies and services.

The addition of sections 826 and 827 provides for the inclusion of two additional authorizations as a result of inclusions in the pending appropriation bill for fiscal year 1972. These two new sections are in addition to several provisions in title VIII authorizing appropriations for the District of Columbia in order to clarify the authority of the District to expend funds under various provisions of the annual appropriation bills.

HISTORY

On May 4, 1971 the Commissioner of the District of Columbia wrote a letter to the President of the Senate transmitting and recommending the proposed legislation. S. 2204 was introduced in the Senate on June 30, 1971, and hearings were held by the Subcommittee on Business, Commerce, and Judiciary of the District Committee on October 28, 1971. Representatives of the District of Columbia government and the Metropolitan Washington Council of Governments. No testimony was received in opposition to the bill, nor has any expression of opposition to the legislation been received by the committee.

INCORPORATING PROFESSIONS IN THE DISTRICT OF COLUMBIA

The bill (H.R. 10383) to enable professional individuals and firms in the District of Columbia to obtain the benefits of corporate organization, and to make corresponding changes in the District of Columbia Income and Franchise Tax Act was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 92–512), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE OF THE BILL

The purpose of this bill (H.R. 10383) is to authorize individuals in the District of Columbia rendering professional services which under existing law, custom, or standards of professional conduct of practice, may not be rendered through a corporate structure, including without limitation, services performed by certified public accountants, attorneys, architects, physicians, dentists, optometrists, podiatrists and professional engineers, to join in the formation of a corporation.

The bill does not require professionals to incorporate. It simply provides them with the opportunity to incorporate and defines the structure which results from that incorporation.

Your committee believes that professionals in the District of Columbia should be given the privilege now according to all businessmen; namely, the right to incorporate.

Professionals are now authorized to incorporate in every state of these United States. Though the encouragement of doctors, dentists, lawyers, architects, accountants, engineers and other professionals, all the 50 state legislative bodies have adopted legislation authorizing the incorporation of such professionals. Prior to this authorization, professionals had to resort to partnerships as their vehicle of combination. In a number of respects, partnerships, as compared to corporations are ungainly and complicated.

ADVANTAGES OF INCORPORATION

Several basic attributes of professional corporations give them value over a partnership structure. A corporation has a greater degree of centralization of management. A corporation limits the liability of a stockholder when an officer of the corporation properly acts within the authority given him by the Board of Directors. (However, in a professional corporation the professional still bears the responsibility for his own malpractice.) A professional corporation has perpetual existence; whereas, a partnership comes to an end upon the death of any partner. Finally, a professional corporation has greater flexibility with respect to transfer of interests than does a partnership.

As a general matter, the laws regarding corporations are much more clearly defined than as to the partnerships. The guidelines for corporate activities, responsibilities, and relationships are well-known. Partnership agreements by necessity become long and cumbersome because the partners are unable to resort to the large body of statutory and case law which define the corporate concept.

THE DISTRICT OF COLUMBIA AND FEDERAL TAX CONSIDERATIONS

There are a number of tax advantages under Federal tax laws to professional individuals operating in the corporate form. Probably the most significant advantages at the present time stem from the disparities in the Federal tax treatments of qualified retirement plans of corporate employees and of qualified retirement plans for self-employed individuals. Broadly speaking, the Federal income tax treatment of all such qualified plans consists of a deferral of the Federal income tax with respect to contributions made on behalf of employees, including self-employed individuals, until distribution of the employees' benefits and the deferral, for the same period, of the Federal income tax on the earnings from investment of all contributions made under the plan.

As indicated above, the benefits under qualified retirement plans for self-employed individuals, or so-called "H.R. 10 plans", are not nearly so broad as those under corporate plans. One of the most significant differences concerns the maximum limitation on contributions on behalf of self-employed individuals who have a more than 10% interest in the business (so-called "owner-employees"). Under the Federal Internal Revenue Code, such contributions are limited to the *lesser* of 10% of the individual's "earned income" from the business or $2,500 per year. On the other hand, in the case of corporate retirement plans, contributions up to 25% of an employee's compensation are permitted where the employer has both a pension plan and a profit sharing plan and there is no ceiling on the dollar amount which may be contributed. Similarly, the benefits from voluntary additional contributions, i.e., the contributions by the employee or by self-employed individuals for which no deduction is allowable, are greater under corporate retirement plans. Specifically, under corporate plans an employee may contribute up to 10% of his compensation without regard to the dollar amount thereof, with the result that such contributions will then accumulate tax-free income until the distribution of the employee's benefits upon his retirement. On the other hand, voluntary contributions by "owner-employees" are restricted to the *lesser* of 10% of earned income from the business or $2,500 per year *and* may only be made if there are plan participants during the tax year other than "owner-employees" who are permitted to make voluntary contributions. In addition, there are requirements with respect to the qualification of plans which include self-employed individuals which are not imposed with respect to corporate plans and these are particularly onerous in the case of plans which include self-employed individuals who are "owner-employees".

Another benefit which is available to corporate employees which is not available to self-employed individuals is the opportunity to receive one's account entirely in the year of retirement and have a portion thereof taxed at capital gains rate. A lump-sum distribution to a self-employed individual is taxable ordinary income, subject to a special averaging rule in certain cases.

Lastly, the present Federal estate tax and gift tax exclusions available with respect to contributions to qualified retirement plans by corporate employers are not available with respect to contributions under H.R. 10 plans.

OTHER TAX BENEFITS

In addition to benefits relating to qualified retirement plans discussed above corporate employees also have available many other Federal income tax benefits which their self-employed counterparts do not enjoy. A corporate employer may provide group term life insurance coverage for its employees, tax-free, up to a maximum of $50,000 coverage. In addition, corporate employers may, depending upon the coverage limitations of the particular local jurisdiction, provide additional group term life insurance coverage for its employees at a very nominal Federal tax cost.

Corporate employees may receive the benefit of payments from accident, health and sickness insurance plans and from medical and dental reimbursements plans tax-free. At the same time the corporate employer is entitled to a deduction for the insurance premiums paid and for the medical and dental reimbursements, as the case may be.

Corporate employees are also eligible to exclude a portion of their salaries which are paid to them under so-called wage continuation or sick pay plans while they are away from work on account of personal injuries or sickness.

Corporate employers may pay death benefits to beneficiaries of their employees up to a maximum of $5,000 without any tax resulting to the recipient. In addition, a corporate employer may make a nondeductible tax-free gift to the widow of a deceased employee in appropriate circumstances.

And finally, two fairly insignificant tax advantages might be mentioned. First, the first $25,000 of a corporation's taxable income is subject to the 22% normal tax rate and the excess is presently subject to a 48% rate. Second, a corporation has a completely free choice of a fiscal year for Federal tax reporting purposes, whereas a partnership must adopt the same taxable years as its partners.

AMENDMENT TO THE DISTRICT OF COLUMBIA INCOME AND FRANCHISE TAX ACT OF 1947

Section 21 of the bill amends the District of Columbia Income and Franchise Tax Act of 1947 (D.C. Code, title 47, sec. 1574) in order to maintain for unincorporated professional associations the unincorporated business tax exemption which these associations presently have under that Act.

All the representatives of the various groups testifying in support of the bill stated that they consider this section to be an essential part of the bill and that they would not support it without this section.

Representatives of the Bar Association, for example, stated they have opposed previous attempts to repeal this exemption on essentially two grounds. Both the States of Maryland and Virginia grant a credit to their residents for income taxes paid to another jurisdiction on income generated in that jurisdiction. The District unincorporated business tax does not qualify for this credit since it is a franchise tax rather than an income tax. Accordingly, the professional who resides in Maryland or Virginia and conducts his practice in the District would, if his present tax exemption were removed, be subject to double tax on the net income for his practice.

The District's Revenue Act of 1969 in proposed form contained a provision repealing this exemption, which was not contained in the Act as passed, which changed the label of the unincorporated business tax from a "franchise tax" to an "income tax". Put simply, whatever the label, the unincorporated business tax is on the privilege of doing business in the District.

BENEFITS TO THE DISTRICT

While as stated, there will be significant tax incentives and advantages to incorporated professionals and their employees to be derived by the enactment of a professional corporation statute for the District of Columbia, the testimony developed that there would be benefits to the District of Columbia, and to the Federal Government, as well as to society as a whole.

The first source of revenue from passage of H.R. 10383 would be the fees to incorporate. If only a few thousand of the professionals of the District of Columbia would avail themselves of the opportunity to incorporate, the fees, it is estimated, to the District would be about $300,000.00 in 1971 or 1972, based on an average corporate fee of $150.

In addition, each professional corporation will become subject to the annual payment of the District corporate income and franchise tax (District of Columbia Income and Franchise Tax Act of 1947). At present, the unincorporated professional practices are subject only to the payment of the professional license fee, while the income derived from such professional services is taxed only by the jurisdiction of residence of the professional. If the professional practice should be incorporated in the District, the salaries of the employee-shareholders will also become subject to the District and Federal Unemployment compensation taxes, as well as a higher total Social Security (F.I.C.A.) tax rate.

The second source of revenue would be the corporate income tax that would be forthcoming. Because corporations do not die with the death of an owner, the corporate tax would provide a greater stability in income tax revenues.

The third source of revenue would be the additional insurance premium taxes which would be collected on corporate purchases of employee benefits, such as pension plans and profit sharing plans and group life and health insurance. Since such premiums are deductible for Federal income tax purposes, corporate employers would be encouraged to provide better benefits needed by their employees.

But even if the added sources of revenue were not as direly needed by the District of Columbia, the concept of allowing professionals to incorporate would still be valid. Every state now has legislation enabling professionals to incorporate. The District of Columbia should not prohibit professionals to incorporate for to do so would risk the flight of the professional to the suburbs with result in serious loss in revenues.

CHARITABLE TRUSTS

The bill (H.R. 11489) to facilitate the amendment of the governing instruments of certain charitable trusts and corporations subject to the jurisdiction of the District of Columbia, in order to conform to the requirements of section 508 and section 664 of the Internal Revenue Code of 1954, as added by the Tax Reform Act of 1969, was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 92-513), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE OF THE BILL

The purpose of H.R. 11489, as amended, is to facilitate the amendment of the governing instruments of certain charitable and split-interest trusts, and certain corporations which are subject to the jurisdiction of the District of Columbia and which are treated as "private foundations" for Federal tax purposes, in order to conform to the requirements of Sec. 508 of the Federal Internal Revenue Code, as added by the Tax Reform Act of 1969 (P.L. 91-172).

This is accomplished in H.R. 11489 by amending Title I of the D.C. Code to add a new chapter relating to charitable and split-interest trusts, which provides, in effect, that certain provisions required by the Internal Revenue Code are deemed to be included in the governing instruments of the corporation in question.

Time is of the essence with respect to the proposed legislation, because if the same is not enacted into law prior to January 1, 1972, most, if not all, trusts in the District of Columbia with charitable beneficiaries and some charitable corporations will each be required to institute separate court proceedings to amend their individual charters to include the required provisions.

Enactment of this legislation, therefore, before January 1, 1972, will free the courts from burdensome litigation and will protect assets donated for charitable purposes, and thereby will carry out the intent of Congress in the Tax Reform Act to insure that the funds of entities granted tax benefits are totally devoted to charitable purposes.

As of August 24, 1971, the legislatures of at least 35 states have enacted legislation intended to comply with the requirements of the Federal Internal Revenue Code in question. Both Maryland and Virginia have enacted such legislation as have the other states as follows:

STATES WHICH HAVE ENACTED SIMILAR LEGISLATION TO CONFORM GOVERNING INSTRUMENTS OF CHARITABLE TRUSTS AND CORPORATIONS TO REQUIREMENTS TAX REFORM ACT OF 1969

Alabama, Alaska, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, and Hawaii.

Illinois, Indiana, Iowa, Kansas, Maine, Maryland, Massachusetts, Minnesota, and Missouri.

Nebraska, Nevada, New Hampshire, New York, North Carolina, North Dakota, Oklahoma, Rhode Island, and South Carolina.

Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, and Wisconsin.

INTERNAL REVENUE CODE AND TAX REFORM ACT REQUIREMENT

Sec. 509 (a) of the Internal Revenue Code of 1954 contains a definition of "private foundations", which covers the broad range of trusts and corporations which are organized and operated for religious, charitable literary and educational purposes.

Sec. 508 (d)(e) of the Internal Revenue Code, added by the tax Reform Act of 1969 (Public Law 91–172), provides that certain charitable trusts and corporations which are treated as "private foundations" will lose their right to full deduction for charitable contributions, as well as their exemption from Federal income tax unless their governing instruments (i.e., corporate charter or trust indenture, include by December 31, 1971, certain limitations on their activities). The governing instruments of trusts created and corporations organized after 1969 must contain the required provisions upon their creation or organization.

"Necessary governing provisions" would, in effect, require the charitable trusts or corporation to distribute income for its exempt purposes on a reasonably current basis, and to refrain from certain actions which the Congress has deemed inconsistent with tax-exempt status, namely, engaging in "self-dealing" transactions, retaining excess business holdings, making investments which jeopardize exempt purposes, and expending funds for improper expenditures, lobbying and other prescribed activities.

Following the enactment of the Tax Reform Act of 1969, the Internal Revenue Service published Temporary Regulation No. 13.8 (35 Fed. Reg. 7300, dated May 9, 1970), which recognizes as the equivalent of an actual amendment of a governing instrument of a charitable trust or corporation, the enactment of a statute which either treats the required provisions as being contained in the trust's or corporation's governing instruments, or specifically requires the trust or corporation to distribute its income and prohibits it from engaging in the prescribed actions described above.

The necessity of enabling legislation by the Congress to cover charitable trusts and corporations is required by the Federal Tax Reform Act of 1969.

EFFECT OF LEGISLATION

H.R. 11489, if enacted, will allow hundreds of charitable organizations in the District of Columbia to comply with the provisions of the 1969 Tax Reform Act, without the expense and court congestion which would follow if the governing instrument of each such charity had to be presented before your Committee at its hearings on this proposed legislation, the city banks estimated that approximately 400 separate actions (in trusts which they administer) would have to be prepared and filed before December 31, 1971, if this legislation is not enacted. No estimate was furnished this Committee as to what trusts might be similarly affected which do not have banks as trustees. In any event, numerous law suits would burden the court dockets in the District of Columbia and delay trials of other more important civil and criminal matters.

In addition, the charities would be forced to incur legal fees and court costs which would reduce the amount of funds distributable for charitable purposes in the District of Columbia. In the case of relatively small charitable trusts, the legal fees for such litigations may well exhaust one year's income or more, which otherwise would be used for charitable purposes. The beneficiaries of many of the trusts involved are local institutions such as the Children's Hospital, the Red Cross, Georgetown University, George Washington University, American University, Howard University, Catholic University, and many other similar charitable and educational institutions, as well as religious organizations and affiliates in the District of Columbia.

The necessity of H.R. 11489 arises from the fact that it is not sufficient for a charitable corporation or trust to operate in compliance with the Federal Tax Reform Act of 1969. The tax exemption enjoyed by such corporations or trusts will be denied them unless their governing instruments specifically require such compliance. Most charitable corporations, and some trusts where the grantor is living and the instrument so permits, would be able to amend their bylaws, or governing instruments, to comply with the provisions of the Tax Reform Act. However, without H.R. 11489, the only recourse that would be open to the trustees of charitable trusts, where the grantors are deceased, and those charitable corporations whose governing instruments do not permit amendment, would be to seek equitable relief in the courts to permit the conforming amendments. All this would be obviated by the provisions of H.R. 11489.

HEARING

The Subcommittee on Business, Commerce, and Judiciary held a hearing on this legislation and its companion bill (S. 2409) on October 28, 1971, at which time representatives of the District of Columbia Government and the Bar Association of the District of Columbia presented testimony. No testimony was received in opposition to the bills, nor has any expression of opposition to the legislation been received by the Committee.

COSTS OF LEGISLATION

According to the information furnished the Committee by witnesses before it as well as by the D.C. government, passage of this proposed legislation would not have any revenue effect upon the District and would not result in any additional costs.

On the other hand, without such legislation, the District would incur substantial expense because of resulting court actions as referred to above if the legislation is not enacted before January 1, 1972.

REDUCE FROM 21 YEARS TO 18 YEARS THE MINIMUM AGE QUALIFICATIONS FOR FEDERAL JURY SERVICE

The Senate proceeded to consider the bill (S. 1975) to change the minimum age qualification for serving as a juror in Federal courts from 21 years of age to 18 years of age, which had been reported from the Committee on the Judiciary with amendments.

On page 1, after line 5, strike out:

(b) The Act shall take effect one hundred and eighty days after the date of its enactment. The amendment made by subsection (a) shall not apply to any jury panel selected or serving on the effective date of this Act.

And, in lieu thereof, insert:

(b) Each plan, except in the District of Columbia, Puerto Rico, and the Canal Zone, shall be modified by appropriate change of the periodic emptying and refilling date to require that voter registration lists or lists of actual voters from the November 1972 general election be used to refill the master jury wheel or qualified jury wheel not later than December 31, 1973.

On page 2, after line 9, insert a new section, as follows:

Sec. 2. Section 1863(b)(4) of title 28, United States Code, is amended by inserting before the period at the end thereof ", the interval for which shall not exceed four years".

And, after line 12, insert a new section, as follows:

Sec. 3. The amendments made by section 1(a) and by section 2 of this Act shall not affect the composition of any master jury wheel, qualified jury wheel, or jury panel in existence on the date of enactment of this Act and the use of the names in such existing jury wheels or on lists of qualified jurors is hereby authorized until the next emptying and refilling of the master jury wheel and qualification of prospective jurors therefrom as required by this Act.

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1865(b)(1) of title 28, United States Code, is amended by striking out "twenty-one years" and inserting in lieu thereof "eighteen years".

(b) Each plan, except in the District of Columbia, Puerto Rico, and the Canal Zone, shall be modified by appropriate change of the periodic emptying and refilling date to require that voter registration lists or lists of actual voters from the November 1972 general election be used to refill the master jury wheel or qualified jury wheel not later than December 31, 1973.

Sec. 2. Section 1863(b)(4) of title 28, United States Code, is amended by inserting before the period at the end thereof ", the interval for which shall not exceed four years".

Sec. 3. The amendments made by section 1(a) and by section 2 of this Act shall not affect the composition of any master jury wheel, qualified jury wheel, or jury panel in existence on the date of enactment of this Act and the use of the names in such existing jury wheels or on lists of qualified jurors is hereby authorized until the next emptying and refilling of the master jury wheel and qualification of prospective jurors therefrom as required by this Act.

Mr. TUNNEY. Mr. President, we have before us today S. 1975, a bill which I introduced on June 2, 1971, along with my distinguished colleagues from the Judiciary Committee, Senators HART and MATHIAS, to lower the minimum age for service on Federal juries from 21 to 18 years of age.

Since the introduction of the bill, 19

other Senators have joined in cosponsoring it: Senators BAKER, BAYH, CRANSTON, GRIFFIN, HARRIS, HARTKE, HOLLINGS, HUMPHREY, INOUYE, JACKSON, JAVITS, KENNEDY, MILLER, MONDALE, MOSS, MUSKIE, RANDOLPH, RIBICOFF, and TAFT. In addition, the chairman of the House Judiciary Committee Representative EMANUEL CELLER of New York has introduced an identical measure in the House of Representatives. Hearings were held by the Senate Subcommittee on Improvements in Judicial Machinery on July 29, 1971, and by the House Judiciary Committee in November 1971. During those hearings, witnesses from the Justice Department and the Administrative Office of the U.S. Courts testified in support of this bill.

Mr. President, as the youngest Member of the Senate, I take particular pride in authoring this legislation because I believe that it will bring to our newly enfranchised young citizens the full measure of the cherished American right to trial by one's peers. Last year, Congress began the process of enfranchisement by granting to these young citizens the right to vote in Federal elections. Earlier this year, we passed unanimously the 26th amendment extending that right to vote to include all elections at every level, and in only a few months time the legislatures of the requisite 38 States joined in ratifying that amendment.

Now the Congress has the opportunity to act once more to guarantee to these young people the full measure of their rights as citizens and voters by granting to them the right to serve on Federal juries.

Indeed, the very same arguments which caused us to lower the voting age are ones which are persuasive in favor of this bill. Those arguments have been stated most eloquently by many of my colleagues in the Senate in pointing out that the age of 21 years can no longer be looked upon as a magical threshold of civic responsibility. Even Vice President Agnew endorsed the lowered voting age, stating that:

> Young people today are better educated and they mature physically much sooner than they did even 50 years ago.

In fact, nearly 80 percent of the over 11 million 18- to 21-year-olds are high school graduates and more than half are engaged in higher education. Almost half of them are married. Three million of them have full-time jobs. Nearly one million are serving in the Armed Forces, and tens of thousands of them have died in an endless war in Southeast Asia.

Time after time, these young people have demonstrated their high-minded civic responsibility, most notably through their efforts in the Peace Corps, VISTA, and many other volunteer programs in which they serve. Time and again they have shown themselves to be sensitive to our Nation and her freedoms. Over half of them consider themselves political independents, instead of Republicans or Democrats. The vast majority emphatically reject the extremes of the political spectrum.

To close Federal juries to this massive segment of the population, which Congress has declared adults for purposes of voting would frustrate not only the purpose of the Federal jury laws but the purpose of the jury system itself. As the Supreme Court stated as early as 1942:

> The proper functioning of the jury system, and, indeed, our democracy itself, requires that the jury be a "body truly representative of the community" and not the organ of any special group or class . . . (Jury officials) must not allow the desire for competent jurors to lead them into selections which do not comport with the concept of the jury as a cross section of the community . . . If such practices are to be countenanced, the hard won right of trial by jury becomes a thing of doubtful value, lacking one of the essential characteristics that have made it a cherished feature of our institution. [Glasser v. United States, 315 U.S. 60, 86 (1942).]

In fact, the basic structure of our jury system, which Congress restated as recently as 1968, already reflects these ideas and thus requires the adoption of this bill. The recently enacted Federal Jury Selection and Service Act requires that lists of prospective jurors be taken from voter registration or other voter records. A similar practice has been adopted in numerous States which either require jurors to be qualified voters or provide that the name of prospective jurors are to be taken from registration lists or other election records. And as Congress stated in enacting the new Federal Jury Selection and Service Act:

> The voting list requirement, together with the provision for supplementation, is therefore the primary technique for implementing the cross sectional goal of this legislation.

But perhaps the most telling reason for including young people on Federal juries stems from the character of today's youth. Their idealism and pressing sense of justice are precisely the qualities which the jury was intended to bring to the American courtroom. The real purpose of the jury system is twofold. First, by making a cross section of the community the final trier of fact and judge of guilt, the American legal system provides the accused with the shield of 12 independent laymen whose innate sense of justice protects him from the legalism, dogmatism and oppression of the State to which he might otherwise fall victim. Second, by making a random segment of the community an important part of the administration of justice, the courts enhance the community's acceptance of their decisions. By closing Federal juries to those between 18 and 21 years of age, Congress would deny the system the use of those abilities which make the jury a viable institution and would encourage contempt and rejection of the courts' dictates by that segment of our population.

In short, failure to permit those between 18 and 21 years of age to serve on Federal juries is inconsistent with the congressionally, constitutionally, and judicially recognized principle that the jury should be a cross section of the community, deprives the jury system of a vast source of able jurors, and discourages those of our youth who seek justice through the established order rather than through violence and disobedience of the law.

We can and we must demand that all our citizens, and particularly our young people, accept the responsibility for their own actions. And an essential part of that responsibility is the acceptance of the right and the burden to render judgment on their peers.

Frankly, I have no doubt that the failure of the Congress to act in this matter would confront our courts with a monumental task, for it is my belief that the right to vote must constitutionally carry with it the right and the duty of jury service. Challenges to the constitutionality of exclusion of 18-year-olds from Federal juries have already begun. If, as may happen, such a challenge were to succeed, hundreds of judicial decisions could be called into question. Surely it is better for Congress to accept its legislative responsibility by enacting this bill and establishing a date for its effectiveness which will enable a smooth transition than to pass the job on to our overburdened courts.

These arguments apply with even greater force when we look at the criminal justice system in this country. Today an 18-year-old is tried as an adult in the Federal courts and in the courts of 49 States; 18.3 percent of all defendants convicted in the Federal courts in 1969 were 21 years of age or younger. In my State of California in the Federal court in San Diego, 25.2 percent of all convictions were of persons in that age group. In other areas the proportion is even higher. In the Federal district court in Montana in 1969, 49.2 percent of all convicted defendants were 21 years old or younger. In Colorado and New Mexico, the figure was 41 percent and in numerous other Federal courts the numbers ranged from 20 to 37 percent.

To put those figures in perspective, however, and in fairness to the vast majority of our young people, it is important to note that out of the more than 11 million young people 18 to 21 years of age in this country, less than 4,000 were convicted of any offense in the entire Federal court system in 1969.

In its 1971 report on lowering the voting age to 18, the Senate Judiciary Committee observed that:

> It is difficult to justify holding a person legally responsible for his or her actions in a criminal court of law when we continue to refuse to consider that same person responsible enough to take action in a polling booth.

That same statement applies with even greater force to the jury system. Respect for the law and the judicial system of our Nation is founded upon participation in the making and enforcement of those laws.

There is finally a very pragmatic reason for the adoption of this bill which I mentioned earlier. The entire Federal jury selection process is based upon the use of voter registration lists. Yet, with the lowering of the voting age to 18, such lists can no longer be the basis for the selection process unless the minimum age for jury service is once again made to correspond with the minimum age for voting. Thus, unless we now proceed to equate once more the right to vote with the obligation of jury service, the Federal judicial system will have to construct an entirely new and artificial registration system for selection of Federal juries. For this reason the bill which we are voting on today will avoid an administrative nightmare of huge proportions. At a time when we are seeking every possible way to reduce the administrative burdens on our court system and streamline the judicial process, we can ill afford to saddle our courts with additional and needless burden.

Prior to introducing this bill, I sought the advice from the Administrative Office of the U.S. Courts, the agency responsible for administering the Federal judicial system. In a letter to me a few months ago, Mr. Norbert A. Holloran, Acting Chief of the Division of Procedural Studies and Statistics of the Administrative Office described the present operation of the Federal jury system and the benefits to the administration of that system from the adoption of our bill. Citing the efforts of the Administrative Office to automate the difficult process of random selection of jurors from registration lists, the letter states:

> Because of these developments there is a particular advantage to federal jury administration if the requirements for a person's eligibility to serve on a federal jury coincide with those of eligibility to register as a voter . . . to summarize the administrative arguments in favor of reducing juror eligibility to age 18: (1) it would permit the federal courts to take maximum advantage of computer-readable voter files in further automation of jury clerical work; and (2) it would permit the courts to continue, what they now do, to make a straight forward use of the entire voter name source—free of need for clerical screening complications, and free of concern for legal challenges to the fairness of the name selection methodology.

Thus, adoption of S. 1975 will enable the Administrative Office of the U.S. Courts to continue with its very promising project to enable the Federal courts to prepare random selection lists by automatic data processing. Through the programming of voter registration lists, the Federal district courts will be able to reduce tremendously the time and manpower required to list and summon persons for jury service. The success of this project could free administrative support for the more important task of assisting our Federal judges.

I might also add that an additional advantage of this bill is that it will increase the possibility that 21- and 22-year-old persons will have an opportunity to serve. As Mr. Halloran stated in the Senate hearings, this legislation would have the added benefit of increasing the appearance on juries of 21- and 22-year-olds, persons who under the present law are eligible to serve but are not being summoned in very large numbers because of the slow moving mechanics of the system.

For all of these reasons, and most important, for the sake of justice for all our citizens, I urge the Senate to enact this legislation today. Congress has an opportunity with this bill to act in a most responsible fashion to avoid the chaos which will surely result from forcing our courts to legislate this question and to bring our young people fully into political society.

A final point, or rather a hope, which I now voice is that the States will follow the example we will set today and provide for service on juries in State and local courts for these same young people. The strong bipartisan consensus in favor of this legislation in the Congress should be a clear signal of the importance and necessity of bringing young people fully into the system. As the Justice Department witnesses testified in the hearings:

> Since the Congress and the States have now acted to give persons between the ages of 18 and 21 the right to vote, it is only fitting and logical that the Congress give them the responsibility of a citizen to serve on juries in Federal courts. We would hope that the States would follow the example of the Congress in providing for the service on juries in State and local courts by these young people.

I hope that the swift action which the Congress is taking on S. 1975 will serve as a strong example to the States toward extending the same right and obligation to those young people in our entire judicial system.

Mr. President, I ask unanimous consent that the letter from Mr. Norbert Halloran of the administrative office of the U.S. courts be inserted at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

ADMINISTRATIVE OFFICE
OF THE U.S. COURTS,
Washington, D.C., May 21, 1971.

Hon. JOHN V. TUNNEY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TUNNEY: There would appear to be administrative advantages to the federal judiciary if the age of eligibility for jury service is reduced to 18.

The Jury Selection Act of 1968 provides that the master jury wheels of United States courts must be stocked with names taken from state voter registration rolls. State and county officials are required by the Act to furnish clerks of the court with facsimile copies of their voter registers.

Each U.S. district clerk of court creates a master jury wheel from names off the county voter registers of his judicial district. The quantity of names taken is dictated by the district's jury plan and is based largely on what the master wheel must contain to yield enough qualified jurors to satisfy the court's needs for two to four years. Names are selected from voter registers according to prescribed formula whereby the number of names drawn will spread evenly throughout the register and the geographic area it represents.

These selection formulas are essentially no more than ratios of names drawn versus not drawn. However, they have the effect, in many regions of the country, of making the name selection process extremely tedious and time consuming. This is because the clerks must physically count every name on the voter register. In other words, if one name in a hundred is being removed the clerk must count each of the 99 that are skipped to reach the 100th that is to be selected.

This difficult clerical operation has been automated in 8 to 10 of our large U.S. courts. Mechanization was feasible because state or county government in these districts had automated the voter registration records, and were able to furnish their voter lists on magnetic tape.

Through computer programming and services these district courts now use the computer to not only select names from the voter lists and the jury wheels but to address juror questionnaires, summonses, index cards, and pay vouchers.

Most state and county governments are moving ahead with use of computers and more modern records keeping systems including the automation of voter registrations. More than half the metropolitan counties in the country have either computerized their voter records or are planning to do so.

Wherever we find that more than half of the voter registrants, in the counties of a federal district, have been recorded on electronic data files we know we can economically mechanize the district's juror selection system. Over the next decade we estimate that this will be accomplished in at least another 25 of our federal courts.

Because of these developments there is a particular advantage to federal jury administration if the requirements for a person's eligibility to serve on a federal jury coincide with those of eligibility to register as a voter.

This is not to say that we could not, technically at least, continue to use state voter lists even though they included names of persons under 21 (while the juror age limits stayed at 21). However, this would require an added effort and expense of asking juror candidates for age information and then screening out those persons under 21 at the point where their questionnaires are reviewed for qualification factors. An age screening could not be made at the time names are taken from voter registers because these records do not uniformly display or even provide age information.

Conceivably, some significant questions of the fairness, propriety, and even the legality of the method of selecting juror names could come up. For example; should names of persons a certain number of which are known to be ineligible because of age even go into a master wheel. In other words, suppose the master jury wheel is filled with names, an unknown quantity of which are ineligible because they are under the qualifying age of 21. To the extent that such names are placed in the master jury wheel they preempt an equivalent number of eligible persons (21 or over) from an opportunity to be drawn and considered for jury service. It might be argued that jury lists couldn't be used unless registrants age was shown and the selection system precluded the removal of under-age persons for jury wheel needs. A requirement such as this would add to the difficulties of the clerical function, and detract from the random-cross sectional provision of the Jury Selection Act.

More importantly, a young person whose name got selected for the master wheel but later was disqualified on the age factor, would have had the mathematical odds reduced of his being selected again and afforded an opportunity to serve. In other words legal questions about the courts' failure to attain maximum humanely controllable system fairness could be raised.

To summarize the administrative arguments in favor of reducing juror eligibility to age 18: (1) it would permit the federal courts to take maximum advantage of computer-readable voter files in further automation of jury clerical work; and (2) it would permit the courts to continue, what they now do, to make a straight forward use of the entire voter name source—free of need for clerical screening complications, and free of concern for legal challenges to the fairness of the name selection methodology.

Finally, there is another name selection problem we are dealing with right now which might be alleviated if juror service age is dropped to 18.

In our current jury wheel operation, the gestation period from the transfer of a person's name off a voter list until the person sits on a jury can be four years. It probably averages at least two years.

As a consequence, the operating effect of today's system is that few if any 21 year olds get on juries, and very few 22 or 23 year olds. The small number of persons in the lower 20's who serve on juries is probably grossly out of proportion to the number of criminal defendants in these age groups who are being tried in our courts by juries of their peers" . . .

In our opinion, a change in the law whereby names of potential jurors as young as 18 were to start moving into the jury wheels would not begin to put 18 year olds in jury boxes as much as it would tend to increase the appearance on juries of 21 and 22 year olds, persons who under the present law are eligible to serve but aren't being summoned in very large numbers because of the slow moving mechanics of the system.

Sincerely yours,

NORBERT A. HALLORAN,
Acting Chief, Division of Procedural Studies and Statistics.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–516), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the proposed legislation is to amend section 1865(b)(1) of title 28, United States Code, the Jury Selection and Service Act of 1968, by changing 21 years to 18 years as the minimum age qualification for service on grand and petit juries in the district courts of the United States.

PURPOSE OF THE AMENDMENT

The bill as introduced would provide an effective date on the 180th day after enactment. The recommended amendment is intended to achieve an early use of 18-year-old citizens in the composition of jury lists by requiring each of the 93 district courts, by no later than December 31, 1973, to recompose its master jury list by using the voter registration lists or lists of actual voters from the November 1972 general election. In addition the amendment would permit the continued use of existing master jury lists until the next periodic refilling of the master jury wheel. The amendment also would amend section 1963(b)(4) of title 28, United States Code to require that the periodic emptying and refilling of the master jury wheel occur at intervals not in excess of 4 years.

STATEMENT

Two recent congressional enactments require prompt consideration and passage of this bill. The paramount reason for enactment of S. 1975 arises from the ratification on June 30, 1971, of the 26th amendment to the Constitution which extended to persons 18 years of age the right to vote in all elections. It is not necessary to here repeat the factual basis for the wide support which led both to congressional proposal and to State ratification of this amendment. It should suffice to note that the reasons which justified extension of the right to vote also justify the extension of the duty to serve on juries.

In order to assure that jury panels in Federal courts are based upon a random selection made from a fair cross section of the community, Congress passed the Jury Selection and Service Act of 1968. (Public Law 90–274, act of March 27, 1968, 62 Stat. 951). The act is codified as sections 1861 through 1869, title 28 United States Code. Section 1863 requires that each district court shall use either voter registration lists or lists of actual voters from the most recent State or Federal general election in the selection of prospective jurors. The selection of names must be at random and must be proportional for each county or similar political subdivision in relation to the entire number of voters in the district. The number of names initially selected must be at least one-half of 1 percent of the total number on the list used, or at least 1,000 names. The names thus selected are to be placed in a master jury wheel. From the master jury wheel random or chance selection of names is made for service on particular grand or petit juries. The initial selection of names from the voter lists must be in excess of the anticipated need for actual jurors, since the clerk of the court, or jury commission, and the judge subject those initially selected to the further qualifications as to age, citizenship, language, et cetera as specified by section 1865 of the act.

The administrative and clerical task of complying with the jury selection procedure is considerable. In only eight or 10 of the districts are computerized voter registration lists available for use in making the initial random selection. In all other districts the random selection process is one of counting, for example, every 158 names on a list before selecting the 159th name. Where there is no registration list, the names are taken from an actual voter list and must be supplemented with a mailing address. Failure to enact the proposed legislation would require the clerks of court or jury commissioners to determine which voters are under 21 years of age and then to delete such names before making the random selection required by law. In the opinion of the committee this would be an unnecessary and costly addition to the administrative and clerical process in each of the 93 districts throughout the United States.

Section 1863 of the Jury Selection and Service Act requires each district court to prepare and file with the Administrative Office of the U.S. Courts a random jury selection plan which has been approved by the judicial council of the circuit within which the district court is located. An approved plan may be modified thereafter. The Judicial Conference of the United States has the power to adopt rules and regulations governing the provisions and operation of these jury plans.

Section 1863(b)(4) of the act requires each plan to provide for periodic emptying and refilling of the master jury wheel at specified time intervals in order to assure the relative currency of the jury list. At the present time a rule of the Judicial Conference requires emptying and refilling of the master jury wheel at an interval no greater than every 4 years. However, some of the plans on file, on inspection by committee staff, were found to specify intervals of 5 and 8 years, although the vast majority specified 4 years or less. The committee believes that 4 years should be the maximum refilling interval permitted and, therefore, it recommends an amendment to this effect in section 2 of this bill, as amended.

A hearing on this measure was held on July 29, 1971. Testimony from sponsors of this bill pointed out that under the American legal system the jury is a vital ingredient of our system of justice and as such it infuses an innate sense of justice from 12 representatives of the community and that frequently this protects individuals and the community from the strictures and/or technicalities of our laws. Evidence disclosed that approximately 18 percent of the criminal defendants convicted in the U.S. district courts are 21 or younger in age. A witness from the Department of Justice appeared in support of the bill and testified that it was "logical that the Congress give them (18- 19- and 20-year-old persons) the responsibility of a citizen to serve on juries in Federal courts." The Administrative Office of the U.S. Courts also supports the bill and the recommended amendment.

The committee recognizes that universal suffrage and jury service are the chief governmental functions in which our citizens have a direct and active part; that the duty to serve on a jury should be regarded as a correlative to the right to vote; and that inclusion of citizens of the ages 18, 19, and 20 years in both of these governmental functions will enhance the viability of our democratic system of government. The committee also believes that as long as persons over 18 years of age are amenable to the civil and criminal laws of the United States that persons of and over that age should be qualified to serve on juries in our courts. The principles of our system of justice which require a "jury of one's peers" and which require that jury to be selected from "a fair cross section of the community" virtually compel favorable consideration of this bill.

EXPLANATION OF AMENDMENT

The committee proposes the following amendment to the bill:

Strike subsection (b) of the bill and substitute in lieu thereof the following:

(b) Each plan, except in the District of Columbia, Puerto Rico, and the Canal Zone, shall be modified by appropriate change of the periodic emptying and refilling date to require that voter registration lists or lists of actual voters from the November 1972 general election be used to refill the master jury wheel or qualified jury wheel not later than December 31, 1973.

SEC. 2. Section 1863(b)(4) of title 28, United States Code, is amended by inserting before the period at the end thereof, ", the interval for which shall not exceed four years".

SEC. 3. The amendments made by section 1(a) and by section 2 of this Act shall not affect the composition of any master jury wheel, qualified jury wheel, or jury panel in existence on the date of enactment of this Act and the use of the names in such existing jury wheels or on lists of qualified jurors is hereby authorized until the next emptying and refilling of the master jury wheel and qualification of prospective jurors therefrom as required by this Act.

Committee staff by inspection of all 93 jury selection plans determined the date, as specified in each plan, when the district would next undertake the required periodic emptying and refilling of the master jury wheel. The number for each of the years 1971 through 1974 are tabulated as follows:

	Districts
1971	10
1972 (preelection date)	40
1972 (postelection date)	23
1973	17
1974	3

Assuming a 4-year periodic time interval for refilling, the 50 districts which are scheduled to refill prior to the November 1972 general election would not refill again until 1975 or 1976. Even at that time "the most recent general election" would likely be a State general election in which the voter participation would probably be less that in the national election in November 1972. Thus, the cross section obtained from voter lists obtained from a State election in 1973 or 1974 would probably be less a fair representation of the community than a cross section obtained from voter lists from the 1972 presidential election.

Section 1(b) of the bill as amended would require those 50 districts scheduled to refill prior to the 1972 election and those three districts scheduled for the year 1974 to modify their respective jury selection plans so as to require that the voter registration list or actual voter list from the November 1972 general election shall be used to refill the master jury wheel not later than December 31, 1973. The other 40 districts which are scheduled to refill the jury wheel after the November 1972 election and during the year 1973 would not necessarily have to modify their plan.

For example, a district in which the next refilling would occur early in 1972 could modify its plan and delay the refilling until after the November 1972 election. This assumes that the court would have a sufficient number of jurors obtainable from the existing master jury wheel or supplements thereto. Thus, such a district would not have to repeat the random jury selection process twice within a short period of time.

Section 2 of the bill, as amended, also requires each district to empty and refill its master jury wheel at least every 4 years after it is refilled between November 1972 and December 31, 1973.

The effect of section 3 of the bill as amended is to permit the use of master jury wheels, lists of qualified jurors and jury panels in existence on the date of enactment of this bill until the next refilling of the master jury wheel as specified in an approved plan or in such a plan as modified in accordance with section 1(b) of the bill.

The committee also gave consideration to the desirability of an amendment to expressly excuse from jury service a person who was enrolled as a student and whose education would be adversely affected or interrupted by jury service. While it was the sense of the committee that it was undersirable to call students for jury service at a time in the school year when their course of studies would be adversely affected, it was felt that the existing statutory provision for excusing jurors was adequate to cover the situation. Under section 1863(b)(5), title 28, the jury selection plan in each district may "specify those groups of persons or occupational classes whose members shall, on individual request therefor, be excused from jury service." Also under section 1866(c), title 28, the court can excuse any person summoned for jury service, upon a showing of undue hardship or extreme inconvenience, for such period as the court deems necessary.

THE PRESIDENT IS NOT BLUFFING

Mr. SCOTT. Mr. President, there has been a great deal of speculation about whether the President is bluffing as to whether he will or will not permit the tax bill to become law with his signature. The President is not bluffing. He will veto the bill if the features to which he has announced his objection are in the bill. This means, of course, that we will then again have to face the problem.

Mr. President, the Democratic leadership is busily spreading the word that the President is bluffing about the tax bill veto. This is obviously a desperate move to hold the conferees in line.

They had better not think the President is bluffing. He did not bluff on other measures that he said he would veto—and these vetoes were later sustained. This veto will be sustained.

Believe me, I know the President.

If the Democratic slush fund is not removed from the bill we are going to have to sit down to the long and arduous business of constructing a tax bill that makes sense and does not grab the taxpayers' dollars.

THE TAX BILL

Mr. MANSFIELD. Mr. President, there has been a great deal of talk about a veto of the tax bill which passed the Senate last week and is now in conference. I would remind my colleagues that first of all, the conferees have not completed their work on the proposal so any talk of veto is at best premature. But more importantly, the Senate set aside all major business to accommodate and cooperate with the President in an effort to get this measure to conference. The proposai is absolutely vital in its purpose to restore the economic health by means of a tax stimulus. It is obvious from the stock market from continued inflation and unemployment and other indicators that the need for action is now and, in the national interest cannot be denied much longer.

I am confident that the President continues to recognize the importance of the bill to the Nation's economic health and well-being. I hope it will not be viewed merely as a measure in political partisan context.

It is unfortunate that one issue, concerning election financing, arose in that way. It was not intended. It is the first step—and a modest step at that—designed to restore the election process to the people; taking the candidate out of the position of becoming just another economic investment for the very wealthy interests of the Nation. The partisan nature of this issue will not last. The issue rises above that.

If there is a veto—and I can only assume there will be on the basis of statements made by responsible officials in the White House—it is difficult to say, in the mood of Congress, that this tax proposal could be resurrected in any form. If there is a veto for the reason stated it surely will be exercised for a reason other than what is in the national interest.

It is hope, therefore, that the constant daily talk of a veto will be terminated as soon as possible, that the bill when reported by the conference will be looked at on the basis of its merits, and that the recognition of the Nation's economy and the need to do something will become more apparent and will be the deciding and dominant factor.

ORDER OF BUSINESS

Mr. SCOTT. Mr. President, I ask unanimous consent that I may proceed for 3 minutes.

Mr. BYRD of West Virginia. Mr. President, will the Senator allow me to yield him 3 minutes from my time?

Mr. SCOTT. Yes.

The PRESIDENT pro tempore. Under the previous order the Senator from West Virginia is recognized for 15 minutes.

Mr. BYRD of West Virginia. I yield to the distinguished Senator from Pennsylvania whatever time he needs.

Mr. SCOTT. I thank the Senator. I shall not be long.

THE PRESIDENT'S THREAT TO VETO THE TAX BILL

Mr. SCOTT. Mr. President, I think that what the President has said already with regard to the fact that the tax bill as it left the Senate was excessive and drained off too much revenue has served a very, very important cause; namely, the saving to the Treasury of what otherwise would have been a loss of an estimated $12 billion or more of revenue. So already something has been accomplished, and it would do no good to say that it was an idle threat or that the President has not accomplished this or saved the money for the purpose of approaching more nearly a balanced fiscal situation.

Second, if in his judgment he feels the bill is still not acceptable, he is duty bound to veto it. If he does, I cannot imagine Congress refusing to pass tax reforms which are so much needed by taxpayers, many of which—most of which—remain in the bill. I do not believe Congress would be viewed by the people as responsible if it failed to pass such a bill, no matter how long we had to stay here to do it and whether or not we had to have a special session to do it.

So I think we will responsibly pass a bill. We will not deny tax reforms to the people of America. But I hope the conferees, meeting again today, will eliminate objectionable sections, and then we would all be happy to go home.

The PRESIDENT pro tempore. The Senator from West Virginia is recognized.

THE INDIA-PAKISTAN CONFLICT

Mr. BYRD of West Virginia. Mr. President, the conflicting reports and claims and counterclaims emanating from both sides in the current India-Pakistan dispute make it impossible for anyone to reach accurate conclusions as to the scope of the fighting or the responsibility for its exacerbation. All that can be said with certainty is that men are dying on both sides and that what started only a few weeks ago as the putting down of an insurrection or, as the East Bengalis claim, a freedom movement, bids fair to develop into full-scale war, with the very real danger of involving the United States, the Soviet Union, and Communist China.

President Nixon has interceded with the Governments of India, Pakistan, and Soviet Russia in an attempt to halt hostilities. It has been suggested that the dispute be made the immediate order of business before the Security Council of the United Nations. But while the wheels of diplomacy make their slow revolutions, the pace of war quickens. It is reported that Indian Army troops are now making deeper and deeper incursions into East Pakistan at the request of the Bangla Desh, or Bengal Nation, as the secessionists call themselves, and for the more military purpose of silencing the Pakistani guns that the Indians claim are shelling villages on the Indian side of the Bengali border.

The U.S. Senate is not the place nor is the information available sufficient for me to castigate or sympathize with one side or the other in this most recent flare-up of old enmities, but it seems to me important that we bear in mind the admonition the past is prolog.

When Great Britain withdrew from India in 1947 and the partition of the subcontinent created India, and Pakistan, there were many people wise in the ways of Hindus and Muslims, who expressed grave apprehension that India would ever accept the permanence of the eastern wing of Pakistan. East Bengal, as a part of Pakistan, was once described by the late Prime Minister Nehru as "politically nonsensical and geographically ludicrous." I am inclined to believe that Mr. Nehru's view is still widely held in the councils of state in New Delhi. Not that India has a corner on covetousness. Almost a quarter of a century after the Hindu Maharaja of Kashmir ceded his state to India against the wishes of his large Muslim population majority, Pakistan still casts envious looks at Kashmir and has never really accepted the state as a part of India. The simple truth is, Mr. President, that the troubles which are tearing East Bengal apart today are a part of the harvest so indiscriminately sown in August 1947. I would have hoped that almost 25 years of independence and political, diplomatic, commercial, and social intercourse with other nations of the world would have tempered to some degree the centuries-old jealousies and distrust that have characterized the subcontinent, but recent events in East Bengal make it abundantly clear that the old order changeth little.

It is relevant to ask what, if anything, the United States can do to persuade the antagonists to cease and desist and go about the humanitarian business of alleviating the unspeakable misery of millions of human beings engulfed in the conflict. We have already given much, both unilaterally and through the United Nations, in the way of food, clothing, and medical supplies for refugees on both sides of the East Bengal border. We have tried and even now are trying, through our diplomatic missions in New Delhi and Islamabad, to persuade India and Pakistan to stop shooting and start talking, but this can be achieved only if there are goodwill and a genuine desire to do so on both sides.

I am very much afraid that these two elements are missing. They are missing on the Pakistan side because, rightly or wrongly, the Pakistanis believe that the cornerstone of India's foreign policy was and is the elimination of Pakistan as a viable entity and the reversion of the subcontinent to one country under Hindu domination. They are missing on the India side because India has never become reconciled to a divided Bengal and desperately wants the bountifully fertile area of the Punjab that went to West Pakistan at partition. With the addition of the Punjab granary, India could come close to feeding her population without having to depend on imports. With the addition of East Bengal, India's economy would benefit immensely from the rich jute and rice crops of the delta and the bonus of a fine deep-sea port at Chittagong. And these, Mr. President, are the stakes that are being played for. Since the tragically sudden death of Mohammed Ali Jinnah, Pakistan's architect and first President, and the assassination of his successor Liaquat Ali Khan, the intensity of feeling and determination of the people of Pakistan to maintain their country has reached a fanatical level. There is not the slightest doubt in my mind that if India, or indeed any other aggressor, seeks to subjugate Pakistan, the Pakistanis will fight, and a full-scale war, even if it were confined to the subcontinent, would result in a slaughter too horrible to contemplate. It is sometimes forgotten that India, next to Indonesia and Pakistan, has the third largest Muslim population in the world. Approximately 60 million Muslims live in India. Approximately 11 million non-Muslims, the majority of whom are Hindus, live in Pakistan. One has only to cast one's mind back to the horrors of the months immediately following partition when the great Hindu-Muslim migrations took place, in order to foresee the inevitable. If reports of certain actions in East Bengal in the past few weeks are true, they are the harbinger.

As I mentioned earlier in this statement, accurate information is scanty and conclusions are therefore imprudent, but my guess would be that if India is not actively assisting the East Pakistan guerrillas, against the Pakistan Government forces in East Bengal neither is she hindering them. Pakistan is reported to have 80,000 men in East Bengal. This is a significant number to be detached from the main forces of the Pakistan Army on the India-West Pakistan border. As long as they are occupied by present or increased guerrilla activity in East Bengal, the less chance there is for Pakistan retaliation in the West, which might well be a part of Indian strategy. At the same time, the bogging-down of these experienced troops elsewhere might just encourage India to try a little adventure along the Punjab and Sind frontiers. As we all know, the easiest thing in the world to manufacture is an excuse. India's reluctance, up to this point, to allow full and free media coverage of events and incidents on her side of the border makes such an excuse easier to contrive and fuller coverage is much to be desired.

India and Pakistan have had their skirmishes before and in all probability will continue to have them. Skirmishes we can live with. All-out war we must do our best to prevent at all costs. But the United States cannot do this alone. We need the good offices of countries which have as big a stake in peace on the Indian subcontinent as we have. It is coincidental—perhaps providential—that Communist China has just become a member of the United Nations. She has common borders with India and with Pakistan in northern Kashmir. This might be an excellent opportunity for the United Nation's newest member to show her good faith to the principles of the U.N. Charter by interceding actively with both sides in the dispute for the cause of peace. Communist China has already appealed to both sides to stop shooting. It is to be hoped that she will continue her efforts which would be an auspicious entry into the family of nations.

But if Communist China and the Soviet Union do not see fit to participate in the efforts to avoid a major confrontation between India and Pakistan, that does not absolve the United States from doing all in our power, through the Security Council or in concert with other world powers—but not involving U.S. military forces—to prevent what would be a holocaust of horrifying proportions. The killing on the battlefield would be bad enough. The killing in the cities and in the countryside would be even more appalling.

Mr. President, have I any time remaining?

The PRESIDENT pro tempore. The Senator has 5 minutes remaining.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum, without prejudice to the Senator who will follow.

The PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Under the previous order, the Senator from New York (Mr. BUCKLEY) is recognized for 15 minutes.

SUPREME COURT NOMINATIONS

Mr. BUCKLEY. Mr. President, the Senate will be called upon shortly to give its advice and consent to the nominations of Lewis Powell and William Rehnquist to the Supreme Court. These nominations come forward at a moment of critical importance in the history of the Court and of the Nation, and have therefore aroused exceptional public interest. This interest is, I believe, equally the product of reverence and of concern:

Of reverence, because the Court has always occupied a special place in the hearts of the American people as that institution which uniquely marks the Government of the United States as a government of laws and not of men.

But of concern also, Mr. President, because so many Americans, rightly or wrongly, have come to believe that in recent years the High Court has too often abandoned that judicial impartiality which is essential to the rule of law; and this at a time when the public is so deeply distressed by the spirit of lawlessness which seems to have insinuated itself into so many areas of our daily lives.

We are confronted, Mr. President, by a crisis in our legal order, a crisis which manifests itself not only in widespread disobedience but also in the seeming inability or unwillingness of our courts to do much about it. This, in turn, has occasioned a rather marked and dangerous decline in public esteem for the judicial process. Nor is the public likely to be dissuaded of this view as long as it continues to be confronted by judicial opinions which appear to be ideologically motivated or capriciously reasoned; or as long as it continues to be confronted by that seeming abandonment of "judicial restraint" on the part of the Supreme Court which in 1958 drew so sharp a rebuke from the chief justices of 36 States.

The oldest political wisdom teaches us, Mr. President, that a widely held public opinion, especially in a democracy, cannot safely be disregarded. When, therefore, public opinion reveals a loss of confidence in the judicial process, it behooves us to exercise with special care our constitutional authority to advise and consent to nominations to the highest court in the land.

Much debate has been heard in recent weeks on the nature and extent of the Senate's prerogatives in passing upon the qualifications of judicial nominees. Some hold that it is improper for the Senate to inquire into the personal views of nominees; others hold that it is not only proper but necessary to undertake such an inquiry in detail. My own view, Mr. President, is that it is as unwise to err on one side as on the other. Those who would foreclose such an inquiry altogether grant too much to the President's prerogatives and too little to those of the Senate. On the other hand, those who would subject a nominee to an ordeal by ideological combat endanger the integrity and independence of the judiciary and open themselves to the charge of personal or political motivation. A recent column by Mr. Tom Wicker put the matter well:

> On the one hand, the writers of the Constitution, in giving the Senate the power to confirm or reject Presidential nominees to the judiciary, clearly meant the legislative branch to play a substantive role with the executive branch in this process. The Senate has the right, therefore, to judge for itself the qualifications of a man to sit on the Supreme Court.
>
> On the other hand, to make that judgment solely on the basis of his political views (which, after all, may change) is dangerous business . . . It would tend to politicize the courts according to the temporary political coloration of Congress; it could punish some individuals for their ideas and frighten others out of having any.

The Senate clearly has the constitutional authority to require what it will of judicial nominees. But having said that, we have only stated a problem, not solved it. For the question is not one of power or prerogative, but of prudence and propriety. Certainly, the Senate cannot blind itself to the ways in which the general character of a man's thought will bear upon his future role as a judge. A limited inquiry would be justified, therefore, into such aspects of a man's political philosophy as may be relevant to his service upon the Court. After such an inquiry, the Senate would be right to reject a man who was so ideologically or politically committed as to be incapable of exercising the judicial function, which, if nothing else, requires both the ability and the willingness to subordinate personal preference to the mandates of the law. Such an inquiry, however, also entails certain dangers, and the greatness of these is that the question of confirmation will be made to hang by approval or disapproval of a nominee's viewpoint on specific issues.

Mr. President, I believe that it would be as wrong to support or oppose a nominee because of his views on specific constitutional issues as it would be foolish to expect that a nominee will behave like an automaton once he dons the robe. The history of the Court is replete with examples of men who underwent profound changes of opinion during the course of their judicial service. The most conspicuous example in our own time, perhaps, was provided by the late Mr. Justice Black, who shed not only the petty prejudices of his Ku Klux Klan associations but also some of his passionately held New Deal convictions. Indeed, during the Teapot Dome investigations, the then Senator Black expressed views on the rights of witnesses before congressional committees that Mr. Justice Black would have found inimical to the letter and spirit of the first amendment. Similarly, few who knew of Professor Frankfurter's scholarly and polemical writings or of his extensive political involvements would have predicted at the time of his confirmation that he would emerge, as Mr. Justice Frankfurter, as the most eloquent, informed exponent of judicial restraint in our time. Mr. Rehnquist in his confirmation hearing, I thought, put the matter rather well:

> I have always felt that, as I think Justice Frankfurter said, you inevitably take yourself and your background with you to the Court. There is no way you can avoid it. But I think it was Frankfurter who also said, if putting on the robe does not change a man, there is something wrong with the man. I subscribe unreservedly to that philosophy, that when you put on the robe, you are not there to enforce your own notions as to what is desirable public policy. You are there to construe as objectively as you possibly can the Constitution of the United States, the statutes of Congress, and whatever relevant legal materials there may be in the case before you.

That remark, Mr. President, says as much about the character of William Rehnquist as it does about the risk the Senate runs in conducting an inquiry into a nominee's political opinions. And, in a sense, it says as much as the Senate really needs to know in order to exercise its constitutional responsibility with regard to Mr. Rehnquist. Mr. Rehnquist's statement, it seems to me, sounds just the right note. It reveals the depth of his fidelity to the principles and procedures of constitutional discourse, and as well that eloquence and capacity for intellectual growth that we have come to associate with our greatest Justices. It also serves to remind those who would interject ideological considerations into the confirmation process that they are in effect asking a nominee to violate his oath of office before he takes it.

Mr. President, it is the duty of the Senate to pay special scrutiny to those who are nominated to sit upon the High Court. And in the present instance, I believe that special scrutiny has been paid to the men whose names will shortly be presented to us for consideration. Their lives, characters, talents, and personal opinions have been combed and culled with meticulous care. On the basis of the record before us at the present time, Lewis Powell and William Rehnquist would appear to be exceptionally well qualified to sit upon the Supreme Court. Both are men of great learning and legal sophistication. Both are men of unimpeachable character. Both have revealed by word and deed their understanding of and their fidelity to the Constitution. Both have evidenced their acute awareness of the special burdens and grave responsibilities entailed by service on the Court. Both have expressed their great sensitivity to the difference between advocacy on behalf of a client and the assumption of a sacred trust on behalf of a whole nation. Both have made a special effort to demonstrate their understanding of the difference between partisan ideology and constitutional principle.

This last is no small matter. For the Court has suffered in recent years from an excess of zeal on behalf of doctrines that derives from ideological conviction rather than from constitutional principle; a zeal which has moved dissenting Justices in countless opinions to criticize the Court in language as harsh as any which has been directed against it from the outside. To cite a few examples:

Mr. Justice Black in Harper against Virginia Board of Elections:

> The Court's justification for consulting its own notions rather than following the original meaning of the Constitution, as I would, apparently is based on the belief of the majority of the Court that for this Court to be bound by the original meaning of the Constitution is an intolerable and debilitating evil . . . It seems to me that this is an attack not only on the great value of our Constitution itself but also on the concept of a written Constitution which is to survive through the years as originally written unless changed through the amendment process which the Framers wisely provided.

Mr. Justice Frankfurter in Baker against Carr:

> Such a massive repudiation of the experience of our whole past in asserting destructively novel judicial power demands a detailed analysis of the role of this Court in our Constitutional scheme.

Mr. Justice Stewart in Escobedo against the State of Illinois:

> Supported by no stronger authority than its own rhetoric, the Court today converts a routine police investigation of an unsolved murder into a distorted analogue of a judicial trial . . . I think the Court perverts those precious Constitutional guarantees and frustrates the vital interest of Society in preserving the legitimate and proper functions of honest and purposeful police investigation.

Mr. Justice Harlan in Reynolds against Sims:

> The Court's elaboration of its new "constitutional" doctrine indicates how far—and how unwisely—it has strayed from the appropriate bounds of its authority . . . It is difficult to imagine a more intolerable and inappropriate interference by the judiciary with the independent legislatures of the states . . . When, in the name of Constitutional interpretation, the Court adds something to the Constitution that was deliberately excluded from it, the Court in reality substitutes its views of what should be so for the amending process.

However well intentioned, this activist zeal has not only served to undermine the judicial process, it has undermined public confidence in the stability of the law and of the Court itself. There are already encouraging signs, however, that the Court is beginning to curb its past excesses; and we have every reason to expect that the addition of Mr. Powell and Mr. Rehnquist will contribute to the restoration of constitutional common sense.

While men of moderate disposition will, I believe, support both Mr. Powell and Mr. Rehnquist for precisely this reason, there are others who seek to brand Mr. Rehnquist as an "extremist." During the past few weeks, Mr. Rehnquist has had his reputation slandered by an avalanche of rumor, half-truth, slur, and innuendo. Some of his opponents seek to defend themselves, in turn, against the charge of partisan or political motivation by indicating their approval of Mr. Powell—even though, they feel it necessary to add, he is a "conservative." This tactic, Mr. President, is bound to fail, for the most sensitive jurisprudential seismograph in the country will not be able to record any substantial difference between the considered views of Mr. Powell and those of Mr. Rehnquist. And the considered views of both are well within the mainstream of respectable constitutional discourse.

This fact Mr. Rehnquist's opponents are, of course, at great pains to deny. The New York Times, for example, tried very hard 2 weeks ago in an editorial which castigated Mr. Rehnquist as a "radical rightist." Precisely what is meant by this venomous sobriquet remains a matter of some mystery. A resort to name-calling, of course, is the ultimate tactic of those who have abandoned resort to reason. It is fully the right of the Times' to oppose Mr. Rehnquist; but it is equally the right of fair-minded men, even those who may otherwise oppose Mr. Rhenquist, to take the strongest possible exception to the rhetorical excesses of the Times.

The editorial in question is conveniently vague as to the reasons why the Times considers Mr. Rehnquist to be beyond the pale of acceptable constitutional thinking. Such specificity as the Times managed to convey was admirably refuted in a letter to the Times from the distinguished ranking minority member of the Judiciary Committee, Senator HRUSKA. For the sake of the record, Mr. President, I ask unanimous consent that the Times editorial, along with Senator HRUSKA's response, be printed at the end of my remarks.

The PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BUCKLEY. Mr. President, I also ask unanimous consent to have printed at the conclusion of my remarks a recent letter addressed to the distinguished chairman of the Judiciary Committee (Mr. EASTLAND), a copy of which was sent to me. It is a letter from a constituent, Prof. Benno C. Schmidt, Jr., of the Columbia University School of Law.

The PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 2.)

Mr. BUCKLEY. Mr. President, Professor Schmidt, as it happens, is well acquainted with Mr. Rehnquist, having worked closely with him for nearly 5 months in the Office of Legal Counsel. It also happens that Professor Schmidt greatly admires former Chief Justice Warren and disagrees with Mr. Rehnquist on a number of constitutional questions. He was, nevertheless, moved to write because of what he describes as the "extravagant denunciation" of Mr. Rehnquist "by groups and persons with whom I am usually in accord." Professor Schmidt points out most eloquently, I think, those qualities of mind and character that caused Mr. Rehnquist to be nominated in the first place. He states:

> I believe no fairminded person could doubt Mr. Rehnquist's exceptional intellectual qualifications to sit at the highest level of our judicial system.
>
> In my work with Mr. Rehnquist he seemed to me unusually open-minded and free of reliance upon dogma in dealing with constitutional questions. His approach to legal problems is highly discriminating; few persons in my experience have exhibited more alert skepticism as to the utility of sweeping generalizations and ideological positions. Always I had the impression that careful analysis governed his response to legal questions.
>
> Mr. Rehnquist approaches legal issues with the utmost forcefulness and honesty. In our work together, he was open to reasoned persuasion, tolerant and respectful of my quite different constitutional and political outlook, and ever willing to examine his position in the light of the fullest possible analysis of facts and legal principles.
>
> Candor, openness to argument, and forcefulness of logic and expression are critically important to the performance of the Supreme Court, with its unique and delicate power of constitutional review. I believe Mr. Rehnquist's appointment will help restore these necessities of judicial process, sadly diminished by recent events and losses from the Court.

This is high praise, indeed, Mr. President, coming as it does from one who believes that Mr. Rehnquist's positions on matters before the Court may often be opposed to his own. It is as much a tribute to the man who wrote it as it is to the man about whom it was written. I congratulate Professor Schmidt for his scrupulous fairmindedness, and in doing so cannot help thinking that if constitutional discourse were to be marked by the same civility, disinterestedness, and reverence for this law that mark his letter, we would all be much less concerned about the political views of nominees.

The spirit which animates Professor Schmidt, unfortunately, does not animate the writers of New York Times editorials. The general thrust of their indictment is that Mr. Rehnquist's views—views, incidentally, that were for the most part expressed in his adversary capacity as legal counsel to the President—bespeak a callous disregard for the Bill of Rights. While the editorial nowhere specifies what Mr. Rehnquist's views are, it does allude to a number of issues—for example, wiretapping, surveillance, "no knock" entry, preventive detention—on which Mr. Rehnquist's views are alleged to be contrary to what the Times calls "broadly accepted principles of American constitutional democracy." The merits of Mr. Rehnquist's views aside for the moment, what the Times has, in effect, done is to assert that, on certain specified issues, respectable opinion is so virtually unanimous that to dissent from that opinion is to place oneself outside the mainstream of "broadly accepted" constitutional principles and to betray a mentality that, as the Times puts it, "neither reveres nor understands the Bill of Rights."

With all due respect for my brethren on the Times, I must wholeheartedly dissent.

In the first place, I feel constrained to point out that, notwithstanding my own deep and abiding affection for the Bill of Rights—and, if the Times will forgive me, I believe I have some understanding of it as well—the Constitution is not coextensive with the Bill of Rights; nor is the meaning of the Bill of Rights coextensive with the Times' understanding of it. The Bill of Rights is an integral and indispensable part of the Constitution; but, like all parts of the Constitution, it must be read in the light of the Great Charter as a whole. The Constitution as a whole is dedicated not only to the securing of the blessing of liberty but also—and no less so—to those equally noble and important purposes enumerated in the Preamble:

> To form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general welfare . . .

It is no easy matter, Mr. President, to delineate with precision the meaning of these grand phrases, or of those equally grand phrases contained in the Bill of Rights—phrases such as "due process of law," or "abridging the freedom of speech, or of the press," or "the right to a speedy and public trial," or "the right to be secure against unreasonable searches and seizures," or the prohibition against "excessive bail." These phrases do not come equipped with some sort of jurisprudential litmus paper that can be dipped into the circumstantial vat to produce a constitutional result.

The meaning of the Constitution in any given circumstance can be problematic—problematic enough, in fact, to give rise to countless 5-to-4 decisions on constitutional questions. Yet the Times not only implies that the Bill of Rights is all that is finally important in the Constitution, but that its reading of the Bill of Rights—an exclusively libertarian reading—defines the limits of constitutional discourse on the subject. One, therefore, suspects that what the Times chiefly dislikes in Mr. Rehnquist—aside from the fact that he has been an advocate on behalf of an administration for which the Times has little use—is his refusal to acknowledge that certain fashionably prevalent views on civil liberty, views espoused most ardently by the Times, ought to be taken as settled constitutional writ. On every specific issue alluded to by the Times as marking Mr. Rehnquist's apostasy from constitutional fidelity, Mr. Rehnquist's views, upon examination, turn out to be infinitely less alarming than the Times' self-righteous certitude.

On wiretapping, for example. The opposition of the Times to Mr. Rehnquist on this point is unrelated, presumably, to his position on wiretaps under title 3 of the Omnibus Crime Control and Safe Streets Act of 1968, since even Senator BAYH voted in favor of the measure. And presumably, it is also unrelated to his position on wiretapping in national security cases involving foreign espionage agents, since that position has been defended by every Attorney General and President since the days of Franklin Roosevelt. Rather, the Times' opposition relates exclusively to his position on wiretapping in what is loosely called "internal security cases." But even there, the authority for warrantless wiretaps claimed by Mr. Rehnquist is scarcely different from the authority claimed by every administration since that of President Truman, including the Kennedy administration. Mr. Rehnquist has advocated only that the logic which would authorize warrantless wiretaps in national security cases applies also to "internal security" cases involving domestic subversives. It is an argument which, whatever one may feel about it on the merits, is not unreasonable. It may be unwise or unnecessary for the Government to have such power, but that is an argument, surely, on which reasonable men—men equally devoted to the preservation of liberty—can agree.

On domestic surveillance, for example, Mr. Rehnquist's position is simply that Government surveillance is subject to the restrictions of the first, fourth, fifth, and 14th amendments. With that argument, presumably, even the Times would not disagree. What the Times seems unwilling to abide, however, is Mr. Rehnquist's argument that surveillance does not constitute a per se violation of any provision of the Bill of Rights. Again, such an argument is not unreasonable upon its face. Mr. Rehnquist is here taking a stand as a strict constructionist by saying that not every dangerous or unwise governmental undertaking is necessarily a violation of the Constitution. In the present instance, that argument may prove to be imprudent; but I for one am not prepared to say that the man who makes it is an enemy of liberty.

On preventive detention, for example. Here, Mr. Rehnquist's position is simply that the preventive detention of persons charged with felonies of a dangerous or violent nature does not conflict with either the eighth amendment's prohibition against excessive bail or the fifth amendment's due process clause. Now preventive detention may prove to be unworkable or undesirable for other reasons, but Mr. Rehnquist's argument, again, is hardly unreasonable on its face. It is hardly the mark of an authoritarian zealot.

On no knock, for example. The Times' opposition seems to derive from Mr. Rehnquist's defense of the no knock provisions of the D.C. Court Reform and Criminal Procedure Act of 1970. While there are those who disagree with the constitutionality and wisdom of this provision—the most prominent among these being the distinguished Senator from North Carolina (Mr. ERVIN)—Mr. Rehnquist—and, presumably, the majority in Congress which voted its enactment—has taken the position that it is nothing more than a codification of constitutional law, and of practices condoned by the Court itself in Ker against California. Whether Senator ERVIN or Mr. Rehnquist is correct is less important for the moment than the recognition of the fact that their disagreement is a reasonable one, one in which the partisans of liberty may be found on either side. And I think it worthy of at least a passing reference that Senator ERVIN—who yields to no one in his love of liberty—has indicated that he will support the nomination of Mr. Rehnquist.

I do not here pass on the merits of Mr. Rehnquist's views on any of these issues. For one thing, they are views expressed in his capacity as an advocate for the administration; and Mr. Rehnquist has made it abundantly clear that his views as a member of the Court will not be unduly influenced by his views expressed in an adversary capacity. But, more importantly, Mr. Rehnquist's views, whether or not they eventually prevail upon the whole Court, are in no wise so shocking to constitutional sensibilities that they are, as the Times would have it, beyond the pale. On every controversial issue alluded to by the Times as demonstrating Mr. Rehnquist's animosity toward the Bill of Rights, there are many—many, indeed, in this very body—who share, and many more who are certainly not offended by, Mr. Rehnquist's views. It should be unnecessary to have to say it, but good and decent men can and do differ on a wide variety of constitutional issues, and they ought to be able to do so without having their views castigated as noxious to the Constitution. The civil libertarian view of the Constitution and of the Bill of Rights so predominant at the Times is not without its merits; indeed, it has an important, even essential part to play in the conduct of American constitutional discourse. But neither nature nor experience—nor the Constitution—has bestowed upon the Times any special stock of constitutional wisdom that all good men are bound to follow lest they risk being adjudged enemies of liberty.

The Times lays it down that the overriding test for a nominee is that he "not be hostile to the broadly accepted principles of American constitutional democracy." With such a requirement, no reasonable man can disagree. The Times neglects to point out, however, that one of the chief faults of the Court's work in recent years has to do precisely with its failure to articulate clearly and consistently the nature of the constitutional principles before it. The Court has upset so many precedents and undertaken to write new law in so many areas that it is something of a problem anymore to say what is or is not broadly accepted. As I have already suggested, the problem of determing the meaning of the Constitution in any given case is no easy matter in any event: There are simply too many issues on which thoughtful differences of opinion can be entertained. But the difficulty of this task has been considerably complicated by the instability of the Court itself, both as to the substance of its decisions and as to the mode of their presentation.

I was greatly impressed in this regard by the recent remarks of the distinguished senior Senator from Arkansas (Mr. McCLELLAN) who stated that since 1960, in the area of criminal justice alone—

> The Supreme Court has specifically overruled or explicitly rejected the reasoning of no less than 29 of its own precedents, often by the narrowest of five-to-four margins. In 1967, the high watermark of this tendency to set aside precedent, the Court overturned no less than eleven prior decisions. Twenty-one of the twenty-nine decisions the Court overruled involved a change in constitutional doctrine—accomplished without invoking the prescribed procedures for the adoption of a constitutional amendment. Seven of these represented a new reading of old statutory language—accomplished without the intervening of Congressional action and Presidential approval. And this is the significant point: 26 of those 29 decisions were handed down in favor of a criminal defendant, usually one conceded to be guilty on the facts.

These are disturbing figures, Mr. President. They reveal with a simplicity and clarity that no merely ideological argument can match just why it is that thoughtful friends of the Court, liberal and conservative alike, have been deeply troubled. They reveal just why it is that esteem for the judicial process in general and for the Supreme Court in particular has fallen to an unacceptably low level. I stand with the Times in requiring of nominees strict adherence to "broadly accepted" constitutional principles. But I question just how "broadly accepted" any constitutional principle can be in the face of assaults by the Court itself on its own precedents. If the maintenance of boadly accepted principle is the chief goal of the Times, then one is bound to wonder why the Times is so passionate in its opposition to Mr. Rehnquist, who has in a number of areas undertaken to suggest that the Court itself has strayed from what was only a few years ago widely understood as "broadly accepted" constitutional principle.

Mr. President, I believe the record will bear out the fact that Mr. Rehnquist's views on the role of a Supreme Court Justice reveal neither a radical departure from precedent nor an intolerable divergence from respectable present-day opinion. At this point, I think it would be well to permit Mr. Rehnquist to speak for himself. I quote from the mimeographed transcript of testimony before the Judiciary Committee, at page 43:

> Senator HART. Well, this business of balancing the competing interest of the Government against the individual defendant is admittedly enormously difficult, and indeed I suppose it is one of the most difficult aspects of interpreting the Constitution, one of the toughest jobs that the Court has.
>
> And would you agree with me that the assignment has to be approached with as strong a concern for the Bill of Rights as for either the Preamble or the Second Article which creates the Executive Branch?
>
> Mr. REHNQUIST. Unequivocally.
>
> Senator HART. And would you, without hesitancy, protect the constitutional rights of any individual or any group as your sights best enable you to interpret those rights, without any regard to your personal feelings about the particular view or position of the individuals who were asserting such rights?
>
> Mr. REHNQUIST. Without hesitation.

From the transcript, at page 108:

> Senator KENNEDY. Do you think you are a judicial conservative?
>
> Mr. REHNQUIST. Well, let me tell you what I think I am, and then let you decide whether I am a judicial conservative or not.
>
> My notion would be that one attempts to ascertain a constitutional meaning . . . by the use of the language used by the framers, the historical materials available, and the precedents which other Justices of the Supreme Court have decided in cases involving a particular provision.

From the transcript at page 170:

> Senator HRUSKA. My question is this: Do you know of any reason why you could not be successful in shedding and in thrusting to one side any loyalties you may have had in the past, in the interest of extending to the advocates before you, as a member of the Supreme Court, that fairness of decision, and that consideration of the facts and the law which will enable you to make a fair decision, regardless of the color of the skin of the advocate, regardless of their economic position, regardless of any other personality or attributes which they may possess?
>
> Mr. REHNQUIST. I will bend every effort to do so, Senator, and I would regard myself as a failure as a Justice if I were unable to do so.

From the transcript, at page 220, in response to a question touching on his ability to lay aside his personal preferences:

> Mr. REHNQUIST. My hope would be if I were confirmed to divorce as much as possible whatever my own preferences, perhaps as a legislator or as a private citizen would be as to how a particular question should be resolved and address myself simply to what I understand the Constitution and the laws enacted by Congress to require.

And, finally, from the transcript at page 230, that eloquent statement that I had occasion to quote earlier in my remarks:

> Mr. REHNQUIST. I have always felt that, as I think Justice Frankfurter said, you inevitably take yourself and your background with you to the Court. There is no way you can avoid it, but I think it was Frankfurter who also said, if putting on the robe does not change a man, there is something wrong with the man. I subscribe unreservedly to that philosophy, that when you put on the robe, you are not there to enforce your own notions as to what is desirable public policy. You are there to construe as objectively as you possibly can the Constitution of the United States, the statutes of Congress, and whatever relevant legal materials there may be in the case before you.

Mr. President, I put it to the Senate: Are these the views of a so-called radical rightist?

Are these the views of a man who "neither reveres nor understands" the Bill of Rights?

Are these the views of a man who is hostile to "broadly accepted principles of American constitutional democracy?"

The record, Mr. President, speaks for itself.

I wish it were possible to let the matter rest here. Unfortunately, that cannot be the case. For the Times' attack, though unfounded, has contributed to an atmosphere which threatens to obscure from the Senate and the American people those considerations which ought to be of final importance in the confirmation process. What should be important to us is not whether a nominee meets some sort of idological purity test, but whether he possesses such habits of mind and such character as will be conducive to a restoration of public confidence in the judicial process. The judicial process, correctly applied, may from time to time produce results in specific cases that displease many of us; but it would be irresponsible of us to place our own biases above the assurance of that constitutional stability which is so essential to the Nation as a whole. Personal biases, to be sure, can never be wholly excluded from the confirmation process; but the Senate no less than the nominees themselves, ought to keep such biases at as far a remove as possible, since it is only by so doing that we can come to deliberate about the role of the Supreme Court within the American constitutional system. And it is that which I should now like to touch upon.

A curious, but significant fact of Senatorial and public discussion thus far in the confirmation proceedings, is the extent to which both the proponents and the opponents of the nominees tend to assume that they possess the true understanding of genuine constitutional principle. Such debate reveals the unique importance that our people and their representatives continue to attach to considerations of fundamental law. Indeed, it may be said to reveal a reverence for fundamental law that can be found only among a free people. It bespeaks a profound awareness that it is the Constitution which first, last, and always binds us together when we might otherwise fly apart.

It is in this sense that the current debate partakes of the grand tradition of American political discourse, a tradition which began in the debates in Philadelphia in 1787 and which continues, in a more or less unbroken line, right down to our day. It is a tradition quite unlike anything else the world has ever seen or may ever see again. It is peopled with figures who seem to loom larger than life—Madison, Hamilton, Washington, Adams, James Wilson; Jefferson, Webster, Marshall, Story, Lincoln. These are the names of men whose deliberations on the meaning of the Constitution affect our own thoughts and action in profound, if subtle ways. And precisely because these men dedicated their lives to the perpetuation of American political institutions, we have inherited a form of government that permits us to treat their deliberations as part of the living present.

It is this tradition which is, soon or late, recalled when the Senate undertakes to give its advice and consent to nominations to the Supreme Court. For it is the Supreme Court, more than any other American institution, that must forge a bond capable of uniting the past with the present and the present with the future. It is the Court which must articulate the meaning of the grand tradition for ourselves and for our posterity. The tradition recognizes that intelligent differences of opinion can be entertained regarding this or that decision. But the commonly observed disagreement on particular cases, which often derive from a different reading of special facts or circumstances, sometimes disguises a higher fundamental agreement. That agreement, which is or ought to be at the very center of the thinking of those who are elevated to the Court, consists in the understanding that ours is uniquely a government of laws and not of men. It is men, of course, who must interpret the law. But it is the law, and the law alone, which rightly commands the allegiance of free men. It is for this reason that we can in justice demand that those who sit upon the Court demonstrate soundness of character, sobriety of temperament, a willingness to subordinate personal bias, and, above all, a fervent dedication to the intent of the framers as the guiding star of constitutional interpretation.

In the light of the foregoing, Mr. President, I think it would be unwise for the Senate to become preoccupied with contentious disputes on the nominees' views on this or that issue of apparent immediate concern. The interjection of yet further ideological pressure will serve only to advance an opinion already too far advanced that the Court is, or should be, animated by the same passions which animate day-to-day political debate. Issues change; men change. The passionate range of 1 hour may become the moot question of the next. A danger to liberty perceived from one quarter today may give way, unpredictably, to a yet more sinister danger from another quarter tomorrow. The Supreme Court, least of all American institutions, can ill-afford to be swayed by the ideological conflicts of the moment. To be sure, the Court would be foolish to ignore such conflicts altogether; but it would be equally as foolish for the Court to attempt to set its compass by the shifting poles of senatorial or public opinion. Indeed, it is the highest function of the Court precisely to transcend the hotly contested issues of the hour, by viewing them in the light of enduring considerations which are often ignored in the everyday clash of political opinions.

The performance of this task demands great skill on the part of those to whom it is entrusted. And not only skill of a technical or legal sort, but as well an ability to interpret the Constitution in a manner at once flexible and firm; an ability to interpret the Constitution in the light of new problems without making of it a thing of infinite plasticity; an ability to distinguish between slavish devotion to the past and prudential respect for precedent; and, perhaps above all, an ability to deduce from the Constitution those unchanging principles which ought to guide free men confronted by ever-changing circumstance.

Mr. President, I believe that the record leaves no doubt whatever but that Lewis Powell and William Rehnquist possess these skills in the highest degree. And at a time when the Court is suffering from a crisis in public confidence, it is of particular importance that the Court be reinforced by men of their qualifications, by men who understand the requirements of the judicial process.

The viability and authority of the Court depend in the last analysis on its continuing ability to sustain a high degree of public confidence. President Jackson reminded the Court on one occasion that it was without the power to enforce its decrees. We need to remind ourselves again that such power as the Court possesses depends most decisively on one thing above all; namely, its ability to persuade men of widely divergent passions, opinions and interests that its decrees are reasonable, that they are based on an objective application of the law, that they are, therefore, entitled to be obeyed.

This dependence of the Court on the continuing good will of the public was described by that great student of American politics, Alexis de Tocqueville, in the following words:

> The power of the Supreme Court Justices is immense, but it is a power springing from opinion. They are all-powerful so long as the people consent to obey the law; they can do nothing when they scorn it. Now, of all powers, that of opinion is the hardest to use, for it is impossible to say exactly where its limits come. Often it is dangerous to lag behind as to outstrip it.
>
> The federal judges therefore must not only be good citizens and men of education and integrity, qualities necessary for all magistrates, but must also be statesmen; they must know how to understand the spirit of the age, to confront those obstacles that can be overcome, and to steer out of the current when the tide threatens to carry them away, and with them the sovereignty of the Union and obedience to its laws.

These remarks of Tocqueville, penned nearly 150 years ago, seem to me especially pertinent to our own time. Those who truly love the Court are bound to pay them particular heed, for they contain such wisdom as is necessary for the restoration of public confidence in the judicial process. Such a restoration, I believe, will be admirably advanced by the addition of Lewis Powell and William Rehnquist to the Supreme Court.

EXHIBIT 1

[From the New York Times, Nov. 15, 1971]

THE COURT APPOINTMENTS

In recent years, the Senate has been loath to argue about the judicial philosophy of Supreme Court nominees. It has generally assumed in the absence of damaging evidence to the contrary that any nominee who is intellectually qualified, honest and experienced in some branch of the legal profession will cultivate the detachment and perspective which the task of judging requires. But inasmuch as President Nixon has to a far greater degree than normal politicized the process of selection and has so insistently proclaimed his determination to remake the Court in his own image, the Senate needs to recall that its traditional deference to Presidential nominations is an institutional courtesy rather than a constitutional command.

Assistant Attorney General William H. Rehnquist's published belief that the Senate has an obligation to inquire into the basic philosophy of a Supreme Court nominee is applicable to his own position today. The question is whether the nominee should be evaluated by the Senate in terms of his specific political, social and economic views—quite apart from the obvious requirements of integrity, ability, temperament and training. Does not the President have the privilege of nominating to the Supreme Court a man or woman of any political orientation that pleases him, without interference by the Senate; or does the Constitution through its "advise and consent" clause give the Senate the right to reject a candidate because it disagrees with his politics or his philosophy?

* * * * *

The Supreme Court should be above politics; yet it is obvious that the Supreme Court deals with the stuff of politics. We have repeatedly argued that while the President owes it to the Court and the American people to keep partisan politics out of his judicial appointments, he ought to have the broadest latitude in his selections so long as they are made within the context of the American democratic system. What this means is that the candidate, whether liberal or conservative, of the right or of the left, must not be hostile to the broadly accepted principles of American constitutional democracy. This test the Senate has the right and duty to make.

The choice of Lewis F. Powell presents in this context relatively little difficulty. A leading lawyer of Richmond, a highly regarded member of the profession, a thorough-going conservative in political philosophy. Mr. Powell has demonstrated during a long record of service to the community as well as to the bar that he has the requisite personal, intellectual and basic philosophic qualities.

The same cannot be said for Mr. Rehnquist. Though he is undoubtedly a capable lawyer of impressive academic and intellectual attainments, his entire record casts serious doubt on his philosophic approach to that pillar of the American constitutional system, the Bill of Rights. On every civil liberties issue—wiretapping, electronic surveillance, "no knock" entry, preventive detention, rights of witnesses before Congressional committees and state legislatures, the rights of the accused—Mr. Rehnquist's record is appalling. He seems to have scant respect for the individual citizen's right to privacy, relying on "self-discipline on the part of the executive branch" to provide the protection needed. But if "self-discipline" by Government officials were sufficient in such circumstances, why would this nation need the carefully defined safeguards of the Bill of Rights?

What alarms us about Mr. Rehnquist is not the conservatism of his views—Mr. Powell certainly shares that characteristic—but our conviction on the basis of his record that he neither reveres not understands the Bill of Rights. If this is so, then he certainly does not meet the basic requirement that a justice of the Supreme Court be philosophically attuned to the irrevocable premise on which the American political structure rests: the protection of individual liberty under law, particularly against the repressive powers of government.

The Constitution leaves room for a wide diversity of political and social interpretation and even of judicial philosophy; but through the issues of human freedom as set forth in the first ten amendments there runs a basic imperative that cannot be dismissed and must not be trifled wtih. A deep-seated respect for these liberties, a belief that they cannot be arbitrarily abridged or diminished by any power, even that of the President, is indispensable for service on the Supreme Court.

Mr. Rehnquist's elevation to the Supreme Court could have a critically regressive effect on constitutional protection of individual liberties for a long time to come. On Mr. Nixon's own premises, the Senate would be within its rights in insisting that while it may be content to accept a distinguished conservative like Mr. Powell, it is not obliged to accept a radical rightist like Mr. Rehnquist.

[From the New York Times, Nov. 19, 1971]

WILLIAM H. REHNQUIST'S RECORD

In your Nov. 15 editorial, you chose to label William H. Rehnquist a "radical rightist" and opposed his Supreme Court nomination on that basis, although you recognize he is "a capable lawyer of impressive academic and intellectual attainment."

If The Times had a factual case against Mr. Rehnquist, it should have been stated, Instead you relied upon journalistic shorthand to characterize a number of issues on which Mr. Rehnquist, as Assistant Attorney General, made public statements in support of the Administration's position. For example, you refer to "no-knock" entry and "preventive detention."

What you describe as "no-knock" is a procedure whereby a police officer, in obtaining a search warrant, can secure further permission from the court to enter a dwelling without announcing himself, but only under certain limited circumstances.

Mr. Rehnquist was hardly alone in believing that this procedure is reasonable. This doctrine and procedure has long been practiced and declared constitutional in many states—32 at last count. A majority of both houses of Congress voted it into law twice last year.

What you describe as "preventive detention" is a procedure designed to protect the public in situations where the evidence convinces a judge that one or more serious crimes will be committed by the arrestee if he is released on bail.

Mr. Rehnquist's views on the reasonableness of "preventive detention" were also shared by the majority of both houses of Congress.

You also refer to wiretapping, but fail to point out that in 1968 Congress expressly recognized the propriety and necessity for wiretaps and authorized their use in connection with certain specified types of crime. The enactment by Congress is in full compliance with the 1967 landmark Supreme Court decision on electronic surveillance. (Berger v. N.Y., 388 US 41)

As to the limited use of wiretapping for the purpose of gathering intelligence relating to the national security, this is a practice which has been used and defended by every President and Attorney General since Franklin Roosevelt's Administration.

May I suggest that The Times might well re-read the articles written by your associate editor, Tom Wicker, and by Anthony Lewis, who spent so many years covering the Supreme Court. Both recognize the propriety of confirmation for Mr. Rehnquist, and I don't think The Times overcomes their reasoned arguments simply by coining the label "radical rightist."

In the course of full hearings before the Senate Judiciary Committee, we have seen or heard nothing which would indicate that Mr. Rehnquist's devotion to the Bill of Rights is anything less than total. We believe he is eminently qualified for the Supreme Court, and The Times editorial has pointed to nothing which is inconsistent with that conclusion.

United States Senator from Nebraska

ROMAN L. HRUSKA.

WASHINGTON, *November 17, 1971.*

EXHIBIT 2

COLUMBIA UNIVERSITY IN
THE CITY OF NEW YORK,
New York, N.Y., November 18, 1971.

HON. JAMES O. EASTLAND,
Chairman, Senate Judiciary Committee,
Washington, D.C.

DEAR SENATOR EASTLAND: I am writing to you as Chairman of the Senate Judiciary Committee to state my hope that the Committee will recommend and the Senate will confirm the appointment of William H. Rehnquist to the Supreme Court of the United States. Ordinarily, I would not think my impressions of a nominee to the Supreme Court were worthy of any special interest by the Committee. However, Mr. Rehnquist has been subjected to such extravagant denunciation by groups and persons with whom I am usually in accord that I feel justified in making my views a matter of record.

In assessing what weight to give my views, it may be helpful for you to know that I am Associate Professor of Law at Columbia University School of Law. My primary teaching interest and responsibility is Constitutional Law. After graduating from Yale Law School in 1966, I served for one year as law clerk to Chief Justice Earl Warren, and then for the next two years I served as Special Assistant to the Assistant Attorney General in charge of the Office of Legal Counsel.

In that latter capacity, I had the bulk of my working relationship with Mr. Frank M. Wozencraft, Mr. Rehnquist's gifted predecessor as Assistant Attorney General. When Mr. Rehnquist became Assistant Attorney General, I remained in the Office of Legal Counsel at his request for about five months while he became acquainted with the operations and responsibilities of the Office. During that time I worked closely with him on a daily basis on a variety of constitutional and other legal problems, I should make clear that my impressions of Mr. Rehnquist were formed solely on the basis of this close association over a relatively short period of time.

In working with Mr. Rehnquist, I developed clear impressions of his attributes of character and intellect which seem to me most relevant in assessing his qualifications to be a Justice of the Supreme Court. First, and most important, Mr. Rehnquist is a person of great intelligence. He is a painstaking legal craftsman with a lively and subtle interest in the interplay of constitutional law and social policy. I will not elaborate this point, since I believe no fairminded person could doubt Mr. Rehnquist's exceptional intellectual qualifications to sit at the highest level of our judicial system. Instead, I want to address myself to Mr. Rehnquist's fairness and objectivity.

In my work with Mr. Rehnquist he seemed to me unusually openminded and free of reliance upon dogma in dealing with constitutional questions. His approach to legal problems is highly discriminating; few persons in my experience have exhibited more alert skepticism as to the utility of sweeping generalizations and ideological positions. Always I had the impression that careful analysis governed his response to legal questions.

Mr. Rehnquist approaches legal issues with the utmost forcefulness and honesty. In our work together, he was open to reasoned persuasion, tolerant and respectful of my quite different constitutional and political outlook, and ever willing to examine his position in the light of the fullest possible analysis of facts and legal principle. He is an independent, even iconoclastic, thinker.

Candor, openness to argument, and forcefulness of logic and expression are critically important to the performance of the Supreme Court, with its unique and delicate power of constitutional review. I believe Mr. Rehnquist's appointment will help restore these necessities of judicial process, sadly diminished by recent events and losses from the Court.

I do not doubt that Mr. Rehnquist's positions on matters before the Supreme Court will be opposed, often diametrically, to my understanding of the mandates of our Constitution. One who reveres the person and performance of Chief Justice Warren, as I do, cannot but look forward to Mr. Rehnquist's likely decisions with some misgivings. But protecting the independence of the Supreme Court by subjecting nominees to an outcome-determinative test is self-defeating. Ultimately, those who believe in the essential role of the Supreme Court as an active and principled protector of individual liberties must rest their faith on process, not on outcome. Candor, force of logic, attention to pertinent detail, openmindedness in approaching the discrete and varied problems which come before the Court—these are the conditions of independence and purpose in our judicial institutions. They are attributes which I believe Mr. Rehnquist possesses in abundance.

I respectfully urge the Judiciary Committee to recommend confirmation of William H. Rehnquist to the Supreme Court.

Respectfully,

BENNO C. SCHMIDT, Jr.

Mr. GRIFFIN. Mr. President, will the Senator from New York yield?

Mr. BUCKLEY. I am glad to yield to the Senator from Michigan.

Mr. GRIFFIN. I wish to commend the distinguished junior Senator from New York. He has made an excellent statement, and I wish to associate myself with his line of reasoning. The distinguished Senator makes interesting points—points that in past years have been made over and over again on the floor of the Senate by some of our colleagues who regard themselves as liberals.

I refer to discussions that took place concerning the nomination of Arthur Goldberg, for example.

At that time, conservatives in this body were admonished to look at Mr. Goldberg's qualifications—not his philosophy or practical persuasion.

It is a fact that a good many in this body at the time who were regarded as conservatives joined their liberal colleagues in voting to confirm Mr. Justice Goldberg. Of course, a similar story could be told with respect to the debate and confirmation of Mr. Justice Thurgood Marshall.

I wonder if those liberal Senators who intend now to vote against Mr. Rehnquist, solely because of his philosophy, would take the position that conservative Senators voted wrong when they voted earlier to confirm Messrs. Goldberg and Marshall.

NOMINATIONS OF LEWIS F. POWELL AND WILLIAM H. REHNQUIST

Mr. PERCY. Mr. President, I wish to inform my colleagues in the Senate that I intend to vote for the confirmation of the nominations of Lewis F. Powell and William H. Rehnquist, and urge as well their support of these candidates.

I have known Lewis Powell for many years. I have had the privilege of observing his manner, of knowing his thoughts, and of sharing the esteem for him held by all who know him. He is eminently well qualified and his appointment to the Supreme Court promises to bring distinction not only to his own career but to that institution. The enthusiastic acclaim of the public and the press which has greeted Lewis Powell's nomination and the unanimity with which it was received and passed by the Senate Judiciary Committee suggests the broad support for his candidacy. I am pleased and honored to indicate officially at this time my own support for Mr. Powell's confirmation.

The nomination of William H. Rehnquist, however, has not enjoyed this degree of support, a fact which we cannot permit automatically to portend doom. Few men in public and private life enjoy the luxury of unanimous support, even among their friends. At most the controversy signifies the need for careful scrutiny of the nominee's record, with an open mind to all the evidence presented. I have sought to so scrutinize Mr. Rehnquist's record. I have talked with him in private, putting to him the hard questions which his critics have raised, and I have received frank and thoughtful replies. I have listened carefully to him in public, and have found him similarly frank and thoughtful. I am persuaded that Mr. Rehnquist will bring to the Court distinction, and I trust will earn by his performance there the same acclaim which now characterizes the nomination of Mr. Powell. I will vote for confirmation of both men.

SCOPE OF SENATORIAL SCRUTINY OF NOMINEES

Much has been made in the course of considering the present nominees over whether the Senate may legitimately inquire into the judicial philosophy, background and views of a nominee or whether the consideration is more properly limited to his competence, integrity, and general fitness.

It has been my policy to consider every relevant factor: Experience, legal ability, personal integrity, political and constitutional philosophy, judicial temperament, and a sensitive regard for ethical requirements of the bench.

Without rehashing all the arguments in support of this approach, suffice it to say that I am persuaded that the history surrounding adoption of article II, section 2, clause 2 of the Constitution would support an active and independent role for the Senate in the appointment of Supreme Court Justices.

The judicial process is far from mechanical; it draws upon the sum total of all that a judge brings to it in terms of his background, experience, values, judgment, and so forth. Since a judge's policy positions and judicial philosophy figure largely in the outcome of cases, it follows that they should figure as well in the appointment process.

ANALYSIS OF SPECIFIC ALLEGATIONS

Since William Rehnquist has not served in a judicial capacity, rather having served almost exclusively as an advocate, we are left to try to peek behind the veil to determine what Rehnquist's philosophy and positions really are as opposed to what he has been required to assert in representing his clients' interests. It is no small task, particularly when specific inquiries required that the nominee invoke the attorney-client privilege, thereby ruling out any meaningful examination. This is not to say that the invocation was improper, merely that it complicated the investigation to determine his suitability for the high court.

In any case, it seemed essential to review carefully those speeches wherein Rehnquist was alleged to have said and implied certain things which bear materially on his fitness for the Court. These are dealt with below:

First. Rehnquist, in a 1957 article for U.S. News & World Report, is alleged to have levied a strongly-worded criticism of Supreme Court clerks for slanting research material and improperly influencing court decisions, due at least in part to his characterization of the clerks as "left wing."

The article is, in fact, more informative in tone than critical. It is carefully worded, distinguishing between the work and relative influence of the clerks in dealing with certiorari petitions and the preparations of actual decisions. In the latter case, Rehnquist pointed out that the clerks had virtually no influence. Then conceding that there was a wide diversity of opinion among the clerks, he concluded that the "political cast of the clerks was to the left of either the Nation or the Court." As a general proposition, it is difficult to argue with that or be surprised by it.

Concerning the decisions on certiorari petitions the clerks were more influential and Rehnquist included himself as among those whose unconscious bias crept into their work. Again, it is hard to argue with that possibility occurring in almost any job. I am not sure how you could rule it out.

I found nothing in the article suggesting that Rehnquist had taken off on an attack against the Court, the clerks, or the "left-wing."

Second. Rehnquist, in 1969, is alleged to have lambasted student demonstrators as the "New Barbarians."

Rehnquist did use this phrase, but he limited its applicability to those "who care nothing for our system of government and law, believing that the relatively civilized society in which they live is so totally rotten that no remedy short of the destruction of that society will suffice." In limiting his definition, he also limited the numbers of people to whom it was directed—the relatively few militants who seek to overthrow the government. I did find Rehnquist's use of the term "barbarians" inflammatory and perhaps imprudent, but he was careful not to include—in fact he specifically exempted—the majority of peaceful demonstrators.

Third. Rehnquist has been charged with a willingness to leave to the discretion of law enforcement agencies and the Executive the imposition of controls on Government surveillance activities against private citizens. March 5, 1971; speech before the Maricopa County Bar Association.

This is partly true. Rehnquist has urged that even though agencies may abuse their authority, it would be a serious mistake to shackle their investigative powers by legislation. Law enforcement agencies must have some latitude in order to provide a reasonably effective system of law enforcement.

The errors of zeal by law enforcement officers in this area do not constitute in his judgment a violation of civil liberties, thus making attempts to amend the Constitution to provide for such ill-advised. If legislatve guidelines are deemed necessary—and Rehnquist left room for this possibility—they should be framed in such a way as to provide the greatest latitude for investigations, lest law enforcement be improperly hamstrung.

Rehnquist specifically stated that peaceful gatherings and political activity should be "out of bounds" to investigative agencies, but the isolated cases which have come to view where surveillance activities have been inordinately abusive should not be regarded as the rule.

Though I would opt more readily for some legislative controls on surveillance, I think Rehnquist's representation of his view was reasonable and carefully expressed.

Fourth. Rehnquist has been portrayed as the primary spokesman for the administration last May when mass arrests were made by the Washington police in the May day demonstrations, and his espousal of the doctrine of "qualified martial law" was particularly repugnant.

It is significant that Rehnquist again relies on narrow definitions to justify his position, an intellectually respectable if not politically desirable approach. The demonstrations which need to be quashed by the Government, Rehnquist asserted, are those which threaten to immobilize—and, therefore, move toward the destruction of—that Government. Rehnquist has no legal opposition to peaceful demonstrations.

From there, Rehnquist moves to justify the activities of Washington police on the basis that the "extreme situation" which prevailed brought about the exercise of the legitimate power of police and troops in such emergencies to detain individuals without bringing them before a committing magistrate and filing charges of criminal conduct against them. In this situation the doctrine customarily referred to as "qualified martial law" obtains.

The application of this doctrine, according to Rehnquist, is strictly limited:

> In that situation, to protect itself and its citizens against actual violence or a real threat of violence is held to outweigh the normal right of any individual detained by governmental authority to insist on specific charges of criminal conduct being promptly made against him, with the concomitant right to bail or release pending judicial determination of those charges. The courts limited the duration of the power to the duration of the emergency, however, and have also insisted that the claim of violence be not a mere sham.

I, quite frankly, had strong reservations about the tactics resorted to during the May day melee, reservations which I think have been partially vindicated by the subsequent court of appeals decision invalidating most of the arrests made under those procedures.

But it is important, in my opinion, that Rehnquist did not develop the concept of qualified martial law, as certain of his detractors claimed; rather he applied an established principle which he considered an appropriate precedent. In doing so, he did not move in a manner inconsistent with strict legal process.

Fifth. Rehnquist is being held responsible for his defense of wiretapping, with some loss of an individual's privacy, as not too high a price if it helps stop major crime.

Rehnquist is, in my opinion, being stuck with the policy adopted by Congress and by the role of the Justice Department.

In 1968, Congress authorized wiretapping with certain safeguards in the Omnibus Crime Act. The Justice Department is committed to its adoption and its defense because of this direction from Congress, if the law is not clearly unconstitutional on its face.

I think Rehnquist has been wrongly attributed with the views and demands of his client. Understanding, of course, his reluctance to comment in violation of the attorney-client privilege, I nevertheless wish somehow that the Senate could be apprised of the true feelings of Mr. Rehnquist in this area.

Sixth. In 1964, Rehnquist wrote a letter to the editor of the Arizona Republic, opposing the passage by the Phoenix City Council of a public accommodations ordinance.

Rehnquist opposed the ordinance because discrimination of this sort was the exception rather than the rule in Phoenix, thus making the purpose of the ordinance not an attempt "to make available a broad range of integrated facilities, but to whip into line the relatively few recalcitrants." Furthermore, "unable to correct the source of the indignity to the Negro, the ordinance redresses the situation by placing a separate indignity on the proprietor."

This letter does suggest a certain rigidity to the cause of civil rights. It is callous to the inequities blacks have had to suffer and insensitive to the course of events in this country at that time which seemed to indicate a willingness to rectify some of these inequities. The letter is cause for concern, in my mind.

However, Rehnquist did say that, on this matter, he has changed his mind. He has said this publicly and privately. We can and should inquire as to the slowness of his change of mind, but in the final analysis we must leave room for such changes. I think Rehnquist's change of mind is a good thing substantively and in terms of analyzing his capability to serve on the Court. Without being overly optimistic, I think his change of mind at least signals growth.

Seventh. In 1967, in another letter to the editor, Rehnquist outlined his views on busing and de facto segregation. The most widely quoted excerpt from the letter is as follows:

> We are no more dedicated to an "integrated" society than we are to a "segregated" society.

He then goes on to enunciate a policy in favor of neighborhood schools.

Again, these statements raise some red flags in terms of our passing on the credentials and suitability of Mr. Rehnquist for the Supreme Court. But it is important to note that immediately following the excerpted line—quoted above—Rehnquist went on to say:

> That we are instead dedicated to a free society, in which each man is equal before the law, but in which each man is accorded a maximum amount of freedom of choice in his individual activities.

I think that rounds out what Rehnquist really had to say on the matter. We are dedicated to a free society, but at this time integration seems to be the only viable means to freedom for many, many minority citizens, and so integration becomes the short-range goal. I wish that

Mr. Rehnquist had included this idea as well.

Eighth. There have been a variety of charges that Rehnquist supports the aggrandizement of the executive branch of Government in terms of its relative power vis-a-vis the other branches. It has usually been characterized in terms of the executive's "inherent powers." These allegations have grown out of Rehnquist's statements on the war powers, law enforcement, the "committee veto" proposal, Government surveillance, and so forth.

In almost every instance, Rehnquist was speaking at the behest of the administration, whose business he was about. It is logical to assume that he would press for enlarged executive powers, as some of us in Congress have sought to assert broader congressional responsibilities. I am convinced—indeed we have virtually no information on which to conclude anything other than that he was speaking for the administration on these points. I have seen nothing from his earlier statements that would suggest a preoccupation with executive power.

Ninth. Rehnquist is alleged to have played an important role in the Pentagon papers case, pleading for prior restraint of publication.

Rehnquist, however, explains that he took only one action in connection with proposed litigation by the Government against the Washington Post in this connection. At the request of the Attorney General he telephoned Ben Bradlee, executive editor of the Post to request on behalf of the Justice Department that the Post refrain from further publication of these papers. Mr. Bradlee informed Rehnquist that the Post would not accede to this request.

Tenth. It has been charged that Rehnquist harassed and intimidated voters while he was an elections official for the Republican Party in Maricopa County, Ariz.

These are serious charges, deserving the most careful examination possible. Rehnquist has gone to great lengths to provide a full explanation of his role, his observations at each election in which he was involved, and his understanding of other related events at the time. It is important to note that Rehnquist states unequivocally that "in none of these years did I—Rehnquist—engage in challenging the qualifications of any voters." Though his full response has already been reprinted in the RECORD, I ask unanimous consent that it be printed at the conclusion of my remarks so that persons who read my statement will have the benefit of this explanation. The charges, as I have said, are serious enough to justify reprinting the full response of the nominee. I am persuaded that he has answered satisfactorily every allegation and is guilty of no wrongdoing in connection with the performance of his election responsibilities.

The PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

SUMMARY

Mr. PERCY. The Rehnquist nomination is unlike any other recent nomination to the Supreme Court on which the Senate has had to pass. It raises no clear-cut issues to which it is easy to respond in a "yea or nay" fashion. This dilemma has been apparent throughout the hearings and investigations and should be reflected in my statement as well. While there seems to be a "gut" reaction against Rehnquist's record and philosophy by some, there has been precious little in terms of pragmatic, specific evidence to support that reaction.

What opponents seem to be saying is that in confirming Rehnquist's nomination, individual liberties are subjected to considerable risk. I do not think the risk is considerable.

First. Rehnquist has a distinguished intellect giving him the capacity and inclination to consider every option, carefully and thoroughly with a full understanding of the implications they pose. The importance of intelligence, of course, especially on the Supreme Court is not that it promises in every case that the right result will prevail, but that irrelevancies will be exposed and discarded—emotion, prejudice, unexamined tenets of historical faith—that get in the way of decision making. Finally, of course, intellectual excellence suggests a longing for the truth and the capability to recognize it and pursue it in those occasional instances when we are granted the blessing of seeing it.

Second. Rehnquist seems to be a fair man who has demonstrated a sensitivity for the balancing act which is the essence of judicial decisionmaking. He rarely sees questions in terms of absolutes, perceiving instead the fact that in most instances the issues which come to the Court require determinations as to what is more right or more wrong in light of constitutional mandates.

Third. His speeches and public statements suggest that he possesses the requisite fidelity to the Constitution, of which others have spoken so well and so persuasively of late. Indeed, it has been Rehnquist's almost stubborn adherence to what he perceives to be the letter and spirit of the Constitution that has elicited some of the most bitter attacks against his judgment. He is a firm believer that this Government, weak and struggling though it may be at times, is better than no government—anarchy.

Fourth. Rehnquist's disposition and intellect have imbued him with a resulting capacity for change. While he could not be portrayed as leading the cause for change, neither has he revealed himself as incapable of adapting to changes in social values and legal imperatives.

Fifth. Rehnquist is a gifted advocate, a position which has on occasion saddled him with responsibility for some views which might more properly be attributed to his client but which has at the same time provided him the forum wherein by proving himself he has proven his worthiness to serve on this Court. He has been widely regarded as the Justice Department's best spokesman, certainly its most articulate and penetrating one.

Given the fact that passing on a particular nominee to the Supreme Court is always risky business, in that it is impossible to determine in advance how a man will respond to the demands of the High Court, it seems to me that it is especially risky to base one's judgment on political grounds. I personally have some strong political differences with some views held by Mr. Rehnquist. But relying on politics as a basis for supporting or rejecting a nomination presumes some kind of rightful political orthodoxy. Men and politics change; to oppose a nominee on political grounds alone is to ignore both the angers and the facts.

CONCLUSION

I support the confirmation of the nomination of Rehnquist, not entirely without reservations, but on balance. He is a young, articulate, gifted lawyer; he is, it seems to me, as well, a good and decent man. The doubts his nomination prompts in terms of his sensitivity to the singular importance of civil liberties and equal protection of the laws will be assuaged by the recognition that he is open-minded, uncommonly bright, and genuinely committed to the rule of law and hopefully will be overcome entirely by the record he establishes once he assumes his responsibilities on the Bench.

EXHIBIT 1

QUESTIONS TO WILLIAM REHNQUIST

QUESTION

Please describe in as much detail as possible your position (including title and the manner in which you were selected), responsibility, and activities in connection with Republican Party efforts to challenge Democratic voters in Arizona for each of the following elections, separately: 1958, 1960, 1962, 1964, 1966, 1968.

In addition, please answer the following questions concerning your position, responsibility or activities in each of the abovementioned years:

(a) Did you personally engage in challenging the qualifications of any voters? If so, please describe the nature and extent of the challenging you did and the bases on which the challenges were made.

(b) Did you train or counsel persons selected to be pollwatchers or challengers about the procedures to be used in challenging? If so, please elaborate concerning how the persons were selected, and the training that you gave. Did you in any of the abovementioned years train or counsel persons selected to be pollwatchers on the bases on which challenges could be made? If so, please elaborate concerning what you advised these persons were proper bases under law for challenges in each of the relevant years.

(c) Did you prepare, select or advise on the use of printed passages from the Constitution designed to be employed by challengers to determine the literacy of a potential voter? Did any such practice come to your attention? Did you think it proper and lawful? If not, did you take steps to curb such procedures?

ANSWER

During the course of the Committee's deliberations, I submitted the following affidavit to the Chairman of the Committee.

"I have read the affidavits of Jordan Harris and Robert Tate, both notarized in Maricopa County, Arizona. Insofar as these affidavits pertain to me, they are false. I have not, either in the general election of 1964 or in any other election, at Bethune precinct or in any other precinct, either myself harassed or intimidated voters, or encouraged or approved the harassment or intimidation of voters by other persons."

In order to fully respond to question 10, an understanding of the background of Republican challenging procedures in Maricopa

County is necessary. I have therefore tried as best I can to recall and set forth that background.

A combination of the peculiarities of Arizona election law, the customary practices of the Board of Supervisors in appointing precinct election officials, and the numerical weakness of registered Republicans in part of the County resulted in the fact that the only method by which a Republican observer or poll watcher could be stationed inside a particular polling place in many precincts in order to watch for voting irregularities was to be there as a "challenger." While he was authorized by law to challenge voters, the prospects of his being successful were not great, since the challenges he made were ruled upon by a three-man election board (two judges and an inspector) and in the precincts with extraordinarily heavy Democratic registration at least two and often three members of this board would be Democrats.

The challenger's real usefulness to the Party, therefore, was not that he was going to be able to prevail upon the election board to disqualify any large number of voters, but that his mere presence as a party representative would have a tendency to discourage any large-scale irregularities in voting procedures at that precinct. My recollection is that the most frequent cause of dispute which arose on Election Day during the late 50s and early 60s was the nature of the credentials required for a challenger to be allowed to enter and remain in a polling place, since in many of these precincts there had never been a Republican representative on the scene during Election Day.

With respect to the specific questions posed, I have attempted to refresh by recollection by speaking with several persons in Arizona who acted in Republican Party affairs during the years covered in this question and to Judge Hardy, who was active for the Democratic Party at the same time. I have also had occasion to see two local newspaper articles which appeared in the Fall of 1964, describing my position during the elections of 1960, 1962, and 1964. I recall that at the time there were written schedules, instructions, and the like prepared at least for the elections of 1960, 1962, and 1964, but I have not found anyone who was able to locate any of this written material, and it may no longer be in existence.

In 1958, I became involved in the Election Day program on quite short notice, and spent all of the day at Republican County Headquarters in Phoenix answering questions as to the election laws on the telephone. So far as I remember, I was the only person having this responsibility at County Headquarters. I don't believe I had a title, and I cannot remember by whom I was selected. As I recall, Don Reese, then of Phoenix but presently of Houston, Texas, was County Chairman in 1958.

My attention has been called to a clipping from the *Arizona Republic* in October 1964, which states that in 1960 I was co-chairman of the "Ballot Security Program." I do not have any independent recollection of this fact, but I have no reason to dispute the account in the newspaper. As I recall, however, the program in 1960 was not called the "Ballot Security Program," since I don't remember hearing that term used before 1964.

In 1960, I supervised and assisted in the preparation of envelopes to be mailed out in advance of the election for the purpose of challenging voters on the basis of their having moved from the residence address shown on the poll list; I also recruited about a half a dozen lawyers to work on a "Lawyers Committee" on Election Day. I did not myself recruit challengers, but I did speak to a "school" held for challengers shortly before election, in order to advise them on the law. I believe I also supervised and assisted in the assembling of returns of our mailings which were returned "addressee unknown", so that they could be made available to the particular challenger who was stationed in the precinct in which the address was located. On Election Day, I believe that I spent most of the day in County Headquarters. In that year, however, we had enough other lawyers available in County Headquarters so that I probably spent some of the day going to precincts where a dispute had arisen, and attempting to resolve it.

I cannot remember whether Don Reese or Ralph Staggs was County Chairman in 1960; I believe I was designated by whoever was County Chairman that year.

With respect to 1962, I have been shown an article in the October 1964, *Arizona Republic* which states that I was Chairman of a Lawyers Committee which operated on Election Day. This is consistent with my own recollection. I do not believe that in this year I participated in the mailing out of envelopes prior to election, though I may have. I did speak at a school for challengers, I believe, in much the same manner as in 1960. On Election Day, my recollection is that I spent most of the day in Republican County Headquarters; however, I think that on several occasions in 1962, just as in 1960, I went to precincts where disputes had arisen in an effort to resolve them.

With respect to 1964, I have seen an article in the *Arizona Republic* dated October 1964, stating that I was Chairman of the "Ballot Security Program." This is consistent with my recollection. I presume that I had overall responsibility for the mailing out of envelopes, the recruiting of challengers, and the recruiting of members of the Lawyers Committee to work in County Headquarters; however, I believe that there were individuals other than me who were directly responsible for each of these aspects of the program. At this time, Wayne Legg was Chairman of the Republican County Committee, and I presume it was he who designated me as chairman. My recollection is that on Election Day during this particular election I spent all of my time in County Headquarters.

I also think, though I am not certain, that I spoke at the school for challengers held just before the election; if I did not speak to the school, I believe I was present when someone else spoke on the law. Challengers were advised in this year, pursuant to an opinion issued by the State Attorney General, that challenging at the polls on the basis of literacy or interpretation of the Constitution was unlawful by virtue of the Federal Civil Rights Act of 1964.

In 1966, my best recollection is that I played no part at all in the election activities, though I am not absolutely certain. If I played any part, it was simply to serve as a lawyer on duty at County Headquarters for a period of several hours in order to handle questions that might come in over the phone.

In 1968, I played no part at all in the election activities.

(a) In none of these years did I personally engage in challenging the qualifications of any voters.

(b) The recruitment of challengers in each of these years was under the direct supervision of someone other than me. However, in at least two of these elections—1960 and 1962—and perhaps in 1964, I spoke at a challengers' school conducted shortly before the election. The purpose of my talk was to advise the various persons who were to act as challengers as to what authorization was required in order to enable them to be present in a polling place during the time the election was being conducted, and also as to the various legal grounds for challenging as provided by applicable Arizona law. My recollection is that I simply recited the grounds set forth in the Arizona Revised Statutes as to the basis for challenge, the method of making the challenge, and the manner in which the challenge was to be decided by the Election Board of the precinct in question.

(c) I did not. No such practice came to my attention until sometime on Election Day, 1962. The manner in which I saw this type of challenge being used, when I visited one precinct, struck me as amounting to harassment and intimidation, and I advised the Republican challenger to stop using these tactics. Since no question was raised at that time as to the propriety or lawfulness of the use of printed passages from the Constitution by challengers in conjunction with the election board in an otherwise courteous and lawful manner, I did not consider it. Shortly after the election, I discussed this type of challenge with Charles Hardy, now Judge of the Superior Court of Maricopa County, and expressed my vigorous disapproval of any scattergun use of literacy challenges. By the time of the next biennial election, in 1964, such challenges were no longer permitted under federal law.

QUESTION

To what extent are you able to confirm Mr. Richard G. Kleindienst's statement found in the *Arizona Republic* of November 7, 1962 that the Republican challengers who worked in 1962 "are the same persons, under the same instructions, who have been doing this in Maricopa and Pima counties since 1956?"

ANSWER

I cannot speak at all for Pima County, and I cannot speak at all for 1956. I did not myself directly supervise the recruiting of challengers in Maricopa County in any of these years. If challengers were instructed in any formal way in 1958, I do not remember it. Substantially the same legal advice as to challenging, more fully described in the answer to 10(b) above, was given by me in both 1960 and 1962. I do not presently remember whether the same challengers operated in 1958, 1960, and 1962, but I believe there was some turnover each time, and a rather substantial turnover between 1960 and 1962.

QUESTION

You testified that one of the roles you played in the Republican efforts to challenge Democratic voters was "to arbitrate disputes that arose" along with a Democratic counterpart (p. 149). Did any of the disputes as to the roles of the Republican challengers which you sought to mediate involve opposition to the type of challenging procedure being employed or the basis of the challenge, as distinct from the right of the Republican challenger to function at all in such a capacity in the precinct in question? If so, please explain the challenging procedures which came under attack.

ANSWER

As described in my answer to 10(c), I recall one instance in which a Republican challenger was himself going down the line and requiring prospective voters to read some passage of the Constitution, rather than presenting his challenge to the Election Board in an orderly way. I advised him to stop this practice, and to make any challenges in the manner provided by the law.

QUESTION

Judge Charles L. Hardy in a letter to Senator Eastland describes the tactics of the Republican Party in Phoenix in 1962 as follows:

"In 1962, for the first time, the Republicans had challengers in all of the precincts in this county which had overwhelming Democratic registrations. At that time among the statutory grounds for challenging a person offering to vote were that he had not resided within the precinct for thirty days next preceding the election and that he was unable to read the Constitution of the United States in the English language. In each precinct *every* black or Mexican person was being challenged on this latter ground and it was quite clear that this type of challenging was a deliberate effort to slow down the voting so as to cause people awaiting their turn to vote to grow tired of waiting and leave without voting. In addition, there was a well organized campaign of outright harassment and intimidation to discourage persons from attempting to vote. In the black and brown areas, handbills were distributed warning persons that if they were not properly qualified to vote they would be prosecuted. There were squads of people taking photographs of voters standing in line waiting to vote and asking for their names. There is no doubt in my mind that these tactics of harassment, intimidation and indiscriminate challenging were highly improper and violative of the spirit of free elections."

(a) Please describe the relationship between your role in planning and implementing Republican election day challenging efforts that year and the tactics described by Judge Hardy.

(b) Did any of the practices described by Judge Hardy come to your attention before or during election day in 1962? If so, did you seek to curb such procedures or were they in your view proper?

ANSWER

(a) My role in 1962 was, to the best of my recollection, that described above. I neither advised nor suggested that scattergun challenges be made on the basis of literacy. I neither advised nor suggested the handing out of handbills, nor the photopraphing of voters at the election places. My talk to the challenging "school" in 1962 as to the law governing elections was, I believe, substantially the same as that which I gave in 1960. In 1958 and in 1960 virtually the entire thrust of the Republican challenging effort was devoted to preventing unregistered persons, or persons who had moved from the address from which they were registered, from voting, and as I recall the main disputes which arose in those years with respect to the right of the Republican challengers to enter the polling place to which he was assigned. I did not realize the change in emphasis during Election Day of that year. I therefore feel that there was no connection between my role and the circumstances related by Judge Hardy.

(b) The practices described by Judge Hardy, to the extent that they did in fact obtain, did not come to my attention until quite late in the day of the election in 1962. At that time I believe that the County Chairman decided to remove the Republican challenger from Bethune Precinct because of the serious trouble his actions were causing. The challenging procedures relating to residence described by Judge Hardy were, in my opinion, generally proper; those relating to indiscriminate use of literacy challenges were entirely improper.

QUESTION

Were you present at the Bethune precinct at any time on election day, November 3, 1964? If so, while you were there, did you speak to any persons waiting to vote regarding their qualifications to vote under the state literacy laws or other laws, or regarding their ability to read the Constitution? Did you ask anyone waiting to vote at the Bethune precinct in 1964 to read from any printed material which you or anyone else presented to the potential voter? Were you engaged in any dispute at the Bethune precinct in 1964 with Democratic workers regarding efforts by yourself or other Republican representatives to challenge voters? If so, please describe the incident in detail.

ANSWER

I was not present at Bethune Precinct at any time on Election Day in 1964.

ECONOMIC STABILIZATION ACT OF 1971

The PRESIDENT pro tempore. Under the previous order the Chair lays before the Senate the unfinished business, which the clerk will read by title.

The legislative clerk read as follows:

> A bill (S. 2891) to extend and amend the Economic Stabilization Act of 1970.

The PRESIDENT pro tempore. Under the previous order the clerk will state amendment No. 771, proposed by the Seantor from Wisconsin (Mr. PROXMIRE).

The LEGISLATIVE CLERK. The Senator from Wisconsin (Mr. PROXMIRE) proposes amendment No. 771.

The PRESIDENT pro tempore. Time on the amendment is limited to 1 hour. Who yields time?

Mr. TOWER. Mr. President, I ask unanimous consent that I may suggest the absence of a quorum without the time being charged to either side.

The PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 771

Mr. PROXMIRE. Mr. President, I yield myself such time as I may require. I expect to speak for about 8 or 9 minutes, or less.

The PRESIDENT pro tempore. The Senator from Wisconsin is recognized.

Mr. PROXMIRE. Mr. President, I do hope that the managers of the bill will accept this amendment. I think if they read the amendment carefully and think about what it provides they may be disposed to do so, because it is an amendment which does provide for open hearings, but it provides complete and full safeguards for any kind of confidential executive session the Pay Board and Price Commission would like to have.

Let me read the amendment:

> Any hearing or other proceeding conducted by the President or his delegate for the purpose of hearing arguments or acquiring information bearing on a change or a proposed change in wages, salaries, prices, rents, interest rates, or corporate dividends or similar transfers shall be open to the public except that a private hearing or other proceeding may be conducted to receive information considered confidential under section 205 of this title.

As all of us who have served in the Senate know that this is exactly how the Senate conducts its operations. We normally have open hearings, but when information should be received privately or when there is a markup of a bill we have an executive session. This amendment would provide the same rule for the Pay Board and the Price Commission, and require that hearings conducted by the Pay Board and Price Commission be open to the public. This amendment is prompted by the testimony of Judge Boldt before the Joint Economic Committee last Saturday. Judge Boldt indicated that hearings before the Pay Board were secret, that the public and the press were excluded, and that not even a transcript was available. This type of secrecy has no place in a democratic society.

My amendment would not require the disclosure of information considered to be confidential under section 205 of the legislation.

I asked Judge Boldt if a reporter who might come to the hearings would be admitted, and he said "No." I asked him if a transcript was kept of these very important hearings. It would have a profound effect on what consumers have to pay throughout the country, and what millions of wage earners are going to get.

He said no transcript is kept. He did say that minutes were kept and that, at our request, the minutes would be made available to our committee. On something that is this far reaching, that has this kind of effect on many, many people, there is just no place for this type of secrecy. If confidential information were involved in the course of a public hearing, the Pay Board or Price Commission would be permitted to consider the information in executive session. Thus my amendment would in no way require the disclosure of trade secrets or other confidential information.

As a matter of fact, what is confidential is entirely at the discretion of the board. They can decide, on the basis of the firms coming to them, that that information shall not be revealed publicly. The chairman of either board could say the session would be executive. I do think there would be a wholesome public pressure not to abuse that. Obviously pressure would be on the Board to make these hearings open, and they should be open, but there are confidential matters which should be protected. In those circumstances, this amendment would not interfere with that.

I would expect that much of the information bearing on a proposed wage or price increase would not be considered confidential under section 205. There is no reason why this type of information cannot be discussed in a public hearing. If the Pay Board or Price Commission holds a hearing on a proposed wage or price increase, why should not the public be invited to sit in as long as confidential information is not discussed? No one has a greater stake in the program than the general public. Why exclude them from the hearings?

Mr. President, the basic reason for supporting my amendment is that the public has a right to know what is going on. But there is a second important reason for adopting my amendment. If public hearings are required, it will serve to moderate some of the excessive demands for wage and price increases on the part of powerful labor unions and corporations. It is one thing to argue for an exorbitant price increase behind closed doors. It is an entirely different matter when these arguments must be made in public. Public opinion does exert a restraining influence on corporations and labor unions. My amendment will thus help achieve the goals of the anti-inflationary program.

I honestly believe that if the hearings on the wage increases for coal miners had been held publicly, the effect would have been more salutary. It is possible that under those circumstances we might have had a different decision. I think we would have. But whether we would have or not, we would have had a far better understanding on the part of the public of the justification for that tremendous violation of the guidelines.

We have delegated an enormous amount of power to the Pay Board and the Price Commission. The present members of the Board and Commission are not even confirmed by the Senate, although, because of last night's action, the chairmen of the two boards will be confirmed. Some of the members will be private rather than public men. As a matter of fact, except for the Chairmen of the two Boards, they are considered to be private people who are paid only on a per diem basis and they maintain their present positions, responsible to a private constituency. That is true of every member of the Pay Board. He will represent industry. He will still be an executive in an important industrial firm. That is true of George Meany and Leonard Woodcock and other labor members. Their principal obligations are to their constituents. Under these circumstances, these private persons will be making decisions and they will not be confirmed by the Senate. To me, these decisions in private, secret meetings, certainly are not in the public interest.

I should point out and emphasize that my amendment does not call for the deliberations of the Board or Commission to be open to the public. Once these agencies have acquired the basic information through a public hearing or otherwise, they could sit in executive session to decide upon the proposed price or wage increase. My amendment would thus not interfere with the spirit of give and take needed to reach sound decisions. It simply requires that the parties requesting a price or wage increase make their arguments in public.

The situation of the Pay Board and Price Commission is somewhat similar to the situation of the Supreme Court. Arguments before the Supreme Court are made in public, while the Court itself reaches its decision on those arguments in executive session.

That is also similar to the way the Senate operates. We hold our hearings in public; we reach our decisions in executive sessions. My amendment would apply the same procedure to the Pay Board and the Price Commission.

Mr. President, I cannot think of any legitimate reason why a labor union or corporation would object to making its arguments for a wage or price increase in public, as long as we do not require the disclosure of trade secrets or other confidential information. If a company or union is still reluctant to present its case in public, then there must be something wrong with its case. Publicity is the best method for obtaining truth and rejecting falsehoods. Freedom of the press is vital to our democratic system.

I therefore urge the Senate to adopt my amendment, and I reserve the remainder of my time.

Mr. SPARKMAN. Mr. President, I yield myself 5 minutes.

This seems to be a simple amendment at first blush, and we might think it was a good amendment and innocuous, but it is more far-reaching than it would be felt to be from the discussion of the Senator from Wisconsin.

Of course, nobody has any objections to open hearings, to formal hearings, but most of the consideration of these matters is going to be conducted in more or less casual meetings and conversations, and people coming in, sitting down, and talking things over. Under the pending amendment, all that would have to be in public. I should think that if some matter reached a formal hearing stage, it would be perfectly all right to hold that in public, but this amendment goes far beyond that and provides that every hearing, every talk, must be held in public, with one exception, and that is those in which it is known ahead of time, or is considered to be the case ahead of time, information considered confidential under section 205 of this title will be involved. Certainly it is wise to except that, but I do not think it is wise for all of the talks, all the private conversations, the informal talks or discussions, that are involved.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. SPARKMAN. I yield.

Mr. PROXMIRE. It is certainly my intention, and the way I read this amendment, that at any time the Board feels that any kind of confidential information or that kind of a discussion is involved——

Mr. SPARKMAN. I realize that.

Mr. PROXMIRE. They can engage in a private meeting, but for the hearings, for example, when the Governor of West Virginia and labor and other representatives came before the Pay Board in the coal case. This was held in a private, secret session. It should have been held publicly. But there is no intention on the part of the Pay Board to hold these critical hearings in public.

Mr. SPARKMAN. The Senator's amendment says:

> Any hearing or other proceeding conducted by the President or his delegate for the purpose of hearing arguments or acquiring information bearing on a change or a proposed change . . . shall be open to the public except,

And the Senator then makes an exception on confidential information, and I mentioned that a few minutes ago. I think it is more than the Senator from Wisconsin intended. It is broader than what he has interpreted it in his discussion this morning. This provides for any proceeding to get information or anything else.

I do not believe the Senator from Wisconsin would want to put that rigid requirement in.

Mr. PROXMIRE. May I say to the chairman that I certainly would not consider a telephone conversation or a conversation between two or three officials to be a proceeding. I would consider, however, that if the parties involved in determining, for example, whether or not General Motors should have the 2.5-percent price increase they received, met in Mr. Grayson's office for the purpose of determining that, that ought to be in public, unless they can show there is confidential information involved.

Mr. SPARKMAN. But that is not what the Senator's amendment provides for. That may be his wish, but his amendment is much broader than that.

Mr. PROXMIRE. I point out to the Senator from Alabama that the term "proceeding" and its significance would be completely within the discretion of the executive branch to determine, and I assume they would delegate that to the chairman.

Mr. SPARKMAN. No, no. Listen to this:

> Any hearing or other proceeding conducted by the President or his delegate for the purpose of hearing arguments or acquiring information.

Now, that could be a single individual.

Mr. PROXMIRE. Well, it could be.

Mr. SPARKMAN. I do not believe the Senator from Wisconsin would insist upon that.

Mr. President, I yield the Senator from Texas such time as he may require.

Mr. TOWER. Mr. President, I would like to ask the distinguished Senator from Alabama, the chairman of the committee, did we not incorporate certain provisions of the Administrative Procedure Act in this legislation that is now before us, and is there not a public information provision contained therein, with which we have already had about 25 years' experience?

Mr. SPARKMAN. Yes, that is right.

Mr. PROXMIRE. Will the Senator yield on that point?

Mr. SPARKMAN. Just a minute. Let me answer the question.

The administration asked for a complete exemption from the Administrative Procedure Act, and we decided that there were parts—we recognized the need for expeditious action, but we did recognize the fact that there were various provisions in the Administrative Procedures Act that ought to be carried in this act for the protection of certain rights of individuals, and we wrote those in. The committee agreed to those features. We did write in a provision to protect confidential information, trade secrets, such as that; and we did write in a provision relating to public information. So I think we have covered the subject.

Mr. PROXMIRE. Will the Senator yield on that particular point?

Mr. SPARKMAN. I yield to the Senator from Texas such time as he may require.

Mr. TOWER. May I ask the further question—

The PRESIDENT pro tempore. How much time does the Senator yield?

Mr. SPARKMAN. Such time as the Senator from Texas may require, within an hour limit.

Mr. TOWER. Does it occur to the Senator from Alabama that if we accept this requirement of open public hearings, the parties involved will have to be put on notice fixing the time when the hearings will be held, and, because for formal public hearings you have to give some advance notice and alert the parties, and perhaps alert any interested person, does it strike the Senator as being perhaps something of an inhibition or something that might be of inconvenience to all parties involved, to the extent that it slows down the process of resolving problems?

Mr. SPARKMAN. Yes, I surely agree with that. And, by the way, the Senator from Wisconsin referred to committee hearings. When we have some important matter coming before our committee, we give notice a week or 10 days ahead of time, through the CONGRESSIONAL RECORD, and make it known that a hearing will be held on that date; and we invite interested parties to participate. But it is remarkable how many times, even with that advance notice, parties who are deeply interested will come in and say, "We just cannot be there on that date; we insist that you set another date." And we remain in a condition of uncertainty. Not often do we have to change the date, because we give as much advance notice as we can of committee hearings, but it does not run with quite the informality or the ease and smoothness that the Senator from Wisconsin suggests. I can bear that out from my own experience in trying to arrange to keep a schedule for our committee that is regular and that can be observed.

Mr. TOWER. Is it not true that in adjudicatory proceedings much of what happens to resolve litigation does not happen in the open courtroom, in public, but happens in judges' chambers or in the lawyers' offices, or between and among the parties acting informally, and that the judicial process would be pretty well bogged down if that did not occur?

Mr. SPARKMAN. That is correct. The judge, perhaps before the trial of a case has started, and sometimes even during the trial, will recess the court and ask the opposing attorneys to join him in his chambers, and there they will discuss the matter.

That could not be done under this proposal. Anything that they set up for the purpose of getting information would have to be in the open.

Mr. PROXMIRE. Mr. President, that is not true. The manager of the bill simply has not read the last part of the amendment.

Mr. SPARKMAN. Yes, I have read it.

Mr. PROXMIRE. "A private hearing or other proceeding may be connected to receive information considered confidential."

Mr. SPARKMAN. Yes; "information considered confidential." But I am not talking about confidential information. I pointed that out when I first took the floor, that the Senator had made that exception down there relating only—and I stress that word "only"—to confidential information under section 205 of the bill.

There is a lot that goes on in the way of informal discussions, and that is what I am talking about. The Senator's amendment does not make room for those informal discussions if the purpose is to get information. That is what the amendment says.

Mr. PROXMIRE. Mr. President, the President has the authority and power to write regulations——

The PRESIDENT pro tempore. Who yields time, and to whom?

Mr. PROXMIRE. Well, they obviously do not want to talk about this.

Mr. SPARKMAN. I yield the floor at this point, and reserve the remainder of my time.

The PRESIDENT pro tempore. Who yields time?

Mr. PROXMIRE. Mr. President, I yield myself such time as I may require.

The President of the United States has the right, under this law, to write such regulations and requirements with respect to proceedings as he wishes. Furthermore, what the managers of the bill neglected to point out is that the Pay Board and the Price Commission are exempted in this bill from sections 554 and 557 of the Administrative Procedures Act and those are the sections relating to hearings.

The fact is that under the bill without my amendment they can conduct the same kind of private hearings they are conducting now. Now they are under the Administrative Procedures Act, and Judge Boldt has been holding hearings, and says he intends to continue to hold those hearings, privately, and does not intend under any circumstances to have reporters there and have the press cover the hearings—hearings that are of the greatest importance to the American public.

Mr. President, the managers of the bill also indicated that if hearings are held, it will be necessary to provide notice of a week or 10 days. There is no such requirement. They do not have to provide notice of more than a few hours, for that matter. If they want to provide notice, and if they can do so a few days in advance, there is nothing to prevent that, but there is nothing in this amendment to require that kind of notice.

It is really within the authority and responsibility of the President and his delegates to determine whatever kind of rules they want to, provided, of course, that they do their best to provide that hearings and proceedings are not confidential and will be held in public. They can define the hearings and proceedings.

Mr. SPARKMAN. Mr. President, will the Senator yield at that point?

Mr. PROXMIRE. Yes.

The PRESIDENT pro tempore. Does the Senator from Wisconsin yield to the Senator from Alabama?

Mr. PROXMIRE. I yield to the Senator from Alabama.

Mr. SPARKMAN. I did not say these hearings would require—if the Senator will recall, he illustrated the term "hearings" by referring to committee hearings, and I told something about the procedures of the committee hearings and that it would require a degree of hearing. I did not say anything about a week, but we do try to give a week's notice of the committee hearings.

Mr. PROXMIRE. I also pointed to the analogy of the Supreme Court. They have public hearings. Lawyers appear in adverse proceedings before the Supreme Court. Then the Supreme Court can determine whatever rules they wish, which would be completely similar to the situation here. The Supreme Court determines whether or not they want to hear privately from the people involved. The Supreme Court then, of course, makes its decisions and has its consultations in private, as would be expected; but the actual proceedings before the Supreme Court are held in public.

It is my contention that the Pay Board and the Price Commission should abide by these rules, which both Congress and the Supreme Court have found are useful over many, many years, to provide the greatest possible public information.

I think this amendment is a limited amendment which provides a minimum of guarantee that the public will get some information.

The Senate unfortunately defeated the Nelson amendment the other day. I think there was a strong case for it, but there was a case against it, too, on the ground that it would require that a great deal of information be made available to the public which businesses would prefer not to have made available. This amendment does not suffer from that. In the event business has any information which the business would regard as confidential and the Board would support them in it—and I think this Board would be sympathetic to that—the hearings would be private.

But when you have a situation such as we have already had with respect to coal and are going to have with respect to a series of other proposals for substantial wage and price increases, under these circumstances, in most cases, it would seem to me, the country would be better served and the decisions would be far better, and certainly far better understood; and the vital ingredient of public confidence and public support, which is essential if this is going to operate, would be more likely if these hearings were held in public.

Mr. President, I reserve the remainder of my time.

The PRESIDENT pro tempore. Who yields time?

Mr. SPARKMAN. Mr. President, if the Senator from Wisconsin is ready to yield back the remainder of his time, we will join him.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield?

Mr. SPARKMAN. I yield.

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent—having cleared this request with the distinguished Senator from Wisconsin (Mr. PROXMIRE), the distinguished assistant ranking Republican member of the committee, and with the distinguished manager of the bill—that on the amendment by the Senator from California (Mr. CRANSTON)—which will deal with wage and price controls with respect to the press and broadcast media—there be a limitation of 30 minutes, to be equally divided between and controlled by the distinguished mover of the amendment and the distinguished manager of the bill; that on any amendment in the second degree, motion, appeal, and point of order, with the exception of nondebatable motions, there be a limitation of 20 minutes, to be equally divided between the mover of such and the manager of the bill.

Mr. TOWER. Mr. President, reserving the right to object, the distinguished majority whip did indeed talk with me about it. Subsequent to his discussion with me, one of the Members on my side raised some questions about this time limitation. I was under the impression that it was 30 minutes per side, rather than 30 minutes total time, which is probably my mistake.

I wonder whether we might reserve getting a consent agreement on that for a few minutes. Ultimately, in the course of a short period of time, I am certain we will be able to agree on a time limitation. I would think, however, that we would prefer an hour—30 minutes to a side, rather than 15 minutes to a side. If the Senator will withhold that request for a few minutes, I will appreciate it.

Mr. BYRD of West Virginia. Mr. President, if the distinguished Senator would prefer, we could go ahead and get the time limitation of 1 hour now, to be equally divided, and then we could change it later, if need be.

Mr. TOWER. I will consent to 1 hour, with the understanding that, if I want an extension of time, it will not be viewed unfavorably by the Senator from West Virginia.

Mr. BYRD of West Virginia. Very well.

Mr. President, I revise my request accordingly, but with the same provisos with respect to amendments in the second degree, motions, appeals, and points of order.

Mr. ERVIN. Mr. President, reserving the right to object—and I hope I will not have to object—I want to inquire of the distinguished Senator from West Virginia whether this is satisfactory with the author of the amendment, the Senator from California.

Mr. BYRD of West Virginia. I am advised that it is satisfactory with him.

Mr. ERVIN. I do not object.

The PRESIDENT pro tempore. Is there objection? The Chair hears none and it is so ordered.

Mr. TOWER. Mr. President, will the Senator yield for a question?

Mr. BYRD of West Virginia. I yield.

Mr. TOWER. It is my understanding that this amendment will come up after the other amendments that are now pending—or at least are scheduled—have been disposed of.

Mr. BYRD of West Virginia. That would have to be the case under the previous agreements that have been entered into, unless by unanimous consent the amendment is inserted at some point in between. I am not sure just now as to whether or not Senator CRANSTON wants the amendment at the end or in between. But, as the able Senator from Texas has indicated, it would require unanimous consent to bring it in at some point before the end of the series.

Mr. TOWER. I thank the Senator.

The PRESIDENT pro tempore. Who yields time?

Mr. BYRD of West Virginia. Mr. President, will the distinguished manager of the bill kindly ask for a brief quorum call before he yields back his time?

Mr. PROXMIRE. Mr. President, may I suggest that we have a quorum call long enough so that we can get sufficient Senators on the floor to get the yeas and the nays on this amendment? Is that all right with the acting majority leader?

Mr. BYRD of West Virginia. Yes.

Mr. SPARKMAN. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time not be charged to either side.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. SPARKMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. RIBICOFF). Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. PROXMIRE. Mr. President, let me briefly summarize what the amendment would do. It would provide that there be public hearings before the Pay Board and the Price Commission.

Let me read the amendment for the benefit of the Senate. It is brief, simple, and clear:

> (d) Any hearing or other proceeding conducted by the President or his delegate for the purpose of hearing arguments or acquiring information bearing on a change or a proposed change in wages, salaries, prices, rents, interest rates, or corporate dividends or similar transfers shall be open to the public except that a private hearing or other proceeding may be conducted to receive information considered confidential under section 205 of this title.

Mr. President, it has not been made clear to us why the Chairman of the Pay Board has no intention to have public hearings. The hearings held before his Board are in closed session, in private. No transcript is kept. Minutes are kept, but they have not been made public, to the best of my knowledge. Perhaps in future meetings they will be made public.

Mr. PASTORE. I was wondering whether we could not have a modification of the amendment. The Senator uses the word "confidential." Could we not just say that where hearings would be in the public interest that they not be closed hearings? Let us put it that way, without using the word "confidential." What does the Senator mean by "confidential"? We should lay the groundwork here that there should be public hearings but there may be situations where in the public interest and in the discretion of the Board it would be advisable to have an informal private meeting.

Mr. PROXMIRE. I would be delighted to accept that language. We might even broaden it a bit to include informal conversations. The Senator from Alabama is concerned about the desirability of having private exchanges between the Pay Board and the various parties at interest. I would not object to that.

Mr. PASTORE. I think we should take care of that, and have it at the discretion of the board. If they did that, I could support the Senator's amendment.

Mr. BYRD of West Virginia. Will the Senator from Wisconsin yield briefly for, say, not to exceed 5 minutes, with the understanding that the Senator will not lose his right to the floor and that the time will not be charged against either side?

Mr. PROXMIRE. I would be happy to do that, but we are about on the verge of reaching an agreement on this amendment. If I could just proceed for a minute or two longer, I would appreciate it.

Mr. SPARKMAN. In connection with the suggestion of the Senator from Rhode Island, I pointed out awhile ago that it goes a little further than the way in which the amendment has been explained. Under the wording of this amendment, there could not be an informal discussion without a formal hearing. A moment ago we used the illustration that this would prohibit a judge in a civil court from inviting opposing groups to go into his chambers for discussions because the amendment says any proceeding to get information. Goodness knows, certainly they should not be required to have a public hearing just in order to discuss with the parties concerned the information they want. That would be just a simple matter of——

Mr. PROXMIRE. Yes, and furthermore, the amendment leaves it within the discretion of the executive to determine what a hearing and proceeding is——

Mr. SPARKMAN. Oh, no—no—if the Senator would——

Mr. PROXMIRE. I am delighted to change the language to comply with precisely what the Senator from Alabama suggests——

Mr. PASTORE. That is the way I understood it. We will leave the predicate that the public interest is involved and there should be public hearings. On the other hand, there may be some situations where the board deems it advisable to go the other way. and the board should be given that discretion. I understand that the Senator is willing to amend it. I cannot see anything wrong with it.

Mr. SPARKMAN. May I say that I had already suggested to the Senator from Wisconsin that there should be some way to change this to say that only the hearing, and it should be formal, will be open to the public; but I did point out that the Senator from Texas (Mr. TOWER) is vitally interested in this bill and the measures in it, and I certainly would not want to suggest anything unless it met with his full agreement.

Mr. TOWER. Mr. President, if the distinguished Chairman would yield, on page 9 of the bill, beginning with line 10, under section 207, which is entitled "Administrative Procedure," it says:

> The agency shall, in regulations prescribed by it, establish appropriate procedures, including hearings where deemed advisable, for considering such requests for exceptions or exemptions.

So that is in the bill.

Mr. PROXMIRE. It does not say open hearings.

Mr. TOWER. We could say "including public hearings." I would have no objection.

Mr. SPARKMAN. Mr. President, how about amending it to say "open hearings" or "public hearings"?

Mr. PASTORE. Whatever we do, we should not leave anyone with the impression that we are shutting out the public.

Mr. PROXMIRE. That is exactly right.

Mr. TOWER. That is correct.

Mr. SPARKMAN. That is correct, but it goes too far.

Mr. PASTORE. That is true. That is the reason that I think we ought to do it.

Mr. PROXMIRE. Mr. President, perhaps we can have an informal discussion while the majority whip is discussing the other matter.

Mr. TOWER. Mr. President, is the Senator from Wisconsin discussing that we have an informal, nonpublic discussion?

Mr. PROXMIRE. Precisely.

EXECUTIVE SESSION

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate go into executive session, and I ask unanimous consent that such session not last in excess of 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, I have discussed the following unanimous consent request today with the distinguished assistant Republican leader and, last evening, with the distinguished Republican leader, and through the Senator from Oklahoma (Mr. HARRIS), the matter has also been cleared with the following Senators: Senators MUSKIE, HUMPHREY, MCGOVERN, HUGHES, PROXMIRE, NELSON, SYMINGTON, CRANSTON, MONDALE, TALMADGE, METCALF, and JACKSON.

I am authorized, therefore, by the distinguished majority leader to make the following unanimous consent requests.

ORDERS FOR RECESS TO 9 A.M.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT—CONSIDERATION OF NOMINATION OF EARL L. BUTZ

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that following the recognition of the two leaders under the standing order on tomorrow morning, the Senate resume its consideration at that time of the nomination of the Honorable Earl Lauer Butz to the office of Secretary of Agriculture.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. I ask unanimous consent that a vote occur on the confirmation of the nomination at 1 o'clock tomorrow afternoon; provided further, that the time for the debate on the confirmation be equally divided between and controlled by the distinguished Senator from Vermont (Mr. AIKEN) on the one side, and the distinguished Senator from Oklahoma (Mr. HARRIS) and/or the distinguished Senator from Iowa (Mr. HUGHES) on the other side; provided further, Mr. President, that when action is completed on the pending business in legislative session today, the so-called phase II aspects of the President's economic proposal. the Senate then proceed in executive session to consider the nomination of Mr. Butz, with the time under the control of the aforementioned Senators; all of this, Mr. President, to be conditioned on the completion of action today on the unfinished business. Otherwise, the unanimous consent agreement is to be vacated.

Mr. GRIFFIN. Mr. President, reserving the right to object—and I do not intend to object—but merely to indicate for the RECORD that I have discussed this proposed agreement with the distinguished minority leader, the Senator from Pennsylvania (Mr. SCOTT); and with the distinguished ranking minority Member, the Senator from Vermont (Mr. AIKEN); with the Senator from Iowa (Mr. MILLER); and with others on this side who I had reason to believe might want to be contacted. Therefore, there is no objection, and I do not intend to object.

Mr. AIKEN. Mr. President, I have no objection in mind, but as I was coming on the floor I heard the distinguished assistant majority leader mention a list of names. Would he tell us what those names represent?

Mr. BYRD of West Virginia. May I say, in response to the very distinguished Senator from Vermont, that I cleared this matter directly with the Senator from Oklahoma (Mr. HARRIS), who is one of the leading, if not the foremost, opponents—if I am to judge by press reports—to the nomination. He in turn had cleared this matter on his side with Senators, many of whom are in opposition. Therefore, I am authorized to say that the list has been cleared with the Senator from Oklahoma.

Mr. AIKEN. That was the list of names?

Mr. BYRD of West Virginia. That was the list of names which he gave to me.

Mr. AIKEN. Mr. President, I just came on the floor and the list of names was so impressive that I wanted to inquire about it.

Mr. HUGHES. Mr. President, reserving the right to object, I would like to ask the distinguished assistant majority leader if there is any assurance under this proposed agreement that we will have up to 8 hours of debate on the nomination. If we go to 8 or 10 o'clock tonight on the pending business, we may be limited to 4 hours.

It is my understanding with the Members on this side with whom I have discussed the matter that we would have 8 hours of debate on this subject. It is not our intention to delay the matter. There are many people who want to speak. And I am sure that there will be just as many or more on the other side that want to speak in favor of the confirmation of the nomination.

I did not feel that we could resolve this with less than 8 hours of debate, the time to be equally divided.

Mr. BYRD of West Virginia. Mr. President, the matter of 8 hours for debate of the nomination was discussed with the Senator from Oklahoma (Mr. HARRIS). In view of the fact that we are unable, at least at this time, to foresee precisely when the completion of the unfinished legislative business will occur, this is the best agreement we could get, under the circumstances.

I discussed it with the Senator from Oklahoma this morning. If we finish at 2, 3, or 4 o'clock today—or whatever hour—Senators may speak today for as long as they wish on the nomination.

The Senator from Oklahoma indicated to me that the 8-hour figure was not an ironclad figure. He and his supporters would like to have 8 hours, but if they cannot have quite that much time, he has indicated it will be agreeable. He felt that all the others on his side would likewise be agreeable.

This is the best proposal we can make at the moment, and it is conditioned upon the completion of the unfinished legislative business today. But it would at least assure the Senators of 4 hours of debate on tomorrow and some considerable time today.

Mr. GRIFFIN. Mr. President, while it is, of course, difficult to make any promises or commitments, having surveyed the situation on this side, I do not think we would use all the time that would be allocated to our side. And if there are some on the other side of the issue that want additional time, the chances will be very good that they could get it cleared from this side if they can see fit to go ahead with the agreement.

Mr. HUGHES. Mr. President, I have no objection to an agreement on time and no desire to delay it further if we can be assured of 4 hours to the side. However, if we take until 8 o'clock tonight to pass the current business of the Senate, we would only have 4 hours in the morning. I would hope the majority leader and the minority leader might see fit to propose a unanimous consent agreement to extend that time reasonably to allow us to continue the discussion on this side.

Mr. BYRD of West Virginia. Mr. President, I have discussed the matter with the Senator from Wisconsin (Mr. PROXMIRE), and while he is not in a position to indicate what time we could expect the completion of the legislative business today, I think I can say that he has indicated that he does not anticipate our going too late.

Mr. PROXMIRE. No, no. The only amendments except for the couple of amendments I have are amendments by the Senator from New York (Mr. JAVITS), which may or may not be called up, and an amendment by the Senator from California (Mr. CRANSTON), which will be limited to 1 hour.

Mr. BYRD of West Virginia. The joint leadership is willing to do everything in its power to assure the opponents of at least 4 hours, if they need 4 hours in opposition to the nomination.

Mr. HUGHES. Mr. President, will the Senator yield further?

Mr. BYRD of West Virginia. I yield.

Mr. HUGHES. The Senator from Iowa is reassured with this colloquy this morning and I have no objection to the unanimous consent request.

Mr. SPARKMAN. Mr. President, will the Senator yield?

Mr. BYRD of West Virginia. I yield.

Mr. SPARKMAN. Unfortunately, I was in consultation in the rear of the Chamber.

Mr. TOWER. Nonpublic.

Mr. SPARKMAN. Nonpublic. And I did not hear the first part of the colloquy. I did sense that the Senator was reading off a list of names. Are those the ones that are going to be allowed to speak on this matter, or just what was the purpose of reading the names?

Mr. BYRD of West Virginia. This is a list of the names with whom the unanimous consent request has been cleared on the Democratic side of the aisle.

Mr. SPARKMAN. For what purpose? With reference to this 8 hours?

Mr. BYRD of West Virginia. The list has been cleared on both sides.

Mr. SPARKMAN. The Senator was not setting up the power of speechmaking?

Mr. BYRD of West Virginia. No.

Mr. SPARKMAN. I had this in mind. It may be a great many Senators would like to make brief talks. I do not know that but they should not be shut out.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. BYRD of West Virginia. I yield.

Mr. MAGNUSON. Is this on the Butz nomination?

Mr. BYRD of West Virginia. Yes.

Mr. MAGNUSON. Was my name included?

Mr. BYRD of West Virginia. The Senator's name was not included.

Mr. MAGNUSON. Well, put my name down.

Mr. SPARKMAN. That is not for speaking.

Mr. MAGNUSON. Not for speaking.

Mr. SPARKMAN. Agreeing on the 8 hours.

Mr. MAGNUSON. I have a small problem in Seattle that I want to talk on.

Mr. McGEE. Mr. President, will the Senator yield?

Mr. BYRD of West Virginia. I yield.

Mr. McGEE. There is nothing in the agreement that precludes our putting our statements in the RECORD rather than using up the time, is there?

Mr. BYRD of West Virginia. No, not at all.

Mr. PASTORE. Mr. President, I wish to commend and congratulate the majority whip for the way he has been conducting the expedition of our business here so we can get out of here sine die. I hope we will not become picayune and nitpicking on some of these agreements.

Mr. SCOTT. Mr. President, I wish to echo that statement.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD of West Virginia. I thank the able Senator from Rhode Island and the able Republican leader for their generous remarks.

Mr. SCOTT. Mr. President, who controls time? I would like to propound a unanimous-consent request.

The PRESIDING OFFICER. The Senator from West Virginia has 2 minutes remaining.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the time that has been consumed not be charged against either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. I yield the floor.

ORDER OF BUSINESS

The PRESIDING OFFICER. The Senator from Alabama has the floor.

Mr. SPARKMAN. Mr. President, I yield to the Senator from Pennsylvania for 1 minute.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

SUBSTITUTION OF CONFEREE REVENUE ACT OF 1971

Mr. SCOTT. Mr. President, I ask unanimous consent that, in the conference now underway on the tax bill, the distinguished Senator from Iowa (Mr. MILLER) be substituted temporarily as a conferee for the remainder of this week in lieu of the distinguished Senator from Utah (Mr. BENNETT).

The PRESIDING OFFICER. Without objection, it is so ordered.

ECONOMIC STABILIZATION ACT AMENDMENTS OF 1971

The Senate resumed the consideration of the bill (S. 2891) to extend and amend the Economic Stabilization Act of 1970.

Mr. PROXMIRE. Will the Senator from Alabama yield?

Mr. SPARKMAN. I yield.

Mr. PROXMIRE. During the colloquy we had an opportunity to work out a compromise which I understand may be acceptable to the managers. Let me read it as follows:

> To the maximum extent possible, the President or his delegate shall conduct formal hearings for the purpose of hearing arguments or acquiring information bearing on a change or a proposed change in wages, salaries, prices, rents, interest rates or corporate dividends, or similar transfers, and such hearings shall be open to the public, except that a private formal hearing may be conducted to receive information considered confidential under section 205 of this title.

So reference to "other proceedings" is out.

As author of the amendment, I would make it a point that informal conversations, of course, are exempted from this, and that it be perfectly proper, and in many cases desirable, for the Board to have such informal conversations privately.

Mr. TOWER addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. TOWER. I ask unanimous consent that the call for the yeas and nays be vacated.

The PRESIDING OFFICER. Is there any objection? Without objection, it is so ordered.

Mr. TOWER. Then the Senator may make the amendment.

Mr. PROXMIRE. I will not object as long as both managers will agree to the amendment.

Mr. SPARKMAN. Yes.

Mr. TOWER. I make the request for the purpose of allowing a modification to the amendment.

Mr. PROXMIRE. As I understand it, as long as there is a time limitation on the amendment, I still must get unanimous consent.

The PRESIDING OFFICER. It will still take unanimous consent to modify the amendment.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that I may modify the amendment, and I send a written copy of the modified amendment to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

> On page 9, after line 13, insert the following new subsection:
>
> (d) To the maximum extent possible, the President or his delegate shall conduct formal hearings for the purpose of hearing arguments or acquiring information bearing on a change or a proposed change in wages, salaries, prices, rents, interest rates, or corporate dividends or similar transfers, and such hearings shall be open to the public except that a private formal hearing may be conducted to receive information considered confidential under section 205 of this title.

Mr. TOWER. Mr. President, who yields time?

Mr. SPARKMAN. I yield to the Senator from Texas such time as he may require.

Mr. TOWER. Mr. President, I find the modified amendment acceptable, and I think it accomplishes what the Senator from Wisconsin desires to accomplish. I would like to make a little legislative history here and note that it is not intended that we should formalize perhaps every one of these small cases, very minor cases. That would be time consuming and really not necessarily of great public impact.

Mr. PROXMIRE. That is right, but in the major cases—the coal case, for example, and the other big cases coming up—when the formal hearings are held, they should be public. The press should be admitted. It would be my view that it would be far better to have the press admitted.

Mr. TOWER. Subject to the confidentiality provision.

Mr. PROXMIRE. Exactly.

Mr. SPARKMAN. Mr. President, I am willing to yield back the remainder of my time.

Mr. PROXMIRE. I yield back my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Wisconsin, as modified.

The amendment, as modified, was agreed to.

Mr. SPARKMAN. I move to reconsider the vote by which the amendment was agreed to.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 762

The PRESIDING OFFICER. Under the previous unanimous-consent agreement, the Chair lays before the Senate amendment No. 762, which the clerk will state.

The second assistant legislative clerk read as follows:

> On page 6, after line 4, add the following new subsection:
>
> (g) The authority conferred on the President by this section shall not be exercised after April 30, 1972, to limit the level of any pay adjustment which applies to or affects employees of a State or local government or agency thereof, unless the President determines the amount of such pay adjustment is unreasonably inconsistent with the standards published under subsection (b).

The PRESIDING OFFICER. Who yields time?

Mr. PROXMIRE. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. PROXMIRE. Mr. President, this amendment exempts State and local employees from wage controls effective April 30, 1972. However, the President could revoke the exemption in a particular case if he found that a specific wage increase was unreasonably inconsistent with the general wage guidelines established by the Pay Board.

My amendment would thus give State and local governments the flexibility they need to operate efficiently while at the same time preserving the authority of the President to limit wage increases which substantially exceed the 5.5-percent wage guideline.

I have chosen to exempt State and local employees as of April 30, 1972, because that is the date the present law expires. As I indicated in my remarks on Monday, I do not believe the Senate should extend the legislation beyond April 30, 1972. If this position were to prevail, there would be no need to exempt State and local employees, since the entire subject of exemptions would be subject to review by the Congress at a later date when we had more experience with the program.

However, on Tuesday in rejecting the Harris amendment which would have provided for a more limited extension, the Senate made it clear that it prefers a 17-month extension of the Stabilization Act. This being the situation, I believe it is necessary to consider now the case for exempting State and local workers from the wage guidelines.

Mr. President, the inflationary pressures in our economy are not caused by State and local employees—rather they are a responsibility of large corporations and large labor unions. If we want to control inflation, we should zero in on the real causes without subjecting the entire economy to the heavy hand of Government regulation. As long as we are giving the President sweeping authority to control the economy for 17 months, we should legislate a specific timetable for withdrawing these controls.

I believe a good case can be made for exempting local and State employees at the earliest possible date. First of all, with very few exceptions, State and local employees do not have the right to strike. Moreover, many of the terms of employment and working conditions are set by law and are not subject to collective bargaining.

My State of Wisconsin was, as I recall, the first State in the Union to provide for collective bargaining for State employees, and that was only a very few years ago. The practice has become somewhat more common, but as a result, I think that all of us recognize that whether the employees are teachers, policemen, firemen, or hold other positions, by and large the State and local employees are not paid on a basis comparable with what is paid in private industry in most cases.

Collective bargaining, furthermore, as I say, does not apply to most State and local employees.

These include the hours of work, retention rights, grievance procedures and the like. Because of this, State and local employee unions are in no position to obtain exorbitant wage increases. In the few cases where this might occur, my amendment gives the President the authority to limit the amount of the wage increase to a level reasonably consistent with the wage guidelines.

Second, the taxpayers themselves exert a restraining influence on excessive wage increases for State and local employees.

The fact is that the Pay Board has exempted Federal employees and has left the regulation of their pay entirely to the President and Congress, because the board feels that the President and Congress will exert the discipline necessary to keep Federal employees' wages in line.

I submit that the pressure is far greater on Governors and on mayors to hold the line on pay increases than it is on the Federal Government. The revenue of the Federal Government is more substantial, and the capacity of the Federal Government to borrow is virtually unlimited, whereas the State and local governments are in an extraordinarily difficult position in the great majority of cases.

A large and powerful corporation can afford to pay an inflationary wage increase because of its ability to pass on the higher costs to the public in the form of higher prices. State and local officeholders do not have this same flexibility. They cannot raise taxes with impunity if they expect to be reelected. State and local governments therefore have a more compelling incentive to hold down inflationary wage increases.

Third, controls on State and local wage increases are unjustified because of the low wages earned by most State and local employees. Hospital workers and teachers have been traditionally underpaid. Policemen and firemen are not receiving adequate pay considering their important responsibilities. State and local employees have generally lagged behind the private sector in terms of pay. This pay gap would be widened if the wage guidelines were rigidly applied to State and local workers.

Fourth, Federal control over State and local pay violates the right of State and local governments to make their own pay determinations. In many cases, a State legislature or city council has authorized a pay increase after considering all of the complex factors involved. Why should a Federal appointed official be permitted to overrule the decisions of local officials who are elected by the people?

Their pay is lagging far, far behind. The pay increase has been the subject of arbitration by a very competent university group in the State of Wisconsin, and the decision of that group is likely to provide for substantial increases, but they are merited and, I think, deserved.

For that group to have to come to the Pay Board in Washington under present circumstances to get the kind of equity which they should have would be very difficult, and it would be most unlikely that they could get relief. Under my amendment, I think they would be in a much stronger position, and there is every likelihood, in view of the equity behind their needs and demands, so the decision likely to be made by the arbitration group could be that the employees would be given the kind of increase which they deserve.

I think it is an indication of almost grotesque arrogance on the part of Federal officials to act as they have acted to exempt Federal employees on the ground that Congress will control them, but not to exempt State and local employees on the ground that State and city officials elected by the people will not provide adequate discipline.

A continuation of Federal control over State and local pay will seriously weaken the division of power inherent in our Federal system. For example, can the Pay Board summon the mayor of a large city and require him to justify a pay increase for local employees? Can the members of a State legislature be called before the Pay Board and asked to explain why they voted for a pay increase for State employees?

Fifth, Federal control could actually weaken the incentive of State and local officials to hold down wage costs. The Pay Board can become a convenient scapegoat for mayors or governors who do not want to take the responsibility for turning down a requested wage increase. It might be easier and politically more expedient to agree to the demands and shift the blame to the Pay Board for rejecting the increase. Local responsibility is thus eroded and the goals of the anti-inflationary program would be frustrated.

I think that many people will resist the idea behind my amendment on the ground that it could be inflationary, inasmuch as the higher salaries for State and local workers would result in greater demand on the economy. If there is one element that does not contribute to the kind of inflation we have it is increased demand. Five million people are out of work in this country, and 25 percent of our plant capacity is idle. We need more demand. More demand will not result in higher prices; it will result in more employment. The problem is that higher wages in the concentrated industrial sector drive prices up. This is largely responsible for the inflation that we are suffering.

The PRESIDING OFFICER. The Senator's 10 minutes have expired.

Mr. PROXMIRE. Mr. President, I yield myself an additional 5 minutes.

Wage increases make the employers popular with their employees. So to provide pay increases is something that employers would like to do, provided they can pass along the increases by means of price increases. As we know, this is exactly what has been happening.

But that does not happen in the case of State and local officials because of the very great pressure to hold down taxes of which so many Senators are aware because of their own service in State or local offices. There is very great pressure on State and local elected officials to hold down taxes.

Without this amendment local responsibility would be eroded, and the goals of the anti-inflationary program would be frustrated.

There is adequate precedent for exempting State and local employees from wage controls. Such an exemption was provided by the War Labor Board in World War II. Only during its first few weeks of operation, from November 12 to December 26, 1942, did the Board require State and local governments to certify that any wage increases were necessary to correct maladjustments or to correct inequalities or gross inequities.

In World War II, the freeze on State and local employees was in effect for only 6 weeks. That requirement was lifted on December 26, 1942, because, in the Board's view, "statutory budgetary controls are operating to keep salary and wage movements of State and local agencies within very narrow bounds."

Mr. President, with the experience that we had in World War II, when we had the colossal pressure of a great shortage of manpower, a great need for people to perform State and local services, and of course incomes generally rising greatly because of overtime, and so forth, even under those circumstances, when we had far greater pressure on the economy, it was found wise to exempt State and local employees from wage controls. We did it last time. The language I have just quoted comes from a ruling of the Board issued on December 26, 1942. Thereafter, State and local governments were not required to certify their wage increases to the Board, and as a matter of fact my amendment would still cover State and local employees to the extent that the President finds that any increase for them is unreasonable and inconsistent with the guidelines. So my amendment would provide greater coverage now, under far less stringent circumstances, as far as the national economy is concerned, than we had in World War II.

Likewise, during the Korean war, the Wage Stabilization Board provided that State and local employees whose wages were set by law could receive wage increases without prior authorization. The Board did reserve the right to review such increases, and to revoke or modify them if it was necessary. In fact, the Board had no occasion to take such action.

Similar flexibility to act in individual cases would be provided by my amendment. So there is clear precedent in World War II and the Korean experience.

Mr. President, my amendment would in no way weaken the fight against inflation. Rather, it would restore more equity to the program, and give State and local governments the flexibility to deal with their own problems. There are more than 82,000 State and local governments in the United States. They employ over 10 million people. These are not the people who are causing inflation. They are the ones looking to Congress, and specifically to the Senate, to achieve fairness——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. PROXMIRE. I yield myself an additional minute. I hope that the Senate will not disappoint those 10 million workers and their families. We owe it to the schoolteachers, to the policemen, to the firemen, to the hospital and health workers, and to other hard-working and underpaid public servants to exempt them from wage controls as soon as possible. As I say, the case is overwhelming. They were exempted in World War II, and they were exempted in the Korean war. They would not contribute to inflation, because they are under the kind of controls I have indicated. I hope my amendment will be adopted.

Mr. President, I reserve the remainder of my time.

Mr. SPARKMAN. Mr. President, I yield the Senator from Texas such time as he may require.

Mr. TOWER. Mr. President, there is no justification for special exemptions to be made statutorily to the wage-price program. The Senator from Wisconsin insisted on language in the bill which calls for "comparable sacrifices" by all segments of the economy, and the committee agreed with him in requiring this standard to be observed by the administration. And yet the Senator from Wisconsin now apparently feels that State and local government employees should receive special consideration, and make less than a "comparable sacrifice" as compared with other economic sectors.

Now I do not wish to deny the employees of State and local governments any raises which the people of their respective States may feel are due them. However, I do not believe it is fair to other employee groups to single out one particular group for exemption, even if that exemption can be overriden by raises which are "unreasonably inconsistent" with phase II pay standards. Hence, I believe that State and local government employees should be subject to the same standards as other employee groups.

I would like to clarify that as regards retroactive pay for State and local government employees, I have supported retroactivity for scheduled raises caught by the freeze, where the arrangements for financing of the raise had already been made, such as by tax increases, appropriations, or anticipatory price increases. This condition on retroactivity would keep retroactive wage increases from causing further cost-of-living increases, and because most State and local governments had already taken the financial steps necessary to fund their scheduled pay raises, these employees would by and large receive retroactive increases.

However, as regards the future of wage increases, I believe that State and local government employees should be covered by the same limitations that apply to everyone else; otherwise we are simply discriminating unfairly against other employee groups, who are, of course, according to the guidelines, going to be held to 5.5-percent increases.

Mr. President, I should point out that phase II is actually a program of decontrols. It is the thaw after the freeze, and although the authority extends into April of 1973, it is not anticipated that the authority will be used for that length of time. So we are only talking about a temporary situation here. This is not anything permanent; it is only temporary, and I think it can be anticipated that this would not work an inconvenience on State and local employees for a period in excess of a year or so.

I think that we should not here statutorily exempt this particular group. If we do, we invite others to come in with special exemptions for other groups who may feel they are being inequitably treated, or should be afforded some kind of preferential treatment.

Mr. PROXMIRE. Mr. President, will the Senator yield on that last point?

Mr. TOWER. On the Senator's own time.

Mr. PROXMIRE. I yield myself 5 minutes.

I ask the Senator from Texas if it is not true that, by administrative decision, Federal employees have been exempted and their salaries have been left to the discretion of the President and Congress. In view of that, why would it be objectionable for us to exempt State and local employees, and leave it to the Governors and the State legislatures? They are as responsible as we are.

Mr. TOWER. Mr. President, it is my understanding that Federal employees are limited to the guidelines. Is that not the understanding of the Senator from Alabama?

Mr. SPARKMAN. I think that is right; and if I may say this, while technically the Senator may be right, that the entitlement to any pay increase is up to the President and Congress, it is really a little more involved than that. There is a law on the statute books that sets down a certain formula under which, if it is efficient, if the cost-of-living reaches a certain level, then some kind of a commission, probably the comparable pay commission, reports that fact to the President, I believe it is twice a year, January 1 and July 1; I am not sure those dates are correct but I believe they are.

If the President then thinks that there ought to be an increase, he recommends that increase to Congress, and sets the degree or the amount of the increase.

Then Congress has the right to veto that action, or to approve it.

Mr. PROXMIRE. Now, may I ask——

Mr. SPARKMAN. All of that has to take place before the raise goes into effect.

Mr. PROXMIRE. That is correct. Now——

Mr. SPARKMAN. So while it is automatic, it is a rather complicated and complex process, which has already been prescribed by law.

Mr. PROXMIRE. Well, now, why in the world should not that exact process be established in the States? Why should not the Governor of the State recommend to the State legislature—we know what great pressures they are under to hold their expenditures down, and to hold their pay down; far greater pressures than Congress is under.

Furthermore, there is a further safeguard. I have a safeguard here that provides, in the last clause of the amendment:

> unless the President determines the amount of such pay adjustment is unreasonably inconsistent with the standards published under subsection (b).

That means that there cannot be any extraordinary, excessive increase; but we give great flexibility to Governors and State legislatures, as we did in World War II and the Korean war.

Mr. SPARKMAN. I noted that exception. Frankly, it seems to me that under the law as the bill is drawn, the State and local employees can reasonably expect an increase of 5½ percent whenever the proper officials in charge say that they are entitled to it. That is the guideline that has been set by the Board already.

I do not know just what the answer is to the question that has been put to me at times: "What is unreasonably inconsistent?" I would say that anything not exceeding 5½ percent would be consistent.

Mr. PROXMIRE. In the coal case, they found 16.8 percent to be not unreasonably inconsistent.

Mr. SPARKMAN. I know, and I think that is unreasonably inconsistent. What would 5.7 percent be? I do not know. But I believe that under the guidelines as they now exist, State and local employees could get a raise of 5.5 percent if the proper officials or the legislature—whoever it might be—saw fit to give them that raise, and it would be within the guidelines. I do not know when this unreasonable inconsistency takes hold. I should think that very soon after you pass that 5.5 percent, the interpretation of the Board will be that it grabs hold.

Mr. PROXMIRE. Suppose there is a situation in the city of Birmingham where the police are paid far too little, and at long last the city council decides that it is going to increase their pay by 20 percent. We have just that kind of situation in a city in my State.

Suppose, under those circumstances, the city council has it arbitrated by competent university people and decides that 20 percent is fair. Under those circumstances, under my amendment, they would be free to go ahead.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. PROXMIRE. I yield myself 5 additional minutes.

Under those circumstances, with my amendment, they would be free to go ahead, and the President could decide later—the Board could decide—that this is unreasonably inconsistent.

On the other hand, without the amendment, it would mean that they would be in the position of having to increase the pay only 5.5 percent. They probably would have to wait for many months, come before the Board——

Mr. SPARKMAN. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield.

Mr. SPARKMAN. Remember, the Senator has said that they have lagged far behind and they want to catch up. The Senator knows that the Wage Board does have a provision whereby catchup can be allowed even in excess of 5.5 percent.

Mr. TOWER. This is true in the coal case.

Mr. PROXMIRE. When Judge Boldt was before our committee, he said there was no catchup proceeding in that case. There may have been in other cases.

Mr. SPARKMAN. There have been cases in which there have been catchup.

Mr. PROXMIRE. My argument is that in this case, the police organization of Birmingham would have to go through this long procedure of waiting for Federal approval.

Mr. SPARKMAN. I wish the Senator would use some other city. I think he will find the police of Birmingham adequately taken care of.

Mr. PROXMIRE. The police in Milwaukee are not.

Mr. SPARKMAN. Their salaries are in good shape down there.

Mr. TOWER. I think the Senator is assuming that the Pay Board is going to arbitrarily deny any increase over 5.5 percent. This is not necessarily true.

Mr. PROXMIRE. I am not asking that in view of their record.

Mr. TOWER. In view of their record, it should obviate the necessity for the Senator's amendment.

Mr. PROXMIRE. I am saying that we are creating a monster. We have a situation in which we have a pay board that is going to be responsible for the pay of 80 million workers in this country. I am saying that it is unnecessary to include the 10 million people who work for State and local governments because they are under inadequate discipline. We found that in the past—in World War II and in the Korean war—and all of us who have observed State and local workers know it is true. How many people feel that any substantial group of State and local work ers is overpaid? There may be some somewhere. Most teachers are not. Most firemen, policemen, sanitation workers, and hospital workers are not.

We know that here is where we have a very serious injustice, and without my amendment this bill is going to prolong that injustice, and for no purpose; because when their pay is increased, it is not inflationary. The pressures to hold down taxes are very great on State and local governments. We know the survival period for a Governor is far shorter than for a Senator or a Representative.

Furthermore, it just ties up in redtape the kind of wage increases which are justifiable and which would be granted by State and local governments only in the event that those elected officials decided could be justified. The State and local officials are just as patriotic as Members of Congress. They are just as anxious to have the anti-inflation program of the President succeed.

I cannot imagine that any significant number of State and local officials are going to be anxious to bust the guidelines when they have both the policies of our Federal Government, the President of the United States, on the one hand, and the great pressure from their local taxpayers on the other.

Mr. President, I think that a matter of State's rights is involved here. We are very conscious and proud of the power and authority of the United States; but I think we also should recognize that the State and local governments have their rights. In past experiences of this kind, we delegated to the State and local governments this authority, and I think it is only proper that we give them the right to determine the pay of their employees under present circumstances, when no case has been made that it would be inflationary if we do not do this.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. SPARKMAN. I yield to the Senator from Texas such time as he may desire.

Mr. TOWER. Mr. President, I am moved by the States' rights argument that has been made by the distinguished Senator from Wisconsin.

Philosophically, I have always been a particularist rather than a nationalist. I might note that I had four great grandfathers who were part of the "thin gray line," who risked their lives in defense of the concept of States' rights. I am a firm believer in States' rights. I am a firm believer in relinquishing sources of revenue to the States that we preempted from them. I am in favor of the devolution of every possible governmental authority and every possible aspect of the decision making process to State and local government.

But we must recognize that we have a problem that is national in scope and requires the application of uniform procedures to bring this problem under control—the problem being the dual problem of spiraling inflation and a sluggish economy. We cannot then, therefore, leave it to any individual component part of our society or our body politic to make its own determination about what is good or bad for the economy, any more than we can leave it to any individual citizen to determine for himself what he wants to contribute in the way of tax dollars or the extent to which we should defend the country or formulate foreign policy.

Certain powers are necessary concomitants of nationality, and one of those powers is the power to intervene in the economy within the confines of the constitutional legislative process. We have conferred on the executive branch a power which apparently is consistent with the Constitution. It has not been declared to be inconsistent. If we are to succeed in trying to resolve the economic problem that confronts the United States, we must make the application of the remedy universal. We cannot, then, therefore, leave it to the individual States to determine what is reasonable or what is consistent with our objective. I think we cannot, then, therefore, statutorily exempt State and local governments from the effects of this act. I think that other entities than State and local governments can come in and make a good case for being exempted from the provisions of this act.

What we are doing is harsh and I do not pretend that it is not. It is an application of governmental power that I dislike. Actually, philosophically, it rubs me the wrong way, but there are times when we have to be a little less idealistic and a little more pragmatic in an effort to resolve a problem. If it is temporarily harsh, we must make up our minds, and we must "bite the bullets" and resort to those measures so that, in the long run, individual liberty and freedom of choice will be preserved and we will not be wallowing in economic anarchy.

Mr. PROXMIRE. Mr. President, the Senator from Texas makes a very good argument. At first it seems that he is completely in favor of my amendment. He favors the devolution of governmental power as it applies to State and local authority. Then he says, however, that there are times—not that we should rise above principle—but when we have to be less idealistic and more realistic.

What is the purpose that is served by keeping 10 million State and local workers under this restriction, under the economic argument that they are responsible for inflation? Does anyone pretend—any economist anywhere, or in any document, has it ever been shown that because of the increase in school teachers' pay, or because of the increase in a policeman's pay, that is the reason we have the kind of inflation we suffer from today?

The fact is, in World War II, we had a practical situation and we made a practical decision and, further, we found that there was pressure on State and local governments to hold down wages, and they did. There is much greater pressure, I might say, today. In World War II, at least in Wisconsin, they began to have a big surplus. They could not spend the money. The revenues increased but there were many things they could not do—they could not engage in capital improvements, for one. As a result, they had enough money so that they could give pay increases, but they chose not to do that. In the same way here, there is no question they will choose not to do it because there is far greater pressure on them not to do it.

This amendment does not take out from under Federal discipline State and local workers. It provides a savings clause that, if there is an increase in pay that is accepted that is far above the guidelines, then the President will still have the authority to act to invalidate that increase.

Furthermore, this does not remove State and local workers now. It does not remove them next month. It does not remove them in February, or in March, or in April. They are not removed until May. So this is a gradual phasing out of the program. Almost all Senators would agree that we should get rid of these controls as soon as we can. I think in this legislation we should indicate our earnest, our intention, and or determination to phase out the program. If we refuse to phase out this group that has a strong case for exemption then it seems to me it would be hard to imagine circumstances under which these controls should be ended.

All the studies I have seen show that the ending of controls is a difficult process. It is easy to get in. It is popular when it is started, but it is very hard to let go.

What this amendment would do would mean that Congress would recognize that we want to eliminate controls—not right away. But 5 months from now. And, furthermore, it would provide the safeguards that the President can always come back and ask Congress that State and local workers should be included. Furthermore, without doing that, if the increase is inconsistent and is too high, the President will interpret this language—it is general language—and then he can determine, if he wishes to do so, that an increase is wrong and should be invalidated and cancelled. So it seems to me that this amendment certainly is merited on the basis of our experience. It is merited on the basis of the economic facts of life, and it is merited based on the eloquent argument which the Senator from Texas (Mr. TOWER) made in favor of States rights.

I think we can comply with his fine plea to provide as much authority to State and local governments and, at the same time, be practical, indeed.

How practical is it to expect three thousand IRS agents to enforce this law that governs 80 million workers, that provides for restrictions on something like 10 million firms and individuals. We know that it cannot be done. So that Congress should start, on an orderly basis, to phase out that part of the economy where we know there is discipline and reason and principle to do so. I cannot think of a better area to start this kind of phaseout than with State and local workers.

Mr. President, I reserve the remainder of my time.

Mr. SPARKMAN. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER (Mr. ALLEN). The Senator from Alabama is recognized for 3 minutes.

Mr. SPARKMAN. Mr. President, reference has been made to the fact that State and local employees were exempted during World War II and during the Korean war. I think I am correct in saying that they were not statutorily——

Mr. PROXMIRE. That is exactly my point. They were not. They were exempted.

Mr. SPARKMAN. They were not, that is right. The Board exempted them——

Mr. PROXMIRE. That is right.

Mr. SPARKMAN. And the Board today has exactly the same right that the Board had during those two wars. It can exempt them if they see fit. If all the things are true that the Senator from Wisconsin sets forth, I dare say that the Board will exempt them within a reasonable time, but I do not believe that we should come here and, just by statute, say that they are completely exempt. As a matter of fact, under the bill, they are entitled to pay raises of as much as 5½ percent, any time those who have the responsibility for setting the pay rate will give them that much of a raise. It is entirely possible that they could get even more than that, if they can show the Board that they have good cause.

Mr. TOWER. But the 5.5 percent is not an absolute ceiling.

Mr. SPARKMAN. Not at all. That has been made clear time after time. It is a guideline and anyone is reasonably safe under that 5.5 percent—up to that point. But if they want to go above, then they have to show good cause. That is true.

Now, Mr. President, I do not care to say any more. I am glad to yield back my time any time the Senator from Wisconsin is willing to yield back his time.

Mr. PROXMIRE. Mr. President, I am not quite ready to do that. I want to reply to the comments of the distinguished manager of the bill. He just said that the Board exempted State and local workers in World War II—after only 5 weeks of a freeze on their wages. That is exactly what I said in my speech. I said that the Board can do that now.

If everything I say is correct—and it has not been contradicted—at least most of it has not been—the Board should do it today. Why can we not make the decision? What are we elected to do? Why should we delegate this decision to 22 people who are not elected—they are private persons? Why can Congress not make this kind of decision? Why should we not make this kind of decision? We are not elected to pass on to the President all of the authority and all of the power over the economy. A strong case can be made that the President should have decisions on military and foreign policy and other delicate negotiations that work out better with the President dealing for the whole of the country. But with respect to our economy, this is a power and authority that we should husband and keep as much as we can.

Here is a decision where the case is overwhelmingly clear. Every Senator must know that State and local workers are not responsible for the inflation we suffer and that they are under a tight discipline because of the holddown on local taxes. We should be able to make this decision. We should not rely upon a board of private citizens to decide the matter when and if they ever get around to doing it.

We have had a freeze since August 15, for 3½ months. In World War II, they were under a freeze for less than 1½ months. The freeze can go on for a long time even under my amendment. They would continue under Federal control until next April 30. They would be under it for 7½ months. Only then would State and local workers be taken out.

So, Mr. President, this is a very moderate approach.

Mr. President, if the manager of the bill is ready to yield back the remainder of his time, I am also willing to yield back the remainder of my time.

The PRESIDING OFFICER. Is all time yielded back?

Mr. SPARKMAN. Mr. President, I yield back the remainder of my time.

MR. PROXMIRE. Mr. President, before yielding back the remainder of my time, I suggest the absence of a quorum on my time so that we can get the yeas and nays on the amendment.

The PRESIDING OFFICER (Mr. Allen). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays.

Mr. SPARKMAN. I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. All time having expired, the question is on agreeing to the amendment of the Senator from Wisconsin (Mr. Proxmire). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Florida (Mr. Chiles), the Senator from Georgia (Mr. Gambrell), the Senator from Indiana (Mr. Hartke), the Senator from South Dakota (Mr. McGovern), and the Senator from Alaska (Mr. Gravel) are necessarily absent.

I further announce that, if present and voting, the Senator from South Dakota (Mr. McGovern), and the Senator from Indiana (Mr. Bayh) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Ohio (Mr. Saxbe) is absent on official business.

The Senator from Utah (Mr. Bennett) and the Senator from South Dakota (Mr. Mundt) are absent because of illness.

The result was announced—yeas 35, nays 56, as follows:

[No. 419 Leg.]

YEAS—35

Bible
Burdick
Byrd, W. Va.
Cannon
Cranston
Eagleton
Ellender
Ervin
Fulbright
Harris
Hart
Hughes
Humphrey
Inouye
Jackson
Jordan, N.C.
Long
Magnuson
Mansfield
McGee
Metcalf
Mondale
Montoya
Nelson
Pastore
Pell
Proxmire
Randolph
Ribicoff
Schweiker
Stevens
Symington
Talmadge
Tunney
Williams

NAYS—56

Aiken
Allen
Allott
Anderson
Baker
Beall
Bellmon
Bentsen
Boggs
Brock
Brooke
Buckley
Byrd, Va.
Case
Church
Cook
Cooper
Cotton
Curtis
Dole
Dominick
Eastland
Fannin
Fong
Goldwater
Griffin
Gurney
Hansen
Hatfield
Hollings
Hruska
Javits
Jordan, Idaho
Kennedy
Mathias
McClellan
McIntyre
Miller
Moss
Muskie
Packwood
Pearson
Percy
Roth
Scott
Smith
Sparkman
Spong
Stafford
Stennis
Stevenson
Taft
Thurmond
Tower
Weicker
Young

NOT VOTING—9

Bayh
Bennett
Chiles
Gambrell
Gravel
Hartke
McGovern
Mundt
Saxbe

So Mr. Proxmire's amendment (No. 762) was rejected.

Mr. SPARKMAN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. TOWER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Pursuant to previous order, amendment No. 769 by the distinguished Senator from New York (Mr. Javits) is to be made the pending business if it is the wish of the Senator from New York.

Mr. JAVITS. Mr. President, I send a modified amendment to the desk and ask unanimous consent that it may be considered in lieu of No. 769.

The PRESIDING OFFICER. Is there objection? The Chair hears none and it is so ordered. Without objection, the amendment will be printed in the Record.

The amendment is as follows:

At the end of the bill insert the following new section:

Sec. 3 (a) (1) It is the policy of the United States to promote efficient production, marketing, distribution, and use of goods and services in the private sector, and improve the morale of the American worker, all of which are essential to a prosperous and secure free world, and to achieve the objectives of national economic policy.

(2) The Congress finds that the persistence of inflationary pressures, and of a high rate of unemployment, the underutilization and obsolescence of production facilities, and the inadequacy of productivity are damaging to the effort to stabilize the economy.

(3) The Congress, therefore, finds a national need to increase economic productivity which depends on the effectiveness of management, the investment of capital for research, development, and advanced technology and on the training and motivation of the American worker.

(4) The Congress further finds that at a time when economic stabilization programs require price-wage restraints, management and labor have a strong mutual interest in containing "cost-push" inflation and increasing output per man-hour so that real wages may increase without causing increased prices and that, without in any way infringing on the rights of management or labor, machinery should be provided for translating this mutuality of interest into voluntary action.

(b) It shall be the objective of the President's National Commission on Productivity—

(1) to enlist the cooperation of labor, management, and State and local governments, in a manner calculated to foster and promote increased productivity through free competitive enterprise toward the implementation of the national policy declared in the Employment Act of 1946 to create and maintain "conditions under which there will be afforded useful employment opportunities, including self-employment, for those able, willing, and seeking to work, and to promote maximum employment, production, and purchasing power";

(2) to promote the maintenance and improvement of worker motivation and to enlist community interest in increasing productivity and reducing waste;

(3) to promote the more effective use of labor and management personnel in the interest of increased productivity;

(4) to promote sound wage and price policies in the public interest, and to seek to accomplish that objective within a climate of cooperation and understanding between labor, management, and the public, and within a framework of peaceful labor-management relations and free and responsible collective bargaining;

(5) to promote policies designed to insure that United States products are competitive in domestic and world markets;

(6) to develop programs to deal with the social and economic problems of employees adversely affected by automation or other technological change or the relocation of industries.

(c) (1) It shall be the duty and function of the Commission, in order to achieve the objectives set forth in subsection (b) of this section, to encourage and assist in the organization and the work of labor-management-public committees and similar groups on a plant, community, regional, and industry basis. Such assistance shall include aid:

(A) in the development of apprenticeship, training, retraining, and other programs for employee and management education for development of greater upgraded and more diversified skills;

(B) in the formulation of programs designed to reduce waste and absenteeism and to improve employee safety and health;

(C) in the revision of building codes and other local ordinances and laws, in order to keep them continuously responsive to current economic conditions;

(D) in planning for provision of adequate transportation for employees;

(E) in the exploration of means to expand exports of the products of United States industry;

(F) in the development, initiation, and expansion of employee incentive compensation, profit-sharing and stockownership systems and other production incentive programs;

(G) in the dissemination of technical information and other material to publicize its work and objectives;

(H) to encourage studies of techniques and programs similar to those in paragraphs (A) to (H) of this subsection, as they are applied in foreign countries; and

(I) in the dissemination of information and analyses concerning the economic opportunities and outlook in various regions and communities, and of information on industrial techniques designed for the increase of productivity.

(2) The Commission shall transmit to the President and to the Congress not later than March 1 of each year an annual report of its previous year's activities under this Act.

(3) The Commission shall perform such other functions, consistent with the foregoing, as it determines to be appropriate and necessary to achieve the objectives set forth in subsection (b) of this section.

(d) (1) In exercising its duties and functions under this Act—

(A) the Commission may consult with such representatives of industry, labor, agriculture, consumers, State and local governments, and other groups, organizations, and individuals as it deems advisable to insure the participation of such interested parties;

(B) the Commission hall, to the extent possible, use the services, facilities, and information (including statistical information) of other Government agencies as the President may direct as well as of private agencies and professional experts in order that duplication of effort and expense may be avoided ;

(C) the Commission shall coordinate such services and facilities referred to in subsection (B) above in order to supply technical and administrative assistance to labor-management-public committees and similar groups referred to in subsection (c) (1);

(D) the Commission shall establish the regional offices and such local offices as it deems necessary;

(E) the Commission shall hold regional and industrywide conferences to formulate ideas and programs for the fulfillment of the objectives set forth in subsection (C);

(F) the Commission may formulate model programs to ameliorate the effects of unemployment caused by technological progress;

(G) the Commission may furnish assistance to parties in collective bargaining entering into collective bargaining agreements; and

(H) the Commission may review collective bargaining agreements already in effect or those being negotiated to ascertain their effects on productivity; and it may have the power to make recommendations with respect to the agreements made or about to be made in specific industries.

(2) The Commission may accept gifts or bequests, either for carrying out specific programs which it deems desirable or for its general activities.

(e) (1) The Executive Director of the Commision shall be the principal executive officer of the Commission in carrying out the objectives, functions, duties and powers of the Commission described in Sections 3(b) through 3(d) above.

(2) The Executive Director of the Commission, with the approval of the Chairman of the Commission, is authorized to employ, and fix the compensation of, such specialists and other experts as may be necessary for carrying out its functions under this Act, with regard to the provision of Title 5, United States Code, governing appointments in the competitive service, and with regard to Chapter 51 and Subchapter III of Chapter 53 of such title relating to classification and General Schedule pay rates, and is authorized, subject to such provision, to employ such other officers and employees as may be necessary for carrying out its functions under this Act and fix their compensation in accordance with the provisions of such Chapter 51 and Subchapter II of Chapter 53.

(f) There are hereby authorized to be appropriated the sum of $10,000,000 to carry out the purposes of this section during the period ending April 30, 1973.

Mr. JAVITS. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

The PRESIDING OFFICER. The time on the amendment is controlled, the 2 hours to be equally divided between the Senator from New York and the manager of the bill.

Mr. JAVITS. Mr. President, if Senators would give me just 2 minutes of their time, I can explain this amendment and then Senators will be in a position to vote with a more intelligent appraisal of the situation than otherwise.

This amendment seeks to give authority to the President's Commission on Productivity—and there is one, and I will give the details—composed of 27 members, made up of men from business, labor, and the public. It is a very distinctive commission.

The amendment proposes to give them the authority to seek greater productivity through many of the techniques which were successfully employed in World War II by exactly the same kind of means—through local and plant management, labor, and productivity councils. That is exactly what we did in World War II.

The concept which I have is supported by Arthur Burns, who is Chairman of the Federal Reserve Board, and I have his letter, which expresses the experience of World War II, when we were successful. I ask unanimous consent that the letter be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Chairman of the Board of Governors,
Federal Reserve System,
Washington, D.C., February 18, 1971.

Hon. Jacob K. Javits,
U.S. Senate,
Washington, D.C.

Dear Jack: I'm writing in response to your request for comments on your bill to establish a National Productivity Council. You mentioned that even though you introduced it in 1963 it seems up to date in many respects. I would say the proposal is even more timely now. The need for increasing productivity is more pressing, and the prospects of achieving it through local councils seem better.

Management and labor face a common problem today. Demand for goods is weak. Consumers, concerned over the continued increases in living costs, are cautious about spending. This is a typical reaction to inflation of the kind we have been experiencing. As a result, production has fallen and unemployment has increased. This is not a situation in which aggregate demand must be curbed to stop a demand-pull inflation. We have passed that stage. Now we have to find a way to bring a lingering cost-push inflation under control to clear the way for a resumption in consumer spending, which will bring it more efficient use of our resources.

Continued wage increases in excess of productivity gains will only mean continued price rises and continued unemployment. Yet workers will not be satisfied for long with paychecks that shrink in buying power. A major part of the solution, of course, is to find ways to increase productivity so that profits and wages both can rise as inflation subsides.

During World War II labor-management committees were established in thousands of war plants as a means of getting maximum production out of resources that were fully utilized. The program worked, because management and labor shared a common interest in solving a problem of paramount importance to the country. In 1944, W. Ellison Chalmers, then Chief of Staff, War Production Drive Headquarters, described the results as follows:

"(1) They are improving production. The files of War Production Drive Headquarters contain thousands of instances of production increases which have resulted from committee recommendations and from workers' suggestions, brought forth in response to the joint labor-management program. This has come in part from the development of individual suggestion systems. Many of these had existed before but took on new life when they were sponsored and directed by the Labor-Management Committees. Several million ideas have come in through these systems and hundreds of thousands of them have been adopted. Nearly 6000 of them, indeed, received national recognition from the War Production Board.

"This industrial teamwork has meant greater production by the collective ideas of the main committee and especially its departmental subcommittees, at work on the bottlenecks in each plant.

"The committees have done more than 'expand' production. They have also improved quality, cut down waste, reduced the use of critical materials, and salvaged scrap. It is particularly important to note these production accomplishments, for they demonstrate that a production committee has a job to do even when schedule changes or material shortages force a downward revision of output."

Today, while the circumstances are different and the challenge is not so dramatic, the problem is real and pressing for the country as a whole and particularly for employers and workers.

I understand that you are exploring with Administration officials various alternative methods of organizing this effort and fitting it in with other Federal activities. Whatever housekeeping arrangements are ultimately decided upon, I enthusiastically support the objective of setting up local committees as a means by which management and labor can join together in increasing productivity, thereby fighting inflation and unemployment at the same time.

Sincerely yours,

Arthur F. Burns.

Mr. JAVITS. Mr. President, frankly, I might tell my colleagues—and I shall go into details of the situation, how we lag in productivity—with a bill which is so heavily based on the concept of productivity as this one is, and with nothing being done about productivity except speaking of it kindly, I cannot for the life of me see why there should be any real opposition to this amendment. Nonetheless I am told there is.

When I first submitted the amendment, I proposed to establish a National Productivity Commission and to give it a statutory base. I understood the administration opposed it because it did not want to have a new agency. But this commission was not a new agency; there was one in existence. The amendment was simply taking one in existence and giving it a statutory base.

In order to avoid what I considered to be an unnecessary argument—to wit, the new agency argument—I simply took the President's Commission and am giving it the power and am providing $10 million of authorization so that it can exercise adequate authority.

I have great pleasure in stating to the Senate that two Senators who I think almost everyone will agree have good economic minds have joined me as cosponsors, the Senator from Illinois (Mr. Percy) and the Senator from Wisconsin (Mr. Proxmire).

Mr. COTTON. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. COTTON. Would not this be a good point to note the differences between the Senator's proposed amendment and the Percy amendment which was adopted yesterday?

Mr. JAVITS. Yes. I shall be happy to explain. The Percy amendment is a passive inducement; to wit, it says that if an increase is to be given for productivity gains of a worker, that increase shall not come under the inhibitions of the law. That is a passive thing. The company decides to give it to him.

My amendment is an activist operation. It seeks to get authority of the Commission, appointed by the President, to actually back and set up local councils composed of members from labor, management, and the public, at the plant level, to deal with such problems as efficiency, absenteeism, alcoholism, and so on.

If this were a new concept, I would understand why they would fuss about it, but it was something we did in World War II with great success. If Senators will take a look at Arthur Burns' letter, they will see what it is based on. The letter says this worked in World War II. We are certainly in a tight squeeze on productivity. The Commission has been in existence for over a year, and I expect that most Senators do not know it is alive.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. PROXMIRE. I think this amendment is very important and helpful. All the testimony we have had before the Joint Economic Committee and before the Banking, Housing and Urban Affairs Committee has indicated that, if this program is going to succeed, we just simply have to increase productivity. That is the keystone. Furthermore, the Price Commission has made a finding that in order to justify a price increase, the concern has to do it in light of its projected productivity increase.

Productivity is an extraordinary difficult concept to master and use. Economists and other experts disagree on it. Under those circumstances, it will certainly require considerable Federal action by a staff and a group of competent people who will work on it.

The fact is that the number of people we now have on the Productivity Commission is woefully inadequate. Under the circumstances we have, in view of the expressions we have heard about productivity, in view of the rhetoric in the President's speeches and elsewhere about productivity, one would think that we would have a staff on the Commission of perhaps 100 economists. How many are there? There are exactly two people on the Productivity Commission. One is the head of it, and one is the secretary. That was the case a week ago. They may have appointed one or two more since then.

The proposal of the Senator from New York, as I understand it—and I hope he will correct me if I am wrong—is to provide a statutory base for the Productivity Commission that would be staffed and equipped to begin to do the job of providing an opportunity for American industry to begin to have a systematic basis to improve our productivity, to improve our standard of living, and the ability to pay higher wages, while maintaining stable prices. Productivity increases alone will permit this.

Mr. JAVITS. That is right; the only thing is, I did not frontally establish a Productivity Commission by law. I learned that I could pick up the President's Commission and give it authority. So the amendment does not give it a statutory base, but it gives it authority to do something under the statute. The only thing I omitted from the previous amendment was that Congress by law was establishing this Commission. I simply picked it up from the fact that it already exists.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. HUMPHREY. First of all, I want to express my support for the amendment. It is certainly one of the important amendments that have been brought before this body.

Second, I believe we will, if this amendment is adopted, in terms of the work of the Productivity Council, go down to the plant level and the community level with proper staffing and proper organization.

The Senator from New York was eminently correct when he said this program did work in the period of World War II. There were some productivity councils even in the Korean war period. This is the one hope we have of really maintaining a competitive posture internationally, and of seeing a basic improvement in the wage structure domestically without inflationary pressures.

I just want to compliment the Senator for his initiative, and to state that I would hope the Senate would overwhelmingly adopt this in the sense of a directive to the labor-management areas of our economy in terms of improving not only productivity, but the quality of goods as well.

This goes much deeper than just productivity. It gets into some of the human relations problems that affect American industry, and I believe the Senator's amendment can be very helpful. I would consider it a privilege to be joined as a cosponsor.

Mr. JAVITS. I thank my colleague very much, and ask unanimous consent that his name be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, another problem which very seriously affects our country, and which I know worries us all, whether individual Members are for or against this particular amendment, is the motivation of the American worker. I think this is what is really getting us. We are being skinned alive by Germany and Japan in world trade, and notwithstanding the new turn of our trade unions toward protectionism, it is still a fact that we know that if the world markets collapse, we will be in a recession or a depression.

That has always been the history, and it will be the history again, even though we like to salve our feelings with the fact that only 8 percent of the American economy is in exports and imports, as compared with 30 percent for Britain, Belgium, Holland, or Germany. But if the crunch is on, and world trade collapses, we will find that that 8 percent, when you add to it the invisibles of banking, insurance, travel, and many other things which relate to the economic status of a great country like our own, will drag us down, just as much as it will drag down nations that are heavily dependent upon foreign trade.

We are being skinned alive in the markets of the world precisely because there is the feeling, the dangerous feeling, on the part of much of American business and many American workers, that something has gone out of us, that there is an erosion of motivation, of incentive, of interest, of the work ethic which has been so dominant in our country in its earlier days and its immigrant days; and I think it is high time to try, because the exigencies are just as great as those of war, to arouse an interest in our people in work, in the joy of the perfection of work, and in the joy of teamwork. This is why these productivity councils worked so well in World War II.

Mr. TAFT. Mr. President, will the Senator yield?

Mr. JAVITS. I yield to the Senator from Ohio.

Mr. TAFT. I would like to commend the Senator from New York, and say I think this is one of the most worthwhile amendments that has been offered to this bill. I have made a great many talks, myself, on this problem of productivity, and I do not wish to belabor the Senate further with another one today, but I think it is absolutely essential, if we are to maintain our competitive position with the other countries with which we compete, to maintain this matter of productivity.

As I mentioned yesterday, in the presentation of my amendment to the Senate dealing with work rules, not only is this important in the field of international competition, but also with respect to the cost of goods and services to the American consumer. Decreasing standards of productiveness, work rules, and habits are as effective today, I believe, as anything in causing some of the rising costs we have seen. I believe that this whole question of work rules, as well as our own state of international competitiveness, is vitally important, and I am very grateful to my colleague from New York, and certainly support his amendment.

Mr. JAVITS. I thank the Senator.

Mr. President, I might say that a couple of weeks before President Nixon put into effect the freeze, 14 Senators on this side of the aisle who were rather yeasty in trying to move things along introduced a bill which is essentially the idea that I am proposing by this amendment. I ask unanimous consent that that bill, together with the list of Senators who sponsored it, be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LIST OF SPONSORS OF S. 2414

Mr. JAVITS, for himself, Mr. SCHWEIKER, Mr. TAFT, Mr. BEALL, Mr. BOGGS, Mr. BROOKE, Mr. CASE, Mr. COOPER, Mr HATFIELD, Mr. MATHIAS, Mr. PERCY, Mr. SAXBE, Mr. STEVENS, Mr. WEICKER, and Mr. GURNEY.

S. 2414

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "National Productivity Act of 1971".

CONGRESSIONAL STATEMENT OF POLICY AND FINDING

SEC. 2. (a) It is the policy of the United States to promote efficient production, marketing, distribution, and use of goods and services in the private sector, improve the morale of the American worker, all of which are essential to a prosperous and secure free world, and to achieving the objectives of national economic policy.

(b) The Congress finds that the threat of a high rate of endemic unemployment, the persistence of inflationary pressures, the underutilization and obsolescence of production facilities, and the inadequacy of means for resolving labor-management disputes are damaging to both economic efficiency and employee morale.

(c) The Congress, therefore, finds a national need to increase economic productivity which depends on the effectiveness of management, the investment of capital for research, development, and advanced technology and on the training motivation of the American worker.

(d) The Congress further finds that at a time when demand for goods and services is less than it should be and prices are rising, management and labor have a strong mutual interest in containing "cost-push" inflation, so as to clear the way for a resumption of consumer demand, and that, without in any way infringing on the rights of management or labor, machinery should be provided for translating this mutuality of interest into voluntary action.

NATIONAL PRODUCTIVITY COUNCIL

SEC. 3. (a) There is hereby established in the executive branch an independent agency to be known as the "National Commission on Productivity" (hereinafter referred to as the "Commission"), which shall be composed of twenty-three members as follows:

(1) the Secretary of the Treasury; the Secretary of Commerce; the Secretary of Labor; the Chairman of the Council of Economic Advisers, and the Director of the Office of Management and Budget;

(2) six members who shall be representative of the business community;

(3) six members who shall be representative of labor organizations;

(4) six members who shall be representative of the general public, and who shall be selected without regard to any interest or connection they may have with any of the foregoing areas.

(b) Members of the Commission referred to in paragraphs (2) to (4) of subsection (a) shall be appointed by the President, by and with the advice and consent of the Senate, for terms of six years, except that of the members first appointed, six shall be appointed for terms of two years, six shall be appointed for terms of four years, and six shall be appointed for terms of six years. One of the Commission members shall be designated as Chairman by the President. The initial members of the Commission who shall serve for a two-year period are as follows: Representatives of Government John B. Connally, Maurice H. Stans, James D. Hodgson, Paul W. McCracken, George P. Shultz; representatives of the business community Stephen D. Bechtel, Junior, Harlee Branch, Junior, Edward N. Carter, R. Heath Larry, James Roche, and Walter Wriston; labor organization representatives I. W. Abel, Joseph A. Beirne, John H. Lyons, George Meany, Floyd E. Smith, and Leonard Woodcock; and representatives of the public at large William T. Coleman, Junior, John T. Dunlop, Howard W. Johnson, Edward H. Levi, Arjay Miller, and W. Allen Wallis. In the event any of the initial members is unable to serve on the Commission, the President shall, by and with the advice and consent of the Senate, appoint a replacement for such member. A member appointed to fill a vacancy occurring prior to the expiration of the term of his predecessor shall be appointed only for the unexpired portion of such term.

(c) The Commission shall meet at least four times each year at such times as it shall determine or at the call of the President. A quorum shall consist of thirteen members.

(d) Members of the Commission referred to in paragraphs (2) to (6) of subsection (a) shall receive compensation at a rate equal to the daily equivalent paid to a person occupying a position of a GS-18 under the General Schedule while performing services for the Commission and while away from their homes in connection with attendance at meetings of the Commission shall be entitled to transportation expenses and per diem in lieu of subsistence at the rate prescribed under section 5703 of title 5, United States Code.

(e) The President is authorized to appoint, by and with the advice and consent of the Senate, an Executive Director of the Commission. The Executive Director shall be the principal executive officer of the Commission and shall receive compensation at the rate prescribed for level V of the Executive Schedule by section 5315 of title 5 of the United States Code.

(f) The Executive Director of the Commission with the approval of the majority of the Commission is authorized to employ, and fix the compensation of, such specialists and other experts as may be necessary for carrying out its functions under this Act, with regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and with regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, and is authorized, subject to such provision, to employ such other officers and employees as may be necessary for carrying out its functions under this Act and fix their compensation in accordance with the provisions of such chapter 51 and subchapter III of chapter 53.

OBJECTIVES OF THE COMMISSION

SEC. 4. It shall be the objective of the Commission—

(1) to enlist the cooperation of labor, management, and State and local governments, in a manner calculated to foster and promote increased productivity through free competitive enterprise toward the implementation of the national policy declared in the Employment Act of 1946 to create and maintain "conditions under which there will be afforded useful employment opportunities, including self-employment, for those able, willing, and seeking to work, and to promote maximum employment, production, and purchasing power";

(2) to promote the maintenance and improvement of worker motivation and to enlist community interest in incerasing productivity and reducing waste;

(3) to promote the more effective use of labor and management personnel in the interest of increased productivity;

(4) to promote sound wage and price policies in the public interest, and to seek to accomplish that objective within a climate of cooperation and understanding between labor, management, and the public, and within a framework of peaceful labor-management relations and free and responsible collective bargaining;

(5) to promote policies designed to insure that United States products are competitive in domestic and world markets;

(6) to develop programs to deal with the social and economic problems of employees adversely affected by automation or other technological change or the relocation of industries.

DUTIES AND FUNCTIONS OF THE COMMISSION

SEC. 5. (a) It shall be the duty and function of the Commission, in order to achieve the objectives set forth in section 4, to encourage and assist in the organization and the work of labor-management-public committees and similar groups on a plant, community, regional, and industry basis. Such assistance shall include aid:

(1) in the development of apprenticeship, training, retraining, and other programs for employee and management education for development of greater upgraded, and more diversified skills;

(2) in the formulation of programs designed to reduce waste and absenteeism and to improve employee safety and health;

(3) in the revision of building codes and other local ordinances and laws, in order to keep them continuously responsive to current economic conditions;

(4) in planning for provision of adequate transportation for employees;

(5) in the exploration of means to expand exports of the products of United States industry;

(6) to encourage attendance by members of such groups at courses in industrial relations and industrial engineering and related subjects at institutions of higher education, and to foster close cooperation between such groups and such institutions for the purpose of developing such courses and for other purposes;

(7) in the development, initiation, and expansion of employee incentive compensation, profit-sharing and stockownership systems and other production incentive programs;

(8) in the dissemination of technical information and other material to publicize its work and objectives;

(9) to encourage studies of techniques and programs similar to those in paragraphs (1) to (8) of this subsection, as they are applied in foreign countries; and

(10) in the dissemination of information and analyses concerning the economic opportunities and outlook in various regions and communities, and of information on industrial techniques designed for the increase of productivity.

(b) The Commission shall transmit to the President and to the Congress not later than March 1 of each year an annual report of its previous year's activities under this Act.

(c) The Commission shall perform such other functions, consistent with the foregoing, as it determines to be appropriate and necessary to achieve the objectives set forth in section 4.

POWERS OF THE COMMISSION

SEC. 6. (a) In exercising its duties and functions under this Act—

(1) the Commission may consult with such representatives of industry, labor, agriculture, consumers, State and local governments, and other groups, organizations, and individuals as it deems advisable to insure the participation of such interested parties;

(2) the Commission shall, to the extent possible, use the services, facilities, and information (including statistical information) of other Government agencies as the President may direct as well as of private agencies and professional experts in order that duplication of effort and expense may be avoided;

(3) the Commission shall coordinate such services and facilities referred to in subsection (2) above in order to supply technical and administrative assistance to labor-management-public committees and similar groups referred to in section 5(a).

(4) the Commission shall establish the regional offices and such local offices as it deems necessary;

(5) the Commission shall hold regional and industrywide conferences to formulate ideas and programs for the fulfillment of the objectives set forth in section 4;

(6) the Commission may formulate model programs to ameliorate the effects of unemployment caused by technological progress;

(7) the Commission may furnish assistance to parties in collective bargaining entering into collective bargaining agreements; and

(8) the Commission may review collective bargaining agreements already in effect or those being negotiated to ascertain their effects on productivity; and it may have the power to make recommendations with respect to the agreements made or about to be made in specific industries.

(b) The Commission may accept gifts or bequests, either for carrying out specific programs which it deems desirable or for its general activities.

APPROPRIATIONS

SEC. 7. There are hereby authorized to be appropriated the sum of $10,000,000 for each fiscal year beginning with the 1972 fiscal year to carry out the purposes of this Act.

Mr. JAVITS. I also ask unanimous consent that the list of 27 members of the Commission on Productivity to which I refer in this amendment be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

MEMBERSHIP OF THE COMMISSION ON PRODUCTIVITY

BUSINESS

Steven Bechtel jr., Pres. Bechtel Corp.; Harley Branch jr., Ret, Ch. of Bd., Southern Co.; Burkley Burrell, Pres. Nat. Bus. League; Edward Wm. Carter, Pres. B'way-Hale; Archie K. Davis, Pres. Chamber of Comm. Winston-Salem; Edward J. Dwyer, Ch. of Bd, NAM; R. Heath Larry, Vice Ch. of Bd. US Steel; James Roche, Ch. of Bd, Gen'l Motors; Walter B. Wriston, Ch. of Bd, First Nat'l, City Bank, N.Y.

LABOR

I. W. Abel, Pres. United Steelworkers; Joseph A. Beirne, Pres. Comm. Worker of Amer.; Frank Fitzimmons, Pres. Teamsters; Lane Kirkland, Sec.-Treas., AFL–CIO; John H. Lyons, Pres. Int'l Assoc. of Bridge, Structural and Iron Workers; George Meany, Pres. AFL–CIO; Floyd Smith, Pres. Int. Assoc. of Mach.; Leonard Woodcock, Pres. U.A.W.

PUBLIC

Beverly Briley, Mayor Nashville; Wm. P. Coleman, Dillworth, Paxson, Kalish, John P. Dunlop, Dean Arts & Sciences, Howard Cl.; Howard Johnson, Ch. Bd, MIT Corp.; Wm. Kuhfuss Pres. Am. Farm Bureau; Edward Levi, Pres. U. of Chi.; Argay Miller, Dean, Grad. Schl of Business Stanford; Arch A. Moore, Gov. West Va.; John Scott, Master, National Grange; W. Allen Wallace, Chancellor, U. of Rochester.

GOVERNMENT

John B. Connally, Sec. Treas.; Maurice Stans, Sec. Commerce; James Hodgson, Sec. Labor; Paul W. McCracken, Ch., C.E.A.; Virginia Knauer, Spec. Asst. to Pres.; for Consumer Aff.; George Schultz, Director, OMB.

Mr. JAVITS. There are nine very distinguished business leaders, eight very distinguished labor leaders, and 10 very distinguished public members, including the mayor of Nashville, the master of the National Grange, and the president of the University of Chicago. It is a very distinguished group indeed. Then there are the governmental members, who serve more or less ex officio, including the principal members of the Cabinet having to do with economic matters, led by Secretary Connally. So we certainly would not be putting our trust in some sketchy outfit that is just getting organized; but really, this thing has simply been neglected.

Mr. President, the figures, I repeat, will tell us why we have been skinned alive in international competition, and why our domestic consumers have been so interested in imports. That is what our unions are complaining about, and I can understand it, with imports in manmade textiles, for example, in 1 year, going up something like 200 percent. The idea of open world trade, which is an idea to which I am very proud to be a party, never contemplated anything like that. But the impact of it must be dealt with, not only in some legal form which we are trying to devise without wrecking ourselves and everyone else, but also in terms of buckling ourselves up in terms of productivity and efficiency.

Mr. President, it is appalling that an American Senator has to get up and say this about the vaunted American industrial machine, but the United States, in the years from 1965 to 1970, inclusive, Mr. President, has had the lowest average percentage increase of productivity of all the major industrial countries of the world. Our average is 2.1 percent. And, by the way, in only one year in that whole time was it any more than that. It was 4.6 percent in 1967 to 1968. The rest of the time it just scraped the very bottom of the list. The highest on the list is Japan, with an average of 14.2 percent in increased productivity. And even in the much maligned United Kingdom, which is certainly suffering economically in many of the same ways that we are, their average for 1965 to 1970, those 6 years, is a 3.6-percent increase in productivity—almost twice our own. These are figures prepared by the Bureau of Labor Statistics, a very authoritative Government agency.

It is absolutely inconceivable, Mr. President, that we do not seem to realize the situation. I must say I am appalled to have learned of the attitude of the administration toward this amendment. I am appalled for reasons that would appear from the amendment itself. Whether we win or lose, the amendment is not as important as flushing out the fact that, with all of the effort to deal with the economy and to stabilize the economy, and to break the back of inflation, when any idea comes along—an idea which does not cost any money, any real money—the administration hits it on the head because it does not bureaucratically fit; and yet the Commission which was supposed to do this sits around for over a year. So far, as the Senator from Wisconsin has said, it is trying to operate with two functionaries—and who ever heard of anything they did? And we are pretty well informed about these things.

I believe the American worker can be roused to a finer effort in respect to trying to break the inflationary threat in the soundest way. Mr. President, Government makes nothing; it only consumes and spends. We are organs of Government, and I say that advisedly. It is only business that makes anything. And yet here is some effort, as I say, without its costing any money, without involving a big bureaucracy, to try to do something about it, and the first thing one hears is that the administration is against it. Why? I do not know. I will be very much interested to find out. It is shocking—I say that most advisedly. I cannot believe that the President knows what is going on in this field, a field which is more critical to him than anything else in this country, other than the security of the Nation. I hope very much that we will give them the proper job and that this amendment will be adopted, because the administration needs it, and they need to know that if they are not thinking about it, we are.

Mr. TOWER. Will the Senator yield?

Mr. JAVITS. I yield.

Mr. TOWER. With respect to the matter of the administration's approval or disapproval of the proposal of the Senator from New York, it is my understanding that the substance of the amendment is not opposed by the administration. They would have preferred to have had it go through the committee process and studied perhaps more carefully, and had hearings held on it. I should like to say to the Senator from New York that I think it is a tremendously meritorious proposal, and I shall support it.

Mr. JAVITS. How very kind and how very typical of the Senator from Texas. I do not want to seem harsh about the matter, really, but if I am harsh, and if I am blamed for being harsh, I still believe that it is better to kind of rub this one in, because it is the guts of what we are talking about, and it is high time that it became realized at the highest level of our Government.

Mr. PERCY. Will the distinguished Senator from New York yield me 10 minutes?

Mr. COTTON. Before the Senator yields, may I make a brief comment?

Mr. JAVITS. Of course.

Mr. COTTON. I think the Senator's amendment has merit, and I very likely shall support it. But I cannot resist saying to the Senator—and I hope he will not feel that I am too contentious—that vital as it is to increase our productiveness, it is not going to do us much good if we cannot sell. It has been my contention all the time, as evidenced by the amendment the Senator and I discussed at least twice on the floor of the Senate, that we should be willing to meet and match and compete on equal terms with any nation on earth. However, unless some of the barriers like export-import licenses, quotas, and other barriers are removed by our friends around the world, we shall lose our markets. I think that the Senator's amendment would have a much better chance to really reach its goal if we could prevail on the nations to actually have free trade on a two-way street.

Mr. JAVITS. The Senator is very perceptive. I should like to answer the Senator in two ways: First, the argument respecting our willingness to engage in a high quota system ourselves is based upon 8 percent of our economy being devoted to exports and imports in foreign trade.

The converse of that proposition is that 92 percent is domestic. Therefore, the idea of increasing domestic productivity, improving in that way our own economic structure, leaving alone the actual dollar sign, becomes the converse of the Senator's proposition and is a perfectly valid argument on my part to make in reply to the Senator.

I should like to go further, as I have such high admiration and respect for the Senator, and say that he will not find me lacking for a minute. He knows about the Japanese situation, for example, and our being real tough about dismantling nontariff barriers for trade in other nations. I am not mawkish about that at all.

I even see a case for dealing with a sudden, overwhelming impact of imports into our own country. I have tried to apply my mind, as the Senator knows, to the kind of legislative proposals I could make consistent with my philosophy, in order to make that point.

So I agree with the Senator. We must bear in mind, and the Senator knows it very well, because he knows a lot about the agricultural situation, that we are under the charge—and it has some merit—that we, too, have nontariff barriers of trade; but when we compare ours with theirs, there is no question that we are being very materially prejudiced. So I am with the Senator in my fight.

Mr. COTTON. I thank the Senator for his statement.

Mr. JAVITS. I thank my colleague. I now yield 10 minutes to the Senator from Illinois.

Mr. PERCY. I thank the distinguished Senator from New York. I wish to commend him for his initiative in embodying this concept in legislation, and I am pleased to be a cosponsor of the amendment.

I should like to say, first of all, that we tend to think of labor and management as being on opposite sides of the table. We tend to think of them sometimes as adversaries, as enemies; yet I think the emphasis on the differences of opinion that they sometimes hold should be subordinate to the things that they have in common. Labor and management in America are working for the American economy. The strength of the American economy really conditions the strength of the American people and the American Nation. It is the same private economy that raises the money that supports our educational systems, our welfare systems, everything we do for humanitarian reasons, and that provides the funds required for our national defense. Without a strong economy, we cannot be a strong Nation, and labor and management are united in that objective. They are also united in the objective of obtaining the largest possible markets and in finding ways to penetrate markets that will extensively broaden opportunities for American workers. They have this in common. They are not enemies in this regard: here they have no difference of opinion or purpose. Yet when we think of labor and management relations, we tend generally to think of a tangle between two adversary groups over who will get the biggest share of the pie. We frequently take our minds and our sights off of the fact that our main objective should be to increase the size of the pie. If we concentrate on making the economic pie grow bigger there will not be too much difference of opinion as to who gets the biggest share—everyone will benefit from the increased size of the pie. That is really and fundamentally what we are getting at in this amendment, and in amendment No. 766 which the Senate by unanimous vote adopted last night—an amendment that exempted from wage controls incentive plans that relate added wage payments to increased productivity. Who would want to control or hold down anyone from making more, when that additional pay is greater increased productivity, lowers costs, keeps prices stable, creates new real GNP growth, and reduces unemployment.

Therefore, I was gratified, indeed, that in a very short space of time last evening, after less than 15 minutes of debate, the Senate decided unanimously to support that principle. That is way I wanted to place in the RECORD last evening as much material as I could to emphasize the importance of the amendment being offered by the Senator from New York today.

It is one of the most fundamental steps that we can take in Congress because we are now responding to an economic crisis, a crisis similar to the military crisis that we faced at the beginning of World War II. We then marshaled all the resources of the Nation. There were very few divisions of opinion at that point. We all worked closely together in harmony to raise and increase national productivity because our very survival as a people depended upon it.

I would say in less dramatic terms, but just as meaningfully—not facing a military threat from outside but an erosion of our economic strength from within—that we should now face up to this economic crisis with the same kind of mobilization.

I was astounded when I learned that the administration might not support this amendment, because it seemed inconsistent with everything else that the administration has been trying to do. So I am delighted that the record has been made clear, and that the distinguished Senator from Texas (Mr. TOWER) intends to support the amendment because he fully recognizes, with his penetrating understanding of the economy, that what we are trying to accomplish is to dramatize the need for us to work together and not separately.

To accomplish this purpose, a Presidential Commission on Productivity has been established by the President. I had rather imagined that this was a well-financed, well-staffed operation, one competent to marshal the forces of the country to increase productivity. I was somewhat astounded, although we have an exceptionally able staff director in Dr. Greenburg, to find that the total employment of the whole commission has been two; namely, the executive director and a secretary. They have the total responsibility to marshal the productive enterprise of this Nation, "to get us moving again," if I can borrow a phrase from the rhetoric of the past. It will not happen. As much good will as the man might have, as able as he may be, as hardworking and diligent as he may be, even if his productivity is 200 percent above expectations, he cannot do this job. So this amendment sets out the goal and objective and provides the wherewithal whereby an adequate staff can be brought to bear on this particular problem.

I would say that setting labor and management down at the same table is something that we know will work. In my State of Illinois I have tested out the idea as to whether it would gain support. I addressed letters to 170 business leaders in Illinois asking them what they could do to set up, well ahead of the passing of any law by Congress—voluntarily—councils to increase the productive level of their particular economic units. So far, all the responses have all been very encouraging. Business is for it. It recognizes that this is the only way we can expand in the future, particularly in the present period of controls.

As I said here last night, I was extremely pleased with the reaction I have had from organized labor in Illinois. They will want to work together with management to improve the efficiency of America's output. We have, I think, in one test case, in the diverse economy in Illinois, found sufficient favorable reaction, so that I know it will work nationwide.

Once again we can draw upon the past. We are not pioneering here in an uncharted new territory. I invite the attention of my colleagues, particularly the Senator from New York, because it might not have come to his attention, to a book entitled "Labor and Management in a Common Enterprise," by Dorothea de Schweinitz, which was published by the Harvard University Press in 1949. This is an intensive study—perhaps the only published one—of the efforts made during World War II which helped to increase dramatically the quality and quantity of output when we had an almost totally mobilized economy.

Mr. President, I should like to read one excerpt, as follows:

> No decrees or laws gave authority to committees. No national employer-union agreements established functions and methods of work. The experiment, however, extended to a larger number of industries and establishments than could have been predicted from prewar experience in union-management cooperation. Production was aided both directly and indirectly through the practical programs developed by employer and union representatives in individual plants.

I ask unanimous consent to have printed in the RECORD several excerpts from the book.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

NUMBER OF LABOR-MANAGEMENT COMMITTEES AND OF EMPLOYEES COVERED, BY INDUSTRIES, SEPT. 15, 1944 [1]

Industrial classification [2]	Number of committees	Number of employees [3]
Total	4,835	7,265,900
Ordnance [4]	587	1,162,300
Shipbuilding and ship parts	196	1,132,300
Aircraft and aircraft parts	171	811,500
U.S. naval shore establishments	46	748,600
Iron and steel [5]	505	728,700
Engine and engine parts [6]	115	404,100
Communications equipment [7]	248	294,500
Machinery and industrial equipment	416	286,700
Synthetic products [8]	316	200,400
Coal and iron mines	428	178,000
Scientific instruments [9]	98	171,400
Nonferrous metals [10]	241	164,100
Textile and textile products	282	144,800
Machine tools	199	136,400
Motor vehicles	80	117,200
Rubber and rubber products	58	83,900
Lumber and wood products	125	29,400
All others [11]	724	471,100

[1] Derived from mimeographed statistical report for Sept. 15, 1944, War Production Drive Division, Washington, D.C.

[2] Labor-Management Committees calssified by largest dollar value war contract in each individual plant.

[3] Number of employees, miscellaneous reporting by committees from June 1943 though August 1944. Both wage and salary workers.

Footnotes continued on following page.

[4] Includes all types of gun manufacture, ammunition, and tanks.

[5] Includes blast furnaces, rolling mills, steel plants, steel fabrication plants, and iron foundries.

[6] Includes aircraft, marine, and tank engines.

[7] Includes telephone, telegraph, radio and radar equipment, and communication wire.

[8] Includes products and materials of chemicals, glass, and paper.

[9] Includes navigation instruments, range finders, etc.

[10] Includes the mining and smelting processes.

[11] Includes petroleum products, leather and leather products, safety equipment, miscellaneous hardware, plumbing supplies, food products, railroads, airlines, and Government agencies.

COMMITTEE WORK ON PRODUCTION PROBLEMS

The following subjects relating to production, directly and indirectly, came before wartime labor-management committees. This list was prepared by a management engineer[8] who visited committees, read the minutes of their meetings and their reports on suggestions, and analyzed committee processes.

Subjects Directly Related to Production

Conservation, Reclamation and Salvage. The efficient use of raw materials and the reworking, recovery, or salvage of raw materials, material in process, and tools.

Design, Product. Changes in parts or in the entire product to facilitate manufacture; or to improve the usability or salability of the product.

Design, Tool. Changes in machine, tool, jig or fixture primarily to facilitate manufacture, includes design changes which conserve tool steel or other materials.

Disregard of Rules. Pressure upon executives or employees concerned, to observe shop practice which is both agreed upon and understood but is disregarded.

Equipment. Bringing idle or partly idle equipment into fuller use or the procurement or redesign of equipment to facilitate manufacture.

Housekeeping. Orderly disposition of machines, equipment, and all materials, including marking of work and storage space and of aisles, and the maintenance of physical surroundings in the workroom so that work can be carried on more efficiently and in more inviting surroundings. Changes made primarily to promote safety classified under *Safety*.

Instruction. Teaching and training both for individuals and for groups, or as part of entrance orientation, refresher courses, or upgrading; excludes preparation or change in content of instructions done as part of improving the work which is classed under the subject considered.

Inter-process Relations. Systems and methods to improve correlation of production processes to facilitate manufacture, including layout of production units and the rearrangement of one or more machines.

Lighting. Betterment of artificial or natural lighting primarily in the interests of production and eyesight conservation. As an element in safety research classified under *Safety.*

Maintenance and Repair. Upkeep of machinery and equipment through adequate maintenance procedure and anticipating and promptly making repairs to prevent breakdown of production; also the interdepartmental relations involved.

Personnel. Recruiting and selecting employees, and improvement in their use through coordination of departmental needs for help; excludes all training and all welfare considerations and adjustment of personnel to the production program which are classed respectively under *Instruction, Welfare,* and *Reconversion and Cutbacks.*

Process Change. The modification of a process, change in sequence of processes, addition or substitution of one process for another to facilitate manufacture, including process study and means of setting production standards.

Progress Charts. The preparation and use of progress records covering production and quality problems as an aid to coöperation, including discussion and use of statistical control charts *for that purpose.*[9]

Quality Improvement. Analysis of causes of poor quality, changes in instructions, or inspection to facilitate standard grade production to eliminate unnecessary expense for inspection and further processing of defective parts, including statistical quality control for executive use.

Reconversion and Cutbacks. Adjusting the details of the manufacturing program and expected changes in manufacturing volume or type of output.

Stores Control and Stowing. The physical care of raw, semi-finished, and finished worked material and systems of control of their supply and movement to factory floor.

Suggestions. Means of developing and evaluating suggestions. Specific suggestions classified by their subject matter.

Tool Control. Methods of insuring that tools are properly standardized, stored, ground, repaired, replaced, and issued to machines and workers without delay.

Urging Action. Pressure for decision or for promised research on any pertinent proposal, whatever its subject, when action is believed unduly delayed.

Ventilation. Improvement of ventilation or the introduction of air cooling in the interests of production. As an element of employee comfort in cafeteria, locker rooms, etc., classified under *Welfare.*

Work Assignment. Methods of supplying work orders, work material, and equipment so as to facilitate production, not elsewhere classified.

(See also the various "services," as *Maintenance, Instruction, Stores Control, and Tool Control.*)

Subjects Indirectly Related to Production

Absenteeism. Definition and analysis of absences and effort primarily intended to reduce them.

Committee Conduct. The mechanics of planning or conducting meetings, including joint consideration of representation, payment for lost time, etc.

Financial Drives. All authorized requests for employees' money for charity or for investment or other savings plans.

Publicity. Informing employees of the existence or importance of certain general values of the plant and products as related to the war effort or to civilian and industrial needs, or of committee programs. Excludes details which guide solution of operating problems which are classed as progress records.

Safety. Prevention of accidents and occupational diseases and lessening their effects such as related educational work, safety inspection, provision of mechanical safeguards, first-aid equipment, and other means of stimulating care in observance of safety rules.

Transportation. Facilitating the movement of employees primarily between the plant and their residences, excluding transfer of factory equipment and product.

* * * * *

Subcommittees on Special Subjects

Many labor-management committees, 41 per cent in the 1945 survey,[23] functioned through subcommittees assigned to a special activity. The majority of these were in plants of over 500 employees. While committee failures sometimes were attributed to the presence of subcommittees uncoördinated by a main committee, there were also failures due to the lack of delegation of work to subcommittees. The main committees in such cases were clogged by a combination of items requiring planning and policy determination and others calling for action. A consideration of the subcommittees will indicate how they implemented the work of labor-management committees and geared it to management functions and to certain union activities.

Production or Plant Efficiency

Probably the best work on production problems was done by the department committees, or by the main committees in small establishments. There were however plantwide subcommittees on production or plant efficiency which called attention to certain situations, conducted educational campaigns, and stimulated suggestions from workers on specific subjects. Progress charts and the promotion of rivalry between departments for increasing production were more likely to be handled by a committee on charts or on publicity. Some organizations had no committee on the broad topic of production but had special committees on conservation of material, good housekeeping, or care of tools and equipment. One large steel plant had three production committees, one on materials and products, another on practices and methods, and a third on machinery and equipment. In each case the work was begun by a survey of conditions and then followed by an educational program. Another large establishment manufacturing car frames and bombs had a company-wide committee on plant efficiency which in turn formed nine subcommittees—on plant transportation, weldrod and rivet conservation, machine tool and die conservation, idle time, maintenance and repairs, bottlenecks, perishable tools, scrap and salvage, machine capacities. The sub-subcommittees met anywhere from 10 to 54 times in the three-year period.

There is insufficient information to determine whether plantwide committees on production efficiency were feasible. There were cases in which the general subcommittee ceased to function and the main labor-management committee relied on smaller units in departments or sections for toning up production. There were also instances in which members of a main committee were assigned to an activity such as scheduling, quality, or methods. They in turn organized committees on the subject in departments or mills but this setup was less formal and tended to lapse unless the main committee members continued to call meetings. It is possible that the line organization through divisions and departments is better for work on detailed problems of production and that the plant-wide committee serves best through educational programs on situations common to all.

The chairman of a subcommittee on plant efficiency was usually a management representative, superintendent of production, production control engineer, chief time study engineer, controller of materials, or a similar executive, whose committee work was an extension of his regular duties for the company. A joint committee helped him with ideas on certain problems and the members might be assigned specific tasks. For their educational program they received aid from the main committee or from the specialized services of another subcommittee such as one on training or on publicity.

Improvement of Quality

Although the task of improving quality and reducing rejects is part of the problem of plant efficiency, it is considered separately because there was considerable subcommittee work on this subject whether under the

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[8] Francis Goodell whose services were assigned to the War Production Drive Division by the War Production Board for the period of a year, 1943–44.

[9] See E. J. Lever and Francis Goodell, *Labor-Management Cooperation and How to Achieve It* (New York: Harper & Brothers, 1948), Chapter VII, "Teamwork and Progress Records."

[23] *Labor-Management Committees in Action, op. cit.* 556 out of 1343 committees, with 345 not answering this question.

> name of production committee, quality committee, or "scrap" committee. The chairman was often the chief inspector, the technical director, the time study engineer, usually the person whose duty it was to handle this work for the company. The following illustration shows how a quality committee, a main committee, and department committees can work together in this field. It is an example also of the relation of advisory and executive functions within the committees and their integration, through company and union officials, with the management function and union activities.
>
> The Quality Improvement Committee consists of three from labor and three from management. . . . Different members of this committee try to sit in on department committee meetings at least once each month in order to stimulate the idea of quality importance, and the fact that better quality means increased production, that increased production means a bigger pay check.
>
> In July 1943, a "Make It Good" campaign was launched by the Quality Improvement Committee, with special posters, and a banner in each department reading, "Make It Good."
>
> A rally was held in the auditorium in the recreation building where speeches were made by the quality committee chairman, the superintendent of production (Labor-Management Committee chairman), Industrial Relations Manager (who acted as master of ceremonies), the union president, an Army major, the manager of quality and the plant manager. The rally was attended by all department committee members, foremen and superintendents, about 300 in all. . . .
>
> The chairman of the committee outlined the plan, and explained the charts to be placed in each department, showing the loss in percentages through rejects, or scrap each week. The department committees were to be the backbone of the campaign. Weekly reports were sent by these committees to the quality committee. The quality committee in turn, sent an over-all report to the Labor-Management Committee. . . . The quality control department furnishes department committees with statistics and percentages for their reports. . . .
>
> If rejects are being caused by faulty workmanship the foreman calls the workman in after the meeting and asks him why. A union representative always sits in on any such questioning. Reports are kept of these interviews and if mistakes continue it is arranged to place that particular worker on a job that he can handle.
>
> The quality committee also stresses to the workers, through department committee meetings, and in the Labor-Management Bulletin, the effects of mixing scrap with good materials, or rejects with inspected parts; the cost of tearing down and scrapping that comes as a result of these practices; the increase in the percentage of scrap resulting from these practices . . .
>
> Girls from the assembly on parts in this department were taken to other departments to see what the parts were going into, since the committee contended that it was important that each worker know what he, or she, was working on, and the application of the particular parts. The committee also devised better tools and fixtures further to reduce faulty work . . . Within two and one-half months after the 1943 "Make It Good" campaign was started, the percentage of scrap was reduced to 6 percent, from 12.7 percent.[24]
>
> Care of Tools
>
> Even if a labor-management committee had no subcommittee on production there was often a subcommittee on care of tools. Again, this work was led by the management man whose duty it was to supervise the tool cribs, but under the committee scheme he had the assistance of a larger group, sometimes with aides assigned to follow up throughout the plant. A description of one committee's program illustrates again the method of cooperation between committees and between committee and management.
>
> The tool-conservation subcommittee (composed of the superintendent of the tool room and the tool room foreman, representing management, and leadman from the toolroom in each area, representing labor) made a survey and then proceeded to redesign existing tool rooms and to establish additional ones to care for yard needs . . .
>
> An aide was appointed in each tool room . . . The Central Control Method, as now operated, is saving the yard approximately $50,000 a year over the old method.
>
> The training school cooperated . . . by teaching . . . how to care for tools when not in use and by emphasizing the importance of returning tools to the tool room at the end of each shift. Notices were prepared and sent to all tool keepers, asking for suggestions concerning control and conservation of tools.
>
> On the recommendation of the Labor-Management Committee, tool boxes are inspected regularly by a guard, a shop steward, and a member of the subcommittee. Several thousand dollars have been saved by collecting "loafer" tools . . . (Sixteen Ball-Pein Hammers were found in the box of one worker) . . .[25]

What is not described in the quote I have read was the feeling of cohesiveness—the teamwork in working together to achieve common objectives in a selfless way. I know because I participated in some of these programs. Everyone wants to work for the national interest if they can see some substantial benefit to themselves in the process. This working together is something that we have lacked in this country for a quarter of a century. These Councils disbanded at the end of World War II, which was a great mistake, I thought. We should have kept them going. The economic battle being waged by Secretary of the Treasury Connally in Rome today, the crisis we face, the humiliating circumstances we find ourselves in today, by breaching the GATT agreement and taking steps overtly to put on border taxes and raise our tariffs on many products to the 1930 levels—those actions we have taken have been the direct result, many times, of labor agreements being executed by those demanding more and giving less, by existing work rules which are ridiculous from the standpoint of the national interest. There are limitations on daily output simply to spread the work, but in spreading the work we also spread the market in competition with those who have no limits—the Japanese, the Germans, the French, the Dutch, the Italians. They work harder, and sometimes longer. As a result, there is an erosion in American productivity and competitiveness; so much so that for the first time in a quarter of a century we are importing more than we are exporting. We are losing our export markets. The American consumer too often finds it better to buy from Tokyo than from Chicago. It goes right back to the factor of ingenuity to find a way to reverse that process. If we do not find a way, we might as well have a 3-months session of the Senate and House. We do not have money to appropriate in a stagnating economy. With welfare costs going up, we will not be able to create products or build superhighways, or whatever it may be we will need, for our future. We will be just plain broke. We will be closing the window as we had to close the gold window at Fort Knox.

Now, Mr. President, I would like to ask my colleague from New York one question. Being a fiscal conservative, as I like to think of myself—although I am seldom ever regarded that way—but I do like to think of myself that way, the bill asks for $10 million.

I am not sure that $10 million can fully be justified. I cannot find any detailed program that would call for $10 million.

Mr. JAVITS. If the Senator will allow me to make——

Mr. PERCY. If I can finish my statement first, then I would like very much to have the Senator's response.

I continue to support the amendment. I am a cosponsor of it, and with the $10 million figure in it; but taking into account that this is an authorization, that we would require a detailed budget, we would have to have proved to us how $10 million or $5 million or $2 million could be spent, and it would then go through the appropriation process. I feel somewhat comforted that I would be sitting on the Appropriations Subcommittee that will propose to deal with this particular budget. Although I am all for the amendment, I would have to justify every single dollar in it. It would have to be a hard-nosed budget in order to be approved, but if the Senator from New York can expand a little bit on how the $10 million figure was arrived at, I would certainly appreciate it.

Mr. JAVITS. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER (Mr. ALLEN). The Senator from New York is recognized for 2 minutes.

Mr. JAVITS. I might inform my colleague from Illinois—and I greatly value his confidence in staying with the amendment anyhow—that the $10 million is an extrapolated estimate—the best that I could make.

But I now agree with the manager of the bill, to allow for general funding of the bill under title II of the Defense Production Act, so that it will be open to whatever is justified.

Therefore, Mr. President, I ask unanimous consent that subsection (f) of my amendment be modified to read in accordance with the language which I have submitted to the clerk and which I now ask the clerk to state.

The PRESIDING OFFICER. The modification will be stated.

The second assistant legislative clerk read as follows:

> Subsection (f), The authority for funding referred to in Title II of the Defense Production Act of 1950 (Public Law 91–379) shall apply to this section.

Mr. JAVITS. Mr. President, I am now informed by my staff that the $10 million figure was arrived at as a result of inquiries we made of the National Productivity Commission, so it is a fairly authoritative estimate as to what it would cost to set up this local structure.

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[24] *The Labor-Management Production Committee of the Westinghouse Electric and Manufacturing Company and the United Electrical, Radio and Machine Workers of America, CIO, Local 202, op. cit.*

[25] *The Labor-Management Production Committee of the New England Shipbuilding Corporation and the Industrial Union of Marine and Shipbuilding Workers of America, CIO, Local 50, op. cit.*

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that upon disposition of the amendment of the able Senator from New York, the Senate proceed to the consideration of an amendment by the equally able Senator from California——

Mr. PACKWOOD. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The time of the Senator from New York has expired.

Mr. JAVITS. Mr. President, I yield myself 1 further minute.

The PRESIDING OFFICER. The Senator from New York is recognized for 1 minute.

Mr. TOWER. Mr. President, does the funding provision of this amendment in any way affect section 215 of the bill, found on page 21, which provides for the funding of phase II?

Mr. JAVITS. Mr. President, it invokes that section, the funding for what would now be, if the Senate were to approve it, section 3. In other words, it would come under that as its funding umbrella. That is the purpose of my modification. The only reason I had to do it separately and not strike it altogether is that it is not part of this act. It is the title for another act.

Mr. TOWER. The amendment is funded under the Defense Production Act, whereas section 215 of the committee bill says:

> There are authorized to be appropriated to the President, to remain available until expended, such sums as may be necessary to carry out the provisions of this title.

Mr. JAVITS. Exactly. My amendment would come under this particular provision, section 215(a). That is my intent in the way I worded it. And it would be entitled to such sums as may be appropriated under the Defense Production Act. If there is any problem with it that I do not realize technically, I would be glad to meet that problem. The reason I felt I had to restate it is that section 2 amends the Defense Production Act. By adding a new section 3, I did not come under the same umbrella unless I were to say so.

Mr. TOWER. Mr. President, this is purely a technical problem. I will confer with counsel and perhaps come back to the matter later.

Mr. JAVITS. Mr. President, if the Senator wants to do so, we could suggest the absence of a quorum.

Mr. TOWER. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be taken from the manager of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I will complete the argument and will then be ready to yield back the remainder of my time.

I point out that we have a very interesting confirmation of our discussion from Paul McCracken, the Chairman of the President's Council of Economic Advisers, who made a speech on yesterday that was reported in the New York Times. The speech was made before the Tax Foundation in New York City. He said:

> We must candidly face the obvious fact that the relentless tendency of wage and salary rates to drive upward at rates which markedly exceeded any reasonable expectation about on-going gains in productivity is the single greatest reason for excessive rates of unemployment in many industrial nations today.

That is the very point. It is exactly what we were talking about. I thought it worth including in the discussion here.

Mr. President, I am ready to yield back the remainder of my time.

Mr. McINTYRE. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized for 2 minutes.

Mr. McINTYRE. Mr. President, I would say it is very regretful that we did not have an opportunity to have the amendment before our committee. I have been a Member of the Senate for 9 years now. I must say that I have come to feel that some of these glowing preambles to our bills and some of the fine things such as productivity that the distinguished Senator from New York mentions, of course, meet with general approval.

Experience teaches me that many times our implementation of these programs, as resounding as they sound, do not match the performance at the local level. However, we have the assurance of the distinguished Senator from Minnesota and the distinguished Senator from Illinois and the great record that he points out supports the great incentive program in World War II.

I am at this time therefore inclined to go along with the amendment.

I wanted to ask the Senator from New York whether the Senator from New York feels under the circumstances we should have a yea and nay vote.

Mr. JAVITS. Yes, I would like to have it because it is particularly climactic. I think it would be impressive if we were to have the rollcall vote.

I am ready to yield back the remainder of my time.

Mr. TOWER. Mr. President, again, I reiterate that I believe it is a meritorious measure and that anything we can do to provide some incentives for an increased per-man activity in this country would at once be a stabilizing factor in the economy and a competitive factor in terms of the ability of the United States to sell its goods and services abroad.

I applaud the amendment. On behalf of the minority, I am glad to say that we are willing to accept the amendment.

Mr. JAVITS. Mr. President, I yield back the remainder of my time.

Mr. TOWER. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time having expired, the question is on agreeing to the amendment of the Senator from New York, as modified. On this question the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Florida (Mr. CHILES), the Senator from Georgia (Mr. GAMBRELL), the Senator from Indiana (Mr. HARTKE), the Senator from South Dakota (Mr. McGOVERN), the Senator from Alaska (Mr. GRAVEL), and the Senator from Arkansas (Mr. FULBRIGHT) are necessarily absent.

I further announce that the Senator from Idaho (Mr. CHURCH) is absent on official business.

Mr. GRIFFIN. I announce that the Senator from Ohio (Mr. SAXBE) is absent on official business.

The Senator from Utah (Mr. BENNETT) and the Senator from South Dakota (Mr. MUNDT) are absent because of illness.

The Senator from New Jersey (Mr. CASE), the Senator from Hawaii (Mr. FONG), the Senator from Maryland (Mr. MATHIAS), and the Senator from Connecticut (Mr. WEICKER) are detained on official business.

If present and voting, the Senator from New Jersey (Mr. CASE) and the Senator from Hawaii (Mr. FONG) would each vote "yea."

The result was announced—yeas 85, nays 0, as follows:

[No. 420 Leg.]

YEAS—85

Aiken
Allen
Allott
Anderson
Baker
Beall
Bellmon
Bentsen
Bible
Boggs
Brock
Brooke
Buckley
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Cook
Cooper
Cotton
Cranston
Curtis
Dole
Dominick
Eagleton
Eastland
Ellender
Ervin
Fannin
Goldwater
Griffin
Gurney
Hansen
Harris
Hart
Hatfield
Hollings
Hruska
Hughes
Humphrey
Inouye
Jackson
Javits
Jordan, N.C.
Jordan, Idaho
Kennedy
Long
Magnuson
Mansfield
McClellan
McGee
McIntyre
Metcalf
Miller
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott
Smith
Sparkman
Spong
Stafford
Stennis
Stevens
Stevenson
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Williams
Young

NAYS—0

NOT VOTING—15

Bayh
Bennett
Case
Chiles
Church
Fong
Fulbright
Gambrell
Gravel
Hartke
Mathias
McGovern
Mundt
Saxbe
Weicker

So Mr. JAVITS' amendment, as modified, was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GRIFFIN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Geisler, one of his secretaries.

REPORT ON TRADE AGREEMENTS PROGRAM—MESSAGE FROM THE PRESIDENT (H. DOC. NO. 92–178)

The PRESIDING OFFICER (Mr. HUMPHREY) laid before the Senate the following message from the President of the United States, which, with the accompanying report, was referred to the Committee on Finance:

To the Congress of the United States:

In accordance with Section 402(a) of the Trade Expansion Act of 1962, I transmit herewith the Fifteenth Annual Report of the President on the Trade Agreements Program. This report covers the year 1970.

World trade in 1970 maintained a high rate of growth for the third successive year, reaching over $279 billion. In the case of the United States, exports rose by approximately 14 percent while imports were up 11 percent. While this performance yielded a merchandise trade surplus of over $2 billion as compared with $624 million and $660 million in 1968 and 1969, respectively, the improvement fell far short of the level required for the United States to restore a sound balance of payments position.

Throughout the year U.S. representatives actively sought the cooperation of our major trading partners in the reduction of barriers to U.S. exports and in other measures that would enable our products to compete with those of other countries in both the U.S. and the world market. Some progress was made, but certain very significant problems remained unsolved. Domestically, monetary and fiscal policies contributed to a deceleration in price increases, but in some of our major product lines U.S. producers were not able to retain their share of the market at home or internationally.

At the close of 1970, the outlook for U.S. trade involved a number of uncertainties. Domestically, the most basic element was our ability to make further progress toward price stability. Abroad, the prospects were not clear with regard to levels of economic activity and rates of inflation in a number of industrialized countries. One of the most basic unknowns was the extent to which our major trading partners would recognize the seriousness and urgency of greater international cooperation on monetary reforms and other measures to facilitate balance of payments adjustment.

While we had hoped that these uncertainties could be favorably resolved without unilateral action, this was not the case and by mid-1971 the United States, for the first time in this century, faced the prospect of a deficit in its balance of merchandise trade. To deal with this situation and to achieve interrelated domestic goals, the New Economic Program was launched on August 15. With the cooperation of other major economic powers, I am confident that the deterioration in our merchandise trade balance, which was threatening at the end of 1970 and which reached intolerable proportions in the spring of 1971, will be sufficiently improved that the present U.S. surcharge on imports can be removed.

This Administration remains firmly committed to the goal of expanding world trade through the further reduction of national barriers to imports, the development of more equitable rules to govern export competition in international markets, and the elimination of discriminatory measures by trade blocs. The Program instituted in August will contribute to our basic trade policy objective by providing essential interim support to the domestic economy while more fundamental arrangements are being worked out to restore sound equilibrium with the rest of the world.

Improvement of the world trade and monetary systems has been given a high priority by this Administration. The United States stands ready to do its fair share in international efforts to achieve these ends. We expect other governments to respond with a similar sense of responsibility in the interest of promoting prosperity and amicable economic relations throughout the world.

RICHARD NIXON.

THE WHITE HOUSE, *December 1, 1971.*

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. HUMPHREY) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of Senate proceedings.)

ECONOMIC STABILIZATION ACT AMENDMENTS OF 1971

The Senate continued with the consideration of the bill (S. 2891) to extend and amend the Economic Stabilization Act of 1970.

AMENDMENT NO. 773

The PRESIDING OFFICER. Amendment No. 773 is the pending business. The clerk will read the amendment.

The assistant legislative clerk read amendment No. 773, offered by Mr. PROXMIRE, for himself, Mr. HARRIS, and Mr. STEVENSON, as follows:

On page 6, after line 4, insert the following new subsection:

(f)(1) The authority conferred on the President by this section shall not be exercised after June 30, 1972, to limit (i) the amount of any increase in prices charged by or wages or salaries paid by a firm with annual sales or revenues of less than $50,000,000 during its most recent preceding fiscal year; and (ii) the amount of any pay adjustment which applies to or affects less than one thousand employees, unless the President determines, after notice and opportunity for hearing, that the amount of any such increase or adjustment is grossly disproportionate with the standards published under subsection (b) and would have a significantly adverse effect upon the general cost of living.

(2) The President may request the Congress to reauthorize, by joint resolution, the authorities to be terminated or terminated by this subsection, and the provisions of sections 910–913 of title 5, United States Code, shall be applicable with respect to the procedure to be followed in the Senate and House of Representatives in considering such resolution and references in such provisions to a "resolution with respect to a reorganization plan" shall be deemed for the purpose of this subsection to refer to the resolution provided for under this subsection.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized. How much time does he yield himself?

Mr. PROXMIRE. I yield myself 10 minutes to begin with.

Mr. President, I think this amendment goes right to the heart of what, in my view, is wrong with the efforts of the administration to provide a Stabilization Act.

I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. PROXMIRE. Mr. President, virtually every economist has agreed that we just have no business covering under the Stabilization Act the actions of the small firms and small unions. They are not responsible for inflation. They are not contributing to it. Everybody recognizes that this is a cost-push type of inflation. We do not have a scarcity of manpower or resources. There are a few areas, such as the health services area and the construction industry, where, without big firms, we have inflationary circumstances, and my amendment would allow for that; but we have a situation now which is very, very unfortunate under the President's order. We have a situation in which small businesses are not required to report, they are not required to get approval, but they are required to keep records of their price increases, and their price increases are supposed to be strictly related to their costs.

The provision is so confusing, it is so difficult to abide by, that the great majority of small firms just are not going to be able to know whether a particular price increase is justified or not. Under those circumstances, there undoubtedly are going to be widespread violations. I am sure the majority of businessmen are conscientious. They want to abide by the law. They resent it when they cannot do so. But what are they going to do in such a difficult economic situation—and it is wholly unnecessary?

I would like to hear the opposition to this amendment state that any economist argues that we have to cover the small firms in order to have an effective stabilization program. It is not like World War II or the Korean war, when we had a shortage of many goods and a shortage of labor, and where we had to have comprehensive restrictions.

What this amendment does is exempt the smaller business firms and employee groups from price and wage controls effective June 30, 1972.

It maintains the present controls for another 7 months.

I think we also realize that one of the greatest difficulties is phasing out of a control situation, which is the present situation. It is very hard to do it. Congress takes the initiative under this amendment, and if by June 30 there can be a showing that we should continue to cover small firms, we can do so.

The definitions of smaller business and smaller employee groups are identical to the tier III firms and tier III employee groups as defined in the regulations of the Cost of Living Council. Under these regulations, a tier III firm is defined as one whose sales or revenues were less than $50 million during its most recent fiscal year. Tier III firms are not required to prenotify or report their price increases to the Price Commission, although they are subject to the price guidelines established by the Commission. My amendment would go one step further by exempting them from these guidelines as well, effective June 30, 1972.

Under the same regulations of the Cost of Living Council, a tier III pay adjustment is one which affects or applies to less than 1,000 employees. These pay adjustments are also exempt from the prenotification and reporting requirements established by the Cost of Living Council, although they are subject to the general wage guidelines established by the Pay Board. My amendment would exempt tier III pay adjustments from the guidelines as well, effective June 30, 1972. By paralleling the definitions and concepts already established by the Cost of Living Council, my amendment will be capable of ready administration.

While my amendment in general exempts smaller firms and employee groups from price and wage controls, the exemption is not absolute. The President can apply the controls on a selective basis to a smaller firm or employee group if he finds a price or wage increase is unreasonably inconsistent with the guidelines and would have a significantly adverse effect on the general cost of living.

He can do that by June 30. So, as I say, this amendment is confined to the exemption of small firms. It provides that the exemptions will not go into effect until June 30, and then it provides, even after that date, that the President can act to prevent a wage or price increase which is inflationary.

The President would, however, be required to provide notice and give the affected parties an opportunity for a hearing before applying controls selectively. This is the minimum safeguard we can provide if we are to give the President the sweeping authority to control the economy as authorized in the legislation.

Under the language of my amendment, the President would have enough flexibility to deal with individual problems without imposing rigid controls on the vast majority of small business firms throughout America. For example, under my amendment, the President could make a finding that prices and wages in the construction industry or medical services industry were unreasonably inconsistent with the guidelines established by the Pay Board or Price Commission. These prices and wages could then be subject to the controls.

And, frankly, I think the President would do exactly that. As we all know, the construction industry has had great difficulty with tremendously big wage settlements and consequent price increases. We all know that one of the most inflationary aspects of our economy is the health-care section. It is so at the present time and will continue to be so because of the shortage of resources and because of the fact that it takes a very long time to train doctors, nurses, and other medical personnel.

Mr. President, my amendment does not immediately exempt smaller business firms and employee groups from price and wage controls, although I believe a good case can be made that an immediate exemption is called for. However, the amendment does not go this far. It gives the President more flexibility. It simply says that the smaller firms and employee groups must be exempted not later than June 30, 1972. I believe the Pay Board and Price Commission will exempt these units much earlier than June 30, once they see the problems involved in trying to control the whole economy. My amendment merely sets an ultimate target date for the exemption. If we are to give the President an unprecedented 17-month extension of the stabilization act, we should at least prescribe the areas of the economy to be decontrolled after a reasonable period of time.

In no way would this amendment impair the fight against inflation. As I already said, the President has the authority to apply the price and wage controls to smaller firms and employee groups on a selective basis whenever a praticular price or wage settlement is out of line. In addition, the amendment contains a second safeguard. If the President determines that price and wage controls are still needed across the board for the tier III firms and employee groups, he can request Congress to reauthorize the controls by joint resolution. My amendment applies the same expediting provisions of the Executive Branch Reorganization Act to prevent delaying tactics and insure a prompt vote, up or down, on the President's request. Under these provisions, a committee can be discharged from the consideration of a resolution in 10 days, a motion to consider the resolution by the House or Senate is nondebatable, and consideration of the resolution itself is limited to 10 hours.

Thus, we do not tie the President's hands or weaken his authority. We give him all the authority he says he needs to control inflation for the next 7 months. However, we reserve to ourselves, the right to decide whether the controls on small business and small employee group should be continued beyond the 7 months. We have a constitutional responsibility to the country and to our constituents to prevent the President from becoming an economic dictator. Under the bill before us, he would become such a dictator unless we set up a specific timetable for withdrawing the controls.

Mr. President, there are approximately 10 million firms in the so-called tier III category. Most of these are small mom and pop establishments. These firms do not initiate inflation. Inflation is caused by the large corporations and large labor unions. Large companies, operating in highly concentrated industries, have the market power to administer prices and wages without regard to market forces. No such freedom is possessed by the smaller firms which are often struggling for their very survival. Their prices are set by the market. They must match the price set by their larger rivals or go out of business. By and large, controls on this sector of the economy are totally unnecessary.

MAJORITY OF ECONOMISTS BEFORE JEC SUPPORT SELECTIVE CONTROLS

Following the President's announcement on August 15 of his new economic program, the Joint Economic Committee held extensive hearings and received testimony from some of the most respected economists in the United States. The overwhelming majority of those who testified agreed the economy need not be placed in a straitjacket of mandatory controls on all wages and prices. They argued that the majority of wages and prices are still set by the forces of competition. Only a selected number of firms and unions which have the power to set prices and wages need be controlled. Selective controls would be easier to administer and also more equitable.

Dr. John Sheahan, author of a definitive study on incomes policy, titled "Wage-Price Guideposts," emphasized that—

> It is a false idea of equity to treat the weak and the strong exactly the same. And since a general economy-wide system of controls is neither workable nor desirable, to argue against selectivity is to hand the advantage to the strong.

Mr. President, I ask unanimous consent that excerpts from the testimony by Dr. Sheahan be printed in the RECORD at this point.

There being no objection, the excerpts from the testimony were ordered to be printed in the RECORD, as follows:

EXCERPTS BY DR. JOHN SHEAHAN

We need a flexible economic system and we need flexible wages and prices. Even if the general freeze could be enforced for a longer period, it should not be. What is needed instead is a limited selective system directed at a few key sources of special difficulty. A general freeze is an abdication of the responsibility to tackle the difficult job of selective action.

The administration will deserve great credit if it comes out with a new program before the 90 days are up.

What should a new program be like? I would suggest thinking of something in between an all-out freeze and a system of guideposts as we knew it in the early 1960's. We should aim at something tougher than the guideposts in way of enforcement but perhaps not try to cover the whole economy to the extent that they did.

The reason that a comprehensive system of controls is unnecessary and undesirable is that the great majority of labor and product markets in the United States are characterized by a reasonable facsimile of competition. Trade associations and union pressures abound, but in most cases they do not greatly change the course of wages and prices.

The other side of the coin is that there are a relatively small number of labor and product markets in which changes are much more arbitrary.

When the groups with the power to make arbitrary decisions act in ways that they consider necessary to defend themselves, they often encroach on the real income of

> the rest of the country. They impose a tax on the people who do not have such power: a tax which simultaneously transfers income to themselves and lowers real national income by distorting the structure of prices and wages.
>
> Which group is competitive and which is not, and what to do about them? None of them wear white hats, and of course we are not talking about two sharply defined categories but about shadings of power that change constantly. But it might make the point more concrete to suggest some orders of magnitude and some plausible candidates for special attention. Within manufacturing, problems of market control are often associated with high degrees of concentration and difficulties of entry. Those industries in which the four firm concentration ratios are above 60 percent and are therefore likely sources of trouble do not constitute quite 20 percent of all our manufacturing industries and do not account for more than 20 percent of manufacturing value added. Within that 20 percent, some industries have little genuine market powers because of imports or competition from close substitutes, so less than 20 percent constitute serious problems.
>
> But I would not think that manufacturing would be the first and most important target. I would nominate two other fields that could be worked on quite directly. They are medical fees and the pricing practices of industries in which the Government itself acts to enforce market control, perhaps especially in the oil industry and transportation.
>
> On the side of labor, the majority of workers have mighty little bargaining power. It is surely nominal or nonexistent for workers in retail and wholesale trade, secretaries and officeworkers in general, migrant farm labor, nurses, workers in laundries and motels, and probably in a wide range of manufacturing such as canneries, textiles, and clothing, sawmills, and small-scale local manufacturing of all kinds. There is a world of difference between the pressures these workers can exert and what can be done by the printers, construction unions, coal miners, automobile and steelworkers, and the public service employees in some of the large cities. The differences can be seen readily enough in the wage rates that now exist and in the ways in which they have been moving.
>
> When workers in well organized industries raise their wages they do not impinge upon the profits of the companies for which they work. They take away real income from the workers who have lower wages. The characteristic of the period through which we have been passing is that the better placed workers have been gaining at the expense of the poorer.
>
> To divide workers into the privileged and the exploited, and industries into those which can defend themselves readily and those which cannot, is a treacherous exercise. But the differences are real. They cast an interesting light on the arguments by some unions and industries that it is unfair to pick them out for restrictions and leave the rest of the economy free. It is not the weak groups which makes this complaint; it is the ones which have been raising their incomes at the expense of the rest. It is a false idea of equity to treat the weak and the strong exactly the same. And since a general economywide system of controls is neither workable nor desirable, to argue against selectivity is to hand the advantage to the strong.

Mr. PROXMIRE. Dr. Walter Heller, whom the present occupant of the chair, the distinguished Senator from Minnesota (Mr. HUMPHREY) knows very well and recognizes his great ability, and who is a former Chairman of the Council of Economic Advisers and probably the most articulate, in my view, and perhaps the most persuasive economic policy expert in the Nation, had this to say:

> We have a market system on which the vast majority of economists feel we should basically rely. It is in effect a huge, impersonal computer, a cybernetic system that processes enormous amounts of information, passes it on through from the consumer to the retailer, the wholesaler, and the processor or manufacturer, and does so without any overall human direction. Except for prevention of abuses, we ought to rely fundamentally on that process instead of getting into this morass that we have already illustrated with the ridiculous questions and problems that are being raised by the wage-price freeze.
>
> However, there are areas in which the competitive system clearly doesn't work very well. There are areas in which big business and big labor units have excessive market power. Such units, in effect, distort the working of the competitive economic system. The wage-price guideposts focused particularly on these noncompetitive or imperfectly competitive parts of our economic system, pressing them, in effect, to behave competitively—pressing them to set wages and prices at the lower end of their range of discretion.

Dr. Arthur Okum, also a former Chairman of the Council of Economic Advisers, and now a senior fellow at Brookings and again a very eminent economist, one who has the respect and admiration of everyone who has followed economic thought in this country, made the following statement when he testified before our committee in August:

> By mid-November, the United States should have a new price-wage program that meets the following tests:
>
> 1. It should restore to the private sector the basic responsibility for decisionmaking over prices and wages. . . .
>
> We would want no controls directly on any price or wage after mid-November but would rely on this contingent power of the Government to roll back any price or wage increase that flagrantly violated the standards and then to freeze that price or wage subsequently for a substantial period.
>
> The sanction would have to be applied very selectively only to those prices and those wage settlements that would be particularly important to the overall price level or that would establish significantly adverse precedents and patterns. The more general success of the program would depend on the cooperation of the American public and the change in the behavior of the visible prices and wages that have had so much to do with the inflationary atmosphere of recent years.

Mr. President, another former chairman of the Council of Economic Advisers, and a man whose judgment and ability have been confirmed by events, who has served this country with great distinction, is Dr. Gardner Ackley. Dr. Ackley had this to say:

> While I see no reason why the transition to the new system need occur completely and simultaneously on November 14, I should hate to see any transition that would involve, for any appreciable number of cases, an intermediate stage of "tailored" price- or wage-control regulations, or any elaborate effort to "adjust" or "administer" the freeze for any large range of commodities or services. The Korean war experience surely proves what an administrative nightmare this would involve. Moreover if—as I believe—we are going to have to develop institutions that will be viable for a considerable period of time, I think that we must learn to stay as far away as we can from the traditional patterns of direct controls. They are indispensable in an emergency. But their role—if any—must be minimized under nonemergency conditions.

Another very highly respected economist whom most of us know, and who has testified often in Congress, is Dr. Otto Eckstein, also a former member of the Council of Economic Advisers, and now president of Data Resources. He says:

> A wage-price policy focusing on a limited set of major prices and wage bargains should be sufficient to assure this result. In the more competitive industries, prices will not rise substantially if the overall wage pattern of the economy is brought to a noninflationary state. No such assurance exists in the concentrated industries, yet these are the industries in which government has the greatest possibility of influencing private actions. . . .
>
> The United States does not want elaborate control machinery and it does not need it. A small, central staff in Washington, led by high policy officials and operating with the advice of business and labor, could keep track of developments in the top 50 or 100 price situations and in the major collective bargains.

Mr. President, I have a great deal of additional testimony by economists supporting the point I have been making here, but I think I have established the fact that the most eminent economists in this country seem to agree. One great economic expert, Dr. Friedman, of the University of Chicago, has a very large following among conservatives. I am not quoting him today, but I think we all know what he thinks of the freeze and phase II. He thinks the whole thing ought to be abolished completely. I do not take that view. I take a far more moderate view. I say that we should continue phase II until June 30, but that after that date we should provide that the small firms would be exempted—subject, of course, to the President's authority to impose selective controls in such areas. As construction and in health services.

Another reason for exempting the small firms and employee groups is that we do not have a demand-pull inflation.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. PROXMIRE. Mr. President, I have additional material, but at this point, if the Senator from Illinois would like me to do so, I will yield time to him, and I will be happy to do so. I yield 10 minutes to the distinguished Senator from Illinois.

Mr. STEVENSON. Mr. President, I thank the Senator from Wisconsin for yielding to me. I commend him for offering the most significant amendment to this bill to date. It is an amendment which addresses itself to the whole notion of extending pervasive controls to all parts of our economy, no matter how unenforceable they may be, no matter what inequities follow, no matter what stifling effect they have on the economy.

I have joined the Senator from Wisconsin in offering this amendment out of concern about the effect of the controls on our economy and out of the further concern that such controls could become a permanent part of our economic life. Our economy may be able to cope with this confusion for a short time, but I am concerned that whatever advantages we may gain from moderating the inflation will be outweighed by a continued, possibly deepened, recession, unless we act quickly to return the economy to a free system.

On Monday, Virgil Day, Chairman of the Pay Board's business representatives, predicted that controls would have to remain on the economy for 2 or 3 years. I cannot believe Americans want 2 or 3 years of controls, nor do I believe the economy can endure them. Controls for that long during peacetime could lead to permanent controls.

Accordingly, the amendment we have offered would provide for a phaseout of controls over most economic units in the economy. It would remove controls by June 30, 1972, from the prices of all businesses with annual sales of less than $50 million and from the wages of all employees in these businesses and in economic units of less than 1,000. These so-called tier 3 businesses comprise over 99 percent of all businesses in the country, but they account for less than 50 percent of total sales. The President would retain the authority to impose controls in isolated instances where price or wage increases were "grossly disproportionate" to Price Commission or Pay Board standards and would lead to a higher cost of living. Or, if he felt the situation warranted continuation of controls over tier 3, the President could request Congress to pass a joint resolution extending his authority. Congress, under the procedures established in this amendment, would be required to take prompt action on any such request from the President.

The amendment would give Congress a voice in decontrolling the economy, while still providing the President with the flexibility to continue economywide controls past next June 30 if he is able to convince Congress that they are necessary. I hasten to add that I doubt—and doubt strongly—that tier 3 controls will be necessary beyond June 30, 1972, if indeed they are necessary now.

I am convinced the President committed a major mistake by instituting controls over the entire economy rather than limiting them solely to the sectors most responsible for the inflation. The chaos of widespread controls is already beginning. The President rightly wished to avoid the creation of a vast enforcement bureaucracy. But, rather than limit controls to the largest economic units where competition and collective bargaining have broken down, he chose to make them legally binding on economic units of all sizes and to enforce them against only the largest units. Most businessmen, wage earners and consumers must either ignore the law or operate in an atmosphere of confusion, anxiety, and ignorance.

Businessmen, for example, may increase their prices only if costs rise; but in order to calculate permissible prices, they must first subtract productivity increases from cost increases. Productivity increases are difficult, if not impossible, to measure—especially in small business and service industries. In addition, price increases are allowable only if profits as a percent of gross sales remain stable. But how can the hardware store owner, or other small businessmen, measure the effect of a price increase for a screwdriver or other item against his profit margin on the sale of all items? He cannot do it any more than he can project the productivity increases of his employees. How is the consumer to know whether the price he pays is above the legal guidelines? How is the worker to know if his wage may be increased? Wage increases cannot average more than 5.5 percent for all members of an economic unit, so the worker must calculate his prospective increase against those of other ill-defined workers whose increases go into the average for the unit.

Administration witnesses before the Banking Committee stressed that the overriding rationale for extending the President's authority to impose controls was the desire to avoid anxiety and confusion, and they were right to do so. They recognized that the return of consumer and investor confidence is a necessary prerequisite to breaking the back of inflation.

But the phase II program can only foster anxiety and confusion. Yesterday, the Washington Evening Star published an excellent story by John Cunniff, captioned "Businessmen Uncertain, Concerned." Mr. President, I ask unanimous consent to have Mr. Cunniff's article printed at this point in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Businessmen Uncertain, Concerned

(By John Cunniff)

New York.—In their conversations, in speeches and in the letters they write, businessmen today seem uncertain and concerned. Cold, calculating, cautious, they don't see much fun ahead and so they don't make big plans.

Every observer of business knows that such moods change from depression to manic as events, or the interpretation of them, take on different shapes and patterns. But uncertain and concerned is the current mood.

Uncertain. A new economic program has been adopted and nobody is at all sure that it will work, or even whether it is temporary or permanent. Prices, wages and profits are hard to forecast. One company watches the other, hoping that the inevitable errors will be their competitors' rather than theirs.

Seldom have more eyes scrutinized more intently more economic statistics and indicators. Slight fractional changes receive exaggerated examination. Signs and portents are sought.

A SIMILAR ERROR

Not helping the situation any is the tendency for the statistics to be a bit unreliable. The index of leading indicators is announced and later revised. What are you to make of a preliminary index that shows a decline and a final index showing an advance? It has happened.

The Federal Reserve made a similar error last week. With many businessmen worried that the money supply would be contracted too sharply, the Fed made the untimely mistake of underestimating the supply by $400 million.

That error was a clean one. But how do you find a trend in statistics that fluctuate on either side of plus or minus, of which change by a tenth of one percent or are in conflict with a whole set of other figures?

With uncertainty prevailing, one company watches for the other to move, hoping thereby to profit by its mistakes. It should be the other way around, with the rewards going to the risk taker.

President Nixon, Treasury Secretary John Connally and Federal Reserve Chairman Arthur Burns have repeatedly expressed their confidence in the future, hoping thereby to supply the spark that lights the fire.

Past experience has shown, however, that assurances repeated too often can have the opposite effect when sown in worried minds. "Things must be bad indeed," the listener says, "if they feel compelled to talk it up."

RISKING NEEDED

The impasse more likely can be broken by assertive action by the risktakers, the companies which, despite doubts, feel that the potential rewards are worth going after. There are examples to be followed in this regard.

Following World War II there was considerable fear of a return to prewar depression. Some companies refused to believe it, committed their resources to expansion and led the greatest economic surge in history.

In recent weeks, with Wall Street brokers reinforcing their doleful outlook by picking each other's brains, the market dropped. One day a big institutional buyer said it thought some bargains were reappearing and therefore was prepared to buy. The next day the market spurted.

Concerned. Many businessmen seem genuinely concerned about the ability of the United States to compete, forgetting that competition was what helped the country to its position of economic leadership. They see their products being successfully challenged by high quality, low-priced foreign goods.

They view with alarm the continuation of the U.S. balance of payments deficit, the threatened loss of entire industries, the inability of the world to quickly settle its monetary problems, the possibility of dollar devaluation.

And while seeing all this power abroad and weakness at home, they still express the contradiction that a worldwide recession is approaching. Overwhelmed with concern, they view the clouds instead of the sunshine.

Psychologists have an explanation for such attitudes-inaction. And history seems to show that the way out is action.

Mr. STEVENSON. Mr. President, confusion and chaos will continue. Because of this uncertainty, phase II controls are likely to have an adverse impact on economic recovery. Inflation is not our only problem: unemployment continues to hover at the 6-percent level, and economic growth has not yet reached the 4-percent level necessary for the economy simply to stand still. The economy is utilizing less than 75 percent of its productive capacity, and the lost production due to stunted growth will approach nearly $70 billion in this fiscal year alone.

Recovery—as the administration, I dare say, and all of us recognize—awaits the return of consumer and business confidence, a confidence which phase II is not likely to call forth. If we must have short-term controls to combat cost-push inflation, then it would make sense to limit those controls to the largest units in the economy as soon as possible. That is where the cost-push is. If we focus controls directly on the problem, there will also be less interference with the operation of the market system, since we would then control sectors of the economy which rely less on market forces to set prices and more on administered prices. The smaller business units covered under tier 3 are more competitive and that fact in itself will help to restrain their prices.

In conclusion, Mr. President, I would say that if we value the free market as a mechanism for determining prices and allocating goods and services—and certainly our rhetoric suggests that we all do—then we will pass this amendment and, in doing so, help to assure an orderly return to a free economy.

I thank the Senator from Wisconsin for yielding to me.

Mr. PROXMIRE. Mr. President, I thank the Senator from Illinois for his excellent speech. In this kind of debate it is very difficult to anticipate what the opposition will say. I cannot anticipate what they will say in opposition to what the Senator from Illinois has just said. It is difficult for me to understand how this amendment could be resisted.

Another reason for exempting the smaller firms and employee groups is that we do not have a demand-pull inflation as we had during World War II and the Korean war. Instead, we have a cost-push inflation, where most of the cost-push pressures come from powerful unions and large corporations. Our entire economy is operating at only 75 percent of capacity and the rate of unemployment continues to hover at 6 percent.

A study of classical economics shows that it is impossible to have inflation under the circumstances, but we all know that it is happening and why. It is not because the little firms are pushing up their prices. Firms in competition are not doing that. They cannot, under these circumstances. It is because of the great concentration of economic power in our society which can defy the laws of economics, as they are not subject to the controls of the marketplace. They are the ones the economists overwhelmingly agree are responsible.

Under these circumstances we do not have to fear that lifting controls on small business will lead to runaway price increases. There is too much economic slack in the economy.

Controls on small business were necessary during World War II and Korea because there was a general shortage of consumer goods. Demand far exceeded supply, and controls were necessary to prevent prices from skyrocketing. Today, we have just the opposite conditions. We have an oversupply of goods and industrial capacity while consumer demand is sluggish. Market forces are thus sufficient to control prices and wages for all but the largest firms and unions which are immune to the pressures of supply and demand.

Mr. President, as everyone knows, bureaucratic controls have a life of their own. It is easy to start a new program. It is much more difficult to phase it out once it has served its usefulness. Those administering the program have a vested interest in seeing that it is continued. Those with power can think of many reasons for perpetuating their power. Those charged with enforcing the law often forget the original objectives of the legislation and become obsessed with enforcement as an end in itself. We are endangering the very survival of our free enterprise system by resorting to price and wage controls in peacetime.

No one knows for sure how long these controls will last or whether they will become more repressive. The administration has announced no fixed date for terminating phase II. No timetable has been given for withdrawing the controls. The committee report contains a hope that small business firms will be exempted as soon as possible consistent with the overall goals of the program.

All the amendment does is to provide a date for that. That date is not tomorrow, not next month, January, February, March, or April. It is not until the end of June.

But how do we know that these wishes will be carried out by the administration? The only way we can be sure the phase II controls will be phased out on an orderly basis is to require it by law as provided in my amendment.

Mr. President, there is another important reason for exempting small business from the controls as soon as possible. The regulations issued by the Price Commission are grossly unfair to small business. They give an economic advantage to the large firm and impose a disproportionate burden on the smaller firm. Because of this disparity, the very survival of small business is threatened.

The distinguished Senators from New Hampshire (Mr. McINTYRE) and Minnesota (Mr. HUMPHREY) have devoted a great deal of their time in the Senate and elsewhere to small business, as much as any other Member of this body, so that I think they appreciate this.

Why do the regulations discriminate against small business? They discriminate because only the larger firm can afford the battery of accountants, statisticians, lawyers and lobbyists needed to justify a price increase. The larger firm can acquire or manufacture the complex data on costs, productivity and profit margins required by the price commission. However, how is the average corner grocer going to estimate his productivity when Ph. D. economists cannot even agree on how to define the term let alone measure it? The head of the Price Commission has testified that unless a firm can estimate its productivity, it is not entitled to a price increase. Explain that to your corner grocer when you go home, Mr. President, as a practical matter, most of the small firms will be scared into freezing their prices because they do not understand the complex and confusing regulations. The law provides for civil and criminal penalties and triple damage consumer actions against those who illegally raise their prices. These are terrifying prospects for the average small businessman. If he doesn't have all the data needed to justify a price increase, the chances are he will simply freeze his prices.

On the other hand, big business firms have not hesitated to request approval for price increases and many of these have been approved by the Price Commission. As time goes on, the profits of the larger firms will gradually increase at the expense of smaller firm profits. Because of the built-in inequity of the regulations, we are likely to undergo a permanent and irreparable structural change in our economy. More business will go to the larger firms, as small firms find they are unable to live under the complex regulations.

I am sure every Member of Congress is a friend of the small businessman. Everyone wants to see the small businessman succeed. We all want to see the smaller firm get an even break. But he will not be fairly treated if my amendment is rejected. A vote for my amendment is a vote for the continued survival of the small businessman.

Some Senators may be sympathetic to my amendment but also may be fearful of being charged with weakening the President's fight against inflation. An argument will no doubt be made that we should give all the authority to the President and let him decide who is to be exempted over what period of time. Otherwise, the President might blame the Congress for any failures which might occur.

Mr. President, we simply cannot ignore our constitutional responsibility in the name of political expediency. Moreover, the voters are much more intelligent than we give them credit for. They are not about to be fooled by the political maneuvering of either party. I think they want results, and if they don't get those results, they are going to blame the Congress as well as the President. If the phase II controls are not lifted from the back of the small businessman, there is going to be a voter backlash next November. The 10 million small businessmen in America are going to be very interested in today's vote. They may not be watching it today, but they will be made aware of it on election day. Those who vote against exempting small business may think they are protecting themselves from political criticism. But how will they answer the thousands and millions of small businessmen next November? How will they explain their failure to act today to insure that the small businessman is treated fairly?

In summary, Mr. President, a vote for my amendment is both good policy and good politics. It is good policy because there is no economic justification for controlling small business for any extended period of time.

I defy opponents of my amendment to provide any significant kind of economic experts' opinion against the proposal I have presented. It is good politics because the controls are bound to invoke bitter resentment as time goes on and the 10 million small businessmen in America will look back to this vote and remember who was their friend and who was their enemy.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield.

The PRESIDING OFFICER (Mr. EAGLETON). The Senator from Minnesota is recognized.

Mr. HUMPHREY. Mr. President, I had the privilege of presiding while the Senator from Wisconsin has been making his argument. As always, the argument of the Senator is a very persuasive and a powerful argument. His argument is well documented with the testimony of outstanding and eminent economists.

I am basically sympathetic with the point of view that the Senator from Wisconsin has in mind.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. PROXMIRE. Mr. President, I yield myself an additional 5 minutes.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized for an additional 5 minutes.

Mr. HUMPHREY. Mr. President, what does concern me, and I express myself for the Record, are the letters the Senator has in his amendment. He would provide that businesses with an income of $50 million or less be exempted; $50 million is a rather substantial store today. It is not a Mom and Pop grocery store.

May I suggest that with gross sales of $50 million, they have accountants and a legal firm that works with them. They are capable in some manner or form of making a pretty good accounting of their activities.

They have to do so for the Internal Revenue. And I think they would have the capability of doing it for the Price Board or Pay Board.

I would hope that the Senator would give us an opportunity to get those letters down.

I want to say that the small concerns really ought not to be brought under any type of control such as we are now having. I want those smaller concerns exempt. For example, a laundry and dry cleaning firm, a smalltown grocery store, or even a supermarket that does a quarter of a million dollars or half a million dollars of business is not a large supermarket, to be sure. As the Senator has said, the corner drugstore and so forth should be exempt. That is fine. They are small corporations. They do not have the technical staff and accountants and all the assistance that is necessary to meet some of the requirements that the Price and Pay Board demand. However, the Senator has a $50 million figure in his amendment and also a section dealing with 1,000 or fewer employees.

Mr. PROXMIRE. The Senator is correct. The reason that I have picked that particular figure is because I have taken the administration's own estimate as to how they think the program should be administered.

There is tier 1, tier 2, and tier 3, and those below a certain figure are not now required to get approval even to report when they get a price increase.

It was my feeling that the administration's judgment is about right. It may be a little conservative. The overwhelming opinion of the economists that testified is that if we limit the price increases to the big 500 or 1,000 firms, we would get at the root of the problem. My amendment would keep some 2,500 firms under restraint. There are 10 million firms in the country. So, with my amendment the bill would cover only 1/40th of 1 percent of the firms, but it would get at about 50 percent of the volume of the business, and about 100 percent of the inflationary pressure.

Furthermore, the main reason why I agreed with that categorization is that the principle for regulating these firms is whether they have monopolistic power, whether they have power which is big enough so that they can become an inflationary factor in the economy.

While they have the ability to increase their prices, it is true that there are some small firms that have this kind of capacity, in the health field and in the construction industry and perhaps in some other cases. In those cases, the President would still have the authority to limit price and wage increases. In the event he felt this was significant with respect to the stabilization program, he would continue to have that power. However, the great majority do not have any power and under these regulations would be taken out.

Mr. HUMPHREY. Mr. President, how does the Senator explain, for example, the continuation of wage controls upon the schoolteachers in a small school.

Mr. PROXMIRE. I just tried to do that. As the Senator knows, my previous amendment would have exempted that class of employee. As the Senator also knows, that amendment was rejected.

Mr. HUMPHREY. I voted for the Senator's amendment. I thought he was right. However, what worries me about the present amendment is that even while those economics may be justified in terms of the Senator's argument, there is a psychological factor involved here. Whereas some people are under rather strict controls, local public servants or someone in a small school district is not. And here we say that a business with an income of $50 million or less shall be given an exemption.

I have sat in the hearings with the Senator and have read the testimony of economists. I believe from the overall point of view in trying to operate the program without a massive bureaucracy of several hundred thousand police trying to keep controls on every little facet of our economy. We ought to be placing our major emphasis upon the major economic bloc as the Senator has said. Our major concern should be with the large number of employees in the big collective bargaining agreements. Those ultimately affect the economy.

But I have some doubts as to the figure. I hope that the Senator may, in his mature way of presenting these matters and with his understanding of these problems, give us a figure that might be a little more relative to the economy than $50 million or 1,000 employees.

The Senator knows that even in Wisconsin that is pretty big business. Of course, we in Minnesota consider $50 million to be big business. They are doing all right then and making a good living.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. PROXMIRE. Mr. President, I yield myself an additional 5 minutes.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized for an additional 5 minutes.

Mr. PROXMIRE. Mr. President, I quite agree that one can make a strong point from the standpoint of equity that we ought to provide control over a firm that has sales of $40 million, $50 million, or even $30 million. However, I honestly think those ought to be administered from the standpoint of what we need, and the testimony was overwhelming that we do not need controls and restraints on firms that are competitive firms. All this provides for is that those that are noncompetitive will be covered. Where they are not, they would continue to be controlled.

Mr. BYRD of West Virginia. Mr. President, would the Senator yield for a unanimous consent request?

Mr. PROXMIRE. I yield 1 minute to the Senator from West Virginia.

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD of West Virginia. Mr. President, the distinguished Senator from Wisconsin (Mr. Proxmire) may or may not have one or two additional amendments.

Mr. PROXMIRE. The Senator is correct.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that in the event the Senator from Wisconsin calls up one or two additional amendments, that on each of those amendments there be a time limitation of 10 minutes to be equally divided between the mover of the amendment and the manager of the bill; provided further, that any amendment in the second degree, motion, appeal, or point of order—with the exception of nondebatable motions—be under a similar limitation, and with the time equally divided between the mover of such and the distinguished manager of the bill.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD of West Virginia. Mr. President, I have cleared this with the distinguished ranking Republican Member, the distinguished Senator from Wisconsin, and the distinguished manager of the bill.

The PRESIDING OFFICER. The Chair hears no objection, and it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that in the event the distinguished Senator from Wisconsin decides to call up one or both amendments that they be scheduled to follow upon the disposition of the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I conclude by saying that yesterday we refused by an overwhelming vote to require that the Nation's largest banks—Chase Manhattan and Bank of America—be placed under the program in an effective way when we turned down the amendment of the Senator from Indiana (Mr. Hartke). We also refused to require that Nation's largest utilities come under mandatory statutory price guidelines, including A.T. & T. We almost voted to exempt the Nation's largest publishing and media firms. There is an amendment coming up on that. But the small firms, the little fellow, could be brought into court, prosecuted, and fined $5,000 for every violation. We did not exempt them, but we are on the verge of exempting some of the biggest firms in the country.

Mr. President, I cannot believe that we can be so one sided in our approach. I urge the Senate to agree to the amendment. I reserve the remainder of my time.

Mr. TOWER. Mr. President, one point that should be made is that third tier firms are only required to keep records and, as pointed out by the distinguished Senator from Minnesota, the firm doing a business with a volume of $50 million is a pretty good sized firm that ordinarily keeps pretty fair books. Even very small corporations that may gross less than $1 million are required to keep books. So I cannot see that this is a tremendous burden on third tier firms.

Now, the Senator from Wisconsin, in his amendment, projects a date of June 30 for removing third tier firms from the provisions of the act. It may be that that much time will be required by the administration. They may remove third tier firms from the consideration of the act or the application of the act before that time, but I think the timing should be left to those who are going to administer phase II rather than statutorily prescribing what date the controls shall be removed.

Again, I say this is a minimum of control and only requires keeping records, to be spot-checked by the IRS. My guess is that they will not be worrying too much about firms that gross in the thousands of dollars when many firms gross more than a million dollars.

Another aspect of this matter is that there would be absolutely no controls on, let us say, a dry cleaning establishment that does a healthy business with a $5-million-a-year volume, perhaps, and they would have no controls, so they would pay any kind of wages they wanted to. They could go over and hire people from a firm doing in excess of $50 million, a firm that does come under rigid scrutiny of the Pay Board and, therefore, they would be given an unfair competitive advantage for labor.

Mr. President, I think we should reject the amendment and allow the Board and the Commission some flexibility as to just when these small firms are to be phased out of any controls that may be included with respect to the act.

The PRESIDING OFFICER. Who yields time?

Mr. PROXMIRE. Mr. President, I wish to reply to the distinguished Senator from Texas. I think that in large part he has conceded the validity of my case. He indicated that it is a question of timing, or who makes the decisions, and who is going to phase out these firms. He is correct that the administration may decide before June 30 to phase out third-tier firms. I hope they do; they will be free to do so under my amendment. My amendment states they shall do it by then. Who should make these decisions? Should they be made by 22 men, only two of whom are confirmed by the Senate, or should the decisions be made by the Congress of the United States on the basis of the overwhelming documentation we had in hearings before a congressional committee?

The economists agree that these firms have no business under this control, and I am only going so far as to discontinue the discretion of the administration to hold them under these controls after June 30. If we agree to my amendment and if the President decides, as the Senator from Texas indicated that he well might, he could come back and make his case in April, May, or June and suggest that we should extend that authority. However, it would be up to him then to make the case in view of the fact that the economic evidence is overwhelming that these firms should not be under the Stabilization Act and do not constitute an inflationary threat. We should put the burden of proof on the President.

Finally, so far as small firms stealing competent help from big firms because they are free from controls, I do not argue and I do not think the Senator argues that small firms can just increase their prices. They are subject to competition and they cannot increase their prices; so on prices and wages they are subject to the discipline of the marketplace. Very few of these small firms are able to raise their prices and if they can the President is in a position to act. In situations such as the tugboat situation in New York City, construction workers throughout the country, and the health profession, the President would have the authority to continue controls.

Mr. President, if the manager is willing to yield back his time I am ready to yield back my time.

Mr. President, before that, do we have the yeas and nays ordered?

The PRESIDING OFFICER. They have been ordered.

Mr. PROXMIRE. I am ready to yield back my time.

Mr. SPARKMAN. I have just a couple of comments before we do that. Let me ask the Senator this question.

What is the state of the matter with respect to businesses of $50 million and under? All they have to do is keep records. Is that not true?

Mr. PROXMIRE. All they have to do is comply with the same guidelines as everyone else. They do not have to get approval in advance for price increases or wage increases. But they are subject to all penalties of the law.

If any consumer comes in and complains about them, they can be taken to court, investigated, prosecuted, and they would have to pay the fine. So they are in the same jeopardy as the big firms.

Mr. SPARKMAN. But they would not be in jeopardy unless they violated the law.

Mr. PROXMIRE. This is an extraordinarily difficult law to abide by. I defy the Senator to go home to Huntsville, Ala., and talk to the owner of the corner grocery store with respect to how secure he feels about raising prices when he has to analyze costs and productivity and be in a position to justify his position in court.

Mr. SPARKMAN. I can understand the small business, and the Senator knows that. They took out the really small businesses under $1,000—virtually took them out by removing the requirement that they had to price every item in there.

Mr. PROXMIRE. They did not take out the grocery stores. They provided a little easier posting provision.

Mr. SPARKMAN. They took out the retail stores with $100,000 or less.

Mr. PROXMIRE. The Senator performed a great service for small business when he persuaded the Price Commission to limit the number of items they had to list, but they are under the law and they are in jeopardy. They have to prove their productivity, analyze the profit margin, and go through this complicated procedure. There are hundreds of thousands of manufacturing firms and service firms that are not covered.

Mr. SPARKMAN. I realize that. This was based originally on the detailed price tagging that they had to do.

Mr. TOWER. Mr. President, I yield myself some time.

I wonder if anybody seriously believes that the administration is going to be busily engaged in harassing the corner grocery stores, when it is primarily concerned with the larger firms that have some impact on the economy, and some significant impact on the economy. The clear implication here that the Internal Revenue Service is going to be snooping around every mom and pop grocery store in the country, forcing it to keep records, threatening to take it to court. That simply is not going to happen. Obviously, the administrative machinery is going to be used to go after the big fish, not the small fry.

All I am arguing for is that the administration be given some flexibility to make this determination. After all, we have invested some discretionary authority. We have got to get down to vesting discretionary authority in the board and the commission. If not, if we are going to do everything here in Congress, let us be prepared to remain 6 months here trying to work out the details.

Mr. PROXMIRE. Mr. President, the Senator has made my point for me. Is the administration going to be busy harassing small grocery stores? It has no alternative if we pass this law. If those small businesses violate the law, it does not make any difference whether they are big or small; they come under the law. Either they will come in compliance with the law or they are violating the law. At the request of a consumer, the IRS investigates, and if it finds that the firm has violated the law, they are going to be fined $5,000 for every violation. In some cases they are going to be destroyed and put out of business. If the administration is going to enforce the law passed by Congress, the executive department must do it as to everyone. If the law is not to be enforced, it should be repealed.

After all, this amendment does not exempt them now. They would be taken out from under the law after June 30, 1972, and even after then, the President can make exceptions at that time.

I yield back my time.

Mr. TOWER. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from Wisconsin. On this question the yeas and nays have been ordered, and the clerk will call the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Florida (Mr. Chiles), the Senator from Indiana (Mr. Bayh), the Senator from Georgia (Mr. Gambrell), the Senator from Oklahoma (Mr. Harris), the Senator from Indiana (Mr. Hartke), and the Senator from South Dakota (Mr. McGovern) are necessarily absent.

I further announce that, if present and voting, the Senator from South Dakota (Mr. McGovern), would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Ohio (Mr. Saxbe) is absent on official business.

The Senator from Utah (Mr. Bennett) and the Senator from South Dakota (Mr. Mundt) are absent because of illness.

The Senator from Maryland (Mr. Mathias) is detained on official business.

The result was announced—yeas 11, nays 79, as follows:

[No. 421 Leg.]

YEAS—11

Cranston
Eagleton
Gravel
Hart
Hughes
McIntyre
Metcalf
Nelson
Proxmire
Stevenson
Symington

NAYS—79

Aiken
Allen
Allott
Anderson
Baker
Beall
Bellmon
Bentsen
Bible
Boggs
Brock
Brooke
Buckley
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Case
Church
Cook
Cooper
Cotton
Curtis
Dole
Dominick
Eastland
Ellender
Ervin
Fannin
Fong
Fulbright
Goldwater
Griffin
Gurney
Hansen
Hatfield
Hollings
Hruska
Humphrey
Inouye
Jackson
Javits
Jordan, N.C.
Jordan, Idaho
Kennedy
Long
Magnuson
Mansfield
McClellan
McGee
Miller
Mondale
Montoya
Moss
Muskie
Packwood
Pastore
Pearson
Pell
Percy
Randolph
Ribicoff
Roth
Schweiker
Scott
Smith
Sparkman
Spong
Stafford
Stennis
Stevens
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

NOT VOTING—10

Bayh
Bennett
Chiles
Gambrell
Harris
Hartke
Mathias
McGovern
Mundt
Saxbe

So Mr. Proxmire's amendment (No. 773) was rejected.

AMENDMENT NO. 778

Mr. PROXMIRE. Mr. President, I call up my amendment No. 778 and ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and the amendment will be printed in the Record.

Amendment No. 778 is as follows:

(f)(1) The authority conferred on the President by this section shall not be exercised after June 30, 1972, to limit (i) the amount of any increase in prices charged by or wages or salaries paid by a firm with annual sales or revenues of less than $5,000,000 during its most recent preceding fiscal year; and (ii) the amount of any pay adjustment which applies to or affects less than one hundred employees, unless the President determines, after notice and opportunity for hearing, that the amount of any such increase or adjustment is unreasonably inconsistent with the standards published under subsection (b) and would have a significantly adverse effect upon the general cost of living.

(2) The President may request the Congress to reauthorize, by joint resolution, the authorities to be terminated or terminated by this subsection, and the provisions of sections 910–913 of title 5, United States Code, shall be applicable with respect to the procedure to be followed in the Senate and House of Representatives in considering such resolution and references in such provisions to a "resolution with respect to a reorganization plan" shall be deemed for the purpose of this subsection to refer to the resolution provided for under this subsection.

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senator may yield to me for 1 minute without the time being charged on either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. BYRD of West Virginia. Mr. President, I move that the Senate go into executive session to consider three nominations reported today by the Judiciary Committee.

The motion was agreed to; and the Senate proceeded to consider executive business.

U.S. DISTRICT JUDGE FOR NORTHERN DISTRICT OF OHIO

The legislative clerk read the nomination of Leroy J. Contie, Jr., of Ohio, to be a U.S. district judge for the northern district of Ohio.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

U.S. DISTRICT JUDGE FOR SOUTHERN DISTRICT OF WEST VIRGINIA

The legislative clerk read the nomination of Kenneth K. Hall, of West Virginia, to be a U.S. district judge for the southern district of West Virginia.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

U.S. DISTRICT JUDGE FOR THE DISTRICT OF COLUMBIA

The legislative clerk read the nomination of Thomas A. Flannery, of Maryland, to be a U.S. district judge for the District of Columbia.

The PRESIDING OFFICER. Without objection, the nomination will be considered and confirmed.

Mr. BYRD of West Virginia. Mr. President, I ask that the President be immediately notified of the confirmation of the nominations.

The PRESIDING OFFICER. Without objection, the President will be so notified.

LEGISLATIVE SESSION

Mr. BYRD of West Virginia. Mr. President, I move that the Senate return to the consideration of legislative business.

The motion was agreed to; and the Senate resumed the consideration of legislative business.

ECONOMIC STABILIZATION ACT AMENDMENTS OF 1971

The Senate resumed the consideration of the bill (S. 2891) to extend and amend the Economic Stabilization Act of 1970.

Mr. PROXMIRE. Mr. President, it is my understanding that on this amendment there are 10 minutes, equally divided, 5 minutes on a side.

The PRESIDING OFFICER. The Senator is correct.

Who yields time?

Mr. PROXMIRE. I yield myself 3 minutes.

Mr. President, this amendment simply reduces from $50 million of sales to $5 million and 1,000 employees to 100 employees the coverage of the amendment. In other words, if this amendment is adopted, it means that firms that have sales of less than $5 million and have fewer than 100 employees will be exempt from the price-wage restrictions of the Economic Stabilization Act.

An overwhelming economic case has been made that we ought to exempt tier three firms. Economists who have testified before the Joint Economic Committee are consistent in saying that it is ridiculous under present circumstances, with the economic situation we have, with shortages, and so forth, and with the competitive situation, to cover firms which do not have power to raise their prices because of market forces.

Our problem is with great concentrations of economic power; and while some case could be made that my previous amendment, which included $50 million sale firms, was wrong because the firms were too big, it seems to me that when we get down here, we are really getting toward the small firms.

Furthermore, this amendment provides that these firms would not be taken out from under the stabilization program this month or next month, but not until July 1, 1972.

In addition, there is Presidential discretion. In the event the President should decide that these firms—perhaps in the construction industry, perhaps in health services—were subject to inflationary force, under the amendment, he would have the discretion to continue coverage in the event that the increases in wages or prices were unreasonably inconsistent with the guidelines.

What I think we must recognize is that small business is going to be subject to a nightmare of record keeping, of compliance, in which they could be destroyed under this bill if suit is brought, because there is a violation. They have to pay up to a $5,000 fine for every violation. There is no question that the great majority of firms in this country, though they have sales of under $5 million and employ less than 100 people, have no business under the Stabilization Act.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. TOWER. Mr. President, I think we can raise the same question on this amendment as we did on the previous one and oppose it for the same reasons.

In effect, this is selective statutory exemption of a particular class of firms and people. I simply do not believe that we should deny the Commission this flexibility, and I urge the defeat of the amendment.

The PRESIDING OFFICER. Who yields time? Do Senators yield back the remainder of their time?

Mr. TOWER. I yield back the remainder of my time.

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that I may proceed for 1 minute.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

PROGRAM—UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent—having cleared the matter with Senators on both sides of the aisle and with the leadership on the other side of the aisle—at the direction of the distinguished majority leader, that on tomorrow, immediately following the vote on the confirmation of the nomination of Mr. Butz for the Office of Secretary of Agriculture, the Senate then proceed to the consideration of the so-called drug bill that is on the calendar; that there be a time limitation thereon of 2 hours, to be equally divided between the distinguished Senator from Illinois (Mr. PERCY) and the distinguished Senator from Iowa (Mr. HUGHES); that time on any amendment in the first degree be limited to one-half hour, to be equally divided between the mover of such and the distinguished Senator from Iowa (Mr. HUGHES), with the exception of an amendment by the Senator from Arkansas (Mr. McCLELLAN), if he decides to call up such amendment, in which case there be 1 hour on the amendment, to be equally divided between the mover of the amendment, Mr. McCLELLAN, and the distinguished Senator from Iowa (Mr. HUGHES).

Provided, further, that time on any amendment in the second degree, motion, appeal, or point of order, with the exception of nondebatable motions, be limited to 20 minutes, to be equally divided between the mover of such and the distinguished Senator from Iowa (Mr. HUGHES).

Mr. GRIFFIN. Mr. President, reserving the right to object—and I do not intend to object—there has been some question on our side, as I have checked the matter out, as to an understanding or exceptation that the Rehnquist and Powell nominations would follow the Butz nomination. Can the acting majority leader give us some indication as to when those nominations will be brought up if this is agreed to?

Mr. BYRD of West Virginia. Mr. President, I discussed this matter with the distinguished majority leader, who is not in the Chamber at the moment, and I think he would authorize me to say that he anticipates calling up those nominations on Friday morning; and that tomorrow, following the action on the nomination of Mr. Butz and following the action on the drug bill, if we can clock it in at the moment, we would proceed to certain other measures—for example, perhaps, if it is agreeable to the Senator from New Hampshire (Mr. COTTON), the fish inspection bill, and other matters; and we hope to clean the decks of those various items before moving to the Supreme Court nominations on Friday morning.

Mr. NELSON. Mr. President, reserving the right to object, would the Senator give me some idea of when we could take up the extension of the OEO legislation? The conference report is at the desk and is a privileged matter. I was hoping that we would be able to dispose of it today. The distinguished Senator from Colorado (Mr. DOMINICK) wishes to speak on it, and I have no notion of who else may wish to do so. So far as I am concerned, I will put a statement in the RECORD.

Could we get some idea of whether we could vote on that? The Senator from Colorado advises me that he must leave here by about 7 o'clock.

Mr. BYRD of West Virginia. Today?

Mr. NELSON. That is my understanding. Is there any way we could set aside the Butz matter for 1 hour and dispose of the OEO conference report? The House of Representatives wants to act on it as soon as we do.

Mr. BYRD of West Virginia. I am aware of the situation to which the Senator addresses himself. I hope he will let us first get this agreement. We are also working on a possible agreement with respect to the OEO conference report, but are unable thus far to achieve it. I hope we can do it this afternoon. I hope we can first get the matter agreed to that I have just presented.

Mr. NELSON. If we do not get some agreement worked out for this afternoon, where does that leave the conference report, with this unanimous consent agreement?

Mr. JAVITS. Mr. President, will the Senator yield? I think I have a suggestion that may help.

Mr. BYRD of West Virginia. I yield.

Mr. JAVITS. I do not think there is any real difficulty with the drug bill, which is very urgent, and the time is short. I think what we are really worrying about is having something else come in, even if it is the Powell and Rehnquist nominations.

Could the assistant majority leader assure us that no other unanimous-consent agreement will be sought until we have been conferred with in connection with the conference report, other than the drug bill?

Mr. BYRD of West Virginia. Yes. I can assure the Senator of that. I am willing at this moment to propound a request concerning the conference report, to which any Senator may object if he desires. But I have given that assurance. Can we have this agreement first?

Mr. NELSON. I did not hear the entire request. Is there controlled time tomorrow?

Mr. BYRD of West Virginia. Controlled time tomorrow on the drug bill and on amendments thereto.

Mr. NELSON. How much of the day will that occupy, if it is agreed to?

Mr. BYRD of West Virginia. Hopefully, not more than 2½ hours.

Mr. NELSON. Tomorrow?

Mr. BYRD of West Virginia. Yes.

Mr. NELSON. Starting at what time?

Mr. BYRD of West Virginia. At 1:15 p.m.

Mr. JAVITS. And we know of only one amendment to the drug bill.

Mr. TUNNEY. Mr. President, will the Senator yield?

Mr. BYRD of West Virginia. I yield myself 2 additional minutes.

Mr. NELSON. Does the Senator intend to propound a unanimous-consent request to see whether we can reach agreement on disposal of the conference report sometime today prior to 7 o'clock? Otherwise, it is going to be objected to.

Mr. BYRD of West Virginia. Yes. I will do my best.

Mr. DOMINICK. I do not see how we can do that today. I really do not know how we can do it. I dislike to be objectionable about this, but I do not see how we can do that today.

Mr. BYRD of West Virginia. Will the distinguished Senator allow me to consult with other Senators to see if we can come to an agreement on the conference report, if that can be done?

Mr. GRIFFIN. I have no objection.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request propounded by the Senator from West Virginia relating to the drug bill? The Chair hears none, and it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I thank the Senator from Wisconsin. I will do everything I possibly can.

The PRESIDING OFFICER. Who yields time?

Mr. McGEE. Mr. President, will the Senator yield me 1 minute?

Mr. BYRD of West Virginia. I yield.

Mr. McGEE. I was listening carefully for some indication of what the state of the pending legislation on voter registration would be this weekend. Inasmuch as it was not included in the discussion of the plans for tomorrow, I would like to raise that question now in terms of the road ahead.

Mr. BYRD of West Virginia. I wish I knew the answer so that I might respond. I can only say this is a bill about which we will have to ask the majority leader. I say that honestly.

Mr. McGEE. Could we ask him if we might have a unanimous-consent agreement that we will take it up at a time certain? It is getting very late in the session.

The PRESIDING OFFICER. All time has expired.

Mr. BYRD of West Virginia. I thank the Chair.

Mr. PERCY. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. PERCY. May I ask a question of the assistant majority leader?

The PRESIDING OFFICER. The Senator from Illinois has 1 minute.

Mr. PERCY. A number of us have relied on the Senate adjourning sine die by the 4th of December, but this will not be achieved. Plans have been made by a number of Senators for next week.

The PRESIDING OFFICER. Will all Senators who are not participating in the debate please take their seats so that we may hear the exchange between the Senator from Illinois and the Senator from West Virginia?

Mr. PERCY. Is it the intention of the majority leadership to work toward the possibility of having votes on both the Powell and Rehnquist nominations follow each other so that Senators who are out of town need return to town only once, rather than twice?

Mr. BYRD of West Virginia. I cannot presume to speak for the majority leader on this question. I have not asked him this precise question, but I have a feeling that I can answer with his authorization and approval in the affirmative.

Mr. PERCY. I thank the assistant majority leader.

The PRESIDING OFFICER. The question now recurs on the amendment of the Senator from Wisconsin. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Florida (Mr. CHILES), the Senator from Georgia (Mr. GAMBRELL), the Senator from Indiana (Mr. HARTKE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Louisiana (Mr. LONG), and the Senator from New Mexico (Mr. ANDERSON) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Ohio (Mr. SAXBE) is absent on official business.

The Senator from Utah (Mr. BENNETT) and the Senator from South Dakota (Mr. MUNDT) are absent because of illness.

The Senator from Maryland (Mr. MATHIAS), and the Senator from Kansas (Mr. PEARSON) are detained on official business.

If present and voting, the Senator from Kansas (Mr. PEARSON) would vote "nay."

The result was announced—yeas 26, nays 62, as follows:

[No. 422 Leg.]

YEAS—26

Bible
Buckley
Byrd, W. Va.
Church
Cranston
Eagleton
Ervin
Fulbright
Gravel
Harris
Hart
Hollings
Hughes
Humphrey
Inouye
Jordan, N.C.
Mansfield
McGee
McIntyre
Metcalf
Nelson
Proxmire
Randolph
Spong
Stevenson
Symington

NAYS—62

Aiken
Allen
Allott
Baker
Beall
Bellmon
Bentsen
Boggs
Brock
Brooke
Burdick
Byrd, Va.
Cannon
Case
Cook
Cooper
Cotton
Curtis
Dole
Dominick
Eastland
Ellender
Fannin
Fong
Goldwater
Griffin
Gurney
Hansen
Hatfield
Hruska
Jackson
Javits
Jordan, Idaho
Kennedy
Magnuson
McClellan
Miller
Mondale
Montoya
Moss
Muskie
Packwood
Pastore
Pell
Percy
Ribicoff
Roth
Schweiker
Scott
Smith
Sparkman
Stafford
Stennis
Stevens
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

NOT VOTING—12

Anderson
Bayh
Bennett
Chiles
Gambrell
Hartke
Long
Mathias
McGovern
Mundt
Pearson
Saxbe

So Mr. PROXMIRE'S amendment (No. 778) was rejected.

Mr. SPARKMAN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 779

Mr. PROXMIRE. Mr. President, I call up my amendment No. 779.

The PRESIDING OFFICER (Mr. BROCK). The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that further reading of the amendment may be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

(f)(1) The authority conferred on the President by this section shall not be exercised after June 30, 1972, to limit (i) the amount of any increase in prices charged by or wages or salaries paid by a firm with annual sales or revenues of less than $1,000,000 during its most recent preceding fiscal year; and (ii) the amount of any pay adjustment which applies to or affects less than twenty employees, unless the President determines, after notice and opportunity for hearing, that the amount of any such increase or adjustment is unreasonably inconsistent with the standards published under subsection (b) and would have a significantly adverse effect upon the general cost of living.

(2) The President may request the Congress to reauthorize, by joint resolution, the authorities to be terminated or terminated by this subsection, and the provisions of sections 910–913 of title 5, United States Code, shall be applicable with respect to the procedure to be followed in the Senate and House of Representatives in considering such resolution and references in such provisions to a "resolution with respect to a reorganization plan" shall be deemed for the purpose of this subsection to refer to the resolution provided for under this subsection.

Mr. PROXMIRE. Mr. President, I understand there is an agreement on the amendment for 5 minutes to a side, with a vote in 10 minutes.

The PRESIDING OFFICER. The Senator is correct.

Mr. PROXMIRE. Mr. President, I will not take all of my time, and I do not think the manager of the bill will take all the time on the other side.

The PRESIDING OFFICER. The Senator will suspend. The Senate is not in order. The Senate will be in order.

The Senator from Wisconsin may proceed.

Mr. PROXMIRE. Mr. President, this amendment is really for the small operator. It provides that firms that have sales of less than $1 million and which employ less than 20 people will be exempt from the wage and price restraints of the Stabilization Act.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second. The yeas and nays were ordered.

Mr. PROXMIRE. Mr. President, I would like to have Senators put themselves in the position of explaining to their local grocer, druggist, or very small businessman how they voted against this amendment. What kind of threat, really, are these small business people to inflation?

We all know we do not have the kind of excess demand in inflation that we had in World War II and the Korean war; we have a wage-push inflation and a cost-push inflation, an inflation as a result of the immense economic power exercised by a few huge companies and labor unions.

This amendment relates to those small firms which every economist agrees—and I have not heard any economist who repudiates my position on this amendment—are not a factor in inflation.

These small businessmen are going to have to keep records and they are going to be subject to suits that could destroy them. An article in the New York Times points out the confusion that already exists, and which will be worse under phase II. Small businessmen are disgruntled and confused and they are unable to adopt the kinds of prices they should.

The amendment provides that the authority conferred on the President by this section with respect to these firms shall not be exercised after June 30, 1972—not next month, but in 7 months.

Mr. President, I ask unanimous consent to have printed in the RECORD the article from the New York Times to which I have referred.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PHASE II CONFUSION DISGRUNTLES SMALL RETAILERS

(By Leonard Sloane)

As Phase Two of President Nixon's economic stabilization program moves into gear, a degree of confusion exists within the boardrooms of big business and big labor as to all of its ramifications.

Perhaps even greater confusion exists, however, among small retailers who are directly on the firing line of questions and complaints from consumers about the effects of the new program. And to hear some of them talk, the new economic policy leaves a lot to be desired.

"I don't think that Phase Two is being generally observed," says Gene Sanger, president of Kwik Kopy, which operates three copying and stationery stores in Manhattan. "There's a lot of people taking advantage of the fact that you can't supervise 10 million small-business men."

"It's not really working," agrees Herb Kampton, a partner of Marins Fruit Store in Woodmere, L.I. "For instance, Spanish melons are sky high and I don't know whether that's because of the import surcharge or the holiday season."

And Moshe Caspi, the owner of Mitchell Garden Cleaners in Flushing, Queens, believes that there is a lack of confidence among his customers about the economy. "People are scared and they're saving money because they don't feel secure enough within their own companies."

All three of these independent businessmen, whose stores are in various sections of the metropolitan area and who serve different clientele with different products or services, have similar ideas for stimulating volume in the current economic climate.

But the message that comes through loudest and clearest in conversations with them is their uncertainty over exactly what they can and cannot do under the Administration's anti-inflation program.

"What gets me is that we've tried to go to Government for advice," Mr. Sanger says. "But if you speak to two different people, you get two conflicting answers."

Kwik Kopy has instituted a one-cent sale he adds, "to try to establish an atmosphere of rolling back prices that might be picked up by other people who think the same way."

According to Mr. Sanger, 19-cent Bic pens are being sold for the price of two for 20 cents because "we've worked out a special deal with the manufacturer."

Mr. Caspi, an Israeli who bought Mitchell Garden Cleaners a few years ago, is also considering cutting prices below the present level of, say, $1.50 for a man's suit or a basic dress. "If I have to do so to fight competition and get more volume, I will."

What perturbs Mr. Caspi, however, is what he senses to be a malaise overhanging the country as a result of the President's actions on the price and wage front.

"The housewife is tighter with money than she was a year ago," he observes, "and some clothing that she would have brought to the professional cleaner, she's taking care of at home."

In spite of his problems in maintaining sales volume, Mr. Caspi gave his two full-time and six part-time employees the permissible 5.5 per cent wage increase when the Phase One freeze ended on Nov. 14.

"I intended to give much more to one particular employee but I couldn't," he says. "He was upset and I explained the regulations to him—but he's still unhappy about it."

At Marins Fruit, Mr. Kampton's prices for fruits and vegetables are still determined by market forces, since raw agricultural products are exempt from controls. But he says that his efforts to hold the price line are being hampered by the steadily rising level at his wholesale markets.

"About three weeks ago I paid $7.50 for 24 heads of top-brand lettuce at the Hunts Point market and I charged 49 cents apiece," he recalls. "Now I'm paying $12.50 for a crate and I have to charge 79 cents."

Mr. PROXMIRE. Mr. President, I reserve the remainder of my time.

Mr. TOWER. Mr. President, I oppose this amendment for the same reason I opposed the other two amendments. The amendment is discriminatory. For example, a man who operates a small firm doing less than a $1 million volume is not covered, but a man with a small firm doing a volume of more than that would be covered. I do not think we should put the statutory exemptions in the bill. We should leave the discretion for the Board.

Mr. President, we yield back the remainder of our time.

Mr. PROXMIRE. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Wisconsin. The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Florida (Mr. CHILES), the Senator from Georgia (Mr. GAMBRELL), the Senator from Michigan (Mr. HART), the Senator from Indiana (Mr. HARTKE), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Ohio (Mr. SAXBE) is apsent on official business.

The Senator from Utah (Mr. BENNETT) and the Senator from South Dakota (Mr. MUNDT) are absent because of illness.

The result was announced—yeas 36, nays 54, as follows:

[No. 423 Leg.]

YEAS—36

Anderson
Bible
Boggs
Buckley
Byrd, W. Va.
Cannon
Church
Cooper
Cranston
Eagleton
Ervin
Fulbright
Gravel
Harris
Hollings
Hughes
Humphrey
Inouye
Javits
Jordan, N.C.
Kennedy
Long
Magnuson
Mansfield
McGee
McIntyre
Metcalf
Mondale
Montoya
Nelson
Proxmire
Randolph
Spong
Stevenson
Symington
Taft

NAYS—54

Aiken
Allen
Allott
Baker
Beall
Bellmon
Bentsen
Brock
Brooke
Burdick
Byrd, Va.
Case
Cook
Cotton
Curtis
Dole
Dominick
Eastland
Ellender
Fannin
Fong
Goldwater
Griffin
Gurney
Hansen
Hatfield
Hruska
Jackson
Jordan, Idaho
Mathias
McClellan
Miller
Moss
Muskie
Packwood
Pastore
Pearson
Pell
Percy
Ribicoff
Roth
Schweiker
Scott
Smith
Sparkman
Stafford
Stennis
Stevens
Talmadge
Thurmond
Tower
Tunney
Weicker
Young

NOT VOTING—10

Bayh
Bennett
Chiles
Gambrell
Hart
Hartke
McGovern
Mundt
Saxbe
Williams

So Mr. PROXMIRE's amendment (No. 779) was rejected.

Mr. SPARKMAN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FARM CREDIT ACT OF 1971—CONFERENCE REPORT

Mr. TALMADGE. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1483) to further provide for the farmer-owned cooperative system of making credit available to farmers and ranchers and their cooperatives, for rural residences, and to associations and other entities upon which farming operations are dependent, to provide for an adequate and flexible flow of money into rural areas, and to modernize and consolidate existing farm credit law to meet current and future rural credit needs, and for other purposes. I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER (Mr. COTTON). Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of November 19, 1971 at pp. 42260–42275.)

Mr. TALMADGE. Mr. President, I ask unanimous consent that the printing of the conference report as a Senate report be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TALMADGE. Mr. President, the differences between the House and the Senate with respect to S. 1433, the Farm Credit Act of 1971, were very slight. The bill itself represents a complete revision of the farm credit laws. The House amendment included a number of minor technical improvements and changes, and the principal differences between the two versions are listed at pages 49 through 51 of the statement of managers. The conference substitute includes all of the refinements and improvements made by the House amendment and differs from the House amendment in only one respect. Under either version a cooperative is eligible to borrow from a bank for cooperatives only if its business with nonmembers does not exceed its business with members. In determining whether this requirement has been met the Senate bill provided that services or supplies furnished by the cooperative as a public utility would not be taken into consideration. Under the House amendment such services and supplies would be taken into consideration. The conference substitute follows the Senate bill in this respect.

The only matter upon which there was a serious issue concerned report language rather than bill text. The House report contained a statement to the effect that the various agencies of the farm credit system should not be allowed to write or sell any form of insurance except such credit life insurance as is "necessary and incident" to protect their outstanding loans. This interpretation of the law would have prevented these agencies from selling several other types of insurance which they now sell and which is necessary and incident to loans made by them. The joint statement of managers clarifies this situation by stating at page 54, that the sale of liability insurance, and any insurance on passenger automobiles, is not "necessary and incident" to the functions of the lending institutions; but that they should be able to sell such insurance as may be necessary to protect the loan. It was the intention of the conferees that they would be restricted to such insurance. The statement of the conferees makes it clear that borrowers would not necessarily have to purchase such insurance from the farm credit system lender and that they should be advised that such is the case.

The conference was very amicable, the conference substitute provides for a better bill than either the original Senate bill or the House amendment, and the report is signed by all conferees on the part of the Senate and on the part of the House.

Mr. President, I believe the Senator from Iowa (Mr. MILLER), the ranking minority member of the committee, is seeking recognition.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. MILLER. Mr. President, the distinguished chairman of our Committee on Agriculture and Forestry, the Senator from Georgia (Mr. TALMADGE), has well stated the results of the conference. I might underscore what he has said by pointing out that the House gave in to the Senate on almost every item that was in issue, although, as the Senator has said, most of the items were of a technical and minor nature.

I hope the Senate will concur in the conference report.

Mr. BURDICK. Mr. President, Senate and House approval of the conference report on the Farm Credit Act of 1971, S. 1483, today culminates nearly a year of intensive effort to rewrite the laws governing the component agencies of the farm credit system, bringing them into line with the need of modern-day agriculture for more substantial credit resources. This is welcome news to North Dakota farmers and their counterparts across the country. It means that production credit associations, Federal land bank associations, and banks for cooperatives will now have the legislative authority to carry out more effective credit programs for farmers.

The Federal land banks will now be permitted to loan up to 85 percent of the appraised value on farm real estate. Under the old law, the limit was 65 percent of the appraised value. This increase in lending authority may prove to be particularly helpful to young farmers just starting out who are long on ability and energy, but short on the capital needed to buy the land required to make a success of their operation.

Another feature of this landmark legislation would permit the land banks and production credit associations to finance persons who provide on-farm services to farmers. An example is a custom combine. As costs for this equipment continue to rise, some farmers may find it economically advantageous to hire the performance of some farm work rather than to invest their scarce capital in expensive equipment. The assurance of adequate financing for custom operators will tend to make these on-farm services more readily available to farmers.

Also there are provisions in the bill to permit the land banks to make nonfarm rural housing loans and for the PSA's to finance improvements and modernization of these homes. Presently, the only housing authority vested with the farm credit system is for farm homes. This new authority will enable the farm credit system to make an important contribution to rural development and to help make the countryside a better place in which to live.

Another key point in the legislation is a provision to permit the banks for cooperatives, the third unit of the farm credit system, to finance those farmer cooperatives in which 80 percent of the voting control is in the hands of farmers. Presently, the banks for cooperatives cannot finance farmer cooperatives unless 90 percent of the voting media is in the hands of bonafide farmers. Lowering this to 80 percent is particularly important to farm supply cooperatives, including many in North Dakota, on whose membership rolls are many retired farmers and others who wish to continue patronizing their cooperatives. The new provision means many local cooperatives can avoid having to make the unappealing decision between refusing service to long-time patrons or discontinuing their financing with the bank for cooperatives.

The Senate version of the co-op eligibility definition was adopted. This means that cooperative borrowers providing services classified as a public utility, can exclude those services from the 50-percent rule on business with nonmembers that has formerly been a requirement of the banks for cooperatives.

The final major provision is that which will permit the system, if it deems advisable, to issue a single farm credit security. Under the present system each of the three banking units issues its own credit obligation. The act requires approval of the boards of directors of all farm credit banks before a joint security can take effect.

The farm credit system is now completely owned by the farmers and farmer cooperatives that use its credit services. It does not lend Government money nor is there a Government subsidy to the system. All of the loan funds it obtains for farmers is through the sale of its securities to investors throughout the Nation. The system may find it necessary to streamline the way it markets its securities. So it was wise to have the legislative authority for a single security now rather than wait until the development of some future crisis.

I certainly agree with this long-range thinking on the part of the system and give my hearty congratulations to all the many farmers and co-op leaders from throughout the State who took such a vital interest in the development of the legislation and who helped achieve its speedy passage.

We all recognize that credit is no substitute for farm income. It would be a happy day if farmers were in an economic position where they did not have to borrow at least as much as they do now.

But until that day comes, it is a source of comfort to farmers that they have their cooperative credit system available, a system which can help greatly in improving the well-being of farmers in the years ahead.

I am proud to have been one of the Senate cosponsors of the Farm Credit Act of 1971.

Mr. TALMADGE. Mr. President, I move the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The report was agreed to.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had passed the bill (S. 382) to promote fair practices in the conduct of election campaigns for Federal political offices, and for other purposes, with an amendment, in which it requested the concurrence of the Senate; that the House insisted upon its amendment to the bill, asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. HAYS, Mr. ABBITT, Mr. GRAY, Mr. HARVEY, and Mr. DICKINSON were appointed managers on the part of the House, to consider all titles of the House amendment to the bill except titles I and II; and that Mr. STAGGERS, Mr. MACDONALD of Massachusetts, Mr. VAN DEERLIN, Mr. SPRINGER, and Mr. DEVINE were appointed managers on the part of the House, to consider titles I and II of the House amendment to the bill.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1483) entitled "An Act to further provide for the farmer-owned cooperative system of making credit available to farmers and ranchers and their cooperatives, for rural residences, and to associations and other entities upon which farming operations are dependent, to provide for an adequate and flexible flow of money into rural areas, and to modernize and consolidate existing farm credit law to meet current and future rural credit needs, and for other purposes."

The message further announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 11341) to provide additional revenue for the District of Columbia, and for other purposes; asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. MCMILLAN, Mr. ABERNETHY, Mr. CABELL, Mr. HARSHA, and Mr. BROYHILL of Virginia were appointed managers on the part of the House at the conference.

ECONOMIC STABILIZATION ACT AMENDMENTS OF 1971

The Senate resumed the consideration of the bill (S. 2891) to extend and amend the Economic Stabilization Act of 1970.

The PRESIDING OFFICER. The bill is open to further amendment.

AMENDMENT NO. 777

Mr. CRANSTON. Mr. President, I call up my amendment No. 777.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 6, after line 4, insert a new subsection "(f)" as follows:

"The authority conferred on the President by this section shall not be exercised with respect to—

"(i) prices or rentals for materials furnished for publication by any press association or feature service.

"(ii) prices or rentals for books, magazines, periodicals, or newspapers, other than waste or scrap, or rates charged by any person in the business of operating or publishing a newspaper, periodical, or magazines, or operating a radio-broadcasting or television station, network, or cable television system, or

"(iii) wages, salaries, or commissions paid by any person in the business of operating or publishing a newspaper, periodical, or magazine, or operating a radio-broadcasting or television station, network, or cable television system, or paid by any press association or feature service or by any person engaged in the production or publication of books: *Provided, however,* That subsection (f) (iii) shall not apply to the wages, salaries, or commissions of entertainers: *And provided further,* That nothing herein shall deprive the President of authority to take appropriate action in the event of windfall profits resulting from the foregoing exemptions.

The PRESIDING OFFICER. There is 1 hour of debate on this amendment. Who yields time?

Mr. CRANSTON. Mr. President, I yield myself such time as 1 may need. First of all, I ask unanimous consent that Peter Rogers of my staff may be present on the floor during consideration of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. I also ask unanimous consent that the following Senators be included as cosponsors with the original group of cosponsors: Senator GOLDWATER, Senator MCINTYRE, and Senator THURMOND.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I ask for the yeas and nays on this amendment.

The yeas and nays were ordered.

Mr. CRANSTON. The basic nature of this amendment, which is a modified version of the amendment that caused so many rollcalls last night, is well known, so I will not dwell upon the purposes that caused so many of us on both sides of this Chamber to seek to exempt the media in the United States from the wage and price controls for reasons related to the first amendment.

As is well known, that finally went down to defeat by a very narrow margin last night, finally by a margin of one vote. Those of us who feel that it is extremely important to exempt the media from wage and price controls drew up a new version of the amendment, which seeks to take into account, and I believe fully takes into account, most of the arguments made last night, and certainly the argument that caused the defeat of the amendment last night.

We have in effect removed motion pictures, motion picture and other theaters, and entertainers from the bill. They would not be exempted from this amendment, as they were included in the amendment last night. Specifically, apart from dropping all references to motion pictures and theaters, two provisos were added at the end of the amendment. They start on line 12, page 2:

Provided, however, That subsection (f) (iii) shall not apply to the wages, salaries, or commissions of entertainers: *And provided further,* That nothing herein shall deprive the President of authority to take appropriate action in the event of windfall profits resulting from the foregoing exemptions.

The question may well be asked, and I suspect it will be asked, "What is an entertainer?"

I think very succinctly the answer is that an entertainer is an individual engaged in expression through the broadcast or the printed media, whose expression is not guaranteed by the First Amendment.

As to the deletion from today's amendment of motion pictures, theaters, and entertainers, there is a very real First Amendment question involved. But clearly the Senate was not convinced of this. Consequently, to save three-quarters of a loaf, those who have joined with me—Senator Ervin, Senator Miller, and others—have modified the amendment in the ways I have indicated.

To clarify a few points raised in yesterday's debate, this will not open the floodgates, as some Senators fear. This is not the first exemption in this bill. The administration and the committee—hence, the bill to this point—have already exempted raw agricultural and seafood products; custom products, such as wigs, furs, jewelry; services, such as tailoring, framing, and taxidermy; exports, imports, and shipping rates; damaged and used products; government property; real estate for sale or rent; securities and financial instruments; royalties; due to nonprofit organizations; life insurance premiums on new policies; antiques; art objects, and others. The list is too long to mention.

I simply ask this: If all these, why not the press? Why wigs, but not newspapers? Why furs, but not books? Why taxidermy, but not magazines, radio, and television?

The next question was raised last night: Why not teachers? It is a legitimate question, but it is an entirely separate question. If some Senator wants to seek a special exemption for teachers, let him do so. This amendment does not deal with teachers or any number of other groups that might legitimately seek exemption. This amendment deals only with the only business—and this is the crucial point—the only occupation, given special treatment by the Constitution: the press.

Another question might be this: Why is this form of government regulation different from others? What about minimum wages, women and children's working hours, and so forth? The Wage and Price Control Boards will be dealing not only in across-the-board guideline rulings applicable to all newspapers, all magazines, all TV stations, and so forth; they will be dealing with individual, case-by-case requests for pay or price adjustments by one or another specific newspaper, one or another specific radio station, one or another specific magazine, and other forms of the media.

This does open the way potentially and rather clearly to different treatment for different companies, and there is at least the danger—all we are concerned about is the danger—of, first, the Board treating a critic differently from a friend and, second, a critic moderating his criticism when he knows he is going to go before a government board to ask for special consideration.

A primary purpose of the first amendment, which lies at the root of this amendment, as I understand it, is to keep such discretionary or discriminatory powers over the press out of the hands of any body of government. Most of all, that should be done over a board such as the Board set up under this act, which is so remote from control by the people's representatives in this body.

I yield with great pleasure to my strong and stanch cosponsor, the distinguished Senator from North Carolina.

Mr. ERVIN. As I interpret the present amendment, it leaves under the coverage of the bill motion pictures, theaters, and entertainers, and excludes from the coverage of the bill those who are engaged in collecting, disseminating, and analyzing information and ideas, does it not?

Mr. CRANSTON. That is exactly correct.

Mr. ERVIN. Would it not be correct to say that an entertainer is one who undertakes to amuse the people, while the communications media, in the true sense of that term, consists of those who undertake to enlighten the public by the dissemination of information and by the expression of ideas?

Mr. CRANSTON. That is my understanding; and, presuming that there might be some court tests, I think precedents indicate that is the way the courts would find.

Mr. ERVIN. Does not the Senator from California agree with the Senator from North Carolina that in interpreting the first amendment, the Supreme Court on a number of occasions has expressed the opinion and has ruled to the effect that the dissemination of information and ideas concerning public affairs and the problems of society have a priority of protection under the first amendment?

Mr. CRANSTON. That is absolutely so.

Mr. ERVIN. The object of the pending amendment is to grant first amendment protection to those who have been judged to have priority of protection under the first amendment, to the end that they may collect, disseminate, and analyze information and ideas in order that the country might have an informed electorate capable of making our institutions of Government function.

Mr. CRANSTON. That is certainly the intent of the amendment.

I might add that it is our intent to thereby relieve them of the burden of having to go to court every time they have a problem in this area. By taking this step, we relieve them of the burden of going to court every time they have a problem in this area.

Mr. ERVIN. Does not the Senator from California agree with the Senator from North Carolina that any Government control which handicaps to any degree those who are engaged in the collection, the dissemination, and the analysis of information abridges their freedoms under the first amendment?

Mr. CRANSTON. That is the way the courts have interpreted the first amendment, as I understand it.

Mr. ERVIN. I thank the Senator.

I express the hope that the Senate will adopt this amendment, because all the real objections that were voiced here yesterday, as I construed them, have been removed by this amendment.

Mr. CRANSTON. I thank the Senator for his very constructive and helpful comments and for his help in working out the amendment in the form it now takes.

I yield the floor.

Mr. SPARKMAN. I yield 10 minutes to the Senator from Oregon.

Mr. PACKWOOD. Will the Senator from North Carolina yield to a question?

Mr. ERVIN. Yes.

Mr. PACKWOOD. Did the Senator from North Carolina say yesterday—at least, if the RECORD is correct—that motion pictures are entitled to the same first amendment protections as are newspapers and radio and television?

Mr. ERVIN. Yes. I would not say exactly they are entitled to the same protection, but they are entitled to the protection of the first amendment. The Supreme Court has held that information concerning public matters and information concerning the problems of society have a priority under the first amendment.

Mr. PACKWOOD. Why, then, should we take motion pictures out of this bill when we had that in yesterday, if they are entitled to that protection?

Mr. ERVIN. In the hope that some of those who voted against the amendment yesterday will see the true light and vote according to what the first amendment expects Congress to do. That is the reason.

Mr. PACKWOOD. I appreciate the very frank answer. Motion pictures have been taken out of this to try to pick up two votes, not because any of the sponsors care about protecting motion pictures. It is just to try to get two more votes. The Senator from North Carolina is very clear in that.

Mr. ERVIN. I would say to the Senator that it was taken out in the hope that we will find more enlightenment and that the amendment will pick up far more than two votes.

Mr. PACKWOOD. Let me quote what the Senator from California (Mr. CRANSTON) said yesterday about motion pictures:

> In the case of movies that have been brought up by those who question the purpose of this amendment or its validity, the Supreme Court has decided in over 40 cases that there is a freedom of expression, a free press issue involved, in the production and distribution of motion pictures.
>
> . . . Let me say that the reason for that is that movies, too, are used to express social thoughts, economic thoughts, political thoughts, philosophical thoughts—

So much for movies. Take them out of the bill. Throw them away. They are not entitled to protection, because more votes are needed.

Now let us go to entertainers. I quote what the Senator from California said yesterday about entertainers, both live entertainers and on radio and television. He was answering a question of the Senator from Nevada (Mr. CANNON). This is Senator CANNON's question:

> If the Senator will yield further, would this then include people in the entertainment business? Would they be included because they convey their message by the spoken word, by singing, by making records, or by performing visually? Would they all be included under this provision or would they——
>
> Mr. CRANSTON. Yes. They would be included because many of them engage in political satire, on the stage, or elsewhere, or at public meetings or gatherings. This relates expressly to political views, whether left, or right, or middle, or whatever. This goes with the processes of democracy, the sorting out of ideas, either new or old, good or bad, ideas.
>
> Mr. CANNON. The Senator is saying that every entertainer, who entertains either visually or verbally, would be exempt?
>
> Mr. CRANSTON. That is right. Otherwise we start writing definitions of an expression or thought. This is simply entertainment. We cannot do that and we do not want to delegate that authority to the Board.

But today we are going to do that. We will delegate this, to decide who is an entertainer. I wonder whether the Senator from California would yield for some questions, on my time.

Mr. CRANSTON. I shall be delighted, but let me say first that I am delighted to have the Senator from Oregon supporting the amendment. I stand by my statements. I repeated them this morning. I would like to see entertainers in the motion picture industry exempted. I think it is important to exempt them.

Mr. PACKWOOD. Wait now—if the Senator is going to make a speech, let him do it on his own time. I am on limited time.

Mr. CRANSTON. I yield myself 30 seconds to say that we are not delegating this power to the board. There will be appeals to the courts under this. But there are actually entertainers who provide information by way of political commentary——

Mr. PACKWOOD. Would this exempt the direct employee of a medical corporation, television station, or newspaper except an entertainer; is that correct?

Mr. CRANSTON. Yes.

Mr. PACKWOOD. Would that include a television cameraman?

Mr. CRANSTON. Yes.

Mr. PACKWOOD. A switchboard operator?

Mr. CRANSTON. Read the whole list and when the Senator finishes I will say yes at the end of the list to all of them.

Mr. PACKWOOD. What about the lumberjack who works in the woods for the New York Times who cuts down the tree which makes possible the paper?

Mr. CRANSTON. No.

Mr. PACKWOOD. Why not?

Mr. CRANSTON. I wonder would my constitutional expert, the distinguished Senator from North Carolina (Mr. ERVIN) respond to that point.

Mr. ERVIN. Mr. President, the first section in the amendment makes it plain. It refers to materials used for printing and for broadcasting which will be exempt, but it does not exempt the trees from which paper is ultimately manufactured or the acorns or other seedlings from which the trees grow.

Mr. PACKWOOD. All right. Let us go down the list a bit further in relation to the personnel and not materials. What about Fritz Peterson?

Mr. CRANSTON. What?

Mr. PACKWOOD. Fritz Peterson.

Mr. CRANSTON. What?

Mr. PACKWOOD. Fritz Peterson, the pitcher owned by the New York Yankees. CBS owns the Yankees.

Mr. CRANSTON. No.

Mr. PACKWOOD. Why?

Mr. CRANSTON. Because he is not engaged in the presentation or the dissemination of information.

Mr. PACKWOOD. Where does the bill say that he has to be engaged in the dissemination of information?

Mr. CRANSTON. We did not intend to put in the amendment language to answer every question in advance that would come up. The answer is obvious.

Mr. PACKWOOD. The answer is not obvious. I am very curious where the Senator draws the line on entertainers on television. A moment ago the Senator did not want to exempt them but now he wants to exempt them all.

Mr. CRANSTON. I did not realize this matter would become confusing——

Mr. PACKWOOD. Why is the switchboard operator exempt, the television camerman exempt, but not a baseball pitcher on a club owned by CBS? How is a switchboard operator related to the dissemination of information?

Mr. CRANSTON. I yield to the Senator from North Carolina for that response.

Mr. ERVIN. Because there are three classes of people exempted.

Mr. PACKWOOD. What?

Mr. ERVIN. There are three classes of people exempted. Those who collect the information, those who disseminate it and those who analyze the information. If the Senator from Oregon will read the section of the amendment, it states:

> . . . prices or rentals for materials furnished for publication by any press association or feature service.

There is nothing in there about a man with a baseball bat.

Mr. PACKWOOD. What about the switchboard operator?

Mr. ERVIN. It says: "prices or rentals for books, magazines, periodicals, or newspapers."

Mr. PACKWOOD. What about the switchboard operator? Where do we draw the line among the direct employees of a corporation, as to who is exempt and who is not exempt?

Mr. ERVIN. We draw the line where one is engaged in collecting, disseminating, or analyzing information, or ideas. That is where we draw it.

Mr. PACKWOOD. How does that include the switchboard operator?

Mr. ERVIN. A switchboard operator may get news and disseminate it.

Mr. PACKWOOD. What about the repairman who repairs a TV mobile truck?

Mr. ERVIN. What?

Mr. PACKWOOD. What about the repairman who repairs a TV mobile truck?

Mr. ERVIN. Yes, I would say so, because they assist in collecting the news.

Mr. PACKWOOD. Let us get back to the entertainer. Here we are given to understand that a radio or TV entertainer is not covered, so their wages are frozen as an entertainer. They are subject to the Pay Board. I am kind of curious: Is Ed Sullivan an entertainer?

Mr. ERVIN. The Senator is asking me?

Mr. PACKWOOD. I am asking the Senator from California.

Mr. CRANSTON. I yield to my constitutional expert for that. [Laughter]

Mr. ERVIN. In a strict sense, Ed Sullivan would qualify technically as an entertainer, even though I did not always find him entertaining.

Mr. PACKWOOD. There are many who would not qualify as entertainers according to our interpretation of one, but they could still be subject to this bill and their wages would be frozen or not frozen, depending on whether or not the Pay Board says they are an entertainer.

Mr. ERVIN. I would say that Ed Sullivan puts on a show. The show is entertainment. It undertakes to amuse. Whether it is amusing or not——

Mr. PACKWOOD. Okay, so his wages are frozen? What about Mort Sahl?

Mr. ERVIN. Who?

Mr. PACKWOOD. Mort Sahl.

Mr. ERVIN. I am not acquainted with the gentleman or the lady, as the case may be. [Laughter]

Mr. BYRD of West Virginia. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will please be in order.

Mr. PACKWOOD. He is basically a satirical comedian. He goes in for commentary on political issues of the day. He is an entertainer.

Mr. ERVIN. I would leave that up to the courts to decide. I will not decide that. If his function is to amuse, he would be subject to the freeze. If his function is to inform, then he would be exempt.

Mr. PACKWOOD. All right. Then we have the talk show at night, and Jane Fonda talks about her views on the war. Is she an entertainer?

Mr. ERVIN. To many she is very entertaining, but I think her fundamental purpose is to express her views about the war, which is a public matter. When she expresses her opinions about the war, she would be exempt.

Mr. PACKWOOD. I think the point has been well made here, that we do not wish to decide who is an entertainer and we will leave that up to the Pay Board to say who is an entertainer, so that if the Pay Board does not like, say, what Jane Fonda says, they may find her to be an entertainer and her wages will be frozen. This is just what the Senator from California (Mr. CRANSTON) said yesterday, that we should not do, that it was a decision that should not be left to the Pay Board. But today, for the sake of a few votes, he throws out his old principles and comes in with some new ones.

Mr. ERVIN. The Senator mentions the point of two votes again. We are introducing the amendment in its present form for two reasons. One is to obtain additional votes. We also introduce this amendment for the benefit of Senators in opposition, in order that the communications media may continue to furnish them with information which we hope eventually they will absorb to such an extent that they will understand the function, the purpose, and the reason for the first amendment. [Laughter.]

Mr. PACKWOOD. May I ask the Senator from California—this is not a constitutional question, so that I hope he will be able to answer it personally—will he give us his definition of windfall profits?

Mr. CRANSTON. I would rely upon the President and the courts to decide on that. We put in another amendment dealing with windfall profits while in committee. This is following the exact language.

Mr. PACKWOOD. Except in that amendment we had some definitions. There is nothing in here. The Senator wants to leave it to the President if someone has windfall profits?

Mr. CRANSTON. The President would be guided by the language elsewhere in the bill on that point.

Mr. PACKWOOD. There is no language in the bill on that point. I am amazed that the Senator would delegate these powers to the President or the Pay Board, when he was opposing that yesterday but he is specifically suggesting it today

The PRESIDING OFFICER. Who yields time?

Mr. CRANSTON. I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from California is recognized for 1 minute.

Mr. CRANSTON. Mr. President, the report language, as I understand it, states that the Price Board will determine what windfall profits are. The President would delegate the same authority to the Price Board.

I would like to say to the Senator from Oregon if he expresses concern about entertainers and can round up enough votes to support a protection for the entertainers in the bill, I would be willing to offer an amendment to provide that. I think it belongs in it.

Mr. SPARKMAN. Mr. President, I yield 10 minutes to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut is recognized for 10 minutes.

Mr. WEICKER. Mr. President, because the Cranston amendment is ostensibly motivated by first amendment fears, we are going to give the Senator from North Carolina and the Senator from California and their colleagues an opportunity to vote on an amendment which though redundant, absolutely protects the press. We will offer an amendment which sets forth clearly that the wage-price freeze will not interfere with rights guaranteed under the first amendment. It will state that the Wage-Price Board shall take no action which directly or indirectly is contrary to the first amendment of the U.S. Constitution.

Nothing could be simpler or clearer. If the modification is to guarantee freedom of the press, then let us do it. If the motivation is to favor the press at a time of national sacrifice by workers in all other industries, that is another story.

I would not argue with the Senator from California or the Senator from North Carolina on the basis of entertainers. I would like to read what I said last night because it applies to the revised version at this time as well as last night to the original amendment.

I stated:

> I am against this amendment because it plays favorites and is therefore not fair. Nobody likes freezes or controls. Everybody is making sacrifices while they operate. It seems to me that the time of the Senate is more excellently spent on making sure that everybody means everybody rather than issuing "freebies" in the name of constitutional or historical precedent.
>
> Yes; I feel sorry for the working press, the owners, publishers, compositors, pressmen, engravers, and flyboys. But I also feel sorry for the laborers, craftsmen, white-collar workers, and executives of the other industries in my State. Every part of the free enterprise system is in this unfortunately necessary exercise together, and they are coming out together.
>
> The news media are not a collection of charitable entities. They are competitive, for-profit corporations owned by shareholders with their stock listed on stock exchanges.

Then I gave examples.

I continue to read from my remarks last night:

> Their survival depends on excellence and creativity. Freedom from Government control applies to acquisition and dissemination of the news. It was not meant to excuse them from antitrust laws, or criminal laws, or tax laws, health statutes, social security, or labor laws, et cetera. The matter before the Senate is such as those.

I gave a hypothetical example as to the difference between certain news media employees and other employees of corporations in my State.

I then went on to say:

> I do not know about the rest of my colleagues, but there are enough inequities to explain to the people of my State now, without creating more.

This amendment just adds confusion to the situation. At least it was intellectually honest last night when it attempted to cover all of the news media.

The Senator from Oregon indicated, and I concur with him, that it has been toned down to pick up a few votes.

The field of entertainers is not involved. What is involved is whether we will make exceptions for various people.

I stood on the floor with my colleagues and voted against exception after exception.

The sooner the Nation's business is well, the sooner we will get rid of the price freeze. Wage and price controls are not a natural situation for the United States. The sooner that we get done with them, the better.

I think what is at issue here today is, first, the intellectual honesty of what is being proposed, and, more importantly, whether it plays a fair role vis-a-vis other persons in the country that are being asked to make sacrifices at this time.

I concur again with the Senator from Oregon that when we ask for definitions of entertainment and windfall profits, we will have the courts backlogged—and the Senators know it as attorneys—with cases demanding definitions of those words. They are impossible of immediate definition. Certainly nothing is written into the proposal of the Senator from California as to what he means by entertainers.

Mr. CRANSTON. Mr. President, I will ask the Senator if whether what he is proposing will not cause more resort to the courts than the pending amendment which the Senator seems to think has a loose approach to the matter.

Mr. WEICKER. I beg the Senator's pardon? Did the Senator say loose approach? Was that the term?

Mr. CRANSTON. It seems to me that the amendment to be offered by the Senator would cause more and more traffic in the courts than the pending amendment.

Mr. WEICKER. I will confess to the Senator from California that I and my other cosponsoring colleagues consider this amendment redundant. We happen to feel that the press is well protected by the first amendment. However, let us face it. We have to do this because of the Cranston amendment. The Senator from California does nothing to protect the freedom of the press. He gives an economic advantage to those in one part of industry. That is why this approach. To the extent that the Senator might think it is redundant, I would concur. To the extent that he thinks it is loose, I do not happen to think that the rights guaranteed under the first amendment of the Constitution are at all loose. I think the Senator is making them loose in his amendment.

I would hope that the Senate again today would realize the weakness of the position of the Senator from California, the Senator from North Carolina and others who have cosponsored the amendment. They would not be in here today with this modified, lesser version unless there was weakness in their argument. This is not a constitution-strengthening amendment. It has to do with excepting a particular group of people from a national sacrifice in which we are all engaged in the United States.

I do not think it is fair. I think it is wrong. I think the American people will be able to see it for what it is.

Mr. President, I yield back the remainder of my time.

Mr. SPARKMAN. Mr. President, I yield 3 minutes to the Senator from Oregon.

The PRESIDING OFFICER. The Senator from Oregon is recognized for 3 minutes.

Mr. PACKWOOD. Mr. President, let us make this subject of the media workers very clear. We are asking for the media to be subject to the same regulation as any other business.

Last night we talked about the Grosjean case in which the Supreme Court found unconstitutional a Louisiana tax on newspapers with over 20,000 circulation. It just happened that the papers had been critical of the legislature. The tax was not levied on any other form of media or newspapers of under 20,000 circulation. Of course, the Supreme Court found the law unconstitutional.

But in Mabee against White Plains Publishing Co., a 1946 case, written by Mr. Justice Douglas—who is hardly ever accused of being unsympathetic to the rights of the press or the first amendment—the Grosjean case was distinguished. The Mabee case involved employees who had sued for overtime compensation under the Fair Labor Standards Act.

The defendant employer said:

> You cannot sue us because of the freedom of the press.

Mr. Justice Douglas said:

> The Grosjean case is not in point here. There the press was singled out for special taxation and the tax was graduated in accordance with volume of circulation. No such vice inheres in this legislation. As the press has business aspects, it has no special immunity from laws applicable to business in general.

And that is all we are doing in this legislation applying to the press the identical law that would apply to every other business in the country.

Mr. ERVIN. Mr. President, will the Senator yield to me for 2 minutes?

Mr. CRANSTON. I yield 2 minutes to the Senator from North Carolina.

Mr. ERVIN. There is a fundamental difference between this bill and the Fair Labor Standards Act that the distinguished Senator from Oregon referred to. That act prescribed the minimum wage; this prescribes the maximum compensation; and under this it is possible they could not get reporters or editors for the amount of wages that the stabilization people would allow.

We have had a multitude of evidence before the Subcommittee on Constitutional Rights with respect to news people having to go out of business because of the economic conditions prevailing, and this would put a lid on existing economic conditions, and possibly result in many of the news media being put out of business.

The Senator from Connecticut said that the Cranston amendment undertakes to make the news media favorites. The Constitution makes the press a favorite of the Constitution. It recognizes that it discharges an essential public function and for that reason its freedom should not be abridged. When the Government undertakes to say what the press can pay a reporter or an editor it works an abridgment of the freedom of the press. That is as clear as the sky.

Mr. CRANSTON. Mr. President, I yield myself 1 minute to respond to the last remarks of the Senator from Oregon that unlike the taxing authority the authority in this measure is not across the board. Each individual newspaper, radio station, television station, book publisher, and magazine publisher that wants to get the power to grant a pay raise, if they are brought under this measure, would have to come in and seek it.

Some have been seeking it; some may have been frustrated; some may not be able to publish because they have not been able to increase prices. That is a siege of control when there is that kind of situation, threatened, implied, or direct.

Mr. WEICKER. Mr. President, will the Senator yield to me for 1 minute?

Mr. SPARKMAN. I yield.

Mr. WEICKER. In response to the Senator from California I wish to state that is why we have the first amendment. The Pay Board is not out from under the first amendment. If it took such action that, in effect, closed down an element of the press, I am sure they would be brought to account under the first amendment. That great protector of press freedoms does not disappear from view with the advent of wage price controls.

It is very clear what the intent of the Cranston amendment is and I hope we do not use the guise of the first amendment to push it through the Senate thus favoring one aspect of our economy over another.

Mr. SPARKMAN. Mr. President, I yield 1 minute to the Senator from Oregon.

Mr. PACKWOOD. Mr. President, let us make it clear. It is not really the media that is pushing hard for this. I have heard this argument that editors are asking for this power. But I have before me two editorials, one from the Chicago Sun-Times and the other from the Chicago News, both of November 12, 1971, which I would like to read for the RECORD.

The editorial from the Chicago Sun-Times states:

> We have no complaint that rights under the First Amendment have been imperiled.
>
> Price controls will not inhibit our freedom of expression or our responsibility to criticize the government itself or the operations of the controls themselves. Publishers should not feel that they must be exempt from the law so as to preserve their duty to act as a check on government.

The editorial from the Chicago News states:

> We believe that in matters pertaining to their commercial operations, newspapers and other media should be treated like other private businesses. We consider ourself subject to the same rules, regulations and laws that apply generally to our readers and advertisers.
>
> The public interest will be best served if the controls work. So far as we are concerned, making them apply to the media is one way of helping to ensure success.

Mr. CRANSTON. Mr. President, I yield myself 2 minutes.

I would simply like to say the Senator from Oregon quoted an editorial from the Sun-Times in Chicago. It is interesting, but it happens to be a fact, that the newspaper at the time that editorial was printed had an application pending before the Board. The application for a price increase was granted subsequent to the appearance of that editorial.

Certain other newspapers that have been silent on this issue have had applications pending to the Board prior to the application of the Sun-Times in Chicago. Theirs have not yet been acted on. I do not suggest there is anything devious in all of this.

Mr. PACKWOOD. What is the Senator's suggestion?

Mr. CRANSTON. It indicated the sort of situation that does exist that is open to misinterpretation.

Mr. PACKWOOD. What does the Senator suggest?

Several Senators addressed the Chair.

Mr. BYRD of West Virginia. Mr. President, I ask for the regular order.

The PRESIDING OFFICER. The Senate will be in order.

Mr. CRANSTON. I do not think we should grant the Board that power.

Mr. ERVIN. Will the Senator yield?

Mr. CRANSTON. I yield.

Mr. ERVIN. Is it not a distinct possibility in this world that rulings by nonjudicial boards are sometimes like kisses: they go by grace rather than by right.

Mr. CRANSTON. The Senator is correct.

Mr. WEICKER. Mr. President, will the Senator yield?

Mr. SPARKMAN. I yield.

Mr. WEICKER. I think we have made the point clearly. The press itself has not been pushing for this amendment. I have received almost no correspondence pushing the amendment. It is to the credit of the intended beneficiary of the amendment that they have not lobbied on its behalf.

Let me make clear that there are tax laws in this country which could be used against the press, yet the press can find its protection in the first amendment. There are health laws which could be used to close down the press, as well as FCC regulations, and antitrust laws, and many other laws which are on the books which could obliterate the press, except for the first amendment.

The first amendment is there to make sure that legislation will not be used as a vindictive weapon against a press that might be against certain governmental policies. The first amendment stands above all, as the Senator from North Carolina knows better than anyone in this Chamber, and it will protect the press against Government interference.

Mr. SPARKMAN. Mr. President, I am ready to yield back my time if the Senator from California is ready to yield back his time.

Mr. CRANSTON. Mr. President, I would be ready to yield back my time but in view of the last remark I yield myself such time as I may need. I will be brief.

There have been a number of newspapers and other media that have applied that have not yet been told yes, no, or maybe. We have heard from one newspaper that has a position that to me is not clear on this amendment, that has indicated they may have to drop a Sunday edition of their paper if they do not get a decision soon. They have not been able to get that decision and they may stop publishing one important part of their publishing schedule.

In regard to requests from people in this field, since the question was raised with respect to support from the media, the following support it: The Association of American Publishers, the Magazine Publishers Association, the National Newspaper Association, Hearst Publications, Inc., the National Association of Broadcasters, ABC, NBC, CBS, the Newspaper Guild, the International Allied Printing Trades Association, the ITU, and AFTRA.

That is sufficient to indicate there is considerable interest and support.

I would like to repeat one point. Those who have been most anxious about the need for this are those presently regulated by Government agencies, namely those in broadcasting, radio, and television. They have had experience with the subtle pressures that can arise in one way or another. They know the importance of the amendment, and they are united in seeking support for it.

Mr. ROTH. Mr. President, will the Senator yield?

Mr. CRANSTON. I am delighted to yield, on the other side's time.

Mr. ROTH. Mr. President, will the Senator from Texas yield me time?

Mr. TOWER. Mr. President, I yield time to the Senator from Delaware.

Mr. ROTH. I would like to ask the Senator from California if he is not making reference to a Delaware paper when he talks about a newspaper that was having difficulty with respect to the Sunday edition.

Mr. CRANSTON. Yes, that is true, and the corporation stated—I do not know its position on this amendment; it may be for it or against it—that they have been having a very difficult time getting in a position to get what is needed in order for them to stay in business with the Sunday publication.

Mr. ROTH. I have discussed the matter with the publisher of the paper, who indicated, as the Senator has pointed out, that they are having difficulty with respect to the Sunday edition. But I would like to point out and make it very clear that, because of this difficulty, this newspaper is not supporting the exception being proposed by the Senator from California for the newspaper. As a matter of fact, in my discussions with the editor yesterday, and we talked at great length, he felt he was in no different position from any other paper. While he was unhappy with bureaucracy, he did not feel that was ground for an exception. I wanted to make that clear.

Mr. CRANSTON. I very carefully stated I did not know the position of this newspaper on the amendment. I still do not know it, but I would like to read from a letter of the editor, Joe Smyth, of the Delaware State News, dated January 29, addressed to me. I will read portions of it to save time, but I will not misrepresent their viewpoint in the course of this abbreviating:

> DEAR SENATOR CRANSTON: I am not sure the case makes any special points for exemptions for newspapers; very basically, it is a case of one company's inability to get a very simple point across to some federal bureaucrats.
>
> We have been tossed back and forth between various agencies, none of which seem very sure of just what their responsibility is in the wage and price freeze.

Going on a few paragraphs:

> Our problem is very basic. With our Sunday edition, we are projecting an $85,029 profit (3.1 per cent of revenue) for the twelve months beginning September, 1971. If the OEP ruling stands, we will instead end up with a projected loss of $109,970. Since this is a small, family owned business, we cannot afford the loss and the Sunday newspaper would probably have to be done away with.
>
> * * * * *
>
> As you'll note from the enclosed editorial, I was inclined to support the wage and price freeze when I believed it was a temporary message.
>
> * * * * *
>
> Now that it appears the control will never end; and now that I have seen first-hand how the government's agencies can mishandle this power, I fear the controls were a terrible mistake.
>
> Sincerely,
>
> JOE SMYTH,
> *Editor.*

If they are not desirous of coming out in support of the amendment, it gets back to the position I took last night, and that I state now: When one has an appeal before the Board, maybe he does not want to be critical. Maybe he thinks it is better not to support an amendment like this. Maybe he thinks he will get his request granted if he is silent on what happens to be a very simple issue.

The PRESIDING OFFICER. Who yields time?

Mr. WEICKER. Mr. President, may I have 1 minute?

Mr. SPARKMAN. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator from Alabama has 5 minutes.

Mr. SPARKMAN. I yield 1 minute to the Senator from Connecticut.

Mr. WEICKER. I thank the Senator.

Mr. President, I do not think anybody in the United States is jumping up and down and cheering about wage and price controls. That is exactly the point we are trying to make to the Senator from California. No worker or executive is happy with wage and price controls but, they say, "We are accepting them and we are going to live with them," because there is a job to be done, specifically, to stop inflation and to get the country back on a sound economic basis.

Every single exception we make makes one more day when we have to live with this nightmare. So the unfairness of the situation does not apply only to those in the press, but to all those who are under wage and price controls and are yearning for the day when they can come out from under them.

This message should come out loud and clear. When you make exceptions for this one and that one, we will be living with these controls year after year. The workers throughout my State are making sacrifices for the Nation, not for others who are exempt from the controls.

Mr. CRANSTON. Mr. President, I yield myself such time as I may need, and it will be very brief.

One point about the newspaper we have been talking about is that they appealed for a price increase. They were denied that price increase. They have not yet been able to get the decision reversed. If they do not, they will not be publishing the Sunday edition, which is shutting off freedom on Sunday in an American community.

I would like to say to the Senator that if he proceeds to offer an amendment to make sure there is no exemption granted to the press in this bill, if he is successful why does he not include others who were granted exemptions under the bill? This is not an effort to get one exemption in; it is an effort to get included in the exemptions a newspaper which is protected by the Constitution.

If we are not going to grant exemptions for this group, why not also include others who are granted exemptions, such as raw agricultural and seafood products, custom products such as wigs, furs, and jewelry, services such as tailoring, framing, and taxidermy, exports, imports, and shipping rates, damaged and used products, government property, real estate for sale or rent, securities and financial instruments, royalties, dues to nonprofit organizations, life insurance premiums on new policies, antiques, art objects, and others?

Why not take them all out of the exemptions that are presently granted under the bill if we are going to deny them to one?

Mr. SPARKMAN. Mr. President, I yield 1 minute to the Senator from Delaware.

Mr. ROTH. Mr. President, since the Senator from California has again made reference to the Delaware State News, I think it is important to make clear exactly what is involved. In the first place, talking about the letter from Mr. Smyth, who is the newspaper's editor, he highlights the point that:

> I am not sure the case makes any special point for exemptions for newspapers; very basically, it is a case of one company's inability to get a very simple point across to some Federal bureaucrats.

I might say that in my telephone conversations with Mr. Smyth, he reemphasized what he said there. In fact, he said he did not think his particular situation made a case for exemption.

What was involved was that this newspaper for the first time published a Sunday edition. They upped the rate from 50 cents to 75 cents a week. There was no option to take the newspaper for 5 or 6 days, including Sunday. It went through the Federal agencies, and there has not yet been any decision on the case.

I might point out that this case is no different than other situations where companies are asking for an increase on the basis of additional service. I am confident our problem will be solved.

In closing, I want to emphasize that this case is not precedent for wide-sweeping exceptions being made to a necessary general rule.

Mr. TAFT. Mr. President, I shall vote present on this amendment because of a possible conflict of interest due to personal and family interests in broadcasting and former active participation in that business. Yesterday I was necessarily absent from the Senate during the votes on a similar Cranston amendment. Had I been present at that time I would likewise have voted present.

The PRESIDING OFFICER. Who yields time?

Mr. SPARKMAN. I am willing to yield back my time.

Mr. CRANSTON. I am too, Mr. President.

Mr. PACKWOOD. Mr. President, has all time on the amendment been yielded back?

The PRESIDING OFFICER. It has.

Mr. PACKWOOD. Mr. President, I send an amendment to the desk and ask that it be read.

The PRESIDING OFFICER. The clerk will read the amendment.

The legislative clerk read as follows:

> An amendment authored by Mr. PACKWOOD for himself, Mr. BUCKLEY, and Mr. WEICKER.
>
> In lieu of the amendment offered by Mr. CRANSTON to S. 2891 insert the following:
>
> On page 6, after line 4, insert the following:
>
> "(f) In the exercise of the authority conferred by this title, the President shall take no action which directly or indirectly impairs or detracts from the protections guaranteed by the First Amendment of the Constitution of the United States."

Mr. PACKWOOD. Mr. President, if our concern is principally that of the first amendment liberties, this amendment should be adopted and we do not have to try to differentiate between entertainers and news commentators, we do not have to differentiate between motion pictures and newsreels shown on television.

In this amendment we are giving specific direction to the President that he must do nothing to impinge the first amendment. There has been no amendment that the Court has been more involved in interpreting over a longer period of time than the first amendment. I will gainsay that we will have less difficulty in court cases with any interpretation of this amendment than if we accept the pending amendment by the Senator from California, where the determinations will have to be made as to who was making windfall profits and who was an entertainer. Let us make it clear on this vote, those who want to insure that it was the intent of this Congress that first amendment liberties be protected can do so without exception—I repeat, without exception—to any media source covered by the first amendment by voting for it.

Those who want to distinguish between certain types of publications, who want to say, "Yes, we will protect the press and radio, but not motion pictures," or "Yes, we want to protect news commentators, but not motion picture entertainers," can vote against this amendment.

Mr. WEICKER. Mr. President, will the Senator yield?

Mr. PACKWOOD. I yield.

Mr. WEICKER. Mr. President, I ask for the yeas and nays on the sunbstitute amendment.

The yeas and nays were ordered.

Mr. CRANSTON. Mr. President, I yield such time as he may require to the distinguished Senator from North Carolina.

The PRESIDING OFFICER. The Senator from California has no time.

Mr. SPARKMAN. Mr. President, I yield the Senator from North Carolina such time as he may require. I believe our limitation is 10 minutes, is it not?

The PRESIDING OFFICER. The Senator is correct.

Mr. ERVIN. Mr. President, this amendment is about as clear as the platform of the politician who said, "I am in favor of the greatest liberty to the greatest number."

This amendment would require the President of the United States and his legal advisers to analyze every decision rendered in the United States to find out what Congress provided.

The amendment of the Senator from California is very clear and distinct. It does not take a layman more than 15 minutes to find out what the Cranston amendment provides. But the substitute would require every legal faculty in the United States and thousands of lawyers to investigate what the substitute amendment provides.

The distinguished Senator from Connecticut says this substitute proposal is redundant. I agree and add that it is totally worthless.

The Cranston amendment is simple, explicit, and understandable.

Its first subsection says prices or rentals for materials furnished for publication by any press association or feature service, are exempt from the freeze. These are materials which are furnished for publishing, that is, writings, pictures, and things of that kind. Even a layman can understand that. It does not require a whole battalion of Philadelphia lawyers to understand what it says.

The next subsection says that the prices or rentals for books, magazines, periodicals, or newspapers, other than waste or scrap, or rates charged by any person in the business of operating or publishing a newspaper, periodical, or magazine, or operating a radio broadcasting or television station, network, or cable television system are exempt from the freeze.

Even a layman can read that, and, in a few minutes, can tell what Congress provided.

The next provision is that it exempts from the freeze all wages, salaries, or commissions paid by any person in the business of operating or publishing a newspaper, periodical, or magazine, or operating a radio broadcasting or television station, network, or cable television system, or paid by any press association or feature service, or by any person engaged in the production or publication of books.

A layman can read that; he does not need the advice of a Philadelphia lawyer to see what Congress provided in that subsection.

This amendment offered by my distinguished friends from Oregon, Connecticut, and New York reminds me of the story of a preacher down in North Carolina who was fired by his congregation. He asked for a meeting with the governing board of the church, and wanted to know why they had fired him.

He said, "Don't I argufy?"

And they said, "You sure do argufy."

"Don't I sputify?"

"You sure do sputify."

"Then why did you fire me?"

"You don't show wherein."

This proposed substitute amendment does not show wherein. It does not show what it attempts to do. It attempts to supplant a very clear, very understandable amendment. It would take Philadelphia lawyers as numerous as the sands on the seashore to tell the President of the United States or these boards what the amendment offered by the distinguished Senator from Oregon, the distinguished Senator from Connecticut, and the distinguished Senator from New York means.

We do not argue, but we do show wherein, and for that reason the amendment offered in the nature of a substitute ought to be rejected.

The PRESIDING OFFICER. Who yields time?

Mr. WEICKER. Will the Senator from Oregon yield me 4 minutes?

Mr. PACKWOOD. Yes.

Mr. WEICKER. Mr. President, we have certainly come a long way down the hill from the very lofty arguments presented last night on behalf of this proposal, basing the amendment offered by the Senator from California on the freedom of the press and protection of the press.

That was the argument last night. Now here we are today arguing the economic aspects, much more so than the first amendment aspects of this particular piece of legislation.

I say to my distinguished colleague and friend from North Carolina, if you need a whole group of Philadelphia lawyers to interpret the amendment of the Senators from Oregon, Connecticut, and New York, you are going to need 100-fold that to interpret the Cranston amendment, because the Senator from North Carolina knows far better than I that the first amendment has been interpreted time after time, and there is not one single interpretation on the books of the Cranston amendment. That, in effect, is what is going to happen should the Cranston amendment become law.

In essence, I say to my good friend the Senator from California that because the first amendment does exist, because it has been interpreted many times, there is no necessity for his amendment and there is no necessity for my amendment. If, on the other hand, the real purpose of the amendment of the Senator from California is to give an economic advantage to a particular part of the American economy, so be it; explain it as such. But the constitutional ground that existed last night for the amendment of the Senator from California has lost its substance, in the light of the arguments that have taken place on this floor today.

Mr. President, I yield back to the Senator from Oregon the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD. Mr. President, I yield myself 4 minutes.

I want to come back to what we are going to get into if my amendment is defeated, and we are back to the Cranston amendment, with no more time to debate.

The Cranston amendment has three exceptions to which the President's wage-price authority shall not be applicable. One is the prices or rentals for materials furnished for publication by any press association or feature service. For anything which the Associated Press or UPI sends out on the wire, there is an exception.

Second, there is an exception for prices or rentals for books, magazines, periodicals, or newspapers, other than those described as scrap.

Third, and I quote exactly:

> **Wages, salaries, or commissions paid by any person in the business of operating or publishing a newspaper, periodical, or magazine, or operating a radio broadcasting or television station, network, or cable television system, or paid by any press association or feature service or by any person engaged in the production or publication of books.**

That is, any salary paid by any person in the business of operating a news media corporation; and it does not matter a whit whether the salary is related to the dissemination of news; the standard is, does the person work for a corporation that is in a media business? If he does, no matter how remote or unrelated to the dissemination of news, he is exempt and his wages can go up, and that is exactly what this amendment says.

We are not carving out a freedom of the press amendment; we are carving a great, gaping hole for a whole variety of crafts, careers, and occupations that have no conceivable relation to the gathering of news, the dissemination of news, or the freedom of the press.

The PRESIDING OFFICER. Who yields time?

Mr. SPARKMAN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Alabama has 6 minutes remaining.

Mr. SPARKMAN. I yield 2 minutes to the Senator from North Carolina.

Mr. ERVIN. Mr. President, this is just as plain as a pikestaff. It applies to a wage, a salary, or a commission paid in the business of publishing a newspaper or a magazine, or in the business of operating a radio broadcasting or television station, and so on, or paid by a press association or feature service, or paid by a person engaged in the production or publication of books.

In other words, it is just as clear as the noonday sun in a cloudless sky that subsection (iii) of section (f) of the Cranston amendment applies to compensation paid to persons engaged in the business of gathering, distributing, and analyzing the news and publishing books. That is all. That is just as clear as the English language can make it, and there is no ambiguity in this amendment—none whatever.

Mr. SPARKMAN. Mr. President, I yield 1 minute to the Senator from California.

Mr. CRANSTON. Mr. President, I am at least mildly surprised by the statements by the Senator from Connecticut which indicated that this amendment is precedent shattering, something that has never happened before, and so forth.

I am sure that after all this discussion the Senator is well aware that the adoption of his amendment would be the break with precedent; that our amendment keeps continuity going and precedent is followed, because in World War II, when we had wage and price control, and in the Korean war, when we had wage and price control, this body amended the original bill submitted and added language quite similar to that in our amendment exempting the media from wage and price control because of first amendment reasons.

Mr. PACKWOOD. I yield myself 1 minute.

Mr. President, in World War II and the Korean war we exempted the press, insurance premiums, utility rates, doctor's fees, lawyer's fees, dentist's fees. In this bill there are two exemptions. One is an exemption for any wage that happens to be raised because of increase in an emergency under the Fair Labor Standards Act and the other is an exemption on a wage freeze for those people already earning less than the poverty level as defined.

Now the Senator from California proposes to write in another exemption and the only exemption that will apply specifically to any kind of business. We have taken all the exemptions that existed in World War II and the Korean war, and he said they are not going to be exempt in this situation. The Senator from California would say they are all not going to be exempt but one, and that is the news media.

The PRESIDING OFFICER. Who yields time?

Mr. SPARKMAN. I yield back the remainder of my time.

Mr. PACKWOOD. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

Mr. SPARKMAN. Mr. President, I ask unanimous consent that the Senator from Kentucky have 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COOPER. Mr. President, I will vote for the substitute, because I do not believe in exempting a group of persons from the application of the bill before the Senate. I do want to raise this question. I think the amendment suggests that the President is going to attempt to violate first amendment restrictions. Second, they are protected by the courts anyway.

The PRESIDING OFFICER. All time on the substitute amendment has been yielded back. The question is on agreeing to the substitute amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Florida (Mr. CHILES), the Senator from Georgia (Mr. GAMBRELL), the Senator from Indiana (Mr. HARTKE), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Ohio (Mr. SAXBE) is absent on official business.

The Senator from Utah (Mr. BENNETT) and the Senator from South Dakota (Mr. MUNDT) are absent because of illness.

So the result was announced—yeas 40, nays 51, as follows:

[No. 424 Leg.]

YEAS—40

Aiken
Allott
Beall
Boggs
Brock
Brooke
Buckley
Byrd, Va.
Byrd, W. Va.
Cannon
Case
Cook
Cooper
Cotton
Curtis
Dominick
Fannin
Goldwater
Gurney
Hatfield
Hollings
Hruska
Javits
Jordan, Idaho
Packwood
Pastore
Pearson
Percy
Randolph
Roth
Schweiker
Scott
Smith
Stafford
Stevens
Stevenson
Taft
Thurmond
Tower
Weicker

NAYS—51

Allen
Anderson
Baker
Bellmon
Bentsen
Bible
Burdick
Church
Cranston
Dole
Eagleton
Eastland
Ellender
Ervin
Fong
Fulbright
Gravel
Griffin
Hansen
Harris
Hart
Hughes
Humphrey
Inouye
Jackson
Jordan, N.C.
Kennedy
Long
Magnuson
Mansfield
Mathias
McClellan
McGee
McIntyre
Metcalf
Miller
Mondale
Montoya
Moss
Muskie
Nelson
Pell
Proxmire
Ribicoff
Sparkman
Spong
Stennis
Symington
Talmadge
Tunney
Young

NOT VOTING—9

Bayh
Bennett
Chiles
Gambrell
Hartke
McGovern
Mundt
Saxbe
Williams

So Mr. PACKWOOD'S substitute amendment was rejected.

Mr. ERVIN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. FULBRIGHT. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FEDERAL ELECTION CAMPAIGN ACT OF 1971

Mr. PASTORE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 382.

The PRESIDING OFFICER (Mr. BROCK) laid before the Senate the amendment of the House of Representatives to the bill (S. 382) to promote fair practices in the conduct of election campaigns for Federal political offices, and for other purposes, which was to strike out all after the enacting clause, and insert:

That this Act may be cited as the "Federal Election Campaign Act of 1971".

TITLE I—CAMPAIGN COMMUNICATIONS

SHORT TITLE

SEC. 101. This title may be cited as the "Campaign Communications Reform Act".

DEFINITIONS

SEC. 102. For purposes of this title:

(1) The term "communications media" means broadcasting stations, newspapers, magazines, and outdoor advertising facilities.

(2) The term "broadcasting station" has the same meaning as such term has under section 315(d) of the Communications Act of 1934.

(3) The term "Federal elective office" means the office of President of the United States, or of Senator or Representative in, or Resident Commissioner or Delegate to, the Congress of the United States (and for purposes of section 103(b) such term includes the office of Vice President).

(4) The term "legally qualified candidate" with respect to Federal elective office, or nomination for election to such office, has the same meaning as such term has when used in section 315 of the Communications Act of 1934.

(5) The term "voting age population" means resident civilian population, eighteen years of age and older.

(6) The term "State" includes the District of Columbia and the Commonwealth of Puerto Rico.

MEDIA RATE REQUIREMENTS

SEC. 103. (a) Section 315(b) of such Act is amended to read as follows:

"(b) The charges made for the use of any broadcasting station by any person who is a legally qualified candidate for any public office shall not exceed the actual charges made by such station for any comparable use of such station for other purposes."

(b)(1) To the extent that any person sells space in any newspaper or magazine to a legally qualified candidate for Federal elective office, or nomination thereto, in connection with such candidate's campaign for nomination for, or election to, such office, the charges made for the use of such space in connection with his campaign shall not exceed the charges made for comparable use of such space for other purposes.

(2) If any person makes available space in any newspaper or magazine to any legally qualified candidate for Federal elective office, or nomination thereto, in connection with such candidate's campaign for nomination for, or election to, such office, such person shall make equivalent space available on the same basis to all legally qualified candidates for the same office, or for nomination to such office, as the case may be.

LIMITATIONS OF EXPENDITURES FOR USE OF COMMUNICATIONS MEDIA

SEC. 104. (a)(1) No legally qualified candidate in an election (other than a primary or primary runoff election) for a Federal elective office may—

(A) spend for the use of communications media on behalf of his candidacy in such election a total amount in excess of the greater of—

(i) 10 cents (or such greater amount as may be certified under paragraph (4)(A)(i) multiplied by the voting age population (as certified under paragraph (4)(B)) of the geographical area in which the election for such office is held, or

(ii) $50,000 (or such greater amount as may be certified under paragraph (4)(B)(ii)), or

(B) spend for the use of broadcast stations on behalf of his candidacy in such election a total amount in excess of 60 per centum of the amount determined under subparagraph (A) with respect to such election.

(2) No legally qualified candidate in a primary election for nomination to a Federal elective office, other than President, may spend—

(A) for the use of communications media, or

(B) for the use of broadcast stations,

on behalf of his candidacy in such election a total amount in excess of the amounts determined under paragraph (1) (A) or (B), respectively, with respect to the general election for such office. For purposes of this subsection a primary runoff election shall be treated as a separate primary election.

(3)(A) No person who is a candidate for presidential nomination may spend—

(i) for the use in a State of communications media, or

(ii) for the use in a State of broadcast stations, on behalf of his candidacy for presidential nomination a total amount in excess of the amounts which would have been determined under paragraph (1) (A) or (B), respectively, had he been a candidate for an election for the office of Senator from such State (or for the office of Delegate or Resident Commissioner in the case of the District of Columbia or the Commonwealth of Puerto Rico).

(B) For purposes of this paragraph, a person is a candidate for presidential nomination if he makes (or any other person makes on his behalf) an expenditure for the use of any communications medium on behalf of his candidacy for any political party's nomination in an election to the office of President. He shall be considered to be such a candidate during the period—

(i) beginning on the date on which he (or such other person) first makes such an expenditure (or, if later, January 1 of the year in which the election for the office of President is held), and

(ii) ending on the date on which such political party nominates a candidate for the office of President.

For purposes of this title and of section 315 of the Communication Act of 1934, a candidate for presidential nomination shall be considered a legally qualified candidate for public office.

(C) The Attorney General shall prescribe regulations under which any expediture by a candidate for presidential nomination for the use in two or more States of communications media shall be attributed to such candidate's expenditure limitation in each such State, based on the number of persons in such State who can reasonably be expected to be reached by such communications media.

(4)(A) During the first week of January 1974, and during such week in every second subsequent year, the Secretary of Commerce shall certify to the Attorney General and publish in the Federal Register—

(i) an amount which bears the same ratio to 10 cents, and

(ii) an amount which bears the same ratio to $50,000,

as the value of the communications price index for the last calendar year ending before the date of certification bears to the value of such index for 1972. The communications price index shall be a price index, using 1972 as a base year, measuring changes in the charges to candidates for the use of communications media. Such index shall be established and maintained by the Secretary of Commerce.

(B) During the first week of January 1972, and during such week in every second subsequent year, the Secretary of Commerce shall certify to the Attorney General and publish in the Federal Register an estimate of the voting age population of each State and congressional district for the last calendar year ending before the date of certification.

(5) Amounts spent for the use of communications media on behalf of any legally qualified candidate for Federal elective office (or for nomination to such office) shall, for the purposes of this subsection, be deemed to have been spent by such candidate. Amounts spent for the use of communications media by or on behalf of any legally qualified candidate for the office of Vice President of the United States shall, for the purposes of this section, be deemed to have been spent by the candidate for the office of President of the United States with whom he is running.

(6) For purposes of this section and section 315(c) of the Communications Act of 1934, spending and charges for the use of communications media include not only the

direct charges of the media but also agents' commissions allowed the agent by the media.

(7) For purposes of this section and section 315(c) of the Communications Act of 1934, any expenditure for the use of any communications medium by or on behalf of the candidacy of a candidate for Federal elective office (or nomination thereto) shall be charged against the expenditure limitation under this subsection applicable to the election in which such medium is used.

(b) No person may make any charge for the use by or on behalf of any legally qualified candidate for Federal elective office (or for nomination to such office) of any newspaper, magazine, or outdoor advertising facility, unless such candidate (or a person specifically authorized by such candidate in writing to do so) certifies to such person in writing that the payment of such charge will not violate paragraph (1), (2), or (3) of subsection (a), whichever is applicable.

(c) Section 315 of the Communications Act of 1934 is amended by redesignating subsection (c) as subsection (e) and by inserting after subsection (b) the following new subsections:

"(c) No station licensee may make any charge for the use of such station by or on behalf of any legally qualified candidate for Federal elective office (or for nomination to such office) unless such candidate (or a person specifically authorized by such candidate in writing to do so) certifies to such licensee in writing that the payment of such charge will not violate any limitation specified in paragraph (1), (2), or (3) of section 104(a) of the Campaign Communications Reform Act, whichever paragraph is applicable.

"(d) For the purposes of this section:

"(1) The term 'broadcasting station' includes a community antenna television system.

"(2) The terms 'license' and 'station licensee' when used with respect to a community antenna television system, mean the operator of such system.

"(3) The term 'Federal elective office' means the office of President of the United States, or of Senator or Representative in, or Resident Commissioner or Delegate to, the Congress of the United States."

REGULATIONS

SEC. 105. The Attorney General shall prescribe such regulations as may be necessary or appropriate to carry out sections 102, 103 (b), 104(a), and 104(b) of this Act.

PENALTIES

SEC. 106. (a) Whoever violates any provision of section 103(b), 104(a), or 104(b) or any regulation under section 105 shall be assessed a civil penalty of not more than $1,000 for each violation.

(b) Any legally qualified candidate who willfully violates section 104(a) or any regulation under section 105 shall be punished by a fine of not more than $10,000 or by imprisonment of not more than one year, or both.

EFFECTIVE DATE

SEC. 107. Section 103 of this Act and the amendments made thereby shall take effect on January 1, 1972. Section 104 and the amendments made thereby shall apply only to expenditures for the use on or after such date of communications media.

TITLE II

SEC. 201. No candidate for Federal elective office may expend, in a primary, primary runoff, or general election, an amount in excess of the limitations imposed by section 104 of title I (for the use of communications media) for the following purposes: (a) telephone campaigns, including the cost of telephones, paid telephonists and automated equipment, when telephones are used in banks of five or more instruments to communicate with potential voters, (b) postage for computerized or identical mailings in quantities of 200 or more. Amounts expended for the use of communications media as provided in section 104 of title I will be charged against the limitation imposed by this section.

TITLE III—CRIMINAL CODE AMENDMENTS

SEC. 301. Section 591 of title 18, United States Code, is amended to read as follows:

"§ 591. Definitions

"When used in sections 597, 599, 600, 602, 610, 611, and 614 of this title—

"(a) 'election' means (1) a general, special, primary, or runoff election, (2) a convention or caucus of a political party held to nominate a candidate, (3) a primary election held for the selection of delegates to a national nominating convention of a political party, (4) a primary election held for the expression of a preference for the nomination of persons for election to the office of President, and (5) the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States;

"(b) 'candidate' means an individual who seeks nomination for election, or election, to Federal office, whether or not such individual is elected, and, for purposes of this paragraph, an individual shall be deemed to seek nomination for election, or election, to Federal office, if he has (1) taken the action necessary under the law of a State to qualify himself for nomination for election, or election, or (2) received contributions or made expenditures, or has given his consent for any other person to receive contributions or make expenditures, with a view to bringing about his nomination for election, or election, to such office;

"(c) 'Federal office' means the office of President or Vice President of the United States, or Senator or Representative in, or Delegate or Resident Commissioner to, the Congress of the United States;

"(d) 'political committee' means any individual committee, association, or organization which accepts contributions or make expenditures during a calendar year in an aggregate amount exceeding $1,000;

"(e) 'contribution' means—

"(1) a gift, subscription, loan, advance, or deposit of money or anything of value (except a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business), made for the purpose of influencing the nomination for election, or election, of any person to Federal office, for the purpose of influencing the results of a primary held for the selection of delegates to a national nominating convention of a political party or for the expression of a preference for the nomination of persons for election to the office of President, or for the purpose of influencing the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States;

"(2) a contract, promise, or agreement, express or implied, whether or not legally enforceable, to make a contribution for such purposes;

"(3) a transfer of funds between political committees;

"(4) the payment, by any person other than a candidate or political committee, of compensation for the personal services of another person which are rendered to such candidate or political committee without charge for any such purpose; and

"(5) notwithstanding the foregoing meanings of 'contribution', the word shall not be construed to include services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate or political committee;

"(f) 'expenditure' means—

"(1) a purchase, payment, distribution, loan advance, deposit, or gift of money or anything of value (except a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business), made for the purpose of influencing the nomination for election, or election, of any person to Federal office, for the purpose of influencing the result of a primary held for the selection of delegates to a national nominating convention of a political party or for the expression of a preference for the nomination of persons for election to the office of President, or for the purpose of influencing the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States;

"(2) a contract, promise, or agreement, express or implied, whether or not legally enforceable, to make any expenditure; and

"(3) a transfer of funds between political committees;

"(g) 'person' and 'whoever' means an individual, partnership, committee, association, corporation, or any other organization or group of persons; and

"(h) 'State' means each State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States."

SEC. 302. Section 600 of title 18, United States Code, is amended to read as follows:

"§ 600. Promise of employment or other benefit for political activity

"Whoever, directly or indirectly, promises any employment, position, compensation, contract, equipment, or other benefit, provided for or made possible in whole or in part by any Act of Congress, or any special consideration in obtaining any such benefit, to any person as consideration, favor, or reward for any political activity or for the support of or opposition to any candidate or any political party in connection with any general or special election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office, shall be fined not more than $1,000 or imprisoned not more than one year, or both."

SEC. 303. Section 608 of title 18, United States Code, is amended to read as follows:

"§ 608. Limitations on contribution and expenditures

"(a)(1) No candidate may make expenditures from his personal funds, or the personal funds of his immediate family, in connection with his campaign for nomination for election, or election, to Federal office in excess of—

"(A) $50,000, in the case of a candidate for the office of President or Vice President;

"(B) $35,000, in the case of a candidate for the office of Senator; or

"(C) $25,000, in the case of a candidate for the office of Representative, or Delegate or Resident Commissioner to the Congress.

"(2) For purposes of this subsection, 'immediate family' means a candidate's spouse, and any child, parent, grandparent, brother, or sister of the candidate, and the spouses of such persons.

"(b) No candidate or political committee shall knowingly accept any contribution or authorize any expenditure in violation of the provisions of this section.

"(c) Violation of the provisions of this section is punishable by a fine not to exceed $1,000, imprisonment for not to exceed one year, or both.".

SEC. 304. Section 609 of title 18, United States Code, is repealed.

SEC. 305. Section 610 of title 18, United States Code, relating to contributions or expenditures by national banks, corporations, or labor orgaizations, is amended by adding at the end thereof the following paragraph:

"As used in this section, the phrase 'contribution or expenditure' shall include any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value to any candidate, campaign committee, or political party or organization, in connection with any election to any of the offices referred to in this section; but shall not include communications by a corporation to its stockholders and their families or by a labor organization to its members and their families on any subject; nonpartisan registration and get-out-the-vote campaigns by a corporation aimed at its stockholders and their families, or by a labor organization aimed at its members and their families; the establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation or labor organization: *Provided,* That it shall be unlawful for such a fund to make a contribution or expenditure by utilizing money or anything of value secured by physical force, job discrimination, financial reprisals, or the threat of force, job discrimination or financial reprisal; or by dues, fees or other monies required as a condition of membership in a labor organization or as a condition of employment, or by monies obtained in any commercial transaction."

SEC. 306. Section 611 of title 18, United States Code, is amended to read as follows:

"§ 611. Contributions by Government contractors

"Whoever—

"(a) entering into any contract with the United States or any department or agency thereof either for the rendition of personal services or furnishing any material, supplies, or equipment to the United States or any department or agency thereof or for selling any land or building to the United States or any department or agency thereof, if payment for the performance of such contract or payment for such material, supplies, equipment, land, or building is to be made in whole or in part from funds appropriated by the Congress, at any time between the commencement of negotiations for and the later of (1) the completion of performance under, or (2) the termination of negotiations for, such contract or furnishing of material, supplies, equipment, land or buildings, directly or indirectly makes any contribution of money or other thing of value, or promises expressly or impliedly to make any such contribution, to any political party, committee, or candidate for public office or to any person for any political purpose or use; or

"(b) knowingly solicits any such contribution from any such person for any such purpose during any such period;

shall be fined not more than $5,000 or imprisoned not more than five years, or both."

SEC. 307. The table of sections for chapter 29 of title 18, United States Code, is amended by—

(1) striking out the item relating to section 608 and inserting in lieu thereof the following:

"608. Limitations on contributions and expenditures.";

(2) striking out the item relating to section 609 and inserting in lieu thereof the following:

"609. Repealed.";

(3) striking out the item relating to section 611 and inserting in lieu thereof the following:

"611. Contributions by Government contractors.".

TITLE IV—DISCLOSURE OF FEDERAL CAMPAIGN FUNDS

DEFINITIONS

SEC. 401. When used in this title—

(a) "election" means (1) a general, special, primary, or runoff election, (2) a convention or caucus of a political party held to nominate a candidate, (3) a primary election held for the selection of delegates to a national nominating convention of a political party, (4) a primary election held for the expression of a preference for the nomination of persons for election to the office of President, and (5) the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States;

(b) "candidate" means an individual who seeks nomination for election, or election, to Federal office, whether or not such individual is elected, and, for purposes of this paragraph, an individual shall be deemed to seek nomination for election, or election, if he has (1) taken the action necessary under the law of a State to qualify himself for nomination for election, or election, to Federal office, or (2) received contributions or made expenditures, or has given his consent for any other person to receive contributions or make expenditures, with a view to bringing about his nomination for election, or election, to such office;

(c) "Federal office" means the office of President or Vice President of the United States; or of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress of the United States;

(d) "political committee" means any committee, association, or organization which accepts contributions or makes expenditures during a calendar year in an aggregate amount exceeding $1,000;

(e) "contribution" means—

(1) a gift, subscription, loan, advance, or deposit of money or anything of value (except a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business), made for the purpose of influencing the nomination for election, or election, of any person to Federal office or as a presidential or vice-presidential elector, for the purpose of influencing the result of a primary held for the selection of delegates to a national nominating convention of a political party or for the expression of a preference for the nomination of persons for election to the office of President, or for the purpose of influencing the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States.

(2) a contract, promise, or agreement, whether or not legally enforceable, to make a contribution for any such purpose;

(3) a transfer of funds between political committees;

(4) the payment, by any person other than a candidate or political committee, of compensation for the personal services of another person which are rendered to such candidate or committee without charge for any such purpose; and

(5) notwithstanding the foregoing meanings of "contribution", the word shall not be construed to include services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate or political committee;

(f) "expenditure" means—

(1) a purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value (except a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business), made for the purpose of influencing the nomination for election, or election, of any person to Federal office, or as a presidential and vice-presidential elector, or for the purpose of influencing the result of a primary held for the selection of delegates to a national nominating convention of a political party or for the expression of a preference for the nomination of persons for election to the office of President, or for the purpose of influencing the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States;

(2) a contract, promise, or agreement whether or not legally enforceable, to make an expenditure, and

(3) a transfer of funds between political committees;

(g) "supervisory officer" means the Secretary of the Senate with respect to candidates for Senator; and the Clerk of the House of Representatives with respect to candidates for Representative in, or Delegate or Resident Commissioner to, the Congress of the United States; and the Comptroller General of the United States in any other case;

(h) "person" means an individual, partnership, committee, association, corporation, labor organization, and any other organization or group of persons; and

(i) "State" means each State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

ORGANIZATION OF POLITICAL COMMITTEES

SEC. 402. (a) Every political committee shall have a chairman and a treasurer. No contribution and no expenditure shall be accepted or made by or on behalf of a political committee at a time when there is a vacancy in the office of chairman or treasurer thereof. No expenditure shall be made for or on behalf of a political committee without the authorization of its chairman or treasurer, or their designated agents.

(b) Every person who receives a contribution in excess of $10 for a political committee shall, on demand of the treasurer, and in any event within five days after receipt of such contribution, render to the treasurer a detailed account thereof, including the amount, the name and address (occupation and the principal place of business, if any) of the person making such contribution, and the date on which received. All funds of a political committee shall be segregated from, and may not be commingled with, any personal funds of officers, members, or associates of such committee.

(c) It shall be the duty of the treasurer of a political committee to keep a detailed and exact account of—

(1) all contributions made to or for such committee;

(2) the full name and mailing address (occupation and the principal place of business, if any) of every person making a contribution in excess of $10, and the date and amount thereof;

(3) all expenditures made by or on behalf of such committee; and

(4) the full name and mailing address (occupation and the principal place of business, if any) of every person to whom any expenditure is made, the date and amount thereof and the name and address of, and office, sought by, each candidate on whose behalf such expenditure was made.

(d) It shall be the duty of the treasurer to obtain and keep a receipted bill, stating the particulars, for every expenditure made by or on behalf of a political committee in excess of $100 in amount, and for any such expenditure in a lesser amount, if the aggregate amount of such expenditures to the same person during a calendar year exceeds $100. The treasurer shall preserve all receipted bills and accounts required to be kept by this section for periods of time to be determined by the supervisory officer.

(e) Any political committee which solicits or receives contributions or makes expenditures on behalf of any candidate that is not authorized in writing by such candidate to do so shall include a notice on the face or front page of all literature and advertisements published in connection with such candidate's campaign by such committee or on its behalf stating that the committee is not authorized by such candidate and that such candidate is not responsible for the activities of such committee.

(f) (1) Any political committee shall include on the face or front page of all literature and advertisements soliciting funds the following notice:

"A copy of our report filed with the appropriate supervisory officer is (or will be) available for purchase from the Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402."

(2) (A) The supervisory officer shall compile and furnish to the Public Printer, not later than the last day of March of each year, an annual report for each political committee which has filed a report with him under this title during the period from March 10 of the preceding calendar year through January 31 of the year in which such annual report is made available to the Public Printer. Each such annual report shall contain—

(i) a copy of the statement of organization of the political committee required under section 403, together with any amendments thereto; and

(ii) a copy of each report filed by such committee under section 404 from March 10 of the preceding year through January 31 of the year in wrich the annual report is so furnished to the Public Printer.

(B) The Public Printer shall make copies of such annual reports available for sale to the public by the Superintendent of Documents as soon as practicable after they are received from the supervisory officer.

REGISTRATION OF POLITICAL COMMITTEES; STATEMENTS

SEC. 403. (a) Each political committee which anticipates receiving contributions or making expenditures during the calendar year in an aggregate amount exceeding $1,000 shall file with the supervisory officer a statement of organization, within ten days after its organization or, if later, ten days after the date on which it has information which causes the committee to anticipate it will receive contributions or make expenditures in excess of $1,000. Each such committee in existence at the date of enactment of this Act shall file a statement of organization with the supervisory officer at such time as he prescribes.

(b) The statement of organization shall include—

(1) the name and address of the committee;

(2) the names, addresses, and relationships of affiliated or connected organizations;

(3) the area, scope, or jurisdiction of the committee;

(4) the name, address, and position of the custodian of books and accounts;

(5) the name, address, and position of other principal officers, including officers and members of the finance committee, if any;

(6) the name, address, office sought, and party affiliation of (A) each candidate whom the committee is supporting, and (B) any other individual, if any, whom the committee is supporting for nomination for election, or election, to any public office whatever; or, if the committee is supporting the entire ticket of any party, the name of the party;

(7) a statement whether the committee is a continuing one;

(8) the disposition of residual funds which will be made in the event of dissolution;

(9) a listing of all banks, safety deposit boxes, or other repositories used;

(10) a statement of the reports required to be filed by the committee with State or local officers, and, if so, the names, addresses, and positions of such persons; and

(11) such other information as shall be required by the supervisory officer.

(c) Any change in information previously submitted in a statement of organization shall be reported to the supervisory officer within a ten-day period following the change.

(d) Any committee which, after having filed one or more statements of organization, disbands or determines it will no longer receive contributions or make expenditures during the calendar year in an aggregate amount exceeding $1,000 shall so notify the supervisory officer.

REPORTS BY POLITICAL COMMITTEES AND CANDIDATES

SEC. 404. (a) Each treasurer of a political committee supporting a candidate or candidates for election to Federal office and each candidate for election to such office, shall file with the appropriate supervisory officer reports of receipts and expenditures on forms to be prescribed or approved by him. Such reports shall be filed on the tenth day of March, June, and September, in each year, and on the fifteenth and fifth days next preceding the date on which an election is held, and also by the thirty-first day of January. Such reports shall be complete as of such date as the supervisory officer may prescribe, which shall not be less than five days before the date of filing except that any contribution of $5,000 or more received after the last report is filed prior to the election, shall be reported within forty-eight hours after its receipt.

(b) Each report under this section shall disclose—

(1) the amount of cash on hand at the beginning of the reporting period;

(2) the full name and mailing address (occupation and the principal place of business, if any) of each person who has made one or more contributions to or for such committee or candidate (including the purchase of tickets for events such as dinners, luncheons, rallies, and similar fundraising events) within the calendar year in an aggregate amount or value in excess of $100, together with the amount and date of such contributions;

(3) the total sum of individual contributions made to or for such committee or candidate during the reporting period and not reported under paragraph (2);

(4) the name and address of each political committee or candidate from which the reporting committee or the candidate received, or to which that committee or candidate made, any transfer of funds, together with the amounts and dates of all transfers;

(5) each loan to or from any person within the calendar year in an aggregate amount or value in excess of $100, together with the full names and mailing addresses (occupations and the principal places of business, if any) of the lender and endorsers, if any, and the date and amount of such loans;

(6) the total amount of proceeds from (A) the sale of tickets to each dinner, luncheon, rally, and other fundraising event; (B) mass collections made at such events; and (C) sales of items such as political campaign pins, buttons, badges, flags, emblems, hats, banners, literature, and similar materials;

(7) each contribution, rebate, refund, or other receipt in excess of $100 not otherwise listed under paragraphs (2) through (6);

(8) the total sum of all receipts by or for such committee or candidate during the reporting period;

(9) the full name and mailing address (occupation and the principal place of business, if any) of each person to whom an expenditure or expenditures have been made by such committee or on behalf of such committee or candidate within the calendar year in an aggregate amount or value in excess of $100, the amount, date, and purpose of each such expenditure and the name and address of, and office sought by, each candidate on whose behalf such expenditure was made;

(10) the full name and mailing address (occupation and the principal place of business, if any) of each person to whom an expenditure for personal services, salaries, and reimbursed expenses in excess of $100 has been made, and which is not otherwise reported, including the amount, date, and purpose of such expenditure;

(11) the total sum of expenditures made by such committee or candidate during the calendar year;

(12) the amount and nature of debts and obligations owed by or to the committee, in such form as the supervisory officer may prescribe and a continuous reporting of their debts and obligations after the election at such periods as the supervisory officer may require until such debts and obligations are extinguished; and

(13) such other information as shall be required by the supervisory officer.

(c) The reports required to be filed by subsection (a) shall be cumulative during the calendar year to which they relate, but where there has been no change in an item reported in a previous report during such year, only the amount need be carried forward. If no contributions or expenditures have been accepted or expended during a calendar year, the treasurer of the political committee or candidate shall file a statement to that effect.

REPORTS BY OTHERS THAN POLITICAL COMMITTEES

SEC. 405. Every person (other than a political committee or candidate) who makes contributions or expenditures, other than by contribution to a political committee or candidate, in an aggregate amount in excess of $100 within a calendar year shall file with the supervisory officer a statement containing the information required by section 404. Statements required by this section shall be filed on the dates on which reports by political committees are filed, but need not be cumulative.

FORMAL REQUIREMENTS RESPECTING REPORTS AND STATEMENTS

SEC. 406. (a) A report or statement required by this title to be filed by a treasurer of a political committee, a candidate, or by any other person, shall be verified by the oath or affirmation of the person filing such report or statement, taken before any officer authorized to administer oaths.

(b) A copy of a report or statement shall be preserved by the person filing it for a period of time to be designated by the supervisory officer in a published regulation.

(c) The supervisory officer may, by published regulation of general applicability, relieve any category of political committees of the obligation to comply with section 404 if such committee (1) primarily supports persons seeking State or local office, and does not substantially support candidates, and (2) does not operate in more than one State or on a statewide basis.

(d) The supervisory officer shall, by published regulations of general applicability, prescribe the manner in which contributions and expenditures in the nature of debts and other contracts, agreements, and promises to make contributions or expenditures shall be reported. Such regulations shall provide that they be reported in separate schedules. In determining aggregate amounts of contributions and expenditures, amounts reported as provided in such regulations shall not be considered until actual payment is made.

REPORTS ON CONVENTION FINANCING

SEC. 407. Each committee or other organization which—

(1) represents a State, or a political subdivision thereof, or any group of persons, in dealing with officials of a national political party with respect to matters involving a convention held in such State or political subdivision to nominate a candidate for the office of President or Vice President, or

(2) represents a national political party in making arrangements for the convention of

such party held to nominate a candidate for the office of President or Vice President.

shall, within sixty days following the end of the convention (but not later than twenty days prior to the date on which presidential and vice-presidential electors are chosen), file with the Comptroller General of the United States a full and complete financial statement, in such form and detail as he may prescribe, of the sources from which it derived its funds, and the purposes for which such funds were expended.

DUTIES OF THE SUPERVISORY OFFICER

SEC. 408. (a) It shall be the duty of the supervisory officer—

(1) to develop and furnish to the person required by the provisions of this Act prescribed forms for the making of the reports and statements required to be filed with him under this title;

(2) to prepare, publish, and furnish to the person required to file such reports and statements a manual setting forth recommended uniform methods of bookkeeping and reporting;

(3) to develop a filing, coding, and cross-indexing system consonant with the purposes of this title;

(4) to make the reports and statements filed with him available for public inspection and copying, commencing as soon as practicable but not later than the end of the second day following the day during which it was received, and to permit copying of any such report or statement by hand or by duplicating machine, as requested by any person, at the exepense of such person: *Provided,* That any information copied from such reports and statements shall not be sold or utilized by any person for the purpose of soliciting contributions or for any commercial purpose;

(5) to preserve such reports and statements for a period of ten years from date of receipt, except that reports and statements relating solely to candidates for the House of Representatives shall be preserved for only five years from the date of receipt;

(6) to compile and maintain a current list of all statements or parts of statements pertaining to each candidate;

(7) to prepare and publish an annual report including compilations of (A) total reported contributions and expenditures for all candidates, political committees, and other persons during the year; (B) total amounts expended according to such categories as he shall determine and broken down into candidate, party, and nonparty expenditures on the National, State, and local levels; (C) total amounts expended for influencing nominations and elections stated separately; (D) total amounts contributed according to such categories of amounts as he shall determine and broken down into contributions on the National, State, and local levels for candidates and political committees; and (E) aggregate amounts contributed by any contributor shown to have contributed in excess of $100;

(8) to prepare and publish from time to time special reports comparing the various totals and categories of contributions and expenditures made with respect to preceding elections;

(9) to prepare and publish such other reports as he may deem appropriate;

(10) to assure wide dissemination of statistics, summaries, and reports prepared under this title;

(11) to make from time to time audits and field investigations with respect to reports and statements filed under the provisions of the title, and with respect to alleged failures to file any report or statement required under the provisions of this title;

(12) to report apparent violations of law to the appropriate law enforcement authorities; and

(13) to prescribe suitable rules and regulations to carry out the provisions of this title.

(b) It shall be the further duty of the Comptroller General to serve as a national clearinghouse for information in respect to the administration of elections. In carrying out his duties under this subsection, the Comptroller General shall enter into contracts for the purpose of conducting independent studies of the administration of elections. Such studies shall include, but shall not be limited to, studies of—

(1) the method of selection of, and the type of duties assigned to, officials and personnel working on boards of elections;

(2) practices relating to the registration of voters; and

(3) voting and counting methods.

Studies made under this subsection shall be published by the Comptroller General and copies thereof shall be made available to the general public upon the payment of the cost thereof. Nothing in this subsection shall be construed to authorize the Comptroller General to require the inclusion of any comment or recommendation of the Comptroller General in any such study.

(c)(1) Any person who believes a violation of this title has occurred may file a complaint with the supervisory officer. If the supervisory officer determines there is substantial reason to believe such a violation has occurred, he shall expeditiously make an investigation, which shall also include an investigation of reports and statements filed by the complainant if he is a candidate, of the matter complained of. Whenever in the judgment of the supervisory officer, after affording due notice and an opportunity for a hearing, any person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of this title or any regulation or order issued thereunder, the Attorney General on behalf of the United States shall institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order in the district court of the United States for the district in which the person is found, resides, or transacts business. Upon a proper showing that such person has engaged or is about to engage in such acts or practices, a permanent or temporary injunction, restraining order, or other order shall be granted without bond by such court.

(2) In any action brought under paragraph (1) of this subsection, subpenas for witnesses who are required to attend a United States district court may run into any other district.

(3) Any party aggrieved by an order granted under paragraph (1) of this subsection may, at any time within sixty days after the date of entry thereof, file a petition with the United States court of appeals for the circuit in which such person is found, resides, or transacts business, for judicial review of such order.

(4) The judgment of the court of appeals affirming or setting aside, in whole or in part, any such order of the district court shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28 of the United States Code.

(5) Any action brought under this subsection shall be advanced on the docket of the court in which filed, and put ahead of all other actions (other than other actions brought under this subsection).

PROHIBITION OF CONTRIBUTIONS IN NAME OF ANOTHER

SEC. 409. No person shall make a contribution in the name of another person, and no person shall knowingly accept a contribution made by one person in the name of another person.

PENALTY FOR VIOLATIONS

SEC. 410. Any person who violates any of the provisions of this title shall be fined not more than $1,000 or imprisoned not more than one year, or both.

EFFECT ON STATE LAW

SEC. 411. (a)(1) Nothing in this Act shall be deemed to invalidate or make inapplicable any provision of any State law, except where compliance with such provision of law would result in a violation of a provision of this Act.

(2) Notwithstanding paragraph (1), no provision of State law shall be construed to prohibit any person from taking any action authorized by this Act or from making any expenditure which he could lawfully make under this Act.

(b) The supervisory officer shall encourage, and cooperate with, the election officials in the several States to develop procedures which will eliminate the necessity of multiple filings by permitting the filing of copies of Federal reports to satisfy the State requirements.

PARTIAL INVALIDITY

SEC. 412. If any provision of this Act, or the application thereof, to any person or circumstance is held invalid, the validity of the remainder of the Act and the application of such provision to other persons and circumstances shall not be affected thereby.

REPEALING CLAUSE

SEC. 413. (a) The Federal Corrupt Practices Act, 1925 (2 U.S.C. 241–256), is repealed

(b) In case of any conviction under this title, where the punishment inflicted does not include imprisonment, such conviction shall be deemed a misdemeanor conviction only.

TITLE V—MISCELLANEOUS

EXTENSION OF CREDIT BY REGULATED INDUSTRIES

SEC. 501. The Civil Aeronautics Board, the Federal Communications Commission, and the Interstate Commerce Commission shall each promulgate, within ninety days after the date of enactment of this Act, its own regulations with respect to the extension of credit, without security, by any person regulated by such Board or Commission to any candidate for Federal office (as such term is defined in section 401(c) of the Federal Election Campaign Act of 1971), or to any person on behalf of such a candidate, for goods furnished or services rendered in connection with the campaign of such candidate for nomination for election, or election, to such office.

PROHIBITION AGAINST USE OF CERTAIN FEDERAL FUNDS FOR ELECTION ACTIVITIES

SEC. 502. No part of any funds appropriated to carry out the Economic Opportunity Act of 1964 shall be used to finance, directly or indirectly, any activity designed to influence the outcome of any election to Federal office, or any voter registration activity, or to pay the salary of any officer or employee of the Office of Economic Opportunity who, in his official capacity as such an officer or employee, engages in any such activity. As used in this section, the term "election" has the same meaning given such term by section 401(a) of this Act, and the term "Federal office" has the same meaning given such term by section 401(c) of this Act.

EFFECTIVE DATE

SEC. 503. Except as provided for in section 501 of this Act, the provisions of this Act shall become effective on December 31, 1971, or sixty days after the date of enactment of this Act, whichever is later.

Mr. PASTORE. Mr. President, I move that the Senate disagree to the amendment of the House and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. PASTORE, Mr. HART, Mr. HARTKE, Mr. JORDAN of North Carolina, Mr. CANNON, Mr. PELL, Mr. BAKER, Mr. COOK, Mr. STEVENS, and Mr. SCOTT conferees on the part of the Senate.

ECONOMIC STABILIZATION ACT AMENDMENTS OF 1971

The Senate continued with the consideration of the bill (S. 2891) to extend and amend the Economic Stabilization Act of 1970.

Mr. BUCKLEY. Mr. President, I offer an amendment to the Cranston amendment (No. 777).

The PRESIDING OFFICER. The amendment to the amendment will be stated.

The second assistant legislative clerk proceeded to state the amendment.

Mr. BUCKLEY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

On page 2, line 5, strike the comma and the word "or" appearing after the word "system" and insert a period in lieu thereof.

On page 2, strike everything in subsection (iii) beginning with the word "wages" on line 6 through the word "That" at the end of line 14.

Mr. BUCKLEY. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. BUCKLEY. Mr. President, this should not take too much time. My amendment is very simple. I think my amendment will be acceptable to the Senator from California.

What it does is to simply take away from his amendment the exemption for the wages paid by the media. It does not interfere with the exemption of the prices charged to that media or the printing plant, an exemption from economic control as it affects the prices charged and as to rates of wages.

But a theoretical case can be made with respect to the power to prevent an organization from disseminating opinion or forcing a newspaper or an organization out of business, thereby giving the Government the option of closing out the media establishment or, in a punitive way, suppressing the written opinion.

To the extent that it is self-evident that if we are going to have a workable system of controls which involve sacrifices on the part of every element in this country, to the extent that the exemptions are limited, to that extent we are more apt to maintain a sense of control.

I suggest that the situation involving a writer who has graduated from Cornell School of Journalism and is subject to control while a classmate of his in the same city is able to negotiate a 15- or 20-percent increase for doing that same kind of work will lead to the situation which will corrupt the whole system.

I submit that a typesetter or a worker for the same printing plant has to pay the same amount of money for rent, groceries, and taxes. If he finds himself controlled by the Wage-Price Board, while at the same time he sees a man with equal technical skill working for a newspaper and being able to demand and achieve a 10-, 15-, 20-percent increase, again we will have a demonstrable inequity which the American people will not swallow, an inequity which will erode the kind and class of controls which are required.

I believe this would also limit at least the wage part of the wage-price position in this inflationary cycle we are all suffering from by keeping wages in the media under the same type of controls as wages in other industries.

We are not creating charges which have to be absorbed by the publishers or the operators of broadcasting stations that would have to be reflected in higher prices charged by advertisers. That would be one thing which we are trying to eliminate.

I submit that this particular amendment would eliminate one of the glaring inequities of the pending amendment. Mr. President, regardless of the outcome of this amendment, I will vote against the Cranston amendment.

Mr. CRANSTON. Mr. President, I oppose the amendment, and I urge all other Senators to oppose it for the following reasons.

The burden of control should fall equally on labor and business alike. It would be totally inequitable and totally out of keeping with the spirit of this bill to control the prices of industry alone or to control only the wages of those who work for a living.

Where constitutional principles or economic conditions require the exclusion of one segment of either labor or business from controls, it is only, therefore, fair to likewise exclude the other segment, the counterpart.

Equity very plainly demands that, if we free the wages of management and editorial writers, which clearly must be free to protect free speech, we should also free the other workers of these enterprises which are indirectly involved in the expression of these ideas.

If we allow prices of the media to be freed from controls while continuing to control wages, some industries could receive large profits as the result of wage control rather than as a result of increased productivity.

The provision for windfall profits in this bill would not necessarily be able to do the job adequately.

It is very plain that the media are a service intensive industry. In such industries, according to the testimony before our committee which heard the bill, Dr. Arthur Burns pointed out in the Senate hearings, in those hearings on this bill that productivity is just about the toughest things there is to measure.

It seems to me the other aspect we have to consider in relation to this proposed amendment is the classic concept of the chilling effect that governmental authority can have on human freedom. Giving the Government Board the power to determine the maximum pay a writer or commentator can receive puts that board in a role of quasi-employer with all the powers that an employer can exercise. It gives the Government a club to hold over the members of the press, a club of the very nature that the Constitution expressly prohibits in the first amendment, that has motivated the sponsors of the basic amendment that will be before this body after the amendment of the Senator from New York has been disposed of.

The censor with scissors and blue pencil is very easy to identify and to guard against, but the economic censor, the man who comes along with controls over the payroll, has a power so much greater, because it is so insidious and, therefore, so hard to guard against, so hard to find directly, as you can find the man with his scissors or with the blue pencil.

If the power to tax is indeed a power to destroy, then the power to grant or to withhold pay raises is the power to destroy press creativity, enterprise, and independence.

For these rather simple but I think fundamental reasons, I oppose this amendment.

Mr. PROXMIRE. Mr. President, this provision in the bill which Senator BUCKLEY would amend out was put in by my amendment to the bill. As the proposal came before us initially it provided only for holding down wages and permitting prices to rise. The prices would not be controlled. Senator BUCKLEY would seek to do the same thing.

The suggestion in the proposed amendment by the Senator from New York could hardly be less fair. What does it do? It provides that publishers will be able to increase their prices but the wages of their workers are held down. This makes windfall profits virtually a certainty.

Mr. BUCKLEY. Mr. President, will the Senator yield?

Mr. PROXMIRE. I will yield in just a moment.

The other point I would like to make is that the thrust of the Cranston amendment is to protect the free expression by editors, reporters, and so forth. They are the ones who would be continued to be covered if the Buckley amendment were agreed to. Their compensation would be at the mercy of a governmental board.

It seems to me that the Senator from New York offers an amendment which gives us the worst of all possible worlds.

Mr. BUCKLEY. Mr. President, I yield 3 minutes to the Senator from Connecticut for purposes of rebuttal.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. WEICKER. Mr. President, first, the Senator from New York has been candid and honest enough to say that regardless of the outcome of the amendment he is going to vote against the Cranston amendment, period. No one recognizes more clearly than he the arguments of equity and inequity.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. WEICKER. I do not wish to yield to the Senator at this time.

If I might go back to the arguments stated by the Senator from California, there was discussion of wage and price controls in terms of equity, yet the amendment of the Senator from California is specifically based on the fact there shall be inequity, that there is a difference as between industries.

So make no mistake about it. The amendment of the Senator from California would favor one industry over another and embodies the concept not of equity but inequity.

I yield back the remainder of my time.

Mr. BUCKLEY. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. BUCKLEY. Mr. President, I would like to point out to the distinguished Senator from Wisconsin that my amendment does not eliminate in toto subsection 3 of the Cranston amendment. It retains that provision which states:

> Nothing herein shall deprive the President of authority to take appropriate action in the event of windfall profits resulting from the foregoing exemption.

Therefore, there is nothing in my amendment to allow publishers to walk off with unconscionable profits.

It sounds symmetrical to say you exempt management and you have to exempt labor. The fact is we are not talking about bargaining practices between employers and employees. The person who is stuck with the unwarranted price increases imposed by the press and broadcasting media is not the employee but the public, the same public we were trying to protect as a result of this legislation.

Also it should be kept in mind that the Senator from California argued yesterday there is such competition in the media that there is no need to worry about a publisher walking off with unconscionable price increases. If this is true, I do not know about it; I defer to his wider experience in these matters.

I do suggest we have to go back to the fundamental argument used to justify these extraordinary exemptions, and that argument is to provide an administrative board with the authority to deny or grant a price increase places in his hands the theoretical instrument by which to harass the press and destroy a freedom of the press protected by the first amendment.

I think it is probably largely theoretical and that there is no segment in our society better able to protect itself than the press. I concede that argument and ask where is the next justification to distinguish between the typesetter in a commercial printing house and a typesetter who works for the New York Times. I cannot see it. I can see that if you make these discriminations you are going to cause that typesetter in the commercial printing house to find one way or another to circumvent price controls. Anybody who has studied the whole field of price controls knows that you can cheat on them and there is no way to control it. They can suddenly start degrading the quality of products, they can suddenly start changing titles, and the only way we are going to succeed in this effort is by enlisting willful cooperation of all Americans; and if we start granting special favors here and there we will destroy that morale which will make these controls work.

I feel they will not work nearly as well as the sponsor anticipates, but as long as we have them let us try to make them work.

Mr. President, I am willing to yield back the remainder of my time.

Mr. ERVIN. Mr. President, will the Senator yield to me for 1 minute?

Mr. McINTYRE. I yield 1 minute to the Senator from North Carolina.

Mr. ERVIN. Mr. President, the first amendment envisages for the public benefit that the collection and the dissemination of information and ideas constitute an indivisible whole and that they should not be chopped off in segments. That is precisely what the amendment of the Senator from New York would do. It is like taking a racehorse and chopping off a couple of his legs and compelling him to run on the other two.

I hope the Senate rejects the amendment.

Mr. McINTYRE. Mr. President, I yield back the remainder of our time.

Mr. BUCKLEY. Mr. President, I yield back the remainder of our time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from New York. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. TAFT (when his name was called). Present.

The rollcall was concluded.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Florida (Mr. CHILES), the Senator from Georgia (Mr. GAMBRELL), the Senator from Indiana (Mr. HARTKE), the Senator from South Dakota (Mr. McGOVERN), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Maine (Mr. MUSKIE) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Ohio (Mr. SAXBE) is absent on official business.

The Senator from Utah (Mr. BENNETT) and the Senator from South Dakota (Mr. MUNDT) are absent because of illness.

The Senator from New York (Mr. JAVITS) is detained on official business.

The result was announced—yeas 17, nays 71, as follows:

[No. 425 Leg.]

YEAS—17

Aiken
Allott
Baker
Brock
Buckley
Cook
Cooper
Curtis
Fannin
Goldwater
Griffin
Hruska
Percy
Scott
Stafford
Tower
Weicker

NAYS—71

Allen
Anderson
Beall
Bellmon
Bentsen
Bible
Boggs
Brooke
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Case
Church
Cotton
Cranston
Dole
Dominick
Eagleton
Eastland
Ellender
Ervin
Fong
Fulbright
Gravel
Gurney
Hansen
Harris
Hart
Hatfield
Hollings
Hughes
Humphrey
Inouye
Jackson
Jordan, N.C.
Jordan, Idaho
Kennedy
Long
Magnuson
Mansfield
Mathias
McClellan
McGee
McIntyre
Metcalf
Miller
Mondale
Montoya
Moss
Nelson
Packwood
Pastore
Pearson
Pell
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Smith
Sparkman
Spong
Stennis
Stevens
Stevenson
Symington
Talmadge
Thurmond
Tunney
Young

ANSWERED "PRESENT"—1

Taft

NOT VOTING—11

Bayh
Bennett
Chiles
Gambrell
Hartke
Javits
McGovern
Mundt
Muskie
Saxbe
Williams

So Mr. BUCKLEY's amendment to Mr. CRANSTON's amendment was rejected.

Mr. ERVIN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. SPARKMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. BROCK). The question now recurs on agreeing to the amendment of the Senator from California (Mr. CRANSTON). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

Mr. MAGNUSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MAGNUSON. We are now voting on the Cranston amendment, yes or no; is that correct?

The PRESIDING OFFICER. The Senator is correct.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. GOLDWATER (when his name was called). Mr. President, on this vote I have a pair with the distinguished senior Senator from Utah (Mr. BENNETT). If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." Therefore, I withhold my vote.

Mr. TAFT (when his name was called). Present.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Florida (Mr. CHILES), the Senator from Georgia (Mr. GAMBRELL), the Senator from Indiana (Mr. HARTKE), the Senator from South Dakota (Mr. McGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Maine (Mr. MUSKIE), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

On this vote, the Senator from Montana (Mr. METCALF) is paired with the Senator from New Jersey (Mr. WILLIAMS).

If present and voting, the Senator from Montana would vote "nay" and the Senator from New Jersey would vote "yea."

I further announce that, if present and voting, the Senator from South Dakota (Mr. McGOVERN), would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Ohio (Mr. SAXBE) is absent on official business.

The Senator from Utah (Mr. BENNETT) and the Senator from South Dakota (Mr. MUNDT) are absent because of illness.

The Senator from New York (Mr. JAVITS) is detained on official business.

The pair of the Senator from Utah (Mr. BENNETT) has been previously announced.

The result was announced—yeas 50, nays 36, as follows:

[No. 426 Leg.]

YEAS—50

Allen
Allott
Anderson
Baker
Bentsen
Bible
Boggs
Burdick
Byrd, W. Va.
Church
Cook
Cranston
Dole
Dominick
Eagleton
Ellender
Ervin
Fong
Fulbright
Gravel
Hansen
Harris
Hart
Hughes
Humphrey
Inouye
Jackson
Jordan, N.C.
Long
Magnuson
Mansfield
Mathias
McGee
McIntyre
Miller
Mondale
Montoya
Moss
Nelson
Pearson
Proxmire
Randolph
Ribicoff
Sparkman
Spong
Stevens
Symington
Talmadge
Thurmond
Tunney

NAYS—36

Aiken
Beall
Bellmon
Brock
Brooke
Buckley
Byrd, Va.
Cannon
Case
Cooper
Cotton
Curtis
Eastland
Fannin
Griffin
Gurney
Hatfield
Hollings
Hruska
Jordan, Idaho
Kennedy
McClellan
Packwood
Pastore
Pell
Percy
Roth
Schweiker
Scott
Smith
Stafford
Stennis
Stevenson
Tower
Weicker
Young

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Goldwater, for.

ANSWERED "PRESENT"—1

Taft

NOT VOTING—12

Bayh
Bennett
Chiles
Gambrell
Hartke
Javits
McGovern
Metcalf
Mundt
Muskie
Saxbe
Williams

So Mr. CRANSTON's amendment (No. 777) was agreed to.

Mr. ERVIN. Mr. President, I move that the vote by which the amendment was agreed to be reconsidered.

Mr. McINTYRE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. INOUYE. Mr. President, I call up my amendment and ask that it be stated.

The PRESIDING OFFICER (Mr. BROCK). The amendment will be stated.

The legislative clerk read as follows:

On page 11, line 12 add, after the word "overcharge", the following:

"*Provided*, That no action for overcharges may be brought by or on behalf of any person who has not first presented to the seller or renter a bona fide claim for refund of the overcharge and has not received repayment of such overcharge within a reasonable time."

Mr. INOUYE. Mr. President, section 210 authorizes private damage actions to recover overcharges against persons selling goods or services and provides substantial inducements to bring litigation by offering attorneys' fees, costs, and the greater of triple damages or a $100 to $1,000 award. Section 210 appears to be discriminatory against retailers and this discrimination is highlighted both by the nature of their business and by the nature of the price control regulations themselves. Under the Price Control regulations, retailers are required to post various base prices. These prices, however, are not the selling prices which the retailer may charge. Rather, retailers are permitted to apply their customary markups to products and thus—in actual selling prices—pass on increases in the cost of goods. As a result, the public will be presented with posted base prices and actual selling prices which are—in some cases at least—higher.

In view of the above and considering the temporary nature of the Economic Stabilization Act and the confusion naturally surrounding an operation that attempts to control the entire economy with a board and a commission, the invitation to misunderstanding is substantial. The encouragement given to litigation in section 210 in this type situation seems overly harsh. Indeed, the class actions may be filed by one purchaser even if only one purchaser is misled. When this is multiplied by the hundreds of thousands of products handled by retailers and the millions of customer transactions, the penalties and costs—whether claims are justified or not—are totally unwarranted and unreasonable.

The proposed amendment would require a purchaser to present his claim of overcharge to a seller before filing suit. With the amendment, there would at least be some restraint against immediate massive litigation by dollar-hungry attorneys who stand to benefit greatly by having litigation pursued rather than by having overcharges promptly repaid. The amendment would substantially reduce the amount of litigation without affecting the ability of persons to recover their overcharges or the enforcement of the price control regulations.

The proposed amendment provides a modicum of responsibility and restraint.

Mr. President, the proposed amendment is a simple one. It would require the purchaser to present his claim of overcharge to the seller before filing a suit. I believe that this amendment is consistent with the intention of section 210 of S. 2891. I am pleased to advise my colleagues that this matter has been discussed with the able Senator from Alabama (Mr. SPARKMAN), the chairman of the committee, as well as with the able Senator from Texas (Mr. TOWER), and I have been assured that this amendment will be taken to conference.

Mr. SPARKMAN. Mr. President, we have checked the amendment, as the Senator from Hawaii has said. I think it is a very good amendment, and I am willing to accept it.

Mr. TOWER. Mr. President, I believe, too, that it is a good amendment and is consistent with the intent of the framers of the bill.

I am not only happy to join the Senator from Alabama in taking the amendment to conference but in expressing the conviction that we will sustain it.

Mr. SPARKMAN. Mr. President, yes, I believe so, too. It is not one of those we are just willing to take to conference. I think it is a very good amendment.

Mr. PROXMIRE. Mr. President, I am disturbed by the amendment. The amendment could constitute a serious mistake. Consider its consequences: Some unscrupulous merchant could overcharge and violate the law. Then, if caught, he could simply refund on the purchase and he would be free. Under the amendment no consumer could ever secure damages from a merchant violating the law. If the consumer fails to bring the product on which he is overcharged back to the merchant. The cheating overcharger is home free. The consumer will have no basis for a suit. Whenever a consumer catches a merchant overcharging and violating this law he must, if he is to have actionable grounds under the Inouye amendment, directly confront the merchant and give him a chance to reduce the overcharge.

What a field day for the violator. He overcharges to his heart's content. Under the complicated regulations only one consumer in a thousand will complain. The merchant can handle the one complainer by a price reduction in that one case.

I ask the Senator, won't this amendment result in our losing what little consumer protection we have in this law—and there is practically none—won't that be eliminated or weakened by this amendment?

Mr. INOUYE. There is no law on the books today that could eliminate all causes of a criminal retailer or criminal business people operating but, at the same time, it is well for us to consider the nature of the business. We have daily millions of customers, thousands of different goods, and millions of transactions going on with this type of regulation as set forth in the bill and in the Economic Stabilization Act, where we have a base of a selling price which would be different from them. With this confusion going on, one can imagine the possibility of multiple litigations which may not be justified—which would be costly to the consumer and unnecessary. This amendment would just require the purchaser to go to the retailer and say "I think I have been overcharged," and if the retailer refused to make restitution, then the purchaser could bring suit.

Furthermore, as the section presently reads, in order to have a successful cause of action which requires that one must prove the seller intentionally overcharged, he would have to, somehow, indicate that he made the attempt.

Mr. PROXMIRE. This is what bothers me. As I understand it, the labor unions of the country will try to enforce this law with respect to prices in retail stores by organizing a large surveillance operation. That should be encouraged. It is a wholesome thing to do. However, the labor unions might as well forget it if this amendment passes because, when they do find a merchant is cheating, in every case in order to have a cause of action that can be taken to court, they have to give the merchant the opportunity to give the overcharge back and so of course he can and will exonerate himself. So that I do not understand how any violator of the act would be subject to any effective consumer surveillance or any real enforcement in fact.

Mr. INOUYE. Even if there was restitution, the section says that if we can prove that the retailer, the seller, or the renter intentionally overcharged, we have a cause of action. But this amendment, I sincerely feel, would do away with unnecessary litigation.

Mr. PROXMIRE. It would do away with all litigation.

Mr. INOUYE. When we consider the millions of transactions there are——

Mr. PROXMIRE. You see intention will be very hard to prove. This develops serious weaknesses in the law so that it will be almost impossible to enforce. In trying to cover 10 million firms with the pitifully inadequate enforcement staff we have we must rely on consumer enforcement. This amendment destroys that reliance.

Mr. President, I want to be sure that I am recorded as voting no on this amendment.

The PRESIDING OFFICER (Mr. CRANSTON). The question is on agreeing to the amendment of the Senator from Hawaii.

The amendment was agreed to.

The PRESIDING OFFICER (Mr. CRANSTON). The bill is open to further amendment. If there be no further amendments to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. MANSFIELD. Mr. President, I understand there are some Senators who want to speak, and in order to give them the opportunity, and with the concurrence of the distinguished manager of the bill, and the distinguished Senator from Texas (Mr. TOWER), and the acting minority leader, I ask unanimous consent that there be a time period of not to exceed 1 hour on the bill, with the time to be controlled by the distinguished manager of the bill and the acting minority leader or his designee.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

Mr. SPARKMAN. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Alabama is recognized for 5 minutes.

Mr. SPARKMAN. Mr. President, I want to speak briefly.

First of all, I want to comment that at the end of business yesterday, we had been on this bill exactly 1 month. We started working in the committee on hearings on November 1.

Today is the beginning of the second month that we have been working on this bill, and we have been working on it practically every day during that time. It was a difficult bill to handle. It is a rather complex bill. It is a bill that imposes controls. Nobody likes controls. This is the third time during my service in Congress that I have participated in control legislation—back in 1942 during World War II, in 1950 during the Korean war, and now this time. This is the smallest in regard to the amount of controls of any one of these three. Nevertheless, it is control, and it is going to require the cooperation of the American people to make it work.

First, Mr. President, I desire to pay my compliments and express my thanks to every member of our committee. As I said before, I have never seen a committee work more diligently, more completely, and more earnestly than our committee has worked on this particular legislation. I just desire to remind the Members of the Senate who the members of the committee are.

The Senator from Wisconsin (Mr. PROXMIRE), who worked hard and was present at practically every session of the committee, is a committee member.

The Senator from New Jersey (Mr. WILLIAMS), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Minnesota (Mr. MONDALE), the Senator from California (Mr. CRANSTON), the Senator from Illinois (Mr. STEVENSON), the Senator from Georgia (Mr. GAMBRELL), and the Senator from Texas (Mr. TOWER), the ranking minority member, are committee members.

The Senator from Utah (Mr. BENNETT) is also a member. And let me say there that I regret greatly the indisposition that the Senator from Utah has at the present time that resulted in his not being here during a good part of the consideration of the bill on the floor. We all wish him a quick and complete recovery.

We all wish for the Senator from Utah a quick and complete recovery.

The Senator from Massachusetts (Mr. BROOKE), the Senator from Oregon (Mr. PACKWOOD), the Senator from Delaware (Mr. ROTH), the Senator from Tennessee (Mr. BROCK), and the Senator from Ohio (Mr. TAFT) are also members of the committee.

We owe a debt to all of them for working out a most complicated and difficult bill and working it, I believe, into a good bill. I think the bill that that committee agreed upon was worked out very much in full agreement. That does not mean that everybody agreed to everything in it, or that anybody agreed to everything in it. I will not say that anybody was completely satisfied with just every feature that went into the bill, but by working together we did work out what I consider to be a good bill.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. SPARKMAN. I yield myself an additional 5 minutes.

I do not know whether the program is going to succeed or not. Nobody knows. It is going to depend greatly upon the administration. We have tried to give them the powers and the flexibility that we thought they needed in order to make this program work.

Mr. President, I have heard comments from time to time about one party being for it and another one being against it. I have even heard the suggestion made—and I am sure that other Democrats have heard this suggestion made—as to why we were working so hard to develop a program that will reelect the President of the United States.

I have not regarded it in that light, and I do not believe a single member of our committee regarded it in that light. We had as fine a nonpartisan effort in the committee as any piece of legislation has received in any committee.

My answer when that suggestion was made to me was simply that we are in an economic crisis. We have recognized that fact. The President has recognized that fact. He has proposed a program which he believes will stabilize our economy, and I feel that the important thing before us today is stabilizing the economy of the United States and that we should not consider the political angle of it at all. It is in that spirit and in that sense that I feel the entire committee has worked during this month and 1 day that we have been working on it. I hope it works. I told the President when he first announced the program that I was going to support him and that I was going to do everything I could to help him make it work. I hope that all of us in this Senate—in fact, all of us in this country—take that attitude toward it because it is of vast importance to our country, and we should take it in that sense.

I reserve the remainder of my time.

Mr. GOLDWATER. Will the Senator from Texas yield to me 3 minutes?

Mr. TOWER. I yield the Senator from Arizona 3 minutes.

The PRESIDING OFFICER. The Senator from Arizona is recognized for 3 minutes.

Mr. GOLDWATER. Mr. President, I think the committee is to be congratulated on having done a rather remarkable job on a subject that I know has been distasteful to many members of that committee. I look upon this wage and price and rent control effort, the economic stabilization effort, as a last-resort type of legislation. I do not feel that the President ever honestly had his heart in it. I do not think the committee ever honestly had their hearts in it, but I know that the President, the committees, and the Congress have tried everything in their legal power, and the Treasury Department has tried everything in its legal power, to stop inflation in this country, and none of those things have worked.

So I have looked upon this since the President first announced it as a last-ditch effort that seems to be working. I believe it is working because the people of this country recognize in the step that was taken a degree of leadership that this country has been lacking for a long time.

Mr. President, I have never had any confidence in my years of business experience and economic studies that wage and price controls could work in a free economy. I do not think they can ever work in the type of republic in which we live. I do not think they even work well under the controlled governments of the Soviets, or other controlled governments of the world. Control of an economic system is not compatible with a free society any more than a free society is compatible with a socialized economic system.

Mr. President, I am going to be forced to vote against this bill. I do it with great reluctance because I do not like to seem to oppose my President. I have gone out across this country and made the same expression, that I hope it will work. I do not think my economic background will let me say it will work, but I hope it does work. This vote will undoubtedly be interpreted as a vote against my President. It is not, because I will continue to go across this country and urge the American people to cooperate. The danger is we are not going to get the cooperation.

I am shocked at Mr. Meany. I am shocked at other labor leaders. I am shocked at leaders in segments of the employers of our country, who in effect are thumbing their noses at the efforts of Congress and our President to stabilize an inflation that has pretty well gotten out of hand.

Mr. President, my vote will be in keeping with my lifelong feeling that only a free market can make the determinations of wages and prices and rents. Only a free market can operate within a free society such as we live in.

My great fear is that as honest and sincere as the President is, as honest and sincere as the committees of Congress have been, as honestly and sincerely as every man who will vote for this measure feels that this is only a temporary thing, I have a strange and ugly feeling that we will have controls with us for the remainder of our lives.

I see our country changing, eventually changing from the free society to a less free society because of this and no one in this Chamber hopes I am more wrong than I do. I pray to God I am wrong, but my background, my life in public, my life spent studying the economy of a free market forces me to vote against the bill.

Mr. PROXMIRE. Mr. President, will the Senator from Alabama yield to me for 10 minutes?

Mr. SPARKMAN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 22 minutes remaining.

Mr. SPARKMAN. I yield 15 minutes to the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I oppose this bill and I will vote against it. I think we will make a serious mistake in passing this bill. The bill will create great hostility, frustration, and confusion. It just will not do the job. I say this although there are improvements that the committee made in the bill and that the Senate made when the bill came to the floor of the Senate.

Before the bill came to committee, it provided no standards to measure, or direct, or restrain the President's discretion. It just gave the President the opportunity to restrict wages and prices as he deemed appropriate. We provided standards. The administration wanted complete exemption from the Administrative Procedure Act. We amended the bill to provide our limited exemption from the Administrative Procedure Act.

We strengthened the judicial review section; we provided a low-income exemption, which I think most people who believe in equity and justice will recognize was highly desirable. We provided for retroactive pay which the bill originally failed to provide. We provided for treble damage suits as a matter of protection. But in my judgment, that has been wiped out by the action just taken by the Senate in passing the Inouye amendment. After all, as we pointed out, under the Inouye amendment it will be very difficult, virtually impossible, for a consumer to be effective in stopping and exposing a dishonest merchant.

We provided for Senate confirmation of the two chairmen. We provided for reports to be made quarterly to Congress and an inclusion in the President's economic report on how the measure is working.

We provided for public hearings before the Wage Board and the Price Board. That had not been provided before.

The Senator from New York (Mr. JAVITS) and the Senator from Illinois (Mr. PERCY) provide in their amendments for some very useful provisions to encourage productivity which had been overlooked.

The Senator from New Mexico introduced an amendment which was accepted which would stop back-door spending.

All of these are substantial improvements, but when all is said and done, it seems to me this is a very bad bill. It will appear hypocritical to many people who consider it.

What we have done, in effect, is exempt the Chase Manhattan Bank. We exempt the Bank of America, CBS, NBC, the New York Times, Inc. But we have included every little mom-and-pop store in the country, every drugstore, every little machinist operating his own little machine shop. We do nothing to assure that this now will be enforced. Three thousand IRS agents are not enough to enforce a law which requires compliance by 10,000 firms and 80 million working people in this Nation, especially when the consumer provision has been gutted.

There will be a tremendous temptation to cheat, and especially in the amendment we just agreed to; and there will be great economic pressures and temptation for sellers to raise prices when enforcement is nil.

Most businessmen will be very confused by the regulations of the Price Commission. To raise prices, it will be necessary to know productivity, margin of profit, and to have a reliable cost accounting system. For small business this is impossible. But we did all this and we provided an extension of this law for 17 full months for no reason except that the Senate was unwilling for no good reason to agree to take this up next year when we could act with some experience under the law.

The present law does not expire until April 30; the President has all the authority he needs. Congress should have waited until we had some real idea on what the Wage Board and Price Commission were going to do. But we did not do that; we decided to pass this measure after the Nation has had only a few days' experience with phase II.

The coverage of this bill is far too broad. It does not make any sense at all for us to cover every small firm. They are not part of the inflation problem. They are going to be bewildered, confused, and increasingly angry about that law.

I placed in the RECORD documentation from top economists saying these firms should be exempted and there was not one word of rebuttal offered in the course of this debate from any competent economist.

This legislation is too broad in another sense. It provides, because it is open ended, that the President can institute any kind of phase III regulations he wishes. They can be much tougher; they can be much softer; he can abolish the Pay Board, he can abolish the Price Commission and create a new one, and he can place a freeze on wages and prices. The Senate is giving him that kind of authority with general and feeble guidelines, and we are giving it to him not for 2 months or 6 months or a year but for about a year and a half. Why? Why not wait for 3 or 4 months and see if it is needed. The President has ample power until April 30. We have turned our back on our economic responsibilities and said let the President do whatever he wishes.

There is one area that has not been discussed at all in this debate but it is very important to our economy. Inflation is a big problem but not the biggest. The biggest problem is unemployment—economic stagnation. This measure will aggravate that situation. It creates uncertainty and a situation in which the businessman will not know whether he can invest or expand. Mr. John Conner, president of Allied Chemical made that point only last Sunday. He said phase II has already slowed that great corporation.

Mr. President, having said all of this I would like to agree with the Senator from Arizona (Mr. GOLDWATER). I hope I am wrong as he hopes he is wrong. I hope this works. The well-being of our country depends on this working well, but it would be a miracle comparable to walking on the water if this bill, providing so little in the way of enforcement and so much in the way of complexity, would have any chance of working.

As I said, I will vote against the measure with a heavy heart and I know it will be passed overwhelmingly.

Mr. HARRIS. Mr. President, will the Senator yield?

Mr. SPARKMAN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 12 minutes remaining?

Mr. SPARKMAN. Mr. President, I yield 5 minutes to the Senator from Oklahoma.

Mr. HARRIS. Mr. President. I thank the distinguished manager of the bill for yielding time to me.

I intend to vote against the bill. I believe the Senate of the United States is about to make a very grave mistake in the passage of this legislation. I believe that it is a mistake which on the domestic scene is comparable to the Gulf of Tonkin resolution in regard to Vietnam, which passed the Senate prior to the time I came here. If I had been here I suppose I would have voted for that resolution and I would have lived to regret it, as many who did vote for it now regret it.

I believe that the economy of this country is at the pivotal stage and I think we can decide tonight, and I am afraid we are going to decide tonight what direction we are going to go.

There is a system called the Zaibatsu system which prevailed in Japan prior to World War II. It was an economic system dominated by huge corporate industrial giants, which were pretty much synonymous with the government. They were able to dominate government economic policy. I am afraid that is the direction in which we are going. I believe this legislation is ill advised.

But I do not think it is a mistake that we can lay entirely at the door of President Nixon. I think it is primarily his mistake, but I must say also, as a former chairman of the Democratic National Committee, that I think there is blame enough to go all the way around, including many of my colleagues in the Democratic Party.

I think there are some Democrats, unfortunately, who intend to vote for this legislation with the idea that we ought to give President Nixon whatever powers he wants, and then—sort of under the idea of if we give him enough rope, he will hang himself—we can hold him responsible for the failures of this program. I disagree with that.

I believe, first of all, this system is much too complicated. There are so many overlapping boards and commissions involved with this economic management system that there is no way the average system can have its power felt. We have a Pay Board, a Price Board, a Health Advisory Board, an Interest and Dividends Board, a Cost of Living Council, a Productivity Commission, some kind of thing called Inflation Alert that the Council of Economic Advisers is supposed to administer, and there are several others, including the Office of Emergency Programs, or whatever it is called, and the Office of Management and Budget. It is a labyrinth, a maze, a bureaucratic mess. It is much too complicated. That is No. 1.

Also, we are granting too much power to the President of the United States for much too long a period, and I think we are all going to be awfully sorry about that. Seventeen months is much too long a period. The people of this country are going to be sick and tired of this whole mess long before the 17 months are over. It is not going to be enough for either a Democrat or a Republican to say, "It was up to the President. We thought he ought to decide these matters." I believe if we grant these unprecedented powers for that long a period of time and abdicate our responsibilities, many here are going to have hard and distasteful results to answer for.

I think this ought to be an issue in the 1972 campaign. I think, therefore, the legislation ought not to be extended into 1973, but ought to end in 1972.

Mr. DOMINICK. Mr. President, will the Senator yield?

Mr. HARRIS. I yield.

Mr. DOMINICK. If I remember correctly what the Senator said, on several occasions he stated that the President had been wrong in not putting these controls into effect earlier, that he had been pressing for this for 2 years before they were put into effect, and that the time was long past when they should have been put into effect.

Mr. HARRIS. The Senator comes from the mile high city and may be suffering from altitude sickness, because his memory is imperfect. I have said on many occasions, particularly 2½ years ago when I introduced related legislation, and more lately in connection with this legislation, in regard to amendments which I and the Senator from Wisconsin and other Senators have offered in connection with this legislation——

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. HARRIS. May I have 1 other minute?

Mr. TOWER. I yield 1 minute to the Senator.

Mr. HARRIS. That we ought to have selective controls, where the market does not operate with regard to wages and prices because of large industrial or labor power, and that we ought to try to make the market work. I believe in the free enterprise system, and I would hope the Senator from Colorado would reiterate his belief in it, rather than to endorse the socialistic program which I believe this legislation represents.

Mr. DOMINICK. Mr. President, will the Senator from Texas yield me 30 seconds?

Mr. TOWER. I yield 30 seconds to the Senator.

Mr. DOMINICK. I want to say to the Senator from Oklahoma that I am very proud of coming from the mile high city. It gives one a very good perspective and a good imagination. I did not appreciate the previous remarks of the Senator.

Mr. HARRIS. I did not appreciate the Senator's memory, either.

Mr. BYRD of West Virginia. Mr. President, will the Senator from Texas yield me 1 minute?

Mr. TOWER. I yield 1 minute to the Senator from West Virginia.

PROGRAM—UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD of West Virginia. Mr. President, I am authorized by the distinguished majority leader—after consulting with the distinguished Republican leader, with the distinguished Senator from Colorado (Mr. DOMINICK), with the distinguished Senator from Wisconsin (Mr. NELSON), and other Senators, to propound the following unanimous-consent request:

I ask unanimous consent that upon the disposition of the so-called drug bill, S. 2097, on tomorrow, the Senate proceed immediately to the consideration of the OEO conference report; provided, that there be a time limitation thereon of 3 hours and 15 minutes, 3 hours to be under the control of the distinguished Senator from New York (Mr. JAVITS) or his designee, 15 minutes to be under the control of the distinguished Senator from Wisconsin (Mr. NELSON); provided further, that time on any motion or appeal, with the exception of nondebatable motions, be limited to 30 minutes, to be equally divided between the mover of such and the distinguished Senator from Wisconsin (Mr. NELSON).

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The unanimous-consent agreement follows:

Ordered, That, effective after the disposition of S. 2097, the Senate proceed to the consideration of the Conference Report on S. 2007, the Economic Opportunity Act, with time for debate on the Conference Report limited to 3 hours and 15 minutes of which 3 hours is to be divided and controlled by the Senator from New York (Mr. JAVITS) or his designee and the 15 minutes by the Senator from Wisconsin (Mr. NELSON).

Provided further, That time on any motion, appeal or point of order with the exception of non-debatable motions be limited to 30 minutes to be equally divided and controlled by the mover and the Senator from Wisconsin (Mr. NELSON) (December 1, 1971)

ECONOMIC STABILIZATION ACT OF 1971

The Senate continued with the consideration of the bill (S. 2891) to extend and amend the Economic Stabilization Act of 1970.

Mr. TOWER. Mr. President, I yield 5 minutes to the distinguished Senator from Virginia.

Mr. BYRD of Virginia. Mr. President, frankly, I am not optimistic that this legislation will get inflation under control.

If this legislation is approved, I hope neither the Congress nor the administration will assume that this in itself will lick inflation.

The heart of the problem of inflation is not touchd by this legislation—namely, the smashing Federal funds deficit of the Federal Government.

The deficit last year was $30 billion—and the Joint Committee on Internal Revenue Taxation estimates the Federal funds deficit for the current year will reach $35 billion.

These deficits are the major cause of inflation.

I shall cast my vote in favor of the present legislation—namely to extend the Economic Stabilization Act of 1970.

But with the Federal Pay Board having already approved a 16-percent increase in wages for one large group of workers—and with many price increases already approved—the prospect for a stabilized economy is not too bright.

I shall vote to give the executive branch of government the tools to achieve stabilization in the private sector.

I want to stress again, however, that the smashing deficits of the Federal Government represent the major cause of the inflationary spiral in which this Nation finds itself.

I have prepared a tabulation showing the receipts and outlays for the 20-year period, fiscal 1953 through 1972.

The accumulated Federal funds deficits for that period is $188.8 billion.

But the significant aspect of these figures is that 67 percent of this total occurs during the 6 fiscal years ending next June 30.

Sooner or later the Congress must—must—give consideration to these deficit spending figures.

I say again, deficit spending by the Federal Government is the major cause of the inflation the Nation is experiencing today. And it is to control inflation that President Nixon has put into effect wage and price controls.

But I see no indication that either the Congress or the administration is prepared to reduce spending. In fact, the administration urged the Congress to increase the amount appropriated for foreign aid from $1.9 billion in 1970 to $3.5 billion for 1972—almost double; it is urging Congress to enact a new $1.5 billion program dealing with school desegregation; and worst of all, it is strongly urging the Congress to approve a new welfare proposal that would increase the annual cost at least $5.5 billion.

The President submitted a budget badly out of balance—and the Congress added to the imbalance.

So a reasonable reduction in Federal spending does not now seem apparent.

We do not get something for nothing in this life, and Federal spending must be paid for either by more taxes or by more inflation—or both.

I ask unanimous consent to insert at this point in the Record a tabulation showing deficits in Federal funds, 1953–1972, inclusive.

There being no objection, the tabulation was ordered to be printed in the Record, as follows:

DEFICITS IN FEDERAL FUNDS 1953-72 INCLUSIVE

[In billions of dollars]

	Receipts	Outlays	Surplus (+) or deficit (−)
1953	$64.7	$74.1	−$9.4
1954	64.4	67.5	−3.1
1955	60.2	64.4	−4.2
1956	67.9	66.2	+1.7
1957	70.6	69.0	+1.6
1958	68.6	71.4	−2.8
1959	67.9	80.3	−12.4
1960	77.8	76.5	+1.3
1961	77.7	81.5	−3.8
1962	81.4	87.8	−6.4
1963	83.6	90.1	−6.5
1964	87.2	95.8	−8.6
1965	90.9	94.8	−3.9
1966	101.4	106.5	−5.1
1967	111.8	126.8	−15.0
1968	114.7	143.1	−28.4
1969	143.3	148.8	−5.5
1970	143.2	156.3	−13.1
1971	133.6	163.8	−30.2
1972[1]	143.0	178.0	−35.0
20-year total	1,853.9	2,042.7	188.8

[1] Estimated figures.

Source: Office of Management and Budget, except 1972 estimates.

The PRESIDING OFFICER. Who yields time?

Mr. TOWER. Mr. President, I yield myself such time as I may require.

Mr. President, I am one who passionately believes in a market-regulated economy, and one who votes for these control authorizations most reluctantly. I have long said that controls should be exercised only as a last resort. I passionately believe in the democracy of the marketplace, and I believe that economic democracy is an essential part of democracy, that there can be no democracy without the democracy of the marketplace.

Not only must we have free legal and political institutions, but the general citizenry must be free to cast a ballot in the marketplace to determine what goods and services are going to be produced.

The fact of the matter is, Mr. President, that we do not have a market-regulated economy today. The largest, most significant, most important commodity in this country does not have a market-regulated value. I speak of that great human commodity, labor. Organized labor in this country operates behind a statutory wall of protection that enables it, even in a time of high unemployment, even in a time of low supply and demand factor, even in a time when we are not operating at capacity, to demand and to get wage increases that are not tied to increases in per-man productivity.

It is time that we did something with these antiquated labor laws, and I am hopeful that we will address ourselves to that problem in the period covered by the extension of the Presidential authority through April of 1973.

It is not a market-regulated economy when Government can arbitrarily move into the money market through its deficit-spending policies and bid up the cost of money.

I think we have to recognize these factors, and begin to set our house in order. This is only one step. As I say, we have got to revise this statutory wall of protection around organized labor. We have got to discipline ourselves in Congress to cause the Government to live within its means. There are many things which we must do, but in the interim, the situation is so critical that we must act now to impose controls of a temporary nature; and I shall not vote to extend them beyond April 30 of 1973. We must do everything that we can to try to make them work, to hasten them to a conclusion.

Phase II is supposed to be a period of decontrol. Let us hope it occurs long before the expiration date occurs.

Mr. HARRIS. Mr. President, will the Senator yield?

Mr. TOWER. In a moment. I should like to say a word, and I would be remiss if I did not, to express my thanks to the distinguished Senator from Alabama for the tremendous job he has done and the selfless, nonpartisan manner in which he has done it. I think he has shown that he is a singular patriot and a man who is not concerned about personal matters, but that he is above politics in the way that he has operated. It has been a great pleasure and delight to serve with him.

Mr. President, after I respond to a question by the Senator from Oklahoma, I shall yield back the remainder of my time, because Senator Humphrey needs to catch a plane.

Mr. HARRIS. I say for the Senator from Minnesota that is one of the nicest things the Senator from Texas has ever done for us.

I ask the Senator just this: He has said that he is concerned about the inordinate power of organized labor. Does the Senator feel that the coal miners' settlement was inflationary, and if so, was that not made under the very system which he now recommends to the Senate?

Mr. TOWER. I respond to the Senator by saying that I certainly did not support the settlement, and I certainly reserve the right to be critical of what the Commission and the Board both do, and from time to time will be. I recognize that there is a special situation in the coal industry; it is hard to get people to work in the mines, because it is a rotten, lousy occupation. I would chop cotton before I would ever go into the mines, and I never want to chop cotton again. I have done that.

Mr. HARRIS. So have I.

Mr. TOWER. But I think basically the problem is that it is hard to keep young people in the coalfields. That probably is one of the extenuating circumstances, but certainly not extenuating enough to justify the settlement they got.

Mr. SPARKMAN. Mr. President, I thank the Senator from Texas for the kind remarks he has made, and I certainly would pay him back in full, because he is a wonderful person to work with.

Again, I wish to pay compliments to our staff on both sides. They have done a fine job in preparing this bill and in preparing the committee report, which was done in a hurry, under pressure. Our staff director, Mike Burns, the minority counsel, Kenneth McClain, with Senator Proxmire, and all of the other members of the staff are to be commended.

I now yield 2 minutes to the Senator from Mississippi.

Mr. STENNIS. Mr. President, I thank the Senator, and I shall not use all of that time. I have certainly been impressed with the work of the committee in this very difficult field.

Mr. President, I have seen this inflation come on and grow, and even though this control is contrary to our system and contrary to our concept of individual liberty, and even though we do not like controls, I think this measure is absolutely necessary, and I have supported this measure all the way through. I think I have voted against all the amendments. It is somewhat similar to castor oil; you have either got to take it or leave it, and take is all if you take it.

I think the people are for it, but I believe now there is going to be a reaction to the injustices that will show up, and I want to warn the people that we will have to live with this thing awhile if it is going to do any good. I hope that that will be understood throughout the country. I again commend the committee for their fine work.

This is a cost we have to pay, I think, for our affluent society. Times are just so good that prices are running away, and inflation threatens to destroy us.

Mr. SPARKMAN. Mr. President, I yield back the remainder of my time.

Mr. TOWER. I yield back the remainder of my time.

Mr. STEVENSON. Mr. President, the purpose of phase II is to reduce the rate of inflation by something more than 1 percent annually. To do so we are called upon to give up the benefits of a free economy. We are called upon to compromise, temporarily it is said, our traditional commitment to the market system.

I grant you the economy does not always adhere to the free market ideal. But still it served as a mechanism for allocating goods and services among potential buyers. We are asked to substitute a comprehensive system of administrative controls for a highly complex, delicate, and self-adjusting system. We are asked to do so in peacetime with industry operating at only about 75 percent of capacity and with no excess demand to cause the inflation.

This legislation does not reach the causes of this inflation. It deals with symptoms. It perpetuates inequities. It risks a deepened recession and more confusion in the marketplace.

The confusion has begun. Without an elaborate bureaucracy prices and wages will not be effectively controlled in small business. For a hardware or grocery store owner to determine permissible price increases he must first predict the productivity increases of his employees and his profit margins. He will have to guess in most cases. His customers would not know if his prices are within the guidelines.

Workers would not know if their wages can be increased. Wage increases cannot average more than 5.5 percent for all members of an economic unit, so both the worker and the employer will have to calculate any prospective wage increase against the increases of all the other ill-defined workers in the average.

In large industries, notably coal and steel, the Pay Board seems to be institutionalizing the cost-push nature of the inflation. Large wage increases will be reflected in large price increases. The result is to ignore productivity gains as a wage increase yardstick.

The consumer is without guidance. Labor and management do not know each what to demand of the other. Efficient production is discouraged because profits and dividends are somehow to be held back. Inefficient production is encouraged, judging from the coal and steel settlements. Windfall profits are proscribed, but no one is quite sure what they are or how they can be eliminated—except by price rollbacks after the fact. And business and consumer confidence is diminished.

These uncertainties could further retard expansion by businessmen and spending by consumers. The sheer administrative load of seeking opinions and rulings from governmental agencies, law firms, accountants, and unions could retard expansion.

Some years hence, after all this chaos and the administration's unusual record of economic mismanagement, it may be wondered how the Congress could have extended the administration's power over the economy. It may be wondered why the Congress did not curtail those powers instead of enacting its economic Gulf of Tonkin resolution. With all the evidence of mismanagement before us we are, indeed, about to extend the administration's almost absolute power over the economy for yet another year. A word of explanation is in order.

We might not be at this point of saddling ourselves, perhaps indefinitely, with peacetime controls if Mr. Nixon had not scorned voluntary wage-price guidelines. He could still resort to "jawboning." I would prefer that he did. And I would be prepared to give him the standby authority with which to roll back excessive wage and price increases in those sectors of the economy where free market forces do not control them. "Administered" price increases could be rolled back without attempting controls of all prices. We could recognize the cost-push nature of this inflation. We could recognize the need for means of settling wage disputes without inflationary wage increases or crippling work stoppages. We could reform the laws of collective bargaining for critical industries, giving the process some finality. Our tax policies could give incentives to increased consumer spending.

Nothing would help the Nation more than to reorder national priorities, shifting more government spending to wealth-producing schools, housing, and mass transit facilities and away from inflationary, wasteful, and potentially destructive weapons systems.

But these are not our options. Our choice is to continue the President's power—and the controls—or not to. Having continued this course today, we may next year this time be faced with the same hard choice and be forced to make the same decision to continue—always for a little longer. This could be but the beginning of peacetime controls. But to take them off as of April 1972 would invite more confusion and another round of excessive price and wage increases. To continue them for another year would at least give the administration the chance it wants to break the inflationary psychology, permitting decontrol in 1973. It would also give the Congress more time in which to consider more means of decontrolling the economy.

I, therefore, will vote for the bill, but reluctantly—and because I have no alternative. If anything could be more destructive of our economic well-being than to continue controls, it would now be to discontinue them. That is the corner we are in. Mr. Nixon has given us no choice except to sustain today what he, and many like myself, opposed yesterday.

The Banking, Housing and Urban Affairs Committee has vastly improved the bill presented to it by the administration. The bill in its original form gave dictatorial powers to the Government. The rights of aggrieved individuals to file suits against offenders and seek review of Government decisions were virtually nonexistent. But the committee made changes which guarantee the minimums of due process. The lack of procedural safeguards is no longer a reason for opposing this legislation.

And so Mr. President, I will cast my vote for this unfortunate legislation. And it will remain my aim to seek a free economy with full employment and a low rate of inflation.

Mr. NELSON. Mr. President, with great reluctance, I am voting in favor of the President's phase II economic legislation.

I supported the President when he first called for controls. Indeed, I wish he had acted much sooner; as long ago as June 1968 I was calling for controls to halt the inflation.

However, the program before us today is seriously flawed.

First, it is unlikely to work effectively.

The major prerequisite for an effective wage-price program is public confidence. But at the present time, the American people are confused and bewildered about this program. And this legislation goes only part way in answering the public's doubts.

For instance, there is no requirement that the major corporations—those with annual sales over $50 million—justify publicly their price increases. When a labor union wins a wage increase, all the essential information is in the public domain. The same goes for most of the small corporations. But when a large, diversified corporation obtains a price increase—whatever its size—the public is barred from finding out the basis on which the increase was granted. This information remains a secret shared only by the Price Commission and the large corporations.

In theory, consumers have the right to bring civil suits against those who violate the price guidelines. In practice, these remedies will be of no benefit if consumers cannot determine a firm's profit margin, its costs, and its productivity—all of which must be known to determine if a particular price increase is legal.

The legislation is also much too broad in scope. It covers 10 million business firms but it fails to provide for an adequate mechanism to regulate all these businesses.

This total coverage is unnecessary since it is a relatively small number of giant corporations—and unions—that require controls in order to accomplish the President's objective.

It is also a prescription for mass confusion. According to Chairman Grayson, a business must be able to measure its productivity before it can increase its prices. Most small business firms will be impossibly and unfairly handicapped because they do not have the complex data needed to justify a price increase.

It would be far preferable to exempt these small firms from the controls than to subject them to such arbitrary and unfair treatment for no good reason.

The second major objection to this legislation is that it, in effect, gives the President a blank check for the next 17 months.

No one knows whether, or how, the program will work. This is not surprising: such sweeping controls are unprecedented in peacetime in this country. We do not know whether the present arrangements will prove overly restrictive—so that some form of decontrol will be required—or whether even tighter controls will be imposed in response to continued inflation.

This is hardly the time for Congress to hand over to the Executive total powers over economic policy. Rather, we should wait until April 30, 1972, when the present legislation expires. At that time, Congress could reexamine and revise the present system of controls in light of past experience. I shall vote for the bill, not because it is a good bill but because it is better than no bill at all.

Mr. McCLELLAN. Mr. President, no one likes economic restrictions or controls. They are an anathema to every American. Indeed, we have become a great and affluent Nation because our system of enterprise has remained virtually free from such restraints.

But the repugnancy of such inhibitions and their contrast with our accustomed way of life is now overcome by many compelling and urgent reasons for us to extend and implement the authority we previously granted the President to impose such guidelines. The arguments set forth earlier in the 91st Congress to give the administration these economic stabilization tools are just as cogent today.

Runaway prices and wages have left millions of retirees and others on social security or with fixed incomes in a state of severe hardship and want. The consumer price index continues to rise—while the wholesale price index has deescalated only slightly in recent months.

We have not won our battle against the rampant inflation which has shriveled the dollar's purchasing power to half of what it was in 1946—and by 12 cents in the past 2½ years alone.

We have not eliminated the sluggishness from our economy—our productivity still limps along at the lowest rate of any industrial country of the world—our plant capacity is still 27 percent off its maximum operative level.

We have not eradicated our high unemployment—it still hovers around 6 percent and causes over 5 million Americans to remain unemployed.

We have not reversed our worst balance-of-payment deficit in history. Since 1960 the United States has invested, spent, loaned, and given away to foreign countries about $40 billion more than it has earned from its overseas trade and investments—over $23 billion of this imbalance occurring during the first three quarters of this year. As a result, foreign claims against the dollar have soared to a point where they are now five times larger than our gold reserves.

We have not improved our export-import balance and for the first time this century will run a trade deficit this year—perhaps as high as $5 billion.

These are just some of the facts of our continued and worsening economic condition, Mr. President. They are not pleasant realities. But we must face up to them. And we must halt their scourge if we are to avert economic calamity.

There are no easy avenues to economic revitalization—no panaceas for instant recovery—no quick remedies for the pernicious evils of inflation. Phase II, like its predecessor, is not perfect. Many uncertainties still persist. Many details are still forthcoming. But this economic stabilization plan does provide a mechanism for all sectors of our economy—business, labor, and government—to mount a concerted attack against the forces of inflation and economic instability.

It does offer some hope for a reasonable and effective program to check the excesses which have created the adverse conditions from which we suffer.

It affords a rallying point for our people to voluntarily and willingly do their share—to make the self-sacrifices required—to expend that extra effort and hard work that may be necessary.

It seeks to unite this country behind the Government's anti-inflationary drive.

It creates a national commitment—it offers a national purpose—to end the economic deprivation now confronting us.

Mr. President, let us put partisan politics aside—as we have on so many occasions past—and put America back on the right economic track. Let us strive together to quell the flames of inflation and recession and ignite the fires of productivity and employment.

I give my fullest support to S. 2891 and the policies and practices of economic stabilization which I hope it will afford.

The PRESIDING OFFICER (Mr. CRANSTON). All time having been yielded back, the question is, Shall the bill pass?

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Florida (Mr. CHILES), the Senator from Georgia (Mr. GAMBRELL), the Senator from Indiana (Mr. HARTKE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Maine (Mr. MUSKIE), are necessarily absent.

On this vote, the Senator from Georgia (Mr. GAMBRELL) is paired with the Senator from South Dakota (Mr. MCGOVERN). If present and voting, the Senator from Georgia would vote "yea," and the Senator from South Dakota would vote "nay."

I further announce that, if present and voting, the Senator from Florida (Mr. CHILES) and the Senator from New Jersey (Mr. WILLIAMS) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Ohio (Mr. SAXBE) is absent on official business.

The Senator from Utah (Mr. BENNETT) and the Senator from South Dakota (Mr. MUNDT) are absent because of illness.

The result was announced—yeas 86, nays 4, as follows:

[No. 427 Leg.]

YEAS—86

Aiken
Allen
Allott
Anderson
Baker
Beall
Bellmon
Bentsen
Bible
Boggs
Brock
Brooke
Buckley
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Case
Church
Cook
Cooper
Cotton
Cranston
Curtis
Dole
Dominick
Eagleton
Eastland
Ellender
Ervin
Fannin
Fong
Gravel
Griffin
Gurney
Hansen
Hart
Hatfield
Hollings
Hruska
Hughes
Humphrey
Inouye
Jackson
Javits
Jordan, N.C.
Jordan, Idaho
Kennedy
Long
Magnuson
Mansfield
Mathias
McClellan
McGee
McIntyre
Metcalf
Miller
Mondale
Montoya
Moss
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Randolph
Ribicoff
Roth
Schweiker
Scott
Smith
Sparkman
Spong
Stafford
Stennis
Stevens
Stevenson
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Young

NAYS—4

Fulbright
Goldwater
Harris
Proxmire

NOT VOTING—10

Bayh
Bennett
Chiles
Gambrell
Hartke
McGovern
Mundt
Muskie
Saxbe
Williams

So the bill (S. 2891) was passed, as follows:

S. 2891

An act to extend and amend the Economic Stabilization Act of 1970

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Economic Stabilization Act Amendment of 1971".

ECONOMIC STABILIZATION ACT OF 1970

SEC. 2. Title II of the Act entitled "An Act to amend the Defense Production Act of 1950, and for other purposes", approved August 15, 1970 (Public Law 91–379), as amended, is amended to read as follows:

"TITLE II—COST OF LIVING STABILIZATION

"§ 201. Short title

"This title may be cited as the 'Economic Stabilization Act of 1970'.

"§ 202. Findings

"It is hereby determined that in order to stabilize the economy, reduce inflation, minimize unemployment, improve the Nation's competitive position in world trade, and protect the purchasing power of the dollar, it is necessary to stabilize prices, rents, wages, salaries, dividends, and interest. The adjustments necessary to carry out this program require prompt judgments and actions by the executive branch of the Government. The President is in a position to implement promptly and effectively the program authorized by this title.

"§ 203. Presidential authority

"(a) The President is authorized to issue such orders and regulations as he deems appropriate, accompanied by a statement of reasons for such orders and regulations, to—

"(1) stabilize prices, rents, wages, and salaries at levels not less than those prevailing on May 25, 1970, except that prices may be stabilized at levels below those prevailing on such date if it is necessary to eliminate windfall profits; and

"(2) stabilize interest rates and corporate dividends and similar transfers at levels consistent with orderly economic growth.

Such orders and regulations shall provide for the making of such adjustments as may be necessary to prevent gross inequities, and shall be consistent with the standards issued pursuant to subsection (b).

"(b) In carrying out the authority vested in him by subsection (a), the President shall issue standards to serve as a guide for determining levels of wages, salaries, prices, rents, interest rates, corporate dividends, and similar transfers which are consistent with the purposes of this title and orderly economic growth. Such standards shall—

"(1) be generally fair and equitable;

"(2) provide for the making of such general exceptions and variations as are necessary to foster orderly economic growth and to prevent gross inequities, hardships, serious market disruptions, domestic shortages of raw materials, localized shortages of labor, and windfall profits;

"(3) take into account changes in productivity and the cost of living, as well as such other factors consistent with the purposes of this title as are appropriate;

"(4) provide for the requiring of appropriate reductions in prices and rents whenever warranted after consideration of lower costs, labor shortages, and other pertinent factors; and

"(5) call for generally comparable sacrifices by business and labor as well as other segments of the economy.

"(c) (1) The authority conferred on the President by this section shall not be exercised to limit the level of any wage or salary (including any insurance or other fringe benefit offered in connection with an employment contract) scheduled to take effect after November 13, 1971, to a level below that which has been agreed to in a contract which (A) related to such wage or salary, and (B) was executed prior to August 15, 1971, unless the President determines that the increase provided in such contract is unreasonably inconsistent with the standards for wage and salary increases published under subsection (b).

"(2) The President shall promptly take such action as may be necessary to permit the payment of any wage or salary increase (including any insurance or other fringe benefit offered in connection with an employment contract) which (A) was agreed to in an employment contract executed prior to August 15, 1971, (B) was scheduled to take effect prior to November 14, 1971, and (C) was not paid as a result of orders issued under this title, unless the President determines that the increase provided in such contract is unreasonably inconsistent with the standards for wage and salary increases published under subsection (b).

"(d) No order or regulation issued under this section shall apply to the wages or salary of any individual receiving substandard earnings. The President shall prescribe regulations defining for the purposes of this subsection the term 'substandard earnings'. In no case shall such term be defined to mean earnings less than those resulting from a wage or salary rate which yields, on an annual basis, an income below the poverty level for a family of four (or an appropriated equivalent in the case of workers employed in part-time or seasonal occupations) as prescribed annually by the Office of Management and Budget.

"(e) The authority conferred by this section shall not be exercised to preclude the payment of any increase in wages—

"(1) required under the Fair Labor Standards Act of 1938, as amended, or effected as a result of enforcement action under such Act; or

"(2) required in order to comply with wage determinations made by any agency in the executive branch of the Government pursuant to law for work (A) performed under contracts with, or to be performed with financial assistance from, the United States or the District of Columbia, or any agency or instrumentality thereof, or (B) performed by aliens who are immigrants or who have been temporarily admitted to the United States pursuant to the Immigration and Nationality Act; or

"(3) paid in conjunction with existing or newly established employee incentive programs which are designed to reflect directly increases in employee productivity.

"(f) For the purposes of this section, the term 'wages' and 'salaries' do not include contributions by any employer pursuant to a compensation adjustment affecting less than one thousand employees for—

"(1) any pension, profit sharing, or annuity and savings plan;

"(2) any insurance plan; or

"(3) any disability and health plan;

unless the President determines that the contributions made by any such employer are unreasonably inconsistent with the standards for wage, salary, and price increases published under subsection (b).

"(g) The authority conferred on the President by this section shall not be exercised with respect to—

"(i) prices or rentals for materials furnished for publication by any press association or feature service,

"(ii) prices or rentals for books, magazines, periodicals, or newspapers, other than waste or scrap, or rates charged by any person in the business of operating or publishing a newspaper, periodical, or magazine, or operating a radio-broadcasting or television station, network, or cable television system, or

"(iii) wages, salaries, or commissions paid by any person in the business of operating or publishing a newspaper, periodical, or magazine, or operating a radio-broadcasting or television station, network, or cable television system, or paid by any press association or feature service or by any person engaged in the production or publication of books: *Provided, however*, That subsection (f) (iii) shall not apply to the wages, salaries, or commissions of entertainers: *And provided further*, That nothing herein shall deprive the President of authority to take appropriate action in the event of windfall profits resulting from the foregoing exemptions.

§ 204. Delegation

"The President may delegate the performance of any function under this title to such officers, departments, and agencies of the United States as he deems appropriate, or to boards, commissions, and similar entities composed in whole or in part of members appointed to represent different sectors of the economy and the general public. Members of such boards, commissions, and similar entities shall be appointed by the President by and with the advice and consent of the Senate; except that—

"(1) the foregoing requirement with respect to Senate confirmation does not apply to any member of any such board, commission, or similar entity (other than the Chairman of the Pay Board, established by section 7 of Executive Order Numbered 11627 of October 15, 1971, and the Chairman of the Price Commission, established by section 8 of such Executive order) who is serving, pursuant to appointment by the President, on such board, commission, or similar entity on the date of enactment of the Economic Stabilization Act Amendments of 1971, and who continues to serve, pursuant to such appointment, on such board, commission, or similar entity after such date; and

"(2) any person serving as Chairman of such Pay Board, and any person serving as Chairman of such Price Commission, on the date of enactment of the Economic Stabilization Act Amendments of 1971, may continue to serve in such capacity on an interim basis without regard to the foregoing requirement with respect to Senate confirmation until the expiration of sixty days after the date of enactment of the Economic Stabilization Act Amendments of 1971, and the provisions of sections 910–913 of title 5, United States Code, shall be applicable with respect to the procedure to be followed in the Senate in considering the nomination of such persons for such offices and references in such provisions to a 'resolution with respect to a reorganization plan' shall be deemed for the purpose of this section to refer to such nominations.

Where such boards, commissions, and similar entities are composed in part of members who serve on less than a full-time basis, legal authority shall be placed in their chairmen who shall be employees of the United States. Nothing in sections 203, 205, 207, 208, or 209 of title 18, United States Code, shall be deemed to apply to any member of any such board, commission, or similar entity who serves on less than a full-time basis because of membership on such board, commission, or entity.

"§ 205. Confidentiality of information

"All information reported to or otherwise obtained by any person exercising authority under this title which contains or relates to a trade secret or other matter referred to in section 1905 of title 18, United States Code, shall be considered confidential for the purposes of that section, except that such information may be disclosed to other persons empowered to carry out this title solely for the purpose of carrying out this title or when relevant in any proceeding under this title.

"§ 206. Subpena power

"The head of an agency exercising authority under this title, or his duly authorized agent, shall have authority, for any purpose related to this title, to sign and issue subpenas for the attendance and testimony of witnesses and the production of relevant books, papers, and other documents, and to administer oaths. Witnesses summoned under the provisions of this section shall be paid the same fees and mileage as are paid to witnesses in the courts of the United States. In case of refusal to obey a subpena served upon any person under the provisions of this section, the head of the agency authorizing such subpena, or his delegate, may request the Attorney General to seek the aid of the district court of the United States for any district in which such person is found to compel such person, after notice, to appear and give testimony, or to appear and produce documents before the agency.

"§ 207. Administrative procedure

"(a) The functions exercised under this title are excluded from the operation of subchapter II of chapter 5, and chapter 7 of title 5, United States Code, except as to the requirements of sections 552, 553, and 555(e) of title 5, United States Code.

"(b) Any rule, regulation, or order, or amendment thereto, issued under the authority of this title shall be accompanied by a statement that in the formulation thereof there has been consultation with persons, groups, or organizations directly and substantially affected by such rule, regulation, or order, or amendment thereto, and that consideration has been given to their recommendations, or that special circumstances have rendered such consultation impracticable. No such rule, regulation, or order is invalid by reason of a subsequent finding by judicial or other authority that such statement is inaccurate, unless the inaccuracy is substantial in character and is so found by such authority.

"(c) Any agency authorized by the President to issue rules, regulations, or orders under this title shall, in regulations prescribed by it, establish procedures which are available to any person for the purpose of seeking an interpretation, modification, or rescission of, or seeking an exception or exemption from, such rules, regulations, and orders. If such person is aggrieved by the denial of a request for such action under the preceding sentence, he may request a review of such denial by the agency. The agency shall, in regulations prescribed by it, establish appropriate procedures, including hearings where deemed advisable, for considering such requests for action under this section.

"(d) Rules, regulations, and orders promulgated under this title shall insofar as practicable also be designed to encourage labor-management cooperation for the purpose of achieving increased productivity, and the Executive Director of the National Commission on Productivity shall when appropriate be consulted in the formulation of policies, rules, regulations, orders, and amendments.

"(e) To the maximum extent possible, the President or his delegate shall conduct formal hearings for the purpose of hearing arguments or acquiring information bearing on a change or a proposed change in wages, salaries, prices, rents, interest rates, or corporate dividends or similar transfers, and such hearings shall be open to the public except that a private formal hearing may be conducted to receive information considered confidential under section 205 of this title.

"§ 208. Sanctions; criminal fine and civil penalty

"(a) Whoever willfully violates any order or regulation under this title shall be fined not more than $5,000 for each violation.

"(b) Whoever violates any order or regulation under this title shall be subject to a civil penalty of not more than $2,500 for each violation.

"§ 209. Injunctions and other relief

"Whenever it appears to any person authorized by the President to exercise authority under this title that any individual or organization has engaged, is engaged, or is about to engage in any acts or practices constituting a violation of any order or regulation under this title, such person may request the Attorney General to bring an action in the appropriate district court of the United States to enjoin such acts or practices, and upon a proper showing a temporary restraining order or a preliminary or permanent injunction shall be granted without bond. Any such court may also issue mandatory injunctions commanding any person to comply with any such order or regulation. In addition to such injunctive relief, the court may also order restitution of moneys received in violation of any such order or regulation.

"§210. Suits for damages or other relief

"(a) Any person suffering legal wrong because of any act or practice arising out of this title, or any order or regulation issued pursuant thereto, may bring an action in a district court of the United States, without regard to the amount in controversy, for appropriate relief, including an action for a declaratory judgment, writ of injunction (subject to the limitations in section 211), and/or damages.

"(b) In any action brought under subsection (a) against any person renting property or selling goods or services who is found to have overcharged the plaintiff, the court may, in its discretion, award the plaintiff reasonable attorney's fees and costs, plus whichever of the following sums is greater:

"(1) an amount not more than three times the amount of the overcharge upon which the action is based, or

"(2) not less than $100 or more than $1,000; except that in any case where the defendant establishes that the overcharge was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to the avoidance of such error the liability of the defendant shall be limited to the amount of the overcharge: *Provided*, That no action for overcharges may be brought by or on behalf of any person who has not first presented to the seller or renter a bona fide claim for refund of the overcharge and has not received repayment of such overcharge within a reasonable time.

"(c) For the purposes of this section, the term 'overcharge' means the amount by which the consideration for the rental of property or the sale of goods or services exceeds the applicable ceiling under regulations or orders issued under this title.

"§ 211. Judicial review

"(a) The district courts of the United States shall have exclusive original jurisdiction of cases or controversies arising under this title, or under regulations or orders issued thereunder, notwithstanding the amount in controversy; except that nothing in this subsection or in subsection (h) of this section affects the power of any court of competent jurisdiction to consider, hear, and determine any issue by way of defense (other than a defense based on the constitutionality of this title or the validity of action taken by any agency under this title) raised in any proceeding before such court. If in any such proceeding an issue by way of defense is raised based on the constitutionality of this title or the validity of agency action under this title, the case shall be subject to removal by either party to a district court of the United States in accordance with the applicable provisions of chapter 89 of title 28, United States Code.

"(b) (1) There is hereby created a court of the United States to be known as the Temporary Emergency Court of Appeals, which shall consist of three or more judges to be designated by the Chief Justice of the United States from judges of the United States district courts and circuit courts of appeals. The Chief Justice of the United States shall designate one of such judges as chief judge of the Temporary Emergency Court of Appeals, and may, from time to time, designate additional judges for such court and revoke previous designations. The chief judge may, from time to time, divide the court into divisions of three or more members, and any such division may render judgment as the judgment of the court. Except as provided in subsection (d) (2) of this section, the court shall not have power to issue any interlocutory decree staying or restraining in whole or in part any provision of this title, or the effectiveness of any regulation or order issued thereunder. In all other respects, the court shall have the powers of a circuit court of appeals with respect to the jurisdiction conferred on it by this title. The court shall exercise its powers and prescribe rules governing its procedure in such manner as to expedite the determination of cases over which it has jurisdiction under this title. The court shall have a seal, hold sessions at such places as it may specify, and appoint a clerk and such other employees as it deems necessary or proper.

"(2) Except as otherwise provided in this section, the Temporary Emergency Court of Appeals shall have exclusive jurisdiction of all appeals from the district courts of the United States in cases and controversies arising under this title or under regulations or orders issued thereunder. Such appeals shall be taken by the filing of a notice of appeal with the Temporary Emergency Court of Appeals within thirty days of the entry of judgment by the district court.

"(c) In any action commenced under this title in any district court of the United States in which the court determines that a substantial constitutional issue exists, the court shall certify such issue to the Temporary Emergency Court of Appeals. Upon such certification, the Temporary Emergency Court of Appeals shall determine the appropriate manner of disposition which may include a determination that the entire action be sent to it for consideration or it may, on the issues certified, give binding instructions and remand the action to the certifying court for further disposition.

"(d)(1) Subject to paragraph (2), no regulation of any agency exercising authority under this title shall be enjoined or set aside, in whole or in part, unless a final judgment determines that the issuance of such regulation was in excess of the agency's authority, was arbitrary or capricious, or was otherwise unlawful under the criteria set forth in section 706(2) of title 5, United States Code, and no order of such agency shall be enjoined or set aside, in whole or in part, unless a final judgment determines that such order is in excess of the agency's authority, or is based upon findings which are not supported by substantial evidence.

"(2) A district court of the United States or the Temporary Emergency Court of Appeals may enjoin temporarily or permanently the application of a particular regulation or order issued under this title to a person who is a party to litigation before it. Appeals from interlocutory decisions by a district court of the United States under this paragraph may be taken in accordance with the provisions of section 1292(b) of title 28, United States Code; except that reference in such section to the courts of appeals shall be deemed to refer to the Temporary Emergency Court of Appeals.

"(e) (1) Except as provided in subsection (d) this section, no interlocutory or permanent injunction restraining the enforcement, operation, or execution of this title, or any regulation or order issued thereunder, shall be granted by any district court of the United States or judge thereof. Any such court shall have jurisdiction to declare (A) that a regulation of an agency exercising authority under this title is in excess of the agency's authority, is arbitrary or capricious, or is otherwise unlawful under the criteria set forth in section 706(2) of title 5, United States Code, or (B) that an order of such agency is invalid upon a determination that the order is in excess of the agency's authority, or is based upon findings which are not supported by substantial evidence.

"(2) Any party aggrieved by a declaration of a district court of the United States respecting the validity of any regulation or order issued under this title may, within thirty days after the entry of such declaration, file a notice of appeal therefrom in the Temporary Emergency Court of Appeals. In addition, any party believing himself entitled by reason of such declaration to a permanent injunction restraining the enforcement, operation, or execution of such regulation or order may file, within the same thirty-day period, a motion in the Temporary Emergency Court of Appeals requesting such injunctive relief. Following consideration of such appeal or motion, the Temporary Emergency Court of Appeals shall enter a final judgment affirming, reversing, or modifying the determination of the district court and granting such permanent injunctive relief, if any, as it deems appropriate.

"(f) The effectiveness of a final judgment of the Temporary Emergency Court of Appeals enjoining or setting aside in whole or in part any provision of this title, or any regulation or order issued thereunder, shall be postponed until the expiration of thirty days from the entry thereof, except that if a petition for a writ of certiorari is filed with the Supreme Court under subsection (g) within such thirty days, the effectiveness of such judgment shall be postponed until an order of the Supreme Court denying such petition becomes final, or until other final disposition of the action by the Supreme Court.

"(g) Within thirty days after entry of any judgment or order by the Temporary Emergency Court of Appeals, a petition for a writ of certiorari may be filed in the Supreme Court of the United States, and thereupon the judgment or order shall be subject to review by the Supreme Court in the same manner as a judgment of a United States court of appeals as provided in section 1254 of title 28, United States Code. The Temporary Emergency Court of Appeals, and the Supreme Court upon review of judgments and orders of the Temporary Emergency Court of Appeals, shall have exclusive jurisdiction to determine the constitutional validity of any provision of this title or of any regulation or order issued under this title. Except as provided in this section, no court, Federal or State, shall have jurisdiction or power to consider the constitutional validity of any provision of this title or of any such regulation or order, or to stay, restrain, enjoin, or set aside, in whole or in part, any provision of this title authorizing the issuance of such regulations or orders, or any provision of any such regulation or order, or to restrain or enjoin the enforcement of any such provision.

"(h) The provisions of this section apply to any actions or suits pending in any court, Federal or State, on the date of enactment of this section in which no final order or judgment has been rendered. Any affected party seeking relief shall be required to follow the procedures of this title.

"§ 212. Personnel

"(a) Any agency or officer of the Government carrying out functions under this title is authorized to employ such personnel as the President deems necessary to carry out the purposes of this title.

"(b) The President may appoint five officers to be responsible for carrying out functions of this title of whom three shall be compensated at the rate prescribed for level III of the Executive Schedule (5 U.S.C. 5314) and two at the rate prescribed for level V of the Executive Schedule (5 U.S.C. 5316). Appropriate titles and the order of succession among such officers may be designated by the President.

"(c) Any member of a board, commission, or similar entity established by the President pursuant to authority conferred by this title who serves on less than a full-time basis shall receive compensation from the date of his appointment at a rate equal to the per diem equivalent of the rate prescribed for level IV of the Executive Schedule (5 U.S.C. 5315) when actually engaged in the performance of his duties as such member.

"(d) For the duration of the exercise of functions under this title, comparison may be fixed for not to exceed forty positions without regard to the provisions of chapters 51 and 53 of title 5, United States Code, but at rates not above the maximum rate prescribed for GS–18 of the General Schedule (5 U.S.C. 5332). This number of positions is in addition to the number authorized by other provisions of law. Appointments may be made to these positions without regard to the provisions of law governing appointments in the competitive service.

"(e) The President may require the detail of employees from any executive agency to carry out the purposes of this title.

"(f) The President is authorized to appoint, without regard to the civil service laws, such advisory committees as he deems appropriate for the purpose of consultation with and advice to the President in the performance of his functions under this title. Members of advisory committees, other than those regularly employed by the Federal Government, while attending meetings of such committees or while otherwise serving at the request of the President may be paid compensation at rates not exceeding those authorized for individuals under section 5332 of title 5, United States Code, and, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(g) (1) Under such regulations as the President may prescribe, officers and employees of the Government who are appointed, without a break of service of one or more work days, to any position for carrying out functions under this title are entitled, upon separation from such position, to reemployment in the position occupied at the time of appointment or in a position of comparable grade and salary.

"(2) An officer or employee who, at the time of his appointment under paragraph (1) of this subsection, is covered by section 8336(c) of title 5, United States Code, shall continue to be covered thereunder while carrying out functions under this title.

"§ 213. Experts and consultants

"Experts and consultants may be employed, as authorized by section 3109 of title 5, United States Code, for the performance of functions under this title, and individuals so employed may be compensated at rates not to exceed the per diem equivalent of the rate for grade 18 of the General Schedule established by section 5332 of title 5, United States Code. Such contracts may be renewed from time to time without limitation. Service of an individual as an expert or consultant under this section shall not be considered as employment or the holding of an office or position bringing such individual within the provisions of section 3323(a) of title 5, United States Code, section 872 of the Foreign Service Act of 1946, or any other law limiting the reemployment of retired officers or employees.

"§ 214. Small business

"(a) It is the sense of the Congress that small business enterprises should be encouraged to make the greatest possible contribution toward achieving the objectives of this title.

"(b) In order to carry out the policy stated in subsection (a)—

"(1) the Small Business Administration shall to the maximum extent possible provide small business enterprises with full information concerning (A) the provisions of this title relating or of benefit to such enterprises, and (B) the activities of the various departments and agencies under this title;

"(2) in administering this title, such exemptions shall be provided for small business enterprises as may be feasible without impeding the accomplishment of the purposes of this title; and

"(3) in administering this title, special provision shall be made for the expeditious handling of all requests, applications, or appeals from small business enterprises.

"§ 215. Funding

"(a) There are authorized to be appropriated to the President, to remain available until expended, such sums as may be necessary to carry out the provisions of this title.

"(b) The President may accept and use in furtherance of the purposes of this title money, funds, property, and services of any kind made available for such purposes by gift, devise, bequest, grant, or otherwise.

"§ 216. Expiration

"The authority to issue and enforce orders and regulations under this title expires at midnight April 30, 1973, but such expiration shall not affect any action or pending proceeding, civil or criminal, not finally determined on such date, nor any action or proceeding based upon any act committed prior to May 1, 1973.

"§ 217. Ratification

"The assignment of personnel and expenditure of funds pursuant to the authority conferred on the President by this title prior to the date of enactment of the Economic Stabilization Act Amendments of 1971 are hereby approved, ratified, and confirmed.

"§ 218. Severability

"If any provision of this title or the application of such provision to any person or circumstances is held invalid, the remainder of the title, and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

"§ 219. Reports

"In transmitting the Economic Report required under section 3(a) of the Employment Act of 1946 (15 U.S.C. 1022), the President shall include a section describing the actions taken under this title during the preceding year and giving his assessment of the progress attained in achieving the purposes of this title. The President shall also transmit quarterly reports to the Congress not later than thirty days after the close of each calendar quarter describing the actions taken under this title during the preceding quarter and giving his assessment of the progress attained in achieving the purposes of this title."

FEDERAL EMPLOYEE COMPENSATION

SEC. 3. Notwithstanding any provision of section 3(c) of the Federal Pay Comparability Act of 1970 (Public Law 91–956), or of section 5305 of title 5, United States Code, as added by section 3(a) of Public Law 91–656, and the provisions of the alternative plan submitted by the President to the Congress pursuant thereto on August 31, 1971, such comparability adjustments in the rates of pay of each Federal statutory pay system as may be required under such sections 5305 and 3(c), based on the 1971 Bureau of Labor Statistics survey—

(1) shall not be greater than the guidelines established for the wage and salary adjustments for the private sector that may be authorized under authority of any statute of the United States, including the Economic Stabilization Act of 1970 (Public Law 91–379; 84 Stat. 799), as amended, and as may be in effect on December 31, 1971; and

(2) shall be placed into effect on the first day of the first pay period that begins on or after January 1, 1972.

Nothing in this section shall be construed to provide any adjustments in rates by any Federal statutory pay system which are greater than the adjustments based on the 1971 Bureau of Labor Statistics survey.

NATIONAL PRODUCTIVITY POLICY

SEC. 4. (a) (1) It is the policy of the United States to promote efficient production, marketing, distribution, and use of goods and services in the private sector, and improve the morale of the American worker, all of which are essential to a prosperous and secure free world, and to achieve the objectives of national economic policy.

(2) The Congress finds that the persistence of inflationary pressures, and of a high rate of unemployment, the underutilization and obsolescence of production facilities, and the inadequacy of productivity are damaging to the effort to stabilize the economy.

(3) The Congress, therefore, finds a national need to increase economic productivity which depends on the effectiveness of management, the investment of capital for research, development, and advanced technology and on the training and motivation of the American worker.

(4) The Congress further finds that at a time when economic stabilization programs require price-wage restraints, management and labor have a strong mutual interest in containing "cost-push" inflation and increasing output per man-hour so that real wages may increase without causing increased prices, and that, without in any way infringing on the rights of management or labor, machinery should be provided for translating this mutuality of interest into voluntary action.

(b) It shall be the objective of the President's National Commission on Productivity (hereinafter referred to as the "Commission")—

(1) to enlist the cooperation of labor, management, and State and local governments, in a manner calculated to foster and promote increased productivity through free competitive enterprise toward the implementation of the national policy declared in the Employment Act of 1946 to create and maintain "conditions under which there will be afforded useful employment opportunities, including self-employment, for those able, willing, and seeking to work, and to promote maximum employment, production, and purchasing power";

(2) to promote the maintenance and improvement of worker motivation and to enlist community interest in increasing productivity and reducing waste;

(3) to promote the more effective use of labor and management personnel in the interest of increased productivity;

(4) to promote sound wage and price policies in the public interest, and to seek to accomplish that objective within a climate of cooperation and understanding between labor, management, and the public, and within a framework of peaceful labor-management relations and free and responsible collective bargaining;

(5) to promote policies designed to insure that United States products are competitive in domestic and world markets;

(6) to develop programs to deal with the social and economic problems of employees adversely affected by automation of other

technological change or the relocation of industries.

(c) (1) It shall be the duty and function of the Commission, in order to achieve the objectives set forth in subsection (b) of this section, to encourage and assist in the organization and the work of labor-management-public committees and similar groups on a plant, community, regional, and industry basis. Such assistance shall include aid—

(A) in the development of apprenticeship, training, retraining, and other programs for employee and management education for development of greater upgraded and more diversified skills;

(B) in the formulation of programs designed to reduce waste and absenteeism and to improve employee safety and health;

(C) in the revision of building codes and laws, in order to keep them continuously responsive to current economic conditions;

(D) in planning for provision of adequate transportation for employees;

(E) in the exploration of means to expand exports of the products of United States industry;

(F) in the development, initiation, and expansion of employee incentive compensation, profit-sharing and stockownership systems and other production incentive programs;

(G) in the dissemination of technical information and other material to publicize its work and objectives;

(H) to encourage studies of techniques and programs similar to those in paragraphs (A) to (H) of this subsection, as they are applied in foreign countries; and

(I) in the dissemination of information and analyses concerning the economic opportunities and outlook in various regions and communities, and if information on industrial techniques designed for the increase of productivity.

(2) The Commission shall transmit to the President and to the Congress not later than March 1 of each year an annual report of its previous year's activities under this Act.

(3) The Commission shall perform such other functions, consistent with the foregoing, as it determines to be appropriate and necessary to achieve the objectives set forth in subsection (b) of this section.

(d) (1) In exercising its duties and functions under this Act—

(A) the Commission may consult with such representatives of industry, labor, agriculture, consumers, State and local governments, and other groups, organizations, and individuals as it deems advisable to insure the participation of such interested parties;

(B) the Commission shall, to the extent possible, use the services, facilities, and information (including statistical information) of other Government agencies as the President may direct as well as of private agencies and professional experts in order that duplication of effort and expense may be avoided;

(C) the Commission shall coordinate such services and facilities referred to in subsection (B) above in order to supply technical and administrative assistance to labor-management-public committees and similar groups referred to in subsection (c) (1);

(D) the Commission shall establish the regional offices and such local offices as it deems necessary;

(E) the Commission shall hold regional and industrywide conferences to formulate ideas and programs for the fulfillment of the objectives set forth in subsection (C);

(F) the Commission may formulate model programs to ameliorate the effects of unemployment caused by technological progress;

(G) the Commission may furnish assistance to parties in collective bargaining entering into collective bargaining agreements; and

(H) the Commission may review collective bargaining agreements already in effect or those being negotiated to ascertain their effects on productivity; and it may have the power to make recommendations with respect to the agreements made or about to be made in specific industries.

(2) The Commission may accept gifts or bequests, either for carrying out specific programs which it deems desirable or for its general activities.

(e) (1) The Executive Director of the Commission shall be the principal executive officer of the Commission in carrying out the objectives, functions, duties and powers of the Commission described in subsections (b) through (a) of this section.

(2) The Executive Director of the Commission, with the approval of the Chairman of the Commission, is authorized to employ, and fix the compensation of, such specialists and other experts as may be necessary for carrying out its functions under this Act, with regard to the provision of title 5, United States Code, governing appointments in the competitive service, and with regard to chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates, and is authorized, subject to such provision, to employ such other officers and employees as may be necessary for carrying out its functions under this Act and fix their compensation in accordance with the provisions of such chapter 51 and subchapter II of chapter 53.

(f) The authority for funding referred to in title II of the Defense Production Act of 1950 (Public Law 91–379) shall apply to this section.

Mr. SPARKMAN. Mr. President, I move that the vote by which the bill was passed be reconsidered.

Mr. TOWER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SPARKMAN. Mr. President, I ask unanimous consent that the Secretary of the Senate may be authorized and directed to make any necessary clerical and technical changes in the engrossment of the bill (S. 2891).

The PRESIDING OFFICER (Mr. CRANSTON). Without objection, it is so ordered.

ASSISTANCE TO RADIO FREE EUROPE AND RADIO LIBERTY

Mr. FULBRIGHT. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 18.

The PRESIDING OFFICER (Mr. CRANSTON) laid before the Senate the amendment of the House of Representatives to the bill (S. 18) to amend the United States Information and Educational Exchange Act of 1948 to provide assistance to Radio Free Europe and Radio Liberty which was to strike out all after the enacting clause, and insert:

That there is established a commission to be known as the Commission on International Radio Broadcasting (hereinafter referred to as the "Commission") composed of nine members as follows:

(1) Two Members of the House of Representatives appointed by the Speaker of the House of Representatives.

(2) Two Members of the Senate appointed by the President of the Senate.

(3) Two members appointed by the President from among officers and employees of the executive branch of the Government.

(4) Three members appointed by the President from private life, including experts in mass communication in the broadcasting field.

(5) The President shall designate one of the members appointed from private life to serve as Chairman of the Commission. Any vacancy in the membership of the Commission shall be filled in the same manner as in the case of the original appointment.

SEC. 2. (a) It shall be the duty of the Commission to review and evaluate international radio broadcasting and related activities of Radio Free Europe and Radio Liberty.

(b) The Commission shall submit its report to the President for transmission to the Congress not later than November 30, 1972, setting forth the results of its findings and conclusions, together with such recommendations as it may deem appropriate, including, but not limited to, recommendations with respect to future management, operations, and support of such activities; establishment of a corporate or other entity to administer support for, or to conduct, such activities; and protection of the right and equities of past and present employees of Radio Free Europe and Radio Liberty.

(c) The Commission shall cease to exist on July 1, 1973.

SEC. 3. (a) In addition to his function as head of the Commission, the Chairman of the Commission shall provide grants to support the broadcasting activities of Radio Free Europe and Radio Liberty and submit to the President for transmission to the Congress not later than November 30, 1972, and July 1, 1973, reports, with financial appendices as appropriate, of each grant made and a statement describing the utilization of each such grant.

(b) There are authorized to be appropriated to the Chairman for carrying out the purposes of this section, $36,000,000 for the fiscal year 1972 and $38,520,000 for the fiscal year 1973. Except for funds appropriated pursuant to this section, no funds appropriated after the date of the first appropriation pursuant to this Act may be made available to or for the use of Radio Free Europe or Radio Liberty.

SEC. 4. (a) Members of the Commission who are Members of Congress or officers or employees of the executive branch shall serve without compensation for their services as members of the Commission. Members of the Commission who are not Members of Congress or officers or employees of the executive branch shall receive per diem at the daily rate prescribed for level V of the Executive Schedule by section 5316 of title 5 of the United States Code when engaged in the actual performance of duties vested in the Commission. All members of the Commission, while away from their homes or regular places of business in the performance of services for the Commission, shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

(b) The Chairman of the Commission is authorized to appoint and fix the compensation of such personnel as may be necessary. Such personnel may be appointed without regard to provisions of title 5, United States Code, covering appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. Any Federal employee subject to civil service laws and regulations who may be appointed by the Chairman shall retain civil service status without interruption or loss of status or privilege. In no event shall any individual appointed under this subsection receive as compensation an amount in excess of the maximum rate for GS–18 on the General Schedule under section 5332 of title 5, United States Code.

(c) In addition, the Chairman of the Commission is authorized to obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the maximum rates for GS–18 on the General Schedule under section 5332 of title 5, United States Code.

(d) Upon request of the Chairman of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist it in carrying out its duties under this section.

(e) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

Sec. 5. There are authorized to be appropriated to the Commission such sums as may be necessary for its administrative expenses.

And amend the title so as to read: "An Act to authorize the creation of a commission to evaluate international radio broadcasting and related activities of Radio Free Europe and Radio Liberty, to authorize appropriations to the Chairman of the Commission, and for other purposes."

Mr. FULBRIGHT. Mr. President, I move that the Senate disagree to the amendment of the House and agree to the request for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mr. Cranston) appointed Mr. Fulbright, Mr. Church, Mr. Symington, Mr. Aiken, and Mr. Case conferees on the part of the Senate.

EXECUTIVE SESSION

Mr. MANSFIELD. I move that the Senate go into executive session to consider the nomination of Earl Lauer Butz, of Indiana, to be Secretary of Agriculture.

The motion was agreed to, and the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER (Mr. Cranston). The nomination on the Executive Calendar, as requested by the Senator from Montana, will be stated.

DEPARTMENT OF AGRICULTURE

The assistant legislative clerk read the nomination of Earl Lauer Butz, of Indiana, to be Secretary of Agriculture.

Mr. MANSFIELD. Mr. President, for the information of the Senate, there will be no more votes tonight. An agreement has been reached that the vote on the nomination of Mr. Butz will occur at the hour of 1 p.m. tomorrow, there will be plenty of time for discussion.

I anticipate that there will be a certain amount of discussion tonight and the rest tomorrow.

Following disposal of this nomination, the so-called drug control bill will be brought up. There is a time limitation on that also and, undoubtedly, there will be rollcall votes on that, as well as on the nomination of Mr. Butz.

Mr. GRIFFIN. Mr. President, if the Senator from Montana will yield, there is one addition beyond that, the agreement concerning the conference report on the OEO, is that not correct?

Mr. MANSFIELD. Yes, that is correct. It has been consummated and there will be votes on that, too, I am sure. We hope also to get the other pieces of legislation as they become available.

My understanding is that the House tomorrow will take up the District of Columbia appropriation bill and the supplemental appropriation bill. We would hope to get started on those Friday morning and then, shortly thereafter, we will be on the Supreme Court nominations.

Mr. GRIFFIN. By "shortly thereafter" does the Senator mean on Friday that we will be taking up the Supreme Court nominations?

Mr. MANSFIELD. That is the present intention, if the Senator will allow me a little leeway. But, just as soon as possible. If we clear the decks we, will get to the Supreme Court nominations.

The PRESIDING OFFICER (Mr. Tunney). Time is now under control.

Who yields time?

Mr. AIKEN. Mr. President, I yield myself 20 minutes, and then I want to yield to the Senator from New York some time and that, so far as I know, would be all the speaking that will be done on this side tonight.

Mr. President, I do not expect to say much about Earl Butz today except to point out as stated in the report which is now on the Senators' desks that "it was clear and was so indicated a number of times that the character, integrity, and ability of Dr. Butz was not in question."

The testimony against him was based largely upon what Earl Butz must have been thinking 20 years ago and what he might be thinking after becoming Secretary of Agriculture.

His critics seem to have a much higher degree of mental telepathy than I have, since I do not know what he thinks from day to day and year to year.

In fact, it would be much easier for me to read what is in the minds of those who so ardently oppose him.

What I would like to discuss briefly is the agriculture of the United States and more specifically the Department of Agriculture and its prospects for the future.

And the question which keeps recurring in my mind is this: Does the Department of Agriculture have a future or will it be broken up, with the pieces being discarded or assigned to other agencies?

The Secretary of Agriculture has been the target for people with varying motives for the last 35 years and with the single exception of 2 years when our colleague, the Senator from New Mexico (Mr. Clinton Anderson) held that position, every Secretary has been a target for abuse and harassment.

During the time when Senator Anderson was Secretary of Agriculture, the grain reserves of this country were so low that the principal protests came from those who felt that our food supply might be in jeopardy if we did not curtail our postwar exports to other countries.

I earnestly hope that St. Peter has one of his choisest spots reserved for departed U.S. Secretaries of Agriculture. They deserve it.

Going back to the beginning of our national existence, we find that over 80 percent of our population was then engaged in agriculture and made their living from the land.

Today we find not over 10 percent of our population actually engaged in producing food and fiber crops, but twice that number find gainful employment in making farm supplies and equipment, transporting farm commodities, and handling and processing the products of the American farmer.

Agriculture still furnishes more gainful employment than any other industry.

The land itself has not changed but the use of it has changed tremendously.

Much of it, particularly east of the Mississippi, has reverted to woodland, while nearly all that is now cultivated is producing far more per acre than our ancestors ever dreamed would be possible.

Except for certain specialized crops, a small farm which we used to call the family farm cannot today produce enough to support a family decently.

We no longer have the five- to ten-cow dairy or the one- or two-mule cotton farm, at least not in any great numbers.

As in other walks of life, farm mergers have become the order of the day and are also necessary if one is to take advantage of modern methods and modern equipment with which to produce efficiently and profitably.

Further than this, thousands of farmers, large and small, have incorporated their holdings for the protection of their families and to qualify for social security benefits later in life.

This accounts for much of the increase in the number of corporation farms. Many farms wholly owned by families today run into the thousands of acres and millions of dollars of production.

In my own State of Vermont, we have only one-third as many dairymen as we had a few years ago, but we are producing more milk than ever on fewer acres, with herds running into the hundreds and thousands, but they are still family owned and operated.

This means that as mergers have taken place and small farms are abandoned, the so-called farm population has been decreasing for well over 20 years, though at a slowly declining rate.

However, it is obvious that the end is not yet.

Neither Secretaries Anderson, Brannan, Benson, Freeman, nor Hardin could have stopped this decline even if it had been advisable.

And I expect it will continue as economic pressures and other inducements increase their influence.

No Secretary of Agriculture can prevent this evolutionary change.

However, as "farm population" has decreased, "rural population" has actually increased in Vermont and in many other States.

A small farm which two decades ago produced a meager living for one family may now be occupied by two or three or more families due to the rapid increase in residential and recreational development.

Improved highways and other facilities formerly available only to urban dwellers have made this possible.

In some other areas, particularly the northern plain States, the merging of farms has indeed created a genuine problem resulting in a decrease in population, since the alternatives which exist in the East are not generally available to those areas.

This is one problem—but not the only one—which has given Presidents, Secretaries of Agriculture, and the Congress much concern.

Farmers, on the whole, however, are living infinitely better than they did a generation or even 10 years ago and are more able to afford better living standards.

We cannot pick them out in the audience anymore—and more of their children get higher education.

This progress, however, has come about the hard way and in the historic recessions which have afflicted us from time to time, the farmer has usually been the major victim.

And after each recession the people on the land have emerged fewer in numbers but somewhat higher on the scale of living.

The depression of the thirties is still keenly remembered by many Members of this Senate today.

During that period, hogs sold as low as $3 a hundred, wheat for 50 cents a bushel, milk for $1 a hundred, and potatoes 10 cents a bushel when any market could be found at all.

I know whereof I speak, because I was one of the lucky ones who got $5 a hundred for hogs, although I did have to give away my potatoes for livestock feed.

But during this period, Government came into the picture in a big way and Government has remained the star actor in this drama of rural life ever since.

Until the 1930's, processors and dealers almost always set the prices which farmers received for their products.

And, believe me, those prices were never very munificent.

With the competitive processing and marketing practices of those days they could not be.

One took what he was offered or else.

But in the 1930's when times got really hard and the depression afflicted other business and professional people as well, things began to happen.

Of course, Government had to save the banks first, but farmers and consumers received attention to a degree which had never been their lot before.

During the 1930's, marketing orders came into general use—first for milk and then expanded to cover other commodities.

At this point, I might mention that while Earl Butz was Assistant Secretary of Agriculture during a short time in the fifties, the number of milk marketing orders were increased from 48 to 74, the sharpest increase in history.

But in the thirties, the REA was established and the private utility companies did not have the foresight to take it over when they could have, so REA co-ops spread across the land carrying light and power to farms which might otherwise have been given up.

Support prices, farm loans, and guarantees helped put prices upward somewhat.

In 1935, the social security system was set up, and Vermont was the first State to cooperate with all phases of this new program.

And along about 1939 or 1940 the food stamp program got its first tryout.

But farm prices increased slowly until World War II brought them to a level which for a time made most phases of agriculture profitable.

That was the last war which, temporarily, improved agricultural income.

The Korean war had an adverse effect and the 10-year war in Southeastern Asia from 1961–71 has been costly to agriculture as well as to our political and economic policies.

While in 1970 farmers were taking in $10.9 billion more than they were in 1965, costs of production went up $10 billion during that time, leaving only $900 million as the net increase over the last 3 or 4 years. However, there are fewer farmers to divide that up. So it is not quite as bad as one might think.

Compared to the increase in family living costs—this $900 million which was gained from 1965 to 1970—was inadequate, although increased Federal amounts for education and other purposes have helped out materially.

As I stated in the beginning of this talk, I have made little reference to Earl Butz, although I support him fully and feel that as an administrator he will compare very favorably with any other Secretary of Agriculture I have known.

However, Earl Butz is not the issue in this controversy.

He is the symbol—a political symbol—as many believe.

Congress writes the laws relating to agriculture and international trade and laws relating to welfare and crime and a lot of other things.

Congress does not administer these laws and Congress does not administer farm programs.

The administration of the law is vested in the executive branch of Government of which the President is the head.

He appoints administrators for the various departments and agencies of Government.

The duty of these administrators including the Secretary of Agriculture is to administer the programs which the Congress has established.

But like the heads of other agencies, they work under the direction of the President and it is the President upon whom the responsibility for proper administration of these programs rests.

The Secretary of Agriculture cannot and should not be expected to administer the programs for agriculture in a manner not approved by the President.

And, therefore, if there is dissatisfaction with the handling of the farm programs, it is the President and not the Secretary of Agriculture who should be held responsible.

And if Congress hamstrings him in making his principal appointments, even the President cannot be held responsible for results which affect the country adversely.

Indeed, if we analyze even superficially the condemnation of Earl Butz, it is evident that the attacks on him are aimed directly at the President partly in an effort to make his administration unpopular.

Earl Butz was indeed an official of the Department of Agriculture during most of the administration of the late President Dwight D. Eisenhower.

So far as I know, he was an orthodox Assistant to the Secretary, with his most important contribution to American agriculture being the development, the enactment, and the putting into operation of Public Law 480 which some now prefer to call the Food-for-Peace Act.

This has developed into one of the most important programs affecting American agriculture during the last generation.

It has resulted in the expansion of American exports abroad.

In fact, we are told that this program has been so successful that the production of one out of every 4 acres is now exported to other countries.

Our export of farm commodities will probably reach a total of about $8 billion this year, most of which will represent commercial sales.

Without the cooperation of the so-called agribusinesses these so-called exports would have been impossible.

At this point let me say that the biggest agribusinesses in this country with which Earl Butz has been concerned are the farm cooperatives. Over 70 percent of all dairy products of this country are handled and processed through farm cooperatives. This is agribusiness in itself, and in a lesser amount other commodities, such as citrus fruits, a large percentage of which are handled and processed by cooperatives. The small family farmer certainly could not exist and make his farm pay if he had not had the cooperative agribusiness to handle his products for him.

The cost of Public Law 480 has dropped from about $2 billion a year to half that amount while exports of farm crops for dollars have increased 300 percent.

Public Law 480 has also undoubtedly kept some countries in the world from abandoning democracy and going over the hill into the other camp.

If he has done nothing else but aid in the preparation, enactment and development of our agricultural export program, including Public Law 480, Earl Butz has earned a well-deserved place in our agricultural history.

It may be said that Earl Butz is too old-fashioned—a relic of the past—and not mod.

He still believes in the agricultural college—the experiment station—the extension service and nonsensical ideas, according to some people, like 4–H clubs and future farmers—things to which he has up to now given his whole life.

It so happens that one of the most distinguished Members of this body, Senator

BIRCH BAYH, the junior Senator from Indiana, is a product of these courses, which he pursued at Purdue University under Earl Butz. But Earl Butz still believes in these things, and, up to now, he has given them his whole life.

And, to the chagrin of his critics, he will continue to support these institutions as Secretary of Agriculture, and I think that should be indicated for the RECORD.

As I said in the beginning of these remarks, I am concerned about the future of the Department of Agriculture.

I consider that no department of the executive branch of our Government has contributed to the growth, prosperity, and influence of the United States in world affairs as much as the Department of Agriculture.

I will not take time to go further into detail on Earl Butz' accomplishments, but surely a great agricultural State like Indiana has not been stupid in employing him these many years to educate and train its youth for rural living and the operation of its farms.

Now I am genuinely concerned that the continual wrangling in the Congress, the constant striving for position among farm organizations, the growing power of groups desirous of taking over functions of the Agriculture Department and the incessant stream of abuse heaped upon the Secretary—even a secretarial appointment—will, in the not distant future, bring on the fragmentation of this Department to which America and the world owe so much.

I did not agree with President Nixon's proposal to abolish the Department and assign its work to other agencies of government and I was delighted when in announcing the appointment of Dr. Butz as Secretary he stated that he had changed his mind in this matter.

But, there are those who would assign the food programs—school lunch, food stamp, and others—to the welfare program.

There are those who would assign our export business to the Commerce Department and others, many others who have been working around here this week, who would delegate controls over land use to the Interior Department and our environmental agencies.

I am very much interested to see that some of those people have been working their utmost to bring about the defeat of Earl Butz to the secretaryship.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. AIKEN. I yield myself another 5 minutes.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. AIKEN. Mr. President, Earl Butz is dedicated to the continuation of the U.S. Department of Agriculture and its worthwhile functions even if some of his critics are not.

He is dedicated to the continuation of our agricultural colleges, extension services, experiment stations and 4–H clubs.

Does that disqualify him for being Secretary of Agriculture?

In my opinion, that alone would be sufficient reason to vote for his confirmation.

And, finally, the question is asked, what will he do to improve farm income when he becomes Secretary?

Well, let me say right now, he cannot do anything without the approval of the President.

No one could foresee the tremendous corn crop of this year or the heavy yield of wheat in other competing countries or the fact that Northern United States and Southern Canada did not have a frost until early November—an unheard of situation.

Nor could we foresee that the strike of dockworkers would lower the price of export crops materially for the fall period when shipping was needed most.

There has also been resentment over the fact that the administration has, over the protest of the Agriculture Department, seen fit to impound certain funds which might have helped the situation even though those funds are only a small part of the total amount impounded.

I realize that the reason for this has been the rapid increase of costs—the same reason that prompted President Lyndon Johnson to suspend money for highway construction for a period of time during his term of office.

If our conferees can bring back to us a decent and fair tax bill, if we can enact phase II legislation which is fair to the people of this country and is effective in controlling skyrocketing costs, then it will be possible to release a considerable amount of the funds which have been withheld over a more recent period of time.

I am assured that with the passage of adequate legislation and the installation of a Secretary of Agriculture every effort will be made without delay to improve the conditions so important not only to the welfare of our farm people but to the welfare of all people in this country.

Congress must do its part and do it fairly.

Trying to handicap the President in his efforts to create better conditions in this country, and the whole world for that matter, is not justified.

President Nixon has made many mistakes and I have protested them.

He has also done many things right and I applaud them.

Like other people, he has many traits but two of them stand out to his credit.

He is not a fraid cat.

He keeps his promises.

I am confident that with the approval of Earl Butz as Secretary of Agriculture conditions on the farm and in our rural areas will improve.

I have read the minority report prepared by my friend, the junior Senator from Minnesota, and I cannot agree with his conclusions.

I trust he does not panic the community centers of this Nation by calling attention to the huge supply of food with which this country is favored.

As I have stated, the President is the head of the executive branch of Government.

The President has been in charge of this department of Government since it was founded in 1862 under Abraham Lincoln, and since that time no President of the United States has been denied the right to select his own Secretary of Agriculture. To deny him the right now to choose his principal aides—or Cabinet officers—would establish a precedent that would not only make it more difficult for President Nixon, but for any future President, as well.

I ask unanimous consent to have included in the RECORD at this point a biography of Earl Butz, his accomplishments while Assistant Secretary of Agriculture for 3 or 4 years in the 1950's, and a letter which came to me at my request under date of November 24, 1971, strongly in favor of invoking the Taft-Hartley Act in the dock strike, but that has been done since I received this letter.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EARL L. BUTZ

PERSONAL

Address: Purdue University, Lafayette, Indiana.

Age: 62.

Marital Status: Married—2 children.

EDUCATIONAL BACKGROUND

B.S.A., Purdue University (Lafayette), 1932 and Ph.D., Purdue University, 1937.

PROFESSIONAL AND GOVERNMENT EXPERIENCE

1937 to Present—Purdue University, Lafayette, Indiana.

Dean: Department of Continuing Education, School of Agriculture.

Professor: Agricultural Economics Department.

1954–1957—Assistant Secretary: Department of Agriculture, Washington, D.C.

1935–1936—Research Economist: Federal Land Bank, Louisville, Kentucky.

1933–1934—Farmer, Noble County, Indiana.

BUSINESS AND PROFESSIONAL EXPERIENCE

Research Economist, Brookings Institution, Washington, D.C.

Research Staff, National Bureau of Economic Research.

Director, Standard Life Insurance Co. of Indiana.

Director, J. I. Case Co., Racine, Wisconsin.

Director, Ralston Purina Co., St. Louis, Missouri.

Director, International Minerals & Chemical Corp., Chicago, Illinois.

Director, Farm Foundation, Chicago, Illinois.

Director, Foundation for American Agriculture, Washington, D.C.

Chairman, U.S. delegation FAO, Rome. (1955 & 1957)

Member, American Farm Economics Assn. (Vice President 1948)

Member, American Society of Farm Managers and Rural Appraisers, Indiana Academy of Social Sciences. (Vice President 1948)

Member, International Conference of Agricultural Economists.

OTHER

Author (book) The Production Credit System for Farmers (1944).

Accomplishments of Dr. E. L. Butz while he served as Assistant Secretary for Marketing and Foreign Agriculture in the U.S. Department of Agriculture from August 2, 1954 to July 31, 1957.

Foreign agriculture

1. Helped work out the first PL–480 program with Turkey on November 15, 1954, and thus laid the background for shipments of surplus farm products which, from that day to this, have totaled about $20 billion.
2. Expanded the Agricultural Attache service overseas from 50 to 56 and brought the attache reporting system back within the USDA.

3. Worked as liaison man for the USDA with the Food and Agriculture Organization of the UN and was instrumental in getting a U.S. citizen, Dr. Vince Cardon, elected as Director-General of the FAO.

Marketing

1. Supervised the largest expansion in the number of Federal Milk Marketing Orders in USDA history. There were 49 orders when Butz took office, 74 when he left.

2. Assisted in the development and strengthening of dairy cooperatives through modifications in milk order programs.

3. Helped rationalize the price relationships of various dairy products to one another through adjustments in milk market orders and price support programs.

General

1. Developed good relationships inside and outside the USDA with the various persons affected by government programs.

2. As a member of the Board of Directors of the Commodity Credit Corporation, worked consistently to move government stocks of commodities into use, at home and abroad.

3. Traveled and spoke widely and effectively in support of Administration programs in and outside of agriculture.

WASHINGTON, D.C.,
November 24, 1971.

Hon. GEORGE D. AIKEN,
United States Senate,
Washington, D.C.

DEAR SENATOR AIKEN: In response to your request I am pleased to clarify and expand upon my views on several importans issues.

FOOD PROGRAMS

I fully support President Nixon's pledge to eliminate poverty related hunger and malnutrition in this Nation.

Since the President's historic "Hunger Message" on May 6, 1969, the accomplishments comprise the largest and most successful nutritional undertaking in all history.

I will give high priority, as Secretary of Agriculture, to continued USDA efforts to reach the President's goal. I will energetically work toward improvements in the programs to feed needy families and to improve the nutritional health of this Nation's children.

FARM BARGAINING

Farm bargaining is an important marketing tool for farmers and ranchers. There clearly is need for legislation to strengthen the ability of qualified agricultural cooperative associations to bargain in good faith with handlers for contract terms to improve net farm income.

The Administration has, in testimony before the House and the Senate, supported the principles of H.R. 7597, the National Agricultural Marketing and Bargaining Act of 1971 and companion legislation in the Senate. I completely endorse the Administration's position in this regard.

DOCK STRIKES

America's farmers are suffering tragic, needless losses as the result of the current work stoppages at East Coast and Gulf ports and the recent strike, not yet finally settled, on the West Coast.

Last year the production from one out of every four acres was exported. This year the fall harvest is nearly over. Farm products are now backed up on farms, elevators, warehouses, on trucks, rail cars, and barges. Immediate losses are huge, and permanent loss of export markets threatens chances for future farm prosperity.

As Secretary of Agriculture, every resource at my command will be brought to bear upon an effort to open up the ports. The disastrous conditions currently affecting farmers call for immediate Taft-Hartley Act relief.

Further, I would do everything in my power to obtain legislation designed to eliminate future costly transportation stoppages. The Administration has proposed legislation under the Public Interest Protection Act which is designed to accomplish this very purpose. This legislation is currently before the Congress. I will support it vigorously.

There must be a better way. We must find it.

RURAL DEVELOPMENT

Farmers are a part of the Nation's rural community. They and the others who live in rural America deserve good housing, health care, schools, churches, and all other community services. Rural prosperity is essential if we are going to have thriving rural communities. We must have an expansion of rural economic activity as well as an improvement in farm net income.

I am strongly in favor of an active rural development program designed to strengthen rural communities.

Improved job opportunities in rural areas cannot only reverse the migration to overly congested cities, but will allow smaller farmers to earn off-farm income. This can permit farm families to strengthen their farm operation and continue to live on the farm.

FARM INCOME

I will lead a crusade for higher realized net farm income for farmers. I state this unequivocably. We need several tools, including, but certainly not limited to:

The tearing down of export barriers, especially in the Common Market and Japan.

A vigorous, realistic use of the Public Law 480 program. This is a great humanitarian program which has served the interests of the hungry of the world, and, at the same time benefited this Nation's farmers.

Steps to improve the price of grains. As I have already stated, the price of corn is too low. As soon as possible after confirmation I will recommend action.

I intend to implement the greatest agricultural market development program in all history. The basis for good farm prices is expanding demand at home and abroad.

The beginnings of a grain trade with the Communist bloc has been announced. I will do everything possible to develop this great market potential.

GENERAL

I consider it a great honor to be nominated to the Cabinet as Secretary of Agriculture.

At the same time I fully recognize the great challenges one faces in that position. It is a difficult job. I have no illusions about that.

But I can also see great opportunities. Opportunities to serve this Nation's farmers who have, through their fabulous productivity, contributed so much to our standard of living. Opportunities to serve this Nation's people in all walks of life, consumers, conservationists, the young, the old, the needy, and the affluent. The programs of the United States Department of Agriculture serve every citizen of this Nation in a number of significant ways.

I am most grateful, Senator Aiken, for your wise counsel and invaluable assistance.

Sincerely,

EARL L. BUTZ,
Secretary-Designate.

Mr. HARRIS. Mr. President, I yield 6 minutes to the Senator from North Dakota (Mr. YOUNG).

Mr. YOUNG. Mr. President, I thank the distinguished Senator from Oklahoma for yielding. I want to express appreciation to the Democrat side of the aisle for granting me 6 or 7 minutes to speak in opposition to the confirmation of Dr. Earl Butz as Secretary of Agriculture. I sought, in vain, to obtain a little time from the Republican side, and this even though I have sat on this side of the aisle for 27 years.

Mr. President, it is not easy for me, as a lifelong Republican and a Member of the Senate for many years, to oppose the confirmation of a Cabinet member nominated by a Republican President of the United States. I do so only because of the strong conviction I have regarding this nominee, Dr. Earl Butz. My opposition to his confirmation I believe is in the best interests of both the farmer and the Republican Party.

Unquestionably, Dr. Butz is an honorable decent person. His thinking, his views, and policies with respect to agriculture, however, are so different from my own and, I believe so different from the people I have the honor to represent, that I feel I have no alternative but to vote against his confirmation.

Ever since I first knew Dr. Butz, and that was when he was Assistant Secretary of Agriculture under Ezra Taft Benson, his views on farm programs, and particularly price support programs, were for low price supports or none at all. In the hundreds of speeches he has made since that time, I can find no indication that his thinking has changed.

Fortunately, dairy commodities, tobacco, rice, and peanuts have high fixed mandatory supports. No matter what the thinking of the Secretary of Agriculture may be, there is little he can do to change these programs. This is also true of the present cotton program. The present farm legislation with respect to other field crops, and particularly grain, is very flexible and leaves great discretion with the Secretary of Agriculture. If he wanted to, any Secretary of Agriculture could make these price support programs even far more ineffective than they are now. Thus the Secretary of Agriculture has vast authority to affect the income level and economic well being of millions of farm families. No doubt this is why the opposition to Dr. Butz' confirmation is so strong and widespread in my area. He has the power to make or break the average farmer. No doubt this is why the opposition to Dr. Butz is so strong in North Dakota.

I have noted that farmers involved in almost every other kind of production, too, are very deeply concerned about the confirmation of Dr. Earl Butz. No doubt a part of this is due to his sizable interests and influence in such huge concerns as Ralston-Purina which are not only processors of feed and food, but are also deeply involved in farm production itself. No small or average-type farmer can hope to compete against any huge corporation in the farming business, particularly when some of their other operations are profitable and they can take a writeoff on any farm loss they may have.

Mr. President, all three of the general farm organizations in North Dakota—the Farmers Union, the Farm Bureau, and the NFO—the State Association of Rural Electric Cooperatives, and many other organizations have advised me of their opposition to the confirmation of Dr. Butz. Of the 208 telegrams and 54 letters I have received thus far from North Dakota alone, only two telegrams expressed support for his confirmation. As their representative in the U.S. Senate, I could hardly ignore this almost unanimous request to vote against this confirmation.

Mr. President, I lived on a farm 47 years of my life or until I came to the U.S. Senate. I never had any other interests or investments, nor do I now. Many people have thought of me as strictly a wheat farmer. Actually my farming operations were quite diversified. While wheat was usually the major crop, for a long period of time I had a sizable dairy herd and I was also in the business of raising hogs and sheep. You could hardly find a more diversified farming operation in any State than mine was. While I am no longer a farm operator, all three of my sons are actual North Dakota farmers and they, too, have no other interest except in their farming operations.

With this kind of a background, Mr. President, I could not help but have a deep and continuing interest in agriculture. May I repeat again what I have said on the Senate floor before—I am a farmer first, and a Republican second.

Mr. HARRIS. Mr. President, I yield myself 1 minute.

I compliment the distinguished Senator from North Dakota for the excellent and very apt statement which he has made. As he knows, my father, who is a small farmer in southwestern Oklahoma, and I for many years followed the wheat harvest up to the State of North Dakota, and I know of the farming interests in his State, which are very similar to my own. He certainly expressed my own opinion on this nomination, and also that of the farmers of my State.

Mr. President, I also want to announce that the distinguished chairman of the Senate Committee on Agriculture and Forestry would be here to make a statement at this time against the nomination except that he is in the conference on the tax and campaign financing bill. He does oppose the nomination of Mr. Butz and will make his principal statement in the morning.

Now I am glad to yield 15 minutes to the Senator from Missouri (Mr. SYMINGTON).

Mr. SYMINGTON. Mr. President, I thank the able Senator from Oklahoma. May I first say to the Senate that I hope every Senator, prior to voting on this matter, will read the remarks of the distinguished senior Senator from North Dakota, who for many years, I have felt, was not only an outstanding representative of the American farmer, but represents all that is best from the standpoint of experience and character in the U.S. Senate.

Anyone interested in the future of those millions of Americans who continue their bitter struggle to live on our land, so as not to be shunted into the cities to probably increase that already high unemployment that is currently characteristic of those latter areas, should view with grave reservation this nomination of Dr. Earl L. Butz to be the next Secretary of Agriculture.

I do not question the fact Dr. Butz really believes his oft-announced concepts of how the business of farming should operate. Based upon the record, as well as the testimony of this nominee, however, it is all too clear that if he obtains the authority to carry out these concepts, and if he is sincere in what he has been saying for many years, his appointment can only perpetuate and accelerate the price-depressing policies now characteristic of the farm programs currently backed by this administration.

This in turn can only further erode the confidence of agriculture, in any Federal farm programs; and this at a time when voluntary participation is being constantly stressed by the Department of Agriculture.

It is no secret that the career of Dr. Butz has been one which has consistently displayed an orientation in favor of the industrial processors, not the agricultural producers. Apparently his definition of efficiency is one which will drive another million farmers out of business by 1980; and this without regard to the individual efficiency of many family-size farms. I say this because under his policies the producer of agriculture products will be even more at the mercy of the great industrial processors.

The record also shows that, in his search for what he terms a "free market," Dr. Butz would favor a further decrease in any Government involvement in the farm economy.

Even without his direction, this current agricultural year well illustrates what happens to the individual producer if the Department of Agriculture works one side of the fence, but not the other.

Acting on what he said was "in the national interest," last year the former Secretary of Agriculture, who has now become a vice chairman of the corporation which Dr. Butz has represented for many years, called for heavily increased planting of feed grains so as to avert the anticipated shortage resulting from corn blight. When this expected development did not materialize, however, the consequent increased supply of corn and other grains glutted the market to the point where prices were driven down to the lowest levels in many years; and are still down.

Because of the failure to date of this administration to increase the loan support level for corn and other feed grains—and this is what many of us pointed out, Mr. President, would happen if we gave up our rights and gave them to the Secretary of Agriculture last year—individual farmers are now being penalized for responding to this "maximum production" call issued by their Government.

In other words, their cooperation with the Department of Agriculture has cost them heavily in income; and nobody can deny that.

Should not the Secretary of Agriculture be one whose record, not whose statements around the time of his request for confirmation, demonstrates that his primary interest is in the welfare of the farmer, not in the further progress of the giant vertical corporations whose profits increase in proportion to the lower prices they are able to obtain from the agricultural producers?

The facts presented above are well known to every segment of agriculture including most farmers.

The latter ask why should there not be just one member of President Nixon's Cabinet—just one—who represents the producers of the industry that employs more Americans than any other; and this apprehension is probably the chief reason for the overwhelming opposition to the nomination of Dr. Butz by the farmers of my State.

Mr. President, I represent a State in which we have two great cities, although agriculture is our largest industry. We will find Senators representing great cities who will come in here and vote for measures to crush the farm income of the remainder of rural agriculture. But, if it is any consolation to them, they will be the ones who will, in turn, be demanding more money for the people who they are demanding move off the land into the ghettos, for which they are coming in here and asking for millions and millions of dollars more in public welfare support.

From Missouri, I have received nine communications in favor of Dr. Butz and 321 against his appointment.

As but one illustration of their views, let me quote a letter received from the gentleman who is generally considered the No. 1 farmer of Missouri, Mr. Fred V. Heinkel, president of the Midcontinent Farmers Association:

> With regard to the confirmation of Dr. Earl Butz for Secretary of Agriculture, it is our belief that Dr. Butz should not be confirmed by the Senate for Secretary of Agriculture of the United States.
>
> I have not had a single MFA member or farmer tell me that he favors Dr. Butz as Secretary. I am not sure that all of these people know Dr. Butz's "track record" as we do, but the one thing they know and shall never forget: He was part and parcel of the disastrous Benson programs in the '50's.

Missouri farmers also know that since 1950 the Nation's farm population has dropped from 25.1 mililon—16.5 percent of the population—to 9.7 million in 1970—4.8 percent of our population.

Where have these people gone? Anyone who is interested in the problems of the cities can tell you where they have gone. In the main they have flocked to our cities in the effort to earn a living, thereby contributing to the sharp increases in the unemployment characteristic of recent years; and this, of course, has contributed to the dramatic rise in the number of people who have been forced to go on welfare in order to survive.

Dr. Butz, however, does not view the human tragedy of this development as any "new trend;" rather one which has been going on during most of this century, and one which he accepts, and presumably advocates, to survive.

In a speech May 2, 1957, entitled, "The New Look in Agriculture," Dr. Butz said:

> Machines will continue to displace men on our farms. We will produce more with fewer firms and with fewer workers than at present.

The man who represents or is supposed to represent our farmers in the Cabinet of any administration should be a man who recognizes the important social values inherent in the family-size farm—human beings should be on his mind, not machines.

Another Missouri farm leader, Oren Lee Staley, of Rea, Mo., president of the National Farmers Organization, summarized the concern of our farmers as follows:

> The Senate, in voting on confirmation, will be making a choice on the kind of agriculture and rural America our country wants to encourage. This crucial decision, in our judgment, is the most important single farm vote in this Congress. Farmers everywhere are deeply upset over the selection of Earl Butz and hope the Senate will not cast a vote against them. We, therefore urge you to vote against the confirmation of Dr. Butz.

Finally, Mr. President, again it is the record that really counts. So let us look at that record.

Statements made by Dr. Butz, from the time of his service under Ezra Taft Benson as Assistant Secretary of Agriculture in 1957 up until a few months ago, reflect his considered attitude toward the enforcement of programs for which he would be responsible; programs such as the food stamp program, a program which gives food to little children and to aged and ill people all over the United States, and the Packers and Stockyards Act.

As late as April 26, before an agriculture and marketing seminar in Minneapolis, Dr. Butz described as "fadism" the recent concern expressed by Members of the Senate toward the problems of hunger and malnutrition in the United States.

In the same speech which was referred to in an editorial in the Washington Post this morning, he described the food stamp program—now get this—as "just short of ridiculous in some parts of the country."

What a statement for the Secretary of Agriculture to make. I remember years ago when the Secretary of Labor appointed by the late, great President Eisenhower was a plumber, and everyone said, "Imagine a plumber in the Cabinet of the President of the United States."

But I heard the president of the A.F. of L. take those comments apart, when he named the Secretary of Defense and asked, "Who does he represent?" He named the Secretary of the Treasury, and asked, "Who does he represent?" And he went right through the Cabinet.

Then the head of the A.F. of L. said:

> Can't we have one person in the Cabinet who represents the tens of millions of Americans in labor organizations? And if there is one in the Cabinet, should he not normally be the Secretary of Labor?

Well, Mr. President, are we not in exactly the same situation today? Is there to be no one in the Cabinet of the President of the United States who represents the producers of the farm products which represent the food that is needed by everybody in this land?

I know there are those who do not think so, and I know there are those who are planning to eliminate any representation.

I have in my hand the Kiplinger Agricultural Letter, the last one out, dated November 26, 1971, and it reads:

> Here's something farmers should get firmly set in their minds.
>
> Dep't of Agriculture is on the way out . . . probably this decade.
>
> One way or another USDA is going to eased out of existence.
>
> Then NO gov't agency will speak exclusively to or for farmers.
>
> *Oh, Nixon says USDA will be kept* . . . as a major gov't department with full cabinet status. Made the announcement at White House briefing for newsmen when he nominated Earl Butz to be next Sec. of Agriculture.
>
> *This makes great election year talk* . . . designed to placate farmers. And undoubtedly true for the time being. USDA will be kept for a while.

Then the letter says:

> So . . . a change in strategy regarding USDA. Keep it now . . . but set stage for future abolition by city congressmen.

Mr. President, so that I will not be accused in any sense of taking anything out of context, I ask unanimous consent that this part of the Kiplinger Agricultural Letter of November 26, 1971, be printed at this point in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

> The Kiplinger Agricultural Letter,
> *Washington, D.C., Nov. 26, 1971.*
>
> Dear Sir: Here's something farmers should get firmly set in their minds.
>
> Dep't of Agriculture is on the way out . . . probably this decade.
>
> One way or another USDA is going to be eased out of existence.
>
> Then NO gov't agency will speak exclusively to or for farmers.
>
> *Oh, Nixon says USDA will be kept* . . . as a major gov't department with full cabinet status. Made the announcement at White House briefing for newsmen when he nominated Earl Butz to be next Sec. of Agriculture.
>
> *This makes great election year talk* . . . designed to placate farmers. And undoubtedly true for the time being USDA will be kept for a while.
>
> *But study Nixon's remarks* . . . analyze . . . dig for the true meaning:
>
> *He will rejigger USDA to represent ONLY farmers.* Sounds great on the surface. It's just what many farmers have wanted for a long time.
>
> *Agriculture will be stripped of NONfarm* programs and functions. A proposed Dep't of Community Development will acquire rural housing, water & sewer programs . . . probably Rural Electrification Administration. Forest Service and SCS will go to proposed Dep't of Natural Resources. These moves will be made via the legislative route . . . perhaps next year. Later on, meat & poultry inspection will be combined with Food & Drug. Food stamps and school lunch will move to HEW or whatever succeeds it.
>
> *Only bare bones will be left*: ASCS to administer farm programs, a farm statistics group, plus some research . . . economic, crop, livestock.
>
> *Can a stripped-down USDA survive* as a major gov't department over the long pull if its only function is to serve commercial farmers?
>
> *Odds are definitely against it.* Will be very hard to justify cabinet status for a dep't that serves only 500,000 to 600,000 farmers. Congress will take a dim view as it becomes even more urban-oriented.
>
> *Question: Isn't farming part of commerce?* The "manufacturing" and marketing of food and fiber. Agriculture is now "another industry," not a "way of life," it's argued, or something needing special treatment.
>
> *So why not represent it that way in gov't?* Have a farm agency within the Commerce Dep't or whatever dep't is to represent business. Some observers predict this is the route Agriculture will be following. Say Nixon is still for it, but realizes farm votes will be hard to get if he continues to say it. So . . . a change in strategy regarding USDA. Keep it now . . . but set stage for future abolition by city congressmen.

The PRESIDING OFFICER. The 15 minutes allotted the Senator have expired.

Mr. SYMINGTON. I ask for 5 additional minutes.

Mr. HARRIS. I yield the Senator 5 additional minutes.

Mr. SYMINGTON. In May 1957, as Assistant Secretary of Agriculture, in connection with hearings on a bill designed to prevent monopolistic practices in the meat processing industry, Dr. Butz appeared before the Senate Subcommittee on Antitrust and Monopoly.

An article based on those hearings appeared last week in the St. Louis Post-Dispatch. This article asserted that Dr. Butz "squelched" an investigation of alleged price fixing of a major grocery chain in 1956.

The article then goes on to state, in part:

> Butz acknowledged halting an inquiry into Safeway Stores, Inc. in testimony before a Senate Subcommittee in 1957. A subordinate testifying before the same subcommittee said that there was evidence of federal law violations by Safeway in its meat-buying operations in California.
>
> Sources interviewed today recalled the Safeway inquiry and said that Butz stopped the investigation after it had uncovered specific information about methods allegedly used by Safeway to control beef prices.
>
> Such tactics would have been in violation of the federal Packers and Stockyards Act of 1921.
>
> The source asked not to be identified but said that he would testify about the matter before a Senate committee if asked. He said that documents locked up in the Department of Agriculture would confirm his contention.

I do not know whether these assertions are true or are not true. They have been placed on the public record, however, and, therefore, should be looked into carefully prior to final consideration of this nomination.

The farmers of America already have enough problems in their struggle to make ends meet; and it would seem that this is hardly the time to have as their representative in the Cabinet of the President of the United States one whose statements, whose record, and some sources of income demonstrate with clarity that his primary interest has been with those who profit most when farm prices are at their lowest.

It is for the foregoing reasons that I will vote against confirmation of the nomination of Dr. Butz, and I ask my colleagues to do the same.

I ask unanimous consent that the articles from the November 26, 1971, St. Louis Post-Dispatch and the December 1, 1971, Washington Post be inserted in the Record at this point.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the St. Louis (Mo.) Post-Dispatch, Nov. 26, 1971]

BUTZ HALTED PRICE STUDY

(By Lawrence E. Taylor)

WASHINGTON, Nov. 26.—Earl L. Butz, nominated as Secretary of Agriculture, squelched an investigation into alleged price-fixing by a major grocery chain in 1956 when he was an assistant Secretary of Agriculture, records showed today.

Butz acknowledged halting an inquiry into Safeway Stores, Inc., in testimony before a Senate subcommittee in 1957. A subordinate testifying before the same subcommittee said that there was evidence of federal law violations by Safeway in its meat-buying operations in California.

Butz, who left the department in 1958 to join the faculty at Purdue University, has been criticized for his close ties to big businesses with agricultural interest.

At the time of his nomination to the top agriculture job by President Richard M. Nixon, Butz was on the boards of several agriculture business firms, including Ralston Purina Co. of St. Louis. He said he had resigned from those positions.

Sources interviewed today recalled the Safeway inquiry and said that Butz stopped the investigation after it had uncovered specific information about methods allegedly used by Safeway to control beef prices.

The sources told the Post-Dispatch evidence indicated that each week Safeway buyers allegedly set a top price that the company would pay for beef.

This price allegedly was passed along to buyers for other California retailers and commercial outlets and allegedly resulted in a ceiling on beef throughout the state, the sources said.

Such tactics would have been in violation of the federal Packers and Stockyards Act of 1921.

One source, close to the investigation, recalled that the inquiry was begun after California cattlemen and beef producers had complained to the Department of Agriculture.

The source said that the inquiry, conducted by the department's packers and stockyards division, had been under way for two or three months when Butz, in a handwritten directive, ordered it halted.

"The next step (in the investigation) would have been to question them (Safeway executives) and get documents, and to question some of those alleged to be in the conspiracy," the source said.

The source asked not to be identified but said that he would testify about the matter before a Senate committee if asked. He said that documents locked up in the Department of Agriculture would confirm his contention.

In addition to price-fixing, the investigation had sought to determine whether Safeway's ownership of livestock feed lots had enabled it to unfairly influence meat prices, the source said.

Butz, testifying before the Senate judiciary subcommittee on antitrust and monopoly in May 1957, discussed only the feedlot aspects of the investigation.

His initial answers to questions by subcommittee members about the Safeway matter were vague. His memory improved, however, when Lee D. Sinclair, director of the section making the investigation, appeared before the subcommittee.

Sinclair testified that at the time Butz halted the inquiry, "we felt . . . there was sufficient evidence to warrant a full-scale investigation; that the facts indicated a violation (of the law)."

Butz had testified earlier that the investigation was stopped "because we had no conclusive evidence, as far as I know, and as of this date we have no conclusive evidence that this practice does in fact depress prices."

He said that the matter was "much broader than Safeway" and dealt with questions of whether retail chains could own feedlots and meat packing plants.

For that reason, the investigation was ended and the matter was turned over to an agricultural economist for study, Butz said.

Sources interviewed today, said, however, that the normal pattern in such cases would have been for the department to order an economic study while the price-fixing inquiry was continued.

If sufficient evidence of law violations had been uncovered, the matter would have been referred to an Agriculture Department hearing examiner, the source said. If the examiner had found Safeway guilty, a cease-and-desist order could have been issued.

Publicity resulting from the hearing would have been embarrassing to the company, which at the time was one of the largest retail grocery chains in California.

Safeway, in a letter filed with the antitrust and monopoly subcommittee in 1957, denied any wrongdoing. The company did not discuss its meat-buying practices, however, and the matter was not raised at the hearing.

The sources said, however, that word of the departmental investigation and the resulting economic study apparently leaked back to Safeway and the alleged price-fixing was stopped.

The investigation was begun and halted when Ezra Taft Benson was Secretary of Agriculture. Sources said that there was no indication that Benson had been involved directly in the decision to terminate the inquiry.

Butz has been challenged because of his close identification to Benson's policies. Opponents of his confirmation to the Agriculture post have said that 38 Senators probably would vote against him when the nomination reached the Senate floor. Butz was approved by the Senate Agriculture Committee 8 to 6.

[From the Washington Post, Dec. 1, 1971]

FARMERS AND POLITICS

The most fascinating aspect of the fight in the Senate over the nomination of Earl Butz to be Secretary of Agriculture is why the Nixon administration got into it in the first place. Mr. Butz is hardly what you would call popular in the farm states, except among the really big farmers and farm corporations, and substantial numbers of Republican voters live in those states. His nomination has made almost all of the Republican senators from those states squirm and some of them, normally staunch supporters of the President, have already said they will vote against confirmation. On the other side of the aisle, however, the Democrats are having a field day. Mr. Butz is so easy for them to shoot at that some of them are toying with the idea of voting to confirm his nomination so they will have him around for a target next fall.

The complaint against Mr. Butz, as we understand it, is threefold. He is a symbol, as well as an advocate, of what has become known as agribusiness—the takeover of the food production system from beginning to end by large corporations. The second count in the complaint is that he is out of step with even this administration's efforts to aid the poor; last spring he called the food stamp program "so generous, so extensive—that it's just short of ridiculous in some parts of this country" and said the President's welfare program is "so far out that even the Democrats in Congress won't buy it." The third count is that he is simply insensitive—he seems to regard the current concern about pollution and the environment as a passing fad.

With that kind of record behind him, Mr. Butz was certain to run into trouble on Capitol Hill. The farm problem is one to which many senators are peculiarly sensitive, partly because some of their constituents are farmers and partly because they know the nation doesn't really have a program or a policy to deal with it. Congress simply hasn't decided yet what to do about farming—whether to try to save some of the old small farms, or to let the whole food production cycle slide into a big business operation, or to find a middle road. On that point, the Senate might be better advised to debate what the policy ought to be instead of who the Secretary of Agriculture should be. Mr. Butz, whether the new secretary or dean of an agriculture school, isn't going to establish the nation's policy himself.

As a general rule, Presidents ought to be able to get Senate confirmation of those men and women they want in their cabinets as long as the nominees have honorable records and possess some qualifications for the job. Cabinet members, after all, are the President's hand-picked advisers and administrators. Even so, we can understand why some senators, Republicans as well as Democrats, don't want Mr. Butz to become the President's key adviser on farm policy. What we don't understand is why the President wants him—particularly when his choice so embarrasses some of his best friends in the Senate. And that leads us to wonder whether the President knew as much about Mr. Butz when he made the nomination as he knows now. If he did, it seems to us that he unnecessarily picked a fight which will hurt him politically even if he wins it. If he didn't everybody—except the Democrats who want to run against Mr. Butz next November—might be better off if the nomination were withdrawn.

Mr. AIKEN. Mr. President, I yield 5 minutes to the senior Senator from New York.

New York is one of the greatest agricultural producing States in the Union, and the greatest consuming population of any area in the United States is in the New York City area.

Mr. JAVITS. Mr. President, it is my intention to support the confirmation of the nomination of Dr. Earl Butz to be Secretary of Agriculture. I wish to make certain points clear in that regard.

First, the nomination we are considering is a Presidential nomination for a Cabinet position. As I stated in my floor statement of October 20, 1971, discussing the Supreme Court nominations—where I set my criteria for such confirmations—I am prepared to vote to confirm, subject to substantiality and integrity, nominations of Cabinet or similar officials made by the President precisely because these appointees should be, insofar as possible, those the President chooses and who will work with and for him. As to Dr. Butz, I must be motivated importantly by the fact that the President wants him as the Secretary of Agriculture.

Second, I do not have to agree with all of Dr. Butz' philosophy and attitude toward the programs administered by the Department of Agriculture.

I do not suppose one could agree fully with any honest man. But I would have to be satisfied that he reasonably meets the policy requirements which I feel are demanded for American agriculture—

again bearing in mind that the President wants him and that, therefore, if I can, I should give the President the man he wants. This is a job in which the President has more of a right to have his chosen assistant.

My deep interest is in the hunger and nutrition programs—in the school lunch program, in the food stamp program, in the school breakfast program and other nutrition programs. I was the ranking member of the Senate Committee on Hunger and Nutrition.

I have had a discussion with Dr. Butz and had it expressly in the light of a speech he gave last April in which he seemed to criticize the programs to which I have just referred, and in which he specifically referred to a trip taken by Senator McGOVERN to Florida to investigate hunger problems—a trip, incidentally, of which I was a part, as a member of the Senate Hunger and Nutrition Committee.

After discussing this matter with Dr. Butz, I felt that the talk he gave was mainly directed toward the point that we Americans have a tendency, when we are for something to drive it and drive it and drive it until it might become an excessive preoccupation with us, and that we manifest that in our action. I might not agree, but I can understand that it did not necessarily represent a basic policy deficiency so far as his administration of the Department would be concerned.

I now have a letter from Dr. Butz bearing out my conclusion that, under all the circumstances presented, I should support him, and I should like to read the letter into the RECORD. It is addressed to me, and it reads:

> WASHINGTON, D.C.,
> *December 1, 1971.*
>
> Hon. JACOB K. JAVITS,
> *U.S. Senate,*
> *Washington, D.C.*
>
> MY DEAR SENATOR JAVITS: May I assure you in this letter as I did in our conversation yesterday of my deep and abiding interest in a program that assures that no American will go to bed hungry or the victim of malnutrition.
>
> During the three years of this Administration, the food stamp program and the school lunch program have increased substantially. These programs have my full and enthusiastic support.
>
> I have often stated that U.S. agriculture is so productive and that this country is so affluent that we simply cannot and must not tolerate pockets of malnutrition and hunger.
>
> Moreover, I am convinced that the various food distribution programs administered by the U.S. Department of Agriculture can be a positive factor in alleviating the difficult problems of the inner city that plague the population of our larger metropolitan areas.
>
> You may be assured that I will exert every possible effort to see that the abundant production of our American farms finds its way onto the tables and into the school lunches of our more than 200 million citizens.
>
> I look forward to working with you in the implementation of this program.
>
> Sincerely,
>
> EARL L. BUTZ,
> *Secretary-Designate.*

Mr. President, the efforts of the agricultural organizations in the State of New York—and I have communicated with many of them as to the general policies expressed by Dr. Butz—seem to be in accordance with the future of agriculture and the future of dairying under the special conditions which obtain in my State. Not that these conditions are unique, but they are conditions which particularly obtain in my State, which is, in fact, one of the leading agricultural and dairy States in the country.

The distinguished Senator from Vermont (Mr. AIKEN), who has been a great leader of agricultural interests and such a close neighbor to New York State, has expressed the fact that my State, though a very great industrial State, is also a very great farming State, especially dairying.

Mr. President, I will read into the RECORD part of a resolution adopted by the American Freedom from Hunger Foundation in November relating to its views on the work of Dr. Butz and his selection by President Nixon to be Secretary of Agriculture.

The Foundation resolution said:

> Resolved, by the Board of Trustees of the American Freedom From Hunger Foundation, assembled in its annual meeting November 15, 1971, that we extend congratulations and good wishes to the Honorable Earl Butz upon his selection by President Nixon to be Secretary of Agriculture; and
>
> Express our sincere appreciation for his effective support of the work and objectives of our Foundation during his years of service as a member of our board; and
>
> Look forward to continuing cooperation with Secretary-Designate Butz in his new role, knowing his dedication to combatting hunger, poverty and malnutrition at home and abroad.

For the reasons I have stated I shall support the confirmation of Dr. Butz. I feel on balance the President should have the Secretary of Agriculture he wants for his Cabinet.

I thank my colleague very much for yielding me this time.

Mr. AIKEN. This would be a good place to put in the RECORD the fact that in fiscal 1969 the appropriation for the food stamp program was $280 million. For fiscal year 1972, 3 years later, it was $2.2 billion, an increase of 750 percent approximately—I have not figured it out exactly.

One thing that ails the food stamp program in certain places is that it has been expanded faster than we could get administrative help to administer it properly. A 750-percent increase in 3 years does not seem to be too bad for the present Department of Agriculture.

Mr. HARRIS. Mr. President, I yield 5 minutes to the Senator from Minnesota (Mr. MONDALE).

The PRESIDING OFFICER (Mr. HUGHES). The Senator from Minnesota is recognized for 5 minutes.

Mr. MONDALE. Mr. President, I rise to join with many of my colleagues in opposition to the pending nomination. The Senator from New York recounted just now how a man in private life opposed and ridiculed the food stamp program, opposed and ridiculed the committee's nutrition experts going to Florida to find out the absolutely tragic life of the migrant farmworkers in terms of hunger and malnutrition, ridiculed the effort of Senator KENNEDY and others in going to Alaska to look at the absolutely appalling human conditions of the Eskimos and other Alaskan Natives, and how now, "at 3 minutes to midnight," as his attempted confirmation nears, we receive a letter from him indicating that he is really for all of these humanitarian programs after all.

My father was a Methodist minister, and he used to tell me to be wary of deathbed conversions, because they not always meant the way they seemed to appear and occasionally, when a man survives, he forgets the commitments he made at the time of the deathbed conversion.

To suggest that the man whose entire life has been a shining example of being a special pleader for the corporate processing and trade interests in American agriculture, who has spent most of his adult life in a series of activities and pronouncements which have been antagonistic to the family farmer in this country, who says that he now has changed all of those attitudes, has changed all of those associations and all of those beliefs and is suddenly a friend of the American family farmer, I think is asking more of the U.S. Senate than can be expected.

We in the Midwest, in agricultural America, do not think that the family farmer needs any defense. If we talk about efficiency, about productivity, about delivering quality food and nutrition to the American consumer at a reasonable price, the American farmer stands almost alone in the American economy in terms of magnificence of production and efficiency, and for his dedication to hard work.

What is needed is a series of programs to reward him for those efforts. There is very little hope that he will have such programs and such philosophies in the hands of the present nominee should he become Secretary of Agriculture.

Time and time again he has shown that he opposes the very program, the very efforts that are important for a sound family farm agricultural system. That is why he meets with severe opposition from the farm organizations which represent family farmers when he is opposed by farm workers, by rural businessmen, by environmentalists, by nutritionists, by people who want a humane and a just America. He simply does not represent a broad-enough segment of agriculture adequately to serve as Secretary of Agriculture.

An editorial appeared yesterday in the Worthington Globe, one of the finest newspapers in Minnesota. It suggested that Mr. Butz should be made Secretary of Commerce, because that has been his life; that his associations have been found almost exclusively with the large processing and marketing corporations of this country, and that therefore his views and his antagonism to rural family farming life make him a very unwise choice indeed to be Secretary of Agriculture.

I think that this editorial speaks responsively for the people in rural America who are trying desperately to preserve an enviable way of life and a precious heritage.

Farmers and rural Americans need a Secretary of Agriculture who has a broad outlook on the total needs of agriculture not someone who admits defeat by saying, "Nothing can reverse the trend."

Mr. President, I ask unanimous consent that this editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

EARL BUTZ SHOULD NOT BE CONFIRMED

On Monday Iowa's Sen. Jack Miller cast his vote in the Senate Agriculture committee against the nomination of Earl Butz for Secretary of Agriculture. Miller said he would not vote for a nominee who less than two weeks ago predicted there would be only 600,000 commercial farmers left in America—and that there was nothing any administration could do to reverse that trend. "When it comes to agriculture I feel that my first duty as a senator from Iowa is to stand up for the farmers of Iowa," Miller declared.

With that, it could be said the battle is fought although the issue is not yet decided for farmers through the local region. Every senator from the upper Middle West—Miller and Hughes of Iowa, Mondale and Humphrey of Minnesota, McGovern of South Dakota, Young and Burdick of North Dakota, Nelson and Proxmire of Wisconsin—is in opposition to the Butz nomination. Partisan politics have been somewhat laid aside.

The only major political figure in either the Republican or Democratic parties of the region to support the nomination is Rudy Boschwitz, Minnesota Republican national committeeman, who Sunday said Butz is "an excellent and courageous choice" and who said he is encouraged to advocate Butz after discussions with "a large number of farmers and farm leaders throughout the state."

There is a snobbery in American politics which dictates that no farmer is capable of directing the Department of Agriculture. Farmer-congressman (Minnesota's Ancher Nelsen or Albert Quie as two examples) are ever overlooked and the department has been headed by a succession of lawyers, economists, educators and professional politicians. Not since the "millionaire cabinets" of the late 19th century, however, has it been suggested that a corporation director could be the most effective spokesman for America's farmers.

It is this, precisely, which rankles.

Earl Butz is a man of distinction, ability and achievement. This is indisputable. He both owns stock and has served on the board of directors of some of the best-known corporations of America, among them the Ralston-Purina corporation, the J. I. Case corporation, Stokley Van-Camps and International Minerals and Chemicals. Ultimately, however, the credentials suggest he could more appropriately be nominated for Secretary of Commerce than Secretary of Agriculture. His interests and experience do not suggest him as the nation's first and best spokesman for the men who plow the fields and plant the corn in southwest Minnesota and northwest Iowa.

Nor does his philosophy.

Mr. Butz is persuaded (as was his onetime chief, Ezra Taft Benson) that "there is nothing any administration can do to reverse the trend" from America's tradition of family farms to the phenomenon of but a relative handful of sprawling, corporate farm operations. This judgment may even be correct; many insist that it is.

There is still substantial reason to hope that much that has been good in American agriculture can be preserved, however. The men and women who are on the farms are not ready to capitulate. They are doing battle to preserve an enviable way of life and a precious heritage. They deserve a spokesman and leader with this same will to fight who will give representation to their cause.

Mr. Butz does not even propose to make a significant effort to ease the present plight of America's farmers. He suggested to the Senate Agriculture Committee that the present 90-cent corn might be made $1-a-bushel corn. That would still not be a fair return. And for the longterm outlook, Butz has already written off farming operations of the kind we know today. "Nothing can reverse the trend."

It will be a sorry development indeed if Earl Butz should become the Secretary of Agriculture.

Mr. MONDALE. Mr. President, the controversy over President Nixon's nomination of Dr. Earl Butz has focused emphasis on our Nation's increasing need for bold new programs to revitalize rural America. I have declared my opposition to the nomination because I do not believe that Dr. Butz is the man for the job. As you know, the nomination has met severe opposition from farmers, farmworkers, rural businessmen, and environmentalists. Dr. Butz clearly does not represent a broad enough segment of agriculture to adequately serve as Secretary of Agriculture.

I do not question the professional competence or the integrity of Dr. Butz. But I believe his ideas and philosophies regarding the fate of rural America are archaic and disastrous. He has said that we lost a million farmers under Secretary Benson and another million under Secretary Freeman. His own philosophies indicate that he would have this trend continue. But trends toward fewer and larger farms and the movement of millions of people into the crowded cities are not inevitable. These trends have been nurtured and prodded by programs and policies that encourage invasion of agriculture by corporate conglomerates.

In agriculture, as in other sectors, our Nation has tremendous potential for improvement. We can stop the off-farm migration and even move people back into the rural areas if we vigorously work toward those ends. This must be done soon if we are to have anything left out there in rural America to save.

The vast facilities of the Department of Agriculture and the land-grant colleges and universities could be extremely instrumental in improving the situation in rural America, thus improving the entire Nation. Government could help even more with policies that would reward our farmers for their enterprise and productivity. By instituting bold new programs we could encourage new vigor in rural America.

A vital and stable rural America is important to the entire society and economy. Every year our farmers use the natural resources and their own labor and management skills to create new wealth. Their produce abundantly satisfies the food and fiber needs of our society. Portions exported provide a substantial boost to our balance of payments. Every dollar of income returned to farmers for their production turns over in the economy several times to generate more income in other sectors. For these reasons, better farm income is a basic need for improvement of rural America and the entire economy.

In addition to the economic importance of a vital rural America, there are several social and environmental issues which concern the total Nation and are directly influenced by the well-being of our independent family farmers. Poverty in rural America adds to poverty in urban America. Off-farm migration increases overcrowding of cities. Large corporate landowners, which displace family farmers who have been stewards of the soil for generations, will likely have less regard for the environment and for good soil and water conservation methods. Seldom has a conglomerate shown much concern over the well-being of its farm laborers or the rural community.

A century ago, it became our primary national policy to move people westward into the open lands of the frontier. As a result, our democracy and free enterprise system were enhanced by the development of many small towns, independent businesses and family farms. But, unfortunately, we began neglecting those important entities a few decades ago. It is time to redirect our priorities toward revitalizing the thousands of small communities in rural America which have always been the roots of our Nation's greatness.

The new vitality of rural America must start with good farm income. So far, this administration has shown little interest in that respect. The set-aside program of land retirement is totally inadequate as a system of supply management. Experienced farmers predicted that during signup last winter. This year's vast overproduction and severely depressed wheat and feed grains prices have proven the program's inadequacy.

Several bills have been introduced in efforts to improve the depressed farm price situation. These include S. 2729, which authorizes establishment of a strategic reserve of storable commodities. The reserve would be insulated from the market so it could not hang over market to depress farm prices. Commodities would, however, be available for emergency use in case of drought, pestilence, or other crisis situations.

Another bill, Senate Joint Resolution 172, the Farmers Income Improvement Act of 1971, would provide emergency measures to improve farm income. It would: first, establish a base acreage program for the 1972 feed grain crop; second, establish an additional voluntary acreage diversion program for the 1972 wheat crop, and third, raise loan levels for both the 1971 crops of wheat and feed grains by 25 percent. Together, these proposals would not involve added costs for the Government. Prompt enactment could increase the farm value of the 1971 and 1972 grain crops substantially.

Besides these and other programs needed to solve the immediate problems of our independent family farmers, there are needs for longrun programs. Farmers need informed assistance and strength in marketing their products. They need legal and technical backing to develop bargaining power and workable supply control methods. The Department of Agriculture and the colleges could also be helpful in this area by researching these topics and helping to develop workable programs.

In this session of Congress I introduced two bills that have to do with farm bargaining—the National Agricultural Bargaining Act of 1971 (S. 726) and the National Agricultural Marketing Act (S. 727). When I first introduced this type of legislation in the 90th Congress, it was a pioneering effort. There had been a little research done but this was a first attempt to see if, through the hearing process, something workable could be developed to give farmers legal authorization for collectively bargaining with processors. I am happy that more progress has been made in this session.

Farmers have often been told that they are free in the marketplace and should stay that way. But too often that freedom turns out to be only a freedom to go broke. The bargaining bills were intended to correct that situation by giving farmers marketing muscle while allowing them to maintain their managerial freedom which has proven itself so efficient.

If rural development is ever to be more than rhetoric, we need to institute several bold new programs which serve a broad segment of agriculture and a broad range of rural needs. Too often in recent years, government and the land grant colleges have served only agribusiness and agribigness, while the broader needs of rural America have been forgotten.

We need a Secretary of Agriculture who will address himself to the needs of our farmers, farm workers and consumers. The record of Dr. Butz epitomizes the agribusiness viewpoint and that viewpoint only. Nothing he has said or done indicates any change in his philosophy.

In each election there are fewer officials elected who have a broad knowledge of agriculture and a feel for the needs of our farmers. Seldom does a presidential aide have a working knowledge of agriculture. During the recent period of national economic problems, the administration made little mention of farming, a sector which is basic to our economy. Facing this situation, I think that we should at least have a Secretary of Agriculture who is responsive to the needs of our farmers. Dr. Butz is clearly not that man and I cannot vote to confirm his nomination to that office.

Mr. President, I continue to receive a phenomenal amount of communications from farmers, rural businessmen and farm organizations in Minnesota opposing the nomination of Dr. Butz. I have selected some of these and I ask unanimous consent to have these messages printed in the RECORD.

There being no objection, the communications were ordered to be printed in the RECORD, as follows:

NOVEMBER 25, 1971.

Senator WALTER F. MONDALE,
Old Senate Office Building,
Washington, D.C.

In a unanimous vote, delegates to the 30th Annual Minnesota Farmers Union Convention approved on Tuesday, November 23, a resolution to strongly and actively oppose the nomination of Dr. Earl Butz as Secretary of Agriculture.

The Resolution read:

"The Minnesota State Farmers Union protests in the strongest possible terms the nomination of Earl Butz as Secretary of Agriculture.

"Dr. Butz, who is now dean of education and chief fund raiser for Purdue University, is also a board member of three huge agribusiness corporations, as well as an Indiana insurance director, plus owning stock in several manufacturing and chemical companies, could not represent the farmers' interests in better agriculture.

"Earl Butz, the man President Richard Nixon wants as Secretary of Agriculture, is against the family farmer. This was proven when he was Assistant Secretary of Agriculture under the Eisenhower—Ezra Taft Benson administration.

"Agriculture is now in a depression equal to the 1930's and needs a strong, open minded Secretary of Agriculture who will fight for and represent the farmer."

NATIONAL FARMERS ORGANIZATION,
Corning, Iowa, November 19, 1971.

Hon. WALTER F. MONDALE,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR MONDALE: After observing two days of questioning of Dr. Earl Butz at the Agricultural Committee Hearings, we remain firmly convinced that his confirmation as Secretary of Agriculture would be a disaster for farmers. His answers have not satisfied our concerns over his long and close ties to agri-business, his attitudes toward elimination of farmers and the drive by integrators and others to gain control of the food industry, and the conflict of interest arising from his substantial payments as a director of three of the nation's largest agribusiness companies.

He did not satisfactorily answer most of the questions put to him by Senators and other members of Congress of both political parties. These included attempts to determine what he might recommend to raise farm prices, how we would get REA and other department funds released by the White House, how he would tighten poultry inspections, and what he would do to halt the drive by integrators and others to take over farm production.

We feel Senate approval of Dr. Butz would be a vote to abandon an historic commitment to opportunity for people on the land. It would, in effect, ratify a policy to drive people out of agriculture, undermine farm and small business enterprises, and destroy rural towns and cities.

The Senate, in voting on confirmation, will be making a choice on the kind of agriculture and rural America our country wants to encourage. This crucial decision, in our judgment, is the most important single farm vote in this Congress. Farmers everywhere are deeply upset over the selection of Earl Butz and hope the Senate will not cast a vote against them. We, therefore, urge you to vote against the confirmation of Dr. Butz.

Respectfully yours,

OREN LEE STALEY, *President.*

AMERICANS FOR DEMOCRATIC ACTION,
Washington, D.C., November 22, 1971.

DEAR SENATOR: ADA strongly urges the Senate to refuse to confirm Earl L. Butz as Secretary of Agriculture. We believe that the continuing trend toward large-scale corporate agriculture at the expense of the small family farmer is not in the nation's long-term economic interest, and we deplore the nomination of a man for Secretary of Agriculture who has been a devoted spokesman for the agribusiness lobby.

Butz' history of cynical disregard of the welfare of the small farmer—as evidenced by his key role in the farm program of Secretary Ezra Taft Benson in the 1950s—is enough in itself to disqualify him. During that period—and, for that matter, since then—the systems of farm subsidies have operated to assist large farmers far out of proportion to smaller ones, with the so-called marginal farmers often being left out altogether.

It is time to reverse these policies with new approaches that will link federal subsidy payments with need in rural areas. It is time to dry up the vast sea of rural poverty that exists in every state in the Union. It is time we realized that rural and urban poverty both have flourished out of the misplaced priorities which have given us, among other things, the Vietnam War.

Certainly new priorities will not be advanced with Earl Butz as Secretary of Agriculture.

The needed reversal of these pernicious trends requires a Agriculture Secretary who displays a deep sympathy for the plight of the migrant worker, for the remaining sharecroppers, for Indians who have been dealt the worst farm land in America, and for low-income family farmers everywhere, all of whom live in conditions which are the shame of the nation.

Mr. Butz' statements in the past do not indicate that kind of sympathy. Far from it; his rigidly market-centered outlook would be woefully inadequate to formulate social policies designed to reverse the flow of population from rural America.

Sincerely yours,

LEON SHULL, *National Director.*

SLEEPY EYE, MINN.,
November 17, 1971.

DEAR SENATOR MONDALE: I urge you most strongly to do all in your power to defeat the nomination of Earl Butz for Secretary of Agriculture. He certainly is not the man who would place the welfare of the farmer as his primary task. His background and previous affiliations indicate that.

Very sincerely yours,

MRS. MARTIN KLINKNER.

SACRED HEART, MINN.,
November 17, 1971.

Senator WALTER F. MONDALE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: I am opposed to President Nixon's appointment of Earl L. Butz as Secretary of Agriculture.

I urge you to work against confirmation of that post.

We need a sec. of agriculture who understands the problems of rural America. One who understands small family type farming operations. This type of agriculture is the backbone of our great nation.

I strongly feel if agriculture, given its fair share of this nation's wealth, with its roots set firmly in the family farm, will feed into the many branches of our economy. As a result a healthy and prosperous nation will emerge.

We don't need a sec. of ag. who is influenced by conglomerates and large corporate structural farms.

Sincerely,

ROBERT LEROHL.

SLEEPY EYE, MINN.,
November 17, 1971.

DEAR SENATOR MONDALE: In regard to Earl Butz, as a new Secretary of Agriculture, this should be blocked. The statements he has made about the number of farms that he thinks would be plenty, would force all the family type farm operators off.

He is a corporation man, and a slap in the face for the family type farm.

Yours truly,

IVAN KOTTEN.

NOVEMBER 21, 1971.

Hon. WALTER F. MONDALE,
The Capitol
Washington, D.C.

DEAR SENATOR MONDALE: Let me give you a statement from the *St. Paul Pioneer Press*, Nov. 21, 1971, Focus Section, page 1 and page 4, "Vicious Circle: Pesticides, Pollution, People," by Lewis Patterson:

At a farm marketing seminar in Minneapolis where he was the keynote speaker, Dr. [Earl L.] Butz said that America's overreaction to ecology is fadism. "Environmentalists," he said, "are the greatest single threat to agriculture."

From all the reports which I have read about Mr. Nixon's proposed candidate for the job of Secretary of Agriculture, I have concluded that he is the tool of agri-business, and an instrument in the agriculture school-chemical industry-farm lobby complex.

At a time when America is awakening to the need for increased attention to our ecology, it is unfortunate that we might have at the critical post of Secretary of Agriculture one who is so biased against environmental rehabilitation.

I urge you to cast your vote against Mr. Butz.

Sincerely yours,

Frederick A. Fleming.

Committee for a Program
of Guaranteed Employment,
New York, N.Y., November 20, 1971.

Hon. Senator Walter Mondale,
U.S. Senate,
Washington, D.C.

Dear Senator Mondale: President Nixon has nominated Earl Butz as Secretary of Agriculture. We urge you to vote to deny his appointment to that position.

Earl Butz reportedly stated that the Food Stamp program is "so generous and expensive that it is just short of ridiculous in some parts of the country." Total spending for food stamps is about $2 billion, or less than *half* the spending by the Department of Agriculture on subsidies for rich farmers for not growing food—a program that Mr. Butz presumably does not consider outrageously generous and expensive.

As a result of Mr. Butz's position on Food Stamps and Welfare (He considers President Nixon's proposed Welfare reform "so way out that even Democrats won't accept it"), we consider him totally unfit for any public office. We therefore urge you to vote to deny confirmation of this appointment.

Sincerely,

Leonard Sussman, *Chairman.*

Madison, Minn., *November 20, 1971.*

Hon. Senator Walter Mondale,
Senate Chambers,
Washington, D.C.

Dear Mr. Mondale: A vote for Mr. Butz as Secretary of Agriculture means no vote for you in 1972.

Sincerely,

Carmen M. Fernholz, *Educator.*

P.S. Also please forget any new collective bargaining legislation for agriculture. Agriculture already has all of the tools it needs with the Capper-Volstad Act. Instead put your tremendous intelligence and energy into educating farmers and rural businessmen on the necessity of working together through collective bargaining.

Madelia, Minn.,
November 22, 1971.

Senator Walter Mondale,
Washington, D.C.

Dear Mr. Mondale: Will you please do all you can to stop the appointment of Earl Butz as Secretary of Agriculture?

Yours truly,

Mark Kelsey.
Mary L. Kelsey.

Austin, Minn.

Senator Walter Mondale,
U.S. Senate Office,
Washington, D.C.

Dear Senator Mondale: I wish you to know that a legion of family farmers appreciate your interest and hard work on behalf of those of us who live on the land as family farmers. We remember, too, that "the soil is God's greatest material gift to man"—we work at being good stewards of this gift.

We urge you to vote against Mr. Earl Butz as our Secretary of Agriculture. His past efforts have been against the family farmer and the village and town merchants as well.

With much gratitude to you Senator Mondale, I am

Sincerely,

Mrs. Fred Gravenish.

Minnesota, Minn.,
November 19, 1971.

Dear Senator Mondale: We are farmers in Lyon County, Minnesota and do not want Earl Butz as Sec. of Agriculture or any other office in Washington, D.C.

Sincerely,

Mr. & Mrs. Garfield Broughton.

November 17, 1971.

Senator Walter Mondale,
Old Senate Office Building,
Washington, D.C.

Dear Fritz: Re approval of Earl Butz as Secretary of Agriculture—if ever we had an opportunity to strike a blow against "Corporate Socialism"—this is it.

"The long habit of not thinking a thing wrong gives it the superficial appearance of being right" Tom Paine.

Earl Butz as Secretary of Agriculture is as wrong as a three dollar bill.

Let's make enough waves to hear it all the way to Minnesota and not just in the news letter.

Best regards always,

M. B. "Pete" Nagel.

Sleepy Eye, Minn.,
November 17, 1971.

Senator Mondale: I am writing concerning the pending appointment of Earl Butz to the position of Sec. of Agriculture. Because of his relationship to agri-business and vertical integration industries I believe he cannot represent the family farmers' viewpoint. I oppose his nomination. I trust you will consider my letter in your vote.

Respectfully,

Patrick A. Hoffmann.

Comfrey, Minn.

Dear Senator Mondale: I am writing in regard to the pending appointment of Earl Butz to the position of Secretary of Agriculture. For a man whose background and philosophy is so closely tied to agri-business and vertical integration to be appointed to such an important position seems to us to be an insult to the family farmer.

We urge and hope you will use your influence to block this appointment.

Sincerely,

Art Mathiowitz.

Minnesota Lake, Minn.,
November 17, 1971.

Dear Senator Mondale: I definitely disapprove of President Nixon's appointment of Earl Butz as Secretary of Agriculture. He has never been for the farmer and certainly won't be now.

He is allied with "Big Brains" especially Ralston Purina the chicken farmers.

Please convey this message of disapproval to the President.

Thank you,

Ronald Krengel.

Morgan, Minn.,
November 17, 1971.

Dear Senator Mondale: In regard to the appointment of Earl Butz, I oppose his appointment as Secretary of Agriculture as he is interested in Big Business and against small Family Type Farms.

Yours truly,

Raymond Martnowez.

Jordan, Minn.,
November 17, 1971.

Dear Senator: We are not in favor of Earl Butz for Secretary of Agriculture. We need a man who will help the family farm not big business and corporations.

Sincerely,

Mr. and Mrs. Erwin Riegraf.

Easton, Minn.,
November 18, 1971.

Dear Senator: I think Mr. Earl Butz would be a very poor man in the position of Secretary of Agriculture. The past history of Mr. Butz speaks for itself and he is definitely not concerned about the family farms.

Sincerely,

George G. Schimek.

New Ulm, Minn.,
November 17, 1971.

Dear Senator Mondale: I am writing in regard to the appointment of Earl Butz to position of Secretary of Agriculture. I urge you to block this appointment. He is too closely related to big business to be of help to the farmers.

Sincerely,

Linus Grathwohl.

St. James, Minn.,
November 17, 1971.

Dear Senator Mondale: Just a few words regarding the appointment of E. Butz as Secretary of Agriculture.

For a man whose background is so closely tied to agribusiness to be appointed to such an important position seems to me to be an insult to the farmer.

I urge and hope you will use your influence to stop this appointment.

Yours truly,

Urbon Augustin.

Springfield, Minn.,
November 17, 1971.

Dear Senator Mondale: Am writing this in regard to the pending appointment of Earl Butz to Secretary of Agriculture.

As you well know, this man has been with the ones opposed to family farmers.

Please do what you can to prevent his getting this important job.

Thank you.

Sincerely,

Bernard M. Fischer.

Mahnomen, Minn.

Senator Mondale: We strongly urge the rejection of Earl Butz as Sec. of Agriculture.

If you truly want to help the farmers and rural America support agriculture products at 100% of parity.

Mr. and Mrs. Delmar Schoenborn.

Dear Mr. Mondale: I am concerned about the appointment of Mr. Butz for Sec. of Agric. I do not believe he is a good man to talk for the average farmer. He is for big business and the large corporations. Please use your leadership to stop him in becoming our next Sec. of Agric. We need a man who will increase price supports on feed grains & wheat now.

Sincerely your,

Vern Paulson.

P.S. Corn was 94 cents a bu. at our local elevator today. How long can we continue with these prices.

Sen. Walter Mondale,
Senate Office Building,
Washington, D.C.

Dear Senator Mondale, If you have the *Family Farmer's* future at heart—don't put Mr. Butz in as Sec'y of Agriculture.

Mrs. H. J. Straad.

Garden City, Minn.,
November 17, 1971.

Senator Walter Mondale,
Washington, D.C.

Dear Mr. Mondale: This is a followup of the telegram we sent you this morning.

We do not want Earl Butz for Sec. of Agriculture. We want a man with true farming interests in his heart.

We want a man who is interested in family farming, not one interested in corporate or industrial farming.

If the economy of this country is going to improve it will have to start on small farms. If farmers don't have money to put into business things won't improve.

Please give us a Farmer man.

Sincerely,

Mr. & Mrs. Harold Belgard.

Milroy, Minn.,
Nov. 17, 1971.

Hon. Senator Mondale,
Washington, D.C.

Dear Sir: I hope you will strongly convey the farmer's mistrust of the new Sec. of Agriculture Earl Butz elect, to President Nixon.

It seems the producers ought to have a little to say about who is to represent them in this Dept. When they produce the food for the country plus consume 42% of the gross national product.

Thank you.

Mrs. Norman De Blieck.

St. Peter, Minn.

We urge you to vote *No* on the confirmation of Dr. Earl Butz. We just can't stomach his being the Sec. of Agriculture.

Mr. & Mrs. Alton Jacobson.

Kettle River, Minn.,
November 12, 1971.

Hon. Walter Mondale,
U.S. Senate,
Washington, D.C.

Dear Senator Mondale, Minnesota 8th District NFO wishes to thank you for visiting us at our State convention this Fall. We appreciate your concern for family farmers and the rural area in general.

We strongly support the position you, Sen. Humphrey and others have taken in opposing the confirmation of Earl Butz as Secretary of Agriculture.

We have long held that the large Agribusiness sector Mr. Butz represents is driving the small farmers off the land. Each farmer thus removed equates into 6 NEW jobs needed (small business men and employees). Minnesota, especially the 8th district, cannot afford additional un-employment or additional debt expenditure to create new jobs in lieu of family farmers.

We further believe Mr. Butz has too great a conflict of interest to represent the farmers of America, and that his past record clearly shows him to be anti farmer.

A Sept. issue of Wall Street Journal reported the three largest Feed-Poultry businesses—Ralston Purina one of them—lost $225,000,00 this year on poultry. Mr. Butz was a director of Ralston Purina board. Is there any reason to believe that as America's Agricultural Director he would do better? Can the Nation afford to chance this type of "efficiency"?

We are writing this letter to Sen. Humphrey also.

Yours truly,

Mrs. August Klecin.

Garfield, Minn.,
November 17, 1971.

Walter Mondale,
U.S. Senate,
Washington, D.C.

Dear Senator Mondale: As a farmer and member of the National Farmers Organization, I feel that the appointment of Earl Butz as Secretary of Agriculture would not be in our best interest. I urge you to use your influence in whatever way possible to prevent his appointment as Secretary.

Sincerely,

Leslie Anderson.

November 17, 1971.

Senator Walter Mondale: I'm writing in regard to the seating of Earl Butz as our agriculture secretary.

I do not approve of this man because he is for corporate farming and big business. We are small farmers and pay more taxes than big corporate farmers do. We are more efficient in our farming than they are.

We need a secretary that is a defender of the small farmer, not the corporate giants.

Joseph Deutsch.

November 17, 1971.

Senator Walter Mondale: I'm writing in regard to the seating of Earl Butz as our agriculture secretary.

I do not approve of this man because he is for corporate farming and big business. We are small farmers and pay more taxes than big corporate farmers do. We are more efficient in our farming than they are.

We need a secretary that is a defender of the small farmer, not the corporate giants.

Mrs. Joseph Deutsch.

Eyota, Minn.,
November 17, 1971.

Dear Senator Mondale: I do hereby recommend a no vote for Mr. Butz as U.S. Sec. of Agriculture, because I feel he would be no asset for us individual producers of agriculture products.

Yours truly,

Fred M. Geese.

Kasson, Minn.,
November 17, 1971.

Honorable Representative Walter Mondale: I am very disappointed to have Earl Butz serve as our Secretary of Agriculture.

What we need is a man who will battle for the farmers, and try new ideas, the old ones are out of date. Let's get agriculture rolling once again. It has been in the *red* far too long.

Yours truly,

Mrs. Arthur Trygstad.

Eagle Lake, Minn.,
November 17, 1971.

Hon. Walter Mondale,
Senator from Minnesota, U.S. Senate Office Building, Washington, D.C.

Dear Senator: As our farm representative in the Senate of the United States we are very deeply concerned by the possibility of the appointment of such a man as Mr. Butz as our Secretary of Agriculture.

If the appointment should become final, I do believe that the family farm has become a thing of the very past. This man is noted for being for corporation farming and everything against the family farm.

Therefore, we urgently request your individed attention to seeing that this man not be instated into this office. We very much need a man who can aid our plight not increase it.

Sincerely,

Dale E. Sargent.

Mora, Minn.,
November 16, 1971.

Dear Senator Mondale, because I am the wife of a small farmer and an NFO member I am asking you to protest the appointment of Earl Butz as Secretary of Agriculture. Please demand a hearing so President Nixon is made aware of Mr. Butz involvement in agribusiness.

Thank you for doing all you can to help the small farmers.

Sincerely,

Mrs. Roman Miller.

Mr. MONDALE. Mr. President, I have spent a good deal of my Senate career working on human problems and trying to do something about them. I am absolutely convinced that the most serious mistake our Nation is making today is to turn its back on a sound rural agricultural economy which makes it possible for rural farm families to get a decent life and livelihood on the farm. I think it is not only cruel, I think it is economic insanity and, if I may say so, there is a certain amount of ignorance and arrogance often found in nonrural America toward the problems we have in rural America.

Time and time again those of us representing farm States have walked the plank to help meet the problems of Americans in the American cities in minimum wages or housing or transportation, and discrimination. Time and time again we have asked our farm constituents to understand why it was necessary to stand up and work for the problems besetting other Americans. It is a tribute to those American farmers that almost always they understood it, and almost always they have stood behind us. Now our workers happen to be family farmers. They are not big corporate farmers. Most of them live at or below poverty levels. They work long and hard hours. They are a prideful people; they are a magnificently productive people. Now they are in trouble, and these farm programs are their minimum wages. This is how they survive. The average farmer with a family of four in Minnesota could go to New York and increase his earnings by 40 percent on welfare. We are not here pleading for some kind of unusual request. We are asking for justice for our family farmers.

Mr. SYMINGTON. Will the Senator from Minnesota yield?

Mr. MONDALE. I yield.

Mr. SYMINGTON. Just to be sure that the Senate understands the implications of the last statement made by the able senior Senator from Minnesota, the Senator from Texas tells us that farmers in Minnesota can go to Philadelphia, New York, St. Louis, or to the other cities, and get on welfare and by doing so increase their income 40 percent.

Mr. MONDALE. The figure I cite, which has been very carefully checked out, is that the average Minnesota family farmer with a family of four and working a full week, could improve his income by 40 percent by leaving the farm and going to New York City and going on welfare.

Mr. SYMINGTON. Mr. President, as the late great Senator from Oklahoma, Robert Kerr, used to say, "I thought I had heard and seen everything, and I have been to the Dallas Fair twice."

Mr. MONDALE. This country must realize, and I plead with the Senators, to realize, that the only way to have an essential, sound, American agriculture or a sound agricultural society is to have a Secretary of Agriculture who believes in the family farmers.

I think it is a sound and economic principle. I think it makes sense. If we are to have a healthy American agricultural society, the family farmer is entitled to have a friend in that office. Would the

Small Business Corporation of this country accept a small business director who announced that there are too many small businesses in the country and we should get rid of some of them? For that matter, would the Secretary of Commerce employ as his assistants those who do not believe in business?

What we need is a man who believes that our constituency has to be served by the Department of Agriculture. We need a man who is fully committed and believes in this effort and offers hope and opportunity to rural America.

The PRESIDING OFFICER (Mr. BYRD of West Virginia). Who yields time?

Mr. AIKEN. Mr. President, I yield 5 minutes to the senior Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas is recognized for 5 minutes.

Mr. DOLE. Mr. President, some 18 months ago the distinguished junior Senator from Washington made a speech in which he said:

> Last year, when the Senate was debating a controversial Cabinet nomination, I argued that the President was entitled to wide latitude in the selection of his Cabinet. I took the position that the President, not the Senate, sets the standard of competence and qualifications for his Cabinet. These are the President's men and, barring some extraordinary deficiencies, he is entitled to exercise the Executive responsibility with men of his own choosing. If the voters are unhappy with his selection, their voice will be heard at the next election. (CONGRESSIONAL RECORD, vol. 116, pt. 7, pp. 9262–9263.)

The Senator who said those words is now a candidate for President and has announced he will vote against the confirmation of Dr. Earl Butz of Indiana as the new Secretary of Agriculture.

What made him change?

I do not know why the Senator from Washington changes his conviction on this issue, but I suspect the sweet smell of presidential politics may have played a part in that switch.

In the case at hand, the President has submitted the name of a man who is clearly qualified by both training and experience to hold this important job.

No one has alleged, much less proved, that he is not competent.

No one has claimed or showed that he is dishonest.

No one challenges his administrative ability or his knowledge of agricultural policy.

No, none of these basic qualifications are in question—only his politics and associations.

It was not too many years ago that many of those who now howl for Earl Butz's scalp were deriding the concept of "guilt by association."

Today they seek to tie Earl Butz to Ezra Benson and roast them both together—and this I submit at worst is "innocence by association."

Earl Butz was a member of President Eisenhower's administration. He served in the Department of Agriculture as an Assistant Secretary. He has been associated with a great university, and he has been in the service of respectable American business firms.

What is so evil about all that?

Is this a standard that many of the Senators who oppose him can themselves meet?

Is "guilt by association" by being part of the Eisenhower Cabinet to be a political stigma against any man who was in Government service in that era?

No, the criticism is basically political. It is highly partisan.

Much of the opposition to Earl Butz, it is clear, has been programed directly from the offices of the Democratic National Committee. Certainly, many Senators have deep and profound beliefs held in sincerity. But look at some of the opposition. In the recent hearings, the first two witnesses were the president of the National Farmers Organization, Oren Lee Staley, and the president of the National Farmers Union, Tony Dechant. Tony Dechant and Oren Staley are both listed as of Tuesday, November 30, as members of the policy council of the Democrat National Committee. Tony Dechant is open about being an active registered Democrat, and while Oren Lee Staley tries to maintain his political neutrality, in Andrew County, Mo., his home community, he is known as an active Democrat. If anything is clear, it is clear that these two skillful Democrat politicians, with an eye toward Election Day, 1972, are opposing Earl Butz for obvious political purposes.

Unfortunately, they are being portrayed or have been portrayed by the media as "nonpartisans" simply looking out for the interests of farmers. These two gentlemen are Democrat partisans, and they should be identified as such.

A man's professional life and reputation are now on the block in the U.S. Senate.

Let us hope the Senate will act in fairness and in decency—not shame itself by embracing a base reason for rejecting an able and honest man.

Mr. President, there has been some comment with reference to the reduction in the number of farms in the Benson era. The Senator from Minnesota is a friend of the former Secretary of Agriculture, Orville Freeman. He probably knows that in 1961 we had a farm population of 14.8 million. It dropped by April 1, 1969, to 10.3 million, a drop of about 30 percent greater than in the Benson era.

I was here during the Freeman years. And I have read the book describing the farmers' worst 7 years, 1961 through 1967. It says that 1967 was the worst of the 7 years. The title is, "The Political Sellout of the American Farmer." It was written by Frank M. LeRoux, who was general sales manager of the U.S. Department of Agriculture, Foreign Agricultural Service, from February 1961 through September 1966. I remember in 1961 when the President sent a program to Congress on milk production and wheat production. Those were great promises and great programs for the American farmer. I would hope that those who oppose Dr. Butz would read this book, "The Political Sellout of the American Farmer." It describes the farmers' worst 7 years, and describes 1967 as being the worst of the 7. The book sells for $2. It was a best seller for a while. It tells about the political sellout of the American farmers by a former Secretary of Agriculture, Orville Freeman.

It says that in all of those years the farmers had the lowest share of the gross national product, the lowest share of the consumer dollar, the lowest share of the food dollar, the lowest return on gross farm sales, the lowest return on total capital investment, the lowest return on capital investment performed, and the lowest level of parity of income.

Mr. President, I say that there is no question of Dr. Butz' honesty, integrity, or ability. I would suggest that this is a choice of the President. Unless we find Dr. Butz dishonest or lacking in integrity, we have some obligation to confirm the appointment.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HUGHES. Mr. President, I yield myself such time as necessary.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HUGHES. Mr. President, although I think we find ourselves in a strange position on the floor of the U.S. Senate this evening, I do think that if there is any difference in the common goals and the common hopes for American agriculture and for the country for finding a solution to a problem that has been with us for many years, and with respect to which both parties and the Presidents of both parties have tried and not succeeded, to find any permanent solution to the agriculture problem.

Mr. President, I think we recognize the fact there is not an identifiable solution to the farm problems in America today. What we are calling a problem is one of the greatest God-given abundances mankind has ever known—the abundance of productivity so great we have not been able to devise, even with the best scientific knowledge we have available, a means of increasing this productivity and improving the conditions of living in rural America, in which there has been a tremendous improvement in the last 40 years, where we have brought America out of the mud and where we have seen so many programs to put more acreage into production.

I am not sure I am factual on this, but I believe my State has a higher percentage of land under production than any other State in the Union. I refer to agricultural production. My State has constantly been faced with the problem of agricultural abundance since the 1930's. It is something we have not been able to find a permanent solution to. But we have found that there are certain programs and ways and means that allow a decent transition.

For approximately 15 years not many voices were raised at the farm migration, and farm migration has been going for 40 years now. This is not a recent development, but in recent years farm migration has gotten to the point where we are beginning to see the beginning of the end of the farmer in America as we have recognized him in the past. There are two sides to this question. Is it good or bad, and what is happening in America?

I want to make one statement in the

beginning just to clarify some of the things that have been mentioned to me. Different members of the press have inquired of the junior Senator from Iowa if the Democrats simply want a political issue and if that is the reason we are opposing the nomination of Earl Butz.

First, I should say that as Democrats we are not opposing the nomination of Earl Butz. I certainly am not. I served three terms as chief executive of my State. I have the most healthy respect for the right of the Chief Executive to appoint members of his Cabinet, barring some glaring deficiency that would make them ineligible, either because their integrity was questioning—which I am not questioning at all in the case of Mr. Butz—or because they identify with a philosophy that may be so drastic in one direction it could bring about the beginning of the end of an American we have known and loved. Even that is debatable. I do not want an issue; I want a solution for the farmers of Iowa and America. The Secretary of Agriculture is going to be named by the President of the United States, who is President Nixon, regardless of whether it is Mr. Butz or someone else, should we defeat this nomination.

I am saddened that I rise in opposition to this nomination. I would much prefer to find myself willing and able to support it.

I think the chairman of the National Republican Committee would concede that I am not a candidate for anything, and that we share a common concern for our agriculture States.

Mr. DOLE. The Vice Presidency is open to the Senator's party.

Mr. HUGHES. To reassure the Republican National Chairman, I am not seeking that either.

I do want to point out that as I am sure the Senator from Kansas knows the question of the National Farmers Organization, which has headquarters in my State of Iowa, was raised in the committee hearings by the Senator from Kansas himself. On page 104 of the hearings, a copy of which is on the desk of each Senator here tonight, are the questions of the Senator from Kansas to Mr. Staley, president of the National Farmers Organization and his responses, which speak for themselves. The hearings reflect that he has not accepted a position on the policy committee of the National Democratic Party; that he would serve on that committee if he could serve on the Republican policy committees, as well, and what I believe are his sincere attempts to stay neutral in the political role of national politics.

As in the case of all people who accept their responsibility in America locally, I suppose he is registered and that he has a preference politically. In that, I am sure all members who are active in any political organization respect the activities of members of the opposite party for their very activities which preserve our American freedom.

My only statement at this time is to point out that I, for one, am not looking for an issue in the nomination of Mr. Butz. I am hopeful that when the vote is counted that Mr. Butz will not be confirmed. I would rather he had not been recommended. In light of the fact he is before us today and we have the requirements of consent, and that no one questions in this body today, I find myself in a reluctant role as the former chief executive of my State, in opposition, for reasons I intend to go into in detail later on.

But I think the record should be made clear that we wish and hope that a solution can be forthcoming and quickly and that there can be relief in programs brought to the American people by the Secretary of Agriculture in this administration, and not in 1973, because by 1973 thousands and thousands of people all over the country are going to be leaving the farms. They are in great difficulty today and tonight.

The banks in the small rural communities of my State are wondering about the renewal of loans; the merchants are wondering when cash registers are not ringing. The situation is not confined to farmers. They are bidding on farm machinery, automobiles, and buildings; everything is affected.

As anyone here from an agriculture State knows, one of the real things that happens when we have great overproduction, as in our region in corn now, is the overbuying of feeder cattle to consume the corn. Thousands will be brought in at high prices to gather the corn that is left, which is sold at 90 cents in the hope that it will bring $1.19 or $1.20 in beef prices next fall. The cycling effect could be worse next fall in the beef and pork industry than it is today.

So I am not interested in a political issue. I am interested in a solution for the farmers of America, and they need help because they are in deep difficulty and trouble.

For the time being I am going to yield the floor because the distinguished chairman of the Committee on Agriculture wishes to make a statement. I will complete my statement at some later time during the course of debate on this nomination.

Mr. President, I am happy to yield to the distinguished Senator from Georgia for whatever time he desires.

Mr. TALMADGE. Mr. President, I rise to oppose the nomination of Dr. Earl L. Butz as Secretary of Agriculture.

I do not oppose Dr. Butz because of any question about either his integrity or his ability.

I oppose Dr. Butz because I do not believe that he can possibly provide the Nation's farmers with the kind of support that they must have in the position of Secretary of Agriculture.

Since I have been a Member of the Senate I have always felt that the President of the United States should have the widest possible discretion in filling vacancies in his Cabinet. We should give the President maximum latitude in picking men to carry out his policies.

Normally, I would go along with the President's choice for Secretary of Agriculture.

However, these are not normal times for the American farmer. During 1970 the farm parity ratio, which measures the relationship between the prices received and the prices paid by farmers, averaged 72 percent. This year, the farm parity ratio has dropped even lower. It has been as low as 68 percent. Currently farmers are receiving 69 percent parity, 69 percent of a fair price. Not since the depths of the great depression has farm parity been so low.

Unfortunately, the American farmer no longer has the political clout that he has enjoyed in years past. When I came to the Senate in 1957 the so-called farm bloc was the most powerful in Congress. Today it is one of the weakest. That fact was dramatically illustrated during the debate on the Agricultural Act of 1970. Congress was forced to accept the kind of farm bill that the administration wanted or get no farm bill at all. The administration was able to exert this kind of power because it was impossible to get a farm bill through the House of Representatives without the administration's support.

The farmers' voice in the Congress has grown steadily weaker because the farmers' numbers have decreased dramatically in the past few decades. In 1960 there were over 15 million people living on the Nation's farms. The 1970 census shows a decrease of one-third; the farm population has dropped to less than 10 million people. For the first time, the 1970 census showed that less than 5 percent of the Nation's people were actually living on farms.

These facts point up the urgent need for a strong Secretary of Agriculture, but more importantly, a Secretary of Agriculture who will fight for the Nation's family farmer.

American agriculture survived Ezra Taft Benson's 8 years as the Secretary of Agriculture because American agriculture had sufficient strength in Congress. Now that this strength is diminished, I doubt that our family farmers could survive additional years under a Secretary of Agriculture who reflects the Benson philosophy.

Of course, I realize that the mere fact that Dr. Butz served as Assistant Secretary under Secretary of Agriculture Benson does not mean that he was the major architect of the bankrupt Benson farm policies. What concerns me more is the fact that Dr. Butz was one of the most vocal spokesmen for the Benson policies both during his service as Assistant Secretary and in the decade which followed.

Dr. Butz has been a popular speaker among some business groups and he has made a number of statements on farm policy since he left the position of Assistant Secretary. These statements reflect little sympathy for the plight of America's family farmer. Rather, they indicate Dr. Butz' feeling that the constant stream of rural outmigration is not a bad thing at all.

I am pleased that the Committee on Agriculture and Forestry has maintained its bipartisan tradition in its consideration of the nomination of Dr. Butz. The vote in the committee was characteristic of this bipartisan tradition, for one-third of the Republicans on the committee opposed Dr. Butz while two-thirds of them supported him. One-half of the Democrats on the committee opposed the nomination and one-half of them supported it. I believe that the 8- to

6-vote in favor of reporting the nomination reflects deep concern about Dr. Butz' philosophy among committee members.

The Senate Committee on Agriculture and forestry, conducted comprehensive hearings on the Butz nomination. Dr. Butz was grilled extensively by myself and other members of the Committee on Agriculture. In addition, we heard from 10 public witnesses and placed additional statements in the record. All witnesses who requested to testify and were present were heard by the committee.

I must say that Dr. Butz responded well during cross-examination by the committee. I was basically pleased with the response that he gave to questions I asked about the cotton, tobacco and peanut programs. In addition, I was encouraged by his statement in support of rural development.

Mr. President, I ask unanimous consent that there be printed in the RECORD at this point in my remarks a copy of some of my colloquy with Dr. Butz.

There being no objection, the colloquy was ordered to be printed in the RECORD, as follows:

The CHAIRMAN. Thank you.

With the permission of the committee, then, we will proceed to question Dr. Butz,

As previously announced, we will ask questions for 10 minutes and at that time I will ask to yield the floor to the next Senator and we will make the rounds; and we can start all over again if anyone wants to begin from that.

Dr. Butz, as you know, there has been considerable speculation and some antagonism in the farm circles about your appointment, primarily because you were Assistant Secretary of Agriculture during the administration of Secretary Benson. He is not very popular in some farm quarters, as you may know.

I would like to ask you a few questions to ascertain your farm philosophy. Quite a number of telegrams came in this morning which are of concern here, and I will ask that they be made a part of the record in due course. Here are some more primarily based on what you think about farm commodity laws and price supports and acreage controls and things of that nature.

I take it from your testimony, in chief, that you believe farm income is much too low in most instances?

Mr. BUTZ. Indeed I do, Mr. Chairman.

The CHAIRMAN. Do you support price supports for the basic farm commodities?

Senator CURTIS. Mr. Chairman, can we have them quiet outside?

The CHAIRMAN. Yes, by all means. Instruct the officer to maintain order, and if order is not maintained ask him to please clear the hallway.

You favor farm price supports for basic farm commodities?

Mr. BUTZ. Yes, in some way. I favor the Agricultural Act of 1970 which, I think, reflects the composite attitude of the Congress. I think this is a good approach because it permits farm prices to be at the export level so that we can really export a maximum amount of farm products and yet get the income to our farmers.

The CHAIRMAN. In other words, you want the support price at a reasonably low level—that is, the loan price—where the commodity can flow freely into the channels of commerce and whatever support over and above the loans can be made up in payments; is that your philosophy?

Mr. BUTZ. That essentially is the philosophy back of the Agricultural Act of 1970, and I would buy that. I hope we can continue to expand our export markets.

The CHAIRMAN. Do you favor production controls to try to keep supply reasonably in line with demand?

Mr. BUTZ. I think the program for set aside acres is a form of production control. The Department has announced for the 1972 program the goal of 38 million acres diverted under the feed grain programs; I subscribe to this. I like the idea of letting farmers have maximum freedom of choice within the acres they plant on what they plant.

The CHAIRMAN. Do you think 69 or 70 percent of parity is much too low for support prices for farm commodities?

Mr. BUTZ. I think that that level is much too low for farm income. Let's distinguish, now, between prices and income.

I want adequate income and I want good prices, but let's don't interfere with movement of commodities into export. We export roughly 1 acre out of 4 in this country and I want to keep those exports high.

The CHAIRMAN. Someone informed me that when you were Assistant Secretary or at some prior date that you were opposed to one-price cotton. Is that your attitude today or was it ever your attitude?

Mr. BUTZ. To one-price cotton?

The CHAIRMAN. Yes, that you favored the two-price cotton system in this country.

Mr. BUTZ. No; I don't think that is correct.

The CHAIRMAN. You favor one-price cotton, the same price domestically as the export price?

Mr. BUTZ. Oh, I misunderstood you. No, indeed. The export price has to be below the domestic price plus Division payment.

The CHAIRMAN. But you wouldn't favor the American textile industry having to pay 15, 20 cents a pound more for American produced cotton than some mill in Shanghai, would you?

Mr. BUTZ. Mr. Chairman, that is a problem that has to be worked out and I just feel I am not close enough to comment. I don't want to drive the textile industry out of the United States; I realize competition from Japan and Formosa is tough, where they buy American cotton at cheap prices and then put the textiles back here at subsidized prices; and that is the kind of competition that I am convinced we must not allow our textile industry to face.

The CHAIRMAN. Let's pursue that further.

Let's assume you had two-priced cotton. A bale of cotton in Georgia would cost the mill about $40 more a bale than the mill in Shanghai or Japan. You wouldn't favor a return to that policy? We got away from that when our farm legislation provided for one-price cotton several years ago, you know, and I think it is very popular with the producers and it is popular with the industry. Insofar as I know, it is popular with everyone in our country. No one has made any effort to change it. You wouldn't want to change that policy?

Mr. BUTZ. I have to state in all candor I live in a state where we don't grow cotton and I am not too familiar with the cotton problem; but let me say the answer to your question is "No."

The CHAIRMAN. Now, I was informed at one time you said the tobacco program was bad. I don't know whether you ever made that statement or not, but do you support our tobacco program as it is operating at the present time?

Mr. BUTZ. Yes, sir; I do. Mrs. Butz comes from North Carolina which is an important tobacco State, I get there frequently, and for a Hoosier I have some concept of the tobacco industry. As a matter of fact, two of her brothers are tobacco farmers.

The CHAIRMAN. You do raise some tobacco in southern Indiana?

Mr. BUTZ. We have five counties that raise some burley; you are right, but the answer to your question is yes, I do.

The CHAIRMAN. You favor the continuation of our present peanut program?

Mr. BUTZ. To the extent I am familiar with it, I do; and, again, I am out of the peanut territory but I will simply have to say to the extent I am familiar with it, I do.

The CHAIRMAN. As you know, poultry and eggs have been selling below the cost of production for the better part of 2 years; and I am informed that the egg producers in America now have a minus net worth. In other words, if they liquidated they couldn't pay off the debts. Many of our broiler producers are rapidly going broke. Do you have any idea as to what ought to be done in that regard to try to bring income in those commodities up?

Mr. BUTZ. Mr. Chairman, you are right; poultry and eggs are a disaster area and they have been for a couple of years. They have been that way too long. I understand the egg producers are getting together now with a recommendation that will shortly come to the Congress to permit them to have a slaughter program of hens to bring the hen population under some degree of control. The egg situation has been aggravated some by the development of a vaccine for Marek's disease that came on the market a year ago; the net result is when you vaccinate chicks for Marek's disease, you have less mortality; the hens can live longer and healthier and the rate of lay has gone up.

Ultimately, we will adjust to that in the size of our poultry flocks, but it has had the effect momentarily of prolonging this glut on the market. When you combine that with the occasional story that appears in the national magazines about cholesterol in eggs and that type of thing it has an adverse impact.

To the extent that I am familiar with what the united egg producers are attempting to do now, I think it is a step in the right direction and I will support it. We simply must reduce the size of our laying flock.

The CHAIRMAN. Let me see if I understand your reply.

You would favor some program to regulate supply in line with demand that was agreeable to the egg producers of the country?

Mr. BUTZ. Yes, sir; I would. As I understand it, they want to administer this themselves.

The CHAIRMAN. That is my understanding. They have talked with me about it; they are in the process of drafting some legislation——

Mr. BUTZ. Yes, sir.

The CHAIRMAN (continuing). Trying to get substantial agreement, as I understand it, among the industry now.

Mr. BUTZ. Yes, sir; I think it is a wonderful thing when the industry undertakes to correct its situation itself with authorization by the Congress but run the program themselves; I will support that fully.

The CHAIRMAN. All right. Now, suppose—and they have not reached that point yet—but suppose the broiler industry came up with a similar plan that was voluntary and agreeable on their part, would you support that?

Mr. BUTZ. I certainly would. The broiler industry is different, however, because of the short-term nature of it. You are only about three to three and a half months from setting the egg to processing the broiler. With your laying flock you are locked in for a year.

The CHAIRMAN. Right.

Now, another thing, there has been some criticism—you made reference to it yourself in your testimony, to the fact that you served on the boards of several large corporations that deal in the agribusiness area. There has been some speculation that your devotion to duties and sympathies may be more in line with agribusiness and large farmers than small farmers.

Would you respond to that again?

Mr. BUTZ. Yes; I would be glad to, Mr. Chairman.

As I said, the agribusiness complex is a part of the total agricultural movement in this country.

The CHAIRMAN. Will you yield at that point? I have been notified that my 10 minutes have expired.

[Laughter.]

The CHAIRMAN. Since you are in the midst of your response, I ask unanimous consent that you may answer the question.

[Laughter.]

Mr. BUTZ. Do you have consent?

The CHAIRMAN. No one objected; I do have consent.

Mr. BUTZ. As I said a moment ago, I regard agri-business as a very essential part of the food and fiber chain in America. The bushel of wheat in Kansas really has value until it is translated into a loaf of bread or a breakfast roll in Philadelphia. The hog on an Indiana farm has value when it becomes a porkchop or a loin roast in St. Louis. Therefore, to say that you are for one or against the other. I think, is unfair to anybody working in agriculture; you are for all of it. This is part of the total process of getting our food and fiber from the farm to the ultimate consumer and, by the same token, agriculture now uses many purchased production inputs that we used to produce on the farm.

When I was a youngster we used to produce our own power in the form of a colt every year or two. We produced our own hay and oats. We didn't have commercial fertilizers; we didn't use insecticides; we didn't use herbicides; we didn't use antibiotics; we didn't use mechanical power. We shucked the corn by hand. Those things have been transferred off the farm now but they are no less a part of agriculture now than they were when we did them on the farm and, therefore, I think those of us in agriculture have got to be concerned with the total chain of the food and fiber complex in this country which includes the purchase of production inputs; we want them produced efficiently. We want them scientifically; we want them economically. This includes processing, distribution and merchandizing. These things must be done effectively or farm income suffers.

So my position, Mr. Chairman, is that the goal for us in the Department of Agriculture and the goal for us in the colleges, too, as we work with farmers, is to do everything possible to enhance the income and the living satisfaction of our people on farms. We cannot do that effectively if we ignore the people who supply them with their production inputs or who purchase their produce and process and merchandise it.

In some cases those are cooperatives that do that; in some cases they are private corporations. We must work with whomever is working in this field.

The CHAIRMAN. Now, Mr. Secretary, you made reference this morning to rural development. It is something that our committee is very much interested in. We just this year established a new Subcommittee on Rural Development. We have been very active in that field this year. The original title IX of the farm bill of last year that Senator Dole and I cosponsored, and we wrote into the bill a commitment on the part of the Congress to achieve a sound urban-rural balance. There was a further portion of the bill that required reports from the executive branch of Government on the quality of life and so on in rural areas; and third, a directive for the Government to locate new Federal installations in less populous rural areas. I personally think that most of the major domestic problems in this country are directly attributable to the fact that we have over 70 percent of our people living on less than 2 percent of our land.

Rural America has exported its best talent, its college educated, high school educated, because the jobs were not available there and it has also exported the people with the fewest skills and the lowest education and it is the latter group that contributed to the problem of welfare and crime and housing and pollution that is commonly referred to as the urban crisis.

Since that time the President himself has been talking about rural development and has submitted a bill along that line. It is before the committee now, also with a subcommittee bill that has been reported after extensive hearings.

I wish you would state your views to the committee as to what you favor in the area of rural development, what you recommend that we do to try to create job opportunities in rural America, and what we can do to stem the massive migration from rural America to urban America and hopefully reverse it.

Mr. BUTZ. Mr. Chairman, I am strongly in favor of a very vigorous rural development program. I think this involves the whole infrastructure of rural America.

As well as the agricultural programs, it involves highways; it involves sanitation facilities; it involves water supply; it involves drainage; it involves recreation; it involves education; and it involves economic opportunity. I think you are absolutely right in urging as strongly as you can urge the installation of Federal facilities in parts of rural America; keep the job opportunities out there. And I couldn't agree with you more that the part of what we call urban blight is the result of the migration of people without skills and with low-educational levels and low aptitudes to these heavily concentrated population areas.

I feel this not only must be stopped—I would like to see it reversed.

The CHAIRMAN. The President's Commission that he appointed on this particular problem recommended a massive infusion of capital, private, and public, to achieve industrial development to create jobs in rural America. Would you favor that approach?

Mr. BUTZ. I certainly would by whatever means you can use; it may be tax incentives; it may be short-time subsidies of one kind or another. I think any legitimate approach that did reverse this trend of population migration must be pursued vigorously.

The CHAIRMAN. Are you familiar with what has been going on in England and the Scandinavian countries and Israel in that regard?

Mr. BUTZ. Just in general.

The CHAIRMAN. They have made much better strides than we have. We have talked about it for sometime, for a good many years, as a matter of fact, but we have done little about it.

I may say the Senate by a rather decisive vote voted additional tax credits to achieve that result just yesterday.

Mr. BUTZ. This was wise.

The CHAIRMAN. And I think there is tremendous interest in the Senate in that field and hopefully, the House; and I hope we can achieve a positive breakthrough in that regard in this Congress.

Mr. TALMADGE. Mr. President, I view Dr. Butz' statements on the cotton, tobacco and peanut programs as commitments to carry out these programs as they have been carried out in the past. If Dr. Butz is confirmed by the Senate, I intend to hold him to these commitments. I intend to hold him to his statement in support of rural development. Dr. Butz' statements at the committee hearing were largely satisfactory. However, I have always been skeptical of "deathbed" conversions. I question whether any man can repudiate overnight a philosophy that he has held for a lifetime.

In 1952, before Ezra Taft Benson took office as Secretary of Agriculture, realized net farm income totaled $14.1 billion. In 1960, the last year of Mr. Benson's secretaryship, farm income totaled $11.7 billion.

During that same period the farm parity ratio moved downward from 95 to 81 percent.

In addition, farm surpluses skyrocketed during the Benson era. Commodity Credit Corporation inventories of farm commodities increased from $2.2 billion to $5.6 billion.

Mr. President, many American farmers are already on the verge of bankruptcy. As a Senator from Georgia and as chairman of the Committee on Agriculture and Forestry, I cannot risk a repeat of Benson-type farm policies. Therefore, I am compelled to vote, as I voted in the committee, against the nomination of Dr. Earl L. Butz as Secretary of Agriculture.

I thank the distinguished Senator from Iowa for yielding to me, and I yield the floor.

Mr. HUGHES. Mr. President, I want to thank the distinguished chairman of the Committee on Agriculture and Forestry for his statement and his fairness in making it. The decision he has reached I believe is one that we share.

I want to at this time indicate that in the nomination of Dr. Butz for Secretary of Agriculture we have the unusual instance that the nominee is not only an unfortunate choice for the position but is a choice that may well be prejudicial to the interests of a large segment of the American people and to the future of rural America.

It should be made clear at the outset, as I have stated previously, that I do not question the ability and the integrity of Mr. Butz. That is not an issue with me personally. In fact, I think he has been very successful in the programs and policies that he has outlined and believed in for American agriculture. And that is one of the major problems that I have.

The future of the independent American farmer is plainly at issue in this nomination.

We are rapidly reaching a continental divide in the development of American agriculture. Mr. Butz' philosophical commitment, as reflected in his entire career as a university dean, agribusinessman and Government official, has been devoted to a direction that I believe is inimical to the future of rural America and the country as a whole.

Here are the basic points:

The farm economy of the United States, as it relates to the independent commercial farm operation, is in critical condition.

There are not many people who question that.

As a result, tens of thousands of farm families each year are being driven from the land to our already congested cities. It should be made plain that we are not talking about marginal, inefficient farms, but well-managed, small, and middle-sized units that have produced efficiently through the years. The economic determinism which holds that this is inevitable and perhaps good for the farm economy is a viewpoint to which people are entitled.

But many of us are deeply convinced that it does not have to be that way and that if the accelerating consolidation of our productive farmland into large corporate farms and agribusiness combines continues, both our society and our economy will suffer irreparable damage in the long run.

I was again asked today, Mr. President, if there is anything in my State any longer that may properly be called a family farm. I have not recently checked the statistics, but when I was first elected to the Senate and came into this body, the average acreage of an Iowa farm was 269 acres. That is by no means a large, corporate structure. It is much larger than would have been considered the ordinary small family farm operation 25 or 35 years ago. But at the same time, it is still a relatively small farm operation.

Opposed to the acreage, however, the age of the average farmer was 59 years. Young people could no longer afford to start farming for the returns on the investment, even with that acreage.

The average capitalization, as reported in a scale which I lately put in the record of the hearings, on an Iowa farm is $93,000.

The questions that are raised here I think are serious questions. We seem to be accepting the philosophy in America that there is no alternative to driving people off the farms of America, unless they want to go into huge farm operations.

We have spent hundreds of millions of dollars in research on productivity, in moving toward the direction of largeness. This may be right or it may be wrong, but how much have we spent in the effort to make a productive unit out of a rather small productive area in our country? The small farm is worth preservation, Mr. President; and dedication in that direction is needed.

Now, if ever, there is a desperate need for a dynamic leader in the Department of Agriculture with the interests of the independent farmer at heart. It is high time that the vast resources of that Department should be employed to provide services to the independent farmer in his hour of need, rather than contributing, to the extent it has, to the industrialization of rural America.

The nomination of Mr. Earl Butz for Secretary of Agriculture has met with strenuous opposition from farmers, environmentalists, and many others concerned with the future of rural America. Many segments of American agriculture are caught in the most serious farm depression in decades. The scene of farmers stacking up their unsellable corn in the streets is painfully reminiscent of that earlier farm depression.

Seventy thousand farms a year—most of which are efficient and sizable operations—are being driven out of business. For the most part, these are not farmers who want to leave; these are farmers who are being forced to leave agriculture at a time of serious unemployment and already overcrowded cities.

The exodus from farm to city is not inevitable. It can be stopped if we vigorously address ourselves to the task. But Mr. Butz has clearly indicated that he believes the trend is unavoidable, with nothing Government can do to stop it or slow it.

Because of Mr. Butz devotion to agribusiness, his philosophical ties to agribusiness, his scorn for the food stamp program that he would be charged with administering as Secretary, and his apparent lack of concern for the serious threats to our environment, he is not the man for the job that needs to be done.

I might point out, Mr. President, that sadly enough, as concerns his position as Secretary of Agriculture, I cannot recall in my lifetime a popular Secretary of Agriculture, in either political party. The job is a job that most men in America would not want and would not take. If they were asked to, they would be reluctant to accept it, because they know the seriousness of the problems we face in agriculture in America. They know the criticism leveled at the Secretary himself, which is ongoing and continuing, regardless of the party in power.

At this particular time, Mr. President, we have reached a point of no return.

Mr. President, there are several items I would like to submit as part of the Record.

First, the Atlanta Constitution last week ran an excellent editorial applauding the committee vote on Mr. Butz of the Senator from Georgia (Mr. Talmadge) chairman of the Agriculture Committee. I think that the vote of the committee chairman, along with the opposition of the ranking minority member of the Agriculture Committee, is very significant in these deliberations. It shows the broadbased and nonpartisan opposition to this nomination.

Second, Mr. Butz has already disclosed his relationship to three agribusiness corporations: Ralston-Purina, Stokeley-Van Camp, and International Minerals and Chemical Corp. The senior Senator from Oklahoma has submitted into the Record of November 19, 1971, a report on these three companies that outlines their activities and interests.

These directorships have not been the only formal ties that Mr. Butz has had to agri-business. He also has served on the board of directors of the Food Foundation, the Foundation for American Agriculture, and the Nutrition Foundation. Each of these foundations are primarily supported by and serve the interests of agribusiness through research and education programs. I am submitting some information about each of these foundations.

Mr. President, I ask unanimous consent that these items be printed in the Record at this point.

There being no objection, the items were ordered to be printed in the Record, as follows:

[From The Atlanta Constitution, Nov. 24, 1971]

Talmadge versus Butz

Georgia Sen. Herman Talmadge surprised a lot of people this week by voting against confirmation of President Nixon's choice for secretary of agriculture, Earl L. Butz.

The Talmadge vote was extremely significant. As chairman now of the Senate Agriculture Committee, Talmadge swings a good deal of influence in anything affecting federal policies on farmers or anything related to agriculture. He chose not to fight the Butz appointment actively, and the Senate committee narrowly (8–6) recommended approval.

But the Talmadge vote may have great significance when the full Senate considers the appointment. His vote, as chairman and ranking Democrat on the committee, will have considerable weight. Moreover, Sen. Jack Miller of Iowa, the Republican ranking member on that same committee, also voted against the Butz appointment.

Talmadge has, as a rule, declined to oppose any President's choices for cabinet level posts on the basis that any President basically has the right to name the members of his official family. So, it was a move in this case not taken lightly. Butz has not, on the basis of his record, been a good spokesman for agriculture, commented Talmadge after the committee vote.

Butz is an able man, as Talmadge and others acknowledge. But, as Talmadge put it, "Our small farmers are being plowed up fast enough anyway without accelerating that process." Butz's ties are primarily to major agribusiness companies, rather than to farmers. He resigned director posts with three large agri-business corporations after being nominated for secretary of agriculture. And, his previous agriculture department experience was as one carrying out the policies of former Agriculture Secretary Ezra Taft Benson, a man who wanted to eliminate all the price supports which most farmers find critically important. "That was an unhappy day for American farmers," said Talmadge drily, referring to the Benson era.

We believe that Sen. Talmadge voted in the best interests of Georgia and American farmers when he voted against the appointment of Earl L. Butz as secretary of agriculture. We would hope that the U.S. Senate will, in the end, vote down the nomination.

Information on Foundations

According to Who's Who, Mr. Butz has also served as a member of the Board of Directors of the Farm Foundation, located in Chicago, Illinois. Working with the land-grant colleges and the USDA, the Farm Foundation recommends and conducts extensive research into agricultural and rural problems. In addition to earnings from its endowment fund, the Farm Foundation in 1971 received contributions from the following agribusiness companies: Agway Foundation; Atchison, Topeka & Santa Fe Railway; John Deere Foundation; Firestone; First National Bank of Chicago; B. F. Goodrich Fund; Goodyear; International Harvester; International Mineral & Chemical Corp.; Northern Trust Co.; Sears-Roebuck Foundation; Standard Oil (Indiana) Foundation; Swift Co. Foundation; and WGN Continental Broadcasting Co. Its Board of Directors includes representatives of most of those companies, as well as representatives of various land-grant colleges.

Mr. Butz has also served as a director of the Foundation for American Agriculture. The foundation, located in Washington and incorporated in 1945, describes its "primary purpose" as being "to inform the individual and public with reference . . . to American agribusiness; conduct appropriate scientific research; cooperate with institutions of learning . . . by making available . . . reports and publications on agribusiness subjects; publish articles . . . by persons prominent in agribusiness . . . and avail itself of all recognized media for the dissemination of its educational programs. A further primary purpose of the Foundation has been and is to increase understanding throughout rural and urban America of the role agribusiness plays in our total economy. To accomplish these objectives, it has worked diligently during the past twenty-four years." (From 1969 Foundation publication. Ellipses theirs.)

Its Board of Directors includes representatives from: Sunkist; Central National Bank; Armour; Quaker Oats; Ralston-Purina; Agway; E. I. Dupont; Safeway Stores; B. F. Goodrich; Bank of America; Sears, Roebuck; Chas. Pfizer; Commercial Solvents Corp.; and International Minerals & Chemicals Corp.

Mr. Butz has also served on the Board of Directors of the Nutrition Foundation. The purposes of the Nutrition Foundation are set forth in its 1969–1970 Annual Report:

The food supply in the United States is among the finest of any country in the world. The amount produced is adequate for everyone to achieve good nutrition, and the food is of the highest quality. At every step, producers, processors, distributors and government agencies take great care to maintain this quality for the consumer. Not withstanding the high quality of the food supply, poor eating patterns and a lack of understanding of the basic principle of nutrition are prevalent among all socio-economic levels of the population.

The Foundation's program and activities over the years have been focused on maintaining this high quality of food by adding to the knowledge of nutrition through research and through education of the public. Included on the Board of Directors are representatives of Sunkist, General Foods, Green Giant, Armour, Del Monte, Kraftco, Quaker Oats, E. J. Heinz, General Mills, Pillsbury, Swift and Kellogg, as well as representatives of leading universities and foundations.

The enumeration of these associations and foundations is not in any way to challenge their validity or importance. There is nothing inherently wrong with agri-business or with the entities they establish to promote their best interests. Mr. Butz's record of service to this segment of the agricultural economy is extensive and—I am sure—distinguished. But where is his record of accomplishment and contribution to the other segments of American agriculture: the small independent farmers and their families? The farm workers? I have not been able to find it. My staff has not been able to find it. Nothing Mr. Butz said at his confirmation hearings helps to illuminate it. The only conclusion that I can make is that Mr. Butz has spent his long and unquestionably distinguished career dedicated to the interests of big farming and big farm business. This is not the kind of balanced, people-oriented background that I believe a Secretary of Agriculture must have in 1971.

Mr. HUGHES. Some of these operations I have mentioned unquestionably benefit small farmers and farmworkers to some extent. We are all benefited, for example, when nutritional standards increase. But much of the research sponsored by agribusiness through these foundations has to do with increasing the farmer's productive capacity. That avenue has been a largely unrewarding one for our Nation's small and medium-sized independent farmers. For as our Nation's agricultural capacity has dramatically increased over the past 2 decades, small and medium-sized independent farm operators have just as dramatically been forced to leave farming. In the process, farm production has become concentrated in fewer and fewer hands.

Little of the work that Mr. Butz has done through these agribusiness associations and foundations has attempted to solve the most real and pressing problem of small and independent farmers—survival itself.

Certainly the small farmer is interested in a new fertilizer that will increase his yield; but he is more interested in knowing why his past jumps in productivity have not been translated for him into higher farm income, why every effort he has made to improve the quality and the productive capacity that he has, has achieved nothing more, in net balance, out of the efforts he has made.

Third, I am submitting for the RECORD the statements of opposition to Mr. Butz from: the National Farmers Organization, the National Farmers Union, Environmental Action, and the Sierra Club. Senator HARRIS is submitting statements of opposition from other national organizations.

I ask unanimous consent that the statements be printed in the RECORD.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

TESTIMONY OF OREN LEE STALEY, PRESIDENT, NATIONAL FARMERS ORGANIZATION, SENATE AGRICULTURE COMMITTEE, NOVEMBER 18, 1971

I appreciate this opportunity to appear in opposition to the nomination of Earl L. Butz as Secretary of Agriculture.

We are shocked and angered at the selection of a man so closely tied to the corporate giants moving into agriculture. It is a disastrous appointment from the producer's standpoint.

Business men wouldn't accept appointment of a national labor leader as Secretary of Commerce; laboring men and women wouldn't accept appointment of the president of General Motors as Secretary of Labor; and farmers shouldn't be called on to accept appointment of Earl Butz as Secretary of Agriculture.

We oppose Dr. Butz because he is a leading spokesman for those who accept the proposition that it is not necessarily bad to continue eliminating hundreds of thousands of farmers each year and permitting integrators and others to gain more control of the food industry.

We oppose Dr. Butz because he accepts bigness in agriculture and the movement of people off the land as inevitable.

We oppose Dr. Butz because he has identified completely with agribusiness and preached its gospel while serving in the Department of Agriculture in the 1950s, as an administrator at Purdue University, as a widely traveled speaker, and as a board member for three agribusiness giants.

We are opposed to giving a man with these views and associations a national platform and the tremendous power and influence that go with being Secretary of Agriculture.

There is no point in mincing words on what this confirmation vote means. It means making a choice on the kind of agriculture and the kind of rural America we want to encourage in the years ahead.

In meeting its constitutional responsibility, the U.S. Senate will choose between a historic commitment to opportunity for people on the land and a goal of mechanical efficiency that drives people out of rural areas, eliminates farm and small business enterprises, and destroys rural communities.

In a 1959 speech quoted in Farmer's Digest, Dr. Butz said "the fact that an individual producer may surrender some of his managerial freedom and may transfer part of his risk-taking to someone else is really a very small price to pay for the advantages that flow out of an integrated system." By this statement and by his testimony before this committee yesterday, Dr. Butz makes clear his concern for the whole chain of food production, handling and marketing. Surely he is an honest man.

Gentleman, we do not believe the big companies like Tenneco, Dow Chemical, Bank of America, Ralston-Purina, Boeing, and Stokely-Van Camp need the sympathetic assistance of a Secretary of Agriculture in order to survive. Certainly our farm families do need understanding and support.

Some of these big companies, like Tenneco for example, readily concede that these intrusions into farming are part of a bold move to dominate the food industry from field to checkout counter by controlling all phases of production, processing and marketing.

Dr. Butz, by serving on the board of two companies directly involved in these activities, is clearly tied to these attempts to destroy the family farm system and usher in a concentrated, corporate agriculture.

The confirmation situation is further complicated by a conflict of interest in which Dr. Butz took in $26,800 a year as a board member of three agribusiness companies while serving as a dean at Purdue. This committee should determine what services Dr. Butz performed for these companies to make him worth that much money.

It also should find out how well he could serve the farmers of his state as dean of agriculture at the same time he was drawing $12,000 a year as a director of an aggressive integrator like Ralston-Purina.

Dr. Butz has disclosed the amount of stock he owns in three agribusiness firms he served as director—International Minerals and Chemicals, Stokely-Van Camp and Ralston-Purina—and disclosed that this represented about one-third of the value of his investment portfolio. What about the other two-thirds? Is it made up of agribusiness companies or others that would be affected by decisions of the Secretary of Agriculture?

This appointment would put him in charge of programs and regulatory agencies that deal with at least three of his own companies, possibly more, a conflict of interest situation that could not be humanly avoided by merely placing his stocks in a blind trust.

On Tuesday the General Accounting Office issued a report stating that poultry inspection had not eliminated unacceptable conditions in most of 68 plants reviewed. It found that unacceptable conditions continued in 17 plants criticized in a previous GAO review. The plants are not named, but will Dr. Butz, the ex-director of the biggest single factor in the nation's broiler industry, vigorously straighten out this situation and end the shortcomings in that industry?

The record will show that in poultry inspection hearings in the 1950s he advocated gradualism. Certainly after 15 years unacceptable conditions should not be tolerated, but will they be?

The committee should determine whether or not the companies in which Dr. Butz has been a director have contributed to improved conditions in the areas in which they operate, or whether they have provided leadership in bringing better conditions. I would like to submit to the committee a copy of a recent Nader report, containing a chapter entitled "Poultry Peonage," with which you might start such research.

Dr. Butz can resign his positions with the agribusiness companies he has served but it is unlikely he will be able to resign his longtime agribusiness biases.

Gentlemen, when you put your stock in trust you still own it. You still have your interest in the companies. How can you expect Dr. Butz to protect free and open bargaining between producers and the companies with which he has been associated?

Taking Ralston-Purina's far-flung business interests as an example, possibilities of conflict immediately arise in the supervision of the Commodity and Exchange Authority, the food inspection services, the Packers and

Stockyards Administration, and the Agricultural Research Service.

There are a number of other important questions that we feel the committee should explore fully with Dr. Butz during these hearings.

Does Dr. Butz favor expansion of cattle feeding by packing companies, for example, or does he favor legislation that would, in effect, limit feeding to those engaged in agricultural production on a fulltime basis?

Does he favor continuation of tobacco allotments now held by family farmers or would he discontinue this program and turn production over to the big tobacco companies?

Does he favor continued agricultural research centering on high volume, huge concentrations of animals and capital and so-called efficiency or does he favor research that considers social efficiency, people and social costs?

Does he favor integration of the hog industry with eventual destruction of the market and a takeover by big agribusiness firms or does he favor doing what is necessary to keep this industry in the hands of independent producers?

Does he favor international commodity agreements with guaranteed price floors or does he favor an export policy that results in sales abroad at any price?

Does he favor an increase of up to 25% in feed grains price supports or does he favor continuation of the present disastrously low levels being paid to producers?

These are some questions Dr. Butz should be asked before these confirmation hearings come to a close.

There has been a real reaction among farmers to this appointment because few men who have served in the Department of Agriculture have made more inflammatory statements than Dr. Butz. His widely-published statement advising farmers to "adapt or die, resist and perish" is typical.

He is widely known among family farmers for his callous lack of concern about their welfare and the reaction you are seeing and feeling today truly comes from the grass roots.

We urged the President to withdraw the appointment the afternoon it was announced. We now respectfully urge you to reject formal confirmation of Dr. Butz, and all that he represents in terms of agriculture and rural America, and to advise the President to name someone who is committed to strengthening rural areas and preserving individual enterprise in agriculture.

DECHANT OPPOSES SENATE APPROVAL OF EARL BUTZ AS SECRETARY OF AGRICULTURE

WASHINGTON, D.C.—The Farmers Union opposed the appointment of Dr. Earl L. Butz as Secretary of Agriculture here today at a hearing of the Senate Agriculture Committee.

The National President of the Farmers Union Tony Dechant told the Committee that Butz' appointment raises serious questions about the future of family farm agriculture in America. He said the National Board of Directors of the Farmers Union voted unanimously to oppose the nomination.

Dechant said, "Dr. Butz' economic views are archaic. He has been in the active service of a number of corporations which seek to dominate the rural economy.

"His appointment as Secretary of Agriculture would suggest:

"1. Farmers can expect a continuation of low farm prices which have been administered by the Nixon Administration.

"2. Farmers can expect little relief from the Nixon Administration's disastrous set-aside land retirement plan which has proven unworkable as a system of supply management.

"3. Farmers can expect a continuation of President Nixon's policies which favor corporations at the expense of producers.

"4. Farmers can expect the farm program to be a pawn in President Nixon's bid for re-election, with possible attempts to sugar-coat the bitter pill of the set-aside program, and with final phaseout of workable farm programs scheduled to follow the November 1972 election.

"The steep decline of farm parity began during the era of Secretary of Agriculture Ezra Taft Benson, for whom Dr. Butz served as Assistant Secretary. The departure of millions of families from rural America swelled into the greatest mass migration in history. No Administration has been able to reverse the trend which was set in those years. Dr. Butz favored a phase-out of positive supply management long before the term 'set-aside' was coined by the Nixon Administration. He was an exponent of the massive soil bank land retirement plan during the Benson years.

"Dr. Butz' service to Purdue University while he was on the payroll of several large corporations represented a conflict of interest. Since he is philosophically and politically dedicated to the advocacy of their cause, we believe a similar conflict of interest would continue in the President's Cabinet, even though he resigns from his positions of corporate responsibility."

Dechant stated that

"Dr. Butz has a bad record, but we recognize that a man can change. Our concern is heightened because of the gravity of the present situation for farmers. We cannot afford to provide time for the new Secretary to develop some new approach. The Nixon Administration took nearly two years to shape and refine the present set-aside fiasco. It was not really new—it was the old massive land retirement scheme advocated by Dr. Butz a decade ago. Mr. Chairman, we do not have two years, or two months for more political gimmickry at the expense of the American farmer.

"We know what must be done. We must have effective supply management. We must have improved prices. We must have a massive infusion of low interest rate credit to rescue agriculture from the disaster created by our present farm program.

"I believe it is time that the Congress looks seriously at the proposal to create strategic reserves of our basic farm commodities. We must greatly increase our capacity for farm storage. We must raise commodity loans in order to protect farm income when prices are at their lowest. We must scrap the ill fated set-aside plan. Legislative proposals to accomplish all of these goals are before you.

"Farmers like other businesses must be afforded opportunity to make longer range plans. The optional diversion in the 1972 feed grains program, for example, does not fit farmers need to make such plans. It's time that this administration recognize the need for effective, permanent supply management programs. Piecemeal and stop-gap measures to cope with emergency situations which could have been avoided are not good enough. Farmers deserve better.

"A little over a year ago I called for the resignation of Secretary of Agriculture Hardin. I did so to dramatize the extent of the alarm with which farmers regarded the unworkable set-aside land retirement scheme and the undue pressures of the Administration on the Congress and Senate to adopt it. The former Chairman of this Committee, Senator Ellender said that never in 34 years had he felt such pressures from the Executive Branch. As you know, he refused—as did Senator Herman Talmadge the present Chairman of this Committee—to sign the House-Senate Conference Report which was adopted under Administration pressure."

Dechant said that he is opposing Dr. Butz' appointment in order to dramatize again our deep concern over the future of American agriculture if present trends continue. He said that "if decisive changes are not made in our farm program before spring planting time he would be back again, calling a press conference and asking for the resignation of another Secretary of Agriculture."

ENVIRONMENTAL ACTION,
Washington, D.C., November 25, 1971.

DEAR SENATOR: Like the nation's farmers, the nation's environmentalists have a major interest in the selection of the best possible man for Secretary of Agriculture. The Department of Agriculture makes important decisions concerning nationwide pesticide use; it has the potential to save or destroy many of the country's streams and marshlands; it can encourage or discourage the growth of giant agricultural conglomerates. And, of course, the Department includes the U.S. Forest Service with its vast responsibilities for the careful utilization of the nation's forests.

Because of these responsibilities, Environmental Action feels that any prospective Secretary of Agriculture must be willing and able to seriously assess environmental factors whenever they come up in the decision making process.

Although our organization did not testify at the Senate hearings on the appointment of Dr. Earl Butz, information which came out of those hearings has convinced us that Dr. Butz will not adequately consider environmental questions should he become Secretary of Agriculture. We are thus strongly opposing his confirmation.

Dr. Butz has been quoted as saying: "We've got to decide shortly whether we're going to have a little thermal pollution in our waters or have brownouts in our cities at 3:00 in the afternoon when you turn the air conditioner on. You take one or the other."

Such statements assume the inevitability of environmental destruction and shown an unflinching, unenlightened attitude that can only harm the vast majority of Americans.

Environmental Action urges you to vote against the confirmation of Earl Butz as Secretary of Agriculture.

Sincerely,

PETER HARNIK
(For the staff).

NEW QUESTIONS ABOUT DR. BUTZ AS NOMINEE FOR SECRETARY OF AGRICULTURE

The Sierra Club raised new issues concerning the appointment of Earl C. Butz as Secretary of Agriculture. In a letter to Sen. Herman Talmadge (D-Ga.), the Sierra Club requested that he re-open hearings on the confirmation of Butz so that his attitude and intentions regarding issues of concern to conservationists could be examined.

The hearings held last week barely touched upon important issues relating to how the nominee proposes to deal with: pollution from agricultural use of pesticides and fertilizers and from increased siltation; the controversial altering of our waterways through stream channelization; and the critical issue of the management of our National Forest System.

Citing statements made by Butz, the club pointed out that he has been openly antagonistic towards environmental concerns and towards the entire environmental movement. Dr. Butz refers to what he calls "the real threat to American agriculture . . . the threat that comes from the environmentalists, or from the do-gooders or from consumerism or from whatever you want to call it."

The following are some more quotes from a speech made by Dr. Butz before a National Agricultural Advertising and Marekting Association Farm-marketing seminar in Minneapolis on April 26, 1971:

"We need to extol the benefits that come from these chemicals and pesticides and antibiotics that we use."

". . . then I see these environmentalists on the other side trying to hold us back and trying to impede—not trying, but the net effect is to impede—the progress we're making in scientific agriculture."

"This fadism that we follow as a nation and currently it's ecology and pollution and it hits us in agriculture right in the solar plexus. But, we are now completely dependent on a scientific agriculture, upon the use of these things which are dangerous."

"We've got to decide shortly whether we're going to have a little thermal pollution in our waters or have brown-outs in our cities at 3:00 in the afternoon when you turn the air conditioner on. You take one or the other."

"These people think that God made nice red, plump, juicy, healthy apples. They think that nature makes apples that way. As a matter of fact, God put the worm in the apple—man took him out. God put the parasite in the pig—man took him out. God put the termite in the timber—man took him out."

Such statements cause deep concern with conservationists about the nomination of Dr. Butz for Secretary of Agriculture.

Mr. HUGHES. Mr. President, as I see it, there are three basic issues against Mr. Butz.

First. His firm and long-time belief that the loss of another 1 million farmers in the next decade is inevitable and not bad. It is not inevitable. The USDA has tremendous resources at its disposal to reverse that trend: Its great procurement power; the half billion dollars of research money it administers each year which today goes largely to finance research of immediate benefit to agribusiness; the subsidization policies that have encouraged bigness; and the taxation policies that have encouraged corporatization. Where are these 1 million families—and the hundreds of thousands of rural business families that they will take with them—where will they go? Onto our already overcrowded welfare rolls? Into our swelling unemployment figures? Perhaps. Into the already overcrowded cities? Perhaps. We can reverse the trend. In my opinion, we must reverse the trend.

Second. His ties to agribusiness which erect what I believe is a philosophical conflict of interest. His record of service to this one narrow segment of agriculture is clear; his record of service to independent farmers, whose interests are not always consistent with those of agribusiness, is not so clear.

Third. His apparent scorn for the food programs he would be charged with administering as Secretary and his opposition to the legitimate objectives of the environmental and consumer movements. Just 7 months ago, he called the food stamp program—if I read the record correctly—"just short of ridiculous." If he is singing a different tune this week, it is a very recent conversion.

Mr. President, I consider this vote one of the most serious ones we will take during this session. American agriculture and rural America are at a crossroads; I am afraid Mr. Butz will take us down the wrong path.

I will vote no on the confirmation of Mr. Butz.

As I stated in the beginning, it is my hope that the next Secretary of Agriculture will seek to reverse the trends that have been so apparent, particularly in the last decade, that have been continuing at alarming pace, in which there is Congress, I might add, or by the administration—in trying to reverse these trends. It is an unfortunate choice at a time when we needed someone who was the leader, who could point in the direction of hope for the farmers of this great Nation.

Mr. President, I yield the floor.

Mr. HARRIS. I yield myself 5 minutes.

Mr. President, I compliment the distinguished Senator from Iowa for his excellent statement in opposition to the confirmation of the nomination of Dr. Butz, and I certainly associate myself with all he said.

I want to make two or three points tonight, and I expect to speak again on this nomination before the final vote.

First, the people who met in Philadelphia and wrote the Constitution of the United States labored a good deal and argued a good deal over responsibility for the appointment of members of the Cabinet. They came to the conclusion that, while the President of the United States ought to be able to choose some of his employees, irrespective of the will of the Senate or of Congress, he should not be able to appoint certain of those who would serve with him except by and with the advice and consent of the Senate. The founders of the Constitution decided that those who would serve in the Cabinet of a President would not be appointed solely by the President, but that they ought to be nominated only by the President and confirmed by the Senate and that, therefore, the appointment of these officials should be joint.

I believe that that was a wise decision. I believe that since the writers of our Constitution so decided, Members of the Senate have a special responsibility to exercise their independent judgment upon these kinds of nominations.

One such nomination is the one now before the Senate, the nomination of Dr. Earl L. Butz to be Secretary of Agriculture. I believe that since the President cannot appoint that kind of official by himself, and since that appointment power is shared with the Senate, Senators have not only an opportunity but also a responsibility to exercise their independent judgment about this appointment and similar appointments; and I do exercise my independent judgment about that.

I do not think my judgment is trammeled by or restricted or limited by any more restrictions or limits or trammels than those which affect the President's nomination powers. I think I have just as much latitude in deciding whether to advise and consent to the nomination as the President had in making the nomination. I believe that is the clear and constitutional mandate.

Mr. President, I am very impressed by the most important Member of the Senate in regard to this nomination and what he has had to say—that is, the chairman of the Committee on Agriculture and Forestry, the distinguished Senator from Georgia. He listened to all the debate and discussion. I do not think it can be said that he is an unduly partisan Member of this body. All of us are partisan to some degree, but I do not believe it can be said that the distinguished Senator from Georgia (Mr. TALMADGE) is an unduly partisan Member of this body. He is the chairman of the Senate Agriculture Committee, and he opposes this nomination for the reasons he has very clearly set forth. I find them very persuasive.

I also am much impressed by the fact that the ranking Republican member of the Committee on Agriculture and Forestry, the Senator from Iowa (Mr. MILLER), also has voted against this nomination in the committee. I do not believe he did that for any partisan reason, because he is of the same party as the President of the United States and of the same party as the nominee. Like Senator TALMADGE, he probably is the Member of the Senate we ought to pay most attention to in regard to this nomination. He opposed the nomination in committee, and I find that terribly persuasive.

Mr. President, I have an uncle who lives in Kansas. He is an auctioneer. He is a man whose livelihood depends a great deal upon farm prosperity. I have a great deal of identification with that State. It is a State just north of mine, the State of Oklahoma. I have spent considerable time in that State, in towns like Oakley and Garden City and others, in the wheat harvest which I followed for a good many years when I was a young man. I was impressed by what I read in the newspapers that the distinguished Senator from Kansas (Mr. PEARSON) had to say about this nomination and the way he viewed it in light of his responsibility to the farmers of Kansas.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HARRIS. I yield myself 5 additional minutes.

I do not think that what Senator Pearson said was said in a partisan vein, because the Senator from Kansas is of the same party as the President of the United States, and he is of the same party as Dr. Butz. The Senator from Kansas said he thought that the President of the United States ought to withdraw this nomination. I believe he is right. I may say, as a Senator from a State neighboring his, representing farmers of the same interests as his, that I believe he was quite right in asking that this nomination be withdrawn. If it is not withdrawn, Mr. President, I am persuaded that it ought not be confirmed by the Senate.

May I say, also, that I am very much impressed by what the distinguished Senator from North Dakota (Mr. YOUNG) has said. He led off the opposition here today in speaking against the nomination of Dr. Butz. I have spent a great deal of time in the State of North Dakota, in the wheat harvest, in towns like Ray, N. Dak., and Bowman, N. Dak., with the distinguished Senator from North Dakota (Mr. YOUNG), as I have with the distinguished Presiding Officer, the Senator from North Dakota (Mr. BURDICK). The interests of those farmers are very much like my own.

Therefore, I find it very persuasive that the distinguished Senator from North Dakota (Mr. YOUNG) a member of the Agriculture Committee, which had an opportunity to examine this nominee and his views, spoke out in opposition here today to this nomination. I do not think that Senator Young spoke in any partisan way. He is of the same party as President Nixon. He is of the same party as the nominee. Yet he states that the nomination is not in the best interest of the farmers he represents in North Dakota. I believe that it is not in the best interest of the farmers of Oklahoma, either. I do not think it is in the best interests of all Americans, whether they are farmers or whether they live in the cities.

I served as a member of the National Advisory Commission on Civil Disorders, which looked into the tragic urban riots which we saw in so many cities in the summer of 1967. One of the things we said in the report of that Commission was that we never were going to be able to solve the problem of the cities unless we could stem the tide of out-migration from the rural areas in States like Kansas, Oklahoma, North Dakota, and Iowa, into the big cities.

I believe that it is a terrible thing to say it is inevitable that there will be more and more small farmers forced off the farms, as Dr. Butz has said. I do not think this is a partisan matter. I think we have had the wrong agricultural policy for a long time, but we are now at a pivotal time in the history of the country, and in the history of American agriculture, where we are moving into more and more bigness, more and more corporatization of farming.

We can do something to try to stem that flow of small farmers from their home States into the big cities where their problems are often, if not always, much greater.

I support the efforts of the distinguished Senator from Indiana (Mr. Bayh) to hold down subsidies to a limit of $20,000 each. We are not talking so much about efficiency here, because if it is efficiency we are after, why do we have to pay so much in subsidies to the large and rich farmers, to the big corporate farmers? They are efficient because we spend so much money with them. I think we would be well advised to stop doing that.

I support the efforts of the distinguished Senator from Minnesota (Mr. Mondale) to provide for collective bargaining on behalf of American farmers. I believe they have got to have more economic power in the marketplace. I believe that that is a basic concept, if we are to protect the independent farmer as against the corporate farmer, the rich farmer, the hobby farmer, who are gobbling up most of the farms in the country.

I have introduced legislation in the Senate which would seek to enforce the law in regard to irrigation water. The law now is that if a farmer takes advantage of irrigation water, built with the taxpayers' money, it should not be in excess of 160 acres. I believe that that law should be enforced.

That is what will happen if the legislation which I have introduced is adopted.

I am very much pleased by the Federal court decree lately to come out of a Federal court in San Diego, Calif., which seeks to uphold legislation in that State in regard to residency and irrigation water, holding, as I understand the case did, that a corporation was not entitled to take advantage of the residency laws and get publicly built water, or water from publicly built irrigation systems. I believe that that is a very important case. I want further to make secure that holding by the court with the legislation I have introduced.

I support the legislation introduced by the distinguished Senator from New Jersey (Mr. Williams) which would take away from the corporations the special benefits which they have if they go into farming in regard to organized labor and big agribusiness corporations, like Tenneco, or Standard Oil of New Jersey, who are now going into farming. If they do go into farming, they do not have the same unemployment compensation or workmen's compensation or organization laws that apply to them in the rest of their business. That works out to be an incentive for big corporations to go into farming, because their workers cannot organize in that enterprise and that gives them a special incentive to come in and take over farms in opposition to independent farmers.

I believe that the distinguished Senator from New Jersey (Mr. Williams) is on the right track, that the big farmers should have to obey the labor laws that apply to them in other enterprises. I believe that if we will pass that legislation, we will take away the special subsidy and incentive that goes to the big corporation farmers and makes them more competitive with the independent individual farmer.

Lastly, I support the legislation introduced by the distinguished Senator from Wisconsin (Mr. Nelson), called the Family Farm Act, which would prevent the kind of tax loss farming, and the vertically integrated conglomerate farming, which has given a special incentive for corporations to come in and take over farming from the independent and small farmers.

The facts are, Mr. President, that we do not have to be big, we do not have to be a big corporation or in agribusiness in order to be efficient. That is some kind of elite, often liberal notion in the East. That is not so, Mr. President. We have been told that by people like Mr. Butz and others. The reason why we see so much bigness in agriculture and so much corporatization in agriculture is because the Federal Government subsidizes them to get into it, through irrigation water, land-grant colleges, and other laws. We should stop that.

The Federal farm support laws are on the side of the big and not the small farmer. My dad has been telling me about that for a long time. He is quite right. So I stand with the distinguished Senator from Iowa (Mr. Miller), the ranking minority member of the Committee on Agriculture and Forestry, the Senator from North Dakota (Mr. Young) another member of the Committee on Agriculture and Forestry, the Senator from Kansas (Mr. Pearson) who is from an agricultural State like mine, not because they are Republicans, but because I think this is not a partisan matter.

I stand with the chairman of the Committee on Agriculture and Forestry not because he is a Democrat but because I think he is well informed on this issue.

I hope, Mr. President, that we will defeat this nomination. I believe that the way to dramatize the issues involved here, that bigness is not best, that we should stop the rich people, the hobby farmer, like lawyers, doctors, and big corporations, like Tenneco, like Ralston-Purina, Standard Oil, and others, from taking over agriculture and driving more people off the farms into the cities.

The way to dramatize the issue is to defeat this nomination.

Some have said, "Well, maybe the Democrats would like to have Mr. Butz confirmed as Secretary of Agriculture and then they will have an issue during the next year." But I believe with Mr. Staley and others in the National Farm Organization, and other farmers who have talked to me about this matter, that there are many farmers who cannot stand another year. There are many farmers that do not have a year, and if we get more and more men like Mr. Butz in control of agriculture, they will not have another year.

So, Mr. President, I hope that we will not confirm this nomination.

Mr. PERCY. Mr. President, I am pleased to announce my support of Secretary-designate Earl L. Butz to be Secretary of Agriculture.

On the basis of the study I have made of Mr. Butz' record and my desire to permit the President to have members of his own Cabinet in whom he has confidence, I intend to vote favorably for the confirmation of Mr. Butz.

I had some concern about the nomination of Mr. Butz and put three basic questions to him in a letter which Mr. Butz has answered both in person and confirmed by letter to my satisfaction.

My own farm advisory committee in Illinois has also strongly supported the nomination of Mr. Butz.

I ask unanimous consent that a copy of the Percy-Butz correspondence as well as a copy of a letter from the chairman of the Percy farm advisory committee and a letter from another member of the committee addressing itself to the question of Mr. Butz' association with agribusiness be printed in the Record.

There being no objection, the items were ordered to be printed in the Record, as follows:

November 30, 1971.

Dr. Earl Butz,
Secretary-designate, U.S. Department of Agriculture, Washington, D.C.

Dear Dr. Butz: Since your nomination for the position of Secretary of Agriculture, I have received many communications from Illinois farmers. A number of them have expressed support for you and there have been expressions of disapproval as well, as I am sure you are aware.

My responsibility to Illinois farmers is to have a man confirmed as Secretary of Agriculture who will have as his objective, among others, the raising of farm income, preserving and improving the quality of life in rural America, and protecting the concept of the family farm which is the backbone of Illinois agriculture.

It would help me if I had a statement from you that I could make available to Illinois farmers on your approach to these three, basic questions, satisfactory answers to which are essential to my support of your nomination.

I am pleased to note that a substantial majority of my own Illinois Farm Advisory Committee support your nomination, but as I have already mentioned, there have been a number of communications in opposition to you and your answers to the above questions would be very helpful to me in considering your nomination.

I wish also to express appreciation to you for your effective support of our strong recommendation to the President that the Taft-Hartley Act be invoked against the dock strike that was so adversely affecting Illinois farmers.

Sincerely,

CHARLES H. PERCY,
U.S. Senator.

DECEMBER 1, 1971.

Hon. CHARLES H. PERCY,
U.S. Senator.

DEAR SENATOR PERCY: I appreciate the opportunity of providing you information which may be helpful in resolving questions regarding my position on basic issues such as improving farm income, bettering the quality of life in rural America, and preserving family farms.

Having been reared on a family farm, I am earnestly interested in preserving these farms. Their preservation is absolutely essential to our economy and I shall do all within my power as Secretary to keep as many family farms in operation as possible. In my testimony before the Committee on Agriculture and Forestry, I quoted from a report of USDA's Economic Research Service which stated there may be a decline of approximately 1,000,000 in the number of farms by 1980. In quoting these figures, I was in no way approving of these projections nor advocating that this occur. On the contrary, it is my very firm belief that the Secretary of Agriculture, whoever he may be, should recognize such trends and bring all the resources of his Department to bear in the form of corrective action.

You will recall that during my testimony I stated my belief that corn and feed grain prices, which are so important to the farmers of Illinois, are too low. Because so many facets of agriculture are tied to feed grain prices, it is imperative that the Secretary take immediate steps to improve these prices. Some of these alternatives were discussed before the Committee. When confirmed, I shall take all steps authorized by law to bring these prices up and if other steps are required which are not authorized by existing statutes, I shall ask for that authority from Congress. As an economist, I know the importance of the continuing to expand exports of farm produce and livestock products so that the family farmer as well as others will benefit economically from expanded overseas markets. I plan to actively apply myself toward reaching the goal of $10 billion in agricultural exports. America's farmers are entitled to a fair return for their labor and their investment and I want to be their spokesman in this cause.

Rural development is one of the great challenges facing this Administration and I conscientiously believe the programs of the Department of Agriculture can contribute more significantly toward improving the quality of rural life. By providing rural communities with the basic facilities needed to sustain their people, such as housing, water, and sewer systems, telephones and electric power, we can also attract industries. This will provide jobs and take the pressure off our crowded cities where so many rural residents have been forced to move for lack of opportunity in the country-side because mechanization of agriculture has reduced available jobs.

I am dedicated to working in every way that I can and by every conceivable means of administrative, legislative, and personal persuasion to achieve these goals. Your assistance will be most appreciated as we work toward these ideas which are so vital to our Nation.

Sincerely,

EARL L. BUTZ.

ROBINSON, ILL.,
November 22, 1971.

Hon. CHARLES H. PERCY,
U.S. Senate,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR PERCY: Confirming my telegram, please be advised that in my opinion Dean Earl Butz is an excellent choice for Secretary of Agriculture. I have polled a number of my farmer friends and they agree. I am sure his appointment would not enjoy the universal approval of all farmers in the country, but I am just as sure that far and away the majority of all farmers in this area would welcome his appointment.

I am aware that some of his critics claim that Dean Butz is oriented too much in the direction of "Agri-Business." For this to be a valid criticism it would be necessary to presume that Agri-business is the enemy of the farmer. Nothing could be further from the truth. Although there may be exceptions, generally speaking Agri-business is probably the best friend the farmer has. Only when they join hands and work together can either Agri-business or the farmer realize their full potential for contributing to the economy and the general public good.

Although some of his critics claim they would like to see a "Practicing Farmer," whatever that is, as Secretary of Agriculture, I submit that to find one whose other qualifications would remotely match those of Dean Butz would be a difficult task indeed. Therefore, I urge your favorable consideration of his appointment.

Respectfully yours,

IVAN R. MILLER.

NOVEMBER 22, 1971.

DEAR SENATOR:

In reply to your telegram received yesterday regarding the appointment of Dr. Butz, I feel he is well qualified for the post and the only possible reason for not confirming the appointment would be his image as a corporation director. This seems to concern Sen. Harris but I don't think it will hurt anything in Illinios.

I'm sorry to see Clifford Hardin leaving the post. He has started a farm program that has brought more flexibility for the farmer than any of the programs of the past. The corn situation was not his fault. We all passed up a fine bean market to try to make a killing in corn and this is what happened. After the big crop was in the ground we still had a short time in which we could have locked in $1.50 but let that slide also.

There is no one whom the President could suggest that would be above Democrat criticism.

Looking forward to our next meeting on Dec. 13.

Sincerely,

HARLAN RIGNEY,
Chairman, Percy Farm Advisory Committee.

Mr. TOWER. Mr. President, I rise in support of Dr. Earl L. Butz and intend to vote for the confirmation of his appointment as Secretary of Agriculture. During the past week hearings were held and from them arose a controversy concerning the qualifications of Dr. Butz as Secretary of Agriculture. For the first time in several years the national press indicated an interest in agriculture and people from all walks of life had a glimmer of the importance of our Nation's farmers and ranchers and their relationship to this Nation's economy. Now the time has come to vote for confirmation of Dr. Butz, and I must say the decision I made has been one of concern to me. I have visited personally with Dr. Butz and have analyzed both what I have heard and read. I have had telephone calls from the State and numerous letters and telegrams. I ponder the endorsement of some groups and likewise the opposition of others.

Dr. Butz' closing statement to the Senate Agriculture Committee is one I feel indicates his attitude and philosophy:

> Now, one closing comment, I have spent my life being a vigorous, articulate, advocate for agriculture; for a progressive agriculture. I have tried to make farmers proud of their profession, for I think agriculture is a proud profession. Food is the first law of life and that those who produce it are top on the priority list in a country like this.
>
> The family farm must be preserved but I do not want to lock it in concrete. I want it to be able to grow, too, and to adjust. If the family farm I grew up on had not adjusted, we would be shucking corn by hand and we would be knocking potato bugs off potatoes with a wooden paddle. The family farm has to adjust; it has to produce more in the days ahead to survive. So I am strongly in favor of the family farm, with flexibility to adjust and to provide an adequate living for the farm family.
>
> We hear about corporate farms in America. Less than one percent of our farms are corporate farms, and they are mostly family corporation farms. I strongly support a prosperous and developing rural America. I think the thrust of this committee to support a rural development program is a proper thrust. We must develop employment opportunities in rural America so we do not continue to jam our population up in the New Yorks and Philadelphias and Chicagos and Baltimores. . . .

A strange coalition has evolved to oppose the confirmation of Dr. Butz. I wonder where the Ralph Nader Public Interest Research Group, National Welfare Rights Organization, Friends of the Earth, National Sharecropper Fund, Southern Christian Leadership Conference, Americans for Democratic Action, Washington Research Group Action Council, the AFL–CIO, and United Auto Workers were when the Congress was struggling to formulate a new farm program? Where were they when the farm State Senators were fighting to maintain the present limitation of payments ceiling; where have they been year after year when this Nation's farmers were so in need of support to establish and maintain a livable income? I wonder if their interest at this late date is not one of self-concern? Perhaps Dr. Earl Butz is the man who can bring farming and ranching back to a way of life that can be enjoyed by our farm families. Perhaps Dr. Butz will find a solution to sagging farm prices and assist in establishing a better rural life.

I think Dr. Butz realizes that the time has come for agriculture to have an effective voice here in Washington. I think he will be an outstanding spokesman for agriculture, placing the blame for low prices squarely where it lies . . . perhaps on a dock strike which prevents shipment of exports, perhaps on a strike against producers at a time when crops must be harvested or rot in the fields. Dr. Butz has assured me that he will continue to represent the farmer in the administration; that he will continue to be a vigorous, articulate advocate for agriculture; that he will be a salesman for American agriculture. I agree with Dr. Butz when he says that urban America needs to realize that the farmer is a professional in his endeavor just as the doctor or lawyer. This needs to be done by "selling" the concept of modern-day agriculture.

We have reached a time in our agricultural history when we must face the facts. As long as politicians in Congress continue to place politics over the economics of trying to solve the farmer's problems, we will face a declining rural America. The farm policies of the United States evolve from the Congress; the Secretary implements the programs. I believe Dr. Earl L. Butz can and will implement the policies of this Congress in the best interest of our Nation's farmers and ranchers. He should be afforded the opportunity to accomplish what he advocates should be done to further enhance living in rural America and stabilize our Nation's agricultural economy. As always, my primary obligation is to the farmers and ranchers of Texas and the Nation, and I trust that Dr. Butz will represent agriculture to its fullest extent.

Mr. METCALF. Mr. President, I have just learned that an official of the Department of Agriculture, at the time Earl L. Butz was an Assistant Secretary, today charged that Mr. Butz, after deliberately stopping a price-fixing investigation of Safeway Stores, Inc., omitted mention of it though questioned by a committee of the Congress.

Mr. President, the St. Louis Post-Dispatch today carries a story by Lawrence Taylor that quotes Lee Sinclair, who was chief counsel for the Packers and Stockyards Administration when Assistant Secretary Butz quashed an investigation Mr. Sinclair recommended of Safeway price-fixing activities.

The charges made by Mr. Sinclair as quoted in Mr. Taylor's article are very serious. If they are true, Mr. Butz should not be confirmed as Secretary of Agriculture.

I ask unanimous consent that Mr. Taylor's article be printed in full at the conclusion of my remarks, but I wish now to call to Senators' attention some portions of the circumstances to which I have previously alluded that have now been amplified by Mr. Sinclair.

Last Wednesday's CONGRESSIONAL RECORD carried the entire record of Mr. Butz' testimony in the hearings on the meatpacking industry held by the Subcommittee on Antitrust and Monopoly in May 1957.

Under questioning, Mr. Butz initially denied that there had been a preliminary investigation of Safeway's feedlot operations, then he agreed there had been an investigation. Mr. Sinclair later testified that a preliminary investigation had been completed, that there appeared to have been violations of the Packers and Stockyards Act, and that he recommended further inquiry by his branch under that act.

According to Mr. Sinclair, however, the real issue is that Mr. Butz successfully concealed from the subcommittee the fact that he had suppressed a price-fixing inquiry under the law and transformed it instead into a broad economic study including the feedlot matter. Mr. Butz described his broad economic study in some detail, but failed to refer to the central issue.

Mr. Sinclair explained today that he was unaware of Butz' omission at the time of his own testimony and as he was not questoned, did not himself mention it. But he said today:

> The effect of transferring this matter to agricultural research for an economic study was to completely stop the investigation of alleged violations of the (Federal) Packers and Stockyards Act by Safeway. It was well recognized by us in the department that this was the effect and also the purpose of this economic study. That was our belief and, of course, it turned out that way.

Mr. President, I hope that all Senators will read Mr. Taylor's story carefully. I hope that they will agree with me that Mr. Butz' admission on the public record that he failed to administer the Packers and Stockyards Act, his promise that he "would do the same thing again" and the allegations, if true, which were made today, of his failure to be candid with a congressional committee, clearly disqualify him for public office.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the St. Louis Post-Dispatch,
Dec. 1, 1971]

EARL L. BUTZ

Earl L. Butz while an Assistant Secretary of Agriculture in 1957 omitted key details from his testimony before a Senate subcommittee about the nature of a departmental investigation of Safeway Stores, Inc., a former official of the department said today.

The former official, Lee D. Sinclair, charged also that Butz, nominated by President Richard M. Nixon as Secretary of Agriculture, deliberately halted the Safeway investigation in 1956, even though a preliminary inquiry showed that price-fixing had occurred in the Company's meat buying operations on the West Coast.

The Senate began debate of Butz' nomination today with a vote expected before the end of the week.

At the time of the Safeway investigation, Sinclair was head of the Department of Agriculture's Packers and Stockyards Branch which conducted the inquiry until it was stopped.

Sinclair, who had discussed the investigation earlier with the Post-Dispatch but had asked not to be identified, agreed to speak for the record in making his accusations of Butz today.

He said that Butz, questioned by the Senate Judiciary Antitrust and Monopoly Subcommittee at a hearing in May 1957, did not disclose that the Department's investigation into Safeway's operations had uncovered evidence of price-fixing. Instead, Butz confined his discussion to the allegations raised by the subcommittee members that Safeway had used its livestock feedlot operations to depress West Coast beef prices, a subject that Sinclair said was a minor part of the overall investigation.

Butz told the subcommittee that Safeway had sold most of its feedlots and apparently had violated no federal-laws.

He said that the feedlots were part of the case involving Safeway. He was not asked about the rest of the case and did not volunteer additional information.

Although the subcommittee apparently was unaware of the alleged price-fixing, it questioned Butz sharply about why the Safeway investigation was dropped.

Butz replied that the matter involved issues that went beyond Safeway's operations and that it has been turned over to an economist for study.

He said that if the study turned up evidence of federal law violations, it could have been referred back for further investigation.

Sinclair said today, however, that the study "did not deal directly with Safeway. It dealt with the flow of meat products on the West Coast." He said that no action ever was taken against Safeway for its alleged price-fixing.

"The effect of transferring this matter to agricultural research for an economic study was to completely stop the investigation of alleged violations of the (Federal) Packers and Stockyards Act by Safeway," Sinclair said.

"It was well recognized by us in the department that this was the effect and also the purpose of this economic study," he said. "That was our belief and, of course, it turned out that way."

In the hearing, Butz testified that six general areas were included in the economic study. They included such items as "analysis of the whole meat distribution in the San Francisco Bay area," and "Los Angeles chain store beef procurement and wholesale pricing study."

Sinclair, who also testified during the hearing, said that his remarks contradicted some made earlier by Butz.

At one point during the hearings, Butz was asked whether a preliminary investigation had been made into Safeway's feedlot operations.

"Not to my knowledge," he replied. Then, apparently corrected by someone else at the witness table, he added, "Was there? Yes, there were some."

Sinclair testified a moment later that a preliminary investigation had been completed and that his recommendation for a full-scale inquiry had been overruled by Butz and two other lower departmental officials.

Butz then said, "Mr. Chairman, may I point out at this point that this was discussed in my office—and we decided there to broaden the scope of this investigation."

"And I would accept full responsibility for that and would do the same thing again."

Like Butz, Sinclair did not mention in his testimony the price-fixing investigation he had directed.

Sinclair said today that he had not attended the earlier hearings and was unaware of what had been said about the inquiry.

"The subcommittee did not ask me any questions about the nature of the case," he said. "I did not know how much they had gone into it in the earlier session. I did not know that Butz had not mentioned the price-fixing."

Sinclair said that after he testified, his once friendly relationship with Butz grew cold. "Butz never contacted me in any way after that," he said. "Shortly thereafter, I was promoted to a job that carried very little responsibility."

Sinclair left the Agriculture Department in 1960 and went into private law practice in Washington. Among his clients today is the National Farmers Organization, which has opposed Butz's nomination as secretary.

Sinclair said, however, that he was not serving as a spokesman for the group.

He recalled that as the Safeway investigation was being killed, another official with the department said to him, "Lee, you're not going to get a chance to complete that investigation."

Butz was the Agriculture Department's number three man from 1954 until 1957 when he resigned to accept a position at Purdue University.

Since his nomination to the top departmental post, he has been criticized as a friend of big business whose agricultural interests harmed the small family farmer. Butz has denied these claims and said that he was a realist who foresaw the trend toward larger and more efficient farms.

During Butz's time as Assistant Secretary to Ezra Taft Benson complaints were raised that Safeway and other big firms had close ties with the department. At least three Safeway executives served as administrative assistants to Benson. One of these, Lorenzo Hoopes, worked for Benson only one year before rejoining Safeway in 1954.

There was no indictment, however, that a Safeway man was on Benson's staff at the time of the price-fixing investigation.

BUTZ NOMINATION COULD MEAN DISASTER FOR FARM ECONOMY

Mr. PROXMIRE. Mr. President, tomorrow a vote will be taken in the Senate that could have a profound impact on our farm economy and hence the national economy in the months and years ahead. The question at issue is whether or not we should confirm Dr. Earl Butz as Secretary of Agriculture.

It has become increasingly fashionable as the number of farmers dwindles to downgrade the importance of agriculture to the economic health of the Nation. After all, fewer farmers means fewer farm voters, and fewer farm voters means that we can ignore the needs of these voters with less peril to our chances for reelection.

However, we are only fooling ourselves if we think that we can allow our farm economy to seriously deteriorate without affecting national strength. Although a small percentage of our population is cultivating the land, a very substantial number of people are employed in supplying the needs of farmers, from fertilizers to farm machinery. Additional millions of people are involved in processing and distributing the produce of our farms—from the factory worker to the truck driver to the retail store manager or owner.

As a Nation, we are able to devote a very substantial amount of our gross national product to capital goods production and the amenities of life because the average family only spends 16 percent of its income on food.

Most rural communities are entirely dependent on the economic health of the farmer—especially the small family farmer. While agribusiness may find financing available at giant banking institutions in our major cities, the small rural banker rises or falls on the business he does, or does not do, with neighboring farmers. Smalltown hardware stores, dry goods stores, newspapers, and other business enterprises are in the same boat.

There may be some who feel that rural areas in the last analysis should be the preserve of giant farms, with corporate backing, which use the latest machinery, pesticides and antibiotics and minimize the role of the average rural American and his family. I categorically disagree with this view. I think it is damaging to our free enterprise system, to our proven ability to produce food cheaply, and to good conservation practices.

Now let us take a look at how Dean Butz feels about the farm economy, particularly with regard to the family farmer—the backbone of American individualism.

First, Dean Butz seems to subscribe to the doctrine of the survival of the fittest. He has been quoted in an interview with the Washington Post as saying:

> Adapt or die. That's a harsh law but it always has worked. If we hadn't used that law we'd still be riding in buggies and plowing with horses.

However, very strangely, it seems, he has never spoken out against the tax inequities that place a premium on corporate farming and make it very difficult for the small family farmer to compete. He has never called for a reworking of capital gains provisions that encourage large corporate entities to buy up vast quantities of land, farm it for 10 years or so—ruining the land in the process—and then sell the exhausted land, which is good for very little at that point.

Apparently the fittest, by the Butz definition, are those with the money and the lawyers to find loopholes in our tax laws, those who exploit rather than replenish the land, and then move on.

Another subject Dean Butz has avoided discussing is the use of water made available through Federal reclamation projects by giant landholders in violation of the 160 acre limitation. This limitation, written into law at the turn of the century, requires large landholdings to be broken up before the landowners can receive the benefit of water paid for with Federal tax dollars. The law has never been enforced.

"Adapt or die"—or be big enough to be able to make your own special privileges.

In the same interview with the Post, Dean Butz predicted that the 2.9 million farms of today will be reduced to 1.9 million farms by 1980. This disciple of Ezra Taft Benson apparently is perfectly resigned to overseeing the death of one million farms in 10 years. Can anyone doubt that these farms will be small family farms?

What will be the consequence of this continued reduction in family farms? More migration to the cities. A further depletion of the rural economy. Greater welfare costs as men and women who have farmed all their lives are forced onto the relief rolls. A sharp reduction in good conservation practices as the husbandman is replaced by the impersonal corporate giant.

This is the way the tide is running now. It is a trend that should seriously concern us. Can we sit idly by and let events take their course? Or should we try to revitalize our rural economy and preserve the small, economical family farm unit? Dean Butz clearly would let the tide run out until all but a handful of farmers are stranded off the farm.

Dean Butz' pronouncements on the environmental movement are part and parcel of his disregard for the needs and the advantages of the small family farming unit. Big farming has brought with it the increasing use of pesticides, such as DDT, growth hormones, such as DES, and practices that can seriously deplete the soil. These so-called economies of scale can have a serious long-term impact on the environment despite seeming short-term advantages. Thus it is not surprising to see Dr. Butz—whose adapt-or-die statement apparently means grow huge or die—go after the environmentalists hammer and tong.

Here are some quotations taken from an April 26, 1971 speech:

> I am going to talk this morning about something that I think is a real threat to American agriculture and it involves our future and something you can help us with. And that's the threat that comes from the environmentalists, or from the do-gooders or from consumerism or from whatever you want to call it.
>
> * * * * *
>
> Then I see these environmentalists on the other side trying to hold us back and trying to impede—not trying, but the net effect is to impede—the progress we're making in scientific agriculture.
>
> * * * * *
>
> This fadism that we follow as a Nation and currently it's ecology and pollution and it hits us in agriculture right in the solar plexus. But we are now completely dependent on a scientific agriculture, upon the use of those things that are dangerous.

Mr. President, I would be the last Member of the Senate to stand on this floor and say that the environmentalists are always right and that scientific farmers are always wrong. But I also think it is extremely foolish to say that scientific farmers are always right and environmentalists are always wrong. As a matter of fact there are times when the two approaches are complementary—such as in the use of biological pest control methods as a substitute for deadly environmental poisons.

Any man who looks on the environmental movement as a mortal enemy to the farm economy is very ill suited to harmonize the interests of both groups—interests that must be accommodated if we are to have an abundant yet safe food supply at the least possible environmental cost. Any man that says, as Dr. Butz has said, that if we move to organic farming we are going to have a decide which 50 million Americans are going to starve, is temperamentally unsuited to the job of integrating new environmental techniques into our farm economy.

How about DDT? What does Dr. Butz say about this? Those of us whose States border on Lake Michigan are particularly concerned because Cohoe salmon that have been introduced into the lake are being adversely affected by DDT runoff. The reproductive cycle is destroyed in many instances. Here is what Dr. Butz thinks about that problem:

> We hear a lot about the run-off of DDT in Lake Michigan over here. We don't hear much about the benefits of DDT. You don't hear much about malaria having been wiped from the face of the earth. You don't hear much about human health having been improved. You hear about DDT having been found in

> the fish taken out of Lake Michigan over here running off the Wisconsin hillsides and the like of that to which I argue that, something like this: That Lake Michigan has DDT in it. The Cohoe salmon thrives in Lake Michigan. Lake Superior has no DDT. There are no Cohoe salmon in Lake Superior. Moral: Let's put DDT in Lake Superior so Cohoe salmon can grow there (Laughter). Absurd. Of course it's absurd. But no more so than the argument on the other side.

Mr. President, this may seem funny to some, but it saddens me. This is a very serious problem. It affects the tourist industry substantially in Wisconsin and Michigan, because many tourists are there for the fishing. Dean Butz is poking fun at scientific conclusions reached by men eminent in their field, including Federal and State officials.

What sort of attitude will Dean Butz, if his nomination shall be confirmed, take toward the expenditure of funds on biological pest control as a substitute for pesticides? Congress has appropriated these funds and it is up to the Department of Agriculture to spend them wisely. Can we seriously expect a man who has said that "we need to extol the benefits that come from these—pesticides—that we use," and has spent no little time making the case for pesticides, to work for their replacement by biological pest control techniques? I hardly think so.

Dean Butz has an "either or" philosophy. We have either got to live with chemical poisons or starve to death; we have either got to live with thermal pollution or have brown-outs; we have either got to beat the environmentalists or see agriculture slip backward. There are no compromises, no solutions, in his vocabulary—only confrontations. And confrontation is exactly what we do not need at this critical turning point in the history of man's impact on his environment—we need cooperation and a willingness to get on with the job of investigating alternatives to current practices that are environmentally dangerous.

Some Senators have discussed Dean Butz' conflict-of-interest problems. I want to make it clear that I am not opposing this nomination on a conflict-of-interest basis. It is true that Dean Butz has been in close association with agribusiness giants in the very recent past—companies such as Ralston-Purina, International Minerals and Chemical Corp., and Stokeley-Van Camp—companies that favor extensive use of pesticides and antibiotics—companies that favor vertical integration in farming. But I have no doubts regarding Dean Butz' sincere effort to make decisions as Secretary of Agriculture without regard to the impact those decisions will have on companies he has served as a director—companies that have had him on their payroll.

However I believe that the same philosophical leanings that resulted in Dean Butz' decision to ally himself with these companies in the first place, the attitudes he has expressed in a number of statements I have alluded to today, the attitudes that made him an important part of the Ezra Taft Benson team in the fifties, make him utterly unsuited to solve the problems confronting the small family farmer as well as the environmental difficulties facing this Nation today.

Mr. President, the parity ratio for farmers has not been above 70 this year. Last year it averaged 72; and the year before, 74. This means that the farmer is getting less for his produce and spending more for the tools he needs to raise it. If Dean Butz is confirmed by the Senate today I see a bleak future for the farmer in general, but particularly the small family farmer. I see a future of even lower parity ratios, even greater outmigration from rural areas, increasing hazards to our environment. For all of these reasons I intend to vote against Dean Butz and I sincerely urge a majority of Senators to join with me. The winner will be the American farmer.

At this point I shall read into the RECORD a letter from the Governor of Wisconsin, the Honorable Patrick Lucey, which eloquently argues against the confirmation of Dean Butz:

> DEAR BILL: I have written to all members of the Senate expressing my opposition to the appointment of Earl Butz as Secretary of Agriculture. I know that you have already expressed vigorous opposition to his appointment and I hope you are successful in your bid to defeat confirmation. My letter today was written on behalf of the farmers of Wisconsin whose livelihood and life style have been disregarded by the nomination of Earl Butz as Secretary of Agriculture.
>
> Those appointed to high public office ought to be concerned with representing *all* individuals affected by the policies of that office. However, in the case of Mr. Butz, you are considering a man so clearly on the side of huge corporate farming that individual small farmers throughout our nation are bound to suffer.
>
> Earl Butz is a proponent of the policies followed by Ezra Taft Benson, U.S. Secretary of Agriculture during the 1950's. As you know, these policies were an economic disaster, causing severe over-production of crops, huge surpluses, low prices and financial ruin for small farmers. It took practically the entire decade of the 1960's to get rid of the surpluses brought about by the Benson policies of the previous decade.
>
> Earl Butz was Assistant Secretary of Agriculture from 1954 to 1957 under Ezra Taft Benson. From recent remarks, it is clear that he is interested in resurrecting an era of government mistake and mismanagement in the area of agriculture. He has called on small farmers to "adapt or die." He is philosophically opposed to price supports and acreage diversion. There is no indication that he has changed his view, espoused in 1955, that "too many people are trying to stay in agriculture that would do better someplace else."
>
> In fact, that view seems to have hardened. His position on the Board of Directors of Ralston Purina, Stokeley-Van Camp and International Mineral and Chemical Company as well as his ties with the J. I. Case Company indicates that he is more interested in the profit of huge corporations than the well-being of individual farmers.
>
> His economic ties have made him completely insensitive to the problems and needs of the small farmer. On one recent occasion he said, "I make no apologies to anyone for the participation I have taken in agri-business companies." On another occasion he said, "Nostalgically we still look at agriculture as a way of life but agriculture is now big business." Both his recent remarks and his economic ties reflect his belief that the future shape of rural America should be domination of our agriculture and control of our land by the largest corporations.
>
> As Governor of Wisconsin, I am extremely concerned about the effect the agricultural policies of Earl Butz would have on the farmers of our state. It is obvious that he plans to reign over the demise of the small family farm both in our state and throughout the nation. It is equally obvious that under his regime huge corporate farming will grow to such proportions as to threaten the very existence of rural America as we know it today. Therefore, I urge you to reject the nomination of Earl Butz as Secretary of Agriculture and approve in his place a man more suited to represent *all* sectors of agriculture in our society.
>
> Sincerely,
>
> PATRICK J. LUCEY,
> *Governor.*

QUORUM CALL

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum, and I trust that it will be the final quorum call of the day.

The PRESIDING OFFICER (Mr. BURDICK). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT ON DIVISION OF TIME TOMORROW ON BUTZ NOMINATION

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that at 9 a.m. tomorrow, the Senate go into executive session, that time on the nomination of Mr. Butz then begin running, that it be equally divided at that time so that both sides—regardless of the imbalance with respect to the utilization of time that has occurred this afternoon—will have equal time on tomorrow; and that that time run from 9 a.m. to 1 p.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate now return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that there be a period at this time for the transaction of routine morning business with the statements therein limited to 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

REPORT FROM THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE

A letter from the Secretary of Health, Education, and Welfare transmitting, pursuant to law, a report concerning grants approved by his office financed wholly with Federal funds and subject to the reporting requirements of Section 1120(b) of the Social Security Act (with accompanying report); to the Committee on Finance.

REPORT OF THE ATTORNEY GENERAL

A letter from the Attorney General transmitting, pursuant to law, a report on identical bidding in advertised public procurement (with accompanying report); to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, with amendments, together with individual views:

S. 582. A bill to establish a national policy and develop a national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's coastal and estuarine zones, and for other purposes (Rept. No. 92–526).

By Mr. EASTLAND, from the Committee on the Judiciary, without amendment:

S. Res. 204. An original resolution authorizing the President of the Senate to certify the report of the Committee on the Judiciary regarding the refusal of Robert F. Williams to appear and testify before the Subcommittee to Investigate the Administration of the Internal Security Act (Rept. No. 92–525).

By Mr. EASTLAND, from the Committee on the Judiciary, with an amendment, together with individual views:

S. 2262. A bill to permit a home mortgage loan by a federally insured bank to a bank examiner (Rept. No. 92–532).

By Mr. McGEE, from the Committee on Post Office and Civil Service, without amendment:

S. 2896. A bill to amend chapter 83 of title 5, United States Codes, relating to adopted child (Rept. No. 92–527);

H.R. 3628. An act to amend title 5, United States Code, to provide equality of treatment for married women Federal employees with respect to preference eligible employment benefits, cost-of-living allowances in foreign areas, and regulations concerning marital status generally, and for other purposes (Rept. No. 92–528);

H.R. 8548. An act to curtail the mailing of certain articles which present a hazard to postal employees or mail processing machines by imposing restrictions on certain advertising and promotional matter in the mails, and for other purposes (Rept. No. 92–529);

H.R. 8689. An act to provide overtime pay for intermittent and part-time General Schedule employees who work in excess of forty hours in a work week (Rept. No. 92–530); and

H.R. 9442. An act to authorize compensation for five General Accounting Office positions at rates not to exceed the rate for Executive Level IV (Rept. No. 92–531).

REPORT ON CONSTITUTIONAL RIGHTS—REPORT OF A COMMITTEE (S. REPT. NO. 92–524)

Mr. ERVIN. Mr. President, on behalf of the Committee on the Judiciary, I submit a report by the committee setting forth the activities of its Subcommittee on Constitutional Rights, during the second session of the 91st Congress.

The PRESIDING OFFICER. The report will be received and printed.

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

By Mr. WILLIAMS, from the Committee on Labor and Public Welfare:

Roy E. Batchelor, of Tennessee, to be an Assistant Director of the Office of Economic Opportunity;

Ronald S. Berman, of California, to be Chairman of the National Endowment for the Humanites; and

H. Guyford Stever, of Pennsylvania, to be Director of the National Science Foundaton.

By Mr. EASTLAND, from the Committee on the Judiciary:

Thomas A. Flannery, of Maryland, to be a U.S. district judge for the District of Columbia;

Leroy J. Conte, Jr., of Ohio, to be a U.S. district judge for the northern district of Ohio; and

Kenneth K. Hall, of West Virginia, to be a U.S. district judge for the southern district of West Virginia.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. DOMINICK (for himself and Mr. ALLOTT):

S. 2915. A bill to amend the Tariff Schedules of the United States with respect to the classification of certain ceramic articles. Referred to the Committee on Finance.

By Mr. MUSKIE:

S. 2916. A bill for the relief of Noriko Sakanishi. Referred to the Committee on the Judiciary.

By Mr. KENNEDY:

S. 2917. A bill to extend the period of which payments in lieu of taxes may be made with respect to certain real property transferred by the Reconstruction Finance Corporation and its subsidiaries to other Government departments, and for other purposes; and

S. 2918. A bill to extend for 2 years the period for which payments in lieu of taxes may be made with respect to certain real property transferred by the Reconstruction Finance Corporation and its subsidiaries to other Government Departments. Referred to the Committee on Government Operations.

By Mr. MONDALE:

S. 2919. A bill for the relief of Fazus Abdo. Referred to the Committee on the Judiciary.

By Mr. MAGNUSON (by request):

S. 2920. A bill to amend the Federal Aviation Act of 1958 to provide for the regulation of rates of air carriers and foreign air carriers in foreign air transportation, and for other purposes. Referred to the Committee on Commerce.

By Mr. McGEE:

S. 2921. A bill to authorize the Secretary of the Interior to convey certain lands in the State of Wyoming. Referred to the Committee on Interior and Insular Affairs.

By Mr. MUSKIE:

S. 2922. A bill to establish a Commission on Mental Health and Illness of the Elderly, and for other purposes. Referred to the Committee on Labor and Public Welfare.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOMINICK (for himself and Mr. ALLOTT):

S. 2915. A bill to amend the Tariff Schedules of the United States with respect to the classification of certain ceramic articles. Referred to the Committee on Finance.

Mr. DOMINICK. Mr. President, on behalf of Senator ALLOTT and myself, I introduce a bill to amend the tariff schedules with respect to the classification of certain ceramic articles.

It has recently come to my attention that several domestic manufacturers of ceramic materials have been seriously and adversely affected by a reclassification for tariff purposes by the Customs Bureau. The thrust of the reclassification is to undermine substantially the ability of domestic producers to compete in this market.

The product involved is a ceramic base and cap used to encase electrical circuits, neither of which serve an electronic function. The imported ceramic was originally classified as "ceramic electrical ware" and subject to an ad valorem duty of 18 percent. The foreign manufacturers discovered a loophole and by coating the ceramic base and cap with a glass frit, used in sealing the container and performing no electronic function, succeeded in convincing customs that the imported ceramic should be reclassified as "parts of semi-conductors" and subjected to an ad valorem duty of 7 percent. In so doing, the foreign manufacturers realized a 61-percent reduction in the rate of duty to be paid.

This part of the ceramics market is about $5 million dollars in volume, with the market, prior to reclassification, about equally divided. Approximately 50 percent of every sales dollar of the domestic producers goes to wages and salaries; and with the tariff reduction to be realized by the foreign producers, the domestic producers' share of the market will substantially decline.

A similar bill has been introduced on the House side by Congressman BROTZMAN, and in a time when Congress is so conscious of our economic problems, I would hope that the logic of this bill and its importance to domestic producers would insure its speedy passage by Congress.

By Mr. KENNEDY:

S. 2917. A bill to extend the period of which payments in lieu of taxes may be made with respect to certain real property transferred by the Reconstruction Finance Corporation and its subsidiaries to other Government departments, and for other purposes; and

S. 2918. A bill to extend for 2 years the period for which payments in lieu of taxes may be made with respect to certain real property transferred by the Reconstruction Finance Corporation and its subsidiaries to other Government Departments. Referred to the Committee on Government Operations.

Mr. KENNEDY. Mr. President, I introduce for appropriate referral two pieces of legislation aimed at assisting some 25 communities in 17 States.

These bills would extend the Federal payments in lieu of taxes on certain former Reconstruction Finance Corporation properties to compensate these local governments for the loss of tax revenues that they would otherwise receive if this property were not in Government ownership.

Mr. President, the Defense Department has expressed interest in selling most of these World War II defense factories; however, administrative problems have held up the sales. In the meantime, the communities involved—such as Grafton and Everett in Massachusetts—are faced with severe financial problems and are forced to raise their tax rates even higher to compensate for the loss of the payments they have been receiving since 1955. The particular Government-owned and leased plant in Grafton comprises 16 percent of all of the industrial land in that small community of 11,000 population. The loss of their $90,000 payment is quite a burden for those taxpayers to absorb.

It is my hope that appropriate administrative action will be taken to relieve this whole situation of payments in lieu of taxes. Meanwhile, it is obvious that several towns and communities across the country are experiencing the same severe financial hardships and inequities that prompted the passage of the original legislation in 1955. And so I hope that my colleagues here in the Senate will favorably consider these bills that I am introducing today.

By Mr. MAGNUSON (by request):

S. 2920. A bill to amend the Federal Aviation Act of 1958 to provide for the regulation of rates of air carriers and foreign air carriers in foreign air transportation, and for other purposes. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, I introduce by request, for appropriate reference, a bill to amend the Federal Aviation Act of 1958 to provide for the regulation of rates of air carriers and foreign air carriers in foreign air transportation, and for other purposes, and ask unanimous consent that the letter of transmittal and section-by-section analysis be printed in the RECORD with the text of the bill.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 2920

A bill to amend the Federal Aviation Act of 1958 to provide for the regulation of rates of air carriers and foreign air carriers in foreign air transportation, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 801 of the Federal Aviation Act of 1958 (49 U.S.C. 1461) is amended by inserting "(a)" immediately after "801" and by adding at the end thereof the following new subsection:

"(b) Any decision of the Board disapproving a rate, fare or charge pursuant to section 1002(a), or any decision of the Board suspending a tariff pursuant to section 1002(g)(2), or any decision suspending a tariff or ordering carriers to charge a rate, fare or charge pursuant to section 1002(j) shall be submitted to the President before publication, and such decision may be approved, disapproved, or stayed for a period not exceeding ninety days by the President within ten days after its submission to the President. Absent disapproval or staying by the President the decision of the Board shall be effective. Whenever the Board shall enter upon a hearing concerning a rate, fare, or charge for foreign air transportation, a copy of the notice of such hearing shall be transmitted to the President before publication thereof.

Section 2. Section 1002(d) of such Act is amended as follows:

(a) The title of Section 1002(d) is amended to read as follows:

"Power To Prescribe Rates and Practices and Rule of Ratemaking in Interstate and Overseas Air Transportation"

(b) Subsection 1002(d) of such Act is amended by inserting "(1)" immediately after "(d)".

Section 3. Section 1002(e) of such Act is amended as follows:

(a) The title to subsection 1002(e) of such Act is deleted.

(b) Section 1002(e) of such Act is amended by substituting "(d)(2)" for "(e)", and redesignating items (1) through (5) thereunder as items (i) through (v), respectively.

(c) Section 1002(e) shall read as follows:

"Power To Disapprove Rates in Foreign Air Transportation"

"(e)(1) Whenever after notice and hearing, upon complaint, or upon its own initiative, the Board shall find that any individual or joint rate, fare, or charge demanded, charged, collected, or received by any air carrier or foreign air carrier for foreign air transportation, is or will be unreasonably high or unreasonably low and is or will be detrimental to the commerce of the United States, the Board shall disapprove the rate, fare or charge.

"(e)(2) In determining whether a rate, fare or charge of a carrier is unreasonably high or unreasonably low under this section and section 1002(g) of this Act, the Board shall be governed by the following:

(i) Any rate, fare, or charge should not be excessively above its fully allocated cost of operations including reasonable profit, taking into account any classification, rule, regulation, or practice affecting such rate;

(ii) Any rate, fare, or charge should be compensatory taking into account any classification, rule, regulation, or practice affecting such rate.

A rate, fare, or charge shall be deemed compensatory when it exceeds the variable cost of providing the specific transportation service to which it is applicable.

"(e)(3) In determining whether a rate, fare or charge of a carrier is or will be detrimental to the commerce of the United States under this section or section 1002(g) of this Act, the Board shall be governed by the following:

(i) The need to avoid substantial impairment of scheduled services and charter services;

(ii) The magnitude and permanency of the effect of such rate, fare or charge on the movement of traffic and on the ability of air carriers to earn revenue sufficient to enable such carriers to provide adequate and efficient air carrier service;

(iii) The need in the public interest of adequate and efficient transportation of persons and property by air carriers and foreign air carriers."

Section 4. The title of section 1002(g) of such Act is amended to read, "SUSPENSION OF RATES FOR AIR TRANSPORTATION AND LIMITATION OF EFFECTIVENESS OF RATES FOR FOREIGN AIR TRANSPORTATION," and section 1002(g) is amended by inserting "(1)" immediately after "(g)" and by adding at the end thereof the following new paragraphs:

"(2) Whenever any air carrier or foreign air carrier shall file with the Board a tariff stating an individual or joint (between air carriers, between foreign air carriers, or between an air carrier or carriers and a foreign air carrier or carriers) rate, fare, or charge for foreign air transportation, the Board is empowered, upon complaint or upon its own initiative, at once, and, if it so orders, without answer or formal pleading by the air carrier or foreign air carrier, but upon reasonable notice, to enter upon a hearing to determine whether such rate, fare, or charge would be unreasonably high or unreasonably low and detrimental to the commerce of the United States; and pending such hearing and decision thereon, the Board, by filing with such tariff, and delivering to the air carrier or foreign air carrier affected thereby, a statement in writing of its reasons for such suspension, may by order suspend the operation of such tariff and defer the use of such rate, fare, or charge, for a period of ninety days, and, if the proceeding has not been concluded and a final order made within such period, the Board may, from time to time, by order extend the period of suspension, but not for a longer period in the aggregate than one year beyond the time when such tariff would otherwise go into effect; and, after hearing, whether completed before or after the rate, fare, or charge goes into effect, the Board may make such order with reference thereto as would be proper in a proceeding instituted after such rate, fare, or charge had become effective. If the proceeding has not been concluded and an order made within the period of suspension, the proposed rate, fare, or charge shall go into effect at the end of such period: *Provided,* That this subsection shall not apply to any initial tariff filed by an air carrier or foreign air carrier.

"(3) The Board may in the public interest, at the time a tariff stating a rate, fare, or charge for foreign air transportation is filed with the Board by an air carrier or foreign air carrier, whenever it appears that changing circumstances may result in such rate, fare, or charge becoming unreasonably high or unreasonably low and detrimental to the commerce of the United States, limit the effectiveness of such tariff to a period of time not less than one year."

SEC. 5. Section 1002 of such Act is amended by adding the following new subsection:

"POWER TO SUSPEND AND ORDER RATES IN FOREIGN AIR TRANSPORTATION IN SPECIAL CIRCUMSTANCES

"(j) Whenever the Board finds that the government or aeronautical authorities of any foreign country have refused to permit the charging of rates, fares, or charges contained in a properly filed and published tariff of an air carrier filed under this Act for foreign air transportation to such country, the Board may, by order, in its discretion and without hearing, (i) suspend the operation of any existing tariff of any foreign air carrier providing services between the United States and such foreign country, and (ii) order air carriers and such foreign air carrier to charge such rates, fares, or charges for foreign air transportation to such country as are in accordance with agreement reached between the United States and such country. The effective right of an air carrier to start or continue service at the rates, fares, or charges contained in a proper filed and published tariff filed under this Act for foreign air transportation to such country, or at such rates, fares, or charges as may be ordered by the Board pursuant to this subsection, shall be a condition to the continuation of service by such foreign air carrier in foreign air transporation between the U.S. and such foreign country.

SEC. 6. Section 1006 of such Act is amended by deleting the words "section 801 of this Act," and by substituting therefor the words "section 801(a) of this Act or any decision approved, disapproved, or stayed by the President under section 801(b) of this Act,".

SEC. 7. The amendments made by this Act shall not be deemed to authorize any action inconsistent with the provisions of section 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1502).

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., November 16, 1971.
Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is herewith transmitted a proposed bill to amend the Federal Aviation Act of 1958 to provide for the regulation of rates, fares and charges of air carriers and foreign air carriers in foreign air transportation, together with a section-by-section analysis of the bill. The Department recommends that this bill be incorporated into the Act in order to insure that rates and fares in foreign air transportation are reasonably related to the costs of providing that transportation service, and to arm this Government with the means of adequately responding to a foreign government's rejection of a properly filed tariff.

In the Statement on International Air Transportation Policy approved by the President in June, 1970, it is stated that: "The U.S. should work for the broadest range of potentially profitable services designed to appeal to the broadest consumer market and based on the lowest cost of operating an efficient air transport system."

In that Policy Statement, it was noted that certain fares remain well above justifiable levels.

Also, as you know, the member carriers of the International Air Transport Association (IATA) have failed to agree on rates and fares to be offered on the North Atlantic for the 1972 season. This has precipitated some foreign carriers to file individual scheduled fare proposals with the Civil Aeronautics Board (Board) which are so low as to raise the question that they may impair the services provided by all carriers in that market. These low fares appear to be intended to compete with charter services of U.S. supplemental and foreign charter carriers. In addition, the recent introduction of wide-bodied aircraft by the scheduled air carriers has depressed load factors and intensified competition for scheduled service.

It is the Department's view that the present authority of the Board to deal rapidly and effectively with unreasonably low or unreasonably high rates is simply inadequate. The Board cannot, at the present time, either suspend an international rate pending hearing and investigation, nor can the Board reject an international rate on the ground that it is excessively low or excessively high. The Department believes that this proposed bill will give the Board the necessary additional powers.

The basic provisions of the bill: (1) give the Board power to suspend and reject rates in foreign air transportation when found to be unreasonably high or unreasonably low and detrimental to the commerce of the United States (Sections 2, 3, and 4); (2) provide the Board with retaliatory powers in situations where a foreign government refuses to permit U.S. carriers to offer air services at rates properly filed under the Act (Section 5); and (3) require that Board decisions affecting foreign rates be submitted to the President for approval, disapproval or stay (Section 1).

The President's responsibility for national security and foreign affairs requires that the President review decisions of the Board affecting international air rates. Thus, the bill provides that the President may approve, disapprove or stay the Board's decision within a 10-day period. Executive review was recommended in the statement of International Air Transportation Policy, approved by the President on June 22, 1970.

The proposed bill would empower the Board to suspend and disapprove any individual or joint rate, fare or charge by U.S. or foreign carriers that is or will be unreasonably high or unreasonably low, and that is or will be detrimental to United States commerce.

The yardstick to be used by the Board in determining whether a rate is too high is the fully allocated cost of operations, including reasonable profit, taking into account rules, regulations or practices affecting such rates. A rate should not be excessively above these costs. Rates, fares and charges should also be compensatory; a rate would be deemed compensatory when it exceeds the variable cost of providing the specific transportation service to which it is applicable. The Department believes it is essential to provide the Board with an economic (cost) guidelines in determining whether to suspend or reject rates in foreign air transportation. Any other standard could result in excessive profits or excessive losses.

The proposed bill also provides guidelines for the Board to determine whether a rate, fare or charge is, or will be, detrimental to United States commerce. These are: the need to avoid substantial impairment of scheduled and charter services, the effect of proposed rates on the movement of traffic and the ability of carriers to provide adequate and efficient service, and the need in the public interest of such transportation. Such guideines in addition to the economic standard should provide the Board with sufficient flexibility to address existing and future circumstances.

The bill empowers the Board to suspend rates, fares and charges in foreign air transportation for a period no longer than one year, pending hearing and decision. If the proceeding has not been concluded within the suspension period, or the appropriate negotiation between the U.S. and the foreign government involved have not been successfully concluded, the rate goes into effect. The bill would also give authority to the Board to limit the effectiveness of a tariff to one year to provide flexibility and to allow for changing circumstances.

The bill provides for retaliatory power in the Board to suspend the effectiveness of a foreign carrier's tariff. The Board may then order carriers to charge rates which have been agreed upon in negotiations conducted under our bilateral agreements. This provision is operative whenever a foreign government has refused to permit the charging of rate properly filed by a U.S. carrier. We believe this power would give the government a needed and effective tool concerning rates, fares and charges in foreign air transportation.

Finally, in view of the critical situation which has developed on the North Atlantic, noted above, the Department respectfully urges that this proposed bill be given immediate attention by the Congress. The situation is serious. The U.S. carriers continue to experience losses in providing foreign air transportation services. Our analysis of a number of tariffs that recently have been proposed for the North Atlantic for the 1972 season indicate that the situation could easily worsen rather than improve. Since the existing institutional mechanisms do not appear to be working satisfactorily, it is singularly important that the U.S. Congress act at this time to provide the Board with additional authority.

The Office of Management and Budget has advised that the enactment of this proposed legislation is consistent with the Administration's objectives.

Sincerely,

JOHN VOLPE.

FOREIGN AIR TRANSPORTATION REGULATORY ACT OF 1971

SECTION-BY-SECTION ANALYSIS

Section 1. Amends section 801 of the Federal Aviation Act of 1958 to require the Civil Aeronautics Board to submit decisions pursuant to sections 1002(e) and 1002(j) and decisions pursuant to section 1002(g) disapproving or suspending a rate, fare, or charge in foreign air transportation to the President before publication and such decisions may be approved, disapproved, or stayed by the President within ten days.

Section 2. Amends section 1002(d) of such Act to combine that section and 1002(e) under a new heading "Power to Prescribe Rates and Practices and Rule of Ratemaking in Interstate and Overseas Air Transportation."

Section 3. Amends section 1002(e) of such Act by deleting the title, substituting "(d)(2)" for "(e)," adding a new title, "Power to Disapprove Rates in Foreign Air Transportation," adding section (e)(1), to give the Board power to disapprove rates, fares, or charges in foreign air transportation when found to be unreasonably high or unreasonably low and detrimental to the commerce of the United States; adding section (e)(2) that a rate, fare, or charge of a carrier should not be excessively above its fully allocated cost of operations and compensatory, taking into account any classification, rule, regulation, or practice affecting such rate; and, adding section (e)(3) that a rate, fare or charge should not be detrimental to the commerce of the United States, avoid substantial impairment of scheduled and charter services, provide for the earning of sufficient revenues by the magnitude and permanency of its effect on the movement of traffic to enable carriers to provide adequate and efficient service, and to provide for the need in the public interest of adequate and efficient air transportation.

Section 4. Amends section 1002(g) of such Act to authorize the Board to suspend a tariff filed by a U.S. or foreign air carrier. It also allows the Board to limit the tariff's duration when it appears that changing circumstances may result in the tariff becoming objectionable.

Section 5. Amends section 1002 of such Act to provide a new section, "Power to Suspend and Order Rates in Foreign Air Transportation in Special Circumstances," section 1002 (j) authorizing the Board, when a foreign country refuses to permit U.S. carriers to offer air service at rates, fares or charges properly filed under such Act, to suspend any existing tariff of a carrier of that country and to order air carriers and foreign air carriers to charge for foreign air transportation between the United States and that country rates in accordance with agreement beween the United Staes and such country.

Section 6. Amends section 1006 of such Act by excepting from judicial review Board orders which have been approved, disapproved, or stayed by the President under section 801(b) of the Act.

Section 7. Amendments of such Act are not deemed to authorize any actions inconsistent with the provisions of section 1102 of the Act.

By Mr. MUSKIE:

S. 2922. A bill to establish a Commission on Mental Health and Illness of the Elderly, and for other purposes. Referred to the Committee on Labor and Public Welfare.

COMMISSION ON MENTAL HEALTH AND ILLNESS OF THE ELDERLY

Mr. MUSKIE. Mr. President, I am introducing today a bill to establish a Commission on Mental Health and Illness of the Elderly. This bill represents one of the steps we must take to deal adequately with the problems of the elderly.

When I was first named to the Senate Committee on Aging in 1961, I said that "our democracy may well be judged on the contributions it makes to those who have given so much during their active life in building the strength of our communities, States, and Nation."

This bill confronts one of the most neglected problems in the field of aging.

Geriatric patients now occupy one of every five beds in our mental hospitals. And from 15 to 25 percent of elderly persons living in their own homes have some degree of mental impairment.

Our public policy today is confused where the mental health of the elderly is concerned. In far too many cases, aged persons are "warehoused" in institutions. They could return to their own communities if proper services were available there.

Mental health conditions today are exacting a heavy cost, in suffering and in money, for the elderly patient, his children, and the country.

The mental health problems of the aged are made worse by misplaced negative attitudes. Too often there is a stereotype of the elderly patient and the patient gets a cursory diagnosis, which is simply that treatment will not work.

We know better. The November 1971 report of the Senate Committee on Aging, Mental Health Care and the Elderly: Shortcomings in Public Policy," which was prepared at the direction of Senator CHURCH and myself, documents that these mental health problems can often be substantially helped.

One survey of 49 psychiatric hospitals showed 75 percent of all elderly mental patients improved enough to go home within 2 months.

My new bill will provide the framework for making certain this type of help will be made available. It would create a Commission, appointed by the President, and including psychiatrists, psychologists, social workers, nurses, and other experts, which would formulate a unified national policy for the mental health of the elderly.

This legislation provides more than just another study. The Commission would outline future policy as its first responsibility. It would then:

Study the future needs for mental health facilities, manpower, and research and training to meet the mental health needs of the elderly;

Describe every year what had been done and what are the top priorities in mental health care for the elderly;

Evaluate present mental health programs to see if they are responsive to the needs of aged persons;

Develop priorities among research programs that will increase our knowledge of mental illness and the aged;

Work with the other branches of government to implement the policy recommendations of the 1971 White House Conference on Aging.

The need for this high level Commission is compelling. But we all know it is not the only need that is compelling right now. Conditions of life for many older Americans are very cruel and in some instances worsening.

The worst problem facing many older Americans is inadequate income.

One of every four people over 65 lives in poverty. The number living in poverty has actually increased in the last 2 years.

No one has been hit harder by recession and inflation than the elderly. Many older workers are being eased into an early retirement they do not want, and at lower social security benefits than if they worked until age 65.

And every elderly person knows what inflation has done to fixed incomes and to social security.

We must end inflation and restore price stability.

But what will happen when we experience the next inflation? The plain fact is that unless we protect those on fixed incomes now, they will pay for the next inflation, as they paid before.

We can and should now increase social security benefits, so that the incomes of older Americans can catch up with higher prices in the economy.

But benefit increases alone are no safeguard for the future. I believe that the Federal Government must enact legislation to insure social security benefits will increase automatically as the cost of living goes up. Only then can we finally secure what America pledged over three decades ago—a truly decent life for older Americans.

And we must do more. We must liberalize the social security retirement test. Too often those who deserve assistance are denied benefits because of legal technicalities. We must provide full payments for needy widows and widowers at age 65. Why should the emotional emptiness left by the loss of a loved one be matched by material deprivation?

Just as serious as the economic situation is the health care problem. The sad truth is that Government has let the resources of the aged fall while health care costs continue to climb at a faster rate than any other price in the whole economy.

I know how the health care crisis hurts. My Subcommittee on the Health Care of the Elderly has held extensive hearings in Los Angeles and other cities. We have heard the testimony of aged persons on what cutbacks in Medicare and Medicaid mean to them. We have listened to them tell us what it means to have many needs completely uncovered by medicare.

The costs the elderly pay to cover doctor bills under Medicare have doubled since the program started. If the trend continues, senior citizens will soon be paying as much of their strained resources for medical care as they did when a health care program for the elderly was only a distant dream.

Already medicare pays less than half the costs of care. Out-of-pocket expenses are over $225 a year, double the health costs of those under 65.

These statistics do not convey the true meaning of the crisis—the pain of arthritis, the tedious days of waiting for treatment.

The only fair solution is to take the dollar sign once and for all out of the elderly's decisions. We must guarantee comprehensive medical care for all Americans.

We also need new systems to deliver health care. The Senate has already adopted a bill I proposed to build new medical schools and train doctors for the special treatment required for senior citizens.

As chairman of the Subcommittee on Health Care of the Elderly, I have also proposed: The construction of special clinics in areas heavily populated by the elderly; the use of health care teams to bring aid to shut-ins; new transportation systems to take the elderly to and from distant medical facilities.

We have to learn more and do more about the problems aged people face in America. Ten percent of us are now over 65. In 50 years, 15 percent will be over 65 and 5 percent over 75 years of age.

The Commission on Mental Health and Illness of the Elderly that I propose today is a vital step. For far too long we have turned our back on the serious mental health problems of the aged. With this proposal, we will finally face the issue squarely.

The time has come for action on this and the other problems of aged Americans.

I ask unanimous consent that the text of this bill be printed at this point in the CONGRESSIONAL RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2922

A bill to establish a Commission on Mental Health and Illness of the Elderly, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Commission on Mental Health and Illness of the Elderly Act."

ESTABLISHMENT OF COMMISSION

SEC. 2. There is hereby established a temporary commission to be known as the Commission on Mental Health and Illness of the Elderly (hereinafter called the "Commission"). Such Commission shall exist for a period not to exceed 5 years.

DUTIES OF THE COMMISSION

SEC. 3. It shall be the duty of the Commission to—

(1) develop a national policy for the proper maintenance of mental health for aged and aging persons and the care and treatment of mental illness for such persons;

(2) undertake studies to assess future needs for mental health facilities, manpower, research, and training to meet the mental health care needs of aged and aging persons;

(3) submit to the President for transmittal to Congress an annual report describing major developments concerning the treatment and care of elderly persons suffering from mental illness, identify priority issues, and propose recommendations for solving these problems;

(4) recognizing that proper physical health and proper mental health are inseparable, evaluate present mental health programs to determine whether such programs are responsive to the needs of aged and aging persons;

(5) develop priorities for programs designed to increase knowledge about various aspects of mental illness among aged and aging persons; and

(6) cooperate with the executive and legislative branches for the purpose of implementing the policy proposals recommended at the 1971 White House Conference on Aging.

ORGANIZATION OF THE COMMISSION

SEC. 4. (a) The Commission shall be composed of nine members to be appointed by the President, by and with the advice and consent of the Senate. The Commission shall include at least one member from each of the fields of psychology, psychiatry, social science, social work, and nursing. Each person so appointed shall, as a result of his training, experience, and attainments, be exceptionally qualified to formulate and appraise programs and activities related to aging.

(b) The President shall designate one of the members of the Commission to serve as Chairman and one to serve as Vice Chairman. Vacancies shall be filled in the same manner in which the original appointments were made. Any vacancy in the Commission shall not affect its powers, and five members of the Commission shall constitute a quorum.

POWERS OF THE COMMISSION

SEC. 5. To carry out the purposes of this Act, the Commission shall have the authority to—

(1) prescribe such rules and regulations as it deems necessary governing the manner of its operations and its organization and personnel;

(2) obtain from any department, agency, or instrumentality of the United States, with the consent of the head thereof, such facilities, services, supplies, advice, and information as the Commission may determine to be required by it to carry out its duties;

(3) acquire by lease, loan, or gift, and to hold and dispose of by sale, lease, or loan, real and personal property of all kinds necessary for, or resulting from, the exercise of authority under this Act;

(4) enter into contracts or other arrangements, or modifications thereof, with State and local governments, and institutions and individuals in the United States, to conduct programs the Commission deems necessary to carry out the purposes of this Act, and such contracts or other arrangements, or modifications thereof, may be entered into without legal consideration, without performance or other bonds, and without regard to section 3709 of the Revised Statutes;

(5) make advance, progress, and other payments which the Commission deems necessary under this Act without regard to the provisions of section 3648 of the Revised Statutes;

(6) receive money and other property donated, bequeathed, or devised to the Commission, without condition or restriction other than that it be used for the purposes of the Commission;

(7) accept and utilize the services of voluntary and uncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5, United States Code;

(8) employ such officers and employees as may be necessary to carry out its functions under this Act; and

(9) obtain services of consultants in accordance with the provisions of section 3109 of title 5, United States Code, at rates for individuals not to exceed $100 per day for each day they are engaged in the performance of their duties to the Commission.

COMPENSATION OF COMMISSION MEMBERS

SEC. 6. (a) Section 5313 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(21) Chairman, Commission on Mental Health and Illness of the Elderly.".

(b) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(95) Members, Commission on Mental Health and Illness of the Elderly (8).".

ADVISORY COUNCIL

SEC. 7. (a) There is hereby established an Advisory Council on Mental Health and Illness of the Elderly (hereinafter referred to as the "Council") to be composed of nine members appointed by the President for terms of two years without regard to the provisions of title 5, United States Code.

(b) The Council shall select its own Chairman and Vice Chairman and shall meet at the call of the Chairman, but not less than four times a year. Members shall be appointed for two-year terms, except that of the members first appointed, five shall be appointed for a term of one year and four shall be appointed for a term of two years as designated by the President at the time of appointment. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall serve only for the remainder of such term. Members shall be eligible for reappointment and may serve after the expiration of their terms until their successors have taken office. A vacancy in the Council shall not affect its activities, and five members thereof shall constitute a quorum.

(c) The Commission shall make available to the Council such staff, information, and other assistance as it may require to carry out its activities.

FUNCTIONS OF THE COUNCIL

SEC. 8. The Council shall advise the Commissioner on policy matters relating to mental health and illness.

COMPENSATION OF COUNCIL MEMBERS

SEC. 9. Each member of the Council appointed pursuant to section 7 shall receive $50 a day, including travel time, for each day he is engaged in the actual performance of his duties as a member of the Council. Each such member shall also be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of his duties.

TERMINATION

SEC. 10. The Commission shall cease to exist sixty days after the submission of its final report.

AUTHORIZATION OF APPROPRIATIONS

SEC. 11. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 936

EXTEND MEDICARE COVERAGE FOR OUT-OF-HOSPITAL PRESCRIPTION DRUGS

Mr. WILLIAMS. Mr. President, today I am pleased to join the Senator from New Mexico (Mr. MONTOYA) in sponsoring S. 936, a bill to broaden medicare coverage to include out-of-hospital drugs.

Earlier this year, I introduced a comprehensive social security-medicare reform proposal, S. 923, which also called for similar coverage.

And today, I also cosponsor S. 936 to help focus increased attention on the urgent need to close this existing gap in medicare coverage.

Under the present law, medicare covers the cost of prescription drugs furnished patients in a hospital. In addition, coverage is available for drugs in extended care facilities as a part of inpatient care, and, it is also available for prescriptions which are customarily provided by a physician in his office, but cannot be self-administered by the beneficiary.

But, the reasons for extending medicare coverage to include out-of-hospital prescription drugs, I believe, are many. Persons 65 and older now comprise about 10 percent of our population. Yet, nearly 24 percent of all prescriptions written in the United States are for older Americans.

Moreover, these expenditures for the elderly now average three times as high for younger Americans. And for aged persons with severe chronic conditions—about 15 percent of all individuals 65 and older—drug costs are six times as great as for younger people.

Prescriptions now represent the largest single health care expense which the elderly must pay almost entirely out of their own pocketbooks. In fact, drugs now account for about 20 percent of all health costs for the aged.

And in the view of the President's Task Force on Aging, some hospital stays are extended solely to enable patients to obtain needed medication. This, of course, can have the effect of driving up the costs of medical treatment for the elderly without commensurate improvements in the quality or availability of care.

Several noted authorities—including the Department of Health, Education, and Welfare Task Force on Prescription Drugs, a Review Committee on Prescription Drugs, the President's Task Force on Aging, and the 1971 Social Security Advisory Council—have reaffirmed the need for coverage of out-of-hospital prescription drugs under medicare.

In the words of the Social Security Advisory Council:

> Comprehensive coverage of out-of-hospital prescription drugs is essential to truly effective protection against health care costs.

Mr. President, I urge prompt and favorable consideration of S. 936.

S. 2097

At the request of Mr. PERCY, the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 2097, a bill to establish a Special Action Office for Drug Abuse Prevention.

S. 2141

At the request of Mr. CRANSTON, the Senator from Rhode Island (Mr. PELL) was added as a cosponsor of S. 2141, a bill to establish the Desert Pupfish National Monument in the States of California and Nevada.

S. 2709

At the request of Mr. HATFIELD, the Senator from New York (Mr. JAVITS) was added as a cosponsor of S. 2709, a bill to permit American citizens to hold gold in the event of the removal of the requirement that gold reserves be held against currency in circulation.

S. 2812

At the request of Mr. NELSON, the Senator from Minnesota (Mr. MONDALE) was added as a cosponsor of S. 2812, a bill to amend the Federal Food, Drug, and Cosmetic Act.

SENATE RESOLUTION 204—REPORT OF AN ORIGINAL RESOLUTION FROM THE COMMITTEE ON THE JUDICIARY REGARDING THE REFUSAL OF ROBERT F. WILLIAMS TO APPEAR AND TESTIFY

(Ordered to be placed on the calendar.)

Mr. EASTLAND, from the Committee on the Judiciary, reported the following original resolution:

S. Res. 204

Resolved, That the President of the Senate certify to the United States Attorney for the District of Columbia the report of the Committee on the Judiciary on this resolution (respecting the refusal of Robert F. Williams, though duly summoned, to appear and testify before the Subcommittee To Investigate the Administration of the Internal Security Act and Other Internal Security Laws of the Committee on the Judiciary of the United States Senate): to the end that the said Robert F. Williams may be proceeded against in the manner and form provided by law.

SPECIAL ACTION OFFICE FOR DRUG ABUSE PREVENTION ACT—AN AMENDMENT

AMENDMENT NO. 780

(Ordered to be printed and to lie on the table.)

Mr. TUNNEY submitted an amendment intended to be proposed by him to the bill (S. 2097) to establish a Special Action Office for Drug Abuse Prevention to concentrate the resources of the Nation in a crusade against drug abuse.

ADDITIONAL COSPONSOR OF AN AMENDMENT

AMENDMENT NO. 696

At the request of Mr. Pell, the Senator from Montana (Mr. Metcalf) was added as a cosponsor of amendment No. 696 intended to be proposed to the bill (S. 2760) to amend the Rail Passenger Service Act of 1970.

NOTICE OF HEARING ON KENNEDY CENTER

Mr. GRAVEL. Mr. President, on Thursday morning, the Subcommittee on Buildings and Grounds of the Senate Committee on Public Works will hold hearings on S. 2900, a bill to authorize $1,500,000 in appropriations each year to defray certain operating and maintenance costs of the John F. Kennedy Center for the Performing Arts.

According to information transmitted to the committee, this authorization is requested because the Kennedy Center's present revenue cannot match the costs of security, maintenance, utilities, and other services which are required by the large number of tourists who visit the center as a memorial to the late President. That number is now estimated at between 8,000 and 12,000 each day.

Mr. Roger L. Stevens, the Kennedy Center's chairman, contends that because of this flood of nonpaying visitors, the center is actually performing public memorial functions similar to those of the Washington Monument or the Lincoln and Jefferson Memorials. In a letter to the committee's distinguished chairman (Mr. Randolph), Mr. Stevens warns that unless the Congress acts to subsidize this memorial function before the adjournment, the center may close its doors to the general public. I ask unanimous consent that the text of Mr. Stevens' letter be printed at this point in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

John F. Kennedy Center
for the Performing Arts,
November 22, 1971.

Hon. Jennings Randolph,
Chairman, Committee on Public Works,
U.S. Senate,
Washington, D.C.

Dear Mr. Chairman: As Chairman of the Board of Trustees of the Kennedy Center, I wish to bring to your attention an immediate and critical funding difficulty faced by the Trustees caused by moneys advanced to carry out its public, memorial functions and to seek the assistance and recommendations of the Public Works Committee. You will recall that I met with you a week ago to discuss this problem.

You may be aware that on July 14, 1971, there was introduced in the other body bipartisan legislation, H.R. 9801, to provide federal support for the costs of operation and maintenance of the Center as related to its non-performing arts, national memorial functions. The premise for this authorizing legislation for an annual appropriation of up to $1.5 million is that the Kennedy Center is more than a performing arts institution because it performs functions similar to the Washington Monument and Lincoln and Jefferson Memorials, the costs of which are met by the Congress. In fact, since the Kennedy Center opened its doors to the public, an estimated 8,000 to 12,000 tourists have entered the building each day as visitors to the memorial and not as performance-goers.

The Committee can no doubt appreciate that these large numbers of visitors, who have not been charged admission to the building in accordance with the policy at other memorials for whom tours have been provided free-of-charge, have required large expenditures of funds for security, maintenance, utilities, and other expenses normally incurred in keeping open the doors of a public building. At the end of May, 1971, the Kennedy Center estimated the funds required to keep the doors open to the public at $1.8 million per year. A copy of a statement of William A. Schmidt, former Commissioner of Public Buildings and now the Center's Executive Director for Engineering, is enclosed.

Although hearings were held before the Subcommittee on Public Buildings and Grounds of the House Public Works Committee on July 22, 1971, H.R. 9801 has yet to be reported out of that Committee. Today, the need is critical because the Kennedy Center has been required to meet these so-called "non-performing arts" expenses since July 1, 1971 without federal assistance.

The Committee is well aware that the authorization and appropriation legislation enacted by the Congress into law in 1969 was premised on a GSA cost estimate for construction for the Center of $66.4 million. But for developments not anticipated in 1969, the Trustees, acting through the General Services Administration would have been able to complete the building within that limitation.

As the 1969 legislation was passed by the Congress, the Trustees began to be faced by inordinate difficulties at the construction site. In the late fall of 1969, a major subcontractor walked off the job site. The first work stoppage was only the beginning of the unanticipated difficulties. It precipitated additional walkoffs in 1970 and also the assertion of over $6.1 million in unanticipated delay damage claims. The most prudent course to take, and which was taken, in the face of the difficulties has been the advance by the Trustees out of private, non-appropriated funds, of about $2.0 million against these claims, which should settle for a total of about $3.0 million according to reasonable estimates by GSA. Only by making this advance from private funds has construction been continued thereby minimizing the impact of further unprecedented cost escalation and avoiding an incompleted shell of a building on the Potomac. The result has been the completion of the building in September, 1971, and an opening which has been acclaimed throughout the world and has added immeasurably to American life.

Having to meet the unanticipated financial burdens including these delay damage claims, and also having to meet the public costs of operating a memorial to an assassinated President, the Trustees now find that they are without immediate funding required to make final payments under the construction contract.

To fulfill its present financial commitments, the Trustees require immediately an appropriation of the $1.5 million to cover the public costs of operating the Kennedy Center as a memorial. We require another $3.0 million to meet the unanticipated costs resulting from the delay damage claims. The Trustees have canvassed virtually all private sources, including foundations, seeking these additional funds, but without success. (We have found that private sources are unwilling to contribute for construction of the Center, although we have met with better success in raising funds for educational purposes.)

We urgently request your views and recommendations on the course which the Trustees should take at this critical juncture so that we can receive the required financial assistance before Congress adjourns. The alternative may be to close our doors. More particularly, we request your views whether we might proceed immediately to obtain $1.5 million for the Center's "non-performing arts" costs and the other $3 million for the unanticipated delay damage claims costs. The latter amount might be in the form of a borrowing authority.

For your information, we are enclosing copies of communications which we have had with the Administration concerning the $1.5 million annual appropriation for "non-performing arts" costs, which indicate full White House support therefor.

I would be happy to meet with you and the Committee at any time to discuss the problems raised in this letter. We are, as always, most appreciative of the support and guidance which the Committee has provided for the Kennedy Center.

Sincerely,

Roger L. Stevens.

Mr. GRAVEL. Mr. President, I should note that S. 2900, the legislation to be considered on Thursday, does not contain a provision for authorization of the $3 million needed to make final payments on the center's construction contract. The subcommittee will consider that issue separately in the hearing.

Mr. President, as chairman of the Subcommittee on Buildings and Grounds, I feel that whatever the merits of this legislation, S. 2900 deserves prompt consideration by the Senate. In view of the urgent need for a decision, the subcommittee has scheduled hearings for 10 a.m. on Thursday in room 4200, New Senate Office Building. Any person wishing additional information about the hearing or desiring to testify should contact the committee staff at 225-8429.

NOTICE OF HEARING ON CERTAIN NOMINATIONS

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Thursday, December 2, 1971, at 10:30 a.m., in room 2228, New Senate Office Building, on the following nominations:

Anthony A. Alaimo, of Georgia, to be U.S. district judge, southern district of Georgia, vice a new position created by Public Law 91-272, approved June 2, 1970;

Shiro Kashiwa, of Hawaii, to be associate judge, Court of Claims, vice James R. Durfee, retiring;

Charles B. Renfrew, of California, to be U.S. district judge, northern district of California, vice Gerald S. Levin, deceased;

Morrell E. Sharp, of Washington, to be U.S. district judge, western district of Washington, vice George H. Boldt, retired; and

Philip W. Tone, of Illinois, to be U.S. district judge, northern district of Illinois, vice a new position created by Public Law 91-272, approved June 2, 1970.

At the indicated time and place persons interested in the hearing may make such representations as may be pertinent.

The subcommittee consists of the Senator from Arkansas (Mr. McCLELLAN), the Senator from Nebraska (Mr. HRUSKA), and myself as chairman.

ANNOUNCEMENT OF HEARINGS BY THE COMMITTEE ON THE DISTRICT OF COLUMBIA

Mr. EAGLETON. Mr. President, on Monday, December 13, 1971, Tuesday, December 14, 1971, and Wednesday, December 15, 1971, the Committee on the District of Columbia will hold hearings on the future of D.C. Stadium.

With the recent loss of a baseball franchise for the Nation's Capital, the stadium suffered a revenue loss which it can ill afford. It will be the committee's interest to explore the future potential of the stadium to produce revenue, the possibilities of recapturing a baseball franchise to play in the stadium, and the part which the stadium should play in the community.

We expect to hear from representatives of the stadium management, representatives of major league baseball, and other related witnesses. The hearings will begin at 10 a.m. in room 6226, New Senate Office Building. Persons interested in testifying on this matter should contact Mr. Gene E. Godley, General Counsel, in room 6222, New Senate Office Building.

ADDITIONAL STATEMENTS

BABI YAR

Mr. ALLOTT. Mr. President, for the second time in a generation people of conscience throughout the world have reason to be concerned about the fate of the ancient Jewish community of Europe. Not so very long ago, Nazi Germany was threatening this community. Today, the last remaining European Jewish community of any size, that of the Soviet Union, is again threatened by an oppressive anti-Semitic government. Civilized people can scarcely comprehend the vicious mixture of rancid prejudice and vile philosophy behind the Soviet Union's decision to deny its Jewish citizens their basic human rights—rights affirmed in the United Nations Charter signed by the Soviet Union itself. But although it is incomprehensible, we must resist it.

The brave Jews of Soviet Russia are struggling on in their own behalf, and their courageous protests have allied the support of freedom-loving peoples everywhere. No event in recent history better summarizes the plight of these men and women than the infamous massacre that occurred at Babi Yar near Kiev in 1941. In remembering the victims of that Nazi massacre, we should turn with renewed dedication to the support of those who survived it—the Soviet Jews who today can neither practice their religion nor emigrate to a country where religious freedom is allowed.

On September 26, 1971, the distinguished Senator from Washington, Mr. JACKSON, offered some particularly eloquent observations during a Babi Yar memorial service held in New York City. His words express the feelings of all men and women of good will, and I ask unanimous consent that the text of his speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

REMEMBERING BABI YAR

(By Senator HENRY M. JACKSON)

A small item which appeared recently in The New York Times brought some troubling thoughts to my mind. The item described a minor but by no means a typical incident that recently occurred in the Soviet Union. "A Jewish woman," it read, "who sent a letter to Premier Aleksei N. Kosygin has been sentenced to three years' confinement on charges of slandering the Soviet state, a Central Asian newspaper has reported.

"The newspaper . . . said . . . that the case pointed up the need for more rigorous political indoctrination.

"The woman, Emilia R. Trakhtenberg . . . allegedly complained of discrimination in the Soviet Union and praised Western freedoms. . . .

"Miss Trakhtenberg's parents died in the Nazi massacre of Babi Yar in Kiev in World War II."

This newspaper item tells all of us a great deal. It tells us, first, about the plight of the Jewish people of Soviet Russia, a people whose indescribable suffering is one of the tragic stories of this century. Miss Trakhtenberg and her family are the symbols of two lost generations, one the victim of Nazi genocide, the other the victim of Soviet cultural genocide. So today, as we remember victims of Babi Yar, let us also stand in solidarity with the children of Babi Yar.

Miss Trakhtenberg's story also tells us about the courage of a people. One cannot speak out against injustice in the Soviet Union and have immunity. One speaks out only at a terrible risk to the well-being of oneself and one's family. Miss Trakhtenberg knew the risk she was taking in writing a letter of protest to Mr. Kosygin, and thousands upon thousands of her people are aware that by signing letters, demonstrating, by demanding the right to emigrate to Israel, even just by being Jews, they are putting their very lives on the line. These are genuine heroes of our time. They command our deepest respect.

Finally, the item in the newspaper tells me something about America. Miss Trakhtenberg "complained of discrimination in the Soviet Union and praised Western freedoms." The justice of her plea seems self-evident, but her words conflict with a growing tendency in our own country to denigrate the value of Western freedoms and to ignore the denial of those freedoms in countries ruled by Communist regimes. There are those who would have us turn inward, to withdraw from the problems of the international community and forget our moral obligations to so much of humanity. The brave protests of Soviet Jews should awaken these new isolationists. Just as the non-violent civil rights movement brought home to a complacent America the urgency of our racial problems and the necessity to resolve them peacefully, so today the protests of Soviet Jews are reminding many who would forget that the struggle for freedom must continue even behind the Iron Curtain.

Our nation must not repeat the mistakes that have been made in the past. We saw the danger signals coming out of Nazi Germany in the 1930's. We heard the cries for help. But we did not act in time. Now we can still act in time.

The President can and should utilize all available channels, formal and informal, to convey our position that the Soviet government honor the words of its own constitution by permitting the free expression of ideas and exercise of religion by all its citizens.

Moreover, the President can and should demand of the Soviet government that it permit its citizens the right to emigrate to the countries of their choice as affirmed by the United Nations Declaration of Human Rights. The right to free emigration is fundamental to human liberty. It is a tragic crime for the Soviet—or any other—government to imprison its own citizens in a society where they can neither practice their religion nor make their way to countries where they might give full expression to their religious and cultural identity.

In addition, our State Department should take advantage of the present session of the United Nations to raise in the General Assembly the issue of the Soviet Union's violation of the Declaration of Human Rights—a declaration that was unanimously adopted by the United Nations.

These proposals are embodied in a resolution I have introduced in the Senate. I hope the Senate acts quickly and affirmatively.

No doubt, there are some people who are against this proposal on the grounds that we must not jeopardize improved relations with the Soviet Union. At all costs, they will say, we must not be abrasive. But we must recognize once and for all that the Soviet government will not grant its citizens their rights until it realizes that the issue is important to us. Until that time it will continue to manipulate Russian Jews, and the Soviet Union's Arab clients, in the most cynical way, by turning on and off the flow of emigrants, a bit faster when the Arabs are out of line, and slower when they behave. But human beings must not be used as hostages held at ransom. They are free beings whose dignity recoils at such treatment. We must stand on the side of this assertion of human dignity.

Human freedom is not a local matter, relevant to some people but not to others. It is a matter for all men everywhere. America was founded on the principle that whenever one man is enslaved, no man is free.

America, with all its many problems, retains a commitment to that principle, and we will relinquish it only at the expense of our greatness as a nation. I do not think we will relinquish it. Our commitment to it runs too deep, and the concerns that press in upon us are too urgent. But the voices of moral acquiescence to oppression are sometimes heard above the voices calling for a renewed commitment to freedom. At this time the protest of Soviet Jews is a compelling reminder of where our national commitment lies. We must support their protest for no other reason than because it is the right thing to do. In acting with justice and compassion towards them, we will enrich our own lives and strengthen the spirit of our nation.

FEDERAL EMPLOYEE WAGE POLICY

Mr. PELL. Mr. President, I think it appropriate, while we are considering the economic stabilization program, to point out the basic inconsistencies and self-contradictions involved in the administration's Federal employee wage policy.

I think these inconsistencies are particularly notable in the case of the blue-collar workers. They are for the most part skilled industrial craftsmen who work for the Defense Department. The wages of these workers are determined by surveying the wages paid for similar jobs in private industry.

Historically, under this system, the pay of our Federal blue-collar workers has moved upward only after private industry wages have risen. There is a lag, and that lag is particularly large during inflationary times.

So I submit it is absurd and inconsistent to decide, as the administration has decided, that these workers must be used to set an example by freezing their wages. These workers are the victims of inflation, not the cause. To fight inflation by denying them justified wage increases is much like fighting crime by putting the victims of crime in jail.

In my State we have many hard-working blue-collar Federal workers. I am consequently particularly happy that the amendment offered by the senior Senator from Wyoming (Mr. McGEE), the chairman of the Committee on Post Office and Civil Service, was adopted by the Senate, with the assurance of the chairman that it was the intention of the committee that the amendment also would permit adjustments in blue collar wages.

I hope very much that the other body will approve this provision and that the President will then abide by the wishes of Congress and allow a wage adjustment for our Federal blue-collar workers.

THE NATION'S ECONOMY

Mr. FULBRIGHT. Mr. President, Representative HENRY REUSS, of Wisconsin, has made an excellent analysis of the Nation's economic predicament in an article printed in the New York Times of December 1.

Congressman REUSS points out the serious problems which have resulted from the Nixon administration's policies. He also offers some suggestions about what can be done to improve the situation, including removal of the protectionist import surtax.

Mr. President, this article deserves widespread attention and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Dec. 1, 1971]

ABOUT THE ADMINISTRATION'S "PROTECTIONIST SWAGGER"

(By Henry S. Reuss)

WASHINGTON.—Prior to Aug. 15, 1971, the Administration's economic policy was one of benign neglect. At home, unemployment was allowed to increase and growth to stagnate in the misguided belief that this would cure inflation. Instead, it produced both 6 per cent unemployment and 6 per cent inflation.

Abroad, the policy was to consider the dollar invincible. Foreign central banks would continue to accept endless dollar deficits, no matter how badly over-valued the dollar was. No fundamental realignment of currencies nor reform of the international monetary system, was necessary.

But then came Aug. 15 and the New Economic Policy which the President has encumbered with obeisances to the false gods of trickle-down at home and protectionism abroad.

At home, the price-wage freeze was accompanied by a tax-reduction program which has now been substantially enacted by the Congress. In essence, the tax program gives corporations and their stockholders an $8-million a year annual tax reduction, mainly through the 7 per cent investment tax credit and rapid depreciation. After the first year, the tax program gives the above-poverty-level wage earner no tax reduction whatever.

The mischief caused by the Nixon tax program is three-fold:

(1) By obviously discriminating against the wage earner, it destroys the social contract upon which effective wage-price controls must be founded. Labor's increasing unwillingness to go along with meaningful wage restraints is due in large measure to the inequality of sacrifice brought about by the tax bill.

(2) The nation's "fiscal dividend," out of which was to be paid the cost of health and education and environmental control and revenue-sharing in the decade of the seventies, has been effectively wiped out by the permanent fracturing of the revenues implicit in the tax-reduction bill.

(3) The corporate tax reductions will do very little to combat our close to 6 per cent unemployment. The five million unemployed include vast numbers of unskilled and semiskilled people, mostly young and disproportionately black, who could be helped by a vigorous program of providing 500,000 public service jobs immediately. The $3 to $5 billion to fund such a program simply is not available if we are to dissipate the revenues by unwarranted tax reductions.

So, on the domestic side, the Administration is forgoing most of the benefits of the freeze by favoring corporations. In fact, the tax bonanza to corporations is not even in their real interest. Though it will reduce taxes on corporate profits by as much as 20 per cent, corporations and their stockholders would have been much better off under a program to increase consumer spending by immediately reducing unemployment.

Having subverted the domestic program by undue obeisance to the corporate interest, the New Economic Policy then proceeded to subvert the international program by undue obeisance to the protectionist interests.

The Administration's protectionist measures have prevented the needed prompt realignment of currencies—both by masking the proper amount of such realignment and by causing the Treasury to delay an agreement lest the resulting repeal of the 10 per cent import surtax offend the protectionists.

Indeed, the Treasury appears quite happy to live for a while with protectionism. It has to date turned down a reasonable offer of the Group of Ten, made in September, to effect an over-all realignment, provided only that the United States played its part by something like a 5 per cent devaluation of the dollar.

Since such a partial devaluation would involve only a technical, bookkeeping increase in the price of gold (because further gold purchases outside the system would be banned and the U.S. gold window would remain closed), it would in no real sense contribute to a rebirth of gold as a reserve medium.

The tax bill, unfortunately, will go through. And this means the United States will be doing very little about decreasing the rate of unemployment—both because the loss of tax revenues will foreclose an adequate emergency re-employment program, and because consumer nervousness at the unemployment rate will continue to inhibit adequate consumer spending and the resulting capital investment. Wall Street is likely to continue to reflect this basic confusion and lack of confidence.

I envisage that the Administration will soon have to drop its protectionist swagger. If the U.S. is so foolish as to dilly-dally indefinitely, it will run into recessions in one or more European countries which will make a currency realignment impossible.

A realignment deal, accompanied by a broadened 3 per cent band in the International Monetary Fund and the removal of our protectionist import surtax and buy-American measures, must come first.

CURRENT U.S. POPULATION

Mr. PACKWOOD. Mr. President, I would like to report that according to current Census Bureau approximations, the total population of the United States as of today is 208,407,309. This represents an increase of 147,674 since November 1, or roughly the size of Youngstown, Ohio. It also represents an addition of 2,102,127 since December 1 last year, an increase which is about four times the size of Seattle.

THE NOMINATION OF WILLIAM REHNQUIST

Mr. HUMPHREY. Mr. President, I shall vote against the confirmation of William Rehnquist to the Supreme Court. I believe that the political and judicial philosophies that he has espoused if applied to the Court's role of judicial decisionmaking would weaken the legal protections which are the constitutional right of every American. His judicial philosophy is clearly out of step with a nation undergoing dramatic economic, political, and social change.

I believe Members of the Senate would be abdicating their constitutional responsibilities if they failed to examine and evaluate the judicial philosophy of a President's nominee to the Supreme Court. I have carefully reviewed the record of William Rehnquist as a citizen, a lawyer, a member of the administration and as a nominee before the Senate Judiciary Committee.

I have no argument with his integrity, character, or professional competence.

But William Rehnquist himself argued 12 years ago in the Harvard Law Review that the Senate has every right—and indeed has a responsibility—to inquire into the judicial philosophy of nominees to the Supreme Court. In good conscience I cannot support the appointment to the Supreme Court of a man with Mr. Rehnquist's views of the Constitution and the Bill of Rights.

The Supreme Court, the Congress, and many State legislatures had firmly committed themselves to equal rights for all Americans when William Rehnquist in 1964 publicly opposed the passage of a Phoenix public accommodations law that would have allowed black people to eat at the city's drugstores and restaurants. Despite Mr. Rehnquist's change of mind, I find it alarming that it took him so many years to realize what he viewed as a businessman's "right" to refuse service to a customer on the basis of race was the denial to an American citizen of his basic constitutional rights.

Every American has the right to change his mind. But even in 1967 Mr. Rehnquist boldly wrote that:

> We are no more dedicated to an integrated society than we are to a segregated society.

This excerpt from a letter to the editor of a Phoenix newspaper was part of Mr. Rehnquist's efforts to oppose integration of the Phoenix public schools.

I believe that a man who sits on the Supreme Court cannot view integration and segregation as dispassionately meriting equal consideration. As late as 3 weeks ago, Mr. Rehnquist was given several opportunities by Senator Bayh to disassociate himself from this philosophy during the Judiciary Committee's hearings. He did not do so.

The law can achieve what violence and force can never accomplish. It is the only effective weapon that can secure equal rights for all Americans. I find in Mr. Rehnquist's interpretation of the law an unwillingness to use it for these ends.

At a time when so many Americans feel powerless in the face of an all-powerful government and corporate world, William Rehnquist has chosen to interpret basic constitutional questions construing the rights of the individual citizen in a very narrow fashion.

Mr. Rehnquist has strongly defended the broad powers of the executive branch to violate the principles of privacy and equal protection under the law. Mr. Rehnquist has continually supported the executive branch's drive for a dominant position among the branches of Government. His position violates the constitutional principle of checks and balances. At a time when Executive power is magnified, judicial emphasis will serve only to weaken the role of the Congress.

Our judicial institutions do not exist in a vacuum apart from political and legal currents of American society. If they did, they would soon become antiquated bodies removed from their role of insuring that we live in a just and free society. The Constitution is a living document. It must be applied and interpreted in light of the times and conditions in which we live.

As the Supreme Court deliberates in the years to come the basic principles of the separation of powers, the integrity of the federal system and constitutional rights of all Americans will be at stake. Not to be forgotten as crucial judicial issues are the rights of the accused in criminal proceedings, the development and nature of our economic institutions, the role of Government in the continued social and economic development of this Nation, and the important right of peaceful dissent in opposition to governmental policies. Yes, a great deal will be at stake.

As a Senator, I have the right and the duty to oppose a man's confirmation to the Supreme Court if I believe that he would impede the efforts of our Nation to come to grips with important social, economic, and political dilemmas which we face today. The judicial philosophy of William Rehnquist clearly endangers the principles of freedom and human dignity which are the cornerstones of our constitutional protections. I am opposing William Rehnquist's confirmation on these grounds.

THE WAYWARD PRESS

Mr. GOLDWATER. Mr. President, in recent years some elements of the liberal press have gone to great extremes to make sure that no segment of the defense industry in this country is ever pictured in a favorable light. Occasionally an example so extreme and far fetched comes along that it is recorded in industry magazines.

One such case turned up in the November 1971 issue of Air Force magazine under the heading "The Wayward Press." It claims that the Washington Post resorted to a phony, composite picture to cast aspersions on the motivations of Fairchild Industries of Germantown, Md. In the process, the Post managed to lend a sinister aspect to one of the finest efforts ever attempted to mobilize America's youth in a program aimed at using technology to solve many of our Nation's more prominent problems. I ask unanimous consent to have this article printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

The Wayward Press

The defense industry, and particularly the aerospace industry, has long been accused of lacking a sense of social responsibility. There is a growing group of technological know-nothings that can hear noise and see dirt at the airport, but is blind to the fabulous capabilities of this industry to contribute to social and economic progress.

In early September, Fairchild Industries of Germantown, Md., inaugurated a program designed to define the potential, with the focus on youth. Called "It's Your Turn," the effort seeks to challenge today's young people to think about their future careers in terms of using technology to solve pollution, communications, medical, safety, and other social problems.

The company has produced a moving picture, radio spot announcements, and a brochure on the subject. All cite the importance of technology in the improvement of the world around us. The brochure discusses such matters as pollution and violent deaths caused by the automobile, and points out that technology can clean up power sources and build safety into the vehicles. It admits we have a major ecological problem, as young people keep reminding us, and says the solution will be found by chemists, metallurgists, physicists, or agronomists. There are many examples cited, each climaxed by the call, *it's your turn*. "And the message is challenge," says the brochure to the young. "You are being dared to take on the problems of the world; to take over the controls of an imperfect society."

There is no evidence, in the material this reporter has seen, that the purpose of the Fairchild Industries effort goes beyond portraying the benefits of technology in a broad sense. Yet, in the Washington *Post* of Sunday, September 12, a staff writer named Robert J. Samuelson declares the company has "formally and unabashedly entered the propaganda business."

By itself, that is an accurate statement, but the Samuelson-*Post* approach, that of advocacy journalism, is to portray "It's Your Turn" as a sinister campaign—by a "maker of jet fighter planes, communications satellites, and electronic instrumentations"—to feather its own technological nest. The headline in the *Post* specifies the interpretation:

"The Message: Technology Is Good
Or, the Selling
of Fairchild
To the Young"

The crowning insult, and example of bad journalism, is in the accompanying illustration. Operating with the clip-and-paste technique sometimes used by television producers when they want to distort a message, the *Post* had an artist take the front cover of the brochure and doctor it up to bolster the newspaper's editorial prejudices. The cover was a simple photo of two young people with "It's your turn" over the picture. The only mention of Fairchild in the actual brochure was a company logotype, discreetly printed on the inside of the back cover. The *Post* wizards clipped it out and pasted it on the front cover picture. That helped support their thesis, but did nothing for the accuracy of their report. It is a type of journalism last commonly practiced, in our experience, by the New York *Evening Graphic*. That was a paper renowned for a number of things, not including a high standard of professional ethics.

THE WORK OF THE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. McCLELLAN. Mr. President, Army Times Publishing Co., which publishes the Army, Navy, and Air Force Times as well as other periodicals specializing in military affairs, recently praised the work of the Senate Permanent Subcommittee on Investigations in its inquiry into clubs, messes, and post exchanges.

An editorial of November 24, 1971, points out the subcommittee's investigation has already achieved important reforms, and that more can be expected.

The editorial in the much respected Army Times reflects a widespread feeling among knowledgeable observers of the military nonappropriated fund industry that reform within the system is called for and that the subcommittee's inquiry and its subsequent recommendations for improvement have been responsible, constructive, and realistic.

I ask unanimous consent to have printed at this point in the Record the November 24, 1971, Army Times editorial.

I also ask unanimous consent to have printed at this point in the Record a November 24, 1971, column written by the Army Times congressional correspondent, Robert S. Horowitz, on the subcommittee's investigation.

There being no objection, the editorial and article were ordered to be printed in the Record, as follows:

[From the Army Times, Nov. 24, 1971]

Army Wasn't "Clubbed"

(By Robert S. Horowitz)

The Senators who uncovered the incredible graft and corruption in non-appropriated fund activities have shown remarkable restraint.

They unearthed enough tales of skulduggery—involving servicemen ranging all the way up to two-star generals—that it would have been understandable if they had demanded sweeping punishments and drastic overhauls. Instead, they proposed a series of solid, practical steps, which, if implemented, could go a long way toward preventing similar multi-million dollar fiascoes in the future.

Some of the facts in the Government Operations subcommittee hearings chaired by Sen. Abraham Ribicoff (D., Conn.) are astounding. They make Sergeant Bilko and Catch-22 even seem dull and unimaginative.

For example, testimony alleged some clubs in Korea were paying businessman William Crum $800 per month to maintain each slot machine. That's $800-per month-per machine, just for maintenance. The going rate for such service contracts is close to $15 a month, according to the committee.

Another example: Sergeants who controlled entertainment contracts in Vietnam for 10 clubs could realistically expect to gross $12,000 a month in kickbacks. And, virtually every show troupe had to carry an extra girl along to provide sexual favors for the sergeants, according to several witnesses.

"HOUSEKEEPING" DRAGON LADY

Another example: An attractive Vietnamese woman known as the Dragon Lady got the agreement of an American brigadier general to build a 400-girl steam bath on the Army base at Long Binh. Her plans and specs called for 200 of the girls to provide massages; the job descriptions for the other 200 girls were not very specific.

Col. Edmund Castle, base commander at Long Binh, testified that he had to fight hard to keep the extra 200 girls out of the building. He had to take the doors off the massage rooms, he sent CID agents into the steam bath every day (he called them the cleanest CID outfit in the Army) to check on what was going on, and he estimated he spent 40 percent of his time on the Dragon Lady and other non-appropriated fund activities on his base.

The first year at Long Binh, according to the committee, the Dragon Lady deposited $507,243 in the bank.

BILL CRUM'S RAZZLE DAZZLE

Then there were these sensational poker games in which Bill Crum managed to lose a couple of thousand dollars in five minutes, every week to club managers. But as soon as a club manager was transferred to another assignment, Crum and his partner, Ace Smith, seemed to play better poker.

Then there were the slot machines. The testimony was that sergeants were skimming as much as $350,000 a year off the slots in one outfit, the Army's 24th Inf. Div. in Germany, in the late 1960s. When a club officer put his own trusted sergeant in charge of the slots, the club's take rose from an average of $4000 in 10 days to $10,000 in 10 days.

There were accounts of how exchange officials—both when the Navy and when the Army-Air Force were in charge—were living in the Saigon villa belonging to Crum, who was selling millions of dollars worth of merchandise to them.

There was testimony about how easy it was for a sergeant to arrange extra tours in Germany, by paying off somebody in the Pentagon. One officer testified that club manager Narvaez Hatcher, an E–6, had so much influence that he had an E–7 as a chauffeur.

GENERAL COVER UP

The saddest part of the long investigation was the discovery that generals were covering up.

For example, Army CID agent Roy Roan testified that when he was investigating Crum in Korea, Eighth Army Provost Marshal Maj. Gen. David P. Schoor required that questions to be asked of Crum had to be submitted in writing in advance; some questions were altered or eliminated. Roan said he was not allowed to ask questions based on Crum's responses.

Another CID agent testified that he had to throw out an entire investigation of corruption at Fort Benning, Ga., and do it over—this time without mentioning the name of MSgt. William O. Wooldridge, who became the first Sergeant Major of the Army. Every witness's affidavit had to be done over.

The protection of wrongdoing reached all the way to the Provost Marshal General of the Army, Maj. Gen. Carl Turner, who is now serving a sentence in a federal penitentiary on income tax evasion and other charges.

Some of the people named in the Senate hearings were pretty smart. Wooldridge, for example, and some of his NCO friends formed their own corporation, Maredem, Inc., registered in Hong Kong in 1967. They sold merchandise to themselves, as club custodians, and the first year Maredem grossed $1.2 million.

Others were not so smart. There was an Air Force Capt. Appleton, for example, who was in charge of entertainment contracts in Vietnam. Entertainment agent June Collins said Appleton accepted a $300 kickback, by check. The check was deposited in Appleton's secret bank account somewhere in the Caribbean—but the check bounced. Appleton then complained to the authorities. He was court-martialed for taking the check in the first place.

KHAKI COSA NOSTRA

The stories were so sensational, so far-reaching that Sen. Charles Percy (R., Ill.) referred to the existence of "a Khaki Cosa Nostra," and Sen. Karl Mundt compared Wooldridge to Jesse James.

It would have been understandable if the senators had come out with a big blast at the military. But they didn't. First, they pointed out that punishments already are weighted against the military—when a corrupt civilian employee or salesman is caught in Vietnam, the committee said, he is merely sent home. A corrupt serviceman in the same case faces a court-martial.

The Ribicoff group said that if entertainment contracts are corrupt under the present system, let's change the system. It said perhaps the taxpayers ought to pay for servicemen's entertainment.

Its other recommendations are aimed at prevention of future abuses. It wants Congress to create a Defense Department inspector general, who could poke into problems in all services. Ribicoff sees this suggestion as a useful thing for the Secretary of Defense, who could get a handle on problems early in the game.

The senators also recommended a study of the value of all non-appropriated fund activities to servicemen and retirees. Maybe exchanges should be run differently—it's clear that some of them now do not satisfy a majority of their customers. At least it's worth a look, the senators feel.

They recommended abolition of slot machines in military facilities, a move that the Army and Air Force already are carrying out.

[From the Army Times, Nov. 24, 1971]

Some Progress

After two years of probing and a rash of unsavory publicity, a Senate subcommittee has made its report and recommendations for preventing hanky-panky in military non-appropriated funds.

Replaying that record will be painful for the services, but it may not hurt to remind members tempted to dabble in such extracurricular activities that it's risky and not so profitable in the long run.

It may help, too, to remind servicemen generally what the club scandals meant to them. Many people are inclined to be amused as well as shocked by thieves if the latter are clever enough, if they steal with style and live well. Until we discover their hands are in our pockets.

That was the case with the NCOs who skimmed thousands, even millions, off the top of club and exchange profits. That money was mostly nonappropriated funds intended for the welfare of the troops and they were the biggest losers. And that says nothing about the loss servicemen suffered when the whole image of the noncom was tarnished.

At the same time, though, new attention to the old scandals should not obscure: (1) the steps the services already have taken to prevent a recurrence, and (2) the several sound recommendations the Senate subcommittee has made.

We wouldn't say that there is not one wheeler-dealer left in any sensitive area, but we'll bet that there are few and that they are pretty nervous at this time. The services have tightened their checks on both the big club operations and the smaller but still important funds. The subcommittee has suggested additional safeguards and most of them appear sound. It's an area which bears constant watching.

PUERTO RICO: AN IMPRESSIVE DEMOCRACY

Mr. BROOKE. Mr. President, on November 7, 1971, my distinguished colleague from New York, Senator Jacob Javits, and I were privileged to take part in a mass political rally honoring the 3 years in office of Governor Luis Ferré of the Commonwealth of Puerto Rico. It was truly a grand and glorious occasion and one that will long be remembered by all Puerto Ricans.

It was easily the most spectacular political event I have ever witnessed. More than 165,000 people of all ages jammed the huge Plaza las Americas and the surrounding hillsides in San Juan on a beautiful sunny Sunday afternoon, shouting their encouragement and support for Governor Ferré. Their enthusiasm for the policies of the Puerto Rican Governor and his New Progressive Party, and the depth of their identification with the United States of America, were everywhere in evidence. And it warmed my heart to see thousands of children and adults waving the American flag.

The crowd was addressed by Governor Ferré; Jorge L. Córdova, distinguished Resident Commissioner for Puerto Rico; Hugh L. Carey, the distinguished Congressman from New York; Angel Viera Martinez, the honorable Speaker of the Puerto Rican House; Justo Mendez, the honorable Senate minority leader; Carlos Romero Barcelo, the dynamic and able mayor of San Juan, and many others.

Mr. President, after many years of struggle and political tribulation, Puerto

Rico is coming into its own. Impressive gains have been made. Per capita income is $1,427 per year—up from a bare $297 per year only 20 years ago. The gross annual product in 1970 was $4.6 billion, up from $755 million in 1950. Unemployment, which has plagued the island in the past, is now at an alltime low of 5 percent, as progressive government policies have led to the creation of more than 22,000 jobs per year in industry,

In the area of social welfare, a concerted effort is underway to improve housing, health services, education and the general welfare. And Governor Ferré has set as the island's goal for the next 5 years the construction of 10,000 new classrooms, full health care for all residents of the island, and the protection of Puerto Rico's vast and scenic natural resources. He has also set a goal of far closer ties with the mainland United States: An equal share with the 50 States in the distribution of funds for Federal programs, and the right to vote in presidential elections, mark the first steps in a longterm objective which he has espoused many times—statehood for Puerto Rico.

Governor Ferré, and the multitude of Puerto Ricans who share his dream, have no intention of subordinating their dynamic culture to our own. Nor should they. Western Europeans settled in Puerto Rico nearly a century before the founding of Jamestown or the landing of the Pilgrims on Plymouth Rock. In the centuries which have followed, they have built a unique civilization on the foundation of Spanish language and customs and "New World" freedoms.

But Governor Ferré, his New Progressive Party, and their many adherents among the people of Puerto Rico, have become increasingly aware in recent years of the inequities of a political status which lets them pay taxes, but receive less than the 50 States in the distribution of Federal revenue; which lets them send their sons to war, but have no vote in the presidential elections or in Congress.

Governor Ferré, and increasing numbers of Puerto Rican people, believe that such inequities must be corrected. And I agree.

Mr. President, I am convinced that under Gov. Luis Ferré, Puerto Rico will go far. We on the mainland should be aware of the great changes occurring there, and should be prepared to support them.

I congratulate Governor Ferré for his initiatives and ask unanimous consent that his inspiring speech to the Puerto Rican people at the rally in San Juan be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

ADDRESS OF THE GOVERNOR OF PUERTO RICO AND PRESIDENT OF THE NEW PROGRESSIVE PARTY, HONORABLE LUIS A. FERRÉ, BEFORE THE MASS RALLY OF THE NPP AT PLAZA LAS AMERICAS, SAN JUAN, PUERTO RICO, SUNDAY, NOVEMBER 7, 1971

Today, we celebrate the third anniversary of the glorious victory which, at the dawning of November 6, 1968, brought forth multitudes of Puerto Ricans throughout all streets of our cities and towns and all the trails of our countryside. It was the glorious dawn of a people who shook themselves free of political chains, who had become liberated from a political party which, after 28 years in power, had shackled the will of our people with arbitrary, abusive, and partisan procedures; and our people rejected these attitudes of arrogance and absolutism that were in discord with the democratic soul of our people. Right there, in that same Hiram Bithorn Stadium which we can see from this stand, the most degrading spectacle, against democracy and Puerto Rican dignity, that ever took place in Puerto Rico, took place.

And from that moment on, the people said that all of this had to change. And change it did. Since November 6, 1968, you can breathe an atmosphere of spiritual calm and freedom in Puerto Rico. There is no more fear of persecution or punishment for political reasons. No longer do we tolerate the arbitrary and unipersonal selection of the representatives of the people by means of a tiny slip of paper or by pointing them out with a finger. Democracy now prevails in Puerto Rico. Freedom of speech and thought is total and absolute. Constitutional guarantees and respect for civil rights are observed with the utmost pulchritude. And our people feel joyful and liberated, with faith in themselves and full of hope for the future.

Almost three years of our government have elapsed and the Great Task which we set upon ourselves is in full development. In these three years of the first phase, we have oriented our government toward goals of major gains and we have laid the foundations to achieve them. It is time for us today to review our achievements and to set our goals for the second stage of the Great Task during the next five years.

First, we have to ensure the permanent union of Puerto Rico and the United States. The minority party has demonstrated that its purpose is to strain our ties with the United States. That was the range of its statement at Aguas Buenas. Their rejection of the referendum, which would give the people of Puerto Rico the opportunity to express themselves as to their right to vote for the President and Vice President of the United States, was a clear and final ratification that the Popular Party does not desire a permanent union with the United States and that their aim is to keep Puerto Rico away from the United States.

The first goal of the Great Task in its second phase during the next five years is, then, to secure the presidential vote for Puerto Ricans. This is the means of ensuring our permanent union and of obtaining also political power at the federal level so that we can achieve greater recognition of our rights and greater participation in those federal programs which have as their goal the social and economic betterment of all the citizens in the Nation. The presidential vote will be the culmination of all the efforts being made in Washington by our Resident Commissioner, honorable Jorge L. Córdova as well as myself, so that Puerto Rico will not continue to move away from the federal sphere of activities, as was the case under the previous administration, but rather on the contrary, to incorporate itself to the everyday life of the nation more firmly and completely with each passing day and thus obtaining greater recognition of its rights.

In that sense, the result of our efforts during these last three years has been noteworthy. Just yesterday the United States House of Representatives approved a bill of $1.5 billion for higher education and Puerto Rico received once more, with the aid of our Resident Commissioner, treatment equal to that of the states just as I proposed and requested during my recent visit to President Nixon. Here on this platform is Senator Javits, who has been a Senate champion of this right of Puerto Rico, together with Senator Brooke, as well as congressman Hugh Carey, who has done likewise in the House.

The increase of over $150 million in Federal appropriations for the current year and an additional increase of more than $100 million for next year in programs of health, education, war against crime, against drug addiction, emergency employment fund, public welfare aid and other social benefit programs for all Puerto Ricans, are the result of the efforts of the Great Task and its first three year phase. Another goal, then, for phase two of the Great Task during the next five years is to ensure that Puerto Rico will obtain equal treatment with the states in all federal programs, without discrimination of any kind whatsoever, and this will represent an average additional increase of over $300 million annually.

The task of the first three years has been accomplished thanks to the efficient, dedicated and patriotic work of all the men of this government, in the legislative as well as the judicial and administrative levels. The work done in the second phase of the Great Task during the next five years will be accomplished with the enthusiastic cooperation of our people, who know that this government is dedicated to serve them with all devotion and sincere patriotic interest. The Great Task has been and will continue to be the work of all Puerto Ricans to overcome our limitations, and to solve the multiple problems which we have inherited. To achieve a Puerto Rico in which we may have solved not only the material problems of food, health, housing, transportation, and others, but also a Puerto Rico clean of environmental pollution, with its natural beauty preserved and protected as an enhancement to the life of our people; a people with a solid and ample education, not only in the field of science and technology, but also in the great humanistic tradition of our western civilization; an education that will stimulate the creative spirit of our youth and inspire it to unite itself with enthusiasm to the self improvement task of our people in achieving the highest spiritual values, to sum it all, a happy people enjoying their democratic freedom, calm in the exercise of their civil rights, and having a deep respect for human dignity.

What goals must we have now, after this magnificent display of strength which has established that this party is, beyond any doubt, the redeeming instrument of our people?

We have to improve public education, terminate the practice of alternate attendance, create new vocational schools, and build 10,000 more classrooms.

The University must increase its enrollment and complete the Regional Colleges program including that of Aguadilla.

In the area of health, we must expand the range of Public Law 56 to provide full medical-hospitalization services to all Puerto Ricans, by obtaining more federal aid to reduce costs, and to place these services within the reach of every citizen in accordance to his economic means.

We must also increase our public parks and beaches for the recreation of our citizenry and the healthy physical development of our youth. We reduce unemployment to 5 per cent, by creating no less than 10,000 industrial jobs a year, 2,000 tourism-related jobs and 10,000 public service jobs in the social-welfare area. We must rehabilitate our sugar industry so that it will yield no less than 600,000 tons per year, thus insuring the stability of the rum industry which earns $80,000,000 for the government every year, and helps to support more than 30,600 families. We will help our farmers by implementing fair and guaranteed prices, by establishing market centers that will protect them from speculators, and by increasing the wages of the agricultural worker in a reasonable manner, through mechanization and the application of scientific methods to agriculture.

We will also help the commercial sector with the total development of distribution centers in order to bring products within the reach of the small businessman and at smaller cost. To solve the problem of slums and inadequate housing by means of a program which will allow us to build over 60,000 housing units among all of the various existing government programs.

To continue the fight against drug addiction until it is solved with the aid of more appropriations, federal as well as local. To finish the penal institutions plan, and ensuring adequate treatment for the inmates in order to allow effective rehabilitation. To improve our law enforcement agencies and to provide greater facilities for our judicial system. To complete the sale of land "parcelas" and to help the "parcela" owners in the construction of housing.

We shall extend running water facilities to all Puerto Ricans and we shall expand the sewage system to the degree neecssary to prevent pollution of our beaches and waterways.

We shall guarantee an economic growth at a rate of no less than 10 per cent to double personal income and to continue building a wide infrastructure that will offer competitive advantage to our industries.

And we shall continue taking those consumer protection measures which we have already planned, but that we were not able to put into effect because the Senate, controlled as it is by the minority party and following a policy of obstruction, refused to approve them.

This is, in general terms, the second phase of the Great Task that we will conduct during the next five years.

I intend, in my next Address to the Legislature, to describe all of this plan, which is being prepared by a work team which I have designated for this purpose. The set goals will be outlined in greater detail and the necessary legislation will be submitted concurrently.

During the past political campaign, this Party submitted a program of government to the people. Our adversaries said that our promises were impossible to keep and they even vexed us with degrading sobriquets. Today we have the satisfaction of being able to tell them that, despite the systematic obstruction in the Senate by the Popular Party, we have kept our promises. This was the beginning of the Great Task, the first phase to set the foundation for the entire program. Now we must forge ahead with the second phase in the next five years to complete building the progress which our people deserve and desire. Our opponents will say again that our goals are unattainable and they will vex us again. But I am sure that our people will pay little attention to them. Our Party made promises and they were kept. Now our people know that we are able and that we know how to keep our promises. And their support will be full, so that during the development of the second phase of the Great Task, we may be rid of the hindrance of an obstructionistic Senate. Before finishing, I would like to make an important announcement.

Inasmuch as this Government is aware of the hardship suffered by our people, on account of the increase in the cost of living which has been caused by world inflation, and conscious of the fact that Government revenues have surpassed last year's estimates, I intend to call a special session of the Legislative Assembly by the end of this month, to submit a bill that will grant a credit to residential customers of the Aqueducts and Sewers Authority in the amount of $4 million. This credit will be applied to consumer's bills effective next January 1, and it will constitute an immediate relief that will reach the homes of 400,000 Puerto Rican families.

THE WHITE HOUSE CONFERENCE ON AGING

Mr. WILLIAMS. Mr. President, 3 years ago the Congress overwhelmingly approved my measure calling for a White House Conference on Aging to be held in 1971.

In 1970—the prologue year—preliminary activities began with more than 6,000 community forums held throughout the Nation.

Earlier this year conferences were also held at State and local levels. Monday 3,400 delegates met for the first day of the Conference in Washington. Their goal is to formulate a long-awaited national policy on aging.

But this is only a part of their overall duties. They must, of course, take stock of the accomplishment—as well as the failings—since the last White House Conference in 1961. That Conference led to medicare, an Administration on Aging, the Older Americans Act, and a law to prohibit age discrimination in employment. It not only provided momentum for the senior citizen movement in the United States but also for the five badly needed social security increases.

Despite these achievements, we in the Congress and the delegates at this year's White House Conference must take a long, hard look at the grim facts in 1971:

Nearly 4.7 million older Americans fall below the poverty line, about 100,000 more than in 1968;

Valuable as it is, medicare still covers only 43 percent of the aged's health care expenditures;

More than 2 million persons aged 65 and over are on welfare; and

Only about 17 percent of the aged are in the work force, usually in lower paying, part-time work.

But most of all, the delegates must devise a plan for action to implement their recommendations. It must include a genuine, national commitment with clearcut goals and priorities. This, of course, taken on added meaning because the policies emerging from this year's conference will not only have a dramatic impact on the lives of the 20 million persons 65 and over, but also the millions more nearing this age.

Equally important, the conference cannot be a rehashing of old issues. The output of words is helpful in identifying problems. But, the elderly want action now. And now is the time for coming to grips with the many crucial issues in the field of aging:

What measures should be adopted to eliminate poverty for older persons and to enable them to share in the abundance which they have worked most of their lives to create?

What is the most effective approach for making high quality and comprehensive health care services available for the elderly?

Should the Administration on Aging be extended next year in its present form, greatly strengthened, or replaced with something entirely new?

These are only a few of the difficult questions that must be dealt with dispassionately and effectively.

Today's aged and aging Americans are insisting that this year's conference must lead to meaningful action. They have waited too long to settle for an inconsequential conference. And the field of aging is far too dynamic to accept anything less than an exciting and productive conference.

CITIZENS COMMITTEE TO STUDY CONGRESS

Mr. HUMPHREY. Mr. President, on October 20, 1971, I introduced S. 2728, legislation that would establish a Citizens Committee to Study Congress. It was my intention to have an outside blue ribbon committee that would thoroughly examine the legislative branch to recommend ways of making it a more responsive institution and to provide a public focus for the reform of Congress.

This week, I have received an extremely informative letter from Prof. Roger Davidson of the University of California at Santa Barbara expressing support for my proposal. I am encouraged by Dr. Davidson's interest in this legislation. One of the points he makes is so correct:

> Distinguished and knowledgeable citizens from various walks of life drawing upon their unique backgrounds and skills, might well come up with an ingenious solution to some of the thorny problems of congressional operations.

Mr. President, I am placing Dr. Davidson's letter in the RECORD. I do hope that my colleagues will take time to read it. The arguments he makes are very cogent, and they go directly to the heart of my proposal.

I ask unanimous consent that the letter from Dr. Roger Davidson be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

UNIVERSITY OF CALIFORNIA,
Santa Barbara, Calif., Nov. 23, 1971.

Hon. HUBERT H. HUMPHREY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HUMPHREY: Let me commend you for introducing S. 2728, which would establish a citizens' committee to study Congress. As a political scientist who has written about Congress, and especially about the politics of congressional reform, I believe that your proposal could provide the needed impetus for revitalizing the structure and functions of Congress.

Those who believe, as I do, that Congress must struggle to remain vigorous and responsive in this age of Executive ascendancy, have added reason to support the creation of a citizens' committee. The Founding Fathers exercised wisdom in distributing powers among the branches of government; but it is increasingly difficult to maintain this balance in our age of complexity and rapid change. Many people have argued that we do not need this constitutional balance, that Congress should act as a passive reviewer of policies and programs which originate essentially with the Executive. I could not disagree more with such a narrow view of Congress' role. While our system demands a strong and aggressive Executive, it equally requires a legislature which is a full and effective partner in policy making and as well as policy review.

A citizens' committee such as you propose could provide a fresh perspective on matters which those who work on Capitol Hill tend to take for granted. Distinguished and knowledgeable citizens from various walks of life, drawing upon their unique backgrounds and skills, might well come up with ingenious solutions to some of the thorny problems of congressional operations. The recommendations of such a group would pose no threat to the constitutional guarantee that each house shall make its own rules. The business of Congress is, after all, everyone's business; and congressional bodies (including the new Joint Committee on Congressional Operations) should avail themselves of every conceivable source of insight.

An even more compelling reason for such a citizens' group, in my judgment, lies in the sad fact that institutional reform is all too often an issue without a constituency. We know from opinion surveys that citizens are dissatisfied with their governmental institutions. Yet often these citizens are unable to identify the source of their discontent. Congressional procedures are complicated, difficult for the outsider to understand, and usually not the stuff of which headlines are made.

Thus we are left with a paradox: citizens are unhappy with their public institutions, but they are in no position to focus their opinions and work for changes. A citizens' committee would provide this focus, by publicizing the issues and serving as a mechanism for public discussion of the functions and operations of Congress. In the last analysis, such a process could only strengthen the ties between Congress and the American people.

Please count me an enthusiastic supporter of S. 2728. I would welcome the opportunity to do whatever I can to assure its passage and successful implementation.

Sincerely,

Roger H. Davidson,
Professor of Political Science.

THE LOYAL LEAGUE HONORS PAUL SALOMONE

Mr. WILLIAMS. Mr. President, on December 18 one of our Nation's finest charitable organizations, the Loyal League of Philanthropies, Inc., will hold its annual dinner at the Waldorf Astoria Hotel in New York City. This event is held to raise funds for support of the many worthwhile philanthropic causes which the league has turned its attention to. This year the dinner will salute the U.S. olympic team, and the chairman of the dinner is Mr. J. H. Rossbach, Jr., executive vice-president of the Saks Fifth Avenue department store. Guest of honor this year will be an outstanding New Jerseyan, Mr. Paul A. Salomone, vice president of Gimbel Brothers, Inc., and president of Gimbels New York division.

Mr. Salomone is a New Jersey native and graduate of Rutgers University, who makes his home in South Orange. The culmination of his illustrious, 30-year career was his recent elevation to the presidency of Gimbels New York, and his election to the Board of Directors of Gimbel Brothers, Inc. I am delighted that Mr. Salomone is to be honored at this year's annual dinner, in recognition of his outstanding accomplishments in the business world, and his many philanthropic contributions.

Mr. President, Mr. Rossbach has issued a statement outlining the multifaceted charitable activities of this organization made possible by the dedication and financial support of the league members, and I ask unanimous consent that the statement be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

The Loyal League

Each year in December the Loyal League Philanthropies, Inc., holds it Annual Dinner at the Waldorf Astoria. This is the only fund raising activity of this organization. The dinner is held in honor of a well known philanthropist, especially one who is interested in and has contributed time, effort and money to help in some measure to improve the condition of the underprivileged.

What do we do with the proceeds of this affair—the only expenses of which are the cost of the dinner and the incidental expenses related thereto? We have no paid solicitors. This year we have made, among others, the following donations for scholarships to young men who otherwise would have been unable to go to college.

Among the colleges to whom this money was donated were:

Albert Einstein College of Medicine, University of Haifa, City College of New York, Columbia University, and Columbia Law School.

Yeshiva University, New York University, The Johns Hopkins School of Medicine, New York Medical College, and New York University Law School.

Brandeis University, Yale Law School, Yale Medical School, and Fordham University.

Rutgers University, Mass. Institute of Technology, and Harvard University Graduate School of Business Administration.

We also donate ten scholarships to young men on the high school level to Bronx High School of Science and Midwood High School of Brooklyn, to the Green Chimneys School and the Stephen Gaynor School.

We have supported and contributed to The Optometric Center of New York, Anti-Defamation League of the B'nai B'rith, Pearl Socoloff League for Retarded Children and the American Jewish Committee.

We helped to build and continue to support Camp Loyaltown in Hunter, New York, which affords 606 poor children of the metropolitan area the privilege of spending 9 weeks in the country in groups of 200 every 3 weeks. The Ed Sullivan Recreational Building, the Lou Pitofsky Library, the Rosalie Fox Arts and Crafts Wing, the Bernard Weiss Athletic Field Compound are but part of our continuing support of this worthy project.

We are also very happy about our Ruth Hurwitz Memorial Library at Columbia University and the Jay E. Lenley Memorial Library Room at New York University. Truly great tributes.

We have supported and allocated a good deal of money in the field of medical research, specifically the great work of Dr. Conrad Riley at the Babies Hospital of the Presbyterian Hospital which has resulted in the control of Nephrosis and Nephritis. Also that of Dr. Sidney Cohlan, formerly of Beth Israel Hospital with respect to Vitamin A and Congenital Abnormalities. Also the splendid work of Dr. Harold W. Dargeon of Memorial Center on the effect of radiation in the treatment of cancer in children.

In former years we have constructed a building in the Dr. Israel Goldstein Youth Village in Israel for the teaching of carpentry trade.

Loyal League has also provided the Brookdale Medical Center with the most modern scientific equipment to take care of children suffering from serious heart or lung ailments, gratis, in the Jewel Weiss Cardio-Pulmonary Surgical Suite.

In recognition of our many, many contributions to the Beth Israel Hospital in New York City, the Chas. H. Silver Clinic has designated one of its floors, which takes care of out-patients—"The Loyal League Pediatric Floor".

All this has been made possible by our generous support and contribution and in behalf of myself and the trustees I express to you our thanks and gratitude.

THE BREAKING POINT

Mr. BROOKE. Mr. President, one of the most tragic events that can occur in the life of any man is the loss of his job. Work gives meaning to life; it is a source of sustenance and pride. It is the means by which a man contributes to the society of which he is a part, and earns for himself and his family the right to enjoy that society's riches. In the words of a Lebanese philosopher:

> Work is love made visible.

In the counterpoint view of a French philosopher:

> Work keeps at bay three great evils: boredom, vice, and need.

It thus becomes a matter of particular concern when large numbers of a country's people are unemployed. For the people without a job, it means many weeks and months of anxious searching, amid declining hope. It means increasing family tensions and a decreasing sense of worth. It means the loss of opportunity, even a decline in acquired skills.

But the loss does not belong to the individual and his family alone. There is a loss to the community which no longer enjoys the benefits of his skills or his purchasing power. There is a loss to the country, which may bear the cost of his support while suffering the loss of his contribution to the welfare of the whole.

Six percent of the American work force may be unemployed; but 100 percent of America suffers the consequences.

The human costs of unemployment were recently detailed most vividly in an article entitled "The Breaking Point," published in the Wall Street Journal. The writer, Liz Roman Gallese, based the article on a series of interviews conducted with unemployed scientists and engineers in and around Boston, Mass. The breakup of families, the breakdown of morale, the tragic consequences of a life without work—these are the subject of her study. They should be the subject of all our thoughts and efforts as well. I ask unanimous consent that this outstanding article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

The Breaking Point: As Jobs Stay Scarce, Unemployed Engineers Face Family Crises—Months Without Work Bring Emotional Strain; Dearth of Money Becomes Acute; Broken Marriages and Suicides

(By Liz Roman Gallese)

Boston.—Two years ago, Peter Roberts seemed to have the world on his side. At 43, he could look back with satisfaction on his academic achievements (a B.S. from City University of New York and an M.S. from Yale, both in physics) and his early career (work on high-level government projects, including researching the effects of hydrogen bomb explosions, and sonar work for the Navy). What's more, the present was happy and prosperous (a happy marriage, three children and a $20,000-a-year job with Raytheon Co., the Lexington, Mass., defense firm) and the future looked bright with promise.

Then came the end of 1969 and the beginning of the defense and aerospace industry cutbacks.

Like thousands of other engineers across the U.S., Peter Roberts (not his real name) lost his job—and he hasn't been able to find another. His savings have evaporated. His health has deteriorated. His marriage has turned sour. And recently, frustrated by failure and deeply depressed, Peter Roberts decided to commit suicide, changing his mind only at the last minute "because of my three kids."

"My life was a wasteland," Peter says, trying to explain what drove him to contemplate ending his life. His life is also not all that unusual these days, particularly in this area with its high concentration of defense and aerospace firms. Nearly 5% of the nation's engineers—the highly educated backbone of the defense industry—can't find a full-time job in their profession, a sharp increase from only 1% in the 1964–69 period, reports the Engineers Joint Council in New York. Furthermore, many of these individuals, having never before been unemployed, are now well into their second jobless year, and initial stoicism has often been replaced by desperation.

FALLING APART

"At first a layoff isn't so bad," says Rev. Leonard Kohlhofer of Topsfield, Mass., a Boston suburb that's home for many unemployed engineers. "In the early weeks, a man has his savings. His banker is understanding about the mortgage payments. His wife isn't too upset yet. And he gets busy sending out resumes."

But after two years, Rev. Kohlhofer continues, the unemployed man has "lost all hope of finding a job. His savings are gone. His banker has lost patience. And his wife may have gone to work, becoming the family breadwinner and leaving him home to wash dishes and worry. Now is the time when things are really beginning to fall apart."

Herman LaMark, director of Massachusetts' division of employment security, has another analysis. "These are professionals, many of them scientists and engineers, who were always on top," he says. "They were sought after in college by company recruiters, and they've been working for years on the nation's top projects like space shots and defense systems. (Unemployment) is a real shock to them. We're dealing with the world's bitterest guys."

The bitterness is deepening. For while widespread layoffs of technical workers began 18 months to two years ago, the persistent unemployment situation has brought the households of countless unemployed engineers to points of crisis. "We are seeing a terrible amount of personal hardship," says Donald Riley, a counselor for a Boston family-service association. "In this area, marital crises are reaching epidemic proportions."

MY ONLY EGO SAVER

A close look at the recent life of Peter Roberts is illustrative. When laid off by Raytheon, his first tack was a hunt for employment through newspaper ads, employment agencies and personal contacts—all to no avail. "At that point, an idea for a new company was my only ego saver," he says.

Peter's idea centered on his own design for an office machine to correct typing errors automatically. He found a partner, set up an office and began to peddle the machines for rental at $1,000 a year. Twelve months and a $6,000 loss later, not a single machine had been rented. Firms simply weren't investing in new equipment. The new company folded.

Peter, however, was persistent in seeking new ventures and next started a company to market novelty items, including candles molded after the likeness of President Nixon. But capital evaporated, a partner deserted, and the firm collapsed eight months later.

Then began what Peter now calls the "tough personal period" of his life. "I started to fall apart," he says. "I couldn't get organized. I wouldn't open mail fearing another bill or answer the phone fearing another creditor calling."

MOUNTING PRESSURE

As financial pressures mounted, Peter sold his stock portfolio, at a loss, but living expenses plus the costs of his business ventures ate up the stock proceeds as well as the balance of his savings account. He then borrowed $5,500 from friends and relatives to feed his family and pay for rent and utilities. He stopped medical treatment for an allergy and went without orthopedic surgery needed for a painful back ailment.

Last January, Peter Roberts' family went on welfare. And while his financial problems have persisted throughout the year, his major worry, he says, is his rapidly decaying marriage. According to Peter, the first battles began shortly after his layoff when his wife opposed his proposal to relocate in another state; she had plans to enter Boston University, he says, and was reluctant to enroll elsewhere. His wife also had strong objections to his novelty-company involvement.

"She had underhanded ways of showing disapproval," Peter says. "It was guerrilla warfare. She didn't like my partner, for example, so when he came to dinner she cooked something he didn't like."

The culmination of these unhappy events was Peter's decision to commit suicide. Although he drew back from this action because of his children, he worries that he might one day go through with taking his own life. Job prospects continue bleak, and his personal life is dismal. "I don't know where we are going," he says. "We have a shell of a marriage."

Whether Peter Roberts' hardships can be attributed in toto to the nation's employment situation must remain a moot point. But it is certain that the national glut of engineers is creating emotional upheaval in even the most stable marriages—particularly when the wife is employed and traditional household roles are reversed.

"It's ego-deflating for my husband to accept me as the breadwinner," says Karen, the 34-year-old wife of an unemployed engineer. Karen's husband, unemployed for 20 months, was formerly with Itek Corp. of Lexington, Mass.; Karen herself works as a girl Friday for a small computer company.

"If I've had an especially good day, or if I do something extremely well on the job I can't tell him," Karen says. "I also don't talk about the money I earn, and I avoid seeming particularly pleased if I get a raise."

Household chores present another problem for the family. The couple's 13-year-old daughter baby-sits for the two younger children and has also become the family's shopper and cook. But, Karen says, "It's difficult to turn a 13-year-old into a mother. When I get home, the house is a filthy mess." She adds: "So far, I haven't cracked—yet."

Adding another point of view, Karen's husband, Steve, 39, says he feels "completely frustrated." Last summer, he worked around the neighborhood fixing walks, mending fences and rebuilding rooms. He says that as he worked he'd sometimes think, "Seventeen years in engineering to put in another damn brick."

Despite their upheaval, Karen, Steve and their children are economically surviving. In other cases, wives simply aren't able to work—or can't get jobs—to support their unemployed husbands. In fact, in this area, there are numerous examples of highly educated, well-qualified engineers whose families are living hand-to-mouth existences.

"We're trying to pull ourselves up by the bootstraps," says Frank a MIT graduate, whose small engineering firm collapsed two years ago and who hasn't been able to find work since. Frank was subsequently forced to sell the family's $34,000 house, moving his family into a dilapidated house in a shabby neighborhood. His credit rating, he says, is "shot."

"At times we still don't have enough money for food," Frank says, "but we've learned to survive by fishing for flounder in the ocean" to supplement welfare payments.

Extreme? Perhaps. But the situation is acute and shows no signs of abating—and the Boston area is but one of numerous locations with a heavy concentration of engineers. Similar stories could well be told of life in Seattle, Wichita or Cape Kennedy, Fla. "Suicide figures are shocking, and the number of marriage breakups is incredible" among engineering families, says Tom Greening, until recently the head of a California state project to relocate the unemployed.

To some, the answer has been to seek employment in any capacity. One Boston engineer now is selling popcorn. Others are working as undertakers, bakers and domestics. But most of these positions are regarded as strictly temporary interludes—temporary until the engineering field once again opens up.

Others have decided to altogether abandon their backgrounds and start anew in another field. This move, however, isn't always possible due to the generally poor employment picture in many other segments of the economy. And even if switching fields can be accomplished, the ex-engineer often finds he must begin his new work on the ladder's bottom rung.

Allan, 31, a former $13,000-a-year engineer at General Electric Co.'s Lynn, Mass., jet-engine plant, is a case in point. Having been unemployed for five months, he leaped at the chance to train for a factory superintendent's job in a Philadelphia tea-processing plant at an annual salary of $12,000. "I thought I was lucky—until I started," he says.

Allan's job involves the operation and maintenance of plant machinery. He usually works 14 to 16 hours a day, six days a week, in 100-degree heat. Since he's not paid on an hourly basis, company policy dictates that he's not entitled to overtime payments. And as a trainee, he has no assurance that the job will be permanent.

The job's impermanence, in fact, is Allan's major hardship, since he has decided he won't relocate his family until his position is secure. He therefore lives alone in a boarding house, occasionally driving out of town on Sunday.

"I come home and face a lonely room," Allan says. "At times, I want to pack up and go home, but I have to stick it out." Why? "There aren't any other jobs."

U.S. FOREIGN ECONOMIC POLICY FOR THE 1970'S

Mr. HUMPHREY. Mr. President, today and tomorrow the Group of Ten is meeting, hopefully to resolve some of the outstanding issues which have barred any movement toward a resolution of the present international monetary crisis. The questions involved are complex, and, perhaps, the most succinct criticism I can offer against our own administration is that it has failed to see the inherent complexity. It has failed to take note of the fact that econo-technological developments, a result of rapid growth in a number of industrialized countries, now challenges our present international institutional arrangements. These institutions were designed for a postwar international economic community, but some of the assumptions which led to their establishment were based on the functioning and the malfunctioning of the system prior to the war.

Failing to take account of the complexities of the problem and how it developed, the President has chosen to throw down the gauntlet without offering more than the vaguest suggestions of how the challenge should be met. Instead of embracing a formula of cajoling the wealthy countries of the world into action and making those cower who are dependent on us for their development, a more promising formula would be to suggest a precise program for reform. It may sound good politically to talk tough, but the payoff is likely to be unproductive economically and diplomatically. Our main concern is to set our economy aright, and in order to do that, we need the cooperation of other countries. We belong to an Organization for Economic Cooperation and Development; an International Monetary Fund; we are part of the General Agreement on Tariffs and Trade. I suggest we use these institutions and improve them wherever necessary.

The National Planning Association, one of the most distinguished general research organizations in the country, recently, published a report issued by the NPA Advisory Committee on U.S. Foreign Economic Policy. The report and its supporting papers, offer concrete suggestions on what can be done, both in the shorter and long terms, to avoid a regression into a situation where trade restrictions and retaliation become an everyday occurrence. This prospect is closer on the horizon because of the recent inept policies undertaken by our own Government.

Mr. President, I would like to bring to the attention of my colleagues the press release summary of the NPA report, which should serve as a helpful outline of the kinds of programs we ought to be thinking about. The report provides a realistic analysis of the present crisis and draws some instructive conclusions for us all. Mr. President, I ask unanimous consent that the summary press release of the National Planning Association report be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

U.S. FOREIGN ECONOMIC POLICY FOR THE 1970's

WASHINGTON, D.C.—Constructive measures for dealing with the current international economic crisis and thereby avoiding a further relapse into trade restrictions and retaliations are recommended in the report of an NPA Committee released today.

Chaired by Ralph I. Straus, the NPA Advisory Committee on U.S. Foreign Economic Policy for the 1970's proposes a new approach to tariff reductions, the use of interim import restrictions to allow time for adjustment to increased import competition, codes of behavior to harmonize or eliminate nontariff barriers and other restrictive practices, wider margins for exchange-rate fluctuations and more frequent changes in parities, reductions in the foreign-exchange costs of U.S. defense commitments in Europe and Japan, and an improved program of adjustment assistance to U.S. workers and business firms. The report's 18 specific proposals were formulated to take account of the new realities in the world economic and political position of the United States.

The Committee urges the OECD nations to adopt a new commitment not to pass on the costs of their policies to other countries without prior consultation, and to preserve and improve international economic integration "with adequate provisions for controling the adverse effects on social groups within countries and on national economies as a whole."

Considering recent developments in the world economy and U.S. policies adopted on August 15, the Committee warns that "U.S. policy makers must resist the temptation to use excessively restrictive or discriminatory means of applying pressure that would subsequently be difficult to terminate either for domestic reasons or because of retaliatory measures by the European and Japanese. . . . Since August 1971, the danger that increasing resort to restrictions, discriminations and retaliations might get out of control has become very much greater.

The Committee finds that there has been a significant decline in the international economic position of the United States relative to the European Community and Japan. "In the past, the United States possessed marked competitive advantages, notably the technological lead and economies of scale fostered by its large domestic market, the dynamism and competitiveness of its business management, the quality of its labor force, and the size and efficiency of its capital market." Now, the report points out, the European Community and Japan are rapidly narrowing the gap in these respects between themselves and the United States.

The Committee's report is accompanied by and based on six more detailed supporting papers concerning prospects for trading blocs, nontariff barriers, international monetary reform, payments adjustment problems, military and political factors in U.S. foreign economic policy, and U.S. and other countries' adjustment assistance programs. Summaries of the supporting papers are appended. Also attached is a list of the signers of the report.

The Committee points out that there has been widespread agreement in the United States that the benefits of greater international economic integration exceed its costs. But this is now being questioned as greater integration increases the scope, frequency and speed of economic changes that require painful adjustments by workers and businesses.

To be both realistic and constructive, future U.S. foreign economic policy must combine programs and policies to extend the benefits of integration while also dealing with integration's adverse aspects in pragmatic ways, the Committee says.

The Committee recommends that U.S. import restrictions should be permitted only under the escape-clause procedures and "in cases where the impact of import competition on a particular industry is so widespread, drastic and rapid as to make the task of adjustment for the industry or its workers too great to be handled even with liberalized programs of adjustment assistance." Such restrictions would be limited to three years, renewable only to carry out an industry adjustment program prepared by an Industry Council consisting of representatives of concerned large and small firms, labor unions, government departments, the industry's customers and consumers generally. To preserve some competition, tariffs should be preferred to tariff-quotas and "permissible amounts of imports should be periodically increased more than proportional to the growth in U.S. consumption."

Liberalization of adjustment assistance should include simplifying and speeding up handling of applications for assistance, providing aid to workers in a subdivision of a firm even if the entire firm would not be eligible, and abolition of the need to show a direct casual link between a tariff reduction and an increase in imports.

To head off the tendencies toward bloc formation and restrictionism, the Committee proposes *a plan for reduction of tariffs and quotas, U.S. agreement to a GATT waiver* for the proposed association agreement for free trade in industrial products between the European Community and the remaining members of the EFTA *for five years only*, and *new efforts to reduce agricultural protectionism.*

The tariff reduction plan calls for immediate elimination of all tariffs now at 5 percent or less and a progressive reduction over an adequate transition period of higher tariffs to 5 percent, after which they also would be abolished. The proposed waiver for the EC–EFTA association agreement would be for a limited time only while the general tariff reductions are negotiated and go into effect. It should also be subject to compensatory concessions to the United States and other countries adversely affected.

The Committee also recommends *international monetary reforms* and *improvements in the process of adjustment to payments imbalances.* It suggests that the United States agree, if necessary, to a small gold revaluation but only as part of a currency realignment to establish new equilibrium exchange rates. Calling for greater flexibility in exchange rates, it urges adoption of "a set of presumptive criteria for determining the need for a change in parity" as well as wider margins—at least 3 percent on either side of parity—to discourage speculative short-term capital flow.

Proposed international monetary reforms include a special SDR issue by the IMF to mop up unwanted reserve dollars, provision for countries to declare in advance the rate at which they would be willing to increase reserve dollar holdings, and improvement of the existing swap network. Only dollars exceeding the amounts countries agreed to hold could be converted against other U.S. reserve assets, and the latter amounts could be used by the holding country in settlement of a payments deficit. While recognizing the impediments, the Committee urges that OECD countries "take explicitly into account the probable major effects on one another of changes in their own macroeconomic policies," especially with respect to interest-rate policies.

Concerning developing countries, the Committee recommends that the United States implement promptly *an arrangement for generalized preferences for developing countries*, explore *new methods of fostering larger foreign exchange earnings* for developing countries *from their primary product exports*, and initiate steps to aid developing countries to expand their trade with each other.

Other recommendations of the Committee include:

Interim encouragement of U.S. exports together with efforts to develop a code of behavior to regulate export-promotion activities by OECD countries;

A comprehensive reassessment of U.S. antitrust policy by a National Commission before any changes are made in antitrust policies affecting international trade finance and investment;

Improved technical information services especially for smaller U.S. businesses;

Efforts to equalize the effects of nontariff barriers among OECD nations and to secure codes of behavior on the major kinds of nontariff barriers;

Reduction of foreign-exchange costs of U.S. defense commitments to Europe and Japan and closer coordination between U.S. economic and political policies;

An "imaginative research effort to determine whether a practicable approach to the problem of international fair labor standards could be developed"; and,

Faster relaxation of restrictions on U.S. trade with communist countries.

In making its recommendations, the Committee emphasizes the need for additional research to provide "better information about and understanding of the long-term developmental trends in the U.S. economy and in its relationships with those of its major trading partners" and to clarify the issues of national policy implicit in these trends. As one approach to the needed study and analysis, the Committee suggests establishment of a broad-gauge National Commission on the Future of the U.S. Economy.

The report was signed by the 21 members of the Committee, including members from business, labor, agriculture, and the universities. The labor members of the Committee added footnotes critical of the role of multinational corporations, and three of them called for regulation of the export of capital and technology by multinational companies, import quotas for noncompetitive industries, control of patent transfers and licensing, and taxation of income of U.S. multinationals when earned.

(Note.—U.S. Foreign Economic Policy for the 1970s: A Few Approach to New Realities, a Policy Report by an NPA Advisory Committee, with Supporting Papers by C. Fred Bergsten, Robert M. Dunn, Jr., Frances M. Geiger, Theodore Geiger, Robert E. Hunter, and Harald B. Malmgren. November 1971, viii and 216 pages, $2.50.)

ADDRESS BY SENATOR EAGLETON AT THE WHITE HOUSE CONFERENCE ON AGING

Mr. WILLIAMS. Mr. President, one of the highlights of the opening day sessions of the White House Conference on Aging was an address by the distinguished junior Senator from Missouri (Mr. Eagleton) delivered to a luncheon session of the conference at the Sheraton Park Hotel on Monday, November 29, 1971.

Senator Eagleton, who is chairman of the Subcommittee on Aging of the Committee on Labor and Public Welfare, cautioned the delegates in eloquent terms that, in order to be effective, they will have to implement their final report through the political system.

Senator Eagleton speaks with authority on this subject since, in addition to his chairmanship of the Subcommittee on Aging, he is also a member of the Special Committee on Aging and thus occupies a key position in the Senate with respect to issues in this area. I commend his message to the other Members of the Senate and to all who are concerned with the issues of the White House Conference on Aging.

Mr. President, I ask unanimous consent that the full text of Senator Eagleton's address be printed in the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

Address by Senator Eagleton

One of the hallmarks of a civilized society is the degree to which that society esteems, and provides for, its older members. If this nation is to become truly civilized in this respect, there are responsibilities that must be met by all of the public and private institutions through which society operates—responsibilities that clearly are being shirked at present.

It is for this reason that the White House Conference on Aging has been convened. It brings together the most knowledgeable persons in the country to clarify the issues regarding problems of the elderly . . . to lay out policies and establish priorities . . . to make specific recommendations designed to solve these problems.

And if that is all the Conference does, it will be a colossal bomb . . . a flop . . . a failure.

For in libraries all over the country, there are shelves lined with long forgotten reports of conferences and commissions much like the report that will ultimately emanate from this gathering. Those delegates met, labored, debated and wrote—just as you are and will. They analyzed problems and developed recommendations—often very wise, foresighted suggestions. Now librarians prize their final reports, solid government documents that look impressive on the shelves and occasion little work, for they are so rarely used.

What I am saying, in short, is that your report is not self executing. The work will not be finished when you leave Washington. If your recommendations are to serve as a basis for action, it will require hard, concentrated effort to persuade all levels of government to embrace them and translate them into legislation, and the legislation into programs.

That is a political task. And that is the principal message I want to convey to you—to be effective, you must prepare yourselves for the day by day, often tedious job of implementing your report through the political system.

I find that this is often a difficult message for senior citizens to accept. Many of them avoided politics in their younger years, perhaps sharing the view of Disraeli that, "In politics, there is no honor". They have no taste for the partisan jockeying and self-interest commonly associated with politics.

But political activity need not be organized solely around partisanship or political parties. There is a politics that can be built around issues, as well. It is in this area that I believe older Americans have failed to make their voices heard as they should.

Let me give you an example. School boards, teachers and other education groups regularly complain of bond issues and school tax levies being defeated at the polls because of the near-unanimous opposition of older people to property tax increases of any kind. Senior citizens respond that such taxes are a major item in the budgets of those largely dependent upon fixed incomes. About two-thirds of all older citizens are home owners, but even those who rent their homes inevitably feel the effects of higher property taxes in their rental payments.

In this setting, there is the basis for a political alliance. Education groups should have an interest in obtaining a tax break for the elderly by supporting a property tax credit to be applied against state and federal income taxes by those above a stated age. In return, Senior groups, having been relieved of a substantial part of the property tax burden, could support necessary financial aid for schools.

Such a proposal may sound unrealistic to some. But it is just the kind of arrangement made every day in the political arena by parties sharing a mutual self-interest.

An amendment I offered that was adopted as a part of the tax bill passed by the Senate last week may help speed this process. It provides for a property tax credit on federal income taxes for those over 65 who have an adjusted gross income of $6500 or less. The credit could be utilized by both home owners and renters, in amounts of up to $300 for home owners or 25% of rental payments for those who rent their homes or apartments.

If this amendment is retained by the House-Senate Conference Committee appointed to reconcile the separate versions of the tax bill passed by each body, it should go a long way toward aiding older persons now being driven from their homes or forced to liquidate other assets because of prohibitive property taxes.

My amendment is not a substitute for the relief that should be provided by the states. For instance, it cannot grant assistance to those whose income is so low that they have no federal income tax liability. It does not—and could not—deal with state income taxes. Remedial relief at the state level will require, again, a political effort of the kind that I commend to you.

Congress has before it other measures which could greatly benefit older Americans, if passed. My immediate responsibilities lie with the Senate Subcommittee on Aging, which has jurisdiction over a broad spectrum of legislation affecting aging. One of our bills which would establish a national network of nutrition programs for older citizens—including meals on wheels and group meals—is being reported favorably to the Senate today. We anticipate that this greatly needed legislation will be considered on the Senate floor this week possibly Tuesday afternoon.

Other legislation being developed by the Subcommittee on Aging covers such important subjects as employment opportunities for older workers, and the establishment of a new National Institute of Gerontology to greatly increase research into the aging process and diseases associated with aging. This is a long neglected area of research with great potential significance for senior citizens, whose health is constantly threatened by advancing years.

The Subcommittee will also consider the many questions raised by the expiration of the Older Americans Act next June. Should the Act simply be extended or should an entirely new scheme be devised? What has been the track record of the Administration on Aging? Can a single governmental unit successfully act as advocate for the aging throughout the federal establishment, while it is lodged somewhere in the vast reaches of HEW?

We will be looking to this Conference for guidance on these and other questions. And we will be looking for your help and active participation in implementing the Conference recommendation.

Speaking as a politician—in the most nonpartisan sense of the word—I am convinced that there is a constituency that could be mobilized in support of measures to improve the lives of older Americans. Those who fall into this category now know full well their needs, and the lack of an adequate response to them by all levels of government. Those of us who are somewhat younger can look forward, God willing, to the later years of our own lives and know that we will experience the same conditions unless we act now to improve them.

It is, as I have said, a political task to draw on this constituency—to organize it—to impress on the Administration and the Congress . . . and on state capitols and city halls across the country . . . that "Senior Power" is no idle slogan . . . that it is *real* power and that it is going to be exercised.

THE CREDO OF THE ELDERLY—A PHILOSOPHY OF AGING

Mr. MUSKIE. Mr. President, on November 4, 1971, the Maine Delegation to the White House Conference on Aging adopted a fine statement entitled, "The Credo of the Elderly—A Philosophy of Aging."

This statement outlines a superb philosophy and set of goals. It shows once again that the elderly can define their values and needs better than anyone else. They have listed eloquently the part older Americans want to play in American life, and the part they should play. Their "credo" makes very clear what Government should do, and what the responsibilities of the American people are. Above all, the "credo" pinpoints the basic issue:

> America must consider and decide ways of achieving purposeful, primary goals to give aging man the choice of returning to a fuller existence, or America shall continue to relegate aging man to the back door stoop of history so he may invisibly and unnoticed slide into extinction. This last choice is not acceptable.

The "credo" reflects public policy aims I endorse strongly. I hope "The Credo of the Elderly—A Philosophy of Aging," written by the Maine delegation, will be adopted as a resolution by the entire White House Conference on Aging. It would be very appropriate for the conference to adopt the "credo" as its own philosophical statement.

Mr. President, I ask unanimous consent that the entire "Credo of the Elderly—A Philosophy of Aging" be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

The Credo of the Elderly—A Philosophy of Aging

We aging Americans place great emphasis on leading a life of value—to our nation, states, communities, friends, families, and to ourselves. America's older citizens want to and are able to contribute to the good of our fellow men, even if such contribution lies outside the traditional realms of employment and productivity. We want to help improve the quality of life of each citizen of the United States regardless of their age. Our personal experiences, knowledge and skills are our qualifications. We are a strong, vital segment of society. We possess the power of a people.

We aging Americans believe that attaining the status of senior citizen is merely beginning another stage in the life of each man, and is not a signal to withdraw from life. Each person ages from birth to death. This is the idea inspiring the phrase "aging man." We are all aging men. We do not wish to be taken from the mainstream of life and put on the shelf away from the everyday activities of society. America's exiling of us, as the unwanted generation is its loss: its spiritual, its morale, its human, its economic failure.

We aging Americans believe that America must provide older citizens a full and equal opportunity for meeting sustenance and social needs—the same opportunity for which is enjoyed by our fellow men. Aging man has been transformed by the events of American society. Formerly aging man obtained his sustenance and satisfied his social needs in a large close knit family whose balanced activity provided both nourishment and social needs at the same time. Now aging man gains his sustenance outside the home and has no family under his roof. In one instance, aging man was dependent on all members of his family, in the other instance he is dependent on impersonal organizations, systems, and the society as a whole. To continue fulfilling our role in history, to continue helping our fellow man, and to enrich our society, we must have a full and equal opportunity to attain the basic essentials of life.

While our particular page in the history of mankind is the choice of our Creator, it is our place in history which surrounds us with the consequences of American society. We do not want a dole, but rather help in our time of crisis. We wish to live with minimum dependence on other people and government.

To achieve this credo, we believe older citizens must establish and operate their own programs and services. These programs must be distinct, visibly separate and clearly identifiable as intended to benefit older citizens.

To assist us, we believe the government of the United States of America and each State of the Union must establish programs which are mutually acceptable to us, and which are equally distinct from and visibly separate from other government services. These programs must be administered by units on aging created at the highest eschelons of government and charged with ultimate line authority and responsibility for any government programs serving older citizens.

Such distinctness must be maintained in legislation, sources of funds, and generally in the operation of programs and services. We believe that our policy provides that programs serving the elderly may be integrated with programs serving broader populations in those instances where gross duplication of identical programs would otherwise result. We also believe that programs with features * * *.

First these programs must insure that older people receive income adequate to obtain the basic essentials of life from the market place like our fellow Americans; rather than be income supplement programs like donated commodities, old age assistance, subsidized housing, and medicaid. Secondly, the elderly with a time of crisis because of age, physical condition or social status must be assisted by appropriations providing services directly to them, such as homemakers, meals on wheels, home health care, and nursing homes.

The basic issue before this conference is: America must consider and decide ways of achieving purposeful, primary goals to give aging man the choice of returning to a fuller existance, or America shall continue to relegate aging man to the back door stoop of history so he may invisibly and unnoticed slide into extinction. This last choice is not acceptable.

Responsibility for achieving this rests on the shoulders of all Americans, but especially our own. All aging Americans are needed to grasp the gauntlet of this credo. We shall express the status of our survival to all Americans. We shall carry our call to all the sources of help, to all the seats of power. Through our own groups, we shall shatter the bondage of our geriatric shackles. We shall resurrect our independence by redirecting the country's resources. We shall reestablish our role in society by planning, directing and operating services to help our fellow man. We shall attain a life of greater value.

Now, therefore on this 4th day of November, we the undersigned aging Americans of the State of Maine adopt this Credo of the Elderly and recommend its adoption by the 1971 White House Conference on Aging; not with the intent of personal gain, but rather remembering that, what we achieve today will benefit those who follow, for we will soon be gone. We accept the challenge of this credo. We pledge ourselves to it. We shall achieve it by action.

Rep. Mrs. Kathleen Watson Goodwin.
Mr. Lawrence Bagley.
Mr. Frank Bourke.
Mr. Malcolm Brown.
Mr. Harold Collins.
Mr. Gary B. Cook.
Mrs. Harriet Fogg.
Miss Mary Fortier.
Mr. Robert A. Frates.
Mr. Milton Hall.
Mrs. Dawn Halsted.
Mrs. Maude H. Haines.
Mrs. Margaret Hugle.
Mr. Charles Jacobs.
Rep. Jane Callan Kilroy.
Mrs. Harold D. Jones.
Rev. Gerald B. Kinney.
Mr. Floyd Scammon.
Rep. Theodore E. Lewin.
Mr. Jack Libby.
Mrs. Doris Marston.
Rep. John Martin.
Mr. James F. McMichael.
Mrs. Ruth McNamara.
Mr. Richard W. Michaud.
Sr. Marguerite O'Connor.
Mrs. Irving C. Perkins.
Miss Leora Prentiss.
Mr. Herman D. Sahagian.
Dr. Joseph Sanders.
Hon. John Stevens.
Mrs. Helen Sweet.
Miss Mary Worthley.

THE NEW ECONOMIC POLICY

Mr. EAGLETON. Mr. President, I have generally supported the new economic policy announced by President Nixon on August 15. I have long felt that some form of wage and price controls was needed to abate the inflationary spiral in this country. The problem had reached such proportions by August of this year that the President had to act to avert an economic calamity.

Phase I was harsh medicine for a very sick economy, and from the beginning everyone knew that its rigid controls could not last forever. Imposed suddenly, and of its very nature inflexible, the freeze locked in a certain amount of inequity. Our economy could not stand the constrictions of an absolute freeze for much more than 90 days, but it served a useful purpose by buying time for the administration to formulate a fairer and more structured incomes policy.

That policy, or phase II, as devised by the Cost of Living Council, the Pay Board, and the Price Commission, is, I think, basically reasonable and workable. A 5.5-percent increase in wages, set against a 2.5-percent increase in prices and an expected increase in productivity, can make price stability an achievable goal.

But price stability will be achieved only to the extent that these guidelines are adhered to. And the experience of the first two weeks of phase II would indicate that the Price Commission and the Pay Board are less willing to enforce their own policy than they are to extol its virtues.

Right off the bat there have been decisions to allow wage and price increases three times the 5.5- and 2.5-percent standards.

The Pay Board explains that disproportionate increases may be granted for workers whose wages have been lagging and where the contract was negotiated before the freeze.

The Price Commission rationalizes that large price increases will be allowed to corporations that must meet large cost increases.

It seems to me that this tit-for-tat type of rhetoric goes exactly to the root of the current inflation. The difference is that it now may go on with the stamp of Government approval.

I realize that phase II is but 2 weeks old. There are other important decisions to be made in the weeks and months to come. I am not saying that the obituary to phase II should be prepared. But I am saying that the initial decisions of any new program are crucial. I think it may be very difficult to hold the line on future wage and price increases in light of decisions of the Pay Board and Price Commission to allow increases in these first few days of phase II far in excess of the goals established to achieve price stability.

At a time when we were all speculating about the shape the new policy would take after the 90-day freeze, President Nixon indicated that the controls for phase II would have "teeth." I think the question now is not so much whether the controls have "teeth," but whether there are any controls at all.

Mr. President, I ask unanimous consent that two articles—one by Joseph Kraft in the November 28 Washington Post, and the other by Walter Rugaber in the November 28 New York Times—be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

THE WAGE-PRICE CAPER

(By Joseph Kraft)

In the past week, Wall Street, the labor unions and the Senate Democrats have all shown their contempt for the President's New Economic Policy. The wiseacres are already calling it the Wage-Price Caper, and not without reason.

For the Nixon administration is treating the New Economic Policy in roughly the same spirit as it treated the Family Assistance Plan for welfare reform and the New American Revolution for decentralizing government. That is, in the spirit of a sincere sham.

The sincere part has to do with public packaging. The most attractive administration figures—John Connally of the Treasury and Donald Rumsfeld of the White House staff—are pushed forward to shill for the policy. They say over and over again that it is good, and that lo, it is working.

Great care also governs the handling of transactions that are part of the daily experience of ordinary people doing ordinary things. For example, household rents, which everybody pays, have been included in the regulations—even though there is no chance whatsoever to enforce a clamp on rent.

Similarly retail prices have been included because so many of us buy in retail stores. Here there is not only no chance for enforcement. Competition is prevalent enough so that there is no need for enforcement.

But where the need is very real, and enforcement distinctly possible, the administration shows little disposition to take a strong position. The Pay Board is letting sizable wage increases go through in coal, autos and other basic industries.

The Price Commission is per force going to have to pass these on in the form of higher charges. Secretary Connally, while personally lamenting the fact, indicates the Cost of Living Council will not do anything about it. It is a formula for institutionalizing a wage-push inflation.

As distinct from the glamor boys in the Administration, moreover, its deep thinkers have only limited use for the New Economic Policy. George Shultz of the Office of Budget and Management and Herbert Stein of the Council of Economic Advisers have a religious aversion to any kind of controls that interfere with the free play of the market economy.

They feel their original prescription for the economy—cooling down inflation by taking the pressure off the job market—was right. They have accepted that high unemployment and the slow decline of inflation made temporary controls necessary—but only for temporary political reasons.

Their idea of Phase III is life without controls, and they can't wait to get there. It was at their behest that the President announced early in the first phase of the New Economic Policy that the freeze would definitely be coming off.

In these circumstances, it is hard for outsiders to take the New Economic Policy seriously. Wall Street suspects that there is not going to be an effective control over wages; that small companies will be able to raise prices; and that there will be a profit squeeze on the big corporations. When the Secretary of the Treasury delivers a pep talk, suspicions rise even more and the Dow Jones average actually drops by way of reaction.

The Senate Democrats have also sensed that the President is putting a largely political bandage on the economy. They have no compunction in tying on to his new tax bill a measure for public payment of campaign financing. If the President vetoes the bill, it will only go further to show that he is more concerned about reelection than about the economy.

As to labor, President George Meany of the AFL–CIO has been looking for an issue around which the troops can rally in the 1972 elections. Attacking the New Economic Policy appealed to him, not because it was a formidable threat to labor—which it isn't. He took a shot at it because it is such an easy mark.

All of this puts into something of a quandry those few of us who genuinely believe that some control over wages paid to big labor and prices paid to big companies is essential to prosperity without inflation. It is not easy to attack those who are skeptical about a policy the administration itself does not support. About all we can do is point out that on all hands there is a lack of good faith in respect to a line of policy truly central to the economic health of the country.

ECONOMY: THE MANY PHASES OF PHASE II

(By Walter Rugaber)

WASHINGTON.—On the face of it, the Nixon Administration's economic stabilization machine seemed to be sputtering badly last week. Democrats, labor leaders and consumer spokesmen had been suspicious from the start—but with Phase Two in only its second week, even some businessmen were grumbling.

"What the hell is going on?" A smaller merchant demanded. "First they say we're going to have guidelines, but then anybody who asks for more gets it." Phantom Phase II?" wondered the Wall Street Journal. "I don't see how they can give the steel companies more than 7 per cent and stop inflation," a corporate buyer remarked.

The Government promoted optimism. Secretary of Commerce Maurice H. Stans, in Moscow, had a statement issued here in which he said: "The contagion of confidence is spreading. Now is the time for America's business leaders . . . to stop listening to a gospel of uncertainty and start acting upon the clear evidence of opportunity in their markets."

The public's uneasiness came in reaction to a rash of price-increase headlines. President Nixon had warned of an inflationary "bulge" when the freeze ended, and here it was:

The seven-member Price Commission, set up to pass on what sellers can charge, approved six increases, and the percentages involved were 7.6, 7.2, 4.5, 3.9, 3.8 and 2. All but one of these were in excess of what was popularly considered to be the commission's guideline.

The requests for price increases filed with the commission seemed even more terrifying. The United States Postal Service was the champion, seeking to raise rates on third-class mail by 23.9 per cent. If a quasi-government agency went this far, would the private sector be far behind?

The Government, which has exempted a fairly large segment of the economy from controls, excused others. Apartments under state or local rent controls were freed from Federal regulation, meaning increases of up to 7.5 per cent for many New York tenants in January. Consolidated Edison Company won a 12 per cent rate increase from the State Public Service Commission, which has been allowed, like similar agencies, to handle much of the regulation.

Yet all these developments were not really conclusive. An understanding of the controls machinery is essential for any preliminary judgment.

The Price Commission does not—as commonly believed—have a 2.5 percent guideline. Its general rule is that business can increase prices to cover cost advances less any gains in productivity. At the same time, a firm's percentage mark-up is frozen. It hopes this will reduce inflation to 2.5 percent, but has always expected that some price increases would be higher.

The Price Commission, whose public members need not face a business or labor constituency, says it wants to be tough. Last week, it refused to give one company even a 1.8 percent increase when the firm declined to produce any productivity estimates.

Also, the Commission didn't buy the Chrysler Corporation's figures and cut its requested increase of 5.3 percent to 4.5. (Competition helped too: General Motors effectively trimmed the Chrysler increase by 1.5 points more by asking for only a 3 percent increase in its prices.) And the commission is looking for an opportunity to show in a specific case that it may not allow firms to pass on all seriously inflationary wage increases.

Donald Rumsfeld, director of the Cost of Living Council, summoned reporters Friday afternoon to declare that things looked pretty good. Price increases were averaging only 4.3 percent, he said. Mr. Rumsfeld was light on details, but it appears that the figure was weighted to reflect total volume of sales. The figure made the Price Commission unhappy because it had been arguing that the advantages were really less.

The Pay Board, which is split between public, business and labor members who often try to put the best interpretation on vague standards, does have a percentage guideline—5.5 percent. But this covers only "new" contracts signed after the freeze ended. Raises in agreements "existing" before that time can take effect—unless a majority of the board finds them "unreasonably inconsistent."

The freeze was effective but inevitably arbitrary. Phase two, with much sifting and subjective judging, is trying for "equity." How effective it will be remains to be seen.

TRIBUTE TO MRS. J. LYONS MOORE

Mr. JORDAN of North Carolina. Mr. President, toward the end of last summer, Mrs. J. Lyons Moore known affectionately to her countless friends simply as "Marian," retired after more than 16 years' service as the Assistant Chief Clerk of the Committee on Rules and Administration, a title which she held under five chairmen including myself. She has returned to her native Edgewood, R.I., where she will continue her active life midst the surroundings of her youth.

In deference to Marian's becoming modesty, I will limit this tribute to a brief sketch of the positions she has enhanced through a long and dedicated career. The mere listing of them establishes her as an accomplished amanuensis, a trusted confidant of national leaders and indeed—a secretary's secretary.

Although Mrs. Moore is perhaps best remembered in the Senate for her recent years on the staff of the Senate Rules Committee, she earlier performed important responsibilities for the Senate Committee on the Judiciary and the Special Senate Campaign Investigating Committee. Among the distinguished individuals she served as secretary were the WPA Administrator for Rhode Island, several Senators—especially including Theodore Francis Green of Rhode Island, Joseph B. Keenan in his capacity as Chief War Crimes Prosecutor for the United States at the Tokyo War Crimes Trials after World War II, J. Howard McGrath in his capacity as chairman of the Democratic National Committee, and in addition, an Assistant Secretary of State, and three American Ambassadors.

May I state, Mr. President, that Marian Gilmore Moore's caliber of service was uniformly excellent. She richly deserves our appreciation and commendation. I know I speak for all her former associates when I wish for her a long and bright future to enjoy her wealth of memories in which we are privileged to share a part.

INTEGRATION IN THE NORTH

Mr. McCLELLAN. Mr. President, today, at long last, the Department of Health, Education, and Welfare initiated action to bring the Boston school system into compliance with the same integration laws that have long been enforced in the South.

The effort to get the Federal Government to act against segregation in Boston, Mass., began on December 29, 1969. Allen S. Cohen, a teacher in the Solomon Lewenberg Junior High School forwarded a letter to the Civil Rights Division of the Justice Department and the Office of Civil Rights of the Department of Health, Education, and Welfare, requesting an investigation of the "racial imbalance law of the State of Massachusetts and the open enrollment policy of the Boston school system."

Insofar as I have been able to determine, no action was taken on Mr. Cohen's letter until the middle of August 1970. At that time, during the hearings before the Select Committee on Equal Educational Opportunity, I asked Attorney General Mitchell whether the Justice Department had received any complaints with regard to segregation in Boston. I asked this question on the basis of testimony by Neil Sullivan, commissioner of education for the Commonwealth of Massachusetts, which was to the effect that the open enrollment policy of the Boston school board had been used to segregate their schools.

I, of course, protested such action as it appeared to me that the Justice Department and the Department of Health, Education, and Welfare were not acting as vigorously against northern schools as they were against southern schools. The investigation of the Boston school district which resulted in today's action began October 19, 1970.

Therefore, approximately 10 months elapsed between the complaint and initiation of the investigation, and the investigation itself has taken some 13 months to complete. On several occasions over the past year I have written Secretary Richardson inquiring as to the progress of the investigation. I was assured that they were giving top priority to investigation of segregation in Boston.

Today, December 1, Peter Milius of the Washington Post authored an article on the Boston situation. He points out that the State of Massachusetts has already cut off funds to the Boston school system. Mr. President, I ask unanimous consent that the text of Mr. Milius' article appear in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Dec. 1, 1971]

HEW SET TO WARN BOSTON TO DESEGREGATE OR LOSE SCHOOL FUNDS

(By Peter Milius)

The Department of Health, Education and Welfare will charge the city of Boston today with deliberately segregating black and white children in its schools, and tell it to desegregate or forfeit its federal funds.

It will be the first time that HEW has gone that far in so large a Northern city. The department has moved in the past against only four other Northern school districts, and all were smaller.

The Justice Department has moved in the last three years against several Northern districts. But most of the pressure so far—this fall's desegregation orders in San Francisco and Detroit, for example—has come from the courts in suits brought by private civil rights groups.

Massachusetts' state board of education is now withholding about $14 million of the city's state school funds on grounds that Boston has failed to comply with the states racial imbalance law, which, in effect, forbids school boards from operating black-majority schools. The city has asked a state court to make the state board release the money.

The funds were withheld after the Boston School Committee reneged on a plan under which it had promised to take some steps this year, "balance" all its secondary schools next year, and do the same at the elementary level the year after that.

HEW has been investigating Boston for more than a year. The department has been prodded by Southerners in Congress—Sen. John L. McClellan (D-Ark.) for one—who have accused the government of blinking at school segregation in the North while pressing hard against it in the South.

HEW said last January that, by some yardsticks at least, the South's schools had become less segregated than the rest of the country's.

Last year two thirds of Boston's black school children attended schools more than 80 per cent black by enrollment. The school committee has argued that this racial separation is the result entirely of residential patterns, and thus not illegal.

The department's position is that the separation is also in part the result of official school committee actions, and thus a violation of federal law. (The state law, under which the state board is operating separately, requires no such proof of official action; it simply bars majority-black schools, however arrived at.)

J. Stanley Pottinger, director of HEW's Office for Civil Rights, will explain the government's stand in detail at a press conference in Boston today.

The government will say, among other things, that Boston has, in effect, two different grade structures, one mainly white and the other black, and that these different structures tend to keep whites and blacks apart.

The structure for most whites is the traditional one, elementary school through grade six, junior high through grade nine then high school. Most non-whites, on the other hand, either go to primary school through grade eight, then to high schools that start with grade nine; or to primary schools that run through grade five, then middle schools for grades six through eight, then to the same four-year high schools.

Mr. McCLELLAN. Mr. President, today's action was accomplished in the form of a letter from Mr. J. Stanley Pottinger, Director of the Office of Civil Rights, HEW, to Dr. William H. Ohrenberger, superintendent of public schools in Boston. In that letter Mr. Pottinger says:

> We have concluded on the basis of our review to date that the Boston Public School System is currently not in compliance with Title VI of the Civil Rights Act of 1964.

Mr. President, I ask unanimous consent that the letter from Mr. Pottinger to Dr. Ohrenberger be printed in the RECORD at this point.

There being on objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C., November 30, 1971.

Dr. WILLIAM H. OHRENBERGER,
Superintendent of Public Schools,
Boston, Mass.

DEAR DR. OHRENBERGER: The Office for Civil Rights has completed the initial phase of its civil rights compliance review which was begun on October 19, 1970. This letter represents a summary of our findings and conclusions to date.

Under Title VI of the Civil Rights Act of 1964 and the Department's Title VI Regulation (45 CFR Part 80), school systems are responsible for assuring that the services, facilities, activities and programs which they conduct, sponsor, or with which they are affiliated, are free from discrimination on the ground of race, color, and national origin. In 1965 the Boston Public Schools submitted an HEW Form 441 (Assurance of Compliance) to the Office for Civil Rights stating that it would conform to the nondiscrimination requirements of Title VI of the Civil Rights Act of 1964 and the Department's Regulation. On the basis of this assurance, the Boston Public Schools are qualified to receive Federal financial assistance.

During the Spring of 1970, the Office of Civil Rights received a number of complaints alleging that the Boston Public School System was operating its schools in violation of Title VI of the Civil Rights Act. As a result, the Boston Regional Office for Civil Rights initiated a Title VI compliance review. We have concluded on the basis of our review to date that the Boston Public School System is currently not in compliance with Title VI of the Civil Rights Act of 1964.

As a result of official actions taken since 1965, the Boston Public School System has adopted and administered student assignment and grade organization policies in such a manner as to create two separate, racially identifiable school sub-systems—one predominantly white and the other predominantly non-white. The two sub-systems established by these actions are characterized, among other things, by different grade organizations which tend to keep non-white children in predominantly non-white schools at critical steps in the educational process. According to information submitted by you for the 1970–71 school year, more than 71% of the students enrolled in the K–5, 6–8, 9–12, and K–8, 9–12 sub-system were non-white. Conversely, 76% of the students enrolled in the K–6, 7–9, 10–12 sub-system were white.

Specific action by the Boston School Committee to create these separate sub-systems on a racial basis is exemplified by decisions made by the Committee in 1966 and 1967. The Committee implemented a new grade organization policy adopted in 1965 in an uneven manner. Instead of converting to the new grade organization throughout the system, to date it has converted only three schools in the Central Boston area to middle schools (grades 6–8). According to your 1970–71 figures, all three of these schools are predominantly non-white.

As an additional example, the implementation of the new grade organization policy has, in conjunction with the seat preference provisions of the student assignment policies, severely restricted the opportunity of non-white students to transfer to grade 7–9 and 10–12 (predominantly white) secondary schools. In direct contrast, the option of white children to transfer to grade 9–12 (predominantly non-white) secondary schools has remained unimpaired.

Our review to date has also raised concern with regard to the absence of policies and procedures within the Boston Public Schools necessary to assure that enrollment and attendance services for Spanish-surnamed children are as effective as those provided for other children.

I would like to take this opportunity to thank you for the excellent cooperation which you and your staff have extended to us during the course of our review. As you know, our primary responsibility is to work in cooperation with school systems to review problems which may exist and to help achieve voluntary compliance with Title VI of the Civil Rights Act of 1964. With this in mind, I would like to meet with you to provide details on these matters at your earliest convenience.

Sincerely yours,

J. Stanley Pottinger,
Director, Office for Civil Rights.

Mr. McCLELLAN. Mr. President, although I am encouraged by HEW's action today, I do wish to point out that it did take them some 2 years to act on the complaint of Mr. Cohen. Another situation in which I am interested is currently pending at HEW. The Select Committee on Equal Educational Opportunity made a field trip to examine the San Francisco and Berkeley, Calif., schools earlier this year. On May 28, John Mathews of the Washington Star wrote an article concerning the U.S. Office of Education's $12 million experimental schools program. Among the programs funded was one in Berkeley. Mr. Mathews categorized the Berkeley program as "loosening of the current racial apportionment policy," and as affording "experiences largely with students of their own racial or ethnic group." Mr. President, due to the Select Committee's investigation I knew what this last phrase meant. It meant that the Office of Education was funding a Berkeley resegregation program. It meant, Mr. President, that HEW was forcing integration in the South while it funded segregation in Berkeley, Calif. The hearing record of the select committee reflects that Berkeley, Calif., had set up an all black school known as "Black House." In order to be admitted to the Black House School one must be a member of Berkeley High School and one must be black. On June 2, I wrote Secretary Richardson enclosing the Star article and asking for an investigation. I received a reply as follows:

> If the project is being used to segregate or "resegregate" students, it would be in violation of Title VI of the Civil Rights Act and we would act against it.

On August 5, I forwarded the transcript of the select committee's investigation to HEW showing that the project did indeed involve resegregation and asking that they take prompt action before September to avoid disrupting the Berkeley school system. To date, no action has been taken.

Mr. President, I again serve notice that I will oppose all efforts to give special or preferred treatment to schools in any section of the country. If integration is good for the South then it is good for the entire Nation. I have asked for no special treatment. I have only asked that we have a nationwide policy with regard to integration. I urge the Department of Health, Education, and Welfare to push for rapid correction of Boston's segregated system, and I urge the Department not to expend funds to segregate schools in one section of the Nation while they are requiring integration in another. Such a policy can only result in a total loss of credibility to the Department and its Office of Civil Rights.

CHILD FEEDING PROGRAMS

Mr. CASE. Mr. President, this year the Congress has spent much time on an important program—the National School Lunch Act. While the Department of Agriculture has insisted that it fully supports the goals and purposes of the National School Lunch Act, the Congress has had to intervene several times to insure that the regulations governing the program do, in fact, carry out these goals.

Over the past months I have been in frequent touch with the Department of Agriculture in an effort to restore funding of the school lunch program, develop meaningful and enlightened regulations, and to see to it that those children who most need the school lunches offered on a free and reduced price basis, can get these lunches.

I have also written to the Department of Agriculture on behalf of the special food service program, which assists preschool age children who are in day care centers. This is an important program because the earlier children can be helped nutritionally, the better their chance to be healthy throughout their lives.

On November 5, 1971, I wrote to the Secretary of Agriculture in an effort to get the Department to release already available funds for this program in New Jersey. No reply has yet been received to my inquiry.

Another important program is the School Breakfast Act. Several weeks ago I learned that the Department of Agriculture was about to issue regulations that would cut back this program. I was joined by 34 of my colleagues in a letter to the Acting Secretary of Agriculture designed to forestall this cutback.

Mr. President, the national school lunch program now appears to be operating the way Congress and the President intended. There is no doubt that the school breakfast program and the special food services program are of similar importance. It is my hope that both these programs will soon be serving the children in our States who need this assistance. This is an important investment in our children that makes good sense for the Nation. I look forward to a prompt and affirmative reply from the Department of Agriculture regarding both these programs.

Mr. President, I ask unanimous consent that letters of November 5, 1971, and November 18, 1971, be printed in the Record.

There being no objection, the letters were ordered to be printed in the Record, as follows:

November 5, 1971.

Hon. Clifford M. Hardin,
Secretary of Agriculture, Department of Agriculture, Washington, D.C.

Dear Mr. Secretary: I am sure you will agree that good nutrition for pre-school age children is essential to their physiological and psychological well-being throughout their lifetimes. For this reason Congress established the Special Food Services program and has expanded this program to meet the realistic needs of our nation's pre-school age children.

New Jersey has been authorized $286,850 for its year-around Special Food Service program for children in FY '72. Unfortunately, this is considerably less than was needed to operate last year's program. Last year New Jersey was able to feed 7,732 pre-school children a day. This year New Jersey is prepared to double this number. New Jersey officials estimate that an additional $51,500 will be needed just to bring the Special Food Services program up to last year's level. Expanding the Special Food Services program will cost an additional $57,000.

To accomplish its aims, New Jersey officials are not requesting new money. There are funds available.

As you know, New Jersey was approved to receive $1,461,906 for its Special Summer Feeding Program, a part of the year-around

Special Food Services. The Summer Feeding program started late last summer because the Office of Management and Budget would not release the program's funds until Congress requested it to do so. This meant that the New Jersey program began late and could not use all the money promised to the state. Specifically, New Jersey has received only one letter of credit for $779,979. Now it appears that the remainder of the funds will not be allocated, except for meals actually served last summer.

If this policy is followed, New Jersey will lose between $325,000 and $400,000. This money has been allocated directly to New Jersey and should be available for transfer into the Special Food Service account so that it can be used now.

It is critical that New Jersey be permitted to transfer these funds. Given the commitments already made in New Jersey, the state will have to cancel its Special Food Service program by March, 1972, unless there is a change in policy.

I urge you to correct this situation and facilitate the transfer of funds as soon as possible.

Sincerely,

CLIFFORD P. CASE,
U.S. Senator.

ACTING SECRETARY OF AGRICULTURE,
Department of Agriculture,
Washington, D.C.

DEAR MR. SECRETARY: On October 18, 1971 the House of Representatives passed H.J. Resolution 923 which was subsequently adopted by the Senate, without a dissenting voice, on October 20, 1971. The explicit purpose of this Resolution was to insure that the objectives of the National School Lunch Act were met by the United States Department of Agriculture.

Since the passage of H.J. Res. 923, regulations governing the regular school lunch provisions of the National School Lunch Act have been issued. It is now reported that the proposed regulations to govern the School Breakfast program are about to be released for comment.

As you know, Section 3 of H.J. Res. 923 provides that the Secretary of Agriculture "shall immediately upon enactment of this resolution determine and report to Congress the needs for additional funds to carry out the school breakfast and nonfood assistance programs . . . at levels which will permit expansion of the School Breakfast programs to all schools desiring such programs as rapidly as possible." Funding for the expansion of the School Breakfast program is authorized in Section 7 of H.J. Res. 923 which states that the Secretary of Agriculture "is hereby authorized to transfer funds from section 32 of the Act of August 24, 1935, for the purpose of assisting schools which demonstrate a need for additional funds in the School Breakfast program."

The provisions of H.J. Res. 923 are quite straightforward and suggest that a full report by the Secretary of Agriculture on the School Breakfast program should be available for the scrutiny of the Congress prior to the promulgation of new regulations governing the School Breakfast program.

We ask you to report to the Congress as soon as practicable and not to issue any governing regulations, even for comment, until Congress has the opportunity to examine your report.

Clifford P. Case, Howard H. Baker, Jr., Birch Bayh, Edward W. Brooke, Alan Cranston, John Sherman Cooper, Thomas F. Eagleton, Fred R. Harris, Philip A. Hart, Mark O. Hatfield.

Ernest F. Hollings, Hubert H. Humphrey, Henry M. Jackson, Jacob K. Javits, Edward M. Kennedy, Gale W. McGee, George S. McGovern, Charles McC. Mathias, Jr., Walter F. Mondale, Edmund S. Muskie.

Gaylord Nelson, Robert W. Packwood, John O. Pastore, William Proxmire, Jennings Randolph, Hugh Scott, Abraham Ribicoff, Robert T. Stafford, Ted Stevens, Adlai E. Stevenson III, Stuart Symington, Robert Taft, Jr., John V. Tunney, Harrison A. Williams, Jr.

TRAGEDY IN ULSTER—XI—WITHDRAWAL OF BRITISH TROOPS: THE PEOPLE SPEAK

Mr. KENNEDY. Mr. President, one of the principal provisions of Senate Resolution 180, the Senate resolution that Mr. RIBICOFF and I have introduced on the situation in Northern Ireland, is a proposal for the withdrawal of British troops from Ulster and their replacement by alternative methods of law enforcement. Again and again in recent weeks, we have seen the terrible toll of killing and violence increase. The tragedy in Ulster continues undiminished, while those in power pursue the goal of military victory, a goal that is as much a phantom for Britain in Ulster as it was for the United States in Vietnam.

The British people themselves are far ahead of the politicians. A national opinion poll taken at the end of September demonstrates dramatically that the citizens of Britain favor the immediate withdrawal of British troops. By a majority of 59 percent strong, the persons interviewed said they thought that British troops should be brought home now. Only 39 percent thought the troops should stay in Northern Ireland.

The popular majority in favor of troop withdrawal crosses party lines. Members of the Conservative Party favor immediate withdrawal by the margin of 49 to 45 percent. Labor Party members support withdrawal by the overwhelming margin of 67 to 28 percent.

One other point deserves to be made. As the article in the London Daily Mail announcing the result of the poll points out, the current popular majority in favor of troop withdrawal is approximately the same size as the majority in 1969 that favored sending British troops to Ulster as a peacekeeping force. Now, it seems, the British people realize that, whatever the merits of the original decision in 1969, it is no longer valid today. The British military pressure in Ulster is compounding the violence instead of contributing to the peace, and the sooner this fact is accepted, the sooner there can be a lasting peace in Ulster.

Mr. President, I ask unanimous consent that the article from the London Daily Mail of September 23, 1971, describing the results of the national opinion poll, may be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the London Daily Mail, Sept. 24, 1971]

VERDICT ON THE ULSTER CRISIS: BRING HOME THE TROOPS

(By Walter Terry, Political Editor)

The majority of people in Britain want the Army brought home from Northern Ireland now.

A mood politicians have feared for months has already taken strong hold in the country.

The conviction is that it is wrong for British lives to be lost coping with the impossible. And it cuts clean across party lines.

Startling revelations of voters' views on the Ulster crisis emerge from a National Opinion Polls survey completed only last Monday.

Opinion is strongly against direct rule from London. A majority insists that the Northern Ireland Government must be left in charge.

Voters mostly favour the policy of internment for IRA thugs introduced last month. But they recognise that the situation has got much worse since.

The poll's big surprise is the strength of feeling on the use of British troops. This was the question:

Some people think the British troops should be brought back home now. Others think they should stay in Northern Ireland. What is your opinion?

Answer: Brought back home, 59 per cent; stay in Northern Ireland, 35 per cent; don't know, 6 per cent.

The figures, revealed as Parliament's two-day emergency debate on Ulster ended last night, will be a shock for Ministers. With the Opposition front bench, they are committed totally to the necessity of troops in Ulster until violence is quelled.

Tory voters are more inclined to favour the use of troops. But a narrow majority of these—49 per cent, compared with 45 per cent, in favour of the Army staying—wants the troops brought home.

Labour supporters are far more certain—67 per cent, say the men must be brought out now. Only 28 per cent say they should stay.

Almost every answer to pollsters' questions produces a similar reaction: Massive distaste for the Irish problem. Plus a belief that it cannot be solved from this side of St. George's Channel.

As an issue among voters, Northern Ireland, despite its tragedy and ferocity, rates only third equal in importance with the Common Market. In the average household the cost of living and unemployment are rated as more critical.

Question: Do you think the British Government should take over direct control of Northern Ireland's internal affairs or should they leave the Northern Ireland Government in charge of them?

Answer: Should take over, 25 per cent; leave Northern Ireland Government in charge, 64 per cent; Don't know, 11 per cent.

BLAME

When it came to apportioning blame for the crisis, 52 per cent, said it was the IRA's fault. Protestants were given 13 per cent, of the blame; Roman Catholics 18 per cent; the Ulster Government 12 per cent.

It is widely accepted that religion is at the root of the trouble.

One irony in the polls: The majority that now wants the Army brought home is roughly the same size as that which favoured the troops being sent to keep peace in Ulster two years ago.

The survey was carried out between September 14 and 20. A systematic probability sample was used. Interviews were carried out with 1,910 electors in 100 constituencies in Britain.

National Opinion Polls Ltd.

THE APPELLATE COURT DECISION UPHOLDING WIRETAP STATUTE

Mr. McCLELLAN. Mr. President, in 1968 the Senate overwhelmingly approved the use of court authorized and stringently supervised wiretaps and electronic surveillance for certain Federal offenses. By a vote of 68 to 12, this body resoundly defeated a motion to strike title III of the Omnibus Crime Control and Safe Streets Act of 1968 which contains these wiretap provisions.

However, there have been those who have continually challenged the legal foundation and efficacy of this title. I am pleased to inform the Senate that in its first major Federal appellate review, title III has been sustained as constitutional. On October 13, 1971, the U.S. Court of Appeals for the Tenth Circuit in Cox against United States, No. 71–1043, specifically upheld the legal reasoning behind and justification for title III. It sustained the convictions of four bank robbers whose evil plans were disclosed incidental to a court authorized and stringently supervised wiretap for possible narcotics violations.

Mr. President, this decision is a major breakthrough in America's war on crime. It augurs well for the continued implementation of this, our single, most effective crime fighting weapon. I have always been and remain ever convinced that the legitimate and restrictive exercise of this type of surveillance can advance our stepped up efforts to curtail the growing proliferation and menace of crime.

The precise issue before the court in the *Cox* case was the right of the Government to use information concerning a robbery which had been incidentally obtained during the course of a lawfully authorized and executed narcotic's wiretap. The court not only upheld the statutory scheme, which provides for retroactive judicial approval for such incidentally intercepted communications, but it also found that the statute as a whole was consistent with existing legal precedent. Judge Doyle noted that:

> Title III of the Omnibus Crime Control and Safe Streets Act of 1968 represents the first comprehensive federal legislation in the area of wiretapping and electronic surveillance. * * * Its dual purpose is (1) protecting the privacy of wire and oral communication, and (2) delineating on a uniform basis the circumstances and conditions under which the interception of wire and oral communication may be authorized. * * * Congress in passing the Act considered carefully the decision of the Supreme Court in *Berger* . . . *Katz* . . . and *Osborn* and made an intensive effort to comply with the standards which had been enunciated in these cases. Notwithstanding the care taken, the Congress has received extensive criticism of Title III of the Act by various commentators.

He then went on to hold that:

> As we view it, Congress was seeking to deal realistically with highly complex problems in accordance with the demands of the Constitution. We are unable to say that the product fails to satisfy the Constitution. Every effort has been made to comply with the requirements of *Berger* and *Katz* . . . Title III is as precise and discriminate in its approach as are the demands of *Berger* and *Katz*.

Mr. President, this case is an excellent example of the success to be gained through the use of this procedure. A single court supervised wiretap in this case helped to account for 19 convictions—14 for Federal narcotics violations, four for bank robbery and one for an assault on a Federal narcotics agent. I might also point out, Mr. President, that the individual whose line was tapped, attempted to kill two narcotics agents and a Kansas City police officer while they were executing the search and arrest warrants.

Of particular interest in the court's opinion justifying the use of incidentally obtained information, Judge Doyle stated:

> For example, in electronic surveillance of organized criminals involved in gambling, information might be intercepted disclosing a conspiracy to commit murder. Surely the officials must be empowered to use this information notwithstanding the lack of specific prior authorization.

What the appellate record does not reveal is that in this case there was, in fact, information received on the tap which discovered just such a conspiracy to commit murder. And with the assistance and complete cooperation between Federal and city law enforcement officers, an actual attempt to murder one of the suspects was prevented. Having uncovered the murder plot, Federal and State authorities went to work. A helicopter was sent up to cover the intended murder scene, while other police maintained surveillance near the home of the marked victim. At a given signal, the victim's home was surrounded—warning shots were fired and the would-be killers surrendered. Thanks to the use of this combination of court authorized wiretapping, and timely police action, the would-be victim is alive today.

This incident dramatically illustrates the effectiveness of legally sanctioned wiretapping. In saving this one man's life, title III has already proved the immeasurable value such innovative techniques can and are providing our law enforcement authorities.

I am hopeful that this well-written and well-reasoned precedent will be followed by other jurisdictions which may be eventually faced with a similar challenge to title III.

Mr. President, the Committee on the Judiciary took great pains to follow previous Supreme Court guidelines in its considerations of these wiretapping provisions. Every effort was made during its deliberations to provide adequate procedural safeguards to protect rather than encourage any unauthorized or abusive practices. Our goal—which I feel we have achieved—was the protection of society. I have always believed that there are instances when individual freedoms must be subordinated to the greater social good—that the rights of one individual, insidiously bent on depriving others of their freedoms, should not be allowed to transcend the collective security and rights of others. To those few still critical of this measure, I would state that the data now available conclusively demonstrates that its implementation has not been promiscuous or reckless, and that by its prudent use it has become our most efficient and productive tool against the scourge of illicit narcotics traffic and organized crime.

Members will recall, during the hearings on this legislation the charge was made that wiretapping would prove to be ineffective against crime.

Look at the results, Mr. President—19 convictions were obtained—one for each of the days that the tap was in effect, including 14 for Federal narcotics violations, four for bank robbery, one for an assault on a Federal agent—and one would-be murder was prevented.

Here are 19 persuasive arguments as to its efficacy. You can be certain that these 19 convicts are convinced that wiretapping is effective.

I personally welcome the Cox decision and extend my congratulations to the Justice Department—particularly to Mr. David Martin of the Organized Crime and Racketeering Section—for the excellent presentation and handling of this case from its initial investigation through all of the court proceedings. Men of Mr. Martin's caliber need all of the support we can give them. The task they perform in protecting society seldom is recognized or sufficiently appreciated.

Mr. President, I ask unanimous consent to have the Cox opinion printed at the conclusion of my remarks.

There being no objection, the opinion was ordered to be printed in the RECORD, as follows:

[U.S. Court of Appeals, 10th Circuit, September term 1971]

(Eddie David Cox, Plaintiff-Appellant, versus United States of America, Defendant-Appellee, No. 71–1043)

APPEAL FROM THE U.S. DISTRICT COURT FOR THE DISTRICT OF KANSAS

(District Court No. KC–CR–1293)

Craig A. Murdock, Denver, Colorado, for Appellant.

Robert J. Roth, United States Attorney, District of Kansas (James A. Pusateri, Assistant United States Attorney, on the brief) for Appellee.

Before Phillips, Holloway and Doyle, Circuit Judges.

Doyle, Circuit Judge.

The defendant, Eddie David Cox, together with Maurice LaNear, Cleveland Dennis Ford and Michael DeWayne Piggie, was charged on May 28, 1970 (by indictment) with the offense of bank robbery of the Southgate State Bank of Prairie Village, Kansas, on May 8, 1970, contrary to 18 U.S.C. § 2113(a). The indictment as to Cox also invokes the aiding and abetting or accessory statute, 18 U.S.C. § 2 inasmuch as the defendant before us, Eddie David Cox, was, according to the theory of the prosecution, driving the vehicle which was used in the robbery of the bank. The defendants, Cox and LaNear, were tried together and both were convicted. The other defendants entered pleas of guilty. The present appeal is on behalf of Cox alone. Previously LaNear had been tried separately and this trial had resulted in a hung jury. At the second trial the government, in order to join LaNear with Cox, agreed to waive the introduction of LaNear's confession.

Previously Elmo B. Hunter, United States District Judge for the Western District of Missouri, had entered an order authorizing agents of the Bureau of Narcotics and Dangerous Drugs to intercept wire communications to and from a telephone number listed in the name of Leonard E. Richardson at 7015 Monroe, Kansas City, Missouri. The application to Judge Hunter contained a supporting affidavit describing probable cause for authorizing wire investigation of violations of the Federal Narcotics Laws, 21 U.S.C. §§ 173, 174.[1]

The monitoring of these conversations started on May 1, 1970, and was continued from May 5 to and including May 8, 1970, during which latter period of time conversations were overheard and recorded by agents

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Footnotes at end of article.

of the Bureau of Narcotics and Dangerous Drugs, which conversations related to the robbery of the Southgate State Bank. Thus, the conversations intercepted pertained to bank robbery, whereas the authorization was given to gain evidence with respect to narcotics.

In accordance with 18 U.S.C. § 2517(5), application was made to the Attorney General and to Chief Judge Arthur J. Stanley, Jr., United States District Judge for the District of Kansas, for the purpose of obtaining an order authorizing the use and disclosure of the seized conversations relating to the bank robbery. Judge Stanley signed the order and some of the conversations were received in evidence at the trial.[2]

We are not told exactly when the application to Judge Stanley was made, but presumably it was a timely one since no question is raised concerning time on this appeal. Indeed, we are at liberty to presume that all of the proceedings followed were in accordance with the statute since the defendant does not find fault with any of these occurrences. He does, however, contend that § 2517(5) is unconstitutional on its face and that it violates the Fourth Amendment to the Constitution of the United States. It is noteworthy that § 2518 imposes extensive requirements and demands on one making an application for an order authorizing or approving the interception of a wire or oral communication. Section 2518 is comprehensive and at the same time detailed in its authorization to the issuing judge to regulate interception of wire or oral communications.

The evidence on behalf of the prosecution at the trial disclosed that on May 8, 1970, the Southgate State Bank was robbed and that the robbery was carried out by three Negro males. The evidence also established that these men drove a 1961 Buick automobile to a parking lot, that of Black and Veatch Engineering Company which was located a few blocks from the bank. There, according to a police officer following the Buick, this automobile was abandoned. The occupants proceeded east from the car through some shrubs to another parking lot. An employee of Black and Veatch testified that he had seen a 1969 light tan or white Plymouth four-door sedan which had a large dent in the left front fender. This car was driven by a white individual and was parked in the lot of Black and Veatch. Another witness saw three Negro males running across the Black and Veatch parking lot to a parked car which appeared to be a 1969 white Plymouth. According to the witness, the three men stopped at the rear of this car and he overheard garbled conversations, including the words "Here," or "In here." This man retreated into his garage and his next observation was that the automobile was being driven out of the parking lot by a single male occupant.

An FBI agent observed that the defendant Cox owned a white 1969 Plymouth four-door sedan which had a noticeable dent between the left front headlight and wheel well of that car.

Several tape recordings of intercepted telephone conversations were introduced. One such conversation (Exhibit 31) between Michael Piggie and Maurice LaNear involved a discussion of plans for the proposed bank robbery. In this conversation LaNear inquired as to who would be driving and Piggie responded: "Ah, Eddie." LaNear responded "Eddie who?" Piggie replied "You know, the fella, the white fella." In another conversation LaNear informed Piggie that he did not "even trust that white dude and I don't even know him." (Exhibit 26). In a conversation which was recalled on the day of the robbery Michael Piggie asked Eugene Richardson, in whose name the tapped telephone was listed, to "call Eddie for me and tell that, tell him I said it was ready." Richardson proceeded to call Eddie Cox. In this very crucial conversation, crucial because it definitely established that Eddie was Eddie Cox, the defendant herein, since the telephone number called was shown to have been his, appears the following:

"O.K. but, uh, Mike just called and told me to tell you he's ready for you, give you call."

EDDIE: "Who? Mike?"

GENE: "Yeah."

EDDIE: "O.K., then, I'll stop by there tonight."

GENE: "O.K."

In a conversation recorded the evening of the day of the robbery, it developed that Eddie had furnished LaNear with Piggie's telephone number and on the evening following the robbery there was a conversation between Piggie and Cox in which the robbery was discussed as if Cox knew all about it.

Thus, recordings were introduced, which although somewhat vague, served to identify Cox with the robbery both before and after it occurred.

The defendant seeks reversal on several grounds. Primarily, he challenges the use in evidence of certain intercepted telephone conversations. His basis is that 18 U.S.C. § 2517(5) is unconstitutional in that it allows use of intercepted telephone communications where the wire tapping has not been previously authorized by a judge. He maintains that the post audit provision of this section by a judge does not satisfy the requirements of the Fourth Amendment.

Secondary contentions or assignments include:

1. The alleged error of the trial court in refusing to grant a severance from his codefendant, Maurice LaNear, on the basis that statements in conversations between the codefendants which were incriminating as to Cox, but with respect to which he was not a participant, were received.

2. The lack of knowledge on the part of the agents monitoring the recordings which could have allowed them to identify the voices or to match the telephone numbers called.

3. The refusal of the court to omit portions of Exhibit 26 containing, so it is argued, incriminating hearsay statements inculpating the defendant Cox.

4. The statement of the U.S. Attorney suggesting that LaNear's confession implicated others, thus creating an impression that the confession which was not received in evidence implicated the defendant Cox.

5. The alleged insufficiency of the evidence to present a prima facie case as to the defendant Cox.

I

Title III of the Omnibus Crime Control and Safe Streets Act of 1968[3] represents the first comprehensive federal legislation in the area of wiretapping and electronic surveillance. It supersedes section 605 of the Federal Communications Act of 1934.[4] Its dual purpose is "(1) protecting the privacy of wire and oral communications, and (2) delineating on a uniform basis the circumstances and conditions under which the interception of wire and oral communications may be authorized."[5]

Prior to the enactment a Presidential Commission found that organized criminals use wire and oral communications and recommended that such communications were essential to effective detection and prosecution.[6] The report of the President's Commission was an important impetus in the passage by the Congress of the Omnibus Crime Control and Safe Streets Act, including the mentioned Title III which included provisions for law enforcement officers intercepting telephone communications after having obtained judicial authorization. Congress in passing the Act considered carefully the decisions of the Supreme Court in Berger v. New York, 388 U.S. 41 (1967); Katz v. United States, 389 U.S. (1967); and Osborn v. United States, 385 U.S. 323 (1966), and made an intensive effort to comply with the standards which had been enunciated in these cases.[7] Notwithstanding the care taken, the Congress has incurred extensive criticisms of Title III of the Act by various commentators.[8]

Title III imposes an overall ban on the interception and disclosure of wire or oral communications, but it authorizes interception in connection with the investigation of particular serious crimes by either federal law enforcement officers or state officers acting pursuant to state statute. In most instances the officer is required to obtain a court order before the interception begins. Such an order can be issued only after a judge of competent jurisdiction has determined that specific grounds exist which justify the use of the intercepting devices. When the objective is attained the wiretapping must cease, and there is an overall 30 day limitation which may be extended for an additional 30 days should the judge make new findings sufficient to uphold an original authorization. Information obtained as a result of authorized surveillance may be used or disclosed by the officer to the extent appropriate to the proper performance of his duties and while giving testimony under oath or affirmation in any proceeding held under the authority of the United States or any state or political subdivision thereof. Subsection (5) of 18 U.S.C. § 2517 allows interception and use of information relating to offenses other than those specified in the order of authorization, but it must be approved by a judge based on finding that the contents were intercepted in accordance with the law. If the officers have not complied with the strict requirements of the statute, the contents of the communication or evidence which stems from it can be suppressed and the person making the interception is subject both to criminal and civil liability. In sum, Title III sets up a system of strict judicial supervision which imposes tight limitations on the scope of the investigation.

The conversations intercepted in the case at the bar were outside the express limits of the original authorization. These conversations were, however, intercepted in the course of an authorized investigation and thus they fall within the provisions of 18 U.S.C. § 2517 (5). It is this aspect of the statute which counsel for Cox maintains is unconstitutional because of its lack of requirement for specific prior authorization. He argues that this part of the statute is out of harmony with the express terms of the Fourth Amendment and that it is not in compliance with the letter and spirit of Berger v. New York, *supra*.

Involved in *Berger* was a New York statute which authorized any justice of the Supreme Court or judge of county court of New York County to issue ex parte orders for eavesdropping upon oath or affirmation of an officer (district attorney, attorney general or officer above the rank of sergeant) that there existed reasonable ground to believe that evidence of crime would be thus obtained. The statute did not require evidence that a specific crime had been committed nor did it demand a specific showing as to conversations sought nor of exigent circumstances. The Supreme Court held that this broad and sweeping character of the statute rendered it unconstitutional on its face. Writing for the Court Mr. Justice Clark condemned its failure to require presentation and evaluation of the specific circumstances rendering the surveillance or eavesdropping necessary. The two-month surveillance period was considered too long a time, thus allowing a series of intrusions, searches and seizures pursuant to a single showing of probable cause. It was characterized as grant-

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Footnotes at end of article.

ing a "roving commission" or "general warrant" to seize any and all conversations. The basic right violated by unregulated eavesdropping was held to be the individual's right to privacy. Such intrusion was said to have been prohibited long before the adoption of the Fourth Amendment.[9]

In any event we cannot forgive the requirements of the Fourth Amendment in the name of law enforcement. This is no formality that we require today but a fundamental rule that has long been recognized as basic to the privacy of every home in America. While "[t]he requirements of the Fourth Amendment are not inflexible, or obtusely unyielding to the legitimate needs of law enforcement," Lopez v. United States, supra, at 464, 83 S.Ct. at 1404 (dissenting opinion of Brennan, J.), it is not asking too much that officers be required to comply with the basic command of the Fourth Amendment before the innermost secrets of one's home or office are invaded. Few threats to liberty exist which are greater than that posed by the use of eavesdropping devices. Some may claim that without the use of such devices crime detection in certain areas may suffer some delays since eavesdropping is quicker, easier, and more certain. However, techniques and practices may well be developed that will operate just as speedily and certainly and—what is more important—without attending illegality. 388 U.S. at 62–63.

The Court laid down the essential requirements in any statute or rule authorizing eavesdropping. Congress sought to include these standards in drafting Title III.

In Katz v. United States, *supra*, decided a few months following the *Berger* decision, an FBI agent attached an electronic listening device to the outside of a telephone booth and intercepted wagering information. The central issue was whether a telephone booth was entitled to Fourth Amendment protection. The Court made it clear that it was; that the conversation was entitled to constitutional protection rather than the particular place from which it emanated. Olmstead v. United States, 277 U.S. 438, 475–76 (1928), and Goldman v. United States, 316 U.S. 129 (1942), which has stressed trespass in the physical sense as the essential invasion were overruled. Finally, it was held that the failure to obtain any prior authorization rendered the interception invalid; that a phone booth exception was not justified.

Osborn v. United States, *supra*, which was considered and commented on at length by the Court in *Berger*, and which was regarded as a model in Fourth Amendment compliance, had to do with authorization in respect to a specific individual and to a particular offense. A background case in *Osborn* was a publicized one (Hoffa) and it was the extreme care that was taken in the granting of authority and the limiting and circumscribing of the investigation itself which led the Court to uphold the recording and use of the conversation.

The effect then of these recent rulings of the Supreme Court has been to limit and restrict the scope of wiretapping or eavesdropping by requiring that it be carried out under the strictest judicial supervision. Specific prior authorization seems to be prescribed, although the Court has not passed on the issue that we have here involving as it does subsequent judicial scrutiny of unanticipated material obtained incident to a warrant describing other subject matter. Whether the Court will regard this as a compliance with the Fourth Amendment as construed in *Berger*, *Katz* and *Osborn* remains uncertain.

The government's further argument is that § 2517(5) can be upheld based on the "plain view" analogy applicable to the seizing of tangible evidence and instruments of crime. This is, of course, an exception to the requirement that an object seized must be particularly described in the application for a warrant. Inasmuch as warrants for interception of electronic information generally follow the principles applicable to search warrants, it is said that just as evidence not described but which is discovered by the officers in the course of a valid search is under certain circumstances admissible, so also intercepted conversations should be similarly treated.[10]

One difficulty in this is that the law on this plain view subject is not fully developed and also remains unclear. For example, in Marron v. United States, 275 U.S. 192 (1927),[11] it was held that a search warrant must be executed strictly in accordance with its terms, leaving nothing to the discretion of the officer. It is argued that Harris v. United States, 331 U.S. 145, 155 (1945), modifies the *Marron* doctrine and that lower federal courts have considered *Harris* fully applicable to search warrant cases even though it had to do with seizure incident to arrest.[12]

Discussion in Coolidge v. New Hampshire recently decided, No. 323, June 21, 1971, 39 Law Week 4795, 4802 succeeds in clarifying the "plain view" doctrine. But the analogy is imperfect because the search for property is a different and less traumatic invasion than is the quest for private conversations.

The reason than for the seriousness of the problem here arises not from the fact that the particular conversations were not specifically described and given specific prior authorization, but rather from the unmanageability generally of electronic surveillance. The area is peculiarly sensitive due to its effort to probe the thoughts of the man who is the object of the search.[13] Once the listening commences it becomes impossible to turn it off when a subject other than one which is authorized is overheard. It would be the height of unreasonableness to distinguish between information specifically authorized and that which is unanticipated and which develops in the course of an authorized search such as that involved here. It would be irrational to hold that officers authorized to listen to conversations about drug traffic, upon learning that a bank robbery is to occur, must at once close down the project and not use the information to prevent the robbery since the information is tainted. It would be demoralizing to allow the bank to be robbed while the investigators stood by helpless to prevent the occurrence. Harder cases can be imagined. For example, in electronic surveillance of organized criminals involved in gambling, information might be intercepted disclosing a conspiracy to commit murder. Surely the officials must be empowered to use this information notwithstanding the lack of specific prior authorization.

As we view it, Congress was seeking to deal realistically with highly complex problems in accordance with the demands of the Constitution. We are unable to say that the product fails to satisfy the Constitution. Every effort has been made to comply with the requirements of *Berger* and *Katz*. Section 2518(4) of Title III is as precise and discriminate in its approcah as are the demands of *Berger* and *Katz*. It requires (see Note 1, *supra*) that each order identify the person whose communications are being intercepted, describe the nature and location of the communications facilities or the place where authority is granted, particularly described the type of communication sought to be intercepted and a statement of the particular offense to which it relates, identity of the agency authorizing the application, and finally the period of time during which the interception is authorized, including a statement as to whether the interception shall automatically terminate when the communication has been first obtained. Thus, the statute calls for the most careful scrutiny of the application and for specific findings and restrictions by the judge to whom the application is presented.

We must presume that an authorization order drafted in accordance with this section will impose strict limitations on the officer who is to execute the authorization. We cannot presume that it will grant a roving commission or general warrant to seize any and all conversations coming into the area covered by the device. A judge will surely scrutinize any application and will scrupulously impose the restrictions required by the statute and by the decisions.[14]

In summary then, we uphold the statute on the basis that it demands an original authorization in accordance with the mandate of Berger v. New York, *supra*, and we do so upon the basis that the nature and probable consequence of authorized wiretapping is discovery of unanticipated and undescribed communications. The very nature of this form of invasion is conducive to producing unexpected information. If wiretapping is to be validated, and *Berger*, *Osborn* and *Katz* recognize its validity, then the interception and use of information which is so related to the original search is not to be excluded. In other words, Congress has dealt with the problem about as well as could have been expected considering the nature and character of the subject matter and its consequential incidents. The defendant's contention is rejected.

II.—THE SEVERANCE QUESTION ARISING FROM EVIDENCE OF THE INTERCEPTED CONVERSATION

Defendant contends that he was entitled to have a separate trial from that of his codefendant, Maurice LaNear, because of the reception into evidence of intercepted statements made to LaNear by Michael Piggie which related to him. He relies on Bruton v. United States, 391 U.S. 123 (1968). Defendant's argument is that since Michael Piggie refused to testify when he was called to the stand, he (Cox) was deprived of his right to cross-examine Piggie in violation of his Sixth Amendment right to confront the witnesses against him. We must disagree. The telephone conversations (which have been described above) occurred prior to the bank robbery, and once a conspiracy was established were admissible as a well recognized exception to the hearsay rule.[15]

Contrary to the contention of the defendant, there was substantial independent evidence to establish a conspiracy. We have in mind:

1. The interception of the telephone call to the defendant Cox's telephone number which the agents were able to positively establish from counting the clicks in connection with the dialing.
2. Evidence of the use of an automobile in the robbery which exactly answers the description of the vehicle which was owned by the defendant.
3. There was independent evidence that a white man was driving in accordance with the conversations.
4. The admissions of defendant which came through on Exhibit 33.

An additional objection goes to the court's receiving Exhibit 32, a tape recording of a conversation between LaNear and Piggie just prior to the conversation mentioned in Exhibit 33 between Piggie and the defendant which is discussed immediately above. In the course of this there were statements made by each of the participants inculpatory as to them, and there was a reference to the defendant to the effect that he had furnished LaNear with Piggie's telephone number. This conversation occurred at 7:45 p.m. on the night following the robbery and, therefore, so it is argued, the active conspiracy was terminated. Nevertheless, it was so closely related to the activities of the day and to the fruits of the crime as to be regarded as part of the incident itself or the res gestae. A similar problem was considered by this court in

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Footnotes at end of article.

Mares v. United States, 383 F.2d 805 (10th Cir. 1967), *cert. denied,* 394 U.S. 963. We there held that the condition presented was to be distinguished from that which obtained in Krulewitch v. United States, 336 U.S. 440 (1949).

Here also the conversation between LaNear and Piggie occurred very soon after the robbery and immediately after the conversation between defendant and Piggie. Both conversations were intimately related to the offense and are to be regarded as inseparable parts of the robbery transaction.

Thus, the receiving of the conversation between LaNear and Piggie established prima facie a conspiracy in which Cox was a participant. The government was not guilty of boot strapping.

Evidence which is admissible under the conspiracy exception to the hearsay rule does not violate the right to confront and cross-examine guaranteed by the Sixth Amendment.[16] The Bruton doctrine does not rule situations like the present one in which the evidence is admissible under a well recognized exception to the hearsay rule. In Bruton v. United States, 319 U.S. 123, 128 n.3 (1968), it was said:

> We emphasize that the hearsay statement inculpating petitioner was clearly inadmissible against him under traditional rules of evidence * * *. There is not before us, therefore, any recognized exception to the hearsay rule insofar as petitioner is concerned and we intimate no view whatever that such exceptions necessarily raise question under the Confrontation Clause.[17]

Based on the distinction between inadmissible hearsay and that which falls within a well recognized exception, we hold that the defendant's confrontation right was not violated by the receiving of the conversations complained of.

Defendant further argues that the conversation between LaNear and defendant which occurred the day following the robbery was inadmissible because the conspiracy had then terminated. The crucial factor here, however, is that the conversation was with the defendant and it was admissible as a noncustodial admission made so soon after the criminal transaction as to be regarded as a part of it. Thus, the conspiracy exception is not here involved. This is merely a conversation between the defendant and a codefendant from which incriminatory inferential admissions arise. The argument of the government that LaNear took the stand and testified in his own behalf and was thus subject to cross-examination whereby the prejudice, if any, was cured need not be considered.

III.—SUFFICIENCY OF KNOWLEDGE OF THE MONITORING OFFICERS TO IDENTIFY VOICES AND TO MATCH THE TELEPHONE NUMBERS CALLED

Defendant maintains that certain voice identification testimony of the monitoring agents was improperly received into evidence because, so he claims, the agents did not have the requisite knowledge to identify the voices.[18]

Defendant first contends that with respect to the tape recording labeled (Plaintiff's) Exhibit 23, "[t]he witness Hanson stated that he recognized the voice as 'Maurice' because he had heard it before * * *." However, an examination of the record on this point reveals that witness Hanson never did identify a voice on Exhibit 23 as belonging to Maurice. As counsel for defendant Cox stated in objecting to the admission of Exhibit 23:

> Mr. Hanson has admitted quite candidly that there is no way in the world that he can identify the voice which is labeled Maurice. He didn't identify the voice at all. All it is is simply some man on that phone said "This is Maurice" or someone else said, "Is this Maurice?"

Exhibit 23 was properly admitted into evidence over this objection based on the circumstantial evidence that the voice alleged to belong to Maurice LaNear identified itself as "Maurice" and the telephone number called belonged to the residence of Maurice LaNear. Palos v. United States, 416 F.2d 438 (5th Cir.) *cert. denied,* 397 U.S. 980 (1969); Grogan v. United States, 394 F.2d 287 (5th Cir.) *cert. denied,* 393 U.S. 830 (1967); United States v. Stein, 327 F.2d 657 (2d Cir. 1964).

Defendant also objects to voice identification with respect to Exhibit 31 because the identification was based on subsequently acquired familiarity with the voice of Maurice LaNear, which familiarity was gained from listening to subsequently intercepted conversations in which Maurice LaNear was alleged to have participated. It is said that witness Kreidel did not have first hand knowledge of the voice of Maurice LaNear.

It is clear, however, that the requirement that a witness have some basis for comparing a voice with that of a particular person is generally satisfied if the witness acquires his knowledge of the persons' voice after the event testified to by the witness. *See* United States v. Moia, 251 F.2d 255, 257 (2d Cir. 1958); 29 Am.Jur.2d § 368, p. 417.

We are of the opinion also that the witness' knowledge of Maurice LaNear's voice would be sufficient for a voice identification, if the tapes from which the witness gained his knowledge were otherwise sufficiently supported by evidence establishing that Maurice LaNear participated in those *other* conversations. Viewing the record as a whole, it appears that there was sufficient circumstantial evidence to establish Maurice LaNear's identity in the other recorded conversations. See, for example, the discussion with respect to Exhibit 23, *supra.*

For these reasons we hold that the witnesses did not have requisite knowledge to identify Maurice LaNear's voice on Exhibits 23 and 31.

IV.—THE STATEMENT OF GOVERNMENT COUNCIL SUGGESTING THAT LA NEAR'S CONFESSION IMPLICATED OTHERS

In order to obtain joinder of defendants Cox and LaNear, the government agreed not to introduce LaNear's confession into evidence at the joint trial and all reference thereto was avoided during the trial—with one possible exception. On cross-examination of the F.B.I. agent who had arrested LaNear, where direct examination had brought out the fact that LaNear had made a statement but had not touched upon the contents of the statement, counsel for the United States stated the following:

> Q. Then do most people who you take confessions from implicating someone else, are they nervous?

(Tr. 664). Objection to this was promptly sustained. Defendant contends that this statement, being unrelated to the previous direct examination of the witness, was highly prejudicial inasmuch as it suggested to the jury that LaNear had made a confession implicating Cox.

This contention is without merit. LaNear had taken the stand and had testified as to the role that each of the four initial defendants had played in the robbery (Piggie, Ford, Cox and LaNear). LaNear also testified that he had made a statement to the arresting officer containing the same substances as his in-court testimony. Under these circumstances, the challenged statement of counsel did not constitute ground for declaring a mistrial.

V.—SUFFICIENCY OF THE EVIDENCE

The case was largely based upon circumstantial evidence. However, in view of our summary of the testimony and comments on it appearing above, we deem it unnecessary to consider further the question of legal sufficiency. We perceive no error in the denial by the court of the motion for judgment of acquittal.

The judgment is affirmed.

FOOTNOTES

[1] Copies of the authorizing order or the supporting affidavits and other documents do not appear as part of the record in this case. 18 U.S.C. § 2518(4) provides:

> (4) Each order authorizing or approving the interception of any wire or oral communication shall specify—
>
> (a) the identity of the person, if known, whose communications are to be intercepted;
>
> (b) the nature and location of the communications facilities as to which, or the place where, authority to intercept is granted;
>
> (c) particular description of the type of communication sought to be intercepted, and a statement of the particular offense to which it relates;
>
> (d) the identity of the agency authorized to intercept the communications, and the person authorizing the application; and
>
> (e) the period of time during which such interception is authorized, including a statement as to whether or not the interception shall automatically terminate when the described communication has been first obtained.

[2] Section 2517(5) is the statute pursuant to which the order was signed. It provides as follows:

> (5) When an investigative or law enforcement officer, while engaged in intercepting wire or oral communications in the manner authorized herein, intercepts wire or oral communications relating to offenses other than those specified in the order of authorization or approval, the contents thereof, and evidence derived therefrom, may be disclosed or used as provided in subsections (1) and (2) of this section. Such contents and any evidence derived therefrom may be used under subsection (3) of this section when authorized or approved by a judge of competent jurisdiction where such judge finds on subsequent application that the contents were otherwise intercepted in accordance with the provisions of this chapter. Such application shall be made as soon as practicable.

[3] 18 U.S.C. §§ 2510–20.

[4] 48 Stat. 1103 (1934), *as amended,* 47 U.S.C. § 605. For discussions of the cases decided under section 605 and the Fourth Amendment, see Note, *Wiretapping and Electronic Surveillance—Title III of the Crime Control Act of 1968,* 23 Rutgers L. Rev. 319 n.3 (1969); S. Rep. No. 1097, 90th Cong., 2d Sess., 1968 U.S. Code Cong. & Ad. News 2112, 2153 (1968).

[5] S. Rep. No. 1097, 90th Cong., 2d Sess., 1968 U.S. Code Cong. & Ad. News 2112, 2153 (1968).

[6] President's Commission on Law Enforcement and Administration of Justice, 1967. At about the same time the Supreme Court decided Berger v. New York, 388 U.S. 41 (1967) and Katz v. United States, 389 U.S. 347 (1967).

[7] See Senate Report 1097, 90th Cong., 2 U.S. Code Cong. & Ad. News 2153. Referring to the *Berger* case the Committee report declared at pages 2161, 2162:

> During the course of the majority opinion the Court delineated the following constitutional standards the New York statute failed to meet:
>
> (1) Particularity in describing the place to be searched and the person or thing to be seized.
>
> (2) Particularity in describing the crime that has been, is being, or is about to be committed.
>
> (3) Particularity in describing the type of conversation sought.
>
> (4) Limitations on the officer executing the eavesdrop order which would (a) prevent his searching unauthorized areas, and (b) prevent further searching once the property sought is found.

(5) Probable cause in seeking to renew the eavesdrop order.

(6) Dispatch in executing the eavesdrop order.

(7) Requirement that the executing officer make a return on the eavesdrop order showing what was seized.

(8) A showing of exigent circumstances in order to overcome the defect of not giving prior notice.

[8] Linzer, *Federal Procedure for Court Ordered Electronic Surveillance: Does it Meet the Standards of Berger and Katz?* 60 J. Crim. L.C. & P.S. 203 (1969); Spritzer, *Electronic Surveillance by Leave of the Magistrate: The Case in Opposition*, 118 U. Pa. L. Rev. 169 (1969); Schwartz, *The Legitimation of Electronic Eavesdropping: The Politics of "Law and Order,"* 67 Mich. L. Rev. 455 (1969); Note, *Wiretapping and Electronic Surveillance—Title III of the Crime Control Act of 1968*, 23 Rutgers L. Rev. 319 (1969); Note, 3 Valparaiso U.L. Rev. 89 (1968) (specifically suggesting that § 2517(5) of Title III may be unconstitutional).

[9] See the famous case of Entick v. Carrington, 19 How. St. Tr. 1029, 1066 (1765). Blackstone's Commentaries Defining Eavesdropping. See, also, Boyd v. United States, 116 U.S. 616, 626, 627 (1886).

[10] Two Judges of the United States District Court for the Southern District of Florida have held that the plain view doctrine applies to electronic searches under Title III and hence that § 2517(5) thereof is constitutionally valid. United States v. Sklaroff, 323 F. Supp. 296, 307 (S.D. Fla. 1971) (Cabot J.); United States v. Escandar, 319 F. Supp 295, 300–01 (S.D. Fla. 1970) (Mehrtens, J.). In the Sklaroff case, Judge Cabot wrote:

> It is settled law in search and seizure cases that certain items not named in the search warrant may be seized if discovered in the course of a lawful search. (Citations omitted.) By analogy, the same rule should apply to conversations, which are "seizures" under the *Katz* case. 18 U.S.C. § 2517 provides that, when approved by a judge of competent jurisdiction, intercepted conversations relating to other crimes may be used as evidence or divulged, provided the original interception itself was authorized by a lawful court order. This is only a restatement of existing case law, adapted to fit the electronic surveillance situation.

[11] Which has never been overruled.

[12] See Aron v. United States, 382 F.2d 965 (8th Cir. 1967), and United States v. Eisner, 297 F.2d 595 (6th Cir. 1962), wherein the *Harris* doctrine has been applied to searches pursuant to warrant.

[13] In an ancient Year Book case, Chief Justice Bryan said: "The thought of man shall not be tried," "for the devil himself knoweth not the thought of man." Y. B. 7 Edw. IV, f. 2, pl. 2.

Congress was aware of the sensitiveness of the area of search. It said:

> The tremendous scientific and technological developments that have taken place in the last century have made possible today the widespread use and abuse of electronic surveillance techniques. As a result of these developments, privacy of communication is seriously jeopardized by these techniques of surveillance. Commercial and employer-labor espionage is becoming widespread. It is becoming increasingly difficult to conduct business meetings in private. Trade secrets are betrayed. Labor and management plans are revealed. No longer is it possible, in short, for each man to retreat into his home and be left alone. Every spoken word relating to each man's personal, marital, religious, political, or commercial concerns can be intercepted by an unseen auditor and turned against the speaker to the auditor's advantage. S. Rep. No. 1097, 90th Cong., 2d Sess., 1968 U.S. Code Cong. & Ad. News 2112, 2154 (1968).

[14] In tailoring an authorization the judge might well require, for example, early and frequent reports in writing by the officer as to the nature and character of the interceptions, whereby further specific orders could be imposed.

[15] *Cf.* Krulewitch v. United States, 336 U.S. 440, 443–55 (1949) and Wong Sun v. United States, 371 U.S. 471, 490 (1963). *See also* the extensive Note, *Developments in the Law of Conspiracy*, 72 Harv. L. Rev. 920, 983–986 (1959).

[16] Campbell v. United States, 415 F.2d 356 (6th Cir. 1969); Howell v. United States, 300 F. Supp. 1017 (N.D. Ill. 1969). *Compare* Evans v. Dutton, 400 F.2d 826 (5th Cir. 1968).

[17] *See also* Mathews v. United States, 217 F.2d 409, 418 (5th Cir. 1954).

[18] Defendant-appellant explicitly does not argue that the prosecution failed to make out a prima facie case on the question of identity sufficient for submission of the question to the jury.

THE FOREIGN SERVICE AND MURRAY SMITH III

Mr. CASE. Mr. President, there appeared in the September and November editions of the Washingtonian two articles about the case of Foreign Service Officer Murray C. Smith III. The author of the articles was Tom Dowling, a former Foreign Service officer.

Some serious questions about personnel practices within the State Department were raised by Mr. Dowling. I, therefore, felt it would be only fair for State to have an opportunity to rebut Mr. Dowling's articles. On November 9, I wrote to Secretary Rogers asking for his comments. His Department sent me a long reply on November 24.

Murray Smith's name can now be added to the long list of controversial personnel cases within the State Department. The outcry resulting from some of these cases was one factor which led to a thorough internal reexamination of State's personnel practices, and unquestionably progress has been made. However, I still believe that legislation is necessary to establish a formal grievance procedure in the State Department. That is why I am a cosponsor of the Bayh, Cooper, Humphrey, Scott bill which would establish such a grievance mechanism, and which I hope will soon be passed.

Mr. President, I ask unanimous consent that there be included in the RECORD my letter to the Secretary of State, the September and November articles from the Washingtonian, the State Department's reply to my letter, Deputy Under Secretary Macomber's letter to the Washingtonian, and a Department of State notice of November 11, 1971.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NOVEMBER 9, 1971.

Hon. WILLIAM P. ROGERS,
Secretary of State,
Washington, D.C.

DEAR MR. SECRETARY: In the September and November editions of the Washingtonian appear articles on the case of Murray C. Smith III, presently a Foreign Service Officer.

As you know, I am deeply interested in the matter of grievances in the Foreign Service. I should be happy, therefore, if the Department has any comments it would like to make on these two articles When I receive them, it is my intention to ask that both the articles and the Department's responses be printed in the Congressional Record.

Very truly yours,
CLIFFORD P. CASE,
U.S. Senator.

[From the Washingtonian, September 1971]

THE PERSECUTION AND SELECTION OUT OF MURRAY SMITH III AS PERFORMED BY THE PERSONNEL SYSTEM OF THE FOREIGN SERVICE

(By Tom Dowling)

The memories still come back with regularity, those hot flashes in the soul that speak of seven years of my youth spent in the Foreign Service.

I arrived in Washington to be sworn in on a balmy fall day in 1961, full of hope, goodwill, even a large streak of self-importance. It was my first job and I came in a pair of black pointed shoes, a brown glen-plaid suit, and a somewhat daring block-print tie—all selected by a salesman at Lafayette, Indiana's leading men's store, with a view to quietly suggesting my new image as a diplomatic personage.

Up on the eleventh floor of the USIA building, I met my classmates for the first time. One said he had discovered that Foreign Service Officers of our grade merited the same military courtesy afforded lieutenants (jg) in the Navy. I forget now how many guns were to be assembled for the salute should our duties entail an official call on a naval vessel. At the time the impending honor from the fleet seemed a flattering, possibly even appropriate prospect. Clearly, the Foreign Service was no ordinary enterprise and such tributes could be gladly borne.

In due course, Edward R. Murrow walked toward the front of the room, drawing at his cigarette as if facing some ghastly ordeal. He delivered the usual valedictorian thoughts about the challenge ahead, all couched in the cadenced bombast of a high Kennedy Administration official. Such efforts were, of course, small beer for Murrow, who could hardly be expected to compose a fresh set of cliches for the occasion. We were, he said, a diverse group—men, women, blacks, whites, from different regions and backgrounds. More than that, he went on, struggling to break out of a line of thought that even he seemed to find oppressive, our education and work experiences were so rich with variety. Here he seemed to sigh, as if sensing that fresh material, a personal note was at hand. We harbored in our number, he said, a Ph.D. candidate, a film director, newspapermen, even a boilermaker. He produced the word as if it were a deeply held puff of smoke. It later turned out that the boilermaker was a Dartmouth graduate who had worked one summer as an apprentice in a boilermaker factory.

At the time I honored Murrow for his stand against Senator Joseph McCarthy and felt that even the elliptical pronouncements that characterized his waning days as a broadcaster were nonetheless, suffused with passion and concern. Now in front of this roomful of foreign service beginners, he seemed a man going through the motions, bored, dispirited, even hollow. I felt my first doubt about the Foreign Service, but, on the other hand, there were twenty-one-gun salutes to experience, the romance of travel, the glamor of hobnobbing with foreign dignitaries, even, God help me, a belief in the perfectability of American purpose under the Kennedys.

Murrow slouched out of the room, lighting up for his next ordeal, and we were whisked off to another building, where for several hours a man with a plastic frown and a nasal voice explained how to operate a special combination lock we would one day use in the field to secure "classified material." It was stressed that failure to keep this material "secure" could result in a reprimand placed in our personnel dossier, could even be cause for "selection out"—a euphemism for being fired and a phrase that was to be repeated almost endlessly throughout my nine-month training period in Washington. Later our group was hauled off to the State Department for a full-dress lecture on security given by a whole team of locksmiths, bugging experts, and the like. Enemy microphones apparently were everywhere, Czech and Polish sexpots offered their favors at the drop of a hat on the off chance of striking up a conversation on NATO troop movements in moments of post-coital tenderness. One man described with great relish a large plastic box he was assigned to cart to Moscow during the projected Eisenhower visit that was scotched after the U-2 affair. The idea of this contraption was that Ike, his advisors, and the embassy staff would retreat into the plastic box at the end of the day to shoot the breeze in total security. Even the devilish Russians would have trouble bugging a transparent box, the man explained. As we left the room a pink-faced official took us aside and confided that the Soviet embassy in Washington would gladly pay any of us $100,000 for an account of this super-sensitive briefing.

With deliberation and candor the whole Foreign Service ethos was laid out. The trainees were told exactly what was expected of them, what life overseas entailed, how the Foreign Service bureaucracy rewarded and punished its "officers." Only a simpleton could have claimed to have been sold a false bill of goods. Every demeaning and emasculating aspect of the system was explained in detail, boasted about, and illustrated with a host of cheerful masochistic anecdotes.

The Foreign Service was a twenty-four-hour-a-day job. Family life was important but its more excessive demands would clearly have to be curtailed. A dutiful wife could make an officer's career, a homebody could break it. The boat was never to be rocked; safety and wisdom dictated that the officer and his wife be obedient to the whims of superiors, blandly polite to foreigners, available for every social occasion where "contacts" were forged.

A regular feature of Washington training was exposure to a pair of training officers named Vetter and Conroy who played the role of querulous foreigners. The hapless trainee was called to the front of the classroom and told to assume the part of a Foreign Service Officer, while Vetter or Conroy played the role of a snarling student in Calcutta or an obnoxious journalist in Stockholm. The trainee was supposed to provide deft and decorous rejoinders to the barrage of abusive questions that seemed to spring so naturally to the lips of Conroy and Vetter. The lesson was indelible: Never give offense, learn to live with humiliation. You weren't really surrendering any essential part of your nature, because anointment as a Foreign Service Officer meant you were an elitist, *la creme de la creme*, a person superior to the foreigners you would be dealing with.

To a shameful degree I really wanted to believe it, I suppose. How else to explain a seven year career that provided regular glimpses of the pomposity and brutality burbling beneath the crust of bland politeness? Like the night, early on in training, when my wife came back from an evening briefing on the role of the Foreign Service wife conducted by a middle-aged USIA officer named Naomi Huber, whose sumptuous apartment was tastefully decorated with the art and bric-a-brac that proclaim a well-traveled diplomat. Support your husband, Miss Huber told the girls, his survival depends on a bright and gregarious helpmate. "Never let him go out alone," she said by way of an easily retainable maxim. "The family life comes first, but. . . ." She went on to explain that children with temperatures "below 101" were insufficient excuse for bowing out of a social obligation, however unimportant. She told of a newlywed who had given an official dinner party at some post, and when the meal of roast chicken from the commissary was unveiled at the dining room table it was discovered the girl had neglected to remove the liver, heart, and gizzard from the paper wrapper inside the chicken. Of course, Miss Huber told the girls, the woman was very charming in apologizing for her oversight to the guests. "But," she added, holding up an admonishing finger, "just one mistake, one mistake is all you are allowed."

It turned out that Miss Huber was a most truthful person.

Perhaps I was too close then to perceive the obvious pattern of carrot and stick that shapes the Foreign Service ethos. It was the old police ruse of a friendly interrogator and a nasty one. On the one hand, we were regularly told we were an elite corps of superior people. As Deputy Undersecretary of State for Administration William Macomber told me recently, "Eight thousand people take our exam and only a hundred are finally accepted." Yes, we were an intellectual elite, a personable lot to boot since we had all passed an oral exam. More than that we were psychologically stable since in those days we were also obliged to undergo a barrage of psychological tests and psychiatric interviews. We would be dealing with the war and peace issues of foreign policy. All matter of profound information stamped "Top Secret" was ours to peruse. Naturally, what we were doing was significant; why bagmen from the Russian Embassy lurked on streetcorners to exchange $100,000 in unmarked bills for the chance to debrief us.

Yet, because the Foreign Service was so highly competitive, it had to be understood that middling men were to be ruthlessly weeded out. The purity of the corps could not be tainted by men or women who worked at a merely adequate level. We were a corps of elitists perpetually menaced by the threat of "selection out." Arrogance and fear lived in the same body. And as the years elapsed another paradox surfaced. We were forcefully reminded that brilliant as we were we had no salable skills in the U.S. job market. Oh, we could speak Thai and Hausa, we had first-hand exposure to the sexual mores of Lao villagers, we had studied the economic penetration of the Communist bloc in Azerbaijan. These were weighty and highly professional qualifications, but . . .

"Selection out" was not only an emotional disgrace, but a gripping economic fear as well. "What else can I do for a living?" "Who would want to hire me?" The longer I was in the Foreign Service, the more fearsome those questions became, the more frequently they were posed by colleagues. And the longer you were in, the longer the shadow of "selection out."

The Foreign Service selected you out for cause and it selected you out for incompetence based on two successive years in which your efficiency was judged to be in the bottom 5 percent of your class. The State Department also had a clause that permitted officers to be "selected out" for remaining too long in grade, even if their work was average or above average. Though the clause had been in force for a number of years, it was not effectively enforced until the mid 1960's when budgetary restrictions and balance of payments problems forced a deep and continuing retrenchment of American Foreign Service personnel abroad. Selection out of officers in their forties, men often a year or two short of pension eligibility, suddenly became a factor to contend with. It was like a silicone injection of fear in a body that was already swollen with doubts.

William Crockett, who was the State Department's chief administrative figure during the mid-1960's, was fond of boasting that a selected-out Foreign Service Officer was a prime candidate for a key position in the private sector. The competition in the Foreign Service was so intense, he argued, that only men of unwavering brilliance could survive. Though Crockett himself ultimately wangled a lofty position with IBM, the reality at lower levels argued that captain of industry were not clamorously queueing up to hire Foreign Service rejects.

The reasons ran deeper than the obvious fact that the Foreign Service experience had relatively little application to other professions. For the Foreign Service lifestyle was so confining that only a few could endure it without crippling scars. On the most immediate personal level an officer had no control over his destiny. The Foreign Service dictated where he would serve, who his friends would be, what subjects he could talk about, how much time he could spend with his wife and children. A 101-degree fever in the family was a permissible loophole, but not one to be used lightly. Over the years, the Foreign Service Officer finds himself ceding his personal life, his morality, his relationship with his wife and children to his job. Such are the wages of the fear of not being promoted. Seemingly harmless asides in an efficiency report that "the officer's wife seems to center her interest in the family" or "the officer has a tendency to regard his off-duty personal life as his own" are code phrases used to identify misfits to the promotion panel. This body, summoned annually like a council of state in Bourbon France, operates in an atmosphere of almost mystical isolation, dispensing its rewards in a manner that is beyond challenge or redress. In effect, it merely formalizes the decision already marked out by the rating system.

The mystique surrounding the Foreign Service promotion list seems to me to have an even deeper function. Foreign Service promotions are notoriously stingy when contrasted with the civil service. In a morale sense, it simply would not do to issue promotions in a bland, off-handed manner. Too many people would wonder why so few were being promoted, why a five-year period is not uncommon for the jump from FSO–5 to FSO–4—the civil service equivalent of the promotion from GS–12 to GS–13. No, the Foreign Service issues its promotions with a flourish of trumpets and an avalanche of incestuous congratulatory mail in order to affirm its special status as a highly competitive profession where only the brilliant are honored.

That is the myth. To a degree it is true. The Foreign Service is staffed with an unusually high percentage of intelligent and personable people. The actual work performed, however, by and large requires no dazzling brilliance. Much of it, indeed, has a strong clerical flavor. In a large embassy there are Foreign Service Officers in charge of the motor pool, the issuance of government furniture—functions that are blue-collar jobs in America. In effect, local employees run all of these operations anyway, with an efficiency or venality beyond the control of their American supervisor. Political reporting is the *sine qua non* of the foreign service, and while much of it is solid and reliable, albeit written in a style that is so oblique and ponderous as to be inscrutable to the layman, the widely recognized truth is that very little political reporting is read by anyone. At bottom this stuff is as circulatory and sterile as a tapeworm conducting a love affair with itself. It comes down to the fact that from the perspective of the White House there are relatively few happenings of political importance going on in the world.

Sad to say, the American ambassador is as much a victim of this reality as his lowliest political officer. I served overseas in Pakistan and Iran, both class "A" missions with huge Foreign Service contingents. Politically, there was no need for Washington to seriously concern itself with the views of problems of either Ambassador Walter McConaughy in Pakistan or Ambassador Julius Holmes in Iran. Neither had any measurable White House influence, neither dealt with issues or problems that had much claim to serious attention in U.S. councils of state. Both men headed a vast American overseas empire, yet neither had anyone of importance to take him seriously—except for Ayub Khan and the Shah of Iran.

It is perhaps in the nature of American business that every organization man must have someone of a higher rank to report to and from whom approbation is granted. Ayub and the Shah were there to fill the vacuum. In Karachi, McConaughy was noted for his reluctance to raise any matter of less than vital American interest with Ayub for fear of dissipating his goodwill and influence.

I wish I could say the Foreign Service structure has no large bearing beyond the few thousand individuals directly involved. Unhappily, that is not the case. As I write Ayub Khan's successor, General Yahya Khan, is carrying out a campaign of genocide with distinct racial overtones in the province of East Pakistan, whose Bengali population represents a majority within the entire nation. American policy calls for the continued supply of economic and military assistance to the West Pakistani regime. To do otherwise, we are told, is to destroy our "leverage" with Yahya Khan.

Yes, those Foreign Service memories are persistent. The specter of McConaughy's excuses to avoid ruffling his serene relationship with Ayub Khan is still with me. To what degree is our current talk of "leverage" the product of our present ambassador's instinctive distaste for enduring a stormy personal session with the doubtless respectful Yahya Khan? There are always two plausible sides to every issue and an ambassador has no trouble manufacturing policy arguments that conform to the comforts of his personal situation. Ambassadors call it "leverage" and are reluctant to "expend the capital of their goodwill." You wonder what the 7 million Pakistani refugees in India call it, whether the people who starved in Biafra appreciate the "leverage" we have been able to maintain with the Nigerian government.

And, of course, in grim contrast to the Bengali and Biafran situations where we were inclined to do nothing, there is Vietnam, where we were inclined to do everything. On the face of it, seeking involvement and eschewing it both seem to contribute to genocide. In terms of the quantity of human suffering, Bangla Desh and Biafra exceed Vietnam. The difference is that by intervention we have suffered ourselves as a nation and have slaughtered other people.

The point of Bangla Desh and Biafra was that, tragically, they were not issues large enough to occupy the concerns of the White House. Hence, they were handled by the State Department, which elected to do nothing in the interest of preserving future "leverage." Vietnam, on the other hand, became so large that the issue was transferred to the White House, which elected to do everything in the interest of a solution. And the reason the big problems go to the White House and stay there is that no President since Kennedy has had the slightest confidence in the State Department. How could they when even the most cursory glimpse reveals a system that is at once supercilious and reckless? How can you make a system responsive that is run by men whose overwhelming instinct is to do nothing for fear of injuring their career? "Just one mistake," as Naomi Huber warned so eloquently.

The tragedy of the Kennedy people, who in effect controlled American foreign policy until 1968, was that they measured their own self-assurance, the Byronic notion of their own "toughness" against the waffling code of conformity that dominated their established foreign policy mechanism. Naturally, the Kennedy intellectuals had to feel smug, even euphoric, when they measured themselves against such fudgy weaklings. The upshot was that checks and balances in foreign affairs vanished, to be replaced by one act of White House recklessness after another.

Much has been written of late about the White House's usurpation of Congressional power in the realm of foreign policy. A peccadillo in the order of things when compared to the White House usurpation of the power of the foreign affairs bureaucracy. A dysfunctional State Department, after all, has no constituency to compel the White House and the Congress to take remedial action. Hence, it has taken the country the better part of a decade to grasp the full dimension of the Vietnam apocalypse.

To what degree could a strong and decisive State Department have circumvented or tempered the excesses of Democratic foreign policy in the decade of the 1960's? All that can be said is that the whole foreign affairs bureaucracy was floundering and unused throughout that critical period. To this day it remains as calcified and ignored as ever, its most noticeable burst of recent energy having been released in the massive Macomber Report, a sweeping *mea culpa* compiled by a host of Foreign Service Officer task forces. The report officially sanctions 505 "reforms" that would lead the department into a creative and effective diplomacy for the 1970's. "Can you imagine General Motors sending a report to their stockholders, owning up to 505 managerial blunders over the years?" asks a senior Foreign Service Officer. "Why the whole top management would be removed from office. At the State Department they're either retained or promoted."

Five hundred and five reforms? The bureaucratic precision of the figure conjures up some Kafkaesque vision, set in a time span of infinity, where a whole nation is mobilized to tally up its flaws and arrive at a perfect number. Generations come and go as one group of bureaucrats adds to the figure while another group subtracts from it, always on the verge of discovering the one number of Pythagorean excellence that will satisfy everyone. In the end, of course, all of the flaws are submerged in the process. So the final answer is *one* flaw feeding upon itself. To eliminate it, by selection out as it were, is to end up with nothing: extinction.

The State Department's 505 reforms boil down to one fatal flaw: The system is inimical to most of the people in it. In time this problem will probably become acute in all bureaucratized organizations in a technological society. Indeed, the general feeling of individual helplessness is already visible in most large American institutions. The Foreign Service is especially vulnerable because unlike most other professions it has traditionally operated with no internal protections for its membership and very little scope for lateral mobility. The system with its arbitrary control over the minutia of its members' private lives, its efficiency reports, promotion boards, and insistence on obedience and the privilege of rank is deliberately modeled on the military. But it lacks the grievance and due process features of military life. "We have always been a paternalistic organization," says William Macomber. For various reasons, budgetary and otherwise, Big Daddy has not been especially protective toward his offspring of late. Until recently there was no recourse from "selection out" for time in grade. "Can you imagine any other brain profession saying to its members, 'If you're not making $20,000 a year by the time you're forty-two you're thrown out of the profession'?" asks a Foreign Service Officer. And this is precisely what has happened in the past five or six years as the Foreign Service has enforced its "selection out" rule when capable officers fail to be promoted within the allotted time. According to Bernard Wiesman, a union leader at USIA, "The number of State Department selections out for time in grade in the five years between 1958 through 1962 averaged about twenty a year. Then when William Crockett took over the State Department's administration he found he had an overstaffed Foreign Service and in the years around 1963 and 1964 he selected out about 200 a year. He used to talk about the Department only selecting out 100 a year averaged over a five-year period. He arrived at that figure by averaging two years at 200 a year and three years at 20 a year. Then you had the rest of the top brass at the State Department thumping its chest and saying, 'We went through the selection out process too, when in fact they didnt. Oh, people were subject to selection out in the past, all right. It just wasn't enforced very much." Added to increased selection out for time in grade was the selection out of the lowest 5 percent of officers in each grade. As Wiesman points out, "If you select out the bottom 5 percent every year for a number of years you're ultimately going to start hitting some capable people."

And, inevitably, professional men whose work was adequate or even above average found themselves on the street for lack of a promotion or a rather arbitrary placement in the lower 5 percent. Many of these employees were not eligible for pensions, even though they had put in twenty years service and more.

The business world may operate with similar ruthlessness. But there still remains a crucial difference, since the professional accountant or engineer theoretically can find another job in his field. The diplomat, on the other hand, is steadily conditioned to regard himself as an elitist whose skills are useless in any other context. There is a certain schizophrenia inherent in a professional who views himself as both brilliant and unemployable elsewhere.

Not surprisingly, the bulk of the 505 "reforms" listed in the Macomber Report deal with personnel matters. What seems incredible is that the Foreign Service expects to be complimented for disclosing its own ineptitude in such withering detail. Only zealots and paranoids seriously expect to achieve apotheosis simply by recantation.

The breakdown admitted in the Macomber Report runs deeper than organizational lapses and personnel injustices. Implied as well is an ideological malaise, a deepening doubt over the politics that govern foreign policy. And the mix of this devil's brew has bubbled over into public view. By the rigid and antiquated standards of loyalty that shape the upper echelons of the Foreign Service, the lower and middle level minions are in revolt. Thus, we have the specter of some 200 Foreign Service signatories to the Cambodian petition and the unanimous protest to U.S. policy in Pakistan signed by the Consulate General staff in Dacca. The process has created a number of instant heroes, self-proclaimed and otherwise. So the press has given us Paul Kattenburg, the department's chief Vietnamese specialist in the early 1960's, whose Cassandra-like warnings on Vietnam went unheeded. For his advice, the department rewarded him with a long series of graveyard assignments. We have Alison Palmer, a middle-grade female officer the department has admitted discriminating against on the basis of her sex. After admitting its guilt, the department is seeking to make amends by urging Miss Palmer not to insist on including in her personnel file the department's own corroboration of her complaint.

It would be easy to characterize the managerial mentality of the State Department as worthy of some nineteenth century Manchester mill-lord, except that the men in charge are earnest, humane, well-intentioned. So for that matter are most of the workers in revolt below them. The American Foreign Service Association, the largest foreign affairs employee group, was for years a mild-mannered social and professional organization. Recent scandalous events have forced it to assume a faintly militant role, to the degree that it now resembles a polite company union, with its officers largely drawn from top management. If my own conversations with AFSA officialdom are any guide, the organization seems to share the basic viewpoint of William Macomber.

Macomber, a Republican who has been a top State Department official since he served as an aide to John Foster Dulles, is the kind of man who seems perpetually on the verge of tears, so great is his concern for "reform" in implementing those 505 recommendations that bear his name. He leans forward on the edge of his chair, squinting, the muscles in his face clenched in sincerity, and speaks openly of the State Department "frustrating" the will of Presidents, of the Foreign Service not "measuring up." But, he notes, "we ought to reform the State Department differently." In short, the Foreign Service should reform itself, the changes gradually arrived at by working within the system.

Unfortunately, not all events chose to flow within the elaborate channels of the system. The recent suicide of Charles Thomas, a forty-eight-year-old FSO selected out for time in grade, only two years short of pension eligibility, was such an event. Thomas, like so many FSO's, carried a resume of advanced degrees and unusual job experiences. He spent the last two years of his life trying in vain to find another job and finally took his own life, apparently thinking that his widow would qualify for his full pension. She didn't and instead has now been given a job in the State Department, where she is said to be campaigning to have her husband promoted posthumously to ambassador. Needless to say, there is no act that removes a man further from the "system" than suicide. Needless to say too the results of the Thomas affair were electrifying. Legislation for the establishment of a grievance procedure has been introduced in the Senate by Birch Bayh, a liberal, and in the House by John Ashbrook, a conservative. Within a month after the press took up the Thomas suicide, the State Department issued a new regulation—whose principle had been in effect before the Thomas suicide, according to Macomber—that will allow FSO's to at least reach retirement age before they are selected out for time in grade. It is hard to resist the notion that Thomas' suicide was not the central catalyst for "reform," that, indeed, his death has set in motion irresistible forces not to the Department's liking. The Bayh and Ashbrook bills are perhaps only the tip of the iceberg in this respect. For violence and cataclysm alter institutions more certainly than does "reform from within."

Privately, State Department officers and even Congressional legislative aides who have studied Thomas' personnel file will tell you that he wasn't a really "distinguished" or "outstanding" Foreign Service Officer. Thomas' supporters will tell you that he was a "brilliant" FSO, a man urged on the department for selection to the National War College, an officer of the highest probity and accomplishment whose career was doomed as a result of persistent bureaucratic bungling that misplaced key documents that would have certainly ensured his promotion.

But Thomas' brilliance or his lack of it is an irrelevancy. Is management any the less culpable if Thomas were a middling officer? It seems to me that Thomas' suicide may have grown out of the expectation of brilliance that the Foreign Service inculcates in its members. Thomas had spent eighteen years of his life laboring in a system that indoctrinated him with an elitist notion of superiority. The final rejection had to be shattering, whether he was brilliant or merely adequate. Indeed, the 2,000 job letters he was said to have mailed off, those resumes so superficially rich in achievement, seem to me to argue a man shorn of his confidence, unable to face his present, equipped only with a broken faith in the "brilliance" of his past.

So, in the end the Thomas affair has pathos, the Kattenburg affair has the momentousness of crucial advice untaken, the Palmer case the timeliness of women's rights in conflict with a bumbling cardboard bureaucracy. On one level or another, all of these cases point to many of those 505 reforms.

But they do not seem to speak directly to the one fundamental misconception that has dogged our foreign policy since the end of World War II: the assumption of the need for "brilliance" in the international context of power. Most of the external problems in the world are beyond "brilliant" solutions. Certainly, they are beyond "brilliant" solutions imposed from Washington. Yet, the brilliancy of our solutions are only challenged, are only accountable when the situation becomes unrelievedly grave and even hopeless, as in the case of Vietnam. So brilliance, whether it fails spectacularly or not, is an illusion. For it is based in arrogance, which in its final, unchecked course leads to a failure so absolute that it obliterates the successes, if any, that came before. You can only play double-or-nothing in a card game, and with unlimited resources at that.

It was not the Foreign Service's notion of personal and institutional arrogance the Kennedy men objected to. They shared that quality in spades. It was the Foreign Service's fear and timidity—promotion oriented—that led to indecision and drift. The Macomber Report seeks to correct all this. One is filled with trepidation if they succeed and neglect to deal with the one great flaw that rests at the heart of the matter: that elitist notion that is so at variance with our nation's first principles.

All of this is prologue to a story I began to investigate a month ago that has led me into issues much more perplexing than I originally bargained for, a story that has led me to brood over my own experiences in the Foreign Service in an attempt to understand what has happened to Murray C. Smith III, who after a nine-year career is being terminated at the State Department through selection out for time in grade. At thirty-two he is a few years younger than I. Like me, Smith spent two years of his Foreign Service career at the American Consulate in Tabriz, Iran, something of a diplomatic backwash.

Smith's case—much more than Palmer, the feminist curmudgeon, Kattenburg, the ignored senior official, Thomas, the tragic victim—seems to go to the heart of the matter of the fallacy of brilliance. In the case of Thomas, the wrongs done him are so clear cut that the State Department has no recourse but to admit its own errors. Smith's fate rallies no internal State Department or Congressional support. For he is both a better and a worse figure than the narrow code of brilliance allows for. He has attacked the system and has been persecuted by it. He has summoned up the department's petty and honorable sides alike. And in understanding why he has gone beyond the system, it is possible to see the limits of brilliance—why that code has served the State Department so poorly and the nation so tragically.

I first heard of Murray Smith because he and a Peace Corps friend were circulating a petition within the American community in Iran calling for American withdrawal from Southeast Asia. This was back in November 1969, some six months before the Cambodian invasion, which gave birth to that first widely reported antiwar petition in the State Department. Predictably, Smith's effort in Iran caused considerable rumbling, if not horror, at the American Embassy in Tehran. Indeed, I was to learn several months later from sources in the State Department that the newly arrived American ambassador to Iran, Douglas MacArthur II, was urgently cabling the State Department to demand Smith's recall as a menace to Persian-American relations. As a matter of common practice, the removal of any official American from a foreign nation is a matter of ambassadorial discretion. On the face of it, it seemed strange that MacArthur did not exercise his prerogative, instead of badgering the department with a stream of petulant cables.

As it turned out, there was a reason. Smith, it developed, had already acquired a reputation as a political dissident during an earlier Washington tour. In May of 1968 an organization called Federal Employees Against the War in Vietnam had taken out a signed ad in the *Evening Star* calling for an end to the war. There were several hundred signatories, including a few from AID and at least one from the CIA. Murray Smith was the only State Department Foreign Service Officer to sign the published petition. The bureaucracy moved against him with dispatch. In a classified letter of May 31, 1968, Ambassador John Steeves, then Director General of the Foreign Service, told Smith his petition signature had violated department regulations and said the incident would be included in his personnel folder. This seemingly mild threat is the Foreign Service equivalent of an invitation to "take a ride" from a Mafia chieftan. The Steeves letter was classified "Limited Official Use" and legally speaking Smith's decision to show the letter to legal counsel or anyone without a government security clearance would be a security breach, which might also be entered in his personnel folder.

Smith is a man devoted to the spirit of ideas. Intellectually, he is exceptionally dogged about following an idea to its conclusion. So it struck him as improper to file the letter away in a State Department security cabinet since there was no subject heading waiting for it. Similarly, it struck him as incorrect to leave a classified document at home, where it might be read by any casual visitor without security clearance. He decided to carry it around in his coat pocket.

Smith is also the sort of man against whom details tend to conspire. Naturally, the letter dropped out of his pocket and was subsequently blown down Twenty-third Street, where a State Department employee found it on the way to work, saw it was classified, and returned it to the office of Ambassador Steeves. Smith's next interview with Steeves, a florid faced man with a British brush moustache, was not a pleasant one. "He kept calling me 'impudent,'" Smith says. But perhaps it prepared him for many a stormy session ahead.

The root force of Smith's character is a deep, uncompromising idealism. He describes his parents as both being the same way. His mother is a health food addict. His father's early career was spent as a gold and tin miner in Alaska, where his own father in turn had emigrated for the Klondike gold rush of 1898. So there is in his background a history of people willing to endure loneliness and even ridicule for what they believed in. The transcendent experience of Smith's early life was his sudden conversion to Unitarianism, that faith of the ethical life. One Saturday over in Arlington back in the early 1950's the Smith family decided to stop being Episcopalians. That Sunday they all became Unitarians. Within a month Smith was president of the church youth group. He stresses this experience, not, I suspect, to point to any great political prowess, but to underscore the capacity for "good" that the experience released in him. "In high school and college I either wanted to go into the ministry or the Foreign Service; those were the places I thought I could influence things for the better."

So given his idealistic bent, his intellectual concern for pressing an idea to its limit, Smith decided to fight the department's decision to put his participation in the anti-war petition ad in his file. "My strongest belief is in individual civil liberties," he says. "When I joined the Foreign Service I took an oath to uphold the Constitution of the United States. The rights of freedom of speech and petition guaranteed under the first amendment are more important than some Department of State regulation." So Smith went to the American Civil Liberties Union and in due course the ACLU filed suit against Dean Rusk in D.C. District Court. Foreign Service Officers have filed suit against Secretaries of State before, but not often. None of them had ever before filed suit against their boss over the right to dissent against a major item of State Department policy.

"Smith? Murray Smith. Yes, I think I remember the name," says the State Department's legal advisor J. Edward Lyerly.

He would have good reason to. Smith's act was astounding enough in the context of the Johnson Administration to have been memorable had the litigant's name been John Doe. And it seems highly unlikely that the State Department was especially anxious to drag many of its senior officials through a lengthy court case involving the Vietnam War during an election year, especially since no action was taken against the other federal employees who signed the petition. Yes, the press might have had some sport with the affair.

So the department agreed to settle the matter out of court by allowing in writing that Smith's activities would not be placed in his personnel file.

However, at the time of Ambassador MacArthur's telegrams urging Smith's recall, a "ghost" personnel file on Smith was maintained in the department and was used to brief senior officials on Smith's background. My source saw the file in question. Macomber and former Director General of the Foreign Service John Burns both express steadfast astonishment at the existence of such files on anyone. In the nature of the bureaucracy they, of course, would be the last ones to know, since even the most obtuse underling is not likely to put his superior in a position of perjuring himself at Congressional testimony. Many disinterested FSO observers, who have nothing to do with the Smith case, express almost chipper confidence in the likelihood of such files being kept on all sorts of people.

J. Edward Lyerly says he has in his possession a litigation file on the Smith case, but adds that it is "tightly held" and has certainly not been checked out by anyone in personnel or administration. As the department's legal advisor for administration, it is not only Lyerly's job to defend his principals in litigation, but to advise them of any irregular activities that might violate regulation or law. He says, "If there is any 'ghost' folder on Smith's ACLU case, my gut reaction would be that that file should be returned to my litigation folder."

I am convinced that such a "ghost" file either exists or existed. Macomber, Lyerly, and AFSA head Bill Harrup were all quick to tell me that if such a folder exists, it would not be made available to a promotion panel. But that is not the point. No one seriously imagines the State Department to be staffed by Iagos who lurk in the corridor outside the room where the promotion panel is convened to slip malicious secret personnel folders under the door.

The point is that the State Department is a small and ferociously inbred organization. Gossip about colleagues, especially one as controversial as Smith, spreads around the world with startling speed. The men who sit in judgment on the promotion of Foreign Service Officers are for the most part senior Foreign Service Officers, fair and honorable men, no doubt, but pillars and defenders of the faith.

So the existence of a ghost file on Smith would not only disregard the spirit of the State Department's agreement with the ACLU, it would also significantly increase the currency of Smith's activities. If the Macomber Report makes anything clear it is that even the most constructive dissenters are penalized in the Foreign Service. Gadflies who threaten to haul Dean Rusk into court are hardly likely to receive a more exalted treatment.

The State Department is now deep in the grips of befuddlement over its own system. Thus it is possible for Bill Macomber to assert in nearly consecutive sentences: "Ours is a marvelous group of people. Our promotion system is stultifying, especially in the middle years. Most make it, but with considerable wear and tear. We have not measured up. Our foreign service is the best in the world."

To give Macomber his due he is not responsible for the present sorry state of the Foreign Service. "I don't want to bad-mouth what my predecessors did three years ago," he says, his face taking on a look at almost excruciating agony, "but they were, well, old-fashioned." No doubt Macomber's stewardship is meant to be enlightened and humane. He points to his insistence, backed by Secretary of State Rogers, that the signatories of the Cambodian petition not be penalized in any way.

So perhaps there will be no victims from the Cambodian affair. Perhaps Macomber saved them. Perhaps Kent State forced the Administration to play a hand not of its own choosing. But that didn't help Smith. His acts, not without a tinge of willful defiance, came at the wrong historical moment. He stood alone.

The State Department's method of overseas assignment is so capricious and irrational that it is difficult to explain a given foreign posting. How can there be only one explanation for a personnel system that regularly takes Arabic speaking economic experts and sends them to the visa office in Santiago, Chile? Perhaps the officer involved has worked a deal with a friend in personnel, perhaps his name has been picked out of a hat, perhaps there has been some bureaucratic mistake, perhaps he has made an enemy who is actively working to sabotage his career.

Nonetheless, when Smith's Washington tour came to a close in mid-1969 he was assigned as an administrative officer to Tabriz. In the words of one associate at the post, "Murray's job was to take care of the guys who watered the consulate lawn." When Smith went to Tabriz he had two years in which to get a promotion or be selected out for time in grade. Moreover, 75 percent of the work in Tabriz is officially listed as administrative, a field in which Smith possessed no background or interest. He was given no administrative training for the job. It is hard to see how he could be expected to function with great efficiency in Tabriz. Indeed, the nature of the work was such that it wouldn't impress a promotion panel even if it were done splendidly. For Smith was to be judged in competition with fellow officers in class 6, many of whom would be rated for work that the State Department would regard as more substantive and conducive to "brilliance."

There is still another suspicious factor in the question. Smith entered the Foreign Service back in 1962 with a view to being a political officer. As a career development device he was officially carried in the State Department's "political cone." Aside from a three-month training stint in the Tehran political section back in 1966—almost four years after he entered the Foreign Service—and a 1967 assignment in the Operations Center where he screened and edited incoming classified material from the field, he had no political assignments. This is hardly an unusual occurrence in State Department personnel practices. What is curious is that Smith was slated for duty in the political section at La Paz, Bolivia, when his Washington tour expired in 1969. Latin America had always been Smith's principal area of interest, dating from his first overseas posting in Juarez, Mexico. Smith believes that his Bolivian assignment was scotched at White House request. Following the resolution of his suit against Dean Rusk, he has been a co-chairman of a Federal Employees group against the ABM. He had also been active in a State Department open forum panel group, where he had invited pro-Castro speakers to take part in a discussion with Cuban refugees. The discussion was not very amicable and Smith claims that as a result of the incident he was summarily relieved of his duties as a member of a touring team of State Department speakers on American policy who lectured to groups of high school students and businessmen. For what it is worth, Mary Anne Parsons, who supervised the speakers, rates Smith as one of the more effective lecturers. She says he was quite scrupulous in eschewing any expression of his own views of American foreign policy.

Whatever the reasons for Smith's removal from the speaking circuit, whatever the explanation for the cancellation of the Bolivian assignment, the fact remains that he was given "twenty-four hours" to accept the Tabriz assignment or get out. He had already spent two years in Iran, liked Persians, and figured he could have some money in Tabriz with its 20 percent hardship allowance and absence of any costly distractions and temptations. Besides, Smith figured he was marked for selection out. He went to Iran, was selected out, and returned to Washington in June with $7,000 in the bank.

Because Smith was obviously a hot potato, Ambassador MacArthur avoided any unilateral move to have him removed from Tabriz, but instead sought the complicity of the department. Nor did the American Embassy in Tehran quite know how to handle Smith in the petition period before MacArthur's arrival, when Nicholas Thacher, now ambassador to Saudi Arabia, was charge d'affaires. Thacher was constantly on the phone to Smith's superior in Tabriz, Consul Tom Greene. The diplomatic pouch, the ordinary route for all personal mail for official Americans in Iran, was closed to Smith's petitions—even though Thacher could not be sure of what was inside Smith's envelopes to other Americans without opening them. When Smith distributed his petition to the Tehran Embassy in person, the embassy administrative office refused to distribute it for several weeks, until outraged staff complaints about censorship of the mails forced a change in policy. Throughout this trying period Smith was perpetually taken to task for showing poor judgment. If so he was not alone. Ultimately seventy-five signatures were collected and forwarded to President Nixon, who in turn forwarded them to the State Department for acknowledgment of their receipt to Smith.

Macomber says, "Smith didn't act to undermine the American position in Iran. I personally did not want to have Murray penalized for his anti-war activities. I would have preferred his thinking up a rational alternative and submitting it through channels. A Foreign Service Officer shouldn't do things that publicly undermine the President. But we are very concerned with dissent in the department. We want to have policy differences argued out vigorously. Now I took a great deal of personal abuse for not giving out the names of those who signed the Cambodian petition. It was wrong what they did, but I was satisfied they were not acting to undermine the President."

If the spared signatories of the Cambodian petition owe some gratitude to Macomber, they may owe even more to Smith. For surely the precedent established in the settlement of this suit against Rusk applies to the Cambodian signatories as well. If the department promised to take no reprisal against Smith, how could it take reprisals against people who didn't even hire space to insert their names in the newspaper?

The department now has no need for a folder of any sort on Smith. His fate, in any case, always had a certain inevitability to it. As an idealist he was perhaps doomed to disenchantment in these churlish times, though few could argue that the State Department didn't hasten the process. He made his stand too early on, fought with too much intensity. He was naive, inflexible, courageous, remorseless in his pursuit of the "right." He was a man driven to test the outer limits of the system, unyielding in his quest for new causes. Though he was frequently intimidated, and almost always alone, he didn't waver and so in the end he had a pretty good run for his money. He takes satisfaction in what he has done, and can find a meaning in his nine-year State Department career. What more could a man ask? Unlike Charles Thomas, Murray Smith has come through to the other side intact, mildly triumphant. He says, "I don't begrudge what the State Department did to me. The idea of doing something meaningful never once deserted me. I was completely satisfied with the work situation in the Foreign Service. In my whole career I've basically worked an eight-hour day, except for a few periods when the job required overtime. I never wanted to be someone's special assistant. I really never wanted to be an ambassador. It takes too much time away from the family. The family and ideas have always been my life.

In hindsight, it seems only just to be moved by the causes that Smith fought for. To the degree he could, he lent his presence and always some money to the civil rights movements during the 1960's. While he was stationed in Juarez, he gave serious thought to flying to Selma and Washington to march in those two epic events. In matters of the conscience, he was surely something of a pioneer at the State Department. Who in the Foreign Service preceded him in speaking out against the Vietnam War and in defending the rights of the individual? Surely a system ought to be mourned that has no room for such a person.

Foreign Service applicants are asked to write a short autobiographical sketch of themselves. Here, in part is what Smith wrote in his first draft back in 1961: "To me thinking and the intellectual life were and still are the most exciting of all activities. It was during these high school years that I went through a period of idealism. My belief in the powers of forgiveness and truth was very strong; in the intervening years I have modified my views considerably My interests still center around reading. I discovered Thomas Wolfe who expressed my love and exultation for America as no other writer has done." Later he says, "I have traveled back and forth across the United States by bus, Volkswagen, and a 1931 Model A. My companions have been Senators, migrant workers, engineers, a millionaire, construction workers, and even an ex-con or two. I feel that I have seen a large portion of the length and breadth of American life and I have loved every moment of it. I feel that I have been lucky to become so intimately acquainted with the American life and landscape. And I am proud of America."

He ends by writing, "In the first week of my sophomore year here at Penn, I met the most wonderful girl. Within a week I had decided to have her as my wife. I was not disappointed. After a long, intensive courtship all through my sophomore and junior years, we became married on July 16, 1960. My wife, Bunny, is a very whimsical, sophisticated being from a background as European in nature as mine is American. I have never been so happy as I am now married to Bunny."

So one night this summer the author of this youthful panegyric to country, God, and wife sits at the age of thirty-two in the living room of a Chevy Chase brick house. The next day is supposed to be his last eight hours in government service, though he will be told the next morning that the department has decided to extend him for two months with pay while he searches for another job. Emotionally, he is already gone from the bureaucracy. He wears a peace pendant around his neck, his frizzy brownish-red hair is shoulder length, and he wears a moustache that cuts across his cheeks and connects with his sideburns. The eyes are a little vacant, or at least they seldom seem to make any contact with mine. The manner is self-analytical, not without a sense of humor and proportion, but there is also an abstracted, disembodied quality. On the other hand, I have myself been wiped out by cultural shock upon returning to America from Tabriz.

Bunny is a very tall, attractive girl with a gaunt and angular face. She is an organized person who excuses herself to stake some tomato plants and later returns with an armful of sewing. She is polite and proper, an ideal Foreign Service wife on the face of it. There is a melancholy air to her, as if there is some urgent substance inside her that she hasn't had the chance to use. A common enough trait among intelligent Foreign Service wives, who are forced to lead lives of such continual artificiality as to force them into a condition of mental *purdah* even when they're in public. There are two girls, Deirdre, eight, and Lani, six—both lively, clever, and well-behaved.

All families change and the Smiths are no exception. David Aaron, an entering Foreign Service classmate of Smith's, says, "We came in '62. The Kennedy days. You remember: 'Willing to pay any price, shoulder any burden.' Most of our class were progressive, crusading types. Murray was interested in political change, but he was no zealot. To tell you the truth I could have thought of lots of people in my class who would have been more likely to do what Murray has done."

Aaron has now left the Foreign Service and works as a civil servant at the State Department. One of the most devastrating insights into the Foreign Service mentality is that many of Murray's FSO friends refuse to discuss their friendship for attribution. As one Foreign Service friend who shares Smith's views on the war put it, "I have a wife and kids and responsibilities. I can't afford to have my career hurt if there's a witch hunt."

Aaron, an employee of the "inferior" civil service, is willing to be quoted about his friendship. He remembers Smith as much heavier back in 1962. "We used to call him 'The Bear.' Yet he was very shy when he spoke. He had a demeanor, a laconic quality about him that didn't fit a firebrand. Murray's basic attitude toward the Foreign Service was like doing volunteer work. He wanted to help, be generous. There aren't a lot of guys who came in with us still left in the Foreign Service. We all went through the same things other Americans have gone through in the last ten years. We've all changed a lot."

Keir Jorgensen, a labor union official in New York, was Smith's best friend in high school. Jorgensen says, "I don't know if Murray's changed so much. Maybe it's the country that's changed. This guy was always an idealist—the disparities of what people do and what they say has always gnawed at him. His main concern was for America. His focus was on America. Yet, he was always a loner, too. There was a remote quality in him, a sense of integrity and never cynicism. I guess you could say that he had an adolescent concern with absolutes, universals, and ultimates and much of that carries over to now. He thinks the war is a crime. And he believes men should declare themselves. The State Department wasn't ready for him. But I'm hopeful for Murray. There's a lot of diversity yet in this country and he'll find the place."

Among the other strong memories that Smith has left with people who knew him ten years ago is his devotion to Bunny, and her devotion to him. They were almost legendary images of young love at the University of Pennsylvania. During their period of courtship they were together every moment of the day, except for those hours in the middle of the night when university regulations demanded that Bunny return to the dorm.

One acquaintance who remembers them as newlyweds at the State Department says, "Bunny seemed very close to Murray, a very tender girl, supportive, almost a clinging vine type. She would say things like, Would you still love me if my arm and legs were cut off? It was as if she was groping for the absolute limits of his affection."

No one would ever accuse either of halfway measures, it seems. So in 1962 the couple set off for their first foreign assignment, Juarez, a Mexican bordertown of cheap card games, painted divorcees, and grimy child brothels. The Smiths possessed in abundance the traits of intelligence, patriotism, an ethical sense of the "good" life, and even the ambition to do well. William Hughes, a Texan of down-to-earth ways, intelligence, and a strong sense of social justice, was the Consul General. Smith admired him and felt that if there was room in the Foreign Service for a man like Hughes, there would also be room for him. Smith was assigned to the consular section, a visa mill dealing with hundreds of Mexican immigrants every day and a protection agency forced to rescue a daily host of drunken ranchhands, waylaid divorcees, and mugged tourists. By State Department standards of international *realpolitik*, the consular section in Juarez was a vulgar, if not pedestrian, assignment. Smith, who enjoys helping people, liked the work, its variety and scope for alleviating human misery. His mind, though original and relentless, is not quick. He took a while mastering the job's demands for speed. But by the time he left Juarez two years later he had become an exceptionally proficient worker who held the consulate record for the number of visas issued in a single day.

Inevitably, there were a few flaps. He joined a Unitarian fellowship across the border in Texas and one of the members was a communist. The FBI got wind of Smith's suspicious activities and sent an agent from Mexico City to Juarez to discuss the matter. "The poor guy was torn on whether I should drop out of the fellowship or keep on going in order to spy on the woman," Smith laughs. Knowing Smith, he probably offered up a long disquisition on the essential fallacy of both propositions, with the result that his security file in the State Department is bristling with sinister imprecations on his loyalty.

Then, where most visa officers would just stamp the damn things in as rapidly as possible, Smith dwelt on the issues involved. He says, "The other people in the visa section, especially my boss, didn't like Mexicans and poor people, so they tried to keep them out of the U.S. I tried to let them all in. I felt that immigration to the U.S. was the only way to keep Mexico from exploding. By closing down the labor flow into the U.S. we'd just build up internal frustrations. I couldn't see it hurting the U.S. Naturally, that just made my boss try harder to keep them out. Then I thought, neither of us are going by the law, so we're both wrong. So I studied the immigration law. The essense of the problem is, are the immigrants who're going over on work permits likely to end up on U.S. welfare? The burden of proof that they're not is on them. I hated to refuse people, but I did. And that got me in trouble with my boss, too. These big Texas ranchers would come in with a bunch of Mexicans and say he was going to hire them for his ranch. I knew they'd all jump the ranch as soon as they could and end up on welfare in some city, where they couldn't find a job. So I wouldn't let them in and the ranchers would get their Congressmen and Senators and even cabinet officers to write letters demanding I let them in. That angered my boss. Hughes backed me to the hilt. But my boss did my efficiency report when Hughes was away from the post, so he couldn't review it." Nonetheless, Smith was promoted from FSO–8 to FSO–7 while in Juarez.

His next assignment was to Tehran in January of 1965. "My job was in the passport office," Smith says, "and while my interest was still in political reporting I was happy in Tehran because the Consul was a man named Walter Burke, a man of great integrity. The fact that there was room in the State Department for a man like Walter Burke made me optimistic about the system."

Smith got one more promotion, shortly after leaving Iran, raising him to the level of FSO–6, but he was behind his class. He says, "The whole time in Tehran I was turning over in my head what my stand on Vietnam was. At the same time I was concerned with American internal politics, especially the civil rights movement. I was so far away from it. In a way I guess I was radicalized by reading. Yet, the hope for America was still there. I had worked one summer as a Senate cop and I'd seen LBJ in operation. He was superb. Totally corrupt, of course, but in an internal sense the best President we've ever had. Yet, all the time I felt sort of alien to people in the embassy. There was no one like me."

Ah, but there were back in the United States, also trying to cope with the war, turning over in their head what to make of that infamous betrayal, that overreaching fallacy of arrogance. Smith's Washington assignment when he returned in early 1967 was in the Operations Center, that faintly pompous terminus of America's classified material.

"I liked the Operations Center," Smith says. "I felt close to the center of power. Of course," he adds, "another thing I learned from editing all the cables for Rusk's and Johnson's reading was that when LBJ said the public didn't know the facts about the Vietnam war, he was absolutely wrong. All of the facts I edited for Rusk and Johnson were in the newspaper." Not all of them. "I used to see CIA messages," Smith says, "that indicated that we had a special sort of arrangement—maybe a treaty—with Russia and Great Britain that indicated we had all agreed that American involvement in Vietnam was meant to contain China. I often thought you could read all of the speeches Rusk used to give denouncing the Chinese Communists as a way of assuring the Soviets of what we were really up to in Vietnam."

While he was in the Operations Center Smith made his decision on Vietnam and flew up to New York to take part in an anti-war rally. Emotionally, that act cut it for him. Though he mentioned it to no one, it was his Rubicon. Shortly thereafter he volunteered as a marshal in the march on the Pentagon. Again he was not yet prepared to go public. He says, "I had to work at the Op Center on Sunday. The march was on Saturday. So I was determined not to get arrested. I didn't want to lose my job. The next day I came in to work with a sunburn. The Pentagon always had some colonels assigned to the Op Center and one of them said to me, 'You play tennis yesterday?' I said, 'No, I marched.' He said, 'Did they call out your reserve unit, too?' I said, 'No, I marched against the war.' He just stared at me for a while. Then he went off to tell everyone."

Security investigations were launched. Smith was even put in the ludicrous *ex post facto* position of having his cryptographic clearance put in limbo while he was in Tabriz, where little, if any, sensitive information is seen. When the investigation began, he, of course, was allowed to edit the super-sensitive daily poop sheets for Rusk.

The truth of the matter is that the Foreign Service is easily stirred by the issue of civil liberties. The McCarthy experience created strength and paranoia in equal measure. Besides, the Foreign Service is made up largely of liberals and progressives. They start that way at least, and while they may cede some issues along the way, they still think of themselves as the people they were when they began their careers. Maybe all of us are that way.

Smith doubtless would have been fired on the spot by most foreign services for an act commensurate with serving as marshal in the Pentagon march. Imagine a Spanish diplomat protesting American bases in Franco Spain, or an Indian foreign service officer marching on the defense ministry in New Delhi to protest its anti-Pakistani policies.

But that is not the issue. The first amendment of the U.S. Constitution is our most basic political document. Its force is deeply felt even though we sometimes act to the contrary. So the issue is not the validity of our archetypal political convictions, but their erosion. Where the right to dissent is concerned the rest of the world is irrelevant. A nation has to judge itself on its adherence to its own first principles.

Ironically, Smith's efficiency report from the Operations Center was the best he ever had. His own view of the matter is that this assignment was his first "political" job, and given his interests in that kind of work he did it well. Apparently, he was put on the promotion list, but budgetary problems, caused by the Vietnam war, significantly reduced the size of the 1969 promotion list.

Those first steps were not easy for Smith. We are not dealing with an Abbie Hoffman or an Eldridge Cleaver here. Smith's demands were large, his mental persistence uncompromising, but he was, nonetheless, a child of the middle class, who longed for security, comfort, and recognition from his peers. At every stage of his progress, he admits to nervousness, fear, even feelings of persecution.

Bunny, who enjoyed the Foreign Service life, who was admired and liked by everyone who knew her along the way, and who is a more flexible and stronger person than Murray, was consulted on some of her husband's decisions along the way, but not all. "Murray's ideas were kept in cocoons and then emerged like butterflies," Bunny says. Yet, he told her of most of the major acts that doomed him. Though she says she likes the Foreign Service life, Bunny says she thinks "fear" was the root trait of the Foreign Service Officer. She says, "I'm proud of Murray for standing up for principles. I think it is wonderful that Murray felt strong enough to do what he did."

"If I had these last ten years to do over I'd like to be able to do all of the same things," Murray says. "All I know is if you feel you should do something, do it. All in all I feel the actions I took were not great, maybe they didn't have an influence, maybe they could have been done better. But I took the action as well as I could when it was asked for. Magazines and newspapers are always criticizing tactics. Well, I'm not very organized, it's true. But I was doing things for the first time. I wasn't a pro."

Yet, he became at the very least a gifted amateur, as he fought the State Department in the press and the courts, and to some immeasurable degree in their conscience. Don't forget that on the larger issue of Vietnam many of his adversaries knew he was right.

During his Washington travails Smith was surrounded by civil servants of similar persuasion in other agencies who admired his politics, his courage, and more than that viewed him as an extraordinary asset for their cause. Up until the Cambodian invasion Smith was the only FSO willing to go public for all of their causes. He was more than a name on a petition, he was a prominent fly the State Department didn't know how to remove from the ointment.

So it is puzzling that Smith, who finally had discovered a community of activists who shared his views, would have gone off to Tabriz, where he was destined to be alone once again. He tried to find another job in the civil service and on Capitol Hill, but without success.

"There's a place for him," said Keir Jorgensen. And, certainly, Smith could have worked in agencies like OEO, HUD, HEW, even the Post Office and have gone unmolested. Though he may be a zealot, he is no fanatic, and has a job history of doing his work in a responsible, even a meticulous way. Probably he was committed to pushing the system to the point where it would eliminate him. Rejection would be his triumph. The State Department was the ideal forum for such an enterprise.

So Smith went off to Tabriz for the showdown. A squat, dusty, brick and adobe city of 300,000 people of a morose and stolid temperament. Its university was once described to me by a newly arrived Fulbright professor of English as "a door in a mud wall." The place has its merits, of course, but life there for an American is incredibly narrow and confined. Smith's boss at the American consulate, Tom Greene, was an old friend from Tehran days. Greene's wife, Margaret, was close to Bunny. The two families' children were playmates and still correspond. Smith and Greene, unlike so many foreign service officers, have a keen scholarly interest in other societies. In their Tehran days they were fond of talking about Persian history. Greene describes Smith as "one of the best informed people I've ever met." Smith calls Greene "the kind of Foreign Service Officer who ought to be an ambassador."

When I first talked to Greene I made a remark about the "strain" the events in Tabriz had put on the friendship. Greene is a somewhat austere, if not stiff, New Englander. We share some good friends and acquaintances, and they speak highly of his qualities. "I still regard Murray as my friend," Greene said, after a pause. There was a hitch of pain in his voice.

Yet, though they are still fond of one another, Smith and Greene cannot be called friends. Their own notions of a higher loyalty have put that relationship behind them. In their different ways both have a certain rigidity of character and circumstances caught the friendship between those two fixed millstones. "I was just a messenger boy for the Embassy," Greene says about the petition incident. The messages in their period together in Tabriz from mid-1969 to mid-1970 were not cheerful. By Smith's request most of their official dealings were conducted by memorandum.

One of Smith's colleagues in Iran says, "Murray once told me 'I don't like having a boss.' The guy is an idealist and like all people with an ideological view of the world he sees his foes as implacable. He was a man driven in Tabriz. Just not given to practical matters. He became very secretive and he caught poor Tom Greene in uncharted waters. Greene never had a chance. He wasn't even told about Murray's petition. I think maybe Murray wanted the problem to come to a head. In that sense he was using Tom. Like all idealists he felt the issue was more important than the individuals involved. I don't know how you judge a person like Murray. By everyday terms he was insane, but maybe he did some good. He forced Americans to think about the war. You'd hear FSO's in Tehran saying how lousy the war was, and how they wouldn't serve in Vietnam if they were assigned there. Then comes this petition in the mail. He forced people to think and to act. He influenced me. I had to think it out and finally I signed the petition."

When Tom Greene left Tabriz for reassignment in the summer of 1970, Smith saw him off at the airport and said, "Tom, I hope you know that there was nothing personal in what I did." That was the first sentiment that had passed between the two "friends" in some time. It would be the last exchange, as well.

One close observer of Smith's career in Tabriz says, "Murray lowered his guard. He just wouldn't protect himself. His beliefs were so strong that he wouldn't perform his job day to day on a high enough level to protect himself."

Smith admits that. He was throughout his career an average Foreign Service Officer. His work was adequate, sound, acceptably efficient. From 1967 to the present he was forced to spend a great deal of every workday defending himself from threats of reprisal and prosecution. His own nature combined with the weight of the establishment lined up against him to drive him outside the system. The State Department expects brilliance from its officers and gets timidity. In Smith they discovered an officer whose work was only adequate, but who was never less than daring and courageous. So the system got him. He was asking for it. In his core he wanted to be thrown out, because he knew the State Department was the wrong place for him. To be thrown out would affirm his ideals. You have to think back to the person Smith was when he joined the Foreign Service in 1962 and wonder why the State Department couldn't find a place for him, and wonder too if the Foreign Service's search for "brilliance" in particular and in general have not blinded it to other qualities that are perhaps more important in the long run.

In the last efficiency report on Smith that might have won him a promotion, Donald R. Toussaint, the counsellor for political affairs in Tehran, writes that Smith has a "tendency to view his work as an 8:00 to 5:00 job" and "a preference to spend his outside time and energy on nonofficial activities." This piece of pomposity can stand as Smith's official obituary.

At this point Smith is planning to "split" from Bunny and the kids. He will "float" in the United States for awhile, "while still earning $10,000 a year to keep the family going." During the last year in Tabriz he gave up entirely on his career. At thirty-two he is bent on recapturing the youth and idealism so many of us lost to the decade of the 1960's. He wants to relive all that he missed. Bunny sees her life with Murray passing in front of her and recently told him it reminded her of a lifetime spent on research for a term paper that has never been written. Smith, with his characteristic self-honesty, agrees.

Smith is no hero. He has not always behaved wisely or honorably, at least in that final year in Tabriz. The State Department has treated him shabbily and must take some of the credit for Smith's current situation. At this point the Foreign Service is better off without him, though it helped to shape him, to drive him over the edge.

Bill Harrup, who runs AFSA, that employee group that is meant to look after the interests of its Foreign Service membership, listened to my description of Smith's career up to the Tabriz petition. He seemed to find nothing remarkable or even unfortunate in Smith's experiences. Indeed, he repeatedly stressed the fact that Smith was just not a good enough Foreign Service Officer to survive the State Department's highly competitive standards. Once again being an adequate worker was not good enough for the Foreign Service. Only brilliance was acceptable, even though few State Department jobs offer much scope for brilliance. But foreign affairs, like domestic ones, don't lend themselves to brilliant solutions. At best, the Foreign Service can only make educated guesses about events beyond its control. That being so, overreachers are doomed and the unchecked exercise of brilliance leads to tragedy. Smith, like the department he served, was guilty of the sin of intellectual arrogance. Like all zealots, he saw clearly the wages of arrogance in others, but not in himself, which is sad. The Foreign Service too can perceive the arrogance in Smith, but not in itself, which is tragic.

Bill Macomber's seventh floor office is stocked with mementoes from his tour as Ambassador to Jordan—brass trays, inlaid cigarette boxes, a large photo of King Hussein in Bedouin headdress, prints of Middle Eastern desert scenes. I tick off Smith's qualities as I see them—courage, grace, an uncommon mind, singleness of purpose, idealism, naivete, an inability to compromise, a middling attention to details and everyday work, a certain hunger for martyrdom, fitful bursts of energy followed by protracted indolence.

Macomber appears somewhat relieved to be dealing with Smith instead of Charles Thomas, or Paul Kattenburg, or Alison Palmer—all victims whose "brilliance" he might be forced to admit. Macomber shakes his head, in apparent astonishment at the accuracy of my summation of Smith's traits.

He smiles. "You're exactly right," he says, "but you should have mentioned one thing."

"What was that?"

"And a hell of a nice guy, too."

[From the Washingtonian, November 1971]

THE MURRAY SMITH AFFAIR: I SADLY RETRACT THE WORD "HONORABLE"

(By Tom Downing)

In the September WASHINGTONIAN I wrote an article on how the State Department personnel system contrived to "select out" a young foreign service officer named Murray C. Smith III. That article contained several untrue and misleading characterizations, and I wish to retract them.

I wrote that Smith's career as a political dissenter over Vietnam and other issues "summoned up the department's petty and honorable sides alike." I sadly retract the word "honorable."

I wrote that State Department senior Foreign Service Officers are "fair and honorable men." It is now evident that many of the key officials I wrote about behaved in anything but a "fair and honorable" way in the Smith affair. Specifically, I refer to Deputy Under Secretary of State William Macomber, U.S. Ambassador to Iran Douglas MacArthur II, former Director General of the Foreign Service John Burns, Counselor for Political Affairs at the American Embassy in Tehran Donald Toussaint, and former American Consul in Tabriz Tom Greene.

All of these officials have deliberately conspired to thwart State Department regulations, to defy the very principles on which a career-merit Foreign Service rests, to contravene a written agreement with the American Civil Liberties Union, and above all, to destroy the rights and career of Murray Smith, an FSO-6.

What leads men of attainment and intelligence to such shameful—and in the scheme of things trifling—acts? I spoke in my September article of the State Department's narrow code of brilliance that leads to arrogance and recklessness. I assumed these men were "elitists" who had been misguided by their own notion of superiority. But I also assumed they were "elitists" governed by a code of honor and probity. In the case of the men mentioned above, I was wrong.

Smith, anti-Vietnam War activist and civil libertarian, was apparently a man whose convictions and lifestyle so deeply affronted these officials that they declared him a nonentity. Smith was the absolute opposite of their notion of what a Foreign Service Officer should be. That made him a nonperson to be expunged with no regard to regulation, law, or human decency. I can only guess at the quality of arrogance that leads powerful men to single out others for persecution.

So much for the why. As for how they did it, the record will speak for itself.

To summarize my earlier article, it will be recalled that Smith had had a history of anti-war activities ever since serving as a marshal in the 1967 March on the Pentagon. Later, in May 1968, Smith signed a federal government workers' anti-war petition that appeared in the *Evening Star*. The State Department threatened to include this act in Smith's personnel dossier, thereby damaging his chance for promotion. The American Civil Liberties Union filed suit in U.S. District Court, and the State Department settled out of court by agreeing in writing that it would not include any mention of Smith's anti-war activities in his personnel dossier. Later, in the summer of 1969, Smith was transferred to the American Consulate in Tabriz, Iran, on twenty-four hours notice. He had two years to be promoted or face selection out for time in grade.

Smith's job in Tabriz was a demeaning one by State Department standards, and he had practically no training for his new administrative functions, which constituted most of his Tabriz work. In the autumn of 1969, Smith and a Peace Corps volunteer in Tabriz distributed a petition to all official Americans in Iran urging immediate U.S. withdrawal from Southeast Asia. Macomber told me in August that he did not regard this activity as detrimental to U.S.-Iranian relations. He said, "Smith didn't act to undermine the American position in Iran."

Just the same, Ambassador Douglas MacArthur II attempted to have Smith recalled for his petition activity, a move the State Department forestalled for reasons that will become obvious shortly. Curiously enough, Smith recalls that throughout his several stormy sessions with MacArthur the Ambassador seemed to show a sympathetic concern for the constitutional issues of liberty and censorship the embassy had earlier breached by denying Smith use of the diplomatic pouch to transmit his petitions. As will be obvious from the documents printed here, MacArthur's civil libertarian concerns were generated by instructions from the State Department, which was anxious to give Smith no *visible* grounds for challenging the selection-out scenario that Macomber, Burns, MacArthur, Toussaint, and Greene were working on. For the department knew that its conspiracy to get rid of Smith left the door open for further legal challenge from Smith and the ACLU. Therefore, it was essential that their scheme to have Smith selected out should possess the appearance of legality and adherence to the regulations.

Macomber and his fellow plotters made one mistake. They assumed that everyone in their employ put the department's comfort above personal principle. They allowed too many people to see what they were doing, and in the end, there would be some within the State Department too outraged to remain silent.

As I reported in my article, the department kept a "ghost" folder on Smith's anti-war activities, which was produced periodically to brief senior officials on the Smith case. Both Macomber and Burns denied any knowledge of such a folder. Macomber said he had "personally" taken steps to see that Smith was not "penalized for his anti-war activities." He went on to boast of his role in encouraging "dissent" within the State Department and took personal credit for intervening on behalf of the 200 State Department and AID officers who signed the Cambodian petition in the spring of 1969. During my interview with Macomber and Burns, I told them that impeccable sources within the department had seen the Smith "ghost" folder, that others in high positions had heard it described as a necessary administrative device to retain information on troublesome foreign service officers. I said that this act flew in the face of the department's agreements with the ACLU.

The documents that follow conclusively demonstrate that both Burns and Macomber knew a great deal about the Smith affair, and were involved to the hilt in an effort to consciously pervert the standards by which the State Department promotion policies and selection out procedures are governed.

Here are pertinent excerpts from two "eyes only" missives that reveal the scenario for Smith's elimination. Together they spell out the involvement of Macomber, Burns, MacArthur, Toussaint, and Greene.

(The following letter is from John Burns to Ambassador Douglas MacArthur II.)

"February 2, 1970

"Dear Doug—

"Thank you for your January 15 letter with the latest report from Nick Thacher on Murray Smith's activities. We have again gone over this matter with Bill Macomber and what follows is our best current assessment of how to deal with what is assuredly, as you say, a messy case.

"First I should say that the Smith case is something of a type, i.e., we seem more and more to encounter FSO, who, for one reason or another, are eager to have 'confrontations' with the system in order to attack the promotion system, Service discipline, the time-in-class and selection-out procedures, assignment policies, etc. Some of these cases are very hard to deal with. You would be surprised at the time spent in rebutting charges of allegedly wronged officers who decide to make a major issue out of the inclusion—or sometimes the exclusion—of a seemingly insignificant item in their files. And while we recognize that an appeals procedure is right and necessary, the appeals system is sometimes used for personal crusades which can be troublesome and time consuming.

"In the case of Murray Smith we would like to avoid the confrontation he apparently wants to provoke and your handling of the case has been perfect. We do not want to give Smith an opportunity to contend that his constitutional rights have been infringed even if this requires a special measure of restraint on our part—restraint which you, Nick Thacher and Tom Greene have already exerted in admirable degree. Smith is three years in grade as of this year and if he is not promoted by the selection boards which met this fall, he will be forced to retire, time-in-class, in the spring of 1971. His file indicates that it is very unlikely, no matter what his next efficiency report, that a selection board will rank him high enough for promotion. I would say a 1970 report referring to those factors mentioned in paragraph 6 of Nick Thacher's most recent memorandum (minus the reference to constitutional rights paranoia) would in all probability eliminate Smith's last chance for promotion.

"In looking over the Smith file, I am satisfied that there is no reference to his extracurricular activities which can be described as seriously critical; on the contrary, the references are objective and some of them even rather laudatory. We obviously would not want to add to this record any material affording Smith a further target for his crusading activities. In fact, I do not believe our detailing his latest Iranian exploits would be material to the outcome of this case, assuming this year Smith earns a report along the lines of Nick's memorandum. I see no reason that some sort of reference to Smith's absence on October 25 should not be included but I do not think it will be necessary that the point be emphasized for the reasons I have already mentioned. An observation that Smith's extra official interests occasionally interfered with the performance of his duties should be adequate.

"Smith has not been told that he was ranked in the low 5% of his class by the selection boards of this year, nor should he be told because if he fails of promotion next year he will be out on time-in-class, and need therefore not know of his current ranking. Were we to inform him at this time, we could likely expect a visit from a civil libertarian attorney charging that Smith's low-ranking was a punitive measure levied because he had exercised his constitutional rights. If at all possible we prefer to let time and the next promotion panels take care of this particular aspect of the Smith case.

"For the same reasons we believe that it is important that Smith remain in Tabriz—or at least in Iran—for the remainder of his projected tour of duty unless the situation becomes so embarrassing to the Embassy that his departure is a clear necessity. While I can readily sympathize with your preference for a redeployment of his talents we feel reasonably sure that such a move would involve everyone in a protracted round of contention with Smith which could be more difficult for the Service as a whole than suffering him for another year in Tabriz. I recognize the burden this places on you and if it becomes too onerous we can consider alternatives. Meanwhile I am sure that we can cope with any Congressional, or other, questions which might be raised locally.

"I hope that the foregoing provides you the assessment you need and I want you to be entirely frank in commenting on our suggestions. Our objective is to minimize this problem as a whole but we do not want to create any really serious ones for you in the process.

"John"

(The following letter is from Ambassador MacArthur to Burns.)

"February 26, 1970

"Dear John:

"I have delayed answering your letter of February 2 until we could have a talk with Tom Greene, our Consul in Tabriz. He has been here this week and we have had an opportunity to go over thoroughly with him all aspects of the Murray Smith case.

"Your letter was helpful in emphasizing the relation of the Smith case to other examples of this type of activity and the problems they raise in administration of the Foreign Service. We want to cooperate fully with you to manage the situation in a way which will reduce the possibility for a 'confrontation' and increase chances for resolving it with normal mechanisms of the personnel process. Therefore we will 'live' with Smith for the duration of his tour in Tabriz.

"As a result of our talks here, Tom is aware of the need for writing a report that will reflect fully and accurately Smith's real potential for the Service. We will review the report carefully in the Embassy, keeping very much in mind the helpful background information given in your letter.

"Greene tells us that Smith's performance has not improved a great deal in administrative matters. He showed us a recent memo which he discussed with Smith listing a series of deficiencies in Smith's performance in the administrative field. This memo was shown to and discussed with Smith six months before his efficiency report was due so Smith cannot charge that he did not know his performance was unsatisfactory in a number of respects. From the discussion between Greene and Smith it is obvious that Smith does not accept the idea that certain things, such as his wife's dress (she is a mini-mini wearer and has been spat on and criticized by Iranians in the area), are anything but their own personal business. Smith rejects the idea it is of legitimate concern to the Principal Officer since it creates a very bad image for the U.S. and before coming here the Smiths were told that conservative dress by females was important.

"Tom finds that his day-to-day relations with Smith and the latter's performance generally have not altered a great deal since our letter and memo to you of January 15. In other words, the situation remains, if not satisfactory, at least manageable from Greene's point of view as Principal Officer.

"Smith's petition activities have attracted no further attention here. He seems anxious, however, to pursue with ARMISH/MAAG the question of why distribution of his petition and letter form was refused by the ARMISH/MAAG mail room. Our military colleagues feel that they have adequate legal grounds for this refusal and are considering how they should frame their reply to Smith's queries. The military have their own considerations to weigh and I feel we must let them work out their own response.

"We have, however, tried to discourage them from adding to Smith's complainant's dossier by sending him a reply in writing.

"There is the possibility, of course, of Smith's returning to the charge with further maneuvers some time during the remainder of his tour in Tabriz. Tom Greene notes Smith has not for many weeks discussed with him his preoccupations with his constitutional rights nor any plans for further tactics to vindicate these as he sees them. Should there be any new developments we would, of course, keep you fully informed, particularly should there be any that might threaten putting the whole business into the public arena where Congressional concern could be aroused.

"Philosophically, we have recognized that Smith's performance reflects many of the deplorable but recently fashionable excesses so often encountered these days. . . .

"With many thanks for all your thorough and careful backstopping and all the very best,

"Douglas MacArthur II"

There is little to add to the Burns-MacArthur correspondence. The letters speak eloquently and directly to several issues. They show a conspiracy to manipulate Smith's performance rating in such a way as to ensure his surgical elimination from the Foreign Service at the earliest possible moment. The efficiency report that Greene and Toussaint wrote, with consultation from above, conforms precisely to the standards outlined by Burns, and agreed to by MacArthur.

On too many counts to enumerate here the letters defy the State Department's written agreement with the ACLU. The tone of old boy self-acclaim, the contempt for the most elementary canons of ethics, the gratuitous and snide asides about other dissenting Foreign Service Officers perhaps say all that need be said of the quality of these officials, and where, in a larger sense, they have led this nation. Needless to say, Macomber's, Burns', and Greene's statements to me for my September article are now revealed as outright deceptions, a deplorable enough development, but insignificant when contrasted with the perfidy these men and their associates have wrought against Smith and whatever figment of justice that Foreign Service personnel proceedings ever had.

Department of State,
Washington, D.C., November 24, 1971.
Hon. Clifford P. Case,
U.S. Senate,
Washington, D.C.

Dear Senator Case: The Secretary has asked me to reply to your letter of November 9, 1971, expressing your interest regarding grievances in the Foreign Service and, specifically, inviting the Department's comments upon the articles in the September and November issues of the *Washingtonian* on the case of Murray C. Smith, III.

Following the appearance of the November article, Deputy Under Secretary Macomber sent a letter to the Editor of the *Washingtonian* commenting upon the articles. This represents the Department's position both upon the articles and the larger issues raised therein. Accordingly, a copy is enclosed. However, with respect to the Foreign Service career of Mr. Smith, several matters were unresolved as of the date of the letter, October 29, 1971.

As noted in the letter, the Department proposed to rectify the administrative error of not notifying Mr. Smith of his low standing in 1970 by setting aside his involuntary retirement and, should he so wish, removing from his file evaluation reports written on the basis of his performance subsequent to the time when he should have received such notice. On November 12, 1971, the Department was informed by Mr. Smith that he did not wish to avail himself of the Department's proposal, and that he expected to be retired on November 30, 1971, the interim date to which Mr. Smith's service had been extended immediately upon the discovery in September of the administrative error. Therefore Mr. Smith will be separated from the Service on November 30, 1971.

As also noted in Mr. Macomber's letter to the Editor of the *Washingtonian,* Mr. Smith had been requested to respond to a report from the American Consul in Tabriz, Iran (Mr. Smith's post until June of this year) indicating insubordination and improper conduct in an area unrelated to issue of free speech or the Vietnam war. Although at a meeting in the Department on October 15, 1971 Mr. Smith chose, on the advice of counsel, not to respond to questions on the subject, the Director General of the Foreign Service by letter of Ocober 19, 1971, gave Mr. Smith a second opportunity to make a statement. . . .

The Department believes that the refusal of a Foreign Service Officer to answer questions specifically, narrowly and directly relating to the performance of his official duties in a foreign country, taken together with apparent evidence of serious insubordination which gave rise to such questions, raises very serious questions whether that officer should continue to serve in the Foreign Service. However, since Mr. Smith has expressed his intention to leave the Service at the end of this month, he has been informed that since such departure would render any administrative proceeding academic, the Department will withhold any action on this matter pending his scheduled departure.

In connection with your general interest in grievances in the Foreign Service, enclosed also is a copy of a recent Department Notice regarding the activation of the Interim Foreign Service Grievance Board. Following two solicitations of the more than 9,000 Foreign Service personnel, a total of 51 grievances—many of them minor—were filed under the new procedures. Eight of these have gone directly to the Board, five are pending before the Board having failed of informal resolution, two have already been resolved informally to the satisfaction of the grievant and 36 are presently in various stages of the informal procedure.

Sincerely yours,
David M. Abshire,
Assistant Secretary for Congressional Relations.

Department of State,
Washington, D.C., October 29, 1971.
Mr. Laughlin Phillips,
Editor, The Washingtonian,
Washington, D.C.

To the Editor of the Washingtonian Magazine: In a period of rapid transition, both in the way nations conduct their international affairs and in the attitudes of human beings working for large institutions, the Department of State obviously faces great challenges and changes.

In your recent articles concerning the Department I had hoped that you would deal with some of these, particularly since the articles have been written at a time when the Department is engaged in the most far reaching reform and modernization effort in its history.

We would not have expected a paean of praise for all that is going on in the Department at this time. The steps being taken to install modern management techniques, to make the Department more receptive to new ideas and the extensive changes being made in our personnel system—all are controversial and subject to much comment pro and con. The same can be said for the development of the first real employee-management relations system which the Department has ever known, the first *bona fide* grievance system which the Foreign Service has ever had and our efforts to insure modern concepts of due process in our dealing with all our personnel.

Another key concern which the Department shares with almost all other public and private institutions, is the proper and productive handling of dissent. This is, of course, a particularly difficult and complicated area and one in which the history of our country over the last few years shows us there are no easy answers. It was this subject, or rather the case of one particular dissenter, which monopolized your writer's attention.

What are the obligations of a Foreign Service Officer who finds himself in strong disagreement with the President's policies? In my personal view they are as follows: As long as he continues to be a career professional, he should not take an action which would publicly undermine the policies of the President he serves. But he should also realize that loyalty to the Presidency does not imply thought control. On the contrary, if a career diplomat disagrees with the President's foreign policies he not only has the right to question them but he has the obligation to do so. In fact, he is being disloyal if he does not.

I believe, however, that it is not enough to say that he is "concerned" about a policy, or is "opposed" to a policy. As a professional it is up to him to propose a rational and thought-through alternative. Furthermore, he must do this privately and from within, rather than publicly and from without. The system in turn must be such as to assure the dissenter that his alternative will receive a fair hearing, and this has been a major preoccupation of the current reform effort.

Career professionals must recognize, however, that they cannot expect always to have their views prevail, and if they are to remain in the career service they must be prepared, once alternatives have been considered and decisions have been reached, to support these decisions. If their conviction that these decisions are wrong is so strong that they believe they must publicly seek to reverse them, then I believe that in conscience they should resign from the service and pursue their objectives as writers, publicists, candidates for elective office or simply as private citizens.

If this view is correct, then it follows that a career in the Foreign Service carries with it certain restraints and inhibitions which do not apply to many other citizens. In return a career diplomat is guaranteed a role in the critically important work of developing a just and enduring peace and the opportunity to influence to a larger degree than most of his fellow citizens the answers to the crucial questions which our nation must solve in this area.

What we have to bear in mind, however, is that if an Officer disregards these principles, what is controlling is not what I or others may think are proper restraints, but rather what the legal rights of the officer are in the constitutionally protected area of freedom of expression. And this brings us to the Murray Smith case.

Your articles allege in substance that Mr. Smith has been treated unfairly by the Department of State and that this has been done because of his activities in opposition to the war in Vietnam. The facts are these:

In 1969 a controversy had developed when the then Director General of the Foreign Service informed Mr. Smith that he intended to place in his personnel file a reference to the fact that Mr. Smith had signed an open letter opposing President Johnson's policy on Vietnam which was published as a paid advertisement in *The Washington Evening Star*. Mr. Smith objected to this procedure and a suit was brought against the Department on Mr. Smith's behalf by the American Civil Liberties Union. After administrative review proceedings, provided for in the Department's standing regulations, and on the advice of the Department's lawyers, it was decided that no reference to this activity would be placed in Mr. Smith's personnel file. Mr. Smith was so informed and the ACLU suit was withdrawn.

Your articles charge that this decision was then circumvented by the creation of a "ghost" file into which all of the material which otherwise would have been in the personnel file was collected and was "produced periodically to brief senior officials on the Smith case." I can state categorically that neither Director General Burns nor I was aware of a "ghost" file, nor to the best of my knowledge were any of the other officials referred to in your November article.

I have since learned that there were two files concerning Mr. Smith in the Department dating back to the *Star* advertisement and the ACLU suit. Neither was a personnel file, in the normal sense of that word. Each had been established by an official because of his own direct involvement in the case and each in essence reflected what had happened and how the matter had been resolved. In any event these files were not, to the best of my knowledge, taken out "to brief senior officials." Certainly the contents of such files were never brought before, or discussed with, any promotion board considering Mr. Smith. And pursuant to our commitment to him, none of the evaluation reports on Mr. Smith alluded in any way to his Vietnam protest activities.

Having said this, I should add that there are too many files in the Department. As I testified to the Senate Foreign Relations Committee on October 7, 1971, one of the reforms which we are involved in is to cut down and get rid of superfluous files which, although they are never reviewed by senior officers or shown to promotion boards, do give rise to exactly the kind of suspicions that are expressed in your articles.

A second aspect of the handling of the Smith case is the one to which your magazine devoted its major attention. In his most recent foreign assignment starting in July, 1969, Mr. Smith was stationed as second man in a two-man Consulate in Tabriz, Iran.

Shortly after arriving at this post Mr. Smith began circulating anti-Vietnam war petitions to U.S. Government personnel serving in Iran. The Embassy was concerned that this activity might become known publicly in Iran and wished to have him transferred from the country.

While the appropriateness of this activity on the part of an officer sent abroad to represent the President and his policies could certainly be subject to question, we concluded that Mr. Smith's actions did not in fact publicly undermine the President's policies. In view of this and mindful of Mr. Smith's constitutional rights, the Department's lawyers advised that if he was transferred out of Iran because of this activity or if any reference was made to it in his performance reports, this could raise constitutional questions of the very kind which had been at issue when the Department determined not to place in Mr. Smith's personnel file any reference to his earlier Washington anti-war activity. Therefore, through correspondence between the Director General of the Foreign Service and our Ambassador to Iran, the Embassy was asked not to send Mr. Smith out of the country for his petition activities. They were further asked not to put any reference to these activities in his performance evaluation report.

At the time the Embassy raised Mr. Smith's petition activities with the Department, it also reported that his supervisor in Tabriz had noted some shortcomings in his on-the-job performance which had nothing to do with his anti-war activities. Mr. Greene had prepared a preliminary critique of the first six months of Mr. Smith's work in Tabriz and discussed it in detail with him. The Department through the Burns-MacArthur letters advised the Embassy that these performance factors should be included in his evaluation report. In essence the Department's instructions to Tehran with reference to his evaluation report were to stay away from any reference to his anti-war activities and to stick strictly to a report on his on-the-job performance.

The fundamental question which emerges is whether the performance evaluation reports which were prepared in Iran on Mr. Smith were biased because of this correspondence, or for any reason.

Were they biased because of what Mr. Burns had said should and should not be put in his file? Were they biased because the officers preparing and reviewing his evaluation reports were unduly critical of Mr. Smith's on-the-job performance from frustration over their inability to comment adversely on his petition activities? Were they biased because Mr. Smith was considered an irritating officer and it was known that anything other than a superlative report would almost certainly lead to his departure from the Service?

The answer of course is that neither the author of your articles nor Mr. Smith has ever alleged to the Department that the evaluation of Mr. Smith's on-the-job performance was inaccurate or biased for these reasons, or for any reason. In fact I am informed that Mr. Smith told Consul Greene that his report was one of the most perceptive reports ever written on him.

For a different reason, however, it is now quite clear that the scheduled involuntary retirement of Mr. Smith was unfair and should be rescinded. After the 1970 promotion list was published in the spring Mr. Smith knew he was in his last allowable year in grade and that a special effort to win promotion would be required if he was going to stay in the Service. What he did not know was that he had been ranked by the previous promotion panel in the lowest five percent of his class.

When I learned in late September of this year that all other Class 6 officers in the same position as Mr. Smith had been notified of their low standing and had been advised to seek counsel on how they could improve their performance, I concluded that failure to notify Mr. Smith of his low standing under these circumstances constituted "reversible error." Because of this I determined that his involuntary retirement for failure to achieve promotion in the time allotted would be set aside. I also determined, subject to Mr. Smith's concurrence, that any evaluation report written on the basis of his performance subsequent to the time when he should have received his five percent warning should be removed from his file.

I should note, however, still another development in the Foreign Service career of Mr. Smith. Shortly after Mr. Smith left Tabriz this summer, the American Consul there discovered facts which, in his opinion, indicated insubordination and improper conduct in an area unrelated to issues of free speech or the Vietnam war. Mr. Smith and his attorney have been shown this report and we are awaiting his response.

In any event, Mr. Smith, as a result of the error regarding the five percent notice, remains in the Foreign Service. And as time goes on he may well raise new issues in this complicated realm of dissent. Whether he does or does not, however, the issues themselves remain and will surely continue to be raised. For no one really yet can claim to know for certain how properly to balance the Department's need to maintain sufficient discipline to function effectively, while at the same time protecting the rights of its employees and being open and receptive to new ideas and differing viewpoints.

William B. Macomber, Jr.,
Deputy Under Secretary for Management.

Interim Foreign Service Grievance Board to Convene December 6 and 7, 1971

Chairman-designate William E. Simkin of the Interim Foreign Service Grievance Board has called for the first meeting of the full Grievance Board to be held at the Department of State on December 6 and 7.

Meeting with Mr. Simkin will be public members Alexander B. Porter, who is presently permanent umpire for Reynolds Metals Corporation and the United Steel Workers, Ambassador (retired) William R. Tyler, who is presently Director of Dumbarton Oaks Research Library and Collection, and the members selected from each of the foreign affairs agencies.

The Department members will be FSO–1 Frederick Irving and FSS–4 Robert L. Fon. The AID representatives will be FSR–1 Harold D. Snell and FSR–5 Mrs. Inger Hvoslef. USIA's representatives will be FSIO–2 Philip F. Dorman and FSRU–3 Miss Martha I. Burns.

Mr. Simkin has chosen John A. Warnock, FSO–4, presently Labor/Political Office at the American Embassy Copenhagen to be Executive Secretary of the Grievance Board. Mr. Warnock will arrive in the Department to begin the preparatory work on November 17. Miss Eleanor Ostermeier, FSS–4, has been appointed secretary/receptionist for the Grievance Board. Miss Ostermeier's last assignment was with Ambassador Bruce at the Paris Peace Talks.

The first meeting of the Grievance Board will be an organizational meeting but it is expected that panels of the Board will begin considering grievance cases immediately after December 7.

SLUSH IN 1967 IS SLUSH IN 1971

Mr. SCOTT. Mr. President, during the 1967 Senate debate on the campaign contribution checkoff proposal, several Senators, including two from the other side of the aisle, noted the disastrous consequences that would follow the establishment of such a slush fund.

I ask unanimous consent that these 1967 Senate floor statements, and the accompanying annotations be printed in the Record as a reminder that what was slush in 1967 is slush in 1971.

There being no objection, the items were ordered to be printed in the Record, as follows:

Senator Gore on Equal Protection, April 3, 1967, Congressional Record, Page 8060

There are also serious constitutional questions about the formula used in the statute to identify the presidential candidates who would be eligible to benefit from the subsidy.

Any program to provide Federal financial assistance for use in election campaigns must necessarily contain some formula for distinguishing between bona fide candidates and those entering the lists only for the purpose of obtaining access to Federal funds.

But the reasonableness of the cutoff point contained in the formula of the act is, to say the least, open to question.

WOULD DO VIOLENCE TO CONSTITUTION

I do not wish to be misunderstood as advocating dissolution of our two-party system. In my view, our two-party political structure is one of the basic strengths of our form of government. I am not here suggesting that we should encourage the development of splinter parties, third parties, or fourth parties by subsidy or otherwise. That is not the point at all. Rather it is my view that we cannot, without doing violence to the Constitution, impede the development or the success of a third political party by subsidizing the two existing major parties under eligibility rules so grossly unfair as to be arbitrary and unreasonable. And even if we could do so, would it be wise to so freeze the mobility of our political system?

After all, one of the two major political parties of today emerged from a breakdown of another party. Should we make sure this can never happen again?

Would it be in the public interest to provide in this indirect way that it could never happen again?

Is it wise to make our system so rigid that a conservative movement, a liberal movement, or any other kind of movement cannot survive and compete in the political arena?

I think even if we could constitutionally do so it would be unfair and unwise to do so.

DENIAL OF EQUAL PROTECTION OF LAW

Is political aspiration not a civil right? Is the opportunity to compete for political preferment, for political office on equal terms, with equal opportunity, not a civil right?

It is a right as basic as the privilege of voting, and yet this unwise law seeks to circumscribe that right. We have by law circumscribed the right of equal opportunity to seek public office, to seek the Presidency of the United States. We have limited it to two men—the nominee of the Democratic Party and the nominee of the Republican Party. We have made a mistake, Mr. President. Let us erase that mistake.

Again, it is not a question of what may be considered desirable or undesirable. It is a question of what is fair and reasonable—not only to Republicans and Democrats but also to those who prefer some other party to either. I do not engage in the pastime of predicting what the Supreme Court would do in a given situation. I have found the Court a bit unpredictable at times. There are formidable legal obstacles to getting the matter before the Court. But if the constitutional concept of one man, one vote is to have practical validity, the constitutional questions raised by the act passed last year cannot be swept under the rug of expediency.

Senator Gore on the Appropriation Progress Vis-a-Vis the Contribution Checkoff, April 3, 1967, Congressional Record, Page 8060

UNIQUE DELEGATION OF CONGRESSIONAL AUTHORITY

This unique procedure is one which has never been followed before. True, Congress has in the past levied taxes and then provided that the revenue from that tax or a portion of it would be earmarked for a special purpose. Today, for example, revenue from certain highway-user taxes is earmarked for highway construction. But it is Congress that earmarks the revenue or a portion thereof. So far as I can ascertain the law passed last year, which I now seek to repeal, is the first time the Congress has ever undertaken to authorize the individual taxpayer to decide on a year-to-year basis the purpose for which a portion of the money he pays in taxes shall be used. If it is a sound practice for the taxpayer to say for what it shall be used, it would be equally sound for him to say for what it shall not be used; and to the extent that a taxpayer directs that tax funds shall be used for a particular purpose, he automatically thereby says it shall not be used for other purposes.

PROVIDES DANGEROUS PRECEDENT AND ABDICATION OF CONSTITUTIONAL RESPONSIBILITY

In my opinion, the earmarking of tax revenue in any form is unwise. To the extent that revenue is earmarked for special purposes, the ability of Congress to control expenditures by the appropriations process is diminished. Under the earmarking procedure some programs may be overfunded and others starved for funds, with the legislative body powerless to take corrective action through the appropriations process. But the precedent established by title III of Public Law 89–809 is potentially even more dangerous. If we start down the road of allowing each individual taxpayer to decide for what purpose his tax funds may or may not be spent, we may well find that Congress has abdicated its constitutional responsibility of making apppropriation of public funds. If a taxpayer has that right, if it is constitutional and if this precedent should be followed, perhaps there are taxpayers who would like an opportunity to decide whether their tax money shall be spent or not be spent for the war in Vietnam, or a war on poverty, or education, or public works projects, or agriculture programs, or urban redevelopment, or support for agricultural commodities such as milk. Where do we stop with this process? Is this a wise precedent? We have made a mistake, Mr. President. Let us erase that mistake, and the quicker the better.

Senator Gore and Williams on the Unworkable Nature of the Contribution Checkoff April 11, 1967, Congressional Record, Page 8979

REQUIRES AUDIT OF ALL TAX RETURNS

Mr. Gore. Mr. President, with respect to the pending substitute amendment, which the able Senator has cosponsored, to repeal the Presidential Campaign Fund Act, I call to the attention of the Senate that I have just recently read an Associated Press dispatch quoting the senior Senator from Illinois to the effect that unless this law is repealed the administration of it might require the audit of every tax return filed by everybody. Is that possible?

Mr. Williams of Delaware. It is not only possible, but it is accurate. I have talked with representatives of the Department, and they have confirmed that point.

Under the act as it is on the books each taxpayer will have a box on his tax return in which he can put a check mark if he wishes to have $1 of his tax payment turned over to the presidential campaign fund. The only way to tell whether those boxes are checked is to examine every tax return.

Under the existing procedure about 10 percent of our tax returns are audited. Those are, of course, spot-check audits.

PHYSICALLY IMPOSSIBLE

It would be physically impossible to audit the tax return of every American taxpayer, as the Senator well knows. However, if the act is not repealed every tax return from individual taxpayers, 70 million of them, must be examined by someone and tabulated to determine whether the individual taxpayer has checked yes or no on that $1 item. Otherwise, how would they know how much money to turn over to the respective political committee.

The answer to the question of the Senator is therefore yes.

Privately they admit that it is almost physically impossible to perform this task. The best evidence of that is that the distinguished junior Senator from Louisiana, the chairman of the committee and the author of the original act, introduced last Tuesday a bill the first section of which seeks to repeal the $1 check-off for campaigns. It is generally admitted by everybody that the check-off system will not work. Why not face up to this fact and repeal it?

Senator Robert Kennedy on the Contribution Checkoff, April 4, 1967, Congressional Record, Page 8316

INVESTMENT TAX CREDIT

The Senate resumed the consideration of the bill (H.R. 6950) to restore the investment credit and the allowance of accelerated depreciation in the case of certain real property.

Mr. Kennedy of New York. Mr. President, I rise in support of the proposal, offered by the senior Senator from Tennessee, to repeal the Presidential Election Campaign Fund Act of 1966.

CONTRIBUTION CHECKOFF IS STEP IN WRONG DIRECTION

Since I believe firmly that public subsidy of political campaigns is urgently needed, my inclination would be to support any well-conceived step in that direction, no matter how small. In my judgment, however, title III of Public Law 89–869 is not only misconceived, but is in fact a step in the wrong direction. We will be better off, I think, to repeal it and start over again.

The 1961 Presidential Commission on Campaign costs, under the chairmanship of the distinguished political scientist, Alexander Heard, made a number of suggestions as to how we might meet the problems created by rising campaign costs. I believe those recommendations should guide us as we consider the matter.

PROVIDES MASSIVE AMOUNTS IN DANGEROUS AND UNRESTRICTED WAY

But first the Long Act must be repealed. It places funds where they are relatively less needed and, more important, it does so by giving massive amounts of funds in a dangerous and unrestricted way to the national leadership of the two major political parties.

The Long Act has the potential of changing our whole political system. Our national political parties have always been coalitions of State parties, which in turn are coalitions of local parties. Our ideal and our working rule have been that political decisions and policies will be made from the bottom up, not from the top down.

GIVES POWER OVER LOCAL PARTIES

Unrestricted public financing of national political campaigns is a revolutionary overturn of principles which have served our Republic for 175 years. The national parties would be divorced to a large extent from local control, and given immense power to reward or punish local candidates. By this power to decide where to concentrate, and where to refrain from, presidential campaign efforts, the national chairman would wield enormous leverage over the prospects and policies and, indeed, over the very process of selection of local candidates all over the country. The national leadership of the two parties could thereby dominate State and local elections all over the country.

PROVIDES FOR RIGIDITY IN NATIONAL PARTIES

Control of local parties by the national committee, moreover, would lead, perhaps irrevocably, to national parties rigidly organized along lines of class and ideology. If the history of the past century has any lesson for us, it is that governments based on such political divisions cannot preserve either freedom or stability for their people.

INSULATES PARTIES FROM MEMBERSHIP CONTROL

Now the Senator from Louisiana has proposed to amend the law so that each party will have to choose whether it will have its presidential campaign expenditures paid out of public funds or by private contributions. He did so, presumably, to meet the objection of the Senator from Tennessee and others that the law as enacted last year would allow the commingling of public and private funds, and could have the unfortunate result of just adding public funds to an already acquired private treasury. Senator Long's new proposal, however, in many ways creates more difficulties. The assumption is that the parties will choose public funding. But forcing them to reject all private contributions will only insulate them even further from control by their membership around the country than did last year's law. The result will be an even greater departure from the goal of broadening the base of our political parties than was implicit in last year's law.

IGNORES POLITICAL PROCESS AT STATE AND LOCAL LEVELS

Instead, however, we began with a step which injected the Government directly into the political process in massive amounts at the national level, and ignored the State and local levels.

BETTER NO LAW THAN THIS

I believe it would be better to have no law at all than to have this one, although new law in this field is desperately needed.

THE FOREIGN AID BILL

Mr. CRANSTON. Mr. President, now that the smoke has cleared somewhat over the foreign aid issue I would like to make some comments on the structure of our foreign aid program as well as the specific bills we have been asked to vote on in recent weeks.

I voted against the Foreign Aid bill on October 29 with great reluctance. I was finally persuaded to join a majority of the Senate in voting against the bill because, on balance, it represented a continuation of cold war "arsenal diplomacy," as Senator Church has described it. It was a collection of programs tying humanitarian and development assistance to political and military policies that did not square with my views of the proper role of the United States in the 1970's.

For too long Members of Congress have been asked to approve many undesirable military assistance programs as a price for getting the few humanitarian assistance programs they might have favored. The humanitarian effect of these latter programs has been minimized in many instances in order to keep the recipient countries tied to U.S. private enterprise. A multinational approach would, in many cases, provide more effective assistance at lower cost and, in the long run, would be more to the U.S. political advantage.

I favor military assistance in some instances but for the most part the military aid programs in the bill the Senate killed were for questionable purposes. I oppose continued military aid to Greece—it only serves to prop up and maintain in power an undemocratic, repressive regime. The same is true to a large extent of the government in Pakistan, and I see no point in providing sophisticated supersonic jets and other modern weapons to Latin American and other third world countries that will not use them to further American foreign policy but only for show or for the suppression of internal insurgency. We need, therefore, to re-examine the underlying reasons for U.S. military assistance. Unless such assistance truly enhances our national security, I see little value in providing it. In this context, I was greatly impressed by the recent observations of Mr. Paul C. Warnke, former Assistant Secretary of Defense for International Security Affairs. I ask unanimous consent that they be placed in the Record at the conclusion of my statement.

The PRESIDING OFFICER (Mr. Brock). Without objection, it is so ordered.

(See exhibit 1).

Mr. CRANSTON. Mr. President, many of these same criticisms can be applied to the interim aid measures which were passed by the Senate. It is important to remember that these are only interim measures and that our foreign aid program needs a far more thorough re-evaluation and restructuring.

Even in the short run, however, the Senate has made significant progress toward this goal. It began what I hope will be a continuing process of separation in the legislation which is needed to implement and fund the aid program each year. I feel strongly that the economic development programs need to be separated from humanitarian aid programs as well as from military aid, but for now I think we have at least begun to move in the right direction.

Another heartening aspect of the interim bills was the reaffirmation of a strong commitment to channel development aid increasingly through international or multinational agencies. Hopefully, this approach will lead to depoliticizing the whole area of development aid as well as making it more effective and cheaper than bilateral agreements. It will still be possible to pay special attention to certain areas of the world if we choose to do so but at the same time we can discharge our responsibilities as the largest, richest, and most powerful Nation in the world in a more equitable and truly humanitarian fashion than was possible under the old bilateral arrangements.

Finally, however, there was one area of disappointment for me in these two measures. I had hoped that we could begin to reduce our expenditures in the area of military aid, at least to a point where they equalled the amount we spend in economic and humanitarian aid. Unhappily, the total amount authorized to be appropriated for military aid was $1.5 billion while the amount authorized for economic and humanitarian aid was only $1.14 billion. Over the long run we must reorder not only our internal and national priorities but also those priorities which govern our foreign aid spending.

Exhibit 1

Remarks of Paul C. Warnke at the Conference on Foreign Military Aid, Sponsored by the Council for a Livable World, Thursday, November 4, 1971

The entire focus of this Conference has, of course, been dramatically altered by last week's vote of the United States Senate to reject the Foreign Aid Bill. Despite widespread criticism of the program and growing uncertainty as to its basic objectives, the abrupt Senate action came as a shock and a surprise. Because of the many programs designed to alleviate massive human suffering and to improve the international quality of life, continuation of American participation in aid to poor countries seems to me essential. But, at the same time, we must not miss the present opportunity to take an overall look at foreign aid and to analyze and even dissect its various components.

Among the most important consequences of this development should be the complete separation of military aid from economic aid. Virtually everyone who has studied the aid program over the past several years, either from within or from without Government, has concluded that this separation should take place. Indeed, I don't think it will be possible to regain any wide base of support for foreign aid if the persistent and uneasy pairing of economic and military assistance continues to leave the entire aid program in the context of the Cold War between the United States and the two Communist giants.

Accordingly, it would be my hope that the Congress can find some formula to continue emergency relief and economic development programs on an interim basis pending the working out of a new and comprehensive foreign aid program. I also hope, however, that no such stopgap approach will be applied to military assistance. Instead, the unexpected development of last week should lead the Congress to do that which should have been done long ago—that is, to look at military aid not as a prepackaged composite, but instead on a country-by-country basis, with each individual decision being made in light of our own stakes and the impact of our arms on the well-being of the people of the area.

I regard it as both unfortunate and inaccurate that the insistent Administration response to the Senate vote is to characterize it as a threat to our national security and a blow to our hopes of bringing about a peaceful world through negotiations. I don't believe that either our own security or the interests of peace are served by continued shipment of weapons of war to every corner of the globe. Neither do I agree that more military aid to small American allies is necessary to permit us to withdraw our forces overseas. If our own security requires strong military capability in some area, we cannot leave our fate even in friendly foreign hands. If our security is not endangered, we should be shown some very good reasons for fueling some one else's fight.

I should make it clear that I don't believe that peace would be ensured if only we would disarm unilaterally. I don't discount the great military strength possessed by the Soviet Union, nor can I feel fully confident that the Soviet Union, under its present or some future leadership, can be trusted always to forgo the use of military force to achieve its objectives. Nor, at this early stage in our efforts to bring about improved relations, can I be confident that the People's Republic of China can be counted upon to refrain voluntarily from the development and exercise of its immense military potential.

But most of our military aid is of little or no utility in terms of the military threats that are or may be posed by China and Russia. The NATO Alliance and our assured nuclear retaliatory capability are the means by which any Soviet aspirations for military conquest can be kept in check. Of the NATO group, only Greece and Turkey are recipients of military aid. Our programs for these countries can be reviewed in terms of their overall importance to the strength of the NATO forces. Included in this review should be the countervailing consideration posed by overt American financial support for a Greek government that shows no signs of moving to restore democratic processes. The strength of NATO depends not on troops and firepower alone but also on its morale and the domestic support within each nation for its role as a NATO member. Military assistance to Greece contributes incrementally to NATO's physical strength.

But our partial subsidization of a regime resolutely opposed to the principles of freedom can only erode NATO's moral base.

Outside of Western Europe, it is, I suggest, silly to think that military aid to small countries can be of any significance to deterrence of the Soviet Union or the People's Republic of China. This, to me, has been one of the obscured premises of the Nixon Doctrine. It has now been made explicit. As phrased by Secretary Rogers: "The Nixon Doctrine . . . provides that we will gradually reduce our troop strength in some of the Asian countries and, at the same time, support them financially and in military ways so they can take up the slack."

We have, in the past, followed a policy consistent with the thesis that military aggression from China or Russia had to be anticipated and could be controlled. But to the extent that there is genuine threat of military aggression from one or both of these countries, American military assistance—whether doubled, trebled or increased by any other multiple—is not a realistic alternative to direct American military participation. A Defense Department spokesman is quoted as saying: "We think the substitution of money for U.S. manpower is a policy worth pursuing." As against Soviet or Chinese threats, it's no policy at all.

Only the American guarantee of direct involvement can provide a military deterrent to aggression against Western Europe. In the Pacific, our naval and air forces, and the absence of any Chinese amphibious capability, provide military protection for the countries off the Asian mainland. But no amount of military assistance to the small countries of Asia could make them remotely a match for a China or a Soviet Union bent on military conquest.

Insofar as the threat of superpower confrontation is concerned, military aid to small American allies, or even to big American allies outside the NATO context, can only be an irritant. Our greatest hope here, indeed the only hope for world survival, is a course of development in relations that will keep all of the superpowers away from mutual annihilation. In this respect, all of us must welcome the President's efforts to arrive at mutually beneficial understandings with Peking and with Moscow. And in disengaging ground forces from Asia or elsewhere, the proffer of increased military aid may make the withdrawal of American troops politically more palatable, and the lives of our ambassadors a little easier, but this is at very best an inordinately expensive palliative.

The twin constraints on the superpowers are the common sense realization that the game isn't worth the candle and the fear of other superpower retaliation. Accordingly, in continuing military assistance to Korea, to Taiwan, to Pakistan, to the Middle East and to countries in Africa and South America, we must justify it on grounds other than the continuation of a cutrate Cold War by use of American proxies.

In some instances, it seems to me, the elimination of an American military presence and an increase in American military aid might significantly increase the risk of local conflict and hence the dire prospect of superpower involvement.

We can and should, in my opinion, continue to remove American troops from Korea. They are irrelevant to any Chinese threat and unneeded to provide a purely incremental part of South Korea's ground force superiority over North Korea. But would an effort to make the South Koreans completely self-sufficient militarily, by providing an air force to match that of North Korea, actually lessen the danger of forceful attempts at reunification of that divided peninsula?

Military aid to Taiwan was once justified as keeping alive the hope of eventual recovery of the mainland. I assume we need no longer indulge that myth. But what then is the present justification for substantial military assistance? Does Taiwan need more—or as much—to defend itself? And would its decisions be sounder if it had to finance modernization of its forces out of its own healthy economy?

The sorry history of military aid to India and Pakistan need not be recounted this morning. But certainly the Pakistani do not regard our arms aid as necessary to defend themselves against China, which has become their principal arms supplier. The role of outside nations, and of the United States in particular, should be to reduce tensions between Pakistan and India and find some solution to the Bengali tragedy, rather than in arming the potential antagonists.

The Middle East presents, of course, a special problem because of our special interest in Israel. The amount and type of arms necessary to provide Israeli security must be considered apart from any over-all program of military assistance and, in my view, should be dealt with outside the Cold War context. No amount of Israeli military might can match Soviet capability. But Israeli security from attack by the other nations of the area can provide the confidence that may permit an eventual resolution of the local problem. As for aid to countries like Jordan, I am not impressed by the argument that we must furnish it or else they will turn to the Russians. I see no political gain and surely no military necessity in our insistence in remaining No. 1 in the sale of arms to countries that don't need them and can't afford them. The only practical purpose in arming Jordan is to help King Hussein maintain control in a sorely divided nation. Is this a legitimate goal for American military aid in Jordan or anywhere else?

Insofar as military assistance in Africa or South America are concerned, the traditional justifications have been the continuation of American influence and the preservation of internal security. There are, I submit, a lot of unanswered questions about the influence we derive from arms supply. A State Department White Paper of a couple of years ago documented persuasively the thesis that the withdrawal of military assistance was ineffective in influencing a country's internal policies. I submit that this is equally true of the bestowing of military assistance. Military hardware may be an effective bribe for vocal support internationally. It has yet to be a useful tool for improving domestic behavior. I would prefer to believe that the instability and poverty in South America reflect an absence of American influence, rather than the results of our positive efforts. Our military aid there, and in Greece, cannot fairly be blamed for causing military coups. But it obviously did not serve to prevent them. Our influence should be directed in the poorer countries toward economic programs that may better the lot of the ordinary citizen rather than indulging the whims of a fading military elite.

Regrettably, in the present state of world affairs, we can't get entirely out of the arms business. Until we can move toward genuine political accommodation, arms limitation, and mutual troop reduction, we cannot, I believe, afford to disband the NATO military alliance. History gives us special responsibilities in Korea and in the Middle East. But any program to substitute American military aid for American military presence is self-defeating, misleading and dangerous. At best, it can only retard the development of the kind of relations with the other superpowers where our competition can be confined to the political and diplomatic arenas. Far more likely is the possibility that such a substitution will intensify local antagonisms and encourage efforts to resolve political differences by military force. At worst, the local hostilities that ensue can lead to direct involvement of the nuclear superpowers.

If the Nixon Doctrine rests on increased military aid, then it's no new policy for the 70's. It is, instead, an effort to continue an old policy by less effective means. Before accepting the means, the American people should insist first that we know and accept the policy.

TRIBUTE TO SENATOR SPONG

Mr. HOLLINGS. Mr. President, today I am pleased to bring to the attention of my colleagues a distinguished article about a distinguished legislator, Senator WILLIAM SPONG, of Virginia. The article was written by a scholar of renown, Dr. John P. Frank, and originally delivered as a paper at the University of Texas School of Law. It now appears as an article in the December 1971 issue of the Texas Law Review.

Dr. Frank set out to study the force of reason in American political life. In choosing BILL SPONG to exemplify the force of reason, Dr. Frank chose wisely. We all know BILL SPONG as a diligent student of the law and a calm disciple of reason. He is an exemplary public servant. His reason and good sense are applied daily for the welfare of his Virginia constituents and the benefit of his fellow citizens throughout America.

I have watched BILL SPONG at work since we were elected to the Senate in 1966. He works long hours. He spends many of those hours personally researching the many problems which come before this Chamber. That research has payed handsome dividends in the knowledge and understanding which the very able Senator brings to such fields as education and housing. His insistence on getting out and actually seeing, when combined with the innate compassion of the man, led to progress in the fight against hunger in Virginia, and indeed, all over the Nation. Time and again, I have seen him shun the expedient stand. Time and again, I have seen him apply the reasoned approach of the scholar to problems all too often tackled with only tomorrow morning's headlines in mind. At a time when the pressures often encourage expedience, it is refreshing to see someone not tempted by that siren's song.

Dr. Frank's article is an excellent accounting of Senator SPONG's philosophy and approach to Government, and I sincerely recommend it to the attention of all my colleagues.

Mr. President, I ask unanimous consent that the article be printed in its entirety in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Texas Law Review, December 1971]

RUMINATIONS ON REASON AND LAW: A SPONG SONG

(By John P. Frank*)

(NOTE.—The traditional ideal of a legal system based on rational lawmaking appears remote in our age of violent confrontation and fanatic polarization. Biographer John P. Frank selects the experience of Senator William Spong to illustrate that a contemporary political figure can still shun expediency in favor of reason. Mr. Frank's message, originally delivered as a lecture at the University of Texas School of Law, not only gives insight into the rationality of the legislative process but also provides much-needed assurance that the legal method will have relevance to the world of the future.)

United States Senator William Spong is well enough known in his home state of Virginia, but Texans can reasonably be pardoned for not recognizing his name. Spong is the low visibility type, a Senatorial work horse rather than a Senatorial show horse. As a truly modest first-term Senator, if he ever found himself in a national headline, he'd be sure that he must have done something wrong. Then why talk about him in Texas? Why does an Arizona lawyer with a taste for writing biography come to the University of Texas law school to talk about a Virginia Senator? What is he to you and me? The direct answer is, not much. The more meaningful answer is, a very great deal. For man lives by his symbols, and Spong of Virginia is a symbol of what the rule of law is all about. The tradition being passed to you in this University, in this law school, is, I hope, a tradition of reason, and Spong is reason personified.

I am aware that I have chosen a two-level symbol in my topic for today, because Spong also represents what at least some of you want to do with your own lives. Some of you have dreams of stepping from a small law practice into public life with your own independent momentum, not as the tool of any pressure group, not for oil, not for cattle, not for labor, but on your own. Spong has done this, as you dream of doing it. But this is my secondary theme. Primarily, I chose Spong for these remarks because, in superb degree, he represents the force of reason in public life.

We live in an age of good guys and bad guys, the black hats and the white hats, of knee jerk responses to the problems of the day. The contemporary political spectrum ranges from Georgia Wallace to Angela Davis. We have been disposing of university administration by demonstration, of law enforcement by disruption, of our adversaries by shouting them down, of troublesome newspapers by threatened black-jacks or actual injunctions, or our leaders by the simple expedient of murder.

All this is a form of government and so of lawmaking. It is a kind of lawmaking wildly removed from what you are learning as students of law, as you reason from one case to another, gather facts, and seek to

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square yesterday's wisdom with today's needs. You are learning how to bring a legal action to a conclusion, hopefully in your favor. Another way to conclude a legal action, which you are not learning, is to shoot the judge. As you wrestle with the obstacles to reason, you would be less than reasonable yourselves if you did not on occasion wonder whether the man of violence may be right, whether knots are better cut than untied, whether the methodical search for truth can ever rival the intuitive lunge of the self-satisfied righteous who know all the answers. What Bill Spong symbolizes is that there is still room for reason in the world. You do not have to win the game by sweeping all the chessmen off the table.

Take the Haynsworth-Carswell episodes, for example. Spong voted for Haynsworth and against Carswell for the Supreme Court. He is a Southern Senator who defeated the incumbent Senator, Willis Robertson, in a head-on clash. Robertson was a good Byrd man. Professor V. O. Key, expert on Southern politics, has described Virginia's government as a museum piece, an autocracy which rules Virginia as England was ruled before the reform bill of 1832. He was speaking of Virginia and of the lifetime of the late Senator Harry F. Byrd, the head of that autocracy and the man who led that organization. Senator Harry Byrd controlled the legislature; the legislature in Virginia elects the judges; the judges control the counties. Bucking the Byrd organization was no sport for the timid.

Yet Spong did it. He went into the Democratic primary for the Senate in 1966 running against the seventy-eight year old Byrd organization incumbent, and he won his primary by a very thin eyelash. He won on Negro votes, and youth votes, and independent votes, and on education-interest votes. His mother had been a school board member in the Norfolk area for twenty years. He had been a state senator from the Norfolk-Portsmouth region, and in the state senate had become chairman of what was known as the Spong Commission on education. It was a golden opportunity because it gave a Virginian a chance to speak on some other aspect of education than race. Spong's interest was in the quality of education, tenure, pay, opportunity for the bright students, consolidation of rural schools, and all the hard and real values that came out in his report.

The Spong Commission brought Spong before his fellow Virginians and made him a Senator. Even so, he might never have made it if his opponent had not referred to him so often by name, and thus done part of the task of familiarization for his rival. Spong put in $20,000 of his own money and spent only $135,000 on the whole campaign. Without large personal resources, he was determined to wear no man's collar; he accepted no more than $1,000 from any donor. Making economical virtue of necessity, because he isn't very good on television, he campaigned largely with small group exposure and signs.

Against his political and regional background, the Haynsworth-Carswell episodes created a frightful dilemma. As a shrewd observer put it, if everyone who was mad at Billy about his Haynsworth-Carswell stands were to vote against him, he couldn't be elected dogcatcher. Virginia Negroes and liberals were anti-Haynsworth and the conservatives were pro-Carswell; Spong managed to offend both groups. How he did it is a measure of the man.

Spong's basic approach to the role of a Senator is to determine what a Senator's job is, and then do it. These are separate and distinct judgments for him, as is particularly illustrated in his attitude on the war. He performs as if he were a lawyer and the public his client; he must first determine what he as a lawyer-Senator should be doing to represent his client's interest.

Taking this two-step approach, Spong first had to analyze his job as a Senator in relation to Supreme Court appointments. He worked this one out when President Johnson sent in the name of Thurgood Marshall, the first Negro Justice, for the Supreme Court. While a number of Southern Senators voted no, Spong had no trouble making up his mind to vote yes. The primary responsibility of choice is the President's. Unless the appointee has some clear defect of character or is utterly unqualified, a Senator must vote favorably. Marshall was clearly of good character, clearly competent, and there was nothing else for Spong to decide.

The Haynsworth appointment presented the possibility of one of Spong's exceptions. Spong had no trouble satisfying himself that Haynsworth was superbly capable—no abler or more richly experienced man was likely to be found. The main force of opposition to Haynsworth was that he would be to conservative, that he was unfriendly to labor, that he would not advance the cause of law on race relations as it had developed during the Chief Justiceship of Earl Warren. None of this deeply engaged Spong because, by his premise of deference to the President, even a President of the other party, he as a Senator had no right to make these decisions. Nonetheless, after he had made up his mind on the remaining issue, he was a practical enough politician to make a record on which he could stand. He personally put into the record the statement of Associate Dean G. W. Foster, Jr. of the University of Wisconsin Law School who had helped draft and apply the HEW standards of integration and who made a glowing statement in support of Haynsworth. He also presented for the record the analysis of the Haynsworth opinions by Professor Charles Alan Wright of the University of Texas, which Spong thought to be "a brilliant and detailed analysis." Spong wanted the liberals in his state to know that Haynsworth was not really a reactionary at all.

The remaining question was the big one. Haynsworth's opponents could not possibly get fifty-one votes to defeat the appointment on the grounds of Haynsworth's points of view, his so-called philosophy. Too many Senators either didn't believe it, or took Spong's neutralist approach on policy, or else agreed with Haynsworth on the merits. The discussion therefore veered to Haynsworth's character and judgment. Had he, as judge, sat in cases in which he should not have participated?

The question is technical in the extreme, involving a long list of cases and a series of different grounds of claimed disqualification. In one case, one of the parties was a corporation that had business dealings with a second corporation, not involved in the case, in which Haynsworth owned stock. In another, Haynsworth had a little stock in a corporation which in turn had stock in a party. In a third—but no matter; there were several.

Senator Spong set himself the task of mastering the subject personally. He could not delegate the task of decision to anyone else. He sought the opinions of experts, calling and writing those with experience. He did not ask his advisors, including judges, law professors and lawyers, merely for conclusions, he asked for details. "The objections against the nominee which raise ethical questions have been so numerous and have been given such wide publicity that I resolved to examine and evaluate them carefully before making a determination," he said.

Some of the charges he found "groundless," which is to say without any basis at all. In the extremes of advocacy, lawyers have too easy a way of calling the other side's claims "groundless," but for a man of Spong's meticulous care, that conclusion gave him a very dim view of the whole case. It accounts as much as anything else for his Haynsworth vote. He simply concluded that some of the ethical criticisms had no basis at all, not even enough to be worth discussion or even casual mention. Their very existence annoyed him.

Nonetheless, some of the charges required real analysis, and he made it. This is what is remarkable. This is why I make Spong the subject of a law school lecture. We live in an age of ghost writers, of staff-prepared speeches. Senator Spong is busy. He represents 4,500,000 people. He is not on the Judiciary Committee. The Haynsworth vote is only one of many hundreds to be cast during a year. But it was his vote, and it was important. He settled down personally to study the materials and make up his own mind. When he made a speech to the Senate, he knew those cases inside out. Only one troubled him much, a case in which the judge inadvertently acquired stock in a corporation without realizing that a case concerning that corporation was still in his court. He concluded that no ethical question was involved and declared, "I believe Judge Haynsworth is an honest man . . . I shall vote for confirmation."

The Haynsworth vote disaffected some Negro votes because both the national NAACP and the Virginia Affiliate had opposed the appointment. On the other hand, when, a little later, Spong voted against Judge Carswell, conservatives in his state were outraged. For Spong, the Carswell vote was simple enough; he thought the nominee a plain incompetent. Carswell might or might not have grown away from his youthful white-supremacy militance; this was a question Spong did not need to decide. The facts which alarmed Spong were that a number of respected fellow judges did not endorse Carswell and that he had an astonishingly high reversal rate by his able Court of Appeals.

This was enough to raise doubt, but Spong, in his make-up-your-own-mind way, had to satisfy himself. "I took a yellow pad," he said (with lawyers it's always a yellow pad), "and went to the Norfolk library. I couldn't find very many Carswell opinions." The latter comment is a reference to the fact that the nominee was not distinguished for diligent output. "What there were, I read, and they just weren't any good. One of them I thought was awful. I don't believe we can pass on whether a judge will be great, but we cannot confirm if he's no good at all." In voting no, Spong concluded that Carswell had been was no worker, and lacked ability.
insufficiently forthright with the Senate,

It probably is true that Spong could not have been elected dogcatcher after his Haynsworth-Carswell votes, and his astonishingly sensitive political antennae were good enough to know it. At least some of Virginia mixes passion with its politics. Right now, in 1971, because of school decisions enforcing nonsegregation, a federal district judge in Richmond has had to send his wife and child out of the country for their safety and a United States marshal must sleep in his house to protect him from bomb threats. Spong got death threats which he shrugs off. "It's the hazard of public life," he says quietly. A trip to a Charlottesville high school was made despite a threat to "get" the Senator if he came. It was an unsettling week for the office staff.

The Senator was denounced in the Richmond press—illustrative was a damning editorial headed "Spong Goes Liberal," charging that Spong was seeking to "lynch the character" of Carswell because "he is a Southern Conservative," and thereby Spong "deserted most of the Virginians he represents." Another Richmond paper attacked him for "serving well the ugly spirit of a smear campaign." A Norfolk minister called upon the most ancient wisdom available to him and denounced Spong for having "sold your birthright for a mess of pottage."

On the other hand there was applause and support, some of it at home. The Washington *Post* and the *New Yorker* could be expected to applaud, and they did; Richard Harris, the *New Yorker* writer, in an extensive analysis, said that Spong "probably more than any other member of the Senate, decided the issue on its merits despite the excruciating pressures on him." Senators Fulbright, Gore, and Yarborough had voted in the negative. Another Senator who had proved himself just as independent as Spong was Senator Marlow Cook of Kentucky, who had been a Haynsworth floor-leader. President Nixon's after-the-battle charge that the vote was "anti-Southern" was hard to sustain with these five voting no. Another minister, this time from Petersburg, assured the Senator "that some of us are with you," and a lady in Charlottesville said a brief "Thank you for doing such a fine job as our Senator." Happily for Spong, Carswell's subsequent behavior has defused the Carswell issue for all but a few.

Spong, as the Supreme Court votes show, has not mastered the art of keeping his Negro constituents happy; the best he has achieved is to keep them generally content. Partly this is a matter of personal remoteness. When Spong is working at being a Senator, he's not the take-them-to-lunch-and-make-everybody-happy type. All this relates to his Negro voters. He has not merely not taken the Virginia head of the NAACP to lunch—a very good fellow named Tucker with whom I've had lunch most congenially—but he hasn't met him at all, ever.

Yet this gives a distorted picture, because Spong is casting his votes as a twentieth century man, in the best sense as a moderate Southerner. He may not be in touch with Mr. Tucker, but he is widely acquainted with all of Virginia and knows and hears from representatives of every ethnic or other group in the state. There are several trusted Negro advisers to whom Spong turns for advice. They include members of the Virginia legislature and members of city councils in Virginia as well as persons not so actively engaged in public life. Spong burned some of his ties with Negro groups when he voted against an open housing amendment to a civil rights act, and this vote is spoken of with some bitterness in black circles. With all deference to the sincerity of the critics, they cannot complain that they did not know in advance what they were getting. Spong declared his position expressly and clearly on that issue at Negro gatherings before he was elected.

On voting rights, Spong managed to be a good, loyal Virginian, and a good, loyal friend of universal voting as well. When the 1970 extension of the 1965 voting rights bill passed the Senate, Spong was with the sixty-four man majority. The twelve man dissent included his fellow Virginia, Harry F. Byrd, Jr., and Senators from Alabama. Georgia, North and South Carolina, Florida, Louisiana, and Mississippi.

Spong strongly supported voting for everyone and equally strongly repudiated any implication of voting discrimination in Virginia, boosting his state's record on this score so strongly that a sponsor of the measure withdrew an aspersion on Virginia. Spong contended that voting rights and voting right enforcement should be universal, and not aimed solely at the South; after an amendment in that direction by Senator Cooper of Kentucky was adopted, he supported the bill. When a Richmond paper complained of his vote he replied, "Looking beyond Virginia, this law effectively protects the voting rights of millions of citizens, and for that reason, I voted for its passage." Spong was the first Southerner from a state covered by the voting rights act ever to vote for it. He got a burst of applause from the Norfolk *Virginian-Pilot* which wants an end to "unreasonable obstacles to voting."

Support for Spong from Portsmouth or Norfolk is no surprise because this is his home area. Spong is from downtown Portsmouth, and downtown, or the "Olde Towne" area as it is spelled by the determinedly quaint, is the area of the city with deepest roots. On his mother's side, the family goes back to the beginning of the town; an ancestor gave some of the land which formed it in 1752. Spong has lived nearly all his life within a three-block radius of the old section.

Portsmouth itself has the spirit of accommodation to change. In Spong's youth, the town was 40,000 people. Now Spong is fifty, and the city has grown to 111,000. Employment in the shipyard was under 5,000 in the 1930's, up to 50,000 in World War II, and is about 11,000 now. It's a no-nonsense, no filmy dresses and magnolias, middle-class community where, to quote a resident, "Nobody's rich except the doctors." Clearly the more it changes, the more Portsmouth does *not* stay the same.

Spong's father, who passed this unusual English name on to his son, headed the advertising department of a Portsmouth newspaper until he died in 1940. The father was a graduate of what is now Duke University and inculcated a sports interest in his boy; the father was a professional baseball player once. He was both kindly and generous, and on more than one occasion, says the reminiscent press, he gave the coat off his back to a needy person.

The father gave his son a comfortable enough life; the downtown establishment didn't exactly rival the DuPonts and the Rockefellers in economic status or social prestige, but it is at the heart of understanding Spong that by Portsmouth standards, the downtowners were the establishment. They were the ruling group of the area; Spong lived comfortably and in his own time had a good law practice. From a very early age, Spong was a friend of John MacKenzie, and his wife Betsy, downtowners, too. Spong and MacKenzie went into the legislature together; MacKenzie is federal district judge now at Spong's instance.

For purposes of his public life, Spong's main inheritance from his father was an interest in politics coupled with a streak of Democratic independence. The father was so solidly Democratic himself that when, in a 1928 Democratic meeting the group was polled on who would vote for Al Smith, Spong walked out in indignation that such a doubting question could even be raised. Spong the father was never a candidate himself, but he strongly supported his publisher, Norman R. Hamilton, who went to Congress in the 1930's. Hamilton was that rarest of birds before Spong himself, a Virginia Democrat who was not part of the Byrd machine. While this association was in Spong's youth, the independence from the boss is the most conspicuous feature of the Spong career.

If Spong got his independence from his father, his mother gave him the interest in education which made him a Senator. She, at the age of seventy, is still active in the Portsmouth community, where she served twenty-three years on the Portsmouth School Board, thirteen of them as chairman. She fought large taxpayers to get new schools and won the distinguished Service Award of the Virginia Education Association and the Portsmouth Woman of the Year Award before her son ever was in public life.

Spong's own life is a straight—a very straight—chronicle of small city success, and is in the precise image of young, middle-class establishment boy makes good: college at Hampden-Sydney; law school at the University of Virginia; graduate work at the University of Edinburgh; military as a sergeant with the Eighth Air Force overseas in World War II; clubs and organizations include Rotary (Portsmouth President), trustee of Hampden-Sydney, board of managers of the University of Virginia alumni and president elect of the Virginia State Bar. He is straight middle class, and his guests when his daughter has the inevitable group debut will be straight middle class, too. He's a square in his personal dealings; his closest friend has never heard him use a vulgar expression even once. He will take a drink or two, rarely more. If invited to a dinner, he wouldn't notice what was served. His skill is in one to one or small group relationships unless he is bored by a show-off in which case his mind visibly turns off.

Spong is an old-shoe comfortable friend in his circle, a genuinely funny anecdote man who gets great mileage out of stories on himself. He is a conversationalist, not a monologist. The published letters of Robert S. Gerdy, a *New Yorker* magazine editor who served with Spong during World War II, recall Spong as "one of the most wonderful talkers I have ever met, great accuracy literally and artistically in the descriptions of the fraternity boys and governor's balls in North Carolina, the high life of Portsmouth, Norfolk, Lynchburg, Virginia Beach, and Richmond—something new to me, unique in the South, and I think superior to Westchester in all ways, even the names of the people." In a eulogy of a friend Spong once made a comment that fits himself, "There is something refreshing about a public figure whose seriousness of purpose nevertheless allows himself to share wit and humor, often at his own expense." But it is not a big circle; he is most at home going out on an afternoon in Portsmouth, Virginia, to drop in on one friend for the first half of a TV-shared football game, and on another for the second. He is what one friend describes as a "sitting around type." Partly this is because he is, truly, a frustrated sports writer. He covered the Olympics for a local paper one year, and would probably rather be Shirley Povich, lead sports man for the Washington *Post*, than Senator. He never shoots dice, but he would like to be a decathlon competitor.

On his track record, Spong sounds like that grand old cliché of the political hacks: to get along, go along. There was nothing in his record to suggest that Spong would vote against Carswell, make malnutrition in Virginia an open issue, challenge one of America's great political organizations, or try to turn the war power back from the President to Congress.

His law practice was conventional, and gave him an income of about $40,000 a year; his net worth when he went to the Senate was about $150,000. The practice included real estate and corporate work with a minimum amount of litigations. Such trial work as he did included insurance defenses, occasional contract matters, and municipal land annexations. He has represented the local housing authority. He kept his name with his firm briefly after he went to the Senate, but when it became apparent that the firm was getting money because of his political standing, he thought it best to withdraw altogether. His relations with other lawyers were always amiable; he became president elect of the state bar by moving through the chairs, and had no particular visions of law reform.

Spong's wife, Virginia, is no aspiring politician herself. The public meetings, appearances, and hand shaking are for the birds or for her husband, but not for her; she is more a Pat Nixon than a Ladybird Johnson. She is the daughter of a Marine Corps general who retired to Portsmouth, and a graduate of Cornell. Like Spong, she makes really warm friends one or two at a time, rather than en masse, and Spong takes pride in her high standing with the Senate wives. There are two children, and the harshest war in Spong's spirit is between his urge to be on the job or out and about his state constantly, as against his desire to be with the family. He retreats to his family every moment he can, and seems absolutely genuine when he speaks of the possibility of chucking politics root and branch to stay at home.

And yet he probably will not do it because politics has been grained into him from boyhood. There is an odd conflict in the appraisals of Spong by those who know him well. "He's about the hardest working man we have," one Senator told me; "he does his homework and he always knows what he's talking about. But he's a terrible politician." Balance that against the observation of an old and intimate friend: "He's the most political man I've ever known. It's his overwhelming obsessive interest. *Everything* is measured in political terms, and he has the best political antennae I've ever seen. He *knows* how people in this state feel."

The paradox is that both are right. Spong is a bad politician in the sense that he is a real independent who makes up his own mind and a bad politician in the sense that he is inconspicuous. It is said that he has improved his TV appearances. If so, the earlier shows must be history's worst. But he does truly know his people, he can conciliate at least some of them to his independence, he doesn't make mistakes, and, unlike some colorful spout-offs, he has never put his foot in his mouth.

Spong's political career began when he went to the legislature in 1954. Post-war Virginia politics were absolutely dominated by Senator Harry Flood Byrd, father of Virginia's other Senator today. For openers in the Portsmouth rebellion, Spong promoted the election to the legislature of a local lawyer and close friend named Winston Bain. Bain was hesitant to announce without knowing who the anonymous Byrd powers, discreetly referred to as "they," would run, but his own personality and military record swamped the opposition. The next time around the little group of independents gathered to choose a candidate for clerk of court. Savoring the tiny taste of power, Bain whispered to Spong, "We are they."

So it proved. MacKenzie and Spong both ran for the lower house and won. The next term, Spong went to the state senate, beating his wealthy, small-loan-business, Byrd opponent; the adversary's name was Tusing and there was joking about the Chinese race. Spong was reelected for a total of three four-year terms, developing absolutely avalanche strength in the Portsmouth, Chesapeake, Virginia Beach area. On his last race, with five candidates in the field, Spong got 23,000 votes out of 27,000 cast. As he solidified his hold on his seat, the organization dropped the fight and made room for him; he managed to be a progressive state senator without being endlessly embattled. Labor, Negroes, teachers, independents, the local business community, and old-line families united with him.

As a state legislator, Spong was chairman of the Fish and Game Committee and a member of Insurance and Banking, Public Institutions and Education, and Courts of Justice. What put him into the Senate was his work as chairman of the Virginia Commission on Public Education, the Spong Commission. The report was detailed and precise. It was also forthright, as: "Social studies" is "the subject given to the teacher not qualified to teach any other specific subject." Spong wanted this subject not to be a "dumping ground for all the odds and ends of the curriculum."

The legislature sustained the Commission on many fronts. It established special summer institutes for teachers, paid tuition fees for teachers improving themselves, and supplied dollars for needed equipment as well as much more. The state turned from a primary concern with race in education to a primary concern with quality. With this stand, Spong coupled opposition to plans to escape integration to closing Virginia schools. "I am also proud of my support that ended massive resistance and permitted reopening of public schools in Virginia," he said.

In 1965, United States Senator Harry F. Byrd announced he was retiring. His son, Harry F. Byrd, Jr., was appointed to fill the unexpired term of one year. This meant that there would be two United States Senate races in 1966, because the term of seventy-eight year old Willis Robertson, chairman of the Senate Banking and Currency Committee, also expired in that year. Armistead Boothe, a former state senator, took on young Byrd and lost. Spong went for the Robertson seat, campaigned the state in two twin Cessnas belonging to friends, and won the Democratic primary by the magnificent margin of 611 votes. He then swamped his Republican opponent.

The first act of his campaign, at two o'clock in the morning on the day of decision, was a call to Spong's Portsmouth friend, John MacKenzie, to say, "I've decided to run for the Senate, and I don't want you to campaign for me." Spong's concern was that he might lose, and he didn't want MacKenzie, a prospective federal judicial appointee, to be injured if he was defeated. MacKenzie helped anyway. In that connection, a MacKenzie incident illustrates Spong's way of leveling even when he is campaigning. A substantial Richmond audience wanted a well-qualified Richmond man for the prospective judgeship and, at a meeting there, Spong was asked who he would support if elected. He flatly named MacKenzie. Happily, there has been room for both on the federal bench. Spong's campaign manager was Bill Battle, an intimate friend. Battle and Spong are each godfather to a child of the other. Battle, now a textile executive, is a prominent Virginian on his own account and was even more prominent as President John F. Kennedy's campaign manager in Virginia. Spong's own Kennedy ties were pleasantly warm; he had been offered a federal district judgeship by President Kennedy which he had declined. Yet this emphasis is misleading; Kennedys are not overwhelmingly strong in Virginia, and Spong keeps to a friendly but independent course. He tells of a disaster inspection trip after a flood in Nelson County, Virginia. A helicopter made a difficult landing for him near Norwood, Virginia, where the party was met by an elderly Norwood woman who said, "Senator, you must do something for us, please!" "I'll be glad to do anything I possibly can," Spong replied. "What is it?"

"Senator," came the response, "You must do something about Teddy Kennedy!"

The 1966 race saw a break in the Byrd organization. With the older Byrd out of the saddle, some of the younger men wouldn't take Robertson, whom they regarded as dispensable even from a Byrd point of view. Sidney Kellam, the Virginia Democratic national committeeman and a power in Spong's home area, stayed with Robertson, but one political analyst reported that the younger business executives were switching to Spong. A billboard showing the candidate wearing a striped tie emphasized his youthfulness as against Robertson's age. The battle was only to slight degree one of issues; there was no great debate on the escalating war, or the great society, or integration. The real elements were youth, education and the Negro vote.

Spong stressed that he was the "Man for Today." The Byrd organization had controlled Virginia by controlling rural areas. A shifting population expanded the cities, and the redistricting resulting from Superior Court decisions gave the cities the bulk of the power. Urban voters heard Robertson's heavy reliance on his effectiveness in the Senate ("only 14 of the 99 Senators outrank me in seniority") pregnant with the promise that he could better get money for the state. They were not persuaded. Robertson had been in Congress since 1932 and seldom came back to campaign. Spong promised to stay in touch with his voters, and he has done it.

The biggest difference between the two was on federal aid to education. Senator Robertson wanted the federal government dollar in the state for roads and coastal installations, but not for schools or housing; he was one of the three Senators to oppose the 1965 Higher Education Act. Spong took the reverse position, and as the Spong Commission man, his words had weight when he came out for federal aid and charged Robertson with blocking school improvement in Virginia.

The two divided on the issue of campaign funds. Robertson was supported by banks grateful for his kindly role as chairman of the Senate Banking Committee, and he declined to reveal the source of his money. Robertson in turn charged Spong with being financed by the unions. Spong bared his books, which his $50 average contributions. There was no labor money other than a few dollars from the Meat Cutters.

Without race being an overt issue, Robertson represented everything against which Negroes rebelled. Few if any voted for him. Without heavy Negro support, Spong would not have been a serious candidate.

A 611 vote margin is not much, but it is enough; the new Senator set out on the search for new worlds to conquer. He was young (forty-five), daring, moderate, diligent—and very, very lucky.

By far Spong's most publicized action in his first term, more so than his Supreme Court votes, has been his hunger tour. Malnutrition in serious proportions does exist in Virginia. Spong, sensitively aware that as a middle class representative of a fairly comfortable part of Virginia he knows less than he should about desperate state conditions, set out to inform himself. During Congressional recesses, he went out on tours with doctors, which quickly accumulated an entourage of reporters and TV men.

Spong was appalled at what he saw: "I saw conditions I did not know existed. . . . We found no cases of starvation . . . we found malnutrition . . . iron deficiency and protein deficiency . . . we found anemia, especially in preschool children. While an average suburban community will have an anemia rate of about 14 percent in preschool children due to a failure to eat properly" a Northern Virginia Head Start Program "discovered that 30 to 35 percent of its three-to-five year olds suffered from anemia;" a clinic in Appalachia had 63 percent; a central Virginia area "had a 55 to 60 percent anemia rate for its preschool youngsters." I also saw children whose physical and mental development has been and is being hampered by inadequate diet," Spong reported. "The problem of food deficiency plagues both white and black Virginians." The Hunger Tour outraged the complacent in Virginia. An unenlightened stranger might suppose that this activity, probably the best thing Spong has done as a Senator, would arouse universal applause. Spong says he anticipated hostility because of "general antipathy throughout the State with regard to welfare and poverty problems" and the shame of disclosure.

Whether he anticipated the hostility in advance or by retrospect, he got it. The Richmond *Times-Dispatch* approached the matter gingerly, crediting Spong with good intentions but warning of "a circus." The Danville *Bee* thought the tour just a publicity stunt. The Richmond *News Leader* was comforted because the tour found "no instances of starvation"—just malnutrition. The Lynchburg *News* attacked Spong, who is self-effacing and modest to the point of invisibility, as a publicity hound. A North Carolina publisher blasted the Senator for showing "Virginia as a poverty-stricken, down-at-the-heels state," and Spong was attacked by Virginia's Governor Mills E. Godwin, Jr.

Yet the reaction was by no means all hostile. One editorial applauded "a first hand look at actual cases" and was pleased with the Senator's "penchant for gathering his own facts." The Covington *Virginian* was grateful to Spong for uncovering anemia, rickets, and hookworm "in the richest nation in the world" and thought it would give something to think about to those who "sit securely in our church pews on Sunday."

Results of it all? In April 1969, only three of the fifty states participated less than Virginia in food stamp and commodity programs. By 1971, all Virginia localities participated Spong put in a bill to expand nutrition education; sponsored a food stamp bill which passed the Senate; joined Republican leader Senator Hugh Scott of Pennsylvania to broaden another food stamp bill; co-sponsored legislation to expand the school lunch program; and co-sponsored a bill to expand family services. Some of these have passed the Senate, some have passed into law. His efforts to get a comprehensive survey of hunger and food needs in the poorest regions of Virginia have still not succeeded.

A good part of a Senator's business is voting on bills, and Spong dutifully casts his votes. On the vital matters, he and Senator Byrd are frequently on opposite sides of the fence, though on the August, 1971, vote to bail out Lockheed Aircraft with federal funds, both voted no. They were opposed in each of the following matters between 1967 and 1969.

Spong voted in favor of a larger neighborhood facilities program, a larger model cities program, the poverty bill, an increase from $140 to $200 a month in the amount social security recipients can earn, a Headstart program (Spong has been keen for Headstart), an expanded National School Lunch Program, and a proposal to continue the Job Corps.

Spong voted against various attempts to reduce and confine Headstart, a proposal to cut summer jobs for the underprivileged, proposals to limit student loans, and a proposal to cut the antipoverty program.

Four organizations which rate members of Congress in terms of the organization's own values are ADA (liberal), COPE (labor's political arm), NFU (farmers), and ACA (conservative). There are ten Virginians in the House of Representatives plus the two Senators. On the ADA rating for 1969, Spong has 50 percent; the other Virginians average under 4 percent. On COPE, Spong's percentage is 55 percent. The other Virginians average 20 percent, and Senator Byrd's score is zero. On NFU, Spong's percentage is 75 percent, and the other 11 average 34 percent. On ACA, Spong's percentage is 63 percent, the others average 85 percent, and Representative Scott scores 100 percent. Spong thus stands much higher than every other Virginian on the liberal, labor, and farmer rating, and lower than the others on the conservative rating.

On the personal side, Spong's most conspicuous feature is that he is a worker. The day begins at seven o'clock, he is at the office by eight, and he works until seven. Evening may well be a meeting, dinner, or speech—the average was about two a week last year.

The speeches and the appearances are overwhelmingly in Virginia; Spong makes no effort to hit the national scene. He has a ready wit; when he first came to the Senate he was an exceptional hit at a National Press Club affair for new Senators with a widely-publicized gag on the names of Senators Spong, Long, Fong coupled with Hong Kong. Soon after he won a Senatorial tennis tournament which also made the papers. He concluded that he didn't need this sort of publicity; it would give Virginia an impression of a Senator's life as all fun and games, and he decided to turn that image off.

Spong reads whenever he can, principally in current affairs and history, and collects civil war books. His most recent books in midsummer of 1971 were Will Durant's *Lessons in History*, published a few years ago, Charles Reich's current best seller, *The Greening of America*, and Barbara Tuchman's *Stillwell*, which he was just working his way through. The *Stillwell* really excited his interest, and he was mastering it avidly.

Spong's least Senatorial quality is his deeply genuine modesty. As the only absolutely modest man in concert with ninety-nine prima donnas, he is a national curiosity. With a ready reminiscence of the legendary Churchill-Atlee witticism, he says, "I have more to be modest about than the rest of them." Lines which probably can't be found in the statements of any other Senator, taken from his statements, are these:

1. Asked how he would assess his performance in his first three Senate years: "I haven't done as well as I would like to. I'm participating a great deal more than I was a year ago or two years ago."

2. "Last year, I took off a week and a half and just visited farms, I know very little about agricultural problems of Virginia, and I read some books and read some reports" and took the trip.

3. In regard to the Middle East, "I had the opportunity to visit in the Middle East last year and it was a discouraging experience . . . No one can impose a solution and expect it to work . . . we must continuously search for a solution."

4. Of a major research job and article, done entirely by himself, a worried, "I'm afraid this is a little superficial."

These are not the typical complacency, the "I have a solution" approach of a typical political leader; Spong is truly willing to say, "I don't know." It is this quality that makes him search out the people he thinks may know, the quality that makes him want to look for himself. It is this searching quality for his own answers which makes him independent. When he first came to the Senate, he declined to join the Southern Caucus, and he spoke very rarely. His independence has not hurt him at all; this year he was chosen by Senator Mansfield for the Senate Democratic steering committee, which chooses the committees, and he made it to the Foreign Relations Committee as the only first term member, excepted over the heads of senior Senators. He is clearly being recognized as an effective and reliable in-the-Senate man, and in July 1971, was named one of the six members of the Select Committee on Standards and Ethics.

Both the modesty and the trusting acceptance by fellow Senators are aspects of Spong's largest single political asset: he radiates a sense of absolute sincerity. Like every public leader, Spong has his attributes of political plus and political minus. His TV flatness and mixed disinclination and inability to publicize himself are illustrations on the minus side; Spong could no more strike a pose for publicity's sake than the Washington Monument could bend in the middle. The other side of this same coin is his fully recognized genuineness. Even the newspaper denunciations of the Hunger Tour spoke of his "sincere wish" to know, and the attack by Governor Godwin granted that Spong was "sincere" in his quest.

For me personally during my own inquiry, the moment of real understanding of Spong's position in Virginia came in an interview with a very capable and very dedicated Republican. My informant sincerely believes that Spong should be replaced by a Republican and will work to that end in the 1972 election. At the same time, that Republican believes that Spong voted for Haynsworth because after thorough study he concluded that the nominee was well qualified and fully suitable for the job, while after equally thorough study he concluded that Carswell was a hack. My informant has absolutely no doubt at all that this was not a matter of political opportunism on either side. He does not suppose for a moment that Spong was zigging toward the conservatives with his Haynsworth and towards the liberals with his Carswell vote. He thinks that Spong is not an opportunist at all, at least on serious matters, and that he really calls them as he sees them.

Spong's methodical approach to decision making is illustrated in his committee work. He began with the Public Works Committee where he dug deep into pollution problems and was out in front with legislative proposals before the current wave of great attention. His biggest task on the public works committee was as ranking member of the subcommittee to deal with the immense rainfall disaster of 1969 which hit the Gulf Coast and was particularly ruinous in Nelson County, Virginia. Swift hearings brought both emergency and permanent disaster legislation, much of it drafted by Spong personally, in a hurry. He has been on the Commerce Committee and is delighted with the assignment, in part because it relates to shipping in which Virginia has an interest. But the committee assignment which he really cherishes is his recently acquired post on Foreign Relations, where he is serving on the European subcommittee. He has studied abroad and traveled widely and, again, Europe is an area in which Virginia has a real interest.

There is a drama of democracy in the transfer of a relatively small-town lawyer into a position of guiding America's relations with the world. The lawyer who once had to worry about the annexations of Portsmouth, Virginia, now must worry about the annexations of Indo-China or the Middle East. What may give rise to pensive thought by young law students is that Spong is visibly transferring the methods of observe, consult, study and think from a minute local law practice to the grand international scene.

Spong has approached the war in Asia with a firm commitment to support a President waging a war, though his commitment is eroded by the gravest of doubts. Finally, in 1971, he departed from a support position to vote for the Mansfield amendment to the Selective Service bill to tie the end of the war to release of prisoners. Spong has talked at length with veterans in military hospitals in his area, and his own view of the prospect is bleak. He is not optimistic that the South Vietnamese, even with substantial further training and with air support, will be able to halt an all-out assault upon their country. He has been deeply pessimistic about the prospect of settlement and depressed at the failure of the North Vietnamese to keep commitments he thinks they have made.

His course of limited departure from the President came with the Cambodian invasion, which he opposed. He feared that this was a "move beyond the symptoms which we might have arrested to fight an illness which we cannot cure." Because he feels that it will be the utmost the South Vietnamese can do in the course of time to protect their own country, he sees no promise of improvement by a broader war giving them more to defend.

Although Spong was willing to tell the President by Senate resolution not to invade Cambodia, he was not willing to dictate when the President should end the war. Spong is thinking about these problems on two levels. First, there is the question of what is in fact the best thing to do. Secondly, there is the Constitutional question of the proper distribution of power and responsibility between the Senate and the President. This latter question, of who has the responsibility to do what, is not simply a rhetorical makeweight in the mind of Spong; it truly concerns him that he should do his full job but no more than his full job. Hence he supported the Cooper-Church amendment, though with a limitation which he himself sponsored to leave the President free to forestall enemy attacks and to chase fleeing enemies into Cambodia where necessary for the protection of American troops. On the other hand he opposed the McGovern-Hatfield amendment which would impose a time table for American withdrawal from Indo-China. Spong does not think that there is much chance of a negotiated peace, but he thinks that publishing a required withdrawal date would absolutely doom negotiations because the enemy would need only to outlast the calendar to get its way one hundred percent. He would rather hold on to "any slim chance for a negotiated settlement" than adopt the "inflexible" McGovern-Hatfield plan. Though not cheerful about its prospect, he basically approves President Nixon's plan for gradual withdrawal of American forces from South Vietnam while the South Vietnamese prepare to take over their own defense, but he is solidly against broadening the war.

The Senator has felt a need to straighten out his own thinking on the proper relations of the President and Congress and so he set about writing a law review article for the University of Richmond on the subject. Typically, he did his own work. When one sees a detailed, analytical exposition, fully researched, by any contemporary public figure, the necessary likelihood is one of seeing a ghost-written product. This is not said in derogation. The fact is that a Senator from a large state with immense responsibilities may very reasonably decide that it is not the best use of his time to go personally digging into a library. Each man has only so many hours to spend, and a man can fairly conclude that he cannot spend his time burrowing into details.

While another man might so conclude, Spong remains the Senator who would rather do it himself. Nothing will content him but that he make up his own mind after personally studying the evidence. If the consequence is that in order to study primary matters thoroughly, he must study fewer subjects and talk less, so be it.

This is typified by the University of Richmond article. Spong went to the library and wrote his own piece. On a day in early July, he was almost done; there were still two pages of little corrective notes, the kind of minutiae that makes scholarship accurate and prose precise, with which he needed to correct and clarify his earlier draft. When he had done all this himself, he had made up his mind on the question of whether "balance can be restored in the Constitutional war powers of the President and Congress." He had considered the materials from Madison's notes on the Constitutional Convention and the Federalist to the most recent words spoken in the Harvard and Virginia Law Reviews and the publications of the Naval War College. His research ranged from Jefferson to Congressional committee hearings and took into account the Memorandum of the Lawyers' Committee on American Policy Toward Vietnam. His essay might have been more elaborately documented if he had a professor do it for him, but his own digging had made what he learned a part of himself.

Spong begins with the fact that the Constitution in the most express possible way gives the power to declare war to the Congress. As the Cambodian invasion demonstrates, this Constitutional provision is not in fact obeyed, and the war-making power has so largely passed to the hands of the President that Congress was not even consulted. He turns to the debates in the Constitutional Convention, which pointed to the recognition in 1787 of the necessity that there be no war "but when the Nation will support." Alexander Hamilton, in explaining the Constitution to the country, showed the difference between the American and the British systems, for in Britain the King could declare war, where as in America the President would only be able to wage it after it had been declared by the Congress. As Hamilton said, "it belongs to Congress only, to go to war." Madison had said that the power "to declare war including the power of judging the causes of war, is fully and exclusively vested in the Legislature." From this Spong concludes that under the original Constitutional conception, the President might repel an attack or an invasion, but otherwise war "should come only after a collective judgment had been made by those directly elected as representatives of the people."

Spong develops that this has not in fact been our history. In the twentieth century, Presidents Theodore Roosevelt, Taft, and Wilson used armed forces in Latin America. President Truman sent armed forces to Korea in 1950, claiming power to act "in the broad interest of American foreign policy." He also sent troops to Europe. There followed a whole series of Congressional resolutions, of which Tonkin Gulf is one, which appear to concede a war power to the President. President Eisenhower sent 14,000 American troops to Lebanon without a claim of Congressional authority, and President Kennedy when he quarantined Cuba did the same thing. Neither Presidents Johnson nor Nixon has felt any real need for Congressional authorization for the Vietnam activities. There have been only five actual declarations of war in American history and 150 other military engagements.

It is not in Spong to cry over spilled milk, and he puts no blame for the drift of events. He simply notes that Congress has largely acquiesced in the demise of its own powers and that the courts have not done much to clarify responsibility. The rise of executive agreements instead of treaties has tended to deal the Senate out of foreign relations.

What would Spong do about it? He wants more careful resolutions of authorization when Congress does give a President a go-ahead; he wants improved reporting and consultation between the President and Congress; and he is prepared to support legislation which would specify when the President might initiate hostilities in the absence of a declaration of war. He analyzes all of the various proposals before the Congress and appraises them. His view is that Congress should stand up and be counted directly if it is to have responsibility—the mere approval of appropriations should not imply authorization to commit military forces unless Congress expressly says so. He does not wish to get lost in the details of a Constitutional argument; the concern is to determine where responsibility must be to "serve our long-term national interests." He is perfectly prepared to discuss the possibility that in a nuclear age and a world of possible instant destruction, it may be that the original Constitutional plan has become obsolete with contemporary war-time technology. The founding fathers worried whether there would be time to declare war; in an era of destruct by button, that problem becomes intense. Spong concludes by harking back to the original thought expressed in the Constitutional Convention: In war (and particularly after a war such as the long and divisive Vietnam conflict), "we desperately need national unity."

The war power essay typifies the man. It bears the stamp of independent research and independent thought. Once again, Spong applied the skills of a lawyer and the dictates of reason to illuminate a difficult issue. Spong is his own man; he is nobody's echo.

The question remains whether there is room for this kind of a man in American public life or, for that matter, in the representation of Virginia. Williamsburg, Virginia, is the great symbol of old-line handcraft in American public life, where the pewter, the silver, the hams, and the woodworking are all made or cured in the old-fashioned way of individual workmanship. Spong is the hand-craft Senator rather than the machine-tooled type of contemporary times. There is a question of whether the country can afford the luxury of a Senator who so meticulously does his own work.

There is also the question of whether his state will sustain him. Of the twelve representatives of Virginia in the national Congress, as the Congressional voting figures show, Spong is the only one who can remotely be regarded as a moderate, even though Congressmen Downing and Whitehurst, both from Spong's southeastern corner of Virginia, are close to Spong's voting record on one of the national rating sheets. His is a badly divided state, and if anyone can gently nudge Virginia into the twentieth century, Spong, with his low pressure methods and his universally recognized sincerity, is the man most likely to do it. In the most recent Virginia gubernatorial elections, the party voters were given a choice at the primary between a real Populist liberal, strong for racial equality, named Henry Howell, and Spong's own campaign manager and intimate friend, Bill Battle. Howell is engaging and dynamic, with a real campaigner's flair, but Battle, who is a political veteran of stature, won the primary. Had he won the election following, there clearly would have been the strongest kind of an axis between the capitol in Washington and the capitol in Richmond. He did not—it is generally accepted in Virginia that the bruises in the Democratic primary resulted in the election of a Republican governor, generally regarded as doing a capable job. Spong is thus very much on his own.

Nonetheless, "his own" seems good enough. Recent interviews in Virginia show that no one wants to take on Spong in the Democratic primary, and reveal that not a single Republican incumbent Congressman wants to risk his reasonably secure seat in the lower house for a state-wide battle with the Senator; the only plausible alternative at the moment is a Congressman who will in any case lose his seat by redistricting. Those who have spoken to the Republican governor confirm that he will not challenge Senator Spong and regards him as safe. As of this moment, Spong has won.

There are long-term doubts about the prospects of a man like Spong as a Southern leader. It may be that as the wheel turns, the moderate men like Spong will be engulfed either by the forces of extreme radicalism or extreme conservatism. Ours is a society of times impatient with moderation of any sort. But at this moment, Spong represents what is surely the overwhelming stratum of Virginians who do not want to shoot judges or senators or bomb institutions. What they want is a thoughtful solution to the problems of hunger and unemployment, of racial tension, and of peace. Spong may not get the solutions; perhaps no one can. But he certainly qualifies as thoughtful. He will never be quick, or intuitive, or flashy; but as one of the wisest and most respected Republicans in the state, a man who has observed Spong closely, says, "When he has the chance to prepare himself thoroughly, he's absolutely top notch."

What he wants to do he has told us in an extraordinarily heartfelt eulogy for a young man of exceptional promise in Virginia public life. Spong spoke of a Virginia of the future, a Virginia of aspirations: "A state that would, by example, give leadership to the nation; a state that could retain the pride of its past without being blinded to the needs of the present and future; a society where people had attained an understanding of one another; a society of tolerance and goodwill."

Spong's is more than an individual victory, and Spong is more than a model for young law students of today. The success of Senator Spong is a victory for the force of reason in American life. Spong's experience in the Senate demonstrates that rational analysis may still thrive in our government, despite the pressure of throttling emotionalism. To all for whom the law is important—those who make the law, those who interpret the law, and those who live by the law—Senator Spong offers hope that the bond of law to reason may yet endure.

NEED FOR SPEED IN CANCER RESEARCH

Mr. ALLOTT. Mr. President, on July 7, 1971, the Senate passed, by a vote of 79 to 1, S. 1828, the Conquest of Cancer Act. On November 15, 1971, the other body, by an equally impressive vote, passed the National Cancer Attack Act of 1971. The bills are at present the subject of a joint conference committee, and even though there are material differences between the two versions, I am hopeful that a rapid solution can be reached by the conferees.

It is impossible for anyone to not be concerned about seeking progress in the field of cancer research. The results of this cruel disease are brought to mind by seemingly endless reminders. It seems that it is all too frequent that one learns of a relative, friend, acquaintance, or a total stranger, who is suffering from the disease. This only tends to reaffirm the belief that research progress must be made in order to stop cancer.

Perhaps one of the saddest and cruelest cases of cancer is the one which afflicted Lyn Helton. I never met this young woman, but I have the greatest respect possible for the attitude she possessed and the approach she had to life. A wife and the mother of a 22-month-old baby, she displayed an amazing respect for life while knowing that she had terminal cancer.

In order to emphasize the need for speed in cancer research, I ask unanimous consent to place in the RECORD an article, entitled "The Love That Lights the Last Days of a Brave Young Mother," published in the December issue of Today's Health. I urge all Senators to take the time to read this excellent article.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE LOVE THAT LIGHTS THE LAST DAYS OF A BRAVE YOUNG MOTHER

(By Mike Michaelson)

The big, turreted house on the corner once belonged to a governor of Colorado. Now it is subdivided into apartments, as are so many of the rambling old homes on Denver's once-gracious Gilpin Street.

In the front downstairs apartment, Lyn Helton is trying to take a morning nap. It had been a bad night again. So many of them are now.

For Lyn, nighttimes form a familiar, dreaded pattern: settle down by 10 or 11; sleep four hours; awake again until almost dawn; swallow a pain killer; sleep for two more hours.

"Just lying there awake wearies me, so I usually don't feel too good in the monings," she says quietly.

Complaints don't come often from the frail young girl. Not even now as she finds herself tired but unable to sleep. Lying in bed, she's disturbed by the noise of the traffic outside, by the alluring sunshine that filters into her sick room and, most of all, by her thoughts.

. . . Always moving . . . Colorado, Wyoming, Montana . . . divorced parents . . . quitting high school . . . leaving home . . . waiting tables, working in offices . . . finishing high school at night . . . writing poetry . . . husband Tom, baby Jenny . . . Albuquerque, Salt Lake City, Denver . . .

Lyn eases her radiation-burned knee into a comfortable position and picks up the manuscript she hopes eventually will become a book and a legacy to her daughter. Jenny is 22 months old. "She'll soon be a mean old two-year-old," says Lyn, attempting a flippant, throwaway line. But the uneven voice doesn't pull it off. Lyn reads, knowing that her words may some day represent the only contact between mother and daughter.

"Dying is beautiful. Even the first time around, at the ripe old age of 20.

"It's not easy, but there is a real beauty to be found in knowing that your end is going to catch up with you faster than you had expected. You try to get all your loving, and laughing, and crying done as soon as you can."

Tacked to the wall above Lyn's bed is a poster, a portrait of a young girl leaning against a tree. She has pretty, dark, long hair, deep-smiling eyes, and strong, happy features. The photographer has captured this girl with her head tilted sideways in a natural, tender pose. It is a portrait of love, laughter and happiness.

The girl is Lyn. The photographer is Tom. The moment was a happy one, only a few days after they met in Laramie, Wyoming, little more than two years ago. Within a month they were married.

Now Lyn resembles the young girl in the poster in spirit only. Disease, anxiety, loss of sleep and appetite, hours of vomiting when she was on drug therapy, all have taken their toll. Her face is drawn and hollow, her eyes dark and sunken. Her body is gaunt. Her smile is slow, thoughtful.

If she ever cries or despairs about her appearance, it is mostly for Tom's sake, because it is for him that she would like her body whole again, unscarred by disease. She loves him more because he doesn't seem to mind.

"I like the way he caresses my body, at night," she writes in her narrative. "Even though I'm rough and bony from my illness. He'll love me forever, and I like knowing that . . ."

Lyn studies pictures of their daughter, Jenny has tousled blonde hair and impish features. She seems to enjoy the freedom of wearing only a diaper.

"God, I miss her," says Lyn. Her daughter is spending a week with Tom's parents at Green River, Montana. "Being a mother, having my little girl, has kept me sane. I've been a nervous wreck since she's been gone. It has kept my mind together, knowing there is something more important than myself to take care of."

Lyn is absorbed now, lost in thoughts of her daughter. "You know, kids are superemotional. Jenny doesn't know, like, 'My Mommy is dying,' that sort of thing. But she does know there is something different about me, something wrong. Like, when I break down sometimes and try to tell her. I take her in my arms and get all sobby and crying. And she just pats me on the back and says, 'Mommy hurts. Mommy hurts.' Or else she will bring me a tissue to wipe my leg, and she can say 'crutches'—or rather, 'cutches.'

"Like I can communicate with her right now, by loving her and touching her. But I won't be here in a few years, when the communication becomes more important.

"That's why I am writing very emotional things for Jennifer to read—at different ages—about how I feel about life and death and giving and love and all the important things. So in a sense I have communicated with her."

Lyn pauses for a moment, then adds softly, "The frustration lies in knowing that I won't be here to say these things to her face, that she doesn't have the ability to grow fast enough so that I will be able to talk with her."

Lyn Helton has cancer. More precisely, her body harbors osteogenic sarcoma, a malignant tumor that can invade a bone and spread insidiously to other parts of the body. In Lyn's case, the cancer first attacked her right knee.

According to the American Cancer Society, osteogenic sarcoma is a relatively rare form of cancer. In 1971, bone cancer is expected to take the lives of about 1,900 Americans. By comparison, lung cancer fatalities have been estimated at 64,300, while colon and rectal cancer will claim about 46,000 lives this year.

"Lyn's is a highly malignant tumor," says her doctor, Charlene Holton, M.D., "with a very poor prognosis by nature of its spread to the lungs. It is highly resistive to almost everything, and," she adds with clinical frankness, "it is common for patients to succumb to this metastasis (spread) and die a pulmonary death." This is a far from pleasant prospect which Dr. Holton likens to death by drowning. "The lungs fill up with tumor," she explains, "and the patient becomes progressively shorter of breath."

At age 33, Charlene Holton is a specialist in pediatric oncology (tumor study) and head of a cancer treatment and research center in Denver. She was invited two years ago to establish this center at Children's Hospital for youngsters in the Rocky Mountain region.

Along with the quick intellectual grasp of her specialty—she can, for example, cite instantly the cold facts of survival rates for surgery as opposed to radiation therapy—she has a warm compassion.

Charlene Holton can't bear to go to the funerals of her young patients and says she finds it hard—"even as a scientist"—to go to the morgue until the autopsy has progressed beyond a certain phase. "We all have our coping mechanisms," she explains.

When Lyn first became sick, the Heltons were living in Green River, Montana, Tom's home town. He took Lyn to Salt Lake City where they were told immediate amputation of the leg was the only way to cope with the tumor. Unable to accept the finality of radical surgery, they came to Denver looking for a less drastic alternative. And they found it—plus a measure of hope.

Dr. Holton decided not to amputate. Instead, she recommended trying radiation therapy to burn out the cancer.

"Lyn herself was not keen on amputation," says Dr. Holton, "and we could not show her it would improve her chances of survival. She had a young infant to consider and preferred not to be confined so long. She also wanted to be more mobile than she would be with amputation."

Lyn had special reason to appreciate this freedom last fall when Tom had to go into the hospital for two weeks to have cartilage removed from his knee. "Until that time," she recalls, "I was just lying around doing nothing and feeling sorry for myself. Then, suddenly, Tom wasn't here and I had to get up and take care of my little girl. That sort of made me realize I had a lot of living left to do. So that was a really good time for me."

Lately, though, Lyn hasn't been feeling so good. For two weeks she has been too sick to get out of bed.

Tom arrives home from band practice, carrying his guitar. He plays country rock three nights a week as a member of a four-man group in a night club in Inglewood, a Denver suburb.

Tom pauses on the front steps of the house to exchange greetings with a young woman who lives nearby. Tom thanks her for bringing Lyn hot tea and peaches. It's like that for the Heltons now, with many neighborhood people dropping in to talk, to bring things and, sometimes, to offer exotic "cures" that won't work.

Many young people live in the neighborhood now. Some, shoeless and in faded clothes, lounge away the noon hour under venerable shade trees. But this is a changing neighborhood, and one is just as likely to see genteel old ladies in long print dresses, thick lisle stockings and neat hair nets trundling shopping carts slowly along.

Except that Tom is bareheaded, he looks pretty much as Lyn remembers him from their first meeting. "He walked into my house with some mutual friends . . . mustache, dark, longish hair, big black hat, stolen probably from some theater set. . . . He had a camera, so we all went to the park to take pictures, and then went to his apartment to see some paintings he had done. It was a small apartment, but you could tell it was lived in . . . I liked that . . . it gave me a feeling of having been home . . . we talked until dawn, then had breakfast in Sally's All-Night Steak Place. And we've been together ever since."

Tom is soft-spoken, solicitous. He kisses Lyn tenderly and asks how she is and if he can get her anything. He plumps a pillow under her bad leg.

"You know, amputation is the traditional approach," says Tom. "But, I mean, the survival rate doesn't improve that much as opposed to treatment with high-dose radiation and drugs. They can amputate and the cancer may still spread to other parts of the body." Tom pauses to rest his hand on Lyn's leg. "So amputation seemed like an unnecessary emotional thing to go through along with everything else."

As Dr. Holton explains, the problem is the lack of a means to detect microscopic spread. Typically, a child or young adult with a bone tumor will be given a chest x-ray. It shows up negative, so the surgeons remove the cancerous limb. Then, within a year, the tumor may appear in the patient's lung.

"With Lyn, it was like living with a powder keg, waiting for it to go off," says Dr. Holton. "At times, she refused to take chest films. She was afraid we'd find something. And, sure enough, eventually we did.

"We need more research in this area," says Dr. Holton with the despair of a scientist lacking a critical answer. "Because there is nothing more discouraging than to do mutilating surgery and then find you haven't really helped the patient."

Lyn feels that amputation, when it has little effect on chances of survival, must become a very personal decision. "A lot of people don't want the tumor in their body. They feel better with it cut out. Others would rather live with it than without their limbs."

Lyn doesn't say anything for a while. Then, attacking the silence as if it were an enemy: " . . . There was hope for a long time, you know, until it got to my chest. That was back in January or February and I think that is when I started getting worried. Because as long as it doesn't spread, then you know there is a chance."

Tom intercedes quickly, softly. "We still kind of hold out hope. There is a fine balance between acceptance and resignation. I mean you have to accept the possibility of death, and yet at the same time you can't give up all hope."

Lyn nods. "I feel the same way, sure. But I think Tom is a little more hopeful than he should be. I understand it, you know."

She pauses. Her voice breaks a little. "I'm not getting on so good. This is what they told me. Like, they don't say, "Well, you've got two more weeks to live.' But they do tell me about the growth of the tumor. Things like that. Having gone through it so long, you get to understand."

Although it's an emotional subject—speculating on Lyn's death—there is a discernible easiness between the Heltons. In fact, they seldom find the need to talk about it anymore.

"Tom sort of bore the burden of it for me for a long time," Lyn explains. "But we understand each other very well and sometimes there is no need for words—or explanations.

"When you are forced into a situation where you have to be sad," says Tom "you should just go with it and take it as an experience and get the best out of it. Because to really experience happiness, you have to experience sadness—to have something to compare it to. It makes the happiness better and it makes the sadness better."

Tom pulls, a little self-consciously, at his modish, steel-rimmed glasses. "I guess that sounds kind of cold-hearted. I think it's a real tragedy, and it hurts me deeply that Lyn has this disease. But I can't just completely flip out about it. I mean, it has some meaning other than just being sad.

"Lyn's illness has been more an experience to share than something to bring us together. Because we had something really good before."

The "something really good" has been an especially durable force, withstanding not only the trauma of Lyn's illness but also a series of financial crises.

For a while, things were very pleasant. Tom had a decent-paying job as a materials clerk for a construction company, pursuing in his sparetime an ambition to become a professional photographer. They even had managed to save a little money.

"I had just bought Tom the dream of his lifetime—a motorcycle," says Lyn. "Then I had to go into hospital and we had so sell it. He only got to ride it three or four times."

From then on, their fortunes slid quickly downhill. No job. Welfare. Savings gone.

"Tom's guitar has been in and out of hock more times than we could count," says Lyn. "It's been our standby. Our grocery money."

If the Heltons feel bitterness, it is about their financial loss. "It seems the hospital was negligent about telling us ways in which we could find aid. Finally, we found out we were eligible for Medicaid, and that immediately lifted the burden. By then, of course, our money had run out."

Oddly enough, the Helton's financial luck improved after a thief stole the tape recorder Lyn was using to record her legacy for Jenny. A Denver newspaper ran the story and it was quickly picked up by a wire service. Soon, well-wishers had donated three tape recorders and money—a $1,000 check came from a man in New York—as well as an endless stream of secret "curative" herbs, special teas and books containing "cancer-curing" diets and recipes. Magazines from as far afield as Argentina and Germany rushed to publish Lyn's story.

Wisely, the Heltons engaged a lawyer and created a "future" fund. "I want the money for Jennifer to go to school," Lyn explains "and for a maid to help Tom—you know, a woman to come in, like in *The Courtship of Eddies' Father*. Anyway, Tom is too emotional to live alone for very long. I know he will remarry soon, within a year or so. So I really don't have to worry about him having to raise Jenny on his own.

"And I know she will learn from him the things we both believe in. I love him for the things he believes in. So mostly we have talked about the sort of things that I would like to have her do, like dancing lessons. And how I feel about sex and things like that."

Lyn's doctor believes this sudden surge of publicity may be good therapy for her patient. "These kids are small town, unsophisticated," says Dr. Holton, "and suddenly it is as if Lyn has become important. I think this is good. It has given her something to do besides worry about herself, dwelling on the subject and trying to be philosophical.

"This itself is a mechanism of defense—which is fine, if it works for Lyn. And she has done a beautiful job of coping."

Tom is in the kitchen cooking up some soup. He works at it industriously, if not skillfully. There is evidence of his talent around, though: photographs of Lyn and Jenny and moody outdoor shots decorate the otherwise bare, painted walls of the three-room apartment. It is a bright, airy place to live. The rooms are large, with grandiose high ceilings. The Heltons have managed to furnish it with second-hand, much-abused items. There's a sporting motif to the other wall decorations; they've hung a dartboard in the living room and some political cartoons—with a liberal twist—challenge guests entering the kitchen.

Hearing Tom puttering in the kitchen, Lyn talks *sotto voce* about her periods of depression. "Like, lately the pain will come in strong and hurt really bad, and, you know, I will get depressed or become afraid that I am dying immediately or that it will be soon. Or when it gets hard to breathe or when I'm tired but can't sleep, then I get depressed easily.

"But I have ways to overcome it. Through self-hypnosis and through Jennifer and in knowing there are people who care. And sometimes I like to get depressed, because I can use it as an outlet for emotion and then I feel better."

Lyn first became interested in self-hypnosis to counteract a violent reaction to drug therapy. "The drugs made me vomit for hours at a time. I couldn't eat and weighed only 67 pounds."

As a result of Lyn's interest in hypnosis, Dr. Helton got involved in suggestive therapy and developed a pilot study at the hospital. "We have youngsters who vomit in the parking lot even before they come into the hospital," she says, "even though the drug pharmacologically doesn't cause nausea. But what is vomiting but a rejection? If you've got a compound that's very effective—it's curing the cancer but making the patient miserable—you don't necessarily feel complacent about that treatment."

"After taking classes at the hospital," says Lyn, "I find self-hypnosis very useful against pain. I even use it for my ulcer and for a toothache."

Dr. Holton admits that at times she has found Lyn a less-than-ideal patient. Lyn took herself off drug therapy and many times has refused to go in for x-rays and check-ups. The only medication she takes now are relatively mild pain-killers. Dr. Holton speculates that this may be Lyn's denial of the existence of her illness. "This is reality when she comes in here. At home she can deny her illness a little longer—which is all right, too."

Yet Dr. Holton concedes that Lyn's inconsistencies baffle her. "At times she's a realist. Yet she's not a 'giver-upper.' She is a remarkably spunky girl."

"I'm very fond of Lyn," says Dr. Holton, "and at times we just talk about a lot of things in general—non-medical things. I guess it is almost a maternal relationship. She has no parents here, and she is not fully matured, although a mother herself, to cope with many of the things she had to cope with."

Charlene Holton sighs. "Yet at times I wanted to spank her for being hardheaded. I'm in this in the area of research and to prolong life—hopefully useful life. It's frustrating when you have a patient who refuses treatment, because you feel you spend so much time trying to convince her that we're dealing with a disease that none of us can promise her a cure for. We can only do what is said to be today's best treatment, or best logical treatment."

Despite Lyn's reluctance about treatment, she is emphatic about the importance of early detection.

"You know, cancer is still described in the dictionary as something evil, and many people avoid it like a dirty word. They delay treatment until their bodies are just eaten with cancer and they can't stand the pain."

The American Cancer Society notes that this year about 106,000 cancer patients will probably die who might otherwise have been saved by earlier and better treatment. "We are currently curing a third of all cancers," says a spokesman for the Society. "We could save one-half."

Lyn has no desire, before she dies, to circle the globe or climb a mountain. Rather, she seeks normal, happy, family living: "I don't wake up every morning and say I have to do this, you know, before I die. But I do wake up and realize there are things that I want to do that I should try to accomplish. But that I shouldn't put them above loving my family.

"The main thing is to finish the book. And small things, like sewing a quilt, learning to play the piano. Nothing big."

How much longer has Lyn to love and give? "That's a question they ask on *Marcus Welby* or *Medical Center*," says Dr. Holton. "In real life there is no way we can predict these things. Lyn's resistance is down and she could succumb to a pneumonia and not her tumor. I would be surprised if she lived several months.

"But then, I've been surprised in the past. That's why I don't like to talk in terms of time."

Since Lyn's illness, mundane, everyday things have come into sharp focus and taken on a new depth of meaning and appreciation. A ride in the car, a sunny morning, cooking for her family—even doing the dishes—have become treasured events for Lyn.

"It's so important," she says, "to live your life for what it is and to the fullest—which nobody will do until they are in the same situation I am. They don't seem to understand the beauty of life until they are told it is going to be taken away. If you know how good it feels to take a deep breath, you really are superlucky."

(Editor's Note.—Nearing press time, we have learned with deep regret that Lyn Holton died at one a.m. Sunday, November 7th, 1971. We offer our sympathies to Lyn's loved ones. Her courage and compassion will be missed and remembered.)

NOMINATION OF WILLIAM REHNQUIST TO THE SUPREME COURT

Mr. BAKER. Mr. President, it is elementary politics that the architects of our Government set up a system of checks and balances vesting in three separate branches of Government complementary functions, so that the power of Government could not be usurped by a single dictatorial authority and so that our democratic Government would, indeed, remain responsive to the people and to their basic and inalienable rights. The Supreme Court's function as interpreter of the Nation's Constitution and laws must be viewed carefully in that context.

In recent decades the function of the Supreme Court has, because of several of its decisions, become a matter of some controversy. It is no longer, if it ever was, a simple task to define in the context of specific issues the proper function of the Court. Those who would oversimplify the issues by dividing them into categories have not enhanced understanding of the problem.

Mr. William Rehnquist has been classified a conservative—a strict constructionist, and some opposition to him has been generated by those who have philosophical differences with him.

It is sometimes stated that it is not or should not be the function of the Senate to test the philosophical mettle of the nominees to the Court, and regardless of the merits of that contention, it is equally fair to say that philosophical considerations are probably taken into account to one extent or the other in the confirmation proceedings for every nominee to the Supreme Court; however, it is clear to me that there is no requirement that the President submit philosophically sterile nominees. The Court, fortunately, has always been made up of strong personalities with visible and discernible philosophical convictions. I for one would have it no other way.

I believe William Rehnquist qualifies technically and philosophically and I have no doubt that he would render fair and impartial justice.

Mr. William Rehnquist has demonstrated his understanding of the Constitution and the statutes and case law of the United States. He has demonstrated his dedication to the law and to the Government of the United States. I am pleased that the Judiciary Committee has acted favorably on his nomination and hope that the Senate will move forward with the approval of his appointment to the Supreme Court of the United States.

WINNING MONEY FOR SOLAR ENERGY

Mr. GRAVEL. Mr. President, it is budget time again. Even now, the President's Office of Management and Budget is preparing the administration's fiscal 1973 budget for presentation to Congress early next year.

Will solar electricity receive more than lipservice this year from President Nixon and his Budget Director, George P. Shultz?

Our future will be molded by their money decisions.

Budgets determine whether we will have a sunshine economy in the future, or a radioactive one.

TAKING THE SUN SERIOUSLY

It is clear that the scientific and engineering communities are impressed with the attractiveness of solar energy. One need only look at the September 1971 issue of the Scientific American, the October 1971 issue of Mechanical Engineering, the October 1971 issue of the Bulletin of Atomic Scientists, the November 1971 issue of the Smithsonian magazine, and others to confirm this.

Even Chauncey Starr, nuclear superenthusiast and presently dean of engineering at UCLA, is now calling solar energy promising and the only significant long-range alternative to nuclear power.

In his article in the September issue of the Scientific American, Chauncey Starr says:

> The enormous magnitude of the solar radiation that reaches the land surfaces of the earth is so much greater than any of the foreseeable needs that it represents an inviting technical target. Unfortunately there appears to be no economically feasible concept yet available for substantially tapping that continuous supply of energy. This somewhat pessimistic estimate of today's ability to use solar radiation should not discourage a technological effort to harness it more effectively. If only a few percent of the land area of the U.S. could be used to absorb solar radiation effectively (at, say, a little better than 10 percent efficiency), we would meet most of our energy needs in the year 2000. Even a partial achievement of this goal could make a tremendous contribution.

MONEY MAKES THE DIFFERENCE

The relationship between this goal and money was pointed out by Dr. Farrington Daniels in a letter to me December 10, 1970:

> Surely, solar energy will be important within 20 years, and if enough financial support should become available, the time could be considerably less . . . Atomic power has been supported by billions of dollars; solar energy research for use on earth has received almost no government support, except in solar distillation and solar batteries. Certainly solar energy is amply adequate for all the conceivable energy needs of the world. It is harmless and it is certain to work.

Dr. Daniels is professor emeritus at the University of Wisconsin College of Engineering.

AN OPINION TO RECKON WITH

The highest respect for solar energy has also been expressed by the 1970 Nobel Laureate for Physics, Dr. Hannes Olof Alfven of the University of California at La Jolla:

> In the long run, fossil fuel can not satisfy the rising energy demand in the world. There are only three sources of energy known which are sufficiently powerful: (a) Solar Energy (b) Fusion Energy, and (c) Fission Energy. The first one is completely pollution-free, the second one almost pollution-free. The third one is necessarily combined with production of large quantities of radioactive poisonous elements . . . In a full-scale fission program, the radioactive waste will soon become so enormous that a total poisoning of our planet is possible . . . If solar energy or fusion energy were available now at comparable cost, no one would use fission energy (for peaceful purposes) . . . Solar energy is available, but at prohibitive cost. However, there are new interesting solar energy projects which should be examined carefully . . .

That statement is part of a memo which Dr. Alfven wrote to me in April, published in full in the September 1971 Bulletin of Atomic Scientists.

THE VOICE OF ATLANTIC-RICHFIELD

The Atlantic-Richfield Co. is now referring to solar energy as "the ideal." An ARCO energy ad placed in the November 1971 issue of the Smithsonian magazine says:

> The ideal: a practical way to harness the pure, clean force of the sun.

The potential for solar electricity is not limited to hot, sunny places with lots of empty land. Solar energy is available not only in direct sunlight, but also in the ocean temperature differences found off all the continents, in the products of photosynthesis like algae and animal wastes which can be converted into man-made oil and gas, and in the great winds which can power propeller-driven turbines whose electricity could turn water into the clean, storable fuel, hydrogen. Even some of the energy of ocean waves and currents may be tapped.

Between now and adjournment, I will continue to place solar energy proposals in the RECORD.

A NATIONAL NETWORK OF POLLUTION-FREE ENERGY SOURCES

Several variants of solar energy are included in an exciting research proposal submitted to the National Science Foundation in April by a group at the University of Massachusetts at Amherst. The proposal, called "A National Network of Pollution-Free Energy Sources," was prepared under the leadership of Engineering Professor William E. Heronemus. I hope the Office of Management and Budget provides at least $750,000 for this group in the new budget.

"How To Harness Sunpower and Avoid Pollution" is an article written by Wilson Clark of the John Muir Institute. Published in the November issue of the Smithsonian magazine, it touches on several of the current solar energy proposals.

Mr. President, I ask unanimous consent to place that article in the RECORD at the end of these remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GRAVEL. Mr. President, human nature is much in evidence in energy policy debates, as elsewhere. Already some partisans of one solar energy proposal are knocking other proposals, even if they have high merit. Meanwhile, most partisans of nuclear electricity dismiss all solar energy proposals indiscriminately as too expensive to merit serious attention.

WILL SOLAR ENERGY BE EXPENSIVE?

Is solar energy deemed to be more expensive?

When discussing energy economics, it is important to ask what the cost would be if man inadvertently poisoned the planet forever with the indestructible radioactive garbage from nuclear power.

Even using just old-fashioned dollar-cost economics, we may find that present-day technology could produce solar electricity at costs competitive with nuclear energy. I know of at least two such proposals. However, they will never advance beyond speculation unless feasibility studies are funded.

That is why the preparation of the Federal budget is so important. Its importance can be clarified by a single question:

If $3,000 million tax dollars had been spent already developing solar energy, and no more than $1 million had been spent on nuclear electricity, which one would look economically competitive today?

In fact, it is nuclear electricity which has received $3,000 million tax dollars already, while the development of large-scale solar electricity has received barely $1 million.

THE BETTER DEAL

If the nuclear "breeder" program and solar energy received equal funding starting now, which would look like a better deal in 1980? Is the Office of Management and Budget preparing a fair contests? If so, Mr. Shultz will have to give far more than token funds to solar energy in the new budget. Almost a billion tax dollars have already gone into the nuclear breeder. The breeder budget in fiscal 1972 was $130 million, after a 53-percent increase from President Nixon. In addition, over $100 million was authorized this year toward construction of the first breeder demonstration plant, which might go into operation by 1980.

What should the budget for solar energy be next year? I have no idea what Mr. Shultz will propose, but outsiders can do a little figuring by themselves.

A rule-of-thumb in high technology is that you budget about $50,000 per scientist. This amount covers lab costs, supporting personnel, and other overhead, as well as his or her salary. Some businesses and institutions use higher and lower figures, but $50,000 is an acceptable approximation.

HOW BIG SHOULD THE SOLAR BUDGET BE?

Now the question to ask is this: In a country with a labor force of 80 million people, whose jobs allegedly depend on the lavish use of energy, how many people should work at developing the only source of inexhaustible, nonpolluting, safe energy?

The idea is simple: If you think 3,000 scientists and engineers would provide an appropriate effort, you budget $150 million per year, plus money for capital equipment and construction. If you think very small, say 300 scientists and engineers, then you budget about $15 million plus equipment. You naturally keep fair competition of ideas foremost, and you never forget that nuclear fission development—water and breeder reactors combined—got about $330 million tax dollars this year.

There are many thousands of unemployed scientists and engineers eager for work. Getting brainpower for solar energy is no problem. Nevertheless, some people will object to equal dollars for nuclear and solar energy. They will claim that no program can go from zero to several thousand workers overnight.

That depends. When cancer and defense research budgets are increased overnight by $100 million or more, such objections fade away.

WINNING DOLLARS

Because powerful nuclear interests may do all they can to block anything beyond token funding for solar energy, there is a need for businesses and individuals who see the merits of solar energy to express their opinions to the administration and to Congress.

I hope that solar supporters are writing directly to the Honorable George P. Shultz, Director of the Office of Management and Budget in the White House, to ask for a description of the administration's budget policy toward solar electricity.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Smithsonian magazine, November 1971]

HOW TO HARNESS SUNPOWER AND AVOID POLLUTION

(By Wilson Clark, John Muir Institute)

"Mines bear no second crop," said Dr. Preston Cloud of the University of California, Santa Barabara, at the annual meeting of the American Association for the Advancement of Science two years ago. Dr. Cloud was describing the consequences of the voracious consumption of mineral raw materials in the United States, a path leading us to the day, perhaps only a century away, when the key feedstocks of our industrial civilization will be gone.

He predicted that by 2042, "which is only as far into the future as the invention of the airplane and the discovery of radioactivity are into the past," the United States will have a secure supply of only three of the 20 mineral commodities necessary for industrial development. Of those three—molybdenum, iron and coal—even the future supply of iron is in question.

Energy, the handmaiden of Man's progress through the centuries, is in the deepest trouble. Demand in the United States for *all* sources of energy is rising at a steady 5% per year, and demand for electricity alone is skyrocketing at nine percent per year—it is doubling every decade. Continuation of this trend is clearly impossible, given the current means of obtaining energy. In a few decades there will be no oil for conversion to electricity or for transportation, nor will there be any natural gas, the cleanest burning fossil fuel. (And when the fossile fuels are gone, so too will be their other uses, such as conversion into plastics and other synthetic materials.) The one other alternative, power from the fissioning of the radioactive isotopes of uranium, is fraught with problems—not only the possibility of contamination of the Earth by radioactivity, but also the depletion of finite uranium deposits.

This is the energy crisis, a crisis which has little to do with the summertime difficulties of power companies or the political consideration of importing Mideastern oil. It requires recognition of the fact that our energy resources are dwindling, the bitter realization that at some not-so-distant hour the party will be over. Yet America has no "energy policy," and there have been few credible attempts made to develop one. One of the reasons for this may be despair. Another is faith that some untried or unknown future technology will save us in the nick of time. Work is now progressing in the United States to make synthetic gas from coal as well as to develop advanced nuclear reactors, called "breeders," which may stretch uranium sources by more efficiently using nuclear ore. Yet both of these alternatives involve grave hazards to the environment of Man.

The continued use of vast quantities of coal to power our civilization threatens despoliation of the earth through strip-mining and deadly acid drainage into streams and rivers, not to mention the death sentence society imposes on the men who still toil in the underground mines. Nuclear power is perhaps even more dangerous: No known way has been found to dispose safely of radioactive wastes, the ultimate pollution, while public safety is vulnerable to the possibility of abnormal operation of the nuclear plants.

Another alternative, the hoped-for achievement of nuclear fusion, would use the principle of the H-bomb to make power and would be fueled by the deuterium atoms in ordinary seawater. But this process remains theoretical, and may never become practical.

In spite of all these schemes, the greatest energy source of all has not yet been tapped; in fact, few men are aware of its potential, even though they themselves are powered by it: the sun. Though largely ignored in the high councils of energy production and planning, the large-scale conversion of solar energy into useful forms of power appears now to be feasible.

Many scientists have long been working on solar engines and heating devices. (See "Dr. Abbot: the wizard in the Smithsonian Tower," Smithsonian, October 1970.) Among them is Dr. Erich Farber, director of the University of Florida's Solar Energy and Energy Conversion Laboratory. For the last 17 years he has been developing water heaters, space heaters for houses, outdoor ovens, water distillers, refrigerators, air conditioners, small engines, water pumps and turbines—all powered by simple collectors of ordinary sunlight. The laboratory's solar hot-air engines and solar water-distillation units have been especially beneficial to underdeveloped countries needing small devices to distill fresh water and pump water for irrigation.

Farber points out that thousands of solar water heaters have been installed in buildings and homes in Florida. In these units, a solar absorber, a simple glass-covered flat pan painted black and containing water pipes, is mounted on the roof. As the sun heats the water pipes, hot water flows by free convection (requiring no pumps) to the top of an integrated water tank. Cold water from the bottom of the tank replenishes the supply in the solar absorber pipes to complete the process. To ensure that an adequate supply of hot water will be available during the night hours or for periods of bad weather, a large storage system is needed: The average family-sized water tank for Florida use is of 80-gallon capacity. Up to 48 square feet of roof space is used for the absorber.

Some units that Farber has observed in Florida have been in operation for up to 25 years; even with broken glass surfaces, they still perform to the satisfaction of their owners. None of Farber's systems is dependent on bright sunlight. His solar collectors use diffuse solar radiation, enabling the heaters, air conditioners and engines to function even on cloudy days.

Although no solar houses have yet been constructed in the United States which employ sun-powered airconditioners, at least 20 experimental houses have been constructed which use solar space heaters and, in some instances, air coolers. In most cases, these houses use supplemental power from conventional petroleum or electrical sources, but the solar units have successfully performed most of the work. For example, Harry E. Thomason of Washington, D.C., has built three solar-heated and cooled homes. His first Washington winter in a three-bedroom solar heated house built 12 years ago brought temperatures near zero and 25 inches of snow, yet he used only $4.65 worth of supplemental fuel oil to stay warm. The solar heating-cooling system cost about $2,500 to install, or $1,000 more than a conventionally fueled unit. Since his fuel bill has been negligible since then, one may guess that the system has proved its worth.

MASS-PRODUCING HOUSES AND ELECTRICITY

Custom-crafted homes are one thing. Developing plans for modular mass-produced solar houses, which would incorporate solar heating units with high-quality insulation to prevent heating-cooling losses, is the goal of Dr. Maria Telkes, a thermal storage expert and solar energy pioneer at the University of Pennsylvania. She aims to have complete plans ready for modular homes by the spring of 1973 for testing the following winter. "These solar houses must be factory-built so that the initial costs of installation will be no more than comparable houses without the solar heating systems," she says. The goal is to develop houses that can be located anywhere in the southern two-thirds of the United States and will use solar energy for at least 90 percent of the residential heating needs. Solar air-conditioning units are to follow.

Solar engineers and scientists across the country agree that the rapid development of solar-heated houses with their huge fuel savings will help "sell" the public on the key idea—that ancient dream of using solar energy to power our civilization. How do you convert sunlight to electricity?

Ninety years ago English physicists first noted that sunlight striking the element selenium produced electricity, but it was not until the mid-1950s that efficient conversion of electricity was achieved by silicon cells. Silicon cells are capable of converting sunlight to electricity at seven to ten percent efficiency, a highly favorable rate compared to the one percent (and less) efficiency of selenium.

The space program has sharply spurred the development of photovoltaic technology, as it is called. Thousands of silicon cells are now scattered through space, powering various measuring and transmitting instruments. Mosaics of these tiny cells have no moving parts and generate a continuous stream of electrical current until the effects of weathering and radiation stop them—after years of providing dependable fuel and pollution-free operation.

A number of scientists have now begun to explore the possibility of providing power for Earth through space-related systems. One such man is Dr. Peter Glaser, head of the engineering sciences department of Arthur D. Little, Inc., a Boston consulting firm. Three years ago Glaser startled the scientific community with a plan to supply ten million kilowatts of electrical power in the United States from a solar power station in synchronous orbit 22,300 miles above the Earth.

The sun's energy would be constantly collected by a 25-square-mile solar collector consisting of solar cells on a satellite which would weigh at least five million pounds. Electrical energy from the solar cells would be channeled through a two-mile connecting cable to an antenna which includes a microwave generator. The current would be converted to a microwave beam and sent on its long journey to Earth.

At a 36-square-mile land-based collecting station, a nine-square-mile antenna grid and a microwave rectifier would tranform the microwave signal to DC power and transmit it along established power lines.

A 90-percent efficiency is claimed for the land-based conversion of microwaves to DC current, approximating some claims for nuclear fusion power (if fusion power is ever developed). In contrast, present electrical power plants, both fossil- and nuclear-fueled, have overall efficiencies between 30 to 40 percent, and produce pollution along with current.

The only detrimental effects on the environment of Glaser's system might arise from the microwave beam focused on Earth, but according to a technical report on the project, the beam would have an average power density less than a tenth of the strength of solar radiation on Earth.

Cost projections for the scheme indicate that the station's total installed value would amount to no more than $500 per kilowatt of electrical capacity, compared to today's rising costs of $200 to $400 per kilowatt of electrical capacity for the building of fossil and nuclear power plants.

Glaser's estimate, however, is contingent upon major technological developments in reducing the expense of the solar cells needed for the space platform. Today, as much as two million dollars per kilowatt of electrical capacity is spent by NASA to power big satellites with solar cells. Glaser's project calls for spending only $300 per installed kilowatt for the cells alone. How will this be possible?

For the last ten years silicon cell costs have been about $200,000 per kilowatt for space applications. The fragile cells are still produced by hand-crafting techniques similar to those used in making jewelry. Space-grade silicon is grown in single crystals, cut with diamond saws for placement on the thin substance of the cell's base, and is almost 100 percent pure.

What is needed is the development of a sizable industrial base to begin mass-producing solar-cell components to bring costs down. William Cherry of NASA's Goddard Space Flight Center foresees a highly automated solar-array assembly line, where a roll of raw material for the thin photovoltaic cell structure is fed into one end of the machine and a finished "solar blanket" emerges.

Cherry is convinced that by the use of such highly automated processes, the solar cell matrix will cost a mere 50 cents per square foot. He points out that NASA's principal supplier of coated glass covers for solar cells, the Optical Coatings Laboratory in Santa Rosa, California, has developed a high-volume machine for coating glass. The machine, called MAC (Multilayer Automatic Coater), could probably be used to reduce costs several orders of magnitude lower than current cell costs, if sufficient demand existed. Another immediate way to reduce costs would be to use less pure silicon, which would impair the energy conversion efficiency of the cells somewhat, but would be far cheaper.

Another technique in the use of solar cell "arrays" was developed by Eugene Ralph of the Heliotek Division of Textron Incorporated. The silicon elements in his arrays are in individual nests, surrounded by reflectors to concentrate more sunlight on the silicon.

These arrays have boosted the power output of round silicon cells two-and-a-half times that expected from the cells without reflectors. Ralph envisions large-scale production of more advanced concentrator designs to increase the power output 125 times that of ordinary silicon cells.

The logistics of a space solar plant are complex and it appears now that land-based solar technology can produce higher efficiencies than had been thought. NASA's Cherry has advocated building electrical facilities using solar-cell arrays on land, as well as in space. To meet the total U.S. power needs of 1990, he calculates that about one percent of the total land area of the continental United States would be required for the mosaic of solar-cell arrays—just over 31,000 square miles which is about the same quantity of land currently planted in oats in the United States. "By 'farming' with solar cells, we could turn a lot of virtually useless land into some of the most productive land in the country, with something approaching a $2,000 per year profit per acre," Cherry says.

In a typical Earth-based installation, a one-square-mile solar-cell power plant producing 60,000 kilowatts would cost about $100 million to build, operate and maintain over a 20-year period. This assumes that a dependable and cheap solar cell can be devised, as well as materials capable of withstanding years of weathering and exposure to the sun's radiation (plastic sheets resistant to ultraviolet light have been proposed).

An essential element of any Earth-based solar power plant is its energy storage system. Not only must night-time demand be accounted for, but also periods of poor weather which circumvent efficient functioning of solar cells. Cherry proposes massive lead-acid storage batteries like those used in telephone exchanges. The batteries for each one-square-mile plant would store one million kilowatt-hours of electricity, a four-day supply for ten thousand homes in wintertime.

THE PROBLEM OF STORING ENERGY

In another scheme—that of two University of Denver scientists, Jack E. Rink and Jack G. Hewitt jr., for a large-scale solar-cell facility for southwestern Arizona—the energy storage problem would be handled by pumped-storage units comparable to those in use now in some conventional power plants. Electricity from the solar array would be used to pump water into high reservoirs during periods of low demand. When needed, the water would be released, falling through electrical generators into a lower lake or river.

An ambitious plan to initiate large-scale use of solar energy as well as to provide a practical answer to America's critical natural gas shortage has been proposed by Dr. Norman C. Ford and Dr. Joseph W. Kane of the Department of Physics and Astronomy of the University of Massachusetts. They would develop an enormous solar furnace, which would heat water to 1,500 degrees C. by focusing sunlight on a boiler through a complex of inexpensive plastic lenses. At such a high temperature, some of the water vapor would be dissociated into pure hydrogen and oxygen.

According to them, "if one can selectively pump the hydrogen out as fast as it is produced, the goal will have been accomplished," and the hydrogen could then be used as high-grade fuel to supplant ordinary natural gas. Additionally, "the generation of hydrogen circumvents two of the serious problems associated with most solar power schemes in that the 'energy' is both storable over long periods and transportable over long distances, as electricity, for example, is not."

The most innovative and exhaustively researched idea for the large-scale conversion of solar radiation to electricity on land has been proposed by two astronomers, Dr. Alden Meinel, Director of the Optical Sciences Center of the University of Arizona, and his wife Marjorie. The Meinels propose the construction of 1,000 land-based solar power stations each capable of producing 1,000 megawatts (*i.e.* one million kilowatts).

This so-called National Solar Power Facility would be located in the largely uninhabited desert region of the lower Colorado River basin, between the Mexican border and Las Vegas, Nevada. It could, the Meinels say, supply most of the United States' electrical needs in 2076, as well as those of northern Mexico.

Since the power plants would use conventional steam turbine technology, they would have to be cooled. The Meinels propose to do this by pumping salt water from the Gulf of California through aqueducts built in Mexico's Sonora province. The cooling process would heat the water enough to desalinate it. The steam would be collected and condensed, producing 50 billion gallons of fresh water a day. That is enough fresh water to supply 120 million people in what is now a chronically water-hungry region.

The most encouraging aspect of the Meinels' proposal is the efficiency of the overall power system. Counting all energy losses, the predicted efficiency of sunlight conversion to electricity is just over 30 percent, or about two to three times that expected from a land-based solar power plant converting electricity by silicon cells. The secret of this remarkable efficiency is the design of the solar collectors.

A typical collector would consist of a tubular heat absorber mounted inside a glass envelope; the glass would be coated with a thin multilayer optical coating to transmit sunlight effectively as well as trap infrared radiation and reflect it back to the heat absorber.

Heat energy would be transferred from the system's absorber to liquid metal channeled through the collector to a central thermal storage facility, where the heat (1,000 degrees F.) would be stored in a huge tank of molten salt. The heated salt would then supply the energy necessary to drive steam turbines for ultimate production of electricity.

Ten percent of the desert

The entire facility calls for some 13,000 square miles of desert area, in which the 1,000 individual plants would be placed (see map). There are more than 100,000 square miles of desert in the western United States, and the Meinels want about ten percent of it.

Certain environmental questions stand out. For each gallon of fresh water produced, a gallon of brine would be rejected to the Gulf of California. In time, this additional salt could upset the estuarine ecology of the Gulf, but the Meinels' theoretical studies indicate that if the brine is pumped far enough out into the Gulf, natural turnover of the Gulf's waters will dissipate it sufficiently.

Land use for the facility itself, its supporting aqueducts and its underground transmission lines may also prove to be a problem. But one wonders if it wouldn't be worth trading desert land for a virtually nonpolluting solar-power complex, rather than continuing to destroy the Colorado River basin by hydroelectric projects and filthy coal-electric power stations, such as the notorious Four Corners center which itself involves strip-mining large areas.

Of all proposals for the development of a land-based solar electric project, the Meinels' has the fewest technological and economic worries. The cost of electricity from one of their plants operating 20 years in the future is slated to be approximately five mills per kilowatt hour, which is competitive with today's market. This single fact may get the whole project moving.

But the wheels of change are slow to foster and finance growth of the essential groundwork necessary even to get the first modular solar home into operation. President Nixon referred to solar energy in his June 1971 address on energy problems, but needed money has not yet been invested in the key research projects necessary to realize the solar dream.

A few corporations and power companies have begun to take their first, tentative steps toward the development of solar energy on a large scale. But significant private investment in sun power is a long way off, and most bets for its rapid development still rest with government funding.

At present, federal expenditures for all energy research and development amount to about \$500–\$600 million. Of this, nuclear power plant development takes about 85 percent. What is left is devoted mainly to attempts to clean up existing fossil-fueled power facilities and mitigate the other environmental problems of dirty, inefficient power production methods.

To develop the needed technology, many years of painstaking research are necessary. At present, the only sources of government funds for research into solar applications have come from NASA, the National Science Foundation and the Air Force. NASA spends several million dollars yearly on solar-cell technology, but only on cells for limited space applications.

The newest and most innovative division of the National Science Foundation, the RANN program (Research Applied to National Needs) has begun to initiate funding in the area. Dr. Meinel's group at the University of Arizona has received a \$64,400 grant to conduct an eight-month investigation of their system. But the RANN program, the brightest hope of solar scientists at the moment, has limited resources for supporting much more work in the area.

Today's leaders in the solar field remain surprisingly optimistic, however, and are full of proposals to industry and government for new agencies (such as an "energy NASA") and grand schemes for promoting this unusual product. William Cherry says: "Since solar energy can't be used as a weapon, there's no need for international secrecy. Super-facilities aren't necessary to begin developing this power source. In fact, the American public can participate in this on a do-it-yourself basis. Not many people build nuclear reactors as a hobby. Solar power can be developed at home."

The many forms of solar power may not be the sole answer to the energy crisis, but it is clear that without tremendous support, the promise of its sure, clean energy may forever be lost by a shortsighted civilization. To utilize the full potential of solar power will require years of research, development and hard work.

Solar energy's strongest supporter in the Congress, Senator Mike Gravel (D., Alaska), said in a July Senate debate on AEC appropriations: "It could be argued that the crucial gap (besides safety) between nuclear electricity and solar electricity is the multibillion dollar government subsidy for nuclear electricity. The government has spent *zero* dollars toward the development of large-scale solar electrical generating plants. . . It makes no sense to lament an alleged conflict between energy and the environment when we have ignored our most obvious source of natural energy."

STRIP MINING

Mr. MONDALE. Mr. President, one of the great unresolved environmental issues is the accelerating destruction of our land by strip mining for coal and other minerals.

In 1965, the Senator from Wisconsin (Mr. Nelson) first introduced legislation to halt this abuse, and he has reintroduced similar proposals in every subsequent Congress.

As the Wisconsin Senator recently pointed out, there has been a dramatic change in attitude on the issue since then. With the great increase in public awareness and concern, the question is no longer whether Congress should act against this incredible environmental abuse, but how.

As noted, Senator Nelson has introduced tough legislation in this regard and he recently outlined these measures in his statement as the leadoff witness at the strip mining hearing by the Subcommittee on Minerals, Materials, and Fuels, of the Committee on Interior and Insular Affairs.

Mr. President, I ask unanimous consent that Senator Nelson's excellent and hard-hitting statement be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Statement by Senator Gaylord Nelson

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to testify today on the strip mining bills, including S. 77 and S. 1498 which I have proposed.

In 1965, I first introduced a bill, S. 2688, for strip mining controls, including requirements for Federal licensing of all surface mines and for reclamation. The measure was revised and reintroduced from Congress to Congress along with other proposals, and hearings were held.

In the six years since, there has been a dramatic change in attitude on the strip mining issue. For everyone from environmentalists to the industry itself, the question is no longer whether Congress should act, but how. And with coal stripping increasing at an accelerated pace, the urgency of the situation is universally recognized.

What has happened is that the American public has become educated and concerned about the environmental crisis in general and the incredible destruction of strip mining in particular, and the institutions of this society are finally beginning to respond. The nationwide environmental awakening was represented and stimulated by Earth Day, 1970, with the participation of millions of people, young and old. Because of the vast, peaceful outpouring of public concern, the environmental issue was made a part of the national political dialogue for the first time.

And the environmental and human tragedy of strip mining itself has been brought home to the entire nation by the eloquent speeches and persistent efforts of the Ken Hechlers and Harry Caudills, by the work of many environmental human welfare, and other public interest groups, and by continuous, hard-working newspaper coverage.

Strip mining's permanent destruction of the values of the land has not only been a crime against the environment, but an incredible economic waste. It levies a cost against the future far beyond any short-term profit that has been gained.

Thus, from an environmental point of view, I support a ban on the coal strip mining, by far the largest mining activity with the greatest impact. In addition to reintroducing my legislation to set controls on all surface mining, I introduced this year in the Senate the bill to ban the coal stripping.

If in the committee's judgment, it is concluded that reclamation in certain circumstances is possible, and the outright coal stripping ban is not adopted, at the very least, a strong, effective regulatory measure with tough reclamation requirements, inspections and enforcement is essential.

The Subcommittee Chairman's measure, S. 2452, includes a sound definition of reclamation, and in the Subcommittee's hearings and deliberations, it would seem important to determine whether and with what requirements this standard can be met.

If it is determined that meaningful reclamation is achievable, at the very minimum the following would seem to be essential requirements:

A ban on so-called contour mining for coal;

A prohibition of any surface mining without a permit issued by the Environmental Protection Agency or, if a state adopts a Federally-approved implementation plan meeting all the requirements of the Federal law, a state permit instead;

A requirement of reclamation plans for strip mining which assure that the land will be restored to a condition allowing its original uses and potential to be fulfilled;

A national inventory of all potentially strippable areas;

A moratorium on the Federal issuance of coal leases and exploration permits on the U.S. public lands out West until a comprehensive environmental review is done as required under Section 102 of the National Environmental Policy Act;

Reclamation of abandoned strip mined lands, financed by a Reclamation Fund supported by Federal moneys and by reclamation fees collected from the mining industry based on their environmental impact;

Establishment of underground mining controls similar to those for surface mining;

Special Federal protections and aids to assure the restoration of any jobs that might be displaced by surface mining controls;

Provisions for full public participation at every step of the process of regulations and controls, and for citizens suits at least for non-discretionary provisions of the legislation.

With the great and rising concern about strip mining that has been demonstrated from all across the nation in just this past year, it is clear that the American people are not going to be satisfied with halfway measures on this grave environmental abuse.

And instead of being allowed to continue passing along to the American taxpayer and to future generations the mounting damage bill, the strip mining industry must be required to internalize these costs, and must bear the burden of proof that reclamation of these lands can and will be done.

Thus far, the great strip mining and the greatest concern have centered in Appalachia, a region where a wealth of coal and of natural beauty seem to have been inextricably bound together.

But far more than just the ravaging and pollution of the region's scenic and other natural resources, the strip mining is bringing the disruption and displacement of a people and all that they care about and all that sustains them.

It is a story of the destroying of a part of the earth and all its resources. Appalachia has been bought at bargain basement prices for the few. And for the people of that region and the entire country, no amount of money could pay for what already has been lost.

In short, the pillage and plunder of strip mining in Appalachia are bringing destruction on a scale comparable to that of war itself. It is environmental warfare on our own country.

Now, the same tragedy is posed for the American West. Vast beds of coal underlying thirteen Western states constitute 77 percent of the strippable reserves of this country. With the nation's insatiable energy demands, and with developing technology to convert coal to gas or other fuels, these vast deposits are now becoming feasible to exploit. Already, permits for coal exploration or leases or coal stripping have already been obtained by private interests on 3,500 square miles of U.S. public and acquired and Indian lands, with the vast bulk out West.

It is quickly becoming apparent that vast portions of the region could become a mammoth strip mine. Substantial underground coal mining is probable as well. Without proper environmental protections, the West is in danger of becoming another Appalachia.

The huge scale of the planned Western strip mining for coal becomes dramatically clear when one notes that some of the largest energy companies in the country—Mobil Oil, Peabody Coal Corp., Atlantic Richfield, the Sun Oil Co., and the Carter Oil Co. among others—have already obtained large leases on the public coal deposits.

Reportedly, a confidential survey by a private gas association has already pinpointed 176 prospective sites for huge plants to convert coal to gas, mostly in the coal areas spread throughout the West.

With these gigantic strip mining—coal gasification complexes, the face of the West would be reworked, with thousands of square miles of public and private lands drastically altered, possibly eliminating other uses forever.

Without reclamation, these lands held by the American public would in effect not be leased but sold as consumable, disposable goods. And there is serious question as to whether strip mined lands can actually be reclaimed.

If pollution were to result from the coal stripping and processing, and adequate controls were not established, the consequences could prove devastating in an already water scarce region.

Many of the major river basins in the country could be affected by the massive coal operations: the Colorado River Basin, with coal areas in Arizona, Colorado and New Mexico; the Arkansas River Basin, by coal areas in Oklahoma and Arkansas as well as in Colorado; the Platte River Basin, by coal areas in Wyoming; the Snake River Basin, by coal areas in Wyoming; and the Missouri River Basin, by coal and lignite areas in Montana, Wyoming, North Dakota, and South Dakota.

November 5, I wrote a letter to Russell Train, chairman of the Council on Environmental Quality and to Secretary of the Interior Rogers Morton urging a halt to the issuance of Federal permits and leases and Bureau of Reclamation water permits for coal strip mining on the public lands in the West until an environmental review under the National Environmental Policy Act (NEPA) is made.

While some environmental study steps have been taken, and others considered, and a Section 102 statement under NEPA is being done on the power generating complex using coal from Black Mesa in Arizona, the comprehensive environmental reviews necessary under the National Environmental Policy Act to determine the cumulative impact of coal strip mining out West and whether the lands can be reclaimed simply have not been done.

And while I am aware that the low sulphur coal in the West and coal gasification offer potential environmental and energy supply benefits, my concern is that in our efforts to solve the energy questions, we do not trade one set of environmental and energy problems for another.

I request that a copy of my letter on the Western coal leases and permits be included in the hearing record at the end of these remarks.

Also, Mr. Chairman, last August, Ben Franklin of the New York Times did an excellent piece on this development, and I ask that his article also be printed in the record when this statement is concluded.

Thus in this Congress, we find ourselves at a watershed time in the history of the strip mining concern: backed by a concerned, aware public, we must act to halt the destruction in Appalachia and in other strip mining areas, and prevent similar devastation in the West.

And the strip mining issue poses a crucial test not only of environmental policies and commitment, but of the ability of public agencies to act effectively in the public interest.

Time and again, we have seen Federal agencies who were established to act on behalf of the public become handmaidens to the narrow, profit-seeking goals of private interests.

But with the broadscale intervention of the American public, legislative, administrative and judicial actions have been taken in the environmental area that were more effective and far-reaching than I think any of us would have imagined possible just a few years ago.

In effect, we are now on the way to establishing as national policy the principle that no one has the right to pollute, and are putting the laws on the books necessary to back it up.

Our next big environmental step must be to establish the similar principle that no one has the right to destroy or harm the land, and with continued strong and coordinated public support, I believe this can be done.

The surest way to stop the destruction of the landscape by coal mining—by far the largest mining activity with the greatest overall impact—is to ban the stripping. And from an environmental standpoint, I support a ban on the coal strip mining.

This year, in addition to reintroducing my bill, S. 77, to set controls on all surface mining and to prohibit it where reclamation is not possible, I introduced in the Senate the bill by Congressman Hechler to ban the coal stripping.

Cosponsoring this measure, S. 1498, with me, are Senators McGovern, Kennedy, Humphrey, Case and Harris.

As I noted in my floor statement on the introduction of S. 1498, of all the proposals, the measure to ban stripping for coal most effectively raises a fundamental question of whether reclamation is possible, and thus must be seriously considered.

The nationwide debate that this measure has stimulated has already been highly informative and important in the legislative process, and I think that in its deliberations the Subcommittee can benefit greatly from the delineation of the issues that is taking place.

If an outright coal stripping ban is not adopted, at the very least, a strong, effective regulatory measure with rigorous and very specific requirements is essential.

Otherwise, in the coal rush that would follow, the hope represented by the current public effort against strip mining abuse would turn to despair and disillusionment, knocking away one more vital underpinning in the foundation of government credibility.

I request that recent editorials in the Christian Science Monitor, the Washington Post, and the New York Times which note the great public interest and the need for action be printed in the hearing record at the end of these remarks, along with a copy of my statement on the introduction of S. 1498.

Short of an outright ban on all coal stripping, the following would seem to me to be minimum provisions for a strip mining bill:

—*Ban so-called contour mining for coal, stipulating the specific degree of slope that will be the cutoff point.* Among others, the Conservation Foundation has suggested the cutoff as a slope of 13 degrees or more, marking the point at which highwalls and benches are created, causing the most severe environmental results. The 13 degree distinction exists in Kentucky and Pennsylvania laws, whose controls are among the strongest in the states.

Especially useful comments on the economic effects of a ban on contour mining were made by CF's Malcolm Baldwin in his statement in House hearings. He estimated that contour mining—on slopes 13 degrees and above—accounts for about 20 percent of our domestic coal production.

This need could be filled by increasing coal production from underground mines or by converting—temporarily if need be—to other fuel sources such as residual fuel oil, by adjusting our import quotas and by encouraging more residual oil production from domestic refineries.

Studies also show that most deep mines work two shifts and that changes to three shifts a day, six days a week, would alone produce an additional 150 million tons of coal a year, more than enough to fill any energy gap created by the banning of contour mining.

Another 50 million tons of coal a year could be made available within six months from expansion of deep mines and so-called punch mining in existing contour mines.

Another possibility would be establishing quotas on our own coal exports.

Finally, a special board could be created to investigate and recommend solutions, including possible variances from phase out deadlines, where a genuine energy supply hardship could be shown by a particular utility or industry.

Prohibit any surface mining without a Federal permit, or, where a state has adopted a Federally-approved plan meeting all the requirements of Federal law, a state permit. Permits would be required for mining on all public and private lands. Similar to the water quality bill just passed by the Senate, permits would be issued only on assurance of compliance with the requirements of the Federal law and all regulations, along with water and air quality standards.

As under the water bill, permits would be issued initially from the Federal level, but the program could be taken over by the state if the state adopts a Federally-approved implementation plan which meets all the requirements of the act.

Though the permit system would apply to all surface mining, requirements would vary according to the resources being mined.

In line with the important concepts stated by the President in submitting his reorganization plans last year that enforcement should be kept separate from development functions, the Environmental Protection Agency should be designated the administering agency for the permit system.

Inasmuch as other committees have retained oversight of portions of EPA with which they have historically been concerned, this would not appear to pose interference with this committee's minerals jurisdiction.

The current status of state strip mining control laws around the country provides dramatic justification for primary authority at the Federal level.

In Appalachian states, where there has been ample time to test the laws, the problem has been lack of adequate appropriations, shortage of inspectors, and consistently weak enforcement, with failure to adequately review and where necessary deny permit applications, or revoke permits or licenses where appropriate.

The state programs have also been characterized by inadequate performance bonds allowing only the most superficial efforts to pass for reclamation, failure to impose bond forfeiture where it is merited, and yielding to industry pressures to be released prematurely from reclamation liability.

In the Western states, where massive coal strip mining is posed, requirements are even more lax. Reportedly, in Wyoming only $20,000 per year has been budgeted for all inspection activities for all strippable minerals in the state.

In Colorado, the performance bond to be imposed is not to exceed $100 an acre, far short of what is necessary.

In North Dakota, the performance bond is set at only $200 per acre, and the reclamation plan apparently does not have to be submitted prior to the date of the issuance of the permit.

In Montana, in addition to funding and personnel shortages, performance bonds are still far short of meaningful requirements.

Reportedly, New Mexico and Utah have no laws as yet to govern coal strip mining.

Require for a strip mining permit a reclamation plan which will assure that the land will be restored to a condition that would allow its original uses and potential to be fulfilled.

Far too frequently, what has passed for reclamation in the past has been a "green lie," revegetation and regrading of the most cosmetic sort, ignoring vital ecological and resource factors that will actually determine the future of that area.

If strip mining controls and reclamation are to be successful at all, strip mining legislation must be specific, assuring deadlines for completion of reclamation as well as minimum performance bonds which are high enough so that a public agency can do the reclamation adequately if the mining company forfeits.

And as other Federal program experience has clearly shown, no strip mining control program will succeed without tough inspection and enforcement.

As an example, a prerequisite to any strip mining approvals should be assurance that the enforcement agency has adequate funds and inspectors, and it would seem to be fair to require the strip miners themselves to contribute toward the inspection program.

Tight inspection procedures should be established: for instance, it would seem reasonable to require that inspections of reclamation progress be made as frequently as every two weeks, that they come at irregular times, unannounced, and that the inspectors be rotated.

A national inventory and classification of all areas with potentially strippable minerals. A primary aim of such a study would be determination of which areas were possible to reclaim in strip mining, based on factors such as acidity, aridity, elevation, and timberland which would have to be clearcut before mining.

Such a study could be conducted within 18 months, and based on its conclusions, issuance of strip mining permits in certain areas might be withheld until such time as technology had advanced to the point where such lands could be reclaimed.

Especially if it were assigned the strip mining permit responsibility, the Environmental Protection Agency should conduct the study.

A moratorium on the issuance of coal leases and exploration permits on the U.S. public lands out West until a comprehensive environmental review is done as required under Section 102 of the National Environmental Policy Act.

In checking with the Bureau of Land Management recently, our office learned that no environmental impact statements have been filed on the coal leasing on the Western BLM lands, even though the National Environmental Policy Act specifically requires such statements for "major Federal actions significantly affecting the quality of the human environment." A Section 102 report is being prepared in the Black Mesa operation on Indian lands in Arizona.

In response to my letter mentioned earlier, the President's Council on Environmental Quality yesterday confirmed to my office that it is concerned about the matter and is looking into it further with Interior Department agencies.

It should be noted that many of the Western coal leases were granted before passage of the National Environmental Policy Act and what major acreages were leased even before Interior regulations requiring on-site studies were issued in 1969.

In regard to building in environmental requirements for these prior leases before any mining begins, I would point out that Section 103 of the NEPA requires all Federal agencies to review their current policies and regulations and propose such measures as necessary to bring their authority and policies into conformity with NEPA. It would seem to me that Section 103 would thus require a review of the environmental impact and requirements of the past leases.

The same permit and reclamation requirements should be established for mining on the Federal public lands as are proposed here for the state and private lands. In the case of the Federal public lands, it would seem appropriate to require EPA certification of Bureau of Land Management leases and permits.

Reclamation of so-called "orphan" lands that were strip mined and left some time ago, and of lands affected by underground mining. The reclamation would be financed by a Fund supported in part by reclamation fees levied on the mining industry.

Already, the inventory of lands ravaged from strip mining exceeds an area the size of Connecticut, and the destruction is accelerating.

As proposed in both S. 77 and S. 1498, a Reclamation Fund would be established to carry out this program. The Fund would be financed by Federal contributions and by reclamation fees which would be levied on current and future mining operations based on the amount and duration of impact their activities would have on the environment and on other land uses. The reclamation should be administered by the Soil Conservation Service of the U.S. Department of Agriculture.

In addition to a serious commitment to enforce the 1969 Coal Mine Health and Safety Act of 1969, underground mining controls similar to those for the strip mining must also be established. These should include provisions for a permit system and reclamation plans with specific requirements, as well as a provision to prohibit any underground mining operation in wilderness areas established pursuant to or by the 1964 Wilderness Act.

Land undermined by underground mining probably exceeds 7 million acres, with some 2 million acres expected to experience subsidence by the year 2000. Fires and silt and acid mine drainage are also important underground mining effects. These devastating problems reflect a combination of difficult geologic and hydrologic conditions, a recalcitrant industry, and economic disadvantages experienced by deep-mine operators unable to compete with an unregulated stripping industry.

—*Special Federal protections and aids must be established to assure the restoration of any jobs that might be displaced by surface mining controls.*

In achieving a decent environment in this country, we need not sacrifice the human welfare, and I have long strongly supported measures to reconcile any potential conflict between these aims.

For instance, I proposed an amendment to the water quality bill to establish a program of long-term, low interest Federal loans to small businesses that might be adversely affected in meeting water pollution controls. The proposal was adopted by the Senate 92–0.

Regarding strip mining, Congressman John Seiberling has introduced amendments in the House to aid workers who are laid off due to a mine shutdown. Authority would be given to the Secretary of Labor to provide readjustment payments to an adversely affected worker. A worker would be eligible for this readjustment allowance for up to 52 weeks. In addition, a relocation allowance may be granted to a laid-off worker who can find work outside of a specified commuting distance.

In addition, reclamation could also provide a major employment opportunity for any men who may be out of work from the effects of strip mining controls, and any such workers should have a priority in reclamation jobs. Special training and relocation assistance should be provided for this purpose.

Public participation must be fully provided for at every step of the process of regulations and controls. This must include non-discretionary authority for ciitzens suits against responsible Federal officials for violations of any provisions in the legislation, a provision similar to that already included in the water quality bill passed by the Senate. In addition, public hearings should be held on request before the issuance of any permits, and there should be public notification and the opportunity for a public hearing prior to the release of a mining company from liability for reclamation.

Mr. Chairman, the Subcommitte is to be commended for holding these hearings on this important matter, and once again, I appreciate the opportunity to comment.

THE RECORDING INDUSTRY AND DRUG ABUSE

Mr. JAVITS. Mr. President, I have long believed that we must utilize every weapon at our disposal to fight the drug abuse problem. I am pleased that recording companies have now begun to work with recording artists in helping fight drug abuse.

Most recently the Recording Industry Association of America created, in connection with the National Institute of Mental Health, a fine recording entitled, "Some Things You Always Wanted To Know About Drug Abuse." The record has been distributed free of cost to the Government and to every radio station in the country.

As one who represents the State in which so many recordings are produced, I am proud of the recording industry for this meaningful contribution to the war against drug abuse.

I ask unanimous consent that an article discussing the situation and published in the Albany Times Union of October 23, 1971, be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Albany Times Union, Oct. 23, 1971]

THE NATIONAL SCENE—A MEANINGFUL CONTRIBUTION

(Issue.—With the recording and radio industries cooperating in a government program aimed at curbing drug abuse among young people, do they deserve criticism for using records allegedly glamorizing drug use?)

After weathering a storm of criticism—much of which now appears to have been unjust—the recording and radio industries today are making a significant contribution to a government sponsored program designed to discourage the use of drugs among young people.

Since the first of this month, radio stations throughout the nation have been devoting thousands of hours of public service air time to broadcasting messages which certainly should make a young man or woman think twice before accepting that first sample of an illegal drug.

One of the messages reaching a vast audience of teenagers and, hopefully, influencing them, is a six-sided LP album which covers most aspects of addiction and examines the insidious narcotics which bring on this distressing condition.

This fine educational instrument, entitled "Some Things You Always Wanted to Know about Drug Abuse," was produced, at no cost to the government, by the Recording Industry Association of America. In addition, many individual record companies have released commercial discs with anti-drug abuse themes.

Not so long ago, the record companies and radio statitons were being roundly blasted by many well-meaning critics for producing and playing records whose lyrics, it was charged, made drug use appear acceptable and even glamorous. It eventually was proved, however, that many of these attacks sprang from misunderstanding and were pretty wide of the mark at getting at the real roots of the drug problem.

But if any suspicions have continued to linger as the result of these criticisms, they certainly should be dispelled by the recording and broadcasting companies' forthright, generous and meaningful cooperation in the current government program.

WHITE HOUSE CONFERENCE—RETIREMENT SECURITY AND THE AGED

Mr. JAVITS. Mr. President, during this week the 1971 White House Conference on the Aging has been meeting in Washington. Three thousand four hundred delegates from all over the country are participating in almost 100 meetings covering a wide range of topics concerning problems of the elderly.

I take this opportunity to welcome New York's delegation and delegates from all over the United States to the White House Conference. The conference is an indispensable means for formulating sound public policy for the aging; and I believe Congress will be sensitive and responsive to the recommendations which are endorsed by the delegates to the conference.

Mr. President, certainly one of the most conspicuous problems identified with the elderly is the absence of an adequate income in the retirement years. I ask unanimous consent to have printed in the Record my remarks on this subject that were delivered on Monday, November 29, to a luncheon meeting of the delegates to the White House Conference on the Aging.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

RETIREMENT SECURITY IN A FREE SOCIETY: THE ROLE OF PUBLIC AND PRIVATE PROGRAMS

(Remarks of Senator Javits)

There are now approximately 26 million people 65 years of age and over in this country. A quarter of these Americans live below the poverty level; many do not become poor until they reach old age.

Because of this circumstance, the United States is rapidly approaching a critical juncture in its experience with provisions of income assurance to the aged. Some of the accepted principles that heretofore have governed the design of social security and private pension programs are now under serious attack.

The underlying problem—assuring adequate income for the aged—is not new, nor is the United States alone in experiencing increased pressures for adopting more effective strategies to deal with the issue. In recent years, Belgium, Canada, Great Britain, Germany and Switzerland—to name a few—have been compelled to re-examine the adequacy of their retirement systems. Still other countries—notably France—have succeeded in fashioning an elaborate and sophisticated integration of public and private retirement systems so as to insure an adequate old-age income for its workers.

Foreign models and proposals for change vary widely and reflect the specific historical, political, economic and social conditions of the countries involved. It is natural and desirable for experts in this country to examine closely foreign experience in order to develop perspectives from which to evaluate social security and private pension programs in the U.S. In the last analysis, however, the future direction of our "dual retirement system" will come from the unique complex of needs and interests of the American people. Therefore, primary attention must focus on our national concerns.

PROBLEMS OF SOCIAL SECURITY

Since its inception, Social Security has been conceived as furnishing a minimum floor of retirement protection for almost the entire work force. Private initiatives, i.e., principally group pension plans, have been cast in the role of providing a "supplement" to the retirement income delivered by Social Security.

However, the scope and level of benefits under Social Security, or what is meant by providing a "minimum floor of protection," has never been firmly decided. This deficiency has grown more acute as persistent inflationary pressures have eroded the purchasing power of the retirement dollars provided by social security.

Most authorities agree that the wage-replacement ratio of social security—between 19 percent to 29 percent—is very low. The median social security benefit paid in 1967 to a retired couple—the latest year for which this data is available—was $129 a month. $241 is the minimum monthly income required to sustain a retired urban couple, as reported by the Bureau of Labor Statistics in January 1970.

Despite recent and proposed increases in social security, and despite the likely enactment of measures to guard against loss of social security purchasing power, the continuing inadequacy of Social Security remains a stony fact. The evidence to date strongly suggests that a concerted effort be made to improve the social security benefit formula so that it will result in a higher and more realistic wage-replacement ratio.

To accomplish this requires some meaningful consensus as to what the long-range floor of protection ought to be and to gear the system to provide that level of protection. At the same time, care must be taken to insure that private initiatives and responsibility for participating in securing old-age financial security are not discouraged or diminished. This would occur if we were to establish a level of social security benefits which would cost so much that employers, unions and individuals no longer perceived the desirability or the feasibility of providing supplementary pension programs. The advantages of maintaining and encouraging private initiatives are too important to sacrifice, and, it would not be in the best interests of works or our economy to impose such a sacrifice in order to obtain such a high degree of social security protection.

PROBLEMS OF PRIVATE PENSIONS

Because social security benefit levels seldom have been satisfactory, private pension programs have grown to fill the gap—and they have enjoyed a spectacular growth.

In 1950, private pension plans covered 9.8 million workers, 22 percent of the work force; by 1971, private plans covered in excess of 30 million workers, roughly 50 percent of the work force.

In 1950, pension plan assets totaled $12.1 billion; in 1971, these assets exceeded $130 billion, growing at the rate of $10 billion annually and expected to reach over $200 billion by 1980.

Undeniably, these programs have become a major factor in the economic life of this country and in the minds of workers everywhere. Employees—realizing the inadequacy of social security—rely heavily on their private pension plan to provide the income necessary to maintain a decent standard of living in their retirement years.

The spectacular growth of private pension plans has been accompanied, however, by equally spectacular problems. At the center of these problems is a cancerous phenomenon: The average employee covered by a private pension plan—and I emphasize the word "average"—cannot count on getting anything from that plan.

It is this absence of employee security in private pension plans which has led me to advocate their basic reform under law. If we are going to operate on the theory that our national interests are best served by a partnership between public and private retirement programs—and I strongly believe this to be true—then we must see to it that the partnership is an effective one for delivering adequate retirement income.

To accomplish this it is essential that the design of private pension plans be reconciled with the freedom of labor mobility which we as a people value so highly and which—together with rapid economic and technological change—now constitutes the most prominent feature of modern industrial life.

The pension reform bill I have authored, S-2, now pending before the Senate Labor Subcommittee, would make this reconciliation a matter of deliberate national policy. It would protect employees against loss of their pension benefits when they lose or change their jobs, or when their employer goes out of business or moves away—and it would establish a new S.E.C.-type commission to supervise pension plans to insure that they are properly managed in the workers' interests.

The importance of enacting this legislation cannot be emphasized enough. By assuring the average worker that he will get more than one pension at his retirement—one from social security and one or more from private retirement programs—we will have taken a major step forward in securing the goal of adequate income to the aged.

Public interest in reform of private plans has grown steadily, and now it is an idea whose time has come. In my judgment, 1972 will be the decisive year—the year when the Congress will decide whether private pension plans are to be a full-fledged and responsible partner in our dual retirement system, or whether they will remain a spectacular but uncertain experiment, destined for ultimate obsolescence and replacement.

CONCLUSION

It is said we are, as a nation, experiencing a sickness of spirit—an erosion of motivation—particularly among the young, which has, as one of its aspects, a loss of confidence in the ability of our industrial system to develop adequate economic justice.

We must ask ourselves why—in the most affluent country in the world, in the most advanced industrial society, so large a proportion of the aged must suffer economically.

Could it be that we have shaped an industrial system so obsessed with productivity and technological superiority, that when an individual's industrial life is exhausted, our system can impersonally discard him!

I think not, and I believe that our social security and private pension programs are clear evidence of this nation's moral commitment to provide for the economic well-being of the individual at the end of his productive years.

But I also believe that to the extent our dual retirement system fails to provide the means for a decent standard of living in old-age, it directly contributes to the alienation and isolation of the aged from the mainstream of society, and—equally important—reinforces the impression among active workers, especially the young ones, that the end of a working career is almost equivalent to the end of life itself. As long as this impression has currency, it will contribute significantly to the erosion of worker motivation, because what is the point of working hard if at the end there is so little?

We must, therefore, give great priority to strengthening and improving our public and private retirement programs so that they will provide an adequate income to the elderly—and I believe it should and can be done along the lines I have suggested. Perhaps then we can state with conviction the famous lines from Robert Browning:

"Grow old along with me!
The best is yet to be,
The last of life, for which the first was made."

GEORGE REED ADDRESSES YOUNG LAWYERS

Mr. HATFIELD. Mr. President, young lawyers of the State of Maryland have launched a new program of parole aide under the sponsorship of the American Bar Association's commission of correctional services. Their first conference was keynoted on November 12, 1971, by the chairman of the U.S. Board of Parole, Mr. George J. Reed.

The national parole aide program for young lawyers is the first demonstration project of the American Bar Association's commission on crime, of which Mr. Reed is a member. Mr. President, I ask unanimous consent that Mr. Reed's speech to Maryland's young lawyers be printed in the RECORD. It provides an insight into the innovation coming to the field of criminal rehabilitation.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

AMERICAN BAR ASSOCIATION'S NATIONAL PAROLE AIDE PROGRAM FOR YOUNG LAWYERS

(By George J. Reed)

Mr. Chairman, Dr. Menninger, Professor O'Leary and young lawyers of Maryland. It is a very great pleasure for me to address this FIRST Parole Aide Volunteer Training Institute here in Maryland sponsored by the American Bar Association's Commission on Correctional Services. Some twelve other such State Training Institutes will be held in other states before this very new and challenging program of the American Bar Association is fully launched. I am informed that some 1,000 young lawyers in the 12 states included in this program have already signed up for this project.

These states include: California, Colorado, Florida, Illinois, Maryland, Missouri, New Jersey, Ohio, Oregon, Virginia, Washington and Wisconsin. This is most heartening and bodes well for the enormous contribution which this new and innovative project can make to our joint efforts at improving parole and correctional services. I am also pleased to inform you that the U.S. Board of Parole has agreed to participate with these states in this program for Federal parolees.

Much is being said these days about the "Spirit of '76" as we prepare to celebrate our National Bi-Centennial. President Nixon has renamed his personal airplane the "Spirit of '76" and calls upon the Nation to be challenged in the mid-seventies in meeting our problems by the same spirit of dedication and imagination which moved our Founding Fathers to establish an independent Nation of free people in the new world. It is difficult for us today to really comprehend or understand what motivated men like Thomas Jefferson, George Washington, Benjamin Franklin, John Hancock and the Adams brothers of Massachusetts to commit their lives, fortunes and sacred honor to the risky business of establishing a new, free, independent and democratic society in America.

The more I study our Nation's early beginnings and the men who shaped her future, one word stands out in bold relief—that magic word is voluntarism—and unless it has a nationwide rebirth in the hearts of all our people in the seventies, our future as a free and independent society is indeed in doubt. More and more I am convinced that our economic, social, minority and crime problems will be solved by strengthening our inter-personal relationships on the basis of a one-to-one relationship.

The American Bar Association's Parole Aide Program for Young Lawyers proposes to apply the dynamic principle of a one-to-one relationship in problem solving. The Young Lawyers Section of the American Bar Association—through its committee on Criminal Law and Prison Reform—has been actively engaged in correctional and prison reform since August, 1970.

The Parole Project is the first in a series of action programs to be launched by the American Bar Association's Corrections Commission and it has a three-fold function: (1) providing needed assistance to the overburdened parole system; (2) providing invaluable educational experience for the young lawyers in the administration of criminal justice and, finally; (3) involving the young lawyer in an exciting experience of being personally—but not professionally—involved in assisting an individual who is on parole to successfully rejoin society as a productive citizen.

Historically, parole goes back to the nineteenth century when the trend in penal philosophy shifted from one of punishment to that of reformation of the individual. The history of parole is inextricably a part of that movement. The reformers of the eighteenth century sowed the seeds from which sprang the reformatory idea. Subsequently, the parole movement was formed. The foundations of modern parole, then, are to be found in the progression from strict imprisonment to freedom within limited areas—to liberation with conditions—followed by full restoration of liberty. Parole today has been defined as "a method of selectively releasing offenders from institutions, under supervision in the community, whereby the community is afforded continuing protection while the offender is making his adjustment and beginning his contribution to society."

At the April 1956 National Conference on Parole called by Attorney General Herbert Brownell, Jr., The National Probation and Parole Association, and the United States Board of Parole, convened in Washington, D.C., the Conference outlined the principal functions of a parole board, as follows:

(1) Selecting individuals for parole.

(2) Paroling at the point at which maximum benefits of the institution to the individual have been reached and the element of risk to society is minimal.

(3) Determining the conditions of parole.

(4) Providing continuing custody, control and supervision of paroled persons.

(5) Authorizing return to the institution of those who violate parole.

(6) Discharging from parole when supervision is no longer required.

(7) Interpreting the parole plan to the public with a view towards developing a broad-base of public support.

(8) Recommending sound parole legislation.

Parole supervision offers the parolee the setting and guidance he needs to help him work out his problems. Parole is a continuation of the overall correctional process. Its goal is to provide the kind of individualized treatment that will enable the parolee to become a self-sustaining, law-abiding and contributing member of society. The period of supervision should give the parole aide volunteer, under the direction of the parole officer, the opportunity to study the offender in his home and community, to counsel with him on any personal problems and to enlist other community resources and services for supplementary assistance. To be effective, supervisory help should be based upon an understanding of the parolee's emotional needs and his environmental situation.

The effect of his past history and experiences upon his present reactions should be considered. Parole supervision relies upon counseling—including the appropriate use of authority and assumption of a degree of responsibility for the control of the parolee's behavior. When the parolee's conduct involves serious infractions, either of parole regulations or of the law itself, his possible return to custody must be weighed by the parole board who authorized the parole release.

Being a parole volunteer is a very individual and personal matter so that no contact between the parolee and any community organization should publicly identify him as a parolee. However, introducing the parolee to community organizations and other individuals should aid him in becoming comfortable within the acceptable norms of society.

Here, I think, I should point out to you one of the most common misconceptions concerning this approach. Too many people feel that in order to understand the problems of the offender one must necessarily sympathize with him or ask the community to overlook his less than satisfactory behavior simply because of unfortunate circumstances he may have faced in one form or another. Such an approach can often be harmful in that it may tend to perpetrate and emphasize the very personality problem we hope to assist him in overcoming. Our function is to understand the offender and his problems in a manner that is socially acceptable. This program, if it is to succeed, assumes neither a "soft" nor "tough" approach but one of firm, consistent understanding.

Being a good parole aide volunteer is a very difficult but rewarding experience. A man must be willing to suffer temporary set backs and even failures on some cases and be willing to still keep on trying. One of the real problems in a parole aide volunteer program is the need to match up the right parolee with the right young lawyer so that they can develop an esprit de corps from the beginning. Too many times, in similar efforts, the sponsor is inclined to throw up his hands and say "take him away, he really isn't any good." Then, of course, very severe damage has been added to an already troubled individual and his future is made even less secure.

It may be many months before a parolee will be assigned to your supervision. This must not discourage you because it will be impossible to find immediately just the right parolee to match every young lawyer in this program. Therefore, I suggest that every participant in this program understand from the beginning the need for patience in this regard. From the earliest beginnings of this project it has been made explicitly clear that:

(1) The final selection of the lawyers who will be parole aides and the selection of parolees for the program as well as the orientation and training of volunteer parole aides should be wholly within the province of the parole board and its staff.

(2) It is understood that no fees for any purpose will be collected by the attorney/parole aide from the parolee in his charge; that no referrals for legal questions shall be made to another fee-attorney although, if circumstances require, referrals may be made without fee arrangement to a community legal service agency.

(3) The attorney/parole aide volunteer will not have an attorney-client relationship with any parolee under his charge.

(4) The attorney/parole aide volunteer should not participate, nor be involved, in any application for executive clemency—except with the permission of the parole board—to reflect a joint opinion as to the conduct of the parolee who has been in his charge.

(5) The attorney/parole aide volunteer should not participate in, nor encourage litigation against the state or its institutions, although he should in no way bind himself to subvert or discourage any meritorious cause believed in by the parolee.

(6) The attorney/parole aide volunteer should be required to report to the parole board, through its staff, the substance of every contact with his parolee and general guidelines relative to the frequency and nature of such contacts should be established by the parole department.

(7) The attorney/parole aide volunteer agrees that there should be no disclosure by him to the press with regard to personal or private matters affecting the parolee.

(8) The attorney/parole aide volunteer agrees to a written, specific, warning signed jointly by him and the parolee at the outset of the term of service which would disavow any confidential relationship between them, that is, lawyer/client. The parolee should receive plain and unmistakable warning that any such communication to his attorney/parole aide volunteer—such as a plan to commit a crime, etc.—is not to be treated as a confidential communication but that the attorney/parole aide volunteer will act in such respect precisely as would the professional parole officer—and that is to report the incident to the proper official.

Many similar programs for using volunteers in supervising parolees have been developed. The Florida Probation and Parole Commission's handbook for "Volunteers" describes their area of assistance as follows:

(1) increase frequency of personal and community contacts,

(2) follow-up residential and employment changes,

(3) secure employment opportunities consistent with parolee's ability to perform,

(4) confirm educational and vocational training pursuits (encourage and motivate toward completion of program)

(5) verify alcoholic anonymous referral and attendance (motivate and encourage),

(6) follow-up referrals such as marriage counseling, mental health, etc.,

(7) broaden scope of interest—include hobbies and crafts as "constructive time occupiers,"

(8) spiritual assistance—help develop church interest and regular attendance.

May I suggest that being a volunteer in 1971 may be somewhat different from the volunteers in 1776 but the rewards are equally satisfactory. This is true because we grow a little within ourselves when we contribute even just a little to our fellow man.

In conclusion, let us consider the lines from Rio Burke's Measuring Man—

"Before I say a man is good—as good as he
can be,
I'm going to hold off a bit, for people change
you see.
And men who years ago were called the
greatest in the land,
Are found in enterprises which it's hard to
understand.
Before I say a man is bad and lost to instincts good,
I'll wait awhile—perhaps he, too, has been
misunderstood.
If good men, now and then, go wrong, it's
reasonable, quite, to figure that it's
possible for a bad one to go right."

May you find your experience as a young lawyer/parole aide volunteer an exciting experiment in improving our rehabilitation programs and thereby once again making our communities and homes safe places to live. If this happens—even to a small degree—you have made a significant contribution to improving the administration of criminal justice. Thank you.

ECONOMIST HIGHLY OPTIMISTIC ABOUT OUTLOOK FOR PHASE II

Mr. GRIFFIN. Mr. President, those who have little faith in phase II of President Nixon's economic program would do well to study the views of economist Hugh L. Stokely, Jr., as expressed in the latest Girard Outlook, published by the Girard Bank of Philadelphia.

Mr. President, I ask that a column written by Richard A. Nenneman in the Christian Science Monitor be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

GIRARD'S ECONOMIST BULLISH ON PHASE II

(By Richard A. Nenneman)

If someone gave you good advice once when you were about to get a new car—or buy some stock—chances are you remember him. You'll remember someone who gave you bad advice, too—but when it comes time to make the next move, you will return to the person who was right the first time.

That's why I have been intrigued by the latest Girard Outlook, published by the Girard Bank in Philadelphia. The Outlook is extremely bullish on the economy. Its writer, Hugh L. Stokely Jr., vice-president and economist for Girard, is one of those fellows who plays around with an econometric model of the economy on a computer. (Playing around is too casual a description of this esoteric activity that very few outsiders can understand; he comes up wtih some very serious results.)

His present diagnosis of the economy is particularly interesting because for some time he had been saying that a wage-price freeze might be the only way to get the rampant inflation in the economy stopped. Thus, when Mr. Nixon made his Aug. 15 announcement of the freeze, this struck Mr. Stokely as "the right medicine at the right time. . . ."

Now, he argues, "confidence in the consensus forecast for 1972 is justified—confidence that gains of $100 billion in GNP and of more than 15 percent in corporate profits will take place. Given success in 1972, it is reasonable to believe the restraints will prove temporary—with the price and pay boards eventually reduced to a purely symbolic role."

Furthermore, Mr. Stokely thinks the chances quite good, after a year of wage and price restraint, of getting the economy onto a long-term path of noninflationary growth.

He thinks the present fears about Phase 2 are unjustified. First, he notes that the freeze and incomes policy come at a time in the business cycle when they stand the best chance of success (the economy is not overheated, that is). Second, the economy can take a lot of both monetary and fiscal stimulus without becoming inflation prone. Third, he thinks "rapid progress" is being made in getting a new international currency agreement, and says, "The world financial system is not about to come unraveled."

Noting that stock prices are influenced by credit, confidence, and profits, Mr. Stokely says that credit will be ample in 1972 and that beginning late in 1971, quarterly profit reports will show year-to-year gains of 15 percent or more for several quarters. These factors should at some point rebuild confidence, which would supply the ingredient presently missing on the individual investor's part.

The most optimistic part of the outlook, though, is the long-term one. Mr. Stokely's econometric model tells him it should be possible to get the inflation rate back down to about 2 percent, unemployment down to 4 percent, with wage increases of about 5.7 percent a year. The problem has been how, at the same time we were trying to rid ourselves of inflation, to break out of what he calls "the present trap of business stagnation." This, he thinks, Phases 1 and 2 can accomplish.

It still remains to be seen, of course, whether the new economic policy will actually be that successful—if, as Mr. Stokely says, "stop means go" for the future of the economy. But one remembers that as long ago as 1969 he was saying privately that the traditional means of slowing down an inflation would be inadequate, and that a temporary freeze might have to be tried. It's natural now that that prediction has worked out, to pay some attention to what he thinks will come next. One hopes he is right this time, too.

THE PRESIDENT'S VISIT TO CHINA

Mr. JAVITS. Mr. President, I think all of us should be deeply interested in the remarks of Dr. Henry A. Kissinger, Assistant to the President for National Security Affairs, respecting the impending historical trip of the President to the Peoples Republic of China, scheduled to begin on February 21, 1972. For that purpose, I ask unanimous consent to have printed in the Record the transcript of a news conference of Dr. Kissinger on November 30, 1971.

There being no objection, the transcript was ordered to be printed in the Record, as follows:

Press Conference of Henry A. Kissinger, Assistant to the President for National Security Affairs, November 30, 1971

Mr. Ziegler. Yesterday in a simultaneous announcement made by the Government of the Peoples Republic of China and the United States we announced that it had been agreed that President Nixon would visit China beginning on February 21, 1972.

Today I will add a few details to the announcement.

First, I would like to say that Dr. Kissinger, who you have seen, is here to answer your questions today on the President's trip to China, any questions you may have on the meetings the President will hold with the allied leaders which we have announced, prior to his trip to China and Moscow.

Also, Henry has agreed today to take other questions you may have on foreign policy subjects. What Dr. Kissinger says will be on the record.

First, the President's trip to China will last seven days. The President will arrive in Peking on February 21st and leave on February 28th. At the invitation of the Government of the Peoples Republic of China, Mrs. Nixon will accompany the President on his trip to China.

In addition to Peking, the Government of the Peoples Republic of China has invited the President to visit Hangchow and Shanghai. Hangchow is about 100 miles south of Shanghai. Most of President Nixon's time in China will be spent in Peking. The major portion of the President's time will be devoted to conversations with leaders of the Peoples Republic of China.

President Nixon plans to go directly to and from the Peoples Republic of China, using American territory for any refueling or rest stops.

Of course, Secretary Rogers and Dr. Kissinger will be accompanying the President. As we have said before, President Nixon will be traveling with a small working group.

Having given you those details, I think we can move now to your questions which Dr. Kissinger will answer. As I said, he will take your questions on the President's trip to China, on the meetings that will be held and also any other foreign policy questions you may have.

QUESTIONS AND ANSWERS

Q. Can you tell me how many days in Peking and how many in Shanghai and Hangchow?

Dr. Kissinger. We don't have the precise time, but he will spend at least four days in Peking and the rest of the time divided between the other stops.

Q. Can you tell us about Hangchow, Shanghai being the largest city, that is an obvious place to split it. Why do they want him to come to Hangchow?

Dr. Kissinger. The suggestion was that Hangchow is a good interval between Peking and Shanghai and a place where there can be conversations to follow up on the Peking conversations in a less hectic atmosphere and whatever other reasons that the Chinese Government may have had that I am not aware of.

Q. There will be, then, diplomatic conversations at Hangchow?

Dr. Kissinger. There will be conversations at each of the stops with the leaders of the Peoples Republic of China.

Q. Will it be in Hangchow that Chairman Mao will receive the President?

Dr. Kissinger. I don't want to speculate on where Chairman Mao will receive the President, except to say that he will certainly see him in Peking. What other places he may see him I don't want to speculate on.

Q. Will the President also have sightseeing throughout this trip and what will Mrs. Nixon be doing?

Dr. Kissinger. The President will spend the major portion of his time in conversations with the Chinese leaders and based on some personal experience I can say they are likely to be extended. We have looked at a number of places which, in the interval between these meetings, perhaps in the earlier part of the mornings, the President may visit, but the sightseeing part of the trip will be a peripheral feature. The vast majority of the President's time will be spent on these extended meetings which I have mentioned.

NATURE OF DISCUSSIONS

Q. Is there a precise agenda now worked out as to what the leaders will discuss or is there going to be a freewheeling nature to the discussion?

Dr. Kissinger. It is going to be a freewheeling nature to the discussions, although, of course, the general range of topics has been explored on the preceding visits. It is, however, clearly understood that each leader will be free to raise whatever topic he feels is urgent.

Q. Could I follow that by asking you how does that apply then to what we were told at the background briefing by an unidentified official that no third country problems would be discussed between the U.S. and China?

Dr. Kissinger. Mr. Lisagor, I think you are mistaken. That briefing was on the record. (Laughter) And it was by a briefer who is very reluctant not to be identified. (Laughter) Particularly as he has to keep up with his son. (Laughter)

Now, let me separate the problem. What was said at the previous meeting is that no agreements will be made about third party problems, or at least that was attempted to be said. The major thrust of the conversations will concern bilateral issues and each side will be free to raise any topic within that that they consider crucial.

Now, if either country considers something of crucial importance that is not strictly bilateral, it can be raised; however, there will be no deals made by either side at the expense of other countries or concerning other countries.

ISSUE OF SOUTH VIETNAM

Q. Will the United States raise the issue of South Vietnam?

Dr. Kissinger. I don't want to go into the details of the agenda, but as I said at the previous briefing, we expect to settle the war in Indochina either through the progress of Vietnamization or direct negotiations with Hanoi.

We do not expect to settle it in Peking.

Q. Why can't you indicate to us what the general range of topics that you have explored with the Chinese is?

Dr. Kissinger. Because there is no commitment by either side to any detailed agenda. There were some exploratory conversations that concerned some of the topics in order to determine whether there was anything worth talking about. But there is no precise agenda and we do not want to commit the two leaders, that they have to follow any particular sequence or any particular range of topics.

Q. You have agreed to discuss a minimal number of issues, have you not?

Dr. Kissinger. There has been an agreement to discuss issues that have to do with relaxation of tensions between the United States and the Peoples Republic of China.

TAIWAN PROBLEM

In the preliminary discussions did you find that Taiwan was a subject worth considering discussion on?

Dr. KISSINGER. It wouldn't be credible if I told you that the Peoples Republic of China has conducted a conversation with the Americans without mentioning the problem of Taiwan. Of course it was mentioned. Of course we do not see precisely eye to eye on that subject, but since it is an issue that concerns both sides, it will be, no doubt, raised.

Q. Dr. Kissinger, is Taiwan considered a bilateral issue or is that a third country?

Dr. KISSINGER. That is a very good question. (Laughter) Our position is that the ultimate disposition, the ultimate relationship of Taiwan to the Peoples Republic of China, should be settled by direct negotiations between Taiwan and the Peoples Republic of China.

Q. Do you presently have a representative on the mainland acting as liaison?

Dr. KISSINGER. There is no American representative or any other person conducting negotiations for us with the Government of the Peoples Republic of China.

Q. When is the next advance going to be made, and who is going?

Dr. KISSINGER. The date of the next advance is now under discussion. As soon as we have an agreed date with the Government of the Peoples Republic, we will announce it. The composition of the advance party has not yet been settled. It is, however, going to be an exclusively technical advance which will work out the precise arrangements, the logistics and otherwise, that always precedes a Presidential trip.

Q. Is it going to be a State visit or a working visit?

Dr. KISSINGER. It is considered a working visit, but I frankly do not know from a protocol point of view whether—I suspect it will be treated as a State visit, but I really do not know what the protocol aspects of it are, so do not consider that a conclusive answer.

CHINESE ATTITUDE TOWARD PRESS

Q. Could you tell us something about the Chinese attitude toward press coverage, the size of the party and the type of operations which will be permitted?

Dr. KISSINGER. The Chinese attitude toward press coverage is this: I think it is safe to say, as I pointed out previously, that in their long history, I do not believe they have ever come up against something like the coverage that is expected of an American President on any State visit. In this particular case, something like two regiments of newsmen have asked to go along, so we have presented the requests to the Chinese, and after the dimensions of the intrusion that may befall them had sunk in on them, the Chinese agreed to do the maximum possible within the extent of their technical capabilities and of their physical capabilities.

This will be, obviously, less than the demand, and it will be less than other Presidential trips, but it will be much larger than anything that the Chinese have previously confronted. The final number will be determined during the next advance.

We have some idea. We now know what the general range is likely to be, but we want to see what the final number will be.

Q. Can I follow that by asking what arrangements have been made for communications? Will a satellite ground station be installed, or anything like that?

Dr. KISSINGER. Ron just whispered to me that I should give you the full details of that. (Laughter)

We are trying to bring about maximum coverage for the trip. Again, the technical problems that this presents are unprecedented in Chinese experience. We have presented the technical issues to them in a frank manner. They have examined them and made a responsive reply, and we will work out the precise details at the next advance.

But, again, I want to say that the attitude on both sides has been one of cooperation and of attempting to get a coverage that is consistent with the worldwide interest.

CHINA'S INTERNAL POLITICAL SITUATION

Q. Dr. Kissinger, what is your understanding of the internal political situation in China at this moment?

Dr. KISSINGER. I have stated previously that this Government does not believe that a visit by the President to a foreign country entitles us to speculate about the internal situation in that country. We will maintain that position.

Q. Can you tell us who, besides the Prime Minister and Chairman Mao the President is likely to confer with?

Dr. KISSINGER. Well, this, of course, is up to the Chinese side. I am reasonably certain that the Acting Foreign Minister (Chi P'eng-fei) and Marshal Yeh Chien-ying, who participated in some of my conversations, will participate. As to the rest, I would not wish to speculate.

Q. What is Yeh Chien-ying's position?

Dr. KISSINGER. He is Vice Chairman of the Military Affairs Committee and a member of the Politburo.

Q. The question I had: Is the Administration now seeking to encourage Taipei to deal directly with Peking and Peking to deal with Taipei as part of an effort at resolving a larger Chinese problem?

Dr. KISSINGER. Our position is what I have indicated. We are not encouraging it. We are saying it is our view that this is how the solution should come about.

Q. But it comes about as a result of two Chinese groups dealing with one another?

Dr. KISSINGER. That would seem to us to be the best way of solving the problem.

Q. What is their attitude on that?

Dr. KISSINGER. Well, that remains to be seen.

Q. Dr. Kissinger, a question on the upcoming summit meetings with free world leaders. How much of the time do you think the President and his counterparts will be spending on the international monetary situation, and do you expect a solution to that at those meetings?

Dr. KISSINGER. I will take that question after we are through with the questions on the trip. Could I do that?

WHY TRIP PLANNED IN FEBRUARY

Q. Why was this trip timed when it was timed?

Dr. KISSINGER. We have always said that we would take the trip at the earliest possible time that the technical arrangements could be worked out, and that all other arrangements indicated a possibility for a reasonably successful outcome.

As things have developed, this was the first date that was possible. It was proposed by us and it was accepted by the Chinese side. I mention it only because I saw a report on television today that the date was fixed in order to keep the street crowds down. That is absolutely not correct. We proposed the date as the earliest date for us, and it was accepted by the Peoples Republic of China.

Q. Do you have a date yet when the President is going to leave Washington? Ron said the intermediate stops would be on American soil, but that could be Alaska or Honolulu.

Dr. KISSINGER. We do not have the itinerary. We also do not have the precise date when the President will leave Washington, but I think it is safe to assume that he will leave in time to get used to the time changes on the road, but we do not have the precise itinerary worked out.

Q. Is it fair to characterize this as a new policy statement on the American view or attitude toward Taiwan and the PRC, that is, that Taiwan is an internal Chinese problem?

Dr. KISSINGER. I did not use this phrase. Our defense commitment remains unaffected.

The question which I was asked was: Will we settle the future of Taiwan in Peking? My answer to that was: It is our judgment that the future relationship between the People's Republic and Taiwan should be worked out between Taiwan and the People's Republic.

This is our policy, but it is without prejudice, as I have pointed out, to existing commitments.

TYPE OF COMMUNIQUE EXPECTED

Q. What kind of joint communique can we expect and will it include specific things like an all Indochina Peace Conference or a statement on renunciation of force and where will the President stay in Peking?

Dr. KISSINGER. On the last question, first, the President will stay in one of the state guest houses in a complex of state guest houses in the western outskirts of Peking. The communique, of course, will be worked out when the President arrives in China. However, it is safe to predict that the communique will not, as I pointed out, involve conclusions about third countries and will be confined to those subjects that relate principally to the relationships between our two countries.

Our attitude with respect to the communique and other matters will be: That we will not pretend, we have never denied that there are major differences between us. We expect that those differences will continue. Where there are differences, they will not be covered up. Where there are agreements, they will be stated. But I do not want to speculate either on what subjects it will cover except to say that I don't expect it to deal with third countries. The details of the communique, what form it will take, will have to await the President's trip.

CHANCE FOR DIPLOMATIC RELATIONS

Q. Do you see the added chance for the establishment of diplomatic relations between the United States and the People's Republic?

Dr. KISSINGER. I do not expect formal diplomatic relations between the Peoples Republic and the United States to be established on this trip.

Q. Has there been any discussion of a return visit by Chou En-lai?

Dr. KISSINGER. There has not been any such discussion but there are some particular problems in connection with it from the Chinese side, since there is another Chinese Ambassador in Washington and there is no competing U.S. Ambassador in Peking.

Q. You said earlier that the date was proposed by us as the earliest possible date for the trip. Could you elaborate a bit as to why this was the earliest possible date for the trip?

Dr. KISSINGER. Given the pace at which preparations have moved, given the fact that the month of January is pretty well occupied with the opening of Congress, the end of February was the earliest time that we could reasonably propose and be confident that all the arrangements would have been made. It is obvious that we did not pick it for the climatic conditions.

PROBLEM OF CHINESE REPRESENTATION IN U.S.A.

Q. Dr. Kissinger, you said that there is a Chinese Ambassador in Washington. How would you describe our policy? Is it one of two Chinas or do we recognize at this point after the U.N. vote and after this trip that the Peoples Republic of China is the legitimate government of China?

Dr. KISSINGER. Both Chinese Governments have maintained that they represent all of China. We recognize the Government of Taiwan.

Q. Henry, can you tell us anything yet about the channel of communications you have now with China?

Dr. KISSINGER. No.

Q. Why is there a reluctance to identify some of the bilateral questions you will discuss with the Chinese?

Dr. KISSINGER. We have gone over that before.

Q. You say we recognize the Government of Taiwan, do we recognize them as the Government of China?

Dr. Kissinger. I have stated the position that both Chinese Governments maintain that they represent all of China. We maintain diplomatic relations with the Government in Taiwan. I will not go beyond that.

AMERICAN DEFENSE OF TAIWAN

Q. Henry, in your bilateral conversations would you expect that the question of the American Defense Treaty with Taiwan or with the Nationalist government would be discussed?

Dr. Kissinger. I wouldn't care to predict what issues would be raised by the other side, but we are not going to the Peoples Republic to change any existing commitments.

We will take two more questions on the trip and then we will go to your questions on anything else.

Q. Since you mentioned Congress, have you invited anyone from Congress to accompany the President, or has he invited anyone?

Dr. Kissinger. The official party will be very small and confined to those officials who have direct operational responsibilities. So far, no Member of Congress has been invited. I do not expect that any Members of Congress will be invited, but, of course, the President is always free to change his mind.

Q. In your conversations with the Chinese, did you say to them what you told us here today, that we would prefer that the matter of Taiwan be a matter of two nations, and if you did, did the Chinese say anything in response to it?

Dr. Kissinger. I have never described my conversations in China and for that matter, neither have they, and I would prefer not to. Not even my son knows about them. (Laughter)

Q. Yesterday, Mr. Ziegler, in describing the purpose of the trip, said it was to bring about a new direction in policy and second, to end isolation of the two great people—

Dr. Kissinger. From each other.

BEGINNING "RUDIMENTARY COMMUNICATIONS"

Q. —from each other. Can you elaborate a little more on that? How do you expect to end that isolation and is this going to mean the opening of more communication, more travel and more trade?

Dr. Kissinger. One of the remarkable aspects of this opening toward China was the difficulty of establishing even rudimentary communication with a country from which one has been cut off for nearly 25 years.

A good part of the first year of this effort, which as you know, started in 1969, was simply to find out how to communicate and with whom to communicate in a reliable way. Our two countries have been cut off from each other, not just in formal diplomatic contact, but in all other contacts, cultural, journalistic, academic and so forth.

Now the minimum we expect to get out of this trip is a better understanding by both sides of each other's positions and a continuing means of remaining informed about these positions, so that one is not so dependent on these very dramatic set piece encounters.

Second, we hope out of this visit could grow at least a beginning of some exchanges in other than political fields that would permit the two peoples to get to know each other better.

Again, we are not sentimental about this. We recognize that the Peoples Republic is led by highly principled men whose principles are diametrically opposed to ours. But whatever their purposes, it is in our mutual interest that we understand what we are about; that on those matters that are in our common interest we know how to cooperate and on those matters that are not ideologically controversial in the cultural and intellectual field, we can find cooperative means of effort.

This is what the phrase meant.

You did not quote our Press Secretary correctly, and he chooses his words with the greatest of care, and he said, "A new direction in our relationship between our two countries," and there was a nuance there and somebody missed it. (Laughter)

Let me make one other general point, and then we will go to this question over there, and to any other questions you may have on the other meetings or on other problems.

The summit in Peking is different from the summit in Moscow. With the Soviet Union we have had diplomatic relations now for nearly 40 years. We have had intense diplomatic exchanges for at least since the Geneva Summit of 1955. We have well established diplomatic means of communication that function rapidly, and therefore, with the Soviet Union, we have a series of concrete problems that we are attempting to move more rapidly towards a solution of which we are attempting to culminate at the summit.

With respect to Peking, we are at the very beginning of a process. We do not impinge on each other as countries on a global basis the way we do with the Soviet Union.

What we are attempting to do with respect to the Peoples Republic—and I believe they with us—is to set a general philosophical direction or a general direction for the future evolution of our policy, and therefore, you cannot look in Peking to the same type of concreteness that you can in Moscow.

Now let me take that question over there.

UPCOMING MEETINGS WITH WORLD LEADERS

Q. In the upcoming series of meetings between the President and free world heads of government, how much attention will be given to the international monetary and international economic questions, and whether you expect the international monetary question to be settled during these meetings?

Dr. Kissinger. As you all know, Secretary Connally is attending each of these meetings, and, therefore, it is reasonable to assume that the international monetary problem will be discussed, or will be one of the topics for discussion at these meetings.

At the same time, the international monetary system involves a series of multilateral engagements that, by definition, cannot be settled at a series of bilateral meetings.

Let me say this, because I believe there has been some misunderstanding or some confusion between the tactics and the purposes of this Administration in the monetary field: The international monetary system, by definition, is something that requires the cooperation of all countries. The international monetary system, by definition, has to be one that is perceived by all countries to be in the common interest.

The difficulty that was faced consisted of the fact that there were a series of highly inequitable exchange rates, about which we had been talking to our major trading partners and allies for a number of years without success. It was, therefore, essential that we bring home to our partners that fact that this was a matter which we took with the utmost seriousness and that required urgent solution.

We all know that Secretary Connally is now at the meeting in Rome beginning the process by which we move from underlining the need for a realignment of exchange rates and other reforms of the international monetary system to a new system. We are approaching this with the attitude that the solution must be found and will be found on a cooperative basis.

We expect that this process will be completed in a reasonable time and that when it is completed, all the participants will feel that the new system that has emerged is better than the preceding one, and that it is in the common interest.

Now, I have read a number of speculative stories about the divisions in the Administration on this problem. I would like to state that all of these steps are being taken not only with the concurrence of Secretary Connally, but at his recommendation, and in international monetary matters he is acting as the principal adviser to the President, although, of course, others are being closely consulted.

WHY NO MEETINGS WITH LATINS, AFRICANS?

Q. Dr. Kissinger, the list of consultations that the President is embarking on, starting with Trudeau and going to Sato, in that period there is no inclusion of South America or Africa. (1) Was this given thought; and (2) why not?

Dr. Kissinger. President Medici of Brazil is coming here on a State visit next week, and we expect, of course, to have extended discussions with him on the range of topics that parallel those with the other world leaders, especially where they apply to Latin America.

Secondly, Counsellor Finch has just returned from an extensive trip through Latin America and made a full report to the President only this morning, so we are rather well aware of the views of the Latin American countries. We have not scheduled consultations at the head of government level with Africa because Africa is less immediately concerned by these two summit meetings, and because of the limitations of the Presidential schedule, but you can be certain that we will talk to them on the diplomatic level.

PRESIDENT TO CONFER WITH CHIANG KAI-SHEK?

Q. The country that seems to be most concerned about all of this would be Taiwan. Has the President given any thought to conferring with Chiang Kai-shek?

Dr. Kissinger. We are well aware of the view of the Government of the Republic of China on some of our activities.

Q. Dr. Kissinger, is it safe to presume that the President will go into more detail in his meetings with the allied leaders on the topics for the meetings in Peking than you have given us today, or will they just be given the general overview, as you have given it here?

Dr. Kissinger. Let me explain our philosophy on the consultations between ourselves and the allied leaders. There has been some discussion about the adequacy of the consultative process prior to the announcements of the trips. Now, the facts are that we want to consult on those issues on which the consultation can intimately affect what we propose to do.

Now, it has become the standard procedure that no country, none of our allies have given us a veto over State visits that they may propose to take, and while I do not now want to go into the debate about every step that has been taken, the process prior to the announcement of the two summits could at best have been a process of informing rather than a process of real consultation.

With respect to the meetings that will be taking place in Peking and Moscow, we are talking about substantive matters and there, of course, the interests, at least in some categories, of some of our allies can be importantly affected. We will attempt to learn where our allies believe that their vital interests are affected, and while we cannot promise them a veto, we would take it extremely seriously and we would expect not to take actions which our allies would consider threatening their vital concerns.

We would also give them a somewhat fuller rundown of the general range of subjects that are likely to be discussed, and above all, we would like to learn their views with respect to those issues that are of the greatest concern to them.

MORE TALKS BEFORE MOSCOW TRIP?

Q. May I follow that question, Dr. Kissinger? After the visit to Peking, when you are preparing for the visit to Moscow, would you anticipate that there will be further consultations at the head of government level with our NATO allies before the visit to the Soviet Union by the President?

Dr. KISSINGER. I do not now foresee any further head of government meetings between those two visits, but there will be intensive consultations between those two visits. If there should be any unexpected snags, there is always that possibility, I do not see it now.

Q. On the Middle East, especially with Mrs. Meir coming, does it look like the process of negotiation is coming alive again?

Dr. KISSINGER. I would like to wait until Mrs. Meir has been here and we have had full discussions.

Q. Do you expect that it will be possible or likely that the President will participate in the signing of a SALT agreement in Moscow?

Dr. KISSINGER. Our position has been that we would like to make a SALT agreement as quickly as it can be negotiated. We are not holding up on the signing of the SALT agreement in order to time it with the Moscow summit. If it should turn out that way, it could happen, but the negotiations are not being conducted geared to that point.

WHY SUMMITRY NOW?

Q. Henry, obviously the President is all for personal summitry with the spate of foreign trips he is going on. In the past he has not always been for personal summitry and he has been rather lukewarm about it in personal statements. What made him change his mind about it?

Dr. KISSINGER. Let's take these trips in two categories. As we pointed out before, the relationship with the Peoples Republic of China is in a very special category. It required such a change in orientation for both sides that it was felt that the only way in which it could be effectively implemented was by meetings at the highest level and then have the details follow from there.

With respect to the Moscow summit, I think if you compare the President's first press conference with what in fact has been done, you will find that he has literally carried out what he said at his first press conference, and what has been said in two successive annual reports. We said then that we wanted to make concrete progress on a number of issues. We said that these issues were in some way related, one to another, not in the sense of conditions, but in the sense that progress in one field aids progress in other fields.

We have said that when these circumstances arose that trade and other matters would follow.

Now, this is exactly what the President has done. We have had significant progress in SALT. We have had a number of fairly useful arms control agreements. We have had agreements on Berlin and we have had progress on the trade questions.

Therefore, it was felt that sufficient progress had been made at lower levels so that the heads of State, of the Soviet Union and the United States, could make a new departure or could give a further impetus to their relationships.

Now, with respect to the meetings with our allies, we are, of course, in constant contact with them so that the condition of having had preliminary discussions is in a sense continuously being met. It was felt that so many things had happened since last year, the announcement of our trips to Peking and to Moscow, the Berlin agreement, the ratification of the Okinawa reversion, the whole economic negotiations, Britain's entry into the Common Market, that it was essential that the leaders at the highest level meet, to make sure that their basic direction was complementary and that they understood each other.

So, the meetings with our allies should be seen in the context of working visits brought about by a dramatic change in the international situation that has occurred in the last seven months.

Q. Did you answer the question about what Mrs. Nixon's role was going to be and will she do anything on her own?

Dr. KISSINGER. We don't have a detailed schedule yet for Mrs. Nixon. That will be worked out on the next advance, but we expect that Mrs. Nixon will, as always on these trips, be extremely busy with substantially her own schedule.

The PRESS. Thank you, Dr. Kissinger.

ORDER FOR RECESS TO 8:45 A.M.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 8:45 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR ROTH TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that immediately following the recognition of the two leaders on tomorrow, the distinguished Senator from Delaware (Mr. ROTH) be recognized for a period not to extend beyond 9 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR BEALL ON SATURDAY, DECEMBER 4

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on Saturday, immediately following the recognition of the two leaders under the standing order, the distinguished Senator from Maryland (Mr. BEALL) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BYRD of West Virginia. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 8:45 a.m. After the two leaders have been recognized under the standing order, the distinguished Senator from Delaware (Mr. ROTH) will be recognized for such time as will not extend beyond 9 a.m.

At 9 a.m. the Senate will go into executive session and will resume the consideration of the nomination of Mr. Butz. The time will be under control, and it will be equally divided between both sides. The time to vote on the confirmation—up or down—will occur at 1 p.m. That will be a rollcall vote.

Immediately following the vote on the confirmation of Mr. Butz, the Senate will proceed, under controlled time, to consider the drug bill, S. 2097. Debate on that bill is limited, as is the debate on amendments thereto.

Following the disposition of the drug bill, the Senate will take up the OEO conference report under a time limitation. There will be rollcall votes tomorrow on both the drug bill and the OEO conference report.

Following the disposition of the conference report—if the hour, by then, is not too late—the situation is not clear. However, there may be other measures which will be cleared for action during that remaining portion of tomorrow.

On Friday the Senate will convene at 9 a.m. That hour is subject to change to an earlier hour. The D.C. appropriation bill is expected to be brought up at about 9 a.m. In accordance with the usual practice, a rollcall vote, I think, can be expected on an appropriation bill. There could also be rollcall votes on amendments.

The distinguished majority leader has indicated that, following the District of Columbia appropriation bill, we may take up the supplemental appropriation bill. In any event, the Supreme Court nominations will also be taken up on Friday. The consideration of those nominations will continue throughout the day with the possibility of conference reports being called up from time to time. Rollcall votes can be expected on Friday.

As to Saturday, the Senate will convene at 9 a.m. That hour is subject to change to an earlier hour in order to accommodate 15-minute speeches if that becomes necessary. The Senate will continue with the consideration of the Supreme Court nominations. Conference reports can be called up from time to time, they being privileged matters.

If the supplemental appropriation bill has not been disposed of on Friday, as hopefully it will have been, it will be brought up on Saturday. Rollcall votes may occur on Saturday.

CONCLUSION OF MORNING BUSINESS

Mr. BYRD of West Virginia. Mr. President, is there further morning business?

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

RECESS TO 8:45 A.M.

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until 8:45 a.m. tomorrow.

The motion was agreed to; and (at 8 o'clock and 14 minutes p.m.) the Senate took a recess until tomorrow, Thursday, December 2, 1971, at 8:45 a.m.

NOMINATIONS

Executive nominations received by the Senate December 1 (legislative day of November 29), 1971:

U.S. DISTRICT COURTS

J. Blaine Anderson, of Idaho, to be a U.S. district judge for the district of Idaho, vice Fred M. Taylor, retiring.

Clifford Scott Green, of Pennsylvania,

to be a U.S. district judge for the eastern district of Pennsylvania, vice Harold K. Wood, retired.

Diplomatic and Foreign Service

The following-named Foreign Service officer for promotion from class 3 to class 2 and to be also a consular officer of the United States of America:

James A. May, of California.

For appointment as a Foreign Service information officer of class 2, a consular officer, and a secretary in the diplomatic service of the United States of America:

Fred D. Hawkins, of Tennessee.

For reappointment in the Foreign Service as Foreign Service officers of class 3, consular officers, and secretaries in the diplomatic service of the United States of America:

Deion L. Hixon, of Virginia.
Samuel Karp, of Pennsylvania.
Frank E. Wallace, of Tennessee.

For appointment as Foreign Service officers of class 3, consular officers, and secretaries in the diplomatic service of the United States of America:

Larry G. Piper, of Texas.
Charles E. Watkins, of Virginia.

For appointment as Foreign Service information officers of class 3, consular officers, and secretaries in the diplomatic service of the United States of America:

Ernest E. Goodman, of California.
James Perrin, of Florida.

For reappointment in the Foreign Service as Foreign Service officers of class 4, consular officers, and secretaries in the diplomatic service of the United States of America:

Miss Margaret J. Barnhart, of Pennsylvania.
Charles A. Cariddi, of California.

For appointment as Foreign Service officers of class 4, consular officers, and secretaries in the diplomatic service of the United States of America:

Franklin E. Jackson, of Kentucky.
Howard T. Jackson, of New York.
Donald R. Schoeb, of Maryland.
Philip Meade Smith, of Pennsylvania.
Frederick Warner, Jr., of California.

For appointment as Foreign Service information officers of class 4, consular officers, and secretaries in the diplomatic service of the United States of America:

Donald E. Creager, of Wisconsin.
Joseph Sadlik, of Virginia.

For appointment as Foreign Service officers of class 5, consular officers, and secretaries in the diplomatic service of the United States of America:

Miss May A. Belair, of Massachusetts.
Donald J. Bouchard, of Maine.
Miss Helenann Clarke, of California.
Charles A. Gillespie, Jr., of California.
Miss Margery J. Palmer, of California.
Miss Erma Schumacher, of California.
Manuel Silberstein, of California.
Donald A. Wetherbee, of New York.

For reappointment in the Foreign Service as a Foreign Service officer of class 6, a consular officer, and a secretary in the Diplomatic Service of the United States of America:

Mrs. Marian L. Tipton, of Idaho.

For appointment as Foreign Service officers of class 6, consular officers, and secretaries in the Diplomatic Service of the United States of America:

Maurice L. Brooks, of New Jersey.
George A. Hannemann, of Texas.
Edward F. Height, of California.
Herbert Klee, Jr., of Illinois.
Alfred J. McGinness, of Ohio.
John Monioudis, of Virginia.
Alfred H. Neal, Jr., of the District of Columbia.
Joseph P. O'Neill, of New York.
Fredrick G. Shirley, of Kentucky.
William G. Smallwood, of Washington.
Richard L. Weeks, of New Hampshire.
Bernard J. Woerz, of New Jersey.

For promotion from a Foreign Service officer of class 8 to class 7:

Lawrence Marshall Grossman, of Nebraska.

For appointment as Foreign Service officers of class 7, consular officers, and secretaries in the diplomatic service of the United States of America:

Robert D. Arthur, of California.
Miss Joyce A. Bednarski, of the District of Columbia.
R. Rand Beers, of Michigan.
Donald S. Bryfogle, of Virginia.
Geoffrey W. Chapman, of New Jersey.
Gene Burl Christy, of Texas.
James P. Covey, of New York.
J. Michael Davis, of Florida.
Wesley W. Egan, Jr., of North Carolina.
James Hogan Glenn, of Nebraska.
Dennis M. Grimmer, of Wisconsin.
Donald K. Holm, of Minnesota.
Douglas S. Kinney, of Florida.
Miss Therese Ann Kleinkauf, of New York.
Michael K. Lyons, of New York.
Thomas H. Martin, of Illinois.
Gerald McCulloch, of Michigan.
Donald James McNally, of New Jersey.
David C. Pugh, of Florida.
Ronald Benjamin Rabens, of Illinois.
Louis D. Sell, of Kentucky.
James Gary Seyster, of California.
LeRoy C. Simpkins, of California.
Theodore J. Villinski, of Iowa.
Miss Rhoda Weinstein, of New York.
Thomas M. Widenhouse, of Illinois.
Miss Sharon P. Wilkinson, of New York.
Robert A. Windsor, of Florida.

For appointment as Foreign Service information officers of class 7, consular officers, and secretaries in the diplomatic service of the United States of America:

Cesar D. Beltran, of California.
Csaba T. Chikes, of Georgia.
Miss Katherine M. Griffin, of North Carolina.
Stevan M. Horning, of Indiana.
Victor L. Jackovich, of Iowa.
Joe B. Johnson, of Texas.
Miss Carol E. Ludwig, of Iowa.
Miss Veda B. Wilson, of the District of Columbia.
Van S. Wunder III, of Ohio.

For appointment as Foreign Service officers of class 8, consular officers, and secretaries in the diplomatic service of the United States of America:

Miss JoAnne Arzt, of New York.
Arnold Jackson Croddy, Jr., of Maryland.
Wayne Stephen Leininger, of Florida.
William Howard Moore, of Virginia.
Richard A. Morford, of Indiana.
John J. Tkacik, Jr., of Virginia.

Foreign Service Reserve officer to be a consular officer of the United States of America:

William R. MacLauchlan, of Maryland.

Foreign Service Reserve officers to be consular officers and secretaries in the diplomatic service of the United States of America:

Ronald T. Allen, of Maryland.
Miss Pamela K. Balow, of Illinois.
Milton A. Bearden, of Texas.
Martin J. Bergin, Jr., of Virginia.
Roger Blattberg, of Virginia.
Miss Terrezene Brown, of California.
Thomas A. Brunton, of California.
James E. Burkart, of Maryland.
Frank Cummins, of Maryland.
John J. Devine, of Virginia.
J. Patrick Donohue, Jr., of Virginia.
Robert T. Francis II, of Virginia.
Michael H. Goldman, of Virginia.
Todd D. Hagenah, of Virginia.
Roman J. Halla, of Virginia.
Otis L. Hayes, of Tennessee.
McCrea Hazlett, of New York.
Miss Joszet S. Hudson, of Georgia.
David N. Kelling, of Virginia.
James Kim, of Virginia.
Richard B. Leach, of Virginia.
Herbert Manell, of California.
Richard H. Miller, of Maryland.
V. Miro Morville, of the District of Columbia.
Patrick N. Murphy, of Virginia.
Bruce L. Pearson, of California.
William A. Read, of Wyoming.
Montgomery L. Rogers, of Maryland.
Joseph G. Sancho, of Ohio.
Robert K. Simpson, of Massachusetts.
Richard A. Smith, of Virginia.
Laurance Stanley, of New York.
Dale E. Sumption, of the District of Columbia.
Gerald J. Syat, of Maryland.
Leonard D. Therry, of Virginia.
Darryl R. Thibault, of California.
Wade E. Thomas, of Virginia.
Richard D. Van Winkle, of New Jersey.
Daniel K. Webster, of Virginia.
Ben B. Wickham, Jr., of Connecticut.

Foreign Service Reserve officers to be secretaries in the diplomatic service of the United States of America:

Marlan D. Bowe, of Nebraska.
Kenneth M. Kauffman, of California.
Arnold C. Long, of Washington.
Richard W. Rauh, of Illinois.

Foreign Service Staff officers to be consular officers of the United States of America:

William W. Allen, of Oregon.
Leroy E. Beal, of Missouri.
Francis J. Dennett, of Florida.
Eugene C. Harter, Jr., of Ohio.
Miss Carol B. Reavis, of the District of Columbia.
Dennis R. Shaw, of South Dakota.

In the Army

The following-named officers for promotion in the Army of the United States under the provisions of Public Law 92–129.

To be colonel

Accountius, Patricia, [redacted]
Acevedo, Alejandro, [redacted]
Acomb, Kent M., [redacted]
Adair, Thomas W., [redacted]
Adams, John C., [redacted]
Adams, William A., [redacted]
Ahlvin, Reno A., Jr., [redacted]
Airall, Guillermo E., [redacted]
Albro, Ames S., Jr., [redacted]
Alderman, Craig, Jr., [redacted]
Alexander, William, [redacted]
Allee, Robert J., [redacted]
Allen, Loma D., Jr., [redacted]
Alling, Emery E., Jr., [redacted]
Ammerman, Elmer H., [redacted]
Anderson, Andrew H., [redacted]
Anderson, Martin F., [redacted]
Anderson, Robert T., [redacted]
Anderson, Thurman E., [redacted]
Andre, Nick J., [redacted]
Anhalt, Walter C., [redacted]
Aoyagi, Toshio, [redacted]
Arena, Darrell R., [redacted]
Armstrong, James E., [redacted]
Ascher, Stanley S., [redacted]
Ash, Philip L., Jr., [redacted]
Auzins Janis Jr., [redacted]
Ayers, Robert E., [redacted]
Babers, Donald M. [redacted]
Bacci, John J., [redacted]
Baddaker, William L., [redacted]
Bailey, Broadus, Jr., [redacted]
Bailey, Harry R., [redacted]
Baird Niven J. [redacted]
Bakarich, Michael N., [redacted]
Baker, Frank L., [redacted]
Baker, Fred I. Jr., [redacted]
Baker, John F. [redacted]
Baker, Roger W., [redacted]
Ball, Thomas H., [redacted]
Bard, John C. [redacted]
Barnard, Talbott, [redacted]
Barone, Joseph J., [redacted]
Barrens, Clarence G., [redacted]
Bartel, George B., [redacted]
Bartley, Joseph D., [redacted]

Barton, Ronald F., Jr., [redacted].
Bass, James W., [redacted].
Battenfield, Kenneth [redacted].
Beasley, Joseph H., [redacted].
Sednar, Richard J., [redacted].
Bedynek, Julius L., Jr., [redacted].
Behneman, John F., [redacted].
Bell, James N., [redacted].
Bell, Robert S., [redacted].
Bellochi, Joseph F., [redacted].
Belzile, Joseph O., [redacted].
Bennett, Hal C., Jr., [redacted].
Bennett, Herman B., [redacted].
Bergeron, Noel L., [redacted].
Bergeson, Raymond O., [redacted].
Bergquist, Robert L., [redacted].
Bergstrom, Leonard F., [redacted].
Berke, Henry H., Jr., [redacted].
Berrier, Jerry A., [redacted].
Berry, Ray W., [redacted].
Berry, William E., [redacted].
Betz, Catherine T., [redacted].
Bieber, Werner F., [redacted].
Bing, Tom L., [redacted].
Birk, Thomas C., Jr., [redacted].
Black, Charles S., Jr., [redacted].
Black, Mary L., [redacted].
Blanco, Silviano J., [redacted].
Blankenship, James [redacted].
Bleecker, James F., [redacted].
Bleicher, Philip A., [redacted].
Blinka, Charles F., Jr., [redacted].
Block, Theodore S., [redacted].
Blomer, Elizabeth A., [redacted].
Blottie, Donald L., [redacted].
Blumenthal, Donald [redacted].
Bodine, James F., [redacted].
Boegel, Paul N., [redacted].
Bogumill, George P., [redacted].
Boos, Michael A., [redacted].
Booth, James W., [redacted].
Bowden, John C., Jr., [redacted].
Bowen, James E., III, [redacted].
Bowers, James M., [redacted].
Bowers, Richard K., [redacted].
Boyle, Dean G., [redacted].
Brackett, Charles R., [redacted].
Bracy, Alfred M., [redacted].
Bradford, Edward M., [redacted].
Brady, John M., [redacted].
Bray, Gaither C., [redacted].
Brazil, Hal B., [redacted].
Brillhart, Allen T., [redacted].
Britton, Thomas N., [redacted].
Brocato, Cyrus V., [redacted].
Brooks, Thomas V., Jr., [redacted].
Browder, John M., [redacted].
Brown, Allen W., Jr., [redacted].
Brown, Bury G., Jr., [redacted].
Brown, Charles H., [redacted].
Brown, Norman R., [redacted].
Brown, Paul J., [redacted].
Brown, Richard W., [redacted].
Brown, Virginia L., [redacted].
Browne, Edward M., [redacted].
Brownlee, Robert W., [redacted].
Bruckheim, Stanley [redacted].
Bruen, John D., [redacted].
Brumley, William B., [redacted].
Buchanan, Darrell S., [redacted].
Buckner, Allen M., [redacted].
Buker, Robert H., [redacted].
Bullock, Richard S., [redacted].
Burckert, James F., [redacted].
Burdick, Leonard R., [redacted].
Burgess, Robert L., [redacted].
Burk, Billy D., [redacted].
Burke, Robert B., Jr., [redacted].
Burke, Robert J., [redacted].
Burke, Robert L., [redacted].
Burkhalter, Thomas [redacted].
Burress, James H., Jr., [redacted].
Busby, George C., Jr., [redacted].
Butler, Elbert L., Jr., [redacted].
Butterworth, James [redacted].
Calcatera, Kenneth [redacted].
Callahan, Joseph J., [redacted].
Calvert, Charles L., [redacted].
Camp, Frank R., Jr., [redacted].
Campbell, Joseph L., [redacted].
Campbell, William E., [redacted].
Canfield, Craig J., [redacted].
Cannon, John L., [redacted].
Cape, Richard F., [redacted].
Caravelli, Vincent, [redacted].
Cardinalli, Guy F., [redacted].
Carmichael, Donald, [redacted].
Carr, John M., [redacted].
Carson, Ray M., [redacted].
Carter, Frank A., [redacted].
Carter, Harold G., [redacted].
Cartland, Harry E., [redacted].
Carwell, Jackie L., [redacted].
Casey, John H., [redacted].
Casey, Walter E., [redacted].
Cassels, Kenneth G., [redacted].
Cassidy, John J., [redacted].
Cate, William F., Jr., [redacted].
Cavaleri, Edwin F., [redacted].
Cavazos, Edmund, Jr., [redacted].
Chaffin, Frances V., [redacted].
Chaffin, Jimmie M., [redacted].
Chamberlin, Frank H., [redacted].
Chandler, Robert T., [redacted].
Chaney, Samuel A., [redacted].
Chant, Robert J., [redacted].
Chase, Marvin K., Jr., [redacted].
Cheatham, Joe L., [redacted].
Childress, Gerald, [redacted].
Christensen, Douglas, [redacted].
Christiansen, Thomas, [redacted].
Chung, Donald Y. B., [redacted].
Ciccolo, William N., [redacted].
Clark, Donald E., [redacted].
Clark, John R., Jr., [redacted].
Clark, Robert H., [redacted].
Clarke, Mary E., [redacted].
Clarke, Robert B., [redacted].
Clarke, Theodore C., [redacted].
Clause, James D., [redacted].
Cleary, Alexander B., [redacted].
Clifford, Arthur G., [redacted].
Clinton, Frederick, [redacted].
Clyne, Norman G., Jr., [redacted].
Coad, William F., [redacted].
Cochran, Robert M., [redacted].
Cochran, William J., [redacted].
Coffman, King J., [redacted].
Cole, Thomas F., [redacted].
Cole, William W., [redacted].
Coleman, Edward R., [redacted].
Collins, Arthur E., [redacted].
Cullins, John G., [redacted].
Colson, James B., Jr., [redacted].
Comish, Leo S., Jr., [redacted].
Compton, James M., [redacted].
Comstock, Keith L., [redacted].
Condina, Ernest F., [redacted].
Conley, Patrick J., [redacted].
Conover, Nelson P., [redacted].
Constance, Harbin A., [redacted].
Cook, Peter H., [redacted].
Cooke, John W., Jr., [redacted].
Corbett, William T., [redacted].
Coroneos, Paul P., [redacted].
Cottey, Robert J., [redacted].
Courant, Thomas E., [redacted].
Covington, Donald M., [redacted].
Covington, Edward B., [redacted].
Cowan, Kenneth D., [redacted].
Cox, Alden L., [redacted].
Cox, Donald W., [redacted].
Cragun, Benjamin M., [redacted].
Crase, Silas M., [redacted].
Creighton, Neal, [redacted].
Cress, William, [redacted].
Crosby, John S., [redacted].
Crosby, Robert L., [redacted].
Cross, Howard T., [redacted].
Crow, James E., [redacted].
Crowell, Chester D., [redacted].
Crowell, Howard G., Jr., [redacted].
Culbert, Roy F., Jr., [redacted].
Culbertson, Roger A., [redacted].
Cully, Frederick R., [redacted].
Cunningham, Martin, [redacted].
Curry, Jerry R., [redacted].
Daigneau, Louis A., [redacted].
Dall, Burt, [redacted].
Dalone, Arthur A., [redacted].
Daly, Robert F., [redacted].
Daniel, Samuel E., [redacted].
Daniels, Thomas W., Jr., [redacted].
Danzeisen, William, [redacted].
Darling, Gregory, [redacted].
Davaz, Carl G., [redacted].
Davis, Addison D., II, [redacted].
Davis, Donald F., [redacted].
Davis, Richard K., [redacted].
Davis, Robert M., [redacted].
Davis, Thomas H., [redacted].
Dawson, Wallace H. I., [redacted].
Day, James O., [redacted].
Day, Robert E., [redacted].
Day, Robert L., [redacted].
Debelius, Charles A., [redacted].
De Champlain, Richard, [redacted].
Deese, Frank E., [redacted].
Delaune, Elton J., Jr., [redacted].
Del Rio-Cartegena, Carlos, [redacted].
De Luca, Anthony P., [redacted].
Denison, William E., [redacted].
De Picciotto, Henri, [redacted].
Descoteau, Rudolph, [redacted].
De Shazo, Thomas E., [redacted].
De Ville, David A., [redacted].
Dews, Robert W., [redacted].
Diaz-Ramirez, Tulio L., [redacted].
Dickson, Lee C., [redacted].
Dinges, Edward A., [redacted].
Dirkx, Gerard M., [redacted].
Dixon, Charles E., Jr., [redacted].
Dobbs, Olin C., Jr., [redacted].
Dodds, Jack A., [redacted].
Dodge, Griffin N., [redacted].
Donahue, Joseph E., [redacted].
Donovan, Paul, [redacted].
Doty, Benjamin E., [redacted].
Dowdy, Fred, Jr., [redacted].
Doyle, David K., [redacted].
Driskill, John C., [redacted].
Druepple, Leroy G., [redacted].
Duffy, Michael M., [redacted].
Duffy, William D., [redacted].
Dunn, James F., Jr., [redacted].
Dunn, Robert H., [redacted].
Dutchyshyn, Harry V., [redacted].
Dyment, Leroy W., Jr., [redacted].
Earll, Jerry M., [redacted].
Early, Thomas F., [redacted].
Eckermann, Edgar H., [redacted].
Eckert, Edward N., [redacted].
Eckhart, Amil J., [redacted].
Edginston, Roger N., [redacted].
Edward, Elwyn G., [redacted].
Edwards, Norman J., [redacted].
Egbert, George L., Jr., [redacted].
Eineigl, Raymond J., [redacted].
Elliott, Robert H., Jr., [redacted].
Ellison, Joe H., [redacted].
Elton, Robert M., [redacted].
Evanchick, John, [redacted].
Evangelos, Christos, [redacted].
Evans, Oliver N., [redacted].
Eye, Douglas M., [redacted].
Fadul, William G., [redacted].
Fahey, James P. Jr., [redacted].
Faison, Ollie W., [redacted].
Farwell, Faris T., [redacted].
Faught, William F., [redacted].
Fedalei, Albert F., [redacted].
Fehl, Merle I., [redacted].
Feilke, Glenn T., [redacted].
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Fike, Robert H., [redacted].
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Fischer, George F., [redacted].
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Fishback, Malcolm E., [redacted].
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Flint, Roy K., [redacted].
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Frederick, Austin, [redacted].
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Friend, Donald F., [redacted].

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London, James E., [redacted].
Longmore, Myron J., [redacted].
Loo, Richard, W. L., [redacted].
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Lord, Raymond Y., Jr., [redacted].
Love, John W., [redacted].
Lovell, Kell E., [redacted].
Lowery, Rodney K., [redacted].
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Mahan, Gary C., [redacted].
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Maus, Walter P., Jr., [redacted].
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Mayse, Harvey C., [redacted].
McBride, Thomas F., [redacted].
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Neri, Felix, Jr., [redacted].
Nesbitt, Thomas E. [redacted].
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Noah, Max W., [redacted].
Nolde, William B. [redacted].
Norris, Russell S., [redacted].
Norton, Charles W., Jr., [redacted].
Norton, Jack, [redacted].
Nuttall, Edith M. [redacted].
Obach, Ronald M., [redacted].
O'Brien, Benjamin L. [redacted].
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O'Connell, Thomas J. [redacted].
Oddi, Vincent J., Jr. [redacted].
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Oglesby, Erby R., [redacted].
Ohlenbusch, Robert [redacted].
Okyen, Louis, [redacted].
Older, Alva H., Jr., [redacted].
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Omps, Avon R., [redacted].
O'Quinn, James J. [redacted].
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Ostrovsky, Jack, [redacted].
Pack, Ishmael, [redacted].
Palermo, Frank J., Jr. [redacted].
Palmer, George E., [redacted].
Paquette, Dean R. [redacted].
Parks, Madelyn N., [redacted].
Parks, Walter G., [redacted].
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Patrick, George H. I., [redacted].
Patterson, Peter H. [redacted].
Patton, Robert S. [redacted].
Paul, Charles L., [redacted].
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Radcliffe, Jack W., [redacted].
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Rathbone, William A. [redacted].
Rawlinson, William, [redacted].
Read, John K., [redacted].
Reagor, James L., [redacted].
Rector, Lloyd K., [redacted].
Rees, Terry D., [redacted].
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Reynolds, Kenneth T. [redacted].
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Wells, Arthur D., [redacted].
Wells, Ralph F., [redacted].
Wensyel, James W., [redacted].
Wergeland, Floyd L., [redacted].
Wereszynski, Henry, [redacted].
Werner, Donald R., [redacted].
Wetherell, Sterling [redacted].
White, Herbert L., [redacted].
White, Richard L., [redacted].
Whiting, Frederick [redacted].
Weigand, Lynn W., [redacted].
Wilbanks, James L., [redacted].
Wild, Julian S., [redacted].
Wiles, Richard I., [redacted].
Willey, Oliver A., Jr., [redacted].
Williams, Bruce F., [redacted].
Williams, Lewis A., [redacted].
Williams, William F., [redacted].
Wilson, David L., [redacted].
Wilson, Gene F., [redacted].
Wilson, Harry S., Jr., [redacted].
Wilson, Joseph C., [redacted].
Wilson, Leland A., [redacted].
Wilson, William B., Jr., [redacted].
Wilson, William R., [redacted].
Wirth, Paul R., [redacted].
Wisyanski, David A., [redacted].
Wolff, Harry, [redacted].
Womack, John J., [redacted].
Wood, Raymond D., Jr., [redacted].
Wood, Robert L., [redacted].
Wooldridge, William, [redacted].
Wormley, John H., [redacted].
Wyllie, Clement A., Jr., [redacted].
Yanoff, Harry L., [redacted].
Yarbrough, Charles [redacted].
Yeates, Charles W., [redacted].
Young, Fletcher R., Jr., [redacted].
Young, George R., [redacted].
Young, Roy J., [redacted].
Young, William W., [redacted].
Zahm, Ronald J., [redacted].
Zargan, Robert T., [redacted].
Zeigler, William A., [redacted].
Ziegenfelder, Rush F., III, [redacted].
Zimmerman, Joseph S. [redacted].
Zimmerman, Lawrence [redacted].

IN THE ARMY

The following-named officer for appointment as professor of physical education, U.S. Military Academy, under the provisions of title 10, United States Code, sections 4331 and 4333:

Anderson, James L., [redacted].

The following-named person for reappointment in the active list of the Regular Army of the United States, from temporary disability retired list, under the provisions of title 10, United States Code, section 1211:

To be captain

Ebert, Maureen A., [redacted].

The following-named persons for appointment in the Regular Army, by transfer in the grade specified, under the provisions of title 10, United States Code, sections 3283 through 3294:

To be captain

Carns, Edwin H. J., Jr., [redacted].
Hameister, Herbert H., [redacted].
Jones, Bradley K., [redacted].
Ricks, Robert E., Jr., [redacted].

To be first lieutenant

Ambrose, Anthony, [redacted].
Ewart, Thomas W., [redacted].
Freccia, William F., [redacted].
Frushour, Stephen J., [redacted].
Fullerton, Leroy R., Jr., [redacted].
Garrett, Craig R., [redacted].
Grabow, Thomas W., [redacted].
Hadorn, John R., [redacted].
Hill, Charles R., [redacted].
Hlista, Richard J., [redacted].
Hutchinson, Milford B., III [redacted].
Lascher, Michael F., [redacted].
Lupton, George P., [redacted].
Moore, Reginald G., Jr., [redacted].
Parr, Thomas J., [redacted].
Taveau, Horatio S., IV, [redacted].
Wall, Henry G., [redacted].

To be second lieutenant

Anthony, Steven C., [redacted].
Berg, Allan W., [redacted].
Boslego, John W., [redacted].
Clapper, John F., [redacted].
Donohue, Hugh J., Jr., [redacted].
Kenevan, Robert J., [redacted].
Lough, Frederick C., Jr., [redacted].
Nickles, Dean J., [redacted].
Sikes, Randall A., [redacted].
Simon, Fred A., Jr., [redacted].
Terranova, Frank A., Jr., [redacted].
Venard, Thomas G., [redacted].
Weisman, Leonard E., [redacted].
Wells, Larry J., [redacted].
Young, Robert N., [redacted].

The following-named persons for appointment in the Regular Army of the United States, in the grades specified, under the provisions of title 10, United States Code, sections 3283 through 3294 and 3311:

To be major

McFatridge, John J., [redacted].

To be captain

Albert, Harold L., [redacted].
Anderson, Roy C., [redacted].
Bailey, Gary G., [redacted].
Baker, Margaret J., [redacted].
Charles, Merl A., [redacted].
Chretien, James R., [redacted].
Clark, George D., Jr., [redacted].
Edson, Paul R., [redacted].
Everitt, Peter B., [redacted].
Fontenot, Russell J., [redacted].
Hardin, William C., [redacted].
Hodgkins, Richard C., [redacted].
Johnson, Darrell R., [redacted].
Little, John A., [redacted].
Malloy, Thomas P., Jr., [redacted].
Merritt, Ezra A., [redacted].
Noll, Hobart B., Jr., [redacted].
Rogers, James G., [redacted].
Saccaro, Anthony, Jr., [redacted].
Snell, Joan, [redacted].
Sterling, Faith E., [redacted].
Stith, Mary E., [redacted].
Soderburg, John D., [redacted].
Suydam, Richard M., [redacted].
Sweeney, Robert D., Jr., [redacted].
Ward, Robert N., [redacted].
Wells, Peggy A., [redacted].
Wilson, Roy L., [redacted].

To be first lieutenant

Andrews, Douglas G., [redacted].
Blackwell, Leon B., Jr., [redacted].
Bosking, Robert P., [redacted].
Brusseau, Douglas A., [redacted].
Bush, John R., [redacted].
Cake, Donald R., [redacted].
Cartier, Eugene N., [redacted].
Cook, John A., II, [redacted].
Daly, John V., [redacted].
Davidson, Donald O., [redacted].
Dent, Willis J., [redacted].
Desiderio, Timothy J., [redacted].
Dickinson, Paul W., [redacted].
Dooley, George E., [redacted].
Edwards, Floyd E., [redacted].
Farrar, John L., [redacted].
Farrey, David W., [redacted].
Foggy, Dennis D., [redacted].
Ford, Daniel T., [redacted].
Fossum, Earl G., II, [redacted].
Fryer, Eugene D., [redacted].
Gillman, Jay E., [redacted].
Gingras, Kenneth J., [redacted].
Gowan, Fred A., [redacted].
Havre, Donald E., [redacted].
Herman, Ralph E., [redacted].
Hobby, Jesse L., [redacted].
Holland, John L., [redacted].
Hopkins, Mason L., [redacted].
Hout, Richard W., [redacted].
Johnson, Christopher B., [redacted].
Jones, Jerry G., [redacted].
Kaufman, Donald C., [redacted].
Key, Hollis J., [redacted].
King, Larry L., [redacted].
Kling, Gary L., [redacted].
Kratz, Charles I., III [redacted].
Kuykendall, Anthony N., [redacted].
Lackey, Richard E., [redacted].
Lane, Thomas C., [redacted].
Lape, James R., [redacted].
Lee, Stephen B., [redacted].
Lindquist, Michael A., [redacted].
Lippincott, Larry R., [redacted].
Locklin, Charles W., Jr., [redacted].
Loy, Robert A., [redacted].
Lovejoy, Charles D., [redacted].
Lucas, Ronald J., [redacted].
MacHarrie, William R., [redacted].

MacMullen, John D., [redacted]
Malone, John M., Jr., [redacted]
Mathis, Donald L., [redacted]
McFarland, Alice J., [redacted]
McKenzie, David M., [redacted]
Merkerson, Willie, Jr., [redacted]
Nienhuis, Marlan L., [redacted]
Peche, Marra E., [redacted]
Pepper, James Levar, II, [redacted]
Perkins, Mary J., [redacted]
Poland, Ernest F., [redacted]
Porter, Lanning M., [redacted]
Riley, Hubbard L., [redacted]
Schultz, Elsie M., [redacted]
Shelton, Donnie R., [redacted]
Smart, Richard F., [redacted]
Stacy, John M., [redacted]
Taber, Thomas M., [redacted]
Tansor, James R., [redacted]
Thonus, Francis W., [redacted]
Travis, Jacklyn G., [redacted]
Vander Clute, Burt A., II, [redacted]
Van Fossan, James A., [redacted]
Visintainer, Madelon A., [redacted]
Webb, Norma J., [redacted]
Wentik, Michael J., [redacted]
Wimmer, Sidna P., [redacted]
Wolfinger, William D., [redacted]
Wondra, George E., [redacted]
Workman, Earsel G., [redacted]
Zerance, Michael S., [redacted]
Zimmerman, Charles A., [redacted]

To be second lieutenant

Arnold, Gregory B., [redacted]
Bagby, Daniel W., III, [redacted]
Crockarell, Barney E., [redacted]
Crowder, James C., [redacted]
Deloach, Roy H., Jr., [redacted]
Edwards, Don C., [redacted]
Fitzgerald, James G., [redacted]
Frey, Carl W., [redacted]
Halbrook, Craig L., [redacted]
Head, John B., [redacted]
Henderson, Lewis, [redacted]
Hubbard, Arlen B., [redacted]
Kent, Harris M., [redacted]
Kleager, Jerald E., [redacted]
Kollath, Jack E., [redacted]
Laretto, Kenneth G., [redacted]
Magee, Harold I., [redacted]
Moul, Dale A., [redacted]
Oden, Bonnie K., [redacted]
Redden, Robert J., [redacted]
Rose, David A., [redacted]
Sims, William F., [redacted]

The following-named distinguished military students for appointment in the Regular Army of the United States, in the grade of second lieutenant, under provisions of title 10, United States Code, sections 2106, 3283, 3284, 3286, 3287, 3288, and 3290:

Appling, Mark W., [redacted]
Atkinson, Curtis F., [redacted]
Bledsoe, Gill L., [redacted]
Bossie, Stephen M., [redacted]
Bundy, Earl D., [redacted]
Clark, James A., III., [redacted]
Claterbos, John V., [redacted]
Conners, Jerry L., [redacted]
Cory, William W., [redacted]
Coulter, Walter F., [redacted]
Dienno, Jeffrey B., [redacted]
Duntsch, Donald A., [redacted]
Engels, Keith H., [redacted]
Freeman, Timothy C., [redacted]
Goldsmith, Paul E., [redacted]
Gress, Dirk W., [redacted]
Hickman, Jerry J., [redacted]
Holmberg, Bradley O., [redacted]
Hotter, Bruce E., [redacted]
Jervey, Harold E., III., [redacted]
Majewski, Zygmunt, M., Jr., [redacted]
Martig, Robert J., [redacted]
Rice, James A., [redacted]
Savage, Thomas C., [redacted]
Simpkins, Thomas A., [redacted]
Smith, Brent T., [redacted]
Stuebner, William A., [redacted]
Thompson, Charles E., [redacted]
Vikstrom, Carl E., [redacted]
Weinstein, David M., [redacted]
Wesley, Bartley D., [redacted]
Williams, Thomas A., [redacted]
Wise, William W., [redacted]
Yarbrough, Daniel T., [redacted]

The following-named scholarship students for appointment in the Regular Army of the United States in the grade of second lieutenant, under provisions of title 10, United States Code, sections 2107, 3283, 3284, 3286, 3287, 3288, and 3290:

King, John W., Jr., [redacted]
Kirkwood, James E., [redacted]
Scott, Kevin M., [redacted]

IN THE MARINE CORPS

The following-named officers of the Marine Corps for temporary appointment to the grade of chief warrant officer (W-4):

Russell R. Allen, Jr.
Glen R. Anderson
Joseph C. Anderson
Robert A. Baer
George W. Baker
Frank E. Barthold
Eldon L. Baumwart
Henry E. Bowen, Jr.
Kenneth R. Burns
Ronald F. Byrnes
Howard L. Callahan
Harold E. Cantrell, Jr.
Oscar L. Caudill
James S. Chastain
Robert L. Chen
Lawrence J. Chytka
John L. Collins
Robert A. Connly, Jr.
Charles L. Cooper
Robert D. Cox
Jerry L. Crouch
Howard W. Crowell
Richard D. Cusick
Ronald B. Darou
John C. Dixon
Arnold H. Dow
Bruce W. Ellis
Guy R. Fairchild
Charles H. Feaselman
John W. Frederick, Jr.
Peter E. Freeman
Eugene A. Galvin
Hardy D. Gates
Frank J. Ghia, Jr.
Harold E. Gore
Walter W. Gustin
James A. Hall
Billy M. Harris
William T. Hartigan
Donald E. Hartman
John F. Heath
Lawrence N. Helber
Jack R. Henderson
William P. Hill
Edward F. Hodgins, Jr.
Jimmie E. Janke
Donald C. Jarvin
Marcellus J. Kaczinski
Richard S. Keller
William D. Kelly
Howard E. Kerr
Henry C. Kimmey
Gary L. Kindler
Charles Knox, Jr.
William L. Kobel
William C. Kohler
Earl R. Lackey
Joseph M. Magaldi, Jr.
Gerald E. Marcheso
George L. Marcum
Robert L. Maynes
John T. McAlister
John E. McCallum
Larry E. McKee
Melvin E. McPeak
Donald E. Meisner
Raymond A. Mendoza
Anthony Miranda
William L. Mitchels
William T. Moore, Jr.
Stanley S. Morris, Jr.
Peter J. Murray
Charles A. Newell
Thomas M. O'Brien
James S. Paulk
Richard C. Pederson
Bruce M. Phillips
Charles G. Pierce, Sr.
Donald L. Pratt
Gerald K. Rainwater
Morris E. Ransom
Malcolm S. Rawlins
Erwin O. Raymer
Doyle R. Reed
James H. Rosenthal
Ivan R. Sable
Howard D. Sansom
Harry E. Sawyer, Jr.
Neil H. Scarborough
Roger J. Schneider
William A. Schulze, Jr.
Charles F. Schwab
Albert L. Selleck, Jr.
Mann Shoffner, Jr.
Clarke J. Simcox
Frank J. Simons, Jr.
Stanley C. Skrobialows
Darrell M. Smith
Harold W. Smith, Jr.
William C. Smith
Raymond J. Spillane
Donald E. Stafford
Raymon E. Stoner
Kenneth E. Strayhorn
Frederick H. Striker
Robert T. Taylor
Kenneth C. Terhorst
Robert L. Tracey
Kenneth R. Vance
Nicholas C. Vanderdoe
Irwin F. Waldvogel
George E. Walker
Lowell W. Walter
Frank W. Washam
William H. Welch, Jr.
William J. Wilbur
Cecil R. Williaford
Robert F. Williams
Donald T. Wilson
James E. Wolfe, Jr.
William H. Wood, Jr.

The following-named officers of the Marine Corps for temporary appointment to the grade of chief warrant officer (W-3):

Norbert H. Adams
William T. Adams
Dean R. Aggers
Frank L. Ahsue
David G. Albizo, Jr.
Junior M. Albritton
Frank A. Alexander
Phillip D. Allum
Ronald H. Alnutt
George L. Alvarez
William D. Amberson
Ronald S. Ambrose
Valentine P. Amico
Robert D. Amos, Jr.
Byron A. Anderson
Douglas E. Anderson
William E. Anderson
Donald F. Andrus
Wenceslao U. Aquino
Gerald P. Aragon
Billy T. Arnold
Robert J. Arthur
Raymond F. Asselin
Darrell R. Atkins
Robert L. Atkinson
George F. Aylward
Raymond O. Babineau, Jr.
James D. Bacon
Charlie E. Bailey
Donald G. Baldwin
Ronald A. Balius
Orval C. Ballance
John C. Bardon
Boyd B. Bare
Glenn C. Bargerstock
James W. Barotti
Odis L. Barrett
Hector Barrientes
James M. Barry
Daniel D. Barth
Donice R. Bartlett
Bernard R. Barton
Robert C. Bash
Henry S. Bass
Salvatore A. Battista
John W. Bauer
Rodney A. Beal
George B. Bebout
Bobby L. Beck
George L. Begor
Travis E. Belcher
Edward H. Bell
Richard O. Bemish
Eugene R. Benjamin
George J. Bennett
Robert C. Benson
Thomas G. Benson
William C. Benton
Bobby F. Bequette
Kenneth W. Berkey
Raymond L. Bernard
Lois J. Bertram
Homer E. Bever
Albert J. Beveridge, Jr.
Raymond R. Bickel III
Robert C. Bierman
John A. Binder
Thomas F. Bingham
Richard J. Bishop
Robert W. Bland
Thomas M. Bland
Philip W. Blaylock
John L. Blount, Jr.
Robert E. Blum
Gary M. Boggess
Lee A. Boise
Jackson D. Boley, Jr.
James M. Bolson
George P. Bond
Richard D. Bondurant
Alfred J. Borowy
Leo C. Boutin
John H. Bower
Kempereth D. Box
David I Boyd II
Edward B. Boyle
Arthur R. Brehm
John E. Brennan
Francis E. Bridges
Jerry J. Briggs
Charles H. Brittain
Austin W. Bromley
Garold N. Brooks
John V. Brooks, Sr.
Robert D. Brooks
Theo I. Brooks
Arthur J. Brown
Benjamin M. Brown
Donald J. Brown
George R. Brown
John H. Brown, Jr.
Palmer Brown
Arthur Brownfield III
James H. Buchholz
Delbert A. Bullock
Jeat Bullock
William Caldwell
Fred J. Call
Robert D. Bunner
Jack H. Burrell
Joseph J. Campbell
William F. Campbell, Jr.
Donald A. Camper
Ronald B. Camper
Robert H. Canning
Charles E. Cannon
Joseph A. Canonico
Henry P. Capdepon, Jr.
Ferdinando J. Capria
Edward Cardoza
Floyd A. Carlson, Jr.
George Carnako
William R. Carr
Thomas L. Carroll
John E. Carter
Roger E. Carver
Grover C. Casen
Russell C. Cedoz
Bert P. Chadd, Jr.
Frederick W. Chadwick
Cleo M. Chambers
James F. Chapman
Norman F. Charboneau
Marshall C. Chase
Larry D. Choate
Charles V. Clark
Donald J. Clark
Kenneth R. Clark
Leonard T. Clark
Raymond C. Clausen
John P. Clelland, Jr.
Edgar L. Clemons
Gerald R. Clifford
Wilfred J. Clifford
Paul B. Clontz
Keith E. Cohenour
Robert S. Collins
Robert M. Conley
Larry A. Connin
Frank J. Conti
Claude R. Cordell, Jr.
Hubert C. Cornett
Anthony J. Cotterell
Stanley E. Cottle
David G. Cotton
Ronald K. Coulter
Billy J. Cox
Leon R. Coxe
Donald L. Cramer
Gordon N. Crane
Larry G. Cravens
Charles E. Creamer
Keith D. Creech
Edward J. Croghan III
Robert Crosby
Robert F. Cross
John T. Crowe
Rayner E. Crutchfield
John M. Culver
Wayne R. Dale
Aaron H. Daniels
Robert L. Daniels
Glenn L. Darst, Jr.
Walter C. Daskam
Larry R. Davidson
Edwin S. Davis
John W. Davis, Jr.
Robert K. Davis
Robert L. Davis
Samuel L. Dawson
James O. Dease
Richard Deaver
David W. Decherd
Romain J. Deffes, Jr.
James W. Defrank
Anthony A. Degennaro
Hubert D. DeJaynes
James N. Deitrich
Vaughan E. Delk
Jack S. Deremer
Herman W. Dial
Kenneth R. Diana
James P. Diantonis
Donald L. Dickerson
Thomas C. Dickey
Don E. Diederich
Henry E. Dill

John W. Dillinger, Jr.
Richard H. Dittman
June R. Doberstein
Leroy Dobson
Robert J. Dolman
Daniel E. Domeracki
Walter Domke
Mary E. Donahue
Billy D. Donnell
James R. Donovan
Thomas L. Doss
Donald L. Dugan
James A. Dunn
Charles L. Drew
Jerome Drucker
Sidney E. Durham
Bobby E. Dusek
George H. Dustman, Jr.
H. L. Dykes
Monte W. Eagle, Jr.
Rex T. Eckley
Robert E. Ecklund
William A. Eichholz
Victor B. Elder II
Eugene W. Elfes
Vernon R. Elliott
Thurlow D. Ellis
Stephen D. Ellsworth, Jr.
Fred C. English
William T. Estes
James L. Eure
William L. Eveland
Roy F. Falgout
Frank H. Falkson
Lewis J. Fallon, Jr.
Robert C. Farrand
William T. Farrow
Donald W. Felty, Jr.
William J. Ferral
Richard L. Ferris
James E. Feryan
Bobby J. Fields
James E. Fields
William J. Fitzgibbons
William E. Fleming
Jerry D. Floe
Raymond O. Florence
Arturo Flores
Johnny M. Floyd
Nicholas A. Foley
Edwin C. Ford, Jr.
William D. Franks
John H. Fraser
Stanley L. French
Donald H. Fritz
Ray Fritz
Daine L. Fulton
Buddy R. Furber
Leo P. Gagnon
Michael P. Galasky
Craig D. Gallan
Alfredo S. Garcia
Lawrence R. Gardner
Robert L. Garoutte
Charles D. Garrett
Joe D. Garrett
Harold S. Gazaway
Jack E. George
Robert L. Gibson
Haywood P. Gibbs
Earl E. Giles
Horton A. Glidewell
Solomon H. Godwin
Tom A. Golden
Samuel M. Gordon
Joseph A. Gorzynski
Ronald W. Gould
Joseph A. Goulet
Oliver F. Gour, Jr.
Thomas E. Govier, Jr.
Norbert B. Grabowski
Alan N. Graham
Frank N. Green
Ray H. Green
Leroy R. Greth
Bryan O. Griffith
James H. Griffith
Jessie Grimes
Richard L. Grivner
Richard H. Grunwald
Ray H. Green
Philip A. Grzanich
James F. Guenther
Robert M. Gulley
Robert E. Gwaltney
Fred Gypin, Jr.
Thomas J. Hager
Robert L. Haines
Charles K. Haley
Jesse B. Hall, Jr.
Walter D. Hamelback
Thomas E. Hamic
Robert E. Hamilton
Edwin A. Hamlin
George R. Hammond
Walter R. Hampton
Martin H. Handelsman
Emmett L. Haney
Charles T. Hansen, Jr.
James F. Hansen
Richard C. Hansen
Joseph B. Harbin
Arthur L. Hardt, Jr.
Charles D. Harrel, Jr.
William H. Harris
Leonard J. Harrison
Berne C. Hart
John T. Hart
Donald N. Hartman
Orville L. Hastie
Harry A. Haught
Emerson W. Hawkins
Thomas E. Hayward
Richard D. Heald
Ivan K. Heinlein
Gordon E. Heishman
Edgar W. Henninger
Frank E. Hensel
Charles R. Hern
Robert L. Herrington
John M. Herzog
Edward Q. Hicks
Frederick F. Highhouse
Dale R. Hiller
Francis Hingston
Robert C. Hitte III
Charles R. Hoffman
Jack Hofstra
James N. Holk
James D. Holmes
John W. Horton
Maurice V. Howard
William C. Howey
Carl L. Huddleson
Lee J. Huffman
Ralph C. Hughes
William M. Humphreys
Thomas Y. Hundley
John L. Irons
Larry N. Israel
Rolf R. Iversen
James W. Ivey
James E. Ivy
Wilburn Ivy
Walter L. Jabs
Buddy K. Jackson
James W. Jackson
Clifton S. Jenkins, Jr.
James Jennings
Charles R. Jernigan
Joseph M. Jewett
Herman H. John
Arney M. Johnson, Jr.
Dennis W. Johnson
Harold B. Johnson
John L. Johnson
Paul C. Johnson
Vernon J. Johnson
Bobbie J. Johnston
Darrell G. Johnston
Earnest J. Jones
John A. Jones
John E. Journey
Robert E. Joyce
Leonard P. Juck
Gerald T. Kane
Robert F. Kane
Jacob Kappel, Jr.
George P. Kasson
Gary S. Kee
David R. Keene
Eugene L. Keiter
Jessie W. Kelley
John H. Kelley
Charles R. Kellison
Edward D. Kemmis
Bruce A. Kemp
Peter C. Kendall III
Clyde W. Keniston
William G. Kennedy
Mark M. Kenney
Richard J. Kerch
James Kight
John D. Kimberl
Elmer R. Kimbro
Charles L. Kiper
Harold D. Klein
Harold A. Klingensmith
Robert L. Kloch
John M. Knack
Joseph G. Knagge
William J. Knipper
Coleman R. Knowles, Jr.
John S. Kociolek
Raymond S. Komo
William L. Kramer
Frederick W. Krell
William L. Kroelinger
Martin Kusturin
Neil B. Labelle
Don C. Lacey
Robert P. Lacoursiere
Ivan A. Laing
Michael S. Lainhart
Michael R. Lamb
Donald E. Lambert
Scott M. Lamberth
Robert B. Lambdin
Carl E. Lamey
John C. Lamson
Benny W. Lane
Gerald S. Lane
William C. Lantz
Albert L. Larson
John H. Larson
Robert J. Larson
Donald E. Laughner
Antonio Lauretta
William H. Leach
Roger O. Ledoux
William E. Lee
Alfred H. Legere
William E. Legg
Jack L. Leininger
Richard A. Lenhart
Joseph A. Leonski
Lawrence J. Lepage
Larry G. Lephart
James W. Lewallen
Eugene S. Lewandowski
Ralph Lewis
John A. Lidyard
Regenald F. Lightsey
John M. Lilley
Paul W. Lints
John R. Little, Jr.
Warren G. Litzburg
Arron K. Lockyer
Leonard A. Long
Garland A. Longhouse Jr.
Frederick R. Loughren
William N. Lowe
David W. Loy
Troy A. Lucas
Joseph W. Luckenback
Dale C. Luedtke
Frank W. Lukasiewcz
David A. Luke
Allen J. Lum
George L. Lunt, Jr.
David G. Mackey
Thomas D. Maloy, Jr.
Tommy E. Manry
Arthur T. Manuel, Jr.
Ernest L. Marble
John B. Marks
Daniel Marland, Jr.
Loren J. Malone
Frank G. Markowski
Bobby O. Martin
Kenneth W. Martin
Travis E. Martin
Carlos Martinez
Lester E. Mashburn
Michael P. Mastroberti
John W. Matchett
Joseph G. Mates
Millard F. Matthews, Jr.
Peter J. Matthews
John Maxwell III
Kenneth N. May
Philip S. Mayo
Gary R. Mayfield
William L. Mazourek
William T. McAuley II
Alonzo B. McCall
Jimmy E. McCall
William D. McCall, Jr.
John E. McCarthy, Jr.
William S. McClenithan
Francis McCombs
Richard G. McCord
Leason McCoy
John W. McCone III
George J. McConnell
Edward F. McCourt, Jr.
Thomas McCourt
Richard L. McDeavitt
Joseph A. McElroy
Ronald R. McElvain
Joseph McGann
Mack L. McGlumphy
John P. McGuire
Joseph A. McIntyre
Jack McKee, Jr.
Albenious P. McLean
Bert L. McSpadden
Daniel H. McQueary
Donald G. McWhorter
George B. Meegan
James M. Meehleder
Edmund M. Mello
Samuel S. Michaels, Jr.
Walter M. Mielnicki
Anthony F. Milavic
Andrew P. Miller
Ashby R. Miller
Thomas J. Miller
Luke B. Mills
Stanley S. Minatogawa
Michael J. Mino
Frank G. Misemer
Edward T. Miskin
John M. Mitchell
Donald E. Monnot
Bruce K. Moore
Clarence G. Moore
Edward L. Moore II
Fred A. Moore, Jr.
Robert D. Moorhead
Grover K. Morgan, Jr.
William P. Moriarity
Robert G. Morilla
Pasquale J. Morocco
Allan R. Morris
Jerald J. Morrison
Joseph R. Morrissette
Paul H. Morrissey
Bobby J. Morton
Don E. Mosley
Harry D. Moss
Robert J. Mulligan
Charles R. Munson
Timothy J. Murphy
Glenn N. Myers
Roy L. Myers, Jr.
Arthur G. Nadeau
Gary L. Nail
Gerald R. Naperalski
David E. Nelson
John N. Newman
Ronald J. Neyt
Scott G. Nickell
Frederick M. Nordstrom
Gerald E. Norris
John P. Novak
Richard J. O'Brien
Charles W. Occhipinti
William J. O'Hara
Robert F. Okamoto
Michael O. O'Loughlin
Almart H. Olsen, Jr.
John O. Olsen
Robert D. Olson
Bobby L. Osborne
Stanley M. Osenkoski
James R. Owen
Herbert M. Page, Jr.
Robert H. Page
Peter N. Panos
Robert T. Paris
Joseph A. Parker, Jr.
William H. Parker
William J. Parker, Jr.
Bobby J. Parrish
Donald J. Parton
Hobart D. Patterson, Jr.
Patrick A. Pearce
Charles D. Peck
William M. Pelto
Robert H. Pendarvis
Edmund T. Peregoy
Clement S. Perreault
Carl E. Peterson
Clark A. Peterson
Francis L. Pfrimmer
James M. Phelan
Douglas R. Phelps
Lloyd G. Phillips
Kenneth W. Phipps
Jack N. Perrin
Abel D. Pierson
Arthur A. Pierce
Len E. Pierce
Michael Pietroforte
Troy J. Pigeon
Tony R. Pinola, Jr.
Kenneth E. Pitcher
Lawrence D. Poling
Carl N. Ponder
Lynn M. Porter
William H. Powers, Jr.
John A. Prelgovisk
Sanford J. Priddy
Charles F. Purvis
Jack N. Rabun
Darrel R. Radcliffe
Michael E. Rafferty
Jerry A. Raley
Frederick A. Randlett
Virgil Rankin
Donald Ratcliffe
Robert E. Ray
Walter J. Ray
Robert L. Redfield
Bobby D. Redic
Robert E. Redlinger
Chris D. Reed
Ralph W. Reed
Robert C. Reedy
James R. Reichler
William A. Reitmeister
Thomas T. Renau
Luther L. Renfroe, Jr.
Albert A. Reynolds
Oren C. Reynolds
Edward T. Richards
Harold L. Richardson
Herbert C. Richardson Jr.
Robert E. Richter
Thomas F. Roberson
Harry F. Roberts
Thomas G. Roberts
John E. Robertson
John T. Robertson
Neil H. Robinson
James J. Roche
Lyonel K. Roepke
William P. Rohleder
Edward P. Rolita, Jr.
John W. Roth
Donnie L. Romine
Warren H. Rooks
George R. Roser
Guy F. Rowe
Hugh T. Rowe, Jr.
Claude T. Rudd
Charles B. Russell
Edward M. Russell, Jr.
Hayden B. Russell, Jr.
Leonard D. Russell
Vincent B. Russell, Jr.
William C. Russell, Jr.
Billy C. Sanders, Jr.
John Sandoval, Jr.
Theodore W. Schauer
Clifford C. Scheck, Jr.
Clifford G. Schleusner
Leonard L. Schlitz
Robert L. Schlott
Lyle F. Schmehl
Charles W. Schmidt
Bill M. Schooler
Adrian E. Schoonover
Donald W. Schwanke
George B. Search
Elmer C. Seder
Robert T. Seek
Martin L. Selby
Stephen G. Seman
Louis E. Sergeant, Jr.
Richard A. Shamrell
Jerry M. Shelton
John L. Sheppard
Dean S. Shepard
Sibyl E. Sherwin
Thomas R. Shine
Louis D. Shove
Dean G. Shultis
Harvey H. Simpson
Warren A. Singer
George T. Singleton
Robert M. Slater
Charles R. Slavens
Gene G. Smallwood
Robert J. Smethurst
Dever W. Smith, Jr.
Ernest U. Smith
Frank R. Smith
Herbert S. Smith, Jr.
James C. Smith
James L. Smith
Joseph Smith
Lucius T. Smith, Jr.
Paul L. Snearly
Charles W. Snedeker
Charles R. Soldner
Frank M. Spady
James A. Spalsbury
Billy R. Sparks
Roger V. Speeg
Philip P. Speliopoulos
Jack G. Spence
Robert R. Spitze
Dennis E. Springer
Jackie W. Stanley
James E. Stant, Jr.
Lloyd E. Stanton, Jr.
Ray B. Stcharles
William G. Sterling
Herbert W. Stevens
Robert E. Stewart
William M. Stewart
Frederick C. Stilson
Samuel E. Stote
Raymond H. Stout
Donald E. Strassenberg
Douglas D. Street
Raymond P. Sturza
Francis H. Sullivan
Kenneth C. Sullivan
Robert P. Sullivan
Lawrence L. Sutler
James D. Svitak
David O. Swaney
Allen M. Sweeney
Eugene Swidonovich

Thomas E. Swindell
Richard M. Swink
Gerald L. Tauber
William H. Tawney
James D. Taylor, Jr.
Thomas W. Taylor
Bobby A. Templeton
J. T. Tenpenny
Jack T. Terrell
Gerard P. Tetu
John H. Thomas
William E. Thomas, Jr.
Richard A. Thome
Melvin L. Thompson
Kenneth E. Thorn
Joseph Thurmond
Richard E. Toepfer
Charles N. Tofft
Ralph E. Toholsky
Jerry L. Tomlinson
William G. Tomlinson
William E. Toombs
Wayne L. Treece
Eugene M. Trippleton
Winfield R. Trott, Jr.
Guilford D. Tunnell
Conrad B. Turney
Richard D. Twiford
Leonard D. Tygart
Robert J. Underwood
James J. Unger
Erwin G. Vansickle
Robert E. Veigel
Michael D. Villarreal
Richard L. Vincent
James P. Wagner
Larry F. Wahlers
Donald B. Walaconis
Jerry E. Walker
Lowell A. Walker
Willard C. Walker
William D. Walkup, Jr.
Bernie J. Wallace
Charles L. Wallace
Charles A. Waller
Robert Waltman, Jr.
Thomas R. Ward
John R. Waterbury
Henry L. Watson, Jr.
Carl V. Watts
John R. Watts
John M. Weathersby
Fred L. Weaver
James P. Weaver
Patrick J. Webb
Richard D. Webb
Robert J. Weeks
Robert W. Weeks
Herbert D. Wells
Ronald R. Welsh
Lloyd J. Wengeler
Robert R. Wenkheimer
Lloyd M. Wentworth, Jr.
Kenneth L. Werbinski
James M. Wheatley
Charles E. Whitaker
Jacky I. White
Robert L. White
Jackie D. Whiteaker
William A. Whiting
Dale J. Whitten
Robert N. Wiggs
James V. Wilkinson
Joe H. Willer
Russell O. Willson
John C. Wilson
Kenneth L. Wilson
Bruce M. Wincentsen
Hershel E. Wisdom
Michael J. Witsell
William J. Witt
Charles F. Wolverton
Albert F. Wood
Charles R. Wood
Samuel J. Wood
James M. Woods
Charles W. Woods
Robert L. Woodward
Peter A. Woog
Billy J. Wright
Charles G. Wright
Eddie B. Wright
Leslie Yancy
Charles M. Yarrington
Jere W. Yost
Theodore A. Youngblood
Edward M. Zerbe
Dennis R. Zoerb
Roger D. Zorens

The following-named officers of the Marine Corps for temporary appointment to the grade of chief warrant officer (W-2):

Joseph N. Anderson
Willie A. Armstead
Russell P. Armstrong
Wayne D. Bahr
Chester R. Barnes, Jr.
Leon W. Barry
Bonnie H. Bass
Richard J. Beatty
Ronald C. Biggs
Stuart W. Blake
Archie G. Bobo
Gerald J. Bolick
Bruce E. Boltze
Robert L. Bowen
Reganold A. Bowser
Dennis A. Braund
Albert K. Britton
Charles J. Bruce
Murray W. Bryant
Thomas R. Burnham
Bernard C. Burke
Harold D. Byerly
Ben W. Caesar
Robert L. Caldwell
Francis J. Carr
James E. Carter
Donnie E. Cavinder
Jackie E. Certain
Owen D. Clark
John H. Cole, Jr.
Gregory Connor
William B. Corley, Jr.
William H. Cox
Rex L. Curtis
Jesse A. Dobson
Eldon L. Dodson
James F. Doner, Jr.
Charles J. Dotson
Arthur J. Douglas
John B. Duckett
Terrell L. Dulaney
William L. Dulaney
James M. Edgerton
Dennis Egan
Donald T. Eskam
Riley S. Ethington
John E. Fales
Charles A. Fitzgerald
Sandra L. Furber
Earl G. Gale III
Vasco K. Gilbert
Jesse E. Giles
Leon E. Gingras, Jr.
Philip E. Goble
William M. Grant
Richard L. Gregg
William L. Grinnell
James W. Grooms
Hubert A. Grummer
Edward B. Guckert
Charles W. Hahne
Henry D. Halloway
Frank R. Hart
Albert L. Hayes
Harold S. Heinbaugh
John D. Henry
David M. Highwarden
William J. Hisle III
Raymond L. Hug
Bobby E. Humeston
Guy L. Hunter, Jr.
Robert R. Irvine
Raymond T. Jackson
Harold R. Jacobs
William R. Johnson
Ronald L. Jones
Michael B. Kennedy
Allen F. Kent
Joe Killebrew
Orville P. Kindschy
Leslie C. King
Chester C. Kinsey
Aurel E. Lafreniere
Charles E. Lambert
Albert R. Lary
Robert L. Laudun
Thomas L. Laws
Philip D. Leslie
Donald C. Lewins
John E. Lewis
Roger L. Lorenz
Lawrence G. Lowry
John W. Loynes
Raymond J. Main
John P. Marlowe
Barry E. Marsh
Benjamin A. Marsh
Charles J. McCormick
Howard McDonald
William L. McGinn
Larry G. Merrifield
Daniel E. Miller
William H. Miller
John Molko
Allen R. Morris
James T. Morris
Lawrence T. Mullin
James Muschette, Jr.
Nicholas P. Nester
Hillman R. Odom, Jr.
William D. Penn
Walter D. Perry
Jimmie F. Peters
Charles T. Pettigrew, Sr.
Robert P. Phillips
Alfred M. Pitcher
Wilfred Puumala
Paul F. Quinn
Virgil G. Rhoads
William C. Riddle, Jr.
Joseph F. Rizzo
Richard A. Rossi
Eileen R. Scanlon
Walter R. Schuette
Michael J. Schulke
John D. Scroggins
John C. Seig
Arnoldo T. Serrata
Michael L. Shanklin
Albert W. Sheldon
William F. Shidal, Jr.
Charles R. Shoemaker
Dan W. Showalter, Jr.
David E. Shumpert
Wilbert O. Sisson
Charles G. Skinner
Lloyd L. Skinner
Minter C. Skipper, Jr.
Thomas L. Slaughter
Charles L. Smith
Isaac A. Snipes
Jeffrey J. Snyder
Elias J. Soliz
Herbert B. Stafford
Kimble H. Stoltz
Ronald J. Stopka
Joseph J. Stours
Robert L. Strawser
George B. Strickroth
James M. Thomas
Michael E. Thomas
Paul W. Thomas
Paul R. Tippy
Terry N. Tracy
Bennie R. Walker
Jesse L. Webb
Ford D. White
William T. White
Arthur P. Williams
Jerome K. Williams
Bruce M. Windsor, Jr.
Richard K. Wolfe
Robert L. Woody, Jr.
Richard L. Yoerk
Charles E. Young
William C. Young
Arthur Yow, Jr.

CONFIRMATIONS

Executive nominations confirmed by the Senate December 1 (legislative day of November 29), 1971:

U.S. DISTRICT COURT

Thomas A. Flannery, of Maryland, to be a U.S. district judge for the District of Columbia.

Leroy J. Contie, Jr., of Ohio, to be a U.S. district judge for the northern district of Ohio.

Kenneth K. Hall, of West Virginia, to be a U.S. district judge for the southern district of West Virginia.

HOUSE OF REPRESENTATIVES—*Wednesday, December 1, 1971*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Therefore, my beloved brethren, be ye steadfast, unmovable, always abounding in the work of the Lord, forasmuch as ye know that your labor is not in vain in the Lord.—I Corinthians 15: 58.

God of grace and God of glory on us Thy children pour Thy power that we may bring to glorious flower the buds of democracy planted and nurtured by our fathers. To this end help us to recognize our dependence upon Thee, our constant need of Thy wisdom, Thy guidance, and Thy love. Keep us aware of Thy presence and make us realize that Thou art always with us and that with Thee we are equal to every experience and ready for every responsibility. Give us strength enough to do the work we have to do and faith enough to be loyal to our tasks knowing that with Thee our labor is never in vain.

May Thy spirit enter the heart of all nations that men and women everywhere may turn to Thee for guidance and strength and in so doing make this planet a better place where men can dwell together in peace.

In the spirit of Him who was always about his Father's business we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 10383. An act to enable professional individuals and firms in the District of Columbia to obtain the benefits of corporate organization, and to make corresponding changes in the District of Columbia Income and Franchise Tax Act; and

H.R. 11489. An act to facilitate the amendment of the governing instruments of certain charitable trusts and corporations subject to the jurisdiction of the District of Columbia, in order to conform to the requirements of section 508 and section 664 of the Internal Revenue Code of 1954, as added by the Tax Reform Act of 1969.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 9727) entitled "An act to regulate the dumping of material in the oceans, coastal, and other waters, and for other purposes," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. MAGNUSON, Mr. HOLLINGS, Mr. HART, Mr. BAKER, and Mr. STEVENS to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 1163. An act to amend the Older Americans Act of 1965 to provide grants to States for the establishment, maintenance, operation, and expansion of low-cost meal projects, nutrition training and education projects, opportunity for social contacts, and for other purposes.

The message also announced that Mr. Miller had been appointed as a conferee in place of Mr. Bennett for the remainder of this week on the bill (H.R. 10947) entitled "An act to provide a job development investment credit, to reduce individual income taxes, to reduce certain excise taxes, and for other purposes."

DECISIVE UPTREND IN ECONOMY

(Mr. ANDERSON of Illinois asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. ANDERSON of Illinois. Mr. Speaker, the latest reports on the economy reveal that the leading economic indicators registered a substantial 1.2-percent increase in October. Harold C. Passer, Assistant Secretary of Commerce for Economic Affairs, has called this increase a decisive uptrend and stated that such an increase is "consistent with private forecasts of a vigorous expansion of the economy in 1972." Of the separate series which make up the overall index, Mr. Passer indicated that the greatest improvement came in new housing permits, length of the average work week, and initial claims for unemployment insurance which declined during October.

Housing starts increased dramatically during October, rising to an annual rate of 2,050,000. This is 5 percent above the September rate and almost 30 percent above the rate in October 1970. It now appears that 1971 will be the best year ever for new housing in the United States, with the resultant stimulative effects on the rest of our economy.

Accompanying this record activity in housing has been the rapid increase in total consumer credit. During the month of September consumer installment credit, seasonally adjusted, rose by almost $1 billion. This was a record monthly increase and represented four times the increase in consumer installment credit during September 1970. Such a rapid increase in installment buying is attributable to a strong resurgence of public confidence in our economy, confidence which, incidentally, has resulted from the administration's vigorous and innovative economic leadership.

The overall effect of these very favorable economic developments has been reflected in recent activity in the stock market, which in the past week has seen the Dow Jones industrial average jump by over 30 points. It is fair to say that this increase in stock values reflects the business community's increasing confidence in a strong business expansion during 1972.

TRIBUTE TO MRS. ANITA FORD ALLEN, FORMER PRESIDENT OF THE DISTRICT OF COLUMBIA BOARD OF EDUCATION

(Mr. WYATT asked and was given permission to address the House for 1 minute.)

Mr. WYATT. Mr. Speaker, I wish to take this opportunity to commend one of the most outstanding public servants in the District of Columbia, the former President of the District of Columbia Board of Education, Mrs. Anita Ford Allen, for her outstanding leadership and contribution to improving education in the Nation's Capital. While a member of the Board she devoted her time and energy to lighting candles toward a better future for all children through improved education. Her positive input and impact on education in the Nation's Capital will be felt for a long time.

As a member of the Appropriations Committee, I have had the opportunity of working closely with this remarkable woman on education matters and always found her extremely knowledgeable and capable. Mrs. Allen possesses outstanding qualities of courage, perseverance, intelligence, independence, integrity, and hard work.

Mrs. Allen possesses a passionate and unyielding concern to make quality education happen in the Nation's Capital. She leaves her position on the Board of Education disappointed that she could not have accomplished more in her time on the Board. The departure of Mrs. Allen from the School Board leaves a deep void as her dedication and competence in the area of education will be difficult to duplicate.

CALL OF THE HOUSE

Mr. McFALL. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. BOGGS. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 419]

Abbitt
Anderson, Tenn.
Andrews, Ala.
Ashley
Baring
Belcher
Bergland
Blanton
Blatnik
Broyhill, Va.
Burton
Byrne, Pa.
Carey, N.Y.
Celler
Chamberlain
Chisholm
Clark
Clay
Collins, Ill.
Conyers
Davis, S.C.
Dellums
Dent
Derwinski
Diggs
Dowdy
Edwards, La.
Eilberg
Erlenborn
Evins, Tenn.
Foley
Fulton, Tenn.
Gallagher
Gray
Gubser
Halpern
Hanna
Hébert
Heckler, Mass.
Horton
Jones, N.C.
Karth
Landrum
Lent
McClory
Macdonald, Mass.
Mills, Ark.
Nelsen
Pepper
Price, Ill.
Pryor, Ark.
Railsback
Randall
Reid, N.Y.
Riegle
Rodino
Ryan
Scheuer
Sikes
Sisk
Springer
Symington
Wilson, Charles H.
Wright
Yates

The SPEAKER. On this rollcall 365 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Geisler, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills and a joint resolution of the House of the following titles:

On November 18, 1971:

H.R. 1680. An act to extend for an additional temporary period the existing suspension of duties on certain classifications of yarn of silk;

H.R. 5060. An act to amend the Fish and Wildlife Act of 1956 to provide a criminal penalty for shooting at certain birds, fish, and other animals from an aircraft;

H.R. 8629. An act to amend title VII of the Public Health Service Act to provide increased manpower for the health professions, and for other purposes;

H.R. 8630. An act to amend title VIII of the Public Health Service Act to provide for training increased numbers of nurses; and

H.R. 11418. An act making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1972, and for other purposes.

On November 20, 1971:

H.J. Res. 946. Joint resolution making further continuing appropriations for the fiscal year 1972, and for other purposes.

November 23, 1971: H.R. 155. An act to facilitate the transportation of cargo by barges specifically designed for carriage aboard a vessel.

On November 24, 1971: H.R. 4729. An act to amend section 2107 of title 10, United States Code, to provide additional Reserve Officers' Training Corps scholarships for the Army, Navy, and Air Force, and other purposes;

H.R. 6723. An act to provide subsistence allowances for members of the Marine Corps officer candidate programs;

H.R. 6724. An act to amend section 209(a) and (b) of tile 37, United States Code, to provide increased subsistence allowances for Senior Reserve Officers' Training Corps members;

H.R. 7950. An act to repeal sections 3692, 6023, 6025, and 8692 of title 10, United States Code, with respect to pilot rating requirements for members of the Army, Navy, Marine Corps, and Air Force; and to insert a new section 2003 of the same title; and

H.R. 8656. An act to amend titles 37 and 38, United States Code, relating to promotion of members of the uniformed services who are in a missing status.

On November 27, 1971: H.R. 7072. An act to amend the Airport and Airway Development Act of 1970 to further clarify the intent of Congress as to priorities for airway modernization and airport development, and for other purposes.

PERSONAL EXPLANATION

(Mr. DRINAN asked and was given permission to extend his remarks at this point in the Record.)

Mr. DRINAN. Mr. Speaker, on rollcall No. 417 yesterday, the amendment by Mr. Danielson, I am recorded as having voted "aye." I had intended to vote against this amendment, which was intended to strike that portion of the amendment by Mr. Harvey which requires the filing of campaign statements in U.S. district courts. The vote on rollcall No. 417 was 230 ayes, 154 noes.

PERSONAL EXPLANATION

(Mr. DULSKI asked and was given permission to extend his remarks at this point in the Record.)

Mr. DULSKI. Mr. Speaker, I was absent on official business and missed 20 rollcalls and nine quorum calls. Had I been present and voting I would have voted "yea" on rollcalls Nos. 379, 380, 385, 386, 387, 388, 389, 390, 395, 398, 401, 402, and 406. I would have voted "nay" on rollcalls 378, 382, 383, 384, 391, 399, and 400.

CONFERENCE REPORT ON S. 1483, FARM CREDIT ACT OF 1971

Mr. POAGE. Mr. Speaker, I call up the conference report on the bill (S. 1483) to further provide for the farmer-owned cooperative system of making credit available to farmers and ranchers and their cooperatives, for rural residences, and to associations and other entities upon which farming operations are dependent, to provide for an adequate and flexible flow of money into rural areas, and to modernize and consolidate existing farm credit law to meet current and future rural credit needs, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of November 19, 1971.)

Mr. POAGE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today I present to the House the conference report on the Farm Credit Act of 1971. I believe the House has every reason to be pleased with the work of the House conferees because we emerged from conference with the House version virtually intact. There were 25 substantive differences between the House and Senate bills and the House bill prevailed except on one of the points, and that is listed as No. 5a on page 50 of the conference report.

When this legislation passed the House, I advised my colleagues during debate that the bill I sponsored with Mr. BELCHER, Mr. MCMILLAN, and Mr. CHARLES TEAGUE was the result of compromise between those segments of the Farm Credit System that supported the original bill introduced by Mr. MCMILLAN and those that preferred the version introduced later by Mr. CHARLES TEAGUE and me. Informal meetings were held in an effort to get together on a new bill. Messrs. TEAGUE, MCMILLAN and I met with representatives of the differing segments of the Farm Credit System and a representative of the Governor of the Farm Credit System. I would like to say now that all who were present at these meetings expressed their position in an honest and straightforward manner. A sincere spirit of compromise prevailed and the result was the introduction of a new bill which passed this House on November 1, 1971, by a vote of 331 to 19.

We then went to conference and we are most grateful that the Senate conferees understood the hard work we had done in this body to reach a concensus of opinion. The Senate conferees, taking note of the fact that the Farm Credit System generally supported the House version, recognized that we had already had what might be called a "conference" on the bill. Therefore, a general endorsement of the House bill occurred in conference, and the conference report before us today is essentially the House-passed bill. I want to commend the Senate conferees for their willingness to recognize the unique position of the House conferees.

I shall not take the time of the House to elaborate on the substance of the conference agreement. The details are included in the statement of managers. I would only mention that there was considerable controversy over the House report language dealing with the insurance services which should be rendered by Farm Credit System lenders to their members. The House report language was quite restrictive while the Senate report was silent on the issue. In conference, we worked out report language which we feel will permit the Farm Credit System to adequately serve its borrowers without endangering legitimate insurance agents and companies with unfair competition. Our conference report language makes it clear that a Farm Credit System borrower could not be forced to purchase insurance through the system but would be advised by the system lender that he has an option of purchasing it elsewhere if he so desires. The conference report language on insurance is designed to assure that the Farm Credit System does not venture into areas of insurance activity that are not directly related to the loans involved.

Mr. Speaker, this is a good conference report. We have before us landmark legislation designed to assist rural America. This Farm Credit System is a magnificent story of success and accomplishment. The legislation will help satisfy the credit needs of America's rural areas. I, therefore, urge the House to approve the conference report.

Mr. TEAGUE of California. Mr. Speaker, will the gentleman yield?

Mr. POAGE. I yield to the gentleman from California.

Mr. TEAGUE of California. Mr. Speaker, I thank the gentleman for yielding.

I only wish to state that the gentleman from Oklahoma (Mr. BELCHER) and I were members of the conference committee, and we both signed the report. Unfortunately, the gentleman from Oklahoma (Mr. BELCHER) cannot be here today.

I should like to repeat what the distinguished chairman, the gentleman from Texas (Mr. POAGE) has said, that the Senate receded in 24 out of the 25 differences between the two Houses, so I, too, believe that we have brought back to the House essentially the same bill we passed here a few weeks ago, and I recommend that the conference report be adopted.

Mr. HALL. Mr. Speaker, will the gentleman yield?

Mr. POAGE. I yield to the gentleman from Missouri.

Mr. HALL. Mr. Speaker, I wonder if the distinguished chairman of the Committee on Agriculture would enlighten the Members about the one difference in which the opinion of the House did not prevail, and I am particularly interested in whether it will cost the taxpayers more and/or whether or not it was germane to the House-passed bill.

Mr. POAGE. Mr. Speaker, in reply to the inquiry of the gentleman from Missouri, I would state that it relates to the business done by cooperative entities with nonmembers. The Senate excludes from the 50 percent of the business with nonmembers services and supplies furnished as public utilities, and the House accepted that provision.

Mr. HALL. Mr. Speaker, I appreciate the explanation given by the gentleman from Texas. This in no wise did any damage to the individual voting on marketing orders, and so forth; vis-a-vis the cooperatives voting en banc, for them?

Mr. POAGE. The answer is "No."

Mr. HALL. Mr. Speaker, I thank the gentleman.

Mr. MELCHER. Mr. Speaker, will the gentleman yield?

Mr. POAGE. I yield to the gentleman from Montana.

Mr. MELCHER. Mr. Speaker, as the distinguished chairman of the committee will recall, we in committee voted on the question of what type of insurance we would allow the PCA's to sell. I think our committee vote was about 15 to 2 to limiting PCA's only to handling credit life insurance. I am interested in determining what the intentions of the committee on conference were in this field.

Mr. POAGE. The conference report points out that we proposed to continue the same procedure we have had in the past as far as the writing of insurance by the associations is concerned.

Mr. MELCHER. Would this limit it in any way?

Mr. POAGE. It does not limit it, and it does not expand it. We did not change that by law, and the report simply attempts to carry out the same practices that we have been following.

Mr. MELCHER. But it goes beyond credit life insurance?

Mr. POAGE. Some of the associations have been writing more than credit life insurance; they have been writing hail, and they have been writing several types of insurance.

Mr. MELCHER. This, then, is the concession that the House conferees gave to the Senate conferees?

Mr. POAGE. I would not say that it is. There was no change whatever in the law on this point. We did not make any concessions to the Senate there. But in writing the report we do attempt to make clear that we intend to allow the sale of what they have been selling in the past.

Mr. MELCHER. But no more?

Mr. POAGE. But no more.

Mr. MELCHER. Mr. Speaker, I thank the gentleman.

Mr. POAGE. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

FIFTEENTH ANNUAL REPORT OF PRESIDENT ON TRADE AGREEMENTS PROGRAM — MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 92–178)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Ways and Means and ordered to be printed:

To the Congress of the United States:

In accordance with Section 402(a) of the Trade Expansion Act of 1962, I transmit herewith the Fifteenth Annual Report of the President on the Trade Agreements Program. This report covers the year 1970.

World trade in 1970 maintained a high rate of growth for the third successive year, reaching over $279 billion. In the case of the United States, exports rose by approximately 14 percent while imports were up 11 percent. While this performance yielded a merchandise trade surplus of over $2 billion as compared with $624 million and $660 million in 1968 and 1969, respectively, the improvement fell far short of the level required for the United States to restore a sound balance of payments position.

Throughout the year U.S. representatives actively sought the cooperation of our major trading partners in the reduction of barriers to U.S. exports and in other measures that would enable our products to compete with those of other countries in both the U.S. and the world market. Some progress was made, but certain very significant problems remained unsolved. Domestically, monetary and fiscal policies contributed to a deceleration in price increases, but in some of our major product lines U.S. producers were not able to retain their share of the market at home or internationally.

At the close of 1970, the outlook for U.S. trade involved a number of uncertainties. Domestically, the most basic element was our ability to make further progress toward price stability. Abroad, the prospects were not clear with regard to levels of economic activity and rates of inflation in a number of industrialized countries. One of the most basic unknowns was the extent to which our major trading partners would recognize the seriousness and urgency of greater international cooperation on monetary reforms and other measures to facilitate balance of payments adjustment.

While we had hoped that these uncertainties could be favorably resolved without unilateral action, this was not the case and by mid-1971 the United States, for the first time in this century, faced the prospect of a deficit in its balance of merchandise trade. To deal with this situation and to achieve interrelated domestic goals, the New Economic Program was launched on August 15. With the cooperation of other major economic powers, I am confident that the deterioration in our merchandise trade balance, which was threatening at the end of 1970 and which reached intolerable proportions in the spring of 1971, will be sufficiently improved that the present U.S. surcharge on imports can be removed.

This Administration remains firmly committed to the goal of expanding world trade through the further reduction of national barriers to imports, the development of more equitable rules to govern export competition in international markets, and the elimination of discriminatory measures by trade blocs. The Program instituted in August will contribute to our basic trade policy objective by providing essential interim support to the domestic economy while more fundamental arrangements are being worked out to restore sound equilibrium with the rest of the world.

Improvement of the world trade and monetary systems has been given a high priority by this Administration. The United States stands ready to do its fair share in international efforts to achieve these ends. We expect other governments to respond with a similar sense of responsibility in the interest of promoting prosperity and amicable economic relations throughout the world.

RICHARD NIXON.

THE WHITE HOUSE, *December 1, 1971.*

PERMISSION FOR COMMITTEE ON MERCHANT MARINE AND FISHERIES TO FILE REPORT ON H.R. 10420 UNTIL MIDNIGHT SATURDAY

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that the Committee on Merchant Marine and Fisheries may have until midnight Saturday, December 4, to file a report on the bill (H.R. 10240), to protect marine mammals, to establish a Marine Mammal Commission, and for other purposes, which was reported unanimously from that committee this morning.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

Mr. GROSS. Mr. Speaker, reserving the right to object, I was unable to hear the gentleman. Will the gentleman tell us what this legislation is about.

Mr. DINGELL. Mr. Speaker, I was aware of the fact that my good friend, the gentleman from Iowa, was on the floor so I indicated that this is the bill for the protection of marine mammals, which was reported unanimously by the Committee on Merchant Marine and Fisheries. There is no controversy as to the bill as I understand it.

Mr. GROSS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

PERMISSION FOR THE COMMITTEE ON RULES TO FILE REPORTS

Mr. MATSUNAGA. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain reports.

The SPEAKER. Is there objection to the request of the gentleman from Hawaii?

There was no objection.

PROVIDING FOR THE CONSIDERATION OF H.R. 11589, FOREIGN SALE OF CERTAIN PASSENGER VESSELS

Mr. MATSUNAGA. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 697 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 697

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11589) to authorize the foreign sale of certain passenger vessels. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Merchant Marine and Fisheries, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman from Hawaii (Mr. MATSUNAGA) is recognized for 1 hour.

Mr. MATSUNAGA. Mr. Speaker, I yield 30 minutes to the gentleman from California (Mr. SMITH), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 697 provides for consideration of H.R. 11589, which, as reported by our Committee on Merchant Marine and Fisheries, would authorize the foreign sale of five U.S.-flag passenger vessels now in layup status, specifically excluding two other passenger vessels in similar inactive status. The resolution provides an open rule with one hour of general debate, after which the bill shall be read for amendment under the 5-minute rule.

Mr. Speaker, all seven of these ships were constructed with the aid of construction-differential subsidy. Under existing law, ships built with such aid must remain documented under the laws of the United States for a period of 25 years. None of these vessels has reached the end of such statutory period. Thus, specific statutory authority is needed to sell the five passenger vessels to foreign registry.

H.R. 11589 would authorize the foreign sale of the vessels SS *Brasil,* SS *Argentina,* SS *Constitution,* SS *Santa Paula,* and SS *Santa Rosa.* The sale of these vessels would be subject to the prior approval of the Secretary of Commerce, and the prospective purchaser must agree to certain restrictions, including the availability of the vessel to the United States in time of emergency and the noncarriage of passengers and cargo in competition with any U.S.-flag passenger ship for a period of 2 years.

The bill would specifically exclude from such foreign sale the ships SS *Independence* and SS *United States.* Although future plans for the *Independence* are not spelled out in the legislation, that vessel is to be acquired by

American interests for reactivation under the American flag as a cruise ship along the east coast. However, the sale cannot be consummated without a loan, and the present owners of the seven passenger vessels jointly have agreed to provide the option-holder a loan for purposes of acquiring the SS *Independence* if H.R. 11589 is enacted.

The legislation further provides for the purchase of SS *United States* by the Secretary of Commerce for layup in the National Defense Reserve Fleet.

Mr. Speaker, all seven passenger ships have been in layup status for periods extending from 1 year to 3 years. Their owners were compelled to inactivate them because of heavy losses incurred in their operation. Ironically, layup losses, although not as substantial, continue to be a serious financial drain on the shipowners. Not only is the financial well-being of the shipowners in jeopardy, but the ships are also rapidly deteriorating and it is feared that they may soon be worth very little on the world market.

Another important consideration is that the provisions of the bill relating to the first five-named vessels do not preclude their sale to American purchasers. In fact, since the layup of the vessels here involved, their owners have been willing to consider any offer from American interests. They are prepared to consider any future offers from U.S. citizens, but past experience shows that this legislation is the only real hope that the shipowners have to lift them out of their present financial dilemma.

Finally, the provisions of the bill require that the proceeds from any foreign sale be committed to construction of new vessels under the American flag. This is expected to stimulate activity in our sluggish shipyards and provide new seagoing employment.

Mr. Speaker, I urge the adoption of House Resolution 697 in order that H.R. 11589 may be considered.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. MATSUNAGA. I am happy to yield to the gentleman from Iowa.

Mr. GROSS. I thank the gentleman for yielding. A few minutes ago the gentleman obtained permission on behalf of the Rules Committee to have until midnight tonight to file certain reports. Do I correctly recall that the Rules Committee was supposed to have shut the door and gone out of business on October 1 or about October 1?

Mr. MATSUNAGA. I will inform the gentleman that this pertains to an appropriation measure.

Mr. GROSS. Even so, I thought the Rules Committee had said it was out of business on or about October 1. This happens to be December 1.

Mr. MATSUNAGA. The gentleman will recall that the Rules Committee did not shut its doors on emergency matters, and this happens to be an emergency matter.

Mr. GROSS. By what construction?

I withdraw that question, because an emergency can be just about anything that anyone wants to determine.

Mr. MATSUNAGA. I thank the gentleman for withdrawing his question.

Mr. GROSS. But what is this pending bill—a subsidy in reverse?

Mr. MATSUNAGA. It is a bill which has been made necessary because of existing circumstances. The gentleman may, of course, raise the same question when the bill is being considered in the Committee of the Whole, but the word we got in the Rules Committee—and I have been convinced of it—is the dilemma in which the shipowners find themselves is in desperate need of a solution and the only solution appears to be this bill.

Mr. GROSS. In other words, they have priced themselves out of the market?

Mr. MATSUNAGA. I suppose the gentleman might say that might be one reason; some seem to think it is a lack of American ingenuity.

Mr. GROSS. And now they want the taxpayers to answer their SOS.

Mr. MATSUNAGA. In certain respects this would relieve the taxpayer in that it would prevent further losses on the part of the shipowners, and if the losses are permitted to continue, the shipowners may come in for increased fares in other areas, which may mean increased taxes on the taxpayers in the form of higher fares.

Mr. GROSS. My friend, the gentleman from Hawaii, never spoke truer words in his life than when he said it will relieve the taxpayers.

Mr. MATSUNAGA. Mr. Speaker, I thank the gentleman from Iowa for his sage observation.

I yield to the gentleman from California (Mr. SMITH).

Mr. SMITH of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as stated by the gentleman from Hawaii, House Resolution 697 does provide for an open rule with 1 hour debate for consideration of H.R. 11589. This matter originally came to the Rules Committee under H.R. 10577, a similar type bill, which had seven ships included. We met in the Rules Committee on October 14, and a majority of us did not think it was good legislation or necessary this year. In any event, we deferred it, on October 14. Within 24 hours more lobbying started on behalf of this bill than on any I have seen for some time. One would think this was going to be the salvation of 20 or 30 transport ships. There is not going to be enough money to build many transports or freighters.

I guess that the Merchant Marine and Fisheries Committee felt they could not get all seven, so they took the *United States* out and one other, and reported a clean bill H.R. 11589. It came before the Rules Committee on November 9, was reported and is here today.

Maybe this is the only thing we can do. We have millions of dollars tied up in these ships. I would like to put some of these in mothballs. We may need them some time in the future. We would be selling them for little more than the mortgages. I do not think we should dispose of these ships, but if that is what everybody wants to do, I guess this is what will prevail. If some of the labor bosses would be more reasonable, we could compete with foreign ships and provide many jobs for Americans.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. SMITH of California. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, I thank the gentleman for his explanation of what happened on this rule. On this rule apparently an emergency was created by the lobbyists.

Mr. SMITH of California. No; this bill was reported out originally before October 1.

Mr. GROSS. I know, but the Rules Committee gave it a rule on October 14. Previously there was no rule.

Mr. SMITH of California. We agreed to hear the bills that were there by October 1. The letter that went out to the chairmen stated that anything after October 1, if it was an emergency or a procedural matter could be heard. We have had several of them coming out of the Appropriations Committee, and we have to help them out. One has to do with waiving points of order on a supplemental. If we do not do that, we will not adjourn this year. On the foreign aid we might have to have a rule on that waiving points of order because the conferees may not agree on the authorization.

Mr. GROSS. The best way to settle that is just not to have any foreign aid bill at all. Let it sink of its own multibillion-dollar weight.

Mr. SMITH of California. That is not going to happen, I will say to the gentleman from Iowa.

Mr. Speaker, I reserve the balance of my time.

Mr. MATSUNAGA. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 11341, DISTRICT OF COLUMBIA REVENUE ACT OF 1971

Mr. McMILLAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 11341) to provide additional revenue for the District of Columbia, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from South Carolina? The Chair hears none, and appoints the following conferees: Messrs. MCMILLAN, ABERNETHY, CABELL, NELSEN, HARSHA, and BROYHILL of Virginia.

FOREIGN SALE OF CERTAIN PASSENGER VESSELS

Mr. GARMATZ. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11589) to authorize the foreign sale of certain passenger vessels.

The SPEAKER. The question is on the motion offered by the gentleman from Maryland.

The motion was agreed to.

The SPEAKER. The Chair requests the gentleman from New Jersey, Mr. DANIELS, to temporarily assume the chair.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 11589, with Mr. DANIELS of New Jersey (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN pro tempore. Under the rule, the gentleman from Maryland (Mr. GARMATZ) will be recognized for 30 minutes and the gentleman from Washington (Mr. PELLY) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Maryland.

Mr. GARMATZ. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise to urge passage of H.R. 11589, a bill which would authorize the sale to foreign registry of certain laid-up U.S.-flag passenger vessels; namely, the SS *Brasil*, SS *Argentina*, SS *Constitution*, SS *Santa Paula*, and SS *Santa Rosa*. This same bill would authorize and direct the Secretary of Commerce to purchase the SS *United States* from its present owners at its depreciated book value less the outstanding mortgage and place it in the reserve fleet either for use in time of national emergency or for sale or charter to a prospective operator for service under the American flag.

When we opened our hearings in April of this year, I announced that it was the purpose of the committee to explore every possible way in which these vessels could be returned to service under the American flag. I referred to a commitment I made during the course of the hearings on the Merchant Marine Act of 1970 to the effect that I would do everything possible to revitalize our passenger fleet. Thereafter, we invited all those in labor, management and Government who were directly or indirectly connected with passenger ship operations to tell us how, if at all, one or more of these ships could be returned to service.

The testimony was most discouraging. No one could suggest a feasible way in which the ships could be operated profitably without a tremendous infusion of Government money.

There was agreement on all sides that the advent of the jet airplane had rendered point-to-point service by passenger ships an impossibility. The evidence established that these vessels were not built as cruise ships and could not be expected to compete competitively in the cruise trades.

The record further established that the companies owning these vessels were in a hopeless dilemma. Under the law, they could only sell these vessels to approved American buyers during the statutory life of the vessels, which under the Merchant Marine Act is 25 years. There were no prospective American buyers with the necessary capital and experience. Some offers had been made but, by and large, there was a complete absence of cash in the hands of the prospective buyer. Generally, he wanted the owning companies to do the financing for him.

We concluded our hearings on May 20 of this year, but notwithstanding the hopeless picture outlined by the various witnesses, we held off the introduction of this type of legislation in order that anyone not yet heard from could come forth with a feasible pro forma operating statement to revive these vessels. No one appeared. Thus, in September of this year, the committee was forced to conclude that the only course open was to permit the foreign sale of these vessels.

Originally, a bill was introduced to cover the seven laid-up passenger vessels; namely, the SS *Brasil*, SS *Argentina*, SS *Constitution*, SS *Santa Paula*, SS *Santa Rosa*, SS *Independence*, and SS *United States*. However, during the legislative course of action on this bill, agreement was reached between the unions and management which would make possible the sale of the SS *Independence* to an interested American buyer who proposed to use this vessel for cruising. This compromise agreement further contemplated that the U.S. Government would purchase the SS *United States* and place it in the reserve fleet.

Accordingly, I introduced, together with 22 cosponsors, the present bill, H.R. 11589, which, as I have indicated, is designed to carry out the compromise agreement reached between the unions and management.

I recognize that the union involved, the National Maritime Union, has now disavowed this agreement. It certainly was my understanding at the time the bill was drawn that they recognized that this was the only feasible solution. I wish to emphasize that the proceeds from the sales of these vessels is required to be put toward construction of new cargo vessels; that there is nothing in this bill to prevent sales to American owners, if anyone is, or becomes, interested; that any delay in the passage of this bill may very well render the vessels obsolete even for sale to foreign interests so that they will have to be scrapped; and that this bill was reported out of my committee by a vote of 23 yeas, with one member voting "present."

There are many aspects to this bill by way of background information to justify its favorable consideration by this body. I have asked several of my colleagues on the committee to briefly outline these points and at this time I yield to Mr. DOWNING, of Virginia.

Mr. DOWNING. Thank you, Mr. Chairman.

This is a sad day but one which we must face up to. I think the situation is pretty well summed up in a telegram which we received this morning from the owners of these vessels. Of course, you have to consider that they are the ones who will be primarily benefited, but I think they put it pretty much in perspective. They said:

> H.R. 11589, that would authorize sale of five U.S. passenger ships abroad, is the only viable alternative to a desperate situation. Contrary to telegram from AFL-CIO, this bill would not result in the loss of jobs for any U.S. workers. The vessels are all laid up and have been for some time. Defeat of H.R. 11589 will not bring back these jobs.
>
> There is no way that these vessels can be operated under the American flag without enormous subsidy payments.
>
> All interested persons had ample opportunity to be heard before House Merchant Marine and Fisheries Committee and no feasible plan to operate the vessels was presented. Defeat of H.R. 11589 will benefit no one as a matter of fact.
>
> Failure of this legislation to pass will prevent the reinvestment of the net proceeds of the sale of these vessels into new cargo ship construction, which would create badly needed employment for our shipyards, seamen and related industries. It is imperative that the owners of these vessels, who are already financially distressed, be given the opportunity to convert these idle and deteriorating assets into productive American flag cargo ship operations, to the benefit of labor, management and the American economy. We urge your support of H.R. 11589.

I think that pretty well sums it up.

Our committee held hearings on this since April. We have wrestled with the problem.

Mr. FISHER. Will the gentleman yield?

Mr. DOWNING. Yes. I yield to the gentleman.

Mr. FISHER. Can the gentleman inform the Committee as to the cost or the approximate cost to the present owners of these ships of maintaining them in their present status?

Mr. DOWNING. I will be delighted to, and I think that is pertinent information.

These vessels cost approximately $1.5 million a year in layup.

They are gradually draining the owners of any financial capability of operating not only the passenger lines but their cargo operations. That is the reason for this bill being brought up under an emergency status.

Mr. FISHER. So, the total amount of maintaining the five ships is $1 million a year?

Mr. DOWNING. Well, if you want to take the total amount, I am told that is $6 million.

Mr. FISHER. I see. That is for all of them?

Mr. DOWNING. Yes.

Mr. FISHER. That is the information I wanted.

Mr. DOWNING. The mortgages on these vessels are due and owed to the United States in the total sum of $3.6 million, which amount will be paid to the United States when the vessels are sold.

Mr. MAILLIARD. Mr. Chairman, will the gentleman yield?

Mr. DOWNING. I yield to my colleague from California.

Mr. MAILLIARD. I understand that the layup cost on the ships that remain is a little bit over $4 million a year total on all the ships.

Mr. DOWNING. The cost of the layup for the seven ships I am told is $6 million.

Mr. MAILLIARD. Yes, but two of the ships have been taken out of the bill.

Mr. DOWNING. That is correct.

Mr. MAILLIARD. And the remainder is about $4.5 million?

Mr. DOWNING. Yes, that is correct, if you deduct the money on the *Independence* and the *United States*.

Mr. SMITH of New York. Mr. Chairman, will the gentleman yield?

Mr. DOWNING. Yes. I yield to the gentleman from New York.

Mr. SMITH of New York. Some reference was made to the fact that these ships are deteriorating badly even though they are being maintained at a cost of about $1 million a year; is that correct?

Mr. DOWNING. The evidence which was presented to the committee was to the effect that these ships are deteriorating. They are becoming more obsolete, and if we keep them too much longer, even the foreign interests will not want to buy them.

Mr. SMITH of New York. How long has it been since these ships have been in operation?

Mr. DOWNING. The ships have been in a layup status anywhere from a year to 2 years or an average of 18 months.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. DOWNING. Yes, I yield to the gentleman from Iowa.

Mr. GROSS. What do the taxpayers have invested in these vessels? I guess we could figure it out without too much difficulty. We have the total original cost.

Mr. DOWNING. The total cost to the taxpayers was $27 million for the *Independence* and the *Constitution,* $24 million for the *Argentina* and *Brasil,* and $21 million for the *Santa Rosa* and the *Santa Paula,* and $40 millon for the *United States.*

Mr. GROSS. And, if the gentleman will yield further, what is the anticipated amount that the sale of these vessels will bring?

Mr. DOWNING. The original estimate on the seven vessels was $34 million, but we are taking the *United States* and the *Independence* out. That leaves a total including the *United States,* of $25 million.

Mr. GROSS. A total of $25 million for all of those ships?

Mr. DOWNING. Yes.

Mr. GROSS. That is the ships that would be sold?

Mr. DOWNING. That is right. That money will be reinvested in new ship construction. It has to be under this bill.

Mr. GROSS. How about making an exception to the law and return the $25 million to the U.S. Treasury that has no money?

Mr. DOWNING. The unpaid mortgage amounts to approximately $18 million, and this money will be refunded.

Mr. GROSS. Mr. Chairman, if the gentleman will yield further, I would like to think that the taxpayers would be able to recapture something out of this sale rather than for it to go into other subsidized construction of cargo vessels. These ships were heavily subsidized by the taxpayers in the first place. Now they are going down the drain and the taxpayers will be called upon to subsidize the construction of additional vessels.

Mr. DOWNING. The taxpayers will recapture only $3.6 million, but the funds generated will put men to work in shipyards and on board the ships and help our balance of payments. It is the only solution which the committee knows to handle the problem.

Mr. GROSS. Is this a make-work program?

Mr. DOWNING. I beg the gentleman's pardon.

Mr. GROSS. Is this a make-work program?

Mr. DOWNING. No, it is not a make-work program, although it will create work for U.S. seamen.

Mr. GROSS. I might have said, another welfare program in disguise.

Mr. DOWNING. No, it is not.

Mr. Chairman, I do hope that the House sees fit to pass this legislation.

Mr. Chairman, I rise in strong support of H.R. 11589, and wish to point out to the House that although there are seven U.S.-flag passenger vessels in layup only five are included within the sale-foreign provisions of the bill.

H.R. 11589 generally provides, that with the prior approval of the Secretary of Commerce, the laid up U.S.-flag passenger vessels SS *Brasil,* SS *Argentina,* SS *Santa Paula,* SS *Santa Rosa,* and SS *Constitution* may be sold foreign, subject to certain conditions intended to protect the interests of the United States and insure that the net sale proceeds will be used to construct new U.S.-flag tonnage.

The laid up U.S.-flag passenger vessels SS *Independence* and SS *United States* have been excluded from the sale-foreign provisions of the bill.

The SS *Independence* has been excluded from the bill because there is an option outstanding on behalf of Wall Street Cruises, Inc., to buy this vessel for operation under the American flag in the cruise trade. Your committee has concluded that Wall Street Cruises, Inc., should be given an opportunity to exercise this option and a chance to make a go of it in the cruising trades.

With respect to the SS *United States,* this vessel contains numerous defense features, and was designed to serve as a commercial passenger vessel in peacetime and a troop carrier in wartime. The best interests of the United States can be best protected with respect to this vessel by the Government purchasing it for layup in the National Defense Reserve Fleet. H.R. 11589 would generally require the Secretary of Commerce to purchase the SS *United States* from its owners at its depreciated book value; cancel the outstanding mortgage; and require the net proceeds to be used for new ship construction. The cost to the Government will be approximately $12 million. This $12 million is made up of an outstanding mortgage of $6.8 million which will be canceled, and an allowance of credit for new ship construction of approximately $5.2 million. This cost will permit the Government to retain this magnificent naval auxiliary so that it will be readily available in times of national emergency.

Mr. Chairman, I strongly urge the House to support H.R. 11589.

Mr. YATES. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 420]

Abbitt
Anderson, Tenn.
Andrews, Ala.
Baring
Belcher
Bergland
Blackburn
Blanton
Blatnik
Boggs
Bray
Brotzman
Broyhill, Va.
Burton
Byrne, Pa.
Carey, N.Y.
Celler
Chisholm
Clay
Cleveland
Conable
Culver
Davis, S.C.
Davis, Wis.
Dent
Derwinski
Dickinson
Diggs
Dowdy
Dulski
Edwards, Ala.
Edwards, La.
Eilberg
Erlenborn
Evins, Tenn.
Fulton, Tenn.
Gallagher
Gettys
Gray
Grover
Gubser
Halpern
Hanna
Hansen, Wash.
Harsha
Hawkins
Hébert
Hogan
Horton
Howard
Karth
Landrum
McClory
McFall
Mills, Ark.
Monagan
Moorhead
Nedzi
Nelsen
Pepper
Pirnie
Powell
Price, Ill.
Pryor, Ark.
Railsback
Randall
Reid, N.Y.
Riegle
Rodino
Satterfield
Scheuer
Sikes
Sisk
Smith, Calif.
Springer
Whitehurst
Wilson, Bob
Wilson, Charles H.
Wolff
Wright

Accordingly the Committee rose; and the Speaker pro tempore (Mr. Bolling) having assumed the chair, Mr. Daniels of New Jersey, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 11589, and finding itself without a quorum, he had directed the roll to be called, when 350 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from California (Mr. Mailliard).

Mr. MAILLIARD. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I join with the distinguished chairman of the Committee on Merchant Marine and Fisheries (Mr. Garmatz) in support of H.R. 11589. We have both, I am sure, reached this decision reluctantly and only after long and hard examination of the alternatives to this legislation.

Whether we like it or not, Mr. Chairman, an era has ended. Passenger ship travel epitomized by the great trans-Atlantic liners such as the *Queen's,* the *France,* and our own SS *United States* has been eclipsed by the 707 and more recently the 747 which permit thousands of people to cross the Atlantic daily in a matter of hours.

The Merchant Marine Act of 1936 requires that every vessel built with the aid of construction-differential subsidy must remain documented under the laws of the United States for a period of 25 years. In general, this is a salutory requirement insuring that subsidized vessels are not transferred foreign while they are still capable of providing efficient and economical transportation in the foreign commerce of the United States under the American flag. It is this provision in the law that we are concerned with today. Of the five laidup ships which could be sold foreign pursuant to this legislation, the *Constitution* will reach the 25-year mark in 1976, the

Brasil, *Argentina*, *Santa Paula*, and *Santa Rosa* will reach the 25-year limit in 1983. With the exception of the *Constitution* which is nearing the end of its economic life, these ships may be categorized as middle aged.

These ships have been withdrawn from active service for one very fundamental reason. They lose money. For example, since 1958 the *Brasil* and the *Argentina* have lost almost $20 million after payment of approximately $65 million in operating subsidies. The *Constitution* and its sister ship, the *Independence*, lost over $2½ million after a subsidy of $120 million up to their last year of operation. During their last year of active service, they incurred a loss of $6 million after a subsidy of $8 million. Although the *Santa Rosa* and *Santa Paula* showed an overall profit of $3.2 million after subsidy of $54 million until their layup, this profit picture was deteriorating rapidly. During their last year of operation they incurred a net loss of $2 million. These are losses which no company can afford to sustain indefinitely. The simple answer, of course, would be for the Federal Government to pick up a greater share of the cost by increasing the amount of operating subsidy. The Maritime Administration, however, estimates that it would cost over $80 million annually in subsidy to place our seven idle passenger ships back in operation. Can we really justify such an outlay in order to maintain a handful of passenger ships plying between Miami and the Caribbean under the American flag? I think not. While a great many vacationers embarking upon a 2-week cruise of the Caribbean might prefer to sail on an American-flag ship, it is equally true that a very large percentage of those who are inclined to travel by ship prefer the atmosphere—the national flavor—of foreign-flag ships. To preserve the American tourists' option of traveling on U.S.-flag ships at a cost of $80 million to the taxpayers seems to me to be an unreasonable request of an already heavily overtaxed people.

The Committee on Merchant Marine and Fisheries heard testimony from both the owners and unions on the cost of putting these ships back into service. Their estimates were so far apart as to be irreconcilable. From the management standpoint, it appears that the ships could not operate profitably even with the Federal Government paying the entire labor cost. A union spokesman on the other hand, told us that the ships could indeed be placed back into service and operated profitably with less subsidy than was paid prior to their layup. Between these two extremes, we have the estimate of the Maritime Administrator, and under the circumstances, I feel we have no choice but to accept his estimate.

The high cost of operating passenger ships is not, of course, unique to the United States. As the report of your committee indicates, point-to-point passenger ship operation in an essentially transportation capacity has declined drastically during the past decade. All of the major foreign passenger ship operators have abandoned the transportation aspect of passenger ship operations. The Italian line operating the largest single fleet of passenger ships withdrew from the North Atlantic last winter. Government subsidy for the Italian line passenger ships is reported to be in the neighborhood of $113 million a year with a drastic increase required to keep these ships in service. The Holland-America Line has taken the extreme measure of replacing the Dutch crews on its ships with Indonesians, who are reportedly paid $60 a month. Paying wages of this sort, the Holland-America Line will be able to keep its ships operating in the cruise trades of Europe and the United States. These ships have, for all practical purposes, become floating hotels intended to provide a convenient means of visiting a number of islands or other resort-oriented areas without the inconveniences associated with airline travel such as packing and unpacking at each point on the trip. The personnel employed on these ships are largely hotel-type employees. The number of seamen—those concerned with the sailing of the vessel—are relatively few.

What then are our alternatives, Mr. Chairman? First of all, we could retain the status quo. There is no indication that the owners of these ships have either the financial means or the interest in placing these ships back into service without massive subsidy. The ships, therefore, will continue to lie at anchor or tied to a pier somewhere until they are sold for scrap or reach their 25-year statutory life. In the meantime, the owners will be confronted with annual layup costs of almost $5 million and a total cost of almost $49 million. It can be safely assumed, I believe, that by the time these ships have completed their 25-year life span, their only value will be for scrap. A continuance of the status quo, therefore, seems to be an unacceptable choice serving no one.

The second alternative I have already touched upon—that is to place these ships back into service under the American flag. Assuming that the Maritime Administrators' estimate of cost is accurate, we must accept responsibility for a substantial increase in appropriations for passenger vessel operating subsidy. After all the flag waving and sentimentality has been laid aside, I doubt that many of us are willing to undertake to justify to the American people the expenditure of at least $80 million to provide floating hotel service under the American flag. In this regard also, the bill before us exempts the SS *Independence* which is the subject of a contract of sale to an American cruise promoter. I am hopeful that Wall Street Cruises will be able to operate the *Independence* successfully. It appears that Wall Street Cruises has the necessary expertise in this field to undertake the operation of this ship, and for this reason your committee determined to remove the *Independence* from the coverage of this legislation. Others have come forward from time to time with proposals for the operation of one or more of the ships encompassed within this legislation, but in each instance it has developed that the promoter has little or no capital to invest, nothing to risk and expects either the existing owner of the ship or the Federal Government to bear all the risk involved. Your committee, therefore, has concluded, and I believe correctly, that there is no reasonable likelihood that any of these five ships can be returned to service under the U.S. flag on a basis which is financially acceptable to the owners, the Maritime Administration, and the American taxpayer.

Another alternative, Mr. Chairman, would be to place all of these ships in the national defense reserve fleet for use in time of emergency as troop transports. While it is a fact that no other means of transportation can move as many men at one time, the concept of large troopships also has been eclipsed by the jet airplane and other technological changes. Of the ships now in layup status, only the SS *United States* has the requisite speed which would enable a troopship to operate independently in this era of atomic submarines. Even its high speed may well be matched in the near future. Certainly we could not put thousands of troops on a ship such as the *Constitution* with a top speed of less than 25 knots when submarines now in service are capable of underwater speeds far in excess of that. During periods of less than total mobilization when cost factors may still be relevant, the transportation of military personnel by air has proven to be infinitely cheaper. For example, the Department of Defense estimates the cost of transportation by air from the west coast to the Far East at $200, including pay for the period of travel. The corresponding figure for sea transportation is over $1,100. Because of its great speed and capacity, your committee has determined that the cost of placing the *United States* in the reserve fleet is justified. No similar argument can be made, however, for the much slower vessels which this legislation authorizes to be sold.

The final alternative, Mr. Chairman, is the one which we have chosen to permit the sale of these ships to foreign owners before they complete their statutory 25-year life. It is true that there is a large and growing cruise business from the United States which has attracted many foreign-flag ships—most notably, of course, in the trade between the east coast and the Caribbean. New ships are being built for this service—relatively small one-class vessels designed as floating hotels for tropical climates. There is a market for older ships as well, but this is basically a temporary market which will exist only until sufficient new construction designed for this floating hotel business has entered service. As these new economical ships become available, the market for older transportation-oriented passenger ships will dry up. If we do not authorize the foreign sale of our laid-up passenger ships at this time, whatever market there may be for them will disappear, and they will remain in layup until they are scrapped. There is a contract outstanding on the SS *Argentina* and *Brasil* which will lapse at the end of 1971. Whether other buyers for these ships can be found after that is highly questionable. Accordingly, Mr. Chairman, I sincerely feel that we must act now. I fully realize that this is a difficult piece of legislation for many of my colleagues to accept. I share with them a sense of loss over the passing of these ships and with that passing, the virtual close of one of the most interesting chapters in our maritime history.

In conclusion, Mr. Chairman, the Committee on Merchant Marine and Fisheries has carefully analyzed all of the alternatives which I have discussed. The overwhelming majority of the members of the committee have concluded, as I have, that this legislation must be enacted in order to relieve the owners of the continued burden of maintaining these ships in layup. Any moneys derived from their sale must be invested in new American-flag ships which will provide employment for American seamen and will contribute in a positive fashion to our balance-of-payments picture. Mortgages on these ships totaling $18.5 million will be paid off. This is a step that none of us relish, but it is the only responsible course of action we can take. I, therefore, urge all of my colleagues to join with the committee in support of this bill.

Mr. GARMATZ. Mr. Chairman, will the gentleman yield?

Mr. MAILLIARD. I yield to the distinguished chairman of the committee.

Mr. GARMATZ. Mr. Chairman, the gentleman from California (Mr. MAILLIARD) has spoken about the various other countries having the same problem, and in that connection I would like to read from an article published in the NMU Pilot, which quotes a statement made by Victor Matthews:

QUEEN ELIZABETH II MAY BECOME A FLOATING HOTEL

The future of the SS Queen Elizabeth 2, flagship of the Cunard fleet, may be that of a "floating hotel" instead of in the transatlantic passenger service, according to Victor Matthews, managing director of Trafalgar House Investments, owners of the Cunard ships. He said he felt there was a future in using the vessel as a floating hotel. Matthews added, "We are committed to this ship. It is the finest in the world, the last of its kind, but I would not order another one." He claimed the QE-2 Would be kept on its present transatlantic program for the next 12 months. When asked about the new Cunard liner, Cunard Adventurer, due to enter service shortly, Matthews admitted that he was stuck with it but added that he thought it would be successful in the cruise trade in the Western Hemisphere.

Mr. MAILLIARD. I thank the gentleman. I think that gives a fair picture of what the situation is. The people just are not traveling on ships for point-to-point transportation, but when they do travel on ships, they are traveling for recreational purposes, and not for point-to-point transportation.

Mr. HALEY. Mr. Chairman, will the gentleman yield?

Mr. MAILLIARD. I yield to the gentleman from Florida.

Mr. HALEY. Did I understand the gentleman to say that at the expiration of 25 years these ships would have been completely subsidized, and could be sold without any action on the part of the Congress?

Mr. MAILLIARD. That is correct. At the end of the statutory time that we have set by law of 25 years then there is no further prohibition against their being sold.

Mr. HALEY. How old are these ships at the present time?

Mr. MAILLIARD. I do not have the exact figures with me, but they run from about 20 years old down to 13 years.

Mr. GARMATZ. Mr. Chairman, if the gentleman will yield, I have those figures:

The *Independence* is 20 years old, the *Constitution* is 20 years old, the *Argentina* is 13 years old, the *Brasil* 13 years old, the *Santa Paula* 13 years old, the *United States* 19, and the *Santa Rosa* 13 years old.

Mr. HALEY. If the gentleman will yield further: So in any event these ships could be sold in the next 8 or 10 years?

Mr. MAILLIARD. The answer is "Yes," but I would say to the gentleman that at that point my belief is that there will be no market for them.

Mr. HALEY. The gentleman is right in his view, since we have a market for them now, they should be sold.

Mr. MOSHER. Mr. Chairman, will the gentleman yield?

Mr. MAILLIARD. I yield to the gentleman from Ohio.

Mr. MOSHER. Mr. Chairman, I want to say that I agree with the gentleman from California (Mr. MAILLIARD) that this is a terribly unhappy vote that we have to cast today, but we also must agree that it is a far-reaching and even an urgent vote.

Mr. Chairman, I think all of us are saddened by the vote we are being asked to cast here today. None of us are happy about this legislation.

Nevertheless, there are a number of cogent reasons for voting in favor of H.R. 11589, making possible the sale of five passenger vessels to foreign operators.

At this time, I would like to comment on only one factor which I consider to be a principal reason for the decline of our once magnificent U.S.-flag passenger fleet, which makes necessary our vote here today.

It is a fact, Mr. Chairman, that the jet airplane has had a devastating impact on the point-to-point operation of passenger ships, particularly in transatlantic service during the past decade. Lower fares generally, packaged tours and liberal group deals, frequency of point-to-point service to the major cities of the world, and the speed of travel offered by the airlines have opened up a rapidly expanding market that did not exist 20 years ago.

Speed of travel is more essential than ever before in order to maintain close communication between home and branch offices and in the conduct of negotiations between American and foreign businessmen. This factor has become increasingly important with the rapid growth of American investments throughout the world. These businessmen are the people who formerly made up a large segment of those traveling in first class on transatlantic liners.

The higher capacity and speed of jet aircraft have opened a vast market, particularly to Europe, for travel by middle income groups whose vacations are of relatively short duration. In 1962 there were some 3.2 million passengers traveling by sea and air between the United States and Europe. About 22 percent, or 722,000 went by sea, of which American-flag ships carried 170,000, or 24 percent of the total. By 1969, total passengers traveling had increased dramatically to 7.4 million, but only 341,000 traveled by sea or less than 5 percent of the total, and American-flag ships carried only 47,000. Like every other mode of transportation, the airplane draws its users not only from other competing modes, but from a market which it alone develops, because of its unique advantages.

The impact of the jet airplane was the principal factor in the elimination of American-flag passenger ships in the transatlantic trades, not only to northern Europe, but to the Mediterranean as well. The impact upon travel to South America was equally great. We must recognize that there is almost no probability that any of the ships now in layup will return to serving these trades. Moreover, the impact of jet aircraft has not been limited to the U.S.-flag passenger fleet alone. Indeed, drastic reductions in point-to-point sailings between United States and European ports are also noted for British, Netherlands, French, Norwegian, Swedish, Italian, and Greek passenger ships.

When one considers the impact of the jet airplane on point-to-point passenger service and the fact that these vessels are not readily employed in the cruise trades without substantial alteration to their accommodations and public areas, the conclusion is inescapable that their days of active service under the American flag are over.

For these reasons, I urge my colleagues to support H.R. 11589.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. MAILLIARD. I yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Chairman, I want to congratulate the gentleman in the well for his presentation, and to point out that the real question—and the gentleman makes the issue so clear—that the real issue here is that of the long-range passenger travel movement, and that the statistics we had for long-range ship passenger transportation 20 years ago or 16 years ago showed that ocean travel by passengers was feasible, and that the long-range rail travel statistics for people traveling by rail was feasible, but recent years have shown a different story.

If this House and this Congress can agonize over this bill, then just wait until Amtrac comes up for consideration on funding for the long-range rail transportation, because we are all aware that the passenger mileage transported by rail is disappearing from the rails. It is also disappearing from the ocean liners and from the buslines, and passengers are going solely, for long-range transportation, by air.

As I say, 20 years ago this was a different story and a different parameter.

Here today we are dealing with the question of trying to transfer funds into the American merchant fleet from a disappearing segment of that fleet, which is the passenger liners, and I congratulate the gentleman and the other members of the committee on making this possible.

Mr. MAILLIARD. Mr. Chairman, I thank the gentleman from New York for his comments, and I concur with what he says.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. MAILLIARD. I yield the the gentleman from Iowa.

Mr. GROSS. Mr. Chairman, could the gentleman give us any estimate as to the scrap value of these vessels that are to be sold?

Mr. MAILLIARD. The scrap value of the seven ships in layup by the end of their 25-year statutory life has been estimated to be $7,500,000 by the Maritime Administration. There would be a substantial loss if these ships were sold for scrap since the mortgages total over $18 million.

Mr. GROSS. It will be below the mortgages and approximately what is the total?

Mr. MAILLIARD. About $18½ million, I believe, some of which is directly loaned by the Treasury of the United States, but most of which is guaranteed by the United States.

There are commercial mortgages under title XI and if a company should go under, the United States would have to pick up the mortgage.

Mr. GROSS. Further, apropos the remarks of the gentleman from New York, are not some of the airlines in trouble financially?

Mr. MAILLIARD. I understand that they are, but they still have all the passenger business they can handle.

Mr. GROSS. But they are in trouble—what form of transportation is not in trouble? Does the gentleman know of any form of transportation that is not in trouble?

Mr. MAILLIARD. I know of some segments that are not in trouble, but overall, transportation has certainly been pricing itself out of the market—but nothing to the extent that these ships that are in total layup and not in use at all.

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman yield?

Mr. MAILLIARD. I yield to the gentleman.

Mr. ANDERSON of Illinois. Mr. Chairman, I want to join in commending the gentleman now in the well for the very cogent, I think, and well reasoned explanation for that he has made.

This has been a matter that I know has troubled many Members of the House, that there would come a day when we have to consent to the sale of these ships.

It seems to me, the points that the gentleman has made and documented here in the well today have amply made the case for the committee bill.

Mr. Chairman, I rise in support of the legislation.

Mr. Chairman, under section 503 of the 1936 Merchant Marine Act, vessels built with the aid of construction-differential subsidy must remain documented under the laws of the United States for a period of 25 years, and cannot be sold to foreign registry within that period without specific statutory authority. This bill would provide that authority for the sale of five such U.S.-flag passenger vessels: SS *Brasil*, SS *Argentina*, SS *Constitution*, SS *Santa Paula*, and SS *Santa Rosa*. The authority provided by the bill would be subject to certain conditions intended to protect the interests of the United States to insure that the net sale proceeds would be used to construct new U.S.-flag tonnage. It would further provide for the purchase of the laid up U.S.-flag passenger vessel SS *United States* by the Secretary of Commerce for layup in the national defense reserve fleet. Purchase of that vessel will require a net outlay of $5.2 million, and thereafter the initial cost will be $600,000 to prepare the ship for layup status, and annual maintenance will run approximately $50,000.

A previous bill reported by the Committee on Merchant Marine and Fisheries, H.R. 10577, would have made seven ships available for sale to foreign registry, the five above and the SS *Independence* and the SS *United States*. But as a result of a meeting on October 28 between the union and the owners in the office of the committee chairman, an agreement was reached to exclude these two ships from the provisions. With respect to the *Independence*, there is an outstanding option with Wall Street Cruises to buy this vessel. And with respect to the *United States*, the bill provides that it be laid up in the national defense reserve fleet because it contains numerous defense features and could be used as a troop carrier in wartime. The new bill would require that the Secretary of Commerce purchase this vessel from its owners at depreciated book value.

After extensive hearings, the committee concluded that the laidup U.S.-flag-passenger vessels cannot compete with jet aircraft in point-to-point transportation, and cannot compete with foreign-flag cruise vessels because of their configuration. They, therefore, represent a complete economic waste and a serious financial drain on the owning companies while in layup—the annual layup costs for all seven vessels is estimated at $6 million.

The cost to the Government of this legislation is approximately $12 million which includes $6.8 million for cancellation of outstanding mortgage, and $5.2 million in credit to the owners toward construction of new vessels (cargo), plus the $600,000 for initial layup costs and $50,000 in annual maintenance.

The Assistant Secretary of Commerce for Maritime Affairs testified in favor of this bill, saying he knew of no way the laidup passenger vessels could be profitably operated; it would take an $80 million subsidy to reactivate them, and this could not be justified when considered with other requirements of the U.S.-flag merchant marine. In a letter to the committee, the Department of Defense—Navy—says that while the ships might play a useful role during a national emergency, their retention on this ground alone cannot be justified because of the high cost. DOD does think it should be able to give prior approval to the sale of any of these ships, but the committee does not agree and makes no such provision in the bill.

Despite the fact that the committee report indicates that H.R. 11589 is a result of an agreement resulting from a meeting between owners and unions, we have received a letter from Joseph Curran, president of the National Maritime Union, in opposition to the bill—see enclosed. Mr. Curran says these ships represent a vital asset to American national security and economic strength; their sale would cause the unemployment of thousands of workers in the maritime industry; they might end up in the hands of the Russians, thus increasing their troop lift capacity in the Middle East; there are American corporations and municipal governments interested in finding owners for these ships.

We have also received a letter from Frank Fitzsimmons, president of the Teamsters, expressing support for the bill. He claims that his members who are employed in yards where ships are under construction would be benefited by this legislation—since funds from the sales of passenger vessels would be used in the construction of new cargo vessels.

I am convinced that this approach of the committee bill is the only viable alternative available. No great loss of jobs will result since these vessels have been laid up for 2 years and those who would lose jobs—cooks, stewards, et cetera—have already lost them.

Therefore, I intend to vote for this bill.

Mr. GARMATZ. Mr. Chairman, will the gentleman yield?

Mr. MAILLIARD. I yield to the gentleman.

Mr. GARMATZ. Mr. Chairman, with reference to the question about jet aircraft—they carry today 98 percent of all transatlantic passengers—and ships cannot survive on the remaining 2 percent.

The problem is not solely American. Ten years ago, Britain's Cunard Line had 10 ships making 145 sailings transatlantic. Today it has only one making 13 sailings and that ship, the *Queen Elizabeth II*, the largest in the world, may be converted to a floating hotel.

Mr. Chairman, I yield 5 minutes to the gentlewoman from Missouri (Mrs. SULLIVAN).

Mrs. SULLIVAN. Mr. Chairman, more than a half million American citizens take cruises each year out of our east coast ports, but not a one of them travels on an American-flag ship. There are, at present, no such ships in operation. They are laid up because the American shiplines and the Maritime Administration have not had the ingenuity to figure out a profitable and practical method for them to operate, even with differential subsidies.

Consequently, the hundreds of thousands of Americans who flock to east coast ports to board cruise ships to the Caribbean or elsewhere are contributing substantially to our balance-of-payments deficit and to the well-being of the foreign owners, and the families of foreign seamen of Dutch, Norwegian, Italian, British, German, French, Greek, and assorted other maritime interests.

In opposing the bill H.R. 11589, to

allow five of our excellent American passenger ships to be sold to foreign interests, I am aware of the fact that the committee, on which I am the senior ranking member, voted overwhelmingly to approve the legislation; that the owners of the five ships want to get rid of them as soon as possible; and that every shipyard in the country has the hope that out of this legislation it may possibly get some new cargo ship construction business.

But what about the American taxpayer, who has invested $60 million in the construction of these five ships within the past 20 years? That investment will be wiped out.

What about the thousands of American seamen who could be employed on these ships? They will lose out entirely. What about the further damage to our balance-of-payments situation? What about the idea of keeping the American flag flying on American-built passenger vessels?

For mark this, Mr. Chairman, those five ships—if sold foreign—will be operated out of American ports, carrying American cruise passengers, but with foreign crews and subject to foreign control. We will be paying all of the bills and the foreign maritime interests will be enjoying all of the tremendous economic benefits. Those ships could not possibly be duplicated at the prices they would bring in today's used ship market.

The committee report goes into extensive detail on why it is unprofitable to operate passenger ships under the American Flag. But has the effort really been made? Or, are the ship lines in the same situation today as the American railroads were a few years ago in making no real effort to keep passenger service in operation? True, passenger service from point to point is dying. But the cruise business is booming.

The Congress stepped in to require the continuation of passenger service on America's railroads. We do not have to pass a Steampax bill for the ship lines—all we have to do is defeat this bill. By defeating H.R. 11589 we will make clear to the Maritime Administration that Congress intends for it to bestir itself in that agency and work out with American investors and cruise ship operators a viable plan for restoring the taxpayer-subsidized SS *Brasil*, and SS *Argentina*, and SS *Constitution*, and SS *Santa Rosa* and SS *Santa Paula* to service. The two ships earlier contained in this legislation but left out of the revised bill, the SS *United States* and SS *Independence*, should also be put back into service to carry passengers.

Mr. Chairman, when the $60 million in subsidies were paid out by our taxpayers to construct the five ships involved in H.R. 11589, the money was paid on condition the ships remain under the American flag for 25 years. One of these ships, the *Constitution*—and it is still a fine ship—is 20 years old. The other four are only 13 years old. Under the subsidy contract, the *Constitution* owes the American people 5 more years of service under the American flag; the other four each owe 12 more years of service. But the owners want to abrogate their construction subsidy contracts with the American people far in advance of the end of the contractual period, apply the book losses against their taxes, and use an estimated cash flow of $18 million as downpayments toward the construction of subsidized new cargo vessels we do not need at the present time. The proposed new cargo vessels would not add to our maritime capacity, but would instead merely replace some of the still-serviceable older ships either now in service or available for service.

The ship construction program of this administration has been such an utter failure that the only way the Administration can see for getting a few new ships built is to destroy the American flag passenger trade entirely, through the sale abroad of these five fine passenger ships.

Mr. Chairman, I have not been given the time necessary to cover all of the details about this legislation, and why it should be opposed, but I call the attention of the Members to the extensive material I placed in the Congressional Record for Friday, beginning at page 41025. I hope that between now and the time we vote, the Members who have not already done so will look at that material. I have copies of it available at the committee desk.

I particularly call attention to the information provided me by a former officer of the SS *United States*, Mr. Richard D. O'Leary, now the assistant general manager of the Norfolk Port and Industrial Authority, who has been instrumental in making Norfolk a major cruise ship port, and who knows a great deal about that issue.

He wrote me:

> People around the world, especially on the U.S. East Coast, are traveling by ship (cruising) in rapidly increasing numbers. It is a booming business with tremendous future potential. More foreign research and marketing funds are being spent to motivate the American consumer toward cruising than have ever before been spent in the passenger ship industry.

He subsequently added:

> It would seem that the elements are right for an imaginative American entrepreneur to investigate the potential for operating American passenger ships under these conditions. Certainly it would seem that the U.S. government would exert tremendous effort to find some way to usefully employ these resources that have been created with large amounts of taxpayers' money.

Mr. Chairman, I urge the Members to read Mr. O'Leary's thoughtful and imaginative letter on this subject. It is in the Record of Friday at page 41026, as part of my remarks, and also in the reprints I have available here.

There are too many questions about this proposed deal for the foreign sale of our valuable passenger ships that have not been answered. I asked some of those questions in the hearings. There are many others. They have not been answered.

Why, for instance, did Grace Line, which had been operating the *Santa Rosa* and *Santa Paula* profitably, sell them to another operator in 1969? Was it to take advantage of a $32 million tax writeoff? And now what kind of tax writeoff does the subsequent buyer hope to achieve by passage of this bill?

Why has the Maritime Administration refused to make any effort to find American buyers for these ships? Is it in order to try to save on operating subsidies?

Why has Moore-McCormack refused even to respond to a $15 million offer from American investors to buy the *Brasil* and *Argentina?* Is it because they are waiting for passage of this bill to open up the bidding to foreign interests?

There is no pleasure for me in standing in opposition to nearly all of the members of my committee on this measure, but I feel I must do so. I hate to see the Congress knuckle under to any industry seeking special advantage at the expense of the American taxpayer and of the American public, and of American seamen.

Knowing that American-flag ships are the safest in the world, operated under stricter requirements than those of any other nation, and that American seamen are paid wages commensurate with American standards, I do not see how Members of Congress would want to say to their constituents: "If you want to enjoy passage on a cruise ship, pick a foreign-flag ship because we have just gotten rid of our entire American-flag passenger fleet so that the ship lines which owned them could qualify for windfall tax benefits."

For that is exactly what passage of this bill would be saying to the people of the United States—Americans who are discovering in increasing numbers every year the joys and relaxation of an ocean cruise, the best vacation imaginable.

We would be saying "Go Dutch" or "Go British" or "Go Italian" or "Go Norwegian" or "Go German" or "Go French" or "Go Greek" at the same time we are so desperately trying to overcome our balance-of-payments problem that we are, through the tax surcharge, jeopardizing the whole concept of reciprocal trade. The American cruise passenger should be urged to "Go American," and should have an opportunity to do so, not only for what it means to our own economy but also what it means to the passenger's own peace of mind.

If our ships cannot compete with the foreign cruise operators, it is only because the Maritime Administration has never bestirred itself to figure out ways it can be done. Is American business ingenuity dead? I would hate to think so, but this bill is an obituary for the American flag on the passenger routes of the world. Passage of this bill would bury at sea the best passenger fleet on the high seas, probably forever. Under foreign-flag operation, these ships would not be the same ships they have been under American operation, and we would never build any more once this decision is made to let them slip away from us.

Mr. SARBANES. Mr. Chairman, will the gentlewoman yield?

Mrs. SULLIVAN. I will be happy to yield to the gentleman from Maryland.

Mr. SARBANES. Mr. Chairman, I join the distinguished gentlelady from Missouri in her thoughtful and vigorous opposition to H.R. 11589 and commend her for her efforts against this hasty and unwise legislation.

Mr. Chairman, the Members of this House are being asked to do more today than simply decide the fate of seven American passenger liners. We are being asked to end a tradition of seagoing passenger service on our east and gulf coasts that stretches back to the beginning of the Republic. America's passenger ships and the men and women who serve them have established an outstanding tradition of contribution to the Nation's well-being in times of both peace and war. It is this tradition as well as these ships which will be struck from our national life should this bill pass. Surely, Mr. Chairman, such a fateful decision should not be made without a more careful consideration than has occurred of the impact H.R. 11589 would have on our Nation's international and defense positions, seagoing labor and American steamship passengers.

Perhaps the most obvious consequence of this proposal would be its lasting impact on the potential employment opportunities for American seamen. In the recent past, 12 U.S. passenger ships have been removed from service. Five were converted to freighter operations, and the remaining seven are the ships affected by H.R. 11589—five of which this bill would permit to be sold to foreign interests thereby foreclosing altogether any hope for future restoration of jobs for American seagoing labor. In addition, disposing of these five ships to foreign interests means not only the loss of potential jobs for Americans aboard the ships but also carries with it a serious impact upon connected shoreside jobs.

In judging the sale proposal it is important to weigh the economic benefit of having these ships functioning under the American flag, and hence the necessity of developing means whereby this could be accomplished. If operating, these ships could generate millions in shipboard wages and millions more to workers and businesses in supporting industries. Furthermore, these ships could make significant contribution to remedying our international balance-of-payments deficit—a deficit which in the third quarter of this year was the largest in our history.

The safety of the American steamship passenger is also involved in this matter. Today there is not one passenger ship operating out of a U.S. eastern port which can meet the standards of vessel safety required by U.S. law. Since foreign vessels must only comply with less stringent international standards, American passengers are being exposed to risks which are prohibited under our law. In fact the number of Americans exposed to such safety hazards is increasing at a rapid pace since the steamship cruise business is booming. Steamship lines operating out of American ports increased their cruise operations in the 1969–70 travel season by 50 percent over the level prevailing two seasons earlier, and all forecasts are for a continued increase in patronage.

Let me also touch briefly on two intangibles that will be greatly affected should this sale be permitted to the permanent detriment of America's passenger steamship operations. America's defense posture and its international prestige are very much at stake. The Soviet Union has built four new passenger ships in the past 5 years. One of these, the *Alexandr Pushkin*, offers regular service between North America and Europe. One or more of these liners is usually present whenever an important international event takes place in a port city.

The defense value of the passenger ships is perhaps hardest to measure, but in the long run of the greatest importance. The sale proposal calls for a contractual arrangement for foreign operators to return the ships in the event of American need. There is serious doubt however that any such arrangement could be enforced. Our need for American-operated ships in wartime was readily demonstrated during the Vietnam sealift. Time and again foreign crews operating foreign flag ships refused to bring those ships in when the going got rough. In considering our security position it must be recognized that during every major war our country has been forced to devote precious time to building ships and to rebuilding its seagoing labor force.

Mr. Chairman, any proposal which so fundamentally affects the strength of our Nation's defense, the safety of American citizens and the well-being of American labor, calls for the most painstaking and deliberate consideration. It is my belief that the administration has not explored in a thorough and meaningful way the alternatives to this sale. Until such a fundamental inquiry is made and until all conceivable alternatives have been considered, I do not believe we should in good conscience take the irrevocable step of permitting the sale of these passenger vessels to foreign owners whose interests will of necessity differ with those of this Nation and its people.

(Mrs. ABZUG asked and was given permission to revise and extend her remarks at this point in the RECORD.)

Mrs. ABZUG. Mr. Chairman, I rise in strong opposition to this bill. The five passenger vessels whose fate is before us today were built with substantial Federal assistance, and existing law requires that they not be sold to foreign owners within 25 years of their completion.

The present owners of these ships claim that they cannot make any money operating these ships under American registry—that is, with American seamen and seawomen, with American wages, hours, and working conditions, and with American safety standards. In support of this claim, they point to the fact that all five ships are presently laid up.

It may well be that this claim is a valid one. It may also be, however, that these owners would like to sell the ships off, so as to have a quick, sure profit, despite the fact that the ships might be profitable to operate. The latter possibility is especially likely as an explanation in light of the fact that the maritime unions have offered to do their part in helping to cut the costs of operating these fine ships. Among other things, they have offered to trim manning scales to the lowest reasonable level, to reduce overtime and similar costs to a minimum, and to cooperate in the development of new, more efficient methods of operation.

These five ships, when in operation, provide about 1,500 shipboard jobs for American seamen and seawomen, and 10,000 or more shoreside jobs such as longshoremen, shipyard workers, and food processors. The shipboard payroll for these five ships amounts to around $15 million annually, and the shoreside income which they generate comes to more than $20 million annually.

The laying up of these ships has brought the working men and women of the New York waterfront to their knees. They are most willing and able to work and work hard, but there will be no work so long as the owners of these ships idle them in hopes of convincing Congress to permit the proposed sale.

I find it upsetting, in this time when we are awakening to the dangers of allowing American capital and technology to flow abroad too easily, to see us considering special interest legislation which would do in one case precisely what we are seeking to stop across the board. This would be bad enough if it were private capital going abroad, but we are talking here about public money—the taxpayers' money. These ships were built with substantial Federal financial assistance, and it would be unthinkable to just let them go like this.

This legislation is unsound and damaging to the best interests of America and American working people, and I urge its defeat.

Mr. YOUNG of Texas. Mr. Chairman, will the gentlewoman yield?

Mrs. SULLIVAN. I am delighted to yield to the distinguished gentleman from Texas.

Mr. YOUNG of Texas. Mr. Chairman, I commend the gentlewoman for the gallant fight she has made against this legislation. I join her in that opposition. I opposed the rule, and I intend to vote against this bill on the floor.

As the gentlewoman has pointed out, there has been considerable argument made here about not putting these ships in the regular transatlantic passenger run. I know of nobody who has suggested that. What is being suggested here is that no real effort has been made to utilize the value of these vessels in this very profitable tourist cruise business.

The U.S. Government, according to the testimony before the Rules Committee, has $118.3 million of capital investment in these ships, not to mention the untold millions that we have in these ships in the operating subsidies.

I commend the gentlewoman from Missouri, and I associate myself with her remarks.

Mrs. SULLIVAN. Mr. Chairman, I thank the gentleman.

Mr. GARMATZ. Mr. Chairman, I yield myself 1 minute.

I would like to ask the gentlewoman from Missouri about the seven passenger ships. Is it true the gentlewoman went on a cruise on the *Argentina* last year with 95 passengers and a crew of 420?

Mrs. SULLIVAN. In 1969 I was on a

cruise on the *Argentina*, yes, and with the gentleman from Maryland.

Mr. GARMATZ. Let us get it straight. Mrs. Garmatz was also along. With Mrs. Sullivan was her sister.

Mrs. SULLIVAN. Let us not tell all our secrets.

Mr. GARMATZ. There were 95 passengers and 420 crew. How can they make money that way?

Mrs. SULLIVAN. Does the gentleman want me to answer that?

Mr. TIERNAN. Mr. Chairman, if the gentleman will yield, is it not true that during the year 1969 the *Santa Rosa* and the *Santa Paula* carried over 10,000 passengers, and that the subsidy the U.S. Government paid per passenger was $458, and yet that company lost over $100 per passenger that it carried during the year 1969?

Mr. GARMATZ. That was the testimony reported to the committee.

Mr. TIERNAN. It is my understanding that presently these ships are not in operation, is that correct?

Mr. GARMATZ. That is correct.

Mr. TIERNAN. And if this bill does not go through, the American public is not going to have an opportunity to sail on these ships. These ships are not going to be put into service so that the Americans can sail on the ships, as our colleague would like.

Mr. GARMATZ. There is no way in the world that can be done.

Mr. TIERNAN. And the Administrator of the Maritime Commission, Andrew Gibson, testified that all of these companies presented plans, but when it came to actually undertaking the expense of operation and startup costs, there was no feasible plan presented?

Mr. GARMATZ. That is correct.

The CHAIRMAN. The time of the gentleman from Maryland has expired.

Mr. GARMATZ. Mr. Chairman, I yield such time as he may consume to the gentleman from North Carolina (Mr. LENNON), a member of the committee.

Mr. LENNON. Mr. Chairman, I was certainly greatly interested in the remarks of the gentlewoman from Missouri, who called our attention to the fact that there would be annually approximately half a million cruise passengers from the eastern ports principally for the Caribbean area.

I believe we can all agree, at this point in time, the preponderant majority of the American citizens want quality merchandise when they purchase and they want quality service wherever they go. But one other thing the preponderant majority of the American people want is that they want to get that quality service or that quality merchandise at the least possible cost to them and their families.

I am reminded so much of the debate which took place on this floor last year, when we were considering the legislation pertaining to quotas on imported shoes and textiles, when the gentleman from Pennsylvania (Mr. DENT) called our attention to the fact that in 1969 we imported over 221 million pairs of shoes, more than one pair for every person in the United States, from Spain and Italy, and particularly Italy.

Let me tell what is happening. We have priced ourselves out of the world market not only in just this area but also in many others. Italy was the prime exporter of shoes into this country in 1969 and 1970, but in the first 8 months of this year—and these are the statistics—Spain exported into this country a 40-percent increase in shoes for the American people over what were imported in the last year.

In 1969 we imported 3,489,000,000 square yards of materials, either bolt goods or garments. In the first 8 months of this year, through August, using a basis of imports of textiles if we maintain the same average, we would import over 6 billion square yards of material, mostly manmade fibers, in 1971.

Ninety-one percent of all the table radios used in the United States are imported.

One can go to any State, to any port, and go through the transit sheds and the warehouses. I have had that "pleasure" of going through a number of them. It is not a pleasure. It causes dismay and utter shock. One can walk through the blocks of the transit warehouse sheds and see steel of every kind and description pouring into here from all over the world.

This is the problem here today.

Let me attempt to address myself, hurriedly, to the question. Later I shall be happy to yield to the gentlewoman, if I have time remaining.

I reluctantly but nevertheless sincerely and strongly support this legislation, for it represents the only feasible alternative, as I have told so many of my friends and colleagues who came to me and said, "Al, for God's sake, we cannot support this legislation." I have said, "I went into these hearings hostile to even the suggestion."

I want to tell the Members now sincerely, if there were any other alternative solution I would not be here speaking in support of this bill.

It is true that the American taxpayer has already invested in these vessels we are talking about, both in construction differential subsidies and operating differential subsidies. But nevertheless they are lying there at the dock. They are costing millions of dollars both in interest which is owed to private mortgagors, for mortgages guaranteed by the Federal Government, as well as in maintenance cost.

I wish someone could come up with a viable solution. I am cognizant of what has been said about this. But I explored every way I could from every source I could in an effort to find an alternative to this proposal.

If there were an alternative, we would not resort to legislation such as this. However, it is the only equitable answer to the taxpayers of America and to these operating companies, and my preference is to the taxpayers of America always. I have never put the companies first. I have always put the taxpayers first.

If I had any reason in the world to believe that there was any hope or any possibility that any American line or any conglomerate or anything else could take over these ships and operate them, then you know I would be for that. However, you folks know that you just simply do not sail the seas any more. When you get on board a vessel—I understand you want to hear "Good morning," "How do you do," and "What can we do to help you in your day's activities." Well, we have come to the point in our lives where we are not that subservient to anybody. In a way I am thankful for that. Regardless of who we are and what our race, color, or national origin is, we are not that way any more, and I am thankful for that. We are all equal Americans. We have gotten to the point where we have reached the level of affluence and we have priced ourselves out of many, many markets. This is a true example of it. Much to my dismay, it is true.

I am going to ask unanimous consent to include in the RECORD the specific details relating to the construction cost; that is, the Federal subsidy and the operating differential cost, but let me say this: During the last year in the operation of the SS *United States* that vessel incurred a loss of $5 million just in 1 year after an operating subsidy that was paid by the Federal Government of $9.5 million. Just think of that.

With regard to the SS *Brasil* and the SS *Argentina* during just 1 full year of operation they incurred a loss of $2.7 million even though the taxpayers in that same year had put in an operating subsidy of $6.7 million.

Now let us go to the SS *Santa Rosa* and the SS *Santa Paula*. I will address myself only to the last year of operation, because I intend to put all of this in the RECORD. For the last year of operation these two vessels incurred a lost of $2 million after a subsidy of $7 million. I am talking about an operating subsidy.

Mr. Chairman, I want to point out these vessels would cost the Government an additional $80 million per year in subsidy just to get them back in service. These are not our figures. We are not expert in this field, but the Maritime Administration is, and some of our staff members are, and I have relied upon them.

The only possible use for them would be in cruising. Well, you know what a cruise is today. It is much like a floating hotel where room rates can run as high as $75 a day and up to $100 a day. And that is a losing business.

I question—and I am sure many of you will—with all of the other priorities that we face today whether we should be spending over $100 million to subsidize vacations in luxury hotels either ashore or at sea. What do you think about that? What is our obligation to the average taxpayer? Should we take their money from those people who cannot afford these cruises and say that we are going to make the choice to spend it for people at a higher economic level?

Mrs. SULLIVAN. Will the gentleman yield?

Mr. LENNON. I yield to the gentlewoman.

Mrs. SULLIVAN. I thank the gentleman.

Why would 51 foreign cruise ships come to our eastern ports in a year's time to pick up hundreds of thousands of U.S.

citizens time and time again if this were a losing proposition? They are not losing money.

Mr. LENNON. You mean foreign ships?

Mrs. SULLIVAN. Yes.

Mr. LENNON. Frankly, except for one or two instances that have been mentioned here, I do not think they are losing money. But I do know, as you do, those governments go to an even greater degree in subsidizing these ships. Maybe the time has come when, if we want to have the American flag flown on the oceans of the world, we will have to fully subsidize these ships with full construction costs and pay 90 percent of the operating costs.

Mrs. SULLIVAN. I think the gentleman from North Carolina knows what has happened to our maritime business. We are having fewer and fewer American-flag ships on the oceans. Is the gentleman willing to give investors from foreign countries a big bargain in the form of these five beautiful ships, that they will then bring right back to our own shores to pick up American passengers for cruises? This is exactly what we would be doing in this bill today.

Mr. LENNON. If the beloved gentlelady whom I admire and respect so much would come up with a definitive alternative, I would buy it and the distinguished gentlewoman knows that.

Mrs. SULLIVAN. I know this. I placed a letter in the Record on November 12 from a Norfolk maritime executive who had lots of good ideas. His port is now taking business away from Baltimore ports, and he is instrumental in making Norfolk one of the biggest ports in the country, in cruising business. But it is foreign cruise business, the British lines. The volume of cruise business on these foreign lines is very heavy. But as this gentleman says, we have never, in this country, marketed our cruise ship product.

Mr. LENNON. The gentlewoman knows when we went to the Department of Defense to see if they could utilize them in the Department of Defense, the gentlewoman knows what they said in the committee report—that they are too expensive to operate on a reserve basis to transport troops.

Mrs. SULLIVAN. I understand that, but with a total of $18 million to recover—the net recovery from the sale at book value of these ships—we are told we can build 22 cargo ships by using this $18 million as seed money.

The gentleman from North Carolina knows, and I know, that the U.S. Government could pick up that $18 million—if the companies have to sell the ships—until we can find American investors who will invest in the cruise business. The foreign operators are operating at a profit and they have proven that it can be done.

Mr. LENNON. The distinguished gentlewoman knows that we have been trying for a long time to find an interested individual or corporate interest to buy these ships.

Mrs. SULLIVAN. How have we tried? The Maritime Commission has not tried.

Mr. LENNON. The whole world knows what is about to happen today and no one has come in and made a viable offer. The gentlewoman knows that the gentleman from South Carolina did not have an office address although he did have a box number—the gentleman who manifested an interest in his matter.

Mrs. SULLIVAN. The investor in question does have an office.

Mr. LENNON. I am so happy to hear that.

Mrs. SULLIVAN. He does have an office. Before I even listened to his story, I verified his background as a substantial businessman with money and with additional investment funds. His offer was legitimate. Yet it was not even answered from the company to which he made the offer because, as I said, the shipowners apparently believe they can do better than his offer after this bill is passed.

Mr. LENNON. I think the gentlewoman will find the facts to be to the contrary.

Mr. WAGGONNER. Mr. Chairman, will the gentleman yield?

Mr. LENNON. I yield to the gentleman from Louisiana.

Mr. WAGGONNER. I think it needs to be said for us to authorize the foreign sale of these vessels is not what any of us would consider to be an ideal situation, but as the gentleman in the well has so aptly said, in the absence of a better alternative, it seems to be the better part of wisdom in my opinion that we go ahead and support this bill today.

However, there are two points which I think need to be made with respect to this proposal that have not been made. That is, these vessels are not carrying cargo or passengers and have not done so for a period of 2 years. The competition with American-flag vessels and the fact that the vessels will be made available to this Government, should an emergency arise—and this is very important in my point of view—is something that must be a part of our consideration with respect to this legislation.

Mr. LENNON. The gentleman will find the answer to the last part of his statement on line 20, page 2, of the committee report. I hope all Members will read the H.R. 11589 and the committee report.

Mr. MAILLIARD. Mr. Chairman, I yield 3 minutes to the gentleman from Delaware (Mr. du Pont).

Mr. du PONT. Mr. Chairman, I rise in strong support of H.R. 11589, which would provide in part for the sale foreign of the laid-up U.S.-flag passenger vessels, SS *Brasil*, SS *Argentina*, SS *Santa Paula*, SS *Santa Rosa*, and SS *Constitution*.

DO NOT WANT TO GIVE IMPRESSION THAT SALE IS UNRESTRICTED

Any such sale foreign would be subject to certain conditions intended to protect the interests of the United States and insure that the net sale proceeds will be used to construct new U.S.-flag tonnage.

In this regard, the bill generally provides that with the prior approval of the Secretary of Commerce, these passenger vessels may be sold and transferred to foreign ownership and flag. The consent of the Secretary will be conditioned on: First, approval of the purchaser; second, payment of outstanding debt related to the vessel; third, approval of the sale price and terms; fourth, an agreement between the seller and the Secretary whereby the net sale proceeds will be invested within 12 months in the construction of new U.S.-flag vessels; and fifth, an agreement between the purchaser and the Secretary, running with the title of the vessel, restricting the trade of the vessel for 2 years in order to protect active U.S.-flag passenger vessels, and insuring that the vessel will be available to the United States in time of emergency.

Mr. Chairman, I am convinced that the best interests of the U.S.-flag merchant marine will be served by enactment of this legislation permitting these five passenger vessels to be sold foreign—subject to the conditions I have just outlined so that we may realize something on our investment. As it is now, the ships rust in their slips, of no use to anyone, at a cost of $4.5 million a year.

Mr. MAILLIARD. Mr. Chairman, I yield 4 minutes to the gentleman from Pennsylvania (Mr. Goodling).

Mr. CLARK. Mr. Chairman, will the gentleman yield?

Mr. GOODLING. I yield to my colleague, the gentleman from Pennsylvania (Mr. Clark).

Mr. CLARK. Mr. Chairman, I would like to discuss briefly for the benefit of the Members one of the important developments which has occurred during the consideration of this legislation. On November 5, 1971, this substitute bill, H.R. 11589, was introduced covering the sale of passenger vessels which excepted the SS *Independence* and the SS *United States* from sale foreign. The bill was brought up by the Rules Committee on November 9. A day or two prior to consideration by the Rules Committee, an entrepreneur by the name of J. B. Williams from South Carolina came forward with a proposal to purchase the two Moore-McCormack ships and a possible subsequent purchase of the remainder of the vessels covered by this bill. Mr. Williams did not say where the money was coming from, but did indicate that the operator of the vessels would be a Mr. Jules Sokoloff. This was the same person who was the sole owner of the Chadade Shipping Co. which owned the *Yarmouth Castle*, a Panamanian-flag vessel which burned at sea in 1965 with the loss of some 90 lives.

In view of the House Merchant Marine Committee's great concern with marine safety, our committee thoroughly investigated this tragedy and issued a comprehensive report to the House of Representatives on April 20, 1966.

This report indicated that there was "little evidence that the *Yarmouth Castle* was efficiently manned and operated when it met with disaster." The report clearly showed a shocking failure in the functioning of the ship's organization, as well as shoddy vessel housekeeping which may, indeed, have led to this tragic conflagration. In short, the report pointedly indicated the gross mismanagement and disorganization of this ill-fated vessel which is, of course, the owner's responsibility.

This passenger-ship problem has been pending before the committee for 8 months with a continuing drumfire of publicity in the news media, so it was disconcerting to learn of this proposal at this late date. At the very least, the timing of the proposal would have led one to think twice about its credibility. For this reason, the staff of the House Merchant Marine and Fisheries Committee made a preliminary investigation of the court actions pending against Mr. Sokoloff, who, under the J. B. Williams proposal, would be the operator of these vessels.

Our investigation indicated that there is apparently $400,000, plus interest, in judgments in the local courts in Miami against Mr. Sokoloff. None of these judgments has been paid.

In addition to the five judgments against Mr. Sokoloff personally, the Panamanian-flag cruise ship *Yarmouth Castle* disaster—which I mentioned before as resulting in the death of some 90 persons—gave rise to 71 suits pending against the Chadade Shipping Co., of which Mr. Sokoloff is the sole stockholder. We understand that the amounts of these suits against the Chadade Shipping Co. total approximately $60 million.

In light of the past safety record of Mr. Sokoloff in his marine operations and his questionable standing as a result of the litigation mentioned above, it would seem that no responsible person could any longer consider him as an acceptable party to operate any of these U.S.-flag passenger ships.

I just wanted to bring these facts to the attention of my colleagues so they could properly evaluate what has been heralded as a legitimate proposal to continue these vessels under U.S.-flag operation. I endorse H.R. 11589 100 percent and congratulate our distinguished chairman, Mr. GARMATZ, and the distinguished minority member, Mr. MAILLIARD, in pressing this important legislation. Twenty-three members of the committee cosponsored this bill.

Mrs. SULLIVAN. Mr. Chairman, will the gentleman yield?

Mr. GOODLING. Mr. Chairman, I am sorry that I cannot yield to the gentlewoman from Missouri, but I do not have sufficient time to yield.

Mrs. SULLIVAN. Would the gentleman yield only for the purpose of making a correction?

Mr. GOODLING. Because of the shortness of my time I would suggest that the gentlewoman from Missouri ask the Chairman for time.

Mrs. SULLIVAN. All right.

Mr. GOODLING. Mr. Chairman, I rise in strong support of H.R. 11589, a bill designed to alleviate one of the most pressing problems faced by our merchant marine today—our laid-up passenger vessels.

At the present time, the *Brasil, Argentina, Constitution, Santa Paula, Santa Rosa, Independence,* and *United States* are in layup after incurring heavy financial losses despite the best efforts of their owners. The total cost to the Government in the form of operating subsidy for the last year or operation of these passenger vessels was about $36 million. How did this occur? Your committee has concluded that jet aircraft, more than any other factor, were responsible for the drastic falloff in passengers that ultimately resulted in the layup of these vessels. Aviation not only had a devastating impact upon our fleet, but also seriously crippled the passenger operations of the leading foreign-flag operators.

Faced with the loss of point-to-point passengers to jet aircraft, U.S.-flag passenger vessels were forced to turn to the cruise market out of our ports. However, they could not compete because our passenger vessels were generally constructed for point-to-point transportation and did not lend themselves to cruising—for example, lack of open deck space, outdoor activity areas, and one-class accommodations and public areas.

The passenger ship operators and the Assistant Secretary of Commerce for Maritime Affairs, Mr. Gibson, testified that they know of no way in which these laid-up ships could be profitably operated. The Assistant Secretary further testified that it would require an additional amount of operating differential subsidy, estimated to be about $80 million annually, in order to reactivate them, and that this could not be justified when consideration is given to other requirements of the U.S.-flag merchant marine—to say nothing of other priorities in the national budget.

Your committee did not overlook the role of these vessels as naval troop ships during periods of national emergency. The Department of Defense testified, however, that retention of these ships for this mission cannot be justified.

Your committee was forced to conclude that these passenger vessels cannot compete with jet aircraft in point-to-point transportation, cannot compete with low cost foreign-flag cruise vessels, and that the additional subsidy required to place them back in operation cannot be supported.

One speaker suggested thousands of seamen would be thrown out of work.

In addition to what I've already said, one of the many key factors which have contributed to the demise of the U.S.-flag passenger fleet has been increases in wages and benefits without improved productivity in the form of crew reductions and work-rule flexibility.

Unfortunately, seamen and longshoremen have rather consistently tied up both passenger ships and freighters. As a result, the general public has turned to more responsible means of transportation.

The action authorized by H.R. 11589 is the only reasonable solution to this very unhappy situation.

Mr. MAILLIARD. Mr. Chairman, I yield the remaining time to the gentleman from Washington (Mr. PELLY).

Mr. PELLY. Mr. Chairman, I rise in support of H.R. 11589. The distinguished chairman of the Committee on Merchant Marine and Fisheries, the gentleman from Maryland (Mr. GARMATZ) and the distinguished ranking minority member of the Merchant Marine Subcommittee, the gentleman from California (Mr. MAILLIARD) have stated clearly the reasons for this legislation. I will reiterate only a few of the arguments which I feel are most compelling.

A great deal of confusion has been generated during the past few weeks over this legislation. There have been telegrams and countertelegrams. I am sure that many of my colleagues are at a loss as to whom to believe. These, however, are facts. Of the seven laid-up U.S.-flag passenger ships, only one has any chance of returning to active service under the American flag. That ship—the SS *Independence*—is expressly exempted from this bill, as is the SS *United States*, which, if the bill is enacted, will be placed in the national defense reserve fleet for possible use in any future national emergency.

The five passenger ships which could be sold to foreign owners pursuant to the terms of H.R. 11589 are now in layup. The seafaring jobs which these ships represented have all been lost. The defeat of this legislation will not result in a single job for American seamen. The passage of this legislation will not result in the export of a single job. I appreciate the great concern over the loss of these ships from the active U.S. fleet. That loss, however, occurred almost 2 years ago and was due to economic factors which were building for over a decade. While more efficient management might have resulted in keeping these ships in service longer, it is equally true that a more enlightened attitude on the part of labor could have contributed to a prolonged life for these ships. The fact is that labor-management efforts to place the operation of these ships on a more efficient economical footing came too late.

Finally, Mr. Chairman, it should be noted that this legislation is not a bailout for the owners of these ships at the expense of labor. If the ships are sold, the proceeds of sale must be committed to the construction of new tonnage to be operated under the U.S.-flag employing American seamen. It is only in this way that the layup of these passenger ships will ever result in the reemployment of any American seamen. Those who are concerned over the loss of jobs, and I am sure that includes every Member of this body, will be doing something positive by supporting this bill. Its defeat will be a totally negative act to the detriment of our seafarers, the companies which employ them, and the American merchant marine.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman from California yield?

Mr. MAILLIARD. I yield 1 minute to the gentleman from New York.

Mr. MURPHY of New York. Mr. Chairman, I would like to point out just two items that the committee has done in the past 5 years. No. 1, this committee revised the safety regulations and advertising so that the extreme safety features on American ships were made available to the traveling public, and showing how much better American ships were to travel on. That legislation did not benefit to the point at which the ships could get into a profitmaking category.

No. 2, when the North Atlantic ships were not carrying passengers during the winter months, the committee changed the law to permit them to move off their routes and go to the Caribbean, and even under that situation they could not make money in competition with cruise ships that are different types of ships from these line ships. I think the House in its wisdom can support this legislation and help the American merchant marine.

Mr. WYATT. Mr. Chairman, will the gentleman yield?

Mr. MAILLIARD. I yield such time as he may consume to the gentleman from Oregon.

Mr. WYATT. Mr. Chairman, I wish to commend the gentleman from Washington (Mr. PELLY) and others who have spoken in support of the bill. I support the bill for the reasons that have been so very well stated.

Mr. BURKE of Florida. Mr. Chairman, I rise in opposition to H.R. 11589, which proposes to have the Congress authorize the sale of five U.S. passenger ships, built with millions of taxpayers' dollars in construction subsidies, to foreign interests.

The need for these ships, it was originally argued, was to provide an auxiliary to our naval troop-lift capacity. In all, seven such ships were then built: the SS *Argentina*, SS *Brasil*, SS *Constitution*, SS *Santa Paula*, SS *Santa Rosa*, SS *United States*, and the SS *Independence*.

All these ships were subsidized by the Government on condition that they be held under U.S. registry and fly the U.S. flag for a period of 25 years. These ships were built in the early fifties and sixties when travel by ship to Europe and Asia was still a preferred way of travel for tourists and businessmen. The 25 years have not yet expired, therefore, the ships may not be sold to a foreign registry without specific statutory authority. In the case of the SS *Brasil*, the SS *Argentina*, the SS *Santa Paula*, and the SS *Santa Rosa* which would be sold under H.R. 11589, the lifetime of these ships has been less than half of the legal requirement.

Conditions have, however, changed and the owners of the seven passenger vessels, now in order to get out from under, argue that it is impossible to operate the ships due to:

First, the impact of jet aircraft on passenger traffic;

Second, the poor vessel configuration for their use in the cruise trade;

Third, the failure of rates and revenues to compensate for the rising costs of operation;

Fourth, the increases in wages and benefits imposed by unions without improved productivity in the form of crew reductions and work-rule flexibility;

Fifth, the decline in supplemental cargo revenues;

Sixth, the inability to raise rates to offset cost increases because of the large number of foreign-flag passenger vessels competing for the cruise passengers out of our ports; and

Seventh, the inflexibility and inadequacy of the operating differential subsidy system provided by the Government, are forcing them out of the business.

The present American owners are, therefore, asking that the Congress grant them permission to sell these ships to foreign owners. They say they cannot afford to operate them and they cannot find American buyers willing to operate them. They also say that the ships will not be sailable much longer because they are rotting in drydock, and that maintaining them under existing conditions is an economic drain on the shipping companies which could endanger their operation of cargo ships.

Under the proposed legislation the Secretary of Commerce would buy only the SS *United States* and put it in the reserve fleet for national emergency purposes as a troop carrier, or make it available for sale or charter for operation under our nation's flag. The SS *Independence* was also excepted from H.R. 11589 because an American firm, Wall Street Cruises, is negotiating to buy the ship and put her back in service.

I think it imprudent to put these ships under a foreign flag at this time when the U.S. balance of payments and trade balance has dipped so disastrously—$12.1 billion deficit so far this year. A large proportion of cruise passengers are Americans, and if this bill becomes law, we would once more be sending U.S. dollars to foreign businesses instead of to American businesses.

To be sure, it is the state of our U.S. economy that is one of the reasons why the present shipowners are pushing to have this legislation passed. It is true, also, that American businessmen who are willing to operate the ships have had difficulty in raising the large sums of money necessary to buy and maintain these ships. Yet it is a sad anomaly that foreign governments, knowing the value of these ships, provide their companies with extraordinary financial arrangements so they may buy the ships at interest rates far below the going rate. For instance, the Sun Line has been promised by the Greek Government that if it can obtain the SS *Constitution* it will be provided with a loan repayable over a 30-year period at 1-percent interest, to refit the ship in a Greek shipyard.

The present deterioration of our merchant marine came about as a result of the U.S. sale of surplus ships after World War II. Most of the foreign shipping barons recognized the opportunity and jumped at it. Many got their start by buying U.S. surplus ships and placing them under a foreign registry in competition with U.S. shipping lines.

I do not believe that the Maritime Administration has thoroughly explored all possible ways and means which might enable us to keep these ships under the American flag. In fact, I understand that the Maritime Administration has conducted no formal study of the problem involved.

I recognize the plight of our shipowners, but it is a sad state of world affairs when we can no longer meet the competition of foreign ships on the high seas.

The cruise trade out of our Nation's ports is lucrative. In my own district, Port Everglades and Miami Port do a thriving business in cruises. According to testimony before the Committee on Merchant Marine and Fisheries 37 cruise ships put into Port Everglades in February 1970. All of these ships were under a foreign registry. Cruise trade has increased annually. In 1962 there were a total of 265,859 people who were involved in cruise travel by sea from the United States. In 1969 there were a total of 568,826 people, or nearly twice as many. However, less and less of this trade has been on U.S. ships.

Mr. Chairman, if the arguments that were used to sell the American people on subsidizing passenger ships were valid in 1936, when the Merchant Marine Act was first passed, they are valid now. Arguments were made about the importance of the passenger ship fleet as an economic entity, as an arm of our defense, and as an instrument to enhance America's standing in the world, and as an employer of specially skilled workers.

The Vietnam sealift prove conclusively that ships are necessary as an auxiliary to air power. Airports have to be built before airplanes can land and the people and materials to build airports are most easily transported by ship.

Yet, the United States is going out of the passenger ship business. Driven out by foreign competition and airplane competition at a time when many U.S. industries are being threatened by foreign competitors. The capital investment necessary for us to reenter this area of competition is prohibitive. If we sell these ships we will be dependent on ships of foreign registries for passenger transportation by sea. It seems folly to me to have spent so much money to subsidize a business for such a long time, and then ultimately let foreign nations benefit more from our efforts than our own citizens. I find it hard to believe that our Yankee ingenuity and desire for competition is so dead that our American businessmen cannot figure out a way to make an honest profit in this business but would instead rather quit.

These ships represent a vital asset to our national security and economic strength. Their sale to foreign interests would raise the unemployment level by putting thousands of American workers in the maritime industry—seamen, longshoremen, shipyard workers, and others—out of work permanently. In addition, the taxpayer would once again be left holding the empty pail. What does he get from those who were so anxious that he participate in the construction of these ships? What value does he get for his money?

I honestly feel that to permit the sale of these five ships abroad will increase our maritime problems and that a vote for H.R. 11589 is one more vote against the American taxpayer. The taxpayer has a right to know why his end of the bargain is not being upheld, and further what it is going to cost him this time.

Mr. SCHEUER. Mr. Chairman, I rise in opposition to this bill. H.R. 11589 is a bill which seeks to destroy a vital asset to our security and economic strength by authorizing the sale of five American passenger ships to foreign interests.

The sale of these ships at bargain prices adversely affects American citizens in two ways: It annuls their tax dollar investment in these ships, and it increases the balance-of-payment deficit by replacing American seamen with foreign seamen and by contributing all fares from American ports to foreign economies. There is no reason for this utter disregard for the taxpayers' interest.

Some factions of the American shipping industry have despaired of ever making it a profitable enterprise. In recent years the cruise trade has not been profitable for American businessmen. But conditions are changing rapidly in the industry and past experience is not conclusive as to the future. These ships should not be sold without careful consideration of the industry and its future.

In my judgment, the logic underlying H.R. 11589 represents a lack of imagination and vision. It is not indicative of the traditional American ability to analyze a situation, investigate all the possible solutions, and then select the most effective course of action. On the contrary, it embodies a shortsighted escapism and fails to meet the challenge.

I oppose H.R. 11589 because it is unfair to the American taxpayer, it poses a threat to our economic strength, it takes jobs away from our citizens, and it encourages an unimaginable, escapist approach to problem solving.

Mr. PODELL. Mr. Chairman, today we are called on to vote on a most disappointing bill—the sale of our American passenger vessels to foreign nations. This unfortunate dilemma comes before this body at a time when American influence is rapidly fading. It is just another example of the sun setting on a once powerful nation. Because of inefficient management and bumbling bureaucracy, are we again forced to concede that we cannot compete with other nations in the world market? Should America's maritime heritage be torpedoed and great ships such as the SS *Brazil*, SS *Argentina*, SS *Santa Paula*, SS *Santa Rosa*, and SS *Constitution* be sold to other foreign owners? I think not.

While it is true that the percentage of people traveling by ship has decreased, it should also be noted that pleasure cruising from U.S. ports is booming. Passage on a ship is no longer considered a form of expedient travel, but rather a form of vacation. Between 1950 and 1970 the number of cruise ships sailing from New York to the Caribbean increased from 12 to 30, the number of cruises increased from 40 to 500, and passengers carried rose from about 20,000 to 150,000.

Yet, despite this increase there is not one ship now available to American families who want to sail the Atlantic or Caribbean which meets U.S. safety standards. It costs millions of dollars to maintain the superior safety of U.S. ships. No rational human would dare to say that we spend too much on protecting our people against the terror of fire or other disasters at sea. It is frightening to note that the competitive edge which foreign-flag operators have enjoyed is because they did not have to make the same investment in safety. We only have to remember the tragedy of the *Yarmouth Castle* fire, a foreign-flag vessel carrying many Americans, to realize that America's safety standards should be paramount in our thinking.

It is argued that increases in wages and benefits have occurred without improved productivity in the form of crew reductions and work-rule flexibility. Shall we for the same reason forsake our railroads? Our maritime unions have agreed to help in every way possible so that American passenger vessels will not be burdened by outdated or outmoded contracts. The AFL–CIO Maritime Committee has given a no-strike pledge to the passenger vessel operators and agreed to trim manning scales to the bare minimum consistent with satisfactory service. On the west coast, several unions have already inaugurated a sliding scale for afloat personnel keyed to the number of passengers carried.

Finally, proponents argue that rate and revenues do not reflect the rising costs of operation, and that the operating differential subsidy system provided by the Government is inflexible and inadequate. If our American Maritime companies had proper subsidies, they would be able to compete with foreign vessels. The operating differential subsidy for passenger vessels is generally designed to make up the difference between foreign and American costs of wages, insurance, maintenance, and repairs not compensated by insurance. By far the greatest portion of the subsidy funds are provided to offset the difference between American and foreign costs. However, it has been pointed out, by the Assistant Secretary of Commerce for Maritime Affairs that our wage subsidy probably never has given true parity in this regard. Additionally, it appears that foreign governments give their passenger ship operators advantages such as accelerated depreciation, tax benefits, grants, and in addition, provide capital at lower cost.

Should we not give American operators a fighting chance to compete with the same weapons?

It appears that America's once mighty transportation system is dying. Our passenger trains could not run profitably and have been given to a quasi-public corporation; our domestic and international airlines are in dire financial trouble; and we have mothballed almost all our passenger vessels. We should not give up hope for American ships by selling them, but should try all possible means of keeping them afloat under the American flag. Rather than hiding our inability to conquer these problems by selling our ships, we should begin an active, logical, and nondiscriminatory approach to subsidy, operation, and maintenance of our passenger vessels.

Mr. BIAGGI. Mr. Chairman, I strongly oppose legislation authorizing the sale of five U.S. passenger vessels to foreign interests. Passage of this bill will surely spell the end of the U.S. passenger trade at a time when all other nations are expanding their cruise trade.

In this respect, I commend the gentlewoman from Missouri (Mrs. SULLIVAN) for her efforts to defeat this proposal. I concur wholeheartedly with her actions.

There is ample evidence that passenger vessels can be operated profitably and without subsidy. More and more foreign cruise lines are plying American waters with great success. More Americans are attracted to this leisurely type of vacation instead of the hectic jet-set packages sold by the airlines. The only thing that is lacking is a little American know-how to make it work here.

Perhaps some of the superluxury aspects of the former passenger cruises will have to be eliminated. However, this will help attract more middle-class Americans who seek a pleasurable vacation at little cost. Studies have been conducted that show this type of cruise is economically feasible for the U.S. passenger vessels in question.

Yet the committee failed to consider this aspect in detail in their efforts to provide a windfall tax break for the owners of these passenger vessels. Certainly it will be far easier to sell these vessels than to seek ways of operating them profitably, but the committee and the Maritime Administration should be acting more in the interests of the American people than in the interests of making things easy for the big shipping companies.

All the millions of dollars put into these ships by the U.S. taxpayers will be lost if they are sold. All the benefits obtained by having these ships as part of our national defense system will be auctioned off to the highest foreign bidder. The U.S.S.R. has already indicated its desire to obtain these ships. They not only may be able to ply a profitable cruise trade as a result of this bill, but they may also have fine troopships available to carry their soldiers—all at the expense of the American taxpayer who helped build the ships.

While it has been pointed out that American interests may buy the ships, all evidence points to the fact that foreign interests who see the great worth of the ships will outbid any American takers. Moreover, the shipping companies who should be doing the bidding in America are the ones selling the ships.

True, certain sacrifices may have to be made to keep these ships in operation under the U.S. flag. The unions and the owners of the vessels will have to agree on wages and working conditions that will permit continued operation of these vessels on a profitable basis. The unions have already indicated they are willing to do so.

The companies may have to use their ingenuity to devise profitable cruises and then spend some advertising dollars to attract new customers. If their efforts to promote these ships are equal to their efforts to get this sales authorization bill passed, I know they will be successful in operating the vessels at a profit.

The Federal Government, too, may have to provide interim assistance to get these vessels back into operation. In light of the considerable subsidies paid the airlines, a small subsidy to help get this cruise program underway is a small price to pay to keep American flags flying on passenger ships.

Thousands of jobs will be created by restoring these vessels to operations. Millions of dollars in foreign exchange that have been going to other nations will begin to flow into U.S. banks and the U.S. economy. And we will be able to maintain our U.S. passenger fleet for use in times of peace and war.

Once these vessels are sold to foreign interests there will be no chance of reversing the decision to kill the passenger trade. It would be economically impossible today to build ships such as the ones we are practically giving away, if this bill passes.

Mr. Chairman, it is essential that everyone here understands that they are not voting simply to permit the sale of a handful of ships, but rather they are voting to either end or continue the passenger service in our ports under the U.S. flag. I, for one, will not be a party to this sell-out. I urge my colleagues to vote "No" on this bill.

Mr. TEAGUE of California. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Eighty-nine Members are present, not a quorum. The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 421]

Abbitt
Abourezk
Anderson, Tenn.
Andrews, Ala.
Belcher
Blatnik
Broyhill, Va.
Burton
Byrne, Pa.
Celler
Chisholm
Culver
Davis, S.C.
Dellums
Derwinski
Diggs
Dowdy
Edwards, La.
Eilberg
Erlenborn
Evins, Tenn.
Fish
Foley
Fulton, Tenn.
Gettys
Goldwater
Gubser
Hanna
Hébert
Horton
Landrum
McClory
Monagan
Nelsen
Nichols
Patman
Pepper
Price, Ill.
Pryor, Ark.
Railsback
Riegle
Rodino
Rooney, N.Y.
Ruppe
Scheuer
Sikes
Sisk
Steed
Thompson, N.J.
Wiggins
Wilson, Charles H.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. SMITH of Iowa, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 11589, and finding itself without a quorum, he had directed the roll to be called, when 379 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, Notwithstanding any other provision of law or of prior contract with the United States, any vessel heretofore operated as a passenger vessel, as defined in section 613(a) of the Merchant Marine Act, 1936, as amended, under an operating-differential subsidy contract with the United States and now in inactive or layup status, except the steamship United States, may be sold and transferred to foreign ownership, registry, and flag, with the prior approval of the Secretary of Commerce. Such approval shall require (1) approval of the purchaser; (2) payment of existing debt and private obligations related to the vessel; (3) approval of the price, including terms of payment, for the sale of the vessel; (4) the seller to enter into an agreement with the Secretary whereby an amount equal to the net proceeds received from such sale in excess of existing obligations and expenses incident to the sale shall within a reasonable period not to exceed twelve months of receipt be committed and thereafter be used as equity capital for the construction of new vessels which the Secretary determines are built to effectuate the purposes and policy of the Merchant Marine Act, 1936, as amended; and (5) the purchaser to enter into an agreement with the Secretary, binding upon such purchaser and any later owner of the vessel and running with title to the vessel, that (a) the vessel will not carry passengers or cargo in competition, as determined by the Secretary, with any United States-flag passenger vessel for a period of two years from the date the transferred vessel goes into operation; (b) the vessel will be made available to the United States in time of emergency and just compensation for title or use, as the case may be, shall be paid in accordance with section 902 of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1242); (c) the purchaser will comply with such further conditions as the Secretary may impose as authorized by sections 9, 37, and 41 of the Shipping Act, 1916, as amended (46 U.S.C. 808, 835, and 839); and (d) the purchaser will furnish a surety bond in an amount and with a surety satisfactory to the Secretary to secure performance of the foregoing agreements.

In addition to any other provision such agreements may contain for enforcement of (4) and (5) above, the agreements therein required may be specifically enforced by decree for specific performance or injunction in any district court of the United States. In the agreement with the Secretary the purchaser shall irrevocably appoint a corporate agent within the United States for service of process upon such purchaser in any action to enforce the agreement.

SEC. 2. The Secretary of Commerce is authorized and directed to purchase the steamship United States, as is, where is, at the depreciated cost of the vessel to the owner, as determined by the Secretary of Commerce, less the unpaid principal and interest on the mortgage on the vessel, for layup in the National Defense Reserve Fleet and operation for the account of any agency or department of the United States during any period in which vessels may be requisitioned under section 902 of the Merchant Marine Act, 1936, and/or for sale or charter to a qualified operator for operation under the American flag. The depreciated cost of the vessel to the owner shall be computed on the schedule adopted by the Internal Revenue Service for income tax purposes. Such determination shall be final. The Secretary of Commerce shall require the owner of the vessel to agree that it will pay all existing private obligations related to the vessel, and that it will commit an amount equal to the net proceeds received from such sale in excess of existing obligations and expenses incident to the sale, within a reasonable period not to exceed twelve months of receipt, as equity capital for the construction of new vessels which the Secretary determines are built to effectuate the purposes and policy of the Merchant Marine Act, 1936, as amended.

Mr. GARMATZ (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Maryland?

Mr. TEAGUE of California. I object, Mr. Chairman.

The CHAIRMAN. Objection is heard.

The Clerk proceeded to read the bill.

Mrs. SULLIVAN (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Missouri?

Mr. TEAGUE of California. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard. The Clerk will finish reading the first section of the bill.

The Clerk concluded the reading of the first section of the bill.

Mrs. SULLIVAN. Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Missouri?

There was no objection.

Mrs. SULLIVAN. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. The gentlewoman from Missouri is recognized.

Mrs. SULLIVAN. I take this time merely to correct a wrong impression that was left by the remarks of one of the previous speakers. He said that the sole owner of the cruise ships for which an offer was made to one of the ship companies was the former operator of the *Yarmouth Castle*. Under the proposal offered to the ship company, the former operator of the *Yarmouth Castle* would be the cruise operator, but he would not have 1 cent of his own money invested in the purchase of the ships or in the company seeking to own the ships if they could be purchased from the present shipowner. I wanted that false impression to be corrected.

Mr. LEGGETT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I support H.R. 11589, which provides for the foreign sale of certain American passenger ships. At first glance, this bill may appear to constitute a blow to our merchant marine industry. But I am convinced that this is not the case. Rather, this bill is merely the best realistic solution to an admittedly bad situation.

The vessels in question have not sailed for at least a year—some for several years. Maintaining them in their laid up state costs the companies which own them a total of $6 million per year. Total layup costs will ultimately run about $50 million if they were mothballed.

While keeping the ships idle is costly, operating them was even more costly. During their last year of operation, these ships received Government subsidies totaling $18 million. The U.S. Treasury spent over one-quarter billion dollars to subsidize these ships over the past 10 years. But even considering the subsidies, they lost an additional $8 million yearly which was absorbed by their owners.

No qualified American concern has offered to buy the ships. There is simply no way they can be put back into American operation, unless we are willing to increase the subsidy to fantastic levels. When we consider that these ships are in effect luxury hotels costing $75 to $100 per day per person, I find it difficult to justify even the earlier level of subsidy. Surely, the people who can afford these prices have very little claim on our national priorities. Surely we should not subsidize the luxury cruise class to the Caribbean.

We have simply priced ourselves out of the market, and there is no point in hanging in there and plugging away at a battle that is already irrevocably lost. Our 1970 Merchant Marine Ship Development Act ignored the merchant ship program for good cause—we all concluded it was a dead horse.

Even the passenger ships operated by nations with lower wage scales are in trouble because of the overwhelming popularity of jet transoceanic travel. The shining new *Queen Elizabeth II* is now being considered by its owners for use as a luxury hotel—read page 2 of the report. Of the five new Italian ships built in the past 5 years, two have been withdrawn from service.

As I said a moment ago, this bill makes the best of a bad situation. Foreign buyers of these ships must agree that they will not use them to carry passengers or cargo in competition with any American-flag vessel for at least 2 years. There really are not any to compete with. He must agree to place the vessel at our disposal in the event of a national emergency. The purchaser must be approved by the Secretary of Commerce. There is no nation in its right mind that would use a ship this big for troop transport. The seller must agree that the net profits from the sale will be plowed back into construction of new American cargo vessels.

Mr. Chairman, we are not taking jobs away from the merchant sailors who once operated those ships. Those jobs have not existed for some years, and nothing is going to happen to re-create them. We are, however, creating some new jobs in our shipyards and ultimately in our cargo fleet. This bill is the best solution we are going to get, and I urge its passage.

Mr. GROSS. Mr. Chairman, I move to strike the requisite number of words.

Mr. GROSS. Mr. Chairman, I take this time to ask a question or two of those knowledgeable concerning this bill. Do I correctly understand that the S.S. *United States* is to be purchased by the Government for some $12 million? I do not quite understand this financing.

The mortgage will be canceled, and there will be an allowance of credit for approximately $5,200,000 available to the United States Lines toward the construction of new vessels. Does this mean that we will be taking $12 million from the Federal Treasury to pay the owner and the U.S. Government will actually get—what? Less than $7 million in return from the sale of this vessel?

Mr. MAILLIARD. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from California.

Mr. MAILLIARD. Mr. Chairman, the ship is in layup. Of course, the original bill as passed by the committee provided that those ships could be sold foreign and I do not know exactly what they will bring on the market.

Mr. GROSS. I am talking about the *Constitution.*

Mr. MAILLIARD. The gentleman mentioned the *United States.*

Mr. GROSS. The gentleman is correct. I am wrong. It is the *United States.*

Mr. MAILLIARD. What the bill which was later introduced does is to credit the company that owns the ship with its depreciated value, in other words, the book value of the vessel, which includes a mortgage which is a Government-guaranteed mortgage—actually, I think this is a Government-held mortgage and not a guaranteed mortgage.

So what will happen is that the U.S. Treasury will pay itself off with a mortgage, and the balance will go to the company but with the commitment that, within a 12-month period, they will be committed to the building of new vessels to fly the U.S. flag.

Mr. GROSS. Then we take from the Treasury $5,200,000 for the construction of new vessels? Do we take this out of the Treasury?

Mr. MAILLIARD. That is correct. What we in effect are doing—we do not know what the sales price might have been, but when we take the ship into the reserve fleet, we will give the company credit for its reserve value.

Mr. GROSS. The gentleman says the worth is approximately $12 million?

Mr. MAILLIARD. That is a guess, because nobody knows, because no really firm offer was ever received, but the $12 million that will be credited is the book value. We do not know what its market value is, because there have been no offers made on it.

Mr. GROSS. But the taxpayers of this country have 55 percent invested in the original cost of this vessel?

Mr. MAILLIARD. That is correct. The taxpayers are keeping possession of the vessel.

Mr. GROSS. Yes, but we are paying somebody $12 million.

Mr. MAILLIARD. We are paying about $7 million to ourselves, because we hold the mortgage, and they will get the credit, which must be employed in the building of new ships, of approximately $5 million.

Mr. GROSS. I find this, I will say to the gentleman, hard to assimilate. I do not know why these ships were built in the first place.

Some of them are no older than 13 years. Somebody in this Government somewhere made a bad mistake, because more than 13 years ago we were passing legislation including mandatory provisions that cargoes had to be shipped in American vessels. We recognized 13 years ago, and before, that the merchant marine of this country was in dire circumstances, in dire straits, and yet we went ahead and built these vessels. Who made that mistake?

Mr. MAILLIARD. Mr. Chairman, if the gentleman will yield, of course, while it is true the younger of the ships are 13 years old, the decision to build them antedates that time by several years, and at that time the jet airplane had not destroyed the passenger business.

Mr. GROSS. We had airplanes that were flying people to the four corners of the earth at that time. They might not have been quite so comfortable as they are today, and possibly they were noisier and that sort of thing, but they were moving right in.

Mr. MAILLIARD. But people were still traveling on the ships, and these ships made money for a while.

Mr. GROSS. These ships made money? It must have been of a very short duration if they did.

The question now arises, when we take the money from the sale of these ships and put it into cargo vessels with a 55-percent construction differential being taken out of the pockets of the taxpayers——

Mr. MAILLIARD. If the gentleman will yield, the construction subsidy now is around 35 percent.

Mr. GROSS. All right, and 35 percent is too much. But is there any indication that these new cargo vessels will pay their way? Or will the committee be in here in 4 or 5 years wanting to sell the new freighters to get some more money out of the U.S. Treasury?

The CHAIRMAN. The time of the gentleman from Iowa has expired.

(By unanimous consent, Mr. GROSS was allowed to proceed for 2 additional minutes.)

Mr. GROSS. Mr. Chairman, I should like some kind of assurance that taking the money from the sale of these vessels and using it to subsidize in part the construction of new cargo vessels is going to have more meaning than the construction of these vessels had. In other words, is it now planned to compound the mistakes of the past?

Mr. PELLY. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Washington.

Mr. PELLY. I believe the answer to the gentleman is that today we can build a class of cargo vessel which can compete with foreign countries. We need cargo vessels, number one, for defense, and number two, for the economy of our country and the balance of payments. Therefore, I would answer the gentleman by saying I believe we can operate cargo vessels today in competition with foreign vessels.

Mr. GROSS. With some degree of facetiousness I might suggest we just take these ships and turn them over to Latin Americans, but before we do so we should build gun platforms on the fore and aft decks to make it easy for them to capture shrimp and fishing boats 200 miles off their coasts on the high seas.

Mr. Chairman, under all the circumstances I cannot support this bill.

Mr. PUCINSKI. Mr. Chairman, I move to strike the requisite number of words.

I take this time to ask the gentlewoman from Missouri some questions about this legislation. As I understand it, we are going to buy the *United States* back for $12 million, and we will retire $7 million of the mortgage, and we will turn the rest over to the shipping company and use that money to build new cargo vessels. Is that $7 million we are going to pick up a kind of a subsidy?

Mrs. SULLIVAN. Mr. Chairman, will the gentleman yield?

Mr. PUCINSKI. I yield to the gentlewoman from Missouri.

Mrs. SULLIVAN. That is not the subsidy. That will be the net result from taking over this ship at book value and deducting the amount of mortgage they still owe.

Mr. PUCINSKI. How much will a foreign country buying this ship pay us?

Mrs. SULLIVAN. The foreign countries, under this particular bill, do not buy this ship, because we were able to stop the sale of the *United States* and of the *Independence.*

Mr. PUCINSKI. The others?

Mrs. SULLIVAN. Foreign countries cannot pick those ships up. But as to all these other ships, the foreign countries can pick up them, and they are going to buy a really honest-to-God bargain at the expense of the U.S. taxpayers.

And a foreign operator can do anything he wants with that ship. He can convert it into a cargo ship, or a cargo and passenger ship, or he can change the kinds of compartments in the ship as it is today and make it into a cruise ship, which I expect, if they do buy them, they will do, and come back commercially.

Mr. PUCINSKI. Mindful of the wage differential, is there any other reason, besides the wage differential, why some American company cannot put the ships to proper use?

Mrs. SULLIVAN. I believe if our Maritime Administrator were really interested in promoting our maritime industry he would help to find some buyers for these ships, to run as cruise ships. This is the blame I put on not only the gentleman in power right now but also those before him, who do not really get out to build up the maritime industry.

Mr. PUCINSKI. We have developed successfully the nuclear ship *Savannah,* at an enormous cost to the American taxpayer. It had been working very well, and then they put it into mothballs.

Now we have these ships, and they want to sell them. Who is running this Maritime Commission, and what is the long-range plan for the American merchant marine?

Mrs. SULLIVAN. Let me give one example as to what happened to our Maritime Administration. We have two successful cruise ships left running on the west coast. They say they can run 2 more years. But they can continue to run, because they will make a profit on their cruises, but they need to be able to pick up cargo on these cruises in the Pacific. We have introduced proposed legislation. The chairman, some of the others, along with myself, have introduced legislation to permit them to do this, so long as they do not take cargo from any other U.S. flag line on that route.

The Maritime Administration has never given an answer to the committee asking for a report on that bill. Is that true, Mr. Chairman?

Mr. GARMATZ. It is being held up down there. That is true.

Mrs. SULLIVAN. But we have never gotten a reply; have we?

Mr. GARMATZ. That is correct.

Mr. PUCINSKI. Perhaps the chairman might be able to answer this question. If the taxpayer is going to lose money on this transaction, what happens if we take that money and give it to the American operators and let them try to operate these ships within the confines of the subsidy that we give them and see if they cannot do it with American labor. Why are we saying that we cannot successfully operate them and others can?

Mr. GARMATZ. It will cost the Government about $80 million a year.

Mr. PUCINSKI. But we are going to lose that, anyhow; are we not?

Mr. GARMATZ. No.

Mrs. SULLIVAN. I will say this: almost 1 million cruise passengers are paying fares to foreign operators coming into our eastern ports today and not $1 of that is coming back here to this country. I do not know what the total is, but I know it is over $200 million that is going away from this country. So, if we had to pay $80 million in subsidies, we would still be ahead with American workers.

Mr. PUCINSKI. I thank the gentlewoman.

Mr. GERALD R. FORD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, better than 2 years ago I tried to work with those who wanted to continue the operation of these ships with a subsidy to get the necessary funds included in a budget recommendation. However, after a great deal of conversation and effort, it was perfectly clear that there would not be a budget recommendation after a certain date for the continued subsidy operation of these ships.

So today we are faced with a different and difficult situation. The administration is not going to ask for operating subsidies. If you give it to them, they will not spend it. With that assumption, which I think is an accurate one, I think the best alternative is to approve this bill.

I would have preferred the original bill, but wiser judgments than mine have convinced the committee that the second bill is the better of the two, and so I am for the second bill or the one before us.

Let me just make a few other points if I might.

These ships have been laid up anywhere for a year or longer. There is no conceivable possibility that they are going to sail again with a subsidy and they cannot without a subsidy. Nobody in this administration is going to put $80 million a year into a subsidy, and that is the only way you can operate them.

So it seems to me that we are on far sounder ground fiscally and otherwise to approve this legislation.

According to the committee, the five vessels in their last year of operation lost $18 million. What we ought to do is sell the five and put one in the reserve fleet. We may have to put the other in the reserve fleet if we do not get a buyer for it.

It seems to me, in light of the practical circumstances, we are all better off to take the course of action that the committee has recommended. I would prefer it if we could get passengers and could cut down the subsidy and have them sail the seven seas, but they are not going to operate. They have not for over a year, and they will not in the future. So, we are stuck with mortgages in which we have an interest, the operators have an interest, and it just seems to me that we ought to transfer the account as far as we are concerned and buy off the interests of the operators, sell the vessels if we can, and take that money which we get from the sale and put it into new construction of cargo vessels that will sail the seven seas and which will provide jobs for American seamen.

It is just that simple.

The other alternative gives you nothing except never-ending expense. It is just that pragmatic.

Mr. DOWNING. Mr. Chairman, will the gentleman yield?

Mr. GERALD R. FORD. Yes; I yield to the gentleman from Virginia.

Mr. DOWNING. I would like to compliment the distinguished minority leader and say that he is exactly right.

I would like to also tell my friends in the House that this committee is dedicated to the proposition of protecting and promoting the merchant marine of this country. We have got to have it not only from a cargo and trade situation, but from the standpoint of national defense.

There is not one member of this committee that would do anything to harm the merchant marine. We do not want to do this. However, we have exhausted every possibility with reference to this particular situation and this is the only alternative that we can find at the present time. There is no other alternative.

Mr. GERALD R. FORD. We have three or four bad alternatives, and this is the most practical and most responsible alternative out of a number of bad choices.

If you vote "no," you will vote to continue paying off mortgages on ships that are not going to sail. It just seems to me that we ought to get our money out by selling the ships and build some more ships that will provide American jobs.

Mr. JONAS. Mr. Chairman, will the gentleman yield?

Mr. GERALD R. FORD. Yes; I yield to the gentleman from North Carolina.

Mr. JONAS. Would it be correct to say that this is another example of the United States pricing itself out of the world market?

Mr. GERALD R. FORD. I am told that under the old agreements ships of this kind were overloaded with help and, therefore, they could not compete with foreign competition. I also know, however, that about a year and a half ago the head of one of the maritime unions was willing to make some reduction in the number of personnel. But even with those reductions, they found out they could not operate on a competitive basis. Therefore, the net result is that the ships lost millions last year. With the competitive situation which exists now, they will lose many more millions in the next 12 months. It just does not make sense to keep them going.

Mr. Chairman, I hope the bill is approved.

Mr. EVANS of Colorado. Mr. Chairman, I move to strike the requisite number of words.

I have a few questions which I would like to ask as to the various alternatives that the shippers explored and new ideas that may have been explored in an effort to keep these ships operating profitably.

I understand that there are new ideas that have come into the passenger business.

Was this question entered into on the part of the committee? Did the committee explore the question of new ideas that might turn these ships into profitable operations?

Mr. DOWNING. Mr. Chairman, will the gentleman yield?

Mr. EVANS of Colorado. I yield to the gentleman from Virginia.

Mr. DOWNING. Yes, indeed. The Maritime Administrator went into this during his testimony. We did look into every conceivable aspect of this. One was to, perhaps, convert these ships to cruise ships because, if that trade is so profitable as the gentlewoman from Missouri says it is, these people would have jumped through hoops to have gotten into that business, but that was not feasible.

Another idea was to sell these ships and to form a consortium and build two or three super cruise ships under the American flag. However, this idea was found not to be feasible. We exhausted every possibility.

Mrs. SULLIVAN. Mr. Chairman, will the gentleman yield to me?

Mr. EVANS of Colorado. Yes, I yield to the gentlewoman from Missouri.

Mrs. SULLIVAN. The gentleman is right when he says that the Maritime Administrator did say this, but he never brought anything before us as to whom he contacted and as to what efforts he really made to get someone to operate these as cruise ships. It was discussed but no evidence was presented to us along this line.

Mr. TIERNAN. Mr. Chairman, will the gentleman yield?

Mr. EVANS of Colorado. Yes, I yield to the gentleman from Rhode Island.

Mr. TIERNAN. Earlier in the debate it was pointed out that the operators of the *Santa Paula* and the *Santa Rosa* testified before the committee that they made 17 changes in trying to beef up the tourists attractions to passengers but that in 1969 that line lost $1.3 million and it cost the Government in addition a subsidy of over $500 per passenger and the company still lost $104 per passenger.

It carried over 10,000 passengers in 1969. These are operators that are in this business to make money, they are not trying to lose money. But, in addition to them losing money we still had to pay them the subsidy for carrying the passengers.

Mr. EVANS of Colorado. I thank the gentleman for his response, which leads me to the second question:

It is my understanding that in 1 year we lost some $18 million with regard to the operation of these ships which we are now considering authorizing for sale.

Mr. TIERNAN. That is correct.

Mr. EVANS of Colorado. Then there was the figure of $80 million that was mentioned to continue subsidizing.

Mr. TIERNAN. That is the estimate as to what it would cost to continue these passenger ships in the trade, to subsidize them so that they would break even—only to break even. That means that would be the additional amount that would be necessary to subsidize the operation of these seven vessels in passenger service.

Mr. EVANS of Colorado. Does the $80 million represent any capital construction costs?

Mr. TIERNAN. No. This is just strictly the operating subsidy.

Mr. EVANS of Colorado. I thank the gentleman.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. Boggs) having assumed the chair, Mr. Smith of Iowa, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 11589) to authorize the foreign sale of certain passenger vessels, pursuant to House Resolution 697, he reported the bill back to the House.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mrs. SULLIVAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 253, nays 139, not voting 38, as follows:

[Roll No. 422]

YEAS—253

Adams
Addabbo
Anderson, Ill.
Anderson, Tenn.
Archer
Arends
Ashley
Aspinall
Baker
Bell
Bergland
Betts
Blackburn
Blanton
Boggs
Boland
Brademas
Brasco
Bray
Brinkley
Brooks
Brown, Ohio
Buchanan
Burke, Mass.
Burleson, Tex.
Cabell
Caffery
Camp
Carey, N.Y.
Carter
Casey, Tex.
Cederberg
Celler
Chamberlain
Clark
Clausen, Don H.
Clawson, Del
Cleveland
Collier
Collins, Tex.
Colmer
Conable
Conte
Crane
Daniel, Va.
Davis, Ga.
Davis, Wis.
de la Garza
Delaney
Dellenback
Dent
Dickinson
Dingell
Dorn
Downing
du Pont
Dwyer
Eckhardt
Edwards, Ala.
Edwards, Calif.
Esch
Fascell
Findley
Fish
Fisher
Flowers
Flynt
Foley
Ford, Gerald R.
Ford, William D.
Forsythe
Fountain
Fraser
Frelinghuysen
Frenzel
Frey
Fulton, Tenn.
Fuqua
Garmatz
Gibbons
Goodling
Gray
Griffin
Griffiths
Grover
Gude
Hagan
Haley
Hamilton
Hansen, Idaho
Harrington
Harvey
Hastings
Hathaway
Heinz
Henderson
Hillis
Hogan
Hosmer
Howard
Hunt
Jacobs
Jarman
Johnson, Calif.
Johnson, Pa.
Jonas
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Karth
Kastenmeier
Kazen
Keating
Keith
King
Kluczynski
Kuykendall
Kyl
Kyros
Leggett
Lennon
Lent
Lloyd
Long, La.
Long, Md.
Lujan
McCloskey
McClure
McCollister
McCormack
McCulloch
McDade
McDonald, Mich.
McEwen
McFall
McKay
McKevitt
McKinney
Macdonald, Mass.
Mahon
Mailliard
Mann
Mathias, Calif.
Matsunaga
Mayne
Meeds
Melcher
Mikva
Miller, Calif.
Mills, Ark.
Mills, Md.
Mizell
Mollohan
Monagan
Montgomery
Moorhead
Morgan
Morse
Mosher
Moss
Murphy, Ill.
Natcher
Nedzi
Nichols
O'Hara
O'Konski
O'Neill
Passman
Patten
Pelly
Perkins
Pettis
Peyser
Pickle
Pike
Pirnie
Poage
Poff
Powell
Preyer, N.C.
Price, Tex.
Purcell
Quie
Quillen
Rees
Reid, N.Y.
Reuss
Rhodes
Robinson, Va.
Robison, N.Y.
Rogers
Rooney, N.Y.
Rooney, Pa.
Rosenthal
Rostenkowski
Roush
Ruppe
Ruth
St Germain
Sandman
Scherle
Schmitz
Schneebeli
Schwengel
Scott
Shoup
Smith, Iowa
Smith, N.Y.
Snyder
Springer
Staggers
Stanton, J. William
Stanton, James V.
Steele
Steiger, Ariz.
Steiger, Wis.
Stephens
Stratton
Stubblefield
Stuckey
Talcott
Taylor
Teague, Calif.
Terry
Thompson, Ga.
Thompson, N.J.
Thomson, Wis.
Tiernan
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Veysey
Vigorito
Waggonner
Wampler
Ware
Whalen
White
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Winn
Wyatt
Wydler
Wylie
Wyman
Young, Fla.
Zion

NAYS—139

Abernethy
Abourezk
Abzug
Alexander
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Ashbrook
Aspin
Badillo
Barrett
Begich
Bennett
Bevill
Biaggi
Biester
Bingham
Bolling
Bow
Broomfield
Brotzman
Brown, Mich.
Broyhill, N.C.
Burke, Fla.
Burlison, Mo.
Byrnes, Wis.
Byron
Carney
Chappell
Chisholm
Clancy
Clay
Collins, Ill.
Conyers
Corman
Cotter
Coughlin
Culver
Daniels, N.J.
Danielson
Denholm
Dennis
Devine
Donohue
Dow
Drinan
Dulski
Duncan
Edmondson
Eshleman
Evans, Colo.
Flood
Galifianakis
Gallagher
Gaydos
Giaimo
Gonzalez
Grasso
Green, Oreg.
Green, Pa.
Gross
Hall
Halpern
Hammerschmidt
Hanley
Hansen, Wash.
Harsha
Hays
Hechler, W. Va.
Heckler, Mass.
Helstoski
Hicks, Mass.
Hicks, Wash.
Holifield
Hull
Hungate
Hutchinson
Ichord
Kee
Kemp
Koch
Landgrebe
Latta
Link
McMillan
Madden
Martin
Mathis, Ga.
Mazzoli
Metcalfe
Miller, Ohio
Minish
Mink
Minshall
Mitchell
Myers
Nix
Obey
Pepper
Podell
Pucinski
Randall
Rangel
Rarick
Roberts
Roe
Roncalio
Rousselot
Roy
Roybal
Runnels
Ryan
Sarbanes
Satterfield
Saylor
Scheuer
Sebelius
Seiberling
Shipley
Shriver

Skubitz
Slack
Smith, Calif.
Spence
Steed
Stokes
Sullivan
Symington
Teague, Tex.
Thone
Waldie
Whalley
Wolff
Wright
Yates
Yatron
Young, Tex.
Zablocki
Zwach

NOT VOTING—38

Abbitt
Andrews, Ala.
Baring
Belcher
Blatnik
Broyhill, Va.
Burton
Byrne, Pa.
Davis, S.C.
Dellums
Derwinski
Diggs
Dowdy
Edwards, La.
Eilberg
Erlenborn
Evins, Tenn.
Gettys
Goldwater
Gubser
Hanna
Hawkins
Hébert
Horton
Landrum
McClory
Michel
Murphy, N.Y.
Nelsen
Patman
Price, Ill.
Pryor, Ark.
Railsback
Riegle
Rodino
Sikes
Sisk
Wilson, Charles H.

So the bill was passed.

The Clerk announced the following pairs:

On this vote:

Mr. Hébert for, with Mr. Charles H. Wilson against.

Mr. Blatnik for, with Mr. Price of Illinois against.

Mr. Gettys for, with Mr. Diggs against.

Mr. Patman for, with Mr. Hawkins against.

Mr. Murphy of New York for, with Mr. Dellums against.

Mr. Sikes for, with Mr. Davis of South Carolina against.

Until further notice:

Mr. Sisk with Mr. Horton.

Mr. Abbitt with Mr. Belcher.

Mr. Rodino with Mr. Railsback.

Mr. Evins of Tennessee with Mr. Broyhill of Virginia.

Mr. Eilberg with Mr. Erlenborn.

Mr. Byrne of Pennsylvania with Mr. Riegle.

Mr. Burton with Mr. Goldwater.

Mr. Hanna with Mr. Gubser.

Mr. Landrum with Mr. McClory.

Mr. Pryor of Arkansas with Mr. Derwinski.

Mr. Andrews of Alabama with Mr. Michel.

Mr. Baring with Mr. Nelsen.

Messrs. ROONEY of New York, O'KONSKI, and SCHMITZ changed their votes from "nay" to "yea."

Messrs. ROY and HOLIFIELD changed their votes from "yea" to "nay."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

HOUR OF MEETING TOMORROW

Mr. BOGGS. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 11 o'clock tomorrow.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

Mr. HALL. Mr. Speaker, reserving the right to object, I wonder if we could get some expression from the majority leader as to the plans and program if this unanimous-consent request is acquiesced in.

Mr. BOGGS. Mr. Speaker, will the gentleman yield?

Mr. HALL. I yield to the gentleman from Louisiana.

Mr. BOGGS. Mr. Speaker, in reply to the inquiry of the gentleman from Missouri, first we plan to consider the rule on the District of Columbia appropriation bill today, but we will not consider the bill. It is our hope that if this request is granted, and we are able to come in at 11 o'clock tomorrow morning, that we will consider both the District of Columbia appropriation bill and the supplemental appropriation bill tomorrow. In that event we will not have a session on Friday.

Mr. HALL. Mr. Speaker, further reserving the right to object, may I ask the distinguished majority leader if the fact that we do not plan to work Friday and Saturday will further our efforts toward reaching pell-mell an adjournment sine die? Can the gentleman give us assurances that our work in the House is caught up so that we can adjourn some time next week?

Mr. BOGGS. If the gentleman will yield further, I cannot assure the gentleman that we will adjourn some time next week, but I can assure the gentleman that, if we adopt the rule today and complete the work on these two bills, that we will be able to complete our scheduled work for next week. There are other matters that cannot be considered either Friday or Saturday of this week, matters such as the conference report on the tax bill, which is now in conference. I am informed that the conferees expect to conclude their work maybe tonight. It is a real long bill, and a very difficult bill. They have asked that they may have until Saturday midnight to complete their work on the report on the bill. Under the Rules of the House, the report must lay over for 3 days, so that we could not consider the conference report on that bill before the middle of next week at the very earliest.

Other matters still pending, and which are not ready for floor consideration, are matters such as the President's economic program. There is only one remaining regular appropriation bill, and that is the foreign aid bill, which we hope to dispose of next week.

Mr. HALL. Mr. Speaker, is it the opinion of the distinguished gentleman from Louisiana that if we do dispose of that next week that there will be a concerted effort on the part of the leadership of the House to force the other body to meet their original commitment and adjourn at least by the end of the next week, and I mean adjourn sine die?

Mr. BOGGS. I would say to the gentleman from Missouri that the leadership on the part of the House is doing everything possible to expedite the work of this body each day, and between now and adjournment. I, of course, would hope that we could conclude all of our work next week. I believe the House can.

Mr. HALL. Mr. Speaker, far be it from me to stand in the way of an adjournment sine die, on which we have waited much too long.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

RECOMMITTAL OF SENATE CONCURRENT RESOLUTION 6, PUBLIC HEALTH SERVICE HOSPITALS

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that the conference report on the Senate concurrent resolution, Senate Concurrent Resolution 6, be recommitted to the committee of conference.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

REQUEST TO CONSIDER S. 1163, AMENDING OLDER AMERICANS ACT OF 1965

Mr. PERKINS. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (S. 1163) to amend the Older Americans Act of 1965 to provide grants to States for the establishment, maintenance, operation, and expansion of low-cost meal projects, nutrition training and education projects, opportunity for social contacts, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

Mr. GERALD R. FORD. Mr. Speaker, reserving the right to object, and I should say I do intend to object, I ask the distinguished chairman of the Committee on Education and Labor—has his committee reported out a bill on this subject matter?

Mr. PERKINS. Mr. Speaker, let me say to the distinguished minority leader that the committee has not reported out a bill, but the subcommittee headed by our distinguished colleague, the gentleman from Indiana (Mr. BRADEMAS) has just conducted extensive hearings.

In the event that objection is heard and the bill is not to be considered today, we are going to report it out tomorrow from the full committee and consider it under suspension of the rules. I thought this would be a way to expedite consideration of the bill since that is the feeling of the members of the committee.

Mr. Speaker, as you know, the White House Conference on Aging is now in progress, bringing to our Nation's Capital thousands of older citizens and other delegates vitally concerned with the needs of 20 million older Americans.

I have just returned from the Conference and I had an opportunity to assure a large group of delegates of the concern of the Congress for their problems. I also assured them of my belief that the Congress will act as promptly as possible to implement the constructive recommendations they are making for effective programs to deal with their problems.

There is, indeed, one of these needs, an urgent one, on which we can act today.

Both Houses of the Congress have had extensive hearings on legislation to establish a nutrition program for the elderly. The testimony has confirmed the validity of the recommendation of the Panel on Aging of the 1969 White House Conference on Food, Nutrition, and Health, that:

> The United States Government . . . now accept its obligation to provide the opportunity for adequate nutrition to every aged resident of the country.

Since that time a series of successful demonstration projects throughout the country have proven that a significant contribution to better nutrition for the elderly can be made through programs of group meals, providing good food in a stimulating social context. It has shown also that such a program can provide the focal point for a variety of recreational activities, health counseling, informational and referral services and other programs needed to meet the complex problems of the elderly.

Some of the pioneer programs have been discontinued because of the difficulty of obtaining local funding after Federal demonstration grants have been exhausted. But, in response to appeals from Members of the Congress earlier this year, the administration provided special funding to continue the existing 18 to 20 nutrition programs while the Congress considered the establishment of a workable national program.

Yesterday, the Senate approved such a program by a vote of 88 to 0. This program, incorporated in S. 1163, is substantially the program on which my committee has conducted extensive hearings over the last 2 years. I believe, therefore, that we are in a position to act immediately, by concurring in the action of the other body, to authorize now the establishment of a national program of better nutrition for the elderly.

S. 1163 would initiate, beginning with the fiscal year 1973, a 2-year program of grants to the States based upon the number of persons 60 years old and older in each State. Each State would be guaranteed no less than one-half of 1 percent of the total appropriation for the program, which would be authorized at the level of $100 million for fiscal 1973 and $150 million for fiscal 1974.

The Federal Government would provide 90 percent of the cost of this program and the States would carry out the program, in accordance with a State plan approved by the Department of Health, Education, and Welfare's Administration on Aging, through grants or contracts with local public agencies and nonprofit private institutions.

The legislation amends the Older Americans Act of 1965 by creating a new title to authorize grants to the States for the purpose of providing low cost, nutritionally sound meals to persons 60 years of age or older and their spouses. Participating States must designate a single State agency to administer and coordinate the nutrition program in the State and may utilize up to 10 percent of their allotment for administrative costs.

The States would be required to give preference, in making grants or awarding contracts, to projects which would serve primarily low income persons. Their plans also assure that, to the extent feasible, projects will be operated which will meet the needs of minority, Indian and limited English-speaking persons in proportion to their numbers in the State.

Each project would be required to provide at least one hot meal on five or more days per week, and each meal must provide at least one-third of the daily dietary requirements as established by the Food and Nutrition Board of the National Academy of Sciences. The projects would be eligible for and would be encouraged to use surplus agricultural commodities in their meals programs.

Recipients of a grant or contract would be required to provide a conveniently located site for the program, would be required to engage in an outreach program to bring in eligible persons, and would be required to afford supportive services such as recreational activities, health and welfare counseling, and informational and referral services, where they are not otherwise available. Where appropriate, home-delivered meals would be provided for the homebound and transportation would be provided where this might be necessary.

Mr. GERALD R. FORD. Mr. Speaker, let me say to my friend, the gentleman from Kentucky, that at least we would have an opportunity to see the bill reported by a House committee under that procedure and we would at least get 40 minutes of debate under that procedure, with some forewarning that the legislation was coming to the floor of the House.

As I understand the other body passed the bill yesterday and you want to bring it up under unanimous consent today without any forewarning to the membership as a whole. The Chairman did call me this morning—which I appreciate but which I do not think is adequate notice to the other 433 Members of the House.

Mr. PERKINS. Before the gentleman from Michigan objects, if he will yield further.

Mr. GERALD R. FORD. I yield to the gentleman.

Mr. PERKINS. The distinguished minority leader knows that the bill passed the other body by a vote of 88 to 0—zero. I do not know of any opposition in the Chamber to this legislation and I thought it would just expedite the procedure all the way around if we could get it out of the way.

Mr. BRADEMAS. Mr. Speaker, will the gentleman yield?

Mr. GERALD R. FORD. If I may respond to the gentleman's comment about the desirability of doing what the other body did—just because 88 of them voted unanimously. It might be that 88 of them were wrong in this case. I am not about to make this a unicameral legislative body, and I do not think the gentleman from Kentucky wants to follow that procedure.

Therefore, Mr. Speaker, after I yield to my friend from Indiana, I intend to object.

Mr. BRADEMAS. Mr. Speaker, if the distinguished minority leader will yield, and I appreciate his yielding, I would like only to supplement the plea of the distinguished chairman of the committee, the gentleman from Kentucky (Mr. PERKINS) and observe that the major theme of the White House conference on aging, which will adjourn tomorrow, has been that it is time to stop the speeches and start the action for the older people of our society. If the House of Representatives were today, with broad bipartisan support, as did the other body yesterday, to agree to the passage of this legislation to provide nutritional programs for older Americans, it would be the finest possible demonstration that the House of Representative is responding to the oft repeated pledge of the Chairman of the White House Conference on Aging, Dr. Arthur Flemming, that the conference would be preceded by "vigorous and effective action" for the aging, and that the conference would not be simply more speeches and resolutions.

So I hope the distinguished minority leader will reconsider what he has in mind and that he will not object to action today on the nutrition for the elderly bill.

Mr. GERALD R. FORD. I can only comment that this is almost the 12th month of opportunity for the Committee on Education and Labor to conclude its hearings and to bring forth a bill on this subject to the floor of the House. It is too bad that there was not greater urgency in the committee prior to the on holding of the White House Conference on Aging. It is too bad that there was this dilatory action that now seems to require some expediting merely to take a piece of paper up to the Conference and say, "Look what we have done."

I was hoping that the urgency of this legislation would have been far more obvious and we could have had good legislation on this subject through the House in the regular way by this time.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. GERALD R. FORD. I yield to the gentleman from Iowa.

Mr. GROSS. Apropos the remarks of the gentleman from Indiana regarding Dr. Flemming, it has been my observation over a number of years that Dr. Flemming has made a good many speeches in the past and I expect he will make a lot of speeches in the future.

Mr. HALL. And he usually has had his hand out.

Mr. GROSS. Yes; that is right.

Mr. BRADEMAS. Mr. Speaker, will the gentleman yield further?

Mr. GERALD R. FORD. I yield once more to the gentleman from Indiana.

Mr. BRADEMAS. I thank my colleague.

I hope, Mr. Speaker, that my distinguished friend, the minority leader, will reconsider the potential significance of his phrase, "the staging of the White House Conference." I am one of those who have expressed the hope that the White House Conference will mean bipartisan support for action for the aging and not just rhetoric. Now we have an opportunity to act. I hope, therefore, that the distinguished minority leader will not stand in the way of action for the aging. For, if he does, it will make it abundantly clear that the White House Conference on Aging has, indeed, been "staged" for the political benefit of the administration and little else.

Indeed, Mr. Speaker, I am constrained to confess that I am distressed—but not astonished—that the distinguished Republican leader of the House of Representatives should now be objecting to action today by the House of Representatives to approve this legislation so crucial to the lives of older people of America.

For, Mr. Speaker, way back in 1935, the principal opponents to President Franklin Roosevelt's social security proposal came from Republicans while the principal supporters for that historic measure to make life better for retired persons came from Democrats.

Over a generation ago, then, Democrats were working hard for programs to benefit the older citizens of this land; and Democrats are still working hard in Washington to forward that objective.

And, Mr. Speaker, only a generation ago, Republicans were working against programs to benefit the older citizens of this land; and Republicans are still working hard in Washington against such programs. The minority leader's action today to block House approval of the nutrition program for the elderly is a prime example of this attitude of hostility to action for the aging.

Mr. Speaker, I have the honor to be the chairman of that subcommittee of the House of Representatives with jurisdiction over the Older Americans Act of 1965 as well as over a number of other programs relating to the elderly, and I therefore take this opportunity to comment on the wide gulf between the rhetoric of the Nixon administration on the problems of the aging and the actions of the administration.

Mr. Speaker, the Census Bureau reports that there are today over 20 million Americans 65 and over, and by 1990, there will be over 27 million elderly in the Nation. For while the total U.S. population has tripled, the older population has increased sevenfold.

All of us here are aware of the needs of the elderly in American life—adequate retirement income, decent health care, sound nutrition, recreational and community service opportunities, housing, transportation, education and employment—to cite only the most obvious.

Tomorrow the White House Conference on Aging, called by President Nixon and meeting here this week in the Nation's Capital, will adjourn.

Mr. Speaker, the "staging," to use the revealing words of minority leader FORD in describing the White House Conference on Aging, when measured by the action of the Republican leader of the House today, is a dramatic symbol of the gap of which I speak, the gap between words and deeds.

So let us now review the record of the Nixon administration on problems of the aging.

For, I think you will all agree, in a democracy like ours, it is essential—if Government is to be responsible and responsive—to compare the promises of canidates with their performance once in office—and this requirement includes not only Congressmen and Senators but Presidents as well.

It was, I remind you, at a convention of the National Retired Teachers Association and the American Association of Retired Persons in Chicago, Ill., that, on June 25, 1971, President Nixon declared that:

> The generation over 65 is a very special group which faces very special problems—it deserves very special attention. That is why we have been moving to insure that our older citizens get that special attention that they deserve.

These eloquent words were an echo of the words with which nearly a year and a half ago, on April 9, 1970, President Nixon, proclaimed May as Senior Citizens Month and issued a call for a national aging policy.

Said the President:

> For too long we have lacked a national policy and commitment to provide adequate services and opportunities for older people.

Let us then make a judgment, during this week of the White House Conference of Aging, on the extent to which President Nixon has—or has not—fashioned a national policy and commitment to provide adequate services and opportunities for older people.

Let us compare the rhetoric with the action, which is exactly what Richard Nixon, just 3 years ago, on October 22, 1968, urged, in a nationwide radio address when he said:

> For my part, I will make this pledge. I will never promise what I cannot deliver.

So let us look at the record.

RETIREMENT INCOME

Mr. Speaker, take the issue of retirement income. You and I know that inflation is the continuing enemy of the aging citizen, hitting older persons harder than those of any other age group.

Many of us in the last Congress championed a 15-percent increase in social security benefits. But Mr. Nixon said, "No," asked for only 7 percent and even went on to threaten a veto of the 15-percent hike recommended by the House Ways and Means Committee. Only the fact that the 15-percent increase was made part of the tax reform bill, which the President badly wanted, caused him to sign the bill containing the 15-percent figure.

That the administration should now claim credit—as it has attempted to do—for the 15-percent rise in social security benefits is therefore little short of hypocrisy.

NUTRITION

Mr. Speaker, we have today been discussing the area of nutrition. In October 1969 the White House Conference on Food, Nutrition, and Health recommended programs of adequate nutrition for aged citizens and called for developing a new system of food delivery for them.

And President Nixon's own Task Force on Aging in April 1970 urged him to direct the Administration on Aging and the Department of Agriculture to develop nutritional programs for the elderly.

Yet earlier this year, when our Select Education Subcommittee, following through on these recommendations, held hearings on legislation introduced by our distinguished colleague, the gentleman from Florida (Mr. PEPPER), and the distinguished senior Senator from Massachusetts (Mr. KENNEDY) to establish a nutritional program for the elderly, what was the response of the administration of Richard Nixon? I can tell you. The answer was "No."

That beleaguered Presidential appointee, the Commissioner on Aging, John Martin, told our subcommittee that the administration was opposed to the Pepper-Kennedy bill but would come up with another proposal. We are still waiting—but I am not holding my breadth, and I do not think the older citizens of America who need low-priced nutritional meals should do so, either. Happily, the Senate yesterday, by a vote of 89 to 0, passed the bill establishing nutritional programs for the elderly. Unhappily the objection of the Republican leader of the House has blocked similar action today by the House.

NURSING HOMES

Mr. Speaker, let me turn to another area of concern to America's elderly. You may have read the President's recent bold pronouncement against the shortcomings of substandard nursing homes. The Federal Government should not, he said, subsidize such homes with Federal funds such as medicaid.

Yet you and I know that the Federal Government even today continues to pay vast sums to nursing homes which fall far short of meeting the requirements of the 20th century. So the talk sounds fine, but the action is missing.

What we need, if there is a genuine determination to do something about substandard nursing homes in this country, is less Presidential rhetoric and more Presidential action to enforce Federal regulations in all nursing homes receiving Federal funds.

Or let me remind you that in his 1968 campaign, Mr. Nixon pledged to sponsor restoration of full deductibility of medical expenses of those aged 65 and over. Well, let me tell you something: On Capitol Hill, we are still waiting for his proposal.

ADMINISTRATION ON AGING

Mr. Speaker, perhaps the most obvious symbol of how this administration has been long on rhetoric about helping older Americans but scandalously short on action has been the vigorous way in which the administration has fought to weaken and cripple the agency which both Democrats and Republicans in Congress joined to establish 5 years ago to assure high level attention in the Federal Government to the problems of the elderly.

I speak, of course, of the Administration on Aging, created in 1965 in the Department of Helath, Education, and Welfare, to be headed by a Presidentially appointed Commissioner, who would report directly to the Secretary of Health, Education, and Welfare.

What has Mr. Nixon done to make good on his promise to give "very special attention" to the "very special group" known as "the generation over 65"—and you will, of course, observe that I am simply here quoting the words of the President.

Time after time this year, the Nixon administration has acted to strangle the Federal agency most directly concerned with the needs of America's senior citizens, the Administration on Aging.

Earlier this year, the research function of the Administration on Aging was transferred away from it to the Social and Rehabilitation Service.

Then, Mr. Speaker, the administration removed both the foster grandparents and the RSVP—retired senior volunteer program—from the Administration on Aging to place them in a new agency, which is not chiefly concerned with problems of the elderly.

And then the President moved to eviscerate the important program of the Administration on Aging for community projects for the elderly by cutting $3.65 million from the budget for them, slicing $3 million off the budget for foster grandparents, and by slashing another $2.15 million for research and training of personnel concerned with aging.

Were these actions taken, one must ask, in order to make good on the President's plea for "a national policy and commitment to provide adequate services and opportunities for older people"?

Mr. Speaker, I am pleased to tell you that, on learning of these proposed budget cuts, I immediately convened the Select Subcommittee on Education to demand an explanation from administration officials of these extraordinary actions.

I am still more pleased to tell you that, in responding to our bipartisan criticism of this further administration retreat from responsibility, Secretary of Health, Education, and Welfare, Elliot Richardson, announced the following month that the budget of the Administration on Aging would be amended to continue both community projects and foster grandparent programs at the current fiscal year funding level. The Secretary also agreed to restore funds for research and training and to request an increase of $1.2 million above the amount originally asked for in fiscal year 1972 for areawide model projects for the aging.

HOUSING

Or, Mr. Speaker, what about housing for the elderly? It is true that over the past 10 years, the Federal Government has opened housing programs for the elderly that have produced an average of 37,000 new units annually.

But we need at least 120,000 such units a year. There is only one program that has produced a substantial number of decent homes at rates that older persons can afford—section 202 of the Housing Act, which provides direct loans at nominal interest rates to nonprofit sponsors of housing for the elderly. And what is the administration doing? It is phasing out the program.

EMPLOYMENT OPPORTUNITIES

You and I know that another problem that afflicts many middle-aged and older persons today is the lack of employment opportunities.

That is why many of us in Congress favor a proposal known as the Older Americans Community Service Employment Act, which would help assure a chance for useful and constructive jobs.

And Mr. Speaker, what did the spokesman for the Nixon administration have to say about this? Once again, Commissioner Martin was sent to Capitol Hill to testify against the bill, "in view of activities which are currently being carried out under present law, proposals pending before Congress and legislation being developed for early submission to Congress". Does the theme begin to sound familiar?

And I can cite still more examples of the policy of this administration of consistent opposition to effective action for America's elderly.

MEDICARE-MEDICAID

The administration has recommended a one-third cutback in Federal medicaid matching after a medicaid patient had received 90 days of care in a nursing home or mental hospital or 60 days in a general hospital.

The administration is proposing, as part of its comprehensive health package this year, to combine medicare parts A and B and increase medicaid copayments. In other words, the older patient pays more.

And of course, the President struck another serious blow at older citizens when several weeks ago, in imposing the wage-price freeze, he called for a 1-year delay in welfare reform—which of course means a 1-year delay in social security increases.

Mr. Speaker, I hope that what I have been saying today will enable those concerned with problems of the elderly better to understand why so many of us in Congress are so profoundly skeptical of the pretensions and promises of the Nixon administration in the field of the aging.

ACTION OR RHETORIC?

And I hope that it will be clearer why many of us in Congress have come to the point where we are far less interested in hearing the speeches of administration officials about how deeply they are concerned about the problems of older Americans—and why we are far more interested in seeing the evidence of genuine commitment, both to programs and to money, to help meet these problems.

Mr. Speaker, it was only a few weeks ago, I remind you, that the distinguished Chairman of the White House Conference on Aging, Dr. Arthur Flemming, the former Secretary of Health, Education, and Welfare and a man for whom I have the highest respect, appeared before my subcommittee to make us still another promise. Said Dr. Flemning:

> The President has talked with me about his deep concerns regarding this issue, (the problems of aging) and, as a result, I have no hesistancy in saying that between now and the time for the White House Conference, the nation will witness vigorous and effective action in this area.

I must remind Dr. Flemming that his time is running out. He testified before us on September 22. Today is December 1. The White House conference ends tomorrow, December 2.

Mr. Speaker, if there has been vigorous and effective action for older Americans on the part of an administration which is usually not reticent about trumpeting its accomplishments, there is precious little evidence of it.

I was present at a meeting of retirees last month when Dr. Flemming reminded us of the Biblical admonition, "Thou shalt love thy neighbor as thyself"—but I must add—that under this administration the commandment has been changed to read, "Thou shalt love thy neighbor as thyself . . . provided that the Office of Management and Budget says it is all right to do so."

TOO MUCH SPENDING ON THE ELDERLY?

And somehow, I regret to tell you, I am not surprised. For if Dr. Flemming had proved right in his prediction, it would mean a notable change from the previous record of this administration on problems of the retirement generation. It was, indeed, in 1969 that the administration gave vent to its true feelings on problems of the aging—in the words of the then Secretary of Health, Education, and Welfare and now Counselor to the President, Robert Finch, who made his view very clear—that the Federal Government spends too much on programs for the elderly.

Said Secretary Finch:

> This relative imbalance (between expenditures for the elderly and expenditures for the young) has been expanding with the increase over the last ten years for the aged.

Mr. Finch of course ignored the fact that the increases in funds for the aged largely represented payments under social security, payments contributed by workers and employers and not by the Federal Government.

And Mr. Speaker, I here cannot resist quoting Secretary Finch on April 9, 1969 when he said:

> I'd like to see a great chunk of resources put in at the lower end of the aged spectrum and hold it at the top end.

For I speak not only as a cosponsor of the Older Americans Act but a principal sponsor of the Comprehensive Child Development Act, now awaiting final action by Congress, a bill aimed at providing the most important advance for very young children in a decade. Is the administration of Richard Nixon, which now employs Mr. Finch in the White House supporting this effort to increase the resources at the lower end of the age spectrum?

Not at all, for White House lobbyists have been threatening a veto of this child day care program, too. In other words, the administration is saying "no" to both the youngest and the oldest of our society.

NOT RESOLUTIONS, BUT ACTION

So where does this all leave us?

Mr. Speaker, I still hope that Dr. Flemming proves right and that the White House Conference on Aging will be fruitful, but I must here observe that the success of the conference must be judged not by the resolutions it produces but by the action it causes on behalf of the older people of our country.

And I believe that every older American has the right to ask if the 1971 White House Conference on Aging is to be either a genuine prelude to effective action, or if it is to be nothing more than a political coverup for this administration's continuing opposition to congressional initiatives to improve social security benefits, housing, health care, nutrition, and other programs crucial to the lives of the elderly.

Sadly, only today, we have seen—in the blocking by the Republican leader of the

House of a vote on the nutrition for the elderly program—the latest instance of this opposition.

But I believe the time has come for action—and I believe that many Members of the U.S. House of Representatives and Senate—of both parties—share this conviction.

That is why a Select Education Subcommittee has already held hearings here in Washington, D.C in Chicago, in New York City, in Boston, and will continue them elsewhere in the Nation in coming months—to hear the views of representative citizens on the problems of the elderly and on effective ways of coping with those problems.

As we continue our hearings, we shall, by way of carrying out our congressional oversight responsibility, listen to comments on how the Nixon administration is implementing the demonstrated intent of Congress with respect to Federal programs to benefit the elderly.

ADMINISTRATION SABOTAGE OF OLDER AMERICANS PROGRAMS

Is this administration trying to make these programs work, or is it seeking rather to sabotage them?

Mr. Speaker, members of our subcommittee will also seek to obtain ideas and suggestions for legislation to assure not a piecemeal approach to problems of the aged but instead to consider whether the time has now come to provide comprehensive services for the older citizens of our society.

Indeed, Mr. Speaker, I am glad to say that legislation to make available such services will be introduced tomorrow by 10 members of the House Committee on Education and Labor.

Following is a list of the initial sponsors of the comprehensive older American services bill: John Brademas, of Indiana; Carl D. Perkins, of Kentucky; Patsy T. Mink, of Hawaii; Lloyd Meeds, of Washington; James H. Scheuer, of New York; Joseph M. Gaydos, of Pennsylvania; William "Bill" Clay, of Missouri; Shirley Chisholm, of New York; Ella T. Grasso, of Connecticut; and John Dent, of Pennsylvania.

Mr. Speaker, some may think that I have been too harsh in my criticism of the present administration with respect to its policy regarding older citizens. Yet I believe most Members would agree that if Government in modern America is to be credible, if the people are to have any respect at all for the solemn declarations made by those whom they have elected to serve them in the highest positions of responsibility, then those of us who share in that responsibility—as we in Congress do—must speak out when we see such yawning gaps between promise and performance as have characterized the record of the administration of Richard Nixon and of many leaders of the Republican Party in dealing with problems of the elderly during the nearly 3 years which it has held office.

Listen to these words:

> From its beginnings, the American nation has been dedicated to the constant pursuit of better tomorrows. Yet, for many of our 20 million older Americans the "tomorrows" that arrive with their later years have not been better. Rather than days of reward, happiness, and opportunity, they have too often been days of disappointment, loneliness, and anxiety. It is imperative that this situation be changed.

Those moving words were uttered on April 20, 1971 by President Nixon as he proclaimed Senior Citizens Month.

Mr. Speaker, let us all help the President make good on his promises.

That is why it is imperative that those of us who are concerned about problems of the aging discuss the Nixon administration's policy of inaction and opposition to programs for the elderly.

And that is why we must continue to work for constructive programs of action and a greater commitment of funds for programs that benefit the older people of our land.

Mr. Speaker, let me conclude these remarks with some words of a great American, on whose staff I once had the honor to serve for nearly a year, the late Adlai E. Stevenson.

Said Mr. Stevenson:

> What a man knows at 50 that he did not know at 20 is, for the most part, incommunicable. The knowledge that he has acquired with age is not the knowledge of formulas or forms or words, but of people, places, action—a knowledge not gained by words but by touch, sight, sound, victories, failures, sleeplessness, devotion, love—the experiences and emotions of this earth and one's self and of other men and perhaps, too, a little faith and a little reverence for the things you cannot see.

Mr. Speaker, the kind of knowledge, the kind of faith, the kind of reverence which characterizes the older people of our society is much too scarce and much too precious in this great and wealthy Nation of ours to be either wasted or, perhaps worse, ignored.

The time has come then—the time is now—for a genuine commitment—not of words, but of deeds—to lifting the quality of life of the older citizens of the United States.

Mr. Speaker, the time has come for less talk about, and more action for, the aging of America.

Mr. Speaker, I insert at this point in the Record a number of recent articles and reports concerning problems of the aging:

[From the Washington Post, Dec. 1, 1971]

Nixon Aides Draw Criticism in Talks at Aging Conference

(By J. Y. Smith)

President Nixon sent four cabinet officers and four other top administration officials to the White House Conference on Aging yesterday to explain some of his programs for the nation's 20 million elderly citizens.

Some of the officials' remarks drew prompt and sometimes harsh criticism from some experts among the 3,500 delegates to the meeting, which began Sunday.

Mr. Nixon himself is expected to address the gathering before it closes Thursday. Presumably, he will make further proposals to help the aged.

Elliot L. Richardson, the secretary of Health, Education and Welfare, told a luncheon meeting that 37 states (including Maryland) and the District of Columbia have been put on notice that they have until Feb. 1, 1972, to correct "substantial deficiencies" in their nursing homes.

If they fail to do so, he said, "HEW intends to initiate a non-compliance procedure that could ultimately result in withholding all federal Medicaid funds from any or every one of the 38 states."

There are about 20,000 nursing homes in the United States, a HEW official said later. He said only about 7,000 of these, which provide substantial amounts of care, would be affected by the HEW action.

Richardson said the deficiencies in nursing homes had been discovered through a series of spot checks of state agencies responsible for ensuring that nursing homes participating in Medicaid, a federal-state program, meet federal standards for such facilities.

The secretary said he was determined to carry out President Nixon's pledges of last summer to make sure that nursing homes will no longer be "warehouses for the elderly . . . dumping grounds for the dying."

George Romney, the secretary of Housing and Urban Development, spoke at the same luncheon. He told the delegates that public housing for the elderly had increased from 80,000 units to 320,000 units in the past decade.

He also repeated a theme sounded at the conference's opening session by Dr. Arthur S. Fleming, its chairman and a former Secretary of HEW in the Eisenhower administration.

The theme was a call for "increased voluntary action to provide services for the elderly."

"Self help," said Romney, "is vital."

Richardson and Romney drew some of the sharpest criticism from conference delegates.

Dr. James G. Haughton, director of health and hospitals in Cook County (Chicago) and a co-chairman of the conference committee on health, said many delegates with whom he had talked greeted Richardson's speech with "mixed reactions."

"There was considerable support for federal standards for nursing homes," he told a news conference, "but there were questions about the timing. Some thought this (speech) might be a political ploy to divert attention from the real issues facing this conference."

Haughton explained that the "real issues" were the "quality of care" provided the elderly. Richardson's proposals about nursing homes, he said, were confined merely to the physical standards of the facilities. Haughton said he would like to see the federal government develop programs to help pay for bringing facilities up to par and also to help pay salaries that would attract the best qualified persons to staff them.

Dr. Jean Mayer, former adviser to President Nixon on nutrition and co-charman of the conference committee dealing with that subject, lit into Romney's remark that "self help is vital."

"What the hell does that mean," said the Harvard professor, "when you are talking about someone who is arthritic, who is deaf, who is partly blind, whose children have moved away, and who is not properly covered by Social Security."

Mayer said a start toward persuading the elderly to engage in "self help" would be to establish communal meal programs to provide them with a proper diet, with companionship, and with intellectual stimulation.

Others who spoke yesterday were John A. Volpe, the secretary of Transportation; James D. Hodgson, the secretary of Labor; Robert M. Ball, commissioner of the Social Security Administration; John D. Ehrlichman, assistant to the President for domestic affairs; Virginia Knauer, adviser to the President on consumer affairs, and Leonard Garment, special consultant to the President.

Secretary Hodgson said the "specialized needs" of the elderly unemployed "may mean specialized help for unemployment problems. And it may mean specialized kinds of manpower programs to meet special job needs."

Hodgson said it also may mean "more concentration on the local government level than in the past."

Nelson H. Cruikshank, a retired AFL-CIO official, a member of the conference planning committee and president of the National Council of Senior Citizens (which claims more than 3 million members), called Hodgson's speech "the coldest thing I've heard yet. He gave us all the reasons why the Department of Labor can't do more in the category of the aged."

[From the Washington Star, Dec. 1, 1971]

More Hunger Aid for Aged Urged

(By Judith Randal)

Progress has been made against hunger in the last two years, but the elderly, as usual, have been left behind.

This is the view of Dr. Jean Mayer, the Harvard professor who ran the White House Conference on Food, Nutrition and Health in 1969 and now is the chairman of the nutrition section of the White House Conference on Aging.

The sort of action that is needed, Mayer said, is exemplified by the Nutrition for Older Americans bill that passed the Senate 88 to 0 yesterday. Sponsored by Sens. Edward M. Kennedy, D-Mass., Charles H. Percy, R-Ill., and 19 others, it would provide $250 million over a two-year period for meals-on-wheels for shut-ins, community feeding programs and related projects such as nutrition education.

PROGRAMS DIE

In an interview, Mayer said these were 74 experimental programs along these lines which were financed by the Department of Health, Education and Welfare in 1970, and he described them as "a thundering success." All but 12 have been killed for lack of funds, he said.

Meanwhile, Mayer said, the government should look at Medicare and Medicaid from the standpoint of nutrition.

"The services of chiropractors and Christian Science practitioners are reimbursed under these programs, but dietetic consultation is not," he said. "Nor will the government pay for dentures which many old people need in order to eat a balanced diet."

Mayer also was critical of the Department of Agriculture's methods of getting foods to the elderly poor. He said that of the 3,000 counties in the nation, 800 rely on the distribution of surplus commodities instead of food stamps.

Food stamps are federally subsidized coupons which permit the recipient to buy more than his money's worth of groceries at stores. In the surplus commodities program, recipients periodically pick up an allotment of a limited number of foods at a central distribution point.

Under the commodities program, said Mayer, old people, many of whom live alone or in two-person families, have to contend with bulk quantities of food that are hard to transport or keep. When meat is supplied, for example, it comes in 30-ounce cans whose contents may spoil before they can be consumed. Furthermore, many of the products that are made available are too high in fats and carbohydrates to be healthy for the old.

While USDA's food stamp program is far preferable, said Mayer, it too has its pitfalls. For example, the subsidy for a four-person family is far greater proportionately than it is for a couple or for someone who lives alone.

"When will the Department of Agriculture learn," he asked, "that there are 15 million people dependent on it for their daily bread, but only 4 million farmers."

TWO MEALS SUFFICE

Mayer would like to see the elderly be able to use food stamps in restaurants as well as in grocery stores, and he wants restaurants to offer old people reduced price meals at off-peak hours.

Only about 30 percent of the price of a restaurant meal, he said, goes toward the price of food. Most of the rest is for the labor of people who have little to do for most of the day. Thus, he said, restaurants could well afford to reduce their prices during slack periods. A cafeteria chain in Boston already is selling regular menu items at a 30 percent discount between 10 and 11:30 a.m. and 2 and 5 p.m.

[From the Washington Post, Nov. 28, 1971]

Why Are the Old Put on Shelves?

(By Colman McCarthy)

Everyone wants to live a long life, but there is one trouble—you have to grow old to do it. For many of America's 20 million citizens who make it past 65, the trouble is hardly worth it. Unless you are rich or have especially devoted children, chances are that old age may be a time of anguish, loneliness and sadness, worse for some than others. Perhaps the greatest torture of being old is that one must go about it surrounded by products and services that are ever new and ever fresh. Last year's model, last year's fashion, last year's wardrobe—this feverish custom of discarding what in many cases is only sightly old leads naturally to a throwaway mentality. Thus, easily put out of sight and out of mind are last year's people, the old.

The White House Conference on Aging, beginning today and running through the week, will likely have much to say on the cruel ways in which old people are neglected by the government and by institutions. But this running tragedy is not so much a planned horror as it is a reflection of a deep-set attitude. Along with racism and sexism, there is now "oldism," an intolerance of people too slow, too wrinkled and too tired for the American pace. Dr. Robert Butler, a Washington psychiatrist and one of the few in the country who practices "life-cycle therapy," believes a strong feeling exists "of not wanting to have all these ugly old people around."

How has this happened? Since abandoning another human being is not a natural instinct, the reason may be cultural. It is regularly pointed out, to the point of fatigue, that America is obsessed with the young, a fudge of idolatrous concern that thickens with each new fad. But saying the country is over-fascinated with a youth cult is only part of it, and even then it is inaccurate; if we care so much about kids, why must educators constantly beg for money, why are school lunch programs left unfunded, why are stores allowed to sell flammable sleepwear for children?

The deeper cultural reality that allows the old to be the nation's resident castoffs is that American values have been largely shaped by both the Calvinist mystique of achievement and the American frontier notion of self-reliant individualism. These two creeds naturally exclude the elderly because old men and old women are seen as no longer achieving and no longer self-reliant. They are non-producers who should be stripped of their "we try harder" buttons; after that, what else can be done but stash them on a shelf? As Dr. Robert Butler has noted, "Our society serves the productive. We view ourselves as an organism that can all too easily dispense with its parts, which are subject to facile replacement. Most of our national policy decisions are economic and technological rather than moral. The Office of Management and Budget decides. There is a Gross National Product, however important, that is closely watched but there is no Human Value Index."

If putting away old people—removing them from budget priorities, from family circles—fits in well with the American way, it is also true that this wasn't always the case or style with all Americans. One can visit ethnic families in the Northeast industrial towns—Italians, Poles, Slovaks, Greeks and others—and inevitably an old person is found to be an honored and wanted member of the family. Unlike others, many ethnics insist on keeping the parents and grandparents in the main path of travel, if only because the young know that one day they must go that way, too.

If you are kind to your parents, Irish children are told, you will have a long life. But keeping to this tradition of respecting the old is not easy for ethnic Americans. Professor Michael Novak, soon to publish a book on ethnics ("The Rise of the Great Unwasped" from Macmillan), has written: "One of the more poignant prices ethnics had to pay to become Americanized was to learn not to care for one's parents or grandparents, to learn that life belongs most to those between the ages of 15 and 50. In the public schools, the ethnic child was taught to make fun of one's parents and grandparents—their accents, their gestures, their values. 'Old fashioned' became a word used not for the respect due to wisdom but for contempt due to inferiority or being different from Wasp America. It was silly to care for one's aging parents, to put up with their complaints, customs and needs. 'The American way' was to ship off the old folks to some sanitized rest home; but most ethnic people couldn't quite bring themselves to do that. For cattle maybe, but not for one's parents. The solution often was to find some small apartment, a separate room, in which the old folks could live in some compromised way, not quite in the center of the family as their parents had been, but assuredly not institutionalized as 'the Americans' were."

A word and concept now in heavy use is "community." Real estate men no longer build developments, they create communities, the young go off to found communes. But this talk of community is strange; how can you have a common unity when no place is given to the elders of the tribe. "Traditionally," Nathan W. Shock, head of NIH's Gerontology Branch, has said, "the older person in the community had a role in that he had lived longer, he therefore had more experience, he was wiser . . . he knew where the tigers were in the jungle."

The sources of this tradition are easily found, even without going to the East where the old have always been revered. In the 6th century Rule of St. Benedict, for example, one of the earliest charters for community living, the fathers and brothers of the monastery are told in chapter 37 that the old are worthy of special treatment. "Although human nature itself inclines us to show pity and consideration to the old . . . still it is proper that the authority of the Rule should provide for them. Let their weakness be always taken into account, and let the full rigour of the Rule as regards food be in no wise maintained in their regard. There is to be a kind consideration for them, and permission is to be given them to anticipate the regular hours." Even today, in the many European and American Benedictine monasteries and convents, old members of the community are cherished and honored for their wisdom.

These are rare enclaves of charity, however, and the spirit of compassion has not spread. But it persists at least. In the end, the main impact of this week's White House Conference on Aging must be less on American politicians or programs than on American values—the principal source of many of the elderly's sufferings. Some of these are inevitable, the results of sickness or family scattering. But many are not; they are caused by a value system that plays down filial respect while playing up much that is passing and cheap. In a recent book on the elderly, French writer Simone de Beauvoir asked, "What should a society be like that in his old age a man can remain a man?" The answer: "He must always be treated like a man."

This is not an easy goal, neither for wide-open conferences nor for closed-up minds. But if it is true that every country is entitled to a few mistakes, then perhaps we are now coming around to recognizing one. America, compared with other countries, is still young—exactly the time to see that the realities of aging do not become the horrors of aging.

[From the Washington Post, Nov. 28, 1971]

THE GROWING MINORITY: 20 MILLION U.S. ELDERLY

(By J. Y. Smith)

They number 20 million, and they are the fastest growing minority group in the nation. A quarter of them live below the poverty level, yet they spend $60 billion a year. They cast more ballots than any other minority group: although they make up only 10 per cent of the population, they accounted for 17 per cent of the votes in the 1970 elections.

They are the elderly, those Americans who are 65 or older.

Despite their numbers, despite their economic and political power, despite the fact that most Americans now alive can expect to live long enough to become "elderly," it is a group whose problems escape the notoriety accorded those of other minorities.

For the next five days, however, the elderly will receive considerable attention. The vehicle will be the second White House Conference on Aging, which opens today with the registration of 3,400 delegates from all over the country.

The conference comes at a time when talk is as cheap as ever and the cost of action is going up and up.

Dr. Arthur S. Flemming, conference chairman and a former Secretary of Health, Education and Welfare in the Eisenhower administration, is aware of this. But he expresses confidence that the conference will, in fact, lead to meaningful programs for the elderly.

"I can't help but believe that conditions are on the plus side as far as older persons are concerned," he said recently. "This conference reflects a willingness on the part of some segments of society for substituting action for rhetoric."

If rhetoric is translated into action, it will probably be because of the enormous political potential of the elderly. Some experts believe John F. Kennedy's hairsbreadth victory over President Nixon in 1960 was due to the fact that Kennedy endorsed Medicare while Mr. Nixon did not.

NEW PROGRAMS EXPECTED

The White House is said to be keenly aware that about 70 per cent of the over-65 group vote. Flemming has indicated that President Nixon plans to unveil major new programs for the elderly during the course of the conference.

For himself, Flemming, 66, has repeatedly emphasized that the conference will be "open," that all points of view will be heard, and that the purpose of the meeting is to achieve "action."

In this way he hopes to avoid the bickering and infighting that marked the recent White House Conference on Children, for example.

The Conference on the Aging is the second of the kind in ten years. Flemming also presided over the first one, which was held in the waning days of the Eisenhower administration.

The present meeting was authorized by Congress on Sept. 12, 1968. On Oct. 6, 1969, President Nixon issued a proclamation calling the conference and directing that it develop "a more adequate national policy for older Americans."

Since then, about 6,000 local meetings have been held on the problems of the elderly. There have also been meetings on state and regional levels. All have been oriented toward the conference opening today.

Selection of delegates was marked by early charges that the White House was weighting the conference with Republicans. In March, Nelson H. Cruickshank, president of the National Council of Senior Citizens and a Democrat, testified before the Senate Special Committee on Aging that there was a "pronounced partisan bias" among those named to the 14 major committees of the conference. Moreover, he said, his own organization, which claims more than 3 million members, had been allotted only two delegates, or the same number as the Boy Scouts of America.

A month later, Flemming resigned the presidency of Macalester College in St. Paul, Minn., to become chairman of the conference.

As it happens, Flemming and Cruickshank have been friends since they were both undergraduates at Ohio Wesleyan (Cruickshank voted for Flemming to be president of the student body).

BACKED BY WARREN

Flemming agreed with Cruickshank that there ought to be a degree of proportional representation in the makeup of delegates. They got the instant backing of Earl Warren, who was Chief Justice of the United States when the Supreme Court handed down its historic decision making the "one man, one vote" principle law of the land. Warren is a member of the conference's organizing committee.

As a result, the National Council of Senior Citizens now has 26 delegates and other major groups of the elderly are similarly represented. Moreover, Flemming has appointed co-chairmen to each of the 14 main committees of the conference.

Having met the critics on the organizational issue, Flemming turned to the matter of trying to achieve action. He set three goals.

The first was to persuade President Nixon to take some highly visible action of direct benefit to the elderly. The President did so in June when he announced plans to improve the quality of the nation's nursing homes. (One out of every 20 senior citizens is in a nursing home or some other institution).

The second was to persuade the President to establish a Cabinet-level committee under the Domestic Affairs Council to coordinate all existing federal programs for the elderly. The committee has so far held two meetings under the chairmanship of Elliot L. Richardson, Secretary of Health, Education and Welfare. To get that committee operating was Flemming's third goal.

FIVE CONCLUSIONS

As for the conference itself, Flemming says he has come to "five general conclusions" about what it may concentrate on as a result of numerous meetings he has held around the country since taking the chairmanship.

"Society," he says, "has put the elderly in a secondary position. Society has made promises to the elderly, but not always performed on them. Older persons want the opportunity to make their own decisions about their own lives. Older persons also want to continue to be involved in the mainstream of life. And finally, they want to be treated with dignity."

Central to all these concerns, Flemming continues, is the matter of income. If the incomes of the elderly could be raised, many of the problems they have with housing, transportation, and isolation could be solved.

One out of four of those 65 and over live below the level of poverty established by the department of Labor: $1,748 per year for a single elderly person living in a city, and $1,487 for a single person living in the country.

A U.S. Bureau of the Census study showed that in March of this year the average yearly income of families headed by persons 65 and older was $5,053. The average income in households headed by persons 45 to 55 was $12,121. In the same year, the average income of individuals over 64 was $1,951 compared to $3,137 for all single persons.

The situation is even worse for Negroes and other older persons in minority groups. In 1969, according to the Bureau of Labor Statistics, 23 per cent of elderly whites were below the poverty level. For elderly blacks, the percentage was 48.

WOULD REORDER PRIORITIES

Cruickshank would like to see a whole reordering of priorities for the elderly. He points out that 66 per cent of the Department of Labor's job training programs are designed for persons under 45, that 30 per cent of them are designed for persons 45 to 55, and that only 4 per cent are designed for those 55 and over.

"We're not against the young," Cruickshank says. "Just give us a little bit of a better deal for the elderly."

Moreover, Cruickshank would like to see the government fund "categorical" programs especially designed for the elderly. This is something the Nixon administration has so far refused to do. Without it, in Cruickshank's view, the elderly "will always be forgotten."

As for Flemming, he sums up his thoughts about the conference in these words: "The time for action is now. We can no longer afford to raise expectations that will be disappointed later."

[From the Washington Post, Nov. 29, 1971]

"SENIOR CITIZEN" TAG WORRIES SOME DELEGATES

(By J. Y. Smith)

To Luise Kiefer, the term "senior citizen" is anathema.

"I really, really hate the expression 'senior citizen' because I think it puts us in a little segment of our own, and I think we're still part of the community.

"You don't talk about 'junior citizens,' do you?"

Mrs. Kiefer, 83, lives in San Francisco, and she is a delegate to the White House Conference on Aging, which opened yesterday.

Mrs. Kiefer was looking forward to the conference's opening general session at the Washington Hilton Hotel last night. Apart from speeches by Arthur S. Flemming, a secretary of Health, Education and Welfare in the Eisenhower administration and chairman of the conference, and by John B. Martin, U.S. Commissioner on Aging, the session featured a "multi-media presentation" on what it means to be old in America today, and as it happened the theme was similar to Mrs. Kiefer's worry about being left out.

The message: "Old people—they're not part of the American dream."

"The American dream," a film clip shows us, is young people roasting hotdogs on a beach, a young family having a picnic, young lovers meeting under an archway. There are no pictures of old people in "The American Dream."

A young actor plays the part of an old man; an old actor plays the part of a young man. The idea is to show the young man how it feels to be old. In one sequence, he is placed in an old people's home by one of his sons.

Said Mrs. Kieker to an interviewer: "I don't think people your age know how we feel because you haven't lived long enough. How do I feel? Normal. Just because you're 83 doesn't mean you have to sit back."

The problems of the elderly raised in the "multi-media presentation" included poverty, loneliness, housing, health, nutrition, and a sense on the part of many older persons that they are simply being ignored.

TWO YEARS IN PREPARATION

These are among the main issues the White House Conference was called to address. Preparations took two years.

The conference itself is scheduled to end Thursday. Its recommendations, unlike those of the first White House Conference on Aging 10 years ago, are supposed to lead to immediate action to help the elderly.

Chairman Flemming stressed the need for action during an appearance in "Meet the Press" yesterday. He stressed it again in remarks prepared for the opening general session last night.

"Policy proposals in the field of aging that are not backed up by sound programs for action," he told the 3,400 delegates, "are nothing more than sounding brass. . . . We are confronted with the opportunity of developing strategies that will result in action."

He quoted a message from six major national organizations of the elderly which said:

"Our most serious problem is a lack of commitment to action in the field of aging within all of our social, economic, religious and political groups. The White House Conference must devote itself to these problems."

In his prepared remarks, Commissioner Martin said: "I believe that we have laid the basis for a breakthrough. We can push back the walls, open a new view of our responsibilities to our older citizens and new understanding of the contribution they can make to our national life."

It was not clear, however, what impact the conference would have on pending legislation. Dr. Jean Mayer, co-chairman of the conference's nutrition section, professor of nutrition at Harvard and former adviser to President Nixon on nutrition, told a news conference Flemming had issued instructions to avoid taking stands on bills in Congress.

MAY ENDORSE PRINCIPLE

The reason, Mayer said, was that Flemming feared the delegates would not have a chance to give adequate study to complex legislation that affects the elderly during the period of the conference. But Mayer said this would not bar delegates from endorsing "the principle" of various pieces of legislation, such as a bill Sen. Edward M. Kennedy (D-Mass.) has introduced to provide a federally funded lunch program.

For scores of delegates, there was trouble registering for the conference because their names had been lost or mixed up. By the end of the day, it appeared these difficulties had been cleared up.

ON HIJACKED PLANE

But none had troubles to compare with those of Julia Zozaya, 45, a blind delegate from Phoenix, Ariz. The TWA flight she took was hijacked to Cuba. She and the other passengers were allowed to leave the aircraft at Tampa, Fla., and Mrs. Zozaya arrived here on time but minus her luggage.

Most delegates seemed concerned about what the meeting may accomplish. President Nixon reportedly plans to make an appearance before it is over, presumaby to unveil new administration proposals for the elderly.

Oliver Diggs, 68, of Denver, was optimistic.

"From what we've done in Colorado," he said, "I think it's going to be a great thing if we push it."

A companion, the Rev. J. L. Simmons, 75, of Las Vegas, Nev., was not committing himself.

"I'm going to use my Fifth Amendment," he said.

Said Mrs. Kiefer: "Is President Nixon interested? I guess I shouldn't have asked that."

[From the Washington Post, Nov. 28, 1971]

HOLDING BACK OLD AGE

(By Alex Comfort)

Aging means that we can name a year in which we shall no longer be alive. And there is another date, perhaps 15 or 20 years sooner, when, if things stay as they are, we shall be alive, but not fully. Death is bad enough, but before death there is, as Yeats puts it:

> The death of friends, or death
> Of every brilliant eye
> That made a catch in the breath.

This death before death will begin, for most of us, around 65 and will continue until it kills us. It's not strictly a disease; one may hope to avoid diseases. But age we cannot avoid. It's the only disease we've all got, and, like cancer patients, we know roughly when we may expect to fail and die of it.

If, that is, things stay as they are; and that depends largely on decisions now being made. Adults alive today between the ages of 20 and 50 are the first humans to stand a fighting chance of seeing science begin to bring the process of aging under control. If this happens, as it easily could, within the next 10 to 15 years, they may share that benefit. A relatively small investment now could make the accomplishment nearly certain. What amazes workers in this field of medical biology is that so few of the beneficiaries—and, indeed, so few scientists—realize how close we are to this achievement.

We know that human aging can almost certainly be slowed and we know how to set about trying.

EXPERIMENTS WITH MAN

Science has two ways of making people live longer: It can stop their dying before their time or it can try to slow down the figurative clock that controls aging, so that old age and death take longer to arrive. So far it has done the first, and brilliantly.

In any of the privileged countries, you can *expect* to become old. This in itself is new—one generation back, your chances of doing this would have been far less secure. The human life span has probably not changed throughout history. What has happened through science is that most of us now reach the end of it.

The meaning of old age hasn't changed, either. Though some are harder hit by it than others, and though there are Bertrand Russells and Artur Rubinsteins, who keep the zest for living into their 80s, aging is still loss. At 50 we become stouter and slower; at 60 we tire more easily. Then the skin wrinkles, the muscles weaken, and by 70 our strength is on the average what it was at 14 or so. The mind may or may not stay clear; but if it does, the body cannot match it.

The truth is that having assured that most of us reach 70, conventional medicine has just about reached the point of diminishing returns. Cure of the two present leading causes of death—cancer and heart and vessel disease—would add about seven years to the total life expectancy, but mainly by helping those unlucky enough to contract these diseases young. At 65, the gain would be under two years; we should simply die a few months later of something else, for aging involves a steady increase in the number and variety of our infirmities.

If aging on the present time scale is really inevitable, we had probably better accept it with dignity. But all the scientific evidence is that it is not. Over the past 20 years, an international campaign has been mounted to find out exactly what aging is and whether—and, if so, how—its rate can be slowed.

At present, we still don't know exactly what it is, though we have several plausible theories. We do know that the rate of aging can be altered in rats and mice by relatively simple manipulations. In the next five to ten years, there will be experiments on man, to see whether the same techniques can be used clinically.

If they can, then from rat and mouse experiments, we could reasonably expect a 20 to 40 per cent increase in the period of adult vigor—the time, that is, before manifest aging changes set in. Insofar as any scientific prediction is safe, we can now say that the length of time before we do this and the number of adults alive today who will be able to benefit from it depend quite simply on the amount of money and energy we put into the project.

THE ROLE OF DNA

Aging is, in biological terms, the increasing inability of the body to maintain itself and perform the operations it once did. Most current theories assume that this results from a loss of information at the cell level. Mammals have basically two kinds of cells—those that are constantly renewed (skin cells, blood cells) and those that live as long as their owner and never divide (brain cells, muscle cells). Both types carry the basic instructions for their orderly behavior in the form of blueprint molecules of deoxyribonucleic acid (DNA).

DNA is the key to most of modern biology. It consists of a long spiral molecule, rather like a computer tape. The chromosomes of each cell contain a number of these molecules, on which are stored, in coded form, all the information needed to turn that cell into a complicated organism—and to determine whether the organism will be a man, a rabbit or a peach tree. This molecule is Jim Watson and Francis Crick's "double helix," which won them a share of the Nobel Prize in 1962; we are just beginning to be able to read the language of its code, which is composed of a series of three-"letter" combinations.

DNA is like a master blueprint for the body and its maintenance. What happens is that from an identical blueprint file in every body cell, copies are taken, and these copies, in turn, are used to specify chemical machine tools, called enzymes. Since a baby differs from a man, and a muscle cell from a blood cell, the body clearly has an elaborate program for transcribing parts of this stored information at one time and ignoring, or switching off, others.

Biological toolmaking is never 100 per cent accurate. In old nematode worms, Israel's Dr. David Gershon has found that all the necessary chemical tools of certain kinds are there, but about half are not working properly. It seems highly probable that at some point in the chain, errors enter the manufacturing process. They may be in the original DNA blueprints, which become smudged or switched off in some or all of the cells with wear and the passing of time. They may be in the copying process or, more probably, in the machine tools, the enzymes.

RESTRICTING FOOD

Luckily, we don't have to find out which of these mechanisms is instrumental in aging. We can alter its rate without knowing. In fact, we are most likely to pinpoint the kind of information loss that's occurring by seeing what tends to counteract it. Basically, we have one big choice: If we're dealing with a phonograph record that is scratched with use until it's unplayable, we need to slow down the rate at which scratches accumulate—for example, by cleaning the stylus and excluding grit and dust. If we're dealing with a record that can be played once only and not restarted, we might conceivably find ways of running it more slowly—but not so much so as to distort the music. Either of these procedures would prolong the performance.

In rats and mice, we already know of several maneuvers that will prolong life. The oldest and simplest of these is food restriction. The life span of mice can be doubled, both by gross calorie restriction, which keeps them juvenile, and by feeding them only two days out of three.

Besides postponing aging, this regime virtually eliminates tumors in some strains of mice. The lack of excess calories may slow down copying generally or conserve irreplaceable machine-tool molecules. It may retard some built-in program in the body. It may even work simply as a challenge that makes the natural control machinery work better. Starved mice have big adrenal glands, and there are some adrenal hormones that can by themselves double longevity in long-lived mouse strains, probably by controlling copying processes or by preventing the rejection of divergent cells. Whether the technique of food restriction would work in man, and particularly whether it would work when started in adult life, we can find out only by trial.

Another group of approaches is based on an area of research that made great strides in the Sixties: immunology. Biologists are trying to understand and control the body's defenses against foreign cells so as to ensure the success of transplant surgery. They are unraveling the machinery that prevents grafts from taking and, in so doing, are finding more and more instances in which the body appears to react against or reject its own tissues. These conditions become commoner with age, and it seems almost certain that self-rejection plays a part, perhaps a leading part, in age changes. Either our cells alter and become criminals or our bodily policemen alter and start attacking law-abiding citizens. Drugs and hormones of the kind given to cover transplant operations are already being tried with some success as anti-aging agents in mice; and in some strains of old mice, removal of the spleen—an important organ in the rejection process—make them survive to great ages.

Yet another approach is based directly on the error-in-copying idea. Large man-made molecules, and molecules in organic materials such as margarine or leather, perish with time through attack by chemical agents known as "free radicals." A free radical has been likened to a convention delegate away from his wife; it's a highly reactive chemical agent that will combine with anything suitable that's around. Chemists protect such things as chicken feed, cornflakes and automobile tires by adding to them substances known as anti-oxidants, which mop up these unwanted agents and slow down the perishing process.

The body contains both free radicals and long-lived molecules—among them, the fibers that keep our skin elastic and the blueprint molecules of DNA. If any such perishing reactions occur with aging, it ought to be possible to slow all of them down by administering some of the nonpoisonous antioxidants now added to groceries, but in far bigger doses, without waiting to find out exactly where the damaging processes are located.

A position paper on the practical side of age slowing in animals in 1971 would run roughly like this:

We now have perhaps a dozen ways of slowing down aging or lengthening life or both in rats and mice.

The exact way these methods fit together, the nature of the aging clock and whether there is one clock or more are unanswered questions, but we should be close to an answer within five years.

It's not certain that any of the known age-slowing methods would work in man.

Whether they would and whether they would work in adult life can be found only by trying them.

If they don't, then it's likely that similar and equally simple methods will.

Human experiments will be started within three to five years, probably at more than one center.

The reason these techniques haven't already been tried in man has nothing to do with ethics; it's simply that, because the investigators age as well as their subjects, 70- to 80-year experiments are, for practical and psychological reasons, no go. As long as we could measure aging only by following lifelong mortality figures, as insurance actuaries do, experiments on antiaging agents were confined to rats and mice, which live but a few years. But we can now move into human studies, because greater knowledge of age changes and the advent of automated clinical laboratories and computers make it possible to measure the rate of aging in the short run.

The new strategy is to choose a battery of measuerments—chemical, psychological and clinical—that change with age and follow them over a period of, say, five years, starting at a given age, such as 50. The measures are picked to be so varied that any factor that slows the rate of change in all of them would be likely to act by slowing down aging in general. This approach reduces the problem of how to retard aging in man to the size of an ordinary medical experiment, using some 500 volunteers over three to five years, like the assessment of low-cholesterol diets in heart disease.

Battery tests for aging are one of the few beneficient spin-offs from the bomb. They were developed at the Brookhaven nuclear-research laboratories to measure the rate of aging in Hiroshima survivors. (Reassuringly, the survivors didn't age faster.) Equipment like that which would be needed to carry out such tests on normal people already exists in many U.S. centers, such as the Kaiser-Permanente Medical Centers in San Francisco, Oakland and Walnut Creek, Calif. We could start human experiments next week, measuring such things as hair-graying, skin elasticity, change in body chemicals, hearing and mental agility as indexes of the speed at which aging is progressing.

The aging public seems unaware that a little informed lobbying now could get them longer life. There is a bill before Congress to set up a National Institute of Gerontology, which could be the biological counterpart of NASA.

Prediction in science is difficult, but we can make a few reasonable guesses about what we can accomplish. Among these are the following: By the year 1990, we will know of an experimentally tested way of slowing down age changes in man that offers an increase of 20 per cent in life span. We will know whether it works only when all the subjects have died; but judging by the tests we now have, we should not be far off in predictions. The agents involved will be simple and cheap—dietary tricks or maintenance chemicals, not transplants, intensive units nor tailor-made serums that would be available only to the wealthy and to VIPs.

Direct application of the results will be possible world-wide, at about the same rate as, and probably more cheaply than, antibiotics since 1910. All countries will elect to use them, or at least will be unable—as with the pill in Catholic Italy—to prevent their use. How widely people choose to use them will depend, no doubt, on what sorts of agents are available. If longevity requires tiresome and lifelong diet restriction, the model of cigarettes and high-cholesterol foods suggests that most of the Western public doesn't value longevity highly enough to make itself uncomfortable. All that will happen in this case is that application will be delayed until we find a painless method of getting around our self-indulgence.

THE POPULATION PATTERN

Population is already one of our leading panics, and a justifiable one. Longer life will mean greater numbers. This will be adjusted by time, but only if it's a once-and-for-all bonus, and then the bulge will fall when population problems are beginning to hit hard.

On the other hand, the gain will be wholly in the productive and (unless we stick rigidly to already obsolete retirement practice) nondependent years. This, in fact, could be a gain. Today our reproductive dependency lasts about 20 years and our postproductive about 10, leaving a working life of only 40 years. In 1990, the number of Americans over 65 will be over 27 million compared with about 20 million now. More years of vigor will mean that many of these can still be "young." More years will also mean more sex, but not necessarily more children.

I am as worried as anyone about the idiotic misuse of technology. But the potential misuse of aging research doesn't keep me awake at night. If it did, I wouldn't devote my time to it. Partial control of human aging is something that's going to happen. Unless we are slothful or overcome by disaster, it's probably going to happen within our lifetime, and some of us will be beneficiaries. Morally, it should be beneficial. Every gain in our ability to stave off death increases our respect for lift—our own and others.

[From the Chicago Tribune, Nov. 3, 1971]

A HEARING FOR ELDERLY CONCERNS

(By Ruth Moss)

List the problems of the elderly—said to be the most disadvantaged group in our society, the one minority group we shall all join—in the order of their impact and a two-headed monster leads the list: inflation and lack of income.

But more than money is needed to plan for those too frequently overlooked and underserved. Keeping our older people living in the community for as long as it is possible and wise to do so will call for imagination, concern, and a massive effort to initiate great new social reforms to combat a culture that is youth oriented, if not obsessed.

These concerns and considerations were among those voiced yesterday in City Council chambers before the House of Representatives subcommittee headed by Rep. John Brademas [D., Ind.] with jurisdiction over the Older Americans Act.

The Chicago area experts who spoke out included four members of the over-65 set, representing the 600,000 senior citizens in the city and suburbs. "Retirees can't strike for a 30 per cent increase in wages, and if their reserves are in securities, these, too, have decreased in value," said Arthur R. Weed, president of the North Shore Center and consultant on preretirement preparation for the city of Chicago. "All this bears out the oft-repeated statement, 'The longer you live, the more likely you are to be poor.'

"At a recent American Seminar on retirement, a participant asked, 'Isn't the word retirement negative?' 'It is not only negative, but to many people actually repulsive,' I answered.

"These people do not even wish to think about it nor talk about it—yet the average person who retires at 65 has from 14 to 17 years of living for which he should prepare.

"The phrase 'retirement shock' is now quite well understood, and it is preventable. It is necessary, tho, to develop a changed attitude toward retirement as well as recognition that 80 per cent of retirees are still active. They are not senile, doddering weaklings."

Mrs. Mary Alice [Ma] Henry of the West Side Health Planning Organization, concerned with those who have "the three S's"—sick, senile, and scared—suggested as solutions enlarged grants, discount cards for food, clothing, and travel, minibuses at senior apartments to transport them to and from, work as long as possible, and a mobile store for dry goods and groceries that would be for the feeble "something to look forward to, and it would be a blessing."

More educational opportunities for older adults—"retired people on fixed incomes who pay for schools the same 60 per cent of their tax money as younger adults with families and still working"—were urged by Dora Nelson, founder of the American Association of Retired Persons, DuPage Chapter No. 500, and a former settlement house director in Detroit.

"Why couldn't public education be providing courses in retirement planning? she asked. "Do those responsible for adult education know that almost half the persons over 65 did not graduate from high school; more than a million of them never had the benefit of any formal schooling?"

She urged as "imperative" the development of new interests and new outlets for the energies of those who have worked all their lives and for whom work always is going to be a major source of satisfaction.

The fourth senior spokesman, James Roach, associate editor of Chicago Voice, drew applause from the 130 seniors in the audience when he deplored the time it takes "to get just one bill through Congress—one year, two years, or more," so that "children or even grandchildren of today's seniors going to Washington may be there at a later date with some of the same major problems."

The seniors sat patiently through the proceedings, which began with Robert J. Ahrens, director of the human resources department's senior citizens division. Ahrens urged an end to "the universal lockstep of a third life at school, a third at work, and a third in inactivity or retirement."

Instead, these three streams that flow through all of life should fit the needs of the individual as well as the demands of society. A man might work part time at 80, or go back to school at 45, or interrupt his work life more frequently to enrich it and himself with travel, leisure, and education.

[From the Christian Science Monitor, Nov. 15, 1971]

THE CHALLENGE OF AGE

(By Robert P. Hey)

SILVER SPRING, MD.—Wearily, Mary M. leans a gnarled hand against the bus stop's concrete pillar and squints uncertainly at the schedule. "Young man," she implores at last, "when's the next Z–2?"

"Five fifty-four," I reply, and earn a joyless smile of thanks. She has 32 more minutes to stand and wait.

For a moment she leans in wordless repose. An inexpensive bag dangles from one elbow.

Then slowly, methodically at first, the words begin to come. In that special candor reserved for dialogue between strangers the problems of the nation's 20 million aged tumble out. They are poverty, illness, transportation and housing, crime—the problems the White House Conference on Aging (Nov. 28–Dec. 2) will investigate.

And as she speaks, she illustrates that the problems are many and difficult. Dedicated people are trying to help across the country, and some notable successes are being achieved.

Yet too often, the elderly remain America's forgotten people—a national resource of which, experts say, too many other Americans are much too unaware.

The great need today appears to be for individual Americans to awake to the plight of old people and how they—and their government—might be able to help.

"CAB COST $3; I CAN'T AFFORD THAT"

"Going to see my husband," Mary M. begins. "They operated on him 18 days ago—major surgery. Now he's in that little nursing home off Hillsboro Avenue.

"I took a cab from here two days ago to see him, but it cost $3 and I can't afford that. That's why I take the bus from downtown and change here.

"I have to get along on my social security, you see—about $110 a month. Actually my husband and I have been separated a long time—27 years—but he's still my husband. He doesn't get much retirement himself, so I tried for a long while to do it on social security. When he found out how little I get, he started giving me $25 a month, and that helps."

But even her estranged husband's aid leaves Mrs. M. teetering on the slippery edge of survival—with an annual income of only $1,620. (On the average, the government says, anyone who lives alone on less than $1,852 a year is poor.)

In the past two years the government has increased social-security benefits for the elderly, one of their prime means of income, by 15 percent. Similarly, the amount of money the elderly can earn without losing these benefits has been raised.

Both surely will be raised a little more in the next few months. Retiree groups are fighting to have the earned-income ceiling removed entirely, and someday it may be.

Mrs. M. has plenty of company in poverty. "It's the elderly's most critical problem," says William R. Hutton, executive director of the National Council of Senior Citizens. Elderly Americans are twice as likely as younger citizens to be poor—1 in 4 over 65 is poor.

Last year half the 5.8 million elderly who lived alone or with nonrelatives (three-quarters of these are women) had incomes less than $1,951. One-third of them got along on even less than Mrs. M. For these people the loss of even a few dollars takes on immense importance.

A LITTLE SUM GOES—NOWHERE

"When I saw my husband right after his operation," laments Mrs. M., "he had a $5 bill in his shirt pocket. . . . I was a little short at the time, and I wouldn't get my government check for five days, so I said, 'Honey, how about letting me have this five?' He said he might need it—you know him—so of course I left it.

"Wouldn't you know? Somebody stole it off him the next day . . . so neither of us got it. I told him if he'd only have let me have it, he wouldn't have been robbed. And I sure could have used it."

When they talk about their needs, most Americans over 65 soon speak of the skyrocketing costs of health care—and of their fears of being unable to afford it. So it is with Mrs. M.

The nursing home she is en route to is clean and modern, with bright flowers outside and a compassionate superintendent within.

"But the cost!" she exclaims. "It's $570 a month, for as little as they can get away with. They seem like they care, but you gotta fight for everything, they're so busy.

"In a way it's better than the hospital. That's a good place, all right. But he was in intensive care the first few days after the operation, and then they put him in a room with another man for $80 a day—just for the room. I don't know how he's going to pay for it all."

"WILL HEALTH INSURANCE COVER?"

The lines of worry seem to burrow deeper into her forehead.

"Will health insurance cover the cost?" I ask.

"Some of it," she replies, "but nowhere near all. My husband's 72—I'm 67—so that medicare thing helps. But you haven't heard anywhere near all of it."

She says that prior to the operation he had been in a series of nursing homes. "My son said the other night that the benefits are about gone—I don't understand it. But it means trouble."

Frequent medical needs and soaring health costs are "the second-most-critical problem" for elderly Americans, Mr. Hutton of the National Council of Senior Citizens says.

The Senate Select Committee on Aging reports that "Medicare covered nearly half (47 percent) of the total personal health-care expenditures of the aged (averaging $692) in fiscal 1969, leaving uncovered an average health bill considerably larger than the total health bill for the average younger person." For some people, government programs for the impoverished help with remaining expenses.

Nevertheless, the elderly complain that monthly premiums for the optional part of medicare coverage have about doubled in the program's five years; that medicare benefits have been restricted; that beginning Jan. 1, 1972, persons hospitalized under medicare will have to pay the first $68 cost instead of $60; and that several states—most recently New York—have sharply cut back both eligibility and benefits in their medicaid programs for the elderly poor.

Enactment of medicare—subsidized medical care for the elderly—during the 1960's has been a boon to the elderly, many experts say. But a number of Democrats, particularly, expressed much concern in Congress this year over increasing restrictions the Nixon administration through regulations is putting on the service that medicare can provide the elderly.

These changes are "building barriers between the elderly and adequate health care," charges Mr. Hutton. These restrictions were clamped on mainly to hold down rising medicare costs. There will be an effort in hearings next year to force the administration to increase medicare, no matter the cost to government, to meet all the health needs of the elderly.

However, help may come from a different direction. Americans of all ages are gravely concerned about soaring medical costs. There is much effort in Washington toward getting Congress sometime in the next few years to legislate a national health-care system. Many think some such program will come into existence in a decade—perhaps half that.

HOUSING, TRANSPORTATION, CRIME . . .

Mrs. M. is talking about other problems now—poor housing, inadequate transportation, concern over crime.

"Sometimes when I get here to the bus stop early enough, like I did tonight, I eat dinner over there at the Tastee Diner—the stew's good and cheap. Then I get the 5:18 out to the nursing home.

"But tonight just before I got back to the bus stop, the 5:18 pulled out—about 10 minutes early." (A gaggle of irritated commuters backed her up.) "So I had to wait another 36 minutes.

"And it's over two hours a day anyway coming out here—that's awful hard on me. And so expensive—80 cents."

The worsening service and soaring rates of many city bus lines have left millions of elderly Americans similarly in the lurch. Like Mrs. M. they're too poor to own cars, afford auto insurance, or ride cabs, and physically unable to walk far.

Many elderly rank transportation as their third-most-crucial problem, trailing only income and health needs. Last year the Senate Select Committee on Aging said the transportation problem for the elderly had reached "crisis" proportions.

"Transportation," reported the committee, "takes an average of 9 cents out of every dollar in their limited budgets. It is their third-highest expenditure, exceeded only by housing and food costs."

The committee pointed out that poor transportation has a "multiple" effect. The Senior Citizens News, a publication of the National Council of Senior Citizens, elaborates:

"Without adequate transportation, the elderly are denied easy access to shopping areas, church services, recreational facilities, gainful employment, and social contacts with relatives and friends.

"Cut off from these vital contacts, the elderly tend to became isolated—with resulting mental and physical deterioration."

One of the efforts to help meet this transportation problem is reduced fares for elderly on city buses. At last count more than 50 cities offered senior citizens reduced bus fare—one-third to one-half off, typically—during nonrush hours. After the first year of New York City's program some 600,000 elderly were using this cut rate; bus and subway travel by the elderly had increased 27 percent.

When the Department of Transportation grants cities money for mass transit, it requires that they present a plan to meet the needs of the elderly.

The buses Mrs. M. does ride for her daily trip to the nursing home take her through a Washington that has changed radically in her lifetime.

When I first used to come up here to Silver Spring," she says, "there was only one house here. Now look at it"—with a tired wave toward blocks of stores and high-rise office buildings.

"Washington's changed, too. Used to be a wonderful place to live. But it's so noisy and crowded now.

"And the crime." She shudders involuntarily. "Why just last week my husband asked me, 'Honey, will you get my [retirement] check cashed for me?' And I was shivering and shaking the whole bus ride back from the bank, afraid somebody was going to grab my pocketbook.

"I was robbed three years ago, you know, right on the street where I live, in front of my rooming house [in downtown Washington]. He grabbed my arm, threw me down on the sidewalk and took my pocketbook."

Suddently she points at an incoming bus. "Wait a minute—isn't that the Z-2?" The silver-and-green bus chugs to a stop at curbside. She clambers aboard with me and continues talking as it begins to lurch forward.

"I'm really scared to stay there now, at that rooming house. But these other places cost so much. And one room's all I can afford."

Fear of violent crime and housing problems—they're two of the heaviest burdens elderly Americans carry.

The elderly probably are more aware than anyone else that the recently released FBI statistics show serious crime's continuing rise—11 percent nationally last year. It rose 6 percent in big cities, though in Washington it was down 16 percent.

In one low-income housing development in New York City where many elderly live, an employee reported this fall that "we've had six muggings of elderly people just this past week. They're such easy prey for the young thugs—and they know it."

Housing costs don't frighten them the same way. But many of the elderly wonder how they'll meet them. Housing is the biggest expense for the average American over 65—34 percent of his budget. At that rate many of them can't afford a decent place to live.

CONSTRUCTION RUNNING SHARPLY BEHIND

The Senate Select Committee on Aging estimates that 30 percent of the elderly—6 million people—live in substandard homes, dilapidated or lacking adequate plumbing or other facilities. Construction of new homes and apartments to house the elderly adequately—especially those who are poor—runs woefully behind the need.

Worst of all, no one knows for sure what the housing needs of the elderly really are. Best estimates are taken from figures gleaned during the 1960 census. The same questions, however, were not asked in last year's census, so estimates for some time to come will be based on the 1960 statistics.

There's a direct relationship, too, between low income, inferior housing, and crime. Many of the elderly can afford only the cheapest of apartments; many of these are located in deteriorated neighborhoods, where the frequency of crime is high. Trapped by his low income, the elderly American is preyed upon by the thief he fears.

One way to alleviate the housing shortage, say some nonprofit sponsors of housing, is for government to resuscitate its program to build apartments exclusively for the low- and moderate-income elderly. The Nixon administration decided to include elderly housing in its overall low-income housing program. With the result, critics charge, that construction of low-cost housing for the elderly has been virtually stopped.

Part of the problem is suburban resistance to any low-income housing. In city after city officials have sought to put such housing in "good" areas—sometimes it's housing for elderly—and have been rebuffed. Breaking down this resistance is a key to improving housing for low-income elderly—indeed, for many low-income Americans.

One fear of the suburbanite is crime. Low-income people, many suburbanites feel, bring crime as surely as cats bring fleas. It is a concern deeply held, too, by the elderly of all income levels.

The brighter streetlights and more numerous policemen in many cities help ease this feeling. But urban crime, studies have reported, will not drop dramatically until society makes fundamental changes to give more equitable opportunities to the poor, especially minority-group poor.

Poverty, health needs, poor transportation, fear of crime, inadequate housing—they're major problems for most elderly Americans today. Yet beyond all these, for many of the elderly, is a suffusing sense of loneliness, and its companion—a sense of purposelessness, of uselessness.

COPING WITH A SENSE OF LONELINESS

When men retire they often must deal with the belief that they no longer are of productive use in society. As children grow up, move out, and begin their own families, mothers—and fathers, too—must cope with a sense of loneliness. Specialists say it is a feeling often intensified by widowhood, or separation after years of marriage. Many elderly Americans feel they have no one—no friend, no family. No one to care.

In many cities private organizations, often with some government money, are trying to reach the lonely. In New York City, for instance, Project FIND (friendless, isolated, needy, and disabled) has sought them out in little rooms along Manhattan's West Side and provided cheer and a free gathering place. So, in a more extensive way, has the Hudson Guild-Fulton Center for the elderly, several dozen blocks to the south. Throughout the city are some 60 Welfare Department day centers for the aged. And there are others.

Yet those who work with Manhattan's elderly are convinced thousands more sit unreached, day by day, in little rooms throughout the city. Much more effort is needed, they say.

So it is throughout the nation, with similar outreach, programs or government-financed programs like Foster Grandparent, or senior AIDES (alert, industrious, dedicated, energetic, service), that give a few thousand elderly the deep sense of doing something needed and worthwhile. What is done is marvelous; but far greater is the need to help alleviate many more older Americans' sense of loneliness, of worthlessness.

Mrs. M.'s own loneliness comes through poignantly at the bus stop, and early in the jouncy bus ride. She is pathetically eager to talk—with anyone.

But as the bus twists and turns through residential streets she falls silent. The once vacant eyes come alert, and she seems deep in thought.

Three blocks from the nursing home she turns away draws from the bag a broken compact held together by a rubber band, and begins to primp.

Her earlier words rush back in memory: "My husband and I have been separated a long time—27 years—but he's still my husband."

Her visit will be only one hour. But for that hour there will be no loneliness. For that hour she will have someone.

[From the Christian Science Monitor, Nov. 16, 1971]

THE SEARCH FOR A HOME

(By Robert P. Hey)

PROVIDENCE, R.I.—Judith Pearson is one of more than 6 million elderly Americans who need a better home. But she isn't sure she even can afford the one she's got.

Miss Pearson (not her real name) lives in a basement apartment in a dilapidated frame house in downtown Providence. Most of the old clapboard houses nearby are similarly run down. To her friends it's a slum.

It's been home for Miss Pearson for a decade. But her landlord recently raised the rent from $45 a month to $65. "I guess I'll have to move," she says resignedly. "I don't know how I can afford $65.

"But my friends say $65 really is pretty cheap—that I can't do any better. Is that true?"

Yes it is, Miss Pearson; $65 is pretty cheap. Housing is the elderly's No. 1 expense, as many will tell you. Most speak of paying rents a good deal higher. The Bureau of Labor Statistics figures household expenses—rent, utilities—take 34 percent of their budget. They take less of Miss Pearson's monthly income, but she wonders how she'll make it with $65 rent.

SCRIMPING ON "IMPORTANT" THINGS

Miss Pearson's no spendthrift. For most of her nearly 90 years she has saved money on "unimportant" things—rent, food, clothing—to have a little for the important things—travel, the broadening of her horizons.

But not even she can figure out how to afford an apartment most Americans would consider decent. It's a problem many of the 20 million elderly share. Millions of them live in substandard apartments or homes. Across the country there simply aren't enough decent places for them to live, at prices they can afford.

Even worse, perhaps, nobody is certain just how severe the problem really is. Few statistics are available on the elderly's housing needs; most that do exist stem from information gathered by the 1960 census. No new statistics are expected in the near future. Because of understandable concern for privacy, the questions that yielded this information in 1960 were omitted from the 1970 census.

The 1960 census concluded that about 30 percent of the elderly—6 million—lived in housing that was dilapidated, deteriorating, or lacking some facilities. This figure is believed to represent about 2.8 million substandard apartments or houses.

The Senate's Special Committee on Aging concludes that new housing construction for the elderly over the past decade has roughly been keeping pace with the expanding need—without making major inroads on the pent-up need. It estimates that today "a minimum of 3 million units" are needed.

The problem of the elderly poor appears the most active. In 1968 the President's Committee on Urban Problems reported "an immediate and critical social need for millions of decent dwellings to shelter the nation's low-income families." It called for low-income housing units to be built at the rate of 600,000 a year, for 10 years—to a total of 6 to 8 million.

41,000 NEW UNITS VS. 120,000

The Senate Special Committee concludes that, since one-fifth of the poor are elderly, one-fifth of the 600,000 housing units are needed annually by the elderly—about 120,000. "By contrast," the committee reported early this year, "only 41,000 units could be identified as approved or committed for the elderly poor last year."

Much emphasis in construction for the elderly is on apartments, and many elderly are moving from homes to apartments. But at present two-thirds of Americans past 65 live in their own homes (80 percent have fully paid off their mortgages).

"For most older Americans," says the Senate committee, "their home is their only asset."

One elderly person in 20 lives in a nursing home for the aged, or other institution.

Seven in 10 live in families, reports the Administration on Aging. It adds that 1 in 4 lives alone, or with nonrelatives. "Three times as many older women live alone or with nonrelatives," it says, "as do older men."

Living alone seems particularly difficult for the elderly, whether it is uncounted thousands in little rundown hotels or those alone in large houses. In little hotel rooms a sense of loneliness and isolation sometimes seems overpowering; in too-big houses it is the expense and difficulty of keeping up such a large place. And the ever-soaring taxes.

TAXES UP "SOMETHING TERRIBLE"

"The real-estate taxes are going to drive me out of my home," laments a widow from northwest Washington, D.C. "I've paid taxes for years; I paid plenty in taxes to educate my children. But the taxes have gone up something terrible the last few years, and with my husband gone I don't have that much income anymore.

"Why do I have to keep paying to educate someone else's children? If taxes go much higher I'll have to sell the house and move into an apartment. But I'll always think of the old house as my home."

It's more than taxes that makes many elderly exchange their houses for apartments. For many it's also the expense of house repairs and the effort needed to keep up a house.

It's a typical pattern for many elderly, especially those widowed. Income goes down; it gets harder and harder to manage a big house financially and otherwise. One day they decide the ease of apartment living would make the switch worthwhile.

However, with reduced incomes and often special needs—such as being within walking distance of good public transportation—many elderly find it difficult to compete with younger persons for available apartments.

Reports the Senate Special Committee on Housing:

"With apartments generally showing only a 5 percent vacancy rate and apartments on the Eastern corridor showing only a 2.8 percent vacancy rate, seniors had little opportunity to find or exchange housing. They have to compete for these vacant units with their younger counterparts, who are more mobile and better off financially.

"In times of severe shortage the elderly are the ones who are forced to accept the rundown apartment that would otherwise stand vacant."

NO CHANGE OF VENUE FOR JUDGE

When most people retire they prefer to continue living in the communities they're in, where friends and surroundings are familiar. For instance, like the Rhode Islander who moved two blocks from house to apartment.

And like the Missouri judge, in his late 70's but still practicing law when his wife passed on. His daughter-in-law invited him to live with her family just outside New York City. He thanked her warmly but declined: "All my friends are here; there I'd walk down the street and know no one, and no one would know me."

Nevertheless, many do retire to other areas; witness the many elderly living in mile after mile of mobile homes and small houses in parts of Florida.

In search of country peacefulness, a few retirees even ignore harsh winter weather—as with those who retire to Freedom, N.H. (population 387). "I've vacationed here from Boston every year since '28," says a courtly gentleman standing in front of Freedom's Village Store. "I retired two years ago; moving here year round was the natural thing to do. Freedom's become a retirement village, you know."

Over the years a Midwesterner has bought and beautifully restored several Freedom buildings, including the old inn and a onetime store that had fallen upon sorry days. Now the store is four nice apartments for retirees.

Retirees coming to Freedom have been able to find good housing. But nationally the housing problem of the elderly is acute.

This is an area in which government is helping. But critics charge it should do more than it has done. What's worse, they say, the Nixon adminstration has been trying to cut back on housing and other aid to the elderly when it really should be expanding it.

The Department of Housing and Urban Development (HUD) reports that by mid-1970, elderly were living in more than 336,000 apartments or houses subsidized in whole or in part by the federal government. The department says it administers 21 programs under which the elderly are aided, including: apartments exclusively for the elderly; low-rent public housing for elderly and others; and rent-subsidy programs.

NO INROADS ON BACKLOG

As evidence of progress in meeting the housing needs, HUD reports that elderly were living in 156,000 general-purpose, low-income apartments in 1970, compared with 77,000 10 years earlier. It reports also that in 1960 only 1,100 federally aided apartment units existed in programs specifically designed for the elderly. Ten years later, it says, there were 180,000.

Even critics admit that's worthy progress. But they say it only keeps pace with the increase in need—and doesn't meet a basic need for nearly 3 million good-quality, low-cost housing units for the elderly.

HUD says that in the past 10½ years, ending last December, 43,500 apartment units were begun under the major federal program to provide low-cost apartment housing exclusively for the elderly. But the Nixon administration has decided to end this program and instead stress low-to-moderate income housing for all ages.

Critics charge that the practical effect of this change in direction, made more than a year ago, is to stop new housing for the elderly—making it too expensive to build because of needlessly higher specifications and interest rates. The Senate in 1970 voted $10 million for the old program anyway, but HUD did not spend it.

A LITTLE EXTRA HELP

Acute as is the shortage of adequate housing, for many elderly the problem is not finding an apartment, it's remaining there. What's needed by many is a little extra help from someone: a good hot meal once a day; someone to take them shopping twice a week; a once-a-week cleaning service; help in cutting through the miles of red tape often wound around promised government aid.

Many privately and publicly financed programs exist to provide these services. But in almost every area of the country the need far exceeds the services provided.

One of the best programs is at Hudson Guild-Fulton Center, on New York's Ninth Avenue. The center provides many activities and much help for the elderly of the neighborhod. Perhaps its biggest boost is the nutritious, low-cost dinner it serves some 125 to 150 elderly every day (some meals are sent to the homebound as well).

"I give them more protein than is required," says Mrs. Gertrude W. Wagner, the center's nutritionist, "because I feel that, being the highest priced food element, that's the one they won't get otherwise. She says that "quite a large group that comes every day for the meal live in resident homes without any cooking facilities.

Mrs. Wagner says "there is no doubt" that because of meals provided by the center a number of local elderly are able to keep living in their homes, not have to move to nursing homes. That, she says, "is the thing all of them want. Nobody wants to leave his home."

The center is widely acknowledged to be doing a fine job through its meals and many other programs. Yet, ever the realist, Mrs. Wagner warns that even in this area of Manhattan the need is far larger:

"It's important that we know we're just a drop in the bucket, compared with the total needs in the area, or in the city, or in the country."

For untold thousands of elderly, living alone and struggling to remain independent, a nursing home is the only alternative to the help this and other centers provide. One elderly American in 20 lives in a nursing home or other institution. And to many another, the very idea of having to move to one brings a tear.

There are many dedicated nursing home administrators and staffs across the country, and a substantial number of fine nursing homes. But a two-year Senate study chaired and directed by Utah Sen. Frank E. Moss (D) concludes that despite some improvement in the nation's nursing home situation in recent years, by and large the picture remains shocking.

BEHIND-SCENES CRITICISM

Many persons who have worked in nursing homes can relate firsthand how care and food costs are held down—even in some expensive establishments.

A kitchen aide says she resigned from a modern southern Massachusetts nursing home because:

"One day when I was ladling mashed potatoes onto the patients' plates the manager came into the kitchen. He told me to mash the potatoes down on the plates with a fork 'so it looks like there is more than there really is."

"That was too much for me; I quit the same day. I felt so sorry for those poor patients."

Nursing homes became big business from 1966 to '69. Hundreds sprang up across the nation, largely in response to a federal carrot: the federal government began to pay millions of dollars to nursing homes to care for the aged.

Today, the Moss subcommittee estimates, nursing homes take in from $2.5 billion to $3 billion a year. Public funds account for $2 of every $3; federal funds alone pay about $1 of every $2.

Ironically, the Moss study concludes, this is not enough to provide proper care. And in fact a number of nursing homes have declared bankruptcy over the past two years.

States determine how much money should be paid nursing homes each day to care for indigent elderly patients under the medicaid program. The cost then is shared between the state and federal government.

The Moss study finds most states pay $14 a day for medicaid patients, which has to cover the room, nursing care, food, medicines, and other expenses. It's less than most hotels charge merely for a room. "Grossly inadequate" for proper care, complains Senator Moss.

However, charges a Moss committee aide who has been deeply involved in the study, "if a nursing home operator really wants to cut services and care, he can make a fortune on $14 a day."

The study holds that "the gist of the problem is money." The Senator recommends that the way to solve the problem is to pay more money contingent on adequate care, good food, and other elements of a first-rate nursing home.

HIGH-QUALITY INCENTIVES SOUGHT

He wants to build financial incentives into existing government programs that would encourage high-quality nursing homes. He praises the incentive system Connecticut builds into its medicaid payments to nursing homes for care of the ill and poor.

The state inspects nursing homes and grades them in five categories; the better they are, the more money they receive. "Typically," the Senator says, "a Class A nursing home will receive about $1 a day (per patient) more than a Class B nursing home and $2 a day more than a Class C nursing home, and so forth."

He says that Connecticut "is commonly recognized as having one of the best nursing home systems in the nation. To be sure, there are problems with this system . . . (which are recognized), but with some minor revision it might provide a useful model for other states."

Good food, enough nursing care, a concerned staff, a clean and cheery atmosphere, a fireproof building—good nursing homes have to provide all these things. But there is something more—respect for the patients. Many of the homes have it: But too many, unfortunately, do not.

A SHORTAGE OF DIGNITY

It's traumatic indeed for the elderly to lose their independence and have to go to a nursing home—however sunny its rooms. However loving its staff.

Some nursing homes unconsciously twist the knife in the unkindest cut of all: slicing from the patient his last shred of dignity.

There is, for instance, a lovely, modern nursing home in southern New England where nurses and staff automatically call even their newest patients by their first names. It's never "Mr." or "Mrs.," but always "John," or "Edith." Nobody ever asks the patients how they wish to be addressed; for some, it's the last straw to be known, like children, only by one informal first name.

A comprehensive study by the Senate subcommittee on long-term care concludes that about half of all the nation's nursing homes run for profit are substandard—in construction, care, food, or some other element. (Most nursing homes which exist primarily to provide medical care are in this proprietary group; most homes for the aged—well and otherwise—are nonprofit.)

If nursing homes were graded like schoolchildren, the study concludes, only 5 percent would get an "A" (These also are expensive, because the needed high level of care and food they provide patients is costly.)

Ten percent would get "B"; 15 percent, "C"; and 20 percent, "D." These are rated as having good physical facilities. "But what you're sorely lacking there is care," explains a subcommittee aide—"more because they can't than that they don't care."

"THE SYSTEM" GRADED LOWEST

The guilty party, the study concludes, "is the system—and the system builds in poor care. You need more nurses. You need the involvement of more physicians.

"Most of all, you need a clear national policy as to how we are going to treat our elderly ill."

In August President Nixon publicly expressed his concern about the poor quality of some nursing homes. He said he intends to see that those falling below minimum federal standards are brought up to them. As one step he announced plans to train an additional 2,000 nursing home inspectors.

The Moss study holds that "there seems to be a 1-to-1 relationship between being a low-quality nursing home and earning high profits. The reason is that your major expenses as a nursing home are staff and food. So if you want to make a lot of money in the nursing home field, you cut care and food costs."

[From the Christian Science Monitor, Nov. 17, 1971]

INADEQUATE INCOMES

(By Robert P. Hey)

WASHINGTON.—Mrs. C., tall and stately, is a secretary in a medium-size Eastern city. Making ends meet always has been hard—she has worked for the same nonprofit firm for 40 years; she is 64.

Her income places her far above the government's official poverty level. Yet, like the vast majority of older Americans, she must watch nearly every penny.

"I earn just over $5,000 a year," she begins. (She receives another $400 annually from interest on her savings account, which stems from her late husband's modest life insurance.)

"Believe me, it's very difficult to live by yourself on that amount. My apartment rent [one bedroom, third floor, no elevator] is $160 a month. Anything cheaper would be in a slum.

"I live very carefully. I've only bought one dress all year, and I almost never eat out.

"Even so, every now and then I have to take principal out of the savings account for big expenses, like car repairs. (Her sedan is five years old.) Honestly, if anything more happens to that car I think I'll just drive it into the harbor."

Ironically, the car that threatens to drive her to the poor house also enables her to remain independent.

THEY CALL THAT SECURITY?

If I sold the car I'd have to give up my job. It's so far to walk, the bus service is atrocious, and I can't afford cabs. If I gave up my job I couldn't keep the apartment. My social security would be only $130 a month—even less than my rent. How dare they call that 'security'?"

Mrs. C. does live frugally. Clearly she considers herself near the brink of financial disaster. If her expenses go any higher she will have to economize by giving up her prized independence and moving in with one of her children.

Yet the startling fact is that Mrs. C. has a bigger income than almost 9 of every 10 elderly and single Americans, according to the Department of Health, Education, and Welfare. Its Administration on Aging reports that 90.7 percent of all single, divorced, or widowed elderly had less than a $6,000 income in 1970. (Two-thirds of them earned less than $2,500; and half less than $2,000.)

Although the majority watch their pennies closely, the government says only one-fourth of them are financially poor. But for most, meeting the problem of adequate income is, in one degree or another, a continuing challenge.

WASHINGTON TOSSES A BUOY

By government figures, 4.7 million of the 20 million elderly Americans—1 in 5—live below the poverty line. That is set by Washington at an average $1,852 for a single person.

In recent years efforts have been made to try to lift the elderly above the line. For instance, over the past two years the government has boosted by 15 percent the benefits given the elderly under the social-security program.

The efforts have not been adequate to the need. For instance, poverty among most Americans has been declining in recent years. Yet today, by latest government figures, 100,000 more elderly Americans are officially poor than there were in 1968.

Thus it is that many groups and individuals in Washington and across the nation express concern over the situation. They are offering suggestions for improving it.

The National Council of Senior Citizens asks a 25 percent increase in the monthly social-security benefits, on top of the 5 per cent increase proposed in President Nixon's family-assistance plan. The presidential plan, now before Congress, is not expected to be acted upon until next year.

INCOME SUPPLEMENTS PROPOSED

One goal of the council is to eliminate poverty among all age groups, including the elderly. To the extent that social security and private and other public retirement plans do not end elderly poverty, the council says, there should be a program of income supplements for the elderly, financed from revenues from the general treasury.

Last spring Sen. Frank Church (D) of Idaho, chairman of the Senate's Special Committee on Aging, proposed such an income supplement program (on which there was no congressional action). Senator Church said that his bill would "ensure that all elderly citizens would be entitled to an income above the poverty level of about $1,750 for a single person, and $2,200 for a married couple."

Senator Church would abolish the shared federal-state welfare plan (Old Age Assistance) to aid the elderly poor, and establish a supplement plan in its stead. "Quite clearly," he said, "a new approach is essential if we are to ensure a life of dignity and self-respect for the elderly people of the United States."

Senator Church says: "Undoubtedly, the No. 1 priority for the elderly is to raise [social security] benefits to a more realistic level." Early this year he proposed a two-step, 30 percent increase.

THE GRAPHICS OF SOCIAL SECURITY

The importance of social-security payments to retired workers is graphically illustrated by the many millions of retirees, their dependents, or their widows who receive the benefits.

According to latest figures of the Social Security Administration, nearly 17 million such workers and their dependents receive checks each month. This figure includes 13.7 million retirees themselves; their 2.7 million dependent wives or husbands (not necessarily of retirement age); and 550,000 dependent children.

In addition, 3.3 million elderly widows or widowers of retired workers receive checks based on their spouses' earnings.

Even with this year's 10 percent social-security raise, benefits leave most recipients in less-than-lucrative positions. The monthly check for the average retired couple now is $219; for an average retired worker, $131; for widows, $113.

Widows' benefits are less than retirees'—they receive 82½ percent of what their husbands were entitled to. Many persons advocate changing social-security rules so that they receive 100 percent. Such a change is proposed in the Nixon assistance plan.

FREER EARNINGS LIMITS SOUGHT

The Nixon plan also would raise the amount a person receiving social security can earn without having some of his government money taken away. It is $1,680 now. The bill would raise it to $2,000. Many liberals will try to push it to $2,400; some want it removed altogether.

(Recipients can, however, receive full benefits while taking an unlimited amount of unearned income—dividends, interest, trust, and rental income.)

Under present law, when persons earn between $1,680 and $2,880, $1 in social security is withheld for every $2 earned. It is a disincentive to work. And, the elderly charge, the provision makes it well-nigh impossible for them to lift themselves from financial poverty by making the few extra dollars that can, in human terms, make all the difference.

Under the Nixon proposal, $1 of a recipient's social security above the $2,000 level would be withheld for every $2 earned—no matter how much was earned. Some think this "withholding" or retirement test, as it is called, ought to be dropped.

THE CORNUCOPIA HAS A BOTTOM

But the 1961 White House Conference on the Elderly concluded that it should be retained so that the persons who are actually retired, or mostly so, are the ones who benefit from social security—which is not, after all, a bottomless financial cornucopia. Someone has to fill it.

That someone is the American taxpayer. He fills the social-security system by paying taxes on the first several thousand dollars he earns. There is some thought in Washington, largely among liberal Democrats, that the system ought to be financed from the nation's general treasury. This would enable more of the money to be collected from the people and corporations with more money and thus, it is argued, more ability to part with it. Some say this would enable larger benefits.

Among the recommendations of the Senate Special Committee on Aging are:

1. That Congress give attention to "major changes in social-security benefit levels."

2. That "serious consideration be given to the use of general revenues in the financing of the social-security system."

3. That "the federal commitment to the elderly undertaken through the family-assistance plan be translated into a wholehearted commitment, with 100 percent federal financing and federal administration."

A PLAN FOR GOING THIRDS

Sen. Hubert H. Humphrey this month proposed several changes in the social security system, including use of federal general-revenue funds to finance one-third of the program. At present the program is financed 50 percent by employer deductions, 50 percent by employee deductions. Senator Humphrey would broaden that to financing it one-third each by employer, employee, and the federal government.

The Minnesota Democrat also asks that minimum benefit be raised from the present $74.10 to $100 monthly; that all benefits be raised 10 percent; and that employees pay social-security taxes on the first $15,000 of their annual earnings (instead of the present $7,800).

Several proposals have been made that benefits automatically be raised as the cost of living goes up.

Increasingly in recent months, another area of retirement income has come under attention here in Washington. That is the area of private pensions. Hearings were held this year both by Senate and House committees. Much information was uncovered that many persons who thought they were building up equity with their companies toward an eventual pension suddenly, disturbingly found themselves without job or pension.

PENSIONS VANISH WITH COMPANIES

Rep. Frank Thompson Jr. (D) of New Jersey summarized some of the findings of one House subcommittee: "Often the merger, sale, or other dissolution of an employing company has cruelly wiped out the financial retirement security built up over a lifetime of loyal service.

"Furthermore, the lack of portability, i.e., the right to transfer retirement credit from one fund to another [the way teachers and union members can] has too frequently locked employees into jobs that they might have otherwise left."

Mr. Thompson and others on Capitol Hill think the time has come for a thorough investigation of private welfare and pension plans, preparatory to writing legislation to see that employees' pension rights are protected for their retirement. A Senate subcommittee is studying a large number of pension plans to find out how many employees wind up collecting pensions, how many do not—and why.

Pension plans, welfare programs, social-security benefits—these are most important. But they are only one approach to the income problems of the elderly. Another is jobs—part time, sometimes full time, depending on the abilities and desires of those who wish them. Many want to work but cannot find appropriate jobs.

JOB RIGHTS RETIRE AT 65 TOO

Federal law, though sometimes violated, protects Americans from employment discrimination due to age until they reach 65. Then they generally find great difficulty competing with younger people in the job market—especially when it is as tight as it is today in so many fields.

Several small federal programs are under way that provide satisfaction, and some pay, for the elderly who wish to work—such as Foster Grandparents (but it has fewer than 5,000 jobs across the nation) and senior AIDES, which provides community-service positions and modest salaries.

It generally is agreed however, that far more could be done both by private interests and government at all levels. Positions could be established that need filling—with libraries, school systems, health organizations—to the mutual benefit of the community, the elderly . . . and their pocketbooks.

It is a subject to which Bert Seidman addressed himself two months ago at a meeting on vocational-rehabilitation policy, in preparation for the White House Conference on Aging. Mr. Seidman is director of AFL-CIO social security.

"The evidence is all around us," Mr. Seidman said, "of the great need for services in most communities—in hospitals and other medical institutions, libraries, schools, and many other areas."

"TREMENDOUS CONTRIBUTION" ENVISIONED

"With their long experience of work and life," he elaborated, "the elderly, including the disabled elderly, can make a tremendous contribution to the expansion and improvement of these vital community services.

"There is a dire need to enlist older Americans in public-service projects that would help their own communities become better places in which to live. Not just the public sector, but nonprofit private organizations as well can make available job opportunities in this important area of community service.

"Unfortunately, too many people have been sold the idea that employment under public sponsorship is 'make-work.' Nothing could be further from the truth. We all know in our own communities of the unmet need for socially useful and economically necessary activities which do not lend themselves to private enterprise but nevertheless could provide employment opportunities which would have great value to both older workers and society."

When the elderly talk about their problems stretching the income they already have, local property taxes invariably come up (70 percent of the elderly own their own homes). "We've paid taxes for years," they say in effect, "raised and educated our own kids—why can't the other people pay the real estate taxes now?"

FOR SOME HOMEOWNERS, A TAX BREAK

In a number of communities, elderly homeowners are eligible for reductions in property taxes. Other communities are discussing such a plan.

Federal income taxes give the elderly an additional exemption based on age. Rep. Paul Findley (R) of Illinois has just introduced a bill to provide a federal income-tax credit to offset state and local taxes the elderly pay on their home property.

Mr. Findley told the House that "those whose annual income is under $6,500 would be eligible, whether they own their own home or not. If they rent, the portion of rent which covers taxes would be computed.

"If their federal income tax is $300 or less, they will be eligible for a payment from the U.S. Treasury instead of a tax credit."

These are some of the approaches being taken or talked about, as partial solutions to the income problem of the aging across the nation.

For the poorest quarter of the elderly the problems are severe indeed.

For elderly blacks, poverty is likely to be twice that of the whites; fifty percent past 65 are poor.

In rural areas the problem is worse: Two of every 3 elderly black residents are poor.

A STORY OF STOUT DETERMINATION

Most desperate of all is the plight of elderly black women who live alone. Says Sen. Harrison J. Williams (D) of New Jersey, a member and former chairman of the Senate Special Committee on Aging: "More than 88 percent—or nearly 9 out of every 10—live in poverty or are marginally poor."

A graphic example is the case of Mrs. Edna Richardson, a black seamstress, a widow. Mrs. Richardson lived in a rooming house deep in the Washington ghetto. She commuted four hours every day on buses to her job with a small dry cleaner's in Silver Spring, Md.

The long bus rides were physically hard for her. "But she was always here, always on time," says her boss. Customers were universally fond of her sewing skill, and of her smile and warmth.

Last June she began to feel "poorly." Twice she visited physicians, both times a serious condition was diagnosed and hospitalization recommended.

But Mrs. Richardson felt trapped in the cruel position of the not-quite destitute; too poor to pay hospital bills, yet, because she was working, not poor enough to have the government pay them for her. She couldn't afford hospital insurance and wasn't quite old enough for medicare.

NO QUITTING NO "CHARITY"

"She told me the only way she could pay for hospital care was to quit work and go on relief," says her boss. Medicaid—aid to the poor—would have paid. But she was too proud, too independent to quit work, to accept welfare, which she viewed as charity.

She decided instead to keep working and hope that nothing would happen.

One October Monday she didn't appear at work. Her landlady phoned instead: Mrs. Richardson, she said, had passed on the previous day.

She left no relatives.

People like Mrs. Richardson—and like Mrs. C., the widowed secretary who earns $5,000 a year, are in our midst everywhere. They need assistance in varying degrees. Most of them feel that by now they deserve it.

"We're not asking for charity," says a New York septuagenarian. "We pay taxes, too. We've paid them for years. We've already earned more help—it's due us."

In Washington a delegate to this month's National Conference on the Black Elderly says the nation owes it to the elderly to see that they have adequate finances. For years "we dug the ditches," she says, and built the nation—"we who now are elderly. We deserve better now." And the New York Avenue Presbyterian Church rocks with applause.

NOT A MATTER OF YOUNG OR OLD

The National Council of Senior Citizens says, "This is not a matter of 'either/or.'" It says flatly that "a nation as wealthy as ours can afford to do more for its older people without decreasing its efforts for the younger generation."

The challenges are being voiced. The White House Conference on the Elderly soon will explore them.

The elderly wonder who is listening. They will wait to see how the nation responds.

[From the Christian Science Monitor, Nov. 19 1971]

Life With Meaning

(By Robert P. Hey)

New York.—They sit and chat in the Cheery courtyard here at the Hudson Guild-Fulton Center for the elderly. They're several dozen elderly residents of New York's Chelsea area, which runs up Manhattan's West Side from 14th to 32nd Street.

Autumn's sun brings soothing warmth to the courtyard, an oasis of tranquillity and greenery in an area which generally lacks both. As they sit, the seniors speak of their needs—usually with warmth, sometimes with heat.

They speak of financial needs, and medical ones. And they return again and again to the need of the elderly, like people of all ages, to have something to do, somewhere to go, someone who cares. They're personally fortunate, they'll tell you; there's plenty to do here at the center, and many who care. But most elderly elsewhere lack access to such centers.

And, anyway, the slights of society at large are etched deep upon these elderly here in Chelsea, as elsewhere. Most are lonely, and eagerly welcome attention. But society, they feel, has dismissed them and their needs with an airy wave of the hand.

Knowing what to do with themselves is a big problem for many American elderly in and out of New York City. In Manhattan you'll find many of them sitting outside and talking on warm days—in Central Park, on benches along upper Broadway. A few still sit in the traditional indoor places—Port Authority bus terminal on the West Side, and Grand Central Station.

HAVE SKILLS, WILL SHARE

Some retired businessmen gain much satisfaction through participating in the SCORE Program (Service Corps of Retired Executives), a kind of volunteer management-consultant service run by the federal government.

SCORE was begun during the mid-1960's. Some 3,200 retired businessmen are in its "pool" now. They're on tap by the Small Business Administration to aid small-business men whenever they seek help. They also aid many small-business men who receive SBA loans. Together they have a wide variety of skills and experience.

SCORE volunteers aren't paid for their services; and they are reimbursed only for incidental expenses such as parking and transportation if they have traveled 50 miles or more, one way, to the business they are advising.

Nationwide, SBA could use more volunteers, though in some places to which many businessmen retire there are more volunteers than requests—places like Phoenix, Ariz., and Miami.

Many retirement-age Americans, of course, find alternatives to just sitting. Some want to keep working, and do (although many large companies have mandatory retirement ages). Others find fulfillment in retirement by plunging into second careers, or concentrating on hobbies.

Some do volunteer work, or work in government-aided prorgams which pay them modestly. Still others take courses, or frequent the centers set up to provide companionship and services to older Americans.

Another avenue of service some retired Americans have found is the Peace Corps, and the organization often called its domestic counterpart, VISTA (Volunteers in Service to America). Both now are run by the federal government's ACTION agency. Comparatively few older Americans have served in these agencies; but those who have report great satisfaction.

In all, 264 Americans 60 and over have served in the Peace Corps since its inception in the 1960's, according to latest available figures. The percentage of older volunteers, although small, is increasing. As of Oct. 31, 75 persons 61 and older were serving as Peace Corps volunteers in many nations—1.1 percent of the corps' total volunteers.

Sol Grieman is one of those volunteers. He retired three years ago at 65 as a plumber, heard the Peace Corps needed plumbers—and joined. He was sent to Caava Vocational school in Tegucigalpa, Honduras, to instruct youths in plumbing. Now nearing the end of his two-year hitch, he is training a Honduran to take over as instructor.

FROM PEACE CORPS TO VISTA

Mrs. Helen C. Baker, a great-grandmother from Spokane, Wash., has been a Peace Corps volunteer, too. She joined at 70 and went to Nigeria, where she taught English at a secondary school for boys. After her two years she returned home but quickly felt bored. She applied to join VISTA. She has served two one-year hitches as a VISTA volunteer, both times teaching Job Corps youths, and has applied for a third hitch.

VISTA has some 460 volunteers, like Mrs. Baker, who are 50 and over. During a one-year hitch they work in rural and urban poverty areas for a subsistence allowance—and a lot of personal satisfaction. As with Peace Corps volunteers, their tasks and experience are matched. Among the fields VISTA volunteers are working in: health, individual and family counseling, legal aid, tenants' rights, housing-code enforcement, mobilizing volunteer Big Brothers and Big Sisters, establishing local coop food stores.

Although "volunteer work" is a standard answer, sometimes volunteer offers are not accepted—though their expertise is greatly needed.

Two dentists in a retirement community in Florida—both highly skilled, much respected in the communities they had come from—tried to volunteer their services through the local dental society.

IT WOULD GIVE SUCH SATISFACTION

They'd work in a dental clinic—anything, anywhere. "There must be plenty of children who need dental work," said one dentist. "There are many poor areas near here.

"I don't want money—I told them that. I don't need it. It would give me such satisfaction to help these children, something like three mornings a week."

Unquestionably his services, and his colleague's, could have been well used. But they were rebuffed: "They didn't want us."

As it happens both men, like many others, enjoy their retirement community, although they could wish for volunteer opportunities in their profession. But some persons pack up and head for a retirement community without planning what they'll do when they arrive and wind up lonely for former friends and surroundings. Some pack up all over again and return .

John Chase is one of those still on the job. He is a topflight Philadelphia toolmaker at 73. Every year now he talks vaguely of retiring, but really is delighted to continue when his boss asks if he wouldn't consider working "just one more year."

"After all," he says quietly, "I have no family. What would I do if I retired?"

So he keeps making tools 49 weeks a year. The other three weeks he watches the sun set across acres of wind-whiffled corn and alfalfa, on a dairy farm in Pennsylvania's Lancaster County. Technically Mr. Chase is one of several paying guests. But his rotund farm wife says that "John's been coming here so long we really think of him as one of the family."

In New York City, a fine restorative dentist is back in business part time after several years of retirement. He still finds the challenge of difficult restorative jobs very stimulating—the harder they are, the more satisfaction he derives. This fall he com pieted the most complicated restoration he has ever undertaken.

When it comes to working beyond usual retirement age, self-employed like the dentist have a distinct advantage: They can keep on if they wish. Most people who work for others, like Mr. Chase, are less fortunate than he. If they want to keep working it generally is up to their employer, or company rules, whether they can.

SELF-EMPLOYED RATIO SHRINKING

Comparatively few working Americans are self-employed—only about 7 million of the total working force of 80 million. This percentage has been shrinking steadily in recent years as the number of working Americans has been rising, but the number of self-employed has not.

Business executives, retiring earlier, increasingly have begun to carve out second careers—like the upper-echelon New York executive who became a college professor. He combined his years of experience in business (which he didn't like) with university teaching (which he enjoys)—by becomng a professor of business subjects. He's working as hard now as ever—and he's much happier.

Other people have found similar fulfillment in retirement without a second career. But it takes planning—and, as throughout human experience, a willingness to give of oneself.

One who has found such fulfillment is a social worker who retired, after much thought, from a horn-honking Northeastern city to the serenity of a little Cape Cod, Mass., town. Friends admiringly say he and his wife, in retiring, "did it right."

He said he'd seen too many men just hang around after retirement, worrying about their former company, "waiting for someone to ask their advice, and no one ever does." He decided "to start over" in retirement—to plunge into a new community with zest, rather than slow down in the same old city.

After two years of looking he and his wife found the right building lot—with a harbor view, yet within their budget. They bought and built. And became immediately involved in their adopted town's affairs—no mean feat in a New England town. He's on the library board; both avidly attend town meetings.

For this couple retirement is happy, satisfying, exhilarating. But it took a great deal of prior planning.

Retirements like these also require a modest amount of money, to enable the retirees to afford a reasonable standard of living. Unfortunately most people reaching 65 don't have enough money; every fifth person over 65 is poor by government standards. And among the nation's 20 million over age 65, millions of others have so little money that they cannot afford to go much of anywhere, nor do much of anything. These are the people most prone to feeling unneeded, useless.

Both government and private social agencies are helping to meet this need. Several comparatively small government programs are aiding the elderly, especially the poor—providing both meaning and extra money.

In many cities private and public agencies provide social centers and varying amounts of services for the elderly, primarily the needy elderly.

NEED FAR EXCEEDS PROGRAMS

But the need far outstrips existing programs, and the money isn't there to expand them. Nor, some say, is the national will.

Foster Grandparents is the best known of the government programs. Begun in 1965, it provides inestimable satisfaction to two groups of people who need it: low-income elderly, and deprived or handicapped children, primarily those in institutions.

Now 4,400 elderly are in the program. Each spends two hours a day with each of two children—talking, visiting the zoo, showing that somebody really cares. And setting up that special and mutually beneficial relationship—the one between grandparent and grandchild.

To supplement their income the elderly are paid $1.60 an hour, the minimum wage.

But the need far outstrips the program. The Nixon administration asked for $10.5 million for the program for the current year; Congress gave it $12.8 million. That enables the program to enroll only the 4,400 older Americans.

A source close to Foster Grandparents laments that "it's a program that could be multiplied immediately, but for lack of funds. They have such a long waiting list for people who want to become foster grandparents. And the need for them in institutions is just enormous. It's shocking, really."

The Foster Grandparents program does not advertise for elderly grandparents. But every time a major newspaper runs a story about the program it is deluged with requests from the elderly to join. Program officials estimate that there are eight applications or requests for information for every vacancy.

The foster grandparents find their relationships with the children very meaningful; many remain in the program year after year. In Detroit, for instance, 36 of the 40 original "grandparents" in the program when it started five years ago still are in it today.

The Foster Grandparents program is administered now by ACTION, President Nixon's new agency in charge of volunteer programs. Another ACTION program also deals with service by the elderly—RSVP, which stands for Retired Senior Volunteer Program. Authorized in 1969 by Congress, it is just getting under way. No RSVP programs actually are being processed. They will be operated by nonprofit organizations.

MORE VOLUNTEER OPENINGS SOUGHT

Under RSVP, Americans over 60 are to be aiding in schools, hospitals, libraries, welfare agencies. They will not be paid, but will be reimbursed for out-of-pocket expenses, such as transportation between home and work.

Nobody will say so publicly for fear of raising false hopes, but people running RSVP hope that in short order they can gear it up to providing volunteer opportunities for 25,000 people.

Somewhat similar to RSVP is senior AIDES, now in its fourth year. Jobs are similar, but persons in the AIDES program are paid, an average of $2.15 an hour.

From antipoverty funds the federal government is spending just over $3 million this year on the program, which is administered by the National Council of Senior Citizens. Local nonprofit sponsors add nearly $400,000. With that money 1,150 low-income men and women over 55 are employed 20 hours weekly in community service jobs. The AIDES program operates in 21 communities.

In addition to these and other federal government programs, many states, communities and local organizations have their own programs. But here, too, need exceeds supply.

In New York City, where 1 million of the nation's 20 million elderly live, several different kinds of programs exist. At one end of the spectrum is the comprehensive approach, such as the FIND Hudson Guild-Fulton Center, on Ninth Avenue.

The center offers area senior citizens many activities and classes—painting, sculpture, sewing, ceramics, French, Esperanto, bridge, stamp collecting, gardening. There are shuffleboard courts, a piano, and a lovely patio with a garden to sit in. Also listed are special events, like last August's boat trip to Bear Mountain.

Two center staffers help cut red tape for people with special problems. Once a week a physician comes to the center.

Every noon the center serves a nutritious, low-cost main meal; from 125 to 150 of the seniors partake.

A most important element of the center is the personal contact which it gives. Mrs. Gertrude Wagner, center nutrition specialist, talks specifically about the noontime meal, but the idea applies throughout the center activities.

"The biggest part of our project is the group setting, which has the following advantages:

"These people are likely to be isolated. I would suppose that maybe 60 percent of our people are single, living by themselves. And even if they have kitchen facilities, they don't use them very much . . . and pretty soon malnutrition takes over.

"It's a vicious circle. They're lonely, so they don't eat. And then their health fails, and they're more lonely."

FUNDS NEEDED FOR CENTERS

But as much as the center does, even more is needed, officials say. Mrs. John Wasserman, center chairman, says that to meet fully the needs of the elderly more staff members would be needed to go into the homes, more social workers, a bus or station wagon for transportation, and more money to buy additional services. Operating a center at this high level of services, she estimates, would cost about $350,000 a year. And many centers are needed across the city.

That's the major problem—the $350,000. Mrs. Wasserman's center has a good deal smaller budget; no one knows where enough money could be found to finance the many centers needed across the country, at $35,000 per center per year.

Twenty-six blocks north of this center another idea has been in operation since June. It's a free coffeehouse for the elderly under the auspices of Project FIND. On a slimmed-down budget of $35,000 a year the center offers space in a renovated brownstone for the elderly to relax, sip coffee, and talk. And, especially, to enjoy each other's company.

Mrs. Elizabeth S. Trebony, executive director of Project FIND, says New York City's Welfare Department currently runs 60 day centers for the elderly, each annually costing about $100,000 (including value of rent-free space they occupy).

"Every 20-block area ought to have a day center," says Mrs. Trebony, "but at a cost of $100,000, this is impossible to imagine. So my idea is to have places like this." In slums where rents are lower, she believes, costs could be held below $30,000.

One point on which Mrs. Trebony and Mrs. Wasserman would agree is that more—much more—needs to be done to aid the nation's elderly.

From all sides in American society today comes clamor to reorder national priorities. Many groups seek more of the national attention, more of the national funds. Spokesmen for children do, and others seek more for blacks, the Spanish-speaking, and American Indians. More is needed for education, the environment and the consumers who inhabit it and funds are solicited for more mass transit in cities, and better housing everywhere.

And, oh yes, more is needed for the elderly. They recognize the needs of the others, and hope that they are not elbowed out in the frenzied struggle for attention and funds.

In 1958 the late Rep. John E. Fogarty introduced a bill calling for a White House Conference on Aging, which subsequently was held in 1961. At the time he said: "In spite of the many surveys, books, and conferences on aging, the greatest accomplishment to date has been the output of words."

More than words have rolled out of Washington and elsewhere since then. Medicare was enacted. And medicaid. Several modest social-security-benefit increases were passed; so were various housing and service programs. Yet the continuing need far outstrips these programs; and some of the smaller service programs which should be expanded must be fought over annually even to be preserved.

To most who work with the elderly, the biggest need today is for a firm national policy toward the elderly—a national decision of what should be done, and a national commitment to do it. That's what the elderly want, too; but they aren't holding their collective breath either.

Thus the elderly view this month's White House Conference on Aging with interest—but great skepticism. Will it be yet another flood of words, and trickle of action?

Or will it stimulate concrete help for the elderly—help that will come soon?

The elderly hope so.

THE AGED OVERSEAS: HOW DO THEY FARE?

(By staff correspondents of The Christian Science Monitor)

This article was compiled by staff writer Florence Mouckley from dispatches written by Monitor correspondents John Allan May in London, Henry B. Ellis in Bonn (who included information from many visits to Sweden), Elizabeth Pond in Tokyo, and Charlotte Saikowski in Moscow.

BOSTON.—With the United States still gyrating to the rhythm of the young, in Great Britain a new, measured beat is being heard. The elderly person is slowly being brought back to a meaningful place in society.

Compared with other industrialized nations, Britain has a foot out in front. As more and more of the physical requirements of the elderly are being met, public and private agencies are responding to their need for companionship, for usefulness, and for being a part of the mainstream of life.

For instance, some 600 day centers and 7,500 social clubs for the elderly dot the country. Many of these are provided by local town governments and county councils. Others are endowed by voluntary services.

In every town in Britain a wide range of "leisure-learning courses" is available. And more and more elderly folk are helping in the social services, in libraries, and on local sports, social, and political committees. Workrooms are being set up by most local authorities to provide those who want it with part-time light work.

OLD ORDER CHANGES SHARPLY

This movement to include the elderly in the ongoing life of the nation marks a dramatic change in Britain.

It would be almost true to say that even 10 years ago the elderly had no position. The days when "grandma" presided over the family and was taken along on all its outings has already gone.

Most housing was getting too small and expensive to allow the majority of young people to have parents living with them. People in the geriatric wards of hospitals and in "homes" were half-forgotten and tragic actors on the social scene. Most of the poor were old and most of the old were poor.

This situation has changed. But the change still has a long way to go before it is complete.

Some 7.6 million citizens are past the age of 65 in Britain. There is provision, although it is small, for a basic pension for every one of them. And a system of supplementary benefits ensures that those with no other resources receive a basic income of at least 6.30 (15) a week above the cost of their rent or accommodation.

Meanwhile, a new pension plan, due to be passed into law this year, will in time ensure that everybody in retirement has an adequate pension, related to earnings during his or her working life, that will be automatically adjusted to take account of inflation.

MAJORITY KEEP WORKING

However, despite these pension provisions, 6 out of 10 men over the age of 65 still prefer to stay on at work. With pensions at their present levels the majority must work after retirement if they are to maintain a reasonable standard of living.

And it remains true that one-third of all the retired folk in Britain need Supplementary Assistance to keep them above the poverty line.

It is also the case that the number of special houses and flatlets for the elderly needs to be quadrupled.

"Every day we find old people who somehow have been left out of things," says Mrs. Jill Battersby, a Women's Royal Volunteer Service (WRVS) social worker. "There are hundreds of cases still that are precious close to tragedy."

But the numbers are steadily being reduced. Mrs. Mary Simmons, for instance, worked for 60 years as a "char" (domestic). At 75 she retired. She now lives in a one-bedroom, single-story house on a council estate (public housing) in one of the most expensive areas for private housing in Britain.

"Oh, I am lucky," she says; "this is a lovely house. I can live very well on my pension really."

Local authorities now build about half the houses in Britain. Of these, one-quarter are specifically for the elderly. The rate of building old folks' accommodations is 80,000 units a year. In addition, more than 5,000 housing associations are concerned exclusively with the elderly.

MEDICAL SERVICES LARGELY FREE

Medical services are provided largely free. One-third of total National Health Service spending goes to care for the elderly, who are also exempt from prescription charges on recommended medicines.

Last year half a million older people took advantage of the home nursing services provided by the local authorities. Some 373,000 had "home helps" provided for them and 828,625 enjoyed free chiropody treatment. Volunteer agencies provided 21,561,819 "meals on wheels"—some 14 million served to the aged in their homes and the rest at social clubs.

And an increasing number of local authorities are furnishing even such things as laundry services.

Sweden, which has probably the most comprehensive social-welfare programs of all industrialized nations, is just beginning to grapple with the need of the elderly for companionship and stimulation.

With physical needs now met, loneliness is the prime problem. And Sweden must also deal with another, unique aspect of the loneliness problem: a traditional stiffness and aloofness among its people.

For centuries Sweden was a farming country. Isolated by geography and by long, severe winters, families looked only to their own members and the immediate community for social contact. Activity orbited around home and family.

But with industrialization and the move from farms and small communities to the cities, the extended family system broke down.

MORE THAN THE CLINICALLY MODERN?

With the close contact with the family severed, many elderly people were forced to live on their own, either in government-supported homes or in their own flats. And with the Swedish tendency toward diffidence, the elderly find it extremely difficult to make friends and find a new life.

More and more Swedes acknowledge that they have planned for the elderly—retirement benefits, health care—but not in the sense of finding out what they themselves really want. The Swedish Government and public are coming to realize that the clinically modern apartment blocks and the impersonal caring for physical needs are not the answer for the elderly.

To bring the aged out of their isolation, Prime Minister Olof Palme hopes to inaugurate "continuing education" in Sweden—the opportunity for Swedes of all ages to return to school at government expense. Although not directed specifically at retired people, this program would include them.

Echoing the Swedish situation, a social worker in West Germany says: "What the elderly need above all is stimulation to make their everyday lives a bit different. Over and over, as I go from one old people's home to another, that is what I hear.

"Most people in homes feel they are well taken care of," the social worker continued. "They acknowledge this, then they sigh and complain that one day is just like another."

Both Sweden and West Germany have comprehensive socialized-medicine programs that antedate the American Medicare program. In addition, many Germans take out extra health insurance through private plans. Thus old age is not the financial burden on families that it is in the United States.

As in Sweden basic living needs of West German elderly are met adequately. All workers contribute to compulsory old-age insurance, with their employers giving an equal amount. Men are eligible at 65; women at 60. And the pension rises automatically with increases in the cost of living.

Housewives who have never worked do not get a pension, though they share as wives and widows in their husband's pensions. Legislation being prepared will give housewives a pension for the years of work within the home.

The traditional pattern of the "old folks" living with the younger generation is largely superseded in West Germany. When, for example, East Germany allowed pensioners to visit their West German families for a month each year, remarkably few elderly East Germans remained in the West. Almost all returned to East Germany to their own homes, rather than start living with their grown children.

HOUSING AMPLE, STANDARDS VARIABLE

Unlike the United States, there is no serious lack of housing for the elderly in Sweden or in West Germany, both of which build large numbers of "social" housing complexes—that is, supported by government funds with low, controlled rents.

Those elderly who, for one reason or another, cannot live on their own find places in either private or public homes for the aged. Here the quality varies greatly and, in West Germany, at least, there are inadequate controls on how such private homes should be run.

Recently the West German press has stressed the loneliness problems of the aged, portraying them as often exploited by those who run old-age homes.

There is a need for additional facilities for the elderly as the percentage of those over 65 increases.

Japan, rocketing onto the world scene as a major industrialized nation, was late among nations in this category in adopting social-welfare programs for the elderly, since traditionally they have always been cared for by their children.

Throughout history Japanese families have respected and honored their elderly in obedience to Confucian ethics. Japan's whole system of loyalties was shattered by the country's defeat in World War II, however, and filial piety was not exempt. And, too, the explosive postwar industrialization and urbanization, with their population mobility and increase in nuclear families, further undermined the old family system.

MEN AT THE TOP VERSUS LOSS OF PRESTIGE

Now there is a wide gap between the men in their 60's and 70's who hold the top political and business leadership posts and the vast majority of elderly, who no longer enjoy the prewar prestige of the aged.

The vast majority faces compulsory retirement at 55.

There is a growing literature, both factual and fictional, on the uselessness, loneliness, and even obsolescence that many of these men feel.

Financial provision for the elderly is most inadequate. However, the Finance Ministry has just come out with a plan (which will probably be adopted) to increase social-welfare benefits next year.

Yearly income-tax exemptions for dependent elderly would be increased from 140,000 (about $425) to 160,000 or 180,000 yen. Exemptions for working elderly would also be raised from the present 120,000 yen.

Also, a combination of national and local governments would pay half the costs of private medical insurance for those 70 and over. Old-age pensions (for those 70 and over) would be increased from 2,300 yen a month to 3,300 yen (about $10).

According to a survey by the Social Welfare Ministry made last June, 540,000 elderly (men 65 and over and women 60 and over) live alone, often in extreme poverty. Of these 170,000 can afford to eat only two meals a day; 86,000 are bedridden.

ABOUT A THIRD SUPPORT THEMSELVES

In more general terms, according to Fumio Miura, section chief in the Welfare Ministry's Social Research Institute, about 30 percent of the 7 mililon elderly population support themselves; 50 percent are supported by their children; and 10 to 15 percent are supported by the government.

There are no company pensions in Japan. There is a lump-sum payment on conclusion of employment, but this does not cover further needs.

The first government pension program really got started only in 1954. It is financed by funds collected in both company and worker payments over 20 years of employment, supplemented by government money.

At best this gives the pensioner only about two-fifths of the salary he earned while working. And the program has not been in operation long enough for anyone to qualify yet for this maximum pension.

If a man is forced to retire at 55, he may find he has his most pressing financial needs immediately after retirement, for with frequent late marriages in Japan, he may well still have children to support and educate.

A measure of the inadequacy of pensions is seen in the number of people who work after retirement. Over the past decade this has increased to 87 percent. With Japan's labor shortage, retirees can find jobs, but these are often menial and low-paying ones like parking-lot attendants.

GOLDFISH PONDS AND PERSIMMON TREE

About 80 percent of the aged live with their children. This percentage, which is just the reverse of the Western ratio, has remained constant since 1955. Some 19 or 20 percent live alone; 1 percent live in old-age homes.

Mrs. Toshi Higuchi, 70 years old, is one of the fortunate elderly people in Japan, but still her situation is not ideal. She lives alone in a new mountain house built by her daughter and son-in-law in a resort area of Niigata. She enjoys planting roses and cosmos and watering her garden, which is quite large and contains two goldfish ponds and a persimmon tree. She lives 15 minutes by car from the train station, and there is a good road to it.

But it's difficult for an old woman to get up and down much. She was in the hospital for 50 days recently but is back home now. The daughter (her only one) and son-in-law live in a bakery, a 15-minute train ride away from the station. Her granddaughter is married and living far away in Kyushu. Her grandson is living rather far away, studying baking in Tokyo. When asked to compare the way older people are treated now with prewar days, she replied: "I have nothing to say, because I am happy. Things are taken care of, but when it comes to evening time, I feel very lonely. . . . If I had a maid living with me I wouldn't be lonely, but then I would have to think about this and that for the maid all the time, and I wouldn't like that, so I stay alone."

A FREE MEDICAL CHECKUP—PERHAPS

In theory the Japanese Government provides the elderly with a free medical checkup once a year. But only about 20 percent actually take the checkups. The places of examination are often too far away or inconvenient for the elderly to get to. Also, there is a strong disinclination to have the examination, since at best the elderly person would still have to pay half the costs; and at worst he would have to pay all. Many an older person just cannot afford medical attention. And there is at present no public health insurance for the aged.

The ruling Liberal Democrats are planning free medical care for older people, but it's slow in coming. It will cover those past 75 next year and only eventually cover those past 70.

Efforts to make life meaningful for the old in Japan are limited.

Prefectural (state) governments have some social-welfare centers with daytime activities. The Welfare Ministry tries to provide some club activity, too, but these attempts do not even scrape the surface of the need.

A promise on the horizon: The problems of the aged have become an important issue in Japan and no political party can afford to ignore them.

In the Soviet Union, although retirement age is 60 for men and 55 for women, countless Russians continue to work either to supplement meager pensions or because of professinal interest. Many scientists, economists, actors, and musicians—as well as the country's political leaders—are in their 60's and 70's.

MANPOWER—AND CONTENTMENT—SOUGHT

And most significant, because of a growing shortage of manpower, a concerted effort is under way to enlist retired persons back into jobs. Aside from the value to the economy, it is recognized in the Soviet Union that activity keeps older people healthier and happier. Some planners suggest that special light manufacturing plants be built that would hire only elderly persons and that part-time work be provided more widely where feasible.

Parallel with other societies is the disappearance of the traditional Russian patriarchal family, in which two and three generations lived together and the elderly "babushka" looked after the children. Young married couples today prefer to live alone, and the contemporary grandmother is less inclined to spend her senior years tied to family chores. Hence care of the aged is a growing concern in Russia.

Old-age pensions are paid to male wage earners at the age of 60 and to women at the age of 55. The minimum pension was raised this year to 45 rubles ($50) a month and the minimum monthly pension for collective farmers to 20 rubles ($22). The maximum pension based on years of employment and size of earnings, is 120 rubles. As a measure of comparison, the present average Soviet factory wage is 122 rubles a month.

FOR HALF, LESS THAN 50 RUBLES

Unlike most in the West, Russians do not contribute to the state pension fund, and pensions received are probably a higher percentage of average earnings than in most countries. However, they are also extremely low in relation to food prices. Western economists estimate that at least one-half of all retired persons have to get along on less than 50 rubles a month, which is below the official minimum living standard.

Certain types of hard labor, such as mining, carry earlier retirement benefits, as do jobs in remote and difficult parts of the country.

In the sphere of public health, the Soviet Union has an extensive system of free medical care (apart from the cost of medicines).

There are reported to be 100 geriatric consulting offices attached to medical institutions throughout the country now, and the first comprehensive geriatric polyclinic has been opened in the city of Tashkent.

With 12 percent of the Soviet population above the age of 60, problems of the elderly are being talked about more these days. Geriatrics specialists would like to see the construction of special rest homes, clubs, and even dietetic restaurants.

NEED FOR SPECIALIZED HOUSING SEEN

They would also like to see more specialized housing for the elderly.

Housing in general is in short supply, with an estimated 40 percent of the population still living in communal apartments—two or more families per apartment. But rents are subsidized by the state and are minimal by Western standards. Collective farmers, for their part, own their own houses.

According to a Soviet report, about 250,000 aged persons and invalids are cared for entirely by the state in special homes, of which there are some 850 in the huge Russian Federation. There is also special (and better-quality) housing for retired scientists, writers, and other privileged members of the intelligentsia.

Soviet specialists say the needs of the elderly are far from met and they urge construction of more boarding homes for the aged, with places for 100 to 400 persons in the midst of normal urban communities. The current five-year plan (1971–75) also calls for more homes for the aged.

Nursing Homes Can Be Stark Despite Bonanza

(By James R. Polk)

Washington.—Despite a billion-dollar bonanza from the federal government, America's nursing homes are a stark and lonely place to die. Abuses in money and medicine, an air of death and despair shadow the aged through the dusk of their days.

Studies show some doctors rarely see their nursing home patients. Nurses use drugs freely to restrain the elderly. Mental patients are dumped into nursing homes by the thousands. And fraud feeds on the federal dollar.

Through Medicaid and Medicare, the government suddenly has taken over financial responsibility for most of the nursing home care in this nation. The taxpayer now pays $2 out of every $3 pouring into private nursing homes.

Profits are healthier than ever. But other ills fester—tough federal regulations have been slower than federal dollars in reaching nursing homes.

For this hidden million Americans, the end can be an empty, grim, even degrading tragedy.

STEAL PATIENT'S SAVINGS

The Associated Press, in an extensive nationwide study of nursing homes, found facts and cases like these:

In El Granada, Calif., a nursing home operator is accused of stealing a dying patient's savings of $13,000 after she and a lawyer lifted his feeble hand to guide his signature on a legal paper.

In one of the largest nursing homes in Cleveland, Ohio, a patient wandered away from his room and strayed into a crawlway where he died. His body lay there, decomposing; for more than a year until a maintenance man stumbled across it this spring.

A suburban New York City nursing home billed Medicare for nearly $400,000 for physical therapy in one year. When the government tried to recoup part of the money by suspending Medicare payments, the nursing home discharged all its Medicare patients.

DOCTORS MAKE "MASS VISITS"

Some physicians, dentists, X-ray firms and other medical specialists have been accused by Senate investigators of making profitable "mass visits" to nursing homes where patients are plentiful. Records show one doctor who operates his own nursing home in Jefferson, Texas, billed Medicare last year for 4,560 visits to just 54 patients.

For the most part, however, doctors' care in many nursing homes across the country is so scarce that it is a national scandal. In one large home in Topeka, Kan., a survey showed three-fourths of the patients checked had not been seen by a doctor in at least half a year.

Tranquilizers, sedatives and other drugs are used in abundance to keep patients quiet. Doctors agree to prescriptions over the telephone to nursing homes without examining their patients. One Michigan woman was thought to be speechless for two years until a new doctor stopped the sedatives and found she could talk.

TURN DOWN PATIENTS

Nursing homes have become warehouses for elderly mental patients that state hospitals turn down or turn out. Few homes have any hint of psychiatric care, and most use drugs—or keep the patients belted in chairs. A woman who spent almost 50 years in a mental hospital now sits and stares in a Detroit nursing home, tied in a chair.

Regular hospitals, faced with serious overcrowding, sometimes discharge hopeless cases and ship them to nursing homes to die. An American Medical Association spokesman said, "I know it sounds harsh, but a hospital serves no purpose for these patients."

Perhaps most distressing, studies show nursing home patients may die quicker than ailing patients on the outside. For example, when Dr. Morton A. Leiberman of the University of Chicago examined the cases of 800 elderly persons, he found that the mortality rate of those on the waiting list to enter a nursing home was 10.4 per cent, while that of those already in a nursing home was 24.7 per cent.

PROVIDE ADEQUATE CARE

The researcher also cited five other studies which "reported marked increases in mortality rates for aged persons entering mental institutions or homes for the aged."

The AP survey showed that in many nursing homes the patients receive compassionate attention and adequate medical care.

All told, nearly a million people are confined to the nation's 23,000 nursing homes and other homes for the aged. Most are past 75. And, studies have found, many patients are senile or mentally confused, their minds fuzzy with the cobwebs that come with old age.

The old are also the poor. And because of this, the feedral government has made nursing homes a rich business.

PAYS HEALTH COST

Medicaid, the vast federal-state program that pays the health costs for the poor, now pumps more than $1.1 billion a year into private nursing homes.

Other federal programs, including Medicare, which pays for brief stays in nursing homes after patients leave a hospital, raise the total outlay by the taxpayer to $1.6 billion, more than two-thirds of all the money that nursing homes took in last year.

About 90 per cent of the nation's nursing homes are run for profit. And with the government now paying for care that the old and needy couldn't afford before, business is booming.

The president of Four Seasons, one of the biggest and best nursing home chains, has reported an anticipated annual pretax profit of $1,000 a bed.

The owners of a rural home in Tennessee reached that profit figure on welfare payments of less than $2,000 a year per bed, a hospital official said.

NURSING HOMES INCREASE

More than 50 nursing home chains have burst onto the stock market in the past two years as prices soared. Four Seasons went on sale last year at $11 a share. Now its stock is selling at $60, and that's after a 2-for-1 split.

The big boom has built hundreds of new nursing homes, with shining equipment, soft carpets and smiling administrators, to replace the fetid, faded boarding houses of a past era.

Real efforts are being made today at recreation and physical rehabilitation. Many homes attempt therapy programs. The facilities are cleaner, more modern, more attractive. And there has not been a disastrous nursing home fire for nearly five years.

FEWER NURSES, LESS CARE

But the better carpeting does not always mean better care. In the money-minded world of big business, profits can depend on keeping the basic cost of medical care as cheap as possible.

"You tighten up on nurses—fewer nurses, less care," said a small Los Angeles chain's nursing home administrator, who didn't want to be identified.

"And if you've got too a short a staff, you keep the patient snowed on drugs," said a Los Angeles public health official.

A recent California study has shown more Medicaid money is spent on tranquilizers than on any other group of drugs.

MANY GET TRANQUILIZERS

In Minneapolis, a random check of a nursing home's medicine cabinet found 8 of the first 10 patients were getting either thioridazine or chlorpromazine hydrochloride, two of the most popular tranquilizers which leave patients drowsy, listless and easy to handle.

In the same home, a 92-year-old widow was seen tied into a chair with a bedsheet.

Physical restraining straps, as well as drugs are not uncommon for the feeble, for the confused, for the mentally disturbed.

"There is nothing that is so horrible and terrifying to older people than to think they might end their days in a nursing home," said a 74-year-old Philadelphia widow.

"They pray to get sick on Tuesday and die on Wednesday."

A psychologist at the University of Chicago, Dr. Morton S. Lieberman, has found in studies that fear and shock may actually hasten death for the nursing home patient.

In comparing elderly patients on the waiting list for a home for the aged both before and after their admission, Dr. Lieberman found the death rate more than doubled upon entrance into the home.

He said, "They're right—it is a death trap—even in the homes that try."

NOTE PROGRESS, FAULTS OF CARE FOR AGED

(By James R. Polk)

WASHINGTON.—In 10-below-zero weather, the sick and old patients huddled close to the single small-bellied stove in a railroad boxcar that had been turned into a nursing home.

The Minnesota inspector remembers that shock vividly, even though it was 10 years ago. It is a measure of how far nursing homes have come today.

"The day of the old urine-soaked outhouse is gone forever," said Edward Walker, president of the American Nursing Home Association, who owns three Oklahoma homes.

Nearly half of all nursing home facilities have been built in the last five years. Private rooms are replacing crowded wards. Fire, once the greatest fear, is fading into the past. And medical care is improving.

PROGRESS NOTED

"With all of our faults today, we've made tremendous progress," said Walker.

Both the faults and the progress come to rest on the federal doorstep.

The $1.6 billion annual flood in federal money that has made the government the greatest supporter of the nation's nursing homes has brought care to thousands of old persons and has triggered the explosive building boom in new facilities.

But critics question whether payments have been put ahead of patients.

Medicaid, the vast federal program of health care for the poor, and Medicare, the federal insurance plan for the elderly, have paid for the bulk of the nursing homes' spectacular spurt in growth.

Taxpayers support for nursing homes has tripled in the past three years. Nursing home revenue has shot up by $1 billion, all from the government.

STOCKS ON MARKET

More than 50 nursing home chains have burst upon the stock market, where their prices have skyrocketed. Four Seasons, one of the most modern and fastest growing chains, is making profits 9 times as high as it was two years ago. And its stock, now selling at about $70, is worth almost 13 times as much.

Extendicare, another major chain, gets 82 per cent of all its money for a large group of Oakland, Calif., area nursing homes from federal programs, according to records on file with the Securities and Exchange Commission.

The Healthcare chain's homes in Massachusetts get 78 per cent of their revenue from the same sources.

The head of Medicare operations for the firm that handles New England payments, Travelers Insurance, was serving on the board of directors of another Massachusetts chain, Geri-Care Nursing Centers, until warned by federal officials of what one senator called an open and blatant conflict of interest.

U.S. FUNDS HELP

Medicare not only pays for daily care for limited stays but also helps bankroll construction by paying depreciation and interest costs, too. Another government agency, the Federal Housing Administration, helps by backing most of the mortgage amounts on private nursing homes.

One doctor in an Ohio suburb has reported more than $140,000 annual profits on the nursing home he owns.

High payments have brought a siege of scandals for medicare. But the revolutionary health plan, fought hard by doctors only a few years ago, has succeeded in pioneering the tough new standards needed badly by many nursing homes.

Medicare demands doctors' visits to each patient each month. It requires around-the-clock supervision by trained nurses. It sets stringent rules for drug usage. And, under Senate prodding, its officials have been patrolling the program closely in recent months.

ENFORCEMENT IS FLIMSY

But Medicaid has moved more slowly. Not until the last few weeks did Medicaid finally match Medicare's standards on doctors and drugs. The regulations are still temporary, and enforcement remains flimsy.

Medicaid is the major money program for the nation's nursing homes. Medicare pays for only a brief stay for the elderly after they leave a hospital. But because the old are also often poor, the lesser-known Medicaid program pours $1.1 billion a year into nursing homes for their patients.

Medicaid funnels the funds through the states, which pay for a share of the costs and handle all the enforcement. The latter often has been lax.

In Wisconsin, a 317-home in Milwaukee went without a regular state inspection for more than 2½ years even though the last checkup in early 1967 resulted in a four-page list of alleged violations.

WOULD CLOSE MANY

In Nashville, hospital administrator C. David Stringfield said, "If the state of Tennessee would be as firm as it could be, I would wager that 30 to 50 per cent of the long-term care facilities in this state would be closed down overnight."

Action, when it does come, is often taken quietly, without public knowledge. A Minnesota inspector told of an 87-year-old woman who died after being pushed off balance against a bed by an angry nursing aide. Officials used the coroner's photographs, she said, to close the home and force its sale to another firm, but no prosecution was attempted.

Many states' inspection procedures concentrate on obvious violations like food and fire, and few really probe the question of adequate medical care.

Doctors are still rare visitors to nursing homes, and some states, like California and Pennsylvania, don't specify how often they should see patients.

CAN BE BEWILDERING

Drugs are prescribed freely over the telephone by absentee physicians. And the mentally ill, often turned away by crowded state hospitals, are mingled among other patients and kept subdued by sedatives or restraining straps.

Telling the difference between a good nursing home and a bad one can be bewildering for a relative.

A modern new facility may lack frequent doctor's visits, especially if it is on the outskirts of a city. An older home may be spotless inside with kind nurses and conscientious care. One home may scrimp on food, and another may be careless with drugs, and still another may have a shortage of nurses.

THRESHOLD OF OPPORTUNITY

But Medicaid stands now on the threshold of opportunity for dramatic improvement. From interviews with state and local officials and nursing home operators emerges this concensus on what can be done:

Medicaid has on paper the requirement of a minimum of one doctor's visit a month. Now it has to enforce it, with the full threat of ending payments to nursing homes that lack the care. And the American Medical Association can help by following the example of the Knox County, Ind., Medical Society which checks to make certain nursing home patients are visited regularly by its member physicians.

Medicaid can write into its future regulations a minimum number of nurses, according to the size of the home, to assure adequate care of patients. It requires only one nurse a shift now, even for a 120-patient home. State laws vary widely, but most require more than Medicaid.

NEW RULES WRITTEN

Medicaid has written in its new regulations a set of tighter standards on drugs and telephone prescriptions by doctors. One section requires a monthly review by doctors of all drugs used by patients. But this, too, will need enforcement at the state level that is not being carried out so far.

Medicaid can add needed policies on mental patients. For example, Minnesota's state regulations define any patient who requires restraining straps as mentally disturbed and forbids keeping such persons in nursing homes. Unfortunately, this also is enforced spottily even there. And Medicaid has no national policy at all.

Walker, the ANHA president, said current Medicaid and Medicare standards already are weeding out the poorer facilities and predicted, "In the next three years you are going to see a dramatic change in nursing homes in America."

[From the South Bend Tribune]

Life Is Lonely and Desolate

(By James R. Polk)

WASHINGTON.—The priest was saying mass in the dingy Detroit nursing home when an old man with white stubble on his chin raised his grizzled face and blurted out a childhood prayer:

"Now I lay me down to sleep.
"I pray the Lord my soul to keep.
"If I should die before I wake,
"Who the hell would care?"

George Lewis, who is 78, is one of almost a million Americans living their last days in nursing homes financed largely by the federal government.

For many of these patients, it is a lonely, desolate, empty end.

"It is a living death," said a Los Angeles clergyman. "They sit and stare and wait—and watch each other die."

A Cleveland researcher, Dr. Margaret Blenkner, added, "Don't kid yourself. Just walk into a nursing home and tell me how many happy, laughing faces you see."

CONFUSED AND FORGOTTEN

This hidden million are old and alone, confused and forgotten.

Half are past 77. Most are widowed. For many of them, the mind is ebbing or eroded, and this, not ill health, is the main reason many are in nursing homes.

The grim sight of rows of patients who sit and stare at nothing is not a fault of the nursing homes. It is a fact of health, and a flaw of a nation that has no real plan for taking care of the mental nightmares that haunt the aging.

A study by Dr. Alvin I. Goldfarb, former head of the American Psychiatry Association's committee on aging, has listed 86 per cent of the patients in nursing homes as suffering mental disorders that range from senility to insanity.

LACK PSYCHIATRIC CARE

Yet a reporter who visited more than a score of nursing homes across the country failed to find any sign of psychiatric care. And, in interviews, several psychiatrists and psychologists agreed that such specialized care is almost nonexistent.

Drugs are used to keep patients subdued. The worst cases are kept in restraining straps. And state officials compound the crisis by dumping the elderly out of mental hospitals into private nursing homes.

The most common problem is senility, better defined in medical terms as "chronic brain syndrome." It comes with hardening of the arteries, starving the brain for blood, or with the sudden blockage of a stroke. It leaves the mind fuzzy, confused, blank. Patients forget how to dress themselves, how to go to the bathroom.

George Lewis says he has been in a nursing home five weeks. Records show it has been five years.

IN FOR 50 YEARS

For another Detroit nursing home patient, Miss Viola Cook, the records read almost 50 years—in a mental institution.

Miss Cook was a young woman in 1920 when committed to a Michigan state hospital because of confusion, delusions and what the doctors listed as "bizarre behavior." Her medical records reported no significant progress. Yet she was released this spring to be sent to a nursing home.

Now Miss Cook, 72, is kept tied with a cloth strap in her chair in a ward, unaware of the world around her, muttering as her hands knit with nothing in them.

Under Michigan's release program, she is considered in "convalescent status."

Moving patients out of the overcrowded state mental hospitals into nursing homes, where the federal government helps pay the bill, is routine across the nation.

GEORGIA SHIFTS 2,600

Georgia has discharged approximately 2,600 mental patients into nursing homes in five years. North Carolina has shifted about 1,700. An Ohio official flatly denied the practice, yet public testimony disclosed the recent transfer of 300 out of a single state hospital.

Dr. Goldfarb criticized such transfers and said most are unjustified. He added, "There is a danger that nursing homes, because they lack medical tradition and psychiatric supervision, will degenerate into snake pits."

As a substitute for psychiatrists, nursing homes turn to drugs and restraining straps.

"NO CHOICE"

In the back ward of a rural southern Indiana nursing home, more than a dozen patients sit strapped into chairs. The administrator complains she has no choice—the state hospitals won't take the patients, and there is no place else for them to go.

Doctor's orders are generally required by state regulations for physical restraint. But checks of medical records showed this is loosely enforced.

The trappings of restraint can range from modern, dignified chair devices to a bed sheet for a Minneapolis patient, a strip of cloth in Detroit, an automatic dosage of transquilizing drugs for everyone in a Los Angeles home.

PATIENTS MINGLE

In these situations, with the mentally ill mingled among other patients, with callous government indifference to the problem, with restraint used as the cornerstone of care, a nursing home can turn into a house of horror.

A woman in a Minneapolis suburb remembers with vivid pain what happened when she took her mother, who had suffered a stroke, to a nursing home and returned the next morning to find her tied, without clothes, in bed in the midst of her own wastes.

"I will never forget that sight," the woman wrote. "It's seared into my memory, seeing her struggling to free herself, crying out for someone to help her.

"She clung to me and cried like a child over and over again, "Thank God you've come, thank God you've come.' "

Hand of Feeble Patient Forced to Write

(By James R. Polk)

WASHINGTON.—At night, in the small nursing home on the California coast, old John Sudar lay near death.

The nursing home operator and a lawyer leaned over him. One of them lifted his hand and made an "X" on a piece of paper, as the lawyer later testified in court. John Sudar was too weak to write. So, holding his hand, they added his signature on the paper, the lawyer said.

The feeble, 75-year-old man died less than two days later, just about the time the banks were opening on Monday morning.

Mrs. Gerdice G. Thorson, the nursing home operator, took the signed paper, according to court testimony, and withdrew John Sudar's $13,000 from his savings account.

The last hours of John Sudar, dismissed from a hospital by a medicare committee as a futile case and sent to a nursing home where he died only nine days later, are a tragedy frightening to thousands of America's aged.

MISSING FOR YEAR

So is the cold, unseen death of Robert S. Warfield.

As Sudar lay dying in El Granada, Calif., Warfield already lay dead, unnoticed, in a dark recess of an eight-story nursing home half a continent away in Cleveland, Ohio.

On a chill winter day Warfield, a former mental patient, had wandered away from his room and disappeared into a nearby crawlway. No one found him, and he died.

For more than a year and a month, Warfield's body remained in the crawl space, undiscovered and decomposing.

Coroner's records show that not until a worker at the Midtown Nursing Home happened to enter the recess was the body found last spring.

For six months after his disappearance, according to welfare records, the nursing home had continued to collect Medicaid payments for Warfield's care.

The home repaid the full $1,900 when Cleveland welfare officials finally uncovered the payment error.

But even after that mistake, welfare authorities went on sending Warfield's $8 spending allowance to the nursing home for him each month until his body finally was found.

In California, Mrs. Thorson is now awaiting trial on theft charges. The coroner's office in Cleveland found no wrongdoing by the Midtown Nursing Home.

Chaos, confusion and charges of fraud are laced throughout Medicaid and Medicare, the two huge federal programs that pay for most of the nursing home care in the nation today.

No one really knows how much of the $1.6 billion in tax money each year may be going astray. But estimates start in the tens of millions of dollars.

SCORE "MASS VISITS"

Senate investigators have lashed out at "mass visits" by some directors, optometrists, foot specialists, X-ray operators and others giving unsolicited care to the captive audiences of nursing home patients

Kickbacks and markups dot investigation files. A Los Angeles nursing home owner said,

"I even had a minister come in and say he would serve as a 'spiritual consultant' under the program for $100 a month."

OTHER CASES FOUND

A nationwide check by the Associated Press found such cases as these:

In the quiet county seat of Jefferson, Tex., Medicare records showed a physician, Dr. R. D. Douglas, who operates the Douglas Memorial Nursing Home, billed Medicare last year for 4,560 visits to 54 patients, an average of more than 80 visits each. He also billed for a total of 8,175 injections to just 149 patients. Douglas, who was paid more than $62,000, is now under Medicare investigation.

The plush Casa Contenta West home in Panorama City, Calif., is alleged in a state document to have subtracted and kept discounts on mass visits by a foot specialist to its medicaid patients each month. The state attorney general's office said it is investigating other dealings by the home with an X-ray operator, a pharmacy, a linen firm and beauticians.

INVESTIGATION SOUGHT

In Florida, the North Miami Beach Convalescent Home is alleged in a government report to have tacked on an extra 30 per cent charge to its medicare bills on drugs and therapy services. The case has been referred to the Justice Department.

The Justice Department also has been sent the case of Hollis Park Garden in Hollis Park, N.Y., which billed the government for $372,000 for physical therapy last year. A senator charged that some patients were listed as undergoing therapy on the day they died. When the government tried to stop payments to collect a $150,000 refund, a federal official said the nursing home discharged all its medicare patients.

California records showed one podiatrist in Los Angeles turned in billings for foot care for nursing home patients who had been dead as long as a year.

The district attorney's office in Los Angeles has been quietly investigating a small group of Blue Cross employees who by-passed regular procedures to speed payments from California's medicaid program to certain nursing homes for a percentage fee. A state official said privately the questionable payments may have topped $2 million.

ADD TO CHARGES

In some nursing homes, the scramble for the extra buck can be found almost anywhere, from the breakfast table to the bedpan.

Underpaid aides sometimes hustle patients for tips for small favors, like bringing in a morning newspaper. Some nursing homes add extra charges for simple services like haircuts.

In Los Angeles, where welfare authorities give patients $15 a month for personal spending needs, one nursing home owner said, "A lot of these people never see that money."

In New York City, a noted neurologist who said enforced tipping is commonplace in both hospitals and nursing homes, remembered, "When I was an intern, it was 25 cents for a bedpan cold; 50 cents, warm."

CAN CUT COSTS

In nursing homes profits climb if costs can be cut. In some, food is the first casualty. Nationwide surveys have shown average food costs per nursing home patient to be less than $1 a day.

A former executive for a suburban Detroit nursing home tells how milk is diluted with water, hamburger is half bread, and the cheapest, worst coffee is served.

"If the patients don't like the coffee, they don't drink it, and so you can save even more on coffee," he said.

In an aging Minneapolis nursing home one day last month, the required menu listed sausages for supper, but the cook was preparing a watery stew instead.

Asked what it was, she said, "I don't know what you would call it—it's homemade."

[From South Bend Tribune]

Visits of Doctors to Aged Rare; Advice Telephoned

(By James R. Polk)

Washington.—The nation's nursing homes suffer a chronic deficiency in doctors.

For the sick and dying, the average amount of doctor's care may be only a few minutes a month.

Of all a doctor's patients at office and hospital, the one in the nursing home is usually the last he sees.

And to a nursing home, the telephone becomes a more important medical instrument than the stethoscope.

In state after state across the nation, an Associated Press investigation has found nurses meet emergencies by telephoning doctors who prescribe drugs without having seen their patients for weeks or months.

"Telephone medicine is a fact of life in nursing homes," said one state's top inspector.

"EVEN WITH NARCOTICS"

"We'll even do it with some narcotics," said another state nursing supervisor in New Jersey. "You know how hard it is to get a doctor at 3 o'clock in the morning."

The blame for neglect falls more on America's doctors than the nursing homes.

Many doctors, already hard pressed to keep up their hospital cases, don't find the time to visit nursing home patients with any regularity. Other doctors admit frankly they feel they can do more for the patients who have a chance at life than the aged and the dying.

An Illinois nursing home operator said, "I was shocked the first time I asked one doctor, 'Why don't you come more often?' and he said, 'To tell the truth, it depresses the hell out of me.' "

SEEK ONE EACH MONTH

Both the government and the medical profession now back the goal of a visit to nursing home patients by a doctor a minimum of once a month.

But in Topeka, Kan., a comprehensive official study of the area's nursing homes last year showed fully one-fourth of all the patients had not been seen by a doctor in half a year.

In one large Topeka home, the total was three-fourths without a doctor's visit in half a year.

In another government-financed study of more than 100 homes throughout Minnesota, researchers computed the average amount of doctor's care per patient at less than 2½ minutes a week.

A physician who manages a top-rated nonprofit nursing home in St. Paul, Minn., pointed to one of his patients and said, "That woman—her doctor hasn't seen her in five years."

With federal programs now paying $1.6 billion a year to finance most of the nursing home care in the nation through Medicaid and Medicare, a crackdown is on the books. But it has yet to reach the bedside.

A sleeper proposal in new standards adopted this summer for Medicaid, the huge program of health care for the poor, requires a minimum of one doctor's visit each month.

But spot checks of actual medical records showed the requirement is not being enforced widely yet.

Frank Frantz, a federal official who helped draw up the new Medicaid regulations, said: "The lack of a doctor is at the root of a lot of the problems in nursing homes. But I don't think the 30-day requirement will solve them."

"It's a question of how the doctor uses the nursing home. I think it's a difference of whether a nursing home is to be where a physician puts a person or where he practices medicine."

In nursing homes, most medical treatment is practiced by nurses or low-paid aides.

SIGN LATER

A nurse, confronted with a crisis, telephones the patient's doctor, describes symptoms, and gets a prescription.

States usually require doctors to sign their telephone orders afterwards, but are lax on how soon they must do it. Arizona, for instance, instructs a doctor to sign the records on his next trip—but requires he visit the nursing home only once a year.

In Minnesota, nursing homes mail the doctors a form to sign, and the patient may remain unseen by the physician for weeks.

Minnesota does require that, unless a doctor spells out a specific period for a prescription, the drugs should be cut off after seven days. But enforcement is slip-shod.

In one Minnesota home a chloral hydrate prescription had run for six years without any specific instruction.

The case embarrassed the city's inspector, who serves on the board of directors of the same church-owned nursing home in what she said "may be a conflict of interest."

The inspector told the practical nurse on duty, "You don't order a drug forever, you know."

"WHAT ELSE?"

"That's what we've been doing," answered the nurse. "What else can you do? So many of our doctors aren't coming in. We have a hard time even contacting doctors by telephone."

The absence of doctors, the diagnosis from a distance and the easy use of drugs add up to an unhealthy situation in many of America's nursing homes.

In California, inspectors said half of all violations of state regulations they find in nursing homes involve problems in carrying out the patient care ordered by doctors.

"Lots of times things are ordered and the nurse doesn't write it down, or she writes it down incorrectly," said Dr. Gottlieb L. Orth of Los Angeles' health department.

One out of every seven drug prescriptions administered by a nurse is carried out wrong, according to figures cited in a study presented at a recent medical convention.

In a nursing home in a decaying neighborhood in Los Angeles, a manual of instructions for the nurses includes the section:

"Critical Condition—What to Do."

Clipped to the page is a business card with the phone number of a funeral home.

[From Wichita (Kans.) Eagle and Beacon, Oct. 17, 1971]

Old Persons Gather Strength; Make Adjustments to Aging

(By Olive Evans)

New York.—Donal McLaughlin is old: 95. He has a bright smile, moves quickly and has strong opinions about life and about growing old. When his wife died five years ago, he could fend for himself. But his two sons were worried about him, and, he now admits, they were right.

"To tell the truth, after I cooked a meal, I didn't know what I'd had, how it tasted or anything. So I saw it this way: sooner or later I will have to succumb to circumstances and I will never have my home cooking again."

Mrs. Nancy Petty is old, too: 82, a serene and stately woman, she doesn't look her age. Some years ago she made the decision to plan for her later years. Her plans definitely did not include living with her family.

"I think grandmothers are lovely, but I don't think they should be a steady diet for anyone," she said.

McLaughlin and Mrs. Petty are among a minority—but a growing minority—of old people who have made an emotional adjustment to aging. Like more and more older people today, they planned, with their families, for the day when they would need help in coping with life.

Instead of the painful experience of being "put away," entering a "home" became a goal. They opted for a life-style that would keep them in the company of their contemporaries, in a loosely structured environment, institutional but affording some degree of privacy.

"More people are finding that this is a better answer than living by themselves or with families," said William C. Fitch, executive director of the National Council on Aging. "But the need is for more facilities that are not highly institutionalized, where people are treated as individuals."

Of equal importance, he said, is the need for facilities that people on reduced or retirement incomes can afford.

There now are more than 20 million people aged 65 and over in this country, old people, and therefore there will be a growing need for a variety of facilities, some of which we haven't even invented. Census bureau projections put the figure for 1980 at 23.5 million, for 1990 at 27.6 million in 1990, and close to 29 million for the year 2000.

"Advances in medical care and services will increase the proportion of yet," said Mrs. Rebecca Eckstein, the council's assistant director.

No one knows how many of the one million people now in the nation's 24,000 institutions for the aged are getting good care. Recurring testimony about conditions in many old age and nursing homes has revealed callousness and cruelty to patients by employes, filthy conditions, poor food, understaffing and overcharging.

By comparison, conditions seem utopian at the Isabella Geriatric Center in Manhattan.

"It's a stunning setting," said Mrs. Eckstein about the nonsectarian, voluntary and nonprofit complex of institutions housing the aged and the aged ill, and dealing with the problems of the aging.

A sentence on the blackboard of a lecture room contrasts sharply with the treatment in some other institutions described at recent hearings: "Nursing care must communicate to the patient his value as an individual, and his status as a family member and as a member of society."

At 75, Nicholas Bessaraboff Bodley is young by geriatric yardsticks. He's a white Russian with a patriarchal beard—a frail and gentle man. He is proud of the engineering degree he received in 1915 from the St. Petersburg Polytechnic Institute in Imperial Russia.

Two years ago Bodley's health failed, and the decision was made to enter a "home." A man of some reserve, he has taken rather well, it seems, to the community style of living at Isabella. His article, "Who Is Bodley?" appears in the current issue of "Chatterbox," a newsletter "by the residents for the residents."

In it, he writes about his beard, ". . . I am not a rabbi nor a Russian orthodox priest, but a professional man who had to shave about 50 years every day. After retiring, I decided not to shave any more. Oh, what a blessed relief!"

Bodley has translated esoteric philosophical works from the Russian, produced a compendium of information on ancient European musical instruments for the Museum of Fine Arts in Boston, and for the American Journal of Archelogy, written an article on the auloi, a clarienet-like instrument of ancient Greece and Egypt.

Like most of the residents, Bodley has his own room. Costs at Isabella house, the residence for the more self-sufficient, range from $376.15 a month for a single room to $522 for one, or $708 for two, in a suite. Residents there do light housekeeping and prepare their own breakfasts; the two other meals are served in the dining room.

At Isabella Home, which is for residents needing more attention, cost for an individual are $647 a month. In the infirmary, where 24-hour-a-day nursing care is available, the individual rate is $1,431 a month.

A widow for 38 years, Mrs. Petty used to be housemother at a boys' school in New England. A woman of independence, when the time came to retire, there was no question in her mind.

"I have a wonderful daughter and a wonderful son, and they both wanted me to live with them. But it's hard to mix up so many ages of people. I think you're so apt to infringe on your grandchildren's liberties. After all, I know a good deal more than they do," she added with a wink. "Being apart keeps a love alive that might not have survived the test."

No matter how benign the environment entering a "home" is a radical change at a time of life when change is least easy to accept. Adjustment to the change is a measure of the individual's total emotion health.

As McLaughlin put it, "self-pity is the biggest disease we have here. Everybody tells you what a beautiful home he had . . . you have to fight it."

[From the Wall Street Journal, Nov. 26, 1971]

"Thanks a Lot": Dismayed Aged Learn Social Security Raise Means Cut in Benefits—In Many States, a $10 Boost Make Elderly Ineligible for Free Medical Care; Will Bureaucrats Ever Age?

(By Tom Herman)

Miami Beach, Fla.—Leah Miller is a diminutive, white-haired lady who lives alone in a small, $100-a-month hotel room here. For the past several years, Mrs. Miller has lived solely on the proceeds of her Social Security check, welfare benefits and the occasional gifts of a few close friends. Mrs. Miller is a diabetic, and after she buys her prescribed drugs and pays her rent, there's not much left over each month.

Mrs. Miller is probably just the kind of person Congress had in mind when it decided to increase Social Security payments 10%. Well, the 10% increase is in effect now, and Mrs. Miller says it has changed her life, all right. For the worse.

"I begged the government not to make me take it," she says, "but they said I had to. I told them that's not fair. But they said their regulations won't allow them to take it back."

Mrs. Miller has not lost her mind. Because of some quirks in federal and state laws, she and thousands of other old folks in 25 states have discovered that their Social Security raises are costing them far more than they benefit them. Specifically, Mrs. Miller now gets at least $20 a month less than she did before the "increase." She also has less hospitalization insurance. And she isn't insured at all for many things she was once covered for.

NEW GARBAGE BILLS

The problem arises when elderly poor people receive enough of a Social Security increase to make them ineligible for valuable other benefits they had been receiving, such as old-age assistance, Medicaid and free Medicare insurance. In some communities, the Social Security raise even disqualified recipients from receiving free garbage collection and forced them to pay more for their food stamps.

To some people in government, the unfairness of that ironic situation is plain, and legislation now is pending in Congress that would largely eliminate the problem. However, the proposal is a part of the controversial welfare-reform bill, which is bogged down in the Senate Finance Committee, so there's no telling when or if relief will come. In the meantime, the problem is likely to be aired at the White House Conference on Aging, scheduled for Sunday through Thursday of next week.

Mrs. Miller hasn't been invited to that conference, but if she were she would have plenty to gripe about. Before the increase, Mrs. Miller's only income was $113 each month from Social Security and $6 from the state welfare department—or $1,428 a year. The state welfare department also furnished her with a little blue card that paid up to $20 a month for prescribed medicines, and it picked up her monthly Medicare insurance premiums of about $5.60.

MRS. MILLER'S SCISSORS

Then came the "raise." Now, Mrs. Miller gets $124 a month from Social Security—$11 more. But she no longer gets the $8 welfare check, or her $20 in medicines, or her $5.60 in insurance premiums. (Medicaid in Florida and 24 other states is available only to welfare recipients.) The Medicaid Mrs. Miller lost covered free X-ray treatment and skilled nursing home services—which, if the need should ever arise, she will now have to pay for herself. Medicaid also pays a patient's entire hospital bill for up to 60 days. Without Medicaid, Mrs. Miller must pay the first $60 of hospitalization costs, and that figure will go up to $68 in January.

To make ends meet, Mrs. Miller has started cutting her most expensive pills in half with a scissors. "That way, I use them up only half as fast," she says. She also spends less on food now. She also worries.

"What would I do if I should have to go to the hospital?" she asks. "I don't know where I would get that $60. And the chances of my needing to go to the hospital get better every day. I'm 83, and I'm not getting any younger."

Mrs. Miller is confused, and she is bitter. "I still can't understand how anyone could let this happen," she says. "I told the welfare people, 'Thanks a lot for nothing.' They said they were sorry, but that their hands were tied by regulations. But what are we supposed to do, those of us who are much too old to do any work?"

Government officials don't have an answer to that question, but they say it isn't a new one. Thousands of cases like Mrs. Miller's pop up every time there a Social Security increase, they say. "It's a real tragedy," says Virginia M. Smyth, a federal welfare official in Atlanta. "It's especially ironic because it runs completely counter to the intention of the law."

TOO OLD TO FIGHT

Although the problem may have been around for years, many government officials seem unaware of it, or assume it's not around any more. One official with the Social Security Administration in Miami recently insisted for several minutes that "the whole problem was cleared up last spring in some new legislation that you should know about." Later, after thumbing through several thick reference books, he confessed: "Well, I suppose you're right. The problem is still with us."

One reason few people seem aware of the situation is the extreme reluctance of many poor people to protest. In interviews, some people express fears that any protest would mean sharp cuts in their Social Security checks. Others simply shrug their shoulders and say they are too old to fight.

Some have reacted by pleading with Social Security officials to take back the "raise." Sam Salit, a short, stocky, 77-year-old man, lives with his wife, Julia, age 68, in a small, one-room apartment in South Miami Beach, an area of the elderly and the poor. Sitting in his "living room" (the front half of the apartment) on a hot afternoon, Mr. Salit mops his brow and recalls a conversation he had with a state official after he discovered that the "increase" was going to cost him at least $43 a month.

"First, I say to the man, look, I make you a deal: You take back my little increase and

I won't tell a soul. In fact, I say to the man that I give back the increase gladly. The man smiles and says he's sorry, I say that sorry won't help. He says he knows. I say to myself, so what can I do? At my age, I'm going to fight the law?"

One answer, of course, would be for each state to give Medicaid to people whose incomes are too small to pay for the medical care they need. At the moment, 23 states and the District of Columbia do just that. But in the others, only these on welfare are eligible for Medicaid. And it doesn't seem likely things will change. If anything, the trend is moving in the opposite direction; many states have begun or are considering cutbacks in medical care for the indigent.

Another answer would be to disregard Social Security altogether when computing welfare eligibility. That is the approach of a bill that will be introduced this winter by several Florida state senators; it is also an approach that has been proposed several times before and defeated, mainly because of cost.

$600 IN THE HOLE

Meanwhile, there is no help for people who lose money by getting money. That's especially tough on those with heavy medical expenses, such as Mary B. Powell, who lives near Miami. Back in the good old days before the Social Security increase, Mrs. Powell was technically on welfare and entitled to $45 a month in free prescription medicine. Now, she's off welfare, and the $45 a month comes from her own pocket—as does her $5.60 Medicare insurance premium.

That's not all. Mrs. Powell and her husband, James, live in an unincorporated area of Dade County, which means that, as welfare recipients, they were entitled to free garbage collection. Now that they're off welfare, they have to pay the $52 a year themselves. Like his wife, Mr. Powell lost his free medicines—$20 month in his case. Both the Powells lost their welfare checks, of $1 each per month. The Powells figure their Social Security increase amounts to $206.40 and will cost them $810.40 a year, which means they must somehow find another $604.40—assuming they will need no X-rays, hospital care or nursing home services.

That's an unlikely assumption. Mrs. Powell is either 73 or 75—"I can't remember if I was born in 1896 or 1898, but when you're my age, what's a year or two?"—and uses a wheelchair and suffers from ulcers and arthritis. Mr. Powell, who is 78, had "a complete mental breakdown in 1965 or so" and since has had a stroke, Mrs. Powell says. So the Powells are not exactly top candidates for the labor pool.

Nor are many others. "What worries me isn't losing the welfare check," says William Lucas, age 66, of Atlanta, who is mostly paralyzed on his right side and suffers from hardening of the arteries and an arthritic left leg and wrist. "Hell, they can keep the welfare check. What I need is that $20 drug card and the Medicaid hospital coverage."

GROCERIES OR MEDICINE

Lelia Comer, a 75-year-old St. Petersburg widow, can sympathize. Mrs. Comer's Social Security increases amounted to $12 a month and robbed her of $35.60 in welfare medical money as well as the wide variety of hospital benefits paid by Medicaid.

Sitting on her porch with her shoes off, Mrs. Comer says: "I tell you what I think: Us old folks that worked hard, that can't work no longer, that need the money just to stay alive and buy medicine, they is the ones that can't get no money. But those young mothers that have all them babies, they get all the money they need. This raise ain't a raise none at all. It's just what they do to get us old folks off of welfare, that's all. You see what they done, they just put on to one check and took off from the other. So I'm worse off from where I was. It hurt me a heap. God knows, they think the old folks ain't got nothing to spend money on. Nothing to spend money on."

To save money for herself and her 51-year-old asthmatic daughter who lives with her, Mrs. Comer says she borrows "from my neighbor on food. And I leave off (buying) some of the groceries. My daughter, she say she don't care none about leaving off some of the groceries. She say that medicine is the most important thing."

Some observers think cases like Mrs. Comer's reflect the government's—and the whole society's—lack of sensitivity to problems of the aged. Max Friedson, a 72-year-old activist for improved old age legislation, thinks he knows why no one cares: "You know why problems like this exist?" he asks. "You know why? Because some people in government today think they'll never grow old. Of course, I don't think that's too unusual, because I never thought I'd grow old either."

[From the Washington Post, Nov. 21, 1971]

Retirement: Never Too Soon To Plan

(By Roy Hanson)

How old are you? Never mind, it doesn't matter. No matter what your age, it's time to start making plans for your retirement.

In a recent issue of Consumer Views, City Bank of New York's consumer newsletter, the money men advised that you sit down and ask yourself three questions:

Will you be able to retire at 65 or sooner?

How much income and reserves will you need to live in comparative comfort?

If your total income after retirement, as you forsee it, doesn't seem enough, what steps can you take to bolster it later?

For most people retirement means living on a sharply lower income. How much lower? For an "average" couple, in reasonably good health, living by themselves in a metropolitan area, a "low" budget means an annual income of $3,200. An "intermediate" style of living takes at least $5,000. On a "higher" budget a couple needs $7,400. And even at the latter figure that means a comfortable but by no means luxurious way of life. If you're big on luxury, better revise that upward.

Don't forget to allow for inflation, either. If inflation continues at 4 per cent, $500 now would have the buying power of only $338 in 10 years. At 2 per cent it would buy $410 worth.

Where is the money coming from?

Savings. If you have $10,000 in the bank, at 5 per cent interest, it will bring in $500 a year, $41.66 a month. It's a start.

Social Security. The major source of income for most retired persons. And almost nine out of 10 have it. The minimum is $105.60 a month and it ranges up to $320 worked out by a complicated formula based on your average earnings over a period of years. You can get the material for working out the figure in your case by writing the Social Security Administration, Baltimore, Md., 21235. If you retire at 62 you get four-fifths of the amount you would be entitled to at 65. You can also earn as much as $1,680 a year without losing benefits.

Pensions. Private pension plans cover about half the work force and government plans bring in another 20 per cent. The average payment in 1969—the latest available year—was $160 a month. It is probably a little higher now. If your company has a pension plan, look into it. Find out what it gives you, how you qualify for it and what riders there are, if any. For instance, do you lose your rights if you change jobs before acquiring a vested interest in the company pension fund? You might also be eligible for a veteran's pension. Check that with your local Veterans Administration office.

Investments. If you own stocks, bonds or mutual funds, add up the returns over a year. Obviously, since you'll be counting on steady income, the more steady, reliable performers are the best. A note on U.S. Series E savings bonds: If you don't cash them in until you retire, you'll cut your tax on the interest because of your reduced income.

Annuities. You pay in money, either all at once or in installments before retiring. Then you get periodic payments, usually for the rest of your life, after retirement.

[From the New York Times, Nov. 21, 1971]

Aged Are Called Low U.S. Priority—House Unit Holds Hearings in Bronx on Elderly

A special Congressional subcommittee, meeting in a cold auditorium at Lehman College in the Bronx, was told that the aged were too far down on the list of the nation's priorities.

The 15 speakers, some of them old, others experts on problems of the aged, told the Select Subcommittee on Education that elderly persons need more money, better housing, better services and some meaningful involvement in the life around them.

The subcommittee, part of the House Committee on Education and Labor, is headed by Representative John Brademas, Democrat of Indiana, and has held hearings in Chicago and Washington. The subcommittee is scheduled to go to Boston and Miami for additional hearings before the White House Conference on Aging, which begins next Sunday.

Walter Nueberger, of the Congress of Senior Citizen, said 500,000 of New York City's 1,000,000 residents over 65 years old were eligible for welfare, but only 50,000 would accept public assistance.

"They don't want to stand in line and use food stamps. They don't apply for rent supplements. They don't want anything that smacks of charity," he said.

"Don't embarrass them by a means test and don't make them hold out their hands and beg," Mr. Nueberger pleaded.

Jule M. Sugarman, administrator of the Human Resources Administration, noted that the aged were 12 per cent of the city's population and 5 per cent of the nation's aged population. He told a newsman after he spoke that about 250,000 aged persons lived on Manhattan's West Side.

Crime and fear of crime were discussed by many witnesses. George Dimond, president of the William Hodson Senion Center, said that many older persons had been robbed using a particular letter box in the Bronx.

[From the Washington Star, Nov. 30, 1971]

Income for the Aging

It is hardly surprising that the subject of an adequate annual income quickly emerged as the dominant issue at this week's White House Conference on Aging. Money, or the lack of it, remains at the root of so many problems the nation's over-65 population faces. Fully 25 percent of these 20 million citizens live below the government's officially-designated poverty line, and millions of others are but on the fringes of what could be called a decent living standard.

There is no question, then, that a giant-sized problem exists. But where is the solution? One idea that has gained considerable headway at the conference follows the concept of the guaranteed annual income. It would provide a minimum of $3,000 per year to each elderly person over 65 and $4,500 per aged couple. On the surface, that sounds modest and reasonable enough. Yet serious questions arise, questions of feasibility and equity.

Nothing is wrong with the idea of a guaranteed annual income for the elderly. It exists already in the form of Old Age Assistance, one of three adult categories in the state-administered but federally subsidized welfare system. What's faulty here is that payments throughout most of the country are far too low.

Marking time right now in the Senate Finance Committee is H.R. 1, the Social Security-medicare-welfare reform measure that with administration backing passed the House early this year. It is the focus of high controversy solely because of its Family Assistance Plan, which would put an income floor under all families with children. Nearly as remarkable, however, are a series of provisions aimed at the elderly and at other adults, the blind and disabled, who are eligible for welfare. Besides a series of benefit increases for Social Security recipients, the bill would completely federalize the adult welfare system, and it would lead to uniform national payments of $150 a month per individual, $200 per couple. In fact, more money would go to the aged, blind and disabled under this plan than to welfare and working-poor families.

How about raising those income amounts for the dependent elderly? Under the Family Assistance Plan, a family of four with no earnings would get $2,400 a year, the same as an elderly couple. Guaranteeing more to the couple than to the family with children could not be justified. Moreover, there is an equity question related to the Social Security system. Guaranteeing every elderly couple an income as high as $4,500 would mean that the majority of retired persons who paid taxes for years into the Social Security system would get no more money than the elderly who had paid little or nothing into the system.

The more astute among the policyshapers at the White House conference no doubt are aware of the complexities of the problem. If they can get serious about the concept of a guaranteed income without fooling themselves as to the numbers involved, that's all to the good. Maybe then the organizations that represent the nation's elderly can help mount an intensified lobbying effort for the passage of H.R. 1.

[From the Baltimore Sun, Nov. 25, 1971]

United States Scored for Nursing Home Stand

(By Frederick K. McGehan)

A top state health official took sharp issue with the federal government yesterday over its increased involvement in the upgrading of nursing homes.

Dr. Matthew Tayback, assistant secretary of health and mental hygiene, said federal allegations that Maryland has failed to comply with regulations governing nursing homes that accept Medicaid patients "has created unnecessary alarm."

"This whole matter has turned out to be a tempest in a teapot." Dr. Tayback said, noting that federal officials have agreed to accept Maryland's plan for complying by July 1 next year.

In letters sent to the state health department earlier this month, officials of the Philadelphia regional office of the Department of Health Education and Welfare cited 12 specific areas where Maryland has failed to comply, and requested an immediate timetable for compliance.

HEW SENT LETTERS

Dr. Tayback noted that similar letters have gone to all 50 states. "All this suggests . . . that the Nixon administration is attempting to influence public opinion. This is especially suggestive when it is noted that a White House conference on aging is forthcoming shortly," he said in a statement.

The state official said his department's staff has concentrated for the past year in upgrading the areas of life-safety, sanitation and patient care in nursing homes. The federal government, he claimed, has been focusing its attention "on financial details, matters of ownership and payrolls."

"We do not dispute the necessity to comply with the federal regulations but rather feel that the basic issues of life-safety and hygiene should be attended to first," he added.

Dr. Tayback also criticized a November 24 announcement by the Social Security Administration that it was encouraging persons with complaints against nursing homes to report them to local Social Security offices.

Dr. Tayback said the state already has a procedure for receiving and processing complaints and that a similar federal system "could create widespread confusion."

He advised Maryland residents to register complaints with city or county health officers, with the state Health Department's division of licensing and enforcement, or with his office directly.

He described the social security announcement as "another example of initiatives from the White House which are highly politically motivated and which do not contribute constructively to improvement in patient care."

[From the New York Times, Nov. 27, 1971]

The Retarded and the Volunteer Helpers—They Need Each Other

SOUTHBURY, CONN.—Three small boys, neatly dressed for school, are seated at a round table. A woman with a pleasant round face and graying hair sits with them.

"Put the peg in the hole, Albert," she urges one youngster again and again, imposing her will and determination on the boy's faltering hand. Eventually, after many tries, the peg goes into the hole on the pegboard.

"Good boy, Albert! That's good, that's really great!" she says.

The woman, Mrs. Ray Forsyth, is a volunteer. She is working with profoundly retarded children in a Federally-funded program (the Neurologically Impaired Program) at Southbury Training School, one of Connecticut's two state institutions for the mentally retarded.

A fourth child, with Mongolism, sits in a "walker."

A TEEN-AGER LEARNING TO WALK

"Michael is just getting used to putting his feet on the floor," Carol Stewart, a teacher, explains. "There is no reason why he can't use his feet some day.' Michael is 14 years old, but appears to be much younger.

One of the boys, David, who is blind as well as retarded, gets up, with considerable help, from his chair. He has just recently learned to walk—by grasping a helping hand or a railing. Suddenly he stands alone, without support. It is a miracle. Both teacher and volunteer worker are elated. It is a personal, hard-won victory.

David and the other boys, ranging in age from 9 to 14, have been labeled as profoundly retarded. Until this program, such retarded children had been considered unsalvageable, destined to lie in cribs, crawl about the floor and receive custodial care all their lives.

With the program, children have learned to sit in a chair, feed themselves, walk, become toilet trained and respond to sound. Most significantly, they are developing awareness of themselves and others around them.

Carol Stewart, a young and gifted teacher, refuses to accept the verdict of custodial care and performs classroom miracles daily. In the world of the profoundly retarded, learning to hold a spoon can be a major triumph. Antoinette Richardson, the director, and the seven other teachers in the three-year-old program share the same outlook and approach. Love, pragmatism, knowledge of behavioral modification techniques, and fierce determination are the apparent components of the program.

Mrs. Ray Forsyth has the same attitude. She volunteers one day a week to the N.I.P. children, driving over from the neighboring Heritage Village where she lives.

With their children grown and married, Mrs. Forsyth and her husband moved to Heritage Village from Mount Kisco, N.Y., a year ago, to enjoy retirement and the ease of condominium living. Heritage Village, a 1,000-acre community, with strikingly designed housing, shopping and recreational facilities, has a current population of about 2,000 men and women, mostly couples and in their late 50's and 60's. About half of its residents still work full or part-time.

The community, complete with swimming pools, tennis courts, hiking trails, fishing ponds, library and cultural center, and 90-odd organized clubs and activities offers a considerable array of facilities. Why then does Mrs. Forsyth choose to spend time at Southbury Training School?

Apparently there is another kind of need that sends Heritage Village volunteers to the Southbury Training School—the need to nurture, the need to be needed. The children of Heritage Villagers are grownup, leading independent, separate lives. Children of the Southbury Training School, on the other hand, need visitors, need family, need personal interest.

Describing her work with the N.I.P. children, Mrs. Forsyth says: "This has been one of the greatest experiences of my life. I didn't know if I could do it when I started, but, believe me, I get so much from them."

Dr. Frank R. Gilliberty, superintendent of Southbury Training School, is enthusiastic about the volunteer program and says, "Families can't get up here very often. On a day-to-day basis, these kids need affection, somebody to make a fuss over them. They need this constant attention, which parents couldn't possibly give no matter how often they visit them. This is where volunteers are invaluable."

Mrs. Carman Cater, director of volunteer services at Southbury Training School, points out that a growing number of Heritage Village people are participated in the school's extensive and varied volunteer program.

THEY'RE WORLDS APART

The two communities, separated only by a hill and a few miles of winding country road, are worlds apart in some respects, strikingly similar in others. Both are located in the Town of Southbury in southwestern Connecticut. Each has a setting of physical beauty. Each, in its own way, is a model community, providing a pattern for others to emulate. Both are self-contained communities, worlds unto themselves.

But the contrast is sharp. Heritage Village, on the one hand, is an upper middle-class privileged community, with many residents who have in the past distinguished themselves in the arts, publishing, business and professional worlds. Southbury Training School, on the other hand, has close to 2,000 residents of all ages, whose retardation ranges from borderline to profound, many of whom will live out their lives in Southbury, unable to return to an outside world.

Yet each community is making an impact on the other.

Mrs. Samuel Edsall, wife of an Episcopal clergyman who was rector of the Trinity Church in Geneva, N.Y., for 37 years, now lives with her husband at Heritage Village. They chose Heritage Village, in part, because their children and grandchildren live in the Connecticut-Long Island area.

Mrs. Edsall works as a volunteer at Southbury's Cottage 4, "the wheelchair cottage," which houses 40 women residents of all ages who are severely physically handicapped as well as retarded. Most of the women are nonambulatory as well as, in some cases, deaf, blind, mute, epileptic and emotionally disturbed.

"I started with a group at Heritage Village that sews for Southbury," says Mrs. Edsall. "They were a wonderful bunch of women, and I enjoyed them. But all the time I kept thinking that it wasn't what I had spent 70 years of my life training for. I wanted to work directly with people."

When she was approached to work at Cottage 4, she had some self-doubts, but she decided to try.

"The first day I was there I could see only their handicaps," she says, "but after a while I just looked at their faces. That is the way to do it."

"I gradually got to know the girls in the cottage and love them," she continues, "and now I am so devoted to them that I can't let them alone."

Mrs. Edsall says that the staff, although devoted and "even consecrated," are fully occupied with the physical care of the residents, who can do little for themselves.

"There is no time for the staff to read to them or play games or just plain talk," she says. "That is what I do."

Visiting Cottage 4 with Mrs. Edsall, one is struck by the excitement that her arrival generates. Like small children eager for her attention, they swarm about her, crowding close to her in their wheelchairs. They reach out to touch her, to hug her warmly (For the mentally retarded, touch is an important means of communication.) She moves from group to group, exchanging greetings, talking at length with several women who have become particularly close to her. Even those who can barely talk and whose speech is unintelligible manage to convey their pleasure. For the moment, she has become mother to them all.

Theodore Clark, a retired oil company executive from Greenwich now living in Heritage Village, has a special interest in Southbury. He and his wife moved in last year to be nearer their son, an only child, who has been at Southbury for more than 25 years. Deeply involved with the school, he has "adopted" several residents, has helped to launch parents' groups and start a foundation, and continues to give many hours of volunteer service.

WORKS 2 DAYS A WEEK

"I have done just about anything," he says, "scrubbed walls, washed floors, painted, shaved the boys, helped bathe them. My wife works in the arts and crafts department, and we come here a couple of days a week."

"My boy is 41 years old," he continues, "and when he was born, the medical profession knew nothing about retardation. We spent thousands of dollars going from one Park Avenue specialist to another. But they are learning and doing wonderful things with the young children here. There is hardly anything you can't do with young kids under 10 in the way of training and physical therapy. I've seen it and if I could work here every day, I would do it.

One women's sewing group at Heritage Village has "adopted" Cottage 11, giving its residents a once-a-month birthday party and providing extra luxuries for the cottage.

"We chose them because the residents are about our own age," explains Mrs. Paul Schwantes, a prime mover of the group.

Cottage 11, which houses 41 women of all levels of mental retardation from ages 27 to 67, has no parent organization, as many other Southbury cottages have. Adult residents, unfortunately, have less and less contact with families, as parents grow older, become incapacitated and die. Brothers and sisters are less involved. But the residents' need for "family" does not lessen.

OTHER WAYS TO HELP

Not everyone, Mrs. Cater points out, can work directly with the mentally retarded, but the volunteer program offers many other ways of helping the institution. The Boutique Shop, furnished and maintained by volunteer help, is one such way.

The shop is in the gate house, at the entrance to the school grounds, which also houses volunteer workrooms and Mrs. Cater's office. Offering handmade items of professional quality, the shop has earned more than $8,000 in the last 18 months. The money is used to further special programs for Southbury School residents.

The volunteer program itself extends beyond the borders of Southbury and Heritage Village, reaching out to many Connecticut towns and organizations. Elsa Cater, who started the program in 1958, has built an organization that now involves hundreds of people and thousands of dollars in fundraising.

The Adoption-by-Mail Program, for example, designed for residents without families, now has over 800 sponsors. Sponsors send letters and birthday cards to their adoptees, and some participants, such as Mrs. George Roos and Mrs. Robert Foster of Heritage Village, carry the relationship a good deal further through frequent personal visits and gifts.

"We get a lot of young adults—church groups, Red Cross, Scouts, that come in for special projects," says Mrs. Cater. "They may take a crippled child to the movies or put on music programs. They work right along with our recreation people."

"Many of the young volunteers are thinking of going into this work and it gives them the opportunity to find out if this is what they want to do eventually."

But for the older volunteers, such as the Heritage Village group, the work has a different meaning. The emphasis is not on the future or the past, but on the present. "To live in the past is a waste of time," says Mrs. Paul Schwantes. "That's when you start to grow old."

DEMOCRATIC POLICY COUNCIL PLANNING GROUP ON PROBLEMS OF THE ELDERLY

REGIONAL HEARING

(By Martin J. McNamara)

Mr. Chairman, Members of the Policy Council Group: I am Martin J. McNamara, Special Counsel of the National Council of Senior Citizens. I welcome this opportunity to testify before you today on behalf of nearly three million members of our affiliated clubs and councils.

Briefly, the message they send you is this: the elderly of this nation—despite the hardships of two world wars and the great depression—have contributed much to our economic growth and to ever higher standards of living. They are used to making sacrifices and they put national interest before their own personal interest. But they should not be expected in their old age to bear the brunt of inflation or of efforts to control inflation

TRADITIONAL ROUTES TO OLD AGE SECURITY

It's been a long time since the average worker looked to the traditional pattern of family security characteristic of an earlier agrarian society. Our modern worker remembered his grandparents who developed 160 acres of mid-west farmland, raised and educated their family from its proceeds and their labor; and retired on the homestead in comfort and dignity with one of the sons taking over most of the work while the old man supplied the wise management out of years of experience. But our modern worker knew this was not for him. Among other things, his was a city way of life. When the great depression started there were over 6,000,000 farmers in the United States. Now there are only about one-third that number.

Nor was our typical worker ever really convinced that he could save enough out of his earnings to meet the needs of retirement on a kind of do-it-yourself basis. Suppose he had tried, and suppose at retirement he was earning $8,000 per year. Considering the tax advantages arising from a smaller income and the special exemptions for the elderly, assume he was willing to settle for half that gross income. To buy an annuity that would yield $4,000 a year for the rest of his life and the same amount for his widow after his death, he would need better than $50,000 cash at the time of retirement. Even if he had been foresighted enough to start saving 25 years ahead of time, he would have had to make monthly payments of $166 all those years to accumulate such an amount. But remember, our typical worker would have been 40 years old in 1946 and at that time he was making not $8,000 a year but $5,000. His children were still in school, the home wasn't paid for, and there were always more calls on his paycheck than he could meet. Obviously he could not set aside nearly half his take-home pay to meet the needs of retirement 25 years in the future.

Besides, our worker had no way of knowing then that his living standards and his earnings would rise in the 25 years ahead to the point where he would need as much as $4,000 a year to maintain a moderate standard of living.

RISE IN COST OF LIVING

One thing that he could not have foreseen was the dramatic rise in the cost of living that was going to take place in his later working years. From the 1957–59 base, the Consumer's Price Index for all items has risen by nearly 40%. But many of the items of cost that most directly affect older people have seen even sharper rises. Physician's fees, for example, have risen by 76.8%, property taxes by 47.3%, property insurance rates by 61.7%, maintenance and repairs by 60.3%. Local transit fares have doubled and hospital daily service charges have more than tripled in that period.

IMPACT OF INFLATION ON THE ELDERLY

To understand the real impact of inflation on the elderly, we must examine three basic and inter-related questions. Where do they get their income? How much do they have? How are they affected by price rises?

Furthermore, we must recognize that certain social and economic trends of the last few decades make inflation an especially acute problem for today's elderly, a problem that cries out for immediate national attention and solution. Retired persons are increasingly dependent on money incomes from social security. Savings are no longer likely to be in the form of ownership of a farm or small business. There are not only more people who have reached their 65th birthday, but larger proportions of them have attained the very oldest ages. The "aging" of the aged population means particularly great increases in the numbers of widows and other older women living alone, a particularly disadvantaged group economically and socially. The trend toward early retirement—much of it involuntary—adds to the years during which the older person living on a fixed income suffers acutely from price rises.

SOURCES OF INCOME

Where, then, do the elderly get their income?

Employment—the source that automatically provides a hedge against inflation through rising wages—was on a steady decline for the older population long before unemployment became the serious problem for the Nation that it now is. Only about one in every six people aged 65 or older is in the labor force at all and fewer than half of these hold fulltime jobs.

Furthermore, realistic assessment of labor force conditions gives little hope that the economy will generate enough job opportunities to solve the income problem of older people, especially the oldest of them, now or in the years ahead. The elderly population's main hope for increased employment opportunities lies in an expansion of part-time paid community service jobs.

Nearly nine out of ten older people now receive Social Security benefits. For many, it is the major or only source of income. One-fourth of the aged couples on the rolls at the end of 1967 and two-fifths of the non-married beneficiaries, depended on Social Security for virtually their entire support—except perhaps for about $300 per person for the year. Significantly, too, there had been little improvement in this respect since the incomes of aged beneficiaries were surveyed a decade earlier.

One in ten of the people over 65 receive Old-Age Assistance, more than half of them as supplementation of inadequate Social Security benefits.

LESS SIGNIFICANT INCOMES

One in five, perhaps, receives a private pension—and that can be as low as ten dollars per month. (Here, it is relevant to point out that only the most exceptional pension plan attempts to adjust to rising prices.)

For a very small proportion of older people income from assets is an important source of income. For the average elderly person, however, the major asset is the owned-home—an asset that is too often a *drain* on income rather than a *source* of income.

Clearly, then, our elderly population's best hope—one might even say "only hope"—for protection against the impact of inflation is through the Social Security system.

AMOUNTS OF INCOME

In 1970, half of all families with a head over age 65 had incomes below $5,053. Half of all single aged individuals had incomes below $1,951.

Thanks mainly to an increase in Social Security benefits, the median income in 1970 was 5.2 percent above 1969. But over the same period, the Consumer Price Index had gone up 6 percent.

Of all families with an aged head, 16.3 percent had incomes below the poverty level in 1970 and another 8.3 percent were on the borderline—a total of one out of every four elderly families. Of elderly persons living alone or with non-relatives, nearly six out of every ten were classified as poor or near poor.

INCOME VERSUS COST OF LIVING

For your purposes, Mr. Chairman, it is appropriate to examine these figures on the incomes of elderly people in the light of what it costs them to live in today's economy. The Bureau of Labor Statistics has updated its three budgets for urban retired couples. In the Spring of 1970, BLS estimates that the cost for an elderly couple would have been $3,109 at the lower level—in effect, a poverty level—$4,489 at the intermediate level and $7,114 at the higher level—and even the higher level is by no means lavish. Nearly two out of every five aged couples had insufficient income to afford the intermediate budget. For two-thirds of the single aged persons, the equivalent intermediate budget costing $2,469 was out of reach.

These comparisons take on special significance when it is recognized that, for both the lower and the intermediate budgets, about eight out of every ten dollars is allocated to housing, food, transportation and medical care. These are the costs of surviving from day to day. They are not expenditures that can be postponed until "the price is right".

EFFECT OF PRICE RISES

Probably no older couple in the United States spends its income in the exact manner indicated by the BLS budget. This is unimportant. Here are the important considerations. This nation has experienced unprecedented price rises: an increase in the CPI of 5.4 percent in 1969 and 6 percent in 1970, the two sharpest rises in nearly two decades. As of August 1971, the cost of living had registered increases for 55 consecutive months—the largest unbroken string in the 58 year history of the CPI. And, even more important, many of the price rises have been especially steep for the items on which the elderly are most dependent, items that take up an overwhelming share of their limited incomes.

SPIRALING MEDICAL COSTS

As an example, let's look at what has been happening to medical costs. Here I would insert a word of gratitude from the members of the National Council of Senior Citizens for the invaluable protection afforded by Medicare. But Medicare covers little more than $2 out of every $5 of their total medical costs, a proportion that has dropped recently and that still leaves unprotected a larger medical bill than the total bill for the average younger person. While the Consumer's Price Index for all items rose by nearly 40 percent from the 1957–59 base, physicians' fees rose about twice as fast or by nearly 80 percent. The increase for hospital daily service charges amounts to over 200 percent, meaning that these charges are now more than triple what they were some twenty years ago.

HOUSING ASSETS THREATENED

Total housing costs have risen by more than 25 percent during this period. Some of the costs of home ownership have seen much sharper rises, threatening the ability of the older person to continue to own the home—his major form of accumulating an asset that would be available in his old age after retirement had cut his income in half. Property taxes have risen by nearly 50 percent throughout the nation, according to the CPI, but we know that for many of our members they have doubled or tripled, in some instances exceeding the amount of the total downpayment made on the home years ago with the hope that old age could be secure. Property insurance rates are up more than 60 percent. So are the costs of home maintenance and repairs on which the elderly, whether owners or renters, are increasingly dependent as advanced age curtails the ability to "do it yourself".

TRANSPORTATION COSTS RISING

The cost of transportation, too, puts a special burden on the elderly. The cost of all forms of transportation has risen by something over 35 percent since 1957–59 but the cost of local transit fares has more than doubled. And it is on local transit that so many of our elderly are dependent.

THE PRESIDENT'S WAGE-PRICE FREEZE

Against this background—and before offering the recommendations of the National Council of Senior Citizens for dealing with the problem of the impact of inflation on the elderly—I would like to spend a few moments summarizing our reactions to the Administration's 90-day freeze as it affected our elderly population.

When the freeze was announced by the President, we foresaw grave danger that an undue portion of the burden of the so-called economic crisis would be borne by the most vulnerable of our citizens—welfare recipients and other elderly people living on low incomes.

WELFARE REFORM ABANDONED

The National Council was greatly dismayed when the President virtually abandoned his welfare reform legislation. We saw very real danger that the economic mood of the administration might even result in an effort to postpone the meager 5 perceht cost-of-living adjustment passed by the House and awaiting Senate action as H.R. 1.

Therefore, on August 20, Nelson H. Cruikshank, President of the National Council of Senior Citizens wrote to President Nixon on behalf of our membership to ask for assurance that the badly needed improvements of H.R. 1 would not be lost in the effort to slow inflation. With your permission, I will introduce Mr. Cruikshank's letter to the President for the record. (There is no need to burden your record with the superficial staff acknowledgement of its receipt by the White House.)

LETTER OF CONCERN FROM SENIOR CITIZENS

Because of its relevance to the deliberations of the Committee, I would like to quote just one paragraph from Mr. Cruikshank's August 20 letter to the President:

"The price freeze offers little hope to our older people. Very few Social Security beneficiaries are going to be dashing out to buy new cars. Your order was too late to save our older people from rent increases, which many landlords put into effect as soon as Social Security beneficiaries got their last increase in June. Those who own their homes were provided no protection against sharply rising property taxes. Elderly people and the younger members of their families who are forced to borrow to meet urgent family needs find nothing in your plan to protect them against rising interest rates."

PROPOSALS FOR EASING THE IMPACT OF INFLATION

I turn now to the recommendations of the National Council of Senior Citizens for easing the burden of price rises for the elderly. I believe that these recommendations are of vital concern to the deliberations of this Committee even though they fall within the legislative responsibility of certain committees of the Congress.

SOCIAL SECURITY REFORM OVERDUE

First, a major reform of the Social Security system is long overdue. We need an immediate substantial increase—we recommend an across-the-board increase of 25 percent—in Social Security benefits, coupled with a Federally financed and administered guarantee of a floor of financial assistance to bring income above the poverty level.

Among the other reforms in the Social Security system that we recommend, are a significant increase in the wage base that is taxed and credited for benefits. Such an increase is essential in order that benefits of workers retiring in the future will bear a more reasonable relationship to their pre-retirement earnings. It is also essential in order to reduce the regressivity of the Social Security tax.

In this connection, I urge the members of this Group to exert all pressures to achieve the increases in the Social Security wage base and tax rates that are now provided in H.R. 1. Such postponement could seriously weaken the financial soundness of the system. If the system has an actuarial surplus any surplus is best used to increase the benefits of the elderly poor who desperately need additional purchasing power—purchasing power that serves to bolster the nation's economy.

USE OF FEDERAL GENERAL REVENUES

As another method of relieving today's workers of part of the heavy costs of Social Security, the National Council of Senior Citizens has long urged that Federal general revenues be used to finance a reasonable share of social insurance costs. We believe that the contributions from general revenues should be predetermined by formula built into the legislation and should approximate one-third of costs over the long run—equivalent to the costs resulting from paying benefits to workers already old when first covered, many of whom would otherwise have been dependent on public assistance.

Once Social Security benefits and the wage base have been more reasonably related to today's levels, they should be continuously adjusted—whether by formula or as a result of periodic review by the Congress. And this adjustment must take account not only of rises in the cost-of-living but of ever higher standards of living and economic growth.

NEED FOR POLICY AND COMMITMENT

I need not point out to this Committee that our nation lacks both the policy and the commitment that would assure an adequate solution to the problem of the impact of inflation on its elderly citizens. But I do wish to point out in passing that our nation also lacks the very means for developing sound policy in this field. We do not really know whether the CPI for the population of all ages is an appropriate instrument for adjusting the benefits of the aged to take account of the price increases in their budgets. And we still have much to learn—especially from foreign experience—about methods of adjusting our Social Security system to economic growth.

IMPORTANCE OF NATIONAL HEALTH SECURITY

Second, until this nation has achieved National Health Security for the total population, the fixed incomes of our elderly people will be threatened by heavy and unpredictable health costs—unpredictable in so far as any one individual is concerned but predictable in that a continued escalation is inevitable. The National Council of Senior Citizens strongly supports National Health Security under which the government would assume responsibility for improving the organization and delivery of high quality economical health and health-related services as well as responsibility for the financing mechanism. Pending the enactment and development of National Health Security, we urge immediate improvements in Medicare and Medicaid to extend protection, to control costs, and to reverse the trend toward ever heavier copayments and deductibles. Among the improvements that would lessen the impact of rising medical costs on the elderly, is financing of Medicare solely through contributions from earnings and general revenues, eliminating the premiums paid by retirees living on fixed incomes. Another is federal assumption of the responsibility for financing and administering Medicaid for the elderly as being consistent with federalization of the adult titles for cash benefits as proposed in H.R. 1. This would, of course, permit uniform attention to the total health care needs of the older person—whether under Medicare or Medicaid.

PROMOTION OF PUBLIC SERVICE JOBS

Third, we believe that the government should actively promote the development of the public service jobs that are so badly needed by the nation and so appropriate for the employment of older persons. We further recommend immediate enactment of a nationwide Senior Citizens Community Service program—modeled on such outstandingly successful demonstrations as the Senior AIDES program of the National Council—to provide part-time community service opportunities for the low-income elderly, administered through the Labor Department as a special employment program for the elderly.

HOUSING IMPROVEMENTS NEEDED

Fourth, the National Council of Senior Citizens is deeply concerned that the needs of the *elderly* housing have been submerged by the Department of Housing and Urban Development in a program of meeting the housing needs of the low income group generally—to the serious neglect of the millions of elderly who are poor or close to the poverty level.

The truth is that this Administration's resistance to categorical aid and assistance is depriving older Americans in almost every area of Government operation. So we are asking the forthcoming White House Conference on Aging to support us in the contention that appropriate identification of programs and funds for the aged is necessary if our elderly are going to get a fair shake in America's youth oriented society.

To the maximum extent possible, older people desire and should participate on equal terms in programs for the total population. But there will always remain areas requiring that older people be singled out for the special consideration that takes account of their greater needs (for example, the extra heavy burden of health care, especially for long-term illness, or their lesser ability to compete with younger people in the job market, and in housing).

Federal, State and local funds should be *earmarked* to provide adequate housing for the elderly.

Unless this earmarking is made, Government programs will continue to discriminate against the aged. I would like to appeal to this committee to examine closely the Administration's current housing bill—reopening hearings if necessary—to note the many discriminatory factors which will hinder the provision of suitable housing for our older people.

PROPERTY TAX RELIEF NEEDED

May I add a word about property tax relief?

In many parts of the country, the local property tax on the older person's home takes such a large share of limited income as to threaten continued ownership. This is a problem not likely to be solved locally. Therefore, the National Council recommends the development of a Federal program to reimburse States that extend relief to low-income householders—whether owners or renters—who are overburdened by property taxes.

SPECIAL EFFORTS NECESSARY

In conclusion, the National Council of Senior Citizens wishes to express sincere thanks to the Democratic Policy Council for this opportunity to express our heartfelt views on the serious problem of the impact of inflation on the elderly population and to suggest some ameliorative actions. Older people depend on the economic strength of this nation for their very existence. They have a great stake in all efforts to promote economic stability. But the particular nature of their problems also requires special efforts to achieve real economic security in old age.

NATIONAL COUNCIL OF SENIOR CITIZENS, INC.,
Washington, D.C., August 20, 1971.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: In your new effort to slow inflation and reduce spending by holding down wages and certain categories of prices, by layoff of Government workers and by virtual abandonment of welfare reform legislation (which would place a floor for the first time under the family income of the nation's lowest paid workers), we have seen no specific mention of your support for H.R. 1, the combined Social Security and welfare reform bill that has passed the House of Representatives and which now awaits action in the Senate.

During your May 14 conference with representatives of the National Council of Senior Citizens and other national organizations of the elderly, you raised the hope that you were very much concerned with the desperate problems of the low income elderly (5,000,000 of them living in poverty and millions of other elderly citizens perilously close to the poverty line) and that you recognized the need for a Social Security boost above and beyond a mere cost-of-living increase.

On behalf of the National Council of Senior Citizens, this is to ask that you support the Social Security boost in H.R. 1 as well as the bill's provisions for federal takeover of payments to "adult categories"—the current welfare assistance to the aged, blind and disabled.

Mr. President, our elderly citizens contributed much to raising America's standards to unprecedented levels and surely you would not want any portion of the burden of your Administration's efforts dealing with the present economic situation to fall on the backs of our aged, blind or crippled people. You have taken personal leadership in this economic crisis. Can we have your assurance at this time that your Administration will support the vital provisions of H.R. 1 affecting these people?

The price freeze offers little hope to our older people. Very few Social Security beneficiaries are going to be dashing out to buy new cars. Your order was too late to save our older people from rent increases which many landlords put into effect as soon as Social Security beneficiaries got their last increase in June. Those who own their homes are provided no protection against sharply rising property taxes. Elderly people and the younger members of their families who are forced to borrow to meet urgent family needs find nothing in your plan to protect them against rising interest rates.

The National Council of Senior Citizens will continue to press for an immediate 25 per cent increase in Social Security benefits—an increase in purchasing power of the elderly poor which is desperately needed by them and which, we believe, will also bolster the nation's economy.

Respectfully yours,
NELSON H. CRUIKSHANK,
President.

Mr. GERALD R. FORD. Mr. Speaker, I would only say to my friend from Indiana that I think this White House Conference is doing a good job. I am sure there will be some legislation coming forth. It is too bad that the legislation did not reach the floor of the House in the orderly and regular order, with almost 12 months of opportunity to get it out of the committee. Unfortunately that did not happen. Now I think we ought at least to give the committee an opportunity to report a bill. That is a very simple process with all the hearings that have been held. So if the gentleman would tomorrow or Friday get his subcommittee together and the full committee and report a bill which is relatively simple, it could come up to Monday on suspension.

Mr. RANDALL. Mr. Speaker, will the gentleman yield?

Mr. GERALD R. FORD. I yield to the gentleman from Missouri.

Mr. RANDALL. Mr. Speaker, reference has been made to the White House Conference on the Aging. The other body passed the nutrition program for the elderly by a vote of 89 to 0. I predict there will not be many, if any, votes against this kind of a bill in this body. What we are talking about is an amendment to the Older Americans Act. This plan is one of the most important objectives of the White House Conference on Aging which is meeting here this very week. What are the alternatives? Well, we will either consider the bill today, and there will be an opportunity for a rollcall vote, or we will put it over to consider under suspension next Monday or Tuesday. I doubt if anyone will vote against it. At the most there will be only token opposition.

We all know what the bill provides. We know its humanitarian purpose. We have read the morning newspapers with their explanation. It is that simple. We will either pass the bill of the other body while the White House Conference on the Aging is in session as we should or let them go home disappointed and disillusioned with our side of the Congress.

Mr. GERALD R. FORD. Let me ask the gentleman from Missouri whether he has read the Senate bill and the Senate report.

Mr. RANDALL. I have.

Mr. GERALD R. FORD. Has the gentleman seen a House bill and a House committee report?

Mr. RANDALL. I have.

Mr. GERALD R. FORD. You have?

Mr. RANDALL. Of course. There is no House report.

Mr. GERALD R. FORD. I would say the bill has come out of the committee very rapidly if the gentleman has read the committee bill and the committee report of the House Committee on Education and Labor.

Mr. RANDALL. The committee has held hearings. The chairman of the full committee here on the floor will verify that the committee has held repeated hearings on this bill. What I intended to say was that I had read and studied the bill on which our House committee was holding hearings.

Mr. GERALD R. FORD. Mr. Speaker, under the circumstances, I object.

The SPEAKER. Objection is heard.

REQUEST FOR PERMISSION TO FILE CONFERENCE REPORT ON H.R. 10947, THE REVENUE ACT OF 1971

Mr. BOGGS. Mr. Speaker, I ask unanimous consent that the managers have until midnight Saturday, December 4, 1971, to file a conference report to accompany H.R. 10947, the Revenue Act of 1971.

Mr. HALL. Reserving the right to object, may I ask the distinguished majority leader if the committee has met and has concluded its hearings and findings in the conference between the two bodies?

Mr. BOGGS. In response to the gentleman, the conferees have been in session since early Monday morning. It is my information that they are now completing some of the minor details.

Mr. HALL. Mr. Speaker, under those circumstances, and since we are coming in early tomorrow, unless the gentleman sees fit to withdraw his request, I will be constrained to object. We will have adequate time for the permission to be granted in the long day tomorrow.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

Mr. HALL. I object.

The SPEAKER. Objection is heard.

PROVIDING FOR CONSIDERATION OF H.R. 11932, DISTRICT OF COLUMBIA APPROPRIATIONS, 1972

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 717 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. Res. 717

Resolved, That upon the adoption of this resolution, notwithstanding any rule of the House to the contrary, it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11932) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending June 30, 1972, and for other purposes, and the provisions of clause 2, rule XXI are hereby waived with respect to any appropriation contained in such bill.

Mr. BOLLING. Mr. Speaker, I yield the gentleman from California (Mr. Smith) 30 minutes, pending which I yield myself such time as I may consume.

Mr. Speaker, I know of no opposition to this rule, which waives points of order in behalf of consideration of H.R. 11932, the District of Columbia appropriation bill.

The waivers have to do with the 3-day rule, since the bill was reported only Monday, and it also has to do with clause 2 of rule XXI, which deals with lack of authorization for appropriations, and lack of authorization in this case is the $36 million of Federal payment which is contained in the District of Columbia Revenue Act, which has not yet been signed into law, which has not yet become law.

Mr. Speaker, that is all that is involved in this rule. I urge its adoption.

Mr. SMITH of California. Mr. Speaker, the gentleman from Missouri is entirely correct. The bill was reported on Monday. It would not be eligible to be heard until tomorrow. I agree with the gentleman's remarks, and I urge adoption of the rule.

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

EXTENDING PERIOD WITHIN WHICH THE PRESIDENT MAY TRANSMIT TO CONGRESS REORGANIZATION PLANS

Mr. HOLIFIELD. Mr. Speaker, if it is in order, I should like to make a unanimous-consent request.

The SPEAKER. The gentleman will state his request.

Mr. HOLIFIELD. I ask unanimous consent, Mr. Speaker, to take from the Speaker's desk the bill (H.R. 6283) to extend the period within which the President may transmit to Congress reorganization plans concerning agencies of the executive branch of the Federal Government, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments; and pending action on that request, Mr. Speaker, I should like to explain it.

In the first place, let me say this is the basic Reorganization Act which was passed by the House on May 3. It was passed by the Senate on November 17.

What it does is to extend the President's powers to send up reorganization plans, as we have done for every President going back to the time of Roosevelt.

The changes which have been made by the Senate in the bill, as it passed the House by a large majority, have been mostly grammatical or technical changes, but there is one substantive change.

Under the bill as passed by the House, and as has been in effect over the years, upon any person filing a resolution of disapproval to the plan it became incumbent upon the committee to report that plan to the House within 10 days or else the committee lost control of the bill. The Senate has changed the 10 days to 20 days.

This does not change in any way the substantive purpose of the bill, but it does give the Committees on Government Operations in the House and in the Senate 20 days to hold hearings on the bill and to report it to their respective legislative bodies.

I have cleared this with the minority leader of the Committee on Government Operations, Mrs. Dwyer, and also with the minority leader, Mr. Gerald R. Ford, and with the majority leadership. I know of no reason why H.R. 6283 should not be accepted as amended by the Senate.

The SPEAKER. The Clerk will report the title of the bill and the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Strike out all after the enacting clause and insert: That (a) section 901(a) of title 5, United States Code, is amended to read as follows:

"(a) The Congress declares that it is the policy of the United States—

"(1) to promote better execution of the laws, more effective management of the executive branch and of its agencies and functions, and expeditious administration of the public business;

"(2) to reduce expenditures and promote economy to the fullest extent consistent with the efficient operation of the Government;

"(3) to increase the efficiency of the operations of the Government to the fullest extent practicable;

"(4) to group, coordinate, and consolidate agencies and functions of the Government, as nearly as may be, according to major purposes;

"(5) to reduce the number of agencies by consolidating those having similar functions under a single head, and to abolish such agencies or functions as may not be necessary for the efficient conduct of the Government; and

"(6) to eliminate overlapping and duplication of effort."

(b) Section 901 of such title is amended by adding at the end thereof the following new subsection:

"(c) The President shall from time to time examine the organization of all agencies and shall determine what changes in such organization are necessary to carry out any policy set forth in subsection (a) of this section."

Sec. 2. (a) Section 903(a) of title 5, United States Code, is amended to read as follows:

"(a) Whenever the President, after investigation, finds that changes in the organization of agencies are necessary to carry out any policy set forth in section 901(a) of this title, he shall prepare a reorganization plan specifying the reorganizations he finds are necessary. Any plan may provide for—

"(1) the transfer of the whole or a part of an agency, or of the whole or a part of the functions thereof, to the jurisdiction and control of another agency;

"(2) the abolition of all or a part of the functions of an agency;

"(3) the consolidation or coordination of the whole or a part of an agency, or of the functions thereof, with the whole or a part of another agency or the functions thereof;

"(4) the consolidation or coordination of a part of an agency or the functions thereof with another part of the same agency or the functions thereof;

"(5) the authorization of an officer to delegate any of his functions; or

"(6) the abolition of the whole or a part of an agency which agency or part does not have, or on the taking effect of the reorganization plan will not have, any functions.

The President shall transmit the plan (bearing an identification number) to the Congress together with a declaration that, with respect to each reorganization included in the plan, he has found that the reorganization is necessary to carry out any policy set forth in section 901(a) of this title."

(b) Section 903(b) of such title is amended by inserting after "and to each House while it is in session" a comma and the following: "and furthermore shall not transmit more than one such plan to Congress within any period of thirty consecutive days".

SEC. 3. Section 904 of title 5, United States Code, is amended to read as follows:

"§ 904. Additional contents of reorganization plans

"A reorganization plan transmitted by the President under section 903 of this title—

"(1) may change, in such cases as the President considers necessary, the name of an agency affected by a reorganization and the title of its head, and shall designate the name of an agency resulting from a reorganization and the title of its head;

"(2) may provide for the appointment and pay of the head and one or more officers of any agency (including an agency resulting from a consolidation or other type of reorganization) if the President finds, and in his message transmitting the plan declares, that by reason of a reorganization made by the plan the provisions are necessary;

"(3) shall provide for the transfer or other disposition of the records, property, and personnel affected by a reorganization;

"(4) shall provide for the transfer of such unexpended balances of appropriations, and of other funds, available for use in connection with a function or agency affected by a reorganization, as the President considers necessary by reason of the reorganization for use in connection with the functions affected by the reorganization, or for the use of the agency which shall have the functions after the reorganization plan is effective; and

"(5) shall provide for terminating the affairs of an agency abolished.

A reorganization plan transmitted by the President containing provisions authorized by paragraph (2) of this section may provide that the head of an agency be an individual or a commission or board with more than one member. In the case of an appointment of the head of such an agency, the term of office may not be fixed at more than four years, the pay may not be at a rate in excess of that found by the President to be applicable to comparable officers in the executive branch, and if the appointment is not a position in the competitive service, it shall be by the President, by and with the advice and consent of the Senate, except that, in the case of an officer of the government of the District of Columbia, it may be by the Commission or other body or officer of that government designated in the plan. Any reorganization plan transmitted by the President containing provisions required by paragraph (4) of this section, shall provide for the transfer of unexpended balances only if such balances are used for the purposes for which the appropriation was originally made."

SEC. 4. (a) Section 905(a) of title 5 of the United States Code is amended by striking out "or" at the end of paragraph (5), by striking out the period at the end of paragraph (6) and inserting in lieu thereof a semicolon and the word "or", and by adding after paragraph (6) the following new paragraph:

"(7) dealing with more than one logically consistent subject matter."

(b) Section 905(b) of title 5, United States Code, is amended by striking out "April 1, 1971" and inserting in lieu thereof "April 1, 1973".

SEC. 5. Section 911(a) of title 5, United States Code, is amended by striking out "10 calendar days" and inserting in lieu thereof "20 calendar days".

Amend the title so as to read: "An Act to extend the period within which the President may transmit to the Congress plans for the reorganization of agencies of the executive branch of the Government, and for other purposes."

Mr. HOLIFIELD (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the Senate amendments be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from California to dispense with further reading of the amendments?

There was no objection.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The Senate amendments were concurred in.

A motion to reconsider was laid on the table.

ADM. EMORY S. LAND

(Mr. GARMATZ asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. GARMATZ. Mr. Speaker, this past Saturday Vice Adm. Emory S. Land, U.S. Navy, retired, passed away at the age of 92. "Jerry" Land, as he was known to his thousands of friends, was a most remarkable man, one whose service and dedication to his country are well documented in his long and distinguished career. Some in this Chamber have personal recollections of his remarkable achievements in the dark days of World War II when he organized the largest shipbuilding program ever undertaken and produced the bridge of ships which turned the tide of victory against the Axis Powers.

To give my younger colleagues some insight into the dimensions and accomplishments of Admiral Land, I would like to trace some of the highlights of his career.

Admiral Land was born in 1879 in Canon City, Colo. As a young teenager he migrated to Wyoming. There he worked as a cowpuncher before entering the University of Wyoming, from which he graduated at the age of 19. He then applied for and was appointed to the Naval Academy in Annapolis.

Although weighing only 140 pounds, he distinguished himself in football, baseball, track, and other sports. Playing as halfback in the 1900 Army-Navy game, it was his touchdown in the closing minutes that enabled Navy to post an 11–7 victory over its arch rival. Admiral Land graduated in 1902, ranked sixth academically and first in athletic prowess.

After earning a masters degree in naval architecture at the Massachusetts Institute of Technology, he specialized in naval construction and was awarded the Navy Cross for his work in submarine design and construction during World War I. He was a member of the Allied Naval Peace Mission and in 1920 was named naval attaché in London.

A cousin of Charles Lindberg, Admiral Land was keenly interested in aviation. He served as assistant chief of the Navy's Bureau of Aeronautics from 1926 to 1928. In 1929, at age 50, he took up flying and was qualified for a pilot's license.

In 1930, he returned to shipbuilding, and in 1933 with the rank of rear admiral, he was named as chief of the Bureau of Construction and Repair. In 1937, at the age of 58, Admiral Land was placed on the retired list. But his retirement was short-lived. Within a month, President Roosevelt appointed him a member of the Maritime Commission headed by Joseph P. Kennedy. The following year, when Mr. Kennedy was appointed Ambassador to England, Admiral Land was made chairman of the Commission—serving in that capacity until 1946.

It was in the years immediately preceding and during World War II that the administrative genius and tremendous drive of this man overcame the formidable challenges of building, in a very narrow and critical time frame, the enormous fleet of merchant ships and naval auxiliaries needed to provide the logistic lifeline to our Allies and subsequently our Armed Forces overseas. Had he not succeeded, the outcome of that war could have been very different, and in any event would have been greatly prolonged with attendant loss of additional lives by the U.S. Armed Forces and those of our Allies.

Under his leadership, 5,100 merchant ships and 700 naval auxiliaries were produced between 1940 and 1945. While the German submarines exacted an enormous toll of allied shipping during the initial years of World War II, and nearly succeeded in isolating our Allies, the prolific output of ships from American shipyards succeeded in winning the Battle of the North Atlantic. The needed supplies got through and the full might of well equipped American and Allied Forces threw back the Axis Powers first in Europe and then in the Pacific.

To gain some insight into the magnitude of Admiral Land's shipbuilding achievements, in 1943 a total of 1,849 ships were delivered; in the following year an additional 1,786 were delivered.

The feat of producing nearly 6,000 large ships in the short span of only a few years with a largely inexperienced work force, and despite shortages of steel and machinery components by no means fully encompasses his contributions to this Nation. In addition to the building of this vast armada, Admiral Land also was responsible for training the officers and crews which manned these ships—a substantial task in itself.

Admiral Land, who received the personal commendations of Presidents Roosevelt and Truman, relinquished his responsibilities in 1946. But his second retirement also was short-lived. He assumed the presidency of the Air Transport Association in the same year. Eight years later in 1953 at age 74 he tendered his third resignation. But again, he refused to go into retirement. He accepted the position of consultant to the General Dynamics Corp., and by Jerry Land's standards this was not to be a token job. Every morning, 5 days a week, Admiral Land walked the 4 miles from his apartment at the Sheraton Park Hotel to his office on Connecticut Avenue, putting in a 9 to 5 workday right up to the week before his death.

Having had the pleasure of knowing this gentleman for more than two decades, and appreciative of the guidance and recommendations he has given to the Committee on Merchant Marine and Fisheries on numerous occasions, I can say with strong conviction that this Nation has lost a truly great American. He was a life-long exponent of seapower and a strong American merchant marine. It was he during World War II who reconstituted our depleted merchant marine at a time when the Nation's future depended on it. And it was he who voiced alarm at the contraction of our fleet and the mounting obsolescence problems that increasingly diminished our maritime capabilities during the past decade.

Currently, we are embarked on the first extensive program to rebuild our merchant marine since Jerry Land undertook the task some 30 years ago. I hope and trust that our efforts are brought to fruition—for there may not be another Jerry Land available in the future to correct our maritime deficiencies if this Nation again finds itself imperiled by hostile forces.

SPEECH BY FORMER CONGRESSMAN WILLIAM BELL WALTON

(Mr. WHITE asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. WHITE. Mr. Speaker, early this month I received a letter from a very lovely lady of El Paso, Tex., Mrs. Frances M. Walton. Mrs. Walton is the widow of former U.S. Congressman from New Mexico, William Bell Walton, who served in the House during World War I, the time when New Mexico had one Congressman.

Mrs. Walton wanted to share with me a speech that her husband had given at Fort Bayard, N. Mex., during Memorial Day services at the conclusion of World War I. Mr. Speaker, I in turn want to share this truly outstanding speech with you and my colleagues of the House. Even though former Congressman Walton gave this speech over 50 years ago, it is pertinent today.

The speech follows:

SPEECH BY FORMER CONGRESSMAN WILLIAM BELL WALTON

Memorial Day is a day of devotion to the memories of Americans who have died in war. Prior to 1919 the day was almost entirely devoted to memorial exercises in honor of the Union Soldiers, with the G.A.R. organizations conducting the ceremonials. Since the World War, however, the scope of the day has broadened in observance and solemnity and the day, created a national holiday by Congress, is now devoted to tributes not only to the heroes of the Civil War, but the heroes of every war—the Spanish-American war, the Philippine Insurrection, the Boxer Rebellion, the Expedition into Mexico, and the great World War—in which human lives were sacrificed to the cause of country.

In the South the day is observed as in the North, for the great United States of America today is a confederation of state units that knows neither North nor South nor East nor West. In the flag of the republic the star of each state is of equal size, and not one is designated by section.

Memorial Day brings deeper and richer memories every year, as the roll of honor grows longer with the names of Americans who have died for their flag at home, overseas and on islands of the seas. An hour can be spent profitably by every American today, glancing back over the record of the United States and making an estimate of the present and the future of the country. What did the dead accomplish by giving the last full measure of devotion? Are the living impressed by what they did and do they more than ever highly resolve that the dead shall not have died in vain?

Every one of the American dead—every soldier, every sailor, every marine—gave all of himself to his country. If that is not a reminder that every American owes at least some of himself to his country, then, indeed, the dead died in vain.

The dead gave honor, glory and devotion to the flag. What are the living Americans giving to it? Is it honor, glory and devotion? Is each citizen sifting out the patriotism from the selfishness in his heart, and giving to the country only the best that is in him, as the dead gave before they were taken away? Or is the living American carefully selecting and saving the best of himself for his own personal use, and giving to his country only a pretense of patriotism, an appearance of devotion, a semblance of honor? It is not for you or for me to pass judgment. We cannot do so justly. It is for each citizen to search his own heart and conscience and render judgment as to himself.

It has been said that patriotism must be an intelligent patriotism; there is much that passes for it that is not intelligent, and some that falls within an immortal author's definition: "Patriotism is the last refuge of a scoundrel". Nothing is easier than to be patriotic when it is simply a question of going with the crowd. But more than this is required—disinterested service, a full discharge of the duties of citizenship (even to the honest paying of taxes), independence and courage in the exercise of the right to vote, obedience to the law, etc. There must be service by outward act and deed, and not mere lip service.

One who believes in America must know America, and the better one knows his country the more intense will be the faith and the more devoted the service. America, after all, is nothing more than the people who call themselves Americans, for ideas and ideals do not merely float in the air—they are incarnated in men and women, and by men and women they are applied to life. Principles are of no value till they are acted on, and they must be acted on by people. The memories and traditions of our past are attached to people, and the history of our country was made by people. It is then, consequently, into the labors of very real people that we of the present have entered, among very real people that we live and exist.

The problem, therefore, is one of keeping Americans true, not solely to the flag, but to the flag as the symbol of a great national life. Into that life it is necessary to enter, in it men must share. The more complete their participation the greater will be their love of their country—love of it for what it really is, and love of all that it represents. A patriotism thus enlightened and inspired will be close akin to religion.

It is not boasting to magnify one's blessings, nor to dwell lovingly and proudly on the principles and ideals which are American. It is necessary indeed to do this, since there are some unhappy souls who see nothing good in America. Nothing can be done with or for such, but it may be possible to prevent others from being led astray through ignorance of what America truly is.

The American people have been impervious to the incursions and attacks of agitators, not because they are dull and stupid, but rather because they are satisfied, and have every reason to be. They know their country well enough to realize that there is no land in the world in which opportunity is more freely offered, no land which comes so near being the country of the average man.

(On this Memorial Day, therefore, the people should pledge themselves to greater devotion to American ideals, to more loyal and unselfish service, and to stricter conformity to those great principles which lie at the basis of the nation's life.) There is great need for education, since much of the failure to appreciate this country is due to a pitiable ignorance of its history and its institutions. And this ignorance is often the densest in the minds of those who think of themselves as reformers, and who indeed are allowed to pose as such. Men need to be very sure that they know what liberty, as won by our forefathers and our nation's defenders preserved, including our hero dead whose memories we are today honoring, really and actually is.

It is particularly necessary that they should understand the right of minorities, and should realize that there is such a thing as the despotism of majorities. There are some things that a vote of the majority cannot be allowed to sanction, as our constitution recognizes. Perhaps this is one of the most important lessons to be learned, as it seems to be the most difficult to bring home to men. The very restraints of which the uninformed so often complain have no other purpose than to protect the helpless against the strong. And this is a part of Americanism.

In conclusion, the true significance of Memorial Day is a re-dedication of the lives and purposes of living Americans to those ideals of government for which so many of our cherished have "paid the last full measure of devotion". We can smother their resting places with flowers—it costs little. We can listen to sonorous eulogies of their deeds and their supreme sacrifice, but the highest tribute we can pay the glorious dead is to take from their hands the "fallen torch" and carry it aloft.

BIG BUS BILL—THE BLAST PROBLEM

(Mr. SCHWENGEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHWENGEL. Mr. Speaker, my colleagues have been most patient with me as I have repeatedly warned of the danger created by the "blast" experienced when passing or being passed by big trucks and buses. At long last we have at least a summary report on this problem as it relates to big trucks. The report summarizes work being done by Systems Technology, Inc., of Hawthorne, Calif., for the Department of Transportation.

The entire text of the summary will appear in today's Extension of Remarks. Let me briefly mention some of the results of the study. One of the most devasting findings is the following:

> The truck disturbance can result in a serious lateral deviation of the car/driver system, in some cases causing a lane boundary exceedance or potential collision.

This statement gives full recognition of the existence of the problem and its seriousness. It should be kept in mind that the studies were conducted with a standard size stationwagon car. Thus, the poor Volkswagen driver or the driver of any small car, including the many American made small cars, can anticipate far more serious consequences from the blast effect. The report states that:

> Increasing the truck width has two main effects: it increases the intensity of the truck disturbance and it decreases the side to side clearance between car and truck.

The report suggests a 6-inch increase in lane width to offset the effects of the 6-inch increase in vehicle width. However, the report goes on to state:

> Increased lane width reduces the hazard by moving the car away from the truck, but it has little effect on the intensity of the disturbance experienced by the car.

One of the more astute observations of the report is contained in the following "think tank" language:

> The psychophysiological response measures show an increased driver stress associated with the truck disturbance input.

Put in layman's terms this means that truck blast scares the hades out of most drivers.

Contrary to information provided earlier to the House Public Works Committee by the Department of Transportation officials, it would appear that the results of the truck blast study can be validly applied to buses.

I commend the full report to my colleagues here, and especially to my colleagues in the other body.

WHITE HOUSE POSITION ON RESTORATION OF DISTRICT OF COLUMBIA SUBWAY CONSTRUCTION FUNDS

(Mr. GUDE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUDE. Mr. Speaker, there should be no mistaking the Republican position, as expressed again and again by the White House, on the Giaimo amendment to restore the long-due District of Columbia subway construction funds to the District of Columbia budget.

As the White House reemphasized yesterday afternoon, President Nixon "wholeheartedly supports an amendment which will be introduced on the floor to restore the whole amount"—meaning the full $72 million that, up to now, the House Appropriations Committee has barred the District from contributing to the subway construction.

The White House noted that the President feels "we are at a critical juncture and no further delays can be tolerated."

This was a restatement of the President's personal statement on November 18 that a failure to grant the money now could "consign the entire project to an early grave."

Virtually all Federal site planning and construction in recent years here has been done on the basis that these sites and buildings would become accessible to workers and the general public through construction of the Metro system—a system that has been encouraged, approved and authorized in a long series of congressional actions beginning in 1952. All of the great construction of Federal buildings in the southwest of the city, for example, has been predicated on subway construction. And much of the solution to the tangle of autos—those of constituents and workers—on Capitol Hill depends on the subway line that will have a station south of the Capitol, convenient to the House Office Buildings.

Republicans are traditionally for economy, which includes the maximization of the usefulness of facilities—a good reason to vote for the Giaimo amendment. Republicans are traditionally for access to jobs, as opposed to increases in welfare—another good reason to vote for the Giaimo amendment. Republicans are traditionally for making government more accessible to the governed—a third good reason to vote for the Giaimo amendment.

THE UNITED NATIONS

(Mr. HUNGATE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. HUNGATE. Mr. Speaker, at a time when 125 Congressmen and 68 Senators have joined to support the resolution for United Nations Charter review and revision, the following excerpts from an article in Punch, November 17, seem appropriate:

UNITED WE YAWN

(By William Davis)

NEW YORK.—There is one question which every delegate to the United Nations sooner or later has to face up to.

How does one stay awake?

Peking may be overjoyed that it has been allowed to "join the world" (as the *Sunday Telegraph* has put it) but I fancy that, before long, some of its delegates will wish they had stayed at home. Diplomats are taught to suffer tedium, and it may well be that the Chinese have undergone rigorous training in some of their innumerable councils and committees. But it takes a specal kind of skill to sit through U.N. debates without nodding off. Take my word for it; I've tried it.

Like all forums, the U.N. has developed a considerable talent for creating non-issues. Its commissions, sub-commissions, boards and committees know how to turn even the smallest difference on some point of procedure into a crisis. There is never a shortage of subjects: the U.N. could keep talking even if it came across a day when nothing whatever was happening in the world outside.

One regular topic is money. According to Secretary General U Thant, the family of nations is "near a state of hopeless insolvency." And Bruce Turner, a New Zealander who has the unenviable job of minding its empty purse, says that pay-day for the U.N.'s 8,552 staff has become "a recurrent nightmare". The reason is simple: countries like Russia and France refuse to help meet the bill for peace-keeping operations of which they disapprove.

Talk is cheap, but soldiers cost money. So do tanks. Even flags and armbands are getting more expensive. It's all very well for people like Jeremy Thorpe to argue that U.N. troops should move into Northern Ireland, but who's going to pay their wages every Friday?

Up to now, poor U Thant (who, not surprisingly, has been languishing in hospital with an ulcer) has been able to count on the Americans to bail him out. They have put up more cash than anyone else—which explains, of course, why they were so mad when the General Assembly decided to throw out Taiwan.

Americans, as we all know, like to get value for their money. After so many downpayments, it seemed reasonable to regard the U.N. as their own. So everyone, from the President downwards, was indignant. "Suddenly," wrote one commentator, "we remembered that we keep the U.N. and that the hussy who betrayed us is not only treacherous, but extravagant."

William Rogers, the Secretary of State, hinted that Washington would be less forthcoming in future. On Capitol Hill, one senator urged the United States to "take its football and go home." Barry Goldwater felt that, if anyone went home, it should be the ungrateful fellows who had dared to defy their rightful master. The U.N., he said, should be moved out of New York and to some other country. Martha Mitchell, the formidable wife of America's Attorney-General, was more specific. U Thant and his China-loving friends, she felt, should move to Switzerland. Then, the good lady added, New York's Mayor Lindsay could "take the money he uses for the United Nations and spend it on the subway to prevent raising the fares."

At the massive U.N. building, reactions were mixed. Some delegates simply shrugged their shoulders and said they didn't care that much for New York anyway. Others pointed out that Switzerland, with its passion for neutrality, would never agree to be host to any international body which occasionally used troops to keep the peace. And there were some who simply asked: "who is Martha Mitchell?"

One shrewd fellow I talked to thought it would be interesting to see what would happen if the U.N. threatened to move to, say, Moscow. Would Washington agree—or double its contribution to bribe the U.N. into staying?

The Secretariat itself, meanwhile, has derived a modicum of comfort from the fact that China's admission has, unquestionably, revived public interest in what the family is doing.

Until the Big Vote, most Americans had no idea who was in the U.N. and who wasn't. No-one ever paid the slightest attention to what the delegates from Taiwan were saying. Indeed, people had almost forgotten that the U.N. existed. It was a harmless talking shop, the plaything of the world's most powerful nation. America's leadership was never questioned: on nearly every vital issue it either secured U.N. support or managed to stalemate moves which it considered to be against American interests. Freedom meant the right to agree with Washington—no more, no less.

The Big Vote, accompanied by the kind of merriment which is regarded as normal in Congress or the House of Commons but tends to be resented when the Africans indulge in it, has put the U.N. back on the may. U.N. officials rushed out to buy a Red

Chinese flag and printed new postage stamps. They've been suitably rewarded: the average number of daily visitors guided through its chambers has jumped by more than twenty per cent. "The people are excited about business, you sort of feel it," says one of the 65 guides from 40 countries who take people on hour-long tours. For the first time in years tourists have been queuing up outside the wrought iron gates on rainy mornings—paying $1.50 to get in.

Everyone, of course, is anxious to get a glimpse of the Chinese. It's a bit like the arrival of a new species in the local zoo; people want to see for themselves whether they really look like monsters or like ordinary human beings. The same thing happened when the Russians first came to New York, but they have long ago ceased to be of special interest. Fashion writers are already speculating about the Chinese mission's possible impact on the fashion scene; Mao tunics may become the "in" gear of 1972.

The extra takings clearly are most welcome. But it's not all plain collecting: a survey just published suggests that it could cost the United Nations more than £2 million to make Chinese a working language. And U.N. officials, who are already displaying Chinese documents on their office desks, are deeply depressed by the possibility that they may actually be asked to make some attempt to understand it.

The Chinese, apparently, mean to be "the undisputed champions of the world's underdeveloped nations." No one quite knows, as yet, what this will mean for the U.N., but Western delegates suspect that, at the very least, it will mean an escalation in rhetoric. The British delegation, I gather, is undecided how it will respond if the Chinese call them imperialistic pigs. To ignore it would be a sign of weakness; to hit back might lead to a decline in Anglo-Chinese trade.

There is, however, general agreement that the Chinese will liven up the proceedings—which, until now, have usually been about as riveting as an undertaker's convention. There hasn't been much in the way of excitement since Mr. Khrushchev took his shoes off and pounded the table. One sensed a certain amount of disappointment when Peking announced that they would be known as "China, People's Republic of," instead of "People's Republic of China" because, if they had plumped for the latter, they would have started right off as President of the Security Council. (The Presidency rotates monthly according to the English-alphabet names of member countries. Nicaragua was boss in October, and China could have jumped in before Poland).

The assumption is that China will become one of the big power blocs which dominate the U.N. Most of the other 131 members, including a surprisingly large number with names one has never heard of, are contemptuously referred to as "hot pants principalities." Britain comes somewhere in between; our only chance of being a power bloc lies in persuading the Common Market to send a European delegation to the U.N., instead of ten separate national missions.

But is it worth it? The U.N. is a useful forum for letting off steam, but everyone knows that real power lies elsewhere. U.N. delegates are, for the most part, insignificant people who play no real part in the Government of their country. (Hand on heart: do you know the names of our delegation?). The General Assembly and Security Council give the "hot pants principalities" a chance to feel important, and it would be churlish to argue that they don't deserve it. They have, after all, waited a long time to join the diplomatic game.

But, as Spiro Agnew has pointed out with characteristic tact, the U.N. is a paper tiger. If one big power wants to deal with another, it ignores the U.N. and makes direct contact—as Richard Nixon has done with Moscow and Peking. The U.N. is a debating society which can be, and invariably is, brushed aside whenever the interests of a big country are threatened. Even in the warlike confrontation between India and Pakistan, a crisis of far greater magnitude than China, the U.N. sits silent and helpless.

Feeble and broke, the U.N. is drowning in paper and empty talk. Absenteeism has not, surprisingly, become a major problem. The Secretariat means well, and has done some interesting plans, including the creation of a U.N. university with a string of post-graduate research centres scattered around the globe. It would dearly love to capture the interest and support of the young. But it is painfully aware that, at a time when international understanding and co-operation has never been more badly needed, the U.N. is having to struggle for survival. While America was still interested in playing world policeman, it could look for both status and financial help. Now that Washington is pulling back, the going is likely to become more difficult—despite the admission of Mao's China.

It's not only the big countries who snub the U.N. with impunity. Even the little ones do it. At a General Assembly meeting the other day, an elected Minister from the Indian Ocean islands of Seychelles quietly but firmly asked the U.N. to mind its affairs and stop pressing independence on the 55,000 inhabitants.

They preferred, he said, to stay linked with the British. "We have learned to like and understand them," he explained. Whatever else might be said about the British elsewhere, it was wrong and malicious to style them "exploiters and oppressors" as they so often were in the U.N.

British delegates, reported the *New York Times*, looked smug. And well they might: it's a long time since we were last praised for hanging on to a bit of the old Empire.

CHILDREN DEVELOPMENT PROGRAM

(Mr. BRADEMAS asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, the need to strengthen our efforts in early childhood development was clearly stated by President Nixon in his February 1969 economic opportunity message to the Congress. The President said at that time:

> So critical is the matter of early growth that we must make a national commitment to providing all American children an opportunity for healthful and stimulating development during the first 5 years of life.

Mr. Speaker, this week the House of Representatives is scheduled to vote on S. 2007, the conference report which extends the Office of Economic Opportunity for 2 more years and establishes a comprehensive child development program.

I am aware that many people, including newspaper columnists, have distorted the facts regarding this legislation. I regret such distortion since the public must rely on the media for much of its information; if that information is incorrect, the public becomes misinformed. In order to clarify some of the misrepresentations and misunderstandings regarding this legislation, I would like to address myself to certain allegations.

PUBLIC AWARENESS OF THE LEGISLATION

During the past 3 years, beginning with the introduction of the original bill on August 19, 1969, the Select Subcommittee on Education of the House Committee on Education and Labor held 20 days of hearings on proposals to establish a comprehensive child development program in the Department of Health, Education, and Welfare.

On March 25, 1971, a revised version was introduced and the bill was subsequently cosponsored by nearly 100 Members of both parties of the House. The full committee ordered H.R. 6748 reported on September 23, 1971, by a record vote of 28 to 3 and 1 present.

Hundreds of witnesses—166 witnesses and statements—including parents, officials representing the Nixon administration, Governors from across the country, have testified in favor of the comprehensive approach to child development. Numerous newspaper articles, magazine articles, television and radio have discussed the child development bill. Therefore, to say that the public, including Congress, was not aware of what was before it cannot be accurate.

The child development bill was added as an amendment to the OEO legislation in order for the House to have the opportunity to vote on the measure. Otherwise, the House would have been forced to conference with the Senate—which had previously passed a similar measure—without having acted upon this important piece of legislation.

PARENTAL CONTROL OF PROGRAMS

Mr. Speaker, there was no item in the bill which was given more attention than that of providing for parental involvement and control. Although the legislation would provide for Federal money to support comprehensive child development programs, which includes day care, health, and educational programs for children, these programs must be planned, created, and operated at the local level by parents or persons of their choosing. The Office of Child Development in the Department of Health, Education, and Welfare would be involved only in attempting to set a common set of standards and the administering of funds on an allotment basis—distribution on basis of poverty, working mothers, and children below the age of 6.

One of the goals of the bill is to give the taxpayer some of his money back so that churches, schools, and parents at the local level can provide preschool programs for their children without the control of either State or Federal Governments.

Clearly, therefore, the bill would not mean, as some have charged, that the Federal Government take over responsibility for child development. This legislation should be viewed rather as providing an incentive to States and local communities to help them in developing their day care programs in churches, in community centers, in schools, and the kindergarten effort now being undertaken by many States.

Parental authority—in relation to the child as well as the child development program in which he or she participates—is assured in the program in its conference report.

The statement of findings and purpose states that comprehensive child development programs should be available to children whose parents or legal guardian shall request them regardless of economic, social, and family backgrounds, section 501(a)(2), page 5. To ensure that services are voluntary, each comprehensive child development plan submitted must include a provision that services shall be provided only for children whose parents or legal guardians have requested them, section 515(a)(24), page 16.

Section 581(a), page 33, requires that no part of the bill "shall be construed or applied in such a manner as to infringe upon or usurp the moral and legal rights and responsibilities of parents or guardians with respect to the moral, mental, emotional, and physical development of their children." Nor can invasion of privacy or abridgment of legal remedies for such legal protection be accomplished.

Specific protection is provided against testing without informing the parent or giving him an opportunity to except his child, section 580, page 33. And if a parent objects in writing on religious grounds to medical or psychological exams or immunization—except to protect public from epidemics—or treatment, his child is excepted from such treatment, section 574(f), page 31.

A child development plan must further provide for regular and frequent dissemination of relevant information to parents and the community in their functional language, section 515(a)(15), page 16. The plan must also coordinate, insofar as possible, its programs with other social programs so as to keep family units intact or in close proximity during the day, section 515(a)(10), page 15.

The bill's statement of findings and purpose concludes that decisions on the nature and funding of child development programs are to be made at the community level with the full involvement of parents and others in the community. In other words the program is controlled and directed by parents interested in child development, section 501(b), page 6.

Parent involvement in their children's programs is required at various decision-making levels such as the following:

First, in the local project: at least one-half of the project policy committee must be parents, and the other members, except for the specialist, must be representative of the community and approved by the parent members, section 516(a)(2), pages 17–18. The committee must directly participate in the development and preparation of the project application. Training, administrative, and necessary out-of-pocket expenses for low-income members are required. Members of committees are appointed by the project applicant.

Functions of the project committee include approving goals, policies, actions and procedures for the project applicant, including planning, overall conduct, personnel, budgeting, and locations of centers and facilities.

The project application must also provide for the regular and frequent dissemination of information about the project to parents and interested persons in the functional language. Projects must also employ paraprofessional aides and volunteers, especially parents and others, section 516(a)(10), page 19. Staff must be adequate to meet specialized needs of each child, section 516(a)(12), page 19.

Second, the prime sponsor—charged with overview and conduct of all programs in a community or State—through its child development council; the prime sponsor's plan must provide for direct parent participation in the conduct, overall direction, and evaluation of programs section 515 (a)(11) page 15.

The membership of the Child Development Council must be at least one half parents of children in programs and also must be selected by Headstart and project policy committees. At least one-third of the total membership must be parents who are economically disadvantaged, sections 514 (a) and (b), pages 13–14. The Council's functions are similar to policy committees but it may also conduct public hearings, section 514(b)(3), page 14.

Third. At the National level: Not less than one-half of the membership of the Special Committee on Federal Standards for Child Development Services to develop program standards and of the special committee to develop uniform minimum code for facilities must be parents of children in child development programs, Headstart, and day care under title IV programs. Both committee memberships are to be appointed by the Secretary and report to him, section 534, 535, pages 23–24.

In conclusion, Mr. Speaker, I would like to make clear that if there had been any effort in this legislation to reduce the central role of the family in rearing children, the bill would not have had my support.

The bill specifically provides that nothing in it "shall be construed or applied in such a manner as to infringe upon or usurp the moral and legal rights and responsibilities of parents or guardians with respect to the moral, mental, emotional, or physical development of their children." While there may be disagreement about various aspects of the bill, there is certainly no disagreement about this provision. All programs under this bill will be under the complete direction of the parents.

INADEQUATE ROLE FOR THE STATES

No one who has read the bill thoroughly can make the charge that the States do not have a significant role. The language is specific in requiring State involvement at every stage; creation of prime sponsors, formation of comprehensive child development plans and project operation. Up to 5 percent of operating funds will be available to States to carry out their functions. HEW may use States to provide technical assistance and program coordination. In other words, there is every opportunity for the States to identify problems, to help in solving them, and to point out to HEW that programs are not meeting the requirements of the act or HEW standards. The State which fails to influence programs positively in this situation will do so because of its own ineptitude rather than any deficiency in the law.

STATE PARTICIPATION

The statement of findings and purpose states that it is essential that the planning and operation of child development programs can be a partnership of parents, community, and State, and local government with appropriate assistance from the Federal Government, section 501(a)(6), page 6.

The participation of the States is encouraged by section 517 that provides for special grants to States to carrying out activities such as identifying the State's goals and needs; assisting child development councils, encouraging the participation of related State agencies, and so forth, see pages 19 and 20. Up to 5 percent of the funds allocated for use in a State are reserved for the State upon its application, section 503(c), page 8.

The Governor must have 30 to 60 days to review applications for designation, to offer recommendations to applicant and submit comments to the Secretary, section 513(g), page 12. In addition, no plan or modification of a prime sponsor shall be approved unless the Secretary determines that the Governor of the State has had an opportunity to submit comments to the prime sponsor and the Secretary, section 515(b)(3), page 17.

No locality or State may reduce its expenditure for day care or child development because of assistance under the bill, section 520(e), page 22.

In addition, the State may assume responsibilities of child development programs if the local communities fail to meet the needs of children, section 513 (a), (e), and (f).

Mr. Speaker, at this point I insert the text of the conference reported bill:

CHILD DEVELOPMENT

SEC. 13. (a) Title V of the Economic Opportunity Act of 1964 is amended to read as follows:

"TITLE V—CHILD DEVELOPMENT PROGRAMS

"STATEMENT OF FINDINGS AND PURPOSE

"SEC. 501. (a) The Congress finds that—

"(1) millions of children in the Nation are suffering unnecessary harm from the lack of adequate child development services, particularly during early childhood years;

"(2) comprehensive child development programs, including a full range of health, education, and social services, are essential to the achievement of the full potential of the Nation's children and should be available to children whose parents or legal guardians shall request them regardless of economic, social, and family backgrounds;

"(3) children with special needs must receive full and special consideration in planning any child development programs and, pending the availability of such programs for all children, priority must be given to preschool children with the greatest economic and social need;

"(4) while no mother may be forced to work outside the home as a condition for using child development programs, such programs are essential to allow many parents to undertake or continue full- or part-time employment, training, or education;

"(5) comprehensive child development programs not only provide a means of delivering a full range of essential services to children, but can also furnish meaningful employment opportunities for many individuals, including older persons, parents, young persons, and volunteers from the community; and

"(6) it is essential that the planning and operation of such programs be undertaken as a partnership of parents, community, and State and local government with appropriate assistance from the Federal Government.

"(b) It is the purpose of this title to provide every child with a fair and full opportunity to reach his full potential by establishing and expanding comprehensive child development programs, and services designed to assure the sound and coordinated development of these programs, to recognize and build upon the experience and success gained through the Headstart program and similar efforts, to furnish child development services for those children who need them most, with special emphasis on preschool programs for economically disadvantaged children, and for children of working mothers and single parent families, to provide that decisions on the nature and funding of such programs be made at the community level with the full involvement of parents and other individuals and organizations in the community interested in child development, and to establish the legislative framework for child development services.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 502. (a) For the purpose of carrying out this title, there is authorized to be appropriated $2,000,000,000 for the fiscal year ending June 30, 1973. Any amounts appropriated for such fiscal year which are not obligated at the end of such fiscal year may be obligated in the succeeding fiscal year.

"(b) For the purpose of providing training, technical assistance, planning, and such other activities as the Secretary deems necessary and appropriate to prepare for the implementation of this title, there is authorized to be appropriated $100,000,000 for the fiscal year ending June 30, 1972.

"ALLOCATION OF FUNDS

"SEC. 503. (a) The amounts appropriated for carrying out this title for any fiscal year after June 30, 1972, shall be made available in the following manner:

"(1) $500,000,000 shall first be used for the purpose of providing assistance under parts A, B, and E of this title for child development programs focused upon young children from low-income families, giving priority to continued financial assistance for Headstart projects;

"(2) not to exceed 10 per centum of the remaining amounts so appropriated shall be used for the purpose of carrying out parts B, C, D, and E of this title, as the Secretary deems appropriate; and

"(3) the remainder of such amounts shall be used for the purpose of carrying out part A of this title.

"(b)(1) From the amounts available for carrying out comprehensive child development programs under part A of this title, the Secretary shall reserve the following:

"(A) not less than that proportion of the total amounts available for carrying out such part A as is equivalent to that proportion which the total number of children of migrant agricultural workers bears to the total number of economically disadvantaged children in the United States, which shall be apportioned among programs serving children of migrant agricultural workers on an equitable basis, and to the extent practicable in proportion to the relative numbers of children served in each such program;

"(B) not less than that proportion of the total amount available for carrying out such part A as is equivalent to that proportion which the total number of children in Indian tribal organizations bears to the total number of economically disadvantaged children in the United States, which shall be apportioned among programs serving children in Indian tribal organizations on an equitable basis, and to the extent practicable in proportion to the relative numbers of children in each such program;

"(C) not less than 10 per centum of the total amount available for carrying out this title, which shall be made available for the purposes of section 512(2)(I) of such part (relating to special activities for handicapped children);

"(D) not to exceed 5 per centum of the total amount available for carrying out such part A, which shall be made available under section 513(f)(3) of such part (relating to model programs).

"(2) The Secretary shall allocate the remainder of the amount available for part A of this title (after making the reservations provided for in paragraph (1) of this subsection) among the States so as to provide the following geographical distribution:

"(A) 50 per centum thereof so that the amount allotted for use within each State bears the same ratio to such 50 per centum as the number of economically disadvantaged children through age 14 in the State, excluding those children in the State who are eligible for services funded under clauses (A) and (B) of paragraph (1) of this subsection, bears to the number of economically disadvantaged children in all the States, excluding those children in all the States who are eligible for services funded under clauses (A) and (B) of paragraph (1) of this subsection;

"(B) 25 per centum thereof so that the amount allotted for use within each State bears the same ratio to such 25 per centum as the number of children through age 5 in the State, excluding those children in the State who are eligible for services funded under clauses (A) and (B) of paragraph (1) of this subsection, bears to the number of children through age 5 in all the States, excluding those children in all the States who are eligible for services funded under clauses (A) and (B) of paragraph (1) of this subsection;

"(C) 25 per centum thereof so that the amount allotted for use within each State bears the same ratio to such 25 per centum as the number of children of working mothers and single parents in the State, excluding those children in the State who are eligible for services funded under clauses (A) and (B) of paragraph (1) of this subsection, bears to the total number of children of working mothers and single parents in all the States, excluding those children in all the States who are eligible for services funded under clauses (A) and (B) of paragraph (1) of this subsection.

"(c) Not to exceed 5 per centum of the total funds allotted for use within a State pursuant to subsection (b)(2) may be made available for grants to the State to carry out the provisions of section 517 of this title.

"(d) The Secretary shall apportion the remainder of the amount allotted for use within each State (after making allocations under subsection (c)) among the localities in each such State so as to provide the following geographical distribution:

"(1) 50 per centum thereof so that the amount apportioned to each locality bears the same ratio to such 50 per centum as the number of economically disadvantaged children through age 14 in the area served by the locality bears to the number of economically disadvantaged children in the State;

"(2) 25 per centum thereof so that the amount apportioned to each locality bears the same ratio to such 25 per centum as the number of children through age 5 in the area served by the locality bears to the number of children through age 5 in the State;

"(3) 25 per centum thereof so that the amount apportioned to each locality bears the same ratio to such 25 per centum as the number of children of working mothers and single parents in the area served by the locality bears to the number of children of working mothers and single parents in the State.

"(e) The portion of any allotment or apportionment under subsection (b) or (d) for a fiscal year which the Secretary determines will not be required, for the period for which such allotment or apportionment is available, for carrying out programs under this part shall be available for reallotment or reapportionment from time to time, on such dates during such period as the Secretary shall fix, to other States in the case of allotments under subsection (b), or to other localities in the case of apportionments under subsection (d), in proportion to the original allotments to such States under subsection (b), or the original apportionments to such localities under subsection (d), for such year, but with such proportionate amount for any of such States or localities being reduced to the extent it exceeds the needs of such State or locality for carrying out activities approved under this part, and the total of such reductions shall be similarly reallotted among the States or reapportioned among the localities whose proportionate amounts are not so reduced. Any amount reallotted to a State or reapportioned to a locality under this subsection during a year shall be deemed part of its allotment or apportionment under subsection (b) or (d) for such year.

"(f) In determining the numbers of children for purposes of allotting and apportioning funds under this section, the Secretary shall use the most recent satisfactory data available to him.

"(g) As soon as practicable after funds are appropriated to carry out this title for any fiscal year, the Secretary shall publish in the Federal Register the allotments and apportionments required by this section.

"PART A—COMPREHENSIVE CHILD DEVELOPMENT PROGRAMS

"FINANCIAL ASSISTANCE

"SEC. 511. The Secretary of Health, Education, and Welfare shall provide financial assistance for carrying out child development programs under this part to prime sponsors and to other public and private agencies and organizations to plans and applications approved in accordance with the provisions of this part.

"USES OF FUNDS

"SEC. 512. Funds available for this part may be used (in accordance with approved applications) for the following services and activities:

"(1) planning and developing child development programs, including the operation of pilot programs to test the effectiveness of new concepts, programs, and delivery systems;

"(2) establishing, maintaining, and operating child development programs, which may include—

"(A) comprehensive physical and mental health, social, and cognitive development services necessary for children participating in the program to profit fully from their educational opportunities and to attain their maximum potential;

"(B) food and nutritional services (including family consultation);

"(C) rental, remodeling, renovation, alteration, construction, or acquisition of facilities, including mobile facilities, and the acquisition of necessary equipment and supplies;

"(D) programs designed (i) to meet the special needs of minority group, Indian, and migrant children with particular emphasis on the needs of children from bilingual families for the development of skills in English and the other language spoken in the home, and (ii) to meet the needs of all children to understand the history and cultural backgrounds of minority groups which belong to their communities and the role of members of such minority groups in the history and cultural development of the Nation and of the region in which they reside;

"(E) a program of daily activities designed to develop fully each child's potential;

"(F) other specially designed health, social, and educational programs (including after school, summer, weekend, vacation, and overnight programs);

"(G) medical, dental, psychological, educational, and other appropriate diagnosis, identification, and treatment of visual, hearing, speech, nutritional, and other physical, mental, and emotional barriers to full participation in child development programs, including programs for preschool and other children who are emotionally disturbed;

"(H) prenatal and other medical services to expectant mothers who cannot afford such services, designed to help reduce malnutrition, infant and maternal mortality, and the incidence of mental retardation and other handicapping conditions, and postpartum and other medical services (including family planning information) to such recent mothers;

"(I) incorporation within child development programs of special activities designed to identify and ameliorate identified physical, mental, and emotional handicaps and special learning disabilities and where necessary because of the severity of such handicaps, establishing, maintaining, and operating separate child development programs designed primarily to meet the needs of handicapped children, including emotionally disturbed children;

"(J) preservice and inservice education and other training for professional and paraprofessional personnel;

"(K) dissemination of information in the functional language of those to be served to assure that parents are well informed of child development programs available to them and may become directly involved in such programs;

"(L) services, including in-home services, and training in the fundamentals of child development, for parents, older family members functioning in the capacity of parents, youth, and prospective parents;

"(M) use of child advocates, consistent with the provisions of this title, to assist children and parents in securing full access to other services, programs, or activities intended for the benefit of children;

"(N) programs designed to extend comprehensive prekindergarten early childhood education techniques and gains (particularly parent participation) into kindergarten and early primary grades (one through three), in cooperation with local educational agencies, including the use of former assistant Headstart teachers or similar early childhood education teachers as instructional aides (in addition to those employed by the schools involved) working closely with classroom teachers in the kindergarten and such early primary grades in which are enrolled children they taught in Headstart or other early childhood education programs, providing for full participation of parents of the children involved in program planning, implementation, and decision-making and for career development opportunities and advancement through continuing education and training for the instructional aides involved (including teacher salaries, educational stipends for tuition, books, and tutoring, career counseling, arrangements for academic credit for independent study, fieldwork based on their teaching assignments, and preservice and inservice training) and for the classroom teachers and principals involved; and

"(O) such other services and activities as the Secretary deems appropriate in furtherance of the purposes of this part; and

"(3) staff and other administrative expenses of Child Development Councils established and operated in accordance with this part.

"PRIME SPONSOR OF CHILD DEVELOPMENT PROGRAMS

"SEC. 513. (a) In accordance with the provisions of this section, a State, locality, combination of localities, Indian tribal organization, or public or private nonprofit agency or organization, meeting the requirements of this part may be designated by the Secretary as a prime sponsor for the purpose of entering into arrangements to carry out child development programs under this part, upon the approval by the Secretary of a prime sponsorship plan which—

"(1) describes the prime sponsorship area to be served;

"(2) sets forth satisfactory provisions for establishing and maintaining a Child Development Council which meets the requirements of section 514;

"(3) provides that the Child Development Council shall be responsible for developing and preparing a comprehensive child development plan for each fiscal year and any modifications thereof;

"(4) sets forth arrangements under which the Child Development Council will be responsible for planning, supervising, coordinating, monitoring, and evaluating child development programs in the prime sponsorship area;

"(5) in the case of an applicant which is a State, a locality, or a combination of localities, provides for the operation of programs under this part through contracts with public or private agencies or organizations, including but not limited to community action agencies, single-purpose. Headstart agencies, community development corporations, parent cooperatives, organizations of Indians, employer and employee organizations, and local public and private educational agencies and institutions, which will serve children in a community or neighborhood or other area possesing a commonality of interest; and

"(6) provides assurances that, where available, the Council will provide itself, or by contract or other arrangement with State, local, or other public agencies or private nonprofit organizations—

"(A) child-related family, social, and rehabilitative services;

"(B) coordination with educational agencies and providers of educational services;

"(C) health (including family planning) and mental health services;

"(D) nutrition services; and

"(E) training of professional and paraprofessional personnel.

"(b) The Secretary shall approve a prime sponsorship plan submitted by a locality which has a population of 5,000 or more persons and is a (1) city, (2) county, or (3) other unit of general local government, if he determines that the plan so submitted meets the requirements of subsection (a) of this section and includes adequate provisions for carrying out comprehensive child development programs in the area of such locality. In the event that the area under the jurisdiction of a unit of general local government described in clause (1), (2), or (3) of the preceding sentence includes any common geographical area with that covered by another such unit of general local government, the Secretary shall designate to serve such area the unit of general local government which he determines has the capability of more effectively carrying out the purposes of this part with respect to such area and which has submitted a plan which meets the requirements of this section and includes adequate provisions for carrying out comprehensive child development programs in such area.

"(c)(1) In the event that the Secretary determines that a locality does not meet the requirements for designation as a prime sponsor under this section, he shall take steps to encourage the submission of a prime sponsorship plan, covering the area of such locality, by a combination of localities which are adjoining and possess a sufficient commonality of interest.

"(2) The Secretary shall approve a prime sponsorship plan submitted by a combination of localities, having a total population of 5,000 or more persons, if he determines that the plan so submitted meets the requirements of subsection (a) of this section and includes adequate provisions for carrying out comprehensive child development programs in the area covered by the combination of such localities.

"(d) The Secretary shall approve a prime sponsorship plan submitted by an Indian tribal organization if he determines that the plan so submitted meets the requirements of subsection (a) of this section and includes adequate provisions for carrying out comprehensive child development programs in the area to be served.

"(e) In the event that the Secretary determines, with respect to the area of a particular locality, that a prime sponsorship plan meeting the requirements of this section has not been submitted by a locality or combination of localities covering such area, or by an Indian tribal organization, or in the event that prime sponsorship designation has been disapproved or withdrawn in accordance with subsection (h) of this section, the Secretary may, with respect to the impending fiscal year when no such prime sponsorship designation will be in effect, approve a plan submitted by the State which meets the requirements of subsection (a) of this section and includes adequate provisions for carrying out comprehensive child development programs in such area.

"(f) The Secretary may approve a prime sponsorship plan submitted by a public or private nonprofit agency, including but not limited to a community action agency, single-purpose Headstart agency, community development corporation, parent cooperative, organization of migrant agricultural workers, organization of Indians, employer organization, labor union, employee or labor-management organization, or public or private educational agency or institution, if he determines that the plan so submitted meets the requirements of subsection (a) of this section and includes—

"(1) provisions setting forth arrangements for serving children in a neighborhood or other area possessing a commonality of interest in the area of any locality with respect to which there is no prime sponsorship designation in effect or with respect to any portion of an area where the prime sponsor is found not to be satisfactorily implementing child development programs which adequately met the purposes of this part, or for making available special services, in accordance with criteria established by the Secretary, designed to meet the needs of economically disadvantaged or preschool children or children of working mothers or single parents; or

"(2) arrangements for providing comprehensive child development programs on a year-round basis to children of migrant agricultural workers and their families; or

"(3) arrangements for carrying out model programs especially designed to be responsive to the needs of economically disadvantaged, minority group, or bilingual preschool children.

"(g) The Governor or appropriate State agency shall be given not less than thirty nor more than sixty days to review applications for designation filed by other than the State, offer recommendations to the applicant, and submit comments to the Secretary.

"(h) A prime sponsorship plan submitted under this section may be disapproved or a prior designation of a prime sponsor may be withdrawn only if the Secretary, in accordance with regulations which he shall prescribe, has provided (1) written notice of intention to disapprove such plan, including a statement of the reasons, (2) a reasonable time in which to submit corrective amendments to such plan or undertake other necessary corrective action, and (3) an opportunity for a public hearing upon which basis an appeal to the Secretary may be taken as of right.

"(i)(1) If any party is dissatisfied with the Secretary's final action under subsection (h) with respect to the disapproval of its plan submitted under this section or the withdrawal of its prime sponsorship designation, such party may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such party is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

"(2) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence. The Secretary may make new or modified findings of fact and may modify his previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall be conclusive if supported by substantial evidence.

"(3) The court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(j) When a unit (or combination of units) of general government is maintaining a pattern and practice of exclusion of minorities, the Secretary shall give preference in the approval of applications for prime sponsorship to an alternative unit of government or to a public or private nonprofit agency or organization in the area representing the interests of minority and economically disadvantaged persons.

"(k) In the event that a State, a locality, a combination of localities, or an Indian tribal organization has not submitted a comprehensive child development plan under section 515 or the Secretary has not approved a plan so submitted, or where the Secretary has not designated or has withdrawn designation of prime sponsorship under section 513, or where the needs of migrants, pre-school-age children, or the children of working mothers or single parents, minority groups, or the economically disadvantaged are not being served, the Secretary may directly fund projects, including those in rural areas without regard to population, that he deems necessary in order to serve the children of the particular area.

"CHILD DEVELOPMENT COUNCILS

"SEC. 514. (a) Each prime sponsor designated under section 513 shall establish and maintain a Child Development Council composed of not less than 10 members as follows—

"(1) not less than half of the members of such Council shall be parents of children served in child development programs under this part; and

"(2) the remaining members shall be appointed by the chief executive officer or the governing body, whichever is appropriate, of the prime sponsor to represent the public, but (A) not less than half of such members shall be persons who are broadly representative of the general public, including government agencies, public and private agencies and organizations in such fields as economic opportunity, health, education, welfare, employment and training, business or financial organizations or institutions, labor unions, and employers, and (B) the remaining members, the number of which shall be either equal to or one less than the number of members appointed under clause (A), shall be persons who are particularly skilled by virtue of training or experience in child development, child health, child welfare, or other child services, except that the Secretary may waive the requirement of this clause (B) to the extent that he determines, in accordance with regulations which he shall prescribe, that such persons are not available to the area to be served.

At least one-third of the total membership of the Child Development Council shall be parents who are economically disadvantaged. Each Council shall select its own chairman.

"(b) In accordance with procedures which the Secretary shall establish pursuant to regulations, each prime sponsor designated under section 513 shall provide, with respect to the Child Development Council established and maintained by such prime sponsor, that—

"(1) the parent members described in paragraph (1) of subsection (a) of this section shall be chosen by the membership of Headstart policy committees where they exist, and, at the earliest practicable time, by project policy committees established pursuant to section 516(a)(2) of this part;

"(2) the terms of office and any other policies and procedures of an organizational nature, including nomination and election procedures, are appropriate in accordance with the purposes of this part;

"(3) such Council shall have responsibility for approving basic goals, policies, actions, and procedures for the prime sponsor, including policies with respect to planning, general supervision and oversight, overall coordination, personnel, budgeting, funding of projects, and monitoring and evaluation of projects; and

"(4) such Council shall, upon its own initiative or upon request of a project applicant or any other party in interest, conduct public hearings before acting upon applications for financial assistance submitted by project applicants under this part.

"COMPREHENSIVE CHILD DEVELOPMENT PLANS

"SEC. 515. (a) Financial assistance under this part may be provided by the Secretary for any fiscal year to a prime sponsor designated pursuant to section 513 only pursuant to a comprehensive child development plan which is submitted by such prime sponsor and approved by the Secretary in accordance with the provisions of this part. Any such plan shall set forth a comprehensive program for providing child development services in the prime sponsorship area which—

"(1) identifies all child development needs and goals within the area and describes the purposes for which the financial assistance will be used;

"(2) meets the needs of children in the prime sponsorship area, to the extent that available funds can be reasonably expected to have an effective impact, including infant care and before and after school programs for children in school with priority to children who have not attained six years of age;

"(3)(A) provides that funds received under section 503(a)(1) will be used for child development programs and services focused upon young children from low-income families, giving priority to continued financial assistance for Headstart projects by reserving for such projects from such funds in any fiscal year an amount at least equal to the aggregate amount received by public or private agencies and organizations within the prime sponsorship area for programs during the fiscal year ending June 30, 1972, under section 222(a)(1) of the Economic Opportunity Act of 1964, and (B) provides that programs receiving funds under section 503(d) will give priority to providing services for economically disadvantaged children by reserving not less than 65 per centum of the cost of programs receiving such funds for the purpose of serving children of families having an annual income below the lower living standard budget as determined under paragraph (5) of section 571;

"(4) gives priority thereafter to providing child development programs and services to children of single parents and working mothers not covered under paragraph (3);

"(5) provides procedures for the approval of project applications submitted in accordance with section 516;

"(6) provides, in the case of a prime sponsor located within or adjacent to a metropolitan area, for coordination with other prime sponsors located within such metropolitan area, and arrangements for cooperative funding where appropriate, and particularly for such coordination where appropriate to the needs for child development services of children of parents working or participating in training or otherwise occupied during the day within a prime sponsorship area other than that in which they reside;

"(7) provides that, to the extent feasible, each program within the prime sponsorship area will include children from a range of socioeconomic backgrounds;

"(8) provides comprehensive services (A) to meet the special needs of minority group children and children of migrant agricultural workers with particular emphasis on the needs of children from bilingual families for development of skills in English and in the other language spoken in the home, and (B) to meet the needs of all children to understand the history and cultural background of minority groups which belong to the communities and the role of members of such minority groups in the history and cultural development of the Nation and the region in which they reside;

"(9) provides equitably for the child development needs of children from each minority group or significant segment of the economically disadvantaged residing within the area served;

"(10) provides, insofar as possible, for coordination of child development programs with other social programs (including but not limited to those relating to employment and manpower) so as to keep family units intact or in close proximity during the day;

"(11) provides for direct parent participation in the conduct, overall direction, and evaluation of programs;

"(12) provides to the extent feasible for the employment as both professionals and paraprofessionals of persons resident in the neighborhoods from which children are drawn;

"(13) includes to the extent feasible a career development plan for paraprofessional and professional training, education, and advancement on a career ladder;

"(14) provides that, insofar as possible, persons residing in communities being served by such projects will receive jobs, including in-home and part-time jobs, and opportunities for training in programs under part B of this title, with special consideration for career opportunities for low-income persons;

"(15) provides for the regular and frequent dissemination of information in the functional language of those to be served, to assure that parents and interested persons in the community are fully informed of the activities of the Child Development Council and of delegate agencies;

"(16) assures that procedures and mechanisms for coordination have been developed in cooperation with preschool program administrators and administrators of local educational agencies and nonpublic schools, at the local level, to provide continuity between programs for preschool and elementary school children and to coordinate programs conducted under this part and programs conducted pursuant to section 222(a)(2) of the Economic Opportunity Act of 1964 and the Elementary and Secondary Education Act of 1965;

"(17) establishes arrangements in the area served for the coordination of programs conducted under the auspices of or with the support of business or financial institutions or organizations, industry, labor, employee and labor-management organizations, and other community groups;

"(18) sets forth provisions describing any arrangements for the delegation, under the supervision of the Child Development Council, to public or private agencies, institutions, or organizations, of responsibilities for the delivery of programs, services, and activities for which financial assistance is provided under this part or for planning or evaluation services to be made available with respect to programs under this part;

"(19) contains plans for regularly conducting surveys and analyses of needs for child development programs in the prime sponsorship area and for submitting to the Secretary a comprehensive annual report and evaluation in such form and containing such information as the Secretary shall require by regulation;

"(20) provides that services for handicapped children, at both the State and local levels, will be used wherever available in programs approved under the plan;

"(20) provides assurances satisfactory to the Secretary that the non-Federal share requirements will be met;

"(22) provides for such fiscal control and funding accounting procedures as the Secretary may prescribe to assure proper disbursement of and accounting for Federal funds paid to the prime sponsor;

"(23) provides that consideration will be given to project applications submitted by public, private nonprofit, and profitmaking organizations with emphasis given to on-going programs, and that comparative costs of providing services shall be considered along with the quality of such services;

"(24) provides that programs or services under this title shall be provided only for children whose parents or legal guardians have requested them; and

"(25) provides assurance that in developing plans for any facilities due consideration will be given to excellence of architecture and design, and to the inclusion of works of art (not representing more than one per centum of the cost of the project).

"(b) No comprehensive child development plan or modification thereof submitted by a prime sponsor under this section shall be approved by the Secretary unless he determines, in accordance with regulations which the Secretary shall prescribe, that—

"(1) each community action agency or single-purpose Headstart agency in the area to be served previously responsible for the administration of programs under this part or under section 222(a)(1) of the Economic Opportunity Act of 1964 has had an opportunity to submit comments to the prime sponsor and to the Secretary;

"(2) the local educational agency for the area to be served and other appropriate educational and training agencies and institutions have had an opportunity to submit comments to the prime sponsor and to the Secretary; and

"(3) the Governor of the State has had an opportunity to submit comments to the prime sponsor and to the Secretary.

"(c) A comprehensive child development plan submitted under this section may be disapproved or a prior approval withdrawn only if the Secretary, in accordance with regulations which he shall prescribe, has provided (1) written notice of intention to disapprove such plan, including a statement of the reasons, (2) a reasonable time to submit corrective amendments to such plan or undertake other necessary corrective action, and (3) an opportunity for a public hearing upon which basis an appeal to the Secretary may be taken as of right.

"(d) In order to contribute to the effective administration of this title, the Secretary shall establish appropriate procedures to permit prime sponsors to submit jointly a single comprehensive child development plan for the areas served by such prime sponsors.

"PROJECT APPLICATIONS

"SEC. 516. (a) Financial assistance under this part may be provided to a project applicant for any fiscal year only pursuant to a project application which is submitted by a public or private agency and which provides—

"(1) that funds will be provided for carrying out any child development program under this part only to a qualified public or private agency or organization, including but not limited to a community action agency, single-purpose Headstart agency, community development corporation, parent cooperative, organization of migrant agricultural workers, organization of Indians, private organization interested in child development, employer or business organization, labor union, employee or labor-management organization, or public or private educational agency or institution;

"(2) for establishing and maintaining project policy committees composed of not less than 10 members as follows—

"(A) not less than half of the members of each such committee shall be parents of children served by such project, and

"(B) the remaining members of each such committee shall consist of (i) persons who are representative of the community and who are approved by the parent members, and (ii) at least one person who is particularly skilled by virtue of training or experience in child development, child health, child welfare, or other child services, except that the Secretary may waive the requirement of this clause (ii) where he determines, in accordance with regulations which he shall prescribe, that such person is not available to the area to be served;

"(3) for direct participation of such policy committees in the development and preparation of project applications under this part;

"(4) that adequate provision will be made for training and other administrative expenses of such policy committees (including necessary expenses to enable low-income members to participate in council or committee meetings);

"(5) that project policy committees shall have responsibility for approving basic goals, policies, actions, and procedures for the project applicant, including policies with respect to planning, overall conduct, personnel, budgeting, location of centers and facilities and direction and evaluation of projects;

"(6) that programs assisted under this part will provide for such comprehensive health, nutritional, education, social, and other services, as are necessary for the full cognitive, emotional, and physical development of each participating child;

"(7) that adequate provision will be made for the regular and frequent dissemination of information in the functional language of those to be served, to assure that parents and interested persons are fully informed of project activities;

"(8) that with respect to child development services provided by programs assisted under this part—

"(A) no charge will be made with respect to any child who is a member of any family with an annual income equal to or less than $4,320 with appropriate adjustments in the case of families having more than two children, except to the extent that payment will be made by a third party (including a public agency); and

"(B) such charges as the Secretary may provide will be made with respect to any child of any other family, in accordance with an appropriate fee schedule established by him, based upon the ability of the family to pay, which payment may be made in whole or in part by a third party in behalf of such family, except that any such charges with respect to any family with an income of less than the lower living standard budget (as determined in accordance with paragraph (5) of section 571) shall not exceed the sum of (i) an amount equal to 10 per centum of any family income which exceeds the highest income level at which no charges would be made with respect to children of such family under subparagraph (A) but does not exceed 85 per centum of such lower living standard budget, and (ii) an amount equal to 15 per centum of any family income which exceeds 85 per centum of such lower living standard budget but does not exceed 100 per centum of such lower living standard budget, and, if more than two children from the same family are participating, additional charges may be made not to exceed the sum of the amounts calculated in accordance with clauses (i) and (ii) with respect to each such additional child;

"(9) that children will in no case be excluded from the programs operated pursuant to this part because of their participation in nonpublic preschool or school programs or because of the intention of their parents to enroll them in nonpublic schools when they attain school age;

"(10) that programs will, to the extent appropriate, employ paraprofessional aides and volunteers, especially parents, older children, students, older persons, and persons preparing for careers in child development programs;

"(11) that no person will be denied employment in any program solely on the ground that he fails to meet State or local teacher certification standards;

"(12) that programs assisted under this part will provide for the utilization of personnel, including paraprofessional and volunteer personnel, adequate to meet the specialized needs of each participating child;

"(13) that there are assurances satisfactory to the Secretary that the non-Federal share requirements will be met; and

"(14) that provision will be made for such fiscal control and fund accounting procedures as the Secretary shall prescribe to assure proper disbursement of and accounting for Federal funds.

"(b) A project application may be approved by a prime sponsor upon its determination that such application meets the requirements of this section and that the programs provided for therein will otherwise further the objectives and satisfy the appropriate provisions of the prime sponsor's comprehensive child development plan as approved pursuant to section 515.

"(c) A project application from a public or private nonprofit agency which is also a prime sponsor under section 513(f) shall be submitted directly to the Secretary, together with the comprehensive child development plan.

"(d) A project application submitted directly to the Secretary by a public or private agency may be approved by the Secretary upon his determination that it meets the requirements of subsection (a) of this section.

"SPECIAL GRANTS TO STATES

"SEC. 517. Upon application submitted by any State, the Secretary is authorized to provide financial assistance for use by such State for carrying out activities for the purposes of—

"(1) identifying child development goals and needs within the State;

"(2) assisting in the establishment of Child Development Councils and strengthening the capability of such Councils to effectively plan, supervise, coordinate, monitor, and evaluate child development programs;

"(3) encouraging the cooperation and participation of State agencies in providing child development and related services, including health, family planning, mental health, education, nutrition, and family, social and rehabilitative services where requested by appropriate prime sponsors in the development and implementation of comprehensive child development plans;

"(4) encouraging the full utilization of resources and facilities for child development programs within the State;

"(5) disseminating the results of research on child development programs;

"(6) conducting programs for the exchange of personnel involved in child development programs within the State;

"(7) assisting public and private nonprofit agencies and organizations in the acquisition or improvement of facilities for child development programs;

"(8) assessing State and local licensing codes as they relate to child development programs within the State; and

"(9) developing information useful in reviewing prime sponsorship plans under section 513(g) and comprehensive child development plans under section 515(b)(3).

"ADDITIONAL CONDITIONS FOR PROGRAMS INCLUDING CONSTRUCTION

"SEC. 518. (a) Applications for financial assistance for projects including construction may be approved only if the Secretary determines that construction of such facilities is essential to the provision of adequate child development services, and that rental, renovation, remodeling, or leasing of adequate facilities is not practicable.

"(b) If any facility assisted under this part shall cease to be used for the purposes for which it was constructed, the United States shall be entitled to recover from the applicant or other owner of the facility an amount which bears to the then value of the facility (or so much thereof as constituted an approved project) the same ratio as the amount of such Federal funds bore to the cost of the facility financed with the aid of such funds, unless the Secretary determines in accordance with regulations that there is good cause for releasing the applicant or other owner from the obligation to do so. Such value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which the facility is situated.

"(c) All laborers and mechanics employed by contractors or subcontractors on all construction, remodeling, renovation, or alteration projects assisted under this part shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U S.C. 276a—276a-5). The Secretary of Labor shall have with respect to the labor standards specified in this section the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

"(d) In the case of loans for construction, the Secretary shall prescribe the interest rate and the period within which such loan shall be repaid, but such interest rates shall not be less than 3 per centum per annum and the period within which such loan is to be repaid shall not be more than twenty-five years.

"(e) The Federal assistance for construction may be in the form of grants or loans, provided that total Federal funds to be paid to other than public or private nonprofit agencies and organizations will not exceed 50 per centum of the construction cost, and will be in the form of loans. Repayment of loans shall, to the extent required by the Secretary, be returned to the prime sponsor from whose financial assistance the loan was made, or used for additional loans or grants under this title. Not more than 15 per centum of the total financial assistance provided to a prime sponsor under this part shall be used for construction of facilities, with no more than 7½ per centum of such assistance usable for grants for construction.

"(f) In the case of a project for the construction of facilities and in the development of plans for such facilities due consideration shall be given to excellence of architecture and design and to the inclusion of works of art (not representing more than 1 per centum of the cost of the project).

"USE OF PUBLIC FACILITIES FOR CHILD DEVELOPMENT PROGRAMS

"SEC. 519. (a) The Secretary, after consultation with other appropriate officials of the Federal Government, shall within sixteen months after enactment of this title report to the Congress with respect to the extent to which facilities owned or leased by Federal departments, agencies, and independent authorities could be made available to public and private nonprofit agencies and organizations, through appropriate arrangements, for use as facilities for child development programs under this title during times and periods when not utilized fully for their usual purposes, together with his recommendations (including recommendations for changes in legislation) or proposed actions for such use.

"(b) The Secretary may require, as a condition to the receipt of assistance under this part, that any prime sponsor under this part agree to conduct a review and provide the Secretary with a report as to the extent to which facilities owned or leased by such prime sponsor, or by other agencies in the prime sponsorship area, could be made available, through appropriate arrangements, for use as facilities for child development programs under this title during times and periods when not utilized fully for their usual purposes, together with the prime sponsor's proposed actions for such use.

"PAYMENTS

"SEC. 520. (a) In accordance with this section, the Secretary shall pay from the applicable allocation or apportionment under section 503 the Federal share of the costs of programs, services, and activities, in accordance with plans or applications which have been approved as provided in this part. In making such payment to any prime sponsor, the Secretary shall include in such costs an amount for staff and other administrative expenses for the Child Development Council not to exceed an amount which is reasonable when compared with such costs for other prime sponsors.

"(b)(1) Except as provided in paragraphs (2) and (3) of this subsection, the Secretary shall pay an amount not in excess of 80 per centum of the cost of carrying out programs, services, and activities under this part. The Secretary may, in accordance with such regulations as he shall prescribe, approve assistance in excess of such percentage if he determines that such action is required to provide adequately for the child development needs of economically disadvantaged children.

"(2) The Secretary shall pay an amount equal to 100 per centum of the costs of providing child development programs for children of migrant agricultural workers and their families under this part.

"(3) The Secretary shall pay to each prime sponsor approved under section 513(d) an amount equal to 100 per centum of the costs of providing child development programs for children in Indian tribal organizations.

"(c) The non-Federal share of the costs of programs assisted under this part may be provided through public or private funds and may be in the form of cash, goods, services, or facilities (or portions thereof that are used for program purposes), reasonably evaluated, or union or employer contributions. Fees collected for services provided pursuant to section 516(a)(8) shall not be used to make up the non-Federal share, but shall be used by the project applicant for the same purposes as payments under this section, except that, in the case of projects assisted under a comprehensive child development plan, such fees shall be turned over to the appropriate prime sponsor for distribution in the same manner as the prime sponsor's allocation under section 515(a)(3).

"(d) If, with respect to any fiscal year, a prime sponsor or project applicant provides non-Federal contributons for any program, service, or activity exceeding its requirements, such excess may be applied toward meeting the requirements for such contributions for the subsequent fiscal year under this part.

"(e) No State or locality shall reduce its expenditures for child development or day-care programs by reason of assistance under this part.

"PART B—TRAINING, TECHNICAL ASSISTANCE, PLANNING, AND EVALUATION

"PRESERVICE AND INSERVICE TRAINING

"SEC. 531. The Secretary is authorized to make payments to provide financial assistance to enable individuals employed or preparing for employment in child development programs assisted under this title, including volunteers, to participate in programs of preservice or inservice training for professional and nonprofessional personnel, to be conducted by any agency carrying out a child development program, or any institution of higher education, including a community college, or by any combination thereof.

"TECHNICAL ASSISTANCE AND PLANNING

"SEC. 532. The Secretary shall, directly or through grant or contract, make technical assistance available to prime sponsors and to project applicants participating or seeking to participate in programs assisted under this title on a continuing basis to assist them in planning, developing, and carrying out child development programs.

"EVALUATION

"SEC. 533. (a) The Secretary shall, through the Office of Child Development unless the Secretary determines otherwise, make an evaluation of Federal involvement in child development activities and services, which shall include—

"(1) enumeration and description of all Federal activities which affect child development;

"(2) analysis of expenditures of Federal funds for such activities and services;

"(3) determination of the effectiveness of such activities and services;

"(4) the extent to which preschool, minority group, and economically disadvantaged children and their parents have participated in programs under this title; and

"(5) such recommendations to the Congress as the Secretary may deem appropriate.

"(b) The results of the evaluation required by subsection (a) of this section shall be reported to the Congress not later than eighteen months after the date of enactment of this title.

"(c) The Secretary shall establish such procedures as may be necessary to conduct an annual evaluation of Federal involvement in child development programs, and shall report the results of each such evaluation to Congress.

"(d) Prime sponsors and project applicants assisted under this title and departments and agencies of the Federal Government shall, upon request by the Secretary, make available, consistent with other provisions of law, such information as the Secretary determines is necessary for purposes of making the evaluation required under subsection (c) of this section.

"(e) The Secretary may enter into contracts with public or private agencies, organizations, or individuals to carry out the provisions of this section.

"(f) The Secretary shall reserve for the purposes of this section not less than 1 per centum, and may reserve for such purposes not more than 2 per centum, of the amounts available under paragraphs (2) and (3) of section 503(a) of this title for any fiscal year.

"FEDERAL STANDARDS FOR CHILD DEVELOPMENT SERVICES

"SEC. 534. (a) Within six months after the enactment of the Economic Opportunity Amendments of 1971, the Secretary shall, after consultation with other Federal agencies and with the Committee established pursuant to subsection (c) of this section, promulgate a common set of program standards which shall be applicable to all programs providing child development services with Federal assistance under this title, to be known as the Federal Standards for Child Development Services. If the Secretary disapproves the Committee's recommendations, he shall state the reasons therefor.

"(b) Such standards shall be no less comprehensive than the Federal Interagency Day Care Requirements as approved by the Department of Health, Education, and Welfare, the Office of Economic Opportunity, and the Department of Labor on September 23, 1968.

"(c) The Secretary shall, within sixty days after enactment of this title, appoint a Special Committee on Federal Standards for Child Development Services, which shall include parents of children enrolled in child development programs, representatives of public and private agencies and organizations administering child development programs, specialists, and others interested in the development of children. Not less than one-half of the membership of the Committee shall consist of parents of children participating in programs conducted under part A of this title and section 222(a)(1) of this Act and title IV of the Social Security Act. Such Committee shall participate in the development of Federal Standards for Child Development Services and modifications thereof as provided in subsection (a).

"DEVELOPMENT OF UNIFORM MINIMUM CODE FOR FACILITIES

"SEC. 535. (a) The Secretary shall, within sixty days after enactment of the Economic Opportunity Amendments of 1971, appoint a special committee to develop a uniform minimum code for facilities, to be used in licensing child development facilities. Such standards shall deal principally with those matters essential to the health, safety, and physical comfort of the children and the relationship of such matters to the Federal Standards for Child Development Services under section 534.

"(b) The special committee appointed under this section shall include parents of children participating in child development programs and representatives of State and local licensing agencies, public health officials, fire prevention officials, the construction industry and unions, public and private agencies or organizations administering child development programs, and national agencies or organizations interested in the development of children. Not less than one-half of the membership of the committee shall consist of parents of children enrolled in programs conducted under part A of this title and section 222(a)(1) of this Act and title IV of the Social Security Act.

"(c) Within one year after its appointment, the special committee shall complete a proposed uniform minimum code for facilities and shall hold public hearings on the proposed code prior to submitting its final recommendation to the Secretary for his approval.

"(d) After considering the recommendations submitted by the special committee in accordance with subsection (c), the Secretary shall promulgate standards which shall be applicable to all facilities receiving Federal financial assistance under this title or in which programs receiving Federal financial assistance under this title are operated. If the Secretary disapproves the committee's recommendations, he shall state the reasons therefor. The Secretary shall also distribute such standards and urge their adoption by States and local governments. The Secretary may from time to time modify the uniform code for facilities in accordance with procedures set forth in this section.

"PART C—FACILITIES FOR CHILD DEVELOPMENT PROGRAMS

"MORTGAGE INSURANCE FOR CHILD DEVELOPMENT FACILITIES

"SEC. 541. (a) It is the purpose of this part to assist and encourage the provision of urgently needed facilities for child care and child development programs.

"(b) For the purpose of this part—

"(1) The term 'child development facility' means a facility of a public or private profit or nonprofit agency or organization, licensed or regulated by the State (or, if there is no State law providing for such licensing and regulation by the State, by the municipality or other political subdivision in which the facility is located), for the provision of child development programs.

"(2) The terms 'mortgage', 'mortgagor', 'mortgagee', 'maturity date', and 'State' shall have the meanings respectively set forth in section 207 of the National Housing Act.

"(c) The Secretary of Health, Education, and Welfare is authorized to insure any mortgage (including advances on such mortgage during construction) in accordance with the provisions of this section upon such terms and conditions as he may prescribe and make commitments for insurance of such mortgage prior to the date of its execution or disbursement thereon.

"(d) In order to carry out the purpose of this section, the Secretary of Health, Education, and Welfare is authorized to insure any mortgage which covers a new child development facility, including equipment to be used in its operation, subject to the following conditions:

"(1) The mortgage shall be executed by a mortgagor, approved by the Secretary of Health, Education, and Welfare, who demonstrate ability successfully to operate one or more child care or child development programs. The Secretary of Health, Education, and Welfare may in his discretion require any such mortgagor to be regulated or restricted as to minimum charges and methods of financing, and in addition thereto, if the mortgagor is a corporate entity, as to capital structure and rate of return. As an aid to the regulation or restriction of any mortgagor with respect to any of the foregoing matters, the Secretary of Health, Education, and Welfare may make such contracts with and acquire for not to exceed $100 such stock or interest in such mortgagor as he may deem necessary. Any stock or interest so purchased shall be paid for out of the Child Development Facility Insurance Fund, and shall be redeemed by the mortgagor at par upon the termination of all obligations of the Secretary of Health, Education, and Welfare under the insurance.

"(2) The mortage shall involve a principal obligation in an amount not to exceed $250,000 and not to exceed 90 per centum of the estimated replacement cost of the property or project, including equipment to be used in the operation of the child development facility, when the proposed improvements are completed and the equipment is installed.

"(3) The mortgage shall—

"(A) provide for complete amortization by periodic payments within such term as the Secretary of Health, Education, and Welfare shall prescribe, and

"(B) bear interest (exclusive of premium charges for insurance and service charges, if any) at not to exceed such per centum per annum on the principal obligation outstanding at any time as the Secretary of Health, Education and Welfare finds necessary to meet the mortgage market.

"(4) The Secretary of Health, Education, and Welfare shall not insure any mortgage under this section unless he has determined that the child development facility to be covered by the mortgage will be in compliance with the Uniform Minimum Code for Facilities approved by the Secretary pursuant to section 535.

"(5) The Secretary of Health, Education, and Welfare shall not insure any mortgage under this section unless he has also received from the prime sponsor designated under part A of this title a certificate that the facility is consistent with and will not hinder the execution of the prime sponsor's plan.

"(6) In the plans for such child development facility, due consideration shall be given to excellence of architecture and design, and to the inclusion of works of art (not representing more than 1 per centum of the cost of the project).

"(e) The Secretary of Health, Education, and Welfare shall fix and collect premium charges for the insurance of mortgages under this section which shall be payable annually in advance by the mortgagee, either in cash or in debentures of the Child Development Facility Insurance Fund (established by subsection (h)) issued at par plus accrued interest. In the case of any mortgage such charge shall be not less than an amount equivalent to one-fourth of 1 per centum per annum nor more than an amount equivalent to 1 per centum per annum of the amount of the principal obligation of the mortgage outstanding at any one time, without taking into account delinquent payments or prepayments. In addition to the premium charge herein provided for, the Secretary of Health, Education, and Welfare is authorized to charge and collect such amounts as he may deem reasonable for the appraisal of a property or project during construction; but such charges for appraisal and inspection shall not aggregate more than 1 per centum of the original principal face amount of the mortgage.

"(f) The Secretary of Health, Education, and Welfare may consent to the release of a part or parts of the mortgaged property or project from the lien of any mortgage insured under this section upon such terms and conditions as he may prescribe.

"(g)(1) The Secretary of Health, Education, and Welfare shall have the same functions, powers, and duties (insofar as applicable) with respect to the insurance of mortgages under this section as the Secretary of Housing and Urban Development has with respect to the insurance of mortgages under title II of the National Housing Act.

"(2) The provisions of subsections (e), (g), (h), (i), (j), (k), (l), and (n) of section 207 of the National Housing Act shall apply to mortgages insured under this section; except that, for the purposes of their application with respect to such mortgages, all references in such provisions to the General Insurance Fund shall be deemed to refer to the Child Development Facility Insurance Fund, and all references in such provisions to 'Secretary' shall be deemed to refer to the Secretary of Health, Education, and Welfare.

"(h)(1) There is hereby created a Child Development Facility Insurance Fund which shall be used by the Secretary of Health, Education, and Welfare as a revolving fund for carrying out all the insurance provisions of this section. All mortgages insured under this section shall be insured under and be the obligation of the Child Development Facility Insurance Fund.

"(2) The general expenses of the operations of the Department of Health, Education, and Welfare relating to mortgages insured under this section may be charged to the Child Development Facility Insurance Fund.

"(3) Moneys in the Child Development Facility Insurance Fund not needed for the current operations of the Department of Health, Education, and Welfare with respect to mortgages insured under this section shall be deposited with the Treasurer of the United States to the credit of such fund, or invested in bonds or other obligations of, or in bonds or other obligations guaranteed as to principal and interest by, the United States. The Secretary of Health, Education, and Welfare may, with the approval of the Secretary of the Treasury, purchase in the open market debentures issued as obligations of the Child Development Facility Insurance Fund. Such purchase shall be made at a price which will provide an investment yield of not less than the yield obtainable from other investments authorized by this section. Debentures so purchased shall be canceled and not reissued.

"(4) Premium charges, adjusted premium charges, and appraisal and other fees received on account of the insurance of any mortgage under this section, the receipts derived from property covered by such mortgages and from any claims, debts, contracts, property, and security assigned to the Secretary of Health, Education, and Welfare in connection therewith, and all earnings as the assets of the fund, shall be credited to the Child Development Facility Insurance Fund. The principal of, and interest paid and to be paid on, debentures which are the obligation of such fund, cash insurance payments and adjustments, and expenses incurred in the handling, management, renovation, and disposal of properties acquired, in connection with mortgages insured under this section, shall be charged to such fund.

"(5) There are authorized to be appropriated to provide initial capital for the Child Development Facility Insurance Fund, and to assure the soundness of such fund thereafter, such sums as may be necessary.

"PART D—FEDERAL GOVERNMENT CHILD DEVELOPMENT PROGRAMS

"PROGRAM AUTHORIZED

"SEC. 546. (a) The Secretary is authorized to make grants for the purpose of establishing and operating child development programs (including the lease, rental, or construction of necessary facilities and the acquisition of necessary equipment and supplies) for the children of employees of the Federal Government.

"(b) Employees of any Federal agency or group of such agencies employing eighty or more working parents of young children who desire to participate in the grant program under this part shall—

"(1) designate or create for the purpose an agency commission, the membership of which shall be broadly representative of the working parents employed by the agency or agencies; and

"(2) submit to the Secretary a plan approved by the official in charge of such agency or agencies, which—

"(A) provides that the child development program shall be administered under the direction of the agency commission;

"(B) provides that the program will meet the Federal interagency standards for child development;

"(C) provides a means of determining priority of eligibility among parents wishing to use the services of the program;

"(D) provides for a scale of fees based upon the parents' financial status; and

"(E) provides for competent management, staffing, and facilities for such program.

"(c) The Secretary shall not make payments under this section unless he has received approval of the plan from the official in charge of the agency whose employees will be served by the child development program.

"PAYMENTS

"SEC. 547. (a) Not more than 80 per centum of the total cost of child development programs under this part shall be paid from Federal funds available under this title.

"(b) The share of the total cost not available under paragraph (a) may be provided through public or private funds and may be in the form of cash, goods, services, or facilities (or portions thereof that are used for program purposes), reasonably evaluated, fees collected from parents, or union or employer contributions.

"(c) If, in any fiscal year, a program under this part provides non-Federal contributions exceeding its requirements under this section, such excess may be used to meet the requirements for such contributions for the succeeding fiscal year.

"(d) In making grants under this part, the Secretary shall, insofar as is feasible, distribute funds among the States according to the same ratio as the number of Federal employees in that State bears to the total number of Federal employees in the United States.

"PART E—RESEARCH AND DEMONSTRATION

"DECLARATION OF PURPOSES

"SEC. 551. The purposes of this part are to focus national research efforts to attain a fuller understanding of the processes of child development and the effects of organized programs upon these processes; to develop effective programs for research into child development; and to assure that the result of research and development efforts are reflected in the conduct of programs affecting children through the improvement and expansion of child development and related programs.

"RESEARCH AND DEMONSTRATION PROJECTS

"SEC. 552. (a) In order to further the purposes of this part, the Secretary shall carry out a program of research and demonstration projects, which shall include but not be limited to—

"(1) research to determine the nature of child development processes and the impact of various influences upon them, to develop techniques to measure and evaluate child development, to develop standards to evaluate professional and paraprofessional child development personnel, and to determine how child development and related programs conducted in either home or institutional settings affect child development processes;

"(2) research to test alternative methods of providing child development and related services, and to develop and test innovative approaches to achieve maximum development of children and programs for training adolescent youth in child development;

"(3) evaluation of research findings and the development of these findings and the effective application thereof;

"(4) dissemination and application of research and development efforts and demonstration projects to child development and related programs and early childhood education, using regional demonstration centers and advisory services where feasible;

"(5) production of informational systems and other resources necessary to support the activities authorized by this part; and

"(6) integration of national child development research efforts into a focused national research program, including the coordination of research and development conducted by other agencies, organizations, and individuals.

"(b) In order to carry out the program provided for in subsection (a), the Secretary is authorized to make grants to or enter into contracts or other arrangements with public or private nonprofit agencies (including other Government agencies), organizations, and institutions, and to enter into contracts with private agencies, organizations, institutions, and individuals.

"COORDINATION OF RESEARCH

"SEC. 553. (a) Funds available to any Federal department or agency for the purposes stated in section 551 or the activities stated in section 552(a) shall be available for transfer, with the approval of the head of the department or agency involved, in whole or in part, to the Secretary for such use as is consistent with the purposes for which such funds were provided, and the funds so transferred shall be expendable by the Secretary for the purposes for which the transfer was made.

"(b) The Secretary shall coordinate, through the Office of Child Development, established under section 572 of this title, all child development research, training, and development efforts conducted within the Department of Health, Education, and Welfare and, to the extent feasible, by other agencies, organizations, and individuals.

"(c) A Child Development Research Council, consisting of a representative of the Office of Child Development established under section 572 of this title (who shall serve as chairman), and representatives from the Federal agencies administering the Social Security Act and the Elementary and Secondary Education Act of 1965 and from the National Institute of Mental Health, the National Institute of Child Health and Human Development, the Office of Economic Opportunity, the Department of Labor, and other appropriate agencies, shall meet at least annually and at such more frequent times as they may deem necessary, in order to assure coordination of child development and related activities under their respective jurisdictions and to carry out the provisions of this part so as to assure—

"(1) maximum utilization of available resources through the prevention of duplication of activities;

"(2) a division of labor, insofar as is compatible with the purposes of each of the agencies or authorities specified in this paragraph, to assure maximum progress toward the achievement of the purposes of this part; and

"(3) recommendation of priorities for federally funded research and development activities related to the purposes of this part and those stated in section 501.

"ANNUAL REPORT

"SEC. 554. The Secretary shall make an annual report to Congress summarizing his activities and accomplishments during the preceding year under this part; the grants, contracts, or other arrangements entered into during the preceding year under this part, and making such recommendations as he may deem appropriate.

"PART F—GENERAL PROVISIONS

"DEFINITIONS

"SEC. 571. As used in this title, the term—

"(1) 'Secretary' means the Secretary of Health, Education, and Welfare;

"(2) 'State' means the several States and the District of Columbia, Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands;

"(3) 'child development programs' means programs provided on a full-day or part-day basis which provide the educational, nutritional, social, medical, psychological, and physical services needed for children to attain their full potential;

"(4) 'children' means individuals who have not attained the age of fifteen;

"(5) 'economically disadvantaged children' means any children of a family having an annual income below the lower living standard budget (adjusted for regional and metropolitan, urban, and rural differences, and family size), as determined annually by the Bureau of Labor Statistics of the Department of Labor;

"(6) 'handicapped children' includes mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled, or other health impaired children or children with specific learning disabilities who by reason thereof require special education and related services;

"(7) 'program' includes any program, service, or activity, which is conducted full or part time, day or night, in child development facilities, in schools, in neighborhood centers, or in homes, or which provides child development services for children whose parents are working or receiving education or training;

"(8) 'locality' means any city or other municipality or any county or other political subdivision of a State having general governmental powers, or any combination thereof;

"(9) 'parent' means any person who has day-to-day parental responsibility for any child;

"(10) 'single parent' means any person who has sole day-to-day responsibility for any child;

"(11) 'working mother' means any mother who requires child development services under this title in order to undertake or continue full- or part-time work, training, or education outside her home;

"(12) 'minority group' includes, but is not limited to, persons who are Negro, American Indian, Spanish-surnamed American, Portuguese, or Oriental, and, as determined by the Secretary, children who are from environments in which a dominant language is other than English and who, as a result of language barriers, do not have an equal educational opportunity, and, for the purpose of this paragraph, Spanish-surnamed Americans include persons of Mexican, Puerto Rican, Cuban, or Spanish origin or ancestry;

"(13) 'bilingual' includes, but is not limited to, persons who are Spanish surnamed, American Indian, Oriental, Portuguese, or others who have learned during childhood to speak the language of the minority group of which they are members and who, as a result of language barriers, do not have an equal educational opportunity;

"(14) 'local educational agency' means any such agency as defined in section 801(f) of the Elementary and Secondary Education Act of 1965;

"(15) 'institution of higher education' means any such institution as defined in section 1201(a) of the Higher Education Act of 1965.

"OFFICE OF CHILD DEVELOPMENT

"SEC. 572. The Secretary shall take all necessary action to coordinate child development programs under his jurisdiction. To this end, he shall establish within the Department of Health, Education, and Welfare an Office of Child Development, administered by a Director, which shall be the principal agency of the Department for the administration of this title and for the coordination of programs and other activities relating to child development.

"NUTRITION SERVICES

"SEC. 573. In accordance with the purposes of this title, the Secretary of Health, Education, and Welfare shall establish procedures to assure that adequate nutrition services will be provided in child development programs under this title. Such services shall make use of the special food service program for children as defined under section 13 of the National School Lunch Act of 1946 and the Child Nutrition Act of 1966, to the fullest extent appropriate and consistent with the provisions of such Acts.

"SPECIAL PROVISIONS

"SEC. 574. (a) The Secretary may make such grants, contracts, or agreements, establish such procedures, policies, rules, and regulations, and make such payments, in installments and in advance or by way of reimbursement, or otherwise allocate or expend funds made available under this title, as he may deem necessary to carry out the provisions of this title, including necessary adjustments in payments on account of overpayments or underpayments. Subject to the provisions of section 575, the Secretary may also withhold funds otherwise payable under this title in order to recover any amounts expended in the current or immediately prior fiscal year in violation of any provision of this title or any term or condition of assistance under this title.

"(b) The Secretary shall prescribe regulations to assure that programs under this title have adequate internal administrative controls, accounting requirements, personnel standards, evaluation procedures, and other policies as may be necessary to promote the effective use of funds.

"(c) The Secretary shall not provide financial assistance for any program, service, or activity under this title unless he determines that persons employed thereunder, other than persons who serve without compensation, shall be paid wages which shall not be lower than whichever is the highest of (A) the minimum wage which would be applicable to the employee under the Fair Labor Standards Act of 1938 (29 U.S.C. 206), if section 6(a)(1) of such Act applied to the participant and if he were not exempt under section 13 thereof, (B) the State or local minimum wage for the most nearly comparable covered employment, or (C) the prevailing rates of pay for persons employed in similar occupations by the same employer.

"(d) The Secretary shall not provide financial assistance for any program under this title which involves political activities; and neither the program, the funds provided therefor, nor personnel employed in the administration thereof, shall be engaged, in any way or to any extent, in the conduct of political activities in contravention of section 603 of this Act.

"(e) The Secretary shall not provide financial assistance for any program under this title unless he determines that no funds will be used for and no person will be employed under the program on the construction, operation, or maintenance of so much of any facility as is for use for sectarian instruction or as a place for religious worship.

"(f) A child participating in a program assisted under this title shall not be required to undergo medical or psychological examination (except to the extent related to learning ability), immunization (except to the extent necessary to protect the public from epidemics of contagious diseases), or treatment, if his parent or guardian objects thereto in writing on religious grounds.

"WITHHOLDING OF GRANTS

"SEC. 575. Whenever the Secretary, after reasonable notice and opportunity for a hearing for any prime sponsor or project applicant, finds—

"(1) that there has been a failure to comply substantially with any requirement set forth in the plan of any such prime sponsor approved under section 515; or

"(2) that there has been a failure to comply substantially with any requirement set forth in the application of any such project applicant approved pursuant to section 516; or

"(3) that in the operation of any program or project carried out by any such prime sponsor or project applicant under this title there is a failure to comply substantially with any applicable provision of this title or regulation promulgated thereunder;

the Secretary shall notify such prime sponsor or project applicant of his findings and that no further payments may be made to such sponsor or applicant under this title (or in his discretion that any such prime sponsor shall not make further payments under this title to specified project applicants affected by the failure) until he is satisfied that there is no longer any such failure to comply, or the noncompliance will be promptly corrected. The Secretary may authorize the continuation of payments with respect to any project assisted under this title which is being carried out pursuant to such plan or application and which is not involved in the noncompliance.

"ADVANCE FUNDING

"SEC. 576. (a) For the purpose of affording adequate notice of funding available under this title such funding for grants, contracts, or other payments under this title is authorized to be included in the appropriations Act for the fiscal year preceding the fiscal year for which they are available for obligation.

"(b) In order to effect a transition to the advance funding method of timing appropriation action, subsection (a) shall apply notwithstanding that its initial application will result in the enactment in the same year (whether in the same appropriation Act or otherwise) of two separate appropriations, one for the then current fiscal year and one for the succeeding fiscal year.

"PUBLIC INFORMATION

"SEC. 577. Applications for designation as prime sponsors, comprehensive child development plans, project applications, and all written material pertaining thereto shall be made readily available without charge to the public by the prime sponsor, the applicant, and the Secretary.

"FEDERAL CONTROL NOT AUTHORIZED

"SEC. 578. No department, agency, officer, or employee of the United States shall, under authority of this title, exercise any direction, supervision, or control over, or impose any requirements or conditions with respect to, the personnel, curriculum, methods of instruction, or administration of any educational institution.

"NONDISCRIMINATION PROVISIONS

"SEC. 579. (a) The Secretary shall not provide financial assistance for any program under this title unless the grant, contract, or agreement with respect to such program specifically provides that no person with responsibilities in the operation of such program will discriminate with respect to any program because of race, creed, color, national origin, sex, political affiliation, or beliefs.

"(b) No person in the United States shall on the ground of sex be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in connection with, any program or activity receiving assistance under this title. The Secretary shall enforce the provisions of the preceding sentence in accordance with section 602 of the Civil Rights Act of 1964. Section 603 of such Act shall apply with respect to any action taken by the Secretary to enforce such sentence. This section shall not be construed as affecting any other legal remedy that a person may have if on the ground of sex that person is excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with, any program or activity receiving assistance under this title.

"LIMITATION OF RESEARCH AND EXPERIMENTATION

"SEC. 580. The Secretary is directed to establish appropriate procedures to ensure that no child shall be the subject of any research or experimentation under this title other than routine testing and normal program evaluation unless the parent or guardian of such child is informed of such research or experimentation and is given an opportunity as of right to except such child therefrom.

"PARENTAL RESPONSIBILITY

"SEC. 581. (a) Nothing in this title shall be construed or applied in such a manner as to infringe upon or usurp the moral and legal rights and responsibilities of parents or guardians with respect to the moral, mental, emotional, or physical development of their children. Nor shall any section of this title be construed or applied in such a manner as to permit any invasion of privacy otherwise protected by law, or to abridge any legal remedies for any such invasion which are otherwise provided by law."

(b) In order to achieve, to the greatest degree feasible, the consolidation and coordination of programs providing child development services, while assuring continuity of existing programs during transition to the programs authorized under this title, the Economic Opportunity Act of 1964 is amended, effective July 1, 1973, as follows:

(1) Section 222(a)(1) of such Act is repealed.

(2) Section 162(b) of such Act is amended by striking out "day care for children" and inserting in lieu thereof "assistance in securing child development services for children but not operation of child development programs for children".

(3) Section 123(a)(6) of such Act is amended by striking out "day care for children" and inserting in lieu thereof "assistance in securing child development services for children", and adding after the word "employment" the phrase "but not including the direct operation of child development programs for children".

(4) Section 312(b)(1) of such Act is amended by striking out "day care for children,".

(c) The Secretary of Health, Education, and Welfare shall promulgate regulations to assure that other federally funded child development and related programs, including title I of the Elementary and Secondary Education Act of 1965 and section 222(a)(2) of the Economic Opportunity Act of 1964, will coordinate with the programs designed under this title. The Secretary shall insure that joint technical assistance efforts will result in the development of coordinated efforts between the Office of Education and the Office of Child Development.

(d)(1) Section 203(j)(1) of the Federal Property and Administrative Services Act of 1949 is amended by striking out "or civil defense" and inserting in lieu thereof "civil defense, or the operation of child development facilities".

(2) Section 203(j)(3) of such Act is amended—

(A) by striking out, in the first sentence, "or public health" and inserting in lieu thereof "public health, or the operation of child development facilities",

(B) by inserting after "handicapped," in clause (A) and clause (B) of the first sentence the following: "child development facilities,", and

(C) by inserting after "public health purposes" in the second sentence the following: ", or for the operation of child development facilities,".

(3) Section 203(j) of such Act is amended by adding at the end thereof the following new paragraph:

"(8) The term 'child development facility' means any such facility as defined in 541(b)(1) of the Economic Opportunity Act of 1964."

(e) Section 205(b)(3) of the National Defense Education Act of 1958 is amended (1) by adding after the word "nonprofit" the phrase "child development program or" and (2) by striking out "and (C)" and inserting in lieu thereof "(C) such rate shall be 15 per centum for each complete academic year or its equivalent (as so determined by regulations) of service as a full-time teacher in public or private nonprofit child development programs or in any such programs assisted under title V of the Economic Opportunity Amendments of 1971, and (D)".

PLAN REPORTING DATE

SEC. 14. Section 632(3) of the Economic Opportunity Act of 1964 is amended by inserting at the end thereof the following: "Such plan shall be presented to the Congress no later than March 1, 1972, and the documents updating such plan shall be presented to the Congress no later than January 31 of each succeeding calendar year."

GUIDELINES

SEC. 15. Part B of title VI of the Economic Opportunity Act of 1964 is amended by adding at the end thereof the following new section:

"GUIDELINES

"SEC. 639. All rules, regulations, guidelines, instructions, and application forms published or promulgated pursuant to this Act shall be published in the Federal Register at least thirty days prior to their effective date."

In addition, Mr. Speaker, I would also like to answer as succinctly as possible certain questions which my colleagues might have with regard to the bill:

QUESTIONS AND ANSWERS

Question. What are child development programs?

Answer. Child development programs are those services which provide for the physical, emotional, social and educational development of children. They may be full day, half day, after school, weekend, overnight or hourly programs; they may be provided in centers, such as day care or Head Start, in schools or in homes.

Child development programs may be designed to work directly with the child or through his parents; they may include services for youth and prospective parents to teach them the fundamentals of child development.

Question. What may be funded as part of Child Development programs?

Answer. A variety of services may be funded as part of child development programs, including day care services, preschool services, special services designed to improve the home environments of children and to involve the family in the child's development, special services designed to identify physical, mental and emotional barriers to full participation in child development programs, and services to meet the special needs of handicapped children.

Funds may be used to carry out a program of daily activities, to provide food and nutritional services, including family consultation, to provide social services, to provide medical, psychological, educational and other appropriate diagnostic services, and services to ameliorate handicaps.

Funds may also be used to plan and develop programs, to establish and to maintain them.

Funds may be used for rental, remodeling and renovation, alteration, or construction of necessary facilities and the acquisition of equipment and supplies.

It is important to note that this is not just a babysitting operation to provide custodial care for children while their mothers work. The bill emphasizes the wellbeing of children and the services they need for full development—whether their mothers work or not.

It is not just another program for the poor. While priority is given to preschool children with the greatest economic and social need, the bill is intended to make services available to families at all income levels with those above the poverty level paying a fee set by the Secretary of HEW.

Question. Who is eligible to receive child development services?

Answer. Child development services may be provided for all (aged 0–14) children needing and benefitting from such services. Particular emphasis is given to the provision of special services for children 3 to 5, handicapped children, Indian and bilingual children, children in migrant families and children from economically disadvantaged families.

As I have said, this is not just another program for the poor. While priority is given to preschool children with the greatest economic and social need, the bill is intended to make services available to families at all income levels with those above the poverty level paying a fee set by the Secretary of HEW.

Question. Who may receive funds to operate child development programs?

Answer. Applications for funds to operate child development programs may be submitted by any public or private nonprofit or profit organization or group. Applications are to be made to the agency designated to develop and implement the child development plan.

Question. What is the cost for participating in one of these programs?

Answer. (a) No charge to families below certain level ($4320). All others pay according to fee schedule based on ability to pay.

(b) Families with between $4320 and $5916 income would pay 10% of their income over $4320 for their children's participation, i.e. $159.00.

(c) Families with income between $5916 and $6960 would pay 10%, plus 15% of income over $5916, i.e. a family of four with $6960 income, for example would pay a total of $317 a year for each child.

(d) The Secretary of Health, Education, and Welfare could under the bill set a fee schedule for families with more than $6960 income.

Question. What proportion of the total costs will the Federal Government pay?

Answer. The Federal Government will pay to each State an amount not to exceed 80% of the cost of providing child development services (except when the secretary deems it necessary to waive such matching).

Question. How may the non-Federal share be provided and what form may it take?

Answer. The non-Federal share of costs of programs under this title may be provided through public or private funds and may be in the form of goods, services, or facilities, or from union or employer contributions. If, in any fiscal year, a program provides non-Federal contributions exceeding its requirements such excess may be applied toward meeting the requirements for such contribution of other such programs for the same fiscal year.

Question. Will any State receive less Federal funds for child development services?

Answer. Each State is guaranteed an allocation at least equal to the aggregate amount received by it, and by public and private agencies in the State, during the fiscal year 1972 under the Economic Opportunity Act (Headstart) for child development services.

Question. What Federal agency will have responsibility for administering the Child Development program?

Answer. The Office of Child Development within the Department of Health, Education and Welfare, will be the principal agency for administering the child development program. Responsibilities include the approval of child development plans, and the coordination of programs and other activities relating to child development.

Question. What is the relationship of the Child Development Bill to Head Start?

Answer. (1) Head Start allows 10% nondisadvantaged to participate in its program. The Child Development Bill extends services to all children but with a priority to the disadvantaged.

(2) The Head Start program allows children of parents whose income is less than the poverty level ($3,900) to participate in the program without charge. All others must pay, including the near poor.

(3) The Child Development Bill would allow children whose families have an annual income below $4320 to participate free. All other children would be required to pay a fee based upon a fee schedule established by the bill up to the lower living standard budget for a family of 4 (presently $6960); above that amount, the fee schedule would be established by the Secretary.

(4) The Child Development Bill encourages a socio-economic mix. The socio-economic mix is not a requirement of the Head Start program.

Question. What programs that presently exist would be incorporated into the Child Development Bill?

Answer: (1) Concentrated Employment Program: authorized day care services for those involved in manpower programs. Funds available to consumer through local manpower programs or CAP agencies.

(2) Head Start Program: authorized preschool education programs for economically disadvantaged. Also involved day care services, part-time, full-time and home care. Funds available to the consumer through local programs and CAP agencies.

(3) Migrant and Seasonal Workers: authorized day care services to migrant and seasonal workers. Funding mechanism varies. Funds sometimes distributed through CAP agencies, welfare agencies, etc.

Question. What are the provisions for evaluation?

Answer. Evaluation—The Secretary shall through the Office of Child Development, make an evaluation of Federal involvement in child development in specific areas. The results of this evaluation shall be reported to Congress no later than eighteen months after enactment of the Act.

The Secretary may enter into contracts with public or profit agencies, organizations, or individuals to carry out provisions of this section.

The Secretary shall establish such procedures as may be necessary to conduct such an annual evaluation of Federal involvement in child development, and shall report the results of such annual evaluation to Congress.

Such information as the Secretary may deem necessary for purposes by the annual evaluation shall be made available to him, upon request, by the agencies of the executive branch.

Question. What are the provisions of Technical Assistance?

Answer. The Secretary shall, directly or through grant or contract, make technical assistance available to agencies and organizations participating or seeking to participate in programs under this Act on a continuing basis to assist them in developing and carrying out child development plans under Section 103.

Question. What are the priorities in the bill?

Answer. To on-going programs, e.g. Head Start, $500,000,000.

To children of low income families.

To children of migrants—X% of appropriation.

To children of working parents.

To Indians—X% of appropriation.

To bilinguals.

To handicapped—10% of allottment.

Question. What provisions are made for research?

Answer. The Secretary of Health, Education and Welfare shall integrate and coordinate all child development research training and development efforts including those conducted by the Office of Child Development and by other agencies, organizations and individuals.

A Child Development Research Council consisting of a representative of the Office of Child Development (who shall serve as chairman), and representatives from agencies administering the Social Security Act, Elementary and Secondary Education Act of 1965, the National Institute of Mental Health, the National Institute of Child Health and Human Development, and the Office of Economic Opportunity shall meet annually and from time to time as they may deem necessary in order to assure coordination of activities under their jurisdiction.

Question. How many children can you provide services to for two billion dollars?

Answer. There are various ways to look at this matter but two examples of two estimates that I have obtained from Department of Health, Education and Welfare are as follows:

(1) Part day services—children 0–5 under $4320=1,538,462 which is 42% of the eligible population—presently serving 20% or 479,400.

(2) Full day services for 0–5 under $4320 and school age (0–14) = 625,000 preschool and 1,428,580 school age or a total of 2,053,572.

Costs for (1) above—$1300 per child.

Costs for (2) above—$1600 per child and $700 for school age.

Question. How much Federal money are we now spending on the programs to be incorporated in this bill?

TOTAL ESTIMATED FEDERAL EXPENDITURES AND NUMBER OF CHILDREN IN CHILD CARE, FISCAL YEAR 1972

[Includes Part Day and Summer]

	Expenditures	Number of children
Programs incorporated in this bill presently being funded..	$7,500,000	9,500
	376,500,000	479,400
	1,000,000	2,000
	385,000,000	490,900

GROUPS SUPPORTING CHILD DEVELOPMENT

Mr. Speaker, at this point I would also like to insert into the RECORD a representative list of groups which have indicated their continuous support of the child development program:

GROUPS SUPPORTING CHILD DEVELOPMENT

American Academy of Pediatrics.
The National Council of Churches.
United States Catholic Conference.
United Methodist Church.
Christian Science Committee on Publications.
Southern Christian Leadership Conference.
National Council of Jewish Women.
National Conference on Christians and Jews.
American Jewish Congress.
National Association for Catholic Women.
National Conference of Catholic Charities.
The Friends Committee on National Legislation.
National Board of YWCA.
United Auto Workers.
National Education Association.
Washington Research Project Action Council.
Council for Exceptional Children.
Women's International League for Peace and Friends.
AFL–CIO.
International Ladies' Garment Workers Union.
Amalgamated Clothing Workers of America.
National League of Cities-U.S. Conference of Mayors.
National Council on Hunger and Malnutrition.
National Council of Negro Women.
American Bankers Association.
National Association for Social Workers.
American Bar Association.
American Association of University Women.
Day Care and Child Development Council, Inc.
Americans for Democratic Action.
Americans for Indian Opportunity Action Council.
Zero Population.
Children's Lobby.
United Steel Workers of America.
National Welfare Rights Organization.
Leadership Conference on Civil Rights.
Common Cause.
League of Women Voters of the United States.
NAACP.
American Public Welfare Association.
Urban League.
Women's Auxiliary of AMA (American Medical Association).

LETTERS FROM ORGANIZATIONS SUPPORTING CHILD DEVELOPMENT BILL

Mr. Speaker, the support of these outstanding groups has been overwhelming. The following letters I would like to share with you now are examples of the continuing growing support of the child development program.

For example, here is a copy of the November 30, 1971, letter from Clarence Mitchell, legislative chairman, Leadership Conference on Civil Rights, endorsing the comprehensive child development bill. A copy of the letter sent to the President from Roy Wilkins is also included:

LEADERSHIP CONFERENCE
ON CIVIL RIGHTS,
November 30, 1971.

DEAR MR. CONGRESSMAN: I want to call to your attention a letter that nine national leaders of the American civil rights movement have just sent to the President.

They have joined in urging President Nixon to sign into law S. 2007—the bill to continue OEO's programs for two years and to set up a system of comprehensive child development centers—once Congress adopts the Conference Report on the bill. In doing so, they are expressing the hope of millions of Americans that the programs in this landmark legislation can be put into operation soon, to the benefit of the nation's poor and of millions of working parents and their children at all economic levels.

These nine leaders—Rev. Ralph David Abernathy, Dorothy Height, Vernon Jordan, A. Philip Randolph, Bayard Rustin, Harold Sims, Rev. Andrew Young, Coretta King—make joint appeals only on extraordinary occasions. We believe the situation in which S. 2007 finds itself is extraordinary. It would be little short of calamitous if Congress did not pass this bill and if the President did not promptly sign it into law.

While their urging is directed to President Nixon, of course it is all directed to members of Congress, too. You must act first, if the issue is to come before the President. We therefore use their plea to reinforce our own. On behalf of the 127 national organizations in the Leadership Conference on Civil Rights, I respectfully urge you to be present when the Conference Report on S. 2007 comes before the House—probably on Thursday, December 2—and vote to adopt it.

Sincerely yours,

CLARENCE MITCHELL,
Legislative Chairman.

NOVEMBER 24, 1971.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: On behalf of millions of working parents and their children, we urge you to sign S. 2007 into law as soon as the House and Senate adopt the Conference Report.

This bill would, among other things, establish a comprehensive program of child development. By making it possible to place children in their earliest years in an environment in which they will be learning and developing, S. 2007 would help provide the education and comprehensive services they must have to escape the wretched plight in which many of their families find themselves. By bringing together children of different racial, social and economic backgrounds, the program would provide them with an invaluable opportunity to grow up knowing each other as individuals.

You have recognized the need to give "all American children an opportunity for healthful and stimulating development during the first years of life." This bill does that. It has been said that you may veto the bill because it will cost too much. We do not know exactly what the program will cost in the years ahead. We *do* know, however, that the cost of *not* having such a program is already too high. We know, too, that if our country is to have meaningful welfare reform, it must provide comprehensive care for the children of welfare recipients, not simply a cheap dumping ground for the children so that the parents can be freed for work and training.

We support, of course, the other provisions of S. 2007, particularly the extension of the Office of Economic Opportunity's program for two more years and the new Legal Services Corporation.

These, together with the child development program, are critically needed if we are to make new inroads in dealing with the awful blight of poverty. We know how much you wish to be President of all the people. There is no better way to signal that intention than by signing S. 2007 as soon as it is sent to you by the Congress.

Sincerely,

ROY WILKINS,
Chairman.

Reverend Ralph David Abernathy, President, Southern Christian Leadership Conference; Dorothy Height, President, National Council of Negro Women; Vernon Jordan, Executive Director Designate, National Urban League; A. Philip Randolph, President, A. Philip Randolph Institute; * Mrs. Coretta King, widow of Martin Luther King, Jr., fully endorses this letter. Unfortunately, her endorsement came too late for her name to be included when the letter was sent to the White House; Bayard Rustin, Executive Director, A. Philip Randolph Institute; Harold Sims, Acting Director, National Urban League; Reverend Andrew Young, Chairman, Atlanta Community Relations Commission.

Mr. Speaker, the acting executive director of the American Baptist Convention, Richard L. Riseling, has most enthusiastically expressed his support for the child development bill in the following letter dated December 1, 1971:

DECEMBER 1, 1971.

Hon. JOHN BRADEMAS,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. BRADEMAS: There is a growing appreciation of the crucial importance of the early years in a child's life, not only for physical and intellectual growth but for social and emotional as well. These are the formative years in which permanent foundations are laid for a child's feeling of self-worth and confidence in his ability to achieve.

This week, Congress has the opportunity to improve the quality of health, nutrition, and education services to young children. By passing the Child Development Bill, Congress would commit itself to the provision of quality day care centers for working mothers and accept the important responsibility for establishing high standards and then enforcing them. Consequently, a whole generation of children would be the beneficiaries of the kind of learning experience which would enrich a child's personality.

With federal support and adequate planning, day care centers for pre-school children could provide a rare opportunity for child development, including the possibility of creative experimentation in educational methods, that does not exist in the inadequate "custodial" centers now established merely as babysitting services.

With these possibilities in mind, the Division of Christian Social Concern of the American Baptist Convention urges you to support the Child Development Bill and accept the challenge of stimulating development during the early years of life.

Sincerely,

RICHARD L. RISELING,
Acting Executive Director.

I am pleased to include this letter from Donald F. Lavanty, director, Department of Federal Relations, American Optometric Association:

AMERICAN OPTOMETRIC ASSOCIATION,
December 1, 1971.

Hon. JOHN BRADEMAS,
Chairman, Select Subcommittee on Education, Rayburn House Office Building, U.S. House of Representatives, Washington, D.C.

DEAR CONGRESSMAN BRADEMAS: The American Optometric Association strongly supports the Comprehensive Child Development Section of S. 2007, the Economic Opportunity Act Amendments of 1971.

The new Child Development Title to the Act represents a broad and balanced approach to the present child development problem. We agree with and support the Title's emphasis on providing a full range of health, educational and social services; attempting to create a proper sociological mix within a particular program; and on involving the Federal, State and Local governments along with individual parents in the implementation of the title.

Since optometrists provide over 70% of the vision care services in America, the American Optometric Association especially supports the Title's wide range of health services, and particularly vision care services to children within a particular program. Good vision is critical to the intellectual and social development of American children and should be given a high priority in any Child Development Program. For vision is at the heart of the learning process and any impairment of this precious resource can seriously impede a child's learning and maturation process.

Cordially,

DONALD F. LAVANTY,
Director,
Department of Federal Relations.

Here, Mr. Speaker, is a letter from Mrs. Bruce B. Benson, president of the League of Women Voters of the United States:

WASHINGTON, D.C.,
November 30, 1971.

DEAR CONGRESSMAN: The League of Women Voters of the United States urges you to be present on December 2 and to vote *for* passage of the Economic Opportunity Act Amendments, with the Comprehensive Child Development title—S 2007, as agreed upon by the Conference Committee.

The League believes it absolutely essential for this nation to provide comprehensive care for children. Every year of delay is a year's opportunity denied to millions of children. Even though S 2007 will not satisfy even the existing needs, it is a big step in the right direction.

We believe it consistent with the need to place more control in local hands that local governments and community agencies be able to contract directly with the federal government. To go through the extra red tape of state delivery systems is non-essential and one more step removed from tailoring programs to community need.

We believe, further, that parental participation is one hundred percent consistent with the American way of life, and is an essential ingredient of sound child development programs. Those who see in this legislation threats of federal control over the minds of children should recognize that it is precisely the requirements for local prime sponsorship and parental participation that protect against just that danger.

Your vote for S. 2007 will put on record your genuine commitment to a change in national priorities—a change toward greater investment in the nation's human resources.

Sincerely,

Mrs. BRUCE B. BENSON,
President.

I insert at this point a letter, dated December 1, 1971, from Stanley J. McFarland, assistant executive secretary, National Education Association:

DECEMBER 1, 1971.

DEAR CHAIRMAN PERKINS: The National Education Association urges that the Congress approve the conference report on S 2007, the Economic Opportunities Amendments of 1971. As you know, the NEA has been an active supporter of the "War on Poverty" since its inception. While we have been critical of administrative actions of the OEO in recent years, this in no way denotes lack of support for the intent of the law. We believe the 1971 amendments, if properly administered, can improve the operation of the programs.

We are, of course, particularly anxious that the Child Development provisions of S 2007 be enacted. The need for a national program for child care centers, with major emphasis on improving the health, education, and growth of children, is great. We see no reason to delay enactment of such a program. Indeed, it is long overdue. S 2007 provides one year of lead time to "gear up" for the actual funding to begin in 1973. If major problems emerge during this time the Congress can make the necessary adjustments.

The confusion fostered by some opponents who contend that the program interferes with parental rights is regrettable. The program in S 2007 is entirely voluntary. It does not contain the repressive provision suggested by some that parents who refuse to place their children in day care facilities so that they can be trained for work will lose AFDC payments.

We commend you for your effective and consistent leadership in this great cause.

Sincerely,

STANLEY J. MCFARLAND,
Assistant Executive Secretary, Government Relations and Citizenship, National Education Association.

Here, Mr. Speaker, is a letter from Frederick J. Weintraub, assistant executive secretary for Governmental Relations, the Council for Exceptional Children:

DECEMBER 1, 1971.

DEAR MR. BRADEMAS: On behalf of the Council for Exceptional Children, I would like to commend you and your committee for your long standing efforts on behalf of child-development day care. The Council strongly supports the provisions in Title V of the conference report of S. 2007 regarding handicapped children.

For many of the nation's seven million handicapped children, particularly the one million below school age, the provisions of the conference report will determine their ability to become participating citizens and bring to their families the assistance they need in realizing the potential of their children.

We have advocated this legislation before your sub-committee for three and one-half years. We sincerely hope that the Congress will finally make this program a reality.

Again, our thanks for your efforts.

Sincerely,

FREDERICK J. WEINTRAUB,
Assistant Executive Secretary for Governmental Relations, The Council for Exceptional Children.

The director of the department of legislation, Andrew J. Biemiller, has written this following letter in behalf of the American Federation of Labor and Congress of Industrial Organizations:

NOVEMBER 29, 1971.

DEAR CONGRESSMAN BRADEMAS: The AFL–CIO strongly supports the House-Senate conference report on S. 2007, legislation extending the Office of Economic Opportunity for two more years.

Included within S. 2007 is creation of an historic comprehensive child development program and establishment of an independent National Legal Services Corporation.

The AFL–CIO has, since its inception, supported OEO. We continue to do so. We also are convinced that the new legal services corporation, as resolved in conference, is beneficial legislation.

The new comprehensive child development program meets a long-recognized national need. The Conference report calls for education, health, and nutrition services to children. Once implemented, working parents—as well as welfare recipients—will have decent day care available for their children.

President Nixon declared, August 11, 1969, that: "This Administration is committed to a new emphasis on child development in the first five years of life. The day care that would be part of this plan would be of a quality that will help in the development of the child and provide for his health and safety, and would break the poverty cycle for this new generation."

The President's 1969 plan only covered the children of welfare recipients. The S. 2007 conference report provides free services for these children and similar services for the children of working parents willing to pay fees established on a graduated scale according to family income.

Despite a rash of recent "scare" propaganda, the conference report's day care program is not mandatory. Instead, for the first time, comprehensive day care will be available for the children of parents who want something better than all custodial care—or no care at all—for their children.

Such a comprehensive child development program has long been a goal of the AFL–CIO and the millions of America's working parents with young children.

The AFL–CIO urges you to approve the conference report on S. 2007, including this important new program.

Sincerely yours,

ANDREW J. BIEMILLER,
Director, Department of Legislation, American Federation of Labor and Congress of Industrial Organizations.

I insert at this time a letter dated November 29, 1971, from Willis N. Zagrovich, president, Indiana State AFL–CIO:

NOVEMBER 29, 1971.

DEAR CONGRESSMAN BRADEMAS: It is our understanding that the House of Representatives will be voting this week on the conference report covering S. 2007, which extends the Office of Economic Opportunity for two years, creates a new system of child development (day care) centers, and establishes a legal services corporation.

The AFL–CIO considers the comprehensive child development title of S. 2007 to be of major importance to working parents and their children.

We, therefore, strongly urge that you support and vote for the conference report on S. 2007.

Sincerely,

WILLIS N. ZAGROVICH,
President, Indiana State AFL–CIO.

The following letter to Mr. Perkins is from William G. Lunsford, legislative representative, the Friends Committee on National Legislation:

DECEMBER 1, 1971.

DEAR CONGRESSMAN PERKINS: With this letter the Friends Committee on National Legislation reaffirms its support for the continuation of the programs of the Office of Economic Opportunity, along with the establishment of a national legal services program for the poor, and the establishment of a comprehensive national child development program. We are urging all members of the House of Representatives to enthusiastically support S. 2007.

We are well aware that the establishment of the Child Development Program has become one of the most controversial aspects of this bill, however having the belief as we do that the greatest asset of this nation lies in the development of the full potential of every individual, we find it extremely difficult to understand opposition to this program.

One cannot begin to compare the cost of the Child Development Program to the costs of lost human potential in our young children who have not had the benefit of preschool education services prior to entering the education system, and the cost of a lost economic value of mothers who have substantial talent to offer in the labor market, but are unable to utilize those talents due to a lack of adequate child care services.

The argument that the establishment of a national child development program would lead to the "socialization" of our young people would probably also be made by the same people if we were considering the establishment of the universal public education system for the first time. The result of public education and the opportunities which it has offered to a broad spectrum of people should put that argument to rest.

The conference version of a child development program is not all that we advocated in supporting the Senate Bill S. 2007, however, we do feel that it is a giant step towards the establishment of the "right" of all citizens to develop to their fullest potential.

Again, I emphasize that we completely support S. 2007, and anticipate its passage by the House of Representatives.

Yours truly,

WILLIAM G. LUNSFORD,
Legislative Representative, Domestic Affairs.

Mr. Speaker, I also received this letter today from Dolores Mitchell, chairman, executive committee, Americans for Democratic Action:

AMERICANS FOR DEMOCRATIC ACTION,
Washington, D.C., December 1, 1971.
Congressman JOHN BRADEMAS,
B345A Rayburn House Office Building,
Washington, D.C.

DEAR CONGRESSMAN BRADEMAS: Americans for Democratic Action (ADA) would like to thank you for your faithful support of the Child Development Program, now Title V of the Conference Committee Report on S. 2007. We have long advocated legislation providing for a comprehensive child-oriented developmental program and we enthusiastically support the bill that has emerged from the conference committee. ADA members will continue to work for final approval of the report by the House on December 2.

Sincerely,

DOLORES MITCHELL,
Chairman, Executive Committee.

Mr. Speaker, I would also like to include a letter from Lawrence A. LaMotte, chairman, national priorities, Committee of Executive Board, the New Democratic Club, First District, Baltimore County:

DECEMBER 1, 1971.

GOODLOE E. BYRON,
1730 Longworth Building,
Washington, D.C.

DEAR CONGRESSMAN BYRON: Speaking for the Executive Board of the New Democratic Club, First District Baltimore County, I urge you to vote for the Conference Report of S. 2007, the Office of Economic Opportunity Extension Bill.

We feel that OEO should continue as the only institution of the government that is devoted to the study and the elimination of poverty.

The Legal Services Corporation should prove to be effective in protecting the rights of the poor. In the past, legal programs have been harassed by local and state administrators for being effective in representing indigent clients. The Corporation, we feel, will give lawyers an independence, with restraint, in order to concentrate on the cases of their clients and represent them adequately.

The third provision of this bill, the Comprehensive Child Development Program, seems to be enveloped by misinformation at best, and paranoia at worst. The charge by a leading columnist that this section of the bill is a Communist Plot is not only unfounded, but is totally up for ridicule. The fact that State governments do not necessarily have control over child care programs is a good point for the program. Local government units and local citizens, in the American tradition of grass-roots political control and representative government, can and will exercise good judgment in child care. The participation of parents will also prove to be an effective control of the program. By eliminating the bureaucratic "red-tape" of state organizations, more child care services opportunities will be available for each child.

We know and understand that some of your mail has been against this bill and specifically against the child development provisions. We hope that you will exercise leadership and education in voting for the Conference Report.

Yours in Peace,

LAWRENCE A. LAMOTTE,
Chairman, National Priorities, Committee of Executive Board.

Here is a letter written November 26, 1971, by Stephen M. Sindlinger, O.D., F.A.A.O., Muncie, Ind.:

DR. STEPHEN M. SINDLINGER,
Munice, Ind., November 26, 1971.
Representative JOHN BRADEMAS,
U.S. House of Representatives, Washington, D.C.

DEAR MR. BRADEMAS: I am writing concerning the Comprehensive Child Development Act (H.R. 10351 and S. 2007). This Act would provide for comprehensive care (educational nutritional, health, etc.), for preschool children on a voluntary basis.

It is known that a person's primary learning takes place before he enters first grade. This Act would seem to provide many more children with the opportunity to develop their full potential.

I attended the White House Conference on Children in December, 1970, and I feel this legislation would not only benefit the people of Indiana but also of the entire country.

Sincerely yours,

STEPHEN M. SINDLINGER, O.D., F.A.A.O.

Finally, Mr. Speaker, here are two telegrams dated November 30, 1971. Both telegrams express their support of the child development program:

SOUTH BEND, IND., NOVEMBER 30, 1971.

Representative JOHN BRADEMAS: League Womens Voters South Bend urges yes vote conference Committee Report S. 2007 OEO child care.

MRS. JAMES ROBINSON.

AMERICAN PERSONNEL
GUIDANCE ASSOCIATION,
November 30, 1971.

JOHN BRADEMAS: On behalf of the 28,000 members of the American Personnel Guidance Association throughout the United States we ask your support of the comprehensive child development provision in S. 2007 now in conference. The association particularly endorses those services to be provided low income children with particular emphasis on appropriate educational social and vocational guidance and counseling which can maximize the intellectual and physical growth potential of such children both at the preschool and elementary levels.

GARY WALLS, *President.*
PATRICK J. MCDONOUGH,
Acting Executive Director.

THE TOTAL PICTURE

Mr. Speaker, the following article appeared in the National Journal. I am at this point including it in the RECORD because I feel it offers a comprehensive and accurate account of the development of the child-care program:

WELFARE REPORT/CONGRESS PRESSES MAJOR CHILD-CARE PROGRAM DESPITE WHITE HOUSE VETO THREAT

(By John K. Iglehart)

Congress is about to leave a bundle of expensive proposals for a national network of child-care centers on the White House doorstep. The White House may well refuse to take it in.

The child-care package—which could cost more than $1 billion a year by 1973—has moved through both houses into a Senate-House conference committee with bipartisan support, despite active opposition from Administration officials.

Congress largely ignored Administration protests, partly because of the political appeal of a program that would serve children from families of all income ranges, and partly because the Administration was so late coming up with a counterposition.

By the time Administration policy had emerged from a dispute between the HEW Department and the Office of Management and Budget, Congress was ready to mark up its final bills.

Administration opposition is based in large part on fears of a commitment to huge future costs of child care. HEW Secretary Elliot L. Richardson estimates that it would cost $20 billion to provide child care to the 18.7 million children eligible for free services under the Senate-passed bill.

"I am inclined to think that at the moment we may be headed for a veto," said a White House staff member, who declined to be quoted by name. "We don't have a hell of a lot of bargaining room."

Beyond the child-care proposal, there are a number of other provisions of the bill (S. 2007) to which it was attached that are viewed at the White House as none too acceptable.

Ironically, backers of the child development program lean heavily on a statement made by President Nixon in February 1969 to justify further federal intervention in the care and education of American children.

"So critical is the matter of early growth that we must make a national commitment to providing all American children on opportunity for healthful and stimulating development during the first five years of life," the President said in a message to Congress.

Following the President's theme, the 1970 White House Conference on Children and Youth gave top priority to creation of "comprehensive family-oriented child development programs."

Need: Advocates of the program also point to a growing need for more child-care centers. The Labor Department estimates that during the past 20 years the number of mothers in the labor force who have children under age 18 has almost doubled to 11.6 million:

At the same time, there has been a significant increase in the number of mothers who are on welfare and are unable to work because of their domestic responsibilities.

In fiscal 1971, federal expenditures for child care totaled $682.9 million, the HEW Department estimates. The funds flowed largely under the authority of the Social Security Act (49 Stat 620) and the Economic Opportunity Act (83 Stat 827).

The federal funds financed the care of 824,741 children, including part-time and summer placement in Head Start, a preschool program for children from poor families.

Action: The Senate approved its version of child development legislation Sept. 9.

The proposal is part of a bill (S 2007) that would extend the Economic Opportunity Act for two years.

The proposal, sponsored by Sen. Walter F. Mondale, D-Minn., and 32 other Senators, would authorize HEW to spend $100 million in fiscal 1972 to plan for new child-care centers.

For fiscal 1973, the bill would authorize $2 billion for child development programs, including $500 million for existing Head Start projects.

In the House, the road for childcare legislation was rougher, but a proposal sponsored by Rep. John Brademas, D-Ind., and 97 other Members, was approved, 251–115, Sept. 30. It also was part of a bill (HR 10351) extending the life of the Office of Economic Opportunity.

Similarities—In many respects, the Senate and House bills are similar.

Both provide for an amalgam of Head Start programs and new child development centers.

For poor families, the services would be free; families above low-income levels would pay for child care.

Members of Congress who support the bills said they believe the opportunity to mix children from different socio-economic backgrounds would be one of the most attractive features of the program, educationally and politically.

Both would give parents a prominent role in shaping programs at the centers. The Senate bill would give parents a virtual veto over decisions affecting programs.

Administering—Both proposals would give statutory authority to HEW's Office of Child Development, which now exists as an entity created April 9, 1969, by order of former HEW Secretary (1969–70) Robert H. Finch, at Mr. Nixon's request. (Finch is now counselor to the President.)

By giving the office control of the programs. Congress seeks to avoid domination by the well-established welfare and education bureaucracies already in existence.

Conference—House and Senate Members opened a conference on the legislation Oct. 12 and after four extended sessions the toughest issues remained unresolved.

The threat of a veto dominated all of the discussion. Republican conferees suggested in opening statements that Mr. Nixon may exercise his power of veto if Congress adopts too high an income level under which families would get free services. A Senate aide said that the conferees hoped to avoid a veto but had received "absolutely no signals" from the Administration as to a compromise.

The Senate bill authorizes the granting of free services to urban families of four with annual incomes of less than $6,960. The House bill would grant the HEW Secretary the discretion to set the level, and it would most likely be $4,320, the cut-off level for eligibility under the Administration's welfare reform proposal.

Outside pressure: Most of the outside lobbying muscle used to move the child-care legislation through Congress came from a coalition of some 25 diverse organizations ranging from the AFL–CIO to the National Education Association and the Black Child Development Institute.

The core of the coalition was composed of Washington representatives of organized labor groups. They were instrumental, particularly in the Senate, in shaping the legislation in a way that leaves states out of control of the program and parents very much in.

In these respects, they reinforced the very strong feelings of Mondale and Rep. Carl D. Perkins, D-Ky., chairman of the House Education and Labor Committee.

ADMINISTRATION DISPUTE

The Administration's internal debate between HEW and OMB centered on the proper federal role in financing and delivering child-care services.

The OMB favored limiting any new federal commitment to providing care to the child-care provisions of H.R. 1, the President's welfare-reform bill.

Under that measure, $750 million—$410 million of it new money—would be earmarked for child care with the purpose of freeing welfare mothers to work or take job training.

The bill does not specify the quality of child-care service nor does it spell out how the program would be structured.

HEW favored a more expansive federal role, including the creation of a child-care delivery system, as proposed in the Brademas and Mondale bills.

HEW Secretary Richardson refused to accept the OMB position.

He told OMB he would assume that the Administration position was the HEW position unless Mr. Nixon personally told him otherwise. The President never did.

Richardson finally won the argument, although he twice cancelled scheduled appearances on the program before Brademas' House Education and Labor Select Education Subcommittee in late May because the issue had not been resolved.

Dr. Edward Zigler, director of the Office of Child Development, said, "This Administration is having a heck of a time in coming to grips with what its philosophy is on day care."

OMB'S CASE:

An official of HEW's legislative office described the conflict as a "classic OMB problem."

"OMB was afraid that it would undercut HR 1 day care if the Administration expressed its approval of another proposal. OMB also was afraid of a very expensive mandated developmental day-care program."

Richard P. Nathan, a former OMB assistant director and now HEW's deputy under secretary for welfare-reform planning, strongly opposed an Administration commitment to child care beyond HR 1.

One official, who leaned to OMB's viewpoint in the discussions, said in an interview that Nathan questioned whether the nation is ready financially to extend the public responsibility for education to the preschool years, as envisioned by the Mondale-Brademas proposals.

"These programs have customarily been paid for privately," the official said. "And whose role is it to make this decision? Such questions are usually matters of state and local government responsibility."

He said that OMB further questioned whether "in this period" an expensive new child development program is a priority item.

The OMB also pressed the argument that a close relationship should be maintained between child-care programs and public assistance.

"The Administration is strongly committed to day care as a way to get welfare kids into a better environment," the official said. "The Administration is for it in relationship to a welfare strategy that relates to getting parents to work."

Department view: Richardson aggressively defended his position in support of creating a child-care delivery system.

In reviewing the dispute, Richardson said in an interview that the "most telling argument" he used was a combination of two points: the President's commitment to the first five years of life and the child development program as a form of special revenue sharing for states and cities.

Richardson took a very firm position in support of his views. One top HEW official said the Secretary "refused to take an OMB staff judgment that we should oppose this legislation as an Administration position until or unless the President confirmed it."

Legislative specifications: Richardson won his point and the Administration sent Brademas its specifications for a child-care bill on June 8.

The principal feature of the proposal was a consolidation under one authority of the existing federal childcare programs. No federal funding for child care was recommended beyond that already authorized under existing programs.

The proposed legislation would have established a system of prime sponsors, principally at the state level, with major involvement for overseeing local programs only for cities of more than 500,000 population.

The specifications arrived on Capitol Hill shortly before the Brademas subcommittee began marking up its child-care bill.

Commenting on the impact of the Nixon Administration's late-arriving child-care proposal, Brademas said: "In all candor, I would not give the Administration much credit for input into the bill."

A Republican House Member who cosponsored the Brademas bill said: "The Administration was so late with its specifications that things had been pretty well firmed up by then."

Philosophy: The Administration is interested in child-care centers primarily for the role they could play in enabling welfare mothers to work. There is a second interest in child development, as expressed by the President, but within strict budgetary lines.

Richardson told the Senate Finance Committee Sept. 22: "We must not, however, focus entirely on the goal of freeing mothers for work. We also have a great opportunity at the same time to invest in the development of the next generation and thereby begin to break the terrible, dehumanizing cycle of poverty."

Support—The House Ways and Means Committee approved the Administration's request for additional funds for child care. The bill's report (HRep 92–231) makes it clear that the committee's primary interest is in putting welfare mothers in training or on jobs:

"Child care for the preschool child should not be care of low quality, but should include educational, health, nutrition and other needed services whenever possible. However, the lack of child care of that level would not be good cause for failure to take training, if other adequate and acceptable care is available."

As a result of this statement and the assumption that HEW has made of serving one million children with the $750 million in HR 1, Mondale and other Members have expressed skepticism about the Administration's commitment to developmental child care.

Dissent—The department's Office of Child Development also has some apprehension over the likely level of care that will be purchased under HR 1.

One OCD official, who asked not to be quoted by name, said: "Those of us who care about kids are just about as apprehensive as you can get about the kind of care that kids will get under this welfare-reform legislation."

Confrontation: OCD's Zigler is among those at the office concerned over the question of quality of HR 1 care. At a closed child-care briefing with Richardson on Sept. 21, Zigler asked the Secretary to clarify the Administration's position on the quality of care for welfare children.

One participant in the meeting told *National Journal:* "Zigler suggested that a lack of clarity existed on the Administration's position. He bluntly asked Richardson for his position."

"Richardson definitely assured Zigler that he is supporting more than just custodial care. Richardson said we would meet the needs of children. We would not consider babysitting."

Another meeting participant familiar with Zigler's concern said the OCD director is not worried about Richardson's commitment to purchasing quality care.

Zigler's problem is with other people in the department who, he believes, have not gotten the message of the President's commitment to nurturing the first five years of life.

"He asked the question in that forum because all of the top people in HEW concerned with child care were there and he's worried about some of their attitudes. He wanted Richardson to declare his commitment before that group.

"Richardson testified to his commitment to developmental care; as long as that's where we are at philosophically, we're on the right track."

SENATE

The prevailing attitude toward child care in the Senate, as expressed in its votes Sept. 8 and 9, favors creation of a new federal child development program that would provide comprehensive care for participating youngsters.

In approving that concept, the Senate rejected the Administration stand on several highly volatile proposals—free child-care services for the so-called "working poor," parental veto power over local programs and a federal-local funding and administrative relationship which leaves the states with little or no role in the program.

Amendments to strip each of those provisions from the bill were offered by Sen. Robert Taft Jr., R-Ohio.

In an interview, Mondale cited three factors that accounted for the solid Senate support of his program: "The dramatic new trend of working mothers, the drive to get welfare mothers employed, and the growing belief that justice for the very poor child requires developmental assistance during the first five years of life."

FREE SERVICES

Taft's effort to limit free services to families with incomes below $4,320 a year—rather than the Senate figure of $6,960—reflected an Administration concern over future program costs.

The Senate Labor and Public Welfare Committee chose the higher income figure to ensure a mix of children in the program from different income levels and to develop a middle-class constituency for child-care centers.

One Mondale aide said privately: "It's pretty easy to keep a financial lid on programs that deal just with the poor."

According to HEW, there are 10 million children from infancy to age 14 in families with incomes below $4,320; there are an estimated 18.7 million children in families with incomes below $6,960.

Sen. Richard S. Schweiker, R-Pa., ranking minority member of the Employment, Manpower and Poverty Subcommittee that reported the bill, opposed the Taft amendment.

"The issue here is very simple and quite clear," he said. "It is whether we are going to offer some opportunity for educational hope to the whole realm of middle-America families in the $4,000 to $6,900 range." The Senate rejected the amendment, 20–44.

PARENTAL CONTROL

The Administration is concerned about the power parents would have over child-care programs under Mondale's bill.

HEW officials privately raise the specter of protracted confrontations between parents and public officials similar to those that surrounded poverty programs in the 1960s.

Mondale proposes to give parents a voice in the program through local Child Development Councils.

Taft sought, through a second amendment, to diminish the influence of the councils and make them largely advisory. The Senate bill gives them "supervising, coordinating and monitoring" authority.

"The risk of strong parental involvement is not nearly like the risk of developing custodial facilities for children that are run by professionals," Mondale argued.

The amendment was rejected 17–41. Prime sponsorship: Like the Head Start program, the prime sponsorship plan would create a federal-local pattern of funding and administration, a relationship Taft sought to break up with an amendment that would limit sponsorship to governmental units serving at least 100,000 persons.

Sen. Gaylord Nelson, D.-Wis., chairman of the reporting subcommittee, said: "In my state there are dozens and dozens of smaller communities just as qualified to manage effectively a broad-based child development program as the cities of Milwaukee or Madison, which would be the only two cities in my state which qualify under this amendment."

The amendment was rejected by voice vote.

Long plan: Senate supporters of the Mondale proposals used the OEO extension as the vehicle for the child-care measure largely because it expedited its passage in the face of concern over a proposed federal child-care corporation introduced by Sen. Russell B. Long, D-La.

One Mondale aide said privately: "There is a sense of urgency both to pass good child-care legislation and also because of an awareness that other legislation far less desirable—HR 1 and the corporation—have been introduced. We have to get there before Russell Long's bill comes along."

Long's bill reflected his frustration over the inability of the HEW and Labor Departments to develop more child-care programs for welfare mothers.

His proposed corporation would have three sources of funds with which to operate: a $500 million loan from the U.S. Treasury to initiate a revolving fund; revenue bonds which could be sold to finance construction of facilities; and fees paid for child-care services. Long, who is chairman of the Senate Finance Committee, first introduced the bill as an amendment to a social security-welfare bill (HR 17550) during the 91st Congress. Mondale supporters struck the plan from the bill, 41–38.

During the debate, Mondale said of the Long plan: "The basic philosophy underlying the proposal is to let the mother work and store the children somewhere while she is working."

Long reintroduced his plan as S 2003 this session and held hearings on it Sept. 22–24.

When he introduced the bill June 4, Long said that states have lacked the "administrative organization, initiative and know-how to create and provide child-care services. . . . In other words, the present method of simply providing 75 per cent matching funds to the states and hoping that child care will become available has been disappointing."

Richardson opposed Long's bill in testimony Sept. 22, saying that, while it was an improvement over the earlier version, it still "would only duplicate much of the work now being done by HEW and by state and local governments," and would result in "an enormous waste of time, talent and money."

Richardson was careful not to foreclose the possibility of a compromise, however. The Administration cannot afford to adopt a hostile position to the proposal while its welfare reform proposal remains before Long's Finance Committee.

HOUSE

Brademas and the cosponsors of his bill were forced to walk a careful path to the House floor to preserve a bipartisan coalition that had nurtured the bill through committee.

A series of events on the floor shattered the coalition. The split did not block the bill, but it could cause problems in the future.

Said a Brademas aide: "The bill has taken on a Democratic flavor, and that could be trouble for the program if we have to live through five more years of a Republican Administration."

Coalition base: One element considered by the Brademas coalition involved the size of governmental units, eligible to serve as prime sponsors of child-care projects.

Although Rep. Perkins, chairman of the House Education and Labor Committee, sought to let governments of any size qualify, the coalition settled on a figure of 100,000 population as the eligibility cut-off.

Perkins maneuver: According to several Capitol Hill staff members, Perkins planned to circumvent the coalition by holding the Brademas bill in committee until the OEO extension had been approved by the House.

Once the OEO bill was in conference, Perkins planned to accept the Senate child-care proposal, which has no population limit, and take it to the House floor for a vote.

The plan would have meant forcing the House to accept a child-care bill on which it had not previously voted.

QUIE

Rep. Perkins was on track with his plan until Rep. Albert H. Quie, D-Minn., sought assurance from majority Leader Hale Boggs, D-La., on Sept. 21 that the House would not go to conference on the OEO bill until Brademas' child development measure had been considered by the House.

Boggs, answering the question without knowing Perkins' strategy, told Quie on the floor: "I would be very happy to give the gentleman that assurance."

STRATEGY CHANGE

Perkins then rushed the child-care bill through his committee, trying once more and failing to lower the 100,000 population figure to 25,000.

Brademas also was forced to add his bill to the OEO extension as an amendment because the Senate already had acted on the OEO extension and on child care.

Final vote: On the House floor, Perkins tried once more to lower the population figure, this time to 10,000.

Rep. Edith Green, D-Ore., who has substantial influence with Southern Members, spoke on its behalf, and the amendment was approved, 226–158.

Although Brademas opposed the amendment, Republican members of this coalition no longer felt compelled to stand by the compromise bill as other issues arose.

In a final move by Perkins to nail down his intent to eliminate any population limit, the chairman left Brademas off the list of House conferees.

INTEREST GROUPS

Washington representatives of organized labor and civil rights groups formed the nucleus of the lobby that pressed for congressional passage of child-care legislation.

Members of the cadre were Kenneth Young, assistant director of the AFL-CIO's Department of Legislation; Everlyn Dubrow of the International Ladies' Garment Workers Union; Jane O'Grady of the Amalgamated Clothing Workers of America; and Marian Wright Edelman and Richard D. Warden of the Washington Research Project Action Council.

The council is a public-interest lobby group; Warden formerly worked in the AFL-CIO's legislation department.

Other organizations active in the child-care coalition included Common Cause, the League of Women Voters of the United States, the Leadership Conference on Civil Rights, the National Council of Churches, the National Education Association, the National League of Cities-U.S. Conference of Mayors, the National Welfare Rights Organization and the United Auto Workers.

Organized labor's representatives showed their influence with Democrats on the House Education and Labor Committee late last session in working to block the child-development legislation that Brademas had reported from his subcommittee.

Labor's representatives objected to the bill on the grounds it granted states too large a role in overseeing local child development programs. The bill never was considered by the full committee.

Again in the 92nd Congress, Brademas and his chief cosponsors have been engaged in a running debate with Washington representatives of the organizations in the coalition on the same issue.

The coalition sought to shape the Brademas bill in a fashion that would leave states with virtually no role and ensure a decision-making role for parents.

Brademas, seeking to preserve Republican support for his bill, withstood what one Capitol Hill professional described as "unbelievable pressure" in sticking with the 100,000 population limitation.

"Brademas was fighting people who, under other circumstances, are his friends on the Hill—the civil rights groups, the labor people," the aide said. "He stood his ground to hold onto guys like Quie, Dellenback and Hansen (Rep. John Dellenback, R-Oreg., Rep. Orval Hansen, R-Idaho)."

Mrs. Edelman testified May 25 before Mondale's Subcommittee on Children and Youth.

She expressed, in essence, the position of the coalition in respect to state involvement.

"If we turn child development over to the states as state control proponents urge, then in certain areas of the country, particularly in the South, we would be effectively writing off participation of experienced community groups which have developed expertise in this field through their involvement in project Head Start.

"We will be placing in the hands of state bureaucracies—where the poor have the least influence and where there has been great reluctance to comply with the nondiscrimination provisions of the Civil Rights Act of 1964—the control of the program," she said.

The coalition's members, who worked closely with Mondale and Brademas in developing their respective bills, sided with the Senate version in the end because it authorized an unfettered federal-local funding and administrative relationship.

STATES

The child development issue was largely ignored by the nation's Governors.

Although the federal-local relationship which would likely be created under the program is extremely distasteful to the states, the Governors mounted no lobbying campaign to upset it.

The Governors were operating from a position of weakness. Congressional Democrats and the pressure groups staunchly opposed granting a role to the states. And the Administration, the strongest force working on behalf of a significant state role, was silent on the question for too long.

Govs. Calvin L. Rampton, D–Utah, and Arch A. Moore Jr., R-W. Va., testified before Brademas' subcommittee on behalf of a significant state role. Brademas sharply criticized all states' lack of "initiative and leadership" in developing child-care centers.

Brademas said it is not "until the federal government shows some initiative and leadership that suddenly the state governments, especially the Governors, come along and say, 'Wait a minute, we want to spend the money.' And nobody paid much attention to early childhood programs until Head Start came along."

A leading Republican sponsor of the Brademas bill said it has been difficult to pull Governors into Washington to testify on the issue. An official at the National Governors' Conference said its Washington office has been hesitant to beckon Governors to Washington because they must face unfriendly committees whose members already have determined their positions in respect to state involvement.

In the Senate bill, the HEW Secretary would be authorized to award grants to states to identify child development goals and needs within the state. States also could assist in the establishment of local child development councils and perform other limited functions, but they would have virtually no power over the control of federal funds or program content. No provision for these grants is made in the House bill.

Mayors: Few mayors have been active in the child-care issue either, but their Washington lobby has taken part in the ad hoc coalition, seeking to cement a strong role for the cities.

The mayors' Washington representatives were forced to swallow their opposition to granting parents virtual veto power over local child development programs in order to support the Senate-passed bill.

OUTLOOK

If Congress approves legislation that is regarded by the White House as too expensive, the President will be forced to make a tough political judgment on whether to sign the bill.

Democrats are certain to accuse him of reneging on his 1969 commitment to child development if he decides that the bill is unacceptable.

Should the proposal become law, a new vista of federal involvement will open in the preschool education of the nation's children.

Congress has sought to picture that involvement as more than just another effort to lend a hand to the nation's poor. While doing that, the program also is meant to provide care to families in the higher income brackets.

If the program succeeds in melding these economic classes, it will provide a vehicle for development of a potent children's lobby.

TIMELY CHILD DEVELOPMENT ARTICLE

Mr. Speaker, yesterday I inserted into the Record several editorials which endorsed the child development program. Today I would also like to include an article which appeared in yesterday's Washington Post:

[From the Washington Post, Dec. 1, 1971]

PROGRAMS BEFORE CONGRESS THIS WEEK—A NEW PUBLIC ATTENTION TO PRE-SCHOOL CHILD DEVELOPMENT

(By Alice M. Rivlin)

In the United States, public concern for a child's welfare generally does not become evident until he reaches age 5 and is eligible for kindergarten. Even then the public responsibility usually ceases at 3 o'clock in the afternoon.

But these attitudes are already changing. The next few years are likely to see a burst of public attention to the vital years between birth and 5, rapid growth of all-day programs for pre-school children with working mothers, and recognition that the day does not end for a school-age child when the 3 o'clock buzzer signals that classes are over.

The big questions will be: what character will these new programs have? Who will run them? And who will pay for them? When the Congress votes this week on the OEO bill, it may begin to provide the answers.

The bill extending the life of the Office of Economic Opportunity, just reported out of the House-Senate conference committee, contains a new Title V, for "Child Development Programs," meaning a wide variety of services to children such as all-day care for preschoolers, after-school and vacation programs, nutrition, medical, dental and psychological services, and education for parents in child-care and development. The bill authorizes $2 billion for such programs in fiscal year 1973, including $500 million earmarked for continuation of Headstart. The money would be allocated among the states in accordance with a formula, but administered primarily at the local level. Communities with 5,000 or more people could be "prime sponsors," applying directly to the federal government for money. The prime sponsor would be required to have a Child Development Council, half of whose members would be elected by parents, and individual projects would be run by Project Policy Committees composed of parents and local community members. The bill would make child development services available free to those with incomes of less than $4,320 a year (for a family of four) and would establish a fee schedule related to income for families with more resources.

While there is some vagueness about what "child development" actually is—partly because the framers of the bill were eager to preserve flexibility and choice at the local level—it is very clear what this program is *not*. First, it is *not* just a babysitting operation to provide custodial care for children while their mothers work. The bill emphasizes the well-being of children and the comprehensive services they need for full development, whether their mothers work or not. Second, it is *not* just another program for the poor. Priority is to be given to "preschool children with the greatest economic and social need," but the intention is to make services available to families at all income levels with those above the poverty line paying part of the cost. Third, it is not just another welfare program. The "prime sponsor" mechanism and the parent councils are specifically designed to by-pass the state welfare bureaucracies and give the beneficiaries of the program a real voice in its operation.

Several different groups are pressing for federal programs for children, for different and not entirely compatible reasons. Some are primarily motivated by a desire to reduce the welfare rolls. They believe day care should meet minimum standards of health and safety so the children do not come to harm, but that its main objective ought to be to keep children out of the way so that their mothers can earn wages rather than welfare. A second group is primarily concerned with overcoming the damaging early handicaps of children from poor families. Headstart, which reaches many 4- and 5-year-olds, but usually for less than a year, has proved too little and too late. There is accumulating evidence that children develop rapidly in the first three years of life, that good nutrition and mental stimulation at this age make a difference—at least if they are sustained. A third group, the voice of women's liberation, sees attractive stimulating day care centers as a way of giving *all* women, not just the poor, a genuine choice between childcare and work outside the home. And finally, there are those whose primary motivation is to mobilize community action in the ghetto, the rural South or on Indian reservations, who believe parent involvement in decision making about Headstart programs did as much for parents as for children, and who see community controlled child development programs as a good vehicle for the poor to use in acquiring political experience and challenging the 'power structure."

The focus on reducing welfare rolls is reflected in H.R. 1, the Nixon-Mills welfare reform bill that has passed the House, but not the Senate. Under H.R. 1, a mother on welfare could be required to take work (unless she had a child under 3) provided day care was available. Senator Long, no enthusiast of the administration's welfare reform proposals, has held hearings on his own bill to provide custodial day care to the poor through a public corporation.

But while welfare reform was bogged down in the Senate, bills for more comprehensive but entirely voluntary child development programs were making their way through the legislative obstacle course on both sides of the Hill. Senator Mondale's Child Development Bill, incorporated into the OEO amendments, stressed comprehensive services and community control and would have provided services free to families with income under $6,920 with a sliding scale of payments for families with higher incomes. On the House side, a similar bill, sponsored by Representatives, Reid, Brademas and Mink, but giving more role to states and less to localities and parents, was added to the OEO extension as a floor amendment. When both bills passed and went to conference, the administration voiced concern about their cost and threatened a veto. To avoid a veto, the conferees lowered to $4,320 the income level below which services would be free and adopted a moderate scale of payments for families with incomes between that level and $6,920 (above that level the Secretary of HEW would set fees). The language of the Senate bill was modified to give a little more role to the states and rule out communities with less than 5,000 people as prime sponsors.

The bill now moves back to the two floors where it may encounter Republican opposition especially in the House. Republican unease is related not to cost, but to the bypassing of the states. If the bill passes, there is still the possibility of a veto, although it would surely be politically costly for the President, who has put such personal stress on the dignity of work, to veto a bill which promises to make work possible for millions of women and better the lives of children into the bargain.

Strident right-wing opposition to the bill has developed on the grounds that "child development" sounds like a 1984 attempt of the state to take over the role of the family. This criticism is pretty far fetched since participation would be entirely voluntary and the bill gives parents much more control over the new programs than they have over present public schools.

Criticism of the administrative mechanism has more substance—having all those "prime sponsors" deal directly with Washington hardly seems like an ideal administrative setup. Unfortunately, however, state administration, especially in the Deep South, has so often proved insensitive to the needs of poor and minority children that direct funding may be necessary—at least for a few years.

To the criticism that these programs will be costly in the long-run there is no answer, except "yes." The bill to be voted on authorizes spending $2 billion a year for two years on the assumption that participation in the programs will be far from universal, a reasonable assumption in view of difficulty of organizing and staffing good programs quickly. In the longer run, however, it just has to be recognized that providing first-rate services to preschool children and adding afterschool activities for older children is going to be expensive—$10 billion a year could be spent easily. The cost to the taxpayer can be reduced if middle and upper-income people pay fees, but these fees cannot rise too steeply as income rises without reducing incentives to earn more income. (The effect is the same as a high income tax rate.) In the long run, there will be no cheap way to do a good job. If the Child Development Bill becomes law there will at least be a hope that federal funds for day care will be spent primarily to meet the needs of children, not just to keep them busy while their mothers work.

FURTHER ARTICLES AND STATEMENTS

Mr. Speaker, at this point I insert other articles and statements concerning the comprehensive child development bill:

[From the Washington Star, May 24, 1971]

CHILD CARE PLAN CONSIDERED FOR HIGHER INCOME FAMILIES

(By James Welsh)

The Nixon administration, caught in a political squeeze, is considering a plan that would provide free child-care services not only for welfare mothers but for a higher-income group of the working class.

Secretary of Health, Education and Welfare Elliot L. Richardson, who was to have testified Friday before a House subcommittee on the controversial issue of day care, abruptly cancelled his appearance the evening before. He is now scheduled to testify this week.

"We haven't quite got it together yet," said one of his top aides in explaining the postponement.

At issue, in part, is whether the White House is willing to extend its day-care commitment to millions of families in the lower-middle income range, families in which many wives work.

LIMIT ON COMMITMENT

So far it has not done so, preferring to limit the commitment to its efforts, contained in the Family Assistance Plan, to get welfare recipients to work.

But it is faced with Democratic alternatives in both the House and Senate that would go far beyond that, offering free day care to a family of four with an income of $6,900 and partial subsidies to families above that income mark.

In the meantime, the White House has embraced a principle in day care financing that will surprise many liberals.

It has decided, where possible, that mothers should be able to use a "voucher payment method" in spending federal day care assistance to purchase day care services.

This would extend a maximum of consumer control, giving mothers hundreds or thousands of dollars each of purchasing power in the day care field. With vouchers, they could shop in the open market for the day care program they believe would best suit their children.

The day care issue has political significance that is readily recognized by administration officials.

$1,600 PER CHILD

Government programs in recent years generally have failed to reach the working class in the $4,000-to-$10,000 income range. Most observers believe a massive day-care program would be highly attractive to this group.

But such a program would be enormously expensive. HEW now is using the figure of $1,600 as the cost of all-day, year-round care of one child, and the cost of a large, national program would run into the billions of dollars.

Administration insiders say Richardson may well get the go-ahead to offer a new, expanded proposal. Said one:

"It's up in the air at this point. Do we go further, and how much further? And that's not the only question. Another is one of nuts-and-bolts administration. What's the best way to run a program that could involve thousands of day-care centers and agencies running programs for millions of pre-school and school-age children?

"The Democrats have come up with what looks like a sexy system. But we're not sure. A program like this, if it's not established right, could turn into an administrative nightmare."

The administration's position on vouchers for day care was stated in a largely ignored part of President Nixon's response last week to a series of demands by the Black Caucus in the House. It said:

"The administration presently favors the voucher system because it will give the consumer control of the funds and thus of the programs."

At another point, the document said:

"Too many federal programs targeted on the disadvantaged have resulted in excessive administrative costs and reduced benefits for the intended recipients. By using vouchers, the full amount of the individual's grant will be available for the purchase of services."

An HEW official today confirmed the administration's decision to go with the voucher system.

This is not, however, at the heart of the dilemma facing the White House in taking a position on legislation House and Senate Democrats have introduced.

DEMANDS FOR REFORM

Both Republicans and Democrats have hurried into the issue because of the demands of welfare reform that the White House and Congress are pressing. Everyone concerned agrees that one of the great barriers to putting welfare mothers to work is the difficulty of their finding day-care services they can afford.

The Family Assistance Plan, now going to the House floor after its approval by the Ways and Means Committee, provides $386 million in federal funds to help establish a day-care system.

Measures introduced by both Sen. Walter Mondale, D-Minn., and Rep. John Brademas, D-Ind., would offer free day care for children where the income for a family of four is less than $6,900, far above the cutoff point for subsidies under the Family Assistance Plan.

The Mondale bill would provide $13 billion over four years for day care, while the Brademas bill contains no fixed spending authorization. The Mondale bill also contains strong provisions for parent control of what kinds of day care programs are established, along with greater opportunities for cities to compete with states as prime sponsors of day-care facilities.

Of the two bills, the White House favors the Brademas legislation. But it would rather have its own proposal, and that is what is at stake in the debate taking place within the administration.

[From the South Bend Tribune, Mar. 23, 1971]

Voice of the People: Child Care

Concerned Parent, who expressed her views several days ago regarding the proposed child care centers, astounded me with her statement that "if a poll were taken, we would find that those young people . . . causing the most trouble in our country are the ones who were left with baby sitters . . . and deprived of love by their parents."

The assumption that children are loved just because their mother is home 24 hours a day is a myth. Obviously, many children grow up to create problems for themselves and society because they were neglected and left indiscriminately with anyone who happened to be handy. But on the other hand, any public or private school teacher, counsellor, or administrator could tell you of innumerable cases of mixed-up and messed up children who had a mother in the home 24 hours a day.

In many cases, the "love" Concerned Parent mentioned is distorted and negative. Mother spends her days at home feeling bored and neglected. Often a child is nagged at, yelled at, rejected, and often spanked or punished at frequent intervals; the nagging and punishment, in cases like these, are not because the child has done something for which he should be reprimanded, but because his mother feels anger and dissatisfaction with her own role in life.

We cannot blame the social problems of today's youth solely on the working mother any more than we can blame them on the neurotic mother such as the one described here.

Let us not make glib statements such as Concerned Parent made—that is unless she has taken that poll and found some positive correlation between working moms and wayward kids!

[From the Kansas City (Mo.) Star, Mar. 8, 1971]

Head Start Better Than Experts Think, Official Says

(By Stephen C. Haynes)

The Head Start program has been saved from the attacks of "professional evaluators," but much remains to be done in the area of child development, Dr. Edward F. Zigler, director of the Department of Health, Education and Welfare child development office, said here last night.

Zigler, a Kansas City native, spoke to about 350 persons at the annual founders dinner of Congregation Kehilath Israel Men's club. Formerly a professor of child psychology at Yale university, he was appointed to his present post by President Nixon in June.

Although Head Start is the most important single program for child development in the United States, he said, it reached a peak in 1967. Several studies of the program about that time, he said, reached negative conclusions.

"I don't think we should pay that much attention to experts," he said. "What they say at any one time is about one-half sense and one-half nonsense."

Zigler said the goal of raising children's I.Q. levels had become too predominant in evaluation of the program. Head Start was achieving results, he said, but not always of the kind which could be measured by tests or which would stay with the child after he left the program.

"Head Start is a competence-producing program," he said. "What we want is competent citizens, not a group with I.Q.s over 140. And no child can go from a good Head Start program to a lousy school and retain all he has learned. What do you expect."

Even though Head Start has been a success, he said, more extensive programs are needed. The United States has a poor record in the area of child development as compared with other Western nations.

"We like to say that children are our most important natural resource," he said, "but we mistreat this resource as much as we mistreat the others. Children come last in our thinking."

Millions of children in the U.S. are hungry, unhealthy, uncared for and ignored. Institutions for children are inhumane by European standards, he said.

The U.S. must provide day care centers in increasing numbers to meet the needs of changing cultural patterns in which children receive less and less care from parents, Zigler said.

"There is no cheap way to maximize the development of children," he said. "Programs must take all the way up to age 16 to 20. We can't let up after five weeks (as Head Start does)."

Although day care is an important area which must be developed, with more than 50 per cent of all mothers of children working, parents must be encouraged to take a more active and knowledgeable role in their children's development, he believes.

"If nothing else, women's liberation will see to it that we have day care," Zigler said. "I know it is coming, but I am apprehensive. I am concerned that we may destroy family life."

He advocated programs to teach young persons the basics of child development and parenthood so they could develop more interest in their children and know more about rearing them. Such programs, he said, were being developed by his office.

"I am still of the opinion that the best place to raise a child is at home with a loving mother and father," he said. "But there is a sense that mothers and fathers are becoming extinct."

Head Start is a good program, he said, and will receive more money under the proposed fiscal 1972 budget than ever before, but other programs will not be realized unless citizens demand them. These programs, he added, should include all children, not just the poor.

"The problems discussed at the 1930 White House Conference on Children were the same as those discussed at the 1970 conference," Zigler said. "Nothing has changed. It's just that once every 10 years we have a conference and discover children."

[From the Washington Daily News, Aug. 27, 1970]

Head Start Hit as Social Blight

Head Start and similar poverty programs, as they stand now, are tearing society apart and contributing to social polarization, the new national director of Headstart said today.

"It's an egregious error to set up children's programs in this country for specific sections of the population," Dr. Edward F. Zigler told UPI in an interview. "We can't continue programs that send poor kids one place and rich kids another. That's what is causing polarization in our society today.

"We've got to find a way to bring the society back together and one of the places to do it is with children in programs like this," he said.

WHAT IT IS

Headstart is the preschool program which offers medical, nutritional, educational and other services to give children with poor parents a boost before they start school.

Headstart regulations have permitted only a 10 per cent involvement of children not considered poor.

Mr. Zigler said he did not want to discard Headstart but wanted to broaden its services and make it available to other social and economic groups. He said he hoped the President's proposed welfare reform, now stalled in the Senate Finance Committee, would give him the opportunity for expansion by providing new day care services that could be combined with the Head Start services.

"The 10 per cent allowance is not enough," Zigler said.

He indicated he would seek a change in the rules if necessary. "One of the reasons people have turned against Head Start is the old sour grapes bit. They can't have it, so why support it."

Middle class parents want the same services for their children the poor want, he said. And each group could benefit from the mix.

FROM YALE

Mr. Zigler, 40, is a former director of the Yale University child development program. He was named in June as the first director of a new Office of Child Development, which administers Head Start and other programs.

After criticizing Head Start in the interview, Mr. Zigler called it "one of the most revolutionary social action programs I have seen in my lifetime."

It has served not only the children well, but the parents and society also, he said. He cited one survey which he said demonstrated that 90 to 95 per cent of the parents of needy Head Start children find the program beneficial. "Think of that kind of support for a government program," he said.

"Let's protect the good in Head Start, make it better, but open it to a broader spectrum of services for children," he added.

[From the New York Times, Nov. 30, 1970]

DAY CARE: DEMAND OUTRUNNING GROWTH

(By Nancy Hicks)

Universally available day care for American children is inevitable, experts in the field say. They note that women, who make up 38 per cent of the work force, want and need it, and that many politicians back it.

But widespread disagreement over goals and over methods of implementation is hindering planning. This, in turn, means that day care is not becoming available at nearly the rate needed.

There are more than 11.6 million working mothers in the country today, more than 4 million of these with children under 6 years old. However, only 640,000 licensed day care spaces are available. More than one-third of these are privately run.

"Some mothers have always worked and arranged to have their children cared for," said Jule M. Sugarman, chief of New York City's Human Resources Administration, which supervises the city's day care programs.

"But people often live with whatever setups they can arrange. As soon as something else comes along, they take it. This is what is happening with day care," said Mr. Sugarman, the former acting head of the Office of Child Development of the Department of Health, Education and Welfare.

But it is becoming obvious to educators, psychologists and social scientists that before any major expansion comes about, serious problems must be overcome. The most basic decision ahead is whether day care will be custodial care or a form of early education.

Ideological leaders in the field have decided that day care is to be more than adult supervision geared, for example, to merely making certain that children do not stick their fingers in electric sockets while Mother is working. If these leaders' goals are realized, then expansion will have to be slow and expensive.

It will require the training of a cadre of personnel to teach children and to work with their parents. Centers would have to be built or renovated. A "quality program" also would have to provide meals, medical services and research units that would study the effects of group education on very young children.

Using the current average Federal expenditure for early childhood programs, it is estimated that this combination of services would cost $1,600 a year a child. This compares with an annual school cost of $870 a year a child, according to the latest figures of the National Education Association.

Even with supportive services and sound educational programs, some psychologists fear, day care for the very young might become impersonal and institutionalized.

Some earlier studies of child-rearing environments—including those conducted by Dr. Eleanor Pavenstedt, a Tufts University psychoanalyst, on failure-to-thrive infants—have shown that these characteristics retard development.

But against these financial and ideological concerns is a pressing need.

A Department of Labor study in 1964 showed the arrangements that 6.3 million working mothers made for their 12.3 million children under age 14.

MANY WITH RELATIVES

Half of the children were cared for in their own homes, usually by another relative. One third were cared for in someone else's home. Thirteen per cent were watched by their own mothers during work, as might happen with a proprietor of a small store. Close to one million children, or 8 per cent, cared for themselves. These are the so-called "latch-key kids" who wear their house keys around their necks. Only 2 per cent of the mothers were able to find group day care centers.

The disparity between supply and demand has brought together traditionally warring factions in politics and education and set in motion a day care movement. Workers for women's rights are petitioning employers to begin on-premise centers for their children. Community groups are meeting at night to plan all-day and after-school centers in their neighborhoods. Mothers are setting up cooperative babysitting arrangements aimed at teaching the child as well as providing custodial care.

More organized efforts are being waged by groups like The Day Care and Child Development Council and the National Council of Negro Women, both in Washington.

Legislators have introduced a variety of bills into Congress to fund expanding services.

Economists and social scientists offer some specific reasons why day care has become such a popular issue. They include the following:

The dramatic increase in the number of working mothers, which has created a day care need that has outpaced the ability of society to handle it through informal arrangements. Forty per cent of mothers work today, compared with 1 per cent in 1940, according to Department of Labor figures. These figures are expected to increase by 30 per cent more by 1985.

The recent acceptance by industry and husbands of the movement of women out of the home and into the labor force.

Changes in the American family which used to be large and centrally located but which today is so widely spread around the country that the mother often needs day care, sometimes for illness or family crisis, aside from the workday applications.

HEAD START AS MODEL

Estimates that in the next few years, one child in 12 will grow up in a family with only one parent, because of divorce and other factors.

Acceptance by mothers of reports alleging the importance of very early education. This has particularly created support by centers that stress teaching.

Within this educational framework, there are several existing programs that could provide models for larger programs.

Head Start, the Federal preschool program for poor children, provides many all-day educational settings that would equal day care for a working mother. Boards of education in localities have pre-school programs that serve the same purpose.

Departments of social services offer day care for working mothers under Title IV of the Social Security Act of 1962, which provided funds for these centers.

More than 120,000 children are being cared for in what are called Family Day Care Homes, which are sponsored jointly by local social services agencies with money from the Federal Government. Under this arrangement, poor mothers are taught to care for children by educational specialists who provide them with equipment in their homes and "lessons" to teach the children. In this way, that mother becomes a skilled worker in addition to providing a service.

While the above are all public programs, voluntary and private groups provide variations on the same themes.

The Office of Child Development has assumed the job of looking at the various programs and setting the standards for what day care in America should be.

ZIGLER FAVORS CHOICE

Its director, Dr. Edward Zigler, one of the original Head Start planners, likes the varied approach now being used because it gives mothers a choice of settings. As a back-up, however, the Office of Child Development is testing some of these approaches in 32 parent-child centers developed by several universities.

"We really can't set up more day care overnight," Dr. Zigler said. "We have neither the staff nor the facilities to do so. We must expand existing frameworks. The Head Start orientation is good. A giant step would be the passing of the family assistance plan."

This embattled legislation is the President's plan to reform the nation's welfare system. It includes day care expansion. While many educators oppose the compulsory work provision of the plan, they see administrative commitment to 450,000 new day care spaces as a first step in expanding services.

"It is absolutely mandatory to develop a new cadre of people whose training is directed at raising children," said Dr. Zigler. "The Russians have them. They call such people 'upbringers.'"

The Russians, Israelis and Swedes have for years had mass day care programs for working mothers. While cultural differences have made it impossible to transfer their programs directly to American situations, they have shown that such widespread programs are possible to operate.

There is a consensus among the educators and economists studying the situation that if day care is going to work on a universal basis, the Government is going to have to pay for the majority of it simply because the size of the problem is larger than the private sector's ability to solve it.

A number of Congressmen have introduced bills that would create day care in addition to the family assistance plan.

Representatives John A. Brademas, Democrat of Indiana, and John R. Dellenback, Republican of Oregon, have introduced a bill that would repeal Head Start and hand control of operations over to a state agency that would receive most of its money from the Federal Government.

A bill proposed by Senator Walter F. Mondale of Minnesota calls for the expansion of Head Start over the next five years from a $320-million a year program to a $5-billion a year program.

A third bill, proposed by Senator Russell B. Long of Louisiana, would set up a Federal Child Care Corporation that would create, but not pay for services.

Private efforts to solve the problem have been met with some skepticism. Several years ago, entrepreneurs, including several football stars, talked about setting up franchises. But because of the expense of running quality programs, most have left the field.

One private effort has received some praise from educators, however. This is the Educare project of the Universal Education Corporation of New York. It has signed a contract with the Pennsylvania State Department of Education to set up centers in four cities and hopes to expand from there.

Private industry has provided facilities for the children of employees on a very limited basis. A 1968 survey by the Department of Labor showed that fewer than 150 industry-sponsored centers were available and more than 100 of these were in hospitals.

The Amalgamated Clothing Workers Union in Baltimore and Chicago has extensive programs, however. So do KLH Research and Development Corporation of Cambridge, the Whirlpool division of RCA, and the Department of Labor itself.

FRUITFUL CULMINATION ANTICIPATED

Mr. Speaker, the child development program is a crucially important piece of legislation endorsed by the groups I have listed. The program is the result of 3½ years of dedicated work by both Democrats and Republicans. I look forward to the culmination of our efforts by the passage of this outstanding comprehensive child development program.

THE POWER TO ADVISE AND CONSENT

The SPEAKER. Under a previous order of the House, the gentleman from Michigan (Mr. CONYERS) is recognized for 1 hour.

Mr. CONYERS. Mr. Speaker and my colleagues, in considering the nominations to the Supreme Court, no one would, of course, deny the Presidential prerogative of examining a potential candidate's philosophy before placing his name before the Senate for confirmation. Nor is there any requirement of the kind of philosophy a nominee should espouse. However, it also follows that—and on this I think there is a great deal of misunderstanding—there is nothing to preclude the Senate from making the same examination. Indeed, to the contrary, I suggest that they have a responsibility to do so.

Many of the Founding Fathers feared that nominal advice and consent of the Senate on nominations to judgeships would create a dependency of the judiciary on the executive. It was their intent to make the judiciary independent by insisting on joint action of the legislative and executive branches on each nomination. Consequently, as Charles Black, a professor at Yale Law School, indicated, such inquiry into the philosophy of a nominee is consistent with the Senate's constitutional duty of advising on Presidential nominations.

So I would submit to this body and to our friends across the aisle and across the chamber that the responsibility in nominating a member to the Supreme Court is equal upon the Senators and upon the President to examine the qualifications of said nominee.

Mr. BADILLO. Will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from New York.

Mr. BADILLO. I commend the gentleman from Michigan for his statement. I think it is important that we begin to draw attention to that particular responsibility to which he refers; that it is not merely a question of identifying particular characteristics of an individual, such as points of view with respect to racial matters which may have been extreme or any financial difficulties, but also the question of evaluating the individual's whole character. Is not, then, from that point of view, it the responsibility of the Senate, just as great as it is that of the President, to evaluate the total character of the individual before confirming an appointment?

Mr. CONYERS. May I say to the gentleman from New York (Mr. BADILLO) an able member of the bar himself, that this is precisely the focus of these remarks today in this Chamber.

Of course, what I am hoping to develop—and I have had the honor of testifying before the Senate Judiciary Committee on this matter—is a notion, which I am not sure is well understood in that body. Beyond a nominee being technically competent in the law, additional criteria are imposed by the constitutional mandate on the Senate to advise and consent to the President upon this subject.

That is to say, if I may go back a couple of unsuccessful nominations ago where we had one nominee who had a conflict of interest problem and was found unfit to sit and was, therefore, rejected by a majority of the Members of the Senate, there was a clear specific instance.

In another matter of a nominee sent before the Senate for their advice and consent who again was rejected, there was clear a background in his record of racist statements, of a segregationist position so inconsistent with fulfilling the mandate of the Constitution that it was clear in view of a series of specific instances that he was unqualified to sit as a member of the highest Court in the land.

Mr. BADILLO. Mr. Speaker, if the gentleman will yield further, in other words, the difference is that the responsibility of the Senate in this regard is not merely to examine the history of the individual to determine that there is something objectionable to him, but also to find out if there is something positively good about him as well. It is somewhat like the rule we have in the law about what constitutes a good reputation. I do not remember the quote, but someone once said that a man who had a good reputation was someone that nothing bad had been said against him or was someone who had nothing good said for him. I do not think the Senate would want to establish this as its approach to the consideration of such nominees.

Mr. CONYERS. The gentleman is precisely correct.

Might I suggest if we look at the constitutional language that is the basis for determining what the rule of the Senate is in this matter, it is quite clear that the President shall nominate, and by and with the advice and consent of the Senate, shall appoint judges of the Supreme Court. Now, does that suggest a nominal function? Does that imply in any way that in advising and giving their consent to the nominees that their ruling is in any way subordinate? I would suggest, and indeed persist in this point because of the importance of the questions of the day. Indeed it will determine the way that this Government shall impart its meaning of the laws to many millions of its citizens, its minorities more particularly. They should know that the U.S. Senate with each Member voting has not only a responsibility in deciding to consent, but to fully advise the President upon this very weighty matter, and that their responsibility is fully equal; it is not in any way subordinate.

That leads me to conclude—and as it does other scholars on this constitutional question—that they must give their consent as well as their advice on precisely the same matters that the President himself considers when making the nomination and sending it to the Senate. If they were to do any less than that, they would not be fully advising the President in this matter.

The Chief Executive Officer has the full range of choices in sending nominees of any particular philosophy that he chooses for consideration. In the case of the incumbent President, he has chosen to select nominees whom admittedly have a narrow, conservative view of the law.

In view of that right of the President of the United States, I suppose not a Member in this body would quarrel that that imposes a corresponding responsibility upon each and every one of our distinguished colleagues in the Senate to do the same thing; that is to say, that they too must examine the philosophy, the world view and the attitude of the nominee on the important matters of the day.

A nominee's views on racial matters, his position on the important economic questions of our day and his disposition to view the civil liberties questions which will be presented in more complex fashion to the U.S. Supreme Court in the days and years ahead than they have ever been presented before must be carefully weighed. So each Member of the Senate has the responsibility to ask and resolve the question that, in addition to the nominee being someone who has not done anything wrong, who does not have any blemishes on his record, who is indeed a skilled legal craftsman at his profession, the question that he must as well pass upon in his judgment whether the outlook of the nominee is going to be one that will be able to deal in a very positive way with the kind of questions that will come before the U.S. Supreme Court.

Mr. BADILLO. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. Mr. Speaker, I yield to the gentleman from New York.

Mr. BADILLO. Mr. Speaker, in other words, if the President says that he is appointing an individual because he may bring about a certain philosophic balance to the Court, say, a conservative balance, the Senate then has a co-equal responsibility when a Senator might refuse to advise and consent with respect to that individual because he feels that that particular balance is precisely what the Supreme Court of the United States does not need at this time in the history of this country.

Mr. CONYERS. That is a precise reiteration of the point that has given a number of us in this body grave concern about the two present nominees currently under consideration in the other body. Because even if there were no specific negative instances, if there were no blemishes on their record which I am not able to say do not exist, because they do from the view from which I approach the matter—but even if there were none, and their conservative philosophies were such that a Member of the other body would feel that their going on the Bench would put the Court in the wrong direction, the wrong thrust for the 1970's and 1980's, then they would then have an obligation, no instances of a conflict of interest, or segregation, or posture notwithstanding, they would have the obligation as equal to the President to refuse the nomination perhaps on the same ground that the President himself sought to nominate them.

And it is for this deeper appreciation of the responsibilities that devolve on that other body that I take this time to engage in what I consider to be an extremely important discussion. Because I do not think anyone can quarrel with the fact that the Supreme Court is going to play an increasingly larger role in resolving the important vital questions of race and class and war and peace in this Nation.

Mr. KOCH. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from New York.

Mr. KOCH. Mr. Speaker, I want to join the gentleman in his very perceptive comments on the role of the Supreme Court and the role of the Senate in advising and consenting to the appointments to that Court.

One of the great tragedies that came out of the 1968 presidential election was that while many of us did disagree on whom the candidate of the Democratic Party should be at that time, what many of us failed to appreciate was the fact that whoever would be President would have an enormous impact outside of his regular Presidential functions, by the appointments that he would be making to the Supreme Court.

We see that occurring within the last 2 years, in the number of appointments that the President has made and is making, and in the caliber of those appointments made to a body which, in effect, in certain areas is surely equal to the other two bodies—the House and the Senate—and is suis generis in having jurisdiction over matters that never come before either of the two Houses. If the President appoints to that body, men whose philosophy is such that they cannot accept the conditions of the seventies and the eighties as they appear to be unrolling before us, and if their minds, aspirations for our country, judgments, and future actions are predicated upon a refusal to accept equality of rights and opportunities of all the country's citizens—they are not going to be able to deal with the fundamental problems which you have pointed out as being the greatest problems now facing and that will face this Nation in the coming years.

So I agree with you that while the Senate must give deference to the nominations made by the President, it cannot simply accept them on the basis that, if they are to be rejected, the evidence has to be overwhelmingly against any of the nominees. They must, as the gentleman in the well pointed out, take into consideration broader questions.

The impact that these two men on the bench will make upon our lives, will not be for a 2-year term, as the gentlemen who sit in this House do, or for a 6-year term as the gentlemen who sit in the other body do—but perhaps for 20 or 30 years in some cases. Therefore, I agree with you that what they have to do is to carefully consider all of the reasons that would go into an appointment to that Bench that all of us could be proud of.

So I join with you and with those who have spoken in the House today on this subject in urging our colleagues in the other body not simply to accept the nominations, but in the interest of all of us, to reject the two nominees and require that the President submit names that, without regard to party affiliation—without regard to political philosophy—that we can join in and say—these men for the next 20 or 30 years will serve this Nation well and in a way that we would have no hesitation in applauding their being elevated to those extraordinary and singular positions of Justices of the Supreme Court.

Mr. CONYERS. If that be the case, then it would become painfully obvious that competency as a legal technician is simply not sufficient in and of itself to ratify an appointment to the Supreme Court. Because judges by definition must sit in judgment, and they exercise what Oliver Wendell Holmes once called the sovereign prerogative of choice, that is, they must bring more to their task than a highly specialized technocracy, and what they bring to bear on each decision is the weight of their experience and breadth of their vision as well as their legal expertise.

So, what we are beginning to appreciate is that in other nominations which were rejected there were specific incidents that were sufficient cause to deter the Senate, blatant examples of racism which would obviously disqualify a nominee from going to the Supreme Court. And I might say parenthetically that that in itself is a rather new attitude on the part of the Senate. It certainly has not been a demonstrated propensity on the part of the Chief Executive, who has frequently nominated people with such defects.

But the Senate has made clear that they are now ready to reject out of hand a nominee who can be demonstrated to have a segregationist background, whose statements are so antithetical to the Constitution, to the Supreme Court decisions of the land that have emanated from the courts and to the laws passed by this Congress, that he is in total contradiction with some part of the U.S. Constitution and is clearly unable to function with fairness and impartiality.

We have clearly now established that if you are a skilled technician in the law, have had indeed even legal experience as a judge, and yet you come with a conflict of pecuniary interest, you are obviously unable to assume the robes of the highest court in the land. But this presents a newer and a finer question, because in the assumptions under which we are speaking now, if we were dealing with men who had no such specific misconduct, each member of the other body would be required, before they give their consent, to advise the President specifically as to whether their outlook on the important questions of the day would help this court. Otherwise, the President of the United States, not in just this instance but in any instance in the future, would be able to appoint the kind of court that would be dependent and subservient to the Chief Executive merely on the argument that the Senate must nominally confirm anyone who does not have any outstandingly bad records or blemishes in their background.

I think the gentleman from New York will agree with me that this is what has created some difficulty with the two nominations before us. We do not have segregationist speeches that we can cite to you. We have some activities—for example, of one nominee who is a member of more than one segregated social club, which to me speaks to his attitude on race relations in a very real and definitive way, in a way that any self-serving statements he might make before the Senate Judiciary Committee when being considered for the nomination for the Supreme Court could not erase. But here is a nominee who is ready to say that he will belong to or subscribe to membership in a social organization which would indeed preclude another member of the U.S. Supreme Court from even going to lunch with him, a situation that would be humorous if it were not indeed the precise fact that we are considering in the nomination of Mr. Lewis Powell.

So what I am saying is that, as Felix Frankfurter said:

> A justice ought to display something more than craftsmanship.

Never before in the recent period of the 1960's has the Senate been called upon to make this kind of examination. I do not say this disparagingly about our colleagues in the other body. Their workload is as heavy if not heavier than the kind that it is our obligation to carry. But it appears to me that if a Member of the other body is merely looking for a speech made by a nominee, is looking for a conflict of interest, he is only superficially making the constitutional examination that is required of him.

Because what we want to find, as Justice Frankfurter said, is:

> A Justice ought to display both a logical unfolding and a sociological wisdom.

Henry Steele Commager said:

> The great judicial decisions are great, not because they are brilliant formulations of

> the law alone, but because they embody high-mindedness, compassion for the public good, and insight into the moral implications of those decisions.

Let me bring that a little closer to home. We have a nominee who was the chairman of the board of education in Virginia during the fifties and sixties, during the height of the most massive public resistance to the Supreme Court's rulings on school desegregation that have ever occurred in any State in the Union in the 20th century. As chairman he took an oath, among other things, to uphold the Constitution of the United States, which includes, as we know the Supreme Court decisions of the land, and then during that period of chairmanship voted and supported the premise that parents who did not want their children to be subject to going to integrated schools would be subsidized. White parents would be subsidized by taxes out of the State treasury to evade the very clear responsibilities incumbent upon the board of education in that State, which the Supreme Court imposed in its decision of Brown against Board of Education of Topeka in May 1954, some 17 years ago. Can we suggest elevating a member who participated in circumventing the supreme law of the land to the Court that made that law of the land?

Now, I do not offer this charge lightly. I would invite my colleagues in both of the bodies to examine the record to find if there is any refutation of these charges that were made before the Judiciary Committee by an attorney from Virginia who participated in the Federal law suits suing the boards of education of a number of counties, of cities, and even of the State of Virginia, in which the nominee was named as a defendant. The attorney testified personally to the extent of the involvement of one of the nominees in this very questionable activity. I invite Members of this body and the other body to examine the record for any refutation of the charges that were made, because unless we are willing to confront the fact that one of the nominees participated in the massive resistance plans as the chairman of the school board of Virginia and even earlier as the chairman of the board of education in Richmond, Va., then I think we do less than our duty if this knowledge is before us and we do not communicate it completely, impartially, and fairly to every Member of the Senate upon whom the Constitution bestows the responsibility to advise the Chief Executive Officer on these nominations.

So there would seem to be little room to quarrel with the view that adequate legal experience and honesty alone are insufficient in reaching a determination of a nominee's fitness for the high court.

Of these requisites I contend his judicial philosophy is of the highest importance.

Might I say about the other nominee, Mr. William Rehnquist, we have evidence of a different kind. It is documented.

Here we have a nominee who in advising the President on earlier nominations drafted a letter for the President of the United States to one of the Senators, telling him that he did not have to right to fully examine the nomination that was made by him. In other words, he suggested, on one of the nominations that was eventually rejected by a majority of the Members of the U.S. Senate, in writing a letter for the President of the United States, that the Senate had something less than full, unfettered responsibility to inquire into the economic, the political, and the social views of the nominees.

This is the man we would now elevate to the Supreme Court himself.

This to me is the kind of question that needs even further examination by the Members of the Senate in making their determination.

So we see that the perception of the function of the Court, the obligations of a Justice in interpreting the Constitution, are clearly affected by his basic conviction on the socioeconomic issues of the day. It is upon this point that I have testified against the nominees currently under consideration.

I respect the view that there may be an honest difference of opinion about where this would lead. But I suggest that if everyone would approach the subject matter on the basis that the socioeconomic views should be clearly taken into account and evaluated, and if we would ask ourselves, without recourse to partisan considerations, are these the kinds of socioeconomic views that we want an otherwise technical craftsman to bring to bear as a member of the Supreme Court, and ask our Members of the Senate to cast their votes on that kind of analysis, I would be perfectly satisfied with the outcome of the vote upon both these nominees.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Ohio.

Mr. SEIBERLING. I wish to commend the gentleman from Michigan for laying on the record before this House some of the very important negative considerations about the two nominees who are before the Senate. Even though the House has no legal jurisdiction to deny or confirm the nominations, we certainly have a concern. We are a part of the Government of the United States. I believe we have a responsibility to see that the facts are brought out.

I am particularly concerned about the nominee Mr. Rehnquist. It seems to me that a nominee for the highest judicial office in the land should have a demonstrated passion for the Constitution, for the rights guaranteed by the Constitution, for the laws which he is bound as a justice to interpret.

I might say that the nominee, Mr. Rehnquist, has certainly demonstrated a passion for order.

But I would raise a very serious question as to whether he has demonstrated a passion for law.

We hear a great deal said about law and order, but when the sons of personal friends of mine who are residents of the city of Washington, who were walking to school one day last spring during the demonstrations, were swept up in the kind of dragnet that Mr. Rehnquist inspired and purportedly engineered as adviser to the Attorney General merely because they happened to be in the neighborhood—maybe they were wearing blue jeans; I do not know—it seems to me that this raises some very serious questions as to whether this particular candidate has the kind of dedication to the law that he is supposed to interpret and which he will be sworn to uphold and which he has been sworn before to uphold in his present office.

This is so fundamental that until this hurdle is passed over you do not even get to his socioeconomic point of view. Yet I agree with the gentleman that that is also an extremely important consideration which should be weighed in the total package that the Senate must consider in deciding whether these nominees merit this high judicial office.

I commend the gentleman for bringing this to the attention of the House.

Mr. CONYERS. I would like to point out, as I express my appreciation to the gentleman from Ohio (Mr. SEIBERLING) that what is under discussion today is strangely enough not a new development in the turn of constitutional law; this is not a unique philosophy that has evolved out of the considerations of the 20th century. This was embodied in the very statements and writings of the Founding Fathers. Alexander Hamilton in the Federalist Papers made it clear in his own words that this was not to be restricted, the responsibility of the Senate in advising and giving their consent to these nominations. Here is what he said in that early day of our country's history:

> To what purpose then require the cooperation of the Senate? I answer that the necessity of their concurrence would have a powerful although in general a silent effect. It would have been an excellent check upon a spirit of favoritism in the President and would tend greatly to prevent the appointment of unfit characters, from State prejudice, from family connection, from personal attachment, or a view to popularity. In addition to this, it would be an efficacious source of stability in the administration.

You can see that Hamilton supports the notion that the Senators are to consider anything they believe would bear on the wisdom of a nomination.

Foremost among these considerations, I believe, would be the judicial philosophy of the candidate.

What, then, are the socioeconomic views of the two nominees whose names currently are pending action in the other body?

Well, in my judgment, we have both candidates failing because of the precise reason that the President of the United States chose them—their narrow conservative philosophy.

I give this not as a political partisan and not because I oppose everything that the Chief Executive Officer does but because I as a Member of this body feel that it would be extremely damaging to the future of this third great branch of Government if we were to continue to ratify the advancement to the Supreme Court of the United States members who have or will reflect the outlook in their decisions of a conservative socioeconomic philosophy.

Permit me to be more specific. One

of the matters now before the Supreme Court and before many of the lesser Federal courts is the question of resolving the matter of race in education in America; that is to say that since 1954 it has been the supreme law of this land that sending children of different races to different schools works irreparable injury upon all of the children of each race—and that therefore the traditional practice of dual schools segregated on race or unified school districts which are based upon a segregation inside of a single school district, must be corrected when it is mandated by law or is assisted in any way by a governmental agency, be it municipal, county, State or Federal. The effect of that decision since 1954—18 years ago—is extremely profound.

The Supreme Court in its wisdom decided that there was a constitutional violation and for the very first time gave the offending party a reasonable time to correct a violation of a constitutional right that was being denied to millions upon millions of black and white schoolchildren.

I, as perhaps you, was sensitive to the fact that the dimension of this decision would require a certain amount of time to be absorbed, to be followed and put into operation by the school districts across the land. It began, of course, in the South, but the implications now of that one decision hang over every school district in the United States of America. So, we now have a great cry going about the land to somehow modify the implications of that decision.

If the President of the United States can dispose of that decision by merely appointing people of a narrow view to the Supreme Court, and we stand by, giving our Senators no encouragement to inquire into the question of that narrowness, then I think we are doing less than our responsibilities as Members who work closely with that other body.

In other words, I am not prepared to say that the President has the prerogative to pack the Court with people who would turn us away from the Brown decision of 1954 merely because he can name the nominees. I demand that the Senate exercise its responsibilities and examine where the views of these nominees would ultimately take not only the Supreme Court but all of us in the land.

Mr. CORMAN. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I shall be happy to yield to the gentleman from California.

Mr. CORMAN. I thank the gentleman for yielding and for letting me share with him this special order.

I think there is nothing more important that has come up in this Congress. The gentleman has just stated why the Senate has an awesome obligation to the American people to inquire into the views of anyone who may be elevated to the U.S. Supreme Court.

Our whole history has been one of struggling toward equality for all men, but it has been a slow, painful process and many times a tragic one. Many of us saw the 1954 Supreme Court decision as the last necessary great step toward equality, because it sought to insure young people moving into our public life at the age of 5, a chance of moving into a school that reflected racial justice. Now, regrettably, nearly 18 years later, we still wait for that promised commitment. We have educated a whole generation of Americans without implementing that decision in most of this country.

Certainly we have not implemented it in my own school district in Los Angeles. It is necessary that we look at where we have been and where we are on this issue because, as I say, I think this is the one great step left untaken. Until we get equality for the 5-year-old as he moves into his educational process we cannot expect to make progress in achieving racial justice in this country.

The President who preceded us saw this issue not as a legal nicety, but as a moral necessity, and he directed his efforts toward establishing racial justice in this country on that ground. The incumbent President, as I understand him, says to the American people, "We will do only what the Court requires. We will integrate our public schools only as the Court requires, case by case." The morality of the issue and the necessity of it for all Americans escapes him.

But, then, what else does he do? He says, "And I will do my best to change the Court so it will require nothingness."

And that is the reason that the Senate must look at this particular issue so carefully, and must guard the American people against the President being successful in his efforts to destroy the one part of this Government that can most effectively bring us towards a single society.

We have all suffered through this dual society, some more than others, but always we have moved toward equality, and we cannot move further unless we can integrate the public schools throughout this land, for every American. But full equality will not be realized unless we protect the U.S. Supreme Court from those who are narrow and bigoted. The Senate has twice served that cause. I hope they will again.

I commend the gentleman for taking this special order.

Mr. CONYERS. Mr. Speaker, I want to thank the gentleman from California for a concise commentary. I appreciate that the gentleman has served with great distinction on the Committee on the Judiciary in the House, and continually brings his legal competence to the membership.

Mr. SCHMITZ. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. Yes, I yield to the gentleman.

Mr. SCHMITZ. I would like to direct a question to my colleague, the gentleman from California (Mr. CORMAN) if the gentleman in the well would yield some time to the gentleman to answer. It is only just a point of clarification.

The gentleman from California mentioned that we should protect the Court from those who are narrow and bigoted. Did the gentleman mean that any of the current nominees fit that category? Is the gentleman labeling them either bigoted or narrow?

Mr. CORMAN. Mr. Speaker, will the gentleman yield for a response?

Mr. CONYERS. I yield to the gentleman from California.

Mr. CORMAN. I have not testified before the Senate committee because I do not know whether they are or not. But I do know that that question must be addressed by the Senate. They must look at it very carefully. And if that is their conclusion, if there is any reason for them to believe that the nominees fit that category, that they would frustrate the hopes of Americans to continue to have protection from the U.S. Supreme Court for their 14th amendment rights, then the Senate should reject their nominations.

Mr. SCHMITZ. I thank the gentleman for the clarification.

Mr. CONYERS. Mr. Speaker, I would like to point out to my colleague, and I am delighted that he is on the floor at this time, that I have testified before the Senate Committee on the Judiciary against both of the nominees. I have been extremely careful to avoid the use of labels that are in any way emotional, or would tend to complicate the problem that we are discussing. I claim their unfitness based on their narrowness of view and their failure to understand the magnitude and the direction that our society must go in.

The question of wiretapping is before the U.S. Supreme Court. I have some concern about Mr. Rehnquist's cavalier attitude on that subject.

The question of school desegregation is clearly on the docket of the U.S. Supreme Court.

I disagree most strenuously with Mr. Powell's participation as chairman of the School Board of the State of Virginia in accepting the programs that funded white parents to take their children to private schools to evade the Supreme Court decision—at, incidentally, black taxpayers' expense who were excluded from any such program.

It seems to me, without trying to denominate someone as a bigot or a racist or a segregationist, that the fact of their record must speak for itself as we attempt to make these kinds of evaluations.

Mr. CORMAN. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman.

Mr. CORMAN. I just want to emphasize again that I do not have enough personal knowledge of the facts and I am pleased that the gentleman in the well did have and that he shared that knowledge with the Senate.

The gentleman was just using the term of narrowness of views. One man's view of one with a narrow mind might make another man's view of a bigot.

I personally must consider a person a bigot if he does not believe little children should be able to go to school together regardless of the color of their skin.

Mr. SCHMITZ. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I will yield further, but first may I point out that what we are doing in this discussion, and in my testimony before the Senate, is not to assume the brashness to tell the Senate how they ought to vote. I do not stand in the well of this House to instruct them on which way they should cast their vote. I know which way I would cast my vote were I honored to sit in that Chamber. But I asked them to evaluate and to use the rationale that has been constitutionally developed since Alexander Hamilton made the statement that I have already cited in the Federalist papers, that they examine the world views and the outlook of the nominee.

Now if it so happens that a Member in the other body voting on this question is satisfied that he too as a chief executive officer wants someone with a narrow view and he wants someone who will attempt to subvert the Supreme Court decision of 1954, and he wants someone who will not put forth decisions that will eliminate the institutional racism that has existed in America since 1619, then of course he will use the same formula that has been presented here, vote differently from the way this particular Member would if he were in the other body.

I yield to the gentleman from California (Mr. SCHMITZ) if he desires recognition.

Mr. SCHMITZ. I just wanted the gentleman to yield further for a further clarification of what I thought was a clarification from my colleague, the gentleman from California, if he is still in the Chamber, and I would be pleased if he would check me if I am wrong here—his comment seemed to say that he was now convinced one of the Court nominees is a bigot; is that correct?

Mr. CORMAN. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman.

Mr. CORMAN. No; I said I do not know of my own knowledge whether they are or not. I gathered from the criteria, and said I thought Mr. CONYERS' language used in the Senate fit them into that category and I also tried to indicate that my very gentle colleague in the well might use the more polite term "narrow view" when in my opinion I might by the same criteria use the word "bigot."

Mr. SCHMITZ. You mean you do say or you did not; is that correct?

Mr. CONYERS. May I ask the gentleman from California (Mr. SCHMITZ) if he has read the statement I presented to the Members of the Senate?

Mr. SCHMITZ. No, I have not.

Mr. CONYERS. That is in connection with Mr. Powell or Mr. Rehnquist?

Mr. SCHMITZ. No, I have not.

Mr. CONYERS. I would be very pleased to provide the gentleman with it. I appreciate the gentleman's concern on this subject. I would be pleased to present myself for any details that he would like to have. Perhaps he will end up sharing my view with me, if he were advised of the same factual material that has come to my attention and which caused me to go to the Senate to testify in the first place.

Mr. SCHMITZ. Do you mean your testimony in the Senate was longer than your 60-minute special order?

Mr. CONYERS. What difference does that make?

Mr. SCHMITZ. I thought you had just about covered the ground very thoroughly here.

Mr. CONYERS. No. As a matter of fact, I have not presented any of my statements in full. I will send them to you. They recite specific material. We have not covered the information. As a matter of fact, if the gentleman thought that he had heard the entire discussion on the merits of the two candidates, then I feel a responsibility to get this material to him as fast as a page can deliver it to his office, because it has not been thoroughly covered.

Mr. SCHMITZ. I would certainly appreciate it, because there has not been anything presented this evening, really, to impress me as far as your case goes.

Mr. CONYERS. There may not be anything in the briefs that will impress the gentleman, but until he has seen them, I would hope he would reserve any final position on the matter, because if he feels as I do, that anyone who would separate young children in America from schools according to race should be prevented from sitting on the Supreme Court, then he might join with me in my opposition to the nominee from the State of Virginia.

Mr. SCHMITZ. Well, you just send it over. I do not know why, if your arguments are so good, you kept them under wraps during your whole hour here.

Mr. CONYERS. They have not been kept under wraps. They were in the CONGRESSIONAL RECORD before. I could cite to the gentleman the page and the date that they appeared in the CONGRESSIONAL RECORD. They have not been under wraps. They have been reported to the media to the extent I have influence in getting my remarks in the media. They have been reported to each and every Member of the U.S. Senate.

I yield to the gentleman from Maryland (Mr. MITCHELL).

Mr. MITCHELL. I thank my distinguished colleague for yielding.

I, too, want to join in commending you for your courage and your insight in bringing this matter, not just before this honorable body, but before the Nation.

I would like to remind this House that the crucible for democracy is not during a time of peace and tranquility. The crucible for democracy is during that time when institutions are being tested for their viability and their relevance. It is during that time of tension and stress associated with fast, almost cataclysmic social change, that we have the real crucible for democracy.

The big question that looms before us, not only in connection with the proposed nominations of Mr. Rehnquist and the other candidate, but also with the whole mosaic of American life—the big question is this: How are we going to meet this present crucible? How are we going to meet it? Shall we meet it by closing the doors? Shall we meet it by repression? Shall we meet it by using every technicality possible to just crush dissent and protest?

Some several weeks ago on this floor I spoke briefly about the history of black Americans and other minorities in this country, and I talked about the cycle of utilizing the three branches of Government. There have been times—and I feel we are now in one of those times—when the White House, the executive branch, has been unresponsive to the needs of the blacks, the poor people, and other minorities. There have been other times in the past when that has occurred and we would look to the legislative body for help. Now I fear that just as the executive branch is showing a great deal of callousness and insensitivity in the things to which I have alluded, I find evidences in this very House of the same kind of insensitivity to those things I spoke of, which leaves the poor, the black people, the Chicanos, and other minorities looking to the one thing, that one last citadel of justice that we have, almost inevitably had to turn to, and that has been the Supreme Court of the United States.

I respectfully submit that if indeed these two nominations are approved, then the door to the citadel of justice will be closed to us for perhaps the next 20 or 30 years.

I am further respectfully submitting to the distinguished gentleman, my colleague, and to the Members of this House, that this untoward action on the part of the executive branch in recommending men who do not meet the integrity needs of the U.S. Supreme Court is going to suggest to millions of Americans that the last door is closed to them.

Mr. Speaker, I would then further respectfully suggest that once that realization is spread out across this Nation, it must then be the responsibility of the Chief Executive of this Nation to deal with the byproduct, the aftermath of that realization.

Mr. Speaker, I do commend the gentleman again, and I am very, very proud to associate myself with his remarks.

Mr. CONYERS. Once again the gentleman from Maryland has summed up the frustrations that are visible in the black communities across this Nation. I would add only this to his excellent narration, which is: Does the gentleman not feel that there will be some additional disappointment if the Members of the Senate casually ratify these nominations? It is one thing for the Chief Executive Officer to disappoint us, but I think we reach a new level of disillusionment if our colleagues in the other body do not carefully scrutinize the basis upon which we raise these objections?

In other words, I think there will be an additional pessimism if we do not have Members in that body who are willing to examine the questions we raise.

Mr. HELSTOSKI. Mr. Speaker, I wish to thank my distinguished colleague from Michigan for this opportunity to express my strong opposition to the nomination and possible appointment of William H. Rehnquist to be an Associate Justice of the Supreme Court.

I realize that Mr. Rehnquist is reputedly of superior intelligence: however, intelligence is but one of many qualities required of those who serve on the Supreme Court. His deficiencies in the remaining areas, if I may be permitted an understatement, are greatly disquieting.

Our legislative efforts in the civil rights field must have the cooperation of the Supreme Court for enforcement. Yet, Mr. Rehnquist admitted he opposed a public accommodations law in 1964 because he failed to comprehend "the strong concern that minorities have for the recognition of their rights." The Supreme Court understood this concern and gave this recognition in the area of education 10 years earlier. This concern was quite evident to most Americans, though belatedly, in the 1950's and early 1960's. I find Mr. Rehnquist's oversight reprehensible, and only wonder what could happen if he were serving on the Supreme Court and he were again subject to such a misunderstanding about civil rights.

While Mr. Rehnquist's civil rights record is unacceptable, I am also deeply concerned about his attitude toward the first amendment. Certainly, he seems to feel that the Government's desire to secure information about individuals' private lives takes precedence over their right to privacy. I would hate to think that Mr. Rehnquist does not understand the "strong concern" American citizens have for preserving their privacy. Yet, his record as the Justice Department's chief spokesman for undermining the Bill of Rights leads me to this conclusion.

The civil liberties guaranteed by our Constitution are under constant attack and are seriously endangered today. We must be able to depend on the Supreme Court to defend these liberties. Freedom to assemble peacefully, the right to privacy, free speech, and freedom of the press must be vigorously protected. When these foundations of democratic government are involved in cases before the Supreme Court, participants in the drafting of the Court's decisions should not include one who feels that property rights and bureaucratic whims outweigh human rights. This unfortunate matrix of values is the underpinning of Mr. Rehnquist's legal philosophy.

I should, therefore, urge the Members of the other body to deny their consent to this nomination and advise the administration to propose a more openminded nominee, conversant with the Supreme Court's responsibility to recognize and protect the civil rights and civil liberties of American citizens.

Mr. STOKES. Mr. Speaker, it disturbs me greatly that we must again discuss the fitness of a nominee for the Supreme Court. It would seem that before nomination a candidate would be so carefully screened that we would have little to discuss other than differences in philosophy.

Many very serious and very basic questions have been raised about the fitness of William H. Rehnquist. Few of us here would generally agree with the legal philosophy of either Mr. Rehnquist or Mr. Powell. With respect to Mr. Rehnquist, however, my reservations go beyond mere philosophical differences.

Since his nomination, Mr. Rehnquist's long record of consistent, aggressive efforts to restrict or deny the civil rights and civil liberties of individuals and groups has been revealed.

It was said that "Caesar's wife must be above suspicion." A Supreme Court nominee's commitment to the general principles of the Bill of Rights and the 14th amendment must be indisputable. Nine Justices of the Court agreed on the general principles of the Brown decision to eliminate racial segregation of schools. Many decisions of the Warren Court were by 5-to-4 votes, but no one could question the basic commitment of the four dissenters to the principles of personal liberty.

That cannot be said of William Rehnquist. His record indicates a strong commitment to the limitation of individual rights. He has publicly manifested the belief that property rights outweigh civil rights by opposing civil rights legislation. He has shown a lack of concern about government invasion of privacy and a severely limited view of the right of free speech. If it could be said that his positions appear to have been reached after a careful evaluation of the facts in each particular situation, his fitness might be defensible. His record, however, indicates an adamant, dogmatic view of the problems of society in which there is precious little room for considerations of individual rights. In virtually all situations, political expediency seems to have outweighed human rights in Mr. Rehnquist's scale of values.

Because of his record and his apparent inability or unwillingness to carefully consider civil liberties matters, he is wholly unfit to serve as an Associate Justice of the Supreme Court. I hope that the Senate will again demonstrate its wisdom by rejecting him as it has rejected two of President Nixon's prior nominees.

Mrs. ABZUG. Mr. Speaker, I rise to voice my strong opposition to the nominations of Lewis Powell and William Rehnquist to the Supreme Court. While both men may be legally qualified for the Court, their philosophical leanings make them completely unacceptable.

I need not remind my colleagues of the importance of an independent and progressive Court. We have seen in recent years a dangerous rise in the power of the executive branch of Government as Congress has repeatedly and continuously refused to assert its vital constitutional role. Are we now going to approve of a Court that is also to be subordinate to the executive? If we approve the appointments of William Rehnquist and Lewis Powell, where will we turn for some kind of control or limitation on the excesses of the executive?

The record of the Burger Court has already been described as a catastrophe by an official of the American Civil Liberties Union. The Court's ruling on the Pentagon papers, upholding freedom of the press by the narrowest of margins and for the narrowest of reasons, may well be the last vote for the Bill of Rights that we may expect from the Court for many years.

If the appointment of William Rehnquist is approved, the Court may be thrown decisively into the right wing. The Bill of Rights may no longer be honored as the law of the land. Mr. Rehnquist's service in the Justice Department has seen such innovations as investigations of television commentators, mass arrests, and the detention of thousands of innocent people, the reviving of the Subversive Activities Control Board, and the dragging of Americans before grand juries on fake conspiracy charges.

Under the Constitution, the Senate must give its advice and consent to appointments to the Supreme Court. It is certainly not required to acquiesce to the appointment of men whose philosophical and political views would undermine the Bill of Rights, a living and vital part of our Constitution.

Both Lewis Powell and William Rehnquist represent those forces that many of us have been fighting for years. We have fought for years to defend the rights of the powerless and to gain for all our brothers and sisters equality under the law. Are we now going to support men who would turn back the clock, men whose records have shown them to be at best negligent on the question of equality for the blacks and at worst to be philosophical racists?

I believe the nature of Mr. Nixon's appointments provide ample reason for the Senate to refuse to give its consent, but there are other grounds as well. I believe the time is due, in fact long overdue, for the President to appoint a woman to the Supreme Court, and the highest priority should be given to that. The Senate has an opportunity to begin to undo the discrimination against women. It should let it be known that the President has an obligation to appoint a woman to the Supreme Court.

I urge this source not only out of an abstract sense of justice. I believe it is a necessity if the very important women's rights issues that are beginning to come before the High Court are to receive proper consideration.

The demand for a woman on the Supreme Court has come from women's groups all over the country, including the National Women's Political Caucus. We in the caucus submitted to the White House a list of 10 distinguished women who were highly qualified. The President chose to play a game of hide and seek with these demands. By secretly hinting that he was considering a woman who was found by the American Bar Association to be totally unqualified he implied that in all of the United States there was not a woman good enough to be on the Court. The real problem, of course, was that he could not find one bad enough.

It is shocking that in our 190-year history we have not had a woman on the Supreme Court. It is unforgivable for us to allow this situation to continue.

When I first heard President Nixon's statement that he was going to ignore the modified Mansfield amendment which he had just signed into law, my first reaction was that we should go to court—all the way to the Supreme Court, if necessary—to challenge the constitutionality of his action; after all, the Constitution requires him to "take care that the laws be faithfully executed." And then I thought about it again. When Mr. Nixon gets through with the Court, will any of us retain any faith in its wisdom, its independence, its objectivity or its devotion to constitutional liberties? Will anyone want to risk placing his rights at the disposal of Nixon's "yes-men"?

If the appointments of William Rehnquist and Lewis Powell are approved, I shudder for the future of our cherished Bill of Rights. I hope that the Senate will come to its senses and decline to confirm these two nominees.

Mr. RYAN. Mr. Speaker, I commend my distinguished colleague from Michigan (Mr. CONYERS) for taking this time so that Members of the House of Representatives may comment upon the pending Supreme Court nominations. Although only the Senate—and not the House—will vote on the question of confirmation, it is important that our views be made known and recorded.

The nominations of William Rehnquist and Lewis Powell to the Supreme Court are part of the larger problem of the President's approach to Supreme Court appointments. Unfortunately, the President has used his appointive powers in an effort to overturn or undercut landmark decisions in areas of civil rights and criminal procedure which were developed during the years of the Warren court.

Predictably, these decisions of the Warren court offended reactionary and antilibertarian elements in our society, whom President Nixon has sought to appease through his nominations to the Supreme Court. In so doing, he is making good on a campaign promise, when in 1968 he made the Court a political issue.

In May of 1968, Mr. Nixon said:

> There are two important things I would consider in selecting a replacement to the Court:
>
> First, since I believe in a strict interpretation of the Supreme Court's role, I would appoint a man of similar philosophical persuasion.
>
> Second, recent court decisions have tended to weaken the peace forces, as against the criminal forces, in this country. I would therefore want to select a man who was thoroughly experienced and versed in the criminal law and its problems.

The Congress and the country have been subject to great stresses as a result of the President's attempt to make good on his rhetoric. We have had the Haynsworth and the Carswell fiascos. Even the nomination of Mr. Justice Blackmun was accompanied by bitter talk from the White House that a southerner could not be confirmed by the Senate.

And now again, the Senate is faced with nominations which are not calculated to advance the gains of the past but rather to turn back the clock.

Thus in addition to the question of the individual qualifications of William Rehnquist and Lewis Powell, there is the larger issue of President Nixon's attempt to reshape the Supreme Court and overturn historic decisions which have upheld equal rights and which have brought a measure of justice to this country's sadly floundering system of criminal law.

It may be understandable that the President seeks to appoint Supreme Court justices who will approach the great questions before the Court from a conservative viewpoint. But it is regrettable that he has failed to recognize that the Supreme Court stands as a special guardian of our liberties and that its members must be more than technically competent lawyers. They must have depth and insight and understanding of the great problems that beset this country.

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A NOTE ON SENATORIAL CONSIDERATION OF SUPREME COURT NOMINEES

(By Charles L. Black, Jr.) *

If a President should desire, and if chance should give him the opportunity, to change entirely the character of the Supreme Court, shaping it after his own political image, nothing would stand in his way except the United States Senate. Few constitutional questions are then of more moment than the question whether a Senator properly may, or even at some times in duty must, vote against a nominee to that Court, on the ground that the nominee holds views, which, when transposed into judicial decisions, are likely, in the Senator's judgment, to be very bad for the country. It is the purpose of this piece to open discussion of this question; I shall make no pretense of exhausting that discussion, for my own researches have not proceeded far enough to enable me to make that pretense.[1] I shall, however, open the discussion by taking, strongly, the position that a Senator, voting on a presidential nomination to the Court, not only may but generally ought to vote in the negative, if he firmly believes, on reasonable grounds, that the nominee's views on the large issues of the day will make it harmful to the country for him to sit and vote on the Court, and that, on the other hand, no Senator is obligated simply to follow the President's lead in this regard, or can rightly discharge his own duty by so doing.

I will open with two prefatory observations.

First, it has been a very long time since anybody who thought about the subject to any effect has been possessed by the illusion that a judge's judicial work is not influenced and formed by his whole lifeview, by his economic and political comprehensions, and by his sense, sharp or vague, of where justice lies in respect of the great questions of his time. The *loci classici* for this insight, now a platitude, are in such writers as Oliver Wendell Holmes, Jr., Felix Frankfurter, and Learned Hand. It would be hard to find a well-regarded modern thinker who asserted the contrary. The things which I contend are both proper and indispensable for a Senator's consideration, if he would fully discharge his duty, are things that have definitely to do with the performance of the judicial function. The factors I contend are for the Senator's weighing are factors that go into composing the quality of a judge. The contention that they may not properly be considered therefore amounts to the contention that some things which make a good or bad judge may be considered—unless the Senator is to consider nothing—while others may not.

Secondly, a certain paradox would be involved in a negative answer to the question I have put. For those considerations which I contend are proper for the Senator are considerations which certainly, notoriously, play (and always have played) a large, often a crucial, role in the President's choice of his nominee; the assertion, therefore, that they should play no part in the Senator's decision amounts to an assertion that the authority that must "advise and consent" to a nomination ought not to be guided by considerations which are hugely important in the making of the nomination. One has to ask, "Why"? I am not suggesting now that there can be no answer; I only say that an answer must be given. In the normal case, he who lies under the obligation of making up his mind whether to advise and consent to a step considers the same things that go into the decision whether to take that step. In the normal case, if he does not do this, he is derelict in his duty.

I have called this a constitutional question, and it is that (though it could never reach a court), for it is a question about the allocation of power and responsibility in government. It is natural, then, for American lawyers to look first at the applicable text, for what light it may cast. What expectation seems to be projected by the words, "The President . . . shall nominate, and by and with the Advice and Consent of the Senate shall appoint . . . Judges of the Supreme Court . . . ."?[2] Do these words suggest a rubber-stamp function, confined to screening out proven malefactors? I submit that they do not. I submit that the word "advice," unless its meaning has radically changed since 1787, makes next to impossible that conclusion.

Procedurally, the stage of "advice" has been short-circuited.[3] Nobody could keep the President from doing that, for obvious practical reasons. But why should this procedural short-circuiting have any effect on the *substance* so strongly suggested by the word "advice"? He who merely *consents* might do so perfunctorily, though that is not a necessary but merely a possible gloss. He who *advises* gives or withholds his advice on the basis of *all* the relevant considerations bearing on decision. Am I wrong about this usage? Can you conceive of sound "advice" which is given by an advisor who has deliberately barred himself from considering some of the things that the person he is advising ought to consider, and does consider? If not, then can the Presidents, by their unreviewable short-circuiting of the "advice" stage, magically have caused to vanish the Senate's responsibility to consider what it must surely consider in "advising"? Or is it not more reasonable to say that, in deciding upon his vote at the single point now left him, every Senator ought to consider everything he would have considered if, procedurally, he were "advising"? Does not the word "advice" permanently and inescapably define the *scope* of Senatorial consideration?

It is characteristic of our legal culture both to insist upon the textual reference-point, and to be impatient when much is made of it, so I will leave what I have said about this to the reader's consideration, and pass on to ask whether there is anything else in the Constitution itself which compels or suggests a restriction of Senatorial consideration to a few rather than to all of the factors which go to making a good judge. I say there is not; I do not know what it would be. The President has to concur in legislation, unless his veto be overridden. The Senate has to concur in judicial nominations. That is the simple plan. Nothing anywhere suggests that some duty rests on the Senator to vote for a nomination he thinks unwise, any more than that a duty rests on the President to sign bills he thinks unwise.

Is there something, then, in the whole structure of the situation, something unwritten, that makes it the duty of a Senator to vote for a man whose views on great questions the Senator believes to make him dangerous as a judge? I think there is not, and I believe I can best make my point by a contrast. The Senate has to confirm—advise and consent to—nominations to posts in the executive department, including cabinet posts. Here, I think there is a clear structural reason for a Senator's letting the President have pretty much anybody he wants, and certainly for letting him have the people of any political views that appeal to him. These are his people; they are to work with him. Wis-

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Footnotes at end of article.

dom and fairness would give him great latitude, if strict constitutional obligation would not.

Just the reverse, just exactly the reverse, is true of the judiciary. The judges are *not* the President's people. God forbid! They are not to work with him or for him. They are to be as independent of him as they are of the Senate, neither more nor less. Insofar as their policy orientations are material—and, as I have said above, these can no longer be regarded as immaterial by anybody who wants to be taken seriously, and are certainly not regarded as immaterial by the President—it is just as important that the Senate think them not harmful as that the President think them not harmful. If this is not true, why is it not? I confess here I cannot so much as anticipate a rational argument to which to address a rebuttal.

I can, however, offer one further argument tending in the same direction. The Supreme Court is a body of great power. Once on the Court, a Justice wields that power without democratic check. This is as it should be. But is it not wise, before that power is put in his hands for life, that a nominee be screened by the democracy in the fullest manner possible, rather than in the narrowest manner possible, under the Constitution? He is appointed by the President (when the President is acting at his best) because the President believes his world-view will be good for the country, as reflected in his judicial performance. The Constitution certainly permits, if it does not compel, the taking of a second opinion on this crucial question, from a body just as responsible to the electorate, and just as close to the electorate, as is the President. Is it not wisdom to take that second opinion in all fullness of scope? If not, again, why not? If so, on the other hand, then the Senator's duty is to vote on his whole estimate of the nominee, for that is what constitutes the taking of the second opinion.

Textual considerations, then, and high-political considerations, seem to me strongly to thrust toward the conclusion that a Senator both may and ought to consider the life-view and philosophy of a nominee, before casting his vote. Is there anything definite in history tending in the contrary direction?

In the Constitutional Convention, there was much support for appointment of judges *by the Senate alone*—a mode which was approved on July 21, 1787,[4] and was carried through into the draft of the Committee of Detail.[5] The change to the present mode came on September 4th, in the report of the Committee of Eleven[6] and was agreed to *nem. con.* on September 7th.[7] This last vote must have meant that those who wanted appointment by the Senate alone—and in some cases by the whole Congress—were satisfied that a compromise had been reached, and did not think the legislative part in the process had been reduced to the minimum. The whole process, to me, suggests the very reverse of the idea that the Senate is to have a confined role.

I have not reread every word of *The Federalist* for this opening-gun piece, but I quote here what seem to be the most apposite passages from Number 76 and 77:

"But might not his nomination be overruled? I grant it might, yet this could only be to make place for another nomination by himself. The person ultimately appointed must be the object of his preference, though perhaps not in the first degree. It is also not very probable that his nomination would often be overruled. The Senate could not be tempted, by the preference they might feel to another, to reject the one proposed; because they could not assure themselves, that the person they might wish would be brought forward by a second or by any subsequent nomination. They could not even be certain, that a future nomination would present a candidate in any degree more acceptable to them; and as their dissent might cast a kind of stigma upon the individual rejected, and might have the appearance of a reflection upon the judgment of the chief magistrate, it is not likely that their sanction would often be refused, where there were not special and strong reasons for the refusal.

"To what purpose then require the cooperation of the Senate? I answer, that the necessity of their concurrence would have a powerful, though, in general, a silent operation. It would be an excellent check upon a spirit of favoritism in the President, and would tend greatly to prevent the appointment of unfit characters from State prejudice, from family connection, from personal attachment, or from a view to popularity. In addition to this, it would be an efficacious source of stability in the administration.

"It will be readily be comprehended, that a man who had himself the sole disposition of offices, would be governed much more by his private inclinations and interests, than when he was bound to submit the propriety of his choice to the discussion and determination of a different and independent body, and that body an entire branch of the legislature. The possibility of rejection would be a strong motive to care in proposing. The danger to his own reputation, and, in the case of an elective magistrate, to his political existence, from betraying a spirit of favoritism, or an unbecoming pursuit of popularity, to the observation of a body whose opinion would have great weight in forming that of the public, could not fail to operate as a barrier to the one and to the other. He would be both ashamed and afraid to bring forward, for the most distinguished or lucrative stations, candidates who had no other merit than that of coming from the same State to which he particularly belonged, or of being in some way or other personally allied to him, or of possessing the necessary insignificance and pliancy to render them the obsequious instruments of his pleasure.[8]

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"If it be said they might sometimes gratify him by an acquiescence in a favorite choice, when public motives might dictate a different conduct, I answer, that the instances in which the President could be personally interested in the result, would be too few to admit of his being materially affected by the compliances of the Senate. The *power* which can *originate* the disposition of honors and emoluments, is more likely to attract than to be attracted by the *power* which can merely obstruct their course. *If by influencing the President be meant restraining him, this is precisely what must have been intended* [emphasis supplied]. And it has been shown that the restraint would be salutary, at the same time that it would not be such as to destroy a single advantage to be looked for from the uncontrolled agency of that Magistrate. The right of nomination would produce all the good of that of appointment, and would in a great measure avoid its evils."[9]

I cannot see, in these passages, any hint that the Senators may not or ought not, in voting on a nominee, take into account anything that they, as serious and public-spirited men, think to bear on the wisdom of the appointment. It is predicted, as a mere *probability*, that Presidential nominations will not often be "overruled." But "special and strong reasons," thus generally characterized, are to suffice. Is a Senator's belief that a nominee holds skewed and purblind views on social justice not a "special and strong reason"? Is it not as "special and strong" as a Senator's belief that an appointment has been made "from a view to popularity"—a reason which by clear implication *is* to suffice as support for a negative vote? If there is anything in *The Federalist Papers* neutralizing this inference, I should be glad to see it.

When we turn to history, the record is, as always, confusing and multifarious. One can say with confidence, however, that a good many nominations have been rejected by the Senate for repugnancy of the nominee's views on great issues, or for mediocrity, or for other reasons no more involving moral turpitude than these. Jeremiah Sullivan Black, an eminent lawyer and judge, seems to have been rejected in 1861 because of his views on slavery and secession.[10] John J. Crittenden was refused confirmation in 1829 on strictly partisan grounds.[11] Wolcott was rejected partly on political grounds, and partly on grounds of competence, in 1811.[12] There is the celebrated Parker case of this century.[13] The perusal of Warren[14] will multiply instances.

I am very far from undertaking any defense of each of these actions severally. I am not writing about the wisdom, on the merits, of particular votes, but of the claim to historical authenticity of the supposed "tradition" of the Senators' refraining from taking into account a very wide range of factors, from which the nominees' views on great public questions cannot, except arbitrarily, be excluded. Such a "tradition," if it exists, exists somewhere else than in recorded history. Of course, all these instances may be dismissed as improprieties, but then one must go on and say why it *is* improper for the Senate, and each Senator, to ask himself, before he votes, *every* question which heavily bears on the issue whether the nominee's sitting on the Court will be good for the country.

I submit that this "tradition" is just a part of the twentieth-century mystique about the Presidency. That mystique, having led us into disastrous undeclared war, is surely due for reexamination. I do not suggest that it can be or should be totally rejected. I am writing here only about a little part of its consequences.

To me, there is just no reason at all for a Senator's not voting, in regard to confirmation of a Supreme Court nominee, on the basis of a full and unrestricted review, not embarrassed by any presumption, of the nominee's fitness for the office. In a world that knows that a man's social philosophy shapes his judicial behavior, that philosophy is a factor in his fitness. If it is a philosophy the Senator thinks will make a judge whose service on the Bench will hurt the country, then the Senator can do right only by treating this judgment of his, unencumbered by deference to the President's, as a satisfactory basis in itself for a negative vote. I have as yet seen nothing textual, nothing structural, nothing prudential, nothing historical, that tells against this view. Will someone please enlighten me?

FOOTNOTES

*Henry R. Luce Professor of Jurisprudence, Yale University, B.A. 1935, M.A. 1938, University of Texas; LL.B. 1943, Yale.

[1] I shall not provide this discussion with an elaborate footnote apparatus. I am sorry to say that I cannot acknowledge debt, for I am writing from my mind; experience teaches that, when one does this, one unconsciously draws on much reading consciously forgotten; for all such obligations unwittingly incurred I give thanks. I have had the benefit of discussion of many of the points made herein with students at the Yale Law School, of whom I specifically recollect Donald Paulding Irwin; I have also had the benefit of talking to him about the piece after it was written.

HARRIS, THE ADVICE AND CONSENT OF THE SENATE (1953) came to my attention and hands after the present piece had gone to the printer. This excellent and full account of the entire function would doubtless have fleshed out my own thoughts, but I see nothing in the book that would make me alter the position taken here, and I hope a single-shot thesis like the present may be useful.

[2] U.S. CONST. art. II, § 2, cl. 2.

[3] Even this short-circuiting is not complete. First, the President's "appointment," *after* the Senate's action, is still voluntary (Marbury v. Madison, 5 U.S. (1 Cranch) 137, 155 (1803)), so that in a sense the action of the Senate even under settled practice may be looked on as only "advisory" with respect to a step from which the President may still withdraw. Secondly, nominations are occasionally withdrawn after public indication of Senate sentiment (and probable action) which may be thought to amount to "advice."

[4] 2 RECORDS OF THE FEDERAL CONVENTION OF 1787, at 83 (M. Farrand ed. 1911).

[5] *Id.* at 132, 146, 155, 169, 183.

[6] *Id.* at 498.

[7] *Id.* at 539.

[8] THE FEDERALIST No. 76, at 494–95 (Modern Library 1937) (Alexander Hamilton).

[9] *Id.* No. 77, at 498 (Alexander Hamilton).

[10] 2 C. WARREN, THE SUPREME COURT IN UNITED STATES HISTORY 364 (rev. ed. 1926).

[11] 1 *id.* at 704.

[12] *Id.* at 413.

[13] L. PFEFFER, THIS HONORABLE COURT, A HISTORY OF THE UNITED STATES SUPREME COURT 288 (1965).

[14] C. WARREN, THE SUPREME COURT IN UNITED STATES HISTORY (rev. ed. 1926).

CHILD DEVELOPMENT PROGRAM

The SPEAKER pro tempore (Mr. HOLIFIELD). Under a previous order of the House, the gentlewoman from Massachusetts (Mrs. HECKLER), is recognized for 60 minutes.

Mrs. HECKLER of Massachusetts. Mr. Speaker, it is fitting as this body prepares to consider the conference report on S. 2007, which includes child development program provisions, that we put our ear to the ground for a moment.

As an early and persistent supporter of Federal funding for children's day-care centers, as provided for in this legislation, I took the question directly to the people recently. And they responded.

On November 15, I held a hearing in the city of Fall River in my congressional district to elicit from the community an expression of opinion and sentiment on the need for a Federal day-care program.

Parenthetically, may I say that there were a number of people without whose extraordinary effort and dedication the hearing would not have been possible. Permit me to thank them publicly, people like Joan Reid, Tom Nerney, Alice Holmes, Joe Welch, Al Dyson, and many, many more whose contributions were incalculable.

More than 650 people attended. And they represented almost every walk of life and segment of society in the city. They ranged all across the spectrum from the Chamber of Commerce to organized labor. There were private individuals, working mothers, management groups, school officials, civic organizations, public officials, community leaders, social welfare workers.

The feeling, spoken and unspoken, was unanimous: They favor the concept of quality day care in adequate facilities for the children of women who need or want such care. So pervasive was the endorsement of the idea that one of the waitresses at the restaurant in which the meeting was held put down her tray and took up the microphone to express her support for it as a working mother.

Fall River is an industrial city with a large Portuguese population and a high percentage of working women, many of whom are the sole support of their families. The need there for quality day care is very real. At the same time, I feel that it is not unlike a great many other American cities, so I believe it is fair to say that the outpouring of approval for this kind of program can be construed to be somewhat representative of the rest of the country.

If that is true, then when we listen to Fall River, we hear America.

I urge the other body, I urge this body, and I urge the President to listen and to respond to the people's need.

Herewith then is their voice, recorded in a transcript of the hearing on day care held November 15, 1971, in Fall River, Mass.:

A TRANSCRIPT OF THE PROCEEDINGS AND TESTIMONY AT THE CHILD DAY-CARE HEARINGS CONDUCTED IN FALL RIVER, MASS., ON NOVEMBER 15, 1971, UNDER THE SPONSORSHIP OF THE HONORABLE MARGARET M. HECKLER, CONGRESSWOMAN FROM THE 10TH CONGRESSIONAL DISTRICT OF MASSACHUSETTS

Good evening, my name is Tom Nerney, and I would like to welcome all of you on behalf of the many public agencies, business, labor, and community groups who have been working on this hearing because of their continued interest in the Child Development Act. The purpose, then, of tonight's meeting is to solicit your ideas on the merits of this Bill with the hope of developing a case for the unique need that exists in the City of Fall River. The format for tonight's hearing will include both spoken testimony and questions regarding the Bill. The details and guidelines for carrying this out will be mentioned in a short while. First, however, I would like to introduce your Congresswoman who has spent years developing grass-roots support for quality Day Care Centers. She is here this evening to speak briefly and then to listen, to listen in order that she may present to Congress what should turn out to be the culmination of that grass roots effort,—Mrs. Heckler.

Thank you very much, Tom Nerney, and our visiting experts, who are gracious enough to spend the evening with us in Fall River, and Friends:

I really am delighted tonight that all of you could fit this meeting into your busy schedule. Even more than that, your presence tonight signifies to me, and I am sure to our panelists, and will, to those in Congress to whom I will present my Report, evidence of the true grass roots feeling about the subject of Day Care.

Obviously, Day Care is concerned with the problems of the working mother. Day Care is the concern of the working father as well. As a working mother myself, I appreciate the point of view of those who care about how their children will be treated and how they will grow and learn while they are not at home. But beyond the subject of the personal interest of the individual, be it of the father or mother, there is the subject of the concern of the community for its own future, and for its children, and that is the subject of the whole Day Care movement, the concern for children, who are, of course, the bedrock and future of any community.

This meeting tonight would not have been possible without all of you, and I have never seen a broader spectrum of community concern or community involvement—labor, business, the Chamber of Commerce, the unions, tenants, tenant organizations, landlords, the Welfare Department, the Four C's Committee, the schools, private industry, Head Start, the League of Women Voters, the universities, Bristol Community College, S.M.U., private day care center operators, and mostly interested citizens.

We are really privileged tonight to have with us experts in the field from the Federal Government, and representing our State Government. I feel it is a singular honor. I would like to introduce at the outset Mrs. Marjorie N. Elston, who is the Special Assistant to the Director of the Office of Child Development in the Department of Health, Education, and Welfare, who came from Washington with me to be here. Mrs. Elston, would you please stand up so all will know who you are? And representing the regional office of the Office of Child Development, again the Department of Health, Education, and Welfare, Mrs. Willa Webb. Mrs. Webb, would you stand up? From the Governor's Task Force on the Commission of Women, particularly in the area of Child Care, I would like to present Mrs. Jean Cimarosa. You shall hear more from all of these ladies a little bit later.

The actual reason, I believe, for the meeting tonight is the imminence, hopefully, and I speak with cautious optimism, of the forthcoming passage of Day Care legislation. I have been working in this area for the past three years, and happen to have been on a Task Force which devised and drafted over a long period of time the Comprehensive Child Development Act. This Act went through the usual legislative turmoil, and after being considered by the appropriate committee on the House side of the Congress, was adopted as an amendment to the War on Poverty authorization bill, and, as a result of this, the War on Poverty now has the Child Development Act as one of its amendment.

Now, this was not the legislative scenario I would have preferred. I would have preferred to see the Child Development Act come out on its own and be considered as a separate piece of legislation. However, the outcome was, in the opinion of those involved, the best way to get passage of the bill, and consequently it was supported on the House side, and a different version of a similar bill was proposed and passed in the Senate. As we meet tonight, the present status of this bill is that the conferees representing both the House and Senate are still considering and pouring over what will be their compromise between the House and Senate versions.

There are a number of different items in the two pieces of legislation, but the fact of the matter is that both focus on Child Development. As I understand it, the Child Development provisions of the OEO bill are not presently the subject of dispute. The dispute has been ironed out. However, there is another section of the total piece of legislation dealing with Legal Services, which is presently the subject of controversy, and we are hoping that the conferees will be able to reach accord on the Legal Services, so that we will see the passage of the total OEO bill, with the Child Development Act. Actually, the Comprehensive Child Development program, as we suggested, included a very broad range of services, health, education, social services.

The program was not designed to force mothers with children to work, and, as a matter of fact, it is not a substitute for mother love. It is an adjunct or an extension of mother love, and it is an attempt on the part of the Congress to give the working mother the peace of mind she needs not only to be a good mother, but to be effective in her job. For those who wish to participate in the Child Development Program, this legislation is designed to improve the opportunities for their success both in their jobs and in their roles as parents. Obviously, the success of a parent must involve the participation and contribution of the parent. So the Child Development Act envisions a partnership of parents, community, state, and local governments.

Some of the funds which will be provided under the program will go for varying activities, for planning and development of programs, for maintaining programs in the areas of physical and mental health and development, and for food and nutritional services, for maintenance, and construction, and acquisition of facilities, and the necessary equipment and supplies. For programs for children with special needs, children with special problems, and with special emphasis for children from families of bi-lingual parents, where more than one language is spoken in the home, so that these children will develop skills in language that will make their education in the school system easier.

The funds will also be used for medical, psychological and educational diagnosis of problems which children in certain areas may have, or individual children may suffer from. And this is just a very brief sketch of the total range of services, and this is a brief analysis of the scope of the Bill, which is entitled, quite appropriately, I think, the Comprehensive Child Development Bill.

Obviously, we are not trying to create a Federal baby-sitter. What we are trying to do is to provide adequate supervision for children which considers and balances the total needs of the child with a view toward development of the child as a member of the community and society itself.

This legislation is very, very close to fruition. I am an optimist, and would say quite frankly that I believe we are going to see Child Development legislation passed in this session of Congress. But, should my crystal ball prove a bit cloudy, nonetheless, our hearing tonight will be extremely valuable because if it does not pass this year, we begin to work January 1st next year, and we will continue with this effort until we see this legislation pass.

Before this legislation is implemented, whenever the passage date is, whether it is two weeks from now, two months from now, six months from now, we are equally concerned with its implementation. The Congress proposes. The Executive disposes. We have representatives from the Executive Branch, from the Department of Health, Education, and Welfare.

Before the Executive Branch disposes of the funds which will be appropriated for this program, I thought it would be appropriate and helpful both to me as your Representative, and to you as concerned citizens, and to representatives of the Executive Branch who are here tonight to hear from the people. Too often in the past we have passed programs and later learn, in the implementation, without really placing the blame on any individual, with the best intentions in the world, that programs with idealistic goals fail to achieve their expectations or their promises.

And now, before our expectations are too great, it is the appropriate time to question what type of legislation, and how this particular legislation can best be implemented. This is really why I called upon all of you to come to this hearing tonight. We want to hear from parents and community leaders. We want to get the guidelines from those who will live with the legislation.

During the Senate consideration of this Bill, I was really impressed with the statement made by a member of the Amalgamated Clothing Workers. As you know, in Fall River, Amalgamated has really been a leader in this effort, and the Ladies Garment Workers has as well. The Amalgamated Clothing Workers Union has a number of Day Care Centers, four in the Baltimore area alone, and they have had a great deal of experience. I thought the experience of this witness, and her testimony, particularly apt. As she said, during her day hours, she might make a mistake on a garment, but, if she did, the stitches could be ripped out, the seams could be replaced, it could be redone without any mistake in the final product. But we are working on children. It is not so easy to redo them.

I think we recognize this, that we are dealing with children, and consequently, before we start to plan another Federal program, and before we appropriate Federal funds for the finest ideals, the development of the American child, I think it is quite appropriate to give some time to know how you feel. We need to hear from you. What do you prefer in terms of child care? What are you looking for? What are your needs? You need to tell us how much you can afford to pay, because obviously the Federal program is not going to cover the total costs of the Day Care for every mother. There will be a contribution from those who can afford to pay, but what should a reasonable contribution be? Obviously, you need to tell us the kind of care you expect, and obviously we need to provide training for those who will be involved in the Child Care Program.

I think it is very obvious that in the City of Fall River with the working women who are so vitally necessary to the economy, and whose salaries are so necessary to their families' benefit, that, with this number of working women, and their children, for whose care we are placing a great responsibility under this program, we need to provide answers to these questions. At this point in our history, when we consider Child Care Programs, obviously we should come to Fall River. We should come to you, and so I think this is the point of the meeting this evening. It is not a question of the Federal Government coming in with a Big Sister, Big Mother program to replace the American mother. We could never do that, nor do we wish to.

But how can we help the American mother who wishes to, or who has to go to work, how can we help her see to it that she has peace of mind and the security of knowing that her children are being taken care of. This is our opportunity to shape and control a program that has not yet been implemented, or, in fact, passed by the Federal Government. It is really a very unique moment. And as we consider the problems of our society, and the new roles of men and women, and the new responsibilities that we see ahead, we see a society which is changing almost faster than we can grasp it and cope with these changes. So, for this moment, let us stop—and pause—and reconsider how can we reshape and direct the lives and development of the children in the Fall River area so that their lives will be effective, so that they will fulfill their potential. This responsibility belongs to each and every one of us. I accept my share as your voice in Washington. However, I ask for your guidance, and I will be listening tonight.

Mr. NERNEY. This is a public hearing. That means that everyone is invited to participate. However, the testimony you would like to give, we would like to limit to five minutes, so that everyone who wishes will have a chance to talk. We will limit this portion of the program to about an hour, perhaps a little longer. Afterwards, there will be a recess of 3 or 4 minutes. During this time, you will have the opportunity to write out your questions if you wish, and we will answer them from the table up here, or you can offer the questions from the microphone if you prefer. Those of you who wish to testify, or to give us your ideas or present your problems, your needs, would you approach the microphone, and line up.

Mr. Al Dyson has requested permission to speak first because he has to leave. If anybody else is in that position, why don't you approach the microphone at an early time. Thank you.

Mr. DYSON. Congresswoman Heckler, Distinguished Guests at the Head Table, and Ladies and Gentlemen: I want to first thank you for the opportunity of speaking first. I have a Selectmen's meeting that I have to attend, and I am about an hour late now. However, in speaking as the manager of the Textile Workers Union, and President of the United Labor Council, and for the Board of Selectmen in Westport, I would like to go on record in favor of the passage of this Bill and we hope that you, as our Congresswoman, will do everything in your power to see that this Bill is passed. We realize that in Fall River there are many, many people in industry, from the Amalgamated Clothing Workers and the Lady Garment Workers, but not only in industry, where many of the women work, but we have an industry where men work, and we know that their wives have to work to supplement their income. We realize, too, if there were special care for their children, while they are working, their mothers would be happier at work, they would be better employees for the company they work at knowing their child is being taken care of properly. I also know many children do not have the opportunity I had when I was younger of having a parent take the child to a relative and be assured that they would be taken care of properly. Many people do not have that opportunity and they do not know where to take their children. But, if we had a program such as this where the people could pay who could afford to pay, and those who could not pay would be deprived of the right to have their child taken care of properly, it would be good. I also believe that this would help with the welfare rolls. I believe that many of our mothers today who are collecting welfare perhaps would not be doing this if they could find a proper place to bring their child, and if this could be done, I am sure it would benefit everyone. And as far as the town of Westport goes, most of our people work in Fall River, and the Day Care Center would be helpful to them in bringing them in in the morning, when they are going to work, and picking them up when they are going back. Once again, I would like to thank you for the opportunity to speak, and I hope that you will do everything in your power to see that this Bill is passed. Thank you very much.

Mr. MCNALLY. Congresswoman Heckler, distinguished guests. My name is Richard McNally, and I am speaking in behalf of the Association of Retarded Children of Greater Fall River. We are very much in favor of Day Care, or the Day Care Program, the Comprehensive Child Development Bill. Basically, it is a family matter, and directing our remarks to handicapped children, we feel that this Bill would free mothers of children who are handicapped to pursue careers or an occupation.

The needs of handicapped children, and particularly with those suffering retardation, are very great, as are the needs of their parents. It might very well be the case that the mother of a handicapped child might need this financial support, through an occupation, more than a mother of a child without a handicap of this nature. This would also provide the mother of the handicapped child with a diversion. This would help the mother. We should not always think of work as a diversion, but sometimes it is a change. This would be a change for the mother and help to come back to her home maybe with a little more vigor and the attitude that she could perform her work a little better. We also feel the child is important, and this would give the child an environment where the child would be supervised and controlled and it would be an effective atmosphere for the child. We wish to emphasize that there could well be many cases, and these could affect both parents, mother and father, quite frankly, in which Day Care is for "just the child" in quotas. There are many parents, however, who have children who are adults and that parent would like to work, to be an effective citizen beyond just Day Care in the small confines of their home. Day Care should not be confining to simply a child, and we should like to see it beyond the age of 17. There are some very important aspects to this, if we are trying to define these aspects in terms of social roles, and, of course today one of them is the economic role. The cost of Day Care runs somewhere between the figure of $1,200 to $1,500 a year for the child. To institutionalize the child, the only alternative sometimes for the parent, places the cost on the state, and that means all of us, and that cost is from $5,500 to $6,500 a year. This is a tremendous difference. Aside from the fact of these costs, there is the social aspect that the parent would like the child at home. I know there are many similar problems that everyone here might have in these areas. Frequently, we find that these handicaps do develop into welfare problems in some instances. We wish you the best of support and offer you all our support and would wish to give you the backing of our organization in any specific areas in which we might be helpful. Thank you very much.

Congresswoman HECKLER. Thank you very much, Mr. McNally, for your contribution, and I want to say our legislation does envisage the involvement of children with special handicaps. I personally feel that the parents of those children make a very great contribution to society solving problems in the area of their own children's needs. I think that Mr. McNally represents those concerned parents who have done a great deal, and I am very honored to have him participate.

Mrs. MENARD. Congressman Heckler. My name is Mrs. Menard. I am the President of the League of Women Voters of Greater Fall River. The League of Women Voters believes that every man, woman, and child should have equal opportunity, and we believe that the Child Development Act is a step in this direction. There are certain positions that the League has:

First, that the supportive services should be available, but not compulsory, for participants who receive income assistance.

Secondly, that this service should be based on the ability to pay, and free when necessary, and, also, available to the public. We believe that the Federal Government should exert pressure and leadership in setting standards of eligibility, quality of services, and adequate funding. Participants in this program should be included in program development and implementation, and there should be responsibility to the needs of the citizens of Fall River. We would like to go on record as being in favor of your Child Development Act. Thank you.

Mr. OLIVER. I am Clay Oliver, the Executive Director of People, Incorporated, the local Rehabilitation Center for the Multi-Handicapped. Again, I would like to go on record in favor certainly of the Bill you are about to pass. I would like to say, though, this agency does not have children in its program as it is a rehabilitation center for handicapped adults. Many of our workers are severely handicapped, requiring close and continuous supervision within a day or work activity center. There are many severely handicapped adults who are not being provided a program because of a lack of facilities, staff, and income. The parents of these adults who must provide supervision 24 hours a day are unable to work unless programs are provided, and, in many cases, these parents are more restricted than mothers of small children, as there are very few who are willing to accept the responsibility of care for severely handicapped persons, in view of the requirement of close and continuous supervision. This restricts the mother's opportunity to seek increased training, education, and other worthwhile activities. Consider also that these parents have the responsibility for life. This is not to say that we should not have these programs for the young, but that they should be available for all who require them regardless of age. Thank you.

Congresswoman HECKLER. The Federal Government has done very, very little, really, in the total cause of the handicapped. I think that some of the steps that have been taken so far have been well intentioned, but have not reached their goal sufficiently. While we are concerned tonight with children, I think it is very wise for us also to be concerned with the total problem of the handicapped, beyond the childhood years, and I appreciate that contribution.

Do we have another witness?

Mr. DONNELLY. My name is Jim Donnelly, and the hat I am wearing tonight is as Chairman of the Four C Committee. I have a prepared statement that I would like to leave with you in totality, but in the interest of time, and in the interest of everyone here, I would prefer just to excerpt. First I would like to take advantage of the opportunity to express appreciation to you, Congresswoman, for your time and energy, which you have given so much of to provide a legislative vehicle for assisting in the needs of children. I sometimes feel that in this moment of time it is considered expedient to espouse the cause of retrenchment rather than the needs of the child, but we find you are willing to take a positive approach to meeting the needs of children. Thank you kindly.

The prepared testimony of Mr. Donnelly:

First, I would like to take advantage of the opportunity to express appreciation to our Congresswoman for the time and energy that she has devoted in providing a legislative vehicle to assist in the meeting of the needs of children. I sometimes feel that at this moment in time, it is politically expedient to espouse the cause of retrenchment rather than the needs of children. But despite this, we find our Congresswoman willing to take a positive position in a coordinated approach to the meeting of the total needs of children everywhere.

Several years ago, the Massachusetts Committee on Children and Youth conducted a survey of day care needs in several communities throughout the State and in its report on the City of Fall River stated:

"Among the study areas, Fall River was clearly identified as the most deprived. Its educational achievement level was the lowest, its per capita income was lowest, it had the highest percent of working women, and the highest percent of families with annual income under $3,000.

In an accompanying table, the study showed that 44.7 percent of all women over 14 years of age in Fall River were employed. Study further indicated that 44.4 percent of married women with husbands present were in the labor force and 34.8 percent of this number had children under 6 years of age.

Although the above material was extracted from a report released in 1966, there is no reason to believe that the same comparable statistics are not applicable today. And in view of the fact that there are other representatives here tonight who will address themselves to the need for an expanded day care service program, I will leave that field of endeavor to them for further exploration. I do want to say, however, that we fully endorse day care services for all children who can benefit by this experience and the service should be extended not in relation to the needs of industry, but rather in direct proportion to the benefits that the child would receive from the institution of a network of day care services. Similarly, no parent should be compelled to seek employment because of the availability of a Day Care Center but rather such parent should enjoy the right of choice between utilization of a Day Care facility and the acceptance of other benefits under the Department of Health, Education and Welfare. This should be a cardinal principle and specifically stipulated in any newly created Federal Legislation. A second principle should be the purchase of service from existing comprehensive Day Care Centers prior to the establishment of any new facility with Federal funds. It is important to note that there are varying methods of providing day care and, if it is found in a given community that a consolidation of family day care settings are more productive than a large, centralized day care center, then we should devote our time and energy to the implementation of this kind of program. This could very well be a less expensive program, utilizing a team approach with experts in the field of health, child care, and social services, bringing their special expertise to several family day care units. Only last week we were advised that the State estimates that there are 20,000 family day care homes in Massachusetts and consideration must be given to this large number of units. Why are they used, what services do they provide, what long term benefits accrue through their utilization? Recent studies seem to indicate that home-based and neighborhood based child care systems are preferred by parents.

Licensing of child care institutions, including day care centers, should be brought within the organizational framework of one agency on both the Federal, State, and local level. The Federal Government would seem to have the responsibility of establishing minimum codes for facilities being used for child care programs and receiving federal funds. Such federal standards should serve as a guide, however, and not preclude the establishment of other standards by the several states or local units of government. This would be particularly applicable to family day care homes.

Day care service is one small facet of the overall need for a coordinated, cooperative approach to the problems of children and we need to sit down and examine all of the difficult areas that face children and youth. When professional case workers say to me when a referral of a boy or girl is made at age 13, "It is now too late; why wasn't this child referred to us several years ago?"—this represents an indictment of our present method of operation and we are compelled to search out better ways of aiding children so that the problem child is not identified until it is too late to take corrective action. We do not need study commissions, we do not need a whole labyrinth of local, state, regional, or federal planning agencies to prepare academic papers demonstrating what we already know. I strongly recommend that every effort be made in Federal Legislation to provide for trained case workers who can visit and work with children in their own homes and not wait until they become statistics in our court system or victims of broken homes and then "farmed out" to institutions and/or foster homes. These latter resources are essential in meeting peculiar needs that exist today, but we must take preventive steps to offset the traumatic experience that children encounter when they are forcibly or otherwise removed from their own home.

In our own community, there are no more than a half dozen certified social service persons, and each of these is overwhelmed with his own agency's approach to the meeting of needs. We must amplify, in large numbers, the trained workers who can assist both parents and children before the breaking point is reached.

In this connection, I suggest substantial federal grants to enable schools of social work to provide graduate training to dedicated young men and women who are desirous of devoting their physical, mental, and psychological strength to the enhancing of living conditions for the youth of tomorrow. It is true that para-professionals can perform many tasks previously assigned to social workers, but it is equally true that the paucity of graduate social workers has made it impossible for the social work profession to prove its validity in today's complicated society. The certified, experienced social worker must be assigned to field work or case work, reimbursed according to his training and experience, and not locked behind a desk doing administrative work because our system fails to recognize the hard working, skilled field person who works on a one to one basis with a troubled family or in a group setting with multi problem children or families.

Lastly, we urge that Title IV-A of the Federal Social Security Act be continued so as to assist communities in taking advantage of these matching funds. Massachusetts has now enacted legislation that will make possible receipt of so called donated funds in meeting the needs of a specific group of children throughout the State and the termination of this open-ended legislation would be harmful in the initiating of new child care programs.

Finally, might I suggest the substitution of the words "child care" in lieu of "day care" for we are now thinking in terms of children's needs and this concept is more adequately described through the use of the term "child care".

Mr. **Lionel Garganta**. My name is Garganta. I am here representing the Massachusetts Department of Public Welfare. The Department of Public Welfare is vitally interested in quality Day Care services, not only for recipients of Public Assistance, but for all children and parents who have need to be employed, and who are desirous of having their youngsters taught and cared for in a quality setting. This program would be helpful to both those who would be able to work full-time, and those who would be able and willing to work part-time. In Fall River, the Greater Fall River area, we have exactly 300 mothers who are utilizing some kind of service. 225 of these mothers are employed, with the remaining 75 enrolled in a training program. The quality of care received by the youngsters of these parents ranges from very good to minimal. The costs also range from $6.00 a week to $35.00 a week. We urge you to enact a program of high quality educational, social, medical assistance available to children, and based on the parents' ability to pay. There should also be a formula and a means of providing adequate funds which hopefully should be to improve the services of Day Care Centers. There should be an appreciation of the different needs of different groups of youngsters, poor youngsters, middle class youngsters, handicapped youngsters. The mechanism for each community should be the 4C Committee. The Federal Government should support the 4C Committee instead of using another approach. It should not be a condition that a mother work if receiving assistance. We stress this because that would not be in the best interests in circumstances where it would be harmful to the child. Each parent is the best judge. Thank you.

Congresswoman Heckler. Before we proceed, I would like to say our meeting is on the Comprehensive Child Care Development Act, and not on the Welfare Bill. The program we are talking about would provide Day Care Facilities whether or not the parents go to work, and whether or not they do so would be on a voluntary basis.

Unidentified Housewife. I am definitely in favor of good Day Care Programs, and while I was standing in line, I thought it should be re-emphasized that while some mothers wish to go to work, other mothers care to stay home and care for their children. I do not think that those mothers who stay home should be required to seek or accept work just because there are Day Care Centers. Thank you.

Mr. **Mittleman**. Mrs. Heckler, Guests. I am Aaron Mittleman, employer in Fall River, and represent the Chamber of Commerce. Fall River, as you know, has a crying need for Day Care Centers, and I know that you have long been in the forefront of the effort for the Child Development Act, and its passage. Supporting Day-Care legislation is like supporting Motherhood. I am sure we all support it. However, I would like to address myself to it again. The Child Development Act as written is discriminatory in that it affords the child and the parent in the underprivileged family advantages to the detriment of others. For example, a working mother in any family, takes care of her family, works, and hurries home to pay taxes on her honest work, and then is required to pay for his children. She works to pay for the privilege of paying taxes, and pay for children whose parents contribute no taxes for their children in Federal Day-Care centers. Supposing she, due to family needs, does not have enough money left to pay for the children,—she may have a big mortgage, her husband may be out of work,—by her taxes she will be paying for the underpriviliged child, and not be able to pay for the child of her own. This Bill is inequitable and unfair. My recommendation is Child Care for all children. We provide school to all children now without this difference in ability to pay.

Why should Day Care be different?

I think the school system would be the logical agent for the training and care of the children. The school systems have adequate resources, qualified teachers, supervisors, and the experience and ability, and we should like to see them care for our children. This Bill obviously will send additional personnel to industry and into the labor force, and people not previously able to work will be able to do so. Let us see that these Centers serve the needs not only of a few groups, but all groups, and let's have Day Care Centers for all which operate through the School Department.

Congresswoman **Heckler**. For the benefit of everyone present, I would like to present the fact that Mr. Mittleman did discuss this with us earlier, and he raised many very pertinent points. Rather than have this answered in some length now, we shall go on with the testimony, listening to those who have come as witnesses, so that their views and ideas can be obtained.

Mrs. **Shirley Ruda**. I am the mother of three children, and I feel we need Day Care Services in Fall River.

Robert White. Congresswoman Heckler, my name is Robert White, and I am Executive Director of Big Brothers. Although this Bill has been in existence since March of 1971, it has not yet been finally put into law, and I am glad to be here to speak. I feel my experiences should be shared in relation to problems of fatherless boys. Accordingly, I have made the following statement, emphasizing the unified aspect there should be for Child Development, by way of statistics.

The comprehensive figures show this area has 5,100 single family homes resulting in 2,500 fatherless boys. The relationship of fatherless homes to juvenile delinquency is quite evident. This shows that a new approach is needed if significant help is to be provided to these fatherless boys. My main concern, in closing tonight, is that there is a lack of concern with the establishment of Youth Programs. Each agency is doing its own thing, and operating in a vacuum. It is important that in the Child Development Program, and similar programs, there be a recognition of the value of providing attention and help to all of our society who, in one way or another, are victimized by circumstances beyond their control, and it is my personal and professional belief that all services supportive of the needs of young boys should be included in this program to help them develop and grow to the extent of their ability. Thank you very much.

Congresswoman **Heckler**. I would like that during our discussions in the Congress on the subject of the Child Development Act, one of the great concerns was that there should be some action to involve men as father figures, so that the boys from fatherless homes would have a father-figure, a "Big Brother." This is a concern which I have long shared.

Ralph Roberts. Congresswoman Heckler, when I first walked in, I thought Christmas had come early to Fall River. We live in a country that is about to build an aircraft carrier which will cost $1 billion dollars. If this country can afford to build an aircraft carrier which will become obsolete when it is completed, we have enough money to accomplish this. I want to record the International Ladies Garment Workers' Union as being emphatic in support of our Representative in Washington, you, Mrs. Heckler, in your efforts to bring about the passage of this Bill. We hope it is sufficiently funded, to be meaningful. These programs have only scratched the surface. I noted in your opening remarks that you were concerned over the fact that there should be discussion of the legislation before final action. We hope that this Bill will be approved, and we appreciate your interest and your efforts. Thank you very much.

Mr. **Halleran**. Congresswoman Heckler, my name is James Halleran. I am the Associate Director of the Community Action Program in Fall River, and with Citizens for Citizens. There is a tremendous need for this kind of legislation. I applaud your efforts, and the efforts of those working for its passage. I would like to limit my remarks to my one area of concern. More agencies ought to be working together in this legislation. We need to work together. There should be cooperation and mutual effort, not only between the agencies, but between the agencies and the professional and public and private groups, and especially the parents who are involved and interested in Day Care and Child Development. I think the legislation proposed is very important, and will prove helpful to the entire community. Thank you.

Mrs. **Jenny Kirkwood**. I am a working mother, and there is a great need for Day Care Services. Thank you.

Mr. **Paul Poulis**. Congresswoman Heckler, Ladies and Gentlemen: I am Paul Poulis, Director of the Model Cities Program in Fall River. I do not have any special standing, but I am deeply interested in this legislation, and have had a lot of experience working with residents in the Model Cities area. As most of you know, Model Cities is a neighbor in Fall River, consisting of 15 percent of the total population. One of the needs we found in our program was the need for Day Care. We have long had an interest in the hearings and legislation we are talking about now. Consequently, I am pleased to say we will now have a Day Care program which will be developed, a Center sponsored by the Fall River School Department, which will take care of children in the Model Cities Area. I would like to go on record in behalf of the program and fully support your efforts and I believe the testimony being provided here will be helpful in support of this legislation. Thank you.

Alice King. Congresswoman Heckler, my name is Alice King. I am representing the Head Start Parents. We would like to express our support for Day-Care facilities. The Head Start parents feel they have received quality help in a quality program. We feel that we have received services not only good for the total child, but the entire family. Thank you.

Ron Halbeder. My name is Ron Halbeder of Head Start. I am a Coordinator. At the present time, we have 240 children. We have a waiting list of 250 eligible children. We are not able to take them into the program because of a lack of funds. We feel it should be for children regardless of income. We favor this bill and we support it, and we will cooperate in every way. Thank you.

Helen Chatterton. Congresswoman Heckler, and our national guests from Washington. My name is Helen Chatterton. I am the local Representative for United Fund in Fall River. I have received many calls from personnel managers. I received a call yesterday from a young girl who had to ask her father to run over and take care of her child while she was working. Like her, there are many who cannot take a job because their responsibilities in the home are so great, and there is no one with whom they can leave their children. I also feel that we should be able to see that there is some way that industry can take part in the Day Care Centers in the community. I hope that through this legislation all this can be accomplished. Thank you.

Mr. Tulchin. Congresswoman Heckler, Distinguished Guests, Ladies and Gentlemen. My name is Abraham Tulchin, and I am the Executive Secretary of the New England Apparel Manufactures Association. First, I want to thank Congresswoman Heckler for providing us with this unique experience to share in the legislative process here before the Congress has finally disposed of this legislation. You have been successful in bringing this Bill to the point of the Conference. I know that under this Bill, funds will be used for the benefit of the handicapped and underprivileged children, and for these and those in need two-thirds of the fund will be used. I think that we should point out that we shall try as much as possible in the implementation of the Bill, and in the establishment of the various rules and regulations, that we are taking a positive step in the right direction. There is no question about the need for some of the social and humanitarian assistance of this bill, but we should all try at the same time to increase the number of children and families from the two-thirds to the one-third, middle income groups. Finally, there is one point Mrs. Heckler brought out, and it is especially pertinent. That is the provision for assistance to those of bi-lingual background in the community. I wihh you success and good luck.

Congresswoman Heckler. I want to say your testimony, and every word uttered tonight, is being taken down by a stenographer, and it will be brought to the attention of the Conferees, and the Congress, in order to convince them to vote for the Bill.

Ed Phillips. Congresswoman Heckler, Distinguished Guests from Washington. My name is Ed Phillips. I happen to be a School Committeeman-Elect and a family man. I endorse the concept of the Day Care Center, but I do it with great reservations. I believe that a program which has such tremendous ramifications should be dealt with very carefully I am interested in our children, and I would like to see them get the fullest benefit possible from every dollar spent.

James Isler. Congresswoman Heckler, Distinguished Guests, Fellow Citizens: My name is James Isler, Manager of Aetna Life Insurance Company Operations in Fall River and Taunton, and I am representing private industry, and definitely in favor of the legislation you propose. Our firm in Fall River employs in excess of 500 people. The overwhelming majority are women. We started in 1966 with 34, and have grown to our present number since that time. Our future growth is limited by the availability of Day Care Centers, babysitting facilities, and means which exist for the care of children. There is quite a list of applicants who have been unable to accept positions because of a lack of a place to put their child. Further than that, women's lib is upon us, and women in the community have a greater educational and attainment record, and are seeking increasing responsibilities outside the home. We hope that this legislation will be passed, and Miss Andry Lingard, our Personnel Director, will present further information.

Miss Andry Lingard. Congresswoman Heckler, Head Table Guests, and Friends: I am in charge of Personnel at Aetna Life and Casualty here in Fall River. As Jim said, we have more than 500 working women, and among them are 126 working mothers. This does create problems for us. As he mentioned, I have had to refuse jobs to girls because they have not had babysitting arrangements. This program would be very helpful to the working mother and also to our needs.

Father Perreira. As a priest, I am in support of the Bill for the Centers for the whole community. However, permit me to speak in behalf of the silent minority, those who cannot speak English, those who cannot express their desires, their needs, their aspirations, and their anxieties. As everybody knows, we have the largest number of Portuguese in Fall River, and we know the rate of drop-out is very high among the Portuguese in Fall River. My heart goes to children. They are beneficiaries as well as victims, of our society. In a matter of years, they can become illiterates. In a matter of years, they find themselves confronted with a new life with all its complexity. They are very happy they came, and we are very fortunate to have them. Our duty is to make them valuable citizens. We must provide the program and facilities. Language is the main problem during their first years. They cannot communicate. They cannot understand us. It is difficult to adjust to a new environment. They cannot be placed in the regular grades with children of their age. They must be isolated for some time to be given special education. The time element, Mrs. Heckler, is very important in the process of learning, and time is running short for many of them. They must utilize all the time they can, and we must do all we can to see that they do not drop out frustrated and discouraged. This program, I think, would be a blessing for these children, and I am sure it will make a difference in the future of many. They will not be called "green-horns". We would like to have them good citizens, and grow up normally. In conclusion, I do not know of any other program which would benefit so many in Fall River as this. Thank you.

Rosemarie Speak. Congresswoman Heckler, I am a Head Start mother. My name is Rosemarie Speak. I am the mother of five children. I think Day Care is a very worthwhile program, and we need it desperately in Fall River. Thank you.

Doctor Nagle. Let me tell you that you have been most patient in listening to us. I am concerned only with the Title of the Act, the Comprehensive Child Development Act. I am interested in that part which develops the child. As I look at the Act, I am talking about the benefits that can be made available to the child from a comprehensive viewpoint, those of education, psychological, health, and social service nature, and to children 1, 2, 3, and 4 years of age. Pre-natally, all children get very good service. Postnatally, they get excellent service, and then they are about to be forgotten whether or not they are deprived. We find children approaching the first grade emotionally and physically impaired. We say, give us comprehensive Centers so that at an early age we can make a determination as to those who need aid, and determine those who have limited sight, hearing, developmental abilities, whether or not of a physical or mental nature. We have had experts with Follow-Through and Head-Start experience working on these needs, and we know we are equal to them. We can do it. As you approach this Act with 2 billion dollars for Fiscal 1972, we hope that you will support the needs of the economically disadvantaged, who should obtain the child services free if they are unable financially to afford it. Those who are able to do so can pay for the services. All of us in Fall River may be poor in one way or another. We need to work together for the success of this program. Thank you for the opportunity to speak, and I encourage you, and hope you will go on to greater things.

Congresswoman Heckler. Mrs. Holmes, we could not end without hearing from you, after all the work you have done.

Mrs. Holmes. I am President of Local 177 of the Amalgamated Clothing Workers Union. I chose to be the last to endorse this program here tonight. We need it desperately in this area. Thank you.

Congresswoman Heckler. Thank you.

We have had a number of questions come up to the table here. In view of the fact we have the experts here, I would like to give a few minutes to our experts to allow them to make their contribution. First, I would like to call upon Mrs. Elston who knows more about Child Care than many others, and who has followed it very, very closely. I think she can answer some of the questions that have been raised. I would like to introduce Mrs. Elston.

Mrs. Elston. Thank you. I am truly very impressed by the array of witnesses who have appeared here, and I have considered very carefully what they have said. Needless to say, many of these same remarks have been made before. The intent of the Members of the Congress who developed this legislation was to build on the experience of what began as an experiment, Project Head Start, and to expand its borders to the point where numbers of children who are economically disadvantaged can be brought into the program, and to continue to build Child Development Programs for children who need them year after year after year. It is not really a criticism to say this program should be for everybody. The feeling that the program should be for everybody is really a fine thing, not a criticism, but it does represent a little impatience.

You cannot build a program that is multiplied ten times in the space of a year. Our experts have indicated that programs for children of high quality can grow at about the rate of 200 or 300 million dollars a year. It means that if someone gave us 20 billion dollars a year to spend, we could not spend it. We would need facilities, staff, training, studies to determine the wisest places to locate them. This should not discourage us. It should give us a feeling that we are taking the first step, the first big step, to build what will be in the future a program for all children. Now, several people have experienced the feeling that the Child Development Program should be in the form of an extension of the school system. We think the school system plays a very important part in Project Head Start. Many of the grantees are local school systems, but we feel that a good Comprehensive Child Development Program is more than an educational program. As someone said tonight, this is a Bill for the family as well as for the child. The Comprehensive Developmental features can be designated as educational, nutritional, psychological, remedial, health, and parent involvement, which has made a great difference in the sense that many parents through involvement in Head Start have opened new vistas in their own lives, through awareness of opportunities, and new interests. We would expect the Comprehensive Child Legislation would expand this. There is another point concerning programs after school for school age children. Very few school age institutions have moved into this field and we hope that through real community effort, school systems will realize that special programs for youngsters who do not go home to lunch would be valuable and effective. Only a few cities have top-notch school aid programs in this area. This legislation we are concerned with tonight will be a push to the development of these other programs, and this will be an indirect advantage and benefit.

Let me close my comments by trying to give you some feeling for what the next steps will be. I know you are impatient to have new Day Care Centers built, but I think we have to look to what the next steps are. If this law is enacted, and to become law it has to come out of the Conference, and be agreed to by both Houses of the Congress, and then it goes to the President, and if he signs it, it becomes law. After that, my Office, the Office of Child Development, will have to ask Congress for money to carry this Bill out. There are not specific allocations of amounts in the Bill. These amounts must be requested by the Department. We will have to ask for specific amounts of money which will enable us, through our Regional Office, to then fund the various State and local programs operative. The gentleman who spoke about community health planning suggested a model that might be carried on into the Day-Care movement. Thank you for your time, and I hope that your hopes will prove justified.

Congresswoman Heckler. Thank you very much, Mrs. Elston. We are going to go on now to the questions since our visiting experts are anxious to hear them. and to give their point of view. The first question is, "To what degree is the Bill politically motivated to appeal just to the middle class?"

Mrs. Elston, responding: Dr. Ziegler of the Office of Child Development, my superior, feels strongly a socio-economic mix is a really good thing in a Child Development Bill. He thinks children from different economic and ethnic groups can learn from each other. It is not a one way street. There is a growing body of research to back this up. In the Head Start Program, we have developed a program whereby 10 percent of the children in the programs can be non-poor. So, this is a philosophically thought out approach, not just a political maneuver.

Congresswoman Heckler. I will say from my investigations of Day Care Centers in the Fall River area, and outside of the District, that I have seen a very, very healthy mix of children, and it would be a most unfortunate and undesirable event to have the Federal Government create its own ghetto, and have just one group of children from one background, economically oriented to one group, or dominated by one group. The best society is the integrated, the mixed one, whether Irish, Portuguese, black or white, one group can give to the other. This was the rationale behind the Bill.

These questions are excellent. There are so many of them.

Another question is: What are the maximum and minimum age levels? Does the Bill include infancy, from three months and up?

Mrs. Elston. The Bill specifies zero through age 14. I would like to comment on that in view of the fact that several people from organizations representing handicapped were included in the testimony. We would hope that in our regulations we can make an exception to extend that age factor in the case of some groups of handicapped children who would require the kind of protective care because of a handicap that a younger child might require could be provided for. This is something we will have to take up with our lawyer people. But, as the Bill is written, the age is zero through 14.

Congresswoman Heckler. This is a question which asks: "As a parent and former Head Start worker, and as a student at Bristol Community College, I feel that I am not adequately aware of the entire provisions of the Bill. Should the issues, and the Bill, not be brought to the attention of the nation?

As the Representative of the District, it became obvious to me that the Day Care legislation was very necessary, and for that reason, I have concerned myself with it so deeply. I agree, and we want public awareness.

Another question is: "As the Bill stands, what is the role of the state?"

Mrs. Elston. It is pretty hard to say because the House and Senate versions are different. But, very briefly, there is a very strong emphasis on communities doing their planning, deciding what needs to be done, either as the planner for those who do not want to do for themselves, or as the adviser. The emphasis is a very strong one upon community action.

Congresswoman Heckler. Would our State level Representative, Jean Cimarosa, have a comment on that?

Jean Cimarosa. I am not certain whether I should take a position that the State involve itself in a direct and immediate manner. As a representative of the Task Force Commission on Women, I have tried, and we have tried, to look into what kinds of programs are being proposed, and which are worthy of our encouragement. We endeavor to interest the State Legislature and the Governor. We do want to see Day Care Programs and see them in the most truly meaningful and effective setting.

Congresswoman Heckler. Thank you very much, Jean, and particularly for the vital role that you have played on the Task Force on Women. I am so glad that you have been able to be with us this evening.

There is another question now. It is a question on working mothers. "Can a mother working in Fall River, in a different shift than the regular one, say, from 7 to 3, leave her child off at 6:30?"

Mrs. Elston. The Bill would make provision for different modes, and different time frames for the Day Care Centers, suited to the particular needs, and the problem facing working mothers, who would be in an early hour shift, would, of course, be considered, and a setting could be established to make their employment possible.

I want everyone to know who has submitted a question in written form, in view of the lateness of the hour now, that these questions will receive my attention, and I will try to find a forum for presenting the answers to you, through the press, inasmuch as many of them do not contain addresses, so that I can personally respond to you, and I will send out a press release continuing to provide information to you as I have been doing.

At this point in the evening, we should take time for refreshments. We should have some food for enjoyment now that we have had so much food for thought.

The last question that I have in hand is: "What can we do to help in the passage of this legislation?" I would answer you that you should write to your Senators, to President Nixon, telling the President and our Senators how much you care about the Bill. And in the future, please keep me informed as to what you consider the Bill's and the program's assets and liabilities. I am delighted to hear from you.

I appreciate very much the testimony of the witnesses this evening, and their wonderful contribution, and the assistance of our panel of experts. I hope that through this grass-roots expression of continuing support, greater encouragement will reach from the State House to the White House, and to the Congress. Thank you very, very much.

TAKE PRIDE IN AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. Miller), is recognized for 5 minutes.

Mr. MILLER of Ohio. Mr. Speaker, today we should take note of America's great accomplishments and in so doing renew our faith and confidence in ourselves as individuals and as a Nation.

The educational opportunities for Americans are the best in the world. The founding of one form of American education—the academy—is traced back to 1749 when Benjamin Franklin founded the Academy and College of Philadelphia. Franklin was appointed first president and seven young men were awarded degrees as the school's first graduates in May 1757.

FLOOR STATEMENT ON NARCOTICS TRAFFIC IN LATIN AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. Halpern) is recognized for 5 minutes.

Mr. HALPERN. Mr. Speaker, I rise today to call the attention of this body to a new drug menace which threatens to undo so much of the hard work done in Europe and the Middle East by our State Department negotiators and our agents in the Bureau of Narcotics and Dangerous Drugs.

In our attempts to halt the horrifying flow of heroin to the streets of this country, we have for the past 10 years been concentrating on such key production, processing and transit points as Turkey and France. Now that we may have begun to make some progress on these fronts, Mr. Dana Adams Schmidt—a noted New York Times journalist who has successfully kept the American public abreast of important developments in the area of international narcotics traffic—has recently called attention to the fact that Panama may soon become a main transit point for heroin entering the United States.

Rather than merely submitting Mr. Schmidt's article into the Record, I would like also to provide some background on the narcotics situation in South America in general, so as to put this new development in a larger context.

Illegal traffic in drugs has risen sharply in South America over the past decade. The most serious problems have involved cocaine, a derivative of the coca; marihuana, which comes from the hemp plant and dangerous synthetic drugs. The result of this production and processing has been an escalating flow of drugs into Europe and the United States. A further complication has been the increased transit of heroin and other narcotics, shipped or flown to South America from Europe and destined for the United States.

Most of the coca leaves grown in Bolivia and Peru are used for chewing by the indigenous population, while small amounts are used for medicinal and industrial purposes. A third use is conversion into cocaine. The leaves are refined into cocaine—100 kilos of leaves are needed to process 1 kilo of cocaine—in a huge network of secret laboratories. The cocaine is then smuggled from Bolivia into Brazil, Paraguay, Chile, and Argentina, and from Peru into Brazil, Ecuador, Colombia, and Venezuela. From Uruguay, Ecuador, and Venezuela, the drug is shipped or flown to Europe and the United States.

Although marihuana is outlawed throughout South America, the drug is in common use in every country on the continent with the possible exceptions of Chile, Bolivia, Peru, and Argentina.

To cite an example, there are thought to be over 400,000 marihuana users in Venezuela alone. Just as in the United States and Europe, marihuana smoking cuts across age, class, and economic categories. As an illustration of the profit potential in the smuggling of marihuana, one need only point to the fact that the price rises from $1 per pound when it leaves the Colombian farm to $220 by the time it is sold to the Venezuelan consumer.

Traffic in dangerous synthetic drugs, especially to and within Brazil, is growing dramatically. Seizures in Brazil for the year of 1966 were as follows: 4,000 ampoules of Pervitin from Argentina; over 300 vials of Dexamyl from Uruguay; 3,000 tubes of Stenamine from Bolivia, and 1,500 tubes from Argentina. Two years later, Brazilian officials seized 4,000 tablets of various psychotropic drugs. These figures give a frightening indication of the scope of the dangerous drug problem in Brazil. Other South American countries, such as Argentina and Paraguay, seem to be involved in the production and transit of these synthetic drugs.

The main significance of South America in the world heroin trade is as a transshipment point between Europe and the United States, rather than as a location for the production or processing of opium. Over the past 5 years, there has been evidence of such trafficking in various South American cities, including Buenos Aires, Santiago, and Rio de Janeiro.

I wish to call attention at this time, Mr. Speaker, to a new development which may prove even more dangerous than the flow of cocaine and marihuana. According to a New York Times news article, which I wish to submit into the Record, major new heroin conduits are opening up in the Panama area of Latin America.

At a time when we may finally be reaping the benefits of 10 years of negotiations with Turkey—to cut off the supply of opium to this country—we can hardly afford to have a new pipeline open up to the near South.

Every precaution must be taken to see to it that this fresh source of heroin supply is quickly dried up. Panamanian officials, as well as the legislative and executive officials in all other drug production, processing, or transit points, must be made to realize how critical the problem of heroin addiction has become in the United States. We must assure them that we are ready to cooperate with them in stemming the flow of narcotics to the streets of our cities, and that we will no longer stand idle in the face of those governments which fail to honor international agreements in the area of narcotics control.

The article by Dana Adam Schmidt follows:

UNITED STATES SEEKS TO END LATIN DRUG FLOW—NARCOTICS CHIEF VISITS AREA—PANAMA A CONCERN

(By Dana Adams Schmidt)

WASHINGTON, November 29.—John F. Ingersoll, Director of the Bureau of Narcotics and Dangerous Drugs, is visiting Latin America in an attempt to block off major new conduits of heroin and other drugs into the United States.

High-ranking officials of the bureau declined to give Mr. Ingersoll's itinerary but authorized this quotation: "Latin America is now up to its ears in heroin."

They indicated that he would be especially concerned with Panama, which he visited last September at the invitation of the country's strongman, Gen. Omar Herrera Torrijos.

The officials gave the following reasons for the bureau's interest in Panama:

Some pilots and crew members and some air passengers, have been carrying heroin processed in France to Panama and returning to Europe with cocaine that originates in Latin America.

Smugglers finding United States controls on the East Coast increasingly tough have been trying to slip in through routes from the south.

With 2 major and 10 minor seaports and 100 airfields surveillance in Panama is exceptionally difficult.

In a report to Representative John M. Murphy, Democrat of Staten Island, the bureau listed several reasons for satisfaction about the way Panama's drug controls were developing but also said there was cause for acute concern.

TRAINING COURSE HELD

As a result of Mr. Ingersoll's September visit, the bureau conducted a two-week seminar on narcotics enforcement for members of the central narcotics unit of Panama's National Guard. This unit has been increased to include 20 officers. A joint enforcement task force was in operation from Sept. 20 to Oct. 29. Panama is studying an extradition treaty that would include drug violators.

Further training programs and a large-scale project to eradicate marijuana on Las Perlas Islands of Panama have been planned.

On the other hand, the report said, "It is clear that the Republic of Panama has not and is not paying sufficient attention to narcotic enforcement activities to achieve noticeable results. This may be due to high-level apathy, ignorance and/or collusion. Unless the Republic of Panama is sincerely willing to put forth the necessary effort to combat the traffic, the republic will continue to serve as a conduit through which vast amounts of illicit drugs are funneled en route to the United States."

Illustrating the importance of Panama in the drug traffic, the bureau reported to Mr. Murphy's sub-committee on the Panama Canal that in the last 12 months 641 pounds of heroin that had moved through Panama was seized in four separate operations in the United States.

Along with heroin, much of the cocaine that reaches the United States is being shipped through Panama, the report said.

Among Panamanians arrested this year in connection with drug seizures was the chief of air traffic control at Tocumen Airport in Panama, and the son of a Panamanian ambassador who was said to have tried to use a fraudulently obtained diplomatic passport to get 156 pounds of heroin through customs at Kennedy International Airport in New York.

THE U.N. THE BEST HOPE?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. ASHBROOK) is recognized for 30 minutes.

Mr. ASHBROOK. Mr. Speaker, the idea of "one world" has appealed to many through the years and has always had its share of adherents in the United States. Most of them, in these days of labeling everyone, would probably be found among modern liberals. Many of these same people also believe the U.S. Constitution should be ignored, discarded or rewritten, and that patriotism is a square and outmoded form of chauvinism. They seem to think that our Government cannot handle the problems of this era independently.

Through a propaganda barrage spanning a quarter of a century a number of our citizens have been led to believe that the United Nations is the only answer to the many problems besetting mankind. I think this view is especially prevalent among students, who are taught that the U.N. is the sole keeper of the peace and our last best hope. The obvious failures of this world organization, however—which promised so much and delivered so little—are too often ignored or glossed over. But a realistic look at the record shows the U.N. has been largely impotent and even the smaller nations have thumbed their noses at the world organization whenever it suited their purposes.

One fatal flaw has been the double standard which exists at the U.N. Americans have clung to the hope for the past 25 years that this organization would help bring about world peace. Instead we find increasing evidence to indicate that we are being taken for a sucker in many of its efforts. This sad truth has come from the fact that in no sense is this a body of united nations. Working within the framework of the U.N. is a hard-core Communist bloc not even remotely united in the same beliefs and aspirations which motivate American policy or interest.

There is very little in the way of tangible accomplishments to which supporters of the U.N. can point with pride. Since 1945, when the organization was founded, 75 armed conflicts have been fought between nations of all sizes, including bloody civil conflicts. Undeniably, some of these wars would more accurately be classified as skirmishes, but by whatever name, they belie any claims that the U.N. has been successful in keeping the peace. The Communist aggression against South Korea which was stopped under U.N. auspices has been frequently hailed as a major achievement of the U.N. But the United Sates bore the brunt of the fighting and lost 33,000 men in battle. At no time did the troops of other U.N. members in Korea amount to 10 percent of the American force of 450,000 men at peak strength. The U.N. "victory" in Korea was in point of fact actually an American achievement, reached through a costly sacrifice in blood and money with minimal support from other U.N. members. Now, significantly, the Nation branded as an aggressor in that conflict, Red China, is welcomed to the U.N. without one word of repentence.

Examples of the U.N. ineptness in maintaining peace and solving world problems abound. To give just a few examples: the problems of the Middle East are still far from settlement although the U.N. has been active in that area since the establishment of Israel as an independent nation in 1948. The United States, not the U.N., has been the stabilizing influence there. In the Congo, prolonged U.N. "peacekeeping" activities destroyed Katanga in the early 1960's and contributed little if anything to the stability of this strife-torn area. In fact, the U.N. force invaded Katanga. The truth is that American assistance in the form of funds and equipment enabled the U.N. to wipe out the independence of Katanga—the only part of the vast Congo territory where a semblance of order had been maintained after the withdrawal of the Belgian colonial administration. The U.N.'s impotency to take appropriate action when confronted with solid evidence of brutal Communist repression following the Hungarian anti-Communist uprising in 1956 is another case in point. The U.N. appeasement of Communist aggression in Hungary was later compounded when they accepted the credentials of the Soviet-imposed Hungarian Government. And again in 1968, the tragedy of Czechoslovakia proved the U.N. inept when confronted by Communist repression.

U.N.'S DARKEST DAY

Already well aware that the U.N. was not the answer to the world's problems and crises, any vestige of hope I harbored that this organization might, in spite of its inherent weaknesses and sorry record, still perform some useful function were dashed on the infamous day when the Red Chinese were admitted to membership and the Republic of China expelled. The U.N. decision to expel one of the signatories of its original charter and a nation representing more than 14 million people—larger than 100 of its members—in response to a resolution offered by Albania, a nation with less than 2 million people, sounded the deathknell for that body, in my opinion.

It is well to remember that on February 11, 1951, the U.N. General Assembly passed a resolution branding Red China an aggressor as a result of its instigation of the Korean war. That resolution still stands. Between 1951 and 1960, the General Assembly did not include the question of China's representation on its agenda. Then on December 15, 1961, it adopted a resolution which declared that the representation of China was "an important question." This meant that any future proposal on the matter would require a two-thirds majority to pass.

Having abandoned that long-held position in this session when the Communists triumphed in the crucial procedural vote 59–55, stating that the representation of China would no longer be considered an important question requiring a two-thirds affirmative vote, the way was cleared for the shameful travesty which followed—the ouster of a longtime ally in order to provide a seat for the brutual Red Chinese bandits. The 76-to-35 vote, applauded by the Soviet Union and many other exurberant delegates—and without a single NATO ally voting on the U.S. side—clearly delineates the rock bottom level to which our prestige has sunk.

THE LESSON OF RED CHINA

There are two aspects of the infamous China expulsion vote in the United Nations that bear thoughtful consideration by all Americans. First, it clearly shows the fact that the United Nations has little if any moral standing in the world and that it is clearly a political body, nothing more. It is clearly not a safe repository for any of our security and deserves only minimal support to provide for its expensive con game as a debating forum.

There was really only one basic issue behind the vote on Monday, October 25. Free China was thrown out of the United Nations for no other real reason than the fact Red China made it a condition of its admission to the United Nations. Strip the debate of its rhetoric and this screams out loud and clear as the basic reason behind the 76–35 vote.

Compared to most of the nations which voted against it, Taiwan was a model government. No iron curtains, no aggression against its neighbors, no record of infamy. While not necessarily a democratic self-government by American standards, by U.N. standards or Asian standards it is a jewel.

Second, the Nixon administration must share the major burden of blame for this Communist triumph. President Nixon went full circle in less than a year. The battle changed from keeping an aggressor nation unfit under the U.N. Charter from membership to a policy which supposedly fought to keep Taiwan in the U.N. The facts do not treat the Nixon administration and the State Department kindly.

First it was suggested that the United States would adopt a "two-Chinas" policy because of world realities. Soon it was necessary to give Red China the seat on the Security Council that Nationalist China had to get them to accept membership and get support for our policy. Red China wanted nothing less than the total expulsion of Nationalist China and by this time the State Department position had deteriorated into a sickening "we are fighting valiantly to keep them in" strategy. This is bunk. They knowingly opened the floodgate and even undermined Taiwan's position by having Henry Kissinger in Peking at the very time the U.N. debate was raging.

The adverse side effects will be coming in for months and years ahead. Take Cuba: Latin American countries will say "If Nixon plays footsies with the Red Chinese, we can with Cuba, too" and that Communist country will benefit from our foolish China policy.

Nothing short of a national brainwashing campaign has been conducted regarding Red China. Many commentators now refer to it exclusively as "Mainland China." James Reston of the New York Times took it to the very extreme in writing that the real concern was whether the United States could convince Chou En-lai of our sincerity. Imagine that as the height of idiocy—we must convince the bandit leader of a murderous regime which has put to death between 20 and 40 million Chinese, of our good intentions—our good intentions. It is a good indication of just how far we have gone down the track in capitulating from our previous position of strength.

If nothing else, we should have learned a hard lesson from our humiliating UN-China experience. The lack of support we received from our "friends" points up the accommodations that other nations, including those most closely tied to us, have made with the forces of world communism. This first bitter pill is probably only one of the many the United States will have to swallow now that the Soviet Union and the Communist Chinese are both in the U.N. Security Council and openly dedicated to the enslavement of the peoples of the free world under the Communist yoke.

WE GIVE TOO MUCH FOR TOO LITTLE

Many persons, both in and out of the Congress, have demanded a reappraisal of our financial backing of the U.N.—and even our continued participation in that organization—on the heels of the China vote. This call for a reevaluation of our role in that world body has been criticized as reflecting a "sour grapes" attitude. It is said we are acting as a spoiled child might because we did not get our way. It is a matter of record, however, that many of us have been expressing misgivings on this subject for at least the past decade.

The taxpayers support enough domestic frauds at home. There is no reason to perpetrate an international one. As I have indicated, it is not only because of the China vote—a case of taking our marbles and going home—it is because of the very clear pattern of perfidy over the past decade in the U.N. What the U.N. promotes at this point is not a product that we should underwrite. Let it get its money from the bandit nations and free riders who dominate it.

I believe we should stay in the United Nations but it is long past time that we begin decreasing our support, both financial and otherwise, to it. Why should the American people continue to carry the financial burden of an organization that consistently works against those things which are in the interests of the United States? This is especially true at a time when we are having our own economic problems.

There is no question in my mind that the effectiveness of the United Nations has been minimal at best. Its so-called peace-keeping activities have pretty much been a failure. Nearly every issue has been resolved in favor of Communist governments. Any peace that the U.N. is working for seems to be on Communist terms.

Commonsense would dictate a drastic cutback in our financial support of the U.N. As I see it, under no circumstances should the United States contribute more than its proportionate share based on its vote—approximately 1/130th of the cost. I certainly do not believe the American taxpayer is getting a justifiable return for his investment in the U.N. We are paying one-third of the budgeted costs of that organization or nearly $110 million per year. All other countries contribute much less and some of them pay nothing. The Soviet Union pays far less than we do, yet they have three votes, in effect, to our one. The dozens of small countries which make token or no payments each have a vote equal to ours.

The U.N. is $180 million behind in dues collections and other assessments from its members, and the Soviet Union owes nearly half of that sum. Some 76 nations are delinquent. Most of the trouble stems from the pernicious idea—pioneered by the Soviet Union—that a member need not pay for a budgeted or properly voted U.N. activity of which it disapproves. The result is the Soviet Union owes $87 million, and the rest of the Communist bloc owes the United Nations another $31 million. Therefore, the world Communist front owes nearly $118 million to the organization which just voted to accept another Communist country.

It is totally unrealistic for us to bear the lion's share of the costs of a body that supposedly represents all the nations of the world and allots each member equal voting rights. Or, looked at another way, why should we foot more than one-third of the U.N. bill when we have only 6 percent of the world's population? Until the Communist bloc and other delinquents pay up, the United States has no business hitting our taxpayers for another penny. The financial backing we have given this organization over the years has not inured to our benefit any more than the billions of dollars we have poured out in foreign aid to friend and foe alike.

SPY NETWORK

Almost since its inception the U.N. has afforded a convenient base for the vast Red espionage apparatus. Through the years there have been a number of spy scandals involving U.N. personnel. Those caught redhanded have long since been kicked out of our country. But the number of official personnel of the Soviet bloc reaches almost 1,000. We can be sure in the face of compelling evidence that the majority of these representatives—although in our country openly and officially—are covertly pursuing intelligence activities which present a real threat to our national security.

One Soviet defector, a former officer of the Soviet State Security Service, has stated that between 70 and 80 percent of all personnel assigned to a Soviet diplomatic establishment are in the intelligence field. Certainly the recent wholesale expulsion of 105 Soviet diplomatic representatives in Great Britain points up the scale and nature of Soviet spying.

The prevailing mood of detente has led to an alarming laxity in dealing with Soviet and other Communist-bloc undercover agents. One of the reasons I so vigorously oppose diplomatic recognition of Red China is because they will do the same thing the Russians have historically done: use their official representation as a ready means of bringing intelligence personnel into this country.

Looking back through the year of "diplomatic," "trade" and "cultural" relations between the free world and the Soviet Union, it is clear to what extent these "relations" have facilitated the immense expansion of the Communist world. Now with the Chinese Communists joining them in their clandestine mission of ferreting out the most sensitive data regarding our scientific and technical developments, our military defense program, and the future plans of our Government, we can see how vulnerable we are as these subversive machinations mushroom at the crux of the Eastern Seaboard. Evidence clearly exists to show Red China's new U.N. delegation is led by espionage-oriented delegates.

SECURITY COUNCIL STYMIED

Almost from its inception the Security Council has been stymied in its efforts to carry out its mandate. the U.N. Charter assigned to the Security Council the primary responsibility for "the maintenance of international peace and security"—the most important function envisioned for the world organization. But carrying out this responsibility proved to be too much, given the crippling effect of the veto power wielded by the five permanent Security Council members. These seats were assigned to the "big five" World War II alliance of Nationalist China, France, Soviet Russia, the United States and the United Kingdom.

Only a few months after the San Francisco conference which spawned the U.N., the Soviets cast their first veto. They have now cast more than 100 vetoes. Whenever they believed the issue under consideration could retard the interests of the world Communist movement or in any way strengthen or foster the goals of the free world, the Soviets have not hesitated to block Security Council action. This indiscriminate use of the veto power by the Soviets contrasts markedly with the extremely limited use exercised by the rest of the permanent members of the Council. Consider, for example, the restraint of the United States. For 24 years we never cast a veto. It was not until last year that we first exercised our veto power, and then of course it was not in bad faith or for ulterior motives.

The U.N. double standard is probably one of the greatest pitfalls it faces in trying to be a viable instrument of world opinion and decisionmaking. Its hypocrisy in many areas has prevented it from being a moral power in the world. It is purely political, nothing else. Even in the recent Red China fiasco its hypocrisy was obvious. Nationalist China was expelled from the United Nations not for anything it has done or for any violations of the U.N. Charter but because Red China placed the expulsion of Nationalist China as the "price" of its own acceptance of membership in the body. That the majority bowed to that position to throw out a nation which had maintained a good record and replaced it with a nation which has lived in constant violation of the U.N. Charter shows the double standard.

However, the best example I received on this double standard came in the first years of my service in Congress. I had occasion to read an issue of the UNESCO Courier, issue No. 10 to be exact, and I was offended by its blatant accusations of racism against the United States and Great Britain but, in discussing racism in the world, made no mention of the Soviet Union. Anti-Semitism and liquidations of racial groups by Communists behind the Iron Curtain has been so well documented as to not really deserve more than cursory mention here. I wrote to the Director General of the UNESCO and asked why the Courier article contained no reference to Soviet racism. His reply was that UNESCO only covered those instances of racial strife which the governments documented and since the Soviet Government denied that minorities are persecuted in the Soviet Union, there was nothing to report. Consider that strange double standard when you hear someone say that the U.N. has any chance of meaningful solution to world problems. Just deny they exist and the U.N. will look the other way.

Other instances of hypocrisy could fill scores of pages. The U.N. looked the other way when India invaded friendly Goa. It sought to get economic sanctions against Rhodesia, South Africa, and Angola by labeling them as a threat to peace. None of these nations is a threat to peace and their racial policies would be on a par with many of the nations voting for sanctions, particularly the Iron Curtain countries. Yet there is always this double standard.

I have examined the work of the United Nations Educational, Cultural and Scientific Organization—UNESCO—in the past and have strongly criticized many of its activities which downgrade our country while ignoring in other countries flagrant examples of the very things we are castigated for. UNESCO's orientation flies in the face of the harsh reality of east-west confrontation. Its whole thrust seems to be a nebulous concept of utopian one-world citizenship at the expense of subordinating our educational system, national patriotism, and who knows what else to their fuzzy thinking.

Last year, UNESCO conducted a symposium in Finland commemorating the 100th anniversary of the birth of Lenin. Lenin's bloody record of suppression and murder is a matter of history. But this fact, and the opposition of the United States to the event, did not deter the one-worlders. UNESCO went ahead and dedicated the meeting to Lenin.

OUTLOOK FOR THE FUTURE

I have tried to give some idea of why I believe the image of the United Nations as man's last best hope for peace—fostered by the U.N.'s excellent job of promoting its own cause—evaporates when we take a hard look at the realities of its record. Many of the U.N.'s problems stem from the fundamental philosophical error underpinning the foundation of that body. The central difficulty is accepting the assumption that a large collection of nations could in fact work together in harmony to guarantee world peace. The inclusion of the Soviet Union—and now, alas, Red China—is alone enough to explode that notion, but there are a good many other nations as well which have no desire to get along with each other or with us. The U.N. is in fact founded on a delusion.

A basic reality of the U.N. through the years has been to provide the Communists with a handy propaganda forum to advance their ideology and political objectives. They have used it in their own self-interest. We will probably be treated to more of the same for the capacity of the U.N. to create mischief and anti-American propaganda seems undiminished.

Proposals for world government and world police forces should be rejected out of hand. What responsible government would entrust the future and safety of its people to an organization that has been foundering ineffectively since its creation? American sovereignty is not a threat to peace. In fact, the best hope for world peace in the face of the Communists' announced intentions of world domination remains, like it or not, in a strong, sovereign, independent United States. Whither the United Nations? We can cooperate in the U.N. in its political debates but it is not a safe or proper repository for our security.

VIEWS ON CHILD DEVELOPMENT SECTION OF OEO CONFERENCE REPORT

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. QUIE), is recognized for 60 minutes.

Mr. QUIE. Mr. Speaker, as a long-time supporter of the child development concept and as an individual who feels that there is a definite need for expanded services, I am taking what I am sure is a view unpopular with people who are very strongly in favor of child development programs. It is my feeling that the legislation reported by the House-Senate conference on this subject is so unworkable that I would rather see no legislation passed at this time than see this bill become the law of the land. I would hope that the conference report will be defeated and that the Congress will go back to work and report a reasonable and rational bill which will truly meet the needs of our Nation and its children.

In discussing this child development bill it is obvious that a tremendous amount of confusion and misunderstanding exist. Much of the problem centers around the delivery system. Not the question of who may operate individual projects but who is eligible to be a prime sponsor.

It is important to understand the distinction between the two. A prime sponsor is the mechanism through which a child development council—the overall administrative mechanism—is established and an overall comprehensive plan for services is developed. Under the prime sponsor there should be a number of individual operating programs—each following the same rules and regulations promulgated by DHEW—but each individual program operator would not deal directly with HEW. There are few restrictions as to who may operate a program since they should deal with the prime sponsor.

The point of confusion seems to be who is eligible to submit an application as a prime sponsor. As the bill presently stands, if a city—with a population of 5,000 or more—a combination of localities or a State submits an application for prime sponsorship to serve the same geographical area, the Secretary is mandated through this legislation to approve the city's application if it just meets minimum requirements. Even if a combination of localities or the State is better equipped or has a greater capacity to administer programs which serve the needs of the particular area, the Secretary must still approve the city as the prime sponsor.

For a perspective on the problem, it is important to think about the potential number of applications which might be submitted directly to the Federal Government. If one thinks of this program in terms of education, you could say that being a prime sponsor would be like being a school district.

If the bill as reported by the conference stands, it will in effect be turning the clock back by decades. To understand why, look at the history of school districts. In 1900 there were over 100,000 separate operating school districts in the United States. In 1959 the number was down to 40,500. Through the years most of them found that they were simply unable, because of their small size and limited number of students, to effectively and efficiently run a school system, to say nothing of increased administrative burdens which vastly increase when they deal directly with the Federal Government. Consequently, they moved toward consolidation. By 1969 there were only 19,200 public school districts, a 21,300 drop in just 10 years. Today there are approximately 17,000 school districts and the number is dropping by about 1,000 per year.

In my own State of Minnesota, there were 6,896 school districts in the State in 1900. In July 1961 there were 2,410 and in July 1971 only 446. Today this figure is 435 and will probably be reduced to less than 400 during the next year.

I anticipate that under this legislation, a city with a population of 5,000 to 10,000 would have at best only one program with a maximum enrollment of 15 to 30 children even under the most optimistic funding conditions. Every prime sponsor, regardless of size, is required by the bill to provide specific services, facilities and program personnel. It appears to me that, of small school districts with only one small school found over the years that they could not operate effectively and economically, it is impossible to expect a one-program prime sponsor to be feasible. The result can only be the wasting of precious dollars and, as a consequence, fewer children served.

It is important to point out that not only have school districts throughout the country moved toward consolidation, but the Office of Economic Opportunity—to whose authorizing legislation the child development bill is attached—moved early in the same direction. In OEO's instructional manual, Instruction No. 6302-2, that agency sets forth minimum sizes for eligibility for community action agencies. Furthermore, they even set size regulations which removed eligibility from communities which were considered to be too small to sustain a program. Parts of the instruction read as follows:

PART D. COMMUNITY ELIGIBILITY

1. Minimium tests of community eligibility:

To be eligible to be served by a CAA a community must provide a suitable organizational base and possess a commonality of interest. At a minimum, an eligible community must be one of the following:

a. A state.

b. A city or other municipality, or a group of municipalities, with a population of at least 100,000 people, according to the most recent available census data.

c. A county, group of counties or predominantly rural part or parts of one or more counties. A minimum of 50,000 persons according to the most available recent census data will apply in each of these cases.

d. One or more Federal Indian reservations.

2. Loss of eligibility:

If because of opt-outs or loss of population the population of a community previously eligible under 1.b above falls below 100,000 people, the community will lose its eligibility to be served by a CAA.

If because of opt-outs or loss of population the population of a community previously eligible under 1.c above falls below 500,000 people, the community will similarly lose its eligibility.

QUIE CONFERENCE PROPOSAL

My primary opposition to this legislation centers on the refusal of the conferees to accept what I considered to be a most reasonable and rational proposal. My proposal would provide the Secretary with the authority to determine, when a locality, a combination of localities or a State all make application to serve as a prime sponsor for the same geographical area, which application in his judgment can most effectively carry out the purposes of this act. I cannot understand why my colleagues would not accept a proposal which seems to me to be so basic to not only effective management but to good government as well.

What does the bill actually do and how does the delivery system work? To illustrate how complicated the delivery system is and why it will be difficult for even large geographical areas with high population concentrations to establish a prime sponsorship, possibly a brief explanation will help you to understand what every prime sponsor—including a one-program prime sponsor—will have to do.

USES OF FUNDS

To begin with section 512 details what funds may be used for services and activities covered, including at least 15 different categories.

PRIME SPONSORS—SECTION 513

In order to get funds authorized under this bill, a prime sponsorship must be established. Localities with a population of 5,000 or more must be approved as the prime sponsor if they meet minimum requirements even if a combination of localities or the State could do it better. In the event that an individual locality does not meet the requirements, the Secretary must take steps to encourage the submission of prime sponsorship plans from a combination of localities regardless of how capable the State might be.

If the Secretary determines that the prime sponsorship plan of a particular locality or combination of localities does not meet the requirements, he may then approve a plan submitted by the State. Such a plan may be approved for only 1 year, and during that year the Secretary must still seek to develop prime sponsorship applications by localities.

The Secretary may also approve a prime sponsorship plan submitted by a public or private nonprofit agency, including but not limited to a community action agency, single-purpose Headstart agency, community development corporation, parent cooperative, organization of migrant agricultural workers, organization of Indians, employer organization, labor union, employee or labor-management organization, or public or private educational agency or institution. These bodies may be approved as prime sponsors when no application has been made by a governmental unit or if it has been disapproved or withdrawn.

CHILD DEVELOPMENT COUNCILS—SECTION 514

In order for a prime sponsor to establish itself, it must create a child development council as detailed in this section. This council must be composed of not less than 10 members. If 10 are selected, five shall be parents of children served in child development programs, with the remaining public members being appointed by the chief executive officer or the governing body of the prime sponsor. Three of the public members would be broadly representative of the general public, including first, government agencies; second, public and private agencies and organizations in such fields as economic opportunity, health, education, welfare, employment and training, business or financial organizations, labor unions, and employers. The other two members would be child development specialists if available.

The Child Development Council—which had been selected according to regulations established by the Secretary—shall be responsible for approving basic goals, policies, actions, and procedures for the prime sponsor, including policies with respect to planning, general supervision and oversight, overall coordination, personnel, budgeting, funding of projects, and monitoring and evaluation of projects.

COMPREHENSIVE CHILD DEVELOPMENT PLANS—SECTION 515

Once a prime sponsorship has been formed and a Child Development Council established, in order to receive financial assistance, the prime sponsor must then develop a plan which sets forth the comprehensive program for providing child development services in the prime sponsorship area. This plan includes 25 separate requirements.

PROJECT APPLICATIONS—SECTION 516

After the prime sponsorship-child development plan requirements are completed, then the question as to who may receive financial assistance to operate a project must be answered. Funds may be given to a qualified public or private agency or organization including, but not limited to, a community action agency, single-purpose Headstart agency, community development corporation, parent cooperative, organization of migrant agricultural workers, organization of Indians, private organization interested in child development, employer or business organization, labor union, employee or labor-management organization, or public or private educational agency or institution.

PROJECT POLICY COMMITTEE

Every potential project operator must establish a Project Policy Committee which is composed of not less than 10 members, half of whom are parents of children served by the project. The remaining members of each committee shall consist of first persons who are representative of the community and who are approved by the parent members, and second, at least one person if available who is particularly skilled by virtue of training or experience in child development, child health, child welfare, or other child services.

Nowhere in the bill does it spell out specifically how the parents on the individual Project Policy Committees will be selected or appointed, nor is there any authority for the Secretary to establish guidelines or regulations. This is critical since each individual Project Policy Committee has, in effect, a veto over the policies with respect to planning, overall conduct, personnel, budgeting, location of centers and facilities, and direction and evaluation of projects.

This brief summary covers 10 pages in the conference committee report. If you think it is complicated from my explanation, then you should read the actual language of the bill.

Since the utilization of public resources is a fundamental part of this legislation, it seems to me that the Secretary should be given the greatest latitude and flexibility to choose those programs which, in his judgment, best meet the needs of a given area.

I must point out that many Members sought at one time during the development of this legislation to have a population level of 500,000 along with a requirement that all program applications be submitted through the State with one comprehensive plan forwarded to HEW. Although I feel that these provisions have great merit, I am not seeking them at this time; but I do contend that no application for prime sponsorship submitted by: First, a locality; second, a combination of localities; or, third, a State should have priority over the other. These applications should be judged on merit, capability, and capacity to carry out the role of a prime sponsor as compared to each other. I strongly feel that the Secretary should not be bound by any preset mandate to select any particular applicant. He should be allowed to use his best judgment as to who can best carry out the purposes of the act.

Some individuals have challenged my concern that the Secretary of HEW needs more flexibility and discretion to approve the application which he feels is most qualified. They feel he has all the discretion that he can possibly use right now in the authority given him under section 513(k) to directly fund projects. While he may fund projects directly, a review of that section shows that the Secretary's hands are tied to still another set of preconditions which does not give him discretion to select the proper prime sponsors. He may only fund projects directly—

> In the event that a State, a locality, a combination of localities, or an Indian tribal organization has not submitted a comprehensive child development plan under section 515 or the Secretary has not approved a plan so submitted, or where the Secretary has not designated or has withdrawn designation of prime sponsorship under section 513, or where the needs of migrants, pre-school-age children, or the children of working mothers or single parents, minority groups, or the economically disadvantaged are not being served.

The Secretary may fund directly only when the required conditions have not been met. This section does not give the Secretary the authority to approve a prime sponsorship, it merely allows him to direct fund individual projects when there is no prime sponsor.

Some also claim that the Secretary could refuse to approve a small locality's application for prime sponsorship for reason other than the limited criteria in section 513(a). But I believe that the Secretary's hands are further tied through another provision which directs that a prime sponsorship plan may be disapproved or a prior designation of a prime sponsor may be withdrawn only if the Secretary provides—

> (1) written notice of intention to disapprove such plan, including a statement of the reasons, (2) a reasonable time in which to submit corrective amendments to such plan or undertake other necessary corrective action, and (3) an opportunity for a public hearing upon which basis an appeal to the Secretary may be taken as of right.

To complicate this procedure even more, there is also a provision which allows that if any party is dissatisfied with the Secretary's final action with respect to the disapproval or withdrawal of its prime sponsorship, such a party can file an action in the U.S. court of appeals and petition for a review of the action. In effect, any agency or organization listed in the bill may at any time take the Secretary to court protesting an action. Somehow it appears that with this complicated mechanism it is possible that no funds will ever get out to provide services for children.

STATES

I do not take the view of some of my colleagues that "all State governments are bad and that all city governments are good." Neither do I accept their view that States have not shown any concern in the area of child development, because I am aware that many States have demonstrated a truly significant desire to develop meaningful programs. My own State of Minnesota, for example, recently passed a law—chapter 848 of laws of 1971—which provides that the State commissioner of welfare may make grants to any municipality, corporation or combination of localities for planning, establishing, maintaining or operating a child care service. Funds may also be utilized for leasing, renting, construction, or purchase of facilities and equipment. The central thrust of the State's effort is to establish and operate a program to aid in the coordination of child care within communities, to aid in development of social, emotional, and educational services to provide optimum conditions under which children can develop and grow.

In January 1971 the Governor of Texas established an office of early childhood development for the purpose of coordinating childhood development programs "to insure all people in large and small communities in Texas the opportunity of comprehensive child development services."

The State of Maryland during the past few years has put great effort into the development of a workable and coordinated State program of day care and early childhood programs.

I must observe that States participating in title IV-A child care programs have put up a total of $50 million in actual State moneys for fiscal year 1971 and it is anticipated that that figure will become $75 million in fiscal year 1972.

It is interesting to note, however, that in spite of the efforts of these States or any similar efforts which might be made by any other States, under this legislation they would all automatically be excluded from prime sponsorship consideration unless localities failed to submit an application or until the Secretary deemed that the localities could not meet specific requirements.

In discussing this legislation some contend that, if the States have a role, they will dominate. Under the bill as it is now written, States do not and cannot control the programs as they will be controlled by regional offices. Individuals working in a regional office will make determinations as to what is best for each locality without having to be responsible or accountable to them or to be the voters. Regional offices are a poor substitute for elected officials who must answer to the electorate.

There is still another factor which complicates this already fuzzy picture—that is, how will the Secretary draft regulations and standards by which he can make choices? The bill has language which requires a prime sponsor to do certain things, but there is no guidance to help those who will process applications to make adequate judgments. If regulations are written in a restrictive manner, they will be challenged immediately. Yet, if they are vague and written with great flexibility, they probably will not be of great help in making determinations.

I can see one specific potential problem with regulations which might be developed. With any guidelines that are written, a prime sponsor applicant will have to comply with the law. If an applicant merely states that it will meet all of the requirements listed in the bill, how will a judgment be made when a small city applies and does not have existing operating resources to provide the necessary services, but promises to provide them once the Federal Government gives it the money to work with? The law as now written does not preclude the Federal Government from providing money for such services, and does not mandate that local, county, or State resources which might be available to serve the need be utilized. Through a literal interpretation it is possible, if a community merely promises to provide the services if it gets the money to do so, the Secretary would be obligated to make the funds available if he approves the application. In such a situation, many dollars which would normally go for actual child care services would be siphoned off and put into the establishment of supplementary services to insure compliance.

And still another concern to me is what will be the problems of administering this bill at the Federal level? Right now there are approximately 900 full-year Headstart programs throughout the country. The Federal Government has not accepted any new applications during the last few years and has not started any new programs. As a result, Headstart has remained fairly constant. The Office of Child Development has used its staff primarily for oversight, monitoring, and evaluation. To administer the 900 programs, the Office of Child Development employs some 300 persons, of which 130 are in the Washington office. The Washington office, in addition to legislative responsibilities, policy setting, providing technical assistance, handles the special Indian and migrant programs and experimental parent-child centers. All other programs are handled by the regional offices. The remaining 170 employees scattered throughout the 10 regional offices, service the other programs.

It is important to understand that all of the programs presently in the Office of Child Development are established and operating. Consequently, there is absolutely no way of projecting exactly how many additional personnel will be required simply to process all of the potential applications which might be submitted as a result of this legislation, let alone predict the number that will be required to monitor and evaluate to maintain quality control.

The way this legislation is written, an administrative monstrosity will be created which has no parallel in government.

INTRODUCTION OF JOINT COMMITTEE ON AGING PROPOSAL

Mr. Speaker, on a completely different but equally urgent subject, I have today introduced a House joint resolution to establish a new joint congressional committee to be known as the Joint Committee on Aging.

The new committee would consist of 22 members, 11 appointed by the Speaker of the House and 11 appointed by the President of the Senate, with a majority-minority party representation of six and five in each case. In making appointments of Members to this new joint committee, due consideration would be given to House and Senate committee assignments involving legislation which deals with the problems of the older American.

The Joint Committee on Aging would not have authority to initiate legislation, but it would have broad authority "to conduct a continuing and comprehensive study and review of the problems of the older American, including but not limited to income maintenance, housing, health—including medical research—welfare, employment, education, recreation, and participation in family and community life as self-respecting citizens. The committee would also study methods of encouraging the development of public and private programs and policies which will assist the older American in taking a full part in national life, and in turn using the special talents and experience of older persons to improve the quality of life for all Americans.

I think this new joint committee is badly needed in the Congress. It would provide a focal point for bringing together information and ideas which in turn could improve the legislation of standing committees of both bodies which directly or indirectly affects older persons. The responsibility for the substantive legislation is fragmented, and there is no way this could be cured through restructuring committee jurisdiction, because the problems of the older American cut across all jurisdictional lines.

The problems of our older citizens are not different from those of all other groups in our population; they simply tend to be more severe for the older group. In most cases they need special attention, and one of the functions of the Joint Committee on Aging would be to inform the standing committees of methods of providing this special attention, whether it be in fields such as social security, health, or housing which are major concerns of older people, or in areas of collateral concern such as transportation, education, or crime prevention. If Federal legislation is going to be genuinely effective in meeting the growing needs of 20 million Americans aged 65 or older the committees of the Congress having responsibility for substantive legislation need the sort of focus and perspective which could be provided by the Joint Committee on Aging.

There is a further need which could be met by a joint committee. The executive branch is as fragmented as the legislative—and for the same reasons—in the administration of programs affecting older persons. While large portions of these programs come under the jurisdiction of the Department of Health, Education, and Welfare, significant programs are also found in the Departments of Agriculture, Housing and Urban Affairs, and Labor, among others, and in agencies such as the Office of Economic Opportunity. This is why President Nixon has established a Special Cabinet Committee on Aging as a part of the Domestic Council. I think that we should all applaud the President's leadership in taking this action. We need the same kind of single point in the Congress from which a broad overview of the programs of all the agencies would be possible. Only a Joint Committee on Aging could effectively do that job.

Mr. Speaker, I believe that this is a most appropriate time—as the White House Conference on Aging acts to focus much-needed attention on the problems of older Americans—for the Congress to act to provide a permanent focus on those problems as they are dealt with by the Federal Government. The joint resolution I have today introduced would accomplish that purpose and I ask for its speedy consideration.

CONCERN ABOUT PROVISIONS IN THE OEO CONFERENCE REPORT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. STEIGER) is recognized for 15 minutes.

Mr. STEIGER of Wisconsin. Mr. Speaker, I wish to associate myself with the remarks made by the gentleman from Minnesota (Mr. QUIE). I share his support for an expanded child care program and I strongly supported the House bill in September. I also share Mr. QUIE'S concern that the House-Senate conference committee has designed a delivery system for the child development portion of the economic opportunity amendments that is sorely unworkable and worse than no system at all.

Regretfully, I must also express reservations about two other provisions of the OEO conference report which, in my judgment, severely limit the agency's authority and ability to carry out its mission. Specifically, they are the restriction on delegation of transfer authority and the earmarking of authorizations.

NONDELEGATION AND TRANSFER

Section 19 of the conference report prohibits the delegation or transfer of the functions and powers of the Director of OEO to the head of any other agency through fiscal year 1973, unless a provision of law is subsequently enacted "in limitation of the provisions of this section." This prohibition in section 19 would eliminate the research and demonstration role of OEO and would further prevent the agency from using its resources with maximum effectiveness.

The result of this provision would be to relegate OEO to the status of just another agency with program-operating responsibilities. If the conference report is enacted, and OEO's role as a strong, independent research agency is thus submerged, it might even become difficult to justify its continued existence. The strength of OEO has always been in its creativity in combating the problems of poverty. Other agencies of the executive branch are fully capable of administering social programs. We should not allow OEO to become merely another competing operating agency.

Delegations and transfers of OEO-initiated programs have been approved ever since the act was first passed in 1964. OEO has supervised programs during their maturation, and Congress has made statutory transfers to other departments in order to free funds for new innovations.

While the administration has proposed changes in OEO programs, in every instance the proposal seeks specific legislative action by Congress before effecting any changes.

Among the proposals are:

First. The inclusion of community action, senior opportunities and services, and special impact on the proposed Department of Community Development. The proposed transfer of these programs is set forth in the Department of Community Development Act and does not involve any substantive changes in the existing provisions of the Economic Opportunity Act.

Second. The inclusion in the proposed Department of Human Resources of the manpower programs authorized under parts A, B, and E of title I of the EOA, the migrant programs of title III-B, Headstart and follow through, family planning, alcoholic counseling and recovery, drug rehabilitation, and emergency food and medical. The transfer of these authorities is provided in the bill which proposes the establishment of a Department of Human Resources and involves no substantive changes in the EOA.

Third. Included in this OEO bill is title 9 which creates an independent corporation using the existing Legal Services program as its base.

OEO would retain comprehensive health programs, although it is contemplated that the practice of transferring mature programs to HEW—DHR—on an individual basis will be continued. Legislative authority would be retained in section 222 of the EOA. The Agency would also retain research, development, and evaluation authorities under section 232 of the EOA, and, pending further assessment and decision regarding the location of Indian programs throughout the Federal Government, OEO would, like other departments, retain its existing Indian programs.

In other legislation pending before Congress, it has been proposed that community action programs be administered by the new Department of Community Development. It is also the intention of the administration, as indicated in the 1972 budget, to incorporate funding of community action into rural and urban community development revenue sharing as of January 1, 1973. To accomplish this, specific congressional action would be required in two respects.

First, Congress would have to approve the Rural Community Development Revenue Sharing Act and the Community Development Act; each by its terms would become operational January 1, 1972.

Second, if urban and rural revenue sharing are approved, then a specific legislative proposal would be submitted to incorporate community action programs into revenue sharing as of January 1, 1973.

The delay in shifting CAA's into the revenue sharing process will permit an observation of how revenue sharing works and a better understanding of the possible effects on community action, so that this experience can be considered in developing the subsequent legislation which would be required to incorporate community action into revenue sharing.

There are no proposals now before Congress dealing with revenue sharing as it applies to community action programs. Prior to any decision by Congress on the incorporation of community action into the revenue sharing format, community action would continue to be administered under the EOA, either by OEO or, in the event of passage by Congress of the Department of Community Development Act by the Department of Community Development.

As can be seen, each of the proposed changes in OEO has been incorporated in specific legislative proposals. These changes will occur only in the event of approval by Congress and not by the transfer of program authority, executive reorganization, administrative delegation, or any other means.

EARMARKING

Mr. Speaker, I am also concerned as I have been in the past that the earmarking adopted by the conferees severely restricts the ability of the Director of OEO to effectively operate his agency. The conference report allows the Director the flexibility to transfer 25 percent of the funds earmarked from one program and put it into another. Shifting funds between programs is necessary in order for the Director to carry out the primary mission of his agency—research and development. Some of the earmarks are so high that he must divert nonearmarked dollars into earmarked programs simply to reach the level that the bill mandates.

Mr. Speaker, I think my colleagues understand that earmarking has long been a subject of considerable misunderstanding and acrimony in the past. There are, however, certain principles that may now be generally accepted:

One. Congress has authority to allocate funds as specifically or generally as it sees fit;

Two. The President must honor these allocations, but is not compelled to spend the money;

Three. Some degree of Director discretion is desirable in an OEO designed for innovation and rapid response;

Four. There is little consensus on program priorities. Members of Congress and the administration hold strong views about them, and there must be a rational means for reconciliation.

OEO earmarking problems, including those presented in the conference report stem from Congress annually appropriating less money than either President Johnson or President Nixon requested, and substantially less than authorized under the Economic Opportunity Act. The agency would have few serious disagreements with earmarks if full authorization were appropriated. However, OEO's total fiscal year 1972 budget is almost 20 percent less than this bill authorizes, and last year the final appropriation was closer to 30 percent below authorization.

THE FISCAL YEAR 1972 PROBLEM

Specifically, this bill authorizes $950 million for OEO. Although OEO might not allocate that sum in precisely the same fashion, it would have no serious earmarking problems were the full authorization appropriated. However, the President's fiscal year 1972 budget for OEO is $780.4 million. Under S. 2007, the traditional pro rata formula would rigidly require adding $55.9 million to:

Local Initiative (section 221)	$14.0
Alcoholism	7.4
Emergency food and medical	29.2
Community economic development	5.3

This is not simply added money to increase certain programs to which we might well accord higher priority than others. It is really program reduction from two other programs—comprehensive health and research and development.

In the case of local initiative, the earmark level of $328.9 has been met—and even exceeded—for several years. However, in fiscal year 1971 OEO programed an extra $20 million into local initiative to advance-fund the fiscal year 1972 program. When added to the fiscal year 1972 request for $314 million, the resulting $334 million will sustain the present program level.

In the case of the alcoholism program OEO has not budgeted additional funds because it reached agreement with HEW to consolidate all Federal alcoholism efforts in the Department, with the exception of certain special OEO projects. This is consistent with recently-enacted legislation. It also has the added advantage of first, continuing some 200 community action agencies started by OEO; second, strengthening community action as a legitimate grantee of a growing number of Federal sponsors, not just OEO; and, third, reinforcing a pattern for institutional change of Federal agencies through assumption of responsibility for OEO-developed programs.

The President's budget calls for $3.5 million to refund emergency food projects for migrants and Indians in places not fully participating in food stamp and commodity distribution programs. The latter have expanded—since the inception of the emergency food and medical services program in 1967—from $500 million to over $2.5 billion annually. Finally, sufficient appropriations remain unspent upon entering fiscal year 1972, to allow for a reasonable transition to the broadened food stamp program of 1970.

It is my view that, although there are many necessary programs authorized in this legislation—most especially the independent Legal Services Corporation—the serious problems with the delivery system in the child development section of the bill, and the earmarks and nondelegation provisions, which I have just described, force me to believe it is necessary to defeat the conference report and then report out a bill that retains what is valuable and corrects what is unworkable.

As a supporter of OEO and a believer in the need for a child care program, I will vote against the conference report and begin work anew on a bill that deserves to become the law of the land.

FOOTBALL ACHIEVEMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. Findley) is recognized for 5 minutes.

Mr. FINDLEY. Mr. Speaker, every Member of Congress is proud of his home district. I share that pride and this year, once again, have an even more personal reason to be proud because of an unprecedented accomplishment in my hometown of Pittsfield, Ill.

This year the Pittsfield High School football team completed its sixth consecutive undefeated season. This is an all-time record in my home State of Illinois and I doubt few, if any, Members of Congress can boast an equal accomplishment by a high school athletic team in their hometowns.

The Pittsfield Saukees have compiled the enviable record of 54 consecutive victories during the past six seasons. In compiling their record, the Saukees scored 365 points this year while allowing their opponents just 64 points. The team gained an average of 400 yards per game, another mighty impressive statistic.

On top of all this, it appears the 1972 season will provide another opportunity to expand on their own record of victories because most of the 1971 Saukee squad is made up of juniors who will be returning for one more season.

In these days of so much national attention focused on the few young people who have made, in the minds of many citizens, a bad name for our youth, it is a sincere pleasure to salute the winning ways of this group of genuine winners, the Pittsfield, Ill., Saukee football team.

I know my colleagues here in the Congress join me in congratulating this fine team and its coach, Donald Pollard, for the fine example of achievement they set for all citizens.

Members of the undefeated 1971 Pittsfield High School Saukee football team are: Richie Smith, Jim McMakin, Brent Gaffney, Walter Stolte, Jay Carlton, Charles Cox, Rod Fralicx, Dan Sapp, Dan Barrow, Jerry Fulmer, Mike Baehr, Mike Nevius, Rich Bergman, Fred Ruzich, Joe Wombles, Mark Sheppard, John Carlton, Bruce Kattelman, David James, Andy Borrowman, Brett Irving, George LoBuono, Mark Dempsey, Mike Barton, Roger Coultas, Ron Ghrist, Mark Deeder, Terry Lyman, Sam Giger, Don Snyder.

NATIONAL PLANNING ASSOCIATION ADVISORY COMMITTEE ISSUES TIMELY REPORT ON TRADE AND MONETARY POLICIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. Reuss) is recognized for 10 minutes.

Mr. REUSS. Mr. Speaker, I would like to commend to the attention of my colleagues a timely report on trade and monetary policies issued early last month by a National Planning Association Advisory Committee chaired by Ralph I. Straus of New York. The report is entitled "U.S. Foreign Economic Policy for the 1970's: A New Approach to New Realities," and is accompanied by supporting papers by C. Fred Bergsten, Robert M. Dunn, Jr., Frances M. Geiger, Theodore Geiger, Robert E. Hunter, and Harald B. Malmgren.

Among the committee's recommendations is the suggestion that the United States agree to a small increase in the price of gold as part of a currency realinement to establish more realistic exchange rates among the dollar and other leading currencies. The committee also takes a constructive approach to the elimination of nontariff barriers and other restrictive practices, and to the provision of more effective adjustment assistance for industries facing increased import competition.

The committee does well to warn that:

> U.S. policy makers must resist the temptation to use excessively restrictive or discriminatory means of applying pressure that would subsequently be difficult to terminate either for domestic reasons or because of retaliatory measures by the Europeans and Japanese. . . . Since August 1971, the danger that increasing resort to restrictions, discriminations and retaliations might get out of control has become very much greater.

I include a November 8, 1971, press release describing the National Planning Association Advisory Committee's report on U.S. foreign economic policy, along with a list of members of the committee signing the report:

National Planning Association Press Release

Washington, D.C.—Constructive measures for dealing with the current international economic crisis and thereby avoiding a further relapse into trade restrictions and retaliations are recommended in the report of an NPA Committee released today.

Chaired by Ralph I. Straus, the NPA Advisory Committee on U.S. Foreign Economic Policy for the 1970s proposes a new approach to tariff reductions, the use of interim import restrictions to allow time for adjustment to increased import competition, codes of behavior to harmonize or eliminate nontariff barriers and other restrictive practices, wider margins for exchange-rate fluctuations and more frequently changes in parities, reductions in the foreign-exchange costs of U.S. defense commitments in Europe and Japan, and an improved program of adjustment assistance to U.S. workers and business firms. The report's 18 specific proposals were formulated to take account of the new realities in the world economic and political position of the United States.

The Committee urges the OECD nations to adopt a new commitment not to pass on the costs of their policies to other countries without prior consultation, and to preserve and improve international economic integration "with adequate provisions for controlling the adverse effects on social groups within countries and on national economies as a whole."

Considering recent developments in the world economy and U.S. policies adopted on August 15, the Committee warns that "U.S. policy makers must resist the temptation to use excessively restrictive or discriminatory means of applying pressure that would subsequently be difficult to terminate either for domestic reasons or because of retaliatory measures by the Europeans and Japanese. . . . Since August 1971, the danger that increasing resort to restrictions, discriminations and retaliations might get out of control has become very much greater."

The Committee finds that there has been a significant decline in the international economic position of the United States relative to the European Community and Japan. "In the past, the United States possessed marked competitive advantages, notably the technological lead and economies of scale fostered by its large domestic market, the dynamism and competitiveness of its business management, the quality of its labor force, and the size and efficiency of its capital market." Now, the report points out, the European Community and Japan are rapidly narrowing the gap in these respects between themselves and the United States.

The Committee's report is accompanied by and based on six more detailed supporting papers concerning prospects for trading blocs, nontariff barriers, international monetary reform, payments adjustment problems, military and political factors in U.S. foreign economic policy, and U.S. and other countries' adjustment assistance programs. Summaries of the supporting papers are appended. Also attached is a list of the signers of the report.

The Committee points out that there has been widespread agreement in the United States that the benefits of greater international economic integration exceed its costs. But this is now being questioned as greater integration increases the scope, frequency and speed of economic changes that require painful adjustments by workers and businesses.

To be both realistic and constructive, future U.S. foreign economic policy must combine programs and policies to extend the benefits of integration while also dealing with integration's adverse aspects in pragmatic ways, the Committee says.

The Committee recommends that U.S. import restrictions should be permitted only under the escape-clause procedures and "in cases where the impact of import competition on a particular industry is so widespread, drastic and rapid as to make the task of adjustment for the industry or its workers too great to be handled even with liberalized programs of adjustment assistance." Such restrictions would be limited to three years, renewable only to carry out an industry adjustment program prepared by an Industry Council consisting of representatives of concerned large and small firms, labor unions, government departments, the industry's customers and consumers generally. To preserve some competition, tariffs should be preferred to tariff-quotas and "permissible amounts of imports should be periodically increased more than proportional to the growth in U.S. consumption."

Liberalization of adjustment assistance should include simplifying and speeding up handling of applications for assistance, providing aid to workers in a subdivision of a firm even if the entire firm would not be eligible, and abolition of the need to show a direct causal link between a tariff reduction and an increase in imports.

To head off the tendencies toward bloc formation and restrictionism, the Committee proposes *a plan for reduction of tariffs and quotas, U.S. agreement to a GATT waiver* for the proposed association agreement for free trade in industrial products between the European Community and the remaining members of the EFTA *for five years only,* and *new efforts to reduce agricultural protectionism.*

The tariff reduction plan calls for immediate elimination of all tariffs now at 5 percent or less and a progressive reduction over an adequate transition period of higher tariffs to 5 percent, after which they also would be abolished. The proposed waiver for the EC-EFTA association agreement would be for a limited time only while the general tariff reductions are negotiated and go into effect. It should also be subject to compensatory concessions to the United States and other countries adversely affected.

The Committee also recommends *international monetary reforms* and *improvements in the process of adjustment to payments imbalances.* It suggests that the United States agree, if necessary, to a small gold revaluation but only as part of a currency realignment to establish new equilibrium exchange rates. Calling for greater flexibility in exchange rates, it urges adoption of "a set of presumptive criteria for determining the need for a change in parity" as well as wider margins—at least 3 percent on either side of parity—to discourage speculative short-term capital flow.

Proposed international monetary reforms include a special SDR issue by the IMF to mop up unwanted reserve dollars, provision for countries to declare in advance the rate at which they would be willing to increase reserve dollar holdings, and improvement of the existing swap network. Only dollars exceeding the amounts countries agreed to hold could be converted against other U.S. reserve assets, and the latter amounts could be used by the holding country in settlement of a payments deficit. While recognizing the impediments, the Committee urges that OECD countries "take explicitly into account the probable major effects on one another of changes in their own macroeconomic policies," especially with respect to interest-rate policies.

Concerning developing countries, the Committee recommends that the United States implement promptly *an arrangement for generalized preferences for developing countries,* explore *new methods of fostering larger foreign exchange earnings* for developing countries *from their primary products exports,* and initiate steps to aid developing countries to expand their trade with each other.

Other recommendations of the Committee include:

interim encouragement of U.S. exports together with efforts to develop a code of behavior to regulate export-promotion activities by OECD countries;

a comprehensive reassessment of U.S. antitrust policy by a National Commission before any changes are made in antitrust policies affecting international trade finance and investment.

improved technical information services especially for smaller U.S. businesses;

efforts to equalize the effects of nontariff barriers among OECD nations and to secure codes of behavior on the major kinds of nontariff barriers.

reduction of foreign-exchange costs of U.S. defense commitments to Europe and Japan and closer coordination between U.S. economic and political policies;

an "imaginative research effort to determine whether a practicable approach to the problem of international fair labor standards could be developed"; and

faster relaxation of restrictions on U.S. trade with communist countries.

In making its recommendations, the Committee emphasizes the need for additional research to provide "better information about and understanding of the long-term developmental trends in the U.S. economy and in its relationships with those of its major trading partners" and to clarify the issue of national policy implicit in these trends. As one approach to the needed study and analysis, the Committee suggests establishment of a broad-gauge National Commission on the Future of the U.S. Economy.

The report was signed by the 21 members of the Committee, including members from business, labor, agriculture, and the universities. The labor members of the Committee added footnotes critical of the role of multinational corporations, and three of them called for regulation of the export capital and technology by multinational companies, import quotas for noncompetitive industries, control of patent transfers and licensing, and taxation of income of U.S. multinationals when earned.

MEMBERS OF THE NPA ADVISORY COMMITTEE SIGNING

Ralph I. Straus—Chairman; New York, N.Y.

James A. Linen—Vice Chairman; Chairman of the Executive Committee, TIME, Inc.

Willis C. Armstrong—President, United States Council of International Chamber of Commerce.

Jack N. Behrman—Professor, Graduate School of Business, University of North Carolina.

C. Fred Bergsten—Visiting Fellow, Council on Foreign Relations, The Brookings Institution.

Richard M. Bissell, Jr.—Director, Marketing and Economic Planning, United Aircraft Corporation.

William F. Butler—Vice President, Chase Manhattan Bank.

Earl L. Butz—Vice President, Purdue Research Foundation.

Harold van B. Cleveland—Vice President, First National City Bank of New York.

Emilio G. Collado—Executive Vice President, Standard Oil Company (New Jersey).

Thomas B. Curtis—Vice President, Encyclopaedia Britannica.

Rudolph Faupl—Grand Lodge Representative, International Association of Machinists.

Richard N. Gardner—Professor, Columbia University Law School.

Daniel L. Goldy—President, International Systems and Controls Corporation.

W. E. Hamilton—Director, Research Division, American Farm Bureau Federation.

Thomas A. Hannigan—Director of Research and Education, International Brotherhood of Electrical Workers.

Harald B. Malmgren—Malmgren, Inc.

Philip E. Mosely—Director, European Institute, Columbia University.

Howard D. Samuel—Vice President, Amalgamated Clothing Workers of America.

Lauren K. Soth—Editor of the Editorial Pages, Des Moines Register and Tribune.

Nat Weinberg—Director, Special Projects and Economic Analysis, United Automobile, Aerospace and Agricultural Implement Workers of America-UAW.

COMPENSATION FOR INNOCENT VICTIMS OF VIOLENT CRIME

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. Podell) is recognized for 30 minutes.

Mr. PODELL. Mr. Speaker, I am introducing today for appropriate reference the "Compensation to Victims of Crime Act." My bill would provide compensation to the innocent victims of violent crimes.

The plain fact is that the threat of violent crime endangers the daily living of almost all Americans. The fear of being assaulted, mugged, robbed, or raped is curtailing the pleasure of an evening walk or plans for an evening activity outside of the home for residents of our cities. People in many areas will not go out on the street at night. Others have added bars and extra locks to windows and doors in their homes. Bus drivers in major metropolitan areas do not carry cash because incidents of robbery have been so frequent. Crime statistics indicate that the amount and the rate of violent crime over the last 10 years have been frightening. Between 1960 and 1970, violent crimes rose 156 percent. In 1970 alone, 731,402 acts of violence were reported to the police. This means that a violent crime occurred every 43 seconds last year in America.

Compensation for victims of violence is not a new concept. It has been practiced in various forms since ancient times. Both the Mosaic Law and the Code of Hammurabi provided for public reparations to individuals who suffered criminal assaults, at least under some circumstances. Such compensation was generally awarded only when the criminal was not caught, and was a way of inducing the government to do everything possible to apprehend the criminal. Compensation in those cases was motivated less by a concern for the victim than by a desire to punish society for failing to find the criminal.

Several countries have already adopted the idea of financial reparations for those who have suffered from violent crime. Great Britain and New Zealand have been paying compensation to crime victims since 1964. Compensation programs are also in effect in parts of Canada and Australia. Sweden is just now starting up such a program. The Governments of these countries recognize that if an individual is injured by a criminal, the Government has failed in its duty to protect that individual and should make some restitution to him. In addition, six States in our Nation already have adopted various programs to make restitution to victims of crime.

I am proud that my own State of New York pioneered in the adoption of criminal compensation legislation. New York has a criminal compensation board empowered to award financial assistance to those persons—or their dependents—who suffer personal physical injury or death as a result of criminal acts. No award is made in New York unless the claimant has incurred a loss of $100 or has lost at least 2 weeks of earnings or support. The legislation which I am proposing, as will be seen, is more comprehensive than the New York law. My proposal makes no distinction as to the level of government whose criminal laws are involved and covers additional classes of injuries.

It is indeed a mockery of justice that an innocent victim should be forced to bear both the experience of the crime and also the burden of paying for it. This is especially true when we look at existing studies identifying typical victims. They show that the physically weak, the young, the aged, the female, and the handicapped are most vulnerable to crimes of robbery and assault.

Edmund G. Brown, former Governor of California, once observed that it was ironic that his State spent millions of dollars for the rehabilitation of criminals in its corrective institutions, yet left the victims to fend for themselves. Arthur Goldberg, former Associate Justice of the U.S. Supreme Court, has written that the victim of crime, if uncompensated, has been denied the protection of the law and that society should assume some responsibility for making him whole.

The financial hardships, such as paying hospital and doctor bills and suffering lost wages, are particularly difficult for many victims of crime to bear. Those who are least able to provide for themselves in the first place are more often victimized, thus put in an even worse financial position, and then left to fend for themselves. Dr. Karl Menninger has observed that the typical American views the person convicted of crime with contempt, his chief feeling being that the criminal should be punished, but neither the public nor the offender seems to express any particular sympathy for the victim of crime.

In reality, the victim becomes the forgotten man in the criminal triangle. Our criminal cases pit the state against the suspect with scarcely a mention of the victim. There are essentially three parties interested in the outcome of a crime—the victim, the offender, and society—but the victim has been virtually forgotten by the other two and lacks the means to gain justice.

Opinion polls indicate that the vast majority of the public favors a victim compensation plan, as do legislators, law enforcement officials, and a Presidential task force. Among supporters of the idea have been the National Association of Chiefs of Police and the President's Commission on Law Enforcement and Administration of Justice.

Under my proposal, the Attorney General would be empowered to grant awards for victims of robberies, rapes, murder, kidnaping, and other violent crimes. I believe that the use of the existing facilities of the Department of Justice would provide the best administrative vehicle for the "Compensation to Victims of Crime Act" and avoid the added delays and expenses of creating a new agency for the purpose.

My bill differs from others in this area in several key respects. It makes no distinction as to the level of government whose criminal laws are involved. It will cover additional classes of injuries, such as those resulting from efforts to apprehend violators of the law. In addition, it allows for a death gratuity of $50,000 to the dependents of law enforcement officers and firemen killed in the line of duty. It provides for full compensation for actual expenses and loss of earnings for victims of violent crimes. It assigns the responsibility for administering the act to an existing agency rather than creating another commission which would be an onerous burden upon the already sagging shoulders of the American taxpayer.

My legislation has built-in safeguards to prevent abuse. The bill requires that an injured victim of a crime file a report within 72 hours of its occurrence. Thus, there would be ample opportunity for law enforcement officials to ascertain whether a crime had been committed. A thorough investigation would be conducted in each case to verify the loss claimed and thus lessen the possibility that claims might be inflated.

Compensation could be paid to the injured person, to any person responsible for the care of the injured person and to the dependents of any deceased victims.

I urge my colleagues to give early consideration to passage of the "Compensation to Victims of Crime Act" so that we in Congress can show genuine compassion for victims of violent crime in America.

PUBLIC FINANCING OF POLITICAL PARTIES WOULD THREATEN OUR FORM OF GOVERNMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. JAMES V. STANTON) is recognized for 10 minutes.

Mr. JAMES V. STANTON. Mr. Speaker, I rise with regret to declare my opposition to the campaign financing provisions of H.R. 10947—that is to say, the Senate amendment which would give taxpayers the option of earmarking $1 of their annual Federal income tax payments for the use of presidential and vice presidential candidates. I say regret, because I am genuinely concerned, as a Democrat, with the financial plight of my party, and I am even more concerned, as an American citizen, with the high cost of political campaigns and the potential that this problem has for warping our democratic system of government, and for posing a threat to the probity of our officials. Nonetheless, on another front, we are making at least some progress in dealing with this situation, as evidenced by our action in this Chamber yesterday on campaign expenditures legislation (H.R. 11060 and S. 382). That effort had my support, but with respect to the campaign financing provisions of H.R. 10947, I am afraid we are being asked to legislate a presumed cure which might possibly lead us willy-nilly to a more undesirable state of affairs—a basic transformation of our two-party system of government.

Historically, that system has been one under which we have had two major parties in contention for power and, occasionally, competing minor parties that command significant support and, in addition, lesser parties with no appreciable support from the electorate. The minor parties have enjoyed no permanence. They have passed from the scene, either because they have nothing constructive to offer, or else because they did advocate positive programs and reforms on which they later lost the initiative to the major parties, which have shown a capacity to ingest the platforms of their junior competitors. What we have been left with, then, is essentially a duopoly—with each of the two parties resting on a broad base in the electorate.

Through the $1 tax checkoff scheme, these minor parties are not likely ever to pass from the scene. With a guarantee of public funding for their causes, they would achieve longevity, and perhaps immortality. The so-called American party, headed by Gov. George Wallace, of Alabama, would become institutionalized—to cite one example. I do not think that party has anything constructive to offer but, even if it did, permanence for it would erode the base of the two major parties, and we would end up perhaps with three permanent parties, rather than two. Should a "fourth" party appear on the scene in the 1972 election, the tax checkoff scheme could result in permanence for that organization as well. American politics would become factionalized, as it is in some European countries, and our ability to achieve broad consensus in this Nation, and a conciliation of opposing points of view, would be endangered.

I would like to cite another undesirable result of the $1 tax checkoff proposal. Not only would the lesser parties become institutionalized, but so would the major parties. Mr. Speaker, there is nothing sacrosanct, either, so far as I am concerned about the Democratic or Republican Parties. These two parties should continue to exist only if they deserve to exist—that is, if they are responsive to the voters. There might come a time—and this, too, has occurred in our history—when it would be better that one of the two major parties give way to a newcomer with a more honest platform and ability to get its planks enacted into law. However, under the public financing provisions, the Democratic and Republican Parties would get so much money from the tax base that they could never be shaken from their moorings. Under such conditions, they would tend to become less, rather than more, responsive.

For these reasons, Mr. Speaker, I urge that the Senate amendment on election financing be deleted from H.R. 10947.

REVENUE ACT OF 1971

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Louisiana (Mr. BOGGS) is recognized for 15 minutes.

Mr. BOGGS. Mr. Speaker, there has been a great deal of talk recently about the Revenue Act of 1971 and the prospects for economic recovery. This is to be expected, because from almost any perspective the economy is a subject for well-founded concern.

Three years ago, when this administration took office, the unemployment rate was at a record low of 3.3 percent. Today, unemployment stands at 6 percent.

Three years ago, 2.8 million Americans were unemployed. Today, almost 5 million Americans are unable to find work.

In 1969, only six areas in the United States had substantial unemployment. Today, there are 64 areas in our country where substantial unemployment exists.

Three years ago we were enjoying the longest period of sustained economic growth in our history. At the present time, 27 percent of our productive capacity is idle, and there are few signs of adequate economic recovery.

The state of the economy and the Revenue Act of 1971 were discussed today in a speech by the distinguished chairman of the Committee on Ways and Means, Mr. MILLS. Chairman MILLS was addressing a luncheon meeting of the National Capital Democratic Club. His message, however, is for the American people. I am inserting the text of his remarks in the RECORD and commending it to the attention of my colleagues:

REMARKS OF CONGRESSMAN WILBUR D. MILLS

It is a pleasure to break bread and have such enjoyable fellowship with this great group of Democrats. To use an expression of the late Sam Rayburn, we who are gathered here today are Democrats without prefix; without suffix; and without apology.

This National Capital Democratic Club, is generally true of worthwhile and purposeful organizations, grew out of adversity. It started back in 1953, at a time when Democrats were freshly out of the White House. It began with a handful of former members of the staff of President Harry Truman and has grown to over 1700 members under the leadership this year of Donald Dawson. I note that your president last year was my good friend, Joe Karth, whom we were very proud to recently welcome to the membership of the Committee on Ways and Means.

I understand the Club's name in the beginning was the "Out, But Happy Club". I am glad that the name was later changed to National Democratic Club because this club truly is a *national* club with Democrats belonging to it and participating in it from all parts of the nation—north, south, east and west. I am also glad its name was changed because today we Democrats in the national capital cannot afford to be happy. I say this because the nation is not happy with the leadership it has been receiving for the past three years.

The mission of this club, therefore, is not only to furnish a congenial atmosphere in which Democrats can meet, but its responsibility is to advance the interests and standard of the Democratic Party and in doing so make those meaningful contributions to good government that Democrats have traditionally made throughout the history of this country.

The new forum program initiated this year by the club is an excellently conceived activity, and I believe it will prove very useful to Democrats not only here in Washington but throughout the country. I am honored that you have invited me to kick it off with our discussion today. As could be expected, my assignment is in the fiscal realm. I understand that in subsequent meetings other speakers will discuss other areas of national concern.

Today I want to point up some of the shortcomings in the economic policies of the Administration. This story needs to be told to the nation because the economic stewardship of the present Administration has been nothing short of disastrous both in terms of the domestic economy and with respect to the foreign trade area.

Today I shall make a brief statement, and then I shall be glad to respond to questions or comments or observations which any of you may wish to make. I have chosen this format for our discussion for good reasons. First of all, this is an astute, well-informed audience, which has the advantage of ready access to the plethora of information that abounds in the nation's capital—good and bad, fact and fiction, truth and falsehood. So any speaker formally addressing an erudite and perceptive group, such as this one, runs the risk of being redundant and really not telling his audience anything they have not heard already. The more informal question and answer format is different. It channels the speaker into areas you wish to discuss and allows for a wider range of topics to at least be broached and touched upon.

I think it appropriate that you have chosen to discuss the nation's economy in this initial session of the Club's new forum series. The United States economy is the dynamo that powers *all* the activities and functions of this government, both at home and abroad. As the economy goes, so goes the nation's fortunes, its strength, its ability to be responsive to social needs and its standing domestically and internationally. It is the economy that undergirds and underwrites each and every endeavor of this country.

It is with respect to this basic and fundamental element that the present Administration has failed so miserably. The issue of the economy will be the Republican Achilles' heel in 1972, and they have brought it all on themselves.

It is true that inflationary pressures were present at the end of the Johnson Administration. We Democrats can and do readily admit that. The Republican Party is compelled to admit, however, that inflation has worsened very considerably under the present Administration. Moreover, the record shows that the other horn of our current economic dilemma, recession, is strictly Republican in origin, as most recessions are.

Let me give you some comparative statistics that illustrate and quantify what I am saying:

Consider, for example, unemployment. During the last year of the Johnson Administration, 1968, national unemployment averaged only 3.6 percent. Compare this more than "full employment" level, in the traditional sense of that term, with the tragic unemployment rate over the past year, which has averaged on a national basis right at 6 percent.

This high rate of unemployment has developed and persisted despite the stimulation that should be expected from the record-breaking Federal budgetary deficits for the three Nixon years 1970, 1971 and 1972. On a Federal funds basis they are $13.1 billion for 1970, $30.2 billion for 1971, and the estimate for 1972 is a whopping $35 billion, for a grand total of nearly $80 billion in just three years. Compare them with the late Johnson years of 1966, 1967 and 1968 when the budgetary deficits were a much lower $5.1 billion, $14.9 billion, and $28.4 billion, respectively. The now surpassed record Johnson deficit of 1968 lasted just long enough for the present Administration to get settled in office. It was broken by the $30 billion plus Nixon deficit in fiscal year 1971, and it will be broken again by the deficit in the current fiscal year, which is presently estimated at $35 billion.

Consider our current very dismal balance of payments picture. The Commerce Department announced last month that in the third quarter of this year the deficit ran at an annual rate of $48.4 billion on the official reserve transactions basis. This represents the largest balance of payments deficit in the history of the United States. By contrast, during the last year, 1968, of the Johnson Administration there was a surplus of $1.6 billion. Even more significantly our surpluses in the balance on goods and services during the Johnson Administration, which reached as high as $7.1 billion in 1965, have now disappeared completely, and for the first time in this century—yes, the first time in this century—we are running a deficit in our balance of trade with other nations.

Consider the low rate of capital spending. Surveys had projected an increase of only about 2 percent in new plant and equipment spending this year. In real terms, after adjustment for inflation, this actually represents a decline from last year. The year-to-year increase in plant and equipment spending in the last Johnson year was 3.5 percent.

Consider the notable lack of consumer confidence as reflected in the correlatively high savings rate. Heightened concern over unemployment in recent months has caused individuals to be more conservative in their spending, causing the savings rate to hover at the unusually high average of 8.1 percent for the past 12 months. For the last year of the Johnson Administration, the savings rate was a much lower 6.7 percent.

And finally, let's consider inflation. The expressed purpose of the Administration's original waiting game plan, which lasted throughout its first 31 months in office, was to reduce inflation without recession. The statistics I have just quoted show that we got the latter anyway. But the figures also show that despite the high price the nation has paid in terms of increased unemployment, no abatement whatever occurred in inflation. To the contrary, it grew much worse.

To be specific, during the last full year of the Johnson Administration the consumer price index rose 4.2 percent, and the wholesale price index rose 2.5 percent. As I stated earlier, these increases were entirely far too rapid. But if you will look at the price indices for the 12 months immediately prior to the Administration's wage-price freeze order in August, you will see that the consumer price index increased not just 4.2 percent, but 4.5 percent. Even more disturbing is the much higher rate of increase in the wholesale price index, which is the precursor and forerunner of even higher consumer prices. Over the year from August 1970 to August 1971 the consumer price index increased 4 percent, an exceedingly alarming and foreboding figure that foretold even greater inflation to come. Perhaps the aggravated state of inflation can best be put in perspective by recognition of the fact that about 43 percent of the increase in gross national product in the first nine months of this year has been due to price increases.

These statistics are in the record, my friends, and they do not speak well for Republican economic stewardship. They document a marked deterioration in the economy during the past three years. When the Administration finally abandoned its bankrupt waiting plan on August 15, it was far past the time that action should have been taken. Proven tools of economic progress had been neglected and shunned too long.

This morning I have come from a conference committee, which has been working for the past three days to resolve the differences in the House and Senate versions of the Revenue Act of 1971. Regardless of the resolution of the issues raised by the Senate amendments extraneous to the President's tax program, it is clear that the final bill will contain the basic elements of his recommendations, namely, restoration of the investment credit, tax cuts for individual taxpayers, repeal of automobile excises and tax incentives for exports. The conference committee has not completed action on the bill, but I can tell you that we are having good success in removing or paring down many of the Senate amendments which would have raised considerably its Federal revenue costs.

We conferees are engaged in the unusual task of detrimming and taking down a Christmas tree before Christmas. As is always the case, it is a somber and sad chore and not nearly as much fun as was the ceremonial decoration of the tree in the Senate last month.

As of 7 o'clock last night we had removed and carefully packed away for the next season of goodwill about $12 billion of the assorted ornaments and tinsel hung by jolly elves on the Senate floor. In other words the revenue cost of the Senate bill is less by that aggregate amount as a result of the conference action. We made further good progress in this morning's session and expect to complete conference action by tonight.

I am convinced, therefore, that the compromise measure we take back to our respective houses will be a good bill. And I want to make it clear that this responsible action on the part of the conference committee is normal congressional action, unaided by, unhindered by, unaffected by and completely oblivious to the President's threat of veto earlier this week. If he is not pleased with any of its provisions—and he has indicated deep displeasure with certain of the Senate amendments—then he will just have to make his own decision as to what responsible action dictates with respect to signing the bill into law.

I hope he will sign the Revenue Act of 1971 because I am convinced it is a necessary step in putting our economy back on the path to adequate and stable growth. It cannot by any means do the whole job, however, and the pace of our economic recovery will depend in large measure on future actions of the Administration, particularly the progress we hope will be made in resolving the serious problems with our trading partners and in formulating new international monetary arrangements. These problems do not at all diminish with the passage of time. We hope favorable results will follow from the meeting of the Group of Ten Finance Ministers currently underway in Rome.

Finally, our economic progress will also depend on the success of those elements of the New Economic Policy specifically designed to contain inflation. I have already expressed displeasure with certain decisions of the Wage Board, but let us hope that the substantive content, the procedures, and the clarity of the decisions and regulations of the Board and the Price Commission will improve in the weeks ahead.

Also very prominent in the category of inflation containment is Federal expenditure control. Both the President and the Congress must exercise appropriate restraint in this area in the coming months if the recovery program is to maintain a proper balance between stimulus on the one hand and reduction of price pressures on the other.

NUTRITION PROGRAM FOR THE AGING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri (Mr. Randall) is recognized for 15 minutes.

Mr. RANDALL. Mr. Speaker, it is my privilege and honor to serve as chairman of the Special Studies Subcommittee of the House Committee on Government Operations. Just prior to the August recess we were assigned the responsibility to conduct hearings on the problems of the aging. Earlier this year many of us joined in the effort to create a Select Committee on the Aging. I was one of the cosponsors of that resolution. But the Rules Committee and the House leadership, facing the critical space situation did not act on the Select Committee. Rather than create a new select committee our subcommittee was assigned the task to function as a Committee on the Aging for the first session and likely through the remainder of this Congress.

To date my subcommittee has held over 20 days of hearings here in the city of Washington and in addition two field hearings in Baltimore and in Chicago. While our staff has isolated nearly 50 separate problem areas the major categories which will have to be very carefully considered are income maintenance, health needs, housing and transportation. One of the most important studies under the subject of health needs is the necessity for nutritionally sound meals for our elderly.

It was my privilege today to speak at a luncheon of one of the four principal sections of the White House Conference on the Aging, in the Regency Room of the Shoreham Hotel, attended by approximately 700 of the delegates. They had been informed of the action yesterday by the other body in passing S. 1163, being an amendment to the Older Americans Act and best described as the nutrition program for the Elderly Act of 1971.

In my conversation with many delegates, both before and after the luncheon, which parenthetically was also addressed by the gentleman from New York (Mr. Reid), I became convinced that the nutritional program which some call "meals on wheels," was very high on the list of priorities of these delegates to the White House Conference on the Aging. They applauded warmly when I expressed the hope that the House would concur in the action of the other body of Congress before the adjournment of the conference which will end on Thursday of this week.

On the floor earlier today, I joined with the chairman of the Committee on Education and Labor, Mr. Perkins, and the chairman of the Select Subcommittee on Education, Mr. Brademas, in an effort to obtain unanimous consent for the immediate consideration of S. 1163. Elsewhere in today's Record there appears a colloquy between the gentleman from Kentucky and the gentleman from Indiana and myself with the minority leader, Mr. Ford, who after this exchange of remarks finally objected to the unanimous consent for the House to take up and act upon S. 1163.

Now, of course we all understand there was no report by our House committee which had held hearings on an identical bill. We all knew a bill had not been reported out. But, we also noted that in the other body the vote was 89 to 0. There may be a lot of brave men in the House but I hope there are very few foolish men when it comes to voting against a bill of this kind to provide nutritionally sound meals to the indigent elderly. Such a program is not only humanitarian and morally right and for such reasons should be unanimously supported. Moreover, in my judgment, it would be politically impractical for any Member to oppose a measure of this kind for any reason.

My purpose for taking this time is to establish in the Record that we of the House had an opportunity today to join with the other body and thus to pass a program that means warm meals delivered to the homes of those elderly who are unable to provide for themselves. We had the chance to act. By our failure and neglect to act before the adjournment of the Conference the 3,500 delegates with go back to their homes disappointed and disillusioned and also convinced that the body of the Congress which is known as the people's body was too busy to take some time to consider this important need of nearly one-tenth of our population. Hopefully, we may be able to remedy the failure today by action of the House under suspension of the rules before sine die adjournment of this first session of the 92d Congress.

Without a doubt there will be action by the House along the lines of the passage of the bill by the other body either in December or when we return after the first of the year. What a pity we could not have acted today to make it possible for these 3,500 delegates to return to their homes after the Conference with the conviction they had a part in making democracy work.

In the remaining moments of my time, let me point out our bill on the House side as well as the measure passed by the other body will provide at least one hot meal a day for 5 days a week which will contain a minimum of one-third of daily dietary needs for elderly persons. These meals have to be served in sites accessible to the majority of elderly within a community. Meals may be served at schools, senior citizen centers, churches or other public and nonprofit locations. Ninety percent of the cost of operating these nutrition programs will be paid by a grant from the Federal Government to the States on the basis of each State's proportionate share of the Nation's population of age 60 and over.

Our hearings to date have developed that many older persons prefer to remain at home. To them, this is a much preferable alternative. Moreover, it is a much less costly alternative to what could be described as the confinement of our elderly in institutions. The proposed program is also an excellent one because it obviates the trauma that comes from institutional confinement of the elderly. It is also much less costly dollar wise than even care in nursing homes under medicare and medicaid.

Our subcommittee has been reminded again and again of the lack of physical mobility or transportation of those who must live below what could be described as minmium living standards. These older persons are isolated from friends and families. This loneliness results in lack of incentive to prepare nourishing meals for themselves. Beyond that, some live in rooms with inadequate kitchen facilities.

This kind of legislation which would provide one hot nutritional meal a day is the very best kind of alternative to the otherwise institutionalized care of the large segments of our senior citizens. It is moral and it is right to proceed to try to alleviate the problem of malnutrition. This measure accomplishes that and at the same time saves our taxpayers money. Mr. Speaker, I do hope and pray that although we failed today to pass this bill we will not go home for the holidays without measuring up to the good example set by the other body.

STATEMENT OF SPEAKER ALBERT ON OEO CONFERENCE REPORT

(Mr. ALBERT (at the request of Mr. McFall) was given permission to extend his remarks at this point in the Record.)

Mr. ALBERT. Mr. Speaker, tomorrow, the House of Representatives will be called upon to cast what may be properly characterized as the paramount moral vote of the session. During the 7 years since its inception in 1964, the antipoverty program has afforded a modest shield of protection to the disadvantaged—the poor, the elderly, the young, the nonwhites. While the bulk of its programs which have received maximum publicity have been urban-oriented, it has also provided a modicum of economic and social assistance to the oft-forgotten but ever-present rural poor.

It had been my heartfelt hope that this year would not witness but yet another repetition of the acrimonious debate and controversy which unfortunately has been the biennial hallmark of OEO extensions. The House Education and Labor Committee under the dedicated and skillful leadership of its chairman, Carl Perkins, fashioned a bill which was cleared by the committee on a bipartisan vote of 32 to 3. The House followed suit on October 1 by giving its approval to the economic opportunity amendments of 1971, 251 to 115, a majority of both parties voting in the affirmative. Democrats voted 169 for as against 47 in opposition; Republicans cast 82 yeas and 68 nays.

The conference report in all significant areas, for all practical purposes, incorporates the House position. In light of this, I was therefore disappointed to learn that all but one of the Republican House conferees had refused to sign the report. I am informed that this was the result of White House pressure. The administration is now mounting an all-out fight against House adoption of the report. I find this exceedingly disheartening. I will readily concede to those who must judge every action, every vote, solely on the bookkeeping basis of political assets as against political liabilities, that most Members can undoubtedly vote against antipoverty with political immunity. But I do not believe that we can answer the roll tomorrow on the basis of such a narrow and shortsighted criterion. Neither do I think that a majority of the House, at this season of the year certainly, will elect to indifferently turn its back on our less fortunate fellow citizens.

PETITE, DEAF MUTE GRANDMOTHER SERVES AS IOWA VA VOLUNTEER

(Mr. KYL asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. KYL. Mr. Speaker, the poet, John Milton, once asked what service the Almighty demanded of a human being who had suffered a physical impairment, concluding with the thought:

> They also serve who only stand and wait.

The Stars and Stripes, on November 18, tells the story of a wonderful woman who has chosen to do more:

> Petite, Deaf Mute Grandmother Serves As Iowa VA Volunteer
>
> One of the most popular volunteers at the Knoxville, Iowa, Veterans Administration hospital is a petite, four-foot 11 inch, 62-year-old grandmother who has never said a word to anyone there.
>
> She waves to the patients, pats one on his shoulder, helps another with his sweather, and is always smiling and radiating love. But she never speaks, because Millie Courter is a deaf mute.
>
> Mrs. Bertha Beem, chairman of Red Cross volunteers for Lucas County, Iowa, persuaded Millie (Mrs. Hugh Courter of Chariton, Iowa) to try being a volunteer at the hospital after Mrs. Courter became a widow in September 1969.
>
> Robert G. Menning, director of the voluntary services at the hospital, gave Mrs. Courter a VA Voluntary Service manual to study and arranged for her to begin service with another volunteer as a guide. She joined the ranks of volunteers from 43 National organizations who come to VA's 165 hospitals, 110,000 strong each month, and who last year contributed 9.8 million hours to veterans' service.
>
> Now, two years later, Mrs. Courter is highly successful; taking patients outside, going to canteen, serving coffee and cookies, shooting pool, playing cards, addressing mail, tying rug fringe, working in occupational therapy, and dancing are a few of the services with which she helps.
>
> She communicates with some patients by writing. Often, when she comes to serve, she brings homemade cookies and candy as a treat for the "boys."

LEST WE FORGET—THE NATIONAL DEBT NOW STANDS AT $416,921,843,765.86

(Mr. SAYLOR asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. SAYLOR. Mr. Speaker, on November 23, 1971, the gross public debt of the United States of America reached the grand total of $416,921,843,765.86. That amount represents an increase of $5 billion in 23 days. Compared to the same date 1 year ago, the gross public debt increased over $32 billion. For the fiscal year 1972, beginning July 1, 1971, the national debt has shown an increase of $18.8 billion over the previous fiscal year.

I bring these staggering figures to your attention because there is an all too unfortunate tendency on the part of Members of both Houses of Congress to forget that the American taxpayer is forced to shoulder the financial burden resulting from our deliberations.

Day after day, month after month, and year after year, Federal programs for this, that, and everything are added to the law books and the money used to pay for the schemes thus created comes from the citizen's wallet.

When, and usually, money is not readily available to pay for the programs voted by Congress and approved by the President, the size of the national debt is increased; the resulting debt is financed through the issuance of Government securities.

In order to pay the interest cost on this whopping debt of $416-plus billion, the Federal Government has budgeted the tidy sum of $21,150,0000,000 for fiscal year 1972.

One tends to ignore figures of the magnitude thus far mentioned—therefore, a more meaningful and personal comparison is made: The current gross national debt on November 23 is a financial burden to the tune of $2,000.88 for each of the 208,369,048 men, women, and children in the United States.

In times past, when the people demanded that the Federal Government give to the public without first taking from the public, the solution was the printing of worthless paper money, commonly referred to as "greenbacks." When used by the central government to pay its bills, such paper money acquired value at the expense of the value of all the other money. The printing of greenbacks—to permit "giving" without seeming to be taking—was, in effect, an invisible tax on anybody who had any money.

Today, under the more sophisticated modern banking system, Government no longer prints greenbacks when it is called upon to spend more money than it takes in from taxes or through the sale of bonds to the public. In order to raise additional funds necessitated by congressional and executive action, the Government sells interest-bearing securities in the financial market. Many of the Government IOU's become a part of the commercial bank's reserves thus permitting the creation of "checkbook" money. The effect of this checkbook money on the value of the public's money is the same as if greenbacks had been printed. But it also has an effect that greenbacks did not have: The public must be taxed to pay the bank interest on the IOU's and then taxed again to pay back the banks.

This custom of governments everywhere, and particularly the Federal Government of the United States—the creation and spending of new, unearned money—is the root cause of inflation. The simple lesson to be learned from this admittedly abbreviated discourse on economics is that in order to control inflation, the Federal Government must be controlled. And that is our primary responsibility as Members of Congress.

HISTORIC BREAKTHROUGH FOR OUR CHILDREN

(Mrs. MINK asked and was given permission to extend her remarks at this point in the RECORD and to include extraneous matter.)

Mrs. MINK. Mr. Speaker, Congress is on the verge of adopting legislation which will be a historic breakthrough for the children of the United States.

Both the House and Senate have already favorably approved legislation to create a national comprehensive child-care program which will be of extraordinary benefit to millions of preschool children. The legislation has been reported from conference as part of the Office of Economic Opportunity extension bill.

Despite a campaign of opposition mounted at the last minute by a scattering of rightwing critics, it is obvious that this legislation will be one of the greatest accomplishments of the 92d Congress. The benefits it will bestow are of immense significance to all our people.

The bill is modeled after the highly successful Headstart program which pioneered the concept of child development and enrichment rather than mere custodial care. It is almost inconceivable, but all current Federal child-care efforts, except Headstart, are mere adjuncts of programs to provide employment for parents. The interests of the children are completely secondary.

How tragic that we have neglected the opportunity to utilize modern advances in education to help our children, who could benefit the most. Thousands are already assembled in care centers, but instead of providing educational enrichment opportunities, we permit them merely to idle away their time.

Our legislation would correct this and help not only the disadvantaged but millions of other children. Instead of penalizing them because their parents work, we would enrich their lives through exciting and educational activities at healthful child-care centers.

The charge is made that this is Government interference, but just the opposite is true. By our existing Federal programs designed to deprive the child of any educational betterment, we are already imposing a State decree of cold and impersonal treatment. The proposed legislation would remedy this and bring us up to the level of most other countries in the Western World which already utilize the more human and fruitful approach of helping the child.

A recent article in the Washington Post explored some of the ramifications of this legislation. Because of its understanding discussion of this matter, I am pleased to insert the article at this point in the RECORD.

The article follows:

A NEW PUBLIC ATTENTION TO PRE-SCHOOL CHILD DEVELOPMENT

(By Alice M. Rivlin)

In the United States, public concern for a child's welfare generally does not become evident until he reaches age 5 and is eligible for kindergarten. Even then the public responsibility usually ceases at 3 o'clock in the afternoon.

But these attitudes are already changing. The next few years are likely to see a burst of public attention to the vital years between birth and 5, rapid growth of all-day programs for pre-school children with working mothers, and recogniton that the day does not end for a school-age child when the 3 o'clock buzzer signals that classes are over.

The big questions will be: what character will these new programs have? Who will run them? And who will pay for them? When the Congress votes this week on the OEO bill, it may begin to provide the answers.

The bill extending the life of the Office of Economic Opportunity, just reported out of the House-Senate conference committee, contains a new Title V, for "Child Development Programs," meaning a wide variety of services to children such as all-day care for preschoolers, after-school and vacation programs, nutrition, medical, dental and psychological services, and education for parents in child-care and development. The bill authorizes $2 billion for such programs in fiscal year 1973, including $500 million earmarked for continuation of Headstart. The money would be allocated among the states in accordance with a formula, but administered primarily at the local level. Communities with 5,000 or more people could be "prime sponsors," applying directly to the federal government for money. The prime sponsor would be required to have a Child Development Council, half of whose members would be elected by parents, and individual projects would be run by Project Policy Committees composed of parents and local community members. The bill would make child development services available free to those with incomes of less than $4,320 a year (for a family of four) and would establish a fee schedule related to income for families with more resources.

While there is some vagueness about what "child development" actually is—partly because the framers of the bill were eager to preserve flexibility and choice at the local level—it is very clear what this program is *not*. First, it is *not* just a babysitting operation to provide custodial care for children while their mothers work. The bill emphasizes the well-being of children and the comprehensive services they need for full development, whether their mothers work or not. Second, it is *not* just another program for the poor. Priority is to be given to "preschool children with the greatest economic and social need," but the intention is to make services available to families at all income levels with those above the poverty line paying part of the cost. Third, it is not just another welfare program. The "prime sponsor" mechanism and the parent councils are specifically designed to by-pass the state welfare bureaucracies and give the beneficiaries of the program a real voice in its operation.

Several different groups are pressing for federal programs for children, for different and not entirely compatible reasons. Some are primarily motivated by a desire to reduce the welfare rolls. They believe day care should meet minimum standards of health and safety so the children do not come to harm, but that its main objective ought to be to keep children out of the way so that their mothers can earn wages rather than welfare. A second group is primarily concerned with overcoming the damaging early handicaps of children from poor families. Headstart, which reaches many 4- and 5-year-olds, but usually for less than a year, has proved too little and too late. There is accumulating evidence that children develop rapidly in the first three years of life, that good nutrition and mental stimulation at this age make a difference—at least if they are sustained. A third group, the voice of women's liberation, sees attractive stimulating day care centers as a way of giving *all* women, not just the poor, a genuine choice between childcare and work outside the home. And finally, there are those whose primary motivation is to mobilize community action in the ghetto, the rural South or on Indian reservations, who believe parent involvement in decision making about Headstart programs did as much for parents as for children, and who see community controlled child development programs as a good vehicle for the poor to use in acquiring political experience and challenging the "power structure."

The focus on reducing welfare rolls is reflected in H.R. 1, the Nixon-Mills welfare reform bill that has passed the House, but not the Senate. Under H.R. 1, a mother on welfare could be required to take work (unless she had a child under 3) provided day care was available. Senator Long, no enthusiast of the administration's welfare reform proposals, has held hearings on his own bill to provide custodial day care to the poor through a public corporation.

But while welfare reform was bogged down in the Senate, bills for more comprehensive but entirely voluntary child development programs were making their way through the legislative obstacle course on both sides of the Hill. Senator Mondale's Child Development Bill, incorporated into the OEO amendments, stressed comprehensive services and community control and would have provided services free to families with income under $6,920 with a sliding scale of payments for families with higher incomes. On the House side, a similar bill, sponsored by Representatives, Reid, Brademas and Mink, but giving more role to states and less to localities and parents, was added to the OEO extension as a floor amendment. When both bills passed and went to conference, the administration voiced concern about their cost and threatened a veto. To avoid a veto, the conferees lowered to 4,320 the income level below which services would be free and adopted a moderate scale of payments for families with incomes betwen that level and $6,920 (above that level the Secretary of HEW would set fees). The language of the Senate bill was modified to give a little more role to the states and rule out communities with less than 5,000 people as prime sponsors.

The bill now moves back to the two floors where it may encounter Republican opposition, especially in the House. Republican unease is related not to cost, but to the bypassing of the states. If the bill passes, there is still the possibility of a veto, although it would surely be politically costly for the President, who has put such personal stress on the dignity of work, to veto a bill which promises to make work possible for millions of women and better the lives of children in the bargain.

Strident right-wing opposition to the bill has developed on the grounds that "child development" sounds like a 1984 attempt of the state to take over the role of the family. This criticism is pretty far fetched since participation would be entirely voluntary and the bill gives parents much more control over the new programs than they have over present public schools.

Criticism of the administrative mechanism has more substance—having all those "prime sponsors" deal directly with Washington hardly seems like an ideal administrative set-up. Unfortunately, however, state administration, especially in the Deep South, has so often proved insensitive to the needs of poor and minority children that direct funding may be necessary—at least for a few years.

To the criticism that these programs will be costly in the long-run there is no answer, except "yes." The bill to be voted on authorizes spending $2 billion a year for two years on the assumption that participation in the programs will be far from universal, a reasonable assumption in view of difficulty of organizing and staffing good programs quickly. In the longer run, however, it just has to be recognized that providing first-rate services to preschool children and adding after-school activities for older children is going to be expensive—$10 billion a year could be spent easily. The cost to the taxpayer can be reduced if middle- and upper-income people pay fees, but these fees cannot rise too steeply as income rises without reducing incentives to earn more income. (The effect is the same as a high income tax rate.) In the long run, there will be no cheap way to do a good job. If the Child Development Bill becomes law there will at least be a hope that federal funds for day care will be spent primarily to meet the needs of children, not just to keep them busy while their mothers work.

CONGRESSMAN JOHN F. SEIBERLING INTRODUCES SOCIAL SECURITY REFORM LEGISLATION

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. SEIBERLING. Mr. Speaker, today I am introducing a bill to reform the social security financing system, and provide substantial benefit increases. The bill would provide—

A 20-percent across-the-board increase in social security benefits;

An increase to $100 in the minimum benefit;

Expansion of the taxable wage base to $15,000; and

Assumption of one-third of the total costs of maintaining social security by the Federal Government.

The present system of financing social security has reached the breaking point, and unless the program is significantly reformed, it cannot continue to meet its goal of providing financial security for retired persons.

Under the current system, the payroll tax continues to rise, placing an unfair and almost intolerable burden on low and middle income wage earners. At the same time, social security benefits continue to be well below the level needed to provide our elderly with security. Subsistence, and a meager one at that, is a more accurate description of the kind of life style an old person can sustain on the minimum social security benefits of $70 a month.

We are all familiar with the depressing statistics of the economics of aging. There are 20 million elderly Americans among us today, and one out of every four of them lives in poverty. Another 25 percent live close to the poverty level. For most of the rest, the "golden years" are a time of belt tightening and self-denial in a constant struggle—after a lifetime of work and sacrifice—to make ends meet. Inflated food prices and rents, increased property and sales taxes, more frequent need for medical attention coupled with rising drug costs, increased hospital bills and higher physician fees—all combine to make the lot of millions of olderly persons living on fixed incomes more precarious every day.

The tragic irony is that as America as a nation becomes more affluent, its elderly—who helped lay the foundations of its wealth—are becoming more impoverished.

While the number of Americans under age 65 living in poverty is steadily declining, the number of people 65 and older who are living in poverty is steadily increasing. In just 1 year, between 1968 and 1969, the number of aged poor in this country increased by 200,000 people. The sad fact is that older Americans are twice as likely to be poor as younger persons today. A survey conducted in 1968 by the Social Security Administration revealed that only one-third of all aged couples had incomes large enough to support at least a moderate standard of living—defined by the Bureau of Labor Statistics at $3,930 for a retired couple.

I could cite more statistics. They are readily available, and I commend the excellent reports of the Senate Special Committee on Aging to anyone who is not familiar with them.

But as Members of Congress, we have another, and more vivid, index of the economic crisis facing the Nation. Its severity is brought to our attention every day in poignant letters from our own constituents. Let me read to you from just two of the many letters I have received. I think they describe the crisis with much greater clarity and urgency than abstract statistics ever can. One woman wrote:

> Today I got my Social Security check, which was for $71.50, and a notice with it saying this check included the benefit increase, which means for me only $7.30 more than I have been getting, which is $64.20. How far will $7.30 go? Every time we get a few dollars' raise, prices go up. How in God's name does that benefit us, who are merely existing as it is?

Another wrote:

> Nobody in this world can live on $64 a month. . . . So many people are put in those terrible homes. . . . I think it's a pity and disgrace that the richest country in the world can't provide enough money for an elderly person to live a decent life in a decent place.

Probably no group in our society has received lower priority in the efforts of the last decade to provide a quality life for all Americans than our senior citizens. For example, this year the administration requested a token $29.5 million—about one-fourth of the congressional authorization—to fund all the programs of the Administration on Aging. According to estimates from the Office of Economic Opportunity, only 12 percent of its funds are directed toward programs for the elderly, although elderly poor represent 27 percent of all poor people. The same is true in federally funded manpower programs where persons over the age of 45 represent only 4 percent of the total enrollees, although they represent over 30 percent of the long-term unemployed.

There are hopeful signs that this pattern of neglect is changing. A strong bipartisan congressional effort this year resulted in a 52-percent increase over the administration's original budget request for the Administration on Aging. The convening of the White House Conference on Aging now in session in Washington could mean a new era of concern for senior citizens. And perhaps most encouraging of all, senior citizens all over the country are organizing to demand their rightful share of the Nation's wealth.

Certainly, a far greater commitment at the Federal level is essential to turn the tide of the worsening plight of the aged. And first priority in this effort must be to assure that every senior citizen has a minimum income.

The bill I am introducing today will make it possible to extend financial security to senior citizens through substantial increases in social security benefits, without breaking the backs of today's wage earners.

As inadequate as they are, social security benefits are the only source of income for many of our senior citizens. In 1967, 30 percent of all persons over age 65 depended on social security for almost their entire support, and it is safe to say that virtually all these people are living below the poverty level.

For them, a token increase of 5 percent will not do. Nor will the 10-percent increase already passed by the House. What is needed by our elderly today is an increase of at least 30 percent, inclusive of the increase already passed by Congress this year.

But the present practice of financing social security solely through the mechanism of the payroll tax will not sustain an increase of this size. Too much of the burden of that tax is already borne by lower and middle income wage earners, many of whom are already having trouble making ends meet.

If benefit increases remain tied to payroll tax increases, there is little hope that benefits can be increased enough to lift today's generation of old people out of poverty. In the long run, if we continue to rely on the payroll tax as the sole source of social security revenues, when the postwar generation reaches retirement age the tax burden on their children will become unbearable.

Recently, removal of the ceiling on taxable wages—presently set at $7,800—and changes in the methods of calculating payroll tax rates have been suggested as ways of lightening the worker's taxload and increasing benefits. While such tinkering with the finance machinery may bring shortrun relief, it will not solve our problems in the long run.

Lifting the wage ceiling above its $7,800 level—or removing it entirely—may permit a slight reduction in the tax burden on middle and lower income wage earners, but it will not permit a substantial increase in benefits. Elimination of the wage ceiling would not add significantly to social security revenues because three-fourths of our wage earners still earn $7,800 or less. The additional money for increased benefits would still have to be raised through increases in the tax rate. The tax blow to workers would only be postponed, not softened. Removal of the payroll tax ceiling does not solve the basic problems of the tax—namely that it has been stretched to the breaking point.

Changing the actuarial assumptions of the system—the basis on which tax rates are figured—is no solution, for the same reason that removal of the wage ceiling is not. The payroll tax would still be retained as the system's only source of revenues and tax rates would still have to be increased substantially to support increased benefits. The shortrun gains which might be realized by such a change are politically appealing, but would only be cosmetic; the basic inflexibility of the payroll tax would come back to plague us in the future.

Financing one-third of social security costs from general revenues is, in my opinion, the only way out of our present dilemma.

This is not a new idea. Original proposals for the social security programs, advanced in the 1930's, envisioned the use of general revenues starting about 1965. During the 1940's, the law authorized an appropriation from general revenues if it was needed to keep the program solvent.

This bill provides for substantial benefit increases, and through the introduction of general revenue financing, it makes the social security finance mechanism flexible enough to support them. Benefits can be increased without burdensome increases in the payroll tax.

Under the present system, if the payroll tax schedule proposed under H.R. 1 actually takes effect, the worker's tax load will be increased without a substantial increase in the retiree's benefits.

His payroll tax rate will rise nearly 20 percent in just 4 years, while the retired person's benefit income will not increase by more than 15 percent over what he was receiving prior to June 1971.

In contrast, one-third Federal funding of social security would permit us to raise the minimum monthly benefit to $100, effect an across-the-board benefit increase of 30 percent over 1970 levels, and reduce the payroll tax rate by more than 20 percent.

The brief table which follows this speech compares in greater detail the tax rates scheduled under H.R. 1 with those which would be required to finance social security, given a one-third contribution from general revenues.

The potential costs of general revenue financing are substantial. In the event of a benefit increase of the size I have just mentioned, the Federal share would run to $24 billion in fiscal 1973. This may seem high, but a substantial portion of this cost could be met by reallocating Federal funds. For example, a cut of just 10 percent in the $71 billion the House has appropriated for next year's military budget would be sufficient to absorb nearly a third of the cost of the Government's social security contribution.

There is certainly ample room for at least a 10-percent cut in military spending. We are presently committed to spending millions, and eventually billions, of dollars for complicated weapons system of very dubious merit. The Air Force's B–1 bomber, the Navy's F–14 fighter, the Army's Cheyenne helicopter, and the Marine Corps' Harrier aircraft are all examples of expensive, sophisticated weapons systems in search of mission. We are spending $16 billion a year in Southeast Asia. Termination of our involvement in that part of the world will free those funds for other purposes. They could be rechanneled into domestic programs such as social security; but the question is, will they? Or will they simply be gobbled up by new military spending? Will we keep adding to our already overstocked inventory of destruction, or will we finally call a halt to excessive military spending and start meeting the pressing social needs of this country and millions of its impoverished, elderly citizens? This question is really the essence of the current struggle over our national priorities.

Reallocation of resources is only one way of raising the revenues to cover the Federal share of social security. We can also raise billions in new tax dollars through tax reform. Several bills to close tax loopholes are now pending before the House. One of them, introduced by my distinguished colleague, Mr. CORMAN, would provide $11 billion in additional revenues in 1973 and $19 billion a year by 1980.

It should also be noted that, at a time when Congress is considering legislation which it is hoped will stimulate the economy and increase employment, the enactment of my bill will do just that. The overwhelming majority of those who would receive the increased social security benefits will necessarily spend the money almost immediately. This will create additional consumer demand on a massive scale, with a strong stimulative effect on the entire economy.

Nor will the effect be inflationary. Not only will this increased consumer demand be imposed on a slack economy, but the resulting increase in business volume will not represent a proportionate increase in business costs. At the same time, the increase in volume will result in an increase in Federal tax revenues.

Most or all of the cost of the Federal contribution to social security could be met through a reordering of our priorities and reform of our tax laws, but I have no illusion that this would be an easy thing to do politically. In the event that no such reordering or reform occurred, and an income tax increase was required to pay for the Federal contribution to social security, most wage earners would still be better off under this proposal than they are under the present archaic system.

As a case in point, I would like to cite a constituent of mine. This man wrote to me quite recently. He said:

> I am . . . 39 years old and self-employed. Last year my income was approximately $9,000. I am married and have two children at home. For 1970, my income tax was $824.65 and Social Security was $538.20. I don't mind paying income tax to support my government, but I resent having to pay Social Security in the amounts I pay today, and the planned raise in the future.

This man's social security tax is already a heavy burden on him. Under H.R. 1 and the present finance system, his tax will increase to $675 next year and to $738 by 1975. He will be paying almost as much in social security taxes as he does in income taxes. His case is, I think, typical of many middle-income wage earners. Under my proposal, however, their payroll tax burden could be substantially reduced.

Any increase in personal income taxes which might be required to finance the Federal share of social security costs would be spread over a wider base than that covered by the social security payroll tax. This fact in itself would tend to moderate the size of the increase for middle- and lower-income families. In addition, the personal income tax is more progressive than the payroll tax and—unlike the payroll tax—takes into account the taxpayer's family responsibilities, medical expenses, and financial obligations. Thus, the size of the increase in his income tax would be determined by his ability to pay. That is not the case with payroll tax increases.

The reduction in payroll tax, which would be possible under one-third general revenue financing, would further offset any increase in the average person's income tax. I think it is clear that in the long run, this method of financing social security will mean much smaller net tax increases for most of our wage earners, than those which will occur if the H.R. 1 tax schedule is adhered to.

Is Federal assumption of one-third of the cost of social security a drastic step? In comparison to proposals advanced over the years for reform of the finance mechanism, perhaps it is.

But then, the plight of the millions of

elderly people presently condemned by this society to decline and die in poverty and despair after a lifetime of hard work is nothing short of drastic. A crisis of this magnitude demands a bold solution. Small-scale tinkering with the social security apparatus will not resolve the economic problems facing those of our citizens who have grown poor because they have grown old. Responding to the economic crisis of the aging by giving them another $5 or $10 a month is like trying to put out a forest fire with a water pistol. But the present, outmoded method of social security financing will not let us do more. A major overhaul of the finance machinery is absolutely necessary if we are going to meet the economic needs of our senior citizens without breaking the backs of our workers.

I include the following:

A COMPARISON OF EMPLOYER-EMPLOYEE PAYROLL TAX RATES AND DOLLAR CONTRIBUTIONS FOR 1972 AND 1975 UNDER THE PRESENT FINANCE STRUCTURE (H.R. 1) AND UNDER ⅓ GENERAL REVENUE FINANCING

[In percent]

	Present system (H.R. 1)				⅓ Federal contribution [1]			
	OASDI	HI	Combined	Individual contribution [2]	OASDI	HI	Combined	Individual contribution [2]
1972	4.2	1.2	5.4	$421	3.5	0.6	4.1	$319
1975	5.0	1.2	6.2	483	3.8	1.7	4.5	351

[1] Covers the cost of a 20-percent across-the-board increase in present benefit payments with a minimum primary benefit of $100. Taxable wage base includes all wages and salaries up to $15,000.

[2] Computed by applying the combined tax rate to annual wages of $7,800.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Davis of South Carolina (at the request of Mr. Boggs) for today, on account of official business.

Mr. Hagan, for Thursday, December 2, 1971, through Monday, December 6, 1971, to attend a funeral.

Mr. Railsback (at the request of Mr. Gerald R. Ford), for this week, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Schmitz) and to revise and extend their remarks and include extraneous matter:)

Mrs. Heckler of Massachusetts, for 60 minutes, today.

Mr. Miller of Ohio, for 5 minutes today.

Mr. Halpern, for 5 minutes, today.

Mr. Ashbrook, for 30 minutes, today.

Mr. Quie, for 60 minutes, today.

Mr. Steiger of Wisconsin, for 15 minutes, today.

Mr. Findley, for 5 minutes, today.

(The following Members (at the request of Mr. Denholm) to revise and extend their remarks and include extraneous material:)

Mr. Gonzalez, for 10 minutes, today.

Mr. Reuss, for 10 minutes, today.

Mr. Aspin, for 10 minutes, today.

Mr. Podell, for 30 minutes, today.

Mr. James V. Stanton, for 10 minutes, today.

Mr. Boggs, for 15 minutes, today.

Mr. Randall and to revise and extend his remarks and include extraneous matter for 15 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Holifield in two instances.

Mr. Brademas to revise and extend his remarks and include extraneous matter in colloquy with Mr. Gerald R. Ford on nutrition bill.

Mr. Randall to revise and extend his remarks in colloquy with Mr. Gerald R. Ford on nutrition bill.

(The following Members (at the request of Mr. Schmitz) and to include extraneous matter:)

Mr. Schwengel in two instances.

Mr. Young of Florida in five instances.

Mr. Hammerschmidt.

Mr. Goodling.

Mr. Archer in three instances.

Mr. Collins of Texas in three instances.

Mr. Veysey in four instances.

Mr. Wyman in two instances.

Mr. McDade.

Mr. Del Clawson.

Mr. Rhodes.

Mr. Wampler.

Mr. Wydler.

Mr. Edwards of Alabama.

Mr. Landgrebe.

Mr. McClure.

Mr. Schmitz in two instances.

Mr. Derwinski.

Mr. Frey.

Mr. Halpern in three instances.

Mr. Collier in five instances.

Mr. Brotzman.

Mr. Terry.

Mr. Chamberlain.

Mr. Duncan.

Mr. McDonald of Michigan in two instances.

Mr. Kuykendall.

Mr. Esch in two instances.

Mr. Baker.

(The following Members (at the request of Mr. Denholm) and to include extraneous matter:)

Mr. Gonzalez in three instances.

Mr. Fraser in five instances.

Mrs. Hicks of Massachusetts in two instances.

Mr. Rogers in five instances.

Mr. Kluczynski in three instances.

Mr. Fountain in two instances.

Mr. Ryan in three instances.

Mr. Hagan in three instances.

Mr. Bolling in two instances.

Mr. Rangel in four instances.

Mr. Burton.

Mr. Purcell.

Mr. Culver in five instances.

Mr. Ashley.

Mr. Passman.

Mr. Kastenmeier.

Mr. Conyers in 10 instances.

Mr. Stuckey in two instances.

Mr. Waldie in six instances.

Mr. Ichord in two instances.

Mr. O'Hara.

Mr. Minish.

Mr. Brademas in six instances.

Mr. Helstoski in five instances.

Mr. Fulton of Tennessee in two instances.

Mrs. Grasso in 10 instances.

Mr. Scheuer.

Mr. Pickle in two instances.

Mr. Jacobs.

Mrs. Abzug in 10 instances.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1163. An act to amend the Older Americans Act of 1965 to provide grants to States for the establishment, maintenance, operation, and expansion of low-cost meal projects, nutrition training and education projects, opportunity for social contacts, and for other purposes; to the Committee on Education and Labor.

ADJOURNMENT

Mr. SEIBERLING. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 43 minutes p.m.), under its previous order, the House adjourned until tomorrow, Thursday, December 2, 1971, at 11 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1328. A letter from the Attorney General, transmitting a report on identical bidding in advertised public procurement covering calendar year 1970, pursuant to section 7 of Executive Order 10936 issued April 24, 1961; to the Committee on the Judiciary.

1329. A letter from the Assistant Administrator, Agency for International Development, Department of State, transmitting the semi-annual report on architectural and engineering fees in excess of $25,000 for the period ended December 31, 1970, pursuant to section 102 of the Foreign Assistance and Related Programs Appropriation Act; to the Committee on Appropriations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BURKE of Massachusetts: Committee on Ways and Means. H.R. 3233. A bill to amend the Tariff Schedules of the United States with respect to the rate of duty on olives packed in certain airtight containers; with amendments (Rept. No. 92–693). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLS of Arkansas: Committee on Ways and Means. H.R. 10379. A bill to amend the Tariff Schedules of the United States to provide for a partial exemption from duty for articles previously exported from the United States composed in part of fabricated components the products of the United States, when returned after having been exported, without having been advanced in value or improved in condition while abroad; with amendments (Rept. No. 92–694). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Texas: Committee on Rule. H. Res. 719. Resolution waiving points of order against H.R. 11955, a bill making supplemental appropriations for the fiscal year ending June 30, 1972, and for other purposes (Rept. No. 92–695). Referred to the House Calendar.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 3333. A bill to provide for the disposition of judgments, when appropriated, recovered by the Confederated Salish and Kootenai Tribes of the Flathead Reservation, Mont., in paragraphs 7 and 10, docket No. 50233, U.S. Court of Claims, and for other purposes; with amendments (Rept. No. 92–696). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 9019. A bill to provide for the disposition of funds appropriated to pay a judgment in favor of the Jicarilla Apache Tribe in Indian Claims Commission docket No. 22–A, and for other purposes; with an amendment (Rept. No. 92–697). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 9325. A bill to provide for division and for the disposition of the funds appropriated to pay a judgment in favor of the Blackfeet Tribe of the Blackfeet Indian Reservation, Mont., and the Gros Ventre Tribe of the Fort Belknap Reservation, Mont., in Indian Claims Commission docket No. 279–A, and for other purposes; with amendments (Rept. No. 92–698). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 9702. A bill to declare that certain public lands are held in trust by the United States for the Summit Lake Paiute Tribe, and for other purposes (Rept. No. 92–699). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 10702. A bill to declare that certain federally owned land is held by the United States in trust for the Fort Belknap Indian Community (Rept. No. 92–700). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 10846. A bill to provide for the apportionment of funds in payment of a judgment in favor of the Shoshone Tribe in consolidated dockets Nos. 326–D, 326–E, 326–F, 326–G, 326–H, 366 and 367 before the Indian Claims Commission, and for other purposes; with an amendment (Rept. No. 92–701). Referred to the Committee on the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ABOUREZK (for himself, Mr. BADILLO, Mr. BINGHAM, Mr. BURTON, Mr. COLLINS of Illinois, Mr. DIGGS, Mr. EDWARDS of California, Mr. HARRINGTON, Mr. HELSTOSKI, Mr. LINK, Mr. PODELL, Mr. ROE, Mr. ROY, and Mr. SMITH of Iowa):

H.R. 11974. A bill to provide housing for persons in rural areas of the United States on an emergency basis; to the Committee on Banking and Currency.

By Mr. ADDABBO:

H.R. 11975. A bill to amend the Postal Reorganization Act of 1970, title 39, United States Code, to eliminate certain restrictions on the rights of officers and employees of the Postal Service, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. BURLESON of Texas:

H.R. 11976. A bill to suspend the duties on fluorspar until the close of January 1, 1974; to the Committee on Ways and Means.

By Mr. CARNEY:

H.R. 11977. A bill to amend the Internal Revenue Code of 1954 to provide an additional personal exemption of $750 for each of the next 2 years for certain servicemen and for the spouses of certain servicemen; to the Committee on Ways and Means.

By Mr. CELLER:

H.R. 11978. A bill to provide for the appointment of transcribers of official court reporters' transcripts in the U.S. district courts, and for other purposes; to the Committee on the Judiciary.

By Mr. GARMATZ:

H.R. 11979. A bill to amend the Railroad Retirement Act of 1937 and the Railroad Retirement Tax Act to revise the eligibility conditions for annuities, to change the railroad retirement tax rates, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. HARRINGTON:

H.R. 11980. A bill to amend the Uniform Time Act of 1966 to postpone the conclusion of the daylight saving time period of the year until after election day; to the Committee on Interstate and Foreign Commerce.

By Mr. HASTINGS (for himself, Mr. ROGERS, Mr. KYROS, Mr. ROY, Mr. NELSEN, and Mr. CARTER):

H.R. 11981. A bill to amend the Public Health Service Act to provide assistance and encouragement for the establishment and expansion of health maintenance organizations, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. KING:

H.R. 11982. A bill to provide for the compensation of persons injured by certain criminal acts, to make grants to States for the payment of such compensation, and for other purposes; to the Committee on the Judiciary.

By Mr. McDADE:

H.R. 11983. A bill to establish the Federal Medical Evaluations Board to carry out the functions, powers, and duties of the Secretary of Health, Education, and Welfare relating to the regulation of biological products, medical devices, and drugs, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. McMILLAN:

H.R. 11984. A bill to amend the Occupational Safety and Health Act of 1970 to exempt nonmanufacturing business, in States having laws regulating safety in such businesses, from the Federal standards created under such act; to the Committee on Education and Labor.

By Mr. MATHIS of Georgia:

H.R. 11985. A bill to enable producers of commercial eggs to consistently provide an adequate but not excessive supply of eggs to meet the needs of consumers for eggs and to stabilize, maintain, and develop orderly marketing conditions for eggs at prices reasonable to the consumers and producers; to the Committee on Agriculture.

By Mr. PODELL:

H.R. 11986. A bill to promote the public welfare by providing for compensation to victims of violent crimes, and for other purposes; to the Committee on the Judiciary.

By Mr. RANGEL:

H.R. 11987. A bill to amend the Self-Employment Contributions Act of 1954 to provide that an election to be exempt from coverage under the old-age, survivors, and disability insurance program, made by a minister, a member of a religious order, or a Christian Science practitioner, may be revoked at any time; to the Committee on Ways and Means.

By Mr. THOMPSON of New Jersey (for himself and Mr. MEEDS):

H.R. 11988. A bill to amend the Service Contract Act of 1965 to revise the method of computing wage rates under that act; to the Committee on Education and Labor.

By Mr. TIERNAN (for himself, Mr. ST GERMAIN, and Mr. DU PONT):

H.R. 11989. A bill to amend the Lead-Based Paint Poisoning Prevention Act to permit grants thereunder to be made to a State agency in any case where local agencies are prevented by State law from receiving and expending such grants; to the Committee on Banking and Currency.

By Mr. WOLFF (for himself and Mr. ADDABBO):

H.R. 11990. A bill to provide for Federal collection of State individual income taxes, to provide funds to localities for Federal high-priority purposes, and to provide funds to States to encourage more efficient use of revenue sources; to the Committee on Ways and Means.

By Mr. HATHAWAY:

H.R. 11991. A bill to make available to certain organized tribes, bands, or groups of Indians residing on Indian reservations established under State law certain benefits, care, or assistance for which federally recognized Indian tribes qualify as recipients; to the Committee on Interior and Insular Affairs.

By Mr. HUNGATE (for himself, Mr. MIKVA, Mr. FRASER, and Mr. FAUNTROY):

H.R. 11992. A bill to amend the District of Columbia Election Act, and for other purposes; to the Committee on the District of Columbia.

By Mr. JAMES V. STANTON:

H.R. 11993. A bill to provide death benefits to survivors of certain public safety and law enforcement personnel, and public officials concerned with the administration of criminal justice and corrections, and for other purposes; to the Committee on the Judiciary.

By Mr. SEIBERLING:

H.R. 11994. A bill to amend title II of the Social Security Act to provide a 20-percent across-the-board increase in benefits (with a $100 minimum primary benefit), to increase the earnings base to $15,000 for both benefit and tax purposes, and to provide that one-third of the revenues required for the social security programs be contributed by the Federal Government (with corresponding reductions in tax rates); to the Committee on Ways and Means.

By Mr. QUIE:

H.J. Res. 989. Joint resolution to establish a Joint Committee on Aging; to the Committee on Rules.

By Mr. ASPIN (for himself, Mrs. Abzug, Mr. Badillo, Mr. Brademas, Mr. Coughlin, Mr. Dulski, Mr. Fraser, Mrs. Grasso, Mr. Halpern, Mr. Harrington, Mr. Helstoski, Mr. Koch, Mr. Long of Maryland, Mr. Moorhead, Mr. Morse, Mr. O'Hara, Mr. Pike, Mr. Roy, Mr. Schwengel, and Mr. Seiberling):

H.J. Res. 990. Joint resolution directing that no further action be taken with respect to the development of the trans-Alaska pipeline until a comprehensive and independent study is made of the economic and ecological aspects of a trans-Canada pipeline; to the Committee on Interior and Insular Affairs.

By Mr. CEDERBERG:

H. Con. Res. 470. Concurrent resolution expressing the sense of the Congress with respect to obtaining recommendations for appropriate steps to obtain an accountability of, humane treatment for, and release of, Americans held prisoner or missing in Southeast Asia; to the Committee on Foreign Affairs.

By Mr. ROSENTHAL (for himself, Mr. Anderson of Illinois, Mr. Burke of Florida, Mr. Buchanan, Mr. Findley, Mr. Frelinghuysen, Mr. Gallagher, Mr. Hamilton, Mr. Lloyd, Mr. Murphy of Illinois, Mr. O'Neill, Mr. Taylor, Mr. Vander Jagt, and Mr. Yatron):

H. Con. Res. 471. Concurrent resolution to seek relief from restrictions on Soviet Jews; to the Committee on Foreign Affairs.

By Mr. BROTZMAN:

H. Res. 720. Resolution calling for the shipment of F-4 Phantom aircraft to Israel in order to maintain the arms balance in the Middle East; to the Committee on Foreign Affairs.

By Mr. MITCHELL:

H. Res. 721. Resolution calling for the shipment of Phantom F-4 aircraft to Israel in order to maintain the arms balance in the Middle East; to the Committee on Foreign Affairs.

By Mr. MONAGAN:

H. Res. 722. Resolution that the House of Representatives express its concern over the present situation in Northern Ireland and that the Government of the United States in all branches be requested to offer its services to obtain certain goals; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. LUJAN:

H.R. 11995. A bill for the relief of Norman Yazzie; to the Committee on the Judiciary.

By Mr. McDADE:

H.R. 11996. A bill for the relief of John Fletcher Hurst; to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

THE PETER COOPER-STUYVESANT AUXILIARY POLICE FORCE

HON. EDWARD I. KOCH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1971

Mr. KOCH. Mr. Speaker, one of the most dispiriting effects of the continual rise in urban crime is the feeling that people are helpless as well as frightened. Recently, I informed my colleagues of one simple and effective action which city residents can take to combat crime that involved a whistle signal system. There are other approaches to the problem, however, and I would like to call my colleagues' attention to the response of one particular neighborhood in my district.

The Peter Cooper Village-Stuyvesant Town area is a large middle-class area that has—like so many other areas—been experiencing a rise in the rate of crime. Rather than succumbing to a feeling of helplessness, though this community started a membership drive, led by the operation safety committee of the town and village civic association for an auxiliary police force.

These auxiliary police are all private citizens who live in the area. They volunteer their services to work in patrols at night and their primary function is to help rescue people in need and to alert police to potential crime. At present, the Peter Cooper-Stuyvesant Auxiliary Police Force is composed of 31 men and two women—the women, however, do not patrol at night—and is still growing.

The brave men and women who volunteer for the auxiliaries are indeed to be commended. They represent the spirit of a community that refuses to throw up its hands in despair in the face of crime. The auxiliaries are unarmed but work closely with the local police as the sentinels of the community. In the words of the captain of the local precinct, the force "has proven to be an exceptional adjunct to our regular police forces in combating crime in Peter Cooper Village, Stuyvesant Town, and throughout the 13th precinct."

One of the reasons for the interest and dedication shown by these auxiliary policemen and women is the strong support given to the auxiliary police recruitment campaign by the local newspaper, Town and Village, edited and published by Mr. Charles Hagedorn. I am inserting a brief article from a recent Town and Village edition that tells the story of this community's determined fight against crime:

AUXILIARY POLICE PROCEDURES "BEEFED UP" HERE

"Our Auxiliary Police force has proven to be an exceptional adjunct to our regular police forces in combating crime in Stuyvesant Town, Peter Cooper Village, and throughout the 13th Precinct," said Captain Marvin Boland, commander of the precinct located at 230 East 21st Street near Second Avenue.

"We now have 31 Auxiliary Policemen and two women in the AP program," he said, "and they help to make Stuyvesant and Cooper what is probably one of the best patrolled areas in the City of New York."

Captain Boland made the observations while he announced several changes in Auxiliary Police procedure to be instituted this week in the community.

"On each tour of duty, every Auxiliary Patrolman who is out on patrol will switch posts halfway through the tour," he said. This will make the volunteers "more visible" throughout the community, and they will appear to be on patrol in twice the number of places each night. This plan, according to Captain Boland, "seeks to develop a feeling of the omnipresence of patrolmen in the area."

Communications between auxiliaries and regular patrolmen have been a problem plaguing the Auxiliary force since its inception. Captain Boland has requisitioned additional walkie-talkies, which he hopes will be used by the Auxiliary Police while on patrol. With radio in hand, the Auxiliary Patrolman will be able to summon regular police assistance almost instantly through a clear channel to the police central dispatcher. Several teams of Auxiliaries are now patroling with the radios.

Volunteers have begun to come forward to patrol on more than two nights a week, the Captain noted, as well. When the program began in the spring, volunteers only patroled on Monday and Wednesday nights. Now, the volunteers in blue are beginning to patrol five nights a week on a regular basis. A volunteer need only work four nights a month to retain "active" status. In conjunction with regular police forces who patrol constantly, the Auxiliaries and the Stuyvesant Town guards will again enhance their "omnipresence" by increasing the frequency of their patrols.

Last Saturday's Auxiliary Police membership drive recruited 20 new volunteers. More are still sorely needed, Captain Boland said. Anyone, male or female, between the ages of 18 and 55 may enroll in the Auxiliary Police by contacting Patrolman Joseph Butler of the 13th Precinct at 777-8700.

WILLARD EDWARDS

HON. H. R. GROSS

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1971

Mr. GROSS. Mr. Speaker, I cannot let this day pass without calling attention to the fact that it marks the 50th anniversary of Willard Edwards employment by the Chicago Tribune.

Willard Edwards, one of the Nation's most highly respected newspapermen, is known far and wide across this land for his accurate and courageous reporting of the news.

Mr. Speaker, it is given to few men in the field of journalism to spend a half century working for the same newspaper and this golden anniversary of toil in the vineyard of news reporting is a tribute to both Willard and the Chicago Tribune.

On this occasion I extend to this veteran reporter and friend my highest compliments and regret only that he cannot continue his great career for another 50 years.

TRANSPORTATION SAFETY BOARD CONTINUES TO PRESS FOR ADEQUATE BUMPERS ON TRUCKS

HON. FRED SCHWENGEL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1971

Mr. SCHWENGEL. Mr. Speaker, the National Transportation Safety Board has just issued its report on the tragic accident which occurred on the beltway near New Carrollton last June. While the truck driver was guilty of many safety violations, the absence of an adequate rear underride guard or bumper was a key factor in the deaths. The Board recommends that the National Highway Traffic Safety Administration reinstate its proposed underride protection device rulemaking procedures. I support this recommendation.

I was surprised to learn that the State of Maryland apparently lacks sufficient statutory authority to deal with violations as flagrant as were present in this case. It would be my hope that Maryland officials will take action to secure strong laws with respect to violations such as these, and the right of law enforcement officials to remove violators from the highways. A press release on the accident follows:

PRESS RELEASE

The National Transportation Safety Board, reporting on its investigation of a fatal Washington, D.C. Beltway collision, today recommended tightening of State inspections of motor vehicles and granting police the authority to ban unsafe vehicles of any registry from the highways.

The Safety Board also urged reinstatement of a recently abandoned Federal rulemaking which would require an energy-absorbing under-ride protection device on the rear of trucks—a safety step which the Board said could have helped prevent the Beltway fatalities.

The accident occurred on June 19, 1970 near New Carrollton, Maryland, when a truck hood secured with baling wire flew up against the windshield of the flat-bed truck, blocking its driver's view. When a passing vehicle prevented the truck driver from turning into an exit lane, he stopped in the middle lane of the Beltway's three lanes. Although at least six following vehicles successfully avoided the stopped truck, a 1967 Ford Mustang struck and rode under it, fatally injuring the car driver and the one front-seat passenger. Both were wearing seat belts; the Mustang had no shoulder belts.

The Safety Board determined that the probable cause of the collision was . . .

". . . the stopping of a truck in a high-speed traffic lane by an untrained driver operating an unsafe truck with a makeshift hood fastener, which failed and allowed the hood to obstruct the driver's forward view. The driver of a following automobile was not warned by the truck's emergency flasher lights due to a faulty light switch, and the driver's attempt to stop was unsuccessful."

The Board said the fatalities, both from head injuries, were caused by "the absence of any form of rear-end crash protection on the truck," permitting the high truck frame to penetrate the passenger compartment 20 inches past the windshield—"nullifying the intended protective effect of the occupants' fastened seat belts." Contributing accident factors cited were "the general neglect by the operating company of maintenance and other requirements" of the Motor Carrier Safety Regulations of the U.S. Department of Transportation's Federal Highway Administration, and "insufficient manpower" in the Administration's Bureau of Motor Carrier Safety to enforce the regulations.

The Safety Board's investigation of the daytime, dry-road collision showed that part of the truck's primary hood latch was missing, and the secondary latch was inoperative because of previous hood deformation. Owned and operated by the Gray Concrete Pipe Company, Inc., of Springfield, Virginia, the 1965 Ford truck had passed its Virginia State inspection less than two months before the accident—an inspection which did not include the hood latches.

Post-accident examination of the truck, described by the company as a "spare" vehicle, also showed (1) missing or inoperative warning lights, reflectors, flares and fire extinguisher; (2) a cargo of concrete pipe with a five-inch overhang on each side—10 inches over the Virginia and Maryland width maximum of eight feet—partially obstructing the driver's rear view; (3) cut tires; and (4) absence of any rear under-ride guard—extending to within 30 inches of the road and 18 inches of the widest part of the truck—as required by the Federal regulations.

Had the truck been equipped with the currently required 30-inch-high under-ride guard, the space between highway and truck body into which the Mustang crashed would have been reduced by only eight inches, the Safety Board said. It held that the now-required guard provides "only a partial and indefinite degree of protection to other vehicles;" the guard has never been studied for its effectiveness in preventing under-rides; and "so far as the Board has been able to determine . . . was not tested prior to adoption of the regulation."

The Safety Board said proposed Federal rulemaking requiring an 18-inch-high under-ride protection device was withdrawn by the National Highway Traffic Safety Administration last June 17 during the Board's preparation of the New Carrollton accident report. The Board said "the basis for withdrawal in cost/benefit factors is not clear from the docket" of the rulemaking even though it was cited in the NHTSA withdrawal. The rulemaking, the Board said, would have been "a step toward providing desirable under-ride protection."

The 18-year-old truck driver, the Board found, had been hired as a driver the day before the accident without physical or driver's examinations. He had had less than four months' experience as a truck driver. In one earlier trip on June 19 and during the accident trip, he had found the truck to be uncontrollable at speeds above 50 mph. He was uninjured in the crash.

Straight, "panic type" front wheel skid marks left by the Mustang to the point of impact measured only 60½ feet, the Board noted, even though a time and distance calculation indicated that the gap between the truck and the Mustang was well over a quarter of a mile when the truck's hood broke loose. The Safety Board said it could not determine whether the diversion of a car ahead pulling onto the median, "general inattentiveness," or "some adverse physical condition" caused the Mustang driver to recognize his danger too late to avoid or stop short of the halted truck. Although there was a portmortem report of alcohol in the Mustang driver's body, the "absence of corroborating evidence of drinking" and the "considerable circumstantial evidence which questions the existence of alcohol" left the Board "unable to conclude that alcohol was in fact present."

The Safety Board recommended that . . .

The *Commonwealth of Virginia and other States* (1) consider a Vehicle Inspection Code revision to permit rejection of any vehicle for "any specific incomplete or failed condition which is unsafe" whether or not it now is a mandatory inspection item, and (2) revise Motor Vehicle Inspection Standards "to bring them into conformance" with NHTSA's motor vehicle inspection standard.

The *State of Maryland and other States* consider providing in State Motor Vehicle Codes a provision to authorize State and local police "to remove from the highway any vehicle found to be in an unsafe condition regardless of the State of registration."

The *National Highway Traffic Safety Administration* (1) reinstate its proposed under-ride protection device rulemaking covering new buses, trucks, trailers and combinations, or alternatively, "determine whether there is a practical plan" for "voluntary crash protection" with which smaller vehicle operators could avoid under-riding large vehicles; the alternative NHTSA determination should include costs of such protection on cars as compared with under-ride devices on trucks; and (2) make an effort to develop Federal vehicle standards "for bumper protection of motor vehicles to insure predictable and compatible crash performance between vehicles of considerable difference in size and weight."

The *Department of Transportation* seek authorization and funding from Congress "to expand the strength and operations" of the Federal Highway Administration's Bureau of Motor Carrier Safety "to enable it to enforce the regulations commensurate with the public's right to safe travel on the nation's highways."

A NADER GUIDE FOR ESTABLISHING LOCAL CONSUMER AUTO COMPLAINT ORGANIZATIONS

HON. WILLIAM F. RYAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1971

Mr. RYAN. Mr. Speaker, all across the country consumers are finding themselves purchasing new automobiles which are delivered with substantial assembly defects. Indeed, the average new car, according to Consumer Reports magazine, is delivered to its buyer with 25 defects. Many people suffer these defects in silence. Others, particularly if their cars are real lemons, attempt to seek redress from the dealer or the manufacturer. Because these complaining consumers are not organized, their efforts all too often are of no avail.

Now, however, a group of students at Case Western Reserve University in Cleveland, Ohio, working with the support and guidance of Ralph Nader and the Center for Auto Safety, has prepared a guide showing how consumers can organize to deal with their automobile complaints. Entitled "Guide for Establishing Public Interest Consumer Auto Complaint Organizations," this manual sets forth step-by-step procedures for the development of a complaint center and for the resolution of complaints.

Forms used to keep track of consumer complaints are included, as well as illustrative case studies.

I believe that this manual should become widely available. Therefore, I am calling it to the attention of my colleagues:

A GUIDE FOR ESTABLISHING PUBLIC INTEREST CONSUMER AUTO COMPLAINT ORGANIZATIONS

The voice of dissent must be heard—
HENRY FORD.

(By Thomas N. Vacar, Director, Auto Safety Research Center, Cleveland Auto Safety Research Centers Network Program, and Michael E. Banta, Assistant Director, Auto Safety Research Center, Cleveland)

Without the dedication and hard work of the following people, the Center and, hence, this report would not have been possible.

Dr. Sidney Wolfe, Diane Williams, Lila Shapero, Kevin Karp, Murray Davis, Mickey Epperson, Lisa Capell, Debby Luxenberg, Bruce Fisher, Linda Deyling, Bob Shutts, Mary Jane Ward, Eric Heylman, and the Administration and Student Government of Case Western Reserve University.

This report contains guidelines for starting a local auto safety research center based on the experiences of an auto complaint center located in Cleveland, Ohio. Its primary purpose is to serve as an organizing manual, which must be complemented by locally gathered information about automobile problems.

PREFACE

This is a report on the first year of operations of the Auto Safety Research Center—Cleveland, a student consumer advocate group in Cleveland, Ohio.

This report is written as a guide to others who may be considering starting similar centers in their own cities. It describes those aspects of the Cleveland experience relevant to initiators of comparable efforts. Thus, it is hoped that it can help others avoid some of the problems and setbacks that were faced by the Cleveland Center, while sharing approaches, techniques, and devises which were found to be most effective.

The aim is a nationwide network of aggressive, student-initiated and student-run consumer advocate projects, all lending weight to the effort to force major corporations to abandon their reckless course of white collar criminality.

I. INTRODUCTION: CONTRIVED ANARCHY AND THE CORPORATE STRAIGHT ARM

New cars reach their owners, on the average, with 25 defects. Most are minor defects, but some are serious. Most owners detect some of the defects and report them to the dealer who sold them the car. It is a fortunate owner who succeeds in getting the dealer to correct the defects the first, second, or even the third time back to the shop. Even if he is successful getting action on the initial list of problems, his joy is short-lived at the appearance of new problems, all of which come as standard equipment with his new car.

For those who cannot get their cars fixed and who are forced to take their complaint beyond the dealer level, there is little justice. Writing the manufacturer will usually bring a polite acknowledgement letter, but this letter is too often followed by stony silence. Complaining to the manufacturer about the inadequacy or refusal of the dealer to correct the new car under warranty may result in a cursory check into the problem by the manufacturer's zone representatives, but if the zone representative decides against the owner, there is no appeal. Even if, or especially if, the warranty job the consumer needs and deserves is a $900 engine replacement, he often finds himself with no effective recourse. He may continue to write the manufacturer and receive another polite refusal, best described as the corporate straight arm. In effect, the owner has paid for his own harassment.

Recent attempts on the part of General Motors (Chicago to Detroit Hot-Line), Ford (Ford Listens Better), and Chrysler (Your Man in Detroit) to make the dissatisfied customer's voice adequately heard are really more window dressings and a token response to recent consumer pressure than honest changes in the inadequate corporate complaint handling system.

Once rebuffed by the corporation, the owner with a $1 to $3,000 loss on his hands has several places to turn; all about equally useless:

(1) *Congressmen* are not in a good position to do much about individual complaints, and they may not wish to antagonize dealer or manufacturer political support.

(2) *Federal, State, and Local Agencies* in most cases lack the power to handle masses of complaints, most of which represent relatively small losses.

(3) *Private Groups*, for the most part, are either funded by business and unwilling to be critical, or unable to respond effectively.

(4) *The Law* enters the owner's mind as his sense of outrage grows, but high expectations in lawyers and courts are usually deflated early on. Most attorneys have shown little concern for the average consumer's plight primarily due to the lack of monetary gain in such cases. This is especially prevalent among private attorneys. Legal services attorneys focus on persons usually too poor to have cars and evidences little interest in the person just over the poverty line whose lemon costs him precious money, keeps him from steady hours on the job, or disrupts a long-planned vacation trip. Small claims courts while initially conceived to aid victimized consumers, operate in most places to enforce the rights of creditors rather than consumers. Another mechanism is the class action suit; however, due to its procedural complexities the effectiveness of class action suits is minimal.

A gaping void exists in our society's mechanisms for resolving disputes between a small consumer and a large corporation. There is no effective means for the average consumer to enforce a small claim against a large corporation. This virtually total absence of an effective complaint resolving mechanism gives rise to the unsolicited flood of letters to Ralph Nader, which typically begin: "My new car has given me nothing but trouble from the day I bought it. The dealer cannot or will not fix it. I am writing to you as my absolute last resort. Please help me."

The manufacturers, fully aware that the rebuffed consumer has no place to turn, are almost without restraint in passing off to consumers cars that are poorly designed, only partly assembled, and built to undergo varying degrees of self-destruction while still relatively new. The owner then pays for the manufacturer's mistakes and sloppiness. In the aggregate, this amounts to an annual billion dollar fraud. The corporation has, by isolating individual consumers, effectively thwarts all attempts by consumers to obtain relief from what can be considered contrieved anarchy.

An alternative model: A consumer's auto complaint center

The process of arriving at an alternative model involved taking a relatively close look at all existing complaint organizations in order to determine why they were not working and to generate ideas for effective complaint handling. Five problems undermined the effectiveness of existing complaint handling programs:

(1) *Bureaucracy*—Inside the auto companies, the corporate complaint handling system is itself the primary obstacle in resolving problems faced by the auto owner. Most consumers are treated to the standard run-around which can be characterized as follows: Upon finding out that the dealer cannot or will not repair his new car properly (the warranty not withstanding) the average consumer usually sends a letter to the president and/or chairman of the board of the manufacturer involved. The executive's office then refers that letter to the corporate customer relations office which then refers the letter to the divisional customer relations office which sends a letter to the consumer acknowledging that the executive got the letter and referred it to the replying office. The divisional customer relations office then informs the consumer that the letter is being further referred to the regional zone office, which is relatively close to the dealership so that the complaint can be handled in the area where it originated. Several days or weeks later, the consumer usually receives another letter, this one from the regional zone office, stating that the letter is being further referred *back to the dealer* so that it may be handled where the complaint originated. It further states that the dealer will be in touch with the consumer in the near future, but if the near future is any longer than three days then the consumer ought to contact the dealer. This whole process takes anywhere from three weeks to two months with absolutely no guarantee of ultimate success. During this time, many carbon copies of letters have been made but nothing has happened to aid the woeful consumer. This process is very exasperating. Many legitimate complaints are dropped for lack of stamina.

(2) *Allegiance to the Auto Industry*—Many "public service" groups are victims of this financial or political allegiance to the industry against which the agency handles complaints. The most notorious example is the Better Business Bureau which often has financial membership support from dealers and manufacturers, as well as influential board members from the industry. The Better Business Bureau tends to take anything the dealer says as fact and rarely consults the consumer as to whether the complaint was handled to his or her satisfaction. Too much criticism of the industry or individual members could easily result in a loss of membership dues for the Better Business Bureau and similar public service agencies.

(3) *Dependence on Advertising Revenues*—This problem prevents most large newspapers and broadcast media from releasing information which might adversely affect automobile sales. Outlets such as NBC, ABC, and CBS are financially dependent on considerable advertising from industries such as the auto industry. Too much adverse publicity may lead the advertiser to drop the outlet from its advertising program. This has generally emasculated any meaningful and continuous public disclosure of automotive abuses as a means of redress.

(4) *Statutory Non-effectiveness*—This comprises the primary defect of governmental regulatory organizations, both local and federal. Most of these bodies, such as the Federal Trade Commission, have the statutory power to take action against corporate wrongdoing, but fail to exercise it fully. The major problem with such regulatory agencies as the FTC is that they tend to define their role narrowly and refrain from intervening directly in disputes between automobile owners and the auto industry. This may be partially due to influence over the administrative branch and regulatory agencies of the federal government by officials in regulated companies. These officials have greater access to the regulatory agencies than the average consumer. A great part of industrial influence may be traced to the executives themselves some of whom have served on regulatory commissions before retaining an executive position in a corporation regulated by that same commission. More subtlely, corporate interests work in the U.S. Congress to make sure that the operating budgets of agencies like the FTC are kept low enough to ensure their powerlessness.

(5) *Lack of Funds*—Obtaining sufficient funds is also a problem confronting most private agencies which are independent from the industry or its pressures. Although these groups are autonomous, the industry can effectively deter financial input from many places such as foundations. This tends to

shorten the life and effectiveness of such agencies. Most new and aggressive consumer groups are in this category.

The efficiency of existing complaint handling agencies is compromised by a combination of several of these characteristics. Therefore, an attempt was made to establish a consumer group that could, for the most part, avoid the problem areas discussed above and be an effective organization to help the distraught consumer.

In consultation with the Center for Auto Safety in Washington, D.C. and based on empirical studies in the Cleveland area, an alternative complaint handling model, the Auto Safety Research Center, was conceived. Most importantly for the consumer, the Center had to be *a direct action ombudsman advocating the consumer side of the individual complaints in a meaningful and organized way.* Since many consumers who cared to complain through existing systems saw that much unnecessary paperwork and red tape was involved, the number of people dropping complaints seemed to be high. It was imperative that the Center avoid as much of the bother from this process as possible in its own operations so that the business of direct advocacy could begin.

Autonomy from the aforementioned pressures was the key issue in the formation of the Center, because only then could the Center freely criticize the industry without concern for its continued funding. Since autonomy from the auto industry was a basic requirement, it followed that the industry and those sympathetic to the industry would, of necessity, be suspicious of such a venture. Consequently, fund raising was a big problem, and developing the art of fund raising became a major task of the new Center.

The avoidance of a bureaucracy, i.e., the non-formation of one, was achieved by providing that all Center members would be required to handle complaints regardless of the time they worked at the Center or what other projects they might be working on. As well, the Centers would be small enough to prevent massive departmentalization which requires the growth of red tape. (If one Center were to become too large in one city, there is nothing to prevent it from dividing into two cooperative but autonomous organizations.)

II. A BRIEF HISTORY—THE CLEVELAND EXPERIENCE

Although the Cleveland Center did not begin to gather consumer complaints until April of 1970, background research began five months earlier in December of 1969. At that time, the Center was registered as a student organization on the campus of Case Western Research University which entitled it to free office space. It was apparent from the outset that a base of operations was not only desirable but necessary.

In January of 1970 four of the Center members gained substantial experience in understanding the auto industry during a one month research program at the Center for Auto Safety in Washington, D.C. The four students conducted projects on the Experimental Safety Vehicle, ambulance and police vehicle defects, Freedom of Information Act, and other topics. This experience was taken back to Cleveland. Shortly thereafter began the solicitation of several consumer complaints, dealer manufacturer documents (i.e. sales contracts, car order forms, advertising brochures, dealer franchise agreements, etc.), and other basic local auto information.

Operations

The Center focused on auto complaints because the process of investigating them opened up a view onto the landscape of corporate irresponsibility in the auto industry.

The larger issues, such as understanding the limitless lack of concern shown by corporations for the health, safety, and sanity of the public, seeking answers as to why the mechanisms of government, the courts, and the marketplace fail to provide any protection to consumers, and mapping out needed reforms, all took on a clearer meaning to the students as they came to understand the intense frustration of the consumers who in desperation brought their problems to the Center in hope of finding a solution.

Basic complaint handling guidelines were not rigid, but each member was encouraged to handle each complaint in the way that was most comfortable and successful, provided that designated pieces of data were gathered. Methods used varied from person-to-person conferences, to telephone calls, to mail handling of complaints, and combinations of these techniques.

One of the primary reasons that the Center was set up was to give students a chance to create positive, feasible change in an area rampant with abuses and over which the consumer has virtually no control. One problem which constantly plagued the Center was keeping on the staff a continuum of experienced personnel trained to handle consumer complaints. A pattern soon developed that students' commitments to this endeavor to create change wore off as the novelty was replaced by the continual input of new cases to be handled. The Center's role is one of providing continuing and growing support; it is not an organization constantly dealing with issues which have the same overt level of political content as the war in Vietnam, racism, and the like. Although the overall issue is one that is highly political, i.e. the analysis and critique of the corporate power structure, the nitty-gritty of consumer complaints is tedious. Such work, however, can be viewed as the price of change. It was our experience that although there were many transient volunteers, a core of about eight dedicated workere emerged.

Personnel

The staff consisted primarily of law and political science students. Others, including non-students, helped in all phases of the Center's work. Volunteers handle the bulk of consumer complaints and actively participate in research having to do with the auto industry (resulting in complaints) in and about the city of Cleveland. This type of information will come primarily from surveys and contacts with industry "insiders", who offer information that the auto industry does not want released.

Other persons helping the Center included a physician, attorney, educator, contractor, and three students with volunteer attorneys to donate legal talent. Access to professionals teaching technical courses at Case Western Reserve University provided valuable expert input where technical judgment was required to the settlement of a case.

There are two obstacles that confront any organization such as the Auto Safety Research Center. The first is to obtain students who are willing to work long and irregular hours for little or no pay. We overcame this first hurdle with three techniques: First we offered a constructive way to try to change the Establishment; Secondly, Ralph Nader lent his prestige by making several speeches promoting the Center; and thirdly, we began to make noticeable headway toward our objectives, especially in the consumer protection area. In fact, it was not long until we were getting referrals from local attorneys, the Better Business Bureau, the Cleveland Bar Association, and the local office of the Federal Trade Commission.

The second obstacle was the training of the volunteers to enable them to handle individual cases or complaints effectively. For a volunteer to be capable of serving as a mediator between the automobile owner and the auto industry, he had to be familiar with mechanics of an automobile, and he had to have an extensive knowledge of the corporate structure with which he was dealing. This latter part was the most difficult, because there is no short-cut method. The student volunteer had to read and familiarize himself with many documents such as dealer franchise agreements, warranties, and governmental safety regulations to mention a few. The importance of this education process becomes more obvious when you consider the fact that you will be dealing with experts from the industry, and the only way you can protect yourself from being taken advantage of is to be prepared to discuss the problems on their level and to be able to spot and refute any weak arguments that the industry might use to confuse you. Thus, for our project, education was crucial to the success of our operations.

The center and the university

The Center was set up on a university campus for several reasons. First we were students. Secondly since it was known that the budget of the Center would be extremely low, it was decided that the Center would have to be able to obtain the maximum amount of output for the least possible investment. For this purpose, the college situation was ideal. Under the rules of Case Western Reserve University, registered student groups could get free office space and access to many facilities on campus, including the expertise of many experts on a wide range of topics dealing with the automotive field.

The additional fact that the Center was able to obtain academic credit for students conducting research at the Center was a major contributor to keeping experienced students working at the Center for long periods of time with little or no monetary compensation. These two reasons were the major factors which gave the university environment a decided advantage over other potential locations for the Center. The third factor, i.e., the need for people to man the Center, clearly meant that students, idealistic and often with time on their hands, would form the nucleus of the Center staff. Supplementary assistance from non-students (housewives, faculty) and professionals could not be realistically expected to be full time. What was expected, however, was that all staff and volunteers make some kind of long-term commitment to the Center to insure some basic kind of continuity.

Fund raising

The lack of adequate funds has plagued the Cleveland Center. Volunteer organizations can function so long as there is a basic administration of the overall program by regular, full-time personnel who can be depended upon. Successful fund-raising in the Cleveland area was extremely difficult for several reasons. First, the concept of the consumer oriented public interest group was not readily comprehended by members of the established Cleveland business community. Consequently, they were, at first, skeptical of the Center and presumably regarded it as a threat. Second, politics played a large role. The lack of concern on the part of Cleveland businessmen regarding the plight of the consumer was exemplified by meager monetary contributions to back up generous verbal praise. Grants from Consumers Union, Ralph Nader, and interested professionals and consumers provided subsistence funding through 1971.

Individuals approached for funding felt that it was the legitimate role of philanthropic foundations to support such an organization so application for a grant of $19,000 was made to the Cleveland Foundation in April of 1970. This particular foundation was already funding other consumer efforts to the tune of $100,000 or more annually. At this time, Dr. James A. Norton, Director of the Cleveland Foundation, encouraged the Center to comply with several legal requirements so that funds could be made available to the Center pending a decision of the Foundation's Board several months later. These requests were fulfilled. Moreover, the Center followed the Foundation Director's suggestion that we seek all funds through the Cleveland Foundation rather than from several sources. Although their Board was not to meet for quite awhile, the optimism generated by the Foundation Director led to the hiring of four students to work full-time in the Center. As weeks progressed, the optimism eroded as a result of suggestions from the Foundation that the Center put a member of the Better Business Bureau or the Cleveland Growth Foundation on the Board of the Center to quell doubts of some members of the Foundation Board. Since the Better Business Bureau approach was the very thing we were trying to avoid, we flatly refused. On July 8, 1970, the Cleveland Foundation voted not to give any financial support to the Center.

We were forced to conclude that despite the Center's excellent record of handling consumer complaints to the satisfaction of both consumers and dealers, the Cleveland Foundation's interest in this mode of consumerism was minimal at best. Moreover, many liberal lawyers, doctors, other professionals, and civic leaders from whose midst is heard increasing concern for the alienation of students from the system, gave no meaningful financial support. In short, hypocrisy and politics have made such efforts by students difficult to fund because those who are most verbal and able to afford financial donations pay much more lip service than financial service to such efforts. Fund raising remains an important activity.

The Center has been in operation for nearly two years and much yet remains to be done. But much has been learned from its successes and its mistakes. The time has come for the establishment of additional Centers to further the development of a network of centers which will be able to strengthen the hand of auto consumers throughout the United States and Canada.

The following sections will suggest ways to set up similar Centers and, most importantly, the developing art of handling customer complaints, dealing with the dealers and manufacturers, dealing with the government, and other facets of the day-to-day business of local consumer advocacy.

III. TIPS FOR ESTABLISHING LOCAL COMPLAINT CENTERS

A. *Establishing Centers on Campuses*—The five main requirements are:

(1) Campus status as an organization

(2) Articles of Incorporation and Incorporation itself

(3) Tax exemption application (Form 1023) under 501(c)(3) of the Internal Revenue Code

(4) Budget proposal

(5) List of local foundations and wealthy potential philanthropists

Although these items are vitally important, they are really only the beginning. If the groundwork is undertaken with these points in mind there will be fewer problems later on. To fully understand the importance of these preliminary steps, the points are discussed individually.

(1) *Campus status as an organization*—In setting up a Center at a college or university, the rules required to obtain free office space must be understood. The appropriate officials should be supplied with at least a rough draft of a proposal establishing your campus organization. The sooner an organization has been designated a campus group, the sooner the Center will have a base of operations, i.e. an office. Since each school's rules vary so much, it is up to each potential group to learn what is required at that school and apply accordingly. Here are some suggestions:

(a) Spell out your intentions so that you may act within the confines of your proposal. Do not make the proposal so restrictive that you cannot function effectively. On the other hand, do not make it so unrestrictive that no one will have confidence in you.

(b) Emphasize the importance of free space and the need for it immediately.

(c) Relate this group to the type of group already in operation at Case Western Reserve University and its role in a network of consumer service organizations.

(d) Emphasize the benefits to be harvested by the community around the school by a meaningful and worthwhile project.

(2) *Articles of Incorporation and Incorporation Itself*—This and the application for tax exempt status under 501(c)(3) will be most vital in obtaining money from foundations and other sources. The Internal Revenue Service had model Articles of Incorportion written in its instruction booklet for 501(c)(3) applications. You can follow these. Two basic models are presented: Ohio and Massachusetts. Legal supply stores and many law firms have the article of incorporation blanks available for usually less than a dollar which can be filled out in less than an hour. It is helpful to have this process overseen by a volunteer attorney.

In many states it takes at least three people to create a non-profit corporation. They must be 21 years of age or over and residents of the state in which the corporation files its papers. It is wise to make sure the principle officers of the corporation are members of the college or university faculty or student body where the Center exists. This will eliminate the problem of the Center being regarded as too separate from the school to warrant school support.

Principle officers are: president, vice-president, secretary, and treasurer. If the officers are not affiliated with the university, i.e. students there, the center may find itself *renting* office space instead of receiving it free. As soon as the articles are filed with state and returned to the Center, the 501 (c)(3) application may be filed.

(3) *Tax exemption application under 501 (C)(3) of the Internal Revenue Code*—Tax exempt status is the key to funding, but it is not a guarantee. It permits individuals to give the Center funds and to deduct it from their taxable income as a charitable gift. This is the toughest step to accomplish because the IRS is a slow, deliberative agency, and Form 1023 is quite complex. The usual waiting period seems to be between two to six months, but it may take much longer.

It is hoped that in the near future a properly framed application, the Cleveland Center or one other, will be approved, thereby becoming the model.

(4) *Budget proposal*—Once granted tax exempt status, the Center will want to submit proposals to various individuals and foundations for funds. This will have to include the proposed budget for a period of at least one year. Local foundations are the best vehicle for meaningful funding and should be vigorously pursued. The foundation will accept the proposal, further investigate it via interviews with Center personnel, and rule on its merits.

The most important thing to remember when applying for funds is not to compromise principles merely for funds. A foundation may want to name a member to the Center's board. The consequences of such action should be carefully weighed before making any such decision. One consequence may be the premature disclosure of findings or plans, or even, possibly, control of them.

The proposal should state the purposes, or goals, program outline, affiliations, personnel, and most importantly, the budget of the Center. The foundation may ask for additional information, and you should always be ready to provide it immediately to expedite your proposal.

(5) *List of Foundations and/or Wealthy Individuals*—Since the Center will have to be funded via local sources, a list of philanthropic foundations should be assembled. As well, all metropolitan and surrounding areas have their share of modestly and abundantly wealthy individuals who might be solicited for tax deductible contributions. Since each possibility is a potential monetary source, it is worthwhile to apply to as many as possible. Among some of the many individuals and organizations to contact are:

(a) local philanthropic foundations

(b) local industrialists

(c) local civic leaders

(d) local unions and leaders

(e) civic groups (Rotary, Kiwanis, League of Women Voters, etc.)

(f) religious leaders

(g) local colleges and universities

(h) local law, medicine, engineering, and other professional societies

(i) the general public

B. *Establishing Centers in Places Other Than on University Campuses*—The general format for establishing an off campus Center is basically the same as has been outlined above with a few variations. There will still be five main requirements:

(1) Obtaining a base of operations (an office)

(2) Articles of Incorporation and Incorporation itself

(3) Tax exemption application (Form 1023) under 501(c)(3) of the Internal Revenue Code

(4) Budget proposal

(5) List of local foundations and wealthy potential philanthropists

The first major difference is that the off campus Center will not be able to obtain free office space unless some group or person can be found to donate such space to the organization. There are, however, alternatives to the traditional office that is located in an office building. The use of heated garages, church basements, vacant rooms in a house, etc. can offer a starting point until funding will permit the renting of office space. Basically, all that is needed is a place to keep files, desks or tables, and a telephone. The office supplies will be discussed in more detail later.

The other problem that may confront the off-campus Center is that of personnel. It is important that the new Center have a group of dedicated persons willing to run the Center on nearly a full-time basis. Part-time volunteers can help handle complaints without too much difficulty, but the daily operation of the Center requires the presence of someone capable of making decisions, coordinating activities, and helping train the new volunteers. If it is impossible to obtain full-time personnel there is an alternative approach that may be taken: two part-time people may set up a schedule whereby one or the other of them would be at the Center regularly. However, the only way this will work effectively is if both are able to keep abreast of new developments so that the operation will run efficiently.

The remainder of the staff can consist of housewives, professionals, students, and any other people that can donate their time and/or their services to the Center. These volunteers, however, will have to be oriented in complaint handling by the nucleus of experienced people that should be on hand once the Center has started its operations.

The formation of the off-campus Center would follow the same guidelines as the campus-based Center with respect to incorporation, application for tax exempt status under 501(c)(3) of the Internal Revenue Code, budget proposal, and list of possible sources for funding.

Aside from these tasks, there are several other things that you will need to make things easier and more efficient.

The next section is devoted to these needs (*which are applicable to both campus-based and off-campus Centers*).

C. *Office Support—Attorneys, Equipment, and Materials*

(1) Attorneys

You should contact a sympathetic attorney who can assist on tax matters and incorporation. Ask him/her to render services free. He/She will also be able to advise you on how to avoid libel in public statements your Center may issue.

(2) Equipment

(a) *Telephone*—You will need a telephone with a listed number. It is helpful to have a separate line that can be used for out-going calls when the other is busy. As the Center becomes more well known two or three lines become essential.

(b) *Filing System*—A filing system is imperative. Use a separate file folder for each complaining consumer. The Cleveland Center has an "Open" and "Closed" separation of complaint files. In addition, a 3x5 card is made for each complaint which is put into a box. Each card indicates the name of the person with the complaint, the make and model car he or she owns, the nature of the complaint, and the dealer/manufacturer against whom the complaint is directed. The "Open" and "Closed" cases are filed alphabetically by name; however, the card file is broken down into types of automobiles (i.e. Ford, Chevrolet, Pontiac, etc.) with all the consumers' names being alphabetically arranged within each car type category. This enables the staff to have a relatively simple cross-index that helps detect trends such as recurring problems with a particular kind of car or dealer. File cabinets are helpful but not necessary. It is inexpensive to substitute metal racks used for suspended files. These racks require special file folders, but can sit anywhere.

(3) Materials

(a) *Stationery*—A letterhead, we have found, is vital and adds much credibility and legitimacy to the operation. An example. The Cleveland Center's letterhead, can be found in the appendix.

(b) *News Release Forms*—Attractive news release forms will get much more attention than plain paper until the Center is widely known and respected. A copy of the Cleveland Center's news release form is in the appendix. It's first use should be to announce the program and complaint phone number to the press.

(c) *Complaint Forms*—Complaint forms are essential to getting and storing the correct and uniform input of data needed in the handling of complaints and compilation of data. The Cleveland Center's forms are in the appendix.

(4) Other Information

(a) *Names and Addresses*—A list of all dealers and zone offices is required so that you will not have to constantly refer to the cumbersome telephone book. A list of key personnel for each dealer, zone office, and manufacturer, as well as additional relevant organizations should be assembled. You will need, for example:

Dealership: President, General Manager, Sales Manager, Service Manager.

Dealers association: Director, President.

Motor Companies in Detroit: Chairman of the Board, President, Customer Relations Manager.

Zone Office: Zone Service Manager, Entire Customer Relations Staff, Public Relations Manager.

Other relevant agencies include:

Local Consumer and/or Government Organizations: Better Business Bureau President, Federal Trade Commission Director (Local and National), Department of Transportation (Local and National), Local Consumer Group Directors.

Media: Newspaper Auto Editors, Radio and Television News Managers, Local and National Auto Trade Paper Editors (include magazines), Local and National Consumer Paper Editors (include magazines), Wire services (Associated Press, United Press International, etc.).

(b) *Recent and Relevant Information*—This is obtained by writing to several sources. The object is to write for all news releases, reports, fact sheets, and other available free information. Among the most important of these sources are:

U.S. Department of Transportation, Washington, D.C. 20590.

Federal Trade Commission, Washington, D.C. 20580.

Insurance Institute for Highway Safety, Watergate 600, Washington, D.C. 20037.

National Automobile Dealers Association, 2000 K Street NW., Washington, D.C. 20006.

Your state and city governments.

Center for Auto Safety, National Press Building, Washington, D.C. 20004.

After funding, each Center should subscribe to Automotive News, Consumer Reports, some of the auto magazines, and relevant government reports of the Congress or regulatory agencies. It is also recommended that each Center have a copy of *What to Do With Your Bad Car* by Ralph Nader, Lowell Dodge, and Ralf Hotchkiss. A free copy will be provided to Centers established in cities larger than 10,000 people. On the local level a general collection of informations and documents should be made which include sales contracts, advertising brochures, and dealers association materials. This should be done with as many dealerships as possible. Sales figures and distribution data can be obtained through the local dealers association or newspapers who generally have access to this kind of information.

(c) *Map*—A local street map should be obtained to chart where the dealers are located as well as the zone offices and other local relevant organizations. Also, when handling complaints, the map will be help in determining the patterns of where the complaints are arising and where to go when handling out-of-office complaints.

With all these things accomplished, you will be ready to start understanding the nature of the local auto situation and can quickly become effective in the resolution of consumer complaints.

IV. HANDLING COMPLAINTS

This section will be necessarily brief because of the vastness of types of complaints and the many possible solutions. What will be discussed will be methods used by the Center which are used either separately or in combinations, all of which are recorded on standard Auto Safety Research Center forms. Examples are in the appendix.

A. *Forms*—The best way to understand how the Center handles complaints is to refer to the file forms used in the process. Copies are reproduced at the end of this guide. When a consumer calls in with a complaint (i.e., makes initial contact with the Center via phone, letter, or personal interview) the initial information is recorded on an initial information memorandum. This sheet covers vital initial information. The consumer is then asked to submit whenever possible a formal statement of the complaint *in writing* including all bills, documents, letters, etc. relevant to the complaint. These items are then attached to the details of complaint memo. With this accomplished, the staff member begins to evaluate the validity of the complaint. Any further communication with anyone connected in any way with the complaint is recorded on a development memorandum; one for each and every contact made. Prior to any advice or advocacy for the consumer, the Center contacts the dealer or manufacturer involved in order to establish the opposing side of the story and also attempts to set up a meeting involving the dealer, consumer, and Center staffer. This is also recorded on a development memo. The consumer is asked to sign a permission to use information form so that the Center may work with the complaint and publish the complaint if necessary. Depending on the seriousness of the complaint, maximum and minimum settlements or "acceptable solutions" are determined with the consumer prior to any meeting with the party being complained against. The consumer must sign an agreement permitting the Center to act on his behalf in resolving the complaint. When a satisfactory conclusion or solution is reached, the staffer then fills out a case conclusion sheet in which he/she comments on the degree of success and outlines the final settlement. The staffer is then required to send out to the consumer a consumer evaluation sheet so that the consumer may comment on how his complaint was handled and give criticisms to improve the quality or services offered by the Center. A separate file is maintained for each complaint. Some complaints can be so serious that some of the above requirements be suspended if time is a critical factor. In any event, precise information must be recorded as soon as time is available.

B. *Methods of Complaint Handling*—Methods used are:

(1) Handling via telephone
(2) Via letters
(3) In person interviews
(4) Dealer-consumer-Center consultations
(5) Publicity
(6) Direct Action

The individual complaint handler must select the method or methods which prove most successful and comfortable. Most cases involve a combination of techniques. Each method has its own merits and the following descriptions of these methods can prove useful.

(1) *Handling via Telephone*—Telephone handling is a good device to use when time is of the essence in order to start the resolution process. An example of this may be when a consumer has a warranty problem in which the warranty is to expire within a few days. Needless to say, the phone provides an immediate contact but can be over-utilized. Written documents provide a much better record. Telephone handling can expedite matters when the Center has a good working relationship with the party against whom the complaint is lodged. (Some Cleveland dealers welcome intervention by the Center especially in personality-conflict cases.) Most cases, however, are wholly dependent on the attitude of the staffer when the phone is used. This subject of "attitude" will be discussed later in detail.

(2) *Via Letters*—Most cases require letters to and from the Center explaining the case details and the consumer's and/or Center's logic used in determining a just settlement. Letters provide an excellent tool of communication and documentation. Statements of policy on the part of dealers and manufacturers become guidelines for expected performance if a similar complaint arises in the future. As well, letters from the different segments of the industry may reveal different policies on the same issue between companies or even within the same corporation, i.e. a Cleveland Zone Representative might quote a policy at odds with the official corporate policy. Letters are also valuable in recording precedents.

(3) *In-person Interviews*—An in-person interview with dealership officials allows the Center member to discuss the problem without the presence of the complaining consumer. This sometimes is more conducive to settling complaints especially when a personality conflict is involved. During this type of interview, the dealer will often give his opinions about the sincerity of the complaining customer which, in the light of other facts, can give great insight as to the validity of the complaint or the dealer's opinion.

(4) *Dealer-Consumer-Center Consultations*—Probably the most successful method of complaint solving comes in the form of the in-person interview with the consumer present. When the dealer, consumer, and Center meet it is in this arena where the dealer and consumer must argue their claims over the documents each is using to support his side. Although the President of the dealership may not be in attendance, the service manager or the customer relations manager for the dealership usually will be. Settlements are usually arranged at the first such meeting and discrepancies in both sides often appear. Usually, however, the consumer is able to reach an equitable solution

with the Center's assistance. It is much easier to arrange future action on the complaint when all relevant parties are present to hash things out. In short, it is a situation where not only questions are raised and answered, allegations proved or disspelled, or documents produced and evaluated, but a situation in which personalities of opposing opinions interact and reach a firm decision.

(5) *Publicity*—The final approach of complaint handling may be referred to as the last resort, and that is, unfavorable publicity directed at the offending dealer or manufacturer.

When all else fails, report it to the public and to the legal authorities. It is not the most endearing method to conclude a situation but one which has proven to be effective. One problem is that the cost to the dealer or manufacture of publicity in terms of potential economic loss may outweigh the benefit of a fair and just resolution. Extreme care must be used here so that innocent people are not damaged by unfair criticisms.

(6) *Direct Action*—And of course, there is the picket line. It is the most forceful and clear cut show of disapproval for the practices of a dealer or manufacturer who has clearly deprived a consumer of his rights and chooses to permit this situation to continue regardless of previously taken channels of recourse. It can bring either an immediate settlement or a law-suit against those picketing. While it is risky, it may be the only path available. Much care should be taken when this path is utilized to define the complaint accurately, and to spell out exactly what is demanded.

In summary, complaint handling is a delicate business which requires a large amount of knowledge about the facts of the case, a proper selection of a method of complaint handling, and the proper and precise recording of all information and case data. It is also a task which demands responsibility and which, if handled properly, can quickly net results for consumers who would otherwise remain unfairly or poorly treated.

Attitude in communication is the one factor that can make or break a case and caution must be exercised. In some cases a calm and cooperative attitude by the complaint handler is an invitation to be ignored. In other cases, a harsh and abrasive attitude may cost a handsome settlement due to a conflict in personalities regardless of the case's merits. Unfortunately, proficiency comes only with practice.

C. *Examples of Cases Handled by the Cleveland Auto Safety Research Center*

The following cases are summaries of actual complaints handled over the period since April 1970. Necessarily, these cases are capsulized to conserve space and only are meant to give the reader a general idea of what kinds of complaints can arise and how they were handled. Naturally, much more information is needed to fully understand the intricacies of how the information was gathered, how a particular method was chosen, and how a solution was reached. To show the limitations of a Center we have included two cases which we were unable to resolve up to the date of this writing (September, 1971).

File #93 David Brewe

Mr. Brewe came to the Center with a problem based wholly on a lack of communications resulting in a $100 difference of opinion. While having his car in for an engine repair under warranty Mr. Brewe was asked if he would like to have a valve grind since the engine was apart. Although Mr. Brewe authorized the grind verbally, he was not aware that he would be charged for the service. The warranty problem (seized wrist pin), in Mr. Brewe's opinion created the need for the valve grind. The dealer brought in the service manager and the mechanic involved in the repair and found that lack of proper information was the primary reason for Mr. Brewe's erroneous belief that he would not be charged for the repair. Mr. Brewe stated that had he removed the heads himself (as an engineer he is quite capable of doing so) he could have had the valves ground for $24.00. Since Mr. Brewe had stopped payment on the original repair check (which included that disputed $100 for the valve grind) feelings were pretty bad on both sides. Acting more as a mediator than a purely pro-consumer partisan, the Center arranged a settlement whereby Mr. Brewe paid $24 for the grind, which was acceptable to both parties. The dealer added that if Mr. Brewe felt that the grind had not been done, he did not want a dime. Mr. Brewe concluded that indeed the grind had been done and paid the $24.

File #199 Julian Steinberg

In the fall of 1970 the Center was approached by Mr. Julian Steinberg, owner of a 1969 Opel. Mr. Steinberg unknowingly purchased a new car with an engine that bucked and coughed and had a faulty electrical system. For several months Mr. Steinberg had been trying to get the dealer or the manufacturer to correct the defects to no avail. Mr. Steinberg and a Center staffer went to the Buick zone office and argued that although the dealer never refused to do the retail or warranty work involved, the work was either shoddily done or not performed at all. After reviewing the file and test driving the car, the zone manager reimbursed Mr. Steinberg $156.81 (which the dealer had improperly charged him) and arranged to have the remaining repairs made at another dealer under warranty.

File #206 John Glasson

Owner of a 1971 Volkswagen Super Beetle, Mr. Glasson was having engine and acceleration problems which were grossly in that the car would stall out in close traffic situations. Having complied faithfully with the warranty terms, Mr. Glasson tried for months to get these problems corrected all to no avail. The Center, on Mr. Glasson's behalf, wrote a letter to Volkswagen of America demanding action. Copies were also sent to local and national newspapers, highway safety organizations, government agencies, and several legislators. This produced a series of meetings and further attempts at repair, resulting in nothing but further frustration for Mr. Glasson. Nonetheless, meaningful communications between the Center and VW were established. Finally, realizing that Mr. Glasson would never be happy with his car, VW's distributor, Midvo, offered him a reimbursement of $2100 for his six-month old car which originally had cost $2300. Mr. Glasson was extremely happy with the settlement but decided not to purchase another VW. Faced with our efforts VW acted in a responsible and mature manner in this case.

File #379 Hal Foyer

Mr. Foyer purchased a used 1966 Cadillac from Central Cadillac which had an odometer that read 23,459 miles. Upon receipt of his registration Mr. Foyer traced the former owner who informed Mr. Foyer that the mileage at trade-in was 56,000 miles. At that time Mr. Foyer contacted his lawyer who wrote one letter to the dealership. As time progressed Mr. Foyer became distressed by his attorney's inaction. He then contacted our office almost a year after his initial action. To ascertain the veracity of the case we checked the serial number of the car with the Title Department. This served to prove who the former owner was. From Mr. Foyer's attorney we obtained a copy of a statement made by the former owner that the mileage at trade-in was 56,000 miles. Normal procedure was to go to Central Cadillac with Mr. Foyer and discuss the matter, however, two stumbling blocks presented themselves; Mr. Foyer's attorney had to be released and inform Central Cadillac that we were now informally representing Mr. Foyer, and Central Cadillac had handed the case over to their attorney. Mr. Foyer's lawyer, after being contacted by us, decided to see what he could do first, further delaying action on our part. Finally unable to obtain any satisfactory results, the attorney dropped the case and permitted us to help Mr. Foyer. We then arranged a meeting between a staffer, the owner relations manager of the dealership, the dealership's attorney, and Mr. Foyer. Mr. Foyer wanted another used car not older than 1967 with guaranteed mileage. No common ground could be found between parties to enable a possible compromise settlement. The Cleveland Dealers Association has been contacted and the possibility remains that our office can resolve the case. Otherwise, Mr. Foyer plans to sue Central Cadillac. At the time of this writing the resolution can not be determined.

File #364 Ellen Forester

Mrs. Forster purchased a 1971 Chevrolet Vega, which was equipped with a 110 horsepower engine, two barrel carburetor, and an *automatic* transmission. This car was made prior to the G.M. strike in the fall of 1970. After the strike, General Motors stopped selling Vegas with this particular power train combination. The 110 H.P. engine with a two barrel carburetor now comes only with a *standard* transmission. Mrs. Forster experienced many problems with the performance of her car, and subsequently Chevrolet started a recall campaign on Vegas such as Mrs. Forster's. She took her car into a dealer to have the necessary parts added as per the recall. This was the thirteenth time she had taken the car back in attempting to alleviate her problems. After the recall work had been completed, the car still did not perform any better than before. The service manager at the dealer told her that he had done all that was possible and he added that she should drive the car "slowly and not very often." Two members of the Center's staff accompanied Mrs. Forster to the dealer on her fourteenth trip to him. This time a representative of the Chevrolet Zone Office was there, and he told us, in no uncertain terms, that he would not deal with us but he would see to it that the customer was satisfied. However, the car was never fixed and Chevrolet continued to stall by telling Mrs. Forster that more "special parts" had been designed and the car would be fixed as soon as possible. At this point, the Center was preparing to pressure Chevrolet into either replacing some major parts of the drive train or else give Mrs. Forster another car. Ironically, while we were working on this approach the car was stolen from Mrs. Forster's home. Mrs. Forster's final relief came from a car thief rather than Chevrolet, who had admittedly created an engineering fiasco. Mrs. Forster's only fear now is that the car may be found.

File #369 Ronald Gantt

Mr. Gantt owned a 1969 Buick LeSabre that was covered by a 5 year/50,000 mile warranty on the engine and other components of the drive train. After one year, the car began to continually overheat, and the dealer began to replace the entire engine one piece at a time under the warranty in attempts to alleviate the problem. Finally the entire engine, including block and heads, had been replaced but the problem was not cured. At this time, the dealer and Buick Division of General Motors refused to do any more work under warranty saying that they felt the problem was probably arising due to customer abuse. Two members of the Center's staff arranged for a meeting between Mr. Gantt, the dealer, and representatives of Buick and the Center. At this meeting the dealer could not prove abuse, but nor could they explain why, if Mr. Gantt did abuse the car, he had spent so much time and money at various service and diagnostic centers in attempts to locate the problem. At this point, the dealer said he would allow the two representatives of the Auto Safety Research

Center decide what should be done, and he added that he would be bound by our decision. This was an unexpected offer, and although this clearly would not be expected in all cases, it did show the dealer's faith in our reasonableness and objectivity. (This case arose after we had been in operation for over a year and a half, and shows that the Center has clearly gained the respect of at least some of the local dealers.) After consulting Mr. Gantt, we suggested that since Mr. Gantt had used the car for over a year and a half, and since the problem could not be pin-pointed, that he would probably be better off trading the car for a new Buick at a substantial savings, i.e. close to dealer cost. The dealer agreed to this, and all parties were satisfied.

File #489 Howard Schwartz

In June of 1971, Mr. Schwartz contacted the Center regarding a repair bill he believed should have been taken care of under warranty. He felt that "burned" valves were covered by the warranty, and General Motors mantained that they were not if they were damaged by carbon deposits. We argued, in a letter to G.M., that if the customer lived up to all conditions of the warranty, and the valves still burn out prematurely, then the argument is between G. M. and the gasoline and oil industry; not G. M. and the customer. The dealer was pleased with the contents of the letter, and said that the Center had handled the case "like gentlemen." The dealer added that even if the manufacturer would not pay for the repair that the dealership would not charge Mr. Schwartz. General Motors did not pay for the value grind, but the dealer kept his promise and Mr. Schwartz was not charged for the valve grind.

There is one more problem that must at least be mentioned before leaving this discussion of complaint handling. Whenever one begins to solicit complaints, there seems to be a tendency to believe everything the complaining consumer may say. The fact of the matter is that the person complaining will not always tell you all of the facts involved in his particular complaint. Therefore, the staff member must carefully question the consumer in order to elicit as much of the totality of the situation as possible. After reviewing all the facts, the staff member may conclude that the consumer's complaint is unfounded, and that the consumer had not carefully read his warranty. We call this process "screening." It is much better to find out all the facts before taking a stand on an issue, and the careful staff member can save himself much embarrassment by dismissing the case before he goes into a meeting with a dealer inadequately prepared. Needless to say, a Center that does not carefully screen its complaints will not enhance the effectiveness of the Center in its dealings with the industry. Normally, the staff member can obtain some idea of the dealer's version of a problem by either making a quick telephone call, writing a letter, or setting up a meeting as has been discussed above.

V. OTHER CENTER ACTIVITIES

Beyond complaint handling, research into the local auto situation can be conducted. The Cleveland Center has been approached by corporate "insiders" who have shared information the industry does not otherwise make available to the general public. This information usually deals with patterns and trends of abuse of manufacturing processes, secret documents negating certain consumer rights with respect to products, unfair and one-sided contractual arrangements practiced on a large scale, and other information (including evidence of massive defects) which could lead to Center initiated policy changes and recalls of defective autos.

An example of this type of research can be seen in the rash of Mustangs with a defect in the pivot arms on the bucket seat. The Cleveland Center documented cases of the pivot arms breaking while the vehicle was being operated, and these cases were sent to the Center for Auto Safety and also to Ralph Nader. This same problem with the seats has been noted in Cougars. For both cars the years of the cars are 1968–1970. Since the Center for Auto Safety receives complaints from across the country, they are better equipped to study these problems on a national scale, and we provided local input for their careful monitoring. As it turned out, our cases were not isolated incidents but, rather, were part of a pattern that extended from coast to coast that may finally lead to a manufacturer's recall of that particular vehicle.

Other functions of the Center include descriptions of dealers, manufacturers, products and services for inquiring consumers. Also the Center can distribute occasional news releases regarding a wide range of local and national topics and act as public information centers in general. Hopefully, the Centers, like the Cleveland Center, should eventually be able to offer a very inexpensive but comprehensive car maintenance and familiarization course for men and women in order that they become more acquainted with the everyday problems of how to avoid unnecessary repairs and how to avoid being overcharged. All of these things will become integral parts of the Center's activities if it can successfully establish itself as being an organization capable of effecting proper response from the industry in legitimate cases.

VI. THE CENTER NETWORK, THE AUTO INDUSTRY, CONSUMERS, AND THE FUTURE

If anything was learned in Cleveland, it was that there is a need for Centers and that the need is urgent. We suspect it is also nationwide. There is a tremendous amount of leverage available to the consumer, but only if he is willing to band together with his peers and support students and other citizens to work full-time in the public interest. It will cost money and time, but the cost, whether from a central source or individual contributions, would be very cheap. Centers similar to the Cleveland Center could be set up and working in a period of not more than two months. Individually, each Center could contribute greatly to the progress of consumers' rights in its own locality. The network system of Centers could easily become a powerful and formidable opponent of the complacent and shoddy corporate system of handling complaints, as well as the manufacturing of defective, shoddy, and unsafe cars.

Manufacturers, for the first time, would have to seriously consider such things as buying back their mistakes on a regular basis from disgruntled customers. In the case of a complete lemon, it would not be unreasonable to ask for a replacement vehicle which is new or to ask for the return of the original purchase price. Needless to say, if Ford, General Motors, or Chrysler buy a defective piece of equipment which is important to them, they would most certainly ask for their money back or a replacement plus damages. If not, they would surely never buy from that supplier again, or they might elect to sue. They can afford it and the consumer cannot. The arithmetic in simple.

Auto Safety Research Centers can go a long way in providing for the consumer, for the first time in the history of any large industry, an effective and economical system of handling complaints and monitoring the industry. Dealerships can be asked to take back grossly defective cars which they have sold, and then to repair them, for sale to other customers as *used* cars *fully guaranteed*. This system would eliminate the problems of a consumer having to keep a car he did not trust, yet bought in good faith. It would also require the repair of the substandard product and its subsequent sale as used and guaranteed.

Having already retrieved thousands of dollars for local consumers who have been bilked, and even, in one case, getting the dealer to buy back a defective car, the Cleveland Center has found the results most encouraging. But one Center in one large city will not even begin to solve the entire issue. It will take many Centers, in many cities, manned by many people willing to work for little or no pay.

The consumer issue, although not as exciting to some as many issues of our time, is the one issue that affects all people all the time. Whether it be defective brakes or dangerous DDT levels in foods, the problem of the integrity of products, integrity of advertising, and the guarantees behind the products and advertising grows vastly more important each year.

It is hoped that this report will enable you to become an active part of the proliferation of these Centers throughout the land. Henry Ford, the man who started the auto industry as we know it today, once said, "The voice of dissent must be heard." For the auto industry, it will take dozens of Auto Safety Research Centers to make it adequately heard and respected.

Sample letterhead—Auto Safety Research Center, 10900 Euclid Avenue, (216) 229–3370, Cleveland.

Room 102, Case Main, Cleveland, Ohio 44106.

Sample news release form—News from: Auto Safety Research Center, Cleveland, room 102, Case Main, 10900 Euclid Avenue, (216) 229–3370, Cleveland, Ohio 44106.

Auto Safety Research Center, Cleveland

Initial Complaint Memo

(1) Consumer: Phone, Mail, In Person, Date, ASRC Staffer, Phone, File Number.
Name.
Address (home).
Address (office).
Phone (home) (office).
Owner of car (if other than person complaining).
Name.
Address (home).
Address (office).
Phone (home) (office).
(2) Complaint Against: Mfr., Dlr., Other, specify.
Name.
Address.
Phone.
(3) Summary of Complaint:
Type of complaint—
New Car (Sales).
New Car (Service-Warranty).
New Car (Safety Defect).
Used Car (Sales).
Used Car (Service).
Other (specify).
Ten word summary.
(4) Initial Action (Internal).
Complaint unfounded—Closed.
Referred to Bar Association.
Open—File assigned to———.
Status uncertain; referred to Project Director.
(5) How Left with Consumer.
Consumer will call.
We will call consumer.
Consumer will send documents.
Will set up appointment with consumer.
General Remarks:

Auto Safety Research Center, Cleveland

Developments Memorandum

(Use separate DM for each communication. Thank you.)

Consumer.
Date.
File.
Time.
ASRC staff member.
Communication With:
Consumer.
Dlr. or Mfr.
Other (specify).
Initiated by:
Consumer.
ASRC Staff Member.

Dir. or Mfr.
Other (specify).
How initiated:
By phone.
In person.
Contents:

Auto Safety Research Center, Cleveland

Details of Complaint

Name of consumer.
Name of ASRC staffer.
Date of initial complaint.
Date of this memo.
Make, model, year.
File number.

Type full details in chronological order of complaint. Refer where appropriate to attached documents (repair order, bill of sale, letters, etc.). Please make a carbon for project director.

Include the following data if available: date of purchase, serial number, mileage at time defect was first noticed, if applicable, etc. Attach additional sheets if necessary.

Auto Safety Research Center, Cleveland

Permission To Use Information

I authorize the Auto Safety Research Center to make use of the information I have supplied in the way(s) checked below.

(1) Unlimited use, or (check as many as appropriate).

(2) Media use:

To be mailed to the Center for Auto Safety in Washington, D.C. and to Ralph Nader.

Research use (tallying type of complaint, etc.).

To work with complaint only with dealer.
Other (specify).
I require the following restrictions:
No restrictions.
Don't use my name.
Don't use these items of information (specify).
Signed.
Date.

Auto Safety Research Center, Cleveland

Agreement

I agree to permit the (Cleveland Auto Safety Research Center) to represent me in resolving my complaint against (dealer and/or manufacturer). I understand that this representation cannot include practice of the law.

Signed.
Date.

Auto safety research center, Cleveland

Case conclusion

Consumer.
File number.
Date.
ASRC staff member.
Type of resolution:
ASRC handled to conclusion.
No case at all.
Referred to.
Other (specify).
Consumer dropped complaint.
Evaluation of case by ASRC staff member:
Total success.
Success (partial).
Failure.
No resolution.
Other (specify).
Comments:
Consumer evaluation:
Sent out (date).
Received and attached (date).
Follow-up (2 weeks later).
Date.
ASRC staff member.
General comments:

Auto safety research center, Cleveland

Consumer evaluation

(optional)

In order to assist us in performing a real service to the community that is of value, would you kindly give comment on the way in which your case was handled by us so that we may use your comments and criticisms to improve our work.

The Auto Safety Research Center is a young organization which is looking for comment to make it change in accordance with the desires of the people it is endeavoring to serve.

Please comment and return this form as soon as possible. Thank you for your time and consideration.

Comments: (Use additional paper if necessary)

TIME FOR GOP TO CLEAR THE AIR

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1971

Mr. WALDIE. Mr. Speaker, yesterday's Washington Star prominently featured an article, by investigative reporter Robert Walters, that raises serious questions about the financial arrangements for the Republic National Convention in San Diego next summer.

Mr. Walters reports that a subsidiary of the International Telephone & Telegraph Corp., has pledged up to $400,000 to help lure the Republicans to San Diego. If so, this would be the largest such grant ever made by a business for a political affair of this sort. The propriety of such a massive contribution, by a corporation with extensive Federal involvement, can, I think, be fairly questioned. Unfortunately, most of the individuals contacted by Mr. Walters seemed reluctant to engage in a frank discussion about the ITT arrangement.

The Republican powers-that-be should remove any lingering doubts by making a prompt and full disclosure of the background and exact nature of the ITT commitment to the GOP Convention.

Mr. Walter's excellent article, which should be of interest to our colleagues on both sides of the aisle, follows:

MONEY AND POLITICS: GOP CONVENTION PLEDGE QUERIED

(By Robert Walters)

SAN DIEGO.—Throughout the summer and autumn, political and civic leaders here have offered disparate—and often conflicting—explanations concerning the source, conditions and purpose of a $400,000 pledge to help finance next year's Republican National Convention in this city.

The pledge is an important element in San Diego's reluctant acceptance of the role as host city for the GOP convention, because it is the largest single component of the city's guarantee of slightly more than $1.5 million in goods, services and cash to offset partially the party's convention costs.

The $400,000 also is believed to be the largest individual pledge, by far, ever made by a business firm to assist in the financing of one of the quadriennial presidential nominating conventions held by the country's two major political parties.

Because the pledge was made by a corporation—the Sheraton Corporation of America, a subsidiary of the International Telephone & Telegraph Corp.—some Republicans and Democrats here have raised questions about compliance with the federal statute which prohibits contributions to presidential campaigns from business organizations.

SETTLEMENT CITED

In addition, the Southern California chairman of the Democratic State Central Committee has suggested that there might be a connection between ITT's financial support of the Republican convention and the Justice Department's willingness to accept an out-of-court settlement in a long-pending anti-trust case against ITT.

The first public disclosure that the city had a $400,000 pledge as part of its convention guarantee to the Republicans came on June 3 from Rep. Bob Wilson, R-Calif., whose district includes this city. Wilson, who is chairman of the House Republican Campaign Committee, said the money had come from "San Diego interests," but refused to provide any further identification.

Two days later, the San Diego Tribune reported that Wilson "said he was working with firms and individuals in San Diego to get pledges of support for the convention," again suggesting that there were multiple local sources of the money being raised to bring the convention here.

SOURCE WAS SECRET

But throughout June and July, the two months during which San Diego was putting together its formal convention bid and during which Republican party and White House officials were considering possible sites for the convention, the identification of the source or sources of the pledge remained a mystery to the public.

During that same period, Wilson and others involved in the local fund-raising effort repeatedly referred, in their public statements, to $400,000 (on some occasions the figure went up to $500,000 or $600,000) as an amount firmly committed in the form of contributions or donations.

That public display of confidence apparently was necessary for two reasons: First, President Nixon, whose permanent home and "Western White House" are located in San Clemente, 55 miles north of here, reportedly had selected San Diego as his personal choice for the convention.

BID APPROVED

Second, Miami Beach, the site of the 1968 Republican convention, was actively bidding to again serve as the host city for the GOP—and was offering a substantially larger financial guarantee, many more hotel rooms and a far larger convention hall.

On June 22, Gordon Luce, a San Diego attorney whose position as vice chairman of the Republican State Central Committee makes him a leading GOP figure here, discussed the necessity of meeting the Republican party's requirement of a financial guarantee, then optimistically reported: "Right now, we have a half million (dollars) of that from Bob Wilson."

On June 29, the San Diego City Council formally approved and submitted its convention bid, with a financial guarantee of $1,521,800, of which $900,000 was in the form of "goods and services." That category represents the value of the time of policemen and other municipal officials, hotel employes and the hundreds of other individuals who are expected to prepare for, run and clean up after the convention.

Of the remaining $600,000—the "cash" portion of the financial guarantee—$100,000 has been pledged by the area's hotel and motel owners and the city's Convention and Visitors Bureau, while another $100,000 will come from a San Diego County fund which earns more than $2 million annually through a 5 percent tax on all hotel and motel room rates.

The last $400,000, two-thirds of San Diego's entire cash contribution and more than a quarter of the city's total financial guarantee, is being underwritten by Sheraton-ITT—a fact not known to the public when the city submitted its bid or when the Republican National Committee selected San Diego as the convention site.

TIE IS BROKEN

On July 2, the announcement that "there is available $600,000 in cash, solid" came from

Leon Parma, a former administrative assistant to Wilson in Washington who now is vice president of the Teledyne Corp. and serves as chairman of the local convention fund-raising committee.

When the Republican National Committee met in Denver in late July to designate a host city for the convention, its site selection committee deadlocked 3–3 in the first vote pitting Miami Beach against San Diego. It then decided on San Diego.

On July 23, the full RNC ratified that choice by a 119–12 vote. That evening, Wilson addressed a $100-a-plate San Diego County Republican fund-raising dinner in nearby El Cajon, and again seemed to imply that the money had been raised in the San Diego area.

In discussing the source of the funds at that meeting, the congressman said: "The pleasant thing was that it was put together fast. There are a lot of good people here and I'm proud of the community for doing this at a moment's notice."

PLEDGE EXPLAINED

It was not until Aug. 5 that Wilson and Parma identified the "San Diego interests" who had pledged the $400,000—Sheraton, which operates a nationwide chain of hotels and has its corporate headquarters in Boston, and its parent company, ITT, one of the country's largest conglomerate corporations, with headquarters in New York.

At the same time, Parma announced that what he had described one month earlier as "$600,000 in cash, solid" wasn't quite that firm a commitment. Instead, he explained, the Sheraton-ITT pledge was only to guarantee payment of whatever portion of the $400,000 could not be raised locally.

"I don't think Sheraton will end up paying us much money," Parma said at the time. "The community will rise to the occasion." Two weeks earlier, prior to the identification of Sheraton-ITT, Parma had announced plans to conduct the local fund-raising drive, and said:

"My intention is that the monies would go to offset the $400,000 commitment. If we could raise $200,000 in the community, that would mean $200,000 less that the big contributor would have to come up with."

AMOUNT DISPUTED

Parma and other Republicans here defend the description of Sheraton and ITT as "San Diego interests" on the grounds that Sheraton already operates two hotels in the area and has a third under construction, while ITT operates a plant which manufactures underwater communications cable in National City, at the south end of San Diego Bay.

Attempts to contact Wilson about the fund-raising campaign have been unsuccessful because members of his congressional staff, both here and in Washington, repeatedly have rebuffed efforts to interview him either in person or by telephone.

Sheraton officials also are reticent about discussing the financial arrangement. Phillip Shea, the hotel chain's vice president in charge of public relations, says the $400,000 figure—one of the few details on which the San Diego officials have agreed consistently and unanimously—is "not correct." The amount is "substantially less," Shea says, but he will not provide the company's version of the accurate figure.

Parma, in a recent interview here, defended his and Wilson's earlier description of the $400,000 as a firm pledge from Sheraton-ITT. "If we asked, we could have a check for that amount from them any time we wanted it," he said.

WILL PRODUCE CASH

But Parma says that arrangement is only theoretical. In the same interview, he elaborated: "No one in his right mind ever dreamed that there was one company that was going to throw it all in. We will produce a reasonable amount of cash. There's no way they (Sheraton-ITT) can put up that kind of money. The law is very specific."

The statute to which he referred is the section of the federal Corrupt Practice Act which forbids corporate contributions to candidates running for president or vice president or to those seeking House and Senate seats.

The law has been enforced only on an erratic and highly infrequent basis—and never by an attorney general acting against a president of his own party. In addition, there are substantial questions about the prohibition's applicability to a presidential nominating convention, a function which lies in the "grey area" between being solely a party meeting or part of the presidential selection process.

Finally, whatever money Sheraton-ITT contributes is technically not a donation to the Republican party because it will be given first to the city of San Diego before being turned over to the GOP as part of the municipal donation.

ADS CRITICIZED

But there is no known precedent for a corporate contribution to a political party's convention even approaching the $400,000 mark. By comparison, the Democratic party became embroiled in a controversy prior to its 1964 convention when it solicited corporations for $15,000-a-page advertisements in its printed convention program. The Democrats' decision to raise the per-page advertising rates from $5,000 to $15,000 at the party's first convention in 16 years when it had an incumbent president in the White House seeking reelection was sharply criticized by Republicans as a not particularly subtle means of extracting illegal contributions from corporations doing business with the federal government.

A similar issue has been raised in the current case by M. Larry Lawrence, president and board chairman of the Hotel del Coronado in nearby Coronado and Southern California chairman of the Democratic State Central Committee.

"Leon Parma couldn't raise 23 cents if he went into a bank," says Lawrence, suggesting that Sheraton-ITT eventually will pay for more of the convention's cost than Parma and other Republican fund-raisers currently are predicting.

"The response to their appeals for money just isn't forthcoming because basically the community isn't happy with the convention," says Lawrence. "When you get down below 100 guys, there just isn't any support."

HUGE MERGER SET

Lawrence suggests that Sheraton has agreed to underwrite a major portion of the convention costs because Harold S. Geneen, ITT's president and board chairman, "is very close to the President and was having an anti-trust problem."

The public reports filed by Republican fund-raising committees show that Geneen was a major contributor to Nixon's 1968 presidential campaign. And the "anti-trust problem" to which Lawrence referred involves one of the largest mergers in American corporate history.

In early 1969, ITT, then the country's 11th largest industrial corporation, announced plans to acquire, through a merger, the Hartford Fire Insurance Co., of Hartford, Conn., at the time the nation's 6th largest liability and property insurance company.

(Both firms since have enjoyed substantial growth. ITT and Hartford now rank 8th and 4th, in their respective categories.)

On Aug. 1, 1969, the Justice Department's anti-trust division filed suit in U.S. District Court in New Haven, Conn., seeking to halt the ITT-Hartford merger plans on grounds that the acquisition would illegally restrain trade.

On the same date, the Justice Department also filed an anti-trust suit to block ITT's proposed merger with the Grinnell Corp. Three months earlier, government anti-trust attorneys had gone into court to challenge ITT's acquisition of the Canteen Corp.

At the time Sheraton-ITT turned up as San Diego's benefactor, trial courts had ruled against the government's anti-trust challenges in the Grinnell and Canteen cases, but the Justice Department had appealed the Grinnell decision to the Supreme Court and was considering similar action in the Canteen case. In addition, the trial of the Hartford case had been scheduled to start in September.

On July 31 of this year—eight days after San Diego, with a major financial assist from Sheraton-ITT, was selected by the Republican National Committee to be the host city for next year's GOP convention—the Justice Department and ITT announced that they jointly had agreed to an out-of-court settlement of all three pending merger cases.

TERMS FAVORABLE

The terms of the settlement of the anti-trust case were assessed by most industry officials as generally favorable to ITT.

The consent decree signed by both parties did require ITT to divest itself within two years of both the Canteen Corp. and the fire protection division of the Grinnell Corp., but ITT was allowed to retain the new acquisition it wanted most—the Hartford Fire Insurance Co.

Under terms of the agreement, the Hartford merger will go unchallenged if ITT divests itself within three years of four other subsidiaries—Avis Rent-A-Car, ITT Hamilton Life Insurance Co., ITT Life Insurance Co. of New York, and ITT-Levitt and Sons, Inc., and its subsidiaries.

On the day the anti-trust settlement was announced, the St. Louis Post-Dispatch carried a story quoting "reliable sources" as saying that two weeks earlier Wilson had met with Deputy Atty. Gen. Richard Kleindienst to discuss possible resolution of the Justice Department action against ITT. The newspaper account also quoted another source as saying that Wilson met with Geneen in New York in late June.

The allegation that the congressman was working concurrently to settle an anti-trust case against a company and to secure a $400,000 pledge from the same firm to help finance the Republican convention would raise a question of conflict of interest—but both ITT and the Justice Department deny that Wilson played any role in resolving the anti-trust suits.

WORKED WITH JAMES

On Aug. 5, when Wilson identified the source of the $400,000 pledge for the first time, he emphasized: "I worked with Sheraton President Howard James, who used to live in San Diego" and whose ITT subsidiary ostensibly was not involved in the anti-trust litigation.

Parma, in an interview here, said the pledge was made to Wilson on May 12, during ITT's annual meeting, held in San Diego for the first time this year and attended by Geneen, James and dozens of other ITT executives.

On several occasions during the spring and summer, Geneen—not James—was named as a likely source for the money San Diego needed to finance the convention.

Weeks before the pledge was made but long before the guarantor was known to the public, Republican leader Luce said the necessary funds could be solicited from "people like Harold Geneen, who are talking right now of having the Sheraton headquarters in San Diego."

And on July 3, the San Diego Union carried a story saying that Geneen "reportedly pledged the lion's share of the $400,000."

CITIZENS LEAGUE OF GREATER CLEVELAND

HON. JAMES V. STANTON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1971

Mr. JAMES V. STANTON. Mr. Speaker, the Citizens League of Greater Cleveland, a nonpartisan organization of public spirited citizens, is now celebrating its 75th anniversary and I would like to join in saluting the league on this auspicious occasion. As a result of its extensive activity in researching policy questions and evaluating candidates for office, the league has played a key role in both raising and resolving major political issues. The league has never hesitated to take a strong stand, and so it has often found itself at the center of heated controversy. Yet throughout this time, the league has maintained an enviable reputation for fairness and honesty. For the wise advice and counsel it gives to the voters and officeholders, and for the many other services it renders, all of Cleveland is in debt to the Citizens League.

A recent column written by Bob Seltzer of the Cleveland Press outlines some of the specific concerns of the league and its president, David Fulton.

BETTER GOVERNMENT SINCE 1896

(By Bob Seltzer)

Looking backward with pride in the Citizens League's 75 years of improving civic conditions in Cleveland, its president, David C. Fulton, espouses long-range objectives of the organization whose slogan is "Key to better government since 1896."

Fulton, executive vice president of Fulton & Goss Inc., mortgage bankers, will speak on "Right Here and Now" when the league celebrates its diamond anniversary at a luncheon Dec. 7 at the Statler Hilton Hotel.

"The league's No. 1 goal remains a reformed county government," said Fulton. "We feel we eventually must have county home rule, separate the legislative and executive branches, and end domination by the State Legislature.

"Our aim is to eliminate waste and inefficiency and bring solution of area-wide problems on an area-wide basis. We need a metropolitan sewer system, improved waste disposal, air and water pollution control. Transportation should be under county or regional authority. A jet-port in Lake Erie should be under county auspices.

"The league feels the nine county library districts and the six health districts should be consolidated. We need an area-wide approach to prevention of disease. Available federal funds should be sought for transportation rejuvenation."

Fulton said Rapid Transit should be extended to Parma, Cleveland Heights, Maple Heights and Garfield Heights. For the fourth time, the league is seeking passage of a conflicts of interest bill by the State Legislature, applying to legislative and administrative personnel.

"We are anxious for enabling legislation for an appointed county public defender," Fulton said. "The county now pays $500,000 a year to court-appointed lawyers for the indigent. We could staff an office of criminal law experts to counsel indigents.

"Registration for elections should be extended state-wide. Some counties now do not have to register. Political campaigns should be shortened. We seek a 40-day period between filing and the primary by moving the primary to June.

"Once again, the league calls for a reduction of Cleveland City Council from the present 33 to about 17 members, with some elected at large. It would be less provincial, more efficient. We also favor a different system of selecting judges by eliminating campaigning. In Missouri, a commission nominates three lawyers, and the governor selects one. The nominee runs on his record, and the voters either confirm him or vote him out for another appointee."

Fulton, 42, perceptive and trenchant, graduated from Cleveland Heights High School, majored in American studies at Amherst College and earned his law degree from Cleveland-Marshall Law School in 1958. From 1952 to 1955, he served as a lieutenant in the Navy. He is a past president of the Cleveland Junior Chamber of Commerce, and was named its outstanding young man in 1964.

His brother Thomas Q. is president of Fulton & Goss, and another brother, John M., is vice president-income loans. Their company was founded by their father, Fred C., and Harvey C. Goss in 1949. David long has been active in Cleveland Heights recreation. He and his wife Stella are parents of David C. Jr., 15; Chris, 14; Laura, 12, and Meg, 10. They live at 2248 Woodmere Dr.

[From the Citizens League of Greater Cleveland]

CELEBRATING 75 YEARS OF "DOING GOOD"

Seventy-five years ago, in Cleveland's centennial year, a group of young men, politically and civic minded, got together and decided to do something about government instead of just talking.

That's how the Citizens League came into being.

The League will celebrate the 75th anniversary of its founding with a luncheon meeting, December 7, at the Statler-Hilton Hotel.

Harry A. Garfield, eldest son of the martyred president, James A. Garfield, was the principal leader in pushing for the organization of a non-partisan civic league.

On November 14, 1896, Garfield persuaded 25 of his young friends to meet with him in his office to talk about the need to do something about Cleveland's dirty politics. Prominent among his cohorts were Rabbi Moses J. Gries, Frederick C. Howe, Charles A. Nicola and John Sherwin.

On motion of Rabbi Gries it was resolved at that meeting "that an organization be affected on permanent lines for the purpose of promoting the betterment of civic and municipal conditions in the city of Cleveland." A committee was appointed to draft a constitution and call a meeting of interested citizens.

On December 5, there were 116 Clevelanders at the organization meeting. Some of those present at the meeting whose names will be recognized by present-day Clevelanders were: H. B. and C. W. Burrows of the Burrows Bros. Co.; H. J. Halle, of the Buckskin Fibre Co.; I. P. Lamson and S. W. Sessions of the Lamson & Sessions Co.; Samuel Mather of the Pickands, Mather Co.; W. G. Mather of the Cleveland-Cliffs Iron Co.; D. Z. Norton and E. W. Oglebay of Oglebay, Norton & Co.; H. A. Sherwin of the Sherwin-Williams Co.; and Thomas H. White of the White Sewing Machine Co.

Among the purposes of the new organization, as set forth in the constitution, were "to induce citizens and taxpayers to take a more active and earnest part in municipal affairs, to devise and advocate plans for improvements in government, to promote businesslike, honest and efficient conduct of municipal affairs, and to secure the choice of competent officials."

Those were the days of Mayor "Curley Bob" McKisson.

Politics were rough and ready. There was talk of graft and corruption.

Harry Garfield became the first president of the new organization, with George T. McIntosh and Martin A. Marks as vice presidents.

The League has had 36 presidents in its 75 years. Living past presidents of the League are Elmore L. Andrews, D. Robert Barber, Warren Bicknell, Jr., F. J. Blake, George S. Case, Jr., Wendell A. Falsgraf, John H. Gherlein, Walter C. Kelley, Jr., Robert F. Longano, Robert H. Rawson, A. A. Sommer, Jr., Seth Taft, Herman L. Vail, Robert A. Weaver and Ben D. Zevin.

David C. Fulton is president of the Citizens League in this, its 75th year. Vice Presidents are Charles R. Ault and Frank A. Monhart. Mrs. Tommie P. Patty is treasurer.

The League has had 14 secretary-directors. First full-time director was Mayo Fesler who came to Cleveland in 1910 from a position as director of the St. Louis civic league. For three and a half decades the League and Fesler were synonymous. He was a hard-hitting curmudgeon, who called them as he saw them.

Estal E. Sparlin is the present director of the Citizens League, having come here in 1953.

First recorded crackdown on public officials by the newly organized Citizens League came in 1897 when it accused county commissioners of "extravagance, carelessness and chicanery." A year later the commissioner got another drubbing for their wastefulness in connection with the grading and draining of a rural lane known as Brecksville Road, now Highway 21 through Independence and Brecksville.

As early as 1913, the Citizens League was pointing out the inequalities of representation in the Ohio legislature because of the famous Hanna Amendment which gave each county a representative regardless of size. Mal-apportionment of the General Assembly was battled continuously by the league for all the years until the U.S. Supreme Court finally declared the system unconstitutional with its one-man-one-vote decision in the 1960's.

The League was in the thick of the fight to get municipal home rule in the Ohio constitution in 1912 and worked closely with Mayor Newton D. Baker to draft Cleveland's Charter, the first home rule charter in Ohio, in 1913. Baker was chairman of the charter commission and Fesler secretary.

In that same year the League saw the beginning of the merit system in public offices with the implementation by the General Assembly of a civil service provision included in the 1912 state constitution.

It was in January 1917 that the League started its long campaign to do something about the organization and powers of Cuyahoga County and intergovernmental relations in the Cleveland metropolitan area.

There have been some victories as well as losses during this period. Victories occurred when Sunny Acres and Highland View hospitals were transferred from the city to the county in the 1940's. Other successes came in the 50's and 60's with the transfer of all welfare administration to the county, the turning over of City Hospital—now Cleveland Metro Hospital—to the county, and the acquisition of the zoo by the Metropolitan Park District.

Other accomplishments by the League over the years are: complete revision of the state election laws, including the first requirement for reporting campaign expenses, in 1929; establishment of the Cuyahoga County administrative officer position in 1952; creation of the Cleveland personnel office in 1952; revision of Cleveland budget document in 1950; work with the late William A. Stinchcomb (a long-time League board member) to establish the Cleveland Metropolitan Park system in 1917; Cleveland's conflict-of-interest ordinance in 1961; installation of computers for the county's tax and accounting activities in 1964; consolidation of Parkview and Fairview Park in 1962 and Westview and

Olmsted Falls this year; and numerous others.

Both Director Estal Sparlin and his executive assistant, Blair R. Kost, are registered lobbyists in Columbus. Kost is often referred to as the "lonely lobbyist" because he doesn't have the finances to associate on equal terms with most other lobbyists.

Some of the bills being backed by the League in the current session of the General Assembly are: state code of ethics and conflict-of-interest bill; abolish mayor's courts; permit county commissioners to employ management consultants; require local hearings on liquor permit transfers; establish office of public defender; set primary election date later than May to reduce the long campaign; permit six jurors in civil cases; and nearly 20 others.

During all of its 75 years, the League's major program has been that of making recommendations on candidates for public office. This is probably the thing for which the League is most famous.

In spite of the League's disavowal of any intention to "tell you how to vote" it is well recognized by candidates for office that the "preferred" rating of the Citizens League is worth a sizable number of votes. Politicians may differ about the exact influence of the League but few question the importance of the league's approval.

The theme of the celebration "75 Years of Doing Good" is taken from the sometimes used expression that Citizen Leaguers are "Do Gooders".

ELIMINATION OF CANCER

HON. JOHN H. TERRY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1971

Mr. TERRY. Mr. Speaker, the Congress of the United States has recently accepted as a national goal, the elimination of cancer in the same manner that polio, German measles and numerous other diseases have been controlled.

The New York State Cancer Society which is headquartered in Syracuse, N.Y., conducts an annual contest among newspapers for the best commentary on our battle to destroy this disease.

The winner this year is Robert deF. Shelley, editor and general manager of the Lakewood Story published in Lakewood, N.Y. The editorial follows:

In Your Lifetime

The 1971 Cancer Crusade battle cry is "We want to wipe out cancer in your lifetime." A noble goal which is nearer than any of us think. Polio has been licked. Rubella (German Measles) can be prevented. And now they're talking about a cure for leukemia. Yes, a cure. And researchers are working feverishly to make Cancer an obsolete word in the English language.

It takes money. And plenty of it. But it's the best thing money can buy—life, a second chance for countless numbers of men and women. And it's not like you're spending the money for "them," an anonymous crowd of people who will suffer the agony and the untimely loss of life from Cancer. You're spending it for you and your family and your friends and your neighbors. Because Cancer isn't discriminatory. It can hit anyone, rich or poor, of any and all backgrounds. Someone you know has been felled by Cancer.

Here's your chance to put an end to this dread disease once and for all. When a Cancer Crusader comes to your door in the days ahead, be generous.

Think of it—a cure for cancer . . . in your lifetime. We're that close!

TO COMMUNISM FOR PROFIT

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1971

Mr. RARICK. Mr. Speaker, the announcement that our NATO allies Denmark and Norway are going the way of Sweden by diplomatically recognizing the Communist Party of North Vietnam is only surpassed by the Swedish announcement that they intend to give foreign aid to the Communist Parties of Cuba as well as Chile and North Vietnam. The sale of Saab and Volvo automobiles in the United States and other Swedish products in the United States must be highly profitable to Crown Prince Palme.

Sweden's Socialist support of other emerging Communist countries is only surpassed by the Moscow announcement that the United States may soon drop all significant restrictions on exports in the Soviet Union. Since U.S. industry has been priced out of the world market, one can only assume that the dropping of trade barriers with Russia is for the purpose of providing that Communist power with sophisticated machinery and products which Socialist countries have never been able to technologically achieve and construct.

I insert related news articles in the Record:

[From the Evening Star, Nov. 18, 1971]

Marxist Tug-of-War—Castro's in the Middle With Chileans

(By Merwin K. Sigale)

Concepción, Chile.—Fidel Castro is in the middle of the Marxist tug-of-war in this Chilean industrial and university city.

An extreme leftist group based in Concepción is hoping to use the Cuban premier's visit to further its cause, which is to pressure the government of President Salvador Allende into radicalizing Chile's march toward socialism.

"Fidel is ours. He is not the government's," said Marcelo Ferrada, professor of sociology at the University of Concepción and a founder of the Revolutionary Leftist Movement (MIR).

The MIR has clashed openly with Allende. It has called for quick and drastic measures, including abolition of congress and "bourgeois legality," wholesale nationalization without payment, and the installation of "a revolutionary government of workers and peasants."

HERO OF MIR

Castro is the hero and model of the MIR which was founded at the University of Concepción in 1965 and which has a largely student following here, in Santiago and some other cities. It also has front organizations in some farming areas, factories, slums and high schools.

MIR leaders interviewed before Castro arrived in Concepción said Castro has cautiously avoided comment on Chile's political affairs while visiting this country, but they hoped to put him on the spot today when he goes to the campus for a "dialogue" with the students.

About the same time, Castro was telling newsmen at Iquique in northern Chile that this country does indeed have a true revolutionary process, though distinct from Cuba's. Thus on record, Castro seemed unlikely to fulfill the hopes of the MIR.

TERRORISM HALTED

But MIR leaders hoped he would at least speak out against "sectarianism and opportunism," which are elements of Marxist disunity which the MIR blames mainly on the Communist party, one of Allende's coalition partners.

Pedro Naranjo, secretary general of the student federation at the University of Concepcion and a MIR leader, said Castro's presence would point up the Cuban example and enable Chileans to "begin to understand the differences between the two processes."

The MIR, blamed for a number of terrorist acts during the Christian Democratic regime of President Eduardo Frei, has virtually shunned violence since Allende took power with a coalition of Marxist and non-Marxist parties. But it has fomented dozens of land seizures by homeless peasants—which the government has denounced—and it has raised the tempo of its dispute with Allende on strategy and tactics.

ABOUT 200,000 HEAR SPEECH

MIR leaders proposed a suspension of the "polemic" during Castro's visit so the Marxist left could welcome him "united."

Such a welcome was given last night at the 35,000-seat soccer stadium here, where Castro addressed some 20,000 people, the largest audience of his trip.

But the unity did not extend to a sharing of grandstands. Several thousand MIR adherents occupied the upper deck in the west stands. Across the field in the east stands where Castro spoke was a larger crowd of Communists, Socialists and other groups in Allende's coalition.

[From the Washington Post, Nov. 27, 1971]

United States May Lift Export Controls

Moscow, November 26.—Commerce Secretary Maurice H. Stans indicated today that the United States soon may drop all significant restrictions on exports to the Soviet Union.

Stans told Western newsmen the subject was discussed during his current talks with Soviet trade officials.

"We pointed out restrictions have been greatly reduced in the last year and that we are in the constant process of reducing them," Stans said.

"We think that in a relatively short period of time this will not be a significant issue at all between the two countries."

Elimination of U.S. export restrictions would be a major stride forward in Soviet-American economic relations.

Stans' remarks came as the Supreme Soviet (parliament) wound up its three-day winter session by approving the national budget for 1972 and the five-year economic plan for 1971–75. Both were passed unanimously.

The new budget provides for expenditures of $192.6 billion and revenues totalling $192.8 billion. Defense outlays remain the same as in 1971 and 1970, a gesture apparently designed to emphasize Moscow's peaceful policies.

The new five-year plan, according to Premier Alexei Kosygin, provides for Soviet industrial and agricultural outputs to "exceed the present levels of the United States by the end of 1975."

The plan calls for an industrial output of $610.5 billion by 1975, including steel production of 150 million tons annually. The 1975 grain harvest will reach 200 million tons, compared with roughly 180 million this year.

Kosygin spoke briefly before the vote was taken, calling for improved quality of production in consumer goods industries. The unanimous outcome of the voting was never in doubt, since the Supreme Soviet is a rubber-stamp body normally approving all decisions reached by the party central committee.

The five-year plan was to have been approved by the summer session of the Supreme Soviet, which was not held this year.

[From the Washington Post, Nov. 6, 1971]

SWEDEN CONSIDERS CHILE AID

(By Lewis H. Diuguid)

SANTIAGO, November 5.—While the prospects of future U.S. economic assistance to Chile seem nil because of the recent expropriation of U.S. copper interests, Sweden is seeking to launch an aid program here for the same reason.

Swedish diplomatic team told Foreign Minister Clodomiro Almeyda this week that in line with Sweden's interest in assisting countries seeking economic independence, the country was very interested in helping Chile.

The only Latin American country currently included in the Swedish aid program is Cuba. Other recipients include India, North Vietnam and several African countries.

Ehren Preis, a member of the three-man mission from the Swedish foreign ministry, explained that the purpose of the visit was to ask the Chilean government to propose projects in which Sweden could assist. He said the group was impressed with Chile's potential for coming up with viable projects.

Aid has become a lively issue in Stockholm, where the Social Democratic government can now obtain a parliamentary majority only with the cooperation of the Communist party.

Preis said Sweden was determined to fulfill the goal set by the United Nations Conference on Trade and Development: that developed countries should devote 1 per cent of their gross national product to aid lesser developed countries.

Sweden's annual assistance now runs at .8 per cent, he said. U.S. government aid has been below that level in recent years.

Sweden's aid to individual countries is not large. Preis said the program in Cuba may eventually reach $4 million annually.

The Swedish program includes technical assistance, grants, and in some cases credits for import of Swedish goods. But Preis stressed that the government maintains a strict separation between the program and the interests of private Swedish exporters.

Ironically, the potential project most interesting to the Chileans appears to be a fishmeal process that makes that high-protein product palatable for humans—and that process is offered by a private Swedish firm.

In the 1960s, when Chile was receiving more U.S. aid per capita than any other country, the Americans promoted a similar fishmeal process only to have it vetoed as unsanitary by U.S. health officials.

Chile imports beef at great cost while fish along its 2,000-mile coastline are exploited only haphazardly. Fish meal is produced but for fertilizer, which is exported.

The Swedish mission's visit coincided with one by a Czechoslovak group. At least one East European mission always seems to be in this city, working out trade, cultural or technical exchanges.

[From the Washington Post, Nov. 26, 1971]

TWO NATIONS AGREE TO HANOI TIES

Denmark and Norway yesterday announced that they had reached agreement with North Vietnam to establish diplomatic relations at ambassadorial level.

They became the first members of the North Atlantic Treaty Organization to establish diplomatic ties with Hanoi.

The announcements were made simultaneously in Copenhagen and Oslo.

In Copenhagen, the foreign ministry said Ambassador John Stenbaek Hansen in Peking would also be accredited in Hanoi.

In Oslo a foreign ministry spokesman said Norway's envoy to Peking, Per Ravne, will also serve as ambassador to North Vietnam.

The only other Western nations that recognize the Hanoi government are Sweden and Switzerland.

[From the Washington (D.C.) Evening Star, Dec. 1, 1971]

U.S. COMPANIES AND RUSSIA CLOSE $125 MILLION DEAL

MOSCOW.—A group of American companies and the Soviet Foreign Trade Ministry have signed contracts worth $125 million in what appears to be one of the largest business deals between the two countries in recent years.

The transaction, involving the sale of American ore-mining and oil-drilling equipment in return for unspecified Soviet nonferrous metals, was signed by Satra Corp. of New York, which represented the American companies.

American officials were unavailable for comment on the background of the deal, which amounted to nearly two-thirds of the entire annual trade volume between the Soviet Union and the United States in recent years.

BRAINWASHING BY THE NETWORKS

HON. WILLIAM L. SPRINGER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1971

Mr. SPRINGER. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following: John Chamberlain, formerly chief book reviewer for the New York Times, and contributor to Barron's and the Wall Street Journal, and chief editorial writer for Life, has written an important and quite revealing article in the November 5 issue of National Review titled "Edith Efron's Murderous Adding Machine."

It has often been said that statistics which are accurate do not lie. I have found no writer and no TV commentator who has disputed the facts which Miss Efron has laid out. She has not attempted to dispute interpretation of what the commentator has said, but she has taken an important word count of "for" and "against."

Mr. Chamberlain's article has attempted to take some of the various items featured in the Efron book, The News Twisters, beyond that involved in the presidential election in an effort to find out on which side of the political spectrum the TV commentators lean. It is an interesting article and I believe my colleagues will be happy to read it.

EDITH EFRON'S MURDEROUS ADDING MACHINE

(By John Chamberlain)

I knew Whittaker Chambers for years before I was aware of the Hiss case. During all that time his qualitative analysis of the nature of the Soviet threat was absolutely brilliant, but unfortunately it convinced nobody save those who were convinced already. Then Whit produced his Pumpkin Papers, which, in a sense, quantified his arguments. At this point he was taken seriously. Hiss went to jail and the country, for a moment, believed in the reality of the cold war.

This did not help Senator Joseph McCarthy when he couldn't corroborate his first statistical count of the number of Communists in the State Department. Our great quantifying country, which puts its entire faith in polls, demanded that Senator McCarthy produce item-by-item proof of his allegations. A qualitative statement that, judged by its behavior, the State Department must be under considerable fellow traveler influence, and that it didn't matter much whether there were fifty or 205 Communists in Foggy Bottom, didn't serve to save Joe at all. He had sinned against the gods of statistics by failing in a simple sum in addition.

Vice President Spiro Agnew didn't make Joe McCarthy's mistake when, in 1969, he waded into the TV commentators for abusing the Federal Communications Commission's Fairness Doctrine in reporting on Richard Nixon's Vietnam stance. But his qualitative approach wasn't enough; the networks relying on what they thought was the nonexistence of statistics bearing on the Fairness Doctrine, simply produced their own qualitative answer to Spiro. They said he was ag'in the Bill of Rights and was guilty of encouraging fascistic repression.

It did not matter that Edith Efron, a staff writer for *TV Guide*, had interviewed commentator Howard K. Smith a couple of months before Agnew's speech and had received, from one reputable horse's mouth, a statement that TV news "analysts" strove above all to please Walter Lippmann. Smith had not quantified his criticism; he had merely spoken from his heart—from what he had experienced.

WHO ARE THEY "FOR"?

Even before she interviewed Howard Smith or had listened to Agnew, Edith Efron was aware that some way must be found to tabulate bias, and to carry the tabulation out to the last decimal point, if one were to make charges of TV intellectual crookedness stick. With a grant from the Historical Research Foundation, and with the help of Clytia M. Chambers of the Hill and Knowlton Company, Edie Efron set about the formidable task of turning quality into quantity. First, she set three tape recorders to work transcribing all the 7 to 7:30 p.m. prime-time ABC, CBS and NBC network shows from September 16 to November 4 in the 1968 Presidential year. Then she winnowed out the unimportant stuff, keeping a hundred thousand words per network that bore on the Nixon-Humphrey contest.

There was, of course, the big issue of the Presidential race itself. But there were also the sub-issues, ranging from racism and the black militants to the "kids" on the campuses and in the streets of Chicago. Listing under topic heads what the reporters, the public personalities, the politicians and the candidates themselves had to say, Miss Efron broke everything down into simple "fors" and "againsts." Then she and her researchers started counting. It was a laborious way of arriving at what anybody in his right mind should have known anyway, but the point is that, outside of the "Silent Majority," there aren't many people around these days who seem to have any minds whatsoever. Only a statistical count would be irrefutable even to dopes in a quantity-minded society.

Naturally, what Nixon said during the campaign was pro-Nixon, and what Humphrey said was pro-Humphrey. So we scratch the "fors" and the "againsts" as represented by big partisan rhetoric. The true test of the Fairness Doctrine came when Miss Efron added up the "fors" and the "againsts" as divulged in the prime-time talk of the public personalities and the network editorialists, news analysts and reporters.

Miss Efron explains the methodology of her study and presents summaries of the evidence in a series of devastating appendices to her book, *The News Twisters* (Los Angeles, Nash, $7.95). The main text of the book presents the finished analytical product of the counting. Of particular note are the pages devoted to bar graphs which tell the story in its stark simplicity. On ABC the number of words spoken for Richard Nixon was 869 as compared to 7.493 against. The CBS Nixon "for" count was 320; the "against" count was 5,300. On NBC it was 431 "for" to 4,234 "against." Humphrey, as a candidate, did not benefit as much as might have been expected from the widespread network distaste for Richard Nixon; he got 4,218 "fors" from ABC as compared to 3,569 "againsts," and 2,388 "fors" from CBS as against 2,083 "againsts." With the NBC count a curious thing was disclosed; this network, which had gone against Richard Nixon by a ten to one margin in the Efron tabulation, actually came up with 1,852 counts "for" Hubert Humphrey and 2,655 "against." With NBC it was, more or less, a case of not liking either candidate very much.

THE SANDWICH THEORY

Translating the statistical evidence into words, Miss Efron colors the business a bit by remarking that the commentators and reporters were virtually agreed in describing Nixon as "a demon out of the liberal id." This is a qualitative evaluation of the situation, and it could be discounted as such if it were not for the sheer arithmetic of the bar graphs, an arithmetic that is about as unemotional as a fence post.

When it comes to the TV reporting on the ten "related issues" of the campaign, Miss Efron's tabulations offer unassailable proof of a widespread network "liberal" bias. Turning the cold arithmetic of the adding machine into words, we discover that, as TV saw it in the autumn of 1968, the war in Vietnam was all wrong. As Miss Efron puts it, the "drumbeat of synchronized opinion" on the war was so "crude" that there is almost "nothing to analyze, no special documentation to isolate." With an "editorially selected alliance of a couple of 'dove' Republicans and Democrats; domestic Communists and far-left organizations; politically unidentified 'students' and 'pacifists'; foreign leftists and 'neutralists'; network reporters; and the enemy itself," the leftists had the prime time practically to themselves when it came to talking about the war.

Opinion on the other side of the "dove" versus LBJ controversy was, as Miss Efron describes it, "a calculated void." Opinion in favor of the LBJ war policy was "flatly omitted by NBC News." CBS and ABC covered the pro-LBJ case symbolically, by relaying a few opinions from the Administration itself.

The Efron count tells the same sort of story about the TV coverage of domestic issues. According to TV editorialists and reporters, liberals are the good guys while the conservatives are almost universally afflicted with evil intentions. On ABC conservatives, during the 1968 campaign prime time, were criticized "as violent; as racist advocates of law and order; as rude; as stupid." On CBS, they emerged "as racist malcontents." On NBC they were depicted as "plotters against black militants" and "as the cause of racist violence." The white middle class emerges from the Efron count as "prosperous, self-pitying, mediocre," as "culturally limited," and as "authoritarian-racist-militaristic advocates of law enforcement against black criminals." Black militants, on the other hand, were glamorized in the 1968 TV coverage; their violence was "justified" by social circumstances. As for the kids on the campuses and in the streets, they were merely "hecklers" and "demonstrators" even when they were doing the vilest and most violent things.

Ditto for the Left in general—the Efron count has it that TV opinion "portrays the Left as harmless, friendly, idealistic, funny, young, 'restless' and trustworthy," As Jerry Rubin and Abbie Hoffman might say, "Right on!" But who, on TV, ever described the smell in the Conrad Hilton lobby in Chicago after the "idealistic" and "friendly" young "demonstrators" had finished spreading their favorite effluents around?

Miss Efron's study moves on from the analysis of the counting to a sophisticated detailing of some thirty-odd methods of misrepresentation used by the majority of TV commentators and analysts. There is the commentator who "reports" on the buried emotions and the unconscious psychological motivations of single persons and of crowds ranging up to a half-million people. There are the reporters who hide behind "anonymous" sources. There is the analyst who presents Eldridge Cleaver as an "enthusiastic" fighter for Negro "rights." There is the "poison sandwich" and its opposite, the "sugar sandwich," which bury one opinion by sticking it in between an introduction and a conclusion that the analyst prefers to support.

ONE PLUS ONE PLUS . . .

It is not only the conservative cause which has suffered from the networks' inability to abide by the Fairness Doctrine. Miss Efron's inexorable count shows that the members of the black community who reject the leadership of the Panthers have been almost totally ignored on television. The New Left itself has cause for complaint; TV reporting has been unable to distinguish between the crazies of the radical movement and those who follow articulate leaders such as Paul Goodman for reasons of genuine philosophical conviction. In short, the really big trouble with the TV networks is that they have had no journalistic imagination whatsoever.

As for Miss Efron herself, the FCC would do well if it were to hire her to monitor the application of the Fairness Doctrine. Heaven knows that she is impartial. Her own position on the Vietnam war differs radically from that of LBJ or Richard Nixon: She wouldn't have sent a single U.S. soldier to South Vietnam as long as we were following a policy of "building bridges" with Communist countries in Eastern Europe. She was once married to a Haitian, which means that her views on "race" can hardly be called troglodytic right wing. She doesn't approve giving subsidies to industry, which would put her at odds with Richard Nixon on the recent Lockheed deal. She comes from a radical New York City background: In her teens she listened to her Uncle Joshua Kunitz, the Communist poet and editor, proclaim the glories of the Soviet Union around the house. She broke with the Communists at Barnard College for aesthetic reasons; she couldn't stand the prose in their literature. I knew her at the Columbia School of Journalism in the early Forties; she was not "ideological" then, only skeptical of all systems. She had been accused of getting her libertarianism from Ayn Rand; actually, she became an anti-statist in Haiti, where she saw from closeup what a little application of capital plus "sweat equity" could do if government would only let the enterpriser alone.

If a girl who does not exactly love the Nixon Administration could produce such a completely fair study, the networks should give her the utmost respect. But they've already gone into battle, hiring sociologists from Harvard and such to pick on little errors and try thus to discourage her thesis. Even so, the TV handling of the 1972 election will be entirely different. The networks will know that someone, somewhere, is recording what is said on the prime-time programs and has an adding machine ready for the tell-tale count.

GRASSROOTS OPPOSITION TO "CHILD DEVELOPMENT" SCHEME IS GROWING

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1971

Mr. ARCHER. Mr. Speaker, citizen groups across the country are beginning to take notice and oppose the controversial child development scheme now pending before Congress. In a recent editorial broadcast a Washington radio station, WTOP, endorsed the proposal. A contrasting view was submitted to the station by Dr. Onalee McGraw, on behalf of the Citizens United for Responsible Education, a suburban Maryland organization. The reply, which was also aired over WTOP, offers a brief summation of the dangerous aspects of the proposal. The following is the full text of Dr. McGraw's editorial reply:

WTOP has offered me an opportunity to respond to their editorial advocating the enactment into law of the Comprehensive Child Development Bill presently pending in the Congress. As the Director of Curriculum for Citizens United for Responsible Education, an education group in Montgomery County, I have had an opportunity to examine the mental health approach to education imbodied in this bill and so dominant in our schools. The proponents of this philosophy consider that the primary purpose of education is the conditioning of the child through behavioral techniques to adopt the attitudes and values which they, the social planners, believe to be the most desirable. Perhaps the best known of these proponents is B. F. Skinner, whose recent book, *Beyond Freedom and Dignity* has raised the spectre of a totalitarian society. At the very same time when the fundamental unit of our society, the family, should be strengthened, this bill would further erode the rights and responsibilities of parents and establish the position that the child is the creature of the state. We urge the defeat of the Child Development Bill and the veto of the President if enacted. We must not "free the mothers" to enslave their children.

CHALLENGING THE CORPS

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1971

Mr. WALDIE. Mr. Speaker, I often had the occasion to speak in opposition to the practices of the Corps of Engineers, especially with regard to the development of dams, canals, and other structures on the rivers of the West.

Thus, I find it very pleasant, indeed, to comment favorably on the corps.

Mr. Speaker, I take this opportunity to insert in the RECORD a recent article in the San Francisco Chronicle written by Harold Gilliam which deals with the efforts by the corps to give new emphasis to the environmental impact of traditional engineering projects which have been the sole means of solving flood control or navigational problems.

This new emphasis by the corps is most commendable and would seem to me to be an integral part of the effort to preserve and protect our natural resources and our environment.

The article follows:

CHALLENGING THE CORPS OF ENGINEERS

(By Harold Gilliam)

To most conservationists, the Army Corps of Engineers has traditionally represented The Enemy. In the name of flood control the Corps has turned innumerable living streams and rivers into sterile concrete channels, has mown down countless trees and inundated scenic canyons behind its dams.

Having sharply criticized the Corps on this page at various times (the Napa river, Dos Rios dam, Tamalpais and Corte Madera creeks, Pescadero creek), I was surprised and suspicious last year when I was asked by the Chief of Engineers in Washington to serve on a new six-man national Environmental Advisory Board to the Corps. My first impulse was to decline. I had little desire to cooperate with an organization that seemed to be perennially engaged in the destruction of the natural landscape.

Ultimately, I decided to accept. The chief reason was curiosity. Perhaps the most urgent issue of our time is the conflict between engineering and ecology; development and conservation; technology and the environment. Can this nation, dominated for two centuries by the drive for development, now change its course and begin to give high priority to the natural systems that nurture all life on earth?

NO BETTER PLACE

I could think of no better place to look for an answer than in a continuing around-the-table confrontation between engineers and environmentalists. If it did not work out, I reasoned, I could always resign.

After six two-day meetings over a period of 18 months, not all of the questions have yet been answered. Inevitably there have been disagreements and frustrations on both sides, but the effort has been mutually educational, and I believe has a potential for significantly affecting Corps activities.

What follows is an unofficial, necessarily fragmentary, report on the board's experience to date—as viewed by one of its members. (The other members are Roland Clement, Vice President of the National Audubon Society and current chairman of the advisory board; Professor Linton K. Caldwell of the University of Indiana, one of the authors of the National Environmental Policy Act; Charles H. W. Foster, Resources Director for the State of Massachusetts; Richard H. Pough, President of the Natural Area Council; and Charles H. Stoddard, former Director of the Bureau of Land Management.)

A NEW BALL GAME

F. J. Clark, Chief of Engineers, and his staff are well aware that this is the new era of the environment and that new values must govern all public projects. "We know," said one of his aides, "that we're in a new ball game with new rules."

The new rules are based on the National Environmental Policy Act, which became effective last year and requires, among other things, that all proposals for Federal projects be accompanied by statements detailing the environmental impact to be expected and all possibilities for alternative courses of action.

The chief effect of this law has been to require the Corps to look at alternatives that it would not have considered before. One example is the Morrison creek proposal near Sacramento. The District Engineer has recommended that instead of channelizing the lower portion of the creek to prevent flooding, the creek remain in a free-flowing state and be permitted to overflow onto its flood plain at high water, maintaining the natural ecosystem and wildlife. The county Board of Supervisors, evidently influenced by developers who want to subdivide the flood plain, in effect vetoed the Corps proposal. Later, however, an election brought in a new majority favorable to the recommendation.

THE EEL RIVER

The San Francisco District Engineer has suggested another non-structural solution for the flood plain of the Eel river: Restrict development there to non-permanent structures—such as trailer parks—and develop a flood warning system for evacuation in emergencies. Local authorities wanted channelization but are considering this recommendation.

Both of these cases highlight a little-understood point about the way the Corps works. The Corps has no authority to initiate projects. It cannot turn a shovelful of dirt or even make a study until ordered to do so by Congress at the request of local city or county officials. Theoretically, then, the Corps can only act as a response to local requests. But there is more to the story than that. An engineer who has studied a flood-control problem for months or years and has recommended a project would be less than human if he did not feel obliged to defend his recommendation when it was criticized. Although the Corps may never officially promote a project, it is very difficult to avoid a vested interest in a particular solution.

In order to counterbalance this built-in bias and to emphasize environmental values, the Environmental Advisory Board has made a number of recommendations for new Corps procedures.

NO AUTHORITY

One point must be emphasized: The board has no authority or ability to settle ongoing controversies over particular projects, some of which have been in dispute for years. The board's function is to advise the Corps on how it can avoid such controversies in the future. To that end, we have so far made 26 recommendations. The Corps has accepted most of them, indicating that some represent existing Corps policies. Discussion continues on their implementation.

Those accepted so far include a forthcoming Corps statement on environmental quality with emphasis on the value of free-flowing streams; evaluation of all proposed projects by environmental teams representing the social and natural sciences; in-house training programs to educate all personnel in environmental matters; professional environmentalists as full-time staff members at all levels; evaluation of non-structural solutions in all cases (such as flood-plain zoning or purchase instead of channelization); alternative solutions to include an assumption of zero population growth in the project area; selection of the least environmentally damaging alternative in the case of divided scientific opinion; no requirements that environmental costs be financed locally; no limitations of Corps recommendations to the lowest-cost solutions; research on modification of benefit-cost analysis to include environmental values; pilot programs in waste water recycling.

FURTHER DISCUSSION

Discussion also continues on the recommendations not yet accepted including proposals for local environmental advisory boards or similar methods of regular contact with environmental organizations (some Corps districts, including those in California, already have such arrangements); for statewide environmental inventories; for a requirement that all Corps projects conform to local or regional land-use plans; for Corps notification that no flood-control projects be constructed to protect buildings subsequently constructed on designated flood plains; for a special appeals procedure for review of controversial cases that cannot be settled at the local level.

The Corps does not believe it has legal authority to carry out some of these proposals, and new legislation may be needed.

The board welcomes public suggestions for further recommendations. It will of course do no good for any recommendations to be adopted in Washington unless they are diligently applied at the local level. Here is where local environmental groups must go into action, monitoring Corps studies, offering advice and cooperation in applying these policies. The national board can only help provide the environmental tools. The rest must be done at the grass roots.

THE WINDING DOWN OF THE WAR IN SOUTH VIETNAM

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1971

Mr. BOB WILSON. Mr. Speaker, I include the following editorial from the Washington Post of November 29, 1971.

The editorial follows:

THE WINDING DOWN OF THE WAR IN SOUTH VIETNAM

(By R. W. Komer)

It is depressing but unsurprising that our Vietnam trauma should still cause controversy even over such largely factual issues as to whether that tragic war is declining in intensity, with Saigon at least temporarily out ahead. On the one hand Secretary Laird affirms after his latest visit to Saigon that with the war winding down the Nixon administration has achieved its goal of giving South Vietnam a reasonable chance to survive. On the other hand Sanford Gottlieb of SANE tells a war protest rally that contrary to common belief the war "is not winding down." Is the tempo of conflict actually declining, or, as Herbert Mitgang told us in The New York Times a few months ago, is it merely the "biggest public relations triumph of the administration thus far?"

Who is right? What are the facts, insofar as they are discernible? Whatever the rights or wrongs of our Vietnam intervention, or whether the Thieu regime even deserves to survive, the question of whether its prospects have improved seems of more than passing moment.

As a one-time participant I may be a biased witness. And what has passed for fact on Vietnam has often proved irrelevant if not illusory. But surely it should be possible to shed more light on whether the shooting war is as intense as ever, and whether the Saigon government's position is stronger than it was three years ago. Much open evidence is available to anyone who asks for it, though few seem interested enough to inquire any more. Such is the still enormous credibility gap.

The fact is that by almost every conceivable measure the intensity of conflict has dropped sharply from 1968–69 levels, and even 1970. Of course, it has dropped off more in some respects than in others, leading some to say that all that's really happened is that the Americans are turning the war over to the Vietnamese.

But let's take the most obvious measure of conflict intensity—the grim casualty toll. The Pentagon says U.S. casualties are down about 90 per cent from early 1969. If this was attributable only to U.S. troop withdrawal, then presumably South Vietnamese casualties would rise.

Instead of rising, however, these are down modestly over the same period too, despite the fact that the Vietnamese have taken over much of the burden and have been fighting in Cambodia since mid-1970. Their casualties were quite high in the first quarter of this year because of the major raid into Laos and heavy fighting in Cambodia. But during the most recent five-month period for which figures are available, April–August 1971, Vietnamese casualties are down 11 per cent from the same period in 1970.

Indeed regular ARVN troops, who are most comparable to the departing U.S. forces, took 26 per cent fewer casualties during April–August 1971. As has been the case since mid-1969, the bulk of Vietnamese losses has been taken by the neglected South Vietnamese militiamen.

What's happened to the war? The news media naturally focus all the more on what fighting remains, which distorts the picture.

Actually, the level of enemy attacks, shellings, harassments, and terror incidents has been declining since 1968. In the last few months they seem to be running less than half of what they were in the peak war months during 1968.

Almost all the remaining large-scale combat is taking place in remote northern frontier areas or in Laos and Cambodia, not in most populated areas of South Vietnam. So by the only available count Vietnamese civilian casualties have fallen greatly too.

One obvious retort is that the war has simply been exported to Cambodia and Laos, with undiminished intensity. This too falls down in fact of the facts. Even Southeast Asia-wide the shooting, the killing, and the destruction are sharply down during 1971. To date the 1971 level of casualties and bombing sorties in Cambodia seem to be lower than in 1970 (Laos may be an exception but only because of the ill-fated ARVN incursion of last April which seems unlikely to be repeated on any such scale).

What about the argument that though ground combat has declined, the slack has been taken up by intensified air war? This too hardly squares with available facts. By whatever measure—sorties flown, bombs dropped, number of aircraft involved—the allied air effort in Southeast Asia as a whole has dropped substantially since 1968–69.

While recent press stories cite a new Cornell University study as saying that more bombs have been dropped in the three Nixon years 1969–71 than in the last three Johnson years 1966–68, this obscures the fact that bomb tonnage actually peaked in 1968 and has been going down every year since.

And to those who equate bombs dropped with genocidal tendencies, it's only fair to note that the great bulk of the current air effort is in practically unpopulated areas like the Ho Chi Minh Trail, another notable change from earlier years.

It stands to reason that U.S. war costs, which go mostly for U.S. forces with their immense firepower, have been dropping rapidly too. They are already less than half the 1968 spending peak, and are now dropping more rapidly than before. We may even be shipping a larger volume of military material out of Vietnam these days than we are shipping in.

As for the current picture in the Vietnamese countryside, let me eschew any comparison based on "computerized" statistics, since even using a computer as an adding machine seems to bother the press. We have plenty of eyewitness accounts from those who have visited Vietnam both before and after Tet 1968, two recent examples being Secretary Laird and columnist Joseph Kraft—the latter hardly a raging hawk on Vietnam. While neither seemed willing to stick his neck out as to their permanence, both seemed struck by the at least short-term gains made by the Saigon regime. And these are not exclusively military by any means.

For a program declared "dead" in an article in The Washington Post right after Tet 1968, the U.S.-backed South Vietnamese pacification effort has proved a lively corpse. One result of improved security is that, while the ghastly refugee burden is still far too high, far more refugees have returned to their villages over the last few years than new ones have emerged.

While some critics still talk of "ecocide," South Vietnam also recently brought in the largest rice crop in its history.

Or take land reform, lack of which was a favorite U.S. complaint before the GVN finally passed a radical law in 1970 but which has hardly been mentioned in our media since. From the figures available, some 750,000 acres have already been distributed to small farmers in little over one year—no mean accomplishment even for a country at peace, and surely impossible if Vietnam's countryside were still engulfed in war.

One does not have to accept Thieu's suspiciously overwhelming mandate in what passed for an election last October to speculate that improved security, control of inflation, land redistribution, higher crop output, and the like might have contributed to Thieu's capture of a still predominantly rural vote.

Of course the war's winding down to date reflects more than the impact of U.S. firepower, ARVN prowess, or pacification gains. Indeed it's interesting that the war has wound down despite U.S. withdrawal of over 350,000 troops since mid-1969. This almost suggests that all those Americans might not have been so necessary in the first place as many of us used to think.

It also reflects the way Hanoi has been husbanding its resources by reverting to a protracted war. But it is too simple to ascribe this wholly to a Machiavellian strategy of waiting out U.S. withdrawal and then crushing the Saigon regime.

To a great extent this strategy has been forced on Hanoi by its own great losses—especially of irreplaceable Vietcong cadre in its three abortive Tet and post-Tet offensives of 1968—plus ARVN incursions into the formerly privileged enemy sanctuaries in Cambodia and Laos. Unfortunately, our tactical intelligence is still so feeble that we don't have enough detailed feel for how strong (or weak) the enemy now is. Yet even the worst calamity howlers in Saigon seem to have ceased talking up another countryside Tet-type offensive as a live possibility for the next year at least.

Indeed, as Mr. Kraft recently pointed out, critics of the war may need to update their thinking. This is not to say that the war was justified whatever its current state, or to deny that the horrendous costs involved were out of all proportion to any gains. Nor is it to excuse all the errors and excesses. It is simply to say that in the short term at least Saigon's position seems to be far stronger than at any time since 1962 or so.

But what of the future? The tempo of conflict may rise temporarily again during the annual winter-spring campaign season. After all, Hanoi can still infiltrate thousands of troops and keep the pot boiling indefinitely—even if the U.S. keeps bombing and strafing the Ho Chi Minh Trail. Moreover, Saigon's record in dealing with the underlying causes of the Vietcong revolution is still spotty at best. But those who look for new Hanoi offensives to cause early Saigon collapse ignore the tremendous changes in the nature of the conflict within South Vietnam itself.

Up through 1967 most of the forces arrayed against Saigon were southern Vietcong, not regular troops from the North. Today the VC recruiting base is attenuated, VC guerrillas have been decimated, the VC main forces were crippled at Tet 1968, and the bulk of the troops now arrayed against the GVN are Hanoi's regular troops. Thus the VC revolution may have shot its bolt.

Granted that so long as its key politico-administrative cadre remains intact it could make a comeback—especially if Saigon fails to consolidate its short-run gains. Unless this happens, however, why should Hanoi keep sending troops year after year down the Trail? Better perhaps to count on waiting till the Saigon regime's own "internal contradictions" again create a ripe revolutionary situation in South Vietnam.

So those like Cabot Lodge who predicted that this ghastly war would eventually fade away may prove right after all. One may take little comfort in this prospect, given the war's traumatic impact on both Vietnam and the United States. Yet whether the war fades away or periodically heats up again, there's no blinking the overwhelming evidence that it has wound down a long way from what it was in 1968 or even 1969.

It is hard to divine this from TV or the daily prints, but even Mr. Nixon's war is a far cry from what it used to be.

CIVIL RIGHTS STILL DENIED LARGE GROUP OF AMERICANS

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1971

Mr. BIAGGI. Mr. Speaker, this body has always shown great concern for civil and human rights. In 1964 and 1965, Congress approved landmark legislation guaranteeing basic civil and voting rights to all citizens. In recent months, many Members have protested the denial of human and civil rights to the Soviet Jews and the citizens of Northern Ireland.

However, right here in the United States there is a large segment of our population that is consistently denied the basic civil rights we have all presumed to be guaranteed by the U.S. Constitution. That group is the law enforcement officers of this Nation, the men we call on to assure the rights of others.

Mr. Speaker, I am going to insert in the RECORD at the end of this statement two articles on court cases which clearly show that a police officer today does not enjoy the rights of due process afforded all other citizens.

In the first case, the Federal District Court for Northern Illinois said a police officer was not entitled to legal counsel at a departmental hearing—a hearing that could result in the loss of one's job or in being charged with a crime. The judge ruled that—

> If every officer who appeared before the Panel were to invoke the full panoply of judicial process, serious impairment of the disciplinary processes of the Chicago Police Department could occur.

Is this equal justice? Not since before the *Miranda* and *Escobido* cases has the judiciary been concerned with order. When a mob threatens to tear up the city of Washington, the courts require full due process for those arrested—regardless of the consequences to the city and its citizens. However, our policemen enjoy a special status: they are only entitled to enforce the law, not enjoy its benefits.

In the second case, the court ruled that a lieutenant was not entitled to reinstatement on the force because he sued the police chief. This was a challenge to the authority of the police chief and could result in "internal dissention." What policeman will resort to the courts for settlement of grievances if he knows the courts will automatically rule against him on the grounds he is challenging the authority of the chief?

The policeman today is truly a second-class citizen. He is frustrated by the contradiction of his position—enforce the law, but the law is not for you. To correct this shameful situation, I have introduced legislation to guarantee civil rights to all law enforcement officers. Over 100 of my colleagues have cosponsored this measure. I will again reintroduce the measure and hope that more of those who serve in this Chamber will see the urgent necessity of extending civil rights to law enforcement officers. What a tremendous burden we place on these men. We require them to enforce the law with due respect for the accused, to treat every criminal with kindness, to be completely honest in their every dealing, to never take even a cup of coffee for free and to do without the protection of the laws they are required to enforce. I hope the 92d Congress will mark the end of this hypocrisy. The articles referred to follow:

[From the International Association of Chiefs of Police Law Enforcement Legislation and Litigation Report, April 1971]

FEDERAL COURT RULES CHICAGO POLICE OFFICERS NOT ENTITLED TO COUNSEL AT DEPARTMENT DISCIPLINE HEARING

Two Chicago police officers brought an action under #1983 of the Civil Rights Act contending that they have a constitutional right to counsel during a polygraph examination and to have an attorney present at a hearing before the Complaint Review Panel. The officers were charged with brutality and refused to submit to a polygraph examination unless they could have an attorney present. The officers were suspended for 15 days upon the recommendation of the disciplinary panel of the police department.

The defendants argued that the hearing was only a "departmental hearing" as opposed to an "administrative hearing," and that the requirements of due process were more easily satisfied in the former.

The Federal district court for Northern Illinois noted that a law enforcement officer is in a peculiar and unusual position of public trust and responsibility, and because of this the public has an important interest in expecting the officer to give frank and honest replies to questions relevant to his fitness to hold public office. The court considered the small maximum penalty the Panel could recommend (less than 31 days suspension) and found neither a denial of right to counsel nor a violation of procedural due process. The court recognized that if every officer who appeared before the Panel were to invoke the full panoply of judicial process, serious impairment of the disciplinary processes of the Chicago Police Department could occur. In other words, the granting of such rights would be impractical to carry out. The court's decision was based additionally on a combination of the following factor:

(2) the importance of the governmental function of maintaining proper discipline among police officers and proper enforcement of the Department's regulations;

(4) the fact that the plaintiffs were informed of the nature of the charges against them and were provided with an administrative hearing wherein they were presented an opportunity to present any statements they desired and (5) the fact that the functions of the Complaint Review Panel are investigatory in nature rather than adjudicatory with its recommendations sent to the Superintendent of Police for final disposition.

[From Labor Litigation, August 1971]

POLICE LIEUTENANT DENIED REINSTATEMENT PARTIALLY BECAUSE OF SUITS AGAINST POLICE CHIEF

A former city police lieutenant, who was dismissed for violation of departmental rules and regulations, sued for reinstatement and was denied. The court stated his dismissal was based, at least in part, on lawsuits the lieutenant had brought against the police chief for libel and slander; these constituted a personal vendetta and a direct challenge to the authority of the chief to manage and supervise his department, the effect of which was to create internal dissention on a grand scale if allowed to continue. However the court rules the plaintiff lieutenant was not denied his constitutional right of access to the courts. (Norton v. City of Santa Ana, 93 Cal. Reptr. 37. 1971.)

OPERATION SKYRIVER

HON. NICK BEGICH

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1971

Mr. BEGICH. Mr. Speaker, one of the major problems in Alaska today is lack of adequate communication. Villages throughout the State are separated by hundreds and thousands of miles with no more than a radio phone to be used on an emergency basis only.

Because radio and television are virtually nonexistent in the bush, news, information, and education become scarce—almost nonexistent.

As a State legislator, I pressed for greater educational opportunities and facilities for Alaska citizens. Unfortunately, education facilities are so scarce in certain parts of the State that Native students on the high school level are transferred to schools thousands of miles away. It is not unusual for high school students who live in the bush in Alaska to be sent to Bureau of Indian Affairs schools in Oklahoma.

Despite these hardships, I believe real progress has been made through innovation and funds from the Federal Government. The Sunday, November 28, 1971, editorial in the New York Times reported one such program.

The village of Emmonak near the lower Yukon River is beginning a program to upgrade the political awareness of the villagers. Operation Skyriver, as it is called, if successful, will be a major step in educating Alaskan citizens and putting them well on the road to self-determination. At this time, I include in the RECORD the article that appeared in the New York Times:

AN ESKIMO VILLAGE IN ALASKA USES TELEVISION TO GAGE THE POLITICAL CLIMATE

ANCHORAGE, November 27.—An Eskimo village 500 miles west of here has turned to television to influence the political processes that affect the lives of its 500 residents.

Although no commercial television penetrates the lower Yukon River village of Emmonak, six miles from the Bering Sea, its people are becoming increasingly familiar with film and videotape through a community organizer's program called Skyriver.

Skyriver, funded for the next two years by a $220,000 grant from the Office of Economic Opportunity, is designed to allow Eskimos to record their culture, feelings and political desires on film and videotape.

After selecting an issue such as schooling, the villagers interview one another, review the rough film clips, edit the film, and then present the final print to the community for a vote. Individuals also have the right to edit films or videotapes of themselves.

If the people decide that the film represents a consensus of the community, it becomes the official position of the village. The films are then circulated to other villages and often become a regional position, representing dozens of bush communities.

"The Children Are Going," a stark 15-minute film that records the exodus to school of several dozen of Emmonak's young, quickly became a regional consensus.

DEPARTING STUDENTS

About 200 children attend grade school in the village, but after completing the seventh grade, they must go elsewhere to continue their education. Last year, more than 50 teen-agers were sent to state-operated schools or Bureau of Indian Affairs schools as far away as Oklahoma.

In the film, intercut with scenes of children boarding a bush plane for a year at distant schools, William Trader is depicted mending his fish net. He speaks of his daughter Martina, who is leaving for Wrangell, 900 miles southeast:

"She only learned to read, how to talk English and do arithmetic. Before she went out to Wrangell, she never had to be told to do her homework [housework]. When they're out there in other states, they forget completely about their home. We have to tell them to do this and that.

"They should learn Eskimo ways and white ways. If she learned both ways, that would be really good, not just for her, but for everybody."

The village unanimously sided with Mr. Trader's filmed opinion that the only answer was to move schools closer to Emmonak "so the kids could come home for the weekend."

Some observers say the widely circulated film spurred the State Board of Education to adopt a policy for regional high schools, a reversal of its previous plans.

One concrete indication is the recent plan to construct a regional school at Mountain Village, a community of 1,500 that is about 40 miles by snowmobile from Emmonak.

GUIDING GOVERNMENT POLICY

Tim Kennedy, the white organizer who began Skyriver in July, 1970, under the O.E.O.-funded Community Enterprise Development Corporation, believes the people of Emmonak can use "the inherent power of the media" to guide government policy.

He contends that state and Federal programs designed villages sprinkled on 586,412 square miles, often miss the mark. He explained:

"The film and videotapes will provide information that government officials never could get on their own. When an official visits an Eskimo village, he travels on his own terms, brings his own environment with him, the people are intimidated."

Bureaucrats customarily arrive in Emmonak by bush plane, spend a few hours touring and depart for other villages, he said, and continued:

"A chaos of misinformation complicates the problems of rural Alaska considerably. In the past, white government officials held meetings on their terms with people who had Western civilization credentials being regarded as community leaders. That meant they talked to any villager who owned a briefcase."

The brevity of bureaucracy complicates the problems and "incomplete information, rumor and innuendo" make dealings between white officials and Eskimos arduous and laced with mistrust, according to Mr. Kennedy.

"There are all kinds of regulations the people don't understand," he said. "It's a real infringement of their rights."

He believes that film and videotape explicitly document problems without the tangled curtain of contract language and administrative procedures, adding that the peoples' desires and suggestions for solutions focus simply and graphically.

WILLARD EDWARDS BEGINS HIS SECOND 50 YEARS OF REPORTING

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1971

Mr. ASHBROOK. Mr. Speaker, on November 30, 1921, just 50 years ago today, Willard Edwards, whose news stories, feature articles and columns are a byword in the Chicago Tribune, began what was to be an outstanding career of service both to the public and the journalistic field. On many occasions, by insertions in the CONGRESSIONAL RECORD, I have called to the attention of Congress and the public, issues, cases, and current developments which Willard unearthed through his persistent digging in the complex area of Washington politics. In this respect I am indebted to him and his efforts far more than some other Members of Congress.

It must be remembered that when a journalist lets the chips fall where they may, when he does not hesitate to criticize an administration, be it Democrat or Republican, his sources are likely to dry up. When Washington is his beat, he must rely even more so on his own initiative and ingenuity.

This, in brief, explains, I believe, why Willard Edwards has championed the causes of the underdog, and especially the Federal worker who does battle with the monstrous Federal juggernaut. It also explains why so many of such workers have beaten a path to his door in search of a channel to the public. His concern for the welfare of our Nation far outweighs any prospect of a journalistic coup, the everyday goal of any worthwhile reporter.

As Willard was well underway in his career before I first saw the light of day, I cannot begin to list the contributions he has made in the field of the fourth estate. Suffice it is to say, that I have found his efforts invaluable in the field of national politics where the multiplicity of issues, personalities and developments are overwhelming.

I realize that here is a wealth of superlatives and stock phrases to commend outstanding service, but I think it is best said by offering my sincere congratulations to Mr. Willard Edwards on beginning his second 50 years of reporting.

As an illustration of why many Federal bureaucrats, especially in the State Department, hate to see Willard Edwards commence his second half-century of investigative reporting, I insert at this point in the RECORD Willard's column of today, November 30, in which he updates developments in the case of former Foreign Service Officer John Hemenway, who, I am sure, the State Department hopes will emigrate to New Caledonia "so he would not be dangling our dirty linen in other people's yards."

The article follows:

CAPITOL VIEWS: BUREAUCRATIC NUANCES PERIL CAREERS

(By Willard Edwards)

WASHINGTON, November 30.—The confidential memo from Donald C. Tice, special assistant to the director general of the foreign service, was entitled "Whether John Hemenway?"

Dated Feb. 11, 1969, and directed to Howard P. Mace, the State Department's personnel director, it dealt with the dismissal a month earlier of Hemenway, a veteran foreign service officer with a brilliant record, in the last days of the Johnson administration.

Hemenway had charged that he was fired on the basis of false and malicious accusations concocted by two superiors with whom he had engaged in policy disputes related to dealings with Communist nations.

How, asked Tice in the memo, could Hemenway be kept quiet? He toyed with the idea of finding some other government position for the ousted diplomat "so he would not be dangling our dirty linen in other people's yards." But Hemenway, he speculated, could not be bought off in that manner.

"No matter what we do, we must expect him to raise a stink about it," Tice reported to Mace. "At the worst, he could go to the Hill [Congress] and bring in influence.

"The other danger is that he might get a hearing in the new front office [the new secretary of state, William P. Rogers]. I would assume, however, that we could short-circuit such a move."

The assumption was well-founded. Hemenway never got a hearing from Rogers. Nearly three years later, Hemenway still is battling at hearings before a State Department Grievance Committee to secure removal from the files of the falsehoods he says were placed there to justify his dismissal.

The Time-Mace memo was uncovered at these hearings which are documenting in chilling detail the manner in which bureaucratic holdovers run the government in arrogant disdain of elected and appointed officials in succeeding administrations.

As the memo disclosed, these subordinates can keep a new Cabinet head ignorant of injustices demanding correction.

The testimony of John C. Chester, a former foreign service officer, also revealed how a government official, in disfavor with his superiors, can be destroyed by "subtle nuances" in his annual efficiency report. Chester described the code words in these reports that can bring an outstanding career to a halt.

The report might note, for example that an official's work was, on the surface, outstanding. But it would then remark that he was "prolix" or "imprecise" or had "difficulty in drafting." The phrase "is said to lack objectivity," was particularly damning. "Aggressive" and "abrasive" were adjectives with meaning to the inner circle. All such phrases and words signaled that the individual was refusing to conform to the prevailing ideology, displaying a regrettable independence of judgment.

If any official dared to question such criticism and filed a rebuttal, his career was ended. Chester said that in 13 years in the State Department he never knew a foreign service officer who protested an unfair rating and thereafter received a promotion. Lack of promotion over a specified period automatically means dismissal.

"Subtlety" was discarded, the hearings revealed, when stronger methods of character assassination were deemed necessary. When Hemenway did appeal to Congress, a senator called the State Department for information on his complaint.

"Hemenway has Birchite tendencies, he sees a Communist under every bed," the senator was told. Not for years did Hemenway discover that this entirely untrue and unsupported insinuation had caused the senator to lose interest in his case.

LONGSHOREMEN RETURN TO WORK

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1971

Mr. ANDERSON of Illinois. Mr. Speaker, today most east and gulf coast ports are expected to be back in full operation as a result of temporary, 10-day back-to-work orders issued by Federal courts on Friday and Saturday in response to Justice Department petitions. In the meantime, the Government will continue to press for a preliminary injunction to be in effect for the full 80-day cooling-off period specified in the Taft-Hartley Act.

I wish to commend the administration on taking this action to at least temporarily end the 57-day east and gulf coast strikes by some 45,000 longshoremen. As the Government has correctly pointed out, these strikes have had a devastating impact on our domestic economy, and I know this is especially true for farmers in my own State of Illinois who have been denied access to export facilities for their commodities during this crucial postharvest period. I have received a flood of mail from farmers in my district and State who were understandably distressed by the potentially disastrous financial impact a continuation of this strike would have on them. On three occasions I have written to the President, urging him to invoke Taft-Hartley. I am therefore extremely relieved that this action has finally been taken.

HON. THOMAS J. MURRAY

HON. RAY BLANTON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, November 29, 1971

Mr. BLANTON. Mr. Speaker, it saddens me to announce to my colleagues that Thomas Jefferson Murray, a Representative to Congress for 24 years, passed away in his hometown of Jackson, Tenn., Sunday.

Tom Murray served in this body from January 3, 1943, to January 3, 1967. For 12 years he was chairman of the Post Office and Civil Service Committee.

He will be remembered as one of the foremost legislators the State of Tennessee has ever produced.

Tom's life was dedicated to public service. Born in Jackson on August 1, 1894, he launched his public career upon graduating from Cumberland Law College in 1917. He taught school for 2 years and then entered World War I service with the 5th Army Corps as an enlisted man.

After the war he came back to his beloved Jackson to practice law for 2 years. He then reentered public life, this time for 50 years in various capacities.

He became district attorney general for the 12th Judicial Circuit of Tennessee in 1922 at the youthful age of 28 years. He held this post for 11 years, until he joined the Office of the Solicitor of the U.S. Post Office Department in Washington.

Tom served in the legal office of the postal service until 1942, when he decided to return to Tennessee to run for Congress from the Seventh District. He was successful, and took his seat in the 78th Congress as a Democrat. The grateful people of Tennessee reelected him to 11 succeeding Congresses.

Tom quickly established himself as an expert in the field of Government employee legislation, perhaps due to his years with the Post Office Department, but no doubt because he was genuinely interested in people, and in good government. He rose to the ranks of chairman of the Post Office Committee, and for years was regarded as one of the most powerful men in Washington.

He was an affable Member of Congress, highly respected and popular with his colleagues. His reserved manner, his quiet but firm speech, and his courtly appearance endeared him to the rural constituency he served, and he never forgot those people. He was a virtual one-man chamber of commerce for west Tennessee, and "Mr. Tom" helped our region progress in numerous fields.

We are deeply saddened that he is no longer with us. But we are fully cognizant that we were privileged to have had such a man in the highest legislative body of the land. His living memorial is the memories thousands of Tennesseeans hold of him.

I extend my deepest sympathy to his family.

FRANCIS BATOR OFFERS SOME SENSIBLE ADVICE ON INTERNATIONAL MONETARY NEGOTIATIONS

HON. HENRY S. REUSS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1971

Mr. REUSS. Mr. Speaker, Francis M. Bator, professor of political economy at Harvard University and former Deputy Special Assistant to the President for National Security Affairs—1965 to 1967—offers some sensible advice on how to end the present impasse on currency realinement and to pull back from the brink of a trade war in two articles appearing in the New York Times on November 29 and November 30.

If Mr. Bator's advice is followed, this week's group of ten meeting of finance ministers in Rome could produce a good package agreement including new exchange rates among the dollar and other leading currencies, removal of our surcharge and the "Buy American" provision in our investment tax credit, and agreement in principle on a small increase in the "bookkeeping" price of gold. We can then get on with the pressing business of international monetary reform, trade liberalization, and burden sharing, where "progress will require," as Mr. Bator points out, "a dependable as well as energetic American policy that is sensitive to the problems of others."

I include Mr. Bator's articles and commend them to my colleagues:

MR. CONNALLY'S WAR: I

(By Francis M. Bator)

CAMBRIDGE, MASS.—On Aug. 15, Mr. Nixon declared economic war on the rest of the world. So far it's been a phony war—the U.S. has done all the shooting. But if Secretary of the Treasury John Connally does not change course soon, the other side will start shooting back. Control over events will shift to the war parties in all the capitals, and Aug. 15 will be a turning point in postwar Atlantic and U.S.-Japan history.

To be sure, in economic wars people don't get killed. But jobs and livelihoods are at risk. So are the habits and practices, the rules and institutions that we and our friends have so painstakingly built up to protect the world from jungle economics and its twin, jungle politics.

Judging by what he has said, Mr. Connally doesn't agree. He seems confident that with the dollar cut loose from gold, and the U.S. market protected by the surcharge and the "buy America" provision of the investment credit, we can afford to wait. The others, after all, have more at stake than we; they dare not retaliate. When they become convinced that the Administration will stick to its guns, they'll come up with a plan that will assure a $13-billion turnaround in U.S. payments, relieve us of some of the burdens of defense and promise "fairer" treatment of American exports. Or so the Secretary seems to believe. (All this may be a tactful bluff; a formidable politician, he is not in the habit of tipping his hand. But until there is evidence to the contrary, it is safer to assume that he means what he says.)

Mr. Connally may well be right. But are the odds good enough to risk the consequences in case he is wrong? Indeed, would a victory won in such a brutal way be worth the price?

I think not. Our tactics have been recklessly dangerous. What's more, they are unnecessary. There exists a strategy that is both safer and more likely to achieve the President's Aug. 15 international purposes. (A second article will sketch its elements.)

The core of the tactical problem is the surcharge and "buy America," and not, I think, the uncertainty due to floating exchange rates as such. As long as the surcharge is on, the strain on foreign politicians' self-restraint is bound to grow, and the President's freedom of maneuver will shrink. Time, as Wilbur Mills, chairman of the House Ways and Means Committee, and Arthur F. Burns, chairman of the Federal Reserve System, have pointed out, is on no one's side.

In combination with the increase since May in the dollar cost of foreign exchange, in itself a good thing, the surcharge is like addictive dope to many of our most susceptible industries. In a large number of Congressional districts, stopping it cold turkey in an election year will become more painful with each passing week. By next spring, with unemployment still 5.7 to 6 per cent, it may be too painful for any President, no matter how brave.

The surcharge is also contagious. The proposition that—because a trade war will hurt them more than it will hurt us—the others will not fight back is untenable. There exists no measure of relative national pain. One wonders, for instance, how our farmers would reckon it, or our large corporations, with $25 billion of their assets hostage in Europe. Moreover, for Europeans the question is one of "compared to what?" If they have to choose between calling the U.S. hand, and economic civil war within Europe, even cool calculation might favor the first.

But that is not where the main danger lies. Cool calculation is not the natural response of governments that feel damaged by an outsized friend. As perceived abroad, Washington is using the surcharge as blackmail, demanding the moon and refusing to signal what reasonable terms it might accept. We have baffled our friends. They cannot believe that we really expect them to advocate surrender (tantamount to political suicide, in an environment of recession). Yet in the absence of a quiet American lead, they are unable to move constructively. And we have strengthened those whose stock in trade is anti-American posturing.

The longer we remain on our present course, the greater the chance that others will be forced to take defensive steps: export subsidies, capital controls, multiple exchange dates, import restrictions—a jumble of tit-for-tat that will destroy the rules of the game. Angry rhetoric will drive out statesmanship. No one's politics would be immune, nor would escalation be confined to economics. If things go badly during the next few weeks, the result may be irreversible damage to the U.S.-Japan and the Atlantic connection.

The question remains: Is there a way out?

MR. CONNALLY'S OPPORTUNITY: II

(By Francis M. Bator)

CAMBRIDGE, MASS.—It is not enough to suggest, as I did in this space yesterday, that Mr. Nixon's Aug. 15 international moves, and especially Mr. Connally's follow-up, have brought us to the brink of economic war. The deficit in U.S. payments, and the dollar hemorrhage triggered by divergent monetary policies here and abroad, confronted Washington with a condition, and one theory too many. Mr. Connally's task has been to treat the condition without taking undue risk. The charge against him is that he has chosen a reckless course, while a safe solution has been ready at hand.

The meeting in Rome of finance ministers this week will be critical. The Secretary should stop demanding more for the surcharge than others can pay, and take a constructive lead. His best move by far would be to announce that the President will immediately lift the surcharge and "buy America" in the investment credit on the assumption that an acceptable bargain on exchange rates will be quickly reached, and that all governments would be prepared to negotiate on more complicated issues: trade, money, burden sharing, investment, during a second stage.

A bold stroke—one that should appeal to a politician with Mr. Connally's flair—it would clear the atmosphere, give our friends in capitals abroad the upper hand and please American exporters. (The surcharge is an indirect tax on them, and they are vulnerable to retaliation.) It would also remove a significant barrier to the further depreciation of the dollar in exchange markets.

The cost of such a unilateral U.S. move would be nil. With the dollar no longer linked to gold, and most of the major currencies afloat and up—the mark has risen almost as much as it should—there is no risk.

Alternatively, if this goes against the grain, Mr. Connally could offer instead to trade the surcharge and "buy America" for firm agreement on dollar exchange rates and a commitment to a Stage II. On exchange rates, there is a virtual consensus among experts: the dollar/yen rate should increase by 14 to 16 per cent above its old parity; the mark, 11 to 12 per cent; the franc, 5 to 6 per cent, etc. New Parities, a legal matter, need not be fixed in any hurry, unless the others care. If they do, the range of fluctuation should be widened to plus or minus 3 per cent.

Both proposals would make moot the price of gold. Unfortunately, the others won't leave it at that. Faced by the blatant American show of force, the Europeans had to produce a common front on something. The gold price issue was a natural, though it matters only to the French.

We should yield gracefully, and negotiate whatever small rise in the nominal gold price would make it easiest to agree on what really counts: exchange rates among currencies. Since Paris will not revalue against gold, and Bonn cannot afford a franc-mark change greater than 6 to — per cent, a 6 per cent rise to $37.10 should do the job. Foresighted education by Messrs. Javits and Reuss has reduced the danger that Congress would balk.

At the same time, we should make it plain that only the nominal gold price is negotiable. We must not undertake to sell or buy gold at any price, or to sell any other reserve asset, at least until Stage II has produced workable rules covering exchange parities, and solved some other problems as well. The need is for rules that will induce governments to make frequent, small changes in parities, and thus avoid prolonged deficits and surpluses. The rules should have teeth, and bear as hard on governments in surplus as on those in deficit. But that is for Stage II, as is the full replacement of gold by the new man-made reserve, S.D.R.'s and the phasing out of the dollar as a reserve currency.

The principle behind all this is to disconnect what is urgent and quickly soluble from what is complicated and will take months or years. But the principle won't work for long if governments are not serious about Stage II. The monetary system does require reform. Antiprotectionist rules on trade need strengthening. (On trade, we all live in glass houses; Washington should quit throwing stones.) Other problems abound: e.g., roles and fair shares in defense; national control and the international corporation; more development aid to the poor countries.

Progress will require a dependable as well as energetic American policy that is sensitive to the problems of others. Brow-beating will not do. Nor will moralizing about all we have done for the world in the past. If, as I believe, a benign cooperative Atlantic and U.S.-Japanese politics is a cardinal American interest—a politics that makes problem-solving among interdependent nations possible if not easy—then we must change our recent course, and take a more constructive tack.

TELEVISION

HON. WILLIAM L. SPRINGER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1971

Mr. SPRINGER. Mr. Speaker, Martin Mayer, who was television critic for Harper's magazine in 1959–60, has written a reportorial study, "About Television," which will be published this spring and from which the following article is excerpted.

The following article has a good analysis of the citation on the "Selling of the Pentagon" which was before the House some months ago. This is the only article I have seen written in detail which analyzes the problem and presents it fairly. The most important thing in the article is that CBS was forced by the citation to change its rules and regulations with reference to documentation so that the errors and mistakes contained in that program cannot occur again. Those of us who were committed to fight on a correction of the system have been successful, and that is far more important than the question of the citation of Frank Stanton as the president of CBS.

I quote from the last paragraph of the article:

> Of course the Pentagon did not come to the Congress with clean hands, but the defense of "you're another" is a confession of editorial irresponsibility and a guaranteed long-term disaster. No doubt the CBS lawyers were to blame: the first rule of legal advice, especially in situations where libel suits are a possibility, is "Never admit nuttin." What the television news division must ask themselves is whether they are healthy enough to withstand infection from the adversary system, whether they can afford to let their public reputation for impartiality and probity sink to that of the lawyers.

The article follows:

Television: Freedom of the Press Can Be a Matter of Self-Interested Definition

(By Martin Mayer)

Few episodes in the tangled history of news broadcasting have been so generally discreditable to so high a proportion of the participants as the fuss attendant on the CBS documentary, *The Selling of the Pentagon*, in the spring of 1971. The subject—the abuse of funds and discretion in the PR programs of the Department of Defense—was moderately daring; and given the Nixon Administration's reaction to Joe McGinniss' book, *The Selling of the President*, the title guaranteed negative reactions at 1600 Pennsylvania Avenue. But most people, even some in the military, would be willing to agree that pushing weaponry and war is an activity scarcely more defensible than pushing drugs. The key scenes in the documentary, the introduction of children and businessmen to the pleasures of putting little fingers on big triggers, were legitimately horrifying, and there were details here and there in the show that were not part of the fund of common knowledge. Still, said Perry Wolff, the CBS News executive producer whose unit was responsible for the program, "This wasn't supposed to be our fast ball for this season. It was just one show in the continuing *CBS News Hour*."

In fact, what appeared on the air was a considerably slower ball than the first cut that had been prepared for viewing by CBS News senior executives. The problem was in part that CBS itself was heavily involved in some of the activities the program criticized. (Wolff, in fact, had been the producer of the CBS series on *Air Power* back in the 1950s.) One of the sillier bursts of anti-Communism in Defense Department promotion films had been uttered by Walter Cronkite as narrator; and the Cronkite film, though dating back to 1962, was the most popular thing in the Pentagon catalogue, with more than a thousand showings at Kiwanis affairs and the like in fiscal 1970. Cronkite is a multi-million-dollar property for CBS, and while he was willing to be criticized, there were limits. Producer Peter G. Davis was angry about the war, the military, and much else, and here and there he had forgotten about limits.

Wolff screened the show first for his immediate superior, Bill Leonard, then for Richard Salant, president of CBS News, vice president Burton Benjamin, and Cronkite, and there followed a snow of memos. The one from Salant included thirty "review points," things in the show that ought to be made to conform to policy. The reediting process stretched out, and the program missed its first air date.

Among the pieces of machinery set in motion when the show did air, on February 23, was the bank of video tape duplicating machines at the Pentagon. CBS estimates that Defense made thirty copies of the show and distributed them about to members of the military who might be able to find demonstrable fault. Within a week, the Pentagon had a brief attacking the show in the hands of every major newspaper, and in print in the *Air Force Journal*. As an attack on the show, the Pentagon effort was easy to brush off, because there really wasn't anything seriously wrong with the show. But in investigating CBS News' procedures, the Defense analysts had come up with several embarrassing errors, two of which should be sufficiently disturbing to trouble people who liked the show and hate the Pentagon.

One was the presentation of excerpts from a speech by Col. John McNeil at a military "seminar" sponsored by a local business group in May 1970 in Peoria, a city much benefited by defense contracts. The episode began with a statement by CBS reporter Roger Mudd: "The Army has a regulation stating, 'Personnel should not speak on the foreign-policy implications of U.S. involvement in Vietnam.' " Colonel McNeil was then shown saying the following six sentences, apparently one right after the other: "Now we're coming to the heart of the problem—Vietnam. Now the Chinese have clearly and repeatedly stated that Thailand is next on their list after Vietnam. If South Vietnam becomes Communist it will be difficult for Laos to exist. The same goes for Cambodia, and the other countries of Southeast Asia. I think if the Communists were to win in South Vietnam, the record in the North—what happened in Tet of '68—makes it clear there would be a bloodbath in store for a lot of the population in the South. The United States is still going to remain an Asian power."

The first of these sentences was from page 55 of Colonel McNeil's text; the second, from page 36; the third and fourth (quotes from Prince Souvanna Phouma of Laos, though the CBS excerpt did not indicate that), from page 48; the fifth, from page 73; the sixth, from page 38. They were made to appear continuous by a standard film-editing technique, in which shots of the speaker are alternated with shots of the listening crowd.

Now, there is simply no question that this sort of thing is illegitimate. There is also not much question that CBS could have taken a continuous paragraph from the speech that would have served its purpose *almost* as well. From a public point of view, producer Peter Davis and/or his film editor stand convicted of improving a good story just a little, which deserves a mild rebuke and an injunction to go and sin no more. Even the most sober and responsible reporters (*mea culpa! o mea maxima culpa!*) do this sort of thing every once in a while. From Colonel McNeil's point of view, the situation may be somewhat different, for CBS did show him deliberately and consciously violating a Defense Department directive, while the full text of his speech could be held to leave him at least a loincloth of self-image that he was obeying the rules. He is suing CBS for $6 million, and presumably a court and jury will decide whether or not CBS violated his rights by stripping him of this self-protecting belief.

The other matter was considerably more serious as a question of reporting practice (though quite trivial in terms of the message of the program). Roger Mudd had interviewed at length Daniel Z. Henkin, Assistant Secretary of Defense for Public Affairs. With his tape recorder rolling in the background (the Defense Department requires officials to make tapes of interviews), Henkin ran down some of the divisions reporting to his department, ending with the "Directorate of Community Relations," which he described as a service that arranged meetings, sent speakers, etc. Mudd then asked, "But aside from your meetings in which you disseminate in formation, what about your public displays of military equipment at state fairs and shopping centers? What purpose does that serve?"

Henkin replied, "Well, I think it serves the purpose of informing the public about their armed forces. It also has the ancillary benefit, I would hope, of stimulating interest in recruiting as we move or try to move to zero draft calls and increased reliance on volunteers for our armed forces. I think it is very important that the American youth have an opportunity to learn about the armed forces."

On the air, this sequence appeared as follows:

Mudd: What about your public displays of military equipment at state fairs and shopping centers? What purpose does that serve?

Henkin: Well, I think it serves the purpose of informing the public about their armed forces. I believe the American public has the right to request information about the armed forces; to have speakers come before them, to ask questions and to understand the need for our armed forces, why we ask for the funds that we ask for, how we spend these funds, what we are doing about such problems as drugs—and we do have a drug problem in the armed forces; what are we doing about the racial problem—and we do have a racial problem. I think the public has a valid right to ask us these questions.

Henkin's reference to recruiting as a purpose in displaying military equipment at state fairs, a reasonable enough reply, had been deleted; and in its place CBS had inserted, from a subsequent section of the interview, some statements from Henkin's answer to a question Mudd had asked him about "the instant availability of military speakers at Kiwanis and Rotary and so forth." This question was not presented on the program; and the result was to make Henkin seem like a weaseler and a fool.

Mudd's next question, as the show ran, was, "Well, is that sort of information about the drug problem you have and the racial problem you have and the budget problems you have, is that the sort of information that gets passed out at state fairs by sergeants who are standing next to rockets?"

Henkin's actual reply was: "No, I didn't—wouldn't limit that to sergeants standing next to any kind of exhibits. I knew—I thought we were discussing speeches and all."

On the program, Henkin's reply was presented as: "No, I wouldn't limit that to sergeants standing next to any kind of exhibit. Now, there are those who contend that this is propaganda. I do not agree with this."

The second sentence of the reply had been lifted from the context of an answer to an earlier question. And, of course, Henkin looked confused, because he had thought he was answering a question about speakers at meetings; and the look of confusion is not unlike a look of guilt.

This episode shows at least subconscious malice, a desire by the producers of the program that the man in charge of the Pentagon selling apparatus look bad on the home screen. (To the contrary, incidentally, Henkin appears from the record as one of very few heroes in this story. He told the House committee that what had happened to him was unique in his long experience with CBS.

(Asked whether he thought CBS would "do any violence or damage to the First Amendment" by supplying to the committee its notes and records and film "outtakes" not used on the show, he said, "I do want to be candid with this committee and anyone else who may read its record, sir, and I must say that as a newsman on such a matter as this—I would, of course, first want to consult with my counsel—but my inclinations would be not to provide my notes or source material." This drew from Congressman J. J. Pickle of Texas a mock-sympathetic aside about his understanding of why Henkin might wish to "hedge just a little bit for the 'brothers.' ")

Nobody in or out of the news business should condone the manipulation of the filmed interview with Henkin. John Tisdall, chief assistant to the editor for news and current affairs at the BBC, says that "anyone here who was discovered to have presented as the answer to a question an answer that in fact had been given to another question would be deprived of his authority to exercise discretion in the production of programs."

How much of this sort of thing there is on American television nobody really knows. Producers and film editors are disgusted by the whole controversy because, in the overwhelming majority of the cases where they wield their scissors, the purpose is to make some tongue-tied clown sound like a fluent statesman. But some Congressmen, and some others who are regularly interviewed on film for documentary programs, do believe that deception is commonplace. There have been problems, for example, about the technique of "reverses." Where possible, naturally, television news divisions like to send out only one camera, which is trained on the man answering the questions.

After the interview is over, the reporter is separately photographed asking his questions, so both parties to the conversation can be shown on screen. There undoubtedly have been instances in which reporters have rephrased their questions subsequent to the interview, to give a more favorable impression of their work and perhaps a less favorable impression of their respondents' replies. Other editing devices create an apparent dialogue between two respondents at different interviews. The two are shown contradicting each other's statements, and one side or the other can easily be shown to be "winning" this artificial argument—an especially vicious tactic, because both sides can be said to have had equal time to present their case.

On April 7, 1971, Congressman Harley O. Staggers, chairman of the House Committee on Interstate and Foreign Commerce, and of its Special Subcommittee on Investigation, issued subpoenas to CBS, demanding the record of the production of *The Selling of the Pentagon,* and to NBC, for the record of the production of a conservation-oriented documentary called *Say Goodbye,* which had shown men in a helicopter shooting and apparently killing a mother polar bear.

"At home in a hostile climate," said the show's narrator, "the polar bear for centuries has taken for granted its freedom in the Arctic. But no more . . ." The cubs of the apparently dead polar bear were shown wandering disconsolately on the ice, and the narrator intoned, "Grieve for them . . . and for us." But the men in the helicopter had merely shot an anesthetic into the animal so it could be tagged for research purposes, and in the original film, not shown on the air, the bear had later been seen lurching to its feet and walking off.

NBC had no trouble with the Staggers subpoena, because the program in question had been produced by David Wolper rather than by the network, and had simply been slotted into a time period purchased for the purpose by Quaker Oats. All inquiries were passed on to Wolper, who supplied, without raising any constitutional questions, the material demonstrating the deceptive nature of this relatively brief section of his film.

At CBS, however, the subpoena was big trouble. There were a few men at the Pentagon who had given information on a confidential basis, and the producers had a moral obligation not to reveal their names, which were, of course, part of the documentation in the files. Also in the files were the reams of internal memoranda the show had generated. Some of the comments from senior executives would be ammunition for the enemy.

Other comments would be upsetting to Cronkite, because it had been quite impossible for the memo-writers to avoid having some fun with "Walter's" involvement. And the details of how the show had been softened before airing, while they would certainly protect the network against some of the loonier charges launched by the Radical Right, would be embarrassing both to network executives and to the larger world of journalism. Staggers' subpoena was a little vague in its delimiting of what CBS was required to produce; at its worst, it was a fishing expedition that would yield many brightly colored fish, few of them of any conceivable relevance to the law-making powers of the Congress. On April 20, by appearance of counsel, CBS refused to honor the subpoena.

Some of the internal problems at CBS seem to have come to Staggers' attention, because five weeks later he amended his subpoena to apply only to the film and tape from which the material actually broadcast on the program had been selected. "All we want," said Staggers, a pink cherub with white hair, one of those country-bumpkin Congressmen who are always foxing city slickers, "is the films from which they took something, from which they eliminated. We think the people ought to know. The government gives them a license, protects them against anybody else who wants to broadcast on those frequencies. That gives us the right to find out whether they're telling the truth or not; we're elected by the people to find out." And his committee counsel, Daniel Manelli, small, black-haired, much more urban, added, "The truth is not always complicated."

The Selling of the Pentagon was by no means the first CBS program for which Congress had issued subpoenas, and the others had been obeyed. A House Appropriations Committee had investigated charges against *Hunger in America,* and Staggers' own committee had subpoenaed the complete records both of a show on marijuana produced by WBBM–TV, a CBS-owned station in Chicago, and of a projected but never produced show on an abortive invasion of Haiti.

These two had been rather harebrained operations, involving a pot party at Northwestern staged for the cameras, and what amounted to a marginal CBS subsidy to Haitian revolutionaries. In addition, all the networks had made available without subpoena their outtakes (i.e., the portions of film not used on the air) on the riots that accompanied the 1968 Democratic Convention in Chicago.

In response to Staggers' second subpoena, Stanton came to the hearing room himself, and declared that CBS would not provide outtakes and he would not "under compulsory process" answer any questions about *The Selling of the Pentagon*. He distinguished the current case from the pot party and Haitan matters with the explanation that those had involved criminal or possibly criminal activity.

Moreover, there had been no question of investigating editing activities in the Haiti case because nothing had been aired at all. In any event, one cannot waive First Amendment rights; the fact that CBS had yielded to subpoenas before did not mean the network was obliged to do so again. Circumstances had changed: the executive branch had been leaning hard on broadcasting and on the press. In this case the government itself was investigating the probity of a broadcast critical of the government; it was hard to think of anything more likely to have a "chilling effect" on the necessary freedom of the press to criticize government activity.

By then, a large community had rallied round CBS. The network had circularized broadcasters, newspapers, and schools of journalism and secured large numbers of supporting statements, not to mention letters and telephone calls to Congressmen. Breaking their own rules about when programs had to be broadcast to be eligible for certain prizes, several universities and the Emmy committee had given awards to *The Selling of the Pentagon*.

The most serious weakness in the CBS position was the evidence of what had been done in the Henkin interview. When it became clear that Staggers was indeed prepared to force the issue with a contempt citation against Stanton and CBS, the network moved to repair its self-inflicted damage by promulgating new rules to govern editing. To prohibit what had been done in the Henkin incident would confess something CBS was not prepared to confess, so the new rules did not specifically forbid the splicing in of answers to questions other than the one asked on the air.

Instead, they required that should such things occur, "the broadcast will so indicate, either in lead-in narration, bridging narration lines during the interview, or appropriate audio lines." This is in effect, of course, a prohibition: even the most imaginative reader will find it hard to conjure up the image of a television narrator saying, "The interview you are about to hear presents as answers to our reporter's questions answers Mr. X in fact made to other questions."

Unfortunately, the Henkin dilemma went a little deeper than that. Congressmen were disturbed by the possibility that what had happened to Henkin could happen to them, and they would never be able to prove it. CBS in the past had consistently refused to provide anyone with the full transcripts of interviews from which excerpts had been aired, and other interviewees would not have Henkin's resources. The new CBS rules therefore provided that "transcripts of the entire interview will be made available to the interviewee after broadcast, upon request of the interviewee."

Later, during the Congressional debate on the issuance of the Stanton subpoena, letters from several CBS newsmen and news executives would be introduced into the record. "Examination of film outtakes," William J. Small, manager of the CBS News Washington Bureau, wrote, "even by fellow professionals can frequently be a poor judge of the actual editing without much more information." Daniel Schorr wrote that "to try to compare an edited product with the raw material in retrospect without realization of the pressures and needs of the moment is to invite over-smplified and erroneous judgments. To have to live with the constant prospect of such judgments being made would be to live with a form of subtle but real coercion." Burton Benjamin added that "it would, in my view, eliminate the appetite for investigative reporting. Much of the investigation has traditionally involved the government. The proposed system would involve a review by the very people you are investigating."

But by the time these letters were sent, CBS had already given away most of the game. There is, of course, a ponderable difference between automatically giving the government outtakes of interviews with people hostile to government policy and giving only those involving the government's own people. But the opposition expressed by Small, Schorr, and Benjamin to permitting the government to look over the editor's shoulder had already been overridden within CBS.

Assuming that the new rules are for real and not merely part of a tactic to ride out a storm, anyone who feels himself aggrieved by the use made of his filmed or taped interview will have guaranteed access to the transcript, and a free field for second-guessing the editors.

CBS was now ready to challenge Staggers in the forum where he was most likely to be beaten—the House itself. Despite brave words from counsel, CBS News, headed by a lawyer, housed no serious hope that the courts would refuse to enforce Staggers' subpoena if the House voted contempt. Staggers' position was weak on two fronts. The first, and most important to the public, was that *The Selling of the Pentagon* had been, after all, a true and fairly important public service—and among those who would vote for a contempt citation against Stanton were a number who wished to punish CBS not for contempt of Congress but for airing this particular show. Even those who were angry at what had been done to Henkin understood well enough that many of their colleagues strongest in denunciation of CBS would not have been much upset at similar treatment of, say, Bobby Seale.

More important in the House itself, however, was the narrowness of the ultimate subpoena Stanton had refused to honor, and the trivial significance of the information it could produce. Thanks to Henkin's tape recorder and Defense Department investigations, the subcommittee already had nearly everything that CBS had been ordered to produce. To exert the contempt powers of Congress to compel the production of documents that were already known seemed unwise to thirteen members of the parent Commerce Committee (out of thirty-eight who voted on the issuance of the citation).

Despite press reports to the contrary, however, the thirteen who voted against citing Stanton did not line up behind CBS. "Some of the general criticism leveled against broadcast news reporting these days is well-founded," their report said. "Our dissent is not an endorsement of the past conduct of broadcast journalism. In fact, we feel that the physical and technical limitations of the medium and the questionable practices of the past may force Congress at some future date to formulate a more effective national policy in this area to safeguard the public's interest. However, this is not at issue here except that we might lose some of our authority to act properly in the future by acting improperly here." With friends like these, CBS would never be in need of enemies.

In the end, the cogency of the minority report—plus pressure from the broadcast and newspaper fraternity all over the country—convinced the House not to act on the Commerce Committee's request for a contempt citation. On July 13, a motion to recommit the matter was carried by a standing vote of 151 to 147; when Staggers demanded a roll call, the vote became 226 to 181, and the episode was over.

Except that such episodes are never over: their echoes resound. At the Corporation for Public Broadcasting, for example, the new CBS rules for editing speeches and interviews, and for supplying interviewees with full transcripts, have provoked a management crisis. Whatever First Amendment rights CBS may have, CPB has none: its charter from the Congress requires its service to be "fair, objective, and balanced." Clearly, any grants from CPB passed through the Public Broadcasting Service to local noncommercial stations that produce documentaries would have to be conditioned on the use of procedures at least as self-effacing as those now announced by CBS. But many of the producers of documentaries at the noncommercial stations see themselves as crusaders, and the imposition of the new CBS rules seems to them the hand of Big Brother clutching at their throats.

Big Brother is in fact loose, and looking around. In the works at the House is a Truth in News Broadcasting Bill (submitted, incidentally, by a Congressman who voted to recommit the contempt citation), which would write into law a slightly tougher version of the new CBS rules and would hold *licensees* responsible for its violation, so that each network might have to perform a considerable song and dance for its affiliates before they would clear time for any documentary. The chance that something wrongheaded will be done has been greatly increased by an almost desperate erosion of trust occasioned by the handling of this trivial dispute about the editing of *The Selling of the Pentagon*.

Except for the *Washington Post* and maybe *Time*, none of the major news media even attempted to examine what was troubling some of the better men on the Hill. (The *New York Times Magazine* carried a flip and ignorant denunciation of Staggers in particular and government in general from the "committed" correspondent Robert Sherrill.) Congressmen looking at a record that demonstrated an instance of clear wrongdoing were told by broadcasters and journalists that the Henkin interview had been (in testimony from Stanton) "fairly edited" and (in a letter from Salant) "in accordance with customary journalistic practice." The proposition that these guys are all fundamentally untrustworthy, never far from the surface of a Congressman's mind, gained increasing authority as the dispute wore on. At least a third of the Congressmen who spoke in the House *against* citing Stanton for contempt also spoke about the news media in terms of irritated distaste.

"The hidden issue here," says Hartford Gunn, president of the Public Broadcasting Service, "is editorial responsibility." In the end, there is no substitute for a professional, objective job of reporting, editing, and documentary construction. "Equal time" to reply, that favorite slogan of government, court, broadcaster, and critic, is in reality, as Gilbert Seldes once wrote, "an empty formula." Seldes challenged "the idea that a stranger appearing on a program to answer an attack delivered by the master of that program inherits the program's audience, prestige, and hold on the affections of the audience. Quite the reverse is true: he is psychologically an interruption that may be resented. He is attacking someone who has enjoyed the favor of the audience, and he is depriving them of what they are accustomed to have."

"I am as tired of being Caesar's only wife as you are," NBC News president Reuven Frank told his staff in a memo written in the aftermath of *The Selling of the Pentagon*, reminding everyone of NBC rules against "deceptive practice." But broadcast news and public affairs really must be Caesar's wife, even at the loss of some vivacity. A reply to a documentary, given inevitably by someone personally concerned or committed to one side of an argument, can never answer the statements of a news broadcaster who has built an image of impartiality and public service.

Hope that public opinion can police deceptive news practice is an obvious casualty of the *Pentagon* affair. Far from expressing concern about the distortions in the Henkin interview, the university and intellectual communities presumably most attentive to these matters gave the show every award in the book. A man who agrees passionately with the point of view he believes he finds in a television program is no more likely to examine the technical background of its production than a lover is to inquire into the use of cosmetics by his beloved. David Brinkley observed that nobody ever accuses a news service of bias on *his* side. Because interest in substance is so much greater than interest in technique, nobody has ever successfully defined "editorial responsibility" or figured out a way to guarantee its presence.

CBS showed great courage in fighting off the Staggers subpoena. If the contempt citation had gone through the House, it is more than possible that the FCC would have felt itself constrained to deny regular three-year license renewals to the CBS-owned stations, because people and organizations convicted of contempt of Congress for actions related to their broadcasting activities are dubious licensees. But a little more courage, properly placed, would have avoided the whole sordid dispute. What CBS News should have done when the Defense Department brief surfaced was to send to Henkin and probably to Colonel McNeil letters of apology from producer Davis, executive producer Wolff, vice president Leonard and president Salant, who were the chain of command on the show. The statement announcing the dispatch of such letters could have stressed the difficulties of editing under time pressure and the obvious unimportance to the show of the matters on which CBS editing had been unfair. What got the best Congressmen angry and what was discreditable to CBS News was not the editing of the Henkin interview—even Caesar's wife can be allowed erasers on the ends of her pencils—but the subsequent defense of something indefensible. If the normal standard of CBS editorial responsibility was indeed demonstrated by the Henkin episode, then there was something horribly wrong about the operations of CBS News.

Of course the Pentagon did not come to Congress with clean hands, but the defense of "you're another" is a confession of editorial irresponsibility and a guaranteed long-term disaster. No doubt the CBS lawyers were to blame: the first rule of legal advice, especially in situations where libel suits are a possibility, is, "Never admit nuttin'," What the television news divisions must ask themselves is whether they are healthy enough to withstand infection from the adversary system, whether they can afford to let their public reputation for impartiality and probity sink to that of the lawyers.

JOHNSON TELLS HIS STORY

HON. JOHN YOUNG

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1971

Mr. YOUNG of Texas. Mr. Speaker, I am pleased to share with my colleagues the excellent review of President Johnson's books, "The Vantage Point." Kara and Cecil Burney, reviewers of the book, have had a unique opportunity spanning many years to know and appreciate the author and his work. I commend this fine review which appeared in the Corpus Christi Caller Times of November 14, 1971, to the attention of the Members of the House:

JOHNSON TELLS HIS STORY

(By Kara and Cecil Burney)

(EDITOR'S NOTE.—Mr. and Mrs. Cecil Burney are long-time close friends of former President Lyndon B. Johnson. Burney was co-chairman of a volunteer citizens group supporting the president's nomination for a second full term before he announced he would not be a candidate in 1968. Mrs. Burney was advance coordinator for Mrs. Johnson's famed "whistle-stop" campaign tour through the South in 1964. Both have visited in the White House on several occasions.)

The Vantage Point: Perspectives of the Presidency, 1963–1969. By Lyndon Baines Johnson. Holt, Rinehart and Winston. $15.

Lyndon Baines Johnson has lived to tell his story as he saw it. Readily admitting that others may have seen the events of his presidency in different ways, he explains that this is how it appeared from his particular vantage point. No matter what its critics may say, the good words and the bad ones, The Vantage Point is an important contribution to the history of our time.

This book, then, will become the handbook of the Johnson presidency. However deeply future scholars may delve into those five floors of crimson boxes of the presidential papers at the Lyndon Baines Johnson Library in Austin, always they will come back to this book to see what the man himself chose to say—or not to say—about an event of those times.

Millions of words have been written about Lyndon Johnson. In all of his four decades in public life he was analyzed, scrutinized, dissected; his motives screened, his complex character assailed or praised. Now he has stated his own case. The Vantage Point is the result of three years of painstaking effort.

The former President chronicles well the story of his sojourn in the White House. As one reads the book, one remembers the silence of the presidential mansion. It is quiet, so very quiet, in the family living quarters on the second floor—with only the President talking. Always talking. A friendly call to thank a congressman for his support of the education bill. Next a check with the Situation Room about a world event. Then a telephone visit with the nurse at the bedside of his old comrade, Richard Russell, and you feel he is back in Johnson City leaning over the fence at the home of a sick neighbor, offering a word of encouragement to the family and suggesting that "the kinfolks come over here and stay with us—we've got plenty of room."

Much of what he records here was done with the help of the telephone. President Johnson is Bell's greatest exponent. A small white telephone is never more than an arm-length away. One instrument is mounted under the table in the family dining room, and you are startled to realize that some casual remark during the meal has given him an idea and that already he is calling an aide to put it into action.

The record of the tragedy of Vietnam—that ghastly war so far away and yet so very much right here—covers nearly 200 pages of the book's 600 pages. It reports but does not measure the effect on Lyndon B. Johnson, the commander-in-chief. One cannot forget the look on his face when he put down the telephone late one evening in early 1965 to announce dejectedly—as if they were his own sons—that "17 of our boys didn't make it back tonight." His agony was constant.

As one reads the story of the enlargement of the war, one remembers the commander-in-chief gently placing toothpicks on the shining surface of the dining-room table to explain in simple but all-encompassing detail the military situation at that moment. On one particularly fateful day, Feb. 28, 1968, you see that group of McNamara, Wheeler, Humphrey, Clifford, Rusk and Taylor in the family sitting room as you pass down the hall and wonder what is being discussed in such serious tones. You learn the secret when you read the account in The Vantage Point.

The happy chapters are those chronicling the good things that were done. In these pages, you live again the passage of the Civil Rights Act of 1964, medical care for the aged, the measures to provide aid to both secondary and higher education, the act insuring the right of all citizens to vote and the War on Poverty. Through him—and the First Lady—the nation learned a new word—ecology—as water and air pollution legislation was adopted and as "environmental beautification" became the policy of the federal government. These and a hundred other things the former President proposed and passed through the Congress, many that had been talked about for a hundred years but which one without his flair for dealing with the Congress could not have accomplished.

The references to people are all favorable. In fact, Johnson says not an unkind word about any person, living or dead. Even Robert F. Kennedy. As he recalls the politics of 1964, the former President does not relate the fears of his friends about the then attorney general's ambitions. But one cannot help but remember the precautions that he ordered when there were rumors of a Kennedy takeover at Atlantic City—how a group of old friends spent six weeks in the convention city gaining firm control over the convention machinery lest the rumors be reality.

This book is practically devoid of humor in sharp contrast to the man himself who can tell a good story better than almost anyone.

There are those who refer to the author as being a "politician" as if that were bad. "Politics," he writes, "is the art and craft of dealing with people. It is the art of making possible what seems impossible." This man who made things happen by virtue of his faith in people, voices his special hope that the Lyndon B. Johnson School of Public Affairs will train men and women for statesmanship, for politics.

MEXICAN-AMERICAN RELATIONS

HON. MANUEL LUJAN, JR.

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1971

Mr. LUJAN. Mr. Speaker, in this era of realinements of balance of power in the world, the United States necessarily must realize that its own security depends, in large part, on the understanding, friendship, and cooperation that it receives from its two great natural allies, Mexico and Canada.

In the specific case of Mexico, its importance is greater since our border with this country is the mirror in which more than 250 million Latin Americans see themselves. Fortunately for us, the destiny of Mexico is controlled by a statesman, Licenciado Luis Echeverria Alvarez, who is not only committed to a gigantic program of dynamic progress for the Mexican revolution, but also understands the importance of his country's relations with ours.

His points of view of national as well as international affairs for us ought to be of paramount importance inasmuch as they reflect an independent criteria that in his constructive criticisms involve a sentiment for profound hemispherical solidarity that we ought to admire and listen to.

For this reason, I think it should be of interest to all if I introduce in the CONGRESSIONAL RECORD the speech given at the United Nations by one of the greatest leaders of America, Licenciado Luis Echeverria Alvarez:

SPEECH BY LICENCIADO LUIS ECHEVERRIA ALVAREZ

Mr. Secretary-General:

Representatives:

Mr. Chairman, in the name of the people and the Government of Mexico, I wish to express our warmest congratulations for your well-merited election which ensures the impartiality and efficiency necessary to discharge properly the matters to be considered at this session.

Despite the setbacks our Organization has suffered, Mexico's faith in it remains unshaken since it continues to contribute in an even greater measure than is usually acknowledged, to the evolution of the international community, and because it fosters permanent dialogue among the nations of the world at equitable juridic level and despite ideological or economic differences.

Mexico is the product of a broad ethnic and cultural mixture through which we share in a variety of civilizations. Our independent life began 150 years ago during a period characterized by a world realignment of spheres of domination. For more than a century after, we lived through constant threats to our territory, foreign invasions, the loss of large portions of our land and the systematic depletion of our resources.

To a great extent, the history of our republic is a reflection of the Mexican people's unflagging struggle to break with the heritage of colonialism and to prevent outside interference in domestic affairs. Due to our origins and the difficult conditions under which we have developed, we are a country jealous of our freedom and of the freedom of all the peoples of the earth.

This is why the principles that invariably guide our foreign policy are the proscription of the use of force, the peaceful solution of disputes, nonintervention, the juridical equity of states and the free self-determination of peoples.

Our enthusiastic participation in the work of the United Nations from its inception and our strict compliance with the commitments entered into in a spirit of loyal adherence to the ideals upon which the Organization's existence rests, are not a mere coincidence.

My presence at this Assembly reaffirms Mexico's adherence to the principles of the United Nations and expresses its faith in the rapid advent of a true international democracy, both political and economic.

The items on the agenda of this twenty-sixth session are particularly significant for the present and the future.

Mexico's recollection of its own war of independence causes us deep concern for the fate of millions of human beings in different parts of the world who have not yet won their freedom.

Inasmuch as we have, since 1945, favored our Organization's growing universality, our feeling of satisfaction at the increase of its membership from 51 to 130 nations, with the admittance of Bhutan, Oatar y Bahrein, may well be understood.

A highly important advance toward this principle of universality would be to welcome, during this session, the representatives of a nation inhabited by a fourth of the world's population: The People's Republic of China, and to give it its rightful place in the Security Council.

At the same time, it will be necessary to recognize that the sovereignty and territorial integrity of the Chinese nation are juridically indivisible.

The absolute need to disarm—beginning with nuclear weapons—arises from the concept of peace as paramount among the values of human coexistence.

Mexico has given its decided cooperation to the work for disarmament at all the forums in which it has participated and most particularly at this Assembly and within the specialized committee on this subject.

Furthermore, in the belief that it is well to practice what one preaches, we put forth our most determined efforts to bring the task of banning atomic weapons in Latin America to a successful conclusion. The Tlatelolco Treaty was the culmination of this undertaking. Thanks to this Latin American instrument, there is now a denuclearized area of 7 million square kilometers, encompassing a population of approximately 120 million inhabitants. We wish to express our gratitude to U Thant who in this year's proceedings appealed once again to all the atomic powers, asking them to provide guarantees against the nuclear violation of the area covered by the Treaty of Tlatelolco by signing and ratifying Additional Protocol II of that instrument, a justified request which my country has been making and which I now reiterate most firmly.

The armed struggle that broke out in the Middle East in the spring of 1967 has created a critical situation. Its quick settlement is incumbent not only on the parties directly affected, but on all other members of the international community, since there is a sound basis to believe that this conflict constitutes the most alarming potential threat of confrontation between the so-called "superpowers." We continue to believe that resolution 242, approved unanimously by the Security Council on November 22, 1967, is the proper instrument to end this highly charged conflict.

As regards the serious situation posed by the presence of several million Pakistani refugees in India, Mexico asks that the international community make every effort to find a prompt solution that will allow these defenseless people to return to their homes.

The oceans that separate us geographically should unite us juridically. We should, therefore, strive to formulate a systematic, uniform and equitable code in this field.

Perhaps the two outstanding problems to be settled at the next conference on Maritime Law are the establishment of a regime governing seabeds and an agreement on the extension of territorial waters. The approach to the first of these matters should be guided by the fifteen principles approved by the General Assembly last year, particularly the one that characterizes seabeds as mankind's common property.

We recognize the valid concern of several sister Latin American nations who claim territorial waters beyond the 12-mile limit on the grounds of their legitimate need to use the resources that are increasingly vital to their subsistence for the benefit of their own people and in order to prevent their exploitation by fishermen from distant lands. The time has come to define the special interest of coastal countries in maintaining the productivity of resources lying off their coasts and as a logical corollary, their sovereign right to establish exclusive or potential fishing zones.

Environmental and development problems cannot be solved by the isolated action of any one country, or even by the joint action of a group of countries. General mobilization is required since in the final analysis, it is a question of protecting man himself, the true protagonist of the drama we are living.

The conference on human environment to be held next year in Stockholm is therefore of transcendental importance. Aside from analyzing the possibility to coordinate efforts, the conference will have to confront the inescapable fact that most of the earth's surface and air space is outside the jurisdiction of nations and their conservation, in consequence, demands international agreements.

The problems involved vary according to region and even from city to city; the solutions, therefore, must always be adapted to specific needs. Industrialization often produces pollution; yet it is evident that the development process cannot be curbed, nor can any measure be accepted that hinders the industrial progress of developing countries.

There has been a radical change in the political structure of the world in the last quarter of a century. The liberation process of many nations living under the yoke of colonialism was accelerated, even under the shadow of armed peace and in a time of uncertainty and fear.

It is my hope that this ear of political liberation from colonial rule will be followed by another of economic liberation, in which progress is shared among nations and the problems that concern us all are solved through solidarity and effective action.

The unbalanced stratification of the world community is the result of an historical process in which one group of nations had earlier access to the benefits of modern civilization. The struggle for power among the more developed countries was accomplished by a distribution of the benefits they derived from their positions of strength and the establishment of systems of exploitation that have survived into our times.

In the search for a new balance, we now run the danger that partisan interests of limited vision will prevail over a more farsighted will for cooperation. The only possible way to prevent this is through reason, and this is its forum; through truth, and this must be its tribune.

United, the poor nations must establish the bases and the limits upon, and not beyond, which they will participate with dignity in the world community; for them, international relations are not a matter of domination but of autonomy and development. They reject anachronistic theories of power and hold that the independence of nations will lead to the repudiation of oligarchical systems and the establishment of an international democratic society.

There will be no peace in the world until there has been a basic readjustment of the economic relations among nations. The menace of increasing inequality between the rich countries and the poor is as serious today as the threat of atomic war.

Notions of time and space have been changed by the communications media and peoples of all races and regions are at last learning the language of universal civilization. Contrasts are thus sharpened, poverty becomes more intolerable, the injustice of wars of aggression and the offenses committed against international cooperation become more evident.

We must reflect upon the negative effects of continued prejudices which hold races and cultures different from those of the powerful nations in contempt. We must give thought to the extent to which the lack of solidarity that negates the patient work of the United Nations, is but a different expression of the same motives that lead to war.

One of the great virtues of the United Nations is that it looks upon many peoples not as they were up to some years ago, but as they may be in the future.

We must fight for the advent of an era of economic, social and political equality and we must break the bonds of serfdom so that all peoples may soon fulfill their creative potential. Just aspirations to freedom, health, food, housing, education and full employment must be guided along peaceful roads.

The demands of the world majority must not go unheeded. Our peoples seek answers and solutions to centuries-old problems and they now want to find them quickly. The nature and trend of the changes taking place over the face of vast continents depend in large measure on the attitude of the powerful nations towards those demands and on the efficacy of the mechanisms of cooperation.

Postwar hostilities are dissolving. But frustration and reaction against unfair treatment must be prevented from provoking a new and racial schism in the world between the affluent nations and those struggling to surmount underdevelopment.

No country or group of countries, powerful as they may be, may take upon themselves the exclusive guidance of world affairs and even less, the guardianship of other nations.

We are today suffering the negative results of systems that were not designed to provide a long-term solution to the true needs of the international community.

The profound crisis now manifest in world economic conditions reflects the shortcomings of the regulatory mechanisms established at the end of World War II, which conciliated the interests of the stronger countries and set up a financial system notoriously favorable to a dominant economy.

General concern with underdevelopment was then far from occupying a position of priority in the organizations responsible for ensuring peace. It was, above all, a matter of rebuilding the economies of the more highly developed countries, reestablishing international relations and defining spheres of political influence.

The ideas of the great majority were absent from the decisions made to create a world tailored to suit the more powerful nations, so much so that the trouble we now experience is the result of a substantial alteration in the relative economic levels among the rich countries.

Fortunately, solidarity among developing nations now constitutes a political force in the formulation of new strategies. We know that each of the principles set forth in the Latin American Consensus of Vina del Mar, the Charter of Tequendama, the Algiers Charter and Resolution 2626 of the General Assembly, has the backing of the millions who make up the bulk of humanity.

Liberalization of world trade took years of arduous negotiation. Adoption of the general system of preferences made us view the future with relative optimism, despite the fact that only tariff barriers were reduced, while the quantitative restrictions contained in import quotas remained unaffected.

The principle by which industrialized nations grant tariff concessions to the poorer ones to enable them to sell their manufacters under competitive conditions, represents a step forward in offsetting existing imbalance among countries at varying stages of development. On the other hand, developing countries, in fact, grant tariff concessions on the import of products from the industrialized nations since they cannot do without the capital goods, machinery and equipment needed for their progress.

We have recently been subjected to events that tend to nullify the modest, but positive advances made up to now.

It is a source of satisfaction to us that the General Assembly, upon convening the Third World UNCTAD, should have expressed its deep concern with the trend in certain countries toward intensification of protectionism, which damages the vital interests of the less developed nations and hampers fulfillment of the goals set up for the Second United Nations Decade of Development.

I consider it my duty to point out that application of a 10 percent ad valorem surtax on U.S. imports hurts my country's interests and those of all developing nations.

A protectionist race must not come on the heels of an armaments race. We already suffer the effects of inflation exported by the great powers; now they shift onto us the results of their balance of payments deficit and unemployment.

The industrialized countries should bear in mind that temporary or permanent tariff barriers levied against poor countries are not only unjustified and unnecessary, but self-defeating.

Most of the developing countries already had a trade deficit that will now become more acute; their manufacturers were just beginning to enter industrialized country markets and such measures will only force us to reduce our imports.

Furthermore, the developing world has long extended its cooperation to the industrialized nations by permitting them to make investments and obtain high profits, by becoming important customers for their exports and suppliers of raw materials which they then process and sell to other economic powers.

Mexico reaffirms the principles set forth in the "Manifesto of Latin America," which is the unanimous stand adopted by the member nations of the Special Latin American Coordinating Committee vis-a-vis the dilemma posed unilaterally by the United States on August 15.

It also reiterates its support of the theses that constitute the international strategy for the Second United Nations Decade of Development, which contain most of the principles sustained by the countries of the "Group of 77", whose number has grown considerably.

Special heed should be given to the opinions and needs of the developing countries in the reorganization of the international monetary system. The agreement of all is necessary to ensure its effectiveness and the unobstructed abiding by its rules. It should not be conceived as an instrument at the service of the more powerful economies, but rather as a factor for the expansion of economic activity to assure an increasing flow of capital, in optimum terms and interest rates, into countries that need it.

Our country gives special importance to the exchange of scientific and technological know-how. In consequence, we observe the work of the Intergovernmental Group on Technology Transference with close attention. We feel sure that the content of its report will contribute to the formulation of national and international policies to surmount the obstacles in the way of public and multilateral action.

Although spectacular results were not produced by advances in the field of economic cooperation, and these met with the serious obstacles I referred to, there is no doubt that they have wrought a change in the principles upon which international trade theory was based. We trust that the next World Conference, to be held next year in Chile, will at last crystallize the main points upon which the hopes of the developing world now rest.

If multilateral cooperation can be a factor of progress, the growth of each country will be primarily the outcome of its own effort and responsibility.

Like all the countries of Latin America, Mexico is engaged in a race against time to provide higher standards of general well-being for its people.

Its goals are centered mainly around productivity and modernization of the agricultural economy, reorientation of industrial policy, redistribution of income, training of human resources, reorganization of public finance and educational opportunities for all.

Economic integration is a collective instrument to speed up Latin American progress. Its attainment should be one of the national policy objectives of every country of the region. Integration is an irreversible process since our peoples are aware that they cannot ignore the trend toward the creation of larger economic areas. It is for this reason that Mexico is especially interested in maintaining closer and more dynamic economic relations with all its sister nations.

To this end, it will be necessary to give greater importance to industrial complementation agreements among LAFTA members, to increase existing margins of preference, create truly Latin American multinational companies, seek to supplement our farm commodity shortages with products from the region and improve regional financing mechanisms to facilitate the export of manufactured and semifinished goods to third countries.

Mexico, on this occasion, reaffirms its support of the Latin American integration process and manifests its desire to see it become a broad-scoped reality.

There is nothing at the present time to justify great optimism regarding the immediate future. But we find hope and encouragement in the knowledge that there are men of all races and ideologies who devote their best efforts to establish a just order. One of the most illustrious of these men is our Secretary General, U Thant, who has dedicated his intelligence and determination to the cause of peace, as well as his unlimited capacity to persuade and conciliate.

As he has already announced, this will be the last session of the Assembly at which he will act in his distinguished post. Once again, on behalf of Mexico, I wish to pay homage at this time to U Thant for the incalculable services he has rendered the United Nations over the past decade.

With the brevity the occasion demands, I have reviewed the matters which I believe to be of greatest importance among the many on our program. I offer these reflexions for your consideration. No better repository for them than this forum, representative par excellence of world opinion and of the aspirations of the human race.

In taking my leave of you and expressing my appreciation for your kind willingness to hear me, I would like to conclude by reaffirming my confidence and that of my people in the future of the United Nations. Our Organization is humanity's guide and mirror and our faith in its future runs parallel to our faith in man and his destiny.

The course of history is traced in advances and retreats, victories and defeats but in the final analysis, there is always an irreversible gain. What has been attained at internal level through the establishment of government by law must be achieved in the sphere of the international community we are all pledged to build. Its structure is ideally shaped in our Charter and each of its principles and aims represents a daily challenge to which, day by day, we must respond.

R. F. K. CALLED $1 CHECKOFF PLAN DANGEROUS

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1971

Mr. STEIGER of Wisconsin. Mr. Speaker, during 1967 we heard a good deal of strong and persuasive criticism of the $1-per-person tax checkoff plan for presidential campaigns that had been enacted in the closing days of the 89th Congress. Among the most forceful critics of the $1 checkoff was Senator Robert F. Kennedy.

In reviewing the several days debate on the Pastore amendment this past week I am disappointed to note that Members of the other body have failed to recall the admonition of Senator Kennedy of New York in early 1967.

For the benefit of my colleagues I include as part of my remarks a news report by David S. Broder, which appeared in the Washington Post, January 19, 1967.

The current $1 checkoff plan differs somewhat from the one enacted in 1966. The current proposal contains stricter requirements for candidate reporting and payment eligibility, and it requires the Comptroller General to draw up rules and definitions for "qualified campaign expenses." But several features that troubled the late Senator Kennedy still remain in the current plan.

It does not restrict payments to such easily audited expenditures as the purchase of television and advertising time. And it grants to the authorized political committees of the presidential candidates fully as much power as the 1966 legislation had granted to the party national chairmen.

Accordingly, Mr. Speaker, I believe that the strong reservations Senator Robert Kennedy expressed about the Long amendment apply equally to the Pastore amendment that is now before the House and Senate conferees. Today's proposal is an improvement, but it is every bit the temptation that Senator Kennedy perceived.

The article follows:

[From the Washington Post, Jan. 19, 1967]

R. F. K. CALLS $1-PER-PERSON TAX PLAN FOR POLITICAL CONTRIBUTION DANGEROUS

(By David S. Broder)

Sen. Robert F. Kennedy (D-N.Y.) said last night that the $1-per-person tax checkoff plan for presidential campaign contributions approved by Congress last year contains an "extremely dangerous" grant of power to the heads of the national political parties.

Kennedy, in an interview with the National Educational Television network, said it was "imperative" that the new law be changed to put "very tight restrictions" on the authority of the party chairmen to use the estimated $30 million each party will receive from the taxpayers.

Otherwise, Kennedy said, each party chairman "is going to have an immense amount of money freely at his disposal to use all across the United States . . . in any way he sees fit in a manner that I think is very dangerous."

The Kennedy interview was broadcast last night in New York and will be seen tonight at 8 o'clock on Channel 26 in Washington.

The target of Kennedy's criticism was an amendment sponsored by Sen. Russell B. Long (D-La.) permitting each taxpayer to indicate by a check on his income tax form that he wants $1 of his income tax used to finance the next presidential campaign. The money would be divided equally between the two major parties, with special provisions for a share to a minor party that received more than five million votes.

Long appended the amendment to the so-called "Christmas tree" bill closing foreign tax loopholes. President Johnson signed it with a statement saying "presidential candidates will no longer have to rely on special interest groups to meet the heavy financial burden of a campaign.

Kennedy told NET interviewer Paul Niven that he, too, favored public financing of presidential campaigns but added that the Long amendment "puts too much money without any restraints in the hands of political organizations."

Kennedy told Niven: "Say you were my friend here in the city of New York and I was head of the Democratic Party, I'd say to you. 'Here's $500,000, I hope you can work for the candidate in 1968' . . . And if you have a struggle for the nomination, you know that the money is going to go to the head of the national committee . . . He can easily indicate to various parts of the country that they will receive large amounts of money if they vote in a way that meets his wishes."

Kennedy suggested that the law be changed to require public accounting of the fund's use and perhaps to restrict use to easily audited expenditures such as purchase of television time and advertising.

SPEECH BY MR. M. O. LEE, CHAIRMAN OF VF CORP., TO ALABAMA CHAMBER OF COMMERCE, NOVEMBER 18, 1971

HON. BILL NICHOLS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1971

Mr. NICHOLS. Mr. Speaker, on November 18, Mr. M. O. Lee, chairman of the VF Corp., addressed the Alabama Chamber of Commerce meeting in Montgomery. I believe Mr. Lee has a number of very important and thought provoking remarks in his speech and I include it in the RECORD at this point:

SPEECH BY MR. M. O. LEE, CHAIRMAN OF VF CORP., TO ALABAMA CHAMBER OF COMMERCE, NOVEMBER 18, 1971

My sincere thanks for your very kind welcome. Alabamians have set a tradition for gracious treatment of their guests and I am delighted to be a beneficiary of your hospitality.

I would not violate that hospitality by commenting on the Alabama-Auburn football game. The sports writers say the winner will probably play No. 1—Nebraska—in one of the bowl games. I must tell you I was born and grew up in Nebraska. So on behalf of the Cornhuskers from New Jersey, Pennsylvania, and Ohio who have been attracted to Nebraska by the good weather, high educational standards, and other factors of interest to athletes, may I ask you—and particularly the Alabama and the Auburn football squad—to treat our poor little Nebraskans kindly and gently and with real Southern hospitality.

While we share a common interest in football and the ball games, more important is the common interest we *share* for what happens to American business and workers here in Alabama and throughout the nation. I, as a representative of one of the nation's largest apparel manufacturers, you, as a leader of Alabama industry, our destinies are linked and I welcome this chance to discuss the problem . . . and opportunities we share jointly.

Despite the success of Nebraska, Alabama, and Auburn on the football field, 1971 has been a pretty tough year. We can point to a lot of things that happened which we do not approve.

But the truth is: 1971 was not all negative. I believe that in the future it can be said of this year that it was a 12 months when the people of this nation rejected mod rule and the hippy philosophy of something for nothing . . . a period when the leaders of this nation—in Washington, in industry, and in labor—finally said *enough* to the tidal wave of unrestricted imports that have been engulfing us;

Enough to monumental trade deficits;

Enough to discrimination against American capital good abroad;

And *enough* to inflation, the silent thief that has been robbing us of our savings and sapping our will to work.

I am very much concerned with the apparent stand of international trade and its repercussion upon our apparel industry. Today I would like to discuss with you the matter of imports that have already destroyed portions of our industry; that has helped raise unemployment in our country to unacceptable levels, that has cut unduly low margins of profit in many companies, and that threatens to turn our nation into a dumping ground for products that we will eventually be unable to pay for.

Alabama is a State vitally dependent upon apparels and textiles. Some 229 apparel plants in your State employ over 41,000 workers. The textile industry in Alabama adds another 43,000 workers operating 129 plants. Twenty-six out of every 100 manufacturing workers here in Alabama depend upon textiles and apparel for a livelihood.

VF Corporation has 16 plants in Southeastern United States and employs 18,000 people of which 8,000 are employed in Alabama.

How can our workers compete with those in Japan who average 39c an hour in the apparel industry; with those in Hong Kong where the average hourly wage for clothing workers is 26c; with Taiwan and its 15c an hour scale; and with Korea which pays its workers an average of 9c an hour. Try to compete with them.

Here in Alabama, your steel industry and your chemical industry and your textile industry have also been undercut by imports from nations whose wage scales are sharply below yours. We would like to compete with foreign producers but would like to do so on equal terms. We are handcuffed by wage scales, tax laws, policies, and regulations that most foreign producers do not have to put up with.

Alabama, then, is a State that knows first hand the effect of unfair competition from abroad.

How did this situation arise? How did we lose our preeminence in international trade?

Five years after World War II ended, we were the undisputed number one industrial power in the world. We still are. But our position is fast slipping. In the past two decades, the growth rate of our gross national product has ranked three from the bottom among the 21 leading nations of the globe.

Two decades ago the American dollar was the world's most respected currency—that standard by which all others were measured. It no longer is. It was a shocking experience for Americans this past summer to have their dollar rejected by Europeans.

In 1950, mills in Pittsburgh, in Chicago, and in Alabama produced almost one-half of the world's steel production. Today, these mills actually have a mere one-fifth of all steel production.

Two decades ago, Detroit produced ¾ of all automobiles in the world, and we had a sizeable export trade in automobiles. Today our share of the world's market of automobiles has shrunk to just ⅓. Thirty-five percent of new car registrations in California are foreign.

After World War II, our ship yards were the largest and finest in the world. Last year, they produced only 2% . . . 2% of the world's merchant ships.

Our machine tool industry was once the pride of the world. We have backed into *fourth* place.

Now the industry with which I am intimately concerned—textiles and apparels—have been short nothing of a disaster area as a consequence of our over-liberal trade policy.

A respected figure in the American footwear industry has estimated that imported footwear has wiped out 76,250 job opportunities in this category alone by 1969. By 1975; the figure could reach 169,200. Four years ago, footwear imports were 22% of the U.S. market. This year they were around 36% and heading for the 42% zone.

Another respected figure, this one in the textile industry, has estimated that to produce the 1969 volume of imported textile and apparel products would have required about 250,000 textile and apparel jobs.

Today, the American Apparel Manufacturing Association estimates, one out of every two women's sweaters sold in this country is imported; one out of three men's dress shirts sold is imported; and ⅓ of all women's blouses consumed in the United States is imported.

If you want to see how fast imports can penetrate a market, one need only look at the panty hose market where imports went from virtually nothing to 10% of domestic production in 18 months.

Textiles, particularly hard hit, have been suffering a trade deficit since 1958. Last year 1.6 billion dollars more textile and apparel products were imported into this country than exported.

The United States practically "invented" the man-made fibers industry. Imports of man-made fibers have risen from less than 1 billion equivanlent square yards in 1967 to a current annual rate of nearly 4.4 billion.

This appalling state of affairs has had a direct effect on the American industry. Among textile mill product companies, after tax profits to sales have tumbled from an average of 3.6% to 1.9% in a five year span (1966–1970).

Bankruptcies are as common in the textile and apparel industries as the boll weevil in the cotton field.

My company, the VF Corporation, has campaigned against this general trend. There are several reasons for this. Our emphasis has been on man-made fibers. This is an area in which foreign competitors have only recently zeroed in. In addition, we have stressed quality and fashion and price levels that place us in the competitive battle and I might add Vanity Fair has had the financial resources and commitment that have enabled us to make technological and management advances—not really common in our industry. We are confident we can continue to grow and prosper and that our industry can recover—if people—first, begin to understand the problem, then respond in attitudes, in conviction, in buying practices.

People must recognize that the problem is not caused simply by differences in labor costs between the United States and foreign countries—not by our inflation, nor by the effects of U.S. business investments abroad—nor by the Viet Nam war and military expenditures. Despite the over-simplified explanation you often hear for our plight, I believe that like everything in human affairs, there is no single factor behind this appalling state of affairs. Nor can we place the blame on external causes for all our economic distress.

Part of the decline in the American prestige, in American influence, our share of the world market was inevitable . . . it was bound to happen in the normal course of events. We could not remain king pin and dominate every single aspect of the world's economic fever . . . as much as some of us would like to, other countries have the same aspirations and drive and high technical skill that we do, although they may not have the same resources.

But, of course, there is no need to deliberately throw away both our preeminence or our market by short-sighted action.

Other countries don't.

Compare the United States with most of the countries of the world which are interested in trade. Compare tax policies. Take a look at the depreciation and incentive system. See who protects domestic producers. Examine the attitude of labor and government. You will begin to understand that world trade and practice by our competitors is neither free or fair. And we go into the battle with one arm tied behind our back!

A comparison of the American and of the Japanese experience over the recent past illustrates the attitude of Japanese labor leaders in fostering Japan's superior growth rate.

Japanese labor took the position that what is best for their nation and for their company is best for them. This attitude is engrained in them. Unions participate in helping the company overcome obstacles, achieve efficiency, meet competition. Japanese labor and management work as a team. Japanese unions often postpone wage increases, realizing that wages can be increased only as the company grows.

Such common labor practices as featherbedding, cooping, limiting production, the closed shops are virtually unknown in Japan and incidentally, this is true in many other foreign countries.

In America, we have some labor leaders—and this has been particularly true in the apparel industry—who I regard as enlightened. They recognize the need for craftsmanship and productivity. They understand the peril of unfair, disorderly competition from abroad but this has not been universally true by a long shot. And too often, labor and management have operated on an antagonism principal—and adversary costly in confrontation. You know the results.

Since the end of World War II, wages have been rising 4.5% each year and two years ago reached a 7.5% annual rate—3½ times the overall gain in productivity.

As a consequence, despite extraordinary refinements in production techniques and widespread adoption of automation in this country, output of the the American workers has only gained 35% in the past decade. Japan's output has soared 189% in the same time.

As a further consequence, the gap between the U.S. and Japanese hourly employment costs widened during the decade from $2.43 to $3.23 per hour. Whereas, American manufacturers now pay an average total labor cost of $4.18 per hour including fringe benefits. Japanese manufacturers pay their laborers an average of 95¢ per hour.

As bad as inflation is, as bad as our labor costs and productivity might be, they are not the only culprits in outpricing ourselves in the world markets. I believe that most of the blame must be placed on laws that hamper efficiency and productivity, and hamstrings modernization and automation.

Fred Borch, Chairman of General Electric Company, put it this way in a recent speech: "What is the real reason for the serious U.S. trade situation? It boils down to the fact that other countries have placed international trade as a top national priority and have adopted structural policies to promote their sales and balance of payments."

What does Mr. Borch mean by structural policies?

It is very basic. We must restructure our laws and policies in order to intensify capital investments in modernization and automation. We must encourage investments in research and development. And industry must be rewarded, not penalized, for doing what is so obviously in the interest of the American public.

The Japanese and West Germany governments understand the necessity for having the most modern machinery and actually foster new construction and modernization. The American government, committed to fantastically high levels of government spending, makes unrealistic and inadequate tax concession for new plants and replacement of equipment.

In the decade just ended, investment in new plants and equipment, Japan reported somewhere around ⅓ of the gross national product. In West Germany, the comparable figure was 25%. Among large countries, the United States stood last in new investments in plants and equipment as a percentage of gross national product . . . only 16%.

Despite recent improvement in depreciation guide-lines and improved first year writeoffs, the United States continues to have the poorest capital recovery system among the world's industrial nations. After 7 years, the average total recovery for capital expenditures by American corporations is still only 76%—or 4 percentage points below the first year writeoffs of U.K. Corporation.

The need for improved depreciation policies has been heightened by our growing ecological concern. I am for fighting pollution and protecting our environment. But I think it is also important to look at the cost. For example, the Industrial Conference Board, a non-profit, fact-finding group, have estimated that by 1975, public and private spending for air and water pollution alone will total $61.7 billion. This amount of money, if invested in new plants and equipment, would create jobs for 2/3 of the nation's 4.8 million unemployed.

Incidentally, other nations have not yet assumed such responsibilities and accompanying cost burden, nor are there any signs that they will. Hence, American corporations are operating under another large burden.

The handicaps under which American corporations operate are compounded by aggressive policies of foreign government in subsidizing exports direct or indirect, and by restrictions placed on American investments abroad.

In Japan, most industry is closed to majority U.S. participation. And direct investment is restricted largely to new firms when imports, fairly stiff quotas are imposed in 40 categories of goods including coal, computers, oil and shoes and other leather products. Major tariff barriers include duties of up to 40% on value of canned fruits and vegetables, up to 25% on cosmetics, up to 25% on computers. A commodity tax is added to the cost of such items as automobiles, air conditioners, cosmetics, and film. Even where there are no quota restrictions such as with apparel, Japan has found ways to keep out most U.S. apparel products.

Controls on capital investments and quotas are only two of a host of known tariff barriers that are used by many countries to effectively control the flow of imported products. These barriers have become more important since the Kennedy realm which reduced tariffs by as much as 50% and thus limited the ability of tariffs to regulate trade in many products.

Known tariff barriers take many forms. For example, France and Belgium have very high taxes on large automobiles which fall almost exclusively on U.S. automobiles. Italy virtually excludes imports of Japanese automobiles. This has increased the pressure to market Japanese automobiles in other countries, particularly the United States. In the power generator field which is mostly government controlled in Europe, purchase of generator equipment is usually made domestically or at least within the economic trade block.

In the electronics equipment field, France, West Germany, and the U.K. have a tripartite accord on quality certification which, according to the Department of Commerce, could be detrimental to U.S. products. Basically speaking, these specific items have turnover taxes. These taxes are levied on all imports but *rebated* on exports. This helps the European manufacturer since it reduces his price. What a contrast to the way American manufacturers are treated—and taxed!!

Let me make one thing clear. I am not an isolationist opposed to world trade.

The VF Corporation is an intimate apparel complex. We have plants now or will have shortly in Spain, Belgium, Scotland, Ireland, Greece, South Africa, Rhodesia, Colombia, and Canada.

But we invest our own money in those countries and take the same risks as everyone else. We create jobs and compete in every market. If foreign countries want to invest in America on the same basis, I have no objection. I welcome them. Just let them play by the same rules, with the same wage scale, the same taxes, and the same opportunities as we do.

I've suggested, I agree with General Electric and Mr. Borch: We need new structural policies and we need to understand the importance of world trade to our national interest.

We also need some other things—like getting back to basics and working from the premise that "Patrotism" is not a four letter word. We should give preferential treatment to our own citizens, to our own country, by buying goods of American manufacture whenever they are available. By "Buy American" we are giving employment to American citizens, upgrading American skill, reducing unemployment rolls, and contributing to the maintenance of our schools and other civic enterprises, contributing to the strength of our balance of payments, strengthening the American dollar.

A dollar invested in goods of American manufacture, whether it be textile or apparel or automobiles or steel, has a multiplier effect. It goes round and round our economy, benefiting everyone.

I am not saying buy a product of lesser quality just because it is made in America. I am saying the American consumer should at least be given the option of buying products made in the U.S., and many retailers do not even provide that option today.

Somehow we have been blinded by the mystique of foreign labor. We have been taught to believe that if goods are made in France, Turkey, or Hong Kong or Mesopotania, they are exotic and more desirable. Foreign labels carry a certain snob appeal. Yet, no country on earth produces wares as fine as those made in America. I have been going around the country preaching the gospel of "Buy American" and the response that I have been receiving has just been tremendous. People have been telling me that a "Buy American" movement is long over due so, look for the "made in America" label. You will be benefiting your neighbor as well as yourself.

"Buy American" is not enough. Even an effective "Buy American" campaign coupled with the existing tariff rate on imports cannot cope with the unrestricted market of foreign products in this country.

What is needed is a program for series of mod multi lateral agreements which would put exports-imports on a rational, orderly basis. One of the goals of such multi-lateral agreements would be to help developing nations market their excess products through the world. Yet, these exports must not be detrimental to the importing countries. It is one thing to share our market. It is quite another to lose it! Nevertheless, I favor working for multi-national arrangement that would also serve as a basis for further negotiations of truly reciprocal trade by eliminating barriers to export trade, particularly the barriers faced by American producers.

Recent agreements negotiated by President Nixon with four countries—Japan, Hong Kong, Korea, Taiwan—on wool and man-made fibers apparel—are a step in the right direction. These should be used as a step to a multi lateralized agreement covering the trade of all textile-apparel products. Within this, a forum could be set up to police the operation of the arrangement and help reduce existing barriers in trade in these products. Multilateral agreements of this type could logically be expanded to the steel, automotive, electronics, and other sectors of our economy suffering from indiscriminate imports.

Coincidental with these agreements, an equitable monetary agreement should be developed so world trade can be resumed in an orderly manner. While these multi lateral agreements are being hammered out, we should work for a lowering of trade restrictions and barriers to investment of American capital abroad.

While we are bargaining for our exports on a quid pro quo basis with foreign nations, we must continue to put our economic house in order. We have suggested not pricing ourselves out of new markets with a prolonged wage-price spiral. The President has announced a temporary halt to this self defeating practice. Now we have gained breathing time to make positive moves toward expanding our export market.

Phase 2 should give us the opportunity to begin to build a more rational, logical economy.

During Phase 2, we should also seek to regain our technological leadership in areas where we have lost it and to extend our leadership where we are ahead.

Outstandingly superior technology may be the one enduring, our prime weapon, in our struggle for economic vitality—against unfair foreign competition. Again here is an instance where tax incentive—national commitments—are required.

My personal hope is that the period of Phase 2 will provide an opportunity for national reexamination.

We need in this country an infusion of pride—pride in ourselves as people, pride in the work we do, the pride we make, the country we are constantly remolding.

Recessions are no fun. But they are educational!

Perhaps out of the recession, we are learning a concern for people here in the United States who need jobs. We are learning that it is in our own interest when American business profits and reinvest and create new jobs. We are learning that retail sales do not come from low priced merchandise, produced abroad. Retail sales come from American workers who have jobs and confidence and money to spend.

You business man here today—what kind of car do you drive? What kind of camera do you use? Where are your clothes manufactured? What are you doing to let Congress and the President know how you stand on adding fairness to our out-of-kilter world trade position? What are you doing to explain the importance of this whole issue to your employees and suppliers and friends? None of us have done enough.

Let us all hope for a world where there is a free, fair flow of trade. Let us hope that trade restrictions and barriers can eventually be removed. But until there is fairness, until there is orderliness, until relative stability and equilibrium can be restored and foreign obstacles to free trade be removed, let us do what we must to protect American jobs . . . sustain American industry . . . and stimulate American capacity to do the things required to assure our people a better life.

There is no nation or culture on the face of this earth that has produced more goods for more people in as short a period of time as the United States of America. And I believe it is high time that all of us, the press, radio, TV—stop whipping the United States of America and point with pride to her accomplishments.

PAN AM LOOKS AT THE SPACE SHUTTLE

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1971

Mr. FUQUA. Mr. Speaker, it has been my privilege, over the last few years, to study our national space program, particularly the low-cost transportation system known as the space shuttle.

During the debate on the NASA authorization bill, I said that the development of a low-cost transportation system to space is feasible.

Therefore, it was with great interest that I read a speech delivered by Najeeb E. Halaby, chairman and chief executive officer of Pan American World Airways, titled "A Commercial Airline Looks at the Space Shuttle," delivered at the Society of Experimental Test Pilot's symposium, in Los Angeles.

In my opinion, there are few in the field of aviation today as well qualified to speak on this subject as Mr. Halaby, about whom President John F. Kennedy said, when he appointed him FAA Administrator:

> We have looked for the best qualified and professionally competent man. We have found him in "Jeeb" Halaby.

What better team than this man and this company, Pan Am, with its depth of experience and talent in the space field, to evaluate the space shuttle.

In his speech Mr. Halaby said he does not consider it at all inappropriate to discuss today a time not far ahead when men will be going routinely from earth to outer space in a space shuttle.

"Some may question the assumption that a shuttle through space is not far off. But in historic context, it is imminent." He pointed out that progress in man's locomotion has accelerated and telescoped, and in this respect, we cannot consider a space shuttle far away. "We see this progress linked closely to the commercial airline."

Mr. Halaby told how Pan Am began dreaming the dream of space in 1953 when it organized what is now called its Aerospace Services Division to help develop, then to support the Air Force's Eastern Test Range, and what is now known as Cape Kennedy.

He feels airlines should play an integral role in the space shuttle program and indicated that NASA has already shown that it appreciates the contributions the airlines can make to the program, by having airlines participate with space contractors in the development of the space shuttle.

Mr. Halaby explained that Pan Am has been working on the space shuttle for the past 2½ years and is now teamed with McDonnel Douglas and Aerojet General on this project, with its specific, if not exactly precise role, to make the eventual space shuttle work more like a standard airliner than a quarterly experiment.

> The key to practical application of the space shuttle is basically the same as the key to developing commercial aircraft: reduction of the cost per pound of payload. Since it takes much less energy to put an object in earth orbit than to fly the same object across the United States, there is no reason why the cost of space shuttle operations should not become as low as or lower than that of jets. The main costs, however, are the same for the space shuttle as they are for commercial airliners: it is not the energy, but rather the vehicle, operating personnel, and the logistic support, that eat up the budget. Here the airline has a great value. Commercial airlines have great depth in operations and logistic support with that other reusable space vehicle, the airplane.

Mr. Halaby explained that as presently visualized, between 1980 and 2000 a space shuttle will evolve from a reusable vehicle that will put a 60,000-pound payload into a 250-mile earth orbit at a cost of about $100 a pound, into one that could carry a payload of up to 150,000 pounds into higher orbits at costs of $10 a pound, and with lower G-forces on take-off.

He said the present forecast is that the space shuttle will be used to support space stations by transporting crews and supplies, to launch and service satellites, and to serve as a rescue and emergency vehicle.

> As costs come down, though, applications may multiply. Some scientists predict that manufacturing in space will become a commercial venture worth hundreds of billions of dollars by the end of this century.
>
> They say this is because the unique environment in space could make possible new and vastly improved manufacturing techniques for many valuable products. Satellites could become the sentinels that will alert us of dangerous storms, of rotting but remote forests, of drought and rain in farming areas, of invisibly deteriorating crops, of river and ocean pollution, of earth faults, of geological properties like mineral and fuel resources. They will revolutionize even further communication and navigation. They will become the sensors—the eyes and ears of all those concerned with environment, ecology, and earth resources.

Mr. Halaby stated that these and other activities will call for a fleet of space shuttles, transferring and supplying crews on space stations, servicing navigation, communications, and earth resources satellites, supporting this entire elaborate space community.

> A commercial airline, with its depth of experience and talent in the field, could be the most efficient and economical agency to operate, under contract to the Government, a Space Shuttle airline between earth and space.

Just as Pan Am teams at Cape Kennedy have maintained the spaceport, launched vehicles, manned the weather and communications operations, he visualizes commercial airline teams operating the space shuttleport.

And since the shuttle, unlike today's unique space vehicles, will be working vehicles, he sees no reason why the men at the controls should not be commercial captains, taking off somewhat more steeply perhaps, but then navigating and maneuvering to their destinations in space much as they do in the air, then reentering the atmosphere, and landing the vehicle like an airplane.

In discussing Pan Am's most glamorous vision, Mr. Halaby said:

> The "Impossible Dream" we insist on dreaming is that of the Space Shuttle as an air transport, carrying passengers from New York to Tokyo—in 45 minutes, or from Los Angeles to Rome in 40.
>
> He can visualize a rocket-powered vehicle with 100 passengers—not counting stewardesses—launched vertically in a suborbital trajectory at the precise azimuth for its intended destination, reentering the atmosphere without excess g-forces, gliding unpowered to an altitude where its conventional jet engines will be started, then landing on a runway like a conventional airliner. Obviously this dream is a long way down the line, and many inventions remain to be invented before it occurs.

In conclusion, he pointed out that in the past the fact that technology was capable of building a better vehicle was generally sufficient to justify going ahead and producing it, however, we learned that this is not enough any more.

The public by and large has assumed a new set of values, and these values have to do not with speed and scientific accomplishment, but rather with tranquility, fresh air, and value-received-for-cost-paid.

> And we have learned—or we had better have learned—that from here on out, our future will depend not on a few leaders, but on a concerned and aroused public at large. So our design criteria for a space shuttle are not related simply to its efficiency, its speed, its fuel consumption, its payload, and all those other traditional concerns. Superimposed on these already-difficult specifications is the requirement that the Space Shuttle fulfill a real need of people; that it operate at a cost the public can afford; and that it operate within parameters of social acceptability.

H.R. 6834

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1971

Mr. WALDIE. Mr. Speaker, I am most appreciative of the opportunity to speak on behalf of H.R. 6834, to provide Federal financial assistance for the reconstruction or repair of private nonprofit medical care facilities damaged or destroyed by disaster.

I am sure we are all aware of the millions of dollars damage done to such installations by the earthquake which occurred in Southern California earlier this year.

Mr. Speaker, that earthquake was only of medium intensity. There are a number of communities built on little known earthquake fault lines in California which may sometime feel the effects of another quake of the dimensions of the one cited above. We may, although I most assuredly hope not, sustain a quake of major proportions in the future. I would be more confident of our ability to rebuild vital medical installations if H.R. 6834 were passed into law.

Again, Mr. Speaker, thank you for the opportunity to present my views on this legislation.

THE SUBURBS HAVE TO OPEN THEIR GATES

HON. OGDEN R. REID

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1971

Mr. REID of New York. Mr. Speaker, I direct the attention of my colleagues to the thoughtful article which I am inserting today in the RECORD. The article, entitled "The Suburbs Have To Open Their Gates," is authored by the distinguished and able urban planners Paul Davidoff, Linda Davidoff, and Neil Gold who are working to open up housing, and thereby other opportunities including education and public services, to minorities in the suburbs. Mr. and Mrs. Davidoff and Mr. Gold work with the Suburban Action Institute located in White Plains, N.Y.

As this article points out, the issues of substandard housing, exclusionary zoning laws and other problems that we consider "urban problems" are far from that. They are urban and suburban and above all they are national and should be recognized as such. This article merits our attention and our study, and I commend it to the attention of the Members.

The article follows:

THE SUBURBS HAVE TO OPEN THEIR GATES

(By Linda and Paul Davidoff and Neil N. Gold)

A few years ago, socially conscious residents of the New York suburbs joined in a project that occupied several spring weekends: they chose blocks in the East Harlem and Bedford-Stuyvesant ghettos and traveled to them in teams, equipped with paint, brushes, buckets and mops, for cooperative clean-up, fix-up sessions with the residents. This was a way for middleclass people to experience and, at the same time, try to help solve the neighborhood problems of the ghettos.

A few weekends and some paint had little effect on the crumbling structures and festering economic and social problems of the ghetto neighborhoods. But these efforts, worthy enough in themselves, skirted the reality: that it is the exclusionary practices of the suburbs themselves that help create the poverty and ugliness of the slums, and that well-motivated suburbanites could do more for poor and working-class people trapped in the inner cities by opening up their land, job markets and tax resources to them.

The 1970 Census revealed what had begun to dawn on urbanists in the nineteen-sixties: that the suburbs contain the largest share of America's population. In 1970, 36 per cent of the people lived in suburban parts of metropolitan regions, 30 per cent in the central cities and 34 per cent in rural areas. Some time in the current decade, more people will be employed in the suburbs than in either the cities or rural areas. And according to all predictions, the suburbs will continue to have the largest number of Americans for a long time.

Although the suburbs have provided housing and jobs for millions of new families since 1950, many suburban communities have maintained controls over the kinds of families who can live in them. Suburban values have been formed by reaction against crowded, harassed city life and fear of threatening, alien city people. As the population, the taxable income and the jobs have left the cities for the suburbs, the "urban crisis" of substandard housing, declining levels of education and public services, and dried-up employment opportunities has been created. The crisis is not urban at all, but national, and in part a product of the walls that have been built by the suburbs to discourage outward movement by the poor and blacks in the cities.

Opening the suburbs will not only reduce race and class tensions in our society but bring economic gains to all our people—through better use of the resources these communities have to offer: *land* for housing (and with it the opportunity for a decent public education), *jobs* and *tax revenues*. To bring this about, we need *action* to convince the communities—as well as Federal and state courts and legislators—that change must come, plus imaginative *planning* for an era of housing construction that will meet the needs of an expanding suburban population.

LAND

The new ecological consciousness in America and the cityward movement of our population have led to a widespread belief that we are exhausting our most precious resource: the land. Nothing could be further from the truth. America is land rich. "Megalopolis," the concentration of population along the Eastern seaboard from Boston south to Washington, consists largely of unbroken expanses of open space. Settlements along the Boston-Washington corridor are mostly thin strips along major roads and railroads; off the beaten path, woods and farms predominate. Outside the great metropolitan complexes, the land is open and unused, and places that once were farm land or villages are losing their populations and returning to the wilds. Out of 3,000 counties in the U.S., 1,000 have had a net loss in population during the last 30 years; the move from country to city, and the mechanization of agricultural production, are leaving larger and larger portions of the continent's land to open space.

Within metropolitan areas, population growth has exhausted the supply of developable open land only within the older inner cities. Vacant land is plentiful within 20 to 30 miles of the centers of every major city in the nation. Without restrictive laws, it would be possible to develop commercial and industrial properties at relatively low land costs in the outer suburbs of metropolitan regions. Moreover, only restrictive zoning, building codes and other antidevelopment legislation prevent the construction of a large number of housing units in these same areas.

The zoning laws cover a large proportion of vacant developable land in the suburbs. In the New region, 90 per cent of all such land is zoned for single-family residential use; in eight counties of New Jersey, 82 per cent of it is zoned for lots of a half-acre or more; in the portion of Connecticut closest to New York City, three-fourths of the open residential land is zoned for an acre or more. While many older suburban towns either have no significant tracts of vacant land or already have a large population of working-class and minority families, the communities that control the bulk of the vacant land have enacted exclusionary laws.

If housing could be built in an open-market situation in the suburbs, the structure of the housing market in metropolitan America would change sharply. It would be possible to build many more houses on quarter- and half-acre lots, the accepted pattern of construction in the nation since World War II. And it would be possible to build row houses and garden apartments, the least expensive form of housing for families of moderate means.

The land supply in metropolitan areas is being kept off the market not by private acts, but by public enactment. In creating private preserves for the wealthy, law has become the instrument of those who want to keep out moderate- and low-income families. This leads to a paradox that has been called "Ivy League Socialism": excessive government intervention, on behalf of not the poor but the rich. The protected property owners are precisely those most able to protect themselves from undesired neighbors by their own wealth. They can buy large tracts of land, build high fences around them and put their houses in the middle of their estates at the end of long driveways. They do not need the help of the law.

The exclusionary laws are not completely explicit: there are no zoning maps divided into racially or economically restricted areas, so labeled. But there are thousands of zoning maps which say, in effect: "Upper Income Here"; "Middle-to-Upper Income Here"; No Lower-Income Permitted Except as Household Employees"; "No Blacks Permitted." The practical effect of the maps and codes is to prohibit all but the most costly forms of housing development.

Why do we call the result de jure segregation? Because the racial consequences have been understood for a decade or more by anyone familiar with patterns of population movement. It is a certainty that the planners and public officials who draft and enact zoning ordinances restricting land development to single-family, detached structures on plots of an acre or more do so in full awareness that, as a consequence, almost all blacks will be excluded from such zones.

In many areas, acreage zoning is the preferred exclusionary device. The bulk of the land in a municipality is held off the market except for purchasers who are able to afford a house on a tract of one, two, three or more acres of land. Since a single-family home on an acre or more of land cannot be constructed in most suburban areas for less than $35,000, including the lot, families with incomes under $17,000 cannot afford to buy a house built on this land (under the generally accepted rule of thumb that a family can afford to buy a house that costs twice the annual household income). Thus the housing market in the community is effectively closed to the 80 per cent of the population which earns under $17,000—and to 90 per cent of the blacks.

In other areas—and in some communities that also have acreage-zoning regulations—housing-construction codes have been devised which require extremely expensive forms of residential development: wide lot frontages, costly materials and equipment, square-footage requirements for house interiors—all beyond what is needed for health and safety.

In almost all suburban municipalities tax laws undergird the structure of land-use controls and provide a rationale for exclusion. The real-property tax pays the bulk of local costs for public education, the biggest item in the budget and a major factor in maintaining the status of the community. If a dozen houses are built at costs within the reach of low-income or moderate-income families, the entire community suffers because the taxes realized from the new houses will tend to be below the additional expense to the school system of educating the children from the new families.

(In New Castle, a Northern Westchester community, a 1968 League of Women Voters study showed that local school costs were so high that a new house would have to cost $58,500 in order to yield enough taxes to educate the average number of children per household—$1,688 in taxes for 1.6 children.)

As expenses for education have become the last straw on the suburban taxpayer's back, the impetus toward ever-higher barriers to moderate-cost housing construction has been almost irresistible. Even if motivated by the best and most democratic public instincts, a community must finance its schools; and the easiest way to make the burden bearable is to keep the community costly and exclusive.

What would happen if the exclusionary land-use controls were eliminated? In the private market, the effect would be to dramatically increase the supply of building lots, both for single-family homes and for garden apartments and row houses. The increase in supply would lower the price per lot; the result would be a sharp reduction in the cost of a new home and an increase in the number of families that could afford one. The construction industry would boom, and lower-cost housing could be produced as the market demands.

Putting aside for the moment the moral questions raised by suburban exclusion, another argument against the regulations adopted over the past decade or more by suburban communities is that they have stifled the natural development of the homebuilding industry. Today, most of the vacant residential land around New York and in other metropolitan areas is zoned for homes on lots 5 to 10 times larger than Levittown's. Zoning has operated to slow down and spread out development. In a nation that has highly valued growth, it is strange to find growth disdained as a matter of policy. Particularly at a time of recession, the multiplier effect of a sustained form of new community development—which would require large capital investment—cannot be ignored. A reinvigorated residential building industry would not only create jobs for unemployed construction workers but lead to enlarged investment in all industries required to serve new suburban developments—and to other urgently needed jobs.

Even if a construction boom produced mostly middle-class or luxury housing, it would help to ease the pressures throughout the housing market that keep moderate-income housing consumers bottled up in city neighborhoods. This is because the "filtering" process—lower-income consumers moving into housing left behind by more affluent consumers moving into bigger and better homes—could begin to operate again. The result would be some improvement in the housing situation for low-income families. The favorite argument of real-estate operators against Government housing subsidies to the poor used to be that "filtering" would satisfy this group's needs. In fact, filtering alone will never provide enough used housing to meet the needs of the lowest-income families. But the current virtual halt in the construction of new, moderately priced housing in suburbia has made the absence of a normal used-house, or "filtered," market acutely noticeable to moderate-income families who would normally be able to afford such homes.

When, in the late nineteen-forties and fifties, it was possible for a family earning a moderate income to buy a new small house in Levittown or its equivalent, the houses and apartments these families vacated went on the market at reduced prices to families earning below the median level. Now that no Levittowns are being built, mobility in the housing market has been sharply reduced and families that should have been able to move are stying put. Obsolescent housing that should have been torn down decades ago is still in use, often at exorbitant prices; city neighborhoods that should have been torn down for urban renewal are still desperately needed for families that have nowhere else to go. It is as true as it ever was that the private market in housing, whether in new or used units, cannot provide housing for the families at the bottom of the income ladder. Subsidies, either in the form of cash to families or Government outlays for housing construction, must be provided. But the costs of such programs has become exorbitant because the private construction market for new housing has been closed off in the suburbs by artificial means.

Since the Industrial Revolution began dumping rural families into big-city slums, housing planners have recognized that public subsidy is needed to enable working-class families to live decently. Every industrial nation provides some form of subsidy for workers' housing; the United States has been in the housing business on a large scale since the thirties.

The 19th-century English garden-city movement laid down the principle that the cheapest—and most wholesome—form of housing for working-class families was the attached cottage, or row house, built so that each unit would have access to common open space. But in America, housing built for low-income and moderate-income families has generally been "projects" in the central cities: massive apartment towers built on the sites of destroyed ghettos, on land that is close to the city's hub and therefore so expensive that building at lower densities is not possible. In the nineteen-thirties the housing pioneers Henry Wright and Lewis Mumford decried the trend to housing for the poor in the inner cities; they pointed out that cheap housing at livable densities requires cheap land, and they urged public-housing authorities to build at the city's fringes. Urban-Renewal experts in the Federal Government and city authorities ignored the experts. Suburban land was locked up, and housing for the poor built at choking densities on the sites of the old ghettos.

Opening up suburban land would mean that Federal money, rather than being used to build absurdly expensive high-rise structures in inner cities, could be spread to a far larger number of units. In New York City, it costs more than $30,000 per unit in Federal and local funds to build public housing. Row houses and garden apartments could be built in the suburbs for well under $20,000 per dwelling unit, if the land costs were reasonable and if lot-size and square-footage requirements were not excessive. Not the least of the savings in time and money would come from working through the manageable governments of the towns, instead of the tangled and near-paralyzed bureaucracies of the cities.

JOBS

If the growth of the suburbs in sheer numbers of people has not yet been fully recognized as a fact of national life, suburban dominance of the metropolitan—and national—job markets has been barely noticed.

Yet in "bedroom" suburbs like Westchester County in New York, as many workers now commute into the county each day as travel to the city in the customary pattern.

The service sectors of the job market—the shopping centers and colleges, for instance—have followed the roads and the population. One example is the Cherry Hill Mall shopping center in Philadelphia, which employs 2,000 workers and occupies 80 acres of land about eight miles from the center of the city (accessible via three major highway bridges).

The demand for cheaper land for single-floor assembly-line and warehousing operations has brought more companies—and jobs—to the suburbs. The long, low building requires land; parking lots for employes' cars and for truck storage require land; and land that is far from the streets of the central city costs less. In Mahwah, N.J., for example, the Ford Motor Company purchased about 200 acres just off a New York State Thruway interchange, about 25 miles from the center of New York City and about the same distance from downtown Newark, for a plant which now employs 4,200 workers.

Traditionally, companies that are prestige-conscious or need a communications network near their headquarters have occupied space in downtown skyscrapers. Increasingly, however, they have been able to enhance their prestige and satisfy the residential preferences of their executives by moves to long, low buildings in parklike settings in far-out suburbia. For instance, Pepsico, Inc., has just completed a corporate headquarters in Purchase, N.Y., which employs 1,250 people on a 112-acre site.

The decentralization of the metropolitan job market means that the working population must be permitted to decentralize too, if workers are to be matched with jobs. The unemployment rate in this recession period may be hovering around 6 per cent for the society at large, but inside the urban ghettos it has been at the Depression level of 12 per cent for years. To end the acute problem of unemployment and underemployment, ghetto workers must be permitted to follow the blue-collar jobs out of the central cities.

The remoteness of the job market for relatively low-skilled workers from the ghetto areas aggravates the employment problem. So does the lack of coordination between job-finding agencies in the cities and the suburbs, which makes it difficult for the low-skilled worker living in the ghettos to find out about and apply for low-skilled but decently paid jobs in suburban manufacturing plants. The United States Employment Service and other job-finding agencies must be reorganized along metropolitan lines, so that information about openings can be transmitted to the unemployed in the ghettos. But this will not be enough. Workers must be able to travel to the jobs, which means in the case of blue-collar jobs that they must be permitted to find homes near enough to the jobs so that commuting does not take an excessive bite out of their incomes.

If the ghettos are viewed as underdeveloped areas—an approach that became fashionable in the sixties—the need for movement of workers to jobs in suburbia is even more sharply evident. Economists who were once captivated by the notion of pouring capital investment into depressed regions in order to create new factory jobs are now beginning to recognize that by far the cheapest solution to the problem is to give unemployed workers information about jobs in thriving industrial areas, help them to learn about the unfamiliar customs and housing patterns of the new area, pay them resettlement allowances and get them moved. Only in rare cases does it pay to invest heavily in declining areas rather than help families left behind by changing patterns of industrialization to move into the economic mainstream.

TAXES

Of the 4,200 workers employed at the Ford plant in Mahwah, many live in Newark and New York, and only 88, or 2 per cent, in the town where they work. Despite the important role that this factory plays in the metropolitan economy, the local property taxes paid by Ford benefit only Mahwah residents. Taxes on industrial and commercial property that are paid to suburban communities are another example of a metropolitan resource that could be—but is not—used to help solve inner-city problems.

The tax rate on business property reflects the needs only of the suburban jurisdiction that levies it. If the suburb has a relatively small public-school enrollment, and few low- and moderate-income families, its local tax rate will be much lower than the rate that would be necessary if the business property were situated in a poverty-ridden central city. The tax rate is further reduced when, as in the case of Mahwah, the suburb uses its zoning powers to keep out children and to exclude low- and moderate-income households, including those whose breadwinners work in the plant.

Mahwah's successful effort to lure new companies and to exclude the companies' employes has resulted in a 1970 tax rate on industrial and commercial property of 1.55 per cent of full value. By comparison, the city of Newark, which houses and educates nearly 1,000 of Ford's black workers and their families, is compelled to tax business property at the rate of 7.14 per cent of full value.

Mahwah's tax base included $104,000,000 of business property and yielded $1,612,000 in revenues. If this $104,000,000 were taxed at the rate levied on similar property in Newark, it would bring $7,426,000 in added funds to the city. The comparison, of course, is a rough one, since a bigger tax base in Newark might permit the city to lower its rate somewhat. But it does demonstrate the fiscal gains that induce corporations to relocate from poverty-ridden central cities to restrictively zoned suburbs.

Suburban towns and cities use the taxes generated by the coming of large new business properties to reduce residential property taxes or to increase the quality of public services, or both. On the other side of the coin, the movement of industry to the suburbs weakens the tax bases of central cities, requires an increase in their tax rate and cripples their capacity to respond to the social and educational needs of the disadvantaged groups, many of whose members are forced to commute at great cost in money and time to the very suburban plants which are no longer on the city's tax rolls.

ACTION

The movement to open the suburbs has begun. The thorny legal, financial and moral questions will be settled not only by debate but by legislative and court action and by economic pressure.

The first step may well be the establishment of a clear connection, in the public mind and in public law, between jobs and housing for workers. The decentralization of the job market is, as we have noted, one of the least appreciated phenomena of metropolitan life; it is time that voters and public officials became aware of it and acted accordingly. Rather than assuming that a corporation moving its plant or offices from the central city to the suburbs is a tax bonanza for the lucky municipality that succeeds in attracting it, we must require that the company have a clear policy of relating jobs to workers' housing and commuting patterns. The rule must therefore be: no corporation hiring a significant number of workers can move to a location in a suburban community where the housing market is closed to families earning what the workers in the plant will earn.

In effect, this will mean that the tax benefits to a town which welcomes new industry will be balanced by the costs to that community of educating the workers' children, policing their neighborhoods, providing them with municipal services. If a community has all its vacant land zoned for single-family houses on five acres of land, then if it permits a zoning variance for the construction of Jones Corporation's new international headquarters, it must also rezone land for sufficient new garden apartments to house Jones's 300 janitorial, service and lower-level clerical workers; create sufficient quarter-acre plots so that Jones's 250 executive secretaries and junior managerial personnel have a chance of buying homes, and make sure that land and construction costs do not make housing prohibitively expensive in the five-acre zones for its 100 middle-management people.

Both state and Federal action will be needed to promote the rule. In Washington, Senator Abraham Ribicoff is working for just such an approach by reintroducing the proposed Government Facilities Location Act of 1970, which provides that no Federal installation may move to a community which refuses to provide land for workers' housing. Though it does not cover private industry, the bill would have significant impact on communities bidding for Federal largess in the form of shipyards, research facilities and other economic jackpots. (The bill did not emerge from committee last year; this year hearings are scheduled for late fall.)

If a community enforces zoning laws which in effect keep out blacks, can the Federal Government continue to provide water and sewer grants, open-space acquisition loans and other forms of aid to them? Does not such aid violate the antidiscrimination guidelines imposed by the Civil Rights Act of 1964? The clamor against suburban exclusion has led to sharp questioning of the President on this point, and a now-famous statement issued by the Administration last June was meant to answer the questions by establishing a distinction between economic and racial discrimination. A community cannot be punished, in the Administration's view, for keeping out the poor, only for overtly keeping out the black. This distinction is, to say the least, far from firmly established; and lawsuits will soon be brought to challenge the point. The suits will argue that the racial discrimination in the suburbs is the direct and calculated result of zoning laws.

In New York State, Assemblyman Franz Leichter has introduced a package of anti-exclusionary bills which include a prohibition against establishing state facilities in exclusionary communities. Such a prohibition would affect the location plans of state university branches, hospitals, state schools and other major service installations, as well as—under some interpretations of the bill—state-assisted elementary and secondary schools (meaning all schools, now that the barriers to state aid to parochial schools have largely fallen).

Massachusetts enacted in 1969 its "anti-snob zoning law," which provided that at least 0.3 per cent of every community's vacant land must be made available for the construction of low- and moderate-cost housing in each of five years. Other states, including New York, New Jersey and Connecticut, are considering similar legislation to exempt at least a portion of suburban land from the exclusionary regulations.

Our own organization, Suburban Action Institute, is seeking to induce Federal regulatory agencies to act against corporations planning moves to exclusionary suburbs. We have filed complaints with three agencies—the Federal Equal Employment Opportunity Commission, the Federal Communications Commission and the Office of Federal Contract Compliance—against

R.C.A., American Telephone and Telegraph and General Electric, for taking steps to relocate to the acreage-zoned communities of New Canaan, Conn., Bernards Township, N.J., and Fairfield, Conn.

By moving to communities within which their minority-group employes cannot find housing, we charge, these corporations are creating conditions of employment discrimination. We believe that they are not simply acquiescing in a discriminatory situation, but affirmatively aiding the creation of segregated employment. (Because of the complaint against RCA before the Equal Employment Opportunity Commission, the company has temporarily withdrawn its proposal to build offices in New Canaan for 1,000 people.)

Making laws to restrict corporations from moving jobs to exclusionary communities will not remove the basic incentive for such moves: the tax laws. As long as the costs of educating suburban children are borne by the local real property tax, a community will try to enhance its tax base by luring industry, and will try to keep out housing developments that attract families with children. A radical restructuring of the tax system for financing education is needed, both to end exclusion and to assure every child, whether born in a rich or a poor community, equal educational opportunity.

A statewide income tax for education is the remedy now advocated by the Regional Plan Association of New York, by the Lindsay administration, and even by suburban taxpayers who can no longer pay educational costs in newly developing communities. Gov. William G. Milliken of Michigan, a Republican, has moved to establish a statewide tax for education. New York State's Fleischman Commission is about to conclude a study of school financing by calling for "full state assumption" of the cost of educating children. Political pressure to relieve local property owners of the burden of school costs is building up around the country as record numbers of local school budgets are defeated.

A recent decision in the California Supreme Court may signal the beginning of the end of the present system of financing local schools. In *Serrano v. Priest*, the court said that the local property tax "invidiously discriminates against the poor because it makes the quality of a child's education a function of the wealth of his parents and neighbors. Recognizing, as we must, that the right to an education in our public schools is a fundamental interest which cannot be conditioned on wealth, we can discern no compelling state purpose necessitating the present method of financing."

The Supreme Court has not ruled on the fundamental issues raised by zoning since 1926 when, in the case of *Euclid v. Ambler*, it declared that comprehensive zoning ordinances are a reasonable and constitutional method of controlling land use. But the lower courts have begun to rule on the contention that the zoning frequently denies racial minorities the equal protection of the law guaranteed by the 14th Amendment. In one recent Pennsylvania Supreme Court case, the justices declared:

"We fully realize that the over-all solution to [housing and growth] problems lies with greater regional planning; but until the time comes that we have such a system, we must confront the situation as it is. The power currently resides in the hands of each local governing unit, and we will not tolerate their abusing that power in attempting to zone out growth at the expense of neighboring communities."

The Justice Department and the American Civil Liberties Union have raised questions of suburban-exclusion with their suit against Black Jack, Mo., on behalf of a group of black residents in St. Louis who wanted to build housing in the town. The group charged that Black Jack incorporated itself into a municipality for the purpose of denying the needed zoning change.

Court cases challenging exclusionary laws are in preparation against a number of suburban communities around the nation and the biggest initial victory has just been won in New Jersey. Judge David Furman of the Middlesex County Supreme Court 10 days ago declared invalid an ordinance in Madison Township, N.J., that called for one- and two-acre lots, required a minimum floor-area that was excessive and placed limitations on multifamily dwellings. The ordinance, the judge said, had the effect of preventing 90 per cent of the people in the area from living in the township, and directly contributed to the ghettoization of neighboring cities. (The suit was brought in behalf of a group of black and Spanish-speaking residents of Elizabeth, Plainfield and New Brunswick.)

The judge did not reach the constitutional questions, basing his ruling instead on the state zoning law, which says that localities must zone for the public welfare. Under this law, he said, a community when it passes land-use regulations must in the future take into account not only its own needs but those of the region.

The direction the U.S. Supreme Court may take has been hinted at in recent rulings on the need for school busing to achieve integration. Despite the negative decision in the recent Valtierra case in California, which dealt with a referendum that was designed to prevent construction of housing for an *economic* minority, the record of the court on matters relating to *racial* discrimination has been quite uncompromising. It is fair to expect that proof of the racially discriminatory effects of exclusionary zoning will carry great weight with the court.

PLANNING

The massive spurt in suburban housing construction which followed World War II occurred at a time when new young families were desperate for homes—in a full-employment economy and following the end of war-related restraints on building. The decade of the seventies has brought the beginnings of another market of this kind (as those born in the postwar baby boom come into their own child-rearing years), but without the economic conditions which made the housing surge possible after the war.

Housing construction is now at a low ebb. Even if the vise of exclusionary zoning is removed, government subsidies and controls will be required to see to it that the combined public-private housing market actually produces the needed housing. The Kaiser Commission has called for the construction of 600,000 units of Federally-assisted housing each year for the next decade, at a cost of $2.8-billion per year. Aid to the housing market of this magnitude, *combined with* the opening up of vast acreages of suburban land, can insure the construction of the housing that is needed to eliminate the slums and ghettos of the central cities and to permit rebuilding on their land at decent densities.

If suburban land resources do become available, new residential development can be of a far higher quality than that of the nineteen-fifties, which gave rise to fears about "urban sprawl," Levittowns and endless identical rows of shoddily built bungalows. Critics of America's suburbs have led us to fear the terrible sterility of look-alike suburbs. But the suburbs have offered a very satisfactory form of life to those who live in developments that do look alike in many respects. Suburbanites in Levittown and Scarsdale have found that despite the similarities of dwellings and ways of life in their communities, they still like to live there. Of course, suburbs have many problems; what form of human community does not?

We should not prohibit development because it may have some undesirable aspects, unless we develop alternatives that provide suitable housing for all classes of the population.

The garden-city movement and the new towns of Europe as well as the best examples of new development in this country—Columbia, Md., and Reston, Va.—have demonstrated that amenable communities open to all classes can be constructed at far higher standards than those of today's expensive suburban developments, in which each house sits on a plot of one, two or more acres. Present acreage development saves no open space for the public. It calls for cookie-cutter development writ large. It demands that every inch of space be devoted to a private lot—even land not suitable for development.

But if new housing in the suburbs need not follow the pattern of Levittown, it also need not conform entirely to the rules of the garden-city movement in Europe and America. Housing can be built in small developments in existing towns, or in new towns, or in larger developments around highway interchanges and commercial projects. Towns, moreover, can assure the preservation of large amounts of open space through such devices as "cluster zoning" and "planned-unit development," which permit higher densities on portions of a tract if a certain amount of acreage is set aside for public recreational use. Nor would elimination of suburban exclusion prevent those who wish to own large amounts of land from doing so—a privilege guaranteed them by our economic system.

As the prospect of intensified development of the suburbs comes closer, private groups, sniffing profits, are investing in land for eventual massive building. One hopes that these developers will be guided by the principles of balancing industrial and commercial growth with new housing, and of a wide mixture of housing types and costs in open neighborhoods.

Nonprofit groups and public agencies should also be preparing for the future by negotiating for tracts of suburban land, on the theory that when the exclusionary laws are struck down, they had better be ready with plans for construction of low- and moderate-cost housing, or they will risk leaving the whole ball game to the private developers.

AMENDMENT TO BE OFFERED BY MR. MIKVA TO H.R. 11932, DISTRICT OF COLUMBIA APPROPRIATIONS BILL

HON. ABNER J. MIKVA

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 1, 1971

Mr. MIKVA. Mr. Speaker, during the consideration of H.R. 11932, appropriating funds for the District of Columbia, at the appropriate time I plan to offer the following amendment:

On page 4, at line 22, strike out "$169,167,000" and insert in lieu thereof "$171,884,600".

On page 2 beginning on line 3, strike out "$162,000,000" and insert in lieu thereof "$164,717,600."

This amendment would restore $2.7 million which the committee proposes to cut from the operating budget of the Department of Corrections.

These funds are urgently needed. The jails and prisons of the District of Columbia are so badly overcrowded at present that there is little chance for rehabilitative programs to succeed. Youthful offenders are incarcerated with hardened adult criminals, due to lack of space in the Youth Center.

The District of Columbia is being squeezed through the fiscal wringer just like every other city in America. Funds are scarce and the needs are immense. But the place to scrimp and save is not on prisons. There is little point in expending massive energy and resources catching and convicting criminals, if all we are able to do is warehouse them for a short while in finishing schools for crime. It costs money to provide the kind of individualized supervision and treatment which is required to help an inmate and to insure that he will not return to a life of crime after being released. I hope my colleagues will join this effort to restore the needed funds to the Department of Corrections.